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PROCEEDINGS AND DEBATES OF THE 98th CONGRESS, SECOND SESSION

SENATE—*Wednesday, October 3, 1984*

(Legislative day of Monday, September 24, 1984)

The Senate met at 11 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray.

God of the nations, Humpty Dumpty is on my mind again. He had a great fall and "all the king's horses and all the king's men" could not put him together again. We are jealous for the institution of the Senate of the United States. Senators come and go but the venerable institution must remain. We pray for its renewal and strengthening—may we all dedicate ourselves to its preservation. Grant, dear God, that affairs of the Senate will be conducted in ways that will repudiate the anti-history, anti-hero spirit which pervades so much of American life.

Father in Heaven, the Senators have worked hard and long and there is much frustration in this place. When bodies and minds are weary—when emotions are strained—it is easy for tongues to lose control. Restrain our speech from words that demean and destroy. Help us to respect, honor, love, and edify one another. In the name of Him who is incarnate love. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The distinguished majority leader is recognized.

Mr. BAKER. I thank the Chair.

ORDER FOR PERIOD FOR ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent that after recognition of the two leaders under the standing order this morning, there be a time for the transaction of routine morning business until 11:30 a.m., in which Senators may speak for not more than 5 minutes each.

The PRESIDENT pro tempore. Without objection, it is so ordered.

SENATE SCHEDULE

Mr. BAKER. Mr. President, I anticipate that today, once again, will be a very long day, perhaps even longer than yesterday—or this morning's day, depending on one's view of the clock or the calendar. We got out at—what, 2:30 a.m. or thereabouts? Most people got home about 3 or 3:30 a.m. and that made for a very short night. Tonight will be a very difficult time for many Senators as well. But it is imperative that we do our very best because we still have 25 committee amendments to deal with on the continuing resolution.

When we go back to consideration of the continuing resolution, we shall be on the eighth committee amendment, which is foreign assistance.

That may be a little bit misleading, Mr. President, because while there are a great number of committee amendments remaining to the continuing resolution, a good many of them probably are not very controversial. But I expect there will be a great many amendments offered, either to the committee amendments or to the bill, that will produce a great deal of debate.

So, today will be a long day in our effort to finish the continuing resolution and get to conference. After the continuing resolution, Mr. President, we come to debt limit, which is the second and other "must" legislation which we must deal with before sine die adjournment.

In addition to that, Mr. President, on yesterday, I identified a list of items that I hope we can deal with before we go out. We shall choose from that list. They include the highway bill, the Genocide Convention, product liability, the crime bill, and the conference report to accompany S. 2463, the ocean and coastal resources management bill. As I said on yesterday, it may be that we cannot do all those things, but we shall certainly do some of those things.

I shall have a further announcement to make after I confer with the minority leader and after we assess our progress today on the continuing resolution and the status of the debt limit bill.

Incidentally, the debt limit bill is on the calendar. Under the Gephardt rule, the House sent us the debt limit after they finished the budget conference which put our budget resolution on the calendar and it will be the intention of the leadership to go to that item as soon as we can.

Mr. President, I think that is all I have. I have a request from the distinguished Senator from Mississippi [Mr. COCHRAN] for time. If the acting minority leader does not object at this point, I shall yield to him the balance of my time remaining under the standing order.

The PRESIDING OFFICER (Mr. DENTON). The Senator from Mississippi is recognized.

Mr. COCHRAN. Mr. President, I thank the distinguished majority leader for yielding time.

UNDERSTANDING AGRICULTURE

Mr. COCHRAN. Mr. President, I take this time to invite the attention of the Senate to an area of our economy and some of the problems it is encountering in hopes that in the formulation of policy during this next year, a better job can be done of providing assistance to farmers in the profitability of their operations and in promoting the overall economic health of our agricultural sector.

Agriculture is the largest industry in the United States, with assets totaling more than $1 trillion, equaling approximately 70 percent of the capital assets of all manufacturing corporations, and employing 20 percent of the private work force. In spite of its importance to our economy, agriculture

is not understood as it should be. As we approach the time for making decisions on a new farm bill that will reflect national policy, I'm hoping that Senators will give their attention to this important aspect of our economy.

Agriculture is different from all other industries. The main characteristic that distinguishes agriculture from the others is the nature of its production cycle. To some people, this difference is obvious. But many people do not appreciate the full meaning of this distinction. They do not fully understand the implications and risks of management decisions relating to production activities.

Not only is the basic difference between agriculture and other industries misunderstood, but the difference between today's agriculture and yesterday's agriculture is not fully comprehended. Modern agriculture is more specialized, more capital-intensive, and more dependent on international markets than yesterday's agriculture. As a result, national and international economic and political developments and policies affect agriculture more today. These relationships must be brought into perspective in discussions of future agricultural policy. Without adequate recognition of these characteristics of agriculture, and all factors involved in the contributions agriculture makes to our economy, decisions regarding agricultural policy will not produce satisfactory long-term results.

A common statement made by farmers in my State of Mississippi is that there should be a longer period of program stability during which to plan production decisions. They indicate that there is enough uncertainty brought about by natural forces, such as the impact of weather, and they don't need additional uncertainty from the policies and programs of the Federal Government.

Agriculture is the industry most responsible for the standard of living enjoyed today in the United States. Through its technological revolution, agriculture has freed individuals from the necessity of producing their own food and fiber, and, thereby, has allowed rapid development of specialization. Today, one farmworker supplies food and fiber for about 80 people. It is this degree of agricultural efficiency that has made possible the many economic and vocational choices available to each U.S. citizen.

There is an abundance of data available to identify the significant contributions made by agriculture to the growth and development of the United States. Agricultural programs and policies allow U.S. consumers to spend the least percentage of disposable income on food of any consumers in the world. Today, U.S. consumers spend, on the average, only about 15 percent of their disposable income on food and fiber—this is the miracle of the agricultural industry.

Another statistic that has great significance for our economy is that agriculture is able to make a net positive contribution to the balance of payments in trade. In fact, agriculture is the only industry that produces a positive trade balance. This balance has averaged more than $20 billion in recent years, and too many people do not fully understand what that means to our economy. One important example is jobs. Every $1 billion in export creates about 25,000 jobs; therefore, agriculture's positive balance of trade, alone, creates more than one-half million jobs in our economy.

The contributions made by agriculture to the U.S. economy are longstanding characteristics, but there is no guarantee they will continue automatically. Agriculture has sustained more change over the years than any industry. With those changes have come improvements that have allowed agriculture to continue to make significant contributions to a growing country and an expanding economy. The changes made in agriculture and the contributions made by agriculture have not developed accidentally.

Several factors are responsible for the status of U.S. agriculture today. First, the agricultural land base of the United States is the largest area of land suitable for food and fiber production in the world. Second, the structure of production agriculture is decentralized and highly competitive, and has maintained a work ethic surpassed by none. Agricultural productivity is 2½ times greater today than in 1930, and no other industry comes close in comparison. Third, agricultural research has consistently received financial support over the years, from both public and private sources. Although there are questions about whether the level of public support is consistent with benefits received, there is no doubt that agricultural technology has benefited from the research that has been conducted.

Today, as always, there remains a need for change to ensure the continued growth and development of agricultural technology. In fact, some conclude that the pressures of change and the need for change are greater than ever before. Regardless of the merit of this relative evaluation, agriculture cannot rest on its past accomplishments. As for all industries, U.S. agricultural technology cannot sit still; it must move forward or competition will push it backward. There always are new demands, and they must be met in an effective and timely way.

Mr. President, I see three areas of concerns that must be addressed if agriculture is to maintain its productivity advancements and continue its contributions to our economy. The first is the need for a fair and equitable economic return to those who invest their resources of land, labor, and capital in the production of food and fiber. This return must be consistent with the level of risk taken by the investor as well as with the agriculture industry's relative importance to our society. Economic returns, or profits, to those who assume all the risks associated with producing our food and fiber are just simply not adequate. Moreover, new technologies have steadily increased the minimum level of capital investment, and profits have remained relatively low and highly variable.

One result of this relationship has been a substantial increase in farm debt in recent years. Farmers must be able to make a profit, as other businessmen must, if they are going to remain in the business of producing food and fiber.

Profit can be improved by increasing prices or reducing costs. Due to the organizational structure of agriculture, an individual farmer cannot influence prices. Therefore, the area of greatest potential for an individual farmer to increase profit is in reduction of costs. There are at least two important ways the Federal Government can help farmers with this objective. The first is to help bring about a decline in interest rates. USDA estimates that 20 percent of a farmer's operating cost is interest expense. Some economists estimate that for every $50 billion reduction in the Federal deficit, interest rates would decline 1 percent. Any reduction in interest expense would result in a corresponding increase in profit, because there are no costs associated with producing that revenue.

The second way the Federal Government can help reduce agriculture production operating costs is to provide adequate funds for research. Federal research funds should be consistent with the benefits agriculture contributes to our economy. Many analysts today suggest that Federal research funds for agriculture should be increased substantially in order to match the benefits currently received by the public. Research funds that are made available must begin to focus on technologies that can reduce production costs for any scale of operation, and not continually demand increases in capital investment to achieve the advantages of the technology.

Mr. President, my second concern is whether agricultural technology is developing rapidly enough for the U.S. industry to maintain its current comparative advantages. Today's agriculture, and tomorrow's agriculture, must operate in a highly interdependent and competitive world market. Without maintaining its comparative advantages, agriculture will be unable to maintain a positive balance of trade and remain as important to our economy as it is today. Only through an ag-

gressive research program can agriculture continue to grow and develop in order to be in a position to meet the needs of tomorrow, whether they are our needs or the world's needs. The highly resource-oriented nature of modern agriculture only supports the need for a strong research program. Our natural resources are limited, and, thus they need to be protected. Where possible, alternative production methods should be utilized. There is considerable discussion today that agriculture should move as rapidly as possible away from a resource-based industry and toward a science-based industry to release the mounting pressure on our limited natural resources.

My third concern is for adequate protection of the most basic natural resource used in the production of food and fiber—our soil. Current national rates of soil loss are intolerable and, if allowed to continue, will render many acres of agricultural land unproductive. Other resources are important, but soil is the most basic input in agriculture. Soil conservation programs must be effective, but they must be continuously available because the forces contributing to soil loss, such as weather, are always active. Therefore, public funding must also be continuous and consistent with soil's importance to agriculture.

Mr. President, the Congress and the administration must recognize by policy formulation and action the tremendous importance of American agriculture. Agriculture is the backbone of the U.S. economy, and it must receive adequate Federal support to continue to provide the many important benefits to which we have become accustomed in this country.

RECOGNITION OF THE ACTING MINORITY LEADER

The PRESIDING OFFICER. The acting minority leader is recognized.

THE IMPORTANCE OF AGRICULTURE

Mr. PROXMIRE. Mr. President, I am delighted I was on the floor of the Senate when the Senator from Mississippi delivered one of the best speeches I have heard since I have been in the Senate on agriculture and its importance. It is a shame that more Senators and more people will not hear that speech or read about it in the press. The difficulty is that when you say something good about an industry, it is not news. But the Senator has made a point that all Americans should understand. We owe a great deal to our farmers. As he pointed out, only a small proportion, less than 3 percent, of our people work on the farms. They produce all the food and fiber for the country. The productivity increases, as he said, for farmers are far greater than in any other sector of our economy.

The great difference between the strength of the United States and the Soviet Union is not in the factories or in commerce; it is in agriculture. They have 30 percent of their people on farms; we have 3 percent. We produce more food than they do. That is what has given us a great advantage.

So I am delighted I was able to hear this excellent speech by the Senator from Mississippi. I do hope our colleagues will read it because it is something we all ought to know and understand—too few people do.

THE EXPORT-IMPORT CONFERENCE REPORT: A GREEN LIGHT FOR NUCLEAR PROLIFERATION

Mr. PROXMIRE. Mr. President, the conference committee on the Export Administration Act has flatly refused to restore any congressional authority over agreements negotiated by the President to export nuclear technology. On February 29 of this year, the Senate passed a Proxmire amendment to the Export Administration Act by a smashing 74 to 16 vote with every Democrat except 2 voting for the amendment and three-fourths of the Republicans voting for it. That amendment would have provided that any agreement to export nuclear technology negotiated by the President would not go into effect until it has been approved by an affirmative vote of the House and the Senate. That amendment was necessary to restore the authority the Congress had held with respect to nuclear export technology since the 1954 Atomic Energy Act. For 29 years, until June of last year, the Congress could veto any nuclear export agreement negotiated by the President. Then in June 1983 the Supreme Court declared any congressional veto of any executive action unconstitutional in the Chadha decision. To restore a congressional authority as close as possible to Congress' pre-Chadha veto power, the amendment provided that no nuclear agreement negotiated by the President would be effective until both Houses of the Congress had affirmed it by a majority vote. When we debated the bill on the floor I announced, as author of the amendment, that I would agree in conference to expedited procedures that would assure a congressional decision on such agreements within 60 days.

The conference, under strong pressure from the administration, decided to completely gut the amendment. So far as I am concerned, the amendment might not have been adopted at all. Here is how they did it. They amended the Senate amendment to provide that the nuclear transfer agreements would go into effect unless the Congress passed a joint resolution of disapproval. What is wrong with that? Mr. President, Congress could pass a joint resolution of disapproval under present law. But that resolution would be subject to a Presidential veto, which, of course, would be automatic. Then it would require a virtually impossible two-thirds override.

The conference amendment did provide that if the President sought a waiver, in a nuclear transfer agreement, of any of the nonproliferation requirements in the law, then the agreement would not go into effect until there has been an affirmative vote of both Houses of Congress. But, Mr. President, that provision is of absolutely no value. None—zero, zip. The President has never—I repeat, never—asked for a waiver in the past. He certainly never will in the future. Why should he, when a waiver would require an affirmative vote in both Houses of Congress to validate the agreement? As long as the President seeks no waiver, he is home free. He can conclude whatever agreement he wishes. The Congress is out of the act. So what difference does this make? Will not the President negotiate agreements that will stop nuclear proliferation? The answer, Mr. President, is plain and clear. He will not.

Since Chadha, the President has negotiated an agreement with Norway and Sweden, and an agreement with China is in process. Each of these agreements provides no significant protection against nuclear proliferation. In the Swedish and Norwegian transfer agreement, the President has negotiated an open-ended, 30-year commitment to supply nuclear fuel that can and will be processed into plutonium of weapons grade. This violates one of the requirements of present law, and the President should have sought a waiver. In fact, Senator CRANSTON and Congressmen BARNES and WOLPE feel so strongly about it that they have gone to court, along with a number of public interest groups, to annul the Norwegian and Swedish agreements. Under the Export-Import Conference Report, Congress will continue to have no effective voice.

Mr. President, many Americans, including this Senator, believe that the prime threat of nuclear war does not come from a superpower strike. Deterrents on both sides make such a strike obviously suicidal. The threat comes from precisely the kind of nuclear export agreement that this country is negotiating with China and has already put into effect with Sweden and Norway. These agreements set a precedent for our subsequent agreements with other countries. They also provide an example for other countries that export nuclear materials and technology.

I flatly predict that by the turn of the century, those agreements will result in opening access to weapons grade plutonium by countries such as Syria, Iraq, Iran, Libya, and others. And I predict that shortly after the turn of the century, this enfeebling of our antiproliferation restrictions will result in state-directed terrorist explosions of nuclear weapons, probably in the Middle East. Those explosions will be similar to the three terrorist explosions that Beirut has suffered in the past 18 months, with one important exception. Instead of a dozen or a few hundred casualties, entire cities will blow up, with hundreds of thousands dead.

Mr. President, if this can take place in the Middle East, no place on Earth will be safe. Washington, DC, this Capital, will be one of the world's most inviting targets. And all the security precautions in the world will avail us nothing. A terrorist could park a plain, nondescript car on Constitution Avenue—say, halfway between the White House and the Capitol. It would look like tens of thousands of other cars. But this car would contain a nuclear device. The terrorist would not have to be a Kamikaze suicide type. He could travel 50 miles away and detonate his device any time he wished. And there goes the Government of the United States. Everyone in this Capitol, everybody in this building, would be dead—vaporized or burned to a crisp.

Of course, there are a thousand other ways, all terrible and heartbreaking, in which nuclear proliferation can return to haunt us. One reason, and a big reason, why that prospect is more likely now than before is that the Congress of the United States—in spite of an overwhelming 5-to-1 vote in the Senate requiring Senate approval of nuclear exports—found a way in its procedures to duck its responsibilities, to cop out and permit Presidents to negotiate nuclear export agreements that increase the prospects of nuclear proliferation and nuclear war.

GOVERNOR DEUKMEJIAN'S CONTRIBUTION TO RATIFICATION OF THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, I would like to pay tribute to Gov. George Deukmejian of California for his help in bringing us closer to the ratification of the Genocide Convention. Governor Deukmejian has long understood the need for a vehicle through which the world community can speak out about crimes against humanity.

In his inaugural address on January 3, 1983, the Governor said:

> This journey is only a small part of another one that has significant personal meaning for me. That journey began 75 years ago, in the homeland of Armenia. Four people, at different times, left behind a land of hardship and turmoil for a foreign land thousands of miles away . . . Those four people were my parents and Gloria's parents, and that new land was America.

The parents of Governor and Mrs. Deukmejian were survivors of the Armenian Genocide of 1915 in Ottoman, Turkey. Profoundly affected by their experience, the Governor has spoken repeatedly about the Armenian Genocide as a prototype for genocide in the 20th century. Noting that the world's failure to respond in 1915 gave encouragement to Nazi perpetrators, the Governor has emphasized that in remembering we must also take positive steps to ensure that genocide never again be permitted to occur.

The Washington Post, in a September 6 article about the Reagan administration's announcement of support for the Convention, stated:

> Administration sources who also declined to be named said Gov. George Deukmejian of California, a longtime political ally of Reagan, spoke recently to the president about the genocide convention, emphasizing the backing for it in the Armenian community as a symbolic reproach to the Turks for the massacres of Armenians in the late 19th and early 20th centuries. These sources said Reagan had been impressed by the plea and expressed interest in taking action.

Governor Deukmejian also wrote to Senator PERCY urging the Foreign Relations Committee to approve the convention for floor action. In his appeal, the Governor invoked the memory of Raphael Lemkin, a driving force behind the convention, citing Lemkin's courage and perseverance in working to make genocide an international crime.

Mr. President, I thank the Governor of California for his own perseverance in conveying to the President, to Chairman PERCY, and to countless others the significance of the Genocide Convention as a symbol of our determination to challenge those who would attempt to destroy any group. I am moved by the powerful message of Governor and Mrs. Deukmejian who, as children of survivors of genocide, have pledged to turn the tragedy of their family into a message of commitment to human rights for all people.

I ask unanimous consent to have the Washington Post article printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

ADMINISTRATION CALLS FOR RATIFICATION OF TREATY AGAINST GENOCIDE

(By Don Oberdorfer and Lou Cannon)

The Reagan administration broke 44 months of silence yesterday to call suddenly for ratification of the international treaty against genocide, which has been bottled up in the U.S. Senate for 36 years.

Administration sources said the announcement, which had been in the works for several weeks, was made hastily after the White House learned Tuesday that Democratic presidential nominee Walter F. Mondale planned to make an issue of the genocide treaty today.

Both Reagan and Mondale are scheduled to speak today to the national convention of B'nai B'rith, the largest Jewish service organization in this country. B'nai B'rith has been one of the foremost backers of the treaty.

Reagan's decision to join all post-World War II presidents except Dwight D. Eisenhower in supporting the anti-genocide convention was announced at the State Department as the president completed his opening swing of the fall political campaign.

Alexander M. Haig, Jr. supported ratification of the treaty during the hearings on his nomination to be Reagan's first secretary of state in January 1981, saying it would "unquestionably be helpful" to U.S. diplomacy. But the administration took no position on the question until yesterday.

The Convention on the Prevention and Punishment of the Crime of Genocide, as it is formally known, was prompted by the deliberate annihilation of Jews in Nazi Germany during World War II. The United States played an important role in drafting the convention, which was signed by the United States on Dec. 11, 1948, and was submitted to the Senate for ratification by President Truman on June 16, 1949.

Despite the support of Truman and Presidents Kennedy, Johnson, Nixon, Ford and Carter and the ratification by 96 countries, the treaty has languished in the Senate because of opposition by some conservatives and members of organizations such as the Liberty Lobby and John Birch Society.

The convention was also opposed for many years by the American Bar Association. The ABA reversed its position in February 1976 to become one of the treaty's strongest supporters.

The treaty, which is mostly symbolic, declares genocide to be an international crime to be prevented and punished. Genocide is defined as the intentional destruction of any national, ethnic, racial or religious group, in whole or in part, by killing its members, causing them serious physical or mental harm, imposing conditions of life intended to bring about their physical destruction, imposing measures intended to prevent births or transferring children from one group to another.

State Department officials said legislation will be prepared to make genocide a crime under U.S. law, but added that most of the elements are already illegal under civil rights laws and other U.S. statutes.

At a briefing for reporters, the State Department officials insisted that the recent completion of "a very thorough review which looked back at the 35-year history" of the convention, rather than the political contest, dictated the timing of the announcement. "I would reject the premise that [the announcement] is connected to any particular speech or political event," said a State Department officer who briefed reporters on condition that he not be identified by name.

Administration sources who also declined to be named said Gov. George Deukmejian of California, a longtime political ally of Reagan, spoke recently to the president about the genocide convention, emphasizing the backing for it in the Armenian community as a symbolic reproach to the Turks for the massacres of Armenians in the late 19th and early 20th centuries. These sources said

Reagan had been impressed by the plea and expressed interest in taking action.

Sen. Charles H. Percy (R-Ill.), chairman of the Senate Foreign Relations Committee and long a backer of the treaty, praised Reagan's action and said he would hold new hearings and obtain a committee vote on the measure within two weeks.

An aide to Senate Majority Leader Howard H. Baker Jr. (R-Tenn.) said, however, that the administration action was a complete surprise to Baker until two hours before the announcement.

The Liberty Lobby, which was the only organization to appear in opposition in the 1981 Senate Foreign Relations Committee hearings, the last ones held, issued a statement criticizing Reagan for "bowing to the pressures of an election year."

ORDER OF PROCEDURE

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the remainder of the time of the minority leader be reserved for his later use today.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. There will now be a period for the transaction of routine morning business.

SOVIET JEWISH EMIGRATION DECLINES IN SEPTEMBER

Mr. PERCY. Mr. President, this is the first week of the Jewish New Year. Congregations throughout the world offer prayers on behalf of their fellow Jews in the Soviet Union who are denied the right to repatriate and join their families outside the Soviet Union. In keeping with my recent practice, I take this opportunity to report the current emigration rate for Jews from the Soviet Union.

In the month of September, only 69 Jews were allowed to leave the Soviet Union, fewer than the 83 who emigrated in August. That brings the yearly total to 721. By comparison, approximately 1,150 Jews emigrated from the Soviet Union in the first 9 months of 1983.

These figures are appallingly low. What makes the situation all the more difficult and intolerable is that the Jews who remain in the Soviet Union are denied the right to practice their faith freely. They are discriminated against in jobs and education, and they are the victims of a harsh anti-Semitic campaign. A series of KGB searches and actions against Hebrew teachers in recent months indicate that Soviet authorities have intensified their campaign against Jewish culture and education.

Despite these bleak developments, individuals both inside and outside the Soviet Union continue to oppose these repressive policies. Last month, for example, 18 Jews from 3 Russian cities sent an open letter to Soviet President Konstantin Chernenko stating that—

We , as many other Jews, are very worried by the current worsening of persecutions aimed at frightening us and curbing the movement for repatriation to Israel.

Furthermore, at the meeting of the International Council of the World Conference on Soviet Jewry in London last month, the council resolved to "place the Soviet Jewry problem as a priority matter on the agenda of every Jewish community and organization" and to "urge all governments to place the tragedy of Soviet Jewry as a principal item in negotiations with representatives of the Soviet Union."

The doors of emigration from the Soviet Union have been closed too long. The denial of basic human rights to all minorities has gone on too long.

I hope that, through the continued efforts of individuals, organizations and governments throughout the world, we will convince the Soviet leaders that now is the time to halt their actions against the Soviet Jewish community and to open the way for unimpeded emigration, in accordance with international law.

LARRY WINN: 18 YEARS OF EXEMPLARY SERVICE TO KANSAS

Mr. DOLE. Mr. President, with the end of this session of Congress, the Senator from Kansas loses a colleague of 18 years. LARRY WINN, representative from the Third District of Kansas, has decided to leave Congress and return to Kansas City. The community with which his name had become synonymous.

LARRY's tenacious spirit and heartfelt dedication to his constituents have long been noted in my State. The people of Kansas' Third District are justifiably proud of their Congressman—and they voiced that approval by electing LARRY to 9 terms in the U.S. House of Representatives. But it is not only his constituents who will miss LARRY WINN's service. His fellow members on the House Science and Technology Committee have gained much from LARRY's leadership as that committee's ranking Republican. His tireless efforts on behalf of the space program have been a boon to this country's goal to be No. 1 in space. When we watch the spectacular launch of our space shuttle we can thank the men of vision like LARRY WINN who helped make it possible.

The LARRY WINN story is one of strength and accomplishment; a story of courage from whch all of us can find inspiration. As a high school star athlete, LARRY suffered the loss of a leg in an accident before attending the University of Kansas. But LARRY WINN didn't let that setback slow him down. In fact, he used the experience to become a spokesman for handicapped Americans. LARRY WINN went on to become a driving force behind laws to end discrimination of the handicapped, and coauthored the "International Decade of the Disabled."

When the question is asked, "Did LARRY WINN make a difference?" the answer can easily be found by talking to the good people of the third district. You see, Representative WINN's constituent services were legendary. Whether it was finding a lost Social Security check for a senior citizen, facilitating the emigration of a loved one for a Kansas family, or responding quickly to a letter from a concerned constituent, Congressman WINN was always there. He was hardworking, selfless and committed, but above all, his hallmark was integrity.

Mr. President, the Senator from Kansas has enjoyed the opportunity to work alongside this dedicated man from Kansas City for nearly two decades. Although his presence will be missed, our friendship will remain close at hand. Let this Senator state that LARRY still has plenty to offer to those of us in Congress in the years to come and we will keep in touch.

SUSPEND DEPORTATION OF SALVADORANS PENDING STUDY

Mr. SPECTER. Mr. President, as the legislative session reaches its conclusion, I would like to join with my colleagues in support of a piece of legislation that failed to make it to the Senate floor this year, but which deserves this body's careful consideration immediately upon our return in 1985. I am referring to S. 2131, a bill to provide for Presidential and congressional review of conditions in El Salvador and other countries, and to suspend deportation of Salvadorans pending the outcome of that study.

Over the years, we have granted a similar temporary halt of deportations for nationals from 15 countries, including Afghanistan, Cambodia, Chile, Cuba, Czechoslovakia, Ethiopia, Hungary, Iran, Laos, Lebanon, Nicaragua, Poland, Rumania, Uganda, and Vietnam.

According to figures released by the U.S. Immigration and Naturalization Service, 4,802 Salvadorans were returned to El Salvador during fiscal year 1983, an average rate of 400 each month. This is despite the widely acknowledged uncertainty as to their fate upon their return.

The single, critical issue in this debate is whether we can continue to deport Salvadoran refugees back to El Salvador and still keep faith with humanitarian principles fundamental to our democracy. Why any particular Salvadoran refugee made his or her way to this country is irrelevant. How long they have been here is irrelevant. The relevant inquiry is: What are we sending them back to? It is my strong

sense that the evidence of vast numbers of noncombatant civilian deaths and displacement within that country is compelling enough to warrant a temporary halt of deportation until we are assured that we are not sending them back to persecution or grave risk of becoming victims of random violence, or other circumstances contrary to humanitarian principles, and until we have carefully explored possible alternatives.

Throughout my Senate term, I have been concerned about the violence in El Salvador and most particularly about the effectiveness of the Salvadoran judiciary in prosecuting so-called death squad murderers. We have seen some real progress in that area, and all reports indicate death squad deaths are down significantly. Unfortunately, the casualties of the violence generated by the civil war being fought by the Salvadoran armed forces and the guerrillas continue to mount.

Consider these statistics: In September 1984, the Archbishop of San Salvador announced that there had been 50,000 noncombatant deaths since the civil war there began. Between January and June of this year, 1,331 noncombatants were reported killed by the armed forces, according to a report issued by America's Watch and the Lawyers Committee for International Human Rights. This total does not include victims of death squads or of disappearances.

The Washington Post reported on September 13, 1984, that the number of bombings in the first 6 months of 1984 increased by nearly 50 percent, and there can be little doubt about the impact of that increase on civilian safety.

The U.S. Agency for International Development reported in March 1984, that as many as 1 million Salvadoran refugees were displaced within El Salvador. That is 20 percent of the Salvadoran population. By comparison, during the worst days of the Vietnam war, the number of internal refugees never exceeded 8 percent of the population.

Opponents of this legislation argue that we can send Salvadorans back to the western provinces of El Salvador or to Honduras. The western province of El Salvador makes up an area that is about one-quarter the size of New Jersey. A sudden influx of still more displaced persons from the United States into this tiny area can only serve to further undermine the tenuous stability of that emerging democracy. Nor should we ask Honduras to shoulder our humanitarian burden. Such an unpopular policy as accepting thousands of Salvadorans, given the long history of tensions, animosities, and border conflicts between the two countries, will only create at least as many problems as it solved.

Senator SIMPSON has suggested that we should develop guidelines to identify certain classes of people who might be subject to particular risk if returned to El Salvador. He notes that there is evidence that teachers and medical personnel may fit into this category. I think this is a compelling suggestion, and one which is within the scope of S. 2131, but the implication that these special classes of people at particular risk of persecution should be granted EVD status, and that all other Salvadorans should be deported, is contrary to well-established immigration practices and law. Those who are at special risk of persecution because of their membership in a social group should be granted asylum, under our immigration laws. EVD is specifically designed to address all other situations: where there are large numbers of people who would otherwise be returned to violence and civil strife in their home country and who are not able to show that they are singled out for persecution because of membership in a social group or for other specified reasons.

In addition to the humanitarian considerations, withholding deportation of Salvadorans pending the outcome of a study would be of great benefit to the United States. Salvadorans would not obtain permanent status, but they would be eligible for work authorization, thus eliminating the opportunity for exploitation which currently undercuts the American worker. Moreover, INS would have a record of Salvadorans here and be able to facilitate their return to El Salvador when the program ends.

A number of Senators, including some of the cosponsors of this measure, have expressed some concern about various provisions of the bill, and I am confident that these can be resolved.

Unfortunately, we were unable to get a hearing scheduled for this legislation this year—Senator SIMPSON was understandably preoccupied with the Simpson/Mazzoli bill. But we must be prepared to act promptly upon our return. Even if we are successful in obtaining hearings and final passage of the bill within the first month back, if deportations continue at their 1983 rate, as many as 2,000 more Salvadorans may have been sent back to, at best, an uncertain fate.

I urge my colleagues to give this bill careful consideration, and to return to Washington next year prepared to act swiftly to temporarily halt this policy of forced return of Salvadorans until we can develop a more enlightened policy considering all of the relevant factors and consistent with those humanitarian principles for which this country is respected throughout the free world.

MARYLAND'S EASTERN SHORE

Mr. SARBANES. Mr. President, this year has seen many events commemorating the 350th anniversary of the first settlers to arrive in Maryland, called by Capt. John Smith a place where "Heaven and Earth never agreed better to frame a place for man's habitation."

I commend to my colleagues a report in yesterday's Christian Science Monitor capturing the nature of many of these events and reporting on the joys and pleasures particularly of Maryland's historic and beautiful Eastern Shore. I ask that this brief tribute be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Christian Science Monitor, Oct. 2, 1984]

MARYLAND: A JOURNEY DOWN THE EASTERN SHORE OF HISTORIC SHIPS, QUILTED FARMS, ROARING DIESELS, AND HONKING GEESE

(By Daniel B. Wood)

ST. MICHAELS, MD.—Maryland and the "land of fish with hard shell covered with water" (Chesapeake Bay) are celebrating a 350th birthday this year. That has meant nine months of marlin-fishing contests, hard-crab derbies, oyster-shucking, and muskrat-skinning matches—all commemorating the settlers who arrived on St. Clements Island in 1634.

And while this state is abuzz with history and hoopla, the flatter-than-Kansas peninsula is ablaze with fall colors. Thus both history buffs and those who want merely crabcake in their belly or a whiff of autumn salt-marsh air have reason to wander the back roads of Maryland's Eastern Shore.

Now, in the twilight of the state's celebration is a seaborne climax—a 200-ship flotilla that is paying visits to seven historic ports around the Chesapeake Bay. It is led by the 126-foot Pride of Baltimore, modeled after the famous Baltimore clipper ships, and the Dove, an exact replica of the 76-foot pinnance that helped deliver Maryland's first settlers. Local boaters and yachtsmen are invited to accompany the two historic centerpieces to a different port each weekend until the end of this month.

My recent trip down the Eastern Shore took in the celebration on both sea and shore.

It began at Charlestown, where I met the flotilla in all its historic grandeur. You won't find Charlestown on most maps, and many Marylanders I asked gave directions to West Virginia. But the flotilla is making cartographers think twice about the 500-acre village established in 1742 and nearly untouched by 19th- and 20th-century development.

Upon arrival, I shook hands with the mayor, David A. Jarinko, who greeted me in the three-cornered hat, colonial tails—and aviator glasses. We then ferried out to watch the flotilla float in.

There were no skipjacks and bugeyes or log canoes—local Chesapeake specialties—accompanying the entourage as promised. "Too far north," Jerry Bandelin, chairman of the flotilla said. But there were plenty of classic, restored boats of other kinds, primped for the occasion with fresh paint and varnish—and displaying the 350th pennants known in sailing lingo as burgees.

Cannons fired from the Dove were answered by cannons from on shore, and people made speeches; then I left the crowds at the colonial fair to head south.

Route 213, which folds around the bay's northernmost point, is the perfect route southward. It rises in an arc over the Chesapeake City Bridge and takes in small towns fast and furious; Cecilton, Georgetown, Galena, Chestertown. It also crosses the rivers that feed the Chesapeake—Bohemia, Sassafras, Chester, and Wye.

Along the way, the scenery is splendid: Burnished copper cornstalks stand erect as military troops in perfect rows for miles; alfalfa fields make quilts of color from lush green to tarnished yellow; and dust rising off the farms settles on pumpkins at roadside stands or on antiques and duck decoys at ubiquitous yard sales.

And this is racehorse, broiler chicken, and beef country. Fence-lined dirt roads lead far off the main drag to sequestered, modern farms. Pickup trucks parked at intersections have signs pointing to antique sales.

But all this bucolic landscape ends halfway down the peninsula. Next to the Chesapeake Bay Bridge, which crosses the bay at Annapolis, Route 213 widens into Route 50 and civilization encroaches. Pulitzer Prize-winner William Warner calls it ". . . a cordon of roaring diesels, truck stops, overnight motels, and the plainest shopping center in Maryland."

Further south and west is St. Michaels—for 250 years now a shipbuilding community. The town is a well-preserved, upscale touristy destination, with the Chesapeake Bay Maritime Museum as its centerpiece. Here you can learn about everything from waterfowl to crabbing skiffs and see the 19th-century Bay lighthouse. Or tour the stunning harbor for $3.

Antiques stores and galleries are first class along Talbot Street, and a walking tour of the town is encouraged by just about every local merchant. Most houses date from the 1800s. The focal point is St. Mary's Square, purchased by James Braddock in 1770 and site of the first public market house, as well as cannons used when the British attacked during the War of 1812.

Our southernmost destination was Cambridge—Maryland's second-largest deep-water port. Giant, mostly white Victorian homes line brick-paved High Street leading down to the harbor. The old Trinity Church, built in 1675, which is south on State 16, is said to be the oldest in the United States still holding services. And the Blackwater National Wildlife Refuge is just south of town.

With supposedly one of the greatest concentrations of waterfowl in the U.S., the Blackwater is also famous for a phenomenal number of songbirds. The visitor center there provides a map of trails and roads, which I took, proceeding to cut across one corner of its 11,000 acres. There, my eyes took in hosts of herons, egrets, swans, extensive brackish marshlands, and pine woods; the sounds of crickets and woodpeckers and honking geese still resonate in my ears.

No trip to Chesapeake is complete without a trip across the Chesapeake Bay Bridge—easily the most dramatic view of all of Chesapeake, America's largest inland sea.

To get there, I backtracked along Route 50 in late Sunday afternoon traffic—a time to avoid in the future—and over the bridge. Since the Eastern Shore is so remarkably flat, the Bay Bridge is the best vantage point to appreciate the majesty of 4,000 miles of shoreline—for 250 years the vast commercial shipping area dominated by Baltimore to the north.

"Heaven and earth never agreed better to frame a place for man's habitation," wrote Capt. John Smith of the bay. I thought about those words as I drove the four-mile span arching the water. I lingered on the days of clipper ships and generations of oyster fisherman. Then, watching the Eastern Shore diminish in the distance, I paid the $2 toll and drove back into the present.

ERADICATING DRUGS AT THE SOURCE

Mrs. HAWKINS. Mr. President, it is generally agreed that the most effective and long-lasting method of destroying the drug menace is to attack it at the source. That is why we must continue to support and encourage the actions taken by drug-producing countries to halt their involvement in drug trafficking.

Two nations, Burma and Panama, recently took such action. Two recent newspaper articles report on efforts made by the governments of these nations to try and curb their drug production.

There are a number of reasons why these countries are taking such steps. Burma, for example, has been experiencing an alarming growth in its rate of internal drug addiction. This situation, along with increased presence of bandit armies engaged in drug trafficking, and stepped up pressure from the U.S. Government, has provided Burmese officials with the incentive to join the international community's fight against drug abuse.

Panama, as well, is seeing more and more of its citizens falling victim to drug addiction, and is beginning to take steps to stop drug production in its territory. The situation in Panama, and with other South American nations, is exacerbated by the flight of Colombian drug dealers out of Colombia because of that nation's recent "war without quarter" against drugs. As indicated in a recent newspaper article, Panamanian forces reacted by conducting a raid in jungle territory near the Colombian border and netted 23 Colombian cocaine traffickers in the act of building a drug processing plant.

Mr. President, these and other actions being taken by nations like Burma and Panama, in an effort to halt their involvement in drug production and trafficking, should be encouraged and supported by our country and its citizens. We commend the Burmese and Panamanian officials responsible.

I respectfully request that the article entitled "Burma Destroys Drug Bases," the Washington Post, dated May 20, 1984, and "Panama Uncovers Cocaine Factory," the Washington Post, dated May 25, 1984, be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

BURMA DESTROYS DRUG BASES

TAUNGGYI, BURMA, May 19.—Burmese troops with air support have destroyed the bases of two drug warlords near the Thai border and seized large quantities of opium, Brig. Gen. Aye San, army commander for Burma's eastern region, said at a press briefing today. He said five heroin refineries had been destroyed in the raids on the bases of the Shan United Army and the Shan United Revolutionary Army.

PANAMA UNCOVERS COCAINE FACTORY

PANAMA CITY, May 25.—Panamanian forces conducting air, sea and ground operations have captured 23 Colombian cocaine traffickers building a processing plant in the jungle near the Colombian border, a military official said today.

Capt. Francisco Alvarez, commander of the rural guard where the action took place, said Thursday the partially finished refining plant was worth several million dollars.

The plant was located at Rio Quindio, 150 miles south of Panama City and 48 miles north of the Colombian border.

SENATE REFORM MEANS COMMITTEE REFORM

Mr. QUAYLE. Mr. President, in the last 3 weeks, as chairman of the Temporary Select Committee on Committees, I have spoken twice on this floor—on September 12 and 28—about the problems of trivialization and proliferation in the Senate. There is not much point in elaborating on these problems again, for not only is the Senate continuing to make the case for reform, but my colleagues are underscoring my earlier criticisms with their own. In the last few days' debate there has been extensive discussion of the failures of the committee system and of the procedural snarl we so frequently find ourselves entangled in. Enough on the problems of the Senate, Mr. President. We are all too much aware of them.

Let's talk about the causes of these problems. Why do we file cloture petitions the same day a piece of legislation is taken under consideration? Why do we not have extended and informed debate? Why do we emerge at the end of the fiscal year with the bulk of our authorization bills unreported, the bulk of our appropriations bills unconsidered and unenacted? Why do we fail to give serious legislation the careful scrutiny it deserves and our duty as national legislators requires? Instead we engage in procedural shuffles over germaneness and tack major substantive legislation on to the continuing resolution.

Mr. President, I think my colleagues have already helped me to at least partly answer these questions: our committee system is not working.

The Senate committee system was intended to act as a legislative filter and refiner. Bills were to be referred

to the committee of appropriate jurisdiction so that the committee members, a group of experts in their area, could carefully analyze, critique and alter proposed legislation, then report it to their colleagues on the Senate floor after thorough consideration. In this way not only would poorly-crafted or ill-considered legislation be filtered out and never appear on the Senate Calendar, but a bill emerging from committee would be a refined product, technically sound, thoroughly understood by committee members and ready for consideration by the Senate. The committee report and minority and additional views would crystallize the issues for floor consideration.

Clearly, Mr. President, this may be an idealized picture of the committee system, but it is a useful yardstick against which to measure our current committee system. What happened to the Civil Rights Act, which tied us into procedural knots on the floor and which involves technical complexities with which very few of us are familiar? It was never marked up in committee. Let me make it clear that I am not criticizing the distinguished chairman of the Labor and Human Resources Committee who tried eight times to hold a committee meeting and was foiled by lack of a quorum. The result of this failure of the committee system is that we considered a highly complex bill on the floor without the benefit of a committee report. How could Senators decide if the bill as written or as amended by any of the innumerable amendments really does return the law to the status quo before Grove City as claimed by its supporters or really involves a major expansion of the powers of the Federal Government as claimed by its opponents? If we do not have committees to guide us through such complexities, why should we have them at all?

Mr. President, I said this last Friday and I will say it again. When are we going to have the real discussion? Where is the expert committee evaluation of this bill that nonexperts can rely and defer to?

Frankly, I don't see this discussion happening. We need our committees to set priorities for us, to sift out the trivial matters and report out the significant ones, to focus our attention and our time deliberately and effectively. Look how cluttered the Senate Calendar has become. And yet, among all those bills reported out of committee, there is a remarkable absense of essential authorization bills.

Why do our committees have such difficulty fulfilling our expectations? I think the answer to that question has also been discussed by my colleagues, and again, it is a simple one. We are spread too thin. We serve on too many committees and subcommittees. It is not humanly possible to give proper attention to the 13 or 15 or 17 committees and subcommittees that some of us serve on. We make it difficult for committee chairman to conduct even routine business as we race from meeting to meeting. We do not have time to become experts in the areas we are most interested in. Until we make that time by reducing our commitments, our committees will not be able to perform their duties and the Senate will not be taken seriously as a reliable and informed national policymaker.

Mr. President, attached to this statement is an outline of my proposals for reform, but I would like to mention a few in particular. I propose that we begin the renewal of our committee system by the exercise of self-restraint. Committees, except for Appropriations, should be limited to establishing five subcommittees and Senators should be limited to service on two subcommittees for each of the committees. We should adhere to the 2 A/1-B assignment rule and limit our total A and B committee and subcommittee assignments to nine units.

I also propose the establishment of a 2-year budget process. I believe a biennial budget would save us enormous time and frustration. The annual budget process has become an ongoing project. No sooner do we finish with the budget for 1 fiscal year then we must begin work on another. By refraining from doing everything every year we would have more time to focus on other forms of policymaking. In my attached outline I suggest the formation of a temporary committee made up of representatives of Rules, Governmental Affairs and Budget Committees to propose legislation necessary to implementing a 2-year budget process. I am convinced that this is a needed Senate reform.

All of these proposals fall within the select committee's jurisdiction. But it is my hope that the additional recommendations the committee will make in its report will be given equally serious consideration by the Senate. All 14 of the Senators who testified before the select committee on July 31 and August 2 expressed their frustration with current Senate procedures. I share my colleagues' concerns and in my outline I recommend changes in various Senate rules including the rules on germaneness, the motion to proceed and cloture.

Let me add that I greatly appreciate Senator STEVENS' timely and comprehensive suggestion for rules changes, which he described on the floor Tuesday. His proposals, while not addressing the committee system, are entirely consistent with the approach I am advocating. His statement shows clearly that the time for substantial reforms has come.

Mr. President, we must weigh our responsibilities. If we do not reduce our committee workloads to reasonable levels, the committee system cannot function as it should. Each of us will benefit from a better system—but we can only achieve it if all of us think carefully before we acquire additional committees and subcommittees. In addition, we must take a long, hard look at the way the Senate does business and make some needed and long overdue changes.

Mr. President, we must begin to consider the welfare and the reputation of the Senate as an institution rather than the acquisition of extra committee and subcommittee assignments as a means of impressing our constitutents.

Mr. President, I ask unanimous consent that the attached outline of proposals be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MATTERS TO BE INCLUDED IN RESOLUTION

I. ASSIGNMENT LIMITATIONS

A. Eliminate exceptions from current rules which limit assignments to 2 "A" and 1 "B" committees and reduce A committee slots to 200 and B committee slots to 100.

B. Limit the number of subcommittees that committees may establish to 5 (except Appropriations which will retain 13).

1. Limit senators to 2 "A" and "B" chairmanships (subcommittee or committee).

2. Ensure proportionate staff reduction in committee budget.

3. Limit senators to membership on 2 subcommittees of each committee on which they serve except Appropriations.

4. Limit total A and B unit membership (subcommittees and committees) to 9 units.

C. Assignment of majority and minority leaders. Make them *ex officio* members of the committees on which they serve with a vote, but not to count in determining the size of a quorum.

II. 2-YEAR BUDGET

Establish a temporary committee made up of representatives of Rules, Governmental Affairs and Budget to propose legislation necessary to implementing a 2-year budget within a time certain.

III. BILL REFERRAL

A. Provide for sequential referral of reported bills to committees with a substantial jurisdictional interest for a limited time.

B. Refer legislative provisions of reported appropriations bills to authorizing committees for a period not to exceed 5 calendar days or a shorter period if agreed to by the majority and minority leaders.

IV. INTELLIGENCE COMMITTEE

Establish a joint House-Senate committee on intelligence with a core professional staff.

V. SCHEDULING OF MEETINGS

Encourage the utilization of the existing computerized scheduling system by requiring the chairman to announce which members on his committee have meeting conflicts when he announces a committee meeting.

MATTERS TO BE INCLUDED IN REPORT BUT NOT IN RESOLUTION

I. ROLLCALL VOTES

A. Reduce number of roll call votes by strict adherence to the constitutional re-

quirement of support by one-fifth of members present.

B. Encourage members not to support requests for roll calls unless supported by leadership.

II. NONGERMANE AMENDMENTS

A. Provide for a "germaneness motion" requiring a super majority under which nongermane amendments are prohibited.

B. Make non-debatable rulings of the chair that an amendment is non-germane and require a super majority to overrule the chair after the germaneness motion has been adopted.

III. MOTION TO PROCEED

Provide a two-hour time limit on the motion to proceed.

IV. CLOTURE

A. Establish an effective post-cloture procedure such as limiting the number of post-cloture amendments a senator may offer, reducing the 1-hour time limit per senator or applying the Budget Act time limitations.

B. Require a super majority to overrule the chair on question of germaneness in post-cloture situations.

c. Require ⅗ vote for cloture.

V. AUTHORIZATION/APPROPRIATION PROCESS

Repeal provision permitting germane legislative provisions on appropriation bills.

RICHARD HATHAWAY, AUCTIONEER, OF MONTPELIER

Mr. LEAHY. Mr. President, some things seem especially natural in Vermont. Town meetings in the spring, foliage at this time of the year and Vermont auctions at any time.

One of Vermont's best-known auctioneers is Richard Hathaway of Montpelier.

Going to an auction with Dick Hathaway as auctioneer is worth the trip, whether you go intending to buy or not—but after watching this enormously talented individual, you won't be able to resist the temptation to buy.

I was delighted to see an article in the Sunday Rutland Herald about Richard Hathaway, written by one of Vermont's best writers, Tom Slayton.

I ask unanimous consent that the article be included in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Sunday Rutland Herald and the Sunday Times Argus (Rutland, VT), Sept. 23, 1984]

RICHARD HATHAWAY, THE SOCIAL WARRIOR

(By Tom Slayton)

Richard Hathaway, historian and auctioneer, arrives at the annual Washington County Democratic Auction ready for another struggle against the forces of darkness.

Although he doesn't like to admit it, he knows there is a category of auction known as the "Democratic auction." It bears the same relationship to most auctions that porch sales bear to the collectibles on an antique "shoppe's" front porch.

Most of the items in a classic Democratic auction are small and many are castoff. A few are downright shabby.

Hathaway, a lifelong Democrat himself, loves the party for its championing of the underdog, but has mixed feelings about Democratic auctions. They are hard work for the auctioneer, who happens to be him.

Like all auctioneers, he knows it's easier to raise money with large, attractive items than with smaller ones of marginal value. Large items before the right crowd almost sell themselves. Small items must be sold and sold hard.

But Hathaway has never turned away from auctions just because they might be difficult. Although they mean between four and eight hours of almost non-stop banter and leave him flat-out exhausted, he seems to relish them.

The reason? Richard Hathaway is a man with a mission. A scholar, to be sure. But also a cosmic clown with a heart of gold and a talent for moving merchandise.

And after all, the forces fo darkness are there to be opposed.

"You see, what I do has a kind of housebroken prophetic nature," he says. "You might call it using the tongue as a lever for social change."

Hathaway, a Montpelier resident and Vermont College professor, donates his services as a witty auctioneer to about two dozen groups throughout the state every year. The poor, the elderly, the handicapped are always among the people for whom he raises money. So are the American Friends Service Committee, a central Vermont Quaker meeting, and, of course, the local Democrats. His causes tend to bunch at the liberal end of the political spectrum.

"If you want to be weepy-dreepy about it, you could say I'm clothing the naked, feeding the hungry," he says, then smiles his most recondite smile. "What it really amounts to is that each group I work for has to pass a socio-political tonetest.

Hathaway combines the auctioneer's street savvy with the eclectic intellect of a trained academic generalist and the verbal skills of a natural stumporator. He is an intellectual salad bar, stocked with greens and condiments from a lifetime of reading, his many disparate influences united under the dressing of a richly associative mind—and a fast tongue.

It's his combination of erudition and blather that enables him to hold aloft a globe lamp trimmed with long hanging strands of green beads and declare to the bidding audience: "This is mildly seductive in a light breeze . . . but in a high wind, it's positively pornographic."

His gift allows him also to describe a plastic case for Star Wars figurines as: "A mechanistic, post-industrial fantasy item," and then include as part of the item "some preindustrial, anthropomorphic Mickey Mouse stationery . . ."

His freewheeling approach also turns a cymbidium orchid into "an iris that's gone Episcopalian" and sees ginseng tablets as "a placebo for intellectuals." He describes Woodstock, Vt., as "a wholly owned subsidiary of the Rockefeller family" and then introduces a series of environmentalist elders to their annual banquet with the comment: "We now come to what theologians would call the sanhedrin period of the evening. . . ."

The Democratic auctions shows Hathaway at his most typical: wringing cash for a cause out of a crowd with his haranguing wit, and making them love the process of parting with their money.

"The definition of Vermont is August plus an auction," he says. "So we're on the gateway to heaven."

Early in the auction, he grabs an old-fashioned wooden lawn chair.

"This is not your basic Zayre's plastic wilt-in-the-dark lawn chair," he says, adding a sonorous ring to his voice: "This . . . is a statement of quality."

The statement of quality brings nearly $30—not bad for a lawn chair.

He hoists a slightly bent three-tiered glass candy dish, which he notes has a "a tower-of-Babel slope," adds a jar of zucchini relish, and says "you can spread the relish on the dish and be accounted somewhat unique in Washington County."

The two items sell for about $4, more than either would have brought alone—or without the joke.

A prayer plant, small, green and suppliant, is brought forward.

"At night, when the Republicans come out," Hathaway explains, "the leaves fold up into a prayer-like attitude. It was designed by Albrecht Durer about five centures ago . . . the plant that prays together . . ."

The plant having netted several dollars, a Havahart mousetrap is next. He's intrigued by the trap's ability to catch the mouse alive, calls it a trap for "hemorrhaging-heart liberals" and explains: "You catch the mouse. You take it to another jurisdiction and let it go. And it takes at least three hours for it to find its way back into your house again."

An elderly typewriter comes on the block, and Hathaway hurriedly describes it as "hand-hit." Someone corrects him, noting the typewriter is properly called "a manual." And again, Hathaway is off: "A manual . . . Emmanuel . . . Wait! Emmanuel is another name for . . . it's a religious typewriter! Use it to proclaim the virtue of evangelical Protestantism . . ."

Just before it sells, he adds: "It's really a very nice typewriter. And you can always use it as a door weight if it doesn't work."

Religious references find their way quite often into Hathaway's humor, and he thinks of the auction form itself as a secular counterpart to the religious revival meeting.

"It's a kind of holy roller worship," he explains: "The auctioneer is the minister; the audience is the congregation; the patter can be either the Catholic incantation or the Protestant hymns.

"The moment of grace is when you convert someone from a bystander to a bidder, salvation is getting the item and penance is when you can't pay for it."

At 50, Hathaway is living proof that intellectuals can successfully work in the marketplace's hurly-burly. Born in Boston, educated at Bates College and transplanted from Bowdoin to Goddard College 20 years ago, Hathaway found his way to his auctioneering hobby by instinct.

He got his start in 1967 when auctioneer Walter Flatow of Waterbury Center offered him the gavel while Flatow took a 45-minute break at a Barre auction. It was love at first bid, and Hathaway began doing small benefit auctions for Goddard's Adult Degree Program. Other, larger auctions followed, his skills developed and for years his summers have not been his own.

After about a decade of practice, he's now state-licensed, a competent professional auctioneer with an intimate understanding of the dynamics of the craft.

"I have to admit to being naturally verbal," he says. "I talk for a living."

In addition to doing small-scale auctions for local aid-to-the-elderly programs and day care centers, he has overseen the national auctions of the American Historical Print Collectors' Society and this year

raised more than $6,000 for the American Friends' Service Committee, a Quaker social action group, at its annual benefit auction in Burlington.

Other major auctions take him to virtually every part of the state and beyond, but he remains faithful to his earliest causes and still conducts regular benefit auctions—preceded by homemade omelets—for the Goddard Adult Degree Program, now run by Vermont College.

In all, that makes about 20 auctions per year, almost all of them at no charge to the sponsoring organization.

Now an expert, he knows the structure of a bidding afternoon as well as the wiliest cattle auctioneer, can quickly spot the standard bidding types and prod them to action with a well-chosen word or two.

The first hour of any auction, he knows, is warm-up. Hours two through five are prime time, when bids are best and the top items must be sold. Finally, in the last hour, come the remnant items and the lowest bidding. It's the time Hathaway refers to as "the gleaning."

The Democratic auction has finally reached that point.

"We're nearing the last sequence of this afternoon," he announces. "Are you ready for the 36 cans of housepaint, some of which go back to the administration of William McKinley? At least 30 percent of those cans are Unitarian-Universalist."

The paint sells, and the auction is over.

The Washington County Democrats are nearly $700 richer, and Hathaway is hoarse and tired. He drives home, recuperates on a sofa, and thinks about the meaning of it all. Why does he do this?

Having grown up a Baptist, with a strong Protestant impulse to witness to his beliefs in the world-at-large, may have something to do with it.

"It's egomania plus performance, but there has to be a social purpose served or it's no fun," he says, "I'm a latent manichaean, and the forces of darkness are always warring with the forces of light."

Mr. PROXMIRE. Mr President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call to be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT

Mr. STEVENS. Mr. President, I ask unanimous consent that the items that I now enumerate be presented to the Senate as set forth on the petitions that I sent to the desk, that the requests be granted as they appear on these requests, and that the bills and matters be handled in agreement with the items that the distinguished minority leader and I will approve here pursuant to this request, and I specifically refer to and I propose that they all be done en bloc. I refer to H.R. 5818, H.R. 999; Calendar No. 1202 and Calendar No. 1217, which are Senate Concurrent Resolution 65 and House Concurrent Resolution 122; the House message on S. 416; H.R. 3331; Senate Resolution 139; H.R. 5585; H.R. 5386; H.R. 6112; H.R. 5361; H.R. 6303; H.R. 3971; H.R. 6234, the conference report on S. 1097; the conference report on S. 2819; the conference report on S. 905; S. 2663; H.R. 2889; H.R. 5946; H.R. 2645; Senate Resolution 448, that is Calendar No. 1248, which is S. 448; Calendar No. 1249, which is Senate Resolution 451; Calendar No. 1267, which is H.R. 3601; and Calendar No. 1300, which is H.R. 5997.

I ask unanimous consent that the statements that are referred to in the request that I send to the Chair be printed in the RECORD in the appropriate spot relating to the bills to which they address and that all of the requests may be granted, the submission of amendments and all of the details be taken precisely as recommended in the documents that we have approved, and that the statements that I referred to be printed in the RECORD as though read.

Mr. BYRD. Mr. President, reserving the right to object, and I will not object, I am asking that the following be added to the request by the distinguished assistant Republican leader, namely that all statements on this side of the aisle pertaining to the various and sundry measures included in the request be appropriately placed in the RECORD as indicated by the memoranda that will be sent to the desk.

Mr. STEVENS. Mr. President, I amend my request so that there is one request pending before the Senate with the request of the distinguished minority leader.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I move to reconsider that action.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

TOY SAFETY ACT OF 1984

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 1272, H.R. 5818.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 5818) to amend the Federal Hazardous Substances Act to apply the notice and repair, replacement, and refund provisions of that Act to defective toys and other articles intended for use by children.

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 6978

(Purpose: To make an amendment in the nature of a substitute)

Mr. STEVENS. Mr. President, on behalf of the Senator from Wisconsin [Mr. KASTEN], I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS] on behalf of Mr. KASTEN proposes an amendment numbered 6978.

Mr. STEVENS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all after the enacting clause and insert in lieu the following: That this Act may be cited as the "Toy Safety Act of 1984".

SEC. 2. (a) Section 15 of the Federal Hazardous Substances Act (15 U.S.C. 1274) is amended—

(1) by redesignating subsections (c), (d), and (e) as subsections (d), (e), and (f), respectively; and

(2) by inserting immediately after subsection (b) the following:

"(c)(1) If the Commission determines (after affording interested persons, including consumers and consumer organizations, an opportunity for a hearing in accordance with subsection (e) of this section) that any toy or other article intended for use by children that is not a banned hazardous substance contains a defect which creates a substantial risk of injury to children (because of the pattern of defect, the number of defective toys or such articles distributed in commerce, the severity of the risk, or otherwise) and that notification is required to protect adequately the public from such toy or article, the Commission may order the manufacturer or any distributor or dealer of such toy or article to take any one or more of the following actions:

"(A) To give public notice that such defective toy or article contains a defect which creates a substantial risk of injury to children.

"(B) To mail such notice to each person who is a manufacturer, distributor, or dealer of such toy or article.

"(C) To mail such notice to every person to whom the person giving notice knows such toy or article was delivered or sold.

An order under this paragraph shall specify the form and content of any notice required to be given under the order.

"(2) If the Commission determines (after affording interested persons, including consumers and consumer organizations, an opportunity for a hearing in accordance with subsection (e) of this section) that any toy or other article intended for use by children that is not a banned hazardous substance contains a defect which creates a substantial risk or injury to children (because of the pattern of defect, the number of defective toys or such articles distributed in commerce, the severity of the risk, or otherwise) and that action under this paragraph is in the public interest, the Commission may order the manufacturer, distributor, or dealer to take whichever of the following actions the person to whom the order is directed elects:

"(A) If repairs to or changes in the toy or article can be made so that it will not contain a defect which creates a substantial risk of injury to children, to make such repairs or changes.

"(B) To replace such toy or article with a like or equivalent toy or article which does not contain a defect which creates a substantial risk of injury to children.

"(C) To refund the purchase price of such toy or article (less a reasonable allowance for use, if such toy or article has been in the possession of the consumer for 1 year or more (i) at the time of public notice under paragraph (1)(A), or (ii) at the time the consumer receives actual notice that the toy or article contains a defect which creates a substantial risk of injury to children, whichever first occurs).

An order under this paragraph may also require the person to whom it applies to submit a plan, satisfactory to the Commission, for taking the action which such person has elected to take. The Commission shall specify in the order the person to whom refunds must be made if the person to whom the order is directed elects to take the action described in subparagraph (C). If an order under this paragraph is directed to more than one person, the Commission shall specify which person has the election under this paragraph. An order under this paragraph may prohibit the person to whom it applies from manufacturing for sale, offering for sale, distributing in commerce, or importing into the customs territory of the United States (as defined in general headnote 2 to the Tariff Schedules of the United States), or from doing any combination of such actions, with respect to the toy or article with respect to which the order was issued.".

(b) Section 15(d)(1) of the Federal Hazardous Substances Act, as so redesignated by subsection (a) of this section, is amended by striking "subsection (b)" and inserting in lieu thereof "subsection (b) or (c)".

(c) Section 15(d)(2) of such Act, as so redesignated by subsection (a) of this section, is amended—

(1) by striking "an article" and inserting in lieu thereof "a toy, article"; and

(2) by inserting "toy," immediately before "article" the second and third time it appears.

(d) Section 15 (d)(2) and (e) of such Act, as so redesignated by subsection (a) of this section, is amended by striking "subsection (a) or (b)" and inserting in lieu thereof "subsection (a), (b), or (c)".

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Alaska.

The amendment (No. 6978) was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. If there be no further amendment to be proposed, the question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

So the bill (H.R. 5818), as amended, was passed.

The title was amended so as to read:

Amend the title so as to read: "An Act to enable the Consumer Product Safety Commission to protect the public by ordering notice and repair, replacement or refund of certain toys or articles intended for use by children if such toys or articles contain a defect which creates a substantial risk of injury to children.".

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMERICAN CONSERVATION CORPS ACT OF 1983

The Senate proceeded to consider the bill (H.R. 999) to provide for the conservation, rehabilitation, and improvement of natural and cultural resources located on public or Indian lands, and for other purposes, which had been reported from the Committee on Energy and Natural Resources with an amendment to strike out all after the enacting clause, and insert the following:

SHORT TITLE

SECTION 1. This Act may be cited as the "American Conservation Corps Act of 1983".

CONGRESSIONAL FINDINGS AND PURPOSE

SEC. 2. (a) FINDINGS.—The Congress finds that—

(1) public lands, resources, and facilities, including parks, rangelands, wildlife refuges, forests, water resources, fishery facilities, historic and cultural sites, and urban and community resources, have become subject to increasing public use and resource production demands;

(2) the condition of many of these lands, resources, and facilities has deteriorated as a result of these increasing uses and demands and as a result of the inability of Government agencies to adequately staff and fund the maintenance necessary to arrest the deterioration;

(3) public land management agencies have a responsibility to assure that public lands and resources are managed—

(A) to assure continued productivity,

(B) to protect public health and safety, and

(C) to assure their wise and economic conservation, maintenance, and use;

(4) a program designed to systematically guide and enhance the conservation, rehabilitation, and improvement of our public lands, resources, and facilities is urgently needed; and

(5) youth conservation programs have proven highly successful and cost effective in providing training and jobs for unemployed youth and in assisting land management agencies at all levels of government to reduce the backlog of neglected public land conservation, rehabilitation and improvement projects and to carry out other public land resource management work.

(b) PURPOSE.—It is the purpose of this Act to—

(1) reduce the backlog of conservation, rehabilitation, and improvement work on the public lands, prevent the further deterioration of public lands and resources and facilities, conserve energy and restore and maintain community lands, resources, and facilities;

(2) establish an American Conservation Corps to carry out a program to improve, restore, maintain, and conserve public lands and resources in the most cost-effective manner;

(3) use such program to assist State and local governments in carrying out needed public land and resource conservation, rehabilitation, and improvement projects;

(4) provide for implementation of the program in such manner as will foster conservation and the wise use of natural and cultural resources through the establishment of working relationships among the Federal, State, and local governments, Indian tribes, and other public and private organizations; and

(5) use this program to increase (by training and other means) employment opportunities for young men and women.

SEC. 3. (a) There is hereby established an American Conservation Corps, under the direction of the Secretary of the Interior to carry out conservation, rehabilitation, and improvement projects on public lands and Indian lands.

(b) There is authorized to be appropriated to the Secretary of the Interior for the purposes of carrying out this Act $50,000,000 for fiscal year 1984, $75,000,000 for fiscal year 1985, and $100,000,000 for fiscal year 1986.

AMENDMENT NO. 6979

Mr. BYRD. Mr. President, I send to the desk an amendment on behalf of Mr. MOYNIHAN, for himself, Mr. MATHIAS, Mr. MCCLURE, Mr. WALLOP, Mr. JOHNSTON, Mr. BUMPERS, Mr. HATFIELD, Mr. CHAFEE, and Mr. MITCHELL.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from New York (Mr. MOYNIHAN) for himself and other Senators, proposes an amendment in the nature of a substitute.

The amendment is as follows:

Strike all after the enacting clause and insert in lieu thereof the following:

SHORT TITLE

SECTION 1. This Act may be cited as the "American Conservation Corps Act of 1984".

CONGRESSIONAL FINDINGS AND PURPOSE

SEC. 2. (a) FINDINGS.—The Congress finds that—

(1) conserving or developing natural and cultural resources and enhancing and maintaining environmentally important lands and waters through the use of the Nation's young men and women, is beneficial not only to the youth of the Nation by providing them with education and work opportunities, but is also beneficial for the Nation's economy and its environment; and

(2) through this work experience opportunity, the Nation's youth will further their understanding and appreciation of the natural and cultural resources in addition to learning basic and fundamental work ethics including discipline, cooperation, understanding to live and work with others, and learning the value of a day's work for a day's wages.

(b) PURPOSE.—It is the purpose of this Act to—

(1) enhance and maintain conservation, rehabilitation, and improvement work on Federal and non-Federal public lands and

Indian lands, improve and restore Federal and non-Federal public lands and Indian lands, resources, and facilities, conserve energy and restore and maintain community lands, resources, and facilities;

(2) establish an American Conservation Corps to carry out a program to improve, restore, maintain, and conserve these lands and resources in the most cost-effective manner;

(3) assist State and local governments in carrying out needed non-Federal public land and resource conservation, rehabilitation, and improvement projects;

(4) provide for implementation of the program in such manner as will foster conservation and the wise use of natural and cultural resources through the establishment of working relationships among the Federal, State, and local governments, Indian tribes, and other public and private organizations; and

(5) increase (by training and other means) employment opportunities for young men and women including, but not limited to, those who are economically, socially, physically, or educationally disadvantaged and who may not otherwise be productively employed.

DEFINITIONS

SEC. 3. For purposes of this Act—

(1) The term "Federal public lands" means any lands or waters (or interest therein) owned or administered by the United States.

(2) The term "non-Federal public lands" means any lands or waters (or interest therein) owned or administered by any agency or instrumentality of a State or local government.

(3) The term "program" means the conservation, rehabilitation, and improvement program established by this Act.

(4) The term "program agency" means any Federal agency or instrumentality with responsibility for the management of any public or Indian lands, any State agency designated by the Governor to manage the program in that State, and the governing body of any Indian tribe.

(5) The term "Indian tribe" means any Indian tribe, band, nation, or other group which is recognized as an Indian tribe by the Secretary of the Interior. Such term also includes any Native village corporation, regional corporation, and Native group established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1701 et seq.).

(6) The term "Indian" means a person who is a member of an Indian tribe.

(7) The term "Indian lands" means any real property owned by an Indian tribe, any real property held in trust by the United States for individual Indians or Indian tribes, and any real property held by individual Indians or Indian tribes which is subject to restrictions on alienation imposed by the United States.

(8) The term "employment security service" means the agency in each of the several States with responsibility for the administration of unemployment and employment programs, and the oversight of local labor conditions.

(9) The term "chief administrator" means the head of any program agency as that term is defined in paragraph (4).

(10) The term "enrollee" means any individual enrolled in the American Conservation Corps in accordance with section 5.

(11) The term "crew leader" means an enrollee appointed under authority of this Act for the purpose of supervising other enrollees engaged in work projects pursuant to this Act.

(12) The term "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(13) The term "economically disadvantaged" with respect to youths has the same meaning given such term in section 4(8) of the Job Training Partnership Act.

PUBLIC LANDS CONSERVATION, REHABILITATION, AND IMPROVEMENT PROGRAM

SEC. 4. (a) ESTABLISHMENT OF PROGRAMS.—There is hereby established within the Department of the Interior and the Department of Agriculture an American Conservation Corps.—

(1) ESTABLISHMENT OF PROGRAM ON FEDERAL PUBLIC LANDS.—Not later than ninety days after the enactment of this Act, the Secretary of the Interior and the Secretary of Agriculture, after consultation with the Secretary of Labor, shall establish and administer a conservation, rehabilitation, and improvement program on Federal public lands and Indian lands to carry out the purposes of this Act.

(2) ESTABLISHMENT OF PROGRAM ON NON-FEDERAL PUBLIC LANDS.—The Secretary of the Interior, after consultation with the Secretary of Agriculture and the Secretary of Labor, shall establish and administer a conservation, rehabilitation, and improvement program on non-Federal public lands to carry out the purposes of this Act.

(b) REGULATIONS AND ASSISTANCE.—The Secretary of the Interior and the Secretary of Agriculture, after consultation with the Secretary of Labor, shall jointly promulgate the regulations necessary to implement the programs established by subsection (a). Within thirty days after the enactment of this Act, the Secretary of the Interior and the Secretary of Agriculture shall establish procedures to give Federal and non-Federal program agencies and other interested parties, including the public, adequate notice and opportunity to comment upon and participate in the formulation of such regulations. The Secretary of the Interior and the Secretary of Agriculture shall provide assistance, consistent with the terms of this Act, to program agencies for the establishment and operation of residential and nonresidential American Conservation Corps centers and for the implementation by the American Conservation Corps of projects designed to carry out the purposes of this Act.

(c) PROJECTS INCLUDED.—The programs established under this section may include projects such as—

(1) wildlife habitat conservation, rehabilitation, and improvement;

(2) rangeland conservation, rehabilitation, and improvement;

(3) recreational area development, maintenance, and improvement;

(4) urban revitalization;

(5) historical and cultural site preservation and maintenance;

(6) fish culture and habitat maintenance and improvement and other fishery assistance;

(7) road and trail maintenance and improvement;

(8) erosion, flood, drought, and storm damage assistance and control;

(9) stream, lake, and waterfront harbor and port improvement, and pollution control;

(10) insect, disease, rodent, and fire prevention and control;

(11) improvement of abandoned railroad bed and right-of-way;

(12) energy conservation projects and renewable resource enhancement;

(13) recovery of biomass from public lands, particularly forestlands;

(14) reclamation and improvement of strip-mined lands; and

(15) forestry, nursery, and silvicultural operations.

(d) PREFERENCE FOR CERTAIN PROJECTS.—The programs shall provide a preference for those projects which—

(1) will provide long-term benefits to the public;

(2) will instill in the enrollee involved a work ethic and a sense of public service;

(3) will be labor intensive; and

(4) can be planned and initiated promptly.

(e) LIMITATION TO FEDERAL AND NON-FEDERAL PUBLIC LANDS.—Projects to be carried out under the program shall be limited to projects on Federal and non-Federal public lands or Indian lands except where a project involving other lands will provide a documented public benefit as determined by the Secretary of the Interior or the Secretary of Agriculture. The regulations promulgated under subsection (b) shall establish the criteria necessary to make such determinations.

(f) CONSISTENCY.—All projects selected and carried out under this Act for conservation, rehabilitation, or improvement of any Federal or non-Federal public lands or Indian lands shall be consistent with the provisions of law and policies relating to the management and administration of such lands, with all other applicable provisions of law, and with all management, operational, and other plans and documents which govern the administation of the area.

(g) CONSERVATION CENTERS.—(1) Each program agency may apply for approval of conservation centers to carry out projects under this Act.

(2) Applications for approval of conservation centers on Federal public lands shall be submitted to the Secretary of the Interior or the Secretary of Agriculture in such manner as is provided for by the regulations promulgated under subsection (b). Applications for the approval of conservation centers on non-Federal public lands or Indian lands shall be submitted to the Secretary of the Interior. No application may be submitted to the Secretary of the Interior or the Secretary of Agriculture before the 30-day period for review and comment by the appropriate State Job Training Coordinating Council (established under the Job Training Partnership Act), if any, which shall consult with the appropriate Private Industry Council, or Councils, in the area in which a project is carried out. Comments of the State Job Training Coordinating Council and Private Industry Council shall be forwarded to the Secretary at the time the grant application is submitted.

(3) No grant or other agreement may be entered into under this section unless an application is submitted to and approved by the Secretary of the Interior or the Secretary of Agriculture, as the case may be. Each application shall contain—

(A) a comprehensive description of the objectives and performance goals for the conservation center and a description of the types of projects to be carried out, including a description of the types and duration of training and work experience to be provided;

(B) a plan to make arrangements for certification of the training skills acquired by enrollees under this Act;

(C) a plan to make arrangements for the award of academic credit by educational institutions and agencies to enrollees for competencies developed under training programs or from work experience under this Act;

(D) an estimate of the number of enrollees and crew leaders necessary for the proposed projects, the length of time for which the services of such personnel will be required and the services which will be required for their support;

(E) a description of the facilities and equipment to be available for use in the center;

(F) a plan for managing the conservation center, supplying the necessary equipment and material, and administering the payroll; and

(G) such other information as the Secretary of the Interior and the Secretary of Agriculture shall prescribe.

(4) In approving the location and type of conservation centers, the Secretary of the Interior and the Secretary of Agriculture shall give due consideration to—

(A) the proximity of the center to the work to be done;

(B) the cost and means of transportation available between the center and the homes of the enrollees who may be assigned to those centers;

(C) the access of economically, socially, physicially, or educationally disadvantaged youths to the centers; and

(D) the cost of establishing the center.

Every effort shall be made to assign youths to residential or nonresidential centers as near to their homes as practicable.

(5)(A) Every conservation center shall have sufficient supervisory staff appointed by the chief administrator which may include enrollees who have displayed exceptional leadership qualities.

(B) No project shall be undertaken without the on-site presence of knowledgeable and competent supervision, and all projects undertaken shall be documented in advance in an approved written project plan.

(h) LOCAL GOVERNMENT PARTICIPATION.—Any State carrying out a program under this Act shall provide a mechanism under which local governments within the State may be approved by the State to participate in the program and to carry out projects in accordance with the requirements of this Act.

(i) AGREEMENTS.—Program agencies may enter into contracts and other appropriate arrangements with local government agencies and nonprofit organizations for the management of conservation centers under the program.

(j) JOINT PROJECTS.—The Secretary of the Interior and the Secretary of Agriculture are authorized to develop jointly with the Secretary of Labor regulations designed to allow, where appropriate, joint projects in which activities supported by funds authorized under this Act are coordinated with activities supported by funds authorized under employment and training statutes administered by the Department of Labor (including the Job Training Partnership Act). Such regulations shall provide standards for approval of joint projects which meet both the purposes of this Act and the purposes of such employment and training statutes under which funds are available to support the activities proposed for approval. Such regulations shall also establish a single mechanism for approval of joint projects developed at the State or local level.

ENROLLMENT, FUNDING, AND MANAGEMENT

SEC. 5. (a)(1)(A) ENROLLMENT IN PROGRAM.—Enrollment in the American Conservation Corps shall be limited to individuals who, at the time of enrollment, are—

(i) unemployed;

(ii) not less than sixteen or more than twenty-five years of age (except that programs limited to the months of June, July, and August may include individuals not less than fifteen years and not more than twenty-one years of age at the time of their enrollment); and

(iii) citizens (including those citizens of the Northern Mariana Islands as defined in Public Law 98-213 (97 Stat. 1459)) or lawful permanent residents of the United States.

(B) Special efforts shall be made to recruit and enroll individuals who, at the time of enrollment, are economically disadvantaged.

(C) In addition to recruitment and enrollment efforts required in subparagraph (B), the Secretary of the Interior and the Secretary of Agriculture shall make special efforts to recruit enrollees who are socially, physically, and educationally disadvantaged youths.

(D) Nothwithstanding subparagraph (A), a limited number of special corps members may be enrolled without regard to their age so that the corps may draw upon their special skills which may contribute to the attainment of the purposes of the Act.

(2) Except in the case of a program limited to the months of June, July, and August, individuals who at the time of applying for enrollment have attained age sixteen but not attained age nineteen, and who are no longer enrolled in any secondary school shall not be enrolled unless they are given adequate written assurances, under criteria to be established by the Secretary of the Interior and the Secretary of Agriculture, that they did not leave school for the express purpose of enrolling. The regulations promulgated under section 4(b) shall provide such criteria.

(3) The selection of enrollees to serve in the American Conservation Corps in any conservation center shall be the responsibility of the chief administrator of the program agency. Enrollees shall be selected from those qualified persons who have applied to, or been recruited by, the program agency, a State employment security service, a local school district with an employment referral service, an administrative entity under the Job Training Partnership Act, a community or community-based nonprofit organization, the sponsor of an Indian program, or the sponsor of a migrant or seasonal farmworker program.

(4)(A) Except for a program limited to the months of June, July, and August, any qualified individual selected for enrollment may be enrolled for a period not to exceed twenty-four months. When the term of enrollment does not consist of one continuous twenty-four-month term, the total of shorter terms may not exceed twenty-four months.

(B) No individual may remain enrolled in the American Conservation Corps after that individual has attained the age of twenty-six, except as provided in section 5(a)(1)(B).

(5) Within the American Conservation Corps the directors of centers shall establish and stringently enforce standards of conduct to promote proper moral and disciplinary conditions. Enrollees who violate these standards shall be transferred to other locations, or dismissed, if it is determined that their retention in that particular center, or in the Corps, will jeopardize the enforcement of such standards or diminish the opportunities of other enrollees. Such disciplinary measures will be subject to expeditious appeal to the appropriate Secretary.

(b) SERVICES, FACILITIES, SUPPLIES, ET CETERA.—The program agency shall provide quarters, board, limited and emergency medical care, transportation from conservation centers to worksites, and other services, facilities, supplies, and equipment. Whenever, possible, the Secretary of the Interior and the Secretary of Agriculture shall make arrangements with the Secretary of Defense to have such logistical support provided by a military installation near the proposed center, including the provision of temporarly tent centers where needed. Basic standards of work requirements, health, nutrition, sanitation, and safety for all conservation centers shall be established and enforced.

(c) Requirement of Payment for Certain Services.—Enrollees shall be required to pay a reasonable portion of the cost of room and board provided at conservation centers into rollover funds administered by the appropriate Secretary. Such payments and rates are to be established after evaluation of costs of providing the services. The rollover funds established pursuant to this section shall be used solely to defray the costs of room and board for enrollees. The Secretary of the Interior and the Secretary of Agriculture are authorized to make available to program agencies surplus food and equipment as may be available from Federal programs.

FEDERAL AND STATE EMPLOYEE STATUS

SEC. 6. (a) IN GENERAL.—Enrollees, crew leaders, and volunteers are deemed as being responsible to, or the responsibility of, the program agency administering the project on which they work. Non-Federal program agencies shall be required as a minimum to provide tort claims protection and work related injury claim benefits to enrollees and crew leaders. Except as otherwise specifically provided in the following paragraphs, enrollees and crew leaders in Federal projects for which funds have been authorized pursuant to paragraphs (2), (3), (4), and (5) of section 13(a) shall not be deemed Federal employees and should not be subject to the provisions of law relating to Federal employment:

(1) For purposes of subchapter I of chapter 81 of title 5, United States Code, relating to the compensation of Federal employees for work injuries, enrollees and crew leaders serving Federal program agencies shall be deemed civil employees of the United States within the meaning of the term "employee" as defined in section 8101 of title 5, United States Code, and the provisions of that subchapter shall apply, except—

(A) the term "performance of duty" shall not include any act of an enrollee or crew leader while absent from his or her assigned post of duty, except, while participating in an activity authorized by or under the direction and supervision of the Secretary of the Interior or the Secretary of Agriculture or the conservation supervisory staff (including an activity while on pass or during travel to or from such post of duty); and

(B) compensation for disability shall not begin to accrue until the day following the date on which the injured enrollee's or crew leader's employment is terminated.

(2) For purposes of chapter 171 of title 28, United States Code, relating to tort claims procedure, enrollees and crew leaders on Federal project shall be deemed employees of the United States within the meaning of the term "employee of the Government" as defined in section 2671 of title 28, United States Code.

(3) For purposes of section 5911 of title 5, United States Code, relating to allowances for quarters, enrollees and crew leaders shall be deemed employees of the United States within the meaning of the term "employee" as defined in that section.

(b) AMENDMENT OF TITLE 5.—Section 8332(b) of title 5, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (11);

(2) by striking out the period at the end of paragraph (12) and inserting in lieu thereof "; and"; and

(3) by adding after paragraph (12) the following new paragraph:

"(13) service as an enrolled or crew leader only if the enrollee or crew leader in the American Conservation Corps later becomes subject to this subchapter.".

USE OF VOLUNTEERS

SEC. 7. Where any program agency has authority to use volunteer services in carrying out functions of the agency, such agency may use volunteer services for purposes of assisting projects related to conservation centers established under this Act and may expend funds made available for those purposes to the agency, including funds made available under this Act, to provide for services or costs incidental to the utilization of such volunteers, including transportation, supplies, lodging, subsistence, recruiting, training, and supervision. The use of volunteer services permitted by this section shall be subjected to the condition that such use does not result in the displacement of any enrollee.

TENNESSEE VALLEY AUTHORITY

SEC. 8. The Board of Directors of the Tennessee Valley Authority may accept the services of volunteers and provide for their incidental expenses to carry out any activity of the Tennessee Valley Authority except policy-making or law or regulatory enforcement. Such volunteers shall not be deemed employees of the United States Government except for the purposes of chapter 81 of title 5 of the United States Code, relating to compensation for work injuries, and shall not be deemed employees of the Tennessee Valley Authority except for the purposes of tort claims to the same extent as a regular employee of the Tennessee Valley Authority would be under identical circumstances.

SPECIAL RESPONSIBILITIES

SEC. 9. (a) PAY.—(1) The rate of pay for enrollees shall be 95 percent of the pay rate for members of the Armed Forces in the enlisted grade E-1 who have served for four months or more on active duty, from which a reasonable charge for enrollee room and board shall be deducted by the program agency.

(2) Enrollees shall receive $50 cash incentive stipends for every three months of enrollment in the program.

(3) The rate of pay for crew leaders shall be at a wage comparable to the compensation in effect for grades GS-3 to GS-7.

(b) COORDINATION.—The Secretary of the Interior and the Secretary of Agriculture and the chief administrators of other program agencies carrying out programs under this Act shall coordinate the programs with related Federal, State, local, and private activities.

(c) CERTIFICATION AND ACADEMIC CREDIT.—Pursuant to the provisions of paragraphs (B) and (C) of section 4(g)(3), the Secretary of the Interior and the Secretary of Agriculture shall provide guidance and assistance to program agencies in securing certification of training skills or academic credit for competencies developed under this Act.

(d) RESEARCH AND EVALUATION.—The Secretary of the Interior and the Secretary of Agriculture shall provide for research and evaluation to—

(1) determine costs and benefits, tangible and otherwise, of work performed under this Act and of training and employable skills and other benefits gained by enrollees, and

(2) identify options for improving program productivity and youth benefits, including improved alternatives for: organization, subjects, sponsorship, and funding of work projects; recruitment and personnel policies; siting and functions of conservation centers; work and training regimes for youth of various origins and needs; and cooperative arrangements with programs, persons, and institutions not covered under this Act.

(e) DEMONSTRATIONS.—The Secretary of the Interior and the Secretary of Agriculture may authorize pilot or experimental projects to demonstrate or test new or alternative arrangements or subjects of work and training for programs under this Act, which may include alternatives identified under subsection (d)(2).

(f) CCC SITES.—The Secretary of the Interior, after consulation with the Secretary of Agriculture, shall study sites at which Civilian Conservation Corps activities were undertaken for purposes of determinating a suitable location and means to commemorate the Civilian Conservation Corps. Not later than one year after the date of the enactment of this Act, the Secretary of the Interior shall submit a report to the Congres containing the results of the study carried out under this section. The report shall include cost estimates and recommendations for any legislative action.

(g) STUDY.—(1) Program agencies shall not use more than 10 per centum of the funds available to them to provide training and educational materials and services for enrollees and may enter into arrangements with academic institutions or education providers, to include local education agencies, community colleges, four-year colleges, area vocational-technical schools and community based organizations, for academic study by enrollees during nonworking hours to upgrade literacy skills, obtain a high school diploma or its equivalency, or college degrees, or enhance employable skills. Enrollees who have not obtained a high school diploma or its equivalency shall have priority to receive services under this subsection. Whenever possible, an enrollee seeking study or training not provided at his or her conservation center shall be offered assignment to conservation center providing such study or training.

(2) Standards and procedures with respect to the awarding of academic credit and certifying educational attainment in programs conducted under paragraph (1) shall be consistent with the requirement of applicable State and local law and regulations.

(h) GUIDANCE AND PLACEMENT.—Program agencies shall provide such job guidance and placement information and assistance for enrollees as may be necessary. Such assistance shall be provided in coordination with appropriate State, local, and private agencies and organizations.

ANNUAL REPORT

SEC. 10. The Secretary of the Interior and the Secretary of Agriculture shall prepare and submit to the President and to the Congress at least once each year a report detailing the activities carried out under this Act. Such report shall be submitted not later than December 31 of each year following the date of enactment of this Act. The report shall describe (1) conservation work procedures, accomplishments, and benefits; (2) the short-term post-program experience of enrollees, including data on the number of those terminating from the program who are unemployed, employed, have left the labor force, and are enrolled in further education and shall also report on the long-term impacts of the program on the employability of enrollees; (3) other youth benefits; and (4) problems and opportunities encountered in carrying out the Act which require attention. The Secretary of the Interior and the Secretary of Agriculture shall include in such report such recommendations as each considers appropriate.

LABOR MARKET INFORMATION

SEC. 11. The Secretary of Labor shall make available to the Secretary of the Interior and the Secretary of Agriculture and to any program agency under this Act such labor market information as is appropriate for use in carrying out the purposes of this Act.

EMPLOYEE APPEAL RIGHTS

SEC. 12. (a) In the case of—

(1) the displacement of a Federal employee (as defined in paragraph (1) of section 7511(a) of title 5, United States Code) or the failure to reemploy such a Federal employee from a reemployment priority list or return A Federal employee from furlough affected under title 5, United States Code, part 351 or part 752, contrary to a certification under section 13(b) (1) or (2) or

(2) the displacement of such a Federal employee by reason of the use of one or more volunteers under section 7 of this Act,

such employee is entitled to appeal such action to the Merit Systems Protection Board under section 7701 of title 5, United States Code.

(b) In the case of—

(1) the displacement of any other individual employed (either directly or under contract with any private contractor) by a program agency or grantee, or the failure to reemploy an employee in layoff status, contrary to a certification under section 13(b)(1) or (2), or

(2) the displacement of such individual by reason of the use of one or more volunteers under section 7 of this Act,

the requirements contained in section 144 of the Job Training Partnership Act (Public Law 97-300) shall apply, and such individual shall be deemed an interested person for purposes of the application of such requirements.

(c) For purposes of this section, the term "displacement" includes, but is not limited to, any partial displacement through reduction of nonovertime hours, wages, or employment benefits.

AUTHORIZATION OF APPROPRIATIONS

SEC. 13. (a) DISTRIBUTION OF FUNDS.—Of the sums appropriated pursuant to subsection (f) to carry out this Act for any fiscal year—

(1) not less than 35 per centum shall be made available to the Secretary of the Interior for expenditure by State program agencies;

(2) not less than 25 per centum shall be made available to the Secretary of Agriculture for expenditures by program agencies within the Department of Agriculture;

(3) not less than 25 per centum shall be made available to the Secretary of the Interior for expenditure by program agencies within the Department of the Interior;

(4) not less than 5 per centum shall be made available to the Secretary of the Interior for expenditure by the governing bodies of participating Indian tribes; and

(5) the remaining amount shall be made available to the Secretary of the Interior and the Secretary of Agriculture, under such terms as are provided for in regulations promulgated under section 4(b), for expenditure by other Federal program agencies and for demonstration projects or projects of special merit carried out by any program agency or by any nonprofit organization or local government which is undertaking or proposing to undertake projects consistent with the purposes of this Act.

Fifteen per centum of the amount disbursed to State program agencies under paragraph (1) (or to local governments within the State where subsection (c) applies) shall be divided equally among the States and 85 per centum of such amount shall be distributed among such States proportionately according to the total youth population of such States between the ages of fifteen and twenty-five (as determined on the basis of the most recent census). Any State receiving funds for the operation of any conservation center shall be required to provide not less than 15 per centum of the cost of operation of such center. Any State receiving funds for any fiscal year shall provide not less than 10 per centum of such funds to local governments approved by the State under section (4) (h) to carry out projects under this Act unless no such local government in that State is approved before the end of such fiscal year. In any case where no such local government is approved before the end of such fiscal year, such 10 per centum may be expended by the State in accordance with this Act.

(b) AWARDS OF GRANTS.—The Secretary of the Interior and the Secretary of Agriculture shall not make any grant to, or enter into any agreement with any program agency for the funding of any conservation center under this Act unless such agency certifies that projects carried out by the conservation center will not—

(1) result in the displacement of individuals currently employed (either directly or under contract with any private contractor) by the program agency concerned (including partial displacement through reduction of nonovertime hours, wages, or employment benefits);

(2) result in the employment of any individual when any other person is in a layoff status from the same or substantially equivalent job within the jurisdiction of the program agency concerned; or

(3) impair existing contracts for services.

(c) STATE SHARE TO LOCAL GOVERNMENTS.—If, at the commencement of any fiscal year, any State does not have a program agency designated by the Governor to manage the program in that State, then during such fiscal year each local government within such State may establish a program agency to carry out the program within the political subdivision which is under the jurisdiction of such local government. In any such case, the State share (or a reasonable portion thereof, including amounts authorized to be appropriated pursuant to subsection (f) for such State) may be made available by the Secretary of the Interior for expenditure by such local government program agencies to carry out the program within such political subdivision. Such local government program agencies shall be in all respects subject to the same requirements as State program agencies. Where more than one local government within a State has established a program agency under this subsection, the Secretary of the Interior shall allocate funds between such agencies in such manner as he deems equitable.

(d) PAYMENT TERMS.—Payments under grants under this section may be made in advance or by way of reimbursement and at such intervals and on on such conditions as the Secretary of the Interior or the Secretary of Agriculture, as appropriate, finds necessary.

(e) USE OF FUNDS.—Contract authority under this Act shall be subject to the availability of appropriations. Funds provided under this Act shall only be used for activities which are in addition to those which would otherwise be carried out in the area in the absence of such funds. Not more than 10 per centum of the funds made available to any program agency for projects during each fiscal year may be used for the purchase of major capital equipment.

(f) APPROPRIATION LEVELS.—There is authorized to be appropriated for the purposes of carrying out this Act $50,000,000 for fiscal year 1985, $75,000,000 for fiscal year 1986, and $100,000,000 for fiscal year 1987. Funds appropriated under this Act shall remain available until expended.

The action of the Senate was to agree to amendment No. 6979, and thereafter to agree to the committee amendment, as amended by amendment No. 6979.

Mr. QUAYLE. Mr. President, today I am rising in support of the American Conservation Corps Act (H.R. 999) which authorizes a national program for conservation and environmental work to be carried out by youth, 16 to 25 years old. H.R. 999 contains changes I supported to bring this program more into line with other Federal programs for assisting unemployed youth. I am pleased that the supporters of the American Conservation Corps have come partway to meet my concerns and thank them for their cooperation. Consequently, I am honored to become a cosponsor of the American Conservation Corps.

My chief concern is to ensure that economically disadvantaged youth receive a share of the jobs created by this program. Consequently, we have included language in H.R. 999 to require that special efforts be made to enroll and recruit economically disadvantaged youth (sec. 5). The definition of economically disadvantaged is the same as for the Job Training Partnership Act [JTPA].

I intend, and I understand that supporters of this legislation agree with me, that, as a result of this language, economically disdvantaged youth will participate in the ACC. We are not targeting the whole program nor are we requiring that a set percentage of enrollees be economically disadvantaged. But, and I want to be emphatic about this, as a consequence of this language, we do expect economically disadvantaged youth to be fairly represented among enrollees.

In order to facilitate and monitor the participation of economically disadvantaged youth, the sponsors of ACC incorporated two other changes to meet my concerns. I will briefly describe these.

Program operators must submit their applications for funding to the State Job Training Coordinating Council [SJTCC]—established by JTPA—for the State in which a project will be operated for comment and review (sec. 4(g)(2)). The SJTCC will have 30 days to review and comment on the applications. The SJTCC will consult with the appropriate private industry council [PIC], or councils, also established by JTPA, in the area in which a project is to be carried out. The comments of the SJTCC and the PIC must be forwarded to the appropriate Secretary along with the application.

The purpose of this change is to enhance the coordination between the programs by increasing opportunities for placing the economically disadvantaged in ACC projects. In no way is this language intended to delay the application beyond the 30-day period for comment and review.

My final change relates to the annual report of the Secretaries of Interior and Agriculture. In order to monitor the impact of program participation on enrollees, the annual report must include data on the short-term and long-term impact of participation on the employability of enrollees (sec. 10). Short-term data should include information on such things as the employment, unemployment, and education status of enrollees after they leave ACC. This data will enable Congress to assess the value of the Federal investment in this youth employment program.

Naturally, I value and support conservation work. Also, I understand that conservation work is valuable work experience for any youth. However, I am also committed to reducing youth unemployment by assisting disadvantaged youth overcome barriers to employment. For that reason, I am pleased that my colleagues have been responsive to my concerns and I thank them for working with me on making some needed improvements to the bill.

I have outlined my concerns over the amendment as originally drafted, and I have discussed the changes that have been incorporated into the bill. I wish now to turn to my colleague and co-

sponsor, Senator MOYNIHAN, for elaboration on the "special efforts" language contained in section 5 of the amendment. Does the Senator from New York concur with my assessment of the meaning of the language in section 5?

Mr. MOYNIHAN. I wholeheartedly agree with the Senator from Indiana's remark that economically disadvantaged youths are to participate in the program authorized by this amendment.

I certainly concur that the program should benefit those most in need. But I do not believe that blanket targeting—which we originally considered—would be desirable. As Assistant Secretary of Labor under Presidents John F. Kennedy and Lyndon B. Johnson, I worked on much of the poverty legislation of that era—including the Job Corps. One problem we encountered with the Jobs Corps, I do believe, was that enrollees, most of whom had similar socioeconomic backgrounds, taught each other the wrong things.

One purpose of the amendment before us is to provide enrollees with the opportunity to perform useful conservation works. Another purpose is to provide them with an opportunity to acquire a range of job skills—from learning a work ethic and sound work habits to learning how to handle a jackhammer. A most important purpose of the program indeed is to enable enrollees to learn from each other. Mixed enrollment would create an environment conducive to such a mutually beneficial exchange of ideas, opinions, experiences, and values. Mixed enrollment also would generate a greater esprit d'corps, which, in turn, would produce better work products.

As the Senator from Indiana pointed out, section 5 of the bill directs the Secretary of the Interior and the Secretary of Agriculture to employ "special efforts" to recruit and enroll youths who are economically disadvantaged, as that term is defined in section 4(8) of the Job Training Partnership Act (Public Law 97-300). Let me take this opportunity to elaborate on what "special efforts" means.

My original ACC measure, S. 27, would have required that "preference" be accorded to disadvantaged youths residing in areas of high unemployment. That language was included to address a concern raised by the administration and others, that previous youth conservation programs were not sufficiently targeted to disadvantaged youth. At the same time, I intended to provide program agencies administrative flexibility, to a certain degree, so that youths from a wide range of backgrounds would have the opportunity to work together.

The term "preference," however, could have had restrictive legal ramifications beyond the ones intended, complicating the administrative agencies' problems. After lengthy discussions with various interested parties, we revised this provision to require that "special efforts" be made to recruit and enroll economically disadvantaged youth.

Mr. QUAYLE. Is the Senator from New York saying that the language in section 5 will have consequences?

Mr. MOYNIHAN. Yes. As a consequence of section 5, economically disadvantaged youth will be enrolled in the program, and they will benefit from mixed enrollment, as will other youths.

The changes incorporated into the amendment are not intended to reduce the program's emphasis on employing disadvantaged youth, but rather to make clear that the program would not be limited solely to such youth. I believe that the program can be more successful—and disadvantaged youth in particular will derive more benefit—if it includes youths from a wide range of backgrounds and economic conditions.

I would point out further that section 5 also directs the Secretary of the Interior and the Secretary of Agriculture to employ special efforts in the recruitment of youths who are physically, socially, or educationally disadvantaged.

May I tell the Senator from Indiana of the wonderful results achieved by the New York State Young Adult Conservation Corps in just 3 years with a commitment—a strong commitment—but not specific targeting? Sixty-five percent of the enrollees were from families below the poverty line, and a good portion of the other were from families near the poverty line.

The Senator from Indiana's concern that this program benefit those most in need is laudable. We share that concern. And I credit him for the diligent efforts he has made to improve this amendment. I merely would state that the provisions in our amendment will meet his concern, while providing the flexibility the program—and its administering agencies—need. The commitment is there. And in programs currently operating at the State level, such commitment has produced most satisfactory results.

Mr. WALLOP. Mr. President, I rise to express my support for the substitute amendment.

I strongly believe that this version of American Conservation Corps legislation is not only employment related—and will assure long-term job skills for those in the greatest need; but is also a conservation measure of national importance.

The Civilian Conservation Corps of the 1930's has been noted many times for its accomplishments. I find the comments of those participants most enlightening. Many of them remember that they learned what the work ethic meant—how satisfying it can be to accomplish realistic, meaningful goals through sweat and perseverance.

Times have changed, labor laws have changed, attitudes toward work problems have changed. Adoption of this substitute will reflect our belief that "work" is an important ingredient in any employment-training, land conservation program.

There are several problems with the program outlined in the House-passed version of H.R. 999. That version would provide lower priority work, and would give little guidance to the Secretary on criteria for determining participation—for example, family income. Additionally, the earmarking of receipts to fund this program—thus bypassing the budgetary process—can be especially frustrating in these times when critics have claimed that we are only giving lipservice to reducing the Federal budget deficits.

The substitute amendment would address these problems and institute an ACC program that provides safeguards for successful programs. Critieria are clearly outlined. The program will assist those youth in the greatest need. Social, economic, physical and educational disadvantages are to be considered along with other factors by the Secretary in selecting where to set up an ACC camp and who will participate. In fact the Secretary is to make a special effort to recruit these youths.

The administration has expressed displeasure with the several versions of the American Conservation Corps that both bodies of this Congress have previously considered. At the same time, it has recognized the problems faced by low-income and minority youth in obtaining specific jobs and job skills. The administration has instead advocated increased job training to increase the skills of our youth and a healthy economy to provide a market for youth related labor. Additionally, the administration has pointed out specific problems of philosophical and technical nature in previous versions of ACC. The substitute amendment before us addresses many of these concerns.

Additionally, I believe this version of the ACC provides the Secretary with the direction and ability to formulate real job training based on hard work and accomplishing real goals and projects—not providing make-work jobs that only drain the Treasury. The ACC participants will be the real winners in this work program. They will have developed a belief in themselves and an appreciation for work values. These benefits last a lifetime—whether in good times or in hard times. The on-the-ground projects can and will improve the human and natural condition. The labor intensive natural resource projects that will be undertaken by this new corps should and will

have beneficial effects for many years to come. In Wyoming we see and enjoy the work product of the old CCC efforts.

Mr. President, this amendment was carefully crafted by the committee and the bill sponsors with consultation by the Forest Service and the Department of the Interior. Some of the highlights and clarifications are:

First, in section 3(11), the term "crew Leader" in definitions is not in the House bill. The value served is as follows: (1) Permits employment of qualified enrollees as supervisors up to an equivalent (GS-7); (2) drastically reduces requirements for employee ceiling for this program; (3) provides the entry in ACC enrollment of a broader range and level of professional and nonprofessional skills; (4) building the ACC experience provides placement entry in the job market of expanded range and level of skills and work experience; and (5) develops a reservoir of personnel to observe and draw from in filling professional and nonprofessional positions in the public agencies.

Second, in section 4(a)(2), we are sure that the Department of Agriculture would prefer full partnership with Interior in administering a non-Federal grant program. However, we felt the benefits of two Departments providing "checks and balance" and the value of USDA's experience would be offset by having only one Department's authority imposed. We think it will be more efficient to have only one Department reviewing, approving, and administering grants.

Third, in section 4(e), the House bill langauge would permit projects on private lands where there would not be public benefit so long as there was a reimbursement for the cost of the program which does not provide a public benefit. Such provision raises questions on credibility of reported backlog of needed conservation work on public lands and work priorities of public benefit nature—thereby weakening the justification for this legislation. The Senate amendment differs in that a documented public benefit must accrue to nonpublic lands and no projects are permitted without that documentation.

Fourth, in section 5(a)(3), the House bill language mandates that screening for eligibility and youth referral to the program agency be made only by the State employment security service. It is better to permit a wide range of options in this process as there is also capability for this in other organizations. Many program agencies have capability and desire to screen and select enrollee applicants and can do so with less administrative cost and effort. The Senate language permits but does not mandate screening by State employment security service.

Fifth, in section 6(a), the House bill langauge inappropriately identifies non-Federal project enrollees as Federal employees for tort claim protection and injury compensation. This would misplace the responsibility and inappropriately cost the Federal Government many millions of dollars, duplicating the dilemma on this issue which was experienced in the YACC Progam.

For the YACC Program, a 1977 solicitor opinion identified State and local government enrollees as Federal employees for the purposes of injury compensation and tort claims. This resulted in misdirected accountability and the Federal Government, not the non-Federal government's being charged millions of dollars each year.

The Senate language has precedent. It is consistent with YCC and YACC statute. Also, public school systems receive much funding support from Federal grants—yet the Federal Government does not accept financial responsibility of compensation for teacher injury.

Sixth, in section 12(a)((1), the Senate amendment provides technical language and clarification, outlining a desirable and precise basis of employee appeal, including a first option to be reinstated for those displaced. This amendment will provide better employee protection and permit cleaner adjudication.

Does the distinguished Senator from New York agree with the six points which were clarified in this statement?

Mr. MOYNIHAN. The Senator is correct in his analysis and I agree with the statement of the Senator from Wyoming.

Mr. MATHIAS. Mr. President, it gives me great pleasure to see the Senate act on H.R. 999, legislation to create the American Conservation Corps. The legislative history of this measure is long and complex and has been several years in the making. At various times during this period I was extremely pessimistic about H.R. 999's chances of Senate passage, which makes today's action particularly satisfying.

The first step toward this critical junction was taken in 1981 when legislation substantially similar to what we are considering today was introduced in the House of Representatives. In February 1982, Senator MOYNIHAN and I introduced the Senate companion bill; in June, the House adopted its legislation, with strong bipartisan support, by a resounding margin of 291 to 102. Unfortunately, the 97th Congress came to an end without the Senate taking action on the bill.

So in the 98th Congress the whole process started all over again. On January 26, 1983, Senator MOYNIHAN and I, with 19 other Senators, introduced S. 27. At the same time, identical legislation, H.R. 999, was introduced in the House by Representative SEIBERLING and attracted 187 cosponsors. Once again, the House acted expeditiously and passed H.R. 999 on March 1, 1983, by a vote of 301 to 87. In May of the same year, the Senate Energy and Natural Resources Committee favorably reported H.R. 999 as a "shell" bill with the understanding that a committee amendment would be drafted to flesh out the reported bill and then brought to the Senate floor. Since that time, countless hours of negotiations with many different interested parties have gone into the measure we are considering today. The result is a good bill, one that every Member of the Senate can be proud of.

H.R. 999 directly addresses the deteriorating condition of our public lands and parks by establishing residential and nonresidential conservation centers to upgrade the country's natural and cultural resources. Millions of acres of public rangeland are in substandard condition, and millions more are experiencing severe soil erosion. Furthermore, national, State, and city parks are suffering from the effects of vastly increased public use, while the manpower and funds to deal with these effects are not available due to tightened budgets at all levels of government. Much needs to be done, especially in the conservation field. Activities such as reforestation, erosion, and flood control, reclamation of strip-mined lands, and rangeland management will be promoted by enactment of this legislation.

Projects authorized under the bill will not, however, be limited to rural areas. Our towns and cities will also benefit through programs for harbor and port management, for repair and maintenance of city parks and community facilities, and for eneregy conservation. Priority will be given to projects which will provide satisfying work experience to the enrollees and long-term benefits to the public.

The beauty of this legislation is that while it addresses many of our environmental problems, it also addresses one of our most serious social problems—youth unemployment. We all know the depressing figures, but stark as the numbers are, they cannot convey the human dimensions to this terrible problem.

This legislation seeks to alleviate this deplorable situation by providing meaningful work for young people aged 16 to 25 on project that are important to the community and the Nation. Special efforts will be made to recruit and enroll youths who are economically disadvantaged, as defined by the Job Training Partnership Act. In addition, the program agencies, whether Federal, State, local, or tribal, will provide job guidance and placement information and assistance for enrollees. Program agencies are also

authorized to provide certification of the skills acquired by the enrollees and to arrange with academic institutions to upgrade participants' literacy and work skills during nonworking hours.

These provisions were inserted as part of a deliberate effort to benefit from experience with prior conservation corps. The Youth Conservation Corps [YCC] and the Young Adult Conservation Corps [YACC] were criticized for lacking such provisions.

I am convinced that this legislation will be cost effective. Based on studies done on the YCC and YACC, it is estimated that each program dollar expended will return more than $1 in vital conservation work. Of course, these figures do not reflect the gain in human terms to the enrollees. Furthermore, activities such as reforestation will increase our capital assets, thus returning even more money to the Treasury and ultimately to the taxpayer.

The program to be established by H.R. 999 reflects the spirit of the old, but not forgotten, Civilian Conservation Corps. [CCC], perhaps the most popular and successful public works program this country has ever undertaken. The CCC put 2.5 million people to work on much-needed public projects all across the country; the benefits to the Nation are still evident today. In fact, each time President Reagan visits Camp David he enjoys the fruits of the CCC's labors. He need only look around him as he enjoys the beauty of Camp David and the Catoctin Mountains to see that the concepts embodied in this measure are a proven success.

Mr. MOYNIHAN. Mr. President, I am delighted that the Senate, at long last, is ready to consider a substitute amendment to H.R. 999, a bill to create an American Conservation Corps [ACC].

On January 26, 1983, Senator MATHIAS and I introduced S. 27, a bill to authorize the establishment of an ACC comprised of unemployed youths between the ages of 16 and 25 to perform badly needed conservation work across the Nation. Our measure attracted the bipartisan support of 15 cosponsors. Representative SEIBERLING introduced a companion bill, H.R. 999, which was passed by the House of Representatives by the overwhelming vote of 301 to 87 on March 1, 1983. On May 13, 1983, the Senate Committee on Energy and Natural Resources voted 18 to 1 to report H.R. 999 as a shell ACC authorization bill, with the understanding that Senator MATHIAS and I were to work with committee majority members to craft a compromise amendment to be offered as a substitute. The amendment, which required months of negotiation to develop, delineates program details. I am pleased the amendment is before the Senate today, and I am pleased to list as cosponsors Senators MATHIAS, MCCLURE, WALLOP, JOHNSTON, BUMPERS, CHAFEE, GLENN, HATFIELD, HOLLINGS, LAUTENBERG, LEAHY, LEVIN, METZENBAUM, MITCHELL, PELL, PRYOR, QUAYLE, and RANDOLPH.

Mr. President, Senate action on ACC legislation is long overdue. The idea of creating the corps, modeled after the Depression-era Civilian Conservation Corps [CCC], was first suggested to me by Buffalo Major James D. Griffin nearly 3 years ago. Major Griffin was dismayed that the administration would not seek to reauthorize the Young Adult Conservation Corps [YACC], which expired in fiscal year 1981 after 5 years of operation. He also opposed the administration's decision to phase out the Youth Conservation Corps [YCC]. He urged me to support the Public Lands Rehabilitation, Conservation, and Improvement Act of 1981 (H.R. 4861), a measure introduced by Representatives SEIBERLING, Moffett, ROYBAL, CONTE, and BEREUTER on October 29, 1981.

H.R. 4861 was designed to replace and improve upon the youth conservation corp programs being terminated by the administration. Prior to introducing the bill, Representative SEIBERLING, chairman of the House Interior and Insular Affairs Subcommittee on Public Lands and National Parks, held oversight hearings on youth conservation work programs on May 5, 1981. Representative Moffett, who chaired the House Government Operations Subcommittee on Environment, Energy and Natural Resources, held hearings on June 25 and July 17, 1981.

Impressed with the purposes and scope of H.R. 4861, Senator MATHIAS and I introduced an identical companion bill, S. 2061, on February 3, 1982. A few months later—on June 9, 1982—H.R. 4861 was passed by the House of Representatives by a 291 to 102 vote. Senator WALLOP, chairman of the Energy and Natural Resources Subcommittee on Public Lands and Reserved Water, held hearings on both measures on September 22, 1982. The Energy Committee, however, did not report the Senate bill prior to the end of the 97th Congress. Nor did the full Senate vote on the House-passed bill.

The 3-year struggle to enact ACC legislation—through seven congressional hearings, eight committee or subcommittee markups and two rollcall votes in the House—has been long indeed. The administration has repeatedly objected to ACC, arguing that budget priorities preclude the funding of programs of this nature. Because of such opposition, the amendment before us has been subjected to the closest scrutiny. It has survived that scrutiny; indeed, it has been improved as a result of that scrutiny. It is a sound piece of legislation.

Let me explain briefly what the amendment will do. It will create an ACC to carry out conservation and rehabilitation projects on Federal, State, local, and Indian lands. Projects will include—but not be limited to—wildlife habitat conservation, rehabilitation, and improvement; recreational area development and maintenance; urban revitalization; road and trail maintenance and improvement; erosion, flood, drought, and storm damage control; insect, disease, rodent, and fire prevention and control; energy conservation; biomass recovery; and timber stand improvement. None of the projects undertaken will be low-priority or leaf-raking jobs.

The ACC will be comprised of unemployed youths between the ages of 16 and 25 for year-round programs and 15 and 21 for summer programs. The amendment does not contain targeting or employment quotas, but does direct the Secretary of the Interior and the Secretary of Agriculture to employ special efforts to recruit and enroll economically disadvantaged youths. Moreover, the amendment directs the two secretaries to employ special efforts to recruit youths who are socially, educationally, or physically disadvantaged. While targeting the program entirely to those most in need appears attractive superficially, mixed enrollment tends to produce an environment more conducive to a mutually beneficial exchange of ideas, opinions, values, and experiences. It generates a higher espirit de corps, which, in turn produces a better work product. Youths from a wide range of socioeconomic backgrounds, and particularly disadvantaged youths, benefit when given the opportunity to work together to achieve common goals.

Under the amendment, Federal ACC programs will be administered by the Secretary of the Interior and the Secretary of Agriculture. For example, projects carried out on Forest Service lands will be administered by the Secretary of Agriculture. Projects carried out on Park Service lands will be administered by the Secretary of the Interior. The Secretaries shall work together, in cooperation with the Secretary of Labor, to draw up Federal program regulations, and the two departments will each receive 25 percent of total funds.

The Secretary of the Interior will administer programs carried out on Indian lands. He will also be responsible for State programs, for which 35 percent of total funds will be made available. A 15-percent State match is required.

Enrollees will receive 95 percent of the pay rate for members of the Armed Forces in the enlisted grade E-1 who have served for 4 months or more on active duty. This is the equivalent of minimum wage. A reasonable

charge—to be determined administratively—will be deducted from enrollees' pay for room and board—for those enrollees assigned to residential conservation centers. Additionally, enrollees will receive $50 in cash incentive stipends for every 3 months of enrollment in the program.

Funding is authorized at $50 million, $75 million, and $100 million for fiscal years 1985, 1986, and 1987, respectively. Funded at $100 million annually, the program will enroll over 37,000 youths in year-round and summer programs.

The track record of previous youth conservation programs strongly suggests that the ACC will be a success. The YACC, for instance, returned $1.20 in appraised conservation work for each $1 expended. The YCC returned $1.04. State programs, past and present, have achieved better rates of return. And these figures do not reflect the benefits realized by putting previously unemployed young people to work. While the value of such benefits may be difficult to quantify, I would suggest that any program that not only pays for itself, but may also reduce juvenile crime and drug abuse while instilling a work ethic into heretofore unemployed young people, is a program that we simply cannot afford to be without.

Mr. President, on March 21, 1933, Senators Robert F. Wagner of New York and Joe T. Hall of Arkansas—Al Smith's running mate in 1928—introduced a bill, S. 598, to authorize establishment of the Civilian Conservation Corps. The bill was passed by the Senate 1 week later, and signed into law by President Roosevelt on March 31, 1933—Public Law 77-5; 5 days later, he created the CCC by Executive Order 6101. The first CCC camp, Camp Roosevelt, was opened on April 17, 1933, at Luray, VA. Within 3 months, 1,300 camps were operating across America, manned by 275,000 enrollees. During the 9 years of its existence, the CCC enrolled 3½ million young men, who performed urgently needed conservation work appraised at more than $1.5 billion. The CCC was perhaps the best social and environmental bargain in this Nation's history.

Mr. President, 50 years ago, the Senate passed legislation to create the CCC in 1 week. Today, the Senate has taken 3 years to pass legislation to create an ACC; 50 years ago, the CCC lifted its members from despair to gainful work and new hope. It produced far more than it cost—in restored forest stands, precious topsoil preserved, parks created, and emergency services provided. In a broader sense, spirited CCC crews performing beneficial works across the country convinced dispirited Americans of a better future. Today, the twin problems of youth unemployment and backlogged conservation work are present, as they were when President Roosevelt established the CCC. Some 20 percent of the next generation are out of school, out of work, and nearly out of hope. For many years, the unemployment rate for black youths has hovered at an unconscionable 50 percent. The increased usage, decreased maintenance, and resulting decline of our public lands and facilities is widespread. What better way to attack these problems than by authorizing a new CCC?

Youth conservation programs of the sort now before the Senate have enjoyed strong bipartisan support since Alf Landon enthusiastically endorsed the CCC in his 1936 presidential bid. Indeed, it was the only New Deal program he supported. It is time for Members from both sides of the aisle to support reestablishment of a time-tested program to reverse the erosion of America's natural and human resources. I urge my colleagues to support adoption of this amendment.

ALASKA NATIVES

Mr. McCLURE. Mr. President, I want to draw the attention of the Senate to section 3 of the substitute amendments to H.R. 999, which defines the terms used in the bill, Paragraph 5 of that section includes Alaska Native corporations in the definition of the term "Indian tribe."

It is the understanding of the Energy and Natural Resources Committee, Mr. President, that neither paragraph 5 nor any other provision of the substitute amendment is intended to validate or invalidate any claim by Alaska Natives of sovereign authority over lands or people. I believe that my distinguished colleague, the ranking minority member of the committee, will confirm this analysis of the substitute amendment.

Mr. JOHNSON. Mr. President, I agree completely with the distinguished chairman of the Energy and Natural Resources Committee. Paragraph 5 is intended simply to extend the benefits of the American Conservation Corps Act to Alaska Native corporations. No determination under the paragraph with respect to Alaska Natives shall grant or revoke any status or powers other than those included in the act.

The PRESIDING OFFICER. The question is on agreeing to the amendment to the committee amendment.

The amendment (No. 6979) was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment in the nature of a substitute as amended.

The committee amendment as amended was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the committee amendment as amended and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill has been read the third time, the question is, Shall it pass?

So the bill (H.R. 999) was passed as amended.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

OPPOSING THE "BLACKSPOT" POLICY OF THE REPUBLIC OF SOUTH AFRICA

The Senate proceeded to consider the concurrent resolution (S. Con. Res. 65) expressing the sense of the Congress that the Republic of South Africa should cease its "blackspot" policy of forcibly removing black South Africans from their legally acquired residence and relocating them, and for other purposes, which had been reported from the Committee on Foreign Relations, with an amendment to strike out all after the resolving clause and insert the following:

Whereas the sanctity of the family, individual liberty, maximum freedom of choice, ownership of private property, and equal treatment of all citizens, regardless of race, are principles which are fully supported by the American people;

Whereas the forced relocation of blacks by the Government of the Republic of South Africa to designated "homelands" divides families, as families are required to remain in the "homelands" while fathers seek work in the so-called "white areas";

Whereas the forced removal of persons living in so-called "blackspots" in "white" rural areas in South Africa denies them the fundamental right to live and to farm on land they have legally occupied for years, and subjects them to arbitrary arrest and detention when they seek these rights;

Whereas compared to "white" South Africa, designated "homelands," which are meant to accommodate the largest South Africa population group on a fraction of South African territory and were established without the consent of the vast majority of the governed, are characterized by high rates of infant mortality, unemployment, and malnutrition and by a severe shortage of medical services; and

Whereas the policy of the Government of the Republic of South Africa denies blacks their rightful claim to full South African citizenship;

Whereas the recent violence in South Africa must be seen as an inevitable result of the denial of the full rights of citizenship: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that—

(1) the policy of separate development and the forced relocation of people of the Government of the Republic of South Africa is inconsistent with fundamental American

values and internationally recognized principles of human rights;

(2) the Government of the United States should continue to regard as citizens of South Africa all persons born within the internationally recognized boundaries of the Republic of South Africa, and not differentiate among these citizens on the basis of the South African Government's claim to have granted independence to various "homelands"; and

(3) the Government of the United States should urge that the forced relocation of South African citizens be discontinued and that policies be adopted for all South Africa's citizens which protect the sanctity of the family, individual liberty, maximum freedom of choice, ownership of private property, and equal treatment of all citizens, regardless of race.

AMENDMENT NO 6980

(Purpose: To express the sense of the Congress regarding the granting of visas to officials from the "homeland" areas of South Africa)

Mr. STEVENS. Mr. President, on behalf of Mr. PERCY I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS] on behalf of Mr. Percy proposes an amendment numbered 6980.

Mr. STEVENS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 5, line 15, strike out "and".

On page 5, between lines 15 and 16, insert the following:

(3) at such times that any "homeland" official applies for a visa for travel to the United States, no such visa should be granted to such official unless such official holds a passport which is recognized as valid by the Government of the United States; and

On page 5, line 16, strike out "(3)" and insert in lieu thereof "(4)".

On page 5, after line 22, insert the following:

SEC. 2. The Clerk of the House shall transmit a copy of this concurrent resolution to the President with the request that he further transmit such copy to the Ambassador of the Republic of South Africa to the United States and to the Prime Minister of the Republic of South Africa.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Alaska.

The amendment (No. 6980) was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment, as amended, was agreed to.

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of calendar No. 1217, House Concurrent Resolution 122.

The PRESIDING OFFICER. The resolution will be stated by title.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 122) expressing the sense of Congress that the Republic of South Africa should cease its "blackspot" policy of removing black South Africans from their ancestral land and relocating them.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. STEVENS. Mr. President, I move to strike all after the enacting clause of House Concurrent Resolution 122 and to substitute the text of Senate Concurrent Resolution 65, as amended.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Alaska.

The motion was agreed to.

Mr. PERCY. Mr. President, I am pleased to cosponsor this resolution. Under South Africa's policies, its black citizens are being relegated to "homelands" which often they have never seen. They are denied full rights of citizenship except in the homelands. Government authorities decide where they will live and what rent they will pay.

When they are relocated against their will, they are sent off to small, unproductive territories with high rates of infant mortality, malnutrition, no employment opportunities and inadequate medical services. The family breadwinner is compelled to be absent for long periods of time in search of work in "white" areas sometimes hundreds of miles away.

Our newspapers have been full of reports of unrest and violence in South Africa's black ghettoes. While the immediate cause was identified as newly announced rent increases, one cannot ignore the larger picture: The troubles have occurred at the same time as a new national constitution has dealt in so-called "coloreds" and Asians, and dealt out the black majority. Peaceful demonstrations by government opponents have led to beatings and detentions.

Surely the frustrations over the cruel inequities of the South African system have contributed to the tensions in the townships.

As outsiders, we cannot wave a magic wand and put a stop to these policies. But we can speak out strongly for the values we believe in. Americans cherish the principles of sanctity of the family, equal treatment of all citizens regardless of race, individual liberty and freedom of choice. South Africa's policy of separate development and the forcible relocation of its black citizens violate these fundamental principles.

Mr. GLENN. Mr. President, the purpose of this resolution is simple. It expresses the great concern of the Congress over South Africa's policy of forcibly removing black South Africans to desolate homelands. I believe that all Americans are appalled by the South African policy of denying any voice in government to the majority of South Africans. That policy is completely alien to the values we Americans cherish, and it is completely contrary to the principles upon which our Nation was founded.

The homelands policy is an integral part of the noxious scheme known as apartheid. And let there be no mistake over what the purpose of apartheid really is. It is to deny citizenship and basic political rights to the entire black population of that nation. In the words of a recent report of the South African Council of Churches and the Southern African Catholic Bishops' Conference, the goal of apartheid is:

A South Africa in which there are no black South African citizens or nationals but only black aliens working in South Africa who bear the nationality of one of the independent Bantustans. For in this way, the nationalist Government seeks to escape its moral obligation to extend political rights to all South African citizens or nationals.

And how is this to be brought about in a country whose population is over 70 percent black and only 16 percent white? The answer lies in the homelands policy. Under that policy, black South Africans are denied citizenship within South Africa, and instead are assigned citizenship in 1 of 10 homelands based very loosely on old tribal reserves. In 1913, the South African Parliament passed the Native Lands Act assigning 10 percent of South Africa's total area for African occupation and prohibiting Africans from purchasing land outside the reserves. The Native Trust and Land Act of 1936 increased the total land area of the reserves to about 14 percent of the territory of South Africa. But since these acquisitions have yet to be fully realized the homelands now comprise just 13 percent of the total land area of South Africa.

What is life like in these homelands to which over 70 percent of South Africa's people are to be assigned citizenship? Again, according to the Council of Churches report:

Today, the Bantustans are characterized by mass unemployment; by poverty so desperate that the position of the residents is worse than that of the inhabitants of any other part of Africa except perhaps the "Sahel" countries. They are characterized by outbreaks of diseases such as cholera, bubonic plague, typhoid, and malnutrition so far advanced that about a fifth or more of the children die before the age of 5.

One especially repugnant aspect of the homelands policy concerns what the South African Government refers to as "blackspots". My original resolution was focused on "blackspots"—and I think it deserves a moment of our time. Blackspots are areas occupied by Africans but surrounded by whites. Most of them are either African freehold land purchased before passage of the Native Lands Act of 1913 or church owned land occupied and used by Africans. Since blackspots are inconveniently located in white areas, the South African Government has determined that they have to go. And since "blackspots" are, by definition, outside the reserves, the Government says blackspot inhabitants must be removed to the homelands in order to make way for white development. To date, a total of some 3.5 million black South Africans have been removed from white-designated areas. The relocated people come from farming and urban areas as well as the so-called blackspots. It is estimated that some 2 million more still face removal, over a million from the blackspots alone.

What does this removal policy mean in human terms? According to an excellent 1981 study sponsored by the Rockefeller Foundation, the "forced resettlement of Africans from white South Africa to the homelands has caused as much human suffering, hardship, and despair as any other apartheid measure". To prove it, we need only look at one recent example; 120 miles west of Johannesburg was the village of Mogope. Here 300 peasant families live in relative stability and prosperity on farmland which the Bakwena tribe owned and worked for 72 years. This village of 300 families contained homes, churches, and schools built by the community. Declared a blackspot by the Government of South Africa, the community was informed that its town would be leveled and its people relocated to the homeland known as Bophuthatswana. Since most of them had never set foot in Bophuthatswana, they quite naturally objected to this decree. Led by a member of the community, a farmer named Saul Mkhize, the people of Mogope peacefully attempted to voice their objections. During the course of a demonstration the unarmed Saul Mkhize was shot dead by the South African police. The families of his village were forcibly removed, and their homes, schools, and churches were bulldozed. Tragically the tale of Mogope is not unique. Thousands of black South Africans are threatened by the same fate that befell the people of Mogope.

Mr. President, I think every single Member of this body would agree that the scheme of grand apartheid is appalling, inhumane, and unjust. But simply agreeing with that assessment is not enough. I believe we also have a responsibility to raise our voices in protest over this blatant abuse of human rights. If we oppose only those human rights violations committed by our enemies—and ignore those perpetrated by real or imagined friends, then all the world will soon know our human rights policy for the hypocrisy it is. So let us no longer stand silent in the face of this outrage. Let us resolve never to use quiet diplomacy as an excuse for closing our ears to the cries of those who suffer. And let us join together in cause and conscience to reject and condemn South Africa's homelands policy. I urge my colleagues to pass this resolution unanimously.

Mr. KENNEDY. Mr. President, I strongly support the resolution introduced by Senator GLENN condemning South Africa's forced relocation policy and calling on the President to refrain from any recognition of the "independent" homelands. Of all the repugnant features of South Africa's apartheid system, perhaps none has been more odious than the forced relocation of blacks to tribal "homelands." Pretoria's objective in this matter is clear: it hopes to create an all-white South Africa. When the first four homelands—Transkei, Bophuthatswana, Venda, and Ciskei—received their nominal independence from South Africa, the blacks living in the regions, including those who had been forcibly relocated there, ceased to be South African citizens and received citizenship in the newly "independent" homelands instead.

When the remaining six homelands are eventually granted independence, South Africa will have effectively rescinded the status of all its black citizens. Thus, even the right of citizenship—which previously was the one thing blacks could claim under apartheid—will soon be denied. From there, it will be a relatively simple process to continue the relocations, overriding the 99-year leases held by some blacks, and to leave South Africa for the 4.6 million whites and an underclass of mixed-race descent.

Nowhere are the consequences of Pretoria's relocation policy more strikingly illustrated than in Qwa Qwa, the smallest and most densely populated of the tribal homelands. Situated in the foothills of the Drakensberg mountains, just to the north of Lesotho, Qwa Qwa has been designated as the homeland for the nearly 2 million members of the South Soho tribe who are not Lesothan citizens. With an area roughly the size of Johannesburg—0.04 percent of South Africa's total area—Qwa Qwa is now the home of some half a million people, more than 20 times the number who lived there when the region was first proclaimed a homeland in 1970.

Qwa Qwa has become a dumping ground for tens of thousands of "surplus" people who have been displaced from "blackspots" in designated white areas, for many others who have been "endorsed out" of cities and towns, and for thousands more who have been dismissed from white-owned farms. With over 2,200 people per square mile, Qwa Qwa has a population density six times that of Luxembourg but a land area only one-fifth as large.

Poverty, unemployment, deprivation, and disease are rampant in Qwa Qwa. The vast majority of black citizens live in mud hovels and tin shanties stretching along a veldt below the hill where the small white community lives, overseeing the homeland for the South African Government. In contrast to the stark poverty of Qwa Qwa's sprawling black area, the white district on the hill is notable for its large homes equipped with swimming pools, tennis courts, and spacious lawns, plus an entertainment center and a whites-only school, all surrounded by a large, flood-lit security fence; 1 mile away from that hill is a second one, which is the site of extravagant mansions housing the six black administrators who exercise the nominal self-rule granted to Qwa Qwa.

In the huge black community between the two hills, a further separation, beyond that of black and white, has been enforced. Only those blacks who formerly lived in South African towns are permitted to reside in Phuthaditjhaba, the village capital of Qwa Qwa, whose population of 28,000 can obtain housing that is generally better than the squalid facilities in the rest of the homeland. The hundreds of thousands of blacks who came to Qwa Qwa either from "blackspots" or from white farms are forced to live in the serried shanties and hovels that form the so-called "countryside" of the homeland.

To provide more space, the South African government plans to purchase 70 private white farms contiguous to Qwa Qwa. When added to the current homeland, these estates will expand the region's size from 185 square miles to 485 square miles, or roughly half of the size of Luxembourg. But even with this added territory, according to reliable estimates, Qwa Qwa's land will still only be adequate to sustain a few thousand people—not the 2 million who will eventually live there.

Indeed, before long, Qwa Qwa will be receiving another 200,000 people from Onverwacht, a notorious relocation camp west of Qwa Qwa consisting of decrepit shacks and huts. These 200,000 new inhabitants, all of whom formerly lived in Bophuthatswana, were deported to Onverwacht because of their South Sohoan descent, and they will now become citizens of Qwa Qwa.

The effects of apartheid in Qwa Qwa—the entrenchment of racism and the gross disparity between the wealth of the small white community and the wretched misery of the black masses—would be almost comical if they were not so tragic. As Alan Cowell of the New York Times recently observed, "the white-painted mansions that straddle (Qwa Qwa's) hill, like moored ocean liners, would not look out of place in Hollywood. The slums that nestle below them might also find a place there, in the script of a movie about poverty." Allister Sparks of the London Sunday Times has likewise remarked that "a cartoonist could not have depicted apartheid more graphically" than in Qwa Qwa.

But the poverty and daily oppression that the people of Qwa Qwa must suffer are all too real. They are the grim consequence of South Africa's apartheid system and the forced relocation policy that is a part it. The U.S. Government must do all it can to pressure South Africa into reversing this egregious violation of human rights and human dignity, as one key step toward abolishing the institutionalized racism of apartheid. The Glenn resolution is an important contribution to this objective, and I urge my colleagues to support it.

The concurrent resolution (H. Con. Res. 122) as amended, was agreed to.

The amendment to the preamble was agreed to.

The preamble, as amended was agreed to.

The title was amended so as to read: "Amend the title so as to read: Concurrent resolution expressing the sense of the Congress that the policy of separate development and the forced relocation of South African blacks to designated "homelands" is inconsistent with fundamental American values and internationally recognized principles of human rights and should be discontinued."

The concurrent resolution, as amended, and the preamble, as amended, are as follows:

H. CON. RES. 122

Whereas the sanctity of the family, individual liberty, maximum freedom of choice, ownership of private property, and equal treatment of all citizens, regardless of race, are principles which are fully supported by the American people;

Whereas the forced relocation of blacks by the Government of the Republic of South Africa to designated "homelands" divides families, as families are required to remain in the "homelands" while fathers seek work in the so-called "white areas";

Whereas the forced removal of persons living in so-called "black spots" in "white" rural areas in South Africa denies them the fundamental right to live and to farm on land they have legally occupied for years, and subjects them to arbitrary arrest and detention when they seek these rights;

Whereas compared to "white" South Africa, the designated "homelands," which are meant to accommodate the largest South Africa population group on a fraction of South African territory and were established without the consent of the vast majority of the governed, are characterized by high rates of infant mortality, unemployment, and malnutrition and by a severe shortage of medical services; and

Whereas the policy of the Government of the Republic of South Africa denies blacks their rightful claim to full South African citizenship;

Whereas the recent violence in South Africa must be seen as an inevitable result of the denial of the full rights of citizenship: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that—

(1) the policy of separate development and the forced relocation of people of the Government of the Republic of South Africa is inconsistent with fundamental American values and internationally recognized principles of human rights;

(2) the Government of the United States should continue to regard as citizens of South Africa all persons born within the internationally recognized boundaries of the Republic of South Africa, and not differentiate among these citizens on the basis of the South African Government's claim to have granted independence to various "homelands";

(3) at such times that any "homeland" official applies for a visa for travel to the United States, no such visa should be granted to such official unless such official holds a passport which is recognized as valid by the Government of the United States; and

(4) the Government of the United States should urge that the forced relocation of South African citizens be discontinued and that policies be adopted for all South Africa's citizens which protect the sanctity of the family, individual liberty, maximum freedom of choice, ownership of private property, and equal treatment of all citizens regardless of race.

SEC. 2. The Clerk of the House shall transmit a copy of this concurrent resolution to the President with the request that he further transmit such copy to the Ambassador of the Republic of South Africa to the United States and to the Prime Minister of the Republic of South Africa.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

DESIGNATING COMPONENTS OF THE WILD AND SCENIC RIVERS SYSTEM

Mr. STEVENS. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 416.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 416) entitled "An Act to amend the Wild and Scenic Rivers Act by designating a segment of the Illinois River in Oregon and the Owyhee River in Oregon as components of the National Wild and Scenic Rivers System", do pass with the following amendments:

Page 2, line 1, strike out "( ) Illinois", and insert: "(52) Illinois",

Page 2, line 15, strike out "( ) Owyhee", and insert: "(53) Owyhee",

Page 3, after line 5, insert:

SEC. 2. Section 5(a) of the Wild and Scenic Rivers Act is amended by adding the following new paragraph at the end thereof:

"(90) The North Umpqua, Oregon: The segment from the Soda Springs Powerhouse to the confluence of Rock Creek. The provisions of section 7(a) shall apply to tributary Steamboat Creek in the same manner as such provisions apply to the rivers referred to in such section 7(a). The Secretary of Agriculture shall, in the Umpqua National Forest plan, provide that management practices for Steamboat Creek and its immediate environment conserve, protect, and enhance the anadromous fish habitat and population.".

Amend the title so as to read: "An Act to amend the Wild and Scenic Rivers Act by designating a segment of the Illinois River in Oregon and the Owyhee River in Oregon as components of the National Wild and Scenic Rivers System, and for other purposes.".

Mr. McCLURE. Mr. President, on September 27, 1984, the senior Senator from Oregon [Mr. HATFIELD] and I entered into a colloquy regarding S. 416 as passed by the House (Cong. Record, p. 27421). That colloquy is intended to be part of the legislative history and intent of the legislation as enacted into law. I ask unanimous consent that the text of that colloquy be printed in the RECORD.

There being no objection, the text was ordered to be printed in the RECORD, as follows:

NATIONAL WILD AND SCENIC RIVERS SYSTEM

Mr. MCCLURE. I understand that the House included an amendment to S. 416 which requires a study of the main stem of the North Umpqua River for possible inclusion into the National Wild and Scenic Rivers System and also included special fisheries management language for Steamboat Creek, to be administered by the Forest Service.

Mr. HATFIELD. The Senator is correct. The amendment designates the North Umpqua River as a study river and specifies that the Secretary of Agriculture, in the Umpqua National Forest plan, provide that management practices for Steamboat Creek and its immediate environment conserve, protect, and enhance the anadromous fish habitat and population. Steamboat Creek is a tributary of the North Umpqua River. I would also add that the restrictions of section 7(a) of the Wild and Scenic Rivers Act would also apply to Steamboat Creek.

Mr. MCCLURE. What is the size of the area referred to as Steamboat Creek and its immediate environment?

Mr. HATFIELD. The term "immediate environment" means the land area adjacent to Steamboat Creek. This language is not intended to cover the whole watershed, and it is my intention in accepting this language, that the term "immediate environment" would cover the area as defined in the Wild and Scenic Rivers Act. In other words, averaging not more than one-quarter mile on

each side of Steamboat Creek. That is, for the main stem of Steamboat Creek, a distance of 19 miles. The Forest Service has adopted special management practices along Steamboat Creek, and has instituted a narrow streamside management strip to protect the fisheries. The fisheries resource in Steamboat Creek is very important and I would expect the Forest Service to manage the immediate environment in a manner to conserve, protect and enhance the fishery in this creek. All of this would take place in the Umpqua Forest plan. It was not my intention in accepting this language that ongoing or planned timber sales are to be prohibited. Such sales to be conducted, within the immediate environment of Steamboat Creek, so as to conserve, protect, and enhance the fishery resource in Steamboat Creek.

Mr. MCCLURE. I thank the Senator.

Mr. HATFIELD. Mr. President, the Senate Energy and Natural Resources Committee report that accompanied S. 416, contained language directed toward protecting ranching activities along the Owyhee River, specifically those activities that take place in the segment to be included in the Wild and Scenic Rivers System. I want to restate that it was both the committee's intention, and mine, that ranching activities, where compatible with the Wild and Scenic Rivers Act be allowed to continue. Specifically, those activities include grazing, stock watering, and repairs, maintenance, and replacement of structures associated with livestock operations.

Mr. President, I finally want to address myself to one other item related to this legislation. The inclusion of the Owyhee River into the Wild and Scenic Rivers System and the study of lands for possible inclusion into the wilderness system are separate actions. I fully expect BLM to examine all lands along the Owyhee River, be they in the canyon, or on the plateaus above the canyon rim, for their wilderness values. Placing the Owyhee River in the Wild and Scenic Rivers System should not be viewed as a substitute for wilderness. BLM is obligated under the Federal Land Policy and Management Act to conduct a review of its lands for wilderness values. Final passage of S. 416 does not affect that review in any manner.

Mr. STEVENS. Mr. President, I move that the Senate concur in the House amendments.

The PRESIDING OFFICER. The motion was agreed to.

Mr. STEVENS. I move to reconsider the vote by which the motion was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

BILLS HELD AT THE DESK

H.R. 3971

Mr. STEVENS. Mr. President, I ask unanimous consent that once the Senate receives from the House H.R. 3971, to provide that any Osage headright or restricted real estate or funds which is part of the estate of a deceased Osage Indian who did not possess a certificate of competency at the time of death shall be exempt from any estate or inheritance tax imposed by the State of Oklahoma, it be held at the desk pending further disposition.

The PRESIDING OFFICER. Without objection, it is so ordered.

H.R. 6303

Mr. STEVENS. I ask unanimous consent that once the Senate receives from the House H.R. 6303, a bill to make certain technical corrections in various acts relating to the Osage Tribe of Indians of Oklahoma, it be held at the desk pending further disposition.

The PRESIDING OFFICER. Without objection, it is so ordered.

H.R. 6234

Mr. STEVENS. I ask unanimous consent that once the Senate receives from the House H.R. 6234, to authorize the Secretary of the Interior to sell certain property in Lake Sumner Park, NM, it be held at the desk pending further disposition.

The PRESIDING OFFICER. Without objection, it is so ordered.

FIRE ISLAND NATIONAL SEASHORE

Mr. STEVENS. Mr. President, I call up H.R. 3697, Fire Island National Seashore, which is being held at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 3697) to modify Federal land acquisition and disposal policies carried out with respect to Fire Island National Seashore, and for other purposes.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Alaska?

There being no objection, the Senate proceeded to consider the bill.

Mr. MOYNIHAN. Mr. President, I rise today to urge Senate passage of H.R. 3697, a bill to amend the Fire Island National Seashore Act of 1984—Public Law 88-587. H.R. 3697, which was introduced by Representative DOWNEY, passed the House of Representatives on September 24, 1984. It is the companion to a bill, S. 1705, which I introduced with Senator D'AMATO on July 28, 1983.

Twenty years ago, Congress established the Fire Island National Seashore to preserve a significant and unique natural treasure just 50 miles from New York City. The seashore consists of a barrier island, which features some of the finest beaches in the world, magnificent dunes—some of the highest in the Northeast—salt marshes, and outstanding maritime forests, including the famous Sunken Forest Preserve. The seashore also contains 18 small, heavily developed communities, consisting primarily of single-family homes, cottages, and associated businesses.

The Seashore Act contains provisions designed to maintain the character of these communities and protect the park resources from adverse development. These provisions direct the Secretary of the Interior to issue local land use guidelines, on which zoning ordinances are based. Final approval of those ordinances is the Secretary's responsibility. The Seashore Act grants the Secretary limited powers of condemnation in order to maintain the relatively unspoiled condition of the seashore's resources and communities.

In 1980, I joined with Senator Javits, one of the prime sponsors of the legislation that created the seashore, to request of the General Accounting Office [GAO] a review of the National Park Service's land acquisition and management policies and practices for the seashore. The GAO report [CED 81-78), issued on May 8, 1981, contained several suggestions concerning how best to improve land acquisition and management. Specifically, the report noted that Park Service standards are too restrictive, and that the Park Service frequently is compelled to acquire, through condemnation, land unsuitable for park purposes. Included in the report were recommendations that zoning ordinances be revised, and that the Park Service establish acquisition priorities and endeavor to return to private ownership unsuitable land acquired through condemnation.

The legislation before us is designed to perfect certain provisions of Public Law 88-587 and implement the GAO report recommendations. It is similar to legislation I introduced in the 97th Congress. Legislation which, I might add, was praised in land management workshops held by Senator WALLOP'S Energy Subcommittee on Public Lands and Reserved Water in 1982, as an innovative alternative to land acquisition as the principal means of protecting park resources.

H.R. 3697 establishes a clear acquisition policy by amending section 3(e) of the current law—Public Law 88-587. The new language stipulates that the Secretary may condemn a property in areas with approved zoning ordinances, only if the property becomes subject to a zoning variance or exception and the Secretary determines that, once granted the variance, the property will be used in a fashion deemed inconsistent with the purposes for which the seashore was created. Such language clarifies that a variance is not, in and of itself, cause for condemnation. The Secretary's guidelines issued pursuant to section 3 are to be used to determine whether individual variances or exceptions would threaten the seashore's character and resources.

At present, the Secretary does not have this discretionary authority and, therefore, is compelled to acquire through condemnation all properties for which zoning ordinances or excep-

tions have been granted. Consequently, many properties have been acquired that the Park Service is unable to put to proper public use.

H.R. 3697 allows the Secretary to resell, with convenants to properties acquired for simple violations of zoning ordinances, with covenants to ensure their future conforming use. Revenues from these sales would be retained in a turnaround fund, from which future enforcement acquisitions can be financed. The Park Service is conducting an inventory of properties presently held, to determine which would be suitable for disposal. Revenues from those disposed of will be used to create the revolving fund.

In addition, H.R. 3697 specifically authorizes the Secretary to apply for an injunction or temporary restraining order to prevent any use of, or construction on, property in a way inconsistent with park purposes.

H.R. 3697 was the subject of congressional hearings in April and June of this year. The Senate Committee on Energy and Natural Rsources held hearings on S. 1705 last October. As a result of these hearings, during which both private citizens and the Department of the Interior raised their concerns, the House Committee on Interior and Insular Affairs reported an amended version of H.R. 3697. Senator D'AMATO and I concur with the amendments. The amendments: First, limit the use of injunctive authority to 180 days; second, stipulate that properties must be sold at or above the fair market value, and only to the highest bidder; and third, establish new guidelines to govern zoning within the seashore in a fashion that reconciles population density with resource protection.

Mr. President, as I previously stated, the purpose of this legislation is to perfect the existing law. This is necessary not only to ensure more orderly and cost-effective management of the seashore, but also to allay some real concerns expressed by Fire Island residents over current policies and practices. Over the past few years, we have drafted a very good piece of legislation—one endorsed by the largest group of inholders within the Seashore, the Fire Island Association. I urge my colleagues to support its adoption.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the bill.

The bill (H.R. 3697) was ordered to a third reading, was read the third time, and passed.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINSTRATION AUTHORIZATION — CONFERENCE REPORT

Mr. STEVENS. Mr. President, I submit a report of the committee of conference on S. 1097 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the amendments of the House to the bill (S. 1097) to consolidate and authorize certain atmospheric and satellite programs and functions of the National Oceanic and Atmospheric Administration under the Department of Commerce, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report will be printed in the House proceedings of the RECORD.)

Mr. GORTON. Mr. President, this legislation authorizes and amends important satellite, atmospheric, ocean, and coastal programs under the auspices of NOAA which is located within the Department of Commerce. I commend the House and Senate conferees for their effort in negotiating what I think is a fair compromise. I will focus my remarks on a few key programs that are authorized in this legislation.

The recent losses of the GOES West and Polar orbiting satellites have brought home to all of us the usefulness of our weather satellites. Our ability to forecast weather accurately in the Western parts of our country has been seriously impaired. The clear, nationwide satellite photographs which we have all come to expect on our nightly news are now more limited.

This NOAA authorization includes authority for two Polar orbiting satellites. Not only are these needed for accurate weather forecasting, but they also will fulfill our soon-to-be negotiated agreement with the Soviet Union to carry two search and rescue instruments.

The conference report also authorizes NOAA's geosynchronous weather satellite program. It requires a study of the importance of meteorological satellites to weather forecasting, which should give Congress direction in planning ways to avoid the loss of data from the loss of a satellite like GOES West.

S. 1097 also provides the authority for NOAA's civil land remote sensing satellite system, Landsat. NOAA is in the process of negotiating a contract to have the private sector take over Landsat's functions. NOAA will continue to need authority, however, to operate the existing system, to provide for a follow-on private system, and to plan for a continued flow of data.

S. 1097 also amends and authorizes two marine programs—title II of the Marine, Protection, Research, and Sanctuaries Act [MPRSA] of 1972 and the National Ocean Pollution Planning Act [NOPPA] of 1978.

Title II of the MPRSA assigns NOAA responsibility to develop and assess scientific techniques to define and quantify the degradation of the marine environment. Important ocean-related activities, such as the regional ocean pollution research project in Puget Sound, would be allowed to continue under this bill. The regional research effort conducted in Puget Sound and in other parts of the United States has provided useful scientific information to help guide local, State and Federal officials in the water quality regulatory process. Also, the research conducted by NOAA has been key in the identification, synthesizing, and disseminating marine pollution problems in Puget Sound.

NOPPA provides interagency planning to insure that research, development, and monitoring activities related to marine pollution are carried out efficiently and effectively.

Increasing pressures to minimize land disposal are leading to serious consideration of the oceans as a primary disposal medium. This trend, combined with the limits of our scientific knowledge about the impacts of ocean waste disposal, makes it mandatory that we sustain our commitment to ocean research.

In summary, we have looked at NOAA's atmospheric, climatic, and pollution activities in great detail, and we have attempted to balance the needs of the agency and the Nation against the fiscal constraints under which we are all attempting to operate. I believe we have struck an appropriate balance in this conference report.

I would urge my colleagues to look upon this conference report with favor.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

HOUSING AND COMMUNITY DEVELOPMENT TECHNICAL AMENDMENTS — CONFERENCE REPORT

Mr. STEVENS. Mr. President, I submit a report of the committee of conference on S. 2819 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk road as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2819) to make essential technical corrections to the Housing and Urban-Rural Recovery Act of 1983, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report will be printed in the House proceedings of the RECORD.)

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION ACT—CONFERENCE REPORT

Mr. STEVENS. Mr. President, I submit a report of the committee of conference on S. 905 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 905) to establish the National Archives and Records Administration as an independent agency, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of October 1, 1984.)

Mr. ROTH. Mr. President, I am pleased that before the Senate is the conference report on S. 905, the National Archives and Records Administration Act of 1984. The Senate passed its version of this bill on June 21 of this year and the House approved a similar bill on August 2. The Conference Committee met on October 1 to consider the difference between the two versions of S. 905 and approved the report which I am presenting to the Senate.

Mr. President, the provisions of the conference agreement provide for the establishment of an independent National Archives and Records Administration in the executive branch. This is not a new agency but rather is a result of the separation of the existing National Archives and Records Service from its location within the General Services Administration to a new status as an independent agency.

The conferees did everything they could to assure that the status quo with respect to archival policies in the executive branch is left unchanged by the simple creation of this independent agency. The bill maintains current law with respect to records management, storage and disposal. It transfers to the Archivist exactly the same rulemaking authority over archival matters which is currently vested in the Administrator of the General Services Administration. Several sections of existing law provide for Federal agencies to report to, or consult with, the Administrator of General Services with respect to records management, disposal and preservation. The conference report maintains the status quo in this area and does not alter the provisions of current law. The existing division of responsibility between the Office of Information and Resources Management in GSA and the National Archives is also maintained by the conference agreement.

The National Archives and Records Administration will be headed by an Archivist who would be nominated by the President and confirmed by the Senate. The conference agreement recognizes the need for the Archivist to be a dedicated professional in the field of archival matters, the treatment of historical records and in records management procedures.

Overall, Mr. President, the conference agreement provides the necessary authorities for the newly independent National Archives while at the same time attempting to ensure that the balances which have been struck over the years on a number of archival issues remain unchanged by the passage of this bill.

Mr. President, I believe the conference agreement provides the Archivist with sufficient authority to assume his duties as head of a now independent agency.

I urge the adoption of the conference report.

Mr. MATHIAS. Mr. President, as one of the members of the conference on this bill, it gives me great pleasure to bring the conference agreement on S. 905 before this body. The reestablishment of an independent National Archives and Records Administration has been discussed, written about, debated, and legislatively proposed almost from the day in 1949 when the agency was subsumed into the Government's housekeeping agency, the General Services Administration.

The incongruity between the two agencies and their missions has always troubled me. On the one hand, the National Archives is charged with the storage, management and disposal of Federal records; with the transfer to its custody, preservation of, and making available for further Government and public use of our Nation's permanently valuable records. In addition, the Archivist is responsible for the operation of the Presidential library system and publication of the Federal Register. The Archivist also serves as chairman of the National Historical Publications and Records Commission, and the National Archives Trust Fund Board.

The General Services Administration, on the other hand, is charged with the management and maintenance of public buildings; procurement and disposition of Federal property and services; transportation; traffic; stockpiling of strategic materials; and managment of the Government's data processing system.

This marriage of inconvenience between GSA and the National Archives has resulted in a lack of clear policy direction, confusion over lines of authority and responsibility, delayed decisionmaking, and diversion of resources from archival responsibilities. This diversion of attention from the Archives' principal mission is untenable in light of the growth in Government records and in agency and user group demands for such documents.

Between now and 1990, more than 520,000 cubic feet of Federal records will be eligible for transfer to the Archives for preservation. But, because of space and staff limitations, only 32 percent of these records will be acquired. Most of those records are paper records dating from the 1950's-70's requiring temperature and humidity control. They are in demand by researchers, historians, genealogists, and the creating agencies themselves.

The Senate sponsors of this legislation, of which there are 50, were guided by a concern to separate the National Archives and Records Service from GSA. We did not attempt to settle disagreements between and among agencies over their respective authorities. We maintained the status quo with respect to current law and case law. These principles guided the managers on the part of the Senate in conference with our House colleagues and are reflected in this conference bill.

Let me review for my colleagues the main provisions of S. 905. It provides for the appointment of the Archivist of the United States by the President

by and with the advice and consent of the Senate. The conferees intend that he or she be an officer performing professional archival and records management functions insulated from the political orientation and pressure of a particular administration.

The status quo as to the division of responsibility for certain records management functions between GSA and the National Archives is maintained. GSA's Office of Information Resources Management will continue its responsibilities for records management including office automation systems, filing systems, forms and reports formats, correspondence control, micrographics, and copying. The close relationship of these functions to those of the Archives for documenting the Federal Government's policies and transactions manadate that the two cooperate. In accomplishing this transfer of archival responsibilities and division of records management authorities from GSA to the Archives, the bill transfers associated personnel, assets, liabilities, contracts, property, records, and funds from GSA to the new agency. In addition, it specifies that not less than $2.76 million and 115.5 full-time equivalent positions are to be transferred from GSA to the new agency. This reflects an agreement signed and formalized between GSA and the Archives transferring administrative support positions and associated funds.

In continuing congressional oversight of both GSA and the Archives, the bill requires an annual report to the Congress from each on their respective archival and records management activities.

Hiring of employees by the National Archives Trust Fund Board is made subject to the requirements and benefits of the civil service law. Currently, trust fund employees are employed without regard to the civil service laws and regulations. Beginning with this bill's effective date of April 1, 1985, new hirings and other changes in appointments must be made pursuant to civil service laws.

The bill requires the Archivist to publish notice in the Federal Register for public comment on the proposed disposal of records prior to authorizing their disposal. Such notice will enable other agencies of Government, Archives user groups, and the general public to advise the Archivist on the potential impacts of such disposal.

The security of records was of great concern to the conferees. There have been a number of incidents of removal or destruction of records by public officials in recent years. The anomaly of present law is that an agency head has a duty to initiate action to recover records which he himself may have removed. The conferees, therefore, have clarified the statute to authorize the Archivist to ask the Attorney General to initiate action to recover such documents, if the agency head does not do so within a reasonable time. The Archivist is to notify the Congress when he makes such a request.

The documentary records of the policies and transactions of the Federal Government which have permanent value must be protected. They serve as an important institutional memory for the Federal agencies themselves in developing and conducting on-going policies and programs. Furthermore, the citizens of the United States have an important right to know about the actions of their Government through its documentary history.

I emphasize that records, the use of which is restricted by law, reasons of national security, or the public interest, shall be inspected subject to the approval of the agency head concerned or of the President. In relation to his responsibility to determine what material constitutes a Federal record, the bill continues the current law requirement that the Archivist comply with all other Federal laws and be subject to their sanctions. Likewise, current law provisions with respect to rulemaking authority for the Archivist are also restated.

Mr. President, this legislation has been a long time in the making. The concept of an independent National Archives made sense in 1934 when it was established by Congress. The 1949 reorganization of the agency into the larger housekeeping arm of the Government, the GSA, has proven to be a mistake. We believe by reestablishing its independent agency status and elevating the position of Archivist to a Presidential appointment with Senate confirmation, we are setting the National Archives and our Government's documentary history on its proper course.

The job ahead will not be easy. It will challenge the professional talents of the dedicated men and women employed by the Archives. A paperless society, or a less papered society, and new forms of electronic information confront us all.

Our Nation and its Government are relatively young. Since its founding in 1776, our democratic form of Government has been the model to which other nations and peoples have looked. Without the inspiration of the words of the Founding Fathers, we might not have evolved into the greatest democracy of the world.

We have a great deal still to learn from those extraordinary men. And we have a great deal to learn from the public officials who have followed them. That is what our National Archives is all about.

One of inscriptions on the National Archives building here in Washington reads: "What is past is prologue." We, as a people, can benefit enormously by reviewing what has gone before us. We must understand our roots if we are to grow and prosper in a global society.

In an interview at the time of the publication of the fourth and final volume of his biography of Thomas Jefferson, Dumas Malone was asked what he had learned over time as a historical fashions had come and gone. His answer was, "There is no substitute for staying close to the primary sources." Mr. Malone recognized that one cannot stay close to primary sources without a professional archival repository for the permanent historically valuable records of our Nation's Government and its leaders. The records of our Government are a gold mine of details that historians, policymakers, scholars, genealogists, and Federal agencies need to document the everyday lives of individuals in the past, to understand the human effects of Government policies, and to collect quantifiable data.

Records on military service, amnesties, naturalizations, courts, land surveys and taxes, Government employment, ship's passenger lists, American Indians and territorial government, Freedmen's Bureau, and census are the mine from which such noted authors as William Hickling Prescott, Francis Parkman, Samuel Eliot Morison, and Henry Steele Commanger produced their epic works.

I am reminded of a comment made at one of our hearings on this legislation by Dr. Charles Lee, Archivist of the State of South Carolina. Dr. Lee said:

> A man is known by the company he keeps. And a nation is known by the records it keeps.

S. 905 will enable the United States to resume its proper place of pride and recognition among world nations for the historical record it preserves.

Mr. President, this legislation could not have come through the legislative process without the diligent efforts of my colleague, Senator EAGLETON, the sponsor of this bill.

The chairman of the Committee on Governmental Affairs, Senator ROTH, and his staff also have been most cooperative and helpful in convening the parties to resolve differences.

I am sure I speak for all of the cosponsors of this legislation in thanking our colleague, Senator HATFIELD, for serving as an intermediary between the White House and the Congress.

As the statement of managers explains, we believe we have produced legislation which addresses each of the concerns raised by various departments.

I thank our House colleagues led by Representative BROOKS, who, along with Representatives HORTON, KINDNESS, and ENGLISH, devoted extraordinary effort in crafting this bill and brought their expertise and years of experience with the National Archives

to the table to produce the compromise now before us.

Mr. EAGLETON. Mr. President, this legislation recognizes an idea whose time has come: That the National Archives needs to be and deserves to be reestablished as an independent agency of Government.

Hearings during the past 4 years by the Senate Committee on Governmental Affairs and the House Committee on Governmental Operations have documented the problem: The current organizational placement of the National Archives and Records Service within the GSA has hindered both agencies' missions, delayed decisionmaking, and reduced archival services to the public and other Federal agencies.

NARS performance has perennially been plagued by management problems; a lack of clear policy directions, confusion over lines of authority and responsibility and delays in decisionmaking. Morale has declined, and good managers have been hard to keep, understandably, in a situation where ultimate authority resides with GSA, and not NARS.

Professional judgment is the essence of the Archivist's work; it is the best guarantee that the historical record preserved and made available to the public will be full and fair. Yet because final responsibility for archival judgments rests with the GSA Administrator, not the Archivists, the dangers of politicization have been ever-present.

The NARS budget has traditionally suffered, in comparison to the other cultural agencies, because NARS has lacked an advocate for its programs and needs. GSA Administrators have understandably had other priorities; the OMB budget examiners reviewing GSA budget requests have been more sensitive to building construction, procurement, and motor vehicle pools than to documentary history. The resources of NARS—budget and personnel—have been held in tight check while the demands on the agency have expanded dramatically. The inevitable result has been marked deterioration of NARS' capacity to serve the public and the scholarly community.

The legislation before us reestablishes the Archives and Records Service as an independent agency and makes the position of Archivist of the United States a Presidential appointment, subject to the advice and consent of the Senate. The sponsors of this legislation believe this appointment procedure elevates the position of Archivist to its proper level of national prestige and ensures that professional qualifications rather than political credentials will be the basis for appointments. The conferees of the House and Senate want to provide as much insulation from partisan political pressures for this office as possible. The history of this office is replete with instances of threatened removals of the Archivist for purely political reasons. The professional public duties of the Archivist are to assist agencies in setting up their records systems and managing and storing them, in determining what constitutes a Federal record, in approving the disposal of agency records, in transferring permanently valuable records to the Archives, in preserving them and making them available to Federal agencies, scholars, and other public and private users.

These duties cannot be performed objectively and professionally if the Archivist is constantly looking over his shoulder for approval of his actions by the person who appointed him. Senate confirmation of the appointment of Archivist will aid in ensuring that the position is a non-partisan professional one.

While this legislation is basically a reorganization and transfer of authorities now vested in the GSA Administrator to the Archivist, we expect a better level of cooperation to develop between agencies and the Archivist with respect to his duties. Bureaucratic turf battles of this type in the past with respect to Federal records appear to have been motivated out of a concern to circumscribe or foreclose the public's right to know about their Government's actions and politics. Such efforts to limit the public's right to know, have led to the enactment of Government-in-the-sunshine and freedom of information laws. The Congress intends to continue its oversight of this new agency and will pay particular attention to the level of interagency cooperation with the Archivist.

The records of our Government are public property. They are valuable and must be preserved because they document our Government's policies, programs, and actions. They are as much a part of our Nation's institutional memory as are the Constitution and Declaration of Independence now safeguarded and on public display in the National Archives Building.

As the sponsor of this legislation in the Senate during the past 4 years, I have watched support for this matter grow. S. 905 enjoys the bipartisan cosponsorship of 50 of my colleagues. I am grateful for the efforts of my colleague and principal cosponsor, Senator MATHIAS, in his longstanding concern about the plight of the National Archives. I also owe a debt of gratitude to Senator HATFIELD, who currently serves on the NHPRC, and who has been a stalwart ally in my efforts within the Appropriations Committee to ensure adequate funding for the Archives and NHPRC. I know we will continue to work closely together for both of these agencies.

Senator ROTH, the chairman of our committee, has been most helpful to us in convening the affected parties to resolve differences with agencies and with our House colleagues. He has done an excellent job of shepherding this bill to the floor and through conference.

Mr. President, S. 905 is a small piece of legislation, but its enactment will have a major impact on our history by creating an agency that will do justice to our precious historical legacy.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

INHERITANCE OF TRUST IN CERTAIN LANDS

The Senate proceeded to consider the bill (S. 2663) pertaining to the inheritance of trust or restricted land on the Lake Traverse Indian Reservation, North Dakota and South Dakota, and for other purposes, which had been reported from the Select Committee on Indian Affairs with amendments, as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets, and the parts of the bill intended to be inserted are shown in italic.)

S. 2663

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That to the extent that the laws of devise, descent and distribution of the State of North Dakota or the State of South Dakota are inconsistent with this Act or to the extent that the Indian Land Consolidation Act (25 U.S.C. 2201 et seq.), is inconsistent with this Act, the provisions of this Act shall govern the right to inherit trust or restricted land located within such States and within the original exterior boundaries of the Lake Traverse Indian Reservation (hereinafter the "reservation") as described in article III of the Treaty of February 19, 1867 (15 Stat. 505).

SEC. 2. (a) Except as provided in section 4 of this Act, only the Sisseton-Wahpeton Sioux Tribe of North Dakota and South Dakota (hereinafter the "tribe") or persons who are enrolled members of the tribe shall be entitled to receive by devise or descent any interest in trust or restricted land within the reservation.

(b) The provisions of this Act shall apply only to estates of decedents whose deaths occur on or after the date of enactment of this Act.

SEC. 3. (a) Whenever any person dies possessed of any interest in trust or restricted land within the reservation and the trust or restricted land has not been devised by a will approved by the Secretary of the Interior pursuant to section 2 of the Act of June 25, 1910 (36 Stat. 856), as amended (25 U.S.C. 373), or the [trust or restricted land has not been devised by a will which is] *or the bequest of devise is not* consistent with

the provisions of section 2 of this Act, such interest shall descend to the following persons: *Provided,* That such persons are eligible heirs under [section] *sections* 2 and 5 of this Act:

(1) one-half of the interest shall descend to the surviving spouse and the other one-half shall descend in equal shares to the children of the decedent and to the issue of any deceased child of the decedent by right of representation;

(2) if there is no surviving spouse, the interest shall descend in equal shares to the children of the decedent and to the issue of any deceased child of the decedent by right of representation;

(3) if there are no surviving children or issue of any child, the interest shall descend to the surviving spouse;

(4) if there is no surviving spouse and no surviving children or issue of any child, the interest shall descend to the surviving parents or parent of the decedent;

(5) if there is no surviving spouse, and no surviving children or issue of any child, and no surviving parent, the interest shall descend equally to the brothers and sisters of the decedent; and

(6) if there is no surviving spouse, and no surviving children or issue of any child, no surviving parent, and no surviving brothers or sisters, the interest shall escheat to the tribe and title to such escheated interest shall be taken in the name of the United States in trust for the tribe.

(b) As used in this section, the words "children" and "issue" include children adopted under the laws of a State or foreign country, or in accordance with the laws of an Indian tribe, children of unwed parents where the Secretary of the Interior determines that paternity has been acknowledged or established under the laws of a State or foreign country or in accordance with the laws of an Indian tribe, and children of parents whose parental rights have been terminated pursuant to lawful authority.

(c) As used in this section, the word "parent" shall not include the parent of any child with respect to whom such parent's parental rights have been voluntarily terminated pursuant to lawful authority.

SEC. 4. (a) Notwithstanding the provisions of section 2 and subject to the provisions of section 5 of this Act, the nonmember of the tribe surviving spouse, nonmember surviving children and the nonmember surviving issue of any children of any person who dies possessed of any interest in trust or restricted land within the reservation, shall be entitled to take only a life estate in any interest in such trust or restricted land devised by a will approved by the Secretary of the Interior pursuant to section 2 of the Act of June 25, 1910 (36 Stat. 856), as amended (25 U.S.C. 373).

(b) Notwithstanding the provisions of sections 2 and 3 and subject to the provisions of section 5 of this Act, wherever any person dies possessed of any interest in trust or restricted land within the reservation and the trust or restricted land has not been devised by a will approved by the Secretary of the Interior pursuant to section 2 of the Act of June 25, 1910 (36 Stat. 856), as amended (25 U.S.C. 373), the nonmember of the tribe surviving spouse, nonmember children, and the nonmember issue of any children of the decedent shall be entitled to take only a life estate in any interest provided in section 3 of this Act.

(c) At the time that the Secretary of the Interior approves any life estate for a surviving spouse, children, or the issue of any children of a decedent, the trust or restricted land subject to such life estate thereafter shall be held in trust for the appropriate heir under section 3 of this Act or the provisions of any will approved by the Secretary pursuant to section 2 of the Act of June 25, 1910 (36 Stat. 856), as amended (25 U.S.C. 373).

(d) The provisions of subsections (a) and (b) of this section notwithstanding, unless a devise of trust or restricted land otherwise provides, any life estate provided for in this Act shall be subject to *applicable regulations pertaining to the use of trust or restricted land and to* the following conditions, restrictions and limitations:

(1) whenever the life tenant is a sole heir, such life tenant shall be entitled to determine the use and to receive any income from the lease or other use of the *life tenant's interest in the* land;

(2) whenever an enrolled member of the tribe dies survived by a nonmember spouse and nonmember children, such spouse shall be entitled to one-half of the income from the lease or other use of the *life tenant's interest in the* land and such children shall be entitled to the other one-half, and the same division shall apply to any land use determination;

(3) whenever an enrolled member of the tribe dies survived by a nonmember spouse, nonmember children, and nonmember issue of any deceased child, such spouse shall be entitled to one-half of the income from the lease or other use of the *life tenant's interest in the* land and such children and issue of children shall be entitled to equal shares of the other one-half, and the same division shall apply to any land use determination;

(4) whenever an enrolled member of the tribe dies *without a surviving nonmember spouse but* survived by nonmember children, such children shall be entitled equally to determine the use and to receive any income from the lease or other use of the *life tenant's interest in the* land;

(5) whenever an enrolled member of the tribe dies *without a surviving nonmember spouse but* survived by nonmember children and nonmember issue of any deceased child, such children and issue of children shall be entitled equally to determine the use and to receive any income from the lease or other use of the *life tenant's interest in the* land; and

(6) whenever an enrolled member of the tribe dies *without a surviving nonmember spouse and nonmember children but* survived by nonmember issue of the children of such member, such issue shall be entitled equally to determine the use and to receive any income from the lease or other use of the *life tenant's interest in the* land.

For the purposes of this subsection, any children or the issue of any children of an enrolled member of the tribe born after the death of such member shall have the same rights as any children or the issue of any children who survive such member.

SEC. 5. Notwithstanding any other provision of this Act, no person shall be entitled by devise or descent to take any interest, including any interest in a life estate under section 4 of this Act, less than two and one-half acres, *or the equivalent thereof,* in trust or restricted land within the reservation. Any interest less than two and one-half acres of a devisee or [interstate] *intestate* distributee of a decedent under section 3 of this Act, shall escheat to the tribe and title to such escheated interest shall be taken in the name of the United States in trust for the tribe: *Provided,* That the provisions of this section shall not be applicable to the devise or descent of any interest in trust or restricted land located within a municipality.

SEC. 6. If a decedent has devised an interest in trust or restricted land within the reservation to a person prohibited under section 2 of this Act from acquiring an interest in such trust or restricted land, the interest in such land shall escheat to the tribe and title to such escheated interest shall be taken in the name of the United States in trust for the tribe: *Provided,* That any interest escheated to the tribe shall be subject to a life estate in the devisee as provided for under section 4(a) of this Act.

SEC. 7. (a) Whenever the tribe or an enrolled [heir] member, *or members,* of the tribe holds at least a 50 per centum undivided interest in trust or restricted land within the reservation, the Secretary of the Interior, upon the request of the tribe or the enrolled [heir] member, *or members,* of the tribe [and without the necessity of obtaining the consent of any of the other heirs,] shall partition the allotment or part thereof: *Provided,* That whenever the tribe requests partition, the Secretary shall partition the allotment to the advantage of the heirs, except that any partition shall assure that the tribe retains one contiguous divided interest in the land unless the tribe agrees to a different division: *Provided further,* [That whenever an enrolled heir member of the tribe requests partition, the Secretary shall partition the allotment to the advantage of the person requesting the partition.] *That whenever an enrolled member or members of the tribe requests partition, the fair market value of the lands remaining after partition shall not be less than the fair market value of the interest, prior to partition, of the owners of such lands. The person or persons requesting partition, in order to meet the fair market value requirement of this subsection, may relinquish to the other heirs a portion of their undivided interest in the trust or restricted lands to be partitioned.*

(b) The provisions of any law to the contrary notwithstanding, the Secretary of the Interior, upon the request of the tribe or an enrolled heir member of the tribe, shall approve partition of trust or restricted land within the reservation whenever the partitioned interest in the land of the tribe or the enrolled heir member of the tribe is at least two and one-half acres and the owners of more than a 50 per centum undivided interest in the trust or restricted land to be partitioned consent to the partition.

(c) [Whenever the Secretary partitions land under this section,] *Within one hundred and eighty days after the Secretary, pursuant to subsections (a) or (b) of this section, receives a request to partition trust or restricted land,* he shall issue a new trust patent, in accordance with applicable law, for the lands set apart for the tribe or the enrolled heir member of the tribe, as the case may be, the trust period to terminate in accordance with the terms of the original patent or order of extension of the trust period set out in said patent or in accordance with the provisions of law governing the sale of allotted [lands.] *lands: Provided, That the provisions of any law to contrary notwithstanding, no patent in fee shall be issued for lands partitioned under this section until the expiration of at least ten years from the date of issuance of such new trust patent.*

SEC. 8. (a) The tribe shall have authority to exercise powers of eminent domain, over trust or restricted lands within the reservation, to eliminate fractional heirship interests in trust or restricted land, to consolidate tribal interests in land, to develop agriculture, and to condemn for other public [uses] *purposes* any interest in trust or restricted land. Upon the request of the tribe, the interest acquired thereafter shall be held by the United States in trust for the tribe: *Provided*, That the tribe has made just compensation under tribal judicial process and in accordance with a code of tribal eminent domain laws approved by the Secretary of the Interior.

(b) Subject to the right of judicial review provided in subsection (c) of this section, a final judgment of the tribal court in favor of the tribe in a condemnation action is conclusive as to the title of the tribe, in and to the interest in the trust or restricted land described in said judgment, against any and all parties in said action, including unknown defendants, and against any and all persons claiming from, through or under such a party by title accruing after the filing of the judgment by the clerk of the tribal court or after the filing of a notice of the pendency of the action with an official designated for that purpose under the eminent domain laws of the tribe.

(c) Any party aggrieved by the condemnation findings and determination of the tribal court may seek judicial review thereof in the United States district court for the district within which the affected interest in land is located. Judicial review shall be taken by filing a notice of appeal with the clerk of the tribal court and district court within thirty days of the date of the entry of the judgment or order of condemnation appealed from. If a timely notice of appeal is filed by a party, any other party may file a notice of appeal within fourteen days of the date on which the first notice of appeal was filed. Any appeal taken under this Act shall be limited to a review of whether the tribal court order or judgment of condemnation is in accordance with the provisions of this Act, any tribal eminent domain laws and the provisions of title II of the Act of April 11, 1968 (82 Stat. 77).

(d) In any tribal court or United States district court proceeding pursuant to subsections (a) or (d) of this section, notice of the proceeding shall be served upon the United States. The United States shall not be an indispensable party in such proceeding.

SEC. 9. The Secretary of the Interior is authorized, with any available funds provided by the United States or the tribe, to acquire by purchase, exchange, or condemnation any land or interest in trust or restricted land within the reservation for the purpose of eliminating fractional heirship interests in land, consolidating tribal interests in land, and developing tribal agriculture or commercial enterprises. After such acquisition, said lands or interests in lands shall be held by the United States in trust for the tribe.

SEC. 10. Whenever the tribe imposes a tax against the estate of any person who dies possessed of any interest in trust or restricted land within the reservation, the Secretary of the Interior shall collect the tax out of the estate as part of the probate proceeding. The amount of the tax collected shall be payable to the tribe.

[SEC. 11. (a) If it shall appear from the records of the United States that the rightful owner of any property in the possession, custody, or control of the United States, including trust or restricted land with the reservation, either (a) shall have been or shall be unknown for seven consecutive years; or (b) shall have made no claim to or shall make no claim to such property for seven consecutive years, and the rightful owner is an enrolled member of the tribe, or there is substantial evidence that the rightful owner is likely to be eligible for enrollment in the tribe, or the rightful owner is an heir by devise or descent of an enrolled member of the tribe, or the property is a distribution of an award of the Indian Claims Commission or the United States Court of Claims, such property, together with all interest or other increments thereon, shall escheat to the tribe: *Provided*, That prior to any escheat of property to the tribe and within ninety days after the expiration of the aforesaid period of seven consecutive years, the agency of the United States which has in its possession, custody, or control, property which is or may be the property of an enrolled member of the tribe or of a person who is likely to be eligible for enrollment in the tribe, with due diligence shall undertake to locate the rightful owner of the property and restore said rightful owner to possession, custody or control of the property.

[(b) As used in this section, the word "property" includes, but is not limited to, money, individual Indian money, postal savings deposits, bonds, notes, and anything of value of any nature whatsoever.

[(c) The Secretary shall prepare and, on or before December 31 of each year, submit to the tribe a list of abandoned or unclaimed property under subsection (a) of this section of persons who are enrolled or eligible for enrollment in the tribe.

[(d) Notwithstanding any other provisions of this Act, the provisions of this section shall apply to the rightful owner of any property abandoned or unclaimed for a period of seven consecutive years commencing on the day seven years prior to ninety days after the date of enactment of this Act.

[SEC. 12. All lands or interests in land acquired by the United States for the tribe or an enrolled member of the tribe under authority of this Act shall be exempt from Federal, State, and other nontribal taxation.]

SEC. [13.] *11.* Within one hundred and twenty days after the date of enactment of this Act, the Secretary of the Interior shall send an explanation of the provisions of this Act to all persons who have any interest in trust or restricted land within the reservation.

SEC. [14.] *12.* Wills executed prior to or within one hundred and twenty days after the date of enactment of this Act shall be effective, in the absence of compliance with the provisions of this Act, for a period not to exceed one hundred and eighty days after the date of enactment of this [Act.] *Act: Provided, That this section shall not apply to invalidate the will of any person who because of unsound mind is unable to amend a will in order to comply with the provisions of this Act.*

SEC. 13. If any provision of this Act or its application to any person or circumstance is found to be invalid, the remainder of this Act, or the application of the provisions of this Act to other persons or circumstances, shall not be affected.

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL HISTORIC PRESERVATION ACT AMENDMENTS

The Senate proceeded to consider the bill (H.R. 2889) to amend the National Historic Preservation Act, and for other purposes, which had been reported from the Committee on Energy and Natural Resources, with an amendment to strike out all after the enacting clause, and insert the following:

That section 212(a) of the National Historic Preservation Act (16 U.S.C. 470t(a)) is amended by striking out the second and third sentences and inserting in lieu thereof "To carry out the provisions of this title, there is authorized to be appropriated not more than $2,500,000 for each of the fiscal years 1985 through 1989".

The amendment was agreed to.

The amendment was ordered to be engrossed, the bill was read the third time, and passed.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CONSERVATION SERVICE REFORM ACT

The Senate proceeded to consider the bill (H.R. 5946) to reform the Residential Conservation Service and to repeal the Commercial and Apartment Conservation Service, which had been reported from the Committee on Energy and Natural Resources, with an amendment to strike out all after the enacting clause, and insert the following:

SECTION. 1. (a) During the period beginning on the date of the enactment of this Act and ending on January 1, 1986, the Secretary of Energy may not approve any plan under section 721(a) of the National Energy Conservation Policy Act (relating to energy conservation for commercial buildings and multifamily dwellings), and no public utility may be required to offer an energy audit to an eligible customer of such utility under section 731(a)(1) of such Act, except pursuant to a plan approved by the Secretary prior to the date of the enactment of this Act.

(b) Sections 215(d), and 217(e)(1) of the National Energy Conservation Policy Act (relating to utility programs and home heating supplier programs) are amended by striking out "January 1, 1985," each place it appears and inserting in lieu thereof "January 1, 1986,".

Mr. JOHNSTON. Mr. President, in late July, the House passed a 40-page bill, H.R. 5946, amending the Residential Conservation Service, extending a key notification requirement under RCS for 5 years and repealing the

Commercial and Apartment Conservation Service.

The Residential Conservation Service is a Department of Energy program based on provisions of law enacted in 1978 as part of the National Energy Act. The RCS statute was further amended in 1980 in the Energy Security Act.

The RCS program requires electric and gas utilities to inform their residential customers about energy conservation opportunities and to offer to serve as project manager in arranging for the financing and installation of the measures selected by the customer. Utilities are required under the program to inform customers of independent contractors who will do the work, and the work has to be warranted. This is a program that is intended to help homeowners make improvements that will permanently reduce home energy consumption and take the pressure off of fuel bills.

The RCS program regulations were issued in 1979, and most of the utilities in the Nation are complying with the program. On January 1, 1985, the requirement that utilities inform their customers about the program expires, but the rest of the requirements of law—for example, the project manager requirements—remain. The House bill extends the RCS notification requirement until January 1, 1990.

The Commercial and Apartment Conservation Service Program was enacted in 1980 as part of the Energy Security Act. Under CACS electric and gas utilities are required to offer energy audits to customers who are owners of apartments and small commercial buildings. These audits would be much more complex and costly than the residential audits offered under the RCS Program.

The CACS regulations have been made effective, but only one State CACS plan has been approved by DOE (Michigan). However, over 30 other plans have been received by DOE, and unless Congress acts, the utilities in these States will have to establish CACS Programs and offer the commercial and apartment audits during the coming year. It appears that there may be substantial startup costs associated with establishing CACS Programs.

On September 12, the Committee on Energy and Natural Resources by unanimous vote ordered reported a substitute for the House version of H.R. 5956. The committee substitute delays approval of any more State CACS plans by DOE until January 1, 1986; extends the RCS notification requirement until January 1, 1986.

In this matter there are really only two options. We can do nothing, and current law will govern. If the status quo prevails, the utilities will incur the costs of CACS. On the other hand, there will be a cloud over the RCS Program because of the expiration of the notification requirement.

On the other hand, if the committee bill is adopted, the CACS costs will be deferred and the RCS Program will continue as it has. The Senate will have an opportunity to review both programs next year and decide what should be done.

Mr. President, the conclusions from this are obvious.

We should avoid the CACS startup costs until we review the program.

We should also review the RCS program. It was authorized in 1978 and has been operating since 1980. It is now appropriate to take a good look at how things are going. We can and should do this next year when we have time. Then we can decide whether to extend the RCS for a long time into the future, whether to amend the statute, or both.

The committee substitute for H.R. 5946 permits these things to happen, and I believe it has a good chance of acceptance by the House. I certainly hope the House accepts what we have done, because that is all we in the Senate are going to do in this Congress. We would like to avoid the CACS startup costs, but we are not so anxious to do so that we will accept language implementing broader action beyond what would happen under the committee bill. The chairman and I are in agreement on this. I ask unanimous consent that the September 13 letter from Senator MCCLURE to me reflecting this agreement be printed in the RECORD at the conclusion of these remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. JOHNSTON. Finally, Mr. President, there have been some questions raised in the administration about the intent of the committee in proposing its substitute for H.R. 5946. I think the legislative history of this bill is quite clear on its face, but in case it is not, I offer the following comments.

The committee substitute extends the RCS notification requirement until January 1, 1986. It is the intention of the committee that DOE require the States and nonregulated utilities with approved RCS plans to amend those RCS plans to reflect this extension of the notification requirement.

The committee substitute directs DOE not to approve any more CACS plans at least until January 1, 1986. The purpose of this language is to ensure that DOE will take no final action on State or nonregulated utility CACS plans that have been submitted or may be submitted during the period the program is suspended.

Mr. President, I urge the passage of the bill as amended by the committee.

EXHIBIT 1

U.S. SENATE, COMMITTEE ON ENERGY AND NATURAL RESOURCES,
Washington, DC, September 13, 1984.

Hon. J. BENNETT JOHNSTON,
Ranking Minority Member, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR BENNETT: Thank you for your letter of September 11, 1984, with regard to Committee action on your substitute amendment to H.R. 5946, the Conservation Service Reform Act of 1984.

H.R. 5946 was placed on the Committee agenda on September 11, as you requested. As you know, the Committee agreed to consider the bill yesterday and reported favorably the measure after adopting your substitute amendment.

I am pleased that your request for quick action by the Committee was satisfied. I would note, as I stated in the Business Meeting yesterday, that I do not believe that we are in a position to take any more substantive action on the conservation service issue in the few remaining legislative days of the 98th Congress. Consequently, I would not be prepared to support any proposal for such broader action during further consideration of the bill by the Senate and the House of Representatives. I understand from your statements yesterday that you share that conclusion and position.

I look forward to working together on this matter in the weeks ahead.

Sincerely,

JAMES A. MCCLURE,
Chairman.

Mr. MCCLURE. Mr. President, H.R. 5946 would modify certain statutory requirements relating to two energy conservation programs, the residential conservation service and the commercial and apartment conservation service. The bill, as amended by the Energy and Natural Resources Committee, was ordered reported on September 12, 1984, with the recommendation that it be passed. The committee vote was 20 to 0.

H.R. 5946, as passed by the House on July 30, 1984, would make a number of major changes in the statute that authorizes the residential conservation service [RCS] program now being implemented within each State. For example, the bill would permit each State to develop an alternative energy conservation plan that would replace the RCS program currently being implemented within the State. The bill would also repeal the commercial and apartment conservation service [CACS] Program, which has not yet been implemented throughout the country.

The amendment approved by the Committee on Energy and Natural Resources is an amendment in the nature of a substitute for the House-passed bill. The amendment essentially would maintain the status quo for both the RCS program and the CACS Program for about 1 year. Under current law, utilities in each State are required to send periodic announcements to their residential customers informing them of the availability of RCS audits. This

notification requirement expires on January 1, 1985. It would be extended by the committee amendment to January 1, 1986. In addition, the amendment would effectively postpone implementation of the CACS Program. It provides that during the period from the date of enactment to January 1, 1986, the Secretary of Energy may not approve any plan submitted by a State in accordance with current statutory requirements.

Mr. President, these proposed changes in the existing law are very limited. Certainly, it would have been desirable for the committee to have fully reviewed the RCS and CACS Programs, and to make proposals for program changes deemed to be appropriate. Unfortunately, the committee had insufficient time to undertake such a review and make recommendations. The House-passed bill was referred to the Committee on Energy and Natural Resources on August 1, 1984. When the Senate reconvened following the August recess, it soon became apparent that existing legislative commitments, combined with the limited time remaining in the session, prevented the scheduling of hearings on the bill.

Judging from the length and complexity of the House-passed bill, it is apparent that the Members of the other body concluded that major changes in the RCS Program should be made. Those aspects of the program are of particular concern to me are: The cost of the residential audits, compared to their ultimate benefits in the form of energy savings, the amount of savings realized by low- and moderate-income families, and the allocation of the program costs among utility customers. I have no doubt that next year, these issues and a broad range of other energy conservation issues will be fully aired in Senate hearings. After the hearings and the committee's consideration of the issues, we will be in a position to take whatever action may be appropriate with regard to the RCS and CACS Programs.

Mr. GRASSLEY. Mr. President, will the Senator yield for a question?

Mr. McCLURE. I am pleased to yield.

Mr. GRASSLEY. Under the current law, the announcement requirement for the RCS Program expires on January 1, 1985. The committee amendment would extend that requirement for 1 year. For those States that are modifying or expanding their Energy Conservation Programs, it may be more desirable to let the announcement requirement expire. I am concerned about the effect of the extension on State RCS programs that are subject to ongoing review by the Department of Energy. What is the Senator's understanding of the effect of the amendment on DOE's implementation and enforcement of the RCS Program requirements during the extension period?

Mr. McCLURE. The 1-year extension would not alter DOE's statutory responsibility to monitor State programs and enforce compliance with the statutory requirements. However, I have been advised that if DOE receives indications that a State program may not be in compliance with the Federal requirements, then a number of actions would be undertaken prior to implementation of a Federal standby plan. As the first step, DOE would engage in informal discussions with the appropriate State agency. An attempt would be made to negotiate an agreement on modifications to the State program. If an agreement could not be reached after a reasonable period of time, DOE would institute a set of formal procedures, consisting of a letter of notification to the Governor, a public hearing in the State, comment period, and a final DOE determination on the adequacy of the State plan. If necessary, within a reasonable period after making a determination that the State plan was deficient, DOE would order the covered utilities in the State to begin implementing the Federal plan within 90 days.

Mr. GRASSLEY. I thank the Senator for that information.

Mr. President, I rise in support of H.R. 5946, a bill to delay the implementation of the commercial and apartment conservation service program, and to extend the notification requirement for the residential conservation service program for 1 additional year. I sincerely appreciate the efforts of the distinguished chairman and ranking minority member of the Senate Energy and Natural Resources Committee in bringing this legislation to the floor.

Apparent deficiencies in the RCS Program prompted my interest in introducing legislation to address the serious problems in the implementation and design of the RCS Program. Although I lend my support to passage of this bill, I am disappointed the Senate did not have the opportunity to consider more comprehensive reforms, and firmly resolve the programs' status prior to the end of the 98th session.

The RCS Program is a classic example of the Federal bureaucracy running wild. We are dictating to States that the Federal Government knows how to encourage and provide conservation measures better than the individual States The structure of the RCS audits have resulted in a program which is far different that what Congress originally envisioned. Clearly, Congress must reassess the current RCS Program before foisting a similar program, fraught with problems, on the States, consumers, and utilities.

The House of Representatives sent the Senate a good piece of legislation which was adopted after a great amount of debate and compromise among the various interested individuals and groups. I understand Senator McCLURE's and JOHNSTON's reluctance to consider comprehensive reforms given the lateness of the session and the magnitude of the changes contained in the House passed bill, and my companion bill, S. 2872. It would be my hope that early next year the Senate would have the opportunity to deal with both the RCS and the CACS Programs in a more thorough manner, and I am encouraged by the chairman's willingness to do so.

With passage of this bill, Congress is sending a clear signal that the current program does not work, but that some additional time is needed to carefully determine how best to proceed with significant programmatic reforms.

Again, I thank the Energy Committee for their cooperation, and reiterate that Congress must renew its evaluation of these two programs in an expeditious manner next year.

Mr. WEICKER. Mr. President, I should like to speak briefly on a number of issues relating to H.R. 5946, legislation which would postpone certain requirements of the Commercial and Apartment Conservation Service [CACS] and extend the notification requirements under the residential Conservation Service [RCS]. On August 1, 1984 the House-passed version of this bill was referred to the Senate Committee on Energy and Natural Resources, it was then subsequently referred to the Subcommittee on Energy Conservation and Supply, which I chair.

My initial review of this legislation indicated that it would make several major modifications to existing law. It would repeal the CACS Program, it would substantially alter the RCS Program and it would provide certain protections for small businesses against competition from utilities. Both the RCS and CACS Programs direct the involvement of utilities in energy conservation. This involvement has raised some serious questions about competition between public utilities and the private sector. In fact, on November 3, 1983, I held hearings in the Small Business Committee to receive testimony on this complex issue. H.R. 5946, as passed by the House, also makes substantial changes to the RCS Program. For example, the bill would authorize each State or individual utility to develop an alternative energy conservation plan that could replace the current RCS Program within that State. It was my opinion, after an initial review of these and other provisions of H.R. 5946 that there was insufficient time remaining in the 98th Congress to properly consider the

bill's small business protections and its other conservation service modifications. The bill addresses complex issues which require careful consideration.

Without any legislation the Department of Energy will proceed with the implementation of the CACS Program and the notification requirement of the RCS Program will terminate on January 1, 1985. On September 12, 1984, the Energy Committee adopted an amendment in the nature of a substitute which would defer implementation of the CACS Program and extend the notification requirements of the RCS Program until January 1, 1986. The effect of the substitute would be to freeze the status quo and give the committee time to properly review both of these programs and make considered recommendations to the Senated during the 99th Congress.

I feel that this substitute amendment is the best alternative to resolve this matter in the short term and in consideration of the lack of time remaining in this Congress. I urge my colleagues to support its passage.

The amendment was agreed to.

The amendment was ordered to be engrossed, the bill was read the third time, and passed.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CHATTAHOOCHEE RIVER NATIONAL RECREATION AREA

The Senate proceeded to consider the bill (H.R. 2645) to amend the Act of August 15, 1978, regarding the Chattahoochee River National Recreation Area in the State of Georgia which had been reported from the Committee on Energy and Natural Resources with amendments as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets, and the parts of the bill intended to be inserted are show in italic.)

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 101 of the Act of August 15, 1978, entitled "An Act to authorize the establishment of the Chattahoochee River National Recreation Area in the State of Georgia, and for other purposes" (Public Law 95-344; 16 U.S.C. 460ii) is amended by adding the following at the end thereof: "For purposes of facilitating Federal technical and other support to State and local governments to assist State and local efforts to protect the scenic, recreational, and natural values of a 2,000 foot wide corridor adjacent to each bank of the Chattahoochee River and its impoundments in the 48-mile segment referred to above, such corridor is hereby declared to be an area of national concern.".

(b) Section 101 of such Act is amended—

(1) by striking out "numbered CHAT-20,000, and dated July 1976" and substituting "numbered CHAT-20,003, and dated [February] *September* 1984"; and

(2) by striking out "six thousand three hundred acres" and substituting "approximately [7,328] *6,800* acres".

(c) Section 102 of such Act is amended by adding the following at the end thereof:

[''(f)(1) The Secretary shall identify for exchange those lands (hereinafter referred to as 'exchange lands') owned by the United States which—

[''(A) were within the boundaries of the recreation area (as depicted on the map entitled 'Chattahoochee River National Recreation Area', numbered CHAT-20,000, and dated July 1976) before the date of the enactment of this subsection; and

[''(B) are not within such boundaries as depicted on the map referred to in section 101 (entitled 'Chattahoochee River National Recreation Area', numbered CHAT-20,003, and dated February 1984).

Where possible the Secretary shall exchange such exchange lands for non-Federal lands which are within the boundaries of the recreation area as depicted on the map referred to in section 101 (entitled 'Chattahoochee River National Recreation Area', numbered CHAT-20,003, and dated February 1984). The values of lands exchanged under this subsection shall be equal, or shall be equalized, in the same manner as provided in section 206 of the Federal Land Policy and Management Act of 1976.]

''(f)(1) The Secretary shall exchange those federally owned lands identified on the map referenced in section 101 of this Act a 'exchange lands' for non-Federal lands which are within the boundaries of the recreation area. The values of the lands exchanged under this subsection shall be equal, or shall be equalized in the same manner as provided in section 206 of the Federal Land Policy and Management Act of 1976.

''(2) At three year intervals after the date of the enactment of this subsection, the Secretary shall publish in the Federal Register a progress report on the land exchanges which have taken place and the exchanges which are likely to take place under the authority of this subsection. Such report shall identify the lands which are unsuitable for exchange pursuant to such authority.

''(3) Effective on the date ten years after the date of the enactment of this subsection, the exchange authority of paragraph (1) shall terminate. The exchange lands identified under paragraph (1) which have not been exchanged prior to such date shall be retained in Federal ownership [and included with the recreation area.] *as part of the recreation area.*

[''(4) The Secretary shall publish a revision of the boundary map referred to in section 101 to include within the boundaries of the recreation area the exchange lands which are retained in Federal ownership under paragraph (3). Upon publication of such revised map, such areas shall be included within the recreation area and shall be administered as provided in section 103.".]

''(4) The Secretary shall publish a revision of the boundary map referred to in section 101 to exclude from the boundaries of the recreation area any exchange lands which are used to acquire non-Federal lands under paragraph (3).".

(d) Section 104 of such Act is amended by adding the following at the end thereof:

[''(d)(1) Notwithstanding any other authority of law, any department, agency, or instrumentality of the United States or of the State of Georgia, or any other entity which may construct any water supply project or other project (including any dam, water conduit, reservoir, powerhouse, road, or transmission line) which adversely affects the lands within the recreation area shall mitigate such adverse effects by acquisition of replacement lands of equivalent acreage. Such replacement lands shall be acquired only after consultation with the Secretary and with the Governor of Georgia.]

''(d)(1) Notwithstanding any other authority of law, any department, agency, or instrumentality of the United States or of the State of Georiga, or any other entity which may construct any project recommended in the study entitled 'Metropolitan Atlanta Water Resources Management Study, Georgia: Report of Chief of Engineers,' dated June 1, 1982, which directly adversely impacts any lands within the authorized recreation boundaries of the Bowman's Island tract as shown on the map numbered and dated CHAT-20,003, September 1984, which were in Federal ownership as of September 1, 1984, shall upon request by the Secretary, mitigate such adverse impacts. It is expressly provided that use of or adverse impact upon any other lands within the recreation area as result of any such project shall not require mitigation. Mitigation required by this paragraph shall be provided by payment to the United States of a sum not to exceed $3,200,000. The mitigation funds paid pursuant to this paragraph, shall be utilized by the Secretary for the acquistion of replacement lands. Such replacement lands shall be acquired only after consultation with the Governor of Georgia.

[''(2) In acquiring replacement lands under paragraph (1), first priority shall be given to acquisition of lands within the 2,000 feet wide corridor referred to in section 101. Any such lands acquired under this subsection shall be included in the recreation area and transferred to the Secretary for management under this Act.]

''(2) In acquiring replacement lands under paragraph (1) priority shall be given to acquisition of lands within the recreation area boundary and those lands within or adjacent to the 2,000 foot wide corridor referred to in section 101. Any lands acquired pursuant to this subsection lying outside the boundaries of the recreation area shall, upon acquisition, be included within the recreation area and transferred to the Secretary for management under this Act. The Secretary shall publish a revised boundary map to include any lands added to the recreation area pursuant to this subsection.

[''(3) If lands within the 2,000 foot wide corridor referred to in section 101 are not available for acquisition,]

''(3) If lands as described in paragraph (2) are not available for acquisition, other lands within the State of Georgia may be acquired as replacement lands under paragraph (1) if such lands are transferred to the State of Georgia for permanent management for public outdoor recreation.".

(e)(1) Section 105(a) of such Act is amended by striking out "$72,900,000" and substituting ["$84,600,000"] *"$79,400,000"* and by adding the following at the end thereof "For purposes of section 7(a)(3) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-9(a)(3)), the statutory ceiling on appropriations under this subsection shall be deemed to be a statutory ceiling contained in a provision of law enacted prior

to the convening of the Ninety-sixth Congress.".

(2) Section 105(c) of such Act is amended by striking out "three years" and substituting "seven years".

(3) Section 105 of such Act is further amended by adding the following new subsection at the end thereof:

"(d)(1) Whenever any Federal department, agency, or instrumentality proposes to undertake any action, or provide Federal assistance for any action, or issue any license or permit for an action within the corridor referred to in section 101 which may have a direct and adverse [effect,] *effect on the natural or cultural resources of the recreation area,* the head of such department, agency, or instrumentality shall—

"(A) promptly notify the Secretary of the action at the time it is planning the action, preparing an environmental assessment regarding the action, or preparing an environmental impact statement under the National Environmental Policy Act of 1969 for the action;

"(B) provide the Secretary a reasonable opportunity to comment and make recommendations regarding the effect of the Federal action on the natural and cultural resources of the recreation area; and

"(C) notify the Secretary of the specific decisions made in respect to the comments and recommendations of the Secretary.

The requirements of this subsection shall be carried out in accordance with procedures established by the Federal agency responsible for undertaking or approving the Federal action. These procedures may utilize the procedures developed by such Agency pursuant to the National Environmental Policy Act.

"(2) Following receipt of notificaiton pursuant to paragraph (1)(A), the Secretary after consultation with the Governor of Georgia, shall made such comments and recommendations as the Secretary deems appropriate pursuant to paragraph (1)(B) as promptly as practicable in accordance with the notifying agency's procedures established pursuant to paragraph (1)(A). In any instance in which the Secretary does not provide comments and recommendations under paragraph (1)(B), the Secretary shall notify in writing, the appropriate committees of Congress.

"(3) Following receipt of the notifying agency's decisions pursuant to paragraph (1)(C), the Secretary shall submit to the appropriate committees of Congress, including the authorizing committees with primary jurisdiction for the program under which the proposed action is being taken, a copy of the notifying agency's specific decisions made pursuant to paragraph (1)(C), along with a copy of the comments and recommendations made pursuant to paragraph (1)(B).

"(4) In any instance in which the Secretary has not been notified of a Federal agency's proposed action within the corridor, and on his or her own determination finds that such action may have a significant adverse effect on the natural or culturl resources of the recreation area, the Secretary shall notify the head of such Federal agency in writing. Upon such notification by the Secretary, such agency shall promptly comply with the provisions of subparagraphs (A), (B), and (C) of paragraph (1) of this subsection.

"(5) Each agency or instrumentality of the United States conducting Federal action upon federally owned lands or waters which are administered by the Secretary and which are located within the authorized boundary of the recreation area shall not commence such action until such time as the Secretary has concurred in such action.

"(6) The following Federal actions which constitute a major and necessary component of an emergency action shall be exempt from the provisions of this subsection—

"(A) those necessary for safeguarding of life and property;

"(B) those necessary to respond to a declared state of disaster;

"(C) those necessary to respond to an imminent threat to national security; and

"(D) those that the Secretary has determined to be not inconsistent with the general management plan for the recreation area.

Actions which are part of a project recommended in the study entitled 'Metropolitan Atlanta Water Resources Management Study, Georgia: Report of Chief of Engineers', dated June 1, 1982, and any Federal action which pertains to the control of air space, which is regulated under the Clean Air Act, or which is required for maintenance or rehabilitation of existing structures or facilities shall also be exempt from the provisions of this subsection.".

(f) Title I of such Act is amended by adding the following at the end thereof:

"SEC. 106. (a) There is hereby established the Chattahoochee River National Recreation Area Advisory Commission (hereinafter in this Act referred to as the 'Advisory Commission') to advise the Secretary regarding the management and operation of the area, protection of resources with the recreation area, and the priority of lands to be acquired within the recreation area. The Advisory Commission shall be composed of the following thirteen voting members appointed by the Secretary:

"(1) four members appointed from among individuals recommended by local governments—

"(A) one of whom shall be recommended by the Board of County Commissioners of Forsyth County;

"(B) one of whom shall be recommended by the Board of County Commissioners of Fulton County;

"(C) one of whom shall be recommended by the Board of County Commissioners of Cobb County; and

"(D) one of whom shall be recommended by the Board of County Commissioners of Gwinett County;

"(2) one member appointed from among individuals recommended by the Governor of Georgia;

"(3) one member appointed from among individuals recommended by the Atlanta Regional Commission;

"(4) four members appointed from among individuals recommended by a coalition of citizens public interest groups, recreational users, and environmental organizations concerned with the protection and preservation of the Chattahoochee River;

"(5) one member appointed from among individuals recommended by the [Georgia Chamber of Commerce] *Business Council of Georgia* or by a local chamber of commerce in the vicinity of the recreation area; and

"(6) two members who represent the general public, at least one of whom shall be a resident of one of the counties referred to in paragraph (1). In addition, the Park Superintendent for the recreation area shall serve as a nonvoting member of the Advisory Commission. The Advisory Commission shall designate one of its members as Chairman.

"(b)(1) Except as provided in paragraph (2), members of the Advisory Commission shall serve for terms of three years. Any voting member of the Advisory Commission may be reappointed for one additional three-year term.

"(2) The members first appointed under paragraph (1) shall serve for a term of one year. The members first appointed under paragraphs (2), (3), (5), and (6) shall serve for a term of two years.

"(c) The Advisory Commission shall meet on a regular basis. Notice of meetings and agenda shall be published in local newspapers which have a distribution which generally covers the area affected by the park. Commission meetings shall be held at locations and in such a manner as to insure adequate public involvement.

"(d) Members of the Commission shall serve without compensation as such, but the Secretary may pay expenses reasonably incurred in carrying out their responsibilities under this Act on vouchers signed by the Chairman.

[''(e) Notwithstanding section 14 of the Federal Advisory Committee Act (5 U.S.C. App.), the Advisory Commission shall terminate on the date ten years after the date of the enactment of this subsection.".]

(e) The Advisory Commission shall terminate on the date ten years after the date of the enactment of this subsection.".

SEC. 2. Any provision of any amendment made by this Act which, directly or indirectly, authorizes the enactment of new budget authority described in section 402(a) of the Congressional Budget Act of 1974 shall be effective only for fiscal years beginning after September 30, 1984.

Mr. NUNN. Mr. President, I am delighted that the full Senate is today considering legislation to expand the Chattahoochee River National Recreation Area. This legislation is of great importance to the State of Georgia and the entire United States. I have been working for the protection of the Chattahoochee River since 1973 when I joined with former Senator Herman Talmadge and former Congressman and now Atlanta Mayor Andrew Young to introduce the first Chattahoochee River National Recreation Area bill during the 93d Congress. The legislation we are considering today is an important achievement and addition to the original act, Public Law 98-344, which authorized the establishment of the Chattahoochee River National Recreation Area.

The Chattahoochee River begins as a small mountain stream in northeast Georgia, passes by the northwest boundary of metro-Atlanta and forms the boundary for the State of Georgia and Alabama before flowing into the Appalachicola River in Florida and then into the Gulf of Mexico. The original act to establish the Chattahoochee River National Recreation Area was approved by the Congress after careful study in 1978. At that time, the boundaries of the park were generally defined to include a string of properties totaling 6,300 acres along a 48-mile stretch of river from Buford Dam to Peachtree Creek near the

center of Atlanta. The original authorization provided $72.9 million for land acquisition. Currently, 3,600 acres, including 14 major tracts of land, have been acquired along the river corridor at a cost of approximately $67 million.

The Chattahoochee River National Recreation Area is a significant national resource which will rapidly be engulfed in urban sprawl if it is not properly protected. Along the Chattahoochee, we have a rare opportunity to preserve a large natural area within a major metropolitan area with a population approaching 2 million.

One of the most important elements of the Chattahoochee River National Recreation Area plan is, of course, the recreational opportunities it provides. Many residents of the southeastern United States will never be able to afford to visit Yellowstone or Glacier National Park, but millions will now, and in future generations, be able to enjoy the Chattahoochee River corridor if it is properly preserved. Although still uncompleted, the park is one of the most popular Park Service sites in the Nation. Last year alone, the Park Service counted over 1 million visitors that used the park for fishing, hiking, rafting, cycling, canoeing, and other outdoor activities. Approximately 20 percent of the park patrons are from outside the metropolitan Atlanta area.

Another important factor is the water quality protection provided by the park. One-fourth of Metropolitan Atlanta's water supply comes from the Chattahoochee. Investments in this park can help prevent expensive water quality problems in the future.

Mr. President, it was understood after passage of the original act that more time and study would be needed to further clarify the exact properties best suited for the protection of this valuable river resource. Last year Congressman LEVITAS and other members of the Georgia delegation introduced H.R. 2645 and Senator MATTINGLY and I introduced a Senate companion bill, S. 1218. These bills included an expansion of the Chattahoochee National Recreation Area to approximately 7,328 acres and an increase in the authorization ceiling to $84.6 million. H.R. 2645 passed the House of Representatives earlier this year.

Before us today is an amended version of H.R. 2645. This bill was reported unanimously by the Senate Energy and Natural Resources Committee. It is less than what I would have liked but I do believe it is a realistic compromise. Hearings were held on the Chattahoochee River legislation in the Public Lands and Reserved Waters Subcommittee of the Senate Energy and Natural Resources Committee on May 17, 1984. At that time, Chairman MALCOLM WALLOP and the National Park Service expressed concern regarding the House-passed bill. It was my fear after the hearing that, because of the opposition of the administration, we would be unable to achieve final passage of a Chattahoochee River bill during this Congress. The staff of the subcommittee, however, accepted my invitation to visit the Chattahoochee River in August and met with representatives of the Georgia Department of Natural Resources, the National Park Service, the Atlanta Regional Commission, the Chattahoochee River Coalition, and Senator MATTINGLY's and my staff in an effort to reach a compromise. Through these meetings, we were able to reach an agreement on legislation which would address the major concerns and priorities of all parties involved.

Our compromise bill authorizes major additions to the Chattahoochee River National Recreation Area at eight new sites along the river corridor. The bill also authorizes deletions and exchanges of acreage already within the existing boundaries so that lower priority acreage can be replaced by more important tracts of land. Many significant areas along the Chattahoochee River are in danger of being lost for inclusion within the Chattahoochee River National Recreation Area unless action is taken in the near future to protect these areas. This compromise legislation will allow us to move forward and protect many of those areas.

Mr. President, I would be remiss if I did not express my appreciation to those individuals who have made major contributions to the development of this legislation. First, I would like to commend Congressman ELLIOTT LEVITAS for his efforts in passing H.R. 2645 in the House of Representatives. I would like to thank Senator MALCOLM WALLOP, the chairman of the subcommittee, for his willingness to consider the Chattahoochee River legislation and to work toward a compromise. Without Senator WALLOP's support and assistance, no legislation would have been possible. I would also like to recognize the diligent and professional work of Tony Bevinetto and Tom Williams of the subcommittee staff. Senator MATTINGLY and Cliff Humphrey of his staff have worked closely with me and my legislative director, Randy Nuckolls, to develop a consensus bill acceptable to the Chattahoochee River coalition, the National Park Service, and the State of Georgia. The Chattahoochee River coalition was very ably represented in the negotiations which were conducted by Robert Kerr. Bob's efforts were critical in achieving a final agreement. I would also like to thank Commissioner Leonard Ledbetter of the Georgia Department of Natural Resources, Lonice Barrett of the DNR staff, Harry West of the Atlanta Regional Commission, and Bob Baker, the southeastern regional director of the National Park Service and his staff.

Mr. President, the legislation before us today is indeed the product of the coordination and combined efforts of all parties involved. Without this cooperation, no legislation would have been possible. I urge my colleagues to adopt this important proposal.

The amendments were agreed to.

The amendments were ordered to be engrossed, the bill was read the third time, and passed, as amended.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

BUDGET ACT WAIVER

The resolution (S. Res. 448) waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 2889, was considered, and agreed to, as follows:

H.R. 2889, S. RES. 448

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such act are waived with respect to the consideration of H.R. 2889, to amend the National Historic Preservation Act, and for other purposes, as reported, authorizes the enactment of new budget authority which would first become available in fiscal year 1985.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

BUDGET ACT WAIVER

The resolution (S. Res. 451) waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 2645, was considered, and agreed to, as follows:

S. RES. 451

Resolved. That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of H.R. 2645, to amend the Act of August 15, 1978, regarding the Chattahoochee River National Recreation Area in the State of Georgia. H.R. 2645, as reported, authorizes the enactment of new budget authority which would first become available in fiscal year 1985.

The waiver of section 402(a) of such Act is necessary to permit Congressional consideration of H.R. 2645. Such bill was not reported on or before May 25, 1984, as required by section 402(a) of the Congressional Budget Act of 1974 for such authorizations.

The likelihood that the Committee on Energy and Natural Resources would report the companion measure, S. 1218, was reflected in its March 15, 1984, report to the Committee on the Budget pursuant to section 301(c) of the Congressional Budget and

Impoundment Control Act of 1974. Therefore, the Appropriations Committee of the Senate has had adequate notice of this authorization. Enactment of H.R. 2645 is not expected to interfere with or delay the appropriations process.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MODIFICATION OF THE BOUNDARY OF THE PIKE NATIONAL FOREST

The bill (H.R. 3601) to modify the boundary of the Pike National Forest in the State of Colorado, and for other purposes, was considered, ordered to a third reading, read the third time, and passed.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

JOHN F. KILKENNY U.S. POST OFFICE AND COURTHOUSE

The bill (H.R. 5997) to designate the United States Post Office and Courthouse in Pendleton, OR, as the "John F. Kilkenny United States Post Office and Courthouse", was considered, ordered to a third reading, read the third time, and passed.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STEVENS. Mr. President, I suggest the absence of a quorum.

Mr. PRESSLER. Mr. President, may I send an amendment to the desk?

The PRESIDING OFFICER. Is there further morning business?

Mr. STEVENS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ABDNOR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. BAKER. I object, Mr. President.

The PRESIDING OFFICER. Objection is heard.

The legislative clerk resumed the call of the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Several Senators addressed the Chair.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

CONTINUING APPROPRIATIONS, 1985

The PRESIDING OFFICER. The clerk will report the pending business.

The legislative clerk read as follows:

A joint resolution (H.J. Res. 648) making continuing appropriations for the fiscal year 1985, and for other purposes.

The Senate resumed consideration of the joint resolution.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

AMENDMENT NO. 6981

(Purpose: To prohibit the appropriation of funds for the United States share of the capital stock of the Inter-American Investment Corporation, and for other purposes)

Mr. ZORINSKY. Mr. President, I send to the desk an amendment to House Joint Resolution 648 and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Nebraska [Mr. ZORINSKY], for himself, Mr. DODD, Mr. HELMS, and Mr. EXON proposes an amendment numbered 6981.

Mr. ZORINSKY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment reads as follows:

At the end of the matter proposed to be inserted, add the following:

SEC. . Notwithstanding any other provision of this joint resolution, none of the funds appropriated by this joint resolution may be available for payment for the United States share of the capital stock of the Inter-American Investment Corporation and none of the provisions of title II of S. 2416, as introduced in the Senate on March 13, 1984, shall have the force or effect of law.

Mr. ZORINSKY. Mr. President, I send to the desk this amendment on behalf of myself, Senator DODD, Senator HELMS, and Senator EXON. Quite obviously, when you have Senator DODD and Senator HELMS on the same amendment and same piece of legislation, that covers a fairly obviously large spectrum.

Mr. President, my amendment is quite simple and straightforward—it simply deletes from the bill an authorization to permit U.S. participation in a newly created multilateral development institution—the Inter-American Investment Corporation [IIC]. The purpose of the IIC, according to the administration, is to "support private sector activities in Latin America through equity and loan investment." My amendment would also delete $13 million in appropriations which are currently earmarked in the bill for the IIC, as the first installment of the $51 million U.S. commitment to the IIC's $200 million startup capital.

I suspect my colleagues are as surprised as I was to discover that buried in this bill is an authorization for the United States to join yet another multilateral aid institution, at the very time we are facing the most serious Federal budget deficit in our history, and at a time when Congress perpetually finds itself unwilling or unable to fully fund other Multilateral Development Bank [MDB] commitments previously authorized by Congress. The inclusion of the IIC in this bill comes as a particular surprise to me as a member of the Foreign Relations Committee, since that committee, which is charged with responsibility for authorizing such legislation, announced earlier this year that it would defer any action on the administration's request to join the IIC until next session, when the committee would have the opportunity to review this proposal indepth. The committee has held no formal hearings on this proposal as yet.

I think earlier in the debate on this continuing resolution, the Senator from Idaho in one of his eloquent presentations made the comment that it is better to have a full airing, a full hearing, and a project authorized before being hooked onto this so-called last train leaving the station, called the continuing resolution.

I have reviewed the written proposal provided by the administration to Congress justifying U.S. participation in the IIC. Having done so, I for one have some serious questions concerning the wisdom of U.S. participation in this institution. In my view, this proposal as currently formulated is redundant, and therefore to join would be nothing more than an abuse and misuse of American taxpayers' dollars.

A close examination of the agreement establishing the IIC leaves one with the impression that this is nothing more than a miniversion of an organization which already exists and to which the United States is already a member—the International Finance Corporation [IFC]. The IFC—an affiliate of the World Bank since 1956—is already charged, under its charter, with carrying out a mandate almost identical to that proposed for the IIC, namely to "further economic development in its developing member countries by promoting and supporting private enterprise." It carries out its duties with a capital of $650 million and a staff of over 400 international

civil servants who are experts on the subject. What is more, the administration has already concluded negotiations on the next replenishment of the IFC's capital, and early next year will seek congressional authorization and appropriations to double the IFC's capital to $1.3 billion.

What will the IIC do that is not being done by the IFC? According to the administration it will have a regional focus (i.e. Latin America). Has the IFC somehow neglected the region of Latin America in carrying out is responsibilities? Absolutely not. The IFC's 1984 Annual Report indicates that the IFC has assisted 117 business ventures in Latin America providing some $670 million in loans and an additional $150 million in equity capital—representing over 40 percent of the IFC's total loan and equity portfolio.

Furthermore, there already exists a multilateral development institution which was established to focus its efforts in Latin-America—I am referring to the Inter-American Development Bank [IDB]. Surely if the IFC did not have sufficient regional flavor for the administration it might have considered using the IDB's organization, management and staff of over 1,900 to carry out its regional private sector initiatives.

Another selling point which the administration makes in espousing U.S. participation in the IIC is that it will "invest only in enterprises that are primarily owned and controlled by the private sector." Yet a review of the IIC's charter reveals that "enterprises with partial share participation by government or other public entities, whose activities strengthen the private sector of the economy, are eligible for financing by the IIC." In 1984, over 50 percent of the projects approved by the IFC were to enterprises wholly privately owned, while the remaining projects were to mixed government/private enterprises. I doubt very much whether the IIC will do much better than this given the nature of the economies of Latin America.

Let there be no doubt as to what we are doing if we give congressional approval to U.S. participation in the IIC. We will be setting in motion the establishment of yet another totally independent multilateral organization with its own charter, its own management and its own staff. From past experience, I know that one thing is certain—the IIC will need a large staff to carry out its work. At least, initially, it may be small. But generally, they always, according to history, grow larger and larger.

While at home we have been forced to go through the painful process of reductions in the Federal work force, on the international front this provision of the continuing resolution would authorize the creation of a whole new international bureaucracy. Frankly, the proposed IIC is redundant, unnecessary, and nothing more than the International Civil Servants' Employment Act of 1985.

I think the time has come to say "enough is enough." The Senate should not give its endorsement to this international boondoggle. I urge my colleagues to support my amendment to delete this provision from the continuing resolution.

I might add this, Mr. President: At a time when we are requesting that agriculture and the farmers of this country be treated equally as are other countries, I think we lean over totally in an unbalanced posture in creating this lending institution to other nations. I understand that we even have trouble meeting our commitments lately to the IMF, the World Bank, and other lending institutions at a time when we hear worldwide difficulty of nations and businesses in their attempt to repay principal, let alone the interest accrued on loans and commitments that were made.

One other point, Mr. President: I think as a member of the Foreign Relations Committee this does set a serious, bad precedent. This could happen to any committee member in this body. That is to usurp the authorizing power of the committee. Let me again point out that the Foreign Relations Committee has had no hearings on this issue. This was placed into the House version of the continuing resolution after the Foreign Relations Committee made a commitment to review the very creation of this institution in the next session of Congress.

That is why, Mr. President, I think as a fairness issue it is not fair on a continuing resolution in the wee hours and the late moments of this Congress to commit this Nation that has trouble meeting its own commitment to the IMF and the World Bank, to increasing our own funding to those institutions, to take on additional commitment, when faced with an excess of $160 billion in deficits; when, before the end of this week expires, we are going to raise the debt limit ceiling of this country to approximately $1.5 trillion. Is that the time for us to undertake additional financial commitments and obligations to an institution that we have given little concern and little hearing to in this body, specifically in the Foreign Relations Committee?

All I ask is that my colleagues support this amendment to delete.

Everybody is talking about a clean continuing resolution, "Do not put a lot of Christmas tree ornaments on it." This amendment should be refreshing to everyone. This removes an ornament. It does not add an ornament. Certainly, in watching this legislation very closely this is probably the first amendment that has removed an ornament from the last train leaving the station rather than adding to it.

Not only will it save the taxpayers of this Nation money in making a commitment to starting a new international monetary lending institution, but also will keep faith with the people who are having a hard time staying in business, who are having a hard time from not declaring bankruptcy, and who are paying their fair share of taxes to this country.

Mr. President, I yield whatever time is required to the Senator from Connecticut.

The PRESIDING OFFICER (Mr. CHAFEE). The Senator from Connecticut.

Mr. DODD. I thank my colleague for yielding.

Mr. President, I want to join the distinguished Senator from Nebraska and others offering this amendment and I thank him for bringing it up. He has really covered the major and salient points with regard to this particular proposal, as I have heard him over the last several moments raise what I think are very worthwhile concerns about the establishment of the Inter-American Investment Corporation at this particular juncture.

Let me just emphasize, if I can, a couple of those concerns.

Obviously, I cannot speak for everyone who is sponsoring this amendment to delete this particular program from the continuing resolution. But as for my part, and I believe for some others, the justification has little or nothing to do with the goals that are sought by participating in the IIC. In fact, I am sure most of us here would find them extremely worthwhile. It is principally designed to get funds to support private sector development in the Central American region. Certainly, no one that I know of, who knows anything about the region, could argue with that goal. It would certainly be extremely worthwhile to improve the economic development climate to do that.

The concerns are basically procedural more than anything else, and the question of layers, quite frankly, and where we are going with yet the establishment of another development operation in which we will see tax dollars being invested.

Again, it is a worthwhile program, but I think most Members would agree that we have had no hearings by the Foreign Relations Committee on this at all. All we know are the general concepts of what people want to do with this. Beyond that, we have really not had any opportunity to examine how the Inter-American Investment Corporation would really work.

We have seen over and over again that the authorizing process has been circumvented, in some cases out of absolute necessity, because you just had

to do it in order to get something done. In this case, there is no sense of urgency in that regard. In the committee, in fact, yesterday, Chairman PERCY agreed with those who were there, that this is a subject matter we would raise at the very earliest opportunity at the outset of the next session.

But to allow this to go through at this juncture, without having the authorizing committee really have an opportunity to examine it thoroughly, would be a mistake which I do not think needs much additional explanation.

Third, Mr. President, we are going to be asked as well to support yet another development organization, the Central American Development Organization, which was part of the Kissinger Commission recommendations. Again, we have yet one other layer of investment organizations to try and assist the area. Again, it is very laudable.

We already have the International Finance Corporation, an affiliate of the World Bank. We have the Inter-American Development Bank, which is, I presume, designed to do basically the same thing. Here we are now going to have four organizations, the IIC, the International Finance Corporation of the World Bank, the Central American Development Organization, and the International Development Bank, all designed to do basically the same thing in the same part of the world.

Again, it is hard to argue why we should not be trying to do something, but should we not try to consolidate this, to pull it together so that it makes some sense and we are not financing or subsidizing four different operations to do basically the same job in the region?

I am glad that my colleague from Nebraska has raised this amendment. Again, I think his points are extremely salient. As I understand his argument, it is not in opposition to the notion of providing assistance to the area but, rather, to the procedure for going about doing it and the consideration of these other layers of development assistance operations which are already in place and on which we should be focusing our attention. I urge adoption of the amendment, Mr. President. I thank my colleague for yielding.

Mr. KASTEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. KASTEN. Mr. President, as I understand this amendment, it seeks to eliminate very necessary language which is in the Senate-passed appropriations bill referenced in this continuing resolution authorizing the Inter-American Investment Corporation.

I might point out to both the Senator from Connecticut and the Senator from Nebraska that the committee also has similar language authorizing the International Development Association, which is the soft loan window in the World Bank. All of these comments would be applicable to that organization, which has also not been authorized. That authorization language has been folded in here, also.

I do not think you want to begin with the idea that every single one of these items needs to be dropped out, but I did want to make that point.

I also want to make another point. The committee included this language when it became clear that the authorizing legislation would not move forward and, in fact, such legislation has not moved forward. The Appropriations Committees have had ample hearings on this matter. Our hearings were on March 15.

I would like to point out that on the 29th of February the Foreign Relations Committee received testimony from the Secretary of the Treasury on this subject. I am told that only one individual, the Senator from Maryland, was there for the day of discussion.

Mr. President, I ask unanimous consent that at this point in the RECORD to include the relevant part of the statement of the Secretary of the Treasury before the Committee on Foreign Relations, the Subcommittee on Economic Policy, on February 29, 1984, dealing with the testimony in the committee hearing having to do with the Inter-American Investment Corporation.

There being no objection, the excerpts were ordered to be printed in the RECORD, as follows:

INTER-AMERICAN INVESTMENT CORPORATION

In recent years, I have been impressed by the very substantial economic progress in the Latin American and Caribbean region over the last two decades. The Inter-American Development Bank has played a major role in this process. Substantial investments in infrastructure and economic services are now in place and will permit further growth in many countries. The population and natural resource base in many countries of the region offers enormous possibilities for solid economic progress.

The creation of the Inter-American Investment Corporation (or the "IIC), in my view, will fill an existing gap in the development activities of the Inter-American Development Bank. The IIC is designed to invest, through loans or equity participations, in private sector firms.

It has become increasingly clear that the lack of long-term investment capital for private enterprises has seriously constrained the region's development. Recent unstable economic conditions in Latin America have also seriously impeded the growth of the private sector and placed domestic financial systems under a strain. The key to future growth lies with the revitalization of the private sector, economic policies, greater reliance on market forces and continued adjustment on both the macroeconomic and microeconomic levels.

In a recent study, the IDB concluded that, with the exception of the largest firms, private enterprises in Latin America and the Caribbean are chronically undercapitalized. The financial sector in most countries is not able to provide sufficient long-term financing—let alone risk capital—for private investment. Even in those financial intermediaries most inclined to make equity investments, there is a shortage of managerial, advisory and technical services needed to help new ventures succeed.

In light of the potential requirements of the private sector in Latin America and the Caribbean and given the limited resources that will be available to the IIC, it was decided early in the discussions among interested IDB member governments that the objectives and intended beneficiaries would have to be well targetted. In this regard, there has been a general consensus among member governments that the IIC should concentrate its efforts on small and medium sized firms—those typically finding it difficult to obtain capital.

The IIC will be limited to making loans and equity investments in firms that are majority owned and controlled by the domestic private sector. With a small staff experienced in doing business in Latin America and the Caribbean, the IIC will also provide advisory services to these firms in order to nurture a stongly self-reliant and market oriented approach to commerce, industry and agro-business.

Balanced, non-inflationary economic growth with employment creation is one of the most important objectives that the IDB should be pursuing. I believe the IIC—directly through its projects activities and indirectly through its spin-off effects on IDB programs—can make a productive contribution to this objective.

Although an independent organization with its own articles of agreement, staff and voting process, the IIC will be more like a "window" of the IDB than a totally new institution. The IDB will provide administrative and logistical support and will serve as a source of information on broad economic developments in member countries.

I would like to assure the Members of the Committee that we will review very carefully the IIC's projects and programs. We will also make every effort to assure that its resources are used in a catalytic fashion.

The initial concept for an independent, private sector oriented institution for the IDB was put forward by Venezuela about three years ago. During negotiations over the last twelve months, more than twenty Western Hemisphere members of the IDB and eight industrialized countries from outside the region have indicated their intention to be founding members of the institution.

The initial capitalization of $200 million will be fully subscribed by participating countries. It is important to note that all contributions will be in freely convertible currencies. The Latin American and Caribbean borrowing countries will provide about $110 million, which is 55 percent of the capital shares and the eight non-regional industrialized countries will subscribe to $39 million (or 19.5 percent of the capital). After consultations with Members of Congress from both Houses, the Administration has indicated its readiness to provide $51 million, thus giving us 25.5 percent of the capital shares.

The legislation which I will be submitting shortly will authorize U.S. membership in the IIC and will accord the IIC the same status under U.S. law as other development banks enjoy.

The Administration believes that the primary engine of regional economic development will be the private sector. The IIC will help meet the substantial long-term capital needs of the region's small and medium sized enterprises. We believe that IIC investments will encourage additional private investment flows from abroad and act as a catalyst for equity flows.

The United States has joined with almost thirty other countries in the hope that the IIC will play an important role in the region's economic development. United States participation is essential for that hope to be realized.

Mr. KASTEN. As all of us know, there are other items in the foreign assistance chapter that are not authorized. It is not the Appropriations Committee's job to get into the authorizing business. I have been trying to work with the chairman of the Foreign Relations Committee and others in trying to do everything we can to bring an authorization bill to the floor. The fact is that today we are forced to go forward. Otherwise, these programs will stop on October 1. Thousands of people across this country and around the world would be fired. U.S. foreign policy interests abroad would suffer dramatically.

This particular program, the Inter-American Investment Corporation in particular, is a new effort by the Inter-American Development Bank to emphasize the private sector—I think all of us who work with these very difficult issues recognize how important the private sector is—and to help solve the problems of Latin America and the region.

It was argued earlier that there was already the IFC. That is a worldwide organization, and it does not give primary emphasis to Latin America. The concept here is that Latin America, being our closest and most important neighbor right now, needs special attention, particularly in private-sector development. If there is anything in this legislation that I believe deserves the unqualified support of the Senate on this day, it is this effort for private-sector encouragement and development in Latin America.

We have heard very strong representations by the Secretary of State, by the Secretary of the Treasury, and by private business concerns that the key to long-range development for our neighbors in Latin America is the private sector. We want to emphasize the private sector.

The money involved is not large, nor is the institution. I do not believe that we are setting up some huge bureaucracy, as others have alluded to. In fact, what we are doing there is establishing a new window within an existing institution. It is not a new bureaucracy, it is simply a new window within the Inter-American Development Bank, with an emphasis on the private sector, which I think we want to support.

Mr. President, as far as the Appropriations Committee is concerned, this institution is not a controversial one. We have held hearings in depth. I want to point out once more that on that day when the Secretary of Treasury could have been heard on the issue, it was unfortunate, but the majority of members of the subcommittee were not in attendance.

Mr. President, I intend to move to table this amendment, but I should like first to yield to Senator INOUYE, the ranking member of the Subcommittee on Foreign Operations.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. Mr. President, I should like briefly to reiterate what my friend has said. On February 29 of this year, the Secretary of the Treasury, Mr. Regan, testified before the Committee on Foreign Relations on matters relating to international financial institutions. On that occasion, he took much time to discuss the IIC.

Later, on March 15, 1984, before the Appropriations Subcommittee on Foreign Operations, the Secretary of State, Mr. Shultz, together with the Secretary of the Treasury, Mr. Regan, testified to the IIC. That matter has been considered by our subcommittee. I cannot speak for the Committee on Foreign Relations, but we have discussed that matter in some depth and we have concluded that it was a matter worthy of our support.

It should also be noted that this is not an American enterprise. It has over 25 other countries who are participating in this effort to upgrade the economic status of our neighbors to the south. Included among the 25 are countries within the region, such as Argentina, Brazil, Mexico, Venezuela, Chile, Colombia, and Peru. We also have many other European countries. so this is an international effort.

It would seem quite unusual if we took the United States out of an activity in our hemisphere. I hope we will support our chairman's move to table.

Mr. ZORINSKY. Mr. President, in response to the committee chairman's comments of a hearing or so-called hearing being held in the U.S. Senate Subcommittee of the Committee on Foreign Relations, let me read from that particular meeting that he cites on Wednesday, February 29, 1984. Present were Senators MATHIAS, HELMS, and BIDEN. Senator MATHIAS said:

The subcommittee will come to order.

The Subcommittee on International Economic Policy has been exploring the theme of the stresses and strains of the international financial system. In pursuit of that effort we held a number of hearings during 1983.

It was certainly my personal conclusion—and I believe shared by other members of the subcommittee—that these hearings reinforced the case for congressional approval of the International Monetary Fund [IMF] quota increase legislation, and I believe contributed to a broader understanding throughout the Congress of the need for additional fund resources and contributed to the final passage of the legislation.

Today, we are looking at another aspect of the same general theme. We are considering another multilateral institution which is making a contribution to global economic recovery—the International Development Association [IDA].

Clearly the restoration of growth in the OECD [Organization for Economic Cooperation and Development] countries and in the United States in particular remains a prerequisite if we are to have a global recovery. Although our economy is growing we have omnious budget deficits. Moreover the global economy is closely interrelated, so that recovery here may not be sustainable unless it encompasses the developing as well as the developed world.

Now, it goes on and on and does not mention what we are talking about today. It does not mention the IIC at all, nor were there any questions posed of the witnesses that day nor was there any semblance of hearing concerning the statement made by the chairman with regard to even consideration of the establishment of an IIC. So, while he is correct that there was a meeting, there was a hearing, which we do have many of, that specific subject matter was not aired in that particular meeting to any extent that would enable us to say that we had a fair understanding of what was taking place.

Mr. President, I understand this is a new window and I understand that we create many windows, and every time we create something new, it is a new window. It has more windows than any racetrack I have ever been at.

I think that any time we create one of these windows, with it we create a financial burden and obligation for the taxpayers of this country that they can no longer walk up to that window and deposit their money so somebody on the other side can take it where they want.

Mr. President, I want to indicate briefly what this window creates. This window is no longer a window in law, it is a corporation. A corporation is a lot different from any window.

It shall have a board of governors, a board of executive directors.

We all know in the banking system parlance what perquisites come with that—a boardroom, soft chairs, airline tickets, meetings, receptions, dinners, and all those important things that are required to make financial decisions like, How do we get more money?

The corporation shall have a board of governors, a board of executive directors, a chairman of the board of executive directors, a general manager, and such other officers and staff—

No limit, just such other officers and staff——

as may be determined by the board of executive directors of the corporation.

Mr. President, that is the beginning of the pretty big, big window called a corporation. Some corporations will tell you that not all is rosy in the corporate world today. But before that happens, there is a lot of money that is required to be spent before they find out that they are in that negative type position.

Mr. President, I reiterate that this is more than a window, it is a creation of another entity called a corporation which will have its own board of governors, a board of executive directors, a chairman of the board of directors, a general manager, and such other officers and staff as may be determined by the board of executive directors of the corporation.

Also the comment was made that this is for the private sector. Let me point out the IFC's 1984 annual report—which is already in existence, which we helped fund—indicates that the IFC has assisted 117 business ventures in Latin America providing some $670 million in loans—this is in the 1984 annual report—and an additional $150 million in equity capital to business ventures representing over 40 percent—now, that is a pretty good chunk, 40 percent—of the IFC's total loan and equity portfolio. So I think they are doing a pretty good job of loaning money to the private sector and private business.

Unfortunately, some of the definitions of private business do not differentiate where mixed government-to-private enterprise businesses exists. And so therefore, if there is a private business, in many instances the government of a country is involved in that business to some extent also.

Mr. EXON. Mr. President, I am pleased to be a cosponsor of the budget cutting measure offered by my friend and colleague from Nebraska, Senator ZORINSKY.

This cost cutting move makes so much sense that I am surprised it was not immediately accepted by the managers of the bill.

Mr. President, this amendment is a logical follow-on to the amendment recently adopted in the Senate, after introduction by myself, Senator ZORINSKY and others that called for us to "take care of our own first in America" during their extremely stressful economic times, especially in the depressed agriculture sector.

They pointed out how wrong it was to give away more taxpayer dollars in highly favorable loans and accompanying interest rates to foreign countries while the system "soaked hard" and forced bankruptcies at home.

What sense does it make, Mr. President, to devastate farmers' already depressed income by decreasing target prices supposedly to save money while turning right around and starting up another international "give-away."

Yes; the argument is heard that this is "different" because this helps "Central America." It's carrying to extreme of "The Russians are Coming" theme way too far.

Mr. President, this new giveaway as authorized in the bill is bad legislation and the amendment will stop it. There are already enough agencies in place, enough money in the pipeline to meet the alleged needs that this bad authorization would finance.

If it passes it should be vetoed by the President but we should not hold our breath until that happens.

I urge the Senate to adopt the amendment and thereby save this unneeded expenditure.

Mr. President, I yield back the remainder of my time and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. KASTEN. Mr. President, I move to table the Zorinsky amendment and I ask for the yeas and nays on the motion to table.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. STEVENS. I announce that the Senator from Illinois [Mr. PERCY] is necessarily absent.

The PRESIDING OFFICER (Mr. QUAYLE). Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 50, nays 49, as follows:

[Rollcall Vote No. 267 Leg.]

YEAS—50

Abdnor	Grassley	Packwood
Andrews	Hatfield	Quayle
Armstrong	Hawkins	Rudman
Baker	Hecht	Simpson
Bentsen	Heinz	Specter
Boschwitz	Humphrey	Stafford
Chafee	Inouye	Stennis
Cochran	Jepsen	Stevens
D'Amato	Kassebaum	Symms
Danforth	Kasten	Thurmond
Dole	Laxalt	Tower
Domenici	Lugar	Trible
Durenberger	Mathias	Wallop
Evans	Mattingly	Warner
Garn	McClure	Weicker
Goldwater	Moynihan	Wilson
Gorton	Murkowski	

NAYS—49

Baucus	Exon	Metzenbaum
Biden	Ford	Mitchell
Bingaman	Glenn	Nickles
Boren	Hart	Nunn
Bradley	Hatch	Pell
Bumpers	Heflin	Pressler
Burdick	Helms	Proxmire
Byrd	Hollings	Pryor
Chiles	Huddleston	Randolph
Cohen	Johnston	Riegle
Cranston	Kennedy	Roth
DeConcini	Lautenberg	Sarbanes
Denton	Leahy	Sasser
Dixon	Levin	Tsongas
Dodd	Long	Zorinsky
Eagleton	Matsunaga	
East	Melcher	

NOT VOTING—1

Percy

So the motion to lay on the table Mr. ZORINSKY's amendment (No. 6981) was agreed to.

Mr. KASTEN. Mr. President, I move to reconsider the vote by which the motion to table was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. KASTEN. Mr. President, I yield to the Senator from South Dakota.

The PRESIDING OFFICER. The Senator from South Dakota is recognized.

Mr. MELCHER. Mr. President, I ask unanimous consent that these remarks may appear in the RECORD as if given immediately following the vote last night on the primary health care amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 6977—PRIMARY HEALTH CARE

Mr. MELCHER. Mr. President, many of us question the need of various expenditures in foreign assistance. We feel that some of the expenditures are not sound and in some cases, the money is absolutely wasted. But I do believe there is a general consensus in the Senate and throughout the country that the money which we do spend on primary health care and food through private voluntary organizations is, indeed, a wise expenditure and helps our friends abroad.

By a vote of 51 to 46, the amendment I offered for earmarking $150 million for primary health care was tabled. It is identical to the House provision.

A narrow vote like that and the previous adoption of the amendment of the subcommittee chairman for $75 million in appropriated funds for primary health care and nutrition is not a bad situation. I hope in conference committee between the House and Senate we can work this out to put the emphasis on the opportunity to deliver primary health care to our friends abroad through the private voluntary organizations, because they truly do get the food, and primary health care to the people in the best possible way without waste.

Saving lives with emergency health care, immunizations, and oral rehydration is of paramount interest to all of us. Humanitarian help like this is the highest caliber help for the people in countries ravaged by disease, drought, and misery.

AMENDMENT NO. 6982

(Purpose: To authorize the Secretary of the Interior to make available the Pick-Sloan Missouri basin program pumping power to the Hilltop and Gray Goose irrigation projects)

Mr. ABDNOR. Mr. President, I send an amendment to the desk for myself

and Mr. PRESSLER, and ask for its immediate consideration.

The PRESIDING OFFICER. The Senate will come to order.

Mr. EXON. Mr. President, point of order. Are we under a time agreement?

The PRESIDING OFFICER. We are not under a time agreement.

Mr. EXON. Mr. President, what was the motion just made by the manager of the bill?

The PRESIDING OFFICER. There was not a motion to yield time. The manager of the bill moved to reconsider the vote. The ranking manager moved to table that motion. The motion to table was agreed to. The Chair recognized the Senator from South Dakota.

Mr. EXON. Did the Senator from Nebraska not hear the manager of the bill say he wanted to yield to the Senator from South Dakota?

The PRESIDING OFFICER. There was a motion to reconsider the vote. That motion was laid on the table. The Chair recognized the Senator from South Dakota.

Mr. EXON. That is not the question I asked of the Chair. The question is this. A point of order: Did the manager of the bill yield to the Senator from South Dakota, and then did not the Chair recognize the Senator from South Dakota?

The PRESIDING OFFICER. The Chair recognized the Senator from South Dakota on his own right.

Mr. EXON. Mr. President, I simply point out to the Chair a point of order; that is, it is not proper unless time is restricted for any Member of the Senate to yield to another Senator.

The PRESIDING OFFICER. The Chair is aware of that.

The Senator from South Dakota.

Mr. ABDNOR. Mr. President, I send my amendment to the desk. I ask for its immediate consideration.

Mr. STENNIS. Mr. President, point of order. The Senate is not in order.

The PRESIDING OFFICER. The Senator is correct. The Senate is not in order.

Will those desiring to converse please retire to the cloakroom?

The Senate will please be in order.

The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from South Dakota [Mr. ABDNOR], for himself and Mr. PRESSLER, proposes an amendment numbered 6982.

Mr. ABDNOR. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 9 after line 10 insert the following:

Section 5 of Public Law 97-273 (96 Stat. 1182) is amended by striking out the period at the end of the first sentence and inserting in lieu thereof a comma and "and the Hilltop and Gray Goose irrigation projects.".

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. ABDNOR. Mr. President, this is a small amendment that I previously—last night—spoke to the two committees about. They are very much aware of it. It simply provides delivery of a small portion of our State's share of the Pick-Sloan Missouri Basin pumping tower to the Hilltop and Gray Goose irrigation projects. Both are public districts in South Dakota. These projects are in dire financial straits due in large part to greatly increased pumping costs, and prompt enactment of this amendment is vital to their survival.

In view of the urgency of this matter and the lack of time for committee consideration, we are offering the text of S. 2861 as an amendment to the Interior appropriations section of the continuing resolution. In order to save these projects, we urge adoption of the amendment, based upon the following points:

First, both of these projects are organized as public districts under State law, and while they are small, they are very important to the farm families who operate them as well as to the communities they help to support.

Second, both projects are financed by the Farmers Home Administration, and the Federal Government will incur financial loss if they are forced into bankruptcy.

Third, approximately 170 megawatts of power and over 300 million kilowatt-hours of energy are designated for irrigation pumping in South Dakota under the Pick-Sloan Missouri Basin Program, but as of this year, not one kilowatt-hour had been delivered as promised.

Fourth, several small Indian projects were authorized by section 5 of Public Law 97-273 to receive program power, and that section specified additional projects would be authorized to receive power.

Fifth, the Hilltop and Gray Goose projects would use a very small proportion of the pumping power designated for use by South Dakota irrigators, and passage of our bill would be consistent with the intent of section 5 of Public Law 97-273.

Again, adoption of our amendment is vital to saving these projects and I strongly urge its passage.

Mr. PRESSLER addressed the Chair.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. DODD. Mr. President, point of order. Is there a pending amendment?

The PRESIDING OFFICER. The Senator is correct. An amendment is pending.

Mr. ABDNOR. Mr. President, I move adoption of the amendment.

Mr. PRESSLER addressed the Chair.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from South Dakota [Mr. ABDNOR].

Mr. PRESSLER. Mr. President, I wish to rise in support of this amendment, of which I am a cosponsor. The amendment will provide low-cost hydroelectric power to two small irrigation projects in South Dakota. This will begin to provide some of the benefits promised to South Dakota when the Pick-Sloan Program was authorized.

Under the Pick-Sloan Program, four mainstem dams were constructed on the Missouri River in South Dakota. The reservoirs behind the dams flooded over 500,000 acres of South Dakota land. In return for this sacrifice, South Dakota was promised low-cost hydroelectric power for irrigation, and water development. To date, South Dakota has not received any of the hydroelectric power promised for irrigation. The passage of this legislation would provide these benefits to two very small irrigation projects in South Dakota.

These projects were developed by farmers and constructed with Federal loans. However, due to the rapid increase in electric power costs, the irrigators are having a very difficult time making ends meet. The continued low farm prices also add to the farmers problems. Passage of this amendment would reduce power costs to these farmers and give them a chance to stay in business.

Mr. President, I urge my colleagues to join me in supporting this amendment.

Mr. INOUYE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ABDNOR. Mr. President, I ask unanimous consent that the order for the quorum be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ABDNOR. Mr. President, I move adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from South Dakota.

The amendment (No. 6982) was agreed to.

Mr. ABDNOR. Mr. President, I move to reconsider the vote by which the amendment was agreed.

Mr. KASTEN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

AMENDMENT NO. 6983

(Purpose: To prohibit funds for El Salvador in the event that its President is deposed by military coups)

Mr. DODD. Mr. President, I send an amendment to the desk and ask for immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Connecticut, [Mr. DODD] proposes an amendment numbered 6983.

On page 9, line 10 strike out the period and insert in lieu thereof the following: ": *Provided further,* That, notwithstanding any other provision of law, if at any time following the appropriation of funds herein the duly elected President of El Salvador should be deposed by military coup or decree all funds appropriated herein for El Salvador and not therefore obligated or expended shall not thereafter be available for expenditure or obligation unless reappropriated by Congress."

(Mrs. KASSEBAUM assumed the chair.)

Mr. DODD. Madam President, I did not ask unanimous consent that the amendment be considered as read so that my colleagues could hear the substance of it. It is self-explanatory. It is the same language we adopted in the last supplemental measure that came before this body.

This is merely to suggest that there is great hope with Jose Napoleon Duarte as the democratically elected President of El Salvador.

Madam President, we are going to be absent from this body for some weeks. It seems to me in the interim it would make some sense for us to make the message clear from this body that should something happen in the interim, all funds would be terminated.

I have spoken with the managers covering this particular area and, as I understand it, they are in agreement with this amendment.

Mr. KASTEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. KASTEN. Madam President, I ask unanimous consent that I be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KASTEN. Madam President, this same language has been carried in previous authorization bills. One time it was developed by the Senator from Arkansas. It does have broad support.

I have checked with the ranking member of the subcommittee, and we accept the amendment.

The PRESIDING OFFICER. Is there further debate?

Mr. STENNIS. Madam President, I know of no opposition on this side.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 6983) was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida.

AMENDMENT NO. 6984

(Purpose: Child Survival Fund)

Mrs. HAWKINS. Madam President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Florida [Mrs. HAWKINS], for herself, Mr. DODD, Mr. PERCY, Mr. PELL, Mr. CRANSTON, Mr. MOYNIHAN, Mr. DANFORTH, Mr. LEVIN, Mr. INOUYE and Mr. WILSON, proposes an amendment numbered 6984.

On page 8, line 9, after "1984" strike from the comma down through the word "Fund" on line 13.

Mrs. HAWKINS. Madam President, this amendment is on behalf of myself, Mr. DODD, Mr. PERCY, Mr. PELL, Mr. CRANSTON, and others.

Madam President, the amendment I have sent to the desk pertains to the Child Survival Fund. In March of this year I offered an amendment to the foreign aid authorization bill in the Foreign Relations Committee markup to create a Child Survival Fund and fund it at $25 million. This amendment was adopted by the committee and is part of Senate version of the foreign aid bill as passed out of committee. Similar steps were taken by the House which adopted an identical measure.

In the Senate Appropriations Committee markup of the bill, funds were provided for the Child Survival Fund but restrictions were placed on how the money could be spent. These restrictions were at variance with how the Senate and House Foreign Relations Committees thought the funds should be spent.

I have spoken with Senator KASTEN about these restrictions and he has agreed to remove them, and that is the purpose of my amendment. I appreciate the flexibility shown by the Senator from Wisconsin. This has been cleared by both sides. This is a real victory for children's health care in the developing world.

By way of background I would like to explain why this amendment is so important. It is important because it preserves the original intent of the Child Survival Fund.

Every single day 40,000 children die in the developing world from diseases that could have been cured by relatively inexpensive treatments and simple education programs. Somewhere between 15 and 20 million children will die this year—and it is estimated that half of these could be saved through simple, low-cost, effective health care methods such as oral rehydration, vaccination, growth monitoring, education, and other programs.

Over half of the children under the age of 5 who die in the Third World die of dehydration due to diarrheal diseases. In the past a mother would need to transport her child to a clinic to receive the intravenous feeding necessary to help a child suffering from dehydration to recover. This is no small matter when we realized that only 10 to 20 percent of the children living in developing countries live near modern health facilities making this kind of treatment not only scarce, but often at great distances from the child in need. Now, however, a way has been discovered to take the cure to the child. A small packet of salts and sugars costing roughly 5 cents, when combined with water and correctly administered will provide the child with the necessary means for a full recovery. In 1982, the eastern region of Guatemala was introduced to these incredible lifesaving oral rehydration packets. These packets, along with clear, easy-to-understand instructions, were distributed to a population of 64,000 people—a population in which the leading cause of death was dehydration due to diarrhea. Added to these efforts about 400 "health promoters" went throughout the region pasting up posters and educating parents to the dangers and cures for dehydration. The result was that the actual use of oral rehydration technique increased from less than 1 percent of diarrheal cases to more than 30 percent. Most important of all, the number of children who die from diarrhea was cut in half in the year following the introduction of these inexpensive yet effective rehydration packets.

Another simple, effective, and certtainly inexpensive child health care program is the promotion of infant breastfeeding. A study conducted several years ago provided compelling evidence of breastfeeding to child health. The study analyzed four different children populations in the developing world and in one of those populations, pre-insurgent El Salvador, only 20 percent of the children were breastfeed for less than 6 months, yet this infant population still accounted for almost 80 percent of the deaths of children who died in the second 6 months of life. This same pattern was even more pronounced in the other three sites studed where the percent of children breastfed for less than 6 months was even higher. The implications of the study were clear—children breastfed for more than 6 months were at least four times less likely to die in the second 6 months of life.

Growth monitoring is another vital child health tool. Growth monitoring involves the use of simple 10 cents

child growth charts which, along with regular monthly weighing and backup advice, can help parents make better use of the food they have and prevent up to half of all the malnutrition in the developing world. You might wonder why you would need to monitor a child's growth in order to watch for malnutrition. After all we have all seen the heart-rending pictures of sad little children with bellies bloated from malnutrition and tears running down their faces from the pain of hunger. Malnutrition is obvious, right? Only about 1 percent of the world's children are visibly and obviously malnourished, but more than a quarter of the developing world's children suffer from invisible malnutrition. In one Philippine hospital, almost 60 percent of the mothers with advanced malnutrition thought their children were healthy. In a study conducted involving India, Pakistan, and Indonesia, more than half the cases of malnutrition were found in households where there was no shortage of food. The mothers simply were unable to tell that their children were malnourished.

There is a great deal of bad information going around about malnutrition. Most people seem to think that it is solely related to a lack of food. This is not the case. It can be caused by other factors such as changing from breast milk to commercial substitutes, from not knowing how or when to begin weaning, from intestinal parasities, and in more than half of all cases, from infestion and disease.

Another of the unheralded achievements of the child health revolution is that a child can be immunized against the six immunizable diseases for only 50 cents. Every year measles kills 2½ million children, whooping cough 1½ million, tetanus 1 million, and polio cripples another one-half million. Right now only about 20 percent of the 100 million children that are born each year in the Third World are being immunized.

When I visited Colombia several months ago, that country was in the middle of an unprecedented all-out effort to immunize every child in the country under the age of 4. This was the first campaign in Latin American and perhaps the whole developing world in which three vaccines against five major childhood diseases were being provided simultaneously and on such a massive scale. Everyone was involved from President Betancourt and other top government officials to members of the clergy and prominent private citizens. The goal was to immunize 1 million children, and the result is that almost 95 percent of these children are now protected from these deadly diseases. It is estimated that this alone will save the lives of 50,000 children and another 50,000 will be saved from the cripping effects of many of these diseases.

Improving the health and well-being of hundreds of thousands if not millions of children around the world is enough for me to support additional efforts in this area. But in addition to this there is good reason to believe that improved child health care can result in a slowing of population growth in the Third World. Some treat this claim with skepticism, but the reasons for it are straightforward.

Many health care programs, as I have mentioned earlier, actively promote infant breastfeeding. Breastfeeding acts as a natural contraceptive, releasing prolactin in the mother's body and delaying the return of ovulation. Furthermore, a number of studies in the Third World indicated that the survival of a healthy infant in a family increases the spacing between children, in a number of cases by 1 year or more. In addition, when a family can be confident that all of their children will survive, it encourages consideration of the size of the family and the impact that another child might have on the family resources. The evidence bears out commonsense. South Korea, Taiwan, and Sri Lanka all made important child health care steps early in their economic development programs, and each of them has experienced a fall in birth rates. The reasons for this, I am sure, are complex, but child health care is clearly a contributing factor.

Dramatic improvements in child health in the Third World will not occur if it is limited to formal channels or by rigidly conventional means. In most countries official health services meet only a fraction of the population's needs. If we are going to promote effective action to deal with child health needs in the developing world, we are going to have to broaden the base of people involved in the child health effort. We need more people involved, we need more institutions involved, we need more organization involved. The problem of child health care is only in part a funding problem. It is also a problem of organizing and orchestrating a broad base of support for the types of proven, low-cost, effective programs that I have outlined earlier—and that is the reason we need a Child Survival Fund.

This amendment creates a new account in the foreign aid budget, and will fund that account at $25 million. The amendment directs that these funds are to be used to finance the use of "simple, available technologies which can significantly reduce childhood mortality." We do not need expensive research programs. We can begin saving children's lives through proven programs that have a record of success. Furthermore, this amendment calls on AID to seek outside advice on what programs and measures to support in order to expand the base of expertise being used to implement this legislation. In addition, this amendment appropriates the funding needed to get this program underway. Finally and perhaps most important, this amendment authorizes AID to distribute these funds to qualified organizations [PVO's] as well as government-to-government programs to carry out the purposes of this act. The reason that this provision of the amendment is so important is because, as I indicated earlier, there is a critical need to expand the base of people and organizations involved in this struggle to bring modest yet effective health care improvements to the developing nations. If we focus our efforts exclusively through international organizations, we deny ourselves an important pool of talent, experience, and energy which can be engaged in this effort. Furthermore, the creation of the Child Survival Fund would increase the involvement of AID in these types of health care programs, and I would hope that this involvement would lead to a greater institutional interest in these much-needed but not-so-glamorous projects.

Madam President, this amendment has had a wide measure of support, as I have mentioned earlier, Not only has it passed the Senate Foreign Affairs Committee without dissent, but it has also passed the House when they passed their version of the continuing resolution.

This amendment is supported by liberals and conservatives, and by Republicans and Democrats. On some things we may disagree, but I would hope that we could agree that:

There is no child's hurt beyond our healing;

There is no child's need beyond our caring;

And no child's sorrow beyond our love.

Because of this amendment, we have moved to turn pretty words into effective action.

Mr. DODD. I am pleased to join my colleague from Florida as a principal sponsor of this amendment to appropriate $25 million for the Child Survival Fund. This fund will focus on the special needs of children and mothers around the world, promoting the use of low-cost preventive health measures to meet those pressing needs.

Madam President, I was a principal author along with my colleague from Florida, of the provision in the foreign aid authorization bill creating a Child Survival Fund. The Senate Appropriations Committee acted to restrict the organizations eligible to carry out Child Survival Fund activities. Recognizing the importance of encouraging private and voluntary organizations and others to focus on meeting the special health needs of children and

mothers, this amendment wisely lifts those restrictions.

Last year, the number of children dying in developing countries equaled the number of children in this country age 5 or younger. We cannot imagine an entire generation of American children dying in the space of a year. Neither should we be able to tolerate such conditions in developing nations.

We know from the work of private and voluntary organizations like Save the Children, from international organizations like UNICEF and from our own Agency on International Development that millions of these tragic deaths can be prevented by simple, low-cost techniques. Oral rehydration therapy, a mixture of salt, sugar, and water, can conquer diarrhea: The world's biggest childkiller; 10 cent growth charts can help families prevent the deaths of millions of children from malnutrition. Breastfeeding can save countless infants from Bolivia to Bangladesh from hunger and infection. And, immunization programs can prevent 5 million children a year from dying and another 5 million from becoming disabled.

These four inexpensive procedures could form the basis for a children's revolution over the next decade, promoting the health and welfare of millions of children. But to make this health revolution a reality, nations will have to wage intensive campaigns from the local level on up.

As cochairman of the Senate Children's Caucus, I am constantly reminded of the importance of providing for our children as a means of providing for our future national security. As we consider this amendment, let us remember that caring for children overseas is of major importance as we look ahead. I urge my colleagues to join us in supporting the creation of a Child Survival Fund.

Mr. KASTEN. Madam President, we have reviewed this amendment with the Senator from Florida. The effect of the amendment is to remove the earmarkings for the $25 million which the Senate Appropriations Committee recommended for UNICEF and UNDP.

Madam President, I support the efforts of the Senator from Florida. I applaud her for her leadership in this area. We accept the amendment.

Mr. INOUYE. Madam President, I wish to be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the amendment.

The amendment (No. 6984) was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from South Dakota.

AMENDMENT NO. 6985

(Purpose: Conditioning grant military aid to Turkey)

Mr. PRESSLER. Madam President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from South Dakota [Mr. PRESSLER] proposes an amendment numbered 6985.

H.J. Res. 648 is further amended by striking the following on page 49, lines 13 through 17:

"Turkey is making efforts to ensure that the Turkish Cypriot community is not taking any actions with regard to the region of Famagusta/Varosha which would prejudice the outcome or otherwise impede intercommand talks on the future of Cyprus." and inserting the following in lieu thereof: "the formerly Greek-Cypriot occupied area of Famagusta/Varosha has been returned to the Government of Cyprus under the auspices of the United Nations for the immediate resettlement of refugees."

Mr. PRESSLER. Madam President, this amendment strengthens the U.S. effort to obtain a long-overdue settlement of the conflict on Cyprus. While sustaining the traditional 7-to-10 ratio in aid to Greece and Turkey, as provided for by both the foreign Relations Committee in its authorization bill and the Appropriations Committee in this continuing resolution, it requires concrete actions by Turkey to remove a key obstacle to the resolution of that nation's crisis.

This amendment reflects the overwhelming opinion in the Foreign Relations Committee that concrete U.S. action required if we are to use the only leverage we possess to bring about an end to the decade-old Cyprus conflict. This leverage is contained in our foreign aid program. This amendment requires that for Turkey to receive grant military assistance totaling some $215 million, the formerly Greek-Cypriot area of Famagusta/Varosha must be returned to the Government of Cyprus under the asupices of the United Nations for immediate resettlement of refugees.

Mr. KASTEN. Madam President, I make the point of order that this amendment is not in order. I believe this amendment relates to section 34 of the continuing resolution and at the present time the Senate is considering section 8. I make the point of order that the Senator's amendment is not in order.

The PRESIDING OFFICER. The Senator is correct. The amendment of the Senator from South Dakota is not in order.

Mr. PRESSLER. Madam President, when will my amendment be in order?

The PRESIDING OFFICER. When that particular section comes before the Senate.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

AMENDMENT NO. 6986

(Purpose: To reduce proposed levels of funding for the Military Assistance Program)

Mr. PRYOR. Madam President, I send an amendment to the desk for myself, Mr. DIXON, Mr. PROXMIRE, Mr. BURDICK, Mr. MELCHER, Mr. LEAHY, and Mr. BUMPERS and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Arkansas [Mr. PRYOR], for himself, Mr. DIXON, Mr. PROXMIRE, Mr. BURDICK, Mr. MELCHER, Mr. LEAHY, and Mr. BUMPERS, proposes an amendment numbered 6986.

Mr. PRYOR. Madam President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end, add the following: "Notwithstanding any other provision of the joint resolution, not to exceed $705,500,000 may be appropriated to carry out chapter 2 of part 2 of the Foreign Assistance Act of 1961.".

Mr. PRYOR. Madam President, our amendment would reduce the committee recommendation for the Military Assistance Program by $211.5 million. The Military Assistance Program provides military grants—not loans—to a variety of countries. Israel and Egypt are not affected by this amendment since they get their funding from the Foreign Military Sales Program.

I am joined in this effort by Senators DIXON, PROXMIRE, MELCHER, BURDICK, LEAHY, and BUMPERS.

I would like to take a few moments to explain how we chose this figure. Since this is a debate on the Military Assistance Program—and not Central America—our amendment allows for the full $222 million in military grants requested by the administration for Central America.

The question before us today is how much we need to provide for a long list of other countries seeking a U.S. contribution—not a loan—to their defenses. Our amendment adopts the House recommendation of $483.5 million for non-Central American countries rather than the Senate Committee recommendation of $695 million in fiscal year 1985.

The Appropriations Committee has recommended $917 million in total Military Assistance Program funds. To put that figure into perspective, stop to consider that that total, if approved, would represent an increase of 80 percent over the original appropriation of last year and a 30 percent increase over last year's funding including the supplementals.

Leaving aside Central America, military grants to the rest of the world would increase by some 85 percent. Madam President, this bill represents an increase in the overall military grant program of some 600 percent since 1981.

Let me repeat that figure: Since 1981, the Military Assistance Program has grown by 600 percent. That is, if we approve the request the committee is asking the Senate to approve today. I know of no other program—with the possible exception of the Department of Energy's nuclear warhead production—that has increased at this rate. Certainly nutrition programs have not. Nor housing, education, agriculture or any welfare program. Not even the Defense Department could come today and say they can match the record of this military grant program's dramatic growth.

Of course, the Military Assistance Program provides real security benefits to our allies and, indirectly, to ourselves. But we need to take a hard look at the numbers and impose a little discipline on this program.

Our amendment is really a very modest one. It represents a saving of just over $200 million out of an overall security assistance program of $6.35 billion.

At this time last year, we approved a military assistance program total of $510 million. Today, the committee is asking us to approve a funding level of $917 million. In the normal course of events we will pass supplemental requests—last year, for example, in our supplemental, we added over $200 million for the MAP—and we are about to send this program, which is the fastest growing program in the entire Federal Government, well over $1 billion for fiscal year 1985, if we approve a similar supplemental.

In offering this amendment, we do not intend to dictate to the State Department how and where to spend this money. The administration would retain complete flexibility to allocate this money as it sees fit.

Madam President, this amendment is supported by both Bread for the World and the National Taxpayers' Union. Senators of all political persuasions should be able to support this modest decrease in the request of the committee.

Madam President, we are facing a budget deficit of $200 billion this year, but I won't go into that. But we do need to look at how fast we want this program of military assistance overseas to expand.

Let me repeat that this amendment in no way takes a penny from Israel, does not take a penny from Egypt. It basically allows for the full $222 million for Central America, but it does adopt the House decision of $483.5 million on non-Central American assistance, and therefore, we come up with the limitation that no more than $705.5 million could be expended under the Military Assistance Program in fiscal year 1985.

Madam President, I have a list. I am not going to submit this list, but it is a list of those countries around the world that would be recipients of the military aid program. One of those countries stands out to me because we are about to appropriate, if we go forward with the request offered by the commitee, $15 million for Zaire; $15 million to Zaire when last year the New York Times noted that the President of Zaire spent $2.5 million to bring his family to Disneyland.

Is that the type of country we want this military assistance program to go to? I submit respectfully to my colleagues this afternoon that this small, modest amendment, saving $211 million, is going to force the State Department to establish some priorities that have not been established in the past in passing out this money to all these countries on this list that we have this afternoon that would be recipients of this particular funding program.

Mr. GOLDWATER. Madam President, will the Senator yield?

Mr. PRYOR. I would be proud to yield to my friend from Arizona.

Mr. GOLDWATER. I think it would be wise if the Senator read that list and the amounts. It would enable us to better judge how to vote on the amendment.

Mr. PRYOR. Madam President, I shall be proud to submit this list, and I shall have a copy of this list for the Senator's perusal and his edification.

There being no objection, the list was ordereed to be printed in the RECORD, as follows:

MILITARY ASSISTANCE PROGRAM, BUDGET AUTHORITY

[In thousands of dollars]

	Actual fiscal year 1983	Estimated fiscal year 1984			Proposed fiscal year 1985
		CRA	Supplemental	Total	
EAST ASIA & PACIFIC					
Philippines	0	0	0	0	25,000
Thailand	14,000	5,000	0	5,000	5,000
Regional total	14,000	5,000	0	5,000	30,000
NEAR EAST AND SOUTH ASIA					
Morocco	25,000	30,000	0	30,000	40,000
Tunisia	13,750	18,000	0	18,000	15,000
Yemen	1,000	4,000	0	4,000	10,000
Regional total	39,750	52,000	0	52,000	65,000
EUROPE					
Portugal	37,500	60,000	0	60,000	70,000
Turkey	110,000	130,000	0	130,000	230,000
Regional total	147,500	190,000	0	190,000	300,000
AFRICA					
Botswana	0	2,000	0	2,000	4,000
Chad	0	2,000	0	2,000	5,000
Djibouti	1,475	2,000	0	2,000	2,500
Guinea	0	1,500	0	1,500	3,000
Kenya	8,500	12,000	0	12,000	23,000
Liberia	6,000	12,000	0	12,000	15,000
Malawi	0	0	0	0	1,000
Niger	1,000	2,000	0	2,000	5,000

MILITARY ASSISTANCE PROGRAM, BUDGET AUTHORITY—Continued

[In thousands of dollars]

	Actual fiscal year 1983	Estimated fiscal year 1984			Proposed fiscal year 1985
		CRA	Supplemental	Total	
Senegal	0	2,000	0	2,000	3,000
Somalia	15,000	32,000	0	32,000	40,000
Sudan	43,000	45,000	0	45,000	69,000
Zaire	4,500	7,000	0	7,000	15,000
Civic action	0	0	0	0	5,000
Regional total	79,475	119,500	0	119,500	190,500
AMERICAN REPUBLICS					
Belize	0	500	0	500	500
Bolivia	0	0	0	0	3,000
Costa Rica	2,500	2,000	7,850	9,850	9,800
Dominica Republic	0	2,500	0	2,500	3,000
Eastern Caribbean [1]	2,100	7,000	0	7,000	5,000
El Salvador	33,500	45,000	178,700	223,700	116,000
Haiti	0	300	0	300	300
Honduras	27,500	40,000	37,500	77,500	61,300
Jamaica	2,250	4,000	0	4,000	5,000
Panama	0	0	10,000	10,000	14,400
Regional Military Training Center (RMTC)	0	0	25,000	25,000	20,000
Regional total	67,850	101,300	259,050	360,350	238,300
Total country programs	348,575	467,800	259,050	726,850	823,800
General costs [2]	34,750	42,200	0	42,200	50,700
Section 506(a) reimbursements	0	0	0	0	50,000
Total budget authority	385,325	510,000	259,050	259,050	924,500

[1] Includes Antigua, Barbados, Dominica, St. Lucia, St. Vincent, Grenada, St. Kitts, Anguilla, British Virgin Islands, Montserrat.
[2] See page 51 for details of General Costs.

Mr. SARBANES. Madam President, will the Senator yield for a question?

Mr. PRYOR. I am glad to yield to my friend, the Senator from Maryland.

Mr. SARBANES. Would the Senator say that if one wanted to be the most favored beneficiary of the Federal budget, one would be a military officer in a foreign country?

Mr. PRYOR. Madam President, the Senator from Arkansas cannot answer that question. I only assume in looking at where some of these expenditures have been made in the past and the request in this legislation, where they might go in fiscal year 1985, that being a military person in a recipient country of the Military Aid Program would certainly be a very, very favorable position.

Mr. SARBANES. The Military Aid Program for foreign countries has grown faster than any other program in the Federal budget.

Mr. PRYOR. The Senator is absolutely correct. He is correct in saying that since 1981, this particular function of the Federal Government, if this request is allowed and voted for this afternoon, submitted by the committee in all due respect, will be growing at the rate of 600 percent. This is in addition to the other military aid programs that we have overseas, as the Senator is very knowledgeable of.

I know the Senator is aware of many more countries and many more situations than this Senator from Arkansas which would be recipients of this money and what they actually, really do with this money.

Mr. SARBANES. I thank the Senator for offering the amendment and for underscoring this extraordinary contradiction. We are cutting programs here at home, or increasing them by only small percentages. Even the Pentagon budget, about which we have had such very sharp controversy and which held up the first budget resolution for such a long period of time, is increasing at a 5 or 6 percent real rate. The Foreign Military Assistance Programs are increasing by hundreds of percentage points. The Senator is absolutely correct.

The Senator is absolutely correct.

Mr. DIXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. PRYOR. I thank the Senator from Illinois.

Mr. DIXON. Madam President, I rise today in strong support of this amendment by my distinguished friend from Arkansas. This amendment seeks to slow down the increase in funding for the military assistance program for foreign countries. It is high time something is done about the disproportionate expansion of the military assistance program. For the past several years, we have been cutting worthwhile domestic programs in an effort to control the enormous Federal budget deficit, yet we are in the process, as my friend from Arkansas has just pointed out, of letting military aid to foreign countries grow by an unbelievable 600 percent since the present administration took office in 1981—600 percent in 3 years. This is far from reasonable, Madam President. I do not see how we can justify this increase to the American public. Each year we provide more and more money to send our military hardware around the world, but we make it extremely difficult for the young people of our Nation to get a loan for a decent college education.

We propose to give $55 million in arms, for instance, to the Philippines, yet we tell the hungry and the homeless in America that the enormous budget deficits make it necessary to cut back on programs to help these people.

If we look closely at this proposed spending, we will be treating military funds for foreign countries better than we treat our own Department of Transportation in this country, whose budget will grow, incidentally, by only 3 percent before inflation this year. We treat foreign military assistance better, may I say to my friend from Arkansas, than our own Department of Education—0.6 of 1 percent growth, better than our own Department of Health and Human Services, 9 percent growth, and better than our own Department of Agriculture, may I say to my friend from Arkansas, a puny 2 percent growth.

Let me make it clear, Madam President, that I fully support funding levels which will allow our friends to defend themselves from outside aggression, but if we are going to ask the American people to make sacrifices, to reduce the deficit, as we are, then we must also expect similar sacrifices from our friends and our allies abroad.

Madam President, there is just no way to justify this unbelievable, incredible 600-percent increase to the farmers of America, who teeter on the brink of bankruptcy, to the autoworker who has been without a job for too long and whose unemployment compensation is long exhausted, and to all of the unfortunate people in this country who have suffered from the onslaught against domestic programs in the last several years.

To all Americans, it is time Congress sends a message that it is serious about cutting the deficit. I can think of no better way to send that message, Madam President, than by supporting this amendment by my distinguished friend from Arkansas. Our friends in foreign nations, I assert, must be willing to share the sacrifices that we ask people in America to share. I support with all the enthusiasm at my command this effort to cut this money out of the budget.

May I say to my colleagues, if there is a single vote you will cast this year in the Senate that will be warmly embraced back home, the vote for this amendment by my friend from Arkansas is the best vote you will cast this year.

Mr. PRYOR addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. PRYOR. Madam President, if I might be recognized for a unanimous-consent request, I ask unanimous consent to add as original cosponsors of this amendment Senator ANDREWS of North Dakota and Senator BINGAMAN of New Mexico.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GOLDWATER. Will the Senator yield to me?

Mr. KASTEN. I will be pleased to yield.

Mr. GOLDWATER. Madam President, the Senator from Arkansas has been most kind in providing me with a list of these countries, and I am a little bit confused. He said that the money would not involve any American republics, and yet we start with Belize, Bolivia, Costa Rica, Dominican Republic, Eastern Caribbean, El Salvador, Haiti, Honduras, Jamaica, Panama, and particularly the Regional Military Training Center with has been closed. I was very sorry to see that closed because it is probably one of the best pieces of foreign relations we have done with South America. It is to be moved to the United States, but I do not know what has happened to the funds.

Madam President, I think the idea of the Senator is an excellent one, bringing the attention of the Senate to some of these countries, but on the whole I think we are rather nit-picking. We are taking some moneys from the Continent of Africa that are in very, very bad condition. In Europe, for example, we are taking money away from Portugal, a very friendly country; Turkey, one of the biggest contributors in manpower to NATO. So I doubt the wisdom of this, Madam President, even though I have to admire the Senator from Arkansas for having gone into this matter so meticulously and bringing this to our attention. I do not think this is the place nor the time to start cutting military appropriations to countries, many of whom come under the domination of the Soviet Union at the present time or the influence of Cuba.

Mr. KASTEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

Mr. KASTEN. Madam President, I thank the Senator from Arizona.

I would like to, if I could, ask the Senator from Arkansas a couple questions concerning the amendment he has offered. The Senator from Arizona, I believe, was referring to the administration's justification materials, and I know that the Senator pointed out that he would hope that the cuts—and I think it even says it in his amendment—would not affect the Camp David accords. But what countries would the Senator like to reduce and by how much in order to get where he is going? For example, Yemen, a country that has agreed to provide us base access, would receive $10 million under the committee recommendation now before us. That is $6 million more than last year. Now, is the Senator proposing that we cut Yemen?

Mr. PRYOR. The Senator from Wisconsin, I hope, knows full well that I am not proposing to cut any specific country. I am attempting in my amendment in behalf of the cosponsors of this amendment to add actually $61 million over the figure of last year for non-Central American countries and to allow the Department of State to enforce priorities as to where this money should be spent to our greatest advantage throughout this world. I think the Senator from Arizona raised an interesting comment a while ago. Under my amendment the countries that he mentioned would not necessarily be subjected to any cuts from last year because we are supporting the full funding of Central America for $222 million, nor are we recommending by this amendment any particular cuts. What we are attempting to do is to slow down the enormous

growth in the military assistance program since 1981—600 percent. That is exactly what we are attempting to do.

We are actually adding $61 million to this program over last year for non-Central American nations while allowing for the entire administration request for Central American countries.

Mr. KASTEN. Let me just point out to the Senate, as I think all of us are aware, these programs in military assistance have gone through ebbs and flows. You can go back to 1975 and see an appropriation of $1.207 billion which is higher than the committee's recommendation for fiscal year 1985. These ebbs and flows have to do in large part with the financing problems that so many countries are having, in particular those of a number of our allies.

For example, in our bill, Portugal is slated to receive a $10 million increase. I believe the Senator is aware that Portugal allows us to use the Azores as well as several military installations on the Iberian Peninsula. I do not think the Senator wants to cut those programs.

The committee recommendation would provide $215 million for Turkey, compared to $130 million in the coming fiscal year. That is an increase. As I believe the Senator knows, and as the Senate is aware, this is a program that is part of an overall NATO effort to modernize the Turkish Armed Forces in order to secure the southern flank of the alliance. I hope the Senator would not suggest that we cut that program.

Madam President, I have asked these questions in order to make the point that the increases in the military assistance programs are in almost every case increases tied to security arrangements which directly relate to U.S. security interests. The amendment, if adopted would cut U.S. security interests not foreign aid.

Madam President, the Senator's amendment applies to just one of the three military assistance programs in this legislation. If instead he would look at the total of the three programs, he would find that there is a relatively small increase, approximately $70 million out of a $6½ billion program over current year funding. I cite these figures because they are significant in that this year makes the first time in many years that we are not significantly increasing total military assistance programs.

In conclusion, let me emphasize that if the Senator's amendment succeeds, U.S. security interests will be harmed. I do not believe that the Senate wants to do that. Therefore, I strongly urge defeat of the amendment.

Mr. JOHNSTON. Madam President, I reluctantly rise to speak against this amendment.

As a member of the Foreign Operations Subcommittee, I believe the record has been made that these increases are fully justified.

Again, as the distinguished chairman of the subcommittee has pointed out, it is easy to speak in the abstract about cuts in foreign military assistance. It is very difficult to attack any one of the increases and say that it is not fully justified, that it is not virtually mandatory that we make those increases.

Madam President, of the $924 million in this account, over half goes to four countries—Turkey, El Salvador, Honduras, and Portugal. When you look at those four countries, which collectively make up $477 million of the $924 million account—over half—it is easy to see why this committee recommends the increase.

Turkey is ever more important since the fall of Iran. Turkey is our stalwart ally in what we used to call the soft underbelly of the Soviet Union. But since Iran has gone, we must have Turkey as a strong and defensible area in NATO. Otherwise, our whole southern flank is very much in jeopardy.

El Salvador, with the $116 million, which was debated on this floor at length and carried overwhelmingly, or at least substantially—I do not recall exactly what the vote was, but it was in the neighborhood of 60 to 40—is No. 2 in terms of size.

No. 3 is Honduras, right across the border from Morizon Province in El Salvador, which is controlled by the FMLN. I can tell you that it is right across the border, and it is a hot, shooting war going on there, and we dare not let Honduras down. We dare not leave Honduras defenseless against what they have in Nicaragua—almost 100,000 under arms in Nicaragua, when you count the ready reserve.

Portugal is No. 4, with our heavy stake in the Azores, that very vital piece of real estate on which we have bases. We dare not cut in the Azores.

So, Madam President, while we do not like to increase anything, I think these increases are fully justified, based on the record, based on an examination of each and every country. Yes, it is an increase that is going to cost the Federal Government some money, but let us put this in perspective as to size.

Madam President, this increase is less than one-fiftieth of 1 percent of the Federal budget. I quite agree with my distinguished colleague from Illinois: We have said it is too much with respect to many of the social programs—but one-fiftieth of 1 percent of this budget is not going to make a blip on the radar screen in terms of restoring some of the nutrition programs that he and I want to restore, or restoring some of the cuts in other social programs which are vitally important to the American people. This one-fiftieth of 1 percent of the budget that goes to our stalwart allies, like Turkey, El Salvador, Honduras, and Portugal, I believe is a vital and a very prudent expenditure of the taxpayers' money.

Mr. KASTEN. Mr. President, I thank and congratulate the Senator from Louisiana for his strong statement.

I say to the Senator from Arkansas that it is not my intention to move to table this amendment. However, I think we have had a complete debate, and I see no more need for time on our side. So I hope we can wrap up this discussion.

Mr. PRYOR. I thank the Senator from Wisconsin, the manager of the bill. I compliment the Senator from Wisconsin for the manner in which he has handled this measure.

I also compliment my very good friend, the able manager on the other side, my neighbor from Louisiana. He always is eloquent and forceful in his argument. But I point out one or two items he failed to mention.

First, in 1981, the Military Assistance Program was a $135 million program. Today, we are requesting $917 million for the Military Assistance Program—in only 4 short years of growth.

Second, I think the Senator from Wisconsin has attempted to say in his argument, his very strong argument, that much of this money we are appropriating is tied to our bases in Turkey, Portugal, and other areas across the world. The State Department itself states in its report that only $95 million of the Military Assistance Program is tied to base rights agreements at the present time, and even in those cases our Government has pledged merely to make its best effort to obtain those funds. Where does the other $800 million or so go? Where would those expenditures be made?

The final argument made by both my friends, the managers of this measure, referred to Honduras, El Salvador, and other so-called Central American hot spots. Once again I repeat, as I said in my opening statement in behalf of this amendment, that this amendment accepts the full $222 million as requested by this administration for Central America. It does not take one penny out of El Salvador. It basically is the administration's request for $222 million for Central America. It goes back to the House request of $483.5 million for the non-Central America, non-Egypt, non-Israel recipients of this program.

We are basically trying to stop the growth of this program. They will be getting $61 million more than last year. That should be a sufficient amount of growth. We think this amendment is sound, that it in no way compromises our national security over the rest of the world.

Madam President, I ask for the yeas and nays, and I hope we have a favorable vote.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. LEAHY. Madam President, I support Senator PRYOR's effort to hold the line on foreign aid spending.

Foreign aid is one of our fastest growing Federal programs. In every program, in every region, we are spending more and more on foreign aid. Just look at this program, grant foreign military aid. Here we have a 30-percent increase in 1 year alone. Since 1981, the total program has grown by 600 percent—600 percent.

Now, I know all arguments the foreign aid advocates will make. This country or that country needs the money. I know that this country or that country was promised certain things by the State Department.

But we will never get our own economic house in order, we will never address the problem of the deficit, if we keep voting for foreign aid levels that go up every year—but any percent, let alone 30 percent.

I, too, have supported foreign aid. But I cannot ignore the budget situation. I support the Pryor amendment, and I urge all my budget conscious colleagues to do so as well.

Mr. PROXMIRE. Madam President, I urge my colleagues to vote for the Pryor amendment. Every Member of the Senate has heard from constituents who want to see Federal spending restrained and our budget deficit brought under control. This concern led the House, earlier this week, to approve a 2-percent across-the-board reduction in foreign assistance spending.

The Pryor amendment provides a more selective approach and a better crafted way to hold down the growth of the foreign aid budget. MAP spending has grown since 1981 by some 600 percent, making it essential to trim spending in this category—one of the fastest growing items in the budget. The National Taxpayers Union has identified the Pryor amendment as being in the best interests of American taxpayers.

Let me quote from a Taxpayer Union's letter:

> In our judgment, the control of MAP's growth is one of many small but tough decisions that must be made to relieve deficits before tax increases are considered. We also believe that while grants may be necessary for American allies engaged in active hostilities, most countries should not expect America to finance their long-term defense. On behalf of the American taxpayer, please support the Pryor amendment * * *.

This analysis makes good sense and should be heeded by the Senate.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER (Mr. COHEN). Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 46, nays 54, as follows:

[Rollcall Vote No. 268 Leg.]

YEAS—46

Andrews	Ford	Metzenbaum
Baucus	Glenn	Mitchell
Bentsen	Grassley	Nickles
Biden	Hart	Pell
Bingaman	Hatfield	Pressler
Boren	Hollings	Proxmire
Bradley	Humphrey	Pryor
Bumpers	Jepsen	Randolph
Burdick	Kassebaum	Riegle
Byrd	Kennedy	Sarbanes
Cohen	Lautenberg	Sasser
Cranston	Leahy	Tsongas
DeConcini	Levin	Weicker
Dixon	Mathias	Zorinsky
Eagleton	Matsunaga	
Exon	Melcher	

NAYS—54

Abdnor	Gorton	Nunn
Armstrong	Hatch	Packwood
Baker	Hawkins	Percy
Boschwitz	Hecht	Quayle
Chafee	Heflin	Roth
Chiles	Heinz	Rudman
Cochran	Helms	Simpson
D'Amato	Huddleston	Specter
Danforth	Inouye	Stafford
Denton	Johnston	Stennis
Dodd	Kasten	Stevens
Dole	Laxalt	Symms
Domenici	Long	Thurmond
Durenberger	Lugar	Tower
East	Mattingly	Trible
Evans	McClure	Wallop
Garn	Moynihan	Warner
Goldwater	Murkowski	Wilson

So Mr. PRYOR's amendment (No. 6986) was rejected.

Mr. KASTEN. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 6987

(Purpose: 2d degree amendment to committee amendment No. 8 (Foreign Assistance Appropriations Act))

Mr. McCLURE. Mr. President, I send an amendment to the desk, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

> The Senator from Idaho [Mr. McCLURE], for himself, Mr. GLENN, Mr. PERCY, Mr. MATHIAS, Mr. BINGAMAN, and Mr. DANFORTH, proposes an amendment numbered 6987.

Mr. McCLURE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> On page 9, line 10, strike the period and insert in lieu thereof the following:
>
> ": *Provided further,* That in addition to amounts otherwise appropriated by this joint resolution for 'International Organizations and Programs' there is hereby appropriated $5,700,000 for the International Atomic Energy Agency.".

Mr. McCLURE. Mr. President, the amendment I am offering, on behalf of myself, Senator PERCY, Senator GLENN, Senator MATHIAS, Senator BINGAMAN, Senator DANFORTH, and Senator HART, would add $5.7 million to the amount appropriated for international organizations and programs and would make these funds available for payment only to the International Atomic Energy Agency, thereby restoring the full amount of the President's request.

Mr. President, a 15-percent cut in the administration's request for its contribution to the IAEA was sustained in fiscal year 1984 and a 28-percent cut is being contemplated for fiscal year 1985. In June of last year, the Senate voted 65 to 34 to appropriate the fiscal year 1984 administration request for the IAEA. This past August, the Senate adopted an amendment offered by Senator PERCY, Senator GLENN, and myself to the fiscal year 1984 supplemental appropriation to again restore the cut in the fiscal year 1984 administration request. Now, we are addressing the large 28-percent cut in the administration request for fiscal year 1985. This reduction, if sustained, would signal our allies and the international community that there is a declining emphasis in the United States in the goal of nonproliferation and the role of the IAEA in promoting that goal. Furthermore, a cut at this time would seriously undermine U.S. efforts to put forth a positive record of compliance with the Nonproliferation Treaty, whose signatories are called upon to undertake the kind of technical exchanges financed by the voluntary contribution. I would also note that the Nuclear Nonproliferation Act of 1978, the cornerstone of our national law and policy in nuclear nonproliferation, places a heavy emphasis on the use and improvement of IAEA safeguards. These modest funds are crucial to support the objectives of the act in the year ahead.

There are strong reasons why this money should be restored, Mr. President. First, the IAEA performs absolutely vital functions. It carries out the mission of safeguarding the civilian nuclear power facilities—hundreds of them—in many nations around the world. The Agency's safeguards program is in many cases the only means we have to deter diversion of nuclear materiels and technology into manufacture of nuclear weapons. Thus, the program directly enhances U.S. national security and the security interests of many nations friendly to the United States around the world. Furthermore, nearly a third of the funds we seek to add would be spent to support the Program of Technical Assist-

ance to Safeguards. These funds are spent almost exclusively in U.S. laboratories and universities for work on advanced safeguards technology and for training.

Second, a cut at this time would seriously undermine U.S. efforts to put forth a positive record of compliance with the Nonproliferation Treaty at the next year's NPT review conference. The treaty calls upon signatories to undertake the very kind of technical exchanges financed by the voluntary contribution. During consultations with other NPT parties and at the first preparatory committee meeting this past April, the United States emphasized the importance it attaches to technical exchange and to the policies by which we grant preference to NPT parties in nuclear assistance programs. It is important, therefore, that our support for the peaceful nuclear programs of developing countries that are parties to the NPT and members of the IAEA be manifested in the current year.

Third, U.S. funding for technical assistance projects is a key means of preserving U.S. influence within the Agency. Over two-thirds of the member states of the IAEA have no nuclear facilities to safeguard but attach the greatest priority to IAEA's technical assistance programs. We cannot expect their political and budgetary support for safeguards if we are not prepared to reciprocate in areas that have concrete benefits for them. U.S. funding for these activities provides balance, continuity and credibility to our commitment to the Agency. Except for our cash contribution to the Agency's technical assistance and cooperation fund, the vast majority of our technical cooperation contribution is also spent in the United States for fellowships, training courses, and equipment development, principally in the medical and agricultural uses of radioisotopes. Moreover, since the United States has discretion over these in-kind contributions, it can and does give preference to NPT parties.

Mr. President, the Congress has frequently urged the President to give greater support to nonproliferation programs, and to the IAEA in particular. In turn, I would now urge my colleagues to lend credence to their exhortations by supporting the full amount of the President's request for the Agency.

I ask unanimous consent that a summary of the fiscal year 1985 funding for the IAEA, which would result from this amendment be placed in the RECORD at this point.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

Fiscal year 1985 proposed voluntary contribution to IAEA

Program	*Amount requested*
Cash Contribution to Technical Assistance and Cooperation Fund	$6,500,000
Program of Technical Assistance to Safeguards	6,000,000
Other Non-Proliferation Activities in Support of Safeguards	1,500,000
Type II Fellowships (foreign specialists study in United States)	2,000,000
Technical Assistance Projects [1]	2,400,000
Training Courses (offered in United States)	1,300,000
Cost-Free Experts (U.S. nationals visiting developing countries to provide advice)	200,000
Monaco Laboratory	100,000
Manpower Development and Other [2]	500,000
Total requested	20,500,000

[1] So-called footnote A projects, i.e., projects not funded by the IAEA's regular program but judged to have technical merit. In these funds, over which the United States has total discretion, the United States gives preference to NPT parties.

[2] Includes U.S. experts to help developing countries set up their nuclear program infrastructures.

Mr. DANFORTH. Mr. President, I am pleased to cosponsor the amendment of the distinguished Senator from Idaho. It is my view that the greatest risk of nuclear weapons being used in anger lies not in a confrontation between the United States and the Soviet Union, but as a result of a smaller conflict involving other nations. The spread of nuclear weapons technology to nations in volatile areas of the world is a frightening vision. The International Atomic Energy Agency [IAEA] is the most effective mechanism we have to guard against the diversion of nuclear fuels, materials, and technologies from peaceful energy purposes to military uses. It is essential that the United States continue to demonstrate strong support for this organization. This amendment will provide the full $20.5 million sought by the administration for the U.S. contribution to the IAEA, restoring $5.7 million cut in committee.

The system of safeguards developed and employed by the IAEA is by no means perfect. It has, however, made measurable advances in our ability to ensure that nuclear materials are not diverted to weapons development. The U.S. contributions to this effort have generated impressive results which serve as one indication of our commitment to nonproliferation. Our Program of Technical Assistance to Safeguards [POTAS], for example, has developed some 15 new types of safeguards equipment which are now in use or available for use by the IAEA. In addition, the program has served as a model for eight other nations which have created similar programs.

Mr. President, passage of this amendment would constitute a strong show of support for this and other IAEA programs. Such a demonstration would be particularly helpful as we prepare for the 1985 Nonproliferation Treaty Review Conference. This 5-year review by all parties to the treaty will analyze the accomplishments of the treaty, assess its future, and examine the extent to which the signatory nations have promoted its goals and fulfilled their own commitments under it. The funding provided by this amendment will help the United States take a leadership role in that conference.

Given the massive task we have assigned to the IAEA, we have given it remarkably few resources. This Agency is responsible for inspecting some 520 nuclear facilities around the world. It is an Agency to which we have entrusted the job of accounting for over 100 metric tons of nuclear materials that might be diverted to military use. It is the focus of our efforts to develop more reliable and effective safeguards technologies. It provides technical assistance programs to developing countries. Last year these efforts cost the United States less than $16 million. Dollar for dollar, Mr. President, this money enhances our national security more than any other investment we make. I urge the adoption of the amendment.

Mr. McCLURE. Mr. President, I ask unanimous consent that the distinguished Senator from Virginia [Mr. WARNER] be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KASTEN. Mr. President, I have discussed this subject at length with the Senator from Idaho. All of us in this body have great concerns about the actions of the IAEA with regard to their treatment of the State of Israel and other matters. However, at this time I am optimistic, or I should say cautiously optimistic, that they are making at least a limited effort to undo some of the damage they have done in the international community by their treatment of the State of Israel at the IAEA.

On behalf of the Senator from Hawaii, the ranking member of the subcommittee, and myself, I am prepared to accept this amendment, with the understanding that the Senator from Idaho and I are going to work together to be sure that this international agency operates in a way that is consistent with the view that all of us have throughout the free world of the State of Israel.

Mr. WARNER. Mr. President, I strongly support this measure.

The Soviet Union made a voluntary offer at the U.N. special session on disarmament in 1982 to accept IAEA safeguards on some civil nuclear facilities. This action followed the examples of the United States, United Kingdom, and France in previous years. On Thursday, September 20, the U.S.S.R. announced that they had completed

negotiations on an agreement between the U.S.S.R. and the IAEA for the application of safeguards. At this time the U.S.S.R. had limited the list of facilities eligible for safeguards to some civil power reactors. We encouraged the U.S.S.R. to make such an offer and to reach agreement with the IAEA. We believe it would be valuable to have actual inspections conducted before the NPT Review Conference in September 1985.

The significance of IAEA inspections conducted in nuclear weapons states [NWS] is that they demonstrate NWS willingness to accept the same burden on their civil nuclear cycles that we ask the nonnuclear weapons states [NNWS] to accept. This is to refute the excuse of non-NPT signatories that the NPT discriminates in favor of NWS's with respect to peaceful uses of nuclear materials. Further, we wish the degree of cooperation between the NWS and the IAEA and the completeness of access and measurement in our civil nuclear facilities to be models and set a standard. This standard can then be used to strengthen the IAEA position when applying safeguards to non-NPT states.

The United States welcomed the U.S.S.R. voluntary offer and intends to join an expected consensus of the IAEA Board of Governors approving the U.S.S.R./IAEA Safeguards Agreement. I believe the Soviet action also is important, because the IAEA safeguards agreement will involve the first international onsite inspection in the U.S.S.R. to which the Soviets have agreed. If there ever is to be meaningful arms control progress with the Soviet Union, there must be a mechanism for assured verification, including onsite inspection. This first step with the IAEA by the Soviets heightens the need for our support to the technical programs of the agency.

This is a step foward in the efforts of the nuclear powers in the cause of nonproliferation.

Mr. McCLURE. Mr. President, I want to express my thanks to the manager of the bill, the distinguished Senator from Wisconsin, and the minority floor manager, the Senator from Louisiana, for accepting this amendment.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 6987) was agreed to.

Mr. McCLURE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. KASTEN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. PERCY addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

AMENDMENT NO. 6988

(Purpose: To appropriate $100,000 to be available only for the United Nations Voluntary Fund for Victims of Torture)

Mr. PERCY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Illinois [Mr. PERCY] proposes an amendment numbered 6988.

Mr. PERCY. Mr. President, I ask unanimous consent that further reading of the amendment be disposed of.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the amendment, add the following:

"SEC. . In addition to funds otherwise appropriated by this joint resolution for such purposes, there are hereby appropriated to the President to carry out section 301 of the Foreign Assistance Act of 1961, $100,000 for the fiscal year 1985, which amount shall be available only for the United Nations Voluntary Fund for Victims of Torture.".

Mr. PERCY. Mr. President, the U.N. Voluntary Fund for Victims of Torture, established by U.N. General Assembly Resolution 36/151 of December 16, 1981, is intended to provide worldwide humanitarian assistance to victims of torture and their relatives. The Fund presently concentrates on medical aid—both physical and psychological—but will include legal and financial help. This is a concrete U.N. response to the needs arising from violations of human rights.

The Fund is genuinely humanitarian and nonpolitical. Because of those qualities, and because Resolution 35/151 states that priority will be given victims of torture in states already marked by the United Nation as human rights violators, the Fund has the potential to exert strong pressure on those states with which the international community has human rights concerns.

The United States supported establishment of the Fund and continues to support it. The House Foreign Affairs Committee and the Senate Foreign Relations Committee approved an initial U.S. contribution to the Fund of $100,000 in the authorizing legislation for foreign assistance. While the Fund has not yet established a budget, this contribution would represent about one-ninth of the total contributed so far. Countries which have contributed: Canada, Cyprus, Denmark, Finland, France, Federal Republic of Germany, Greece, Jordan, Luxembourg, Netherlands, Norway, Sweden, Switzerland.

This would be an earmark add-on of $100,000 to the IO&P account specifically for the U.S. contribution to the Fund.

Finally, it should be noted that last week the Congress passed House Joint Resolution 605 which is an important statement of principles and practices that the U.S. Government is bound to undertake in combating the practice of torture by foreign governments. It would indeed be disappointing if the Congress did not support this amendment in light of its action on House Joint Resolution 605.

I believe the manager of the bill is familiar with this $100,000 request and is sympathetic with it. I hope he is prepared to accept it.

Mr. KASTEN. Mr. President, I support this amendment. While the administration has not made a formal request, I know that had the timing been different in the budget cycle this, in fact, would have shown up in their budget request. I believe that it is a worthwhile program, and one that we can support.

We have reviewed this program with the ranking member of the committee. I know of no objection to the amendment.

Mr. JOHNSTON. Mr. President, on behalf of the subcommittee and Senator INOUYE, we accept the amendment.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 6988) was agreed to.

Mr. KASTEN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PERCY. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CRANSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

AMENDMENT NO. 6989

Mr. CRANSTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from California [Mr. CRANSTON], for himself, Mr. HATFIELD, Mr. GLENN, Mr. STAFFORD, Mr. PROXMIRE, Mr. PELL, Mr. LEVIN, and Mr. MOYNIHAN proposes an amendment numbered 6989.

Mr. CRANSTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the committee amendment add the following: The Foreign Assistance Act of 1961, as amended, is further amended by adding the following new section:

SEC. 620F. NUCLEAR NON-PROLIFERATION CONDITIONS ON ASSISTANCE TO PAKISTAN.

(a) Notwithstanding any other provision of law, and in accordance with the provi-

sions of subsection (b), no defense articles or services shall be sold or otherwise provided to Pakistan, and no military credits or assistance shall be furnished, if ninety days after the enactment of this section, Pakistan engages in a program to develop or construct a nuclear explosive device, or acquires technology or equipment for use in a nuclear explosive device, or produces special nuclear material in a form and concentration suitable for nuclear explosive purposes.

(b) The prohibitions in subsection (a) on assistance to Pakistan may be waived by the President if, after receiving information requiring termination of such assistance, the President determines in writing to the Chairman of the Senate Foreign Relations Committee and the Speaker of the House of Representatives that such termination would irrevocably harm the urgent national security interests of the United States. Such determination by the President shall be accompanied by a comprehensive report of suitable classification describing:

(i) any acquisitions by Pakistan of material, equipment or technology which can be used for the manufacture of nuclear weapons together with an assessment of Pakistan's intentions and capabilities for use of such material, equipment, or technology;

(ii) the impact of a halt of U.S. military sales, assistance, or credits to Pakistan on U.S. national security interests in that region;

(iii) the impact on international norms against proliferation of ongoing U.S. military assistance in the presence of a continuing Pakistan nuclear explosives development program;

(iv) the prospects for success of any U.S. initiative to mediate the Indo/Pakistan conflict in order to reduce tensions and the motivation to acquire nuclear weapons.

Mr. CRANSTON. Mr. President, the amendment before the Senate represents an important compromise effort by Senators on both sides of the aisle to register our concerns about the direction of Pakistan's nuclear program.

Its provisions are quite simple:

The amendment would suspend future U.S. military assistance to Pakistan if, 90 days after enactment, Pakistan:

First, engages in a program to develop or construct a nuclear bomb; second, acquires technology for a neclear bomb; or third, produces plutonium or highly enriched uranium.

The amendment would not bar U.S. economic assistance, and it would permit Presidential waiver of a military aid suspension if the President certifies termination would "irrevocably harm the urgent national security interests of the United States."

This amendment would tighten conditions in current law which bar aid only if Pakistan is found to possess or test a nuclear explosive device.

I would like to make clear that while this is a political season, this is not a partisan amendment. Its original cosponsorship is bipartisan and its support is bipartisan.

Indeed, it enjoys the cosponsorship of the distinguished chairmen of the Appropriations and Environment Committees, the vice-chairman of the Intelligence Committee and a number of my colleagues on the Foreign Relations Committee.

We are all working toward the same goal of averting a nuclear arms race—and the use of nuclear weapons—in South Asia.

Having said that, I want to make clear that the continuing bipartisan efforts of the past four administrations to stop Pakistan's nuclear bomb development program are simply not working.

Pakistan is on the brink of producing nuclear weapons. The Pakistanis have developed virtually all the capabilities necessary to produce them.

The current U.S. supply-side nonproliferation effort, providing extensive military and economic aid to Pakistanis, has resulted only in an indirect subsidy by U.S. taxpayers of the Pakistani dictatorship's nuclear bomb-building program.

It has not prevented Pakistan from taking all the steps they have made in enrichment, reprocessing, bomb design and technolgy acquisition.

Much is made of fact that Pakistan has not yet tested a weapon.

The may not need to test—given the extensive design assistance they have received, according to press reports, from other nations.

And they have proceeded with so much nuclear development, that they sit virtually at the brink of testing.

Executive branch officials from the current and previous administrations will concede in private what I want to assure my colleagues in public: responsible actions by Congress in defense of United States concerns on the issue of nonproliferation help the executive branch in its dealings with foreign governments.

As one who views close United States ties with Pakistan as desirable, I feel we must make clear that if the Pakistanis start producing and stockpiling more nuclear bomb components, they will cross a line that will meet with an American response. We have an obligation to let the Pakistanis know now how serious the stakes will become.

To those who claim progress is being made I ask simply: is continuation of the status quo acceptable?

Can we sit idly by while Pakistan stockpiles nuclear bomb parts and tries to import more from the United States?

Will we watch them produce fissile materials for nuclear warheads, but continue to send them the world's most effective penetrating fighter bomber with which to undertake nuclear missions?

The sponsors of the amendment before us believe the Senate must lay down a clear marker and send a clear signal today.

The continuing resolution will contain another major portion of the $3.2 billion military and economic assistance package for Pakistan, the largest U.S. aid program anywhere in the world except for NATO allies and parties to the Camp David treaty.

This aid is offered to the Pakistani Government for the express purpose of meeting its legitimate security needs with conventional weapons so that the Pakistani leadership will not feel a need to build nuclear weapons.

This linkage between conventional ojectives is embodied in existing law which would cut off assistance if Pakistan detonates a nuclear device.

Because of an unprecedented congressional waiver of the Symington and Glenn amendments, Pakistan is still eligible for such military assistance despite the fact that they are clearly developing a capability to produce nuclear weapons.

In return for our assistance, Pakistan's President Mohammed Zia ul-Haq has provided a public assurance that Pakistan is not developing nuclear weapons.

On December 9, 1982, President Zia told the Foreign Policy Association in New York:

I would like to state once again, and with all the emphasis at my command, that our ongoing nuclear program has an exclusively peaceful dimension and that Pakistan has neither the means nor indeed any desire to manufacture a nuclear device.

Unfortunately, it appears that the Government of Pakistan is not keeping its word.

Three years of lavish U.S. military and economic assistance have not stopped the Pakistani nuclear weapons drive.

Let us take a look at what we know.

We cannot get into details in open session.

But let's review what is already in the public domain.

Pakistan has developed the capability to enrich significant quantities of uranium.

Pakistan has completed work on a pilot reprocessing plant, and is completing civil engineering work on a much larger plant.

There have been chronic failures in monitoring cameras at Pakistan's Kanupp reactor, a likely source of spent nuclear fuel for plutonium.

There have been reports in the press and public statements from Pakistani leaders that Pakistan has the capability to produce highly enriched uranium.

Pakistani nationals have been convicted in courts in the United States, Canada, Holland, and elsewhere for violating export laws to smuggle key components for nuclear bombs to Pakistan.

Just this summer, Pakistani nationals were caught in Houston trying to smuggle krytrons to Pakistan—high speed electrical switches whose only use in the Pakistani context is for nuclear warhead triggers.

And as early as 1979, there have been press reports that Pakistan prepared sites for nuclear bomb testing.

I personally know no Member of this body—or of the executive branch, for that matter—who seriously doubts that Pakistan continues to flirt with the development of a nuclear bomb production capability.

Anyone who takes the time to look at the intelligence reports on this issue reaches the same conclusion.

The acquisition of nuclear weapons by more countries poses a deadly threat to our survival. In the past 37 years Pakistan and India have fought 3 wars.

Unless the United States adopts a more active policy, there is a real danger that development of India's and Pakistan's nuclear programs will trigger a major war.

If the present course is maintained, that war could lead to a breach of the nuclear threshold in one of the world's most turbulent regions.

It is particularly significant that the current U.S. military sales program for Pakistan includes the F-16 aircraft, the world's most capable penetrating fighter-bomber.

This aircraft could play the key role in a Pakistan nuclear strike force.

As a matter of principle we do not think it serves American interests to continue to provide this aircraft to Pakistan if Pakistan pursues a nuclear weapons option.

Our amendment seeks to use the very considerable leverage we have with Pakistan to stop its nuclear weapons program now.

Our security relationship with Pakistan is in the vital interest of both countries.

The key element of any such relationship must be the willingness of each party to honor its commitments.

We think it is entirely reasonable to ask Pakistan to keep its word on an issue as vital to the future as halting the spread of nuclear weapons.

I would like to address a concern several of my colleagues have expressed and make clear that our amendment will not necessitate an end to United States-Pakistani cooperation in assisting Pakistan's neighbors.

First, our amendment will not affect aid to Afghan refugees or any other programs the United States may have in that region.

Second, our amendment will not curb the generous U.S. economic assistance program for Pakistan—which is providing $1.6 billion in cash over 5 years.

Third, our amendment would not cancel military aid and F-16 deliveries, it would only suspend deliveries of this type of aid and only if General Zia violates solemn assurances to our Government that he will not engage in nuclear bomb acquisition and production.

Most importantly, our amendment provides the authority for the President to waive the prohibitions on military aid if this aid suspension promises to harm irrevocably the vital national security interests of the United States.

The reported program of assistance to the Afghan people enjoys great support from Pakistan's friends and patrons in the Islamic world—notably Saudi Arabia.

It also enjoys the aggressive support of the nearly 4 million Afghan refugees in Pakistan, many of whom are armed—a force which General Zia could cross only at his great peril.

It would have a strong basis for continuing support even if the United States stood up for its nonproliferation concerns and insisted that Pakistan live up to its commitments.

I would also like to address the suggestion that our amendment would accelerate Pakistan's nuclear effort.

I frankly think this is misleading nonsense.

Our amendment would only trigger a suspension of military aid if Pakistan was already on the verge of producing nuclear weapons.

We are simply saying that if the Pakistani leadership chooses to cross this threshold, it will jeopardize continued U.S. military assistance.

Our amendment would give General Zia every incentive to live up to his word and not cross that threshold.

It is already U.S. policy to bar military aid to Pakistan if it tests a nuclear weapon.

All our amendment says, in effect, is that we cannot wait for such a test if Pakistan is producing, stockpiling, and acquiring the parts for mass production of nuclear bombs—that is the point at which we must reassess our part in Pakistan's military efforts, not after they have deployed and used nuclear weapons with our F-16 aircraft.

Mr. President, I urge my colleagues' support for this amendment on its merits. We can no longer delay addressing this issue. And we can ill-afford to signal that the ominous direction of the Pakistani nuclear effort is consistent with requirements for U.S. military support.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. McCLURE. Mr. President, Senator CRANSTON's amendment terminates all security assistance to Pakistan unless the President certifies that Pakistan has ceased all activities related to nuclear weapon development. The administration is strongly opposed to this amendment.

Senator CRANSTON introduced a similar amendment in the Senate Foreign Relations Committee last April. The committee did not accept Senator CRANSTON's amendment, and voted instead for the Pressler amendment.

It must be clearly understood that terminating security assistance to Pakistan is tantamount, in Pakistani eyes, to terminating the entire security relationship we have so painstakingly worked out over the past 3 years. This termination would in essence abrogate the 1981, $3.2 billion, 6-year agreement which we signed with Pakistan with full congressional participation and support. There is nothing new in our knowledge of Pakistan's unsafeguarded nuclear activities which could justify such a breach of faith.

The Afghan resistance is based in Pakistan; the support structure that keeps the resistance alive and successful is in Pakistan. All we do for the resistance is and must be done with Pakistan's active assistance. There is no other way for us to support the resistance. In order for Pakistan to play the central and absolutely vital role it plays in the Afghan issue, it needs to feel politically and, to a degree at least, militarily secure. That is a purpose of our assitance package: To ensure that Pakistan will stand tall in the face of Soviet blandishments, such as the offer to acknowledge the disputed Durand line between Afghanistan and Pakistan as the de jure boundary, and Soviet threats and armed attacks. Last month, armed attacks by Communist forces killed between 50 and 100 persons in Pakistan.

The 40 F-16 aircraft which we have agreed to sell the Pakistanis form the centerpiece of our entire assistance package. The F-16's give Pakistan a limited ability to deter Communist aggression against Pakistan, and hence allow it to continue supporting the cause of Afghan independence. Denying F-16's to Pakistan in the end denies the Afghan resistance its only hope of forcing the Soviets out.

I firmly believe that a vote for the Cranston amendment is in fact a vote against the Afghan freedom fighters and for their Soviet oppressors. The Cranston amendment would reinforce the perception among those facing Communist aggression that America is unreliable. Simply put, the Afghan anti-Soviet resistance is doing as well as it is only because of Pakistan's willingness to support it. Without America's strong and steady support, Pakistan cannot continue to confront these increasingly violent and brutal Soviet pressure tactics; without Pakistan, there can be no viable resistance to the Soviets in Afghanistan.

Mr. President, in addition to the Soviet aggression to the northwest in Afghanistan, Pakistan is also confronted with the increasingly alarming Soviet role in India. The Soviet Union has a special and clearly unprecedented arms relationship with India. India has special currency and technology licensing arrangements with the Soviets. Arms transactions include the latest Soviet attack aircraft, main

battle tanks and personnel carriers, modern ships and advanced missiles. The annual shipments of arms from the Soviets to India are increasing from year to year at dramatic rate, perhaps doubling or tripling over a short few years. The advanced nature of the weapons systems and the massive amounts of equipment are unprecedented outside the Soviet bloc and in some cases represent the only transfers of the most advanced Soviet systems outside of the Soviet Union to any country. Coupled with the continuing and aggressive presence in Afghanistan, this potential vise-like pressure from Pakistan's two largest neighbors confronts Pakistan with a clear and present security danger. Recent saber-rattling by India and new border incidents, coupled with the mobilization of the Indian Army in the Punjab, can only serve to remind Pakistan of its dangers. We must be mindful of these facts in considering the Cranston amendment.

We cannot because of well-meaning but misdirected intentions throw away all we have worked for over the past 3 years, in the process betraying the people of Afghanistan. The Cranston amendment, if passed, would simply lead to disaster for American interests in the region. It would throw away a valuable security and political relationship with Pakistan. It would permit the Soviets to consolidate their grip on Afghanistan without opposition and will not achieve its stated nonproliferation goals. We cut off assistance to Pakistan in 1979 over the same issue. It led us nowhere. It only embittered United States-Pakistan relations—a bitterness which we have only now begun to overcome—and did not slow down the Pakistan nuclear program. A strong security relationship with the United States is the only way, over time, to address some of Pakistan's legitimate security conerns—concerns which can lead a nation to seek a nuclear capability. The Cranston amendment could easily lead to the worst of all possible outcomes; that is, a nuclear-armed Pakistan, hostile to the West and unwilling or unable to continue confronting the Soviets.

Mr. President, in summary, let me say that the Senate today is faced with a very clear and straightforward choice in regard to our relations with Pakistan. There are clearly some in Pakistan who are arguing that the only security for Pakistan can come from a nuclear weapons program at some point. There are many others who argue forcefully and persuasively that the nonnuclear security relationship with the United States is the only effective option. Speaking only for myself, I believe our security relationship has, in fact, slowed the movements toward a weapons program. The President personally, Secretary Schultz and the administration, I believe have made a difference and our policy is working as a result with our security assistance. The Cranston amendment, once again, as in 1979 under the Carter administration, would demonstrate to the leadership and people of Pakistan that the U.S. security relationship is not a viable option. The Senate by such an action would prove the case for the proponents of a nuclear program in Pakistan. It would be a tragedy of unprecedented proportion in our effort to support Pakistan and deter active and harsh Soviet aggression in the subcontinent. Therefore, I urge the defeat of the Cranston amendment.

Let me conclude by reading from Secretary Shultz' letter to Senator BAKER in regard to the amendment. This letter is dated September 29, 1984, and addressed to Senator BAKER.

THE SECRETARY OF STATE,
Washington, DC, September 29, 1984.

Hon. HOWARD H. BAKER, Jr.,
U.S. Senate.

DEAR SENATOR BAKER: I am writing to you and Senator Byrd to underline the importance of maintaining our strong security relationship with Pakistan, a relationship essential to countering Soviet adventurism in South Asia and Soviet brutality in Afghanistan. I do this in the context of the anticipated introduction of an amendment by Senator Cranston to the Continuing Resolution which would modify existing legislation regarding Pakistan. The Administration opposes this amendment.

I want it clearly understood that the administration shares Congressional concerns about the Pakistani nuclear program. We have established over the past four years an unbroken dialogue at the highest levels of the Pakistani government designed to persuade the Pakistanis that their long-term security interests do not rest with developing a nuclear device. The Cranston amendment confuses and complicates our already strong efforts; but were importantly, it undercuts the trust between our two countries so essential to convincing the Pakistanis that our security assistance is both a commitment on which they can rely and a basis for considering non-nuclear defense options.

Let us not forget that December 1984 marks the fifth anniversary of the Soviet invasion of Afghanistan. During the past few months, valiant Afghan resistance fighters, better armed and trained than ever before, have frustrated Soviet attempts to crush them. A new momentum has been achieved, a momentum that must be maintained to pressure the Soviets to negotiate a political settlement. At this critical time, the Cranston amendment would send the wrong signals to the Soviets, the Soviet-backed regime in Kabul, and the Afghan freedom fighters who view our security assistance to Pakistan as vital to continued Pakistani backing for their struggle.

I would like to emphasize also our concern that the Cranston amendment, as currently drafted, comes to the floor without the benefit of hearings on this important change in our policy and its implications. Given the high stakes involved in this issue and the potential for serious harm to U.S. interests in South Asis, the administration believes this is not the most effective or responsible way of considering significant policy changes.

Thank you for consideration of this matter.

Sincerely yours,

GEORGE P. SHULTZ.

Mr. TOWER. Will the Senator yield for a question?

Mr. McCLURE. I will be happy to yield to the Senator from Texas for a question without losing my right to the floor.

Mr. TOWER. First I want to endorse everything the distinguished Senator from Idaho said. It is a very closely reasoned and I think irrefutable argument against the Cranston amendment. I wonder if the Senator from Idaho is aware that the Soviets are providing India with some $4 billion in military assistance, which includes the Mig-29, a very high-performance aircraft which has not yet even been fully embodied into the Soviet inventory?

Mr. McCLURE. The Senator from Texas is correct. I made reference to the increasingly close military ties and the unprecedented military support for India that is embodied in the Soviet actions.

Mr. TOWER. And that there is currently a rather dangerous imbalance in conventional power between India and Pakistan?

Mr. McCLURE. The Senator is correct in that again the threat to Pakistan's security will be met in their minds by one of two options: one, the security relationship with the United States, and the other, if they cannot depend upon that, they will be greatly impelled toward a nuclear program.

Mr. TOWER. In the mind of the Senator from Idaho, would not the passage of this amendment really make Pakistan more susceptible to increasing pressure from the Soviet Union to reduce their assistance to the Afghan resistance?

Mr. McCLURE. There is no doubt of that in my mind. I think the Senator is entirely correct.

Mr. TOWER. I thank the Senator from Idaho.

Mr. McCLURE. I thank the Senator for his remarks.

I ask unanimous consent, Mr. President, that an article in the Wall Street Journal of October 2, 1984, under the byline of Rosanne Klass, who directs the Afghanistan Information Center at Freedom House in New York be printed in the RECORD.

There being no objection, the article ordered to be printed in the RECORD, as follows:

PUSHING AND PULLING APART PAKISTAN

(By Rosanne Klass)

There can no longer be any doubt that Soviet moves in Afghanistan since 1978 have been aimed at creating a strategic base from which to control Iran. Pakistan, the Persian Gulf and the Indian Ocean. The determined Afghan resistance has been able to slow

down Moscow's transformation of Afghanistan into the crucial forward base to complete its power projection, but thus far has not been able to block it.

In Iran, Moscow may need only patience. Ayatollah Khomeini is an old man. As long as two years ago, Johns Hopkins analyst Yossef Bodansky wrote of Soviet troops penetrating Iranian territory with impunity, indicating an ability to reach the Strait of Hormuz within eight days; and of Russian-East German KGB rezidentura controlling much or Iranian Baluchistan through local leaders.

But Pakistan, with its renewed ties to the U.S. is openly and intensively targeted right now. Without sanctuary and logistical support via Pakistan, the Afghan resistance could be swiftly decimated, as was the isolated Central Asian resistance 50 years ago. Pakistan's harbors could offer the long-sought Russian foothold on the Indian Ocean: its transport and communications, a direct line from Termez to the sea. And, most important of all, Pakistan is the only remaining potential American ally between Turkey and Thailand through which the U.S. could move to block Soviet hegemony over the Indian Ocean. (India is increasingly tied to Moscow militarily, economically and in foreign policy, and Afghanistan provides an object lesson in the consequences of trying to loosen such ties.)

BOMBINGS AND KILLINGS

If Pakistan can be collapsed, or Finlandized and detached from Washington by threats, the Soviet Union will effectively dominate the vast area from the Horn of Africa to the Strait of Malacca without having fired a shot.

Ten major Soviet air bases have been built in Afghanistan; at least four more are in the works. All can handle fixed-wing combat aircraft. All are aimed at Pakistan and beyond; The Shindand base is equipped for the most advanced electronic warfare. In May 1980, Moscow secretly annexed Afghanistan's Wakhan Corridor, creating a U.S.S.R.-Pakistan border in Kashmir and threatening the Karakoram Highway, Pakistan's sole link with China. Pakistans airspace is violated routinely. Afghan communist ground forces have attacked Pakistani villages. Since Aug. 13, more than 80 civilians have been killed inside Pakistan by bombings and cross-border artillery.

Meanwhile the actions of Indira Gandhi's government—which not only recognizes but aids the puppert regime in Kabul—raise the specter of a threat from India. Soviet Defense Minister Dmitri Ustinov has made several recent visits to India with a high-level military entourage, and Mrs. Gandhi has made return trips to the U.S.S.R. Pakistan's proposal for a peace agreement has been set aside; Mrs. Gandhi has taken to warning of planned Pakistani aggression so shrilly that her own press supporters are dismayed. U.S. aid to Pakistan has been made the excuse for beefing up India's military forces—already the world's fourth largest—with the most advanced Soviet weaponry. (India will get MiG-29 jet fighters before they are fully deployed to Soviet forces.) Most of India's might is deployed along the Pakistan boarder. Incidents along the cease-fire line Kashmir have accelerated: Pakistani territory has been seized in the last year.

On the other hand, the Kremlin might prefer to bring Pakistan to heel by manipulation and internal subversion.

Pakistan has always been internally vulnerable. Since its creation in 1947, it has spasmodically been beset by provincial separatist movements—first for "Pushtunistan" in the North-West Frontier Province: in Baluchistan, in Sind and in Kashmir. These have risen and fallen on shifting tides of Afghan, Soviet and Indian support: the tide is now rising.

In 1983, a member of Mrs. Gandhi's party told a "World Sind" meeting in New Delhi that the time had come for India to annex Sind. In the May 1983 Economic and Political Weekly. Balchi leader Ataullah Mengal declared that Pakistan must cease to exist "in its present form" and announced a Baluchistan Liberation Organization to lead the armed struggle. The beatification of Pushtunistan's aged firebrand Khan Abdul Ghaffar Khan, who now spends most of his time in Kabul, Prague and Moscow, has begun with his nomination for the Nobel Peace Prize.

The science and engineering divisions of Kabul University are reliably reported to have been transformed into a terrorist training center similar to Lumumba University in Moscow (whose most notorious alumnus is, of course, Carlos the Jackal). The "student body" is believed to be almost entirely Baluchis from Pakistan, Iranians of various parties and Palestinians, with a sprinkling of Syrians, Libyans and Yemenis. Some of the Baluchis have been battle-hardened against the Afghan resistance.

Pakistani Pushtun tribesmen have been trained and supplied with weapons through a univesity branch in Jalaiabad run by the al-Zulfikar movement, headed by the sons of the late Zulfikar Ali Bhutto and sworn to destroy the man who seized power from him in Pakistan. President Zia-ul-Haq. Al-Zulfikar, now headquartered in Libya, was first based in Kabul and still has offices there and in New Deihi.

The value to Moscow of a People's Republic of Baluchistan—which would include all territory west of the Indus River: 60% of Pakistan—allied with Kabul and willing to grant the Soviet fleet use of its harbors is obvious. Neighboring Iranian Baluchistan might "choose" to join it. The North-West Frontier Province (Pushtunistan) might also be added, or it might be swapped to Kabul in exchange for Baluchi-populated southwest Afghanistan. Baluchi leader Mengal suggested as much in his 1983 interview. This would also return 2.8 million Afghan refugees and resistance sanctuaries to Kabul's control. India would certainly pick up Pakistani Kashmir, which it claims, and perhaps Sind, leaving a nonviable landlocked Puniab as "Pakistan."

Any of a number of scenarios could be used to trigger events, including the currently promised Pakistan elections—whether they are held or canceled.

But first, all possible international support for the present government of Pakistan must be undermined. World opinion must be convinced that President Zia is a uniquely abominable tyrant who cannot be supported by any self-respecting nation, much as the shah of Iran was transformed from a progressive autocrat into a monster of bloody tyranny and torture who not only lost American support but could hardly find a place to die in peace.

Any military regime is arbitrary and harsh and, by definition, undemocratic. Mr. Zia's is no exception. But the world public knows nothing of the chaotic and often irresponsible politics that have led to repeated military takeovers in Pakistan, or that the country has endured far worse governments than Mr. Zia's (notably under the suave Mr. Bhutto). World opinion will be vulnerable to a great chorus of condemnation, accompanied by demands for the withdrawal of American support, which has already begun. Sen. Alan Cranston (D., Calif.) has tried three times this year to get aid cut off because of Pakistan's nuclear program—though he has not suggested any such cutoff for India, which exploded its first nuclear device 10 years ago.

RUSSIAN STICK AND CARROT

If a campaign to delegitimize Pakistan and force the withdrawal of U.S and other Western support succeeds, Islamabad will be faced with the choice of acceding to Soviet wishes or facing destruction by one means or another.

So far, Pakistan has withstood both the Russian stick and its not inconsiderable economic carrot. And, although the Afghan resistance—which is a genuine freedom fight—has thus far lacked the means to interfere with the Soviet plans. It might do a great deal more if it gets the aid it needs. Coordinated operations like the one on Aug. 25, which destroyed 165 pylons providing power to Kabul, suggest that it could create much more trouble for the Soviets there in the future. It has the will. But right now the resistance is in desperate straits, lacking food, clothes and medicine as well as arms and ammunition.

The Afghan resistance cannot be aided without Pakistan, but Pakistan cannot undertake additional risks to its own survival without assurances of long-range support. Those who are reluctant to give that support need to take a hard look at the choices available to use in this imperfect world.

Mr. JOHNSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Mr. JOHNSTON. Mr. President, there was once in this country a clear and definite sense of outrage on account of the Soviet invasion of Afghanistan. Under President Jimmy Carter, we canceled the 1980 Olympics on account of what is, indeed, an outrage. We invoked a grain embargo, even though the President and Democrats paid a tremendous political price and I think it may have been the wrong thing to do. But the point is it was a clear sense of outrage. There ought to be and perhaps there still is, Mr. President, that same sense of outrage on account of Afghanistan. Even though it has faded from view to some extent, even though the invasion of Afghanistan, the continued bloody war in Afghanistan does not occupy the front pages, it continues to be an outrage. We have today, Mr. President, in Afghanistan brave freedom fighters, and it is not too much to say that they are, indeed, freedom fighters. We may not have freedom fighters elsewhere in the world but it is clear they are freedom fighters in Afghanistan. Those freedom fighters survive through one pipeline, and that is through Pakistan. If we want to cut a lifeline to the freedom fighters, the Mukjadeen in Afghanistan, all we have to do is adopt this amendment.

What this amendment would do would be to set adrift the Mukjadeen

in Pakistan and let them not even slowly but quickly dry on the vine and be left without any means of support.

Mr. President, Pakistan is sandwiched between India—their implacable enemy, their historic enemy, who has them greatly outnumbered and outgunned and is quite hostile to Pakistan—and Afghanistan and the Soviet Union.

If we cut off all help for Pakistan, then naturally it has to require Pakistan to reach some kind of accommodation, some kind of accord, with the Soviet Union.

Pakistan cannot stand there defenseless, without any demonstrable friends in the world, and expect to stand up to the Soviet Union, expect to continue to be the conduit of aid to those who are fighting the Soviet Union in Afghanistan, and all the while have their backs to their implacable, historic enemy, the Indians.

The fact is that they must have continued aid, they must have continued support from the United States, and they must have the moral support which our friendship and our aid and our alliance requires.

Mr. President, no one is oblivious to the effects of nuclear proliferation. No one lacks concern about that issue. But we should have learned that this is not the way to get somebody to knuckle under—to cut off aid. It has not worked anywhere else. We have tried to strongarm Brazil and Argentina and India and other countries. Has it worked? Of course, it has not worked.

If we want to be sure to get some kind of low-grade nuclear device built in Pakistan, the way to do it is to lose all our influence by cutting off all our aid. That will make it for sure that they will build whatever they are capable of building.

Mr. DODD. Mr. President, will the Senator yield?

Mr. JOHNSTON. In just a moment I will be happy to yield.

Mr. President, they are not capable of building much.

We see in a "Dear Colleague" letter here a reference to the F-16 playing a key role in the Pakistani nuclear strike force. You would think they are ready to make a sophisticated nuclear weapon capable of being delivered by an F-16. Everybody knows that is not true. First, you have to get the enriched uranium; and once you get the enriched uranium or the plutonium, it is a long way from there to creating a nuclear device, particularly one small enough to be delivered by an F-16.

Surely, Mr. President, nobody seriously thinks that the Pakistanis are ready, willing, or able, or even thinking about, delivering a nuclear device with an F-16. If they are thinking about a low-grade nuclear device at all, it is not one small enough to be delivered by an F-16; and that would be eons, perhaps decades, away.

Mr. TOWER. Mr. President, will the Senator yield for a question?

Mr. JOHNSTON. I yield.

Mr. TOWER. Mr. President, I endorse everything the Senator has said.

The F-16 is a marvelous aircraft, largely because it is made by Texans, but for other reasons as well. However, it is not suited for a delivery role. It simply is not. I think that anyone who suggests that has let his imagination somewhat run away with him. I do not know of anybody who would use the F-16 in that kind of delivery role. It is not capable of doing that.

Mr. JOHNSTON. I thank the distinguished chairman of the Armed Services Committee, because it is demonstrably true.

Mr. President, in summary, if we want to get the Pakistanis not to build a nuclear device—and surely that is our goal—then let us urge them as friends, and let us apply leverage as friends, as members of an alliance—as big brothers, in effect—and not as what would then become fickle former friends who have no further influence. That is the way to achieve nuclear nonproliferation.

I yield for a question to the Senator from Connecticut.

Mr. DODD. I thank the Senator from Lousiana for yielding.

Mr. President, normally, on issues such as this, involving an amendment by the Senator from California, I would be supportive; because there are few people in recent history who have been as outspoken or determined with respect to reducing nuclear proliferation in the world as he has been. In fact, only a few months ago, the central theme of his traveling around this country had to do with this issue. I strongly support his efforts in that regard.

However, in this particular matter, with respect to the amendment being offered today, he and I disagree, for two reasons—not because I am not concerned about the dangers of proliferation of nuclear weapons in Southwest Asia. That certainly is a legitimate problem, and it is something about which we all should be raising our voices. However, as I understand it, under existing law we have in place, in this particular situation, provisions which almost mirror what the Cranston amendment would ask us to do.

Section 620(3) and section 669 of the Foreign Assistance Act set out some rather specific provisions which would require termination of substantial military and economic aid to a country such as Pakistan, when the President has determined that they were involved in receiving or delivering enrichment material or delivering reprogramming equipment. It kind of covers the parameter.

Third, like the Cranston amendment, existing law allows for Presidential waiver. If the President finds, even with these other circumstances being present, that our national security issues are at stake, the President has a right to waive those particular provisions.

I point out that, under existing law, the waiver provisions terminate on September 30, 1987. Under the Cranston amendment as proposed, the waiver provisions never terminate. They are in place for good. One could almost argue that the Cranston provisions are stronger in favor of those who would like to see some termination of military equipment to Pakistan.

The Cranston language is stronger; it mandates a report. Existing legislation says that Congress should be fully informed.

My point—I am not quoting the exact provisions of the law—is that we have pretty good law on the books; so we are not going to be necessarily strengthening existing provisions of the law but, rather, engaging in redundancy of that law.

What is the effect of doing it here today? Obviously, I do not think any of us would trade the detonation of a nuclear device in Southwest Asia for any issue, but we cannot be unmindful of the fact that Pakistan, over the last several years, has accepted between 3 million and 4 million human beings to whom we have contributed somewhat in terms of their health, safety, and nutrition needs.

The burden of that cost has been assumed by Pakistan, and that is a fact. We cannot just disregard that particular piece of evidence.

While it does not overturn our concern about nuclear proliferation, we should not avoid the fact that that is going on. It occurs, as we all know. The refugees are created directly as a result of the Soviet invasion. Our colleague from Louisiana hit that point very well. It was only a few months ago that that was a major issue.

So I urge my colleagues to reject this amendment.

I say at the conclusion, as I did at the outset, that I have the greatest respect for the author of this amendment in his determination to reduce the proliferation of nuclear weapons.

Existing law is strong in this area. I think this amendment would send a complicated signal to a nation that is making a significant contribution in the area of refugee assistance, and it would cause us more harm than good. I feel that the existing language protects us and protects the concerns of the Senator from California. So I urge rejection of the amendment.

I thank the Senator from Louisiana for yielding.

Mr. JOHNSTON. Mr. President, I think the learned Senator from Connecticut has added greatly to this debate by pointing out that not only is present law strong, but also, it is flexible and usable. You do not win this war of influence with Pakistan by trying to shoot them in the head.

You win it by trying to urge them and coax them and using the carrot and indeed the stick which is contained in present law.

Mr. SARBANES. Will the Senator yield for a question on that point?

Mr. JOHNSTON. Mr. President, if I still have the floor, I am glad to yield.

Mr. SARBANES. Is it the Senator's view that Pakistan is moving toward the development of a nuclear explosive device?

Mr. JOHNSTON. I do not think our intelligence knows. There is some question that they might be. I do not think there is any clear evidence that they have ordered enrichment equipment. If there is, under present law, we would be required to stop all aid subject to a Presidential waiver. I would hope that they are not, there is no clear and convincing evidence that they are.

Mr. SARBANES. And is it the Senator's view that if this friendly relationship in effect, sidesteps the question of a nuclear capability, the capability will not be developed; is that correct?

Mr. JOHNSTON. I would say that it will make it much more likely that it will not happen. If we cut them off, then we send them into the arms of the Soviets, and we take away whatever reasons there would be not to build a nuclear device.

Mr. SARBANES. Well, we do not do that because, as I understand the Cranston amendment, they would get all the aid that is provided for as long as they did not build a nuclear device.

There is really no problem. If they do not build a nuclear device, they will get all the aid that we want to provide them. It is only if they build a nuclear device, or undertake to build one that, in fact, the aid will be stopped.

It seems to me the argument made by the Senator from Louisiana only makes sense if the Senator is prepared to take the position that he is willing for them to build the nuclear device for all the other reasons that he has advanced.

I think that is a very serious proposition. If that is the one you are advancing, it is a logical one and we can examine it. You can take the position that their importance is such that even if they build a nuclear device we ought to provide them assistance. But I do not see how it can be argued both ways. Our providing aid does not seem to have moved them off this path. Under the Cranston amendment, as I understand it—and the Senator from California is on his feet and can correct me—all the aid would be provided as long as they did not move to build a nuclear device. I might ask the Senator from California, is that correct?

Mr. CRANSTON. That is exactly correct.

Mr. SARBANES. Therefore it is only if they build a nuclear device, move forward with that endeavor, that the aid will be stopped. It seems to me that to argue against the amendment logically you have to be prepared to take the position that for other reasons, some of which have been advanced here today, you are prepared for Pakistan to go ahead and build a nuclear device. That seems to me to be a pretty serious proposition. I think the Senator from California has put his finger on a very important matter.

Mr. JOHNSTON. Mr. President, the distinguished Senator from Maryland has not identified why the Cranston amendment provides a more flexible and a more useful sanction than does the present law as described by the Senator from Connecticut. The fact of the matter is that the Cranston amendment is, first of all, rather vague because it speaks not just of developing or constructing a nuclear device, but acquiring "technology or equipment for use in a nuclear explosive device, or produces special nuclear material in a form and concentration suitable for nuclear explosive purposes."

Mr. President, you can use all kinds of different material suitable for nuclear explosive devices. Certainly plutonium, which is a byproduct of a nuclear device, is ordinarily suitable for a nuclear explosive purpose. And if it is separated, and I would assume that plutonium would be separated, it can be used for two purposes: It can be either recycled back into a nuclear plant or, of course, if you had the technology you could build a bomb with it. But that is what the IAEA and the safeguards are for, it to keep track of things like plutonium and not in very inexact language cut off aid because they are producing special nuclear material, whatever that is, in a form and concentration suitable for nuclear explosive devices.

I simply do not know why present law is not sufficient. I do not know why we want to not only embarrass but make it more difficult for our allies to stay in an alliance with us.

Mr. SARBANES. I do not think the Senator from California is trying to do that, either to embarrass anyone or to make it more difficult to maintain an alliance. He is simply trying to get at the fundamental point—whether Pakistan is going to have a nuclear bomb. That is what it finally amounts to. That is a pretty urgent question and I think we ought to recognize it as such.

As I understood the Senator from Connecticut, who cited the prior law, at least one of his criticisms of the Cranston amendment was that the waiver authority for the President contained in the Cranston amendment is more generous to the President than the waiver authority in current law.

That seems to me to be at cross-purposes with the other arguments being advanced. But I understood the learned Senator from Connecticut to make that argument. I gather that, because the current waiver will expire in 1987 and the waiver contained in the Cranston amendment would not, he perceives as an argument against the Cranston amendment that it is easier with respect to the waiver authority for the President than the current law.

Obviously, it seems to me, what the Senator from California is trying to do is to really get at this fact that we continue to provide very significant aid for very good reasons—and those have been advanced here on the floor—for very good reasons. I do not minimize what Pakistan is doing in a number of regards in that area of the world. But the fact remains that we still have the continuing concern of the moving to develop a nuclear weapon. And unless Members are prepared to say that all these things they are doing are so important that it ought to transcend them moving to a nuclear weapon, it seems to me we need to give serious attention to the Cranston amendment.

Several Senators addressed the Chair.

The PRESIDING OFFICER. Does the Senator from Louisiana yield the floor?

Mr. JOHNSTON. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. MATHIAS. Mr. President, the distinguished Senator from California is one of the most dedicated arms control advocates in the entire country. I think there are very few people in the search for peace who surpass ALAN CRANSTON in his sincere and consistent commitment to reducing the danger of a nuclear holocaust. And I certainly, for one, respect his uncompromising approach to the control of nuclear weapons. I think that in offering this amendment, he demonstrates his understanding that an effective nuclear nonproliferation policy is central to an effective arms control program. But, having said that, I would like to refer to something that my colleague from Maryland just said. He said, "What is Pakistan doing?" And I think that is an important question. What is Pakistan doing?

Mr. SARBANES. Will the Senator yield on that point?

Mr. MATHIAS. If the Senator will just let me complete my thought; I have not yet developed it to the point that I think it is ripe for comment.

Pakistan is providing a refuge for several million Afghans at this

moment. And that refuge is provided at enormous economic expense and burden to the people of Pakistan. Pakistan occupies an historic role in the heel of the central Asian heartland, on the borders of revolutionary Iran, at a moment when the political and military balance in Asia is not yet determined. It is a very delicate moment in history.

So I think the question of what Pakistan is doing, and I know my friend from Maryland intended to raise the question only in the nuclear sense, is a crucial one. We have to look comprehensively at what Pakistan is up to.

Turning to the specifics of the amendment before us, as the Senator from Connecticut has commented, it would apply additional restrictions to the Pakistan nuclear energy program which are intended to preclude the development or the construction of a nuclear explosive device. As the Senator from Connecticut has said, this would make a special case out of Pakistan. The United States has worldwide restrictions that deal with nuclear proliferation. Existing law, specifically sections 620(e), 669 and 670—that includes the Symington amendment—of the Foreign Assistance Act already proscribe the receipt of delivery of enrichment equipment, the receipt or delivery of reprogramming equipment, or the receipt or detonation of a nuclear explosive device by Pakistan. That is law.

Moreover, section 602 of the 1978 Nuclear Non-Proliferation Act requires the administration to inform fully the Congress of all significant nonproliferation activity. This is a very serious responsibility on the part of the administration.

The Cranston amendment would supplement those existing provisions of law. And it would bar all military aid and sales to Pakistan if Pakistan is found to be developing or constructing a nuclear weapon. That is a rather vague way to put a very specific and technical question.

There is no question that the Pakistanis are engaged in some nuclear research and some nuclear energy development, but so are a number of other countries who are not necessarily placed within this proscription.

The purpose of that research, of course, is the essential question. And the determination of what that purpose is, what the motivation is, and what the intention is, has to be the heart of this amendment. Whether the President is to make that determination, whether the Director of the Central Intelligence Agency is to make it, whether the Secretary of Defense is to make it, or whether the chairman of the Committee on Foreign Relations is to make it, is not clear. I think that creates a problem.

The fact is that these concerns are technical questions that could be remedied. But the amendment does not apply similar sanctions to any other nation. And there are certainly other nations that the United States would like to steer away from the path of nuclear weapons development. Whatever the facts may be in this case, there are other cases that would warrant careful attention as well.

I would like to propose the following to my friend from California: Let us do a little broader job. Let us join together—I will work with you to do whatever we can—to do something to make the International Atomic Energy Agency [IAEA] the real policeman of proliferation. That is where the problem lies. That is where the difficulties are. The IAEA accounting procedures are inadequate. The IAEA control procedures are inadequate. Let us address the comprehensive problem of nuclear proliferation by providing the International Atomic Energy Agency with the kind of powers and jurisdiction it needs. I believe that is the one area—perhaps the only area at the moment—that might permit cooperation with the Soviet Union. Clearly, the USSR has as much of a stake in nonproliferation as the United States.

As well-intentioned as this amendment may be, it would be counterproductive at the present time. I think adoption of the Cranston amendment would have a destructive and a unpredictable impact on our relations with Pakistan, and would make us less rather than more able to control nuclear proliferation throughout the world.

Mr. DODD. Will the Senator yield?

Mr. MATHIAS. Surely.

Mr. DODD. The distinguished Senator from Maryland, [Mr. SARBANES], made the point earlier about pointing out some of the distinctive features between the existing law and the proposed amendment. I cite particularly the waiver provision, how long it lasted, and I note in fact existing law is more restrictive. It expires in 1987. In the Cranston amendment, the waiver would exist for all time, if adopted. My point in raising that was not necessarily to try to make the argument that the exiting law was stronger than what the Cranston amendment would propose. The point was that the purpose of offering amendments, as I have understood it, is that when there is the absence in existing law or existing law is insufficient in certain areas that we offer an amendment to try to improve that.

All I am suggesting here is that existing law seems to cover the very provisions that the Cranston amendment would make with the exception that in Cranston amendment we are specifically identifying Pakistan. But beyond that, the broad provisions of law which apply under the Foreign Assistance Act, and apply to all countries, really does very adequately—more than adequately—cover the fact situation that could arise in Pakistan.

Let me make one other observation; that is, with the Cranston amendment in addition with the general language which does track the provisions cited by the Senator from Maryland that have rather tight parameters, in the Cranston amendment you also have language "or acquiring technology or equipment for the use in a nuclear explosive device."

I point out that kind of language is pretty broad based and you could include almost anything in that particular provision. It is not tightened up. But I do want to make the case that I felt here that the law was more than adequate and that is the reason for my opposition. If there were no law here, I would be standing in support of the Cranston amendment. But the fact that we do have strong existing law is something that I feel is necessary or is adequate to cover the present situation.

I thank my colleague for yielding.

Mr. CRANSTON. Mr. President, given the severe time constraints facing the Senate, I do not wish to prolong this debate. We have had a thoughtful discussion which goes to the heart of the issue. Let me very briefly respond to what has been said.

First, I know that every Member of this body is deeply concerned about the brutal Soviet military occupation of Afghanistan. We want to see it terminated; and we have taken every prudent measure to accomplish this result. This brutal military occupation has deeply poisoned our relationship with the Soviet Union.

Every Member of this body I am sure is also deeply concerned about nuclear proliferation. But unfortunately, time after time we let some other issue intrude upon our concerns about nuclear proliferation. That happened in the case of India, as it has happened in the case of other countries.

The fact is that present law is not working. Virtually all experts in this field suspect that if we do not find a better policy, we are not going to have 6 or 7 but 10, 12, or 20 nuclear powers within a generation, with widening dangers of their use. The Foreign Relations Committee has recognized this and has proposed that we cut off aid to Pakistan if they possess a bomb.

But that is not enough. One rarely knows when a nation crosses that threshold, witness South Africa, witness Israel.

The amendment that is pending simply recognizes that if Pakistan is producing, manufacturing, and stockpiling nuclear bomb components that is the appropriate time for the United States to make manifest its concern.

That is the only realistic threshold short of waiting for Pakistan to test, deploy, and perhaps use nuclear weapons.

Present policy has not prevented Pakistan from taking all of the steps that have been made. The general belief is that they are on their way to a nuclear weapon capacity, all the steps they made in enrichment, processing, bomb design and technology acquisition.

Let me sum up the amendment by stating once again it would not cancel military aid in F-16 deliveries. It would suspend deliveries of this type of aid if—and only if—General Zia violates solemn assurances given to our Government that he will not engage in nuclear bomb acquisition and production.

If Pakistan will halt its relentless drive to develop a nuclear bomb capacity, then our military would continue.

The amendment provides the authority for the President to waive the prohibitions of military aid if this aid suspension promised to "irrevocably harm the urgent national security interests of the United States." The President would have the authority to set this new prohibition aside.

Let me say finally that if Pakistan continues to develop and proceeds to deploy nuclear weapons, it would make it very difficult for the United States to continue to cooperate with them militarily, as we wish to do. But if Pakistan proceeds further down this path, how will we be able to continue to cooperate militarily with them in that tense part of the world, on the border of Afghanistan, Iran, India, China and the Soviet Union?

In this sense, it seems to me that drawing a nonproliferation line in the sand now is in the very best interest of continued U.S. Pakistan cooperation in other endeavors.

Mr. KASTEN. Mr. President, during my time in the Senate, I have strongly advocated tighter controls on the export of nuclear materials, and have expressed my support for the principle of nonproliferation. At the same time, I am not adverse to the idea of punishing those countries that thumb their noses at us on this issue, or on any issue for that matter. But this is not the time, the place or the vehicle to punish Pakistan. The aid package including the sale of F-16's to Pakistan that we have worked out in our subcommittee is carefully tailored to meet our strategic interests in Southwest Asia. I hope that the amendment will be defeated.

Mr. President, one last thought and it's been mentioned previously but I want to reemphasize it. A vote for this amendment is clearly a vote against the cause of the Afghan freedom fighters. That resistance continues largely because Pakistan has resisted Soviet pressures and blandishments on Afghanistan. Obviously without Pakistani support the resistance in Afghanistan would collapse. Mr. President, clearly acceptance of this amendment, which strikes at the heart of our security relationship, would badly damage efforts to push the Soviets out of their occupation of Afghanistan.

Mrs. HAWKINS. Mr. President, while I commend the Senator from California for his concern and commitment to the issue of nuclear nonproliferation, I must rise in opposition to his amendment. The issue here is not who is for proliferation and who is against, the issue is how to best structure our relations with Pakistan in such a way so as to advance our multiple goals including blocking the further spread of nuclear weapons. In this regard, there are two fundamental questions: First, is this the best way to go about pursuing a nonproliferation policy with the Pakistanis? And second, what impact would this amendment have on our other priorities involving Pakistan?

American concerns about nuclear proliferation on the Indian subcontinent are not new, and did not begin with Pakistan. In 1974 India exploded its so-called peaceful nuclear explosive device. The Indian bomb was developed in response to the Chinese nuclear capability, acquired in 1964, and prestige considerations, but it has had considerable impact on the Pakistani incentive to develop its own nuclear weapons capability. Pakistan and India have engaged in a serious and sometimes bloody rivalry since their separation in 1947. In fact the adversarial relationship of India and Pakistan is similar to that of the Israelis and their Arab neighbors, with deep religious and communal divisions that are only slightly moderated by a common history and cultural traditions. Since 1965, the Indians and Pakistanis have fought two wars with one another over issues that have not been resolved to this day. In both cases India prevailed and Pakistan feels threatened by India's superior conventional forces and is tempted to look on a nuclear weapons program as a sign of their equality with the Indians.

In view of those pressures favoring the development of a Pakistani nuclear device, it is important that we construct a policy that will effectively promote a nonproliferation policy. We have tried simplistic measures before. From September 1977 to April 1978 and again from the spring of 1979 to 1980, the United States suspended aid to Pakistan because of Pakistan's acquisition of sensitive nuclear hardware. This cutoff did not bring the Pakistani civilian nuclear program to a halt, and it is unlikely that it would have had any better success with a weapons program.

In order to redirect Pakistani energies away from a nuclear weapons program we need to address the concerns that give rise to the desire to develop the weapon in the first place—that is, concern about India and prestige in the Third World. In both cases, U.S. aid to Pakistan is a positive force. U.S. military aid in sufficient quantities reinforces the Pakistani view that they have sufficient military might to deter an attack by conventional Indian forces, and U.S. economic and development aid provided the Pakistani economy a helpful boost on the road to economic development, and offers the Pakistanis a positive outlet by which to gain international stature.

In addition to the question of how best to persuade Pakistan to forgo the development of a nuclear device, there is the question of the impact that an aid cutoff would have on other U.S. priorities involving Pakistan. In addition to proliferation the United States is concerned about Pakistani efforts to curtail illegal drug production from some of its remote provinces, security concerns resulting from the Soviet invasion of Afghanistan, and the humanitarian support offered by the Pakistani Government to over 3 million Afghan refugees. Each of these is an important issue to the United States, and the drug trafficking concern has a direct impact on Americans, as our schools, homes, families, and workplaces are affected by the crime, violence, and disintegration brought on by illegal drugs of which heroin from Pakistan is an important part. I visited Pakistan about 9 months ago in December 1983, and in addition to meeting government officials in Islamabad, visited some of the prime opium cultivation sites along the northwest frontier.

The 1979 opium crop in Pakistan reached 800 metric tons, when farmers were encouraged to produce more opium by the heroin refiners and traffickers. Eight hundred tons is an astronomical figure when you consider that it can be converted into 80 tons of heroin enough to supply the entire U.S. market for nearly 20 years. We knew that something had to be done quickly. Up to that point, growing and selling opium had been legal in Pakistan, but President Zia recognized the danger and passed laws based on Islamic religous principles that banned production and sale of opium and all other illicit narcotics drugs.

Pakistan appealed to the United States to help their farmers find alternatives to growing opium, and for training and assistance in enforcing their narcotics laws. We respondedwith a $5.3 million rural development program that began in 1981, and added another $20 million project in 1983. An international effort is now developing to address the remaining opium-growing areas not yet covered by assistance, and the United States is

playing a major role in this as well. At the same time, we have greatly stepped up our efforts to provide urgently needed equipment and training, particularly to Pakistan's joint narcotics task forces, which are modeled after the task forces that have been so successful in the United States, particularly in my own State of Florida.

These efforts are now beginning to bear fruit. Opium cultivation has been steadily reduced, and the current crop in Pakistan will produce only about 45 tons. Opium is still coming in from Afghanistan, where the Soviet Army of occupation does not view narcotics control as a priority, and there is still a large amount of heroin refined in Pakistan or smuggled through Pakistan from laboratories just across the border in Afghanistan. But seizures of heroin in Pakistan for the first 3 months of 1984 are running at a rate of 600 percent higher than the comparable period of 1983.

While this phenomenal rate may not continue through the entire year, it certainly is an indication of serious intent on the part of Pakistan. Over 2 tons of heroin has been seized in both 1982 and 1983, and every gram seized means just that much less for the U.S. and European markets. We cannot relax this pressure now. New U.S. initiatives for 1985 will include providing DEA officers to work directly with Pakistan's narcotics task forces as advisers, adding a totally new dimension to our ability to help Pakistan develop its own narcotics interdiction capability. Our law enforcement assistance to Pakistan will continue its upward trend in 1985 and 1986 to provide the transportation, communications, and specialized equipment needed to make Pakistan's narcotics law enforcement truly effective.

While we might like to keep narcotics control as a separate and distinct part of our relationship with Pakistan, it is unrealistic to expect that Pakistan will share this view. U.S. actions that seriously affect any area of the relationship will have an impact on the total relationship. During my visit to Pakistan last year President Zia kept his promise to strengthen Pakistan's sentences for convicted narcotics traffickers, and announced that the maximum penalty would be life imprisonment. I am personally convinced that President Zia is sincere about eliminating narcotics production; in fact I believe it is one of his top priorities. It certainly is one of ours. If we now take an action that would undermine Pakistan's confidence in our reliability as a friend and ally, the relationship in narcotics control that we have so carefully and painfully constructed over the past 5 years could suffer a devastating blow.

Considering the questionable effectiveness of the Cranston amendment as a nonproliferation incentive, I believe it would be a disaster to risk the cooperation of the Pakistanis on this important issue in order to make a useless gesture regarding nonproliferation.

Furthermore, we have received repeated assurances from the Pakistanis that they do not intend to develop a nuclear device. As recently as July 10, 1984, President Zia of Pakistan has said that Pakistan "has absolutely no intention of using nuclear technology for military purposes. We are against nuclear proliferation and have consistently raised our voice against it in international forums."

With these and other assurances, along with the serious policy flaws involved in this amendment, I hope my colleagues will vote to defeat this amendment.

Mr. BAKER addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. BAKER. Mr. President, let me say that the issue here is not related to Pakistan alone, but the general question of nuclear proliferation is one that has attracted my sincere and earnest interest since the first day I came to the Senate, through the days I served on the Joint Committee on Atomic Energy and throughout my work on the Senate Foreign Relations Committee. There is no more important issue in the world today than the business of trying to contain nuclear weapons.

Mr. President, I feel that the law as it now stand is appropriate in the circumstances that we deal with at this time. I feel that I simply must urge the Senate to consider that we have to get on with the business at hand.

I just concluded a conversation with the Speaker of the House on the telephone. I wish to say to my colleagues in the Senate there will be no more short continuing resolutions sent us by the House. I would remind Members that the continuing resolution we are now operating under expires at midnight tonight.

I would like to tell the Members of the Senate that beginning tomorrow morning the process for shutting down the Government will begin. I do not see any prospect that we can pass this continuing resolution, get it to conference, and get it on the President's desk in the morning.

Therefore, I am here to say that we have to give up our most cherished interests if they are legislative in character, if they do not have a place on this continuing resolution, and get on with the business at hand.

Mr. President, I make the point of order that this amendment is legislative in character and in violation of the rules as legislation on an appropriation bill.

The PRESIDING OFFICER (Mr. HECHT). The amendment gives the President discretion and imposes duties on him in the exercise of that discretion and is legislation for that reason. The amendment also makes a proposal that is effective notwithstanding the provisions of existing law. For both those reasons, the amendment is legislation and is out of order. The point of order is sustained.

Mr. KASTEN. Mr. President, I know of no further amendments on our side. I have conferred briefly with the ranking member, the Senator from Hawaii. I believe we are now finished with amendments for this section. Therefore, I move the adoption of this committee amendment, committee amendment No. 8, as amended.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the committee amendment No. 8, as amended.

Committee amendment No. 8, as amended, was agreed to.

Mr. KASTEN. Mr. President, I move to reconsider the vote by which the amendment, as amended, was agreed to.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. KASTEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BUMPERS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUMPERS. Mr. President, I see the chairman of the Defense Appropriations subcommittee on the floor now. Apparently, we are not ready to start on the bill, and I would like to relieve myself of some feeling about a part of this bill. Since no amendment is being offered, it is going to impinge on the time.

Does the distinguished floor manager have an objection to that?

I am being nice. I do not have to defer, even. I am just asking out of courtesy, because I have such great respect for the floor manager.

Mr. STEVENS. Mr. President, I have great respect for the Senator from Arkansas. I am constrained to say if the Senator wants to relieve himself of the matters that are on his mind, perhaps he should do so.

STAR WARS

Mr. BUMPERS. Mr. President, I had originally intended to offer an amendment that would cut $140 million off the strategic defense initiative, popularly known as "Star Wars." I was going to ask that the $140 million be transferred over to a couple of readiness items where I personally felt it would do a lot more good. But I am

not going to offer the amendment. There is $1.6 billion in the budget, in this bill, for "Star Wars" research and development, and there is $1.1 billion in the House bill. So the conferees will be conferring between $1.6 billion and $1.1 billion, and my taking $140 million off our bill would not change the complexity of the problem. So I agreed, along with my chief cosponsor [Mr. PROXMIRE] not to offer the amendment.

But I want to serve notice, Mr. President, that I have very strong feelings about how we should proceed with not only the research and development but also the possible ultimate deployment of antiballistic missile weapons in space.

I want to say that I obviously am not going to be nearly as charitable next year, when the 1986 appropriation is on the floor, as I am now, because next year, there will be something like $4 billion in the bill for research and development on "Star Wars."

Mr. President, I just want to make these points for the record: No. 1, we have an Antiballistic Missile Treaty with the Soviet Union, and have since 1972. It is about the only thing we have left that is ratified by both sides that keeps the nuclear threshold, as dangerous as it is now, from getting worse.

Secretary Weinberger was asked 3 weeks ago on "Meet the Press" whether the strategic defense initiative would ultimately abrogate the Antiballistic Missile Treaty. His answer was loud and clear, "Yes, it will, but so be it."

That does not sound to me like an administration that is really serious and sincere about negotiating an end to this arms race and especially negotiating a treaty that will prohibit weapons in the only weapons-free area left on this planet, and that is in space.

This whole "Star Wars" thing makes certain assumptions: No. 1, that the Soviet Union is going to sit still and do nothing while we spend years on research and development and the deployment of antiballistic missile killers in space, whether particle beams or lasers.

No. 2, it assumes that it will protect population centers of this Earth, and there is nothing more dangerous to the political mentality of this country than for the people to believe that somehow or other they can be protected from the ultimate nuclear holocaust if it occurs. That is dangerous in the extreme.

No. 3, it assumes at best that if the system works according to its most ardent proponents, the most we can hope for is 90-percent efficiency.

And that translates, under the Soviet Union launching 10,000 warheads to this country, to only 1,000, only 1,000 getting through. And if they build more warheads, then more get through.

So that obviously presents this question: Who wants to live in the United States after those 1,000 warheads have landed?

What is the cost of this insanity? A minimum $25 billion for preliminary research; a minimum $500 billion to deploy, and what happens? Any of several things happen. No. 1, the Soviets begin building their own antiballistic missile system and, even though they may be behind us, ultimately they will catch up and deploy theirs. The question that we must address is: When we get ours in place and when they get theirs in place, and we have spent $1 trillion and they have spent $1 trillion, is the planet safer? Who is better off after $2 trillion has been spent to pollute space with all of this weaponry?

Second, the Soviet Union is going to take the position that the Union of Concerned Scientists, the Congressional Office of Technology Assessment, and many others say is a very plausible, feasible response and that is the Soviets are going to start building countermeasures to defeat our system.

Let me go back just a moment and point out that in the history of the arms race every time we make a technological advance, the Soviet Union makes a similar technological advance a short time later.

We built long-range bombers, they built them. We built ICBM's, they built them. We built MIRV'd missiles, they built MIRV'd missiles. We put missiles on submarines, they put missiles on submarines. We MIRV our missiles on submarines, they MIRV their missiles. We build cruise missiles, they build cruise missiles. That is the undisputed history of this arms race. Anybody, in the name of all that is good and holy, who believes that we are going to deploy an antiballistic missile system in space while the Soviets do nothing is a dreamer, and a naive dreamer at that.

The second thing they are going to do is start trying to build countermeasures on their missiles to defeat our system so that more than 1,000 warheads will get through. I am not a scientist and sometimes this jargon is very difficult to comprehend, but you do not have to be broke out with brilliance to understand what this is about. Read the current issue of Scientific American magazine for one of the most thorough, detailed analyses of what can and probably will happen.

Right now, if the Soviet Union launches one of their ICBM's, it takes that ICBM roughly 3 to 5 minutes to get into space. That is called the boost phase.

It is our calculation with our system that we will shoot their missiles down in the boost phase, the first 3 to 5 minutes. If you do not get it done then, you go into the second phase which is called the bus phase. And it is during the bus phase that the warheads separate from the missile, and head for individually separate targets. Take the SS-18, the biggest missile the Soviets have. They can put 10 warheads on that missile and they can add 100 decoys, balloons. In addition to that, they can include all kinds of chaff to defeat our system. So instead of looking at 10 warheads in the second phase of that missile's flight, you are looking at maybe 110 warheads, 10 of which are actual, 100 of which are decoys, plus the chaff. But if you are going to try to shoot them down during the boost phase, that means the President of the United States has 3 to 5 minutes—not 30 minutes, 3 to 5 minutes—to make a decision.

But let me tell you the second part of this. Not only does this reduce the President's decisionmaking time to 3 to 5 minutes instead of the 30 minutes that everybody thinks, there is not any question that in the next few years the Soviet Union, if they choose to try to defeat the system which they will, can cut the boost phase time on their missiles down to just 90 seconds.

The question that presents itself is: Is the world safer when the President, instead of having 3 to 5 minutes, has just 90 seconds to decide?

Third, they can thicken the skins of their missiles to the point that the amount of power that will be needed to generate the lasers to destroy these missiles will require somewhere between the equivalent of more than 300,000 megawatt plants, or more than 60 percent of all the electrical generating capacity in the United States. Do you know what a 1,000-megawatt plant is? A 1,000-megawatt plant today in nuclear power is roughly the equivalent of $1.5 billion to $2 billion, if not more. Can you feature the United States building that many 1,000-megawatt plants? We only have one plant in my State, only one that will produce 1,000 megawatts of power, and we are talking about the equivalent of more than 300 plants just to furnish the power for this one system.

Finally, the Soviets may decide something else. They may decide that the system the United States is about to deploy may work; that it is a calculated risk on their part to allow us to deploy this antiballistic missile system, which certainly can also be used as an antisatellite killer. They may decide the best thing they could do would be to get the show on the road before it is deployed. I do not believe that will happen. God knows, I pray that will not happen. But I am just stating what the possibilities are, and I am just giving a little history lesson in arms race.

I would not vote for a President who has no sense of history. I would not vote for a President who did not have

a sense of humor, and I would not vote for one who I did not think knew a little bit about history. It is the most dangerous thing in the world to have a man sitting in the White House who does not know what has happened in the history of this country, in the history of this planet.

I stand here today raising my voice, as I always do on this issue, because I think it is so serious. It cannot be overstated. The danger of what we are about to undertake here, left unconstrained, is beyond human comprehension.

I want the President to do his very best to negotiate some kind of ban with the Soviet Union on weapons in space. I know it takes two.

If you do not even slow down the number of warheads that are being built today, which is about three per day on each side, then I might present another question: Who in this body thinks the world is safer today, with six new warheads being added to the two arsenals every day?

It is like the story of crying, "Wolf!" Sometimes my wife, who is actively involved in trying to bring some sanity to the arms race, becomes discouraged—I guess like everybody else does who is involved in anything.

I tell her some mornings: "You ought to get up every day and say, 'We won. We didn't have a nuclear war yesterday, so my organization is doing a good job.'"

It is difficult to get the attention of people on anything for a prolonged period of time. It is like crying, "Wolf!" You cannot keep getting the attention of people. It is impossible for the human personality, the human mentality, to relate to the fact that every second of the day we face the possibility of this planet being destroyed. I cannot do it. Nobody can, and nobody should. Life would not be worth living if we were that engrossed and that absorbed in this.

After the Civil War was over and 350,000 men, North and South, were dead and buried, Robert E. Lee, who did not want the Civil War, who did not want his own State of Virginia to secede, who thought it was foolish for the South to secede, said, "I cannot do anything except fight for my homeland." When it was all over, 350,000 men were dead; and he said that the war could have been avoided. It should never have been fought. There were enough men of good will on both sides who could have resolved the question of slavery, but they did not and they could not, because the politicians continued to feed the hostilities, the bigotry, and the irrational thought that existed in this country.

Instead of trying to compromise and bring reasonable people together to avoid that conflict, they fed it night and day, until the point came where it was irreversible and impossible to stop. So a needless war was fought.

Believe you me, I know a lot about the history of that, because when I was growing up, we were still on the ragged edge of the end of reconstruction.

As Harry Truman said in his book "Plain Speaking," the Civil War was fought because we had, counting William Henry Harrison, five successive weak Presidents. Harry Truman said he never really feared strong Presidents because they understood history. He feared weak Presidents.

Four successive Presidents before the Civil War found it to their political advantage, found it politically pragmatic, to feed that irrational thought, feed the anticompromise sentiments, feed the hostilities over the racial issue, until war became inevitable.

I know not how long I may serve in this body, but I am going to continue to hammer away on this subject as long as I am here, because I am not going to be confronted with historians saying to me that something could have been avoided, except for 98 men and 2 women dealing in political pragmatism and refusing to face up to what should have been as clear as the nose on their face.

Mr. President, I alluded in my opening remarks to an article in Scientific American, the October 1984 edition, entitled "Space-Based Ballistic-Missile Defense," by four very prominent scientists. I ask unanimous consent to have the article printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From The Scientific American, October 1984]

SPACE-BASED BALLISTIC-MISSILE DEFENSE

(By Hans A. Bethe, Richard L. Garwin, Kurt Gottfried and Henry W. Kendall)

For two decades both the U.S. and the U.S.S.R. have been vulnerable to a devastating nuclear attack, inflicted by one side on the other in the form of either a first strike or a retaliatory second strike. This situation did not come about as the result of careful military planning. "Mutual assured destruction" is not a policy or a doctrine but rather a fact of life. It simply descended like a medieval plague—a seemingly inevitable consequence of the enormous destructive power of nuclear weapons, of rockets that could hurl them across almost half of the globe in 30 minutes and of the impotence of political institutions in the face of such momentous technological innovations.

This grim development holds different lessons for different people. Virtually everyone agrees that the world must eventually escape from the shadow of mutual assured destruction, since few are confident that deterrence by threat of retaliation can avert a holocaust indefinitely. Beyond this point, however, the consensus dissolves. Powerful groups in the governments of both superpowers apparently believe that unremitting competition, albeit short of war, is the only realistic future one can plan for. In the face of much evidence to the contrary they act as if the aggressive exploitation for military purposes of anything technology has to offer is critical to the security of the nation they serve. Others seek partial measures that could at least curb the arms race, arguing that this approach has usually been sidetracked by short-term (and shortsighted) military and political goals. Still others have placed varying degrees of faith in radical solutions: novel political moves, revolutionary technological advances of some combination of the two.

President Reagan's Strategic Defense Initiative belongs in this last category. In his televised speech last year calling on the nation's scientific community "to give us the means of rendering these nuclear weapons impotent and obsolete" the president expressed the hope that a technological revolution would enable the U.S. to "intercept and destroy strategic ballistic missiles before they reach our own soil or that of our allies." If such a breakthrough could be achieved, he said, "free people could live secure in the knowledge that their security did not rest upon the threat of instant U.S. retaliation."

Can this vision of the future ever become reality? Can any system for ballistic-missile defense eliminate the threat of nuclear annihilation? Would the quest for such a defense put an end to the strategic-arms race, as the president and his supporters have suggested, or is it more likely to accelerate that race? Does the president's program hold the promise of a secure and peaceful world or is it perhaps the most grandiose manifestation of the illusion that science can re-create the world that disappeared when the first nuclear bomb was exploded in 1945?

These are complex questions, with intertwined technical and political strands. They must be examined carefully before the U.S. commits itself to the quest for such a defense, because if the president's dream is to be pursued, space will become a potential field of confrontation and battle. It is partly for this reason the Strategic Defense Initiative is commonly known as the "Star Wars" program.

This article, which is based on a forthcoming book by a group of us associated with the Union for Concerned Scientists, focuses on the technical aspects of the issue of space-based ballistic-missile defense. Our discussion of the political implications of the president's Strategic Defense Initiative will draw on the work of two of our colleagues, Peter A. Clausen of the Union for Concerned Scientists and Richard Ned Lebow of Cornell University.

The search for a defense against nuclear-armed ballistic missiles began three decades ago. In the 1960's both superpowers developed anti-ballistic-missile (ABM) systems based on the use of interceptor missiles armed with nuclear warheads. In 1968 the U.S.S.R. began to operate an ABM system around Moscow based on the Galosh interceptor, and in 1974 the U.S. completed a similar system to protect Minuteman missiles near Grand Forks Air Force Base in North Dakota. (The U.S. system was dismantled in 1975.)

Although these early efforts did not provide an effective defense against a major nuclear attack, they did stimulate two developments that have been dominant features of the strategic landscape ever since: the ABM Treaty of 1972 and the subsequent deployment of multiple independently targetable reentry vehicles (MIRV's), first by the U.S. and later by the U.S.S.R.

In the late 1960's a number of scientists who had been involved in investigating the possibility of ballistic-missile defense in their capacity as high-level advisers to the U.S. Government took the unusual step of airing their criticism of the proposed ABM systems both in congressional testimony and in the press [see "Anti-Ballistic-Missile Systems," by Richard L. Garwin and Hans A. Bethe; SCIENTIFIC AMERICAN, March, 1968]. Many scientists participated in the ensuing debate, and eventually a consensus emerged in the scientific community regarding the flaws in the proposed systems.

The scientists' case rested on a technical assessment and a strategic prognosis. On the technical side they pointed out that the systems then under consideration were inherently vulnerable to deception by various countermeasures and to preemptive attack on their exposed components, particularly their radars. On the strategic side the scientists argued that the U.S.S.R. could add enough missiles to its attacking force to ensure penetration of any such defense. These arguments eventually carried the day, and they are still germane. They were the basis for the ABM Treaty, which was signed by President Nixon and General Secretary Brezhnev in Moscow in May, 1972. The ABM Treaty formally recognized that not only the deployment but also the development of such defensive systems would have to be strictly controlled if the race in offensive missiles was to be contained.

MIRV's were originally conceived as the ideal countermeasure to ballistic-missile defense, and in a logical world they would have been abandoned with the signing of the ABM Treaty. Nevertheless, the U.S. did not try to negotiate a ban on MIRV's. Instead it led the way to their deployment in spite of repeated warnings by scientific advisers and the Arms Control and Disarmament Agency to senior Government officials that MIRV's would undermine the strategic balance and ultimately be to the advantage of the U.S.S.R. because of its larger ICBM's. The massive increase in the number of nuclear warheads in both strategic arsenals during the 1970's is largely attributable to the introduction of MIRV's. The result, almost everyone now agrees, is a more precarious strategic balance.

The President's Strategic Defense Initiative is much more ambitious than the ABM proposals of the 1960's. To protect an entire society a nationwide defense of "soft" targets such as cities would be necessary; in contrast, the last previous U.S. ABM plan—the Safeguard system proposed by the Nixon Administration in 1969—was intended to provide only a "point" defense of "hard" targets such as missile silos and command bunkers. The latter mission could be accompanied by a quite permeable terminal-defense system that intercepted warheads very close to their targets, since a formidable retaliatory capability would remain even if most of the missile silos were destroyed. A large metropolitan area, on the other hand, could be devastated by a handful of weapons detonated at high altitude; if necessary, the warheads could be designed to explode on interception.

To be useful a nationwide defense would have to intercept and eliminate virtually all the 10,000 or so nuclear warheads that each side is currently capable of committing to a major strategic attack. For a city attack it could not wait until the atmosphere allowed the defense to discriminate between warheads and decoys. Such a high rate of attrition would be conceivable only if there were several layers of defense, each of which could reliably intercept a large percentage of the attacking force. In particular, the first defensive layer would have to destroy most of the attacking warheads soon after they left their silos or submerged submarines, while the booster rockets were still firing. Accordingly boost-phase interception would be an indispensable part of any defense of the nation as a whole.

Booster rockets rising through the atmosphere thousands of miles from U.S. territory could be attacked only from space. That is why the Strategic Defense Initiative is regarded primarily as a space-weapons program. If the president's plan is actually pursued, it will mark a turning point in the arms race perhaps as significant as the introduction of ICBM's.

Several quite different outcomes of the introduction of space weapons have been envisioned. One view (apparently widely held in the Reagan Administration) has been expressed most succinctly by Robert S. Cooper, director of the Defense Advanced Research Projects Agency. Testifying last year before the Armed Services Committee of the House of Representatives, Cooper declared: "The policy for the first time recognizes the need to control space as a military environment." Indeed, given the intrinsic vulnerability of space-based systems, the domination of space by the U.S. would be a prerequisite to a reliable ballistic-missile defense of the entire nation. For that reason, among others, the current policy also calls for the acquisition by the U.S. of antisatellite weapons [see "Antisatellite Weapons," by Richard L. Garwin, Kurt Gottfried and Donald L. Hafner; Scientific American, June].

The notion that the U.S. could establish and maintain supremacy in space ignores a key lesson of the post-Hiroshima era: a technological breakthrough of even the most dramatic and unexpected nature can provide only a temporary advantage. Indeed, the only outcome one can reasonably expect is that both superpowers would eventually develop space-based ballistic-missile-defense systems. The effectiveness of these systems would be uncertain and would make the strategic balance more precarious than it is today. Both sides will have expanded their offensive forces to guarantee full confidence in their ability to penetrate defenses of unknown reliability, and the incentive to cut one's own losses by striking first in a crisis will be even greater than it is now. Whether or not weapons deployed in space could ever provide a reliable defense against ballistic missiles, they would be potent antisatellite weapons. As such they could be used to promptly destroy an opponent's early-warning and communications satellites, thereby creating a need for critical decisions at a tempo ill suited to the speed of human judgment.

Our analysis of the prospects for a space-based defensive system against ballistic-missile attack will focus on the problem of boost-phase interception. It is not only an indispensable part of the currently proposed systems but also what distinguishes the current concept from all previous ABM plans. On the basis of our technical analysis and our assessment of the most likely response of the U.S.S.R. we conclude that the pursuit of the president's program would inevitably stimulate a large increase in the Russian strategic offensive forces, further reduce the chances of controlling events in a crisis and possibly provoke the nuclear attack it was designed to prevent. In addition, the reliability of the proposed defense would remain a mystery until the fateful moment at which it was attacked.

Before assessing the task of any defense one must first examine the likely nature of the attack. In this case we shall concentrate on the technical and military attributes of the land-based ICBM and on how a large number of such missiles could be used in combination to mount a major strategic attack.

The flight of an ICBM begins when the silo door opens and hot gases eject the missile. The first-stage booster then ignites. After exhausting its fuel the first stage falls away as the second stage takes over; this sequence is usually repeated at least one more time. The journey from the launch point to where the main rockets stop burning is the boost phase. For the present generation of ICBM's the boost phase lasts for three to five minutes and ends at an altitude of 300 to 400 kilometers, above the atmosphere.

A typical ICBM in the strategic arsenal of the U.S. or the U.S.S.R. is equipped with MIRV's, which are dispensed by a maneuverable carrier vehicle called a bus after the boost phase ends. The bus releases the MIRV's one at a time along slightly different trajectories toward their separate targets. If there were defenses, the bus could also release a variety of penetration aids, such as lightweight decoys, reentry vehicles camouflaged to resemble decoys, radar-reflecting wires called chaff and infrared-emitting aerosols. Once the bus had completed its task the missile would be in midcourse. At that point the ICBM would have proliferated into a swarm of objects, each of which, no matter how light, would move along a ballistic trajectory indistinguishable from those of its accompanying objects. Only after the swarm reentered the atmosphere would the heavy, specially shaped reentry vehicles be exposed as friction with the air tore away the screen of lightweight decoys and chaff.

This brief account reveals why boost-phase interception would be crucial: every missile that survived boost phase would become a complex "threat cloud" by the time it reached midcourse. Other factors also amplify the importance of boost-phase interception. For one thing, the booster rocket is a much larger and more fragile target than the individual reentry vehicles are. For another, its flame is an abundant source of infrared radiation, enabling the defense to get an accurate fix on the missile. It is only during boost phase that a missile reveals itself by emitting an intense signal that can be detected at a large distance. In midcourse it must first be found by illuminating it with microwaves (or possibly laser light) and then sensing the reflected radiation, or by observing its weak infrared signal, which is due mostly to reflection of the earth's infrared radiation.

Because a nationwide defense must be capable of withstanding any kind of strategic attack, the exact nature of the existing offensive forces is immaterial to the evaluation of the defense. At present a full-scale attack by the U.S.S.R. on the U.S. could involve as many as 1,400 land-based ICBM's. The attack might well begin with submarine-launched ballistic missiles (SLBM's), since their unpredictable launch points and short flight times (10 minutes or less) would lend the attack an element of surprise that would be critical if the national leadership and the ground-based bomber force were high-priority targets.

SLBM's would be harder to intercept than ICBM's, which spend 30 minutes or so on trajectories whose launch points are precisely known. Moreover, a space-based defense system would be unable to intercept ground-hugging cruise missiles, which can deliver nuclear warheads to distant targets with an accuracy that is independent of range. Both superpowers are developing sea-launched cruise missiles, and these weapons are certain to become a major part of their strategic forces once space-based ballistic-missile-defense systems appear on the horizon.

The boost-phase layer of the defense would require many components that are not weapons in themselves. They would provide early warnings of an attack by sensing the boosters' exhaust plumes; ascertain the precise number of the attacking missiles and, if possible, their identities; determine the trajectories of the missiles and get a fix on them; assign, aim and fire the defensive weapons; assess whether or not interception was successful, and, if time allowed, fire additional rounds. This intricate sequence of operations would have to be automated, because the total duration of the boost phase, now a few minutes, is likely to be less than 100 seconds by the time the proposed defensive systems are ready for deployment.

If a sizeable fraction of the missiles were to survive boost-phase interception, the mid-course defensive layer would have to deal with a threat cloud consisting of hundreds of thousands of objects. For example, each bus could dispense as many as 100 empty aluminized Mylar balloons weighing only 100 grams each. The bus would dispense reentry vehicles (and possibly some decoy reentry vehicles of moderate weight) enclosed in identical balloons. The balloons and the decoys would have the same optical and microwave "signature" as the camouflaged warheads, and therefore the defensive system's sensors would not be able to distinguish between them. The defense would have to disturb the threat cloud in some way in order to find the heavy reentry vehicles, perhaps by detonating a nuclear explosive in the path of the cloud. To counteract such a measure, however, the reentry vehicles could be designed to release more balloons. Alternatively, the mid-course defense could be designed to target everything in the threat cloud, a prodigious task that might be beyond the supercomputers expected a decade from now. In short, the midcourse defense would be overwhelmed unless the attacking force was drastically thinned out in the boost phase.

Because the boosters would have to be attacked while they could not yet be seen from any point on the earth's surface accessible to the defense, the defensive system would have to initiate boost-phase interception from a point in space, at a range measured in thousands of kilometers. Two types of "directed energy" weapon are currently under investigation for this purpose: one type based on the use of laser beams, which travel at the speed of light (300,000 kilometers per second), and the other based on the use of particle beams, which are almost as fast. Nonexplosive projectiles that home on the booster's infrared signal have also been proposed.

There are two alternatives for basing such weapons in space. They could be in orbit all the time or they could be "popped up" at the time of the attack. There are complementary advantages and disadvantages to each approach. With enough weapons in orbit some would be "on station" whenever they were needed, and they could provide global coverage, on the other hand, they would be inefficient because of the number of weapons that would have to be actively deployed, and they would be extremely vulnerable. Pop-up weapons would be more efficient and less vulnerable, but they would suffer from formidable time constraints and would offer poor protection against a widely dispersed fleet of strategic submarines.

Pop-up interceptors of ICBM's would have to be launched from submarines, since the only accessible points close enough to the Russian ICBM silos are in the Arabian Sea and the Norwegian Sea, at a distance of more than 4,000 kilometers. An interceptor of this type would have to travel at least 940 kilometers before it could "see" an ICBM just burning out at an altitude of 200 kilometers. If the interceptor were lofted by an ideal instant-burn booster with a total weight-to-payload ratio of 14 to one, it could reach the target-sighting point in about 120 seconds. For comparison, the boost phase of the new U.S. MX missile (which has a weight-to-payload ratio of 25 to one) is between 150 and 180 seconds. In principle, therefore, it should just barely be possible by this method to intercept a Russian missile comparable to the MX, provided the interception technique employed a beam that moves at the speed of light. On the other hand, it would be impossible to intercept a large number of missiles, since many silos would be more than 4,000 kilometers away, submarines cannot launch all their missiles simultaneously and 30 seconds would leave virtually no time for the complex sequence of operations the battle-management system would have to perform.

A report prepared for the Fletcher panel, the study team set up last year by the Department of Defense under the chairmanship of James C. Fletcher of the University of Pittsburgh to evaluate the Strategic Defense Initiative for the president, bears on this question. According to the report, it is possible to build ICBM's that could complete the boost phase and disperse their MIRV's in only 60 seconds, at a sacrifice of no more than 20 percent of payload. Even with zero decision time a hypothetical instant-burn rocket that could pop up an interceptor system in time for a speed-of-light attack on such an ICBM would need an impossible weight-to-payload ratio in excess of 800 to one! Accordingly all pop-up interception schemes, no matter what kind of anti-missile weapon they employ, depend on the assumption that the U.S.S.R. will not build ICBM's with a boost phase so short that no pop-up system could view the burning booster.

The time constraint faced by pop-up schemes could be avoided by putting at least some parts of the system into orbit. An anti-missile satellite in a low orbit would have the advantage of having the weapon close to its targets, but it would suffer from the "absentee" handicap: because of its own orbital motion, combined with the earth's rotation, the ground track of such a satellite would pass close to a fixed point on the earth's surface only twice a day. Hence for every low-orbit weapon that was within range of the ICBM silos many others would be "absentees": they would be below the horizon and unable to take part in the defense. This unavoidable replication would depend on the range of the defensive weapon, the altitude and inclination of its orbit and the distribution of the enemy silos.

The absentee problem could be solved by mounting at least some components of the defensive system on a geosynchronous satellite, which remains at an altitude of some 36,000 kilometers above a fixed point on the Equator, or approximately 39,000 kilometers from the Russian ICBM fields. Whichever weapon were used, however, this enormous range would make it virtually impossible to exploit the radiation from the booster's flame to accurately fix an aim point on the target. The resolution of any optical instrument, whether it is an observing telescope or a beam-focusing mirror, is limited by the phenomenon of diffraction. The smallest spot on which a mirror can focus a beam has a diameter that depends on the wavelength of the radiation, the aperture of the instrument and the distance to the spot. For infrared radiation from the booster's flame the wavelength would typically be one micrometer, so that targeting on a spot 50 centimeters across at a range of 39,000 kilometers would require a precisely shaped mirror 100 meters across—roughly the length of a football field. (For comparison, the largest telescope mirrors in the world today are on the order of five meters in diameter.)

The feasibility of orbiting a high-quality optical instrument of this stupendous size seems remote. The wavelengths used must be shortened, or the viewing must be reduced, or both. Accordingly it has been suggested that a geosynchronous defensive system might be augmented by other optical elements deployed in low orbits.

One such scheme that has been proposed calls for an array of ground-based excimer lasers designed to work in conjunction with orbiting optical elements. The excimer laser incorporates a pulsed electron beam to excite a mixture of gases such as xenon and chlorine into a metastable molecular state, which spontaneously reverts to the molecular ground state; the latter in turn immediately dissociates into two atoms, emitting the excess energy in the form of ultraviolet radiation at a wavelength of .3 micrometer.

Each ground-based excimer laser would send its beam to a geosynchronous mirror with a diameter of five meters, and the geosynchronous mirror would in turn reflect the beam toward an appropriate "fighting mirror" in low orbit. The fighting mirror would then redirect and concentrate the beam onto the rising booster rockets, depending on an accompanying infrared telescope to get an accurate fix on the boosters.

The main advantage of this scheme is that the intricate and heavy lasers, together with their substantial power supplies, would be on the ground rather than in orbit. The beam of any ground-based laser, however, would be greatly disturbed in an unpredictable way by ever present fluctuations in the density of the atmosphere, causing the beam to diverge and lose its effectiveness as a weapon. One of us (Garwin) has described a technique to compensate for these disturbances, making it possible, at least in principle, to intercept boosters by this scheme.

Assuming that such a system could be made to work perfectly, its power requirement can be estimated. Such an exercise is illuminating because it gives an impression of the staggering total cost of the system. Again information from the Fletcher panel provides the basis for our estimate. Apparently the "skin" of a booster can be "hardened" to withstand an energy deposition of 200 megajoules per square meter, which is roughly what is required to evaporate a layer of carbon three millimeters thick. With the aid of a geosynchronous mirror five meters in diameter and a fighting and viewing miror of the same size, the beam of

the excimer laser described above would easily be able to make a spot one meter across on the skin of a booster at a range of 3,000 kilometers from the fighting mirror; the resulting lethal dose would be about 160 megajoules.

A successful defense against an attack by the 1,400 ICBM's in the current Russian force would require a total energy deposition of 225,000 megajoules. (A factor of about 10 is necessary to compensate for atmospheric absorption, reflection losses at the mirrors and overcast skies.) If the time available for interception were 100 seconds and the lasers had an electrical efficiency of 6 percent, the power requirement would be more than the output of 300 1,000-megawatt power plants, or more than 60 percent of the current electrical generating capacity of the entire U.S. Moreover, this energy could not be extracted instantaneously from the national power grid, and it could not be stored by any known technology for instantaneous discharge. Special power plants would have to be built; even though they would need to operate only for minutes, an investment of $300 per kilowatt is a reasonable estimate, and so the outlay for the power supply alone would exceed $100 billion.

This partial cost estimate is highly optimistic. It assumes that all the boosters could be destroyed on the first shot, that the Russians would not have shortened the boost phase of their ICBM's, enlarged their total strategic-missile force or installed enough countermeasures to degrade the defense significantly by the time this particular defensive system was ready for deployment at the end of the century. Of course the cost of the entire system of lasers, mirrors, sensors and computers would far exceed the cost of the power plant, but at this stage virtually all the required technologies are too immature to allow a fair estimate of their cost.

The exact number of mirrors in the excimer scheme depends on the intensity of the laser beams. For example, if the lasers could deliver a lethal dose of heat in just five seconds, one low-orbit fighting mirror could destroy 20 boosters in the assumed time of 100 seconds. It follows that 70 mirrors would have to be within range of the Russian silos to handle the entire attack, and each mirror would need to have a corresponding mirror in a geosynchronous orbit. If the distance at which a fighting mirror could focus a small enough spot of light was on the order of 3,000 kilometers, there would have to be about six mirrors in orbit elsewhere for every one "on station" at the time of the attack, for a total of about 400 fighting mirrors. This allowance for absenteeism is also optimistic, in that it assumes the time needed for targeting would be negligible, there would be no misses, the Russian countermeasures would be ineffective and excimer lasers far beyond the present state of the art could be built.

The second boost-phase interception scheme we shall consider is a pop-up system based on the X-ray laser, the only known device light enough to be a candidate for this role. As explained above, shortening the boost phase of the attacking missiles would negate any pop-up scheme. In this case a shortened boost phase would be doubly crippling, since the booster would stop burning within the atmosphere, where X rays cannot penetrate. Nevertheless, the X-ray laser has generated a good deal of interest, and we shall consider it here even though it would be feasible only if the Russians were to refrain from adapting their ICBM's to thwart this threat.

The X-ray laser consists of a cylindrical array of thin fibers surrounding a nuclear explosive. The thermal X rays generated by the nuclear explosion stimulate the emission of X-radiation from the atoms in the fibers. The light produced by an ordinary optical laser can be highly collimated, or directed, because it is reflected back and forth many times between the mirrors at the ends of the laser. An intense X-ray beam, however, cannot be reflected in this way, and so the proposed X-ray laser would emit a rather divergent beam; for example, at a distance of 4,000 kilometers it would make a spot about 200 meters across.

The U.S. research program on X-ray lasers is highly classified. According to a Russian technical publication, however, such a device can be expected to operate at an energy of about 1,000 electron volts. Such a "soft" X-ray pulse would be absorbed in the outermost fraction of a micrometer of a booster's skin, "blowing off" a thin surface layer. This would have two effects. First, the booster as a whole would recoil. The inertial-guidance system would presumably sense the blow, however, and it could still direct the warheads to their targets. Second, the skin would be subjected to an abrupt pressure wave that, in a careless design, could cause the skin to shear at its supports and damage the booster's interior. A crushable layer installed under the skin could prolong and weaken the pressure wave, however, thereby protecting both the skin and its contents.

Other interception schemes proposed for ballistic-missile defense include chemical-laser weapons, neutral-particle-beam weapons and nonexplosive homing vehicles, all of which would have to be stationed in low orbits.

The brightest laser beam attained so far is an infrared beam produced by a chemical laser that utilizes hydrogen fluoride. The U.S. Department of Defense plans to demonstrate a two-megawatt version of this laser by 1987. Assuming that 25-megawatt hydrogen-fluoride lasers and optically perfect 10-meter mirrors eventually become available, a weapon with a "kill radius" of 3,000 kilometers would be at hand. A total of 300 such lasers in low orbits could destroy 1,400 ICBM boosters in the absence of countermeasures if every component worked to its theoretical limit.

A particle-beam weapon could fire a stream of energetic charged particles, such as protons, that could penetrate deep into a missile and disrupt the semiconductors in its guidance system. A charged-particle beam, however, would be bent by the earth's magnetic field and therefore could not be aimed accurately at distant targets. Hence any plausible particle-beam weapon would have to produce a neutral beam, perhaps one consisting of hydrogen atoms (protons paired with oppositely charged electrons). This could be done, although aiming the beam would still present formidable problems. Interception would be possible only above the atmosphere at an altitude of 150 kilometers or more, since collisions with air molecules would disintegrate the atoms and the geomagnetic field would then fan out the beam. Futhermore, by using gallium arsenide semiconductors, which are about 1,000 times more resistant to radiation damage than silicon semiconductors, it would be possible to protect the missile's guidance computer from such a weapon.

Projectiles that home on the booster's flame are also under discussion. They have the advantage that impact would virtually guatantee destruction, whereas a beam weapon would have to dwell on the fast-moving booster for some time. Homing weapons, however, have two drawbacks that preclude their use as boost-phase interceptors. First, they move at less than .01 percent of the speed of light, and therefore they would have to be deployed in uneconomically large numbers. Second, a booster that burned out within the atmosphere would be immune to them, since friction with the air would blind their homing sensors.

That such a homing vehicle can indeed destroy an object in space was demonstrated by the U.S. Army in its current Homing Overlay test series. On June 10 a projectile launched from Kwajalein Atoll in the Pacific intercepted as a dummy Minuteman warhead at an altitude of more than 100 miles. The interceptor relied on a homing technique similar to that of the Air Force's aircraft-launched antisatellite weapon. The debris from the collision was scattered over many tens of kilometers and was photographed by tracking telescopes. The photographs show, among other things, the difficulty of evading a treaty that banned tests of weapons in space.

In an actual ballistic-missile-defense system such an interceptor might have a role in midcourse defense. It would have to be guided to a disguised reentry vehicle hidden in a swarm of decoys and other objects designed to confuse its infrared sensors. The potential of this technique for midcourse interception remains to be demonstrated, whereas its potential for boost-phase interception is questionable in view of the considerations mentioned above. On the other hand, a satellite is a larger and more fragile target than a reentry vehicle, and so the recent test shows the U.S. has a low-altitude antisatellite capability at least equivalent to the U.S.S.R.'s.

The importance of countermeasures in any consideration of ballistic-missile defense was emphasized recently by Richard D. DeLauer, Under Secretary of Defense for Research and Engineering. Testifying on this subject before the House Armed Services Committee, DeLauer stated that "any defensive system can be overcome with proliferation and decoys, decoys, decoys, decoys."

One extremely potent countermeasure has already been mentioned, namely that shortening the boost phase of the offensive missiles would nullify any boost-phase interception scheme based on X-ray lasers, neutral-particle beams or homing vehicles. Many other potent countermeasures that exploit existing technologies can also be envisioned. All of them rely on generic weaknesses of the defense. Among these weaknesses four stand out: (1) Unless the defensive weapons were cheaper than the offensive ones, any defense could simply be overwhelmed by a missile buildup; (2) the defense would have to attack every object that behaves like a booster; (3) any space-based defensive component would be far more vulnerable than the ICBM's it was designed to destroy; (4) since the booster, not the flame, would be the target, schemes based on infrared detection could be easily deceived.

Countermeasures can be divided into three categories: those that are threatening, in the sense of manifestly increasing the risk to the nation deploying the defensive system; those that are active, in the sense of attacking the defensive system itself, and those that are passive, in the sense of frustrating the system's weapons. These distinc-

tions are politically and psychologically significant.

The most threatening response to a ballistic-missile-defense system is also the cheapest and surest: a massive buildup of real and fake ICBM'S. The deployment of such a defensive system would violate the ABM Treaty, almost certainly resulting in the removal of all negotiated constraints on offensive missiles. Therefore many new missile silos could be constructed. Most of them could be comparatively inexpensive fakes arrayed in clusters about 1,000 kilometers across to exacerbate the satellites' absentee problem. The fake silos could house decoy ICBM'S—boosters without expensive warheads or guidance packages—that would be indistinguishable from real ICBM's during boost phase. An attack could begin with a large proportion of decoys and shift to real ICBM's, as the defense exhausted its weapons.

All space systems would be highly vulnerable to active countermeasures. Few targets could be more fragile than a large, exquisitely made mirror whose performance would be ruined by the slightest disturbance. If an adversary were to put a satellite into the same orbit as that of the antimissile weapon but moving in the opposite direction, the relative velocity of the two objects would be about 16 kilometers per second, which is eight times faster than that of a modern armor piercing antitank projectile. If the satellite were to release a swarm of one-ounce pellets, each pellet could penetrate 15 centimeters of steel (and much farther if it were suitably shaped). Neither side could afford to launch antimissile satellites strong enough to withstand such projectiles. Furthermore, a large number of defensive satellites in low or geosynchronous orbits could be attacked simultaneously by "space mines": satellites parked in orbit near their potential victims and set to explode by remote control or when tampered with.

Passive countermeasures could be used to hinder targeting or to protect the booster. The actual target would be several meters above the flame, and the defensive weapon would have to determine the correct aim point by means of an algorithm stored in its computer. The aim point could not be allowed to drift by more than a fraction of a meter, because the beam weapon would have to dwell on one spot for at least several seconds as the booster moved several tens of kilometers. Aiming could therefore be impeded if the booster flame were made to fluctuate in an unpredictable way. This effect could be achieved by causing additives in the propellant to be emitted at random from different nozzles or by surrounding the booster with a hollow cylindrical "skirt" that could hide various fractions of the flame or even move up and down during boost phase.

Booster protection could take different forms. A highly reflective coating kept clean during boost phase by a strippable foil wrapping would greatly reduce the damaging effect of an incident laser beam. A hydraulic cooling system or a movable heat-absorbing ring could protect the attacked region at the command of heat sensors. Aside from shortening the boost phase the attacking nation could also equip each booster with a thin metallic sheet that could be unfurled at a high altitude to absorb and deflect an X-ray pulse.

Finally, as DeLauer has emphasized, all the proposed space weapons face formidable systemic problems. Realistic testing of the system as a whole is obviously impossible and would have to depend largely on computer simulation. According to DeLauer, the battle-management system would face a task of prodigious complexity that is "expected to stress software-development techology"; in addition it would have to "operate reliably even in the presence of disturbances caused by nuclear-weapons effects or direct-energy attack." The Fletcher panel's report states that the *"survivability of the system components is a critical issue whose resolution requires a combination of technologies and tactics that remain to be worked out."* Moreover, nuclear attacks need not be confined to the battle-management system. For example, airbursts from a precursor salvo of SLBM's could produce atmospheric disturbances that would cripple an entire defensive system that relied on the ground-based laser scheme.

Spokesmen for the Reagan Adminstration have stated that the Strategic Defense Initiative will produce a shift to a "defense-dominated" world. Unless the move toward ballistic-missile defense is coupled with deep cuts in both sides' offensive forces, however, there will be no such shift. Such a coupling would require one or both of the following conditions: a defensive technology that was so robust and cheap that countermeasures or an offensive buildup would be futile, or a political climate that would engender arms-control agreements of unprecedented scope. Unfortunately neither of these conditions is in sight.

What shape, then, is the future likely to take if attempts are made by the U.S. and the U.S.S.R. to implement a space-based system aimed at thwarting a nuclear attack? Several factors will have a significant impact. First, the new technologies will at best take many years to develop, and, as we have argued, they will remain vulnerable to known countermeasures. Second, both sides are currently engaged in "strategic modernization" programs that will further enhance their already awesome offensive forces. Third, in pursuing ballistic-missile defense both sides will greatly increase their currently modest antisatellite capabilities. Fourth, the ABM Treaty, which is already under attack, will fall by the wayside.

These factors, acting in concert, will accelerate the strategic-arms race and simultaneously diminish the stability of the deterrent balance in a crisis. Both superpowers have always been inordinately sensitive to real and perceived shifts in the strategic balance. A defense that could not fend off a full-scale strategic attack but might be quite effective against a weak retaliatory blow following an all-out preemptive strike would be particularly provocative. Indeed, the leaders of the U.S.S.R. have often stated that any U.S. move toward a comprehensive ballistic-missile-defense system would be viewed as an attempt to gain strategic superiority, and that no effort would be spared to prevent such an outcome. It would be foolhardy to ignore these statements.

The most likely Russian response to a U.S. decision to pursue the president's Strategic Defense Initiative should be expected to rely on traditional military "worst case" analysis; in this mode of reasoning one assigns a higher value to the other side's capabilities than an unbiased examination of the evidence would indicate, while correspondingly undervaluing one's own capabilities. In this instance the Russians will surely overestimate the effectiveness of the U.S. ballistic-missile defense and arm accordingly. Many near-term options would then be open to them. They could equip their large SS-18 ICBM's with protective countermeasures; they could introduce fast-burn boosters; they could deploy more of their current-model ICBM's and sea-launched cruise missiles. The latter developments would be perceived as unwarranted threats by U.S. military planners, who would be quite aware of the fragility of the nascent U.S. defensive system. A compensating U.S. buildup in offensive missiles would then be inevitable. Indeed, even if both sides bought identical defensive systems from a third party, conservative military analysis would guarantee an accelerated offensive-arms race.

Once one side began to deploy space-based antimissile beam weapons the level of risk would rise sharply. Even if the other side did not overrate the system's antimissile capability, it would properly view such a system as an immediate threat to its strategic satellites. A strategy of "launch on warning" might then seem unavoidable, and attempts might also be made to position space mines alongside the antimissile weapons. The last measure might in itself trigger a conflict since the antimissile system should be able to destroy a space mine at a considerable distance if it has any capability for its primary mission. In short, in a hostile political climate even a well-intentioned attempt to create a strategic defense could provoke war, just as the mobilizations of 1914 precipitated World War I.

Even if the space-based ballistic-missile defense did not have a cataclysmic birth, the successful deployment of such a defense would create a highly unstable strategic balance. It is dfficult to imagine a system more likely to induce catastrophe than one that requires critical decisions by the second, is itself untested and fragile and yet is threatening to the other side's retaliatory capability.

In the face of mounting criticism Administration spokesmen have in recent months offered less ambitious rationales for the Strategic Defense Initiative than the President's original formulation. One theme is that the program is just a research effort and that no decision to deploy will be made for many years. Military research programs are not normally announced from the Oval Office, however, and there is no precedent for a $26-billion, five-year military-research program without any commitment to deployment. A program of this magnitude, launched under such auspices, is likely to be treated as an essential military policy by the U.S.S.R. no matter how it is described in public.

Another more modest rationale of the strategic Defense Initiative is that it is intended to enhance nuclear deterrence. That role, however, would require only a terminal defense of hard targets, not weapons in space. Finally, it is contended that even an imperfect antimissile system would limit damage to the U.S.; the more likely consequence is exactly the opposite, since it would tend to focus the attack on cities, which could be destroyed even in the face of a highly proficient defense.

In a background report titled, *Directed Energy Missile Defense in Space* released earlier this year by the Congressional Office of Technology Assessment, the author, Ashton B. Carter of the Massachusetts Institute of Technology, a former Defense Department analyst with full access to classified data on such matters, concluded that "the prospect that emerging 'Star Wars' technologies, when further developed, will provide a perfect or near-perfect defense system . . . is so remote that it should not

serve as the basis of public expectation or national policy." Based on our assessment of the technical issues, we are in complete agreement with this conclusion.

In our view the questionable performance of the proposed defense, the ease with which it could be overwhelmed or circumvented and its potential as an antisatellite system would cause grievous damage to the security of the U.S. if the Strategic Defense Initiative were to be pursued. The path toward greater security lies in quite another direction. Although research on ballistic-missile defense should continue at the traditional level of expenditure and within the constraints of the ABM Treaty, every effort should be made to negotiate a bilateral ban on the testing and use of space weapons.

It is essential that such an agreement cover all altitudes, because a ban on high-altitude antisatellite weapons alone would not be viable if directed-energy weapons were developed for ballistic-missile defense. Once such weapons were tested against dummy boosters or reentry vehicles at low altitude, they would already have the capability of attacking geosynchronous satellites without testing at high altitude. The maximum energy density of any such beam in a vacuum is inversely proportional to the square of the distance. Once it is demonstrated that such a weapon can deliver a certain energy dose in one second at a range of 4,000 kilometers, it is established that the beam can deliver the same dose at a range of 36,000 kilometers in approximately 100 seconds. Since the beam could dwell on a satellite indefinitely, such a device could be a potent weapon against satellites in geosynchronous orbits even if it failed in its ballistic-missile-defense mode.

As mentioned above, the U.S. interception of a Minuteman warhead over the Pacific shows that both sides now have a ground-based antisatellite weapon of roughly equal capability. Hence there is no longer an asymetry in such antisatellite weapons. Only a lack of political foresight and determination blocks the path to agreement. Such a pact would not permanently close the door on a defense-dominated future. If unforseen technological developments were to take place in a receptive international political climate in which they could be exploited to provide greater security than the current condition of deterrence by threat of retaliation provides, the renegotiation of existing treaties could be readily achieved.

Mr. BUMPERS. Mr. President, I wish to read an excerpt from an office of Technology Assessment study. I am not going to offer this for the RECORD. I just want to read an excerpt from this OTA study in considering this whole Star Wars concept:

1. The prospect that emerging "Star Wars" technologies, when further developed, will provide a perfect or near-perfect defense system, literally removing from the hands of the Soviet Union the ability to do socially mortal damage to the United States with nuclear weapons, is so remote that it should not serve as the basis of public expectation or national policy about ballistic missile defense (BMD).

Mr. INOUYE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER [Mr. DANFORTH]. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. GOLDWATER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE AMENDMENT NO. 9 (RELATING TO DEFENSE APPROPRIATIONS)

AMENDMENT NO. 6927

Mr. WARNER. Mr. President, it is the understanding of the Senator from Virginia that the pending matter is amendment No. 6927 being offered by the Senator from Virginia.

The PRESIDING OFFICER. The Senator is correct.

Mr. WARNER. Mr. President, yesterday I addressed this amendment, and I shall not take further time of the Senate. I would like to indicate that the Senator from Iowa [Mr. JEPSON] wishes to associate himself with this amendment as a cosponsor.

I understand the amendment is to be accepted on the other side, and I will await the expressions of the Senator from Louisiana and then move the amendment.

Mr. JOHNSTON. Mr. President, the amendment has been cleared by the minority.

Mr. WARNER. I thank the distinguished Senator from Louisiana.

Mr. MATTINGLY. Mr. President, the majority accepts the amendment also.

Mr. HOLLINGS. Mr. President, I am very pleased to cosponsor—along with Senator WARNER—this amendment to increase the PCS mileage allowance from 13 cents to 15 cents a mile and to provide a temporary lodging expense program for our enlisted personnel under the rank of E–8.

It is no secret that military personnel receive far less in travel and moving reimbursements than civilians working for the Federal Government. It is an inequity that cannot be offset by military benefits that exceed those of civilians. We are talking about expenses right out of the pockets of our military personnel. They suffer terribly in comparison with their civilian counterparts.

Several studies have shown that military personnel receive significantly less than civilians of comparable grade. In some instances, civilians are reimbursed for moves up to six times what the military member is paid. The allowance for PCS mileage—increasing the payment from 13 to 15 cents a mile—would bring the military allowance in line with that paid most civilians.

The temporary lodging expense is an attempt to rectify a glaring wrong. Civilians are paid per diem, travel expenses, and housing expenses for a considerable period of time after a permanent move. Military personnel do not receive such living expenses. This temporary lodging expense may very likely be the highest priority item given to the military member while looking for new housing.

Since our amendment provides that the cost of the program should come out of existing funds—as recommended by the DOD—its impact on the budget will be of little consequence at this time.

I am hopeful that the committee will accept the amendment as I consider it to be one of the most important personnel items we have dealt with for several years.

Mr. WARNER. Mr. President, I move the amendment.

The PRESIDING OFFICER. If there be no further debate on the amendment, the question is on agreeing to the amendment of the Senator from Virginia.

The amendment (No. 6927) was agreed to.

Mr. WARNER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. MATTINGLY. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LEVIN addressed the Chair.

Mr. WARNER. Mr. President, I believe I still have the floor, and then I will be glad to associate myself with the Senator from Michigan on another matter.

AMENDMENT NO. 6990

(Purpose: To provide for a new study to update a 1982 study on military spouse and family issues)

Mr. WARNER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Virginia [Mr. WARNER] proposes an amendment numbered 6990.

Mr. WARNER. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of page 13, line 2, strike the period and insert:

(a) The Secretary of Defense shall provide for an objective study to supplement and update the report entitled "Military Spouse and Family Issues, Europe, 1982."

(b) The study shall include within its scope all areas in which members of the uniformed services are assigned to permanent duty stations and to which the dependents of members of the uniformed services are permitted to travel at Government expense.

(c) The Secretary shall select an independent organization to conduct the study referred to in subsection (a) with such administrative support and technical advice as may be necessary for such organization to carry out the study. Such support and advice may be provided by the Secretary on an in-house basis and to reduce contractual expenditures to include collating, tabulating, computer, word processor, printing, and similar routine services.

(d) A report containing the results of the study carried out under this section shall be submitted to the Committees on Appropriations and Armed Services of the Senate and the House of Representatives not later than May 1, 1985.

(e) For the purpose of contracting out the study called for by this section, the Secretary of Defense may utilize not more than $250,000 out of any funds available to the Department of Defense.

Mr. WARNER. Mr. President, in 1982 an independent, nonprofit organization, known as the National Military Wives Association, performed a study which resulted in a report entitled, "Military Spouse and Family Issues, Europe, 1982."

The amendment I am offering would extend that effort worldwide.

For the first time military dependents surveyed themselves to provide the Department of Defense, the administration, and the Congress with an independent insight into the issues of greatest concern to our military families.

The results of their efforts provided valuable insights into issues such as housing, moving expenses, dental care, effects of defense policies on a spouses opportunities for employment, and many others.

Most importantly, they began to unearth indications of the relative importance of these issues to service families and thus the degree to which they are detractors to retention and readiness.

The culmination of the report was a collection of 45 recommendations for improving the quality of military life.

In a letter to then president of the National Military Wives Association, Mrs. Hilsman, Assistant Secretary of Defense Larry Korb expressed his appreciation for the data in this report and stated: "We plan to consider it in our development of defense policy."

The material contained in the report proved useful and was perhaps most advantageous to the U.S. Army as the largest contingent of U.S. service personnel in Europe.

The major drawback to full use of this report was that it was confined to one theater and thus reflects the peculiar issues of importance to military families in that theater.

A report covering military families in all theaters and the United States would be of significantly greater value.

Today the National Military Wives Association has become the National Military Families Association, reflecting much more accurately the full range of their interests as the only national organization devoted to representing the concerns of our uniformed service families.

Their national president is now Mrs. Gayle Bolinger who is continuing to build on the tradition of service to military families begun by Mrs. Hilsman.

Last Friday night, September 28, Mrs. Bolinger appeared on the late evening network news show, "Nightline," with Secretary Korb to discuss many of the issues which continue to concern military families.

I am informed that they also appeared together for the taping of a "Phil Donohue Show" on the same topic which is scheduled to be aired on October 12.

Both occasions make clear that there still exists a substantial degree of concern amongst military families regarding issues which they consider paramount to a successful quality of life, especially in light of the special difficulties presented by their frequent moves, separations, and other unusual career conditions.

Mr. President, we in the Congress need to understand the full extent of the concerns and the relative ranking of our military families so that we can properly consider their needs as we carry out our constitutional responsibilities in the area of defense.

We cannot invite them all to testify before the appropriate committees.

Therefore, it would be extremely valuable to broaden the scope of the 1982 report to include all overseas theaters in which families accompany servicemen and the United States.

The amendment I am offering requires the Secretary of Defense to commission such a study of military families worldwide.

Based on experience with the 1982 study, funds for this study are not to exceed $250,000 and shall be provided out of any funds available to the Secretary of Defense.

Therefore, this amendment adds no additional costs to the defense appropriation.

Finally, it directs the Secretary to provide the report to the Appropriations and Armed Services Committees of both Houses by May 1, 1985.

Mr. President, I urge my colleagues to join with me in this modest effort to provide vital information on our military families as we deliberate the allocation of resources and determine policies which affect them all.

Mr. President, at this time, I yield the floor to the distinguished Senator from Georgia.

Mr. MATTINGLY. Mr. President, the majority accepts the amendment.

Mr. JOHNSTON. Mr. President, there is no objection on this side.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment of the Senator from Virginia [Mr. WARNER].

The amendment (No. 6990) was agreed to.

Mr. WARNER. Mr. President, at this time I am privileged to associate myself with another amendment to be offered by the distinguished Senator from Michigan. It is my hope the Chair will now recognize the distinguished Senator.

Mr. LEVIN. Mr. President, I thank my friend from Virginia.

AMENDMENT NO. 6991

(Purpose: To provide $1.3 million for the research and development of methanol within the Department of the Army from the funds already appropriated in this bill)

Mr. LEVIN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Michigan [Mr. LEVIN], for himself and Mr. WARNER, proposes an amendment numbered 6991.

Mr. LEVIN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment reads as follows:

In the appropriate place in the section, insert the following proviso:

"*Provided*, That of the funds appropriated for 'Research, Development, Test and Evaluation, Army' for fiscal year 1985, the sum of $1,300,000 shall be available only for the purpose of carrying out the methanol car research program authorized in Sec. 202(a) of the Department of Defense Authorization Act, 1985; *Provided further*, That approximately 50 percent of the methanol used in this project shall be derived from coal and approximately 50 percent shall be derived from natural gas.".

Mr. LEVIN. Mr. President, the amendment which Senator WARNER and I are offering today appropriates $1.3 million for the research and development of methanol—and I emphasize, $1.3 million for the research and development of methanol—within the Department of the Army from funds already appropriated in the bill. The fiscal year 1985 defense authorization conference contains a $1.3 million authorization for the purchase of new methanol cars and testing of the fleet, which the Senate accepted during debate on that bill. This amendment simply provides the funding for that authorization. I have modified this amendment at the request of Senator WARNER to require that the methanol come 50 percent from coal and 50 percent from natural gas.

Encouraging the use of methanol in the Department of Defense makes good sense. Secure fuel availability is a preeminent military concern in wartime, and the variety of potential feedstocks, including coal, natural gas, and other carbon-containing material, including trash and municipal waste, may make methanol available when oil-based fuels are not. Furthermore, there may be additional military applications for methanol, other than the automobile fleet.

The President established a Cabinet Council Working Group on Methanol in January 1984 to eliminate the regu-

latory barriers and disincentives to its development as an alternative fuel for both automobiles and powerplants. This demonstrates that there is support not only in the Congress to develop the use of methanol as an alternative fuel, but also the administration.

There is still much needed research on the use of methanol which I believe the Army R&D could provide. For example, cold weather starts are still a problem. We need testing of an actual fleet to test long-distance use, durability of the engines, emissions testing, and continual use. While the private sector is slowly becoming aware of the merits for using methanol, we are still a long way from mass production of methanol vehicles and consumer acceptance of methanol.

The Government can play a vital role in promoting methanol use. The Government funds many worthwhile technology development projects and methanol should be one of them. The actual testing of a fleet by the Army will also benefit other branches of the armed services because the Army R&D has the charter within DOD to do all of the R&D for ground vehicles for the armed services. The results can also aid the Cabinet Council Working Group's planning.

I urge passage of this amendment.

Mr. WARNER. Mr. President, I wish to compliment my distinguished colleague from Michigan. We serve together on the Senate Armed Services Committee and on the Senate Committee on Energy and Natural Resources. This amendment derived out of our common effort of working toward energy independence for America.

We have acquainted ourselves, through research, of the advancements in methanol derived either from natural gas or coal. It is most appropriate at this time, irrespective of the world energy situation which presumeably is improving somewhat, to continue to press forward in our areas of research for energy independence for America.

I am happy to cosponsor Senator LEVIN'S amendment to establish a program to test methanol-derived fuels in Army vehicles.

The purpose of the amendment is to provide $1.3 million from within the funds already available at the Department of Defense to test the feasibility of methanol as a fuel.

I am pleased that Senator LEVIN agreed to modify his amendment at my request to require that 50 percent of the methanol be derived from coal and 50 percent from natural gas.

Use of methanol-fueled vehicles will lessen our dependence on foreign energy supplies as well as increase employment in the American coal and natural gas industries.

U.S. dependence on foreign energy supplies threatens both our national security and our economic vitality.

Because the United States has the free world's largest coal reserves, the United States can—indeed must—work toward energy dependence by developing her domestic resources.

It represents about a 300-year fuel supply at present demand.

By moving aggressively and creatively forward we can increase the use of American coal be it in coal-fired locomotives or methanol-fueled vehicles.

It is highly appropriate that funds be made available within the Department of Defense—which is such a heavy consumer of energy—to require testing of alternative fuel supplies, such as methanol.

I have been disappointed that the United States has not been more aggressive in promoting the development of alternative fuels and am pleased that, at long last, we are establishing a significant methanol test fuel program which could serve as a model for the private sector.

I think this is a necessary and timely step. I urge our colleagues to accept this amendment.

Mr. LEVIN. Mr. President, I thanked my friend. I thank him for this support, assistance, and work on this amendment. It has been invaluable.

Let me just say, since we do serve on the Armed Services Committee, that the availability of alternative energy resources is very, very critical to American security. It is appropriate that, in this defense budget, we authorize and appropriate a small amount of money to advance the research on the use of methanol. It directly relates to American security.

I am delighted that this is acceptable to the managers of the bill.

Mr. MATTINGLY. Mr. President, the Vice President of the United States is a very strong supporter of this amendment. I know if he were here, he would also encourage the acceptance of this amendment.

Mr. WARNER. Mr. President, will the Senator from Georgia yield?

Mr. MATTINGLY. Yes.

Mr. WARNER. Mr. President, it is my understanding, in conversation with the Vice President, that the chaired a task force which has looked into the potential of exploring wider use of methanol and that this particular program is one which they addressed, also. Am I not correct?

Mr. MATTINGLY. That is correct.

Mr. WARNER. Therefore, it is the recommendation of his task force, presumably, that we should go forward with this type research.

Mr. MATTINGLY. That is true. I think that is the reason why we will accept this amendment.

Mr. WARNER. Mr. President, my friend and colleague from Michigan touched on the vital point that America's national defense can be no stronger than our sources of energy to support that defense. I compliment him for recognizing that principle.

Mr. INOUYE. Mr. President, we have no objection.

Mr. WARNER. Mr. President, I move that the amendment be accepted.

Mr. LEVIN. Mr. President, I would like to say one thing about the comment about Vice President BUSH'S support on this. I am glad my friend from Georgia mentioned that. It was in this Chamber not too many months ago that I had a chance to talk to the Vice President about this briefly. He is, indeed, extremely supportive of these methanol projects and alternative energy sources. I am glad the manager of the bill did mention that because it is very true indeed.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Michigan [Mr. LEVIN].

The amendment (No. 6991) was agreed to.

AMENDMENT NO. 6992

(Purpose: To reduce the amount of funds that may be expended by the Department of Defense in fiscal year 1985 for consultant and other advisory or assistance activities)

Mr. MATTINGLY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Georgia [Mr. MATTINGLY] proposes an amendment numbered 6992.

Mr. MATTINGLY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the amendment add a new section as follows:

SEC. . (a) Notwithstanding any other provision of this joint resolution, of the total amount appropriated by this joint resolution, or any other Act appropriating funds for the Department of Defense for fiscal year 1985, for programs and activities subject to the reporting requirements of the Federal Procurement Data System Individual Contract Action Report (SF-279), an amount not less than $1,000,000,000 may not be apportioned or utilized for the costs of consultants, studies, analyses, management support services or other advisory and assistance services which are included in such reported programs and activities.

(b) Not later than September 1, 1985, the Secretary of Defense shall submit a report to the Congress indicating the manner in which compliance with subsection (a) has been achieved.

Mr. MATTINGLY. Mr. President, the amendment that I send to the desk—which I believe has been cleared on both sides—would reduce funds

available for DOD consultants and studies by $1 billion.

I propose this amendment because, as a result of a near 3-year investigation into the complicated and murky world of Federal consultant and contract studies, I am convinced that the American taxpayer should not be required to pay for hundreds of millions of dollars' worth of such unnecessary costs. I am confident that the Senate can reduce the money available for such programs without hurting the truly necessary and critical defense missions that are funded by this legislation.

My colleagues have heard me speak before on the issue of Federal expenditures for consultant and contract studies. I would like to take a moment to bring them up to date on the results of the investigation that I have undertaken.

Let me begin by noting that the Office of Management and Budget, in its report on administrative expenses that was submitted to the Committees on Appropriations, in May of 1983, estimated that the Government-wide total for expenditures on consultant and related studies in fiscal year 1983 would be $1.48 billion. Of this amount, $933 million was to be spent by the Department of Defense. Despite being told in April of this year, Mr. President, by OMB that I would soon be furnished data that reflected actual fiscal year 1983 spending levels for these purposes, I have yet to hear from that Agency. However, the Federal Procurement Data Center [FPDC], using its information gathering system [FPDS], was able to furnish me with some eye-opening information relating to actual Federal expense levels for consultant and contract studies during fiscal year 1983. FPDS data indicates that the actual level of such expenditures, using the same definition as OMB, was $3.9 billion, Government wide. Of that amount, DOD spent $2.2 billion. Further, it is interesting to note that of that larger, total figure, Mr. President, only $119 million was reported by the Federal agencies to be money spent on projects that were specifically identified as consultant type awards. That point is important because it speaks to the larger, central issue of defining exactly what constitutes a consultant contract for purposes of Federal monitoring and reporting purposes.

Mr. President, in 1974 Congress passed legislation creating the Office of Federal Procurement Policy [OFPP]. The Office was to establish "a system for collecting, developing and disseminating procurement data." In 1978, OFPP established the Federal Procurement Data System and the Federal Procurement Data Center [FPDC]. The Center issues the procedures that are to be used in reporting contract actions to the data system. All executive branch agencies, 71 at last count, must issue a quarterly report to the FPDC containing an itemization of procurement actions of $10,000 or more; $25,000 if issued by the DOD. The key to these reports is the use of more than 1,000 different, 4-digit product and service codes which are used to describe the particular service or product for which a contract is let. Thus, I believe the information provided by the FPDC is at least as accurate as that which can be obtained from any other Federal agency.

During this past year, Mr. President, as I have looked into this matter, I have had the assistance of the Administrative Conference of the United States and of its Chairman, Loren Smith. The Administrative Conference, as my colleagues probably know, is an independent Federal agency charged with the responsibility of developing improvements in the implementation of Federal programs. Chairman Smith has been very helpful to me in bringing this issue to the attention of counselor to the President, Ed Meese. Mr. Meese in turn placed the issue on the agenda of the Cabinet Council on Administration and Management. The Cabinet Council assembled a two-team working group to investigate the issue of Federal consultant expenses. These groups, having reported their findings to the President, made several recommendations, including the use of consultant oversight "czars" in each agency. These recommendations are now contained in a draft Executive order that is being circulated within the executive branch for comment and review.

Most importantly, Mr. President, Chairman Smith reported to me earlier this year that, only about, and here I quote from a letter to me from Chairman Smith dated April 24, 1984,

. . . $120 million in annual contracts are now officially classified as 'consulting'. These 'consulting' contracts have been subjected to special control procedures because they typically involve substantial judgment and expertise factors, and thus present difficult quality control problems.

The Chairman's letter continues,

. . . These same factors actually are found in a much larger class of contracts, named 'advisory and assistance' contracts. This much larger class, totalling $15 billion per year (should be subjected) to the special controls.

His letter continued, Mr. President,

. . . The (research) team suggested a second group of contracts totaling an additional annual volume of $15 billion, be examined to determine the proportion of 'advisory and assistance' activities included within them.

I ask unanimous consent that Chairman Smith's letter be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

ADMINISTRATIVE CONFERENCE
OF THE UNITED STATES,
Washington, DC, April 24, 1984.

Hon. MACK MATTINGLY,
U.S. Senate,
Washington, DC.

DEAR SENATOR MATTINGLY: This responds to your request for information on efforts to control abuses and wasteful practices in government consulting. As you know, we raised the issue last year by memorandum to Ed Meese, Counsellor to the President and Chairman pro tem of the Cabinet Council on Management and Administration. Mr. Meese scheduled the matter for discussion by the Cabinet Council and, as a result, a Working Group on Consulting Services was formed in October. Two task teams conducted a swift but intensive review of the problem area. The first team reviewed the universe of government contracting, to identify types of contracts likely to involve abuses and to qualify the dollars at stake. The second team, which I was privileged to chair, reviewed past governmental efforts in this area, to identify the controls in place at the various agencies, and to recommend ways of strengthening the government's system for preventing abuses.

Team One found that the problem is much larger than stated by previous Administrations. Only about $120 million in annual contracts are now officially classified as "consulting." These consulting contracts have been subjected to special control procedures because they typically involve substantial judgemental and expertise factors, and thus present difficult quality control problems.

The Team found that these same factors actually are found in a much larger class of contracts, which the Team named "advisory and assistance" contracts. The Team thus recommended subjecting this much larger class—totalling $15 billion per year—to the special controls. In addition, the Team suggested that a second group of contracts, totalling an additional annual volume of $15 billion, be examined to determine the proportion of "advisory and assistance" activities included within them. Finally, the Team suggested extensive improvements in the system for classifying government contracts, so that the Executive Office of the President will have a better notion of how much is being spent where, and for exactly what.

Team Two reported that a series of past efforts to control abuses in this area, consisting of GAO reports, Congressional hearings and other similar initiatives, date back more than twenty years. None has resulted in noticeable improvement, because they were "one shot" efforts that yielded temporary publicity and exposure of one or more particular malefactors, but not permanently institutionalized changes in practices. Some improvements had occurred, beginning in 1978, with the adoption of the government-wide contract reporting system and the involvement of the Office of Management and Budget, but much remained to be done.

Principal Team Two recommendations were that each agency that had not already done so should appoint one high-level person, independent from the offices making the request for these contracts, to verify the reality of the need and the reasonableness of the proposed price. Additionally, and of equal importance, agency personnel at the working level should be required to prepare a report, after each contract has been completed, that would assess whether the consultant produced what was

promised and whether the agency actually made use of the product. This, it was felt, would, over time, vastly increase the care with which up-front spending decisions are made. Team Two at first also thought that a one-time cut in funding for these contracts would be useful. After more reflection, however, the team concluded that it would be more productive to concentrate on controls that would improve the quality of the government's efforts—that institutionalizing these controls would be a more productive approach over the long run.

These reports were well received by the working group and, under Deputy Commerce Secretary Bud Brown's leadership, improvements and refinements were made. The combined report was ultimately presented to and accepted by President Reagan in a full Cabinet meeting held on February 14th. He approved the development of an Executive Order covering the main points. OMB will provide detailed guidance and oversight.

I can understand your concern, Senator Mattingly, that the better part of a year has gone by since you first raised this issue. But I hope that this letter will reassure you that your concerns have not been ignored and indeed have resulted in a major effort by a large number of high-level staff in the departments and agencies. I know that it is results, not merely efforts, that you rightly seek. But I can assure you that the Administration is equally committed to that goal.

The "consulting services" problem, as you know, is an immense one. Since 1960, the government has involved itself in a multitude of tremendously complex issues, yet the size of the civil service has not increased. The inevitable result has been greatly increased use of experts of every imaginable kind, and proper controls simply have not been adopted despite repeated but spasmodic efforts. The President has decided that firm and permanent controls, of the kind you have been demanding, should now be put in place. OMB and department staff are in the process of drafting the Executive Order, and I am sure that you will be pleased with its contents.

Please let me know if there is any further information we can provide.

Sincerely,

LOREN A. SMITH,
Chairman.

Mr. JOHNSTON. Mr. President, will the Senator yield?

Mr. MATTINGLY. Yes.

Mr. JOHNSTON. Mr. President, we have checked the amendment. We have no objection to it.

Mr. STEVENS. Mr. President, I am happy to support the amendment.

The PRESIDING OFFICER. Is there further debate?

Mr. MATTINGLY. Mr. President, I have concluding remarks. I thank both sides for their help with this amendment.

When I asked the FPDC if it had data that could substantiate those estimates, Mr. President, I received a printout that cited the figure of $18.47 billion actually spent during fiscal year 1983 for such consultant type services, $15.2 billion of which was spent by the Department of Defense. That is below the higher estimates of the working group, but, more importantly, Mr. President, it is a long way from the original $1.4 billion estimated by OMB or even the $3.9 billion identified by the FPDC as being the amount actually spent on consultant services under OMB's definition. Unless we control these expenditures, consultant services will soon be defined as our newest entitlement program.

Obviously, much of the problem revolves around how one defines the term "consultant." Use of OMB's narrow definition reveals 2 or 3 billion dollars' worth of expenditures actually identified as "consultant." Use of the broader working definition used by the administrative conference and the White House Working Group reveals a far greater universe of such services. How can Congress truly control these costs, Mr. President, if they are not even accurately identified? How does one examine a multimillion or multibillion-dollar defense procurement contract and identify the costs buried deep within it that can be and should be excised to the benefit of the taxpayer and without detriment to our defense needs? My answer, Mr. President, is contained in the amendment under consideration. Under its provisions, the DOD itself will make the determination of what components of those procurement contracts reported to the FPDS will be cut. I am asking DOD to report no later than September 1, 1985, to the Congress on where it has identified and withheld $1 billion from its contract actions. These cuts are to be made from costs associated with consultants, studies, analyses, management support services, or other advisory or assistance expenses.

Included in those reports should be figures which compare the number of small, unreportable, under $20,000, contract actions in fiscal year 1985 with the number of similar items in fiscal year 1984. Obviously, I am interested in determining if there has been a significant increase in such smaller contract actions because if there has, it is an indication that DOD, in an effort to subvert the FPDS reporting requirements, has broken smaller elements out of larger procurement actions that otherwise would have been reportable.

My amendment reduces the amount available for consultants and studies, Mr. President. It does not reduce the total level of the bill that has been reported to the Senate by the full Appropriations Committee. I am aware of the lengthy discussions and the amount of time and energy that has been invested by the distinguished subcommittee chairman and other of my colleagues in reaching an agreement on the proper level of fiscal year 1985 defense spending.

It is not my intent to overturn those delicately crafted agreements. Secretary Weinberger may apply the moneys that result from the savings mandated by my amendment to other DOD accounts but he must notify Congress if he elects to do so. As chairman of the Military Construction Subcommittee on Appropriations, I am acutely aware of the backlog that exists in real property maintenance, $3.6 billion according to the Defense Committee report. Here is an area that is a prime candidate, in my view, for critically needed additional funds. I believe the amendment addresses a very real problem in a workable fashion and I urge its adoption.

All this background, Mr. President, is merely an effort to emphasize the size and the nature of the problem that confronts us—and the difficulty in pinpointing those truly wasteful contracts and separating them from those that are needed in order to strengthen our defenses. I have discussed this matter with the distinguished chairman of the Defense Subcommittee and we have agreed on an approach that I believe warrants the support of my colleagues in the Senate.

I want to say that this will not be the last attempt to identify and scrutinize the consultant expenditures and studies that have now been revealed as constituting a far greater expense that anyone had suspected.

Unless we control the expenditures for such services now, we are very soon going to come to the realization that we have created a brandnew entitlement program.

Thank you, Mr. President. I urge the adoption of the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Georgia [Mr. MATTINGLY].

The amendment (No. 6992) was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. MATTINGLY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. INOUYE addressed the Chair.

The PRESIDING OFFICER. The Senator from Hawaii is recognized.

AMENDMENT NO. 6993

(Purpose: To provide funds for an orderly and humanitarian withdrawal and resettlement of guerrillas opposing the Government of Nicaragua, and for other purposes)

Mr. INOUYE. Mr. President, I call up my amendment, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Hawaii [Mr. INOUYE] proposes an amendment numbered 6993.

Mr. INOUYE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In lieu of the matter proposed to be inserted by the committee amendment, insert the following:

"(h) Such amounts as may be necessary for projects or activities, not otherwise specifically provided for in this joint resolution, at a rate for operations and to the extent and in the manner provided for in the Department of Defense Appropriation Act, 1985, as passed by the Senate as of October 1, 1984: *Provided*, That for the purposes of this subsection, if such Act has been reported to the Senate but not passed the Senate as of October 1, 1984, it shall be deemed as having been passed by the Senate: *Provided further*, That during the fiscal year 1985, no funds available to the Central Intelligence Agency, the Department of Defense or any other agency or entity of the United States involved in intelligence activities may be obligated or expanded for the purpose or which would have the effect of supporting, directly or indirectly, military or paramilitary operations in Nicaragua by any nation, group, organization, movement, or individual, except as specifically provided in this subsection: *Provided further*, That of the funds made available by this joint resolution for activities of the Central Intelligence Agency, not to exceed $2,000,000 may be obligated or expanded solely for the safe and expeditious withdrawal from Nicaragua of any individual who is engaged, or who has been engaged, directly and indirectly, in military or paramilitary operations in Nicaragua, and not to exceed $4,000,000 may be obligated or expended solely to provide humanitarian support outside Nicaragua for individuals (and the families of such individuals) who have been engaged, directly or indirectly, in paramilitary operations in Nicaragua and who are not equipped for military or paramilitary operations while outside Nicaragua.".

Mr. INOUYE. Mr. President, this amendment states that no funds available to the CIA, or the Department of Defense, or any other agency of the U.S. Government involved in intelligence activities may be used directly or indirectly for military or paramilitary operations in Nicaragua. It will cut off all funds that are now set forth in this bill for the purposes of supporting the Contras.

The amendment further states that $2 million will be set aside for the expeditious withdrawal of those men and women who are now involved in military or paramilitary activities in Nicaragua, and an additional $4 million for the resettlement of these persons.

Last June, I introduced a similar amendment which was almost identical. The only change is the fiscal year date—to the then pending emergency supplemental appropriations bill—that provided for the orderly and humanitarian withdrawal and resettlement of guerrillas opposing the Sandinista government. At that time, I set forth three major reasons for this decision to call for the halt of the covert activity and the phasing out of the program.

First, Mr. President, if you will recall, I stated that our support for the paramilitary operations which are supposed to be covert is no longer covert because everyone knows about it. The world is aware of it. Every interested, and knowledgeable citizen of the United States is aware of our covert involvement in Nicaragua. So it is no secret.

Second, the events and the reports indicate very clearly that we have lost control over the activities of the Contras. Mr. President, we may have had the best of interests, and the best of intentions. But the fact remains that at the present time we find it extremely difficult to control the Contras.

Third, I suggested that the operation had gone beyond the initial justification. You will recall the initial justification for our involvement in Nicaragua was weapons interdiction.

I also stated, Mr. President, that we should get out of Nicaragua for another very compelling reason. That reason was that Nicaraguan operations were slowly but surely eroding whatever credibility was left with our CIA.

The CIA has been the subject of relentless, ruthless attack, day and night, by the media. It appears that any person who has any criticism of our activities in Nicaragua is given front-page coverage. Hardly a day goes by without some media coverage, and negative coverage at that, of CIA participation in Nicaragua.

Mr. President, if we permit the situation to continue, I believe it will eventually destroy the usefulness of this very important agency.

I also stated that the relatively minor expenditures proposed for this program—and I will not state it but it is very small—dominate discussion of our Nation's intelligence operations which are actually part of our multibillion-dollar budget.

For these reasons, this covert program in Nicaragua has become a tragic distraction from the regular business of the Nation as seen from the perspective of the U.S. Government alone, not even in the light of human suffering, that it is continuing in Central America.

Mr. President, what I said last June is true today. For example, we have recently heard allegations that U.S. military aircraft have been declared surplus property and consigned to the Contras through the CIA. We have had two Americans die while on an adventure inside Nicaragua with the Contras. Despite the persistent denials by the State Department, the military, and the CIA, I believe the public continues to believe that our Government has supported and encouraged those private interests and individuals in our country who are aiding the Contras.

I do not think it would be advisable for me to comment on the truth or untruth of these matters, but, Mr. President, I think it is undeniable that continued paramilitary operations in Nicaragua are putting great strain on the credibility of the U.S. Government, especially on U.S. intelligence programs. And developments in Central America and elsewhere in the world should indicate to all of us that the present time is not a good time for renewal of this covert program.

There seems to be currently considerable pressure on the Sandinistas to liberalize election laws so that the democratic opposition can decide to participate. I am certain that if we should renew assistance to their enemies now, the Sandinistas may have no further incentive to reach a democratic settlement with the opposition.

There has also been considerable progress in the Contadora peace process. Nicaragua has officially committed itself to the draft agreement prepared by the Contadora participants, and despite the fact that many have discounted the significance of this commitment, it still stands as the official policy of the Sandinista government.

Mr. President, I could go on for many minutes and many hours, but much has been said. During the June debate, I believe we spent about 3 hours covering this subject matter. So I wish to now yield the floor.

Mr. JOHNSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. I thank the Chair.

Mr. President, the revolution in Nicaragua has been marked by disillusionment and disappointment from the start. I speak this in a very personal way because I, with many of my colleagues here, was among those who voted for aid for this new Sandinista government in Nicaragua. There was a very hot debate here, Mr. President, my colleagues will remember, about whether or not it was wise to give aid to what then was called by some a Marxist-Leninist government.

But many of us persisted and went ahead and voted for that aid, based upon what we saw back in 1979 as a hope for a new independent, nonaligned government, democratic government, in Nicaragua, a country which surely had been the victim of at least benign neglect, if not the wrong kind of interference through decades, by the United States.

But, Mr. President, from that time, indeed from the time that Somoza left, it has been total disappointment and total disillusionment since, and it has been disappointment and disillusionment not caused by the United States but in response to a policy of

the United States of generosity and of help.

It is important, I think, Mr. President, to remember the dates and what happened in sequence in Nicaragua.

In July 1979, Somoza fled, and the Sandinistas took over. By April 1980, Violeta Chamarro, who was the publisher of the newspaper La Prensa, and Alfonso Rubelo both resigned the Council of State in protest to what they saw as ominous tendencies on the part of the Sandinista group.

But some weeks later, Mr. President, again in 1980, Arturo Cruz, who would now be the opposition candidate for president and a banker, and Supreme Court Justice Rivas were brought back into the government and the decrees confiscating the land were canceled.

Dates were set in 1981 and 1982 for elections, and, indeed, we all hoped at that time that the situation in Managua would be good.

But, Mr. President, by August 1980 the Sandinista directorate announced that the elections were not going to be held in 1980 or 1981 but they were postponed until 1985. By November 1980, all the remaining non-Sandinistas walked out in protest, walked out of the government. Walked out of the government in protest to what? Because the government has attacked the independent political party office, had sacked the office; because the directorate was forbidden to have political rallies, and because the newspaper La Prensa and other newspapers were being censored.

Mr. President, in the meantime, in September 1980, this Congress approved $75 million in aid, and, more important, U.S. bankers rescheduled $582 million in foreign debt.

So, Mr. President, the sequence of events is that the United States was giving aid; that those of us here in the Congress were making conciliatory speeches; that U.S. bankers were rescheduling debt in the amount of $582 million while the Sandinistas were slowly tightening the noose, while they were coming in with censorship, while they were sacking the political parties, while they were taking away the last vestiges of free enterprise, while they were postponing elections, while they were tightening the noose of the totalitarian regime in that country.

(Mr. ABDNOR assumed the chair.)

Mr. JOHNSTON. Mr. President, by January 1981, the illusions of the Carter administration were finally ended after some $65 million was in effect thrown down the rathole. By March 1981, Managua was announcing that they were building an armed force of 30,000 troops, the largest in all of Central America. And they began the so-called relocation, which has been described as a genocide, of the Meskito Indians. At that time the famous Eden Pastore, Commandante Zero, broke with the regime.

Now, Mr. President, what is our present situation in Managua? I invite the attention of my colleagues to an article by Robert S. Leiken in the latest edition of New Republic entitled "Nicaragua's Untold Stories." Who is Robert S. Leiken? Well, Mr. President, he is a senior fellow at the Carnegie Institute. He was the senior editor of that publication, "The Anatomy of a Conflict." My colleagues will remember that "The Anatomy of a Conflict" was to be published at the same time as the Kissinger Commission report. It was supposed to be the counterbalance, the liberal answer, as it were, to the Kissinger Commission report.

Mr. STEVENS. What edition?

Mr. JOHNSTON. The edition of New Republic dated October 8, 1984. I will put a copy of that in the RECORD.

Mr. President, Mr. Leiken describes what the citizens in Nicaragua call engaño meaning hoax or trick. The citizens of Nicaragua describe their government as being characterized by the engaño or the hoax or trick.

Mr. Leiken goes on to talk about the kind of hoaxes and tricks and disinformation in which this government deals. For example, when the Pope visited Managua and was heckled and caused to stand in front of these huge murals of the leaders of the Sandinista revolution. Mr. Leiken heard those who stated that they had played prerecorded tapes of crowd noise into the loud speakers while the world was saying that they were spontaneously interrupted by the crowds. In other words, here the Sandinista functionaries were playing into the loud speakers crowd noises and chants, antipapal chants, making it appear, on the principle of engaño or the hoax or tricks, that the Pope was not being supported by the crowds.

He goes on to talk about the myth of popular support, in Nicaragua being achieved, he says, by the confiscation or withholding of ration cards if you do not attend the rallies.

So, yes, you can get a big crowd at a rally in a country that is desperately short of food if you confiscate ration cards if they do not attend. He states that sympathy with the Contras is becoming more and more pervasive. Draft resistance is now a mass movement in Nicaragua.

Mr. President, he describes the rally of Arturo Cruz. Again, Cruz was that member of the Sandinista directorate who resigned in protest, who had fought with the Sandinistas against Somoza, who had been part of the directorate and had to leave in protest because of censorship, because of the inability to have any free elections at all. But Mr. Cruz went back for a rally. It was attended by upwards of as many as 20,000. He was denied access to television stations.

Let me read just a paragraph, if I may, Mr. President, from Mr. Leiken's article in this edition of New Republic. He stated as follows:

> When Cruz began to speak, dozens of *turbas* armed with sticks, stones, and machetes surrounded the field. They came in on what appeared to be army trucks chanting, "Power to the people." They proceeded to break the windows and puncture the tires of demonstrators' cars. The police seemed to make no serious effort to restrain them. When the *turbas* attacked the demonstrators themselves, opposition youths dispersed, only to return wielding their own sticks and stones. Outnumbered, the *turbas* were routed.

He goes on to say:

> The following day the Nicaraguan press carried no mention of the events except for one photograph in the official newspaper Barricada which purported to show the *turbas* attacked by "fascist" demonstrators. La Prensa had devoted several articles and photographs to the demonstration and the clashes, but these were all censored and the paper did not appear. That was the very day that Daniel Ortega had announced the lifting of press censorship.

Mr. President, Arturo Cruz, who again is that former member of the directorate who would run for President, wrote an article which appeared just last Friday, September 28, in the Washington Post. I invite the attention of my colleagues to that article because it is a heartfelt cry for help for the cause of democracy in Nicaragua. What he says, Mr. President, is that he wants to go back and run for President, but he insists on five what I think are very reasonable conditions: First, access to the media; you cannot run a political campaign without access to the media. Second, freedom of assembly and ability to campaign without the threat of physical harm. Third, neutral international observers. Four, the postponement of the elections until January 15, because, obviously, if he has not had the chance to campaign, has not had access to the media, then the elections would be nothing but a sham. Five, a commitment to respect the results of the election.

Mr. President, Arturo Cruz waits in vain. Oh, it is true, that the Sandinistas come in and say that they will respect the Contadora process; that they will sign on to the Contadora process, but you know the first and most important principle of the Contadora process is free elections.

And here they are saying on the one hand, give us the Contadora process, this wonderful process that all these countries have signed on to; we will accept it, they say, while at the same time when elections are going on they will not let a free election take place. When Arturo Cruz attempts to hold a rally, he is surrounded by thugs brought in, in government trucks, wielding batons and machetes and sacking the offices of the political op-

position, censoring the newspaper, arming the country with 30,000 full-time soldiers and another 70,000 part time, importing over 100 tanks, building up a totalitarian regime there with the strongest army in all of Central America.

Yes, Mr. President, Robert S. Leiken, who wrote "The Anatomy of a Conflict," the so-called liberal answer to the Kissinger Report, was correct when he talked about the principle of engaño or deceit and disinformation.

Mr. President, if we are to lift our aid, our so-called covert aid—which of course is misnamed, and I certainly agree with the distinguished Senator from Hawaii that it is misnamed. There is nothing covert about it. That does not mean it is good or bad, because it is misnamed. But if we are going to lift that aid, it seems to me that we should do so only if there is some promise of free elections.

All the Contras have repeatedly said that they will lay down their arms conditioned upon free elections in Nicaragua. The pressure is on in Nicaragua because of the Contras.

I have been here, and I can say that it is a preoccupation of the Sandinistas as to what the Contras are doing. It is a total preoccupation.

For us to come in right now when Arturo Cruz has some chance of getting a promise of free elections, when that sanction of the Contras is at its maximum—for us to come in now like this is to say: "Don't worry, Nicaragua; don't worry about free elections. Consistent with that principle of 'engaño,' hoax or deceit, just say you will go along with the Contadora process. We don't really care about the elections. All we care about is the rhetoric."

If we are willing to be fooled like that, and to put ourselves up in the world as being satisfied to take the empty rhetoric of the Sandinistas, who time and time again have gone back on their promises, who in the midst of an election, or what is supposed to be an election, have denied the freedom of that election, then we deserve to lose Central America.

Now is not the time to relieve the pressure on the Sandinistas. If the Sandinistas want to get rid of the Contras, want to get rid of covert aid, there is one very easy way to do it: grant the demands of Arturo Cruz. Let there be a free election. Let there be independent observers to that free election. Let there be access to the media. Let there be freedom of political rallies, without the threat of thugs disrupting those rallies. Let there be a promise to respect the results of those elections.

The Contras, themselves, have repeatedly promised that they would lay down their arms. I can tell you that if they lay down their arms, the CIA so-called covert aid will cease as well.

That is the way to resolve this conflict, through free and open elections. The way decidedly not to resolve it is, on the very eve of the possibility of success, to take away those arms.

Mr. President, I ask unanimous consent to have the following articles printed in the RECORD: an article by Robert S. Leiken, entitled "Nicaragua's Untold Stories," in the New Republic of October 8; an article entitled "Labor Under Siege," from the same edition by Sam Leiken; an article entitled "The Cruz Alternative," by Joshua Muravchik, in the same edition.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

NICARAGUA'S UNTOLD STORIES

(By Robert S. Leiken)

The 72-year-old señora lives in a solid stone house constructed by the Sandinista government. Her son, German Pomares, was a founder of the Sandinista National Liberation Front (F.S.L.N.) who perished leading the final offensive against Somoza in 1979. Set off by a well kept garden from the shacks of the cotton field workers of El Viejo, Mrs. Pomaries's home appears comfortable. But inside, the mother of the nationally revered martyr sleeps on a cot covered with rags, and she hobbles through bare, unfurnished rooms. She lives on a pension equivalent to $10 a month. She has made four trips to the local hospital, but has yet to succeed in getting a doctor's appointment. Three times she has requested an audience with Commandante Tomas Borge, now the sole surviving founder of the F.S.L.N. Each time, her son's old comrade has refused to receive her.

For one who has sympathized with the Sandinistas, it is painful to look into the house they are building, but it is unwise not to. I spent ten days in Nicaragua in August, accompanied by my brother, a trade unionist from Boston. It was my sixth visit since the revolution, and my longest since 1981. I have testified in Congress against aid to the *contras* and have supported (and continue to support) negotiations to end the civil war in El Salvador. Yet each succeeding trip to Nicaragua drains my initial reservoir of sympathy for the Sandinistas. Last year I wrote in my introduction to a book treated by the press as the "Democratic alternative to the Kissinger Report" that the Sandinistas' "failure to preserve the revolutionary alliance with the middle class and small producers as well as sectarian political and cultural policies [had] polarized the country, led to disinvestment, falling productivity and wages, labor discontent, and an agrarian crisis." This visit convinced me that the situation is far worse than I had thought, and disabused me of some of the remaining myths about the Sandinista revolution.

Everywhere we went we confronted the disparity between these myths and the unpleasant truth. The Sandinistas blame Nicaragua's economic crisis on the contra war and U.S. economic sanctions. Yet the standard of living in Nicaragua was deteriorating well before the U.S.-backed contras turned to economic sabotage in the spring of 1983. A December 1981 internal staff memorandum of the International Monetary Fund found that real wages has fallen 71 percent since July 1979. They have continued to decline in succeeding years And even with the U.S. "economic boycott," over 25 percent of Nicaragua's exports still go to the United States, not much less than under Somoza. Nicaragua can no longer sell sugar at subsidized prices to the United States, but what it has lost in this market it has sold to Iran at prices above those of the world market. The war and U.S. sanctions have compounded a mess created by the Sandinistas themselves.

Nicaraguans themselves do not seem to accept Sandinista claims that Yanqui aggression is responsible for the general scarcity of consumer goods. Peasants are obligated to sell their goods to the Ministry of Commerce and Industry, and contend that its prices are too low to enable them to make ends meet. A large portion of the peasantry is now producing only for its own consumption, and the resulting shortages have dramatically driven up prices. The marketplace, once the bustling center of Nicaraguan life, is now a daunting experience for buyers and sellers alike. As shoppers make the rounds looking for rice, beans, milk, toilet paper, soap, or light bulbs, the shopkeepers' constant reply is "No hay" (There isn't any). For anyone unable to afford the inflated prices or without the foreign exchange to shop at the new foreign currency stores, Eastern European-style queuing is now routine.

One of the most depressing aspects of our trip was to hear from so many that their lives are worse today than they were at the time of Somoza. Before the revolution Nicaraguans ate well by Central American standards. Thanks to the country's fertile soil and its small population, even poor Nicaraguans were accustomed to beef and chicken. Now consumer goods available to the masses in other Central American Countries are no longer obtainable. Barefoot children are hardly uncommon in the region, but I had never seen so many completely naked. As we encountered them their distended stomachs displaying the telltale signs of malnutrition, Nicaraguans would bitterly recall the government slogan, "Los minos son los mimados de la revolucion" ("Children are the spoiled ones of the revolution").

The shortage of basic necessities is also breeding pervasive corruption. When we asked a rural storekeeper why he was able to sell Coca-Cola while many restaurants in Managua were not, he said that he had obtained the soft drink with a bribe. We later met Ramiro, a Coca-Cola deliveryman in Leon and a former member of the F.S.L.N., hitchhiking home from the city of Chinandega. He was returning from his five-hour weekly excursion after work to procure the three bottles of milk his children need. The milk cost him 150 cordobas, 30 percent of his weekly wages. (The official exchange rate is 28 cordobas to the dollar; the real, or black market, exchange rate is 250 to 1.) To get the money, he told us, he accepts bribes from some of his customers for extra cases of Coke. "This system is corrupting me against my will," he said.

Ramiro's desperate measures hardly merit censure. But others, especially high-ranking Sandinistas, are turning big profits from the scarcity. Members of a leather workers cooperative in Masaya told us that they are officially allotted 10,000 meters of leather a month; they receive between 5,000 to 7,000 meters. The cooperatives' Sandinista directors sell the remainder in Managua's Eastern Market and pocket the money. It is now a general practice for coordinators of the neighborhood Sandinista Defense Committees (C.D.S.) to sell part of the provisions al-

lotted to them by the government on the private market. The people are then informed that provisions have run out.

In the village of El Transito, two hours northwest of Managua, most of the people belonged to the C.D.S. at the outset of the revolution. Now there is but one member, the coordinator, formerly the village's leading Somocista. (The transformation of Somocistas into Sandinistas and of Sandinistas into oppositionists is very common. In every town we visited we were told that former Somoza officials are now running C.D.S.s.) The coordinator enriches himself by selling C.D.S. foodstuffs and supplies in the Eastern Market. As we passed his house, we were able to peer through the window and see him standing there in his dark glasses, isolated and reviled.

The life-styles of the new rich contrast vividly with that of the rest of the country, and with official rhetoric. A Sandinista nomenklatura has emerged. Party members shop at hard-currency stores, dine at luxury restaurants restricted to party officials, and vacation in the mansions of the Somoza dynasty, labeled "protocol houses." Vans pull up daily at government and party offices, to deliver ham, lobster, and other delicacies unavailable elsewhere. In a private state dining room, I ate a sumptuous meal with a comandante at a long table, attended by five servants. The image of the protruding stomachs of the "spoiled ones of the revolution" intruded while we consumed our lemon meringue pie.

Intellectuals and former officials claim that decadence is endemic in upper government and party echelons. A former Sandinista diplomat recounted tales of high jinks and extravagance by Sandinista officials on foreign junkets, and women state employees complained of the same sexual harassment and blackmail that is common elsewhere in Central America. The swinging Sandinista leadership cynically presents an image of revoluntionary asceticism to the outside world while being addicted to the very vices that it routinely denounces in "degenerate bourgeois society."

The widespread corruption from the lowest to the highest levels of government makes it hard for Nicarguans to accept the notion that their problems originate from abroad, or that they should endure further sacrifices "to confont the imperialist enemy." A jobless worker in the Indian town of Monimbo complained, "The C.D.S. insists that we unscrew the street lights to conserve energy in the fight against imperialism. People are falling in holes while the Sandinistas get rich on our misery. What are their sacrifices?"

Those Sandinistas who have refused to be corrupted recognize that their dreams have turned into a nightmare. One government official, a good friend, told me, "We have given birth to a freak. But we must keep him alive." Yet what is to be done when the freak becomes a menace to its people and neighbors? There is a general impression among those in the United States properly aghast at the C.I.A. mining of ports and U.S. support for the professional torturers among the contras that the Sandinistas are the victims, not the victimizers. Inside Nicaragua, however, the image is reversed.

The word Nicaraguans employ the most frequently to describe the Sandinista government is engaño (hoax or trick). In the city of Chinandega, we talked with transport workers from an opposition union who on their own time and with their union dues had painted road signs to make the city safer for driving. The Sandinista government took credit for the improvement. The national literacy campaign is one of the most vaunted achievements of the revolution, praised even by many of the government's critics. Yet two "graduates" of the literacy program in a peasant village told us they could not read their diplomas. We couldn't find one student from the campaign there or in the neighboring village who had learned to read. The campaign did somewhat better in the larger cities such as León, where, we were told, some had learned to read in follow-up courses. But most had forgotten the little they had learned, and at best could now only sign their name for election registration.

The most outrageous engaño occurred during Pope John Paul II's visit to Managua in March 1983. According to Sandinista accounts, the Pope's mass had been "spontaneously" interrupted by the crowd, offended by the Pope's failure to heed the request of mourning mothers who wanted him to pray for their sons killed in the battle against the contras. Two former government officials, who are still Sandinista supporters, told us a different story. They had been appalled at the interruptions made by cadre from the Sandinista women's organization, furnished with microphones and loudspeakers. After the Pope left, the crowd departed in disgust and the Sandinista leadership was left awkwardly standing on the platform. The two officials, depressed by the spectacle, retired to a bar located next to the offices of the F.S.L.N. radio station. They overheard a group of Sandinista radio employees at an adjoining table bragging about how they had played pre-recorded tapes of crowds chanting Sandinista slogans into the sound system.

The Sandinista engano has been most successful among the resident foreign press. Journalists familiar with the atrocities of the right-wing tyrannies of Central America wish to believe, quite understandably, that the Sandinistas present an alternative. In today's Nicaragua it is easy to confuse desire with reality. The resident press also frequently merges with the larger population of "internationalists," a term which embraces all those foreigners expressing solidarity with the Sandinistas, from Bulgarian and Cuban apparatchiks to idealistic North Americans and West Europeans. It is the general feeling among Nicaraguans that the foreign press in Managua strongly sympathizes with the government, and that it is dangerous to speak openly with them. Disaffected Sandinista intellectuals, friends of friends, who poured their hearts out to me in Managua were afraid to meet with reporters from the U.S. press. We spoke with a resident of Monimbo, where a spontaneous insurrection had ignited the revolution against Somoza in February 1978. We had spent an evening together a year before with a mutual friend, yet initially he was still distrustful. He told us that the revolution had produced "many advances for the people"; two hours later, he was saying, "Monimbo appears to be sleeping, the way it was during the time of Somoza, but the people are united. One day soon they will stand up again."

One of the most common means of sustaining the myth of popular support is the Sandinistas' use of the rationing system as a lever. In numerous villages and cities, we learned that ration cards are confiscated for nonattendance at Sandinista meetings. In Masaya we were told that before one of the "Face-the-People" meetings (in which comandantes meet with local residents) the ration cards of the members of cooperatives were collected; their return was made conditional on attendance. At one such meeting in Chinandega, Ortega branded talk of inflation "a counterrevolutionary plot." A pound of beans could still be purchased for five cordobas, he claimed. A man in the audience stood up and shouted, "Comandante, here's ten cordobas. Please get me a pound of beans." According to his neighbors, he was imprisoned later that day.

Although Nicaraguans still for the most part bow to government pressure, they do so sullenly and without conviction. We witnessed two Sandinista demonstrations, one in Masaya and the other in Chinandega, two historically pro-Sandinista cities. The Chinandega rally, held at 10 on a Wednesday morning, celebrated the fifth anniversary of the literacy campaign. It was attended entirely by students obligated to go by school authorities. As they marched through the streets chanting slogans distributed to them on small pieces of paper by their Sandinista instructors, pedestrians did not so much as turn their heads. None of the presumably grateful, presumably literate, people came to greet the commandante sent from Managua.

In Masaya the demonstration did not even benefit from student participation. As we approached the gathering in the fading afternoon, a large group of students stood on the steps of the Catholic school. They had refused to join the demonstration because the Sandinistas had removed several of their Catholic teachers. The small group of demonstrators had glazed looks in their eyes as the last speeches wound down. I asked a campesino in attendance whether any of the commandantes had come. He answered, "I don't know. I slept through it."

The Nicaraguan populace has been saturated with Sandinista bombast which issues from radio, television, newspapers, local and national political meetings, and block committees, and which is propagated in the schools, the factories, and the cooperatives. The people resist in different ways: with the indifference and boredom we saw in Chinandega and Masaya; with a resurgence in religious feelings which has filled churches and Catholic schools; with suspiciousness and bitter humor.

Jokes and wisecracks against the Sandinistas are proliferating. The two pro-Sandinista newspapers, Barricada and Nuevo Diaro, are referred to as Burricada (as in bore) and Nuevo Diablo. The F.S.L.N. is "the Somocista National Liberation Front." "Why do people prefer Tona [one of the two Nicaraguan beers]? Because the other, La Victoria, is bitter." Suspicions of the government are so deep that families of the war dead no longer believe that the government coffins shipped back from the front contain the bodies of their sons. (The coffins are sealed as a matter of policy.) People believe, improbably, that the coffins hold rocks or banana tree trunks. In Monimbo we were told that when a family and friends tried to open a coffin with a hammer and chisel, they were carried off by the police.

Nor is popular discontent restricted to these forms of passive resistance. Sympathy with the contras is becoming more open and more pervasive. I was stunned to hear peasants refer to the contras as "Los Muchachos," the boys—the admiring term used to describe the Sandinistas when they were battling the National Guard. It was apparent that many Nicaraguans are listening to the "Fifteenth of September," the contra

radio station. It must be noted, however, that the contras do not operate in the areas we visited, and sympathy toward them may well be proportionate to absence of direct contact.

Draft resistance has become a mass movement in Nicaragua. The government passed legislation last September under which Nicaraguan men between the ages of 16 and 40 can be drafted for two years. When we were in Nicaragua, four hundred women gathered outside the draft board in La Paz Centro, a trading town thirty-five miles northwest of Managua, to protest forced recruitment of their sons. The demonstration was the latest in a string of anti-draft demonstrations in cities and towns throughout Nicaragua. New York Times correspondent Stephen Kinzer, one of the few resident reporters to sniff out the engano of Sandinista policies, reported on June 26 that "draft evasion is widespread," and found that high school attendance in six major provincial capitals had declined by as much as 40 percent. A student in León said that his high school class of forty five had fallen to fourteen during the past year. Honduran researchers say Nicaraguan draft evaders pay 25,000 cordobas to be transported across the border, part of the money going to Nicaraguan Army officials in bribes. The demand is so great that border smugglers are now requiring groups no smaller than five. Draft resistance strikes a powerful blow at the myth of widespread popular support for the government. Young people have historically been the mainstay of Sandinista support.

Perhaps the most illuminating political event in the five years of Sandinista rule was a rally held for opposing presidential candidate Arturo Cruz in Chinandega on August 5. On that Sunday morning, Sandinista chicanery, censored domestic and lackadaisical international press coverage, and the growing vigor of the opposition converged.

Chinandega, a city of approximately 60,000 was historically the heart of Sandinista organizing efforts and support. These efforts radiated out to the surrounding cotton and sugar fields, to the country's two largest sugar refineries nearby, to the stevedores at Corinto, Nicaragua's largest port, and down to León, another center of anti-Samoza resistance. One would have expected that here the opposition would be weakest, the government strongest.

The Chinandega demonstration was the last series of six held in support of Cruz. Each rally had been larger than the last. The organizers were denied access to Sandinista-controlled TV stations. They were able to place an ad on the one local non-Sandinista radio station, but they relied chiefly on two vehicles with loudspeakers, and on word-of-mouth. Two days before the rally three "angels," as members of the state security are commonly known, called on the organizers of the demonstration and accused them of being C.I.A. agents. The turbas divinas, "devine mobs" of Sandinista supporters, circled their houses at night beating sticks against cans and chanting until the small hours of the morning. (Samoza's version of the turbas—the Nicolasa—used to employ the very same method against the opposition.) Meanwhile, Sandinista newspapers and television branded the opposition as consisting of contras and agents of American imperialism, and announced that further "aggressions" by them would not be permitted. Local authorities implied that the demonstration would be declared illegal. The day before the rally, Daniel Ortega, the head of the Sandinista government and the Sandinista presidential candidate, spoke to two hundred youths in El Viejo, a village three miles away. El Viejo's residents later claimed that the youths had been incited against the demonstration's leaders.

Fearing an attack by the turbas, organizers did not put up the banners or placards until early on the morning of the demonstration. But as they were working, fifty turbas burst into the soccer field, tearing down the banners and dispersing the organizers. They returned later during the day to try to repair the damage.

We spoke with two organizers—middle-class, professional women who had belonged to the F.S.L.N before the revolution. (According to one, "the F.S.L.N. says that the opposition is Somocista. But most of the old Somocistas are working with the government. The opposition has remained the same. It is the F.S.L.N. that has changed.") They told us that after the turbas' nighttime serenading, they went to complain to the offices of the party representative, the chief of police, and the chief of state security, and to the Sandinistas. They were assured that the turbas would be controlled and that the demonstration would not be obstructed. After the early-morning attack, the two women went to the house of the local party leader. The door was open, and they entered. In the next room they heard the turbas informing him of the success of their mission.

There is no question that many who wished to go to the Cruz rally stayed at home. On the day of the rally, local authorities impeded traffic from outlying areas into Chinandega. As Cruz marched through the city, many people opened their doors, gave him the "V" for victory sign, and then ducked back into their homes to avoid the everpresent eyes of the C.D.S. One woman said she did not go to the demonstration because she lived too close to the Sandinista youth office. She told of others who received threatening phone calls. Two weeks after the demonstration, a gas station attendant in Managua told us he had gone to the rally and that three friends who had accompanied him were in jail.

As might be expected, estimates of the turnout vary. Opposition figures soared as high as 20,000; local newsmen said 7,000. Given Sandinista efforts to reduce attendance, even 7,000 seems an impressive number, especially since three months before, the F.S.L.N. only managed to get 2,500 to Chinandega for the country's principal May Day rally. NBC taped the entire Cruz demonstration. Should this tape ever be shown publicly, experts will be able to make an accurate judgment about the number of demonstrators. When I viewed the tape it was evident that these thousands of demonstrators were hardly "bourgeoisie," as the Sandinistas claimed. They were overwhelmingly workers, peasants, and young people. I learned later that workers had hired their own trucks to come from the San Antonio Refinery and from the port of Corinto. They chanted slogans like "El Frente y Somoza son la misma cosa." ("The Sandinistas and Somoza are the same thing.")

When Cruz began to speak, dozens of turbas armed with sticks, stones, and machetes surrounded the field. They came in on what appeared to be army trucks chanting, "Power to the people." They proceeded to break the windows and puncture the tires of demonstrators' cars. The police seemed to make no serious effort to restrain them. When the turbas attacked the demonstrators themselves opposition youths dispersed, only to return wielding their own sticks and stones. Outnumbered, the turbas were routed.

The almost complete absence of foreign and domestic press coverage enabled Sandinista officials to characterize the demonstration their own way. We encountered a Sandinista official drunk at midday on the streets of El Viejo. He told us that the demonstration had taken place at the private home of a bourgeoisie and was attended only by a handful of plutocrats. In Managua, the Sandinistas told us that there had been several hundred demonstrators. The following day the Nicaraguan press carried no mention of the events except for one photograph in the official newspaper Barricada which purported to show the turbas attacked by "fascist" demonstrators. La Prensa had devoted several articles and photographs to the demonstration and the clashes, but these were all censored, and the paper did not appear. This was the very day that Daniel Ortega had announced the lifting of press censorship.

The demonstrations for Cruz's candidacy tested the popular mood and the prospects for "the first free elections in Nicaragua," as the Sandinistas' slogan puts it. Among the conditions that Cruz and his supporters have laid down as indispensable for participation are guarantees of freedom of movement, assembly, and equal access to the press and television; sufficient time to campaign; international observers; and, most importantly, guarantees that if he won the election he would be allowed to take office. What happened at Chinandega strongly suggests that neither a genuine election nor a genuine campaign can take place.

Chinandega also exposed the Sandinistas' electoral stratagem. Their decision to hold elections in November was based on a rudimentary political calculation. They judged that the external legitimacy provided by elections would more than compensate for their internal cost. They knew that power does not often change hands in Central America through elections. Somoza' elections had proven that, and the Sandinistas are in a far better position to control elections than Somoza ever was.

Yet their calculations were wrong on two counts. First, they failed to account for the Nicaraguan people. High level Sandinista officials to whom I have spoken seem to live, alone with their international supporters, in a dream world. They deem that the "anti-imperialist sentiments" of the Nicaraguan people allow them to bear any surface even when their "anti-imperialist" leaders bear none. They receive favorable reports from lower-level cadre whose jobs depends on the perception of success. The Sandinistas knew that after five years of enforced political paralysis, the opposition was poorly organized, divided, and amateurish. The spontaneous popular reception for Cruz took them by surprise. Second, they failed to recognize the degree to which they have alienated progressive opinion in Latin America and Western Europe. Cruz's recent highly successful trip to Costa Rica, Venezuela, and Colombia, and his support from European Social Democrats like Spanish Socialist Prime Minister Felipe Gonzalez, has confounded the F.S.L.N.'s electoral plans.

Thus the Sandinistas find themselves in a quandary. Will they back down and permit Cruz to run under reasonable conditions, or will they go ahead with a discredited elec-

tion? Thus far at least, the Sandinistas seem unwilling to pay the price of submitting their rule to a popular test. One Sandinista official, whom I have always considered a moderate, told me privately that they would prefer a U.S. intervention because it would "vastly accelerate the Latin American revolution against U.S. imperialism." He told me that the Nicaraguan Army would immediately invade Honduras and Costa Rica and be greeted as "liberators" by the people.

One can only hope that cooler Sandinista heads will prevail. Authentic elections may be the last chance to avert full-scale civil war. If democratic channels cannot be opened, the civilian opposition will be forced to link up with the armed opposition—which is exactly what happened in the 1970's in El Salvador after fraudulent elections. The United States, which has a monstrous record in Nicaragua, can do something to help. What is needed now most urgently is a bipartisan effort in support of authentic elections in Nicaragua.

As we pulled out of Managua in the fading light of a Sunday afternoon, we found ourselves directly behind an army convoy made up of about twenty vehicles. But unlike the army convoys I have seen in El Salvador, Honduras, and elsewhere, it would not permit traffic to pass. A large vehicle with a blinking light occupied the left lane, forcing vehicles coming toward us off the road. A soldier with a machine gun was poised on the rear truck. It took us four hours to cover the fifty miles to Leon. It was a grueling microcosm of Nicaragua today: the Sandinistas in the "vanguard" preventing the normal flow of traffic, whether out of real fear, paranoia, or bullying. Behind them the rest of the population followed, inconvenienced, irritated, and enduring another pointless "sacrifice" for the Sandinistas' militarism. Our inconvenience was only four hours: the Nicaraguan people experience this twenty-four hours a day. Their patience has worn thin.

LABOR UNDER SIEGE

(By Sam Leiken)

In the last several years, a number of union friends of mine have returned from Sandinista-sponsored tours of Nicaragua with enthusiastic reports of the achievements of the revolution. I visited Nicaragua myself this summer, meeting with members of both the official Sandinista labor federation and the independent unions. I didn't expect to discover a workers' paradise in this underdeveloped and crisis-ridden region, or to see workers running the factories. But I did hope to find signs of progress toward empowering the workers and peasants. Instead, I saw a labor movement battling a "Socialist" government which resists worker demands with tactics ranging from state-controlled unions to spurious arrests and violent goon squads.

In the 1970s labor was united against the Somoza regime, and workers expected that it would remain united to rebuild the country in the aftermath of Somoza's fall. But after assuming power, the Sandinistas sought a large measure of control over the workers by enrolling all Nicaraguan unions in the *Central Sandinista de Trabajadores* (C.S.T.). In 1980 the C.S.T. joined the World Federation of Trade Unions, headquartered in Prague. "The F.S.L.N. wanted to impose a central union, not build one," one opposition labor leader told me.

When centralizing efforts failed, the Sandinistas used state power to penalize unions unwilling to affiliate with them, to organize disruptive factions, and ultimately to jail opposition union leaders. I was told of death threats, beatings, police raids on union headquarters, military conscription of union dissidents, and blacklisting. Opposition leaders are now reluctant to use the recently restored right to strike for fear of being charged with "economic sabotage" and "abetting imperialism."

I talked with truckers from the port city of Corinto who had voted to disaffiliate their local from C.S.T. and to join the independent C.U.S., which is associated with the A.F.L.-C.I.O. through the International Confederation of Free Trade Unions. Soon thereafter, the local's office was attacked by police and turbas. Later some had their drivers' licenses revoked, and a half-dozen union leaders were jailed. In another incident a leader of the other independent union, the C.T.N., said he has been beaten and his nose broken by turbas at the Managua airport in full view of military and civil police.

The Sandinistas have also alienated workers in their own unions, which has led to increasing numbers of wildcat strikes. Several years ago, when the Sandinistas nationalized the German Pomares sugar works, they ousted the independent union. Then, to ensure a docile new leadership, they stacked the vote by trucking in illiterate cane cutters. This summer workers at the refinery defied their leaders: they struck after the union allowed management to cut back worker access to the company store's superior goods and low prices.

While we were in Managua there was a wildcat sit-in at the government-owned Victoria Brewery. Truck drivers there earn 3,000 cordobas a month. Rents average 1,000 a month, and a pair of pants costs 1,000. One deliveryman told me, "We've had the same salaries for the last five years and now hunger has made us explode." The Victoria workers knew that to return to work without a contract can spell defeat. Forced to go back on the job, they effected a slowdown as a way to sustain their leverage.

The official F.S.L.N. newspaper, Barricada, carried a single article on the Victoria "labor dispute." It quoted Sandinista union leaders as saying that they offered "full support to the workers," but also said that they were urging them to return to work immediately. In contrast, La Prensa carried a front-page picture of 200 Coca-Cola drivers parading their trucks in solidarity with the Victoria workers. I was able to confirm La Prensa's report that solidarity brigades were sent by the competing brewery Tona, La Mica fruit punch, Pepsi-Cola, and Standard Steel. Several of these unions also have announced impending strikes.

The dissident labor leaders I met were plainspoken, accustomed to dealing with concrete facts. The C.S.T. official I spoke with talked grandly about how the Sandinistas reorganized Nicaragua's tiny, undeveloped labor unions "by industrial branch." Yet he was at a loss to explain why they had abolished the Nicaraguan equivalent of the U.S. National Labor Relations Board (Tribunales de Trabajo).

He often contradicted what the workers had told me. The workers at the San Antonio sugar refinery said that they had launched a wildcat strike last February to uphold a wage agreement reached between workers and management. According to the workers, the labor minister, backed by the C.S.T. leadership, disallowed the labor contract because its wages exceeded government guidelines. The C.S.T. official claimed that the labor minister had rejected the contract because its wages were too low, and even credited the C.S.T. with leading the strike to raise wages. He went on to dismiss the Victoria wildcatters as "backward" and "disobedient." He saw his role not as a representative of the workers, but as their "intermediary" with the employer.

Numerous dissident union leaders described their situation as closely resembling that of the Solidarity movement. One leader, comparing Nicaragua to Poland, told me: "We are both small countries and have suffered many invasions. We both experience long lines and scarcity while many of our products are shipped off to the Soviet bloc. We are Catholic countries with close ties between the unions and the church. We live under regimes where citizens can be jailed at will. And both governments brand independent unions 'anti-Socialist agents of imperialism.'" Listening, I found myself wishing that some of my fellow union activists had come with me to Nicaragua. They would have been as shocked and disappointed at the repressiveness of this "government of workers and peasants" as I was.

THE CRUZ ALTERNATIVE

(By Joshua Muravchik)

The last best hope for a peaceful and humane resolution to Nicaragua's recent agonies may be slipping away. The hope arises from the government's plan to hold national elections on November 4 and the unprecedented cooperation, in response to that plan, that has been achieved among various elements of the opposition.

Three centrist political parties, two labor federations, and the organization representing businessmen and professionals banded together to form the Nicaraguan Democratic Coordinator, known as the "Coordinadora." It chose Arturo Cruz as its presidential candidate, and announced it would not participate in the elections unless the government consented to a "national dialogue" about the terms of the elections and their aftermath.

The Sandinista government originally refused this demand, citing one of the Coordinatora's conditions for the talks: that representatives of the anti-Sandinista guerrillas also be included. But in August that demand was dropped. Both principal rebel groups—the Frente Democratico Nicaragüense (F.D.N.), and the Alianza Revolutionario Democrático (ARDE) have pledged to lay down their arms if an agreement is reached through the dialogue.

Shorn of the demand for including the rebels in the national dialogue, the nine-point program of the Coordinadora is so manifestly reasonable that the Sandinista government has had trouble justifying its resistance. But thus far it has shown no signs of moving toward an agreement; indeed, it has underscored its tough stance by depriving the three parties that belong to the Coordinadora of their legal standing as political parties.

But the opposition believes that the last word is yet to be heard, and Cruz and his colleagues are hoping to bring international pressure to bear on the Sandinistas. They recently visited five other Latin American countries and were received by the President of each. They are also looking for support from the United States and from Europe. Their immediate demand is for a postponement of the elections so that fair terms can be negotiated.

The Coordinadora program rests on the simple premise that there are elections and

there are "elections." It embodies two goals. The first is to win assurances that the elections themselves will be fair and free. The second, more far-reaching, goal is summed-up by Cruz in the phrase, "respect for the results of the election."

To secure the first, Cruz and his colleagues are calling for international oversight of the elections by either the O.A.S. or the Contadora group, or by representatives of the Socialist International or other Latin American states agreeable to both the opposition and the Sandinistas. They have requested that all polling places be organized so that citizens do not have to cast their ballots, as Cruz puts it, "under the eyes and ears of the so-called 'Committees for the Defense of the Revolution,'" the Sandinistas' internal surveillance network. In addition, the Coordinadora seeks guarantees of freedom of expression, information, and movement; an end to censorship of the press, freedom of assembly; and equal access to the airwaves.

The Coordinadora's second set of conditions focuses on what will follow the elections and poses perhaps an even more important test of the Sandinistas' willingness to share power with the Nicaraguan people. "Basically," says Cruz, "it is the separation of party and state. What if the opposition wins the elections? We have to be sure that we have the capacity to govern. If you have the army as it is now, an instrument of the Sandinistas, how can you expect that?" Cruz is referring to the fact that Nicaragua's overgrown army is officially the army of the Sandinista Party. If Cruz is elected President, will the army then belong to the opposition? An analogous situation applies in other crucial institutions such as the militia, the police, and television.

In a fair election, the Sandinistas might find Cruz a formidable adversary. Against him they would have difficulty sustaining the argument that opposition to them is tantamount to "counterrevolution" and the posthumous restoration of Somocismo. Cruz himself served two prison terms under the Somozas, and was one of a group of prominent citizens, called "The Twelve," whose public alliance with the Sandinistas was crucial to the overthrow of Somoza. He served as head of the Central Bank during the early months of the revolutionary government. After Alfonso Robelo and Violeta Chamorro, the two original non-Sandinista members of the revolutionary junta, resigned from it in protest, Cruz accepted a seat on it in their place, thereby demonstrating his willingness to walk the extra mile with the Sandinistas. That was something he demonstrated a second time by agreeing to come to Washington as ambassador. For most of a year he labored to secure U.S. acceptance of the revolution even while his own differences with the Sandinista government were widening.

The Coordinadora's platform aims not at repealing the revolution, but at fulfilling its original promises. Cruz says: "We want the revolution to really go to the three parameters on which it is predicated—nonalignment, mixed economy, and pluralism."

The touchstone of Cruz's policy of nonalignment would be a strong focus on relations with the rest of Central America. He twits the Sandinistas for pursuing an ideological foreign policy that has engaged Nicaragua in unlikely causes ("It was not until the Sandinistas came to power that we heard of the Frente Polisario in North Africa"), and that has left it as entangled as ever in its relations with the United States. He would "demilitarize Nicaragua completely," leaving only a police force. "For the protection of the country against aggression, we would do as the Costa Ricans do, invoke the Rio Treaty of collective security."

The Coordinadora's case is a good one, and it deserves more attention from North Americans than it has gotten. Not only does it offer a basis for bringing peace to Nicaragua, it also can be the basis for a cease-fire in the battle within the United States over policy toward Nicaragua. Indeed, one reason for the lack of attention to the Coordinadora's struggle may be that elections are approaching in North America too, and all political factions here are looking to sharpen their differences with their opponents. The Coordinadora's stance offers neither hawks nor doves much that they can disagree with or disagree about.

But the United States now has a moment of opportunity in Nicaragua, and it will not wait for the U.S. elections to pass. Those who have been advocating a more conciliatory U.S. policy toward Nicaragua ought to wield the stick, pressing the Sandinistas to meet the demands of the Coordinadora. Those who have supported aid to the contra rebels ought to proffer the carrot—an end to that support if the Sandinistas agree to genuine dialogue resulting in free elections.

The Sandinistas now have power, the kind that grows out of the barrel of a gun. In the end, they may decline to put it at risk. But they can't have it both ways. An election without the participation of the Coordinadora would be an empty exercise conferring no legitimacy on its predictable victors. This is a message that the Sandinistas ought to be hearing over and again from those in Latin America, Western Europe, and the United States, of whatever political stripe, who hope for a peaceful resolution to Nicaragua's turmoils.

ALLEGED COVERT ACTION BEING CONDUCTED IN NICARAGUA

Mr. GOLDWATER. Mr. President, once again Congress has decided to discuss actions, both covert and overt in open session. Once again, we have chosen to speak in public about matters which, in my view, are best debated in closed session.

This is deplorable, Mr. President, that the Nation's secrets are so litle regarded. In the past, I have often spoken in these Chambers on the issue of leaks and proper security. We all know too well that, "It is the ship of state which leaks at the top." Nonetheless, as chairman of the Select Committee on Intelligence, I feel a responsibility to remind my colleagues of their obligation to protect the legitimate secrets of this Nation regardless of the apparent importance of an issue or the heat of debate.

Mr. President, I urge my colleagues to use restraint when discussing alleged covert action activities in public. I also recommend to my colleagues who have questions on this issue that they visit our committee spaces and read over our classified transcripts rather than raise these questions, or come close to raising these questions on the floor or in the public Chambers of the Senate.

We have had some words on this subject. We will undoubtedly get further words. Before that happens, I wish to make a statement on Nicaragua.

NEED FOR CONTINUED PRESSURE ON NICARAGUA

Mr. President, I believe there is a continued need for pressure on Nicaragua and that the "Contras" provide that pressure. The Sandinistas are clearly playing a delaying game—sending out hints and making tactical shifts in an effort to make the pressure go away. The Sandinistas know that if the internal resistence once collapses it will never be effective again.

The United States does not favor pressure for its own sake. It has well-defined purposes and objectives with regard to Nicaragua, specifically:

To drastically reduce military ties with Cuba and the Soviet Union;

To bring about cutbacks in the huge buildup of weapons and troop levels and to restore the regional military equilibrium;

To end support for subversion from Nicaragua into neighboring states in Central America; and

To force the Sandinista regime to honor promises to establish democracy and respect for human and civil rights.

These goals parallel closely the objectives of the Contadora 21 points, which the nations of the region agree are essential for real peace. The United States has made clear repeatedly to the Sandinistas that if they act seriously and positively to address our concerns, we will respond accordingly.

Mr. President, events in the region are at a critical juncture now. Nicaragua has scheduled an election in November, but has denied the democratic opposition a genuine opportunity to participate; it has endorsed a recent draft of a Contadora treaty, but has declined to negotiate on remaining deficiencies in that draft; it has engaged in substantive bilateral discussions with the United States in furtherance of Contadora, but has failed to offer any concrete steps it would take to meet our concerns. Clearly, an end to our support for the resistance is a major Nicaraguan objective and they hope to achieve it without having to make any concessions.

The Sandinistas hope that their tactics may work through unilateral action by Congress. But to deprive the United States of the most effective incentive for overcoming Nicaraguan intransigence would give a green light to Sandinista oppression and subversion, betray those who look to us for support, and encourage our adversaries everywhere in the world.

KENNEDY-BINGAMAN AMENDMENT

Mr. President, on September 19, 1984, Senators KENNEDY and BINGAMAN circulated a "Dear Colleague" letter in which they said they would offer an amendment on the Nicaragua

program. This amendment would prohibit any expenditure of funds in fiscal year 1985 for the purpose or the effect of supporting, directly or indirectly, military or paramilitary operations in Nicaragua by any nation, group, organization, or individual.

I strongly oppose this amendment because I believe it will have harmful effects on U.S. efforts to negotiate with the Sandinista regime in Managua.

For several years, critics of U.S. Central America policy, including many in Congress, have attacked the administration for allegedly refusing to negotiate with Nicaragua. The Secretary of State has now committed his personal presitge and the full weight of the U.S. Government in a new effort to reach a negotiated settlement with the Sandinistas. We are now engaged in bilateral talks and have pledged to conduct these talks within the Contadora context.

There are reasons to believe this effort can bear fruit. The Sandinistas, after riding a wave for so long, are on the defensive;

They face serious economic problems and internal dissent from the church, democratic trade unions, and the remaining business community and other forces.

Their support abroad has eroded as the truth about their policies becomes more evident.

The situation in El Salvador, militarily and politically, is working against the Sandinistas by setting a democratic example for the whole region.

If indeed the Sandinistas are prepared to negotiate seriously after 5 years of spreading subversion and intransigent refusal to listen to their neighbors' concerns, it is because the United States has put pressure on them and stood firmly in opposing their expansionism.

If we deny the President the authority to support the Nicaraguan opposition, we give the Sandinistas in advance the one thing they most want from negotiations. For them, there would be little more to discuss and no reason to make concessions.

The Kennedy/Bingaman amendment would thus effectively undo the long effort, culminated by Secretary of State Shultz's personal intervention, to open a new phase in our relations with the Government of Nicaragua and begin serious discussion with it, within the context of the Contadora process.

INOUYE/STEVENS COMPROMISE

Mr. President, it was my understanding yesterday that Senators INOUYE and STEVENS were working on a compromise amendment regarding the Nicaragua program. I have read over a draft of that compromise and I did not see too many problems with it.

So I would like to ask the Senator from Alaska and/or Hawaii:

What happened to this compromise?

What was wrong with it?

Did anyone object to bringing it up?

Mr. President, if any Senator in the Chamber could answer my questions on this matter, I would appreciate it.

Mr. President, I ask unanimous consent to have printed in the RECORD the draft amendment to which I referred.

There being no objection the draft was ordered to be printed in the RECORD, as follows:

SEC. . (a) During fiscal year 1985, no funds available to the Central Intelligence Agency, the Department of Defense or any other agency or entity of the United States involved in intelligence activities may be obligated or expended for the purpose or which would have the effect of supporting, directly or indirectly, military or paramilitary operations in Nicaragua by any nation, group, organization, movement, or individual except as expressly provided in this section.

(b)(1) The President shall certify to the Congress that the United States is actively working to achieve the following objectives in Nicaragua:

(A) to terminate continuing assistance by the Government of Nicaragua, alone or in collaboration with the Soviet Union, Cuba or other third states, by the provision through Nicaragua of arms, training, command and control facilities, or other logistical support to military or paramilitary operations in or against any other country in Central America;

(B) to remove the Central American conflict from the East-West competition through the departure from Nicaragua of Soviet and Cuban military personnel and the termination of their military and security involvement in Nicaragua;

(C) to achieve a reduction of Nicaragua's expanded military strength to levels of personnel and equipment that will restore qualitative and quantitative military equilibrium among the Central American states; and

(D) to help bring about a free and democratic Nicaragua through fulfillment of the original Sandinista promises to support democratic pluralism, including free, fair and open elections.

The President shall accompany such certification immediately and quarterly thereafter with a public report comprehensively setting forward the status of such efforts.

(2) Funds may be obligated or expended notwithstanding the provisions of this section or any other provision of this joint resolution if the President certifies that the following conditions have been met:

(A) that the Government of Nicaragua, alone or in collaboration with the Soviet Union, Cuba or other third states, is continuing to assist military or paramilitary operations in or against any other country in Central America by the provision through Nicaragua of arms, training, command and control facilities, or other logistical support; and

(B) that the obligation and expenditure of available funds for the purposes described in paragraph (a) of this subsection are necessary to support United States policy to induce the Government of Nicaragua to participate in a regional framework to preserve the peace and security of the Central American countries through a comprehensive, verifiable and enforceable agreement based upon the Contadora Document of Objectives.

If the President so certifies, he shall transmit such certification to the Appropriations Committees of the Senate and the House and to the Senate Select Committee on Intelligence and the House Permanent Select Committee on Intelligence, and shall accompany such certification immediately and quarterly thereafter with a classified report to the Congress through those Committees comprehensively setting forward the grounds for determination that these conditions have been met.

A certification by the President under this paragraph shall expire in the event that a quarterly report is not transmitted as provided, or that such report fails to state that the relevant conditions continue to exist.

(c) In addition to amounts otherwise available for the Central Intelligence Agency, there is appropriated for activities of the Central Intelligence Agency not to exceed $6,000,000, to remain available for obligation until September 30, 1985: *Provided*, That of such sum, not to exceed $2,000,000 may be obligated or expended solely for the safe and expeditious withdrawal from Nicaragua of any individual engaged, or who has been engaged, directly or indirectly, in military or paramilitary operations in Nicaragua: *Provided further*, That of such sum, not to exceed $4,000,000 may be obligated or expended solely to provide humanitarian support outside Nicaragua for individuals (and the families of such individuals) who have been engaged, directly or indirectly, in paramilitary operations in Nicaragua, if such individuals are not equipped for military or paramilitary operations while outside Nicaragua. Funds available under this paragraph may be obligated or expended only if certification under paragraph (b) is withdrawn or has expired.

QUESTIONS ON NICARAGUA

Mr. GOLDWATER. Mr. President, several Members of this body have raised questions regarding American policy toward the Sandinista regime in Nicaragua.

However, there are a number of questions which have been raised in the course of this debate for which I have not heard any good answers. These questions are as follows:

Where are those freedoms that were promised by the Sandinista government in Nicaragua only a few years ago?

Why is there no freedom of the press in Nicaragua?

Why are they repressing the church?

How many Miskito Indians have been uprooted from their homes? Had their property pillaged? Their villages burned? How many have been forced into relocation camps or just plain killed?

Why have Nicaraguan Jews been forced to emigrate from their homeland? And their property confiscated?

Why are not Sandinista leaders content with improving the standard of living of their own people instead of fomenting revolution and spreading communism through Central America?

Why are 2,000 Cuban military advisers and 6,000 more Cubans in high executive offices in Nicaragua?

Why is the PLO permeating Nicaragua's military as advisers and pilots?

Why are Libyans flying arms and ammunition into Nicaragua under the guise of medical supplies?

Why has a small group of 500 Nicaraguan nationals, whom we call the Contras, grown to some 18,000 people, a number admittedly getting larger every day? Why does it grow? Why did Eden Pastora and other prominent Sandinistas leave the revolution to fight it?

Why are these people prepared to gamble their lives and the lives of their families to oppose the Sandinista regime?

And most importantly, why are a vast number of Members in this body turning their backs, covering their eyes and ears, and ignoring the cries for freedom and democracy in Central America?

I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. Mr. President, I wish to modify my amendment, and my modification is at the desk.

The PRESIDING OFFICER. The amendment is so modified. The modified amendment is as follows:

On page 13, line 2, before the period insert a colon and following: *"Provided further,* That during the fiscal year 1985, no funds available to the Central Intelligence Agency, the Department of Defense or any other agency or entity of the United States involved in intelligence activities may be obligated or expended for the purpose or which would have the effect of supporting, directly or indirectly military or paramilitary operations in Nicaragua by any nation, group, organization, movement, or individual, except as specifically provided in this subsection: *Provided further,* That of the funds made available by this joint resolution for activities of the Central Intelligence Agency, not to exceed $2,000,000 may be obligated or expended solely for the safe and expeditious withdrawal from Nicaragua of any individual who is engaged, or who has been engaged, directly or indirectly, in military or paramilitary operations in Nicaragua, and not to exceed $4,000,000 may be obligated or expended solely to provide humanitarian support outside Nicaragua for individuals (and the families of such individuals) who have been engaged, directly or indirectly in paramilitary operations in Nicaragua and who are not equipped for military or paramilitary operations while outside Nicaragua".

Mr. INOUYE. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. WALLOP. Mr. President, as I explained before I have the greatest respect for the Senator from Hawaii. I have contested with him, and I have supported him on the floor on various issues. On this one, I clearly come down on the other side.

Let me begin by replying to the Senator from Hawaii's principal points. First, it was never the original intention of the covert action in Central America solely or even primarily to interdict arms. The first finding in this field was by the Carter administration, even as it was delivering aid to Nicaragua. Nevertheless the Carter administration found that it had to do something about the increasing totalitarian nature of the Sandinista government and about its allegiance to, and alliance with, the Soviet Union and Cuba.

Second, is the CIA's role in Nicaragua hurting the CIA as the Senator from Hawaii is claiming? The Senate must understand that the foreign policy of the United States is not made for the convenience of its executors. They are an arm of foreign policy, to do what they are told to do.

They are not ginning up, generating, concocting what they are doing in Nicaragua on their own, without direction from the Reagan administration. Nor did they do so in the Carter administration. They are doing what they are directed to do because they are an arm of U.S. foreign policy.

Third, the Senator from Hawaii said that continued help to the Contras is not enhancing the credibility of the United States. I say that credibility is enhanced by success; and that if the Soviet Union's side wins in Nicaragua, then, and then specifically, will our credibility be destroyed.

Last, the Senator was speaking of how the new talk of elections, actually and eloquently described by the Senator from Louisiana, would be turned off by continued pressure. I suggest another thesis: That the only reason you are hearing talk in any dimension of elections is because of that very pressure.

The concept of "engaño" which was eloquently and lucidly explained by the Senator from Louisiana, was illustrated by Daniel Ortega, who said that elections are an interference with the process of the revolution and that "we only have to do it because of the way it appears to the outside world." But Arturo Cruz, whose access to a fair election in Nicaragua is being denied, is a respected member of the Socialist International, an organization which some Members of this body including the Senator from New York proudly and routinely praise.

The Senator from Hawaii proposes we set aside $2 million in order to disengage $4 million of humanitarian aid. What atrociously obnoxious money that is. We would be telling brave people, who have fought for their freedom and asked us not for our blood but for our support:

Sorry, boys, freedom is too tough for today's American electorate. We can't support freedom. It bothers us in our elections, and we're sorry that we ever encouraged you to fight for your freedom. We're sorry that when you came and asked, we gave you some money. By the way, here is $4 million to make you feel better.

Moreover, that $4 million amounts to less than $100 a person for those who would be helped by all this.

How can we even conceive of doing that?

In point of fact, the President's intention is so simple and honorable, People seeking freedom have asked for economic assistance and military advice. He has asked the Congress not to prevent his giving it.

Mr. GOLDWATER. Mr. President, will the Senator yield?

Mr. WALLOP. I yield for a question.

Mr. GOLDWATER. Mr. President, I am glad that the Senator from Wyoming brought up the point that the CIA is like the rest of our intelligence family, a member of the Government, and they only do what they are told to do, and the only time that the CIA has fallen into disrepute is when they were given instructions way, way, way before this administration or the Carter administration, to do things that they knew were wrong.

Does the Senator agree with that?

Mr. DURENBERGER. I will agree.

Mr. GOLDWATER. We hear about the covert actions. I think we are all agreed, those of us who have been exposed to this, long ago this action ceased to be covert, but the only other action we have, I suggest, is overt, and overt is war.

The questions that comes to my mind, particularly related to this amendment offered by my good friend from Hawaii, as an alternative to covert action, are we suggesting going to war over this matter now? Does the Senator believe that?

Mr. WALLOP. I would hope that that was not the suggestion that we were receiving. I would hope also that we do not give the erroneous impression that we have fostered the Nicaraguan assistance solely to interdict arms for the war in El Salvador. That would cheapen both our motives and those of the Nicaraguans freedom fighting. We would thereby say that they are not people seeking their own freedom in their own country at their own sacrifice with their own blood and their own discomfort and their own misery; but that they are mere little mercenaries of the United States, off doing business for El Salvador. That was never true.

Mr. GOLDWATER. I wish to ask one other question. This is a little bit confused. I have read the modification suggested by the Senator from Hawaii. Frankly, I do not think it changes the original amendment one bit. It is the same thing. It is a little shorter. There

is no triggering point that I can determine.

Does the Senator believe that the Senator from Hawaii wants us to have an immediate application of his words or is there a point that has been suggested by other amendments offered on this same subject and in this same line that if something happens then the words of the amendment would take place?

As I read the amendment, it would be immediately active. Does the Senator interpret it that way?

Mr. WALLOP. I have not seen the modification, and I ask if the Senator said that. But the first amendment was clearly that. There was no trigger point. It took effect on passage, one would assume. What a signal it would send about this country's commitment to the aspirations of the freedom of people everywhere in the world. This Congress, this Senate should never endorse the Brezhnev doctrine in this hemisphere, according to what the Soviets say "what territory is ours is ours and keep your hands off of it and what is yours is available to exploit when the time is right." Were we to agree to that, freedom would be a one-way street, and we would be traveling down that street in the wrong direction.

Either this country stands for, and seeks for, and will support, legitimate aspirations to freedom, or it is not the country that I think it is, and this is not the Senate that I hope it is.

Mr. GOLDWATER. One additional question, and I shall sit down:

The decision in these matters in my opinion and according to the Constitution rests with the President, the Commander in Chief. The Commander in Chief has seen an ultimate threat to our freedom on borders 800 miles away. I might suggest that is the closest we have ever come since the attack on Pearl Harbor to having our freedom threatened.

I might add that because I live on the Mexican border, I might feel a little more closely associated with this threat than others who live a greater distance away.

But does the Senator from Wyoming not feel that regardless of what wordage we might adopt on this floor in the form of an amendment, ultimately it is the Commander in Chief who is going to have to make up our minds or we are going to have to amend the Constitution, and I frankly think that this might be a good test for the President to try his case, because before this Constitution of ours can survive and we can go along as a free people, in my opinion, we have to defeat the War Powers Act. I do not like to bring this in at this time, but I just wanted to raise that one point before I sit down; that is, it is our Commander in Chief, not us, who has to make these final decisions, and much as I dislike arguing with my friend from Hawaii, because I have the utmost respect for him—he is one of the great heroes of our World War II; he is a man who is dedicated to our principles—but in this case, I have to agree with my friend from Wyoming that the language of this amendment should not be adopted by this body.

Mr. WALLOP. I thank the Senator from Arizona.

Mr. President, I made my case on the floor, and I will not make it again, for the strategic significance of this area. I have asked whether this country wants another Cuba in this hemisphere, and whether it is willing to live with the resulting effects on the Panama Canal and on our southern border. Today, I wish to concentrate on something a little different, an essential issue that we have neglected. Whatever we do with regard to Nicaragua, our action or inaction will redound to someone's benefit. If we do not support the contras, then we support the Communists. In war, there is no equivocation. What is going on down there is a war waged by people seeking their freedom, and by Communist tyrants trying to crush it.

I have in my hand Senate Concurrent Resolution 74 signed by 70 Senators of this body to encourage and support the people of Afghanistan, on the other side of the world, on the Soviet border, in their struggle to be free from Soviet domination.

We all know who we are, the cosponsors of Senate Concurrent Resolution 74, and I ask unanimous consent to have printed in the RECORD the list of cosponsors.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

Mr. TSONGAS (for himself, Mr. ABDNOR, Mr. ANDREWS, Mr. ARMSTRONG, Mr. BENTSEN, Mr. BINGAMAN, Mr. BOSCHWITZ, Mr. BRADLEY, Mr. BUMPERS, Mr. BYRD, Mr. CHILES, Mr. COCHRAN, Mr. COHEN, Mr. D'AMATO, Mr. DECONCINI, Mr. DIXON, Mr. DOLE, Mr. DURENBERGER, Mr. EAGLETON, Mr. EXON, Mr. FORD, Mr. GARN, Mr. GLENN, Mr. GRASSLEY, Mr. HART, Mr. HATCH, Mr. HEINZ, Mr. HUDDLESTON, Mrs. KASSEBAUM, Mr. KENNEDY, Mr. LAXALT, Mr. LEVIN, Mr. LUGAR, Mr. MATTINGLY, Mr. MELCHER, Mr. MOYNIHAN, Mr. MURKOWSKI, Mr. NICKLES, Mr. PELL, Mr. PRESSLER, Mr. PROXMIRE, Mr. PRYOR, Mr. QUAYLE, Mr. RANDOLPH, Mr. RIEGLE, Mr. RUDMAN, Mr. SARBANES, Mr. SASSER, Mr. SIMPSON, Mr. SPECTER, Mr. STENNIS, Mr. WARNER, Mr. WILSON, Mr. ZORINSKY, Mr. HOLLINGS, Mr. PERCY, Mr. JEPSEN, Mr. CRANSTON, Mr. HEFLIN, Mr. DENTON, Mr. SYMMS, Mr. EAST, Mr. INOUYE, Mr. DODD, Mr. KASTEN, Mr. HECHT, Mr. MCCLURE, Mr. LEAHY, Mr. WALLOP, Mr. HUMPHREY, Mr. TOWER, and Mr. LAUTENBERG) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations.

Mr. WALLOP. Mr. President, I wonder what they see as the difference, those who feel one way about Afghanistan and another about Central America. Sure, they will be saying that there are Soviet occupation troops in Afghanistan.

But is not Cuba and the Soviet Union in effect an occupation force with the Sandinistas? Who in here thinks that the Sandinistas can operate on their own independently and could trigger a free election if they wanted to without the permission of their Soviet and Cuban masters?

Why would we vote to help freedom on the other side of the globe and to further the cause of the Soviet Union near our own border?

Does anyone in here doubt that a victory over the Nicaraguan resistance would be a victory for the Soviet Union? Of course it would be.

Why is it that there are some in this body so eager to give that victory to the Soviets and the Cubans?

Do the Nicaraguan people have less right to be free than the Afghans?

The resolution says:

. . . it would be indefensible to provide the freedom fighters with only enough aid to fight and die but not enough to advance their cause of freedom.

Where are all my consistent fellow cosponsors? What is the difference between people seeking freedom in the mountains of Central Asia or the mountains of Central America?

Where are you? Why is it that it is more important to be free there than in our own hemisphere?

Perhaps here is the anwser. The resolution says:

That it should be the policy of the United States to support effecitvely the people of Afghanistan in their fight for freedom; . . .

Perhaps these cosponsors are willing to say such things when there is little chance of achieving them, but when a real choice is before them, instead of backing freedom, in effect they are backing a Soviet victory in our own hemisphere.

How good is it to have votes on clear issues? How clear can you get? The choice is absolutely there. Voters can cast their votes and decide between sincerity and hypocrisy.

Both of those causes are worthy of the support of a free people proud of freedom, and this I hope to God in America is still one.

Mr. President, lest there be any doubt as to the nature of the leaders of the contras, I ask unanimous consent that the biographies of the Contra leaders, showing them to be freedom-loving people, many of whom formerly were Sandinistas, be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

INTRODUCTION

The Sandinistas are waging an intensive propaganda campaign to discredit their opponents as counter-revolutionaries. They denounce the leaders of the armed anti-Sandinista organizations as henchmen of former

President Somoza. But the facts show that nearly all the so-called "contra" leaders were actually staunch opponents of Somoza. Many fought against Somoza and contributed to his defeat. Subsequently, they became disillusioned when they saw that the democratic revolution for which they had sacrificed so much was being transformed by the Sandinistas into a Marxist-Leninist dictatorship. This paper provides an overview of the reasons many Nicaraguans turned against the Sandinistas and examines the composition of the groups that form the armed opposition.

WHY THE OPPOSITION DEVELOPED

The Sandinistas' victory in 1979 depended largely on the spirit of rebellion against Somoza which had developed during the 1970's. Political parties—including the Conservatives, who were the traditional opposition force, dissident Liberals, Social Christians, and Socialists—all clamored for an end to Somoza's total domination of the nation's political system. Businessmen, farmers, ranchers, and professionals—united in the Supreme Council of Private Enterprise (COSEP)—struggled against Somoza's control of Nicaragua's economy. Independent labor confederations fought for workers' rights and an end to repression of the organized labor movement. The Catholic Church, under the leadership of Archbishop Miguel Obando y Bravo, became an outspoken critic of the Somoza regime and advocated freedom and social justice. The Permanent Commission on Human Rights exposed the abuses of the Somoza government to the world. The independent daily La Prensa spearheaded the crusade against Somoza; in early 1978, the assassination of the paper's editor, Pedro Joaquin Chamorro Cardenal, sparked the revolution.

The Sandinistas concluded that by deemphasizing their Marxist-Leninist ideology and forming a tactical alliance with the broad spectrum of organizations opposed to Somoza, they could seize power. Accordingly, they appealed to all Nicaraguans to join their revolutionary movement and pledged that the pillars of the new government would be pluralism, a mixed economy, and nonalignment. The Nicaraguan people came to view the Sandinista National Liberation Front (FSLN), the major armed anti-Somoza organization, as the only viable alternative to Somoza's continued rule. Placing faith in the FSLN's promises, Nicaraguans from all walks of life and all political persuasions rallied round the Sandinistas banner and joined in the popular revolution that triumphed in July 1979.

The Sandinistas determined to maintain the appearance of a broadly based popular regime. The original junta of the new Government of National Reconstruction (GRN) contained moderates as well as Sandinista militants, and the cabinet included non-Sandinistas. Even the key post of Defense Minister was given to a defector from Somoza's National Guard, Colonel Bernardino Larios. However, the Sandinistas viewed this merely as an interim arrangement that would facilitate the consolidation of their power. In September, the FSLN National Directorate held a secret strategy session which produced the "72-hour document," a blueprint for the creation of an FSLN-controlled Marxist-Leninist State in Nicaragua.

As the Sandinistas labored to consolidate their power, groups that had struggled so long against Somoza became increasingly opposed to Sandinistas policies and actions. These groups found themselves confronting a regime far more formidable and doctrinaire than its predecessor. Activists in opposition parties were harassed and their opportunities to proselytize were limited by law. Members of the private sector saw the government take over the lion's share of the economy and impose rules greatly restricting their ability to manage their own firms. Independent labor leaders were frequently persecuted, and strikes were outlawed while the real wages of workers declined. The leadership of the Catholic Church was attacked by the FSLN for continuing to speak out on issues such as human rights, church unity, individual freedom, and the right to a religious education. The Permanent Commission on Human Rights was persecuted for revealing Sandinistas human rights violations, and its president was driven into exile. La Prensa was muzzled by a harsh censorship law, and on numerous occasions the paper did not publish because virtually all the day's hard news had been prohibited by government censors. Defense Minister Larios was replaced by a member of the FSLN's National Directorate, and he subsequently spent more than two years in prison accused of being a counter-revolutionary; he still is not permitted to leave the country.

The Sandinistas have reneged on their promise to bring democracy to Nicaragua, and an ever-growing number of Nicaraguans see their revolution betrayed by the FSLN. Many have remained in Nicaragua thus far, trying to wage a civic battle with the Sandinistas. Others have concluded that the civic course was futile, and that the only way the Sandinistas would leave power was the same way they acquired it, through military force. In the past few years, a number of armed anti-FSLN organizations have emerged and initiated combat operations against the Sandinistas. These groups represent widely differing constituencies within Nicaragua, reflecting the diversity of the groups that formerly had opposed Somoza. A lack of unity has hampered the effectiveness of the anti-FSLN efforts. In the summer of 1984, however, the three major exile organizations—FDN, MISURA, and ARDE—formed an alliance named the Nicaraguan Unity for Reconciliation (UNIR).

THE ARMED OPPOSITION GROUPS

I. NICARAGUAN DEMOCRATIC FORCE—FDN

The FDN is the largest of the armed anti-FSLN organizations. It was founded in 1981 under the leadership of former National Guard officers. As the focal point for armed resistance to the Sandinistas, it quickly attracted many of those who had become disaffected with the FSLN. Its ranks were swollen by influential political and business figures, by peasants from northern Nicaragua who were fleeing Sandinista repression, and even by disillusioned Sandinistas themselves. The influx of new members led to a fundamental transformation of the FDN, and in December 1982 a new National Directorate was formed which was dominated by anti-Somoza civilians. The new civilian leadership purged any former National Guard members whose background was questionable. It retained other former National Guard members with clean records in positions where their military expertise was needed. A further reorganization of the FDN occurred in October 1983, and Adolfo Calero, a prominent Conservative and business leader, assumed the position of President of the National Directorate and Commander in Chief. The FDN's rapid growth has permitted it to field 42 task forces for combat operations. All but four of these units are currently led by civilians or ex-Sandinistas. Overall, less than 1% of the FDN's total strength were previously members of the National Guard, while about 15% were actually ex-Sandinista fighters. The FDN claims to have between 10,000 and 12,000 members.

II. MISURA AND BLACK CREOLES

MISURA evolved out the Alliance for the Progress of Miskitos and Sumos (ALPROMISU), an Indian organization founded in 1973 with the help of Protestant churches working in the Atlantic Coast region. The initial objective of the organization was to compel the Somoza regime to respect the rights of the indigenous Indian populations. Following the fall of Somoza, the Sandinistas renamed the organization Miskito, Sumo, Rama, and Sandinista Unity (MISURASTA). Gradually, Sandinista mistreatment of the indigenous population led MISURASATA leaders to criticize the FSLN and, finally, to flee into exile. By the end of 1981, Sandinista persecution and forced relocation of Indian communities prompted the beginning of a large-scale exodus of Miskito Indians from Nicaragua. The government officially disbanded MISURASATA, but the organization lived on as former members developed a center of armed resistance to the FSLN. This group was headed by Miskito leaders such as Wycliffe Diego and Steadman Fagoth. In 1983, it adopted the name MISURA. This organization claims to have between 1,000 and 2,000 members.

III. DEMOCRATIC REVOLUTIONARY ALLIANCE—ARDE

ARDE is a coalition of organizations led by individuals who took an active role in the revolution, including many who were initially officials of the Sandinista government. ARDE was formed in exile in 1982. For a year, its leaders sought to restore the original course of the revolution through political means. In mid-1983, after peaceful political efforts proved futile, ARDE began military operations in southern Nicaragua. Since it was founded, ARDE has attracted thousands of former Sandinista fighters and civilians who have lost faith in the leadership of the FSLN. In 1984, a split occurred within the organization. The MDN, UDN/FARN, FSDC, and STDN—four of the component organizations which held the major political leaders of the alliance and a few hundred of its guerrillas—entered a pact with the FDN and MISURA. The FRS and MISURASATA—which included most of the guerrillas and some of the civilian leaders—refused to align themselves with the FDN and have continued to operate independently. While these differences remain unresolved, the two factions agreed in September 1984 to coordinate their activities whenever possible. The following are the member organizations of ARDE:

A. NICARAGUAN DEMOCRATIC MOVEMENT—MDN

The MDN is a social-democratic party founded in 1978. It drew its support from middle class Nicaraguans, including many professionals, and it played an active role during the revolution. Its head, Alfonso Robelo, was one of the original members of the ruling GRN junta, but he resigned his position in 1980 in protest to Sandinista actions. The leaders of the MDN, particularly Robelo, subsequently were subjected to heavy FSLN harassment and fled into exile in 1982. Robelo has emerged as a key civilian leader of ARDE.

B. NICARAGUAN DEMOCRATIC UNION/NICARAGUAN REVOLUTIONARY ARMED FORCES—UDN/FARN

The UDN/FARN is a political/military organization founded in 1981 by veteran anti-Somoza fighter Fernando "El Negro" Chamorro. The UDN/FARN was one of the original groups of ARDE, but Chamorro pulled his group out in the spring of 1983 and worked with the FDN for several months. In the spring in 1984, his differences with ARDE were overcome and the UDN/FARN rejoined the alliance.

C. CHRISTIAN DEMOCRATIC SOLIDARITY FRONT—FSDC

The FSDC was formed in 1983 by Christian Democratic leaders who had fled into exile. It is led by figures such as Roberto Ferrey who were long-time opponents of Somoza.

D. NICARAGUAN DEMOCRATIC WORKERS' SOLIDARITY—STDN

The STDN was founded in 1983 by labor leaders such as Zacarias Hernandez who were forced into exile by Sandinista persecution of the independent labor movement. They had been steadfast opponents of the Somoza regime.

E. SANDINO REVOLUTIONARY FRONT—FRS

The FRS, headed by Sandinista hero Eden Pastora, was created in 1982 by disillusioned Sandinista militants, many of whom had fought alongside Pastora on the Southern Front during 1979. The FRS was a founding member of ARDE, but it severed its ties when the leaders of other ARDE groups decided to form an alliance with the FDN and MISURA. Many of ARDE's combat troops chose to follow Pastora. The FRS claims to have more than 5,000 members.

F. MISKITO, SUMO, RAMA, AND SANDINISTA UNITY—MISURASATA

MISURASATA is the other Indian organization that evolved out of ALPROMISU. As noted above, the Sandinistas renamed the Indian organization MISURASATA, and later officially dissolved it when its leadership become highly critical of FSLN actions. In 1982, Miskito leader Brooklyn Rivera joined with other MISURASATA members in the south and commenced operations against the Sandinistas. This group retained the name MISURASATA and acted independently of MISURA forces in the north. MISURASATA leaders have collaborated closely with Pastora's forces, and MISURASATA joined with the FRS in refusing to form an alliance with the FDN and MISURA.

BIOGRAPHIC SKETCHES OF OPPOSITION LEADERS

Sandinista propaganda seeks to portray the leaders of the armed opposition groups as associates of Somoza. The following biographical sketches show the contrary: that most were arden opponents of the Somoza regime.

I. NICARAGUAN DEMOCRATIC FORCE—FDN

Adolfo Calero Portocarrero, President of the National Directorate and Commander in Chief of the Armed Forces of the FDN

Adolfo Calero was a prominent businessman and a lifelong political opponent of Somoza. He received part of his education in the United States, graduating in 1953 from the University of Notre Dame and later doing graduate work in industrial management at the University of Syracuse. He holds a law degree from the University of Central America in Nicaragua. In the late 1950s he became a major stockholder in and manager of the Coca-Cola Company of Nicaragua. His views on social and economic issues translated into tangible benefits for his workers, such as profit sharing, pay exceeding the minimum wage by 60%, and scholarship programs. He served as a director of the Chamber of Commerce and was a member of the Nicaraguan Developmental Institution (INDE) and the Nicaraguan Developmental Foundation (FUNDE), and a co-founder of the Human Development Institute (INPRHU). In the early 1970s, he was the dean of the faculty of Economics and Business Adminstration at the University of Central America.

Calero began his political career in 1953, when he joined other anti-Somoza activists including Pedro Joaquin Chamorro Cardenal (the editors of La Prensa assassinated in 1979), Rafael Cordova Rivas (currently a member of the GRN junta), and Reynaldo Antonio Tefel (currently a member of the GRN cabinet) in forming an opposition youth movement. Later in the 1950s, he became an activist in the Conservative party, the traditional opposition group to Somoza. In 1959, he helped organize managerial strikes in support of the "Olama and Los Mollejones" insurrection headed by Chamorro.

Calero's stature within the Conservative party grew during the 1960s, and in 1970 he was offered a seat as an alternate in Congress as part of a pact between Fernando Aguero (Conservative party head) and Somoza. Calero refused the offer, insisting that Aguero's actions amounted to a sellout to Somoza. Instead, Calero joined other party members, such as current conservative leader Mario Rappaccioli, and founded the Authentic Conservative Party. He became the party's coordinator in 1977.

Following the assassination of Chamorro in 1978, Calero was a principal leader of the strikes and civic activity that shook the Somoza regime. He subsequently served as his party's representative in the Broad Opposition Front (FAO), an umbrella organization of opposition groups. He and other FAO leaders were jailed for a month for initiating a general strike.

Following the fall of Somoza, Calero initially attempted to cooperate with the FSLN in rebuilding Nicaragua. He was a leader of the Democratic Conservative Party which was forged during the revolution by uniting the previous divided conservative movement, and he was selected to the key position of political coordinator for the party. By the end of 1982, having become totally disillusioned with the FSLN and the minor role it allowed other political parties, Calero went into exile to join the FDN. He was appointed to the FDN's National Directorate and in October 1983 elevated to the post of President of the National Directorate and Commander in Chief of the FDN's Armed Forces. He serves as the FDN's representative on the Directorate of UNIR.

Enrique Bermudez Varela, Member of the FDN National Directorate and Chief of the Strategic Military Command

Enrique Bermudez is a career military officer who graduated from the Nicaraguan Military Academy and attained the rank of colonel in the National Guard. He was not politically active and regarded himself as a professional soldier. Bermudez spent much of his career abroad. He attended military training courses in Brazil and the United States. He served with the Inter-American Peace Force in the Dominican Republic in 1965, and was head of the Nicaraguan delegation to the Inter-American Defense Council. During the years preceding the revolution, Bermudez was Nicaraguan Defense Attache in Washington. After the revolution, he helped organize other exiled National Guard officers and was a founder of the FDN.

Alfonso Callejas Deshon, Member of the FDN National Directorate

Alfonso Callejas was trained as a civil engineer at the University of Santa Clara in California. After working for several years with the Standard Fruit Company, he founded his own business and eventually had interests in cattle, bananas, and cotton. He held various local and national offices in his capacity as an engineer, and headed the National Office of Water Resources in the early 1960s. He served as Minister of Public Works and later was named Vice President of the Republic under Somoza. He became disenchanted with the Somoza regime, however, and in 1972 resigned as a public protest to Somoza's efforts to maintain himself in power. He was a member of Somoza's National Liberal Party (PLN), but he was a leader of a group of dissidents who sought to restore true liberal values to the party. In 1978, he organized a PLN grassroots movement designed to force Somoza to resign. He spent the last months of the Somoza regime in exile in Honduras. Callejas returned to Nicaragua after the revolution, and although he was reportedly investigated and cleared of any wrongdoing, his properties were confiscated. He subsequently went back into exile.

Indalecio Rodriguez Alaniz, Member of the FDN National Directorate

Indalecio Rodriguez is a veterinary doctor who served as a professor and President of the University of Central America in Managua. As the son of a prominent anti-Somoza figure, he became politically active at an early age. He participated in an opposition youth movement, and became active in the Independent Liberal Party (PLI). He was jailed twice in the 1950s for his anti-Somoza political activity, and went into exile in 1960 where he became involved for a time with the newly formed FSLN. After several years abroad, he returned to Nicaragua to accept a position at the University of Central America, and he remained there during the revolution. By 1981, he had become disillusioned with the FSLN and abandoned his post to go into exile.

Lucia Cardenal de Salazar, Member of the FDN National Directorate

Lucia Cardenal de Salazar is the widow of prominent Nicaraguan businessman Jorge Salazar Arguello, murdered by Sandinista security forces in November 1980. She was educated in Catholic schools in Nicaragua and the United States. During the revolution, the Salazars collaborated with the FSLN and harbored Sandinista militants who were being sought by Somoza's forces. Her husband, a top official of COSEP, played a key role in the civic opposition to Sandinista policies in late 1979 and 1980. He was a progressive leader whose popularity was rising when Sandinista security agents set him up and shot him allegedly for participating in a conspiracy. Following her husband's death, Mrs. Salazar fled Nicaragua and subsequently joined the FDN.

Marco A. Zeledon, Member of the FDN National Directorate

Marco A. Zeledon was a prominent businessman who played a leading role in private sector organizations. He has held key

positions, such as president of the Nicaraguan Chamber of Industry, and served as member of the Board of Governors of the Central American Institute of Food Marketing and of the Financial Committee of the developmental organization FUNDE. He was a progressive businessman who was one of the first to promote constructive forms of interaction in decision-making among the private sector, the government, labor unions, and community organizations. He became increasingly active in anti-Somoza politics during the 1970s, and participated in a private sector initiative to persuade Somoza to implement policies that would result in a more equitable distribution of wealth. Zeledon went into exile after the Sandinistas confiscated his cereal business.

II. MISURA AND BLACK CREOLES

Wycliffe Diego, Coordinator of the Political Commission of MISURA

Wycliffe Diego is a Miskito Indian leader from the Atlantic Coast town of Puerto Cabezas. He was a Moravian pastor and an active member of ALPROMISU, eventually attaining the office of Coordinator. In 1974, he was jailed by Somoza for allegedly being a Communist. Like many other Miskitos, Diego initially supported the revolution but became increasingly critical of the FSLN's treatment of his people. In 1981 he fled into exile after the Sandinistas arrested numerous Miskito leaders. Although the FSLN officially disbanded MISURASATA, Diego collaborated with other members of the movement in transforming MISURASATA into an armed anti-Sandinista group. He was gravely wounded in an assassination attempt in 1982. He represents MISURA on the directorate of UNIR.

Steadman Fagoth Muller, Member of MISURA

Steadman Fagoth, a Miskito Indian leader, was an active opponent of Somoza. While studying biology at the National Autonomous University of Nicaragua in the early 1970s, he was arrested twice for his political activities. He became a member of the ALPROMISU organization which defended Indian interests. Following the revolution, he became a leader of the Sandinista-sponsored successor to this group, MISURASATA. He was that organizations's first representative on the quasi-legislative Council of State. Fagoth began to criticize Sandinista mistreatment of his people, and in February 1981 he was among a group of Indian leaders arrested for "counter-revolutionary activity." He was also accused of having been an informant for Somoza during his university days, but MISURASATA insisted that his collaboration had been at the behest of the FSLN. In May, Fagoth was released on the condition that he accept a lengthy scholarship in a Soviet-bloc country. He managed to flee to Honduras where he joined other MISURASATA members who were fighting against the Sandinistas. In 1982, he was wounded in an assassination attempt.

Roger Hermann, Member of the Political Commission of MISURA

Roger Hermann, a young Indian leader from Puerto Cabezas, became active in MISURASATA in 1979 in the labor field. Two years later, when the FSLN attempted to coerce him into working for the secret police (DGSE), he chose to go into exile instead. He was elected to MISURA's Political Commission in 1983.

III. DEMOCRATIC REVOLUTIONARY ALLIANCE—ARDE

A. NICARAGUAN DEMOCRATIC MOVEMENT—MDN

Alfonso Robelo Callejas, Political Coordinator of ARDE, Head of the MDN

Alfonso Robelo was trained as a chemical engineer and served as director of the University of Central America in Nicaragua during 1970–72. He subsequently became a leader in the private sector and was president of the Nicaragua Chamber of Industries until 1975. For the following three years he headed the developmental institute INDE.

Rebelo's work with progressive, non-Somoza private sector organizations led him to a growing political role in the anti-Somoza movement. Following the assassination of Pedro Joaquin Chamorro Cardenal in early 1978, Robelo founded the Nicaraguan Democratic Movement (MDN), a political party of businessmen, industrialists, and profession created to provide leadership for the opposition to the Somoza regime. As head of the MDN, he became an active member of the Broad Opposition Front (FAO).

One of the original five members of the GRN junta, Robelo resigned in April 1980, publicly stating his opposition to the Marxist-Leninist tendencies within the FSLN-dominated government and to the strong Cuban influence. His efforts at civic opposition provoked severe harassment by the FSLN, including Sandinista mobs vandalizing his home. Robelo fled into exile in 1982 and subsequently became a founder of ARDE. He serves as ARDE's representative on the Directorate of UNIR.

B. NICARAGUAN DEMOCRATIC UNION/NICARAGUAN REVOLUTIONARY ARMED FORCES—UDN FARN

Fernando "El Negro" Chamorro Rappaccioli, Leader of UDN/FARN, Commander of ARDE's Military Forces

Fernando Chamorro was a prominent anti-Somoza figure since the 1940s. He participated in numerous military operations against the regime, and he was repeatedly exiled or imprisoned by Somoza. During the revolution, he executed a spectacular rocket attack on Somoza's bunker from a room in the nearby Intercontinental Hotel. In 1979, he fought on the Southern Front. After the Sandinistas took power, Chamorro retired to private life. In 1981, he went into exile and organized the UDN/FARN. In September 1982, he joined in founding ARDE, but he pulled out in 1983. He rejoined ARDE in 1984, and became the commander of its military forces when Pastora withdrew that summer.

C. CHRISTIAN DEMOCRATIC SOLIDARITY FRONT—FSDC

Roberto Ferrey, Secretary General to the FSDC

Roberto Ferrey studied law at the National Autonomous University of Nicaragua and went on to do postgraduate work at Southern Methodist University in Texas. During his university years, he became a founder of the opposition student group, the Christian Democratic Front. In his law practice, he specialized in labor cases and frequently acted on behalf of unions affiliated with the Christian Democratic-oriented Latin American Workers Central (CLAT). Because of this involvement with strike actions, he was jailed several times by the Somoza regime. He become a key figure in the Social Christian Party, and went into exile in 1976 to participate in the struggle against Somoza. After the revolution, he returned to Nicaragua and became a legal adviser in the new Ministry of Justice. In July 1983, he resigned his post and moved to Costa Rica where he joined the FSDC.

D. NICARAGUAN DEMOCRATIC WORKERS' SOLIDARITY—STDN

Zacarias Hernandez, Secretary General of the STDN

Zacarias Hernandez was a veteran labor leader of the dockworkers union at the Pacific of Corinto. He had contracts with organizations such as the International Confederation of Free Trade Unions and the AFL-CIO, and the Somoza regime repeatedly arrested him for his efforts to promote free trade unionism. After the revolution, the Corinto union joined the Sandinista Workers Central (CST). The dockworkers grew dissatisfied with the CST, but when they attempted to switch their affiliation to a Social-Democratic confederation, Hernandez and other union officials were subjected to a campaign of harassment and intimidation. Hernandez fled into exile where he became a co-founder of the STDN.

E. SANDINO REVOLUTIONARY FRONT—FRS

Eden Pastora Gomez, Leader of the FRS

Eden Pastora was the FSLN's most renowned revolutionary hero and a senior official of the GRN until he broke with the Sandinista leadership in 1981 and eventually took up arms against his former colleagues. Pastora was reared in a conservative Catholic family, and his father was killed in 1942 by the National Guard for alleged subversive activities. In the 1950s, he studied medicine in Mexico, but later returned to Central America to join the guerrilla struggle against Somoza. By the 1970s he was in charge of logistics for the FSLN insurgents operating from Costa Rica and was the leader of the Sandinistas' Southern Front.

Pastora had gained wide fame in August 1978 when, as "Comandante Cero," he led the Sandinista unit that seized the National Palace in Managua. That operation gained the release of 59 political prisoners, but its real significance was that it captured the imagination of the Nicaraguan people and allowed the Sandinistas to become the symbol of resistance to the Somoza regime. During 1979, Pastora led Sandinista troops fighting on the Southern Front.

Following the Sandinista victory in July 1979, Pastora became Vice Minister of Interior. In January 1980, he was reassigned as Vice Minister of Defense and Chief of the National Militia. He became increasingly disgruntled over the radical policies implemented by the FSLN and the heavy foreign influence in the revolution, especially the thousands of Cubans that permeated the government. In July 1981, he resigned his posts and went abroad. In April 1982, he publicly denounced the FSLN leadership for betraying the revolution and organized the FRS. That September, he helped to found ARDE. The following spring, he became the military leader of ARDE's forces when it initiated military actions in southern Nicaragua. He has opposed any alliance with the FDN.

Jose Davila Membreno

Jose Davila studied economics at the National Autonomous University of Nicaragua and went on to do advanced work in economics and development in West Germany. He was active in student politics and later became a senior officer of the Social Christian Party (PSC), one of the main opposi-

tion groups to Somoza. Following the revolution, he served as the PSC's delegate to the quasi-legislative Council of State. In 1981, he became secretary of the civic opposition umbrella organization, the Democratic Coordinating Board. The following year, he went into exile and helped form the Nicaraguan Association of Democratic Unity (ANUDE). In 1983, this group split and Davila went with the faction that founded the FSDC. That September, the FSDC formally joined ARDE. When the FSDC elected to join other ARDE groups in entering a coalition with the FDN, Davila left the FSDC to work with Pastora's FRS.

Donald Castillo

Donald Castillo was a principal labor leader and held key positions in Social Christian-oriented labor confederation, the Nicaraguan Workers' Central (CTN). He was a staunch opponent of Somoza and actively supported the FSLN during the 1970s. In 1976, he was expelled from Guatemala for arms smuggling. After the revolution, he became the CTN's delegate to the quasi-legislative Council of State. He became increasingly disillusioned by the Sandinistas' unfair labor practices, and in mid-1981 served as the coordinator of a civic opposition group which held a dialogue with the FSLN in an unsuccessful effort to resolve national problems. He subsequently went into exile where he became a co-founder of the STDN and joined ARDE. When the STDN supported the decision to form an alliance with the FDN, Castillo left the organization and collaborated with Pastora's FRS.

F. MISKITO, SUMO, RAMA, AND SANDINISTA UNITY—MISURASATA

Brooklyn Rivera Bryan, Leader of MISURASATA

Brooklyn Rivera, a mathematician, is a Miskito Indian leader from the Sandy Bay area of Nicaragua's Atlantic Coast. He initially supported the revolution against Somoza and was a founding member of MISURASATA when it was established by the Sandinistas in 1979. He grew increasingly disenchanted with the FSLN and began to protest Sandinista repression of Indians. In February 1981, he was among the Indian leaders arrested, accused of "counter-revolutionary activity." He was released after two weeks, but he continued to criticize FSLN efforts to nationalize Indian lands and culturally assimilate the Indian population, and he was forced to go into exile later that year. In 1982, he became the leader of Indians who organized a separate MISURASATA faction in the south.

GLOSSARY

ALPROMISU—Alliance for the Progress of Miskitos and Sumos.
ANUDE—Nicaraguan Association of Democratic Unity.
ARDE—Democratic Revolutionary Alliance.
CLAT—Latin American Workers Central.
COSEP—Supreme Council of Private Enterprise.
CST—Sandinista Workers' Central.
CTN—Nicaraguan Workers' Central.
DGSE—General Directorate of State Security.
FAO—Broad Opposition Front.
FARN—Nicaraguan Revolutionary Armed Forces.
FDN—Nicaraguan Democratic Force.
FRS—Sandino Revolutionary Front.
FSDC—Christian Democratic Solidarity Front.
FSLN—Sandinisto National Liberation Front.
FUNDE—Nicaraguan Developmental Foundation.
GRN—Government of National Reconstruction.
INDE—Nicaraguan Developmental Institute.
INPRHU—Human Development Institute.
MDN—Nicaraguan Democratic Movement.
MISURA and Black Creoles.
MISURASATA—Miskito, Sumo, Rama, and Sandinista Unity.
PLI—Independent Liberal Party.
PLN—National Liberal Party.
PSC—Social Christian Party.
STDN—Nicaraguan Democratic Workers' Solidarity.
UDN—Nicaraguan Democratic Union.
UNIR—Nicaraguan Unity for Reconciliation.

Mr. MOYNIHAN. Mr. President, the distinguished manager of this portion of the legislation is on the floor, as is the chairman of the Select Committee on Intelligence. I would like to direct a question, preceded by a statement.

May I say to the Senator from Alaska that we are discussing on the floor of the Senate classified matters of the greatest sensitivity. That is to say, statements about classified matters are being made which this Senator believes to be incorrect. But to debate such matters fully in the open would be to reveal what we are bound not to reveal. And that puts at a disadvantage those who disagree with some of the statements being made.

Mr. President, if the Senator from Alaska could just turn my way for a moment, a quarter turn.

Mr. STEVENS. I am listening.

Mr. MOYNIHAN. I have here the report of the Senate Select Committee on Intelligence accompanying the intelligence authorization bill for fiscal year 1985. It is labeled "Top Secret, Codeword."

Now, this report has been filed for sometime now. We have hoped we would have an authorization bill, as we have had each year since 1979. For the first year since then, there is no bill. The distinguished chairman and I both wrote the leaders this morning asking, "Are we not to have an authorization bill?"

But, I say to the Senator from Alaska, I do not know how I am to debate the contents of this measure at the moment. And that is what we seem to have chosen to do.

Mr. WALLOP. Will the Senator yield for a question?

Mr. MOYNIHAN. I am happy to.

Mr. WALLOP. I know of nothing that has been classified that the Senator from Louisiana said nor that the Senator from Hawaii has said. Since only one other person has spoken, I assume the Senator from New York is referring to the Senator from Wyoming. I wonder if you can enlighten me as to what you mean.

Mr. MOYNIHAN. This is the problem I raise. I have some disagreement with some of the statements made by the Senator from Louisiana.

The PRESIDING OFFICER. The Senator will refrain for 1 moment. The Senate will be in order.

Mr. MOYNIHAN. Would the Senate have the kindness to pay attention?

I would disagree with some of the statements made by the Senator from Louisiana. I would have more specific disagreements with the Senator from Wyoming. But to make my case contrary to their statements, I would have to discuss matters in a top secret report to this body, which I cannot do because we are here in open session.

Mr. STEVENS. Will the Senator yield?

Mr. MOYNIHAN. I am happy to yield. I hope I am yielding for some resolution.

Mr. STEVENS. Mr. President, I might suggest this is not the place to debate the report of the Intelligence Committee.

Is the Senator saying that the comments that are in the RECORD so far are classified beyond that report?

Mr. MOYNIHAN. I am saying that representations have been made as to the nature of our involvement in the area we are discussing which do not comport with the specific content of this report. Yes; I am saying that.

Mr. STEVENS. Mr. President, the Senator addressed the question to me, and I would just say this: It appears to me that, in order to discuss an item which places a limitation on a classified program, it is necessary to skirt quite closely to classification. I have in my hand a completely sanitized question and answer response so that this Senator would not go beyond classification in responding to any question you want to ask about Nicaragua. I think the Senator from Wyoming has a similar concept in terms of what he has done.

The mere fact that the subject matter that is discussed in that report that the Intelligence Committee has classifed is discussed in these comments which are totally not classified by those that have the authority to classify documents, is, in my opinion, no reason to say that there has been classified material discussed on the floor.

As a matter of fact, the Senate of the United States does not have the authority to classify documents. We do maintain classification that is given to us by the executive branch. But right now we are talking about limitations raised by the Senator from Hawaii, and legitimately so, saying that there should be a phasing out of moneys that are contained in a classified portion of this bill that is before us. He has raised it in an honorable way without disclosing any classified material.

This Senator has not heard anything yet on the floor of this Senate that has invaded the sphere of classification. And I have tried to listen. Though I may not look at everyone, I do try to listen to what is going on because this is touchy. And I think we have done our best.

I would urge the Senate to realize that we are dealing with classified areas. They could affect the lives and certainly the future of a great many people. Therefore, I would urge the Senator to address the issue of the Senator from Hawaii's amendment and not the issue of classification because I disagree with the Senator as far as the extent to which we have gone today.

Mr. MOYNIHAN. Mr. President, I hope the Senator from Alaska is not suggesting that I misrepresented my views on this matter or spoke in a way that would not be warranted by the facts as I understand them.

Mr. STEVENS. Mr. President, the Senator from Alaska is saying to the Senator from New York that his understanding of what is classified is I feel colored by the classification of the report of the Senate Intelligence Committee. And I am responding by saying that everything I have heard on the floor so far is contained in information we have asked for and received from those people who are involved in the classification process concerning the questions that are before us. They have been sanitized and they contain no classified material. I would be happy to show the Senator if he would like to see them.

Mr. MOYNIHAN. Mr. President, I see the Senator from Hawaii has arisen. I will yield the floor, but I will accept the offer of the Senator from Alaska. But I would like the Senator from Alaska to understand that we have taken the affairs of this committee with great care and solemnity. We have prepared on time our materials. We have asked to come to the floor. We have been prepared for a closed session. I do not say this has been denied us, I simply say this has not happened. That leaves those who will represent things as being other than I think they are the opportunity to say that and denies this Senator the opportunity to reply.

Several Senators addressed the Chair.

The PRESIDING OFFICER (Mr. WALLOP). The Senator from Hawaii.

Mr. INOUYE. Mr. President, in order to clarify and clear the air, may I suggest that we go into a quorum call very briefly, protecting the right of the Senator from New York, as far as his right to the floor.

I suggest the absence of a quorum.

Mr. STEVENS. Mr. President, I do not think the Senator from New York has the floor.

Mr. INOUYE. I have the floor now.

Mr. KENNEDY. Will the Senator withhold that so I would be able to address the amendment so we may at least be able to proceed with the debate and discussion? I have some comments that are not directed toward the issue which has been raised now between the Senator from New York and the Senator from Alaska.

Mr. INOUYE. This clarification will just take a few minutes. We have the classified document.

Mr. KENNEDY. I just wanted to make some general comments, if I could.

Mr. INOUYE. I yield to the Senator.

Mr. KENNEDY. Mr. President, I hope the Members of this body will support the amendment of the Senator from Hawaii. I intend to do so, because I believe this amendment will mean an end to the covert war, the President's war in Nicaragua, I had intended to offer the Senate with my colleague, Senator BINGAMAN, from New Mexico, a similar amendment that would also terminate funding for the secret war.

I do not intend, to delay the Senate a great deal to debate this issue. So I would like to make some comments on that in support of the Inouye amendment, and I think that would support the amendment the Senator from New Mexico and I would have offered. Make no mistake, the Senator from Hawaii's amendment will put an end to this illegal war.

Mr. President, in listening to this debate this afternoon, if one were not entirely familiar with the Inouye amendment, one might think that we were passing a sense-of-the-Senate resolution commending the Sandinista government. We have heard the Senator from Louisiana discuss the recent history of the repressive activities of the Sandinistas in Nicaragua, the denial of freedom of assembly, the denial of freedom of religion. We have heard the attack on the Sandinista government for failing to respect the freedom of the press. Then we heard another Senator comparing what is happening in Nicaragua, with what is happening in Afghanistan.

Mr. President, the issue is American involvement in overturning an indigenous government in Nicaragua. That is basically and fundamentally wrong. It is wrong under international law. It concerns activities which this body has not yet approved, it is a policy which is ineffective because it strengthens the repressive forces in Nicaragua, and it has not been successful in achieving what those who have supported this measure have felt that its purpose was; namely, interdicting the arms flow into El Salvador.

I daresay those who want to continue support for the Contras ought to be making the positive case for continued support rather than just reciting and repeating the repressions which exist in Nicaragua today, which all 100 Members would unanimously condemn.

Mr. President, if we were to follow the logic of those that have opposed the Inouye amendment, we would be funding a secret war in Libya. Why not do that? We have read news reports suggesting that there were assault teams being supported by the Libyans that were going to attack the President of the United States. That seems to me to be more outrageous than even the violations of human rights or the violation of church rights in Nicaragua.

What about undermining the Syrian Government? They are sheltering the terrorists, who may be responsible for blowing up the marine barracks in Lebanon according to the administration. Why are we not undermining that government with its record of heinous activities and the righteousness of our particular cause against those who were involved in the brutality, the terrorism, the violence, and the assassination of brave young Americans? Why are we not doing that this afternoon? Why are we not having a street war in Iran after their humiliation of the United States in holding the 53 brave Americans, all of whom returned safely to the United States I might add? Why are we not supporting a war there? Why are we not conducting a secret war in Cuba for all the reasons that have been outlined by those that have spoken against the amendment of the Senator from Hawaii this afternoon? Why is there not ample justification for all of those? Why are we not sending Americans and American taxpayers' money all over the world trying to police the world?

I thought we had learned, Mr. President, that lesson in recent times.

Mr. President, it has not been an effective policy and the logic of their argument cannot stand any fair evaluation of the facts.

This war ought to be ended, and it ought to be ended now. I applaud the amendment of the Senator from Hawaii in ensuring that we will see an end to the support for the Contras, many of whom are not as interested in fighting for freedom as they are in plundering their countryside. We hear talk about how we had to fund freedom fighters in Nicaragua. Who was funding freedom fighters in the United States at the time of of the American Revolution? Who was funding them? But we have to pour out American taxpayers' money on a war which is illegal, on a war which has been ineffective, and a war which has actually strengthened those that we find are perpetuating the greatest kinds of violations of the kinds of values which we hold dear.

Mr. President, I say that enough is enough on this issue and this war. We have had an opportunity in April of last year where 30 Senators voted for peace. In June we had 43 Senators who voted for peace. Now is the last chance for the Senate in this session to vote again for peace.

I hope that the Senate will support the Inuoye amendment.

Mr. EAST addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. EAST. Mr. President, I appreciate the opportunity to speak briefly in opposition to the Inouye amendment with all due respect for the very distinguished Senator from Hawaii.

First, as regards the remarks of the Senator from Massachusetts, I would remind him that France did help us in the American Revolution, and he queries why we do not——

Mr. KENNEDY. The French helped the patriots in Massachusetts? Mr. Senator, that is a new note in history.

The PRESIDING OFFICER. The Senator from North Carolina has the floor.

Mr. EAST. I have the floor, and I would like to comment. The Senator was suggesting that no one helped us in our efforts, and I was simply reminding the Senator as a matter of historical fact that France did help the United States during the French Revolution as well as some other European powers.

Second, the Senator raises the interesting point, why are we not doing something perhaps to undermine the government of Qadhafi or undermine the Government in Syria, or to undermine the Government in Cuba. I would agree with the Senator. It is probably a good idea. Let us put this in a little broader perspective. Under Marxist-Leninist thinking, the rationale goes like this. This is the dimension that Lenin added. He said the revolution will not take place in the major industrial powers as Marx envisioned it in the United States and Western Europe, but in the Third World. This is where the protracted conflict will take place and that the motherland of the revolution, the Bolshevik revolution in Russia under Lenin in 1917, will find proxies in the underdeveloped or soft underbelly of the world, as they put it, to take this protracted conflict through wars of subversion. Then what you are to do is take the soft underbelly, and then the ripe fruit of North America and Europe—the major industrial powers—would fall. That is precisely the strategy they have used. The Soviet Union uses the PLO and Syria as surrogates in the Middle East. They use their surrogates in Africa. They are using in Cuba in Africa and Central America, and they are using Vietnam in Southeast Asia.

To get back to the Contra aid, I think Senator JOHNSTON has stated the case extremely well.

Here we have a very legitimate effort of a broad-based group trying to reverse that trend, and for us to ignore it in every circumstance I think is to revert to the isolationism of the 1930's. As Jeane Kirkpatrick said a little while ago, it is not a matter of being hawk or dove, but a matter of being an ostrich as to what is occurring in the world.

We are in a great protracted conflict with the Soviet Union which is using its surrogates in soft underdeveloped parts of the world to take these areas, and the ultimate goal is to get the major industrial powers—Japan, the United States, North America, generally, including Canada, and Western Europe—in a position where you simply tighten the vise.

That in the broadest global perspective is what is occurring. That is occurring in Central America.

You have the Soviet Union using Cuba and Nicaragua for the purpose of subverting the Caribbean Basin and bringing it under Soviet control and its enemies, and this is occurring right in our own hemisphere.

If we play ostrich in our own hemisphere, I dare say we are not showing any sensitivity. We are playing ostrich to what is occurring generally in the world of today.

The covert war, the guerrilla war, is the modus operandi today, and not to understand that is to not understand the fundamental datum of the Marxist-Leninist strategy of the 20th century.

We do not seem to see the forest for the trees. Treat this thing as a very modest thing.

The Contras are a broad-based group, with democrats, with a small "d," that wish to betray the revolution that went on in Nicaragua. They seek a democratic government.

Duarte, who now heads a democratic government in El Salvador, has called for aid for the Contras. Mr. Brzezinski, former security adviser to President Carter, this past Sunday on the show "One on One," said, "Yes, we have to aid the Contras. We have to keep the pressure on." We cannot play ostrich any longer.

Senator Jackson, a Democrat, former Member of this body, talked about the Caribbean Basin Initiative, one of the prime movers in it. He along with Henry Kissinger talked about the need for a military shield behind which you could build the viable elements to the growth of a viable democracy, the political institutions, the economic institutions.

What is occurring in Nicaragua is that Nicaragua is being used to destroy the economic infrastructure, the social infrastructure, of El Salvador, a democratically elected government, to destroy it, to bring in a Marxist-Leninist dictatorship, and then press on to the other countries in this area with the ultimate goal of turning the Caribbean Basin into an area of primary Soviet and Cuban dominance.

That threatens the security and the well-being of not only our friends and allies in this hemisphere, but ultimately jeopardizes our own freedom and security.

I agree with Jeane Kirkpatrick, to ignore that is to play the role of ostrich. It is isolationism. It is deja vu the 1930's when we thought we could simply ignore threats from the totalitarian right, in that case the march of Adolf Hitler.

I sense, regrettably, in the U.S. Congress and in the Senate and in this amendment in particular what I would call a lack of understanding that that is what is occurring in the world, and the leaders of the free world in grappling with it and coping with it.

It is such a modest proposal, simply to aid democratic movements trying to reverse the tide that has clearly been running against us in recent decades. It is imperative that we keep the pressure on, as Brzezinski said, that we keep, yes, the military solution on.

As Duarte noted when he was here, if you have two armies facing each other and one is armed and one is unarmed, the armed army will win. He is saying that is what is occurring in Central America.

Again, let is not play ostrich. Let us again understand, first, in the total global concept, what is the Marxist-Leninist end, and how does the Contra movement as one small tree in Central America fit into that overall plan? We are trying to reverse that trend, and it is right in our own hemisphere.

So with all due respect to the distinguished Senator from Hawaii, who I have noted before on the Senator floor fought in World War II, fought against an armed ideology, would it have been possible to have said in World War II, as Neville Chamberlain did, "Let us negotiate, let us find a 'political solution.'"

But an armed ideology that seeks to expand itself through military means? What alternative do you have.

The Senator from Hawaii was distinguished and with great bravery in World War II, obviously paid a price as a part of that need to militarily respond to the armed challenge, the military challenge, of an armed ideology. That is the great threat we face today. The two great threats to Democratic ideals and values in our time, in the 20th century, have been from the totalitarianism of nazism and the totalitarianism of communism. We would have ignored both at our peril.

If we had not defeated the swastika 30, 40, nearly 50 years ago now, we would be living conceivably under a

very different system, and I might note not a very pleasant one, in which Buchenwald, Dachau, and Auschwitz would have been the great political symbols of our time, just as where the Soviet Union prevails, the gulag.

Those are the two great political obscenities of our time, the two great political cancers of the 20th century, symbolized in Buchenwald, Dachau, and Auschwitz in the case of Germany, and the gulag in the case of the Soviet Union.

That is the challenge we face in the broadest context.

In the case of the Contras, it is a modest effort to try to reverse that trend. I hope we will send a signal through this measure of not denying them all aid, that we are willing to bear the responsibility of responding to the challenge.

I hope this amendment is defeated, not only defeated, but again, as I have said before on the floor here in another context, I hope it is overwhelmingly defeated, not out of disrespect for its sponsors, for whom I have the highest personal regard, but to show that the U.S. Congress understands globally what is occurring and understands that the Contra effort is a small portion of our whole need, worldwide, to reverse a tide that is running against the United States in Central America, in Africa, in the Middle East, and in Asia.

I would say this, finally; If we will not reverse this trend in our own hemisphere, where do you propose we do it? I guess the answer is rhetorical: We shall not do it at all.

The Soviet Union and her surrogates have the run of the shop.

I submit the world is finite, geographically.

I am going to end on this observation. Aleksandr Solzhenitzyn, one of the great prophets of our time, said he did not think the Democratic West had read the "Communist Manifesto." That was the original document written in 1848 by Marx and Engles. I do not think they have read it. I do not think they have read "State of Revolution" by Lenin. If they had, they would understand what is the driving force behind this armed expansionist ideology that will not be content until its system is imposed on the rest of the nations of this planet. I hope the Senate and the Congress in 1984 do not fail to understand and do not fail this test because, if we do fail, Mr. President, I submit by the turn of the century we will have jeopardized severely the freedom and security not only of our country and own generation but that of our children and our grandchildren to come.

I hope, Mr. President, this amendment is overwhelmingly defeated. I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. STEVENS. Mr. President, we now have been on this amendment for 2 hours and we have a long night ahead of us. I know there are other Senators who wish to speak, but the Senator from Mississippi has requested that I explore some kind of very short time limitation so that we can get on with voting. It is our intention to vote up or down on the amendment of the Senator from Hawaii. We know there are other amendments coming right after this.

Mr. MOYNIHAN. Will the Senator yield for an observation?

Mr. STEVENS. May I inquire if there would be a problem if we set a time limitation of 20 minutes?

The Senator from Louisiana says not even that much.

I see two Senators who want to speak. Could I inquire, how long does the Senator from New York wish to speak?

Mr. MOYNIHAN. Mr. President, may I say that I am not prepared to have a time limit at this time, but I mean to speak about 15 minutes. I believe my friend, the Senator from New Mexico, needs less.

Mr. BINGAMAN. I need about 5 minutes, Mr. President.

Mr. MOYNIHAN. And the Senator from Minnesota.

Mr. STEVENS. I urge Senators, we have another amendment on the same subject.

Mr. MOYNIHAN. Mr. President, I have not spoken yet, and I want to speak for 15 minutes.

Mr. DURENBERGER addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. DURENBERGER. Mr. President, when we debate whether to terminate assistance to the armed resistance in Nicaragua, we are really raising a host of questions, and not just one question alone. On many, if not most, of these questions, I share the concerns and the fears of those who argue for termination. But overall, that this is the worst of times to tell the Nicaraguan people that the United States is abandoning their revolution to the perversion of the Sandinista junta which has taken it over.

Mr. President, the Senator from Massachusetts asked some very good questions in a rhetorical sense a little while ago: Why are we not attacking the Government of Libya? Why are we not attacking the Government of Lebanon? Why are we not attacking all these other governments? By comparison, putting the issue of the Contra activity in Nicaragua, in that context it strikes me that we face a somewhat different situation.

We find ourselves today in the unusual situation in Nicaragua of supporting a government in exile, if you will, within a country while at the same time we have officially recognized a government that we do not support in that country. There literally are two governments in that country.

As the Senator from Wyoming pointed out from the material that he asked be printed in the RECORD earlier when you look at the leadership of the guerrillas, the Contras, or whatever; when you look at their political leadership when you look at a lot of their military leadership today, you find they were all part of the July 1979 revolution. Many of them were part of the first government and for several years were a part of that government which we recognized. So in effect today we find ourselves in the position of saying to Daniel Ortega and the government in Managua, "We recognize you but we also recognize your former friends and associates who are off in the bush and who would like to get together again."

They all like the idea of the original revolution. What brought them all together is they did not like Somoza and they did not like 50 years of this cabal between the United States and the Somoza family and a whole lot of other people, and they were united in that common goal. In July 1979, with the help of people all over the hemisphere, Somoza left. But over the period of a couple of years, so did a lot of the revolutionaries. And today a lot of them are back. Some of them went back directly at our invitation because we constructed this program that so many of us opposed in the beginning and today I find myself defending, this so-called covert action, if you will.

They went back under the guise of an American undercover operation that within 1 year was discovered on the front pages of our magazines and ever since then has been ridiculed in this place. It brings us together in great conflict as people who normally would not disagree on these issues as though the decisions we were making today over few million dollars were going to change the world.

But I ask my colleagues to consider that it is very difficult for me or anyone else who opposes the Senator from Hawaii to stand up and tell you exactly where every one of those dollars is going to be spent and what they are going to achieve. I find myself in the same position today as I was in June of this year, saying I do not care how many dollars are going into this program; what I care about is those people who have gone back into their native country because they believed and still believe in that original revolution. That revolution has been sold out by the people that today pretend to be the Government of Nicaragua.

What are these people we call Contras? They are guerrillas. And as we

have heard on innumerable occasions, guerrillas are like fish who swim among an ocean of supporters. These guerrillas are growing in numbers and in importance, not because American money buys them boots, but because Nicaraguans are supporting them as a means to express their growing despair with the junta and the hope for the future which brought them to support the 1979 revolution.

The people in Nicaragua are daily confronted with mounting evidence that their revolution against one band of thugs was stolen by another. Their opposition is growing, and their hopes that conditions will change are being given serious expression by guerrilla leaders who, in many instances, were heroes of the revolution against Somoza. One sight of this is the recent defection of an entire Nicaraguan Army battalion, complete with its arms, to the insurgency.

If people in this country continue to believe that those who replaced Somoza are any more popular than Somoza, I urge them to read the article by Robert Leiken from the New Republic which I placed in the RECORD last month.

By the time I reached the floor, somebody must have put Robert Leiken's story in the New Republic in the RECORD again to day.

My colleague from Louisiana probably did that.

Mr. Leiken, a respected and objective observer who authored an alternative to the Kissinger Commission recommendations, was led to conclude—despite his own hopes—that the principal policy of the Sandinistas is a policy of hoax and coercion. He offered abundant and overwhelming evidence that the people in Nicaragua are bitter and unhappy about their plight, and that they blame the FSLN, not the United States or the Contras, for their diminishing freedoms and their material squalor,

I argued last June, when we were considering a comparable amendment, that we make a mistake if we think that the issue involved here is U.S. support for the guerrillas whom we have pejoratively labeled "contras." The issue instead is whether Nicaraguans will ever be permitted to achieve their own destiny, and to live in peace with their neighbors.

The people opposed to the policies of the FSLN gang are not counterrevolutionary; they are frustrated heroes of the struggle against Somoza in many, many cases. That is why the guerrillas are gaining more and more support from inside Nicaragua. It is why, as Mr. Leiken found, they are not being called Contras by the Nicaraguans, but rather, los muchachos—"the boys"—a term of affection once reserved for the anti-Somoza guerrillas of prerevolutionary days.

We make a terrible mistake, Mr. President, if we think, that the revolution against Somoza was a Sandinista affair. The FSLN was only one of several factions aligned against Somoza, just as the Bolsheviks were a minority in Russia's revolution against the Tsar.

In short, Mr. President, many of those who suffered under Somoza continue to suffer. Many of those who were martyred in the revolution were martyred in vain. Somoza fled Nicaragua, but his political heirs are in power now, masquerading as liberators. It is an old tale, but no less sad for being old.

The bishop of my State used to run the U.S. Catholic Conference at a time when the U.S. Catholic Conference seemed to be very confused about what was going on in Central America. He returned a couple of weeks ago from 3 or 4 very intensive days in Nicaragua trying to mediate between the members of the same religious faith.

It is not up to me to stand on the floor of this Chamber and say what his position, or the church's position, or the bishop's position is. But let me tell you, Mr. President, it is very different today from what it was 2 years ago, as is the view of all of us on this issue very different today.

The revolution of 1979 was not the sole property of the FSLN and its leaders. It was a national event, not a partisan event, and it involved the vast majority of Nicaraguans. So it is simply incorrect to assume that the insurgents who have taken arms against the Sandinista dictatorship—and who have repeatedly offered to lay down their arms if they can be guaranteed the basic political rights promised by the FSLN—are somehow counterrevolutionaries. They are not. The word "Contra" is a Sandinista perjorative unfortunately adopted by all of us. But it abuses their nationalism. The people are the voice of Nicaragua's future, and they are speaking against Nicaragua's past—a past which did not change when one gang fled and another moved in.

So what message do we send the Nicaraguan people if we terminate our assistance to this voice? I submit, Mr. President that we send them the traditional Yanqui message: "We don't care how abusive your Government is; just don't inconvenience us." We have sent that message throughout the past, with marines and with support for a thug and a thief who strutted about in a uniform. Shall we send it still again because we are continually disappointed by the way our own Government has managed our relationship with them in the past.

The Contras by themselves cannot overthrow the FSLN, Mr. President. But a wave of opposition in Nicaragua, linking passive dissent with the insurgency, can make very clear to the FSLN that it had better begin to keep its promises unless it too, like its Somocista forebears, wants to risk the wrath of an entire people.

Let me be clear about this. Cutting off aid to the guerrillas is not a matter of denying bullets to insurgents. It is a matter of denying a future to a people, for the insurgents are a tangible reminder that the Nicaraguans still await the future promised by their revolution. A Nicaraguan civil war can be avoided by a simple expedient: the FSLN junta can deliver on the promises that were made to the Nicaraguan people and to the international community in 1979. If they don't, support for the guerrillas will grow. If they do, support will fade as people get on with the real business of life—building a future.

This brings me to a second concern often raised by critics of our program: that it is ineffective, and that it has yet to show any significant results in terms of its original justification.

Mr. President, I agree with the second portion of that criticism, and with most of the first.

We can't show that the insurgents have captured large amounts of arms bound for El Salvador, because they haven't. We can't argue that they have somehow cut the massive flow of material from Cuba and the Eastern bloc, for obviously they haven't and they may never have intended to do so. We can't even conclusively prove the reasonable contention that the insurgents are forcing the Sandinistas to divert some of their resources away from still greater repression and militarization of Nicaragua, although I believe this is the case.

So in all these respects, Mr. President, the plan of action laid out by the administration has not demonstrably accomplished the goals it was supposed to accomplish.

Does this mean, however, that our program should be terminated as a failure? Not at all. It is a success, but it is a success for reasons we never dreamed of. And the credit for its success belongs in the hands of the Nicaraguan people themselves, and not in the hands of policymakers or Senators here in Washington.

Simply put, Mr. President, the situation is this: Our program is a success despite itself. It has been saved by a lot of courageous people in another country, and not by anybody here in Washington. And it merits our support not because our overall policy merits support—there are few here who could really describe just what our policy is—but rather because the situation on the ground has altered the terms of debate here in Washington. It is that shift in the terms of debate which really has to be understood.

It is occasionally argued that the entire thrust of our program is to cynically fund a bunch of mercenaries for our own narrow ends, and damn the consequences. If we need to cut them loose, after all, who cares about mercenaries?

Regardless of what people may have intended, or what people may now think, it has not turned out that way. The issue here is not pawns, it is people; it is not mercenary soldiers, it is mobilized citizens.

If the insurgents were just mercenaries, do you really think they would continue to fight on? Do you really think that thousands of Nicaragua's 2.5 million people would take up arms against a truly popular government, when proportionally far fewer Salvadorans have taken up arms against theirs? Do you really think that mercenaries would continue to live in the conditions they now live in, when they could easily run off to the condominiums in Miami or Mexico City? Do you really think that mercenaries would remain committed in the face of a funding freeze and a continuing debate in the United States? Do you really believe that the Contras are mercenaries?

These people are not mercenaries, Mr. President. They are guerrillas swimming in a popular sea. They are not isolated from the people of Nicaragua; they are the people of Nicaragua.

Let me again emphasize that our own plans have had little to do with what has evolved inside Nicaragua. We began this whole exercise in a quest to substitute action for analysis and a paramilitary program for policy. That is why the Intelligence Committee so overwhelmingly rejected the first proposal. But, for reasons that have nothing to do with our own competence, and everything to do with the excesses of the Sandinistas, a program has emerged which is successful—but successful in terms of something different than we think.

The program which has evolved is successful not in terms of interdicting arms, but rather in terms of pitting a future against an entrenched past. And those who live in the past are beginning to face up to the present and move toward the future, for they know full well that a people who are aroused cannot be bought off with words alone.

That is why the FSLN has become a bit more tractable. It is why Sandinista spokesmen now hint at ending their support for Salvadoran insurgents if we will cut the Contras loose. It's why the FSLN has begun to court genuine democrats like Arturo Cruz, hoping that he will run in this November elections. It's why the Sandinistas have agreed to the draft Contadora treaty. They are moving in this direction, Mr. President, because they know that if they do not begin to adapt they will collapse.

All of these developments are occasions for hope. But they are not occasions for a declaration of victory. Much remains to be done if tentative signs are to become tangible realities. For instance, the elections need to be run under circumstances that make them meaningful, and this might mean a delay to give Mr. Cruz and others the chance to organize, speak and campaign freely. The draft treaty needs a great deal of work, a point made convincingly in today's Christian Science Monitor. Until such things are done, we are dealing only with Sandinista words, not actions.

So we have not seen the end of perfidy from the regime in Managua. As Winston Churchill once put it, we have not even seen the beginning of the end. But we may be witnessing the end of the beginning. Movement may be underway.

But continued pressure is the only thing which can guarantee this. The Sandinistas are not stupid. They can count as well as anyone else, and they understand better than most that opposition does not become open unless conditions harden, so they know that it is in their power to forestall a crisis by making concessions. But they also know that they won't have to do this unless the numbers run convincingly against them—unless their mobs and block committees and security police and armed thugs face an incipient revolution from within. If that revolution dies aborning, things will not change, except for the worse. If that revolution shows potential—if the Sandinistas can count numbers—then there is every prospect that the recent hopeful signs will become tangible policies as the FSLN chooses to bend rather than break. That would be in everyone's interest.

Continued pressure from within their own country is the only way this will happen. And it will not occur because the United States somehow wills it, but rather because the people of Nicaragua insist on it. The only role we can play here is the role of spoiler, not stage manager.

I can think of nothing, Mr. President, which will so demoralize the democratic opposition, and so embolden the Sandinistas in the waiting game they are playing, as to have the United States act as spoiler by cutting off the modest aid we have provided to Nicaraguan freedom fighters. I can think of nothing surer to cripple the prospects for Sandinista flexibility at Contadora and decency at home than the demoralization of the opposition which has thus far forced the FSLN to pay lip service to reason and reform.

Let us not delude ourselves, Mr. President, that a denial of U.S. aid will end the conflict among armed people in Nicaragua. It won't. The insurgents are perfectly capable of getting support elsewhere—and support without U.S. strings attached. The issue here is not the military situation in Nicaragua, it is the political situation, and it is that situation which we will cripple if we act as spoiler.

And let us not delude ourselves, Mr. President, that we are dealing here with the tar baby image which was so often invoked 20 years ago. We aren't. We are not compelled to continue with funding because we somehow can't figure out how to stop. Instead, we have the choice to continue funding, and in so doing to give continued support to a program which has begun to pay off—for the Nicaraguan people and for us as well—because of the courage of the Nicaraguans.

We might be debating the tar baby image, Mr. President, except for one thing: We were saved from our own folly by the transformation of our policy by the people of Nicaragua. Ironically, our assistance is making possible their own policy—a policy which serves us as well as them.

I conclude with the same plea, therefore, that I made last June: Let us not pull the rug out from under an incipient revolution. Let us recognize that this program, and our larger policy, have been poorly handled from the outset, and let us pledge that this kind of performance will not occur again. But let us refrain from punishing others for our own failures, particularly when our failures have been diminished and made insignificant by a success for which we can claim precious little credit, but for which we must demonstrate a sense of responsibility.

So I say to my colleagues who tend to think, as the Senator from Massachusetts does, that a government in Nicaragua is like a government in any other country, it is not. It really is not. This is an unusual situation we face, and somewhere along the line, as I said at the end of my comments in June, we all have to trust somebody to represent the U.S. position with regard to this issue. That is a most difficult undertaking, as the Presiding Officer knows, and the chairman of the Intelligence Committee, and the ranking member of the Intelligence Committee, who is on his feet now. This is a most difficult undertaking.

It seems to me that that undertaking is one we should consider seriously before we send a signal to 10,000 Nicaraguans who call themselves Contras, who are called by other Nicaraguans "muchachos"—not Contras, not counterrevolutionaries, but muchachos, a little boy, the brothers, the folks of the original revolution.

There is great expectation among Nicaraguans that something can be done in that country, and part of that something, I suppose, is going to be financed in some fashion by the activi-

ties that the Senator from Hawaii asks us to terminate.

I apologize for talking at this length. I do want my colleagues to consider that this is not an easy issue; that I do not come by my conclusion easily; that it was arrived at only in the 10 to 12 months, but I feel it very strongly, and I hope they will vote to defeat the amendment of the Senator from Hawaii.

Mr. BINGAMAN. Mr. President, I will speak for only 4 or 5 minutes, to restate my support for what the Senator from Hawaii is attemping to do here with this amendment.

I have spoken several times before on the floor of the Senate on this issue. I believe very strongly that the course we are pursuing with our continued support of this secret war, covert action, or whatever name one would like to use, is a mistake. In my view, this is a sad chapter in the history of this country and will be seen as a sad chapter when the history of this period is written.

The issue here is not whether the revolution that occurred down there has been marked by disappointment or disillusionment, as my good friend the Senator from Louisiana has alleged. I agree with him that, in many respects, the revolution there has been marked by disappointment and disillusion, but that is not the issue. The issue is not whether the Sandinistas mistreated the Pope on his visit to that country, although I agree that in many ways the Pope was mistreated during that visit.

The issue really is not whether the election that has been called for this November is being conducted in a fair way in that country; I think a very good case can be made for the proposition that it is not, at least based on our present knowledge of what is going on in that campaign.

The issue is whether we believe that we are justified in mounting our own military effort—through the arming and supplying of others, I agree, but still clearly a U.S.-sponsored effort—to destabilize that Government, to disrupt the activities in that country, and to do so against a government with which we have diplomatic relations at this time. I believe very strongly that the efforts we are pursuing there are counterproductive.

I think the strongest glue holding together the present nation of Nicaragua and binding its people to its present Government is the threat from the outside, a threat which we are largely responsible for providing. I believe that our effort there has continued now for several years. It has not accomplished what it was set out to accomplish. It has been counterproductive, in my view, and I do not consider the activity worthy of this Congress or worthy of this Nation.

I urge my colleagues to support the amendment of the Senator from Hawaii. If the Senator from Massachusetts offers another amendment, which I am cosponsoring and which is being considered, an amendment to cut off the funding, I will also urge that that effort be supported.

I believe that the sooner we can close this chapter on our involvement in Central America and begin genuinely to pursue a peaceful solution of the problems there, the better off we will be.

Mr. MOYNIHAN. Mr. President, I have two purposes in rising. The first is to address a question to the senior Senator from Hawaii. I wish to ask him if he does not share my view that this debate, in some significant degree, is tempered by the fact that we are forced to discuss, in the open, matters which have been decided in closed session and in the company of the executive branch, and that, in sharing intelligence confidence and Presidential matters, we are not free to discuss them fully in the open; and, if we were, we might be hearing things other than we have heard today?

Mr. INOUYE. Mr. President, in response to my dear friend I say that when I drafted this amendment, I was well aware that the debate would come close to revealing classified material and that Senators would be inhibited at times.

I can well understand the frustration of my dear colleague from New York because of his reluctance and difficulty in responding to statements being made in this debate, because his response would require the use of classified material. His position is quite different from that of other Members of the Senate. He is the ranking minority member of the Intelligence Committee. His use of classified material would be a knowing violation, a direct violation, of an oath he has taken as a member of that committee.

However, Mr. President, even with that frustration, I felt that a matter of this sort should be discussed in the open format, because it does affect our national interests. It does affect our good name. It does affect our future.

I am certain that the Senator from New York agrees with me that, notwithstanding these frustrations, this discussion should properly have been in the open.

Mr. MOYNIHAN. Mr. President, I do concur with and thank the distinguished Senator from Hawaii.

I wish to make clear that I do not suggest that any classified materials have been discussed on the floor as such, but only that certain things stated would have required the use of such information to make an adequate response.

I now move to another matter altogether, which is public, and which in some ways is as important as anything we have said.

Mr. President, we have heard the regime in Nicaragua characterized in a variety of unflattering ways today, and I suggest that we have hardly approached the point of hyperbole in anything that has been said. We are dealing in Nicaragua with a regime that has not fully consolidated, but clearly intends nothing less than the establishment of a classic Leninist state of the kind we have seen in many parts of the world, but not yet in Central America. I have been there. Many Members of this body have been there.

As a friend of mine once said after visiting East Berlin and the Stalinallee, in 1952, "There is nothing there but the handwriting on the wall."

If you go through Managua and see those great signs and those great propositions, you see the one new building in Managua, which is the Ministry of the Interior, which houses the Sandinista security apparatus. If you need to know anything more about a regime, well let it be said that most do not.

But what I wish to also point out, Mr. President, is that such has been the skill with which we have managed our relations with this half criminal regime, this Leninist regime, such has been our skill that we allowed them to bring us into the Word Court, the International Court of Justice, charging us with violating their rights under the United Nations Charter, the OAS Charter and traditional international law, and obtained from the International Court of Justice on May 10, 1984, an interim order which best corresponds to a preliminary injunction in American law which, in effect, supports the Government of Nicaragua.

That took some finesse. I will compliment the Americans in charge of a policy which had a Communist government in Central America dragging us into court and getting unanimous—and, in one instance, near unanimous—orders from that Court that we cease and desist in certain behaviors. Thanks a lot, fellows.

It took some skill to devise a response to that Court which said, "We do not recognize its jurisdiction." We, who founded the Court in the U.N. Charter, said, "Well, for the next 2 years anything goes on in Central America—we do not accept the compulsory jurisdiction of the Court with regard to any dispute in that region."

Let me, Mr. President, make very clear that there is a shadow over the acceptance by Nicaragua of the compulsory jurisdiction of the Court. This goes back to the 1930's, to the period of the Permanent Court of International Justice. There is some case to be made—and I hope it will successfully be made, because I do not want my

country any more in this situation—that Nicaragua's acceptance of the Court's compulsory jurisdiction was not formally ratified and, thus, it cannot invoke that jurisdiction with respect to the United States, which has, barring, of course, the reservations to ratification the Senate made. Oral hearings will begin in a few days, and with luck on a technicality, the Court will rule Nicaragua not properly a petitioner.

But in the meantime we have not only managed to get ourselves into court, but by denying the Court's jurisdiction brought about for the second time in the history of the American Society of International Law a resolution at their annual conference deploring the behavior of their own Government.

For those of us who wish to be proud of our Government, in the main twice in the history of the United States has the American Society of International Law deplored inaction of the American Government. The first time had to do with the Senate's reservations with regard to the acceptance of the compulsory jurisdiction. The second time had to do with our behavior in The Hague this spring.

Nice going, fellows, first of all, to have a Communist government haul you into court. And, second of all, to offer an excuse for not accepting the Court's jurisdiction, which was rejected preliminarily, but resoundingly, by a unanimous court with an American judge, and a fine American judge. The American judges, as the American judges are, call them as they see them.

Mr. President, I wish to make a simple point. In this Chamber for almost a century we have asserted the sanctity of international law. When the Alabama claims were before this body and we were at the edge of war with the United Kingdom over the charge that the United Kingdom had violated the responsibility of neutrality in the Civil War, this body held firm.

When The Hague tribunals were agreed, this body confirmed them. While the League of Nations was rejected by the Senate, it nonetheless followed that every President from Woodrow Wilson right through to Franklin Roosevelt said "If we cannot join the League, certainly we will join the Permanent Court of International Justice." Not to be part of that Court is not to be part of the civilized world.

And then came the United Nations Charter. That was an organization we did join and it provided a court which we did adhere to.

Mr. MATHIAS. Mr. President, will the Senator from New York yield for a question?

Mr. MOYNIHAN. I am happy to yield.

Mr. MATHIAS. Mr. President, I wonder where he sees the interests of the American people lie. We are a great global power. We have interests in many parts of the world, some of them exposed, some of them depending on the kind of protection that the law can only provide. We have companies that do business in remote parts of the world, companies that have employees living amongst foreign peoples. We have companies that are owed moneys by foreign companies and foreign governments. All of these kinds of things are really dependent upon confidence and trust that can only be enforced in law.

So where is the ultimate interests of the American people with respect to this question of the sanctity of international law.

Mr. MOYNIHAN. I thank the Senator from Maryland for his question and I answer emphatically our interests are in the observance of law in the world, in the most emphatic way. The idea that obeying the law is somehow a self-imposed restraint that leads others not to do so is the most absolute total fallacy of the law. Law gives us rights.

Mr. MATHIAS. Our interests would only lie elsewhere if we were some tiny insular nation which never went beyond its borders, never did business with other peoples, and conducted no trade.

Mr. MOYNIHAN. I take a different view there. The only thing that provides those nations their very existence is that they have a right to exist under the law. In the world that does not recognize law there would not be many of those small nations any longer.

I may say to the Senator before he has to leave, it was that the regime in Nicaragua was in gross violation of international law by its interference in El Salvador that this Senator stood on this floor and said we have a right to take actions in collective self-defense to respond to Nicaragua's violation of the charter of the OAS, the Rio Treaty, the United Nations, and traditional international law. That gave us the right to do what is necessary and proportionate to address that violation. We were acting under right.

What the court said, in its interim ruling was that we were not doing under right when we mined harbors in Nicaragua, which this administration had the great wit to do. That is when we were dragged into court by a Communist government and enjoined from further such conduct by the Court, including our own Judge. Our judge is a first-rate American judge, and he will speak to the law.

Mr. President, the law, as the Senator from Maryland said, is precious to us. Absent that law, we act under cloak of power relationships, which the world has no grounds for sanctioning.

For a century, we have held law as a standard of our behavior. And now how it disappears, how it seems to effervesce, I do not know. It seems increasingly to be associated with a form of self-imposed limitations, whereas just the opposite is the case.

I make the point that it was on the basis of international law and our rights and responsibilities that this Senator on this floor has supported previous interventions in Central America on behalf of the Government of El Salvador and its neighbors.

Mr. President, in brief, the Court handed down a series of decisions. The first was unanimously that the United States of America should immediately cease and refrain from any action restricting, blocking or endangering access to or from Nicaraguan ports and, in particular, the laying of mines.

Mr. President, I cannot doubt that the administration is complying with that first injunction—these orders have the relative bearings of injunctions. I cannot speak beyond that in a nonclassified Senate.

Second, by a vote of 14 to 1, the one dissenting was Judge Schwebel, the Court said the right to sovereign and political independence possessed by the Republic of Nicaragua, like any other state of the region or the world, should be fully respected and should not in any way be jeopardized by any military or paramilitary activities which are prohibited by the principles of international law, in particular, the principle that states should refrain in their international relations from the threat or use of force against the territorial integrity or the political independence of any state, and the principle concerning the duty not to intervene in matters within the domestic jurisdiction of the state, principles embodied in the United Nations Charter and the Charter of the Organization of American States.

Mr. President, we have heard said today things which whatever else their merit clearly are at variance with this principle of the charter and the principle of the OAS.

We have heard the regime in Nicaragua characterized in terms which are said to justify intervention. In one of those characterizations I believe it was said, I hope I have the quote right—"If they lay down their arms, the CIA will lay down their arms." I wrote it down as such. "If they lay down their arms, the CIA will lay down their arms."

Well, whatever the merits of that as an argument, it goes to the internal nature of that regime. And we are under a court order to abide by the principles of the U.N. and OAS Charters.

Mr. President, the charter of the United Nations very specifically extends to the country a right of individ-

ual or collective self-defense. A case could be made that we act as we do, as we are said to do or reported to do, out of collective self-defense.

But, then, Mr. President, article 51 of the charter which asserts that right—the right predates the charter—states:

> Nothing in the present Charter shall impair the inherent right of the individual or collective self-defense if an armed attack occurs against a Member of the United Nations until the Security Council has taken measures necessary to maintain national peace and security.

Mr. President, the next phrase, the next clause is:

> Measures taken by members in the exercise of this right of self-defense shall be immediately reported to the Security Council and shall not in any way affect the authority and responsibility of the Security Council under the present charter to take at any time such action as it deems necessary in order to maintain or restore international peace or security.

Mr. President, one of the problems of our policy in Central America is that we have never felt we could openly assert it. If we were in fact acting in the exercise of the right of individual or collective self-defense—and I think we can say that, the House of Representatives has said it. Mr. BOLAND on the floor of the House just repeated it in August that Nicaragua illegally supports insurgents in El Salvador—we could have gone to the Security Council. We had an obligation, no matter whether we went to the Council or not, we had an obligation to report such activity. And whatever legitimate excuse there might have been for not doing so before the Court's May 10 order, there appears to be none in the face of an injunction to obey the charter.

Now, this charter was written by American lawyers, statesmen—I strike the word lawyers—the American international lawyers as much as anybody else. It is our law. It codifies existing law.

We said if you act in this way you must go to the Council and report it. You have a right to do, but you must report.

We did not and have not. Therefore, Mr. President, without saying that what we are doing in this Chamber before the night is over, without saying that it violates the second order of the Court, I will assert that a prudent government wishing to show its respect for the Court, recognizing its interest in the sanctity of the Court's orders and the influence of the court's behavior and ruling, recognizing that interest, a prudent government might very well refrain.

Mr. President, the third statement held unanimously is that the Governments of the United States of America and the Republic of Nicaragua should each of them ensure that no action of any kind is taken which might aggravate or extend the dispute submitted to the Court.

Now, Mr. President, again I do not state that what will be done in this Chamber before the night is out will be held by the Court to aggravate or extend the dispute submitted to the Court. But I do ask if a prudent government would not take that possibility into account. Should a chamber, in which the sanctity of international law, the validity of the international law, the reality, the fact of international law binding governments has been asserted almost from the day we met in Philadelphia, two centuries ago—should this Chamber not consider the prudential aspect of abiding, of taking the Court's ruling in its broadest measure to require of us certain careful conduct in the period the motion is pending.

Finally, Mr. President, unanimously, the Governments of the United States of America and the Republic of Nicaragua should each of them ensure that no action is taken which might prejudice the rights of the other party in respect of carrying out whatever decision the Court may render in this case.

Well, the Court has not rendered a decision, but it has called for interim actions. Again, a prudential matter, a matter of prudence, matters of statecraft, whether or not our respect for the Court and our interest in the Court being held in respect ought not to restrain our activity today.

I want to make clear, in closing, that what we call covert action is a gray area in international law. It is to be encountered the world over. It is in some ways a response to, I suppose, a response to a regime of law which makes open conflict a difficult matter to justify in many cases, makes open aggression impossible to justify.

It seems to me that we have followed very meticulously—the Senate may not know this, the public may not know this, the press may not have noticed it—but when we have brought these matters to the Senate floor from the Senate Select Committee on Intelligence, we have without fail stated our conviction that we acted in a lawful manner under our rights and obligations of individual and collective self-defense. We have said we are acting lawfully, and I believe we have been or, at least, tried to do so, with the painful exception of the mining episode.

I now ask the question—and it will be interesting to see how little response there will be—the matter having been brought to the World Court, International Court of Justice, would it not be prudent for us to await the final determination in the Court and give a broad interpretation to the Court's injunctions before we go further?

Mr. President, I hope I have not wearied the Chamber with a discussion of matters which seem not to be as salient in our concerns as they once were. I can only wish they were more so.

Mr. President, I yield the floor.

Mr. PELL. Mr. President, I think we should ask ourselves what is the definition of terrorism. Terrorism, to my mind, is a violent action designed to change the policy of a government. We oppose terrorism. We pass legislation concerning terrorism. But I think sometimes we lose track of what the definition is.

We all know what the double standard is. We wish it did not exist. But, in general, there is a double standard in many spheres of activity between individuals, whether they are between races as in the past, between sexes, and otherwise.

But we now have an example, I think, of a double standard when it comes to nations. We in our history have sometimes treated some classes of nations differently from others. I do not mean to go to an extreme example, but when we think of how we treated the Indian nations, and the independent republic of Hawaii, we did not treat them as nations. We really treated them in a category apart.

Now, as we come up to more modern days, we look at the way we treat Nicaragua, where we do not follow the norms of international behavior with it as the International Court of Justice pointed out. I think we deplore this. We realize that the actions we are taking there really are actions of terrorism, designed, or we say, to change the policies of the Nicaraguan Government so they will become more in line, more at heel. I guess one nation's terrorist is another nation's freedom fighter. And our contras are performing actions that, under our normal definition of terrorism, would be called terrorist acts.

I think we shoud recognize that fact, and it is for that reason I look forward to supporting the amendment of the Senator from Hawaii, and also that of the Senator from Massachusetts.

Finally, we come to our attitude toward Nicaragua. We talked in the past about the necessity for following the Contadora process. When Nicaragua finally says she will follow the Contadora process, and come aboard it, we said, "Oh, no. She, Nicaragua does not mean it. We think we ought to undo that Nicarguan actor."

To my mind, we are being illogical. We are setting goals for Nicaragua to achieve. But, if she meets those goals, then we change the rules and change the goals.

I think we should treat that country as we do other countries. We do not like a Marxist government. But perhaps one of the reasons for moving in that direction is because it has been

the target for so many of our unwelcome attentions.

I continue to support the efforts of my colleagues in both Houses to phase out and halt the U.S. funding of Contra operations in Nicaragua. The operations, as I have stated so many times before, are contrary to international law and are directly counter to the best interests of the United States. The U.S. funding of terrorism—and that is what support of the Contra operations is—must stop. The United States cannot continue to violate its high moral principles by supporting the killing and maiming of innocent men, women, and children, the wanton destruction of crops and fuel supplies, and violent disruption of life in the Nicaraguan countryside.

The Contra operations have become one of the chief obstacles to open and democratic elections in Nicaragua. If Contra operations would stop—and it would stop without the support of the U.S. Government, make no mistake about that—there are indications that the Sandinista leadership would be more disposed to delay the elections. This would open the way for Arturo Cruz to become an official candidate.

We are at a crucial point now in light of the administration's recent negative response to the Contadora process. If the Contadora initiative fails, the chances of open warfare in Central America will be very high. Let us not contribute to terrorist operations which could provide the spark for conflagration and bloodshed in Central America.

Mr. President, I yield the floor.

Mr. LEVIN. Mr. President, I commend Senator INOUYE for his perseverance, and his insightful understanding that this aid is counterproductive to the United States national interest. He is correct when he points out that the initial intentions and justifications for the aid—interdiction of arms for El Salvador—is no longer the reality. He is correct when he says the aid is no longer covert, and he is correct when he stresses that this entire operation is hurting the credibility of the CIA and the United States—something that we must not allow the continue.

The continuation of this aid is counter to our own national interests. The contras have not succeeded. In fact, the Nicaraguan Government has used the contras to rally support for a failing and increasingly repressive government. The Sandinistas are manipulating and using the decades-old anger and fear of Nicaraguans about the heavy-handed domination of their country by the United States.

We should be seeking ways to help those in Nicaragua who want to see the establishment and growth of freedom and democracy. But, supporting the contras is not the way to do that. We should be seeking to finds ways to eliminate Soviet and Cuban inroads in Nicaragua and Central America. Instead, we are shortsightedly playing into the hands of a government that has, and is, demonstrating that it is not leading Nicaragua to the open and free society that we all so fervently desire to see, but is, in fact, doing the opposite.

The United States, to be successful in Central America, must understand the history of the region, and our role in that history. There is Soviet and Cuban involvement, but there is also a history of poverty, despair, and oppression. The turmoil is not there solely because the Cubans are there—the Cubans and Soviets are there because the turmoil is there. We must be wise enough, and sensitive enough, and knowledgeable enough to realize that we will not succeed in Nicaragua by once again intervening militarily. The United States has a special burden and difficulty because of our history in the region and in Nicaragua. Nicaraguans feel deeply about the need for the United States to respect the sovereignty of their nation. Instead of using the political, economic, and moral power at our disposal to wisely aid those forces in Nicaragua that seek democracy, we are instead clumsily hurting them. We are playing into the hands of the Sandinistas and the Soviets and the Cubans.

It has been demonstrated to my satisfaction that our aid to the contras is counterproductive to the goals we all seek. We should accept my colleagues amendment, and we should end this doomed approach to a difficult, complex, and extremely important problem that will be facing our Nation for generations. We must respect international law, and find successful and effective ways to achieve the goals of freedom, economic justice, and democracy in all of Central America.

Mr. SPECTER. Mr. President, I am voting against the Inouye amendment because I believe it is unwise to cut off all funding for U.S. intelligence activities in Nicaragua which would be the effect of this amendment. It is my judgment that U.S. intelligence activities are very important worldwide, including Nicaragua, if the United States is to be able to cope with hostile forces around the world including terrorism.

As the record shows, I have supported moves to limit U.S. involvement in military operations in Nicaragua including opposition to covert activities which seek to overthrow the Nicaraguan Government and the mining of Nicaraguan waters. However, I do not believe that the United States can withdraw totally, as the Inouye amendment provides, from even indirect paramilitary operations in Nicaragua as long as military support for the rebels in El Salvador is being provided via Nicaragua.

As I see it, the United States should exert strenuous efforts for a peaceful solution in Central America by negotiations through the Contadora process. At least for the time being, it is my sense that the United States must maintain intelligence operations in Nicaragua and must further maintain at least some capacity to interdict the flow of arms to the rebels in El Salvador.

Mr. THURMOND. Mr. President, I rise in opposition to the pending amendment. A cutoff of aid to the contras is certainly not in our best interest and it would be disastrous for El Salvador, Costa Rica, Honduras, and Guatemala. This issue was debated thoroughly during Senate consideration of the Defense authorization bill and was found lacking in merit. It certainly has not become meritorious in the last few months.

It has been suggested that if supporting the contras were right, then we would be subverting the Governments of Cuba, Libya, Syria, and Iran. This is an absurd comparison. There are no pro democratic forces in those countries fighting to overthrow their governments. Let us not try to compare apples and oranges, because it will not work. If you want a similar comparison, take Angola in 1975. It was in that year that President Ford asked for funds to support pro-Western forces in the struggle against the Communists. What was congressional response? The Congress voted to completely cut off funds to these forces, and the Communists won. That vote was one lacking in vision and resolution on our part.

Let us look back a little farther to Vietnam. The U.S. Congress voted to cut off funds to the South Vietnamese and what happened? The North Vietnamese took over and the dominoes began to fall so that only Thailand is now left in the region bordered by hostile Communist regimes.

But enough about past congressional blunders in foreign affairs, let us return to our considerations of Nicaragua. In 1979, when the Sandinistas gained power, they promised freedom of religion, freedom of the press, free speech, and democratic elections. There is no free speech, no freedom of the press, no freedom of religion, and there have been no democratic elections.

Now let us look at what they have done. They have exported revolution against their neighbors and continue to do so, they murdered former Nicaraguan President Samoza, they have offered to allow the Soviets to station nuclear missiles in Nicaragua and they have committed genocide against the Mesquito Indians. That is a terrible record for only 5 years in power. Think what we have to look forward to if they stay in power for 25 years.

The proponents of this cutoff of funds to the Contras say that we must negotiate with the Sandinistas. We negotiated with the North Vietnamese and what did that do for South Vietnam? Are we going to abandon El Salvador, Honduras, Guatemala, and Costa Rica to a similar fate as that which befell South Vietnam? We will certainly do so if we adopt this amendment.

Mr. President, I urge all of my colleagues to oppose this amendment in the name of peace and freedom for Central America.

Mr. GRASSLEY. Mr. President, I am hopeful, as I know every Member of this body is, that the factions in Nicaragua will arrive at a truly just solution. Clearly, after so many years of factionalism, fear, and political confusion, Nicaraguans must ache for some semblance of lasting peace and democratic, representative government. I am not one who supports the one-party rule of the present junta which controls Nicaragua. Additionally, I do not accept the predictable criticism prevalent today that the call for democratization in Latin America is somehow bourgeois or a sign of American arrogance. The new apostles of political relativism would suggest that while democracy is fine for Americans, it is not appropriate in Nicaragua or El Salvador. Have we lost completely our ability to objectively evaluate political systems? Are some people perhaps even willing to excuse antidemocratic policies? Do we not have a compass showing the way to representative government any more? Why is it so abundantly clear to some that the motives, plans and actions of all of the contra forces are completely illegitimate, while the Sandinista regime and its way to power in Nicaragua are considered unimpeachable? Eden Pastora and his alliance cannot be characatured as Somozistas or pawns of the Somoza mafia. Pastora and other Contra groups fought the previous regime, came to power with the Sandinistas and finally concluded that Sandinista power politics looked strangely like the authoritian regime that preceded.

This amendment to effectively end all assistance to activities in Nicaragua and on its border could completely end resistance to arms shipments from Nicaragua. Pastora, other contras and defectors have created a large body of evidence which shows clearly that significant arms shipments have been taking place over the last years, resulting in increased violence and bloodshed in El Salvador and other countries bordering on Nicaragua. Arms interdiction is a valid role for United States to play and there do appear to be some significant reductions in the flow. The Sandinistas, from the first days of their regime, stated their intention to encouraged dissension, distrust, and violence in Central American neighbors. Why do so many pretend that they have not been so forthright about plans and strategies? I cannot support unlimited assistance to the contras. I also will not ignore the very claims of the Sandinistas, who have actively followed a policy of support for violence in neighboring countries, where I am convinced a genuine desire for free and democratic institution is flowering.

Mr. CRANSTON. I announce that the Senator from New Jersey [Mr. BRADLEY] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 42, nays 57, as follows:

[Rollcall Vote No. 269 Leg.]

YEAS—42

Andrews	Glenn	Moynihan
Baucus	Hart	Packwood
Biden	Hatfield	Pell
Bingaman	Huddleston	Pressler
Bumpers	Inouye	Proxmire
Burdick	Kassebaum	Pryor
Byrd	Kennedy	Randolph
Cohen	Lautenberg	Riegle
Cranston	Leahy	Sarbanes
DeConcini	Levin	Sasser
Dodd	Matsunaga	Stafford
Eagleton	Melcher	Tsongas
Exon	Metzenbaum	Weicker
Ford	Mitchell	Zorinsky

NAYS—57

Abdnor	Goldwater	McClure
Armstrong	Gorton	Murkowski
Baker	Grassley	Nickles
Bentsen	Hatch	Nunn
Boren	Hawkins	Percy
Boschwitz	Hecht	Quayle
Chafee	Heflin	Roth
Chiles	Heinz	Rudman
Cochran	Helms	Simpson
D'Amato	Hollings	Specter
Danforth	Humphrey	Stennis
Denton	Jepsen	Stevens
Dixon	Johnston	Symms
Dole	Kasten	Thurmond
Domenici	Laxalt	Tower
Durenberger	Long	Trible
East	Lugar	Wallop
Evans	Mathias	Warner
Garn	Mattingly	Wilson

NOT VOTING—1

Bradley

So the amendment (No. 6993), as modified, was rejected.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, if I could have the attention of Members for a moment, I have two or three things that I would like to announce. Could we have order, Mr. President.

The PRESIDING OFFICER. The Senate will be in order. Senators please take their conversations to the back of the Chamber. The majority leader.

Mr. BAKER. I thank the Chair.

Mr. President, first of all, it is my unhappy task to report that we have to finish this thing, and we have to finish it tonight. The short continuing resolution expires tonight at midnight. I have consulted with the Speaker, who has indicated to me that the House is not willing to send us another continuing resolution, a short one. So we have no alternative except to do our best to pass this continuing resolution and to do it as promptly as possible. So once again I urge Senators to use restraint in offering amendments and to restrain themselves in the length of their statements, so we may get on with the business of trying to pass this continuing resolution. By the very best estimates I can get from the manager on this side and an informal conversation with the managers on the other side, it seems to me that we are likely to be here for the better part of tonight and in the morning. But Senators should know that it is the intention of the leadership on this side to stay until we finish.

Mr. President, there is a debt limit coming on after this which has to be passed before we can go out. It is still the ambition of the leadership to adjourn sine die no later than Friday, but if we have to stay, we will stay and I have so advised the Speaker, because the two things that must be done are the passage of the continuing resolution through conference and the presentation of the completed bill to the President for his approval and signature and the passage of the debt limit.

Mr. President, in addition to that there are a number of other things that I would like for the Senate to take up and they include such things as the Outer Continental Shelf conference report, the highway bill, which simply has to be passed, product liability, the Genocide Convention, and there may be others. But from that list we are going to choose the items that the Senate is willing to consider and we are going to do the best we can. But, Mr. President, once again, the Senate is going to be in very late tonight, maybe all night long, and we are going to be in session tomorrow and Friday. It is my hope we will not be in session beyond Friday but if we are, we are, and we will do what has to be done.

ROUTINE MORNING BUSINESS

Mr. BAKER. Now, Mr. President, it is 6:30 p.m. and there happens to be a great deal of stuff that is cleared on both sides to do now routinely, and for the next hour I would propose, Mr. President, if the minority leader has no objection that we do this routine business and give Senators a chance to make statements on other matters if they wish. For his consideration and that of the Senate, I now ask unani-

mous consent that there be a period for the transaction of routine morning business until not past 7:30 p.m. in which Senators may speak for not more than 5 minutes each with the exception of the two leaders against whom no time limitation will apply.

Mr. STENNIS. Not past what hour?

Mr. BAKER. 7:30.

The PRESIDING OFFICER. Is there objection?

The Chair hears none and it is so ordered.

Mr. BYRD. Mr. President, will the majority leader yield for a question?

Mr. BAKER. Yes; I do yield for a question.

Mr. BYRD. Mr. President, I have two questions I should like to ask the majority leader.

One is, if the Senate will continue in session, say, after 6 p.m. on Friday because of the religious holiday, in which event, a second question would occur: whether or not the Senate would come in on Saturday evening, after the religious holiday. I think the distinguished majority leader mentioned this possibility the other day.

The next question is, what are his plans with respect to going to the debt limit extension? Would he hope to go to that immediately following the final action on the continuing resolution, or does he intend to sandwich in between some of those other measures he mentioned?

Mr. BAKER. I thank the minority leader for his questions.

Let me answer in two or three different stages, and with some contingencies.

To begin with, I want to consult further with the minority leader and compare notes on what appears to be best for the convenience of Senators on both sides of the aisle.

The second is to report that I have had a conversation with the Speaker on this subject this morning, and I believe his views are not complete on these matters as well. But it is obvious that we need to coordinate our schedules to some degree with the schedule of the House of Representatives. So there will be further consultation with the Speaker and with the minority leader of the House on that subject.

As of this moment, it appears to me that we should be in session on Friday and as late Friday as we can do work, although there will not be any rollcall votes after sundown or, in this case, after 6 o'clock, and to be in session on Saturday. Once again, there will be no rollcall votes until 6 o'clock on Saturday. That is not a decision, Mr. President, but that is the way it appears to me at this point. I will consult with the minority leader and with the Speaker and the minority leader of the House before we make any further and final determination.

On the question of Monday—I hate even to bring that up—if we have not finished the continuing resolution and the debt limit, we are going to be in here next week; and the Speaker asked me to consider whether or not, in that unhappy event, we would plan to come back on Monday or Tuesday, since Monday is a legal holiday. I have not yet seriously thought about that question, but I will, and I will consult once more with the minority leader on that as well.

On the question of what we are going to do immediately after the continuing resolution, there is one bill I would very much like to take up before we get to the continuing resolution, because it has to be acted on in the House, has to go through conference, and has to be approved by the President, in order to fulfill what I believe is our obligation, and that is the highway bill. Without a highway bill, we are not going to have the interstate construction estimates available and we are going to be in a pickle. Every State in the Union, one way or the other, is going to be in big trouble if we do not get out a highway bill, including the interstate construction estimates.

I have not yet formally conferred with the minority leader on this, but I would like to broach to him the possibility of a time agreement on a highway bill that would come up after the continuing resolution. We would have limited amendments, identified amendments, and time for debate and disposition at a time certain, before we go to the debt limit.

After the highway bill, it would tentatively be my determination that we would go to the debt limit, and as soon as the debt limit is done, we probably would go to the Genocide Convention or one of the other matters I have identified, while we are waiting on the conference report.

Mr. METZENBAUM. Mr. President, will the majority leader yield?

Mr. BAKER. I yield.

Mr. METZENBAUM. I respectfully indicate to the majority leader that I, for one—and I do not know how many others in this body I speak for—would find a working session on Saturday, even without rollcall votes, to be quite a difficult situation.

I do not have to explain to the majority leader how many amendments are adopted without objection and they become just as much a part of the law as any other part of the law. I also do not have to explain to the majority leader—and if I become personal, I apologize for that—that I do try to see what happens and what goes into measures, and it is totally impossible for me to do that on Saturday.

I have indicated to the majority leader that I hope we could adjourn by 2 o'clock on Friday; but if he has to go until 6, I would understand that. But I would feel that asking those of us who try to meet our responsibilities in this body to work on Saturday would really not be fair. I know that the majority leader is trying to be totally fair. I am not suggesting in any way anything to the contrary. But I say to him that I would not think it appropriate for this body to work all day Christmas or Easter, and I certainly think that Yom Kippur Day for many of us in this body is an equally holy day and one that we do respect.

Mr. BAKER. Mr. President, I understand the Senator's dilemma, but I am sure he understands mine as well, and that is that we simply have to do what we have to do.

The precedent of not having votes but being in session on religious holidays—and it is a precedent—is fairly recent. Before that, we just did business as usual. Senator Mansfield, when he was majority leader, began that practice, and I believe that my predecessor, Senator BYRD, followed that practice; and I have tried to follow that practice, and I intend to continue doing it. But it would be a very severe burden on our remaining time if we simply had to go out of session until sundown on Friday or sundown on Saturday. Maybe we will not get much done, and maybe we will.

I will consult further with the distinguished Senator from Ohio. I am sympathetic to his concerns. I have consulted with Members on this side who are also concerned about the sanctity of the religious holiday, and we will talk about it some more. I am not presently in a position to say that we will simply adjourn for that period. I am in a position to say that I will follow the Mansfield precedent, as my predecessor did.

Mr. FORD. Mr. President, will the Senator yield?

Mr. BAKER. I yield.

Mr. FORD. Would it be in the realm of possibility, if it is obvious that it is difficult to finish by 6 o'clock or sundown on Friday and that a Saturday-night session might not produce much more, that he might be amenable to recess late Friday, to come back Tuesday morning and stay Tuesday and Wednesday?

Mr. BAKER. Sure. Once again, I do not mean to delegate my duties in this respect to the Speaker and to the minority leader; but I have indicated to both of them that I want to consult further on how they wish to approach the matter. We will approach it together, because I have to go by what the House decides to do, and they have to go by what we decide to do.

There is one major problem, and that is that the continuing resolution expires tonight, and the Speaker has indicated to me that he will not send me another one. I do not know what we will do between midnight tonight and next Tuesday if we do not have a continuing resolution. What we are

going to do is not much, because the Government will start shutting down.

If the Speaker has someone who reads my words in the CONGRESSIONAL RECORD, maybe he will sense my distress, my concern, and my supplication that he reconsider that decision. If he does not read it, I may read it to him. [Laughter.]

Mr. President, while we get our bearings on this big file of things that appear ready to be done routinely, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE CALENDAR

Mr. BAKER. Mr. President, as I indicated earlier, I have a collection of measures that appear to be cleared for action by unanimous consent or routine action. If the minority leader is prepared at this time to proceed with them I will start down the list.

The first item I have on my list is Calendar Order 1091, which is Senate Resolution 420, and the accompanying budget waiver.

If the minority leader is prepared for me to consider that I will go forward with it.

Mr. BYRD. Mr. President, there is no objection.

Mr. BAKER. I thank the minority leader.

BUDGET ACT WAIVER

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of Calendar 1091, which is a budget waiver to accompany S. 1688.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 420) waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 1688.

There being no objection, the Senate proceeded to consider the resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 420) was agreed to, as follows:

Resolved, That, pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 1688, a bill to amend the Act of October 18, 1972, to modify the authorization of appropriations for Sitka National Park, Alaska, and for other purposes.

The waiver of section 402(a) of such Act is necessary to permit congressional consideration of S. 1688. Such bill was not reported on or before May 18, 1984, as required by section 402(a) of the Congressional Budget Act of 1974 for such authorizations.

The likelihood that the Committee on Energy and Natural Resources would report the measure, S. 1688, was reflected in its March 15, 1984, report to the Committee on the Budget pursuant to section 301(c) of the Congressional Budget and Impoundment Control Act of 1974. Therefore, the Appropriations Committee of the Senate has had adequate notice of this authorization. Enactment of S. 1688 is not expected to interfere with or delay the appropriations process.

NOTIFICATION OF APPROPRIATIONS FOR THE SITKA NATIONAL PARK

Mr. BAKER. Mr. President, I ask the Chair to lay before the Senate Calendar Order No. 1046.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 1668) to amend the Act of October 18, 1972, to modify the authorization of appropriations for Sitka National Park, Alaska, and for other purposes.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Energy and Natural Resources with amendments.

(The parts intended to be stricken are shown in boldface brackets and the parts intended to be inserted are shown in italic.)

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3 of the Act entitled, "An Act to authorize certain additions to the Sitka National Monument in the State of Alaska, and for other purposes," approved October 8, 1972 (86 Stat. 904), as amended by section 101, paragraph (23), of the Act of November 10, 1978 (92 Stat. 3472) is further amended by striking out "1,571,000" and inserting in lieu thereof "such sums as may be necessary, but not to exceed **[**$6,000,000**]** *$4,000,000.".*

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendments.

The committee amendments were agreed to.

Mr. MURKOWSKI. Mr. President, today the Senate has before it S. 1688, the Sitka National Historical Park bill. The city of Sitka is very special not only to Alaska but to all America. Sitka was the capital of Russian America prior to its purchase in 1867 from Russia by the United States. After Alaska was purchased, Sitka became the territorial capital of Alaska and remained its capital until 1900 when the capital was moved to Juneau.

S. 1688, recognizes Sitka's historical uniqueness and amends the 1972 Sitka National Historical Park bill. The purpose of S. 1688 is to raise the 1972 authorization level of the park bill from $1.571 million to $4 million.

It is necessary to raise the 1972 statutory ceiling on development expenditures so that the authorization ceiling will reflect the $1.204 million that was appropriated in 1981 for the development and the restoration of the Russian Bishop's House and provide additional funds to complete that project. S. 1688 also provides the funds needed to stabilize a river bank adjacent to the park, that is a serious problem and that is currently threatening the Sitka Fort site. This fort site is of major historical significance. It is the site where more than 700 Tlingit warriors and their families gathered and withstood a 6-day siege by the Russians. The battle of Sitka in 1804 marked the northwest coast natives last major resistance to the coming of the white man.

The Sitka Fort site has been continually used to celebrate Tlingit festivities since the mid-1800's. In 1890, this site was proclaimed a public park and 20 years later, President William Howard Taft put the site under Federal protection.

Today, the Sitka National Historical Park encompasses the fort site and provides a living monument to the Tlingit heritage through the operation of the park's cultural center. This center operates a nonprofit program that reaches throughout the community through craft demonstrations and classroom workshops. The cultural center provides a show place for the Tlingit teachers to demonstrate their native beadwork, woodcarving, and silverwork.

In 1978, the historical park boundaries were expanded to include the Russian Bishop's House. This building is one of the oldest existing Russian structures in the United States. It is the former residence of Bishop Innocent, later the metropolitan of Moscow and head of the Russian Orthodox Church. The bishop's residence remained the center of work for the Russian Orthodox Church in Alaska throughout the years of Russian rule and for more than a century before.

The bishop's house has survived for more than 140 years. Many furnishings, icons and religious accouterments within the house have also survived. When the bishop's house restoration is completed in 1985, it will become the prime resource for the interpretation of Russian history in America.

Mr. President, the fort site and the bishop's house bridge the two distinctive cultures of southeast Alaska. I urge the Senate to join with me in voting for the continued preservation of these sites, which not only contribute to Alaska's heritage but to America's.

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Mr. President, I wish to thank the majority leader and the minority leader for expediting this matter.

Mr. BAKER. I thank the Senator from Alaska.

The PRESIDING OFFICER. The question is on the engrossment and the third reading of the bill.

The bill (S. 1688) was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 1688

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3 of the Act entitled "An Act to authorize certain additions to the Sitka National Monument in the State of Alaska, and for other purposes", approved October 8, 1972 (86 Stat. 904), as amended by section 101, paragraph (23), of the Act of November 10, 1978 (92 stat. 3472) is further amended by striking out "1,571,000" and inserting in lieu thereof "such sums as may be necessary, but not to exceed $4,000,000.".

The title was amended so as to read:

A bill to amend the Act of October 18, 1972, to authorize additional authorization of appropriations for Sitka National Historical Park, Alaska.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THE CALENDAR

Mr. BAKER. Mr. President, may I read now a list of items that are cleared on this side for passage by unanimous consent and apparently without any other action.

If the minority leader is prepared to clear them or any part of them, it would be my intention to ask that they be considered en bloc. They are calendar orders numbered 1245, 1262, 1263, 1264, 1268, 1269, 1275, 1276, 1277, 1288, 1305, and 1307.

That is the list, Mr. President. I might add that I also have on the list that I have to indefinitely postpone Calendar Order No. 1261.

Mr. BYRD. Mr. President, those items are cleared on this side of the aisle. I wonder if we should have a yea and nay vote on Calendar Order No. 1245.

Mr. BAKER. Yes, Mr. President, I think that would be a good idea.

Let me propose this, if I may. I would propose that we go to that measure now, and, if the yeas and nays are ordered, that by unanimous consent we postpone the yeas and nays to occur when morning business has ended and before we resume consideration of the continuing resolution.

Mr. BYRD. Mr. President, that is very agreeable on my side.

SUPPORTING THE PEOPLE OF AFGHANISTAN IN THEIR STRUGGLE TO BE FREE FROM FOREIGN DOMINATION

Mr. BAKER. Mr. President, I ask that the Chair lay before the Senate Calendar Order No. 1245, Senate Conference Resolution 74.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 74) to encourage and support the people of Afghanistan in their struggle to be free from foreign domination.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Tennessee?

There being no objection, the Senate proceeded to consider the concurrent resolution which had been reported from the Committee on Foreign Relations, with amendments; as follows:

(The parts of the concurrent resolution intended to be stricken are printed in boldface brackets, and the parts of the concurrent resolution intended to be inserted are printed in italic.)

Whereas the freedom fighters of Afghanistan have withstood the might of the Soviet Army for over **[**three and a half**]** *four* years and gained the admiration of free men and women the world over with their courageous sacrifice, bravery, and determination;

Whereas the Soviet invasion of Afghanistan is the first Soviet seizure of independent territory since the 1940's and represents a dangerous and unacceptable development in Soviet foreign policy;

Whereas the struggle for liberation in Afghanistan can succeed if those of us who believe in freedom come to its support;

Whereas the European Parliament, the Non-Aligned Movement, the United Nations, the Conference of Islamic Nations, the Association of Southeast Asian Nations, and the United States Congress have all condemned the Soviet invasion and occupation of Afghanistan;

Whereas the Soviet airbases in southwest Afghanistan present an unacceptable threat to the Hormuz oil passage lanes which are so vital to the free world's economies;

Whereas many individuals and private organizations all over the world have already sent substantial aid to the Afghan freedom fighters; and

Whereas it would be indefensible to provide the freedom fighters with only enough aid to fight and die but not enough to advance their cause of freedom: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it should be the policy of the United States—

(1) to encourage and support the people of Afghanistan **[**in**]** *to continue* their struggle to be free **[**from**]** *of* foreign domination;

(2) to **[**provide**]** *support effectively* the people of Afghanistan, **[**if they so request, with material assistance, as the United States considers appropriate, to help them fight effectively for their freedom;**]** *in their fight for freedom;*

(3) to pursue a negotiated settlement of the war in Afghanistan, based on the total withdrawal of Soviet troops and the recognition of the inalienable right of the Afghan people to choose their own destiny free from outside interference or coercion, so that the four million Afghan refugees can return to their country in safety and in honor.

Mr. BAKER. Mr. President, do I understand that there are committee amendments to this measure?

The PRESIDING OFFICER. The Senator is correct.

Mr. BAKER. Mr. President, I ask unanimous consent that the committee amendments be considered and agreed to en bloc.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask for the yeas and nays on the adoption of the resolution.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were orderd.

Mr. BAKER. Mr. President, I now ask unanimous consent that the rollcall vote just ordered on Calendar Order No. 1245 occur 5 minutes after the close of this period for the transaction of routine morning business and that the 5 minutes to precede the vote be equally divided between the two leaders or their designees.

The PRESIDING OFFICER. Is there objection to the request? Without objection, it is so ordered.

Mr. BAKER. Mr. President, we have adopted the committee amendments en bloc; is that correct?

The PRESIDING OFFICER. The majority leader is correct.

Mr. BAKER. Mr. President, under the order previously entered, this matter will now automatically be set aside to be voted on 5 minutes after we leave morning business.

The PRESIDING OFFICER. The Senator is correct.

Mr. BAKER. I thank the Chair.

ORDER TO INDEFINITELY POSTPONE S. 2803

Mr. BAKER. Mr. President, I ask unanimous consent that Calendar Order No. 1261, S. 2803, be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, would the minority leader now be in a position for me to consider en bloc all of the items that I had enumerated?

Mr. BYRD. Mr. President, I would be happy to do so.

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate consider en bloc, and adopt en bloc, the following calendar items: Calendar Nos. 1262, 1263, 1264, 1268, 1269, 1275, 1276, 1277, 1288, 1305, and 1307.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. Mr. President, we have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL HEAD INJURY AWARENESS MONTH

A joint resolution (S.J. Res. 352) designating October 1984 as "National Head Injury Awareness Month", was considered, ordered to be engrossed for a third reading, read the third time and passed.

The preamble was agreed to.

The joint resolution, and the preamble, are as follows:

Whereas an estimated four hundred and fifty thousand to seven hundred thousand people require hospitalization each year for head injuries;

Whereas an estimated one hundred thousand of these victims die as a result of head injuries;

Whereas approximately fifty thousand head injury victims, more than two-thirds of whom are under the age of thirty, suffer permanent brain damage that prevents them from returning to schools, jobs, or normal lifestyles;

Whereas the effects of head injuries are emotionally and financially devastating to families;

Whereas there is a serious lack of facilities designed to care for the special needs of the head injured; and

Whereas long-term medical research on brain injured patients is incomplete: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 1984 is designated "National Head Injury Awareness Month" and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe that month with appropriate programs and activities.

NATIONAL PRODUCTIVITY IMPROVEMENT WEEK

A joint resolution (S.J. Res. 354) designating the week of January 7 through 13, 1985, as "National Productivity Improvement Week," was considered, ordered to be engrossed for a third reading, read the third time and passed.

The preamble was agreed to.

The joint resolution and the preamble are as follows:

Whereas the economic stability and growth of this Nation relies largely on the collective industry and endeavor of its working citizens;

Whereas the time-honored tradition of American leadership in work-related ingenuity and know-how has brought about great strides in productivity;

Whereas growth in productivity in turn improves the standard of living of United States citizens;

Whereas public awareness of the economic importance of productivity will promote individual and collective ideas and innovations for productivity improvement; and

Whereas a conscientious effort to improve productivity will foster a better standard of living for all citizens and reduce the level of inflation: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of providing for a better understanding of the need for productivity growth and of encouraging the development of methods to improve individual and collective productivity in the public and private sectors, the week of January 7 through January 13, 1985, is designated "National Productivity Improvement Week". The President is requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

APPROVAL OF AMENDMENT TO THE DELAWARE RIVER BASIN COMPACT

A bill (H.R. 5782) granting the consent of Congress to an amendment to the Delaware River Basin Compact, was considered, ordered to a third reading, read the third time, and passed.

AMENDMENT TO INCORPORATION OF GROUP HOSPITALIZATION, INC.

A bill (H.R. 6223) to amend the act providing for the incorporation of certain persons as Group Hospitalization, Inc., was considered, ordered to a third reading, read the third time, and passed.

DISTRICT OF COLUMBIA TAX EXEMPTION FOR THE JEWISH WAR VETERANS, U.S.A. NATIONAL MEMORIAL, INC.

A bill (H.R. 4994) to exempt from taxation by the District of Columbia certain property of the Jewish War Veterans, U.S.A. National Memorial, Inc., was considered.

DISTRICT OF COLUMBIA TAX EXEMPTION FOR THE JEWISH WAR VETERANS, U.S.A. NATIONAL MEMORIAL, INC.

Mrs. HAWKINS. Mr. President, I am pleased to be the sponsor of S. 2373 a bill to change the tax exemption for the property housing the Jewish War Veterans, U.S.A. National Memorial, Inc. I am now grateful for this opportunity to rise in support of H.R. 4994, the companion bill, which readily passed in the House, to provide a tax exemption for this national memorial.

The purpose of H.R. 4994 is not to create an exemption but to transfer a congressional-granted D.C. tax exemption provided to the Jewish War Memorial from one piece of property to another. The original exemption was granted in 1955 and was specific to what was then the headquarters building of the organization. That property has now been sold and the Jewish War Veterans, U.S.A. National Memorial, Inc., has acquired a new headquarters building. The original headquarters building, which enjoyed a tax exemption for nearly 30 years, will be returned to the D.C. tax rolls. This legislation substitutes the description of the new building for that in the original exemption and provides an exemption for the new building as long as it is occupied by the organization.

There have been concerns raised by others relative to this bill. It is appropriate that those concerns be addressed here.

In light of the existence of home rule for the District of Columbia, it is pertinent to ask why Congress, and not the local council, is granting the exemption. First, the organization has made a good faith effort to resolve this matter at the local level. The D.C. Department of Finance and Revenue denied an application filed with that department. Since the memorial is chartered by Congress and is required by Congress to be located in the District of Columbia, and since Congress maintains its constitutional authority to act as the legislature for the District of Columbia, it is clearly appropriate and within the power of Congress to deal with this aspect of the memorial.

All D.C. laws must undergo a period of congressional review before being effected. The sine die adjournment date, which is rapidly approaching, precludes the completion of a congressional review period. Local legislation would thus long and unfairly delay the finalization of this critical action.

The memorial is not a religious institution. Membership is open to all individuals, regardless of religious affiliation or veteran status. It is a national memorial and museum dedicated to and commemorating the service and sacrifice in the Armed Forces of the United States during the period of war by Americans of the Jewish faith. Congress traditionally has exercised jurisdiction over memorials and museums through congressional charters, which the memorial received in 1958, and through oversight.

This is a national memorial commemorating the contributions of Jewish veterans to the United States. As such, matters affecting it should come under the purview of the National Legislature. It is thus comparable to the exemptions granted to other veterans organizations.

It is proper and prudent for Congress to take the action delineated in H.R. 4994. It is not contradiction of the principle of home rule, and should not be construed as such.

At the time of the dedication of the National Shrine of Jewish War Dead, housed by the Jewish War Memorial, Gen. Omar Bradley said:

The military achievements of men of Jewish faith are part of the proud record of American fighting men. I urge all Americans to join with me in making this National Shrine a living reality.

The Veterans Memorial is an organization that reflects fundamental national responsibilities and concerns. I call on you all to join with me in hon-

oring the American fighting men to whose memory this memorial is dedicated by approving this measure.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the bill.

The bill (H.R. 4994) was ordered to a third reading, was read the third time, and passed.

RELIEF OF EDWINA CAROL BAXTER

A bill (S. 794) for the relief of Edwina Carol Baxter, was considered, ordered to be engrossed for a third reading, read the third time, and passed; as follows:

S. 794

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding the provisions of sections 203(a) and 212(a)(14) of the Immigration and Nationality Act, Edwina Carol Baxter may be granted a visa and admitted to the United States for permanent residence as of the date of the enactment of this Act upon filing an application for a visa and payment of the required visa fee. Upon the admission of Edwina Carol Baxter, as provided for in this Act, the Secretary of State shall instruct the proper officer to reduce by the proper number, during the current fiscal year or the fiscal year next following, the total number of immigrant visas which are made available to natives of the country of the alien's birth under section 203(a) of the Immigration and Nationality Act, or, if applicable, the total number of immigrant visas which are made available to natives of the country of the alien's birth under section 202(e) of such Act.

RELIEF OF CATHERINE AND ROBERT FASSEZ

A bill (S. 1946) for the relief of Catherine and Robert Fassez, was considered, ordered to be engrossed for a third reading, read the third time, and passed; as follows:

S. 1946

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, Catherine and Robert Fossez shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act upon payment of the required visa fees. Upon the granting of permanent residence to such aliens as provided for in this Act, the Secretary of State shall instruct the proper officer to reduce by two numbers, during the current fiscal year or the fiscal year following, the total number of immigrant visas and conditional entries which are made available to natives of the country of the aliens' birth under section 203(a) of the Immigration and Nationality Act or, if applicable, from the total number of visas and entries which are made applicable to such natives under section 202(e) of such Act.

SEC. 2. No financial or other consideration shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with the enactment of this Act, any contract to the contrary notwithstanding. Violation of the provisions of this section is a misdemeanor punishable by a fine of $1,000.

RELIEF OF THERESE NYUWIR POUPELE KPODA

A bill (S. 2518) for the relief of Therese Nyuwir Poupele Kpoda, was considered, ordered to be engrossed for a third reading, read the third time, and passed.

(The following proceedings occurred later in the day:)

Mr. BAKER. Mr. President, I am told that because of a clerical problem, all parties now wish to vitiate the passage of Calendar No. 1277, and I make that request at this time.

The PRESIDING OFFICER. Without objection, it is so ordered.

RELIEF OF JOHN BRIMA CHARLES

A bill (H.R. 2859) for the relief of John Brima Charles, was considered, ordered to a third reading, read the third time, and passed.

VISITOR CENTER AND ADMINISTRATIVE SITE IN THE BIG THICKET NATIONAL PRESERVE, TEXAS

A bill (H.R. 5631) to provide for the acquisition of a visitor contact and administrative site for the Big Thicket National Preserve in the State of Texas, was considered.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the bill.

The bill (H.R. 5631) was ordered to a third reading, was read the third time, and passed.

JAMIE WHITTEN DELTA STATES RESEARCH CENTER

A bill (H.R. 5513) to designate the Delta States Research Center in Stoneville, Mississippi as the "Jamie Whitten Delta States Research Center" was considered, ordered to a third reading, read the third time, and passed.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the bills were agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MAKING TECHNICAL CORRECTIONS IN THE ACT OF JANUARY 12, 1983

Mr. BAKER. Mr. President, next I propose we go to Calendar No. 1222, if the minority leader has no objection.

Mr. BYRD. There is not objection.

Mr. BAKER. Mr. President, I ask the Chair to lay that measure before the Senate.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 158) to make technical corrections in the act of January 12, 1983 (Public Law 97-459).

The PRESIDING OFFICER. Without objection, the Senate will proceed to consider the joint resolution.

The Senate proceeded to consider the joint resolution which had been reported from the Select Committee on Indian Affairs with an amendment to strike out all after the enacting clause, and insert the following:

That the Act of January 12, 1983 (96 Stat. 2515; Public Law 97-459), is hereby amended as follows:

(1) At the end of section 204 change the period to a colon and insert the following: "Provided, That—

"(1) the sale price or exchange value received by the tribe for land or interests in land covered by this section shall be no less than within 10 per centum of the fair market value as determined by the Secretary;

"(2) if the tribal land involved in an exchange is of greater or lesser value than the land for which it is being exchanged, the tribe may accept or give cash in such exchange, in order to equalize the values of the property exchanged;

"(3) any proceeds from the sale of land or interests in land or proceeds received by the tribe to equalize an exchange made pursuant to this section shall be used exclusively for the purchase of other land or interests in land;

"(4) the Secretary shall maintain a separate trust account for each tribe selling or exchanging land pursuant to this section consisting of the proceeds of the land sales and exchanges and shall release such funds only for the purpose of buying lands under this session; and

"(5) any tribe may retain the mineral rights to such sold or exchanged lands and the Secretary shall assist such tribe in determining the value of such mineral rights and shall take such value into consideration in determining the fair market value of such lands.

"(b) The Secretary must execute such instrument of conveyance needed to effectuate a sale or exchange of tribal lands made pursuant to an approved tribal land consolidation plan unless he makes a specific finding that such sale or exchange is not in the best interest of the tribe or is not in compliance with the tribal land consolidation plan.".

(2) Section 205 is amended to read as follows:

"SEC. 205. Any Indian tribe may purchase at no less than the fair market value part or all of the interests in any tract of trust or restricted land within that tribe's reservation or otherwise subject to that tribe's ju-

risdiction with the consent of the owners of over 50 per centum of the undivided interests in such tract: *Provided*, That—

"(1) any Indian owning any undivided interest, and in actual use and possession of such tract for at least three years preceding the tribal initiative, may purchase such tract by matching the tribal offer;

"(2) if, at any time within five years following the date of acquisition of such land by an individual pursuant to this section, such property is offered for sale or a petition is filed with the Secretary for removal of the property from trust or restricted status, the tribe shall have 180 days from the date it is notified of such offer of petition to acquire such property by paying to the owner the fair market value as determined by the Secretary;

"(3) all purchases and sales initiated under this section shall be subject to approval by the Secretary.".

(3) Section 206 is amended to read as follows:

"SEC. 206. Notwithstanding any other provision of law, any Indian tribe, subject to approval by the Secretary, may adopt its own code of laws to govern descent and distribution of trust or restricted lands within that tribe's reservation or otherwise subject to that tribe's jurisdiction, and may provide that nonmembers of the tribe or non-Indians shall not be entitled to receive by devise or descent any interest in trust or restricted lands within that tribe's reservation or otherwise subject to that tribe's jurisdiction: *Provided*, That in the event a tribe takes such action—

"(1) if an Indian dies intestate, the surviving non-Indian or nonmember spouse and/or children may elect to receive a life estate in as much of the trust or restricted lands as such person or persons would have been entitled to take in the absence of such restriction on eligibility for inheritance and the remainder shall vest in the Indians or tribal members who would have been heirs in the absence of a qualified person taking a life estate;

"(2) if an intestate Indian descendent has no heir to whom interests in trust or restricted lands may pass, such interests shall escheat to the tribe, subject to any non-Indian or nonmember spouse and/or children's rights as described in paragraph (1) of this section;

"(3) if an Indian decedent has devised interests in trust or restricted lands to persons who are ineligible for such an inheritance by reason of a tribal ordinance enacted pursuant to this section, the devise shall be voided only if, while the estate is pending before the Secretary for probate, the tribe acquires such interests by paying to the Secretary, on behalf of the devisees, the fair market value of such interests as determined by the Secretary as of the date of the decedent's death: Provided, That any non-Indian or nonmember spouse and/or children of such decedent who have been devised such interests may retain, at their option, a life estate in such interests.

"(b) The right to receive a life estate under the provisions of this section shall be limited to—

"(1) a spouse and/or children who, if they had been eligible, would have inherited an ownership interest of 10 per centum or more in the tract of land; or

"(2) a spouse and/or children who occupied the tract as a home at the time of the decedents' death."

(4) Section 207 is amended to read as follows:

"SEC. 207. No undivided interest in any tract of trust or restricted land within a tribe's reservation or otherwise subject to a tribe's jurisdiction shall descend by intestacy or devise but shall escheat to that tribe if such interest represents 2 per centum or less of the total acreage in such tract and is incapable of earning to the respective heirs $100 in any one of the five years from the date of decedent's death, and is otherwise without significantly greater future potential value: *Provided*, That—

"(1)(a) in determining the future earning capacity of such interest the hearing examiner shall consider the presence of known or probable minerals and timber;

"(b) in determining whether such interest is otherwise without significantly greater future potential value the hearing examiner shall consider, among other things, the geographic location of such property and its potential for commercial or other exploitation;

"(c) where the fractional interest has earned to its owner less than $100 in any one of the five years before it is due to escheat, in the absence of previously unexploited known or probable mineral reserves or standing timber, there shall be a rebuttable presumption that such interest is incapable of earning to the respective heirs $100 in any one of the five years from the date of decedent's death, and that the property is otherwise without significantly greater future potential value;

"(2) nothing in this section shall prohibit the devise of such a fractional interest to any other owner of an undivided fractional interest in such parcel or tract of trust or restricted land if such devise will increase the interest of such devisee to at least 2 per centum of the total interest in the tract;

"(3) any beneficiary who, but for the provisions of this section, would have inherited such fractional interest, may assign such interest to any other eligible heir who owns an undivided fractional interest of 2 per centum or more in such trust or restricted land, such assignment to be made and filed with the hearing examiner within 60 days of the issuance of notice of intent to escheat the interest to the tribe.

"(b) any Indian tribe may, subject to the approval of the Secretary, adopt its own code of laws to govern the disposition of interests that are escheatable under this section and such codes or ordinances shall take precedence over the escheat provisions of subsection (a) provided they are not in conflict with the rights accorded heirs, devisees, or assignees in subsection (a) and the proposed disposition accomplishes the purpose of preventing further descent or fractionation of such escheatable interests.".

(5) At the conclusion of the Act add the following new section:

"SEC. 212. Nothing in this Act shall be construed as vesting the governing body of an Indian tribe with any authority which is not authorized by the constitution and bylaws or other organizational document of such tribe.".

"SEC. 2. The Act of March 29, 1956, (c. 107, 70 Stat. 62; 25 U.S.C. 483a) is amended by inserting immediately after the enacting clause "(a)" and by adding at the conclusion of the Act a new subsection (b) as follows:

"(b) In the event such land is acquired by an Indian or an Indian tribe, such land shall not be removed from trust or restricted status except upon application to the Secretary under existing law.".

AMENDMENT NO. 6994

Mr. BAKER. Mr. President, I sent an amendment to the desk on behalf of Senator ANDREWS to the committee substitute and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Tennessee [Mr. BAKER], for Mr. ANDREWS, proposes an amendment numbered 6994.

Mr. BAKER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

1. Amendment to Sec. 205. On page 5, line 13, after the word "jurisdiction", insert the following language: "with the consent of the owners of such interests. The tribe may purchase all of the interests in such tract".

2. Amendment to Sec. 206. On page 7, after line 18, add the following new paragraph (4):

"(4) Any ineligible devisee shall also have the right to renounce his or her devise in favor of a person or persons who are eligible to inherit.".

3. On page 8, beginning with line 2, strike all through page 10, line 2, and substitute a new Sec. 207 as follows:

"SEC. 207. (a) No undivided interest in any tract of trust or restricted land within a tribe's reservation or otherwise subject to a tribe's jurisdiction shall descend by intestacy or devise but shall escheat to that tribe if such interest represents 2 per centum or less of the total acreage in such tract and is incapable of earning $100 in any one of the five years from the date of the decedent's death. Where the fractional interest has earned to its owner less than $100 in any one of the five years before the decendent's death, there shall be a rebuttable presumption that such interest is incapable of earning $100 in any one of the five years following the death of the decedent.

"(b) Nothing in this section shall prohibit the devise of such an escheatable fractional interest to any other owner of an undivided fractional interest in such parcel or tract of trust or restricted land.

"(c) Notwithstanding the provisions of subsection (a), any Indian tribe may, subject to the approval of the Secretary, adopt its own code of laws to govern the disposition of interests that are escheatable under this section, and such codes or laws shall take precedence over the escheat provisions of subsection (a), provided, the Secretary shall not approve any code or law that fails to accomplish the purpose of preventing further descent or fractionation of such escheatable interests.".

Mr. ANDREWS. Mr. President, House Joint Resolution 158 is a resolution introduced in the House of Representatives for the purposes of correcting errors in the text of the act of January 12, 1983, Public Law 97-459, as it was presented to the President for signature. The act is correctly codified in title 25, United States Code, sections 2201-2210. as referred by the House of Representatives, House Joint Resolution 158 would have done no more than simply correct the error in printing.

At the request of many Indian people, the Select Committee on Indian Affairs held a hearing on the resolution on July 26, 1983. As a result of issues raised in that hearing, a second hearing was held on July 31, 1984. Out of these hearings it became apparent that substantive amendments to the act were necessary. House Joint Resolution 158, as reported by the Select Committee on Indian affairs, incorporates many of these necessary amendments.

Following the filing of the report on this legislation, it appears that certain corrective amendments are necessary. The first amendment amends section 205 to make clear that any Indian tribe may purchase any fractional interest in trust or restricted land with the consent of the owner of the fractional interest. Under present Interior Department regulations, such authority only exists if the tribe already owns a fractional interest in the land.

The second amendment amends section 206 of the act to permit any eligible devisee to renounce his devise in favor of any other person eligible to inherit trust or restricted property. This will result in uniformity of treatment of estates by the Interior Department administrative law judges. The third amendment revises section 207 to simplify its provisions and provide a more orderly process for the determination of whether or not an interest in land should be escheated to a tribe. It also establishes the right of a tribe to enact its own code of laws to govern such interests if the provisions of the tribal code will accomplish the purpose of the act; for example, to prevent the further descent or fractionation of the interest.

Mr. President, certain questions have been posed regarding this resolution which I believe should be clarified as we move on this important legislation. When this resolution was first reported by the Select Committee on Indian Affairs, there was concern that the legislation might in some way divest the Secretary of the Interior of his statutory jurisdiction for probating Indian trust estates. Nothing in this act in any way affects the jurisdiction now exercised by the Secretary, nor does this act authorize tribes to enact codes that would impose any procedural changes in the way in which such estates are probated. The provisions of sections 206 and 207 do authorize tribes to enact certain substantive laws of their own, and upon enactment of these laws the Secretary will be required to give full force and effect to these laws in the administration of probate. However, this does not alter his jurisdiciton or the procedural rules under which the Secretary operates.

A question has been raised with respect to the authority of the Secretary with respect to the approval of tribal codes authorized under sections 206 and 207 of House Joint Resolution 158. In each of these sections it is provided that tribes may enact such codes only with the approval of the Secretary. As the committee report makes clear, codes enacted by tribes under the authorities granted by this act must conform to the requirement of the Indian Civil Rights Act of 1968, 25 U.S.C. 1301 et seq. In approving any such code proposed by a tribe, the Secretary will have an affirmative duty to assure that such code does, in fact, comply with the requirements of that act. The amendment to section 207 additionally makes clear that the Secretary shall not approve any tribal code provision affecting the escheat provisions of the act unless he determines that the tribal code will achieve the result of preventing the further descent or fractionation of interests determined by this act to be escheatable.

Finally, the amendment to section 207 which I have sent to the desk eliminates references to timber or mineral interests, or to geographical locations of trust or restricted property. Such references appear to unduly clutter this section. It is clear that in determining future earning capacity of an interest in land, the Secretary will necessarily have to consider such factors, and reference in the statute is unnecessary. In addition, this amendment eliminates the provisions of section 207(a)(3) as reported by the committee which would have allowed a beneficiary of a fractional interest to assign an escheatable interest to other parties. This provision might be technically unmanageable, as reported, and it is thus simply deleted.

Section 207 provides that if an undivided fractional interest of 2 percent or less in a tract of trust or restricted land is incapable of earning $100 in any one of the 5 years following the decedent's death, the interest shall escheat to the tribe. This section will require the administrative law judge probating the estate to make an affirmative finding that the interest is incapable of earning such sum. In recognition of the difficulties that could arise in making a determination of future earning capacity, this section establishes a statutory presumption that the fractional interest is incapable of earning $100 in any 1 of the succeeding 5 years if it has not earned to the decedent $100 in any 1 of the 5 years preceding his or her death.

The mere fact that an interest in property has not earned to its owner $100 in any 1 of the preceding 5 years should not result in an automatic or conclusive finding that it is incapable of earning such sum in the next 5 years. In compiling the inventory of the estate, the administrative law judge should take cognizance of timber or mineral resources reflected in the Bureau of Indian Affairs realty records. If it appears that the interest in the property is capable of earning $100 in any 1 of the next 5 years, then the interest should be allowed to descend. If, upon examination of these records, the administrative law judge concludes the property interest is incapable of earning the requisite $100 in any of the next 5 years, then the person who otherwise would have inherited the interest should be given an opportunity to present evidence to rebut the statutory presumption and preliminary finding of the administrative law judge. The burden of proof is clearly on the person contesting the proposed escheat.

Mr. President, I ask unanimous consent that the amendment be agreed to and the joint resolution, as amended, do pass.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 6994) was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The joint resolution is before the Senate and open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendments and the third reading of the joint resolution.

The amendments were ordered to be engrossed and the joint resolution to be read the third time.

The joint resolution (H.J. Res. 158) was read the third time and passed.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. BYRD. Mr. President, I move to lay the motion to reconsider on the table.

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, I submit a report of the committee of conference on H.R. 2878 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the amendment of the Senate to the bill (H.R. 2878) to amend and extend the Library Services and Construction Act, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed

to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of September 25, 1984.)

Mr. STAFFORD. Mr. President, today we are giving final consideration to H.R. 2878, the Library Services and Construction Act of 1984. The Senate version of this bill passed under unanimous consent on June 21, and the differences were subsequently conferenced with the House. The bill we see today, Mr. President, is quite similar to that voted and passed by the Senate this summer, and for that reason, I urge the immediate acceptance of this conference report.

Mr. President, the Library Services and Construction Act provides Federal funding for public library programs and construction. This act represents a successful Federal, State and local partnership, one which has made library services available to nearly 95 percent of our citizens. Federal dollars appropriated under LSCA have provided seed money for new initiatives for States and local communities to develop library programs.

Library services now reach residents of hospitals, long-term care facilities, nursing homes, and residential schools. LSCA funds have benefited large metropolitan libraries as well, allowing them to expand and serve as national and regional resource centers for local library programs.

In this reauthorization of LSCA our efforts have gone toward fine tuning an effective and efficient piece of legislation. New initiatives include providing direct funding to Indian tribes and native Hawaiians for the establishment of library programs; providing direct grants to urban libraries for literacy and foreign language programs; and assisting direct public libraries with the expensive task of keeping pace with the revolution in learning technologies.

Mr. President, this bill also includes an authorization of $50 million for construction of public library and renovation projects. Over 2,900 projects have accumulated in the 10 years since the construction title was funded. Federal support for renovations to make buildings accessible for the handicapped, and to modernize heat and lighting systems is an excellent investment which will pay dividends now and far into the future.

Mr. President, I would like to thank all members of the House and Senate committees for their efforts to bring this report before you today. I urge my colleagues to support this legislation. By doing so, they will be supporting improved access to library services for all our citizens.

I would like to take this opportunity to thank the Senate staff members who worked on this bill, especially Betsy Brand-Dean of Senator QUAYLE's staff, Sandy Crary and Ann Young of Senator PELL's office, and Howard Matthews of Senator HATCH's staff.

Mr. QUAYLE. Mr. President, I rise in support of the conference report to accompany H.R. 2878, a bill to reauthorize the Library Services and Construction Act through 1989.

Mr. President, it has been a pleasure to work on this reauthorization bill, and I am very pleased that we are able to bring a strong and well-balanced bill to the Senate for its consideration. I'd like to commend my colleague, the Senator from Vermont, for all of his hard work on this bill and for his commitment to our Nation's public libraries.

The conference report before us provides for a 5-year authorization for public libraries to assist them in serving populations least-served by public libraries, and to encourage interlibrary resource sharing and networking. This bill is designed with an eye toward the future and the demands our increasingly information-oriented society will place on each of us. We envision the public library as a facility to help the community in many varied ways, and to help many varied populations within that community. Libraries are encouraged in this bill to help the handicapped, the elderly, and rural and disadvantaged inner city residents. Additionally, funds are authorized to set up literacy projects at libraries to help meet the needs of some 23 million illiterate Americans. The program for interlibrary cooperation and networking is strengthened, and each State will now be required to develop a long-range plan on how best to meet the goal of networking and resource-sharing that libraries must meet today if they are to survive and offer services in a competitive economy.

The bill also would authorize funding for library services for Indian tribes, which are in desperate need of support. Finally, this bill authorizes an endowment program available for institutions of higher education under the Challenge Grant Program.

Mr. President, I am happy to support this reauthorization bill which continues federal support for one of our country's most important group of institutions, public libraries, and I urge my colleagues to do the same.

Mr. MATTINGLY. Mr. President, included in the conference report on H.R. 2878, the Library Services and Construction Act, is a provision authorizing $3.5 million for an important project at the University of Georgia—the Carl Vinson Institute of Government project. When the renovation of the Lucy Cobb Institute property is completed and begins serving as the permanent home of the institute of government, there will be in place a lasting tribute to one of our Nation's finest statesmen and leaders—Carl Vinson.

Mr. Vinson served in the U.S. House of Representatives for 50 years, 2 months, and 2 days, and for many years was the chairman of the House Committee on Armed Services. The university's tribute to Carl Vinson has been the naming of its fine institute of government for him. That institute maintains a national reputation as a leader in the area of service to government and its faculty is outstanding.

I am pleased that the Congress has honored Mr. Vinson in this way. The funds authorized in H.R. 2878 will be supplemented by money raised through an extensive private fundraising campaign.

As an addendum, I would like to express my appeciation to Senator ROBERT STAFFORD and his staff director, Polly Gault, for their outstanding work and cooperation on this authorization. As a Senator representing the State of Georgia and its fine school, the University of Georgia, I extend my sincere thanks to both of them for all of their help.

Mr. HATCH. Mr. President, I am pleased to join with my colleagues on the Committee on Labor and Human Resources to urge your final affirmative consideration of H.R. 2878, the Library Services and Construction Act of 1984.

Mr. President, this bill is a classical example of how the committee process can work in the Congress.

The Senate version of the bill was passed under the unanimous-consent calender, and what few differences we had with the House were subsequently successfully conferenced by the respective staff persons of both Chambers of the Congress.

The success of these conferences, Mr. President, is due largely to the efforts of both Senate and House staff. I want to especially recognize the efforts of Susan Franson and Ellin Conglelton of Senator STAFFORD's office. Both of these young women, aided by the staff of our other colleagues who have already been recognized in floor statements, worked tirelessly to bring the Senate and House versions of the bill into congruity. Too often, Mr. President, we fail to recognize the contributions of our staff persons to our congressional successes.

The Library Services and Construction Act is an essential piece of armament in our war on illiteracy. It is also an important ingredient in our quest for a more informed public, and one which can have ready access to up-to-date information. Moreover, this measure will provide new initiatives for Indian tribes and native Hawaiians in assisting them to have greater access to libraries and information centers.

Mr. President, this bill is a lean and clean bill. It safeguards the taxpayer

from abuse, and provides for greater access to library facilities to our citizens. I urge my colleagues to join with me in support of the Library Services and Construction Act of 1984.

Mr. PELL. Mr. President, as one of the original sponsors of the Senate legislation to amend and extend the Library Services and Construction Act, I am very pleased to see a final proposal come before us today that has the agreement of House and Senate conferees. H.R. 2878 has my strongest support and I am pleased to speak on behalf of its passage today.

Before doing so, however, I would like to recognize the fine substantive work done by Senator STAFFORD, chairman of the Subcommittee on Education, Arts and Humanities, in developing this bill and in forging a consensus on it. I want to particularly thank Susan Franson and Ellin Congleton of his staff for their day-to-day role in developing what I believe to be a solid reauthorized Library Services and Construction Act.

This act, which I have been proud to support throughout four Senate terms, is the single most important source of Federal assistance for our Nation's libraries. It provides this support to the States by a system of formula grants which have been targeted toward particularly needy areas. These areas have traditionally included underserved groups such as the handicapped, the disadvantaged, and those people who speak English as a second language.

As more and more of these targeted populations have been reached with library services, the LSCA has been broadened to include support for urban libraries, construction of library buildings, interlibrary cooperation, and resource sharing. The Federal share represents only a modest portion of the total expenditure on all of these essential library programs, but it becomes ever more important that we continue the Federal role, because local jurisdictions alone cannot finance programs that will adequately meet the demands placed on our libraries.

Major urban libraries can now benefit in very useful and productive ways from LSCA funds. Inflation has hit these urban institutions particularly hard and has caused open hours to be cut back as well as curtailed the purchase of new books and materials. Municipalities have also been forced to reduce library services as residents have moved to the suburbs taking their tax dollars with them.

I am pleased that this measure authorizes funds for the construction and renovation of library buildings. The funds appropriated in 1983 as part of the emergency jobs bill were a helpful beginning in this regard but only a fraction of the potential projects could be carried out. It would take close to $400 million to adequately address the problems of overcrowding and deteriorating facilities, but the moneys authorized here will certainly be an important step in the right direction.

H.R. 2878 is legislation that renews our Government's commitment to a healthy, vital and accessible public library system in the United States. Libraries have correctly been described as our most important education resource—second only to the classroom. For this reason alone, this bill deserves our support. I urge my colleagues to join with Senator STAFFORD and myself in approving the Library Services and Construction Act Amendments of 1984.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. BYRD. Mr. President, I move to lay the motion to reconsider on the table.

The motion to lay on the table was agreed to.

HOUSING AND URBAN RECOVERY ACT AMENDMENTS—CONFERENCE REPORT

Mr. BAKER. Mr. President, I submit a report of the committee of conference on S. 2819 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2819) to make essential technical corrections to the Housing and Urban-Rural Recovery Act of 1983, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report will be printed in the House proceedings of the RECORD.)

Mr. D'AMATO. Mr. President, I would like to take a moment to commend Senators GARN and PROXMIRE for their perseverance in seeing that this technical amendments bill becomes law. Senate approval of this conference report will be an important step in the process of perfecting the Housing and Urban-Rural Recovery Act of 1983 (Public Law 98-181).

If I may take this opportunity, Mr. President, I also would like to reaffirm one point made by Chairman GARN upon Senate consideration of S. 2819 on June 29, 1984. On that day, Chairman GARN described at length the committee's intent regarding provisions of title V of Public Law 98-181 which required that an adequate rental market exist for section 515 projects that utilize State rental assistance.

The conference report being considered by the Senate today provides that an applicant for a State assisted section 515 project has the option of either providing a reasonable assurance that the assistance will be extended or demonstrating that an adequate rental market will exist for the project after termination of the assistance contract. With regard to the latter option, whereby an adequate rental market must be demonstrated, am I correct, Mr. Chairman, that the standards and guidelines set forth in the committee's June 29, 1984, statement of intent remain applicable?

Mr. GARN. My colleague from New York is absolutely correct. It is the committee's intent that State rental assistance utilized in tandem with section 515 financing should be encouraged to the fullest extent possible. To this end, the means or procedures proposed by the New York State Division of Housing and Community Renewal, detailed in the committee's June 29, 1984, statement of intent, should still be used in developing workable guidelines regarding the adequacy to the rental market, should the applicant choose that option under the statutory scheme governing State assisted section 515 projects. Additionally, as explained in the committee's June 29, 1984 statement, Farmers' Home should not set arbitrary limits on the number of units in State assisted projects.

Mr. D'AMATO. I thank my distinguished colleague for this clarification.

Mr. SARBANES. Mr. President, the Congress thought its intent was clear in enacting section 109 of the Housing and Urban-Recovery Act of 1983. However, HUD subsequently contended that section 109 was not properly written. Section 8 of the Senate version of the bill now before us would have corrected any flaws in the language of the 1983 act.

So that this controversy will finally be put to rest, I want to make absolutely clear the intent of Congress in passing section 101(a)(13)(i) of S. 2819, the technical amendments bill, which we are now considering. This provision allows the city of Baltimore to retain the proceeds received from the sale of urban renewal properties improved with funds received from the urgent needs and financial settlement grants program.

The city must use the retained funds in accordance with the Community Development Block Grant Program. Does my distinguished colleague agree

with my understanding of the affect of this section?

Mr. GARN. Yes, I do. This section of the conference agreement simply confirms the policy of the Senate-passed bill with regard to the city of Baltimore.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. BYRD. Mr. President, I move to lay on the table the motion to reconsider.

The motion to lay on the table was agreed to.

INDIAN HEALTH CARE AMENDMENTS—CONFERENCE REPORT

Mr. BAKER. Mr. President, I submit a report of the committee of conference on S. 2166 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2166) to authorize appropriations to carry out the Indian Health Care Improvement Act, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD.)

Mr. MURKOWSKI. Mr. President, it has been brought to my attention and that of my colleagues from Alaska, TED STEVENS and DON YOUNG, that there are certain problems at this time with an aspect of Indian health care delivery in our State that I would like to ask the distinguished Senator from North Dakota to address.

I am referring to problems associated with the transition from Federal to tribal administration of health care delivery. In Alaska especially, Native health corporations have been entering into contracts with the Indian Health Service, under the authority of the Indian Self-Determination and Education Assistance Act, Public Law 93-638, to administer IHS programs and services.

As we all know, administering Federal programs entails two kinds of costs—direct and indirect, or administrative, costs. Apparently, Alaska Native contractors have been unable to guarantee full compensation for their indirect costs through their contract negotiations with IHS. These indirect funding shortfalls may mean that the contractor is forced to take these costs out of direct services funding, resulting in reductions in the level of health care provided by the contractor—a result clearly not intended by the Indian Self-Determination Act.

Public Law 93-638 was enacted to encourage the kind of contracting for the administration of services currently underway in my State and others, in order to get the Federal Government out of the business of administering programs for Native Americans. The legislation was not designed to limit the level of health care services to American Indians and Alaska Natives. In fact, the act requires the Secretary to turn over to responsible Native contractors the funds that she would have expended to administer the programs. The regulations issued by the Indian Health Service are even more explicit:

The tribal organization shall be entitled to be funded for direct and indirect costs at a level which is not less than would have been provided if the IHS had operated the program or portion thereof during the contract period.

Unfortunately, it appears that at this time IHS contracting practices do not reflect this regulatory mandate. Admittedly, indirect costs of any program or service provided by a bureaucratic structure such as the IHS are difficult to identify, and the limitations imposed by IHS's reliance on appropriated funds are not conducive to generous interpretations of administrative costs. However, indirect costs are a fact of any program operation, and Native contractors will incur these costs just as does the IHS in providing essential medical and dental services. We are informed, however, that IHS calculations of the operating costs of certain services and facilities do not fully account for the indirect costs incurred by IHS in maintaining these programs and services. This means IHS negotiations with potential contractors either deadlock, or result in the potential contractor agreeing to swallow these indirect costs within the overall contract budget. These indirect costs shortfalls may force the contractor to take funds from direct services resulting in reductions in the level of direct health care provided by the contractor.

I would like to ask the chairman of the Select Committee on Indian Affairs whether he intends that the committee will have the opportunity to examine the issue of indirect costs in 638 contracts and the mechanism for providing these costs within overall contract budgets.

Mr. ANDREWS. Mr. President, I am glad to have this opportunity to assure the Senator from Alaska that it is my intention that the select committee look into this matter at the first opportunity, most likely in conjunction with oversight hearings on the overall effects of Public Law 93-638.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

VETERANS' HEALTH CARE ACT

Mr. BAKER. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 5618.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendments of the Senate to the bill (H.R. 5618) entitled "An Act to amend title 38, United States Code, to revise and improve Veterans' Administration health programs, and for other purposes", with the following amendments:

In lieu of the matter inserted by said amendment to the text of the bill, insert:

SHORT TITLE; REFERENCES TO TITLE 38, UNITED STATES CODE

SECTION 1. (a) This Act may be cited as the "Veterans' Health Care Act of 1984".

(b) Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

TITLE I—HEALTH PROGRAMS

SECURITY AND LAW ENFORCEMENT AT VETERANS' ADMINISTRATION FACILITIES

SEC. 101. (a)(1) Section 218 is amended to read as follows:

"§ 218. Security and law enforcement on property under the jurisdiction of the Veterans' Administration

"(a)(1) The Administrator shall prescribe regulations to provide for the maintenance of law and order and the protection of persons and property on land and in buildings under the jurisdiction of the Veterans' Administration and not under the control of the Administrator of General Services (hereinafter in this section referred to as 'Veterans' Administration property').

"(2) Such regulations shall include—

"(A) rules for conduct on Veterans' Administration property; and

"(B) the penalties, within the limits specified in paragraph (3) of this subsection, for violations of such rules.

"(3) Whoever violates any rule prescribed under paragraph (2)(A) of this subsection shall be fined not more than $500 or imprisoned not more than six months (or such lesser amount or period of time as the Administrator prescribes in the regulations prescribed under this subsection), or both.

"(4) The rules prescribed under clause (A) of paragraph (2) of this subsection, together with the penalties for violations of such rules, shall be posted conspicuously on property to which they apply.

"(5) The Administrator shall consult with the Attorney General before prescribing regulations under this subsection.

"(b)(1) Veterans' Administration employees who are Veterans' Administration police officers shall enforce Federal laws and the rules prescribed under subsection (a)(2)(A) of this section on Veterans' Administration property. Subject to regulations prescribed under paragraph (2) of this subsection a Veterans' Administration police officer may make arrests on Veterans; Administration property for a violation of any Federal law or of any such rule.

"(2) The Administrator shall prescribe regulations with respect to Veterans' Administration police officers. Such regulation shall include—

"(A) policies with respect to the exercise by Veterans' Administration police officers of the enforcement and arrest authorities provided by paragraph (1) of this subsection;

"(B) the scope and duration of training that is required for Veterans; Administration police officers, with particular emphasis on dealing with situations involving patients; and

"(C) rules limiting the carrying and use of weapons by Veterans' Administration police officers.

"(3) The Administrator shall consult with the Attorney General before prescribing regulations under clause (A) of paragraph (2) of this subsection.

"(4) Rates of basic pay for Veterans' Administration police officers may be increased by the Administrator under section 4107(g) of this title.

"(c)(1) The Administrator may pay an allowance under this subsection for the purchase of uniforms to any Veteran's Administration police officer who is required to wear a perscribed uniform in the performance of offical duties.

"(2) The amount of the allowance that the Administrator may pay under this subsection—

"(A) may be based on estimated average costs or actual costs;

"(B) may vary by geographic regions; and

"(C) except as provided in paragraph (3) of this paragraph, may not exceed $200 in a fiscal year for any police officer.

"(3)(A) The amount of an allowance under this subsection may be increased to an amount up to $400 for not more than one fiscal year in the case of any Veterans' Administration police officer. In the case of a person who is appointed as a Veterans' Administration police officer on or after the date on which the Administrator initially exercises the authority granted by this paragraph, an allowance in an amount established under this paragraph shall be paid at the beginning of such person's employment as such an officer. In the case of any other Veterans' Administration police officer, an allowance in an amount established under this paragraph shall be paid upon the request of the officer.

"(B) A police officer who resigns as a police officer less than one year after receiving an allowance in an amount established under this paragraph shall repay to the Veterans' Administration a pro rata share of the amount paid, based on the number of months the officer was actually employed as such an officer during the 12-month period following the date on which such officer began such employment or the date on which the officer submitted a request for such allowance, as the case may be.

"(4) An allowance may not be paid to a Veterans' Administration police officer under this subsection and under section 5901 of title 5 for the same fiscal year.

"(d) The Administrator shall furnish Veterans' Administration police officers with such weapons and related equipment as the Administrator determines to be necessary and appropriate.

"(e) With the permission of the head of the agency concerned, the Administrator may use the facilities and services of Federal, State, and local law enforcement agencies when it is economically and in the public interest to do so.".

(2) The provisions of section 218 of title 38, United States Code, other than clause (2) of subsection (a) of such section, as in effect on the day before the date of the enactment of this Act shall remain in effect until the date on which the Administrator of Veterans' Affairs prescribes the regulations required to be prescribed by subsections (a) and (b) of such section as amended by subsection (a) of this section.

(3) The item relating to such section in the table of sections at the beginning of chapter 3 of such title is amended to read as follows:

"218. Security and law enforcement on property under the jurisdiction of the Veterans' Administration.".

(b) Section 4107(g) is amended—

(1) in paragraph (1)—

(A) by striking out "or" at the end of clause (A);

(B) by striking out the comma and inserting in lieu thereof a semicolon and "or" at the end of subclause (iv) of clause (B); and

(C) by inserting after clause (B) the following new clause:

"(C) of employees who are Veterans' Administration police officers providing services under section 218 of this title,";

(2) by striking out "health-care" each place it appears in paragraphs (2)(A) and (4); and

(3) by inserting "or (C)" after "(B)" in paragraph (4).

(c) Not later than 180 days after the date of the enactment of this Act, the Administration of Veterans' Affairs shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the implementation of the amendments made by this section. The report shall include (1) the regulations prescribed under section 218 of title 38, United States Code, as amended by subsection (a), and (2) a description of the methodology to be used to determine how the authority provided in the amendments made by subsection (b) is to be exercised.

COMPTROLLER GENERAL REPORT ON MEDICAL PERSONNEL STAFFING LEVELS

SEC. 102. Section 5010(a)(4)(C) is amended to read as follows:

"(C) Whenever the Director of the Office of Management and Budget is required to submit a certification under subparagraph (B) of this paragraph, the Comptroller General shall submit to the appropriate committees of the Congress a report stating the Comptroller General's opinion as to whether the Director has complied with the requirements of that subparagraph. The Comptroller General shall submit the report not later than 15 days after the end of the period specified in such subparagraph for the Director to submit the certification.".

CONTRACT HEALTH CARE IN PUERTO RICO AND THE VIRGIN ISLANDS

SEC. 103. (a) Section 601(4)(C)(v) is amended by striking out "September 30, 1984" and inserting in lieu thereof "September 30, 1985".

(b) Any action by the Administrator of Veterans' Affairs in entering into a contract applicable to the period beginning on October 1, 1984, and ending on the date of the enactment of this Act for the provision of care described in subclause (v) of section 601(4)(C) of title 38, United States Code, and any waiver described in that subclause made by the Administrator that is applicable to that period, is hereby ratified with respect to that period.

EXTENSION OF AUTHORIZATION OF APPROPRIATIONS FOR GERIATRIC RESEARCH, EDUCATION, AND CLINICAL ACTIVITIES

SEC. 104. Section 4101(f)(3) is amended by striking out the first sentence and inserting in lieu thereof the following: "There are authorized to be appropriated such sums as may be necessary for the support of the research and education activities of the centers established pursuant to paragraph (1) of this subsection.".

ACQUISITION OF PROPERTIES FOR USE AS STATE VETERANS' HOMES

SEC. 105. Subchapter III of chapter 81 is amended as follows:

(1) Section 5032 is amended by inserting "(or to acquire facilities to be used as State home facilities)" after "State home facilities".

(2) Section 5034 is amended by inserting "or acquired" after "constructed" each place it appears.

(3) Section 5035 is amended—

(A) by inserting "(or acquisition of a facility to be used as a State home facility)" in the first sentence of subsection (a) after "State home facilities";

(B) by inserting "(or of the estimated cost of facility acquisition and construction)" in clause (1) of subsection (a) after "cost of construction";

(C) by inserting "(or for facility acquisition and construction of the project)" in clause (6) of subsection (a) after "construction of the project";

(D) by striking out "sections 276a through 276a-5 of title 40" in clause (8) of subsection (a) and inserting in lieu thereof "the Act of March 3, 1931 (40 U.S.C. 276a-276a-5)";

(E) by striking out "and" at the end of clause (7), by striking out the period at the end of clause (8) and inserting in lieu thereof a comma and "and", and by inserting after clause (8) the following new clause:

"(9) in the case of a project for acquisition of a facility, reasonable assurance that the estimated total cost of acquisition of the facility and of any expansion, remodeling, and alteration of the acquired facility will not be greater than the estimated cost of construction of an equivalent new facility.";

(F) by inserting "(or of the estimated cost of facility acquisition and construction)" in clause (2) of subsection (b) after "cost of construction";

(G) by striking out "the construction of" in clause (4) of subsection (b) and inserting in lieu thereof "the carrying out of"; and

(H) in subsection (d)(1)—

(i) by inserting "(or of the estimated cost of facility acquisition and construction)" in the first sentence after "cost of construction";

(ii) by striking out "constructed" in the second sentence and inserting in lieu thereof "carried out";

(iii) by striking out "construction" in the third sentence and inserting in lieu thereof "the project"; and

(iv) by striking out "the construction of" in the fourth sentence.

(4) Section 5036 is amended—

(A) by striking out "for construction" after "completion of any project";

(B) by inserting "acquisition," after "in the case of the";

(C) by striking out "value of such construction" and inserting in lieu thereof "value of such project";

(D) by striking out "for such construction" after "assistance provided for"; and

(E) by striking out "twenty" both places it appears and inserting in lieu thereof "20".

(5) Section 5037 is amended by inserting "or acquired" after "constructed".

COORDINATION OF VETERANS' ADMINISTRATION HEALTH-CARE SERVICES WITH STATE AND LOCAL PROGRAMS

SEC. 106. (a) Section 220 is amended—

(1) by inserting "(a)" before "The Administrator"; and

(2) by adding at the end the following new subsection:

"(b) The Administrator shall seek to achieve the effective coordination of the provision, under laws administered by the Veterans' Administration, of benefits and services (and information about such benefits and services) with appropriate programs (and information about such programs) conducted by State and local governmental agencies and by private entities at the State and local level. In carrying out this subsection, the Administrator shall place special emphasis on veterans who are 65 years of age or older.".

(b)(1) The heading of such section is amended to read as follows:

"§ 220. Coordination and promotion of other programs affecting veterans and their dependents.".

(2) The item relating to such section in the table of sections at the beginning of chapter 3 is amended to read as follows:

"220. Coordination and promotion of other programs affecting veterans and their dependents.".

MEDICAL AND REHABILITATIVE DEVICES

SEC. 107. Section 617 is amended—

(1) by inserting "(a)" before "The Administrator"; and

(2) by adding at the end the following new subsection:

"(b) The Administrator may furnish devices for assisting in overcoming the handicap of deafness (including telecaptioning-television decoders) to any veteran who is profoundly deaf and is entitled to compensation on account of hearing impairment.".

AUTHORITY TO ADJUST RATES OF PAY FOR CERTAIN PSYCHOLOGISTS

SEC. 108. Section 4104 is amended—

(1) by inserting "(other than those described in paragraph (3))" after "psychologists" in paragraph (2); and

(2) by striking out "Certified" in paragraph (3) and inserting in lieu thereof "Clinical or counseling psychologists who hold diplomas as diplomates in psychology from an accrediting authority approved by the Administrator, certified".

WAIVER OF MANDATORY REDUCTIONS IN MILITARY RETIRED PAY FOR CERTAIN PHYSICIANS

SEC. 109. Section 4107 is amended by adding at the end the following new subsection:

"(i) The Administrator may authorize an exception to the restrictions in subsections (a), (b), and (c) of section 5532 of title 5 if necessary to meet special or emergency employment needs which result from a severe shortage of well-qualified candidates in physician positions which otherwise cannot be readily met.".

POST-TRAUMATIC-STRESS DISORDER

SEC. 110. (a)(1) The Chief Medical Director of the Veterans' Administration may designate special programs within the Department of Medicine and Surgery for the diagnosis and treatment of post-traumatic-stress disorder (hereinafter in this section referred to as "PTSD").

(2) The Chief Medical Director shall direct (A) that (in addition to providing diagnostic and treatment services for PTSD) Veterans' Administration programs designated under paragraph (1) (hereinafter in this section referred to as "designated PTSD programs") carry out activities to promote the education and training of health-care personnel (including health-care personnel not working for the Veterans' Administration or the Federal Government) in the causes, diagnosis, and treatment of PTSD, and (B) that (when appropriate) the provision of treatment services under such program be coordinated with the provision of readjustment counseling services under section 612A of title 38, United States Code.

(b)(1) The Chief Medical Director shall establish in the Department of Medicine and Surgery a Special Committee on Post-Traumatic-Stress Disorder (hereinafter in this section referred to as the "Special Committee"). The Chief Medical Director shall appoint qualified employees of the Department to serve on the Special Committee.

(2) The Special Committee shall assess, and carry out a continuing assessment of, the capacity of the Veterans' Administration to provide diagnositc and treatment services for PTSD to veterans eligible for health care furnished by the Veterans' Administration.

(3) The Special Committee shall also advise the Chief Medical Director regarding the development of policies, the provision of guidance, and the coordination of services for the diagnosis and treatment of PTSD (A) in designated PTSD programs, (B) in inpatient psychiatric programs and outpatient mental health programs other than designated PTSD programs, and (C) in readjustment counseling programs of the Veterans' Administration.

(4) The Special Committee shall also make recommendations to the Chief Medical Director for guidance with respect to PTSD regarding—

(A) appropriate diagnostic and treatment methods;

(B) referral for and coordination of followup care;

(C) the evaluation of PTSD treatment programs;

(D) the conduct of research concerning such diagnosis and treatment (taking into account the provisions of subsection (c));

(E) special programs of education and training for employees of the Department of Medicine and Surgery and the Department of Veterans' Benefits (also taking into account such provisions);

(F) the appropriate allocation of resources for all such activities; and

(G) any specific steps that should be taken to improve such diagnosis and treatment and to correct any deficiencies in the operations of designated PTSD programs.

(c) The Chief Medical Director shall establish and operate in the Department of Medicine and Surgery a National Center on Post-Traumatic-Stress Disorder. The National Center (1) shall carry out and promote the training of health-care and related personnel in, and research into, the causes and diagnosis of PTSD and the treatment of veterans for PTSD, and (2) shall serve as a resource center for, and promote and seek to coordinate the exchange of information regarding, all research and training activities carried out by the Veterans' Administration, and by other Federal and non-Federal entities, with respect to PTSD.

(d) The Chief Medical Director shall regularly compile and publish the results of research that has been conducted relating to PTSD.

(e)(1) Not later than March 1, 1985, the Administrator shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the implementation of this section. The report shall include the following:

(A) A list of the members of the Special Committee.

(B) A list of all designated PTSD programs and other programs providing treatment for PTSD, together with a description of the resources that have been allocated for the development and operation of each such program, a description of the education and training that has been provided for Veterans' Administration health-care personnel in such programs and elsewhere within the Veterans' Administration in the diagnosis and treatment of PTSD, and specification of the funding that has been allocated to each such program and elsewhere within the Veterans' Administration to support research relating to PTSD.

(C) The assessment of the Chief Medical Director of the Veterans' Administration, after consultation with the Special Committee, regarding the capability of the Veterans' Administration to meet the needs for inpatient and outpatient PTSD diagnosis and treatment (both through designated PTSD programs and otherwise) of veterans who served in the Republic of Vietnam during the Vietnam era, former prisoners of war, and other veterans eligible for health care from the Veterans' Administration and the efficacy of the treatment so provided, as well as a description of the results of any evaluations that have been made of PTSD treatment programs.

(D) The plans of the Special Committee for further assessments of the capability of the Veterans' Administration to diagnose and treat veterans with PTSD.

(E) The recommendations made by the Special Committee to the Chief Medical Director and the views of the Chief Medical Director on such recommendations.

(F) A summary of the results of research conducted by the Veterans' Administration relating to PTSD.

(G) A description of the steps taken, plans made (and a timetable for their execution), and resources to be applied to implement subsections (b) and (c).

(H) The assessment of the Administrator of the capacity of the Veterans' Administration to meet in all geographic areas of the United States the needs described in subparagraph (C) and any plans and timetable

for increasing that capacity (including the costs of such action).

(2) Not later than February 1, 1986, and February 1 of each of the three following years, the Administrator shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report containing information updating the reports submitted under this subsection before the submission of such report.

ALCOHOL AND DRUG TREATMENT AND REHABILITATION GUIDELINES

SEC. 111. Not later than 6 months after the date of the enactment of this Act, the Administrator of Veterans' Affairs (1) shall issue guidelines for the treatment and rehabilitation of veterans for alcohol or drug dependence or abuse disabilities under chapter 17 of title 38, United States Code, in facilities over which the Administrator has direct jurisdiction, and (2) shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report (including a copy of such guidelines) on the implementation of this section.

TITLE II—REPORTS

REPORT ON VETERANS' ADMINISTRATION PROGRAMS FOR TERMINALLY ILL VETERANS

SEC. 201. (a) Not later than September 30, 1985, the Administrator of Veterans' Affairs shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on programs of the Veterans' Administration to furnish palliative care, supportive counseling, and other medical services to terminally ill veterans and, pursuant to section 601(6)(B) of title 38, United States Code, supportive counseling to members of such veterans' families.

(b) The report required by subsection (a) shall include the following:

(1) A review of Veterans' Administration policies and guidelines on the provision of care, counseling, and services described in subsection (a).

(2) A review of the care, counseling, and services furnished, including the treatment modalities used and services furnishd by the Veterans' Administration.

(3) An analysis and a comparison of the care, counseling, and services furnished with respect to terminally ill veterans in hospice and other Veterans' Administration programs, including a comparison of the routine and ancillary services, of the duration of inpatient and outpatient treatment and hospital-based home care, and of the cost of care furnished in such programs.

(4) An explanation of how the care, counseling, and services described in subsection (a) are or will be included in the overall plans of the Veterans' Administration for providing health care to older veterans in the future and the extent to which plans to furnish hospice care are included in such plans

(5) A review of any steps taken to arrange for the exchange of information between Veterans' Administration facilities providing the care, counseling, and services described in subsection (a) and non-Veterans' Administration facilities providing similar care, counseling, and services.

VETERANS RESIDING IN REMOTE GEOGRAPHIC AREAS

SEC. 202. (a) The Congress makes the following findings:

(1) Many veterans with service-connected disabilities and other veterans eligible for certain health-care services from the Veterans' Administration, within the limits of Veterans' Administration facilities, reside in areas of the United States that are geographically remote from health-care facilities over which the Administrator of Veterans' Affairs have direct jurisdiction.

(2) For many such veterans such health-care facilities are geographically inaccessible and for many other such veterans the inconvenience of travel to such facilities discourages them from seeking health-care services from the Veterans' Administration.

(3) A study conducted by the Administrator of eligible veterans residing in remote areas and the use by those veterans of Veterans' Administration health-care services would provide useful information on the feasibility and appropriateness of alternative approaches to furnishing health-care services to such veterans.

(b)(1) The Administrator shall carry out a study to develop information about veterans who reside in remote areas and are eligible for health-care services from the Veterans' Administration and to develop alternative approaches that could be adopted to furnish such veterans with such services. In carrying out the study, the Administrator shall develop the following information:

(A) To the maximum extent feasible, statistics on the number of eligible veterans who, during fiscal year 1985—

(i) reside less than 50 miles from the nearest Veterans' Administration medical facility,

(ii) reside between 50 miles and 100 miles from the nearest Veterans' Administration medical facility,

(iii) reside between 100 miles and 200 miles from the nearest Veterans' Administration medical facility, and

(iv) reside more than 200 miles from the nearest Veterans' Administration medical facility.

(B) Statistics, shown by each group of veterans described in clause (A), on the numbers of eligible veterans who, during fiscal year 1985—

(i) use Veterans' Administration medical facilities,

(ii) receive inpatient care in such facilities (including the typical lengths of stay of such veterans in such facilities),

(iii) receive outpatient care from such facilities, and

(iv) receive followup health-care services from such facilities.

(C) Such additional statistics and such additional information as the Administrator considers appropriate.

(D) Breakdowns of the statistics described in clauses (A) and (B) with respect to age, service connection, and financial need regarding the applicable veteran populations.

(2) Not later than January 1, 1986, the Administrator shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a full report on the study under paragraph (1). The report shall include—

(A) the statistics and breakdown developed and information gathered under that paragraph;

(B) the Administrator's findings on the extent of the need for the Veterans' Administration to increase health-care services in remote areas; and

(C) the Administrator's findings and recommendations regarding the advantages and disadvantages of the Veterans' Administration contracting for and making other arrangements for the furnishing of health-care services to eligible veterans in remote areas.

(3) Not later than July 1, 1986, the Administrator shall submit to such committees a report describing an experimental program that could feasibly be carried out through projects in five remote areas, selected on the basis of the information and findings included in the report under paragraph (2), to demonstrate alternative approaches for the Veterans' Administration to furnish health-care services to eligible veterans in remote areas. The report shall include a description of the health-care services, and a detailed breakdown of the costs for them, that could be furnished under such an experimental program to such veterans in each such area, along with the recommendations (and the reasons therefor) of the Administrator regarding whether any such project should be carried out and such recommendations for legislative or administrative action as the Administrator considers appropriate in light of the information contained in the report.

TITLE III—MISCELLANEOUS

MODIFICATION OF REVERSIONARY INTEREST IN CERTAIN LAND, LOS ANGELES, CALIFORNIA

SEC. 301. (a) The Administrator of Veterans' Affairs shall execute such legal documents as are necessary to permit the use of the real property described in subsection (b) (or any portion of such property) for educational or cultural purposes in addition to the use of such property as a research and medical center and for allied purposes. The Administrator may carry out the preceding sentence subject to such terms and conditions as the Administrator requires in order to protect the interests of the United States.

(b) The real property referred to in subsection (a) is the property transferred to the State of California for the use of the University of California by a quitclaim deed dated December 10, 1948, executed by the Administrator of Veterans' Affairs under the Act entitled "An Act to authorize the Administrator of Veterans' Affairs to transfer a portion of the Veterans' Administration center at Los Angeles, California, to the State of California for the use of the University of California", approved June 19, 1948 (62 Stat. 559), and recorded in the land records of the County of Los Angeles, California, at page 307 of book 29032.

(c) Any document executed to carry out subsection (a) of this section shall provide that the property involved shali revert to the United States if it ceases to be used as a research and medical center or for educational or cultural purposes.

NAMING OF VETERANS' ADMINISTRATION MEDICAL CENTERS

SEC. 302. (a) The Veterans' Administration Medical Center in Murfreesboro, Tennessee, shall after the date of the enactment of this Act be known and designated as the "Alvin C. York Veterans' Adminstration Medical Center". Any reference to such medical center in any law, regulation, map, document, record, or other paper of the United States shall after such date be deemed to be a reference to the Alvin C. York Veterans' Administration Medical Center.

(b) The Veterans' Administration Medical Center in Milwaukee, Wisconsin, shall after the date of the enactment of this Act be known and designated as the "Clement J. Zablocki Veterans' Administration Medical Center". Any reference to such medical center in any law, regulation, map, document, record, or other paper of the United States shall after such date be deemed to be a reference to the Clement J. Zablocki Veterans' Administration Medical Center.

In lieu of matter inserted by the amendment of the Senate to the title of the bill, insert: "An Act to amend title 38, United

States Code, to revise and improve Veterans' Administration health programs and to improve security and law enforcement at Veterans' Administration facilities; and for other purposes.".

Mr. SIMPSON. Mr. President, I express strong support of H.R. 5618, the proposed Veterans' Health Care Act of 1984, and urge my good colleagues to join with me in approving its final passage today. The provisions of the bill are intended to make improvements in providing, under the laws administered by the Veterans' Administration, certain important benefits and services to our Nation's veterans. This measure is now before the Senate as a privileged matter in lieu of a formal conference report. The compromise agreement is derived from the provisions contained in S. 2514 as passed by the Senate on August 8, 1984, and from the provisions of H.R. 5618 as passed by the House of Representatives on May 21, 1984. The agreement has been worked out in a spirit of bipartisan cooperation during thoughtful and reasonable negotiations between the Committees on Veterans' Affairs of the House of Representatives and the Senate and is a fair and workable compromise resulting from these efforts. I urge that the Senate concur in the amendment of the House and send this measure to the President for his signature.

Mr. President, I am pleased to speak in favor of this proposed legislation. The compromise agreement contains 15 provisions relating to the following issues: The recruitment and retention of VA police officers, the due date of a recurring Comptroller General report, the authority to provide health care on a contract basis for veterans in Puerto Rico and the Virgin Islands, the authorization of appropriations for the research and education activities of the VA's Geriatric Research, Education and Clinical Centers [GRECC], the acquisition of properties for use as State veterans' homes, the coordination of VA health care services with State and local programs, the authority to provide assistive devices for certain veterans who are profoundly deaf, the authority to adjust the rates of pay for certain VA psychologists, the waiver of mandatory reductions in military retired pay for certain physicians, the diagnosis and treatment of veterans with post-traumatic-stress disorder, the treatment and rehabilitation of veterans with alcohol and drug abuse disabilities, the VA's programs for terminally ill veterans, the need for health care services for veterans residing in remote areas, the transfer of a portion of certain property for use by the University of California, and the naming of certain VA medical centers.

The legislative history of this measure is clearly documented in the statements and reports of the committees to accompany H.R. 5618 and S. 2514 and in the joint explanatory statement to accompany the compromise agreement which follows my remarks. I will, therefore, highlight certain aspects of the various provisions and note the committees' intent with respect to these provisions.

AGING VETERANS

Mr. President, I am pleased that the compromise agreement contains several provisions relating to benefits and services for elderly veterans. There were 3 million veterans over 65 in 1980; there will be 9 million such veterans by the year 2000. In August, the VA released its long-awaited planning document, "Caring for the Older Veteran," which outlines a number of strategies and options for meeting the challenge of the older veteran. One of the goals outlined in this document is "to develop and implement appropriate linkages among VA and non-VA services targeted at meeting the needs of older individuals." The compromise agreement would support this objective by including a provision derived from one I originally introduced in S. 2514, that would require the Administrator to try to coordinate first, VA benefits and services with appropriate non-VA programs and second, information about these VA benefits and services with information about appropriate non-VA benefits and services. The committees intend that the VA, in implementing this provision, place special emphasis on veterans who are 65 years of age or older.

The compromise agreement contains another provision derived from one I introduced in S. 2514, which would also require the Administrator to submit a report to the committees on VA programs to furnish palliative care—pain relief, supportive counseling, and other medical services to terminally ill veterans and supportive counseling to their families. In light of the increasing number of elderly veterans seeking care from the VA, I believe that a review of the VA's current efforts to provide various kinds and levels of care to terminally ill veterans and its plans for integrating these efforts in the overall plans for caring for the elderly veteran is both an important and timely endeavor.

A third provision in the compromise agreement, which would benefit elderly veterans, would authorize the VA to provide grant funds to a State to enable the State to acquire an existing facility for use as a State veterans' home nursing home or domiciliary. Under current law a State may use such funds only to construct new domiciliary or nursing home buildings, or for the expansion, remodeling, or alteration of existing buildings. This provision is designed to provide States receiving such funds with greater flexibility to provide nursing home or domiciliary care to eligible veterans.

The compromise agreement contains a fourth provision related to meeting the needs of elderly veterans. This provision would make permanent the authorization of appropriations to support the research and education activities of the Geriatric Research, Education, and Clinical Centers [GRECC's], a program intended to make valuable contributions to our knowledge of and ability to treat the diseases of old age. I note that the VA's Office of Program Planning and Evaluation is beginning a review of the GRECC Program and I look forward to the results of this evaluation.

VIETNAM VETERANS

Mr. President, a provision in the compromise agreement which is derived, in part, from my original legislation, S. 2514, concerns the diagnosis and treatment of Vietnam veterans who may be suffering from post-traumatic-stress disorder [PTSD]. This provision would first, authorize the chief medical director to designate special programs for the treatment of PTSD; second, require the chief medical director to establish a special committee on PTSD which would assess the VA's capacity to provide diagnosis and treatment for PTSD to veterans eligible for health care from the VA and advise the Chief Medical Director on policies, guidance, and coordination of services for such diagnosis and treatment; third, require the Chief Medical Director to establish and operate a National Center on PTSD to conduct research on and education and training of health care personnel in the diagnosis and treatment of veterans with PTSD; and fourth, require the Administrator to compile and publish research results on the causes, diagnosis, and treatment of PTSD and to promote the exchange of this information among health care personnel.

I believe the enactment of this provision sends a very clear message to our Vietnam veterans, to health care personnel, and to the Veterans' Administration that both Houses of Congress believe the complexities and mysteries surrounding PTSD—what it is, how it is diagnosed, and how it is treated—must receive priority attention so that we all can come to grips with this disorder and provide appropriate forms of treatment to those Vietnam veterans who may be experiencing it. The Congress is clearly withholding an endorsement to any particular method or modality of treatment, but endorses strongly unified, centralized efforts within the VA to develop better understanding of the needs of veterans with PTSD. I note that the Senate Committee, in its Budget Views and Estimates for the VA's Fiscal Year 1985 Budget, recommended that an additional 180 FTEE and $5.8 million be allocated to improve the VA's treatment for this disorder. It is my intention, as chair-

man of the Veterans' Affairs Committee, that these resources be targeted for clinical care, training and education of health care personnel, and research related to this disorder.

SPECIAL POPULATIONS

Mr. President, the compromise agreement also contains several provisions which are targeted to address certain specific needs of certain already eligible veteran populations who have particular health care needs or who reside in particular geographic areas. First, a provision of the agreement, derived from S. 2514 as originally introduced, would require the Administrator to issue, not later than 6 months after the date of enactment, guidelines for the treatment and rehabilitation of veterans for alcohol or drug dependence or abuse disabilities, and to submit a copy of the guidelines and a report on the implementation of this provision to the committees. This provision is intended to require the VA to coordinate and monitor its programs—some of which reflect a true commitment to provide innovative and compassionate care and treatment for veterans with these most complex and frustrating disabilities—in a systematic and comprehensive way. Other parts of the provision, as approved by the Senate Committee, have been deleted to allow the House Veterans' Affairs Committee an opportunity to hold hearings next year on the VA's alcohol and drug abuse treatment programs. Mr. President, I take this opportunity to note that the VA has not yet fulfilled a formal request that I made on April 3, 1984, for a comprehensive survey of activities, during the preceding fiscal year, of all VA alcohol or drug dependence or abuse treatment and rehabilitation programs. I believe the results of this survey would be useful to the Congress in its responsibilities to conduct oversight of the VA in this regard and to the VA in its efforts to plan for the needs of these veterans. I am most concerned that 6 months have elapsed since my request for a survey was made. In response to the concerns which I have raised about the delay, I have been informed that the survey instrument was transmitted to the appropriate VA medical facilities last week. The Director of the VA's Alcohol and Drug Abuse Treatment Programs has assured the committee's staff that the survey is projected to be completed by the end of December 1984 and that a study of the treatment outcome of 1,000 veterans who had received treatment for alcohol or drug abuse disabilities will be conducted and completed by the summer of 1985. It is my intention that the VA complete the survey and the study as soon as possible. I look forward to receiving the results.

Mr. President, the compromise agreement contains a provision which would provide the Administrator with the authority to provide devices to assist in overcoming the handicap of deafness, including telecaptioning television decoders, to certain veterans who are profoundly deaf. This provision was part of S. 2514, as originally introduced. It is intended to provide the VA with specific authority to issue rehabilitative devices to a profoundly deaf veteran with a service-connected hearing impairment. It is my desire that these devices make a worthwhile contribution to efforts made to offset any disability of the veteran that may have resulted because of the veteran's profound hearing impairment.

Mr. President, the compromise agreement would extend, for 1 year until September 30, 1985, the Administrator's authority to provide hospital care and medical services to eligible veterans who reside in Puerto Rico and the Virgin Islands. The joint explanatory statement which accompanies the compromise agreement reflects my very strong dissatisfaction with this extraordinary authority and its implementation by the VA. I would like to reiterate my views that it is imperative that the VA first, plan—in a comprehensive way—for the needs of eligible veterans in those areas, second, increase its efforts to oversee the services provided on a contract basis, third, ensure that services are provided only to those veterans who are eligible for VA services and benefits, fourth, determine the appropriateness of the kinds and levels of care provided, and fifth, initiate and implement a rigorous effort to ensure that the care provided in non-VA facilities adheres to quality assurance standards comparable to those set up by JCAH and to which all inhouse VA programs are subject. Through quality assurance efforts are a critical aspect of the VA's responsibilities to our Nation's veterans. Unless such efforts are undertaken, I would support a measure to discontinue this authority in the future.

Mr. President, there are seven additional provisions which I do support but about which I will not express any additional views. In conclusion, I would wish to sincerely thank my good friend and distinguished colleague from California, Senator ALAN CRANSTON, the ranking minority member, for his invaluable cooperation throughout the entire legislative process of this measure and to each of the other committee members and colleagues for their contributions.

In addition, I should like to thank the very able members of the majority staff for their efforts—Anthony J. Principi, chief counsel and Staff Director; Julie Susman, Legislative Director; Cynthia Alpert; Victor Raymond; Kathleen McTighe; Carol DeAngelus; Becky Hucks; Kay Eckhardt, for her diligent and top-notch administrative support throughout the crafting of this legislation; Jody Sanders; and our editorial director, James MacRae; as well as members of the very capable minority staff—Jonathan Steinberg, Ed Scott, Bill Brew; Jennifer McCarthy, Ingrid Post, and Charlotte Hughes. The hard work and cooperation of my friend and most worthy counterpart on the House Veterans' Affairs Committee, G. V. "SONNY" MONTGOMERY, the steady hand of my friend, JOHN PAUL HAMMERSCHMIDT, ranking minority member, and the very able committee staff including Mack Fleming, chief counsel, Pat Ryan, Richard Fuller, and Rufus Wilson, minority counsel, were most essential to the achievement of this equitable compromise.

Mr. President, I urge my colleagues to join me in supporting this measure.

Mr. President, I submit the House/Senate explanatory statement which has been prepared in lieu of the joint statement which would accompany a formal conference report and ask unanimous consent that it appear in the RECORD at the conclusion of my remarks.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

EXPLANATORY STATEMENT OF HOUSE BILL, SENATE AMENDMENT (S. 2514), AND COMPROMISE AGREEMENT ON H.R. 5618, THE VETERANS' HEALTH CARE ACT OF 1984

This document explains the provisions of H.R. 5618 as passed by the House of Representatives, the provisions of the bill as passed by the Senate with an amendment incorporating the provisions of S. 2514 as reported, and the provisions of a compromise agreed to by the Veterans' Affairs Committees of the House and Senate. The differences between the House bill, the Senate amendment, and the compromise agreement are noted below, except for clerical corrections, conforming changes made necessary by agreements reached between the committees, and minor drafting, technical, and clarifying changes.

VETERANS' ADMINISTRATION POLICE OFFICERS

Both the House bill (section 2) and the Senate amendment (section 9) would amend present section 218 of title 38, United States Code, relating to security and law enforcement on VA property. Both the House bill and the Senate amendment contain provisions relating to the issuance by the Administrator of Veterans' Affairs of regulations concerning security and law enforcement on VA property, including rules of conduct on such property; increases in the maximum penalties for violations of such regulations (from a fine of up to $50 to a fine of up to $500 and from imprisonment for up to 30 days to imprisonment for up to 6 months); the appointment of individuals to carry out security and law enforcement activities; the authorization of such individuals to make arrests on VA property; the authorization of the Administrator to pay an allowance to such employees for the purchase of uniforms; and the authorization of the Administrator to increase the rates of basic pay for VA employees performing security and law enforcement activities (hereinafter, referred to as "VA police officers").

The House bill would restate the Administrator's authority to prescribe regulations for the maintenance of law and order and the protection of persons and property on land and in buildings under the VA's jurisdiction, including penalties for the violation of such regulations. The Senate amendment, but not the House bill, would require the Administrator to prescribe regulations with the concurrence of the Attorney General. Under the Senate amendment, the regulations would include (in addition to rules for conduct) policies concerning the exercise of enforcement and arrest authorities, scope and duration of VA police officers' training, and limits on the carrying and use of weapons by such officers.

The compromise agreement contains a provision (section 101) derived from these provisions. Under the compromise agreement, the Administrator would be required, after consulting with the Attorney General, to prescribe regulations to provide for security an law enforcement on VA property, including rules for conduct on VA property and the penalties for violations of the rules of conduct. The penalties would be limited to a fine of not more than $500 or to imprisonment for not more than six months, or both. The Administrator would also be required to prescribe regulations with respect to VA police officers, including policies on enforcement and arrest authorities; the scope and duration of training, with particular emphasis on dealing with situations involving patients; and rules limiting the carrying and use of weapons. The Administrator would be required to consult with the Attorney General before prescribing the regulation on enforcement and arrest authorities.

Both the House bill and the Senate amendment contain provisions relating to VA police officers. Under the House bill, the administrator would be authorized to appoint qualified persons to serve as VA police officers; under the Senate amendment, the Administrator would be authorized to designate VA employees as VA security service officers. Under both the House bill and the Senate amendment, such personnel would enforce Federal laws and (under the House bill) the regulations or (under the Senate amendment) rules of conduct prescribed by the Administrator, and would be authorized to make arrests on VA property for violations thereof. The Senate amendment, but not the House bill, would generally restate existing standards for arrests set forth in section 218. It would specify that VA police officers would be authorized to make an arrest, with or without a warrant, for any offense on VA property if (1) the offense occurrred in the officer's presence, or if (2) the officer has reasonable grounds to believe both that the offense violated a Federal law or a rule prescribed by the Administrator and that the person arrested committed the offense.

The compromise agreement contains a provision, derived from these provisions. Under the compromise agreement, personnel who are VA police officers would be required to enforce Federal laws and the rules of conduct prescribed by the Administrator and would be authorized to make arrests, subject to regulations prescribed by the Administrator, on VA property for violations of any Federal laws or such rules.

The Committees note that the compromise agreement deletes, as unnecessary in this provision of law, the explicit authority to designate or appoint police officers. The compromise agreement also deletes the Senate language specifying certain standards pertaining to arrests.

Both the House bill and the Senate amendment would authorize the Administrator to pay an allowance in lieu of the uniform allowance payable under section 5901 of title 5, United States Code, to VA police officers for the purchase of uniforms. The House bill would limit the maximum allowance to $175 per year or a one-time payment of $400 in lieu of the annual amount and would require a police officer who resigns during the course of the calendar year for which the up-to-$400 allowance was paid to repay the VA a prorated portion (based on the duration of the officer's service during that year) of the amount received. The House bill would apply to VA police officers employed on the date of enactment and to new VA police officers on their appointment as police officers. The Senate amendment would limit the total allowance to $400 at the time an individual is first employed and to $200 at the beginning of each fiscal year beginning after he or she has served one year.

The compromise agreement contains a provision derived from these provisions. Under the compromise agreement, the Administrator would be authorized to pay an allowance to VA police officers for the purchase of uniforms. The Administrator could either base the allowance on estimated average costs or provide reimbursement for actual costs and could vary the amount of the allowance by geographic region. The maximum allowance would generally be limited to $200 in any fiscal year, except that the Administrator would be authorized to pay a onetime allowance of not more than $400 to a VA police officer. For those VA police officers who begin employment on or after the date this new authority takes effect, the Administrator would pay the up-to-$400 allowance at the beginining of the officer's employment. For those VA police officers who are employed as such on the date of enactment, the compromise follows the House provision with a modification to change, from a calendar year to a twelve-month period, the period during which such an officer who ceases to be employed by the VA as a police officer following receipt of this increased allowance would be required to repay the VA a prorated share of such allowance.

The compromise agreement provides that an allowance under new section 218 and under section 5901 of title 5 could not be paid to a VA police officer in the same fiscal year.

Both the House bill and the Senate amendment, with technical differences, would authorize the Administrator to use existing authorities under section 4107(g) of title 38, which at present authorize basic pay increases for certain VA health-care personnel, to increase the rates of basic pay for VA police officers, on a nationwide, local, or other geographic basis when necessary to overcome difficulties in the recruitment and retention of such officers.

The compromise agreement follows the Senate provision.

The House bill, but not the Senate amendment, requires the Administrator to provide VA police officers with necessary weapons and belts.

The compromise agreement contains a provision, derived from this provision, requiring the Administrator to provide such weapons and equipment as the Administrator determines to be necessary and appropriate. This provision is not intended to change the Administrator's existing practice of issuing such weapons and equipment.

Both the House bill and the Senate amendment authorize the Administrator to use Federal, State, and local law enforcement facilities and services when it is economical and in the public interest to do so provided that the head of the agency involved gives permission to do so.

The compromise agreement contains this provision.

The Senate amendment, but not the House bill, contained savings clauses under which certain provisions of present section 218 relating to VA security would remain in effect until the date the Administrator prescribes regulations to carry out the new authorities and under which the provision in present section 218 relating to the Administrator's authority to designate VA police officers would remain in effect until the Administrator exercised that authority under new section 218.

The compromise agreement deletes as unnecessary the savings clause relating to the designation of police officers and contains a savings clause to retain in effect, until the regulations required by this section of the compromise agreement are prescribed, the provisions of present section 218 that would be replaced by provisions that are to be implemented through regulations.

The House bill, but not the Senate amendment, would require the Administrator to report to Congress on the implementation of new section 218 within 90 days of the enactment of this Act. The report would include (1) the rules and regulations prescribed, (2) the standards for uniform allowances and increases in basic pay, and (3) a list of the facilities where VA police officers would be appointed and the proposed number and salaries of these officers. Also, under the House bill, a person could not be appointed as a VA police officer or paid a special salary rate until 90 days after the Administrator submitted the required report.

The compromise agreement contains a provision derived from these provisions. Under the compromise agreement, the Administrator would be required to submit to the Committees a report on the implementation of new section 218. The report would include (1) the regulations prescribed under new section 218, and (2) a description of the methodology to be used to determine how the new authority to increase rates of basic pay for police officers is to be exercised.

The House bill, but not the Senate amendment, would provide an express authority in title 38 for the Administrator to authorize VA police officers to carry firearms if a substantial safety risk arose during the performance of investigative duties or if, because of national emergency or regional disaster, local law enforcement agencies' assistance or support was unavailable; would require the Administrator to appoint a chief inspector to supervise VA police officers and establish the chief inspector's pay rate; and would require the Administrator to determine and regulate the pattern of VA police officers' uniforms.

The compromise agreement does not contain these provisions.

COMPTROLLER GENERAL REPORT ON MEDICAL PERSONNEL STAFFING LEVELS

Both the House bill (section 4) and the Senate amendment (section 10) would amend present section 5010(a)(4)(C) of title 38, to make a technical correction in the due date of a report required to be submitted by

the Comptroller General to the Committees on whether the Director of the Office of Management and Budget (OMB) has complied with the requirements of section 5010(a)(4)(B) concerning certification of the authority and funding for personnel ceilings for the VA's Department of Medicine and Surgery. Both the House bill and the Senate amendments also would require the Comptroller General to submit a report in all cases not later than 15 days after the end of the period specified in seciton 5010(a)(4)(B) for the Director to submit a certification of compliance.

The compromise agreement (section 102) contains this provision.

CONTRACT HEALTH CARE IN PUERTO RICO AND THE VIRGIN ISLANDS

Both the House bill (section 6) and the Senate amendment (section 13) would amend present section 601(4)(C)(v) of Title 38, relating to the Administrator's authority to provide hospital care and medical services in certain noncontiguous "States" (defined in present section 101(2)) to include United States Territories and possessions and the Commonwealth of Puerto Rico), to extend for one year—from September 30, 1984, until September 30, 1985—the VA's authority in Puerto Rico and the Virgin Islands and other Territories and possessions of the United States to provide, on a contract basis, hospital care for non-service-connected disabilities and outpatient treatment to obviate the need for hospital admission.

The compromise agreement (section 103) contains this provision with an amendment ratifying any contract entered into by the Administrator of Veterans' Affairs to provide, during the period beginning on October 1, 1984, and ending on the date of enactment, care described in subclause (v) of section 601(4)(C) of Title 38, United States Code, as well as any waiver made by the Administrator of the applicability to the Commonwealth of Puerto Rico or the Virgin Islands of the restrictions described in that subclause for that period.

The Committees specifically note that the VA has not complied with the Committee's previous numerous requests and statutory requirements for a comprehensive long-term plan on the health-care needs of eligible veterans in Puerto Rico and the Virgin Islands. The Committees have deferred and in-depth examination of health-care needs of veterans in Puerto Rico based on the expectation that such a review would be more appropriate when comprehensive recommendations are available from the VA. This will be the fourth consecutive time that a "temporary" extension has been granted without a thorough examination of the issues involved and of the justification for continuing access to fee-basis treatment to veterans in Puerto Rico on a basis different from that afforded to veterans in the continental United States.

The Committees direct that a thorough plan for Puerto Rico and the Virgin Islands be designed by the VA and presented (not later than February 1, 1985) in conjunction with the President's Budget for Fiscal Year 1986—a plan that will specifically respond to the mandate in section 107 of Public Law 98-160 that the VA present its plans (and supporting rationale) for meeting the needs of veterans in Puerto Rico and the Virgin Islands, particularly the needs of those with service-connected disabilities. The Committees expect the plan to include a list of priorities for the implementation of the plan, including those for improvements in inpatient, outpatient, and nursing home care, and for extended psychiatric care services, and specific mechanisms to improve the monitoring of the quality of care provided (as discussed in the concluding paragraph in the discussion of this item).

Finally, the report should include a history of the VA's use of the extraordinary waiver authority provided with respect to the numbers of veterans who may be provided care by the VA in Puerto Rico, together with a plan for phasing out that waiver authority during fiscal year 1985 and an assessment of the impact of that phase-out. Currently, veterans in Puerto Rico are not subject to the restriction in law that "the annually determined hospital patient load and incidence of the provision of medical services" by the VA in Puerto Rico be "consistent with" the levels of such care provided at VA expense to veterans in the continental United States. The Committees note that subsequent legislative action with respect to health care in Puerto Rico will very likely be taken next year and that the VA's report would provide important information for consideration in that legislative process.

On the basis of reports from staff of both Committees following recent visits to Puerto Rico, the Committees are also concerned that the quality of care in certain contract facilities in Puerto Rico may be substantially below the level that is provided in the 50 States. If that is the case, the Committees believe continuation of VA subsidization of such care would not be in the best interests of the health of veterans in Puerto Rico. The Committees, therefore, also direct the VA, in the strongest possible terms, to reassess the quality assurance standards used for monitoring fee-basis care provided to veterans in Puerto Rico and to improve the monitoring of such care and, as necessary, to attempt to upgrade it to an appropriate level. If such upgrading is not accomplished, the Committees believe that fee-basis contracts with facilities providing substandard care should be discontinued. In order to follow up on these concerns, the Committees plan to send a letter of inquiry to the Joint Commission on Accreditation on Hospitals in order to determine what, if any, differences exist in the accreditation standards and practices applied to Puerto Rico facilities and those in the 50 States.

EXTENSION OF AUTHORIZATION OF APPROPRIATIONS FOR GERIATRIC RESEARCH, EDUCATION, AND CLINICAL ACTIVITIES

The House bill (section 7), but not the Senate amendment, would amend section 4101(f)(3) of title 38, relating to the VA's Geriatric Research, Education, and Clinical Centers (GRECCs), to make permanent the authorization of appropriations to support the research and education activities of the GRECC program in fiscal years 1985 and beyond. Current law authorizes the appropriation of funds for fiscal years 1981 through 1984.

The compromise agreement (section 104) contains this provision.

ACQUISITION OF PROPERTIES FOR USE AS STATE VETERANS HOMES

Both the House bill (section 8) and the Senate amendment (section 15), with technical differences, would amend Subchapter III of Chapter 81 of title 38, relating to the State veterans homes matching-fund construction grant program, to authorize the VA to provide grant funds to a State to enable the State to acquire an existing facility for use as a State veterans' home nursing home or domiciliary facility. The use of the authority to utilize a grant for acquisition of an existing facility would be limited to situations in which reasonable assurances are provided that the cost of the purchase, together with the costs of any necessary expansion, remodeling, and alteration, would not be more costly than constructing a new facility.

The compromise agreement (section 105) follows the House provision.

COORDINATION OF VETERANS' ADMINISTRATION HEALTH CARE SERVICE WITH STATE AND LOCAL PROGRAMS

The Senate amendment (section 2), but not the House bill, would amend subchapter I of chapter 73 of title 38, relating to the general organization of the VA's Department of Medicine and Surgery, to add a new section 4120 which would require the Administrator to designate one unit in each VA health-care facility to coordinate referrals of veterans eligible for care under chapter 17 of title 38, with a special emphasis on veterans who are 65 years old or older, to non-VA entities for care not at VA expense and to help coordinate veterans' care by such entities when such referrals are reasonably necessary for the health of the veterans. The Administrator would be required to implement this new section 4120 in a manner consistent with the United States' commitment to provide a comprehensive, nationwide health-care system for direct care to eligible veterans and its obligation to provide care for service-connected disabilities.

The compromise agreement contains a provision (section 106) derived from this provision. The compromise agreement would add a new subsection (b) to present section 220 of title 38, relating to the coordination and promotion of other Federal programs affecting veterans and their dependents. This new subsection would require the Administrator to seek to achieve the effective coordination of the provision, under laws administered by the VA, of benefits and services (and information about such benefits and services) with programs conducted by State and local public and private agencies (and information about such programs). In carrying out this function, the Administrator would be required to place special emphasis on veterans who are 65 years old or older.

MEDICAL AND REHABILITATIVE DEVICES

The Senate amendment (section 4), but not the House bill, would amend section 617 of title 38, relating to invalid lifts and other devices, to provide the Administrator with the authority to provide devices to assist in overcoming the handicap of deafness, including telecaptioning television decoders, to veterans who are profoundly deaf and entitled to disability compensation on account of hearing impairment.

The compromise agreement (section 107) contains this provision.

AUTHORITY TO ADJUST RATES OF PAY FOR CERTAIN PSYCHOLOGISTS

The Senate amendment (section 17), but not the House bill, would amend present section 4104 of title 38, relating to the appointment of personnel in the VA's Department of Medicine and Surgery (DM&S), to authorize the Administrator, in order to improve the VA's ability to recruit and retain certain psychologists, to increase the minimum, intermediate, or maximum rates of basic pay for certain clinical or counseling psychologists working in DM&S. Such increases could be provided for clinical or counseling psychologists who are board certified—accredited as diplomates in psycholo-

gy by an accrediting authority approved by the Administrator—if the Administrator determines, pursuant to current section 4107(g)(2), that increased rates of pay are needed to (1) provide rates of pay competitive with the rates paid to such individuals by non-Federal health-care employers in the same labor market, (2) to achieve adequate staffing at particular facilities, or (3) to recruit personnel with specialized skills.

The compromise agreement (section 108) contains this provision.

WAIVER OF MANDATORY REDUCTIONS IN MILITARY RETIRED PAY FOR CERTAIN PHYSICIANS

A related House bill (H.R. 4694 as passed by the House on June 25, 1984), but not the Senate amendment, would amend section 4107 of title 38, relating to grades and pay scales of DM&S employees, to authorize the Administrator to waive the mandatory reductions in military retirement pay of Federal employees, set forth in section 5532 of title 5, United States Code, if necessary to recruit a well-qualified doctor of medicine or osteopathy for employment in DM&S. The House bill provision would restore for DM&S the recently expired authority (delegated to the Administrator by the Director of the Office of Personnel Management) in section 5532(e) of title 5, United States Code, permitting the granting of exceptions to subsections (a), (b), and (c) of section 5532 of title 5 requiring the reduction of retired or retainer pay of retired military officers who hold a paid Government position.

The compromise agreement (section 109) contains this provision modified so as to provide the Administrator with the authority to waive such reductions in military retirement or retainer pay only when it is determined to be necessary to meet special or emergency employment needs in DM&S which result from a severe shortage of well-qualified candidates in physician positions which otherwise cannot be readily met—the standard applicable under the expired section 5532(e) of title 5.

POST-TRAUMATIC-STRESS DISORDER

Both the House bill (section 3) and the Senate amendment (section 5) contain provisions relating to the VA's provision of diagnosis and treatment for veterans with post-traumatic-stress disorder (PTSD).

The House bill, but not the Senate amendment, would amend present subchapter II of chapter 17 of title 38, relating to hospital, nursing home or domiciliary care and medical treatment, to add a new section 620B concerning the treatment for post-traumatic-stress disorder. Under the House bill, the Administrator would be authorized, through September 30, 1988, to provide hospital care and other health-care services under this section to any veteran who is eligible for hospital, nursing home, or domiciliary care under section 610 of title 38 or for outpatient services under section 612 and who is determined to be suffering from PTSD attributable to the veterans' service. The Administrator would be authorized to provide hospital care, medical services, outpatient services, counseling to family members and others in primary social relationships with the veteran, rehabilitation services, vocational counseling, home health services, and other services necessary for the treatment of the veteran and to coordinate the provision of those services with readjustment counseling services under section 612A of title 38. The House bill would authorize services under new section 620B to be provided only through VA treatment units established for the treatment of PTSD although it would not have affected existing authority to provide such health care under other provisions in title 38. These PTSD treatment units would be required to sponsor educational efforts for public and private sector health-care professonals concerning the causes, diagnosis, and treatment of PTSD and would also be given priority in obtaining VA research funds allocated for the study of PTSD. Any VA medical facility with PTSD treatment services already established by October 1, 1984, would be required to be considered to have a PTSD treatment unit for the purposes of new section 620B unless the Administrator were to determine that such services were unnecessary at that facility or that the VA could more efficiently meet the demand for PTSD treatment at another facility.

The compromise agreement contains a provision (section 110(a)) derived from these provisions. Under the compromise agreement, the Chief Medical Director would be authorized to designate special programs for the treatment of PTSD and would be required to direct any such designated PTSD programs to include in their efforts the promotion of the education and the training of VA and non-VA health-care personnel in the causes, diagnosis, and treatment of PTSD and (where appropriate) to coordinate PTSD treatment services with readjustment counseling services provided under present section 612A of title 38.

The Senate amendment (section 5(a)), but not the House bill, would require the VA's Chief Medical Director (CMD) to establish a Special Committee on PTSD in the Department of Medicine and Surgery (DM&S) and to appont qualified DM&S employees to serve on the Special Committee. The Special Committee would be required to assess the VA's capacity to provide diagnosis and treatment to eligible veterans with PTSD and to advise the CMD on policies, guidance, and coordination of services for the diagnosis and treatment of veterans with PTSD by VA programs, including inpatient PTSD units, other psychiatric programs, outpatient mental health clinics, and readjustment counseling programs. The Special Committee would also be required to make recommendations to the CMD on guidance for appropriate diagnosis and treatment of veterans with PTSD by VA programs, including inpatient PTSD units, other psychiatric programs, outpatient mental health clinics, and readjustment counseling programs. The Special Committee would also be required to make recommendations to the CMD on guidance for appropriate diagnostic and treatment methods, referral for and coordination of follow-up programs, the conduct of research on PTSD, education and training on PTSD for VA employees, the allocation of resources for all VA PTSD activities, and steps to improve the diagnosis and treatment of PTSD and the operation of inpatient PTSD units.

The compromise agreement contains these provisions (section 110(b)).

The Senate amendment (section 5(b)), but not the House bill, would require the CMD to establish and operate a National Center on PTSD (1) to conduct and promote research on, and the training of health-care and related personnel in, the diagnosis and treatment of veterans with PTSD, and (2) to serve as a resource center for the coordination and exchange of information on VA and other research and training activities with respect to PTSD. The House bill would require the Administrator to promote the exchange of information among health-care professionals concerning PTSD.

The compromise agreement contains the Senate provisions (section 110(c)).

The House bill, but not the Senate amendment, would require the Administrator to compile and publish, on regular basis, research results on the causes, diagnosis, and treatment of PTSD.

The compromise agreement contains this provision (section 110(d)), with a modification so that the CMD, not the Administrator, would be required to compile and publish the research results.

The House bill, but not the Senate amendment, would require the Administrator to identify in the President's budget for each fiscal year during the operation of the PTSD treatment units proposed in the House bill, the resources allocated to the units and to give priority, when feasible and otherwise appropriate, to medical facilities with PTSD units when allocating research funds related to PTSD.

The Senate amendment (section 5(c)), but not the House bill, would require the Administrator to report to the Committees within 180 days after the date of enactment, on the implementation of the Senate amendment provisions relating to the Special Committee and the National Center. The report would include a list of the members of the Special Committee; the CMD's assessment of the VA's capability to meet the needs of certain veterans with PTSD; a description of the results of any evaluations of inpatient PTSD units; the Special Committee's plans for further assessments; the Special Committee's recommendations to the CMD; a description of the implementation of these provisions; and the Administrator's assessment of the VA's capacity to meet the needs of certain veterans (Vietnam veterans, former prisoners of war, and other veterans with PTSD eligible for VA health care), as well as the Administrator's plans, a timetable, and costs for increasing that capacity. Not later than February 1, 1986, and annually thereafter, the VA would be required to submit a report to the Committees updating this information.

The compromise agreement contains a provision (section 110(d)) derived from these provisions. Under the compromise agreement, the Administrator would be required to submit, not later than March 1, 1985, to the Committees a report on the implementation of the new PTSD provisions. This report would include a list of the members of the Special Committee; a list of all designated and other PTSD programs; a description of the resources allocated for each program; a description of the training provided to personnel on PTSD; and the specification of the funding allocated to support research on PTSD. In addition, the report would include the CMD's assessment of the VA's capability to meet the need for PTSD diagnosis and treatment of certain veterans and the efficacy of the treatment provided and a description of the results of PTSD program evaluations; the Special Committee's plans for further assessments of the VA's capability to diagnose and treat veterans with PTSD; the Special Committee's recommendations to the CMD and the CMD's views on these recommendations; a summary of the results of VA-conducted research on PTSD; a description of steps taken, plans made, and resources to be applied to implement the provisions relating to the Special Committee and the National Center; and the Administrator's assessment of the VA's capacity to meet the needs of certain veterans for PTSD diagnosis and treatment and any plans, including costs, of

increasing that capacity. Not later than February 1, 1986, and February 1 of each year for the following three years thereafter, the Administrator shall submit to the House and Senate Veterans' Affairs Committees a report updating the reports previously submitted.

With respect to the portions of these reports relating to the allocation of resources for PTSD programs, treatment, and research, the Committees intend the first report to include information with respect to allocations made for fiscal year 1986 and expenditures for each prior year. The Committees intend that each subsequent report provide updating information through allocations made for the fiscal year in which the report is submitted.

ALCOHOL AND DRUG TREATMENT AND REHABILITATION GUIDELINES

The Senate amendment (section 3), but not the House bill, would amend present section 620A of title 38, relating to treatment and rehabilitation for alcohol or drug dependence or abuse disabilities, to require the Administrator, not later than 12 months after the date of enactment, to prescribe regulations providing guidelines for treatment and rehabilitation of veterans for alcohol or drug dependence or abuse disabilities in VA facilities. The guidelines would be required to include guidance on the duration of treatment and rehabilitation (taking into account the duration of such treatment and rehabilitation in non-VA programs and identifying duration in detoxification, inpatient-acute care, inpatient-rehabilitation care, inpatient-extended care, outpatient care, and follow-up services), referral assistance, and monitoring of individual treatment plans and follow-up.

The compromise agreement contains a provision (section 202) derived from this provision. Under the compromise agreement, the Administrator would be required to issue, not later than six months after the date of enactment, guidelines for the treatment and rehabilitation of veterans for alcohol or drug dependence or abuse disabilities, under chapter 17 of title 38, in VA facilities and submit to the Committees a copy of the guidelines and a report on the implementation of this section.

The Committees intend that, in the development of the guidelines, the Administrator consider the subject matter covered in the Senate amendment.

The Senate amendment, but not the House bill, would also require the Administrator to submit, not later than March 1, 1985, and March 1 of each subsequent year, to the Committees, a report containing a comprehensive survey of activities during the preceeding fiscal year of all VA alcohol or drug dependence or abuse treatment and rehabilitation programs.

The compromise agreement does not contain this provision.

The Senate amendment, but not the House bill, would also amend present section 620A of title 38, to delete the references to "pilot" in the description of the VA's program for the provision of alcohol and drug treatment and rehabilitation through contracts with non-VA halfway house and other community-based programs, to extend for two years, through September 30, 1987, the VA's authority to contract with such halfway houses and other programs, and to require the Administrator to submit to the Committees, not later than March 1, 1986, a report on the operation of the contract program (including information on the average duration of veterans' participation, the rates of successful rehabilitation, and any changes in average and maximum costs per veteran under the contracts entered into by the VA).

The compromise agreement does not contain these provisions.

The Committees note that this contract authority is not due to expire until September 30, 1985, and that the House Committee tentatively plans to hold hearings next year on the VA's programs for treatment and rehabilitation for veterans with alcohol and drug abuse disabilities, including the halfway house program.

REPORT ON VETERANS' ADMINISTRATION PROGRAMS FOR TERMINALLY ILL VETERANS

The Senate amendment (section 6), but not the House bill, would require the Administrator, not later than September 30, 1985, to submit to the Committees a report on VA programs to furnish palliative care, supportive counseling, and other medical services to terminally ill veterans and supportive counseling to their families.

The compromise agreement (section 301) contains this provision but deletes a reference to the Administrator including in the report any proposals of the Administrator for administrative or legislative action in this area.

VETERANS RESIDING IN REMOTE GEOGRAPHIC AREAS

The Senate amendment (section 13), but not the House bill, would express the sense of the Congress that, in light of the geographic inaccessibility to VA health-care facilities of certain veterans with service-connected disabilities and other veterans eligible for VA health care, a study of veterans residing in remote areas and their use of VA health-care facilities would provide useful information on the feasibility and appropriateness of alternative approaches to health-care services for such veterans. The Administrator would be required to carry out such a study and, not later than January 1, 1986, submit to the Committees a report on the study results. Not later than July 1, 1986, the Administrator would be required to submit a report to the Committees on an experimental program to demonstrate in 5 remote areas alternative approaches for the VA to provide health-care services to eligible veterans in remote areas.

The compromise agreement (section 302) contains these provisions.

USE OF CERTAIN LANDS BY THE UNIVERSITY OF CALIFORNIA

Both a related House bill (H.R. 2629 as passed by the House on November 8, 1983), and the Senate amendment (section 14) would require the Administrator to execute any necessary legal documents to permit the use, for educational or cultural purposes, of a portion of certain property in Los Angeles, California. When this land was originally transferred to the State of California on December 10, 1948, for use by the University of California, the deed limited its uses to use as a research and medical center and for allied purposes. Under the revised deed, the property involved would revert to the United States if it ceases to be used as a research and medical center or for educational or cultural purposes.

The compromise agreement (section 401) contains this provision.

NAMING OF VETERANS' ADMINISTRATION MEDICAL CENTERS

The Senate amendment (section 19(a)), but not the House bill, would designate the VA Medical Center in Murfreesboro, Tennesses, as the "Sergeant Alvin C. York VA Medical Center".

A related House bill (H.R. 4734 as passed by the House on May 21, 1984) and the Senate amendment (section 19(b)) would designated the VA Medical Center in Milwaukee, Wisconsin, as the "Clement J. Zablocki VA Medical Center".

The compromise agreement (section 402) contains these provisions with a modification to delete the word "Sergeant" from the proposed new name of the VA Medical Center in Murfreesboro, Tennessee.

AUTOMOBILE ADAPTIVE EQUIPMENT

The Senate amendment (section 7), but not the House bill, would amend section 1903(c) of title 38, to specify that veterans eligible for adaptive equipment for their automobiles are entitled to a maximum of two such adaptations at any one time or within a 4-year period unless, as a result of circumstances beyond the veteran's control, the veteran no longer has use of one of these two vehicles, in which case the Administrator would be authorized to provide the veteran with an adaption for a child vehicle.

The compromise agreement does not contain this provision.

The Committees intend to consider the Senate provision in relation to a House provision (section 204) in H.R. 5688, the proposed "Veterans' Compensation Amendments for Fiscal Year 1985", when the provisions of that measure are resolved in relation to the provisions of S. 2736, the proposed "Veterans' Administration Benefit Rate Increase and Program Improvement Act of 1984".

PER DIEM RATES FOR STATE HOMES

The House bill (section 5), but not the Senate amendment, would amend section 641(c) of title 38, relating to payments to State Homes, to require the Administrator to submit annually to the Committees a report on the adequacy of the per diem rates (prescribed by current section 641(a)) paid by the VA to the State for veterans who are receiving domiciliary, nursing home, or hospital care in State Veterans' Homes. Under present section 641(c), the Administrator is required to submit such a report every three years beginning on June 30, 1986.

The compromise agreement does not contain this provision.

VETERANS AUTHORIZED TO BE FURNISHED WITH DRUGS AND MEDICINES

The House bill (section 9), but not the Senate amendment, would amend section 612(h) of title 38, relating to the eligibility for certain medical treatment, to authorize the Administrator to provide a veteran with drugs and medicines prescribed by a private physician for the treatment of a service-connected disability for which the veteran is receiving compensation.

The compromise agreement does not contain this provision.

READJUSTMENT COUNSELING

The Senate amendment (section 8), but not the House bill, would amend section 612A(g)(2)(B) of title 38, to require the Aministrator to include in a previously mandated VA report on the effectiveness and the future of the VA's readjustment counseling program for Vietnam-era veterans—due to be submitted to the Committees not later than April 1, 1987—assessments of whether or not certain veterans and certain active-duty personnel who are not currently eligible for readjustment counseling under section 612A need such counseling, and, if

so, the Administrator's recommendations on how such needs should be met.

The Senate amendment, but not the House bill, would also require the Administrator and the Secretary of Defense to submit, not later than 180 days after the date of enactment, to the appropriate committees of the Congress a joint report on their recommendations on the appropriateness and desirability of extending eligibility for VA readjustment counseling services to persons who served on active duty either during the Vietnam era or after the Vietnam era in an area of hostilities.

The compromise agreement does not contain these provisions.

REPORT ON FEDERAL GOVERNMENT RESPONSIBILITY TO INDIVIDUALS WHO SERVED WITH VOLUNTARY CIVILIAN ORGANIZATIONS IN VIETNAM

The Senate amendment (section 11), but not the House bill, would require the Administrator and the Secretaries of Defense and of Health and Human Services to submit to the appropriate Congressional committees, not later than 180 days after the date of enactment, a joint report on the question of U.S. Government responsibility for providing benefits and services (including, but not limited to, health care and monetary compensation for disabilities which may be related to exposure to dioxin or be the result of traumatic events), either through the VA or otherwise, to individuals who served in Vietnam with voluntary organizations that provided significant assistance to the U.S. Armed Forces and who incurred disabilities that may be related to such service.

The compromise agreement does not contain this provision.

SENSE OF THE CONGRESS REGARDING CERTAIN GRACE COMMISSION RECOMMENDATIONS

The Senate amendment (section 16), but not the House bill, would express the sense of the Congress (1) that the recommendations of the President's Private Sector Survey on Cost Control (the "Grace Commission") relating to the VA health-care system must be evaluated in light of (A) the commitment of the United States, as embodied in the VA's Department of Medicine and Surgery, to meet the medical needs of veterans eligible for health care from the VA, especially veterans with service-connected disabilities, (B) the policy of the United States to maintain a comprehensive, nationwide health-care system for the direct provision of quality health-care services to eligible veterans, and (C) the requirement, pursuant to section 5010(a)(1) of title 38, United States Code, for the VA to operate and maintain not less than 90,000 hospital and nursing home beds, and (2) that the recommendations should not be implemented without full and careful consideration of their policy implications by the Committees.

The compromise agreement does not contain this provision.

PROGRAM GUIDE ON ALZHEIMER'S DISEASE

The Senate amendment (section 18), but not the House bill, would require the Administrator to provide, not later than 180 days after the date of enactment, to appropriate VA medical facilities and to submit to the Committees a program guide to clarify VA policy regarding the authorization and provision of treatment for Alzheimer's disease, (including diagnosis, information, outpatient services, hospital care, and nursing home care, of veterans who are eligible for services under title 38, United States Code, and who are suffering from Alzheimer's disease and related neurological diseases).

The compromise agreement does not contain this provision.

Mr. CRANSTON. Mr. President, as the ranking minority member of the Committee on Veterans' Affairs, I am delighted to join with my good friend, the committee chairman [Mr. SIMPSON], in urging the Senate to concur in the House amendments to the Senate amendments to H.R. 5618, the proposed Veterans' Health Care Act of 1984. The House amendment to the text of the bill reflects a compromise agreed to between the two Veterans' Affairs Committees after extensive discussions and negotiations. This is an important measure that will help maintain and improve the quality, scope, and efficiency of the benefits and services provided to those who have worn our country's uniform in defense of our national security.

Mr. President, H.R. 5618 was first passed by the House on May 21, 1984. On August 8, 1984, the Senate took up S. 2514 as reported by the Committee on Veterans' Affairs on May 25. The Senate substituted the provisions of S. 2514 as an amendment to the text of H.R. 5618 as passed by the House and then passed H.R. 5618, returning it to the House. Yesterday, the House of Representatives amended the Senate amendment with a substitute which, as I just noted, represents a compromise agreement reached by the Veterans' Affairs Committees. Hence, this legislation before the Senate today is in the nature, although not the form technically, of a conference report.

The measure is a compromise and, as with all compromises, it does not contain all of the provisions each of the parties would like to have included. In fact, because the bills passed by the two Houses had little common ground, many provisions—some of which I will describe in a moment—were dropped in reaching the final agreement. Nevertheless, this measure as it comes before the Senate today represents, I am convinced, the best deal that the Senate could obtain in resolving the differences between the two Houses.

BACKGROUND

Mr. President, I am pleased that this legislation, which I will refer to as the compromise agreement, is the culmination of the legislative process for S. 2269 which I introduced on February 7, 1984, with the cosponsorship of Senators RANDOLPH, MATSUNAGA, and DECONCINI, and amendment No. 2850 which I proposed with Senator MATSUNAGA on March 27. I refer my colleagues and others with an interest in the background and development of the provisions of S. 2269 and amendment No. 2850 to my remarks upon introduction of these two measures—beginning on page 2126 of the RECORD for February 7, 1984, for S. 2269 and on page 6727 of the RECORD for March 27, 1984, for amendment No. 2850—and my remarks at the time of Senate action on S. 2514, which begin on page 22955 of the RECORD for August 8, 1984.

Mr. President, I am very grateful to our committee chairman [Mr. SIMPSON] and the chairman [Mr. MONTGOMERY] and ranking minority member [Mr. HAMMERSCHMIDT] of our counterpart committee in the House and to the chairman of the House committee's Hospitals and Health Care Subcommittee [Mr. EDGAR] for their cooperation and assistance in the development of the compromise agreement.

Mr. President, each of the provisions of the compromise agreement is described authoritatively in the explanatory statement developed by the two Committees on Veterans' Affairs that the chairman of the Senate committee has inserted in the RECORD as part of his remarks and which was inserted in identical form by the chairman of the House committee when this measure was considered in the other body yesterday. I wish to highlight certain elements of the compromise agreement.

SECURITY AND LAW ENFORCEMENT AT VA FACILITIES

Mr. President, I am very pleased that the compromise agreement contains a number of provisions derived from legislation I proposed to enable the VA to improve its recruitment, retention, and management of security service personnel. As I noted during Senate consideration of this legislation on August 8, the record is clear—the VA is and has been experiencing significant difficulties in attracting and, more importantly, keeping qualified security personnel. In far too many areas of the country, the VA police force serves as the training ground for individuals who are interested in careers in police or security work but who leave the VA as soon as they acquire the experience they need to obtain jobs with higher pay and greater potential for advancement. The new authorities in the compromise agreement should go a long way toward helping to solve these problems and, thus, should yield significant improvements in overall security at VA health-care facilities.

The two most important of these provisions would give the Administrator new authorities to modify rates of pay for VA police officers and to pay a special clothing allowance to uniformed officers.

The first of these provisions in the compromise agreement—derived from section 6 of S. 2269—relating to rates of pay would provide the Administrator with new authority to increase the rates of basic pay for VA police officers where that is necessary either to provide rates of pay competitive with the rates paid by non-Federal employers in the same labor market, to

achieve adequate staffing at particular facilities, or to recruit persons with specialized skills. This authority could be exercised on a nationwide, local, or other geographic basis, thereby giving the Administrator maximum flexibility to set rates of pay in response to local situations and conditions.

The second provision in the compromise agreement that should have the greatest impact on the agency's ability to recruit and retain police officers would authorize the Administrator to pay a uniform allowance to those VA police officers required to wear a uniform in the performance of official duties. These provisions—derived from amendment No. 2850 which I submitted on March 27—would authorize the payment of a one-time, up-to-$400 allowance either at the time an individual is first employed as a VA police officer for those hired after this measure become law, or upon request, for police officers already employed by the VA, so as to assist with an initial purchase of uniforms. In all other years, an allowance would be paid of up to $200 to help these personnel replace and maintain their required uniforms. These allowances would replace the inadequate $125 annual allowances that VA police officers currently receive.

No one should have to suffer a financial disadvantage to work as a VA police officer, and I expect that the uniform allowance proposed in the compromise agreement will help correct this situation.

Mr. President, the issue of improving security at VA health-care facilities has been one that has been of particular concern to the members of our committee and our counterparts in the House, particularly my good friend from Pennsylvania, BOB EDGAR. It has been very gratifying to work with them as we have crafted this legislation as it comes before the Senate today to address this very troublesome problem. I look forward to monitoring the VA's efforts to implement the new authorities and to the results of those efforts in terms of real improvement in the recruitment and retention of VA security personnel.

POST-TRAUMATIC-STRESS DISORDER

Mr. President, another issue that has been of great concern to me and to members of both committees and is addressed in the compromise agreement relates to the VA's efforts to diagnose and treat veterans with post-traumatic-stress disorder [PTSD].

As I noted in my remarks when I introduced amendment No. 2850 on March 27, 1984—at 6729 of the RECORD—and during Senate consideration of S. 2514 on August 8, 1984, inasmuch as PTSD is a disorder that is particularly prevalent among veterans and especially among Vietnam combat veterans, I believe the VA has a very strong obligation to be at the forefront of efforts to understand and treat PTSD. As I also discussed in some detail in those remarks, although the VA has made some strides in this area, I am concerned that the agency could and should be doing more and doing it in a far better coordinated fashion.

Thus, I am very pleased that the compromise agreement melds provisions relating to PTSD from both the House and Senate measures. Under the compromise agreement, the VA will be authorized to designate programs within the agency—such as existing inpatient PTSD treatment units or outpatient programs—as special PTSD units which would have a particular responsibility for the diagnosis and treatment of PTSD, the promotion of education and training of other health-care personnel regarding PTSD diagnosis and treatment, and the coordination of treatment services with the VA's vet centers. I particularly stress the importance of the last item.

In addition, the VA's Chief Medical Director would be required to establish a Special Committee on PTSD as well as a National Center on PTSD. The special committee, proposed by our committee chairman, would assess the agency's efforts relating to PTSD, including through the Vet Center Program, and advise the Chief Medical Director regarding policies relating to PTSD. The National Center, which I first proposed in amendment No. 2850, would carry out and promote research into PTSD, train health-care personnel in the causes and diagnosis of PTSD, and serve as a resource center to coordinate exchange of information regarding PTSD research and training activities. Obviously, coordination between the special committee and the national center would be very important. Both, of course, will operate under the direction of the Chief Medical Director which should promote such coordination. In order further to improve this relationship, I would anticipate that the Director of the national center would serve as a member of the special committee.

I believe the collective impact of these PTSD provisions will be to focus and, as necessary and appropriate, expand and improve the VA's efforts to respond to veterans suffering from PTSD, including greater coordination of ongoing efforts, especially these efforts of the vet centers.

PROGRAMS FOR OLDER VETERANS

Mr. President, various provisions in the compromise agreement relate directly—but not exclusively—to the VA's ongoing efforts to meet the health care needs of our Nation's aging veterans, particularly in light of the large number of World War II veterans who are now approaching an average age of 65.

COORDINATION OF VA HEALTH-CARE SERVICES

First, the compromise agreement contains a provision, derived from the Senate amendment provision authored by our committee chairman, which directs the Administrator to seek to coordinate VA benefits and services with appropriate State and local government programs, and programs conducted by private entities at the State and local levels. In carrying out this responsibility, the Administrator would be required to place a special emphasis on veterans who are 65 years of age or older.

Mr. President, this new coordination responsibility should provide the VA with important new opportunities to foster VA-community cooperative efforts that could play a very important role in enabling local VA and non-VA facilities involved in providing services to veterans to respond in a more effective, better coordinated fashion to the needs of those veterans.

On this point of interagency cooperation, I note that, when the Senate considered legislation—S. 2603, the Older American Act Amendments of 1984—to reauthorize the Older Americans Act of 1965, a provision was included which would have had the effect of requiring the Administrator of Veterans' Affairs to consult with the Commissioner on Aging with respect to any new veteran's programs or service prior to establishing it and to consult and cooperate with the Commissioner in carrying out each VA program.

Mr. President, although I am generally supportive of consultation and appropriate cooperation and coordination among Federal departments and agencies involved in providing similar services or benefits to different or overlapping populations—and for this reason supported the provision in the pending compromise agreement relating to the coordination of VA benefits and services—I was opposed to the very specific and broad requirements for advance consultation and for ongoing coordination, consultation, and cooperation that the provision in S. 2603 as proposed by the Committee on Labor and Human Resources and passed by the Senate would have imposed on the VA Administrator.

Because of my views in this regard, I wrote the distinguished chairman of the Committee on Labor and Human Resources [Mr. HATCH] to urge that the Senate conferees on S. 2603 recede to the House with respect to this provision.

I am pleased to note that the conference report on S. 2603 (H.R. Rept. No. 98-1073, page 32) did not include this provision, and I wish to thank the Senator from Utah and the other Senate conferees very much for their assistnance in this regard. This result leaves the impetus for coordination of VA

benefits and services with the VA Administrator and under the authority of title 38, United States Code, and the Committee on Veterans' Affairs. The provision in the pending compromise agreement relating to such coordination is the latest example of such title 38 authority.

Mr. President, I ask unanimous consent that the text of my letter to Senator HATCH be printed at this point in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

WASHINGTON, DC,
August 30, 1984.

Hon. ORRIN G. HATCH,
Chairman, Committee on Labor and Human Resources, U.S. Senate, Washington, DC.

DEAR ORRIN: As the Ranking Minority Member of the Committee on Veterans' Affairs, I am writing to express concerns that I have about S. 2603, the proposed "Older Americans Act Amendments of 1984", currently pending in conference.

Specifically, I am writing with respect to the provision in section 3(d) of the Senate-passed bill. This provision would have the effect of requiring the Administrator of Veterans' Affairs, under section 203 of the Older Americans Act (OAA), to consult with the Commissioner on Aging with respect to any new veterans' program or service prior to establishing it and, in order to "achieve appropriate coordination," to "consult and cooperate with the Commissioner in carrying out" each VA program. (Under the new clause (14) of OAA section 203 that would be added, the Secretary of Labor would have the same kinds of responsibilities with respect to veterans' employment programs authorized by title 38, "Veterans' Benefits and Services", United States Code, and the concerns I have regarding VA programs under this legislation extend to Labor Department title 38 programs also.)

I generally support consultation—and, where appropriate, cooperation and coordination—among federal departments and agencies involved in providing similar services or benefits to different or overlapping population groups. Indeed, as a member of the Veterans' Affairs Committee and for 12 years the Labor Committee, I have written numerous such provisions that have been enacted into law requiring that an agency under the jurisdiction of a particular Committee seek to consult and coordinate with other concerned agencies. These include a provision, section 220 of title 38, United States Code, generally requiring the VA Administrator to seek to achieve the maximum feasible coordination of federal programs and activities affecting veterans and their dependents.

Although I support interagency cooperation, I am opposed to the very specific and broad requirements for advance consultation and for ongoing coordination, consultation, and cooperation that section 3(d) would impose on the Administrator. A primary concern in this regard is that, in light of the breadth of OAA section 203 and the fact that the Commissioner on Aging, appropriately, has no responsibility for the conduct of veterans' programs and has vast responsibilities with respect to a wide range of non-veterans' programs, compliance with the proposed mandate could result in delays in, and other impediments to, the prompt and efficient implementation of veterans' programs.

I also note in this regard that, on page 10 of the recently released VA report, "Caring for the Older Veteran", the VA states its objective to establish at each of its medical centers a Community Collaboration Office "charged with responsibility for linking VA programs for the aging with those in the community." I support that concept just as I support the provision, in section 2 of S. 2514 as reported by our Committee on May 24, 1984, and passed by the Senate on August 8, requiring the designation in each VA medical center of a unit to promote the coordination of referrals and services at the local level. I intend to continue to pursue the enactment of legislation requiring the VA to seek to coordinate its older veterans' activities appropriately at the local level.

In my view, however, any legislation to encourage or require the VA to consult with other federal agencies or to seek to coordinate VA services with theirs should be considered and acted upon as part of title 38 of the United States Code—not as part of the laws authorizing and governing the other agencies. Thus, I urge that, in conference with the House on S. 2603, the Senate conferees recede to the House with respect to the provision, in section 3(d) of the Senate-passed measure, relating to title 38 veterans programs.

Thank you very much for your consideration of this matter. If you have any questions, please have a member of your staff contact Bill Brew (42074) of the Veterans' Affairs Committee staff.

With warm regards,

Cordially,

ALAN CRANSTON,
Ranking Minority Member.

AUTHORIZATION OF APPROPRIATION FOR THE GRECC PROGRAM

Mr. CRANSTON. Mr. President, the second provision in the compromise agreement relating to the VA's efforts to meet the health-care needs of aging veterans would make permanent the authorization of appropriations to support the research and education activities of the VA's Geriatric Research, Education, and Clinical Centers—the GRECC program. under current law, the authorization of appropriations for these purposes is only available through fiscal year 1984.

As the Senate author of the provisions in Public Law 96-330 which provide a statutory basis for the GRECC program, I have a very strong interest in this program. It is through the GRECC program that the VA exerts a very important leadership role in advancing scientific knowledge regarding the medical, psychological, and social needs of older individuals and how to meet such needs with the most effective and appropriate services. In the GRECC program, the VA carries out geriatric and gerontological research, trains health personnel in the provision of health care to older individuals, and develops improved models of clinical services for eligible older veterans.

Although the GRECC program would continue to operate without this renewal of a specific authorization of appropriations, I believe that continuing to provide such an authorization specifically for the research and education efforts in the program highlights the importance of these elements and demonstrates continuing congresssional support for the GRECC program. Thus, I am pleased to support this provision.

ACQUISITION OF PROPERTIES FOR USE AS STATE HOMES

A third provision in the compromise agreement that is of particular importance to the agency's overall efforts to respond to the health-care needs of the aging veteran population would authorize the VA to provide financial assistance, under the VA's State veterans' home matching-fund construction grant program, to a State to enable the State to acquire an existing facility for use as a State veterans' home nursing home or domiciliary facility. It is the VA's view that, under current law, such grants can be made to States for the construction of new nursing home or domiciliary facilities but not for the acquisition of such facilities. Because the State home program is such a vital adjunct to the agency's efforts to provide extended care for older veterans, I am delighted that the compromise agreement contains this provision to remove the unnecessary restriction on how States may utilize grant funds.

OVERSIGHT OF VARIOUS VA HEALTH CARE MATTERS

Mr. President, the compromise agreement contains a number of provisions which are intended to assist our two committees in carrying out our ongoing oversight of the VA health care system. Among those provisions are ones that would require the Administrator of Veterans' Affairs:

First, to issue guidelines, not later than 6 months after the date of enactment, for the treatment and rehabilitation of veterans with alcohol or drug dependence or abuse disabilities and to report to the committees on this effort.

Second, to report to the committees, not later than September 30, 1985, on the VA's efforts to provide care and services to terminally ill veterans and supportive counseling to members of their families.

Third, to study and report to the committees, not later than January 1, 1986, on the extent to which veterans residing in areas remote from VA health-care facilities receive health care from the VA and to submit a second report, by July 1, 1986, providing a description of an experimental program that could be carried out in five remote areas to demonstrate alternative approaches which the VA might use to provide health care to eligible veterans in such areas.

Also, I note that, in connection with the "temporary" extension, which is

contained in this compromise agreement, for the fourth consecutive time of the VA's extraordinary authority to provide health care, on a contract basis, to certain non-service-connected veterans in Puerto Rico and the Virgin Islands, the committees have directed the Administrator to submit a thorough plan on how the VA will meet the health-care needs of eligible veterans in those locations with particular attention to the needs of veterans with service-connected disabilities.

These various oversight provisions should yield important information that the committees can utilize as we continue in our efforts to improve and strengthen the overall VA health-care system. Regarding the rural veterans' health-care study and report, I want to congratulate my colleague and fellow committee member from Maine [Mr. MITCHELL] for his outstanding, persistent, and perceptive work on behalf of this legislation.

SENATE-PASSED PROVISIONS NOT INCLUDED IN THE COMPROMISE AGREEMENT

Mr. President, as I noted earlier, in reaching the agreement embodied in the compromise agreement, we were unable to reach agreement on a number of provisions that were passed by either the House or Senate but not by the other body. I wish to comment on a few of the Senate-passed provisions that are not included in the compromise agreement.

READJUSTMENT COUNSELING REPORTS

Mr. President, I am very disappointed that the compromise agreement does not include provisions, derived from legislation I introduced, which would have mandated the submission by the VA of two reports—one in conjunction with the Department of Defense—assessing the need for and access to readjustment counseling from the VA for certain veterans and certain active-duty personnel, including those who have served since the end of the Vietnam era in combat and combat-like situations, such as in Beirut and Grenada, who are not currently eligible for such services. I remain very concerned that there may be a generally unappreciated need for the type of assistance that can best be provided through the VA's readjustment counseling program for some veterans and active-duty personnel in the groups that would have been studied and believe our failure to investigate that possibility is very shortsighted. Although I was not successful in convincing the House committee to accept the Senate provision to mandate study of these issues, I intend to continue to pursue them.

REPORT ON FEDERAL GOVERNMENT ASSISTANCE TO INDIVIDUALS WHO SERVED IN VIETNAM AS CIVILIANS

I also want to express my further regret that the compromise agreement does not contain a provision that was included in the Senate amendment and that was derived from legislation I authored to attempt to address the concerns of non-Federal civilians who served in Vietnam during the Vietnam era with voluntary organizations, such as the Red Cross and the USO. As I noted during Senate consideration of S. 2514, certain civilians who, through their service, provided valuable assistance to the U.S. Government's efforts in Vietnam are now concerned about the effects of certain incidents of their service, such as their exposure to agent orange, on their health. I believe the Federal Government has an obligation to evaluate those concerns and consider possible alternative approaches for addressing them. In taking this position, I recognize that these individuals are not veterans and that there is thus no basis for the VA to assume primary responsibility for addressing their concerns. Having said that, however, I continue to believe that the VA has significant expertise to lend to the resolution of the issue and should play a role in any such effort by the Federal Government. Unfortunately, we were unable to bring the other body to this point of view.

ALCOHOL AND DRUG TREATMENT AUTHORITY

Mr. President, the Senate amendment contained various provisions relating to the VA's program for the treatment and rehabilitation of veterans suffering from alcohol or drug dependence or abuse disabilities. As noted above, the compromise agreement contains provisions—derived from provisions authored by our Chairman [Mr. SIMPSON] in the Senate amendment—pertaining to the issue of VA central office guidance to field stations in this respect. Not included, however, are provisions from the Senate amendment derived from legislation, S. 2269, I introduced to extend the VA's pilot program for the provision of alcohol and drug treatment or rehabilitation through contracts with non-VA halfway house and other community-based programs. On the basis of information currently available on the experience under this 5-year pilot program—which I authored as part of Public Law 96-22—since its establishment in 1979, I believe that the 2-year extension provided for in the Senate amendment was fully justified and appropriate. Thus, I regret that this extension is not included in the compromise agreement. However, the program does not expire until September 30, 1985, so there is still some time to extend it. I intend to introduce in the next Congress legislation to extend the program for 3 years and will work for its enactment as early as possible next year.

SENSE OF CONGRESS REGARDING CERTAIN GRACE COMMISSION RECOMMENDATIONS

Mr. President, another provision included in the Senate amendment but not in the compromise agreement would have put the Congress on record with reference to the need for detailed study before any action on certain recommendations—all relating to the VA health-care system—of the President's Private Sector Survey on Cost Control, the so-called Grace Commission. This provision, which was derived from legislation which I cosponsored as introduced by my good friend from Arizona [Mr. DECONCINI] would have been helpful in reaffirming the commitment of the Congress to the maintenance of the VA health-care system. I therefore regret that we were unable to reach agreement to include such a provision in the compromise agreement.

PROGRAM GUIDE ON ALZHEIMER'S DISEASE

Mr. President, the last provision I want to note from the Senate amendment that is not included in the compromise agreement would have required the administrator of Veterans' Affairs to disseminate to appropriate VA health-care facilities and submit to the Committees on Veterans' Affairs a program guide on Alzheimer's disease and related neurological diseases. This provision was included in the Senate amendment on behalf of my good friend from Ohio [Mr. METZENBAUM] and reflected his and my strong personal concern about the issue of Alzheimer's disease. I have had for some time a deep interest in the VA finally issuing a program guide on Alzheimer's disease so as to provide a more widespread understanding of VA policy in this area. Over 2 years ago when I first pursued this matter with the VA's Chief Medical Director, I was advised that such a guide was under development. It is long since past time for its issuance. Although the provision relating to this guide is not in the compromise agreement, I intend to continue to press for administrative action on this matter.

CONCLUSION

In closing, I would like to express my appreciation to the Chairman [Mr. SIMPSON] and all of the other members of the committee for their cooperation and assistance as we have worked to develop this compromise. I also thank again my good friends on the House Committee, the chairman of the full committee [Mr. MONTGOMERY], the ranking minority member of both the full committee and the Hospitals and Health Care Subcommittee [Mr. HAMMERSCHMIDT], and the chairman of the Hospitals and Health Care Subcommittee [Mr. EDGAR] for their usual fine work and cooperation. As always, it has been a pleasure working with all of our colleagues on our counterpart committee. The compromise measure has true bipartisan support in both Houses.

Mr. President, I also express my warmest thanks to the staff members of the House Committee who played

key roles in the development of the compromise agreement, Pat Ryan, Jack McDonell, Richard Fuller, Rufus Wilson, and, as always, chief counsel and staff director Mack Fleming. To the members of our committee's majority staff, Cindy Alpert, Vic Raymond, Julie Susman, and Tony Principi, and to James MacRae, my thanks for their effective work and cooperation on this measure. As always, I am deeply indebted to our minority staff, Bill Brew, Ed Scott, Jenny McCarthy, Charlotte Hughes, Ingrid Post, and Jon Steinberg, for their excellent assistance.

Mr. President, as I noted at the outset of my remarks, although several provisions passed by the Senate have been deleted in the compromise agreement, I am satisfied that the compromise represents a generally fair resolution of the differences between the measures passed by the two bodies and will contribute substantially to the VA's ability to fulfill its mission, most especially the provision of quality health-care services to eligible veterans. Thus, I commend this compromise to the Senate and urge that it be agreed to unanimously.

Mr. MITCHELL. Mr. President, I want to make a very brief statement regarding H.R. 5618, the Veterans' Health Care Act of 1984, which is now pending before the Senate.

To begin with, I wholeheartedly support this legislation. It contains provisions which make judicious changes in a number of Veterans' Administration programs and authorities which I believe will make significant improvements in the VA's health-care system. I especially want to commend to my colleagues section 302, which deals with VA health-care service availability to veterans residing in remote areas. This section was included in the Senate-passed health care bill this summer; it represented a compromise from original language I introduced in February 1983 dealing with rural health care.

Under section 302, the Administrator will carry out a nationwide study and develop statistics on the number of eligible veterans living various distances from VA medical facilities and their utilization of VA health-care services during fiscal year 1985. The Administrator will be required to submit to the House and Senate Committees on Veterans' Affairs a full report on the study by January 1, 1986. That report will include the Administrator's finding on the extent of the need for the VA to improve health-care services in rural areas.

Following that, the Administrator will be required to submit to these same committees by July 1, 1986, a report describing in detail an experimental national program that would be carried out in five locations to demonstrate alternative approaches that could be used by the VA to provide health-care services to eligible veterans in remote areas and the Administrator's recommendations as to whether any such projects should be carried out.

I am pleased the Senate language was retained in the final agreement on H.R 5618; I believe the mandated study and report from the Administrator will clearly demonstrate that new, alternative, creative, and innovative methods to deliver VA health care to eligible veterans who reside in geographically remote areas must become reality if these millions of veterans are to receive the care to which they are entitled. Passage of this provision represents not the end, but the continuation of my efforts to improve VA health care for rural veterans all across America.

I am grateful to my colleague from Maine, Senator COHEN; the chairman of the Senate Veterans' Affairs Committee, Senator SIMPSON; and the ranking minority member, Senator CRANSTON, for their assistance and cooperation on this matter.

I urge the adoption of H.R. 5618.

Mr. BAKER. Mr. President, I move that the Senate concur in the House amendments.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Tennessee.

The motion was agreed to.

EDUCATION AMENDMENTS OF 1984—CONFERENCE REPORT

Mr. BAKER. Mr. President, I submit a report of the committee of conference on S. 2496 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2496) to amend the Adult Education Act in order to simplify requirements for States and other recipients participating in Federal adult education programs, and for other purposes having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report will be printed in the House proceedings of the RECORD.)

Mr. STAFFORD. Mr. President, today we are considering the final version of the education amendments of 1984. This bill, as reported by the House Education and Labor Committee, was attached to S. 2496, the Adult Education Act Amendments of 1984, as passed by the Senate on June 28.

Mr. President, while some programs included in the House-passed bill were not included in S. 2496 as passed by the Senate, each one of these programs has been given careful consideration by members of the Subcommittee on Education, Arts, and Humanities.

The adult education reauthorization is, in my mind, the most important program included in this bill. The original Senate-passed bill, virtually untouched in conference, was due in large part to the hard work and efforts of Senator QUAYLE and the Secretary of Education, Terrel Bell. This legislation is a demonstration of their commitment to eliminate illiteracy in the United States.

Mr. President, illiteracy affects all of us; it is found in every segment of society. It has been estimated that the annual cost of illiteracy to the Federal Government in the form of welfare programs and unemployment compensation is well over $6 billion. In light of the fact that 75 percent of all unemployed Americans today have inadequate reading and writing skills, any efforts we can make to reduce this problem are clearly in the Nation's best interest.

The legislation before us today provides funds to help the over 23 million illiterate adults in America. It strengthens the existing adult education program and takes into consideration the special needs of today's population.

S. 2469 also reauthorizes the Bilingual Education Act; title VII of ESEA. This proposal is the result of hours of hard work and compromise on the part of Members of the House, particularly Congressmen BARTLETT, MCCAIN, KILDEE, and CORRADA. The bilingual education program has been greatly improved by the House amendments, and the Senate conferees were impressed by the presentation of the House Members on this subject. In particular, this Senator is pleased to see for the first time funding included in the reauthorization for alternative approaches to bilingual education. In my home State of Vermont, these alternative programs have been used with great benefit for children coming from widely varied ethnic backgrounds.

Title III of this bill extends the Impact Aid Program for 4 years. As many of my colleagues are aware, Senators PELL and ABDNOR have offered similar proposals to reauthorize this program on other bills. The Impact Aid Program is used to compensate school districts for loss of tax revenue due to Federal activity. This program is due to expire after fiscal year 1984. Therefore, it is important that we take responsible legislative action.

The Indian Education Program is also included in this bill. The Senate

reauthorized this program last June when we passed the Indian education amendments. The proposal before us today represents a compromise, worked out by the Senate Select Committee on Indian Affairs, which has jurisdiction over all Indian programs.

Along with the programs I mentioned earlier, S. 2496 provides 5-year authorizations for the Immigrant Education Program, currently funded in the fiscal year 1984 appropriations bill; the Women's Educational Equity Act; the Education Assessment and Statistics Program; and the programs for education assistance for the territories. These small programs need to be reauthorized in order to continue to provide quality education to all of our citizens.

Mr. President, I would like to take this opportunity to thank all Members of the House and Senate conference who worked to bring this report before us today. Both Members and staff, especially Betsy Brand of Senator QUAYLE's office, Howard Matthews with Senator HATCH, Ann Young and David Evans with Senator PELL, Bill Winsemann with Senator HAWKINS, and Dennis Hernandez with Senator KENNEDY deserve a great deal of credit for their persistence and hard work which led to the presentation of this conference report. I urge my colleagues to support this bill.

Mr. HATCH. Mr. President, I am very pleased to take the floor on behalf of the education amendments of 1984, a bill and conference report we are filing this day to reauthorize, and in a number of instances, improve upon several very important educational programs.

It is important at this time, Mr. President, to commend the staff of both the Senate and House conferees. After countless hours of hard negotiating, they made it possible for the Members to conference this important piece of legislation out in just a few hours. In particular, Mr. President, I want to say a special thanks to Mr. Jack Jennings, counsel for the majority and Rich D'Eugenio, counsel for the minority in the House; and, to Betsy Brandt, Susan Franson, and Ellin Congleton of the Senate Subcommittee staff, and to Dr. Howard A. Matthews of the full committee staff.

Although the spending limits on such programs as impact aid, adult education, and bilingual education are higher than those suggested to us by the administration, they are well within the budget resolutions of both Houses of the Congress. I would hope that the President will sign this bill into law so that school districts, impounded by immigrant students brought to our shores by the foreign policies of the United States, will have the necessary financial assistance to accommodate the educational needs of these young people who have sought a haven in our country.

In conference with the House, Mr. President, we spent considerable time on the provisions of the House bill, H.R. 11, as they pertain to the audit functions of the Secretary of Education. It was the sense of the Senate conferees that the House bill laid an inordinate burden of proof upon the Secretary of Education, and seemed to ignore the fact that all source data and information in contention in audits is produced by the entity being audited, not the Secretary of Education. The Secretary's auditors are totally captive to whatever information they can acquire from the people they audit. The House generously agreed to recede to the Senate on this matter, provided we hold joint hearings on the matter early in the next session of the Congress. My own State has told me that there are imperfections in the system, but that we should take time to work them out with the Secretary of Education through joint hearings.

Mr. President, in spite of the inclination to move boxes around on the organizational chart for the Secretary of Education, only two of several proposals were accepted in conference. It was agreed that the Office for Migrant Education should have more attention than it is now receiving, and we agreed that this Office should report directly to the Assistant Secretary for Elementary and Secondary Education.

We also recognized that the majority of students taking advantage of higher education assistance programs are women. And, because there are significant gender differences in enrollment and economic patterns between women and men students as pointed out by Dr. Mary Moran, a senior research associate to Dr. David Garnder's commission on student financial assistance, it would be well for the national advisory council on womens educational programs to have some members expert in and familiar with student financial assistance programs. This was our only other amendment tampering with the organization of the Department of Education's actitivies.

Mr. President, next year we will be reauthorizing the Higher Education Act of 1965, as amended in 1980. Other important educational matters will have to be considered next year. The work of both the Senate and House committees will be made much easier by the action we are taking today to extend adult education, the Indian Education Program, the Impact Aid Assistance Program, Bilingual Education, the National Center for Education Statistics, the National Assessment of Education project, Emergency Immigrant Education Assistance, and the Women's Educational Equity Act Programs. With regard to the latter, Mr. President, while increasing the authorization level, we also made it possible to trigger more funds to State and local applicants by permitting any funds appropriated over the 6 million level, to be used for other than national projects.

Mr. President, as H.R. 11's provisions came over to us in the adult education bill, it contained a silent prayer amendment. It is well known that I support prayer in the schools and I could have supported the prayer amendment developed by the House. I am also realistic enough to know that we simply could not move all of the other important measures of this bill through this body with the prayer amendment in the bill. For that reason, Mr. President, I supported asking the House to recede on the prayer amendment—which they did. I earnestly ask our friends and colleagues in the House to accept the conference report and the good faith of their conferees in receding to the Senate on this matter.

Mr. President, there are other important perfecting amendments in this bill that are outlined in our conference report, so I will not take more time to discuss them now. All are important, and deserving of the support of this body.

Mr. President, I move the adoption of the report of the conference on the education amendments of 1984.

Mr. QUAYLE. Mr. President, I rise in support of the conference report to accompany S. 2496, a bill to reauthorize the Adult Education Act and for other purposes.

Mr. President, this bill is actually an omnibus education bill containing several important reauthorizations. The most important, I feel, is the Adult Education Act reauthorization, which will carry the act through 1988.

To imagine Americans today lacking the skills to read and write is almost impossible. We are the Nation that landed men on the Moon, but we have 25 million adults who are functionally illiterate. These people often cannot find work, not because they don't want to work, but because they cannot read the help-wanted ads. Or, they cannot hold a job down because they lack the language and math skills needed to carry out their duties.

This reauthorization will continue, with several important changes, the adult education programs operating in all 50 States. The bill will allow for an increase in the basic State grant from $150,000 to $250,000, to allow the States a greater base to operate their programs. The bill also includes a change to allow students under 16 years of age, but beyond the age of compulsory school attendance—in some States, 14 or 15—to be served by the adult education programs. Private, for-profit organizations would be allowed to receive contracts from a State

to offer programs, if they can show their program is more cost-effective, and private, for-profit organizations are encouraged to apply for funding under the new Secretary's discretionary fund to help develop innovative approaches and projects dealing with illiteracy. The use of computers and teaching technologies is also emphasized as an allowable and desirable expenditure of funds in the Secretary's discretionary pot. More data collection will be required by the bill to help determine how the State programs are working. Also included in the bill is a provision to allow a 1-year waiver of the maintenance of effort in the event States experience a period of fiscal constraint due to circumstances such as severe unemployment and tax base reduction. This provision will help States that make major commitments to adult education, as many States already do, but that experience a situation of tight State funds 1 year.

Finally, this Adult Education bill preserves the focus of the current act, which is to help those adults most in need of basic literacy skills and it allows States the flexibility to provide these services in the most effective and efficient manner.

This program has helped millions of adults learn reading and writing skills and to become more productive members of our society. I am happy that this program will be continued for 4 more years and want to thank the House conferees for picking up these very important provisions.

This bill continues several other education programs for 4 years: The Bilingual Education Act, and the Impact Aid Program. It also reauthorizes for 5 years the following: Immigrant Education, Indian Education, and the Women's Educational Equity Act. I believe we have reached balanced authorization figures for these programs as well as some good structural changes.

One such change to the Bilingual Education Program, of which I am especially supportive, is a requirement to fund a certain number of innovative approaches to teaching bilingual education. While traditional bilingual education may work for some schools and students, there is ample evidence that many students learn English more quickly through alternative methods than through the transitional or developmental approaches. I would encourage schools to continue seeking and using new methods to help non-English-speaking children become fluent in English as quickly as possible.

This bill contains, also, provisions relating to the family contribution schedule for the Federal student aid programs. Without this language, students, their families and colleges will not be able to make their plans regarding choices of college based on financial aid availability. We have, on numerous occasions, seen that delays in providing such information to students and colleges can prevent lower income, needy students from pursuing a postsecondary education because of the confusion over the availability of aid dollars. I am happy that continuity in these programs will be contained through academic year 1986-87, when the Congress will have had a chance to review the Higher Education Act.

Also contained in this bill are funding authorizations for the National Center for Education Statistics and the National Assessment of Educational Progress. Both programs provide Congress with important data on educational trends around the country, and I am particularly pleased to see that the NAEP can now contract with States to make available State comparisons on education.

Mr. President, this is a good bill and I want to commend my fellow Senators, Mr. HATCH, Mr. STAFFORD, and Mr. PELL for their hard work on the Adult Education Act reauthorization. I am anxious to send this bill to the President so that we may continue helping the illiterate in our country, and I urge my colleagues to support this conference report.

Mr. SYMMS. Mr. President, regarding S. 2496, I would like to express my concern over the implications of some of the provisions in this bill. This bill funds one of the most essential programs in the great State of Idaho—impact aid. Impact aid is used in 13 school districts in Idaho. One of the major reasons for the strong dependency on Federal funding is the Federal Government's possession of vast area of land in these regions. Impact aid provides funding where tax revenue is not generated because of the Federal Government's land holdings. I have been and will continue to be a strong supporter of the Impact Aid Program.

However, during the process of approving funding for this program in the House, our colleagues in the other body, attached the Bilingual Education Program—a program that provides funding to instruct adults in the English language. Nevertheless, much of this instruction in the past has proved to be a lobby training program. These adults have been instructed to lobby for more bilingual education funding which in practice has allowed the funds to be used for political rather than academic training.

Another fact which needs to be recognized is that this bill was never reviewed by the Senate. No hearings, or review boards as such were conducted. All proper procedures were ignored. This bill has been put on fast forward, just like all the others we're trying to push through.

I am not here to oppose S. 2496. It has many important provisions, like Impact Aid, which need to be approved. I do not, however, support the Bilingual Education Act which uses taxpayers' money to indirectly support lobbying tactics.

During the 99th Congress, I will work with the appropriate committees to bring accountability to the Adult Bilingual Education Program.

Mr. ANDREWS. Mr. President, I rise today to support the conference report on S. 2496, a bill to amend the Adult Education Act, and urge my colleagues to join in my support. Although I was not one of the conferees on the bill, I have been very involved in title V, the Indian Education Amendments of 1984, and I am very pleased with the way this title has been handled by the conferees.

As chairman of the Senate Select Committee on Indian Affairs, the committee with jurisdiction over matters affecting American Indians, I followed the Indian Education amendments, as contained first in H.R. 11 and S. 2619, now title V of S. 2496. The Labor and Human Resources Committee, which had jurisdiction of S. 2496, worked hand in hand with the Select Committee to see that the Indian Education provisions adequately addressed the issues and needs presented to the Senate by the native American community. I would like to thank the Senate conferees for their assistance in presenting the select committee's views to the conference committee.

Title V amends portions of the Indian Education Amendments of 1978, providing procedures governing the manner in which BIA-operated and tribal contract schools are administered. The amendments address such different areas as immunization standards, school closures, academic standards, school boundaries and the education functions of the Bureau of Indian Affairs. Title V also contains provisions governing personnel, a management information system, audits and employee benefits.

The second major thrust of the title V provision is to reauthorize title IV, the Indian Education Act Programs. Not only does title V reauthorize the programs, which include assistance to public schools serving Indian students, fellowships, educational personnel training, pilot demonstration and planning projects, resource centers, and the National Advisory Council on Indian Education, but also addresses the question of parent committee input and the applicability of the programs to the Indian communities in Oklahoma, California, and Alaska.

S. 2496's title V hopefully will enhance the education programs available to our Indian community, and I, again, thank our conferees for their work, and urge my colleagues to join in support of the conference report.

Mr. KENNEDY. Mr. President, I rise in support of the conference report on

S. 2496, the Education Amendments of 1984. This legislation, which reauthorizes 11 significant education programs is necessary to continue our Federal commitment to improving the quality of our Nation's educational system and insuring equity and equal educational opportunity for all.

I would like to thank Chairman HATCH, Senator STAFFORD, and their staffs for their efforts to bring this legislation to conference. Although the Senate did not pass separate legislation on each and every program reauthorized in these education amendments, we did give each reauthorization proposal full consideration.

The programs reauthorized and amended in this legislation are Adult Education, Bilingual Education, Impact Aid, Indian Education, Women's Education Equity, Asbestos School Hazard Detection and Control, Emergency Immigrant Education, the National Assessment of Educational Progress, the National Center for Education Statistics, General Assistance for the Virgin Islands, and Territorial Teacher Training. Additionally, this legislation reestablishes the Office of Migrant Education within the Office of Elementary and Secondary Education and provides other technical amendments.

ADULT EDUCATION

This legislation reauthorizes the Adult Education Act of 1966. The Adult Education Act of 1966 distributes funds to States to establish and support programs to help educationally disadvantaged adults acquire basic skills and obtain high school equivalency. Although evaluations show this program to be enormously successful, we are only reaching 2 million adults each year of the over 20 million adults who are functionally illiterate.

We reauthorize this program for 4 years with authorization levels of $140 million for fiscal year 1985 and such sums in the subsequent years. It is hoped that the Congress will increase support for this program, which was $100 million in fiscal year 1984, to provide needed basic literacy training to our adults and out-of-school youth.

BILINGUAL EDUCATION

The reauthorization of the Federal Bilingual Education Program represents a significant improvement of current law.

This reauthorization legislation is the result of a major effort among the educators and the bilingual education community to improve and enhance this program to serve the needs of limited English proficient children. Although many people and organizations deserve credit, two individuals, Jim Lyons, of the National Association of Bilingual Education, and Lori Orum, of the National Council of La Raza, deserve particular praise for their efforts to solicit the views from across the Nation as to the needs of this program and to communicate those views to the Congress. They were also very instrumental in providing valuable technical assistance to this body in their consideration of this bill.

A number of Members of Congress deserve credit for the bill, including Congressmen KILDEE, CORRADA, BARTLETT, and MCCAIN, and, on the Senate side, Senators HATCH, STAFFORD, DODD, CRANSTON, and WILSON.

This legislation was a serious effort to accommodate the views of the critics who alleged that the bilingual education program was "inflexible." To accommodate these views, this legislation provides up to 10 percent of the total authorization for special alternative instructional programs, which may include English as a second language or structured immersion programs. The result of this accommodation was bipartisan support for this program. I hope this bipartisan support will continue in the future.

The Bilingual Education Program is authorized for 4 years at an authorization level of $167 million. Appropriations for this program have been about $139 million which has been inadequate to meet the demands for bilingual education. Currently, the Federal Bilingual Education Program is addressing only a small portion of the total number of limited English proficient children. Although estimates of the target population range from 934,000 to 3.6 million, there is general agreement that this population will continue to expand. The National Center for Education Statistics estimates that the limited English proficient population aged 5 to 14 will increase by 400,000 in this decade and by another 600,000 in the 1990's. The number of Hispanic children may, by some projections, double by the year 2000. We, in the Congress, must increase our support of this program to meet these increasing needs.

IMPACT AID

Impact Aid is among the most important programs we reauthorize today. This program, which reimburses school districts whose revenues and costs are affected by the presence of federally connected children and Federal property, took a 39 percent cut between fiscal years 1980 and 1982. We are still well below the 1980 level of appropriations, not even counting inflation. The quality of education has eroded in many impacted school districts because of these cuts. Some have been forced to try to charge tuition to military familes, to borrow funds, to ask the Department of Defense to take over the responsibility for operating their schools.

In my own State, the reductions in Impact Aid have resulted in significant hardships for school districts and the children who attend school in these areas.

This legislation reauthorizes the payments for category "B" children, whose parents either live or work on Federal property, but not both. This program was scheduled to expire at the end of fiscal year 1985 under the provisions of the Reconciliation Act.

WOMEN'S EDUCATIONAL EQUITY

The Women's Educational Equity Act provides discretionary grants to public and private nonprofit organizations and agencies for projects to promote quality education for women and girls at all levels of education. With a limited appropriation of less than $6 million, the program has been successful in such areas as developing new curriculums, increasing access of females to educational programs, and establishing model training programs for educational personnel.

We have authorized this program at $10 million for fiscal year 1985 with increased amounts for subsequent years in hopes that Congress will provide greater support for this program.

INDIAN EDUCATION

This legislation amends portions of the Indian Education Amendments of 1978, providing procedures governing the manner in which BIA-operated and tribal contract schools are administered. The amendments address areas as immunization standards, school closures, academic standards, school boundaries, and the education functions of the Bureau of Indian Affairs. These amendments also contain provisions governing personnel, management information systems, audits, and employee benefits.

This legislation also reauthorizes title IV, the Indian Education Act programs, which include assistance to public schools serving Indian students, fellowships, educational personnel training, pilot demonstrations and planning projects, resource centers, and the National Advisory Council on Indian Education.

I would like to commend the work of the committees, as well as Senator ANDREWS and the Senate Select Committee on Indian Affairs for their work on this program.

DEPARTMENT OF EDUCATION ORGANIZATION

This legislation provides that the Office of Migrant Education shall be located under the Assistant Secretary of Elementary and Secondary Education.

Under the Department of Education reorganization in 1983, the Office of Migrant Education was demoted and placed under the Office of Compensatory Education programs. The result of this reorganization was to severely impact the coordination of this unique program. The Migrant Education Program is unique in its service to migrant children by coordinating the records of these children—health as well as educational—in order to facili-

tate their education as they follow the migrant stream.

The reorganization severely disrupted the operation of this successful program. This legislation is intended to require that this office be located under the Assistant Secretary for Elementary and Secondary Education, where it should be properly administered.

Initially, this amendment additionally provided for reorganization of the Women's Educational Equity Program and the Equity Training and Technical Assistance Program. Because of the reorganization, the effectiveness of these programs was also severely undercut. Unfortunately, these provisions were dropped in conference. I hope the next Congress will conduct hearings on the operation of these programs.

AUDIT REFORM

One issue that was included in the House legislation but dropped in conference was the audit reform provisions. The educational audit process has been the subject of controversy with certain audit practices having adverse effects on the programs they were meant to protect. The House, after extensive hearings on this issue, passed certain amendments to the audit process.

Unfortunately, because of the way in which this legislation was referred to the Senate, we were unable to give full consideration to the amendments which were so diligently considered by our House colleagues.

Although we did not ultimately accept the House's audit reform provisions, we made a commitment to give top priority to this issue in the next Congress. I intend to be a vigorous participant in the consideration of any legislation in this area.

Mr. DODD. Mr. President, I am pleased that both Houses of Congress have reached agreement on H.R. 11, a bill to authorize money to support eight separate and important education programs.

In addition, I am pleased to have been able to lend my support to the efforts to extend these vitally important programs.

One component of the bill, in my opinion, which is most deserving of congressional consideration and reauthorization is that of title VII of the Elementary and Secondary Act of 1965 [ESEA] which provides support for bilingual education programs.

Traditional transitional bilingual education programs, development of new and innovative programs, academic excellence, and family literacy programs all come under the auspices of this congressionally-sponsored legislation. In addition, support is also provided for teacher training and basic education research, evaluation and dissemination activities.

Of additional significance in the reauthorization of title VII of ESEA is the unambiguous intent of the Federal Government to ensure equal access to an adequate education for all students of limited English proficiency.

The role of the Federal Government in assisting quality education programs, however, has been the subject of intense debate for many years. This is especially true of programs such as bilingual education.

In recent years, opponents of bilingual education have argued that instructional methods involving the child's native language is counterproductive. This debate, unfortunately, stems more from politics that from a real concern for the best interest of limited English proficient [LEP] children.

Without programs like the Federal Bilingual Education Program such children are being denied a basic right to an adequate education. I have studied the evidence closely, Mr. President, and I see no reason to challenge what the Supreme Court concluded 10 years ago in Lau versus Nichols,

> Basic English skills are at the very core of what these public schools teach. Imposition of a requirement that, before a child can effectively participate in the education program, he must already have acquired those basic skills is to make a mockery of public education. We know that those who do not understand English are certain to find their classroom experiences wholly incomprehensible and in no way meaningful.

Title VII of ESEA is a result of this landmark decision. Basically, Title VII provides subject matter instruction in the native language of a child not proficient in English, while he or she receives English language instruction. The primary purpose of Title VII is to assist these students to master the English language while ensuring they do not fall behind in other academic programs.

The authorization of Title VII becomes crucially more important as the numbers of LEP children rapidly increase. For example, recent statistics from the Department of Education show that there are currently about 3.5 million children in the United States who have not achieved full control of the English language. In addition, the National Center for Education Statistics estimates the numbers of limited English proficient children aged 5 to 14 will increase by 400,000 in this decade and another 600,000 in the 1990's.

Other national statistics reveal that two-thirds of all LEP children are Hispanic while the largest remaining segments are of Asian and American Indian ancestry. The numbers also show the toll imposed on many of them by the lack of English language skills.

For example, almost 60 percent of Hispanics 25 years and older have not completed high school: one-third of all Hispanic youths aged 16 to 24 have dropped out of school completely; and in some urban areas, dropout rates are as high as 74 to 88 percent. It may be interesting to note that approximately 1.8 million of these students are not receiving any bilingual education. And, more importantly, these numbers are certain to escalate unless adequate bilingual education instruction—which includes structured english language components—is made available to LEP students.

Not everyone concerned with education issues, however, agrees with the concept of bilingual education. Some opponents, for example, use statistics from school districts who offer immersion programs—subject matter instruction given only in the English language—in lieu of bilingual education programs.

Some studies have focused on the fact that 45 percent of those students participating in immersion programs have, within 1 year, read at their grade level and joined regular classes.

At first glance, one might quickly assume immersion to be the correct method of instruction for all students at the expense of bilingual education. Nevertheless, other important information must be considered before endorsing this concept.

Many children involved in those immersion programs with high statistical rates of academic success came from well-educated, multilingual families. In addition, many of these students already possessed a good education background in their native language.

In addition, these students were placed in classes of approximately 20 children and received intense coaching in written and oral vocabulary by teachers who had received special education training. It is little wonder that these students scored above the 50th percentile of standardized tests.

On the other hand, many of the newly established students, or their families, have recently immigrated to the United States to escape severe economic, political, or social crises of their native homelands. These students, for the most part, have been forced to deal with the realities of social injustice, war, and poverty. They were unable, through no fault of their own, to become academically proficient in their native tongue.

It is not surprising that many of these disadvantaged students have been hard-pressed to perform on a par with their English-proficient counterparts who have had years of competent, graduated instruction.

In addition, many less affluent school districts have been unable to afford quality, intensive immersion programs or the special teacher training courses necessary to assist children in acquiring adequate English language skills and mastery of course cur-

ricula. This is one reason the reauthorization of bilingual education was so crucial.

One new and important component of bilingual education as outlined in H.R. 11 is that of developmental bilingual education. These programs would encourage a mix of students whose native language is English and those whose native language is other than English. Courses will be taught in both languages so that students are able to assist each other in their studies while gaining an appreciation for another's culture and language.

This approach should prove to be a positive asset to public schools that have long been deficient in foreign language training. One only has to look at the events in the present international marketplace and the success of other industrialized nations to appreciate the merits of being fluent in other languages.

For example, many American businessmen currently are relying on individuals in their host countries for assistance in language, contract, and other business translations. In addition, U.S. trade deficits might well pass the $100 billion mark this year. It has been estimated that approximately 25,000 American jobs are lost for every $1 billion increase in the trade deficit. This translates into approximately 1 million jobs lost in the last 3 years.

As national legislators, we have a special responsibility to promote adequate education for all students, regardless of race, creed or national origin.

The provisions in H.R. 11, in my judgment, are one small but important step in addressing the special education needs of limited English proficient children as well as improving the foreign language capacities of our public schools.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. BYRD. Mr. President, I move to lay that motion to reconsider on the table.

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXTENSION OF TIME FOR ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent that notwithstanding the previous order, it be in order to proceed as in morning business for an additional 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

FEDERAL DISTRICT COURT ORGANIZATION ACT

Mr. BAKER. Mr. President, I am advised that Calendar No. 1265, H.R. 6163, is now ready for consideration. If the minority leader has no objection, I will ask the Senate to proceed to the consideration of that measure.

Mr. BYRD. Mr. President, there is no objection on this side.

Mr. BAKER. I thank the minority leader.

Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 1265, H.R. 6163.

The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 6163) to amend the title 28, United States Code, with respect to the places where court shall be held in certain judicial districts, and for other purposes.

The PRESIDING OFFICER. Without objection, the Senate will proceed to consider the bill.

AMENDMENT NO. 6995

(Purpose: To clarify the circumstances under which a trademark may be cancelled, to create a State Justice Institute, and to amend title 17, United States Code, regarding semiconductor chips, and for other purposes)

Mr. BAKER. Mr. President, I send to the desk an amendment in the nature of a substitute, on behalf of Senator MATHIAS, and Senator LEAHY.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Tennessee [Mr. BAKER], on behalf of Senator MATHIAS, and Senator LEAHY, proposes an amendment numbered 6995.

Mr. BAKER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

TITLE I

SHORT TITLE

SEC. 101. This title may be cited as the "Trademark Clarification Act of 1984".

AMENDMENT TO THE TRADEMARK ACT

SEC. 102. Section 14(c) of the Trademark Act of 1946, commonly known as the Lanham Trademark Act (15 U.S.C. 1064(c)) is amended by adding before the semicolon at the end of such section a period and the following: "A registered mark shall not be deemed to be the common descriptive name of goods or services solely because such mark is also used as a name of or to identify a unique product or service. The primary significance of the registered mark to the relevant public rather than purchaser motivation shall be the test for determining whether the registered mark has become the common descriptive name of goods or services in connection with which it has been used".

DEFINITIONS

SEC. 103. Section 45 of such Act (15 U.S.C. 1127) is amended as follows:

(1) Strike out "The term 'trade-mark' includes any word, name, symbol, or device or any combination thereof adopted and used by a manufacturer or merchant to identify his goods and distinguish them from those manufactured or sold by others." and insert in lieu thereof the following: "The term 'trademark' includes any word, name, symbol, or device or any combination thereof adopted and used by a manufacturer or merchant to identify and distinguish his goods, including a unique product, from those manufactured or sold by others and to indicate the source of the goods, even if that source is unknown.".

(2) Strike out "The term 'service mark' means a mark used in the sale or advertising of services to identify the services of one person and distinguish them from the services of others." and insert in lieu thereof the following: "The term 'service mark' means a mark used in the sale or advertising of services to identify and distinguish the services of one person, including a unique service, from the services of others and to indicate the source of the services, even if that source is unknown.".

(3) Add at the end of subparagraph (b) in the paragraph which begins "A mark shall be deemed to be 'abandoned' ", the following new sentence: "Purchaser motivation shall not be a test for determining abandonment under this subparagraph.".

JUDGMENTS

SEC. 104. Nothing in this title shall be construed to provide a basis for reopening of any final judgment entered prior to the date of enactment of this title.

TITLE II

SHORT TITLE

SEC. 201. This title may be cited as the "State Justice Institute Act of 1984".

DEFINITIONS

SEC. 202. As used in this title, the term—

(1) "Board" means the Board of Directors of the Institute;

(2) "Director" Means the Executive Director of the Institute;

(3) "Governor" means the Chief Executive Officer of a State;

(4) "Institute" means the State Justice Institute;

(5) "recipient" means any grantee, contractor, or recipient of financial assistance under this title;

(6) "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States; and

(7) "Supreme Court" means the highest appellate court within a State unless, for the purposes of this title, a constitutionally or legislatively established judicial council acts in place of that court.

ESTABLISHMENT OF INSTITUTE; DUTIES

SEC. 203. (a) There is established a private nonprofit corporation which shall be known as the State Justice Institute. The purpose of the Institute shall be to further the development and adoption of improved judicial administration in State courts in the United States. The Institute may be incorporated in any State pursuant to section 204

(a)(6) of this title. To the extent consistent with the provisions of this title, the Institute may exercise the powers conferred upon a nonprofit corporation by the laws of the State in which it is incorporated.

(b) The Institute shall—

(1) direct a national program of assistance designed to assure each person ready access to a fair and effective system of justice by providing funds to—

(A) State courts;

(B) national organizations which support and are supported by State courts; and

(C) any other nonprofit organization that will support and achieve the purposes of this title;

(2) foster coordination and cooperation with the Federal judiciary in areas of mutual concern;

(3) promote recognition of the importance of the separation of powers doctrine to an independent judiciary; and

(4) encourage education for judges and support personnel of State court systems through national and State organizations, including universities.

(c) The Institute shall not duplicate functions adequately performed by existing nonprofit organizations and shall promote, on the part of agencies of State judicial administration, responsibility for the success and effectiveness of State court improvement programs supported by Federal funding.

(d) The Institute shall maintain its principal offices in the State in which it is incorporated and shall maintain therein a designated agent to accept service of process for the Institute. Notice to or service upon the agent shall be deemed notice to or service upon the Institute.

(e) The Institute, and any program assisted by the Institute, shall be eligible to be treated as an organization described in section 170(c)(2)(B) of the Internal Revenue Code of 1954 (26 U.S.C. 170(c)(2)(B) and as an organization described in section 510(c)(3) of the Internal Revneue Code of 1954 (26 U.S.C. 501(c)(3)) which is exempt from taxation under section 501(a) of such Code (26 U.S.C. 501(a)). If such treatments are conferred in accordance with the provisions of such Code, the Institute, and programs assisted by the Institute, shall be subject to all provisions of such Code relevant to the conduct of organizations exempt from taxation.

(f) The Institution shall afford notice and reasonable opportunity for comment to interested parties prior to issuing rules, regulations, guidelines, and instructions under this title, and it shall publish in the Federal Register, at least thirty days prior to their effective date, all rules, regulations, guidelines, and instructions.

BOARD OF DIRECTORS

SEC. 204. (a)(1) The Institute shall be supervised by a Board of Directors, consisting of eleven voting members to be appointed by the President, by and with the advice and consent of the Senate. The Board shall have both judicial and nonjudicial members, and shall, to the extent practicable, have a membership representing a variety of backgrounds and reflecting participation and interest in the administration of justice.

(2) The Board shall consist of—

(A) six judges, to be appointed in the manner provided in pargarph (3);

(B) one State court administrator, to be appointed in the manner provided in paragraph (3); and

(C) four members from the public sector, nor more than two of whom shall be of the same political party, to be appointed in the manner provided in paragraph (4).

(3) The President shall appoint six judges and one State court administrator from a list of candidates submitted to the President by the Conference of Chief Justices. The Conference of Chief Justice shall submit a list of at least fourteen individuals, including judges and State court administrators, whom the conference considers best qualified to serve on the Board. Whenever the term of any of the members of the Board described in subparagraphs (A) and (B) terminates and that member is not to be reappointed to a new term, and whenever a vacancy otherwise occurs among those members, the President shall appoint a new member from a list of three qualified individuals submitted to the President by the Conference of Chief Justices. The President may reject any list of individuals submitted by the Conference under this paragraph and, if such a list of so rejected, the President shall request the Conference to submit to him another list of qualified individuals. Prior to consulting with or submitting a list to the President, the Conference of Chief Justices shall obtain and consider the recommendations of all interested organizations and individuals concerned with the administration of justice and the objectives of this title.

(4) In addition to those members appointed under paragrph (3), the President shall appoint four members from the public sector to serve on the Board.

(5) The President shall make the initial appointments of members of the Board under this subsection within ninety days after the effective date of this title. In the case of any other appointment of a member, the President shall make the appointment not later than ninety days after the previous term expires or the vacancy occurs, as the case may be. The Conference of Chief Justices shall submit lists of candidates under paragraph (3) in a timely manner so that the appointments can be made within the time periods specified in this paragraph.

(6) The initial members of the Board of Directors shall be the incorporators of the Institute and shall determine the State in which the Institute is to be incorporated.

(b)(1) Except as provided in paragraph (2), the term of each voting member of the Board shall be three years. Each member of the Board shall continue to serve until the successor to such member has been appointed and qualified.

(2) Five of the members first appointed by the President shall serve for a term of two years. Any member appointed to serve an unexpired term which has arisen by virtue of the death, disability, retirement, or resignation of a member shall be appointed only for such unexpired term, but shall be eligible for reappointment.

(3) The term of initial members shall commence from the date of the first meeting of the Board, and the term of each member other than an initial member shall commence from the date of termination of the preceding term.

(c) No member shall be reappointed to more than two consecutive terms immediately following such member's initial term.

(d) Members of the Board shall serve without compensation, but shall be reimbursed for actual and necessary expenses incurred in the performance of their official duties.

(e) The members of the Board shall not, by reason of such membership, be considered officers or employees of the United States.

(f) Each member of the Board shall be entitled to one vote. A simple majority of the membership shall constitute a quorum for the conduct of business. The Board shall act upon the concurrence of a simple majority of the membership present and voting.

(g) The Board shall select from among the voting members of the Board a chairman, the first of whom shall serve for a term of three years. Thereafter, the Board shall annually elect a chairman from among its voting members.

(h) A member of the Board may be removed by a vote of seven members for malfeasance in office, persistent neglect of, or inability to discharge duties, or for any offense involving moral turpitude, but for no other cause.

(i) Regular meetings of the Board shall be held quarterly. Special meetings shall be held from time to time upon the call of the chairman, acting at his own discretion or pursuant to the petition of any seven members.

(j) All meetings of the Board, any executive committee of the Board, and any council established in connection with this title, shall be upon and subject to the requirements and provisions of section 552b of title 5, United States Code, relating to open meetings.

(k) In its direction and supervision of the activities of the Institute, the Board shall—

(1) establish policies and develop such programs for the Institute that will further the achievement of its purpose and performance of its functions;

(2) establish policy and funding priorities and issue rules, regulations, guidelines, and instructions pursuant to such priorities;

(3) appoint and fix the duties of the Executive Director of the Institute, who shall serve at the pleasure of the Board and shall be nonvoting ex officio member of the Board;

(4) present to other Government departments, agencies, and instrumentalities whose programs or activities relate to the administration of justice in the State judiciaries of the United States, the recommendations of the Institute for the improvement of such programs or activities;

(5) consider and recommend to both public and private agencies aspects of the operation of the State courts of the United States considered worthy of Special Study; and

(6) award grants and enter into cooperative agreements or contracts pursuant to section 206 (a).

OFFICERS AND EMPLOYEES

SEC. 205. (a)(1) The Director, subject to general policies established by the Board, shall supervise the activities of persons employed by the Institute and may appoint and remove such employees as he determines necessary to carry out the purposes of the Institute. The Director shall be responsible for the executive and administrative operations of the Institute, and shall perform such duties as are delegated to such Director by the Board and the Institute.

(2) No political test or political qualification shall be used in selecting, appointing, promoting, or taking any other personnel action with respect to any officer, agent, or employee of the Institute, or in selecting or monitoring any grantee, contractor, person, or entity receiving financial assistance under this title.

(b) Officers and employees of the Institute shall be compensated at rates determined by the Board, but not in excess of the

rate of level V of the Executive Schedule specified in section 5316 of title 5, United States Code.

(c) (1) Except as otherwise specifically provided in this title, the Institute shall not be considered a department, agency, or instrumentality of the Federal Government.

(2) This title does not limit the authority of the Office of Management and Budget to review and submit comments upon the Institute's annual budget request at the time it is transmitted to the Congress.

(d) (1) Except as provided in paragraph (2), officers and employees of the Institute shall not be considered officers or employees of the United States.

(2) Officers and employees of the Institute shall be considered officers and employees of the United States solely for the purposes of the following provisions of title 5, United States Code: Subchapter I of chapter 81 (relating to compensation for work injuries); chapter 83 (relating to civil service retirement); chapter 87 (relating to life insurance); and chapter 89 (relating to health insurance). The Institute shall make contributions under the provisions referred to in this subsection at the same rates applicable to agencies of the Federal Government.

(e) The Institute and its officers and employees shall be subject to the provisions of section 552 of title 5, United States Code, relating to freedom of information.

GRANTS AND CONTRACTS

SEC. 206. (a) The Institute is authorized to award grants and enter into cooperative agreements or contracts, in a manner consistent with subsection (b), in order to—

(1) conduct research, demonstrations, or special projects pertaining to the purposes described in this title, and provide technical assistance and training in support of tests, demonstrations, and special projects;

(2) serve as a clearinghouse and information center, where not otherwise adequately provided, for the preparation, publication, and dissemination of information regarding State judicial systems;

(3) participate in joint projects with other agencies, including the Federal Judicial Center, with respect to the purposes of this title;

(4) evaluate, when appropriate, the programs and projects carried out under this title to determine their impact upon the quality of criminal, civil, and juvenile justice and the extent to which they have met or failed to meet the purposes and policies of this title;

(5) encourage and assist in the furtherance of judicial education;

(6) encourage, assist, and serve in a consulting capacity to State and local justice system agencies in the development, maintenance, and coordination of criminal, civil, and juvenile justice programs and services; and

(7) be responsible for the certification of national programs that are intended to aid and improve State judicial systems.

(b) The Institute is empowered to award grants and enter into cooperative agreements or contracts as follows:

(1) The Institute shall give priority to grants, cooperative agreements, or contracts with—

(A) State and local courts and their agencies,

(B) national nonprofit organizations controlled by, operating in conjunction with and serving the judicial branches of State governments; and

(C) national nonprofit organizations for the education and training of judges and support personnel of the judicial branch of State governments.

(2) The Institute may, if the objective can better be served thereby, award grants or enter into cooperative agreements or contracts with—

(A) other nonprofit organizations with expertise in judicial administration;

(B) institutions of higher education;

(C) individuals, partnerships, firms, or corporations; and

(D) private agencies with expertise in judicial administration.

((3) Upon application by an appropriate Federal, State, or local agency or institution and if the arrangements to be made by such agency or institution will provide services which could not be provided adequately through nongovernmental arrangements, the Institute may award a grant or enter into a cooperative agreement or contract with a unit of Federal, State, or local government other than a court.

(4) Each application for funding by a State or local court shall be approved, consistent with State law, by the State's supreme court, or its designated agency or council, which shall receive, administer, and be accountable for all funds awarded by the Institute to such courts.

(c) Funds available pursuant to grants, cooperative agreements, or contracts awarded under this section may be used—

(1) to assist State and local court systems in establishing appropriate procedures for the selection and removal of judges and other court personnel and in determining appropriate levels of compensation;

(2) to support education and training programs for judges and other court personnel, for the performance of their general duties and for specialized functions, and to support national and regional conferences and seminars for the dissemination of information on new developments and innovative techniques;

(3) to conduct research on alternative means for using nonjudicial personnel in court decisionmaking activities, to implement demonstration programs to test innovative approaches, and to conduct evaluations of their effectiveness;

(4) to assist State and local courts in meeting requirements of Federal law applicable to recipients of Federal funds;

(5) to support studies of the appropriateness and efficacy of court organizations and financing structures in particular States, and to enable States to implement plans for improved court organization and finance;

(6) to support State court planning and budgeting staffs and to provide technical assistance in resource allocation and service forecasting techniques;

(7) to support studies of the adequacy of court management systems in State and local courts and to implement and evaluate innovative responses to problems of record management, data processing, court personnel management, reporting and transcription of court proceedings, and juror utilization and management;

(8) to collect and compile statistical data and other information on the work of the courts and on the work of other agencies which relate to and effect the work of courts;

(9) to conduct studies of the causes of trial and appellate court delay in resolving cases, and to establish and evaluate experimental programs for reducing case processing time;

(10) to develop and test methods for measuring the performance of judges and courts and to conduct experiments in the use of such measures to imporve the functioning of such judges and courts;

(11) to support studies of court rules and procedures, discovery devices, and evidentiary standards, to identify problems with the operation of such rules, procedures, devices, and standards, to devise alternative approaches to better reconcile the requirements of due process with the need for swift and certain justice, and to test the utility of those alternative approaches;

(12) to support studies of the outcomes of cases in selected subject matter areas to identify instances in which the substance of justice meted out by the courts diverges from public expectations of fairness, consistency, or equity, to propose alternative approaches to the resolving of cases in problem areas, and to test and evaluate those alternatives;

(13) to support programs to increase court responsiveness to the needs of citizens through citizen education, improvement of court treatment of witnesses, victims, and jurors, and development of procedures for obtaining and using measures of public satisfaction with court processes to improve court performance;

(14) to test and evaluate experimental approaches to providing increased citizen access to justice, including processes which reduce the cost of litigating common grievances and alternative techniques and mechanisms for resolving disputes between citizens; and

(15) to carry out such other programs, consistent with the purposes of this title, as may be deemed appropriate by the Institute.

(d) The Institute shall incorpate in any grant, cooperative agreement, or contract awarded under this section in which a State or local judicial system is the recipient, the requirement that the recipient provide a match, from private to public sources, not less than 50 per centum of the total cost of such grant, cooperative agreement, or contract, except that such requirement may be waived in exceptionally rare circumstances upon the approval of the chief justice of the highest court of the State and a majority of the Board of Directors.

(e) The Institute shall monitor and evaluate, or provide for independent evaluations of, programs supported in whole or in part under this title to ensure that the provisions of this title, the bylaws of the Institute, and the applicable rules, regulations, and guidelines promulgated pursuant to this title, are carried out.

(f) The Institute shall provide for an independent study of the financial and technical assistance programs under this title.

LIMITATIONS ON GRANTS AND CONTRACTS

SEC. 207. (a) With respect to grants made and contracts or cooperative agreements entered into under this title, the Institute shall—

(1) ensure that no funds made available to recipients by the Institute shall be used at any time, directly or indirectly, to influence the issuance, amendment, or revocation of any Executive order or similar promulgation by any Federal, State, or local agency, or to undertake to influence the passage or defeat of any legislation or constitutional amendment by the Congress of the United States, or by any State or local legislative body, or any State proposal by initiative petition, or of any referendum, unless a governmental agency, legislative body, a committee, or a member thereof—

(A) requests personnel of the recipients to testify, draft, or review measures or to make representations to such agency, body, committee, or member; or

(B) is considering a measure directly affecting the activities under this title of the recipient or the Institute;

(2) ensure all personnel engaged in grant, cooperative agreement or contract assistance activities supported in whole or part by the Institute refrain, while so engaged, from any partisan political activity; and

(3) ensure that each recipient that files with the Institute a timely application for refunding is provided interim funding necessary to maintain its current level of activities until—

(A) the application for refunding has been approved and funds pursuant thereof received; or

(B) the application for refunding has been finally denied in accordance with section 9 of this title.

(b) No funds made available by the Institute under this title, either by grant, cooperative agreement, or contract, may be used to support or conduct training programs for the purpose of advocating particular nonjudicial public policies or encouraging nonjudicial political activities.

(c) The authorization to enter into cooperative agreements, contracts or any other obligation under this title shall be effective only to the extent, and in such amounts, as are provided in advance in appropriation Acts.

(d) To ensure that funds made available under this Act are used to supplement and improve the operation of State courts, rather than to support basic court services, funds shall not be used—

(1) to supplant State of local funds currently supporting a program or activity; or

(2) to construct court facilities or structures, except to remodel existing facilities to demonstrate new architectural or technological techniques, or to provide temporary facilities for new personnel or for personnel involved in a demonstration or experimental program.

RESTRICTIONS ON ACTIVITIES OF THE INSTITUTE

SEC. 208. (a) The Institute shall not—

(1) participate in litigation unless the Institute or a recipient of the Institute is a party, and shall not participate on behalf of any client other than itself;

(2) interfere with the independent nature of any State judicial system or allow financial assistance to be used for the funding of regular judicial and administrative activities of any State judicial system other than pursuant to the terms of any grant, cooperative agreement, or contract with the Institute, consistent with the requirements of this title; or

(3) undertake to influence the passage or defeat of any legislation by the Congress of the United States or by any State or local legislative body, except that personnel of the Institute may testify or make other appropriate communication—

(A) when formally requested to do so by a legislative body, committee, or a member thereof;

(B) in connection with legislation or appropriations directly affecting the activities of the Institute; or

(C) in connection with legislation or appropriations dealing with improvement in the State judiciary, consistent with the provisions of this title.

(b)(1) The Institute shall have no power to issue any shares of stock, or to declare or pay any dividends.

(2) No part of the income or assets of the Institute shall enure to the benefit of any director, officer, or employee, except as reasonable compensation for services or reimbursement for expenses.

(3) Neither the Institute nor any recipient shall contribute or make available Institute funds or program personnel or equipment to any political party or association, or the campaign of any candidate for public or party office.

(4) The Institute shall not contribute or make available Institute funds or program personnel or equipment for use in advocating or opposing any ballot measure, initiative, or referendum.

(c) Officers and employees of the Institute or of recipients shall not at any time intentionally identify the Institute or the recipient with any partisan or nonpartisan political activity associated with a political party or association, or the campaign of any candidate for public or party office.

SPECIAL PROCEDURES

SEC. 209. The Institute shall prescribe procedures to ensure that—

(1) financial assistance under this title shall not be suspended unless the grantee, contractor, person, or entity receiving financial assistance under this title has been given reasonable notice and opportunity to show cause why such actions should not be taken; and

(2) financial assistance under this title shall not be terminated, an application for refunding shall not be denied, and a suspension of financial assistance shall not be continued for longer than thirty days, unless the recipient has been afforded reasonable notice and opportunity for a timely, full, and fair hearing, and, when requested, such hearing shall be conducted by an independent hearing examiner. Such hearing shall be held prior to any final decision by the Institute to terminate financial assistance or suspend or deny funding. Hearing examiners shall be appointed by the Institute in accordance with procedures established in regulations promulgated by the Institute.

PRESIDENTIAL COORDINATION

SEC. 210. The President may, to the extent not inconsistent with any other applicable law, direct that appropriate support functions of the Federal Government may be made available to the Institute in carrying out its functions under this title.

RECORDS AND REPORTS

SEC. 211. The Institute is authorized to require such reports as it deems necessary from any recipient with respect to activities carried out pursuant to this title.

(b) The Institute is authorized to prescribe the keeping of records with respect to funds provided by any grant, cooperative agreement, or contract under this title and shall have access to such records at all reasonable times for the purpose of ensuring compliance with such grant, cooperative agreement, or contract or the terms and conditions upon which financial assistance was provided.

(c) Copies of all reports pertinent to the evaluation, inspection, or monitoring of any recipient shall be submitted on a timely basis to such recipient, and shall be maintained in the principal office of the Institute for a period of at least five years after such evaluation, inspection, or monitoring. Such reports shall be available for public inspection during regular business hours, and copies shall be furnished, upon request, to interested parties upon payment of such reasonable fees as the Institute may establish.

(d) Non-Federal funds received by the Institute, and funds received for projects funded in part by the Institute or by any recipient from a source other than the Institute, shall be accounted for and reported as receipts and disbursements separate and distinct from Federal funds.

AUDITS

SEC. 212. (a)(1) The accounts of the Institute shall be audited annually. Such audits shall be conducted in accordance with generally accepted auditing standards by independent certified public accountants who are certified by a regulatory authority of the jurisdiction in which the audit is undertaken.

(2) The audits shall be conducted at the place or places where the accounts of the Institute are normally kept. All books, accounts, financial records, reports, files, and other papers or property belonging to or in use by the Institute and necessary to facilitate the audits shall be made available to the person or persons conducting the audits. The full facilities for verifying transactions with the balances and securities held by depositories, fiscal agents, and custodians shall be afforded to any such person.

(3) The report of the annual audit shall be filed with the General Accounting Office and shall be available for public inspection during business hours at the principal office of the Institute.

(b)(1) In addition to the annual audit, the financial transactions of the Institute for any fiscal year during which Federal funds are available to finance an portion of its operations may be audited by the General Accounting Office in accordance with such rules and regulations as may be prescribed by the Comptroller General of the United States.

(2) Any such audit shall be conducted at the place or places where accounts of the Institute are normally kept. The representatives of the General Accounting Office shall have access to all books, accounts, financial records, reports, files, and other papers or property belonging to or in use by the Institute and necessary to facilitate the audit. The full facilities for verifying transactions with the balances and securities held by depositories, fiscal agents, and custodians shall be afforded to such representatives. All such books, accounts, financial records, reports, files, and other papers or property of the Institute shall remain in the possession and custody of the Institute throughout the period beginning on the date such possession or custody commences and ending three years after such date, but the General Accounting Office may require the retention of such books, accounts, financial records, reports, files, and other papers or property for a longer period under section 3523(c) of title 31, United States Code.

(3) A report of such audit shall be made by the Comptroller General to the Congress and to the Attorney General, together with such recommendations with respect thereto as the Comptroller General deems advisable.

(c)(1) The Institute shall conduct, or require each recipient to provide for, an annual fiscal audit. The report of each such audit shall be maintained for a period of at least five years at the principal office of the Institute.

(2) The Institute shall submit to the Comptroller General of the United States copies of such reports, and the Comptroller

General may, in addition, inspect the books, accounts, financial records, files, and other papers or property belonging to or in use by such grantee, contractor, person, or entity, which relate to the disposition or use of funds received from the Institute. Such audit reports shall be available for public inspection during regular business hours, at the principal office of the Institute.

REPORT BY ATTORNEY GENERAL

SEC. 213. On October 1, 1978, the Attorney General, in consultation with the Federal Judicial Center, shall transmit to the Committees on the Judiciary of the Senate and the House of Representatives a report on the effectiveness of the Institute in carrying out the duties specified in section 203 (b). Such report shall include an assessment of the cost effectiveness of the program as a whole and, to the extent practicable, of individual grants, an assessment of whether the restrictions and limitations specified in sections 207 and 208 have been respected, and such recommendations as the Attorney General, in consultation with the Federal Judicial Center, deems appropriate.

AMENDMENTS TO OTHER LAWS

SEC. 214. Section 620 (b) of title 28, United States Code, is amended by—

(1) striking out "and" at the end of paragraph (3);

(2) striking out the period at the end of paragraph (4) and inserting in lieu thereof "; and"; and

(3) inserting the following new paragraph (5) at the end thereof:

"(5) Insofar as may be consistent with the performance of the other functions set forth in this section, to cooperate with the State Justice Institute in the establishment and coordination of research and programs concerning the administration of justice.".

AUTHORIZATIONS

SEC. 215. There are authorized to be appropiated to carry out the purposes of this title, $13,000,000 for fiscal year 1986, $15,000,000 for fiscal year 1987, and $15,000,000 for fiscal year 1988.

EFFECTIVE DATE

SEC. 216. The provisions of this title shall take effect on October 1, 1985.

TITLE III

SHORT TITLE

SEC. 301. This title may be cited as the "Semiconductor Chip Protection Act of 1984".

PROTECTION OF SEMICONDUCTOR CHIP PRODUCTS

SEC. 302. Title 17, United States Code, is amended by adding at the end thereof the following new chapter:

"CHAPTER 9—PROTECTION OF SEMICONDUCTOR CHIP PRODUCTS

"Sec.
"901. Definitions.
"902. Subject matter of protection.
"903. Ownership and transfer.
"904. Duration of protection.
"905. Exclusive rights in mask works.
"906. Limitation on exclusive rights; reverse engineering; first sale.
"907. Limitation on exclusive rights: innocent infringement.
"908. Registration of claims of protection.
"909. Mask work notice.
"910. Enforcement of exclusive rights.
"911. Civil actions.
"912. Relation to other laws.
"913. Transitional provisions.
"914. International transitional provisions.

"§ 901. Definitions

"(a) As used in this chapter—

"(1) a 'semiconductor chip product' is the final or intermediate form of any product—

"(A) having two or more layers of metallic, insulating, or semiconductor material, deposited or otherwise placed on, or etched away or otherwise removed from, a piece of semiconductor material in accordance with a predetermined pattern; and

"(B) intended to perform electronic circuitry functions;

"(2) a 'mask work' is a series of related images, however fixed or encoded—

"(A) having or representing the predetermined, three-dimensional pattern of metallic, insulating, or semiconductor material present or removed from the layers of a semiconductor chip product; and

"(B) in which series the relation of the images to one another is that each image has the pattern of the surface of one form of the semiconductor chip product;

"(3) a mask work is 'fixed' in a semiconductor chip product when its embodiment in the product is sufficiently permanent or stable to permit the mask work to be perceived or reproduced from the product for a period of more than transitory duration;

"(4) to 'distribute' means to sell, or to lease, bail, or otherwise transfer, or to offer to sell lease, bail, or otherwise transfer;

"(5) to 'commercially exploit' a mask work is to distribute to the public for commercial purposes a semiconductor chip product embodying the mask work; except that such term includes an offer to sell or transfer a semiconductor chip product only when the offer is in writing and occurs after the mask work is fixed in the semiconductor chip product;

"(6) the 'owner' of a mask work is the person who created the mask work, the legal representative of that person if that person is deceased or under a legal incapacity, or a party to whom all the rights under this chapter of such person or representatives are transferred in accordance with section 903(b); except that, in the case of a work made within the scope of a person's employment, the owner is the employer for whom the person created the mask work or a party to whom all the rights under this chapter of the employer are transferred in accordance with section 903(b);

"(7) an 'innocent purchaser' is a person who purchases a semiconductor chip product in good faith and without having notice of protection with respect to the semiconductor chip product;

"(8) having 'notice of protection' means having actual knowledge that, or reasonable grounds to believe that, a mask work is protected under this chapter; and

"(9) an 'infringing semiconductor chip product' is a semiconductor chip product which is made, imported, or distributed in violation of the exclusive rights of the owner of a mask work under this chapter.

"(b) For purposes of this chapter, the distribution or importation of a product incorporating a semiconductor chip product as a part thereof is a distribution or importation of that semiconductor chip product.

"§ 902. Subject matter of protection

"(a)(1) Subject to the provision of subsection (b), a mask work fixed in a semiconductor chip product, by or under the authority of the owner of the mask work, is eligible for protection under this chapter if—

"(A) on the date on which the mask work is registered under section 908, or is first commercially exploited anywhere in the world, whichever occurs first, the owner of the mask work is (i) a national or domiciliary of the Untied States, (ii) a national, domciliary, or sovereign authority of a foreign nation that is a party to a treaty affording protection to mask works to which the United States is also a party, or (iii) a stateless person, wherever that person may be domiciled;

"(B) the mask work is first commercially expolited in the United States; or

"(C) the mask work comes within the scope of a Presidential proclamation issued under paragraph (2).

"(2) Whenever the President finds that a foreign nation extends, to mask works of owners who are nationals or domiciliaries of the United States protection (A) on substantially the same basis as that on which the foreign nation extends protection to mask works of its own nationals and domiciliaries and mask works first commercially exploited in that nation, or (B) on substantially the same basis as provided in this chapter, the President may by proclamation extend protection under this chapter to mask works (i) of owners who are, on the date on which the mask works are registered under section 908, or the date on which the mask works are first commercially exploited anywhere in the world, whichever occurs first, nationals, domiciliaries, or sovereign authorities of that nation, or (ii) which are first commercially exploited in that nation.

"(b) Protection under this chapter shall not be available for a mask work that—

"(1) is not original; or

"(2) consists of designs that are staple, commonplace, or familiar in the semiconductor industry, or variations of such designs, combined in a way that, considered as a whole, is not original.

"(c) In no cause does protection under this chapter for a mask work extend to any idea, procedure, process, system, method of operation, concept, principle, or discovery, regardless of the form in which it is described, explained, illustrated, or embodied in such work.

"§ 903. Ownership, transfer, licensing and recordation

"(a) The exclusive rights in a mask work subject to protection under this chapter belong to the owner of the mask work.

"(b) The owner of the exclusive rights in a mask work may transfer all of those rights, or license all or less than all of those rights, by any written instrument signed by such owner or a duly authorized agent of the owner. Such rights may be transferred or licensed by operation of law, may be bequeathed by will, and may pass as personal property by the applicable laws of interstate succession.

"(c)(1) Any document pertaining to a mask work may be recorded in the Copyright Office if the document filed for recordation bears the actual signature of the person who executed it, or if it is accompanied by a sworn or official certification that it is a true copy of the original, signed document. The Register of Copyrights shall, upon receipt of the document and the fee specified pursuant to section 908(d), record the document and return it with a certificate of recordation. The recordation of any transfer or license under this paragraph gives all persons constructive notice of the facts stated in the recorded document concerning the transfer or license.

"(2) In any case in which conflicting transfers of the exclusive rights in a mask work are made, the transfer first executed shall be void as against a subsequent trans-

fer which is made for a valuable consideration and without notice of the first transfer, unless the first transfer is recorded in accordance with paragraph (1) within three months after the date on which it is executed, but in no case later than the day before the date of such subsequent transfer.

"(d) Mask works prepared by an officer or employee of the United States Government as part of that person's official duties are not protected under this chapter, but the United States Government is not precluded from receiving and holding exclusive rights in mask works transferred to the Government under subsection (b).

"§ 904. Duration of protection

"(a) The protection provided for a mask work under this chapter shall commence on the date on which the mask work is registered under section 908, or the date on which the mask work is first commercially exploited anywhere in the world, whichever occurs first.

"(b) Subject to subsection (c) and the provisions of this chapter, the protection provided under this chapter to a mask work shall end ten years after the date on which such protection commences under subsection (a).

"(c) All terms of protection provided in this section shall run to the end of the calendar year in which they would otherwise expire.

"§ 905. Exclusive rights in mask works

"The owner of a mask work provided protection under this chapter has the exclusive rights to do and to authorize any of the following:

"(1) to reproduce the mask work by optical, electronic, or any other means;

"(2) to import or distribute a semiconductor chip product in which the mask work is embodied; and

"(3) to induce or knowingly to cause another person to do any of the acts described in paragraphs (1) and (2).

"§ 906. Limitation on exclusive rights: reverse engineering; first sale

"(a) Notwithstanding the provisions of section 905, it is not an infringement of the exclusive rights of the owner of a mask work for—

"(1) a person to reproduce the mask work solely for the purpose of teaching, analyzing, or evaluating the concepts or techniques embodied in the mask work or the circuitry, logic flow, or organization of components used in the mask work; or

"(2) a person who performs the analysis or evaluation described in paragraph (1) to incorporate the results of such conduct in an original mask work which is made to be distributed.

"(b) Notwithstanding the provisions of section 905(2), the owner of a particular semiconductor chip product made by the owner of the mask work, or by any person authorized by the owner of the mask work, may import, distribute, or otherwise dispose of or use, but not reproduce, that particular semiconductor chip product without the authority of the owner of the mask work.

"§ 907. Limitation on exclusive rights: innocent infringement

"(a) Notwithstanding any other provision of this chapter, an innocent purchaser of an infringing semiconductor chip product—

"(1) shall incur no liability under this chapter with respect to the importation or distribution of units of the infringing semiconductor chip product that occurs before the innocent purchaser has notice of protection with respect to the mask work embodied in the semiconductor chip product; and

"(2) shall be liable only for a reasonable royalty on each unit of the infringing semiconductor chip product that the innocent purchaser imports or distributes after having notice of protection with respect to the mask work embodied in the semiconductor chip product.

"(b) The amount of the royalty referred to in subsection (a) (2) shall be determined by the court in a civil action for infringement unless the parties resolve the issue by voluntary negotiation, mediation, or binding arbitration.

"(c) The immunity of an innocent purchaser from liability referred to in subsection (a) (1) and the limitation of remedies with respect to an innocent purchaser referred to in subsection (a) (2) shall extend to any person who directly or indirectly purchases an infringing semiconductor chip product from an innocent purchaser.

"(d) The provisions of subsections (a), (b), and (c) apply only with respect to those units of an infringing semiconductor chip product that an innocent purchaser purchased before having notice of protection with respect to the mask work embodied in the semiconductor chip product.

"§ 908. Registration of claims of protection

"(a) The owner of a mask work may apply to the Register of Copyrights for registration of a claim of protection in a mask work. Protection of a mask work under this chapter shall terminate if application for registration of a claim of protection in the mask work is not made as provided in this chapter within two years after the date on which the mask work is first commercially exploited anywhere in the world.

"(b) The Register of Copyrights shall be responsible for all administrative functions and duties under this chapter. Except for section 708, the provisions of chapter 7 of this title relating to the general responsibilities, organization, regulatory authority, actions, records, and publications of the Copyright Office shall apply to this chapter, except that the Register of Copyrights may make such changes as may be necessary in applying those provisions to this chapter.

"(c) The application for registration of a mask work shall be made on a form prescribed by the Register of Copyrights. Such form may require any information regarded by the Register as bearing upon the preparation or identification of the mask work, the existence or duration of protection of the mask work under this chapter, or ownership of the mask work. The application shall be accompanied by the fee set pursuant to subsection (d) and the identifying material specified pursuant to such subsection.

"(d) The Register of Copyrights shall by regulation set reasonable fees for the filing of applications to register claims of protection in mask works under this chapter, and for other services relating to the administration of this chapter or the rights under this chapter, taking into consideration the cost of providing those services, the benefits of a public record, and statutory fee schedules under this title. The Register shall also specify the identifying material to be deposited in connection with the claim for registration.

"(e) If the Register of Copyrights, after examining an application for registration, determines, in accordance with the provisions of this chapter, that the application relates to a mask work which is entitled to protection under this chapter, then the Register shall register the claim of protection and issue to the applicant a certificate of registration of the claim of protection under the seal of the Copyright Office. The effective date of registration of a claim of protection shall be the date on which an application, deposit of identifying material, and fee, which are determined by the Register of Copyrights or by a court of competent jurisdiction to be acceptable for registration of the claim, have all been received in the Copyright Office.

"(f) In any action for infringement under this chapter, the certificate of registration of a mask work shall constitute prima facie evidence (1) of the facts stated in the certificate, and (2) that the applicant issued the certificate has met the requirements of this chapter, and the regulations issued under this chapter, with respect to the registration of claims.

"(g) Any applicant for registration under this section who is dissatisfied with the refusal of the Register of Copyrights to issue a certificate of registration under this section may seek judicial review of that refusal by bringing an action for such review in an appropriate United States district court not later than sixty days after the refusal. The provisions of chapter 7 of title 5 shall apply to such judicial review. The failure of the Register of Copyrights to issue a certificate of registration within four months after an application for registration is filled shall be deemed to be a refusal to issue a certificate of registration for purposes of this subsection and section 910(b)(2), except that, upon a showing of good cause, the district court may shorten such four-month period.

"§ 909. Mask work notice

"(a) The owner of a mask work provided protection under this chapter may affix notice to the mask work, and to masks and semiconductor chip products embodying the mask work, in such manner and location as to give reasonable notice of such protection. The Register of Copyrights shall prescribe by regulation, as examples, specific methods of affixation and positions of notice for purposes of this section, but these specifications shall not be considered exhaustive. The affixation of such notice is not a condition of protection under this chapter, but shall constitute prima facie evidence of notice of protection.

"(b) The notice referred to in subsection (a) shall consist of—

"(1) the words 'mask work', the symbol "M", or the symbol mask work (the letter M in a circle); and

"(2) the name of the owner or owners of the mask work or an abbreviation by which the name is recognized or is generally known.

"§ 910. Enforcement of exclusive rights

"(a) Except as otherwise provided in this chapter, any person who violates any of the exclusive rights of the owner of a mask work under this chapter, by conduct in or affecting commerce, shall be liable as an infringer of such rights.

"(b)(1) The owner of a mask work protected under this chapter, or the exclusive licensee of all rights under this chapter with respect to the mask work, shall, after a certificate of registration of a claim of protection in that mask work has been issued under section 908, be entitled to institute a civil action for any infringement with respect to the mask work which is committed after the commencement of protection of the mask work under section 904(a).

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"(2) In any case in which an application for registration of a claim of protection in a mask work and the required deposit of identifying material and fee have been received in the Copyright Office in proper form and registration of the mask work has been refused, the applicant is entitled to institute a civil action for infringement under this chapter with respect to the mask work if notice of the action, together with a copy of the complaint, is served on the Register of Copyrights, in accordance with the Federal Rules of Civil Procedure. The Register may, at his or her option, become a party to the action with respect to the issue of whether the claim of protection is eligible for registration by entering an appearance within sixty days after such service, but the failure of the Register to become a party to the action shall not deprive the court of jurisdiction to determine that issue.

"(c)(1) The Secretary of the Treasury and the United States Postal Service shall separately or jointly issue regulations for the enforcement of the rights set forth in section 905 with respect to importation. These regulations may require, as a condition for the exclusion of articles from the United States, that the person seeking exclusion take any one or more of the following actions:

"(A) Obtain a court order enjoining, or an order of the International Trade Commission under section 337 of the Tariff Act of 1930 excluding, importation of the articles.

"(B) Furnish proof that the mask work involved is protected under this chapter and that the importation of the articles would infringe the rights in the mask work under this chapter.

"(C) Post a surety bond for any injury that may result if the detention or exclusion of the articles proves to be unjustified.

"(2) Articles imported in violation of the rights set forth in section 905 are subject to seizure and forfeiture in the same manner as property imported in violation of the customs laws. Any such forfeited articles shall be destroyed as directed by the Secretary of the Treasury or the court, as the case may be, except that the articles may be returned to the country of export whenever it is shown to the satisfaction of the Secretary of the Treasury that the importer had no reasonable grounds for believing that his or her acts constituted a violation of the law.

"§ 911. Civil actions

"(a) Any court having jurisdiction of a civil action arising under this chapter may grant temporary restraining orders, preliminary injunctions, and permanent injunctions on such terms as the court may deem reasonable to prevent or restrain infringement of the exclusive rights in a mask work under this chapter.

"(b) Upon finding an infringer liable, to a person entitled under section 910(b)(1) to institute a civil action, for an infringement of any exclusive right under this chapter, the court shall award such person actual damages suffered by the person as a result of the infringement. The court shall also award such person the infringer's profits that are attributable to the infringement and are not taken into account in computing the award of actual damages. In establishing the infringer's profits, such person is required to present proof only of the infringer's gross revenue, and the infringer is required to prove his or her deductible expenses and the elements of profit attributable to factors other than the mask work.

"(c) At any time before final judgment is rendered, a person entitled to institute a civil action for infringement may elect, instead of actual damages and profits as provided by subsection (b), an award of statutory damages for all infringements involved in the action, with respect to any one mask work for which any one infringer is liable individually, or for which any two or more infringers are liable jointly and severally, in an amount not more than $250,000 as the court considers just.

"(d) An action for infringement under this chapter shall be barred unless the action is commenced within three years after the claim accrues.

"(e)(1) At any time while an action for infringement of the exclusive rights in a mask work under this chapter is pending, the court may order the impounding, on such terms as it may deem reasonable, of all semiconductor chip products, and any drawings, tapes, masks, or other products by means of which such products may be reproduced, that are claimed to have been made, imported, or used in violation of those exclusive rights. Insofar as practicable, applications for orders under this paragraph shall be heard and determined in the same manner as an application for a temporary restraining order or preliminary injunction.

"(2) As part of a final judgment or decree, the court may order the destruction or other disposition of any infringing semiconductor chip products, and any masks, tapes, or other articles by means of which such products may be reproduced.

"(f) In any civil action arising under this chapter, the court in its discretion may allow the recovery of full costs, including reasonable attorneys' fees, to the prevailing party.

"§ 912. Relation to other laws

"(a) Nothing in this chapter shall affect any right or remedy held by any person under chapters 1 through 8 of this title, or under title 35.

"(b) Except as provided in section 908(b) of this title, references to 'this title' or 'title 17' in chapters 1 through 8 of this title shall be deemed not to apply to this chapter.

"(c) The provisions of this chapter shall preempt the laws of any State to the extent those laws provide any rights or remedies with respect to a mask work which are equivalent to those rights or remedies provided by this chapter, except that such preemption shall be effective only with respect to actions filed on or after January 1, 1986.

"(d) The provisions of sections 1338, 1400(a), and 1498 (b) and (c) of title 28 shall apply with respect to exclusive rights in mask works under this chapter.

"(e) Notwithstanding subsection (c), nothing in this chapter shall detract from any rights of a mask work owner, whether under Federal law (exclusive of this chapter) or under the common law or the statutes of a State, heretofore or hereafter declared or enacted, with respect to any mask work first commercially exploited before July 1, 1983.

"§ 913. Transitional provisions

"(a) No application for registration under section 908 may be filed, and no civil action under section 910 or other enforcement proceeding under this chapter may be instituted, until sixty days after the date of the enactment of this chapter.

"(b) No monetary relief under section 911 may be granted with respect to any conduct that occurred before the date of the enactment of this chapter, except as provided in subsection (d).

"(c) Subject to subsection (a), the provisions of this chapter apply to all mask works that are first commercially exploited or are registered under this chapter, or both, on or after the date of the enactment of this chapter.

"(d)(1) Subject to subsection (a), protection is available under this chapter to any mask work that was first commercially exploited on or after July 1, 1983, and before the date of the enactment of this chapter, if a claim of protection in the mask work is registered in the Copyright Office before July 1, 1985, under section 908.

"(2) In the case of any mask work described in paragraph (1) that is provided protection under this chapter, infringing semiconductor chip product units manufactured before the date of the enactment of this chapter may, without liability under sections 910 and 911, be imported into or distributed in the United States, or both, until two years after the date of registration of the mask work under section 908, but only if the importer or distributor, as the case may be, first pays or offers to pay the reasonable royalty referred to in section 907(a)(2) to the mask work owner, on all such units imported or distributed, or both, after the date of the enactment of this chapter.

"(3) In the event that a person imports or distributes infringing semiconductor chip product units described in paragraph (2) of this subsection without first paying or offering to pay the reasonable royalty specified in such paragraph, of if the person refuses or fails to make such payment, the mask work owner shall be entitled to the relief provided in sections 910 and 911.

"§ 914. International transitional provisions

"(a) Notwithstanding the conditions set forth in subparagraphs (A) and (C) of section 902(a)(1) with respect to the availability of protection under this chapter to nationals, domiciliaries, and sovereign authorities of a foreign nation, the Secretary of Commerce may, upon the petition of any person, or upon the Secretary's own motion, issue an order extending protection under this chapter to such foreign materials, domiciliaries, and sovereign authorities if the Secretary finds—

"(1) that the foreign nation is making good faith efforts and reasonable progress toward—

"(A) entering into a treaty described in section 902(a)(1)(A); or

"(B) enacting legislation that would be in compliance with subparagraphs (A) or (B) of section 902(a)(2); and

"(2) that the nationals, domiciliaries, and sovereign authorities of the foreign nation, and persons controlled by them, are not engaged in the misappropriation, or unauthorized distribution or commercial exploitation, of mask works; and

"(3) that issuing the order would promote the purposes of this chapter and international comity with respect to the protection of mask works.

"(b) While an order under subsection (a) is in effect with respect to a foreign nation, no application for registration of a claim for protection in a mask work under this chapter may be denied solely because the owner of the mask work is a national, domiciliary, or sovereign authority of that foreign nation, or solely because the mask work was first commercially, exploited in that foreign nation.

"(c) Any order issued by the Secretary of Commerce under subsection (a) shall be effective for such period as the Secretary designates in the order, except that no such

order may be effective after the date on which the authority of the Secretary of Commerce terminates under subsection (e). The effective date of any such order shall also be designated in the order. In the case of an order issued upon the petition of a person, such effective date may be no earlier than the date on which the Secretary receives such petition.

"(d)(1) Any order issued under this section shall terminate if—

"(A) the Secretary of Commerce finds that any of the conditions set forth in paragraphs (1), (2), and (3) of subsection (a) no longer exist; or

"(B) mask works of nationals, domiciliaries, and sovereign authorities of that foreign nation or mask works first commercially exploited in that foreign nation become eligible for protection under subparagraphs (A) or (C) of section 902(a)(1).

"(2) Upon the termination or expiration of an order issued under this section, registrations of claims of protection in mask works made pursuant to that order shall remain valid for the period specified in section 904.

"(e) The authority of the Secretary of Commerce under this section shall commence on the date of the enactment of this chapter, and shall terminate three years after such date of enactment.

"(f)(1) The Secretary of Commerce shall promptly notify the Register of Copyrights and the Committees on the Judiciary of the Senate and the House of Representatives of the issuance or termination of any order under this section, together with a statement of the reasons for such action. The Secretary shall also publish such notification and statement of reasons in the Federal Register.

"(2) Two years after the date of the enactment of this chapter, the Secretary of Commerce, in consultation with the Register of Copyrights, shall transmit to the Committees on the Judiciary of the Senate and the House of Representatives a report on the actions taken under this section and on the current status of international recognition of mask work protection. The report shall include such recommendations for modifications of the protection accorded under this chapter to mask works owned by nationals, domiciliaries, or sovereign authorities of foreign nations as the Secretary, in consultation with the Register of Copyrights, considers would promote the purposes of this chapter and international comity with respect to mask work protection.".

TECHNICAL AMENDMENT

SEC. 303. The table of chapters at the beginning of title 17, United States Code, is amended by adding at the end thereof the following new item:

"9. Protection of semiconductor chip products ..... 901".

AUTHORIZATION OF APPROPRIATIONS

SEC. 304. There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this title and the amendments made by this title.

Mr. MATHIAS. Mr. President, this amendment is offered on behalf of myself, the Senator from Utah [Mr. HATCH], and the Senator from Vermont [Mr. LEAHY], and the Senator from Alabama [Mr. HEFLIN]. It incorporates three measures: first, the Trademark Clarification Act, S. 1990, which was recently reported by the Judiciary Committee; second, the State Justice Institute Act, which the Senate passed unanimously last June; and third, the Semiconductor Chip Protection Act, S. 1201, which also received our unanimous approval, in May. In each case, the amendment contains compromise versions of this legislation, which we believe to be acceptable to the other body.

I ask unanimous consent that the following material be printed in the RECORD at this point: a joint explanatory memorandum of Senator LEAHY and myself with respect to the semiconductor chip legislation.

There being no objection, the material ordered to be printed in the RECORD, follows:

EXPLANATORY MEMORANDUM—MATHIAS-LEAHY AMENDMENT TO S. 1201

I. SEC. 901 (a)(5): COMMERCIAL EXPLOITATION

The amendment sharpens the definition of "commercial exploitation," a concept that is important in determining when protection commences under the Act, and when it expires. In this definition, the amendment substitutes the words "for commercial purposes" for the phrase "for profit." Many non-profit organizations, such as universities, engage in research and development in the semiconductor chip product field. If such an organization distributes a new chip to others for commercial purposes, its not-for-profit status should not place it in a different position than an ordinary commercial business undertaking the same conduct. The ten-year term of protection should commence, and the clock should begin to run on the two-year registration requirement.

II. OWNERSHIP—SECTION 901(A)(6), 903(a)-(b)

The amendment includes a recession to H.R. 5525 (as passed by the House) on the question of the meaning of ownership of a mask work, in light of the business realities and practices of the semiconductor industry.

Under S. 1201, as passed by the Senate, general copyright law principles applied. Thus in theory, an exclusive licensee of each divisible right in a mask work would "own" that particular right and would be entitled to sue infringers thereunder. (E.g., the exclusive licensee of the right to distribute the semiconductor chip as a component inserted to a printed circuit board sold as such, east of the Connecticut River.) H.R. 5525 allowed only the "owner" of all of the rights in the mask work to sue for infringement.

The prospect of licensees of less than all rights bringing their own independent lawsuits could disrupt customary business arrangements and practices in the industry. To avoid this, the Senate is prepared to yield to the ownership concept of H.R. 5525.

Under Section 901(a) (6), the owner of a mask work is its creator, the creator's legal representatives, or the transferee of all rights under the Act in the mask work. These rights include the privilege of securing inchoate rights by registration of a mask work under Section 908(a). While the transferee of all rights under the Act is an owner, a licensee of all or some rights is not, a distinction recognized in Section 903(b). While only an owner (including a transferee) may register a mask work under Section 908, an exclusive licensee of all rights is also entitled, under Section 910(b)(1), to bring an infringement action, an option that is not available to nonexclusive licensees and licensees of less than all rights.

III. 901(b)—ORIGINALITY

The Mathias-Leahy amendment follows the House bill by including, in Section 902(b), a provision that makes mask works unprotectable under the Act if they are made up of "staple, familiar, or commonplace designs," or variations thereof, combined together in a way that, considered as a whole, in unoriginal. Like the House (see H. Rep. 98-781, at 19, 25) (hereafter "House Report"), we do not intend by Section 902(b) to set up an examination system in the Copyright Office. Rather, the question of invalidity on this ground is an issue to be raised for the first time by the defendant in an infringement suit (or, of course, by the plaintiff in a declaratory judgement action for a judgment of invalidity). Nonetheless, the evaluation of whether the design is staple, or merely an insubstantial variation on what is staple, should be made in the light of the prior are existing at the time of registration.

When a mask work owner goes into court with its registration certificate from the Copyrights Office, the mask work registration should be considered presumptively valid, and the registered mask work should be presumed to satisfy all of the requirements for protection under chapter 9, including Section 902(b). But if the defendant then adduces probative evidence of invalidity (e.g., that the mask work is "staple"), and not mere unsupported allegations of invalidity, we envision that the plaintiff mask work owner will be asked to come forward with actual testimonial or documentary evidence to overcome the defendant's evidence on validity. The test is the usual civil "preponderance of the evidence" standard. In a very close case, the certificate of registration should be given at least some measurable weight as prima facie evidence. Also, on emergency applications such as motions for temporary restraining orders and motions for preliminary injunctions, the registration should be assumed valid and proper unless the court is persuaded otherwise by probative and substantial evidence.

Finally, like the House (House Report at 19), we believe that section 902(b) does not make a mask work "staple" merely because, if the individual circles, arcs, rectangles, and lines of the mask work are dissected away from the whole mask work, they each appear "staple." The question for a court to resolve is whether a mask work, considered as a whole, is just a collection of such staple elements combined in an old, "staple" way? Stated another way, a court may have to decide whether a new mask work is just an insubstantial variation of prior work in the field as it stood on the date of registration. On the other hand, the work may be found protectable if it reflects effort and original contributions resulting in a work that, considered as a whole, is not old and staple. In that connection, although clearly a mask work need not meet the unobviousness requirements of 35 U.S.C. section 103, nonetheless the case law under that section of the Patent Act, which uses similar language, is instructive. It warns us not to dissect old elements away from a new combination, lest we run the danger of failing to recognize the novelty and intellectual creativity of the combination considered as a whole. Although it is impossible to quantify a creativity standard precisely and objectively, the purpose of section 902(b)(2) is to weed out mere insubstantial or trivial variations on

prior mask works and to allow protection of new mask works in the creation of which their owners have expended substantial toil and investment, and which contain more than insubstantial variations on the prior mask work art.

IV. RECORDATION—SECTION 930(c)

S. 1201 did not have a recordation section for ownership, transfer and licensing because as part of the Copyright Act it automatically included 17 U.S.C. Section 205. H.R. 5525 similarly lacked a recordation section, and this amendment therefore inserts one. Mask work owners and other concerned parties are entitled to record transfers and licenses relating to mask works in the Copyright Office. Recordation constitutes constructive notice of the transfer or license. In this connection, a security interest under the Uniform Commercial Code or other state law may also be recorded as a transfer.

V. DURATION OF PROTECTION—SECTION 904

S. 1201 provided mask work protection from the initial fixation of a mask work, such as in a drawing. *See* 17 U.S.C. Section 101 (definitions of "created" and "fixed"), 102(a). Section 904(a) of H.R. 5525 began protection for mask works only when they are registered (after fixation of the work in a semiconductor chip product) or upon their first commercial exploitation, whichever comes first. This amendment basically adopts the House language. As a result, state trade secret law (rather than this Act) is the prinicipal safeguard for mask work owners until registration or first commercial exploitation occurs. Accordingly, state trade secret law is not preempted under Section 912(c) until the earlier of those two events occurs, since until that point the protection provided by trade secret law is not "equivalent" to that provided by this Act.

The words "anywhere in the world" are added in Section 904(a) to clarify and carry forward the original intent of that provision. A change is made in Section 904(b) to clarify how long mask work protection continues after its commencement: it is, mask work protection continues until the end of the calendar year of the tenth year after registration or first commercial exploitation, whichever is first. To accomplish this end, a new Section 904(c) is added to make this section conform to 17 U.S.C. Section 305, a provision of the Copyright Act previously incorporated by S. 1201.

VI. EXCLUSIVE RIGHTS—SECTION 905

This amendment incorporates H.R. 5525's shorter list of exclusive rights, on the basis of the House Report's assurance that reproduction under Section 905(1) embraces all of the various reproduction rights of S. 1201's section 4 (amending 17 U.S.C. section 105). Also, since the "inducing infringement" and "causing infringement" provisions of Section 905(3) cover the Senate bill's prohibition of distribution of pirated masks, Section 905 is at least as comprehensive as S. 1201's section 4.

VII. REVERSE ENGINEERING—SECTION 906(a)

Although the reverse engineering provisions of S. 1201 and H.R. 5525 were almost identical, this amendment includes a provision (section 906 (a)(2)) to clarify the intent of both chambers that competitors are permitted not only to study protected mask works, but also to use the results of that study to design, distribute and import semiconductor chip products embodying their own original mask works. While this intent appears indisputable from the legislative history in both Houses, it seems prudent to spell it out in the bill itself.

The end product of the reverse engineering process is not an infringement, and itself qualifies for protection under the Act, if it is an original mask work, as contrasted with a substantial copy. If the resulting semiconductor chip product is not substantially identical to the original, and its design involved significant toil and investment so that it is not a mere plagiarism, it does not infringe the original chip, even if the layout of the two chips is, in substantial part, similar. As noted in the Senate report, the courts are not likely, as a practical matter, to find it unduly difficult to draw the line between reverse engineering and infringement, because the additional work required to come within the privilege established by section 906(a) will ordinarily leave a "paper trail."

Of course, apart from the foregoing, the amendment, like both bills, incorporates the familiar copyright principle of substantial similarity. Although, as a practical matter, copying of an insubstantial portion of a chip and independent design of the remainder is not likely, copying of a material portion nevertheless constitutes infringement. This concept is particularly important in the semiconductor chip industry, where it may be economical, for example, to copy 75% of a mask work from one chip and combine that with 25% of another mask work, if the copies parts are transferable modules, such as units from a cell library.

As the Senate report notes, no hard and fast percentages govern what constitutes a "substantial" copying because substantial similarity may exist where an important part of a mask work is copied even though the percentage copied may be relatively small. Nonetheless, mask work owners are protected not only from wholesale copying but also against piecemeal copying of substantial or material portions of one or more mask works.

VIII. FIRST SALE—SECTION 906(b)

Section 906(b) of the amendment clarifies the application of the first sale doctrine to mask works. Among other things, it now is made clear that a customer is free to use a semiconductor chip product unit as he chooses, after becoming its owner by buying it from the mask work owner or its licensee. However, the customer's permissible use does not include reproducing the semiconductor chip product (except in the course of reverse engineering, which is separately governed under Section 906(a)).

IX. INNOCENT INFRINGEMENT—SECTION 907

The intent and contours of this provision were similar in the two bills, but the House's version is simpler in form, so this amendment incorporates it. In this connection, it should be understood that, as in the case of the first sale rule of Section 906(b), the first payment of a reasonable royalty under Section 907 liberates the semiconductor chip product unit from the intellectual property monopoly, for the benefit of all downstream purchasers; only one reasonable royalty per unit may be required under Section 907.

X. REGISTRATION—SECTION 908

In general, this Section follows the pattern of H.R. 5525, which in turn largely replicates the corresponding provisions of the Copyright Act. Those provisions had been automatically incorporated by S. 1201, which was part of the Copyright Act.

Some technical changes were necessary, however, to correct errors and omissions in the House Bill. Thus, we have revised Section 908(a) to authorize mask work owners to file applications for registration under the Act. Also, Section 908(c) is amended to require applicants to pay a fee, and to submit identifying materials prescribed by the Copyright Office. Applicants should not, of course, be required to deposit material that would disclose trade secrets or would facilitate domestic or foreign chip piracy; we would anticipate that the Copyright Office's implementing regulations should reflect this principle to the greatest extent possible.

Further, Section 908(g) is modified to permit applicants to go immediately to court in emergency situations, such as a flood of piratical imports, or when there is other "good cause" why they cannot wait for up to four months for the Copyright Office to complete its processes. For an intellectual property owner to secure an order of exclusion of such piratical imports from the United States, a registration certificate must ordinarily be provided to the Customs Service or (in an unfair import practices case) to the International Trade Commission, and thus a registration may be necessary at once.

Section 908(f) deals with the legal effect of the issuance of a registration certificate. As noted above, a registrant has what amounts to a rebuttable presumption of the validity of the registrant's claim of protection under chapter 9, which may only be overcome by probative, plausible evidence, not by mere allegations of invalidity or statements made on "information and belief". The ordinary civil standard of preponderance of the evidence is applicable on the validity issue.

It would be inappropriate to require the clear and convincing evidence that some patent cases have called for to overcome the presumption of patent validity. Patents issue on inventions after an examination of their novelty, unobviousness, and compliance with other substantive requirements; the examination is carried out by persons supposed to be of skill in the relevant field of technology, so that the decision to issue a patent reflects a considered and expert judgment on the merits. But mast work registration certificates, like copyright registration certificates, issue after an examination of only the face of the application form and a necessarily cursory examination of the identifying material accompanying the application, perhaps aided by other facts of which the Copyright Office may be aware. The Copyright Office cannot be expected to deliver a considered judgment on the technical questions involved in Section 902(b). Instead, the Copyright Office issues the registration certificate if the application appears to be in order and then, as the House Report notes, "In the event of mask work infringement litigation, failure to satisfy the requirements of Section 902(b) would be a defense." House Report, at 19.

If the rare case arises where the evidence is exactly balanced on both sides, or the plaintiff rests on its certificate and the defendant elects to put in no evidence, the certificate should be enough to permit the court to assume that the plaintiff has a valid and proper registration. If nothing else, this can be rested on the presumption of regularity and correctness of an agency's administrative action. Moreover, on applications for a preliminary injunction or similar relief, where the court does not have the opportunity to canvass the issues as thoroughly as at trial, it is proper to put some weight on the certificate. In these situations, giving the mask work registrant the benefit of the doubt furthers the statutory purpose of pro-

moting security of investment in development of new chip technology and thereby encouraging semiconductor innovation.

XI. NOTICE—SECTION 909

S. 1201 included the Copyright Act's mandatory notice and use of ©. H.R. 5525 created a new, M-in-a-circle symbol for its nonmandatory notice, and also allowed use of the words "Mask Work". Since printers do not usually carry M-in-a-circle symbols in stock, and most typewriters and word processing equipment also lack them, the amendment provides an alternative abbreviation: "*M*". The amendment also follows 17 U.S.C. Sec. 401(b)(2)'s elimination of the date for notice on useful articles. In promulgating notice regulations, the Copyright Office may permit combined copyright/mask work notices to conserve space.

XII. COMMERCE—SECTION 910(a)

In order to avoid any constitutional questions on the issue of whether, as both Houses found, mask works are protectable as "writings" within the meaning of the Constitution's intellectual property clause, section 910(a) of the amendment includes a commerce limitation, so that it reaches only piratical conduct in or affecting commerce. As a practical matter, this will cover virtually all of the kind of conduct that gave rise to this legislation.

XIII. ENFORCEMENT—SECTIONS 910 AND 911

Changes to the House bill are also made in other parts of section 910. In section 910(b), a clause is added to make it clear that a timely registrant may sue for preregistration damages (as well as for postregistration damages) so long as they occur as a result of conduct during the ten-year term. Additional clarification of section 910(b) permits the exclusive licensee of all rights in a mask work to sue, as an owner may. A change in section 910(c) permits the Customs Service to exclude not only piratical copies but also products used for purposes of contributory infringement in violation of the rights of mask work owners.

Section 911(e)(1) restores impounding orders S. 1201 included these from the Copyright Act, but H.R. 5525 omitted them. Like temporary restraining orders and preliminary injunctions, impounding orders are a useful and important remedy, if not abused. To prevent such abuse, the amendment provides that applications for impounding orders should be heard, where practicable, in the same manner as applications for temporary restraining orders and preliminary injunctions, i.e., not ex parte, and with customary procedural safeguards.

Section 911(f) provides for attorneys' fees for prevailing parties in all civil actions arising under the Semiconductor Chip Protection Act, including declaratory judgment actions.

XIV. RELATION TO OTHER LAWS—SECTION 912

The relationship of the Semiconductor chip Protection Act to other laws is made somewhat complicated by the uncertainty of the application of those laws to mask works—the very predicament that motivated this legislation in the first place.

Enactment of this bill will provide an explicit federal remedy for misappropriation and unauthorized copying of mask works. Within the carefully defined ambit of the reach of this legislation, the remedy it provides is intended to be exclusive. However, four factors limit the effect of this principle.

First, as expressed in section 912(e), nothing in the bill affects rights in mask works first commercially exploited prior to July 1, 1983. The rights that remain untouched by this bill include claims arising under the Copyright Act. As the Senate report noted, the availability of copyright protection for mask works was "sufficiently doubtful" to discourage investment and innovation; but this amendment should clarify that Congress does not find that such protection is unavailable. The decision not to provide relief under this Act for future misappropriations of mask works that came to market before July 1, 1983 should not be misinterpreted as a conclusion that no such protection ought to be accorded. To the contrary, the policy underlying this Act condemns unauthorized copying even of these earlier chips as unfair.

With respect to state law, the same principles apply. The states are permitted to regulate these older chips as they see fit, so long as the state enactment does not directly conflict with some other federal law. See *Goldstein* v. *California*, 412 U.S. 546 (1973). Of course, since state contract law is not affeted by this Act, existing license agreements with respect to per-July 1, 1983 mask works may still be enforced. Nor are future enactments, or future decisions of state or federal courts, barred from this field. As to chips first commercially exploited prior to July 1, 1983, this legislation simply has no preemptive effect.

Second, with respect to mask works first commercially exploited after July 1, 1983, the preemption of "equivalent" state law remedies is ineffective until January 1, 1986. This provision of the amendment, section 912(c), conforms with the House bill.

The third limiting principle is that state law remedies which are not "equivalent" are not preempted, even after January 1, 1986, unless they directly conflict with the federal act. As the House Report recognized, at page 29, "state trade secret law is a necessary adjunct to this Act, and provides a needed protection during a time period when this law provides none," referring to the period prior to commercial exploitation or registration.

Finally, enactment of the bill has no preemptive or superseding effect upon other, more general legislation which may affect the semiconductor industry, e.g., unfair trade practice laws or patent laws.

Subject to these limiting principles, the Act is intended to provide an exclusive remedy. Congress does not intend to provide protection which is (as to post-July 1, 1983 chips) cumulative to the protections that may be claimed under the Copyright Act; as to these chips, the Act will replace copyright protection. Similarly, the privileges created by this Act, such as the reverse engineering right, may not be restricted by reference to the narrower privileges that obtain under copyright, such as fair use. The legislative history of this bill includes repeated assurances that mask work protection in no way erodes copyright protection for subject matter such as computer programs or data bases, even if that subject matter is embodeid in a semiconductor chip. The converse is also true; assertions of copyright in mask works masquerading as copyright subject matter should not be permitted to detract from the integrity and exclusivity of the protection scheme created by this Act.

XV. TRANSITIONAL PROVISION—SECTION 913

The amendment follows the general concept of H.R. 5525, with some important changes and clarifications.

The Semiconductor Chip Protection Act is fully effective upon enactment. However, section 913(a) holds the registration and enforcement mechanisms in abeyance for sixty days, to allow adequate time for the Copyright Office to prepare to receive applications for registration.

Section 913(b) clarifies that the bill has no retroactive effect. No act of chip piracy that occurred prior to the date of enactment is an actionable infringement. The disposition of semiconductor chip products that result from such pre-enactment unauthorized copying is governed by section 913(d).

Subsection (d) deals with protection of mask works first commercially exploited between July 1, 1983 and the date of enactment. Unauthorized copies of chips embodying these mask works may be imported or distributed, subject to two important conditions. First, the importation and distribution privilege applies only to semiconductor chip product units that were in existence on the date of enactment. In other words, existing inventory may be disposed of, but further manufacture must cease upon enactment. Second, the importer or distributor must agree to pay a reasonable royalty to the mask work owner. If he does not agree, or if he fails to make such payments, the importer or distributor forfeits the privilege, and the mask work owner may make use of the remedies provided for post-enactment mask works, including injunctions and exclusion orders.

The owner of a mask work first commercially exploited after July 1, 1983 but before enactment may obtain protection (subject to the privilege just described) by registering the mask work with the Copyright Office before July 1, 1985. The privilege terminates two years after such registration. Thus, by July 1, 1987, all privileges will have expired, and the pre-enactment mask work will be treated identically to one first commercially exploited after enactment. The two-year period provides ample time to dispose of inventory of unauthorized copies of chips, and removes from litigation within a reasonable time the potentially contentious factual issue of when a particular semiconductor chip product unit was manufactured.

XVI. INTERNATIONAL TRANSITION—SECTION 914

H.R. 5525 would deny protection to foreign owners of mask works unless the works were first commercially exploited in the U.S. While it was contemplated that foreign countries would eventually obtain full protection by concluding treaties or enacting chip protection legislation, no protection was available in the interim other than by transferring rights to a U.S. national or domiciliary before first commercial exploitation. In order to encourage such steps toward a regime of international comity in mask work protection, the amendment includes international transitional provisions, contained in Section 914.

Section 914(a) provides that the Secretary of Commerce may extend the privilege of interim protection under the Semiconductor Chip Act to nationals of foreign nations under certain conditions. These are: (1) that the foreign nation in question is making progress (either by treaty negotiation or legislative enactment) toward a regime of mask work protection generally similar to that under the Act; (2) that its nationals and persons controlled by them (such as subsidiaries or affiliated companies) are not engaging and have not in the recent past engaged in chip piracy or the sale of products contain-

ing pirated semiconductor components; and (3) that entry of the Secretary's order would promote the purposes of the Act and of achieving international comity toward mask work protection.

The Secretary is particularly well situated to make these determinations because of the Department's broad ranging intellectual property and trade responsibilities. The Assistant Secretary of Commerce and Commissioner of Patents and Trademarks is in a position to evalute the legal adquacy of proposed foreign legislation and, as well, can advise the Secretary on the international intellectual property law aspects of foreign chip protection. The International Trade Administration with its worldwide network of Foreign Commercial Service Officers in the United States Embassies is in a position to provide input on commmercial activities in foreign countries where there may be concern with actual or potential misappropriation of United States semiconductor chip products. The Secretary thus will have the benefit of a balanced consideration of legal and trade issues to draw in making the determination to extend, deny, or withdraw the interim protection provided under section 914.

In making determinations of good faith efforts and progress (section 914(a)(1)), the Secretary should take into account the attitudes and efforts of the foreign nation's private sector, as well as its government. If the private sector encourages and supports action toward chip protection, that progress is much more likely to continue. With respect to the participation of foreign nationals and those controlled by them in chip piracy, the Secretary should consider whether any chip designs, not simply those provided full protection under the Act, are subjected to misappropriation. The degree to which a foreign concern that distributes products containing misappropriated chips knows or should have known that it is trafficking in pirated chips is a relevant factor in making a finding under section 914(a)(2). Finally, under section 914(a)(3), the Secretary should bear in mind the role that issuance of the order itself may have in promoting the goal of international comity, while ensuring that transitional protection is not being used to shelter continued chip piracy.

The Secretary's order is to be made in an informal rulemaking proceeding, reviewable in an appropriate district court under the Administrative Procedures Act for abuse of discretion or want of substantial evidence. If the privilege of interim protection is abused, or if the conditions that led to its issuance appear to the Secretary no longer to exist, the Secretary may rescind the order in a further informal rulemaking proceeding (or simply allow it to expire). Proceedings may be initiated by the Secretary upon his own motion or at the request of a foreign nation, or other interested party. The Secretary may begin any such proceeding and may issue an appropriate order at any time after the enactment of this Act. In the case of those countries already having a system allowing mask work protection, or having substantial semiconductor industries, expedited action may be particularly appropriate to encourage and facilitate efforts to establish international comity. Also, the Secretary has discretion to make his order effective as of the date he receives a request to initiate a proceeding under Section 914.

The Secretary may set the expiration date of the order. A short term order may be appropriate where progress is not substantial enough to justify a longer order. Thus, a foreign nation might be unable actually to introduce any proposed law for the protection of semiconductor chip products, because its parliament is out of session. Yet, it might be able to announce its intention to propose such a law, and then appoint a study group to draft appropriate legislation that would be consistent with stated general principles. In such circumstances, it would be appropriate that the Secretary enter a short term order, and subsequently re-evaluate the situation. If reasonable progress was being made, the Secretary would then issue a further order for an additional appropriate period.

The interim protection would permit citizens of the relevant foreign nation to apply for mask work registration under Section 908, to sue for infringement of mask work rights under Section 910(b), and to secure legal and equitable remedies under Section 911, as United States citizens may, during the 10-year terms of their mask work registrations. If a Secretarial order were rescinded, the effect would be to withdraw the privilege of further registrations, but not the 10-year period of rights under those registrations previously issued.

The Secretary's power under this section is limited to three years, and all orders issued will expire at that time. In consultation with the Register of Copyrights, the Secretary is to report to the Congress one year before the expiration of his authority, as to the progress being made toward international comity in mask work protection, and as to the further steps, if any, that are believed appropriate. Of course, aside from the interim order procedure created by section 914, it remains possible for a foreign concern to obtain mask work protection in the U.S. by transferring all rights under the Act to a U.S. national or domiciliary before the mask work is commercially exploited, or by commercially exploiting the mask work first in the United States. As noted above, a transferee of all rights (under this Act) in the mask work is an "owner," and the nationality of ownership on the date of registration or first commercial exploitation (whichever occurs first) governs eligibility for protection under section 902(a)(1)(A). Thus, if a foreign subsidiary of a U.S. company owns a mask work that has not been commercially exploited, it may transfer all rights under this Act to its U.S. parent; the parent would then be entitled to obtain protection under this Act by registering the mask work or commercially exploiting it. By the same token, a U.S. subsidiary of a foreign company would be entitled to claim protection under the bill for a mask work created by its foreign parent by securing a transfer of all rights under this Act from the parent prior to first commercial exploitation. Finally, under section 902(a)(1)(B), a mask work that is first commercially exploited in the United States is eligible for protection, regardless of the nationality of its owner.

AMENDMENT NO. 6996

Mr. BAKER. Mr. President, I send to the desk an amendment to the substitute, on behalf of Senator DOLE and Senator MATHIAS.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Tennessee [Mr. BAKER], for Mr. MATHIAS and Mr. DOLE, proposes an amendment numbered 6996.

Mr. BAKER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

TITLE IV—FEDERAL COURTS IMPROVEMENTS

Subtitle A—Civil Priorities

ESTABLISHMENT OF PRIORITY OF CIVIL ACTIONS

SEC. 401. (a) Chapter 111 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"§ 1657. Priority of civil actions

"(a) Notwithstanding any other provision of law, each court of the United States shall determine the order in which civil actions are heard and determined, except that the court shall expedite the consideration of any action brought under chapter 153 or section 1826 of this title, any action for temporary or preliminary injunctive relief, or any other action if good cause therefor is shown. For purposes of this subsection, 'good cause' is shown if a right under the Constitution of the United States or a Federal Statute (including rights under section 552 of title 5) would be maintained in a factual context that indicates that a request for expedited consideration has merit.

"(b) The Judicial Conference of the United States may modify the rules adopted by the courts to determine the order in which civil actions are heard and determined, in order to establish consistency among the judicial circuits.".

(b) The section analysis of chapter 111 of title 28, United States Code, is amended by adding at the end thereof the following new item:

"1657. Priority of civil actions.".

AMENDMENTS TO OTHER LAWS

SEC. 402. The following provisions of law are amended—

(1)(A) Section 309(a)(10) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g(a)(10) is repealed.

(B) Section 310(c) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437h(c)), is repealed.

(2) Section 552(a)(4)(D) of title 5, United States Code, is repealed.

(3) Section 6(a) of the Commodity Exchange Act (7 U.S.C. 8(a)) is amended by striking out "The proceedings in such cases in the court of appeals shall be made a preferred cause and shall be expedited in every way.".

(4)(A) Section 6(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136d(c)(4)) is amended by striking out the second sentence.

(B) Section 10(d)(3) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136h(d)(3)) is amended by striking out "The court shall give expedited consideration to any such action.".

(C) Section 16(b) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136n(b)) is amended by striking out the last sentence.

(D) Section 25(a)(4)(E)(iii) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136w(a)(4)(E)(iii)) is repealed.

(5) Section 204(d) of the Packers and Stockyards Act, 1921 (7 U.S.C. 194(d)), is amended by striking out the second sentence.

(6) Section 366 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1366) is amended

in the fourth sentence by striking out "At the earliest convenient time, the court, in term time or vacation," and inserting in lieu thereof "The court".

(7)(A) Section 410 of the Federal Seed Act (7 U.S.C. 1600) is amended by striking out "The proceedings in such cases in the court of appeals shall be made a preferred cause and shall be expedited in every way.".

(B) Section 411 of the Federal Seed Act (7 U.S.C. 1601) is amended by striking out "The proceedings in such cases shall be made a preferred cause and shall be expedited in every way.".

(8) Section 816(c)(4) of the Act of October 7, 1975, commonly known as the Department of Defense Appropriation Authorization Act of 1976 (10 U.S.C. 2304 note) is amended by striking out the last sentence.

(9) Section 5(d)(6)(A) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(d)(6)(A)) is amended by striking out "Such proceedings shall be given precedence over other cases pending in such courts, and shall be in every way expedited.".

(10)(A) Section 7A(f)(2) of the Clayton Act (15 U.S.C. 18a(f)(2)) is amended to read as follows: "(2) certifies to the United States district court for the judicial district within which the respondent resides or carriers on business, or in which the action is brought, that it or he believes that the public intrest requires relief pendente lite pursuant to this subsection, then upon the filing of such motion and certification, the chief judge of such district court shall immediately notify the chief judge of the United States court of appeals for the circuit in which such district court is located, who shall designate a United States district judge to whom such action shall be assigned for all purposes.".

(B) Section 11(e) of the Clayton Act (15 U.S.C. 21(e)) is amended by striking out the first sentence.

(11) Section 1 of the Act of February 11, 1903, commonly known as the Expediting Act (15 U.S.C. 28) is repealed.

(12) Section 5(e) of the Federal Trade Commission Act (15 U.S.C. 45(e)) is amended by striking out the first sentence.

(13) Section 21(f)(3) of the Federal Trade Commission Improvements Act of 1980 (15 U.S.C. 57a-1(f)(3)) is repealed.

(14) Section 11A(c)(4) of the Securities Exchange Act of 1934 (15 U.S.C. 78k-1(c)(4)) is amended—

(A) by striking out "(A)" after "(4)"; and

(B) by striking out paragraph (B).

(15)(A) Section 309(e) of the Small Business Investment Act of 1958 (15 U.S.C. 687a(e)) is amended by striking out the sixth sentence.

(B) Section 309(f) of the Small Business Investment Act of 1958 (15 U.S.C. 687a(f)) is amended by striking out the last sentence.

(C) Section 311(a) of the Small Business Investment Act of 1958 (15 U.S.C. 687c(a)) is amended by striking out the last sentence.

(16) Section 10(c)(2) of the Alaska Natural Gas Transportation Act (15 U.S.C. 719h(c)(2)) is repealed.

(17) Section 155(a) of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1415(a)) is amended by striking out "(1)" and by striking out paragraph (2).

(18) Section 503(b)(3)(E) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2003(b)(3)(E)) is amended by striking out clause (ii) and redesignating clauses (iii) and (iv) as clauses (ii) and (iii), respectively.

(19) Section 23(d) of the Toxic Substances Control Act (15 U.S.C. 2622(d)) is amended by striking out the last sentence.

(20) Section 12(e)(3) of the Coastal Zone Management Improvement Act of 1980 (16 U.S.C. 1463a(e)(3)) is repealed.

(21) Section 11 of the Act of September 28, 1976 (16 U.S.C. 1910), is amended by striking out the last sentence.

(22)(A) Section 807(b) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3117(b)) is repealed.

(B) Section 1108 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3168) is amended to read as follows:

"INJUNCTIVE RELIEF

"SEC. 1108. No court shall have jurisdiction to grant any injunctive relief lasting longer than ninety days against any action pursuant to this title except in conjunction with a final judgment entered in a case involving an action pursuant to this title.".

(23)(A) Section 10(b)(3) of the Central Idaho Wilderness Act of 1980 (Public Law 96-312; 94 Stat. 948) is repealed.

(B) Section 10(c) of the Central Idaho Wilderness Act of 1980 is amended to read as follows:

"(c) Any review of any decision of the United States District Court for the District of Idaho shall be made by the Ninth Circuit Court of Appeals of the United States.".

(24)(A) Section 1964(b) of title 18, United States Code, is amended by striking out the second sentence.

(B) Section 1966 of title 18, United States Code, is amended by striking out the last sentence.

(25)(A) Section 408(l)(5) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(i)(5)) is amended by striking out the last sentence.

(B) Section 409(g)(2) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 348(g)(2)) is amended by striking out the last sentence.

(26) Section 8(f) of the Foreign Agents Registration Act of 1938 (22 U.S.C. 618(f)) is amended by striking out the last sentence.

(27) Section 4 of the Act of December 22, 1974 (25 U.S.C. 640d-3), is amended by striking out "(a)" and by striking out subsection (b).

(28)(A) Section 3310(e) of the Internal Revenue Code of 1954 (26 U.S.C. 3310 (e)) is repealed.

(B) Section 6110(f)(5) of the Internal Revenue Code of 1954 (26 U.S.C. 6110(f)(5)) is amended by striking out "and the Court of Appeals shall expedite any review of such decision in every way possible".

(C) Section 6363(d)(4) of the Internal Revenue Code of 1954 (26 U.S.C. 6363(d)(4)) is repealed.

(D) Section 7609(h)(3) of the Internal Revenue Code of 1954 (26 U.S.C. 7609 (h)(3)) is repealed.

(E) Section 9010(c) of the Internal Revenue Code of 1954 (26 U.S.C. 9010(C)) is amended by striking out the last sentence.

(F) Section 9011(b)(2) of the Internal Revenue Code of 1954 (26 U.S.C. 9011 (b)(2)) is amended by striking out the last sentence.

(29)(A) Section 596(a)(3) of title 28, United States Code, is amended by striking out the last sentence.

(B) Section 636(c)(4) of title 28, United States Code, is amended in the second sentence by striking out "expeditious and".

(C) Section 1296 of title 28, United States Code, and the item relating to that section in the section analysis of chapter 83 of that title, are repealed.

(D) Subsection (c) of section 1364 of title 28, United States Code, the section heading of which reads "Senate actions", is repealed.

(E) Section 2284(b)(2) of title 28, United States Code, is amended by striking out the last sentence.

(F) Section 2349(b) of title 28, United States Code, is amended by striking out the last two sentences.

(G) Section 2647 of title 28, United States Code, and the item relating to that section in the section analysis of chapter 169 of that title, are repealed.

(30) Section 10 of the Act of March 23, 1932, commonly known as the Norris-LaGuardia Act (29 U.S.C. 110), is amended by striking out "with the greatest possible expedition" and all that follows through the end of the sentence and inserting in lieu thereof "expeditiously".

(31) Section 10(i) of the National Labor Relations Act (29 U.S. 160(i)) is repealed.

(32) Section 11(a) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 660(a)) is amended by striking out the last sentence.

(33) Section 4003(e)(4) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1303(e)(4)) is repealed.

(34) Section 106(a)(1) of the Federal Coal Mine Health and Safety Act of 1969 (30 U.S.C. 816(a)(1)) is amended by striking out the last sentence.

(35) Section 1016 of the Impoundment Control Act of 1974 (31 U.S.C. 1406) is amended by striking out the second sentence.

(36) Section 2022 of title 38, United States Code, is amended by striking out "The court shall order speedy hearing in any such case and shall advance it on the calendar.".

(37) Section 3628 of title 39, United States Code, is amended by striking out the fourth sentence.

(38) Section 1450(i)(4) of the Public Health Service Act (42 U.S.C. 300j-9(1)(4)) is amended by striking out the last sentence.

(39) Section 304(e) of the Social Security Act (42 U.S.C. 504(e)) is repealed.

(43) Section 814 of the Act of April 11, 1968 (42 U.S.C. 3614), is repealed.

(44) The matter under the subheading "Exploration of National Petroleum Reserve in Alaska" under the headings "ENERGY and MINERALS" and "GEOLOGICAL SURVEY" in title I of the Act of December 12, 1980 (94 Stat. 2964; 42 U.S.C. 6508), is amended in the third paragraph by striking out the last sentence.

(45) Section 214(b) of the Emergency Energy Conservation Act of 1979 (42 U.S.C. 8514(b)) is repealed.

(46) Section 2 of the Act of February 25, 1885 (43 U.S.C. 1062), is amended by striking out "; and any suit brought under the provisions of this section shall have precedence for hearing and trial over other cases on the civil docket of the court, and shall be tried and determined at the earliest practicable day".

(47) Section 23(d) of the Outer Continental Shelf Lands Act (43 U.S.C. 1349(d)) is repealed.

(48) Section 511(c) of the Public Utilities Regulatory Policies Act of 1978 (43 U.S.C. 2011(c)) is amended by striking out "Any such proceeding shall be assigned for hearing at the earliest possible date and shall be expedited by such court.".

(49) Section 203(d) of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1652(d)) is amended by striking out the fourth sentence.

(50) Section 5(f) of the Railroad Unemployment Insurance Act (45 U.S.C. 355(f)) is amended by striking out ", and shall be given precedence in the adjudication there-

of over all other civil cases not otherwise entitled by law to precedence".

(51) Section 305(d)(2) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 745(d)(2)) is amended—

(A) in the first sentence by striking out "Within 180 days after" and inserting in lieu thereof "After"; and

(B) in the last sentence by striking out "Within 90 days after" and inserting in lieu thereof "After".

(52) Section 124(b) of the Rock Island Transition and Employee Assistance Act (45 U.S.C. 1018(b)) is amended by striking out ", and shall render a final decision no later than 60 days after the date the last such appeal is filed".

(53) Section 402(g) of the Communications Act of 1934 (47 U.S.C. 402(g)) is amended—

(A) by striking out "At the earliest convenient time the" and inserting in lieu thereof "The"; and

(B) by striking out "10(e) of the Administrative Procedure Act" and inserting in lieu thereof "706 of title 5, United States Code".

(54) Section 405(e) of the Surface Transportation Assistance Act of 1982 (Public Law 97-424; 49 U.S.C. 2305(e)) is amended by striking out the last sentence.

(55) Section 606(c)(1) of the Rail Safety and Service Improvement Act of 1982 (Public Law 97-468; 49 U.S.C. 1205(c)(1)) is amended by striking out the second sentence.

(56) Section 13A(a) of the Subversive Activities Control Act of 1950 (50 U.S.C. 792a note) is amended in the third sentence by striking out "or any court".

(57) Section 12(a) of the Military Selective Service Act of 1967 (50 U.S.C. App. 462(a)) is amended by striking out the last sentence.

(58) Section 4(b) of the Act of July 2, 1948 (50 U.S.C. App. 1984(b)), is amended by striking out the last sentence.

EFFECTIVE DATE

SEC. 403. The amendments made by this subtitle shall not apply to cases pending on the date of the enactment of this subtitle.

Subtitle B—District Court Organization

SEC. 404. This subtitle may be cited as the "Federal District Court Organization Act of 1984".

SEC. 405. The second sentence of subsection (c) of section 112 of title 28, United States Code, is amended to read as follows:

"Court for the Eastern District shall be held at Brooklyn, Hauppauge, and Hempstead (including the village of Uniondale).".

SEC. 406. (a) Subsection (a) of section 93 of title 28, United States Code, is amended—

(1) in paragraph (1) by striking out "De Kalb," and "McHenry,"; and

(2) in paragraph (2)—

(A) by inserting "De Kalb," immediately after "Carroll,"; and

(B) by inserting "McHenry," immediately after "Lee,".

(b) The amendments made by subsection (a) of this section shall apply to any action commenced in the United States District Court for the Northern District of Illinois on or after the effective date of this subtitle, and shall not affect any action pending in such court on such effective date.

"(c) The second sentence of subsection (b) of section 93 of title 28, United States Code, is amended by inserting 'Champaign/Urbana,' before 'Danville'."

SEC. 407. (a) Subsection (b) of section 124 of title 26, United States Code, is amended—

(1) by striking out "six divisions" and inserting in lieu thereof "seven divisions";

(2) in paragraph (4) by striking out ", Hidalgo, Starr,"; and

(3) by adding at the end thereof the following:

"(7) The McAllen Division comprises the counties of Hidalgo and Starr.

"Court for the McAllen Division shall be held at McAllen.".

(b) The amendments made by subsection (a) of this section shall apply to any action commenced in the United States District Court for the Southern District of Texas on or after the effective date of this subtitle, and shall not affect any action pending in such court on such effective date.

SEC. 408. (a) Paragraph (1) of section 90(a) of title 28, United States Code, is amended—

(1) by inserting "Fannin," after "Dawson,";

(2) by inserting "Gilmer," after "Forsyth,"; and

(3) by inserting "Pickens," after "Lumpkin,".

(b) Paragraph (2) of section 90(a) of title 28, United States Code, is amended by striking out "Fannin,", "Gilmer,", and "Pickens,".

(c) Paragraph (6) of section 90(c) of title 28, United States Code, is amended by striking out "Swainsboro" each place it appears and inserting in lieu thereof "Statesboro".

(d) The amendments made by this section shall apply to any action commenced in the United States District Court for the Northern District of Georgia on or after the effective date of this subtitle, and shall not affect any action pending in such court on such effective date.

SEC. 409. Section 85 of title 28, United States Code, is amended by inserting "Boulder," before "Denver".

SEC. 410. The second sentence of section 126 of title 28, United States Code, is amended by inserting "Bennington," before "Brattleboro".

SEC. 411. (a) The amendments made by this subtitle shall take effect on January 1, 1985.

(b) The amendments made by this subtitle shall not affect the composition, or preclude the service, of any grand or petit jury summoned, impaneled, or actually serving on the effective date of this subtitle.

"Subtitle C—Amendments to the Federal Courts Improvements Act of 1982"

This subtitle may be cited as the "Technical Amendments to the Federal Courts Improvement Act of 1982".

SEC. 412. (a) Section 1292(b) of tile 28, United States Code, is amended by inserting "which would have jurisdiction of an appeal of such action" after "The Court of Appeals".

(b) Section 1292(c)(1) of title 28, United States Code, is amended by inserting "or (b)" after "(a)".

SEC. 413. Section 337(c) of the Tariff Act of 1930 (19 U.S.C. 1337(c)) is amended in the fourth sentence by inserting ", within 60 days after the determination becomes final," after "appeal such determination".

SEC. 414. (a) Sections 142, 143, and 144 of title 35, United States Code, are amended to read as follows:

"§ 142. Notice of appeal

"When an appeal is taken to the United States Court of Appeals for the Federal Circuit, the appellant shall file in the Patent and Trademark Office a written notice of appeal directed to the Commissioner, within such time after the date of the decision from which the appeal is taken as the Commissioner prescribes, but in no case less than 60 days after that date.

"§ 143. Proceedings on appeal

"With respect to an appeal described in section 142 of this title, the Commissioner shall transmit to the United States Court of Appeals for the Federal Circuit a certified list of the documents comprising the record in the Patent and Trademark Office. The court may request that the Commissioner forward the original or certified copies of such documents during pendency of the appeal. In an ex parte case, the Commissioner shall submit to the court in writing the grounds for the decision of the Patent and Trademark Office, addressing all the issues involved in the appeal. The court shall, before hearing an appeal, give notice of the time and place of the hearing to the Commissioner and the parties in the appeal.

"§ 144. Decision on appeal

"The United States Court of Appeals for the Federal Circuit shall review the decision from which an appeal is taken on the record before the Patent and Trademark Office. Upon its mandate and opinion, which shall be entered of record in the Patent and Trademark Office and shall govern the further proceedings in the case.".

(b) Paragraphs (2), (3), and (4) subsection (a) of section 21 of the Act entitled "An Act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes", approved July 5, 1946 (15 U.S.C. 1071(a) (2), (3), and (4)), are amended to read as follows:

"(2) When an appeal is taken to the United States Court of Appeals for the Federal Circuit, the appellant shall file in the Patent and Trademark Office a written notice of appeal directed to the Commissioner, within such time after the date of the decision from which the appeal is taken as the Commissioner prescribes, but in no case less than 60 days after that date.

"(3) The Commissioner shall transmit to the United States Court of Appeals for the Federal Circuit a certified list of the documents comprising the record in the Patent and Trademark Office. The court may request that the Commissioner forward the original or certified copies of such documents during pendency of the appeal. In an ex parte case, the Commissioner shall submit to that court a brief explaining the grounds for the decision of the Patent and Trademark Office, addressing all the issues involved in the appeal. The court shall, before hearing an appeal, give notice of the time and place of the hearing to the Commissioner and the parties in the appeal.

"(4) The United States Court of Appeals for the Federal Circuit shall review the decision from which the appeal is taken on the record before the Patent and Trademark Office. Upon its determination the court shall issue its mandate and opinion to the Commissioner, which shall be entered of record in the Patent and Trademark Office and shall govern the further proceedings in the case.".

(c) The amendments made by this section shall apply to proceedings pending in the Patent and Trademark Office on the date of the enactment of this Act and to appeals pending in the United States Court of Appeals for the Federal Circuit on such date.

SEC. 415. Any individual who, on the date of the enactment of the Federal Courts Improvement Act of 1982, was serving as marshal for the Court of Appeals for the District of Columbia under section 713(c) of title 28, United States Code, may, after the date of the enactment of this Act, so serve

under that section as in effect on the date of the enactment of the Federal Courts Improvement Act of 1982. While such individual so serves, the provisions of section 714(a) of title 28, United States Code, shall not apply to the Court of Appeals for the District of Columbia.

SEC. 416. Title 28, United States Code, is amended in the following respects:

(a) There shall be inserted, after section 797 thereof, in Chapter 51 thereof, the following new section 798, which shall read as follows:

"798. Places of holding Court; appointment of special masters.

a. The United States Claims Court is hereby authorized to utilize facilities and hold court in Washington, D.C. and in four locations outside of the Washington, D.C. metropolitan area, for the purpose of conducting trials and such other proceedings as may be appropriate to executing the court's functions. The Director of the Administrative Office of the United States Courts shall designate such locations and provide for such facilities.

b. The Chief Judge of the Claims Court may appoint special masters to assist the count in carrying out its functions. Any special masters so appointed shall carry out their responsibilities and be compensated in accordance with procedures set forth in the rules of the court."

(b) The caption of Chapter 51, Title 28 shall be amended to include the following item:

"798. Places of holding Court; appointment of special masters."

GOVERNMENT RESEARCH AND DEVELOPMENT PATENT POLICY

SEC. 501. Chapter 18 of title 35, United States Code, is amended—

(1) by adding "or any novel variety of plant which is or may be protectable under the Plant Variety Protection Act (7 U.S.C. 2321 et seq.)" immediately after "title" in section 201 (d);

(2) by adding ": *Provided*, That in the case of a variety of plant, the date of determination (as defined in section 41 (d) of the Plant Variety Protection Act (7 U.S.C. 2401 (d))) must also occur during the period of contract performance" immediately after "agreement" in section 201 (e);

(3) in section 202 (a), by amending clause (i) to read as follows: "(i) when the contractor is not located in the United States or does not have a place of business located in the United States or is subject to the control of a foreign government," ; by striking the word "or" before "iii" , and by adding, after the words "security of such activities" in the first sentence of such paragraph, the following: "or, iv) when the funding agreement includes the operation of a Government-owned, contractor-operated facility of the Department of Energy primarily dedicated to that Department's naval nuclear propulsion or weapons related programs and all funding agreement limitations under this subparagraph on the contractor's right to elect title to a subject invention are limited to inventions occurring under the above two programs of the Department of Energy."

(4) by amending paragraphs (1) and (2) of section 202 (b) to read as follows:

"(b)(1) The rights of the Government under subsection "(a) shall not be exercised by a Federal agency unless it first determines that at lease one of the conditions identified in clauses (i) through (iii) of subsection (a) exists. Except in the case of subsection (a)(iii), the agency shall file with the Secretary of Commerce, within thirty days after the award of the applicable funding agreement, a copy of such determination. In the case of a determination under subsection (a)(ii), the statement shall include an analysis justifying the determination. In the case of determinations applicable to funding agreements with small business firms, copies shall also be sent to the Chief Counsel for Advocacy of the Small Business Administration. If the Secretary of Commerce believes that any individual determination or pattern of determinations is contrary to the policies and objectives of this chapter or otherwise not in conformance with this chapter, the Secretary shall so advise the head of the agency concerned and the Administrator of the Office of Federal Procurement Policy, and recommend corrective actions.

"(2) Whenever the Administrator of the Office of Federal Procurement Policy has determined that one or more Federal agencies are utilizing the authority of clause (i) or (ii) of subsection (a) of this section in a manner that is contrary to the policies and objectives of this chapter, the Administrator is authorized to issue regulations describing classes of situations in which agencies may not exercise the authorities of those clauses.";

4A. By adding at the end of section 202(b) the following new paragraph:

"(4) If the contractor believes that a determination is contrary to the policies and objectives of this chapter or constitutes an abuse of discretion by the agency, the determination shall be subject to the last paragraph of section 203(2)."

(5) by amending paragraphs (1), (2), (3), and (4) of section 202(c) to read as follows:

"(1) That the contractor disclose each subject invention to the Federal agency within a reasonable time after it becomes known to contractor personnel responsible for the administration of patent matters, and (or such additional time as may be approved by the Federal agency) whether the contractor will retain title to a subject invention. *Provided*, That in any case where publication, or sale, or public use, has initiated the one year statutory period in which valid patent protection can still be obtained in the United States, the period for election may be shortened by the Federal agency to a date that is not more than sixty days prior to the end of the statutory period: And *provided further*, That the Federal Government may receive title to any subject invention in which the contractor does not elect to retain rights or fails to elect rights within such times.

"(3) That a contractor electing rights in a subject invention agrees to file a patent application prior to any statutory bar date that may occur under this title due to publication, on sale, or public use, and shall thereafter file corresponding patent applications in other countries in which it wishes to retain title within reasonable times, and that the Federal Government may receive title to any subject inventions in the United States or other countries in which the contractor has not filed patent applications on the subject invention within such times.

"(4) With respect to any invention in which the contractor elects rights, the Federal agency shall have a nonexclusive, nontransferrable, irrevocable, paid-up license to practice or have practiced for or on behalf of the United States any subject invention throughout the world: *Provided*, That the funding agreement may provide * * * foreign patent rights in the subject invention, as are determined by the agency as necessary for meeting the obligations of the United States under any treaty, international agreement, arrangement of cooperation, memorandum of understanding, or similar arrangement, including military agreements relating to weapons development and producton.".

(6) by striking out "may" in section 202 (c) (5) and inserting in lieu thereof "as well as any information on utilization or efforts at obtaining utilization obtained as part of a proceeding under section 203 of this chapter shall";

(7) by striking out "and which is not, itself, engaged in or does not hold a substantial interest in other organizations engaged in the manufacture or sales of products or the use of processes that might utilize the invention or be in competition with embodiments of the invention" in clause (A) of section 202(c)(7);

(8) by amending clauses (B) (D) of section 202(c)(7) to read as follows: "(B) a requirement that the contractor share royalties with the inventor; "(C) except with respect to a funding agreement for the operation of a Government-owned-contractor-operated facility, a requirement that the balance of any royalties or income earned by the contractor with respect to subject inventions, after payment of expenses; (including payments to inventors) incidental to the administration of subject inventions, be utilized for the support of scientific research; or education; (D) a requirement that except where it proves infeasible after a reasonable inquiry in the licensing of subject inventions shall be given to small business firms; and (E) with respect to a funding agreement for the operation of a Government-owned-contractor-operator facility, requirements (i) that after payment of patenting costs, licensing costs, payments to inventors, and other expenses incidental to the administration of subject inventions, 100 percent of the balance of any royalties or income earned and retained by the contractor during any fiscal year, up to an amount equal to five percent of the annual budget of the facility, shall be used by the contractor for scientific research, development, and education consistent with the research and development mission and objectives of the facility, including activities that increase the licensing potential of other inventions of the facilitys provided that if said balance exceeds five percent of the annual budget of the facility, that 75 percent of such excess shall be payed to the Treasury of the United States and the remaining 25 percent shall be used for the same purposes as described above in this clause (D); and (ii) that, to the extent it provides the most effective technology transfer, the licensing of subject inventions shall be administered by contractor employees on location at the facility."

(9) By adding "(1.) before the word "With" in the first line of section 203, and by adding at the end of section 203 the following:

"(2) A determination pursuant to this section or section 202(b)(4) shall not be subject to the Contract Disputes Act (41 U.S.C. S. 601 et seq.). An administrative appeals procedure shall be established by regulations promulgated in accordance with section 206. Additionally, any contractor, inventor, assignee, or exclusive licensee adversely affected by a determination under this section may, at any time within sixty days after the determinatioin is issued, file a petition in the United States Claims Court, which shall have jurisdiction to determine the "appeal

on the record and to affirm, reverse, remand or modify, ", as appropriate, the determination of the Federal agency. In cases described in paragraphs (a) and (c), the agency's determination shall be held in abeyance pending the exhaustion of appeals or petitions filled under the preceding sentence.";

(10) by amending section 206 to read as follows:

"§ 206. Uniform clauses and regulations

"The Secretary of Commerce may issue regulations which may be made applicable to Federal agencies implementing the provisions of sections 202 through 204 of this chapter and shall establish standard funding agreement provisions required under this chapter. The regulations and the standard funding agreement shall be subject to public comment before their issuance.";

(11) In section 207 by inserting "(a)" before "Each Federal" and by adding the following new subsection at the end thereof:

"(b) For the purpose of assuring the effective management of Government-owned inventions, the Secretary of Commerce authorized to—

"(1) assist Federal agency efforts to promote the licensing and utilization of Government-owned inventions;

"(2) assist Federal agencies in seeking protection and maintaining inventions in foreign countries, including the payment of fees and costs connected therewith; and

"(3) consult with and advise Federal agencies as to areas of science and technology research and development with potential for commercial utilization."; and

(12) in section 208 by striking out "Administrator of General Services" and inserting in lieu thereof "Secretary of Commerce".

(13) By deleting from the first sentence of section 210(c), "August 23, 1971 (36 Fed. Reg. 16887)" and inserting in lieu there of "February 18, 1983", and by inserting the following before the period at the end of the first sentence of section 210(c) "except that all funding agreements, including those with other than small business firms and nonprofit organizations, shall include the requirements established in paragraph 202(c)(4) and section 203 of this title."

(14) by adding at the end thereof the following new section:

"Sec. 202 Disposition of rights in educational awards

"No scholarship, fellowship, training grant, or other funding agreement made by a Federal agency primarily to an awardee for educational purposes will contain any provision giving the Federal agency any rights to inventions made by the awardee." and

(15) by adding at the end of the table of sections for the chapter the following new item:

"212. Disposition of rights in educational awards."

AMENDMENT TO SEMICONDUCTOR CHIP PROTECTION ACT

Mr. MATHIAS. Mr. President, I am pleased to place before the Senate an amendment in the nature of a substitute to S. 1201, the Semiconductor Chip Protection Act of 1984. This amendment, which is cosponsored by the distinguished junior Senator from Vermont [Mr. LEAHY], is the culmination of extensive negotiations with our counterparts in the other body. This compromise amendment resolves the differences between the bill that the Senate originally passed last May, and the corresponding measure approved by the House in June. The result is a bill that breaks new ground by providing strong protection against the unauthorized copying of the design of that miniaturized miracle of microelectronics technology, the semiconductor chip. Enactment of this bill, as amended, will demonstrate our commitment to bring intellectual property law up-to-date to meet the challenges posed by today's high technology. The approval of the amendment before us is a critical step in this process, and I urge its immediate adoption.

When this measure was last before the Senate, I noted that the House of Representatives was considering a similar but somewhat different measure on the same topic. Shortly thereafter, the other body did, in fact, pass its bill. Both the House and Senate versions of the legislation accorded similar protection to the creativity embodied in the intricate designs of semiconductor chips. The major distinction was that the Senate bill accorded protection under the copyright law, while the House bill established a new, freestanding form of protection. The House sui generis protection was similar to copyright, but applied only to the particular type of expression embodied in chip design, which both bills referred to as a "mask work." The amendment before us today adopts the approach favored by the House of Representatives. To a great extent, the difference between copyright and sui generis protection is a matter of labeling; the variations in the protection accorded chip design are not likely to be of much practical significance. But the acceptance of the House approach is a recession by the Senate of sufficient importance that a few words of explanation are in order.

The controversy about copyright or "copyright-like" sui generis protection has simmered ever since hearings were first held on S. 1201 before the Subcommittee on Patents, Copyrights and Trademarks some 16 months ago. The arguments on both sides of the issue were explored in depth. The report of the Senate Judiciary Committee explained in some detail the reasons for the Senate's adoption of the copyright approach. The question also received thorough discussion in the Senate debate accompanying passage of S. 1201 in May. But while the Senate concluded that, on balance, the evolving copyright law was sufficiently flexible to accommodate the new form of expression embodied in mask works, the House of Representatives was firmly convinced that chip protection would confuse and distort the copyright law. It was apparent from the earliest negotiations between the Houses that the other body's rejection of the copyright approach was irrevocable, and that if a semiconductor chip protection bill were to gain approval from both Houses, it would have to reflect the sui generis approach.

In any event, it is clear that the substantive differences between the two approaches were more apparent than real. Both bills provided for a limited, 10-year term of protection for chip design. Both opted for a registration rather than an examination system of protection, so that a shield against piracy could be obtained quickly and inexpensively. Both accorded the owner of the chip design the exclusive right to make, import, and distribute a chip embodying that design. Both provided, in almost identical terms, for the accepted and beneficial industry practice of reverse engineering. Both also recognized a limited immunity for innocent infringers of rights in the chip design. Under both bills, the protection system would be administered by the Copyright Office in the Library of Congress, with enforcement efforts left primarily to private civil litigation in the U.S. district courts. In short, both bills contemplated a system of protection that closely resembled existing copyright law, with certain key deviations from that model. The Senate bill followed the copyright model while providing for stated exceptions; the House bill simply created a new legal structure patterned on copyright and incorporating similar exceptional features. The closeness to copyright of the sui generis approach may best be illustrated by the fact that many of the speakers in the House debate on chip protection referred to the House bill as a "copyright bill." Furthermore, the fact that the House approach was fully acceptable to the original sponsors of the companion measure to the Senate-passed chip protection bill added some weight to the argument for recession to the House bill.

Additionally, the compromise bill now before the Senate also incorporates some additional improvements which, to some extent, satisfy the concerns that led the Senate to choose a copyright solution to the problem of chip piracy. Three of these deserve particular mention.

First, the Senate was concerned that jettisoning the copyright approach might consign the semiconductor industry to years of litigation and uncertainty before the courts arrived at definitive interpretation of a host of new legal concepts contained in sui generis legislation. This fear has been assuaged somewhat by the publication, almost simultaneous with Senate passage of S. 1201, of a detailed report of the House Judiciary Committee on the noncopyright bill. Additionally, Senator LEAHY and I have prepared a further explication of some of the provisions of the amendment that we offer today. I ask unanimous consent that

this memorandum appear in the RECORD at the conclusion of my remarks. Taken together, along with the Senate Judiciary Committee's report on S. 1201, these documents ought to provide sufficient legislative history to allow for business planning among semiconductor chip manufacturers and consumers with a fair degree of confidence in the outcome of litigation arising under the Semiconductor Chip Protection Act.

Second, the House has agreed to some changes that will help to give the act more vigor in the immediate future. These include a concession as to the cutoff date for chip protection: the date by which a chip must be on the market in order to enjoy protection against copying and other infringements occurring after the effective date of the act. The House-passed bill denied full protection to chips coming to market before 1985, while allowing limited protection to 1984 chips. The amendment before us provides full protection as of the date of enactment, while chips that came to market as early as July 1, 1983, will eventually enjoy the same status, subject only to a 2-year compulsory license that allows copyists who agree to pay reasonable royalties to distribute their inventory of chip copies in existence on the day of enactment.

Perhaps more importantly, the amendment contains provisions designed to clarify that Congress in no way intends to discourage attempts to prevent copying of chips that were marketed before the cutoff date, an intent that could have been inferred from some language in the House legislative history. To the contrary, the enactment of this legislation is in no way intended to detract from any legal protection that now is, or that may in the future become, available for chips brought to market before July 1, 1983, whether under Federal law, including the existing Copyright Act, or under State statutes, or common law principles.

I know that the junior Senator from Vermont shares my disappointment that the other body would not agree to provide any protection under this act against future acts of piracy directed against chips that were first commercially exploited prior to July 1, 1983. We both feared that this resolution would place at risk the massive investment in some of the most sophisticated semiconductor chip designs, including those embodied in the 1982 generation of 16-bit microprocessors. These advanced "computers-on-a-chip" are only now beginning to enjoy widespread commercial application in personal computers, industrial workstations, and other uses. We take some comfort, however, from the fact that the other body has agreed to write into this legislation, in the most emphatic way possible, that would-be copyists ought not to interpret the exclusion of these chips from coverage under the bill as a declaration of "open season." Nothing could be farther from the truth.

Third, the amendment before us incorporates international transitional provisions that, in my view, mark an important improvement. These provisions are needed precisely because this legislation breaks new ground: The United States will be the first country to adopt legislation explicitly protecting chip designs against unauthorized copying. As the trailblazers, we must grapple with the question of how to treat those other nations that may wish to follow us down the path of chip protection. In the global market in which semiconductor chip products move, few questions are of greater importance.

The Senate bill sought to encourage international protection for mask works by action within the established framework of international copyright law, including, particularly, the Universal Copyright Convention to which the United States adheres. The House bill explicitly rejects reliance on the U.C.C., and calls for the creation of a new international protection system specifically for mask works. However, since no other nation now provides for chip protection, the practical effect of the House-passed bill would have been to make it very difficult for foreign chip designers to obtain protection here in the United States. While it might be anticipated that this problem would eventually be resolved as other chip-producing countries followed our lead, either by enacting similar legislation or by entering into treaty arrangements, in the short run, the problems might be acute. An "open season" on foreign chip designs in the United States, which still boasts the bulk of the semiconductor chip market, could lead to retaliatory measures abroad, and could also disrupt other commercial dealings, such as U.S. licensing arrangements for foreign-designed chips. Thus, while the house bill's goal was a regime of international comity for mask work protection, the actual outcome might have been quite different and less satisfactory.

The international transitional provisions contained in the amendment before us fully address this problem. In effect, they allow for a transitional period in which nationals of those countries that are making progress toward chip protection legislation or treaties, and that respect intellectual property rights in chip design, may protect, in the United States, the mask works they have created, on an equal basis with the creations of U.S. nationals. This transitional regime, to be administered by the Secretary of Commerce, will last for 3 years, which should give sufficient time to erect a more permanent framework of international cooperation in this area.

We have already seen increased international interest in the prospects for chip protection. Representatives of several chip-producing nations are following closely the progress of this legislation. The international transitional provisions, which are discussed in more detail in the joint explanatory memorandum that follows this statement, should go far toward encouraging a prompt and positive response in Japan, Western Europe, and elsewhere.

Finally, I want to underscore some of the implications of the adoption of this legislation. A sui generis approach is appropriate in the case of mask works because mask works are, truly, sui generis. They are a hybrid form of expression. In some ways, they are similar to audiovisual or graphic works, which are, of course, subjects of copyright. Yet the ultimate medium of this expression, and the locus of its extraordinary value to our high-technology society, is a useful article, something more closely resembling the subject matter of the patent system. The amendment before us renounces the project of incorporating protection for this unique form of expression within the copyright system. It should follow, therefore, that the precedential value for future copyright legislation of some of the features contained in this bill is extremely limited.

For example, the Senate is prepared, with some reluctance, to recede to the House approach of eliminating criminal penalties for even the most blatant and egregious violations of exclusive rights in mask works. But this decision is entirely consistent with a recognition that criminal enforcement must continue to play a limited but important role in the copyright sphere. It may also be necessary to reconsider the question of criminal penalties for the violation of mask work rights, should the enhanced civil remedies provide in this bill prove to be insufficient.

Similarly, the adoption of a noncopyright approach to chip protection carries with it no implication with regard to the notion that computer programs ought to be protected under a sui generis statute rather than under copyright. Throughout the consideration of chip protection legislation, the Senate proponents have been extremely careful to underline the distinctions between protection for chip design and protection for software, even when the software is in the form of object code embodied in a read only memory [ROM] semiconductor chip. Both versions of the bill contained specific savings clause provisions disclaiming any intention to alter existing rights in software or other works now protected by copyright. Indeed, in

the Senate's view on this subject is clearly expressed in the amendment recently adopted to the Omnibus Tariff and Trade Act of 1984, H.R. 3398, which expresses the sense of this body that any abandonment of copyright protection for software in favor of a scheme of broad compulsory licensing would be inappropriate. As a cosponsor of that amendment, I hope that the passage of a sui generis chip protection bill will not detract in the slightest from that important message.

Mr. President, this is path-breaking legislation. Many hands have contributed to the blazing of this trail. The Senator from Vermont, Mr. LEAHY, and his staff have been deeply involved in the complex negotiations that have brought us to the verge of enactment of semiconductor chip protection. The distinguished chairman of the Judiciary Committee, Senator THURMOND, has been of invaluable assistance in moving this legislation along. Of the 26 Senate cosponsors of this measure, the Senator from Colorado, Mr. HART, deserves particular mention for his early recognition of the importance of this time. In the other body, the leadership of Representatives DON EDWARDS and NORMAN MINETA, the original sponsors of the companion bill, should be noted. Finally, we would not have advanced this legislation to this point without the active participation of the chairman of the Subcommittee on Courts, Civil Liberties, and the Administration of Justice of the House Judiciary Committee, Representative ROBERT KASTENMEIER. While I have not agreed with all the positions that Representative KANSTENMEIER has taken with regard to this legislation, his views have shaped the measure before us to an extraordinary degree, and if we are successful in enacting it into law during this Congress, he will deserve a lion's share of the credit.

Mr. President, I commend this amendment to the Senate, and urge its immediate adoption.

THE TRADEMARK CLARIFICATION ACT OF 1984

Mr. President, title 1 of the substitute draft now before the Senate is a slightly revised version of S. 1990, the Trademark Clarification Act of 1984, as it was approved by the Judiciary Committee. Passage of this legislation will help to protect our Nation's trademark system from the potentially detrimental effect of the erroneous reasoning of the ninth circuit in the famous Anti-Monopoly case.

The one change from the committee text of this bill is the addition of a new section 104, which reads:

Nothing in this title shall be construed to provide a basis for reopening any final judgment entered prior to the date of enactment of this title.

This amendment merely codifies the clear intent of the bill as approved by the Judiciary Committee. As the report on that bill indicated, S. 1990 does not overrule the *Anti-Monopoly* decision, 684 F.2d 1316 (9th Cir. 1982), cert. denied, 103 S. Ct. 1234 (1983), as to the parties in that case. The bill merely overturns certain elements in the reasoning of that case, and does not say whether or not Monopoly is a valid trademark.

Section 104 does not forbid the reopening of judgments on grounds other than the passage of this legislation, such as on the basis of newly discovered evidence. It does, however, clearly forbid the reopening of any judgment entered prior to the date of enactment of this act based on the provisions of this legislation.

By virtue of this act, Congress does not intend to alter accepted principles of collateral estoppel and res judicata. These are judicial doctrines of continuing validity, and should be applied by the courts in accordance with all appropriate equitable factors.

As used in section 104, the term "final judgment" means that judgment that is entered or made conclusive at the termination of a lawsuit.

Mr. President, I urge Senators to support this legislation.

Mr. HATCH. Mr. President, it is a pleasure to join many of my able colleagues in approving a worthy package of amendments to S. 1990, my Trademark Clarification Act. In particular, I would like to thank Chairman THURMOND of the Judiciary Committee for once again facilitating the advancement of meritorious legislation, Chairman MATHIAS of the Trademarks Subcommittee for his professional processing of this legislation, and the many cosponsors of this bill, most notably Senator LEAHY, who worked closely with me in drafting and perfecting this measure. The amendment attached to S. 1990 will expand this package bill to include provisions giving necessary protecton to the designers of sophisticated computer chip technology and provisions establishing a State Justice Institute.

THE TRADEMARK CLARIFICATION ACT

Before proceeding to explain the reasons for S. 1990, I would like to acknowledge the valuable advice and counsel of the U.S. Trademark Association through its Federal legislation chairman, Mike Grow, and the Patent and Trademark Office through its director, Gerald Mossinghof. These two gentleman were more than simply very competent witnesses before the subcommittee on these questions; they continued to serve long after their testimony by offering advice and drafting suggestions. The final form of this bill owes much to their expertise.

Federal trademark law has provided consumers and producers with marketplace protection for more than a century.

Consumers are assured they are purchasing the product that they desire and that the product is of the same consistent quality that they experienced previously in purchasing that trademarked product. Producers know the time, money, and energy invested in developing and establishing products or services which bear trademarks will be protected from misappropriation.

While trademarks are designed primarily to provide protection and assurance, they may not last indefinitely. The Lanham Trademark Act of 1946 provides for cancellation when a mark "becomes the common descriptive name of an article or substance." Both aspirin and escalator are examples of trademarks that have become common descriptive, or generic, names; there are many more.

In making these decisions on which terms are generic and which are protected marks, the courts have followed a standard test that has existed for more than 60 years. That test is whether the majority of the public recognizes and accepts the term as a trademark. This standard has been well recognized, well understood, and well accepted. It has served to lend stability and clarity to trademark law and litigation involving the determination whether a trademark is valid.

Last year, however, a circuit court handed down a ruling that threatens to undermine this clarity and stability. In a radical and unwarranted departure from accepted judicial practice, the ninth circuit, in a case involving Monopoly, the popular board game manufactured by Parker Bros., ignored the issue of whether the public recognized the name as a trademark.

It focused instead on an entirely new issue: Did consumers purchase this game because they wanted a product made by Parker Bros. or because they wanted to play a specific real-estate-trading game? Because a majority of consumers surveyed were motivated by a desire to play the game and not by the fact that Parker Bros. manufactured Monopoly, the ninth circuit ruled against Parker Bros.

In applying a new standard, one of consumer motivation, the ninth circuit ruled that Monopoly had become a generic name because 65 percent of the people surveyed said they bought the game because they wanted to play Monopoly, and "don't much care who makes it," while some 32 percent—a minority—said they bought Monopoly because they "like Parker Bros.' products."

This new motivation test is both unjustified and unreasonable. It ignores past law and common sense, and, most importantly, it is contrary to accepted principles of trademark law. It denies brand-name status to products that always have been bought by their

brand name, simply because the purchaser or consumer cannot identify the maker or manufacturer.

Few trademarks can survive this standard, because most consumers cannot identify the companies that produce the products and goods they buy. Moreover, accepted trademark law does not require this identification, as long as consumers associate the goods with a single source. They do, however, have clear expectations regarding the quality of the products they purchase and rely on the trademark for assurance of this quality. Yet the ninth circuit has declared these customary and usual expectations to be insufficient.

It would be inappropriate for the Congress to take action that would have a retroactive impact on the parties affected directly by the ninth circuit decision in the Monopoly case. I also have no wish to further expand the authority of existing law or establish new standards, definitions or boundaries regarding the cancellation of trademarks.

I do believe, however, that the fundamental conflict which now exists within trademark law and litigation, as a result of the ninth circuit decision, must be resolved. Otherwise, chaos and confusion will result—everyone will be the loser. An amendment that clarifies the Lanham Trademark Act, that reaffirms and spells out the basic principles that have underscored trademark law for more than six decades, is the most direct, least complicated, and most reasonable way of achieving this goal.

Mr. President, in 1921, Judge Learned Hand articulated the basic standard for determining when a trademark became a generic name. That standard was the level of understanding the consumer exhibited regarding the trademark. If the primary significance of the term was to symbolize the kind or genus of goods sold, then the term was generic and the producer was not entitled to protection. If, on the other hand, the term meant something more than that, then the seller deserved the protection of a trademark. This landmark decision of Bayer Co. against United Drug Co., (272 F.2d 505, 509 (1921)) is still followed by many courts.

Over the years, there have been some refinements in this standard. In the 1938 case of Kellogg Co. against National Biscuit Co. (305 U.S. 111 (1938)), the court said a trademark owner had to show that "the primary significance of the term in the minds of the consuming public is not the product, but the producer" in order to retain the trademark. In other words, the consumer had to recognize the trademark as the name of a product that came from a particular source, even though the consumer might not be able to identify that source. In the 1962 case of Feathercombs, Inc. against Solor Products, Inc.) 306 F.2d 252, 256), the court said that in order for a trademark to become generic, "the principal significance of the word must be its indication of the nature or class of an article rather than an indication of its origin."

Although these cases have served to sharpen and clarify the standard for determining when a trademark becomes generic, the basic and fundamental criteria the courts employed for making this determination always have remained the same—the level of consumer understanding regarding the term in question and whether it could be said that a majority of the public recognized the term as a trademark, rather than as a descriptive term for an entire type or class of products, goods, or services.

This historic standard, as well as thousands of reputable trademarks and the protection and confidence the consumer enjoys in the marketplace, now have been placed in jeopardy by the ninth circuit's disruptive departure from decades of accepted judicial practice.

This decision has shaken reputable trademark attorneys as well as many businesses and Members of Congress. The U.S. Trademark Association, for example, believes the motivational test employed by the ninth circuit in Anti-Monopoly against General Mills Fun Group (684 F.2d 1316 (9th Cir. 1982)), is a "significant threat to the entire trademark system." After considerable deliberation, the USTA recently decided to support legislative efforts aimed at clarifying the legal basis for determining when a trademark becomes generic.

Like many of us, the members of the USTA are troubled because the ninth circuit ignored the dual-function provision of our trademark law. This provision allows trademarks to stand when they serve as the proper name of a product, article, or substance so long as they also serve as an indication of the product's origin, even if that origin is unknown or anonymous to the consumer. By ruling that consumers must associate the trademark with a specific company, the ninth circuit turned its back on the dual-function principle that has long been an integral part of trademark law.

We are troubled, too, because the Anti-Monopoly decision is not an isolated case that other judicial courts will ignore. The motivational test employed by the ninth circuit, as Judge Nies has stated, has led "some courts into an esoteric and extraneous inquiry focusing on what motivates the purchasing public to buy particular goods." In re DC Comics (689 F.2d 1942, 1954 (C.C.P.A. 1982) (concurring opinion)).

Meanwhile, another ninth circuit court already has referred to the Monopoly motivation survey as one conducted "according to accepted principles." Prudential Insurance against Gibralter Financial Corp. (694 F.2d 1150, 1156 (9th Cir. 1982)). And, in the case of The Nestle Co. against Chester's Market Inc. (D. Conn. 1983), Judge Blumenfeld, in holding that the term "Toll House" was generic, cited the Anti-Monopoly decision extensively. The judge also indicated that if a motivation test submitted to the court had not been deficient with respect to a few technicalities, he would have admitted it as evidence.

The reasons individuals buy products should have no bearing on these cases because they are not designed to ascertain whether a product has become generic. They should have no standing in court and no bearing on these cases, because they do not show whether or not a product has become generic. Another survey in the Anti-Monopoly case asked the public if they bought the detergent "Tide" because they wanted a Proctor & Gamble product, or if they bought Tide because they thought it did a good job; 68 percent said they bought Tide because it did a good job. Does this mean that the Tide trademark should now be declared a generic name? Of course not. Yet the ninth circuit did not dismiss the thought, and that could easily happen if we do not take some minimal but essential steps to protect the validity and integrity of our trademarks and our system of trademark law.

Mr. President, the dilemma the ninth circuit created was best summed by Robert C. Lyne, Jr., chief patent counsel for Reynolds Aluminum Co. when he wrote:

> The point of trademark protection is to permit a purchaser to recognize the goods he wishes to buy, and to distinguish them from other goods. It is not to enable him to match up various goods with the companies that sell them.

S. 1990, the Trademark Clarification Act, will resolve this ambiguity.

The bill is not intended to effect important substantive changes in the mainstream of trademark law. Thus its purpose remains primarily that of clarifying and rendering more precise in the statute what the law is today and should be in the years to come, undisturbed and undiverted by the troubling and potentially dangerous elements of the Anti-Monopoly case. In short, the bill does four things:

First, it disapproves use of the so-called purchaser motivation test in determining whether a trademark has become the common descriptive name of a product or service.

Second, it recognizes the dual function that a mark plays in the marketplace.

Third, it recognizes that the name of a unique product may also function as

a trademark so long as the public associates that mark with a single source.

Fourth, it continues the principle that a mark may identify and distinguish a product from that manufactured by others and indicate its source, even if that source is unknown.

Fifth, it conforms various parts of the Lanham Trademark Act to assure uniformity of application in both the courts and in the U.S. Patent and Trademark Office.

Finally, although the Senate Judiciary Committee report offers the most concise agreement of all parties of the legislation as to its terms, one section has been added to this bill on the floor. Since this language has not profited from the careful explanation given the other terms in the committee report, I feel that it would be wise for me to describe its intent in more detail.

The new final section of title I, the Trademark Clarification Act of 1984, states that "Nothing in this Act shall be construed to provide a basis for reopening of any final judgment entered prior to the date of enactment of this Act." This language is intended to mean exactly what it says.

The Federal District Court for the Northern District of California entered a judgment in August 1983 determining that the owners of the trademark Monopoly have no legal or equitable remedy against the producer of the game named Anti-Monopoly for its use of the latter mark under certain circumstances. Nothing in this legislation shall be construed to affect that judgment, in any way, as between those parties. It should be kept in mind, however, that the judgment in that case only covered the rights and obligations of the parties; utimately no declaration was entered on the question of validity of the Monopoly mark.

The legislation also does not, as the Senate report on S. 1990 says on page 8, determine as a statutory matter "whether or not Monopoly is a valid trademark." That is not the province of the Congress, but of the courts.

The Senate report underlines this point when it says, on page 10, that this legislation "is not intended to be retroactive in effect as to the parties to completed litigation." The new section in this title merely restates this intent, nothing more. The legislation thus does not allow the owners of the Monopoly trademark to reopen the Anti-Monopoly litigation as between the parties to that case.

The legislation does overturn the reasoning of the ninth circuit's Anti-Monopoly decision. It therefore brings about an unequivocal change in that law applied by the ninth circuit in the Anti-Monopoly case in each of the respects spelled out in the Senate report. Thus, to the extent that the Anti-Monopoly case might otherwise be seen to have established any controlling legal principles, the legislation constitutes a modification of those controlling legal principles. Application of Szwarc, 319 F.2d 277 (CCPA 1963). See *Commissioner* against *Sunnen*, 333 U.S. 591 (1948); *U.S.* against *Stone & Downer Co.*, 274 U.S. 225 (1927); *Artukovic* against *INS*, 693 F.2d 894 (9th Cir. 1982); *Del Rio Distr., Inc.* against *Aldolph Coors Co.*, 589 F.2d 176 (5th Cir. 1979).

Congress is not, by virtue of this legislation, expressing its views on the application of collateral estoppel or res judicata, which are, of course, judicial doctrines of continuing validity.

THE SEMICONDUCTOR CHIP PROTECTION ACT

Mr. President, I wish to echo the words of Senator MATHIAS, the distinguished chairman of the Subcommittee on Patents, Copyrights and Trademarks, and the author of the Semiconductor Chip Protection Act. This portion of this package bill may prove to be one of the most important antipiracy bills enacted in recent years.

We are all cognizant of the importance of innovation in high technology and its contribution to our economy. Perhaps the most significant such innovation has been the semiconductor chip, with quantum leap refinements in its manufacturing process, and in its applications.

The investment required to produce these chips is not small. In testimony before the subcommittee, Mr. F. Thomas Dunlap, Jr., of Intel Corp. testified that a family of chips typically costs $80 million to develop. Yet a pirate can accomplish the same result at a cost of about $100,000.

As Mr. Dunlap testified, a typical pirate:

has a minimal research and development cost

* * * and certainly does not have to recover market development cost. He is simply interested in making a profit above his manufacturing cost * * * [and] uses price as his weapon.

The Copyright Office has echoed the sentiments of us all by observing that "those who create must be rewarded and protected by our laws." But, to date, there has been no protection, and the semiconductor innovator's reward has been drastically impaired by chip piracy.

Mr. President, this part of the bill preserves the incentives for innovation intended by our Founding Fathers to be the right of those who create. I congratulate the authors of these provisions and, as a member of the subcommittee in which it originated, I am delighted to have been a part of their progress through the legislative process.

STATE JUSTICE INSTITUTE

The final part of this package is the State Justice Institute. Although this provision has raised the question of whether the Federal Government, consistent with the principles of federalism, ought to offer financial assistance to State government institutions, this form of the Institute proposal has been recast to minimize the difficulties. Its funding levels have been reduced to $43 million over 3 years. Its matching requirement has been increased to require State governments to finance one-half of the projects and grants, instead of only one-quarter. Moreover, several provisions have been added to prevent the Institute from interfering with State judicial independence, from engaging in litigation, from lobbying in any Federal or State legislative body, or from undertaking a number of other activities inconsistent with the Institute's limited mission. For instance, the Institute shall not involve itself in partisan activity of any kind, nor become involved in any State ballot process, nor participate in political campaigns, nor issue stock or raise funds as a corporation might.

With these and other limitations, the Institute should operate effectively and become a tribute to its primary Senate sponsor, Senator HEFLIN, a former State chief judge, who deserves great commendation for his work on this provision.

Mr. LEAHY. Mr. President, it is very hard to exaggerate the impact of one very small, insignificant looking device on all of our lives. That device is the silicon chip, the semiconductor device that now turns up everywhere in our lives and which already has turned our century inside out.

It is not enough to say that we live, willing or not, in the age of computers. We also live in the age of the automobile and the age of miraculous wireless communications—radio and television. Each of these has rewritten the patterns of our lives—where we live, where we work, where we travel, what we see and know of the world.

But the silicon chip extends the potential of the human mind, and therefore, of human endeavor, beyond the realm of rapid travel and communication. The computer collects vast banks of information. It gives us the power to look at that information in new ways and to compare it with information in other computers.

It gives us the power to analyze in seconds what used to take months or years, with the result that we can begin to simulate natural and social systems, and therefore, to make predictions about the future that would have seemed pointless to attempt even a short time ago.

Of course, I am not talking about mere scientific or technological breakthroughs that might leave commercial exploitation down the road. Make no mistake: The explosion of semiconductor technology has hit the marketplace. Virtually every month we see

another new product or a giant improvement of an old one.

We constantly witness the advent of more powerful chips, suitable for more and more varied applications. It is even likely that in the future semiconductors will be made of many materials, not just silicon.

More than just new semiconductors and the new products, we are constantly seeing entire new product fields opening up. We are seeing millions of dollars in sales a year in products that were not even on the drawing board 10 years ago.

The dramatic rush of innovative products is one of the reasons I am so glad we are passing this bill this year. New ideas are the product of genius and incentive. We cannot legislate the genius, and it is clear we do not need to. We do need to create the incentives for that genius to flourish and for industry to devote the resources necessary to turn genius into productivity.

That is what this bill is about.

And that is why this bill cannot wait.

Semiconductor chips are at the heart of the worldwide computer revolution, and at the heart of those chips are American semiconductor chip designs. If we fail to provide adequate legal protection for these designs, we will stifle the investment of American companies in innovative product designs and ultimately we will risk falling far behind our international competitors.

While these goals have been clear and agreed upon from the outset, the paths of the House and Senate in reaching those goals have been different.

It should be no surprise that a bill dealing with innovation contains much innovation itself. Protecting semiconductor chip designs was a difficult intellectual, as well as legal, problem.

Just what is embodied in a chip, conceptually? Were we to think of it as a piece of original hardware invented by its creator, or was its essence more the assemblage of written ideas and designs, subject rather to copyright protection?

The House and Senate bills took different approaches initially. The House looked at semiconductor chips as a sui generis and opted for a sui generis solution, though it contained copyright-like elements.

The Senate version was clearly an amendment of the Copyright Act and relied on the adaptation of traditional approaches to the protection of copyrighted works.

We worked long and hard on narrowing the differences, and I am happy to say that some of the differences were more apparent than real. The House bill was very soundly conceived, and we found that its grounding in basic copyright law gave us common ground on which to work.

The subject matter was complex and the agenda long. But Senator MATHIAS, Congressman KASTENMEIER, and I worked hard over the summer to get through that agenda, and the bill that resulted was a true blend of the work of each body.

When the Senate passed S. 1201 in May, I mentioned some concerns that I had with the House sui generis approach. I am pleased to say that these concerns have been squarely dealt with.

I raised the issue of protection of American chip designs in the international marketplace. It was my view that the multinational copyright conventions as well as bilateral negotiations would be useful in securing American rights in chip designs overseas.

Given the uncertainty that a semiconductor mask work is a proper subject matter for copyright protection, both here and abroad, I am now convinced that the detailed international transitional provision contained in the Mathias-Leahy substitute provides a more solid basis for securing American rights abroad.

I also was concerned about the limited protection the House bill gave to chips which were first commercially exploited after January 1, 1984, and the fact that the House bill gave no protection to chips exploited before that date.

The substitute, together with the accompanying explanation, makes it clear that chips first exploited after July 1, 1983, are fully protected, subject only to limited rights to sell off any inventory of copied chips manufactured before the effective date of the legislation. While I had hoped that we would provide explicit protection to chips first commercially exploited in 1982, including the important new generation of 16-bit microprocessors, I am pleased that the House has agreed to make it clear that any copyright protection which those chip designs currently are entitled to will not be cut off by passage of this bill.

Finally, I have been concerned throughout the development of this legislation that there be a clear understanding of what is protected, what is not protected, and what rights a company has to conduct reverse engineering in developing its own original chip. Uncertainty in this area could retard rather than spur innovation. I think that both committee reports and the joint explanatory memorandum give abundant guidance on these questions as well as the kinds of evidence which a court should admit in deciding these issues.

I would like to also note that the bill leaves untouched the authority the Copyright Office has to accept secure deposits. It currently uses this procedure, for example, in the case of standardized tests, and may wish to consider adopting such a procedure for mask works.

I want to make one substantive point about title I of this bill, the Trademark Clarification Act of 1984. It is important to underscore a point made well in the Judiciary Committee report that S. 1990 does not overrule the case of *Anti-Monopoly, Inc.* v. *General Mills Fund Group, Inc.*, 195 U.S.P.Q. 634 (N.D. Cal. 1977). The reasoning of the court in that case is overruled, but the bill does not purport to say if monopoly is a valid trademark.

The antimonopoly litigation has been concluded, and the current bill is not intended to be retroactive in effect. Since the bill is intended primarily to restate and clarify existing law already applicable to pending cases, the legislation will apply to cases where there has been no final judgment. Such application is not a form of retroactivity. We have included legislative language to make that point clear.

Mr. President, I would like to conclude by stating something that I have said on this floor many times before. America's innovators and the country in general owe a great debt of gratitude to the chairman of the Subcommittee on Patents, Copyrights, and Trademarks, Senator MATHIAS. His dedication and fine work, together with that of the distinguished chairman of the House Subcommittee on Courts, Civil Liberties, and the Administration of Justice, Congressman KASTENMEIER, have made this important piece of legislation possible. They deserve our thanks.

I would also like to thank committee staff who have done an impressive job of honing this legislation—specifically Steve Metalitz, John Podesta, Mike Remington, and Deborah Leavy who worked on the Semiconductor Chip Protection Act, and Tom Olson, Randy Rader, Ben Scotch, and David Beier who worked on the Trademark Improvement Act, and Arthur Briskman and Karen Kremer who worked on the State Justice Institute legislation.

Mr. HEFLIN. Mr. President, I rise in support of the State Justice Institute, which would establish a private nonprofit corporation to aid State and local governments in strengthening and improving their judicial systems.

The Framers of our Constitution realized the important position that State courts would assume in the evolution of our judicial process. In fact, the only Federal court mandated by the Constitution is the Supreme Court of the United States. Therefore, it is evident that our forefathers placed substantial confidence in the abilities of our State judicial systems. The foresight of these men proved prophetic.

Today, State courts handle over 96 percent of all the cases tried in the United States. They are charged, along with the Federal courts, with the awesome responsibility of protecting and enforcing the rights granted by the Constitution and the laws of this land.

There is little doubt that a compelling Federal interest exists in ensuring that our State courts have the necessary resources available to meet the demands of their increasing dockets.

State courts not only consider State issues, but they are bound by the supremacy clause of the Constitution to consider Federal law as well.

This legislation authorizes the creation of a State Justice Institute to administer a national program for the improvement of State court systems. In keeping with the doctrines of federalism, and separation of powers, the institute will be an independent, federally chartered corporation—accountable to Congress for its general authority, but under the direction of State judicial officials as to specific programs, priorities, and operating policies.

The State has passed similar legislation establishing a State Justice Institute during the past two Congresses and it has done so by a unanimous vote. The amendment I am offering today on the State Justice Institute is similar to the version passed by the Senate on June 21, 1984. The authorization dates have been changed from 1985, 1986, and 1987 to 1986, 1987, and 1988, and the matching funds required by States have been increased.

In addition, included within this amendment is a requirement that the Attorney General, in consultation with the Federal Judicial Center, submit a report to the Senate and House Judiciary Committees on the effectiveness of the institute.

It is apparent that the quality of justice in this country is largely determined by the quality of justice by State courts. While Federal assistance to State courts should never replace the basic financial support provided by State legislatures, Federal financial contributions administered in a manner that respects the independent nature of the judiciary can provide a margin of excellence that will not only improve the quality of justice, but will guarantee that the justice administered is of the highest caliber and that our courts provide the greatest accessibility for the citizens of this great land.

Mr. MOYNIHAN. Mr. President, I rise today to urge my colleagues to support worthy and important legislation, H.R. 6163, the Federal District Court Organization Act of 1984.

H.R. 6163, which the House of Representatives passed on September 24, 1984, establishes in Hauppauge, NY, an additional site for the Federal court of the eastern district of New York. Currently, the eastern district court hears cases in Brooklyn and Uniondale, in Nassau County. At present, the court has no judicial seat in Suffolk County, NY, despite the fact Suffolk County residents are responsible for more than 20 percent of the caseload for the eastern district court.

The Federal District Court Organization Act of 1984, which I endorse wholeheartedly, would remedy this situation by providing a new location for the eastern district court to meet in Suffolk County. The 1.3 million residents of Suffolk County now must travel 35 miles to the nearest district court location in Uniondale; the creation of a new court site will remedy this situation.

H.R. 6163 authorizes the leasing of space for two Federal judges, their courtrooms, chambers, and libraries. In addition, offices will be acquired for the U.S. attorney, the commissioner of jurors, and the clerk of the eastern judicial district of New York.

This proposal, which has been endorsed by the judicial council of the second circuit, the judges of the eastern district court, the Administrative Office of the U.S. Courts, and the Department of Justice, was introduced in the House of Representatives by the Honorable ROBERT J. MRAZEK.

Mr. President, I urge my colleagues to act swiftly and pass this legislation, and I ask unanimous consent that a copy of the testimony of Congressman ROBERT J. MRAZEK before the House Subcommittee on Courts, Civil Liberties and the Administration of Justice, of the House Judiciary Committee, on August 9, 1984, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TESTIMONY OF CONGRESSMAN ROBERT J. MRAZEK BEFORE THE SUBCOMMITTEE ON COURTS, CIVIL LIBERTIES AND THE ADMINISTRATION OF JUSTICE OF THE COMMITTEE ON THE JUDICIARY

Mr. Chairman and members of the Subcommittee. Thank you for allowing me this opportunity to testify in support of H.R. 5619, a bill relating to the geographical organization of the Eastern District of New York. Specifically, H.R. 5619 would amend Section 112 of Title 28 of the U.S. Code to allow the Eastern District to hold court in Hauppauge. Right now, the District sits in Brooklyn and is authorized (and does) hold court in Uniondale, located in Nassau County. Hauppauge is found in Suffolk County and serves as its demographic center, and the *de facto* seat of government.

Mr. Chairman, it has been my privilege to represent the interests of Suffolk County, first as a member of that County's legislature, and now as a member of this House—over 12 years. I have seen the rapid growth in Suffolk's population, standard of living, employment opportunities, technology and economy. Suffolk today has a life of its own, distinct, free and independent from that colossus of the West, New York City.

A direct consequence of this phenomenon is the intensity of social and business interactions which touch upon our federal laws, and it is the federal judiciary which is most responsible in assuring that the tailored and deliberate application of these laws occurs.

Of course, the judiciary's most visible figure is the federal judge—but as this Committee well knows—more people than just the judge provide input into the doings of justice. I refer to litigants, attorneys, clerks, juries and court personnel, each of whom need, give, facilitate, regulate or supervise, as the case may be, access to the judge and in the broader sense, the administration of justice. Where these people come from, their roots and commitment to the community as well as their own valuable notions of honor, ethics, justice and civil duty, all affect to a substantial degree how the administration of justice is fashioned and perceived.

Suffolk needs and deserves a federal court so that its 1.3 million people can benefit from, participate in, and give local life to the federal judiciary's promotion of justice. H.R. 5619 serves Suffolk's best interests and, at the same time, weds the federal judiciary to her growth and bustle.

I would now like to address the questions posed by the Chairman. Of course, I stand ready to respond to any other inquiry by this Committee and would welcome the opportunity.

The need to enact H.R. 5619 is manifest. If my earlier remarks leave any doubts, they are resolved by empirical data and circumstance. In 1983, 5,729 cases were filed in the Eastern District, a 27.7% increase over 1982 (4,485 cases), and a 77.4% increase over the filings made in 1978 (3,229 cases). From December, 1983 to May, 1984, the most recent data available, Long Island cases amounted to approximately 30% of *all* civil cases filed with the Court. During this period alone, there were 2,778 civil cases filed (excluding the Agent Orange cases), of which 47.5% were "Suffolk County cases". Suffolk County, it seems, is already a font of federal litigation and exacerbates the already congested court calendar. Of course, more judges authorized to sit in the Eastern District would relieve the congestion to some degree—but circumstance has intervened, which makes the passage of H.R. 5619 crucial.

The existing federal court facilities in Brooklyn and Uniondale are in full use and overcrowded. There is simply no more room to accommodate even one more judge, let alone the two currently approved for the Eastern District by P.L. 98-353. H.R. 5619 relieves the pressure for more space.

Another circumstance underscoring the need to enact H.R. 5619 is the distance litigants, attorneys, jury members and candidates must now commute in order to participate in the working of the federal judiciary. Depending on where the Suffolk resident begins the trip, as much as four hours can be spent travelling one way to the Court. These distance and time factors place great hardship on litigants, lawyers, jurors and witnesses. Their proclivity to participate in the process becomes lessened.

The costs of the proposed reorganization are minimal. Additional authorization for the expenditure of federal dollars is neither necessary nor sought by my bill, certainly good news for the budget conscious. Suffolk's federal courthouse would be located on leased property, having an average cost of less than $20 per square foot. Approximately 12,560 square feet of space would be

sufficient to accommodate the chambers, courtrooms and libraries of two federal judges, one magistrate, a clerk and probation office, conference rooms and jury deliberation rooms, for a total of $251,200 per year.

The alternative means serving the same purpose as H.R. 5619 would be: (1) to establish a new judicial district for Long Island, or (2) take over space somewhere in Brooklyn. Suffice it to say that these options would be more costly and, in the latter case, insensitive to the present need for the federal court facility in Suffolk.

The support for a federal court facility in Suffolk County is broad-based. I am pleased to advise the Chairman that I have secured the approvals of the judicial council of the Second Circuit as well as the Chief Judge and judges who sit on the Board of Judges of the United States District Court for the Eastern District of New York. I include herewith, for the record, copies of the correspondence to such effect. Further, my office has been advised that the Suffolk County Bar Association, as well as the administrative office of the local courts, approve of the establishment of a federal courthouse in Hauppauge.

I am aware of no opposition to H.R. 5619.

CONCLUSION

The administration of justice in this federal republic admits to no formula. It is molded by people who have diverse interests and concerns. The duty of the judge is to harmonize these seemingly conflicting voices so that fair and equitable application of our laws occurs in a convenient and accessible environment. Where the judge holds court and where the litigants, attorneys, jurors, witnesses and court employees live and have their roots, indelibly colors the process by which the judge is summoned to fashion justice. Suffolk County deserves to be part of this process. H.R. 5619 enables Suffolk, with its own distinct values of law and order, to participate fully in and reap the benefits of the tailored, deliberate application of justice.

Thank you again for allowing me this opportunity to state my case for Long Island.

U.S. COURTS, JUDICIAL COUNCIL
OF THE SECOND CIRCUIT,
New York, NY, April 10, 1984.

Mr. WILLIAM E. FOLEY,
Director, Administrative Office of the U.S. Courts, Washington, DC.

DEAR MR. FOLEY: This is to inform you that the Judicial Council of the Second Circuit unanimously supports the proposal of the Board of Judges of the Eastern District of New York that Hauppauge, Long Island be made a place where court may be held in that district. In accordance with this action and the attached resolution, the Judicial Council and the Eastern District Board of Judges will be pleased if you will take the earliest possible steps to amend 28 U.S.C. § 112(c) and begin the process of obtaining space. There are, I understand, available facilities that could possibly serve the court's purpose.

Hauppauge is in Suffolk County, Long Island, a county that now has a population in excess of 1.3 million people. Hauppauge is 35 miles east of the courthouse that was recently opened at Uniondale, in Nassau County, and would serve a fast-growing and populous region. As you know, there is an acute shortage of space for court facilities in the Eastern District of New York. Adding Hauppauge will permit the Administrative Office to resolve a portion of the urgent need for space in the district at the relatively low costs available in Suffolk County, rather than responding entirely by undertaking much higher costs for space in Brooklyn.

Thank you for your assistance in this matter. Please let me know if I or any of us can provide any additional information.

Sincerely,

STEVEN FLANDERS.

RESOLUTION

Be it resolved by the Board of Judges, United States District Court for the Eastern District of New York that Hauppage in Suffolk County on Long Island be designated as a place of holding court for the United States District Court.

THE FEDERAL COURTS CIVIL PRIORITIES ACT

● Mr. LEAHY. I think every Member of this body, and particularly members of the Judiciary Committee, must be aware of the importance of the Federal Courts Civil Priorities Act. There are so many different priorities scattered through the Federal statutes right now that no Federal judge can be expected to resolve conflicts.

I am pleased that we are eliminating the problem, and I am doubly pleased that we are doing so in a way that acknowledges the special importance of the Freedom of Information Act.

Under this legislation, we are imposing a good cause standard to replace the maze of specific priorities existing up to now. "Good cause" is then defined as follows:

For purposes of this subsection, "good cause" is shown if a right under the Constitution of the United States of a Federal Statute (including rights under section 552 of title 5) would be maintained in a factual context that indicates that a request for expedited consideration has merit.

Section 552, of course, is the Freedom of Information Act.

Is it the Senator's understanding, as it is mine, that in adopting this legislation, we are underscoring the unique importance of FOIA?

● Mr. DOLE. I see no other way to construe that statutory language.

● Mr. LEAHY. The language in the House report is excellent on this point—and I think it strongly supports our own understanding.

I was very pleased that on page 5 of the report, the following assurance is given:

The Committee recognizes in Section 2(A) the special nature of Freedom of Information Act cases. This section recognizes the need to expedite hearings upon the showing of "good cause" and defines good cause as including a right under section 552 of title 5, the Freedom of Information Act (FOIA).

This language, together with remarks on page 6 of the report, is a clear direction to judges to construe this bill liberally to give FOIA cases the same fast track they would enjoy as a matter of absolute right under existing law.

My understanding is that as a practical matter, FOIA cases will have the same priority under this bill as under present law.

● Mr. DOLE. Again, I agree. And while we are talking about practicality, it occurs to me that this bill is a stronger direction to judges than under present law in some cases. Under existing law, a FOIA priority might have to compete with other statutory priorities and might not, in fact, get expedited treatment. Since FOIA is the only statute specifically named in the definition of "good cause" and since some cases will always be heard before others, I take this language to mean that judges will weigh the importance of expedition in FOIA cases very heavily in determining priorities.

● Mr. LEAHY. I agree that FOIA cases should come out of this bill with a very strong presumption of priority, and I agree with the Senator that, as a practical matter, most FOIA cases should be in a better position to enjoy priority treatment than under present law.

There is just one more point I would like to raise. The House report makes it very clear that the repeal of statutory priorities is not intended to eliminate or discourage the continuation of judicially created priorities which experience shows are warranted.

● Mr. DOLE. That is an important point. We are making our statutes simpler and less rigid for the very purpose of giving room to judges to use their practical experience. It would be ironic, and wrong, if anyone construed this bill to have the effect of eliminating priorities that judges know are needed.

● Mr. LEAHY. In the House report, the committee gives some specific examples, and cites *United States* v. *Hodgson*, 492 F.2d 1175, 1178 (10th Cir. 1974) and *United States* v. *Davey*, 426 F.2d 842,845 (2d Cir. 1970), concerning certain appeals from decisions of the Commodity Futures Trading Commission.

Where cases, such as the Commodities Futures Trading Commission cases, have deserved priority in the past, the judicial discretion that led to that priority should be applied under the new "good cause" standard.●

The PRESIDING OFFICER. The question is on agreeing to the second-degree amendment.

The second-degree amendment (No. 6996) was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the substitute, as amended.

The substitute amendment (No. 6996), as amended, was agreed to.

Mr. CRANSTON. Mr. President, I think this is a fine amendment and will be of great help to the semiconductor industry in California.

The PRESIDING OFFICER. The question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time and passed.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CONSIDERATION OF CERTAIN RESOLUTIONS

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of four resolutions.

The PRESIDING OFFICER. Without objection, it is so ordered.

SENATE LEGAL COUNSEL APPEARANCE IN DR. PAUL KURTZ VERSUS WILLIAM J. BARRETT

The Senate proceeded to consider the resolution (S. Res. 468) to direct the Senate Legal Counsel to appear as amicus curiae in Dr. Paul Kurtz versus William J. Barrett, Public Printer (Acting), et al.

Mr. BAKER. Mr. President, last year, in the case of Murray versus Buchanan, the U.S. Court of Appeals for the District of Columbia Circuit, sitting en banc, upheld the right of the Congress to compensate its Chaplains. The Senate Legal Counsel, acting pursuant to Senate Resolution 176 of the 97th Congress, represented the Senate Chaplain in that proceeding.

Now, two new lawsuits have been filed which concern the congressional chaplaincies. In one, the plaintiff, a professor of philosophy at the State University of New York at Buffalo, complains that he was not granted the opportunity to appear before the Senate as a guest speaker to open a daily session. He alleges that the Senate discriminates against nontheists in violation of the establishment clause. The resolution for Kurtz versus Regan would authorize the Senate Legal Counsel to represent Reverend Halverson who is one of the defendants in that case.

In his other lawsuit, the plaintiff challenges the periodic reprinting and binding of the prayers of the House and Senate Chaplains. The lead defendant in this action is the Acting Public Printer; there are no congressional defendants. Because the Government Printing Office reprints the Senate Chaplain's prayers at the direction of the Senate, it is appropriate to present a Senate defense to this lawsuit. Accordingly, the resolution for Kurtz versus Barrett would authorize the Senate Legal Counsel to appear as amicus curiae in the name of the Senate to defend the Senate's authority in that case.

The resolution was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 468

Whereas, Senate Resolutions 375 and 376 of the Ninety-eighth Congress, Second Session, authorize the printing, as Senate documents, of the prayers of the Reverend Richard C. Halverson, the Chaplain of the Senate, at the opening of the daily sessions of the Senate, together with other prayers offered by him during the Ninety-seventh and Ninety-eighth Congresses in his official capacity as Chaplain of the Senate;

Whereas, in the case of *Dr. Paul Kurtz* v. *William J. Barrett, Public Printer (Acting), et al.*, Civil Action No. 84-2918, pending in the United States District Court for the District of Columbia, the constitutionality of the printing of the prayers of the Senate Chaplain as Senate documents has been placed in issue;

Whereas, pursuant to sections 703(c), 706(a), and 713(a) of the Ethics in Government Act of 1978, 2 U.S.C. §§ 288b(c), 288e(a), and 288*l*(a) (1982), the Senate may direct its Counsel to appear in the name of the Senate as amicus curiae in any legal action in which the powers and responsibilities of Congress under the Constitution are placed in issue: Now, therefore be it

Resolved, That the Senate Legal Counsel is directed to appear in the name of the Senate as amicus curiae in the case of *Dr. Paul Kurtz* v. *William J. Barrett, Public Printer (Acting), et al.*

Mr. BAKER. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SENATE LEGAL COUNSEL TO REPRESENT THE REVEREND RICHARD C. HALVERSON IN LEGAL ACTION

The resolution (S. Res. 469), to direct the Senate Legal Counsel to represent the Reverend Richard C. Halverson in Dr. Paul Kurtz versus Donald Regan, Secretary of the Treasury, et al., was considered and agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 469

Whereas, the case of *Dr. Paul Kurtz* v. *Donald T. Regan, Secretary of the Treasury, et al.*, Civil Action No. 84-2919, is pending in the United States District Court for the District of Columbia, and the Reverend Richard C. Halverson, Chaplain of the Senate, is named as a party defendant;

Whereas, pursuant to section 703(a) and 704(a) of the Ethics in Government Act of 1978, 2 U.S.C. 288b(a) and 288c(a), (1982), the Senate may direct its counsel to defend officers of the Senate in civil actions relating to their official responsibilities; Now, therefore, be it

Resolved, That the Senate Legal Counsel is directed to represent the Reverend Richard C. Halverson in the case of *Dr. Paul Kurtz* v. *Donald T. Regan, Secretary of the Treasury, et al.*

Mr. BAKER. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SENATE LEGAL COUNSEL TO REPRESENT SUBCOMMITTEE ON ALCOHOLISM AND DRUG ABUSE

The Senate proceeded to consider the resolution (S. Res. 470), directing the Senate legal counsel to represent the Subcommittee on Alcoholism and Drug Abuse in obtaining a writ of habeas corpus ad testificandum.

Mr. BAKER. Mr. President, the Subcommittee on Alcoholism and Drug Abuse of the Committee on Labor and Human Resources wishes to apply to the U.S. District Court for the District of Columbia for a writ of habeas corpus ad testificandum. The purpose of the application is to obtain the presence of a witness, who is presently in the custody of Federal authorities, and interrogation by the subcommittee at a hearing during the adjournment of the Congress.

The following resolution will authorize the Senate legal counsel to represent the Subcommittee on Alcoholism and Drug Abuse in this matter.

The resolution was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 470

Whereas, the Subcommittee on Alcoholism and Drug Abuse of the Committee on Labor and Human Resources wishes to file an application in the United States District Court for the District of Columbia for a writ of habeas corpus ad testificandum to federal authorities to bring Jitze Kooistra, a witness, who is in their custody, to Washington, D.C., for questioning by the Subcommittee;

Whereas, pursuant to section 708(c) of the Ethics in Government Act of 1978, 2 U.S.C. § 288g (1982), the Senate may direct the Senate Legal Counsel to perform such duties consistent with the purposes and limitations of title VII of the Ethics in Government Act of 1978 as the Senate may direct: Now, therefore, be it

Resolved, That the Senate Legal Counsel is directed to represent the Subcommittee on Alcoholism and Drug Abuse in its application for a writ of habeas corpus ad testificandum to obtain the presence of Jitze Kooistra at a hearing of the Subcommittee.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SENATE LEGAL COUNSEL TO INTERVENE IN PRODUCTION STEEL, INC. AGAINST BETHLEHEM STEEL CORP., ET AL.

The Senate proceeded to consider the resolution (S. Res. 471) to direct the Senate legal counsel to intervene in Production Steel, Inc. against Bethlehem Steel Corp., et al.

Mr. BAKER. Mr. President, on September 17, the Senate agreed to Senate Resolution 444 to direct the Senate legal counsel to intervene in the name of the Senate in a bankruptcy proceeding in the northern district of California. The purpose of the intervention is to defend the constitutionality of several sections of the Bankruptcy Amendments and Federal Judgeship Act of 1984, Public Law No. 98-353, which provide for the limited extension of the terms of bankruptcy judges who had been appointed prior to the 1984 act. The focus of the Department of Justice challenge is on the short gap between June 27, when the terms of these bankruptcy judges arguably lapsed, and July 10, when the President signed the 1984 act. The Department contends that the retroactive extension of the terms of bankruptcy judges violates the appointments clause of the Constitution.

On September 25, the Department of Justice informed the Senate legal counsel that it will present a similar challenge to the constitutionality of these provisions in a bankruptcy proceeding in the middle district of Tennessee. Senate Resolution 444 establishes a special procedure for authorizing interventions by the Senate legal counsel during the adjournment of the Congress. Until the adjournment, however, the proper method of authorizing intervention is by a resolution of the Senate for each case. Accordingly, this following resolution directs the Senate legal counsel to intervene in the name of the Senate to defend the constitutionality of sections 106 and 121 of the 1984 Bankruptcy Amendments in the case pending in the middle district of Tennessee.

As I stated when introducing Senate Resolution 444, in providing for the limited extension of the terms of sitting bankruptcy judges, the Congress had not sought to abridge the appointment powers of either of its coordinate branches by choosing among individual bankruptcy judges. The extension provisions of the act apply to all sitting bankruptcy judges, each of whom was appointed by the district courts and each of whom is removable by the courts of appeals. The Congress enacted these provisions to avoid disruptions in the bankruptcy system during its transition under the new act.

The resolution was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 471

Whereas, in the case of *Production Steel, Inc.* v. *Bethlehem Steel Corporation, et al.*, pending in the Middle District of Tennessee, the constitutionality of sections 106 and 121 of the Bankruptcy Amendments and Federal Judgeship Act of 1984, Public Law No. 98-353, has been placed in issue;

Whereas, the Department of Justice has informed the Senate that it will assert in that case that these sections of the Bankruptcy Amendments and Federal Judgeship Act, which provide for the limited extension of the terms of bankruptcy judges appointed prior to the Act, violate the Appointments Clause, Article II, Section 2, Clause 2 of the Constitution;

Whereas, pursuant to sections 703(c), 706(a), and 713(a) of the Ethics in Government Act of 1978, 2 U.S.C. §§ 288b(c), 288e(a), and 288*l*(a) (1982), the Senate may direct its Counsel to intervene in the name of the Senate in any legal action in which the powers and responsibilities of Congress under the Constitution are placed in issue: Now, therefore be it

Resolved, That the Senate Legal Counsel is directed to intervene in the name of the Senate in the case of *Production Steel, Inc. v. Bethlehem Steel Corporation, et al.*

Mr. BAKER. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER FOR H.R. 6228 TO BE HELD AT THE DESK

Mr. BAKER. Mr. President, I ask unanimous consent that once the Senate receives from the House H.R. 6228, patent extension for certain drug products, it be held at the desk pending further disposition.

Mr. BYRD. There is no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR H.R. 6216 TO BE HELD AT THE DESK

Mr. BAKER. Mr. President, I ask unanimous consent that once the Senate receives from the House H.R. 6216, to amend the Bankruptcy Amendments and Federal Judgeship Act of 1984, to make technical corrections with respect to the retirement of certain bankruptcy judges, it be held at the desk pending further disposition.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. BAKER. Mr. President, in today's Executive Calendar, I am told that, at least so far, there is one item that is cleared for action at this time, and that is the nomination of William L. Eagleton, Jr., to be Ambassador Extraordinary and Plenipotentiary to the Arab Republic of Syria.

If the minority leader is ready to proceed with that nomination, I will ask the Senate to consider it at this time.

Mr. BYRD. Mr. President, that nomination has been cleared on this side.

Mr. BAKER. I thank the minority leader.

Mr. President, I ask unanimous consent that the Senate now go into executive session for the purpose of considering the nomination.

There being no objection, the Senate proceeded to the consideration of executive business.

The PRESIDING OFFICER. The nomination will be stated.

DEPARTMENT OF STATE

The legislative clerk read the nomination of William L. Eagleton, Jr., of Washington, a career member of the Senior Foreign Service, class of minister-counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Syrian Arab Republic.

THE PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on this table was agreed to.

Mr. BAKER. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of this nomination.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate return to the consideration of legislative business.

The PRESIDING OFFICER. Without objection, it is so ordered.

ANTIDUMPING AND COUNTERVAILING DUTY LAWS

Mr. PERCY. Mr. President, on September 19, the Senate approved amendment No. 4287 to the miscellaneous tariff, trade and customs bill (H.R. 3398) by voice vote. The amendment would change U.S. antidumping and countervailing duty laws to grant raw commodity producers the standing to file complaints before the International Trade Commission against subsidized or dumped imports of processed commodities. In so doing, Mr. President, this amendment threatens to trigger a trade war with the European Community and place in jeopardy America's $3.5 billion in exports of soybeans, soybean meal, and corn

gluten feed to the European Community.

Certainly, my colleagues can be forgiven for wondering just how an amendment which could be so damaging to U.S. trade interests was attached to H.R. 3398. The answer is not simple. As in most international trade matters there are conflicting interests and principles at stake with this amendment. However, I fear that too little attention was focused on the tradeoff involved in this case for U.S. exports, not to mention the stability of our trading relations with the European Community. Clearly some background is in order.

Mr. President, Amendment No. 4287 is the language contained in section 8 of the Wine Equity Act—a section which was added to that bill very late in this session. In contrast to the balance of the Wine Equity Act (sections 1-7) which were aimed at gaining access to overseas markets for American wine makers, section 8 was added on behalf of a very narrow interest in response to a very narrow issue. Specifically, section 8 was drawn up in an effort to reverse a decision of the U.S. International Trade Commission in a countervailing duty case against table wine from France and Italy. In that case, the ITC unanimously found that imports of French and Italian table wine were not causing injury to the U.S. wine industry.

The connection between this case and section 8 of the Wine Equity Act, however, had nothing to do with the U.S. wine industry per se. Indeed, the wine producers were not supporting the petition for CVD relief and in general had refused to cooperate in the investigation. Rather, the petition was being pursued by the grape growers. But the ITC declined to consider the grape growers as part of the "wine" industry because they failed to meet the standards contained in U.S. law.

More specifically, the grape growers could not demonstrate that their product was a part of a "single, continuous stream of production" resulting in a single processed agricultural product or that there was a substantial "commonality of economic interest" between growers of grapes and winemakers. The reason, simply enough, stems from the fact that grapes are not only used in the making of wine, but also sold for consumption.

As a consequence, Mr. President, the grape growers have pushed this amendment to change the law which resulted in their being denied a countervailing duty on table wine from France and Italy. Why shouldn't grape growers be able to bring antidumping and countervailing duty cases against foreign imports? Why is this amendment so damaging?

I am sure that some of my colleagues have heard from various farm groups in favor of this measure on the grounds of principle. I, too, am sympathetic to the argument that producers of farm products should have access to the same relief which processors have through U.S. trade law. But I hasten to add Mr. President that there are several principles at issue in this instance. Indeed, in my view a far more important principle was overlooked with the passage of this amendment, the principle of consistency with our international trade obligations.

In short, what this amendment seeks to allow is GATT illegal. According to a memorandum written by the general counsel to our trade representative, the amendment represents a clear violation of the Antidumping Code and the Subsidies Code to which the United States has contracted. I think this is important enough to warrant a more in-depth explanation.

In essence, in order for an industry to gain import relief in an antidumping or countervailing duty case, two conditions must obtain: First, there must be a finding of dumping or subsidization, and second, there must be a determination that dumped or subsidized imports are causing or threatening material injury to an "industry." The Antidumping Code and the Subsidies Code specifically provide that the term "industry" refers to the domestic producers as a whole of the "like" products. And herein lies the key Mr. President. A "like product" is defined as a product which is identical—that is, alike in all respects to the products under consideration.

By treating growers who are not engaged in the production of a "like product" as part of the industry, the amendment quite simply violates these provisions of the GATT, and exposes the entirety of the U.S. export sector to the threat of retaliation.

Mr. President, on Tuesday of this week I received a call from the French Ambassador Bernard Vernier-Palliez regarding this amendment to our trade law. He confirmed what I had already feared after hearing recent pronouncements emanating from the Commission of the European Community in Brussels—namely, that if this amendment becomes law and grape growers succeed in their attempt to gain higher duties against French and Italian wine, retaliation will be inevitable. And I might add, our European friends will be within their legal rights under the GATT to do so.

I am always wary of moves which jeopardize U.S. exports and I simply could not sit still for such a blatant violation of our international agreements. Although I am particularly concerned about the vulnerability of Illinois products which I mentioned at the opening of my statement such as soybeans, soybean meal, and corn gluten feed, European Community representatives have indicated that retaliation might not be limited to these products. It might also be leveled against exports of other goods such as citrus fruit, almonds, raisins, and walnuts—a prospect which I hope would give my colleague from California who has sought this amendment with such tenacity pause for thought.

Mr. President, at this every moment, the United States is involved in discussions with the European Community over a Community proposal to place a quota on corn gluten imports from the United States. The worst thing we could do is pass a proposal which could restrict European Community wine exports to the United States in a way inconsistent with the GATT for the sake of one petition which is not even supported by the American wine industry. Therefore I, along with 10 of my colleagues have urged in a letter to the conferees on the omnibus trade bill of 1984—into which H.R. 3398 has been folded—that this amendment be dropped.

It is my sincere hope that in this particular trade matter, the principle of GATT legality will prevail. There is good reason why the GATT codes have been written as they presently stand. In my view, there are more appropriate ways of dealing with the problems of American grape growers than those which would sacrifice both the framework upon which our international trading system has been constructed, and the stability of our trade relations with the European Community.

OMNIBUS WATER RESOURCES LEGISLATION

Mr. PERCY. Mr. President, last November the Water Resources Development Act was placed on the Senate calendar. As the first water bill in over 7 years, this legislation is the product of tremendous work by the Committee on Environment and Public Works.

Since the bill was reported from that committee, it has also undergone review by the Committees on Finance and Energy and Natural Resources. The Committee on Environment and Public Works then took the bill back and has now proposed a substitute, which seeks to deal with some of the more difficult issues of water resources policy that have necessarily been raised in this legislation.

One of these issues is that of cost sharing on inland waterway navigation projects. In the latest version of the bill, Chairman STAFFORD has proposed that the inland waterway users pay for 100 percent of the cost of seven major inland waterway projects, including lock and dam 26 along the Mississippi River near Alton, IL. While I am fully supportive of the efforts in this legislation to shift some of the costs for maintaining our inland waterway system to users, I feel that 100

percent is perhaps too large. I would suggest to my colleagues that, if the water bill does reach the floor, some action be taken to amend the bill in title V to provide for a different formula of Federal-user cost sharing; 50–50 sounds like a place to start negotiating, and I believe a formula close to that might provide a solution to at least one of the roadblocks that we are facing on this bill.

In March of this year, Mr. President, I authored a letter to the majority leader that was signed by 13 other Senators: Senators GORTON, DIXON, HEFLIN, PRESSLER, MATHIAS, KASSEBAUM, SARBANES, BRADLEY, SPECTER, RUDMAN, WILSON, JEPSEN, and CHILES. Our letter stressed the importance of getting a water resources bill to the floor this year for consideration.

I quote from that letter:

Our wish to move this legislation does not necessarily mean that we endorse every provision of S. 1739. However, we believe it is very important that the full Senate debate and resolve the issues addressed by this bill soon."

Mr. President, the same situation stands today. There are problems in this bill; there would be problems in any bill as ambitious as this one in terms of the way it takes on all sides of water resources policy. But we need a water resources bill. This is the bill we have. Let's bring it up and work out, under a time agreement, those very few issues that have not been already worked out in previous lengthy negotiations.

I ask unanimous consent that the March 16 letter mentioned above be printed in full in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, March 16, 1984.

Hon. HOWARD BAKER,
Majority Leader,
U.S. Senate,
Washington, DC.

DEAR MR. LEADER: On November 17th of last year, S. 1739, the Water Resources Development Act of 1983, was placed on the Senate calendar. This important and comprehensive bill contains provisions addressing the critical issues of water resources policy and cost sharing, Corps of Engineers spending levels, port and inland waterway maintenance and development, project authorizations and deauthorizations, urban water supply, and dam safety.

The Committee on Environment and Public Works has done an admirable job in reporting legislation to the Senate which lays out a reasonable agenda for water projects, while at the same time addressing some very difficult issues, such as system user fees. Our wish to move this legislation does not necessarily mean that we endorse every provision of s. 1739. However, we believe it is very important that the full Senate debate and resolve the issues addressed by this bill soon.

It has been over seven years since major water resources legislation has been signed into law. We feel strongly that the Congress has a responsibility to act quickly on this legislation because of its great importance. Therefore, we request your assistance in scheduling Senate consideration of S. 1739 at the earliest date possible.

Thank you very much for your help.

Sincerely,

Senators, Charles H. Percy, Slade Gorton, Alan J. Dixon, Howell Heflin, Larry Pressler, Charles McC. Mathias, Jr., Nancy Landon Kassebaum, Paul S. Sarbanes, Bill Bradley, Arlen Specter, Warren Rudman, Pete Wilson, Roger W. Jepsen, and Lawton Chiles.

Mr. President, I so not see that we will soon again have the opportunity to pass legislation of this kind. The distinguished chairman of the Environment and Public Works Committee, Senator STAFFORD, and the ranking member, Senator RANDOLPH, as well as Senators ABDNOR and MOYNIHAN, the chairman and ranking member of the Subcommittee on Water Resources have all done an outstanding job on this bill, as have their staffs. I truly hope that we will have the opportunity to give their labors the consideration they are surely due.

TAX REFORM ACT OF 1984

Mr. BOSCHWITZ. Mr. President, the Tax Reform Act of 1984 included technical language that provides certain rules in the tax-exempt entity leasing provisions of the law. During the hectic, late-night deliberations of the conference committee, it is understandable that the congressional intent for the application of such technical language is sometimes not as clearly stated as we Members of Congress would prefer. The intended application of the technical language affecting the container equipment leasing industry is a specific case where the congressional intent is not as clear as it should be.

Indeed, concern has been expressed to me that the technical language may be interpreted in ways that would not reflect the congressional intent of the conferees when they approved the Senate-passed version of the provisions involved. Accordingly, I have written the distinguished chairman of the Finance Committee, who was chairman of the Senate conferees, to enlist his assistance in clarifying the intended application of the technical language.

For the benefit of interest members of the public and for guidance of the Treasury in formulating rules and regulations under the law, I ask unanimous consent that the correspondence between the chairman of the Finance Committee and myself, the technical explanation of the provisions of the Tax Reform Act, and the transmittal letter to the Treasury be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON THE BUDGET,
Washington, DC, October 3, 1984.

Hon. ROBERT J. DOLE,
Chairman, Committee on Finance, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I write to seek your help in clarifying the intended application of technical language providing special rules for determining "lease term" and what is a "lease" for purposes of the tax-exempt entity leasing provisions that were enacted by the Tax Reform Act of 1984 as Internal Revenue Code section 168(j)(6).

Concern has been expressed to me that the law as enacted may be interpreted in ways that could have highly adverse consequences of a kind I feel certain were not intended by the conferees when they acted to approve the Senate-passed version of the provisions involved.

Those expressing concerns to me about such adverse consequences have included Minnesota business constituents of mine and others who comprise the heart of the U.S. container equipment leasing industry. The specific questions raised about application of this technical statutory language to typical business transactions in that industry have been communicated by my staff to staff members serving the Senate Committee on Finance. My understanding is that our staffs have concluded that the statutory language, when interpreted and applied in the intended manner, does not apply to the business transactions described by the U.S. container equipment leasing industry.

In view of this, I am writing to ask that you, in your capacity as Chairman of the Committee on Finance and chairman of the Senate conferees on the '84 tax bill, join with me in clarifying, for the benefit of all interested members of the public and for guidance of the Treasury Department in formulating regulatory or other rules under these provisions of the law, the intended application of these technical provisions. I would suggest this clarification be accomplished by publication in the Congressional Record of appropriate technical clarifying explanatory materials.

Prompt action on our part in taking the actions I suggest to provide the necessary clarifications is in the interests of the Treasury and everyone else who is involved, and I shall await your reply.

Very sincerely yours,

RUDY BOSCHWITZ.

U.S. SENATE,
COMMITTEE ON FINANCE,
Washington, DC, October 3, 1984.

Hon. RUDY BOSCHWITZ,
U.S. Senate,
Washington, DC.

DEAR RUDY: In response to your letter of this date regarding the interpretation of Internal Revenue Code section 168(j)(6) (as added by the Tax Reform Act of 1984), I am writing to say that I share the views you expressed in your letter and concur that we should take the course of action you suggest to clarify the intended application of these highly technical provisions of the new law.

I accordingly have had our staffs prepare the enclosed set of technical, clarifying explanatory materials. These materials state the application of the techncial provisions of the law intended by the conferees when they approved the Senate-passed version of the bill bearing on these issues.

I concur in your suggestion that we act to have these materials made available to the public at large through publication in the

Congressional Record, as well as to the Treasury Department for its guidance in formulating rules interpreting these provisions of the new law. A copy of my letter of transmittal of these materials to the Assistant Secretary of the Treasury for Tax Policy is enclosed.

Sincerely yours,

BOB DOLE, *Chairman.*

U.S. SENATE,
COMMITTEE ON FINANCE,
Washington, DC, October 3, 1984.

Hon. RONALD A. PEARLMAN,
Acting Assistant Secretary for Tax Policy, U.S. Treasury Department, Washington, DC.

DEAR MR. PEARLMAN: Transmitted herewith for your future guidance in formulating interpretative rules under provisions of Internal Revenue Code section 168(j)(6), added by the Tax Reform Act of 1984, are technical materials clarifying Congressional intent regarding that section for purposes of the new tax-exempt entity leasing provisions.

Sincerely yours,

BOB DOLE, *Chairman.*

TECHNICAL EXPLANATION OF SECTION 168(j)(6) OF THE CODE (AS ADDED BY SECTION 31(a) OF THE TAX REFORM ACT OF 1984)

New Code section 168(j)(6)(A) does not change the prior-law rules regarding the proper characterization of agreements to lease. Thus, for example, where a master or requirements contract of the type commonly used by container-equipment lessors (which may involve a commitment by the lessor to make a minimum number of containers available on a best efforts basis and the lessee's obligation to pay a commitment fee for such undertaking, which may or may not be credited against future rentals) is properly characterized as an agreement to lease, the status of such a contract would be determined without regard to this provision. No inference is intended as to whether such agreements are, in fact, leases or agreements to lease under prior law.

The Conference Agreement made some technical changes to the definition of lease term contained in new code section 168(j)(6)(B). Those changes were not intended to affect the application of the rule set forth in *Hokanson* v. *Commissioner* 84-1 U.S.T.C. paragraph 9217 (9th Cir., 1984). The following examples illustrate the intended application of the special rules for determining lease term.

EXAMPLE (1)

On January 1, 1985, X, pursuant to a master or requirements agreement (as decribed above), enters into 3 separate leases with y, a lessee. Under the leases, Y obtains the use of 3 identical items of container equipment, each for a term of 5 months beginning on January 1, 1985. On March 1, 1985, Y enters into a fourth lease for the use of a fourth container, pursuant to the same master agreement, for a term of 20 months beginning on that date. Under the Act, the lease terms of the four leases for the containers are not aggregated. The mere fact that Y obtained the use of 3 identical containers on the same date from the same lessor under the same master agreement and a fourth container from the same lessor under the same master agreement two months later does not result in the aggregation in the lease terms, of the 4 separate leases. Furthermore, the mere fact that all of the leases involved the same lessor, the same lessee, and the same or substantially similar property does not require the aggregation of the terms of such leases.

EXAMPLE (2)

On January 1, 1985, X, a prospective lessor of container equipment, enters into a master or requirements contract (as described above) with Y, a prospective lessee of such equipment, for a period of 3 years. The master contract sets the general terms and conditions, including the lease rate, under which X and Y will do business on those occasions when X actually leases equipment to Y at various ports of call. Thus, X and Y have a general expectation of carrying on business with each other, although the master agreement imposes no obligation on either party to actually enter into a lease agreement. On January 1, 1985, under the terms and conditions set forth in the master agreement, X and Y enter into a lease of specific container equipment for a term of 1 year. After the end of the lease term on January 10, 1986, X and Y enter into a second lease with respect to the same or substantially similar equipment.

Assuming that the master contract is not, itself, a lease (for example, under the Act's general service contract provisions, or under prior-law rules regarding agreements to lease) and assuming that the parties did not have any informal or implicit understanding (other than the general expectation to do some business in the future) at the time of the first lease to enter into the second lease, the mere fact that the parties entered into 2 leases under the master agreement does not result in the application of the rules for successive leases.

EXAMPLE (3)

The facts are the same as in Example (2), except that on January 1, 1985, X and Y enter into 2 separate leases, each for a term of 1 year. One lease is for the period beginning on January 1, 1985, and ending on December 31, 1985. The other lease is for the period beginning on January 1, 1986, and ending on December 31, 1986. Both leases involve the same or substantially similar container equipment.

Under the Act's successive lease rule, the lease terms of both leases are aggregated for purposes of determining the lease term of either lease. This result occurs because the 2 leases were entered into as part of the same transaction and relate to the same or substantially similar property. The same result would occur if X and Y executed one lease at 9:00 a.m. on January 1, 1985, and the other lease at 1:00 p.m. on the same day.

If the facts are the same as in Example (2) except that the parties did have an understanding, informal or otherwise, at the time of the first lease that a second lease of the same equipment would be entered into, the terms of the leases would also be aggregated for purposes of determining the lease term of either lease. This result occurs because the leases are entered into in transactions that are related to one another.

ELLSWORTH BUNKER, AMERICA'S DIPLOMAT

Mr. PERCY. Mr. President, last week the Nation lost one of its ablest servants when Ellsworth Bunker passed away. He was 90 years old and he had led a life of distinction and service to the Nation. He was a negotiator, a man who served seven Presidents faithfully, an uncommon individual who tried to bring consensus to issues where there had earlier only been discord.

Ambassador Bunker is survived by his wife, Caroline Laise, who also participated in the family tradition of serving the Nation as a U.S. Ambassador. They met when she was Ambassador to Nepal. To Caroline, and to his three children, I extend my deepest sympathies and my personal gratitude for all that the Bunker family has done and will do in the Nation's service.

I ask unanimous consent to have printed in the RECORD an editorial and an obituary from the Washington Post.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ELLSWORTH BUNKER, FORMER DIPLOMAT, DIES

(By Edward A. O'Neill)

Ellsworth Bunker, a former ambassador to South Vietnam who died Thursday in a hospital in Brattleboro, Vt., at the age of 90, may have handled more varied difficult assignments in his diplomatic career of more than a quarter century than any other American.

Mr. Bunker, who had been admitted to the hospital Sept. 13 for treatment of a viral infection, served as an ambassador under every president from Harry S. Truman to Jimmy Carter, and he spent 36 years in the sugar business before his first diplomatic appointment.

Among his assignments were:

Negotiation of the controversial Panama Canal Treaty, signed in 1978.

Service as ambassador to South Vietnam, from 1968 to 1973—from the beginning of the intensified American military action there until after the last U.S. combat troops withdrew.

The Dominican Republic, in the mid-1960s, when an ambassador to the Organization of American States, he was instrumental in ending a civil war.

The Middle East, where in 1963, he worked out a disengagement between Saudi Arabia and Egypt, both of which had intervened in the Yemini civil war.

New Guinea in 1962, when he successfully mediated for the United Nations a confrontation between Indonesia and the Netherlands over West Iran.

India from 1957 to 1961, when American policy "tilted" toward India's rival, Pakistan.

Italy in 1952, a time of domestic political turmoil.

Argentina in 1951 to 1952, his first post, when Juan Domingo Peron and his first wife, Eva, held power.

Mr. Bunker's "keen intelligence, patience, superb negotiating skill, judgment, dedication and modesty were know to diplomats and rulers around the world," Secretary of State George Shultz said in a statement yesterday. "He scored remarkable achievements that have few parallels in American history."

The Panama Canal Treaty may have been his most difficult diplomatic task. He first became involved with Panama in 1964 while ambassador to the OAS after the Canal Zone riots. Out of these incidents came discussions of new canal treaties. In 1967, they

were agreed upon and initialed, but Panamanian Gen. Omar Torrijos reputiated them. During succeeding years, there were other lengthy discussions but final agreement was not reached until April 1978.

He was appointed ambassador to South Vietnam by President Lyndon B. Johnson in April 1967, when he was a month short of his 73rd birthday. During his tenure—he served longer in South Vietnam than any other senior American—the war escalated, U.S. military involvement reached 543,000 men and battle deaths reached more than 46,000.

In the United States, hundreds of thousands, young and old, demonstrated against the war. In Saigon, Mr. Bunker continued to carry out his instructions from Washington, supporting a policy that was to be proven fruitless.

He told an interviewer in 1978 that he knew the policy was unworkable: "To try to fight a limited war for limited objectives with limited resources, and, by inference, limited in time, because we are an impatient people . . . this was not a viable policy."

Mr. Bunker received praise and criticism for his work in South Vietnam. He was calm and steady, but his critics said he was too distant from what was going on in the country, and depended too much on information from senior military and diplomatic officials.

A few months before Mr. Bunker was appointed ambassador to South Vietnam, he married Caroline Clendenning Laise, a career foreign service officer, in Katmandu, Nepal, where she was U.S. ambassador. His first wife, the former Harriet Allen Butler, whom he married in 1920, died in 1964.

Outwardly Mr. Bunker was almost icily cool—the Vietnamese called him "the icebox"—but beneath the layers of diplomatic veneer, friends said, was a warm, friendly, and sometimes angry and emotional man. One friend said he had a sense of duty that made it impossible for him to refuse difficult assignments.

He was born in Yonkers, N.Y., on May 11, 1894 and graduated from Yale in 1916.

After college, he went to work on the New York docks for the National Sugar Refining Co., of which his father was a founder. He stayed 13 years in the operations end of the business in Latin America and in the United States and became president of the company in 1940.

During World War II, he was chairman of the Cane Sugar Refiners War Committee, a government advisory body. In 1948, he was elected board chairman of National Sugar.

In 1951 President Truman appointed Mr. Bunker as ambassador to Argentina and a new career began. Relations with the Peron regime were poor. Shortly after Mr. Bunker left Buenos Aires in 1952 to become ambassador to Italy, a newspaper editorial said he "set Argentine-American relations in correct focus for the first time in years."

In Italy, where he served for 11 months, he again was editorially praised for "doing a remarkably fine job."

In November 1953, Mr. Bunker became the first salaried president of the American Red Cross. He resigned this post in 1956 to become ambassador to India. This was a period when India's nonalignment was unpopular in official American circles, and Secretary of State John Foster Dulles' cold war policies unpopular in India. During Mr. Bunker's tenure, relations greatly improved.

After returning to this country from India in 1961, he lived in Dummerston, Vt., on a farm he had acquired in 1929. Early in 1962, United Nations Secretary General U Thant asked Mr. Bunker to mediate the dispute between the Netherlands and Indonesia over West Irian.

Indonesia had claimed that territory after it won its independence from the Dutch. When the Netherlands refused to recognize the claim, the Indonesian government began expropriating Dutch property. After months of negotiations, Mr. Bunker solved the impasse. In May 1963, the territory was ceded to Indonesia.

Later in 1963, Mr. Bunker became a consultant to Secretary of State Dean Rusk and was called upon to mediate a dispute between Egypt and Saudi Arabia over Yemen. He traveled between Cairo and Riyadh, meeting with Egyptian President Gamal Abdul Nasser four times and with Saudi Arabia's King Saud six times.

Nasser withdrew 28,000 troops who had been supporting the rebels, and Saud stopped sending weapons to the royalists. Fighting, however, was to continue for several more years.

In January 1964, Johnson appointed Mr. Bunker ambassador to the OAS. In Panama there were riots protesting American control of the Canal Zone, and Mr. Bunker subsequently began the talks that 14 years later—with the help of Sol Linowitz—resulted in the renegotiated treaty.

The Dominican Republic was Mr. Bunker's next assignment. Civil war broke out there in April 1965 and Johnson sent in the Marines. An "inter-American peace force" was formed and Mr. Bunker stayed in Santo Domingo for nearly a year to negotiate a settlement that resulted in new elections.

After leaving the government, Mr. Bunker returned to his Vermont farm, kept an apartment in Washington, and traveled.

Mr. Bunker was the first person to receive two Medals of Freedom with Distinction, one in 1963 and the other five years later.

In addition to his wife, Mr. Bunker's survivors include three children by his first wife, Ellen Gentil, and John B. and Samuel E. Bunker.

[From the Washington Post, Sept. 29, 1984]

ELLSWORTH BUNKER

At the age of 57, Ellsworth Bunker retired from the sugar refining business and, starting at the top as an ambassador, opened a career in diplomacy which kept him on the go for nearly 30 more years. He was uncommonly good at one particular aspect of it: bringing parties together in a negotiation. In the vexing circumstances of Dutch New Guinea, the Dominican Republic, Vietnam and Panama, he helped produce agreements, in the process gaining a public eminence and—this is unusual—high respect for personal decency. He enjoyed, quietly, being hailed as the fellow who in his 60s, in his 70s, in his 80s, was still going strong.

Lean, slightly bent at the waist, impeccable in herringbone, Ambassador Bunker was courtly and wore a characteristic expression of alertness and serenity. He looked to be a man of the old school, and he was: a gentleman of means performing his obligation of public service. From Harry Truman on, successive presidents found his talents and his reputation too valuable not to employ.

If some wondered whether he had been sent to Vietnam as the American ambassador (1967-73) to put a face of New England probity on a controversial policy, no one who knew him well doubted that he had gone in response to a devotion to duty. Primarily an implementer of policy, he simply could not say no to any president who asked him to take on a new mission.

The nation agonized over Vietnam. Not Ellsworth Bunker. A businessman, not a philosopher, he accepted the common premises of American capacity and rectitude that produced and sustained the American involvement, and he gave no public sign that he questioned them as the ship went down. At once he took on a new assignment as conegotiator of the Panama Canal treaties. He was, a colleague later wrote, "the good gray rock of Vermont who really got the show on the road."

Afterward Ambassador Bunker went back to Vermont to stay. His home looked east across the Connecticut River into the soft New Hampshire hills. As usual, he and his wife, Ambassador Carol Laise, whom he had married in what he was pleaded to call his "most difficult and delicate diplomatic negotiation," rolled down Brattleboro's Main Street in an antique car last summer in the annual Fourth of July parade. He delivered his typical speech: short and patriotic. On Thursday he died at 90 years of age.

REV. NICHOLAS HOOD RETIRES

Mr. LEVIN. Mr. President, the Reverend Nicholas Hood is one of the finest people I have had the honor of knowing and working with.

After completing his education which included a B.S. from Purdue University, a B.A. from North Central College, and an M.A. from Yale, Nick became the assistant minister at Dixwell Congregational Church in New Haven, CT, and then the minister of the Central Congregational Church in New Orleans, LA. In 1958 he became the senior minister at the Plymouth United Church of Christ, a modest Congregational Church on Detroit's near east side.

With Nick Hood's direction and devotion the Plymouth parish grew and prospered until in 1974 a new $1.5 million church was constructed to serve the congregation. Being the pastor of a large metropolitan church is a full-time job, but the Reverend Hood had such concern for his community and its problems that he became involved in many projects.

In 1965 Nick Hood was elected to the Detroit City Council for the first time and he has continued to serve on that council—where I served with him from 1969 to 1977—where today he is president pro tempore. Nick founded the first low-to-moderate income housing in Detroit, he also founded the Medical Center Village—a 450-unit housing development for all income groups—a joint venture with the Chrysler Corp. And one of his proudest achievement is the founding of Cyprian Center, a treatment and training facility for mentally retarded individuals.

It is Nick's personal interest in the treatment and training of the mentally handicapped that he will soon devote more time to as he retires from his position at Plymouth United Church of Christ.

I am pleased to have this opportunity to commend the Reverend Nicholas Hood for the outstanding service he has provided to not only to the members of his congregation but to his community. His energy and dedication and gentleness knows no bounds and I know he will continue to play a vital role in the many programs and activities he is so supportive of and involved in.

I wish Nick, his wife Betty, and their children Nicholas III, Emory, Stephen, and Sarah Cyprian continued fulfillment and happiness.

NUCLEAR WASTES IN SOUTH CAROLINA

Mr. THURMOND. Mr. President, the purpose of any newspaper is to inform and educate its readers on matters of general interest to the public. I am pleased that the Greenville News-Piedmont newspaper continues to fulfill this commitment to our citizens by making them aware of a vital concern to all South Carolinians—safe and efficient disposal of low-level and high-level nuclear wastes.

I have risen on numerous occasions to state my strong convictions about South Carolina's role as the disposal site for much of America's low-level and high-level nuclear wastes. Indeed, the Palmetto State has for too long shouldered a disproportionate portion of this responsibility, but Congress has fortunately taken steps to relieve South Carolina of this unfair treatment. I was pleased to have been an active participant in supporting passage of the high-level waste bill, the Nuclear Waste Policy Act of 1982, while at the same time, securing the inclusion of provisions to protect South Carolina from being selected as a temporary storage site for spent nuclear fuel. I was also one of the authors of the low-level Radioactive Waste Policy Act of 1980, which established the basic policy that each State is responsible for disposing of the low-level waste which it generates and authorized the States to enter into interstate compacts to discharge that responsibility.

Much remains to be done, however, Congress must approve the regional low-level waste compacts now pending so that other States may assume responsibility for disposal of their own low-level radioactive wastes. In addition, the U.S. Department of Energy must speedily move toward the establishment of a permanent repository in which all high-level nuclear waste can be safely disposed.

Mr. President, the following articles from the Greenville News-Piedmont describe the situation which now faces our State. I urge my colleagues to examine these articles so that they, too, may understand the seriousness of the issues of low-level and high-level nuclear waste disposal and appreciate the concerns of the citizens of South Carolina. I ask unanimous consent that these articles be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

NUCLEAR REFUSE HAS TWO FACES

[From the Greenville News-Piedmont, June 25, 1984]

Whenever somebody brings up the issue of nuclear waste disposal, it's necessary to ascertain which of its two sides is to be discussed.

That's important, because like the three faces of Eve, the two faces of nuclear waste disposal bear little resemblance to each other. One thing they do have in common is heavy impact on South Carolina.

Consequently, South Carolinians need to understand the differences between two types of nuclear garbage—high-level and low-level.

Low-level waste, the type stored at the Chem-Nuclear site in Barnwell County, comes from medical and other facilities using nuclear material and radiation in their operations. It consists of used protective clothing, worn-out pieces of machinery, and many by-products. Levels of danger and longevity range upward from minor and of short duration. It can cause harm if handled improperly.

High-level waste comes mainly from two sources, the government's nuclear weapons production facilities, such as the Savannah River operation in this state; and commercial nuclear power plants throughout the nation.

Long-standing national policy dictates that each kind be handled entirely apart from the other. But the two are alike in that each is extremely dangerous, and has a half life reaching far into the future.

South Carolina has been deeply involved in developing national policy to handle low-level waste, and currently is fighting to implement a new federal law permitting regional waste storage compacts among the states and requiring each state to handle its own refuse after 1986. If the law is circumvented, there's danger of this state becoming the nation's permanent low-level dump.

High level waste came to the fore recently in discussion over the legally-established deadline of 1998 for permanent storage of that refuse. The issue involves selection of sites.

Resolution means a great deal to South Carolina, because 30 million gallons of high level waste is stored temporarily at Savannah River, accumulating there for more than three decades. Removing it has become important because of the site's location over a major aquifer and in an earthquake zone.

South Carolina leaders have two difficult tasks to protect the state's interests in nuclear waste management. They need strong support, and that depends largely upon public understanding of the two related but separate sets of issues.

[From the Greenville News-Piedmont, June 7, 1984]

SRP'S BURIAL GROUND

Consideration of the Savannah River Plant as a burial site for reactors from decommissioned nuclear submarines ought not impose any greater environmental risks than South Carolina presently accepts.

One worry is that a door could open for using the 300 square-mile federal reservation as a permanent repository for similar wastes.

But something has to be done with the 100 submarines the Navy expects to decommission in coming years.

The idea is to send the Atlantic fleet engine compartments to SRP, while the Hanford site in Washington State gets Pacific fleet subs.

Adding these wastes to those stored at SRP could hardly enlarge upon existing problems of more than 30 million gallons of high-level nuclear waste, targeted for eventual glassification under a project begun last year.

Working drafts of the environmental impact statement project "no changes in present usage or procedures would be necessary" for SRP to integrate the subs into an existing 195 acre low-level solid waste burial site. Nor are any modifications envisioned to current monitoring programs tracking radiation levels at the burial ground.

It's conceivable, nevertheless, that once SRP begins accepting such military nuclear waste, other atomic debris could follow, to be stored on a permanent basis.

The same holds true for the 30 million gallons of liquid wastes that are to be encapsulated into glass logs. Until Congress comes through with a permament depository for nuclear wastes, such material will likely stay where it is—here in South Carolina.

[From the Greenville News, Aug. 31, 1984]

ATOMIC WASTE KEY LIES IN DISPOSAL

Word that the Department of Energy is again focusing on storage, rather than disposal of nuclear waste, understandably has South Carolina officials itchy.

South Carolina is already one or two de facto waste storehouses, with 30 million gallons of toxic wastes impounded in steel tanks at the Savannah River Plant while Barnwell is host to half the country's low-level wastes.

The other waste recipient is at Hanford in Washington State, which, with South Carolina, accounts for just about all low-level and toxic atomic wastes in the nation.

That may be why Washington Gov. John Spellman is following South Carolina Gov. Dick Riley's lead in toughening up entrance into his state of other states' wastes. Like Riley, Spellman wants the volume reduced, either through congressional enactment of a system of regional waste centers or by imposing oneous taxes.

It's a national disgrace that 40 years after the arrival of the atomic age, no consensus exists on how to effectively and safely store toxic reactor byproducts.

Thanks to South Carolina leadership, Congress last year finally endorsed the concept of regional centers for low-level wastes. But due to politics, the Midwest and the Northeast refuse to designate centers within their borders similar to Barnwell or Hanford.

Those two regions account for half of all low-level wastes, and their officials have adopted the politically expedient course of letting South Carolina and Washington solve their problems. Perhaps if the two recipient states closed their dumps, the shipping states would have no alternative than to responsibly address the refuse problem of nuclear's medical and power benefits.

That's one factor in the larger issue of the failure to attain a political, social, scientific and economic consensus on the problem of

nuclear waste. The inclination now is to ship waste to South Carolina and Washington until someone comes up with an acceptable permanent disposal plan.

So the status quo is a powerful inducement to do nothing about the problem.

That's why Riley and Spellman are artfully forcing the issue, urging other states that generate nuclear wastes to start up their own storage sites while prodding them to do so by imposing caps on the volumes of wastes their states are willing to accept.

SPEECH BY LEONARD H. GOLDENSON, CHAIRMAN OF ABC

Mr. BAKER. Mr. President, as the election approaches, I would like to bring to the attention of my colleagues the leadership exhibited by the American Broadcasting Cos., Inc., and its chairman, Leonard H. Goldenson, in performing a valuable public service: Educating all Americans about the importance of voting.

As some of us are aware, voter turnout has slid from a modern high of 63 percent in 1960 to barely more than half of all eligible voters in 1980. In 1982, only 35 percent of America's voters selected a new Congress. Among modern democracies, virtually none regularly sends a smaller proportion of its eligible voters to the polls than the United States of America.

Mr. Goldenson has been speaking and generating discussion of this problem for many years, and is now working vigorously to help solve it through a series of public service activities being carried out by ABC.

More than 2 years ago he instituted the Symposium on American Voter Participation, cosponsored by ABC and Harvard University's John F. Kennedy School of Government, to study the diminishing degree to which our citizens participate in the choice of our national leaders. The symposium brought together distinguished scholars, political leaders, representatives of the media, and business leaders to investigate the causes and suggest remedies for this national problem.

One strong recommendation which emerged from the symposium was that the media should encourage all citizens to participate in the electoral process. Mr. Goldenson formed the Advisory Committee on Voter Education to help carry out that recommendation. Its distinguished members include former Presidents Gerald Ford and Jimmy Carter, Harvard University President Derek Bok, and CBS President Emeritus Frank Stanton.

Mr. Goldenson then initiated a broad public affairs program at ABC designed to educate and inform all potential voters. It includes special educational segments on "Good Morning America," special preconvention and election TV and print advertisements carrying the same message from entertainers and sports celebrities, special public service advertisements in nearly 100 magazines published by ABC, Inc., and editorials and special programming on ABC's 5 owned television stations and 13 owned radio stations.

This public service campaign represents an important act of responsible public good citizenship and deserves our commendation. I urge my colleagues to join me in applauding Leonard Goldenson and the American Broadcasting Cos., Inc., for their public spiritedness and leadership on an issue of broad public concern, and I ask that Mr. Goldenson's recent remarks before the International Radio & Television Society be inserted at this point in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

SPEECH GIVEN BY LEONARD H. GOLDENSON

Ladies and gentleman, I am very honored to come before such a distinguished audience today.

As I heard some of the very nice comments at the reception today, many from friends over the years, I remembered a story about the violinist Mischa Elman. Reminiscing as he began a world tour in his late 70s, he said . . . "When I gave my first performance at age 20, people said, 'Isn't he marvelous for his age. Now they are beginning to say it again . . .'"

Within my lifetime, I have witnessed people struck with wonder by new and brilliant magic . . . first of radio, then of television. Within my lifetime, I am quite certain that they shall do so again.

Those of you here today are important participants in an industry that is continuously reshaping the way people think, work and enjoy themselves. We should feel no immodesty in recognizing that those in broadcasting and cable here in the United States are on the cutting edge of the modern communications revolution.

A few days ago, I returned from Europe, where I was once again reminded that no other country in the world offers such a diversity and richness of television, cable and radio programming. Nowhere else on commercial television, can one view more than 50 hours a week of public affairs discussions, dozens of sporting events, entertainment that is eagerly sought all over the world, and the infinite variety of music, talk and news that modern radio offers. Best of all: every bit of it is produced by private enterprise outside a government bureaucracy.

It seems particularly fitting that in the year 1984, the broadcasting industry in the United States is not moving toward but away from an Orwellian state. We are gradually gaining our freedom from government regulation. The rapid diversification in our industry easily justifies that freedom. And may I say, our performance over the years certainly merits it.

I think we ought to salute the FCC today for the general progress it has made in lifting the yoke of government from our industry. We are hopeful that the next Administration and the next Congress will help advance broadcast de-regulation.

Because of the rapid changes taking place in our world of communications, I believe it is time we reasserted our role in society. As we close an old era of regulation by government, we must open a new era of responsibility by broadcasters. Freedom from government regulation will clearly call for increased self-regulation.

1 is not enough that we try to inform ›e( )le, though we are doing a better job of hi every year. It is not enough that we try .o ›ntertain them. And certainly it is not en ugh that we come up with a rosy picture in our corporate reports every year.

We must also serve as a positive force for improving the quality of our security. Without seeking it, we are now entrusted with an enormous amount of influence in the lives of our citizens, and we have no choice—indeed, we have an obligation—to exercise that influence wisely and well.

I want to speak to you briefly today about an undertaking that is very personal to me but also illustrates, I hope, the kinds of activities that our industry can pursue to serve this larger public good.

I remember back in 1960 discussing the possibility of election-year debates with Frank Stanton and others. Later that year, television and radio for the first time brought presidential debates into living rooms across America, and I was very excited about prospects for the Republic and the contribution that we could make to its welfare. After all, voting turnout in that election hit nearly 63%, the highest in years. It struck me that with the help of modern broadcasting, America could restore the extraordinary voting patterns we enjoyed in the late 19th century and create an even more vibrant democracy.

But what has happened since has been a national embarrassment. Voting turnouts have steadily declined, falling by over 10 percentage points to a low of under 53% in 1980. Our current President came into office with the votes of only one-fourth of the citizenry. For every voter who pulled the lever in his favor, two stayed home. Among the 24 major industrial democracies in the world, the United States sank next to the bottom in voter participation.

People ask: what difference does it make? And indeed, some studies indicate that if all of our eligible voters had come out in 1980, most of the same men and women would have been elected. But that's not the point.

The point is that the right to vote represents one of our most cherished institutions, "the crown jewel of our democracy," as President Reagan has said. A vote cast freely and in private is an expression of the people's will—a convenant between the governed and those who exercise power in their name. When a person casts a ballot, he makes an investment of faith and trust in a candidate; in return, he expects the candidate to live up to a high standard of responsibility. A bond is formed that can sustain those who govern through bad times as well as good. Moreover, voting is a part of the discipline—the responsibility, if you will—of maintaining a democracy. As much as anything else we do, it symbolizes our commitment to our system of government.

But when people refuse to vote—when they refuse to make that pledge of support—our candidates enter public office with little more than a victory built on a house of cards. They have neither a bond nor a mandate for governing. It is no coincidence that during this past quarter century, when voting sharply declined, there was a marked increase in people's dissatisfaction with their government.

The mystery that surrounds these past 25 years is why voter turnout has dropped so much. Logic would say it should have increased. The higher the income and education, for example, the more likely a person is to vote. Both have gone up, but it hasn't affected the number of people who vote.

The nation has also dismantled many of the highest legal barriers to voting identified by a presidential commission two decades ago. Literacy tests and poll taxes, for example, have become relics of the past. And during this same time, the commercial networks have more than doubled their time for public affairs programming, while the number of all-news and talk shows has exploded on radio and television. So, where have all the voters gone?

In December, 1982, I made a trip to the John F. Kennedy School of Government at Harvard to pose that question and to talk about ways to address it. I proposed that in order to ensure gavel-to-gavel coverage of party conventions, the three commercial networks each pay for a third of the cost for the Public Broadcasting Service to carry the full proceedings. We would each continue our coverage of major convention news, but PBS would keep its cameras rolling from beginning to end. Though that idea did not come to fruition, I'm happy to say that both Cable News Network and C-Span did carry the full convention schedules. What concerns me, however, is that full proceedings were still not available to the 60 percent of American viewers who do not have cable or cannot afford it. I think the three networks need to reassess the situation in 1988, and reconsider the idea of funding full coverage by PBS.

Another proposition we discussed at Harvard was for ABC and Harvard to jointly sponsor a conference on the subject of voting. That symposium was held in Washington a year ago, attended by a distinguished panel of statesman, public leaders, political experts, scholars and journalists. Among the most active participants were Gerald Ford and Jimmy Carter.

Our Symposium identified two major causes of non-voting and agreed that action should promptly be taken on both. The second is of particular relevance to broadcasting, but for a moment, let me describe the first—something we called "structural" barriers to voting.

In examining voting patterns across the world, it turns out the despite recent reforms, the United States continues to make voting registration significantly more difficult than any other democratic country. In Canada, for example, special registrars periodically go door-to-door signing up eligible voters. In the United Kingdom, registration forms are mailed every year to households. And once people are registered, they stay on the rolls, even though they may move somewhere else.

The United States is the only nation where the entire burden of registration is placed on the individual and not shared by the state. Our hodgepodge of voting laws makes it difficult for many people, especially the poor and uneducated, to understand what they must do to become properly qualified. Registration books usually close 30 days before elections, long before campaigns reach their peak in the media. Hours of registration can be inconvenient. And the myriad of registration deadlines is confusing as well. For example, how many of us here today know our specific registration deadlines? For most of us, it falls on October 9 or 16. (And incidentally, we'll make it easy for you—you can do it just outside these doors.)

And we've also found that those who change addresses are especially likely to fall out of the voting net. Professor Raymond Wolfinger of Berkeley has discovered that about a third of all Americans move during every two-year cycle—and on average, their registration rate takes about five years to catch up with those who haven't moved.

What would happen if registration laws were simplified and reformed? The best answer probably comes from the five states in the country that now allow election-day registration or require no registration at all—Minnesota, Wisconsin, North Dakota, Maine and Oregon. In those states, the turnout in 1980 ranged from nearly 10 to 20 points above the national average. And there were no significant problems of fraud.

It is abundantly clear from experience that when Americans are registered, they are much more likely to vote. In 1980, fully 86% of those who were registered in this country then voted for President. That's a higher turnout, I might add, than in countries like the United Kingdom, Japan, Canada and Israel. The answer is clear: We must lower every conceivable barrier between the potential voter and the ballot box.

Personally, I favor an overhaul of registration laws, the adoption of Sunday voting, keeping polls open for 24 hours, and closing all the polls at the same hour. There is no good reason why polls can't open on a Sunday after church services. It's simply a better day for most of our citizens to vote, and especially our young married couples, where both partners frequently work and juggle babysitting responsibilities. Just look at the Sunday voting experience in France, Spain and West Germany—turnouts there are well over 80 percent.

Now let me turn to the second problem we identified in our symposium last year and this one, as I said, is more directly tied to the concerns of this audience: the problem of motivating our voters.

The evidence here is not as hard, but there seems little doubt that interest in voting has been dulled in recent years. As most presidential candidates acknowledge, our campaigns have become so long and tedious that boredom is a national disease. One need look no further than the ratings from the conventions this summer: viewing during the Conventions set two new records—record lows. For the commercial networks, the convention weeks this summer were the two lowest rated weeks of the year, and the conventions themselves drew the lowest ratings of any conventions in television history.

Many citizens apparently believe it doesn't make any difference whether they go to the polls. They feel neither an obligation to vote nor a stake in the outcome. And many of those who would like to vote wake up near election day and realize for the first time that they haven't cleared the registration hurdles.

Clearly, there is much to be done. The candidates bear an obligation to run more inspiring campaigns than we have been in the past. There's too much packaging and not enough substance to excite many voters. Viewing campaign ads as a whole, it's hard to tell whether you're supposed to go out and vote or buy a diet soda.

Our political parties also bear responsibility for the time devoted to campaigns: they are insufferably long. Our schools must also instill in young people the belief that voting is the first obligation of citizenship. High schools now teach driver's education; why shouldn't they teach voter education, too?

But surely, we in the broadcasting industry have a towering responsibility as well. Part of that lies in our news divisions. I have been pleased to learn in recent days that initial surveys of Campaign '84 coverage find the networks are devoting a good deal more attention this year to the issues—to substance—and less to what is called "horserace" stories. One of our foremost jobs is to clarify the issues and the choices before the country. Never has thorough and objective reporting been more important, or the recognition that we serve a broad and pluralistic society.

In my judgment, the networks have also taken a responsible approach to the touchy question of exit polls. At ABC, we will not project the winner in any state until the voting booths in that state have been closed. I understand that CBS and NBC are following a similar course.

Beyond that, the networks offered to host debates between the candidates, feeling the debates could be free-wheeling exchanges that would greatly benefit voters. I want to congratulate the League of Women Voters and its president Dorothy Ridings, who is with us today, for once again taking on the responsibility of organizing the debates. The League, as you know, has long contributed to voter awareness, and we look forward to working with our friends there in the coming weeks.

The other part of our responsibility as broadcasters lies in our sense of civic obligation—the degree to which we voluntarily take it upon ourselves to impress upon people the importance of voting and how to register. In my view, we should spare no effort in this regard. Nothing we do will ever be too much.

This kind of programming does not fit easily into a newscast, of course, because it falls outside the realm of day-to-day news coverage. We must invent new formats outside regular news coverage.

NBC, for example, has produced an excellent half-hour educational program on the electoral process. CBS is running a very effective series of public service announcements. And Group W and many other broadcasters represented here today are pursuing their own public service efforts, which, I am happy to say, are too numerous to mention individually.

At my own company, drawing on the recommendations of the ABC/Harvard Symposium, we are undertaking the most ambitious voter education project in our history.

ABC's public affairs effort encompasses our radio, television, and publishing operations, as well as our owned and affiliated stations. It includes public service announcements by celebrities like Dinah Shore and Reggie Jackson urging all Americans to register and vote, and spots with the same message by prominent Americans like Coretta Scott King and Henry Kissinger. We are also highlighting this issue with special segments on "Good Morning America" editorials, public affairs programs, a community relations campaign, a rebroadcast of our documentary on the Symposium, and special PSA's for children on Saturday mornings.

I tell you all this not only because I am proud—and I am—but because those of us who have had the privilege of serving in this industry for so long—men like Dr. Stanton, Bill Paley, Grant Tinker, the distinguished leaders of the broadcasting groups and many others—all believe so deeply that broadcasting should serve large and noble purposes. It is especially important that as we emerge from an age of government regulation, we set new standards of excellence and accept broadened responsibilities.

Ladies and gentlemen, let me close on this note. There will always be those, of course,

who scoff and insist we can't turn around anything so fundamental as voting. They think we're embarked on Mission Impossible. But let me say that I can't imagine any of them followed the Olympic Games this summer in Los Angeles.

What we saw there almost defied gravity. A city unwilling to accept liability for the Games suddenly caught the Olympic spirit, and the Games became a runaway success. Over 50,000 citizens transformed themselves into hard-working volunteers. Businesses large and small pitched in. Fans flocked into the stadiums. And just a few days ago the Los Angeles Organizing Committee announced that contrary to all expectations, the first private Olympics in history had made a stunning profit of $150 million—money that can be plowed back into athletic competition. Peter Ueberroth, a man who deserves a lot of credit, put it well: "The organizing committee is just part of an outpouring of the American spirit."

Surely that is what we have seen emerge in these past months across the land—an Olympic spirit, a new patriotism, a new American spirit. Call it what you will, but it is there, it is real, it is powerful. And in the days ahead, we ought to hitch it to some important goals in our national life.

One of the highest of these goals, I submit, is a vigorous democracy where every American takes pride in casting a vote. I ask you, leaders in the communications field, to take it upon yourselves to do all you can to help us fulfill that dream.

Thank you very much.

TRIBUTE TO SENATOR BAKER

Mr. BOREN. Mr. President, at the end of this session, HOWARD H. BAKER, JR., of Tennessee, majority leader of the U.S. Senate, will leave public office. In his 18 years in the Senate, he has come as close to winning the universal respect of his colleagues as any Senator in modern times.

I once heard a Senator say in the presence of several others, that if the United States had a parliamentary system and if the President were selected by a secret ballot of all Senators without regard to party, HOWARD BAKER would be overwhelmingly elected. No one present in either party disputed that assessment.

There are some people in public life who are impressive in the 30-second clips on the nightly news. They can speak in short, glib sentences. They project pleasant personalities. In some cases, however, they do not bear acquaintance on closer observation. The more one knows about the intellectual capacity or the personal character of some people in public life, the less one is impressed.

It is just the opposite with HOWARD BAKER. With each passing year that I have been privileged to know and observe him, my respect for him has increased.

In an age in which there is growing polarization in American politics, he has been a force for reason and moderation. At a time in which the forces of fragmentation threaten the very existence of our community spirit and identity, he has been a force for concensus and for bringing people together.

At a time in which too many contemporary politicians are stampeded by momentary trends in popularity polls, he has proved to be a statesman rooted in a sense of historic perspective.

When the pressures of the day push many beyond the bounds of usual good manners into ill-tempered abrasiveness, HOWARD BAKER retains his quiet fairness and unfailing courtesy.

Undergirding all of his extraordinary talents as a leader and a public official, there is a deep sensitivity to the needs and feelings of other people and kindness and genuine concern that is transmitted to all who know him. Any impartial observer in either party would be forced to admit that HOWARD BAKER's leadership skills, more than anything else, made possible the greatest legislative successes scored by the current administration. At the same time, while HOWARD BAKER can be an effective champion of Republican causes, he has remained sensitive to the rights of those of us on the Democratic side of the aisle to be able to have a chance to be heard and have our views considered. On more than one occasion, the Democratic leader, ROBERT BYRD, has commented on his fairness.

I have personally observed him in small meetings with leaders of other Nations of greatest stature and international reputation. In each situation, as an American, I was proud of the ability and eloquence with which he represented our country.

None of us believes that HOWARD BAKER's service to this Nation will end with the conclusion of his service to the Senate. The need for people of such unusual talent and leadership abilities, will inevitably propel him into other areas of service in the future.

HOWARD BAKER has proved that one man can make a difference to an institution and, more broadly, to a Nation. He will be greatly missed in the Senate. He has earned the gratitude of all of us.

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, I ask the Chair to inquire if there is further morning business.

The PRESIDING OFFICER. Is there further morning business?

Mr. WARNER. Mr. President, could I graciously direct an inquiry to both leaders? There is pending on the calendar S. 2805, Calendar Order No. 1193, and H.R. 521, Calendar Order No. 1306. Both these bills relate to the Virginia Wilderness Act.

The distinguished Senators from West Virginia, the minority leader and his colleagues, have both, as I understand it, withdrawn their holds, and I inquire of the leadership of the possibility of bringing up either of these bills.

I would suggest the House bill out of comity with the colleagues in the House of Representatives who originated this legislation. Might I inquire—I see both Senators from West Virginia in the Chamber now. They have very legitimate concerns. I understand those concerns have been addressed and both Senators have spoken to them.

Mr. BYRD. Mr. President, I know of no hold that I have had on the measure. It comes as a bit of a surprise to find that I had a hold.

But the only measures on the calendar, may I say to my dear friend, that have been cleared on this side, I believe have just been disposed of by the distinguished majority leader.

We will continue to work into the evening in an effort to clear this legislation for the Senator.

Mr. WARNER. I thank the minority leader and majority leader for their words of encouragement.

Mr. BAKER. I thank the Senator from Virginia and I assure him I, too, will make every effort to try to clear this action for tonight.

I now ask the Chair to inquire if there is further morning business.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

SUPPORTING THE PEOPLE OF AFGHANISTAN IN THEIR STRUGGLE TO BE FREE FROM FOREIGN DOMINATION

The PRESIDING OFFICER. The clerk will state the pending business.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 74) to encourage and support the people of Afghanistan in their struggle to be free from foreign domination.

The Senate continued with consideration of Senate Concurrent Resolution 74.

Mr. BAKER. Mr. President, I am prepared to yield back the time under my control.

Mr. BYRD. Mr. President, I yield my time to the distinguished Senator from Massachusetts who is the original author of this legislation.

I would appreciate it if the distinguished majority leader has no call for his time that he yield it to me.

Mr. BAKER. Very well, Mr. President, I offer my time to the minority leader at this time with the proviso that if the distinguished chairman of the committee wishes to speak or another Senator, he may.

Mr. BYRD. Absolutely.

I withdraw my request.

Mr. PERCY. Mr. President, the people of Afghanistan have been conducting a tremendous and tenacious struggle against overwhelming odds to fight the Soviet invasion of their homeland.

The Soviet Union has thrown a vast arsenal of modern weapons, including helicopter gunships, jet fighter planes, and tanks against the Afghan people who began their resistance armed with little more than World War I vintage rifles. In the nearly 4 years since the Soviet Army moved into Afghanistan, the resistance has grown in sophistication and has managed to acquire some modern weapons—not enough to be sure—but enough to inflict a price on the Soviets. Their main weapon, however, has been their courage and determination.

The resolution makes clear our strong admiration and support for the Afghan people in their struggle. I wish to commend the Senator from Massachusetts, Mr. TSONGAS, who authored the resolution.

The resolution puts the Senate firmly behind the Afghan people in their efforts to obtain a settlement of the war, based on the total withdrawal of Soviet troops, and to choose their own destiny free from outside interference or coercion.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. TSONGAS. Mr. President, I will not take the full time but simply to acknowledge the work that has been done for me by Senator BYRD and others.

Particularly, there are a lot of people in this country——

Mr. STENNIS. Will the Chair maintain order? I have a feeling this is an important matter. We deserve to hear it.

The PRESIDING OFFICER. Staff will please move to the back of the room.

The Senator from Massachusetts.

Mr. TSONGAS. Mr. President, there are a lot of people in this country who feel very strongly that the Muhadins in Afghanistan deserve the support of this country.

There has been a lot of discussion this year about moral imperatives, and I just wish to say that if the situation of Afghanistan does not qualify as a moral imperative, I do not know what could.

We had a bitter debate here over Nicaragua, but we are involved, and that is the case where people could go either way.

That is not true in the case of Afghanistan. It is a clear-cut case of aggression and whether you are liberal or conservative it seems to me that if we cannot stand and say we are with the people of Afghanistan, then I do not know what we can do in foreign affairs.

This is an amendment which has now taken 3 years, ironically. The resolution to get passed is a way of saying to the Muhadins in the field, "we are with you," and I think that is very important for their morale, and I hope it will pass without dissent.

I yield back my time.

Mr. BIDEN. Mr. President, the long nightmare of Soviet military occupation of Afghanistan has continued for nearly 5 years.

But despite the massive invasion of Soviet forces, the steady escalation in military firepower against Afghan villagers, and the brutality of the aggressors, large segments of the Afghan population remain bloodied but unbowed. The resistance of the Afghan people to Soviet oppression is a welcome sign of the power of mankind's yearning for freedom and self-determination.

We know from our own history that liberty is not easily won or preserved. But we also know that great challenges can summon forth courage, sacrifice, and determination—and we have witnessed those qualities in the Afghan freedom fighters. Their indomitable spirit has magnified the potency of their limited material resources. Their bravery has earned them the admiration of freedom-loving people throughout the world.

Mr. President, I have met with some of their gallant leaders and have heard numerous reports of their struggles against overwhelming odds. I know of the anguish and suffering of those driven from their native land who crowd refugee camps along the border.

Because I share their aspiration for freedom from foreign domination, I am pleased to cosponsor and support this declaration of U.S. policy in support of their struggle. Theirs is a noble cause, consistent with American principles as well as the security interests of the free world. I hope and believe that the Senate will speak with a strong, united voice in their behalf.

Mr. BYRD. Mr. President, as a cosponsor of Senator TSONGAS' resolution, Senate Concurrent Resolution 74, I want to commend my friend from Massachusetts for his initiative in this regard. As my colleagues are aware, I have a deep and abiding interest in the situation in Afghanistan. Over the more than 4 years of Soviet occupation, I have addressed the Senate on many occasions to offer updates on the situation there and to describe the efforts of the brave freedom fighters to liberate their country from Soviet aggression. I have met with Afghan resistance leaders on their visits to Washington. I have written to the Secretary of State and other key policy figures in the administration to urge their continuing and effective support for the Afghan resistance movement. I offered an amendment to the Department of Defense authorization bill to urge that necessary food and medical supplies be provided to assist the Afghans as they struggle against Soviet occupation. That amendment was adopted unanimously by the Senate, and it has become part of the Defense Department bill.

Senator TSONGAS has labored long in an effort to craft language that would satisfy the intelligence community, the State Department, and those who support a strong statement of U.S. commitment to the freedom fighters. This resolution is the result of that effort. It is typical of the dedication and commitment that PAUL TSONGAS brings to every issue. I strongly support this measure, and I congratulate my colleague for his good work. It is gratifying to see unanimous support for this measure. It is an important indication of the Senate's support for the freedom-loving people of Afghanistan.

Mr. BAKER. Mr. President, I congratulate the chairman of the committee and the distinguished Senator from Massachusetts and the minority leader for their efforts on this behalf, and I strongly support the resolution and yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution as amended.

On this vote, the yeas and nays have been ordered and the clerk will call the role.

The assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Oregon [Mr. HATFIELD] is necessarily absent.

Mr. CRANSTON. I announce that the Senator from Oklahoma [Mr. BOREN] and the Senator from New Jersey [Mr. BRADLEY] are necessarily absent.

The PRESIDING OFFICER (Mr. GORTON). Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 97, nays 0, as follows:

[Rollcall Vote No. 270 Leg.]

YEAS—97

Abdnor	Denton	Heflin
Andrews	Dixon	Heinz
Armstrong	Dodd	Helms
Baker	Dole	Hollings
Baucus	Domenici	Huddleston
Bentsen	Durenberger	Humphrey
Biden	Eagleton	Inouye
Bingaman	East	Jepsen
Boschwitz	Evans	Johnston
Bumpers	Exon	Kassebaum
Burdick	Ford	Kasten
Byrd	Garn	Kennedy
Chafee	Glenn	Lautenberg
Chiles	Goldwater	Laxalt
Cochran	Gorton	Leahy
Cohen	Grassley	Levin
Cranston	Hart	Long
D'Amato	Hatch	Lugar
Danforth	Hawkins	Mathias
DeConcini	Hecht	Matsunaga

Mattingly	Proxmire	Stevens
McClure	Pryor	Symms
Melcher	Quayle	Thurmond
Metzenbaum	Randolph	Tower
Mitchell	Riegle	Trible
Moynihan	Roth	Tsongas
Murkowski	Rudman	Wallop
Nickles	Sarbanes	Warner
Nunn	Sasser	Weicker
Packwood	Simpson	Wilson
Pell	Specter	Zorinsky
Percy	Stafford	
Pressler	Stennis	

NAYS—0

NOT VOTING—3

Boren	Bradley	Hatfield

So the concurrent resolution (S. Con. Res. 74), as amended, was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the concurrent resolution was agree to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CONTINUING APPROPRIATIONS, 1985

The Senate continued with the consideration of the bill.

Mr. STEVENS. Mr. President, I understand that my good friend from Connecticut has an amendment. I would like to explore with the Senator the possibility of getting a time agreement on that amendment. I would like to announce the policy at least on this portion of the bill that, if we do not have a time agreement, this Senator is going to move to table the amendment as soon as he can get the floor so that we do not get caught in the situation we were in before where we could not regulate the time. My good friend from Mississippi understood, I understood, and the Senator from Hawaii understood, too. We did not think we were going to take that amount of time. But we did before all the debate concluded.

If we are going to finish this bill and get it to conference tomorrow, we have to get off the 9th amendment because there are 34 amendments.

I am not lecturing my good friend from Connecticut. But I would like to inquire. Can the Senator suggest a time agreement, and a time length? The Senator's amendment is on terrorism, as I understand it.

Mr. DODD. If my colleague will yield, I will take a very small amount of time. On the other issue, I agree it did take longer. Why do not we do this: In another 15 or 20 minutes, if we are not through with it, I will be more than glad to enter into a time agreement. I think we can handle it quickly rather than set a time agreement.

Mr. STEVENS. I have every confidence in what the Senator says. But the trouble is the Senator is liable to say something that incites the mind of another Senator who hears it from his office, and he comes shooting out here wanting to reply to those dulcet tones which he just heard on the squawkbox.

Mr. DODD. Can we say 1 hour? Certainly, I plan to use a lot less than 1 hour.

Mr. STEVENS. will the Senator believe one-half hour?

Mr. DODD. Forty-five minutes.

Mr. STEVENS. Thirty minutes? the Senator can have 20 of it.

Mr. DODD. No; I do not need 20 minutes of it. I do not want to limit it to 30 minutes. I hope we can take less.

Mr. STEVENS. My good friend from West Virginia just reached for the microphone. I would like to ask the distinguished minority leader if he has any problem about this time agreement.

Mr. BYRD. Mr. President, I would like for all time agreements to be cleared with me. I do not want to set myself up as a czar of the Senate. But I do know that we can run into pretty deep trouble if we do not have ironclad time agreements that will protect Senators from unforeseen amendments, motions, and so on.

Mr. STEVENS. I am happy to do that. It was my intention to do that with the distinguished Senator from West Virginia as soon as we had the timeframe in order. Can we agree on 30 minutes?

Mr. DODD. Can we get an up-or-down vote? Can we guarantee an up-or-down vote?

Mr. STEVENS. Yes.

Mr. DODD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, the discussion has been fruitful with my good friend from Connecticut. We do not have a time agreement. We have an understanding that the Senator will have an up-or-down vote on his amendment, if we can get the amendment to a vote by 9 o'clock.

Mr. DODD. If my friend will yield so that I may clarify, there is an understanding that if Members from his side come in, and start talking at great length, it is not the fault of the Senator from Connecticut. I hope the agreement will still stay with the up-or-down vote.

AMENDMENT NO. 6997

(Purpose: To prohibit funds from being used to support terrorist operations in, over, or offshore from the territory of Nicaragua)

Mr. DODD. Mr. President, I send an amendment to the desk, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Connecticut [Mr. DODD] proposes an amendment numbered 6997. On page 13, line 2, strike out the period and insert a colon and the following: *"Provided further,* That none of the funds appropriated by this subsection may be made available, directly or indirectly, for planning, directing, executing, or supporting acts of terrorism (as defined in the amendment proposed to be made by section 2 of S. 2625, as reported from the Committee on the Judiciary on September 18, 1984) in, over, or offshore from the territory of Nicaragua: *Provided."*

Mr. DODD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 13, line 2, strike out the period and insert a colon and the following: *"Provided further,* That none of the funds appropriated by this subsection may be made available, directly or indirectly, for planning, directing, executing, or supporting acts of terrorism (as defined in the amendment proposed to be made by section 2 of S. 2625, as reported from the Committee on the Judiciary on September 18, 1984) in, over, or offshore from the territory of Nicaragua; *Provided further,* That the prohibition on funding contained in the preceding proviso shall be carefully monitored by the Comptroller General of the United States who shall report quarterly thereon to the appropriate committees of the Congress.".

Mr. DODD. Mr. President, this is virtually the same amendment that I offered a few short months ago dealing with the issue of terrorism. An hour or so ago this body decided by a majority vote to support the continuation of funding for the not so covert war in Nicaragua. I would not be offering this amendment at this moment were it not for the fact that the Senate made the decision to support the continuation of that funding. As a result of that decision, I feel it very, very important that we include the language supporting the appropriation language which would prohibit any of those dollars to support any form of terrorism.

Mr. President, the purpose, as I said, is to try to eliminate what is a glaring and dangerous contradiction in American foreign policy. On the one hand, Mr. President, our Government has made very clear on repeated occasions its adamant opposition to terrorism as a political tactic.

President Reagan announced that policy only days after being sworn in. "Let terrorists be aware" the President said, "that when the rules of international behavior are violated, our policy will be one of swift and effective retribution."

Secretary of State Haig used the occasion of his first press conference to announce that international terrorism

would replace human rights as the top priority concern of American foreign policy. His successor, Secretary Shultz, has reiterated the commitment to stand up firmly against terrorists. In a conference on international terrorism in June of this year, Secretary of State Shultz called for a collective international effort "to address the special problem of state-sponsored terrorism." The Secretary recommended that planning begin on ways to exert pressure against "states that offer safe havens, funds, training and logistical support" to terrorists. Mr. Shultz pulled no punches in saying just how high the stakes were in the struggle to contain terrorism.

Mr. President, let me quote from him again. Secretary Shultz said:

> When innocents are victimized, and the guilty go unpunished, the terrorists have succeeded in undermining the very foundation of civilized society for they have created a world where there is no justice. This is a blow to our most fundamental moral values and a dark cloud over the future of humanity.

Mr. President, I am confident every Member of this body endorses these statements. This country rejects terrorism. It has no place in a civilized international order. Any nation, committed as ours is, to the premise that means count, as well as ends, can accept no less. The junior Senator from Alabama spoke for all of us on this floor on June 28 of this year. He said it simply, directly, and unequivocally: "Like all of my colleagues in the Senate, I reject terrorism and wanton disregard for human life." You cannot put it better than that. Unfortunately, Mr. President, at the same time that we are roundly condemning terrorism in word, there are indications that we are supporting it in fact.

Recall Secretary Schultz's definition of state-sponsored terrorism: The provision of safe havens, funds, training, and logistical support.

It is possible to describe more precisely the function of the millions of dollars we have provided to the so-called Contras in Honduras since late 1981? Is that not exactly what the millions contained in this legislation is going to provide? Safe havens, funds, training, and logistical support. What has been done with those American tax dollars, Mr. President. Some bona fide military operations with unmistakeable military targets, to be sure. But there is a growing body of evidence to suggest that it is being used to plan, support, and execute activities which by every acceptable definition would have to be classified as terrorism. I am talking about instances well documented by responsible and respected jounalists of kidnapings, execution, torture, sabotage, and the like. Acts of terrorism supported by funds which the U.S. Congress appropriates.

I submit, Mr. President, that if in fact those reports are accurate, it constitutes an unconscionable and vicious inconsistency in American policy. Either we abhor and reject terrorism or we do not. Either we refuse to have anything to do with it or we do not. If we are sincere, let us take the steps necessary to ensure that our funds are not perverted in that way. If terrorism is really all right, as long as terrorists are on "our side," let us at least have the intellectual honesty to forgo the ringing rhetoric of our opposition to terrorism. This amendment attempts to implement the first course of action. It does not eliminate the funding in the bill which supports the Contras. It does not reduce the amount by a single dollar. But it does require that those funds not be used, directly or indirectly, to plan, design, execute, or support acts of terrorism in, over, or offshore the territory of Nicaragua.

It requires simply that we mean what we say when we stand up to denounce terrorism as an affront to civilization. It requires that we back the sound of our rhetoric with the force of our example.

Mr. President, I offered this proposal once before. On April 4, 1984 the Senate tabled a nearly identical amendment to the supplemental appropriations bill by a vote of 47 to 43.

Frankly, Mr. President, that outcome stunned me. It stunned me because no arguments were raised against my amendment. No Senator questioned the accuracy of press reports that showed the Contras carrying out actions virtually identical to ones which we attacked as terrorism when carried out by the PLO, Colonel Qadhafi, the Ayatollah Khomeini, or the African National Congress.

I was shocked that a majority of the Members of this body in this Chamber on that evening refused to go on record stating no more than that we did not want American tax dollars to fund terrorism.

We had the opportunity to tell the world on April 4 that the United States would not countenance the use of our dollars to do the very things for which we so vigorously and righteously condemn Yasir Arafat or Idi Amin. And we walked away from it. This evening I offer that amendment again. I hope the Senate will reconsider. I hope we will make our actions speak as clearly and as sharply as our words.

The need has not diminished since April. If anything, it has grown more urgent. Let me cite some examples for the RECORD.

On May 29, 1984, the Washington Post reported an attack on the town of Sumubila on the northern coast of Nicaragua by 150 Contras who burned down a health clinic and a recreation center for the elderly, destroyed an ambulance, and shot up the town, resulting in the death of six civilians, including two children.

On August 7, 1984, Robert McCartney of the Washington Post reported an attack on the Nicaraguan town of Tapasle by 150 to 200 guerrillas who cut the throats of seven unarmed residents.

On September 10, 1984, Stephen Kinzer reported in the New York Times the kidnaping of two local Sandinista leaders who are feared killed.

On September 30, 1984, the Washington Post carried a column by Jack Anderson documenting cases of kidnaping, torture, the murder of civilians, and other outrages by American-backed Contras. The column was entitled "atrocities by our side in Nicaragua."

Mr. President, like many of my colleagues, I do not think we should be funding the Contras at all. But since we have made that decision already, it seems to me we ought to try to hedge against our dollars going to that form of activity.

At a bare minimum, Mr. President, let us require that certain standards of behavior be maintained. Let us live up to our ideals that means count as well as ends. Let us make plain that our opposition to terrorism applies to ourselves as well as others.

Let me anticipate, if I can, a question as to what kind of definition I am using as to terrorism. Both the Senate Judiciary and the Foreign Relations Committees have already adopted a piece of legislation drafted by the distinguished senior Senator from North Carolina, legislation which is designed specifically to try to do something about state-supported terrorists, actually to raise dollars so that we might actually capture some of the people involved in that activity.

In that piece of legislation adopted by the Senate Foreign Relations Committee and the Senate Judiciary Committee, terrorism is defined as follows, and I use that definition in my amendment:

> An act of terrorism means an activity that involves a violent act or an act dangerous to human life and is in violation of the criminal laws of the United States or any State, that would be a criminal violation if committed within the jurisdiction of the United States or any State, and appears to be intended to intimidate or coerce a civilian population, to influence the policy of a government by intimidation or coercion, and to affect the conduct of a government by assassination or kidnaping.

That is the definition passed by two committees in this body.

Let me briefly conclude this discussion. All we are trying to do here is to just say when we talk about terrorism, we shall be consistent. Lord knows in this country in the last year we have been subjected to some state-supported terrorism. Only just recently, in the

last few days. We all know it is difficult to stop.

A terrorist who wants to conduct that kind of activity can probably get away with it in many instances.

I do not want to see us engage in the kind of acrimony we have seen in the last few days of pointing the finger of responsibility. But if we stand for anything in this country, it ought to be the rule of law, that even in war there are certain rules which all law-abiding nations abide by. We are supporting the Contras in Nicaragua. We have decided that. This body said we will do that. I respect that decision. But is it not also appropriate at the same time we say that we are going to insist that those dollars that support those Contras will not be used in acts of terrorism, terrorism defined by the Senate Judiciary Committee and Foreign Relations Committee? That is not too much to ask this evening, to see to it that we at least minimize the hostility and hardship that occurs to the civilian population.

Mr. President, I strongly urge my colleagues to embrace this amendment. I ask for the yeas and nays on this amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. DODD. Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I respect the Senator's position on terrorism, and if we were dealing with terrorism in the sense of the bombings in Beirut, or in the sense of people in this country taking the law into their own hands in violating our laws, that is one thing.

I would aks the Senator, does he include the Afghanistan rebel resisting Soviet invaders as a terrorist? Is the Israeli going into Lebanon to protect his home from a terrorist? What kind of a standard are we setting here?

Mr. DODD. Let me respond.

Mr. STEVENS. Let me ask the questions. Do you wish to set the standard that the American funds will not be used to support the Israelis? Do you want to set the standard that we should——

Mr. DODD. Do you think the Afghan rebels are terrorists?

Mr. STEVENS. I have the floor. Mr. President, do I have the floor?

The PRESIDING OFFICER. The Senator from Alaska has the floor.

Mr. STEVENS. I think we have to be sure who he is calling terrorists.

Mr. DODD. I am not calling the Israelis terrorists.

Mr. STEVENS. The impact of the Senator's amendment in extending the definition of terrorism, which was defined to cover true acts of terrorism, putting it into the context where the Contras who are the rebels in Nicaragua are freedom fighters and carrying on their activities in order to restore their country to the democracy that they seek—where is the difference between that and Afghanistan? Why does it not apply the way he has done it, Mr. President, to using our funds to support the activities of people who go into another country for the purpose of protecting their country in terms of the Israelis?

Where do we draw the line in terms of using our dollars and exporting our laws to foreign countries by virtue of the fact that we are assisting freedom fighters?

I say to the Senate that the problem with the Senator's amendment is just that. He wants to take a definition of terrorism from a domestic act and extend it now to the international scene and say that wherever the American dollar goes, the American law goes, and it goes in the sense of carrying the prohibition against using American funds in order to carry out the activities of a group such as the Contras.

Mr. DODD. Will my colleague yield on that point?

Mr. STEVENS. Yes, Mr. President.

Mr. DODD. This legislation obviously is domestic legislation, as it has to be because all legislation has to be domestic to be passed here, but it covers state-supported terrorism. In fact, the chairman of the committee is here on the floor. It is a definition adopted by his committee as well as by the Foreign Relations Committee definition, which I take it would be a good definition to use, since the legislation is specifically designed to offer rewards to capture terrorists. They define terrorists in the bill, and I thought it was a pretty good definition. It is a bill that deals not just with the domestic situation here but deals with all terrorists.

Mr. STEVENS. Why would not the definition that the Senator from Connecticut proposes apply to the Boston Tea Party? Are we to take the position that people who act in support of the objective of protecting freedom as they understand it—wherever they do it in the world—we are not to assist them because of a domestic definition of terrorism?

Mr. President, one man's act of patriotism is another man's act of terrorism, the way the Senator from Connecticut defines it. I just do not see that.

Again, I say he uses a definition that cites "any act dangerous to human life." If a Contra is attacked by a Sandinista and he shoots back, is that not dangerous to human life? Is that an act of terrorism?

I fail to understand why we should take terrorism in the context of Nicaragua—the implication of the Senator from Connecticut is that the acts of the United States in Nicaragua are terrorist acts. I deny that.

Mr. DODD. Will the Senator yield?

Mr. STEVENS. Yes.

Mr. DODD. Let us assume for a second that the Senator is correct. Let us assume for 1 second that there has not been any terrorist activity engaged in by the Contras. What, then, is the harm in the amendment? If in fact those things are not occurring at all, then there is nothing to worry about. To suggest somehow that because we are talking about freedom fighters in some cases—let us remember the case of the Shatila and Sabra massacres in Lebanon. In that case, the Israelis themselves decided there were people involved in actions they considered reprehensible, and they took action to deal with it. Those massacres were considered to be acts of terrorism, and Israel prosecuted the Israeli officers they considered to have been negligent in that incident.

But for the Senator to assume that every single act committed in conflict is a terrorist act is to obfuscate the point I am making here. I am saying that when we support people who engage in activities that are violations of international law, why does the Secretary of State give a speech, why does the President give a speech talking about international terrorism?

Why should the Secretary of State stand up and say one man's terrorist is another man's freedom fighter, and we cannot do anything about it? The fact is that there is terrorism committed against Nicaragua, and our dollars support it. All I am saying is that we go on record there tonight and say we should not. I do not see that that is such a radical thought, to merely say, when the President and the Secretary of State say that terrorism is wrong and state-supported terrorism is doubly wrong, then we ought to do something about it.

Here we are setting an example. Not because Idi Amin does not follow it or Qadhafi does not follow it, but because the United States says terrorism is wrong and we are not going to see our tax dollars support it. There is nothing radical about that idea. There should not be anything radical about that notion.

Mr. STEVENS. Mr. President, I do not want to delay the Senate with regard to this debate. My good friend from Maryland just came and told me a murderer is a murderer, a rapist is a rapist, a terrorist is a terrorist. But the people who are fighting for their freedom in terms of guerrilla activities that we are assisting in Nicaragua are not in that category in terms of a blanket act of Congress that says you cannot use funds to support these people who are committing acts of terrorism, as defined in this amendment, that goes back to a domestic law that

talks about any act dangerous to human life.

That is the kind of thing that we pass in order to try to deal with people who perpetuate the kind of bombings that have taken place right here in this building, for instance. Right across that hall was a bomb that was placed there that was an act of a terrorist. There is no question about it. They placed a bomb over there the same night we were managing a defense bill, as a matter of fact. That bomb went off at a time when, had we been in session, it would have killed a great many of our people. That was an act of terrorism. That is not the kind of thing we are involved in, in Nicaragua, and to imply it, Mr. President, sends a message to the world that we cannot send.

We just had a representative of the Government of Nicaragua go to the United States and say the United States was going to invade Nicaragua on October 15. And here we have on the floor of the Senate a Senator suggesting that we are supporting acts of terrorism because he wants to prevent the use of funds under this bill, and our funds under this bill, as we all know, are to conduct activities in support of the freedom fighters down there. But the implication of the Senator's amendment is you cannot spend these moneys because we have another act that defines terrorism.

That is the implication that the Senator wants to be drawn from this, that no more moneys can be spent for covert activities in Nicaragua because they are acts of terrorism. I deny that inference. It offends me, as a matter of fact, as it did a year ago. I hope the Senate will take the same action it took last year in voting against this amendment.

As a matter of fact, the last amendment of this kind was just last spring. We have revisited this and the Nicaragua amendments now on several occasions. This year, it is nothing new. This amendment was voted on once before with the same implications and about the same dialog.

Mr. DODD. Will my colleague yield?

Mr. STEVENS. There is no time. I yield the floor.

Mr. DODD. Mr. President, I just want to give my colleague from Alaska another opportunity to redeem himself after the vote last spring. Let me cite a couple of examples and let him tell me whether or not he believes them to be terrorist acts. I will not say where they occurred. I ask him just to tell me on the basis of the act whether or not they fall into the category considered to be terrorism.

If the Senator knew about some troops that attacked a farm and before noon, they had gone in and personally slit the throats of seven civilians, would he consider that a terrorist act?

Mr. STEVENS. Mr. President, I would say to my friend I was looking for some of those things that related to what the Sandinistas do to the people who joined the Contras.

Mr. DODD. We do not fund the Sandinistas.

Mr. STEVENS. If he is asking me if the Sandinistas did that, would it be terrorism, yes. If he asked me if it would be terrorism if the Contras did it, yes. It would be in terms of our law. But in terms of people fighting for their freedom, what they do in Afghanistan, is that done? It seems to me I just read about how the Soviets went in and wiped out a whole village.

Mr. DODD. Who has the floor, Mr. President?

The PRESIDING OFFICER. The Senator from Connecticut has the floor.

Mr. DODD. That is the argument the PLO uses, that any act they engage in, no matter how many civilians die when they blow up a bus, that is a legitimate act. That is their argument, that it is not a terrorist act.

The Senator from Alaska has just provided us with the kind of rationale they use. The rest of the world considers it terrorism when they blow up civilians and dismember them with the plastic bombs they use to destroy part of the civilian population. That is terrorism. I do not care what Yasser Arafat says, that is terrorism. The Sandinistas engage in it as well. The distinction is we do not finance the Sandinistas. We do finance the Contras. It is our money. It is money we raise in taxes from the people of this country and we provide millions of dollars to them.

Now, do we want our taxpayers' money going to provide for the kind of activity in which some of these people are engaged? That is all this amendment says. It does not endorse the Sandinistas. It does not endorse anyone else. It merely says U.S. dollars should not be used to finance terrorism. Mr. President, that would conclude my thoughts. I am prepared to vote.

Mr. STEVENS. I am prepared to vote. All I say is the effect of the Senator's amendment would sent the GAO down to Nicaragua to stand beside a Contra to determine whether or not the dollars could be spent; they would have to find out what act was planned and interpret U.S. law as these people fought for their freedom in the jungles of Nicaragua. It is absurd. It is patently absurd to take this definition from one act and try to extend it to the whole concept of covert activity in a guerrilla war.

Now, I do not support an act of terrorism. I do not think the Senate does. I do not think the American people do. We are not trying to support terrorism. But the impact of this amendment, if it were adopted, would be to send a message to the world that we have in fact been supporting terrorists, and we have not. That is not our goal. It is not our desire. We took action very quickly, as a matter of fact, on this floor when we thought that things had gone too far with the mining of the harbors down there. That was an action that we deplored.

Mr. DODD. When did we stop that, if the Senator will yield?

Mr. STEVENS. When did we do what?

Mr. DODD. When did we stop it?

Mr. STEVENS. We did stop it right on this floor.

Mr. DODD. When?

Mr. STEVENS. We condemned the concept of it and it has been stopped.

Mr. DODD. After we found out about it.

Mr. STEVENS. It was done, yes. Does the Senator suggest that this Senate committed an act of terrorism when we put up the money to take actions that was deemed necessary to protect those people down there?

Mr. DODD. If the Senator is yielding, I just say that action stopped because I recall I offered a previous version of this amendment on a Thursday, and it was defeated. Over the weekend the administration finally admitted that the harbors were being mined. And on Monday the Senator from Massachusetts offered an amendment condemning the mining and it carried overwhelmingly on the floor. That was over a 3-day period on that weekend. I recall it vividly. There were a lot of people who wished they had voted differently prior to the weekend.

Mr. KENNEDY. Mr. President, I rise in support of the amendment of the Senator from Connecticut.

Last May 25, 1984, I sponsored a forum in which three Miskito Indians testified about a raid on their village by the Contra organization known as Misura. In their testimony, they told of reckless and indiscriminate shooting by the Contras which caused the death of seven civilians, they told of kidnapings by the Contras, and they reported that various government offices and buildings relating to government-sponsored social services had been destroyed.

It was moving testimony, and it was accurate testimony. And it raises a very important question about what the Contras are doing—when they engage in their military activities—in Nicaragua. I don't think that the American people want the Congress of the United States to pay for terrorism in Nicaragua.

On June 25, 1984, Secretary of State Shultz gave a speech at a conference on terrorism in which he drew a distinction between freedom fighters and terrorists. He said that,

Freedom fighters don't set out to capture and slaughter school children: terrorist

murderers do . . . He said that, "The Contras in Nicaragua do not blow up school buses or hold mass executions of civilians.

But there is considerable evidence to the contrary, and it is important for the Senate of the United States to be aware of this evidence. My office has received literally scores of accounts from Americans living inside Nicaragua and from Americans who have visited and returned from Nicaragua. These accounts conflict with Mr. Shultz' description of what the Contras are doing inside Nicaragua.

These accounts speak of rape, torture, mutilation, kidnaping, and murder. These accounts include stories of the burning of houses, health clinics, schools, and hospitals. These accounts talk of the systematic attacks on economic targets such as lumberyards, warehouses, tobacco sheds, and granaries. And there is a common theme to all of these accounts. The Contras appear to believe that anyone or anything that is associated with the Sandinista government is fair game for murder and destruction. If a person is a schoolteacher or a health administrator or a land reform official, he is taken away. If he or she works for the Sandinista government—even if that work has nothing to do with the war and even if that person by every objective definition of the war is a noncombatant—that person is in danger of death or kidnaping.

Let me cite one example that is typical of the reports that I get. The Contras attacked the town of Waslala in early April. Waslala is a town in north-central Nicaragua on the dirt road that connects Matagalpa with the Atlantic coast. According to the report that I received, some 1,800 Contra troops attacked Waslala on April 3.

Two U.S. citizens investigated this attack, and in the course of their investigation, they interviewed the wife of a 24-year-old farmer who served the community as a member of the volunteer police association. She told them the following:

When we heard the mortar shots by the contras, we all took refuge in our bomb shelter. About 300 to 400 contras came up the small rise to our house. After searching through all our belongings, they came and pulled us out of the bomb shelter.

When they found my husband's volunteer police uniform, they began to beat him up and said they were going to kill us all.

According to this woman, her husband got on his knees and pleaded with the Contras to let his wife and children go free. She said,

My husband said they could do what they planned with him, but to show mercy for the women and children. So they let us go—but as we fled into the woods, they threw a grenade at us. It wounded me slightly on the shoulder, but thank God, none of the children were hurt.

Then as we hid in the woods, we could hear my husband scream, and we knew they were torturing him.

She went on,

After the contras left the area, we went to our house to find my husband. We found him lying in front of our totally burned house. They had cut his arms with a knife and had smashed in his head until it was not recognizable. They used a big knife to cut a large cross in his back.

Mr. President, I would like to submit for the RECORD a group of reports about similar incidents, about similar acts of terrorism allegedly done by the Contra forces inside Nicaragua.

Professor Henry Steiner of the Harvard Law School visited Nicaragua in June 1984 and returned with documentation of "systematic assassination of civilian leaders, torture of civilians and devastation of civilian institutions" by the Contras. In his letter to me, he stated that,

During our five days in Managua, several Nicaraguans and American church people reported widespread killing of civilians by contras that reached the level of massacre, as well as terrible atrocities.

Professor Steiner pointed out that

The charges contradict our Government's assertions that the contras are a military force using violence against military and not civilian targets.

Professor Steiner acknowledged that he "did not visit the sites involved or interviewed eyewitnesses," and he stated that he could not "vouch for the accuracy of these charges." But, he said, the documents that he gathered "come from many sources, including Nicaraguan Government agencies as well as American citizens attached to the Catholic and Protestant churches in this country." And, he said, "Many of them rely on eyewitness accounts."

Included in the documentation he brought back while with him from Nicaragua is a letter written by a Maryknoll Sister, Joan Uhlen, who has lived and worked in Nicaragua since 1972. In her letter, Sister Uhlen describes an attack by the Contras on the town of Ocotal. He also brought back a document entitled "The Attack on Ocotal, Nicaragua: June 1, 1984: A Fact Sheet" which is of unknown origin. The document purports to describe the physical and economic damage done to Ocotal as a result of the attack.

In the words of Sister Uhlen who described the aftermath of the attack:

We wanted to visit the places that had been attacked in order to collect information and to grasp what had been the results of all the mortars and shooting we had heard. We began at the lumber yard; it was bleak and shocking . . . Words can begin to describe the horror of each place we visited, but they cannot tell the whole story. The pain in peoples' eyes . . . tells more of that story, that what was done here was not an attack against military powers. It was an attack against people: men, women, and most sadly, children . . . In the still-smoking rubble of the coffee plant, the lumber yard, the granary, we found the concrete evidence of our country's participation.

And "the Fact Sheet" reports that the Yodeco lumber mill and processing plant was destroyed, that the administration offices of the INE [electric company] was destroyed along with all the office equipment, that the office building of the coffee drying and processing plant was destroyed by mortar fire, that the grain storage silos on the outskirts of the city were destroyed, and that the radio station was burned down. This document details the deaths of civilians.

I ask unanimous consent to insert Professor Steiner's letter to me of July 24 in the RECORD, along with these two reports about the raid on Ocatal.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

HARVARD LAW SCHOOL,
Cambridge, MA., July 24, 1984.

Hon. EDWARD M. KENNEDY,
Russell Senate Office Building,
Washington, DC.

DEAR SENATOR KENNEDY: I write because of your concern about our Government's support of the "contras" in their guerrilla activities in northern Nicaragua. My letter and the enclosed documents bear upon those activities. They describe systematic assassination of civilian leaders, torture of civilians, and devastation of civilian institutions.

Last month, I was part of a delegation of faculty members from universities in the United States which visited Honduras, El Salvador and Nicaragua over a two-week period. The sponsoring group, Faculty for Human Rights in El Salvador and Central America, arranged a broad spectrum of interviews and visits involving individuals and groups supporting and opposed to each of the three governments. We spoke, often at some length, with high government officials, military officers, newspaper editors, church groups, local human rights organizations, political prisoners and refugees.

During our five days in Managua, several Nicaraguans and American church people reported widespread killing of civilians by contras that reached the level of massacre, as well as terrible atrocities. The Congress and the press have given only slight attention to these charges of a campaign of terror against the civilian population in northern Nicaragua, a campaign in which we are of course complicit. The charges contradict our Government's assertions that the contras are a military force using violence against military and not civilian targets.

I was able to gather some documentation, and part of that documentation is enclosed for whatever help it may be to you. My letter will briefly describe the content of these documents. Some of them are in Spanish, others in English. Most indicate their source. My effort to collect them was hasty. More comprehensive evidence would likely result from more systematic research, perhaps through groups in this country such as the Central American Historical Institute (affiliated with a Nicaraguan source of some of the enclosed documents) with offices in Georgetown University (202-625-8246), or the Washington Office on Latin America (WOLA) (202-544-8045).

Since I did not visit the sites involved or interviewed eyewitnesses, I cannot vouch for the accuracy of these charges. But the

documents come from many sources, including Nicaraguan government agencies us well as American citizens attached to the Catholic and Protestant churches in this country. Many of them rely on eyewitness accounts. There is no threshold reason to discount them. At the least, they justly—I believe require—prompt Congressional inquiry into what we may have been and may continue to be indentified with.

The documents indicate that the contras aimed particularly at civilian targets in numerous small towns or smaller settlements which they raided, demolishing all the new infrastructure institutions such as health clinics, schools and centers of farming cooperatives, also destroying granaries, all farm machinery, and so on. The areas were left economically devastated, with fear and even terror implanted in their inhabitants. The object seemed to be to terrorize and demoralize all efforts at social reconstruction.

More important, the contras rounded up civilian leaders of these institutions who were threatened and in a number of communities assassinated, tortured, decapitated and otherwise mutilated. 1,873 civilians, a number claimed by these documents to be verified through eyewitnesses, have been killed in the past two years by the contras, from the systematic terror described and from military confrontations involving the reckless use of firepower in areas of civilian concentration.

I shall briefly describe the enclosed documents. My paragraph numbers refer to the circled numbers at the top of each document.

(1) Instituto Nicaraguense de Sequridad Social y Bienestar, Repercusiones del Terrorismo de Estado de la Administracion Reagan en la Vida del Pueblo Nicaraguense. This government welfare agency reported that 120,000 peasants (campesinos) were displaced because of attacks by contras on towns and settlements. About 20 health centers were destroyed in the department of Zelaya Norte, many others elsewhere. From 1980–1984, 135 teachers in the literacy campaign were assassinated.

(2) Instituto Nicarguense de Seguridad Social y Bienestar, Repercusiones de la Agresion Contrarevolucionaria en la Vida y Reconstruccion del Pueblo Nicaraguense. This report by the same government agency refers to the area of Pantasma and the attack on 10/18/83. Forty seven people were assassinated, including six teachers, many within their houses. The attack, leading to massive destruction including many houses, involved about 30 peasant cooperatives without military importance.

(3) Instituto Historico Centroamericano, in Managua: a series of documents in English and Spanish entitled Enfoques, Informers and Close Up, prepared by this Jesuit-related group. The documents refer to Pantasma, covered in document (2) above, with details and eyewitnesses reports, including the name of a contra leader in the attack who was a known Somocista. They also cover the Jalapa area, giving details of killings and kidnappings of civilians, of rapes and terrifying atrocities involving mutilations. 4,000 persons had to be relocated from this community. The final reference is to Bocana de Paiwas, with eyewitness accounts of atrocities and testimony of American churchmen.

(4) Centro Ecumenico Antonio Valdiviesco, Monthly Information Bulletin, April 1984. This report of the ecumenical center describes assassinations by the contras of Miskito Indians in Zelaya Norte. It also refers to Waslala, where the testimony of a pastroral team recounts brutal atrocities against peasants.

(5) Document of unknown source, entitled A Fact Sheet: The Attack on Ocotal, June 1, 1984. A letter from a number of Maryknoll sisters describing that attack is also attached; it rests on interviews with eyewitnesses. Heavily armed contras used firepower indiscriminately, destroying in the process all institutions created since the revolution for health or economic and social well being. The casualties included as many civilians as Nicaraguan soldiers. This is the only one of the documents I received which involves military action against Sandinista soldiers to which the civilian casualties were incident.

(6) Manuel del Combatiente por la Libertad. This effective cartoon manual, which may be of U.S. inspiration, instructs in sabotage, including destruction of crops and farm machinery as well as technique for destroying books. Civilian targets are featured.

I have also seen documents distributed by organizations such as the Central American Historical Institute and WOLA which give accounts by U.S. church people—some of them eyewitnesses, others who investigated in later visits—of actions by contras against the civilian population in places like San Francisco del Norte, Wiwili and Ocotal.

Our government has consistently attacked the Sandinistas for their violations of principles of human rights. Two points should be made. First, no Nicaraguan with whom we spoke—including opposition business leaders and the executive head of the human rights institution opposed to the Sandinistas—alleged that the Sandinistas now engage in comparable violations of the most fundamental human rights. Second, I believe it appropriate for the United States to signal and criticize violations of basic human rights in other countries, whatever our relations to those countries, and hope that we could do so evenhandedly throughout Central America. But in countries such as Nicaragua where we are involved, our government should keep its human rights priorities in mind. However one judges the actions of the Sandinistas, the United States is not responsible for them. But we bear responsibility for the action of the contras.

Perhaps an investigatory mission to Nicaragua of members of Congressional staffs would be appropriate. Perhaps as prelude to such a visit our embassy in Managua could make an investigation. Neither of the two human rights institutions in Nicaragua—the one opposed to the Sandinista government, the other broadly supportive—covers the entire scene of Sandinistas and contras with sufficient objectivity and completeness for its account alone of human rights violations to be fully accepted.

As a citizen disturbed by the principles underlying our complicity in the territorial intervention against Nicaragua, as a teacher of international law concerned with control of international violence and with violence against individuals, I urge you to explore these matters.

I shall be out of town until August 23rd and can be reached if necessary. If I can be of any help upon my return, please let me know.

Sincerely,

HENRY J. STEINER,
Professor of Law.

IGLESIA SAN JOSE,
OCOTAL, DEPT. OF NUEVA SEGOVIA,
Nicaragua, June 5, 1984.

DEAR FAMILY, SISTERS AND FRIENDS: Friday, June 1st, is a day that will not be soon forgotten by any of us here in Ocotal. Early that norning, at about 4:45 AM, we were awakened by the sound of gun fire and then explosions. It seemed very close to our house. There were four of us together here: both of us along with Pastora, the Nica lay pastoral worker who lives with us and Mary Agnes Curran, a Franciscan sister who had just recently arrived in Nicaragua and was up here visiting Ocotal. Immediately we all gathered in the hallway of the house which is the safest place since it is between two double walls. We threw ourselves on the floor and waited together as the sounds of battle seemed to come closer. As time went on we could hear the sounds of shouting and explosives coming nearer the house. Our tense waiting seemed endless, and our bodies cramped as we counted over 50 major explosions. At about 6:15 or so, there seemed to be a lull and Rachel immediately crawled to the phone and called our Maryknoll Sisters in Leon to inform them of what was happening. Thank God the phones here still were working, although the electricity was out. We then turned on Radio Segovia but found it was silent.

At about 7:30 AM, there was another longer lull in the fighting. We all grabbed our emergency suitcases we keep on hand and quickly got something to eat. We prepared some food and water supplies. We both went out briefly to find out what was happening and what we could do. Pastora went to report to the Child Care Center where she works. In our travels we discovered that the attacks had been targeted on several places that were vital to the economic well-being of our people: the grain storage silo, the lumber yard, the coffee processing plant, the electric plant, and the radio station. (See fact sheet.)

At about 9:00 AM, when Mary Agnes and both of of us were back at the house together, the fighting started again. We quickly pulled a table into the hallway, put mattresses over the top and sat underneath it for protection. This was an old trick Joanie had learned during the insurrection. The sound of the mortar fire was quite close again. Every now and then the impact caused some plaster to fall from our ceiling. At one point we heard shots and the splintering of wood. There we sat, sweating from the heat and fear, and praying. . .

At about 10:00 AM a plane began flying overhead, but we didn't know whose plane it was and the fear of aerial bombardment became quite real. Shortly after that, the fighting calmed down again and it seemed to us that the shouting and explosions were more in the distance. We found out that the plane was Nicaraguan and was later joined by two helicopters as they chased the contra forces into the hills.

On the streets, the Red Cross was out taking care of the wounded and dead. We packed up our emergency belongings and carried them to the house of a neighbor. (Joan also carried her ukulele with her since she cannot imagine how she would ever get along without it.) We wanted to be closer to the people in the event of more attacks, and the family was waiting for us. People began gathering slowly on the street; many appeared stunned. When they saw us with our belongings some asked us if we were leaving Ocotal. We assured them we were staying.

After leaving our things with our neighbors, we spent the day visiting those who were recovering their dead, trying to comfort, to be of use in some small ways. We also spent time trying to make contact with our Bishop and our sisters in Managua who were getting information out to our congregations and families. This was a challenge, to say the least, with the phone system the way it was! And is!

At about 3:00 in the afternoon, there was a call to go to the Plaza to participate in an act of homage to the dead and an act of repudiation of the aggression. We went down, and there the political leaders of the zone gave us information about all that had happened: 12 dead, 34 wounded in Ocotal, and we saw also bodies, too, of some of the contra who had been killed. We then went by the radio station which was burned and gutted out. We also saw hundreds of bullet holes in the surrounding houses. People said that two people had been killed there; one young man was burned alive. We returned wearily to our neighbors house and tried to rest that night after taking coffee down to the people who were doing night watch.

How hard it was to rest, thinking of the heartbreaking suffering of those who were waking their loved ones, attentive to every sound that might mean a new attack. . .

The next day, Peg Healy, our Maryknoll Coordinator, came up with the people from CEPAD, the Evangelical Development Agency, the Witness for Peace and the Red Cross. They, along with members of WFP who came in from Jalapa, arrived in time for the funeral mass and procession to the cemetery for 6 of those from Ocotal who had been killed. (Some of the others who had been killed were militia from other towns.) We walked in the long funeral procession to the cemetery where Victor Tirado Lopez, one of the members of the National Directorate of the FSLN who had come from Managua, paid homage to the dead and called on the U.S. again to stop this senseless policy of intervention which was causing so much suffering. He repeated Nicaragua's willingness to dialogue and to negotiate.

At the cemetery, our ears were filled with the sobs and cries of family members who were burying their loved ones. We went from grave to grave, family to family, to hug and pray and console. . . The fact that we were North Americans solicited no rejection from them. They understand deeply how much people in the U.S. feel and vigil with them.

Mary Agnes returned to Managua with the people from CEPAD. Peggy and 4 of the folks from WFP stayed. So we were 8 with Pastora. Peggy and our friends quickly took over the phones and doorbells and meals and sent us to bed because we were exhausted. They were all a blessing.

The next day, Sunday, we started off after sharing the Word of God together. We wanted to visit the places that had been attacked in order to collect information and to grasp what had been the results of all the mortars and shooting we had heard.

We began at the lumber yard; it was bleak and shocking. At the sight of it, physical pain clutched at Rachel's stomach. Words can begin to describe the horror of each place we visited, but they cannot tell the whole story. The pain in peoples' eyes . . . tells more of that story, that what was done here was not an attack against military powers. It was an attack against people: men, women and, most sadly, children. As we stood in front of the charred and still burning beans and corn from the silos which were attacked, it was impossible for us to imagine how anyone could think they were achieving anything by burning our food supplies. These people have worked so very hard in their fields for the so very little that they have . . . "Fruit of the vine—the sweat, the toil—the work of human hands."

What is so hard for us as U.S. citizens is to know that our government is financing all this death dealing. In the still-smoking rubble of the coffee plant, the lumber yard, the granary, we found the concrete evidences of our country's participation: bullet jackets from U.S. weapons, cardboard shell cases with NATO written on them, big pieces of shrapnel. The instruments of death . . . and suffering . . . and destruction, in the hands of what Mr. Reagan calls "freedom fighters". And yet, even during these days, in the midst of terror and pain, we have also witnessed so much life and courage and the will to live and endure. In the midst of the heaviest fighting, when we were pinned inside our house, we heard a young girl walking around the neighborhood with a loudspeaker asking for blood donors to report to the hospital to give blood for the wounded. And then there was the young woman in the yellow dress whom we held at the cemetery while she sobbed for her brother who had been killed. A few hours later, she was working with a volunteer brigade who was trying to save the unburned corn and rice at the granary before the rains came. And the determination in the voice of the watchman at the lumberyard who promised that with their faith, and the help of God, they would rebuild yet again. Such hope and faith and valiant determination is a gift to us. "Blessed are the humble, for they shall inherit the earth."

We all returned home after a long day of gathering testimonies and information, tired and sad, and yet uplifted by the signs of life. Both of us had already gone to bed when the word came that we were again in a state of alert and that there was contra movement nearby. Peggy let us know, and we all got into our "crisis clothes" and got our emergency bags ready again, including our first-aid running bag. If we heard anything in the distance, we were all to move immediately to our neighbor's house. The alert was a cruel reminder that these attacks would continue. Our WFP friends were still with us, and so after getting prepared, we all sat together again and prayed: "What therefore can separate us from the love of God" (Romans 8) and Bishop Romera's words reminded us of the joy and hope that are a part of our Gospel call, even in the midst of fear. And that forgiveness too is a gospel imperative. Our tiredness and nervousness turned to calm; we even sang a few songs in remarkable harmony! And then we all went to sleep, literally with our boots on. Blessedly, there was no distrubance in the night's peace.

And so here we are. We want you to know that through all of this we have never felt alone. Strangely enough, Jesus' presence is felt so strongly even through fear and tension. The people of Ocotal, our neighbors and friends, are constant companions and sources of strength. So many came to see how we were, to send bread or a nacatamale. They shared their faith with us as they have reflected on the God of life in the valley of death. And then we felt strong support of all of our sisters in the rest of Nicaragua. Two of our sisters from Limay came on Saturday to bring some vegetables and toilet paper and sour cream. And all of them have been vigiling with us during these days. We have also felt the love of our congregations and families who were notified at once, and who have been able to talk by phone with us to send their love. WFP has also been a constant help and caring presence. Lots of folks have called from the U.S. to give the people here their solidarity.

We carry you all in our hearts and we fell stronger because of you as we face whatever comes. We've learned so much along the way and we are even better prepared to look into the future and to find ways to continue to serve and be served by the people here. We are certain that our God holds us and these people very close and that his promise of life and hope is faithful. The words of Isaiah echo our own hopes deepest prayer:

"On this mountain he will remove the mourning veil covering all peoples, and the shroud enwrapping all nations, he will destroy Death forever. The lord Yahweh will wipe away the tears from every cheek; he will take away his people's shame everywhere on earth, for Yahweh has said so. That day, it will be said: See, this is our God in whom we hope for salvation; Yahweh is the one in whom we hoped."—*Isaiah 25: 7-10*

Peace,

JOAN UHLEN, M.M.
RACHEL PINAL, P.B.V.M.

Sister Joan Uhlen is a Maryknoll Sister who has worked in Nicaragua since 1972. Sr. Rachel Pinal is a Presentations Sister and Maryknoll Associate. Both sisters have been serving in Ocotal since 1980 doing education and pastoral work.

THE ATTACK ON OCOTAL, NICARAGUA: JUNE 1, 1984—A FACT SHEET

During the past months, Mr. Reagan and several other government leaders have referred to the counterrevolutionary forces attacking Nicaragua as "freedom fighters." This has been used to defend CIA support, training, and financing of these forces.

The following is a report of the attack on Ocotal on June 1, 1984 by these same forces. It has been prepared by North American Catholic religious women who were present in Ocotal at the time of the attack and by members of Witness for Peace who arrived the next day, made onsite visits to the affected areas, and conducted extensive interviews with eyewitnesses and victims of the operation. (Witness for Peace is a non-violent and permanent Christian witness in the conflict zones of Nicaragua).

The Attack: Ocotal is one of the larger northern cities of Nicaragua which is located about 226 kilometers from Managua. Its population is approximately 21,000 people.

On the morning of June 1, 1984, between 4:15 and 4:30 AM, counterrevolutionary forces which operate out of Honduras began their assault on the city. The Nicaraguan government estimates that the force was made up of 500-600 "contras" divided into different commandos, some of them with special training. They were heavily armed with automatic rifles, mortars, rockets, incendiary bombs and other incendiary materials. They hit several target areas all of which were civilian and economic; during the attack automatic rifle and mortar fire and shrapnel rained indiscriminately over the civilian population of the city. During the hours of heaviest attack—from 4:15 to about 6:30 and then from about 9:00 to 10:00—the civilian population were trapped inside their homes in severe danger.

According to government sources and eyewitness accounts, as of June 2 the number of victims of the attack on Ocotal totalled 12 dead: 7 civilians and 5 Sandinista military. As of June 5, two more wounded military had died, raising the total to 14. Approximately 34 persons were wounded: 14 civilians and 20 military. The casualty toll of the counterrevolutionary forces, as of June 5, was 52 dead and at least 2 wounded. (The original figures were much lower, but rose as more bodies were discovered in the outlying areas where the Sandinista forces had followed the retreating contras). Two of the wounded contras were given medical attention at the government hospital in Ocotal.

The following is a report of the physical and economic damage done in the affected areas of the city.

1. Yodeco Lumber Mill and Processing Plant: This is a State owned enterprise that was among the largest mills in the country. This mill produced about 14,000 feet of processed wood daily, at a value of 150,000 cordobas. (28 cordobas=$1.00 on the parallel exchange market in Nicaragua).

A commando force of approximately 60 entered the mill from the hills behind at about 4:30 a.m., attacking with machine guns, mortars, and grenades. They then used incendiary bombs to set fire to the following:

(a) The saw and conveyor belt, which were totally destroyed. Value: Approximately 8 million cordobas.

(b) The fork lift was completely destroyed. Valued: 800,000 cordobas.

(c) The lathe, used to make scrap wood into broom handles was completely destroyed. Value: 100,000 cordobas.

(d) The mechanic shop was totally destroyed, including 1 small truck, 1 pick-up truck, 2 Caterpillar tractor motors, 1 tractor, the electric system, the welding apparatus, the vulcanization shop, and the stock of tools. This shop serviced not only the mill, but many of the vehicles which are of service to the population, e.g., tractors, public transportation, etc. Value: 2 million cordobas.

(e) The plane was completely destroyed. Value: 4 million cordobas.

The total economic damage: Between 10 and 15 million cordobas. The security guards at the mill escaped without injury, but the social cost is very high. According to the administrator, 154 people work at the section of the mill. Approximately 250 persons are employed in the overall operation and up to 500 persons are employed when there is seasonal work. The mill provided lumber for tobacco farms, factories and housing projects, all of which are affected. The administration will take responsibility for the salaries of those left jobless. They plan to bring in a smaller saw as soon as possible to begin production again.

On Sunday, June 3, the remains of the mill were still smouldering. Hundreds of bullet jackets from U.S. made weapons were among the charred remains.

2. Administration Offices of INE (the Electric Company): About 400 yards down the road from YODECO, in Barrio Sandino, are the administrative offices and generator of the electric company. A "contra" force entered the area at about 4:30 AM using heavy artillery. They also rained mortar fire on INE from the ridge about 50 yards behind the installations. The entire infrastructure of the offices was destroyed as well as all the office equipment, documents, and cash box of the company. The contra attempted to blow up the generator but were unsuccessful. Total economic damage: Approximately 5 million cordobas. Sixty people worked at this office, which was transferred immediately to another part of the city. Electricity was restored to the city almost immediately after the attack.

3. Beneficio de Cafe "Pedro Altomirano": This is the coffee drying and processing plant across the road from INE. The contra force entered the plant at about 4:45 AM, using heavy gun fire and mortar attack from the ridge behind INE. A security guard there informed us that his work partner, Eusebio Quadra, 55 years old was attacked by gun fire as he ran towards the office building. He exited from the back of the office but died almost immediately. He leaves a pregnant wife and 8 children as well as various other dependents. The other security guard was injured but survived. The contra completely destroyed the office building, the machinery, 2 trucks, 39 quintales (1 quintal=100 lbs.) of coffee and a part of the cement court used for drying coffee. The plant employs 4 persons full time and 30 seasonal workers. The four full time workers are currently employed in the clean up, but there are no immediate plans to rebuild. Visual inspection of the beneficio revealed hundreds of U.S. bullet jackets and inspection of the ridge above INE revealed cardboard boxes for shells marked NATO as well as contra propaganda pamphlets on how to commit acts of sabotage. All of the above attacks involved targets that were close together and located in or near Barrio Sandino.

4. Damage to Barrio Sandino: During the attack on INE YODECO, and the Beneficio, the residents of the surrounding barrio were severely affected. Several houses were hit by bullets, shrapnel, and mortar fire. We interviewed residents who had been physically affected.

Juana Maria Martinez, 22 year old mother of three children. When the firing began she lay down on the floor with her husband and children. A piece of shrapnel ripped through their 1-inch plank wood wall and lodged in her back. She was taken to the hospital when the shooting ended, but the shrapnel was too deep to be removed. Their outhouse was destroyed by a mortar.

Maria Montalban, 29 year old mother of three. Maria was on the bed with two of her children when a bullet pierced their outside wall, entered her body at the ankle, shattering it, and exited from her pelvic area, apparently grazing the leg of her 7 month old baby. She could not be evacuated for 1 and ½ hours; eventually she was taken to the hospital where she was received in critical condition. She remains in the hospital but her condition has stabilized.

Many children in Barrio Sandino suffered ear injuries from the noise and impact of the mortars.

5. The Branero (Grain Storage Silos): In an entirely different section of town, on the highway in the outskirts of the city, are the 6 grain storage silos where 24,000 quintales of rice, beans, corn and sorghum were stored. This is the central storage area for Ocotal and the entire Department of Nueva Segovia. A contra force entered the granary at about 4:30 am. They shot one of the watchmen on duty, and then proceeded to launch a fierce attack on the silos and installations. After all six silos were destroyed, they set fire to the grains. The value of the destroyed silos, augers and conveyors was approximately 1 and ½ million cordobas. Grains that were lost: Corn, 6,950 quintales; beans, 4,650 quintales; rice, 2,475 quintales; sorghum, 323 quintales. Also lost were 150 quintales of powdered milk, and small amounts of soap, cooking oil and salt. According to CEPAD, at least 10 houses in the surrounding barrio were seriously affected by the attack. It appears that 2 Sandinista soldiers were killed at the granary. Twenty-six year old Luis Alberto Ruiz was killed while running to defend the granary. He leaves behind a wife three months pregnant. He supported not only his wife but also his parents and younger brothers and sisters.

Almost immediately, even while some of the grains were still in flames, volunteer crews from the city began to try to rescue the rest of the grain from the fire and the rain. As of today, that effort is still in progress. Despite these efforts, this action will still cause short term food shortages.

6. Radio Segovia: Radio Segovia is a state owned radio station that is a part of CORADEC (Corporacion de Radio Difusion del Pueblo). It is a local station that services Ocotal and reaches throughout the department of Nueva Segovia. It is strongly supportive of the revolution and national defense, a key communications medium for FSLN. It also provides the local residents with services such as announcements, personal messages, etc. It is located in the center of the city in a residential area quite close to the central plaza. Between 4:30 and 4:35 a contra force entered the building, which also housed the local CDS (Sandisista Defense Committee) office and the Sandinista Youth organization. They shot up the door and broke it down, entering the CDS office. They beat and killed Don Julio Tercero, the CDS director from Pueblo Nuevo. Then then entered the Sandinista Youth office and shot 19 year old Juan Carlos Mendoza. They doused the bodies and offices with gasoline and set fire to them. There are conflicting reports about whether Juan Carlos was dead before he was burned. Later, both bodies were found, totally burned. The contra forces then moved toward the radio installations, located toward the back of the building. There were six persons in the back offices and in the studio, but all managed to escape. The contra force shot up and set fire to the radio installations and then retreated. Some were killed during their retreat when Sandinista forces came to the area. Visual inspection of the street revealed that several houses along the street were full of bullet holes. The front part of the building and a good part of the radio installation were completely destroyed as were microphones, turntables, antenna, tape recorders, and typewriters. Total economic damage was approximately ½ million cordobas.

As of the next day, the radio station had moved its location, borrowed materials, and was back on the air.

7. Other Incidents: Marvin Jose Lopez, the director of IRENA (Ministry of Natural Resources), was shot by contra forces while driving through the town in the early morning to pick up workers who were going to plant trees in the reforestation project. The contra fired at the truck, killing Lopez and shattering glass and tires. The three women workers in the back of the truck survived the attack, sustaining minor abrasions. Jose Lopez leaves behind a wife and three young children.

At the offices of INRA (Ministry of Agrarian Reform), two trucks were completely destroyed by bullets and shrapnel.

According to a nurse who was on duty at the Ocotal hospital during the attack, the contra fired at the hospital and several bul-

lets entered the nursery and women's ward. This report was verified by a patient in the women's ward. Pictures were taken of the bullet holes in the windows and door. No one was wounded.

According to government sources, the counterrevolutionary forces also intended to destroy the Shell Gasoline station and the new CDI, or Child Care Center. The center, just completed this year, cares for 150 children. The contra had obtained a CDS vehicle during the fighting and had filled it with explosives in order to blow up these targets, but their plan was aborted when Sandinista defense forces drove them into retreat.

The Defense of the Town.—Much of the defense was carried out by the local militia and the night watch personnel. A special battalion of Sandinista military was also in Ocotal. Towards the end of the attack, a small Nicaraguan plane began circling above the city. It was later joined by two helicopters in pursuing the contra forces into the surrounding hills. Using heavy armaments, the Sandinista army pursued the retreating contras causing many casualties. As of Tuesday, June 5th, bodies were still being recovered in the surrounding area. There is much fear of epidemic through water contamination since some bodies were found in nearby rivers. The Ministry of Health is actively pursuing this problem.

Mozonte: On the same day, a small town just outside of Ocotal was also attacked. About 200 contras entered the village of Mozonte, and reports are that their target was the ceramics cooperative that provides employment for several families in the town. Fifteen local militia defended the town. Five were killed in the battle and the contra retreated. (We did not visit Mozonte).

Summary: This report describes some of the human and economic damage that resulted from this brutal attack. It cannot describe the terror, the trauma and general suffering that this kind of activity brought to Ocotal and brings daily to Nicaraguans in other parts of the country who have been subjected to the same cruelty, or worse. Just as they usually do, the contra forces attacked economic and civilian targets, that is, targets which deeply affect the economic and social well being of the poor. Such is the work of Mr. Reagan's "freedom fighters," so aptly described by Tip O'Neill, the Speaker of the House, as rapists, terrorists, and mercenaries. We firmly believe there are few U.S. citizens who, had they witnessed the suffering of Nicaraguans as we have in Ocotal and in so many other places, could be proud of their country, or could want their tax dollars to be used for such carnage. As women and men of faith, we beg you to do what you can to stop the war in Central America.

Mr. KENNEDY. Mr. President, there is another report about the attack on Ocotal prepared by Peter Olson, Sharon Hostetler, Dough Insch, and Jean Abbott. These individuals are American citizens associated with the Witness for Peace Program in Nicaragua, and they arrived in Ocotal the day after the attack. Their report is based on their visit to affected areas in Ocotal and on extensive interviews with eyewitnesses to and victims of the attack by the contras. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

THE ATTACK

Ocotal is one of the larger northern cities of Nicaragua, located about 226 kilometers from Managua. Its population is approximately 20,000.

On the morning of June 1, 1984, at about 4:30 a.m., counter-revolutionary forces which operate out of Honduras began their assault on the city. The Nicaraguan government estimates that the force was made up of 500-600 "contras" divided into different commandos, some of them with special training. They were heavily armed with automatic rifles, mortars, rockets, incendiary bombs and other incendiary materials. They hit several target areas, all of which were civilian and economic; during the attack automatic rifle and mortar fire and schrapnel rained indiscriminately over the civilian population of the city. During the hours of heaviest attack—from 4:30 to about 6:30 and then from about 9:00 to 10:00 a.m.—the civilian population was trapped inside their homes in severe danger.

According to government sources and eyewitness accounts, as of June 2 the number of victims of the attack on Ocotal totalled 12 dead: 7 civilians and 5 Sandinista military. As of June 5, two more wounded military had died, raising the total to 14. Approximately 34 persons were wounded: 14 civilians and 20 military. The casualty toll of the counterrevolutionary forces, as of June 5, was 52 dead and at least 2 wounded. (The original figures were much lower, but rose as more bodies were discovered in the outlying areas where the Sandinista forces had followed the retreating contras. Two of the wounded contras were given medical attention at the government hospital in Ocotal.)

PHYSICAL AND ECONOMIC DAMAGE

1. The YODECO Lumber Mill and Processing Plant, a state-owned enterprise that was among the largest mills in the country. This mill produced about 14,000 feet of processed wood daily.

A commando force of approximately 60 entered from the hills behind the mill at about 4:30 a.m., attacking with machine guns, mortars, and grenades. They then used incendiary bombs to set fire to the following:

The saw and conveyor belt, which were totally destroyed. Value: approximately $800,000.

The fork lift was completely destroyed. Value: $80,000.

The lathe, used to make scrap wood into broom handles, was competely destroyed. Value: $10,000.

The mechanic shop was totally destroyed, including 1 small truck, 1 pick-up truck, 2 Caterpillar tractor motors, 1 tractor, the electric system, the welding apparatus, the vulcanization shop, and the stock of tools. This shop serviced not only the mill, but many of the vehicles which are of service to the population (tractors, public transportation, etc.). Value: $200,000.

The plane was completely destroyed. Value: $400,000.

The total economic damage: between 1 and 2 million dollars. The security guards at the mill escaped without injury, but the social costs will be very high. According to the administrator, 154 people work at that section of the mill. Approximately 250 persons are employed in the overall operation and up to 500 persons are employed when there is seasonal work. The mill provided lumber for tobacco farms, factories and housing projects, all of which are affected. The administration will take responsibility for the salaries of those left jobless.

On Sunday, June 3, the remains of the mill were still smoldering. Hundreds of bullet shells from U.S.-made weapons were among the charred remains.

2. Administration Offices of the INE (the electric company). A "contra" force entered the area at about 4:30 a.m. using heavy artillery. They also rained mortar fire on INE from the ridge about 50 yards behind the installations. The entire infrastructure of the offices was destroyed as well as all the office equipment, documents, and cash box of the company. The contras attempted to blow up the generator but were unsuccessful. Total economic damage: Approximately $600,000. Sixty people worked at this office, which was transferred immediately to another part of the city. Electricity was restored to the city almost immediately after the attack.

3. Beneficio de Cafe "Pedro Altomirano," the coffee drying and processing plant across the road from INE. The contra force entered the plant at about 4:45 a.m., using heavy gunfire and mortar attack from the ridge behind INE. A security guard there informed us that his work partner, Eusebio Quadra, 55 years old, was attacked by gunfire as he ran towards the office building. He died almost immediately. He leaves a pregnant wife and 8 children as well as various other dependents. The other security guard was injured but survived. The contras completely destroyed the office building, the machinery, 2 trucks, 39 quintales of coffee (1 quintal=100 lbs.), and a part of the cement court used for drying coffee. The plant employs 4 persons full-time and 30 seasonal workers. Visual inspection of the area revealed hundreds of U.S. bullet shells and empty card board boxes marked NATO as well as contra propaganda pamphlets on how to commit acts of sabotage.

4. Damage To Barrio Sandino. During the attack on INB, YODECO, and the Beneficio, the residents of the surrounding barrio were severely affected. Several houses were hit by bullets, shrapnel, and mortar fire.

When the firing began, Juana Maria Martinez, 22-year-old mother of three children, lay down on the floor with her husband and children. A piece of shrapnel ripped through their 1-inch plank wood wall and lodged in her back. She was taken to the hospital when the shooting ended, but the shrapnel was too deep to be removed.

Maria Montalban, 29-year-old mother of three, was on the bed with two of her children when a bullet pierced their outside wall, entered her body at the ankle, shattering it, and exited from her pelvic area, apparently grazing the leg of her 7-month-old baby. She could not be evacuated for 1½ hours; eventually she was taken to the hospital where she was received in critical condition.

Many children in the Barrio Sandino suffered ear injuries from the noise and impact of the mortars.

5. The Granero (Grain Storage Silos). In an entirely different section of town, on the highway in the outskirts of the city, are the 6 grain storage silos where 24,000 quintales of rice, beans, corn and sorghum were stored (1 quintal=100 lbs). This is the central storage area for Ocotal and the entire department of Nueva Segovia. A contra force entered the granary at about 4:30 a.m. They shot one of the watchmen on duty, and then proceeded to launch a fierce

attack on the silos and installations. After all six silos were destroyed, they set fire to the grains (in quintales, the amounts of grain lost: corn, 6,950; beans, 4,650; rice, 2,475; sorghum, 323). Also lost were 150 quintales of powered milk, and small amounts of soap, cooking oil and salt. The total economic loss in grain is approximately $500,000.

6. Radio Segovia, a state-owned radio station that is a part of CORADEC (Corporación de Radio Difusion del Pueblo). It is a local station that reaches throughout the department of Neuva Segovia. It is strongly supportive of the revolution and national defense, a key communications medium for the FSLN. It also provides the local residents with services such as announcements, personal messages, etc. It is located in the center of the city in a residential area quite close to the central plaza. A contra force entered the building, beat and killed Don Julio Tercero, and shot 19-year-old Juan Carlos Mendoza. They doused the bodies and offices with gasoline and set them afire. There are conflicting reports about whether Juan Carlos was dead before he was burned. The charred remains of both bodies were found later. Six persons in the back offices and studio of the radio station managed to escape. The contra forces shot up and set fire to the radio installations and then retreated. The front part of the building and a good part of the radio installation were completely destroyed as were microphones, turntables, antenna, tape recorders, and typewriters.

7. Other Incidents. Marvin Jose Lopez, the director of IRENA (Ministry of Natural Resources), was shot and killed by contra forces while driving through the town in the early morning to pick up workers who were going to plant trees in the reforestation project. Jose Lopez leaves behind a wife and three young children.

At the offices of INRA (Ministry of Agrarian Reform), two trucks were completely destroyed by bullets and shrapnel.

According to a nurse who was on duty at the Ocotal hospital, the contras fired at the hospital and several bullets entered the nursery and women's ward. This report was verified by a patient in the women's ward. No one was wounded.

THE DEFENSE OF THE TOWN

Much of the defense was carried out by the local militia and the night watch personnel. A special battalion of Sandinista military was also in Ocotal. Towards the end of the attack, a small Nicaraguan plane began circling above the city. It was later joined by two helicopters in pursuing the contra forces into the surrounding hills. Using heavy armaments, the Sandinista army pursued the retreating contras, causing many casualties. As of Tuesday, June 5, bodies were still being recovered in the surrounding area. There is much fear of epidemic through water contamination since some bodies were found in nearby rivers. The Ministry of Health is actively pursuing this problem.

MOZONTE

On the same day, a small town just outside of Ocotal was also attacked. About 200 contras entered the village of Mozonte, and reports are that their target was the ceramics cooperative that provides employment for several families in the town. Fifteen local militia defended the town. Five were killed in the battle and the contras retreated. (WFP did not visit Mozonte.)

SUMMARY

This report describes some of the human and economic damage that resulted from this brutal attack. It cannot describe the terror, the trauma and general suffering that this kind of activity brought to Ocotal and brings daily to Nicaraguans in other parts of the country who have been subjected to the same cruelty, or worse. As is their pattern, the contra forces attacked economic and civilian targets; that is, targets which deeply affect the economic and social well-being of the poor. Such is the work of President Reagan's "freedom fighters," so aptly described by Tip O'Neill, Speaker of the House, as "rapists, terrorists and mercenaries."

We firmly believe there are few U.S. citizens who, had they witnessed the suffering of Nicaraguans as we have in Ocotal and in so many other places, could be proud of their country, or could want their tax dollars to be used for such carnage. As women and men of faith, we must all act to stop the war in Central America. We can start by terminating any further aid to the contras.

[Editorial note: On June 18, Ocotal officials released a more thorough report of damages. Their total is almost $7 million.]

Mr. KENNEDY. Mr. President, in a paper prepared by the Central American Historical Institute at Georgetown University on June 11, 1984, an attack by the Contras on the town of Waslala is described. According to this document, the attack occurred on April 3 and 37 civilians were killed, 25 houses were burned, and at least 210 people from the Waslala area were kidnapped. The following are excerpts from that report, and I ask unanimous consent that they be printed in the RECORD.

There being no objection, the excepts were ordered to be printed in the RECORD, as follows:

CONTRA WAR IN NICARAGUA: THE CASE OF WASLALA

In an April 3 attack on the town of Waslala 37 civilians, 19 Nicaraguan soldiers and 20 counterrevolutionaries were killed. On the same day 25 houses were burned, more than 30 families lost all their possessions, and at least 210 people from the Waslala area were kidnapped.

While this was not atypical of Nicaraguan Democratic Force (FDN) attacks, the April 13 attack was more violent than most. In the last two years more than 100,000 Nicaraguans have been moved from war zones. According to Nicaraguan officials they will require $53 million in emergency assistance over the next six months. Shortages of basic goods will worsen, as the counterrevolutionaries have destroyed vehicles and the infrastructure necessary to transport goods.

WASLALA

Targets of the counterrevolutionaries are primarily economic, not military. In the case of Waslala, a very poor and isolated area, human losses were the most dramatic. The Instituto Historico Centroamericano interviewed four residents of Waslala about the events of early April to find out more about how the Nicaraguan rebels fight their war against the Sandinistas. All of the following information is based on their testimonies.

The town of Waslala, in central Nicaragua, 80 miles east of Matagalpa, has a population of 2,100. It is an important stop on the new road from Matagalpa to Puerto Cabezas on the Atlantic coast. The municipality has 26,000 inhabitants. Due to the mountainous terrain access is extremely difficult. Growing corn, beans and coffee, the campesinos in the region are badly nourished; a typical meal consists of a tortilla with salt, a small serving of beans or a boiled plantain, and a beverage made from toasted corn and water. Diseases such as malaria and leprosy, not often found in other areas of the country, are prevalent in the Waslala region.

WHAT THE CONTRAS HAVE DONE

Because of the strategic importance of linking the Pacific and Atlantic sides of the country, the counterrevolutionaries have been active in the Waslala area. Three bridges between Matagalpa on the Pacific side of the country and Puerto Cabezas on the Atlantic coast have been blown up by the contras: at Yaos, El Guavo and El Jicaral. With the rainy season in June, it will no longer be possible to cross the river beds, and the Waslala region will be completely cut off from the Pacific side of the country. The contras hope to completely cut off the Atlantic region so that a provisional government can be declared.

THE DAY OF THE ATTACK

On April 3, 1,800 contras fanned out along 30 miles of the highway. At 6 am, as peasants were heading out to the fields a shot was heard in El Papayo neighborhood and was answered from Claudia Chamorro neighborhood, about half a mile from Waslala. Thinking it was practice fire, townspeople paid little attention. But once they realized it was for real, everyone ran for shelter.

One thousand contras attacked the town. Only 40 Nicaraguan soldiers were stationed in the town at the time, and 400 were in the region. The first Sandinista reinforcements arrived at noon. Others came the following day.

Because the contras were firing over a hill, they could not see their targets, and mortars mostly fell in vacant lots. Several times the contras tried to advance up the hill to the town, but the army stopped them. After seven hours, the army stopped firing, faking defeat, and the contras slowly climbed the hill of Waslala. With the bulk of the rebels in sight, the army began firing, killing four leaders and about 15 other contras, and the contras retreated.

The civilian population suffered most when the contras withdrew through nearby communities. Just on the outskirts of Waslala a family of nine was taking cover in a ditch. The father, a 24-year-old volunteer policeman, was with his family because his wife had just given birth and was not well. When the contras found them, they dragged the father out and threatened to kill the whole family because he had military boots on. The young man begged them to spare his family. They shot his wife and a grenade was thrown in the ditch, lodging shrapnel in the woman and children, but none died. The husband was tortured nearby, the family listening to his cries of pain. The contras cut his fingertips and then his right hand off, plunged bayonnets all through his body and then beheaded him. Finally they carved a "cross" on his back.

One of the residents told the Instituto Histórico that "The contras carried off three of Juan's children—a 16-year-old daughter, two sons of 14 and 12, and also a son-in-law of his. He followed them for three days, but he was helpless to do anything. To this day, he doesn't know what

happened to them." The neighbor added, "The contras tried to burn his house, but the flames wouldn't catch." He continued, "The bodies of five campesinos were found in the hills around Waslala, but it was impossible to identify the bodies, because faces had been completely disfigured by torture. The contras . . . gouged out their eyes and beheaded them."

Other families were also affected, according to the residents. A young peasant couple had their new sewing machine destroyed and then the house set on fire. They lost everything. Three teenagers in nearby El Achote who had hid in the hills during the attack were bayonetted; one survived. Also in El Achote, an agrarian reform worker was "cut into pieces," his wife shot but not killed, as she watched the contras behead her 11-month-old baby.

After the attack, local residents saw the contras enter the church in Kubali, light a candle and pray.

The residents of Waslala are never certain when the next attack will come. About 3,000 contras operate regularly in this area, along a clearly defined belt that extends down from Honduras, through Jinotega around Kukuguas and then through San Jose de Bocaysito and Bocay. Still traumatized, families from the outskirts of Waslala come into town each night to sleep in the chapel.

HOW DO THE CONTRAS FUNCTION IN THE AREA

Residents in the Waslala area recalled: "We have seen big planes fly in, which hover in the air while they drop crates of arms, ammunition, food and medicine. Crate after crate, slowed by parachutes, they are dropped. While one plane drops supplies, another circles round patrolling. The planes don't have any identification on them."

The FDN is able to maintain its forces with backing from the U.S. government. The residents explained that peasants sometimes join the FDN because it offers them a salary of 5,000 to 7,000 cordobas a month. (Many had not even been earning the minium wage, less than 900 cordobas a month.) Local peasants also join because relatives, particularly ex-National Guard from the the area, are members of the FDN. Furthermore, due to their isolated location they pick up contra and other anti-Sandinista radio stations more easily than Nicaraguan radio from Managua. Some campesinos are recruited by force or threats. Approximately 200 people from the region have joined the contras.

Mr. KENNEDY. Mr. President, Robert J. McCartney is a reporter for the Washington Post. In an article that appeared in the Post on August 7, 1984, Mr. McCartney reported the results of his interviews with residents of the town of Tapasle in Nicaragua. According to McCartney:

Between 150 and 200 antigovernment guerrillas, wearing the blue uniforms of the U.S. financed Nicaraguan Democratic Force, entered this hamlet 12 days ago and slit the throats of seven unarmed men.

Julia Preston filed a similar report about this incident in the Boston Globe.

I ask unanimous consent to have these two news reports printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Aug. 7, 1984]

NICARAGUAN VILLAGERS REPORT REBELS KILLED NONCOMBATANTS

(By Robert J. McCartney)

TAPASLE, NICARAGUA.—Between 150 and 200 antigovernment guerrillas, wearing the blue uniforms of the U.S.-financed Nicaraguan Democratic Force, entered this hamlet 12 days ago and slit the throats of seven unarmed men, according to local residents.

Six residents said in interviews here Saturday that there was no fighting before the killings, because nobody in the village had any arms other than the machetes they use in their farm work. They said the rebels carried Belgian-made FAL automatic rifles.

The killings originally were reported by Barricada, the official newspaper of the ruling Sandinista National Liberation Front. The Barricada account said throats of the victims—a local Sandinista activist, a militia member and five unaffiliated peasants—had been cut while their neighbors watched in horror. But the residents said here that they were unaware of the killings until they found the bodies in two clusters on the edge of the village in the two days after the raid.

The Sandinistas have charged that the victims were chosen as part of a recently accelerated assassination campaign by the guerrillas, known as contras, against Sandinista activists and sympathizers in central Nicaragua.

Over the past two years there have been numerous reports from government officials and foreign missionaries that the Nicaraguan Democratic Force has assassinated substantial numbers of unarmed Sandinista militants, but it has been difficult to confirm them because the incidents usually occurred in isolated combat zones that are difficult to reach.

The events at Tapasle were easier for reporters to check because the village is only 22 miles northeast of the provincial capital of Matagalpa and because the rebels withdrew quickly from the zone after the raid.

The residents described the incident to two American reporters who arrived at the hamlet unannounced. No government official was present at the interviews.

Pedro Lopez, 59, a shopkeeper whose son Hermes was one of those killed, said he had helped to find and bury the seven corpses. Before the killings, the elder Lopez had chatted with the rebels and sold them 50 popsicles, 80 bags of candy and some medicine.

"They said that they were going to correct all the errors of the Sandinistas," the shopkeeper said. "They said everything had become too expensive under the Sandinistas."

A local farmer offered essentially the same description of the killings as Lopez, although he expressed sympathy for the rebels.

"Everyone laments the death of a human being, but it was a part of the war," said the farmer, who asked to remain anonymous because he feared reprisal by the Sandinistas. He roundly criticized the Sandinista government for causing economic problems such as shortages of products ranging from pesticides to horseshoe nails. And he urged the United States to do more to stop communism in Central America.

The contras, or counterrevolutionaries, have been active for more than two years in this mountainous region of coffee and cattle farms in Matagalpa province. Senior regional officials and a U.S. missionary based in the area said the rebels have killed dozens of unarmed Sandinista activists in the past year in similar attacks that apparently were designed to intimidate people who might support the government.

"The policy that we have seen is one of terror," said Juan Jose Ubeda, coordinator of the defense and security council for the region comprising Matagalpa and Jinotega provinces. He said the rebels have killed at least 16 persons in similar raids in the past three weeks in his region, where the contras are particularly strong.

Efforts to obtain comment by telephone from Nicaraguan Democratic Force officials in Miami and Tegucigalpa, Honduras, were unsuccessful.

It was impossible at the time to visit the villages to confirm his account, although a group of residents who fled the hamlets after the attacks confirmed the details in conversations at a church refuge near Managua.

Describing a more recent raid in his parish, Feltz said the guerrillas killed 35 persons, including 10 children and five women, in a dawn mortar attack on the village of El Jorgito on May 13. Some of the 20 men in the village were militiamen, and they had seven automatic rifles, Feltz said.

Security official Ubeda said killings by the contras had increased in recent months because the rebels were frustrated by a loss of popular support in the area and because they had wished to scare peasants away from signing up to vote in national elections during a four-day voter registration period that ended July 30.

Ubeda said the guerrillas had enjoyed increased support at the end of last year and in the first three months of this year because of "some errors that we have made, especially with the peasants." In particular, he said, the Sandinista Army had alienated many peasants by stealing food, but the troops now have been trained to respect private property.

In another incident that indicated a stepped-up assassination campaign by the guerrillas, a prominent landowner was killed on July 19 as he drove a pickup truck down a country road east of the city of Matagalpa. The victim, Noel Rivera, was described by a variety of residents of Matagalpa as a popular figure who was not a Sandinista.

Rivera, 41, was described in the Sandinista media as a "patriotic producer" because, unlike many other landowners, he continued to invest in his two farms.

"My husband never thought that the contras would do this to him. He wasn't a Sandinista," Gladys Bolt de Rivera, the victim's widow, said. She suggested that the killing was part of the rebels' efforts to disrupt the economy.

The Nicaraguan Democratic Force asserts that it is fighting to prevent the Sandinistas from making Nicaragua a totalitarian country and to reduce its links with Cuba and the Soviet Union. The CIA has provided millions of dollars of aid to the rebels in what the Reagan administration describes as an effort to pressure the Sandinistas to stop supporting left-wing guerrillas in El Salvador and to permit growth of democracy here.

The most frequent victims of rebel killings in the countryside have been militiamen or local Sandinista activists who run education campaigns, health clinics or other government programs, according to Sandinista officials and Catholic missionaries.

In Tapasle, however, only two of the seven victims were actively working for the Sandinistas, residents said.

Of the other five victims, three including Hermes Lopez—previously had been militiamen but have returned to their village to farm and two had no ties to the Sandinistas.

"Some were militiamen at the beginning, just after the revolution won [in 1979]; others weren't, "say Francisco Martin, 54, as he stood by his horse outside Pedro Lopez shop. Asked why the non-Sandinistas were killed, he said: "I think because of bad information."

The residents had to be coaxed to say anything at all to the two foreign reporters, and only the farmer who denounced the revolution was willing to discuss politics. But a woman in one of the farmhouses only laughed when asked if there was much support in the area for the contras, saying, "No, they're terrorizing us."

NICARAGUANS SAY CONTRAS KILL CIVILIANS

(By Julia Preston)

TAPASLE, NICARAGUA.—CIA-backed rebels fighting the Nicaraguan government are using increasingly bloody tactics and attacking civilians in recent months, according to victims' relatives, landowners and government officials in this region.

Pedro Lopez, 59, a store keeper, said the blue-uniformed rightist guerrillas were polite to him when they purchased all the candy in his shop in this hamlet, 75 miles northeast of Managua, at midday July 26.

But, Lopez said, that day his son Hermes, 26 disappeared. Lopez found Hermes' body two days later, dumped in a coffee grove. The son's throat was slit an there were several other deep stab wounds in his neck.

"I just don't understand the purpose of it," said the father. "We've never seen anything like it."

Relatives and witnesses said seven men were found dead with slit throats within two days after the heavily armed rebels, known as contras, marched away.

One victim, Lazaro Zamora, 38, was buried by his wife and father-in-law, who said that both eyes were missing from the body.

The contras told residents they were "bringing the men to justice" because "they were accused of being informers or militiamen" for the leftist Sandinista government, according to Juan Montes, 50, owner of a coffee farm near Ta pasle.

But Montes and other residents said that none of the victims was armed when seized by the contras, and there was no fighting in the area when the deaths occurred.

Sandinista officials attribute the contras' tougher tactics to military advances by government forces. Commander Juan Jose Ubeda, the top Sandinista security official in the region, said, "The contras now have to maintain by terror this strength they used to have by popular support."

He said the contras had "recruited many volunteers" in Matagalpa province earlier this year. "Poorly educated" Sandinista troops had angered rural residents by forcing them to feed army units. Ubeda said. But he said the army had corrected its errors in recent months, regaining some trust among peasants and dealing several important blows to the contras of the Nicaraguan Democratic Force, or FDN.

Pro-Sandinista human rights groups in Managua as well as several independent human rights monitoring organizations in the United States have raised allegations this year of cruelty against civilians by FDN contras, who are funded by the CIA. But these groups concede their accusations are hard to prove because the violence is often said to occur in virtually inaccessible jungles or mountain ranges.

An FDN political leader in Miami said yesterday in a telephone interview that he was unaware of the July 26 attack, and that the FDN rebel forces are "trained to fight a clean war and not to commit any acts that would be in violation of civil rights.

"We condemn any assassination, and we regret any loss of life, even in a just cause," said the leader, Alfonso Callejas. "The only way a guerrilla force can survive is by having the confidence of the population, and we have survived for over a year because of the behavior of our forces."

Witnesses reported that the contras who moved through this region in late July, numbering about 500, questioned residents to find out the names of Sandinista government supporters. But Francisco Martin, 54, a larm laborer said the contras seemed to have chosen their victims in Tapasle "based on bad information."

Only one victim, Roberto Ordonez, was a government official wearing the beige shirt and olive green pants of the Sandinistas. One other was a militiaman, in uniform. Another victim, Adan Flores, described as over 60, had no history of Sandinista involvement.

Under the Sandinista military system, militiamen are rural volunteers who are available to be called up at any time for brief stints of active many duty. They do not carry weapons at other times. Asked why he thought the contras used brutal tacties against vietims here, Martin's only answer was, "As poor people, we have to suffer."

Several residents heard the contras identify themselves as members of the "Jorge Salazar" force, a 2000-man FDN unit operating in the northeastern province of Matagalpa. In the same sweep, contra units also torched the farmhouses and warehouses of a state coffee farm, La Brazilia, near here.

While some residents were terrified by the attacks, others responded with indifference, in a region where contras command some support because of severe shortages of agricultural equipment under the Sandinistas. "Everyone laments the death of a human being," said one landowner, "but that's part of war."

Another civilian contra victim was Noel Rivera, 41, whose beaten and stabbed body was found July 21 on a roadside in Matagalpa Province. Coffee and cattle farmers in the region were stunned by Rivera's death, because he was one of the largest landowners in the province and the first private grower to be killed by contras.

"He wasn't a Sandinista." said Rivera's wife. Gladys Bolt, 38. He was completely dedicated to working his farm."

Bolt speculated that the killing was a warning to growers who were not sufficiently in oppostion to the government. She said that she met with Langhorn Motley Jr., US assistant secretary of state for inter-American affairs, while he toured Nicaragua last October.

Mr. KENNEDY. Mr. President, from a report of the June 26–July 4, 1984, National Peace Vigil in Nicaragua by its New England delegation. Rev. Dr. Robert M. Bonthius from Ellsworth ME, is the coordinator for New England, and Ms. Janet M. Davis of Sommerville, MA, was report coordinator. The following is an excerpt from their report, and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

THE U.S. WAR ON NICARAGUA

In Ocotal, a city of about 10,000 in the Department of Nueva Segovia, we saw damage inflicted by the contras on the Nicaraguan infra-structure during the June 1, 1984 attack. Our July 2nd inspection revealed several examples of the intentional, systematic strangulation of the native food supplies (destruction of grainery), communications facilities (Radio Segovia), and export crop supplies (tobacco factory), among others. The replacement cost of the damage was estimated at millions of dollars.

In La Mía, a relocation project, the militia stated that the Contras killed five peasants in May of 1984. The methods were brutal. Tongues were severed with bayonets. Slit throats and excisted gentials were not uncommon.

A Jalapan family spoke of mutilation of bodies as a near-ritualistic terror-producing tactic commonly used by the contras. For example, on May 26, the Contras decapitated twelve persons in the border area and hacked crosses into their chests.

Destabilization of the economy is demonstrated by the contras' consistent attacks on economic and civilian targets, and not on military installations.

Infiltration by contra agents into the native population is a growing problem. It fosters a distrust among neighbors, breeds fear, and provides an opportunity for sabotage and espionage.

Kipnappings, disappearances and torture are daily realities of life.

Perhaps the most damning evidence is the photograph of five dead contras lying on an Ocotal street. Their uniforms and weapons bore the markings, "Made in U.S.A."

Stories were common that kidnapped Nicaraguans are often used as a human shield in the front line of a contra attack.

"How to" booklets on a sabotage have been discovered on the persons of infiltrators.

Agrarian reformers, too, have been the targets of the contras. Five such reformers were among the twelve killed in a "selective attack" on the July 2nd in Midra Milnra.

On our return bustrip from Jalapa to Managua on July 1, 1984, we passed a charred van abandoned on the roadside. It was reported to us that contras were in the nearby hills and that they had kidnapped all the passengers from that van, set it afire and fled. This all happened the day before, Saturday, June 30, 1984. Our bus drivers were instructed to drive as quickly as possible to Ocotal (1-2 hours away on mountain roads) because the contras were still in the area and we would be passing within mortar range. We passed several army trucks that were overloaded with the local people; they were being evacuated from their homes in case of attack. Otherwise the road was deserted and few people could be seen outside their homes or in the fields.

We have gathered eye-ball evidence to show beyond any reasonable doubt that the U.S. Government is financing, equipping and training the mercenaries and ex-Somoza National Guards, known as "contras" who are exporting violence to the Nicaraguan people.

Mr. KENNEDY. Mr. President, there is another report on the Contra attack on Waslala. This report was prepared by Douglas Spence and Jean

Abbott who were in Nicaragua under the auspices of the Witness for Peace Program. Mr. Spence and Ms. Abbott went to the town of Waslala to investigate the effects of the attack, and they spent 4 days in the town and surrounding villages. Their report is based on interviews of the Waslala region. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

THE ATTACK ON THE TOWN OF WASLALA

The small town of Waslala sits along the Waslala River and the dirt highway which connects the western city of Matagalpa with the Nicaraguan Atlantic coast. As a strategic geographical point in north-central Nicaragua, this town suffered an attack by nearly 1800 contra troops beginning on 3 April 1984.

CONTRA OBJECTIVE

According to a local security official the contra objective was to take the town of Waslala and to declare a "liberated" territory from which to send a call for direct international military assistance.

"The contra attempted to cut off Waslala from the rest of the country," he said. "They cut down telephone and electricity poles leading into Waslala, destroyed the bridge between Waslala and the eastern town of Siuna (at El Guabo), and they tried, unsuccessfully, to destroy the bridge on the Yaosca River, between Waslala and Matagalpa to the west."

MAJOR ATTACK

On the western edge of town, near the Waslala River, the local hospital appeared to be another tactical objective. According to the hospital director, Dr. Dina Rodia, 29, three mortar rounds came very close to the hospital buildings. Nearly 350 contras tried to cross the river to capture the hospital site, but they were repelled.

The third point of attack was the large hill, El Papayo, the site of an earlier truck ambush, on the eastern edge of town. A local militia member who particpated in the defense of El Papayo, said that about 200 contras fought during the seven-hour battle to gain the high ground but were driven off.

CIVILIANS TERRIFIED

Civilians in the neighborhoods under attack were terrified. Mrs. Maria Castilla Pineda, 72, who lives on the edge of town in the Claudia Chamorro neighborhood, said, "When the battle began, I threw myself on the floor of my bedroom. A large contra came right up behind my house and began to fire at the town with all those big weapons. Bullets were flying all over the place. I could smell the gun powder. Some shrapnel came into the house," she said, pointing out the holes in her wooden house.

CONTRAS TORTURE AND MURDER VOLUNTEER POLICEMAN

Mr. Teofilo Mejia, 24, a local small-scale farmer who served the community as a member of the volunteer police association was eating breakfast with his wife, Maria Rivera Amadro Mejia, and their four children. Mrs Mejia managed a small bakery out of their home.

"When we heard the fist mortar shots by the contra, we all took refuge in our bomb shelter," said Mrs. Mejia. "About 300 to 400 contras came up the small rise to our house. After searching through all our belongings, they came and pulled us out of the bumb shelter. When they found my husband's volunteer police uniform they began to beat him up and said they were going to kill us all."

Mr. Mejia got on his knees and pleaded with the contras that they let his wife and children go free. "My husband said they could do what they planned with him, but to show mercy for the women and children. So they let us go—but, as we fled into the woods, they threw a gernade at us. It wounded me slightly on the shoulder, but thank God, none of the children were hurt."

"Then, as we hid in the woods, we could hear my husband scream and we knew they were torturing him. About 12:30 p.m. we heard an explosion. We saw smoke rising and knew that they had torched our house."

"About an hour later, as the contras were retreating, they stopped at my mother's house (which is located one-quarter mile from the Mejia farm) and kidnapped my two younger brothers, Jose Antonio, 13, and Emillo Ubaldo, 14, as well as my sister, Reina Riveras Amador, 16. Neither my parents nor brothers nor sister were involved in any popular organization or in politics. They were kidnapped 22 days ago and we have not heard of them since."

"After the contras left the area," Mrs. Mejia continued, "we went to our house to find my husband. We found him lying in front of our totally burned house. They had cut his arms with a knife and had completely smashed in his head until it was not recognizable. They usd a big knife to cut a large cross in his back," she said with a trembling voice.

Maria, while strong in spirit, was grieved over her loss and at reliving the tragedy for this report. She wept softly and spoke of her four fatherless children: "The five-year old asked for some money to go to the drug store to buy some medicine to bring back his daddy." Then after a few minutes of silence she said, "All I ask is that you pray for us."

FAILED OBJECTIVE

In the Claudia Chamorro neighborhood, after the contras came within 200 yards of the town's defensive positions, their leader, El Yankee, was killed in combat. While an accurate count of contras casualties was not readily available, at least nine deaths were counted. The local milita and army personnel suffered 18 killed and about 15 wounded. According to local parish records, funeral masses were held for 30 civilians from Waslala and the surrounding villages—all victims of the contras attack and violence.

FRUSTRATED CONTRA RAIDERS TERRORIZE VILLAGE

El Achitoe, a small farm village located three hours by foot path from Waslala, faced a contras occupation of 300 troops on the afternon of April 1st. "They took my two grandchildren, Gregoria Martinez, 16, and Teodoro Perez, 13, and tortured them and cut their throats. We found their bodies with many tortured marks all over them," said Julia Paiz.

Another woman, age 20 (who requested anonymity due to her fear of reprisals from the contras), reported that her husband was killed. My husband told me that they beat him, punched him in the chest with knives, and cut his arms and fingers. He held his breath so that the contras thought he was dead. Then they left him."

When the local villagers learned of these murders many fled into the mountains for safety. Mrs. Antonia Gomez Hernandez, 45 and mother of six children, told us, "We were afraid, so we hid in the deep forest. The contras had come and threatened us many times before this and this time we knew they were going to carry out those threats. We took our children and a little food and we hid."

The contras left El Achiote the evening of April 2nd in the direction of Waslala, where the battle described above commenced at 6:30 a.m. on April 3rd.

Having been driven off by Nicaraguan and militia units, the contras retreated into the mountains, again passing through El Achiote village. In a rage of frustration and destruction, they pulled 19 civilians out of their homes and shot them on the spot. Then the contras burned down 11 houses in the village square, the school house, and the kitchen behind the village chapel. Considering themselves the "defender of religion," they did not burn the chapel itself.

"By April 5th," Mrs. Hernandez continued, "we were hungry from hiding in the forest. We estimated that the contras had by now traveled far north toward Honduras, so we came out of hiding. We now live in the safety of the town of Waslala."

CONTRAS BURN SCHOOLS

In the course of the attack on the area surrounding Waslala, the contras burned three village schools to the ground. All these schools, the only centers for education in the remote rural communities, were constructed since the 1979 triumph over the dictator, Anastasio Somoza.

In addition to the events in El Achiote, the villages of El Guabo and Kubali suffered the burning of houses, kidnappings, and murders by the contra terrorists. In El Guabo, the Rodolfo Amador Gallegos school was totally burned.

Now the children don't have any place to study. The teachers are afraid to stay in the village now," lamented one mother (who spoke on the condition that her name not be used due to her fear of reprisals if the contras return). "We received the construction materials from international friends and we of this community organized our volunteer work crews to build the school house," she added. The school in El Guabo was constructed in 1982 with material provided by the European Economic Community (EEC). This organization is also known as the European Common Market and most of its member nations are also members of the NATO Alliance with the U.S.

MODERN AIRCRAFT SUPPLY CONTRAS IN REMOTE NICARAGUAN HILLS

Several eyewitnesses from the town of Waslala report that the contras operating in and around that area receive logistical support from modern aircraft which violate Nicaraguan airspace. Sister Roseana Scola, a member of the Waslala parish missionary team, declared that on various occasions since August 1983, she has seen modern aircraft flying slowly at low altitudes and dropping large crates by parachute into the remote mountain region.

"The planes have four motors, appear to be very modern, and maintain their altitude while hovering. They move slowly in a back-and-forth pattern while many large boxes drop to the ground by parachute," she reported. Sister Roseana said that the last supply flight which she saw was in late February 1984. In the Simon Bolival Batamon of the Nicaraguan Army, the supply flights occur about two times per week. "We have seen the flights drop supplies, some of which we have captured from the contra. We have captured M-14 rifles, M-60 ma-

chine guns, blankets, boots, backpacks, canteens, and other supplies with United States markings. Also, we have captured white, green and orange-colored parachutes," he noted.

A soldier on guard duty near the northern edge of Waslala reported that he had seen these supply flights during patrol activities in the mountains. He also reported overflights by a "mystery plane." He said that, "Several times I saw a large airplane, painted black and very silent—it did not make any noise. It flew over our positions. We guessed that it might be a reconnaissance aircraft." Other sources confirmed this report of a large, "silent," reconnaissance aircraft violating Nicaraguan airspace.

PEASANTS TELL OF MAJOR CHANGES

The 15 peasant families had lived as landless agricultural laborers for several generations. Since they had no land they lived at the mercy of the large plantation owners and money lenders, usually surviving with less than adequate food, clothing, and shelter. They had no access to education or health care. Life was not easy in northern Chinandega department (2) before the July 1979 triumph, according to these families, who are now members of the Santa Teresa agricultural cooperative.

Through the land reform of the Sandinista government, these 15 families have received 450 acres of land, 150 acres is level cropland where they grow corn, beans, and sesame seeds, while the remaining land is used for grazing their beef and dairy herds.

"Before, we were miserable. Now, even though we are poor, we have hope," said Oracio Carrasco, the co-op's elected president for 1984. "We have plans to build our community step-by-step." For the next three months the cooperative plans to acquire 25 head of improved dairy stock, a new bull, barbed wire for improved pasture management, and a spray rig for their tractor that will facilitate pest control.

"The government gave us this land free and clear." said Oracia. "The Swiss and Dutch governments have given us technical assistance, a farm-to-market road, funds to construct storage sheds, a well, and simple houses for our families. We borrowed from the government development bank to buy the tractor and implements, and to obtain operating capital. We have five years to pay off the debt, at 8% per year, with the first payment due after the end of the second year."

Rigoberto Mendez, 25, the vice-president of the cooperative, has recently completed a training course in tractor driving and maintenance. "Before the triumph," he said, "I was illiterate. Now I have learned to read and write and have completed this tractor course. In the evenings, I help with the continuing adult literacy program. This revolution is our," he proudly stated. "We would never have had these opportunities before."

"We own this land as a community. We plan our work and we all participate voluntarily to do what needs to be done. After the harvest, we share the earnings," Oracia informed us. "This is just as the first Christians lived in their early communities, as described in the Book of Acts."

Victor noted that, "Although the contra have directly and openly threatened our cooperative on their radio station inside Honduras (about 7 miles away), we shall continue with our community. We believe that God will give us the strength to do our work and to defend our community. We pray for peace. We want to be left in peace so we can build our new life. This is the first opportunity we have ever had."

Mr. KENNEDY. When Professor Steiner returned, he brought with him a manual—in Spanish and written in the style of a comic book—produced by the Central Intelligence Agency and distributed by the Contras inside Nicaragua. This manual describes ways in which citizens of Nicaragua can assist the contras—by making Molotov cocktails, by calling in sick to work, by pouring sand into engines and by engaging in various acts of sabotage.

This manual was apparently found by a Nicaraguan peasant after the June 1 attack on Ocotal. One of the more interesting aspects of this document is the fact that the booklet calls on Nicaraguans to join in the "final battle" against the Sandinista regime. This, of course, is not the policy of the U.S. Government—at least in theory.

The manual also urges Nicaraguans to sabotage the—

Essential economic infrastructure that any government needs to function, which can easily be disabled and even paralyzed without the use of armaments or costly and advanced equipment * * *

But we have been told that the Contras do not engage in attacks on civilians and economic targets.

I ask unanimous consent to have printed in the RECORD an article from the Baltimore Sun, dated June 30, 1984, in which the manual is described.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Baltimore Sun, June 30, 1984]

NICARAGUANS SAID TO GET CIA SABOTAGE TIPS

WASHINGTON (AP).—A manual in the style of a comic book, produced by the Central Intelligence Agency and distributed by a U.S.-backed rebel group, urges Nicaraguans to call in sick to work, pour sand into engines, hurl "Molotov cocktails" and engage in various acts of sabotage, intelligence sources say.

The booklet, written in Spanish with a title meaning "Freedom Fighter's Manual," uses captioned drawings to show 38 ways to sabotage Nicaragua's government.

The introduction calls the book a "practical guide to liberate Nicaragua from oppression and misery by paralyzing the military-industrial complex of the traitorous Marxist state without having to use special tools and with minimal risk for the combatant."

Intelligence sources, who insisted on anonymity, said the Central Intelligence Agency (CIA) prepared the manual for the Honduran-based Nicaraguan Democratic Force, or FDN, the largest of the rebel gorups and the one most closely tied to the CIA.

A copy of the 16-page, multi-colored booklet was found by a Nicaraguan peasant after a June 1 attack by the FDN on Ocotal, a town near the Honduran border, according to Betsy Cohn, director of the Central American Historical Institute at Georgetown University.

Ms. Cohn said the peasant gave the manual, which had been stuffed into the door of a house, to Peter Olson, a member of Witness for Peace, an American religious delegation opposed to CIA support for the rebels.

Ms. Cohn provided a photostatic copy to The Associated Press, and U.S. intelligence sources identified it as a CIA production.

CIA spokesman George Lauder refused comment on the manual. Shown a copy, Bosco Matamoros, an FDN representative in Washington, called it "a typical manual of resistance" but said he did not know who wrote it. An FDN official in Honduras, who refused to be identified, said the rebel group has no sabotage manual and added, "That document doesn't exist."

Although President Reagan has said the United States is not seeking to overthrow the Sandinista government, the booklet calls on Nicaraguans to join in a "final battle" against the five-year-old regime.

The manual urges Nicaraguans to report late to work and take it easy on the job, leave the lights and water on, damage books and office equipment, smash windows, clog up toilets, cut telephone lines, call in false alarms, slash tires, spread rumors, make false hotel and plane reservations, short-circuit electrical systems, paint anti-government slogans, damage truck engines, fell trees, release farm animals, steal government food supplies, set fires and throw "Molotov cocktails" at police offices and fuel depots.

Some of the targets depicted in the manual are clearly related to the Sandinista government, such as police stations, army trucks and farm cooperatives. Other appear to be more general economic targets, such as factories, telephone lines, utilities and hotels.

The CIA officials have assured congressional oversight committees that the U.S.-supported rebels would refrain from attacks on civilians and economic targets, sources said.

The manual's introduction exhorts Nicaraguans to sabotage the "essential economic infrastructure that any government needs to function, which can easily be disabled and even paralyzed without the use of armaments or costly and advanced equipment, with the small investment of resources and time."

One page, picturing a man reclining in an easy chair and holding a drink, says, "Call in sick so as not to work."

A nine-step illustration shows how to short-circuit a factory's electrical system by putting a small coin into a light socket. A four-step depiction explains how to use a sponge to clog a toilet.

Several illustrations are devoted to showing how to disable army trucks by damaging tires or engines. Another picture urges readers to block highways with rocks and fallen trees.

The manual also demonstrates how to set delayed fires by using cigarettes wrapped in matches, and how to make an incendiary bomb, commonly known as a "Molotov cocktail."

Mr. KENNEDY. Mr. President, the following is an extract from a letter sent by Tom and Joyce Hanks in March 1984 in which they tell of the murder of Noel Vargas who was killed by the Contras. Vargas was "a gifted poet and musician as well as a powerful preacher from a small Pentecostal denomination in Nicaragua."

I ask unanimous consent to have printed in the RECORD this extract.

There being no objection, the extract was ordered to be printed in the RECORD, as follows:

WASHINGTON OFFICER
ON LATIN AMERICA,
Washington, DC, March 1984.

Re extract from a letter by Tom and Joyce Hanks.

DEAR FRIENDS: Shortly after our last letter went out a tragic note brought home to us the terrible suffering of war-ravaged countries to the north of us. Noel Vargas, one of our outstanding seminary grads in 1981, was a gifted poet and musician as well as a powerful preacher from a small Pentecostal denomination in Nicaragua. Though profs. urged him to remain for graduate studies, Noel felt the Lord was calling him to return to his little church near Nicaragua's northern frontier to pastor and help with the reconstruction after the revolution. There, late in 1983, he (along with 20 unarmed teachers) was shot down by invading CIA-backed "Contra" troops that include former Somoza supporters, so repugnant to the Nicaraguan people. In the memorial service for Noel the text for the sermon was "Father forgive them (i.e. the USA) for they know not what they do." As one of the two "gringo" professors present in a very tense and tearful atmosphere, Tom found himself asking whether, with a $200 Billion deficit, our Congress might find better use for our tax funds than sponsoring the slaughter of evangelical pastors and innocent teachers in Central America.

Sincerely in our Lord,
TOM AND JOYCE HANKS,
Latin American Mission.

Mr. KENNEDY. Mr. President, these reports paint a compelling story of terrorism by the Contras. They vividly illustrate the need for and the importance of the amendment by Senator DODD. I urge my colleagues to support this amendment.

Mr. SPECTER. Mr. President, I am voting againgst the Dodd amendment because I consider it inappropriate for the Congress to prohibit funding for acts of terrorism because such congressional action presumes the likelihood of such expenditures in the absence of a specific prohibition. In my view, there is no reasonable basis to conclude such acts of terrorism are contemplated by the executive branch. Therefore, such a prohibition casts an unwarranted aspersion on the executive branch.

The United States is not known for and does not have a record of engaging in acts of terrorism. If, as, and when the executive branch engages in inappropriate conduct, the U.S. Senate has not hesitated to disagree forcefully as we did on April 10, 1984, in condemning the mining of the Nicaraguan harbor by a vote of 84 to 12. Shortly before that vote, approximately 70 Senators met with the Director of the Central Intelligence Agency and minced no words about the overwhelming disapproval of the mining of the Nicaraguan harbor. That mining operation was thereafter promptly terminated.

Even in the absence of a prohibition against funding for acts of terrorism there is no doubt that such conduct would be contrary to the custom and practice of the United States. On this state of the record, it would be presumptuous for the Congress to prohibit such activity which is unlikely to occur.

Mr. STEVENS. Mr. President, I close by calling attention of the Senate to something that gets back to the basic concept with which we are dealing. It is an article that appeared in the New York Times on September 14 by my good friend, the Assistant Secretary of State, Langhorne Motley. Tony Motley has pointed out that democracy is spreading throughout all of Latin America. He points out that there has not been a growth of the kind of activities that are taking place in Nicaragua. Over the last 5 years elected civilian presidents have replaced military rulers in Argentina, Bolivia, Ecuador, El Salvador, Honduras, Panama, and Peru.

I urge that Senators take a look at the concept of what we are doing throughout the whole area. Our thought is that in supporting the Contras perhaps we can bring this one last country to the concept of the Contadora process in terms of stopping this rhetoric and militarism and dealing with the whole concept of trying to go with the Americas in terms of a democratic system. Now, if we had any indication that that was so, I think perhaps many of us would be listening more to the concept that we might phase out this money. I would never define it as having been money that was appropriated to support acts of terrorism. I do believe that is the impact of the amendment of the Senator and again I oppose it.

This amendment seeks to also stop with a vague generality, referring to another law, the specific acts that we have refused to stop in connection with amendments of the Senator from Massachusetts and the Senator from Hawaii. This would have the same effect of those other amendments which have already been rejected by the device of saying let us put the definition of terrorism into this concept in Nicaragua and say you cannot spend any money for anything that might be defined as terrorism.

Now, again, I do not know whether it is a terrorist act or not, but I think if someone were shooting at me I would shoot back. As a matter of fact, if someone had stolen my country, I would find a way to take it back. That is what we are trying to do, to help these people restore their country to the freedom it knew just 2, 3 years ago.

Mr. President, I ask unanimous consent that Mr. Motley's article be printed in the RECORD.

These being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Sept. 14, 1984]

DEMOCRACY IS SPREADING IN LATIN AMERICA

(By Langhorne A. Motley)

WASHINGTON.—Over the last five years, elected civilian presidents have replaced military rulers in Argentina, Bolivia, Ecuador, El Salvador, Honduras, Panama and Peru. With Brazil, as well as Uruguay, Guatemala and Grenada also moving toward greater democracy, more than 90 percent of the peoples of Latin America and the Caribbean live in countries with governments that are democratic or heading toward democracy. For a part of the world often identified with dictatorships, this is something to cheer about.

As recently as 1979, two-thirds of our neighbors lived under military or military-dominated governments of both left and right. Any shift so striking invites skepticism. Yet measured in voter participation and in competition among candidates, the democratic resurgence is astonishingly deep. Since November 1980, our southern neighbors have cast some 150 million votes in 33 elections in 24 countries.

In October, after a hotly contested campaign, more than 15 million Argentines elected a new President and Congress. They gave Raúl R. Alfonsín the largest vote total in Argentine history, beating even Juan Perón's highest tally.

In 1982, almost 50 million Brazilians voted in direct legislative elections. This was three times the vote in similar elections in 1962. In 1982, 81 percent of all adults voted; the 1962 figure was 45 percent.

Last May, an absolute majority of all adult Salvadorans, some 1.5 million, defied guerrilla violence in the election in which José Napóleon Duarte defeated Roberto D'Aubuisson. In the 1962 Presidential voting, only 400,000, roughly one-third of Salvadorans, participated in an election dominated by an official military candidate. Two Constituent Assembly elections in Guatemala 20 years apart reveal a similar evolution: in May 1964, 337,000 votes were cast, representing 40 percent of the registered voters; in July 1984, the voters numbered 1.856 million—73 percent of those registered.

Why this upsurge in democratic politics? One reason is that development has taken hold enough to make everyone want part of the action. A more immediate factor is a desire to repudiate dictators as well as guerrillas. To most Latin Americans, the uncertainties of democracy are preferable to violence and abuse by leftist and rightist extremes.

The force of the democratic tide and the rejection of extremism can also be seen in what has not happened. Not a single country that was democratic four years ago has lost its freedom. Military coups predicted for El Salvador and Honduras did not take place. Bolivian democracy has not fallen. Not one guerrilla movement has taken power since 1979, when the Sandinistas replaced Anastasio Somoza Debayle and abandoned their promises to hold free elections. And to Fidel Castro's frustration and surprise, Grenada's Marxist-Leninist dictators did not prove immune to their own abuses of power and were replaced by constitutional authorities committed to holding free elections.

Elections alone cannot remake society or solve every problem. But competitive elections are, as Secretary of State George P. Shultz has noted: "a practical yardstick of democracy. They are an inescapable test of public accountability." It is therefore United States policy to support free elections without reservation, seeing in them assurances that human rights will be protected, that reconciliation will be the work of people and not of guns and that our aid and cooperation will have firm local foundations.

Our neighbors deserve credit for their progress. We can be proud that we are cooperating with them. Freedom is not a zero-sum game. Everyone wins when democracy is strengthened.

Mr. STEVENS. I am prepared to vote.

The PRESIDING OFFICER. Is there further debate, if not, the question is on agreeing to the amendment of the Senator from Connecticut. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Illinois [Mr. PERCY] is necessarily absent.

Mr. CRANSTON. I announce that the Senator from New Jersey [Mr. BRADLEY] is necessarily absent.

The PRESIDING OFFICER (Mr. BOSCHWITZ). Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 45, nays 53, as follows:

[Rollcall Vote No. 271 Leg.]

YEAS—45

Andrews	Eagleton	Metzenbaum
Baucus	Exon	Mitchell
Bentsen	Ford	Moynihan
Biden	Glenn	Packwood
Bingaman	Hart	Pell
Boschwitz	Hatfield	Pressler
Bumpers	Heinz	Proxmire
Burdick	Huddleston	Pryor
Chafee	Inouye	Riegle
Chiles	Kennedy	Sarbanes
Cohen	Lautenberg	Sasser
Cranston	Leahy	Stafford
DeConcini	Levin	Tsongas
Dixon	Matsunaga	Weicker
Dodd	Melcher	Zorinsky

NAYS—53

Abdnor	Hatch	Nickles
Armstrong	Hawkins	Nunn
Baker	Hecht	Quayle
Boren	Heflin	Randolph
Byrd	Helms	Roth
Cochran	Hollings	Rudman
D'Amato	Humphrey	Simpson
Danforth	Jepsen	Specter
Denton	Johnston	Stennis
Dole	Kassebaum	Stevens
Domenici	Kasten	Symms
Durenberger	Laxalt	Thurmond
East	Long	Tower
Evans	Lugar	Trible
Garn	Mathias	Wallop
Goldwater	Mattingly	Warner
Gorton	McClure	Wilson
Grassley	Murkowski	

NOT VOTING—2

Bradley	Percy

So Mr. DODD's amendment (No. 6997) was rejected.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. LEAHY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, I ask unanimous consent to temporarily lay aside the pending matter and proceed to the consideration of the conference report on H.R. 4164 for not more than 2 minutes, that no amendments be in order, no motions or points of order will be in order, and that no motion to reconsider will be debatable.

Mr. LEAHY. Mr. President, reserving the right to object, does the distinguished leader intend to have a rollcall on that?

Mr. BAKER. No.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

CARL D. PERKINS VOCATIONAL EDUCATION ACT—CONFERENCE REPORT

Mr. BAKER. Mr. President, I submit a report of the committee of conference on H.R. 4164 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The bill clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4164) to amend the Vocational Education Act of 1963 to strengthen and expand the economic base of the Nation, develop human resources, reduce structural unemployment, increase productivity, and strengthen the Nation's defense capabilities by assisting the States to expand, improve, and update high-quality programs of vocational-technical education, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report will be printed in the House proceedings of the RECORD.)

Mr. STAFFORD. Mr. President, as chairman of the Senate Subcommittee on Education, Arts and Humanities, I take a great deal of pride in urging the Senate to pass the Carl D. Perkins Vocational Education Act of 1984.

To a great extent, this legislation, the product of thoughtful and rigorous deliberation over the last year, is a testament to two individuals. First, this bill memorializes the late Carl Perkins, a champion of vocational education and the long-time chairman of the House Education and Labor Committee. Second, although his name is not written into this proposal, the late Dr. Henry David provided much of the basis for this new initiative through the conclusions reached by the valuable report on vocational education issued by the National Institute of Education. Dr. David was the architect of that study.

So, too, this legislation is a testimony to the future of vocational education. For this first time, it firmly and unmistakably puts the Federal imprimateur on the modernization of vocational education programs and activities. Second, it helps to open wider the doors of our vocational institutions so that everyone, especially the handicapped, the disadvantaged and women, can have access to good vocational education.

During our hearings on vocational education, Dr. David's report on the Federal role highlighted one major conclusion: the Federal Act attempted to do too much with too few resources. Furthermore, in the areas of access to vocational education for underserved individuals and the overall improvement of the vocational system, serious deficiencies existed.

Armed with these conclusions, Senator PELL, Senator HATCH and I set out to more clearly focus the Federal role in vocational education and set it upon the twin pillars of access and quality. The bill passed by the Senate did just that by increasing assistance to the underserved and guaranteeing that one-half of the bill was devoted to program improvement.

Today, we bring the conference report before this body. As is to be expected, the normal legislative give and take of the last few months has resulted in the modification of our original bill. Yet, the document we present retains both the basic intent and the structure of the Senate-passed bill. It dedicates the vast majority of funds to better serving the underserved and to improving the overall vocational system.

There will be those who will be unhappy with this departure from the status quo, but it is a departure which must be taken if vocational education is to advance. To those who are uncertain of our action, I offer this statement from the Senate committee report for their consideration:

Vocational education, positioned on the cutting edge of technological change in the workplace, must not stand pat. To perpetuate outmoded practices in the face of these changes would be to create a vocational system unresponsive to the needs of both employers and the students who invest their trust in the education they receive.

The effort to achieve these changes was not a solitary one. Indeed, without the creative contributions of Senator HATCH and Senator PELL, our attempt to promote improvement in the system would have fallen far short.

Also, I would like to thank the Staff of the Senate conferees who brought great skill and stamina to the task of helping to resolve the 258 differences between the House and Senate bills: David Evans and Ann Young of Sena-

tor PELL's staff; Ron Preston and Howard Matthews of Senator HATCH's staff; Renee Coe and Betsy Brand of Senator QUAYLE's staff; Nina Bar-Droma and Pam LaConte of Senator WEICKER's staff; Karl Moor of Senator DENTON's staff; Peter Moore of Senator EAST's staff; Kitty Higgins and Dennis Hernandez of Senator KENNEDY's staff; Birdie Kyle and Pat Forsythe of Senator RANDOLPH's staff; Ginny Stratton of Senator DODD's staff; and Marcia Verville of Senator EAGLETON's staff. I also would like to thank Blair Crownover of the Senate legislative counsel's office for his unstinting and dependable service in ensuring that what we wanted to do was indeed done in proper fashion.

Finally, Mr. President, I urge my colleagues to approve this conference report.

Mr. HATCH. Mr. President, this conference report represents a considerable achievement, the first major overhaul of the Federal Vocational Education Program since 1976. I wish to commend both the House and Senate conferees because despite considerable differences between the House and Senate bills and despite severe time constraints for a conference scheduled so near the end of the session, we were nontheless able to institute some much needed reforms.

I am particularly pleased that the initiative for single parents and homemakers that Senator HAWKINS and I labored so hard to include in the Senate bill was retained intact by the conferees. Women do bear a disproportionate economic burden in this country, and it is about time there was a concentrated effort to provide help to young women who are struggling alone to support and raise their children and to women who must find gainful employment after years of working in the home to care for their families. The women's program in the existing Vocational Education program represents only 0.4 percent of the money. This new program which includes provisions for both single parents and homemakers and for young women represents 12.3 percent of the money. This is a substantial increase, and a necessary one.

This new law will be named in honor of Representative Carl D. Perkins who was a valued colleague and a tireless champion for education in America, particularly vocational education. I think he would be proud of the streamlined Federal role that is included in the Carl D. Perkins Vocational Education Act. The basic grant has been limited to two major purposes: first, improving access to quality vocational education to Americans who are currently underserved, and second, modernizing and improving vocational education programs. Forty-three percent of the basic grant will be unfettered moneys for the improvement of programs. Additional money will be available to serve the needs of disadvantaged students and women. Yet the process requirements have been reduced. Less bureaucracy will be needed to implement this law.

I wholeheartedly endorse this conference report and urge the Senate to adopt it.

Mr. QUAYLE. Mr. President today I am rising in support of the conference report on the Carl Perkins Vocational Education Act of 1984. I am pleased to see that this bill carries the name of one of the foremost supporters and advocates of vocational education.

Before commenting on this landmark legislation I would like to congratulate Senator STAFFORD, the chief sponsor of the bill and chairman of the Education Subcommittee. I commend him for his leadership in redefining and shaping the Federal role in vocational education to maximize the impact of limited Federal funds. I believe this bill will enable us to make needed improvements in the vocational education system.

In February, in my remarks introducing a bill to reauthorize the Vocational Education Act, I outlined what I believed to be the objectives of Federal involvement in vocational education. I stated that the Federal role is to assist States improve the quality of vocational education to make it more responsive to the needs of the labor market. The second responsibility of the Federal Government is to improve access of the underserved to vocational education. A third objective is to meet the training and retraining needs of adult workers. The bill we have before us today will enable us to move toward meeting those objectives.

Today we are sending a clear signal that education and training should be relevant to the labor market. Students should be able to read, write, and compute at a level of competency that makes them employable. Occupational training should be relevant to current employer needs. Federal funds for vocational education are for improving, developing, and modernizing program offerings. This legislation requires vocational educators to look at the quality of programs and decide whether they are meeting the changing needs of employers.

In order to improve the labor market relevance of vocational education programs we have given a significant role to the private sector on the State council on vocational education. A majority of this council must be representatives of business, industry, agriculture, and labor. To monitor the quality of programs the State plan must include a description of evaluation criteria which relate to successful outcomes.

The need for training and retraining is becoming increasingly a national issue because of structural changes in our economy. Many low skill jobs are becoming obsolete. The pace of changing technology is increasing the need for retraining, as is worker dislocation.

The Carl Perkins Vocational Education Act of 1984 recognizes this increasing need for adult retraining. In the basic State grant, funds are earmarked for establishing and expanding programs for adults. Also, there is a separate authorization for a new adult retraining program which gives Congress the flexibility to provide additional funds for that purpose.

In addition to focusing the Federal role on improving the quality of programs and recognizing the need for adult retraining, we have ensured that a minimum level of services are available to special populations. The handicapped, disadvantaged, women, and the incarcerated have unique needs in gaining access to vocational education. Funds are available to help States meet those needs.

Not only do the disadvantaged need access to vocational education, in many low-income areas they do not have vocational education programs to get into or they lack the money to purchase necessary equipment and tools. So we have included language that will allow schools with 75 percent disadvantaged to use the funds set aside for the disadvantaged to purchase modern tools and machinery.

Finally, as my original interest in the Vocational Education Act stemmed from my involvement with the development of the Job Training Partnership Act [JTPA], I am pleased to see that there are provisions for coordination with JTPA throughout the act.

This legislation accommodates and promotes Indiana's vocational education needs. My State has been phasing out the use of Federal funds for program maintenance since 1976. Of the $18 million grant that Indiana received last year under the Vocational Education Act, only about $750,000 were used for program maintenance at the secondary level.

As a Midwestern industrial State, we have been hit hard by the structural changes in the economy, particularly in the automotive and steel industries. The need for training and retraining and adapting to industry and employer needs is one of the highest priorities for Indiana. Funds for adult retraining are sorely needed. In addition to funds received under title III of JTPA for worker retraining, the State legislature appropriated funds to set up a worker retraining program. The Carl Perkins Vocational Education Act will complement those efforts.

In closing, I want to emphasize that the role for the Federal Government in vocational education is to promote our national priorities. With limited funds, we cannot afford to duplicate

State and local efforts, therefore we must maximize the impact of Federal assistance. We do this by focusing on improving the quality of programs.

Vocational education is often viewed as an alternative to a college education. To be an acceptable alternative, it must offer opportunities of comparable quality. If not, we will have a discriminatory system. I believe vocational education should prepare students for a lifetime of productive employment; they should not need a second chance under the Job Training Partnership Act.

The Carl Perkins Vocational Education Act gives States, educators, and employers the necessary leadership toward meeting these objectives.

Mrs. HAWKINS. Mr. President, I rise in support of the conference report on the Vocational Education Act of 1984. This conference report is the result of weeks of negotiations carried out under extremely trying circumstances. Before I comment on the various provisions of this legislation, I would like to stop for a moment and commend the efforts of the distinguished chairman of the Senate Labor and Human Resources Committee and the distinguished chairman of that committee's Subcommittee on Education, Arts, and Humanities for their heroic efforts to bring this measure before the Senate today.

On the day before the Senate passed S. 2348, the Vocational Education Act of 1984, the longtime chairman of the House Education and Labor Committee, Carl D. Perkins, passed away. The passing of Chairman Perkins left a void in the leadership of this Nation's educational community. Eventually, the House unanimously selected Representative HAWKINS to lead the House committee during its negotiations with the Senate.

I mention this, Mrs. President, not to take away from the efforts of Chairman HAWKINS, but to bring proper attention to the efforts of my able colleagues, the Senator from Utah and the Senator from Vermont, during those early days following Carl Perkins' death. The chairmen of the Labor and Human Resources Committee and the Subcommittee on Education stepped into that void. Under the most difficult of circumstances, with calm and sure leadership, my colleagues brought order out of chaos that erupted at the news that, for the first time in 19 years, a new steward would guide our House counterparts during conference negotiations. For this leadership, and for bringing the Senate this particular conference report, I would like to thank my colleagues. I commend them for their outstanding effort on behalf of vocational education in America.

Mr. President, the conference report on vocational education amendments reflects an outstanding compromise that will do much to improve vocational education in America. In particular, this program will do great things for the working women of our Nation. I am proud to be a cosponsor of the new women's program contained in this bill. This bill provides approximately $3 million to fund the activities of each State's sex-equity coordinator. Under this conference agreement, each State's sex-equity coordinator will be allotted $60,000 to operate their offices and carry out their duties. In addition, the coordinator will be responsible for administering two new programs designed to meet the needs of women trying to gain the skills necessary to function in today's labor market.

The first of these programs is a new program for single parents and homemakers. This provides $87 million to serve the needs of single working women. Mr. President, there are 4 million displaced homemakers in the United States. These are women, who by reason of divorce, separation, or the death of a spouse are being forced to reenter the work force after spending many years at home. These women face a unique challenge. Rapidly changing technology has left them without viable jobs skills. As homemakers and mothers they have borne children, kept household budgets, managed dietary inventory, supervised construction, directed landscaping, and generally managed the affairs of their homes and families. Although they have retained the requisite problem-solving skills and developed the responsible habits that employers find attractive, these women who have given so much are unable to compete because today's workplace is radically different from the workplace of 15, 10, or even 5 years ago. The only assistance these women need to translate their existing skills and talent into income producing activities is training in the technical aspects of specific jobs.

Mr. President, America's women are engaged in a struggle to gain their rightful place in our economic system. As a group, women earn much less than their male counterparts. To help address this problem, and bring a measure of economic equity to our working women, the vocational education conference report has a new program to meet the needs of young women. These funds train young women for more lucrative employment than that which has been traditionally available to women in the work force. For the first time, women will be provided with skills "upfront" so that they enter the labor market fully prepared to compete for the best jobs they can find. For this program, the conference report provides approximately $28 million.

In sum, the Vocational Education Act of 1984 will make almost $117 million avialable to meet the needs of women preparing to enter the work force. This is 12.3 percent of the total authorization of $950 million. This is a great victory for American women.

In closing I would like to add an additional comment on how and why this victory for women has been won. The distinguished chairman of the Senate Labor and Human Resources Committee a little over 1 year ago, made a commitment to a special set-aside for women. I was fortunate to be able to cosponsor his original legislation and work with him in the committee to perfect this program. In large part, however, this step forward for women would not be taken today but for the commitment, skill, and tenacity of the able chairman of our committee. For his efforts he deserves special recognition from his colleagues and from the women of America. Mr. President, I yield the floor.

Mr. KENNEDY. Mr. President, I rise today in support of H.R. 4164, the Vocational-Technical Education Amendments of 1984. I would like to thank Senator STAFFORD and Senator PELL, along with their staffs, for the fine work on this legislation. Additionally, Chairman HATCH, Senators RANDOLPH, WEICKER, and DODD should be commended for their work.

This bill reauthorizes the Federal vocational education program for 4 years, at an authorization level of $950 million for fiscal year 1985, with such sums as are needed in the following years. Of this amount, $114.7 million will be provided for separately authorized programs with the remainder going to the States' basic grant. A certain portion of the basic grant is set aside to serve the particular needs of special populations.

Since the enactment of the Smith-Hughes Act of 1917, the Federal Government has provided funds for vocational education. Over the years, we have shifted our focus to promote certain specific objectives: insuring equal access among women and special populations, promoting greater coordination and planning in vocational programs, and providing funds for program improvement. Guided by the NIE's "Vocational Education Study" published in 1981, this legislation seeks to further these goals and to expand the excess of women and special populations to quality vocational education programs.

Pursuant to the goal of insuring equal access, this legislation retains the existing set-asides for the extra costs of providing programs to disadvantaged and handicapped students; 22 percent of the State basic grant money is earmarked for the disadvantaged set-aside and 10 percent for the handicapped. For the first time, there is a formula for within-State distribution of this money, which focuses on

numbers of economically disadvantaged and handicapped students. There is also a provision which ensures that a portion of this set-aside shall be distributed by formula to recipients to cover the excess costs of programs for limited-English-proficient students.

This set-aside distribution formula is intended to focus the Federal emphasis on serving those areas with high concentrations of economically disadvantaged students. Studies such as the NIE study have shown the need to make particular efforts in these areas.

These amendments continue the requirements that the States match the Federal contribution 50/50 and that Federal funds only go to provide for supplemental or excess costs. These requirements are intended to encourage the States to make greater efforts to serve these populations in a meaningful way. The excess cost requirement was improved to alleviate the recordkeeping burdens and to promote mainstreaming of disadvantaged and handicapped students.

There is a provision in the legislation allowing States to spend disadvantaged set-aside funds for the purchase of machinery and tools in very limited circumstances. In order to address the problems of severely disadvantaged areas, States may use disadvantaged set-aside funds for such purchases in areas in which schools have more than 75-percent economically disadvantaged students. At the same time, the Department of Education and the States should be wary not to overextend this section to direct these funds from the provision of important supplemental services. It would be of little use to economically disadvantaged students to have new computer equipment in their classes if they cannot read.

Programs to address sex equity in vocational education programs are included in this legislation. The NIE study concluded that "sex stereotyping is still pervasive in vocational education." For the first time, there are separate set-asides to address the longstanding problems of sex discrimination, sex bias, and stereotyping; 3.5 percent of the funds are to be used for this general purpose, so that barriers to students entering and successfully completing programs for occupations in which members of their sex have been underrepresented are removed. This program is absolutely essential to address the persistent problem of sex bias and stereotyping in vocational education programs.

Additionally, this legislation makes a major commitment to address the specific needs of displaced homemakers and single parents; 8.5 percent of the basic grant is devoted to addressing the vocational needs of these populations.

Finally, the goal of improving vocational-education programs and promoting quality vocational education is accomplished in this legislation. It limits the use of Federal funds to improve and expand programs. This requirement insures that Federal funds will be used for improvement purposes, and not to support existing programs which can otherwise be maintained by State and local dollars.

Additionally, this legislation provides language to encourage States to emphasize quality vocational programs.

Under the assessment requirements, the State must assess the capability of programs, for both special-needs groups and the general vocational student population, to meet the needs for general occupational skills and improvement of academic foundations in order to address the changing content of jobs. As the joint explanatory statement makes clear, this is to include an assessment of whether the programs use problem-solving and basic skills—including mathematics, reading, writing, science, and social studies—in a vocational setting. This is intended to give students experience in an understanding of all aspects of the industry in which the student is preparing to enter.

Thus, beyond being given the production skills for one particular job slot, the student will also gain experience and understanding of an entire enterprise in which the particular job exists—such as planning, management, finances, and labor and community relations. In understanding and learning to work in that setting, the focus is also on whether the student's academic and cognitive skills are enforced—both the basic skills mentioned above, and, the higher order, skills that build upon those basic skills, such as reasoning, analysis, and decisionmaking.

This provision is very important on both educational and economic grounds. In educational terms, it helps to ensure that our Nation's renewed focus on educational quality and excellence is carried into the vocational wing of the school and that vocational education will not be used to limit the educational opportunities of students. In economic terms, it helps us to move away from the notion of "throw-away" workers, trained for a narrow set of skills and disposed of when the need for those skills disappears.

This provision helps to address these problems in a number of ways. First, the focus on gaining experience in all aspects of the particular economic enterprise or industry gives students transferable skills that are then useful in other jobs. For example, if students are involved in a housing rehabilitation project and learn not just carpentry skills but also about the entire business—from planning, to finances and budgeting, to labor and community relationships.

Second, this focus on learning about the entire enterprise fosters much higher quality workers who are responsible, flexible, and can take an active role in the development and productivity of their workplace. It also provides entrepreneurial skills which become useful in reviving and maintaining their community's overall economic development.

Third, the focus on using the vocational setting to enhance basic and problem-solving skills also provides workers with transferable skills needed to deal with technological change.

Fourth, the program attributes which are the focus of this provision are more compatible with students gaining experience and knowledge of a real, existing economic enterprise. This ensures that vocational programs are indeed practical and relevant.

There are existing examples of programs which have been leaders in incorporating these elements. One is the traditional vocational-agricultural program, in which students are not simply taught to memorize and master a set of narrow tasks for raising a particular crop or livestock. Instead, these programs have traditionally emphasized problem solving by having students master all aspects of a farm business necessary to plan for that crop or livestock, deal with a variety of unpredictable problems in raising it, and bring it to market. They typically require strong attention to use of academic skills in solving these problems, and they have involved a strong student leadership development focus, through Future Farmers of America.

Other examples include school-based development enterprises, in which the school sponsors a business which students are helped to plan and run jointly. In some localities, students go out into their community to do an economic-needs assessment—which is linked to their social studies and other courses and which fosters school-community ties—which they then use to decide what goods or services are needed in that community which would be economically viable to produce. The businesses successfully established have ranged from a day-care center, to a wood-finishing business, to a town newspaper, to a swine-feeding program. In addition to successfully providing a vehicle for vocational education, they make a real contribution to the community's current economic development, and train active people who will continue to contribute to the community's future development long after leaving the program.

Programs which incorporate these elements can also involve linkages with traditional businesses in the community outside the school. However, unlike some cooperative programs

which all too often do not provide broad skills beyond the particular needs of a low-paying job slot, the focus here is on whether the student is also learning about the entire enterprise in ways that enhance his or her overall skills.

These changes I have mentioned will promote quality in our vocational education system while, at the same time, insuring equity and equal access.

Mr. President, I urge the adoption of this conference report.

VOCATIONAL EDUCATION ACT AMENDMENTS OF 1984

Mr. RANDOLPH. Mr. President, I am pleased that we are, in these last hours of the 98th Congress, able to consider the Senate/House agreement on the Vocational Education Act Amendments, and that we have paid deserved tribute to an honorable man who devoted his career to all education needs, including vocational education, by naming the act "The Carl Perkins Vocational Education Act." It was my privilege to serve with Carl many years ago, when I was a Member of the House of Representatives. He was always a strong and vocal friend to education.

Mr. President, the work on this vocational-education reauthorization legislation has taken several years. The Senate bill has brought a dramatic new focus to vocational education, with set-asides for target groups such as the handicapped; the disadvantaged economically and academically; women's equity programs; single parents and homemakers; and others. It is a commendable effort.

As the dedicated chairman of the Education Subcommittee, Mr. STAFFORD of Vermont understands, my State vocational education officials have so informed me, that the set-asides were too high, and that for some special-population-target groups, the additional funding could not be used effectively, based as it is on accessing greater numbers of those special populations into vocational education programs nationwide. The set-asides were reduced considerably, and I hope that the States—including West Virginia—will have had some of their concerns alleviated.

Another major concern in our small, rural State, which is still to a large extent agrarian, and which is to a greater extent economically disadvantaged when you consider it still has the highest unemployment in the country, was the deletion in the Senate bill of all references to prevocational and industrial arts as allowable activities under the State's basic vocational education grant. Nor was there a clear reference to vocational agricultural programs that are vital to rural, farming areas in West Virginia.

I am pleased that I was able to go to the Senate-House conferees and to obtain their agreement to adopt the House language that continued prevocational, industrial arts, and vocational agricultural programs. I am also very grateful that the National Center, which I also offered as an amendment in the joint conference, was accepted by my Senate colleagues.

H.R. 4164 as amended changed vocational education programs from their traditional status, with greater emphasis placed on modern high technology, and less on maintenance of existing programs of proven effectiveness. I am concerned, as is my State, that they will be unable to rapidly expand our vocational education programs particularly in rural area small schools, to bring them into the high-technology stage we would prefer. I know that West Virginia will make every effort to do so, as quickly as State funds can be made available. We have to remember that for every $1 in Federal funds that States receive, they themselves appropriate and spend $11 of their own money. State vocational education officials will make every effort to upgrade program offerings in West Virginia so that they are more closely in alignment with the high-technology needs and demands of the labor market. I am pleased that this bill still assures them, however, of their opportunity to continue to offer programs that are effective, but that are not necessarily devoted to lasers, computers, robotics, and the like. Also, it assures to the extent possible the continuation of industrial arts and vocational agriculture program activities at the prevocational level—of extreme concern to West Virginians. I intended, through my amendments, to make that possible, not only for West Virginia, but for the rest of the Nation who may desire to continue these more traditional or conventional kinds of program activities.

I thank my esteemed colleagues on the Committee on Labor and Human Resources, its Chairman, ORRIN HATCH, the chairman of the Education Subcommittee, Mr. STAFFORD, and the ranking minority members, Senators CLAIBORNE PELL and EDWARD KENNEDY, for their efforts and their accommodations that allowed my amendments to be adopted.

I am happy to have had one last opportunity to have my thumbprint, so to speak, on an education bill, before my retirement begins at the end of this session of the 98th Congress. Since I began my public service in the House of Representatives in 1933, I have always tried, and always succeeded, in serving on those committees and subcommittees that addressed education's needs, and that offered the means required to make public education a viable and equitable opportunity for all our children.

Mr. President, I am hopeful that every Member of this body will help to pass the Vocational Education Act Amendments of 1984, to be appropriately known hereafter as the Carl Perkins Vocational Education Act. This is a tribute to a fine legislator, a knowledgeable educator, and a great man.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CONTINUING APPROPRIATIONS, 1985

The Senate resumed consideration of the joint resolution.

AMENDMENT NO. 6998

Mr. LEAHY. Mr. President, I have an amendment to the DOD appropriations section that I send to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Vermont [Mr. LEAHY] proposes an amendment numbered 6998.

On page 13, line 2, insert the following: strike out the period and insert the following:

"At the end of Section 887 of S. 3026, delete the period and insert the following: ', and these obligations shall be reported to the Congress on September 30, 1985.' "

Mr. LEAHY. Mr. President, this is not a matter that will take a great deal of time. I will just explain a couple of things while we await the Senator from Alaska to return.

I had noted that the DOD appropriations bill includes the following provision:

Of the funds appropriated for the operation and maintenance of the Armed Forces, obligations may be incurred for humanitarian and civic assistance costs incidental to authorized operations.

Then the report language goes on to say that the Defense Department may engage in activities which yield "Social, humanitarian or civic benefits. To the extent that such benefits are incidental to authorized operations, reasonable expenditures of this kind should be allowable."

I do not have any particular problem with this, Mr. President, but I have a couple of questions about it. One obvious question is: Are there any limits at all in how much money can be taken from O&M accounts for this purpose?

It seems to me every time we need some extra money we take it out of operations and maintenance. That is why we had the situation in Grenada that we had, where planes and people had to turn back and the people died because the planes were not properly maintained and we had many times

some of our best fighting people have airplanes, trucks, or whatever that could not be used because they had been cannibalized when money from operations and maintenance was taken.

We should know about that. We should know what are the "reasonable" expenditures and what is "incidental."

Will the provisions overtake the authorities in the Foreign Assistance Act? Is the military getting into the foreign aid business? How will it affect readiness?

So I have a problem with the scope of the provision and I am simply asking that the Congress be informed about how this money has been spent and how much has been spent on this new authorized activity. All my amendment is going to do is, while it may not stop the raiding of the operations and maintenance account, it will at least require us to know what was spent.

I do not think there is any objection to this amendment, Mr. President, so I would move the amendment.

The PRESIDING OFFICER. Is there further debate?

Mr. STENNIS. Mr. President, this amendment has been agreed to, as I understand it, by both sides.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Vermont [Mr. LEAHY].

The amendment (No. 6998) was agreed to.

Mr. LEAHY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. STENNIS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LEAHY. Mr. President, I thank the Senator from Mississippi. I also thank the distinguished Senator from Alaska with whom I have discussed this before.

I yield the floor.

AMENDMENT NO. 6999

(Purpose: To prohibit use of funds for the Merchant Ship Construction Revolving Fund)

Mr. METZENBAUM. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Ohio [Mr. METZENBAUM] proposes an amendment numbered 6999.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment reads as follows:

On page 13, line 2, strike out the period and insert in lieu thereof a colon and the following: *"Provided further,* That notwithstanding any other provision of this joint resolution, none of the funds appropriated or otherwise made available to or for the use of the Department of Defense may be appropriate, transferred, or otherwise made available to or for the use of the Merchant Ship Construction Revolving Fund.".

Mr. METZENBAUM. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senator is correct. The Senate will be in order.

The Senator will continue.

Mr. METZENBAUM. Mr. President, the matter I am about to raise is about as complicated as any matter that I have taken up on the floor of the Senate. It involves a section of this bill that is to be found on page 12 of the bill. When you read that section, which is a very short section, it provides that, "Such amounts as may be necessary for projects or activities"—Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senator is correct. May we have order, please?

Mr. METZENBAUM. Mr. President, there is not order in the Senate and the Senator from Ohio is not willing to proceed until there is order in the Senate. I am about to try to explain a very complicated aspect of this bill, a very significant portion of it, and I am not willing to go forward until there is complete order in this body.

Mr. STENNIS. Mr. President, may we have order? The Senator is entitled to it and the rest of us want it.

The PRESIDING OFFICER. The Senate will be in order.

Mr. METZENBAUM. Mr. President, you find in this bill on page 12 one paragraph that frankly is subject to a point of order. The Senator from Ohio is not inclined to raise the point of order but that one section has a tremendous impact but you would not know that from reading the section, because the section merely provides, and it is very short:

Such amounts as may be necessary for projects or activities, not otherwise specifically provided for in this joint resolution, at a rate for operations and to the extent and in the manner provided for in the Department of Defense Appropriation Act, 1985, as passed by the Senate as of October 1, 1984: Provided, That for the purposes of this subsection, if such Act has been reported to the Senate but not passed the Senate as of October 1, 1984, it shall be deemed as having been passed by the Senate.

Well, it has not passed the Senate, and they are now talking about S. 3026 which is pending but has not passed. And they are talking about appropriations shall be affected as if the authorizing bill had passed, but the authorizing bill has not passed.

Now when you go over to the authorizing bill, you will find something that is truly totally shocking. What you find there is that on page 39—Mr. President, may we have order in the Senate? The Senator from Ohio is not willing to proceed until there is order in this body.

The PRESIDING OFFICER. The Senator may proceed.

Mr. METZENBAUM. When you read page 39 you now find a section called "Merchant Ship Construction Revolving Fund."

There is no merchant ship construction revolving fund at this point. It is nonexistent. So you find on line 16, there is provided that the following unobligated balances of appropriations shall be transferred to the merchant ship construction revolving fund, and it then goes to spell out where those moneys come from having to do with shipbuilding and conversion; Navy 1983 to 1987, $422 million; Other Procurement, Army, 1984-86, $18 million, et cetera up to about $500 million.

Then there is a proviso to be found on page 39 of the authorizing bill which has not been enacted, that this paragraph shall be effective only upon enactment of legislation establishing a merchant ship construction revolving fund for construction and lease of military for use as commercial vessels.

What does that mean? That means that authorizing measure contemplates there will be other legislation which will establish this merchant ship construction revolving fund, and the authorizing bill that is not enacted into law is authorizing about half a billion dollars to that merchant ship construction revolving fund.

If you want to find out what the merchant ship construction revolving fund is all about, you can get a glimmer of it, but you cannot get very much of an answer because there is no such fund. It is merely a figment of somebody's imagination. When you look at page 209 of the report of the Appropriations Committee, it there provides merchant ship construction revolving fund, and the committee recommends a transfer of $500 million to capitalize a merchant ship construction fund to be derived from unobligated funds available in the prior year defense appropriation account.

We can understand that. The recommendation transfer and use of such payments is subject to enactment of pending legislation to establish the revolving fund. The proposed fund is intended for the construction of commercial type vessels with military specifications and subsequent lease to private shipping concerns.

What we then have is an appropriations bill to be enacted before the authorizing bill is enacted, and then the authorization bill talks about this merchant ship construction fund. But it does not tell us much more about the fund except that is going to happen some day.

When you try to find out how the program will work, or who will admin-

ister, we do not know. We are not told. When you try to determine who will run it, there is no way of knowing because there is no legislation creating the merchant ship construction fund and the people who are to operate it. The question is should our Government proceed in this manner? Should we authorize our Government to create a merchant shipbuilding, construction fund, and have those ships to be subsequently leased out to private contractors to operate? I am frank to say, Mr. President, to the Members of this body that I do not know if we should do that. I am not here saying that it should not be done. I do not know. I do not know what the concept will be. I do not know how it will work. Nobody else does either because there is no authorizing legislation. Even if we were to have enacted the authorizing legislation, which is to be found in the authorization bill which is not as yet passed and is still pending, even that does not tell us how it will work and under what circumstances.

What we are saying is we are going to appropriate $500 million, a half a billion dollars, that could otherwise be used to lower the deficit, and we are going to plow it into a whole new program to build ships. That may or may not be a good idea. But the Senator from Ohio is in no way—neither is any other Member of this body—in any position to determine how it would work, whether it would work, and if it did work what would be the circumstances, nor who would run this merchant ship construction fund.

It is a fact that it is quite obvious that the $500 million will never revert to the Treasury. Instead, it will be seed money for an uncontrolled and uncontrollable entitlement program for shipbuilders in the maritime industry.

As I previously stated, the language in the appropriations bill about which I am speaking is subject to a point of order because it incorporates by reference other legislation. I have no desire to raise that point of order.

So what have I done? I have offered an amendment that does not strike the original language but merely provides that notwithstanding any other provision of this joint resolution, none of the funds appropriated or otherwise made available to or for the use of the Department of Defense may be appropriated, transferred, or otherwise made available to or for the use of the merchant ship construction revolving fund.

I think we are entitled to that. I am saying that there is no such fund existing. There is no way that anyone can determine what would happen if there were such a fund and how it would work. I have inquired to determine whether or not there have been any hearings held in connection with this matter. I am told there have been no hearings. I could be wrong on that.

Mr. GOLDWATER. Will the Senator yield?

Mr. METZENBAUM. I ask unanimous consent that I may yield to the Senator from Arizona without losing my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GOLDWATER. Mr. President, I may be mistaken but my memory tells me that there were hearings held before the Commerce Committee involving the leasing of ships. I do not know whether it went under this title or not. But the purpose was to acquire old ships, for example, like the SS *United States,* and possibly others. And the plan, I say to my friend from Ohio—is my friend listening?

Mr. METZENBAUM. I certainly am.

Mr. GOLDWATER. The plan, as I recall, was to reconstruct this ship, or these ships, in a configuration that could be used for hospital ships during war or troop transports, or could be used in periods of peace for cruise ships. As I recall it—the chairman of the Commerce Committee is on the floor—we did not take action on this legislation. I wanted my friend from Ohio to know that, as I recall it, was the situation. If my friend from Oregon has a different recollection, he can say so. But I do think the Senator is looking under the sheets on this.

Mr. METZENBAUM. I want to respond, if I may. I am aware of the matters about which my friend, the able Senator from Arizona, speaks. That is not this program. That has to do with the matter of remodeling old ships. This measure, the proposed fund, is intended for the construction of commercial type vessels with military specifications and subsequent lease to private shipping concerns.

That is a different program. I appreciate the comments of the able Senator from Arizona. But that is a different subject than this one. I think nobody denies—that I have been able to find—that this is an entirely new concept. It has not been authorized nor has it been spelled out in any legislative manner. I think the manager of this section of the bill is on the floor. I would be very happy to hear from him. I know I have indicated to him that I had some problems with this section before. I would be very happy to yield the floor if he wishes to be heard.

Mr. STEVENS. Mr. President, it is interesting to be here this late at night trying to wind up a bill in connection with an amendment of this type. The rules of the Senate almost prohibit me from answering the way I would like to respond to the Senator from Ohio. That is nothing new, as the Senate knows.

The Senator discussed this amendment with us. The Senator from Hawaii and I are also on the Commerce Committee. This amendment was an amendment that my staff and I worked out in the Defense Appropriations Subcommittee. If the Senator examines the bill, it specifically provides that this merchant ship construction revolving fund "shall be effective only on the enactment of legislation establishing a merchant ship construction revolving fund for the construction and lease of military useful commercial vessels."

It so happens that one of the most deficient areas of our military policy is, in fact, sealift. Serving on the Commerce Committee and on the Defense Appropriations Subcommittee, we ought to find a way to remedy that, that is, my staff and I did, and we recommended that $500 million of unobligated moneys that have already been appropriated in prior defense appropriations bills, be established into a fund and that that fund be used as defined in legislation to be passed out of the authorizing committees and duly enacted by Congress. This money could not be used until that legislation is passed.

With the Senator from Ohio, if his amendment is adopted, what happens is that moneys are available for transfer or reprogramming, and we may never have the opportunity to say, "Here is the money that had not been expended for prior year programs. It is money that could be used to reinstate what was a very successful program in the period of the Eisenhower administration, a program that, in fact, did bring a substantial revitalization of our military sealift."

When the Senator from Ohio spoke to me, and I am happy he is here because he can listen, I hope, very carefully, I told him that we had not been able to fashion that legislation in the Commerce Committee this year, but this money is in the defense appropriations bill. Because of the legislative impasse, it was our intention to drop this provision in the conference. The Senator from Hawaii is here and heard that conversation. The amendment of the Senator from Ohio is the product of the mind of staff, who come in and present to a Senator an amendment. They push him so hard to present it that he does not listen to other Senators.

Mr. President, that is about as far as I can go under the rules of the Senate to tell the Senate what happened. But we had clearly intended to drop this provision in the conference as we proceed with this bill. The situation is that we now have to cut our bill by $5 billion once we get to the House.

I said to the Senator from Hawaii:

Listen, let us leave this in, because there are some things we do not want to drop. We know the House will want us to drop this because we have not passed the authorizing legislation. I am sure we will find something

to do with that $500 million that is already appropriated.

It can be used by the Department of Defense simply by reprogramming or by reapplication by Congress.

It is unfortunate, Mr. President, that the Senator from Ohio did not want to discuss this with me or with the chairman of the Commerce Committee before bringing the issue to the floor. If the Senate wants to take his amendment, it is perfectly fine with me. From my point of view, it would be much better to go to the conference the way we intended to go, and have this be part of the reductions we are going to be making in this bill as we go toward the House figure, which happens to be $10 billion less than the bill before us.

That is a lot of money to take out of a bill. Incidentally, if this money comes out, we will still take as much as $5 billion out of the bill, because I know the House. Anyone here on the floor who has negotiated a defense bill will know that what I say is correct.

This could be part of that, if we wanted to adopt the Senator's amendment. Or we can find $500 million some place else. I will be happy to do that if necessary.

Mr. President, it seems to me that a Senator ought to be able to take the word of a manager of the bill for what the tactics will be in terms of the conerence committee. We have already stated we do not have the authorizing legislation. Under those circumstances, the money could not be spent and the provision would not be effective. If the bill passed as it is now, Mr President, it would protect $500 million from being spent by the simple act of reprogamming, which, to me, is not too bad. I am likely not to find that $500 million again for the ship program even if Congress enacts the required authorization.

My staff points out, Mr. President, that the fund is not established as it is carefully written. The Senator from Ohio has left the impression that there is something sneaky here, that somehow or other we have walked away with $500 million.

We have examined the books of the Department of Defense and found there is $500 million from prior year appropriations which we can pin down and say, "Do not spend that money. We want to see if the Congress will agree once again on a merchant ship construction revolving fund."

The Senator from Hawaii and I are two Senators involved in the Subcommittee on Merchant Marine, serving with our good friend from Oregon, Senator PACKWOOD, as chairman of the Commerce Committee. He is on the floor. We know how difficult it is to get the whole industry, from shipbuilding, ship operators, ship unions, and all other interests to agree on how we reinstitute this program which was so effective and so successful in the 1950's. But circumstances have changed.

We could have referred to title 36 and said, "You can find the existing program that is on the books." We knew better than that. It could not happen. What we decided to do is to earmark this money for any subsequent authorizing legislation, but unfortunately a consensus could not be achieved.

I am belaboring the Senator. I can say to the Senator if he wishes after my explanation to persist in the amendment, I shall not oppose it.

I yield to my friend from Hawaii.

Mr. INOUYE. Mr. President, I wish to assure my colleagues that the Senator from Alaska did, on prior occasions, confer with me on this matter and did give me, and through me to my colleagues on this side, the assurance that this matter would be considered and dropped in conference. I am satisfied with the good word of my good friend from Alaska and I am certain if he says it will be dropped, it will be dropped.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I regret that when I rise to discuss a matter that concerns the Senator from Alaska, he considers it to be a matter of personal affront. I do not operate that way in the Senate nor in my life in general. I am not wanting to personally affront the manager of the bill.

If the Senator from Alaska will recollect, he said to me at that time, if I could have the attention of the manager and my friend from Hawaii—both of them indicated to me that it was their intent to drop this $500 million as far as the revolving fund for merchant ships, but also indicated they would not indicate that publicly for reasons of negotiations.

The Senator from Ohio feels that we are not talking about a tweedledum-tweedledee matter. We are talking about the possibility of creating a totally new operation. I want to make a caveat, that I have not indicated there is anything wrong with doing that. It may be very good. I have not been totally convinced on how it would be created or how it would be operated.

My amendment, contrary to the suggestion of the Senator from Alaska, does not really affect the $500 million as far as the use of those funds, but merely has a proviso in it that the funds are not to be made available to or for the use of the Department of Defense for the use of the merchant ship construction revolving fund.

Since the Senator from Alaska has indicated that he wants the $500 million, but it is not going to be used for the merchant ship construction revolving fund, and that is the way I drafted the amendment rather than in a manner to impact upon the $500 million.

I wonder whether or not, with that language, which only has to do with the merchant ship construction revolving fund, the Senator from Alaska would not see fit—he has already indicated he would not oppose acceptance of the amendment. I am wondering whether or not the Senator from Alaska will accept what the Senator from Ohio is attempting to do.

Mr. STEVENS. Mr. President, it is easy to understand the Senator from Ohio. We received a "Dear Colleague" letter today referring to the merchant ship construction revolving fund posing a series of questions. "What is it? How will the program work? Who will run it? Should our Government do this? We don't know. The authorizing committee, to my knowledge, has not even considered the issue."

He wrote this letter before even contacting any member of the authorizing committee, or any member of the Appropriations Committee. Again I say, Mr. President, his staff has too many typewriters. This is the product of this Senate having so many staff people that a Senator comes out here on the floor and reads what they say in letters and amendments, despite the fact that the Senator from Ohio has addressed personally both the Senator from Hawaii and myself on the subject.

Mr. President, I submit the questions raised by the Senator from Ohio are fully answered in the Appropriations Committee report, and I ask unanimous consent that the pertinent section of the report (S. Rept. 98-636) beginning on page 209 be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MERCHANT SHIP CONSTRUCTION REVOLVING FUND

1984 appropriation	
1985 budget estimate	
Committee recommendation	($500,000,000)

The Committee recommends a transfer of $500,000,000 to capitalize a merchant ship construction revolving fund to be derived from unobligated funds available in the prior-year defense appropriation accounts. In addition, such funds which may accrue from miscellaneous receipts as provided by the Merchant Marine Act of 1936 may revert to the fund. The recommended transfer and use of such payments is subject to enactment of pending legislation to establish the revolving fund. The proposed fund is intended for the construction of commercial type vessels, with military specifications, and subsequent lease to private shipping concerns. Authorization should provide for the administration of the fund by the Maritime Administration and the Navy.

The U.S. Government has historically relied on the merchant marine to meet sealift demands in a time of war. In recent

years the composition of the commercial fleet has changed dramatically. Within the past decade the number of vessels has declined and the types of merchant ships are not as suitable for military needs as had been the case.

In part, the revolving fund concept is patterned after President Eisenhower's Mariner program, it has the effect of providing a base for the kinds of ships the military needs and putting them to use in the commercial trade. Today there are only 538 privately owned U.S. vessels in our merchant marine. These ships have a total dead weight tonnage of approximately 21 million in contrast to about 14 million tons and 596 vessels in 1973. This trend toward fewer but larger vessels is in direct contrast with the military needs for smaller, mobile ships.

Recognizing the decrease of militarily useful vessels in the trade today, the Navy has been requesting direct appropriations to build commercial type vessels. Ship conversion and construction programs like the fast sealift SL-7 ships and the T-5 tankers are clearly motivated by the declining inventory of such ships in our merchant fleet. But once delivered, these ships are tied up in the national defense reserve fleet. Much like the Mariner program, ships built through the fund would be put to work in the commercial trade instead of lying idle.

Ships built through the fund would be owned by the United States, registered and documented under U.S. flag, and leased to private ship operators at the highest bid. The ships must be built in U.S. shipyards. The sources of revenue would include the recommended transfer and revenues from lease and/or sale of these ships. In addition, it is expected that the Secretary of Transportation will determine that recipients of construction differential subsidies may repay subsidies, and revenues accrued from the payments should revert to the fund. Any additional funds for capitalization should be included in a future budget request or by a request for transfer of funds from the Department of Transportation or other Defense Department sources.

The Committee strongly recommends that enabling legislation emphasize direction to develop ship specifications which enhance commercial, cost efficient features while preserving military standards. This will require the commitment and expertise of the Transportation Department's Maritime Administration in cooperation with the Navy. This is a critical element of the program to provide for military and commercial utility.

The sources of transfer to initially capitalize the fund are derived from unobligated funds, primarily from aircraft carrier shipbuilding savings and excess funding balances in other accounts recommended for transfer in the revised budget. Vessels to be constructed through the fund, if needed in the event of war, will transport defense supplies and equipment for each military service. Requirements for such ships are driven by defense planning which coordinate total Armed Forces activity. In this regard, the Committee considers it appropriate that the funding identified for transfer is derived from the variety of Defense Department appropriation accounts displayed in the following table:

Fiscal year and account:	*In millions*
1983 Shipbuilding and conversion, Navy	$422
1984 Aircraft procurement, Air Force	32
1984 Missile procurement, Army	13
1984 Missile procurement, Air Force	15
1984 Other procurement, Army	18

Mr. STEVENS. Mr. President, again I say if the Senator wants to persist in this amendment, he can persist in it. If it carries, it makes it even more difficult to do what we suggested, because it becomes law, which says the moneys that are already appropriated cannot be used for this fund even if it is authorized and created by Congress. Those moneys are not subject to this bill yet. I would sort of like to see what the House would like to do with that $500 million. I think we will have their attention with this amendment. The Senator from Hawaii and I know how to deal with the House in this area, I think.

I yield to my friend from Hawaii.

Mr. INOUYE. In fairness to my friend from Alaska, Mr. President, I think my colleague should know that title 7 of the Merchant Marine Act does provide that this Nation may build and charter. So this is not a new program. It was not conceived in some back room just a few days ago. It was the result of the wisdom of some of our predecessors. It has been on the books now for more than three decades.

The only problem is that up until now, we have not provided sufficient funds for our merchant marine industry to carry out the program. But there is ample provision and ample authority to build and charter.

Mr. STEVENS. Mr. President, I thank the Senator from Hawaii. The appropriations bill language says that "the following unobligated balances of appropriations shall be transferred to the Merchant Ship Revolving Fund." It lists the amount of moneys that would go into this fund. The moneys have already been appropriated in prior appropriations bills.

Then it says "*Provided*, That this paragraph shall be effective only on the enactment of legislation establishing a Merchant Ship Construction Revolving Fund for the construction and lease of militarily useful commercial vessels."

I submit to the Senate that none of the assertions made by the Senator from Ohio is correct. We have not tried to create a fund in this legislation. We have tried to earmark money that has already been appropriated by the Department of Defense for use in connection with the program should it be supported by the duly constituted committees and enacted pursuant to a policy that has persisted in this country for many years and, as I said, was extremely successful under the Eisenhower administration.

Again, I just leave it up to the Senator from Ohio. I would like to see whether the Senator from Ohio is going to respond based on the assurances of the Senators from Alaska and Hawaii.

We gave him our word that we would take this provision out in connection with the negotiations with the House. That ought to be sufficient for any Senator, in my opinion.

Mr. METZENBAUM. Mr. President, I need not have the Senator from Alaska remind me how to conduct myself as a gentleman, which I always attempt to do. As a matter of fact, the Senator from Alaska and the Senator from Hawaii did both give me their word that this $500 million would not be used for that purpose. But they also indicated that they did not wish to make it a firm public policy. The Senator from Hawaii and the Senator from Alaska have now both done that. I might say to the Senator from Alaska that before this amendment was ever called up, I advised those on this side of the aisle that there would be ample time to withdraw the amendment if I got the appropriate assurances. The appropriate assurances have been forthcoming from both the Senator from Hawaii and the Senator from Alaska. I withdraw the amendment.

The PRESIDING OFFICER. The Senator has the right to withdraw his amendment.

The amendment (No. 6999) was withdrawn.

Mr. STEVENS. Mr. President, I know of no further amendment on this side.

Mr. STENNIS. Mr. President, we know of no further amendments on this side.

Mr. BYRD. Mr. President, I have been in contact with a number of Defense Department officials regarding the establishment of a permanent U.S. Army field training facility in West Virginia. These contacts have intensified as the Army has become increasingly interested in light, maneuverable infantry forces. West Virginia, with its mountainous terrain, offers very feasible conditions for realistic infantry training in a rugged environment. Moreover, the State could serve as a regional base for the latest and most modern warfare training involving computer-driven simulators which are able to replicate in a most realistic way the battlefield conditions that our troops may someday face. The principal base for such simulated combat is the National Training Center at Fort Irwin, CA, but I believe that a field training center on the east coast may well be feasible and justified, both on an economic—transportation cost—and a security basis, and would not be intended to be in conflict with any existing stationing plan.

Mr. President, I note that the distinguished chairman of the Defense Appropriation Subcommittee is on the floor. I am hopeful that I might enlist his support in securing from the Department of the Army a workable plan

which would involve the State of West Virginia in the establishment of a U.S. Army field training center for either/both light infantry forces training and/or computer simulated battlefield exercise training.

Mr. STEVENS. Mr. President, I would be most happy to assure the distinguished minority leader that I will strongly urge the Department of the Army to investigate, in an expeditious manner, a workable plan along the lines outlined by the Senator from West Virginia. It would be my expectation that the whole matter could be the subject of the hearings process early next year. I would expect the Department of the Army to pursue this matter with vigor based upon this colloquy.

Mr. BYRD. I thank the distinguished subcommittee chairman.

Mr. CHAFEE. Mr. President, the conference report on the Department of Defense Authorization Act requires a number of reports to be submitted by the President or the Secretary of Defense to the Congress. Usually, the act specifies that such reports be in two versions, one unclassified and the other containing classified data. We neglected to make this requirement in the case of two reports of special interest to me, involving the impact of Strategic Defense Initiative Programs on the ABM Treaty and the implications of continuing our policy of not undercutting the SALT II Agreement. These reports are required by sections 1102 and 1110(b)(4) of the act. I believe it is important that these reports be prepared in both classified and unclassified versions, and I am considering offering an amendment which would mandate such a requirement. Could I inquire of the distinguished Senator from Alaska if he could accept such an amendment?

Mr. STEVENS. Mr. President, I understand the concerns of the Senator from Rhode Island, but I hope he will not offer his amendment, which would be legislation on an appropriation. I believe that reports in both unclassified and classified versions should be provided, and I am confident that the Department of Defense will comply with our request. I assure the Senator of my full cooperation in obtaining these reports.

Mr. CHAFEE. I thank the Senator from Alaska, and with this assurance I am confident we can accomplish my objective. I will forego offering the amendment.

NAVAL RESERVE AIRCRAFT PROCUREMENT

Mr. LEVIN. Mr. President, I would like to engage the distinguished chairman of the Defense Appropriations Subcommittee in a colloquy about a matter of great interest to the Naval Reserve and the members of its Fleet Support Air Logistics Squadrons. This matter has implications for our national security, and also is of interest to the distinguished ranking minority member of our Armed Services Committee, Senator NUNN, who will join me in this colloquy, and his Georgia colleague on the full Appropriations Committee, Senator MATTINGLY.

As the distinguished Chairman knows, the Naval Reserve's Fleet Support Squadrons are undergoing a modernization program to replace their aging C-118 transport aircraft with new C-9 and used DC-9 cargo aircraft.

Since these Naval Reserve squadrons represent the active Navy's primary organic long-range airlift assets, it is important that all of them receive newer aircraft as soon as possible to avoid a decrease in this conventional war-fighting capability.

These squadrons, for example, have supported the deployment of our Active Forces overseas, and one of them even was engaged in evacuating some of our marines wounded in the terrorist bombing at the Beirut International Airport. The skilled pilots, naval flight officers, and maintenance technicians in these units make a major contribution to our national defense.

Would the distinguished committee Chairman agree with me that these Naval Reserve air logistics units are an important national defense asset we should not lose, and that they all should receive the newer aircraft they need as rapidly as possible.

Mr. STEVENS. I would agree with my colleague from Michigan, who I know is aware that our subcommittee has supported consistently the Naval Reserve's airlift modernization program and has added significant funding in past years to continue this effort.

Mr. LEVIN. As the member of the Armed Services Committee who successfully added increased funding authorization for this program last year, I do appreciate the Defense Subcommittee's steady support.

Because of that support, I would ask the chairman about his subcommittee's proposed appropriation for fiscal 1985 for procurement of used DC-9 aircraft for the Naval Reserve.

According to the subcommittee's report, it reduced the Navy's $33.9 million budget request by $20 million—to $13.9 million—because it was informed that the sufficient aircraft had been bought at low enough prices in fiscal year 1984 to permit procurement of the remaining required aircraft for the much lower amount.

Would the chairman agree that is a fair characterization of his subcommittee's action and would he also agree that it was his subcommittee's intention to provide sufficient funds in fiscal year 1985 to permit the Naval Reserve to complete finally its airlift modernization program?

Mr. STEVENS. I would agree on both counts. Also, I would add that it is imperative that this procurement program be completed this year because the last remaining C-118's are due to be retired in fiscal year 1985, that the service life of these aircraft probably cannot be extended safely and economically, and that two squadrons must either receive newer aircraft or we will lose their capabilities.

Mr. LEVIN. I agree with the Chairman, which is why I and Senator NUNN have raised this issue. There are two squadrons which still have not received new aircraft, and they are in Detroit, MI, and Atlanta, GA.

Mr. NUNN. I would like to underscore what my Armed Services Committee colleague from Michigan, Senator LEVIN, has said. We both have worked hard to strengthen all our Reserve and National Guard forces, and Senator LEVIN, has been a strong supporter of these forces. He has been a leader on our Armed Services Committee in promoting the Naval Reserve's airlift modernization program. We both agree that this important program should be completed as soon as possible because of its contributions to our conventional combat capabilities.

Mr. LEVIN. In that regard, I would ask the chairman of the Defense Appropriations Subcommittee whether he would reconsider his subcommittee's allocation for this program because of new information I have received from the Navy. This new information demonstrates that, contrary to the subcommittee's intentions, its $13.9 million appropriation for fiscal year 1985 will not be sufficient to permit completion of this program.

Due to increased prices because of the volatility of the used aircraft market, and because this same volatility has resulted in the Navy purchasing six, not eight, DC-9 type aircraft with fiscal year 1984 funds, the full $33.9 million budget request in fiscal year 1985 is needed to purchase the four aircraft required to complete this program.

In light of this new information, would the Chairman be willing, at the request of myself and Senator NUNN, to reconsider his subcommittee's action and to consider receding in conference to the House of Representatives, which has allocated the full $33.9 million in its bill, to fully fund this program.

Mr. STEVENS. In view of this new information, the Senators from Michigan and Georgia makes a fair request. I am willing to persue this matter in conference with the goal of completing this important Naval Reserve airlift modernization program.

Mr. LEVIN. I thank the chairman for his agreement. In that regard, I and Senator NUNN believe strongly that the Navy should have no legitimate excuse not to aggressively search the used aircraft market for these four

needed aircraft so that this program can be completed no later than the second quarter of fiscal year 1985.

On behalf of myself and Senator NUNN, I thank the distinguished chairman for his strong support for the Naval Reserve.

Mr. BYRD. Mr. President, on another military matter, I recently returned from a groundbreaking event and graduation exercises at Camp Dawson, the West Virginia Army National Guard facility at Kingwood, WV. I was particularly impressed by the way the West Virginia military personnel conducted themselves under the leadership of Maj. Gen. John Wilson. I was, indeed, proud to be able to participate in these exercises.

Mr. President, based on utilization by the West Virginia Army National Guard, this facility was last "sized" or measured in 1981 for an overall capacity of 1,000 personnel. However, this facility also serves as a training base for Army Reserve, Regular Army, Marine Corps, and Air Force units, and, consequently the current projected capacity of 1,000 military personnel may be significantly underestimated. Therefore, I believe that the Federal National Guard Bureau should take a closer look at the facilities and operations at Camp Dawson with a view to "resizing" the capacity upward from 1,000 military personnel in order to take into account the wide variety of military personnel other than the West Virginia Army National Guard that utilize this military reservation.

If I could have the attention of the distinguished chairman of the Defense Appropriation Subcommittee [Mr. STEVENS], I should like to ask him if I could secure his cooperation in seeing to it that the National Guard Bureau would look into this matter. I am hopeful that such an investigation would result in plans for the expansion of the facilities at Camp Dawson.

Mr. STEVENS. Mr. President, I will be pleased to have the National Guard Bureau look into this matter. From what the distinguished minority leader has indicated, the capacity will likely need to be increased. I would fully expect that the personnel at the National Guard Bureau, when they read this part of the CONGRESSIONAL RECORD, will pursue this matter expeditiously.

Mr. BYRD. I sincerely thank the distinguished subcommittee chairman.

Mr. INOUYE. Mr. President, a provision in the fiscal year 1985 military construction authorization report calls for the military services to consider financing the construction and operation of new heating plants and major modifications to existing heating plants at its bases through third party contracting. The point of this issue, of course, is to determine the cost effectiveness and feasibility of third party contracting. This purpose, in itself, is very commendable; and I am in favor of saving the taxpayer's money. I am concerned, however, about the potential impact a change of policy in this issue can have on a local community without sufficient analysis and preparation.

I would ask the distinguished chairman of the Subcommittee on Military Construction Appropriations, the Senator from Georgia, [Mr. MATTINGLY] if he would be kind enough to include some report language on this subject in the conference report (military construction chapter) on this continuing resolution.

The proposed language I would suggest involves no cost but merely encourages the Department of Defense and the services, in contemplating such measures, to completely evaluate the impact on the remaining consumers of electrical services should third party contracting be proposed.

My proposed language reads as follows:

If the military establishes a generation facility or goes outside the local public utility system for power, the military is encouraged to take into account the impact upon the remaining electric consumers and to therefore coordinate with the current local provider of electric services to mitigate the adverse rate impact to those remaining consumers.

Mr. MATTINGLY. Mr. President, I am pleased to work with the distinguished Senator from Hawaii on this matter. I am told that the House Subcommittee on Military Construction Appropriations would have no objection to the Senator's language and it will be included in the conference report.

I would, however, for the record like to comment on this issue which has recently been brought to our attention by some firms who serve major military installations. I believe that the language included in the Senate report on the fiscal year military construction authorization report is not meant to have any adverse impact on the local providers of electric services. The Senate language, as I understand it, was included to encourage the private sector to become involved in providing these services to our military installations. It will allow growth of the private sector and create jobs and at the same time save money for the Defense Department which will purchase power from these sources rather than producing its own power.

As the Senator from Hawaii has stated, this is a commendable effort and the Congress has stated its support for the proposal. I know that our subcommittee and the authorization subcommittee will undoubtedly review this matter during the hearings on next year's budget. In the meantime, I encourage the Department of Defense to hold discussions with the local power companies which have expressed concern on this matter.

I appreciate the Senator from Hawaii bringing this matter to the attention of the Senate.

Mr. SYMMS. Mr. President, it was my intention today to offer an amendment to the defense section of the continuing resolution.

My amendment reads as follows:

It is the sense of the Senate that before Congress adjourns, the President should submit to Congress an unclassified report by the President's General Advisory Committee on Arms Control and Disarmament entitled "A Quarter Century of Soviet Compliance Practices Under Arms Control Commitments: 1958–1983 (U)."

Mr. President I have consulted just last night with Mr. Bud McFarlane, the National Security Adviser to President Reagan, on this amendment. The White House has already publicly announced that President Reagan intends to release the unclassified GAC Report on Soviet SALT violations before the Congress adjourns.

Bud McFarlane has made a reaffirmation of that commitment to me personally last night. I just spoke with Bud McFarlane, who is traveling with President Reagan in Houston, TX. Bud McFarlane has reaffirmed the commitment to me that the GAC Report on Soviet SALT violations may be released today but certainly will be released within 1 week.

In view of this Presidential commitment to release the GAC Report on Soviet SALT violations by today or within 1 week at the latest, I hereby announce that I will not offer my amendment.

I would point out, however, that a similar amendment offered by Congressman COURTER passed the House unanimously in June, and it was offered by Senators MCCLURE and MATTINGLY in the Senate in June, and it also passed the Senate then unanimously. This amendment will become law when President Reagan signs the fiscal 1985 defense authorization bill, and it will require an unclassified GAC Report on Soviet SALT violations within 60 days.

What Bud McFarlane has promised me in President Reagan's name is that the GAC Report will be released even sooner, within 7 days from today.

Mr. President, I believe that all Members of Congress and indeed all American citizens need to be made aware of the conclusions of the "GAC Report" on Soviet SALT violations, so that their impact on American national security can be considered. In a representative government the public has a right and a duty to be informed on all important issues.

In 1935, prior to World War II, Sir Winston Churchill challenged the British Government over whether or not Hitler's Nazi Germany was complying with the arms control and disarmanant provisions of the Versailles

Treaty. In the House of Commons, Winston Churchill emphasized that.

The worst crime is not to tell the truth to the public.

I believe that President Reagan will continue to tell the truth to the American people about Soviet SALT violations, in order to preserve the peace and maintain deterrence and international stability. After all, the esssence of deterrence is political will and America must have the political will to tell the truth about Soviet SALT violations.

Mr. President, I ask that the report be printed at this point in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

REPORT ON SOVIET ARMS CONTROL VIOLATIONS WON'T BE DELAYED, WHITE HOUSE TELLS SYMMS

WASHINGTON.—President Reagan's National 'Security Advisor Robert "Bud" McFarland has promised Senator Steve Symms that the White House will release an unclassified report on Soviet arms control violations within a week. McFarland, who was traveling with the President in Texas yesterday, made the commitment in a telephone conversation from Houston.

Early this summer, both Houses of Congress unanimously approved an amendment requiring a full report on Soviet treaty violations. The report was expected to be released last month, but was held up because of the President's meeting with Soviet Foreign Minister Andrei Gromyko.

Concerned that the report might be delayed even longer, Symms telephoned McFarland last night to tell him that some members of Congress were growing impatient, and that the public has a right to know the facts and conclusions that can be drawn from this report.

"Arms control is one of the major issues of the 1984 election. Certainly Congress and the voters ought to be as well informed as possible on that issue. They need to know what kind of people we're negotiating with in the Kremlin and how often they've welshed on the arms control agreement they've signed. I'm confident that this report will show conclusively that the Soviet record of compliance over the past 25 years has been very poor, offering small hope that we can take them at their word to abide by future agreements. That's why I think this record is so important, and I'm delighted it will be made public within the next 7 days," Symms said.

SDI: A SMALL INVESTMENT IN OUR FUTURE

Mr. HATCH. Mr. President, I rise in unmitigated opposition to any cuts whatsoever in strategic defense initiatives program funding; I take this position on the following grounds:

First, we are now on the threshold of developing the first really effective defense against intercontinental and other ballistic missiles targeted on the United States.

Second, a relatively small investment over the mid-term can result in long-term budgetary savings; these are as incalculable as the many benefits that SDI-related technologies can be reliably expected to produce. I refer here to the American and allied warfighting, defensive and deterrent capabilities which could be revolutionized at both the strategic and conventional levels.

Third, the cost-effectiveness of the SDI Research and Development [R&D] Program, especially where it incorporates existing aerospace R&D, is precisely the model of efficiency that this body has long urged DOD to create.

Allow me, Mr. President, to develop each categorical advantage more fully.

AN EFFECTIVE BALLISTIC MISSILE DEFENSE

SDI promises a high technology defense against attacking ballistic missiles. Technologies are now emerging rapidly that will give us an unprecedentedly effective deterrent and, if necessary, the capability to intercept a very high percentage of offensive nuclear weapons without destroying humanity itself. This is the difference between a mutual assured destruction strategy, and the new mutual assured survival strategy of the Reagan era. I echo the analysis of such distinguished scientists as Drs. George Keyworth, James Fletcher and Robert Jastrow who have staked their reputations on the postulation that a survivable, multilayered missile defense system will work. Their opinions are rooted in the very effectiveness of our SDI precursor and ongoing technological research and development [R&D] programs that now find themselves threatened by SDI program cuts. Without this research the future of mankind may be held hostage.

LONG-TERM BUDGETARY SAVINGS WILL ALSO BE REALIZED

Support for R&D in SDI, as well as in other emerging technology areas, will allow us to shift gradually from strategies reliant upon a resource in increasingly short supply, manpower, to a resource which we have in unlimited amounts, our technological genius. Nearly 10 percent of all 16- to 19-year-olds entering the work force at present are needed for Defense Department enlistments. Imagine the boost to our skilled manpower reservoir that would derive from shifting to technology-intensive strategies. A precept of modern warfare dictates that what can be detected can be destroyed. Thus, technology makes most forces increasingly vulnerable. The Soviets are acutely aware of this, and the development of an SDI program was, in the eyes of most Kremlinologists, a very powerful incentive for Soviet Foreign Minister Andrei Gromyko to meet with President Reagan. With effective arms control and force reductions, everyone gains. With 40 percent of our defense budget consumed by manpower costs, and with nearly one-half million Americans serving overseas, I can forecast budgetary savings in the conventional and strategic force arena over the next decade that we all will share.

SDI R&D IS COST-EFFECTIVE

This Nation cannot afford to suffer any further reductions in basic technology research. Yet, any SDI cutbacks are certain to affect this critical area, which is less than 3 percent of all R&D moneys requested by DOD. Most basic research is done by the Federal Government, nonprofit institutions, and universities and colleges, thus representing a near-optimal situation for the production of quality, low-cost research. Any corporate or public beneficiary of American technology will tell you that the basic research programs in our universities are the real source of our scientific leadership. It is unimaginable to me that we should cripple ourselves in this area. In my State alone, Utah State University's Space Dynamics Laboratory, a pioneer in critical infrared technologies for use in outer space, could suffer a premature setback, including the possible abandonment of an investment of millions of dollars of work already underway.

Let me add that at least one university in each of the 50 States will be affected by SDI R&D cutbacks. Collectively and individually, these basic research programs are a national treasure and a gift to the future of mankind; these programs are perhaps our greatest opportunity for American scientific leadership for both peace and economic prosperity in the 21st century.

The PRESIDING OFFICER. Are there further amendments to the committee amendment? If not, the question is on agreeing to the committee amendment No. 9.

The committee amendment No. 9 was agreed to.

Mr. STEVENS. I move to reconsider the vote.

Mr. STENNIS. I move to lay that motion on the table, Mr. President.

The motion to lay on the table was agreed to.

COMMITTEE AMENDMENT NO. 10

The PRESIDING OFFICER. The clerk will state the next amendment.

The bill clerk read as follows:

On page 13, strike lines 3 through 10 and insert new language:

(i) Such amounts as may be necessary for continuing activities, not otherwise specifically provided for in this joint resolution, under all the conditions and to the extent and in the manner as provided in S. 2852, the Transportation and Related Agencies Appropriation Act, 1985, as reported to the Senate on July 17, 1984, and the provisions of S. 2852 shall be effective as if enacted into law.

Mr. ANDREWS. Mr. President, the 10th committee amendment establishes the rate of spending for transportation appropriations. The rate is set at the levels in the Senate reported bill, S. 2852. The House continuing resolution establishes funding at the lower of the budget request or current rate.

The committee feels that the House approach would severely reduce spending for critical programs. By referencing the Senate-reported transportation bill, funding for aviation, highways, Coast Guard, transit, and other activities will be adequately addressed in fiscal year 1985.

Mr. President, in brief, what we have here is the normal transportation appropriations bill as a part of this continuing resolution.

Mr. President, I suggest the absence of a quorum.

Mr. SYMMS. Mr. President, will the Senator withhold?

Mr. ANDERSON. I am glad to withhold.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. SYMMS. I thank the Chair.

Mr. President, I would like to make a few remarks tonight dealing with the subject of the mass transit account and Congress earmarking funds. I want to express my concern about and opposition to the excessive earmarking of funds from in the discretionary new start category of the Urban Mass Transportation Appropriations.

I think while the distinguished Senator from North Dakota is waiting to bring forth the bill, I shall make a few remarks to my colleagues to point out where we are heading with respect to mass transit. It benefits all of us to recognize that the House Appropriations Committee in their reported bill have earmarked eight projects. The Senate committee has accepted those and added four of their own. I believe these earmarks will lead the Congress into future spending commitments that are ill-advised, premature, and certainly not affordable at current revenue levels.

First, let's look at the arithmetic. The amount set aside in today's bill for these projects is $436 million. But the cost to complete the projects earmarked in the bill totals approximately $3.5 billion, if construction proceeds smoothly. This totals $4 billion to complete what we are asked to begin today. However, we have available only $400 million in revenue per year from the Highway Trust Fund transit account.

Much of the funding in this year's bill is for design and preliminary engineering, activities considerably less expensive than actual construction. Because of the funding shortfall, we know that the actual construction of these projects will have to be stretched out to track the availability of Federal assistance. That will cost more money. That is going to cost a great deal of money and some day, we are going to have to figure out how we are going to raise that money. That is the point I would like to make tonight.

Mr. President, a recent study by Peat, Marwick, Mitchell, & Co. showed that extending the construction period for 3 to 6 years would add an additional $1 billion to $4 billion to the cost of the earmarked projects. This is the point we need to discuss.

Let me put that into perspective: It would take an increase of from 1 to 3½ cents in the gasoline tax just to fund the stretch out costs of the projects we are earmarking today. These are costs the taxpayers should not have to bear without full congressional consideration. Making decisions of this expense and magnitude in an appropriations bill—especially a stopgap, keep-the-ship-floating bill being considered in the midst of a heated election campaign—is putting the cart before the horse.

Second, enactment of transit new start earmarking at the level provided in the measure before us would run afoul of existing law. The Urban Mass Transportation Act prohibits funding for a project unless funds are available to assure completion of an operable segment—a segment of rail line or busway that will carry people between two points. The earmarking in the bill before us mortgages the future, but it does not provide any of the funds necessary to guarantee their completion. In fact, the earmarks represent five times the amount of funding actually available. I refer you to the table included in my remarks. Passage of this measure will commit the Federal Government to spend funds it does not have; a guaranteed increase in the Federal deficit of several billions—unless you believe in the passage of another gas tax increase 2 or 3 years from now.

I must say, Mr. President, in view of the troubles we are now having getting our colleagues together to pass a simple, clean interstate cost estimate highway bill, I am not too sure that we are going to be able to do these things or have any support left for maintaining or increasing the Federal trust fund tax in the future.

Third, funding decisions through earmarking for such a large number of projects still in the preconstruction planning phase is premature and could result in construction delays on projects ready to proceed to actual construction. Do we want to return to our constituents in a few days and say we voted for another shelf of studies instead of projects that will actually serve people?

So I am saying to all of us, we better be cautious because we are going to be returning to our constituents in a few days and say we voted another shelf of studies instead of funding projects that will actually take care of moving people from point A to point B.

Fourth, earmarking of the magnitude being proposed will soak up all available current and future transit funds for only 12 projects. Currently, the pipeline contains 57 projects in various stages of review by the Urban Mass Transportation Administration. If the earmarking holds, the 57 are automatically disqualified. Not only is that unfair on the face of it, it means that any future project, however meritorious, cannot be considered for Federal assistance.

Beyond today's 12 projects, not a single new line or extension can be built with Federal assistance for as long as you are likely to be in Congress. Is the spirit of good fellowship we feel toward our colleagues in both Houses so strong that we want to sign away our right to seek assistance for our own constituents at some time in the future. I respect my colleagues and hold them in high regard, but I must conscientiously serve my constituents; so, for me, the answer is no.

Finally, Mr. President, I would remind my colleagues that last year the Senate directed the Department of Transportation to develop criteria for assigning priority to proposed transit projects. That process is underway and in its report the Appropriations Committee has directed the Department to hold final implementation until the committee has an opportunity to hold hearings on the matter. In addition, the administration has expressed its willingness to join, through hearings and the formal rulemaking process, in the effort to develop workable selection criteria that are agreeable to the Senate. The cost of the projects being earmarked today, however, will moot such hearings; no money will be available for any of the other projects in the pipeline for the foreseeable future.

In the 1960's and 1970's, difficult future funding problems of this nature were resolved by relying on a constantly increasing revenue stream. But in the 1980's that stream is no longer automatically increasing. By earmarking today we are setting ourselves up for a tax hike to finish projects that will have become merely unusable holes in the ground at current funding levels. Do we really want to put ourselves in the position of being forced to go back to our constituents in another 2 or 3 years to ask for another gas tax increase?

The answer to that is "no."

Mr. President, I commend to my colleagues' attention a July 11 Chicago Tribune editorial, a September 7, Wall Street Journal editorial, a recent Business Week article, and a September 16, Baltimore Sun article on this question. They point out how the relatively obscure decision we are making today could force a $5 billion increase in the Federal deficit in 1986. It is a sobering thought.

I ask unanimous consent that these articles be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Chicago Tribune, July 11, 1984]

PORK BARRELS ON WHEELS

Although Congress for several years now has been expressing great concern about the increasing size of federal expenditures and the deficit, that concern has not been translated into restraint at the pork barrel.

One problem is that Congress increased the federal gas tax for mass transit by 1 cent a gallon last year but has been committing itself to projects as if the increase had been 10 cents.

This is done, for example, by appropriating $117.2 million for a new eight-mile subway in Los Angeles when transit officials claim the project cannot be started for less than $336 million a year. The money Congress appropriated may be sufficient to dig the tunnel, but Los Angeles needs to put tracks, stations and trains in it to make it a working subway.

Los Angeles is one of 12 cities in which such projects were authorized. Of course, the substantial bill to complete these 12 projects will come due sometime in the future.

The irony is that Congress sits atop the most flagrant example of what can happen if it does not impose some restraints on transit projects. That is the Washington subway system, and it may set two new records before it is completed at $12 billion, the most expensive public works project in history, and the world's largest cost overrun.

The Washington Metro is now getting $250 million a year in federal construction money—nearly 40 cents of every dollar spent on new mass transit systems in the United States each year. The estimated cost to complete the remaining 40 percent of the 101-mile system has swelled from the $1.7 billion approved by Congress in 1979 to an estimated $3.5 billion.

What concerns the Reagan administration's Department of Transportation is that Congress is simply pouring money like concrete into subway tunnels without much concern over when, if ever, the trains will run in them. The administration wants to impose some controls to make sure that when a project is started there is some reasonable assurance there will be money to complete it and that the transit projects be built in segments so a city will have an operating six-mile system if there isn't money to complete the 10-mile system on the drawing boards.

The administration is correct. Congress needs to impose controls both on itself and the new systems it is authorizing.

[From Business Week, Aug. 27, 1984]

MASS TRANSIT: THE EXPENSIVE DREAM—ARE FEDERALLY FUNDED SYSTEMS AN URBAN PANACEA OR A FISCAL FIASCO?

Lured by a federal fund set up in 1982, many of American's biggest cities are now lining up at the government's window for money for rail transit systems. Los Angeles and Dallas want systems to ease traffic congestion. Detroit, Buffalo, and St. Louis think theirs will bring economic revival. Milwaukee and Minneapolis-St. Paul see big-city status in them. It all seems like an urban planner's dream—but it is already turning into a financial nightmare.

"There's no way you can fund all these projects," warns Transportation Secretary Elizabeth H. Dole. The Urban Mass Transportation Administration (UMTA) estimates that systems already under way or on the drawing boards will cost $19 billion. Los Angeles alone wants $2.1 billion from Washington. Yet only $1.1 billion a year in federal money has been set aside for building new systems and refurbishing old ones, and experience shows that few recently built systems come in even close to budget. Washington, D.C., originally estimated its subway would cost $2.5 billion; already, some $6 billion has been spent or committed, and the system is only half finished (page 64).

BIGGER DEFICITS

The proposed new systems are opening the door to giant operating deficits, as well. By law, the federal government is supposed to put up not only 75% to 80% of the capital cost but also up to 50% of all operating deficits. "If you look at the history of the systems built in the 1970s, they consistently overestimated patronage and underestimated both capital and operating costs," notes Professor Jose A. Gomez-Ibañez, a mass-transit expert at Harvard University. The cost of providing a ride on the San Francisco, Atlanta, and Washington systems, he continues, averages four times as much as was forecast. Says UMTA chief Ralph L. Stanley: "I think cities get caught up in rail systems the way they do in convention centers and domed stadiums."

At the same time, cities that already have rail transit are planning to expand—even though many face enormous costs to rehabilitate existing lines—and they will be competing with the new starts for the limited federal funds. The American Public Transit Assn. puts the capital needs for refurbishing existing systems over the next five years at $10 billion. New York City, which has the nation's largest rail transit network, is already halfway through a five-year rehabilitation plan costing $8.5 billion, and its system remains sadly dilapidated.

What started the rush to rail transit was Congress' decision to allocate 1¢ of the 5¢-a-gal. surtax on gasoline for such needs. Now federal legislators are on the verge of approving money for 10 new systems, and they show no inclination to turn down any of the requests. The inevitable result, experts say, will be both additions to the federal deficit and big tax boosts at the local level. "If we fund these amounts," predicts Stanley, "we're going to be $4 billion to $4.5 billion short within two years."

Despite the dangers, few experts expect these requests for federal funds to be decided on their merits. If the past is any guide, such questions as whether a rail system will spell financial disaster for a specific city or whether it will bring its vaunted benefits—reduced congestion, better air quality, and economic development—will be raised, then ignored for political reasons. UMTA's efforts to establish criteria to sort out good projects from uneconomical ones, for example, met stiff opposition on Capital Hill. As it turned out, the bills approved by the House and Senate Appropriations Committees designated a set amount of money for each city, such as $64.8 million for a system to serve sprawling San Jose, thus ensuring funding. Explains one staffer: "If you're a powerful senator, you're going to get the project for your state, even if it's not a good one." The program, says Stanley, "is simply unmanageable."

COMMON SENSE

To be sure, mass transit proposals sometimes do stall even before they reach Congress. Transit advocates in Houston took a beating at the polls last year when they lost a $2.35 billion bond referendum for an 18.5-mi. rail system. In Denver, skeptical voters not only rejected a sales tax rise to finance a proposed system but also insisted that their transit board be elected so residents could exert greater control.

More typically, however, the local political machinery joins forces with developers and some neighborhood supporters to promote a project and enlist the aid of their representatives on Capitol Hill. While the cities are competing with each other for money, they are united in their belief that Washington has an obligation to help finance the systems. "Sixty-five percent of American people live in cities, and if the welfare of American people isn't a concern of the feds, I don't know what is," declares Jack R. Gilstrap, executive vice-president to the American Public Transit Assn. "If cities don't work, then America doesn't work."

Senator Mark Andrews (R-N.D.), who is chairman of the Appropriations Committee's transportation subcommittee, agrees. "These are the investments in the future of this country," he declares. "The Administration has been wrongheaded in where they've directed their cuts." Andrews is leading the fight against the UMTA criteria by including in the appropriations measure not only funding for three cities the agency ranked as unacceptable—St. Louis, Jacksonville, Fla., and San Diego—but also a bar against applying the criteria at all until hearings are held. The criteria would allocate funds based on new riders, reductions in travel time, capital and operating costs, and local financial contribution—an approach that Secretary Dole believes is just common sense. "You've got to have some kind of order," she declares. "You just can't do it willy-nilly and say, 'Everybody come,' and then see what happens."

RUSH MINUTE

St. Louis, which fared poorly under the criteria, wants to use existing track for a $229 million, 18-mi. light-rail system (a streetcar-like system usually above ground, as contrasted with the typical under ground system, which is classified as heavy rail), even though UMTA calculated that ridership would be higher with a bus alternative costing only $40 million. "St. Louis is a dog project," says a key House committee staffer. Despite Administration reservations, the system is being funded in the Senate appropriations bill because Senator Thomas F. Eagleton (D-Mo.) serves on the committee, and committee members historically are allowed their pet projects. Local boosters see a rail line as the key to reviving the downtown area.

San Diego will get money, too, largely because of sleeve tugging by Senator Pete Wilson (R-Calif.), a former San Diego mayor. Even Andrews' subcommittee had balked at setting aside funds for the San Diego project, but Wilson prevailed by getting the committee to allot San Diego $3 million of the $122 million originally allocated to Los Angeles. Since they are in the same state, no one objected. "The transit program is the worse kind of pork-barrel politics," says Gerald K. Miller, a Senior research associate at the Urban Institute in Washington.

Milwaukee, with an average commute of 19 minutes, would not seem to be a prime candidate for a rail system either, yet officials there are plunging ahead with an $890,000 study—80% financed by Washington—of a $165.8 million, 14.3 mi. rail system to link downtown with the Northridge Shopping Center on the northwest side. Brian F. O'Connell, a transportation plan-

ner with Milwaukee's City Development Dept., defends the proposal even though he concedes that Milwaukee has been described as having "a rush minute."

Opposition is stirring, however, primarily from members of the Sherman Park Community Assn., whose integrated neighborhood would be divided by the rails. Says William F. Fogarty, president of the association: "There is fear of being on the wrong side of the tracks."

SOCIAL CLIMBING?

Minneapolis and St. Paul, which also have manageable auto traffic, are considering several light-rail proposals whose cost would range upward from $180 million. Minnesota Governor Rudy Perpich strongly supports such a system, arguing that it would make Minneapolis and St. Paul "world-class cities." But because the Twin Cities have frequent commuter bus service and just a 17-minute average commute, the proposal is generating controversy. "Just what are the problems light rail is supposed to solve?" asks Robert de la Vega, research associate at the Citizens League, a public policy group.

Los Angeles, by contrast, clearly has traffic problems to solve. With estimates that daily vehicle-miles traveled on freeways will have jumped 24% by 2000, to 7.5 million, the public is looking for alternatives.

[From the Wall Street Journal, Sept. 7, 1984]

PORKWAY TO DEFICITS

In 1982 the administration supported and Congress passed a one cent per gallon rise in th egasoline tax to create a trust fund specificaly designated to support urban mass-transit programs. This year the trust will receive about $1.2 billion—$300 million for bus systems, $500 million for already existing rail systems and there's the crunch) $400 million for starting new systems.

Last May, the Urban Mass Transportation Administration drew up detailed criteria to allocate this money among more than 30 cities that decided they needed new mass transit. These criteria included such factors as estimated ridership, the amount average commuting time would be reduced, costs per passenger mile and local financial support for the system. Furthermore, UMTA administrator Ralph Stanley insisted that he would provide funds to start a system only if funds were available to finish an operable segment.

This attempt at rational government planning did not sit well with Congress. Refusing to allow such a large pork barrel to be so well guarded, the House and Senate Appropriations committees specified in detail exactly how the $400 million would be allocated to start mass-transit programs in 12 cities. Congresspersons scrambled to guarantee that their districts got a "fair share." Viability of the projects? Are you kidding?

In this UMTA fund we have the perfect example of the process that creates so-called "non-discretionary spending" that leads to "structural deficits." The money needed to get these 12 projects started this year is only a small proportion of the money that will be needed to finish them. Mr. Stanley estimates that just the small, starting sections will require construction funds of about $5 billion more than the 1982 bill provides. This doesn't count any money needed to extend some of the systems to useful lengths, to subsidize the operating costs of the underutilized lines or to start lines other than the 12 designated this year. When the current trust fund runs out in 1986, Congress will have to decide whether to terminate most of the projects after streets have been torn up or to vote lots more money. If true to form, they'll vote more money.

But they aren't likely to go home to their constituents and explain that these boondoggles are forcing a two to three cent per gallon rise in the gasoline tax. So this single obscure decision implies maybe a $5 billion increase in the federal deficit beginning in 1986. Surely, this amount then will be listed as inavoidable, "non-discretionary spending." And all those innocents in Congress who pretend they don't know why the budget balloons are of course just kididing.

There is no reason for the federal government to build subways and light rail lines. Unlike federal highways, there is nothing interstate about transit lines in L.A., Miami, Baltimore or St. Louis Conceivably, new mass-transit system are sometimes a good idea. But it is impossible to judge as long as the people who are making the decision are not the people who are footing the bills.

You can't really blame a city for trying to grab a share of the money that Congress dangles before it. Most of these city governments would not even consider mass-transit systems if they were required to pay for them out of their own tax revenues. But, operating on the dubious assumption that bringing in federal funding for whatever purpose is good economics, many have been unable to resist the bait.

Local taxpayers should be wary of constructing rail systems even with this seemingly free money. The federal government now pays less than 10% of operating costs of major rail systems, which invariably require large local government subsidies. The Washington, D.C., subway, although built with federal money, now requires an annual $200 million subsidy from local governments—this out of total area local-government revenues of about $1.3 billion. The subsidy is expected to rise to about $500 million by 1990.

Considered particularly meritorious among the projects receiving federal largese, Los Angeles' Wilshire subway plans to take an exceptionally low 62% of its construction costs from the federal government. However, don't count on even the 38% of construction costs that the state and local governments promise to raise. Current plans are to raise local bus fares by at least 35 cents, more likely 50 cents to 75 cents, to pay for the construction of a subway that will serve only four miles downtown. Bus riders, who are generally poor and working class as opposed to the expected yuppie clientele of the subway, will protest strongly.

The next time a congressperson bemoans the deficit, ask about the subway route for going into the hole.

[From the Baltimore Sun, Sept. 16, 1984]

DESTINATION: DEFICITS

(By David M. Stewart)

Before ground was broken for the Paris Metro in 1898, some subway opponents warned against opening so deep a rent in the earth. "Who knows," asked architect and pamphleteer Louis Heuze in 1882, "what diseases and epidemics might be spread by stirring up the subsoil?"

Heuze, who happened to be the author of a rival mass transit plan, was wrong, of course. The Paris Metro was built without sowing plague or misery.

Yet today, when American municipal governments open the earth to lay tracks, a contagion is loosed upon the land—an epidemic of high taxing, loose spending and political deception.

The current boom in public mass transit planning, spending and building, and transit advocates hopes for urban recentralization, depend on gold-plated, high-tech versions of antique transportation systems.

Cities such as Detroit and Indianapolis, despite having lost, respectively, 49 percent and 33 percent of their mass transit commuters and 20 percent and 5 percent of their populations from 1970 to 1980, are buying buses that bend in the middle and carry up to 50 percent more riders.

Baltimore, despite a decline of 12 percent in transit commuters and 13 percent in population during the 1970s, has finished over half of a 14-mile heavy rail (subway) system at a cost so far of $995 million.

Buffalo, which lost 36 percent of its transit commuters and 23 percent of its population in the 1970s, is at work on an underground light rail (trolley) system that is to cost $588 million for 6 miles.

Dallas voters recently approved a 1 percent sales tax to help double the city's bus fleet and to build a 160-mile, $8.75 billion light rail system.

Los Angeles will soon begin an 18.6-mile, $3.5 billion subway and a 127.3-mile, $1.5 billion L.A.-to-Long Beach light rail system.

In all, nearly 30 cities around the nation have new rail systems or bus tunnels in construction or in planning, calling for at least $14 billion in spending over the next five years. Cities losing population and ridership claim new systems will stem the losses. Cities gaining in both claim that new systems are needed to accommodate growth.

The mass transit industry has been in decline for decades. National ridership peaked, thanks to World War II gasoline rationing, in 1945 at 18.89 billion passenger trips. Ridership dropped steadily until 1972, botttoming out at 5.25 billion trips. It picked up after the OPEC oil embargo of 1973, peaking in 1979 at 6.37 billion trips.

Most of the loss has been in the densely populated cities of the Northeast and Midwest and in much of the South. The West and a few Southern cities with rapidly growing populations showed increases in transit use during the '70s.

The mass transit industry as a whole has operated in the red since 1963, when fares covered 98 percent of operating costs. Fares covered 39 percent by 1980. At the same time, operating expenses rose at a consistently accelerating pace, from $1.5 billion in 1965 to $6.5 billion in 1980—450 percent. The industry's annual operating deficit grew from $10.6 million in 1965 to $3.8 billion in 1980. While ridership between the 1972 low point and 1980 increased 21 percent, the operating deficit increased 744 percent.

The taxpayers have taken up the rest of the slack. Local, state and federal operating subsidies grew up to 30 percent during the 1970s, while the economy grew at one-tenth that pace. Between 1975 and 1980, the total went from $1.4 billion to $3.6 billion. In addition, federal capital grants from 1965 to 1980 totalled over $15 billion. Aid to transit was one of the fastest growing categories of federal spending in the 1970s.

The crisis in mass transit is actually a continuation of a trend as old as the mass transit franchises themselves. In fact, due to overcapitalization, inflexible fares and other factors, "by 1918 the street railways had the characteristics of a declining industry in chronically depressed rates of return and decline in track mileage," Ross D. Eckart

and George W. Hilton wrote in the *Journal of Law and Economics.*

The problems of the newer rail systems, too young to fall apart yet, are generally construction overruns and immense operating losses due to subsidization of inefficiency and overoptimistic ridership forecasts. Big-city bus and rail lines have little trouble filling up during rush hours. But ridership thins out farther out from city centers, and service to suburban routes is one of the systems' biggest money losers.

The 71.5-mile Bay Area Rapid Transit (BART) system in the San Francisco area, which opened in 1972, cost $1.7 billion to build—nearly $1 billion more than expected. A 1962 report, which served as the basis for that year's public vote on a $792 million bond issue to finance the system, had predicted that by fiscal 1975–1976 BART would be serving 258,500 riders each weekday and running an $11 million operating surplus.

Instead, it averaged 131,400 riders and ran a $40 million deficit. In early 1984, ridership was 200,000 per weekday, and the 1983 operating deficit was $58 million.

The plan had called for financing rolling stock and operating expenses out of fare revenues. Instead, riders presently enjoy an operating subsidy of $1.11 per ride.

The designers of Washington's Metrorail subway planned a $793 million, 101-mile system to be built completely with federal money. Construction costs to date total $6 billion for 47 miles, and ridership on the completed lines is estimated at 10 to 15 percent below planning forecasts.

Supports of mass transit argue that the enormous price tags are justified by the subsequent benefits, but let's examine some of these supposed benefits.

ENERGY

Mass transit allegedly saves energy directly by switching passengers from inefficient single-occupant cars to buses and subways that carry more passengers per mile per gallon of fuel. But this is a limited view of the problem.

For example, the "1981 Transit Fact Book" of the American Public Transit Association (APTA) says that "cities with large, established transit systems show low auto fuel usage compared to cities with smaller transit systems." Drivers in Chicago purchased an average 6.8 gallons of gasoline per week. In Washington, the average is 8.2 gallons, and, in Los Angeles and Houston, "cities where transit use has been small," the averages are 14 and 16.2 gallons respectively.

A better explanation is that travel distances are generally smaller in dense Chicago and Washington than in spread-out Los Angeles and Houston. Other variables affecting gasoline use include climate, the kinds of cars that are popular, economic growth and unemployment rates.

Further, the "Fact Book" says that "during peak periods . . . transit buses are up to 15 times more energy-efficient than automobiles. . . . A modern heavy rail car carrying over 250 passengers at maximum load . . . is 53 times more fuel-efficient than an average commuter automobile."

But there is more to the story. The average passenger miles per gallon (PMG) figures are much less impressive. For a bus and a compact auto, PMG are the same, a bit over 40 miles per gallon. A standard car gets a bit over 20, and a subway car averages under 70.

Why the discrepancy? The average auto's occupancy rate is about 1.3 passengers. In 1980, mass transit buses built to seat about 40 passengers had an average occupancy of roughly 13. Subway cars built to seat 75 were carrying 27. The fact is that, except during morning and evening rush hours, mass transit vehicles roll nearly empty.

Another crucial consideration isn't even mentioned in the "Fact Book": construction energy. Charles Lave, an economist at the University of California at Irvine, reports that BART, because it has attracted so few motorists and so many bus riders, "will take 535 years even to repay the energy invested in building the system, much less save any energy."

And a study by the Congressional Budget Office, issued in 1977 and again in 1982, concluded that "under typical conditions, new rapid rail systems actually waste energy rather than save it."

ECONOMIC DEVELOPMENT

"Estimates have been made," APTA's "Fact Book" says, "that the subway system in Washington will stimulate $6 billion worth of private development by the time it is completed. The BART rail system has been credited with stimulating $1.4 billion worth of construction in San Francisco since it opened and is an important consideration in two-thirds of all business location decisions made in that area."

If APTA seems a little shy about crediting all these great things to mass transit, there is good reason. In Washington it is too soon to be sure of much development—as opposed to windfall property value gains—but based on the record of other systems there are no grounds for optimism.

In San Francisco, the 12-year period from 1964 to 1975 was one of intense office building development, but this was most likely a continuation of a trend that had started as far back as the 1950s. Meanwhile, comparable amounts of development were taking place in Houston, Chicago and Dallas in the same period, and only Chicago had a rail system—or any kind of mass transit system of substance. A U.S Department of Transportation study in 1977 could find no major beneficial effects of BART on the Bay Area's urban development.

In addition, cities stack the deck in favor of development around the stations by rezoning and sometimes handing out tax breaks.

TRAFFIC AND POLLUTION

It has long been the conventional wisdom that mass transit reduces traffic congestion and pollution. Yet by 1975 BART had removed less than a third as many autos from the roads as the original planner had projected. The net reduction was about a year's growth in traffic. A figure of six months' to one year's traffic growth has turned up in so many studies of traffic reduction by mass transit in so many places that it is now virtually a constant.

The planners of the Dade County-Miami Metrorail have predicted that and freeway drivers who shift to the rail system will be replaced by commuters who used back roads before the subway was built. They also predict more congestion around the new stations, and some stations may even have to get pollution permits because of this increased congestion.

The environmental impact statement on the upcoming Los Angeles subway predicts the same effects.

If mass transit fails to produce the benefits its advocates promise, why then do we continue to get more and more transit systems?

The primary reason is that the public believes mass transit provides the illusory benefits claimed by transit officials. And any one who rides a modern subway is bound to walk away impressed.

What, aside from inflation, accounts for the explosion of transit operating expenses and deficits? In a word, subsidies. John Pucher, an urban planner at Rutgers University, studied 86 bus systems and found that "for every additional dollar of federal subsidy per bus hour, operating costs per bus hour were 61 cents higher." State operating subsidies engendered 23-cent increases for each dollar.

Admittedly, simple abandonment of present transit systems would cause chaos in many places. What is necessary instead is an economic analysis of the problems mass transit is supposed to solve and the use of market alternatives.

Traffic congestion, for example, is not the inevitable result of population growth and suburbanization. To an economist, it is an example of queuing, and thus a signal that there are artifical restraints on prices or supplies. The problem is not that users don't pay the costs of the roads they use, but that they pay indirectly through taxes and hidden subsidies.

With market pricing, road users would face the actual costs of their decisions. For example, the cost of road services would be higher when demand was higher—during rush hours and holiday weekends. Prices would be lower at times of low demand.

By the same token, market pricing of mass transit would make riders face its full costs, rather than spreading the costs over the taxpayers at large.

Free-market transit systems also would be in a far better position to economize on both labor and vehicles. Even if the systems were unionized, the unions would not have the monopoly position of a public transit union and would thus face at least the constraint of having to keep the employing companies solvent.

If, however, a transit system cannot support itself through market pricing, it should be allowed to go bust.

Mr. ANDREWS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mr. ANDREWS. The hour is late, and I will not take much time of the Senate except to point out to my colleague from Idaho that the earmarkings in this bill are made in section 3 of the trust fund for transit. That is set by the Senate Banking Committee; the authorizing committee sets the limit. We then earmark, and there is in fact a choice, Mr. President; either we do it or the bureaucrats downtown do it. We held committee hearings. Senators from various States—and I might assure the Senator from Idaho that there are no earmarked transit funds for North Dakota in this bill—made their case in public hearings. That is where the earmarks came from. It has been done for years, long before I came to this body, and I think it is a preferable way to do it.

Mr. SYMMS. I do not in any way want to have this sound as though I am being critical of my colleague from North Dakota or the committee. I simply make the point that there exist

criteria for spending these funds. If we start micromanaging the transit funds the way we are trying to micromanage the highway funds, we will destroy the proper formula that allows federalism to work in the highway program. This is the reason there has been such a dilemma in the passage of a simple highway package. We are getting ourselves in a real predicament. I think there is a great deal of merit to what Mr. Stanley, the Administrator of UMTA, has been saying; that we are trying to start too many projects in the country before we know where we are going to get the funding.

Now, the Senator and I probably will not be here when the day of reckoning comes, but I think we should start laying groundwork for the future to protect ourselves from the dilemma I foresee if we continue on this course. We are going to have tunnels—big holes—in every major metropolitan area in the United States that do not go anywhere, and that is what I would like to avoid.

Mr. ANDREWS. Mr. President, I appreciate my colleague making that point.

Mr. HOLLINGS. Mr. President, I would like to voice my support for the funds provided in the local rail assistance program. Several miles of rail line have been slated for abandonment in my State of South Carolina by the Seaboard Coastline Railroad. I hope that, particularly with the increased amount of discretionary funding for local rail assistance, my State will receive favorable treatment under this program in its efforts to continue important rail service in the State.

In this regard, I note significant local efforts to purchase a rail line between Conway and Myrtle Beach, SC, for which local rail assistance funds will be sought for rehabilitation. In addition, I have been in contact with local groups interested in continuing service over rail lines between Yemassee and Port Royal and between Iva and Anderson, SC. I will be working with these State and local interests to secure such assistance as may be necessary to ensure vital rail service in South Carolina.

Mr. BENTSEN. Mr. President, I would like to commend the Chairman and the members of the Transportation Subcommittee for their fine work in developing a set of funding proposals in this resolution which addresses our Nation's pressing transportation needs. I have been a strong advocate of a safe and reliable national transportation system and am pleased that funds will be made available to carry on this important task.

At the same time, I must express some disappointment in the level of funding in the mass transit portion of this legislation for Houston's planned busway project. The recommended level is well below the level requested by the Houston-area transit authority and will jeopardize its ability to keep this urgently needed project on schedule.

The project would add 23 miles of exclusive busways in northwest and southwest Houston. Construction is scheduled to begin shortly. A substantial portion of the construction cost will be borne by the local transit authority and the State. The Department of Transportation has strongly endorsed the project as an important cost-effective element of an overall mass transit plan for the Houston metropolitan area.

I believe that this kind of cost-effective project which takes advantage of Houston's existing bus facilities deserves the strong support of the Congress and I urge that the Senate conferees accede in conference to the higher funding level recommended by the House for this important project.

AMENDMENT NO. 7000

(Purpose: Strike certain provisions relating to membership on the Interstate Commerce Commission)

Mr. ANDREWS. Mr. President, I yield to the chairman of the committee who has an amendment.

Mr. HATFIELD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Oregon [Mr. HATFIELD] proposes an amendment numbered 7000.

Mr. HATFIELD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 13, line 17, after the word "law", insert the following: (with the exception of the following provisions contained in S. 2852, which shall not be enacted into law and shall have no force and effect: *"Provided further,* That (a) effective October 1, 1984, section 10301(b) of title 49, United States Code, is amended (1) by striking out '7' and inserting in lieu thereof '5', and (2) by striking out "4 members" and inserting in lieu thereof "3 members".

(b) The office as member of the Interstate Commerce Commission, referred to in section 502(c) of the Omnibus Budget Reconciliation Act of 1982, Public Law 97-253, which is scheduled, pursuant thereto, to be abolished as of January 1, 1986, is hereby abolished, effective October 1, 1984.

(c) The office as member of the Interstate Commerce Commission, the term for which is prescribed by law to expire on December 31, 1988, is abolished, effective October 1, 1984.

(d) Effective October 1, 1984, section 502(d) of the Omnibus Budget Reconciliation Act of 1982 is repealed: *Provided, however,* That the person serving in the office described in subparagraph (d) of section 502, on July 1, 1984, may be reappointed to fill that office for a term which would end on December 31, 1985, notwithstanding the provisions of section 10301(c) of title 49, United States Code, but may not be reappointed to fill that office for any term thereafter.").

Mr. HATFIELD. Mr. President, this is a very simple amendment which merely deletes a provision in our committee bill relating to the Interstate Commerce Commission. A provision to reduce the number of Commissioners was included by the committee in June when there were four sitting Commissioners. Since that time, the Senate has confirmed the nomination for the three vacant positions. Therefore, it makes this provision unnecessary.

I move adoption of the amendment. It has been cleared on both sides.

The PRESIDING OFFICER (Mr. KASTEN). Is there further debate?

Mr. STENNIS. Mr. President, there is no objection on this side.

The PRESIDING OFFICER The question is on agreeing to the amendment of the Senator from Oregon.

The amendment (No. 7000) was agreed to.

Mr. PACKWOOD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. ANDREWS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATFIELD. I thank the chairman of the Appropriations Subcommittee.

AMENDMENT NO. 7001

(Purpose: Increase funding for highway safety programs under title 23, United States Code)

Mr. DANFORTH. Mr. President, I send an amendment to the desk on behalf of myself and Senator LAUTENBERG and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Missouri [Mr. DANFORTH], for himself and Mr. LAUTENBERG, proposes an amendment numbered 7001.

Mr. DANFORTH. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following:

SEC. . Notwithstanding any other provision of this joint resolution to the contrary, none of the funds in this Act shall be available for the planning or execution of programs, the total obligations for which are in excess of $126,500,000 in fiscal year 1985 for "State and community highway safety" authorized under 23 U.S.C. 402. Any amount provided in this joint resolution under the heading relating to Highway Traffic Safety Grants for the purposes specified in this subsection which is not identical to the obligation level specified in this subsection shall have no force and effect.

SEC. . Notwithstanding any other provision of this joint resolution, not to exceed

$7,500,000 shall be available in the fiscal year ending September 30, 1985 from unobligated balances in the appropriations "Highway Safety Research and Development", "Railroad Research and Development", and "Research, Training and Human Resources", for the purposes of carrying out a national program to encourage the use of automobile safety belts and passive restraints as authorized by 23 U.S.C. 403.

Mr. DANFORTH. Mr. President, I offer this amendment to the continuing resolution to provide much-needed funds for crucial highway safety programs of the National Highway Traffic Safety Administration [NHTSA] of the U.S. Department of Transportation [DOT]. This amendment, which I am offering in behalf of Senator LAUTENBERG and myself, will supplement NHTSA's highway safety efforts in two ways.

First, my amendment would increase the obligation authority from the highway trust fund for State and community highway safety programs authorized under 23 U.S.C. 402 to $126.5 million. S. 2852, the Department of Transportation and related agencies fiscal 1985 appropriations, as reported by the Appropriations Committee, provides a ceiling of $100 million for this program. S. 2852, however, was reported prior to enactment in July of child passenger safety/drunk driving legislation (Public Law 98-363). This legislation authorized an appropriation of $126.5 million for the State and community highway safety program for fiscal 1985. This authorization level was intended to provide adequate funding for the three new programs established in Public Law 98-363:

First, incentive grants for computerized traffic recordkeeping systems; second, incentive grants to encourage mandatory sentencing for drunk drivers; and third, requiring each State to use 8 percent of its safety grant apportionment for child passenger safety programs.

The $126.5 million authorization was also intended to provide a modest increase in the overall highway safety grant funds available to the States.

Mr. President, my proposal funding increase for DOT's State and community highway safety programs is supported by a number of organizations concerned about safety on our highways. These include the following:

First, National Association of Governors' Highway Safety Representatives;

Second, National Conference of Parents and Teachers;

Third, American Public Health Association;

Fourth, Highway Users Federation;

Fifth, National Safety Council; and

Sixth, American Automobile Association.

Given the vital contribution of these programs to highway safety, I strongly believe the obligation authority for these highway safety programs under 23 U.S.C. 402 should be increased so that they may be funded in full.

The second portion of my amendment reprograms existing DOT funds to enable DOT to undertake an education program to inform the public about the benefits of occupant protection. This program was announced earlier this year by Transportation Secretary Elizabeth Dole as part of DOT's reissued occupant protection standard, Standard 208. A total of $40 million annually is to be pledged—half from DOT and half from the private sector. As originally announced, this education program was only to be directed at promoting seat belt use. I am pleased to report that Secretary Dole has decided to include education on passive restraints as part of the program. I commend her for including passive restraints as part of this program so that consumer awareness of this highly effective type of occupant protection will be increased.

Mr. President, I believe this amendment will greatly enhance NHTSA's highway safety activities and will help save thousands of lives and prevent thousands more needless injuries which result from traffic accidents. I urge my colleagues to join me in supporting this measure.

Mr. President, I ask unaimous consent that Secretary Dole's recent remarks on DOT's highway safety programs as well articles detailing some of the advances in airbag technology be printed in the RECORD in their entirety.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

REMARKS PREPARED FOR DELIVERY BY SECRETARY ELIZABETH HANFORD DOLE, DETROIT ECONOMIC CLUB, SEPTEMBER 24, 1984

I am delighted to be here in Detroit, the city that pioneered technology in America. My job links me to all the technologies of transportation—everything that moves. Our Department, with a $28 billion budget and 100,000 people, includes the National Highway Traffic Safety Administration—familiar, I'm sure, to many in this audience. But I also oversee the Federal highway program, the Federal Aviation Administration, national railroad and public transit programs, the Saint Lawrence Seaway, and the Maritime Administration. I am also very proud that the United States Coast Guard is in the Department of Transportation, which affords me my little footnote in history as the first woman to head a branch of the armed services.

Historically, this city has long been on the frontiers of transportation in America. Detroit didn't invent the wheel, but from its birth has been at the hub of transportation progress. Whether it was celebrating the new Erie Canal in the 1820's or its rail link with Chicago thirty years later; the Model T's that remade the American landscape or the renewal of Chrysler that recast all our old attitudes about American ingenuity—Detroit has done more than any other city in the land to make us a mobile people. Today America is on the move again and Detroit is at the heart of its mobility.

The auto industry obviously has suffered through some lean years recently. The working men and women of this community, who contribute so much to our economy, faced frustration every time they visited the grocery store or drove up to the nearest gas pump. Street corners not far from this hall were without hope, and factories went begging for orders.

Just as you can't stop a car on a dime, you can't reverse the course of a three trillion dollar economy without some dislocations along the way. Those now are behind us. We've come through the hard times to enjoy the better times. Recovery is yielding to renewal—at a faster rate of growth than even the most optimistic economists predicted. You can measure the success of economic recovery in a 4.2 percent inflation rate—in a GNP up 3.6 percent in the third quarter of this year—in six million new jobs and in auto sales enjoying their best year since 1979. You can feel it in the factory and the showroom. Like Detroit's Renaissance Center, built to refute those who peddle pessimism about urban America, the auto industry is powerful evidence that the economic health of this nation is strong. The auto industry is at the heart of our economy, and there can be no recovery that leaves it behind—no policy for a better America that ignores its needs.

Henry Ford, no mean innovator himself, used to compare American business to a chicken, which is never so healthy as when it's forced to do a little scratching for itself. Henry couldn't have foreseen the effect government would have in trying to manipulate the economy. If he had, he would no doubt have concluded that for the most of the last half century, the poor chicken had been plucked by the taxers, the spenders, and the regulators.

President Reagan has changed that. He has put $300 billion in your pockets instead of government vaults. Six million more Americans are working today than when President Reagan took office, and in your industry unemployment has fallen from a skyhigh 24 percent during the depths of the recession to 5½ percent today. The rate of growth in government spending has been cut from 17 percent to 6½ percent. And the President's commitment to less government interference has given private enterprise greater freedom, fresh incentives and a new zeal for competition.

Yes, America is back. Productivity has been the key to the American industrial comeback these last few years—productivity spurred on by initiative and inventiveness of the kind that has always characterized Detroit.

Business productivity has increased in every quarter for the past two years, the longest string of consecutive increases in a decade. Such strides would not have been possible without labor's active participation and support. Many of these gains have come in our transportation industries, where products and services are being generated with greater efficiency and at lower costs, because workers and bosses, union and management, are committed to a new vision of America's economic future.

We in the Administration share that commitment. it is reflected today in our partnership with America's transportation industries to achieve better product safety, improved consumer service, and further market deregulation.

Safety has long been a foremost concern in this automotive state. Michigan was the first state with a driver education law, one

of the first to pass a child safety seat law, and one of the few today with a motorcycle helmet law. Michigan is also one of four states (along with Illinois, New Jersey and Pennsylvania) planning to consider a mandatory seat belt use law yet this year.

The importance of safety belt protection cannot be over-emphasized. Just 10 days ago singer Barbara Mandrell was injured when her car collided with another vehicle at a closing speed estimated at 100 miles per hour or more. The impact of the crash shortened the wheelbase of her car by two feet. Experts say neither she nor her two children would have survived such a crash—if they had not been wearing their safety belts. Miss Mandrell, as you know, suffered a fractured leg and other minor injuries. One of her children required no hospital care; the other was released in a a few days. The driver of the other car, who was not wearing his seat belt, was killed.

Because Barbara Mandrell is well known, the accident made the evening news. Hundreds of other drivers have similar stories to tell every year. Saved by seat belts, they don't make the headlines. Neither, thankfully, do their names appear in the obituaries. The need, I believe, is clear. More must hear, and heed, the message: belts save lives.

The magnitude of the highway safety problem itself, the 470,000 who have died on American highways in the last decade, the 22,000 who die in the front seats of passenger cars each year and the 300,000 who are injured seriously enough to require hospital treatment, provided me with compelling reasons for taking the positive and comprehensive action I took in my automatic crash protection decision last July. In that decision I addressed both the immediate and long-range occupant protection needs of the motoring public—seeking to save lives immediately by encouraging all Americans to wear their existing lap and shoulder belts; and save lives in the future through improved technologies, including the air bag.

Unlike the former occupant protection standard, my decision provides manufacturers with an incentive to equip cars with other effective unobtrusive occupant protection systems, some of which may still be on the drawing boards or undergoing testing.

My decision also specifies that when states with two-thirds of the U.S. population have passed and are enforcing seat belt use laws, the requirements for automatic restraints will no longer apply. I took that position because the prospects for saving lives through immediate seat belt use are too compelling to await the time, at least 10 years hence, when an entire fleet would be equipped with automatic restraints.

The case for safety belt laws is persuasive. In 29 foreign countries where seat belt use is mandatory, highway deaths have declined by an average 25 percent. Achieving that in our country could save 10,000 American lives every year.

I am here today to say that we do not view that goal, or any goal that saves American lives, as beyond our reach. Together with concerned segments of the private sector we are pledging $40 million a year to inform the public on occupant protection and assist in promoting state safety belt laws. The auto industry, I'm pleased to report, is providing a substantial portion of the private sector's contribution.

These resources will go to work where it counts—in Hometown America and in state houses throughout the nation. Auto accidents cost American taxpayers almost $2 billion a year in Federal public assistance programs alone; $5 billion in revenue losses. Surely we can invest $40 million to stem the tide—to make safety belts a way of life for all Americans.

This will be a grassroots campaign, grounded in the growing realization that 43,000 deaths a year—plus thousands disfigured or disabled—constitute a national tragedy. The statistics cry out for action, and we are answering that call. We recruit in this cause everyone who cares—and that includes auto makers, insurers, the medical community, safety organizations and civic groups. We seek to build a coalition of forces committed to positive public action to save lives.

In carrying this program forward, we want to generate the same goundswell of citizen support that toughened state and local drunk driving laws—the same kind of citizen action that made child safety seats the law in 49 of our 50 states.

The program will include education on manual seat belts as well as passive restraints. The American public should know the choices before them. They should know the kinds of crashes in which air bags afford protection and those where they do not. They need to know that lap belt use is still necessary in air bag-equipped cars and why automatic safety belts should not be detached. Factual information about passive restraints will be a part of our program. It should be emphasized, however, that since almost 100 percent of the nation's existing vehicle fleet is equipped with manual lap/shoulder belt systems, our primary progam focus will be on getting people to use the effective safety belts already in their vehicles. Our role is to inform the consumer about the types of occupant protection available and encourage the regular and proper use of occupant restraints.

At the top, this program will have the full weight of administration support. But the greatest impetus, we know, comes from the people themselves, acting through their elected state representatives. To assist that process I am announcing today the formation of a National Network of State Officeholders for Safety (SOS), a bi-partisan action force in every state capital. The members of this Committee will keep me up-to-date on strategies for achieving legislative goals. They will inform me of progress and exchange information with each other. They will be spokespersons in their state houses for safety belt protection and other safety initiatives. Next month I will announce the full membership of a core group of legislators, charter members in an expanding fraternity of state law-makers devoted to greater safety for America's motorists. Within a few weeks we will bring together representatives of the auto industry, the insurance industry, the health/medical community and safety organizations dedicated to occupant protection. This consortium of safety experts will comprise an "alliance for life," armed with greater resources and with a greater potential for saving lives than any safety organization in our nation's history. Later I will select a progam manager from the private sector to coordinate the program.

Support for seat belt laws is already growing. There is bi-partisan support from a cross-section of legislators across the country. In a recent survey, here in Michigan, 67 percent of those polled favor a seat belt law. I will talk to Governor Blanchard, and the Governors of other states planning to take up seat belt laws before the end of this year to personally offer our assistance in strengthening the public awareness of safety belt benefits. We will assist any state interested in a safety belt legislative program, in every way possible.

I am pleased to announce today, for example, an initial $20,000 contract with the Michigan Coalition for Safety Belt Use. This contract, which can be increased later, supplements current resources, enabling this broad-based coalition to expand its educational efforts. We are also finalizing contracts with the State of New York, which already has a safety belt usage law, to provide public education, law enforcement training and evaluation of the effectiveness of that law. The kinds of resources we commit to other states will vary, based on individual requests and needs.

The private sector is already aggressively involved in this national awareness program. I'm grateful to General Motors, for example, for offering a seat belt life insurance policy to the buyers of its cars. I'm proud of the entire auto industry for the spirited way its members and dealers are promoting safety.

Another prime target of our highway safety program is the drunk driver.

Since the groundswell of protest against drunk drivers reached from grassroots America to our state houses to the White House itself, laws throughout the country have been strengthened. Michigan, and you can be proud of this, was the state that led in the movement back to a minimum legal drinking age of 21. The 31 percent decline in Michigan teenage drunk driving deaths since the age level was raised from 18 to 21 has served as a clear testimony to the wisdom of the higher age law.

President Reagan recently signed into law a bill providing Federal incentives for states dealing sternly with those convicted of drunk driving—and encouraging all states to allow your example by setting 21 as the legal minimum drinking age for all alcoholic beverages. A uniform drinking age, as the President said, will do away with today's "crazy quilt" of different state drinking laws that has resulted in what have been called "blood borders"—where teenagers cross state lines to take advantage of lower drinking age laws. We strongly support states' rights and normally defer to state governments on traffic law issues, but this was one instance where we believed Federal leadership was justified. Many of our young people are responsible behind the wheel, but statistics show that drivers between the ages of 18 and 20 are more than twice as likely as older drivers to become involved in alcohol-related accidents. In states where the drinking age has been raised, teenage driving deaths have declined. Along with Michigan, 22 other states have an age-21 law on the books. We hope the other 27 will soon show the same concern for their young people and those who—all too often—are their victims. We must raise the drinking age nationwide to protect all our people.

Our three-pronged approach to greater safety includes not only driver behavior, but vehicle design and the condition of our roads as well. We know we cannot demand strict enforcement of traffic laws while at the same time tolerating lenient courts. We cannot expect our superb highways, engineered to a high degree of safety, to protect us if we fail to properly maintain them. And we don't need further marketing surveys to confirm that today's consumer rates auto safety as a factor in selecting a new car.

Recent safety rules have been well-conceived and promise to be cost-effective. For

example, the rule requiring high-mounted stop lamps, beginning with the 1986 model year, involves no costly or complex technical work, but will do a great deal for safety. Based on five years' study of police cars and taxi fleets, we know that when all cars are equipped, the higher visibility lamp will prevent an estimated 900,000 accidents and 40,000 injuries, and save $434 million in property damages annually. Here is a prime example of reasonable, practical regulatory policy, one which will produce immense benefits at a very modest cost.

To better meet our highway responsibilities, this Administration's Surface Transportation Assistance Act of 1982 added a nickel a gallon to the Federal gas tax, the first increase in 25 years. The increased revenues took us a giant step forward in meeting our highway construction and rehabilitation needs. States last year received a record $12.8 billion in Federal highway funds, 56 percent more than in 1982. Nationwide, work began on nearly 1,000 miles of new roads. Resurfacing projects accounted for 11,000 miles of improvements on the Federal-aid system. Bridge replacement and rehabilitation projects increased 56 percent. Here in Michigan, Federal highway funding totalled $291 million last year, a 49½ percent increase over 1982.

Collectively our efforts are producing results. The 1983 highway death toll of 42,600—although much too high—was the lowest ever recorded. Still, 90 percent of all transportation fatalities occur on our highways. By comparison, 3,091 people were killed in general aviation accidents last year; 1,241 in boating—the two segments of transportation with the next highest fatality rates.

It's fair to say, I believe, that our efforts—on behalf of safer cars, safer drivers and safer roads—represent a high priority today and a firm commitment for the future. Let me assure you my concern for safety extends across all modes. As part of my commitment to make our airline system even safer than it is today, we recently increased our inspector force by 25 percent and completed a comprehensive "white glove" national air transportation inspection program covering 350 air carriers. We're now reviewing general aviation to determine what can be done to improve safety there.

Our dedication to safety is total and unshakeable. We are equally committed to another principle of transportation policy—and that's economic deregulation.

I don't have to persuade a Detroit audience that the urge to compete is the most creative economic force in the world. Yet, before economic deregulation of the transportation industries, the rates charged by the trucks and trains carrying raw materials and individual parts to your plants, and hauling finished products away, had very little to do with competition. Regulators in Washington looked periodically at the inflation rate or consumer price index, tacked an additional percentage figure on top of that, and thus determined the new rates carriers would charge and shippers would pay. In such a system there was very little incentive for service innovations or efficiencies.

Deregulation changed all of that. It got government out of business, while inviting government itself to be more businesslike. Our solid experience with economic deregulation allows us to say unreservedly that travelers, shippers and carriers themselves are far better served by competition than they ever were by regulation. The rails point up my case. Railroads last year carried more than four million loaded trailers and containers, 20 percent more than in 1982—33 percent more than 1980. Equally significant to this audience, I believe, railroads hauled 867,000 carloads of motor vehicles, parts and equipment last year—a 21.6 percent increase over 1982. Deregulation has given the rail industry new incentives to compete, and shippers new opportunities to shop for the best rates and services, affording auto-makers—among others—volume rates and greater efficiencies. More than 8,200 contracts were negotiated in 1983, where none existed before. Conrail alone, for example, for signed 60 contracts with the auto industry, helping control costs and assuring parts deliveries under the "just-in-time" inventory concept.

The industry benefits in still another way. Not only are railroads and truckers free to compete, they are free to coordinate shipments. Railroads and their subsidiaries can now obtain truck operating authority more easily, and rail acquisitions of motor carriers are no longer presumed to be contrary to the public interest.

Even a once-troubled line like Conrail earned $313 million in 1983, and expects a net income of $500 million in 1984. Since the government has no business running a railroad, I am in the process of returning Conrail to private ownership. The 15 prospective offers I received last June have now been narrowed to three. My final decision will be based on the offer that best assures the strongest financial position for the railroad, continued service to states and shippers, and maximum return to the taxpayer.

In Washington, it's easier to change an attitude than abolish an agency. But when it comes to deregulating the airline industry, we've managed both. On December 31st of this year the sun will set on the Civil Aeronautics Board. With airline fares and routes now made in the market place not in Washington, a separate agency is no longer needed. Of course, certain residual responsibilities will remain, many of which we will assume at the Department of Transporation. We have been planning for a smooth transition for over a year now, and are prepared to carry out our responsibilities beginning January 1st.

Of all the transportation industries to be deregulated in recent years, the impact of the new airline freedoms has been the most visible. A few carriers have struggled. Yet for the carrier or two that has faltered under the impetus of competition, many more have prospered. New airlines—more than a hundred, both large and small, have entered what used to be essentially a closed market. Airline deregulation, in fact, is delivering just what was expected: more competition, improved efficiency and a greater variety of service. The big winner is the air traveler. Carriers have cut costs, passing the savings on to the consumer—an estimated $10 billion worth since 1978. Certain fares may not be as low today as they were at the depths of the recession, but fares overall are lower than they would have been under regulation. The industry, which ran nearly $200 million in the red last year, may end this year with earnings of more than $1 billion.

Meanwhile, air travelers are enjoying a greater choice of airlines, services and fares. In most cities and at most airports, where there is market demand or service protection, there are also more flights. Here in Detroit, the number of regularly scheduled weekly flights has increased by more than 40% since 1978. Air service to Flint has improved 142 percent; 88 percent at Kalamazoo; and Pontiac, which had no scheduled air service, now has 15 flights a week. Overall, deregulated air service in the state of Michigan has increased by 44.1 percent.

All this has not come about without problems—as those of us who spend time in the air realize. The demand for air transportation this summer caused record numbers of delays at the country's six busiest hub airports. Those of you who flew to New York, Atlanta, Chicago or Denver in recent weeks know what I mean. The problem was largely one of over scheduling during peak hours. At Atlanta's Hartsfield Airport, for example, 95 operations were scheduled in the half hour between 8 and 8:30 a.m., but only 10 operations in the next 30 minutes. So when the airlines sought antitrust immunity to confer on schedules we actively supported their request. In eight days of marathon negotiations earlier this month, the carriers reached agreement on schedules that will reduce delays by lowering the number of planes competing for the same gates and runways at the same time. Those schedules go into effect about November 1st. We are already seeing some relief as the effects of summer weather diminish and vacation travel declines. Still, we must be doing the long-range planning needed to prevent future problems.

In fact, we are already in the midst of an $11.7 billion airways modernization program. The National Airspace System (NAS) Plan, when completed, will double the capacity of our airways, "weatherproof" air operations and improve the precision of airport landing systems. It will make the safest air transportation system in the world even safer.

The growth we're experiencing today, in our auto industry and throughout the country, is the result of private enterprise renewed; competition rekindled. We have gone back to what we do best. Even deregulation, when we think about it, was one of the first principles of our founding fathers. They believed supply and demand, competition and creativity, were the most efficient "regulators" of our society and the surest providers of both social justice and individual dignity. In fact, for as long as we have called ourselves Americans, we have taken pride in our native ingenuity. We have displayed a willingness to take daring economic risks for great economic gains. We have placed our faith in a free market disciplined by competition.

I think of a woman who knew great adversity, one whose spirit and example inspired millions. Her name was Helen Keller—and she summed up her philosophy in a single sentence. "One can never consent to creep," she wrote, "when one feels an impulse to soar."

We have an impulse in America to soar—to achieve new heights of safety, to loosen the shackles of economic regulation, to go as far and rise as high as our national will and competitive skills will take us. Make no mistake about it; that summit still beckons. Like President Reagan, I have no doubt of our will or capacity to hasten the "best days" for America he sees ahead. The frontier is still open. We are in the morning of our destiny—and transportation will contribute much to a long and glorious day.

Thank you.

[From the Washington Post, July 22, 1984]

BREAKING THE COST BARRIER ON AIR BAGS

(By Nell Henderson)

While car manufacturers and consumer groups continue a 15-year-old debate over automobile air bags, a New Jersey company is working on a device that could change the arithmetic of the arguments by drastically reducing the price.

Consumer safety advocates contend that air bags could save 9,000 lives a year and prevent 65,000 crippling injuries over 10 years, but auto makers have argued that motorists just won't spend hundreds of dollars for them.

Mercedes-Benz of North America, the only company now selling air bags in the United States, offers its driver's-side air bag as an $880 option and has sold more than 1,000 air-bag-equipped cars since last fall. General Motors Corp. estimates that an air-bag system protecting both the driver and front-seat passenger would cost $1,100, based on production of 100,000 units. The Department of Transportation says a driver's-side bag could cost about $320, based on production of 1 million bags.

Breed Corp., by contrast, hopes to break through the cost barrier by offering a driver's-side air-bag system for $50 and a full front-seat system for about $150.

Breed, a small defense contractor based in Lincoln Park, N.J., has conceived of an inexpensive mechanical sensor located in the center of the steering wheel that would detect the moment of impact and cause the air bag to inflate in time to protect the motorist. Its cost advantage comes from its simplicity compared with the electrical sensor systems now used with air bags.

Breed envisions a device that motorists could buy at an auto parts store and pop into a cavity that auto manufacturers would leave in the center of the steering wheels of future models. Replacing it would be easier than changing a headlight, and, once installed, it would not be seen.

Most cars now on the road could be modified to use the system, say officials of the company, which has analyzed crash data for auto companies for 15 years.

The much-debated air bag prevents a motorist from crashing into the windshield, dashboard and steering wheel by inflating with nitrogen gas within milliseconds after a front-end impact. The 28-inch-wide circular bag inflates and deflates within two seconds, so fast that some crash victims have said they did not see or feel the bag until after the crash, when they found the deflated bag on their laps.

The traditional system used by GM, Ford Motor Co. and Mercedes-Benz relies on an electronic sensor wired to a device that generates the nitrogen gas that fills the bag. The circuits must be monitored by a diagnostic system, which makes sure they are working, and supported by a back-up electric source.

Breed will provide electronic sensors for the air bags to be installed in 5,000 Ford Tempos purchased by the General Services Administration. The systems will include five sensors, one located behind each headlight, one on the front bumper and two on the wall separating the hood from the passenger compartment.

In these sensors, magnets hold a small metal ball in place until a crash occurs at at least 12 miles per hour. The momentum of the car frees the ball to fly forward onto two wires, thus completing the electrical circuit and firing the gas generator.

Mercedes uses a different sensor and places it on the transmission tunnel between the two front seats. The Mercedes sensoring system also provides two back-up electrical sources.

The sophisticated technology ensures that the system will work, and will work when it should—discerning between the changes in speed resulting from going over a pothole or curb and those caused by a serious crash.

Breed's mechanical sensor, located in the center of the steering wheel, acts like the trigger on a shotgun. A ball weight is held in place by a lever and a spring. The momentum of the crash carries the ball forward, overcoming the spring and moving the lever to release a firing pin, which initiates the gas inflation.

Breed estimates that the sensor would cost $5 to produce in quantities of 1 million, the gas generator would cost $15, and the air bag, cover and mounting plate would cost $8.

The circuitry and back-up power systems required for electrical sensors would not be needed for the mechanical model.

The total manufacturing cost would be $28. Breed would sell the complete package (about 9.5 inches long, 5.5 inches wide and 2.5 inches deep, weighing 4.5 pounds) to the distributor or the car manufacturer for $32. The estimated final cost to the customer is about $50.

"It changes the [cost] equation rater dramatically," said Thomas C. McGrath Jr., Breed's vice president of business development.

The mechanical sensor also is simpler and, therefore, more reliable, said Allen K. Breed, chairman of the company, who predicted that the new mechanical device will replace the electrical sensor once testing is completed.

But a long road of testing lies ahead, and auto makers are in a hurry. The Department of Transportation recently announced that 10 percent of all 1987 cars must be equipped with automatic crash protection such as air bags or automatically closing seat belts, and that all new cars must have such protection by the 1990 model year.

Transportation Secretary Elizabeth Dole has said she would suspend the rule if states with two-thirds of the U.S. population pass laws mandating use of seat belts.

She also said the rule will encourage auto makers to use bags or develop "new technologies" by giving cars with such systems credit for 1.5 cars toward the quota, while giving a car with passive belts credit for one car.

Consumer groups have said the Dole rule will kill air bags, because car companies will opt for passive belts, which retail for about $60.

But Breed said the ruling will favor the bags. The car manufacturers "know people reject seat belts," he said. "We're getting urgent calls from all the auto makers. They're all cranking up air-bag programs."

Unfortunately, the Breed mechanical sensor is still in "the preliminary phase and needs proving out," said David S. Breed, the company's vice president.

The National Highway Traffic Safety Administration has awarded Breed a $587,970 contract to retrofit 100 state police cars with its new air-bag package. NHTSA is still "evaluating the concept" and has set no production schedule, spokesmn Bob Boaz said.

The auto manufacturers say they have not decided how they will respond to the Dole decision, but they are looking at the mechanical sensor.

"It's promising enough that we're working with Breed on it," said Tom Terry, a GM automotive safety engineer. "But it's still really early in the game, too early to talk production. It's in the research phase."

GM is wary of air bags after offering them as a $225 to $315 option on its Cadillacs, Oldsmobiles and Buicks from 1974 to 1976. Although the air bags were priced below cost, the company sold only 10,000, after estimating sales of 300,000.

One auto maker, which plans to offer air bags on some of its 1987 models, questions whether the mechanical sensor would satisfy the DOT's requirement that an air-bag system have a "readiness indicator" to guarantee that the system is working.

Volvo, like Mercedes, emphasizes that the air bag is a supplement to a lap-and-shoulder belt.

Other auto makers question the merits of air bags, contending that they are effective only in front-end crashes, are no help in a roll-over, and must be worn with a lap belt anyway. But they also tend to agree that cost is a major issue.

"It's an expensive option," said Jerald F. terHorst, a Ford spokesman. "If you ask [buyers], 'Do you want a stereo or an air bag?' what do you expect them to say?"

[From Technology Review, April 1984]

NEW AIRBAGS: LOW TECHNOLOGY, LOW PRICE

The airbag, designed to protect passengers in car crashes, has so far resulted mainly in heated disputes. Consumer groups and insurance companies favor it, but the airbag costs at least several hundred dollars because of its complexity. Some consumers balk at paying that much, and the automobile industry doesn't want to increase sticker prices. The National Highway Traffic Safety Administration (NHTSA) has been preoccupied for over a decade trying to decide whether to require automakers to install the safety device on all new cars. This dilemma may be coming to an end: a simple, cheap airbag may soon be available that will satisfy all parties.

Designing any airbag is not easy. "First, you need to pick up a signal at the onset of a crash to predict how violent it will be, so you know whether to deploy the airbag," explains Michael Finkelstein, associate administrator for research and development at NHTSA. "Second, you need to deploy the airbag quickly enough to protect the passenger." A crash into an immovable barrier such as a tree is effectively over in 80 to 120 milliseconds—one-third of an eye-blink. So to do any good, the bag must inflate in 40 to 50 milliseconds, according to John Morris, physical scientist in NHTSA's Occupant Restraint Group. That's not much time.

Because the front of a car is designed to collapse like an accordion, delaying and diminishing the impact on the rest of the vehicle, airbag designers have put sensors where the force of the crash is strongest—one near each headlight. The sensor is typically a piece of ferrous metal restrained from closing an electrical circuit by a magnet. If the deceleration force reaches 10 times that of gravity, the sensor breaks loose from the magnet and closes the electrical circuit. This in turn sets off an explosive that produces gas to inflate the airbag. Hitting a solid barrier at about 10 miles an hour does it, according to Morris.

The trouble is that such a system is expensive. In addition to the basic system, a diagnostic module with a monitor light in the dash is necessary to test the circuitry.

Most systems add a capacitor to hold enough electricity to fire the trigger in case battery power is lost, and some add a backup sensor in the dashboard so underhood tinkerers can't accidentally fire the bags. If millions of these were installed, manufacturers estimate each system would cost $300; for smaller volumes the price could climb toward $1,000.

However, by simplifying the design, the Breed Corp., of Lincoln Park, N.J., whose primary business is making fusing mechanisms for rockets and artillery shells, may have changed the picture. Convinced through computer analyses of test data that crashes could be reliably sensed within the passenger compartment, Breed developed a mechanical sensor designed to be attached to the airbag and trigger it directly. Since the impact of the crash is dampened in the passenger compartment, the sensor responds when the decelaration force is only four times that of gravity. A metal ball in the sensor is moved forward by inertia against a springloaded arm and releases a firing pin. This pin hits a percussion cap and thereby triggers the explosive bag inflator. The system needs no sensors in the front of the car and thus no electrical system, electronic monitoring device, or capacitor.

"The whole—airbag, inflator, and sensor—is one unit," says Ted Thuen, executive vice-president of Breed. "It takes only four screws to install." Breed says that the driver's-side unit, mounted on the steering wheel, could be mass-produced for $50, the larger passenger-side unit for $75.

Breed has tested its system in car crashes against barriers and says it works. NHTSA is planning to buy airbags equipped with Breed's sensors for tests, and may also install them in a fleet of 500 police cars. "We don't know yet that the Breed system will work," syas Finklestein. "But it's really worth a look."

If it does work, the new technology may solve the public-policy problems long associated with airbags. Previously, the only way to make them economically feasible was to mandate that all cars be built with them. Breed's single-unit system appears to be so cheap that car buyers could order it as an option or buy it from—in Finklestein's words—"Midas airbag shops." Breed has suggested that NHTSA simply require auto manufacturers to produce steering wheels and dashboards capable of accepting the airbag units.

After trying unsuccessfully to revoke the portion of Federal Motor Vehicle Safety Standard 208 that mandates some form of passive restraints in automobiles, the Reagan administration is once again reviewing the regulation. It has requested public comment on a requirement similar to the one Breed proposes. NHTSA officials say that a ruling on the issue could be made as early as April.

[From the Newark (NJ) Star-Ledger, Mar. 25, 1984]

CHEAPER AIRBAG SENSOR COULD INFLATE CARMAKER INTEREST

(By Joseph R. Perone)

Allen Breed's family came to these shores "on the boat after the Mayflower." He is a descendant of the Rev. Allen Breed, the namesake of Breed's Hill where the Battle of Bunker Hill was fought in colonial Boston.

Tradition called for the oldest son of the Breed clan to become a Protestant minister, just like his Pilgrim ancestor. "I broke the chain," says Breed, who fancied technology not theology, while growing up in Chicago.

Still, the president of Breed Corp. of Lincoln Park has the pioneering spirit of his lineage. His company has developed a mechanical airbag sensor that industry observers say is cheaper to build than conventional sensors. Automakers say cost inhibits the widespread use of airbags, which inflate to protect a driver during a head-on collision.

Ford, General Motors and the federal government are interested in the mechanical sensor, and the manufacturers are currently testing it. Breed will supply the Department of Transportation with 100 mechanical sensor airbags for police cars. Breed also makes conventional electronic sensors and is supplying Ford, which signed a $35 million contract last month to produce 5,000 airbag-equipped cars for the federal government.

Mercedes-Benz of North America, headquartered in Montvale, offers electronic sensors in top-of-the-line models and has sold more than 500 since November, a spokesman said. The airbag option, costing $880, will be offered next month on its smallest luxury cars, the 190E and 190D, said A.B. Shuman, manager of public relations. He said electronic sensors are "more properly attuned to the design structure of our car" than mechanical sensors.

Breed is convinced that his system is both reliable and inexpensive. He told a House subcommittee this month that his units could sell for $50 based on a volume of 1 million cars a year. The price is important because Secretary of Transportation Elizabeth Dole will decide by July whether automakers must install automatic protection for front-seat occupants.

The protection could be airbags or passive lap belts that automatically wrap around an occupant when a door is closed. The problem is that unwilling motorists can disconnect passive belts. "Some people look at the airbag debate as 'another example of government interference in my private life,'" said Shuman of Mercedes-Benz.

Seat belt use nationwide is less than 14 percent, according to the National Highway Traffic Safety Administration (NHTSA). The agency said 42,500 people were killed in traffic accidents last year. About half died in passenger cars.

Airbags could save 9,000 lives each year, according to the Insurance Information Institute. In the 1970s some insurance companies reduced their premiums by 30 percent for cars equipped with airbags, according to a spokeswoman for the institute.

"The people that tend to have accidents are the least concerned about safety," says Breed, who believes airbags have a potential $3.5 billion market. "We believe it's just a matter of time before air bags become as common as sealed-beam headlights."

His system, called the Breed Airbag Module, consists of a steel ball held in a cylinder by a lever. A force of more than 4Gs is required to push the ball and move the spring-loaded lever. The lever releases a firing pin, similar to the action of a shotgun. The pin ignites several aspirin-sized tablets that form a gas, which inflates a bag that pops out of the steering wheel. The unit can be replaced by removing four wingnuts behind the steering wheel.

The system has two sensors in case one fails and has a failure rate of one in a million, according to Breed. It differs from electronic sensors because the entire unit is in the steering wheel. Conventional airbags require sensors, wires and connectors throughout the car. Breed says the self-contained system needs only slight car modifications. It would not be difficult to adapt it to older cars, he said.

He maintains that the sensor will activate only with sufficient force. That technology was developed as part of Breed's main business, the manufacture of fuses for military explosives. The firm has $13 million in contracts to supply sensors for cluster bombs used by U.S. Army helicopters.

"When a solider carries ammunition and he drops it, you don't want it to go off," he said in explaining how the fuse works. The airbag sensor is based on the same principle. A dozen patents on the mechanical sensor are held by Breed, his brother, Dr. David Breed, and executive vice president Ted Thuen.

"There is a high enough likelihood that it can work," said Michael Finkelstein, associate administrator for the NHTSA. "You're talking about a sizable cost reduction if GM and Ford decide to do it."

But will they?

"We see the airbag as a promising technology that has the potential to reduce fatality," said Roger Maugh, Ford's director of automotive safety. However, he said, "We don't really know how well it can protect people in various kinds of accidents." He said the mechanical sensor is attractive because of its "lower cost and ease of installation and transferability."

However, it is not clear whether the Breed system can be adapted to small cars, which absorb impact more quickly than large cars, according to Thomas Terry, a GM staff engineer for auto safety. "The question remains, can you sense soon enough and if you can't sense soon enough, then you have to employ the bag even more quickly," he said.

Mr. LAUTENBERG. Mr. President, I rise in support of the amendment offered by the Senator from Missouri of which I am an original cosponsor.

This amendment increases funding for State and community highway safety programs in line with the authorization provided in Public Law 98-363. That public law was the result of Congress' action in enacting child passenger restraint and antidrunk driving legislation last July. The purposes outlined in that law to which these funds will be employed are to develop computerized traffic recordkeeping systems, provide incentives to the States to enact mandatory sentencing drunk driving and to require that 8 percent of State safety grants be used for child safety restraints. Like the adoption of 21-year-old drinking provisions of Public Law 98-363, the programs funded by this appropriation will enhance the ability of State and community officials to save lives on our Nation's highways, particularly among our young people.

The Danforth-Lautenberg amendment also provides support for the campaign announced by Secretary Dole to enhance public awareness of the benefits of greater occupant protection in automobiles. This educational effort is in line with Secretary Dole's announcement to encourage more extensive use of seatbelts and to make consumers aware of the avail-

ability and reliability of passive restraints. A broad understanding of available means to protect occupants from death and injury will enhance the introduction of passive restraints into our Nation's cars.

Mr. President, it is a pleasure to join my colleague from Missouri in offering this amendment and I commend him for his leadership in the field of automotive safety.

Mr. ANDREWS. Mr. President, I am pleased to accept the amendment offered by the Senator from Missouri. The amendment offered raises the obligation ceiling from $100 to $126.5 million for the State and Community Highway Safety Grant Program. This increases the obligation ceiling to the full amount authorized by the child passenger safety/drunk driving legislation enacted in July, Public Law 98-363. The increased funding will allow incentive grants for computerized traffic recordkeeping systems; incentive grants to encourage mandatory sentencing for drunk drivers; and require each State to use 8 percent of its safety grant apportionment for child passenger safety programs.

In addition, Mr. President, the second part of the amendment allows the Secretary after review by Congress to proceed with the safety restraint system initiative.

Frankly, the need for this amendment comes about because we did, in fact, mark up this bill and run it through the full committee some months ago, before this program was authorized. What we have here is a case of a member of the authorizing committee pointing out and using this vehicle to do what needs to be done.

We are glad to accept the amendment. I understand it is cleared on the Democratic side of the aisle as well.

Mr. CHILES. We have no objection.

Mr. LAUTENBERG. Mr. President, I would like to enter into a colloquy with the author of the amendment in an attempt to clarify the purpose for which these funds will be used. As the Senator knows, I have expressed my strong opinion that any educational program to inform the public about the benefits of occupant protection should include education on passive as well as active restraints. I know that the Senator from Missouri shares my views on this subject. Is it the understanding of the Senator that any Department of Transportation program to promote the use of efficacy of restraint systems for passenger automobiles shall include information regarding other available technologies for passenger restraint, including airbags?

Mr. DANFORTH. Yes, that is my understanding, and I want to bring to the attention of the Senate a letter from Secretary Dole on this matter. In the letter dated September 29, the Secretary states her intention to embark upon a grassroots program, focused at the State level, with the objective of educating the public on passive restraints, including airbags, as well as the use of manual safety belts. Without objection, Mr. President, I ask unanimous consent to have the letter printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF TRANSPORTATION,
Washington, DC, September 29, 1984.

Hon. JOHN C. DANFORTH,
U.S. Senate,
Washington, DC.

DEAR JACK: As we have discussed, an important component of the final rule on motor vehicle occupant protection I announced on July 11 is a program to inform the public about all forms of occupant protection and assist in promoting state seat belt laws. This program will be a grass roots effort focused at the state level and will include education on manual seat belts as well as information about passive restraints. The American public needs to know that seat belts save lives and should also be aware of the occupant protection choices before them. They should know about air bags, the kinds of crashes in which air bags afford protection and those where they do not. They need to know that lap belt use is still necessary in air bag-equipped cars, what automatic safety belts are and why they should not be detached.

Since almost 100 percent of the nation's existing vehicle fleet is equipped with manual lap/shoulder belt systems, our primary program focus will be on getting people to use the effective safety belts already in their vehicles. Our role is to inform the consumer about the types of occupant protection available and encourage the regular and proper use of occupant restraints. A funding level of $20 million per year will be necessary to successfully conduct such a program. We plan to cooperate with interested private sector groups including auto makers, insurers, the medical community, safety organizations and civic groups who will also be contributing $20 million per year to the effort.

This program does not substitute for or replace ongoing occupant protection research within the Department. Our research efforts are continuing in several areas including development and assessment of mechanically actuated air bag systems. We plan to have 500 mechanical air bag-equipped vehicles in a test fleet by the end of fiscal year 1985 in addition to the 5000 vehicles equipped with air bags being purchased by the General Services Administration with the incremental air bag costs being paid for by NHTSA.

I hope this information will be helpful as you address this important issue.

Sincerely,

ELIZABETH HANFORD DOLE.

Mr. LAUTENBERG. I have one further question for the Senator. Is it his understanding that the Congress will have the opportunity to review this DOT program as it evolves to ensure that passive restraints, including airbags, are included in the DOT's efforts.

Mr. DANFORTH. Yes, it is. The Chairman of the Senate Appropriations Subcommittee on Transportation has indicated his desire to hold a hearing early during the next session of the Congress to monitor the progress of the program and to review at that time whether to make available the remainder of the Secretary's request. In addition, the Surface Transportation Subcommittee has an interest in close oversight of this program; and I can assure the Senator that if I am not satisfied with the progress of the DOT program, I will not hesitate to exercise the right of the subcommittee.

Mr. President, I would like to enter into a colloquy with my distinguished colleague from New Jersey, Senator LAUTENBERG, about the advances in airbag technology being made by the Breed Corp. As my colleagues know, I have long been a supporter of requiring airbags in motor vehicles. Airbags have proven life-saving potential; each year, airbags could save 9,000 lives on our Nation's highways.

During a hearing on September 19, the Surface Transportation Subcommittee heard testimony from the Breed Corp., a company which is ready to move ahead with large-scale demonstration of its innovative new technology for a self-contained, all-mechanical airbag system for motor vehicles. The Breed compact airbag is currently being tested under a limited demonstration contract with NHTSA. This system has the potential to make airbag technology available on a widespread basis at a low cost to consumers.

Mr. LAUTENBERG. I share the views of my colleague from Missouri as to the promise of the Breed system. I visited the Breed Corp. facilities in Lincoln Park, NJ, this past summer. I was very impressed with the work being done there and the advances Breed has made in airbag technology.

The Breed compact airbag is a radical departure from conventional airbag technology in terms of both its simplicity and very low price. Traditional electrical airbag systems typically contain frontal electrical sensors, electrical wiring, connectors, electric squibs, an electronic diagnostic module, a malfunction indicator light, and electronic capacitors for auxiliary power. DOT estimates that electronic systems produced in quantities of 1 million will cost $220 for a driver-side only airbag.

By contrast, the Breed compact airbag is a totally self-contained, all-mechanical design, with the crash sensors located entirely within the steering wheel and dash board in front of the passengers. Breed's technology thus eliminates all crush zone and under-the-dash-mounted sensors, all wiring, the electric squibs, the auxiliary capacitor power supply, the malfunction light and the diagnostic module. As a result, Breed has testified that installation of its all-mechanical airbag is vastly simplified, with

typically only four screws required to install either the driver or passenger module.

Such simplified installation can be expected to promote and expand airbag availability through retrofit capability.

More important, Breed estimates a retail cost of about $50 for a driver-side Breed compact airbag, based upon production at a rate of 1 million units per year. Given the fact that "unacceptable high cost" is the reason most often cited for the limited public acceptance of airbags to date, Breed's all-mechanical compact airbag appears to offer enormous cost advantages. which would spur long overdue public interest in airbags.

A second important reason for expanding and accelerating demonstration of this promising new airbag technology relates to Secretary Dole's decision of July 11 with respect to the phasing in of airbags or automatic seat belts on all new passenger automobiles. Given the relatively tight time deadlines imposed by the Secretary, accelerated demonstration of the inexpensive, all-mechanical airbag system would provide a timely opportunity to allow this new technology to prove itself a viable alternative for consumers and automakers.

Mr. DANFORTH. I agree with my colleague from New Jersey. I would encourage the Department of Transportation to give serious consideration to funding a large-scale demonstration of this innovative airbag system. I would not envision such a demonstration program detracting from NHTSA's ongoing airbag demonstration programs; rather, it would accelerate of promising new airbag technology. Is that the Senator's understanding of such a demonstration program?

Mr. LAUTENBERG. Yes it is. Together with Senator DANFORTH, I would like to pursue this matter further with DOT as quickly as possible.

Mr. DANFORTH. I will be happy to work with the Senator on this and I look forward also to working with DOT in its efforts to promote airbag use in this country.

Mr. President, Secretary Dole announced, in July of this year, her decision on occupant restraints. I was pleased with her decision, and I believe it demonstrates a continued strong personal commitment to transportation safety. It was a difficult, courageous decision, and she deserves our admiration for bringing it to fruition.

At the same time, she announced her intention to embark upon a $40 million per year education program to inform the public about the benefits of occupant protection, especially safety belts. Half of that funding—$20 million per year—is expected to come from the DOT budget, and half will be made available by the private sector.

I have previously expressed my deep concern that this program should not be a massive national-level "buckle up" campaign, but rather it should be "grassroots" based and coordinated with State, local and private efforts. I have urged the Department to clarify the nature of its program, and particularly I have urged them to commit to including education about passive restraints, especially airbags, to avoid "Stacking the deck" against automatic crash protection.

Just recently, Secretary Dole personally announced that her program will include education on passive restraints as well as manual safety belts, specifically including airbags. I am delighted with her commitment. In recognition of her strongly held view that this program is a vital component of her overall decision, and in acknowledgment of her willingness to accommodate the need to include education about airbags, I am prepared to offer an amendment to make available a total of $10 million of the funding requested by Secretary Dole as a first installment for this program.

Mr. ANDREWS. Will the Senator yield for a question?

Mr. DANFORTH. I am glad to yield to the Senator from North Dakota.

Mr. ANDREWS. Mr. President, I accept the amendment that would make $10 million available to the Secretary as a downpayment on her program, with the expectation that of the funds available, $2.5 million will be made available immediately to include the costs for an overall program manager. The balance of the funds, $7.5 million would be available upon written approval of the Appropriations Committee through the normal reprogramming process after review of the program manager's plan. My question for the Senator is this: Is DOT requesting a realignment within its original request for fiscal year 1985 appropriations, or is this request for new funding over and above its total 1985 request?

Mr. DANFORTH. I thank the Senator from North Dakota for raising this issue. This amount of money does not represent an increase in the overall DOT budget but, rather, that it will be reallocated from within the DOT budget.

The $10 million is derived by applying the $2.5 million already included in the Senate level in the NHTSA operations and research account, in addition it allows the transfer of $7.5 million from the Highway Safety R&D account, and from prior year balances in the railroad research and development account and the UMTA research training and human resources account. Am I correct that we will have an opportunity early next year to consider whether to provide the remainder of her requested funding?

Mr. ANDREWS. Yes, I expect that we could take another look at her funding request next year.

I appreciate the interest of the Senator from Missouri on this point, and I look forward to his assistance in our continued scrutiny of this program proposed by DOT to ensure that the program, as it evolves, meets all of the expectations we are articulating today. As a first, step toward ensuring that we have adequate opportunities for effective, close oversight of this program, it is my intention to schedule a budget hearing shortly after the commencement of the 99th Congress. At that time, I would expect the Secretary of Transportation to be prepared to provide the committee with a more detailed description of her program and progress to date. We will want to see detailed project work plans for further expenditures; if we are satisfied that the program is being developed satisfactorily, we will consider at that time whether to make available the remainder of the Secretary's request.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 7001) was agreed to.

Mr. ANDREWS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DANFORTH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 7002

(Purpose: Waiving restrictions on the deed of 1948 to the City of Flagstaff, Arizona, for the Pulliam Airport, to allow expanded development of airport property)

Mr. DECONCINI. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Arizona [Mr. DECONCINI] proposes an amendment numbered 7002.

Mr. DECONCINI. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the resolution, add the following new sections:

(a) Notwithstanding Section 16 of the Federal Airport Act (as in effect on November 25, 1947), the Secretary of Transportation is authorized, subject to the provisions of Section 4 of the Act of October 1, 1949 (50 App. U.S.C. 16222(c)), and the provisions of subsection (b) of this section, to grant release from any of the terms, conditions, reservations, and restrictions contained in a deed of conveyance dated July 30, 1948, under which the United States conveyed certain property to the City of Flagstaff for airport purposes.

(b) Any release granted by the Secretary of Transportation under subsection (a) shall be subject to the following conditions:

(1) the City of Flagstaff shall agree that in conveying any interest in the property which the United States conveyed pursuant to the deed described in subsection (a), the City of Flagstaff will receive an amount which is equal to the fair market value (as determined pursuant to regulations issued by such Secretary); and

(2) any such amount so received shall be used for the development, improvement, operation, or maintenance of a public airport.

Mr. DECONCINI. Mr. President, this amendment which I offer to the continuing resolution is on a very noncontroversial item which I have cleared with the subcommittee chairman, Mr. ANDREWS. The amendment would add a new section to the transportation title of the pending appropriations measure waiving FAA regulations governing the use of airport land deeded to the city of Flagstaff from the Federal Government in 1948. The amendment is necessary because the city of Flagstaff has developed a new master plan for improvements to its Pulliam Airport facility. Some of these improvements are for direct airport purposes, others will serve the airport indirectly.

Under its existing deed, the city of Flagstaff is barred from utilizing the deeded airport property for any development which cannot be specifically defined as necessary for airport purposes. There has been some disagreement within the Federal Aviation Administration as to whether or not the development of a light industrial park on airport property would be in violation of the city's deed of 1948. The city of Flagstaff plans to lease a portion of its airport land for commercial purposes to help the Pulliam facility become a self-sustaining airport. The revenues derived from the leases will all be applied to the Pulliam Airport improvement fund and will be utilized to support airport services.

Mr. President, as Senators know, more and more airports nationwide are seeking industrial development on or near airport property to help ease the financial burdens of municipalities that must help foot the bill for costly but necessary airport improvements. As in the case of Flagstaff, the development of a light industrial park at the Pulliam Airport will be compatible with airport activities and will not interfere with airport operations. At the same time, it will result in less cost to the Federal Government for many of the improvements and reduce the cost to the Federal Government for many of the improvements and reduce the financial contribution from the city which has limited funds from which to draw.

The reason I am offering the amendment at this time is that the Flagstaff City Council will be meeting this week, to give final approval to the airport master plan. The issue on what the airport land can be used for must be resolved before the master plan can be implemented. I believe the airport purposes clause of the deed should be waived so that the city can move ahead with its development plans without further delay.

Waivers of this type have been granted in the past and there is sufficient precedent to do so for this particular airport without establishing a new airport policy nationwide. I wish to thank my colleague, Mr. ANDREWS, for his understanding of this matter and also thank his staff for their excellent help. It is my hope that my colleagues can support this amendment.

Mr. ANDREWS. Mr. President, we are glad to accept this amendment. It has to do with a deed to this airport. It has no cost impact on the Federal Government. It has been cleared on both sides of the aisle.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 7002) was agreed to.

Mr. DECONCINI. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. ANDREWS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DECONCINI. Mr. President, I thank the chairman and the ranking minority member.

AMENDMENT 7003

(Purpose: To provide funds for safety improvements on U.S. 10, the Dixie Highway)

Mr. LEVIN. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Michigan [Mr. LEVIN] proposes an amendment numbered 7003.

Mr. LEVIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows.

At the appropriate place in the bill insert the following: For necessary expenses to carry out a series of highway projects in the vicinities of Pontiac and East Lansing, Michigan, which demonstrate methods of enhancing safety and promoting economic development through the construction of grade separations and road widenings on a highway on the Federal-aid primary system and on highways on the Federal-aid urban system; $12,000,000, to remain available until expended.

Mr. LEVIN. Mr. President, this amendment was included in the House transportation appropriations bill for fiscal year 1985, as reported by the House Appropriations Committee. It will provide $12 million to make urgently needed safety improvements on U.S. 10, the Dixie Highway, between Pontiac and Waterford Township in Michigan. This amendment is necessary because of unique circumstances which have delayed work on U.S. 10 over a period of years. U.S. 10 has been considered to be a temporary route which would eventually be removed from the Federal road system after completion of a permanent U.S. 10 that would feed into an interstate highway in southeastern Michigan. While construction of the permanent U.S. 10 has been delayed because of environmental and engineering problems, changes in circumstances along temporary U.S. 10 have made the present condition of the highway dangerous to the public. The reality of events has overtaken previous plans to turn temporary U.S. 10 over to the locality. As a result, a special appropriation is needed to make these long-overdue safety improvements.

During the first 5 months of 1984, there were 132 property accidents, 59 injuries, and 5 fatalities on U.S. 10. Residents of Waterford Township and Pontiac, MI, have long urged their State, local and Federal officials to widen the highway. Recently, 2,000 local residents signed a petition imploring public officials to take swift action which could avoid further accidents on U.S. 10.

The language used in the amendment is the House language. While broader than the problem I have described, it is my understanding that U.S. 10 would use the entire $12 million.

Mr. President, I ask unanimous consent to have printed in the RECORD a letter from the Michigan Department of Transportation, dated October 2, 1984.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF TRANSPORTATION,
Lansing, MI, October 2, 1984.

Hon. CARL LEVIN,
U.S. Senator, Russell Senate Office Building, Washington, DC.

DEAR SENATOR LEVIN: Based on your office's recent request regarding the costs to upgrade US-10 (Dixie Highway) to five lanes, the Department has prepared the following information.

The current costs are based on reconstructing Dixie Highway to five lanes, curb and gutter and internal drainage, and are as follows:

Project limits:	
Telegraph Road northwesterly 8.3 miles to I75:	
Estimated construction costs	$11,000,000
Right of way cost	600,000
Engineering and contingencies	1,600,000
Total	13,200,000

Deduct [1]	1,200,000
Balance	12,000,000

[1] Currently included in Michigan's Department of Transportation "Highway Construction Program".

Thank you for your efforts in behalf of our transportation needs.

Sincerely,

WM. J. MCCREERY,
Acting Deputy Director.

Mr. LEVIN. Mr. President, I understand that the chairman of the Subcommittee on Transportation, Senator Andrews, has discussed this amendment with his counterpart in the House and is willing to accept it so that it will be a conferencable item.

Mr. RIEGLE. Mr. President, I rise as a cosponsor of the amendment offered by my colleague from Michigan. The amendment, as he has stated, would provide $12 million for safety improvements along an 8-mile stretch of road near Pontiac, MI. This particular section of the highway was originally intended as a temporary route, but the permanent section has not been constructed and in the meantime the temporary route has witnessed a tremendous growth in businesses and traffic. Consequently, it has become one of the most unsafe portions of highway in the State of Michigan, with over 130 property accidents, 60 injuries, and 5 fatalities along this part of the roadway in the first 5 months of 1984 alone. Fatal accidents have occurred along this stretch of highway on an average of one every 4 weeks, and the residents of the surrounding community have demanded action.

This amendment will permit the State to complete modifications and improvements in the roadway. These improvements will include, but not be limited to grade separations, lane widening projects, safety enhancements, all of which should result in a far safer section of highway.

Mr. President, I commend this amendment to the Senate, it is of great importance to the people of Pontiac, MI, and will provide a measure of safety to their lives which has been severly lacking in recent years; and I urge its approval.

Mr. ANDREWS. Mr. President, what the Senator from Michigan [Mr. LEVIN] has said is absolutely the fact. In his usual competent ways he has advised us of it.

The amendment is for the repair and improvement of Michigan highways that have been found to be extremely unsafe. Because the State of Michigan would be unable to complete the needed improvements out of normal highway funds, this amendment is necessary, and we are glad to accept it.

I understand that the amendment is acceptable to the other side.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 7003) was agreed to.

Mr. LEVIN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. RIEGLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 7004

(Purpose: To require the President to create an emergency board to investigate and report respecting the dispute between Continental Airlines and the Air Line Pilots Association)

Mr. RIEGLE. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment was stated.

The bill clerk read as follows:

The Senator from Michigan [Mr. RIEGLE] proposes an amendment numbered 7004.

Mr. RIEGLE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 13, line 17, strike out the period and insert in lieu thereof the following: ": *Provided*, That, no later than ten days after the date of the enactment of this joint resolution, the President shall, pursuant to section 10 of the Railway Labor Act (45 U.S.C. 160), create a board to investigate and report respecting the dispute between Continental Airlines and the Air Line Pilots Association, and, no later than thirty days after the date of the creation of such board, such board shall report its findings to the President.".

Mr. RIEGLE. Mr. President, I believe this amendment is acceptable to the chairman and the ranking minority member of the subcommittee. It adds absolutely no new spending.

Quite simply, the amendment calls on the President to create a board to investigate and report on the ongoing dispute between Continental Airlines and the airline pilots. There is precedent in the law for this. It has been done before. It was done under the Railway Labor Act. It makes no prejudgment about this dispute, but would simply provide an independent body of information relating to the bankruptcy of Continental and the subsequent termination of the pilots.

Mr. ANDREWS. Mr. President, we have no objection to the amendment.

Mr. CHILES. We have no objection.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 7004) was agreed to.

Mr. RIEGLE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. ANDREWS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 7005

Mr. DURENBERGER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Minnesota [Mr. DURENBERGER], for himself and Mr. Boschwitz, proposes an amendment numbered 7005.

Mr. DURENBERGER. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following new section:

SEC.

"The Secretary of Transportation shall waive the alternate design requirements, specified in 'Alternate Design for Bridges Policy Statement' (49-FR93 #21409), allowing construction of a steel deck tied arch option only (including approach spans), for the Smith Avenue High Bridge, St. Paul, Minnesota."

Mr. DURENBERGER. Mr. President, the amendment I have sent to the desk has been cleared with both sides and is technical in nature. Briefly, the amendment will allow the State of Minnesota to proceed to construction of a landmark quality replacement for the Smith Avenue High Bridge in St. Paul, MN. Currently, the Minnesota Department of Transportation is embroiled in a bureaucratic dispute with the Federal Highway Administration over the type of replacement bridge. Normally, I would side with the Federal Highway Administration, but the circumstances surrounding the High Bridge are far from normal.

To begin with, the bridge was closed 3 years ahead of schedule in July, after an inspection revealed significant structural problems. The bridge, which is over 95 years old, is past the point where repair or reconstruction would render it safe again. The closing left a significant portion of St. Paul's residential and business community virtually isolated from the rest of the city.

Depending on how fast construction of a new bridge can be completed, the community will remain isolated for the next 3 or 4 years. What my amendment does is sidestep the additional paperwork and allow Minnesota's Department of Transportation to proceed to construct a steel deck tied arch type bridge as a replacement for the 95-year-old all-steel Smith Avenue High Bridge, rather than going to the delay of 8 months in double bidding for steel decks, high arch, or concrete.

The options are that the steel high-arch bridge will be approximately $1.3 million less than the conventional concrete bridge, and the steel bridge will

conform with the 95-year-old history of a landmark steel high-arch bridge.

JUSTIFICATION FOR SINGLE DESIGN ALTERNATE SMITH AVENUE HIGH BRIDGE

First, a steel deck tied arch design was identified as the alternate preferred as mitigation for removal of a structure designated on the list of nationally significant bridges. This preference developed as a result of public discussion per the requirements of the National Environmental Protection Act, National Historic Preservation Act, section 106, and Executive Order No. 11593.

Second, the steel deck tied arch is estimated to cost $19.3 million, $1.8 million less than a concrete alternate based on detailed preliminary bridge plans.

Third, construction time for a steel alternate is estimated to be 9 to 12 months shorter than concrete. This earlier opening would shorten the period of community disruption and adverse business impacts from 4 plus years to 3 plus years. Annual excess travel costs are $900,000.

Fourth, design of a second bridge is estimated to cost $750,000 with the possibility that no bids will be received for that alternate.

The Minnesota Department of Transportation estimates this option will cost $1.3 million less than the conventional type, and can be completed anywhere from 6 to 12 months sooner, I urge adoption of my amendment.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. ANDREWS. Mr. President, we understand that this amendment will actually save money, and it will allow the best and cheapest approach to be used, and for that reason we favor the amendment. It is cost effective. We have no objection on this side of the aisle.

Mr. CHILES. Mr. President, I had urged earlier that the Department, of course, do the work toward getting dual design on these concrete bridges because it was an awful lot cheaper way.

I understand this applies only to this one particular bridge, and I do not want to upset that sort of precedent and requirement we are asking to do, because it looks like it is a very cheap and quick way to get a lot of these bridges in place.

Mr. DURENBERGER. The Senator is correct. It applies only to one bridge. Specs for both the steel and the concrete have been costed out and in this particular case, the steel is $1.3 million less expensive.

Mr. CHILES. Fine.

I do not want a precedent, other than looking to this one.

Mr. DURENBERGER. Mr. President, I move adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Minnesota.

The amendment (No. 7005) was agreed to.

Mr. DURENBERGER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. ANDREWS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

FAA AIR NAVIGATION FACILITIES

Mr. STENNIS. Mr. President, the transportation portion of this continuing resolution provides $146 million to the Federal Aviation Administration for air navigation facilities. This is $58 million more than last year and is the amount requested by the administration. May I inquire of the manager of the bill what portion of this amount will be used to implement instrument landing systems at airports that need them?

Mr. ANDREWS. Mr. President, both the Senate and House bills provide for the full budget request for the new microwave landing systems. Because of the length of time it will take to install these new systems and because of the critical situation at some airports that need precision landing systems now, both the Senate and House Appropriations Committees have directed the Federal Aviation Administration to use funds to implement instrument landing systems at some of these airports.

Mr. STENNIS. Mr. President, one such airport with a critical need is the Gulfport-Biloxi Regional Airport. At that airport, runway No. 31 is the only runway which can be used in bad weather. The approach to the runway is over two schools and residential areas, yet there is no precision landing system there. Especially in bad weather, there is considerable risk to the children at those schools.

I have a letter from Donald Engen, the Administrator of the Federal Aviation Administration, in which he expresses concern about the situation at the Gulfport-Biloxi Regional Airport and indicates that it is eligible and qualified for a precision approach system in light of its increase in service levels. However, he further indicates that there are no plans to solve the problem by implementing an instrument landing system there.

Mr. President, in light of this information, I would ask the distinguished floor manager of the bill if he would consider the Gulfport-Biloxi Regional Airport as eligible to join those other airports which have received special designation for implementation of an instrument landing system?

Mr. ANDREWS. Mr. President, I am aware of the critical need for an approach system on runway No. 31 at the Gulfport-Biloxi Regional Airport. Our instructions to the Federal Aviation Administration are to use available funds for the implementation of instrument landing systems at several airports. I would expect FAA to include Gulfport-Biloxi in this list and provide a system in fiscal year 1985.

Mr. STENNIS. I thank my good friend, the distinguished floor manager, for his consideration in this important matter.

Mr. ANDREWS. I yield to the Senator from Colorado [Mr. ARMSTRONG].

Mr. ARMSTRONG. I just wanted to clarify the status of a very important project in Denver, CO—the Colorado 470 Parkway. As you may know, this is the No. 1 transportation need in Colorado, and I thought the importance of C–470 had been impressed upon the committee. In April of this year, a group of community leaders traveled to Washington, DC, and discussed the project with the Transportation Appropriations Subcommittee among others. In early May, I testified before your subcommittee along with Mr. Rex Jennings, president of the Denver Chamber of Commerce. In these meetings and hearings, it was made clear that Colorado would require $60 million to keep the project on schedule.

Mr. ANDREWS. The good Senator is correct in his description of the events that preceded the Transportation Subcommittee markup. The Senator has been very diligent in his efforts to make the committee aware of the C–470 project. Through your correspondence, your appearance at hearings, and your arranging of meetings between Denver citizens and the subcommittee, the committee does understand the scope of the project, its necessity in the Denver area, and its funding needs. The committee is thankful for this help and especially is appreciative of the Senator's appearance before the committee in May, as he was one of the few Senators who did take the time to explain to the committee his State's transportation priorities.

Mr. ARMSTRONG. In light of this, the good chairman of the Transportation Subcommittee can appreciate why I was particularly upset by the committee's failure to mention Colorado's need for this project. As you know Senator, and I would like to point out to the other members, the parkway has been considered an integral part of Denver's transportation needs since 1961, so that need for completion to this project is becoming absolutely critical. In addition, the Federal Highway Administration considers it a priority project. In 1977, C–470 entered the Interstate Transfer Program, which makes C–470 one of the earliest to have entered the program. In addition, the mention of Colorado in the committee report would not have increased the budget authority for the Interstate Transfer Program, but

simply made it eligible for additional funding from the discretionary pot.

Mr. ANDREWS. The Senator from Colorado is correct. The budget authority for the Interstate Transfer Program is contract authority from the highway trust fund. The funding level for the program is established in the highway legislation and was fixed at $700 million for fiscal year 1985 in the Surface Transportation Act of 1982, Public Laws 97-424. The Appropriations Committee does, however, exercise its authority over the discretionary portion of the program, which is equal to one-quarter, $175 million, of the program total. This is after three-quarters of the program is distributed by formula, $525 million. Colorado, along with all the other States that participate in the program, does receive funding from this formula apportionment—a little over $12 million in the case of Colorado.

Mr. ARMSTRONG. I thank the Senator for explaining how the program works and that Colorado's request does not increase the program or create a new budget authority. Could the Senator please inform me why the committee's report reads as it does in regard to the discretionary portion of the Interstate Highway Transfer Program?

Mr. ANDREWS. The absence of Colorado from the committee's report bears on several factors unrelated to the merits of C-470 or the committee's knowledge of the importance of the project to Colorado. First, the committee was in the unusual situation of having almost $50 million of the funds Congress designated last year apportioned by the Federal Highway Administration to other projects. This placed a double demand on the committee to make "whole" those projects that had a shortfall in funding in 1984 from what Congress intended, and then to allocate the remaining money among the many 1985 requests. In deciding how to stretch this remaining amount, the committee had noted that Colorado had received $25 million in the House committee report—a fairly substantial amount. While this is still nowhere near Colorado's total request of $60 million, I would like to point out that no State received its requested amount. The committee also realizes the importance of the C-470 project and that it has the unanimous support of all those associated with it. I do want the good Senator from Colorado to understand that the committee's job and responsibility to fairly allocate the discretionary funds was made very difficult by the unusual events in 1984.

Mr. ARMSTRONG. I thank the Senator from North Dakota for his stating the difficulties the committee had this year in allocating money under the Interstate Transfer Program. I am equally thankful to the Senator for pledging the committee's commitment to C-470. Am I correct in understanding that in the conference with the House the Senator could attempt to meet the original House earmark with regard to discretionary money for Colorado under the Interstate Highway Transfer Program?

Mr. ANDREWS. I thank the Senator for keeping me informed on C-470 during every step of its construction and every step of the legislative process. I also want to assure him that it was not the committee's intent to disregard Colorado under the Interstate Highway Transfer Program. I want to assure the Senator that the Senate conferees are aware of Colorado's needs, and I will urge the Senate conferees to meet the original House earmark with regard to Colorado.

Mr. TOWER. Mr. President, in the area of mass transit, I am pleased that the resolution carries forward the commitment made by the Congress in 1982 to support investments in cost-effective new transit projects. While recognizing the dominant responsibility of State and local government to address local transportation needs, the legislation will make available needed resources to assist in meeting these demands.

I am pleased that the Transportation Subcommittee has recommended funding for a planned busway project in Houston. This project, which has the strong support of the Department of Transportation as well as State and local officials, would add 23 miles of exclusive busways in Houston. The project has been rated as highly cost effective by the Urban Mass Transportation Administration and deserves Federal support.

The Houston Transit Authority and the State are committed to providing substantial non-Federal funds for the project. This combination of cost-effective technology with strong State and local financial backing deserves Federal support.

It is my hope, Mr. President, that the Senate conferees will give careful consideration to the need for the Houston project and will accept the higher funding level for the project supported by the administration and by the House.

POLAR ICEBREAKERS

Mr. DENTON. Mr. President, several of my colleagues and I are concerned about the polar icebreaker fleet operated by the Coast Guard. That fleet of five vessels is a national resource that performs valuable work in the national interest.

The President's budget for fiscal year 1985 provided for a reduction in the number of polar icebreakers from five to four. In my judgment, and that of a number of my colleagues, that reduction would seriously affect the ability of the Coast Guard to do its job.

The Coast Guard has testified that it has missions that require the availability of 4.2 icebreakers. It should be obvious that we cannot have one-fifth of an icebreaker in commission and operational, so the ability to meet the commitment requires five ships. I suspect that someone, somewhere, looked at that 4.2 and concluded that, since it was closer to four than to five, four ships would be adequate.

My colleagues will understand that meeting a 4.2-ship commitment with only four ships would impose much hardship on both ships and men. Moreover, and perhaps more important, a four-ship force would have no capacity to respond should a ship suffer a major casualty, as happens to icebreakers with some regularity and as has happened to one ship during each of the last 2 years. Icebreaking can be a difficult and dangerous undertaking, particularly in the polar regions.

Because the availability of an adequate Coast Guard icebreaking capability is vital to a number of civilian and defense-related activities in polar waters, the consequences of a casualty to an already reduced force could be very serious indeed. I note that there are now only two icebreakers based on the east coast, so that the decommissioning of one would eliminate a backup and emergency response capability should the other ship encounter difficulty.

Mr. President, because of the concern about the administration's proposed reduction in the polar icebreaking force, I originally intended to introduce an amendment to the legislation before us to sustain the current number of ships. I believe, however, that it may not be necessary to do that because of actions already taken by the Congress. I would like to mention those actions, and ask the distinguished chairman of the Appropriations Subcommittee on Transportation and Related Agencies [Mr. ANDREWS] if my understanding is correct.

First, both the House and the Senate authorizing committees, after hearings on the issue, recommended sustaining the current five-ship force. That position was included in the authorization bill subsequently passed by the House, and is contained in the pending Senate bill.

Second, in the supplemental appropriations bill enacted into law in August, the Congress included a provision stating that no funds appropriated under that or any other act could be used to reduce below five the number of polar icebreakers operated by the Coast Guard.

Third, there is a fundamental premise underlying the House-passed continuing resolution that ongoing activities should not be terminated under a continuing resolution, unless

there is a specific provision to that effect, and I believe that that principle applies to the current Coast Guard polar icebreaking force.

May I ask the distinguished chairman of the subcommittee whether he agrees that the Congress has already taken sufficient action to ensure that the Coast Guard should sustain its five polar icebreakers while the Congress continues to assess the issue?

Mr. ANDREWS. I agree with the Senator from Alabama [Mr. DENTON]. I certainly believe that the action that we took in the fiscal year 1984 supplemental appropriations bill was specific and binding. Furthermore, the action was necessary to allow time for hearings and for review of detailed budget estimates.

Mr. DENTON. Mr. President, I thank the Senator. May I pursue the matter with him a little further? The Authorizing Committees have indicated that the Coast Guard should begin the process of constructing two new polar class icebreakers to be in service in the early 1990's. Until those ships are available to replace the two oldest current ships, *Northwind* and *Westwind*, however, it would be foolhardy to fail to maintain those ships in full operating condition.

One ship, *Westwind*, which was tentatively designated for decommissioning to reduce the force to four ships, is sorely in need of repair and overhaul work to sustain her ability to serve for the intervening years. Because the President's budget envisioned the decommissioning of one ship, the amount of money now available is severely constrained. I have discussed with the chairman of the subcommittee [Mr. ANDREWS] the possibility of action to restore funding to the Coast Guard for work on the *Westwind*, but it is clear that it would not be appropriate, for various reasons, to do so on the bill before us. I believe, however, that we might wish to do so on another, more appropriate, vehicle.

Let me say that the additional amount involved is small, in the order of $4.5 million, and that it would produce congenial results in the capability of the icebreaking force. May I ask my distinguished colleague from North Dakota whether he would be willing to work with us to see whether we can find an appropriate way to make the necessary funding available to the Coast Guard?

Mr. ANDREWS. I will be happy to work with my colleagues for that purpose. I appreciate the understanding shown by the Senator from Alabama about the current situation, and his willingness to forgo proposing the addition of money to the continuing resolution.

Mr. DENTON. I thank the Senator, and I am grateful for his cooperation.

I think that we should make it clear that we do not expect that the Coast Guard should refrain from doing any immediately necessary work on *Westwind* until the Congress can consider the need for additional funds. Clearly, the Coast Guard should proceed to define and undertake the work at the earliest possible time, using funds already available and proposing any necessary reprogramming actions to that end.

Based on the information that I have been provided, the Coast Guard has identified about $6 million worth of work that should be done to *Westwind*. In my view, no less than $2 million of that amount should be devoted to improving the habitability of the ship for her officers and men. I expect that the Coast Guard will proceed on that basis, and that the commencement of the actual work will not be held up pending the action that my colleague and I discussed just a moment ago.

Mr. ANDREWS. The Senator's position seems reasonable to me, and I agree with him that the Coast Guard should proceed, using available funds, with the repair and overhaul associated with retaining the *Westwind* in active service. I expect the Coast Guard to provide the subcommittee with a detailed and prioritized analysis of the fiscal year 1985 cost to place the ship in condition to serve for the next few years, and with an analysis of the costs to operate and maintain the ship in the out years. We will then be able to consider how to respond most appropriately and effectively.

Mr. DENTON. I am pleased that the Senator shares my view, and I know that he and I will work in good faith to make the necessary funding available.

I thank the Senator for his unfailing cooperation and courtesy. His assistance has been very valuable indeed.

Mr. President, I appreciate the opportunity to conduct this colloquy with my colleague from North Dakota. I believe that some other Senators may also have comments that they wish to make about the matter.

Mr. STEVENS. Mr. President, I wish to state my complete agreement with the Senator from Alabama on this matter. The Commerce Committee held a hearing on icebreaker capability in April of this year. As a result of that hearing, the committee included a provision in the fiscal year 1985 Coast Guard appropriation bill, currently pending on the calendar, which directs that all five of our icebreakers be kept in operational status.

These vessels are a unique national asset—vital to national defense, as well as the Coast Guard's civilian-oriented missions. We need every one of these vessels to maintain an adequate presence in the polar regions. Deactivating even one icebreaker will result in a serious decrease in the ability of the Coast Guard to discharge its missions and will force the remaining icebreakers to operate in the world's most hazardous marine environment without adequate backup.

I thank Senator ANDREWS for his willingness to help find an appropriate way to make the necessary funding available and would expect the Coast Guard to continue repairs and other necessary work on the *Westwind* pending congressional action.

Mr. ANDREWS. Mr. President, I know of no further amendment. I move adoption of the 10th committee amendment.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the 10th committee amendment.

The 10th committee amendment, as amended, was agreed to.

Mr. ANDREWS. Mr. President, I move to reconsider the vote by which the 10th committee amendment was agreed to.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

COMMITTEE AMENDMENT NO. 11

Mr. HATFIELD. Mr. President, I request the Chair to lay before the Senate the committee amendment No. 11.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

On page 13 strike beginning on line 18 through line 5 on page 14 and insert new language, as follows:

(j) Such sums as may be necessary for programs, projects, or activities provided for in the Treasury, Postal Service and General Government Appropriations Act, 1985 (H.R. 5798), to the extent and in the manner provided for in the conference report and joint explanatory statement of the Committee of Conference (98-993), filed in the House of Representatives on September 6, 1984 (with the exception of the provisions involved in the amendments numbered 36, 42, 43, 44, 55, and 67, which shall not be effective), as if such Act had been enacted into law.

Mr. ABDNOR. Mr. President, I wish to briefly explain why this bill is part of the continuing resolution. Many Senators will recall that it was passed by the Senate and had gone to conference.

The committee on conference on H.R. 5798 reported an agreement to the other body on September 6. In consideration of that conference report, four Senate amendments were struck because they were legislation. We do not contend that point at all. However, the Senate conferees accepted several amendments of the House which had not been authorized by the Senate, plus legislative language. It was not easy for the Senate conferees to accept the House language, but we did in order to get our amendments accepted. One of those amendments is the forfeiture language which will give

the Customs Service, DEA, and other drug fighting agencies of the Federal Government an important enforcement tool.

I strongly believe, and Senator DECONCINI I am sure concurs, that we should go back to conference to reiterate the Senate position. That is why we have structured the Treasury reference as we have. We propose that the Senate amendments be added and the six House amendments named be deleted. This will give us a strong position in conference.

I yield to the Senator from Arizona who is so important to this committee in his capacity.

Mr. DECONCINI. Mr. President, I thank the chairman of the committee.

Mr. President, we are at the verge of passing our Treasury-Postal Subcommittee appropriation bill from the conference.

In lieu of that, I think it is necessary that we proceed tonight, and I thank the chairman for his diligence and his willingness to take a very firm position with the House of Representatives.

We have run across a few obstacles but nothing that I think cannot be resolved through the continuing resolution or the adoption of the conference report.

I thank the chairman for his leadership, and I am ready to proceed this evening.

Mr. ABDNOR. I thank the Senator from Arizona for his kind words, and I assure him the committee could not go on without his presence and help and guidance.

Mr. President, I do not know of any other amendment.

Mr. DECONCINI. Mr. President, I am glad to yield to the Senator from New York. Does he have an amendment?

Mr. MOYNIHAN. Mr. President, I thank the Chair.

At this point I wish to offer as an amendment to the Treasury appropriations the bill on what are called cop killer bullets or alloy bullets which has been agreed by the administration and has been reported from the Committee on the Judiciary by the distinguished President pro tempore. However, he is not here at this moment and, Mr. President, I do not wish to proceed in his absence.

With respect to the timing of the body, I would respectfully suggest the absence of a quorum which I do not mean to persist in for any longer than such time as I can obtain a conversation with the President pro tempore.

Under that circumstance, Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DECONCINI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 7006

(Purpose: To express the sense of the Congress regarding voter registration)

Mr. DECONCINI. Mr. President, I have an amendment I send to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Arizona [Mr. DECONCINI] proposes an amendment numbered 7006.

Mr. DECONCINI. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of committee amendment No. 11 add the following new section:

SEC. —. It is the sense of the Congress that—

(1) voter registration drives should be encouraged by governmental entities at all levels; and,

(2) voter registration drives conducted by State governments on a nonpartisan basis do not violate the provisions of the Intergovernmental Personnel Act (42 U.S.C. 4728, 4763).

Mr. DECONCINI. Mr. President, we in this body spend a great deal of time paying lipservice to the ideals of our representative democracy. Whether we are on the floor of the Senate or speaking before a Fourth of July picnic, everyone of us has stood up and reminded our constituents of the constitutional right to vote and have urged them to exercise that right. I do not need to remind my colleagues of the dismal figures on voting registration and participation in this country. In Canada and some other democracies, the government bears the burden of finding and registering voters. While I would not suggest such an extreme action as this, certainly the government should be encouraging each and every citizen to vote, not discouraging potential voters. Therefore, I was shocked to read that the Reagan administration is placing roadblocks in the way of voter registration.

Friday's Washington Post described the actions taken by Director Donald Devine of the Office of Personnel Management regarding voter registration drives in the States of Ohio, Texas, and New York. Director Devine has threatened the Governors of these three States that they may lose Federal funds if they continue voter registration drives in State government buildings. I ask unanimous consent that a copy of Director Devine's letter to the Governor of Ohio, the Governor's response, and the Washington Post article be included in the RECORD at this point.

Mr. President, we are talking about nonpartisan voter registration drives. Both major national parties have actively pursued voter registration drives over the last year. We are not talking about signs, balloons, and streamers or elephants and donkeys. We are talking about registering people for the most sacred right, the right to vote. And I am offended that this administration in the person of Director Devine would seek to prohibit States from pursuing voter registration drives. Voter registration is not a partisan issue.

Mr. President, this is a simple sense of the Congress amendment encouraging voter registration under the Intergovernmental Personnel Act, 42 U.S.C. 4728. It has no mandatory provision, has no cost whatsoever. I believe the chairman is prepared to accept it.

Mr. ABDNOR. We are prepared to accept the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Arizona [Mr. DECONCINI].

The amendment (No. 7006) was agreed to.

Mr. DECONCINI. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. ABDNOR. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ABDNOR. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 7007

(Purpose: To amend chapter 44, title 10, United States Code, to regulate the manufacture and importation of armor-piercing ammunition)

Mr. MOYNIHAN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New York [Mr. MOYNIHAN] proposes an amendment numbered 7007.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment reads as follows:

At the end of the matter proposed to be inserted insert the following:

SEC. . (a) Section 921(a)(17) of title 18 of the United States Code is redesignated as section 921(a)(17)(A), and a new subparagraph (B) is added to section 921(a)(17) to read as follows:

"(B) The term 'armor piercing ammunition' means solid projectiles or projectile cores constructed from tungsten alloys, steel, iron, brass, bronze, beryllium copper, or depleted uranium. The term shall not include shotgun shot required by Federal or State environmental or game regulations for hunting purposes, frangible projectiles designed for target shooting or any projectile which the Secretary of the Treasury finds is primarily intended to be used for sporting purposes. The term 'solid' in the first sentence of this subparagraph means made entirely from one or more of the substances specified therein, but may include the presence of trace elements of other substances.".

(b) Section 922(a) of title 18 of the United States Code is amended—

(1) by striking out "and" at the end of paragraph (5);

(2) by striking out the period at the end of paragraph (6) and inserting in lieu thereof "and"; and

(3) by adding after paragraph (6) the following;

"(7) for any person to manufacture or import armor piercing ammunition, except that this paragraph shall not apply to (A) the manufacture or importation of armor piercing ammunition for the use of the United States or any department or agency thereof or any State or any department, agency, or political subdivision thereof, or (B) the manufacture of armor piercing ammunition for the sole purpose of exportation.".

(c) Subparagraph A of section 923(a)(1) of title 18 of the United States Code is amended to read as follows:

"(A) of destructive devices, ammunition for destructive devices or armor piercing ammunition, a fee of $1,000 per year;".

(d) Subparagraph (C) of section 923(a)(1) of title 18 of the United States Code is amended to read as follows:

"(C) of ammunition for firearms, other than ammunition for destructive devices or armor piercing ammunition, a fee $10 per year.".

(e) Subparagraphs (A) and (B) of section 923(a)(2) of title 18 of the United States Code are amended to read as follows:

"(A) of destructive devices, ammunition for destructive devices or armor piercing ammunition, a fee of $1,000 per year; or

"(B) of firearms other than destructive devices or ammunition for firearms other than destructive devices, or ammunition other than armor piercing ammunition, a fee of $50 per year.".

(f) Section 924(c) of title 18 of the United States Code is amended (a) by striking the period at the end of paragraph (2) and adding in lieu thereof a comma and the word "or" and (b) by adding a new paragraph (3) to read as follows:

"(3) during and in relation to the commission of a violent felony uses or carries a firearm and is in possession of armor piercing ammunition capable of being fired in that firearm shall, in addition to the punishment provided for the commission of such felony, be sentenced to a term of imprisonment for not less than five years. Notwithstanding any other provision of law, the court shall not suspend the sentence of any person convicted of a violation of this subsection, nor place him on probation, nor shall the term of imprisonment run concurrently with any other term of imprisonment, including that imposed for the felony in which the armor piercing ammunition was used or carried. No person sentenced under this subsection shall be eligible for parole during the term of imprisonment imposed herein. For the purpose of his paragraph, the term violent felony means (A) a felony (which may be prosecuted in a court of the United States) that has as an element, the use, attempted use, or threatened use of physical force against the person or property of another, or (B) any other felony (which may be prosecuted in a court of the United States) that, by its nature involves a substantial risk that physical force against the person or property of another may be used in the course of its commission.".

(g) The amendment shall take effect on the date of enactment of this section, except that subsections (c), (d), and (e) shall take effect on the first day of the first calendar month which begins more than ninety days after the date of the eanctment of this section. And that subsection (f) of this section shall take effect notwithstanding any other provision of law, and notwithstanding any other provision of law contained herein after or herein before in this joint resolution.

Mr. MOYNIHAN. Mr. President, I will not detain the Senate at length on this matter. It is a well-understood measure, a simple measure, and I think an important one which the full Senate has not considered.

I am the first to admit that the managers of the bill will argue, with some legitimacy, that this is legislation on an appropriations bill. I offer it as legislation unabashedly and in the interest of the peace officers of this country. Their lives and well-being have been brutally jeopardized in recent years by the proliferation of what are known as cop-killer bullets.

In 1982, I offered a similar measure, S. 2128, the Law Enforcement Officers Protection Act of 1982; a simple bill to ban the manufacture, importation, and sale of armor-piercing ammunition except as required for law enforcement or military use.

In the course of the last decade, peace officers across this Nation have begun to wear soft body armor. In many instances around the country, communities have gathered together to provide their police with such armor. This soft body armor—bullet-proof vests—has saved a very considerable number of lives, and has provided greater security for police forces across the country.

At the same time, rounds of ammunition, made of metals and alloys of kinds that pierce all manner of obstacles, including the body armor police officers now wear, have beome readily available.

At first, these bullets were developed with the thought that police might need them. It was soon apparent that they would be used against the police. No reputable American manufacturer produces these bullets in any form. Many of them have been imported from Czechoslovakia, where there is very little concern for the well-being of American police officers.

The proposal from 1982, which I again introduced in this Congress as S. 555, raised questions about the scope of the legislation. After a great deal of cooperation from the Senator from Nevada [Mr. LAXALT], it was agreed by the Treasury Department and the Justice Department that this was a necessary, useful, and practical measure. And in June of this year, the distinguished President pro tempore, Mr. THURMOND, Mr. BIDEN, Mr. KENNEDY and I joined in introducing S. 2766, the measure that I send before you.

Mr. President, S. 2766 has 96 cosponsors. Its sole purpose is to ban the manufacture and importation of solid projectiles and projectile cores made of tungsten alloys, steel, brass, iron, beryllium copper, or depleted uranium—depleted uranium being one of the more common alloy metals being used in these bullets.

Ninety-six Members of this body have cosponsored the bill. I cannot imagine a Senator on the floor that has not done so. It has one single purpose, and that is to protect the lives of peace officers. There is no possible use for these bullets; by sportsmen, or by persons who enjoy competitions of pistol practice on a range. No hunter would ever use such a bullet. If you were to strike a deer with such a round, the deer would die 10 hours later and 20 miles away.

There is no reason for these bullets, save to kill police. And the fact that they can do so suddenly removes from police officers of the Nation the protection which body armor gave them. Without that protection, they can no longer face up to handgun-carrying criminals.

I come before you on behalf of the many national police organizations and associations, and on behalf of 570,000 law enforcement officers across the Nation.

I do not doubt, and I do not question, the matter of germaneness in this regard. I do say that at this hour in this Congress a measure with 96 sponsors could reasonably be adopted, and it would do no violence to rules that has not repeatedly occurred for purposes of far less legitimacy and merit.

Mr. President, the hour is late; midnight approaches. This could be an occasion for some considerable debate if debate were in order. I think that should not be needed in the case of a bill which has 96 cosponsors.

Mr. President, I rise today to offer an amendment enbodying legislation which enjoys the support of the administration and the cosponsorship of 96 Members of this body. That bill, S. 2766—which is to say, this amend-

ment—would ban the manufacture or importation of so-called "cop-killer" or armor-piercing bullets.

"Cop-killer" is a chillingly apt moniker for these bullets, which serve no purpose but to kill and wound police officers, Federal law enforcement officers—even Presidents and other public officials—when they are wearing bulletproof vests. The bullets do not fit pistols normally used for practice shooting; they are useless for stopping game hunted by sportsmen; they are unnecessary for self-defense. In military parlance, these are "offensive weapons," ones which endanger the lives of thousands of police officers protected by bulletproof vests.

Our amendment would ban the manufacture and importation or solid projectiles and projectile cores made of tungsten alloys, steel, brass, iron, beryllium copper, or depleted uranium. Such bullets travel at a greater speed than do normal bullets, and they do not collapse upon impact. The amendment would not ban shotgun shot used for hunting, nor would it ban the manufacture of armor-piercing bullets for export of for use by law enforcement or military agencies. What it would do is keep this ammunition out of the hands of those who would use it to kill police officers.

Since the development of Kevlar and other materials used in bulletproof vests more than a decade ago, flexible body armor has saved the lives of more than 400 police officers. From 1974 to 1983, the number of law enforcement officials killed in the line of duty declined 43 percent. In just the last 2 weeks, a Long Island police officer's life was saved when a criminal's bullet failed to penetrate his vest.

That policeman would not have been so fortunate, had his assailant loaded his shotgun with a cop-killer bullet. In a test conducted by the California State Police, one armor-piercing bullet, the KTW variety, penetrated four bulletproof vests and five Los Angeles County phone books stacked behind them. According to the chief of the San Diego Police Department, W.B. Kolender, 9 of the 21 persons killed in the massacre at the McDonald's restaurant in San Ysidro, CA, last July, were slain by armor-piercing bullets imported from Czechoslovakia. And, I would add, dozens of police and SWAT officers positioned outside the restaurant were at risk as well from that ammunition.

The devastation caused by these bullets that day was reported in a UPI wire story of July 31, 1984:

> Lt. Paul W. Ybarrondo, who is leading the San Diego police investigation of the slayings, said in a telephone interview that the steel bullets ripped through walls, tables, stainless steel kitchen tables behind which victims hid. The bullets also tore through a wrought-iron fence around the restaurant's child play area outside and vehicles parked or moving in the area, he said.

Police chiefs and police departments around the country know all to well of the grave danger posed by cop-killer bullets, and have joined the call to ban them. Legislation to ban cop-killer bullets has been endorsed by the National Association of Police Organizations, the Federal Law Enforcement Officers Association, the Fraternal Order of Police, the International Brotherhood of Police Organizations, the International Union of Police Organizations, the National Sheriffs' Association, the National Organization of Black Law Enforcement Officers, and hundreds of State and local law enforcement agencies. In my own State, such a measure has been unanimously endorsed by both the New York City Council and the New York State Assembly, as well as the New York City Patrolmen's Benevolent Association. I would also note that the bill on which this amendment is based has the full support of the National Rifle Association, which has acknowledged that a ban on cop-killer bullets in no way would violate constitutional guarantees to bear arms.

It has been a long struggle to bring this matter to the attention of Congress. In the last Congress, on February 22, 1982, I introduced S. 2128, my first attempt to ban cop-killer bullets; it received support from two cosponsors. Representative MARIO BIAGGI of New York, who also has been a tireless advocate of this cause, introduced identical legislation, H.R. 5437, in the House of Representatives. In the first month of this Congress, on February 22, 1983, I introduced S. 555, legislation identical to the bill I had proposed the previous year. Repesentative BIAGGI again offered identical legislation. I was joined on S. 555 by 19 cosponsors, and I asked the administration to support a ban on cop-killer bullets. On May 31, 1983, Mr. Robert McConnell, Assistant Attorney General, wrote to say that the administration would support only penalties for criminal possession of armor-piercing ammunition, but not a ban on their manufacture, importation, or sale.

The effort continued, and the Judiciary Committee agreed to hold hearings on S. 555 in March of this year. At those hearings, police officers representing some of the law enforcement agencies I have mentioned—officers who wear bulletproof vests and who run the risk every day of encountering criminals armed with bullets that can pierce those vests—testified for a more comprehensive ban on the ammunition. On June 14, 1984, after much negotiation, a compromise was reached and, with the support of the administration, Senators THURMOND, BIDEN, KENNEDY, and I introduced S. 2766; 12 days later, the Senate Judiciary Committee reported out S. 2766 favorably, and it has continued to gain support in the months since then. I repeat, today S. 2766 has been cosponsored by 96 of the 100 Members of the Senate. That bill is now offered as an amendment.

We can act today to reduce the threat these bullets pose to law enforcement officers across the country. Speaking before the National Sheriff Association last June, President Reagan said, "I fully expect to be signing a cop-killer bullet bill before this Congress adjourns." For the thousands of policemen and policewomen who have pleaded for this legislation, I urge the Senate to give the President an opportunity to do so, and pass a strong and comprehensive ban on the manufacture and importation of this lethal ammunition.

Mr. President, I ask unanimous consent that a letter to Members of the House of Representatives, from the National Rifle Association in support of the Companion measure to S. 2766, offered in the House of Representatives, H.R. 5845.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

NATIONAL RIFLE ASSOCIATION OF AMERICA, INSTITUTE FOR LEGISLATIVE ACTION,

Washington, DC, August 3, 1984.

DEAR CONGRESSMAN: The National Rifle Association urges you to oppose H.R. 6067, as introduced by Congressman Hughes. H.R. 6067 claims to be aimed at banning armor-piercing ammunition, but is in fact a gun control bill. H.R. 6067 is opposed by the NRA and American sportsmen and gun owners.

H.R. 6067 gives unfettered discretion to the Secretary of the Treasury to decide what bullets will be banned. H.R. 6067 allows the banning of any bullet of "similar composition," as determined by the Secretary of the Treasury. Congressman Hughes' bill also places Federal Firearms dealers in jeopardy of federal felony prosecutions if they sell armor-piercing ammunition, as determined by the Secretary of the Treasury. Such a provision could end up outlawing almost all conventional ammunition, and then allow felony prosecutions against dealers which sell ammunition.

H.R. 6067, turns the armor-piercing bullet issue into a gun control issue which American sportsmen and law-abiding gun owners oppose in the strongest possible terms.

If the desire is to strike at only armor-piercing ammunition, H.R. 5845 introduced by Congressmen Jack Brooks, Thomas Foley, John Dingell, Trent Lott, Bob Michel and Hamilton Fish with support from the Reagan Administration accomplishes that purpose. H.R. 5845 is supported by over 200 co-sponsors, the Administration, the Police and the NRA.

The Administration is opposed to H.R. 6067, because of its overly broad provisions, open ended delegation of authority and potential to threaten the law-abiding gun owner and sportsman.

It has taken three years of hard work on the part of all parties to come up with a bill restricting the manufacture of armor-piercing ammunition without adversely impacting on the American sporting and hunting community. The task has been met in Congressman Brooks' bill, H.R. 5845, and is supported in its entirety by the Administration.

The National Rifle Association ask you to oppose casting aside that hard work, and broadening the issue into a gun control matter.

The National Rifle Association urges you to oppose H.R. 6067, in hopes that you will join with Congressman Brooks and Reagan's Administration, in moving for swift passage of H.R. 5845 in the near future.

Sincerely,

WAYNE LAPIERRE,
Director, Governmental Affairs Division.

NATIONAL RIFLE ASSOCIATION OF AMERICA, INSTITUTE FOR LEGISLATIVE ACTION,
Washington, DC, June 29, 1984.

Hon. DANIEL MOYNIHAN,
U.S. Senate,
Washington, DC.

DEAR SENATOR MOYNIHAN: On behalf of the National Rifle Association I would like to thank you for your support of S. 2766, the Law Enforcement Officers Protection Act of 1984, introduced by Senators Thurmond and Biden.

Your support is an essential part of a broad bipartisan effort to devise a viable legislative vehicle which responds to the wishes of our nation's law enforcement officers, without adversely affecting conventional ammunition used by law-abiding gun owners and hunters.

Again, your support of this legislation is appreciated.

Sincerely,

WAYNE LAPIERRE, *Director,*
Governmental Affairs.

Mr. MOYNIHAN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. MOYNIHAN. I yield the floor. I see my friend from Idaho is on his feet.

Mr. SYMMS. Mr. President, I hear my friend from New York on the floor. I think that one of the problems with his amendment, and it probably makes it even worse than the often talked about Saturday night special legislation that we hear about here in the Nation's Capital, is the fact that we do have so many cosponsors on the bill.

I would just like to point out a few facts to my colleagues before I make the point of order against the legislation.

There are several reasons why I think that this amendment should not be offered here tonight, despite the numerous cosponsors. But the first and most important point that I think we should recognize is that this legislation says that there is a difference between one piece of ammunition and another piece of ammunition with respect to the violence that it can incur and it takes the responsibility for that same violence away from the people who do the violence and puts it in an inanimate object, a bullet.

And this is a basic premise that I certainly as one Senator cannot accept.

There is no scientific definition that can be drawn between the penetrating bullet and the nonpenetrating bullet. This so-called pseudoscientific definition of armament-penetrating bullets contained in these bills is meaningless, and it is going to result in the control or elimination of common sporting ammunition through future Federal studies, as in the case of Saturday-night-special type legislation. And if you turn the bureaucracy loose on something like this, pretty soon you have good ammunition and bad ammunition. Bureaucracy excess and arbitrariness in regulations just goes on and on and on.

What we have is a crime control problem. If we lock up these habitual criminals, throw them in jail and throw the key away, we will not have the problem that the police officers have on the streets of the United States today. This amendment is not going to solve the problem.

Mr. DECONCINI. Will the Senator from Idaho yield?

Mr. SYMMS. Yes; I will yield—I maintain my right to the floor—for a question.

Mr. DECONCINI. It is not a question. I want to comment on what the Senator is saying about police. I do not ask him to relinquish the floor.

Mr. SYMMS. Yes; I will be happy to.

Mr. DECONCINI. If the Senator will look carefully, he will find that the National Fraternal Order of Police, the National Association of Sheriffs, and the National District Attorneys Associations support this legislation. Let me explain why. I have been a prosecutor and have what I consider a very good record with the NRA. I do not know of any time that I have not supported what I believe is a very important right—the right to bear arms. This amendment is in my judgment—I beg the Senator from Idaho to consider—important for the protection of law enforcement officials. We are not infringing on anybody's right here to bear arms. It just appears to me, that with 90-some cosponsors to this legislation, we ought to move this along. Realizing the Senator has the absolute right—and I respect that right, as a number of Senators could do here on a number of amendments that have been offered—to raise the question of germaneness, we have a piece of legislation that is needed as part of the President's crime package, part of the House crime package that finally they sent over, and part of the Senate crime package. It should have been included. This is the one opportunity we have with 3 days left. I urge the Senator to let this go through.

Mr. SYMMS. I appreciate my colleague's point. I know my colleague has a very good rating with the pro-gun, pro-self-defense, pro-protection people in this country. But I point out that the antigun lobby is rabid to pass this legislation. Did we get the McClure-Volkmer bill passed? No; the McClure-Volkmer bill was taken down in this same Senate. The Senate bill 45, which is the Morton Grove legislation, we could never seem to move forward. But now at the last hour, we are expected to accept this. I appeal to my colleague and tell him it may appear that way now. If this becomes law, you mark my words. Sporting ammunition that will penetrate bulletproof vests will eventually get on the endangered list.

Mr. DECONCINI. Will the Senator yield?

Mr. SYMMS. I yield. I maintain my right to the floor.

Mr. DECONCINI. I understand. Let me just say the Senator and I are on the same side of McClure-Volkmer.

We did not have a rollcall because quite frankly a lot of us did not want to put Senator MCCLURE from Idaho and others on the spot. He would have had to vote to table that amendment. I would have voted the other way because I am for that bill. I have been a cosponsor of it. You know why it was brought down. It was not brought down because of anything to do with gun control. It was brought down because of procedure. Now we have another opportunity. So what if the gun control people happen to be on the side of this issue? So are the antigun control people on my side of this issue.

Mr. SYMMS. Not all of them.

Mr. DECONCINI. A very small minority. Ninety-some Senators are cosponsors of this legislation. Why jeopardize the police and law enforcement people of this country when we have an opportunity in the last 3 or 4 days of this session to pass something that is going to protect our lives?

Mr. SYMMS. Mr. President, I would like to say to my colleague that in the first place, if I thought this were going to truly protect the police officers of this country, I would not make this point of order. But I do not believe that to be the case. There is no evidence that proves that will be the case. This Congress has passed many pieces of legislation that we have loathed and regretted when we had a unanimous vote in both the House and Senate.

Mr. President, I make the point of order that the amendment is not germane.

Mr. DECONCINI. I raise the question of germaneness, and ask if this is germane to the present legislation before us in the House language.

I ask for the yeas and nays on the question of germaneness.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is: Is the amendment of the

Senator from New York [Mr. MOYNIHAN] germane? On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Illinois [Mr. PERCY] is necessarily absent.

Mr. CRANSTON. I announce that the Senator from New Jersey [Mr. BRADLEY] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 24, nays 74, as follows:

[Rollcall Vote No. 272 Leg.]

YEAS—24

Biden	Dodd	Melcher
Bingaman	Hart	Metzenbaum
Bumpers	Hollings	Moynihan
Burdick	Inouye	Pell
Byrd	Kennedy	Proxmire
Chiles	Lautenberg	Riegle
Cranston	Levin	Sarbanes
DeConcini	Matsunaga	Tsongas

NAYS—74

Abdnor	Goldwater	Nickles
Andrews	Gorton	Nunn
Armstrong	Grassley	Packwood
Baker	Hatch	Pressler
Baucus	Hatfield	Pryor
Bentsen	Hawkins	Quayle
Boren	Hecht	Randolph
Boschwitz	Heflin	Roth
Chafee	Heinz	Rudman
Cochran	Helms	Sasser
Cohen	Huddleston	Simpson
D'Amato	Humphrey	Specter
Danforth	Jepsen	Stafford
Denton	Johnston	Stennis
Dixon	Kassebaum	Stevens
Dole	Kasten	Symms
Domenici	Laxalt	Thurmond
Durenberger	Leahy	Tower
Eagleton	Long	Trible
East	Lugar	Wallop
Evans	Mathias	Warner
Exon	Mattingly	Weicker
Ford	McClure	Wilson
Garn	Mitchell	Zorinsky
Glenn	Murkowski	

NOT VOTING—2

Bradley	Percy

The PRESIDING OFFICER. On this vote, there are 24 yeas, 74 nays. The judgment of the Senate is that the amendment is not germane; the amendment falls for that reason.

Mr. ABDNOR. I move to reconsider the vote.

Mr. BAKER. I move to lay that motion on the table, Mr. President.

The motion to lay on the table was agreed to.

Mr. ADBNOR. Mr. President, I want to take this opportunity to explain to my colleagues the provision in the Treasury bill which concerns the closing of small post offices. The intent of this language is to send a clear message to postal management that the Congress does not want the Postal Service to engage in the wholesale closing of small post offices. While the Congress does not want the Postal Service to indiscriminately consolidate or close an office, the Congress does recognize that on a case-by-case basis, after careful consideration, it will be necessary to close or consolidate an office if it is no longer the most efficient and cost-effective means to providing service to a rural community or town.

The Postal Service must, however, be sensitive to the needs of these communities. The Postal Service cannot and should not simply close post offices en masse in order to avoid costs. The Postmaster General has testified before my subcommittee that he favors maintaining the extensive delivery network which makes the Postal Service unique. He has also gone on record on a number of occasions disagreeing with the recommendations of the General Accounting Office and the Grace Commission that he close thousands of small post offices, and has given me his personal assurance that in those instances in which a post office must be closed, a comparable or improved level of postal services will be provided.

I would again like to point out that the language in this bill is intended to prohibit the wholesale closing of post offices. It does not prohibit the Postal Service from closing an office if the need arises on an individual, case-by-case basis. It is important that the Postal Service know our intention—yet not be hamstrung from carrying out its responsibilities under the law.

Mr. ABDNOR. Mr. President, I know of no further amendments.

Mr. DECONCINI. Mr. President, will the Senator yield?

Mr. ABDNOR. I yield.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. DECONCINI. Mr. President, I just want to make a reference to the vote we just cast in this body. I think it is really outrageous what the Senate just failed to do. We had an opportunity, with 95 or 96 Senators cosponsoring, to pass a bill that would outlaw bullets that kill police. But we do not have the courage to stand up here tonight and put it in this bill.

Oh, I know the argument. The argument from every chairman and ranking member, including this one on the subcommittee, is oh, we cannot have unauthorized legislation on this appropriations bill.

I can show you 12 water projects that are unauthorized, and I support them. And I can show you a dozen other things unauthorized that I support. We are kidding ourselves. Because the McClure-Volkmer bill had to be pulled down, everybody had to flee the ship.

We had an opportunity to do something positive for law enforcement and we do not have the courage to stand up and do it. I am embarrassed at this body for doing this and for the National Rifle Association lobbying against the bill after they have supported it over the last 2 years. When the next policeman gets killed while wearing a bullet-proof vest, I hope that those who voted that this amendment is not germane will have that little ticker that goes off in their heads and their conscience says, "Gee, I wish I had helped him."

Mr. BAKER. Mr. President, let me say I cosponsored this bill and under different circumstances, I would have not only supported it but enthusiastically supported it and worked for its passage. But I have stood on this floor, Mr. President, now, for days trying to get the Senate unraveled from trying to add things that are not germane and not relevant to this resolution. So far, the Senate has done an extraordinarily good job. I think the vote tonight was consistent with what the Senate has clearly decided to do; that is get on with the business at hand.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, I think part of the frustration of the Senator from Arizona and myself relates less to the question of germaneness and the point raised by the majority leader, whom I respect, and I understand the rationale, but what some of us think was a doublecross—not by any of our colleagues, but let me put it very bluntly, as unaccustomed as I am to being blunt on this floor. We worked for a long, long time with the NRA to, in fact, get agreement that this precise bill, the one we voted not germane, was in fact something they could support, knowing full well that the NRA is not unaccustomed to flexing its muscle in this body and having a response from this body. They in fact said they were on it. No one ever called this Senator, the ranking member of the committee and a person who worked on this as much as anybody else in terms of dealing with the NRA and other groups, the handgun control groups, also, all of them—and said they are off it. As a matter of fact, the NRA, I am told by some of my colleagues, is outside the door here telling people to vote, that it was not germane.

Now, I am sure there is great concern, Mr. Leader, for the prerogatives of the Senate. It is not the majority leader. It is not the body. It is that it appears as though we have been stuck.

Mr. BAKER. Mr. President.

Mr. BIDEN. The Senator did not have to call me that. [Laughter].

Mr. BAKER. Mr. President, let me say that I do not know who has been talking to JOE BIDEN, but nobody talked to HOWARD BAKER—nobody.

This thing was dealt with as the Senate should deal with the matter when we are trying to pass a continuing resolution. I do not know what the NRA thinks about it, but I know the

Senate did what it should do, and I have no regrets for it.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. DECONCINI. Mr. President, I want to make one other point. When McClure-Volkmer was pulled down because of procedural necessities—and I understand that—nobody asked for the yeas and nays, and we could have put the cosponsors of that bill who have fought for it, and the vast majority just voted that this was nongermane, right on the spot, and they would have had to vote no, we are not going to take up McClure-Volkmer. This Senator sat there, boy, relishing it because I wanted them to vote no because I wanted to take it up. I did not care whether it was germane or not; it was an important bill. The Senator from Idaho and a number of us have worked for a long time to get that bill up, and we did not get it up. We had to let it go. We let it go without a rollcall vote, and now what do we do? We get doublecrossed. I can bet when you get a chance to do something for law enforcement, you cannot put it across in this body.

Mr. MOYNIHAN. Mr. President, will my colleague yield?

Mr. SYMMS. Mr. President, will the Senator yield for one comment?

Mr. DECONCINI. I yield to the Senator from New York.

Mr. MOYHIHAN. Mr. President, I do no want to continue this. I simply wish to read a statement from the speech President Reagan gave to the National Sheriffs' Association in Hartford, CT, on June 20, 1984. He said, "I expect to be signing a cop-killer bullet bill before this Congress adjourns."

Mr. President, evidently he will not. I said when I introduced this measure that the issue of germaneness could legitimately rise, and it did, and it has had such result. In light of the legitimacy of this position, I would hope there will be no $2 billion of nongermane water projects on the continuing resolution.

Could the managers of the legislation assure us of that?

Mr. BAKER. addressed the Chair.

The PRESIDING OFFICER (Mr. SYMMS). The majority leader is recognized.

Mr. BAKER. Mr. President, I will assure the Senator and every other Senator that my interest is passing a CR. My interest is to get this Senate to do what it must do, fund the Government, which is now out of funds. I would like to deal with water projects. I would like to deal with teflon bullets. I would like to deal with a whole lot of other things. But we are going to stay on the matter at hand, if I have anything to do with it, and I will try very hard to insist that the Senate deal only with germane matters.

Mr. MOYNIHAN. Will the majority leader allow one further comment? It is wholly accurate to describe his position as he has, but does he know that the $2 billion worth of nongermane water projects are already in the continuing resolution?

Mr. BAKER. Mr. President, I stand on my statement. The Senate needs to do the matter at hand, and I suggest we get on with it.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment, as amended.

Mr. ABDNOR. Mr. President, I know of no other amendments. I move adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The committee amendment No. 11, as amended, was agreed to.

Mr. ABDNOR. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BAKER. I move to lay that motion on the table.

COMMITTEE AMENDMENT NO. 12

Mr. HATFIELD. Mr. President, I ask the Chair to to lay before the Senate committee amendment No. 12.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 14, line 16, strike (f) and insert in lieu thereof (k).

Mr. HATFIELD. Mr. President, we are now at the point of the basic technical amendments, this being technical amendment No. 12, relating to the numbering of the sections of the bill. It has been cleared on both sides.

Mr. JOHNSTON. Mr. President, the distinguished chairman is correct. This and the following amendments are technical in nature. It has been cleared on this side. We have no objection.

Mr. HATFIELD. Mr. President, I move the adoption of committee amendment No. 12.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The committee amendment No. 12 was agreed to.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

COMMITTEE AMENDMENT NO. 13

Mr. HATFIELD. Mr. President, I ask the Chair to lay before the Senate committee amendment No. 13.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 14, strike line 22 through line 6 on page 15.

Mr. HATFIELD. This is committee amendment numbered 13 that strikes certain House items provided for in the Senate-passed version of the Labor-HHS bill. It has been cleared on both sides.

Mr. JOHNSTON. Mr. President, the matter has been cleared on this side.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The committee amendment No. 13 was agreed to.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

COMMITTEE AMENDMENT NO. 14

Mr. HATFIELD. Mr. President, I ask the Chair to lay before the Senate the next committee amendment.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 15, line 8, insert "and".

Mr. HATFIELD. Mr. President, this is a technical amendment inserting the word "and." It has been cleared on both sides.

Mr. JOHNSTON. Mr. President, this is a technical amendment to insert the word "and" which has been cleared.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The committee amendment No. 14 was agreed to.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

COMMITTEE AMENDMENT NO. 15

Mr. HATFIELD. Mr. President, I ask the Chair lay before the Senate committee amendment No. 15.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 15, strike line 9 through line 16.

Mr. HATFIELD. Mr. President, this language strikes certain House provisions provided for in the Senate-passed Labor-HHS bill. It has been cleared on both sides.

Mr. JOHNSTON. Mr. President, this has been cleared.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The committee amendment No. 15 was agreed to.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

COMMITTEE AMENDMENT NO. 16

Mr. HATFIELD. Mr. President, I ask the Chair to lay before the Senate committee amendment No. 16.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 15, line 21, beginning with "except" strike through "Representatives" on line 25 and insert after the colon "*Provided,*".

Mr. HATFIELD. Mr. President, this amendment strikes a House provision limiting the spending rate for refugee and entrant assistance and substitutes the Senate language. It has been cleared on both sides.

Mr. JOHNSTON. Mr. President, this has been cleared on this side.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The committee amendment No. 16 was agreed to.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

COMMITTEE AMENDMENT NO. 17

Mr. HATFIELD. Mr. President, I ask the Chair to lay before the Senate committee amendment No. 17.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 16, strike line 6 through line 11 on page 17.

Mr. HATFIELD. Mr. President, this is again striking certain House provisions provided for in the Senate-passed Labor-HHS bill. It has been cleared.

Mr. JOHNSTON. Mr. President, this has been cleared.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The committee amendment (No. 17) was agreed to.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

COMMITTEE AMENDMENT NO. 18

Mr. HATFIELD. Mr. President, I ask the Chair to lay before the Senate committee amendment No. 18.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 18, strike line 20 through page 19, line 10.

Mr. HATFIELD. Mr. President, this amendment strikes certain language from the House-passed bill. It has cleared on both sides.

Mr. JOHNSTON. Mr. President, this has been cleared on this side.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The committee amendment No. 18 was agreed to.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

COMMITTEE AMENDMENT NO. 19

Mr. HATFIELD. Mr. President, I ask the Chair to lay before the Senate committee amendment No. 19.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 19, line 11, strike "109" and insert "106".

Mr. HATFIELD. Mr. President, this is a technical amendment making certain changes in the sections. It has been cleared on both sides.

Mr. JOHNSTON. Mr. President, this is a technical amendment. It has been cleared on both sides.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The committee amendment No. 19 was agreed to.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

COMMITTEE AMENDMENT NO. 20

Mr. HATFIELD. Mr. President, I ask the Chair to lay before the Senate committee amendment No. 20.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 20, strike line 20 through page 21, line 6, "(C)" and insert "(B)".

Mr. HATFIELD. This is again striking certain House language and substituting the Senate language. It has been cleared on both sides.

Mr. JOHNSTON. Mr. President, this has been cleared on this side.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The committee amendment No. 20 was agreed to.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

COMMITTEE AMENDMENT NO. 21

Mr. HATFIELD. Mr. President, I ask the Chair to lay before the Senate committee amendment No. 21.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 21, strike line 14 through page 23, line 19, "(H)" and insert "(C)".

Mr. HATFIELD. Again, this is striking certain House provisions of the bill. It has been cleared on both sides.

Mr. JOHNSTON. Mr. President, this amendment has been cleared.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The committee amendment No. 21 was agreed to.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

COMMITTEE AMENDMENT NO. 22

Mr. HATFIELD. Mr. President, I ask the Chair to lay before the Senate committee amendment No. 22.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 23, strike line 24 through page 27, line 21 and insert:

(D)(a) The project for mitigation, Replacement of Trimble Wildlife Area, Smithville Lake, Little Platte River, Missouri-Plan, is hereby authorized to be prosecuted by the Secretary of the Army, acting through the Chief of Engineers, substantially in accordance with the plans and subject to the conditions recommended in the report of the Chief of Engineers dated September 22, 1977, at a Federal cost of $7,770,000.

(b) There is hereby appropriated an additional amount for Department of Defense—Civil, Department of the Army, Corps of Engineers—Civil, "Construction, general", $7,770,000 to remain available until expended, to carry out this section.

(E) Section 44 of the Water Resources Development Act of 1974 (Public Law 93-251, 88 Stat. 12) is amended by striking subsection (b)(2) and inserting in lieu thereof the following:

"(2) The lands conveyed pursuant to this section, including the Olson Second Addition, shall be used by the Mountrail County Park Commission, Mountrail County, North Dakota, for public park and recreation purposes: *Provided*, That the park commission may designate all of the lands conveyed for leasing of cabin sites. The Mountrail County Park Commission shall reimburse the Federal Government for lands so used at the fair market value for such property. If any lands used for public purposes are ever used for any other purpose, title thereto shall revert to, and become the property of, the United States which shall have the right of immediate entry thereof.

"(3) The Secretary of the Army is authorized to execute and file an amended deed to reflect the provisions of this Act.".

Mr. HATFIELD. Mr. President, I believe the Senator from Iowa has a modification.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

AMENDMENT NO. 7008

Mr. JEPSEN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Iowa [Mr. JEPSEN] proposes an amendment numbered 7008.

Mr. JEPSEN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 29 following line 5 insert the following new section:

The Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to undertake such structural and nonstructural measures as he deems feasible to prevent flood damage to communities in the Pearl River Basin, Saint Tammany Parish, Louisiana.

(1)(a) The Secretary of the Army, acting through the Chief of Engineers, shall, after consultation with the advisory committee established under subsection (b), carry out a demonstration project for the development, operation, and maintenance of a recreation and greenbelt area on and along the Des Moines River, Iowa, between the point at which the Des Moines River is intersected by United States Highway 20 to the point downstream at which relocated United States Highway 92 intersects the Des Moines River. Subject to subsections (b) and (c) of this section, such project shall include, but not be limited to—

(1) the construction, operation, and maintenance of recreational facilities and streambank stabilization structures;

(2) the operation and maintenance of all structures constructed before the date of enactment of this joint resolution (other than any such structure operated and maintained by any person under a permit or agreement with the Secretary) within the area described in the Des Moines Recreational River and Greenbelt Map and on file with the Committee on Public Works and Transportation of the House of Representatives; and

(3) such tree plantings, trails, vegetation, and wildlife protection and development and other activities as will enhance the natural environment for recreational purposes.

(b)(1) The advisory committee referred to in subsection (a) shall be constituted as follows:

(A) five persons shall be appointed by the Governor of Iowa;

(B) two persons shall be appointed by their respective board of supervisors to represent each of Mahaska, Marion, Warren, Jasper, Polk, Dallas, Boone, and Webster Counties;

(C) one person shall be appointed by the mayor of the city of Des Moines and one additional person shall be appointed by the mayor of each other incorporated municipality within whose boundaries a portion of such recreation area lies; and

(D) three employees or officials of the Corps of Engineers shall be appointed by the Secretary.

(2) Each member of the advisory committee shall serve at the pleasure of the authority which appointed such member.

(3) No member of the advisory committee who is not an officer or employee of the United States shall receive compensation on account of his service on the committee or travel expenses or per diem in lieu of subsistence with respect to the performance of services for the committee. Members of such advisory committee who are officers or employees of the United States shall not receive additional compensation on account of their service on the committee.

(4) The advisory committee may elect such officers and spokesmen as it deems appropriate and may appoint such ad hoc committees of interested citizens as it deems appropriate to assist the committee in advising the Secretary.

(c) The construction and maintenance of structures and plant and husbandry activities referred to in subsection (a) of this section shall be conditioned upon the ownership by the United States of the land or interests therein necessary for such purposes.

(d) In carrying out the project described in subsection (a) of this section, the Secretary may acquire by purchase, donation, exchange, or otherwise land and interests therein, as the Secretary determines are necessary to carry out such project. If the Secretary purchases any land or interest therein from any State or local agency, he shall not pay more than the original cost paid by such State or local agency for such land or interest therein. No land or interest therein may be acquired by the United States to carry out such project without the consent of the owner, and nothing herein shall constitute an additional restriction on the use of any land or any interest therein which is not owned by the United States.

(e) Notwithstanding any other provision of law, the Federal share of the project to be carried out pursuant to this section shall be 100 per centum of the cost of the project.

(f) There is authorized to be appropriated to carry out this section $6,000,000, for fiscal years beginning after September 30, 1983.

Mr. HATFIELD. Mr. President, the managers of the bill have reviewed the modification offered by the Senator from Iowa, and it is cleared on our side.

Mr. JOHNSTON and Mr. RIEGLE addressed the Chair.

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. METZENBAUM. I object.

The PRESIDING OFFICER. Objection is heard.

The legislative clerk continued the call of the roll.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. I ask unanimous consent to temporarily lay aside committee amendment No. 22.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE AMENDMENT NO. 23

Mr. HATFIELD. Mr. President, I ask the Chair to lay before the Senate committee amendment No. 23.

The PRESIDING OFFICER. The committee amendment will be stated.

The legislative clerk read as follows:

On page 29, beginning on line 6, strike through line 11.

Mr. JOHNSTON. Mr. President, this has been cleared on this side.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the committee amendment was agreed to.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

COMMITTEE AMENDMENT NO. 24

Mr. HATFIELD. Mr. President, I ask the Chair to lay before the Senate committee amendment No. 24.

The PRESIDING OFFICER. Unanimous consent is required.

Mr. HATFIELD. I ask unanimous consent to temporarily lay aside committee amendment No. 22 and take up committee amendment No. 24.

The PRESIDING OFFICER. Without objection, it is so ordered. The committee amendment will be stated.

The legislative clerk read as follows:

On page 29, line 12, strike "111" and insert in lieu thereof "107".

Mr. HATFIELD. Mr. President, this is a technical amendment making a certain section change number. It has been cleared on both sides.

Mr. JOHNSTON. Mr. President, this technical amendment has been cleared on this side.

I am also in a position to say that amendment No. 22 has been cleared on this side.

The PRESIDING OFFICER. Without objection, committee amendment No. 24 is agreed to.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which committee amendment No. 24 was agreed to.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

COMMITTEE AMENDMENT NO. 22

Mr. HATFIELD. Mr. President, now we are on committee amendment No. 22?

The PRESIDING OFFICER. That is correct.

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, committee amendment No. 22, I believe, is

before the Senate. It is cleared on this side.

Mr. JOHNSTON. Mr. President, amendment No. 22 is cleared on this side.

AMENDMENT 7008

The PRESIDING OFFICER. There is an amendment, a modification, pending to committee amendment 22.

Is there further debate on the amendment?

Without objection, the amendment of the Senator from Iowa (No. 7009) is agreed to.

Without objection, committee amendment No. 22, as amended, is agreed to.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which committee amendment No. 22, as amended, was agreed to.

Mr. STENNIS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

COMMITTEE AMENDMENT NO. 25

Mr. HATFIELD. Mr. President, I ask the Chair to lay before the Senate committee amendment No. 25.

The PRESIDING OFFICER. The committee amendment will be stated.

The legislative clerk read as follows:

On page 29, beginning on line 20, strike all down through line 7 on page 30.

Mr. HATFIELD. Mr. President, committee amendment No. 25 strikes a House provision. It has been cleared on both sides of the aisle.

Mr. JOHNSTON. Mr. President, is this amendment No. 25 or No. 23?

Mr. HATFIELD. No. 25. We have done 23.

Mr. JOHNSTON. Committee amendment No. 25 has been cleared on this side.

The PRESIDING OFFICER. Without objection, the committee amendment is agreed to.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote by which the committee amendment was agreed to.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATFIELD. Mr. President, a parliamentary inquiry. We have followed sequentially, I believe, committee amendments numbered 12 through 25 and adopted all such committee amendments. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

COMMITTEE AMENDMENT NO. 26

Mr. HATFIELD. Mr. President, I ask the Chair to lay before the Senate committee amendment No. 26.

The PRESIDING OFFICER. The committee amendment will be stated.

Mr. JOHNSTON. Mr. President, will the Senator yield?

Mr. HATFIELD. I yield.

Mr. JOHNSTON. I notice that amendments 26, 27 and 28 are all technical amendments changing section numbers. I wonder if the Senator wishes to do them all en bloc.

Mr. HATFIELD. I have been a little reticent to ask for that consent. I have not been able to get it granted yet. So I prefer to follow this order.

Mr. President, I ask the Chair to lay before the Senate committee amendment No. 26, which has been cleared on this side.

The PRESIDING OFFICER. The committee amendment will be stated.

The legislative clerk read as follows:

On page 30, line 18 strike "114" and insert in lieu thereof "109".

Mr. HATFIELD. Mr. President, this is a technical amendment changing the section number of the bill.

Mr. JOHNSTON. Mr. President, committee amendment No. 26 and the next two, Nos. 27 and 28, are all technical amendments changing section numbers, and have all been cleared on this side.

The PRESIDING OFFICER. Without objection, committee amendment No. 26 is agreed to.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the committee amendment was agreed to, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

COMMITTEE AMENDMENT NO. 27

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 31, line 17 strike "115" and insert "110".

Mr. HATFIELD. Mr. President, this is another technical amendment changing the number of the saction. It has been cleared on both sides.

The PRESIDING OFFICER. The question is on agreeing to committee amendment No. 27.

The committee amendment (No. 27) was agreed to.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JOHNSTON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

COMMITTEE AMENDMENT NO. 28

Mr. HATFIELD. Mr. President, I ask the Chair to lay before the Senate committee amendment No. 28.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 32, line 15, strike "116" and insert "111".

Mr. HATFIELD. Mr. President, this is another technical change changing the section number of the bill. It has been cleared on both sides.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

The committee amendment (No. 28) was agreed to.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JOHNSTON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

COMMITTEE AMENDMENT NO. 29

Mr. HATFIELD. Mr. President, I ask the Chair to lay before the Senate committee amendment No. 29.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 32, line 22, strike from line 22 page 32 to line 10, page 35.

Mr. HATFIELD. Mr. President, this again strikes certain language from the bill and has been cleared on both sides.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

The committee amendment (No. 29) was agreed to.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JOHNSTON. Mr. President, I move to lay the motion on the table.

The motion to lay on the table was agreed to.

COMMITTEE AMENDMENT NO. 30

Mr. HATFIELD. Mr. President, I ask the Chair to lay before the Senate committee amendment No. 30.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 36, line 24, strike "118" and insert "114".

Mr. HATFIELD. Mr. President, this is a technical amendment changing the section number of the bill and it has been cleared on both sides.

Mr. JOHNSTON. This amendment is technical and has been cleared on this side.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

The committee amendment (No. 30) was agreed to.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the committee amendment was agreed to.

Mr. JOHNSTON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

COMMITTEE AMENDMENT NO. 31

Mr. HATFIELD. Mr. President, I ask the Chair to lay before the Senate committee amendment No. 31.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 37, line 1, add the words "or promulgate."

Mr. HATFIELD. Mr. President, this is a technical amendment adding the words "or promulgate." It has been cleared on both sides.

Mr. JOHNSTON. It has been cleared on this side.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

Committee amendment (No. 31) was agreed to.,

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JOHNSTON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

COMMITTEE AMENDMENT NO. 32

Mr. HATFIELD. Mr. President, we are at committee amendment No. 32.

The PRESIDING OFFICER. Will all Senators please direct their attention to the distinguished Senator from Oregon so he may be heard.

Mr. HATFIELD. Mr. President, the committee amendments now—I see the Senator from California has arrived—committee amendments Nos. 32, 34, and 35, they are what we call general provisions and there are many issues here that I think Senators will want to be heard on.

I ask unanimous consent at this time to set aside committee amendment No. 32 in order to dispose of a technical amendment No. 33 which follows, and that is merely to change a section number, and then we will have all the technical amendments out of the way and we are then to the three final substantive amendments.

I ask unanimous consent to take up committee amendment No. 33, a technical amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE AMENDMENT NO. 33

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 46, line 9, strike "119" and insert "128".

Mr. HATFIELD. Mr. President, this has been cleared on both sides of the aisle and I do move its adoption. As I indicated, it is a section change number, a technical amendment, and I move its adoption.

Mr. JOHNSTON. Mr. President, this has been cleared on this side.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

The committee amendment (No. 33) was agreed to.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JOHNSTON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed.

COMMITTEE AMENDMENT NO. 32

Mr. HATFIELD. Mr. President, I believe the Senate has before it or should have before it committee amendment No. 32, is that correct?

The PRESIDING OFFICER. The Senator is correct.

The amendment will be stated.

The legislative clerk read as follows:

On page 37, line 9, insert new language:

SEC. 115. Section 404 of the Small Business Investment Act of 1958 (15 U.S.C. 694-1) is amended as follows:

(1) by striking out "may be issued" in paragraph (1) of subsection (b) and inserting in lieu thereof "shall be issued";

(2) by inserting before the period at the end of paragraph (1) of subsection (b) the following; ", and the Administration is expressly prohibited from denying such guarantee due to the property being so acquired"; and

(3) by striking out "exceed 3½ per centum" in subsection (c) and inserting in lieu thereof "be less than 1 per centum or more than 3½ per centum".

SEC. 116. Of the funds appropriated to the Department of State in Public Law 97-257, Supplemental Appropriations Act, 1982 (96 Stat. 824), $3,500,000 in "Salaries and expenses" and $3,000,000 in "Acquisition, operation and maintenance of buildings abroad" shall remain available until September 30, 1985.

SEC. 117. Notwithstanding any other provision of this joint resolution, the Administrator of the General Services Administration is to provide an additional $3,611,000 from the Federal Buildings Fund for repairs and alterations of the Blair House.

SEC. 118. Notwithstanding any other provision of this joint resolution, $348,000 is appropriated to the State of Arizona to be available for expenses in connection with the San Luis, Arizona Border Station.

SEC. 119. Pursuant to the recommendation of the United States Claims Court in G.E Amick, et al. against United States, (a)(1) the Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to each of the individuals named in subsection (b) the amount set forth opposite the name of each such individual in full settlement of all claims of each such individual against the United States for damages arising in connection with the flooding of certain lands as the result of the unnecessary release of excess amounts of waters from the Stockton Dam and Reservoir during the period from November 1972 through June 1974, at which time such dam and reservoir were in operation under the control of the United States Army Corps of Engineers.

(2) The individuals referred to in subsection (a) and the amounts of money due each such individual are as follows:

R. Dean Dawes of Stockton, Missouri	$2,700
Harlen Chism of Stockton, Missouri	6,596
Ray and Clara Pinkman of Stockton, Missouri	4,211
Perrin Masters of Stockton, Missouri	2,394
Ray M. Pinkman of Stockton, Missouri	3,819
A. W. Spillers of El Dorado Springs, Missouri	3,500
Hester E. Simrell of Stockton, Missouri	2,200
G. E. Amick of El Dorado Springs, Missouri	3,200
T. M. Montgomery of Stockton, Missouri	3,087
T. M. and Berla Montgomery of Stockton, Missouri	190
A. C. and Virginia I. Montgomery of Stockton, Missouri	4,500
Irene Larson of Aurora, Missouri and Virginia Montgomery of Stockton, Missouri	7,796
Ruby Dean Leffler of Stockton, Missouri	4,982
Edward C. and Frances Pyle of Stockton, Missouri	1,545
Gilbert and Pansy Pyle and Ronnie and Kay Pyle of Stockton, Missouri	4,422
Gilbert and Ronnie Pyle of Stockton, Missouri	11,458
Lageta Cowan of Stockton, Missouri	3,200
Swangel Estate of Stockton, Missouri	12,123
W. H. Eslinger of Stockton, Missouri.	5,668
J. C. Eslinger of Stockton, Missouri	5,668
Max A. and Betty Lee Smith of Stockton, Missouri	310
Lat and Zella Lee Smith of Stockton, Missouri	384
Riley Carver of El Dorado Springs, Missouri	6,800

(b) No part of each amount appropriated in this Act in excess of 10 per centum thereof shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, any contract to the contrary notwithstanding. A violation in this section is a misdemeanor punishable by a fine in an amount not to exceed $10,000.

SEC. 120. (a) Section 5723(a)(1)(C) of title 5, United States Code, is amended by striking out ", by and with the advice and consent of the Senate,".

(b) Subchapter II of chapter 57 of such title is amended by striking out sections 5724b and 5724c and inserting in lieu thereof the following:

"§ 5724b. Taxes on reimbursements for travel, transportation, and relocation expenses of employees transferred

"(a) Under such regulations as the President may prescribe and to the extent considered necessary and appropriate, as provided therein, appropriations or other funds available to an agency for administrative expenses are available for the reimbursement of substantially all of the Federal, State, and local income taxes incurred by an employee, or by an employee and such employee's spouse (if filing jointly), for any moving or storage expenses furnished in kind, or for which reimbursement or an allowance is provided (but only to the extent of the expenses paid or incurred). Reimbursements under this subsection shall also include an amount equal to all income taxes for which the employee and spouse, as the case may be, would be liable due to the reimbursement for the taxes referred to in the first sentence of this subsection.

"(b) For the purposes of this section, 'moving or storage expenses' means travel and transportation expenses (including storage of household goods and personal effects under section 5724 of this title) and other relocation expenses under sections 5724a and 5724c of this title.

"§ 5724c. Relocation services

"Under such regulations as the President may prescribe, each agency is authorized to enter into contracts to provide relocation

services to agencies and employees for the purpose of carrying out the provisions of this subchapter. Such services include but need not be limited to arranging for the purchase of a transferred employee's residence.".

SEC. 121. Notwithstanding any other provision of this joint resolution, except section 102, there is an additional amount appropriated for "Military construction, Army", $14,950,000; for "Military construction, Navy", $17,570,000; for "Military construction, Air Force", $35,100,000; for "Family housing construction, Army", $4,800,000; for "Family housing construction, Air Force", $20,086,000: *Provided*, That notwithstanding section 101 of this joint resolution the rate of operations for "Military construction, Navy" shall be $1,550,242,000; and for "Military construction, Defense Agencies", $351,010,000.

"SEC. 122. In the case of pay for pay periods commencing on or after the first day of the month after the month in which this section is enacted, the pay for any period of an attorney in the Office of the Legislative Counsel of the Senate shall not be reduced by more than 50 percent because of deductions made pursuant to section 8344 of title 5, United States Code, if such attorney, as of the date of enactment of this section, has attained age 55 and has completed 30 years of service as an attorney in such Office. The preceding sentence shall cease to be effective in the case of pay for pay periods commencing after October 1, 1989.".

SEC. 123. The first sentence of section 101(e) of the joint resolution entitled "Making continuing appropriations for the fiscal year 1983, and for other purposes", approved October 2, 1982 (96 Stat. 1189), is amended by inserting "(1)" after "except that" and by striking out the period at the end thereof and inserting in lieu thereof the following: ", and (2) the proviso contained in the paragraph under the heading 'Acquisition of Property as an Addition to the Capitol Grounds' in S. 2939 shall not be effective after the date of enactment of this clause.".

SEC. 124. (a) Notwithstanding any other provision of law, the Department of Transportation is hereby authorized to require and accept bonds in connection with the provisions of this section, and to deposit the same into the general fund of the Treasury in the event of the failure of the poster of the bond to comply with the requirements of this section.

(b) The Secretary of the Department of Transportation shall provide exemptions to the January 1, 1985 deadline for compliance with the provisions of Public Law 96-193 for international operations at Miami International Airport if, on or before January 1, 1985, applicants for such exemptions have posted bonds committing them to sign contracts with known suppliers of equipment that would bring said applicants into compliance with the provisions of Public Law 96-193, with such exemptions to be granted as follows:

(1)(A) applicants currently operating aircraft for which equipment to assure compliance ("hush kits") is currently under development shall be required to enter into contracts for such equipment or replacement aircraft three months after the certification by the Department of such equipment by two or more competing suppliers; and

(B) applicants currently operating aircraft for which no such compliance equipment is currently under development shall be required to contract for aircraft or equipment which will comply with the provisions of Public Law 96-193 no later than December 31, 1985, unless extended by the Secretary; and

(C) except for circumstances beyond the control of the applicant, all exemptions granted under this subsection shall expire no later than December 31, 1986; or

(2) in the case of a foreign applicant where the Secretary of the Department of Transportation determines, after consultation with the Secretary of State and other interested departments and agencies of the Government, that the applicant faces financial circumstances whereby compliance would impose unreasonable burdens on the applicant and such burden would not be in the interests of the foreign policy of the United States, the Secretary shall provide an exemption to such time certain as he determines to be reasonable under the circumstances, not to extend beyond December 31, 1987.

(c) No applicant receiving an exemption under the provisions of this section may increase its frequency of international operations of noncompliant aircraft on an annualized basis at Miami International Airport beyond that existing on an annualized basis during calendar year 1984.

(d) No applicant receiving an exemption under the provisions of this section may add to the number of noncompliant aircraft operated at Miami International Airport over that which it operated during calendar year 1984.

(e) Each applicant shall post a bond, in an amount to be determined by the Secretary (but not to exceed $100,000 per aircraft), as evidence of its binding commitment to comply with the provisions of Public Law 96-193. The Secretary shall notify each current applicant for exemption within two weeks of the adoption of this section or where an application is not yet on file, two weeks following application as to the amount of bond to be required. Any failure to comply with the conditions of any exemption granted under this section shall result in the forfeiture of the bond and the termination of the exemption. Upon compliance with sections (b)(1)(A) and (b)(1)(B) herein or the grant of a waiver under (b)(2), the bond shall be returned to the applicant.

(f) Nothing in this section shall affect the authority of the Secretary to grant exemptions at other places of for other reasons, or to deny any application for foreign policy consideration.

SEC. 125. Notwithstanding any other provisions of law or this joint resolution, unexpended balances of funds appropriated by the Department of Transportation And Related Agencies Appropriations Act of 1984, for employee protection as authorized by the Rock Island Railroad Transition and Employee Assistance Act as amended (45 U.S.C. 1001 et seq.), shall continue to remain available for such purpose until not later than April 1, 1985; and, such funds shall be expended in accordance with the amendment made by section 201 of H.R. 3648 as passed by the House of Representatives on March 6, 1984.

SEC. 126. Notwithstanding any other provision of this joint resolution, there is an additional amount appropriated for the Agricultural Research Service, United States Department of Agriculture, $1,000,000.

SEC. 127. Notwithstanding any other provision of this joint resolution, and in addition to amounts appropriated elsewhere, there are appropriated $3,200,000 for fiscal year 1985 for Salaries and Expenses of the Food and Drug Administration to carry out the Drug Price Competition and Patent Term Restoration Act of 1984.

Mr. HATFIELD. Mr. President, this amendment is open for further amendment.

The PRESIDING OFFICER. The Senator from Washington.

AMENDMENT NO. 7009

(Purpose: Directs the U.S. Army Corps of Engineers to design a single retention structure to control sediment following from the eruptions of Mount St. Helens)

Mr. EVANS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Washington [Mr. EVANS] for himself and Mr. GORTON proposes an amendment numbered 7009.

Mr. EVANS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 29 after line 5, insert the following new section:

Notwithstanding any other provision of this Joint Resolution, the Secretary of the Army, acting through the Chief of Engineers, is directed to use $6 million of available funds for detailed planning and initial design of the permanent solution (single structure) to the problems caused by the eruption of Mount St. Helens on the Cowlitz River and its tributaries in Washington.

Mr. EVANS. Mr. President, I am pleased to offer an amendment on behalf of myself and Senator GORTON.

My amendment, simply stated, directs the corps to move ahead with preliminary design of a single retention structure to control sediment flowing from the eruptions of Mount St. Helens.

The necessary funds have previously been appropriated. This is consistent with the corps present schedule. And the corps is ready. All we need is the blessing of the Assistant Secretary of the Army.

It has been over 4 years since the May 18, 1980 eruption. The President, in responding to the threat, requested and the corps completed a comprehensive study. The study recommended permanent solutions to the flood control problems.

I would like to stress that the level of detail in the comprehensive study is greater than a normal feasibility study. There is more technical analysis. There is greater detail as to changes in the enviroment—such as sediment changes. The only difference, in fact, is that the study has alternatives rather than a specific recommendation. And if you read the study, you can see that the best solution would be a single retention structure.

So, My President, I urge my colleagues to accept this amendment. There is no disagreement as to what needs to be done. We need to design a single retention structure. There is only disagreement as to when it should be done.

Mr. GORTON. Mr. President, I am pleased to join Senator EVANS in cosponsoring this amendment which directs the Corps of Engineers to begin preliminary design work on the construction of a single retention structure on the North Fork of the Toutle River just above its confluence with the Green River. Once constructed, the structure will hold back sediment that is currently flowing down the river into the Cowlitz and Columbia Rivers. The structure will reduce significantly the threats posed by the two major problems that have resulted from the Mount St. Helens eruption: the life-threatening flood potential that exists along the Cowlitz River in the Longview-Kelso area and the infilling of the Columbia River navigation channel.

The Mount St. Helens eruption deposited over 3 billion cubic yards of sand-like sediment in the North Fork of the Toutle River. High erosion rates and the instability of the sediment being transported downstream have necessitated unparalleled actions by the Army Corps of Engineers to control this flow of material to avoid downstream flooding and navigational hazards. To date, the Corps of Engineers has spent $350 million on emergency dredging and levee protection work. Despite these efforts for the past 4 years, the communities along the Cowlitz River still face serious flood threats. These temporary solutions, while providing protection on an interim basis, are expensive to maintain and do not provide long-term security to the 60,000 residents in the Cowlitz River area or long-term assurance that the vital Columbia River navigation channel will remain unimpeded.

The President, responding to the Mount St. Helens disaster, directed the corps to conduct a comprehensive study to recommend a permanent solution to these flood control problems. The corps' report was presented to the President on November 15 of last year. The problem is that it may be years before the recommendations in the report are fully implemented.

The amendment we are offering provides what the Corps of Engineers needs to begin designing a long-term solution to the problems presented by this unique disaster.

I urge my colleagues to support this amendment to ensure the safety of the people living in the Longview-Kelso area.

Mr. EVANS. I believe this amendment has been cleared on both sides.

Mr. HATFIELD. Mr. President, the Senator from Washington State is correct. This is a continuation of the obligation undertaken years ago about St. Helens, and we accept the amendment on this side of the aisle.

Mr. JOHNSTON. Mr. President, the amendment is accepted.

The PRESIDING OFFICER. The amendment that the Senator from Washington sends to the desk amends a different part of the bill than that before the body. It will take unanimous consent to consider the amendment.

Is there objection?

Mr. HATFIELD. Mr. President, I so ask unanimous consent.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the amendment of the Senator from Washington.

The amendment (No. 7009) was agreed to.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. EVANS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 6985

Mr. PRESSLER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from South Dakota [Mr. PRESSLER] proposes an amendment numbered 6985.

The PRESIDING OFFICER. The amendment of the Senator from South Dakota is out of order in that it hits a part of the bill not currently before the body.

Mr. PRESSLER. Mr. President, I ask unanimous consent to consider this amendment.

The PRESIDING OFFICER. Is there objection to the request of the Senator from South Dakota?

Mr. HATFIELD. Mr. President, I object, reserving the right to object.

The PRESIDING OFFICER. Objection is heard.

Mr. PRESSLER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. PRESSLER. Are we on committee amendment No. 32? I was told earlier today I could offer it.

The PRESIDING OFFICER. Committee amendment No. 32.

Mr. PRESSLER. I was told I could offer this amendment, the Turkish Cypriot amendment. I was told it would be in order on this amendment.

The PRESIDING OFFICER. The amendment before the body has been drafted to a different page.

Mr. PRESSLER. To which page? We have changed it to section 32 because earlier today I offered it and gave my speech on it. I was interrupted in my speech saying it should be offered here. I am merely responding to the Parliamentarian of the Senate. Point of order.

The PRESIDING OFFICER. The Senator's amemdment is drafted to go on page 49.

Mr. PRESSLER. Mr. President, I will bring it up. I ask unanimous consent to bring the amendment up now. I am going to bring it up later. I am happy to bring it up later if necessary, but I am ready to go at this point. I brought it up twice before.

The PRESIDING OFFICER. Is there objection to the request of the Senator from South Dakota?

Mr. HATFIELD. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. BAKER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BAKER. What is the request?

The PRESIDING OFFICER. Will the Senator please restate his request?

Mr. BAKER. The yeas and nays have not been ordered. The Senator can offer his amendment if he wishes.

The PRESIDING OFFICER. The Chair will state the Senator may withdraw his amendment if he wishes. The yeas and nays have not been ordered.

Mr. PRESSLER. Mr. President, may I offer it on amendment 34 then? I am trying to find out how to do it. I do not know the parliamentary situation. If I withdraw it, can I offer it again to committee amendment No. 34?

Mr. BAKER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BAKER. If it is drafted to amendment No. 34 it would be eligible for No. 34; is that correct?

The PRESIDING OFFICER. If it is drafted to amendment No. 34 it would be eligible to amendment No. 34. The Senator is correct.

Mr. PRESSLER. Let us consider it right now to committee amendment No. 34.

Mr. BAKER. Mr. President, if the Senator considers withdrawing the amendment and perhaps eliciting the assistance of the Parliamentarian——

Mr. PRESSLER. I withdraw it on the advice of very senior distinguished colleagues.

The PRESIDING OFFICER. Does the Senator withdraw his amendment?

Mr. PRESSLER. Yes.

The PRESIDING OFFICER. The Senator from South Dakota has the floor. There is no amendment now pending.

AMENDMENT NO. 7010

(Purpose: To limit appropriations made to the Director of the Office of Personnel Management if a certain report is not made to the appropriate Committees of the Congress by September 1, 1985)

Mr. CRANSTON. Mr. President, I will make a very brief statement because the amendment I am offering is very simple and I know that we do not want to spend more time than need be on any amendments on this measure.

In June, the House passed legislation calling for a study of the Federal job classification system to determine if the wages paid in job classifications filled predominantly by female workers are set lower than the wages paid in job classifications filled predominantly by male workers, because of the sex of the employees, rather than on the basis of any intrinsic differences in the relative value of the work performed, the qualifications required for the job, or the working conditions.

This legislation has passed by the House on an overwhelming vote of 415 to 6. It was certainly a bipartisan vote. It was an overwhelming bipartisan nonpartisan vote.

I am hard pressed to understand why there would be any opposition to the Federal Government studying, simply studying its own work force to determine if women working in the predominantely female job classifications are being underpaid.

It is certainly not some type of novel idea to study this matter.

More than 20 States have already begun similar studies of their civil service systems. Private employers all over the country are doing the same thing.

The Federal Government would not be breaking any new ground in doing this kind of a study. In fact, we are way behind other public employers.

The time is certainly due for this kind of study of the Federal system. The current system is based upon a system established in 1923. In view of the tremendous changes in the work force and the role of women in the Federal Government as well as the history of discrimination against women in employment in numerous respects, this kind of study is certainly appropriate.

We do know that some of the statistics relating to average pay for women employed by the Federal Government raise some very serious questions. For example, the average female Federal worker earns $17,000 compared to an average of $28,000 for men—an $11,000 difference. We know that while women constitute 40 percent of the Federal work force, only 3 percent of the federally employed women earn more then $20,000.

How can it seriously be doubted, I ask, how can it seriously be doubted that we need to take a closer look at how things are working in the Federal personnel area?

I recognize that some have charged that by doing such a study, we will be developing the evidence that can be used subsequently in a title VII case against the Federal Government. That is only true if we fail to act after finding that the wages established in predominantly female categories have been depressed below what should be paid based on an unbiased evaluation system.

In this regard, there are two models: in Washington State, a study found that because of their sex, female employees were getting paid less than they should be, yet the State government did nothing to correct the situation and thereby exposed itself to a lawsuit for employment discrimination. In contrast, the State of Minnesota has done a similar study and has already appropriated funds to correct the unfair discrepancies that have been uncovered.

If the study called for in this amendment does show that the wages of one group of employees are lower than another because of their gender, then we ought to take action to correct that situation.

I think we should all clearly understand that there is no question that sex-based wage discrimination is a violation of title VII. The Supreme Court has clearly held in the 1981 Gunther decision that title VII forbids certain employment practices that might not be within the scope of the Equal Pay Act. The only issue is one of fact—whether sex-based wage discrimination exists in a particular case—not whether the law forbids such discrimination. The study we are talking about would only examine the facts; it would not create any new legal rights that don't already exist under title VII.

Mr. President, there is going to be an argument made that regardless of the merits of this amendment, it should not go on the continuing resolution. Let me say that I do not think we have any choice. Despite the overwhelming vote in the House, the Senate leadership has refused to allow a conference to proceed on the House-passed bill. It has been held at the desk for the past 3 months. I think that the Senate has an obligation to vote on this legislation. I think that it should approve this amendment. I think that it is time that we started looking at the Federal work force—just as many, many other employers have done—to see if there is sex-based discrimination going on and if there is systematic underpaying in predominantly female job classifications.

Mr. President, let me now discuss for a moment the form of the pending amendment.

Over the course of the past week, my staff has been discussing with staff representing various Members who are interested in this issue the possibility of making certain changes in the House-passed bill. Although those discussions did not result in agreement on the amendment, I was prepared to make most of the modifications which were discussed and were desired by some who were not prepared to support the form passed by the House. For example, I would like to see an 18-month period for the study and I would be more than willing to change some of the terminology used in the amendment to make it more neutral. I even discussed a drastic modification which would have cut out many of the specifics contained in the House bill and provided just for the basic study.

However, the parliamentary situation has required me to submit my amendment in a form where a point of order will not lie against the amendment. That drafting requires a simple reference to the House-passed bill. If the majority leadership were willing to let this matter come up in the appropriate fashion on one or another of the House-passed bills now pending at the desk which involves civil service matters or if they had been willing to convene a conference on S. 958 which has been sitting at the desk in legislative limbo since July 3, I think that we would have been able to make these modifications and make the amendment more acceptable to all of the parties.

But the leadership has been unwilling to let this matter come to a vote in the regular manner.

Thus, I have drafted my amendment in the form of an appropriations limitation and I am advised that a point of order will not lie against this amendment.

Let me make the parlimentary situation very clear to those who are listening. This amendment is drafted so that it will not constitute legislation on an appropriations bill. Thus, Members are going to have the opportunity to vote on whether they think the Federal Government's own workforce ought to be examined to determine if female employees are being treated fairly. Any vote that we now take on this amendment will be on the merits of the amendment.

I hope that this body will follow the example set by the House of Representatives with its overwhelming, bipartisan approval of this study. Not only has the House been willing to vote on this amendment, in both this Congress and in the last Congress, but extensive hearings on the problem of pay equity or "comparable worth" have been held by the Post Office and Civil Service Committee in the House.

Mr. President, on behalf of Senators EAGLETON, BINGAMAN, HEINZ, RIEGLE, MATSUNAGA, LAUTENBERG, and Mr. DODD, I now send this amendment to

the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from California [Mr. CRANSTON], for himself, Mr. EAGLETON, Mr. BINGAMAN, Mr. HEINZ, Mr. RIEGLE, Mr. MATSUNAGA, Mr. LAUTENBERG and Mr. DODD proposes an amendment numbered 7010.

Mr. BAKER. Mr. President, I will ask unanimous consent first that the reading of the amendment be dispensed with and, second, I am going to suggest the absence of a quorum so I can read it. If the Senate wants it read, we can do that. But I think this is a better way to approach it.

First, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment reads as follows:

On page 46, line 8, add at the end of the Committee amendment numbered 32 the following new section:

SEC. 127A. Notwithstanding any other provision of this joint resolution, no part of the funds made available under this joint resolution may be used by the Director of the Office of Personnel Management after September 1, 1985, for salaries and expenses for that Office if the Director has not by that date submitted to the Committees of the Congress described in section 103(a)(2) of the amendment adopted by the House of Representatives on June 28, 1984, to S. 958, 98th Congress, Second Session, the report required under title I of such amendment.

CRANSTON PAY EQUITY AMENDMENT

Mrs. KASSEBAUM. Mr. President, I will vote against germaine on the amendment offered by Senator CRANSTON and want to explain briefly my reasons for doing so. First of all, I do not believe that a continuing appropriations resolution is the appropriate place or that this late hour during the waning days of the 98th Congress the appropriate time to be considering legislation dealing with a pay equity study of the Federal Government. As a general matter, I think our experience of the past week offers compelling evidence of the folly and futility we face in attempting to place all our unfinished business on a single legislative vehicle. More importantly, however, I believe that the issues raised by the amendment are far too significant to be given a cursory glance and approval by the Senate.

This amendment would set us on a course which really is not well understood. I have found that many individuals believe that "pay equity" deals strictly with "equal pay for equal work", a right which has been guaranteed for two decades. It is, in fact, something quite different. In discussing "equal pay for equal work", one is referring to equal pay rates for substantially the same job—whether it is held by a man or by a woman. The Equal Pay Act has successfully eliminated situations in which men and women holding the same jobs were paid differently on the assumption that the man was the family breadwinner and, therefore, needed the higher pay. Such practices, which were once common, would unlikely be tolerated today—even if they were legal.

Moreover, even among those who recognize that "pay equity" or "comparable worth" move beyond the concept embodied in the Equal Pay Act, there is no consensus as to what these terms really mean. In their broadest sense, the terms are applied to attempts to compare dissimilar jobs on the basis of the level of "skill, effort, and responsibility" required to perform those jobs. It is most frequently discussed as a means to eliminate pay disparities between male and female workers on the basis that female jobs have been undervalued due to discrimination. Yet, it is not clear to me that there are any natural limits to the application of the concept.

This is not an area that I feel we can rush into without giving some real thought to its long-term implications. In addition to the obvious problems associated with attempts to compare dissimilar jobs in an objective and complete manner, comparable worth represents a major departure from the market principles which have guided our economy. The possibility that comparable worth would reduce flexibility in responding to fluctuations in supply and demand or increase incentives to substitute capital for labor must also be considered.

The study called for by this amendment is clearly based on the comparable worth concept. After the study is completed, we may well find ourselves in a situation where the Federal Government is deemed guilty of discrimination—even though comparable worth is neither written into our statutes nor accepted by the courts as a definitive interpretation of any law now on the books.

It is possible to recognize the improvements should be made in the salary levels of jobs traditionally held by women without concluding that comparable worth is the only or the inevitable remedy. This is an important goal, but is not one which is well-served by hasty action on a proposal with unclear long-term ramifications. I urge my colleagues to join me in tabling this amendment.

● Mr. BINGAMAN. Mr. President, I am pleased to support and cosponsor Senator CRANSTON's amendment which attempts to address a practice that should have ended long ago; that of sex-based pay discrimination in the Federal Government. The amendment would require the Office of Personal Management to provide, through a contract with a private consultant for a study of the Federal position-classification and job-grading system to determine if discriminatory wage-setting practices exist, and make recommendations for the elimination of such discriminatory practices if they are found.

It has been 21 years since the enactment of the Equal Pay Act and 20 years since the Civil Rights Act of 1964—measures which are sought to protect women and others from discriminatory pay practices. while these two landmark pieces of legislation have been helpful in initiating basic and necessary changes in providing equal opportunity and fair compensation, they have failed to alter the unfortunate and troubling fact that most women are still earning 59 cents for every dollar earned by their male coworkers.

For too long, indispensable occupations, traditionally held by women such as teachers, nurses, child care professionals, and librarians, have been severely undervalued and underpaid. Across the board, women average 40 percent less in earnings than men. Within the Federal Government 40 percent of the 2.8 million Federal workers are women. The majority of those jobs are in the lowest seven pay grades. Only 12 percent of the high level Federal jobs are held by women. These figures are disturbing. They are even more disturbing when we stop to think that they describe severe disparities found within the Federal Government.

It is essential that we work toward establishing a real and verifiable pay equity standard while ensuring equal opportunity and treatment for all citizens under law. The study provided for in this amendment would investigate and propose a comparative value for different positions, taking into consideration responsibilities, qualification requirements, and working conditions. In my home State of New Mexico there is now an ongoing study mandated by Gov. Toney Anaya to evaluate and uncover State sex-based pay discrimination practices. In 1981, through recommendations made by the State legislature the task force was successful in raising the pay scales of 23 job categories affecting 3,000 State employees. Of those employees, 83 percent were women. These statistics illustrate both the existence of such discriminatory practices as well as the need and ability to change a situation rapidly.

Distorted job classification and compensation systems in the public and private sector are based on the assumption that the job market is without sex bias and responds to certain job sector shorages. Yet historically this has not proven true across the board. The job market is more responsive to a shortage in engineers, system analysts, and other male dominated fields than that of women dominated

fields. There has been a severe shortage of nurses for a long time, but the wages and benefits available to women have not responded to the market. This example makes it clear just how important it is that we act now to make corrections in our present systems, identify the areas of unfairness and then develop an equitable and representative system of compensation and performance evaluation in the Federal Government, that I urge my colleagues to support this amendment.●

PAY EQUITY AMENDMENT (NO. 7010)

● Mr. EVANS. Mr. President, I rise today to make a brief but important statement regarding the amendment proposed by the distinguished Senator from California. I am supportive of the intent of his proposal which calls for a comprehensive study of the wage-setting practices within the Federal classification system and I urge that it be considered as germane. Similar legislation has already passed the House overwhelmingly by a vote of 413 to 6, indicating the issue is hardly a partisan one.

Many of my colleagues are aware of the peripheral public policy debate called "comparable worth." Unfortunately, the term has come to mean so many different things to different people that the central issue in this controversy has been removed from discussion.

Mr. President, the first piece of legislation I introduced as a U.S. Senator called for a study of the wage-setting practices of legislative branch agencies who are covered by title VII of the Civil Rights Act and who use the Federal classification system. I strongly believe that the issue at stake, wage discrimination based on sex, is of critical importance to this Nation and I intend to do everything I can to see that it is a top legislative priority in the 99th Congress.

What is really at stake in the comparable worth controversy is the fact that women are discriminated against because of job evaluation and classification systems which are premised on outmoded concepts of labor value. As Governor of Washington State in the early 1970's I convened the first comparable worth study in the Nation. I found that the senior department heads and senior exempt personnel were being paid at rates that I felt were not adequate. We could not attract the kind of people I wanted as senior leaders in government in my State. My first association with the methods of job evaluation, which are now at stake in this comparable worth controversy came from leaders in private industry. They were methods which had been used for years in private industry to create the internal alignments within companies and within industries for their own salary-setting purposes. So this is no methodology which came out of either academia or out of Government. Job evaluation came out of private industry itself. Furthermore, it is astonishing to me now that so many opponents of comparable worth look on the whole method of job analysis as being some new and strange device that has not been used over the years. That simply is not true.

We discovered some interesting things throughout the course of the studies. For example, we discovered that animal technicians, a glorified term for zoo-keepers received more at all levels than child care specialists. We paid more for the people who took care of our animals than those who took care of our children.

Unfortunately the Washington State experience is erroneously looked upon by many as ample reason why Government should stay out of the comparable worth issue. In commenting briefly about the recent Washington State case I must note that comparable worth, or the relative value of jobs was not at question in the lawsuit—the State's failure to pay was.

In the aftermath of the Washington State experience there has been a significant trend among the States. Currently, 16 States have comparable pay standards, 14 States have convened studies of their classification systems and many more State legislatures will consider comparable worth in their coming sessions.

There are a number of reasons why we should convene a comprehensive study of the Federal classification system. The overriding reason is that it has never been studied for sex bias. There are many compelling examples which would suggest that this system has not kept pace with the contemporary labor market. In the Federal classification system supervisory control factors, less often a component of traditionally female job, is more heavily weighted than the complexity factor which does characterize female jobs. There is also a great need to adapt to new technology. For example, the clerical field has been revolutionized by new technology. Recently, the Office of Personnel Management reaudited jobs of clericals using word processing equipment which resulted in lowering the job classification. Word processors were informed that because their jobs required more than 75 percent typing and because the end product of their work was a typed manuscript the job series will rate out at a GS-4. This decision was made contrary to the fact that jobs in today's labor market have become more technical, more complicated and more demanding.

The Senate may defeat the amendment on the grounds that it is nongermane; however, I can assure each of my colleagues that it will remain with us as an issue until we are willing to respond. I will therefore reintroduce legislation next session convening an independent study of the Federal classification system. A companion measure will also be introduced in the House of Representatives.

Mr. President, during this session I have tried repeatedly to have a hearing on the pay equity legislation I introduced last November. There has never been such a hearing in the Senate. I strongly urge the Chairman of the Committee on Governmental Affairs to make it a priority to hold hearings on this issue during the next session.

Mr. President, I will conclude by emphasizing that the issue of comparable worth is not a new one to Congress. Rather, it is the next step in this Nation's step-by-step progress in eradicating discrimination in whatever form it may exist.

Comparable worth was considered as early as the 1940s when the first equal pay legislation was introduced in both the House and Senate; 20 years later, there was finally a majority in both Houses of Congress to pass the Equal Pay Act of 1963. Some of my colleagues here today I am sure remember that debate 20 years ago. Opponents argued vehemently that women who performed the same work as men were simply not worth as much because the market said so. They predicted that it would result in either price inflation or wide scale unemployment as well as bankrupt the economy. All of these prophecies simply failed to withstand the test of time.

There are alternatives under the heading "comparable worth" that are responsible and reasonable methods for Government to decide the internal alignments of jobs within its organization. This does not necessarily incur extra costs to Government, nor does it mean that all wages will be raised. This type of internal alignment can and has been done responsibly to bring equity to a pay system. I must emphasize that we need go no further. I do not believe that Government should get in the business of requiring or setting the method of job classification in private industries or in individual companies. I think that is a perfect place for the marketplace to work.

If Government decides to lead in a new system and if because leading in a new system raises the job classifications and salaries of positions filled primarily by women, and if the result is that the best qualified for those positions choose to work for Government, I think industry will have to respond in the marketplace.

Mr. President, I urge the Senate to consider this issue a top priority for its deliberation.●

Mr. EAGLETON. Mr. President, I rise in full support of my colleague from California and urge the Senate to address the issue of pay equity at

this time. The House debated the matter June 28 and voted 413 to 6 to require that the Office of Personnel Management conduct a study of the Federal position, classification, and job grading system to determine whether Federal wage-setting practices and policies discriminate against job categories filled primarily by women.

I emphasize that the House required a study, not changes in Federal wage-setting practices; not implementation of new programs or new wage scales, but simply a study. If the study concludes that discriminatory practices exist, the House bill requires that recommendations be made as to how to eliminate the discrimination. Both the study and the recommendations are to be made by a private consultant, thus avoiding any conflict-of-interest problems. The study would take about 7 months and cost only about $500,000.

Since the House language on pay equity was delivered to the Senate July 3 as an amendment to the merit pay bill, S. 958, the measure has been held at the desk. The Senate has refused to appoint conferees, leaving both the merit pay bill and pay equity hanging. Neither deserves such treatment. Merit pay passed the Senate by voice vote on March 1, 1984, and contains provisions of great importance to the senior executive service. A pay equity study, while opposed by the administration, has the overwhelming support of the House, and if we vote on Senator CRANSTON's amendment here today, I predict the overwhelming support of the Senate.

Mr. President, I expect the administration and others oppose a pay equity study because they fear its results. We all know that nurses are paid far less than doctors; that secretaries earn far less than plumbers; that elementary school teachers bring home a barely livable wage. It is simple common sense that traditional female occupations are not financially remunerative.

Now, is this because these jobs are undervalued by the marketplace because they are filled primarily by women? Or, is this because the skills required for these jobs are not equivalent to the skills, effort, and responsibility required by more traditional male occupations which pay better?

Whatever the reason, it is a fact that, despite strong Federal legislation to end employment discrimination, women continue to earn only 62 cents for every $1 earned by men. The Equal Pay Act of 1963 and title VII of the Civil Rights Act of 1964 prohibit discrimination in compensation. But the standard required by the Equal Pay Act is "substantially equal" if women as a group do not hold the same kinds of jobs as men. If a woman lawyer doing substantially the same work as a male lawyer earns only two-thirds the man's salary, then there is a clear case of discrimination under current law. But can the salary of a dental hygienist be compared with the salary of male garbage collectors?

I really don't know, but women have long argued that their jobs are underpaid relative to male jobs of comparable worth, and studies conducted at the State level support their contention. One of the earliest studies was conducted by the State of Washington in 1973–74, and led to the landmark case in *AFSCME* v. *State of Washington*, 33 FEP Cases 808 (D.C. W.D. Wash. 1983). In that case the court concluded that the State of Washington's wage system resulted in intentional discrimination against employees in predominantly female job classifications. That case is now on appeal to the ninth circuit, not, I understand, because of the holding, but because the State of Washington contends it cannot financially afford to comply with the court's orders for backpay, declaratory judgment, injunctive relief, and fringe benefits.

Mr. President, the State of Washington can argue, and we at the Federal level can argue, that governments cannot afford to pay employees equally. Those who oppose Senator CRANSTON's amendment can say, "what if the Federal Government faced a court order equivalent to that of Washington State? Could the Federal Government afford to double or triple its deficits and as result of potential lawsuits stemming from a "pay equity study?"

Mr. President, I say these are not the issues. If women's occupations require same working conditions and the same level of skill, effort, and responsibility as jobs held by men, then women's pay should be substantially equal. We at the Federal level—as the Nation's largest employer—should be taking the lead to make sure our employees are paid substantially equally. We cannot hide our heads in the sand because of legal results stemming from actions taken by more courageous States. We should and must conduct a study of comparable worth at the Federal level; we must seriously review the results of that study to see if indeed we are discriminating against our female employees, and then we must move immediately to implement recommendations to end any such discrimination—both in fairness to our employees and to avoid potential litigation.

There is no price tag on equality. Whether on the marketplace or elsewhere, our Nation is committed to ending discrimination based on race, color, creed or sex. Equal pay for work of comparable value must now be addressed. To delay further on this important issue is to ignore reality and will, I expect, ultimately result in greater, rather than lesser costs, to the Federal Government.

Mr. HATCH. Mr. President, I support the position of nongermaneness of the amendment offered by the Senator from California. I would, however, like to offer a few observations about the substance of the amendment being offered.

While the study purports to be but a simple measure to study Federal pay practices, the supporters of the amendment have been very candid in what they believe the ultimate result of this measure will be—the overturning of key provisions of title VII of the Civil Rights Act of 1964 and the Equal Pay Act of 1963, and the application of the theory of comparable worth to the private sector.

Like many civil rights issues, the concept of comparable worth has an immediate appeal due to its simplicity, an appeal that quickly turns to a nightmare when the notion is understood. The core concept of the comparable worth debate is that the average working woman in the United States earns less money than the average working man. I might note that the average minority worker earns less than the average white worker, but that latter fact is ignored for comparable worth is really a woman's issue.

The statistic that is often raised to demonstrate that women earn less than men is the inaccurate and almost absurd macrocomparison that the average women earns only 59 cents on the male dollar. Let's look at this alleged fact more closely.

Fact 1, the statistic is wrong. The macrostatistic should be 68 percent. In 1983, the average male worker earned $383 per week. The average woman earned $260 a week, according to the Bureau of Labor Statistics.

Fact 2, the statistic does not account for disparities between age groups. For example, women between the ages of 20 and 24 earn 78 percent of their male counterparts.

Fact 3, the statistic doesn't account for variations within occupational classifications. For example, for health workers, other than physicians or dentists, women's earnings are 90.5 percent of men's. Among college and university teachers, the figure is 75 percent.

Fact 4, the statistic does not account for the average number of hours worked. The average man works longer than the average woman. If you take this one fact into account and this fact alone, the differential between men and women becomes 70 percent.

Looking at these problems together, it becomes clear that the very premise of the comparable worth debate is not accurate—that the comparison of over generalized statistics tends to magnify the differences in the earnings of men and women instead of portraying the picture accurately.

In fact, when allowances are made for differences between the average man and woman, differences in education, work experience, seniority, and continuity in the workplace, even differences in the length of the workweek, the differential narrows significantly.

Are there other reasons why women earn less than men. Yes; there are.

Fact 1, women tend to be concentrated in a few jobs. Approximately 80 percent of all women workers can be found in just 25 of the 420 occupational categories listed by the Department of Labor. An initial reaction is that this high concentration is due to discrimination, that women were forced either intentionally by overt discrimination or unintentionally by such factors as subconscious role-model stereotyping into these jobs.

While this may be true in some regard, one would think that there must have been some discernable changes in female job selection preferences over the last 20 years, that due to our antidiscrimination laws and changes in societal attitudes, not to mention tens of billions of dollars worth of affirmative action programs, that women have begun to make different career selections, that they have begun to find work in higher paying occupations.

A recent Bureau of Labor Statistic report included a chart which compared 1960 and 1980 female occupational participation rates. According to the chart, there has been some increase in female participation in nontraditional jobs.

FEMALES—TOTAL EMPLOYED IN OCCUPATION

[Percent]

	1960	1980
Accountants	16.4	36.2
Assemblers	43.7	53.2
Bakers	15.9	42.9
Bank officials/financial managers	12.2	33.6
Bus drivers	9.8	44.9
Buyers/purchasing agents	17.7	33.6
Carpenters	0.4	1.5
Clerical workers	67.5	80.1
Engineers	0.9	4.0
Household (private) service workers	96.6	97.5
Laundry and dry cleaning workers	71.3	63.5
Lawyers/judges	3.3	12.8
Mechanics, including automotive	1.1	1.9
Nurses, registered	97.6	96.5
Physicians/osteopaths	6.8	13.4
Protective serviced (police, guards, firefighters)	4.1	9.5
Printing craft workers	11.0	22.7
Restaurant, cafeteria and bar managers	24.0	39.4
Sales managers/department heads (retail)	28.2	40.5
Tailors	20.0	46.2
Teachers (college and university)	21.3	33.9
Teachers (except college and university)	71.6	70.8
Writers, artists, and entertainers	34.2	39.3

Movement has occurred, but not out of traditionally female jobs.

Fact 2, the majority of working women are employed in the country's lowest paying industries. A ranking of industries prepared by the Bureau of Labor Statistics in 1982 showed that often those industries with higher percentages of female employees tended to have lower average hourly earnings for both men and women. Thus, for example, the apparel and textile products industry had the highest percentage of women employees among the 52 industries ranked, but it was 50th in average hourly earnings. The apparel and accessory stores industry ranked fourth in the proportion of women-workers, but was last in average hourly earnings.

Conversely, the bituminous coal and lignite mining industry ranked 52d in percentage of women employees but had the highest average hourly earnings. The primary metal industries ranked 47th in the proportions of women workers, but was 6th in average hourly earnings.

Fact 3, men tend to invest in more training than women. Men, on an average, tend to show a greater willingness to invest in job training, job searches, education, and other techniques designed to facilitate their occupational mobility and increase their earnings potential. Women who ultimately spend many years in the work force often did not plan to do so initially. They, on the average, have not made the same training investment made by the average man.

Fact 4, the average working man remains in the labor force continuously after leaving school. The average working woman does not. Taken together, these issues raise questions about whether there are limits on what can be covered under our equal employment laws, on whether there is a limit on what an employer can be held liable for. And, finally, is there really discrimination if a person chooses a lower paying job if he or she is not being barred from other occupational opportunities.

If, for example, a woman chooses to work as a teacher because the hours are compatible with child-raising responsibilities for which she, rather than her husband, assumes the primary role, should her presence in a predominantly female occupation be regarded as a result of discrimination? I think not.

If a young woman prepares herself for a career as a secretary or nurse in the belief that she will be able to leave and reenter those occupations more readily than other fields if and when she chooses to have children, is she to be regarded as a victim of job segregation? I think not.

If the crowding of women into a few occupations that are compatible with these cultural patterns results in an oversupply that drives down the market price of their labor, is that a problem of discrimination which the law should remedy or merely a reflection of a social structure in which women's role, though rapidly changing, still tend to be somewhat different from men's? I think not.

And, finally, is a woman who selects a lower paying job on her own, cognizant of the pay and the availability of other opportunities, should she be treated comparably to a man or woman who is arbitrarily excluded from an opportunity because of skin color, sex, or native homeland? I think not.

Is existing law adequate to combat sex discrimination? I do think so. Under title VII of the Civil Rights Act of 1964 and the Equal Pay Act of 1963, women cannot be denied equal pay for equal work; intentionally paid differently than men because of their sex; discriminated against in initial job assignments; intentionally segregated into "women's" jobs; denied the right to apply for any jobs, particularly higher paying jobs often performed by males; denied training, transfers, promotions, or any other job opportunities because of their sex; or subjected to intentional job evaluation manipulations that downgrade women's pay because of their sex.

If an employer, be it the Federal Government or someone in the private sector has violated these prohibitions, back pay and wage adjustments can be ordered.

Comparable worth is premised, however, on the assumption that any situation where a job held predominantly by females is paid less than a comparable job held predominatly by males is the result of discriminatory wage setting practices. Such an assumption reflects a false understanding of the many legitimate factors which must be considered in setting wages. Indeed, such an assumption is at odds with the conclusions reached by the Congress when it established the principle of equal pay for equal work. The wisdom of the equal work approach was recognized in the recent decision by the Ninth Circuit Court of Appeals in *Spaulding* v. *University of Washington*, 35 FEP cases 217 (No. 82-3038, July 3, 1984).

In examining the claims in that case, the court noted that the plaintiffs had sought to build their case on evidence of differences in pay between jobs which were held primarily by women and different jobs which were held primarily by men. The court observed that:

> Intuitively, evidence of a pay disparity between jobs that are only comparable (rather than substantially the same) says very little about discriminaton.

The court denied plaintiffs' claims under both title VII of the Civil Rights Act of 1964 and under the Equal Pay Act of 1963 stating that the fact that payments are different for different jobs is insufficient alone to establish a prima facie case of discrimination.

The decision by the ninth circuit is significant because it was this same court which originally adopted a broad interpretation of title VII in the *Gunther* case, 623 F.2d 1303 (1979), later

affirmed by the Supreme Court, 452 U.S. 161 (1981). These decisions recognized that in the extensive debates which preceded enactment of the Equal Pay Act, Congress specifically rejected a proposed legal standard that would have required an employer to pay the same wage to workers performing work of comparable character on jobs requiring comparable skills. Congress expressed concern that this latter standard was vague, and gave too much enforcement latitude to courts and administrative agencies. When courts have been asked by plaintiffs to engage in such comparisons of job worth, they repeatedly have recognized that such subjective determinations are best left to the employer.

In Spaulding, for example, the court of appeals rejected a so-called comparability plus test proposed by the plaintiffs in which the amount of evidence of discriminatory intent required would vary depending on how much similarity could be shown in the different jobs being compared. The court noted that such a sliding scale approach would plunge the courts into standardless supervision of employer/employee relations. The ninth circuit quoted with approval the observations of the trial judge in *Power* v. *Bary County*, 539 F. Supp. 721, 727 (W.D. Mich. 1982) stating that a court "cannot, and will not, evaluate different jobs and determine their worth to an employer or to society and then, on that basis alone, determine whether (the law) has been violated."

What each of these courts recognized, as did Congress in 1963, is that there are numerous legitimate factors which may cause wage differentials. To pretend that the only cause is discrimination is simply a sophomoric oversimplification of a complex issue.

Yet, we are being urged to ignore what little evidence is before us and rush through a proposed study based on the nebulous notion of comparable worth. We are to close our eyes, hold no hearings, provide no time for analysis or discussion.

I think there are a number of us here in this body who feel that there is a better way of ascertaining whether Federal employees are being victimized by discrimination than by condemning our free market system. There are a number of us here who also understand the dangerous ramifications of the proposed study.

What we can't understand is why the supporters of the proposal are so afraid of having this bill reviewed by committee, of having this legislation treated like all other measures. If we should decide to overturn two decades of civil rights legislation, let us at least understand what we are doing. I think the country expects us to legislate with reason not by label.

Mr. President, I ask unanimous consent that an article entitled, "Comparable Worth: The Feminist Road to Socialism" by Michael Levin, which appeared in Commentary be inserted in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COMPARABLE WORTH: THE FEMINIST ROAD TO SOCIALISM

(By Michael Levin)

In December 1983, Federal Judge Jack Tanner accorded the fullest legal recognition it has so far received to the novel economic doctrine of "comparable worth." This doctrine holds that women in the work force are paid less than they are really "worth" in terms of the "value" of what they do. The recognition came in Judge Tanner's decision in *American Federation of State, County, and Municipal Employees [AFSCME]* v. *Washington State*, that Washington owes 15,500 female state employees over four years' back pay and raises. Estimates of the cost of this judgment vary from $500 million to $1 billion. Whatever the eventual tally, Washington taxpayers will have to come up with it soon, as Judge Tanner has denied various motions by the state for time to accommodate its new burden. The case is currently under appeal to the Supreme Court, with the Reagan administration reluctant to side with Washington "against women" in an election year.

The history of *AFSCME* v. *Washington* reflects the development of the comparable-worth doctrine over the last decade, and illustrates as well the tactics on which comparable-worth advocates have come increasingly to rely. The idea itself has lately become the main item on the feminist agenda and has, moreover, been enshrined in the 1984 platform of the Democratic party. It is generally introduced with a statistic and a few examples intended to shock. One learns, first, that the average full-time working woman makes about sixty cents for every dollar earned by her full-time working male counterpart. To vivify the point, one may then be told that tree surgeons outearn librarians by several thousand dollars a year. As a sort of climax of unfairness, the advocacy literature of the National Organization of Office Workers (NOOW) stress the case of a firm offering $745–1,090 per month for general clerks, who must analyze invoices and have "good telephone etiquette" and who are usually female, while offering $1,030–1,100 per month for shipping clerks, who need only write legibly and be able to "lift equipment in excess of 100 lbs." but who are usually male. It is presumed to be self-evident that the ability to talk on the telephones entitles one to more money than a strong back.

The big question is why women earn so little if the "human capital" they embody is so valuable and the jobs they do so important. The answers given by comparable-worth advocates may be ranked by the degree of conscious malevolence they attribute to employers. At one extreme stands the accusation that (male) employers actually conspire against women in order to reduce labor costs ("to maximize profits" is the preferred formulation). Thus, in 1980, the program director of NOOW assured the Equal Employment Opportunity Commission that banks "colluded to hold down wages"; her evidence was that (a) bank presidents regularly met for lunch, and (b) men use "cultural stereotypes" when arguing with female union organizers. Such charges, however, are not taken very seriously even within comparable-worth circles, for wage-fixing cartels, quite apart from being illegal, would be vulnerable to raids by independent firms willing to pay more for talented females. Nor is it clear why employers willing and able to rig substandard wages for women would not also rig equally substandard wages for men.

The case for conspiracy being so flimsy, comparable-worth advocates prefer two other explanations of the wage gap. The first is the "herding" of women into a "pink-collar ghetto" of typically female jobs, which floods the market and depresses wages for these jobs. According to a study done for the Michigan Department of Labor:

The reason for sex-related pay differentials [is] the traditional sex-segregation of most jobs. Under this hypothesis, the result of "crowding" of females into the clerical and service occupations is an oversupply of labor in these occupations, with resulting lower wages.

But this "hypothesis" rests most uneasily with charges of sexual discrimination, for it concedes that at bottom female wages are determined by the market forces of supply and demand. The more would-be secretaries there are, the less an employer must offer to get secretarial help—just as, conversely, the recent scarcity of nurses has driven up nursing salaries. Secretarial wages may be considered "discriminatory" and the supply of secretaries an oversupply only if "crowding" is not a metaphor but a literal description of employers forcing women into some jobs and barring them from others. The supposition that such practices exist is entirely implausible in light of the Equal Employment Opportunity Act and Title VII of the Civil Rights Act, which explicitly forbid them; nor has any comparable-worth advocate produced a single instance of such activities occurring in the last decade. But as this citation from the Michigan Department of Labor suggests, one of the more ominous themes in the comparable-worth campaign is its implicit claim that the spontaneous social factors which affect women's vocational choices are themselves forms of discrimination calling for government correction.

Since the notion of "ghettoization" is so dangerously ambiguous, comparable-worth advocates add a final factor to explain the wage gap: the systematic undervaluing of women's work as part of society's overall disregard for women. Whereas classical economics says that in a free market the wages of all workers reflect their "marginal productivity," no matter what prejudices their employers may harbor, the comparable-worth case holds that market mechanisms "don't work" for women. In the words of *Women, Work, and Wages*, a report prepared in 1981 by the National Academy of Sciences (NAS):

"In many instances . . . jobs held mainly by women and minorities pay less at least in part *because* they are held mainly by women and minorities . . . the differentials in average pay for jobs held mainly by women and those held mainly by men persist when the characteristics of jobs thought to affect their value and the characteristics of workers thought to affect their productivity are held constant."

In a remarkable display of pseudo-rigor, the NAS even produced a mathematical "coefficient of discrimination" for calculating

by how much the proportion of females in a job lowers its wages.

The tricky part, of course, is being sure one has identified *all* the "characteristics" that affect the wages for any particular job. In practice, this means hiring a team of "management experts," like Hays Associates or Norman Willis or the Arthur Young Co. (authors of the Michigan report), to make a determination. As one might expect, this also in practice inexorably links the question of what factors do determine wages to the quite separate question of what factors, in the opinion of management experts, *ought* to determine wages.

The experts typically resolve any given job into a few standard factors—skill, effort, responsibility, and working conditions, or some variants thereof—and then assign a score to each factor. Jobs with equal point totals, when all dimensions are combined, are regarded as equally "valuable". The heart of the procedure—the assignment of points—is entirely subjective and universally admitted to be so by the firms that specialize in the practice. Nevertheless, it was in terms of such evaluation surveys that the NAS found women to be victims of wage discrimination.

Thus we arrive at the position of the state of Washington in the early 1970's when, heeding feminist imperatives, its governor commissioned the Willis firm to run a "point factor analysis" of wage rates. Like most public employers, Washington at the time was compensating at the rates prevailing for the nearest corresponding jobs in the private sector. But when the first Willis survey found that predominantly female jobs (those done 70 percent or more by women) paid on average 20 percent less than jobs of the same "worth" done predominantly by men, the Washington Personnel Board resolved in 1976 to use the Willis analysis in setting wages. No steps, however, were taken in this direction, in part probably because of a memorandum cautioning that doing so would cost the state almost $65 million—in retrospect, a twentyfold underestimate. Eventually, it was not the results of the Willis survey *per se*, but Washington's failure to abide by studies it had commissioned and resolved to respect, that Judge Tanner used to sustain his finding of discrimination. Washington was hoist on the petard of its own impeccably progressive intentions.

It is vital to emphasize that equal pay for the *same* work was not at issue in the AFSCME suit and has not been an issue since the passage of the 1963 Equal Pay Act. Moreover, there is not a single sentence in the U.S. Code or anywhere else to give comparable worth any statutory basis whatever. What enabled AFSCME to bring its suit in the first place was the Supreme Court's 1981 ruling in *Gunther* v. *Washington* that litigants have a right to test the comparable-worth concept in federal court under the rubric of Title VII of the 1964 Civil Rights Act. (*Gunther* concerned female prison guards of female prisoners, who claimed that their work was as valuable as that done by better-paid male guards of male prisoners in higher security prisons.) AFSCME was simply the first droplet in the flood of litigation released by *Gunther*.

It is true that neither of these two key comparable-worth decisions directly endorses comparable worth, nor is either a bolt from the federal blue into the wage policies of localities or industry. At the same time, however, it would be naive not to expect *AFSCME* to be replayed in the near future. Over a dozen states have undertaken comparable-worth studies of their own work forces, and there is agitation for such studies in virtually every other state and in hundreds of municipalities. These studies are invariably accompanied by disclaimers of legislative intent—"Let's simply see if our state is perpetuating discrimination"—but *AFSCME* is an obvious basis for legal action once these studies uncover wage discrimination, as they always seem to do.

To this commotion may be added the 1982 endorsement by the leadership of the Democratic party of "equal pay for work of comparable social value," [1] a doctrine even more radical than "equal pay for work of comparable economic value." Walter Mondale is on record as supporting "equal pay for comparable *effort*," more radical still. Congress has held hearings on the issue. Comparable-worth advocates are predictably eager to impose it on the private sector; such is the stated position of the New York *Times*. An advocate of comparable worth has argued that women who occupy "traditionally segregated jobs" have a prima-facie case for wage discrimination, with the burden of disproof falling on the employer [2]—an impossible burden to discharge since "wage discrimination" was unheard of until recently, and so no employer could have acted affirmatively to prevent it. Clearly, comparable worth has followed some other notable ideas from the feminist agenda onto the national agenda.

Is it true that discrimination explains why women earn less than men? The National Academy of Sciences concluded from its survey of the statistical literature that "differences in education, labor-force experience, labor-force commitment, or other human-capital factors believed to contribute to productivity" could explain, at most, half the wage gap. It would seem evident that the failure to explain the wage gap by a given set of variables is consistent with the operation of undiscovered variables having nothing to do with discrimination. Yet comparable-worth advocates have managed to obscure this point by expeditious wordplay. In the jargon of the moment, they conceive discrimination as a "residual." This means that certain variables are selected *a priori* as relevant to wages, and discrimination is then defined as what these variables cannot explain.

In the last two decades the traditional test for discrimination—"intent"—has yielded to the much more dubious test of "effects," but the "residue" test goes beyond even "effects." Stigmatizing a practice as "discriminatory in effect" requires at least that one identify some specific human activity and show that it has some definite effect on the sexes. The "residue" test is uncontrolled, conflating as discriminatory all situations in which gender differences are observed, possibly including those caused by subtle innate biological sex differences.

The NAS states:

"The burden should rest on the designer of the job-evaluation system to identify and explicitly incorporate all factors regarded as legitimate components of pay differences between men and women, not merely to assert the possibility that including unspecified and unmeasured factors or improving the measurement of existing factors could reduce the 'discrimination' coefficient."

In English, this means identifying discrimination with the wage gap itself, since in practice all "unmeasured factors" are assumed irrelevant. By fiat, then, the NAS is able to dismiss such factors as differences in drive and family sex roles as imaginary.

Thus, none of the studies surveyed by the NAS properly controlled for so obvious a variable as marital status: the wages of *never-married* women with full-time, continuous labor-force participation are virtually the same as those of the average married full-time working male. Women earn less than men, it seems, because they want jobs permitting easy exit from and reentry into the labor force, preferences which flow in turn from the average married woman's perception of her family as being her primary responsibility, especially when her children are young. Men, on the other hand, see themselves as breadwinners, whose obligation to make money increases as children come along. Perhaps a further factor will prove to be the male's amply-documented greater innate competitiveness, his tendency to do whatever is necessary to ascend hierarchies, including the hierarchies of modern business organizations.

Would it exonerate all concerned of the charge of wage discrimination if the wage gap turned out to be due to differences in family sex roles? Not at all; these basic differences between men and women simply become further injustices:

Criticizing women for "lower labor force participation rates than men, moving in and out of the labor force more frequently than men, and being more likely than men to be seeking part-time work only" fails to take certain fundamental facts into account. For instance, among *Fortune* 500 executives, who is taking care of the children? Whose responsibility is it to juggle career demands with child-bearing and child-caring? Did it ever occur to you that the reason women seem less committed to careers is that they don't have the luxury of a wife to take care of home and children while they blaze their career paths? [3]

This rage at all difference in the basic social role of the sexes underlies the campaign for comparable worth.

III

Critics of comparable worth understandably concentrate on the biases inherent in any list of factors "deserving" compensation. For instance, all job-evaluation systems I have seen assume that a college degree enhances a worker's "intrinsic value," a bit of snobbery which shows only that the people who design evaluation systems have all been to college. Yet this is not what is fundamentally wrong with comparable worth. For while the range of objective judgments about "training" or "responsibility" is far too narrow to support sweeping doctrines like comparable worth, such judgments can nonetheless be made. Planning shuttle missions in space plainly carries greater responsibility in terms of lives and hardware than does teaching philosophy. And planning space missions is plainly harder than adding up columns of figures, if only because the latter skill is just one part of the former.

For the sake of argument, then, let us assume a skill which is objectively difficult and reflects much objectively measurable

[1] *Rebuilding the Road to Opportunity*, Report of the Democratic Caucus, U.S. House of Representatives, September 1982.

[2] Sheila Blumrosen, "Wage Discrimination, Job Segregation, and Title VII of the Civil Rights Act of 1964," *University of Michigan Journal of Law Reform*, 1979.

[3] Letter from Susan Sharp of Sharp and Co. to *Fortune*, September 6, 1982.

training on the part of its practitioner; but let us also suppose it is a skill no one is interested in. Consider a person who is adept at throwing arrows into the air and catching them with his teeth. This is extremely difficult to do, and takes endless practice. Basketball players earning six-figure salaries do nothing so demanding. Unhappily, nobody wants to hire our man to catch arrows. He must eke out a living as a street entertainer. Is he somehow being denied his intrinsic worth by passers-by who flip him quarters? Does a circus scout who offers him a pittance for his act undershoot what the knack entitles him to? The answers would seem to be no. Intrinsic moral and aesthetic merit aside, the skill is economically worthless—unable to command other goods and services—if no one will pay for it. Only someone willing to trade something for the serivce in question can confer economic worth on it.

Money itself is merely the conventional measure of the capacity of a thing to prompt people to exchange their own goods for it. A thing's price summarizes the ebb and flow of its performance in exchange, and has no independent meaning. And here is the intellectual black hole at the center of comparable worth: there is no such thing as intrinsic economic value. It is a chimera. Conversely, the willingness to supplant the market price of labor or anything else means the willingness to override the liberty of exchange, association, and contract expressed by market prices. In each particular comparable-worth proposal, the question is only one of determining where freedom is to be suppressed.

This crucial point is easy enough to see in connection with material objects. It would be absurd to maintain that copper deserves to cost more than gold because it conducts electricity better; gold and copper, absent people's actual desires for them, would just be stuff in the ground. The point is also reasonably clear where the "just price" of money—i.e., permissible interest rates—is concerned. But the market determination of wages meets much greater resistance, perhaps because it puts our value so squarely in the eyes of our beholders.

The example of the arrow-catcher may be dismissed as a contrivance. Contrived it is, which proves its point. The skill seems freakish, worthless, precisely because no one has ever valued it or is ever likely to do so. Our very perception of skillfulness, in other words, is determined by the market. The ability to draw, or set bones, or fix automobiles, seems "naturally" compensable because we are used to there being a market for such skills. But the once "naturally" compensable ability to make buggy whips does not seem so today, when people no longer want buggy whips.

A long line of thinkers, extending back through Marx to Ricardo, has attempted, and failed, to devise non-market criteria of economic value for labor; almost every proposal in this tradition can be found in the comparable-worth literature. The straight Marxist appeal to the "social value" of work founders on the need to specify "social value." If something is "socially valuable" just because a great many people are willing to pay top dollar for it, we are back to the market; and there is no other way to tell that society wants something than its willingness to try hard to get it.

A more frequent proposal equates the value of a job with its contribution to the employer's profit. We may overlook the obvious difficulty: that this would make wages fluctuate wildly with exogenous factors—think of proofreaders becoming superfluous when a publisher's profits are due to a single best-seller. Let us, instead, consider wage rates. Classical economics holds that each employee tends to get his marginal return on his product as he bargains omnisciently with his employers: If Jones's labor is worth $20 to Smith, Jones can return Smith's wage offer of $15 with a counterdemand for $16, which is still attractive to Smith. But then Jones can hold out for $17, $19, $19.50 . . . until Smith must agree to pay the full $20. But in this case the market itself already bestows a contribution to profit. In reality, of course, the employer must retain some portion of his employee's product if he is to have any reason for hiring him. But then, the contribution criterion means deciding what portion of a businessman's profit he "deserves" to keep, an entirely arbitrary decision.

Now, if one assumes that males get the "right" return on their product while females don't, it might seem fairer and simpler to give each worker in a farm the same return on his product, without having to decide on a proper rate of return. A secretary, say would be entitled to 90 percent of her product if holders of benchmark jobs like engineers got 90 percent of theirs. But benchmark figures must be determined independently, which means by the market. A firm finds that to secure the labor of scarce engineers it must pay what amounts to 90 percent of what they earn for the firm. But if so, what fairness requires is not that the return for secretaries be proportionate to that for engineers, but that it be determined in the same way—which is to say, by the market. Making the availability of engineers a factor in compensating secretaries is neither equitable nor rational.

What lends an air of unreality to every version of the "contribution to profit" theory is the fact that each of several jobs may be necessary for a firm's profitability. Since it is logically impossible to give all the profits to each of several job categories, what does and must happen in the real world, in which a firm would be paralyzed both without secretaries and without engineers, is recruitment of secretaries and engineers at market wages, the wages they all agree to accept. As the English economist Thomas Hodgskin wrote, there is no "principle or rule . . . for dividing the produce of joint labor among different individuals who concur in the producing, but the judgment of individuals themselves."

A cognate difficulty undermines the related test of basing a job's wages on its contribution to the "organization's objectives," to quote the Michigan comparable-worth study. This is a measure often suggested for non-market organizations like universities, governments, and foundations. Yet the achievement of non-monetary goals also requires the cooperation of many people whose contributions cannot be isolated a priori. Furthermore, to compete with profit-seeking organizations in attracting a sufficiently talented work force, nonprofit organizations must in any case heed market decrees about wages. Moreover, determining some government post's contribution to the "overall objectives" of government presupposes clarity about what the "overall objectives" of government are, a goal that has eluded political philosophers for some centuries. If government has accommodated comparable worth more readily than private organizations, this is not because governments have found comparable worth easier to construe; governments can finance their follies by taxation, with no worries about buyer loyalty.

Finally, comparable-worth criteria that stress job characteristics like working conditions face all the problems that beset the use of traits like skill. Collecting refuse may be "unpleasant," but it is pleasant enough to attract applicants at the going rate. We do not need elaborate analysis to see that the market wage adequately compensates refuse collectors for the unpleasantness they endure. And, again, our very perception of this circumstance is a response to the market. Most American farm workers would find intolerable the backbreaking chores that constituted farming a millennium ago.

Skill, effort, and training do play a role in determining pay. Someone who has invested much time preparing for a hard job will drive a hard bargain. More importantly, the harder a job and the training for it, the fewer candidates there will be, driving up wages still further. This naturally high correlation among difficulty, training, and salary explains the feeling that demanding jobs "deserve" higher pay. In the end, however, these factors raise wages only by influencing the choices of bargainers.

IV

Appeal to the free market may appear slightly musty in these days of the minimum wage, banking regulation, the National Labor Relations Act, and cancer warnings on cigarettes. Yet these familiar measures are modifications of laissez faire, while the rationale and scope of comparable worth make it a frontal assault on *any* form of economic liberty.

To begin with, none of the extant labor laws is based on a non-market notion of value. The minimum wage was intended to insure everyone a "decent" wage, without pretense that every worker's output is "really" worth $3.35 an hour. The National Labor Relations Act banned "anti-union animus" on the part of management not because collectively negotiated wages were thought to reflect value more accurately, but to secure "labor peace." And, while the minimum wage truncates the range of possible bargains, and the National Labor Relations Act affects a wide range of negotiations, both measures still permit very extensive play to market forces. Unionized plumbers may not get strict market wages, but their wages approximate market value.

Overall, the many regulations that control banking, trucking, the airlines, mergers, work-place safety, and the like are (a) industry-specific or activity-specific, and (b) intended, rightly or wrongly, to preserve the free market against its own excesses. Wage and price controls, when imposed, are usually justified as "temporary measures" to curb inflation. Even socialism itself was originally conceived as a way of harnessing in a more efficient way the productive capacity generated by capitalism. Because "New Deal" type regulations thus purport to secure specific results, they imply built-in tests to which they can be held. A ceiling on bank interest rates it supposed to help Savings and Loan Associations, so if S&L's keep failing at the same rate after the ceiling is in place, the ceiling has not worked.

Comparable worth, by contrast, contains none of these self-limitations. Its scope includes every job in the work force; and since most jobs are "sex-segregated," most pay scales would be open to challenge. Nor does comparable worth pretend to facilitate the best tendencies of the free market; rather, it

is explicit about seeking to flout the market. It does this, moreover, without a clear specification of what positive goal is to be achieved beyond "justice"; under this mantle, the pursuit of comparable worth can discount any economic havoc it wreaks as irrelevant to its "success." (A similar criterion now governs assessment of affirmative action, deemed "successful" if it increases the number of women and minorities in well-paying positions, no matter the cost in fairness or efficiency of putting them there.) Penn Kemble has called comparable worth "a feminist road to socialism"; [1] if so, it is socialism without a plan.

It is instructive to reflect that comparable worth can never come about through voluntary agreement. If a firm can get secretaries at a market-clearing wage, so can its competitors. Were it to raise its secretarial wages for ethical reasons, its labor costs would rise without any gain in productivity, its products would cost more than those of its competitors, and it would slide into failure. Comparable worth presents what economists call a "coordination problem"; it must be introduced all at once, or not at all. Needless to say, the favored agency for solving coordination problems is the government.

The central point is this: whether or not the marketplace offers an appropriate ideal of justice, wages will in fact tend to be set at their market value so long as people retain anything like their accustomed economic liberty. The only alternative to the market is systematic state control. Comparable worth can be implemented only by endless government intervention, in the words of a pre-*Gunther* federal court, "pregnant with the possibility of disrupting the entire economic system of America."

For if "wage discrimination" is the wage gap itself, whatever its causes, nothing less than the elimination of the gap will be allowed to count as ending discrimination. To grasp what this would mean, consider that in 1983 there were 49 million full-time working men whose median income was $20,683, and 31 million full-time working women, median income $12,172. To close the wage gap, employers would have had to pay each woman $8,500 more, or about $250 billion, or—in still other terms—about 15 percent of total wages paid in 1983. These costs would no doubt have been passed on to consumers as higher prices, and as higher taxes to finance government services.

One might think the gap could be closed more slowly by freezing or slowing the growth of men's salaries until women's salaries grew to parity. This is now the policy in San Jose, California, where the city government worked out a comparable worth agreement with AFSCME. It seems unlikely, however, that men or their unions would tolerate this arrangement on a wide scale. A man who, thanks to comparable worth, gets a smaller raise than he would have otherwise gotten has, so far as he is concerned, suffered a pay cut. Comparable worth is advertised as a boon for working women struggling to help their families with a second income, but it does not help a family to hold down the husband's wages so the wife's can be artificially boosted. On balance, the likeliest short-term effect of comparable worth would be to boost everyone's wages, thereby flooding the market with new money in the absence of new goods—the standard recipe for inflation. And this might be the occasion for the government to begin coordinating wage policy to assure the proper closure of the wage gap.

The longer-run consequence of inflating female salaries and holding down male salaries in defiance of the market would be a massive disincentive to work. Women would already be getting more without having to work harder, and men would not be permitted to get more even if they did work harder. Why, then, should anyone work harder? Nor would the work force become more "integrated," since women would have no incentive to leave "women's work" once it paid as much as less pleasant "masculine" work. If anything, men would try to invade the newly well-paid female sphere. And at the same time men were queuing up for the typing pool, there would be no reason for a man to undertake an unpleasant job like collecting refuse if high wages for it were no longer available as an inducement—so we would almost certainly see critical job shortages. Add to this the undoubted persistence of a quota system which would prevent management from firing women to make room for (possibly more desirable) men, and a crisis of extreme proportions would be upon us. If recent history teaches us anything, it is that governments meet crises of their own making with more of the coercive rules that created the crisis in the first place.

V

It is not surprising that a society which has absorbed busing, quotas, *Miranda*, and publicly funded abortion should look on comparable worth with numb bemusement. One can almost sympathize with a businessman happy to reach the end of a profitable quarter without some new horror from the Federal Register landing on him. It is disheartening nonetheless that the American Compensation Association should summarize the attitude of the business community toward comparable worth in these words: "Planning for the inevitable appears to be the appropriate response." [5] Like such otherwise perceptive commentators as John Bunzel (who sees comparable worth as part of the "revolution of rising entitlements"), the ACA has missed the distinctive element in the comparable-worth campaign.

Feminists realize at some level that men and women view work differently—but they believe that this should not be, and, as do all those who wish people were other than they are, feminists want the government to correct the situation. Inverting cause and effect, they ask the government to curb one manifestation of sex differentiation. The real enemy feminism has targeted, however, is not some isolable inequity in the wage system but the family and the rest of the malign "social conditioning" which make men and women act differently, in the economy and elsewhere.

That is why one must view with mixed feelings those critics of the comparable-worth idea who fall in with the "social-conditioning" therory. Lee Smith writes that "in large part, the [wage] disparity stems from traditions and prejudices that have channeled women into low-paying jobs." Bunzel conjectures that "greater interests and responsibilities in the home" may explain the number of women in low-paying jobs, but that this may "reflect socialization toward traditional roles that, for many women, begins in childhood." Cotton Mather Lindsay, the least compromising critic of comparable worth, cites as the most important factor limiting women's access to high-paying occupations "the subtle socialization process beginning in childhood, which orients women toward domestic careers." Even John Warehman, who bluntly asserts that "women lack the necessary emotional strength to achieve executive success," says "women's 'emotional deficiencies' spring from patters of dependency established during their childhood." These writers treat the origin of this socialization itself as a mystery.

Economists may be forgiven for not knowing that research on sex differences shows these different social roles to be innate, or so close to innate as to be uneliminable features of every human society—but when they reject comparable worth only because it penalizes employers who "had nothing to do with producing . . . female inhibitions" (in the words of Carl Hoffman, who has conducted much research on male and female motivation in the business world), they abet the most irresponsible feminist tendencies. If an adolescent girl's "socialization" really forced her to choose low-paying nursing over high-paying surgery, she may not have been cheated by her employer but she has certainly been deprived. Wouldn't it be well to change custom and tradition so that little girls were raised to be prepared emotionally for becoming surgeons? And isn't the state allowed to do a little of the alterning for the general good? Thus is the state given a blank check for the sort of intrusion of which comparable worth is an extreme instance.

Prophesying the end of the free market is a sure way to be labeled a crank. On the other hand, I am not encouraged by confident assurances that the free market can survive anything. Howard Ruff, in one of his cheerfully apocalyptic guides to the future, compares the free market to Rasputin. Rasputin was poisoned, and he was shot, and still he survivied. So, writes Ruff, the regulators have done everything to American capitalism, and still it survives. Unfortunately, Ruff overlooks a final detail. Eventually, Rasputin's tormentors threw him in the river. That killed him.

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, in a moment I am going to make a motion. This is another in a long and continuing unfoldment of motions to try to keep this CR a CR and not turn it into a catchall legislative agenda in the last hours of the session.

I am not talking about the merits of this issue one way or the other. I make the point of order, however, Mr. President, that the amendment is not germane within the meaning of rule XVI.

The PRESIDING OFFICER. Under rule XVI, the Chair must submit the question to the Senate. Is the amend-

[1] "A New Direction for the Democrats?," Commentary October 1982.

[5] "Comparable Worth . . . A Few Thoughts on the Issue," *ACA News*, February 1984.

ment germane? The question is not debatable.

All in favor; say aye; all opposed, say no.

The noes appear to have it.

Mr. CRANSTON. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is, Is the amendment offered by the Senator from California germane? The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER. The question is, Is it the judgment of the Senate that the amendment of the Senator from California [Mr. CRANSTON] is germane to House Joint Resolution 648, the continuing resolution?

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from North Carolina [Mr. EAST] and the Senator from Illinois [Mr. PERCY] are necessarily absent.

The PRESIDING OFFICER (Mr. MURKOWSKI). Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 41, nays 57, as follows:

[Rollcall Vote No. 273 Leg.]

YEAS—41

Andrews	Dodd	Melcher
Baucus	Eagleton	Metzenbaum
Bentsen	Evans	Mitchell
Biden	Exon	Moynihan
Bingaman	Ford	Packwood
Bradley	Glenn	Pell
Bumpers	Hart	Proxmire
Burdick	Huddleston	Pryor
Byrd	Inouye	Randolph
Chiles	Kennedy	Riegle
Cohen	Lautenberg	Sarbanes
Cranston	Leahy	Sasser
DeConcini	Levin	Tsongas
Dixon	Matsunaga	

NAYS—57

Abdnor	Hawkins	Nunn
Armstrong	Hecht	Pressler
Baker	Heflin	Quayle
Boren	Heinz	Roth
Boschwitz	Helms	Rudman
Chafee	Hol.ings	Simpson
Cochran	Humphrey	Specter
D'Amato	Jepsen	Stafford
Danforth	Johnston	Stennis
Denton	Kassebaum	Stevens
Dole	Kasten	Symms
Domenici	Laxalt	Thurmond
Durenberger	Long	Tower
Garn	Lugar	Trible
Goldwater	Mathias	Wallop
Gorton	Mattingly	Warner
Grassley	McClure	Weicker
Hatch	Murkowski	Wilson
Hatfield	Nickles	Zorinsky

NOT VOTING—2

East	Percy

The PRESIDING OFFICER. On this vote, the yeas are 41, the nays are 57. The judgment of the Senate is that the amendment is not germane, therefore, the amendment fails.

(The following proceedings occurred after midnight:)

Mr. CRANSTON. Mr. President, I will not ask for the yeas and nays on a motion to reconsider, but I would like to speak for just a moment.

I endeavored to play by the rules on this amendment. We did all we could to make it in order on this measure. We consulted with the Parliamentarian. We were told that this amendment was not legislation on an appropriation bill since it limits the use of funds that are appropriated in the continuing resolution for the Office of Personnel Management. The question of germaneness was not raised in the course of that consultation. I do not see how the amendment could not be germane since it directly limits the use of funds in this continuing resolution.

We have seen in this Senate in recent days the unpleasant practice of measures that were not germane being voted to be germane, and I submit that we have now seen the Senate vote something that clearly is germane to not be germane. We are turning the Senate rules upside down.

What we have really had now is a vote on the merits, and Senators voted in accordance with the merits as they saw them of pay equity for women. Women across this Nation and organizations committed to equal justice and women's rights will know that this was a vote on the merits.

We were not concluding that any changes need to be made. We were simply suggesting that the Federal Government needs to take a look to see if there was sex-based wage discrimination. The study to do this would not have cost any additional money; the funds are available in the Office of Personnel Management to do the study.

I regret that we failed in this attempt. We will make further attempts at some other appropriate time.

The PRESIDING OFFICER. The majority leader.

Mr. BAKER. Mr. President, I think the distinguished assistant minority leader knows the respect I have for him and the friendship I feel we have enjoyed over the years. What I am about to say has absolutely nothing to do with that relationship, but rather to explain that I did not make a point of order that it was legislation. Indeed, after consulting with the Parliamentarian, I concluded that it was not legislation on an appropriations bill.

But I also consulted with the Parliamentarian to ask him whether or not it was germane within the meaning of rule XVI.

I am speaking a little out of school here, I guess. The Parliamentarian said, "Well, it is germane or not depending on what the Senate says."

I said, "That is not what I want to know. I want to know if it is germane." It did amount to a ruling by the Chair, but I wanted to hear it for my own satisfaction.

The Parliamentarian said, "I do not think it is germane under rule XVI, but that is a decision for the Senate."

That was the point on which I made the point of order. I wish to say it was not on the merits, so far as I am concerned. I wish to say I do not think we have voted on the merits.

I will say right now that it does not come before the Senate in the next 48 hours, because we have to get on with this CR.

I wanted to say that for the RECORD so my friend from California would understand that there was no trickery involved, it was not an effort to subvert the rules of the Senate by indirection. I wanted him to know the the steps I took in order to arrive at the decision to make this point and I wish to assert that as far as this Senator is concerned, what we did was hold that this amendment was nongermane and I believe it to be nongermane. I agree with the Senate, it has nothing to do with the merits of the controversy and indeed, it has no more to do with the merits than perhaps a dozen other measures that have been held nongermane in our effort to keep this thing as a continuing resolution and not a Christmas tree.

I thank the Senator for proceeding as he has, and I wanted to have that in the RECORD for future reference.

Mr. CRANSTON. Mr. President, I shall simple say once again that when we sought to develop an amendment that would be in order, the question of germaneness was not raised by the Parliamentarian. I asked the Parliamentarian in the course of the situation that developed on the floor this evening whether it was germane or not. He stated it was a rather close call, that he could call it as he called it in his conversation with the majority leader. I have said what I had to say about this.

AMENDMENT NO. 7011

(Purpose: To provide additional funding for the Food and Drug Administration for activities related to acquired immune deficiency syndrome)

Mr. CRANSTON. I send an amendment to the desk and ask for its immediate consideration. It will not take much time.

The PRESIDING OFFICER. The clerk will state the amendment.

The assistant legislative clerk read as follows:

The Senator from California [Mr. CRANSTON], for himself, Mr. KENNEDY, Mr. MOYNIHAN, and Mr. RIEGLE, proposes an amendment numbered 7011.

At the end of Committee Amendment No. 32, strike out the period and insert in lieu thereof "and $8,350,000 for fiscal year 1985 for the Food and Drug Administration for

activities (including construction) related to acquired immune deficiency syndrome.".

Mr. CRANSTON. Mr. President, this amendment is submitted in behalf of myself and Senators KENNEDY, MOYNIHAN, and RIEGLE.

Mr. President, this amendment to the pending measure, the continuing resolution, would provide additional funds to the Food and Drug Administration for AIDS research and public health programs. Specifically, our amendment would add to the fiscal year 1985 appropriations for the FDA the $8.35 million that was recommended by the Assistant Secretary for Health, Dr. Edward N. Brandt, Jr., last spring. These funds are urgently needed for FDA to carry out efforts—in conjunction with those of other public health service agencies—the Centers for Disease Control, the National Institutes of Health, and the Alcohol, Drug Abuse, and Mental Health Administration—to conquer this tragic, spreading, killer disease.

As the Senate is aware, this last Tuesday, September 25, also along with Senators KENNEDY, MOYNIHAN, and RIEGLE, I proposed an amendment to the fiscal year 1985 Labor-HHS-Education Appropriations Act to add $14.6 million for AIDS research. These funds are to be allocated, in accordance with Dr. Brandt's recommendations, to the National Institute of Allergy and Infectious Diseases at NIH, to the Centers for Disease Control, and to the Alcohol, Drug Abuse, and Mental Health Administration. The distinguished chairman of the Appropriations Subcommittee on Labor-HHS-Education [Mr. WEICKER] recognized the urgent need for that additional funding to step up efforts on AIDS research. Thus he accepted our amendment to that appropriations bill. That amendment and the debate on it appear at pages 26675 through 26681 of the RECORD for September 25. I am pleased to report that almost all of these funds were subsequently retained in conference. In a colloquy with me and my distinguished colleague from New York [Mr. MOYNIHAN] that appeared in the RECORD for September 21, at pages 26476 and 26477, Senator WEICKER also identified increases of another $15.431 million already included in that bill as reported that will be used for AIDS.

It is just as vitally important that our pending amendment for additional FDA funding for AIDS be adopted.

Mr. President, with hundreds of new cases of AIDS being diagnosed each month, and the mortality rate remaining at nearly 50 percent, time is critical. The discovery this past spring of the probable cause of AIDS opens the possibility that a vaccine may be developed in the near future. We must take full advantage of that discovery and maintain the momentum in our efforts to conquer this disease.

Dr. Brandt, in his May 25 memorandum to Health and Human Services Secretary Heckler, which was printed in the RECORD for September 25, beginning on page 26675, designed a research program coordinating efforts at the various public health service agencies aimed at capitalizing on the discovery of the probable cause of AIDS. The FDA, as an agency in the PHS, is an essential and integral component of this program. In specifying the funds needed by each agency, Dr. Brandt proposed that a total of $8.35 million—$2.6 million in fiscal year 1984 supplemental funding and $5.75 million in fiscal year 1985—be directed to the FDA. As he stated, the added funds are needed for the FDA to prepare for the time, in the very near future, when that agency will be testing vaccines and drugs to treat AIDS. He specifically noted in his memorandum that, if the supplemental fiscal year 1984 funding for one-time costs for certain facility renovations and equipment were not made available—and it was not—the full $8.35 million total should be appropriated in fiscal year 1985.

The FDA has a critical role in the effort to combat AIDS and must begin preparing now in order to carry out effectively its work in the development of drugs for treating AIDS, vaccines, and blood-screening tests.

As Dr. Brandt stressed in his May memorandum:

Given FDA's fundamental authorities for licensing biological products and approving new drugs, as well as responsibility for assuring the safety of the national blood supply, there is no question that the agency will be heavily involved in dealing with AIDS for a long time * * *. It will be necessay to grow sufficient quantities of the virus and pursue a number of approaches involving both monoclonal antibody and recombinant DNA technology. Methods and animal models for evaluating candidate vaccines as well as diagnostic tests must be developed. Subsequently possible vaccines and treatment will be evaluated, screening tests developed and refined, and standards set for licensing the products that will be developed. At the same time, * * * the FDA must continue research on the immunological factors involved and stay abreast of the research conducted both within and outside the government.

To help enable FDA to carry out these responsibilities, Dr. Brandt requested the following; $3.1 million for facility renovations and equipment and other costs related to establishing the necessary high-containment laboratories; $2 million in one-time costs to assess the impact on the national blood supply if those who are screened as positive for the AIDS agent are excluded from further donation, and to assess the past and current exposure to the AIDS agent by hemophiliacs who receive antihemophiliac factor made from pooled plasma; and $3.25 million for fiscal year 1985 operating costs necessary for the stepped-up effort to combat AIDS.

In a hearing before a House Subcommittee on Health and the Environment less than 2 weeks ago, Dr. Brandt emphasized that the FDA must work closely with blood and plasma collecting facilities at the time that screening tests for blood become commercially available.

Dr. Brandt's science advisor, Lowell Harmison, in an article in the September 14 issue of Science magazine, pointed out that some of the blood-screening tests may be ready for clinical trial as early as next month. Five private drug and biotechnology companies are intensively working to develop test kits following the awarding by HHS of licenses to them in June that granted them access to the viral agent for AIDS. It is critical that the FDA be ready—with the technology, personnel, and facilities—to approve the clinical trial of the test kits for commercial marketing as soon as they become available. Without the FDA's fast action, the goal of helping to curb the spread of this epidemic will be severely impeded.

Mr. President, I cannot emphasize enough the FDA's critical role in ensuring that the new information and discoveries made in basic research are translated into tangible, clinical action.

Helping to ensure that FDA is ready to meet its responsibilities is extremely important, not just to control the tragedy of this disease, but also to stop the prejudice and hysteria that the growing threat of AIDS has brought about. Patients with AIDS, whether they be homosexual or bisexual, men, drug abusers, children, or recipients of blood transfusions, have too often been stigmatized and confronted with rejection by their families, isolation from their communities, eviction from their homes, and misunderstanding even by the health care workers they depend on for care. If we do not face the AIDS crisis headon and with full support, we will continue to face evermore damaging and dangerous hysteria.

Therefore, Mr. President, I urge all of my colleagues to support this vitally important amendment.

I ask unanimous consent that the Science magazine article that I mentioned be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

FIVE FIRMS WITH THE RIGHT STUFF

On 23 April, the Department of Health and Human Services (HHS) filed patent applications covering the discovery by National Cancer Institute scientists of a virus called HTLV-III that causes AIDS (acquired immune deficiency syndrome). Isolation and characterization of HTLV-III was made by Robert C. Gallo and his colleagues at the

cancer institute. Driven by determination to turn that achievement in basic science into a medically useful tool that would be evidence of the Reagan Administration's commitment to fighting AIDS, HHS quickly made plans to grant private companies licenses to use HTLV-III and the cells in which it grows for commercial development of a test to detect evidence of the virus in human blood.

It is standard practice for the federal government to award licenses to private companies, but the extradordinary speed and special attention that was devoted to the licenses for HTLV-III-related techniques bespeak the Administration's desire to refute allegations that it is moving too slowly in its effort to combat this devastating, infectious immune system disorder that primarily afflicts promiscuous homosexuals, intravenous drug users, and hemophiliacs and others who may contract AIDS from transfused blood.

Exactly 2 weeks after government patent applications were filed, a request for proposals appeared in the Federal Register and Business Commerce Daily. Companies interested in developing a test to screen the nation's entire blood supply were given 10 days to get their applications in. According to Lowell Harmison, science adviser to HHS assistant secretary for health Edward Brandt, some 20 companies were standing in line for a license before the application deadline closed on 17 May.

Meanwhile, scientists at the NCI's facility in Frederick, Maryland, were gearing up for large-scale production of HTLV-III-infected cells to distribute to the companies that would soon be awarded licenses. Frederick scientists with long experience in growing viruses proved remarkably successful at moving into large-scale production but, nonetheless, it was clear that supplies of HTLV-III would be relatively limited. For this reason, and in order to guarantee success by distributing HTLV-III with companies most likely to come through, tough criteria were established for getting a license and, thereby, access to the government's store of AIDS virus. An officer of one competing biotechnology firm said, "They were looking for the companies with the right stuff."

Ten criteria were established, among them these: (i) Experience in handling human retroviruses, a family of RNA tumor viruses of which HTLV-III is a subgroup. The government wanted companies that already know how to purify, characterize, and grow these viruses. (ii) Because biosafety was a major concern, the companies were required to have existing P-3 containment facilities. (iii) The first diagnostic test will most likely be based on a radioimmunoassay system known as ELISA (enzyme-linked immunosorbent assay). A technique for detection of antibodies in AIDS and pre-AIDS patients using the HTLV-III core protein, p24, in an ELISA test is covered by one of the federal patent applications. Experience in using ELISA and related costs was another important criteria.

Another criteria of paramount importance, Harmison noted, was proved ability to produce and market a product for mass distribution. There are some 1700 blood banks in the United States and estimates of the numbers of units of blood that might be tested per year range as high as 20 million. Clearly, the potential for profit is enormous, but in order to compete successfully in the race to meet HHS's goal of a mass screening test to be ready within months, the ability to operate on a national scale is also obvious. Any company that failed to meet even one of the ten criteria was scrubbed from the list of potential licensees, which meant that several of the smaller biotechnology companies with skill in science but not in marketing lost out.

"Seven or eight of the applicants met the criteria," Harmison reports and HHS officials then site-visited the companies to verify such things as the existence of a P-3 facility and a staff of experienced retrovirologists. "If all of the applicants had met the criteria, all would have been awarded a license," Harmison said. But as it turned out, only five had enough of the right stuff: Abbott Laboratories, which already commands a major share of the market for testing blood for hepatitis B; Electro-Nucleonics; DuPont, in collaboration with Biotech Research Laboratories, which was working in collaboration with NCI's Gallo before HTLV-III was nailed down; Litton Bionetics, another biotechnology company with which Gallo has close scientic ties; and Travenol Genetech Diagnostics.

Accuracy, reliability, and cost will play important roles in determining which of the five companies ultimately wins the greatest share of the commercial market once one or more tests are given final approval by the Food and Drug Administration. From a technical point of view, each is taking a slightly different and closely guarded tack, while government officials meet with them regularly to monitor progress as investigational new drug applications to FDA are preapred. Harmison is betting that some of the companies will be ready for clinical trials of test kits by October. Indeed, on a strictly experimental basis, some already are testing blood at the rate of 1000 or more samples a day with assays that can be completed in a matter of hours. Once the test kits are on the market, blood banks will choose which of the approved tests they want to use as the companies vie for their business and for profit.

Another scientifically important challenge in AIDS that also has commercial implications is the development of a vaccine. A number of the companies, that failed to win licenses in June now want access to the government's supply of HTLV-III for use in vaccine studies. Although work can proceed without a government license, access to its store of cells confers an advantage. At present, HHS officials are designing criteria for a new round of license awards. Harmison notes that the government is not trying to be unduly restrictive (a contested view) but, rather, is interested in making sure that a limited resource is distributed to people who have the capacity to make good scientific use of it. Unless something quite unexpected happens, it is a good bet that in the short term the market for a blood test will be captured by one or more of the five present licensees. But the contest for vaccine development is wide open. That's another story.

Mr. EAGLETON. Mr. President, will the Senator yield for a question?

Mr. CRANSTON. Of course.

Mr. EAGLETON. Mr. President, I am the ranking minority member of the Senate Agriculture Appropriations Subcommittee, which has jurisdiction over the FDA budget. Is the Senator aware that in the totality of the FDA budget, all that is in that budget at the present time on this subject matter is $800,000?

Mr. CRANSTON. Yes, I believe that is correct.

Mr. EAGLETON. And that, in the scheme of things, is a minuscule amount for effective research. What is the effect of the Senator's amendment?

Mr. CRANSTON. $8.35 million.

Mr. EAGLETON. I hope that this amendment could be accepted. I think we have been paltry in the extreme in the amount that we have thus far allocated to this research, and I think the amendment of the Senator from California is a very worthy one.

Mr. CRANSTON. I thank my colleague.

Mr. WEICKER. Mr. President, I do not have any direct jurisdiction within my subcommittee. That belongs to Agriculture and Senator COCHRAN, but I wish my good friend from California would not pursue this amendment. To the extent that every single request that has come forth from NIH, Centers for Disease Control, every single add-on that has been requested, if indeed it has been sent over from the House for AIDS research, it has been granted. There is really nothing further that money is going to do insofar as the problem is concerned. Both the Senate and the House have been 100 percent sympathetic to what needs to be done in this area.

Quite frankly, rather than go through a point of order, this is not authorized—I believe that is still within the province of the chairman of the committee—I would just like to assure my good friend from California that I am as committed as he is to this area, and, believe me, no request for money has been turned down. This is not going to further the achievement of the end that the Senator desires, and I hope he would not pursue this.

Mr. CRANSTON. May I say to my good friend who, I know, is as concerned as I about this problem, that the money was not requested for the studies by CDC and NIH for which he has approved additional funds. That money was not requested——

The PRESIDING OFFICER. The Senate is not in order.

Mr. CRANSTON. I would just like simply to say to my friend that Dr. Brandt had stated that the funds that the Senator's subcommittee authorized for NIH and CDC were needed but there was no formal request from the administration. Nonetheless, the Senator helped approve those funds. The funds that I am now seeking beyond that are part of the same overall research program. Dr. Brandt said the $8.35 million were needed for the rounded, complete study, but the administration in this case, too, has not formally requested the funds. That is why I am seeking to round out the research design developed by Assistant Secretary Brandt.

Mr. WEICKER. There is $83 million in the Labor-HHS appropriations for AIDS. We all have ceilings we have to observe. It seems to me that a fair portion of money goes to this, and if it will deprive somebody else of their fair chance in the appropriations process, I hope the amendment would not be pursued. But if it is, I yield to my good friend from Oregon.

Mr. HATFIELD. Mr. President, I affirm the comments made by the Senator from Connecticut as it relates to the Subcommittee on Labor-HHS and what he has done in providing the ultimate amount of moneys that can be used in research of this type.

I find, after talking with the chairman of the subcommittee, our budget limits would accommodate the amendment. And with the comments from the ranking member of the subcommittee [Mr. EAGLETON], we would be ready to accept the amendment on this side.

Mr. JOHNSTON. Mr. President, I know of no objection since this has been cleared by Senator EAGLETON on this side.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 7011) was agreed to.

Mr. CRANSTON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CRANSTON. I thank the distinguished committee chairman very much and also the support of the subcommittee's ranking minority member [Mr. EAGLETON].

IN SUPPORT OF THE POLLUTION CONTROL PROVISION IN THE CONTINUING RESOLUTION

Mr. WEICKER. Prior to January 1982, when SBA at the express direction of the Office of Management and Budget [OMB] instituted a new policy refusing to guarantee contracts for the financing of pollution control facilities when the underlying financing involved the use of tax-exempt obligations, SBA's pollution control contract guarantee program was one of its most successful programs. Now the program is virtually dead.

By amendments in 1976 to the Small Business Investment Act of 1958, Congress authorized the Small Business Administration to guarantee 100 percent of the payments due from eligible small businesses under qualified contracts for the planning, design, financing, or installation of pollution control facilities or equipment mandated by governmental pollution control regulations. Contract financing, prior to SBA's abrupt shift in policy, was normally obtained from the proceeds of the sale of tax-exempt bonds issued by State or municipal authorities.

By using tax-exempt SBA guaranteed, pollution control revenue bonds, SBA cooperates with commercial and investment banks and local and State authorities to make available long-term, low-interest financing to eligible small businesses in the same manner that large corporations obtain financing for pollution facilities.

The Small Business Committee has extensively reviewed the benefits of this program since its inception, and it is clear from this review that the program during its operation was a resounding success and provided needed assistance not otherwise available to small businesses impacted by Federal, State, and local government pollution regulations. In a recent study the Environmental Pollution Agency estimates that Federal air and water pollution standards will result in compliance costs to businesses nationwide of about $526 billion in the years 1981 to 1990. Small businesses, as usual, will bear the brunt of these costs.

Since the first financing under the program in June 1977, there have been relatively few losses and the initial $15 million capital contribution to the pollution control bond revolving fund has increased to over $26 million through both fees charged for guarantees and agency investment of idle funds.

Congress has consistently recognized the sound financial basis for this program as well as the crucial gap it fills in making financing available to eligible small businesses for mandated, nonproductive, pollution control equipment. For example, in the Omnibus Budget Reconciliation Act (P.L. 97-35) the Congress increased the maximum guarantee level for this program to $250 million. During the Senate's consideration of the fiscal year 1982 Commerce, Justice Appropriations Act, the Senate agreed to an amendment to establish minimum levels for commitments for this program. Yet in its budget recommendations to Congress for each fiscal year since its 1982 shift in policy, the administration has maintained the posture that it will only operate the pollution program at a level not to exceed $150 million, and will not guarantee contracts financed through the use of tax-exempt industrial development bonds. Whereas 240 companies had received essential financing of approximately $296 million under this program during the first 4½ years of its operation, only 8 companies have received assistance of less than $24 million under the program since that time. For all intents and purposes this valuable program has been virtually shut down because of the refusal of the administration to permit guarantees under the program in conjunction with tax-exempt financing.

The Senate Small Business Committee has consistently viewed the continued availability of the guarantee of contracts financed with tax-exempt financing instruments to be essential to the viability of this program. In order to breathe life back into the program, the Senate Small Business Committee on March 7, 1983, unanimously reported S. 499, a bill that, among other things, would ensure that the pollution control financing guarantee program is operated by the SBA as authorized by Congress in section 404 of the Small Business Investment Act of 1958, as amended, by permitting the appropriate use of tax-exempt financing. In addition, the House has on three occasions approved legislation similar to S. 499.

In addition, in the most recent 1984 tax bill, Public Law 98-369, Congress specifically exempted the SBA pollution control program from the bill's general prohibition of direct and indirect Federal guarantees of tax-exempt obligation. Clearly, this was done in recognition of the need to permit the use of tax-exempt financing.

Mr. President, despite clear congressional intent to permit the use of tax-exempt financing in this program, OMB has remained steadfast in its opposition to congressional will. Therefore, Congress in my judgment has been left no alternative but to legislatively mandate the provision as set forth in the continuing resolution. I urge my colleagues to resist any effort to strike this provision from the bill.

Mr. GORTON. Mr. President, I am certain that many of my colleagues share my distain for a process that not only results in our making many major policy decisions at the last minute and in the wrong context but that also requires us to, on occasion, vote apparently in opposition to measures we support.

That has been the hallmark of this continuing resolution Mr. President. I have at times in this process, found myself casting votes I never thought I would; that is, a vote against a bill to put reasonable restraints on the forced busing of schoolchildren, against the extension of a bill to provide for the cleanup of toxic waste dumps and so on.

Tonight, Mr. President, I cast two additional votes which are not necessarily indicative of my position on the merits of the proposals. The first was an amendment to ban the manufacture and sale of the so-called cop killer bullets. I was an original cosponsor of the compromise bill and a cosponsor of the original bill introduced by Senator MOYNIHAN. This bill is vitally important. I hope that the Senate will be permitted to act on this measure as a freestanding matter before we adjourn.

Second, I voted to table the amendment of the Senator from California, Mr. CRANSTON, relating to a survey of wages paid to employees of the Con-

gress. Although I continue to have serious concerns about the practical application of the concept known as "comparable worth" I do not hesitate in expressing my conviction that the Congress, as an employer, has an ongoing obligation to review its employment practices to ensure that its employees are being treated equitably and not discriminated against on the basis of sex, race, religion, and so on. I hope that the Congress, notwithstanding the vote here tonight will pursue its obligation in this matter.

Mr. HATFIELD. If there are no further amendments, Mr. President, I move adoption of committee amendment No. 32.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MIAMI AIRPORT

Mr. PACKWOOD. Mr. President, I should like to ask my distinguished colleague from North Dakota, if I may, about a particular provision in the bill relating to Miami Airport and the aircraft noise situation. I am curious as to whether or not the Appropriations Committee had any hearings on this subject.

Mr. ANDREWS. Mr. President, there were no hearings, to the best of my knowledge, on this. It was not a part, Mr. President, I might say to the Senator from Oregon, of our subcommittee bill. The Miami Airport amendment was adopted in the whole committee at the time that we considered the continuing resolution about a week ago.

Mr. PACKWOOD. So it was adopted just within the last week or 10 days?

Mr. ANDREWS. That is correct.

Mr. PACKWOOD. And to the best of the knowledge of the Senator, there were no hearings?

Mr. ANDREWS. To the best of my knowledge, Mr. President, let me assure the Senator there were no hearings.

Mr. PACKWOOD. Was the Senator there when the amendment was adopted?

Mr. ANDREWS. Mr. President, I was there when the amendment was adopted. The markup was held with a quorum of the members of the committee present. There was a great deal of discussion, a give and take on both sides of the committee, and the votes were there in a preponderance to adopt the amendment.

Mr. PACKWOOD. I looked at the record and, judging from the number of pages, I would guess this took 15 to 20 minutes. I am just having to guess this took 15 to 20 minutes. I am just having to guess from the length of the transcript.

Mr. ANDREWS. I would think that the discussion, as I recall it, Mr. President, took place for in the neighborhood of 15 minutes or so, yes. The Senator from Florida made the argument for the amendment. There were two or three of the other Senators who asked questions. The Senator from Florida did an adequate job of answering those questions, so the amendment was adopted by the full committee. But it was not part of the subcommittee markup on the fiscal year 1985 bill.

Mr. PACKWOOD. I thank my good friend.

Mr. President, what we have is clearly a case again of legislating on an appropriation bill, although when I introduce my amendment it will simply be to strike these amendments relating to the exemption of the Miami Airport.

Of all the situations that I can think of where this Congress and this executive branch has taken deliberate conclusion, the subject of aircraft noise is that subject. In 1974, the FAA issued notice of hearings on the subject of aircraft noise. In 1976, they issued regulations but indicated they would prefer to have them adopted by the international organization relevant to this subject but indicated, if nothing was adopted by the international organization, they would go ahead.

The international organization met, deliberated, failed, floundered, and came forth with no agreement. This Congress codified the action of the FAA in 1979 and regulations, which everyone has been on notice of since 1976. It is not that no one knew they were going into effect. It was simply a question of whether we were going to put them into effect unilaterally or whether there would be an international agreement, although all of the international agreements to which the noise standards are relevant, all of the agreements say that we must apply the same noise standards we apply to our domestic planes to those foreign planes that come to this country—perfectly understandable reasoning. To make United Air Lines, and American Airlines, and all of the other airlines meet our standards and then say, "But it does not apply to overseas airlines," you suddenly have an extraordinarily disproportionate competitive advantage to the foreign planes.

Again, I want to assure this Senate that no one was taken by surprise. Let me read the letter of May 28, 1974, from Metropolitan Dade Country, FL, its aviation department, which is, of course, the Miami area.

This will indicate our wholehearted support of this program. We are particularly desirous that the requirement should, as you have indicated, be applicable to all aircraft of these categories operating in the United States regardless of ownership or point of origin.

That was Miami's position 10 years ago: "Hurry along with this. We want to do it, and it should apply to all airlines, whether foreign or domestic, whether they come from the Caribbean, Mexico, Canada, or Chicago."

The principal planes involved were four-engine jets. The principal types of planes were the DC-8's, the Boeing 707's, the Convair 808's, and the Boeing 727's.

Most of the U.S. domestic airlines that had DC-8's or Boeing 707's, seeing that these regulations were coming, began to sell off their DC-8's and 707's and a few of the Convair 808's—there are not many of those planes involved—in the mid 1970's and late 1970's at a very highly discounted price; because for these planes to be eligible, they would have to be retrofited with new engines or so-called hush kits.

So the foreign airlines that bought these planes got them at a reduced price because one of two things was going to happen: either at a certain period of time they could not fly into this country, in which case their value would be significantly depreciated, or they would have to be retrofitted, which would cost money. So the foreign airlines got the advantage of that dramatic discount in price when they bought the planes.

Bear in mind that this is the middle 1970's and late 1970's. These deadlines are now to go into effect the end of this year. The Department of Transportation has ample authority to grant waivers if they find that the circumstances for granting waivers are justified.

The law is very clear: If a small carrier has made a good-faith effort and it will cause undue hardship, an exemption can be granted.

In 1974, Boeing and Douglas designed hushkits, as they are called, for their DC-8's and Boeing 707's respectively. Nobody would buy one. The U.S. airlines were not interested in buying one because they were getting rid of the planes, and the foreign airlines that bought these used planes were not interested in buying one, for whatever reason they thought it might not ever apply to them. The kits were designed, and nobody would buy one. Naturally, Boeing and Douglas were not interested in proceeding any further with their scheme to sell kits when no one wanted to buy one.

Now we go through 1980, 1981, 1982, 1983. The congressional committee has reviewed, from time to time, aircraft noise standards, has been in touch with the FAA and with the Depart-

ment of Transportation. I have a letter from Transportation Secretary Dole emphasizing again the administration's adamant opposition to the inclusion of this exemption, and I will ask to have that letter printed in the RECORD.

Initially, when the request for the exemption came to my attention, and it was not more than a few weeks ago—no request has ever been made to me, to this date, from the Miami Airport. I should not say that—2, 3, or 4 days ago from one of the people representing them. There was no request in January, February, March, April, May, June, or July of this year for any hearing. No request that a problem was coming.

As the Senator from North Dakota [Mr. ANDREWS] said, there was no intimation to his transportation subcommittee last June, when they marked up the bill, that they had any interest, concern, or worry; 10 days ago, this pops upon the scene, and we are told it is only Miami, and nobody else cares. That is not true. Senator COHEN and Senator MITCHELL would like to append to this a limited exemption for Bangor. San Juan now has contacted us and says that if Miami is going to be exempt, they want to be exempt.

Only later in the day today have I heard that Dallas-Fort Worth and New Orleans want to be exempt if Miami is exempt, because they are attempting to compete with Miami for passenger and cargo business. At the moment, Miami has the bulk of it, but they are going to have all of it if Miami Airport is exempted for these planes and they can fly into Miami but cannot fly into New Orleans or Dallas-Fort Worth. I do not know who else may be asking for these exemptions before we are done.

So, all I say to the Senate is that for 10 years, people in the airline industry have known that the standard was coming. It was first promulgated in 1976, and we made it very clear that we were going to put it into effect unilaterally and that it would apply to all international airline conventions and all airlines. We made that clear from 1976 onward.

We go now to September 1984, and Miami wants an exemption on 10 days' notice, with no hearings and about 15 minutes of discussion in the Appropriations Committee on a subject that has been legislated on, discussed, and with regulations, for 10 years.

Mr. NUNN. Mr. President, I rise in strong opposition to the Chiles committee amendment and urge my colleagues to join with me in rejecting its inclusion in the continuing resolution.

This amendment would seriously weaken the Federal Government's aircraft noise abatement program. In my judgment, it would be most inappropriate for Congress to now reverse the decision made in the Aviation Safety and Noise Abatement Act of 1979 to require all commercial aircraft to comply with regulatory deadlines established in 1976. The 1979 act provided a fair and reasonable mechanism upon which the Secretary of Transportation and the FAA Administrator could consider exemptions from the January 1, 1985, compliance deadline. It would be most unwise for the Senate at this late hour to reexamine, in the context of a continuing resolution, Federal law that has been relied upon by aircraft and airport operators for over 5 years.

To exclude certain foreign and U.S. airlines serving Miami from the noise rules after they have been on notice for 8 years would constitute a serious breach of faith with U.S. carriers which have moved forward at considerable expense to comply. In addition, the vast majority of the Miama carriers this amendment seeks to protect, purchased their noncompliant aircraft after the 1979 act. I see no reason for Congress to grant these operators favored treatment not similarly afforded other airlines. This amendment is not only opposed by most U.S. carriers but also airport operators, labor unions, and manufacturers.

While the proponents of this amendment allege that the provision rectifies a strictly local problem, I believe their broad waiver for noncompliant operators serving Miami would severely jeopardize future efforts designed to abate noise. The city of Atlanta has implemented a noise abatement program to bring relief to neighborhoods adjacent to Atlanta Hartsfield International Airport. The airlines serving Hartsfield have done their part to comply with the 1979 act. I am concerned that a dilution of the Federal Government's resolve to enforce its own regulations, as contemplated in the committee amendment, would undermine the progress made since 1976 and prevent any further steps to bring relief to millions of Americans plagued by this problem.

In addition, Mr. President, I am told that other Senators are considering seeking similar legislative exemptions for noncompliant aircraft operating out of airports in their States. Where do we draw the line, Mr. President? Should we stand by idly and watch the gradual erosion of Federal noise abatement standards? I think not.

I urge my colleagues to oppose the Chiles-Hawkins amendment and delete it from the continuing resolution.

Mr. ANDREWS. Mr. President, will the Senator yield?

Mr. PACKWOOD. I yield.

Mr. ANDREWS. Everything the Senator from Oregon has said is essentially correct so far as our procedure within the committee is concerned, but let me add one thing.

The feeling in that committee was that this was one town, in one State, and we were dealing with a noise ordinance. I think the feeling of that committee probably went along the lines that Miami had a right—it might be a sort of home rule—but they had the right to determine what the noise tolerance was.

If it begins to spiral and gets to be a nationwide thing, with an exemption here and an exemption there, as the Senator points out, then I think the majority of the members on the committee perhaps will take another look. However, since it was proposed for one town only and the county commissioners there and the people around that city are willing to tolerate that noise because of what they find to be the commercial benefits to the city, we felt that we would go along with that request.

Mr. PACKWOOD. So what the Senator is saying is that a policy we have set down for this country nationwide, to fly to New York, New Orleans, Dallas-Fort Worth, and Bangor, can now be opted out of any city that says, "We will live with it. Don't worry. It may cause a little ringing in the ears and break some glasses, but it will be good business for the people who make wine glasses."

Let Portland out; maybe we can steal business from Seattle. Let Cheyenne out; maybe they can steal business from Laramie. Do not worry about a noise policy that has been in effect for 10 years. Miami says, "Let us out." Baloney, that it only affects one town. They are in competition for business with every other airport in this country.

Mr. LONG. Mr. President, will the Senator yield?

Mr. PACKWOOD. I yield.

Mr. LONG. I am on the Commerce Committee. I thought we had jurisdiction of this. I never heard about it until the Senator, the chairman of the committee, brought it up.

Mr. PACKWOOD. The Senator from Louisiana has heard about it the last 10 years. We had hearings and spent an inordinate amount of time on this subject.

Mr. LONG. I am talking about the Miami problem. No one has ever told me, until now, that New Orleans wants to raise their noise levels.

Mr. PACKWOOD. I am not saying they want to raise them all. I am saying my hunch is by the time you get back tonight, you may have that phone call from your airport. They are saying, "We are just competing with Miami."

Mr. LONG. Of course.

Mr. PACKWOOD. "If Miami gets to lower their standards, all planes get to land in Miami, we would like them to land at our airport, too."

Mr. LONG. What is wrong with Tampa? Why should they not be allowed to bring in the traffic?

Mr. PACKWOOD. That is what we are coming to. We are all familiar with the grants and efforts to help our States and airports, and we all try to compete with each other and are delighted if we can steal business from someone else's State. One of the biggest attractions we use is look at our hub, look at our transportation system, look what we can provide you that no other city can provide you.

So 10 years ago we said for the good of this country we are going to set down a noise standard, and the Dade County Commissioners at that time said: "Hurry on with it. We like it. We support it. Pass it."

And 10 days ago they come here to the Appropriations Committee with no notice to anyone else and say: "Let us out."

I say to my colleagues, if we are going to have any kind of an authorizing process, this is not a process that was entered into in haste. I sometimes wish we had. We spend an inordinate amount of time on it. Now we are going to undo it because one town, Miami, wants a competitive advantage over every other aiport in the country.

Who is opposed to this? The airline industry is obviously opposed. Our domestic airlines have spent over $20 billion in new planes, over $800 million in retrofits of the planes they kept to meet our standards. They did not want to have to be competing now with planes they sold at a discount to other countries or other airlines who are now going to compete with them and not have to put up the money and meet the standards that they had to meet.

The Airport Council of the United States is opposed. The AFL-CIO is opposed. Most of the environmental groups are opposed.

I do not know of anyone in favor of this except apparently the successors to the former Dade County Commissioners.

Mr. MOYNIHAN. Mr. President, will the Senator yield for an observation?

Mr. PACKWOOD. I yield.

Mr. MOYNIHAN. Mr. President, I can only speak for the Port of New York. The Port of New York Authority, certainly one of the major points of entry and transit by our airlines in this country, has specifically asked that we seek to do what the Senator from Oregon seeks on the grounds that if this happens, you begin to unravel a decade of the successful work which everyone is pleased with and it gets to work to the disadvantage of those who do meet the best standards of public confidence.

Mr. PACKWOOD. I thank my distinguished colleague.

Again, as I look around the Chamber, my guess is that almost all of you have in your office a letter from your local airport authority urging strong support of this amendment in opposition to granting Miami an exception that no other town in the country will enjoy.

Mr. CHILES. Mr. President, the hour is late. I wish I did not have to take up the time of the Senate to discuss this matter.

I wish to assure each of my colleagues that for the last several days I have been trying in any way I can to see if there was any way to compromise this.

As I said to the distinguished Senator from Oregon, would he allow me to keep the name "Miami" in the title? And then I will just go sort of with that and put myself at your mercy.

I did not want us to have to take this up in the Chamber. I know that either you have heard from your airport or you do not care about hearing about this. But if there is no ability to compromise it, and again I have to discuss a little bit with you and tell you how I got into it in a way about 3 weeks ago—all right, I guess a little bit longer than that I first heard from Miami, and they said, "We have a problem."

I said, "What is the problem?"

They said, "We passed a noise statute some 10 years ago. We were in ageement with that noise statute."

As the distinguished Senator from Oregon has said, there was going to be an attempt to see whether there was going to be an international agreement in 1980. The noise standards I think were passed in 1974. Let me start off saying I am not an expert on this. I am not on the committee of jurisdiction.

I wish I did not even know what I have had to know about it. The Senator from Oregon knows 10 times more than I know on the subject.

But again if there is no compromise, I have to tell the Senate what little I know. I think someone once said, "I do not know much, but what I know, I know as good as the next fellow."

I guess that is what I can say about this particular question.

They came to me and they said, "We did not get the international agreement. It fell through."

That was about 1980, so basically from about the last 4 years you might say some people have been on notice, the people that we are talking about. Now, who are we talking about? We are not talking about domestic airplanes. We are not talking about Miami airplanes. We are talking about Florida airplanes. We are talking about some airplanes that fly from Latin America into Miami and back. They do not fly anywhere else. They do not come into Miami.

These airplanes that we are talking about are airplanes that are owned by these governments down there. I think some of those governments are the ones that we have talked about helping in what is called the CBI plan, and what is called the Kissinger initiative, and what is called all these things that we have to do something for the people in Central America and in the Caribbean because those poor devils do not have as much money and they are going to go Communist.

These are the airplanes that we are talking about that we are going to kind of put out of business here. So, you know, let us just remember that.

So, Miami in effect said, "We believe we could sacrifice noise for a little while to give these a chance."

Again we talked about hush kits. Hush kits—I do not know what the hell they are—but they are something you put around the engine and if you put that around the engine, it is supposed to hush it. You know, that is what I think it is. They were supposed to be made a long time back, but to date, no hush kit has been certified by the FAA. That may be the fault of someone else. I do not know.

So these airlines down in Central America, down in the Caribbean, one of them is the country of Dominica. Their total Air Force will be put out of business. It is two planes, and they do not fly basically into Miami. They fly around their little countries around them, but they come into Miami for maintenance because there is no maintenance anywhere else.

What you are going to say is, "Keep your old airplanes down there until they fall out of the sky. That will be the end of you."

Well, we will give them some foreign aid and buy some new airplanes, and maybe that will make the airline companies happy, and maybe that is what we want to do.

But these hush kits have not been certified by the FAA.

One of the little things we are putting in our amendment is that they would have x number of time, and we have it down to 3 months from the time they could buy a hush kit, and we are willing to do just about anything, as I said, and the Senator from Oregon has a piece of paper in which we said that. We age just saying give these countries a little time.

Now when this first came to me, I said, "Wait a minute. There is noise. I do not want to get in trouble with my environmentalists. I am on the right side of that. So I am not going to take no noise."

They said, "Wait a minute. Miami is not troubled with noise right now. We have our noise down to where these planes are not bothering us. They come in over the sea. They land. They go right back. They are not bothering anyone."

I said, "Show me."

So the county commission held a public hearing. The city held a series of public hearings. Not one environmentalist appeared in objection. Not

one airline appeared in objection. Not one anyone else. No one appeared in objection.

I looked at that, and I said, "Well, maybe they have something here. What are we talking about in Miami?"

They told me and I do not know this—6,000 jobs, the people who do the maintenance on these aircraft that come in. You are talking about 10,000 jobs.

My good friend from Oregon talked about all this competition and how you are going to put the Port of New York out of business and New Orleans and everyone else.

We put in our amendment no increased flights, nothing more can come in than is coming in now. We also try to put in anywhere you can find head-to-head competition, knock that out. We let you take care of that head-to-head competition. We do not care about that. We do not care about increased flights. We are just saying are you going to allow these countries a little breathing space, or are you going to give them a time certain in which they could come?

Why do this at all? Do it, the Senator from Oregon said, the Federal Aviation Authority has the right to grant some waivers. They sure do. Sure do.

Now, I think when Miami got a little concerned is when someone sent them this little memorandum, April 2, 1984, and it is to Elizabeth Dole.

"Dear Secretary Dole."

And this is from Donald Engen, who is the Administrator of the FAA, and it says:

First, as you know, I need to implement noise regulations as announced in plan. U.S. companies have spent large amounts of dollars to meet their criteria. Exceptions granted to international airlines will only tend to undercut belief in the administration by those who have complied. Any exception for one city airport would be viewed by 10 other cities—

And I know all of you sitting here tonight have all heard of those 10 other cities—

as favored treatment and result in anguished cries. I believe that we should hold to the announced reasonable schedule and telegraph ahead to all that we intend to grant no exceptions.

Now, the way I read that, that says no exceptions. We do not care if it is going to put your little airline out of business. We do not care if your country is not going to have a plane to fly. It is safe for us because we have airports to say no exceptions.

It says we ought to get in a posture to make sure we take it to the Secretary of State over this, too, because he will try to do something to some of those damn little countries around there and we do not want to fool around with that. So we do not want to posture ourselves on that.

I do not want to get in a jurisdictional fight, I say to my friend from Louisiana. I am not on the Commerce Committee. I do not have any business in that. I have a little business of trying to represent 6,000 jobs in Miami and trying to see if there is any basis for getting a little bit of relief, if there is any reasonable basis until you can get a hush kit approved that is not approved now. Should there not be some reasonable time or until they are given a reasonable time? And I do not care whether that time is 6 months to contract for another airplane that will meet this.

You know what we are hearing from some of the airlines. They are saying "We are mad about this because we sold those countries some of our airplanes that were not going to comply and now they are fussing about it because they think they ought to be able to keep flying."

They sold them to them. I do not believe those countries had any idea when they bought those bad airplanes—and most of them were bought from the companies that got rid of them up here—what they were getting into, but now they are sort of saying, "They don't comply."

The other thing when we were passing that bill—and it was a wonderful bill—and I did not know this until just a few days ago, either—we exempted 463 airplanes for our country. And we exempted those—Eastern Airlines, they are in my State; a good airline. I sure hope they will forgive me. They are mad at me about this. Pan Am is mad at me about this. The machinists down there are mad at me about this because now more of them work for Eastern Airlines.

But we exempted 58 airplanes for Eastern and 95 for Republic. We said we were exempting those airplanes because they were doing interstate service; they were doing the small cities. They were doing the kind of service airlines used to do before deregulation. Now all of those planes are flying around and they are exempted for a period of time.

I am not fussing about that. I think that probably was good policy. But we exempted 463 airplanes and we are talking about, in total, 90 airplanes, these little planes that are flying from, most of them, from Latin America, from the Caribbean to Miami and back out again. We are talking about a period of 3 months, 6 months. Give them just a little something until there is a certified hush kit, until they can get a new contract.

Now, on jurisdictional matters, hell no, we "ain't" got no case. go ahead and vote us down on that. And if you are talking about hearing from your cities, we do not have any case. If you are talking about hearing from the airlines, we do not have any case. But if you have a little of that warmth of human kindness in your heart at 5 minutes to 1, I hope you will think that we have some kind of a case.

Mr. HATFIELD. Will the Senator yield for a question?

Mr. CHILES. I am happy to yield.

Mr. HATFIELD. Mr. President, I wonder, since it is 5 minutes to 1—and I would like to remind the Senate that we have a number of amendments yet to complete, rather interesting and controversial amendments—if the Senators who are now engaged in this debate would be willing to consider a time agreement as to how much longer we need to go on this subject before we can bring it to some kind of a conclusion. I wonder if that is possible, that we can get a time agreement for however much time we need but at least have some idea of how soon we are going to address this.

Mr. PACKWOOD. I would be happy to accept 15 minutes on a side.

Mr. HATFIELD. I ask the same question of the Senator from Florida.

Mrs. HAWKINS. Since the Senator from Oregon has already talked passionately for about 45 minutes on this subject and intricately for the last 10 years, at least, and the Senator from Florida and I both know very little about this—we have had to learn a lot about it in the last 3 or 4 weeks. There has been a lot said on this floor tonight by the experts that is untrue. A lot of Senators need to know the whole truth and let us make our minds up on the truth.

I have no idea how long it is going to take me to refute what has been said in the RECORD here tonight that is untrue from the Senator from Oregon. I do not know how much time it will take.

I would like to accommodate the Senate. We have been working for weeks now on this. I can get just as passionate about Miami as the Senator from Oregon can about jurisdiction. I do not care about jurisdiction. I care about the 3,000 jobs in Miami.

I want to tell you that we sit here night after night working on foreign aid for Antigua; Barbados; Colombia; Guatemala City; Kingston, Jamaica; Lima, Peru, will have no service at all.

We have 463 American carriers that have been exempted. We are talking about equity. We are talking about equity, fairness, a lot of things. I have no idea how you can fill the RECORD with so many untruths and then say, "Would you like a time agreement to work it out?"

I could have worked it out 3 days ago and you would not have seen me here tonight if we could have gotten some consensus with the principals.

The senior Senator from Florida is exactly right. We have to have a history lesson if it is going to take us until 4 o'clock. I am supposed to preside from 6 until 7. I might as well talk from

now until 6, if that is how long it will take.

Mr. HATFIELD. Mr. President, I am fully convinced that the Senator from Florida does demonstrate far more passion at this moment that the Senator from Oregon, at least this Senator from Oregon. I am not here looking for a contest of passions. I am trying to find some kind of timeframe in which some of us can expect to conclude the Senate's business.

Would the Senator suggest a 4-hour time agreement, 3 hours, 2 hours, or 1 hour, equally divided? How long does the Senator from Florida think it might take?

Mrs. HAWKINS. I have no idea. We have been working on this for at least 3 weeks, the last 10 days around the clock. We thought that we had a consensus three times, and 30 minutes ago we were willing to make all kinds of adjustments to accommodate the Senator from Oregon. And from his speech, we take it—the two Senators from Florida take it—that it is all blown up.

I have no idea how long it is going to take us to convince the Senator from Oregon, the junior Senator from Oregon.

Mr. HATFIELD. Mr. President, would the Senator then indicate possibly the rest of the Senate could get a little sleep here during the next hour or two?

Mrs. HAWKINS. No; I do not want the Senate to get any sleep. I want the Senate to sit here and listen to a history lesson. I have listened to the other side. I have all the dockets here from 1974 to 1984. We have to start reading them from page 1.

Mr. HATFIELD. Mr. President, I withdraw my effort to try to get a time agreement this morning. I would only indicate that I would expect that probably the remaining part of this CR of the committee amendments will take about an additional 3 hours over and above the current issue. And we are going to conclude the CR as long as I have strength to stand here and manage this bill.

I want to inform the Senate that we have such issues as abortion, the crime package, and other such interesting issues to conclude between now and whenever. I urge the Senate to consider the fact that the country has now ceased to have money to run, since midnight. We are going to finish this bill. We have to go to conference and we have to get it down to the White House.

I want to also say that it appears to me that the weekend may be too soon an expectation to be able to adjourn with the kind of work we still have to do after we conclude this floor action.

Mr. JOHNSTON. Will the Senator yield?

Mr. HATFIELD. I am happy to yield.

Mr. JOHNSTON. Mr. President, I ask the distinguished Senator from Oregon—and I am not going to make this point—but I just want to underline the fact that this is subject to a point of order, is it not, should the Senator from Oregon or anyone else desire to exercise the point of order that it is legislation on an appropriations bill?

(Mr. GOLDWATER assumed the chair.)

Mr. HATFIELD. Mr. President, I would not want to comment on the question of the point of order. There are procedural motions that could be made. I could make it since I have the floor at this point and cut this whole debate off. But I am not about ready to do that and deny the Senator from Florida the opportunity to express herself. That is her right.

But I do think that there is some collective responsibility we have here of moving this bill. At some point in time, I will be willing to make a procedural motion, if necessary, in order to bring this to a vote or bring this to a conclusion.

I will not exercise that at this moment. But I cannot rule on the question.

Mr. CHILES. Will the senior Senator from Oregon yield?

I certainly apologize for trying to take up time. I know the Senator from Florida has to make her case because she feels very strongly about it.

I wonder if the Senator from Oregon has had a chance to look at the latest proposal that we made which sort of weakened our case in trying to change this, and if he could make any sort of comment as to that proposal.

Mr. PACKWOOD. If the senior Senator from Florida means the latest proposal, I am not sure what the latest is because I have had a series of proposals over the last few hours.

Mr. CHILES. This is the one your staff just drafted and we capitulated to.

Mr. PACKWOOD. What the Senator from Florida asked for was not our bottom line at all under any circumstances. He asked our staff to help draft it, and I do not know what you are holding in your hand to be printed as my amendment. The last amendment I have seen is something scribbled in handwriting. Here it is. It is appended in handwriting. I do not know if it is the senior Senator's or the junior Senator's. Frankly, I cannot read it. I think it says applicants currently operate aircraft for which no such compliance equipment is currently under development shall be required to contract for aircraft or equipment which will—I cannot read it. But I think this is the latest suggestion. I saw it about one-half hour ago. As best I can I have had it translated into script.

Mr. JOHNSTON. Mr. President, will the Senator from Oregon yield?

Mr. PACKWOOD. Yes.

Mr. JOHNSTON. I wonder if the distinguished Senator from Oregon, and the two distinguished Senators from Florida could go off in an attitude of milk of human kindness and maybe work this thing out, and come back to the Senate with some acceptable compromise so we can go on to these other amendments. I think maybe they will have some opportunity to work it out.

Mr. PACKWOOD. I am willing to do that. I am willing to set this aside, and let you go on to other amendments if we could have a time certain to come back at 3 or 4 o'clock on this, and see where we are. But I want to reserve all my rights in setting aside, and I have not yet handed the amendment in.

MR. HATFIELD. Mr. President, I will respond to the Senator from Oregon by saying that I am willing to temporarily lay this aside in order to negotiate a solution. But I am reluctant to indicate a specific hour. I say that we want to move on, if we can move on, with other amendments, and then take this up at the end of those committee amendments, which would probably be another hour or two at least. But I do not want to set a time specific because, if we can expedite it, we may finish it earlier.

Mr. PACKWOOD. That is fine. I do not think the meeting will take that long. I would be happy to do it.

Does the Senator mind if I hand in my amendment so it is pending?

AMENDMENT NO. 7012

(Purpose: Strike provision relating to airport noise)

Mr. PACKWOOD. Mr. President, I send my amendment to the desk, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Oregon [Mr. PACKWOOD] proposes an amendment numbered 7012:

On page 42, strike all from line 17 through line 11 on page 45.

Mr. PACKWOOD. Mr. President, that simply is the language striking the exemption for the Miami Airport. I am receptive to whatever unanimous-consent agreement my distinguished senior colleague wants to make.

COMMITTEE AMENDMENT NO. 34

Mr. HATFIELD. Mr. President, I at this time ask unanimous consent to temporarily lay aside committee amendment No. 32, and lay before the Senate committee amendment No. 34.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The bill clerk read as follows:

On page 46, beginning on line 22, insert new language through page 56 line 5, as follows:

SEC. 129. Any of the funds provided for El Salvador by this joint resolution which are placed in the Central Reserve Bank of El Salvador shall be maintained in a separate account and not commingled with any other funds: *Provided*, That such funds may be obligated or expended notwithstanding the provisions of section 604 of the Foreign Assistance Act of 1961, as amended, section 901(b)(1) of the Merchant Marine Act of 1936, as amended, section 5 of the International Air Transportation Fair Competitive Practice Act of 1974, section 644 of the Small Business Act, section 2711 of the Competition in Contracting Act of 1984, the provisions of the Federal Property and Administrative Services Act of 1949, as amended, and any other provision of law inconsistent with the cash transfer nature of this assistance.

SEC. 130. None of the funds made available by this joint resolution may be obligated or expended for the construction of a Regional Military Training Center in Honduras unless and until fifteen days after, the President provides to the Committees on Appropriations of the Senate and the House of Representatives—

(1) a report that the Government of Honduras has provided a site for such a Center and assumed responsibility for any competing claims to rights of use or ownership of such site, and has committed itself to make that site available on a long-term basis for training by the armed forces of other friendly countries in the region as well as those of Honduras;

(2) a detailed plan, with specific cost estimates, for the construction of such a Center at the site provided by the Government of Honduras; and

(3) a determinaation that the Government of Honduras recognizes the need to compensate as required by international law the United States citizen who claims injury from the establishment and operation of the existing Center; and that it is taking appropriate steps to discharge its obligations under international law, in particular the Treaty of Friendship, Commerce and Consular Rights with the United States, as well as its letter of December 14, 1983, to the United States Trade Representative.

Moreover, the President shall report to the Committees sixty days after the passage of this resolution and again in one hundred and twenty days on progress in resolving this claim. In one hundred and eighty days, the President shall report on the resolution of the claim or, if Honduras has failed to resolve the claim, on the actions which he proposes to take in response to the situation and in particular actions with respect to the granting of preferential trade benefits under the Caribbean Basin Initiative, disbursement of economic support funds or any other funds provided under this resolution and review of the status of Honduras under other, expropriation-related legislation.

SEC. 131. No credits may be extended and no guarantees may be issued under the Arms Export Control Act for Turkey for the fiscal year 1985 if the extension of such credits or the isssuance of such guarantees would cause the sum of such credits and guarantees provided for Turkey for such fiscal year to exceed $500,000,000: *Provided further*, That, of the amounts appropriated or made available by this joint resolution for grant military assistance for fiscal year 1985, not to exceed $125,000,000 may be available for Turkey only if the President certifies to the Congress that (1) the United States Government is in compliance with the provisions of Senate Resolution 278, as passed by the Senate on November 17, 1983, and (2) that Turkey is making efforts to ensure that the Turkish Cypriot community is not taking any actions with regard to the region of Famagusta/Varosha which would prejudice the outcome or otherwise impede intercommunal talks on the future of Cyprus.

SEC. 132. The Congress finds that progress on the peace process in the Middle East is vitally important to Untied States security interests in the region. The Congress recognizes that, in fulfilling its obligations under the Treaty of Peace between the Arab Republic of Egypt and the State of Israel, done at Washington on March 26, 1979, Israel incurred severe economic burdens. Furthermore, the Congress recognizes that an economically and militarily secure Israel serves the security interests of the United States, for a secure Israel is an Israel which has the incentive and confidence to continue pursuing the peace process. Therefore, the Congress declares that it is the policy and the intention of the United States that the funds provided in annual appropriations for the Economic Support Fund which are allocated to Israel during the fiscal years 1985 through 1989 shall not be less than the annual debt repayment (interest and principal) from Israel to the United States Government in recognition that such a principle serves United States interests in the region.

SEC. 133. None of the funds provided for in this joint resolution or hereafter provided shall be used to lease the mineral interest of the United States with respect to a tract of land in Payne County, Oklahoma, totalling nine hundred sixty acres located on the Indian Base Meridian; township 19 north; range 1 east, section 22 west half; section 26 northwest quarter; section 27 north half: southeast quarter; unless such lease prohibits the surface occupancy of the land for development of those interests.

SEC. 134. Notwithstanding any other provision of this joint resolution, except for lands described by section 105 and 106 of Public Law 96-560, section 103 of Public Law 96-550, section 5(d)(1) of Public Law 96-312, and except for land in the State of Alaska, and lands in the national forest system released to management for any use the Secretary of Agriculture deems appropriate through the land management planning process by any statement or other Act of Congress designating components of the National Wilderness Preservation System now in effect or hereinafter enacted, and except to carry out the obligations and responsibilities of the Secretary of the Interior under section 17(k)(1) (A) and (B) of the Mineral Leasing Act of 1920 (30 U.S.C. 226), none of the funds provided in this Act shall be obligated for any aspect of the processing or issuance of permits or leases pertaining to exploration for or development of coal, oil, gas, oil shale, phosphate, potassium, sulphur, gilsonite, or geothermal resources on Federal lands within any component of the National Wilderness Preservation System or within any Forest Service RARE II areas recommended for wilderness designation or allocated to further planning in Executive Communication 1504, Ninety-sixth Congress (House Document numbered 96-119); or within any lands designated by Congress as wilderness study areas or within Bureau of Land Management wilderness study areas: *Provided*, That nothing in this section shall prohibit the expenditure of funds for any aspect of the processing or issuance of permits pertaining to exploration for or development of the mineral resources described in this section, within any component of the National Wilderness Preservation System now in effect or hereinafter enacted, any Forest Service RARE II areas recommended for wilderness designation or allocated to further planning, within any lands designated by Congress as wilderness study areas, or Bureau of Land Management wilderness study areas, under valid existing rights, or leases validly issued in accordance with all applicable Federal, State, and local laws or valid mineral rights in existence prior to October 1, 1982: *Provided further*, That funds provided in this Act may be used by the Secretary of Agriculture in any area of Natonal Forest lands or the Secretary of the Interior to issue under their existing authority in any area of National Forest or public lands withdrawn pursuant to this Act such permits as may be necessary to conduct prospecting, seismic surveys, and core sampling conducted by helicopter or other means not requiring construction of roads or improvement of existing roads or ways, for the purpose of gathering information about and inventorying energy, mineral, and other resource values of such area, if such activity is carried out in a manner compatible with the preservation of the wilderness environment: *Provided further*, That seismic activities involving the use of explosives shall not be permitted in designated wilderness areas: *Provided further*, That funds provided in this Act may be used by the Secretary of the Interior to augment recurring surveys of the mineral values of wilderness areas pursuant to section 4(d)(2) of the Wilderness Act and acquire information on other national forest and public land areas withdrawn pursuant to this Act, by conducting, in conjunction with the Secretary of Energy, the national laboratories, or other Federal agencies, as appropriate, such mineral inventories of areas withdrawn pursuant to this Act as he deems appropriate. These inventories shall be conducted in a manner compatible with the preservation of the wilderness environment through the use of methods including core sampling conducted by helicopter; geophysical techniques such as induced polarization, synthetic aperture radar, magnetic and gravity surveys; geochemical techniques including stream sediment reconnaissance and X-ray diffraction analysis; land satellites; or any other methods he deems appropriate. The Secretary of the Interior is hereby authorized to conduct inventories or segments of inventories, such as data analysis activities, by contract with private entities deemed by him to be qualified to engage in such activities whenever he has determined that such contracts would decrease Federal expenditures and would produce comparable or superior results: *Provided further*, That in carrying out any such inventory or surveys, where National Forest System lands are involved, the Secretary of the Interior shall consult with the Secretary of Agriculture concerning any activities affecting surface resources: *Provided further*, That funds provided in this Act may be used by the Secretary of the Interior to issue oil and gas leases for the subsurface of any lands designated by Congress as wilderness study areas, that are immediately adjacent to producing oil and gas fields or areas that are prospectively valuable. Such leases shall allow no surface occupancy and may be entered only by directional drilling from outside the wilderness study area or other nonsurface disturbing methods.

SEC. 135. Of the funds appropriated to the Energy Security Reserve by the Department of the Interior and Related Agencies Appropriations Act, 1980 (Public Law 96-126) and subsequently made available to carry out Title I, Part B of the Energy Security Act (Public Law 96-294) by Public Laws 96-304 and 96-514, $5,200,000,000 are rescinded: *Provided*, That of the remaining funds in the Energy Security Reserve for carrying out Title I, Part B of the Energy Security Act, the amount of $5,700,000,000 shall be initially available only for obligation to projects with Letters of Intent authorized by the Board of Directors of the United States Synthetic Fuels Corporation on or before June 1, 1984; and, if by reason of Board determinations that the Corporation will not enter into financial assistance contracts with projects for which such Letters were authorized, or that lesser amounts of financial assistance than those specified in such authorizations shall be awarded, there remains a balance of such amount which is unobligated and uncommitted, 50 percent of said balance shall cease to be available for obligation and the remaining 50 percent of said balance shall thereafter be available for commitment or obligation by the Corporation pursuant to the Energy Security Act: *Provided further*, That until such time as the comprehensive strategy is approved pursuant to section 126(c) of the Energy Security Act, the Board of Directors shall solicit proposals and award financial assistance pursuant to applicable sections of the Energy Security Act without regard to the national synthetic fuel production goal established under section 125 of the Act: *Provided further*, That of the $5,200,000,000 rescinded from the Energy Security Reserve, $750,000,000 shall be deposited and retained in a separate account hereby established in the Treasury of the United States, entitled the "Clean Coal Technology Reserve," which account and the appropriations therefor, shall be available for the purpose of conducting clean coal technology demonstration activities, including those identified in section 320 of the fiscal year 1985 Department of the Interior and Related Agencies Appropriations Act, as reported by the Senate Committee on Appropriations (H.R. 5973, Senate Report 98-578), without fiscal year limitation, subject to subsequent annual appropriation in the Department of the Interior and Related Agencies Appropriations Act.

SEC. 136. Notwithstanding any other provision of this joint resolution, none of the funds provided under this joint resolution shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term.

THE EFFECT OF THE HYDE AMENDMENT ON TREATMENTS FOR VICTIMS OF RAPE

Mr. JOHNSTON. For several years, the Hyde amendment has permitted Medicaid funding of abortions only "where the life of the mother would be endangered if the fetus were carried to term." However, the Appropriations Committee in June approved an amendment, offered by Senator WEICKER, to add an additional exception "for medical procedures necessary for victims of rape or incest." The term "medical procedures" is understood to include abortions.

Now, I have recently been advised that there are other medical procedures, which are widely available, which are virtually always effective if they are administered within a few days to victims of sexual assault. Among these procedures is the drug known as DES [diethylstilbestrol]. I have further been advised that the Hyde amendment—even without the Weicker amendment for rape and incest—in no way prevents Federal funding for administration of DES or other procedures employed within a few days of a sexual assault.

I would like to know if this is true. Does the language of the Hyde amendment which is current law—containing only the "life-of-the-mother" exception—allow funding of DES treatments or other treatments administered within a few days of a sexual assault?

The answer is yes. Until 1981, the Hyde amendment, as enacted, contained the phrase, "nor are payments prohibited for drugs or devices to prevent implantation of the fertilized ovum, or for medical procedures necessary for the termination of an ectopic pregnancy."

That clause was dropped in 1981 without controversy, simply because it was unnecessary. The Hyde amendment was never intended to impede funding of medical procedures for ectopic—or tubal—pregnancies. Indeed, none of the antiabortion constitutional amendments or statutes which have been proposed would affect such procedures, which are not abortions, and which were never regarded as abortions under the antiabortion laws which were in effect in the States until 1973.

Likewise, the Hyde amendment has never been interpreted to prevent Federal funding of drugs or devices which prevent the implantation of the fertilized ovum in the uterus, which generally occurs within 8 days of fertilization. I understand that intrauterine devices, for example, sometimes work by preventing implantation, rather than by preventing fertilization. I do not intend to embark upon a discussion of whether or not that is a proper or desirable mechanism for birth control; I merely make the point that the Hyde amendment has never been, and is not now, construed to interfere with Federal payments for such "anti-implantation" drugs or devices.

Thus, the Hyde amendment which is current law, which contains only the life-of-the-mother exception, does permit funding of the various treatments administered to a rape victim within a few days of the assault, including treatment with DES. There are actually several types of procedures which are employed in this situation, some of which prevent conception—fertilization—some of which prevent implantation, and some of which may work in either manner depending on the time that they are administered to a woman. But all may be funded under the Hyde amendment. This is beyond dispute.

If administered promptly—within 72 hours of the sexual assault—DES treatment is virtually 100 percent effective. A study of 1,000 rape victims who were promptly treated with DES found zero pregnancies (L. Kuchera, "Postcoital Contraception with Diethylstilbesterol," Journal of the American Medical Association, Oct. 25, 1971). Dr. Philip Corfman, director of the Center for Population Research of the National Center of Child Health and Development, testified before a judiciary subcommittee in 1975 that "according to data from Ann Arbor, when DES is taken according to direction there are essentially no failures."

Even without any treatment, the chances of a single sexual assault resulting in pregnancy are low—certainly no more than 2 percent, probably much less.

By the way, there has been considerable publicity regarding cases in which women took DES, and subsequently gave birth to daughters who years later developed vaginal cancer. It appears that DES can cause female fetuses to become susceptible to this form of cancer, but only if the drug is taken when the pregnancy is well advanced—more than 70 days after the conception of a female child. This is an important consideration with respect to certain medical uses of DES, but it is not a concern pertinent to the use of DES in the treatment of rape victims.

So, the Weicker language is not necessary to fund emergency treatment for rape victims. The provisions of the Hyde amendment apply only after the point of implantation.

The Weicker language would result in funding of surgical abortions on women, at any stage of pregnancy, who say that their pregnancy resulted from sexual assault. Such a loophole would encourage fraudulent claims, thus increasing skepticism regarding claims of sexual assault among law enforcement personnel, medical personnel, and jurors—to the detriment of genuine rape victims, and to the advantage of their assailants. I think it is far better to encourage prompt medical treatment of genuine victims of sexual assault, rather than to open up a loophole and invitation to fraud.

IN SUPPORT OF LOCAL GOVERNMENT ANTITRUST IMMUNITY ACT

Mr. BUMPERS. Mr. President, I rise to urge my colleagues to support one of the most important pieces of legislation to be considered in this Congress, the Local Government Antitrust Immunity Act. Offering this legislation as an amendment other essential legislation, I know, is not the best way to proceed. But this bill is so important to the taxpayers that it must be considered now.

In my judgment, Mr. President, this bill has perhaps more practical significance to more people than any other we will consider because, in its absence, every taxpayer in the country stands to loose a great deal. We are brought to this position by a ruling of the Supreme Court in 1982 in the City of Boulder case which was as wrongheaded as anything the Court has done in the last 100 years. For the life of me, I cannot understand why the Supreme Court came to the decision they did. The Court held that the immunity from suit under the Sherman and Clayton Acts which is shared by each of the 50 States—under a very longstanding interpretation of the law, I might add—does not extend to the cities and counties across this country.

What this means, Mr. President, is that the local governments now stand to be sued in the Federal district court under the antitrust laws over literally myriads of decisions which are made almost daily by local governments in carrying out their responsibilities to the people. In the City of Boulder case the suit was over the city's decision concerning a cable television franchise by a disgruntled applicant who was not able to enter the field by the city's franchise decision. Every day, Mr. President, local governments must make decisions which may have anticompetitive effects, such as the granting of franchises to cable television companies or taxicab companies or ambulance companies. These decisions are not necessarily always right, and I am sure that serious mistakes are made. But this fact does not mean, Mr. President, that the taxpayers should face treble-damage suits, which may result in verdicts many times the amount the total annual revenues of the locality. These localities can and do make decisions which we would not allow for private parties. But these decisions are often part of the essential responsibilities of local governments. If the decisions are wrong, the remedy lies in the voting booth, not jury room.

Over a year ago, I joined with Senator THURMOND in sponsoring this legislation. Since then I have joined with Senator HOLLINGS in trying to restrain the Federal Trade Commission from attacking local governments over the regulation of taxicabs. I argued then, as I do now, that the city of New Orleans—which was then under attack by the FTC—knows better how to run its taxicab business than does some unelected Federal commission in Washington. I am glad to say we were successful in placing restrictions on the FTC's power in this area. This bill will now finish the task of cleaning up the mess left in the wake of the City of Boulder case. Private parties will not be able to bring treble damage suits against local governments or to recover attorneys fees. At the same time, parties will still be able to go to court and argue that a particular practice has such anticompetitive effects that it should be restrained by court order. In legal terms, injunctive relief is still possible, but the taxpayers will not be put in the dock for millions of dollars in damages. I urge my colleagues to support this amendment.

Mr. WEICKER addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon has the floor.

Mr. HATFIELD. Mr. President, I yield the floor.

AMENDMENT NO. 7013

Mr. WEICKER. Mr. President, I send my amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Connecticut [Mr. WEICKER] proposes an amendment numbered 7013. In the language proposed to be inserted by the committee amendment on page 56, line 5, strike the period and add the following: "or except for such medical procedures necessary for the victims of rape or incest.".

Mr. WEICKER. Mr. President, what I have tried to do is conform the language in section 34 to that in section 5.

Mr. President, we now have before us as straightforward and self-evident a proposal as this Senator can conceive. I seek to amend the pending Hyde amendment, which allows Federal abortion funding in life-threatening situations only, to permit these benefits to go to the victims of rape or incest.

I frankly cannot imagine a rationale or a morality which would argue that poor rape and incest victims must carry their pregnancies to term, simply because they cannot afford this legal, medical procedure. It is simple human compassion that our Government provide this form of assistance for this desperately unfortunate segment of our population.

We will no doubt hear the loophole argument, that women will line up to lie about being raped or sexually abused by their relatives in order to get a free abortion. Mr. President, studies show that between 50 and 95 percent of women who are actually raped are so fearful of society's stigma that they won't come forward to tell the truth about what has happened to them. They are not going to lie about such a grave matter. What do the statistics on use of the rape and incest exemption in past years say? In fiscal year 1979, the last full year in which rape and incest was included, 3 percent of Medicaid abortions were in this category, a total of 72 nationwide. Denying benefits to a group of deserving women because of the potential for abuse can only be described as draconian.

Mr. President, I urge my colleagues to view this not as the acid test on abortion for the 98th Congress, but a reasonable act of compassion for the victims of two heinous crimes.

Mr. DENTON. Mr. President, this amendment reopens an old wound that should have been left to heal. I hope that is not its purpose, but it surely is its effect.

More than 3 years ago, the Senate and the House agreed that funding for abortion under the Medicaid program would be limited to cases in which the mother's life would be endangered by continued pregnancy.

That decision has been reaffirmed every year since. Furthermore, it has been extended to other Federal programs. Throughout the Federal Government, public revenues are used for abortion only when the mother's life is endangered.

That policy decision by the Congress, fully supported by President Reagan, did not occur in a vacuum. It was the result of many years of debate, prolonged stalemates between House and Senate, and more rollcall votes than anyone cares to remember.

At one point, to break a legislative logjam, an exception for cases of rape or incest was added to the Hyde amendment. Even some proponents of that addition found it to be utterly unworkable, unenforceable, and open to terrible abuse. Under regulations promulgated by Secretary Califano during the Carter administration, the rape and incest exception became a tragic loophole for Federal funding of abortions.

That is why the Congress, in 1981, closed the loophole and established what remains current law: abortion funding under Medicaid, and other programs, only to save a mother's life.

That has been the consensus position for 3 years.

It is current law, not just in the Medicaid Program, but throughout the Federal Government.

It is the position of the President of the United States.

It is the position of the Secretary of Health and Human Services, who has already explained to us, in a pointed and persuasive letter, the administrative and managerial reasons why we should leave current law alone.

It is the position of the House of Representatives. Indeed, on Tuesday of this week, the Labor-HHS appropriations bill, the subject of so much work in committee and on the Senate floor, was reported in disagreement by the conference, on this very issue. No one seriously expects the House to alter its position.

With all that as background, we might well ask why, at this late date, we should entertain an attempt to alter current law, reversing Medicaid's funding policy of the last 3 years and, quite likely, endangering the continuing resolution.

For the record, I would like to make clear that neither I nor any other Member of this body who holds the prolife point of view have sought to raise again the issue of abortion funding. On Tuesday, September 25, when the Senate considered the Senate version of the Labor-HHS appropriation bill, I could have taken up the time—the very valuable time—of the Senate in a protracted debate on this subject. After consulting with other Senators of the same opinion, I wanted to spare the Senate that process. Instead, I opted to give the opposition a victory of sorts, confidently anticipating that the House continuing resolution would contain an intact Hyde amendment, which it does, and that the Senate committee would report a continuing resolution with a true Hyde amendment, which it has.

It is now clear that my distinguished colleague from Connecticut, and perhaps others, are not satisfied. Let the record be clear on this point: it is they who, within their rights, require the time of the Senate on this issue. They are raising it once again, in a persistent effort to alter current law.

I want to make it as clear as possible that I do understand how difficult this issue is. Anyone who has ever heard me discuss or debate it knows that I do not condemn those whose views do not coincide with mine. For those who favor unrestricted abortion, the matter is simple: the more exceptions to the Hyde amendment, the better. If I shared their premises, I would share their strategy. But I deeply, sincerely believe those premises are in error.

I begin with quite a different premise: a presumption in favor of human life. That is neither radical, nor intrusive, nor religious. It is a question of science and of law. That is how I approach it.

When all the evidence of science tells me that the unborn child is a person, distinct in every way from its mother, I cannot pretend otherwise. When we are faced with the biological evidence of prenatal life—evidence that was not available until recent years, with the perfection of in vitro photography, ultrasound, chromosome studies, and our emerging understanding of the individual miracle of conception—faced with that evidence, we have to turn away in revulsion from the senseless destruction of the little boys and girls in the womb. That's what they are, after all: little boys and girls. Not fetal matter, not products of conception.

It is fairly routine now for a pregnant woman to have an ultrasound photograph of her baby, by which physicians can determine the baby's age and whether the baby needs treatment of various kinds in the womb. When the doctor gives the mother that sonograph, what does she see? Her baby boy. Or her baby girl. They can often tell just from the sonograph.

And using that and other new techniques, physicians are actually operation on children before birth, correcting birth defects. We could not have imagined this a decade age. And today we cannot imagine what miracles of the near future will enable us to save more and more children, even before birth.

So why is the Senate of the United States debating the circumstances under which we will use public funds to destroy this boy or that girl before birth? The answer is: we are being asked to legislate from "hard cases," even though every Member of this body knows that hard cases make bad law.

And no Senator should assume that this would be the end of the hard cases. Advocates of public funding of abortion have made clear over the years that their interest is not just in Government funding of pregnancies resulting from rape and incest. They have argued, over the years, that we should fund the aborting of physically deformed children, of mentally impaired infants, of babies with genetic defects or hereditary illnesses. They have argued for public funding of abortions when there were problems with the mother's physical health, when there were problems with her mental health, when there were financial problems.

From time to time, some have even argued that it is cheaper to abort the children of the poor than to have them become recipients of public assistance.

One hard case leads to another. That was the tactic the abortion lobby used, back in the 1960's and early 1970's, in State legislatures, trying always to widen the scope of legal abortion.

That is the argument again before us today. It is the first step down an escalator from which there is no return.

Let me be painfully specific. A Senator who, this year, votes to pay for abortions in cases of rape and incest will, next year, face this challenge: You voted funds to abort perfectly healthy, perfectly normal babies, who could have gone on to have productive, creative lives. Why won't you pay to abort a terribly deformed child, with little life expectancy? Why won't you pay to abort a child who will be a financial burden upon its parents?

Indeed, why won't we? Because we cannot assent to that, when we put up the money to abort the few children conceived from rape or incest. And any one of us who did that will have no logical response to the insistence that we fund abortion on demand. By conceding the principle in some cases, we will have conceded it in all.

I hope my colleagues will not make that mistake. It seems an easy way out of a difficult situation, but it is really a bitter trap.

None of us want the innocent to suffer, least of all the innocent victims of rape or incest. But it must be emphasized at the outset that pregnancy resulting from those crimes is extremely rare. We have heard the statistics in these debates before: in a Chicago study in 1967, no pregnancy from rape in over 9 years. In a Washington, DC, study of 1968, one pregnancy in over 300 rape victims. In Buffalo, there was no pregnancy from confirmed rape in over 30 years. In St. Paul, there was no pregnancy from confirmed rape in over 10 years. In Philadelphia, in 1977, Trial Judge Armand Della Porta of the court of common pleas, formerly an assistant district attorney, reported no pregnancy resulting from rape in more than 19 years experience.

Under the proposed amendment, the taxpayers would have to pay for abortions under Medicaid upon the mere claim of sexual assault, unreported to the police, at any time during pregnancy. The amendment would cover equally statutory rape. In other words, any pregnant teenager eligible for Medicaid could get a free abortion.

We went through this before, and it didn't work. The Department of Health and Human Services should not be charged with the impossible burden of determining the validity of every rape claim, every allegation of incest. Voicing the administration's opposition to this amendment, Secretary Margaret Heckler wrote the distinguished senior Senator from Connecticut:

DEAR SENATOR: We are writing to express opposition to your amendment to the FY 1985 Labor-HHS appropriations bill (H.R. 6028) to allow Medicaid to pay for abortion in those cases in which the pregnancy resulted from rape or incest. In short, such a vaguely-worded amendment is of concern to the Administration from an administrative as well as a philosophical perspective.

At present, Federal Financial Participation (FFP) is available to States for Medicaid expenditures for abortion when a physician has certified in writing to the State Medicaid agency that the pregnancy would endanger the mother's life if the fetus were carried to term.

Extending coverage for abortion to cases of rape or incest would impose new and time-consuming administrative requirements on three levels: Federal, State and provider. Additionally, administration of such a law would be extremely difficult, because there is no mechanism for verifying that the alleged rape or incest occurred.

Specifically, enforcement of the amendment would require a number of policy judgments about the nature and extent of notice, certification and record-keeping. The Department would have to determine, presumably through regulation, the procedure for ascertaining that a rape or incest has occurred. Notification of such a change would have to be made by the Federal Gov-

ernment to the States, which in turn would notify providers of whatever State procedures might be deemed necessary to implement the law.

To ensure appropriate use of Federal funds, in cases in which a State sought FFP for an abortion resulting from rape or incest, documentation would have to be provided to the State to prove that rape or incest occurred. Without further definition in the law, we could only assume that physicians would be required to make that determination. However, whether a pregnancy resulted from rape or incest is a legal question, not a medical determination which can be made by a physician. In sum, the amendment could impose upon the Medicaid program an onerous legal and judgmental dimension, not congruent with the program's purpose.

In addition, Federal record-keeping requirements, with their associated administrative costs, would also be imposed on States and providers. These requirements would be needed so that, through the normal audit process, in a case in which Medicaid funds had been expended for an abortion, a State could prove to the Federal government that a rape or incest occurred. Thus, to expand the existing narrowly-drawn Medicaid coverage to cases of rape or incest would impose time-consuming administrative burdens in the audit review process.

Entirely apart from the technical effect of the amendment, we must express our opposition to its intent, which runs contrary to this Administration's view that Federal coverage for abortion should only be provided in the case of a pregnancy which endangers the life of the mother. For these reasons, we strongly oppose the Senate's alteration of the Hyde amendment.

Secretary Heckler's sound, practical consideration were concurred in, as early as 1977, by the International Association of Chiefs of Police and by the National Sheriffs' Association.

To their arguments, I would like to add quite a different one. This Senator feels utterly unjustified in deciding that a child conceived as a result of rape or incest is any less human, any less worthwhile, any less a child of God than—let us say—the newborn Prince of Great Britain. Any child so conceived could be a future musician, poet, salesman, Senator.

That child may be born poor, perhaps to a young mother, with every strike against her. And she may have such terrific talent that, in time, the whole world loves her, honors her, and cherishes her memory.

That is not make believe. That is the life story of the beloved Ethel Waters, born of the rape of her teenage mother. Before she went home to the God who gave her life, Ethel Waters wrote her autobiography, "His Eye Is on the Sparrow."

You cannot read that book without feeling a great sense of relief that, back then, the Federal Government did not pay poor women to abort their babies, even in cases of rape.

I do not want this debate to veer into emotionalism. I do not want to recite again, to explain again, the various abortion procedures: Exactly what happens to the small body during a vacuum aspiration, for example, or during a curettage.

We know. We all know, even if we don't look at the pictures. We know when the press reports 16,000 small corpses in one storage facility in California, boys and girls who still have not had a decent funeral because the abortion lobby has gone to court to block any religious service.

We know. And we aren't going to stop it tonight. This bill will not outlaw a single abortion. But we don't have to pay for it. We don't have to expand the carnage, even in the "hard cases."

In the rare case of pregnancy resulting from rape, there are three human beings involved.

First, there is the rapist. The Supreme Court has decided that the death penalty is unconstitutional for him. Why, then, is it appropriate for his child? And why should the taxpayers have to pay for it?

Second, there is the pregnant woman, the innocent victim of heinous violence, burdened with a child whom she has not sought. There is no fully satisfactory solution, no course of action that will undo the trauma inflicted upon her. But we can do all in our power to support and assist her. We can assure in advance that the child will be adopted.

Third, there is the unborn child: alive, growing, a unique individual, with a heartbeat and brainwaves, and responsive to sensory impressions even in the early weeks of life. This third human being is innocent too, and in a way a victim too. Helpless, without voice in any debate about her future, she has as good a claim as anyone here to the first inalienable right laid down in the preamble to our Constitution: the right to life.

As to incest, the relatively rare pregnancies are often far advanced before the situation is discovered. How many second-trimester and third-trimester abortions do we want to pay for under Medicaid?

A far better answer is to provide the proper psychological, financial, and spiritual support for victims, and of course to deal with the tragic family situation that has produced them.

There are literally hundreds of thousands of couples waiting in line to adopt infants. Most would welcome the few children conceived through rape or incest. Aborting them solves nothing. It just gets us deeper into the pit our Nation has been digging for itself since 1973.

But this vote is not a referendum on the legality of abortion in certain circumstances. It is a question of what we, as Senators, will make the public pay for. This Senator is not willing to use public revenues to inflict the death penalty on one of the two innocent victims of pregnancy by rape.

Mr. President, it appears that, as long as the Supreme Court's decision in Roe against Wade is allowed to stand, we in the Congress will be embroiled in the debate over human abortion. The national schism that exists on the issue must be bridged by those on both sides of the debate. Frankly, I think that we must find humane ways to deal with the "hard case" as well as with the abortion of convenience.

I have attempted to do that through my support for the Adolescent Family Life Program, which provides comprehensive care for already pregnant adolescents. As most know, I am not a supporter of big movement, but if Government can act to save lives, then I am for it.

In the meantime, Mr. President, I ask my colleagues to vote to continue current law, to retain the Hyde amendment. Mr. President, let us not create another issue that must be addressed by conferees on this continuing resolution. Let's support the House position and the position of our own Appropriations Committee.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Connecticut [Mr. WEICKER].

Mr. HELMS. Mr. President, reserving the right to object, what is the amendment?

The PRESIDING OFFICER. All in favor of the amendment say, "Aye;" all opposed, "No." The noes appear to have it.

Mr. WEICKER. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. BAKER addressed the Chair.

Mr. WEICKER addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. WEICKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I move to table the amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Tennessee to lay on the table the amendment of the Senator from Connecticut. On this question, the yeas and nays have been

ordered, and the clerk will call the roll.

Mr. RUDMAN. Mr. President, parliamentary inquiry: Is this tabling motion directed at all of the committee amendment No. 34?

The PRESIDING OFFICER. No; it is not.

Mr. RUDMAN. I thank the Chair.

The bill clerk called the roll.

Mr. STEVENS. I announce that the Senator from North Carolina [Mr. EAST], and the Senator from Illinois [Mr. PERCY] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 54, nays 44, as follows:

[Rollcall Vote No. 274 Leg.]

YEAS—54

Abdnor	Goldwater	Melcher
Andrews	Grassley	Mitchell
Armstrong	Hatch	Murkowski
Baker	Hatfield	Nickles
Biden	Hawkins	Pressler
Boschwitz	Hecht	Proxmire
Cochran	Heflin	Quayle
D'Amato	Helms	Randolph
Danforth	Huddleston	Roth
DeConcini	Humphrey	Stafford
Denton	Jepsen	Stennis
Dole	Johnston	Symms
Domenici	Kasten	Thurmond
Durenberger	Laxalt	Tower
Eagleton	Long	Trible
Exon	Lugar	Wallop
Ford	Mattingly	Warner
Garn	McClure	Zorinsky

NAYS—44

Baucus	Glenn	Nunn
Bentsen	Gorton	Packwood
Bingaman	Hart	Pell
Boren	Heinz	Pryor
Bradley	Hollings	Riegle
Bumpers	Inouye	Rudman
Burdick	Kassebaum	Sarbanes
Byrd	Kennedy	Sasser
Chafee	Lautenberg	Simpson
Chiles	Leahy	Specter
Cohen	Levin	Stevens
Cranston	Mathias	Tsongas
Dixon	Matsunaga	Weicker
Dodd	Metzenbaum	Wilson
Evans	Moynihan	

NOT VOTING—2

East	Percy

So the motion to lay on the table amendment No. 7013 was agreed to.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATFIELD. Mr. President, I think we are now at a point where in this part of the committee amendment No. 34 we have some matters in the commerce area. I yield the floor at this time to the Senator from New Hampshire.

Mr. RUDMAN. Mr. President, we have several amendments that really come within the jurisdiction of the Commerce-State-Justice Subcommittee. Since that bill was passed and signed into law, we do not have a specific title within this bill, but we are taking up those items at this time.

I believe the Senator from New Jersey has an amendment he wishes to offer.

AMENDMENT NO. 7014

(Purpose: Establish a commission to study the 1932-33 famine caused by the Soviet government in Ukraine)

Mr. BRADLEY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from New Jersey [Mr. BRADLEY] proposes an amendment numbered 7014.

Mr. BRADLEY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment is as follows:

SEC. . There are hereby appropriated $400,000 to carry out the provisions of S. 2456, as passed by the Senate on September 21, 1984.

Mr. BRADLEY. Mr. President, this amendment is very simple. It appropriates $400,000 to establish a commission to study the 1932-33 famine caused by the Soviet Government in Ukraine. The legislation authorizing such funding was passed by the Senate on September 21, 1984.

Mr. President, I will not take up the Senator's time with protracted arguments in favor of this amendment. The facts speak for themselves: the bill authorizing the commission, S. 2456, has enjoyed strong bipartisan support. It has 17 cosponsors. It was reported unanimously out of the Foreign Relations Committee. And it passed the Senate as a free-standing bill by unaninous consent on September 21.

In brief, the amendment appropriates authorized funding to set up a commission to study the Soviet-caused Ukrainian famine of 1932-33. This famine killed at least 7 million Ukrainians—some have put the estimate as high as 15 million. Yet today the fact of this famine is largely unknown. It is shocking that the premeditated deaths of so many innocent people have been hidden from the consciousness of the world. And to this very day, the Soviets deny that the famine ever occurred.

The Ukrainian famine remains the least understood of all the tragedies of this century. The purpose of this legislation is to bring these terrible events to light—both out of respect and sorrow for those who died and to ensure that the terrible lessons of this tragic history are not forgotten.

I think this amendment is acceptable to both sides.

The PRESIDING OFFICER. The committee amendments have not been set aside, and this amendment is directed at the bill. Does the Senator wish it to be directed to this committee amendment or to the bill?

Mr. BRADLEY. I ask unanimous consent that it be made in order to make it an amendment to amendment No. 34.

The PRESIDING OFFICER. The Senator has a right to modify his amendment.

● Mr. PERCY. Mr. President, I support the amendment of the Senator from New Jersey to appropriate $400,000 for establishment of a Ukrainian Famine Commission to investigate and report on the implications of the great Ukrainian famine of 1932-33.

I am a cosponsor of S. 2456, the bill which would authorize the Commission. In August I chaired hearings on this measure, and earlier this month I chaired the Foreign Relations Committee markup of the bill, which we reported favorably, with amendments to sharpen and focus the Commission's purpose and activity.

The Ukrainian famine and its consequences are too little known. Yet the tragedy certainly ranks, in numbers of victims and horror, with any of the mass killings of recent history. Some 10 million Ukrainians died as a result of unrealistic and draconian Soviet agricultural policies, combined with Moscow's desire to eliminate the Ukrainian nation as a prime source of political and cultural opposition.

The Famine Commission would undertake a 2-year investigation of documentary and human sources on the famine and its implications, and then make its findings known to the Congress and, more broadly, to the American people.●

Mr. RUDMAN. Mr. President, the amendment offered by the Senator from New Jersey has been cleared on both sides. The ranking Member, Senator HOLLINGS, I believe, has cleared it as well, and we are willing to accept the amendment. Unless there is further debate, I ask that the question be put by the Chair.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 7014) was agreed to.

Mr. BRADLEY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. RUDMAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 7015

Mr. KASTEN. Mr. President, I have an amendment I send to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Wisconsin [Mr. KASTEN], for himself and Mr. MATTINGLY, proposes an amendment numbered 7015.

Mr. KASTEN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the joint resolution, add the following new provision:

"SEC. . Notwithstanding any other provision of law or this Act, none of the funds provided in this Act or any other provision of law shall be available for the United States' proportionate share for any "post adjustment allowance" for United Nations employees of any United Nations organization implemented after July 31, 1984, or for any such "post adjustment allowance" which is calculated by using any methodology not used in calculating such "post adjustment allowance" prior to January 1, 1984."

Mr. KASTEN. Mr. President, I have been trying to decide among a number of rather tantalizing headings for this amendment and the statement I am about to make with reference to the latest outrage perpetrated on the American taxpayers and others by the international bureaucracy of the United Nations. They could be titled, "Let them eat cake while we eat caviar and quiche," or "let them drink Perrier," or perhaps "only Gucci will do."

Mr. President, all humor aside, the United Nations has done it again. After successfully beating back requests for pay increases, they have now come through the back door with a 9.6-percent "post adjustment allowance" in New York City. This translates into an 8-percent salary increase without approval by the General Assembly, as would have been required under regular salary increases. What is especially offensive about this particular increase in U.N. pay, besides the blatantly back door method and blatant disregard of the membership, is that in order to calculate this high adjustment in New York City cost of living, the United Nations abandoned the methodology they have used in the past to calculate such an adjustment—namely by using statistics from the Bureau of Labor [BLS]—and instead have decided to calculate their own adjustment based on a more selective retail sampling of prices in the city. For example, according to an official State Department cable while the Bureau of Labor Statistics—

Might measure the price of shoes by getting price data from Shoetown, Thom Mcann, Florsheim, and Gucci and defining an average consumer price. * * * The International Civil Service Commission would collect shoe price data only from Gucci.

This crowd in New York tries to justify this action by arguing that after all they are all middle income and higher income people whose consumption patterns do not include buying shoes at the lower priced stores. There was also some concern that BLS statistics included salaries and spending habits of such people as cab drivers, and maids, and laborers, and other people, who, of course, the U.N. bureaucrats don't want to be compared to. Mr. President, I do not necessarily want to criticize the tastes and preferences of international civil servants, nor do I think Congress should dictate those tastes, but certainly we ought not to pay post adjustment allowances based on those tastes. As the State Department cable suggested, while in the Foreign Service a cost-of-living system—

Might well take into account the price of bottled water as a necessity in countries not having drinkable public water supplies. Should an international civil servant's mere preference for Perrier as opposed to potable tap water be a factor in determining the valuation of the post adjustment index in New York?

Mr. President, this action is outrageous, it is insensitive, it is inexcusable, and it is time for this Congress to very frankly hit these people over the head with a 2 by 4 instead of using the gentle persuasion, and admonition, and report language that we have tried over the last several years. That has not worked.

Mr. President, very simply my amendment prohibits any U.S. funds from being used to pay for this unjustified cost-of-living increase. The amendment uses language similar to other amendments where we have withheld our proportionate share for specific purposes. This does not solve the problem overall, but it will send a very definite message that at least the United States will not stand for back-door pay increases.

I hope my colleagues will support this amendment.

I have discussed this amendment with a number of our officials at the United Nations. I believe that the U.S. contributions to the United Nations should not be used for the purpose of this back door pay increase, and this amendment addresses this question.

I have had the opportunity of reviewing this amendment with not only the ranking member but the chairman of the Commerce Committee, and I am hopeful that this amendment will be accepted.

Mr. MATTINGLY. Mr. President, how much longer can we continue to tax our citizens to support budgetary excesses at the United Nations. As a Senator I am well aware of the sacrifices the present economic conditions have imposed on the citizens of our respected States. Many have lost ground because of the double-digit inflation of the late 1970's, and the recession that the economic policies of the late 1970's made inevitable. Many workers have seen their take home pay frozen for years, or have been forced to even give back some of the wage and benefit gains they had made. These are the taxpayers of our country and when we spend money here in Washington we have to be conscious of the sacrifices we are imposing on our citizens. We all should not spend the taxpayers hard earned money on lavish living and unconscionable salaries for U.N. bureaucrats.

Mr. RUDMAN. Mr. President, I believe this has been cleared with the Senator from South Carolina.

Mr. HOLLINGS. We have no objection.

Mr. RUDMAN. Mr. President, unless there is further debate, I move the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 7015) was agreed to.

Mr. KASTEN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. MATTINGLY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 7016

(Purpose: To direct a study of Indian artifact commercial fraud)

Mr. BINGAMAN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from New Mexico [Mr. BINGAMAN], for himself, Mr. GOLDWATER, Mr. DOMENICI, and Mr. DECONCINI, proposes an amendment numbered 7016.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill add the following new section:

Sec. . The Secretary of Commerce shall conduct a coordinated study, in cooperation with the Secretary of the Treasury and the Chairman of the Federal Trade Commission, of Indian artifact commercial fraud. Such study shall be completed no later than April 15, 1985, and a full report on the study results shall be made to the Committee on Governmental Affairs of the Senate and the Energy and Commerce Committee of the House of Representatives.

Mr. BINGAMAN. Mr. President, today I introduce an amendment to the continuing resolution that would direct the Secretary of Commerce, in consultation with the Secretary of Treasury and the Chairman of the Federal Trade Commission, to study a serious problem of the import, export, and sale of counterfeit American Indian jewelry.

This legislation seeks a solution to a problem threatening the credibility and economic livelihood of American

Indian artisans and arts and crafts dealers who produce and sell handmade jewelry, rugs, pottery, kachinas, and other Indian handiwork. These hardworking individuals are losing hundreds of thousands of dollars each year to wholesalers and dealers who sell imported imitation Indian goods. It is not only the artisans and dealers who lose out, but also the consumer. These products are sold without any labels identifying their country of origin or their non-Indian workmanship. The unchecked flood of fake Indian goods not only destroys consumer confidence in legitimate artists and dealers but also damages the entire American Indian arts and crafts industry.

In my State of New Mexico this poses an especially serious problem, as slightly less than 10 percent of the State population is American Indian. New Mexico is a State rich in a vibrant Indian culture. The various tribes are still very traditional and a good number still rely on the sale of their jewelry and handiwork as their sole source of income.

In my conversations with New Mexico Indians and arts and crafts dealers I have learned that imitation Indian goods are sent to this country from Mexico, Taiwan, and the Philippines. As the quality of these imitations has improved, the ability of consumers to tell the difference between authentic and fake Indian products has decreased markedly. For example, manufacturers in the Philippines now stamp initials into the backs of pieces of jewelry just as American Indians often do to identify their work. Detailed imitations like this make determining the difference between authentic and fake Indian products extremely difficult.

Although the Tariff Act of 1930 requires imported products to be labeled with the country of origin, Bureau of Customs regulations for arts and crafts allow gummed, stick-on labels to be used. Consequently, unscrupulous dealers and wholesalers remove the labels and sell the imitations as authentic American Indian products at prices well below market value. These goods are found in shops not only in the Southwest but throughout the Nation and around the world. By selling and shipping imitations from the center of the Indian arts and crafts industry, the dealers fool unsuspecting customers into thinking they have bought legitimate American Indian goods.

I believe this legislation is necessary for two reasons. First, without an indelible mark showing the country of origin, consumers cannot tell the difference between imitation Indian products and the real thing. It allows a continuing fraud to be perpetrated on the buyer and leaves him unprotected and uninformed when dealing with dishonest dealers and wholesalers.

Second, American Indian artists are unable to compete with the low labor costs in foreign countries manufacturing these imitations. With the hours of painstaking effort required to handicraft a piece of jewelry, or pottery, or a rug, maintaining a fair market price is essential if legitimate artists are to survive economically. We must not allow illegitimate foreign competition to destroy the historical and cultural tradition of American Indian arts and crafts.

This bill creates a framework for finding a solution to the problem. It directs the Secretary of Commerce, in consultation with the Secretary of the Treasury and the Chairman of the Federal Trade Commission, to report to the House and the Senate their findings of the import, export, and sale of imitation Indian arts and crafts goods.

The report of the above-listed Federal Departments and agencies should include, but not be limited to the following:

First, the extent of the import and export of imitation Indian goods with particular attention given to whether the problem is regional or national in scope;

Second, the estimated value of Indian goods imported into the United States as well as the value of fraudulent Indian goods exported from the United States;

Third, the estimated amount of money spent by consumers on fake Indian goods;

Fourth, the estimated amount of money that legitimate Indian artisans lose on the sale of such goods;

Fifth, the present Federal laws and regulations presently in place to govern the import, export, and sale of imitation Indian goods;

Sixth, the needed changes, administratively or legislatively, required to remedy the present problem. For example, whether the law or regulations should provide for an indelible mark to state country of origin on imported imitation Indian jewelry.

With this bill I hope we can find a solution to the problem of imitation American Indian arts and crafts. It has the support of the Indian Arts and Crafts Association and New Mexicans statewide who deal in Indian art and handiwork. I hope the Secretary of Commerce will find a practical and effective method of permanent labeling for these products. American Indian artists and dealers in the Western United States as well as consumers all over the world have an interest in seeing this bill passed. Their rights as legitimate, honest manufacturers, sellers, and buyers need to be protected along with the historical legacy of American Indian arts and crafts.

Mr. President, I believe this is an amendment that is acceptable to the managers of the bill, and I ask for its adoption at this time.

Mr. RUDMAN. Mr. President, the Senator from New Mexico is correct. It has been cleared on both sides. I believe it has been cleared with my friend from South Carolina. If there is no further debate, I move the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 7016) was agreed to.

Mr. RUDMAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HOLLINGS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. RUDMAN. Mr. President, very briefly, for less than 1 minute, I suggest the absence fo a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the senior Senator from Arizona [Mr. GOLDWATER] be added as an original cosponsor, and that the senior Senator from New Mexico [Mr. DOMENICI] be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RUDMAN. Mr. President, I do suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. RUDMAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 7017

Mr. RUDMAN. Mr. President, I send an amendment to the desk. The amendment is intended to be an amendment to the bill.

The PRESIDING OFFICER. Is there objection? The Chair hears none.

The amendment will be stated.

The bill clerk read as follows:

The Senator from New Hampshire [Mr. RUDMAN] proposes an amendment numbered 7017.

Mr. RUDMAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, add the following:

SEC. . Notwithstanding any other provision of this joint resolution, the following additional amounts are hereby appropriated for the Department of State, Administration of Foreign Affairs, and all to remain available until September 30, 1986; $81,200,000 for "Salaries and expenses"; $28,000,000 for "Acquisition, operation, and maintenance of buildings abroad"; and $1,000,000 for "Emergencies in the diplomatic and consular service" to pay rewards for information concerning terrorist acts: *Provided*, That these funds shall be available only upon enactment of authorizing legislation: *Provided further*, That the Department shall report to the appropriate committees in Congress on the obligation of funds every thirty days from the date of enactment.

Mr. RUDMAN. Mr. President, the amendment I offer would provide $110,200,000 for the State Department to enhance the security in our diplomatic missions overseas. The need for this money was brought home dramatically by the tragic occurrence in Beirut last week. This is the full amount requested by the President. Due to the lack of time, the Subcommittee on Commerce, Justice, State, the Judiciary and Related Agencies has not had the time to hold hearings on this request. However, the documents submitted by the President have been carefully scrutinized and the committee has met with officials of the Department to review the request.

Before I discuss the specifics of the amendment, I would make a few points. First, it should be clearly understood that at no time has the Appropriations Committee, or the Congress as a whole, denied the State Department a request for resources for security. While other parts of the Department's budget have been reduced, all security-related requests have been fulfilled.

Second, GAO has estimated that the total amount for security appropriated in the fiscal year 1985 bill for the State Department is $122 million. I think that bears repeating: Congress has already provided the State Department $122 million in its various accounts for security.

Third, in the past, the Department's special security programs have been plagued by delays. A recent GAO report, dated September 14, 1984, evaluated the Department's security enhancement program. That program, created in 1979, envisioned upgrading about 125 of the most seriously threatened posts over a 5-year period. By May 1984, the plans had been scaled down to upgrade 62 posts over 7 years. Through fiscal year 1984, $110.6 million had been appropriated for the program, with another $25 million added in the fiscal year 1985 bill. Yet, as of July 1984, only 10 posts had been completed; 45 posts had major projects to complete; 3 posts had minor post projects to complete; and 4 posts had been dropped from the program. The report does indicate that the management of the program has improved but also outlines problems that continue to delay implementation of security improvements.

In September 1982, Congress provided $48,900,000 to upgrade security at 47 posts. This money, part of Public Law 97-257, was in response to the perceived immediate security needs of the Department. The money in that law were made available until September 30, 1984. In this continuing resolution, we have made $6,500,000 of that money available for another year. The continuation of the availability is necessary because the Department has not obligated the funds provided in the 1982 law.

In short, Mr. President, the record clearly demonstrates that lack of resources is not the major problem behind State security failures. In that regard, I believe it is as irresponsible to throw needless moneys at the latest problem as it is to shortchange the Department.

In that regard, Mr. President, I believe that the $110.2 million program before us today is a well crafted package. We have all read in the papers that the Department is requesting a total of $366 million for its total security package. That package includes funding that will be spent over 2 years. It includes roughly $150 million for the construction of 10 new buildings at various high threat posts—construction for which in many cases there are not yet sites and not yet architectural and engineering drawings. Clearly not all the money is needed today. We can meet all the urgent needs of the Department by appropriating $110.2 million now. Then, in January we can review the remaining parts of the security package and appropriate the necessary remaining sums. Since the $110.2 million includes 86 new positions which will take time to fill, I suspect that it will be well into next year before the $110 million runs out. Before then, the remaining parts of the package will be enacted. It is the intention of the committee to review the rest of the program early next year and to appropriate more moneys on an early moving supplemental.

I want to point out to my colleagues that the amendment includes a requirement that the Department submit reports to the Congress on the disbursements of this money every 30 days. This will help track the progress of this program, to ensure that the money will be spent quickly and efficiently and will guarantee that we will provide the remaining funds in a timely fashion.

Most important, it should be fully understood that it is the administration that is requesting $110 million on this resolution. The managers of the Department and the White House believe that $110 million will meet the urgent needs of the overseas security situation. Any Senator who votes for this amendment is totally supporting the request of the President.

In order that the details of the program can be known to all, I ask unanimous consent that the justifications for the supplemental be printed in the RECORD at the end of my remarks, as well as a statement by the President.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. President, the events in Beirut demonstrate that despite the full budget requests provided by Congress in the past, more needs to be done to improve the State Department's security. In an incredibly short time, the committee has reviewed a request for a security supplemental and agrees to fund $110 million. This should go a long way toward improving the security at U.S. overseas missions and toward protecting the lives of Americans in overseas service.

Mr. President, I strongly urge my colleagues to support my amendment.

EXHIBIT 1

DEPARTMENT OF STATE: FISCAL YEAR 1985 SECURITY SUPPLEMENTAL SUMMARY OF INCREASES

	Positions	Amount
Salaries and expenses:		
Security	86	$55,171,000
Communications	15	15,383,000
Counter terrorism and emergency planning	9	1,283,000
Administration	20	4,017,000
U.S. Information Agency		5,315,000
Subtotal, salaries and expenses	130	81,169,000
Rewards for information concerning terrorist acts		1,000,000
Acquisition, operation, and maintenance of buildings abroad	42	28,031,000
Grand total, 1985 security supplemental	172	110,200,000

Note: Sept. 25, 1984, 11:11 p.m.

DEPARTMENT OF STATE FISCAL YEAR 1985 SUPPLEMENTAL ESTIMATES OMB SUBMISSION

SALARIES AND EXPENSES

Appropriation: Salaries and Expenses. P.L.: 98-411.

Appropriation Requested to Date: $1,266,830,000. Request: $81,169,000.

Amended Appropriation Requested: $1,347,999,000.

PURPOSE AND NEED FOR SUPPLEMENTAL FUNDS—EMERGENCY SECURITY PROTECTION FOR U.S. PERSONNEL AND MISSIONS

The suicide vehicle bombing attempt against our embassy annex in Beirut on September 20, 1984, the fourth such attack against U.S. facilities in the Middle East within the last eighteen months, underscores once again the vulnerability of U.S. personnel and facilities overseas to determined terrorist attack. This incident confirms the serious recent escalation in the security threat to our operations in the world in general and in the Middle East in particular. While the Department of State has long considered physical security to be a high priority, we will always be at a disadvantage, especially when fanatical adversaries are in-

volved because the very nature of the threat places us on the defensive.

In the face of this situation, the Department has taken several actions to protect against future instances of terrorist attack. In the short term, all posts have surveyed their physical vulnerability to vehicle penetration and have taken actions to increase their security. These include such measures as requesting host governments to restrict traffic and provide additional guards, and installing anti-ram devices, vehicle barriers and strengthening perimeter walls, fences and gates. We believe that, given a significant increase in both the Department's physical security and anti-terrorism program and its equally important security-related research and development efforts, we can do much to increase the level of overall security against known and projected terrorist threats.

Within this request are a number of programs that meet these goals. In the area of physical security and anti-terrorist programs, we propose to improve physical security at 35 of our most threatened posts through such measures as enhancing perimeter barriers by installing walls, fences, lighting, vehicle arrest barriers, guard booths, ballistics and forced entry-resistant doors, bollards and earth berms.

Vehicles continue to be a serious concern. For the past decade, the Department has not been able to fund the armored vehicle program adequately. At a minimum, every Ambassador and Consul General at a high threat post should be provided with a fully armored vehicle, and all motor pool vehicles at high-threat posts should be at least lightly armored to provide ballistics protection. This request includes a significant augmentation of our armored vehicle program to assist in attaining these goals.

Experience has shown that reliable communications is a necessity in crisis situations. Our recently developed tactical satellite communications systems has demonstrated its versatility and usefulness. The unit currently in Beirut remained operational after the recent bombing and provided continuous secure communications between the crisis management team in Washington and the post. We are requesting an expansion of this program to include a number of other high-threat posts. The need for both voice privacy and hand-held radio communications at post is also increasingly apparent, and we are providing additional posts with these capabilities in this request.

In order to install, maintain and operate the systems included in this request, we are requesting additional Seabees, Regional Security Officers, and necessary personnel and administrative support. Other initiatives incorporated in this package include expanded training for overseas and professional security personnel, an enhanced reaction capability to terrorist and security incidents and improved testing of Emergency Action Plans as joint training exercises involving military commands as well as other foreign affairs agencies.

Of equal importance with these short-term program augmentations is an additional area included in this request. To provide us with every possible advantage against terrorist attacks, it is vital that the Department do all that it can in the area of the research and development of security-related technology. The physical security needs of an embassy are truly unique. Few other U.S. Government facilities combine the need to be accessible to the legitimate public while being located in areas outside the boundaries of the U.S. where the terrorists and security-related threat levels can be as high as they are and will continue to be into the foreseeable future. We cannot rely on other agencies or organizations to provide us with this state-of-the-art technology, as to a certain extent we were able to do in the past. It is vital that the Department build on the initiatives that it has started through such areas as the Security Enhancement and Counter-Terrorism programs to expand dramatically our research and development efforts. We need imaginative and timely innovations in a host of areas to regain the initiative against terrorism and begin to anticipate successfully what the next specific threats will be. We are proposing a number of such programs directly related to the security requirements of our overseas activities. These include areas such as advanced ballistics, forced entry materials, and improved vehicle armoring.

APPROPRIATION LANGUAGE

SALARIES AND EXPENSES

For an additional amount for the Department of State's "Salaries and Expenses," $81,169,000 of which, $63,782,000 is to remain available until September 30, 1986.

FISCAL YEAR 1985 SECURITY SUPPLEMENTAL SUMMARY OF INCREASES

	Positions	Amount
Overseas operations:		
Regional security office positions and support:		
Beirut	3	$475,000
Tegucigalpa and San Salvador	4	582,000
N'Djamena	1	164,000
Manama	1	164,000
Athens	1	155,000
San Jose	1	155,000
Overseas special protective officers	8	1,027,000
Emergency response personnel	7	878,000
Subtotal, RSO positions and support	26	3,600,000
Overseas Physical Security Program:		
Perimeter barrier improvements	9	20,478,000
Overseas physical security information management system	3	1,763,000
Computer-assisted Marine security guard control booth systems		300,000
Subtotal, Overseas Physical Security Program	12	22,541,000
Overseas engineering offices	15	3,280,000
Additional Seabees: Pay, allowances, and travel		4,280,000
Armored vehicle programs:		
Fully armored vehicle procurement and support		8,250,000
Light armored vehicles, ballistic material procurement and installation		1,445,000
Research and development: Modified fully armored vehicle prototype and locator system		600,000
Subtotal, armored vehicle programs		10,295,000
Marine guard vehicles for existing detachments		780,000
Special Protective Equipment Program:		
Ammunition		630,000
Special protective equipment		300,000
Shipment of ammunition and special protective equipment		558,000
Subtotal, Special Protective Equipment Program		1,488,000
Physical security barriers and materials research and development	5	5,627,000
Overseas security coordination	3	110,000
Total, overseas operations	61	52,001,000
Specialized security training:		
Mobile training team (MTT) and Recorded Security Surveys Program	17	1,987,000
Specialized security training support	4	695,000
Security engineering training	4	488,000
Total, specialized security training	25	3,170,000
Total, Office of Security	86	55,171,000

FISCAL YEAR 1985 SECURITY SUPPLEMENTAL ESTIMATES

SALARIES AND EXPENSES JUSTIFICATION

Office of Security Requirements—86 positions and $55,171,000

Overseas Operations, 61 positions (American) and $52,001,000:

Regional Security Office Positions and Support, 26 positions (American) and $3,600,000. With the alarming increase in terrorist activities abroad, greater demands have been placed on our Regional Security Officers (RSO). In some areas of the world, we do not have security officers assigned to high threat posts. In other areas, the security officer's geographic responsibilities extend over too large an area. This arrangement makes it impractical to provide an adequate level of security services to both resident and constituent posts, particularly when concurrent crises develop.

The additional regional security office positions will enable us (1) to assign RSOs at our high threat posts; (2) to trim the number of posts that individual RSOs cover, which will allow for more responsive and meaningful support in the areas of personnel protection, crisis management planning, liaison with host governments and physical security upgrading of facilities; and (3) to assign protective security officers to selected posts to provide continual control and training of foreign national bodyguards and building security guard forces. These additional regional security office positions are supported by the regional bureaus, the Inspector General's Office and the regional-based Associate Directors of Security (ADS).

The justification for each of the additional positions follows:

Beirut, 3 positions (Americans) and $475,000. The immense protective security requirements generated by the conflict in Lebanon have required the Department to augment the three-officer Beirut Regional Security Office with three TDY protective officers, two of whom have been from another agency since 1981. The other agency, however, has recently advised that it can no longer guarantee availability of personnel for this function. Inasmuch as these agents are part of the Ambassador's protective security detail, it is imperative that two positions be provided as replacements. In addition, a physical security officer position should be established to oversee the post's extensive physical security programs. The request includes $121,000 for salaries and benefits and $354,000 for travel, allowances, post assignment travel and other support costs.

Tegucigalpa and San Salvador, 4 positions (Americans) and $582,000. Because of the high threat status of our posts in San Salvador and Tegucigalpa, each of their security offices have been supplemented by two special protective agents provided by another U.S. Government agency. This arrangement was established due to lack of Departmental personnel resources and to provide training to another agency. This agency has advised us that its training requirements have been fulfilled and due to changing priorities, it can no longer guarantee availability of personnel for the program. Since these agents form an integral part of the Ambassadors' protective security details, four security officer positions are requested as replacements.

N'Djamena, 1 position (American) and $164,000. Chad has been in a state of civil war for much of its 22 years of independ-

ence. The threat to Americans at post range from getting caught in future terrorist attacks against the Government of Chad to a direct threat from Libyan-backed terrorists. Because of the precarious security situation, our embassy in Chad was assigned a detachment of Marines in May 1984. The funding requested would permit staffing of an RSO to manage the post's security programs.

Manama, 1 position (American) and $164,000. As a result of the ongoing war between Iran and Iraq, the political situation in all states along the Persian Gulf has been adversely affected. Wtih Manama's strategic position on the Gulf and its long established U.S. presence, our personnel there are especially vulnerable. There is also a large Shia Muslim population whose loyalty to the present government is questionable. Currently the RSO Kuwait provides security services to Manama; however, because of the bombing in Kuwait and ongoing political problems throughout the region, he cannot provide adequate coverage. The post is also to be provided a six-man Marine Security Guard detachment which requires professional supervision. RSO Manama would cover Manama and Doha. The requested funds will provide for the establishment of one resident, full-time RSO position.

Athens, 1 position (American) and $155,000. The potential for terrorist (both indigenous and international) operations directed against U.S. personnel/installations in Greece is very high. Since the assassination of Richard Welch in 1975, Athens has witnessed 15 political murders. Besides Welch, U.S. Navy Captain George Tsantes was murdered in Athens in November 1983, and U.S. Army Master Sergeant Robert Judd barely escaped assassination in April 1984. All these attacks were carried out by an indigenous group which is violently anti-U.S./anti-NATO. The most conspicuous form of terrorism directed against U.S. interests in Greece has been firebombings. Since 1974, there have been over 300 bombings (the majority being U.S. military vehicles) carried out by various indigenous left-wing groups. Another area of security concern for U.S. interests in Greece could arise over developments in U.S. policy that may be interpreted as inimical to Greek interests (e.g. Cyprus). Internationally, Greece is the crossroads between the Middle East and Europe. Since 86% of all Palestinian attacks occur in Europe, and given the political climate in Beirut, Athens has become a support base for many of these groups. Of the 15 political murders carried out in Greece, nine have been a result of internecine fighting among the various Palestinian groups and/or state-directed terrorism (e.g. Syria, Jordan, Israel). Though Americans have not yet been targeted by these groups in Greece, their presence in country (50,000 Arabs in Athens alone) poses a serious security concern for U.S. personnel and installations. The requested funding would permit augmentation of the regional security office with an assistant RSO.

San Jose, 1 position (American) and $155,000. Our embassy and diplomats are very attractive terrorist targets. There is no professional military/police force in the country which can provide the protection we feel we need. As a consequence, the embassy has begun to upgrade its security posture. A new office building is scheduled for construction in FY 1985 and FY 1986 and an enhanced protective security program for the Ambassador is being developed. An assistant RSO position is needed to work with the wide range of programs to accelerate the tightening of the post's security posture.

Overseas Special Protective Officers, 8 positions (Americans) and $1,027,000. During the past two years, Office of Security requirements to provide permanent protective security details, utilizing Security Officers for the personal protection of principal officers assigned to high threat posts, have more than doubled. The Office of Security has been forced to supplement its limited personnel resources to staff these growing protective requirements with special ninety-day rotational TDY personnel from other government agencies. This practice has proved highly undesirable, unmanageable, expensive and impractical.

Emergency Response Personnel, 7 positions (American) and $878,000. Overseas missions cannot afford to accept gaps to security officer coverage caused by emergencies and personnel transfers and/or home leaves. The presence of a full time professional security officer is required. The funds requested will provide for the establishment of four security officers to provide needed coverage during emergencies, assignment gaps, home leaves, R&R periods and to also assist security officers in alleviating work loads caused by extraordinary circumstances. We cannot continue to absorb these needs in a rational fashion without these resources. Three security positions are also requested to support the Associate Directors of Security in Panama, Nairobi and Frankfurt. The three officers will provide continuity in the ADS office while the ADS is traveling. It is also critical to support the ADS region-wide responsibility for emergency planning, coordination with the U.S. military commands regarding evacuation of personnel, sensitive investigations and other related tasks.

Overseas Physical Security Program, 9 positions (Americans) and $22,541,000: A description of the Department's physical security program requirements follows below. There is no centrally-managed base to support these programs.

Perimeter Barrier Improvements, 9 positions (American) and $20,478,000. These funds are for the purchase, shipment, installation and construction of perimeter upgrade equipment and systems (i.e., vehicle arrest barriers, walls, fences, lighting, guard booths, ballistic transparencies, ballistic and forced entry doors, bollards, earth berms, etc.) at 35 of the 167 foreign service posts requiring these improvements. This request also includes the cost of contract engineers and architects to assit in the design, development and installation of these perimeter security systems. In addition, this request includes nine physical security officer positions (salary and support costs—$678,000). These posts have varying degrees of perimeter protection and the direct-hire personnel would be supported by a contract engineer and where applicable a contract architect.

Overseas Physical Security Management System, 3 positions (Americans) and $1,763,000. Funds would provide for the development and operation of a physical security survey data base located in Washington, D.C. There is no base for this program. This data base would automate and expand upon the Regional Security Officers' post surveys. There is no central management information system to produce a total post profile instantaneously. The requested funds would provide for a VS minicomputer, stand-alone systems for each RSO, telecommunication links, line charges and space. In addition, three positions would be established to support this system. These positions include a systems manager, one data entry person and one research officer. This staff would 1) design and implement a data base and computerized network to provide immediate Department-wide access to post survey information; 2) obtain materials, products and technology required to implement the data base; 3) maintain the data base; 4) track and profile the security status of all embassies, chanceries, annexes and other protected overseas State Department establishments which are the responsibility of the Office of Security; and 5) collect, corroborate, research and coordinate information from all offices which support the security at overseas posts. This program will also include funds to contract physical security recorded surveys of chanceries, annexes and residences at all high threat posts. This will include Omnivision video recordings of specially selected high threat posts. These video surveys will improve the Office of Security's ability to provide information in responding to emergencies.

Computer-Assisted Marine Security Guard Control Booth Systems and $300,000. The development of this program is a mandatory step in upgrading security systems at our larger missions overseas. The improved PAC/security systems installed at these facilities must be monitored efficiently by our Marine Security Guards. At some of our larger embassies, one Marine Guard in the main control booth must simultaneously: 1) survey the entrance lobby; 2) operate/monitor up to twelve CCTV systems; 3) monitor/activate access controls; 4) monitor/control radio nets; 5) direct visitors; 6) log entries and exits; 7) control packages and deliveries; 8) check alarms; 9) telephone/receptionist duties; 10) operate and monitor walk through metal detector; 11) issue keys; 12) operate alarm system; and 13) monitor Ambassador's vehicle emergency alarm.

The extensive security systems, installed to protect our people abroad, have come to overburden the Marine at the main control booth. Computer security systems allow one person to monitor and record events on multiple systems efficiently. The funds requested would provide for the purchase and installation of 2 computer-assisted systems. Tele Aviv and Jidda have been identified to receive these systems. The estimated cost for each system is $150,000 (includes procurement, shipping and installation).

Overseas Engineering Offices, 15 Positions (American) and $3,280,000: Overseas security engineering operations must be reinforced. Most of these security engineering officers will work out of our regional centers in Frankfurt, Athens, Panama, Nairobi, Manila and Casablanca as well as specific posts such as Moscow. They will evaluate and develop security engineering needs; plan and participate in programs to install equipment; as well as manage maintenance of equipment such as closed circuit television systems and electronic alarm devices. The requested funds also provide for tools and equipment for the additional positions.

Additional Seabees: Pay, Allowances and Travel, $4,280,000: The Office of Security provides Seabee personnel for building construction, maintenance and repair, and for construction surveillance of secure and sensitive areas in U.S. Diplomatic Missions overseas. The present complement of 94 Seabees is inadequate. The base for the 94 Seabees is $3,726,000. Our projected workload requires 50 additional TDY Seabees. The salary and support costs for these addi-

tional Seabees, $4,280,000, are broken down as follows:

50 Seabee Enlisted Personnel (Grades E5-E7)	$1,568,000
23 percent Surcharge (enlisted personnel)	361,000
33 percent Retirement Accrual Rate Cost	518,000
Travel	1,833,000
Total	4,280,000

Since these 50 additinal Seabees will be assigned to the TDY pool, they will be in travel status the entire fiscal year. The travel costs for these additional Seabees are calculated on the basis each will make three round trips during the year. The estimated costs of airfare for each of these trips is $2,000.00. An average of $80.00 is used to computer per diem costs for the year. A 10% factor is also applied to account for emergency travel and airfare/per diem increases. The total estimated travel cost for the additional complement of 50 Seabees is $1,833,000.

Armored Vehicle Programs, $10,295,000: The base for armored vehicles is $1,500,000. Spending plans are as follows: $500,000 for fully armored leased vehicle contract (30 vehicles in Europe); $400,000 for the light armoring contract (40 new vehicles assigned to Europe); $200,000 for replacement of purchased fully armored vehicles; $200,000 for light armoring kits (field installed by Seabees in Europe); $100,000 for spare parts; and $100,000 for travel and shipping. There are no funds to meet worldwide requirements. A breakdown of these additional requirements follows.

Fully Armored Vehicle Procurement and Support, $8,250,000. The Department currently owns 61 fully armored vehicles (FAVs) which are deployed at high threat posts around the world for Chiefs of Mission. All of these vehicles were procured under the Security Supplemental and Security Enhancement programs. The requested funds will enable us to provide fully armored vehicles for 1) most Ambassadors and Consuls General at Category I threat level posts; 2) emergency use purposes, placement of 2 FAVs in each geographic area; and 3) program recurring replacement requirements. A total of 60 FAVs are needed at a procurement cost of $7,500,000, plus $750,000 for part and contract maintenance.

Light Armored Vehicles, Ballistic Material Procurement and Installation, $1,445,000. In order to light armor all of the approximately 200 motor pool vehicles at all high threat level posts, $1,445,000 is required for polycarbonate and aluminum armor procurement and installation costs.

Research and Development: Modified Fully Armored Vehicle Prototype and Locator System, $600,000. In order to identify and provide specifications for a vehicle with the appropriate design and load bearing capability to successfully be modified as an FAV for service under rigorous field conditions a two-year R&D allotment of $250,000 is requested. In addition, in an effort to develop an advanced vehicular alarm and satellite-assisted locator system for the protection of COM vehicles in kidnap/attack scenarios, a two-year R&D allotment of $350,000 is requested.

Marine Guard Vehicles for Existing Detachments, $780,000: The Department procured 72 emergency reaction vehicles on a one-time authorization by Congress in 1974. Because of insufficient funds, 52 posts did not receive Marine reaction vehicles. There is no base to equip these 52 detachments with emergency vehicles. MSG-dedicated reaction vehicles provide emergency response capability and serve the administrative needs of the detachment. The total estimated cost for purchasing and shipping for 52 vehicles is $780,000.

Special Protective Equipment Program, $1,488,000: This $650,000 base program provides for the procurement and shipping of ammunition, protective apparel, tear gas, weapons and other accessories in support of our overseas program.

Ammunition, $630,000. The Department provides ammunition for the semi-annual training of 400 American security officers, 1,560 Marine Security Guards and approximately 4,000 armed contract guards. These security personnel qualify with their SY-issued revolvers and support weapons (shotguns, submachineguns and modified automatic rifles).

The annual base for the procurement of ammunition is $250,000. The total requirement for ammunition in FY 1985 and FY 1986 is $1,130,000—$630,000 over the base funds available during these two fiscal years. The increase is based on 1) 5,650 personnel firing a qualification round with each weapon (total of 200 rounds @ $.25) twice a year and 2) $100,000 to provide for rapid deployment of ammunition in emergency situations.

Special Protective Equipment, $300,000. The base for the purchase of special protective equipment, such as weapons, holsters, cleaning kits, speed loaders, bullet proof vests, handcuffs and other support equipment, is $250,000. The Department's current worldwide inventory of this equipment is 5,000 weapons. The estimated replacement life is five years. At an average cost of $300 per weapon, the Department uses the entire base to replace weapons each year. As MSG and foreign national guard forces expand and the use of SY officers on protective details increases, additional protective equipment will be required. The requested funds will permit us to support these additional requirements.

Shipment of Ammunition and Special Protective Equipment, $558,000. Due to the extreme weight of the ammunition and special protective equipment shipments, the requirement that the equipment be shipped via secure channels (DOD storage and shipment) and the fact that in most cases these items cannot be shipped via most direct route, the costs are higher than shipping general equipment. In fact, the shipping costs approach 30% of the purchase costs. Available base budget funds of $150,000 will allow for shipment of only those items purchased with the currently available $500,000 base for ammunition and special protective equipment. In order to ship the $930,000 of additional ammunition and weapons in FY 1985 and 1986, an increase of $558,000 is requested.

Physical Security Barriers, Materials Research and Development, 5 positions and $5,627,000: The Office of Security has very limited in-house testing and evaluation capabilities to investigate or design new physical security products. To correct this deficiency, funds are requested to contract outside testing and development firms to fabricate new physical security products. The major thrust will be to identify and develop new, reliable vehicular arrest barriers, active and static barriers, ballistic resistant walls, anti-ram fencing, systems to defeat rocket propelled grenades, missiles and other ballistic/explosive attacks. The requested funds would also provide for training of personnel assigned to the Physical Security Division and the testing and evaluation of products to be used in our security systems.

This program also calls for four direct-hire program managers and one EOD specialist (salary and support—$227,000). The research and development to be conducted by private contract firms but supervised by our personnel. They will search for solutions to the vehicular arrest problem, active and static barriers, walls and fencing; develop systems to defeat rocket propelled grenades, other missiles and ballistic attacks; and develop methods to reduce the injury due to flying glass or shrapnel, masonry and metallic. They will oversee a testing program to qualify the developed methods and products. They will also examine possible access denial and public access control systems for the department and its annexes.

The Department's physical security program needs an explosives specialist to develop and assist in the implementation of policy, guidance and explosives security standards for the design of new office buildings and upgraded security systems. These functions coordinating security input into planning and designing bomb-attenuation systems for our buildings, working closely with manufacturers of new bomb countermeasures equipment and ensuring that the Department receives the highest quality equipment. This individual would also be a member of the standing bomb investigation team, which consists of senior experts of the Department and other agencies who investigate bombing incidents against the Department's facilities abroad.

Overseas Security Coordination, 3 positions (American), $110,000: The funds requested will provide for two security officer and one clerical positions to coordinate with the foreign affairs and other agencies (CIA, DIA, NSA, USIA, AID, AGR, COM, Justice) regarding overseas security policies and programs. We must also satisfy the taskings from a growing number of interagency committees. The Department is responsible for the security of all USG operations and personnel represented overseas. The Department chairs the Overseas Security Policy Group. These positions will be dedicated to work with each of the agencies on major policy issues affecting every foreign service employee overseas. Examples are residential security, fully and lightly armored vehicles, security awareness training, as well as standard operating procedures for the destruction of classified material.

Specialized Security Training, 25 positions (American), $3,170,000:

Mobile Training Team (MTT), 17 positions (American), $1,987,000: In order to provide security and counterterrorism training for USG employees and their families and specialized security training for contract and host government personnel assigned to protect U.S. government personnel and property, a mobile security training team program should be established. It is envisioned that five three-person MTT teams would be established to provide for annual visits to all high treat posts in order to provide training in the following areas: protective operations; recognition of improvised explosive devices; firearms; offensive and defensive driving; defensive tactics; personal security briefings; surveillance detection; etc. The positions include 16 instructors and one 1 secretary. Operational costs include furniture, word processing travel, per diem, equipment, contract audio visual production, and team training.

Specialized Security Training Support, 4 positions (American), $695,000: The Education and Training staff is fully encumbered with ongoing training programs. The projected increase of RSO, Seabee and Marine Security Guard positions, and the increased thrust of specialized security and counterterrorist training will require 4 additional positions (salary and support—$168,000). In an effort to increase the professionalism of our overseas security officers, these positions will enable us to improve the security training. These officers would be responsible for the development and coordination of the Office of Security's existing training programs for new agents, RSOs, MSGs, and all Foreign Service personnel security orientation. The training funds will also provide travel, per diem and weapons range equipment for approximately 50 additional RSO officers.

Security Engineering Training, 4 positions (Americans), $488,000: The four security engineer positions (salary and support—$488,000) will enable the Department to provide orientation and in-depth training in audio countermeasures and technical equipment repair and maintenance to security officers, security engineers and foreign service personnel. These additional positions will augment the one engineer who is currently attempting to provide this training.

FISCAL YEAR 1985 SECURITY SUPPLEMENTAL SUMMARY OF INCREASES

	Positions	Amount
Overseas communications support:		
TACSAT Systems	10	$6,163,000
Radio Support Program	5	9,220,000
Total, communications	15	15,383,000

Office of Communications Requirements—15 positions and $15,383,000

Overseas Communications Support, 15 positions (Americans) and $15,383,000:

TACSAT Systems, 10 positions (Americans) and $6,163,000: Although the bombing of our Embassy in Beirut caused serious damage and temporary loss of our regular communications facility, reliable secure communications with the post were never interrupted. We credit this accomplishment to the TACSAT system, which we have had deployed on-site at Beirut for the past year. The lesson we have learned from this tragedy is the value to emergency communications support of pre-positioned tactical satellite systems. In order to improve our security related communications posture worldwide, the Department proposes to procure and position an additional 25 such systems; one to be placed at each of the 20 most highly threatened posts, and 1 system at each of the five Regional Offices of Communications. The current inventory of 4 systems (8 units—2 units per system) includes the one system dedicated to Beirut. The other three systems have been in constant use throughout the past year. The 1985 budget includes funds for procurement of an additional 4 systems (8 units). Therefore, without this supplemental, the Department's total TACSAT resource for 1985 will be 8 systems, which is far fewer than required to provide adequate worldwide emergency communications support. Including those systems required at the receiving end in the Department, the total number of systems required is 33.

The costs of providing this level of TACSAT support total $6,163,000 and 10 positions: $4,521,000 for the program (including satellite channel lease); $840,000 for contract support, $587,000 for position support and $215,000 for salaries. Program costs include: 25 fully redundant systems, 1 system to be placed at each of the five ROCs (Regional Office of Communications) and 1 system to be placed at each of the 20 highest threat posts, $4,275,000; travel $158,000, OPR/ST warehousing $88,000.

The additional 10 positions requested to support this effort are as follows: 1 Crisis Operations Officer, FP-4; 3 TACSAT Network Controllers FP-5; 1 Logistician, GS-10 and 5 Communications Electronics Officers—Radio, FP-4. In addition, this request includes $840,000 for contract support—which reflects the services of contract personnel for the first 6 months of the program while personnel are being hired. This approach will enable the Department to begin work on the program immediately upon receipt of funds, rather than delaying program implementation until personnel actions are completed.

Radio Support Program, 5 positions (Americans) and $9,220,000: The Department must augment the inventory level and support base for the standard UHF/VHF radios used by the Department's security agents and guards, and provide voice privacy radio systems for the 50 most threatened posts worldwide.

The Department currently has an inventory of 10,000 UHF/VHF radios overseas, plus repeaters and other system elements. This inventory is supported by an FY 1984 base budget of $2,000,000, or 5% of inventory value. A base of $6,000,000 or 15% of inventory value is required to provide timely radio replacement and adequate support. The FY 1985 budget includes an additional $1,000,000 increase to the UHF/VHF radio support base, for an FY 1985 base of $3,000,000 (8% of inventory value), as part of a four year effort to bring the support base to the required level of $6,000,0o00. The first element of this request is to accelerate that increase from four years to two, by increasing the $3,000,000 FY 1985 base by an additional $1,500,000 for a total FY 1985 UHF/VHF radio support base of $4,500,000 and an FY 1986 base of $6,000,000.

The second element of this request is directly related to the proposed increase in security positions. Of that request, 105 positions will require dedicated use of a UHF/VHF radio. However, the Department has no funds to augment its radio inventory. We must therefore request an increase in funds in order to provide these new radios. At $2,000 per radio, plus 15% for spares, support, shipping, etc., the security personnel related radio increase totals $242,000.

The third element of this request is an acceleration of the voice privacy radio program included in the FY 1985 budget request. This program will supplement the regular radio program with a protected channel on a separate radio system for use by the Ambassador, Deputy Chief of Mission, Marine Service Guards and Security Officers. Protection is provided by scrambling the message being sent: only those persons with the proper decoder can receive the information being transmitted. There is no base fund for the procurement of such systems. This request will enable the Department to procure and deploy 50 voice privacy radio systems in FY 1985, at a total cost of $6,025,000.

In addition to the procurement of radios, this program includes a request for $625,000 to provide regional depot maintenance for overseas radios. This represents a new initiative for the Department. Until now, all maintenance and logistics has been centralized in Washington, with limited field support from the Regional Offices of Communications. This increase will enable us to decentralize the support function, which will result in more timely and cost-effective radio support service. There will be 5 regional centers, one at each Regional Office of Communications. Each regional depot will cost $125,000, wihch will include locally hired contract personnel, depot and stock supplies, and limited facilities renovations required to provide secure storage and work areas.

A total of 5 positions, and six months' services of contract personnel, are requested within this item, at a total cost of $828,000 ($490,000 for position support, $118,000 for salaries, and $220,000 for contractor support). The personnel requested within this item will support both the regular and the voice privacy radio systems. The positions include 5 Communications Electronics Officers—Radio (FP-4) 1 to be located at each of the 5 Regional Offices of Communications. Current workload analyses indicate the Department is already suffering from personnel deficits in the radio maintenance and logistics areas, and cannot absorb the additioal workload which will be required to support this supplemental increase.

FISCAL YEAR 1985 SECURITY SUPPLEMENTAL SUMMARY OF INCREASES

	Positions	Amount
Emergency management exercises	9	$1,283,000
Total, emergency planning, management and exercises	9	1,283,000

M/CTP Requirements—9 positions and $1,283,000

Emergency Management Exercises, 9 positions (American) and $1,283,000:

In cooperation with all foreign affairs agencies and military commands, the Department of State has initiated a program of overseas training exercises to assure that Emergency Action Plans for dealing with terrorist incidents and other types of emergencies are workable and up-to-date. These exercises intensively test the ability of a post to implement its Emergency Action Plan while undergoing a series of simulated crisee. Participants have found the program to be highly effective in training personnel and in refining posts' emergency action plans and procedures. Until now, funding for these exercises came from the 1982 Security Supplemental and expired in FY 1984. This request provides for the creation of an expanded, cost-effective global program that will reach every Foreign Service post within a two to three year cycle. The exercise program will now be a regular, ongoing part of the Department's comprehensive security program. This request consists of $900,000 for exercise travel and evaluation costs, $253,000 for salaries and benefits, and $130,000 for support costs (primarily space renovation and acquisition of secure word processors). The resources will be distributed between the following offices:

Office for Counter Terrorism and Emergency Planning (M/CTP), 8 positions and

$1,243,000. The pilot project to develop the exercise program relied primarily on outside contractor involvement and one officer position within M/CTP. In order to carry out the program expansion, as well as to take responsibility for primary exercise development, maintenance and implementation, M/CTP will have to be augmented by one FO-02 and six FO-03 plans officers and one FS-05 secretary.

Office of Security, 1 position and $40,000. The Office of Security is responsible for reviewing and critiquing post emergency action plans, and participates in the emergency management exercises. In order to carry out these responsibilities effectively, one FP-02 security officer position is required. The additional position will enable the Office of Security to consolidate these critical functions within the responsibilities of a single officer.

FISCAL YEAR SECURITY SUPPLEMENTAL SUMMARY OF INCREASES

	Positions	Amount
Overseas security support:		
Office and warehouse space		$2,094,000
Warehouse personnel	7	142,000
Despatch Agency personnel	2	55,000
Procurement staffing	8	258,000
Automation of Supply, Transportation and Procurement	3	545,000
Subtotal, overseas security support	20	3,094,000
Physical security for main state:		
Main State lobby security upgrade		265,000
Access control systems		508,000
Security/emergency alarm system		150,000
Total, security for main state		923,000
Total, administration	20	4,017,000

Administration Requirements—20 positions and $4,017,000

Overseas Security Support, 20 positions (Americans) and $3,094,000:

Office and warehouse space, $2,094,000: This increase is to rent the additional office and warehouse space required to house the people and equipment requested to enhance the security or our overseas missions. The amount of office space has been calculated at 135 square feet per person. This increase includes $1,000,000 for 100,000 square feet of warehouse space, $594,000 for 25,500 square feet of office space, $200,000 for 24 hour guard service for two additional buildings, and $300,000 to set up the space (shelves, forklifts, files, etc) at the new warehouse space.

Warehouse personnel, 7 positions (Americans) and $142,000: Current warehouse space to supprt Security and Communications is already taxed to capacity, handling the current level of programs. The delivery of another $40,000,000 to $60,000,000 of security and communications equipment for storage, staging and packing will dramatically increase the current workload. This workload will require the following additonal 7 warehouse personnel staff for clerical and routine warehouse duties: 5 Warehousemen (WG-5); 1 Supply Specialist (GS-09); 1 Supply Specialist (GS-12).

The cost of these new positions will be $142,000 ($101,000 salaries and $41,000 for position support costs).

Despatch Agency personnel, 2 positions (Americans) and $55,000: The workload on the Despatch Agencies in Baltimore and Miami will increase substantially in handling the increased number of vehicles, security and communications equipment. One Traffic Management Sepcialist is required at each of the Baltimore and Miami Dispatch Agencies to handle increased shipping negotiations and special shipments arrangements. This estimate includes $35,000 for salaries and $20,000 for position support costs.

Procurement staffing, 8 positions (Americans) and $258,000: As requests in the FY 1985 and 1986 budgets reflect, the Office of Procurement is already understaffed to handle the current procurement workload properly. The procurement of equipment and supplies requested will nearly double the annual workload of the procurement office. To this increased workload the office of procurement will require the following 8 positions: 1 Contract Administrator (GS-12); 1 Price Analyst (GS-11); 2 Contract Officers (GS-11); 2 Procurement Officers (GS-11); 2 Clerk/Typists (GS-4).

The cost of these new positions will be $258,000 ($153,000 salaries and $105,000 for position support costs).

Automation of Supply, Transportation and Procurement, 3 positions (Americans) and $545,000: The current timetable for the development of the individual systems in the Supply, Transportation and Procurement (STP) Offices did not anticipate this proposed level of procurement, storage and shipment. With the increased workload and the addition on new personnel in all three divisions, additional hardward ($350,000) and software development ($120,000) will be required. In addition, a systems manager and 2 input clerks are required at the supply center ($50,000 salaries and $25,000 position support costs).

Physical Security for Main State, $923,000:

Main State lobby security upgrade, $265,000: The lobbies of the Department will have to be redesigned to accommodate new security procedures. This will include construction of a new desk for the receptionists and an upgrade of power to handle new security access equipment. Estimated costs for this are:

Desks for receptionists	$100,000
New barriers for lobbies	140,000
New power panels for security devices	25,000
Total	265,000

Access control systems $508,000: These funds are required to replace the present ID Card program with a new computerized system which 1) will provide greater protection against duplication/forgery, 2) will feature a more durable card, 3) will consolidate our ID card process and 4) will permit integration of our leased ADT alarm systems. The new access control system will be used within Main State at our entrance/exists, vehicle ramps, restricted and other sensitive areas. The estimated cost for this new ID card system is $428,000.

In addition, $80,000 is required to construct a controlled area within Main State for after-hours use by the press in order to provide maximum protection to the Department and its classified material. Currently, several thousand foreign and American press personnel have access to the unrestricted areas of Main State on a twenty-four hour basis, seven days a week. The renovation would greatly improve the security of Main State while imposing no unreasonable restrictions upon the press.

Security/emergency alarm system for Main State, $150,000: During FY 1984, there were two incidents of fire at the Department which demonstrated some very serious inadequacies of the capability of the alarm system at Main State to notify building occupants to evacuate. During recent tests of the existing system, a large number of units were inoperative. To provide the Department with an effective internal security/emergency notification system, we propose the replacement of the existing system with a new signaling system.

FISCAL YEAR 1985 SECURITY SUPPLEMENTAL SUMMARY OF INCREASES

	Positions	Amount
Vehicle armoring:		
Overseas light armoring		$490,000
Domestic light armoring		150,000
Total, vehicle armoring		640,000
Perimeter and public access controls		2,535,000
Contract guards		1,600,000
Emergency radios:		
VHF hand-held, mobile and base radios		150,000
HF long-range radios		120,000
Total, emergency radios		270,000
Domestic security equipment		270,000
Total, USIA		5,315,000

USIA Requirements—$5,315,000

USIA requires $5,315,000 in Security Supplemental funds to increase protective measures at its 190 cultural centers, libraries, regional services centers, offices and Voice of America radio relay stations worldwide which are located independent of State Department buildings. Because of the public nature of these facilities, and our mission to foster an open and free exchange of opinion representative of our democratic government, in most cases a complete securing of Agency buildings cannot be accomplished. However, all of our overseas facilities require perimeter and public access controls to include vehicle countermeasures designed to slow down and deter suicidal or remote control bombers from penetrating perimeters, such as occurred in Beirut and Kuwait. The establishment of physical security controls at buildings requires manpower to operate these controls, screen visitors, and provide an early warning capability; therefore, additional contract guards are needed at these facilities. Providing light armoring on official passenger carrying vehicles at the most threatened posts worldwide will improve protection for employees enroute to the office.

Funding increases are essential to support heightened security programs at oversea posts. Technical security equipment procurement as well as stocks of protective security equipment in support of post needs will also be necessary. The enhancement of the security profile of overseas sites should be accelerated in view of the VOA expansion program which is significantly raising its visibility worldwide, particularly in Latin America.

Vehicle Armoring, $640,000:

Overseas light armoring, $490,000: Immediate on-site light armoring of USIA official vehicles at the most threatened posts worldwide—35 posts, 2 vehicles per post, at $7,000 each.

Domestic light armoring, $150.000: Domestic light armoring of replacement official vehicles at the most threatened posts—25 vehicles at $6,000 each.

Perimeter and Public Access Controls, $2,535,000:

Enhances physical security barriers at USIA's 190 overseas cultural centers, libraries, regional services centers, Voice of America radio rely stations, and offices worldwide located independent of State Department buildings. Includes vehicle countermeasures such as hydraulic vehicle arrest systems at entrances and driveways, fences, gates, and bollards to deter and/or slow potential vehicle bombers from attacking our facilities. Also includes use of plastic film or ballistic transparencies on window areas, grills, hardened walls and doors, segregation of public areas from staff offices, and creation of secured areas where the staff can seek refuge, regroup and escape to safety in an emergency.

Contract Guards, $1,600,000:

USIA requires additional contract guards during working hours at a number of its overseas posts to perform public access control functions to include vehicle inspection and operation of vehicle arrest systems at driveways and entrances.

Emergency Radios, $270,000:

VHF hand-held, mobile and base radios, $150,000: VHF hand-held, mobile and base radios on U.S. Mission emergency network are required to incorporate USIA employees into Mission plan.

HF long-range radios, $120,000: HF long-range radios are required to connect isolated branch posts with Embassies and main USIA office.

Domestic Security Equipment, $270,000:

Access control systems at the main USIA building in Washington. Automated access for employees in restricted areas, package control and screening at public access points, and perimeter detection devices.

Automated access computer systems	$250,000
ID cards	20,000
Total	270,000

DEPARTMENT OF STATE: SALARIES AND EXPENSES: FISCAL YEAR 1985 SUPPLEMENTAL ESTIMATES, OMB SUBMISSION—REQUIREMENTS BY OBJECT CLASS

[Dollars in thousands]

Object class	1985 supplemental positions	Amount
—Personnel compensation: Total personnel compensation	130	$3,536
Other obligations:		
12—Personnel benefits		832
21—Travel and transportation of persons		5,862
22—Transportation of things		3,158
23—Communications, utilities, and other rents		2,329
25—Other services		35,244
26—Supplies and materials		1,656
31—Equipment		28,552
Total obligations	130	81,169

DEPARTMENT OF STATE: FISCAL YEAR 1985 SUPPLEMENTAL ESTIMATES—OMB SUBMISSION

Rewards for Information Concerning Terrorist Acts

Appropriation: Rewards for Information Concerning Terrorist Acts.

Appropriation Requested to Date: 0.

Request: $1,000,000.

Amended Appropriation Requested: $1,000,000.

Purpose and Need for Supplemental Funds

Rewards for Information Concerning Terrorist Acts

Justification:

Rewards for Information Concerning Terrorist Acts, $1,000,000. This new program, which is proposed to be authorized under Chapter 204 of Title 18 of the US code, will establish a fund without fiscal year limitation to reward individuals who furnish information concerning terrorists acts in foreign countries against United States persons or property. The program, viewed in its entirety, authorizes the payment of rewards for information concerning terrorist acts both within the United States and abroad, and thus falls under the respective jurisdictions of the Secretary of State and the Attorney General. This supplemental request reflects only the portion of the program which will be administered by the Secretary of State.

Terrorism against USG civilian personnel, members of our armed forces, and American citizens abroad has become a growing danger in the past fifteen years. In the past decade alone, Americans have been the victims of more than 2,500 terrorist incidents. The rewards program is one of several new Administration initiatives aimed at combatting terrorism against United States persons and property abroad. This authority can be invaluable in obtaining information necessary to resolve successfully incidents such as kidnappings or hostage takings, and in bringing perpetrators of terrorist attacks to justice. In a kidnapping, for example, weeks can pass without communication being established with the kidnappers. Early information is imperative to bring about the swift release of the victim. The offer of a substantial reward can encourage an' informant to provide early accurate information to bring about successful resolution of an incident. The rewards program will also encourage informants to provide information invaluable to capturing and prosecuting terrorists. Importantly, rewards may also induce members of terrorist groups or others close to them to desert and provide information necessary for the capture and successful prosecution of group members, thus weakening the organization and negating its ability to commit further terrorist acts.

This request for $1,000,000 would establish a fund large enough to demonstrate that the United States will aggressively use the rewards program to impede terrorists. It is also important that enough funds remain available for the USG to act quickly if critical information can be obtained. For these reasons, and because it is impossible to predict the frequency and the size of rewards to be granted annually, it is necessary that the fund be established without fiscal year limitation.

It is anticipated that subsequent appropriation requests will be made as required to replenish the account as payments are granted.

APPROPRIATION LANGUAGE

Rewards for Information Concerning Terrorist Acts

For the Department of State's "Rewards for Information Concerning Terrorist Act," $1,000,000 to remain available until expended.

DEPARTMENT OF STATE: REWARDS FOR INFORMATON CONCERNING TERRORIST FISCAL YEAR 1985 SUPPLEMENTAL ESTIMATES—OMB SUBMISSION—REQUIREMENTS BY OBJECT CLASS

[Dollars in thousands]

Object class	1985 supplemental	
	Positions	Amount
11—Personnel compensation: Total personnel compensation		
Other obligations: 42—Rewards		$1,000
Total obligations		1,000

DEPARTMENT OF STATE: FISCAL YEAR 1985 SUPPLEMENTAL ESTIMATES—OMB SUBMISSION

Acquisition, Operation, and Maintenance of Buildings Abroad

Appropriation: Acquisition, Operation, and Maintenance of Buildings Abroad, Public Law 98-411.

Appropriation Requested to Date: $211,000,000.

Request: $28,031,000.

Amended Appropriation Requested: $239,031,000.

Purpose and Need for Supplemental Funds

Emergency Security Protection for U.S. Personnel and Missions

The suicide vehicle bombing attempt against our embassy annex in Beirut on September 20, 1984, the fourth such attack against U.S. facilities in the Middle East within the last eighteen months, underscores once again the vulnerability of U.S. personnel and facilities overseas to determined terrorist attack. This incident confirms the serious recent escalation in the security threat to our operations in the world in general and in the Middle East in particular.

In the face of this situation, the Department has taken several actions to protect against future instances of terrorist attack. In the short term all posts have surveyed their physical vulnerability to vehicle penetration, and have taken actions to increase their security. In addition to these short-term improvements, the Department has carefully reviewed the status of our worldwide facilities with regard to location, access, vehicle protection, physical security, and other security-related limitations.

From this review we have identified locations where we must begin to find sites for purchase of future new office buildings to replace those which due to age, location, and design are extremely vulnerable to terrorist activity. We have also identified already-owned sites, acquired in more peaceful times, which do not have adequate setbacks from public streets or are located in built-up commercial areas. It has been determined that these sites cannot be adapted to meet the new security requirements. For this reason the Department must replace these sites with ones that can be adequately defended. The Department must also continue the design phase of our building program in order to be in a position to replace our vulnerable buildings with ones which offer our personnel proper defense against attacks such as the one recently experienced in Beirut.

The Department is planning an accelerated building program to replace our vulnerable, antiquated buildings, many of which

are twenty years or older. To accomplish this task it is necessary to acquire more personnel to carry out the design and construction phase of the program. As a consequence to support these new projects, a total of 42 positions are requested. These include 27 domestic support positions and 15 overseas project managers to provide on-site supervision over these projects. Finally, $1 million is requested for an innovative research and development project involving the application of the latest technical and physical security technology to the design and development of future overseas construction projects. In this way, it is hoped that the numerous individual lessons the Department has learned over the past decade in the areas of security and construction can be analyzed and incorporated along with state-of-the-art technology into a uniform approach towards future activities.

APPROPRIATION LANGUAGE

Acquisition, Operation, and Maintenance of Buildings Abroad

For an additional amount for the Department of State's "Acquisition, Operation, and Maintenance of Buildings Abroad," $28,031000 to remain available until expended.

FISCAL YEAR 1985 SECURITY SUPPLEMENTAL: SUMMARY OF INCREASES

[Acquisition, operation and maintenance of buildings abroad]

	Positions	Amount
Acquisitions and/or improvement of sites and design		$25,000,000
Project support:		
Domestic project support	27	957,000
Overseas project support	15	1,074,000
Advanced physical and technical research project		1,000,000
Subtotal, RSO positions and support	42	3,031,000
Total, acquisition, operation and maintenance of buildings abroad	42	28,031,000

FISCAL YEAR 1985 SECURITY SUPPLEMENTAL ESTIMATES

Acquisition, Operation and Maintenance of Buildings Abroad, State

JUSTIFICATION

Acquisitions and/or Improvement of Sites and Design, $25,000,000:

The Department has an ongoing requirement to acquire sites in order to construct new facilities to replace buildings which are vulnerable to terrorist attack due to their close proximity to public thoroughfares and inadequate design which make security upgrades impossible. The Department must also replace sites acquired prior to vehicular terrorism with sites which are more conducive to the norms necessary to create more adequate security. In most cases this requires replacing sites which are not large enough to give the proper setbacks to keep vehicles at a safe distance from buildings. It is also necessary for the Department to begin the design phase for buildings currently vulnerable to terrorist attack in order to be in a position to move up the construction phase of our program. FY 1985 funds are requested to acquire new sites, replace sites already owned and to commence design of new buildings.

Project Support, 42 positions (Americans) and $3,031,000:

These new construction projects will be undertaken at a time when a number of other high priority programs, such as fire safety, communications and energy retrofits, and public access controls/safehavens construction, are already adding considerably to the Office of Foreign Buildings workload. In recognition of this fact, an additional 42 positions will be required (27 domestic and 15 overseas). Justification for these additional positions follows.

Domestic Project Support, 27 positions and $957,000:

Two Assistant Area Branch Chiefs (FP-02) are required to coordinate the needs of the project and the daily flow of change orders, submittals and claims, as well as monitoring Government Furnished Equipment (GFE) materials.

One Construction Scheduler (FP-04) is required to provide a management overview of the major milestones of each of these new construction projects.

Fifteen Architects and Engineers (GS-13/14)—9 Architects, 2 Electrical Engineers, 2 Mechanical Engineers and 2 Civil Engineers) are also required. The proposed supplemental $25,000,000 to the Capital Program budget is for accelerated site acquisition and design. In order to expedite this increased workload an additional 9 architects will be added to the staff. With the additional manpower, the time required to complete a project (and quality of work) will be reduced by approximately one third, since each architect will be able to review and complete action in a timely manner.

The additional workload and necessity to expedite this program will also require the additional service of 6 engineers (2 mechanical, 2 electrical and 2 structural/civil) to complement the current engineering staff. Each engineer will be assigned approximately 6 projects, based on their specialty.

This request for additional positions is based on many years of experience which clearly indicates that the present staff of technical officers could not handle the additional workload. It is simply not possible for one project architect or engineer to manage and adequately direct the completion of numerous overseas projects simultaneously. Given the world-wide travel required and the special design requirements and features of each structure, it is strongly recommended that these additional positions be approved.

Two Contract Specialists (GS-9/12) are required due to the increase over the current workload level created by this request. The Contract Branch is currently understaffed and hard pressed to provide the necessary support required to develop contract documents, negotiate contracts and review contract proposals to determine which bidder submits the lowest responsive bid. This responsibility also requires travel to posts for qualifying bidders and additional travel for prebid conferences to review contract documents with qualified bidders.

One Procurement Specialist (GS-12) is needed due to the considerable requirement for the procurement of GFE created by this number of additional projects.

One Administrative Assistant (GS-11/12) for the Building Design Division will assure that schedules are met, office procedures are followed, telegrams are answered, and travel requests are properly submitted.

Two Budget Analysts (GS-11/12) are needed to augment the currently understaffed Budget Office, in light of the proposed additional supplemental funds.

Three Secretaries (GS-06) are needed to handle the additional work load caused by this request in the Building Design and Construction Management Divisions.

Overseas Project Support, 15 positions and $1,074,000: Fifteen Project Manager positions are also required for the accelerated site acquisition and design projects. Past experience demonstrates conclusively that it is virtually impossible to assure close supervision and quality control over major construction efforts without dedicated Project Managers available for on site supervision and backup in Washington. For the largest projects, we are requesting that two Project Managers be made available to assure maximum supervision and backup. This will require 24 Project Managers. None of these positions, however, will be reassigned from current staff, leaving a requirement for 15 additional positions.

Advanced Physical and Technical Research Project, $1,000,000: The goal of this program is to design the model Embassy that will meet security, operational and program requirements and will serve as the prototype for worldwide application. The emphasis will be on research and development that will establish a benchmark of minimum requirements which all future Embassy designs will follow as well as setting forth criteria for site identification.

This program will be an anticipatory project that will build into our future designs lessons we have learned from our ongoing security efforts. It will implement knowledge gained about electronic countermeasures and information gained from our Security Enhancement Program. Research and development emphasis will also be placed on new ballistic and forced entry materials.

Imaginative use of technology that can be applied directly to the construction process will be explored. This project is a cost effective approach. Cost savings will be realized by eliminating retrofit costs as designs will include new security technology from the inception of the project.

DEPARTMENT OF STATE: ACQUISITION, OPERATION, AND MAINTENANCE OF BUILDINGS ABROAD—FISCAL YEAR 1985 SUPPLEMENTAL ESTIMATES—OMB SUBMISSION—REQUIREMENTS BY OBJECT CLASS

[Dollars in thousands]

Object class	1985 supplemental	
	Positions	Amount
11—Personnel compensation: Total personnel compensation	42	$3,031
Other obligations: 32—Land and structures		25,000
Total obligations	42	28,031

To the Congress of the United States:

I am today forwarding to the Congress a request for Supplemental Appropriations for Fiscal Year 1985 totalling $110,200,000. These funds will be used solely to increase the security of United States diplomatic missions overseas.

This request represents another essential step in what will be a multi-year effort to counter the threats posed by a growing scourge against humanity—international terrorism. The Secretary of State is also forwarding separately a request for authorization of $366,278,000 for the next fiscal year. This first $110.2 million supplemental request is that portion of the total $366 million authorization that requires immediate appropriation. We would hope for prompt action on these proposals so that immediate steps can be taken and longer-term measures can be planned to better protect our diplomatic personnel and facilities abroad.

In my FY-86 budget, we will forward to the Congress the next increment of a five-year program of security enhancements for our overseas missions. This program is now in the final stages of review.

The five-year program of improved protection is being prepared as part of the intense government-wide analysis I directed immediately after the terrorist attack against our Marines in Lebanon last October. When the final review is completed, this detailed action plan, reinforced by new legislation now pending in the Congress and separate measures being taken with our allies, will add considerably to our ability to counter this menace to all mankind. As the tragic events in Beirut have shown, we must do more to protect our citizens who serve our country overseas. This request continues our commitment to do just that and complements actions already being implemented which are compatible with our longstanding policy:

—On July 23, 1983, I issued a public statement urging international cooperation against terrorism.

—In a message to the European Heads of State and Government on September 17, 1983, I made a similar direct appeal for their help in deterring terrorist attacks.

—In April 1984, the Administration submitted four bills to the Congress designed to strengthen our legal instruments for dealing with terrorists.

—In an effort to improve international cooperation in combatting terrorism, Western leaders at the London Economic Summit in June 1984 issued a seven point declaration on cooperative steps to be taken against terrorists.

—In April 1984, I also issued direction to:

improve intelligence collection, analysis, and dissemination on terrorist groups and organizations;

improve our response capabilities based on cogent analysis of what responses are most likely to deter future attacks; and

better our security protection and awareness and take legal preventive action to thwart terrorist attacks before they occur.

The funds proposed in this request will help us move to implement this last step. Recent events underscore the urgency for proceeding rapidly with those measures which will improve security and protection.

International terrorism, by its very nature, is unpredictable and difficult to defend against—particularly when the attacker intends to give his life in the attempt to assassinate others. As long as rogue governments use the brutality of terrorism in attempts to achieve their ends, we must take measures such as these to reduce our vulnerability. No one can be certain that such attacks will not occur again in the future. We can be certain, however, that the enhancements made possible in the request for appropriations I have forwarded today and the authorization request, transmitted by the Secretary of State, will make such attacks much more difficult.

RONALD REAGAN.

THE WHITE HOUSE, *September 27, 1984.*

Mr. RUDMAN. Mr. President, to summarize, this is a request from the State Department and the administration for $110.2 million for State Department enhancement of security in diplomatic missions overseas. It was sent to the Appropriations Committee and the Foreign Relations Committee within the last 4 days.

I believe there is no disagreement whatsoever that the money is needed. It is in additon to money already appropriated in the regular State-Justice-Commerce bill, which is not law.

I understand that the Senator from Delaware [Mr. BIDEN] has an amendment he wishes to offer to this amendment, and I yield the floor.

AMENDMENT NO. 7018

Mr. BIDEN. Mr. President, I send an amendemnt to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Delaware [Mr. BIDEN] proposes an amendment numbered 7018 to amendment numbered 7017:

At the end of the amendment offered by Mr. RUDMAN, add the following: *Provided, however,* Than none of these funds may be obligated or expended until the President certifies in writing to the Chairman of the Committee on Foreign Relations of the Senate and the Chairman of the Committee on Foreign Affairs of the House of Representatives either (1) that the funds provided for U.S. embassy security are sufficient to provide adequate security at a level of risk which the President considers acceptable, or (2) that the funds are insufficient and that adequate security at an acceptable level of risk could be achieved by such additional funds as the President may specify.

Mr. BIDEN. Mr. President, I will not take much of the Senate's time.

In the Senate Foreign Relations Committee, when we heard the request for an authorization of $366 million, we were told that the reason for the request was that we needed to urgently and significantly beef up our security arrangements for our Embassies around the world, not merely the Beirut Embassy.

It was raised by the Senator from Maryland [Mr. MATHIAS] and myself that there were a number of dollars that had not been spent, which we already had appropriated for security; and, second, I wondered whether or not OMB was deciding on security arrangements for our Embassies or whether or not the State Department was making such decisions or recommendations based upon need.

One of the concerns I have, as every other Member of this body has, is that we not find ourselves in the position again of three times within 1 year having to explain to our constituencies and attempt to understand why the same action, essentially the same action, taken by supposedly the same group of terrorists, who allegedly we know but cannot identify—I do not quite understand what that means—does not happen again.

We have had great difficulty deciding who is on first, who is on second, who is on third, and who is in charge of the Embassy. I am a little concerned, and those who share my view on this amendment are, that we not be put in the position again that I think we have implicitly been put in by this request for an emergency supplemental and/or an authorization of $366 million.

I suspect that other constituencies, like mine, are asking the question, "Well, I guess they didn't have enough money. Had the administration had enough money, they would have been able to do these things that were necessary to protect the Embassy."

In point of fact, we all know that the bombing of the Embassy this time, as last time, had nothing to do—zero, nothing to do—with lack of money. Congress gave the President all the money he needed. As a matter of fact, we gave him more than he used. Yet, there is this subtle implication that somehow this could have been prevented if (a) Congress had been more forthcoming with dollars or (b) we had better intelligence capabilities that allegedly had been denuded over the last several years, prior to this administration taking office.

So I want this little amendment, and I mean this sincerely. It is not a game. It is an accountability amendment. I want to avoid this President or the next President coming before the American people and being able to imply or state directly that the reason for a tragedy that occurred had something to do with Congress. I do not want it happening on my watch anymore.

So the President says he needs more money. By the way, I find it curious—and I refrain from offering the second amendment I have—I am kind of curious about their holding a press conference and saying they need $366 million immediately, and then they come up and say, "But give us only $110 million." Do they need 366 or do they not need 366? If you do not need 366, why the press conference and all the hoopla about the need for 366?

The explanation in the authorizing committee was, "Well, we can't spend it quickly enough, so we'll come back next year."

The Foreign Relations Committee said, "Why not give it all to you now? We'll give it to you now so that you don't have to come back. We are ready to give you the money."

They said, "No, we don't want it all now."

We said, "This doesn't have to be spent this year. It will be spent the first quarter of next year and the second quarter. Why not take it now?"

They said, "We don't want it now."

OK. I am ready to say let us just vote them 110; but if we vote them 110, or whatever the exact figure is that they are asking for in the appropriation, and they do not buy any language getting the President to do what Presidents are supposed to do, be accountable, all this amendment says is that no funds can be spent out of this

$110 million until the President signs up and says, "That is all I need." Not "all I need to guarantee security." No President can do that. He has to say that the funds provided for security are "sufficient to provide adequate security at a level of risk which I, the President, am willing to take." That is something I thought Presidents do.

Just tell us if this is enough. We are not asking for any guarantees. If any President said to us that he guaranteed that the Embassy is going to be safe, we would know that he was either very stupid or was lying to us.

You cannot guarantee that. None of us can guarantee that. We are not asking that. I just want the President to say, "Relative to the risk I am willing to take, this is all the money we need."

He does not have to explain what that risk is. But he has to say, "I sign off." And if in fact he does not like the amount we have, he can say to us before it can be spent, "This is not enough. I need more for there to be an acceptable level of risk."

I am not offering this amendment in jest. It is not to make a point or an accusation. It is to set the record straight from this point on because we have not gotten a clear answer in the Foreign Relations Committee. I doubt whether you have gotten it in the Appropriations Committee as to what level of risk we are willing to take.

That is all we have to be told, "This money is sufficient to cover the level of risk that I, the President of the United States, feel this country should take."

If he does that, it is not just Lebanon; it is everywhere. Just tell us because I want to say one last thing. If in fact the President believes we need certain kinds of gates, we need certain kinds of tunnels, and driveways, certain kinds of windows in buildings, certain kinds of walls, whatever he says we need I, one Senator, believe every Senator in this place would within 1 hour vote it all.

But just tell us, Mr. President. Is this all you need? If this is what you need you got it. And if we do not give it to you then it is your fault. But if we do give it to you do not come back and say, "You did not give me enough," and if it takes crews exported from the United States working 24 hours a day, 7 days a week for the next 6 months we will pay for it; whatever it takes, that is all. Whatever it takes we will pay for it. Just sign up.

That is what my amendment is all about.

I yield the floor.

Mr. RUDMAN. Mr. President, I yield the floor so my friend from South Carolina can be recognized.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. HOLLINGS. Mr. President, I want to speak to the substance of the amendment—not to the one of the Senator from Delaware relative to the certification—but so the record will be made about the funding of security. Over the years we have given the money necessary for the security of our Embassies and consular facilities around the world. It has been of particular interest to me.

Right to point, in 1979, President Carter had visited with the Shah of Iran on New Year's Day. A group of us Senators followed on the following week and in talking to Ambassador Sullivan he told us, among other things, that everything was fine in Iran. They had the usual kind of dissidents but nothing to be really scared about. When Ambassador Sullivan and the Embassy both were seized in February, just a few weeks later, it was a somewhat embarrassing situation.

As chairman of the State-Justice-Commerce Committee of Appropriations I then summoned the State Department to discuss what needed to be done. Of course, we agreed in a common sensical way that you could not build every consular facility or Embassy into fortress America in all of the foreign lands. You had to rely on the host country's security, but at least you could have an estoppel plan of some kind that would save us at least a couple to 3 hours to allow time to at least destroy our secure and classified material within the Embassy and then after holding them there for about 2 to 3 hours we would have to depend on the host country.

Thereupon, you remember the high school class took the Embassy in Tehran for the second time that year in September. Mobs also took and burned the one in Pakistan, and the one in Tripoli, Libya. We called the State Department back up, and this is the answer: They said it would have been "provocative and destabilizing."

Mr. President, you and I have had enough State Department briefings. I remember our good friend President Kennedy when he was taking over as President some years back said, "After I get all of these elements straight I am going over there into Foggy Bottom and get that crowd straightened out, but I have too many other problems right now."

But that is the naivete of our Foreign Service and their security section which they have had plenty of money for. It is that they just will not take the steps necessary. They do not know how to use it. In fact they have more than $6 million left of the $110 million we appropriated through fiscal year 1984 and we provide for it to be carried over in this joint resolution. We increased the security over the last several years some $110 million. It was a sort of force-feeding security, but there were nervous Senators and Congressmen running around and they did not understand how you act in the field of diplomacy representing America in a foreign land.

The point is there has not been a shortage of funds. It has not been a money problem; we have given them every cent requested. It has been a mentality problem on the part of the Department of State and the security section. I hope they will wake up. I hope they will wake up and act with due diligence around here because there is just no, well, as I have said before, education in now about the fifth kick of a mule.

I yield the floor.

Mr. RUDMAN. Mr. President, I will be very brief and I intend to offer a tabling motion after my remarks.

Mr. President, I do not doubt for a moment the sincerity of the Senator from Delaware. I do not doubt at all that he is trying very diligently to find ways and means to improve the security of our diplomats overseas. However, that is not quite the effect that this amendment has.

In the first place, as the distinguished Senator from South Carolina, who chaired this committee for many years, has stated, paragraph 2 of this which requires the President to say that the funds are sufficient, really is not needed because Congress has given the President and the State Department the full amount requested every time they ask for more security funds. That is No. 1. They have never been turned down, and we are giving them their request again here tonight.

Second and most importantly is the effect of section 1, although I am sure this is not what my friend from Delaware intends. Let me read section 1 and I will say little else. Section 1 requires the President to state:

> One, that the funds provided for U.S. Embassy security are sufficient to provide adequate security at a level of risk which the President considers acceptable.

Mr. President, I can just see what would happen. The Secretary of State gives the best advice he can and spends the $232 million we have appropriated to date, and whatever else we appropriate down the road. They get the best security experts in the world. They do all things right, and then a very imaginative terrorist someplace in this world does what we all know terrorists can do, including right here in this building, and commits an act of terrorism. What happens the next morning, Mr. President? Depending whether the President happens to be Republican or Democratic, or depending who controls this body, or depending on how the media feels that day, we have a lynch party after the President, and it was the President's fault because he certified under this amendment.

I am sure that is not the intention of the Senator from Delaware, but that is the effect.

Mr. President, I move to table the amendment offered by the Senator from Delaware.

Mr. BIDEN. Mr. President, will the Senator hold off 1 minute?

Mr. RUDMAN. I am happy to withhold 1 minute.

Mr. BIDEN. Mr. President, that is the whole point, folks. It is someone's responsibility. If it isn't the President's, whose is it? And the whole question here is one of mentality, to quote my friend from South Carolina. He is right. The State Department does not have the mentality to take adequate security measures and there is nothing like having the President's attention focused to make him get involved and him make the decision and him make the judgment and someone take the responsibility.

That is what it is all about.

I yield the floor and thank my colleagues.

Mr. RUDMAN. Mr. President, I simply say in conclusion that the Senator from Delaware is asking for guarantees in an area where guarantees are impossible.

Mr. President, I move to table and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from New Hampshire to lay on the table the amendment of the Senator from Delaware.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from North Carolina [Mr. EAST] and the Senator from Illinois [Mr. PERCY] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 61, nays 37, as follows:

[Rollcall Vote No. 275 Leg.]

YEAS—61

Abdnor	Goldwater	Packwood
Andrews	Gorton	Pressler
Armstrong	Grassley	Quayle
Baker	Hatch	Roth
Bingaman	Hatfield	Rudman
Boren	Hawkins	Simpson
Boschwitz	Hecht	Specter
Byrd	Heinz	Stafford
Chafee	Helms	Stennis
Cochran	Humphrey	Stevens
Cohen	Jepsen	Symms
D'Amato	Kassebaum	Thurmond
Danforth	Kasten	Tower
Denton	Laxalt	Trible
Dixon	Lugar	Wallop
Dole	Mathias	Warner
Domenici	Mattingly	Weicker
Durenberger	McClure	Wilson
Evans	Moynihan	Zorinsky
Exon	Murkowski	
Garn	Nickles	

NAYS—37

Baucus	Hart	Metzenbaum
Bentsen	Heflin	Mitchell
Biden	Hollings	Nunn
Bradley	Huddleston	Pell
Bumpers	Inouye	Proxmire
Burdick	Johnston	Pryor
Chiles	Kennedy	Randolph
Cranston	Lautenberg	Riegle
DeConcini	Leahy	Sarbanes
Dodd	Levin	Sasser
Eagleton	Long	Tsongas
Ford	Matsunaga	
Glenn	Melcher	

NOT VOTING—2

East	Percy

So the motion to lay on the table amendment No. 7018 was agreed to.

Mr. RUDMAN. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. HOLLINGS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. RUDMAN. Mr. President, a parliamentary inquiry: Am I correct that the question now arises on the Rudman amendment?

The PRESIDING OFFICER. The Senator is correct.

Mr. LEAHY. Mr. President, will the Senator from New Hampshire yield 30 seconds to me at this point for a unanimous-consent request?

Mr. RUDMAN. If the Senator will withhold, it will take 10 seconds to get this amendment out of the way. I do not believe there is any debate or opposition to it.

I move the adoption of my amendment.

Mr. HOLLINGS. Mr. President, what is the Rudman amendment?

Mr. RUDMAN. The amendment is in the first degree which gives $110 million of emergency money to the State Department.

Mr. HOLLINGS. Good, I cannot tell when the Senator is acting as chairman and when he is acting individually. The Senator is going to act individually in a minute. I will go along with the Senator as chairman. [Laughter.]

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from New Hampshire [Mr. RUDMAN].

The amendment (No. 7017) was agreed to.

Mr. RUDMAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HOLLINGS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LEAHY. Mr. President, will the Senator yield?

Mr. RUDMAN. I yield to the Senator from Vermont.

AMENDMENT NO. 7019

Mr. LEAHY. Mr. President, I ask unanimous consent to offer an amendment for myself and Mr. HUDDLESTON at this time that relates to the defense section, because it was approved by the Appropriations Committee as part of the Defense appropriations bill. However, it should appear instead at the end of the continuing resolution. I understand that the manager of this section, the Senator from Alaska, believes this is appropriate. These are intelligence provisions that have been approved by both the Intelligence and Appropriations Committees. We have been advised that the House Appropriations Committee prefers that they be treated separately from the defense section for purposes of conference.

Mr. President, I send the amendment to the desk which is virtually identical to sections 898 and 899A of the Defense appropriations bill, S. 3026, as reported by the Appropriations Committee, and I ask for its immediate consideration, and that it appear at the end of this bill.

The PRESIDING OFFICER. The clerk will report.

The assistance legislative clerk read as follows:

The Senator from Vermont [Mr. LEAHY], for himself and Mr. HUDDLESTON, proposes an amendment numbered 7019.

Mr. LEAHY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

TITLE —INTELLIGENCE PROVISIONS

PERFORMANCE BY THE CENTRAL INTELLIGENCE AGENCY OF SECURITY-RELATED DUTIES

SEC. 01. (a) Notwithstanding any other provision of law, there are transferred to the Director of Central Intelligence so much of the functions of the Administrator of General Services and his designees under sections 1 and 2 of the Act of June 1, 1948 (62 Stat. 281, chapter 359; 40 U.S.C. 318-318a) as relate to the protection of real property (and personal property and persons thereon) of the Central Intelligence Agency, except that the Director of Central Intelligence may not prescribe any rule or regulation authorized by section 2 of such Act without the approval of the Attorney General.

(b) The limitations on penalties contained in section 4 of such Act shall apply with respect to functions transferred to the Director of Central Intelligence by subsection (a).

COUNTERINTELLIGENCE AND OFFICIAL REPRESENTATION

SEC. 02. (a) It is the sense of the Congress that the numbers, status, privileges and immunities, travel, accommodations, and facilities within the United States of official representatives to the United States of any foreign government that engages in intelligence activities within the United States harmful to the national security of the United States should not exceed the respective numbers, status, privileges and immunities, travel, accommodations, and facilities within such country of official representatives of the United States to such country.

(b) Beginning one year after the date of enactment of this section, and at intervals of one year thereafter, the President shall prepare and transmit to the Committee on

Foreign Relations and Select Committee on Intelligence of the Senate and the Committee on Foreign Affairs and Permanent Select Committee on Intelligence of the House of Representatives a report on the numbers, status, privileges and immunities, travel, accommodations, and facilities within the United States of official representatives to the United States of any foreign government that engages in intelligence activities within the United States harmful to the national security of the United States and the respective numbers, status, privileges and immunities, travel, accommodations, and facilities within such country of official representatives of the United States to such country and on any actions which may have been taken with respect thereto.

(c) Section 203 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 4303) is amended—

(1) in subsection (a) by striking out the fifth sentence; and

(2) by amending subsection (b) to read as follows:

"(b) There shall also be a Deputy Director of the Office of Foreign Missions. Either the Director or the Deputy Director of such Office shall be an individual who has served in the United States Foreign Service, while the other of the two shall be an individual who has served in the United States intelligence community."

(d) The amendments made by subsection (c) shall apply only with respect to any appointment of a Director or Deputy Director of the Office of Foreign Missions, as the case may be, after the date of enactment of this section.

Mr. LEAHY. Mr. President, first I renew my unanimous-consent request that I be allowed to do this.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, this amendment has two sections. The first is a housekeeping provision for the CIA. It gives the CIA the authority to hire their own security guards to protect its real property in the United States, rather than relying on the General Services Administration.

The second section deals with official representation of foreign governments that conduct hostile intelligence operations inside the United States. It expresses the sense of Congress that we should end disparities in numbers and treatment that give advantages to such governments, in comparison to the numbers and treatment of U.S. representatives in those countries. An annual report to the appropriate committees of Congress is also required.

Finally, the amendment lifts a requirement that the Director of the Office of Foreign Missions must be a foreign service officer.

The language of the second section takes into account the concerns of the Foreign Relations Committee, which objected to a mandatory requirement of equivalence that was originally recommended by the Intelligence Committee.

Mr. HATFIELD. Mr. President, will the Senator yield for a question? It is my understanding that this amendment has been cleared with the Subcommittee on Defense headed by the Senator from Alaska, Mr. STEVENS.

On that basis, Mr. President, I would be willing to accept the amendment at this time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 7019) was agreed to.

Mr. LEAHY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. RUDMAN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 7020

Mr. RUDMAN. Mr. President, I send an amendment to the desk which is an amendment to committee amendment 34 of the joint resolution.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Hampshire [Mr. RUDMAN], for himself, Mr. THURMOND, Mr. PACKWOOD, and Mr. METZENBAUM, proposes an amendment numbered 7020.

At the end of section 137, add the following new subsection:

"(e) Section 510 of Public Law 98-411 is hereby repealed."

Mr. RUDMAN. Mr. President, I will attempt very briefly to lay colleagues to explain what this amendment is. This is offered in behalf of the chairman of the Judiciary Committee, Senator THURMOND, the chairman of the Commerce Committee, Senator PACKWOOD, Senator METZENBAUM, and myself.

This is a very complex issue. The Senator from South Carolina referred to me a few moments ago wondering in which capacity I was acting. Well, I would say, Mr. President, I am trying to act in the capacity of being of some help to the cities and towns across America that, without the relief contained in this bill, will have serious problems with antitrust actions brought against them.

For the purpose of history, let me recollect for the Senate that, on the Commerce-State-Justice appropriations bill, an attempt was made to exclude FTC authority over municipalities. That lost here in the Senate by a vote of 63 to 36, or in that area.

When we went to the conference, for a variety of reasons, we had difficulties. The fact of the matter is we came out of conference with a provision nearly identical to the one which we had defeated in the Senate. That became law.

So, at present, the Federal Trade Commission cannot act in its normal injunctive capacity—we are not talking about money damages—against situations in municipalities across this country where there is obviously abuse in a proprietary function. So that is the history.

Where are we now?

The major problem here was caused by a decision called the Boulder decision. The U.S. Supreme Court said that cities and towns did not have antitrust immunity from treble damages. As a matter of fact, there is already a verdict outstanding in Illinois of $28.5 million against one particular county, and there are hundreds of other cases pending.

Make no mistake, the single most important thing that we must do is to assure that, when we leave town at the end of the week, there is in law immunity from antitrust damages for these cities and towns. There is little disagreement in this Chamber on that. There is total agreement with my friend from South Carolina and the sponsors of this particular amendment on that point.

The problem arises here: It is our belief that if this Boulder repeal bill, if you wish, originally reported by the Senate Judiciary Committee to the Senate, similar to what is embodied in section 137 of this bill, goes to conference and we allow the FTC restriction to stand, we are going to have some difficulties in getting a bill at all.

The mayor of Newark, NJ, put this issue as well as anyone can put it in testifying before the House Judiciary Committee earlier this year. He said:

The best solution on the remedy side would be to eliminate damages altogether and to allow governmental plaintiffs, such as the FTC, the Attorney General, State attorneys general, to bring injunctive action to deter unfair or egregious action by local governments.

That is precisely what we will end up with if we adopt what is in section 137 and adopt this amendment.

We received a letter today from the National Association of Counties and the National Association of Towns and Townships. I will not read the entire letter. I ask unanimous consent that it be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

OCTOBER 3, 1984.

Hon. STROM THURMOND,
Chairman, Committee on the Judiciary, U.S. Senate, Dirksen Senate Office Building, Washington, DC.

DEAR MR. CHAIRMAN: The National Association of Towns and Townships (NATaT) and the National Association of Counties (NACo) support the Rudman/Thurmond amendment to amendment No. 34 of H.J. Res. 648. This amendment will reauthorize the Federal Trade Commission to bring actions against local governments under federal antitrust law. We endorse FTC authority and urge final Senate passage of your amendment.

It is our understanding that you plan to move consideration of H.R. 6027, as amended by S. 1578, following the consideration of amendment No. 34. We wholeheartedly sup-

port your effort to bring a Senate passed measure to conference with the House Judiciary committee.

Counties and townships view local government antitrust legislation as the single most important local government issue yet to be resolved in the 98th Congress. Simple passage of antitrust legislation as an amendment to the continuing resolution which would preclude a conference with House passed legislation is totally unacceptable to the counties and townships across the country. We commend you for your efforts to bring this issue to a House/Senate conference and stand resolved to work with you in this regard.

Sincerely yours,

BARTON D. RUSSELL,
Executive Director, National Association of Towns and Townships.
MATTHEW B. COFFEY,
Executive Director, National Association of Counties.

Mr. RUDMAN. Although they are not enthralled with the idea of FTC injunctive action, they, too, are convinced that it is a small price to pay to have nearly absolute assurance that when this Boulder bill gets to the House we will in fact have a bill.

Mr. President, we have debated this issue before. We won it here 63 to 36. We could not hold it in the conference at that time. We have in this resolution just what the cities, towns and municipalities in this country want. They like it. I like it. My friend from South Carolina likes it.

The problem is I am convinced that, without reinstating the FTC language, without authority being put back into the Federal Trade Commission where it belongs, we risk serious problems when we try to move this forward.

I would hope this amendment will be supported. I know there are several others who wish to speak for it and I guess some against it. I hope I have stated the case clearly. I hope people will undertand the issue. It is a fairly complex one. I have tried to explain it in a way we can all understand.

Senator HOLLINGS has coined a wonderful phrase. He refers to the FTC as the national nanny. I assume we will hear it many times before he is through. I have heard it about 600 times in the past several months. The fact of the matter is in some places, Mr. President, we need a national nanny. If that is the FTC, to move into areas where there is a conspiracy to fix prices in proprietary areas, we ought to do something.

One last point. My friend, the distinguished Senator from Washington, told me something at dinner tonight I did not deem possible. In the city of Seattle there is a battle going on now between one of the large cab companies and the city. What is the battle? Is the battle to get higher taxicab rates?

Quite the contrary. The city, or the county is attempting to impose rates which are considerably higher and this cab company wants to keep its lower rates. It feels it can compete better.

If I ever heard of egregious interference in the free market process, that is it. Certainly, the Federal Trade Commission ought to be able to intrude in an injunctive way in those cases.

Mr. President, I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, "egregious interference with free markets"?

Let me correct the paper of the distinguished Senator.

No. 1, he says he is acting to help the cities. So we have here, dated October 3, a letter, and I will ask unanimous consent to include this letter in the RECORD, from the U.S. Conference of Mayors, which says that "any attempt to reinstate the authority of the Federal Trade Commission to bring antitrust suits against cities also be strongly opposed."

That is what the U.S. Conference of Mayors says.

What does the National League of Cities say?

We strongly urge your support for the antitrust provisions of the continuing resolution without an amendment.

We are speaking for the committee. The committee passed this, the distinguished chairman of the committee, Senator HATFIELD and other distinguished Senators, all voting for it, including my colleague from New Hampshire.

I cannot keep track of them. He signed the conference report.

I will have to get to that.

He kept voting for it earlier. When we brought that conference report back to the Senate, it was not an obscure conference report. It was brought back in disagreement. All he had to do was to ask for a rollcall. He agreed to it and we unanimously passed it on the floor of the Senate and President Reagan signed it into law on August 30 as Public Law 98-411. We did that on August 2.

The Senator from New Hampshire keeps referring in different ways. I cannot get a fix on him. But I can tell you he is not helping the cities because the League of Cities—I will read the sentence—say:

We believe that FTC oversight of city regulatory activities represents an unwarranted Federal intrusion into local matters.

I ask unanimous consent that the National League of Cities letter and the U.S. Conference of Mayors letter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NATIONAL LEAGUE OF CITIES,
Washington, DC, October 3, 1984.

I EAR SENATOR: We strongly support enactment of legislation that would provide the broadest possible protection for cities and city officials from antitrust challenge. We believe that provisions of the "Local Government Antitrust Act of 1984" (S. 1578), which protects cities and city officials from potentially bankrupting treble damages under the antitrust laws, go a long way towards meeting the fundamental concerns of cities.

Consequently, we urge your support for retention of the provisions of S. 1578 which were added to the Continuing Resolution by Senator Ernest Hollings during committee mark-up after it became apparent that S. 1578 was not going to be scheduled for floor action as a separate bill.

We oppose any effort to further weaken these antitrust provisions which represent a compromise solution to the many problems now facing cities and city officials under the antitrust laws. Similar legislation (H.R. 6027) was approved by the House in early August by a 414 to 5 vote. The Senate Judiciary Committee unanimously approved S. 1578 in June. The Senate unanimously approved S. 1578 earlier this year as an amendment (later dropped during conference) to the appropriations bill for the Departments of Commerce, State, and Justice on June 28 (H.R. 5712).

We expect that an effort will be made to further limit the protections of S. 1578 for cities which are defendants in pending cases. We believe that it would be unfair not to extend the protections of S. 1578 against damages to cities involved in pending cases. Most of the more than 300 cases pending in the courts arise from actions by cities which occurred before the Supreme Court's ruling in *Community Communications Company, Inc.* v. *City of Boulder* in 1982 that cities are subject to the antitrust laws. Thus, in most of these pending cases, the city was acting in good faith and without knowledge that the courts would extend the scope of the antitrust laws to cover regulatory activities of cities, such as zoning, franchising, and waste disposal.

We also understand that an effort will be made to repeal the recently enacted law limiting the authority of the Federal Trade Commission (FTC) to bring antitrust actions against cities (P.L. 98-411). This limitation on the FTC's authority was added to the appropriations bill for Commerce, Justice, State, and the Judiciary after the FTC filed antitrust complaints against Minneapolis and New Orleans challenging the regulation of taxicabs, including the regulation of rates. We strongly oppose any effort to reverse the restrictions on FTC authority which were signed into law on August 30, 1984. We believe that FTC oversight of city regulatory activities represents an unwarranted federal intrusion into local matters.

We strongly urge your support for the antitrust provisions of the Continuing Resolution without amendment. It is compromise legislation which must be enacted this year to ensure that cities are not bankrupted by antitrust claims.

Sincerely,

ALAN BEALS,
Executive Director.

U.S. CONFERENCE OF MAYORS,
Washington, DC, October 3, 1984.

Hon. ERNEST HOLLINGS,
U.S. Senate,
Senate House Office Building,
Washington, DC.

DEAR SENATOR HOLLINGS: The U.S. Conference of Mayors strongly supports your efforts to include municipal antitrust legislation in the Senate continuing appropriations resolution. This legislation is absolutely essential to ensuring that cities are not subject to massive monetary judgements against them as a result of antitrust proceedings.

As the Senate begins consideration of this measure shortly, we urge that all Senators oppose efforts to keep this out of the continuing resolution and that any attempts to reinstate the authority of the Federal Trade Commission to bring antitrust suits against cities also be strongly opposed.

We wish to take this opportunity to again thank you for your outstanding leadership on this issue on behalf of all cities. We look forward to working with you on this matter through Senate passage, House-Senate Conference, and final enactment.

Sincerely,

J. THOMAS COCHRAN,
Deputy Executive Director.

Mr. HOLLINGS. They have produce that one from the counties and I will get to my distinguished senior colleague because they have been on the telephone asking for letters from these cities right here. Can you imagine Senators threatening the Conference of Mayors and the League of Cities and the counties, Mr. President? I know how to keep on course about what the distinguished Senator said, he represented it fairly and everything else like that.

He said, "Act in their normal injunctive capacity." The Federal Trade Commission has been in being for 70 years. It started in 1914. It has never enjoined a city, period. "Normal injunctive capacity." What occurred was the Boulder decision in 1982, just the year before last. Then, in the spring of this year came that Federal Trade Commission, yes, the national nanny, trying to repair its image. Where were they when we had the mergers of the big oil companies? You could not find the Federal Trade Commission. They call that egregious market interference.

Where were they when the largest automobile manufacturer in the world and the third largest automobile manufacturer in the world merged together? Where was that egregious interference in the market forces? Where was your Federal Trade Commission there?

I can go down the list—price fixing, deceptive advertising. We just had a dinner for Mr. Consumer, Federal Trade Commissioner Mike Pertschuk. He has a big report. Read it and you can find where they have not been doing the job. The FTC is trying to come in now and act like they are doing something by putting in a whole division to start overseeing the cities.

Then, correcting my distinguished colleague's paper, he says, "I believe we will not get a bill at all." And he quotes the mayor of Newark. Is that not wonderful talk? The mayor of Newark is going to tell you whether we are going to get a bill. I will tell you who knows whether we are going to get a bill, Mr. President. The Senate and the House of Representatives will get it together. This came over with an overwhelming vote against anybody fooling with the cities. The Congressmen know and they are right close to the people. They believe what you have been writing about, Mr. President, in "The Conscience of a Conservative," about the Federal power, Federal control over the localities.

I had it discovered for me when my distinguished senior colleague was Governor and I was a little fledgling legislator. He was running for President of the United States to get the Federal Government off our backs. Ronald Reagan did not invent that, he copied it. My colleague started it 30 years ago, almost 40 years ago.

Now, Government is back. Government is back on the back.

Now take this body—we have been in session all year long. We have found out that you cannot protect an Embassy; you cannot protect a law-enforcement officer; you cannot protect your borders and get an immigration bill passed. You cannot get a crime bill passed. You cannot protect civil rights—you cannot get a civil rights bill passed. You cannot decide on a missile, you cannot decide on an airplane. But you can run the cities.

The Senator has a case in Seattle. Is that not wonderful? Because in the city of Seattle, there is a taxi operation that wants to charge less than the city officials want. Is that not a great concern of the National Congress, particularly at 2:30 in the morning?

We cannot do our own job. We cannot pay our own bills. But now, we have found the national nanny that he wants with this particular amendment to reinstitute Federal control over local government. That is what it is, clear and simple.

The House Members, when it came over, said the Justice Department, the Federal Trade Commission, nothing funded by the bill should institute antitrust actions against the city fathers. We have left it in and compromised.

The Senator from Illinois had an interest in there because we did not want to make it retroactive. We worked it together with the Senators.

But I can tell you now, Mr. President, the Senator from New Hampshire knows, as the acting chairman of the Senate Committee on State-Justice-Commerce, whether we can get a bill or not, because he could not get a bill unless he knocked that Federal Trade matter out of it. That is why we came back in August and confirmed the conference report which he signed and voted for.

Heavens above, it was Abraham Lincoln who said a man ought to have sense enough not to lose both sides of the case. But here, at 2:30 in the morning, we have found, I say to the Senator from Maryland—I guess he lives in a city, near Baltimore.

Mr. MATHIAS. I live in the city of Frederick, MD:

> Up from the meadows ripe with corn clear in the cool September morn the clustered spires of Frederick stand green walled by the hills of Maryland.

Mr. HOLLINGS. You can pay your taxes as a citizen of Frederick so the Federal Trade Commission can enjoin the city fathers of Frederick. Then you can pay your taxes to defend against that suit.

We are going to figure out—we cannot tax them in every way, but by gosh, we are going to find out how to make them pay both sides of the case. That is a wonderful thing. To bring it in here because they had an interview about it with our good friend, the Senator from Ohio.

He sat like Horatio at the bridge, "I won't agree, I won't agree; you are not going to get a bill until you agree, until you agree," and he has been force feeding my distinguished senior Senator, because I know what he believes in local government.

I said we would take this off the appropriations bill and let the Judiciary Committee consider it. The House Judiciary Committee passed their bill over there. It has been languishing for 2 months in the Senate Judiciary Committee, they will not even call the bill up. We did not have any hold on the bill, we just said we want to debate. I am a cosponsor and the principal sponsor is getting this Federal Trade Commission—the national nanny—out of the cities. They are not accountable to anyone.

There is a fundamental involved here, Mr. President. Heavens above: the city officials are accountable.

Shall it be now that when they meet to try to determine the transportation needs, the taxi service in Seattle, that the Federal Trade Commission, the national nanny, will come in and say, "This is a conspiracy in restraint of trade, we enjoin you and we are going to fine you and we are going to make you in contempt and all down the line and you are going to have to get Washington lawyers schooled on the Federal Trade?"

Talk about the courts being jammed up. When they get a zoning ordinance and some developer wants to put a supermarket down in the residential area, they are going to say, "That is a restraint of trade; we will enjoin you there."

When the city fathers pass rent control for the poor people in the cities of this land, that is in restraint of trade, so we are going to get the Federal Trade Commission on every city with a rent control law. They are busting out like the measles.

There are 300 cases since this Boulder situation and we have a chance in the National Congress now before we adjourn in the next 48 or 72 hours to do something about it.

The cities are pleading, the counties are pleading. I know the position of the counties. They do not want to be subject to treble damages and they do not want to be hassled by the Federal Trade Commission.

What about us as a Congress? If we really think the Federal Trade Commission should look and oversee, if you please, legislative bodies, then put it on the Congress.

How about one of our banking bills. Well, the last one was an egregious interference with market forces.

When we estopped the strategic materials from going to Communist countries, that was an egregious thing there. I can go right down the whole list. The trade bill we passed dealing with the raisins and the oranges out in California, we had all kinds of egregious interference there with a particular market. We just got through passing them. You can go down the list of all the measures we passed. We would not put the Federal Trade Commission—it was never intended to be, over a State legislature, a city council, a county council—and certainly not the Congress of the United States.

But they are all souped up on consumerism and they have not read the lessons. All we have to do—I am not going to bore the Senate at this particular time in the morning, because we have the history of the Federal Trade Commission. It all has to do with business practices, market forces, pricing, deceptive advertising, you can go through the entire volume of the Federal Trade Commission. They never did go into a city council until using the auspices of the Boulder decision and immediately the Congress reacted.

Those House Members heard through the mails all over the country. It would be disastrous to adopt this kind of amendment and go backward when we just passed the opposite with three readings in the House, and three readings in the Senate. Then the conference committee—the distinguished Senator from New Hampshire chaired the conference—brought it back over here and we passed it through the Senate and President Reagan has just signed it into law on August 30. Now he wants to repeal that law and start the fight all over again, saying he is representing the cities, which is actually a misrepresentation.

Mr. EAGLETON. Mr. President, I should like to ask, am I not correct that the junior Senator from South Carolina is the author of the amendment concerning local governments' liability for violating the antitrust laws?

Mr. HOLLINGS. That is correct.

Mr. EAGLETON. Is it not correct that subsection (c) would, in a pending case against a local government, place the burden of proof on the local governmental defendant to establish that an award of monetary damages for an antitrust violation would be inequitable?

Mr. HOLLINGS. That is correct, the burden of proof is on the defendant.

Mr. EAGLETON. Am I to understand further that this provision singles out pending cases in which a plaintiff has already received a favorable jury verdict, because after a jury has reached a verdict, it would be appropriate to apply the change of law only in the most extraordinary circumstances?

Mr. HOLLINGS. That is correct. Pending cases in which a jury has already acted deserve special attention, because they present the most compelling case for no retroactive application of the new provision limiting monetary damage awards.

Mr. EAGLETON. So by the phrase "prima facie evidence," the Senator intends to create a very strong presumption in favor of a plaintiff who has already achieved a favorable jury verdict.

Mr. HOLLINGS. That is correct. That phrase is meant to indicate that the defendant's burden of providing that application of the existing law would be inequitable is much higher than it would be in other pending cases.

Mr. EAGLETON. I thank the Senator from South Carolina for this clarification.

MUNICIPAL ANTITRUST LIABILITY

Mr. SYMMS. What should be done? Once again we are legislating on an appropriation bill. Nevertheless, I know the concerns cities, localities, and municipalities have with treble damages. I recognize that in order to encourage good and quality people to serve in local government, protection must be granted.

However, protections must also be provided to individuals and companies who find themselves up against the wall of local bureaucracies.

Let me expand on my concerns:

First, this legislation places the cities on the same basis as States for purposes of the antitrust laws;

Second, this bill will inevitably lead courts into the quagmire of artificial distinctions between governmental and nongovernmental functions; and

Third, this legislation could well result in an extremely narrow or nonexistent application of the antitrust laws to proprietary activities by local government units.

To prevent abuses similar to those alleged in Lafayette and similar cases still pending, this legislation should clearly ensure that such governmental units, in the performance of proprietary activities, remain subject to the antitrust laws to some extent as nongovernmental entities performing or engaging in live activities or conduct. This is not the case.

Mr. President, it cannot be denied that granting local governments carte blanche authority to pass ordinances that restrict competition without concern for whether the State government has spoken on the subject would undercut the fundamental principles of federalism that the States, not the subdivisions of States, enjoy sovereignty under our Constitution.

This legislation leaves little recourse to a firm who has had its customers stolen by a municipal utility. It doesn't even allow for court costs nor attorney fees. If we want to do the right thing, we should first not bring this issue before the Congress on the continuing resolution, and second, we ought to go back to the drafting table and carve out proprietary areas and settle the liability issues.

I look forward to working with Senator RUDMAN, and Senator THURMOND.

Mr. HELMS. Mr. President, I shall vote for this measure, but I have reservations about it. The version of S. 1578 that I originally cosponsored is not exactly like the proposition before the Senate just now. The original version exempted local governments from damages for violations of the Federal antitrust laws for activities within the traditional regulatory scope of local government authority. But it left local governments subject to Federal antitrust laws, including triple damages, for violations of such laws when engaged in activities that are in direct competition with private businesses.

The bill as reported by the Senate Judiciary Committee, and the amendment pending now, are significantly different from the measure I originally agreed to cosponsor. This bill exempts local governments from any damages for any violation of the antitrust laws. The remedy of injunction is still available to plaintiffs, but neither actual nor triple damage awards will be permitted.

I support the objective of insulating local governments, and thereby the taxpayers, from frivolous triple damage lawsuits for activities within the scope of local governments' traditional regulatory authority. But I have a problem with this blanket exemption from all damages. Nevertheless, I am willing to go along with this proposal based on assurances from my good friend, the chairman of the Judiciary Committee, that the remedy of injunc-

tion will be adequate to restrict anticompetitive commercial activities by local governments. We in Congress have an obligation to monitor carefully developments in this field of antitrust law, and if necessary to reopen this issue if this legislation unduly tips the commercial competitive balance.

● Mr. PERCY. Mr. President, I rise in support of the amendment offered by the distinguished chairman of the Judiciary Committee, Senator THURMOND, and the Senator from New Hampshire, Mr. RUDMAN, dealing with the enforcement powers of the Federal Trade Commission. I do not believe it is wise or sound public policy to shield anticompetitive action from investigation by appropriate agencies of the Government, including the Federal Trade Commission. The FTC cannot seek damages. It may, however, seek injunctive relief. And injunctive relief may be appropriate in circumstances where governmental units may have sanctioned or compelled particularly egregious or unfair actions.

While injunctive relief may be appropriate, however, treble damages are a totally different matter.

I would like to speak for a moment about an issue that is of tremendous interest to municipal governments throughout the country, but especially in Illinois. Recent decisions of the Supreme Court indicate that home-rule local governments do not share a State's immunity under the Federal antitrust laws. Since 1982, hundreds of lawsuits against cities, counties, and other types of local government units have been filed in Federal courts all around the country. Some of the most noteworthy of these lawsuits have occurred in Illinois. The city of Chicago has been sued. Du Page County has been sued. And in the Unity Ventures case, a six-member Federal jury has rendered a treble damages verdict of $28.5 million against Lake County, the village of Grayslake, and several local government officials.

Whatever your view of the Federal antitrust laws may be, I am sure my colleagues will agree that the prospect of treble damages liability could well have a paralyzing effect on local governments throughout the United States. The litigation itself—considering the time, effort and expense involved in defending against Federal antitrust suits—is like a sword of Damocles over the heads of local government officials. There is a very real prospect that many local governments could find themselves paralyzed, unable to act, simply due to the threat of such litigation.

The distinguished chairman of the Senate Judiciary Committee and the members of that committee have moved with dispatch to deal with this very troubling issue. They have held hearings, they have worked extensively with the cities, the counties, and the private interests that are so greatly affected. The committee has reported to the Senate a bill, S. 1578, which has adopted a moderate course. That bill deals with the greatest threat to taxpayers and to local governments—the treble damages remedy. As the committee's report states, S. 1578 "(1) flatly prohibits any award of damages against both general and special function units of local government under sections 4, 4A, and 4C of the Clayton Act, and (2) defines the circumstances under which private parties acting pursuant to the direction of general function units of local government can claim a parallel exemption from damages." This is the kind of relief necessary to local governments throughout the country. Although it may not address all the difficult questions presented—particularly the fundamental question of whether there should be any Federal antitrust liability for local governments—it nonetheless is an important step in the right direction. It is needed, and it is needed now. For this reason, I have cosponsored S. 1578, and I recommend it to my colleagues.

But the bill does not deal with another question that is a particularly difficult one for me and for Senators who represent States where antitrust suits have been filed against local governments. The question is how this legislation should apply to pending cases. I strongly believe that it should be made to apply to all cases. When we act on this matter, we should clear up this issue altogether, and not leave dozens—or hundreds—of legal loose ends lying around that will perplex and bedevil local governments for years to come.

I would be most comfortable with a clear statement that this legislation should apply regardless of when a suit may have been filed. But I understand that some of my distinguished colleagues are uncomfortable applying this law to pending cases. For this reason, the distinguished chairman of the Judiciary Committee has taken what I think is a fair and eminently reasonable middle course. With appropriate guidance from the Congress, the courts in which the suits have been filed would be empowered to consider the equities, and decide whether a damages remedy should be precluded.

Although I believe this legislation should apply to all suits, I am a realist, and I can see that the chairman's approach is the one most likely to succeed in the Senate, in these waning days of the session. I support him, and I thank him for his diligent work in constructing a compromise.

But I am very seriously troubled by the suggestion that somehow we should draw a bright line that would strictly prohibit application of this law to cases in which a jury verdict has already been rendered. Everyone in this body should know that only one jury verdict has been rendered, and that is in the United Ventures case involving Lake County, IL, the village of Grayslake, IL, and local government officials there. It is a $28.5 million verdict, and it has not even gone to final judgment. So language explicitly preserving jury verdicts would, in effect, be designed to preserve the outcome in one lawsuit only, the case brought by Mr. Williams Alter against Lake County and others.

Now, I have no desire to retry the facts of Mr. Alter's case in the U.S. Senate. We are not the House of Lords. Mr. Alter was an early political supporter of mine, even before I was elected to the U.S. Senate. But I am deeply concerned by what appear to be misrepresentations made on his behalf by lawyers and lobbyists here in Washington, who are engaged in an all-out struggle to preserve his verdict. Somehow, word has been spread that the village of Grayslake was involved in a conspiracy to prevent the development of low-income housing by Mr. Alter. In fact, this alleged conspiracy was part of a good-faith effort by elected officials of the municipal governments involved to allocate scarce sewer resources, and to comply with the mandates of the Federal Water Pollution Control Act—the Clean Water Act that so many of us have supported in the past, and which places such burdens on local governments.

Furthermore, although a verdict has been rendered, the Unity Ventures case has not yet come to final judgment. Very substantial questions have been raised about the instructions under which that verdict was obtained. Let me quote from a recent letter to me from Fred Foreman, the States attorney for Lake County and Glenn Miller, chairman of the Lake County Board: "No verdict is worth more than the instructions on which it is based," they say.

> The trial judge, over our objection, instructed the jury that in deciding whether the antitrust laws had been violated, it could consider only the question of whether the challenged government action restricted economic competition. He told them "it is no defense that the restraint serves other social purposes." On that instruction (which is a standard instruction in non-municipal antitrust cases), there was no way the jury could rule in favor of the local government. However, with that instruction, it is also obvious that practically every governmental action, from requiring licensing of child care facilities to regulating private utility rates, violates the federal antitrust law.

Now, that is the way they see it. I think it is quite possible that, based on posttrial motions, the judge in Mr. Alter's case might grant judgment notwithstanding the verdict to Lake County.

I also think there is much in this case that may be appealed, that it may even be appealed to the Supreme Court.

But the action we take here in the waning days of the session will critically affect the outcome in that case, and in other pending cases. As I said before, I do not believe we should retry the Unity Ventures case—or other pending cases—here in the U.S. Senate. Nor do I think we should unfairly elevate the value of a jury verdict above other rights of litigants in pending cases—such as the right to an appeal to an impartial forum. That just isn't fair. Alternative relief may be available. A treble damages verdict in this case may be totally unfair, totally out of line with the equities in the case. And who is to say that the verdict of a six-member Federal jury, operating under a set of instructions that may be defective, should have greater weight than the considered reflection of a group of elected local government officials?

The fair way to handle this question, the reasonable way, has been set forth by the distinguished chairman of the Judiciary Committee, Senator THURMOND. I would greatly prefer to see this legislation pass the Senate separately, and go to conference with the House-passed bill on this subject, H.R. 6027. But in the interests of obtaining necessary relief for municipal governments throughout Illinois and other States around the country, I will follow his lead and support it here, on the continuing resolution.

Mr. President, I ask that the letter to me from Mr. Miller and Mr. Foreman, which I quoted above, and a brief statement by the elected officials of Lake County and Grayslake, IL, and other material, be included in the RECORD.

The material follows:

COUNTY OF LAKE,
BOARD CHAIRMAN'S OFFICE,
Waukegan, IL, September 20, 1984.

Hon. CHARLES H. PERCY,
U.S. Senator, Dirksen Building, Washington, DC.

DEAR SENATOR PERCY: We are sending this letter to clarify certain misconceptions that have evidently arisen regarding the Unity Ventures case. This case, as you may be aware, has become the focus of a sustained lobbying effort to amend S. 1578 now pending in the Senate.

From Lake County's recent visit to the Hill we have ascertained that not all of the facts of the case have been objectively presented nor in some instances accurately depicted. Thus, we present the following points:

1. There was an impression among some of the Senate staff that the $28.5 million judgment in the Unity Venture case would be less financially injurious to Lake County government because of our "$200 million dollar budget." Lake County government's fiscal year 1984 budget totals $85.7 million; only $19.5 million of which is generated from property taxation. Most of our revenues are not discretionary, but are fixed by formula or legislated by local ordinance or state law. Moreover, projections for fiscal year 1985 reflect that several of the county property tax levies will be at their maximum to generate the necessary funds to maintain existing program levels. It is clear that any award of monetary damages in the Unity Ventures case would lead to serious curtailment of essential county services to Lake County citizens. Even if Lake County was not to curtail services and raise to the maximum the property tax levy in the singular fund available to use to pay such damages, it would take some 70 years for taxpayers to pay this judgment. But the fact is that it would be utterly impossible to pay this judgment over time, even at a conservative 10 percent rate, the annual interest on this judgment would be $2.85 million dollars. To raise just that amount of money would require a county-wide tax levy of seven cents per $100 of assessed value. The current county corporate levy is only eight cents per hundred. Thus, the levy just to pay the interest on this judgment would almost equal the tax now being levied to finance the the entire general corporate budget of the county. Furthermore, this levy may not exceed a total of nine cents per hundred. Thus, if we are to pay just the interest, half of the county's general corporate budget will have to be eliminated. The statutes authorize no other levy from which funds to pay this judgment could be taken.

2. Several critical points about the Unity Ventures case and verdict also seem to have become distorted:

It is alleged that this is a case of a wealthy estate community discriminating against a poor "working class" community. The fact is (and census data shows it) that the two villages involved in the case are practically socio-economic twins. Mr. Alter offered no evidence of racial or economic discrimination during the trial.

It is suggested that this is a case of "no growth" proponents attempting to stop development. The fact is that Lake County and Grayslake invested millions of dollars to build a regional sewer system to clean up polluted lakes and promote new development. The entire capacity of that system has already been utilized by new developments throughout the county. No capacity has been withheld in an effort to stifle development.

It is suggested that this is a case of favoring one developer over another. The fact is that, after years of discovery, Mr. Alter was not able to offer one piece of evidence to support that charge. The sewer capacity that Mr. Alter did not get was used up in the normal course of rational, planned growth by an unidentifiable host of residents, businesses and developers throughout the County (not just in Grayslake).

It is suggested the County's attorney wrote a letter advising the County of the illegality of the challenged inter-governmental agreement. The fact is that that infamous letter was written years after the challenged agreement was executed. It was written by a lawyer with less than one year of experience; it relied upon faulty factual assumptions; and it said only that the recently decided Lafayette might raise some questions. The further fact is that before the agreement was executed, it was reviewed and approved, in a formal letter of opinion, by the prestigious municipal bond firm of Chapman & Cutler was well as numerous county and village attorneys. Finally, when the Lafayette issue was raised years later, the County said only that it would not unilaterally abrogate 17 intergovernmental agreements based on Ms. Haines' letter. It suggested that Mr. Alter bring a suit to formally challenge the agreement so that a definitive ruling could be promptly secured. Mr. Alter testified that he consulted his own attorneys and decided not to do that. Years later, after the bottom dropped out of the development market, he filed the Unity Venture case seeking multimillion dollar damages based on the agreement he had earlier refused to test in a simple state court proceeding.

3. It is also important to emphasize a few facts that Mr. Alter's highly paid lobbyists seem to be ignoring:

This case involved no allegation as evidence of political or personal corruption. The decisions made, right or wrong, were made based solely on the belief of the elected officials involved that, having weighed all the competing policy considerations, they were doing the right thing for their constituencies.

The agreement which was found to have violated the antitrust laws was executed in 1974—four years before the Lafayette decision. It was of 17 essentially identical agreements executed between the County and its various cities and villages to comply with the mandates of the Federal Clean Water Act.

This case involved no allegation whatever of any agreement or conspiracy involving private parties. The only challenged "agreement in restraint of trade" is a run-of-the-mill intergovernmental agreement providing for the joint development, use and regulation of a new sewer. The same agreement that the federal government now condemns under the antitrust laws, it has, in other contexts, approved as an admirable exercise of rational intergovernmental cooperation designed to end pollution and save taxpayer's dollars. Once-condemned parochialism is now required as the only safe-haven from crushing liability for "conspiring with other local governments".

4. We further understand that Mr. Alter's lobbyists have stressed the "sanctity" of jury verdicts. In response, we would suggest that slogans uttered in a vacuum add little to a rational legislative process. Because ours is the only verdict that would be affected by this sloganism, it is fair to deal with it as a verdict rather than as a symbol of all verdicts. In that perspective the following points are noteworthy:

No verdict is worth more than the instructions on which it is based. The trial judge, over our objection, instructed the jury that in deciding whether the antitrust laws had been violated, it could consider only the question of whether the challenged government action restricted economic competition. He told them "it is no defense that the restraint serves other social purposes." On that instruction (which is a standard instruction in non-municipal antitrust cases), there was no way the jury could rule in favor of the local government. However, with that instruction, it is also obvious that practically every governmental action, from requiring licensing of child care facilities to regulating private utility rates, violates the federal antitrust law.

Following the return of the verdict, the presiding trial judge urged the government defendants to promptly file a motion to set it aside. Mr. Alter has repeatedly delayed the briefing of that motion with the result that it has not yet been decided.

The issue involved in this case should never have been submitted to a jury in the first place.

The issue—whether a public sewer main should be built, at a cost of several million dollars, to serve a piece of farmland two miles from the nearest developed town when the sewer plant it would feed would soon be at full capacity without the addition of any new major developments—is the kind of policy issue that our system of government gives to local elected officials. The people of Lake County elect 25 County Board Members to make such decisions. Those officials made the policy decision they were elected to make. Years later, 6 non-elected jurors, not one of them from Lake County, were asked to review that policy decision. They disagreed with the elected officials and decided the taxpayers that elected them should pay Mr. Alter $28.5 million. We see no reason why this after-the-fact second guessing should be held in more awe than the original decision of the elected officials of Lake County.

5. It should also be noted that Mr. Alter is not without other remedies:

He has asked for injunctive relief (But it is interesting to note that in all the years this case was pending, he never once asked for a hearing on a preliminary injunction.).

He has the right to ask any Illinois Court to invalidate the Grayslake sewer agreement. He could have filed that suit years ago—back when he claims he was prevented from getting sewer, but he chose not to follow that simple course.

If he can show that his property has been damaged in violation of his constitutional rights, he has the right to recover under Section 1983 of the Civil Rights Act. The jury awarded him $9.5 million on that theory and the trial court is presently considering whether that verdict should be sustained or set aside.

We are concerned that we (as a Unity Venture defendant) have become an isolated issue in the Senate discussions because the Unity Venture case is the lone jury verdict among the hundreds of pending antitrust cases against local governments. Our concern is heightened by the reality that sanctification of a single antitrust jury verdict (albeit the largest against any local government in the history of our nation) may well neutralize, indeed defeat, the central legislative intent of both S. 1578 and H.R. 6027—that Congress never intended to have the damage remedies of antitrust statutes apply to local government. This should be the law of the land applicable to all local governments in the past, present, and future.

We urge your support of S. 1578 at the soonest possible time.

Respectfully,

GLENN E. MILLER,
Chairman, Lake County Board.
FRED FOREMAN,
States Attorney.

S. 1578 AND WILLIAM ALTER'S VERDICT

Nearly every Senator supports S. 1578, Senator Thurmond's bill to eliminate the money damage remedy in antitrust cases filed against local governments and their taxpayers.

But the bill is being held hostage by a lobbying effort launched by William Alter, a Chicago real estate speculator and developer.

Alter's team of lobbyists is demanding that a $28.5 million verdict he won against two local governments and three of their officials be "blessed" in an amendment to S. 1578.

The Senate is no place t review Alter's verdict. Post-trial motions challenging it are pending in federal court, but Alter's lawyers have repeatedly delayed a ruling on those motions while his lobbyists work the Senate.

The verdict was based on Alter's claim that local officials violated the antitrust laws when they allegedly refused to allow him to use a sewer for a proposed "mega-development" two miles out in a cornfield. The officials said the sewer was already committed for many smaller, close-in developments planned in accordance with local land use plans.

The sewer he wanted to use was built and paid for by Grayslake to serve its future development. Alter's land was in Round Lake Park. That village also had a large sewer that Alter could have used, but that sewer would have been more expensive to use.

There was not enough capacity in the Grayslake sewer to serve both that village's planned developments and Alter's proposed mega-development. There was absolutely no allegation of improper bias or influence—just a governmental decision that had to be made and was made against Mr. Alter and in favor of the citizens who had paid for the Grayslake sewer.

The trial judge instructed the jury that "it is no defense that the [denial of sewer] serves other social values."

This instruction gave the jury a license to second-guess the local officials elected to make land use and sewer policies—and then told the jury it had to ignore the social values the elected officials were duty-sworn to protect.

This verdict deserves no special protection from the United States Senate.

S. 1578 should be passed as it was last reported from the Senate Judiciary Committee—as it was before Mr. Alter's lobbyists tried to use the Senate as a way around the judicial process.

Amending S. 1578 in the name of "jury verdict sanctity" is, in reality, legislating the law of the land to protect the private interests of a single developer, William Alter—The Elected Official of Lake County and Grayslake, IL.●

Mr. HATFIELD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon is recognized.

Mr. HATFIELD. Mr. President, I would like to make a motion either to table the amendment or to get it to a vote.

Mr. RUDMAN and Mr. THURMOND addressed the Chair.

Mr. HATFIELD. I do not want to yield the floor.

Mr. RUDMAN. Will the chairman yield for a moment?

Mr. HATFIELD. Without losing my right to the floor, I yield for a question.

Mr. RUDMAN. I would like to ask a question. I intend to speak for 1 minute and ask for the yeas and nays on a rollcall vote. I believe the distinguished President pro tempore would like to say something about this himself.

Mr. HATFIELD. Mr. President, I ask unanimous consent at this time that the chairman of the Judiciary Committee be allowed 5 minutes, and the mover of the motion 1 minute. Anybody else want to be heard?

Mr. METZENBAUM. Mr. President, I would like 5 minutes.

Mr. HATFIELD. The Senator from Ohio, 5 minutes and we go to a vote.

The PRESIDING OFFICER. Is there objection?

Mr. HOLLINGS. I might have to respond. Just 2, 3 minutes.

Mr. HATFIELD. Three minutes for the Senator from South Carolina.

Mr. DIXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DIXON. I had not planned to enter this argument, but, depending upon what might be said by others, it may be necessary for me to respond.

Mr. HATFIELD. Mr. President, I ask another 5 minutes be allocated to the Senator from Illinois.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The Senator from South Carolina is recognized.

Mr. THURMOND. Mr. President, our distinguished colleague, Senator HOLLINGS, has said that he considers the FTC suits against Minneapolis and New Orleans, I believe, "a violation of the system of federalism that has worked so well for nearly 200 years." While I take no position on the merits of the FTC's action, I disagree with Senator HOLLINGS' conclusion. I further believe that the law governing this matter supports our position.

Senator HOLLINGS and others have argued that the Federal Government should not be challenging the manner in which cities regulate taxicabs or any other area of commerce. However, the law on this matter is very clear. The ability of the Federal Government, or anyone else for that matter, to sue cities for antitrust violations, is controlled solely by the States. Two Supreme Court cases give the States, and the States only, the right to control whether local governments are subject to Federal antitrust suits: *City of Lafayette* v. *Louisiana Power and Light Co.*, 435 U.S. 389 (1979) and *Community Communications Co., Inc.* v. *City of Boulder*, 455 U.S. 40 (1982). Under these cases, any State has the power to immunize the actions of its local governments from antitrust suits. In fact, it is my understanding that both houses of the Louisiana Legislature have now passed legislation that would serve to immunize the method of taxicab regulation by New Orleans and thus nullify the FTC suit. I would also note that other States are considering such immunizing legislation regarding various activities by local governments and, in fact, both Maryland and North Dakota have already enacted immunizing statutes.

The point I seek to make is that under current law, the Federal Government must bow to the wishes of each State in bringing antitrust suits against local governments. The Federal Government cannot sue a local government if its State has made the decision to immunize any particular conduct by local governments from prosecution under the Federal antitrust laws.

I want to say this, Mr. President, with regard to federalism. Yes, I believe strongly in federalism. I believe in States' rights, if you want to call it that. It is synonymous with federalism. It is a part of the Constitution. There are only two levels of government mentioned in the Constitution, and that is the Federal Government and the State government. Now, under the proposition offered by the able Senator from New Hampshire, it would be left to the States if they want to immunize any city or all the cities from antitrust suits. The Federal Government would have no jurisdiction. But until that is done, the FTC, if they find that some city has a monopoly, they find there is corruption, how else are they going to correct it? Somebody has to help the public. Somebody has to help consumers. Somebody has to help the people riding in taxicabs and doing other things. Therefore, we feel it should be left to the States. That is what we are trying to do. Let the States decide whether they want to immunize every city in their State or those that deserve to be immunized and whatnot and not have the Federal Government control it.

Now, Mr. President, it is just about that simple. The administration backs our position 100 percent. As has been brought out here, the National Association of Towns & Townships and the National Association of Counties, the counties all over this Nation, back this position. That is what the counties want. A few cities, of course, do not want this. Some other cities do not object to it. But we feel the public has to be protected and the way to do it is to leave it to the States.

Now, this Senate has already voted on this matter on June 28, 1984. It voted 63 to 36 on this identical question. Here is the RECORD. So if Senators vote like they did before, the RECORD is here, you can come and see how you voted, and that is in my judgment the proper way to vote. I hope the Senate will confirm the motion by the distinguished Senator from New Hampshire.

Mr. RUDMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

Mr. RUDMAN. I think, for purposes of history, that the statement of the Senator from South Carolina ought to be illuminated just a bit. Mr. President, I went to that conference as the acting chairman of the subcommittee with a 63 to 36 vote of the Senate in favor of a certain position. Now, I always thought that when you had that kind of a vote, the committee members, like good soldiers, got in line and backed the position of the Senate. That is not what happened here. What happened here was that 6 to 5 they voted against that position, and the House had no choice. The House would have been delighted to recede to our position. And the Senator from South Carolina remembers that very clearly on that FTC issue. It was the Senate that voted 6 to 5.

Second, let me simply end up by saying that I think it is a very serious precedent when we start saying that because a couple of taxicab companies and a couple municipalities were sued by the FTC, the Congress ex post facto strips them of jurisdiction.

The PRESIDING OFFICER. The Senator has used his time.

Mr. RUDMAN. I think that is the problem.

The PRESIDING OFFICER. Who yields time?

Mr. METZENBAUM. Mr. President, it is not often that I get a chance to stand up and support the administration and support the distinguished senior Senator from South Carolina and the Senator from New Hampshire.

I want to put this issue in proper perspective. It is easy to talk about egregious cases and about that terrible Federal Government, and the FTC. We are part of the Federal Government, and yet we always seem to enjoy running against that Federal Government.

The fact is that on this particular issue there probably have been more hours spent negotiating a solution of the municipalities' problem than almost any other issue of similar bearing. Senator THURMOND has spent much time on it, Senator RUDMAN has, I have, hundreds of lobbyists have, and we have come up with a solution that will help the cities. It will make them liable only for an injunction against them and will eliminate the damage actions. That is a solution that was agreed upon and is tremendously important to the cities.

Part of that understanding was that the repealer with respect to the FTC jurisdiction would also be adopted. When the distinguished junior Senator from South Carolina learned about this negotiated agreement we had made for the cities, he saw fit to adopt it, minus the FTC repealer, as his own. But it is Senator THURMOND's amendment and Senator RUDMAN's amendment and it is my amendment, and it is a way of solving the problems of the cities.

You may be successful in keeping the FTC repeal of jurisdiction in if we defeat Senator RUDMAN's amendment. But if you do that, you then have to face the whole issue of whether or not the protection for the cities will or will not become operable, whether we will keep that in the bill, whether it will not be amended in different ways, whether or not it is subject to a point of order, and whether Representative RODINO will accept it.

We hope a simple solution. If the amendment of Senator RODMAN is passed, the cities are going to have full protection against suits brought against them for damages. If Senator HOLLINGS is successful in defeating Senator RUDMAN's amendment, then this debate will continue for some time in connection with the second phase.

I strongly urge upon my colleagues that they recognize the fact that most of us have attempted to do that which is right for the cities of this country and give them protection against antitrust suits involving millions, and in some cases hundreds of millions, of dollars.

If we adopt the Rudman amendment, there will be no further problem for the cities in that respect. If we do not adopt the Rudman amendment, then all the protection that would otherwise be accorded the cities is in real jeopardy.

I strongly urge that we get about our business, and adopt the Rudman amendment.

The FTC jurisdiction that Senator HOLLINGS talks about is certainly not a major matter. It is a matter of principle to many of us, but it is not a major matter or a threat to the cities of this country.

I think that if we are going to protect the cities, we should adopt the Rudman amendment, as supported by the distinguished senior Senator from South Carolina and me, and then we will have adequate protection for the cities. Without that, I am not sure that we will.

Mr. President, I reserve the remainder of my time.

Mr. DIXON addressed the Chair.

The PRESIDING OFFICER. How much time was the Senator yielded?

Mr. DIXON. I think I was allowed 10 minutes.

Mr. President, frankly, my grave concern is not so much with the amendment offered by the Senator from New Hampshire as it is with the nature of this bill as presented to us right now.

I want to join in supporting the statement made by the junior Senator from South Carolina, that the best bill was the bill that passed the House of Representatives. That bill simply prevented any lawsuits for money damages under existing law against municipalities. I think the adoption of this amendment would make what we have done in the Senate a little worse.

I have before me the language that has been adopted by the committee in the Senate. This does prevent monetary damages against cities in the future, but it does continue the outstanding judgment against the Grays Lake and Lake County in my State of Illinois.

I have a letter here that I am going to ask unanimous consent to have printed in the RECORD. It is a letter to the Senate conferees signed by my senior colleague, Senator PERCY, and myself.

I point out what happens in these kinds of cases. Grays Lake and Lake County in Illinois are defendants in a pending case and could potentially face a damage award of $28.5 million if Congress does not act to protect them. This amount represents 6,000 percent of the property taxes collected in Grays Lake and 150 percent of the property taxes collected in all of Lake County last year. Unless these local governments discontinue all services to their constituents, payments would take between 35 and 70 years.

The language worked out in the committee protects that verdict to some extent. I refer to this sentence in particular:

In consideration of this subsection, existence of a jury verdict shall be deemed to be prima facie evidence that this subsection shall not apply.

That is particularly onerous so far as this piece of legislation is concerned.

So I support the junior Senator from South Carolina and his position, that, compared to the House, we do not have a very good bill, anyway. I hope that the conference between the two Houses substantially modifies the language we are going to adopt here, at least by striking lines 8, 9, and 10 on page 2.

I think that to further adopt the language which in effect repeals section 510 of Public Law 98-411, just recently adopted, would be a mistake and would further weaken this legislation.

In conclusion, if you are interested in protecting home rule, if you are interested in protecting the municipalities, if you are interested in going back home and being able to say to the folks in the communities you represent that you did the best thing you could tonight to prevent very onerous and very unpleasant things from happening to them in the future, and if you want to protect them from those things, I do not think you want to make what I consider to be a relatively bad bill worse.

This bill already needs help when it gets to conference. This bill already has a broken leg; and if you want to break the other one and make it tough for the House to get a decent bill for the communities of America, go ahead and adopt this amendment.

I know that the Senate voted once by about 60 to 30, but the Senate did not know all the facts about how this is impacting upon communities. If you have communities in trouble back home with losses pending right now, I do not think they are going to be happy about this result, if the Senate position prevails in the conference. Because I hope that the House position will prevail in conference, I ask that the Senate reject this amendment, in the hope that what we have left can be further moderated.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. DIXON. Mr. President, I ask unanimous consent to have printed in the RECORD a letter, signed by my senior colleague and myself, which we intend to send to the Senate conferees on the continuing resolution.

There being no objection, the letter was ordered to be printed in the RECORD as follows:

U.S. SENATE,
Washington, DC, October 1984.

DEAR SENATE CONFEREE: As you know, the Senate version of H.J. Res. 648 incorporates the provisions of S. 1578, the Local Government Antitrust Act of 1984.

We support prompt enactment of most of these provisions. Local government officials are hampered daily by the threat of antitrust liability cases. Action to clarify their immunity from suits for money damages must be taken before Congress adjourns. However, we do not support the provision that undermines protection for cities already defending such suits.

Before two recent Supreme Court cases, it was widely accepted that municipalities were immune from money damage suits under the antitrust laws. If the provisions of S. 1578 are included in the conference version of the Continuing Resolution, that protection will be restored.

Unless that protection is also applied to pending cases, however, a few cities could be severely hurt. It is neither fair nor logical to allow suits filed within a narrow window to go forward when Congress is merely restoring the law to the way it was before the Court acted. It cannot make sense to say that cities were immune from money damage suits after enactment of this bill, while leaving them vulnerable to suits filed between those dates.

Grays Lake and Lake County in Illinois are defendants in a pending case and could potentially face a damage award of $28.5 million if Congress does not act to protect them. This amount represents 6,000% of the property taxes collected in Grays Lake and 150% of the property taxes collected in all of Lake County last year. Unless these local governments discontinue all services to their constituents, payment would take between 35 and 70 years.

Because of the urgent need to quickly enact the Continuing Resolution, it was not possible to resolve this matter on the Senate floor. The House version of H.J. Res. 648, though, does not contain the language that could be so devastating to Grays Lake and Lake County, so the conference has the ability to resolve the matter in a more equitable manner.

We hope the conference report on the Continuing Resolution contains provisions clarifying antitrust immunity for local governments, and we strongly urge you to do everything you can to see that Grays Lake, Lake County, and other cities against whom suits are pending, are treated in exactly the same fashion as every other community in the nation.

Thank you in advance for your consideration of our request.

Sincerely,

ALAN J. DIXON,
CHARLES H. PERCY.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. HOLLINGS. Mr. President, if Senators will refer to the letter of the countries, which is addressed to Senator THURMOND, it says:

It is our understanding that you plan to move consideration of H.R. 6027, as amended by S. 1578, following the consideration of amendment No. 34.

That is procedural letter. No doubt the call was made to the countries, and they said, "We are going to handle this thing." That is what the countries wrote, and they said, "We agree with the procedure."

The answer to my distinguished colleague is that somebody has to help people riding the taxis. We have the Capitol power here, but if you go to the Federal Trade Commission, they are getting lights by monopoly from Potomac Electric.

Is the Federal Trade Commission going to sue Potomac Electric for an egregious interference with market forces because they have a monopoly for electric power over an Constitution Avenue and cut their own lights off?

This is total nonsence. To immunize—do you think you go to the Capitol physician and get a shot in the arm?

Read the Boulder decision. It was contemplated when the States granted home rule to the cities of America that did immunize, but the Court found otherwise, particularly. the strong dissenting opinion by the Chief Justice, Justice Rehnquist, Justice O'Connor, and others.

The Sherman Act certainly did not constitute the Federal courts of America to be a super legislature over the cities and counties of America. If that is the way it is going to do, you are going to have the Federal Trade Commission, the appeals, and come up to the Federal court system, and all of a sudden every ordinance, every zoning law, everything done to control or regulate the economy within a town, that is going to be subject to a judicial proceeding instituted by the national nanny accountable to no one.

If you do not like the taxes or want someone to help get a new mayor, get a new city council.

I think we have been too long with these 6-year terms. These 6-year terms are too long for these Senators around here. They have forgotten the towns they live in. Those towns are balanc-

ing their budgets. They are doing a good job in America.

We have not done anything around here but run up $200 billion deficits, with a weakened defense. We cannot even pick a weapons system. We have been through that. We cannot do anything, and all of a sudden we want the Federal Trade Commission which has never had this and to give it authority and Congress decided in July and in August and signed by the President not to give it that authority.

I yield the floor.

Mr. RUDMAN. Mr. President, the Senator from Ohio has 40 seconds remaining.

Mr. METZENBAUM. Mr. President, I yield 40 seconds to the Senator from New Hampshire.

Mr. RUDMAN. Mr. President, I am going to not take the 40 seconds. I have one thought to make.

My good friend from Illinois speaks of a bill, a very bad bill from his point of view. What he is talking about there is a $28 million judgment after a long trial in the State of Illinois against a town and county. That is on appeal.

But what the Senator from Illinois would like, and if I were from Illinois I can assure my friend I would want it, is retroactivity to wipe out a jury verdict.

How do you like that? The United States Senate wiping out a jury verdict.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Illinois.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. STEVENS. I announce that the Senator from North Carolina, [Mr. EAST], and the Senator from Illinois, [Mr. PERCY] are necessarily absent.

The PRESIDING OFFICER (Mr. GORTON). Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 56, nays 42, as follows:

[Rollcall Vote No. 276 Leg.]

YEAS—56

Armstrong	Domenici	Kennedy
Baker	Durenberger	Lautenberg
Baucus	Eagleton	Laxalt
Biden	Evans	Leahy
Bingaman	Glenn	Lugar
Boschwitz	Gorton	Mattingly
Bradley	Grassley	Metzenbaum
Chafee	Hatch	Mitchell
Cochran	Hawkins	Moynihan
Cohen	Hecht	Murkowski
Cranston	Heinz	Nunn
D'Amato	Helms	Packwood
Danforth	Humphrey	Pressler
Denton	Kassebaum	Proxmire
Dole	Kasten	Quayle
Riegle	Stafford	Trible
Rudman	Stevens	Wallop
Simpson	Thurmond	Warner
Specter	Tower	

NAYS—42

Abdnor	Goldwater	Melcher
Andrews	Hart	Nickles
Bentsen	Hatfield	Pell
Boren	Heflin	Pryor
Bumpers	Hollings	Randolph
Burdick	Huddleston	Roth
Byrd	Inouye	Sarbanes
Chiles	Jepsen	Sasser
DeConcini	Johnston	Stennis
Dixon	Levin	Symms
Dodd	Long	Tsongas
Exon	Mathias	Weicker
Ford	Matsunaga	Wilson
Garn	McClure	Zorinsky

NOT VOTING—2

East Percy

So Mr. RUDMAN's amendment (No. 7020) was agreed to.

Mr. RUDMAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATFIELD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. HATFIELD. Mr. President, I would like to apprise the Senate of our progress. We temporarily laid aside committee amendment No. 32 because of the question arising under the aircraft noise regulation.

At this time, I would like to propound a unanimous-consent agreement that this issue be taken up next because we automatically come back to the amendment which we temporarily laid aside; and, for a time agreement of 20 minutes to each side for the Senator from Florida and the Senator from Oregon to consider that amendment.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. HATFIELD. Mr. President, I withdraw my unanimous-consent request.

I would like to indicate that we have the following amendments that will take some time. We have aid to Turkey, the synfuels rescission, the water projects authorization, and we have the crime bill.

Mr. JOHNSTON. Mr. President, will the Senator yield?

Mr. HATFIELD. I yield.

Mr. JOHNSTON. Mr. President, did we not finish all of the debate on the synfuels bill on Tuesday?

Mr. HATFIELD. We finished the debate. But the point is that this is still an issue that has to be resolved tonight as well.

Mr. JOHNSTON. Can we go right to it?

Mr. HATFIELD. I yield to the majority leader.

COMMITTEE AMENDMENT NO. 32

Mr. BAKER. Mr. President, will the Senator yield to me for a moment?

Can I inquire of the manager of the bill? Do I understand that he is propounding a unanimous-consent request that there be 20 minutes for debate on the committee amendment dealing with airports?

Mr. HATFIELD. That portion of the committee amendment dealing with airports.

Mr. BAKER. Can the manager identify that for me because I would like to try to propound another unanimous-consent request.

Mr. HATFIELD. It is section 124 of the bill, which has to do with airport regulation, which is a portion or a part of committee amendment No. 32.

Mr. BAKER. Is that the portion, may I inquire of the Chair, that would be pending at this point absent a unanimous-consent request to go to some other matter?

The PRESIDING OFFICER. At the present time, amendment No. 34 is pending.

Mr. HATFIELD. If the Senator will yield, we temporarily laid aside committee amendment No. 32 in order to go to committee amendment No. 34.

The PRESIDING OFFICER. Committee amendment No. 34 has not been disposed of.

Mr. BAKER. Committee amendment No. 32 was passed over temporarily in order to reach committee amendment No. 34, which has not been disposed of. Is that correct?

The PRESIDING OFFICER. The majority leader is correct.

Mr. BAKER. Mr. President, let me try to propound a unanimous-consent request in respect to committee amendment No. 32.

I ask unanimous consent, notwithstanding the fact that committee amendment No. 34 has not been disposed of, that the Senate turn to the consideration of committee amendment No. 32.

Further, I ask unanimous consent in respect to section 124 of the committee amendment No. 32, which deals with airports, that no amendment to that section be in order; that no motion in respect to that amendment be in order; that no motion to reconsider after the vote will be debatable; that no point of order will be—if the same is submitted to the Senate—debatable, with the exception of the amendment of the distinguished Senator from Oregon which has been offered, and which would be pending, and which is a motion to strike, which also would not be amendable.

Mr. CHILES. Mr. President, reserving the right to object, I think the unanimous-consent agreement is that nothing other than this subject

matter be in order. But the distinguished Senator from Oregon has an amendment which is amendable. I intend to offer a substitute to that. I am willing to do it within time limits.

Mr. BAKER. Mr. President, I further ask unanimous consent that no amendment will be in order except an amendment dealing with this subject matter.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BAKER. Mr. President, has there been an order entered for a time limitation?

The PRESIDING OFFICER. There has been no time agreement as to time limitation entered into.

Mr. BAKER. Mr. President, I ask unanimous consent that there be a time limitation of 20 minutes of debate on each side for debate on this amendment, or any amendments to this amendment, as they may be allowed by this unanimous-consent agreement; and that the control be allocated in the usual form.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. Mr. President, I have no objection due to the fact that the distinguished majority leader has provided the technical limitations which I wanted to see included.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. I thank the minority leader. I thank all Senators.

The PRESIDING OFFICER. Who yields time?

Mr. BAKER. Mr. President, will the Chair now state the pending question?

The PRESIDING OFFICER. The question is the amendment offered by the Senator from Oregon, Mr. PACKWOOD.

Mr. BAKER. Mr. President, the control of time is in the usual form, and I yield the time on this side to the author of the amendment to strike, the Senator from Oregon, Mr. PACKWOOD.

Mr. JOHNSTON. Mr. President, I yield on this side to the distinguished Senator from Florida.

Mr. CHILES addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida.

AMENDMENT NO. 7021

Mr. CHILES. Mr. President, on behalf of myself and Senator HAWKINS, I send an amendment to the desk in lieu of the amendment proposed by the Senator from Oregon and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Florida [Mr. CHILES], for himself and Mrs. HAWKINS, proposes an amendment numbered 7021.

Mr. CHILES. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In lieu of the language proposed to be stricken, insert the following:

SEC. 124. Notwithstanding any other provision of this Joint Resolution, the Secretary of the Department of Transportation shall grant an exemption from the January 1, 1985 deadline for compliance with the provisions of Public Law 96-193, if an applicant for such exemption submits to the Secretary prior to January 1, 1985 an application for exemption which complies with the provisions of subsections (b) or (c) of this section.

(b) The Secretary shall specify the form and manner in which any application shall be made. Any such application from a person operating aircraft for which equipment to assure complianice with the provisions of Public Law 96-193 ("hush kits") is currently under development shall include a copy of a contract entered into by the applicant and a known supplier of equipment which would bring the applicant into compliance with the provisions of Public Law 96-193.

(c) Applicants currently operating equipment obtained prior to January 1, 1980 for which no such compliance equipment is currently under development shall accompany their application with a sworn commitment to enter into a contract not later than June 1, 1985 for aircraft which will comply with the provisions of Public Law 96-193.

(d) Nothing in this section shall be construed to limit the power of the Secretary to deny any application or revoke any exemption granted under this section if, after examining any contract submitted under Subsection (b) or (c) of this section, the Secretary determines that the applicant or holder of such exemption will not be able to comply with the requirements of Public Law 96-193 within the timeframe set forth in such exemption.

(e) Any exemption granted under this section shall expire not later than December 31, 1985 except that, if the Secretary determines that equipment to insure compliance with the provisions of Public Law 96-193 which has been certified by the Department for that purpose will not be available to the holder of the exemption by that date, the Secretary may extend such exemption for such period as the Secretary determines is necessary to insure compliance with such provisions.

(f) No person receiving an exemption under the provisions of this section may increase either the frequency of operations into the place for which the exemption was granted, or increase the number of non-compliant aircraft operated at the place for which the exemption was granted beyond that existing in the 12 months prior to the granting of the exemption.

(g) The provisions of this section shall be applicable to persons submitting applications for international operations at Miami International Airport, Florida, and Bangor, Maine.

Mr. CHILES. What we are attempting to do with this, Mr. President, is to submit a weak version of the amendment we had adopted in the Appropriations Committee. This weaker version is the last sort of version we could come up with in collaboration, and I will say that nobody ever agreed to this—only the staff who were passing it back and forth. This was the version proposed that way.

Mr. President, I yield myself 1 minute.

Under this, applications must be submitted prior to January 1, 1985, and exemptions will be granted to aircraft that can use the hush kit, those contracts having to be signed and submitted with the application on or before January 1, 1985.

So we are really talking about a 3-month extension. That extension will expire on December 31, 1985, and the aircraft must be in compliance by that date.

Mr. President, that is assuming they do their contract, they put the hush kit on.

The total exemption expires by December 31, 1985. The Secretary can extend that at her discretion, if the necessary equipment is not available.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. CHILES. I yield myself 1 additional minute.

For aircraft that cannot use hush kits, if they were purchased prior to January 1, 1980, exemption can be provided. If you got your aircraft after January 1, 1980, you are grounded; you cannot use it; you cannot fly it; it is gone. But if you got it before they knew the deadline from the 1979 Noise Act, then a contract has to be signed by June 1, 1985, and the applicant must submit to do so in a sworn application submitted by January 1, 1985.

Again, you have 3 months to enter into a statement that you are going to make this contract and you must do it by January 1, 1985.

We are extending this at most, for aircraft, 9 months. There is no increase in the frequency or the number of noncompliant aircraft that can use the airports and this can only apply to Miami and Bangor.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mrs. HAWKINS addressed the Chair.

The PRESIDING OFFICER. Who yields time under the time agreement?

Mr. CHILES. Mr. President, I yield 5 minutes to Senator Hawkins.

Mrs. HAWKINS. Mr. President, I rise in support of the compromise language.

There are three issues involved here—equity and fairness, the impact on Miami, and the impact on our small but wonderful friends and allies in the Caribbean and Latin America.

I am sorry to have to say that the equity issue has been turned upside down. There is a great deal of confusion on this, largely generated by major domestic airlines.

At this hour I dislike to do history 101—but here goes—I would, therefore, like to give the Senate a bit of a history lesson—on the question of exemptions from the Aviation Safety and Noise Abatement Act.

The conference report on that act—Public Law 96-193—passed in 1979, provided three groups of mandatory exemptions for a major domestic airlines, as well as the discretionary authority which is the subject of the present controversy. However, very few Senators seem to be aware of these exemptions.

The statement of the managers on the appropriate sections of the conference report was as follows:

EXEMPTIONS WITH CONDITIONS

The Conference substitute provides an exemption from applicable noise standards for the operation of any noncomplying three-engine aircraft (but not beyond January 1, 1985) if (1) the operator of such aircraft has a plan for the replacement of such aircraft which has been approved by the Secretary, and (2) the operator of such aircraft has entered into a binding contract by January 1, 1983, for delivery prior to January 1, 1985, of a replacement aircraft which meets stage 3 noise standards.

The conference substitute also provides an exemption from applicable noise standards for the operation of any noncomplying two-engine aircraft (but not beyond January 1, 1986) if (1) the operator of such aircraft has a plan for the replacement of such aircraft which has been approved by the Secretary, and (2) the operator of such aircraft has entered into a binding contract by January 1, 1983, for delivery prior to January 1, 1986, of a replacement aircraft which meets stage 3 noise standards.

The conference report also provided exemptions without any conditons, and I quote:

An exemption is also provided from applicable noise standards for the operation of a noncomplying two-engine aircraft. This exemption terminates at the earlies of the following (1) on sale or other disposition of the aircraft on or after January 1, 1983 (2) on January 1, 1988, in the case of an aircraft with a seating configuration of 100 passenger seats or less, or (3) on January 1, 1985, in the case of an aircraft with a seating configuration of more than 100 passenger seats.

The general counsel of the Department of Transportation at the time the act was passed, Thomas G. Allison, discussed the reasons for these exemptions in a November 4, 1980, memorandum to then-Secretary Goldschmidt, from which I quote:

Sections 303 and 304 were included in response to industry concerns (particularly applicable to two- and three-engine aircraft) about the alleged economic hardship of complying with the nose rule, and their phased schedule for compliance.

Let me emphasize—industry concerns about economic hardship of complying.

I have not had the oppportunity to research information on the numbers of aircraft of the major airlines given exemptions under the first two mandatory exemptions, or under the first two dates of the third, most generous exemption, which does not require specific steps toward compliance as a condition of the exemption.

However, I don't know that the major airlines, members of ATA, who are now fighting the Miami exemptions so strongly, and who are calling on each of you in the name of fairness, received unconditional exemptions for 400 airplanes through 1988.

So I ask those Senators who have been approached by Republic Airlines on this matter—did you know that they had 95 airplanes exempted from the Noise Act? Did those of you approached by United know they had 49 airplanes exempted? Did those of you approached by Eastern—as I was by the pilot on my flight back to Washington Monday—know that Eastern had 58 airplanes exempted? The pilot told me that Eastern did not mention this to him and the other employees they asked to contact me; and I strongly suspect the airline representatives who contacted the Members of this body did not mention the exemptions.

The Eastern pilot told me he only wanted what was fair. I hope the Senate will reach the same conclusion.

Just so everyone is aware of these exemptions, I will list those given to the major airlines: Republic—95 planes; Eastern—58 planes; United—49 planes; Ozark—39 planes; U.S. Air—37 planes; Frontier—21 planes; Continential—19 planes; Midway—17 planes; Western—14 planes; Piedmont—9 planes; New York Air—7 planes. Total—400 planes.

In addition, numbers of smaller operators received a total of 63 additional exemptions under this section, making 463 in all.

I again remind the Senate that these are the unconditional, mandatory exemptions provided through 1988 out of concerns over the economic impacts on the major carriers over more prompt compliance.

Now let us look at the conditions imposed on the major domestic carriers for more exemptions, versus those we are proposing at Miami.

The domestic exemptions were required if these conditions were met: First, an approved plan for replacing the aircraft; second, a signed contract for replacement equipment—to be signed within 3 years of passage of the legislation; and three, delivery of the replacement equipment within 5 or 6 years of passage of the legislation, depending upon the exemption.

By contrast, the present committee language requires the Miami carriers to have a signed contract within 3 months of FAA certification of 2 competing suppliers for hush kits for their aircraft, or within 1 year of passage if the carrier has to get new aircraft. The replacement equipment has to be delivered within 2 years of passage of the legislation. And we require them to post a bond of up to $100,000 per airplane that they will meet these deadlines.

Let us also remember that over half the planes in question at Miami are simply awaiting these hush kits. These are items of equipment that have not yet been certified by the FAA. No one could install one now if they wanted to. Only one model has even been flight tested, and for the rest no one knows if they will work to reduce the noise, or what the impact will be on fuel efficiency, loss of cargo capacity, and take-off and landing restrictions. We are literally forcing these small airlines to buy something unknown. It does not now exist on the market.

And who are these applicants? Many are small, friendly countries in the Caribbean and Latin America—our allies. We provide many with economic assistance. We are trying to promote their economic development. We provided additional assistance to many through the Caribbean Basin Initiative legislation just last year. And now we are here tonite considering whether to take away their airlines and shut down their airports.

So, Mr. President, I have an answer to those who claim what we are proposing is not fair. I strongly agree that it is not fair—to those who are seeking the exemptions. We are imposing conditions on them far stricter than those imposed on our domestic airlines.

Let me say right here that I am not unfamiliar with the airline industry. In fact, at the risk of appearing immodest, I would suggest that I am as familiar with the industry as anyone in this Chamber. Prior to coming to the Senate, I worked for airlines, and I regulated airlines. It seems clear to me that there are two reasons why the airlines are opposing our proposal, and both are extremely selfish. First, they hope to be able to pick up the business if these foreign carriers are forced out of operation, or second, they hope to be able to force them to buy their older compliant airplanes, although where they expect them to come up with the money to pay for the planes is beyond my understanding.

Now this attitude is perfectly understandable for an employee of the airline. But I suggest that it is a terrible basis for action by the Senate. Let me hasten to add, lest there be some misunderstanding, that I am here referring to the reasons for the contracts made to various Senators by the airlines. I am in no way suggesting that any Senator is responding to these motivations. I did, however, feel it important that everyone understand the reasons for, and some background history about, the concerns so urgently being expressed by the airlines.

The implications of striking the committee language are far-reaching. I

have been personally contacted by Mrs. Eugenia Charles, Prime Minister of Dominica, about the adverse impact denial of exemptions would have on her country. She is a great friend of the United States having called the President's attention to the presence of Cubans and the danger of U.S. medical students in Grenada. All they are seeking to do is continue to have their fish exported, and cargo received. Yet all their cargo service, including the fish, is via Caribbean cargo airline, the national airline of Barbados. It also provides exclusive service to the small country of Trinidad and Tobago. Its application for an extension to await the availability of hush kits for its two airplanes—their entire fleet—has been denied.

Air Haiti has one plane. It provides the only freighter service to Haiti. It must replace its plane. Its application for an extension has been denied. Where does anyone expect Haiti to get money for a new multimillion airplane?

Twenty-four friendly neighbors—cities and countries—will lose all freight service from Miami, which essentially means the United States, if the committee language is not adopted. These are:

The Island of Antigua, the Island of Barbados, the Island of Dominica, the Island of Trinidad, the Island of Guadeloupe, Guatemala, Haiti, the Dominican Republic, Surinam, Panama City, Panama, and San Jose, Costa Rica.

Guayaquil, Ecuador; Quito, Ecuador; Kingston, Jamaica; Bucaramanga, Colombia; Cartagena, Colombia; Medellin, Colombia; San Andres, Colombia; Iquitos, Peru; Lima, Peru; Talara, Peru; and Santiago, Chile.

Ambassador William Brock has written in support of the committee language, stating that a failure to provide for exemptions would undercut the Caribbean Basin Initiative. I have also received a letter from the Ambassadors of Haiti, the Dominican Republic, Barbados, and Trinidad and Tobago, expressing their strong concerns about the situation, and the impact the lack of exemptions will have on their countries.

Mr. President, I would like to enter into the RECORD the letter from Ambassador Brock in support of the extensions of time for these countries. I ask unanimous consent that that letter be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE U.S. TRADE REPRESENTATIVE,
Washington, DC, September 28, 1984.

Hon. MARK O. HATFIELD,
Chairman, Committee on Appropriations, U.S. Senate, Washington, DC.

DEAR MARK: I am writing to express my support for the proposal of Senators Hawkins and Chiles of Florida contained in Section 124 of H.J. Res. 648 concerning the granting of exemptions from the FAA's aircraft noise abatement regulations that go into effect on January 1, 1985.

What prompts my concern and support for the Hawkins-Chiles initiative is the impact of the noise regulations on air carriers serving the Caribbean Basin. Many of the countries that are beneficiaries of the Caribbean Basin Initiative (CBI) ship a significant portion of their exports to the United States by air via Miami. If the noise regulations prohibit entry of the air carriers serving the Caribbean Basin, our efforts under the CBI will be undercut. As a result, I think an approach that both promotes compliance yet permits continued service to the Caribbean Basin, such as that proposed by Senator Hawkins, is necessary to minimize the conflict between these two important policy goals.

Very truly yours,

WILLIAM E. BROCK.

Mrs. HAWKINS. Mr. President, I ask unanimous consent that the letter from the Ambassadors of four countries—Barbados, Haiti, Dominican Republic, and Trinidad and Tobago—express their strong concerns about the situation and the effect it will have on their country be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

SEPTEMBER 12, 1984.

Hon. PAULA HAWKINS,
U.S. Senate,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR HAWKINS: As Ambassadors of Caribbean nations that will be adversely affected by the January 1, 1985 implementation of Federal Aviation Noise Regulation FAR 91.303, we are greatly concerned with this issue.

We have learned with much interest that you have taken a very active role in aiding the effort of Miami International Airport to secure a three year exemption to this regulation, until January 1, 1988.

We would like you to know of our appreciation for your substantial and constructive involvement in this most important matter.

This past July, we sent letters expressing our concern to Secretary of State Shultz, Secretary of Transportation Dole, U.S. Trade Representative Brock and FAA Administrator Engen.

Since that time we have been notified that petitions for exemptions from Air Haiti, Aero Mar Airlines and Caribbean Air Cargo have been rejected.

We have expressed to the above officials our present difficulties in complying with the noise regulations by the deadline of 1st January, 1985, but nevertheless, it is our countries' firm intention to comply as soon as possible. A three year exemption would greatly assist our efforts in that regard; and at the same time, it would give us a chance to reap the benefits of the Caribbean Basin Economic Recovery Act, and to strengthen our economics.

Once again, we thank you for your interest and your efforts.

Yours sincerely,

PETER D. LAURIE,
Ambassador of Barbados.
FRITZ N. CINEAS,
Ambassador of Haiti.
CARLOS DESPRADEL,
Ambassador of Dominican Republic.
JAMES O'NEIL-LEWIS,
Ambassador of Trinidad and Tobago.

Mrs. HAWKINS. Senators should also be aware that international trade, and particularly trade with the Caribbean and Latin America, is becoming the lifeblood of the Miami area. Miami International Airport accounts for 25 percent of the gross product of Dade County. It is the second largest cargo airport in the country, and growing rapidly. We are rapidly developing an infrastructure of international banks, freight forwarders, exporters and importers, and all of the related businesses that accompany the existence of a major trade center.

All of this is dependent upon the continuation of ready access for the major and minor carriers serving these countries with whom we are doing business. This cannot be a one-sided arrangement, supplied by American flag carriers only. These countries need the access and the currency their own airlines provide if they are to continue to develop their trade with us.

A total of $1.2 billion in international cargo, fully 25 percent of the total cargo moving through the airport, is carried on noncompliant aircraft. There are over 6,000 jobs which would be threatened if these noncompliant carriers were suddenly denied access to the airport—not only exporters, but mechanics and service personnel, bookkeepers, and so forth. Miami Airport is the major repair and maintenance depot for the entire region, and this business would be lost along with the trade if the exemptions are not granted.

This issue may not be a major one for most Senators, but it is to Florida. Not only Senator CHILES and I, but also the Miami area Members of the House—Congressmen LEHMAN, CLAUDE PEPPER, MICA, FASCELL, SHAW, and SMITH—strongly support this exemption. We need the exemption.

I am indeed sorry we have to engage the time of the Senate on this matter. The Noise Act provides sound and reasonable provisions for exemptions, conditions which I firmly believe the applicants from Miami International Airport meet. It is only the totally unreasonable failure of the Federal Aviation Administration to interpret the law in any rational fashion that brings us here today.

The law provides for exemptions in cases of the unavailability or delay in needed technology for compliance—and the manufacturers of the hush kits which will bring certain models of B-707's and DC-8 aircraft, the majority of those covered by our language, into compliance with the law, have themselves advised us directly that they cannot receive FAA certification prior to the January 1 compliance date. Indeed, only one manufacturer has even flight tested his kit.

Exemptions are also provided for valuable air service. Yet carriers who provide sole service to foreign markets have had applications for exemptions denied.

A third criteria for exemptions is if compliance would cause financial havoc. Anyone with knowledge of the Latin American debt situation who examines the list of carriers seeking exemptions will immediately grasp the total impossibility of their obtaining new aircraft by the end of the year, as the FAA would require.

Finally, the law requires good-faith efforts at compliance. Here again the unreasonableness of the FAA is apparent. No one knows what they interpret this to mean.

With respect to this and all other criteria of the law, the FAA has refused to adopt a rulemaking procedure to define the standards for exemption; it has refused to issue advisory guidelines as to what factors might be included in their decisionmaking; or in any other way give any guidance whatever to applicants as to what they ought to do to receive exemptions.

I might add that this failure to provide guidance has not occurred in a vacuum. I personally and through my staff have spent hours in meetings with them on the issue, we have exchanged volumes of correspondence, and I have made numerous specific proposals to them as to what might constitute acceptable standards. FAA and DOT have refused throughout to make any statements that might provide any specifics as to what anyone might do to receive an exemption, or to even be able to decide if they should apply. Other members of the Florida delegation have also made efforts in these directions. We have all met with the same unyielding attitude, an attitude which says in effect "We will decide, for reasons only we will know, who, if anyone, gets an exemption."

Mr. President, this is not how our Government is supposed to work; it is not how the President wants the Caribbean Basin Initiative to work; and as long as I have any say it is not how the Government is going to work.

Faced with this situation, there was no alternative but for us to provide guidance, via legislation, as to how the matter is to be resolved. We have made a determination that the applicants from Miami meet the standards of valuable air service, and that those who must replace their aircraft would suffer financial havoc if they had to do so by the end of this year. That is clearly within the authority of the Congress, and consistent with the facts of the case. We have also made the obvious and indisputable determination that, with respect to the hush kits, the needed technology is delayed and not currently available.

We have gone on to establish, in light of the FAA's failure to do so, a definition of what constitutes a good faith effort at compliance. That definition is that the applicants will make certain specified steps toward compliance by specified dates, and that they will post immediately a bond which will be forfeited if they do not comply within the actions and dates we have provided.

Those criteria are: First, for applicants who operate aircraft for which hush kits are currently under development—certain models of Boeing 707 and DC-8 aircraft—they must have a signed contract for a hush kit within 3 months of FAA certification of two competing manufacturers for their aircraft; second, applicants who have aircraft for which no hush kits are currently under development must have contracts for compliant aircraft by the end of 1985, and, third, all hush kits and new aircraft must be installed and operational by the end of 1986.

We have also provided an option, which is solely discretionary with the Secretary of Transportation and which in fact does not expand current law in the area, for exemptions to other dates if the Secretary determines that compliance would impose an unreasonable financial burden on a foreign applicant, and, after consultation with the State Department, that such a burden would be contrary to the foreign policy interests of the United States.

We have provided that no one receiving such an exemption may increase either the frequency of service or the number of noncompliant aircraft used at Miami. Thus, they cannot gain competitive advantage over any other airport.

In short, we have put together a very specific package that addresses our needs and is totally within the confines of the Noise Act.

Our exemptions follow exactly the provisions in the conference report of the Noise Act, except that we provide a shorter time period for the exemption and stricter conditions.

The conference report required a plan for replacement and a signed contract for a compliant aircraft. The terms of the contract provision required a contract to be signed within 3 years of the passage of the law, and delivery of the compliant aircraft within 3 years of the signing of the contract.

Our language calls for signed contracts no later than 1 year after passage of this resolution, and delivery within 1 year after that. We also require the posting of bond as a guarantee that the conditions will be met.

It is our best estimate that we will be exempting approximately 96 airplanes at Miami, and only until 1986. Of these, 56 will need hush kits, which are simply not available yet, and 40 will need to be replaced.

I felt we had done a good job of providing reasonable and limited exemption requirements. Yet few efforts are perfect, including ours, and a number of Senators expressed concerns over various aspects of the language we originally proposed and that the Appropriations Committee adopted. Senator CHILES and I, and our staffs, have had extensive discussions and negotiations with various Senators, and, I might add, with staff of Senator PACKWOOD. We have developed what we believe to be a compromise proposal which reaches the concerns expressed to us, and if the motion of the Senator from Oregon is defeated, we will offer our compromise as a substitute for the committee language.

The substitute provides that exemptions will be granted if, first, applicants currently operating aircraft for which hush kits are currently under development submit a copy of a signed contract with a hush kit manufacturer as part of his application; and, second, applicants currently operating equipment for which no hush kits are under development submit a sworn statement of intent to sign a contract for compliant equipment no later than June 1, 1985. All exemptions expire at the end of 1985, except, and contrary to the statements of the Senator from Oregon [Senator PACKWOOD] in cases where certified equipment to bring the applicant into compliance is not available. This means that an extension may be granted only if hush kits, or under some unusual circumstance, aircraft, which have been approved by the FAA and are in production cannot be supplied to all the exempt airlines in time to meet the deadline.

Given that many of the hush kit manufacturers are new or small businesses, it is very likely that even if everyone does all they can toward compliance, the hush kits will not be able to be produced fast enough to bring everyone into compliance by the end of the year. If this occurs, we expect the Secretary to do the reasonable thing and extend the exemption until the hush kit is installed. We also intend that these be installed as rapidly as possible.

The Secretary of Transportation is given authority to deny or terminate exemptions if the Secretary determines that the applicant or exempt carrier cannot comply with the law within the deadlines of this section. This is intended to cover only cases of contracts being submitted with suppliers who do not have, or are not reasonably likely to have, equipment to bring the applicant into compliance. This is in no way intended to give the Secretary authority to deny or revoke exemptions based on some judgment as to the possible future financial condition of the applicant, or the applicant's intent with respect to compliance or any other subjective evalua-

tion. However, failure to apply for the earliest available production "slot" for a hush kit may be considered. We expect all contracts to be for purchase and installation of the hush kits as rapidly as possible.

We retain the language from the bill prohibiting anyone receiving an exemption from increasing their business with noncompliant aircraft at either Miami or Bangor, so as to insure that this section can in no way be utilized to give an applicant or the airport at which the exemption is applicable any competitive advantage over other airlines or airports. In addition, the amendment applies only to those currently conducting international operations at Miami International or the Bangor, ME, airport.

Nothing in the section in any way restricts the Secretary's authority to grant exemptions for foreign policy or other consideration as outlined in the 1980 Allison memorandum referred to earlier in my statement. In light of the foreign policy aspects of the Miami situation, I personally would hope the State Department would play an active role in the Department of Transportation's decisionmaking; however, the effect of the substitute amendment is only not to restrict exemption authority not specifically covered by the substitute.

Finally, let me note that the substitute is essentially the language we and our staffs had been negotiating with those expressing concerns over the original language in the bill. Although I was very disappointed that no mutual agreement was possible, those of us who sponsored the substitute felt a certain obligation to go forward with what we had felt were good-faith proposals, even though they imposed tighter conditions on those seeking exemptions than we probably would have agreed to had we known there was not going to be any agreement with the Senator from Oregon.

The PRESIDING OFFICER. Who yields time? If neither side yields time, time will run equally against both sides.

Mr. CHILES. Mr. President, how much time do the proponents of the substitute have remaining?

The PRESIDING OFFICER. Thirteen minutes and 20 seconds.

Mr. CHILES. How much time does the other side have?

The PRESIDING OFFICER. Approximately 22 minutes.

Mr. CHILES. Mr. President, I yield 5 minutes to the distinguished Senator from Maine.

Mr. MITCHELL. Mr. President, I would ask the Members of the Senate to consider what is at issue here. In 1976, the FAA adopted a rule which said that by January 1, 1985, jets used in domestic operations would have to meet certain noise control requirements. Nothing was said about jets used in international traffic. It was only that the 85 days would be imposed on them if a uniform international rule was not achieved.

That effort did not fail until the end of 1980. So the international carriers have had 4 years to comply, not the 10 years repeatedly cited by the opponents of this measure.

The Air Transport Association comprised of domestic carriers said that a 4-year deadline cannot possibly be met short of prematurely retiring or grounding a sizable portion of their fleets.

As the Senator from Oregon has said, it is the domestic carriers who are opposed to these exemptions. But as he himself will acknowledge, they have sought and obtained exemptions for 463 aircraft themselves, most of them smaller planes servicing towns with less than 50,000 people as part of a deliberate policy to ensure service to towns of that size.

Bangor, ME, is a town of 30,000 people. The airport is on the outskirts of town. It has a 10,000-foot runway, and the principal traffic there comes from KC-135 tankers flown by the Air Force and the Air National Guard to service a nearby SAC base. None of those jets has or will be required to install any noise control abatement equipment.

All rules and laws must be applied with some reason. The penalty suffered for noncompliance must be in proportion to the gain to be achieved by compliance. To subject Bangor, ME, to this, the loss of one-third of all the revenues received at that airport, throwing a great many people out of work, when this airport is on the outskirts of town, a 10,000-foot runway and the large military jets rumble in and out continuously, is like sentencing someone to jail for 10 years who is caught speeding.

It does not make any sense whatsoever. It suggests that because a rule was adopted some years ago, it must be applied without regard to common sense, in an inflexible manner that does not take into account the circumstances that exist in a particular location.

The worst-case scenario has been presented: everybody else will ask for it. The fact of the matter is nobody else has asked for it. And this amendment is extremely limited, as the Senator from Florida suggested. It requires the signing of a contract for this equipment prior to January 1 of next year, and the completion of installation by the end of next year. The only way an extension can be granted is by the Secretary in her sole discretion. As the Senator from Oregon has already said, the Secretary does not believe in granting any exemptions.

I ask the Members of the Senate to apply simple common sense to this. We have a national policy to try to ensure service to small towns. There is absolutely no problem whatsoever in Bangor, ME. Yet they will be punished in a most harsh and punitive manner—the loss of one-third of the revenues to that airport—if this modest extension is not granted. I urge Senators to apply common sense to the situation. I ask them to ask themselves how they would feel were a community in their States facing similar circumstances. I urge adoption of the substitute proposed by the Senator from Florida.

The PRESIDING OFFICER. Who yields time? If neither side yields time, time runs equally on both sides.

Mr. PACKWOOD. Mr. President, what is the time?

The PRESIDING OFFICER. About 8 minutes remains to the proponents; about 20 minutes to the other side.

Mr. HATFIELD. Mr. President, I suggest the absence of a quorum to be equally charged to both sides.

Mr. CHILES. Mr. President, we are not trying to delay this process. I do not know why the other side will not use any time. I yield 5 minutes to the distinguished senior Senator from Maine.

Mr. COHEN. I thank the Senator.

Mr. President, it is pretty obvious why the time is not being used. The Senator from Oregon can have the last word, the last 20 minutes on that side.

I want to say a couple of words on this issue. I am from Bangor, ME. Back in 1968, the Federal Government handed us a white elephant at that time, called Dow Air Force Base. The city could not at that time even afford to plow the runways. Only through ingenuity and the dedication of a lot of people were we able to turn that particular facility into an international airport which now attracts a number of international and domestic flights. As Senator MITCHELL has indicated, that airport is in danger of losing one-third of its revenues by virtue of a strict and rigid application of this particular law.

What Senator CHILES has offered—he said he is a country lawyer, and he gave us quite a demonstration of what a country lawyer is all about. But for those lawyers in this body, we know the difference in our legal history, in studying the common counts and equity. When the common counts got frozen and they were rigid, with no exceptions, you could always go to see the chancellor. The chancellor's conscience was said to depend upon the length of his foot, and he made his decision depending on the merits and needs, and equity was then established. What Senator CHILES is trying to do is say yes, we are a body of legislators but we also have to have some kind of equity. The equity in this particular case is why put some people

out of business when the answer is an exemption? A short extension?

Right now, we are talking about a 3-month extension which takes us up to December 31, 1984. We are saying as of December 31, 1984, or January 1, 1985, you have to have a signed contract to put these hush kits on, then allow enough time to purchase them and install them with a cutoff date by the end of next year.

It seems to me in view of the hardship that would be inflicted in these few cases, we ought to take the hat of the legislator off on strict common counts and puts a little bit of equity in it.

The Senator from Oregon obviously believes in the doctrine or original sin: Because some airlines did not purchase these kits being designed by Boeing; therefore, they are being punished. No exceptions; no redemption they had their chance back in 1979-80, and because they did not take advantage of it, they are done.

It seems to me what this body ought to do is season his sense of justice with just a touch of mercy. I urge the adoption of the amendment of the Senator from Florida.

The PRESIDING OFFICER. Who yields time? The Senator from Oregon.

Mr. PACKWOOD. Mr. President, let us talk about justice and fairness. Let us talk about the countries that are involved. The Senator from Florida mentioned Dominica. Indeed it is involved. It has one plane—one plane for the haul of fish. In that one case, I would not be concerned. But let us look at the rest. We are talking about Costa Rica, Argentina, Ecuador, Bolivia, Venezuela, Denmark—Denmark, that denizen of the Caribbean; Dominican Republic, Haiti, Panama, Barbados, Antigua, Peru, Colombia, Paraguay, Chile—these are not small, fledgling countries. These are mainstay countries of South America and the Caribbean. And they bought these planes for 10 cents on the dollar. That was the justice.

When the Federal Aviation Administration, in 1976, put into effect the regulation that they had been holding hearings on for 2 years, it was clear to everyone who owned DC-8's and everyone who owned 707's that they were either going to have to put in new engines or hush kits or, at some stage, cease flying them into U.S. airports.

So the major airlines in these countries sold these planes to other countries who bought them, knowing full well what standard they were going to have to meet. And they were able to buy the planes cheaply because the standard was coming into effect. And either they would fly them until the wings fell off and that would be the end of it, or they might choose to hush kit something.

What they want now is a double dip. They got the planes cheap. Now they do not want to meet the standards.

Let us go through the chronology once more. In 1974, the FAA puts out its notice of hearings. In 1974, the Dade County Commission—that is, Miami—sends a warm, enthusiastic letter of endorsement for the proposed regulations and urges us to move along on the noise standards.

In 1976, the FAA adopts them. They said in 1976 they were going to put them into effect in 1985—9 years. They said:

> We are going ahead in any event. But we will be willing to also submit to an international convention where we might get an agreement that these standards would apply worldwide. But we are going ahead anyway.

No worldwide agreement could be reached. This deluded no one. No one waited 4 years wondering if they were going to have to meet the U.S. standards in 1985. They knew that in 1976. Whether or not there would be world standards they would have to meet, they did not know until 1980. They knew our laws. They knew our laws when they bought the planes.

Now, again, we go through 1977, 1978, 1979, 1980, 1981, 1982, 1983, and 1984. Congress passes a law codifying the FAA regulations in 1979 and giving to the Secretary of Transportation broad authority to waive them, even including as a factor for waiver foreign policy considerations.

The Secretary of Transportation still has a letter on our desk urging opposition to the Miami and now the Bangor exemption. The FAA is opposed. Every single airport in the United States is opposed, except Bangor and Miami. All of the airlines in this country that have invested about $20 billion in new planes and over $800 million in quieting some of their older planes the law required them to have conformed. Nothing on this issue ever came to the attention of this Congress until about 2 weeks ago. Senator LONG from Louisiana, a member of the Commerce Committee, who sat through hearings on this for years, said that he never heard about it until tonight.

The city of Bangor never thought about getting involved in this until they heard about the Miami exemption. Now, today, we have a contact from San Juan; they want to be exempt, understandably. They certainly fly in the same area as Miami.

Now we have heard from Dallas-Fort Worth and New Orleans. They compete with Miami.

If these old, noisy planes can fly into Miami, they want them to be able to fly into New Orleans and Dallas-Fort Worth. Understandably, they are in competition.

Now, I ask you, who was blind sided—Miami, the little Nell of the cities of the United States? Miami is not Bangor. This is a sophisticated urban, metropolitan area with countrywide government and intelligent officers and alert lobbyists. They were not caught by surprise. What they hoped is that they could surprise us. I think that is why they waited and chose not to come to the Commerce Committee, not to contest any FAA exemptions. They hoped that in the last 2 weeks they could get a special benefit for one town and a competitive advantage over every other town. I think they secretly worried that Bangor and San Juan and all of the others would not know about this and would not climb on because, as more wanted to climb on, the lack of merit would become more obvious.

Why did I wait to speak until they had finished? Because, when I came back to consent to the time agreement, I learned for the first time that they had a substitute amendment that I had not seen, which is now the sixth or seventh version of the amendment that they have wanted since 2 weeks ago. That is desperate clawing, scratching for an unfair competitive advantage over every other airport in this country and every airline in this country. They do not deserve it. This amendment deserves to be tabled, and I will make that motion when our time has expired.

The PRESIDING OFFICER. Who yields time?

Mr. CHILES addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. CHILES. My friend from Oregon has said several things that give me some pause—he referred to this sneaky kind of way that they are doing things.

That is not the way I performed for 14 years in the Senate. I do not think that it is the way the Senators from Maine have performed, or the junior Senator from Florida. I do not appreciate being referred to as sneaky or seeking that kind of advantage.

We were told to try to compromise. We went off. We had the piece of paper, and it is the one we are talking about now which was worked out between the staffs. This thing was supposed to be compromised and we offer what was the last best effort. We were saying, "What is wrong with the compromise language?" And the Senator from Oregon said that he found a date that was objectionable. I said, "Well, change that date. Put any limitation on that date."

Well, after a few minutes the Senator from Oregon finally said, after he had had a chance to make any changes he wanted and we had been talking 25 or 30 minutes. He said: "I will not compromise. I want to go to a vote."

Now, of course, that is his prerogative, but I want Senators to know that

is why we did not compromise, because there was nothing that he would agree to compromise.

Now, I do not know about the merits. We have been over this thing time and time again, so I am not going to repeat it. I am reminded how in early history, when armies used to go against each other, one army would come against the castle of the other army. They would surround them, and then everyone would count to see who had the most, whether the army outside had more or the army inside had more. And it would look like the army outside had more.

Tradition was to let the ones inside give up. What they would do is leave their castle, they would leave their gold, they would leave their silver, their armor, and everything else. The other side would always leave a back door. They would always leave a place so that the enemy could get through. Everybody understood that and soldiers were able to take their families, they were able to take their mothers and the children along with them.

We have been looking for the back door. We have been looking to slip out.

We are not looking to keep the castle. We are not looking to keep our arms. We are not looking to keep our gold. We want to take the children. We want to take 6,000 jobs that affect Miami out of this and we want to see if we can give these nations, these mainline nations like Haiti—mainline, oh, yes. Half of Haiti is coming to Miami every day they are so mainline—Paraguay, and other small nations. We want to give them 3 months to get a hush kit, but if there is no back door then blow the castle down and kill us all because we will be standing to the man.

I yield back the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. PACKWOOD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon is recognized.

Mr. PACKWOOD. Senator CHILES and I have been good friends for a long time. I apologize if I in any way caused him to think that he was sneaky. I think it is the city of Miami or the county—I am not sure which—that was sneaky, because I know that up until Labor Day at least of this year if the Senator from Florida knew about this issue, he had not brought it to my attention, nor, to the best of my knowledge, anybody's attention. I think he was blindsided by his own airport.

Now, I did make an offer to compromise. The Senator from Maine talked about 458 planes that are exempted in this country which are owned by the major airlines. He is right. Those planes were exempted in 1978 when we passed the Essential Air Service Act because we wanted to guarantee service to smaller communities in this country. We were not quite sure what the availability of smaller commuter planes might be during that 10-year period—from 1978 to 1988. Those are all two-engine planes holding a hundred or fewer people. I made the offer that I would give them that same privilege and the same exemption that American Airlines has but no more. And that was a genuine compromise offer. They turned that down, because they are not interested in those two-engine planes that haul 100 or fewer people. What Miami wants is competition at the expense of every other airport in this country.

The amendment they have offered—and I have deduced what it is—would allow, I think, under most circumstances, most of the nonconforming planes to remain nonconforming for the remainder of their flyable life. They are old planes now. Their owners have to contract to buy one of these hush kits before the end of the year. But they cannot get the hush kit by the 1st of July—as I read this amendment, because the companies are not making them.

Bear in mind that Boeing and Douglas tried to make them, could not get anybody to buy them, and decided not to make them. They cannot get a company with enough capital to make them, and they are exempt. That is what is going to happen.

In about 10 years of deliberation in this body and before the FAA, there was a deliberate policy to reduce noise at all airports around this country and to give no airport an advantage over any other airport. If we are now going to reverse it based upon 15 minutes of discussion in the Appropriations Committee about 10 days ago, with no hearings—especially now that what we are considering—not even what the Appropriations Committee considered 10 days ago for 15 minutes—but what is now another amendment to an alternative suggestion that had been yet another alternative suggestion to the amendment 10 years ago, then I guess the Senate can legislate. But that is not in any deliberate, thought-out policy. This policy is deliberate, thought out intentional, and intended. I hope we do not undo it now.

The PRESIDING OFFICER. Who yields time?

Mr. PACKWOOD. I am prepared to yield back my time, if the other side is, and to make a motion to table.

The PRESIDING OFFICER. Is all time yielded back?

Mr. CHAFEE. May I ask a question of the Senator?

Is this accurate: If they do not meet the time schedule of July 1985, they will never have to get the kits? Is there rebuttal to that, or is that a misstatement?

Mr. PACKWOOD. If they can get the kits—I am not sure that they can get them. There is a company in Texas that says they may make them. For the older DC-8's and the older 707's, they do not make them. They could not find carriers in Latin America to buy them. If they cannot get them because they have postponed buying them, they would be exempt.

Mr. CHILES. I will read to the Senator from Rhode Island what the amendment says:

> Any exemption granted under this section shall expire not later than December 31, 1985, except that, if the Secretary—

That is the Secretary of Transportation—

> determines that equipment to ensure compliance with the provisions of Public Law 96-193 which has been certified by the Department for that purpose will not be available to the holder of the exemption by that date, the Secretary may—

Not shall—

> extend such exemption for such period as the Secretary determines is necessary to ensure compliance with such provisions.

It is purely discretionary on the part of the Secretary. If the Secretary finds that the hush kits are not available, that they will be at some future time, she may extend the exemption. In no way beyond December 31, 1985, unless the Secretary makes that determination. So it is not for the lifetime of the airplane.

Mr. PACKWOOD. Makes the determination that they cannot yet find these hush kits on the market, then the Secretary can extend. They are not going to find them. These planes are 15 or 20 years old now. They could have found hush kits 10 years ago, when Boeing and Douglas were designing them and waiting to sell them.

I emphasize that these airlines and these countries have bought these planes at a significantly reduced price because their U.S.-carrier owners knew they would have to meet the standards. The purchasers got one benefit—a very cheap airplane. Now they want to double dip. Now they do not want to pay the price, having already benefited from the cheap price of the sale.

Mr. MITCHELL. Mr. President, if the Senator will yield, two of the airlines in question have already purchased major interests in companies which manufacture hush kits in an effort to be in compliance.

In my view, there is no legitimate basis to believe that there never will be hush kits available and therefore there will be noncompliance. The information we have is directly to the contrary, that this has been a good faith effort and that they will be available.

I know of no evidence to support the suggestion that there never will be another hush kit manufactured and

that, therefore, they can never be in compliance.

The PRESIDING OFFICER. Who yields time?

Mr. HATFIELD. Mr. President, reluctant as I am to do this at this time, but trying to retain the purity of the continuing resolution—whatever purity is left in it—I at this point raise a point of order against the Chiles amendment as a matter of legislation on an appropriation.

Mr. CHILES. Mr. President, I raise the question of germaneness. Are we not ready for a vote now? Can we not vote on this now? We have the time agreement. That, to me, is violative of our unanimous-consent agreement.

Mr. HATFIELD. My colleague from Oregon had planned to make a motion to table. I would think that the Senator from Florida might prefer to have the continuity of this being determined as what we had on the others, rather than a tabling motion.

Mr. CHILES. I would much rather vote on a tabling motion.

Mr. HOLLINGS. Why not vote straight up-and-down?

Mr. CHILES. We had a unanimous-consent agreement.

The PRESIDING OFFICER. Does the Senator from Oregon withhold his point of order?

Mr. BAKER. Mr. President, will the Senator yield?

Mr. HATFIELD. I withdraw my point of order at this time, and I yield to the majority leader.

Mr. BAKER. Mr. President, I must say that I am sympathetic to my colleagues from Florida, but I am also dedicated to try to keep the continuing resolution. We have been through the mill on things that I know Senators would just as soon not have to vote on, and a lot of them. I think that from the standpoint of trying to keep this as a continuing resolution rather than a legislative vehicle, the point of order is the way to approach it.

If the manager wants to withdraw that and the Senate wants to vote on it, it may do so. It is 4:10 a.m. now, and it is pretty late in this matter to start addressing legislative issues on the merits. I leave that up to the managers to decide, and I am sure they will consider the sensibilities of the participants. But if I were the Senators from Florida, I would much rather have this tested on the question of legislation and a procedural issue than on the merits. But that is a decision I am not prepared to make for them.

Mrs. HAWKINS. Mr. President, I ask the majority leader what position this leaves us in if we withdraw the Chiles amendment and then defeat the Packwood amendment. What happens to section 124 as contained in the bill?

Mr. BAKER. Mr. President, I propound that as a parliamentary inquiry.

The PRESIDING OFFICER. Section 124 would remain part of the 32d committee amendment.

Mr. CHILES. I move the previous question.

Mr. BAKER. There is no previous question.

Mr. CHILES. The motion to table.

Mr. PACKWOOD. I have not made the motion to table.

Mr. MITCHELL. I point out to the Senator from Florida that would occur, the only thing left in the bill would be the Miami phase. If we try to work this together in good faith, I hope she will withdraw that suggestion and that we proceed to vote on the motion to table.

Mr. PACKWOOD. Mr. President, I have not made the motion to table. I am going to raise a point of order on the amendment offered by the Senator from Florida.

Mr. CHILES. Mr. President, if the Senator will withhold that a moment, I wish to say we have not raised a point of order on any of the previous measures. We have amendment 32; we have amendment 34. A point of order would lie on most of the sections on those amendments. Is has not been used.

I really feel as though this violates the unanimous consent agreement we entered into when we said we were going to take up and discuss the amendment.

I would just hope that we would vote on the motion to table. If not, it just seems to me we have to treat every item in amendment 32 and amendment 34 on a point of order, and if that is what we are going to do if we are going to be pure here. We have to be pure.

Mr. BAKER. The Senator is exactly right.

Mr. PACKWOOD. Mr. President, I will accommodate the Senator from Florida and simply move to table.

Mr. COHEN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Oregon to lay on the table the amendment of the Senator from Florida.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from North Carolina [Mr. EAST] and the Senator from Illinois [Mr. PERCY] are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Louisiana [Mr. LONG] is necessarily absent.

The result was announced—yeas 47, nays 50, as follows:

[Rollcall Vote No. 277 Leg.]

YEAS—47

Abdnor	Goldwater	Pressler
Biden	Gorton	Quayle
Boren	Grassley	Randolph
Boschwitz	Hatfield	Roth
Bradley	Hecht	Sarbanes
Burdick	Heinz	Simpson
Cochran	Huddleston	Specter
Cranston	Humphrey	Stafford
Danforth	Kassebaum	Stevens
Denton	Lautenberg	Trible
Dixon	Mathias	Tsongas
Durenberger	Mattingly	Warner
Evans	Moynihan	Weicker
Exon	Nickles	Wilson
Ford	Nunn	Zorinsky
Glenn	Packwood	

NAYS—50

Andrews	Garn	McClure
Armstrong	Hart	Melcher
Baker	Hatch	Metzenbaum
Baucus	Hawkins	Mitchell
Bentsen	Heflin	Murkowski
Bingaman	Helms	Pell
Bumpers	Hollings	Proxmire
Byrd	Inouye	Pryor
Chafee	Jepsen	Riegle
Chiles	Johnston	Rudman
Cohen	Kasten	Sasser
D'Amato	Kennedy	Stennis
DeConcini	Laxalt	Symms
Dodd	Leahy	Thurmond
Dole	Levin	Tower
Domenici	Lugar	Wallop
Eagleton	Matsunaga	

NOT VOTING—3

East	Long	Percy

So the motion to lay on the table was rejected.

Mr. CHILES. Mr. President, I move to reconsider the vote by which the motion to table was not agreed to.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Florida [Mr. CHILES].

The amendment (No. 7021) was agreed to.

The PRESIDING OFFICER. Under the precedents of the Senate, a motion for the adoption of a substitute for the language to be stricken renders the motion to strike moot. It is not voted upon.

Mr. CHILES. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, it is my understanding that the provision temporarily exempting Miami International Airport from the noise abatement requirements of the Airport Safety and Noise Act is in no way intended to inhibit the Secretary of Transportation from granting exemptions in similar situations. The needs of Puerto Rico, which currently receives a substantial amount of service by aircraft that do not meet the stringent noise standards, are every bit as

compelling as Miami's. Grant of a short-term exemption to Puerto Rico would be very localized in impact and would not have a significant environmental effect. The Government of Puerto Rico feels strongly that loss of air services and economic growth justify granting very limited exemptions for international services to and from Puerto Rico. Under these circumstances, I urge the Secretary of Transportation to consider favorably carrier requests to continue service to Puerto Rico until hush-kits can be installed on their aircraft.

Mr. HATFIELD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon is recognized.

Mr. HATFIELD. Mr. President, does this complete the parliamentary work now on this particular amendment offered by the Senator from Florida?

The PRESIDING OFFICER. The amendments concerning section 124 have been completed. Section 124 is part of the larger amendment.

Mr. HATFIELD. Mr. President, I know of no other amendments to the committee amendment 32. If there are none, I move adoption of the committee amendment No. 32.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to committee amendment No. 32.

The amendment was agreed to.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

COMMITTEE AMENDMENT NO. 34

Mr. HATFIELD. Mr. President, I ask the Chair to lay before the Senate committee amendment No. 34.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

Beginning on page 46, line 22, add new language through page 56, line 5.

Several Senators addressed the Chair.

AMENDMENT NO. 7022

(Purpose: Conditioning grant military aid to Turkey)

Mr. PRESSLER. Mr. President, I send an amendment to the desk, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Dakota [Mr. PRESSLER] proposes an amendment numbered 7022.

H.J. Res. 648 is further amended by striking the following on page 49, lines 13 through 17, and inserting the following in lieu thereof:

the formerly Greek-Cypriot occupied area of Famagusta/Varosha has been returned to the Government of Cyprus under the auspices of the United Nations for the immediate resettlement of refugees.

Mr. PRESSLER. Mr. President, I have a brief statement in support of this amendment and I shall be brief.

This admendment which passed the Senate Foreign Relations Committee strengthens the U.S. effort to obtain a long-overdue settlement of the conflict on Cyprus. While sustaining the traditional 7:10 ratio in aid to Greece and Turkey, as provided for by both the Foreign Relations Committee in its authorization bill and the Appropriations Committee in this continuing resolution, it requires concrete actions by Turkey to remove a key obstacle to the resolution of that nation's crisis.

This amendment reflects the overwhelming opinion in the Foreign Relations Committee that concrete U.S. action is required if we are to use the only leverage we possess to bring about an end to the decade-old Cyprus conflict. This leverage is contained in our foreign aid program. This amendment requires that for Turkey to receive grant military assistance totaling some $215 million, the formerly Greek-Cypriot area of Famagusta/Varosha must be returned to the Government of Cyprus under the auspices of the United Nations for immediate resettlement of refugees.

Mr. President, for the last 10 years, the world has been confronted with the tragic occupation of the sovereign and indpendent Republic of Cyprus by 20,000 Turkish troops. Well-meaning Members of both Houses continue to express their outrage over Ankara's refusal to promote good faith negotiations to end the crisis on Cyprus. Until now, our words have not been followed up by concrete actions. The time has now come for us to face reality and take the positive steps necessary to end the Turkish occupation of Cyprus. Ankara must recognize our determination that this issue finally be resolved. I believe the most effective means of sending this clear message is through inclusion of this amendment, which was adopted by the Foreign Relations Committee, in the continuing resolution.

It was 10 years ago last July that 40,000 Turkish troops invaded and occupied the Republic of Cyprus. That invasion resulted in many deaths and a large number of other casualties and drove 200,000 Greek Cypriots from their homes. Today, 10 years later, Cyprus remains divided, 20,000 Turkish troops remain on the island and 2,000 people—including 8 Americans—are missing.

Since the 1974 invasion, Turkey has continually assured the United States and other members of the world community that positive steps are being taken to end the occupation on Cyprus. Congress has, in good faith, accepted these assurances and in turn has delayed or substantially modified various measures that were introduced to provide Ankara with an incentive to negotiate. Unfortunately, the good faith of Congress has yet to be rewarded:

In 1978, Congress lifted the embargo on military aid to Turkey on Ankara's assurance that Turkish troops would be withdrawn from Cyprus. Once the embargo was lifted, Turkey refused to remove its troops.

In 1983, the House Foreign Affairs Committee deferred on conditioning aid to Turkey and instead adopted strong report language expressing frustration over Turkey's 5-year delay in the removal of their troops. One day after the President signed the appropriations bill, Turkey endorsed Mr. Denktash's illegal Unilateral declaration of independence [UDI]. This endorsement occurred only 2 weeks after the Turkish Foreign Minister assured the administration that Turkey would not recognize the UDI.

In March 1984, the House Foreign Affairs Committee refrained from substantially reducing aid to Turkey because of the imminent possibility that Turkey would return Famagusta/Varosha during talks with the U.N. Secretary General. Once the committee passed on this opportunity, Turkey publicly rejected the possibility of returning Famagusta/Varosha.

Ankara's continued failure to make good on its commitments on the Cyprus issue has sent a clear signal to its protege, Mr. Denktash, that measures aimed at the permanent partition of Cyprus are welcomed by his supporters on the mainland. In that light, Mr. Denktash has continually disregarded the clear prohibitions of the United Nations and the clear sentiment of the world community since announcing the illegal UDI in November 1983.

Turkey's record, and the disappointing Turkish-Cypriot record in responding to the concerns voiced in Congress about Cyprus, make it clear that only concrete action can bring an end to intransigence. For this reason, I believe something more than what we have previously done in Congress is required. As for the Appropriations Committee's language, it would permit Turkey to sustain an unacceptable status quo on the island. This status quo has brought suffering to many Cypriots and sustaining this condition of continued occupation and enforced division is no longer acceptable. We should not endorse so-called conditions which are easy to meet and which would allow Turkish and Turkish-Cypriot evasion of productive negotiations.

In April, Mr. Denktash announced the holding of a referendum for purposes of drafting a new constitution as well as general elections to be held in

November. These announcements came immediately after Mr. Denktash's meeting with the U.N. Secretary General to discuss a possible halt to the implementation of the UDI. Since April, Mr. Denktash has exchanged ambassadors with Turkey, raised the Turkish flag over the occupied zone, and introduced the use of official Turkish currency and official Turkish time. Finally, in June, the U.S. State Department announced that it had evidence that Turkish Cypriots had been allowed to settle in Famagusta. This colonization is in absolute defiance of U.N. Security Council Resolution No. 550 and is in direct contrast to Mr. Denktash's earlier statements in favor of the return of Famagusta to the Republic of Cyprus. Now, Mr. Denktash has gone as far as to demand that Famagusta be designated the capital of his so-called independent state.

It has become painfully clear that these actions can no longer be ignored by the United States. U.S. and NATO security interests will continue to be undermined as long as the Cyprus conflict exists. The southeastern flank of NATO, Greece, and Turkey has not been an effective operating unit since the invasion. While Turkey is indeed strategically important to the interests of the United States, continued unqualified support of Turkey is counterproductive to our security interests.

The desperate need for positive action by this body to promote peace in that troubled island country argues strongly for Senate adoption of the initiative taken in the Foreign Relations Committee during consideration of the foreign assistance bill, S. 2582. Senator PERCY strongly supports this amendment. This amendment provides a clear link between Turkey's MAP grant program of $215 million and the return of Famagusta/Varosha to the Government of Cyprus, under U.N. auspices.

Both Ankara and Mr. Denktash have repeatedly supported the concept of transferring Famagusta to interim U.N. administration. This provision in no way pressures Turkey to act contrary to their oft-stated intentions. In fact, it serves to reward Turkey with full funding for fulfilling their highly positive assurances to Congress that progress on this issue is imminent. The $215 million is a reasonable figure since it is the rough equivalent of Turkey's annual cost of maintaining the 20,000 occupying forces on Cyprus. While we recognize that the underlying conflict on Cyprus will not be solved overnight, we are confident that the return of Famagusta/Varosha will be seen as the important first step to the peaceful solution to this 10-year-old crisis.

To those who argue that Ankara does not have control over the actions of Mr. Denktash, I note that without 20,000 Turkish troops, without Ankara's funding of 40 percent of the Turkish-Cypriot budget, and without Ankara's recognition of the so-called Republic of Northern Cyprus, there would be no Rauf Denktash. We must demonstrate to Ankara the high priority we place on the resolution of the Cyprus conflict.

We have no intention of turning our back on Turkey's legitimate defense needs. On the other hand, we can no longer refuse to face the reality of a 10-year occupation and division of a sovereign nation by an invading force. This amendment is an important step that will have a profoundly positive effect on this ongoing crisis. I urge all Senators to vote for this amendment to the continuing resolution.

SUPPORTING PRESSLER-BIDEN AMENDMENT

● Mr. PERCY. Mr. President, resolving the communal differences on Cyprus requires the political will of the parties concerned to negotiate seriously and in good faith. This amendment is designed to provide an incentive to that process.

For 10 years now the tragic communal impasse on Cyprus has persisted with only fitful and minor steps forward. Last year the cause of peace and justice on Cyprus received a serious new setback with the declaration, on November 15, 1983, of the independence of a "Turkish Republic of Northern Cyprus."

On November 18, 1983, the U.N. Security Council passed Security Council Resolution 541 by a vote of 13 to 1, with 1 abstention. This resolution described the unilateral declaration of Turkish Cypriot independence as incompatible with the 1960 treaties of association and guarantee which granted Cyprus independence from Britain. The Security Council resolution also described the declaration of independence as invalid, reconfirmed the sole validity of the Government of the Republic of Cyprus, and called on U.N. member governments to recognize no other Cypriot state. The resolution urged the Secretary General of the United Nations to continue his good will efforts to further productive communal talks on Cyprus.

Turkey alone among the nations of the world has ignored Security Council Resolution 541, as well as the pleas of the United States and many other friendly governments, not to recognize the Turkish Republic of Northern Cyprus.

Last April 17, Turkey went further and exchanged ambassadors with the Turkish Republic of Northern Cyprus. On May 11, the U.N. Security Council passed Resolution 550, reaffirming its earlier Resolution 541 and condemning the exchange of ambassadors with Turkey.

Reassured by the support of Turkey's recognition, the Denktash government has moved to fortify its declaration of independence by forming a new cabinet, transforming its parliament into a new constituent assembly, initiating drafting of a new constitution, announcing new elections for next year, and forming commissions to select a flag and national anthem for the new state.

In these deteriorating circumstances, I do not see how we can continue to do business as usual. There must be an incentive for Turkey to use its considerable influence with the Turkish Cypriots to reverse the declaration of independence and return to serious talks to resolve communal differences in an equitable federal system.

This amendment would condition the grant military assistance portion, only, of fiscal year 1985 foreign assistance to Turkey on a return of the formerly Greek Cypriot area of Famagusta/Varosha to the Government of the Republic of Cyprus under the auspices of the United Nations for the resettlement of refugees. Of enormous importance, this area is now in the midst of a Turkish military sector and is all but deserted.

It is but one of the many issues between the Greek and Turkish Cypriot communities. It's resolution, however, would give fresh impetus to the search for resolution of all the communal differences.

I have heard it argued that the security relationship of the United States to our NATO ally and good friend Turkey stands on its own merits and is quite separate from the Cyprus problem. However, linkage is a fact of political and international life and to insist otherwise is unrealistic.

I have also heard it argued that conditioning the grant military assistance portion of our security assistance to Turkey upon resolution of the Famagusta/Varosha problem is insulting to Turkey. I cannot control anyone's perceptions of this amendment. But I can guarantee the intentions of the sponsors and supporters of the amendment. Our sole intent is to provide an incentive to Turkey to use her great influence with the Turkish Cypriot community to take a constructive step toward resolving the communal differences.

The vehicle for serious progress already exists in the talks sponsored by the U.N. Secretary General that are scheduled to resume on October 15. This amendment provides an opportunity to demonstrate some of the political will that will be required of all parties to use that vehicle effectively.●

Mr. PRESSLER. Mr. President, I would like to restate two sentences from Senator PERCY's statement:

Resolving the communal differences on Cyprus requires the political will of all the parties concerned to negotiate seriously and in good faith. This amendmenmt is designed to provide an incentive to that process.

Mr. President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. KENNEDY. Mr. President, I strongly support the amendment offered by Senators BIDEN and PRESSLER making the provision of $215 million grant military aid to Turkey contingent on the return of Varosha, a Greek-Cypriot area, to the Government of Cyprus for the immediate resettlement of Greek-Cypriot refugees. By helping to resolve the Varosha dispute, the $215 million will be a powerful incentive for progress toward a broader settlement in Cyprus.

The Biden-Pressler amendment was passed overwhelming by the Foreign Relations Committee, but the continuing resolution significantly weakens the provision by requiring merely that Turkey and the Turkish Cypriots are doing nothing in Varosha to prejudice or impede the intercommunal talks. It thus rewards Turkey for simply maintaining the status quo on Cyprus and provides no incentive for progress in the negotiations.

More than 10 years have passed since the Turkish invasion of Cyprus, an invasion which was condemned by this body and by the entire world community. Nearly 40 percent of Cyprus is still under Turkish military occupation. Despite repeated efforts by the United States, the European community, and the United Nations to facilitate negotiations between the two Cypriot communities, Turkey is no closer today to withdrawing from the occupied territories than it was a decade ago.

Indeed, the situation has grown worse over the past year. Last November 15, the Turkish Cypriot authorities unilaterally declared Northern Cyprus an independent "state," a change in status which no other country except Turkey has recognized. The U.S. Government rightfully condemned this action and called for its reversal. But words alone are not sufficient to forestall a permanent partition of the island. The United States must also be willing to use its substantial military and economic leverage with Turkey to help achieve a peaceful reunification of Cyprus.

The Turkish Cypriot leader Rauf Denktash tried to soften the universal condemnation of his action by proposing the return of Varosha to the Government of Cyprus under U.N. auspices, and by suggesting that the former Greek-Cypriot residents of Varosha would be permitted to return to their homes and businesses. Thus far, however, Denktash has not made good on his offer.

Nor is this the first time Danktash has reneged on promises to return Varosha. In 1978 he announced that Varosha would be returned if Congress lifted the U.S. arms embargo. I strongly opposed lifting the embargo because so little movement toward a negotiated settlement had been made by Turkey in the preceding 4 years. Sure enough, when the embargo was lifted, Varosha was not returned.

I welcome the U.N. Secretary General's renewed efforts to mediate between the two communities on Cyprus, and I fervently hope the negotiations that started in August will be successful. But there is no evidence yet that Mr. Denktash is willing to take even the minimum first step toward a negotiated settlement by following through on his promises to return Varosha. Adoption of the Biden-Pressler amendment will provide a clear incentive for the Turkish Government, on which Denktash is totally dependent and whose troops still occupy Northern Cyprus, to return Varosha to the Cypriot Government.

The amendment is a moderate one. It does not require a withdrawal of Turkish forces from all of Cyrus, nor does it threaten a cutoff of all funding. It simply makes part of this year's $715 million in military assistance for Turkey contingent on the return of Varosha—a small, historically Greek-Cyriot area, which has been uninhabitated since the Turkish invasion in 1974. Both the Turkish Cypriots and the Turkish Government have acknowledged that Varosha should be returned to the Cypriot Government as part of an overall settlement.

I have no desire to weaken the security of Turkey or of NATO's southern flank. The issue before us, however, is whether the United States should provide military assistance to Turkey for the continued occupation of Greek-Cypriot territories. By fulfilling its pledge to return Varosha to the region's rightful owners, Turkey can obtain a substantial increase in its grant military assistance above the amounts appropriated in previous years. More important, such a step will give new impetus to negotiations for an overall solution to the Cyprus problem.

Mr. BAKER. Mr. President, it is 10 minutes to 5 in the morning. This subject is a matter of extraordinary sensitivity, of great importance in foreign policy matters. Members are aware of their concerns on both sides of this issue. I am prepared now to make a motion to table the amendment.

Mr. President, the Senator from Delaware wishes to speak. What I would like to do is make a motion to table the amendment now—I do make that motion to table—and I ask unanimous consent that I may yield to the Senator from Delaware for 2 minutes.

Mr. SARBANES. Mr. President, will the minority leader yield me a few minutes?

Mr. BAKER. Mr. President, we are going to get into a big problem here. I am willing to do 1 minute here and 2 minutes there. I really would not like to do any more.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I ask for the yeas and nays on the motion to table.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Delaware is recognized for 2 minutes.

TO PROMOTE A PEACEFUL SETTLEMENT ON CYPRUS

Mr. BIDEN. Mr. President, a decade has passed, 10 long years, since Turkish troops invaded the Island of Cyprus and seized two-fifths of the territory for the one-fifth of the population which is Turkish Cypriot.

The U.S. Congress reacted to this illegal action by invoking the law which requires a cutoff in military assistance in cases of such aggression. Four years later, filled with optimistic reports that a settlement was near, majorities in the Congress voted to lift that arms embargo. Though the weapons started flowing back into Turkey, the troops remained on Cyprus.

They are still there today, between 16,000 and 30,000, according to various reports. The agreement which would require their withdrawal has not been reached, and remains as elusive as ever. Instead of peace on Cyprus, there is partition.

Not content with stalemate, not content with the slow-moving mediation by the U.N. Secretary General, the Turkish Cypriots have moved to undermine the status quo in the past year by a whole series of actions. Last November 15, they issued a unilateral declaration of independence for what they called the Turkish Republic of Northern Cyprus. In subsequent months they established their own currency, their own flag, and so forth. Last June, they sent Turkish Cypriot settlers into the abandoned town of Famagusta/Varosha, apparently to make more difficult the long-promised return of that territory and its buildings to Greek Cypriots.

Turkey aided and abetted these illegal actions. It was the only nation to extend diplomatic recognition to the Denktash regime. It formally exchanged ambassadors in April. Turkish troops permitted the entry of Turkish Cypriot settlers into Famagusta/Varosha, though international pressure did lead to the removal of the settlers. No one doubts that the Turkish military presence in northern Cyprus gives Ankara ultimate control over the course of events there.

The Turkish Cypriot actions have been almost universally condemned. The U.S. Government openly and forcefully criticized the unilateral declaration of independence, as did the Congress, and also the Turkish establishment of diplomatic relations with the Denktash regime. The United Nations has twice criticized the Turkish Cypriot actions. Only Turkey recognized the illegal "government."

The U.N. Secretary General also criticized the Denktash actions as unhelpful, but nevertheless continued his long-running efforts to achieve a lasting settlement on Cyprus.

When the Foreign Relations Committee considered the question of military assistance to Turkey last spring, we overwhelmingly voted for a provision applying one quite feasible condition to the $215 million approved for grant military assistance—that the funds could be provided only if the President could certify that the abandoned town of Famagusta/Varosha had been returned to the Government of Cyprus for resettlement by Greek Cypriots.

Frankly, there was considerable support for much more stringent measures to punish Turkey for its continued occupation of northern Cyprus and for its collaboration with the Turkish Cypriots in their illegal and unsettling actions. But we concluded that a more limited amendment would be an inducement to settlement, a break in the logjam which has stalemated progress on Cyprus for over a decade. We chose to apply only one condition, and only to a part of the military aid for Turkey. And that condition is one which the Turkish Cypriots themselves have previously accepted—the return of Famagusta/Varosha.

We could not and cannot accept a mere exhortation to negotiate; such declarations have been ineffective in the past. Nor can we accept the language of the continuing resolution, which merely requires the President to certify that "Turkey is making efforts to ensure that the Turkish Cypriot community is not taking any actions with regard to the region of Famagusta/Varosha which would prejudice the outcome or otherwise impede intercommunal talks on the future of Cyprus." The Turkish Cypriots have already taken several actions which have prejudiced the outcome and impeded intercommunal talks—but they have retreated from their attempted colonization of the abandoned town. The condition is so narrowly drawn that it is toothless and meaningless.

"Look at what we do, not what we say," a notorious former Attorney General once said during the Nixon administration. That is a wise rule. Despite the Reagan administration's laudable criticism of the actions by Turkey and the Turkish Cypriots, it proposed a huge increase in military and economic aid for Turkey. Although the appropriations committee reduced the sums slightly to conform to the established 7:10 ratio for such aid to Greece and Turkey, that business-as-usual attitude amounts to a reward for Turkish intransigence and complicity.

Mr. President, when are you going to toughen our actions to match our words? When are we going to insist that those who profess a desire for a peaceful settlement demonstrate their good intentions with concrete deeds?

Instead of the committee language, we propose the original condition approved by a bipartisan vote of the Foreign Relations Committee. That is the best way, in my judgment, to promote peace on Cyprus consistent with our other foreign policy interests.

I want to make two very brief points. No. 1 is that until we attach some conditionality to aid to Turkey, we are not going to get any progress at all. This is the proposal we made in the Foreign Relations Committee. This particular amendment is a reasonable one. It is one that is agreeable to Turkish Cypriots. Up until now, there has been a prospect and a promise and we have been told by the administration for the last year, we will work something out, do not push this.

We have waited long enough, Mr. President, I believe we should move now.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

Mr. SARBANES. Mr. President, 10 years have passed since the brutal Turkish invasion and occupation of 40 percent of the Republic of Cyprus in the summer of 1974.

About 25,000 Turkish troops remain on Cyprus today armed with U.S. weapons.

Its Greek inhabitants driven away as refugees in 1974, Famagusta/Varosha remains a ghost town.

No progress has been made to right the wrongs committed 10 years ago.

Furthermore, in November 1983, the Turkish Cypriots caused a further deterioration in the situation, and made progress toward a just negotiated settlement even more difficult to achieve, by a unilateral declaration of independence [UDI] establishing what they called an independent republic in the Turkish-occupied areas.

The UDI was universally condemned.

U.N. Resolution 541, adopted by the Security Council on November 18, 1983, reads:

RESOLUTION 541 (1983): ADOPTED BY THE SECURITY COUNCIL AT ITS 2500TH MEETING, ON NOVEMBER 18, 1983

The Security Council, having heard the statement of the Foreign Minister of the Government of the Republic of Cyprus,

Concerned at the declaration by the Turkish Cypriot authorities issued on 15 November 1983 which purports to create an independent State in northern Cyprus,

Considering that this declaration is incompatible with the 1960 Treaty concerning the establishment of the Republic of Cyprus and the 1960 Treaty of Guarantee,

Considering, therefore, that the attempt to create a "Turkish Republic of Northern Cyprus" is invalid, and will contribute to a worsening of the situation in Cyprus,

Reaffirming its resolutions 365 (1974) and 367 (1975),

Aware of the need for a solution of the Cyprus problem based on the mission of good offices undertaken by the Secretary-General,

Affirming its continuing support for the United Nations Peace-keeping Force in Cyprus,

Taking note of the Secretary-General's statement of 17 November 1983,

1. Deplores the declaration of the Turkish Cypriot authorities of the purported secession of part of the Republic of Cyprus;

2. Considers the declaration referred to above as legally invalid and calls for its withdrawal;

3. Calls for the urgent and effective implementation of its resolutions 365 (1974) and 367 (1975);

4. Requests the Secretary-General to pursue his mission of good offices, in order to achieve the earliest possible progress toward a just and lasting settlement in Cyprus;

5. Calls upon the parties to co-operate fully with the Secretary-General in his mission of good offices;

6. Calls upon all States to respect the sovereignty, independence, territorial integrity and non-alignment of the Republic of Cyprus;

7. Calls upon all States not to recognize any Cypriot State other than the Republic of Cyprus;

8. Calls upon all States and the two communities in Cyprus in refrain from any action which might exacerbate the situation;

9. Requests the Secretary-General to keep the Security Council fully informed.

The U.S. Government on November 15 issued a statement of unequivocal condemnation. It read:

We have learned today of the declaration of the Turkish Cypriot community of its independence. The announcement came following a resolution reportedly approved in that community's legislative assembly creating a policy called the "Turkish Republic of Northern Cyprus".

This move by the Turkish Cypriots comes as a complete surprise to us. We are dismayed by the move which we consider unhelpful to the process of finding a settlement to the Cyprus problem. We are actively meeting with all parties to the Cyprus problem both in Washington and other capitals to urge calm in the wake of today's developments.

The Turkish Cypriots should reverse their actions. We have urged the Government of Turkey to use its influence with the Turkish Cypriot community to bring about such a reversal. We will not recognize the new policy and we urge all countries of the world not to recognize it.

We urge all parties to the Cyprus question to support the efforts of the Secretary General to bring about a fair and final negotiated settlement of the problems of that country. In our opinion the seccession of the Turkish community from the Republic of

Cyprus represents potentially serious damage to that process.

Earlier on November 15, the State Department briefing officer had responded to the question, "What is the U.S. view of the Turkish Cypriot Proclamation of an independent state in Northern Cyprus?" in the following, similar terms.

A. We received the news of the Turkish Cypriot action with surprise and dismay. We have consistently opposed a unilateral declaration of independence by the Turkish Cypriot community, believing it would not be helpful to the process of finding a final negotiated settlement to the Cyprus problem. The Turkish Cypriot community should reconsider its action.

On November 17, the Senate adopted by voice vote Senate Resolution 278, which reads as follows:

S. RES. 278

Whereas in 1974 Turkish forces occupied a portion of Cyprus facilitating the creation of a separate but unrecognized governmental entity in that sector of the island;

Whereas both the United States and the United Nations continue to recognize the government in Nicosia, under President Kyprianou, as the sole government authority in a unified Cyprus;

Whereas on November 15, 1983, the so-called assembly of the Turkish Federation of Cyprus purported to declare the creation of an independent state, thereby attempting to secede from the Republic of Cyprus and to destroy its territorial integrity and unity;

Whereas such action is illegal and contrary to the policy of the United States, which continues to call for the withdrawal of Turkish forces and the establishment of a harmonious, bicommunal Republic of Cyprus;

Whereas such illegal activities which threaten the stability of the entire Eastern Mediterranean region and the integrity of the North Atlantic Alliance, are made possible only by the presence of Turkish occupation forces on Cyprus: Now, therefore, be it

Resolved, That the United States Government—

(1) should act with urgency and determination to oppose this and any other action aimed at effecting a permanent bilification of Cyprus; and

(2) should call upon the Government of Turkey to take without delay all necessary steps to reverse the illegal action declaring an independent state and to promote, pursuant to pertinent United Nations resolutions the full political and economic unity of the Republic of Cyprus.

Since the UDI nearly 1 year ago, no nation other than Turkey has granted recognition to the Turkish Cypriot "entity." When in April of this year an exchange of Ambassadors between Turkey and the self-proclaimed entity was announced, it was condemned by the U.S. Government in the following terms:

Subject: Press statement on Turkish/Turkish Cypriot exchange of Ambassadors.

1. Following is press statement delivered by Department spokesman April 18.

2. Begin text: Turkish exchange of Ambassadors with Turkish Cypriots: The April 17 exchange of credentials between the Turkish Government and the Turkish Cypriot community was a surprise and a disappointment to us. This development has caused us deep concern because it clearly could set back the UN Secretary General's efforts to bring about a solution based on negotiations between the two parties on Cyprus. In this connection, the United States reaffirms its support for UN Security Council Resolution 541 as well as our earlier condemnation of the Turkish Cypriot declaration of statehood of November 15, 1983.

3. We deeply regret yesterday's (April 17) action and are continuing to urge all parties concerned to support the SYG's positive efforts to find solutions to the Cyprus Question.

Statements by the administration were encouraging at the time they were issued, but they have been undercut and contradicted by the administration's refusal to take actions clearly supporting them. To continue to provide military assistance to Turkey at current levels is to ignore the cynical UDI declaration of November 1983, and the provocative exchange of Ambassadors between Turkey and the Turkish Cypriot "entity" in April of this year. The Pressler amendment is an appropriate and constructive approach to the situation; common sense and justice alike demand its approval. The cost of maintaining the Turkish occupation forces on Cyprus is estimated to be in the range of $225 million—almost precisely the amount of the U.S. military assistance to Turkey that the Pressler amendment addresses.

It is argued by some that negotiations are underway—the Secretary General's talks are scheduled to resume on October 15—and that any action taken now would be an obstacle to their eventual success. A review of the efforts at negotiations over a prolonged period reveals that this is a specious argument.

In the round of talks just completed, the first high-level talks in 5 years, the Turkish Cypriots rejected the proposal of U.N. Secretary General Perez de Cuellar to permit resettlement of Greek Cypriot refugees in Varosha and six other zones, under temporary U.N. administration. Turkish Cypriot leader Denktash is quoted in the Turkish press as saying, "We will not give the Famagusta part back. There can also be no question of the Greek Cypriots returning to their former places." The Secretary General was widely reported to be disappointed by the response.

The September talks are only the most recent example of Turkish intransigence. The Turkish Cypriot declaration of UDI last November gravely compounded an already difficult and tragic situation. The recognition by Turkey of this so-called entity and the exchange of Ambassadors heightened tension and placed further obstacles in the path of a just and peaceful solution.

If we do not now send a signal to the Government of Turkey, we will in effect condone the actions of the past year that have created further obstacles to a just, negotiated resolution of the Cyprus tragedy. Ten years have passed; time is running out; opportunities are diminishing. The Pressler amendment is an appropriate and meaningful signal. I strongly urge its passage.

Mr. President, I simply note that the amendment offered by the Senator from South Dakota parallels the action taken in the Committee on Foreign Relations and included in the authorization legislation. It is the response to the declaration of independence, so-called independence, by the Turkish Cypriots in the northern part of Cyprus. It really runs to the question of making available areas held, as a consequence of the invasion, unoccupied for the resettlement of refugees. I think it is an eminently sensible proposal, both from the humanitarian point of view and from the point of view of moving this situation toward some resolution. I urge its adoption.

Mr. LUGAR. Mr. President, I rise in opposition to the amendment offered by Senator PRESSLER that would condition the entire grant component of aid to Turkey upon Presidental certification that the Cypriot city of Varosha/Famagusta had been handed back by the Turkish Cypriots for Greek Cypriot resettlement and, ultimately, control. I cannot imagine a legislative approach less likely to achieve progress on Cyprus. Indeed, by agreeing to the Pressler amendment, the Senate could well bring about the worst of all possible worlds—namely, damaging U.S. national security interests by alienating a key ally, Turkey, and undermining the prospects for diplomatic progress on Cyprus.

Moreover, the approach embraced by the Pressler amendment could not come at a worse time. Both before and after the November 1983 Turkish-Cypriot declaration of independence, the administration has worked steadily to break the diplomatic stalemate on Cyprus. These efforts are now bearing some fruit and offer the first chance for real progress in some time.

The U.N. Secretary General began a new initiative on Cyprus in August 1984 when he presented the contending parties with working points which outlined general ideas on ways to make progress toward a settlement of the Cyprus problem. On September 10, 1984, the U.N. Secretary General began 2 weeks of proximity talks in New York with the Cypriot President and the Turkish Cypriot leader. The first round of the talks concluded last week, and a second round has been scheduled for mid-October. Secretary Shultz met last week with representatives of Turkey, Cyprus, and Greece in New York and urged all parties to make the critical concessions needed to continue the process.

Although we are not privy to the details of the talks in New York, I understand that these discussions are addressing the entire range of issues involved in reaching a comprehensive settlement. Confidence-building measures, including the transfer of Varosha to the United Nations for eventual resettlement by the Greek Cypriots, have been a priority item on the agenda. But as the U.N. Secretary General has made clear, such measures have been considered as elements of an eventual integrated whole and therefore there would be no formal commitment by either side on any of these components until the overall approach had been fully agreed to.

The United States has made clear, repeatedly, that it strongly supports the Secretary General's initiative and will assist him in any way he believes will further his efforts. At this sensitive stage of the talks, however, the Secretary General believes that the appearance of direct involvement or interference by the United States or other parties would be counterproductive. While realism suggests the need to guard against both impatience and unconstrained optimism, the potential for progress suggests equally that we do nothing to exacerbate an already difficult situation.

But the Pressler amendment is flawed as well for the impact it would have on U.S. and NATO strategic interests. Turkey's geographic location, astride the entrance from the Black Sea into the Mediterranean, and with a long border with the Soviet Union, makes it vital to Westerm security. Since the earliest days of containment and the Truman doctrine, every U.S. administration has affirmed this fact. Turkey also borders on Southwest Asia and the Middle East. Turkey has been extremely helpful to the United States in past contingencies in these regions and can be again, provided our relationship is cooperative and strong. In addition, Turkey has the second largest army in NATO, tying down large numbers of Soviet forces that could otherwise be directed toward the Central European front; but it is ill-equipped and its weaponry is obsolete. Modernization of the Turkish Armed Forces is essential if it is to continue to play a credible NATO role.

The value of U.S. aid to Turkey goes well beyond strictly military considerations. Our aid helps a promising new civilian government pursue sorely needed economic reforms—including substantial liberalization of trade and foreign investment policies—while continuing to restore democracy and regard for human rights. These are important and promising trends which serve U.S. interests and deserve our support.

For all of these reasons, I oppose the Pressler amendment. The current continuing resolution language allows for a mixture of grant—$215 million—and concessional credits—$250 million out of $500 million—which would provide this assistance on terms that would not weaken an economy we seek to bolster. Just as important, this level of $715 million in aid would not upset the balance in the Aegean or in any way threaten Greece, a country which continues to receive $500 million in military assistance, more per capita than any other leading recipient except Israel.

We have spoken for years in the Congress about the need to maintain a rough 7-to-10 ratio in military assistance to Greece and Turkey in order to promote a degree of strategic stability and balance in the eastern Mediterranean. Indeed, for some in the Congress the 7-to-10 formula has become something of a political imperative, whatever its military rationale. But to attach clearly unacceptable, punitive conditions to military assistance to Turkey is clearly to undermine such a congressional imperative. The effect of the Pressler amendment, containing as it does conditions on a portion of that military assistance which Turkey clearly cannot accept, would be to scuttle the very 7-to-10 ratio that the Senator indicates is a prime objective of his amendment.

At the same time, I believe that the provisions attached to aid to Turkey in the continuing resolution language will help to promote the prospects for progress on Cyprus. It includes provisions that would encourage Turkey to use its influence in a constructive manner to help solve the complex and tragic Cyprus problem.

We should avoid any action which could be harmful to the current initiative of the U.N. Secretary General. Cuts or conditionality on aid to Turkey would serve to encourage resistance and damage prospects for a negotiated settlement. Rather than helping Cyprus, such actions targeted on only one side to the dispute, would harm prospects for a peaceful, reunited Cyprus.

Therefore, Mr. President, I urge my colleagues to reject the Pressler amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay the amendment of the Senator from South Dakota on the table. The yeas and nays have been ordered. The clerk will call the roll.

Mr. STEVENS. I announce that the Senator from North Carolina [Mr. EAST] and the Senator from Illinois [Mr. PERCY] are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Louisiana [Mr. LONG], is necessarily absent.

The PRESIDING OFFICER (Mr. EVANS). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 51, nays 46—as follows:

[Rollcall Vote No. 278 Leg.]

YEAS—51

Abdnor	Evans	Mattingly
Andrews	Garn	McClure
Armstrong	Goldwater	Murkowski
Baker	Gorton	Nickles
Bentsen	Hatch	Nunn
Boren	Hatfield	Proxmire
Boschwitz	Hawkins	Quayle
Byrd	Hecht	Rudman
Chafee	Helms	Simpson
Chiles	Huddleston	Stafford
Cochran	Jepsen	Stennis
Cohen	Johnston	Stevens
Danforth	Kassebaum	Symms
Denton	Kasten	Thurmond
Dole	Laxalt	Tower
Domenici	Lugar	Wallop
Durenberger	Mathias	Wilson

NAYS—46

Baucus	Hart	Pell
Biden	Heflin	Pressler
Bingaman	Heinz	Pryor
Bradley	Hollings	Randolph
Bumpers	Humphrey	Riegle
Burdick	Inouye	Roth
Cranston	Kennedy	Sarbanes
D'Amato	Lautenberg	Sasser
DeConcini	Leahy	Specter
Dixon	Levin	Trible
Dodd	Matsunaga	Tsongas
Eagleton	Melcher	Warner
Exon	Metzenbaum	Weicker
Ford	Mitchell	Zorinsky
Glenn	Moynihan	
Grassley	Packwood	

NOT VOTING—3

East	Long	Percy

So the motion to lay on the table was agreed to.

Mr. TOWER. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATFIELD. Mr. President, the Senator from Oklahoma and the Senator from New Jersey are about ready to offer an amendment on synfuels. In discussing the matter with parties to this amendment, it has been agreed that we have a 10-minute limitation on the consideration of this amendment equally divided between the Senator from New Jersey, the Senator from Oklahoma, and the Senator from Idaho.

Mr. BAKER. Mr. President, before you put that request, may I inquire of the distinguished manager if he would be willing to amend the request so that no amendments to this amendment would be in order?

Mr. HATFIELD. I would be willing to do that.

Mr. McCLURE. Mr. President, parliamentary inquiry. Is the request of the majority leader that the amendment to be offered by Senator BRADLEY would not be subject to further amendment, or that the committee amendment would not be subject to further amendment?

Mr. BAKER. The suggestion I would like to make is the same suggestion we covered before, and that is that no amendment would be in order except

on the subject matter of this amendment.

Mr. McCLURE. Mr. President, there is one technical amendment, and an amendment to be offered on behalf of Senator METZENBAUM, which is agreeable. We have to make allowance for both of those contingencies.

Mr. HATFIELD. Mr. President, I withdraw my request for a unanimous-consent agreement.

The PRESIDING OFFICER. The request is withdrawn.

AMENDMENT NO. 7023

Mr. BRADLEY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New Jersey [Mr. BRADLEY] proposes an amendment numbered 7023.

Mr. BRADLEY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In lieu of the matter intended to be inserted, by the committee amendment and designated section 13, add the following:

Of the funds appropriated to the Energy Security Reserve by the Department of the Interior and Related Agencies Appropriations Act, 1980 (Public Law 96-126) and subsequently made available to carry out Title I, part B of the Energy Security Act (Public Law 96-294) by Public Laws 96-304 and 96-514, $9,000,000,000 are rescinded;

Provided, That none of the funds made available to carry out Title I, part B of the Energy Security Act shall be obligated to projects whose products will cost significantly more than projected market prices of competing fuels over the lifetime of the project;

Provided further, That of the Energy Security Research funds remaining available to carry out Title I of the Energy Security Act, funds shall be obligated only to projects whose primary conversion technologies comply with and promote the diversity objectives set forth in Title I of the Energy Security Act;

Provided further, That Sections 116(f) and 121 of Title I, part B of the Energy Security Act are repealed and that Section 175 of the United States Synthetic Fuels Corporation Act of 1980 (42 USC 8775) is amended by adding the following new subsections:

"(1) Chapters 5 and 7 of title 5, United States Code (containing provisions popularly known as the Administrative Procedure Act, the Freedom of Information Act, and the Government in the Sunshine Act) shall apply to the Corporation as if it were an agency of the United States.

"(m) Section 1905 of title 18, United States Code (relating to disclosure of confidential information) shall apply—

"(1) to Directors, officers, and employees of the Corporation as if they were officers or employees of the United States; and

"(2) to the Corporation as if it were an agency of the United States.".

Section 118(a) of the Energy Security Act of 1980 (Public Law 96-294) is amended by striking out "the Directors and officers of the Corporation and to" and inserting in lieu thereof "all the Directors and to the officers and".

Section 118(c)(3) of the Energy Security Act of 1980 (Public Law 96-294) is repealed.

Provided further, That Section 117(b)(2) of the Energy Security Act of 1980 (Public Law 96-294) is amended—

(1) by striking out "taking into consideration" and inserting in lieu thereof "in accordance with"; and

(2) by striking out ". If the Board of Directors: and all that follows through "Board of Directors to such effect".

The amendments made by subsection (a) of this section shall take effect 30 days after the date of enactment of this Act.

Mr. BRADLEY. Mr. President, we have had this debate several days ago so I will be very brief in summarizing this amendment. This amendment rescinds $9 billion for the Synthetic Fuels Corporation. Put very simply, with deficits of nearly $200 billion, we simply cannot afford to continue guaranteeing a few companies $60 to $90 a barrel for oil.

It should be kept in mind, Mr. President, that these are not the companies that are out drilling for oil and finding it and having to sell it in the marketplace at $20 to $25 a barrel. These are a few companies that have hit the Federal jackpot because of the Synthetic Fuels Corporation.

This is our chance to reduce the Federal deficit by about $9 billion.

The other day, we had a brief but heated debate about funding the Superfund bill to clean up toxic waste. One of the arguments against that bill was that it cost $3 billion over a 5-year period. Here is an opportunity to save three times what the Superfund bill was going to cost in general revenues.

Mr. President, put very simply, this is an opportunity to reduce the Federal budget by $9 billion. It is also an opportunity to reconsider the direction we took in 1980 in synthetics. When we passed that bill, by 1988 the program was supposed to produce 500,000 barrels a day; by 1992, 2 million barrels a day. If we produce 50,000 barrels a day next year, we will be lucky.

Mr. President, the committee amendment reduces the funding for the Synthetic Fuels Corporation by $5.2 billion. The amendment I offer on behalf of Senator NICKLES and myself reduces that funding for the Synthetic Fuels Corporation by $9 billion. That means that there still will be a little over $4 billion in the fund which will allow us to take care of a variety of technologies, and we will not be concentrating the bulk of our dollars in a few very expensive programs, subsidizing companies and guaranteeing that they will be paid $60 to $90 for a barrel of oil when the marketplace today pays about $25.

Mr. President, this is a very simple question. It is an opportunity to reduce the Federal deficit by $9 billion.

I yield to my distinguished colleague from Oklahoma.

Mr. NICKLES. Mr. President, I am pleased to join my good friend and colleague, the Senator from New Jersey, in offering this amendment.

First, I congratulate Senator MCCLURE for his amendment that is now in the committee bill which rescinds $5.2 billion. That is a step in the right direction. We can and should do more. We should rescind $9 billion.

Some people say that we should rescind $14 billion. That is how much the Synthetic Fuels Corporation has to spend.

The amendment that Senator BRADLEY and I are cosponsoring today would rescind only $9 billion, which would leave $4.2 billion that has not been obligated for a variety of projects.

The amendment that Senator MCCLURE has would rescind only $5.2 billion. That means that there would be over $8 billion that could be spent for a variety of projects. The question is, are we going to rescind $9 billion or $5.2 billion?

There is another provision in Senator MCCLURE's proposal which is now the committee proposal. It also provides for spending up to $750 million for a coal project on which Senator BYRD has been working. Even though it rescinds $5.2 billion, it also calls for spending up to $750 million, so you are only talking about a possible net saving of $4.5 billion.

The difference is, are we going to rescind $9 billion? The administration requested that rescission. Several of us cosponsored that rescission for $9 billion.

Mr. Stockman, in a letter which he sent to Chairman MCCLURE on the 25th, says that he remains convinced that the President's original proposal would leave in place a strong Synthetic Fuels Program and represents the soundest policy. I believe this is the soundest policy as well, and I hope the Senate will join in the amendment to rescind the $9 billion.

Mr. McCLURE. Mr. President, I oppose the amendment.

The committee amendment is a compromise that has been worked out after weeks and weeks of negotiation among all the parties involved and all the people in the industry and the administration. It is the kind of compromise that, in a special way, accomplishes a redirection and a rebalancing of this program.

Senators will recall that we earlier rescinded $2 billion of the originally appropriated budget authority to the Synthetic Fuels Corporation. We are now proposing to rescind an additional $5.2 billion, making a total rescission of $7.2 billion. The budget authority that would remain after this rescission would allow us to go ahead with the

Synthetic Fuels Program, although revised and restrained. It would still allow us to do what we set out to do. It would allow this Corporation to develop new technologies and demonstrate the technologies on a variety of resources and with a diversity.

The SFC Board, last April, at the last meeting at which they had a quorum, issued letters of intent. They also took action to indicate that when the projects had matured, they would issue letters of intent on a number of projects. These letters of intent would total $6.2 billion if the entire amount were obligated and expended according to the maximum amount of money that could be expended under those contracts. Under the committee amendment we are leaving available for those contracts $5.7 billion, which will constrain those contracts and require the Board to be very prudent and very careful in the execution of those contracts. And the amendment would leave $2.5 billion, which is currently uncommitted, for any purpose. That would allow the SFC to go ahead with the other portion of the program, which it is contemplated would be eastern coal.

As the Senator from Oklahoma has indicated, a provision of the compromise also would take from the $5.2 billion that is rescinded, $750 million to establish a reserve to be devoted to the purposes, programs, and objectives set forth in section 320 for clean coal technology demonstration, to develop new methods by which we can use the coal resources of this country in a clean burning, nonpolluting way.

I should mention that that $750 million is subject to the future appropriations act. The amendment does not expend that money. Rather it makes it available subject to future appropriations.

Mr. President, this balanced program does have the support of the administration. While the Senator from Oklahoma is correct, that Mr. Stockman in his letter indicated that they still believe that the original administration proposal of $9 billion rescission, which incidentally is $2 billion less than is being suggested by the Senator from Oklahoma and the Senator from New Jersey, they stil believe that was the best proposal, but they have agreed with this compromise. If we adopt this compromise and it is signed into law by the President, they have agreed to send up the nominations for the Board of Directors of the Corporation. That would allow us to complete this program.

So I urge my colleagues to reject the amendment that has been offered and support the action that the committee has already taken. I believe that this is the best course of action for us to take at this time.

Mr. JOHNSTON. Mr. President, the distinguished Senator from Idaho, representing a varied and large group of Senators, undertook to negotiate this with OMB. He has done an excellent job. While there is not nearly as much left in the Synfuels Corporation as many of us would have liked, it is all that we can get in a compromise. It is an excellent compromise. It merits our support.

I hope all Senators, except the authors of the amendment, will support the distinguished Senator from Idaho.

Mr. ARMSTRONG. Mr. President, the Senator from Idaho and the Senator from Louisiana have accurately summed up the process by which the committee compromise amendment was developed. But I think they have neglected, perhaps out of modesty, to fully explain their own role in bringing this compromise to the floor.

I would be remiss if I did not congratulate the Senator from Idaho and the Senator from Louisiana for not only fine leadership but indeed exemplary leadership.

This has been going on for many months. The effort which they have undertaken, particularly the chairman of the committee, Mr. MCCLURE, has undertaken to bring together diverse elements, representing many different points of view in a way which is going to save several million dollars for the taxpayers, which will permit the continuation, albeit on a reduced scale of a viable synthetic fuels industry, which protects the strategic energy interest of the country and which does so in a way which is not only fully acceptable to the majority of this Chamber but also to the administration and our colleagues in the House of Representatives is, if we are able to bring it off here tonight and in the next 24 hours or so in conference, truly a remarkable legislative achievement.

I fully endorse the committee proposal and agree with Senator MCCLURE and Senator JOHNSTON that it would be well to reject the substitute and get on to pass the committee proposal.

Mr. NICKLES. Mr. President, just one final brief comment. We talk about saving billions of dollars, but this proposal if we fund it a lot of the projects that will be funded by Senator MCCLURE's proposal will be funding projects that will cost taxpayers millions of dollars a day. We are talking about projects that cost $60 to $70 per barrel. The price of oil today in the market is $28 per barrel. We are talking about projects that fund natural gas at $10 plus for 1,000 cubic feet when the price today is right around $3, over three times the market price. So when we are talking about saving billions of dollars and millions of dollars people should know if we go with the more expensive McClure proposal the Federal Government will be giving price guarantees well in excess of twice or three times what the market price is today.

SEVERAL SENATORS. Vote!

ENERGY SECURITY RESERVE

Mr. MCCLURE. Mr. President, last Wednesday the Senate began debate on the Department of the Interior and Related Agencies Appropriations Act for fiscal year 1985. At that time I presented, and the Senate also began debate on the modified committee amendment relating to the energy security reserve.

An identical committee amendment is contained in the continuing resolution for fiscal year 1985, that we are debating here today. Rather than repeat my earlier statement relating to the energy security reserve amendment, in connection with the current amendment, I will simply refer my colleagues to my earlier statement.

Mr. President, my statement last Wednesday describes the need for this amendment, and its legislative history. In addition, that statement describes the intent of Congress in enacting this committee amendment to the continuing resolution.

I also would note that, in connection with this amendment, I will add an amendment on behalf of Senator METZENBAUM, as I did earlier. The two amendments thus will be identical in all respects.

Rather than repeat everything that was said earlier, I will instead present a brief comparison between the committee amendment and the Bradley-Nickles amendment.

The Bradley-Nickles amendment deals with much more than the rescission of funds.

First, it applies certain administrative laws directly to the Corporation, that the Energy Security Act applies indirectly. For example, the Bradley-Nickles amendment applies the Freedom of Information Act, the Government in the Sunshine Act, and what is commonly referred to as the Ethics in Government Act directly to the Corporation.

However, these matters already are addressed by current law. For example, section 121 of the Energy Security Act, which is modeled after the Freedom of Information Act, provides for public access to information. Section 116(f), which establishes an open meeting policy for the Board, is modeled after the Government in the Sunshine Act. And, section 118, which provides for conflict of interest and financial disclosure, is modeled after the Ethics in Government Act. All these matters are addressed by the Energy Security Act.

In addition, these matters will be addressed in the Metzenbaum amendment. In our judgement the amendment effectively responds to those concerns which have been raised by Senators METZENBAUM and COHEN, and

others, in these areas. And the committee amendment does so while maintaining the basic integrity of the Synthetic Fuels Corporation.

The Bradley-Nickles amendment, however, violates the basic integrity of the SFC as an independent Federal entity. For example, the Bradley-Nickles amendment subjects the Corporation to the formal procedural requirements of these acts, which were formulated to apply to Federal departments and agencies. This will now require the SFC to expend additional time and effort, at this critical juncture, to adopt and use the more detailed and rigid procedures under such acts. This is expected to result in procedural delays, without any substantive difference in policies, in order to avoid possible litigation.

Second, the Bradley-Nickles would have a similar adverse effect on the SFC from application of the Administrative Procedures Act to the Corporation. The SFC now has a statutory obligation to follow the competitive solicitation procedures in the Energy Security Act. These statutory procedures include specific criteria that are to be followed in the award of financial assistance. Criteria that are different than the general requirements of the Administrative Procedures Act. Adoption of the Bradley-Nickles amendment would complicate and delay current and future competitive solicitations, and frustrate SFC's achievement of its statutory mandate.

Application of the Administrative Procedures Act to the Corporation also would subject the Corporation to potential litigation concerning compliance with the rulemaking requirements of such act. In addition, it would create uncertainty regarding the validity of any Corporation actions in awarding financial assistance until the expiration of applicable periods for judicial review thereof.

Third, the Bradley-Nickles amendment would require compensation of officers and employees of the Corporation in accordance with Federal pay scales and would remove the Board's authority to pay salaries greater than level I of the Executive Schedule. This is to be done without regard to the fact that employees of the Corporation are not eligible for other Federal employee benefits and incentives. If this requirement were adopted the Corporation woud find it difficult to retain staff and attract the necessary new employees for the Corporation to effectively carry out its statutory manadate. It must be recognized that the Energy Security Act was written the way it was because the life of the Corporation is for a limited duration, there was a need to attract qualified personnel into Government service for the limited period required for the Corporation to carry out its statutory mandate.

Fourth, in addition to the rescission of funds, under the Bradley-Nickles amendment the SFC can obligate funds only to those projects whose primary conversion technologies comply with and promote the diversity objective set forth in the Energy Security Act. None of the other statutory criteria would apply. For example, under the Bradley-Nickles amendment it is questionable whether the Board could consider such statutory criteria as the potential cost per unit production or the potential for replication, since diversity is to be the only basis for the award of financial assistance.

Similarly, the requirement that synthetic fuels production in the United States must be in a manner consistent with the protection of the environment would have to yield to the requirement in the Bradley-Nickles amendment that only diversity of technologies is to be the basis of awards of financial assistance.

Finally I would like to turn to the alleged budget impact of the Bradley-Nickles amendment, which has been incorrectly characterized as the earlier administration's proposal. It is not. The Bradley-Nickles amendment effectively rescinds $11 billion, when combined with the $2 billion rescinded earlier this year, not the $9 billion initially supported by the administration.

However, the committee amendment, not the Bradley-Nickles amendment, now has administration support. By comparison, the committee amendment would rescind $5.2 billion. When combined with the $2 billion rescinded earlier this year the total rescission enacted by this Congress would be $7.2 billion. And the committee amendment has bipartisan support.

Under the Bradley-Nickles amendment, virtually no funds would be left over to assist those new projects that are necessary for the Corporation to responsively meet its statutory mandate. For example, the SFC has just completed two solicitations with an emphasis on coal technologies; 18 proposals are currently pending before the Corporation requesting $17 billion in assistance. None of these pending proposals would be afforded a chance to compete for SFC assistance, if the Bradley-Nickles amendment is adopted.

Neither would the current projects with Letters of Intent. The Bradley-Nickles amendment represents a breach of faith with those industry sponsors who have already spent over $2 billion in connection with those projects with authorized or signed letters of intent. Under the Bradley-Nickles amendment no funds are available for these projects with SFC letters of intent.

By comparison, while the committee compromise amendment reduces the Corporation's budget authority to $8.07 billion, some $5.7 billion is earmarked for projects holding SFC letters of intent. The letters of intent that have been authorized or signed by the Synthetic Fuels Corporation are set forth in the table that I include, without objection, at this point in my remarks.

Project	Date of Board authorization	Date letter of intent signed
Union phase II	Dec. 1, 1983	Dec. 1, 1983.
Cathedral Bluffs	July 28, 1983	July 28, 1983.
Seep Ridge	Dec. 2, 1983	June 22, 1984.
HOP Kern River	Apr. 5, 1984	June 29, 1984.
Kentucky Tar Sands	do	Not signed.
Northern peat	do	Apr. 26, 1984.
Forest Hill	do	Not signed.
Great Plains	Apr. 26, 1984	Apr. 26, 1984.

Mr. President, under the committee amendment an additional $2.5 billion is available for completion of the Corporation's basic business plan, which needs to include an Eastern coal element, to be responsive to the SFC's statutory mandate. By comparison, if the Bradley-Nickles amendment is adopted there will be no Appalachian or Eastern coal projects in the SFC's business plan.

The supporters of the Bradley-Nickles amendment are quick to justify their position by incorrectly characterizing the nature of the SFC price guarantee to the Union Oil Shale project. Let me review with you how much that assistance really is:

First, using the same methods advocated by the Office of Management and Budget, the present cost of the assistance to Union is 98 cents per barrel. When taxes are taken into account the assistance is half this amount.

Second, while the peak price guarantee by the SFC could be $92 per barrel, the SFC would pay the differential of approximately $44 per barrel in 1989. And, because the price guarantee payments are fully taxable, the differential actually is a peak of about $17 per barrel today. However, over the life of the contract the assistance, as mentioned, would only be an average of 98 cents per barrel before taxes, and half that amount after taxes.

Third, as the GAO points out, the Union project will take 11 years to achieve a positive, cumulative, after-tax cash flow. By that time Union will have invested $1.2 billion of its own money in the project.

Finally, as provided in the SFC contract, there actually will be profit sharing with the Federal Government. Under this provision of the contract, the Federal Treasury will recoup over $3.15 billion of the assistance provided by the SFC, which is a net cashflow of $450 million.

Mr. President, similar recoupment provisions are addressed as a standard feature of SFC negotiations. As Chairman Noble has noted, if prices rise by only 2.3 percent over inflation during

the next 25 years, then virtually all the moneys expended by the Corporation for synthetic fuels development should be returned to the taxpayers.

The SFC program, Mr. President, is aimed at providing a diverse spectrum of synthetic fuels production experience on which to base future financial, technical and environmental decisions.

A principal benefit to be gained from this experience will be the operation of such projects in an environmentally acceptable manner. Only full scale, long-term commercial operation can provide reliable experience. But, more importantly, research and development activities alone will never resolve the questions and risks accompanying any first of a kind commercial plants. Yet the Bradley-Nickles amendment would relegate us to continuation of only research and development of synthetic fuels.

The SFC program provides the basis for efficient private sector development and deployment of synthetic fuels in response to market forces. Once the Federal assistance ends the projects must be financially viable. This is a principal feature of the Energy Security Act.

But, equally important, once these technologies are demonstrated they can be expanded at the same sites and replicated at other sites. For example, the synthetic fuels projects already included in the SFC's basic business plan will have a production capability by 1989 of 135,800 barrels per day. These projects, however, can be expanded on the same sites to a production capability of almost 400,000 barrels of oil equivalent per day.

But, even without expansion, the total production from the eleven projects for which the SFC has awarded contracts or authorized letters of intent is estimated at over 1 billion barrels of oil equivalent over their useful lives.

Mr. President, events in the Middle East continue to argue for increased efforts to ensure our energy security. The specter of interruptions in international energy supplies is always on the horizon. The accompanying precipitous price increases, and potential for foreign policy blackmail, is self-evident. One of our defenses is development of a long-term national capability for the environmentally acceptable production of synthetic fuels. The United States has abundant reserves of coal, oil shale, and tar sands that are not now available for its use.

When I offered this compromise in the Appropriations Committee as an amendment to the continuing resolution, it was cosponsored by Senators JOHNSTON, BYRD, WARNER, ARMSTRONG, FORD, ANDREWS, GARN, and BURDICK. At this time it also is supported by Senators DOMENICI, PERCY, COHEN, HUDDLESTON, HATCH, METZENBAUM, and HEINZ.

Mr. President, I urge the support of my colleagues for this bipartisan compromise which is supported by the administration.

Mr. President, I ask unanimous consent to have printed in the RECORD a letter dated September 25, 1984, from David Stockman, Director of OMB, to me.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

EXECUTIVE OFFICE OF THE PRESIDENT,
OFFICE OF MANAGEMENT AND BUDGET,
Washington, DC, September 25, 1984.

Hon. JAMES A. MCCLURE,
Chairman, Subcommittee on Interior and Related Agencies, Committee on Appropriations, Washington, DC.

DEAR MR. CHAIRMAN: I am pleased to respond to your request for a statement of the administration's views on the synthetic fuels proposal presented in your letter of September 21, 1984.

As described in your letter, the amendment would:

Rescind an additional $5.2 billion from the Energy Security Reserve for a total rescission of $7.2 billion including the provisions of the Deficit Reduction Act of 1984;

Establish within the remaining balances a reserve of $5.7 billion for projects with approved Letters of Intent; one-half of the unused balance of this reserve will lapse, while the other half will be available for obligation in the discretion of the Board of the Synthetic Fuels Corporation;

Establish a new appropriations reserve of $750 million to be available upon subsequent appropriation for coal research; and

Suspend the production goals of the Energy Security Act.

The President's synthetic fuels policy statement of May 14, 1984, had two fundamental objectives. The first was to achieve a major budget savings by curtailing the total obligations of the Synthetic Fuels Corporation. The second was to provide a focus for congressional debate over the appropriate scope of the Federal synthetic fuels program so that the Nation can move forward in developing the capability to produce synthetic fuels.

We remain convinced that the President's original proposal would leave in place a strong synthetic fuels program and represents the soundest policy. By avoiding the earmarking of funds for specific projects, the simple rescission would leave the Board of the SFC free to design a new plan for the use of its funds that reflects the reduced total funding.

Nevertheless, given the constructive movement to date in resolving legitimate differences over the revision of national synfuels policy, the time has come for a final resolution of the remaining issues. Your proposal represents very substantial progress toward the goals established by the President's statement. The proposed rescission of $5.2 billion, in conjunction with prior congressional action and future amounts that will lapse as a result of the disposition of the Letter of Intent projects, will result in a total synfuels funding adjustment approximately consistent with the President's request.

We continue to have concerns about the need for the $750 million reserve. This provision would be acceptable, however, in order to achieve enactment of a satisfactory compromise and on the basis of your assurance that it is designed to provide a reliable source of budget authority in fiscal year 1986 and future years for our on-going efforts in the area of coal and fossil research and development.

You also inquired about the present status of the nominations to fill the five current vacancies on the Board of Directors of the Corporation. Because of the concerns expressed repeatedly by a number of Senators, I believe it was apparent to most observers that a resolution of the questions surrounding the future policy direction of the SFC was an important precondition to the confirmation of new Board members. The adoption of your compromise proposal by the Senate and its incorporation in a conference report would provide the policy debate that your colleagues have stated must precede action on filling the vacancies. We would thus be able to announce nominations to the Board within a few days of final action on the rescission.

Because of the importance of restoring a quorum to the SFC Board, we plan to monitor closely the confirmation process. Should the Senate schedule force an unacceptably long delay in confirmation we would consult you and your colleagues on the jurisdictional committee on the appropriateness of using the President's authority to make recess appointments.

We sincerely appreciate your efforts to forge a consensus on issues relating to the Synthetic Fuels Corporation. I hope that I have responded fully to your request for a clarification of the administration's views. Please let me know if there are any further questions.

Yours very truly,

DAVID A. STOCKMAN,
Director.

Mr. ARMSTRONG. Mr. President, during some of our earlier discussions on the issue of synthetic fuels and action of the Synthetic Fuels Corporation, the administration had proposed a so-called market test to be applied to projects under consideration by the Corporation. I would like to ask the Chairman if there is any legislative history or statutory language relating to the administration's proposed market test.

Mr. MCCLURE. Mr. President, in reply to the Senator from Colorado I will note that there is no legislative history or statutory language relating to what the administration had proposed regarding a market test. Instead, as the Committee Report on the Continuing Appropriations Act, 1985, states:

Section 131(b)(2)(A) of the Energy Security Act specifies that preference in the selection of proposals for financial assistance be given to the proposal which represents the least commitment of financial assistance by the Corporation and the lowest unit production cost within a given technological process, taking into account the amount and value of the anticipated synthetic fuel products. Section 131(b)(3) requires that the Corporation shall also consider, in awarding financial assistance, among other relevant factors—(B)(i) the potential cost per barrel or unit of production of synthetic fuel from the proposed synthetic fuel project and (B)(ii) the overall production potential of the technology, considering the potential for replication, the extent of the resource

and its geographic distribution and the potential end use. In satisfying these and other applicable requirements of the Energy Security Act, it is intended that the Corporation consider whether projects supported by the Corporation will be likely to continue to operate after SFC financial assistance ends. As part of that consideration, the Corporation would complete an analysis of the projected economic viability of the project over the life of the project, taking into account the projected project operating and maintenance costs and the projected market price of competing fuels.

In addition to this statement I would reply to the Senator from Colorado, that I understand the Synthetic Fuels Corporation has already completed a virtually identical analysis for all the projects with letters of intent.

Mr. ARMSTRONG. Mr. President, may I then inquire as to whether the existing projects with letters of intent, and particularly I am interested in the two Colorado oil shale projects, are considered to have met any such test or review as just described by the Chairman?

Mr. McCLURE. Mr. President, that is the case.

Mr. ARMSTRONG. Mr. President, I would also like to ask the Chairman a further question. Under this amendment we have reserved $5.7 billion for obligation to projects with letters of intent. There is a further amount of $2.5 billion which remains uncommitted. Am I correct in my understanding that should the $5.7 billion not prove sufficient to meet the obligations to those projects with letters of intent, funds from the uncommitted amount are available for this purpose?

Mr. McCLURE. Mr. President, the Senator from Colorado is correct. The uncommitted authority totaling approximately $2.5 billion in the Energy Security Reserve would remain available for obligation by the SFC under the Energy Security Act for new projects, to supplement the $5.7 billion for projects with authorized letters of intent, and other authorized activities pursuant to the act.

Mr. ARMSTRONG. Mr. President, I would also like to ask the Chairman about that part of the amendment related to production goals. As I understand this, until the Corporation reports to Congress on a comprehensive strategy related to the production goals of the act and that strategy or some other alternative is approved by Congress and the President, projects may be considered without reference to the production goal in section 125 of the act.

Mr. Chairman, I am trying to determine what, if any effect this change in the amendment might have on the current projects with letters of intent. I understand that in February 1982 the Board adopted a resolution which in effect waived the near-term production goals and it was under the February 1982, policy that those projects with letters of intent were considered. So it would appear that for these projects this statutory change is really not relevant since they were earlier considered under essentially the same criteria. I would like to ask the Chairman if he agrees with this evaluation?

Mr. McCLURE. Mr. President, the Senator from Colorado is correct.

In essence, the amendment temporarily sets aside a requirement for the attainment of production goals until the comprehensive strategy is in place; but, certainly the Board's discretion to achieve optimum production remains in place and, as the Senator from Colorado has noted, those projects with letters of intent were earlier considered under a similar Board policy, adopted by resolution, which set aside near-term production goals. So, in effect, these projects have already been evaluated under criteria similar to that contained in this amendment.

I would also note as stated in the report of the Committee on Appropriations (S. Rept. 98-634, p. 29) the Board would still have discretion to use funds to obtain an optimum amount of aggregate synthetic fuels production from all projects awarded financial assistance to achieve the purposes of title I of the Energy Security Act and certainly we do want to see optimum production. Furthermore, the Board would retain discretion under paragraph 131(b)(3) and other applicable sections of the act, to consider the amount of synthetic fuel production by a proposed project as a relevant factor in the award of financial assistance.

Mr. ARMSTRONG. Mr. President, I thank the chairman.

Mr. HATCH. Might I inquire of the distinguished Senator from Idaho whether the language contained in this legislation applies to authorized letters of intent or signed letters of intent?

Mr. McCLURE. I would be happy to respond to the Senator from Utah's inquiry. This language specifies that the remaining $5.7 billion will be set aside for those projects which had authorized letters of intent prior to June 1, 1984.

Mr. HATCH. Would this mean that a project, such as the Seep Ridge project which had an authorized letter of intent in December 1983, but was signed after June 1 will be considered eligible for these funds?

Mr. McCLURE. Yes, the project mentioned by the Senator from Utah did have an authorized letter of intent prior to June 1, 1984, and would therefore be considered eligible for funds set aside for this purpose.

Mr. HATCH. I thank the Senator for this clarification.

I would hope that the Senate will reject the Bradley-Nickles amendment to rescind $9 billion from the Synthetic Fuels Corporation.

Though I will be the first to admit that the Corporation has been plagued with some significant problems, we cannot turn our back on this effort to create and support a viable Synthetic Fuels Program in the United States.

The Synthetic Fuels Corporation was created in the late 1970's in response to the oil shortages which had been caused by OPEC. As the public and Congress began to realise that the world, and particularly the United States does not possess an infinite number of oil reserves, and as we became acutely aware of the consequences of reliance on foreign oil supplies, it was felt that the United States should explore the development of alternative methods of producing fuel.

Well, today, people say, "times have changed. We don't have an oil crisis any more—the price of gasoline is down. We don't worry so much about OPEC any longer." This may all be true for today, but if there is one things all historians know, it is that history can and does repeat itself. What has happened once, can usually happen again.

So I would ask Senators, "Is it worth risking tomorrow's energy self-sufficiency because we are self-sufficient today? I think this approach lacks foresight. Let's face it, our society is dependent on oil and oil products. It is too critical to our national security and national interest to be dependent on foreign countries for our domestic oil supplies.

Even without the threat of another embargo or cartel our own geologists tell us that our oil reserves are finite. So why not try and develop the technology to produce oil in nontraditional ways?

Some say it is too expensive. I think we should point out that the Synthetic Fuels Corporation has committed only $740 million so far. Not the billions upon billions in waste that is so often represented. $740 million.

It has been pointed out in the House debate, but I think deserves attention here, that even if this program were a complete and total failure, and we lost every penny of the $14 billion currently allocated dollars it would be the equivalent of 84 days of imported oil costs. 84 days.

Today we have a choice, we can either gut the program by accepting the Bradley-Nickles amendment, or we can choose to let the program prove itself.

I have supported Senator McCLURE's efforts to achieve a settlement on the synfuels issue, and he has worked hard and diligently to forge this compromise. And commend him for his efforts. I urge Senators to look carefully at this compromise, which is supported by the administration, and accept it. It is not all synfuels supporters

would like—but neither will it gut the program.

This compromise will give the Synthetic Fuels Program a chance to work, a chance to prove itself. We have eight projects which are ready to go on line. They are a mixture of technologies and approaches to producing synthetic fuel.

This compromise will give them the opportunity to work and prove themselves, as well as honor the commitments that have been made to private companies who have believed in these projects and backed that belief with their own capital.

Yes, it has taken a long time to get to this point, but let's not pull the plug now, not when we have come so far and are literally on the brink of discovering whether these technologies can and will work.

Mr. FORD. Mr. President, I support the compromise that has been worked out by the distinguished Senator from Idaho and the distinguished Senator from Louisiana. They have done a terrific job and I encourage my colleagues to defeat this amendment.

Mr. President, I support the compromise amendment of Senators McCLURE, JOHNSTON, and others in hope and expectation that its adoption will provide a turning point in our stalled National Synthetic Fuels Program. Others have pressed and will continue to press for a different turning point—the effective abolition of the Synthetic Fuels Corporation. I urge the rejection of this approach.

Mr. President, I have worked to help in developing this compromise for several reasons. Basically, because I believe in the necessity to have a synfuels industry in place and the longer we put it off, the more costly it will be. Mr. President, the time has come to stop shifting costs to future generations.

The administration has committed to filing the five current vacancies on the Board of Directors of the Corporation if this amendment is adopted. In light of the scheduled adjournment of this Congress, recess appointments may be necessary. I believe that we can succeed in achieving a board, the majority of which is committed to carrying out the mandates of the Energy Security Act.

Mr. President, the crucial element in this package for me is what happens to the $5.2 billion rescinded under this amendment; $705 million would be deposited in a separate account, the clean coal technology reserve for adopting and proving technology for the clean burning of coal. This money is subject to the appropriations process.

Mr. President, I do not come lately to an interest in coal technology. The Kentucky State program was set up in 1972 when I was Governor. Time and again, I have said this Nation must not stand idly by in the midst of a temporary energy sufficiency. We must anchor our energy future on coal and the only way to do that is through development of clean ways to burn it.

Mr. President, I was pleased to be an original cosponsor of Senator BYRD's coal technology bill in this Congress. I followed it through its hearings. Senator JOHNSTON and I filed an amendment that eventually ended up as section 320 of the Interior appropriation bill now before us.

Mr. President, my support of the compromise amendment hinges in no small degree on my understanding that appropriations from the clean coal technology reserves will be for projects like those contemplated in section 320 and for other coal technology projects and programs not now being undertaken by DOE.

Mr. President, the Interior appropriations bill now has $275 million for DOE's existing fossil energy R&D programs. I, together with many of my colleagues, will resist any attempts to use the $750 million reserve to supplant the existing appropriation level. This and the previous Congress have moved the administration off dead center with respect to fossil R&D. I trust that this compromise will be a further step in answering the problems, and realizing the potential, of our most abundant energy resource.

Mr. CHAFEE. Mr. President, I am pleased to join with my colleagues, Senators BRADLEY, NICKLES, PROXMIRE, and HUMPHREY, in support of this amendment to rescind $9 billion in Synthetic Fuels Corporation [SFC] funds and reform the Synfuels Program.

In addition to the cut in funds, this amendment provides necessary reforms in project selection and public accountability.

The current Synfuels Program places a priority on rapid, large-scale commercialization rather than needed research and development. The result is to waste billions of taxpayer dollars on technologies which are both economically and environmentally unsound.

The assumptions on which the Synfuels Program were based have proven to be at odds with the realities of today's marketplace. Congress now has both the opportunity and responsibility to reevaluate it. Sound energy and fiscal policy dictate that we fashion a more responsible, effective, and economical synthetic fuels program.

This amendment would effect a comprehensive reform. It leaves the SFC with $4.3 billion to fund additional qualified projects; enough for a sound and diverse demonstration program. Such a funding level will encourage the agency to be more discriminating in its awards and reduce the emphasis on enormously expensive, large-scale projects.

Mr. President, the amendment being introduced today is a needed response to the shortcomings in the current synthetic fuels program. I wholeheartedly urge its adoption.

Mr. BYRD. Mr. President, several days the Senate began debate on the Synthetic Fuels Corporation. In particular, the Senate is debating whether to significantly reduce the scope of the SFC's program by rescinding $9 billion from the energy security reserve, or to take the more restrained approach of rescinding $5.2 billion as proposed in the committee amendment to the fiscal year 1985 continuing resolution. That amendment contains a compromise agreement on the SFC which addresses the major issues with respect to the direction and scope of the Synthetic Fuels Program. This compromise will allow the Nation's Synfuels Program to move forward, and will support the development of advanced coal technologies to facilitate the efficient use of coal in an environmentally acceptable manner.

Mr. President, I support that bipartisan compromise. Let me first commend the distinguished chairman of the Committee on Energy and Natural Resources for his efforts to work out this compromise agreement, and for his perseverance in working to secure the administration's support. Let me also express my appreciation for the substantial contributions of Senators JOHNSTON, METZENBAUM, FORD, HUDDLESTON, and HART in the development of some of the key elements of this compromise agreement.

I have long been an advocate of the development of synthetic fuels from the vast reserves of coal in West Virginia and other States. Thus, I am a strong supporter of the Synthetic Fuels Program and the Synthetic Fuels Corporation. The development of synthetic fuels technology is, I believe, an important component of an insurance policy against oil disruptions that would threaten the Nation's energy security.

I believe that the compromise being offered here represents the best opportunity for getting America's Synthetic Fuels Development Program back on track. The compromise would rescind $5.2 billion from the energy security reserve, and still leave enough for the SFC to conduct a balanced program. Of equal importance, the administration has indicated its support for this package, and its intention to nominate individuals to fill the vacant position on the SFC's Board of Directors.

I would also point out that this compromise addresses two important opportunities with respect to the use of this country's vast coal resources. First, after the rescission of $5.2 billion, there are sufficient funds remaining in the energy security reserve to

support synthetic fuels projects using Eastern bituminous coals. Second, the package provides for the establishment of a $750 million clean coal technology reserve to support, on a multiyear basis, clean coal technology demonstration activities, including those identified in section 320 of the fisal year 1985 Department of the Interior Appropriations Act. That section of the Interior bill is a modified version of the Coal Science, Technology, and Engineering Act (S. 1925), which I introduced almost 1 year ago on October 6, 1983, and which had a hearing before the Energy R&D Subcommittee on April 9, 1984.

As in my coal technology bill, the $750 million clean coal technology reserve will provide a basis for joint efforts, involving the private sector and the Department of Energy, to accelerate the development of advanced technologies which will contribute to the combustion and use of coal in an environmentally acceptable manner. The commercial application of advanced coal technologies, such as fluidized bed combustion, and limestone injection multistage burners—that is, the LIMB technology—offer efficient and cost-effective approaches to the reduction of sulfur dioxide and nitrogen oxide emissions from coal combustion. Sulfur dioxide and nitrogen oxides from coal combustion are often mentioned in connection with the problem of acid rain. The demonstration and eventual widespread commercial application of such technologies represent an important opportunity for achieving emissions reductions over the long term in a cost effective and efficient manner.

Mr. President, the Synthetic Fuels Corporation was established by the Congress in 1980 as a vital part of a long-term effort to take advantage of the Nation's vast energy resources, such as the 40 billion tons of coal in my State of West Virginia. Recent developments in the world oil markets have led SFC critics to question the wisdom of continuing efforts to develop synthetic fuels. However, we should not be lulled into a false sense of security by the current calm in world energy markets. The continuing war between Iran and Iraq should remind us of the precariousness of the situation. Indeed, the mission of the Synthetic Fuels Corporations is as valid today as when it was established 4 years ago.

Mr. President, to underscore this point, I have a number of editorial statements from newspapers across the country which recognize the continuing importance of the Synthetic Fuels Corporation to America's energy future. These editorials also urge action to get the program moving on a sound footing once again. That is precisely what the compromise agreement will do, and I urge my colleagues to support it. I ask unanimous consent that these editorials be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Alabama Journal, Sept. 30, 1983]

FOR SYNTHETIC FUELS

Back during the Carter administration the country was all but panicky in looking for alternatives to suddenly astronomically priced imported oil. Now, with the petroleum glut there is healthy concern left for finding other sources of energy within our borders.

But during that period of great alarm the U.S. Synthetic Fuels Corporation was created. Because of it there is the Cool Water Coal Gasification Project in Daggett, Calif. A plant is being built to produce gas from coal to generate electricity.

One of the biggest advantages of the system is that it will be clean. That is so because the conversion process will trap sulfur and nitrogen dioxide, two pollutants which otherwise make the burning of coal undesirable. The residue will be a slag containing the chemicals, dust and dirt.

Critics point out that it is not likely ever to make a profit—its gas will cost twice as much as natural gas—and that the expense to the SFC can well run to the $120 million subsidy it has allocated.

Those detractors also clamor against the total of $13 billion that the SFC will spend at Daggett and for similar ventures. That is no trifle, we grant. But those opposed are distracted by the notion that a profit is not immediately foreseeable.

The payoff, however, will come eventually. Those undertakings will help to give birth to the technology for someday resorting to coal, of which the United States has enough to last for centuries, when overseas oil is either too expensive or else simply not to be had.

That is likely to come about because of turmoil in the Middle East. It certainly will occur in time because world supplies are being exhausted.

There is oil aplenty now and it is relatively inexpensive. But we should not be beguiled by that transitory condition, leaving as a sacrifice on some future altar the life we now so abundantly enjoy.

[From the Atlanta Journal Constitution, Sept. 8, 1984]

STEPPING UP SYNTHETIC—FUEL SEARCH

Has the Dallas adrenalin surge started to abate yet? Is it still bad form to question "America-is-back" giddiness? Is it safe again to say a kind word about *public* enterprise?

Dissemination of ill tidings has been made to seem, if not exactly a crime these days, an execrable breach of political etiquette. Nonetheless, according to a recent report by the congressional Office of Technology Assessment.

American dependence on oil imports will grow by the 1990s. The drain of domestic fields will outpace development of reserves. Conservation and fuel-switching by industry will help, but not enough. And the United States will be left to the mercies, if that is the correct word, of some politically unstable nations.

What can be done? Over the long haul the United States must step up development of synethetic fuels. Even this may not cushion a world oil shortage in the '90s, but it will certainly fortify us against more distant crises.

First though, Congress must stop the Reagan administration's free-enterprise zealots from their willful destruction of the Synthetic Fuels Corp. The Senate will have just that opportunity (next week, probably) when it votes on the SFC budget. Reductions seem inevitable. Given that, the Senate should hold them to $5 billion, the amount the House pared.

Then Congress must push the administration to appoint some responsible members to the SFC board. At the moment, the board lacks a quorum. The sooner SFC gets on with its task of subsidizing development of new fuels, the more secure our future will be.

While the *Megatrend* conservatives wax eloquent about the salubrious powers of private capital, the fuel supply that will move us toward that particular vision of Nirvana edges downward. They need to pay attention.

[From the Times & Democrat, Sept. 5, 1984]

FORGOTTEN LESSONS

It's been more than 10 years since the Arab oil embargo put Americans in long gasoline lines and made our society an energy-conscious one.

Energy prices have soared in the decade since. Consumption of fuels such as gasoline has declined through technological improvements and conservation efforts.

Some problems with energy availability have arisen since 1973, but generally the long lines are but memories. In fact, a current oversupply of oil on the world market has prices declining.

Optimism surrounds predictions of oil availability, even though a significant amount of the Western world's oil comes from that flashpoint known as the Middle East.

The lessons of 1973 may be forgotten, however, in our Congress this September. The Reagan administration and some in Congress are working to cut back a program to develop synthetic fuels. During September, Congress will consider proposals to slice up to $11 billion from the $16 billion program administered by the government's Synthetic Fuels Corp.

Michael S. Koleda, president of the Washington-based National Council on Synthetic Fuels Production, writes: "Synfuels critics say that the nation no longer requires a major synthetic fuels effort because the oil we import has, in the short term, become cheaper and more plentiful. And the critics say that because of the mounting federal deficit, the U.S. can no longer afford the program."

In light of a growing dependence of foreign oil—the United States imported one-fifth of the nation's supply in 1969 and one-third in 1984—we don't see the logic in using this program as a budget-balancing tool.

The Iran-Iraq war and the threat to oil shipping the conflict has created are good examples of how vulnerable our energy supply is to foreign influence. And what of the billions we are spending to protect Mideast oil?

America has enormous fossil fuel resources in solid forms, mainly as coal and oil shale. Part of the solution of foreign dependence is to convert coal and shale into synthetic liquids and gases that can replace oil.

But there are problems. The oil industry is not enthusiastic about the synfuels pro-

gram for obvious economic reasons. And perhaps those in the highest circles of our government have reason to believe technological advances can reduce the need for oil or synthetic fuels.

We would like to believe that the latter point, and concern for reducing federal spending, are the foremost reasons behind plans to cut the synfuels program. Unfortunately, we are of the opinion that the oil industry lobby has more to do with the cutback plan than politicians or the industry itself will ever admit.

[From the Longmont Colorado Times, Aug. 23, 1984]

U.S. SYNFUELS EFFORT REMAINS IMPORTANT

The rapidly fading dream of national energy independence could become tomorrow's nightmare.

Given the lack of alternative energy sources and the volatile nature of the region which provides a major portion of the world's oil, this sentiment has been echoed by a number of people involved in the effort to develop synthetic fuels.

Four years ago, in the wake of the Iranian revolution and amidst widespread fears of another fuel shortage, the U.S. embarked on a major program to develop new sources of fuel from shale, coal, tar sands and other unconventional sources.

The government organized the Synthetic Fuels Corp. to channel vast sums of money into a forward-looking program to achieve energy dependence. The aim was to free our nation from reliance on foreign oil sources.

Now, a combination of apparent mismanagement, politics, low fuel prices and abundant oil supplies have combined to threaten the existence of the synfuels corporation and the nation's effort to develop alternative energy sources.

Earlier this month, the House cut the corporation's spending authority from $13.25 billion to $8.25 billion. The White House wants spending cut further to $4.25 billion.

If the floundering corporation is not rescued this nation may well rue the day it allowed its goal of energy independence to fall victim to inadequate leadership and apathy.

At this point, Congress needs to reassert control over the corporation, establish policies to correct deficiencies in management and direction, and move the synfuels effort forward. That move may involve a refocusing of efforts from construction of costly plants to research and development.

Even if this happens, however, Union Oil Co.'s Parachute Creek Project in Colorado should be given the support necessary to finish its Phase I, which could be producing oil from shale by the end of the year.

This commercial-scale experiment needs to be completed and made operational because the nation needs a working plant to test new technologies. The problems that Union Oil has encountered at Parachute Creek testify eloquently to this need. There the move from research to reality has been fraught with dificulties, forcing delays and changes, but the end result will be a plant that will produce oil from shale in commercial quantities. That achievement could represent an ace in the hole against the possibility some day of a major disruption in oil supplies from foreign sources.

The troubles of the Synthetic Fuel Corp. run deep, but Congress would be well advised not to scrap it without first giving thought to the nakedness of the Western world if OPEC were to turn ugly or if Iran were to close the vital Hormuz Strait.

Too much is at stake to allow the synfuels development effort to falter.

[From the Portland [OR] Oregonian, Aug. 3, 1984]

SINNING AGAINST SYNFUEL

The Reagan administration has been trying to scuttle the synthetic fuels program, started to help a nation being held hostage by foreign oil producers, at a time when U.S. oil supplies still are highly vulnerable to a war in the Persian Gulf.

Congress orginally set up the Synthetic Fuels Corp. to dispense funds for loan guarantees and price supports for the production of oil and gas from coal, shale and tar sands.

President Reagan appointed seven directors to run the SFC, and they have proved a disaster. Forced resignations, due to mismanagement and unethical business deals, have reduced the seven-member board to two survivors, less then the quorum required.

Directors paid themselves salaries of $135,000, but relatively little of the congressionally allocated money has been spent in SFC's four years. Some large projects are about to bear fruit, however, and the embattled agency, if it can be kept alive, may be only several months behind in its programs.

The White House made a curious proposal, according to a report in the magazine Science. It suggested that remaining funds be used only for those projects whose products will not cost significantly more than the market price of competing fuels. This makes no sense, as the whole idea behind SFC was to support high-risk projects that could not compete against global oil and gas prices, which are now even lower due to a worldwide recession.

On top of this, some congressmen have had second thoughts and are trying to stop payment on the blank checks Congress wrote. Those guaranteed some $20 billion, raised from windfall profits on the oil industry, for SFC programs designed to be beyond the reach of congressional politics.

Given the mess the administration has made of this major effort to make the nation less dependent on foreign oil, the turmoil in Congress generated by SFC's scandalous mismanagement and by a drive to cut the deficit, it is obvious SFC will have to accept some major cuts. But those cuts should eliminate the less feasible, not the less costly, ways of producing the fuels the nation eventually will need, whatever their cost.

It would be a crime to scuttle SFC, which is vital to the early development of the nation's coal and shale resources. These resources ultimatly will be required as oil deposites are depleted and the precarious political situation in the oil-producing countries continues without foreseeabe abatement.

The administration's mismanagement of the SFC and efforts to scuttle it have made the nation less secure, and more subject to the kind of energy blackmail President Reagan continues to deride President Carter for permitting.

[From the U.S. News & World Report, July 2, 1984]

FAT AND HAPPY—FOR NOW

(By Marvin Stone)

Seven years ago, in the midst of dissent and inaction over steps to protect the country from recurrent shortages of petroleum, the question was asked on this page, "Do we really lack the will to save ourselves?" Now the question has to be asked again.

Ironic, that the U.S. in 1984 should severely downgrade a key part of its future insurance against oil cutoffs—the synthetic-fuels program—just as a warning bell sounds once more. But Americans forget very quickly, once the waiting lines clear up at the gas pumps.

True, war in the Persian Gulf, where Iraq and Iran have been blowing up neutral tankers to spite each other, has not yet begun to shut down the world as the Arab embargo did in 1973–74. True, gasoline is still flowing freely. True, the U.S. now draws only 3 to 5 percent of its oil imports from that source. But its friends and trading partners depend heavily on the region. In a prolonged closure of the strait, general demands would be made on the remaining supplies. Some U.S. officials picture prices going up by 25 percent. Western economies, just digging out from the recession, would be hard hit. And the U.S. would be called on to pump out its limited strategic reserve, not only for its own use but also for that of its allies.

Even more important, the Gulf battle is an omen. If a second-class fracas can threaten so much trouble, what would happen in a big war, with fuel gobbled up by a heavily mechanized military machine?

True, once more, the synfuels agency has been so neglected and so sloppily managed that even some former supporters might be tempted to let it go. But that is the wrong answer. The right answer is to make it work.

Sentence was passed upon synfuels by the administration because, in the words of Energy Secretary Donald Hodel, "they never seem to achieve commercial viability." Of course not, under normal conditions of supply. The proper purpose of the synfuels effort was to provide know-how, experience and a fair amount of plant with some government support, so that the U.S. would not be left helpless in new emergencies. An additional function was to keep foreign suppliers on notice that we had an alternative if their prices did get too high.

So it was not to be assumed that under ordinary circumstances synthetic oil and gasoline would soon match prices from the wells. The only possibility of approaching such a level would have been big production.

Withal, the history of synthetic fuels makes it hard to believe that the U.S., with its immense inventiveness and technical skills, cannot make the project a practical success. We are constantly reminded that Germany made use of synthetic fuel in World War II, that the U.S. in the '50s got the price down within 2 cents per gallon compared with natural fuel, that South Africa uses synthesis as a major source of gasoline, even that Senator Jennings Randolph once flew to Washington in a plane fueled by artifical gasoline made from coal. In 1981, Randolph brought up the subject again:

"If we had continued government support for synthetic fuels initiated in the early '40s . . . we would have realized domestic production today." In the 1984 setting, he voices that conviction still another time.

Synfuel proponents in Congress are furious at the President's demand to cut off 9.5 billion dollars of the 14.1 billion the synfuel corporation has left of the funds appropriated for it in 1980. To them, the frustrating part is that resignations from the corporation's troubled board have not left a quorum to make decisions. Mr. Reagan has let it be

known that he will not appoint new members until Congress agrees to the cuts.

It is urgent that the President and Congress come to an accommodation. Such an arrangement must preserve the major part of the synfuels appropriation, and at the same time require that the President appoint a board consisting entirely of top-notch people—persons with a vision of the future.

[From the Takoma (WA) News Tribune, June 3, 1984]

DON'T DESTROY SYNFUEL CORP.

Just because an apple tree is full of hornets' nests doesn't mean the tree should be cut down. The hornets can always be removed, and the day may come when the apples might be needed.

The same is true of the U.S. Synthetic Fuels Corp., which recently has become the target of much righteous anger, and which many in the Reagan administration and Congress would like to see chopped at the roots.

Evidence indicates the federal quasi-agency has squandered money and may have a few unethical hornets in its administration. Since its inception in 1980, Synfuel has received some $15 billion from Congress, and there is little to show for all that money. The dream that the U.S. could be producing 500,000 barrels of synthetic fuel by 1987 has become a fantasy.

Yet, the corporation has been as much a victim of public policy—or the lack of it—as it has been a beneficiary of public largesse. The corporation was given money and a goal without any guidance as to how that money should be spent to reach that goal.

That has been because in spite of two jarring energy crises in less than a decade, there is still no national energy policy.

There is a need for one, however, and the need is as pressing as it was in 1973 and 1979, the years of oil shortage. Although there is a supply glut now, it won't last. The Mideast is still in turmoil, and oil exports from there could be slowed or stopped at any time. Our own oil supplies are being depleted. The world's demand for oil, meanwhile, is increasing.

A well-directed synfuel program, which would set up facilities for the extraction of fuel from oil shale and coal, would be cheap insurance, in the long run, against an energy disaster which would make the two just past seem like picnics.

The Synthetic Fuel Corp. could be the tree that could grow such a program.

We should prune Synfuel—and chase out the hornets. But we shouldn't chop it down, for the day will come when we will want its fruit.

[From Businessweek, May 28, 1984]

DON'T GIVE UP ON SYNTHETIC FUELS

By its latest actions on the U.S. Synthetic Fuels Corp., the Reagan Administration comes perilously close to scuttling the whole venture. The White House has called for a drastic cut in funding—to $5.5 billion from $14.9 billion in loan and price guarantees—and the fumbling the opportunity to replace a scandal-tainted board of directors. If the cut in financial backing can be forced through Congress, it would reduce the operations of the Synfuels Corp, below a meaningful level. Failure to name six new directors and a chairman could paralyze the program until after the election.

This Administration selected the current board, and it has the responsibility to replace it, as both Democratic and Republican congressional leaders have urged. Instead, the White House proposes simply to name enough new board members to fill existing vacancies. And it has tied future nominations to its demand that Congress slash funding by two-thirds. House and Senate leaders are angry enough to reject this package and prevent any forward movement.

The result could be devastating for the synfuel program. Companies on the verge of receiving financial backing will suffer costly delays or abandon their projects. This would be unfortunate. Despite all the Synfuels Corp.'s problems, the task Congress assigned it in 1979 remains critical. Recent attacks on tankers in the Persian Gulf illustrate continued U.S. vulnerability to cutoffs in foreign oil supplies.

Thus, the Administration cannot slight its obligation to carry out the mandate of the Energy Security Act, which created the Synfuels Corp. And what the corporation needs right now is a capable new board.

From the Winston-Salem (NC) Sentinel, May 23, 1984

THE OIL THREAT, AGAIN

A decade ago, Americans were rudely introduced to the fact that this country's heavy dependence on cheap foreign oil left it highly vulnerable, both economically and strategically. During the '70s, first the OPEC cartel's market minipulations and then the Iranian revolution showed that we no longer controlled our source of energy in the Mideast.

The lesson was painful. Gasoline shortages and skyrocketing prices drove the point home. More than any other single factor, the cost of importing oil triggered the inflation-recession double whammy.

The nation's response was prompt and effective. Principally through conservation, the U.S. eventually managed to break the OPEC stranglehold. Though the price of oil remains high by the unrealistic pre-OPEC standard, for several years now it has been a buyers' market. This country has cut its demand for Mideast oil by half.

Given a world suplus and stable prices, it has been possible to overlook the degree to which the U.S. is still vulnerable to disruptions in the supply of oil from the Mideast. We have in Saudi Arabia and other moderate Arab states a source that seems fairly immune to political threats. However, events of recent days have been a reminder that revolution is not the only risk

The attacks on tankers in the Persian Gulf by Iran and Iraq raise the specter of another crisis. The exporting nations, including the Saudis, are fairly helpless to defens themselves and notably reluctant to engage Iran directly. There is talk once again of U.S. military intervention, although since the withdrawal from Lebanon, the Arab states are much less confident in our reliability.

The situation demands extreme caution on the part of the Reagan administration, which coincidentally finds itself without a special Mideast envoy. The absence of diplomatic relations with either Iran or Iraq greatly complicates matters.

There are a couple of nonmilitary strategies that ought to be pursued. One would be an aggressive effort to stop the flow of aircraft parts and equipment to Iran. Generally regarded as the most formidable air force in the region, other than Israel's, Iran's American-trained flyers would be considerably curtailed without parts for their American jets.

The administration must also give close attention to preparing this country for a disruption of Mideast oil exports. Our government's strategic petroleum reserves are in good shape, but the same cannot be said for the alternative-fuels development program.

In fact, the president has just proposed virtually shutting down the Synfuels Corp., which was created after the last Iranian crisis as a cushion against future interruptions. Granted, the synthetic fuels program has been a fiasco, thanks primarily to mismanagement and indirection. But the answer may not be to write it off as a bad investment.

After three years of operation, the one tangible result of the Synfuels Corp. is a coal gasification plant. Given the country's continuing surplus of natural gas, synthetic gas is plainly not a high priority. An alternative liquid motor fuel is.

The administration is correct in observing that the synthetic fuels under development would be uneconomical. Mass production could be expected to bring the price down, but the public price subsidies contemplated by the synfuels legislation might still involve a heavy tax drain.

Nevertheless, the prospect of U.S. energy independence could have an important moderating effect on events in the Mideast. It is essential that synfuels development work continue, even if it takes a radical revision of the program.

[From the Norwich (CT) Bulletin, May 23, 1984]

ENCOURAGE ENERGY INDEPENDENCE

Iraqi planes sank two oil tankers in the Persian Gulf last week as part of Iraq's continuing efforts to cut off Iran's ability to export oil through the gulf. President Reagan has now asked to use airfields in Saudi Arabia in the event the United States decides to intervene. Meanwhile, a year-long study by the House Government Operations Committee has concluded that the U.S. is ill-prepared to cope if the Iran-Iraq war seriously disrupts oil supplies.

The Mideast turmoil is a reminder of the need for a coherent national policy that includes planning for a greater degree of energy independence from an unstable region.

Development of synthetic fuels would be part of such a strategy.

In 1980, after a decade of energy disruptions, Congress and the carter administration created the U.S. Synthetic Fuels Corporation. The agency was intended to provide price and loan guarantees to businesses trying to make synfuels production commercially feasible. But unexpected drops in petroleum prices since 1980 made the advanced technologies for synthesizing coal, oil shale and other underused raw materials seem less urgent.

And now the Reagan administration wants to cut nearly two thirds of the money earmarked for the agency. The administration wants to restrict the remaining money to projects producing fuels that will not cost significantly more than the market price of competing fuels.

This standard would eliminate most synfuels projects now proposed because they are not competitive with the current price of oil.

The agency has disappointed even its strongest supporters. Most of its board of di-

rectors have recently resigned. The U.S. Synthetic Fuels Corporation obviously needs a new beginning.

But the synthetic fuel program must continue. The corporation was an intelligent response to the last disruption of the world's oil supply by Iran. Subsidizing development and production of synthetic fuels is a necessary insurance policy against the uncertainties of the Mideast.

[From the Fond Du Lac (WI) Reporter, May 21, 1984]

SYNFUEL SEARCH SHOULD GO ON

Problems within the Synthetic Fuels Corp. need to be cleared up, but Congress should not allow those problems to put the organization out of business.

Support for the program to develop synthetic oil and gas has been faltering in Congress because of internal problems, including the loss of Director Victor Thompson to conflict of interest charges.

President Reagan, who once opposed the program, now is attempting to rescue it, but has proposed cutting in half the $19 billion in federal aid for the synthetic oil and gas ventures and placing tighter restrictions on the subsidies given by Synthetic Fuels Corp.

Aministration officials have indicated that a bill rescinding $9.5 billion of the $19 billion appropriated for the program in 1980 would be sent to Congress soon.

Subtracting other funds already spent, the corporation would be left with $4.6 billion in unobligated funds "that could be used to support a wide array of carefully selected private synthetic fuels projects," the White House said in a statement.

The remaining money, under the president's plan, could be spent only on projects whose synthetic oil or gas would not cost "significantly more than the projected market price of competing fuels," according to the statement.

While attempts to develop synfuels need to be separated into categories of real effort and crackpot theories, the president's proposed budget cuts are going to leave the effort only a shell. Congress should consider the impact carefully before deciding to cut funding. Synfuels still represent a major hope for this nation's energy independence and support should not be lost because of internal problems.

[From the Washington Post, May 21, 1984]

A FOOTNOTE ON SYNFUELS

The attacks on oil tankers in the Persian Gulf bring, inevitably, renewed speculation on the possibility of American military intervention. That, in turn, invites attention to a less dramatic event here in Washington last week. The Reagan administration demanded that Congress revoke most of the money it had earlier extended to the U.S. Synthetic Fuels Corporation. That unfortunate and mismanaged enterprise is becoming the great symbol of the muddle and inconstancy of American energy nonpolicy.

It was created in response to the last disruption of the world's oil supply by the Iranian revolutionaries. Now the Iranians are at it again, as well as their neighbors and enemies the Iraqis, and this time the response by the administration is to try to cut off all further development of synthetic fuels.

Perhaps by this time it doesn't make any difference. Perhaps the Synfuels Corporation has been so abused by poor appointments and poor judgment over the past three years that it is no longer capable of the job. The secretary of energy, Donald Hodel, may conceivably be right when he says that the only way to save the corporation is to cut it radically.

But its only major project, as things stand, is a plant to make gas out of coal. Synthetic gas is one product that the country doesn't really need. There's plenty of natural gas. What's needed is liquid fuel from coal—a substitute for gasoline and heating oil.

The administration observes that the prices of some of the synthetic products would probably be excessive. That's true. The way to get the prices down is to undertake development of these technologies on an industrial scale. Even though the cost may be high in the early stages, it will be carefully noted in the Middle East and set an upper limit to market prices for oil. Subsidies for synthetic fuel production are a kind of insurance. In view of recent developments in the Persian Gulf, it doesn't look like a bad way to spend public money—especially when you consider the alternatives.

[From the Boston Globe, May 19, 1984]

FIXING THE SYNFUEL BOILER

Escalation of hostilities in the Persian Gulf region re-emphasizes the need for continuing American efforts to develop alternative sources of liquid fuels. The reminder could hardly be more appropriately timed, since that effort is hobbled by a crisis in management of the Federal Synfuels Corporation and the desire of the Reagan Administration to cut current programs by more than $10 billion.

The Synfuels Corporation was founded during the Carter Administration as part of a package establishing a windfall-profits tax on oil companies after the decontrol of oil prices. As much as $88 billion was expected by 1990 from proceeds of the tax. The revenue was to be used for subsidizing research and development by private corporations. It was hoped these efforts would produce economically competitive fuels from sources like oil sands, oil shale and coal that could offset part or all of imports.

The objective made obvious sense at the time. The country had gone through the first of two oil-price shocks in 1973-74 and was in the midst of the second, after the Iranian revolution. Daily imports averaged more than 6 million barrels, at more than $30 a barrel—$180 million a day being sent to other countries.

In the interim, oil prices have stabilized and even retreated a bit. Crude oil now sells for about $29 a barrel—or about $24 a barrel if one takes into account inflation of about 20 percent since the start of 1980. A prolonged Persian Gulf war will almost certainly push if up quickly, if history is any guide.

World supply has been plentiful in terms of current consumption. OPEC exports have declined from a peak of 31 million barrels a day to about 18 million, partly because of worldwide efforts at conservation, partly because of recessions.

Despite the improved short-term picture, efforts to develop synthetic fuels should continue, because in the longer term there is every indication the world could be subject to further shocks if it remains heavily dependent on conventional oil. The key appeal in synthetic fuels is the enormous supply in this country—provided technologies can be developed to unlock them from their present reservoirs.

The effort so far has met with disappointments in production volume and costs. Giant corporations like Exxon have dropped out of the competition—evidently because they could not project production at prices below $50 a barrel.

Nevertheless, technical work on developing synfuel technologies should continue, if for no other reason than to demonstrate to oil-exporting countries that the United States has the will to pay higher prices, if necessary, to avoid future blackmail in periods of crisis. That demonstration by itself will tend to keep oil prices down in current markets—a saving that would help offset the costs of the synfuel projects. Curbing the Synfuel Corporation now will only undercut the American bargaining position in the future.

[From the Deseret (UT) News, May 16, 1984]

STINTING NOW ON SYNFUELS WOULD BE FALSE ECONOMY

("Capital is wayward and timid in lending itself to new undertakings and the state ought to excite the confidence of capitalists, who are ever cautious and sagacious, by aiding them to overcome the obstacles that lie in the way of all experiments."—Alexander Hamilton, 1791.

At some point—already dimly seen on the horizon—the world will start running out of oil. That's why it makes no sense to turn away from the search for synthetic fuels.

Yet that is essentially what President Reagan did this week by proposing that the $19 billion spending authority of the U.S. Synthetic Fuels Corp. be cut to $9.5 billion.

More importantly, the president is asking Congress to restrict Synfuels Corp. funding to projects whose products won't cost significantly more than the market price of competing fuels.

That limit may effectively kill the Synfuels Corp. If such fuels could be produced at a cost competitive with existing energy sources, the government would hardly be needed in the first place. The huge front-end expense, with only a hope of a payoff down the road, is what justifies federal involvement.

It's like putting a man on the moon. The synthetic fuels projects may take six to 10 years to develop, and in the beginning they are never run on a commerical basis. 9

Opposition to the Synfuels Corp. has grown in a budget-conscious Congress as a world oil glut developed in the past two years and prices fell 25 percent. As a result, many private firms backed away from possible synthetic fuel projects, thus verifying Hamilton's observation quoted above.

But as oil shortages develop, and they certainly will someday, the price of oil will skyrocket, and what looks like a non-competitive price now may seem a bargain in a decade or two. But unless something is done now, the nation won't be ready then.

The Synfuels Corp., a quasi-private entity established in 1980, has not helped itself. Charges of scandal have surrounded some top officials. Congressional opponents have introduced bills to abolish the agency. Some say the agency's budget shuld be used to buy oil for the nation's strategic oil reserve.

President Reagan's action to curtail the Synfuels Corp. budget and to impose a market-oriented test on projects it backs, is being presented as an attempt to save the agency. That has overtones of the comment by a U.S. general who said it was necessary to destroy a town in Veitnam in order to save it from the enemy.

So far, the Synfuels Corp. has spent about $5 billion tied up in various projects and

grants and has tentatively approved another $6 billion in backing for four additional projects. But if the market test is applied, all of those projects probably would fall by the wayside.

President Reagan's proposal faces tough sledding in Congres—as it should. Budget deficits require all expenditures to be carefully scrutinized and trimmed where possible. But hasty savings now could cost a lot more in the long run—and put the nation's energy future at risk.

[From the Fayetteville (NC) Observer, Apr. 16, 1984]

"SYNFUELS" ARE STILL NEEDED

Last week Conco Inc., a sizable oil company, mailed some critical information to editors around the country. Here are some of the statements, each printed in bold face type for emphasis, scattered through the small, colorful Conoco magazine:

"Without significant additions to non-OPEC energy sources, dependence on OPEC oil will continue to increase. . . . The possibility of a major oil supply disruption still exists. Moreover, the world's vulnerability to such an outage will grow as excess productive capacity is depleted . . . World oil demand will rise 1 percent per year despite efforts to limit oil use . . . Non-OPEC oil output will peak in the late 1980s and then decline slowly . . . Imports will supply an increasing share of U.S. oil demand, 45 percent in the year, 2,000, up from 26 percent currently."

Those projections and the conclusion that a serious oil disruption may be in our future, square with conclusions reached by a number of experts recently.

Conco goes on to argue for a wide range of government planning and action to help the nation cope with a major disruption. Admittedly, the increasing development of synthetic fuels was not among them.

But Nazi Germany was able to prolong World War II because it developed and used synthetic fuels on a wide scale, and the Nazis example suggests that an American failure to develop more modern versions of "synfuels" might be catastrophic if all of Conoco's projections pass out and OPEC turns off the spigot again.

Yet the Reagan administration is now being outdone in its deemphasis on "synfuels." Around 150 members of the House are co-sponsoring a bill that would hold up all subsidies from the U.S. Synthetic Fuels Corp. until Congress reviews the agency's strategy for commercial development of "synfuels." Even a temporary withdrawal of federal funds from highly experimental projects now being funded could bring those projects to a halt. One that would be affected is a project by Union Oil Co. to extract 10,000 barrels a day from bituminous shale formations in Colorado. On the promise of federal support, Union has already spent $640 million building a plant there and wants to build eight additional shale processing plants to bring capacity to 90,000 barrels a day.

If we never have a disruption, this project, which with government guarantees would produce oil at a price of $67 a barrel, would be the height of foolishness. That price is more than double the current market price. But we are spending money on our stockpiling of strategic materials and on our Strategic Petroleum Reserves, too, because if we need them in the future the need will be desperate.

[From Business Week, Sept. 6, 1983]

DON'T CANCEL THE INSURANCE

It is tempting just to write off the U.S. Synthetic Fuels Corp. as a ponderous bureacratic dinosaur that a changing energy climate is dooming to merciful extinction (BW—Aug. 29). But that would be a mistake. The job of Synfuels Corp.—to promote synthetic fuels as alternative sources to oil—remains as critical to U.S. long-term interests as it was when Congress set up the agency in 1980.

So far, Synfuels Corp.'s record has been dismal. Instead of a fast-moving promoter, it has become a bureaucratic quagmire that after three years awarded it first project incentive only in July. Its board is now in revolt, and its president, Victor A. Schroeder, a shopping-center developer who won little confidence from the energy industry or financial markets, has just resigned under pressure.

To top it all, the energy industry no longer sees synfuels as a high priority. This makes the federal role even more critical. Congress should ensure that Synfuels Corp. starts doing its job of promoting a synfuel industry capable fo helping meet U.S. needs in the event of another OPEC embargo. The corporation was created as an insurance policy. The U.S. still needs the protection.

Mr. BYRD. Mr. President, I trust that the amendment by Mr. BRADLEY will be voted down.

Mr. RANDOLPH. Mr. President, I support the position of the Senator from Idaho [Mr. MCCLURE] and the Senator from Louisiana [Mr. JOHNSTON] on the compromise committee amendment that is presently before us.

Unhappily, negotiations with the administration have only been able to secure reductions in the rescission amounts. This body seems intent on cutting more than $5 billion of additional funding from the Synthetic Fuels Corporation [SFC] obligation authority. As I understand it the compromise we have before us on amounts rescinded will be tied with language prohibiting unused obligational authority from reverting to the General Treasury. I also understand the Corporation may solicit proposals and make awards without regard to production goals. The able Democratic leader, Senator BYRD, also was instrumental in negotiating $750 million to be put in a clean coal technology reserve account in the General Treasury.

While I support such intent I doubt the Department of Energy will request substantial funding increases. Why? It is abundantly clear that Federal support for coal is being lessened. In this regard, it is my belief the Congress must assume a more central role in addressing the difficulties that are resulting from fewer coal initiatives and a pronuclear bias.

Since 1975, Federal research and development funds for nuclear has been about $12 billion compared to $4 billion for coal. It is imperative that we, through a group like the Senate Coal Caucus, initiate coal-related activities. The caucus must step in to act as a catalyst with the States for increased coal production. Perhaps the Coal Caucus should convene at least monthly to review industry and labor problems which could serve as continuing impediments to coal production.

This administration's philosophy on Coal R&D at the Department of Energy has consistently held that industries have historically propelled our Nation's technological progress in energy. They say, given today's economic incentives, this sector is well positioned to continue and expand its role in developing and marketing new fossil energy technologies with minimum Government help. They say Government has played an important role, most notably in such areas as coal-oil mixtures, atmospheric fluidized bed combustion, and new synthetic fuel processes. But, the market continues to be the ultimate judge as well as the ultimate beneficiary of new energy technology. They talk about new private sector initiatives in energy technology and the results such action will produce. I submit this assumption will be correct over a long period of time, but over the next 10 to 15 years, if left totally to industry, established technology will tend to persist in spite of new technology.

Mr. President, industry is not as willing to fund R&D efforts as the administration would have us believe. Large expenditures for new equipment and the need to maintain daily production quotas of coal preclude the conservative and financially troubled coal industry from conducting innovative, long-term R&D that would benefit the industry.

If, through productivity R&D, and if we can solve a host of transportation factors, holding the price of U.S. coal competitive in the world market with such exporters as Australia, Canada, and South Africa, the market for low-sulfur, high-Btu steam and metallurgical coals are likely to provide at the very least a strong swing export coal market. Incentives are also needed to increase coal use for domestic industrial and transportation needs, to guarantee our most valuable energy source does not, through over-extention of exports contribute to our internal energy vulnerability.

The Federal Government's role in energy development is justified because:

The benefits of a particular effort cannot be retained exclusively by the contracting firm conducting energy work for the Government, but are disseminated throughout the industry to both small and large firms.

The benefits from Government research can be realized over the long term. A private firm many times cannot justify the investment from

the perspective of its own shorter term cash flow needs.

Any energy effort demands a mix of personnel that cannot be organized or maintained by a small private business or industry. Often these talents involve multiple disciplines. These experts are available in the Government.

Energy R&D requires funding levels over long periods of time. Hence, not even the largest firms in the industry can undertake such effort.

A financially troubled industry reacts only to the present market situation while the Government can and should anticipate need and fund the development of technologies required in the future.

Mr. President, any further rescissions of Synthetic Fuels Corporation funds are ill-advised.

We must not take a step backward again in our national commitment to synthetic fuels. The money spent on these efforts are investments in our future. They are, in fact, of equal importance and must interlock with our defense spending for national security purposes. Synfuels development should have been permitted to reach its commercial potential in the fifties or renew itself in the eighties. If this would have occurred, the international tension being experienced today in Lebanon, the Strait of Hormuz, and other areas in the Mideast—strategically important because of energy concerns—would have been negated.

Again, unfortunately, it was to highlight the need to create a domestic synthetic fuels industry in this Nation. For the 1983 flight we had one-half gallon of coal-derived fuel specially—and I reemphasize specially—processed by the Electric Power & Research Institute [EPRI] at Wilsonville, AL. This facility is a 3 to 6 ton-per-day development unit which is devoted to development of improved coal liquefaction technology.

My hope was that a domestic synfuel industry would be operating commerically today. Coal gasification and liquefaction plants should be located near coal sources to reduce raw material transportation costs. Ideally, industries wanting to use the gas should also locate nearby to minimize the cost of pipelines. Liquid synfuels will be transported by tanker or pipeline much as petroleum-based gasoline and diesel fuels. In metropolitan areas, problems in acquiring rights-of-way for pipelines will probably make the use of centrally located supplies of coal-gas impractical. However, a central coal gasification plant could mean new life for once thriving industrial communities which are now dying but which still have a skilled labor supply, are near coal reserves, and for which the disruptive tearing up of streets to lay the pipelines would be tolerable. Small gasifiers are being installed now in many areas to supply individual plants or processes.

All synthetic fuels will constitute an acceptable new industry only if the benefits it brings outweigh the environment penalties attached to its creation. Unfortunately, these cost are difficult to quantify and can only be considered, before actual demonstration, as matters of judgment.

Large synthetic fuel plants will resemble, both in nature and appearance, the refining and petrochemical complexes now operating in most industrial areas here and around the world. Except for feedstock and residue handling, operations will be carried out in closed systems.

A major coal synthetics industry would expand mining activity which is already a part of the economic base in regions such as ours. Federal and State legislation is on the book to control the environmental impact of coal mining. Problems associated with population increases would be, to a large extent, a function of the rate at which the industry was built—a crash program causing the most serious problems. Advance planning and preparation could do much to alleviate socio-economic strains.

Is now, with oil prices falling, a good time to build? We say yes, there is no better time, provided that the Nation still wants the synfuels option and provided further that real interest rates retreat and approach their historic levels.

In my opinion the current administration is providing less than token support for a viable synthetic fuels industry and has abandoned a vigorous domestic energy policy based on coal. The REAGAN administration seems to be saying that with present oil decontrol and future gas decontrol the energy crisis is over. They are as wrong now as when the Eisenhower administration stopped the first U.S. Synthetic Fuels Program, believing the created international illusion that the world is premanently awash in oil.

As a matter of record, in 1944, I offered with Senator O'Mahoney of Wyoming the original synthetic liquid fuel program.

I think many mistakes have been made, but I believe that the compromise position is the right position at this time and I hope that the Bradley proposal will be defeated.

I only say that it is tragic that we failed to produce a synthetics liquid fuels industry in this country, a tragic failure, and it is due, of course, to mistakes made in governmental programs.

But we need now an alternate fuel program for the United States of America, and this approach of compromise I think is advisable.

Mr. BRADLEY. Mr. President, the question is simply whether we want our taxpayers' dollar and taxpayers' dollars of our constituents flow to Washington and then into the treasuries of the corporation guaranteeing them that they will get $60 to $90 a barrel for every barrel of oil they produce. That is the question.

At a time with $200 billion budget deficit, I hope the Senate will say no. It is time to curtail that kind of excess.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HUDDLESTON. Mr. President, let me rephrase what the question is compared to the answer just given by the distinguished Senator from New Jersey.

The question is not how much money we are going to spend on synfuels right now. The question is whether or not the United States of America is going to be dependent on foreign sources of energy for its future energy needs.

Now, just a few years ago when there were lines at the gasoline stations throughout this country the synthetic fuels program was a very popular idea.

As our distinguished Senator and friend from West Virginia, Mr. RANDOLPH, has said the situation prevailed way back in the forties, and again we see that we have not yet achieved the degree of self-sufficiency that we can have any reliance on our own sources to meet our energy needs.

The supply right now of oil is as fragile as it has ever been and before we finish passing this continuing resolution we can see a major interruption and we can see the lines at the gasoline stations again and then the public would say, "What happened to Congress, why did they not do something when we had that crisis. Why are we confronted again with being at the mercy of some foreign power?

My personal opinion is that the compromise which I think the distinguished Senator from Idaho did do an outstanding job in arriving at goes too far in reducing the effort, but the fact that there is in there, as he has pointed out, a substantial sum of money to continue to develop the clean coal technology in itself is enough to justify continuing this program.

Acid rain every once in a while rears its ugly head in this Chamber and there are those here right now who are willing to impose not $4 billion or $9 billion in costs upon the taxpayers of this country but $30 billion, maybe $50 billion upon the electric utility ratepayers throughout the central part of the United States to do something about acid rain.

This bill might very well solve the entire acid rain problem and bring about a greater utilization of the one resource we have in abundant supply

in this country, if we can just develop better ways to use it and convert it into more usable forms, such as liquid and other ways.

So I hope that we will reject the amendment that has been offered and accept the compromise that has been so laboriously worked out by Members of this body and the administration to continue this program at a level that will be meaningful and may, and some time in the not too distant future even avert a major catastrophe for this country.

I thank the Chair.

Mr. WARNER. Mr. President, I rise today to support the rescission of an additional $5.2 billion from the Synthetic Fuels Corporation while earmarking $750 million for research and development of clean coal technology.

This proposal would save Federal taxpayer dollars while at the same time provide increased funds for research and development in burning coal cleaner and more efficiently.

Improved coal technology will result in the increased use of American coal, thereby lessening our dependence on foreign energy supplies and providing jobs in the coalfields and related industries.

Targeting $750 million for coal technology will send a strong signal to coal buyers at home and abroad that the United States is serious about renewing and enhancing its commitment to clean coal technology.

I will pursue my ongoing interest in securing a portion of the funds to develop a coal-burning locomotive.

Earlier this year the Senate Subcommittee on Energy and Mineral Resources held a series of hearings on the feasibility of reintroducing coal as a fuel for railroad locomotives.

These hearings have shown that it is technically feasible to develop a coal-fueled locomotive, that it can be done in an environmentally responsible manner, and that it is in our Nation's best economic and national security interests to do so.

Today, more than half of our Nation's electricity is generated by the combustion of coal, yet two-thirds of this coal is moved by oil-fueled diesel locomotives.

These same oil-dependent locomotives move roughly one-third of our Nation's freight, and, in time of a national emergency, will be called on to move approximately 20 percent of our heavy military equipment and war materials.

At the time of the 1974 oil embargo, approximately one-third of our oil was imported—now, 10 years later, we are still importing this same percentage and it is expected to rise.

The oil shortages of 1974 and 1978 have clearly shown what disastrous impacts a foreign oil disruption can have on our economy and way of life.

If such a disruption should occur again, together with a military emergency, the effects would be even more severe.

The railroads are currently spending $4 billion a year on diesel fuel and this contributes to our balance-of-payments deficit and our need to import foreign oil.

Coal offers the prospect of cutting this fuel bill in half, reducing rail transportation costs, and helping to put more coal miners back to work.

Since coal is our most abundant fuel and since the railroads were originally fueled with coal, it is clearly in our national interest to return locomotives to a coal-based fuel.

Although a coal-fueled locomotive is feasible using current technology, it still involves substantial risk.

A coal-fueled locomotive must be at least as reliable and as easily crewed and maintained as the current diesel fleet.

Until a prototype is built and operated, it will not be known whether such a machine can be achieved economically, and hence be accepted by the railroads.

This risk, together with the substantial costs and long payback time period involved in designing and building a prototype, have discouraged the private sectors' attempts to embark on such a program on their own.

I know the distinguished offerer of this amendment agrees with me that there is sufficient flexibility in the amendment to allow development of a prototype coal-fueled locomotive to be eligible to compete for a portion of the $750 million.

This prototype could use either emerging clean coal technologies or existing commercial coal technologies possibly applied in a new manner as the basis for its design.

It is not my intention that this prototype program would be financed totally by the Federal Government.

Instead, I would expect there would be a significant level of financial involvement on the part of the private sector that would reflect the technology, the risk, and the cost of the project.

Examples of this Federal-private sector involvement might be cost-sharing, grants, or royalty payments.

I want to make it clear that it is my understanding that the $750 million in coal research and development funds would be available in addition to the amount provided annually for coal research and development which this year will be approximately $200 million.

I have joined other coal advocates in the Senate over the past few years in increasing coal research and development funds significantly over the President's request.

Still, these funds have not been adequate to meet the demands for improved coal technology. It is entirely appropriate to tap the dollars of the Synthetic Fuels Corporation—whose performance has been so disappointing—for this important purpose.

Under the proposal, $5.2 billion would be rescinded from the funds now available to the Synthetic Fuels Corporation. Congress has already rescinded $2 billion. That would make a total rescission of $7.2 billion.

I continue to support the concept of developing synthetic fuels from our domestic energy resources, thereby reducing the Nation's economic and national security vulnerability to imported energy supplies.

However, the performance of the Synthetic Fuels Corporation has been a terrible disappointment.

The rescission of these funds will send a strong signal that the Congress is unwilling to tolerate the past performance of the Synthetic Fuels Corporation and that it must improve.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment of the Senator from New Jersey [Mr. BRADLEY]. The yeas and nays have been ordered and the clerk will call the roll.

The bill clerk called the roll.

Mr. STEVENS. I announce that the Senator from North Carolina [Mr. EAST] and the Senator from Illinois, [Mr. PERCY] are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Louisiana [Mr. LONG] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 37, nays 60, as follows:

[Rollcall Vote No. 279 Leg.]

YEAS—37

Biden	Humphrey	Pressler
Boschwitz	Jepsen	Proxmire
Bradley	Kassebaum	Quayle
Chafee	Kasten	Roth
Cranston	Kennedy	Sarbanes
Dodd	Lautenberg	Stafford
Dole	Leahy	Trible
Durenberger	Lugar	Tsongas
Eagleton	Mattingly	Weicker
Evans	Moynihan	Wilson
Gorton	Nickles	Zorinsky
Grassley	Packwood	
Helms	Pell	

NAYS—60

Abdnor	Exon	McClure
Andrews	Ford	Melcher
Armstrong	Garn	Metzenbaum
Baker	Glenn	Mitchell
Baucus	Goldwater	Murkowski
Bentsen	Hart	Nunn
Bingaman	Hatch	Pryor
Boren	Hatfield	Randolph
Bumpers	Hawkins	Riegle
Burdick	Hecht	Rudman
Byrd	Heflin	Sasser
Chiles	Heinz	Simpson
Cochran	Hollings	Specter
Cohen	Huddleston	Stennis
D'Amato	Inouye	Stevens
Danforth	Johnston	Symms
DeConcini	Laxalt	Thurmond
Denton	Levin	Tower
Dixon	Mathias	Wallop
Domenici	Matsunaga	Warner

NOT VOTING—3

East Long Percy

So Mr. BRADLEY's amendment (No. 7023) was rejected.

Mr. McCLURE. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 7024

Mr. McCLURE. Mr. President, I send an amendment to the desk, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Idaho [Mr. McCLURE] for himself and Mr. METZENBAUM, proposes an amendment numbered 7024.

Mr. McCLURE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Page 55, line 24, after the period, insert:

SEC. . (a) Section 117 of the United States Synthetic Fuels Corporation Act of 1980 is amended by adding at the end thereof the following new subsection:

"(f) Subject to section 118, Directors, officers, and employees of the Corporation shall be subject to the same standards of ethical conduct and financial reporting as are set forth in Executive Order 11222. The Chairman shall promptly implement such standards.".

(b) Section 168 of the United States Synthetic Fuels Corporation Act of 1980 is amended by—

(1) Redesignating section 168 as subsection 168(a); and

(2) Inserting at the end thereof the following new subsection:

"(b) An aggrieved person may bring action in the district courts of the United States to enforce, and secure compliance with, the policies and guidelines of the Corporation implementing the requirements of subsection 121 (a) and (b) for public disclosure of information and the requirements of subsection 116(f) for meetings of the Board of Directors to be open to the public and preceded by reasonable public notice.".

Mr. McCLURE. Mr. President, I offer this amendment on behalf of the distinguished Senator from Ohio [Mr. METZENBAUM]. It is a part of the compromise that was put together that allowed this synthetic fuels compromise to come to the floor. It will subject corporations to certain provisions of the Freedom of Information Act, and other statutes, and apply to other governmental appropriations and operations.

It was adopted on the floor as we were debating the Interior appropriations bill before we went off that bill earlier.

Mr. JOHNSTON. Mr. President, the amendment has been cleared on this side.

Mr. METZENBAUM. Mr. President, on September 26, 1984, the Senate adopted these amendments during consideration of the Interior appropriations bill. It is my intent that the remarks I made at that time with respect to the need and intent of those amendments apply to these amendments as well.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 7024) was agreed to.

AMENDMENT NO. 7025

(Purpose: Second-degree amendment to committee amendment. Technical amendment)

Mr. McCLURE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Idaho [Mr. McCLURE] proposes an amendment numbered 7025.

Mr. McCLURE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Page 54, line 8. After "Sec. 135." Insert the following: "Notwithstanding any other provision of this joint resolution," and change "Of" to read "of"

Mr. McCLURE. Mr. President, this is a technical amendment to make certain that the provisions in this bill are not affected by any other provisions in the CR. It has been cleared on both sides.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 7025) was agreed to.

Mr. HATFIELD. Mr. President, I know of no other amendments that are pending to committee amendment No. 34. Therefore, I move the adoption of committee amendment No. 34.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (committee amendment No. 34), as amended, was agreed to.

Mr. McCLURE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JOHNSTON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

COMMITTEE AMENDMENT NO. 35

Mr. HATFIELD. Mr. President, I ask the Chair to lay before the Senate committee amendment No. 35.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

On page 56, strike beginning on line 6 through line 15 on page 481.

UNANIMOUS-CONSENT AGREEMENT

MR. HATFIELD. Mr. President, I have a unanimous-consent request which has been cleared on both sides relating to how we handle this CR once we complete it.

Mr. President, because of the unusual and unprecedented consideration of this continuing resolution, there are a large number of significant and difficult technical issuesvarising as to the structure and placement of floor amendments.

These problems, in many instances, exceed the normal authority of the Secretary of the Senate to make "technical and clerical" corrections in the engrossment of Senate amendments. For example, a proviso meant to be added to a paragraph in section 101 of the joint resolution may be wholly negated by its placement following a previous amendment on an unrelated matter. Additionally, the placement of an amendment, in accordance with its floor consideration, may result in an extremely awkward structure to the joint resolution as in the case where a whole new title to the measure was added in the middle of the first title of the measure.

Furthermore, the chaotic placement of Senate amendments, if uncorrected, will make conference with the House more difficult and confusing. We risk further delays and possible errors unless we can provide for a more orderly conference. We are hoping to go to conference at 3 o'clock this afternoon.

For these reasons, Mr. President, I am seeking unanimous consent to authorize the Secretary of the Senate to correct the placement of the Senate amendments.

Mr. President, I therefore ask unanimous consent that the Secretary of the Senate, upon consultation with, and agreement of, the majority and minority floor managers of the joint resolution, be authorized to correct the placement of the amendments of the Senate to House Joint Resolution 648.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. HATFIELD. I thank the Chair and I yield the floor.

Mr. ABDNOR addressed the Chair.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. ABDNOR. Mr. President, I move to divide the following parts of amendment 35: On page 56, line 6 through page 57, line 23; second, on page 58, line 1 through page 58 line 5; next page 58, line 4 through the end of the bill.

Mr. MATHIAS. Mr. President, I ask for a section-by-section division of the matter to be stricken.

The PRESIDING OFFICER. A Member has that right.

Mr. MATHIAS. Mr. President, I ask for the yeas and nays on the committee amendment.

The PRESIDING OFFICER. The only time the yeas and nays can be ordered at this point is on division 1.

Mr. BAKER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BAKER. Is a point of order in order to the entire amendment at this time, notwithstanding the call for division?

The PRESIDING OFFICER. The motion is a motion striking the section in more than one place.

Is there a sufficient second?

Mr. JOHNSTON. A point of inquiry. Is the entire motion subject to a motion to table?

The PRESIDING OFFICER. No, it is not. Only division 1.

The yeas and nays have been requested on division 1. Is there a sufficient second? There is not a sufficient second.

Mr. MATHIAS. Mr. President, I withdraw the request.

Mr. HATFIELD. Mr. President, may I make an inquiry?

Mr. President, I believe what is happening here is an attempt on the part of the Senator from South Dakota to separate out of the committee amendment No. 35 the issue of water projects in order that the Senator from South Dakota may offer an amendment. We have to get these isolated to the point within these composite amendments in order to do that. I think that is all the Senator is attempting to do.

Mr. President, we have done that with various and sundry and other amendments that we have amended within the committee amendments where they are made up of more than one subject. This committee amendment is made up of three subjects—of striking the House language on foreign aid authorization and made up of two other parts, one being water projects and the other the crime bill.

In order to get to that particular point, the Senator from South Dakota is merely asking the Senate to set that up for him to make that amendment. At that time, I will make a point of order against the Senator's amendment. In order to get to that point, we have to give the Senator an opportunity to isolate this particular part of the committee amendment.

Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. ABDNOR. Mr. President, what will occcur first?

The PRESIDING OFFICER. Division 1 will be on page 56 and page 57. The question is on the motion to strike.

Mr. HATFIELD. A parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. HATFIELD. This is division 1?

The PRESIDING OFFICER. Division 1 of the committee amendment, on page 56 and page 57.

Mr. HATFIELD. There is no objection on this side.

Mr. JOHNSTON. We have no objection.

The PRESIDING OFFICER. A division is requested on the motion.

The first division is agreed to.

Mr. BAKER. Madam President, I move to reconsider the vote by which the first division was agreed to.

Mr. HATFIELD. Mr. President, I move to lay that on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on division 2.

Mr. ABDNOR. Mr. President, I want to say to the chairman of the Appropriations Committee that I appreciate the courtesy of allowing us to divide the question and take up part 2 as quickly as possible.

I know it is morning, it is 6 o'clock, and we have been in here a long time. Someone said they had never seen a fellow sit so long in one spot as they have tonight. The present Presiding Officer is the fifth individual I have asked to recognize me, so I have been around here quite a while.

I think this is something that is so important. Maybe I am a bit prejudiced, because I have lived with it for about 4 years. I have put a lot of time on it.

I think we have progressed far enough with water legislation right now in our continuing resolution that it is absolutely imperative we talk about this. You know what my subcommittee and committee has to offer after all the time and hours we have spent in a 4-year period. I use a 4-year timetable because we started this 4 years ago. We had many problems. We ended up at the end of the session 2 years ago and started out with the most recent material and findings that we had for the past 2 years.

I would just like to state that over that period of time we had 15 official meetings in the last 2 years and had testimony from 133 different witnesses in 1983 and 1984.

And that does not start to tell you how many people we met with privately time and time again trying to come to some solution on a workable water policy. I say water policy because that is far more important to me than whose projects go into this program.

There are a lot of eligible projects.

We have had those meetings and we think we have finally come close to a solution. We have tried to walk a tightrope between the demands of the administration as well as the environmental and taxpayer groups for still more cost sharing and the demands of project supporters for no additional cost sharing at all. That is quite a problem. That is why we had all those meetings.

Just to show how we tried to be fair, I do not know how many chairmen of a subcommittee have ever passed a bill out of committee, then held additional hearings a month later for those who still would like to make some suggestions and comments. We did just that because we wanted to give everyone an opportunity. We had Members in the Senate who could not come together on some important legislation. But we think we finally arrived at that and came up with what we felf was a very fine bill.

We had to go through all that to reach where we are, I guess, tonight. I could not in clear conscience fail to ask my colleagues on the floor of the Senate to help me bring this about. I think we have to face it and make some decisions. It is easy if you want to walk away from it, that is what you can do and what we have done so far.

Mr. JOHNSTON. Will the Senator yield for a question?

Mr. ABDNOR. With unanimous consent that I not lose the floor.

Mr. JOHNSTON. Is this the same bill that was reported out of committee?

Mr. ABDNOR. Yes, the last time. It is the leadership bill of September 17.

Mr. JOHNSTON. And this bill is offered as exactly line for line the same bill reported out of committee?

Mr. ABDNOR. No, this is after some additional meetings, meetings among the committee leadership. On September 17, we brought that forth.

Mr. JOHNSTON. So this bill has not been reported by any committee, is that correct?

Mr. ABDNOR. Yes, but I will tell you this much: We had far more members when we discussed it in committee than we have had most times when I held hearings.

The big question, maybe the only question, is whose projects will be included and whose projects are going to be left out, will there be any needed policy reforms in this bill.

Let me tell my colleagues something: There is a bill passed over in the House of Representatives by a very diligent group of people on the committee. They worked long and hard. They have come forth with I do not know how many projects, I think something around 300, with over $18 billion worth of projects. Let us talk about what we have here tonight in our bill. We have a continuing resolution that includes over $3.5 billion worth of water projects. The Senate Appropriations Committee bill alone already would be the largest civil works authorization bill that has been

passed in almost a decade in terms of project costs. But it does one thing and that is what bothers me—not what we have in the bill but it lacks any policy whatsoever. It is wide open.

We know that something has to be done. Water programs cannot go on as they have in the past. We have to address policy. I think the Appropriations Committee recognized that. I ask my colleagues to open up the bill to page 5 and let me read to you from the bottom of the listing of projects in it. It says:

In the event the Congress subsequently enacts legislation specifying the requirements of local cooperation for water resources development projects under the jurisdiction of the Department of the Army, such requirements shall be applicable to projects for which funds are herein provided, notwithstanding any agreement for local cost sharing in excess of amounts specified in the relevant project authorizations.

I think this calls for that. I think it is recognized by the people who brought these projects out, and I was there when it happened. We are trying to do that. We have put a lot of time into trying to arrive at some fair and honest-to-goodness program that we can all live with. I think we have that in our amendment.

It is going to make some people happy, I grant you, those who are lucky enough to be listed for a project, to have the Federal Government pick up the entire cost of the project as it has in the past. But you and I know that cannot go on forever. If we are really going to build water projects, they have to be quite selective, they have to be needed and we have to have some dollars coming from someplace else but the Federal Government.

(Mrs. HAWKINS assumed the Chair.)

Mr. MOYNIHAN. Will the Senator yield without losing his right to the floor?

Mr. ABDNOR. I yield for a question, asking unanimous consent that I may keep the floor, yes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOYNIHAN. Madam President, I rise to speak briefly on the matter. But with some point, I hope.

Madam President, I find myself once again before the Senate to demand a change in our anachronistic ways of dealing with the Nation's water resources. As we all know, it has been 14 years since Congress authorized a significant set of new water projects. I am willing to wait another 14 years, if that is how long it will take to put some reason and equity in our handling of water, a national resource.

The Senate is now considering a continuing resolution, a supposedly routine piece of legislation to keep Government agencies running in the absence of regular appropriations. But the Appropriations Committee saw fit to include funding for 23 new Corps of Engineers water projects. Citizens in various parts of the United States have been waiting a long time for the start of construction on these and countless other projects.

The problem is that 11 of these projects have never been authorized. I ask unanimous consent that a list of these projects be printed in the RECORD at the end of my remarks. The Committee on Appropriations has presumed to authorize some of the most expensive public works projects in the history of the United States, at a time when we are supposedly working to reduce an enormous budget deficit. These 11 unauthorized projects would cost the taxpayers of this country $2.7 billion. Three port projects alone—Norfolk, Mobile, and Mississippi River—carry a price tag of $1½ billion.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. MOYNIHAN. Madam President, there is no question that we have some catching up to do. We have been disinvesting in public works, to the point where the Corps of Engineers does more work in Saudi Arabia than in the United States. We must dredge our ports, replace old, inadequate locks, and protect communities from flooding. But we must first decide on a national water policy.

As chairman and then as ranking member of the Subcommittee on Water Resources, I have advocated some simple principles for a water policy. First, the Federal Water Program must include the entire Nation. We have turned deserts into breadbaskets and we have tamed the great rivers of the continent. Now it is time to share. We must recognize that ensuring the integrity of our great urban water supplies is at least as important as growing lettuce in the desert, that a flood in New York can be just as devasting as one in Louisiana.

The other important principle is that the selection of Federal water projects must be based on rational economic criteria. And the best way to ensure that is to establish a meaningful cost-sharing policy, to make sure that the price of water more accurately reflects its true value. Only then can we avoid the unspeakable waste of a national resource that has characterized our past programs.

In 1979, I joined Senator DOMENICI in a proposal to end the chaotic and idiosyncratic system under which we now operate. Our bill was simple: instead of authorizing water projects on a case-by-case basis, Congress would distribute funds to the States on the basis of population and land area. Each State would concentrate its share on its most pressing problems, whether they be municipal water supply, floods, drought, or navigation. This idea, which I still view as an excellent one, has never been acted upon.

Throughout this Congress, I have been working with my colleagues on the Environment and Public Works Committee to break the impasse on water policy. We have come up with reasonable, practical policies for cost sharing and for deep draft ports and inland waterways, and we have taken some steps toward greater Federal involvement in urban water problems. We are ready with a water bill.

What the Appropriations Committee has done is to discard these principles. They want us to return to the days when the geographic distribution of Federal water projects bore a striking correlation to the patterns of seniority in the U.S. Congress. They want to preclude for the foreseeable future any meaningful reforms, any cost sharing, any sharing with neglected regions of the country.

One might ask, why should it matter which Senate committee authorizes water projects, when we all agree that new authorizations are needed? The answer is simple: There must be some thought, some reason behind the choice of projects. The Committee on Environment and Public Works spent 2 years selecting a package of over 100 projects for authorization. There are projects and programs of all types, addressing problems in all regions of the Nation in a fiscally responsible manner.

These projects were not hastily picked out of thin air, nor were they selected merely to please individual committee members. Each has already survived an extensive process of economic and environmental study. First, the district office of the Corps of Engineers conducts a reconaissance survey to determine whether a project is needed and, if so, to explore alternative plans. The next step is to prepare a full feasibility report, including a recommended plan, an environmental impact statement, and a determination of the economic benefits and costs of the plan. Based on the results of these studies, the district engineer makes a recommendation on whether to proceed with the project.

But that is not the end. The district engineer's recommendation must be successively reviewed by the division commander, the board of engineers for rivers and harbors, the Chief of Engineers, and the Assistant Secretary of the Army for Civil Works. Finally, if the project is deemed to be in the national interest, we in the Environment and Public Works Committee receive a recomendation to authorize the project.

There are now over 100 proposed water projects that are distinguished with such a favorable recommendation but have not yet been authorized. That is because, as I have pointed out,

we have not authorized more than a handful of projects in 14 years.

But the key point is this, Madam President: It makes no sense to authorize a seemingly random group of 11 projects with no cost-sharing requirements. On what basis have these 11 projects been chosen? Certainly not on the basis of need. To take the example of ports, it is not at all clear that the expenditure of a $1½ billion on three particular 55-foot superports is in the national interest.

No, Madam President, the only fair course is to authorize all the deserving projects or authorize none of them. If funds are scarce, then we can use cost sharing to stretch the money.

We find ourselves in the final days of the 98th Congress facing a variety of outrageous proposals on water resources. Just a few days ago, I was compelled to speak before the Senate against yet another proposed giveaway of Federal water, this time in California. Neither I nor the taxpayers of this country will tolerate the authorization of a massive new package of water projects under the old rules.

EXHIBIT 1

Unauthorized water projects in Senate version of House Joint Resolution 648

Project and purpose:	*Total cost*
Mobile Harbor, AL: 55-ft channel	$469,000,000
Eight Mile Creek, AR: Flood control	15,000,000
Sacramento River Channel, CA: 35-ft channel	102,000,000
Dade County, FL: Beach erosion control	8,300,000
Lock and dam 26, Illinois and Missouri: 2d lock	245,000,000
Atchafalaya basin floodway, LA: Flood control.	250,000,000
Mississippi River Ship Channel, gulf to Baton Rouge, LA: 55-ft channel	525,000,000
Gulfport Harbor, MS: 30-ft channel	78,000,000
Gallipolis locks and dam, Ohio and West Virginia: New locks	325,000,000
Bonneville lock Oregon: New lock	182,000,000
Norfolk Harbor, VA: 55-ft channel	514,000,000
Total	2,713,000,000

Mr. MOYNIHAN. Madam President, we all know what is wrong with our legislative processes right now. It is that the appropriations bill, the continuing resolution, has become a vehicle for major legislation. It cannot be a happy duty of our respected and—I guess he is reaching that point where we can say beloved—majority leader, to raise a point of order that this is legislation on an appropriations bill when the appropriations bill is four-fifths legislation.

We come here as the Subcommittee on Water Resources—4 years in the effort to produce a national water policy. It has been 14 years since a water bill of any substance passed this Congress. One of the reasons is that they were beginning to be seen as free goods and, as free goods, were abused because the Federal Government paid the total price. We have worked out legislation which involves cost sharing for inland waterways, cost sharing for deep water harbors, a new subject, a 55-foot harbor to provide facilities for the supercolliers of the next generation. We have asked for cost sharing on other forms of water resources and most particularly, of course, irrigation. We have asked this in the name of a policy which can go forward and which is equitable and has some test of the market to it. If it is not prepared to pay some share of 55-foot harbors, then it obviously does not think it will be an economic activity.

Madam President, in this bill, there are, as the chairman said, 23 projects authorized. In the appropriations bill, funds are made available for 23 projects, of which 11 have never been authorized by the Corps of Engineers, never gone through that careful sequence with the Secretary of the Army, which has been our practice for a century. Of these 11 measures, Mr. President, 3—Norfolk Harbor, Mobile Harbor, and the lower Mississippi—carry a price tag of $1.1 billion. Three, no cost sharing, no authorization by the Corps of Engineers, none of that process.

It is with respect to the process that we rise and ask can we not consider a bill which our subcommittee has worked on for 4 years, which we think to be equitable and to which we have a corresponding response from the Committee on Public Works on the other side? If not, if we just want to put up $2.7 billion in an appropriations bill for measures that have never come through our committee, that seems to me to be a comment on our responsibility in these matters.

Mr. ABDNOR. Mr. President, I should like to say that the Senator from New York, the ranking minority member of our committee, has been extremely helpful to me and to the entire committee. I want him to know how much we appreciate his efforts. I think what he was saying here a few minutes ago is that if we choose the route that so far we have taken with this bill, let us just forget the authorizing committee. I do not know what its purpose is. In all fairness, the chairman of the Appropriations Committee was very patient waiting for a bill, saying, "you have to come out with something." We had a bill. For this reason and that reason, somebody has been holding it up, through no fault of the committee, we had a bill, and maybe if we had put a little greater emphasis on it and everybody from the Appropriations Committee on down got behind it, we could have changed the minds of the one or two people who put holds on the bill.

Mr. STAFFORD. Madam President, I ask unanimous consent that the Senator from South Dakota be allowed to yield to me without losing his right to the floor.

Mr. JOHNSTON. Madam President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. ABDNOR. Madam President, let me state where I think we are at this point. I want to bring this out. If we do nothing other than what we have done thus far in this continuing resolution and if we are successful then in striking the Roe bill, as we call it, the $18 billion, bear in mind it is still in the House bill. We will have 23 projects picked by the Appropriations Committee. And Again I am not picking on anyone, but 12 of them have never been authorized, the big end of the projects. They will go to conference committee. We will have 23 projects, the House will have 53.

That is where we are. If that is what you want, with no policy, no one telling us where to start, fine.

There are four ports in this bill, and when those four ports start out with 100 percent funding from the Federal Government, then kiss the future of cost sharing goodbye.

Now, I am going to lay the facts on the table. I am not concerned about inland waterways cost sharing. I do not know why I fought for inland fees. I was trying to be fair. That is not where the dollars are going to go. You can build the locks we want to build. I honestly believe we could afford that. But when we talk about ports all around this country, I am convinced that the United States does not need over two or three deep water ports. I have gone to other places and looked at them. I have met with people. Again, I am going to be fair——

Mr. MOYNIHAN. Will the Senator yield for a question?

Mr. ABDNOR. For a question, I yield.

Mr. MOYNIHAN. If we build at 100 percent Government expense four 55-foot ports, does the Senator think this Congress will ever fund another?

Mr. ABDNOR. I think the people who want future ports would say: This is what we have started, let us continue.

Mr. MOYNIHAN. Does the Senator not agree, these are the last ports that will ever get through this body? At that price, the game is over; the next generation of shipping is settled in this bill?

Mr. ABDNOR. I think that is correct. Let me say this. One thing that the committee bill has is caps on how much we are going to spend each year, staying within a reasonable figure in the budget. I have to tell you it is nothing like the days of old and the dollars you have had to spend. It has

dropped considerably over the years, so we are really only spending a small part in real dollars of what was spent before.

I do not mean to pick on the Tenneessee-Tombigbee, but that got started and that is where your dollars went. If we start all these projects, with the limited dollars we have in the bill, the decision will be made for a long time on who is going to have water projects, whether you need them or not. So that is what I am telling you. I think this needs a little more thought. I think it is absolutely imperative that we all give this some thought.

I want to tell you something else, Mr. President. We have not just been sitting back doing nothing. Maybe we are the first committee to ever start meeting with the House side in conference before we passed a bill, but I thought we were so many miles apart that we could never get together. However, I am here to tell you that we are only that far apart from coming together with a very fine bill. I have here a list of some of the things that I included, with the help of the leadership of the committee, my good chairman of the Public Works Committee, the ranking minority member, Mr. RANDOLPH, and the Senator from New York, and anyone else we could bring in on the discussion. We had two big differences in user fees, one for inland water and one for ports. On the inland where we had 100-percent funding from the trust fund in our bill for construction of inland water projects, the House had only 30 percent to be coming from the local level or from someone other than the Federal Government. But in ports again we are different. For ports we have considerably more non-Federal funding also on the part of the Senate. Well, the House was being big. They backed off on our ports provisions if we would accept the 30-percent participation for inland waterways. And I plan to do it, and I think I can speak for the committee. I have tried to talk to everyone. I have to be absolutely sure. But as of right now, with the help of the leadership, I intend to accept the House version of inland fees, and it would be for construction purposes, 30 percent out of the trust fund.

Mr. JOHNSTON. Will the Senator yield for a question?

Mr. ABDNOR. Yes.

Mr. JOHNSTON. This bill provides, does it not, for 30-percent cost sharing on deep water ports?

Mr. ABDNOR. No, not on deep water ports.

Mr. JOHNSTON. On inland waterways?

Mr. ABDNOR. On inland waterways.

Mr. JOHNSTON. That is including the river systems?

Mr. ABDNOR. Yes.

Mr. JOHNSTON. The States or the areas that are going to do the dredging, do you give them the right to collect fees on those rivers?

Mr. ABDNOR. No. No, we do not.

Mr. JOHNSTON. How are they supposed to pay for that; with a sales tax or income tax, or what?

Mr. ABDNOR. Let me show the Senator a chart. I have it for 100 percent participation from the local, 70 percent from the local, 50 percent from the local, and 30 percent.

Mr. JOHNSTON. I know, but where do they get——

Mr. ABDNOR. Just a minute. I have all the locks I can think of. I think there are seven in here now. And if we take this—I grant you, it should have been done on 10 years instead of 12, but that is the usual number of years unless you do something special.

Mr. JOHNSTON. Where do you get the money?

Mr. ABDNOR. Out of the trust fund. We have $100-some million in it now.

Here are the figures as it goes along on the 30-percent funding level. As a matter of fact, I hate to tell you this because somebody will get up on this floor and challenge me saying we cannot be that much of a Santa Claus because, according to the Corps of Engineers, these are their figures, with inflation figured in on a 12-year basis for those locks there would still be $695 million in that trust fund. I would guarantee you are not going to have to put any more user fees on than you have right now, which is 8 cents a gallon.

Mr. JOHNSTON. I am asking for general cargo ports.

Mr. ABDNOR. The Senator is talking about ports. I thought we were on inland user fees.

Mr. JOHNSTON. For which you must put up 30 percent. Where are they going to get that 30 percent?

Mr. ABDNOR. Let us start on ports because I am not talking about 30 percent on ports. If we are talking about deep water ports, we are talking about 100-percent funding upon the port itself, with the Federal Government putting up a 90-percent guaranteed loan. Then if you want to go that route, we offer you another way to go—50-50, 50 percent Federal, 50 percent local, with no guaranteed loans on the part of the Government. You can go either way.

But, now, yes, you can put fees on. Ports will have to do that. I am sorry.

Mr. JOHNSTON. Are they given the power to do so?

Mr. ABDNOR. Yes.

Mr. JOHNSTON. Will the Senator point, in this 141-page bill, to where they are given that power?

Mr. ABDNOR. I think they do it under the State law now. Some ports are charging.

Mr. JOHNSTON. Under the commerce clause, a State or a port may not tax a navigable waterway unless Congress specifically gives that power, is that not correct.

Mr. ABDNOR. That is one problem. I know they are charging fees. We talked to port people. No one raised that question with us. I have to believe it is perfectly proper to charge a fee for the deep water port.

Mr. JOHNSTON. What we are talking about is a fee for the use of the river in order to pay for the dredging of the river.

Mr. ABDNOR. We are talking about deep water ports now?

Mr. JOHNSTON. General cargo ports, deep water.

Mr. ABDNOR. There is no way to charge fees on the river to pay for the port.

Mr. JOHNSTON. I say to the distinguished Senator that in the bill as reported by the committee, that provision was in, as I recall, and somehow it disappeared between the committee and this $140 million.

Mr. STAFFORD. Mr. President, if the Senator will yield for a question, I ask him this: Is it not true that the provisions that are being inquired about are on page 129 of the bill, now section 906, formerly section 1006?

Mr. ABDNOR. Let me read section 906.

> Notwithstanding any other provision of law, any appropriate non-Federal interest, upon enactment of this Act and in accordance with the provisions of this section, is authorized to recover its obligations for construction under the terms of Sections 903, 904, 905, or 911 of this title, together with its costs for incremental maintenance work undertaken pursuant to section 904 or 911 of this title, including associated administrative expenditures, by the collection of fees for the use of such projects by vessels in commercial waterway transportation. Such fees shall be established after a public hearing held pursuant to State law and shall reflect to a reasonable degree the benefits provided by the project to a particular class or type of vessel.

It does it by working through the State.

If I may go on for a moment and state the other things we have agreed on between the House and the Senate, I think the Senate will be interested in knowing what we are getting ourselves into with our agreements.

On port cost sharing, as I said, on the 45 feet or more it will be 100 percent paid for by the port, with 90 percent loan guarantees. There is a special exception for Baltimore, where they were given credit for some of the earlier costs.

We have compromised with the House on 20 to 45 feet. We were asking for 30 percent cost sharing, and we agreed that we would settle for 20 percent.

So we have done a number of things through this legislation, and I feel

that we have come a long way. I have not got all the problems worked out, but I will tell you this: When we are through and are done in the Appropriations Conference Committee, probably every project in the continuing resolution at this time will be authorized by this legislation. Most of those projects are ready to be authorized, if we are ready to go through the regular form as they used to do and get an authorization of the committee.

If you ask me, "How do you keep every little project everyone has, whether good or not," we have a requirement. You can put in projects today, if you wish, but our legislation says that before it can become authorized, the Chief of Engineers has to sign off on it as to the cost and benefits and the feasibility study.

We also have some cost sharing for feasibility studies in the future.

A project that has never been looked at may be in the bill, but it is not authorized for construction until the chief approves it. If you are going to study it, those requesting the study have to pay 50 percent. The House says 25 percent, and we will probably compromise in between.

For the first time, we have some very good reasons behind what we are trying to do. For the first time, I think we are going to have a genuine water bill and good projects.

I do not think you will hear the words "pork barrel" any more, because projects are going to be most deserving in every way. I think everybody in this Chamber really wants that, at heart.

I suppose we cannot blame Senators for favoring their own little project. But we all know that water is important to this Nation. People can talk about synthetic fuels and everything else, but you have seen nothing until the water starts drying up and the demand becomes greater than the water supply.

I think it is time we start moving. There are plenty of deserving projects to be working on. I cannot write it out and give you a guarantee. It is an unfortunate way to have to bring up an important piece of legislation such as this. We could not get our agreement in writing in that short time.

I want Senators to know that we will be fair. We will have a bill you can live with, one that the administration will be more likely to sign. They were not happy with my bill in the beginning. They thought I was much too generous, but it is a lot better than what you have today in the continuing resolution.

I cannot believe that the administration will accept the continuing resolution water projects. Maybe people know more than I do, but my conversation with OMB, with the liaison from the White House, tells me differently. Maybe I do not get in on all the inside information.

If they are complaining about the kind of bill I have as being too expensive and too generous and one that we have to bring under closer scrutiny, we had better take a look at my bill. Maybe we will decide we need a bill signed and will accept our committee's proposal.

Mr. STAFFORD. Mr. President, will the Senator from South Dakota yield for a question?

Mr. ABDNOR. I yield.

Mr. STAFFORD. Can the Senator tell us what the cost of the so-called Roe bill which is currently in the continuing resolution would be in dollars?

Mr. ABDNOR. They tell us it would be over $18 billion.

Mr. STAFFORD. And how much would the cost of the bill out of the Senator's committee run in total dollars?

Mr. ABDNOR. The highest figure is $11 billion.

The items in our amendment have to meet the criteria; they have to meet the test we set up.

I am not afraid to take projects that way now, because I know that before anything will happen to them, they will have to have a feasibility study, and they will have to be approved and signed off by the Chief of the Corps of Engineers. That is enough of a safeguard.

The dollar figure we are putting in really does not amount to much. What counts is that we will have qualified, reasonable projects we can build.

Mr. STAFFORD. Madam President, it would be fair to say, would it not, that the amendment which the Senator has been describing, the work product of 4 years of hard work on his part and the subcommittee and the able Senator from New York would be at least $6 billion less expensive than being proposed by the so-called Roe-part of the continuing resolution.

Mr. ABDNOR. That is right.

I think there is one point I want to bring out. I do not care how many dollars are appropriated. If this legislation is passed into law I think I am correct in saying that we have it so structured that regardless of what the Appropriations Committee might want to put in we have capped how much can be spent each year, that is obligated dollars, not appropriated. That is what will count with this program.

The Corps of Engineers can only obligate so many dollars a year by this legislation and again it has another safeguard. I think my colleagues can rest in peace and know their dollar is going to be well used and put to work if this kind of legislation is passed.

AMENDMENT NO. 7026

Mr. ABDNOR. Madam President, with that, I am going to send an amendment to the desk for myself and Senator STAFFORD, the distinguished chairman of the committee, Senator RANDOLPH, and Senator MOYNIHAN.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from South Dakota [Mr. ABDNOR] for himself, Mr. STAFFORD, Mr. RANDOLPH, and Mr. MOYNIHAN, proposes an amendment numbered 7026.

Mr. ABDNOR. Madam President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed under amendments submitted later in today's RECORD.)

Mr. ABDNOR. Madam President, this is a big amendment. This is an entire bill. This represents 4 years of meetings, working, discussions, and talking back and forth. This will represent the conversation and the working agreements we have made with the House of Representatives.

Maybe you think you are buying a pig in the poke tonight but you are getting a lot more than you are going to get without it.

There is policy in it. It is going to get better. We are going to continue to meet.

Our Chairman HATFIELD will be heading up that conference committee to make sure it is done right. I have every confidence in the world. It is a strange way, maybe, to produce a bill at 6:30 in the morning, but it is not like something we just came out of the blue sky with.

And we are spending less time here than on amendments that we listened to earlier this evening that took 1, or 2, or 3 hours, amendments that I do not think had the importance that this does.

I wish somehow we could make you better informed but I do not think you want to sit here for an hour and a half as I go through it piece by piece, but I am telling you it is good legislation, it is something that should have been passed a long time ago, and I think the time is now. We are asking you to go out on a limb maybe—I do not think you are—I can assure you that it is good legislation.

Thank you.

Mr. WALLOP. Madam President, I rise in support of the amendment being offered by the Senator from South Dakota. I am extremely concerned about the $18 billion price tag on the Roe water resource development bill for the U.S. Army Corps of Engineers. The Senate conferees would be better off going to conference with the proposed amendment than to go to conference with nothing but the provisions of the Roe bill.

Although it is true that the President has warned he may veto the continuing resolution if it is too expensive, I personally feel that every effort

should be made to move new start water resource projects from a promise to a reality. It may well be that the Senate and House Appropriations Committee conferees are the best Members of this body to trim the fat from the water resource development provisions of the House-passed Roe bill.

I, for one, have worked for 2 years to get some important water projects funded for Wyoming. Funding for the Buffalo Bill Dam modification project in Cody, WY, and the Snake River levee project provision are riding on the outcome of this continuing resolution. I would hate to see either or both of these provisions lost as a result of our desire to move this bill through the Senate quickly, or due to another procedural wrangle. Buffalo Bill, in particular, is long overdue. The people of Wyoming have put up $47 million to help fund this project without a Federal cost-sharing policy. We simply have to keep their faith by moving Buffalo Bill from a promise to a reality.

Madam President, I had earlier opposed bringing S. 1739 to the floor. My objections to the substitute amendment previously published by the Senate Environment and Public Works Committee has been removed because this proposal no longer contains the provision authorizing a National Water Policy Board. I am pleased that Senators ABDNOR, STAFFORD, and MOYNIHAN have agreed to drop this provision from the proposed substitute amendment in an effort to move this bill to the floor. I would also like to thank the distinguished chairman of the Senate Environment and Public Works Committee, Senator STAFFORD, for eliminating in title II of S. 1739 the authority of the U.S. Army Corps of Engineers to condemn water for fish and wildlife purposes. Both these provisions infringe upon the ability of States to manage the waters within their borders, and upon the rights of water right holders within appropriation doctrine States. Although the fight over the Water Board isn't over, at least the water condemnation issue appears to be solved.

It has always been my view that the primary responsibility for water management rests with the States. If the Federal Government is to have a water resource role, it should be one of developing national objectives and criteria for congressional consideration, provided these objectives are consistent with State water laws.

Rather than enacting statutes which put into place Federal water boards empowered to promulgate rules with binding legal effect, we should be moving in the opposite direction. States and regions need more freedom to form new linkages and institutional structures to deal with water problems on a more local basis.

If the sponsor of this Water Board provision was seeking standardized planning for Federal water development agencies, then I would suggest that no real consideration was given to the uniqueness of water projects and the vast geographic diversity of this great Nation. Our Federal water resource planners need flexibility, not a straitjacket of binding rules.

We already have all the standardized planning we need at the Federal level in the President's Cabinet Council on Natural Resources and the Environment. This body has been quite successful in framing water policy options at the Federal level in both the regulatory and financing area. It simply doesn't need to be replaced by a National Water Policy Board which is designed along the same lines of the old Water Resources Council.

As we found in the 1970's the old Water Resources Council, which did have the necessary clout for reviewing proposed projects on environmental, or safety grounds was viewed as an infringement on the prerogatives of Congress for project selection and authorization. This is evidenced by our legislative restrictions in 1979 prohibiting the Water Resources Council from conducting independent project reviews which, incidentially, would have made formal the previous administration's "hit list" approach to water resource development.

What we really need is more market-oriented tests for some project purposes at the local level. This would allow the most viable projects to be studied and recommended for authorization and construction with Federal funds. Given the move of this body toward cost sharing water development construction costs, what we should be doing is decentralizing national water resource institutions to give States and local government the latitude, creativity and initiative for building new organizations tailed to local circumstances. Otherwise how do you expect them to pick up their share of the costs, and the project evaluation burden? You can't effect these changes by putting into place a Federal water board which would strive to retain decisionmaking at the Federal level instead of sharing them with State and local water planners.

This Nation would get far more for its money's worth if the $3 million proposed to fund the National Water Policy Board in the Roe bill would be applied to reducing the budget deficit rather than creating another wasteful level of Federal bureaucratic control. Compared with the streamlined, project team approach used by the administration's Cabinet Council, the Water Board seems like a gold-plated elephant. Conversely, creating a State committee is a move in the right direction.

However, as drafted I'm sorry to say this provision is nothing more than window-dressing. The State committee can only review actions of the National Water Policy Board and recommend changes. The Board is not required to implement any of these recommendations. Although I would normally applaud a move toward coordinations with the States where Federal water resources planning is concerned, I cannot encourage platitudes where the State advisory committee provisions are concerned.

I also oppose the Board for a more fundamental reason. I simply do not believe a five-man Board composed of the Secretaries of the Interior, Agriculture, and Army, along with the Administrator of the Environmental Protection Agency and Chairman appointed by the President should establish water policy through rulemaking. Policymaking is a congressional prerogative. It should so remain.

If you review the history of the impact of formal rulemaking of the Federal water planning process, you will find binding rules didn't work. The principles, standards, and procedures which were enacted by the Water Resources Council in 1979 and 1980 were repealed in 1982 before the rules actually took effect. Projects were formulated and evaluated under principles and standards adopted in 1973 as guidelines rather than as legally binding rules on affected Federal agencies. The rules were repealed because they were too complicated, rigid, and cumbersome as legally binding formal rules.

While it is true the proposed amendment in the nature of a substitute now only authorizes the Water Board to promulgate new rules, I am not sure any final rules promulgated by the proposed National Water Policy Board would be any better than those enacted by the old Water Resources Council. It is more likely that the Board would pattern its rules after those promulgated by the Water Resources Council. These rules were closer to being a statement of principles and instruction for procedural application than they were uniform water project standards. Gaps and omissions make these principles and standards impossible to follow completely. Despite this problem, and the fact that it would take the Water Policy Board years to develop guidelines and instruction for application of the principles and standards in any workable planning process, these rules would have a binding legal effect. These imperfections create opportunities for those segments of the population who view all water projects as destructive to the environment. Gaps and omissions in binding rules can be used by those who view water projects as instruments of environmental de-

struction to stymie water resource planning through court suits intended to delay and stop water development projects.

The old principles and standards were also so restrictive in their recognition of national benefits as to effectively preclude any possibility of ever again including new land irrigation service as a justified function of a multipurpose water resource project. Irrigation benefits were reduced under the rules to 25 percent of their previous estimates in the net benefits test. This reduction was accomplished by restricting benefit calculations to 10 basic crops, by calculating labor differently, by adding a 10-percent management charge, and by calculating the return to investment differently.

Returning to the old rules also disallows planners from adapting to unique circumstances at water projects by using customized procedures, which I mentioned before.

We would also face environmental quality problems. The old principles and standards used environmental procedures, which, unlike the economic procedures, were not tied to any explicit theory of value. Agencies were forced to engage in expensive and time-consuming searches for plans to enhance the natural and cultural environment when, in fact, the agencies' mission was to solve a water problem and to implement projects to enhance national economic development.

Having a single goal of national economic development as we presently have under flexible planning guidelines allows Federal planners to identify the most economic alternatives for addressing water problems. It also allows Federal agencies to fully explore the tradeoffs between economic benefits of a project and its adverse effect on the natural and cultural environment. This approach allows projects to be carried out in an environmentally responsible manner in accordance with all applicable Federal environmental laws. This also reduces the likelihood of third party suits being brought to delay projects on trivial procedural grounds.

The primary objective of a water project should be national economic development. All other concerns such as the environment, regional interests, and social concerns should be complementary and not subordinate to the primary goal of determining whether or not a project merits construction. We must ask whether the States, regions, and local levels of government will ever have sufficient incentives to develop appropriate geographically-based institutions for water management as long as preemptive, rigid structures are imposed upon them from centralized planning agencies at the Federal level of government. I therefore urge my colleagues to think before they support the concept of a National Water Policy Board with authority to promulgate legally binding rules and regulations for Federal water planners.

Mr. STAFFORD. Madam President, I support passage of the amendment, and urge its speedy approval by the Senate.

The legislation provides the first omnibus water resources development bill since 1976. Necessarily, it appears to be an expensive bill, as it contains projects that have been in the pipeline a long time.

This proposal, as introduced, is a reponsible one. It contains a number of initiatives and reforms that will make the Federal Water Resources Program more responsive to the needs of our Nation.

This amendment does no violence to the version of S. 1739 reported by the Committee on Environment and Public Works nearly 1 year ago.

It cleans up the provisions in that version.

The amendment accommodates many of the questions raised by the Committees on Energy and Finance, to which portions of the bill were referred earlier this year, as well as a number of the positions taken by the administration.

Why do I support this compromise? Why do I recommend that others support it?

Because I believe it represents a fair and responsible step forward.

Our goal must be a clear one. That goal is to obtain legislation that will be signed by the President.

It is apparent to me that the President will not sign a bill that is close to the one passed by the House.

Conversations with the administration officials will confirm that view for any of my colleagues.

Nor should the President sign such a bill, which contains high costs and no significant innovations designed to attract new money into the Water Resources Program.

To obtain legislation that can be signed, we in the Senate must pass a bill offering the conferees considerable flexibility to develop a signable bill.

The alternative is to have no new law, to delay further work on many important projects.

We must pass a bill that is close in dollar costs to the one reported by our committee, and, I must stress, with changes in the navigation titles no more severe than the provisions in this amendment.

The issue isn't whether the Nation needs sound water resources development. The real issue before the Senate is this: Where will the money come from?

I believe we must be realistic with ourselves—and with the American people. I am convinced that there will be no major increase in Federal spending to support water resources needs in the coming years. If that assumption is correct, then any major increases in spending must come from non-Federal sources, including beneficiaries, the users, and shippers. Otherwise, there will be no increase in development.

This amendment contains more than $13 billion in new Federal work. The House-passed bill, I am told, contains something like $18 billion in new Federal investment.

Our current level of Federal spending in Crops of Engineers construction is under $1 billion a year. The Congress actually appropriated $890 million for corps construction work in the fiscal year 1985 appropriations bill.

Do any of my colleagues really believe that the Federal Government will increase, after eliminating the effects of inflation, that figure significantly in the next several years? Aren't we struggling to reduce Federal spending, to reduce the deficit?

And if we don't increase that spending level significantly above that $1 billion-a-year figure, this amendment alone will carry us through the year 1997. The House amendment would carry us through the year 2002.

And that is assuming we spend not a dime of Federal money on ongoing projects, or make any effort to eat into the backlog of authorized corps work, which now approaches $35 billion.

We must show restraint. The American public expect it.

We must show restraint in order to avoid making empty promises to many communities across the land.

We must also show restraint so that we can send to the President a bill he will sign, and one that will not require new income taxes or aggravate the deficit.

A major objective of this bill is to place new, realistic controls over the work of the major Federal water resources agency. These restraints are particularly needed in these times of severe budget deficits.

Several items in S. 1739 can be termed constraints on the overall program of the Corps of Engineers. These constraints are designed to provide greater management control. I would like to mention each for the benefit of my colleagues.

The program of the U.S. Army Corps of Engineers is really not a program at all. There is a vast universe of authorized projects out there—a universe this bill expands significantly. Each could, theoretically, go forward at once. There is need for control. This bill provides that control. Let me cite several of these constraints:

Title I sets annual dollar limitations on the overall construction program of the Corps of Engineers for each of the next several years. This limitation is designed to assure that the new au-

thorizations cannot get out of hand, and that this bill, in no way, will be a budget-buster.

Section 212 is another component in that constraint. It requires that each project authorized in this bill must be reviewed favorably by the Chief of Engineers before it becomes effective.

Section 213 is another constraint. It sets a limit on any dollar increases of a project. Thus, a $200 million project can no longer balloon into a $2 billion project. Cost estimates will have to be good the first time, or the project will have to be reauthorized. This ceiling is set at the sum listed for each specific project, as of the month and year given, and may be increased only for future increases in construction costs as indicated by engineering cost indices applicable to the construction activity involved or for increases in land costs necessary for project development.

Section 218 was recommended by the distinguished Senator from New Hampshire [Mr. HUMPHREY]. It prevents any project going forward if certain program parameters are increased by more than 25 percent. If such an increase occurred, the project would have to be reauthorized.

Madam President, each of these constraints is merited; each is needed and will make the corps program more responsive to the Congress.

Before moving on to discuss a variety of major policy initatives, I would like to discuss a couple of items of particular interest to me and the people of Vermont.

Section 209 establishes a 5-year program of research and assistance to local communities for the control of river ice. A total of $5 million is authorized for each of 5 years. In the northern regions of the country, many communities suffer from flooding as a result of the buildup of ice dams during the winter and early spring. Ice piles up to impede streamflow, causing flooding and, in many cases, bank erosion. Many communities are unable to adequately prevent or remove these ice dams and consequently suffer expensive damages. By expending a relatively small sum on river ice control research, the loaning of equipment, operator assistance, and other technical aid, the corps can prevent many millions of dollars in flood damages annually.

This section authorizes $900,000 for a small demonstration project for innovative techniques on river ice control at Hardwick, VT. The bill directs that the corps work with the town of Hardwick to develop the most effective ice control plan. As part of this authority the corps will undertake research and monitoring, as well as the development of ice retention devices and the clearing and grading of lands to reduce the ice flooding danger.

I anticipate that useful designs for ice-retention structures will come from the Hardwick demonstration project. As a result, similar structures can and should be used elsewhere for wintertime flood control. We expect the same standards to apply in those cases, as will apply to the Hardwick project, in an effort to minimize the project impacts and allow participation in planning by groups from the private sector. It should be noted that the reach of river affected by the Hardwick project is used extensively by white-water canoeists, and is largely unspoiled in character.

In addition, Madam President, this section assures coordination between the corps and officials of the town of Hardwick, who have worked so hard and so effectively to meet the needs of the Hardwick area.

Section 210 authorizes the Corps of Engineers to provide engineering and technical assistance to local communities for rebuilding or improving former small-scale hydroelectric facilities and other industrial sites that have hydroelectric potential. A total of $5 million for each of 5 years is authorized.

On request of a local government or an electric cooperative, the corps will provide technical assistance on the design and construction of a project to utilize an existing site for power generation. Project construction would be carried out at non-Federal cost.

The corps estimates that there are between 30,000 and 40,000 sites throughout the United States that, by virtue of their design and location, offer viable opportunities to generate hydroelectric power. Local communities and the Nation would profit and become more energy independent by utilizing the energy potential of these facilities.

Section 305 directs the corps to make any necessary modifications, assure the continued safety of the Waterbury Dam in Vermont. This section includes such work as new concrete on the spillway in order to assure its continued usefulness.

In addition to the constraints in the bill, and the items of interest to Vermont, a number of sections in the bill merit the careful attention and support of the Senate.

Section 220, for example, establishes a program of grants to the States that will enable the States to establish programs to increase efficiency in the use of water and nonstructural flood control methods. The sum of $50 million is authorized for each of 5 years.

Section 224 establishes a reasonable and responsible approach on fish and wildlife mitigation, defining policy regarding the mitigation at water projects constructed by the Corps of Engineers.

Non-Federal interests often are reluctant to support fish and wildlife mitigation efforts once a project is in place. To assure balanced development, this section would achieve several basic goals:

First, in cases of projects authorized by this act, as well as other authorized projects not yet under construction, necessary mitigation will have to be undertaken prior to project construction, or concurrent with that construction. The corps shall determine which alternative is appropriate. For the purposes of this requirement, projects where at least 50 percent of the project lands—other than the mitigation lands—have been acquired are considered to be under construction.

Second, the Secretary is permitted, without further congressional authorization, to mitigate damage to fish and wildlife for any project under his jurisdiction, if the mitigation costs less than $7,500,000 per project. The Secretary may not acquire mitigation lands by condemnation on completed projects, or where 10 percent or more of the physical construction is completed. If mitigation costs exceed $7,500,000, or if the Secretary finds he lacks an automatic authority for work that costs less than $7,500,000, the Secretary must obtain an act of Congress to proceed. Nor may the Secretary obtain water rights by condemnation under this section.

When dealing with older, completed projects, this section is permissive; it is not mandatory. In addition, the corps is not expected to alter the design features of a completed project under its authority unless it has been ordered to do so by the courts.

Third, mitigation costs will be allocated among the project purposes and will be subject to the applicable cost sharing and reimbursement for those purposes. For example, if a project has 50-percent flood control benefits and 50 percent water supply benefits, half of the mitigation costs would be allocated to flood control and half to water supply.

Except to ensure that mitigation is undertaken on a timely basis, this section does not affect or alter the calculation of benefits and costs or the repayment requirements associated with any project.

Fourth, future proposals for water resources projects submitted to Congress for authorization must include a recommendation for a specific plan of mitigation, or a determination that the project will have a negligible adverse effect on fish and wildlife. This standard assures that fish and wildlife mitigation work is coordinated fully and integrated with the project design.

This advance planning involves developing a specific plan that sets out needed project features, land acquisition and preparation, operation, and maintenance procedures, and any other actions designed to mitigate fish and wildlife losses expected as a result

of the project. In all cases, the Secretary is required to consult with appropriate Federal and non-Federal agencies with jurisdiction over fish, wildlife, natural resources, and environmental matters.

Title 8 involves new program of loans for water supply. One-half of the loan funds are allocated to the States in proportion to States share of population, and one-half at the discretion of the corps.

No loans can be made for purposes unrelated to water supply or conservation or for the acquisition of a water supply system by another water supply system.

Governors will be expected to submit each year a priority list of projects to be financed by loans under this title.

The Secretary shall make loans only if water supply system operator implements a model water conservation program and defines such model program.

Madam President, I have saved the most controversial items for the last. Because they are the object of considerable concern, I believe it is helpful if I talked at some length about titles 5 and 9.

Title 5 involves inland navagiation. We have struggled for a long time with this provision.

The administration has proposed S. 1554, a bill to recapture from commercial users 70 percent of the costs for the operation and maintenance of our inland waterways.

Our committee worked over many ideas, and came up with a provision I felt was responsible and responsive to the needs of the waterway users.

The arguments against the committee reported version of title 5 involved the charge that it unconstitutionally delegated taxing authority, and that it left too many uncertainties over what the level of use charges might be, even though users themselves would have set those charges.

As a result, we are now considering a modified title 5 that meets those arguments. Specifically, our amendment releases every penny in that inland waterways trust fund, and dedicates it to finance the full cost of constructing new locks and dam projects, those not now under construction.

I must emphasize that this would affect only new projects. Thus, as one example, the Red River Waterway, and any other project under construction, would be completed using general revenues. The now-authorized component of lock and dam 26 in the Mississippi would be completed from general revenues.

Ancillary portions of a new commercial inland project, such as a hydropower component, would also be financed from general revenues.

This amendment meets the stated objections of the waterway interests.

It contains no new taxes.

It contains no new taxing or fee authority.

It simply allocates money already collected—and money to be collected under existing law—for the purpose for which that money was intended when the trust fund was established in 1978.

Section 501 provides the Congress, the executive branch, and outside interests the remainder of this decade to address the issue of how best to increase future revenues, if needed, to pay for additional projects.

It is a sound, responsible approach, one designed to assure that we will tackle the tough issues in the years ahead.

I have put together a chart, based on figures provided by the Corps of Engineers, to show what would happen if spending on the new projects occurred at an optimum pace. If the pace were slower, as is likely, then less money would be needed from the trust fund. The corps believes it is unlikely that construction would begin on all of these projects as quickly as the chart assumes. If that turns out to be true, spending would be less, with an increase in the carryover funds.

One of the seven projects involved in the chart is not included in this bill for authorization, as it has not yet worked its way through the bureaucratic processes of the Corps of Engineers.

That project—Winfield lock and dam—won't be considered by the Chief of Engineers for at least 2 more years.

Further, the chart reflects the full cost, with inflation included, of each of the seven projects, not the commercial navigation feature and component of the project.

I ask unanimous consent that this chart be printed at the conclusions of my remarks. As my colleagues will note, this approach would obviate the need for any new fee or tax during the remainder of this decade.

Madam President, this amendment also offers a responsible and reasonable approach on title 9, the deep-draft navigation provisions. The amendment creates a proposal that treats existing authorizations and new authorizations with fairness.

Section 901 creates a six-members National Commission on Harbor Maintenance to consist of the Secretaries of the Army, Treasury, Agriculture, Transportation, and Commerce, plus a presidentially appointed chairman. The Commission is to report to the Congress in 2 years with its recommendations on the level of maintenance costs that it would be desirable to recover, and a recommended method of collecting such costs from the ports.

The Commission established in section 901 would be aided by a users advisory board in making its recommenations to the Congress, and a cap on Federal maintenance obligations would be set at $420 million until Congress acted to accept, reject, or modify the Commission's recommendations. That cap is about $90 above current spending levels.

Section 903 provides for the sharing of costs for port development projects to a depth of 45 feet or less. For these projects the required non-Federal share is 30 percent, including land, easements, and rights of way, to be provided during the period of construction.

Section 904 provides that port improvement projects to depths greater than 45 feet shall be a non-Federal responsibility, but that the Federal Government shall provide up to 90-percent guarantee on the loans or bonds required for development, plus 50 percent of the incremental maintenance costs associated with these deep-draft harbors would be borne by the non-Federal interest, and 50 percent by the Federal Government.

Section 906 authorizes a non-Federal interest to collect user fees for its share of a project's construction costs, as well as incremental maintenance costs.

Section 909 includes authorization of all those port improvement projects which have completed the corps planning process and have been approved by the Chief of Engineers.

Section 911 authorizes a second track for deep-draft harbors. It is a track for which loan guarantees are not available, and requires that substantial work occur within 5 fiscal years after authorization, or the authorization lapses.

Madam President, this a responsible amendment. We need to develop a bill that not only will get through the Congress but will also be signed by the President. For that reason, this amendment meets the needs of the administration for responsible cost control, yet gets us started on needed work.

Before closing, Mr. President, I wish to single out four members of the Committee on Environment and Public Works who have devoted great effort to the development of this important bill over the years. Our subcommittee chairman [Mr. ABDNOR], of course, has been most diligent in developing this bill. His unstinting work and innovative ideas have been essential to the work before us. He deserves the praise of the Senate.

The Senator from New Mexico [Mr. DOMENICI] spent a number of years as ranking Republican on the Water Resources Subcommittee. During that time he developed many of the concepts and provisions that are embodied in this bill.

The Senator from New York [Mr. MOYNIHAN] has been a pillar of

strength. He has worked tirelessly with others to develop a balanced bill.

And worst of all, I wish to say a word of commendation about one of our colleagues who is retiring after serving on the Committee on Environment and Public Works for a quarter of a century. The Senator from West Virginia [Mr. RANDOLPH] has given to the development of this bill, as he has to so many other pieces of legislation, an important contribution.

Madam President, I urge the adoption of this amendment.

Madam President, as we discuss the issue of wildlife mitigation and the condemnation of water, I ask unanimous consent to include in the RECORD a letter written to me on this issue from the Corps and the Department of Interior.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF THE ARMY,
OFFICE OF THE CHIEF OF ENGINEERS,
Washington, DC, May 31, 1984.

Hon. ROBERT T. STAFFORD,
Chairman, Committee on Environment, and Public Works, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: This is in reply to your letter of May 18, 1984, to the Chief of Engineers inquiring whether authority exists to acquire water rights by condemnation for fish and wildlife mitigation purposes. You have also asked whether water rights have been acquired by condemnation for such purposes. I will limit my response on these issues to a brief discussion of my understanding of the pertinent authorities and practices that govern the U.S. Army Corps of Engineers fish and wildlife mitigation activities.

The Fish and Wildlife Coordination Act, 16 USC 661 et seq., generally defines the Corps of Engineers responsibilities for considering and providing for fish and wildlife mitigation at water resources development projects under the Corps' jurisdiction. Section 3(c) of the Act provides that land, waters, and interests therein may be acquired by Federal construction agencies for the wildlife conservation and development purposes of the Act. Section 3(c) specifies, however, that such properties may be acquired for these purposes at an individual project only after the probable extent of their acquisition is set forth in the report to Congress for the project's authorization. Moreover, such properties may not be acquired for wildlife purposes at previously authorized projects unless their acquisition is specifically authorized by Congress.

The Corps of Engineers is, therefore, only authorized to acquire a water right for fish and wildlife mitigation purposes where that authority can be found in the congressional authorization for the affected project or a subsequent amendment to that authorization. Authority for the Corps to acquire that water right by condemnation would further depend on a liberal reading of the Secretary of the Army's authority to condemn "any land, right of way, or material" needed to prosecute authorized rivers and harbors improvements pursuant to the Act of April 24, 1888, 25 Stat. 94, or the Secretary's similar condemnation authority to prosecute authorized flood control improvements that may be construed pursuant to Section 3 of the Act of March 1, 1917, 39 Stat. 950.

It is my opinion that the Corps of Engineers could consider acquiring water rights for fish and wildlife mitigation purposes and might consider condemnation of such rights only in the limited circumstances that I have outlined above. I wish to emphasize, however, that I am unaware of any circumstance where the Corps has acquired water rights for such purposes at the projects under its jurisdiction. Moreover, I am reasonably certain that the Corps has never deemed it advisable or necessary to acquire water rights for its civil works program by the exercise of Federal condemnation authority.

Sincerely,

LESTER EDELMAN,
Chief Counsel.

U.S. DEPARTMENT OF THE INTERIOR,
FISH AND WILDLIFE SERVICE,
Washington, DC, June 7, 1984.

Hon. ROBERT T. STAFFORD,
Chairman, Committee on Environment and Public Works, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your letter concerning section 224 of S. 1739, the "Water Resources Development Act of 1984". This section contains several provisions to facilitate mitigation work performed in connection with Federal water resources projects undertaken by the Corps of Engineers.

In your letter you asked whether any fish and wildlife mitigation projects to date involved the acquisition of water rights by condemnation, and whether such authority exists under current mitigation law. The Fish and Wildlife Service does not itself acquire lands and waters for mitigation purposes. These areas are acquired by the Corps or other construction agencies and are then transferred to the Service or to the appropriate state fish and wildlife agency for management. Therefore, it would be more appropriate for the Corps to respond to questions concerning condemnation of water rights for mitigation purposes.

The Service does, however, have the general authority under several laws to acquire lands and waters and interests therein for fish and wildlife conservation purposes. A list of these laws is attached. Under the Act of August 1, 1888 (40 U.S.C. 257) any Federal agency that has the general authority to acquire lands for public purposes is given the authority to use condemnation for such acquisition. It is the policy of the Service, however, to use this authority only when other alternatives are not available. Condemnation is used only as a last resort, and this need has been infrequent in recent years. In the event that water rights are attached to lands being acquired through condemnation and when these water rights are needed for fish and wildlife conservation, they are included in the condemnation proceedings. To my knowledge, the Service has never condemned water rights as a separate interest.

Congressional oversight is exercised in several ways with regard to condemnation proceedings by the Service. The Appropriations Committees must approve all Declarations of Taking. Congress as a whole must generally approve appropriations for any acquisition, whether by purchase or by condemnation. The one exception is for lands acquired with receipts from the sale of duck stamps, which are automatically available to the Service from the Migratory Bird Conservation Fund. In such cases, however, acquisition must be approved by the Migratory Bird Conservation Commission, which includes four members of Congress.

I hope that this information will be helpful to you as the Senate proceeds with its consideration of S. 1739. Please contact me if I may be of additional assistance.

Sincerely,

WOLF WALLENSTROM,
Acting Director.

FWS ACQUISITION AUTHORITIES

16 U.S.C. 460k-1. The Recreation Use of Conservation Act of 1962, as amended, authorizes acquisition of areas which are adjacent to, or within existing fish and wildlife conservation areas administered by the Department of the Interior and suitable for (1) incidental fish and wildlife-oriented recreational development, (2) the protection of natural resources, (3) the conservation of listed threatened or endangered species, or (4) carrying out two or more of the above.

16 U.S.C. 4601-4-11. The Land and Water Conservation Fund Act of 1965, as amended, provides funding authority for appropriation to the Fish and Wildlife Service to acquire lands, waters, or interests in lands or waters as otherwise authorized by law.

16 U.S.C. 742f-a-4. The Fish and Wildlife Act of 1956, as amended, authorizes acquisition of Refuge lands for the development, management, advancement conservation, and protection of wildlife resources, except migratory waterfowl areas, which are authorized to be acquired by the Migratory Bird Conservation Act of 1929, as amended.

16 U.S.C. 1534. The Endangered Species Act of 1973 authorizes the acquisition of lands, waters, or interests therein with Land and Water Conservation Funds for the conservation of fish, wildlife and plants listed as endangered or threatened species.

16 U.S.C. 668dd-ee. The National Wildlife Refuge System Administration Act, as amended, requires the payment of fair market value for any right-of-way, easement or reservation granted within the refuge system. These funds are to be deposited within the Migratory Bird Conservation Account.

16 U.S.C. The Migratory Bird Conservation Act, as amended, established a Migratory Bird Conservation Commission to approve areas recommended for acquisition by the Secretary of the Interior. The Act authorizes the Secretary of the Interior to acquire migratory bird areas approved by the Commission.

16 U.S.C. 715k-3-5. The Wetlands Loan Act, as amended, authorizes the appropriation of advances (not to exceed $200 million for the period July 1, 1961 through FY 1984) to accelerate acquisition of migratory waterfowl habitat. The advances are to be repaid using 75 percent of the annual "duck stamp" receipts beginning in FY 1985. Funds appropriated under the Wetlands Loan Act are merged with receipts from sales of "duck stamps" and made available to the Secretary of the Interior for acquisition of migratory bird habitat under provisions of the Migratory Bird Conservation Act or the Migratory Bird Hunting and Conservation Stamp Act.

16 U.S.C. 718 et seq. The Migratory Bird Hunting and Conservation Stamp Act, as amended, commonly known as the "Duck Stamp Act," requires all waterfowl hunters 16 years of age or older to possess a valid Federal Migratory Bird Hunting and Conservation Stamp. Funds from the sale of

this stamp are placed in the migratory bird conservation fund established by this Act. It also authorizes the Secretary of the Interior to acquire small wetland and pothole areas for waterfowl protection areas.

VIEWS OF THE DEPARTMENT OF JUSTICE

Mr. STAFFORD. Madam President, as we discuss the issue, of water resources and the comparison with the House bill, I must point out that the Justice Department has identified some real problems with the House language.

I ask unanimous consent that a copy of a letter on this bill from the Department of Justice be printed at this point in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF JUSTICE,
OFFICE OF LEGISLATIVE AND INTERGOVERNMENTAL AFFAIRS,
Washington, DC, September 19, 1984.

Hon. ROBERT T. STAFFORD,
Chairman, Committee on Environment and Public Works, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: This letter presents the views of the Department of Justice on H.R. 3678, the "Water Resources Conservation, Development, and Infrastructure Improvement and Rehabilitation Act of 1983," as passed by the House of Representatives. Our comments are directed at four provisions of the bill. The first, contained in § 101 of the bill, at p. 5, is an unconstitutional legislative veto device under the holding of the Supreme Court in *INS* v. *Chadha*, 103 U.S. 2764 (1983). The second, § 1221 of the bill, provides for congressional influence over appointments of "officers of the United States" in a manner inconsistent with the Appointments Clause of the Constitution. Art. II, § 2, cl. 2. The Department of Justice strongly opposes inclusion of these two provisions in the bill. Third, we have concerns about the breadth of the authority provided to the Great Lakes Commodities Marketing Board by § 1123(b)(6)(c) to obtain information from departments and agencies of the United States. We recommend that this authority be more narrowly tailored to meet the specific needs of that Board for information. Finally, we believe that § 1183 of the bill should be clarified with respect to the intent and operation of the provision.

We defer to those agencies more directly concerned with the subject matter of this bill with respect to provisions of the bill other than those discussed here.

SECTION 101

Section 101 authorizes the Secretary of the Army to undertake a number of specific projects for ports in accordance with recommendations and reports to be made by the Secretary. One provision of this section, printed at pp. 4-5 of the bill, authorizes a project for navigation in Mobile Harbor, Alabama. It requires, *inter alia*, that the Secretary of the Army, the United States Fish and Wildlife Service, the Administrator of the Environmental Protection Agency, and "appropriate non-federal interests" develop and transit to the House Committee on Public Works and Transportation and the Senate Committee on Environment and Public Works a "plan to dispose of dredge material from [the authorized] project in the Brookley disposal area, . . ." The authority for this project is subject to a proviso that "[n]otwithstanding any other provision of law, no dredged or fill material shall be disposed of in the Brookley disposal area, referred to in such report . . . unless such plans have been approved by resolution adopted by each . . . committee." (p. 5)

We believe that this proviso is an unconstitutional legislative veto device. The apparent purpose of the proviso is to prohibit the disposal of dredged or fill material from this project in a particular disposal area, unless the appropriate House and Senate Committees "approve" the plans prepared by the Executive Branch for the project. There is no doubt that this provision therefore purports to authorize committees of Congress to affect the legal rights and duties of the President and his subordinate Executive Branch officers. As the Chief Justice stated, writing for the Court in *Chadha*, all actions by Congress (or its committees) having "the purpose and effect of altering the legal rights, duties and relations of persons, including . . . Executive Branch officials . . ." 103 S. Ct. at 2787, are legislative actions that must be enacted pursuant to the Presentment Clauses of the Constitution (passage by both Houses of Congress and presentment to the President for his approval or veto). Because this proviso falls squarely within the Court's analysis of legislative veto devices in *Chadha*, it is unconstitutional, and should be deleted from the bill.[1]

SECTION 1221

Section 1221 would establish a National Board on Water Resources Policy.[2] The Board would have several duties and functions, including: (1) performing studies and preparing assessments of the adequacy of supplies of water throughout the country; (2) performing studies and preparing assessments of the relation of regional or river basin plans to the requirements of larger regions of the country; (3) assisting in interagency coordination of federal water resources research, (4) establishing standards for federal participants in the preparation of comprehensive regional or river basin plans; (5) establishing standards for the formulation and evaluation of federal water resource projects; (6) holding hearings and administering oaths for purposes of carrying out these duties; and (7) promulgating rules pursuant to its authorities.

Section 1221 provides that the membership of the Board would be composed of:

(1) the Secretary of the Interior, the Secretary of Agriculture, the Secretary of the Army, and the Administrator of the Environmental Protection Agency, or their respective designees;

(2) two members who shall be appointed by the President with the advice and consent of the Senate, one from among nominations made by the Speaker of the House of Representatives, and one from among nominations made by the President pro tempore of the Senate; and

(3) a Chairman who shall be appointed by the President by and with the advice and consent of the Senate.

It appears to be the intent of H.R. 3678 that the Board be part of the Executive Branch and that it exercise Executive Branch functions. For example, § 1221 provides that any individual designated by the four Executive Branch members must be among persons who are officers of the United States appointed by the President with the advice and consent of the Senate.

It is fundamental that officers who perform Executive duties must be appointed pursuant to the Appointments Clause of the Constitution. Art II, § 2, cl. 2; *Buckley* v. *Valeo*, 424 U.S. 1 (1976). Those who are vested with authority that amounts to "the performance of a significant governmental duty exercised pursuant to a public law," 424 U.S. at 141, must be appointed in a manner consistent with the Constitution. That is, individuals must be appointed by the President by and with the advice and consent of the Senate, or if authorized by Congress, by the President alone, the courts or the heads of departments. 424 U.S. at 124-41.

Two questions arise with respect to the validity of § 1221. The first relates to whether the President may be required to choose from a limited number of names selected by others. The President must be able to exercise judgment and discretion in selecting the person he nominates. Accordingly, we believe that any procedure calling for the submission of names to the President must recognize the ability of the President, at his discretion, to request that more names be submitted.

The more serious question arised by § 1221 is that it would provide a role for both the House of Representatives and the Senate in the appointment process and would interject Congress into the actual nomination process. It would expand the role assigned to Congress in the process leading to the appointment of officers under the Constitution. *Buckley* v. *Valeo* held that Congress may not itself appoint "Officers of the United States." The Supreme Court also held that subjecting a nomination to the approval of both Houses of Congress was a violation of the Appointments Clause. Therefore, we do not believe that Congress may extend its role beyond that contemplated by the Appointments Clause without raising constitutional objection.

The purposes underlaying the Appointments Clause support this conclusion. The particular fear underlying the Appointments Clause was that Congress would "aggrandize itself at the expense of the other two branches," 424 U.S. at 129 & n.166, by being able to legislate and then to participate in the selection of those who were to administer the laws. *See* 424 U.S. at 272-74 (opinion of White, J.). To the extent that the Board would perform significant Executive functions, § 1221 represents an attempt to exercise congressional influence over appointments of "Officers of the United States" in a manner not contemplated by the Constitution. We accordingly oppose enactment of this provision of § 1221.

[1] The numerous provisions in H.R. 3678 stating that "no appropriation shall be made" for certain activities without the approval of the House and Senate committees do not raise the same constitutional defect. The Department of Justice has taken the position with respect to such "no appropriation" provisions that the committees' failure to approve the plan or proposal would be without any legal significance. A subsequent act appropriating funds for that activity would give Members of Congress the right to raise a point of order against the appropriation bill, but nothing more. If Congress in fact appropriates funds for that activity, the Executive Branch may legally expend those funds notwithstanding the failure of the committees to approve the plan prior to the appropriation.

[2] Similar legislation was considered by the 97th Congress in 1982. H.R. 3432, 97th Cong., 2d Sess. This Department objected at that time to the manner of appointment provided for the National Board on Water Resources Policy. See letter to Hon. James J. Howard, Chairman, House Committee on Public Works, from Robert A. McConnell, Assistant Attorney General (Sep. 20, 1982).

SECTION 1123

Section 1123 of H.R. 3678 would establish a Great Lakes Commodities Marketing Board, which would have responsibility for developing a strategy to improve the capacity of the Great Lakes region to produce, market, and transport commodities and to maximize the efficiency and benefits of marketing products produced in the Great Lakes region or shipped through the Great Lakes. The Board would be composed of specified members of the Executive Branch or their delegates.[3]

Our concerns stem from § 1123(b)(6)(C) of the bill, which would authorize the Board—[to] secure directly from any department or agency of the United States any information necessary to enable it to carry out this subsection. Upon request of the co-chairman of the Board, the head of such department or agency shall furnish such information to the Board.

If read literally, this language could give the Board authority to override other restrictions placed on the disclosure of information by agencies by statute or executive order. Moreover, it would appear to be inconsistent with the intent of the "third agency rule," which recognizes that agencies responsible for the development of information should be able to control the further use of that information by other federal agencies. See 44 U.S.C. § 3508.

It seems unlikely to us that this was the intent of the drafters of this language, because the interest of the Great Lakes Commodities Marketing Board in obtaining information from other federal agencies and departments should be fairly limited. Inclusion of broad authority such as that now in § 1123 would in all likelihood lead to considerable confusion and uncertainty over the extent to which (if at all) that authority was intended to override other statutory restrictions. We recommend, therefore, that § 1123(b)(6)(C) be redrafted to include only that authority needed for the Board to accomplish its particularized functions. At least two alternatives would be preferable to the existing authority: either a simple authorization for the Board to obtain information from other federal agencies and departments "consistent with existing law," or a much narrower authorization to obtain specific types of information that would be necessary for the Board to carry out its designated functions.

SECTION 1183

Under § 1183(a) the Secretary of the Army is authorized, though not required, to ensure compliance with federal/nonfederal agreements in carrying out authorized water resources projects. In § 1183(b), however, the Secretary is required to issue an order requiring non-federal interests to conform to the § 1183(a) agreements. The Secretary should be given some discretion in enforcing the federal/non-federal agreements. Toward that end, we would recommend that the word "shall" on lines 2 and 6 of page 349 be replaced with the word "may".

Additionally, the Secretary is authorized by § 1183(c) to ask the Attorney General to seek appropriate relief for violations of the Secretary's orders with the United States District Court for the defendant's location, residence or business having jurisdiction. It is unclear, however, whether the Attorney General may enforce the federal/non-federal agreements absent a Secretarial Order under § 1183(b). To resolve this ambiguity, we would recommend that line 12 on page 349 be amended to read "or temporary injunction, for any violation of *any federal/nonfederal agreement pertaining to cooperation in carrying out water resources projects under subsection (a) of this section or* an order issued . . .".

Federal/non-federal agreements are essential to the development of a variety of water resources projects. These agreements are frequently negotiated before a specific project is authorized and may be the basis for the authorization of a project. It is essential, therefore, that a mechanism exist by which these agreements can be enforced. This mechanism would be provided by § 1183 of H.R. 3678, if amended as suggested herein.

SUMMARY

In conclusion, the Department of Justice strongly opposes enactment of the described provisos in § 101 and § 1221 of H.R. 3678. Additionally, we recommend that § 1123 be amended to narrow the authority provided with respect to obtaining information from other federal agencies and that § 1183 be amended to reflect the appropriate authority and discretion delegated to both the Secretary of the Army and the Attorney General under the provision.

The Office of Management and Budget has advised this Department that there is no objection to the submission of this report and that enactment of this legislation would not be in accord with the program of the President.

Sincerely,

ROBERT A. MCCONNELL,
Assistant Attorney General.

THE VIEWS OF LEADING ENVIRONMENTAL AND TRANSPORTATION GROUPS

Mr. STAFFORD. Madam President, S. 1739 represents one of the major items of unfinished business confronting the Congress in 1984. Much of the significance in the bill involves the inland waterways title.

Frankly, this amendment is weaker than language I have supported in the past. While I recognize its limitations, I also see it as an important step toward winning passage of water resources legislation this year.

In order to represent accurately the views of the public on this issue, I ask unanimous consent that copies of letters from environmental and transportation groups be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SEPTEMBER 10, 1984.

Hon. ROBERT STAFFORD,
U.S. Senate,
Washington, DC.

DEAR SENATOR STAFFORD: We are gravely concerned about your proposed amendment (Congressional Record June 28, 1984, p. S. 8759) to the inland waterway section, Title V of S. 1739, which seems to set aside reform in its effort to seek compromise. In summary, this amendment would accommodate major new construction while achieving less than 10% recovery of total annual inland waterway expenditures.

We fully appreciate the extraordinary efforts that you, your staff, and colleagues have expended in trying to forge a bill that achieves water policy reform while getting on with the nation's water program. We also realize that your proposed modification to title V is merely one further refinement in this prodigious task of consensus building. We must, however, express our alarm that the latest proposal for inland waterway cost sharing is inadequate.

Subjecting only new construction to the availability of Inland Waterways Trust Fund money creates several problems. First, it does nothing to curb or offset huge Army Corps of Engineers expenditures for existing construction, an amount close to $300 million annually. Second, it commits the federal government to financing 100% of annual operations and maintenance expenditures, an amount which could reach $600 million annually by the early 1990's. Finally, there will be every incentive to label small construction projects, including major rehabilitation, as "O&M funding" in order to escape Trust Fund constraints. The proposal in Section 504 to permit the Secretary to proceed with any work costing less than $25 million is evidence of how attractive the O&M category would become for such a purpose.

Your Committee first proposed a cap of $500 million annually—applicable to O&M, existing construction and new construction—on obligations from both general revenues and the existing Trust Fund. When that occurred, we were hopeful of long-term water policy reform. That reform was short-lived. The cap was soon raised to $646 million. Then, the Finance Committee restricted the imposition of user charges on expenditures that might exceed the cap. Your proposal would accommodate vastly increased levels of spending with little incentive to prevent uneconomic or environmentally damaging projects.

Examination of revenue and cost figures shows how little this proposal would accomplish. The Inland Waterways Trust Fund will contain about $200 million in funds by the end of FY 85. When the existing fuel tax reaches 10¢ per gallon, about $60 million per year should be generated. While this is less than some optimistic projections of $70-$95 million per year, it will still provide some $600 million in additional funds over 10 years. Combined with the $200 million already available, the total is $800 million. That amount is enough to build such facilities as Gallipolis ($350 million), Bonneville Lock ($177 million) and L&D 26 second lock ($250 million). Obviously, other projects can be started as well and completed when funds permit. All of this would occur with no increase in user charges and with both O&M and existing construction expenditures remaining exempt from cost recovery.

We trust that the conditions you have recently proposed can be strengthened. We urge you to adopt the following measures:

1. Set an annual cap of $450 million from general revenues for O&M funding and lower this cap by $20 million each year over the next decade;

2. Permit use of the Inland Waterways Trust Fund to cover funding that exceeds the annual cap on O&M expenditures;

3. Prohibit transfers from general revenues into the Inland Waterways Trust Fund.

4. Ensure that monies will be withdrawn from the Trust Fund as liabilities occur; and

[3] These members include: the chairman of the Great Lakes Commission; the Secretary of the Interior; the Secretary of Transportation; the Secretary of Commerce; the Administrator of the Saint Lawrence Seaway Development Corporation; the Secretary of Agriculture; and the Administrator of the Environmental Protection Agency.

5. Allow no project to be undertaken until the Secretary of the Army certifies that the Trust Fund will have enough money to cover that project's costs as they are incurred.

If these measures or ones that produce similar levels of user cost responsibility were adopted, we could support passage of Title V.

We would be glad to discuss these amendments with you at your convenience.

Sincerely,

W.H. DEMPSEY,
Association of America Railroads.
BRENT BLACKWELDER,
Environmental Policy Institute.
DAVID R. CONRAD,
Friends of the Earth.
WILLIAM A. BUTLER,
National Audubon Society.
LYNN A. GREENWALT,
National Wildlife Federation.
JIM SNYDER,
Railway Labor Executives Association.

SEPTEMBER 19, 1984.

Hon. ROBERT T. STAFFORD,
Chairman, Committee on Environment and Public Works, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Senate may soon take up S. 1739, the Omnibus Water Resources Development Act. If enacted, this legislation will undoubtedly shape the Army Corps of Engineers' water resources development program for years to come. Unfortunately, the substitute amendment to be offered for consideration on the Senate floor by the Public Works Committee leadership is seriously flawed. In our judgment, this proposal does not provide the reforms necessary to properly guide the multi-billion dollar construction program that it will unleash. We oppose the passage of S. 1739.

The activities of the Corps of Engineers involve some of the most environmentally sensitive and biologically productive lands and waters in the United States. Our experience from involvement in numerous controversial Corps projects around the country led us to seek several major reforms for the Corps program. Regrettably, the committee proposal falls short in several critical areas.

Cost sharing is inconsistent and inadequate.

Greater user contributions toward the inland waterway system are not assured.

Consistent planning and evaluation procedures for Federal water projects are not restored.

We share the concerns of those who are frustrated by the delay in securing the authorization of needed projects. Indeed, S. 1739 has a number of worthwhile projects which conservationists would welcome the opportunity to support. Nevertheless, we view the reforms mentioned above as critical and essential. Without such improvements, the Corps program will remain mired in controversy and stalemate for years to come, rather than providing the constructive role in natural resource management of which the Corps of Engineers is capable.

Sincerely,

LOUISE DUNLAP,
Environmental Policy Institute.
BOB CHLOPAK,
Friends of the Earth.
JACK LORENZ,
Izaak Walton League of America.
WILLIAM BUTLER,
National Audubon Society.
JAY D. HAIR,
National Wildlife Federation.
J. MICHAEL MCCLOSKEY,
Sierra Club.

Mr. DOMENICI. Madam President, let me take a couple minutes and tell the Senate where I think we are.

Madam President, I really regret at 6:35 in the morning to take a little of our time, but I think I know what is going to happen in spite of what Senator ABDNOR is going to try to do. I think the Senate is going to follow what it has been doing for the last 23 or 24 hours and going to find everything he is going to try to do nongermane. So, 4 years of work is gone. That is all right. But all I have heard for the last 36 hours is, how are we going to revitalize the authorizing committees of the U.S. Senate?

I will tell you. You are not going to revitalize the authorizing committees of the U.S. Senate when you ask the committee with jurisdic-tion over water to produce a water bill. They have 3 years of hearings and they produce a water bill, and it is here up there at the desk for 6 or 7 months and nothing happens. I understand why nothing happens because it is tough to change water policy.

I look around and everybody I see does not want to pay for inland waterways—they want them free; they do not want to pay for deep ports—they want them free. They wonder why we are not spending new money on water projects. We used to spend $2 billion, then $1.5 billion, and then $900 million, and now we are down to $800 millon.

We are not going to spend money on water projects because we do not have a water policy. Most of the money went our way to the West. There ought to be a national policy where everybody gets some water money because everybody has water projects. We are not going to do that.

So this bill from the committee of jurisdiction languishes. I mean there are more holds on that bill than you could ever imagine because nobody wants to change anything. The U.S. House of Representatives was told, pass a water bill. They pass a water bill. They sent it over here. They sent it here 7 months ago. It stayed there. Nothing happened.

We are angry at them, are we not? They put Roe's 317-page bill on a continuing resolution. Yes, they did. They got angry.

What is the use of having a water committee, they said, so they put it on this. They sent it over here to the Senate in the continuing resolution.

Our committee is going to strike it and go to conference. They have a full-blown water bill. I do not know if it is a good bill or not. I would suspect that they do not want to pay for the inland waterways; they want the Government to. I would suspect that they do not want those who use the ports to pay for it; they want us to. So probably it is not a very good bill, but that is their version. We should have had our version and we should have gone to conference about 3 or 4 months ago and we should have come up with a water bill. We did not.

Pretty soon, they are going to say sorry, at 6:30 in the morning—no new water policy. I think that is going to happen. I would think the majority leader has to do that. To be consistent, he will probably have to do that, either table it or put it in the parliamentary posture where we do not have any option but to say it is not germane.

Well, we are going to do that. Then what do we have? We are in great shape. We have no water policy, and we have $2.6 billion in new authorization, new appropriation in this bill for water projects that have never been authorized by anyone. We have five reports, only one of which has ever been authorized, the one in Baltimore. Four new ports are going to be built in the United States at total cost to the taxpayer. They are going to pay it all.

Let me tell you what the testimony before the committee is: I used to be in that position 3 or 4 years ago where JIM ABDNOR is, so I happen to know.

The experts in the United States say the Federal Government ought to pay for no deepwater ports—none. Do you know why? Beause you are going to build a whole bunch of white elephants. That is why. You build these four or five. There is nobody even knows that we have enough business for the four or five. You are going to pay for them right here tonight when you pass the appropriations bill and they have never been authorized. You know what the experts say? The experts say, do not pay for any of them. Give them a way to finance and the marketplace will tell you which ones are needed.

I was gung-ho 5 years ago, when we wanted to ship all this coal, "Let's build some deep ports," until I went to a couple of hearings, and a couple of experts said, "What are you talking about? You are going to build as many that won't work as will work, and once they are built you have paid for them and you are going to make the other ones go broke, and you are going to have a marvelous system of new deep ports with no marketplace test for how you build them or whether they will be used."

We have a great tendency to build public works projects if there is no market test to them that ends up serving no one. That is generally called "pork," and I do not use that word loosely—and I do not. I am not one that stands around here and says nobody should get anything. Sure, we all should get something.

But the issue today is, we are going to proceed with not only new ports

with no authority, no idea how we were figuring out who should get them except everybody wanted one, so there is one in Virginia, there is one in Maryland, there is one in Sacramento, as I recollect, a little one, one in Alabama, maybe Mississippi, and I do not think anybody is really sure that they are needed and sure that they will raise enough money to pay for themselves. They will just be built.

Now I will be through in 2 minutes. I understand I have not spoken on the continuing resolution. I have been listening like everyone else. Just 2 more minutes.

In addition to that, perhaps out of frustration—maybe legitimate frustration—the Appropriations Committee has some additional projects, inland waterways, and the like, that are not authorized by the Congress. And we do that from time to time. But the very reason the chairman of the subcommittee and the ranking minority member are on their feet in their own way saying, "What are we up to?" You see if we do all these and they go to conference and let us assume they strike Roe—they might not strike that big Roe bill, but let us assume they do—the House has 2½ times as many freestanding projects appropriated in their bill—nothing to do with the new authorization language.

Our chairman is going to have to go over there with the committee and compromise. We are going to come out with enough projects that have never been authorized that we are going to be paying for that we will not need a water policy for about 10 years. Now I submit, that is not the way to do business.

I have no miraculous cure except to say to those who keep saying, let us revitalize the authorizing committees, I will tell you this: You are about, in the next 15 minutes, to render any committee in this Senate that has jurisdiction over water, you are about to do the opposite. Not only will they not be revitalized but they will no longer be necessary. And anybody that wants to serve on them is sort of like when I came to the U.S. Senate, they gave me two assignments, Public Works and the Space Committee, because the Space Committee was about to be phased out. That is about where we will be.

Mr. ABDNOR. The Senator mentioned germaneness. I want to point out one thing. This is as germane as you could make it. This amendment that I am offering is an amendment to a provision in the House bill. All I am doing is changing a few things. It is there. I am not adding anything new in the way of legislation beyond what is there already.

I can assure everyone in this Chamber if you think my amendment is not germane, you better look over the CR and see what is in it.

Mr. DOMENICI. Let me say to my friend, Senator ABDNOR, I know your frustration, and I compliment you for what you have done. I do not want the Senate to misunderstand. I do not have any easy way out of this. It does seem to me, though, that we are in a predicament that we do not want to be in and we ought to be awful careful not to render committees totally useless in terms of their authority around here. And we ought not to spend all the money for the next 8 or 9 years on the water projects and there will not be any more for anyone else from what I can see if it ever gets by the President.

Mr. LAUTENBERG. Madam President, I rise in support of S. 1739, the Water Resources Development Act of 1984. This legislation provides vitally needed authorization for many port development, inland waterway, flood control and water system development projects throughout the Nation.

Not since 1976 has Congress taken action to address the water development needs of the Nation. This bill comes before the Senate as an amendment to the continuing resolution which is one of the last, if not the last available vehicle, on which this bill can move this year. The chairman and ranking member of the Senate Water Resources Subcommittee, Senators ABDNOR and MOYNIHAN have labored long and hard over this legislation. They have been anxious to bring this bill before the Senate. In addition, I and many of my colleagues have heard from our States, port authorities, and businesses in our port communities that while they might have concerns with various items in the bill, they nonetheless wanted this bill to move this year.

S. 1739 contains a number of projects of vital concern to the State of New Jersey. Title X of the bill, the ports section, includes authorization of the dredging of the Kill Van Kull and Newark Bay Channels in the Port of New York. The Port of New York and New Jersey, with its facilities at Port Newark/Elizabeth, NJ, is one of the largest and busiest ports in the world. With ever larger ships entering the maritime trades, the dredging of our harbors is vital to commerce and safety.

Three flood control projects are contained in this legislation to protect communities from flooding along the Rahway and Raritan Rivers. These projects comply with the overall restrictive nature of the bill which requires that projects conform to the recommendations of the Chief of Engineers. While the project for flood control in the Green Brook subbasin is so restricted and will protect against floods in the lower basin only, I would hope that before this bill becomes law that ample consideration will be given to the loss of lives in the upper Green Brook basin in 1973. While I do not believe that those questions can be fully explored at this late hour on the floor of the Senate, I do believe that there is more to flood control than the economic considerations which should guide our actions.

S. 1739, as it comes before the Senate, Mr. President, contains two projects which I advocated. Authorization is given to the construction to a new jetty at Barnegat Inlet, NJ. Barnegat Inlet is one of the busiest areas in my State for commercial and recreational boating. Due to design deficiencies in the jetties built in 1940, dangerous shoaling has occurred in the inlet creating risks to life and property. This is critically important work and I am pleased to have this provision included.

Madam President, when we speak of beach erosion, the situation of Cape May, NJ, often comes to mind. Cape May is an historic Victorian vacation spot which has served as a tourist attraction in southern New Jersey for many years. A major threat to that tourism trade is posed by the erosion of the beaches in Cape May City, Lower Township, and Cape May Point. S. 1739 contains two projects to help deal with this erosion and the economic consequences. A $17 million mitigation project will serve to stem beach erosion from the Cold Spring Inlet to Lower Township. This provision, to which the chairman of the committee, the Senator from Vermont, has lend his support will correct the damage caused by the jetties. The beaches of Cape May City have been starved for sand and the coast guard station in Cape May has itself fallen victim to this erosion. Of particular concern has been the substantial erosion in Lower Township. This mitigation project has been expanded from that in the original draft of the bill. The $2 million increment will be devoted to expanding the movement of sand into Lower Township from the terminal groin at Third Avenue to as far as Lehigh Avenue. In addition, the Corps of Engineers will monitor any further deterioration in Lower Township.

A separate beach erosion and storm protection project is included for Cape May Point. Cape May Point is a large residential community for senior citizens which has experienced extensive beach erosion and is vulnerable to coastal storms. A $5 million project will serve to protect these beaches from erosion and storms.

Madam President, this legislation includes a provision declaring a tract of land in Jersey City, NJ, at Caven Point as nonnavigable for the propose of allowing development of this valuable land. I sought inclusion of this provision in the bill along with my colleague, Senator BRADLEY, who intro-

duced legislation to achieve this declaration last year.

Finally, Madam President, this bill carries provisions to supply loans for water development by municipal water systems like those old systems in our great cities. I greatly approve of this section of the bill, which has real promise in meeting our urban water needs.

Madam President, there remain substantial controversy over a number policy options insisted upon by the administration and incorporated in this bill. The level of cost sharing for ports and flood control continues to be of concern. Nevertheless, the hour is very late if we are to get any bill at all this year. With all the work that has gone into this legislation, it is time to move the bill and make what accommodations we can with the House.

I urge the adoption of the amendment.

Mr. HUMPHREY. I would like to inquire of the chairman of the Environment and Public Works Committee and my good friend from South Dakota whether or not a project such as the proposed waterworks improvement program in Rochester, NH, would qualify for a loan under title VIII of S. 1739. The existing system in Rochester is typical of many nationwide; it has leaky and inadequate pipes, inadequate storage capacity, and in addition, produces poor quality water which is corrosive to the water system's components and which quite frankly, just plain tastes and smells bad.

Mr. ABDNOR. I thank my friend and colleague from New Hampshire for his very instructive question. To my knowledge, such a project would indeed qualify for consideration for a loan under title VIII.

Mr. HUMPHREY. I thank the Senator.

CERTAIN LEASES ALONG THE MISSISSIPPI RIVER ADMINISTERED BY THE U.S. ARMY CORPS OF ENGINEERS

● Mr. DIXON. I would like to engage my distinguished senior colleague from Illinois, Senator PERCY, and the respected chairman of the Water Resources Subcommittee, Senator ABDNOR, in a colloquy regarding certain leases administered by the U.S. Army Corps of Engineers along the upper Mississippi River and the Illinois River.

Madam President, currently these leases are scheduled to expire in 1989. However, the Corps of Engineers has indicated a willingness to extend these leases at fair market value for an extended period beyond 1989 on terms which are spelled out in a letter from the Acting Assistant Secretary of the Army for Civil Works, Robert K. Dawson. Senator STAFFORD entered this letter in the CONGRESSIONAL RECORD 2 weeks ago.

Madam President, currently over 1,000 leaseholders use these campsites in five States. Some are retirees on limited incomes, although most use the campsites as vacation homes. My question to the distinguished Senator from South Dakota, Senator ABDNOR is, is he aware of this problem and is he prepared to address it?

● Mr. ABDNOR. Let me say to my respected colleague, Senator DIXON, that I am aware of this pressing problem. I have directed my staff to meet with the U.S. Army Corps of Engineers, and over the past few months, the corps has come forward with what I believe is a fair and reasonable compromise that is expanded upon in the letter which you just mentioned. I do realize the dilemma that the lease expirations in 1989 pose for your constituents, and I am eager to work out an agreement. As my two distinguished Illinois colleagues know, the House has taken action to address this matter in its own version of the water bill. The campsite lease issue is already an item that is conferencable, and that is open for discussion when we go to conference with the House on the water bill.

● Mr. PERCY. I appreciate the remarks of the Senator from South Dakota, Mr. President, and I am very happy indeed to join my colleague from Illinois, Senator DIXON, in this colloquy on a very important issue. Senator DIXON and I both support the language contained in section 1133 of H.R. 3678, the House-passed omnibus water resources legislation. We both feel, Senator DIXON and I, that these leases should be extended beyond 1989, when they are currently scheduled to expire. Isn't that right Senator Dixon?

● Mr. DIXON. That is correct, Madam President. In fact, Madam President, Senator PERCY and I were prepared to introduce language in the Senate to that very effect.

● Mr. PERCY. However, we do realize that the Corps of Engineers has now enunciated a position that is, in essence, very close to the House-passed language in section 1133. I would like to ask the Senator from South Dakota, Senator ABDNOR, what his inclination is on this matter, and, given his apparent willingness to address the problem, how he intends to solve it?

● Mr. ABDNOR. I fully recognize the efforts of Senators DIXON and PERCY on this issue. They have been the leaders on this issue, and have fought for the interests of their constituents who possess leases along the Mississippi. I believe that the corps' latest plan is a fair one, as I said. However, I think the strong advocacy of the two outstanding Illinois Senators with the strong House language contained in section 1133 of H.R. 3678, has encouraged the corps to solve this problem and I am fully prepared to give that language a long, hard look when we do go to conference with the House to work out a final conference report on the water bill.

● Mr. DIXON. I wish to thank my colleague, Madam President, for his consideration of our concerns on this matter. Senator ABDNOR has consistently been a leader in water resources policy, and he has done a simply outstanding job in putting together this omnibus legislation which deals comprehensively with so many tough issues.

● Mr. PERCY. Madam President, I want to concur with the remarks of my colleague Senator DIXON. Senator ABDNOR has consistently addressed the interests of Illinois in a fair and generous manner. I must say that his consideration of our latest request on the campsite leases issue, is typical of Senator ABDNOR's equitable and intelligent conduct in all matters of national policy.

● Mr. DIXON. Finally, Madam President, for the record, I would like to state that, should this matter not be resolved, I stand ready to take further action next year. I know I have the support of my senior colleague in this as well.

● Mr. PERCY. That is absolutely correct, Madam President.●

ESTABLISHMENT OF A GREAT LAKES COMMODITY MARKETING BOARD

Mr. LEVIN. Madam President, there is a need to increase exports and improve water transportation systems on the Great Lakes and St. Lawrence Seaway in an environmentally sound manner. The House-passed public works bill contains a provision establishing a special board to identify methods for revitalizing the economy of the region by focusing attention on the export potential and water transportation system of the Great Lakes region in a comprehensive fashion.

The Great Lakes region was seriously hurt by the recent economic recession. The high interest rates at that time depressed auto sales and the purchase of other consumer durables and capital goods—major industrial sectors of the Great Lakes region. The farm economy of the region—as elsewhere—continues to struggle as a result of these interest rates.

While some of these major industrial sectors are showing renewed strength, their continued health is not assured. The record budget deficits projected into the foreseeable future threaten continuation of high real interest rates.

The most important step toward promoting the continued economic health and growth of the Great Lakes region—as well as the national economy—would be to fashion a budget that begins to substantially reduce these projected deficits. This will require the cooperation of the administration and

Congress. But other steps can and should be taken to assist the Great Lakes region specifically. This provision is one step toward that end.

Under this provision, there is established a Great Lakes Commodity Marketing Board. The Board is directed to—

Develop a strategy to improve the capacity of the Great Lakes region to produce, market, and transport commodities in a timely manner and to maximize the efficiency and benefits of marketing products produced in the Great Lakes region and products shipped through the Great Lakes.

The Board's mandate is very broad. It is asked to consider a number of alternatives in the devleopment of this strategy. Specifically, the Board is requested to conduct economic analyses of the use of excess iron ore vessels in the movement of agricultural commodities, transshipment of commodities through Canada, storage of commodities during the nonnavigation season and construction of storage facilities, among others.

In addition, the Board is asked to consider the problems of weather and marketing problems resulting from the late harvest of agricultural commodities, and to consult with interested organizations and entities in the Great Lakes.

The Board is to be composed of the Secretaries of Army, Transportation, Commerce, and Agriculture, the Administrators of the St. Lawrence Seaway Corporation and EPA, and the Chairman of the Great Lakes Commission. The Board is directed to report to the President and the House and Senate the strategy developed, and make recommendations on legislative and administrative actions by September 30, 1987.

Finally, the President is requested to invite Canada to join in the formation of an international group to jointly develop a bilateral program for improving navigation on the Great Lakes and St. Lawrence Seaway.

Mr. ABDNOR. Madam President, the Senator from Michigan has brought this provision to my attention, and he has made a good case for it. I, too, believe it is a good idea.

Currently, the Environment and Public Works Committee is negotiating with our House counterparts to work out a compromise bill that can be adopted by the House and Senate and signed by the President. If we can develop such a compromise, I have every intention to accept the House provision establishing a Great Lakes Commodities Marketing Board.

Mr. LEVIN. I thank the Senator for his kind remarks and willingness to accept this provision in conference.

I believe this provision will provide the Congress with a comprehensive review of the economic and commercial potential of the Great Lakes and St. Lawrence Seaway system so that it might be fully utilized for the enhancement of economy of the Great Lakes region.

Mr. BIDEN. Madam President, with some reservation, I rise to oppose the amendment by the Senator from South Dakota, concerning water resource projects. In essence this amendment represents the text of S. 1739, the Water Resources Development Act of 1983.

The primary rationale for my vote against the amendment is very simple—it costs far too much and the taxpayer deserves a far more careful review of any amendment that costs so much money. At about $11 billion, this amendment provides funding for some 130 new water projects, including harbor, waterway, flood control, hydroelectric, and water supply construction. Although there may be any number of operation and maintenance activities and building projects in this amendment that are meritorious, there appear to be an equal number of projects that are nothing more than thinly veiled pork-barrel projects. At a time when our budget deficit approaches $200 billion a year, and at the 11th hour in this Congress, I think it would be a serious mistake for the Senate to so hastily approve such an amendment without careful scrutiny of the individual parts.

My reservation, of course, is that my State has a small interest in one of the projects on the list in this bill. But one good apple, and I truly believe the dredging project of which I speak falls into this category, does not cure a barrel that is fundamentally rotten.

Madam President, it disturbs me greatly that the Senate, year after year, is presented with water project bills that are packaged together to throw the good in with the bad. It is simply outrageous that normal operation and maintenance expenses, such as those that are of concern to my State, should be stacked up against multibillion dollar construction projects. It is also unfortunate that we do not have the time left this session to take a careful look at this bill and sort out the worthwhile projects from the poor ones.

I oppose the amendment.

Mr. LEVIN. Madam President, while I will vote against this amendment, there are parts of it I favor and have, indeed, worked for.

However, this amendment is much too large—$11 billion in newly authorized water projects.

Projects that I favor are in the House-passed public works bill. It is my belief that most will be accepted in conference. Thus, rejection of the pending amendment is best both for Michigan and for deficit reduction.

MONROE HARBOR PROJECT AND CONSTRUCTION OF SECOND LOCK AT THE SOO

Mr. LEVIN. Madam President, there are two U.S. Army Corps of Engineer projects in the House public works bill—which has been incorporated into the House-passed continuing resolution—that are very important to the State of Michigan. These projects are the Monroe Harbor improvement project and construction of a second large lock at Sault Ste. Marie, MI.

The Monroe Harbor improvement project is of particular importance to the city of Monroe as it attempts to promote economic development in the area. Construction of the project would help reduce the costs of those businesses and firms dependent on the harbor for materials, and which provide considerable employment. The project is designed to accommodate larger, fully loaded lake carriers at the harbor and thus contribute to the improved movement of wateborne commodities needed by these businesses.

The recommended improvements would involve deepening of the Raisin River and Lake Erie portion of the navigational channel, and widening of the channel from 300 to 500 feet. It would also involve dredging of a new, deeper and wider turning basin for larger vessels, and construction of a 190-acre confined disposal facility in Plum Creek Bay for polluted dredge materials. Construction of the facility would aid the creation of a 700-acre marsh.

The House public works bill would authorize the entire Monroe Harbor improvement project—both the channel deepening and widening, and construction of the confined disposal facility—to be undertaken at full Federal expense, while the Environmental and Public Works Committee-reported bill authorizes only the navigational improvements at Federal expense. Without the House authorization level, construction of the entire project would be effectively prevented. Existing corps policy requires that non-Federal interests be responsible for the entire cost of disposing of a navigational improvement project's dredge material. In this instance, $76.6 million of the Monroe project's $145.3 million cost would be for construction of the confined disposal facility—a responsiblity of the State of Michigan. This financial burden would effectively prevent the State from undertaking construction of the confined disposal facility and thus the entire project.

The House public works bill also contains a provision authorizing construction of a second large lock at the Soo Locks located at Sault Ste. Marie, MI, at an estimated cost of $240 million. The Soo Locks are vital to the economic health of the entire Great Lakes region. They are the only locking facility on the upper four Great Lakes providing access to and egress from Lake Superior to the lower lakes. Iron ore from northern Michigan and Minnesota move through the Soo

Locks to steel mills located on the southern tip of Lake Michigan and along Lake Erie. Grain, coal, and other bulk commodities, such as limestone, cement, and wood products, leave ports on Lake Superior for manufacturing facilities in Michigan, Ohio, Pennsylvania, Illinois, and Indiana, or for export through the St. Lawrence Seaway.

Construction of a second large lock would improve efficiency, and remove sole reliance on the Poe Lock—the only existing large lock at the Soo. It would also provide for increased demand for commodities in a national emergency.

As the Great Lakes fleet modernizes and additional 1,000-foot lake carriers come into service, the potential for a bottleneck at the Soo increases. Moreover, damage to the Poe, in the absence of a second large lock, could adversely affect employment in the ports and industries dependent on the movement of raw materials through the Soo Locks. Finally, a second large lock would assure that the Soo Locks could adequately handle an increased demand for raw materials during a national emergency.

I am considering offering an amendment relating to both these projects. One portion of the amendment would compliment the House-passed provision on the Monroe Harbor project and authorize that the entire project be constructed at Federal expense. The other portion of the amendment would authorize construction of a second large lock at the Soo, since such an authorization is not contained in the committee-reported public works bill.

Mr. ABDNOR. I can understand the Senator's interest and support for authorization of these projects at the level approved by the House. As the Senator has noted, the Environment and Public Works Committee has reported legislation that would authorize the navigation improvement components of the Monroe Harbor project, but not Federal construction of the confined disposal facility, in keeping with longstanding policy. The committee-reported bill, however, does not authorize construction of a second large lock at Sault Ste. Marie, MI.

I would have to oppose the amendment of the Senator from Michigan if he proceeds to offer it. The portion of the amendment relating to Monroe Harbor would not only be contrary to existing policy that requires non-Federal interests to provide at their expense the cost of disposing of dredge material, but also contrary to the committee's action that would require non-Federal interests to pick up more of the costs of Federal navigation improvement projects.

The portion of the amendment relating to the new lock at the Soo is also unacceptable. The Detroit district engineer has only recently issued his draft interim feasibility report, which contains his recommendations for the project; no higher level review within the corps has yet been made. The committee in its actions on specific project authorizations has adhered strictly to the requirement that all such projects be approved favorably by the Chief of Engineers before inclusion in the public works bill.

In light of these objections, I would oppose this amendment, and I will similarly oppose other amendments on specific projects offered to the continuing resolution that retreat from increased cost sharing or authorize projects having inadequate review. I believe I have the support of the entire committee in this matter and, as a result, feel that the amendment would be overwhelmingly defeated. I would urge the Senator not to offer the amendment.

Mr. MOYNIHAN. I concur in the remarks of the chairman of the Subcommittee on Water Resources. I regret that this amendment could not be accepted but it is inconsistent with the committee's position. I would also add that if the Senator pushes his amendment to a vote and it loses in the Senate, which it would in my opinion, it would make it more difficult for us to move toward the House position on these matters in conference.

Mr. LEVIN. I will not offer my amendment in the hope that by following that course the chance of these projects prevailing in conference will be enhanced.

Mr. EXON. Madam President, my colleague, the senior Senator from Nebraska, ED ZORINSKY, and I would like to enter into a brief colloquy with the chairman of the Senate Appropriations Committee relating to amendment No. 6126 to the continuing resolution. This amendment is vitally important to Nebraska and is contained in the House-passed version of the continuing resolution.

Senator ZORINSKY and I intended to offer this amendment here on the floor to the continuing resolution. However, the Senate is rapidly approaching "grid lock" and the possibility of a flood of nongermane amendments is threatening the integrity of the legislative process. Without the enactment of this continuing resolution, the Federal Government and all of its programs will grind to a halt.

In the interests of time and in an effort to assist the most able chairman of the Senate Appropriations Committee who, together with his staff, has been extremely helpful and cooperative to Nebraska in the past, Senator Zorinsky and I have agreed to withdraw our amendment with the understanding that the Senate conferees will hold to the language of amendment No. 6126 in the event that the Senate accepts either all of the House language contained in the Water resource Development Act, the so-called Roe amendment, or a part of that language which includes section 530 of the House-passed bill, H.R. 3678, which was incorporated by reference as the Roe amendment in the House version of House Joint Resolution 648, the continuing resolution.

Does this correctly state the intention of the chairman?

Mr. HATFIELD. It is my intention that, in the event that the Senate conferees accept either all of the House language contained in the Water Resource Development Act, the so-called Roe amendment in the House-passed version of the continuing resolution, or, that the Senate conferees accept a part of that language which includes section 530 of the House-passed bill, H.R. 3678, which was incorporated by reference as the Roe amendment in the House version of the continuing resolution, House Joint Resolution 648, that, as chairman, I will do everything possible to assure that the conferees to the continuing resolution give this language every consideration as far as that specific section in concerned.

Mr. EXON. I thank the chairman.

Madam President, the language contained in Senate Amendment No. 6126, is preferred over the House-passed language by the Governor of the State of Nebraska, the Nebraska Natural Resources Commission, and the Nebraska Association of Resource Districts. Informal discussions with the U.S. Army Corps of Engineers also comports with the State's preference for the Senate language.

The language of Amendment No. 6126 is based upon S. 2885, introduced by Senator ZORINSKY and myself, and is similar to the language contained in section 530 of H.R. 3876. Several significant differences exist however, which are based upon changes suggested by State officials and the Corps of Engineers following passage of H.R. 3876 in the House.

Unlike the House bill, the Senate language authorizes a comprehensive, statewide program for bank stabilization demonstration projects. The House measure limited the program to two specific reaches of the Platte River and one reach of the Elkhorn. In addition, the Senate language does not specify in the statutory language the types of erosion prevention and control measures which the corps must utilize. The Senate language leaves this determination to the local non-Federal project sponsors and the corps to select the most appropriate methods in addressing erosion problems.

This more flexible approach avoids the possibility of hamstringing the project with inappropriate, experimental erosion control methods which

may not effectively meet local needs and thus waste scarce Federal dollars.

Mr. President, again, I reiterate my appreciation to the chairman of the Senate Appropriations Committee and his most able staff. I realize that the President has indicated that he will veto the continuing resolution if it contains the full provisions of the House-passed bill. I appreciate the position of the Appropriations Committee in this regard. Under these circumstances I believe that the chairman is most accommodating in his commitment to help Nebraska on this matter. It is a unique situation, wherein the State and local officials, consulted after House passage of this particular provision, suggested changes to ensure that in the event the program is enacted that it be more effectively and efficiently drawn.

I ask that a copy of the preferred language along with letters from the State advising the delegation of the recommended changes in the House-passed language be printed in the RECORD following my remarks, in addition to a prepared statement.

Again, I thank the most able chairman for his cooperation. I admire his abilities and always look forward to working with he and his staff.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATE OF NEBRASKA,
Lincoln, NE, August 24, 1984.

Congresswoman VIRGINIA SMITH,
House of Representatives, Rayburn House Building, Washington, DC.

DEAR VIRGINIA: Thank you very much for your letter of July 16, 1984 regarding steps that you and others have taken to address the very serious problem of flooding and streambank erosion along the Platte River and its tributaries in Nebraska.

The recent flooding in Nebraska has prompted a myriad of comments by farmers who have lost valuable land, and in some cases buildings, to streambank erosion. You and others of the Nebraska Delegation are to be commended for responding quickly to this serious problem.

One of the things that farmers in Nebraska really need is a low-cost technology that they can afford and apply themselves. Perhaps if these technologies do exist, it is necessary to transfer them via education to the farmers and ranchers. We have the perfect mechanism in the Cooperative Extension Service and other Federal agencies to achieve this goal.

I have asked the Corps of Engineers to work with me and farmers and ranchers in Nebraska to achieve a near-term and long-term solution to streambank erosion. I can certainly support your Legislation and understand that on the Senate side, the Bill looks a little bit different but is basically charging ahead to meet the problem.

I appreciate this opportunity to make suggestions. I prefer the Senate Bill, which provides for full Federal financing until the end of the five-year demonstration period with the local entities picking up the operation and maintenance at the end of the five-year demonstration period. I also think that it is important to provide as much flexibility as possible to the State and the Corps of Engineers in selecting appropriate methods of bank stabilization. This is necessary because there is so much variation from site to site.

Please let me know if I can do anything further to support this effort.

Sincerely,

ROBERT KERREY,
Governor.

STATE OF NEBRASKA,
Lincoln, NE, September 25, 1984.

Hon. J. JAMES EXON,
U.S. Senate, Senate Hart Office Building, Washington, DC.

DEAR JIM: Thanks for your excellent work on S. 2885, the bill to authorize a new demonstration program aimed at reducing the flood threat and streambank erosion in Nebraska. I agree with the compromise that has been proposed between the bill, and the section in H.R. 3678 already passed by the House. I hope you will be successful in including an amendment to S. 1739.

I am writing to Senators Stafford, Randolph, Abdnor and Moynihan urging action on S. 1739 and inclusion of your amendment. I have also advised Virginia Smith of my support for this compromise.

Sincerely,

ROBERT KERREY,
Governor.

STATE OF NEBRASKA,
Lincoln, NE, September 25, 1984.

Hon. ROBERT T. STAFFORD,
U.S. Senate, Senate Hart Office Building, Washington, DC.

DEAR SENATOR STAFFORD: I am writing to urge the adoption of an amendment offered by Senators Exon and Zorinsky to S. 1739, the Water Resources Development Act of 1984. Their amendment would authorize the Corps of Engineers to undertake a five-year, $25 million program for the construction of flood control and streambank stabilization demonstration projects in Nebraska. A similar program embodied in H.R. 3678 has already received approval from the House of Representatives.

A program of this type is urgently needed in Nebraska. We experienced severe flooding in much of the state this year as we have frequently in the past. Pursuant to the federal flood disaster declaration approved by President Reagan this year, 14 counties in the state were approved for flood damage assistance for individuals. The current estimated magnitude of these private damages is $8 million. Estimates of public damages in the 19 counties declared eligible for such assistance exceed $6 million. No reliable estimate of the agricultural damages will be available until after the harvest but we know these will be substantial.

The State of Nebraska is not simply seeking federal funds to bail us out of our flood problems. This year the state Natural Resources Commission allocated $2.8 million for streambank stabilization and flood control on the Elkhorn River, one of the rivers specifically mentioned in the Exon/Zorinsky amendment to S. 1739. An application for a similar project which would entail another allocation of approximately $2.7 million will be submitted to the Natural Resources Commission soon.

I believe the state taxpayers are making a significant contribution to the overall flood control effort. Unfortunately, the federal share has been diminishing. Our congressional delegation is attempting to rectify this imbalance but cannot succeed without your assistance. I realize the time remaining for action on S. 1739 is short but I would be grateful for your assistance on this matter.

Sincerely,

ROBERT KERREY,
Governor.

NEBRASKA ASSOCIATION
OF RESOURCES DISTRICTS,
Lincoln, NE, August 14, 1984.

Senator J. JAMES EXON,
U.S. Senate,
Hart Building,
Washington, DC.

DEAR SENATOR EXON: On behalf of the Nebraska Association of Resources Districts, we commend your efforts in your leadership regarding S. 2885, which is known as the "Nebraska Streambank Erosion Prevention and Control Demonstration Act of 1984". The $25 million would be of great benefit in attempting to stabilize streambanks in this state.

We at the local Natural Resources Districts support the measure which leaves the determination of what erosion prevention and control techniques can be used. As you know, we believe that local problems are best solved by local solutions, and this feature of S. 2885 provides us with a more flexible approach to meet local needs. You are well aware that the Lower Elkhorn Natural Resources District and the Papio Natural Resources District have applied for state funds to attempt to control the Elkhorn streambank erosion. We appreciate your efforts in this area. The Association also finds the full federal funding approach to be of great potential, while the five year demonstration period exists.

We offer our support to you Senator, and would be willing to do what we can in assisting you in this effort. Please let us know if we can be of assistance to you and your staff as S. 2885 proceeds through the congressional process.

Once again, thank you for your efforts in this area.

Sincerely,

GORDON KISSEL,
Executive Director.

STATE OF NEBRASKA,
NATURAL RESOURCES COMMISSION,
Lincoln, NE, August 15, 1984.

Hon. VIRGINIA SMITH,
House of Representatives,
Rayburn House Office Building,
Washington, DC.

Hon. JAMES J. EXON,
U.S. Senate,
Hart Office Building,
Washington, DC.

DEAR CONGRESSWOMAN SMITH AND SENATOR EXON: I am writing a joint letter in response to your letters, both dated August 8, 1984, and both of which concerned S. 2885. As indicated by your letters, there are significant differences between S. 2885 and H.R. 3678. On your letter, Mrs. Smith, you noted that these differences will need to be resolved in order to achieve final passage of these two measures. Since we feel it would be of tremendous benefit to the State of Nebraska to have this legislation in effect, we have a suggested compromise for your mutual consideration.

Enclosed is a sheet prepared by my staff which identifies eight differences between S. 2885 and H.R. 3678. Using those eight points as a reference we suggest the following:

1. Delete section 2(d)(4) of S. 2885. This would still allow consideration of projects

elsewhere in the state if funds allowed, but would not require that projects on other stream reaches be constructed.

2. Although we question whether there will be sufficient funding to use this program for construction of an effective flood control project on a major river like the Platte, we can see little harm in adding it as a purpose of the program. Therefore, we suggest section 2(b) of S. 2885 be reworded to say "all other appropriate flood control measures."

3. We believe item 3 should be left out.

4. Item 4 should also be left out.

5. With regard to item 5 we suggested in our original letter to Senator Exon that the limitation on the use of eminent domain contained in H.R. 3678 be eliminated. Our recommendation was based largely on practical considerations. We continue to feel that limits on the use of eminent domain are not appropriate. Such restrictions may make it very difficult to construct projects that must be located in critical areas to afford the best control measures.

6. The advisory group should be renamed to reflect the broadening of the mission of the group beyond consideration of just streambank erosion, and the broader applicability of the program to all of Nebraska. One possibility is the "Nebraska Demonstration Project Advisory Group."

7. We believe the local sponsors should be responsible for the costs of operation and maintenance after the demonstration period is over. In light of the significant federal funding provided we do not feel it is unreasonable to expect the local entities to assume these costs.

8. We recommend combining section 530(k) from H.R. 3678 with section 2(j) of S. 2885. As written, S. 2885 leaves the question of whether these demonstration projects must pass a cost-benefit ratio test unresolved. We believe adding the language from H.R. 3678 would clear this up.

I commend each of you for the tremendous effort it has taken to move this legislation along. Thanks for providing the opportunity for review and input and we recognize there will no doubt be other compromises necessary for final passage.

Sincerely,

DAYLE E. WILLIAMSON,
Executive Secretary.

DIFFERENCES BETWEEN H.R. 3678 AND S. 2885

H.R. 3678	S. 2885
1. Applies only to Platte River and Tribes.—3 reaches specifically identified.	1. Statewide application with the same 3 reaches specifically mentioned. Section 2(d)(4) appears to require project on at least one other stream reach.
2. Flood control and streambank erosion prevention.	2. Title of act implies its only streambank stabilization but section 2(b) covers flood damage reduction measures, "including but not limited to bank protection and stabilization works . . ."
3. Projects tied to "plan of action of Chief of Engineers dated Feb. 6, 1984," 1978 Platte R. and Tribs Study, and the Level B Study.	3.
4. Identifies 6 duties for Corps, such as research on interaction of erodible boundaries, quantify economic losses on Platte due to streambank erosion, etc.	4.
5. Limits amounts of land that can be condemned to 5%.	5. No condemnation allowed.
6. Sets up Platte River Advisory Group for policy guidance.	6. Set up Nebraska Streambank Erosion Advisory Group.
7. Operation and maintenance expenses shared equally.	7. After demonstration period over locals would assume all operation and maintenance.
8. Contains congressional determination that benefits exceed costs.	8. Says demo. projects are to emphasize low cost measures.

HOUSE OF REPRESENTATIVES,
Washington, DC, September 5, 1984.

Hon. ROBERT KERREY,
P.O. Box 94848,
Lincoln, NE.

DEAR GOVERNOR KERREY: Enclosed is a copy of a letter to me from Dayle E. Williamson, Executive Secretary, Natural Resources Commission, suggesting certain compromises between my legislation contained in H.R. 3678, passed by the House of Representatives on the night of June 29, 1984, and S. 2885, introduced by our Nebraska Senators on July 31, 1984, relating to a new demonstration project program aimed at reducing flood threat and streambank erosion on the Platte River and its tributaries.

After consulting with my own technical sources, I have advised that Mr. Williamson's suggestions for combining the two bills are excellent.

Therefore, I propose that we accept Mr. Williamson's proposals as the State of Nebraska's position on this legislation.

It is imperative that we come to an agreement quickly, because it appears that the Senate plans to take up S. 1739, its version of H.R. 3678, very soon. Additionally, it is increasingly clear that certain amendments will be allowed to S. 1739 if state delegations can agree on their content.

Time is of the essence. I thank you for your thoughtful letter of August 24 on this subject, and its expression of support for my legislation. No legislation is perfect, and I welcome the suggestions of the Senators, Mr. Williamson, and of yourself.

May I hear from you at the earliest possible moment on this issue?

With best wishes, I am

Sincerely,

VIRGINIA SMITH,
Member of Congress.

At the end of the joint resolution, add the following:

(a) The Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to establish and conduct at multiple sites within the State of Nebraska for a period beginning on the date of enactment of this section and ending five years after such date a demonstration program consisting of projects for streambank erosion prevention and flood control

(b) Demonstration projects carried out under this section shall include projects for the construction, operation, and maintenance of flood damage reduction measures, including bank protection and stabilization works, embankments, clearing, snagging, dredging, and all other appropriate flood control measures.

(c) For each demonstration project under this section, the Secretary shall evaluate the environmental impacts of such project with respect to both riverine and adjacent land use values, with the view of enhancing wildlife and wildlife habitat as a major purpose coequal with all other purposes and objectives, and with the view of minimizing environmental losses.

(d) Demonstration projects authorized by this section shall be undertaken to reflect a variety of geographical and environmental conditions, including naturally occurring erosion problems and erosion caused or incurred by man-made structures or activities. At a minimum, demonstration projects shall be conducted at sites on—

(1) that reach of the Platte River between Hershey, Nebraska, and the boundary between Lincoln and Dawson Counties, Nebraska;

(2) that reach of the Platte River from the boundary between Colfax and Dodge Counties, Nebraska, to its confluence with the Missouri River;

(3) that reach of the Elkhorn River from the boundary between Antelope and Madison Counties, Nebraska, to its confluence with the Platte River; and

(4) other areas identified by the State of Nebraska.

(e) The Secretary shall condition the construction, operation, and maintenance of any project under this section upon the availability to the United States of such land and interests in land as he deems necessary to carry out such project and to protect and enhance the river in accordance with the purposes of this section.

(f) The Secretary shall establish a Nebraska Advisory Group consisting of representatives of the State of Nebraska and political subdivisions thereof, affected Federal agencies, and such private organizations as the Secretary deems desirable. Projects under this section shall be carried out in coordination and consultation with such Advisory Group.

(g)(1) Except as provided in paragraph (2), projects carried out under this section shall be at full Federal expense.

(2) Prior to construction of any project under this section, non-Federal interests shall agree that they will—

(A) provide without cost to the United States lands, easements, and rights-of-way necessary for construction, operation, and maintenance of such project;

(B) hold and save the United States free from damages due to construction, operation, and maintenance of such project (other than damages due to fault or negligence of the United States or its contractors); and

(C) operate and maintain the projects upon completion.

(h) There are authorized to be appropriated for fiscal years beginning after September 30, 1984, $25,000,000 to carry out the provisions of this section.

(i) Beginning twelve months after the date of enactment of this section, and at intervals of twelve months thereafter, but not later than five years after such date, the Secretary shall prepare and transmit to the Congress a report describing the progress achieved in carrying out the demonstration program established pursuant to this section.

(j) The Congress finds that demonstration projects established pursuant to this section are economically feasible. Such projects shall emphasize the development of low-cost erosion control measures.

BANK STABILIZATION AMENDMENT

Mr. EXON. Madam President, the amendment which I am offering provides for a 5-year program demonstrating low cost, environmentally sound bank protection projects in the State of Nebraska. The amendment authorizes up to $25 million over 5 years for this important program. Streambank erosion losses have been astronomical over the last several years and Federal assistance is desperately needed to mitigate future losses of valuable farmland.

Nineteen counties in the State of Nebraska were declared eligible for Fed-

eral disaster aid by President Reagan this year. At least 20 tons per acre of topsoil from nearly 3.6 million acres were lost from flooding in the State. Nearly 72 million tons of precious topsoil was lost to erosion this last spring alone. The Soil Conservation Service estimates that the cost of this erosion in Nebraska could reach $360 million for this past year alone.

That figure of $360 million only represents a conservative estimate of the topsoil replacement cost. It does not account for reductions in yield. It does not account for the cleaning and repairing of structures such as waterways and ditches. At least $12 million in damages have occurred to public roads, bridges, culverts, and other facilities.

Mr. President, the last 3 years have been unusually wet in Nebraska's farmbelt. Erosion control is a primary need which must be met if we are going to reverse the trend of escalating soil losses which undermine the productive capability of agriculture. If these wet years continue, we will continue to witness greater losses of irreplacable topsoil.

The amendment which I am offering would establish a program of bank stabilization and flood control projects in Nebraska which would have basinwide applicability. A limited program similar to what I am proposing here was established in the Water Resources Act of 1974 under the so-called "section 32" authority. This important program expired at the close of the 1982 fiscal year. Certainly, valuable lessons were learned from that limited program conducted in reaches of the Missouri River.

Needs have changed since that time and the goal to develop and demonstrate economical and less harmful bank protection and flood control measures continue to be a viable quest. With soil erosion losses escalating on rivers which drain into the Missouri River, further demonstration and development of such a program is vital. As I noted, this program would directly preserve tons of valuable farmland, and indirectly reduce the costs of damage to other structures in need of cleaning or repair as a result of erosion.

The Governor of the State of Nebraska has personally urged the support of the Senate for this program. To date, the State has expended nearly $3 million in State funds for one bank protection project alone and is considering another project of nearly $3 million. Nebraska's taxpayer's are making a significant contribution to the flood control efforts in the face of diminishing Federal support.

The Omaha district of the Corps of Engineers has noted to me that at least 11 requests for assistance in providing erosion control protection for public facilities are pending, and that 37 requests for flood control repair are under consideration in Nebraska. In addition, another seven requests for technical assistance for streambank erosion problems are being reviewed.

The overwhelming need is there. The State is meeting some of this need with its own funding. As I noted, nearly $6 million in State taxpayer assistance will be used to address two areas of need in the State this year.

My amendment simply authorizes the Corps of Engineers to develop a program demonstrating low-cost erosion and flood control designed to mitigate further soil losses. Local sponsors of the projects would be required to bear the full cost of operation and maintenance upon completion of the 5-year demonstration. Prior to building the projects, local sponsors are required to provide without cost to the corps all lands, easements, and rights of way needed for the demonstration. This contribution by the locals can amount to anywhere between 10 and 20 percent of the project costs.

Not only are landowners benefited from such erosion control programs, but as I noted earlier many others directly benefit in reduced costs for cleaning and repairing waterways and ditches which are damaged or filled with eroded soil. In addition, erosion control benefits the productive capacity of farmland and reduces the need for disaster assistance and crop loss mitigation by the Federal Government; $5 million a year for 5 years is a worthy investment in agriculture's future. The Corps of Engineers is entertaining multiple requests for erosion assistance in Nebraska. The State's taxpayers are putting up $3 million and are considering another $3 million for bank protection in Nebraska this year.

No new corps projects have been authorized for Nebraska in several years. The House-passed version of the continuing resolution as well as the Water Resources Development Act contains language similar to the amendment which I am offering. The State of Nebraska and the Corps of Engineers have suggested changes in the House-passed language which makes the provision more cost-effective and efficient. My amendment incorporates these changes.

The Senate's support of this amendment will establish a worthy program which, through low-cost erosion control demonstrations, will offer benefits for the Nation.

Mr. ZORINSKY. Madam President, of course, I agree completely with my distinguished colleague from Nebraska that the program contemplated in printed amendment No. 6126, appearing in the CONGRESSIONAL RECORD on September 28 of this year, is not only an appropriate response to the devastating streambank erosion problems in our State, but a necessary one as well. Senator, you and I have the benefit of having seen first hand the massive amounts of soil that have been wiped away from the lands bordering our State's rivers during the last several years. The unusually harsh weather conditions have combined to cause great problems that you and I agree require a strong legislative response from Congress.

Of course, the officials of the State of Nebraska feel as we do regarding the need for a significant erosion control program such as this. I recently received a letter from the Honorable Robert Kerrey, Governor of the State of Nebraska, in which he made his whole-hearted support for the bill, S. 2885, that you and I are cosponsoring to enact the Nebraska Streambank Erosion Prevention and Control Demonstration Act of 1984. I think it noteworthy that Governor Kerrey has also written to our colleagues, Senators STAFFORD, RANDOLPH, ABDNOR, and MOYNIHAN to urge their support in seeing this legislation enacted. Mr. President, I ask unanimous consent that two letters from Governor Kerrey supporting passage of legislation to address the severe river erosion situation in Nebraska appear in the RECORD at this point.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

STATE OF NEBRASKA,
September 25, 1984.

Hon. EDWARD ZORINSKY,
U.S. Senate,
Russell Senate Office Building,
Washington, DC.

DEAR ED: Thanks for your excellent work on S. 2885, the bill to authorize a new demonstration program aimed at reducing the flood threat and streambank erosion in Nebraska. I agree with the compromise that has been proposed between this bill, and the section in H.R. 3678 already passed by the House. I hope you will be successful in including an amendment to S. 1739.

I am writing to Senators Stafford, Randolph, Abdnor and Moynihan urging action on S. 1739 and inclusion of your amendment. I have also advised Virginia Smith of my support for this compromise.

Sincerely,

ROBERT KERREY,
Governor.

STATE OF NEBRASKA,
September 25, 1984.

Hon. ROBERT T. STAFFORD,
U.S. Senate,
Senate Hart Office Building,
Washington, DC.

DEAR SENATOR STAFFORD: I am writing to urge the adoption of an amendment offered by Senators Exon and Zorinsky to S. 1739, the Water Resources Development Act of 1984. Their amendment would authorize the Corps of Engineers to undertake a five-year, $25 million program for the construction of flood control and streambank stabilization demonstration projects in Nebraska. A similar program embodied in H.R. 3678 has already received approval from the House of Representatives.

A program of this type is urgently needed in Nebraska. We experienced severe flooding in much of the state this year as we have frequently in the past. Pursuant to the federal flood disaster declaration approved by President Reagan this year, 14 counties in the state were approved for flood damage assistance for individuals. The current estimated magnitude of these private damages is $8 million. Estimates of public damages in the 19 counties declared eligible for such assistance exceed $6 million. No reliable estimate of the agricultural damages will be available until after the harvest but we know these will be substantial.

The State of Nebraska is not simply seeking federal funds to bail us out of our flood problems. This year the State Natural Resources Commission allocated $2.8 million for streambank stabilization and flood control on the Elkhorn River, one of the rivers specifically mentioned in the Exon/Zorinsky amendment to S. 1739. An application for a similar project which would entail another allocation of approximately $2.7 million will be submitted to the Natural Resources Commission soon.

I believe the State taxpayers are making a significant contribution to the overall flood control effort. Unfortunately, the federal share has been diminishing. Our congressional delegation is attempting to rectify this imbalance but cannot succeed without your assistance. I realize the time remaining for action on S. 1739 is short but I would be grateful for your assistance on this matter.

Sincerely,

ROBERT KERREY,
Governor.

Mr. ZORINSKY. Now, I would prefer to pursue our initial approach and push for final passage of section 2885 as we had planned. Obviously, the House has already accepted language providing for a $25 million erosion program similar in many respects to the approach we have been speaking about. However, the majority leader has been doing his best to remind everyone in this Chamber about the shortness of time with which we are faced in the waning hours of the 98th Congress. With deadlines coming close and the need for the Senate to continue on with other pressing matters, we feel the need to do all we can to expedite the workings of this body if we may do so with some assurance from the chairman of the Appropriations Committee that he will keep our interest in this matter in mind when the conference turns to discussion of the water project language approved by the House. If we may receive that assurance, I believe that the Senator from Nebraska and myself may agree to withhold calling our amendment up at this time and await the conference.

How the conference will go is anyone's guess at this point. My concern is that if the conference proceeds so that the House insists on retaining all of its language pertaining to water projects, or insists on retaining a part of the language that includes the House version of the Nebraska streambank erosion program contemplated by amendment No. 6126, then my colleague from Nebraska and I would ask that the chairman insist on using the Senate wording rather than that of the House.

This may seem to be a rather unusual request, but it is made necessary by the fact that it is the consensus of officials representing the State of Nebraska and the Army Corps of Engineers that the Senate approach to this problem is superior in several respects to the House version. The version supported by Senator EXON and myself gives more discretion and participatory authority to local governmental entities in selecting sites for the demonstration projects called for in our amendment. It generally sets our the program details with greater specificity than the House version does. In fact, I know that my colleague from Nebraska has some information regarding State reaction to the two versions of the program.

In any event, it seems clear to me, and I hope to our colleagues who are listening as well, that if there is legislation to enact a streambank erosion program in our State, such as we have been talking about here this evening, it is preferable that the better language to use to achieve this purpose is the Senate language as printed in amendment No. 6126. As I stated earlier, if the chairman could assure us that if the conference on this matter is such that Nebraska streambank erosion program will be included in the conference report, that he would insist on the Senate language over that of the House to achieve this purpose, then I believe that I would be prepared to withhold our amendment at this time and allow the Senate to proceed with other business. I would like to inquire of the distinguished chairman of the Appropriations Committee about his thoughts on such a proposal.

Mr. BAKER. Madam President, I really do not want to do what I am going to have to do in a few moments, because I have an enormous admiration for Senator ABDNOR and the good work that he has done and those who preceded him in the difficult job on the Environment and Public Works Committee.

I also do not want to do it because I have time after time told Senator ABDNOR that I would and then would not schedule the water projects bill. All I can say is I believe most people in this Chamber, certainly my colleague the minority leader understands the competition for time of the Senate on bills that are presented by committees and a judgment has to be made.

I am reluctant to say, for instance, that if we adopt an $18 billion water project bill, regardless of the jurisdictional problems or regardless of the good work that Senator ABDNOR has done, the Senator from South Dakota, I can tell you that I am confident that bill will be vetoed, even though it is a continuing resolution. I do not think we will be much better off with a $12 billion bill.

I do not want to do what I am about to do next because I believe the Senator from South Dakota is going to understand what I have to do, but I can read in his eyes that he does not like it and probably will not really forgive me for it. But he knows what I am going to do because we have talked about it before. I do not like to do what I am about to do because I suspect I have a project of two in there, but I am going to.

Mr. ABDNOR. I just want to say there is not much difference between $11 billion with good cost sharing policy and $3 billion without any. It is still a lot of money.

Mr. BAKER. Let me finish, Madam President. It will not take very long.

I have said I do not want to do these things and now I will tell you why I have to.

I have stood here and in other places in this Senate on this side of the aisle and beseeched my colleagues, with varying levels of success, to keep this bill a continuing resolution and not a legislative agenda. In the last few days, we have—I have or the managers may have—made points of order against such things as the Civil Rights Act of 1984, a gun control bill, busing, tuition tax credits, beer distributorships, Superfund, gas leasing, Turkey-Greek aid, abortion, comparable worth, Teflon bullets, Nicaragua, and the International Bank. We have hardly failed to offend any group. [Laughter.]

But, Madam President, I am proud of the Senate, if I may say that, because they have bellied up to the bar and done very difficult things. Sometimes it took some contortions to get there, but we have done very, very difficult and even politically dangerous things in keeping this continuing resolution in reasonably good shape.

Now we are coming down the homestretch. It is almost 7 o'clock in the morning, and we are faced with another question of whether or not a water projects bill should be put on the continuing resolution. I have a great respect for the committee that authorizes these projects and appropriates for them. I have a great respect for Senator ABDNOR. But I must say that my duty requires me to make the motion which I now make.

Madam President, I make the point of order that the Abdnor amendment is violative of rule XVI and should fall as legislation on an appropriations bill.

Mr. ABDNOR. Madam President, I raise the defense of germaneness.

Mr. BAKER. Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is, Is the amendment germane? The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from North Carolina [Mr. EAST], the Senator from Illinois [Mr. PERCY], and the Senator from Idaho [Mr. SYMMS] are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Louisiana [Mr. LONG] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 36, nays 60, as follows:

[Rollcall Vote No. 280 Leg.]

YEAS—36

Abdnor	Dodd	Melcher
Andrews	Dole	Mitchell
Baucus	Durenberger	Moynihan
Bentsen	Evans	Nickles
Boren	Grassley	Pressler
Bradley	Hatch	Pryor
Bumpers	Huddleston	Randolph
Burdick	Humphrey	Sasser
Chafee	Jepsen	Simpson
Cranston	Kassebaum	Specter
DeConcini	Kennedy	Stafford
Dixon	Lautenberg	Tsongas

NAYS—60

Armstrong	Hart	Murkowski
Baker	Hatfield	Nunn
Biden	Hawkins	Packwood
Bingaman	Hecht	Pell
Boschwitz	Heflin	Proxmire
Byrd	Heinz	Quayle
Chiles	Helms	Riegle
Cochran	Hollings	Roth
Cohen	Inouye	Rudman
D'Amato	Johnston	Sarbanes
Danforth	Kasten	Stennis
Denton	Laxalt	Stevens
Domenici	Leahy	Thurmond
Eagleton	Levin	Tower
Exon	Lugar	Trible
Ford	Mathias	Wallop
Garn	Matsunaga	Warner
Glenn	Mattingly	Weicker
Goldwater	McClure	Wilson
Gorton	Metzenbaum	Zorinsky

NOT VOTING—4

East	Percy
Long	Symms

The PRESIDING OFFICER. On this vote, the yeas are 36, the nays are 60. The judgment of the Senate is that the amendment is not germane; therefore, the amendment falls.

The PRESIDING OFFICER. On this vote, the yeas are 36, the nays are 60. The judgment of the Senate is that the amendment is not germane. Therefore, the amendment falls as not germane.

Mr. BYRD. Madam President, I move to reconsider the vote by which the amendment was not germane.

Mr. BAKER. Madam President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on agreeing to division 2.

BAKER POINT OF ORDER ON WATER PROJECTS AUTHORIZATION

Mr. BYRD. Mr. President, the majority leader has just made a point of order that the water projects authorization bill offered by Senator ABDNOR and others is legislation on an appropriation bill. Senator ABDNOR's subsequent appeal that his amendment was germane and, therefore, appropriate for consideration, has been soundly defeated.

Mr. President, I opposed consideration of the Abdnor amendment because provisions in that legislation would have required an unacceptably high and extremely burdensome level of cost-sharing of local sponsors of flood control projects. In my State of West Virginia, there are several projects which now protect life and property from the periodic ravages of floodwaters. These, in every case, have been very necessary projects because the mountainous topography of West Virginia channels floodwaters through narrow valleys in which the flood crests rise rapidly, often causing serious damage and threat to life. This same topography also often means that the only practical building sites for homes, businesses, and communities are in the same flood-prone valleys. These mountain communities are frequently poor; West Virginia has not experienced the economic upturn which may have been experienced by many other States. In fact, my State has had the highest unemployment in the Nation for the last 21 months.

So, Mr. President, many of the communities in West Virginia are not in a position to cost-share approximately one-third of the overall expenses associated with these necessary flood control projects. I believe it is unfair to apply a blanket formula for cost-sharing across the entire Nation for all situations, and that is why I joined the majority leader in opposing consideration of the Abdnor amendment today.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Madam President, I wonder before we go on further on the bill, I am confused by something we have been going through. I have had a chance to do a little paperwork at the desk. I hear reports that the appropriations bill is going to end up having a foreign aid authorization bill in it. In fact, I have heard there has already been a staff conference on the issue, although the Senate has neither voted nor debated a foreign aid authorization bill.

Mr. HATFIELD. If the Senator will yield, the Senator is incorrect in that observation. We have stricken the foreign aid authorization as a committee amendment.

Mr. LEAHY. If I may, let me ask the distinguished Senator from Oregon, is it not true that there has been a staff effort to make sure that in conference an amendment will be accepted that is, in effect, a foreign aid authorization bill?

Mr. HATFIELD. As chairman, I have no information on that. I am totally unaware of that.

(Mr. EVANS assumed the chair).

Mr. LEAHY. I am told, Mr. President, in fact I have received a copy of a working draft, that apparently is supposed to have been worked out at the staff level, of an amendment that is indeed a foreign aid authorization bill that is supposed to be accepted at the committee of conference. I raise this point because I sometimes say only semifacetiously that Members of Congress are merely constitutional impediments to the staffs' totally running things. It would appear in this case, if I may, that we have gone to where even that minor constitutional impediment has been set aside, that indeed at the time of the conference, supposedly, this whole draft is to be accepted and, in effect, a foreign aid authorization bill added to the appropriations bill.

Mr. HATFIELD. I only say to the Senator if he has seen a staff document of some kind, I have not seen it, but any staff document would be subject to the approval of the members of the conference. There will be no working document going into the conference for the conferees that would include that.

Mr. LEAHY. Has there been any kind of agreement made to accept a compromise from the other body that is in effect a foreign aid authorization bill?

Mr. HATFIELD. I know of no such agreement. I have not been a party to any such agreement. I have seen no such document that the Senator refers to. Again, I say to the Senator from Vermont that the bottom line is that when we go to conference with a working document that would be compiled under the authorization of the Senate rules, it will not include a foreign aid authorization bill.

Mr. LEAHY. Mr. President, I do not see on the floor the chairman of the Appropriations Subcommittee on Foreign Aid. I ask unanimous consent that the staff conference report I am referring to be printed at this point in the RECORD so we can determine subsequently if indeed there was one. I do not in any way question what the chairman of the committee is saying, but it appears to me if there is any such document floating around that appears to have been worked by staff, I think it would be a total abrogation of our duties. I ask unanimous consent——

Mr. HATFIELD. Does the Senator really want to give that kind of document, whatever it is, status by printing

it in the RECORD? I would like to have the Senator review that. It is something I am totally unaware of. It could be like any other document floating around.

Why give it any status at all? I assure the Senator that the working document we shall go into the conference with will not include a foreign aid authorization bill.

Mr. LEAHY. At the request of the chairman, Mr. President, I shall withdraw my unanimous-consent request for that, but I assure the chairman that I shall be happy to point out what I am working from and note it is so he can see it. If indeed a working draft appears that bears any close resemblance to that, prepared either at a staff level or any other level, to be accepted in this conference, then I shall either seek by unanimous consent to place the original one in so it can be compared by our colleagues, or I shall read it into the RECORD. Because if this is happening, and there is a strong feeling that this is happening, then we are making a mockery of the process and it is something that I would strongly oppose.

I have no objection to a foreign aid authorization bill coming up and being debated and voted on, but if we can take large authorization measures and tack them onto a continuing resolution, then we may as well pack up and go home.

Mr. HATFIELD. Mr. President, the Senator well knows that the only thing that can be adopted by conferees is what the conferees adopt. It is not going to be any kind of surreptitious inclusion in a working document if action has not been taken on this floor or by what has happened thus far in the continuing resolution. I really regret that so much status has been given to some kind of anonymous document that I have not seen or know nothing about already in this colloquy.

Mr. LEAHY. I appreciate the Senator's assurance that he has no knowledge, and I assume from what he is saying that he would oppose any such effort.

Mr. HATFIELD. I thank the Senator.

DIVISION 2 OF AMENDMENT 35

The PRESIDING OFFICER. The question before the Senate is division 2 of amendment 35. Is there further debate?

Mr. MATHIAS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. MATHIAS. What is division 2?

The PRESIDING OFFICER. To strike on page 58 lines 1 through 5.

The question is on the——

Mr. THURMOND. Mr. President, this is a crime package.

The PRESIDING OFFICER. No. We have still not acted on division 2.

Mr. HATFIELD. I move to adopt that part which is the action on the water program that the committee has recommended, excising the House bill.

The PRESIDING OFFICER. Is there further debate?

Division 2 of amendment No. 35 was agreed to.

Mr. JOHNSTON. I move to reconsider the vote.

Mr. HATFIELD. I move to lay that on the table.

The motion to lay on the table was agreed to.

COMMITTEE AMENDMENT NO. 35

The PRESIDING OFFICER. The clerk will state the committee amendment No. 35.

The bill clerk read as follows:

Strike beginning on page 58, line 6, through page 63, line 12 and insert new language.

Mr. THURMOND. Mr. President, I request that the pending committee amendment be further divided on page 63, after line 12.

The PRESIDING OFFICER. The amendment is so divided.

Mr. CHILES. Mr. President, I stand with the judiciary chairman, Senator THURMOND, and the ranking member of judiciary, Senator BIDEN, to protest and to oppose the committee amendment to strike the crime package from the continuing resolution.

How ironic that the Senate should even think of slamming the door in the face of a measure which this body has passed over and over again. We should act promptly to affirm what the House has passed. The people have already waited far too long for a meaningful crime bill. Now that we have one in our grasp, how can we let it slip through our fingers after all the work and all the worry that's gotten us so close to passage?

The crime provision in the House continuing resolution is exactly what this Senate passed this winter. It has many of the same elements of what the 97th Congress passed 2 years ago and what the President vetoed.

The Comprehensive Crime Control Act is the culmination of years of effort by a number of Senators. After many hours of hearings and evaluation of the best thinking available, we have developed a program of action to combat the insidious problem of crime in America. Enactment of this legislation will mean a stronger hand for law enforcement officials in fighting criminal activity. It will mean increased penalties for illegal narcotics offenses which is the key to so much violent crime. It will result in an improved criminal justice system that will work to punish the guilty and protect the victims of crime.

Obviously, one piece of legislation is not going to solve our crime problem but it is an important step forward and a signal to the American people that Congress is serious in doing something about crime.

The crime package contains the following key provisions:

For the first time ever, Federal courts could deny bail to a defendant on the basis that release would pose a threat to the community.

Parole and good-behavior credits would be limited. A new sentencing commission would be created to promote more uniform sentencing procedures.

The insanity defense would be limited to those unable to appreciate the nature or wrongfulness of their acts. The burden of proof of insanity would be on the defendant.

Federal penalties for narcotics offenses would be strengthened.

Seizure of the profits and proceeds of organized crime and drug trafficking operations—or substitute assets where crime-related assets are beyond the reach of Government—would be allowed.

To limit crime money laundering, existing laws prohibiting transportation of currency out of the country would be expanded and strengthened.

Murder-for-hire and crimes aiding racketeering would be made Federal offenses, thus involving the investigative capabilities of the FBI.

Federal laws regarding child pornography and fraud and bribery related to Federal programs would be beefed up.

Donation of surplus Federal property to State and local governments for urgently needed confinement facilities would be facilitated.

Mr. President, if we can get such a comprehensive crime bill enacted into law this Congress we will have accomplished a great deal for this country.

I want to take this opportunity to congratulate the very able chairman, Senator THURMOND, and the distinguished ranking Democrat, Senator BIDEN, for their leadership and tenacity in bringing this package to the point we are now. I have worked with them over a number of years to get action on a crime package and I very much admire the effort they have made and the bipartisan cooperation they have evidenced in moving this legislation. It has not been an easy fight. Let's not drop the ball so short of a touchdown.

Mr. MATHIAS and Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. I think in about 6 or 7 minutes I can make a statement.

Mr. MATHIAS. Parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. MATHIAS. Is it part of the amendment which was moved to be stricken subject to further division?

The PRESIDING OFFICER. It is subject to further division.

Mr. MATHIAS. Then within title II of the bill, I request division on a section-by-section basis.

The PRESIDING OFFICER. We are not yet on title II.

Mr. HATFIELD. Parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state his parliamentary inquiry.

Mr. HATFIELD. Is the first division the one that is pending at this moment?

The PRESIDING OFFICER. That is correct.

Mr. HATFIELD. All right. Now, let me explain again, Mr. President. I am going to move the adoption of the first division. What that does is to excise, according to the committee's recommendation, those matters relating to the D.C. Government and the Chadha issue. That clears then that first division in order to get to the parliamentary position which the Senator from South Carolina is wishing.

I move the adoption of the first section.

The PRESIDING OFFICER. The question is on division 1. Is there further debate? If not, without objection, the amendment is agreed to.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. President, I want to propound two questions to the Chair and then I will make a few more remarks. I would like to inquire of the Chair, is this crime package germane?

The PRESIDING OFFICER. Under rule XVI, the Chair is precluded from ruling on the germaneness of amendments. This is House language and as a result no point of order can be raised.

Mr. THURMOND. In other words, no point of order can be raised against germaneness, is that correct?

The PRESIDING OFFICER. That is correct.

Mr. THURMOND. I would like to inquire further, is this legislation on an appropriation bill? It came from the House. I do not see how it could be, but I would like the ruling of the Chair.

The PRESIDING OFFICER. The Chair can rule on legislation on an appropriation bill, but this is House language and as such no point of order can be raised against it.

Mr. THURMOND. No point of order can be made that it is legislation on an appropriation bill?

The PRESIDING OFFICER. That is correct.

Mr. THURMOND. Mr. President, we have worked on this matter for several years trying to bring to this Senate a good crime package. The finest crime package that any Senate in the history of this Nation has ever passed is this very one. We passed it in the Senate, as I said, 91 to 1. The House sent it back to us word for word. I beseech the Members here to vote for this package and let us protect the American people.

Mr. CHILES. Will the Senator yield?

Mr. THURMOND. In just 1 minute.

The first purpose of government is to protect its people, to protect them against external enemies and internal enemies. The chief internal enemy in America today is the criminal. I do not see how we can fail to go forward. I do not see how anyone could stand in this Senate and object to going forward when everyone knows that this crime package is badly needed. It should have been passed several years ago. We must not put off this matter. I sincerely hope there will be no delay and we can have a 100-percent vote and pass this package. It is your package. You have already passed it twice, 95 to 1 once, and almost the same again, 91 to 1, the exact package. It is this Senate's package. It is not my package. It is your package. I urge Senators to accept it and go forward and put it on the statute books to let the American people know that this Senate really is against crime; that it has the courage and the willingness to do something about it.

I will be pleased to yield to the able Senator from Florida.

Mr. CHILES. I want to ask the distinguished chairman of the Judiciary Committee, who has worked so long and hard on this, did we ever dream in our wildest imagination that we would get a chance to accept our own package, to have it come back from the House where it has already passed? When we think of the problems we had in even getting some of these bills up, problems with some of the committee structure over there, here we have this opportunity to adopt our own package and have it become law. I think it is beyond our fondest expectations that we would have a chance to do that. No conference necessary. Not having to go and say, "We lost this important piece of the package or we lost the other."

I think it is a tremendous opportunity we have, and I hope we will not fail to utilize it.

Mr. THURMOND. Mr. President, I commend the able Senator from Florida. He is exactly right.

I move now to table the pending division.

Several Senators addressed the Chair.

Mr. MATHIAS. Mr. President, I demand a division, section by section.

Mr. THURMOND. I made a motion to table, and I think it takes precedence.

Mr. GLENN. Mr. President, will the Senator withhold that tabling motion for a moment?

The PRESIDING OFFICER. While a tabling motion is pending, a division of the underlying matter is not in order.

The question is on agreeing to the motion to table.

Mr. GLENN. Mr. President, I ask unanimous consent to ask a question for clarification before we vote on this.

The PRESIDING OFFICER. Is there objection?

Mr. THURMOND. Mr. President, provided that this question does not interfere with the ruling of the Chair on this motion to table. Is it the Chair's position that I can answer a question without it interfering with that ruling?

The PRESIDING OFFICER. A division is not in order on a motion to table.

Mr. THURMOND. I will have to answer the Senator later. It is too important. I will be glad to cooperate with the Senator later.

The PRESIDING OFFICER. The question is on agreeing to the motion to table.

Mr. THURMOND. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk called the roll.

Mr. STEVENS. I announce that the Senator from North Carolina [Mr. EAST] and Senator from Illinois [Mr. PERCY] are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Louisiana [Mr. LONG], is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 97, nays 0, as follows:

[Rollcall Vote No. 281 Leg.]

YEAS—97

Abdnor	Dole	Johnston
Andrews	Domenici	Kassebaum
Armstrong	Durenberger	Kasten
Baker	Eagleton	Kennedy
Baucus	Evans	Lautenberg
Bentsen	Exon	Laxalt
Biden	Ford	Leahy
Bingaman	Garn	Levin
Boren	Glenn	Lugar
Boschwitz	Goldwater	Mathias
Bradley	Gorton	Matsunaga
Bumpers	Grassley	Mattingly
Burdick	Hart	McClure
Byrd	Hatch	Melcher
Chafee	Hatfield	Metzenbaum
Chiles	Hawkins	Mitchell
Cochran	Hecht	Moynihan
Cohen	Heflin	Murkowski
Cranston	Heinz	Nickles
D'Amato	Helms	Nunn
Danforth	Hollings	Packwood
DeConcini	Huddleston	Pell
Denton	Humphrey	Pressler
Dixon	Inouye	Proxmire
Dodd	Jepsen	Pryor

Quayle	Specter	Tsongas
Randolph	Stafford	Wallop
Riegle	Stennis	Warner
Roth	Stevens	Weicker
Rudman	Symms	Wilson
Sarbanes	Thurmond	Zorinsky
Sasser	Tower	
Simpson	Trible	

NOT VOTING—3

East	Long	Percy

So the motion to table was agreed to.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATFIELD. Mr. President, I suggest the absence of a quorum.

Mr. BYRD. Will the Senator withhold that request?

Mr. GLENN. Would the Senator withhold that request so that we may finish a discussion we were having just before the vote? I discussed this with the distinguished chairman of the committee.

Mr. HATFIELD. Mr. President, I withhold my call for a quorum in order that the Senator from Ohio may engage in a colloquy with the Senator from South Carolina.

Mr. GLENN. Mr. President, what I was concerned about and what I would appreciate comments concerning, I understand there is language in what we just passed that would have the effect of nullifying the Federal death benefits that would be paid to firefighters or Federal law enforcement officers. I know there is a plan, I understand, to take care of this by several things that are involved in what we just passed by separate legislation later today.

I have been advised by the Parliamentarian that if we passed an amendment here now that just said very simply that nothing in this act shall be deemed to supersede the provisions of H.R. 5712 as enacted into Public Law 98-411, that that would take care of it.

If the distinguished chairman believes that would take care of our problem, I would be happy to submit that amendment at this time and we could pass it on a voice vote. That would take away any doubt about it.

What I am concerned about is this: What we have just passed would say any Federal firefighter or law enforcement officer killed in the line of duty between now and whenever next year we might get around to passing a correction would not receive death benefits. I do not want to see them go uncovered like that in this time period. We passed that law in June, I believe it was, of this year. I have fought for that for 3 years. I do not want to see those death benefits withheld on a technicality of what we just passed. I would be happy to submit the amendment that would apply to the whole bill. It is not just to the crime package. It seems to me that that would correct it, and I have been so advised by the Parliamentarian. I would be happy to submit that at this time.

Mr. THURMOND. Mr. President, it was planned to make a correction of this in several items in the Justice Assistance Act. But would the Senator withhold that for a little bit and let us consider the matter a little bit. I am in accord with his feeling.

Does the Senator have his amendment ready now? Has he offered it?

Mr. GLENN. I have not submitted it. I am prepared to go to a voice vote on it right now, and that would take care of this.

Mr. THURMOND. Send the amendment to the desk.

Mr. GLENN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

Mr. HATFIELD. Mr. President, I yielded the floor only for one purpose and that was for a colloquy. I would have to object to the offering of an amendment at this point. Let me explain why.

The leader asked that a quorum call be put in order that certain parties who were interested in amending the crime bill that is before us could see if they could put together some kind of agreement. Otherwise, we may be here with a whole series of amendments that could not let us get through before the 3 o'clock in the afternoon conference. So I only yielded the floor for that purpose under the instructions of the leader that we put in a quorum call.

I would ask the Senator from Ohio if he would withhold that amendment at this time.

Mr. THURMOND. If the Senator would withhold it until we have a discussion on another facet. I have no objection to the amendment. I think we can accept it if he will just withhold it temporarily.

Mr. HATFIELD. Mr. President, I have asked the Senator from New York, who wanted to offer an amendment, to withhold that until we can get this beginning part of this program underway and know whether or not we can get it underway.

Mr. GLENN. Mr. President, could the distinguished manager of the bill give me some assurance that it would be dealt with before we get off of this? I am afraid that if we get off of this it will leave the firefighters and law enforcement officers until sometime next year without death benefits and I do not want to see that happen.

Mr. HATFIELD. Mr. President, I can assure the Senator that we are not going to be off of this crime bill very soon anyway.

Mr. BIDEN. Mr. President, I guarantee the Senator it will be included. Just let us have our quorum call.

Mr. GLENN. Mr. President, I will withdraw the amendment.

Mr. HATFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BOSCHWITZ). Without objection, it is so ordered.

MONONGAHELA RIVER LOCKS AND DAMS 7 AND 8

Mr. BYRD. Mr. President, section 101(f)(1) of House Joint Resolution 648 appropriates $72,800,000 for 23 water projects. One of these is the long delayed and very necessary Gallipolis locks and dam project on the Ohio River. The existing locks at Gallipolis are antiquated and only one-half the size of all other locks on the Ohio River from a point just south of Pittsburgh to the confluence with the Mississippi, a distance of over 900 miles. River traffic often backs up severely at this bottleneck at the present time, and the forecast of the U.S. Corps of Engineers indicates a worsening situation with time. The need to construct this navigation project now is evident in its benefit to cost ratio of 12 to 1 and the corps' projection of $100 million in first year benefits alone. So, I am pleased that this joint resolution will finally permit the design, engineering, and construction of this project to proceed.

Mr. President, I would like to inquire of my friend, the distinguished chairman of the Senate Appropriations Committee, whether all of the projects listed in section 101(f)(1) have approved reports from the chief engineer of the U.S. Army Corps of Engineers.

Mr. HATFIELD. The minority leader is correct. All 23 projects have approved reports.

Mr. BYRD. It is my understanding that another very important project involving locks and dams 7 and 8 on the Monongahela River was not included in this resolution reported by the Senate Committee on Appropriations because at the time that resolution was drafted. The chief engineer had not yet approved a report on this project. Is that correct?

Mr. HATFIELD. Yes, I did not believe that it would be appropriate to proceed with work on locks and dams 7 and 8 prior to completion of the Chief's report.

Mr. BYRD. On Monday, September 24, 1984, the Chief Engineer did complete such a report which recommends construction of a new lock at damsite No. 8 and construction of a new lock and dam to replace the existing facility at damsite No. 7. I note that this new construction is included in the House-passed version of this resolution.

At the chairman's request, I will withhold my amendment to include locks and dams 7 and 8 in this resolution with the understanding that this very important project on the Monongahela River will be acceted in conference with the House.

Mr. HATFIELD. I thank the Senator for not offering his amendment at this time and for his strong support and interest in this important project. Let me assure the Senator from West Virginia that I am persuaded by his comments. I can assure him that I will give careful consideration to this project in the conference and will do all I can to be helpful in this matter.

Mr. BYRD. I thank my friend for his fairness, and his understanding of the needs of the people of West Virginia.

AMENDMENT NO. 7027

(Purpose: Pearl River Basin flood control)

Mr. JOHNSTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Louisiana [Mr. JOHNSTON], on behalf of Mr. COCHRAN and Mr. STENNIS, proposes an amendment numbered 7027.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following new section:

SEC. . (a) The Secretary of the Army, is authorized and directed to design and construct, at an estimated cost of $96,000,000, a flood control project, or projects, consisting of, but not limited to, dredging, clearing, impoundments, levees, or other appropriate measures to provide comprehensive flood control from the upper region to the lower region of the Pearl River Basin in Mississippi, all of which may be constructed independently or concurrently, to provide for the greatest possible flood protection, subject to the report or reports as recommended by the Chief of Engineers, with such mesures to be implemented by the U.S. Army Corps of Engineers, Vicksburg, Mississippi.

(b) Nothing in this section shall be construed as affecting the authority contained in Public Law 98-63 (97 Stat. 313) for emergency flood control in the Pearl River Basin in the vicinity of Jackson, Mississippi.

Mr. JOHNSTON. Mr. President, this amendment provides additional authority with respect to flood control work on the Pearl River. It does not now appropriate any additional money to this Pearl River flood control project but it does give additional authorization to the Chief of Engineers, and subject to his recommendations to take care of the situation as we find it on the Pearl River. This is submitted on behalf of Senator STENNIS and Senator COCHRAN. This authorization is in addition to the authority which passed the Senate last year by an almost unanimous vote—on a rollcall vote—and which was subsequently enacted.

Mr. HATFIELD. Mr. President, we reviewed the amendment on this side of the aisle and it is acceptable.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Louisiana.

The amendment (No. 7027) was agreed to.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HATFIELD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 7028

(Purpose: To direct that funds for Felsenthal National Wildlife Refuge, Arkansas, appropriated under P.L. 98-360, be obligated at full funding)

Mr. JOHNSTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Louisiana [Mr. JOHNSTON] on behalf of Mr. PRYOR and Mr. BUMPERS proposes an amendment numbered 7028.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place add the following new section:

The Secretary of Army acting through the Chief of Engineers is directed to utilize $2.5 million of funds previously appropriated for Felsenthal National Wildlife Refuge, Arkansas for the development of recreational facilities as authorized by law.

Mr. JOHNSTON. Mr. President, this amendment is to assure and require that the will of Congress as enacted in Public Law 98-360, the fiscal 1985 Energy and Water Appropriation Act, is carried out as provided in the 1985 energy and water bill. Congress appropriated $2.500 million to continue the construction of access site at recreational facilities on the Felsenthal National Wildlife Refuge, AR.

This amendment is designed to assure that the Corps of Engineers moves forward in obligating these projects at full funding. The amendment does not provide any new appropriations.

This action is in compliance with the commitments earlier made by the Federal Government to the people of south Arkansas.

Mr. President, this amendment is submitted on behalf of Mr. PRYOR and Mr. BUMPERS.

Mr. HATFIELD. Mr. President, this amendment has been checked on this side of the aisle and it is clear for this side.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Louisiana.

The amendment (No. 7028) was agreed to.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HATFIELD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 7029

(Purpose: To designate the Lowndesville Recreation Area located within the Richard B. Russell Dam and Lake Project, South Carolina and Georgia, as the "Jim Rampey Recreation Area")

Mr. JOHNSTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Louisiana [Mr. JOHNSTON], on behalf of Mr. THURMOND and Mr. HOLLINGS, proposes an amendment numbered 7029.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 29, following line 5, insert the following: "(F) The Lowndesville Recreation Area, located within the Richard B. Russell Dam and Lake Project, South Carolina and Georgia, shall hereafter be known and designated as the 'Jim Rampey Recreation Area'. Any reference in any law, map, regulation, document, record, or other paper of the United States to such recreation area shall be deemed to be reference to such area as the 'Jim Ramey Recreation Area'."

Mr. JOHNSTON. Mr. President, this provides for a name change on the Russell Lake and Dam in Georgia and South Carolina from Lowndesville to the Jim Rampey Recreation Area.

We agreed to it and adopted it before on the last supplemental but it was dropped in conference.

Mr. HATFIELD. Mr. President, the amendment has been cleared on this side of the aisle and it is acceptable.

THE JIM RAMPEY RECREATION AREA

Mr. THURMOND. Mr. President, the amendment which I have authored along with my distinguished colleague from South Carolina, Senator HOLLINGS, will redesignate the Lowndesville Recreation Area within the Richard B. Russell Dam and Lake project as the "Jim Rampey Recreation Area." This amendment simply effects a name change and there is no significant expenditure associated with it.

The Richard B. Russell Dam and Lake project is a major hydroelectric undertaking on the Savannah River between South Carolina and Georgia. During the planning and construction phases, the subject recreation area

was simply referred to as the "Lowndesville Recreation Area," although this area was never within the limits of the township of Lowndesville.

Mr. President, it is fitting and entirely appropriate, that this area be named after the late Jim Rampey, the man who owned and farmed this land for many years. This renaming has the endorsement of the South Carolina Department of Parks, Recreation and Tourism, the Clarks Hill-Russell Development Authority, the Abbeville County Council, the Lowndesville Town Council and State Representative Michael S. Gulledge. The Senate has previously adopted this amendment, but it was dropped in conference with the House. I have discussed this amendment with the managers, and I also understand it is acceptable to the leadership of the authorizing committee.

Mr. President, I urge the adoption of this amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Louisiana.

The amendment (No. 7029) was agreed to.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HATFIELD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 7030

Mr. JOHNSTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Louisiana [Mr. JOHNSTON], for Mr. STENNIS, proposes an amendment numbered 7030.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

The Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to plan, design, engineer, and construct the Sowashee Creek, Mississippi, project for flood control substantially in accordance with the report of the District Engineer, dated July, 1983, at an estimated Federal cost of $10,905,500.

Mr. BAKER. Mr. President, will the Senator yield to me to make an announcement?

Mr. JOHNSTON. I yield.

Mr. BAKER. Mr. President, may I report to those here and who may be listening in their office that I consulted through staff with the minority leader and the two managers, and I wish to report that it appears that there is a compromise settlement worked out on the crime package involving the principals on both sides of that issue.

I have talked to Senator MATHIAS, Senator BIDEN, and I understand KENNEDY has been involved as well as Senator THURMOND, but I am also told it is going to take an hour, perhaps an hour-and-a-half and perhaps 2 hours to complete the drafting on that measure.

If we stay here and wait we are going to fritter away what little time we have to change clothes and try to refresh ourselves.

So it is the intention of the leadership to finish a few odds and ends that we can do in the next 15 to 20 minutes and then I will ask the Senate to recess until 2:30 p.m. this afternoon.

When we come back we will be once more on the continuing resolution and at that time I believe we can finish that measure in fairly short order.

Mr. MOYNIHAN. Mr. President, will the Senator yield for a question?

Mr. BAKER. I yield.

Mr. MOYNIHAN. Mr. President, earlier this morning I spoke with the distinguished managers and suggested when and if a package of amendments was worked out to the crime bill I would wish then to offer the armor piercing bullets amendment. I will not necessarily ask for the yeas and nays.

Mr. HATFIELD. Mr. President, Senator BIDEN told me they included that.

Mr. MOYNIHAN. If they have done that then that is resolved.

Mr. HATFIELD. Senator BIDEN told me they did.

Mr. MOYNIHAN. All right.

May I indicate that I intended to deal with that matter somehow.

Mr. BAKER. Yes. I thank the Senator.

Mr. President, with that announcement may I encourage the managers to go on with the routine detail they can do and I hope we can be out in the next 15 to 20 minutes.

AMENDMENT NO. 7030

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Louisiana.

Mr. METZENBAUM. Mr. President, which amendment is this?

Mr. JOHNSTON. Mr. President, this is the amendment with respect to the Sowashee Creek, MS flood control project, which clarifies the intent of the previous direction given in the conference report 98-866, on page 17. It does not provide any new appropriation of funds, only authorization to correct this flooding problem.

Mr. METZENBAUM. Does it have any financial implications at all?

Mr. JOHNSTON. Mr. President, if the final plan is enacted, then it could have financial implications of $10 million for construction over several years. That is the estimate.

Mr. HATFIELD. Mr. President, the amendment has been checked and cleared on this side of the aisle.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Louisiana.

The amendment (No. 7030) was agreed to.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HATFIELD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 7031

(Purpose: Provide for a study regarding salmon stock production by hatcheries in the Pacific Northwest)

Mr. EVANS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Washington [Mr. EVANS], for himself and Mr. GORTON, proposes an amendment numbered 7031.

Mr. EVANS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

SALMON HATCHERIES

SEC. . (a) For conduct of a study regarding salmon stock production of hatcheries in the Pacific Northwest $500,000 will be provided from available funds, in accordance with the provisions of this section.

(b) In consultation with the National Marine Fisheries Service and the Bureau of Indian Affairs, the Fish and Wildlife Service (hereinafter in this section referred to as the "Service") shall, to the extent provided in advance by appropriations Acts, enter into a contract within 60 days after the date of enactment of this Act with a private entity for a study of State and Federally funded salmon hatcheries in the States of Washington, Oregon and Idaho, in accordance with the provisions of this section. The purpose of such study is to develop information to assist in evaluating the production and effectiveness of such hatcheries in increasing salmon stock levels as expeditiously and cost-effectively as possible, and in providing for a more effective system of disseminating the information necessary to improve future enhancement activities for salmon stock at such hatcheries.

(c) In carrying out subsection (b) of this section, the Service shall enter into such a contract only with an entity whose personnel—

(1) possess expertise in (A) salmon production and management in the Pacific Northwest, (B) mathematical and statistical data systems used by the Federal, State and tribal governments, and (C) international interception problems;

(2) are not presently employees of (A) any entity involved in the operation, management or development of hatcheries or (B) any entity engaged in hydropower production; and

(3) do not represent any organized salmon recreational or commercial fishing activity.

(d)(1) such study shall—

(A) evaluate existing salmon stock production activities at such hatcheries, including consideration of such factors regarding sur-

vival of hatchery-produced salmon stocks as management practices and environmental constraints;

(B) formulate recommendations for any necessary changes in salmon stock production, alternative strategies for major production units, and small-scale experiments; and

(C) develop objective criteria, including cost criteria, to assess proposals for the improvement of existing hatcheries and the development of new hatcheries.

(2) Such study shall also consider the consequences of the interaction of salmon stock production activities and international salmon interception problems.

(3) The study to be conducted under this subsection shall also devise a system to—

(A) develop expedited methods for assessing difficulties in increasing salmon stock production at such hatcheries; and

(B) collect, organize and analyze information on any changes in salmon stock production due to the implementation of recommendations formulated under this section.

(4) Such study shall also consider other studies to assess wild and natural salmon stocks and the potential for natural salmon production.

(e)(1) The Director of the Service shall establish an Advisory Committee to assist in carrying out the purposes of this section. The Advisory Committee shall be composed of representatives of—

(A) agencies within the Federal Government and the governments of the States of Washington, Oregon and Idaho which have responsibilities for the management and enhancement of salmon;

(B) Treaty Indian tribes;

(C) the Northwest Power Planning Council; and

(D) the Salmon and Steelhead Advisory Committee established pursuant to the Salmon and Steelhead Conservation and Enhancement Act of 1980 (16 U.S.C. 3301 et seq.).

(2) The Advisory Committee shall conduct an ongoing review of the study to be conducted under this section, and shall submit to the Director its recommendations for issues to be included as part of such study, methodologies to be employed in such study, and any preliminary and final drafts of the study required to be submitted under this section. Neither the Director nor the entity conducting the study under this section shall be bound by such recommendations.

(3) The Advisory Committee shall not be subject to the Federal Advisory Committee Act (5 App. U.S.C. 1 et seq.).

(f) The study required by subsection (d) of this section shall be submitted to the Service not later than 18 months after the date of enactment of this Act. The Service shall immediately transmit such study to the Congress without change.

(g) The Comptroller General of the United States, and any of the Comptroller General's duly authorized representatives, shall have access, for the purpose of audit and examination, to any books, documents, papers and records of the entity conducting the study required by this subsection that are pertinent to the funds received under this section.

(h) Employees of such entity shall not, by reason of such employment, be considered to be employees of the Federal Government for any purpose.

Mr. EVANS. Mr. President, I join my colleague, Mr. GORTON, in offering this amendment. It deals with a matter of great concern to me and the people of the Pacific Northwest—the continued survival of the salmon resources of our region.

This amendment builds upon language in the Appropriations Committee report on the 1985 appropriations for the Department of the Interior. The report calls on the Fish and Wildlife Service to conduct a review of "anadromous fish rearing plans." This amendment would define the elements of such a study or review. It directs the Fish and Wildlife Service to contract with a knowledgeable party or parties to conduct this study and to establish an advisory committee to review the study throughout its development. It is my hope that this study will provide the information we need to make intelligent decisions about the existing and future Pacific salmon hatchery system.

We have not been the best stewards of this remarkable resource. Over the years this marvelous species has suffered at our hands. The resource has been all but decimated by fragmented management, competition between commercial, sport, and treaty Indian fishermen, and environmental degredation. Genetically important wild salmon stocks continue to be overharvested and efforts to protect them have been frustrated. Regional management to control the interception of salmon throughout their range will help. But full rehabilitation of these stocks will only be achieved through major enhancement efforts.

These enhancement efforts will be successful only if all concerned parties—State, Federal, and tribal governments, fishermen, and concerned citizens—work together. I can assure this body that the people of the Pacific Northwest are committed to preserving and restoring the Pacific salmon resource. They are willing to pay, and to pay dearly, to restore this integral part of our environmental heritage. Their commitment deserves the continued support of this body and I urge my colleagues to support this amendment.

Let me be very specific. This requires no new money but builds on the language in the Appropriations Committee report on the 1985 appropriations for the Department of Interior and calls on the Fish and Wildlife Service to conduct a review of anadromous fish rearing plans and defines how such a study should be carried out.

It is of great importance as we face future appropriations bills which have many potential new hatcheries and the maintenance and operation of existing hatcheries.

This will allow us to do it with the maximum efficiency and hopefully to save some money in getting the maximum of new fishery resources with the minimum investment.

As I say again it requires no appropriations. It utilizes existing revenues. It has been cleared on both sides of the aisle and with Senator MCCLURE.

Mr. HATFIELD. The amendment of the Senator from Washington has been cleared on this side of the aisle and as he indicates he does not have appropriations impact.

I believe it has been cleared on the other side.

Mr. JOHNSTON. Mr. President, we have no objection on this side.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Washington.

The amendment (No. 7031) was agreed to.

Mr. GORTON. Mr. President, on behalf of myself and my colleague from the State of Washington, I wish to state that we are offering this amendment to initiate what I see as a much needed step in recognizing and addressing the critical issues regarding salmon stock production of hatcheries in the Pacific Northwest.

Pacific salmon have a unique role in the economic, cultural and recreational activities of the Pacific Northwest. Important segments of the commercial fishing industry, the recreational fishing industry and Indian cultures are heavily dependent on preservation and restoration of the salmon resource. Today, a major component—approximately 50 percent of important species—of salmon production originates in salmon hatcheries. Since 1960, the salmon hatcheries output in the Washington-Columbia River region has doubled to respond to public demand, power dam mitigation and other factors. A measure of how important these hatcheries are to the region is that currently over $40 million a year is spent on hatchery operation and related research. In addition, the Northwest Power Planning Council and others have tentatively committed an estimated $800 million to salmon production over the next 20 years.

The goal of this massive commitment is to conserve and protect the salmon resource to meet the needs of the commercial, recreational, and tribal communities. However, despite many efforts, since the mid-1970's catches have not kept pace with increasing salmon hatchery production. In some cases, despite increased hatchery production, there have been fewer fish caught and harvested and fewer returning to the hatcheries. The overall assessment is that regardless of the enhancement effort, productivity of the total salmon production system—both wild and hatchery—has decreased. Adding to an already difficult situation, in 1982 and 1983, the abnormal ocean warming condition known as el nino resulted in a radical decline

in salmon harvests and the economic devastation of fishermen and Pacific Northwest coastal communities.

We need to evaluate the productivity of existing hatcheries, and examine ways to restore the salmon stock as quickly and cost effectively as possible. Because hatcheries offer more flexibility and direct management control than wild production, State and Federal efforts have emphasized improving hatchery programs. However, it takes a long time to research and develop new salmon enhancement techniques. There is usually a 5- to 9-year lag time from start to finish, from experimental design through actual fish production, then 2 to 5 years of analyzing the results and reaching conclusions. When the techniques are finally applied to salmon production, the 3- to 5-year salmon lifespan means there is often a decade between the initial proposed and an effect on the fishery. Unfortunately, by that time, regardless of the outcome, a commitment to continue a hatchery operation may prevail.

This process frequently leads to public support of a variety of marginally productive hatchery systems. For this reason, it is imperative that a plan be developed which will provide useful information to guide policy making. The amendment I am proposing will accomplish this.

Specifically, the amendment will provide for an 18-month study on salmon stock production of hatcheries in the states of Washington, Oregon, and Idaho. The purpose of the study is to develop information to help evaluate the production effectiveness of existing Northwest hatcheries. It will also examine options for increasing salmon stock levels in as expeditious and cost-effective manner as possible. The study will find ways to help disseminate the information necessary to improve, coordinate, and control future salmon enhancement activities.

The study and those who prepare it, must be objective. They must be an expert in knowing: (1) Pacific Northwest production systems; (2) mathematical and statistical aspects of State/Federal/tribal data systems; (3) international salmon interception problems; and (4) multiple State/Federal/tribal management structures. This group of experts will be independent of any entity involved in the operation, management, or development of hatcheries, furthermore, they may not represent any organized recreational salmon or commercial activity.

In conclusion, I think this amendment makes eminent good sense. Currently, we do not have a clear understanding if we are making salmon resource decisions that are consistent with the long-term needs of the resource and with ongoing planning activities. I am convinced that this study will provide us with information we need to make proper policy decisions. I would urge my colleagues to support this amendment.

AMENDMENT NO. 7032

(Purpose: For the relief of Roger Moyer of Lititz, PA, and Keystone Mills of Ephrata, PA)

Mr. HEINZ. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Pennsylvania [Mr. HEINZ] proposes an amendment numbered 7032.

Mr. HEINZ. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the joint resolution, add the following new section:

SEC. . (a) Notwithstanding section 2(d) of the Act entitled "An Act to provide greater protection against the introduction and dissemination of diseases of livestock and poultry, and for other purposes", approved July 2, 1962 (21 U.S.C. 134a(d)) or any other provision of law, the Secretary of the Treasury is authorized and directed to pay out of any money in the Treasury not otherwise appropriated, the sum of—

(1) $61,867.80 to Roger Moyer of Lititz, Pennsylvania; and

(2) $136,167.12 to Keystone Mills of Ephrata, Pennsylvania;

in addition to any indemnity payment received from the Department of Agriculture, for compensation for related losses resulting from the infection of avian influenza to the poultry flock purchased by the said Roger Moyer and Keystone Mills on February 9 and 11, 1984, which was determined negative for avian influenza by the Animal and Plant Health Inspection Service of such Department.

(b) Any payment of a claim with funds made available pursuant to subsection (a), shall be in full settlement of all claims by a claimant against the United States.

(c) No part of the amount appropriated in subsection (a) in excess of 10 per centum thereof shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this subsection shall be guilty of a misdemeanor, and upon conviction thereof shall be fined a sum not to exceed $1,000.

Mr. COCHRAN. Mr. President, we have reviewed this amendment. It relates to the avian flu problem with poultry flocks. It provides authority to settle claims by the Department of Agriculture. We have reviewed the amendment and the distinguished Senator from Missouri [Mr. EAGLETON] an his staff have reviewed the amendment and we recommended that it be approved.

Mr. HEINZ. Mr. President, I simply want to thank my friend from Mississippi and my friend from Missouri for agreeing to this amendment. This remedies an unintended but very real wrong perpetrated upon a contract farmer, Roger Moyer of Lititz, PA, and Keystone Mills of Ephrata, PA, in Lancaster County which had been stricken previously, that area, by an epidemic of avian influenza.

What happens, of course, when such an epidemic strikes, if it is serious enough, is that the Department of Agriculture quarantines the area, goes in and starts depopulating flocks.

In this case, due to an error made by the Department of Argiculture, Mr. Moyer and Keystone Mills had their flocks depopulated, killed, twice after they had been reestablished once. The Department of Agriculture, unless this amendment passed, would be without authority to make good on the damages that they inflicted on this farmer.

It may seem like a small thing to some of my colleagues, but what we are doing—and I thank all of our colleagues—is righting a wrong that apparently is all too possible in this day and age of the computer or the keypunch. The USDA acknowledges that an error was made in the initial laboratory report and that a permit for the movement and depopulation of the birds should not have been issued.

Back in May, I received a letter from Secretary Block saying that they regretted the unfortunate incident. They said measures were being taken to ensure that the incident was not repeated. They also said later that they could not help.

So what we are doing today is doing what, unless we change this, the Department of Agriculture cannot do on their own.

I thank all of my colleagues for their attention to this matter.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. METZENBAUM. Mr. President, as I look at this amendment, it appears to me to be a rather interesting new development on how we handle claims against the Government. As I read it, it is a claim for $61,000 and another one for $136,000.

There are procedures for people who have claims against the Federal Government to go to the Court of Claims. We also have bills where people come in with a matter of this kind and they come to the Judiciary Committee and and the Judiciary Committee scans them very carefully and turns down most of them and lets some of them through.

But here we are asked, at 9 o'clock in the morning, to put out $200,000. There very well may be a lot of merit to the claims of these people. But if we are going to start the practice of every Senator coming to the floor with a claim and saying we ought to pay somebody $130,000, or $60,000, or $200,000, whatever the case may be, I

just think it is a very dangerous precedent.

I am not taking issue with the merits of this matter because I do not know the merits. But I do think this body ought not at this point enact this kind of a measure.

Mr. HEINZ. Mr. President, let me say to my good friend from Ohio that I understand his concerns about the precedent. But let me assure him that in this instance we have a totally unique situation, at least in this Senator's judgment. It is one that we have discussed at length with the Department of Agriculture. They agree that this man was wronged. They have put it in writing. They specifically support this amount of the claim.

What happened was they actually went on to this individual's property and gassed all of his chickens. Now that is just not an everyday occurrence, at least not in Pennsylvania, and I suspect not in Ohio.

The Department of Agriculture has looked through all the other methods of relief available. They think this is the right relief because this fellow is going to be out of business if he goes to the Court of Claims.

Mr. METZENBAUM. What about the other procedure that has always been available, and that is on something of this kind the bill then goes to the Judiciary Committee. The Judiciary Committee then has its own procedure to evaluate a claim of this kind and makes a determinaton and sometimes authorizes the matter to be in court.

What we have here—and I am not arguing at all as to the merits of it because I do not know the merits—but I have read the proposal. It is just a very bland kind of statement that the Department is directed to pay out the $61,000 to one person and $136,000 to another corporation. I think it is a very, very bad precedent.

Mr. HEINZ. Let me say to my friend, on the front page of the Washington Post there is a little number here. We are talking about unusual procedures. On the front page of the Washington Post, it says that the Senate gives $33 million to the Kennedy Center in the middle of the night at 2 a.m. Now, I do not quarrel with helping the Kennedy Center. But it is labeled "Senate's Gift to the Kennedy Center at 2 a.m. in the Morning."

Now, the Senator from Ohio, I understand his problems, but was he up there objecting to the 2 a.m. $33 million gift to the Kennedy Center in the middle of the morning? That was highly unusual, too.

Mr. METZENBAUM. But the Kennedy Center is a totally different facility and it was not my particular area of knowledgeability. I looked at the matter. I knew that is was going through, but the fact is that the Kennedy Center is known as our national pride.

Mr. HEINZ. I understand that.

Mr. METZENBAUM. Let me just finish. If the Kennedy Center appropriation was wrong, is the Senator from Pennsylvania suggesting that he wants to get his fair share?

Mr. HEINZ. The Senator did not say that, because the Senator from Pennsylvania, I say to the Senator, did object.

Mr. METZENBAUM. I do not remember your forcing it to a vote.

Mr. HEINZ. This is subject to a vote, too.

Mr. WARNER. Will the Senator yield?

Mr. METZENBAUM. Yes, of course.

Mr. WARNER. I speak with some experience on this matter because the problems that hit Pennsylvania also afflicted Virginia. I hasten to bring to the attention of our colleagues that this is the first time, I believe, in a quarter of a century that this type of epidemic hit poultry flocks. And the Department of Agriculture knew no other means to eradicate that but to go to the farms, Pennsylvania and Virginia, and just kill the flocks.

Now, I do not know the particulars——

Mr. BAKER addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. BAKER. Mr. President, I have the early morning feeling that this is going to take longer than we thought.

Mr. HEINZ. That is up to the Senator from Ohio.

Mr. BAKER. I am afraid so. That is up to both of you.

But I do not detect that this is going to be handled routinely and we are going to give away what little time we have to go home and get cleaned up and come back.

So, unless there is an immediate way to dispose of this matter, I have consulted with the managers and I am going to put us in morning business and we will pick up where we left off when we resume session at 2:30 p.m.

Mr. DANFORTH. Could I ask the majority leader a question?

Mr. BAKER. Yes.

Mr. DANFORTH. Some of us have really noncontroversial amendments. I wonder if it would be possible to lay aside this amendment.

Mr. BAKER. No, let us not do that. We thought this one was noncontroversial. Let us just go out. Let us go into morning business and do what we need to do and we will come back at 2:30.

Mr. HEINZ. Could I just suggest about a 3-minute quorum call before the leader does that?

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Clerk will call the roll

The legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent that there be a period for the transaction of routine morning business for not more than 10 minutes in length in which Senators may speak for 1 minute each, except the two leaders against whom no time limitation will apply.

The PRESIDING OFFICER. Without objection, it is so ordered.

H.R. 5997, A BILL RENAMING THE PENDLETON, OR, POST OFFICE AND COURTHOUSE

Mr. PACKWOOD. Mr. President, I am pleased that the Senate is considering H.R. 5997, a bill to rename the U.S. post office and courthouse in Pendleton, OR, after one of Oregon's most deserving native sons, Judge John F. Kilkenny. Congressman BOB SMITH ably steered this measure through the House, and I urge my Senate colleagues to join in honoring Judge Kilkenny by approving H.R. 5997.

Judge Kilkenny, a retired judge on the ninth circuit, has a distinguished reputation as a lawyer, a judge, and an Oregonian. Born near Heppner, OR, in 1901, he attended elementary and secondary schools in Oregon before pursuing his post-secondary and legal education at Notre Dame University. He returned to Pendleton to begin his legal practice in 1926.

In 1959, Kilkenny was appointed a judge on the United States District Court in Portland. Ten years later he was appointed to the Ninth Circuit Court of Appeals. Judge Kilkenny's service has earned wide respect in both the ninth circuit and across the Nation.

Judge John F. Kilkenny is an outstanding Oregonian. I am honored to support this bill to rename the Post Office and Courthouse in Pendleton, OR, after him.

Mr. HATFIELD. Mr. President, it is with great pleasure that I note passage in the Senate of H.R. 5997 designating the U.S. post office and courthouse in Pendleton, OR, as the John F. Kilkenny U.S. Post Office and Courthouse.

Judge Kilkenny has devoted 25 years of outstanding service to the judiciary in Oregon, first with the U.S. Federal District Court of Oregon and later with the U.S. Court of Appeals in the Ninth Circuit. This alone stands as testimony to his dedicated service.

However, his achievements as a jurist are at least equaled by his contributions to the people of Oregon as a historian, author, and individual chiefly responsible for the restoration of the Pioneer Courthouse in Portland, OR.

Those who know and have had the privilege of working with Judge Kilkenny proudly acknowledge his profound influence on their personal and professional lives. It is John F. Kilkenny's dedication to service that gives me great pleasure to recognize the passage of this legislation. The people of Pendleton, OR, can be proud of the countless contributions that their native son has made to the State of Oregon. Naming the U.S. post office and courthouse in Pendleton after this man is one small recognition of those contributions.

RICHARD A. ARENBERG

Mr. TSONGAS. Mr. President, I rise today to pay tribute to a colleague, employee, and good friend, Richard A. Arenberg, who will leave my staff on October 1 to become administrative assistant to the junior Senator from Maine [Mr. MITCHELL].

Rich Arenberg and I have worked closely together for the past 10½ years. We first met in April 1974 when he joined my first congressional campaign as director of issues, research, and polling.

Since that time, Rich has served me as chief legislative assistant, first in the House of Representatives and then here in the Senate. Throughout that time he has not only directed an active and innovative legislative staff, but has also held major administrative and policy responsibilities. For 6 months in 1978 and again for 9 months in 1979–80, he filled in ably as administrative assistant concurrent with his normal legislative responsibilities.

Rich has demonstrated a remarkable command of a broad range of issues. At various times he has been called upon to handle lead responsibilities in foreign affairs, energy, banking, government affairs, appropriations, judiciary, environmental, and a large number of other issues. Time and again over the years, I have turned to Rich to mobilize and coordinate the resources of my staff. He played key roles in many legislative accomplishments including the Lowell National Park bill, the compromise Chrysler legislation, and the National Energy Act.

However, it was Rich Arenberg's critical role in the shepherding of the Alaska Lands Act through the Congress which stands as his most special and lasting accomplishment. Rich is, in all truth, one of the individuals most responsible for the resolution of the most difficult and divisive issues surrounding this landmark legislation. During the years of planning, drafting, negotiating, and compromise that finally led to the "conservation vote of the century," Rich's solid judgment, maturity, unflappable personality, and sound political instincts were not only invaluable to me, but became widely recognized in the Congress and throughout the environmental community. The ultimate orchestration of time agreements, amendments, floor strategy, and complex compromises were no less a product of Rich Arenberg's hard work and clear vision than of any of the many who deserve a share of the credit.

Rich Arenberg's great enthusiasm for public service in general and for the job he performs in particular grows out of the confluence of his great love for his native New England, his boundless appetite for the struggles of the political arena, his great appreciation and respect for the rules and traditions of the U.S. Senate, and his desire to use his efforts to affect the course of public policy.

Rich has contributed to my efforts in many ways which go beyond his daily responsibilities. He is a respected pollster and analyst of public opinion. His ability to use these skills and to "demystify" poll results has often contributed to my own ability to serve more effectively. Rich is also an enthusiastic student of the Senate's rules and precedents. He always loved the parliamentary tangles for which the Senate is well known—the more complex, the better. But, at those crucial times as when the Senate found itself during the Alaska debate with cloture laid over a unanimous consent agreement, it was Rich's equilibrium in the procedural maze upon which I relied.

Mr. President, Richard A. Arenberg was born in Norwich, CT, on October 16, 1945. He is the eldest of three children of Bernard and Mary (Katz) Arenberg. He graduated in 1963 from the Norwich Free Academy. He holds a B.A. and an M.A. in political science from Boston University where he taught as a teaching fellow in American politics in 1971–74.

From 1968 through 1972, Rich Arenberg served as a community organizer at the Elizabeth Peabody Settlement House in Somerville, MA, where he was appointed by the mayor to the adhoc commission on housing.

He has been active in numerous political campaigns and has been actively involved in the communities in which he has lived and worked. He recently served as a member of the board of directors of the Tauxemont Preschool in Alexandria, VA, and he currently serves on the board of directors of the Burgundy Farm School in Alexandria.

Rich Arenberg was married in 1973 to Jane Kenworthy and has three children, Joshua, Meg, and Ned, ages 8, 5, and 2, respectively.

Mr. President, I owe Rich a great debt for the loyal service which he has performed; and I deeply believe, more importantly, that all of us here in the Senate, in my home State of Massachusetts, and in the Nation, owe a debt of gratitude to the many like him who serve use here. This tribute to Richard Arenberg, in a small way, is an effort to recognize that role.

H.R. 6163

Mr. DECONCINI. Mr. President, I want to state my strong support for H.R. 6163. This bill represents one of the most significant legislative efforts of this Congress in the area of intellectual property law. The bill is actually a package of several bills including the computer chip protection bill, the antimonopoly trademark bill, technical and conforming amendments to the court of the Federal circuits jurisdiction, a streamlining of the civil priorities found throughout the United States Code, minor amendments affecting the location of some district courts, the State justice institute bill, and amendments to patent ownership policy. These bills have all been processed by either the Courts Subcommittee or the Patents, Copyrights and Trademarks Subcommittee of the Committee on the Judiciary. They are not sexy bills but they are bills that are extremely important and will have an enormous impact on efficient court administration and on the climate for the development and protection of intellectual property. As a member of both of the subcommittees through which these bills passed, I am particularly pleased to see the efforts of the past 20 months result in passage of H.R. 6163. The lion's share of the praise must go to the chairman of the subcommittees, Senator MATHIAS, chairman of the Patents, Copyrights, and Trademarks Subcommittee and Senator DOLE of the Courts Subcommittee. Chairman KASTENMEIER of the House subcommittee also richly deserves praise for his long interest and great efforts in this area. I hope that in the future we will continue to see the enthusiasm and hard work necessary to process bills in these areas of the law. Again, I am pleased to be associated with H.R. 6163.

TRIBUTE TO SENATOR TSONGAS

Mr. MITCHELL. Mr. President, when this Congress adjourns, the Senate and the American people will lose the services of one of their most able and promising legislators and public servants. I would like to offer a few thoughts about the imminent departure of PAUL TSONGAS, even in the realization that they are inadequate to the true scope and impact of his work among us.

It is a genuine privilege to know and to be associated with the Senator from Massachusetts. In many capacities, he has enriched the labors of this body, bringing to bear a lively and disciplined intellect, quick and keen analysis, deep reservoirs of curiosity, resourcefulness, and energy, and a warm and generous humanity of broad horizons.

He brought other attributes as well. One is a wide experience of the world, exemplified by Peace Corps service that made him the first Peace Corps veteran to serve in the Senate. Another is his inclination to original thinking, notably reflected in his book, "The Road From Here," in which he set out an agenda of new directions for his party.

The length and breadth of his legislative accomplishments, in but one term in the Senate, would do great credit to Senators of much longer service. For example, he was the architect not only of the landmark Alaska Lands Act of 1980, but of the essential compromise which ensured its passage by the Senate. He also wrote and negotiated the compromise legislation guaranteeing the loans which saved the Chrysler Corp. from bankruptcy and preserved thousands of associated jobs.

There are numerous others among his legislative efforts and achievements that deserve to be cited here. But I would particularly like to underline his long, strong, and consistent work on behalf of environmental protection, energy conservation, small business and human rights.

Clearly, the U.S. Senate will greatly miss PAUL TSONGAS. I say it with respect, with admiration, and with affection. His position of leadership here, and his future success, were already assured, marked by the principled and enlightened record and reputation he established, and the many friendships he formed. His example will, I firmly hope, be a beacon to those of similar talents and skills who may wish to enter the same path of productive public service.

For all this and more, I salute PAUL TSONGAS. He will always be welcome among his colleagues here. I am proud of him as a fellow New Englander, proud of him as a Senator, proud of him as a Democrat. Most of all, I am proud of him as an American.

STATE WATER LAWS AND THE ENDANGERED SPECIES ACT

Mr. WALLOP. Mr. President, it is a fundamental principle of our federal system that certain enumerated powers were granted to the Federal Government and all others were reserved by the original States. The allocation of water resources within the States' boundaries was not enumerated and was therefore reserved to the States.

Later, when Western States were admitted to the Union, this reservation was solidified. The congressionally ratified constitutions of these States guaranteed them exclusive sovereignty over the unappropriated waters of their streams.

As a result, comprehensive systems for the allocation, prioritization, conservation, and control of water resources have existed and have been evolving in the States for over 100 years. In contrast, there is not and has never been a Federal water allocation system.

Even where Congress may exercise power, be it under its property or commerce clause authority, it has often deferred to the States in recognition of State expertise and local diversity. It has done so to avoid duplication, and to promote predictability and consistency.

The allocation of rights to the use of quantities of water is one area which Congress has consistently recognized as best left to the States. It has recognized that chaos would result if it imposed a separate and duplicate system to allocate rights to use the same water resource. Time and again it has directed, through a series of Federal laws, that quantities of water necessary to accomplish Federal purposes should be acquired pursuant to State law.

In the Mining Act of 1866, the act of 1870, and the Desert Lands Act of 1977, Congress provided that water necessary for the productive use of the Federal lands transferred must be obtained pursuant to State laws and local customs. The Reclamation Act of 1902 provided that water rights necessary for the operation of Federal reservoirs in the Western States must be obtained pursuant to State water laws. This policy was expressly continued with the enactment of the Federal Land Policy and Management Act of 1976.

At first glance, it might appear that Federal and Indian reserved water rights, which were first recognized by the Supreme Court in 1907, departed from this principle and exist separate and apart from State water rights systems. However, under the reserved rights doctrine, only a certain quantity of water is appropriated with a priority date established by the date of the congressional reservation. This is consistent with the structure of State laws in States where such reservations have been made, and these rights can be administered under those State systems.

In the event of conflict, these Federal reserved water rights can also be easily reconciled with non-Federal rights in the same water resource. In 1952, the McCarran Act provided that the States could adjudicate these reserved rights along with non-Federal rights in their own basin-wide adjudications in State courts. This insures that after an adjudication there will be consistency and certainty.

This deference to State water law systems has continued in more recent legislation which derives its authority from the commerce clause. The Clean Water Act Amendments of 1977 provided that nothing in the act "shall be construed to supersede or abrogate rights to quantities of water which have been established by any State", and that "the authority of each State to allocate quantities of water within its jurisdiction shall not be superseded, abrogated, or otherwise impaired" by the act. Legislation to create both the Energy Mobilization Board and the Synfuels Corporation ensured that water necessary to accomplish these Federal objectives would be acquired under State law.

The allocation of rights to use quantities of water between the various States has also been accomplished with minimal Federal interference. States have negotiated compacts to allocate water use from common sources. The congressional role has been one of mere ratification. There are now 21 congressionally ratified water compacts in the 17 contiguous Western States. When States cannot agree, they have sought and obtained equitable apportionment decrees of the Supreme Court.

Despite this absolutely consistent and most appropriate deference to State water allocation systems, water has always been available to meet Federal goals and objectives, whether through appropriation or reservation, purchase, or condemnation. Deference to State water laws has not blocked the accomplishment of Federal goals, it has only ensured that Federal water use will not disrupt the certainty provided by State allocation systems or result in a taking of private rights without just compensation.

We are now confronted with a subtle, but dangerous and growing aberration in this pattern of Federal deference. This aberration is caused by the application of the Endangered Species Act to water quantity determinations in certain river systems. This is occurring despite the policy of the act that "Federal agencies shall cooperate with State and local agencies to resolve water resource issues in concert with conservation of endangered species."

The Endangered Species Act imposes a duty on each Federal agency to take no action, including issuance of a permit to a private party, which would jeopardize the continued existance of an endangered species. It also establishes a Federal goal of species conservation, which is defined as recovery to the point of delisting.

It is evident beyond dispute that all endangered species will need various quantities of water to survive and recover. The Federal Government may therefore be expected to acquire quantities of water for species recovery, and Federal agencies, within the scope of their authorities, may take no actions which will deprive species of quantities of water necessary to avoid jeopardy.

Therefore, Mr. President, the aberration is not that water is being provided for endangered species. If the Federal Government needs water for endangered species, it has not been and will not be prevented from obtaining it. No, Mr. President; the concern is that water for endangered species is being obtained through regulatory means, with a basic disregard for patterns of water use which have been established by interstate compacts and decrees and State water law systems.

This is fundamentally contrary to the long established congressional policy of deference to these systems. It causes uncertainty and serious inequity. It is an increasingly vexing problem.

The conflict results from habitats of endangered or threatened species which are located on downstream segments of rivers. Most notable of these are the Upper Colorado and Platte Rivers. On segments of these rivers, either direct water flows, or their secondary effects, may be considered necessary for the species. Each exercise of an upstream water right which results in consumptive use of the water resource, or even a shift in the timing of flow, may therefore be considered by the Fish and Wildlife Service to have some sort of adverse effect. Contrived or real, any adverse effects could result in some jeopardy to the species.

Under this case-by-case approach, thousands of water rights in multistate regions, which may literally extend for hundreds of miles upstream, are being subject to administrative redetermination by the Fish and Wildlife Service. These redeterminations are being carried out in complete disregard for allocations, prioritizations and conditions previously imposed upon these rights under State law. They are being carried out in complete disregard for existing interstate water allocations. And, they are being carried out in complete disregard of the relative value of various water rights.

This situation is more than vexing. Unless Congress acts to rectify the problem in a rational way, it will become totally intolerable.

I, for one, believe it is possible to implement the Endangered Species Act to avoid conflicts with other national goals. Paramount among these national goals lies the preservation of State authority to allocate rights to the use of quantities of water, the preservation of congressionally ratified interstate water compacts and Supreme Court decrees, and the respect for private property rights to the use of quantities of water.

However, in order to accomplish this goal we need to look at our water resources in new ways, and devise approaches to the use of our water that meets all needs. An amendment which I sponsored to the fiscal year 1985 Interior appropriations bill will help give us some of the answers we need to satisfactorily resolve the many demands on our Nation's water resources. That amendment funds an ongoing process in which the Secretary of the Interior, pursuant to the terms of a memorandum of understanding with the State of Colorado, Utah, and Wyoming, will work with these States to explore alternatives and develop plans to implement the Endangered Species Act in the Upper Colorado River Basin. It is my hope that this working group will find the solutions we need to solve these perplexing problems.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 11:25 a.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bill, without amendment:

S. 1967. An act to compensate the Gros Ventre and Assinboine Tribes of the Fort Belknap Indian Community for irrigation construction expenditures.

The message also announced that the House has passed the following bill, with an amendment, in which it requests the concurrence of the Senate:

S. 1052. An act to make certain changes in the membership and operations of the Advisory Commission on Intergovernmental Relations.

The message further announced that the House has passed the following bill, with amendments, in which it requests the concurrence of the Senate:

S. 1711. An act to extend Patent Numbered 3,376,198, and for other purposes.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 452. An act for the relief of Jerome J. Hartmann and Rita J. Hartmann;

H.R. 1561. An act for the relief of Meals on Wheels of the Monterey Peninsula, Incorporated;

H.R. 2050. An act for the relief of Gerald M. Hendley;

H.R. 2790. An act to amend the Colorado River Basin Salinity Control Act to authorize certain additional measures to assure accomplishment of the objectives of title II of such act, and for other purposes;

H.R. 4387. An act for the relief of O. Edmund Clubb; and

H.R. 5760. An act to declare that the United States holds in trust for the Cocopah Indian Tribe of Arizona certain land in Yuma County, Arizona.

ENROLLED BILLS SIGNED

The message further announced that the Speaker has signed the following enrolled bills:

S. 197. An act to direct the Secretary of the Department of Transportation to conduct an independent study to determine the adequacy of certain industrial practices and Federal Aviation Administration rules and regulations, and for other purposes;

S. 1841. An act to promote research and development, encourage innovation, stimulate trade, and make necessary and appropriate modifications in the operation of the antitrust laws; and

H.R. 3130. An act to authorize amendments to a certain repayment and water service contract for the Frenchman Unit of the Pick-Sloan Missouri River Basin Program.

The enrolled bills were subsequently signed by the President pro tempre [Mr. THURMOND].

At 5:13 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bills and joint resolution, each without amendment:

S. 566. An act to direct the Secretary of Agriculture to release on behalf of the United States a reversionary interest in certain tracts of land conveyed to the South Carolina State Commission of Forestry, and to direct the Secretary of the interior to convey certain mineral interests of the United States in such land to such Commission, and for other purposes;

S. 1868. An act to add $2,000,000 to the budget ceiling for new acquisitions at Sleeping Bear Dunes National Lakeshore;

S.J. Res. 201. Joint resolution to provide for the designation of the week of November 25 through December 1, 1984, as "National Epidermolysis Bullosa Awareness Week";

S.J. Res. 237. Joint resolution to designate the week of November 25, 1984 through December 1, 1984, as "National Home Care Week";

S.J. Res. 260. Joint resolution designating the week beginning on November 11, 1984, as "National Blood Pressure Awareness Week";

S.J. Res. 295. Joint resolution to provide for the designation of the week of October 14, through October 20, 1984, as "Myasthenia Gravis Awareness Week";

S.J. Res. 299. Joint resolution to designate November 1984, as "National Diabetes Month";

S.J. Res. 309. Joint resolution authorizing and requesting the President to designate January 1985 as "National Cerebral Palsy Month";

S.J. Res. 322. Joint resolution designating the week beginning on October 7, 1984, as "Mental Illness Awareness Week";

S.J. Res. 324. Joint resolution designating the month of November 1984 as "National Christmas Seal Month"; and

S.J. Res. 332. Joint resolution to proclaim October 16, 1984, as "World Food Day".

The message also announced that the House agrees to the amendment of the Senate to the bill (H.R. 5540) to provide for restoration o Federal recognition to the Confederated Tribes of Coos, Lower Umpqua, and Suislaw Indians, to institute for such tribe those Federal services provided to Indians who are recognized by the Federal Government and who receive such services because of Federal trust responsibility, and for other purposes.

The message further announced that the House agrees to the amendments of the Senate to the bill (H.R. 6202) relating to water rights of the Ak-Chin Indian Community.

The message also announced that the House has passed the following bill, with amendments:

S. 1790. An act to authorize the Secretary of the Interior to enter into a contract or cooperative agreement with the Art Barn Association to assist in the preservation and interpretation of the Art Barn and Pierce Mill located in Rock Creek Park within the District of Columbia.

The message further announced that the House agrees to the amendments of the Senate to the bill (H.R. 4209) to amend section 15 of the Small Business Act, with amendments, in which it requests the concurrence of the Senate.

The message also announced that the House agrees to the amendments of the Senate to the bill (H.R. 5618) to amend title 38, United States Code, to revise and improve Veterans' Administration health programs, and for other purposes, with amendments, in which it requests the concurrence of the Senate.

The message further announced that the House has passed the following bills, each with an amendment, in which it requests the concurrence of the Senate:

S. 543. An act to designate certain national forest system lands in the State of Wyoming for inclusion in the National Wilderness Preservation System, to release other forest lands for multiple use management, to withdraw designated wilderness areas in Wyoming from minerals activity;

S. 648. An act to facilitate the exchange of certain lands in South Carolina; and

S. 2125. An act to designate certain national forest system lands in the State of Arkansas for inclusion in the National Wilderness Preservation System, and for other purposes.

The message also announced that the House has passed the following joint resolution, with amendments, in which it requests the concurrence of the Senate:

S.J. Res. 273. Joint resolution to designate the week of August 5, 1984, through August 11, 1984, as "Smokey Bear Week".

The message further announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2819) to make essential technical corrections to the Housing and Urban-Rural Recovery Act of 1983.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2878) to amend and extend the Library Services and Construction Act.

The message further announced that the House has passed the following bills and joint resolutions, in which it requests the concurrence of the Senate:

H.R. 3150. An act to direct the Secretary of Agriculture to convey, for certain specified consideration, to the Sabine River Authority approximately thirty-one thousand acres of land within the Sabine National Forest to be used for the purposes of the Toledo Bend project, Louisiana and Texas; and for other purposes;

H.R. 3971. An act to provide that any Osage headright or restricted real estate or funds which is part of the estate of a deceased Osage Indian who did not possess a certificate of competency at the time of death shall be exempt from any estate or inheritance tax imposed by the State of Oklahoma;

H.R. 5690. An act to amend title 18 of the United States Code, and for other purposes;

H.R. 5790. An act to amend the Consumer Product Safety Act to strengthen the authority of the Consumer Product Safety Commission over amusement devices;

H.R. 5832. An act to authorize two additional Assistant Secretaries for the Department of the Treasury;

H.R. 6224. An act to provide for the assumption of selected functions, programs, and resources of Saint Elizabeths Hospital by the District of Columbia, to provide for the establishment of a comprehensive mental health care system in the District of Columbia, and for other purposes;

H.R. 6234. An act to authorize the Secretary of the Interior to sell certain property located in Lake Sumner State Park, in the State of New Mexico;

H.R. 6299. An act to ensure the payment in 1985 of cost of living increases under the OASDI program in title II of the Social Security Act, and to provide for a study of certain changes which might be made in the provisions authorizing cost of living adjustments under that program;

H.R. 6300. An act to require that the President transmit to the Congress, and that the congressional Budget Committees report, a balanced budget for each fiscal year;

H.J. Res. 332. Joint resolution to designate the week beginning May 20, 1985, as "National Medical Transcriptionist Week";

H.J. Res. 636. Joint resolution to authorize and request the President of the United States to issue a proclamation designating the week commencing October 7, 1984, as "National Port Week"; and

H.J. Res. 638. Joint resolution designating October 1984 as "National Head Injury Awareness Month".

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 366. Concurrent resolution providing for printing of additional copies of the General Explanation of the Revenue Provisions of the Deficit Reduction Act of 1984.

MEASURES REFERRED

The following bills and joint resolutions were read the first and second times by unanimous consent, and referred as indicated:

H.R. 452. An act for the relief of Jerome J. Hartmann and Rita J. Hartmann; to the Committee on the Judiciary.

H.R. 1561. An act for the relief of Meals on Wheels of the Monterey Peninsula, Incorported; to the Committee on Finance.

H.R. 2050. An act for the relief of Gerald M. Hendley; to the Committee on the Judiciary.

H.R. 4387. An act for the relief of O. Edmund Clubb; to the Committee on the Judiciary.

H.R. 5790. An act to amend the Consumer Product Safety Act to strengthen the authority of the Consumer Product Safety Commission over amusement devices; to the Committee on Commerce, Science, and Transportation.

H.R. 6300. An act to require that the President transmit to the Congress, and that the congressional Budget Committees report, a balanced budget for each fiscal year; pursuant to the order of August 4, 1977, referred jointly to the Committee on the Budget and the Committee on Governmental Affairs.

H.J. Res. 332. Joint resolution to designate the week beginning May 20, 1985, as "National Medical Transcription Week"; to the Committtee on the Judiciary.

H.J. Res. 636. Joint resolution to authorize and request the President of the United States to issue a proclamation designating the week commencing October 7, 1984, as "National Port Weekend"; to the Committee on the Judiciary.

MEASURES PLACED ON THE CALENDAR

The Committee on Commerce, Science, and Transportation was discharged from the further consideration of the following bill, which was placed on the calendar:

H.R. 5585. An act to authorize appropriations for carrying out the Federal Railroad Safety Act of 1970, and for other purposes.

The Committee on Rules and Administration was discharged from the further consideration of the following

resolution; which was placed on the calendar:

S. Res. 139. Resolution disapproving the recommendation of the Study Group on Senate Practices and Procedures to abolish the Senate Committee on Veterans' Affairs.

The Committee on Energy and Natural Resources was discharged from the further consideration of the following bill, which was placed on the calendar:

H.R. 3331. An act to authorize the exchange of certain lands between the Bureau of Land Management and the city of Los Angeles for purposes of the Santa Monica Mountains National Recreation Area.

The following bill and joint resolution were read the first and second times by unanimous consent, and placed on the calendar:

H.R. 3150. An act to direct the Secretary of Agriculture to convey, for certain specified consideration, to the Sabine River Authority approximately 31,000 acres of land within the Sabine National Forest to be used for the purposes of the Toledo Bend project, Louisiana and Texas; and for other purposes; and

H.J. Res. 638. Joint resolution designating October 1984 as "National Head Injury Awareness Month."

The Committee on Energy and Natural Resources was discharged from the further consideration of the following bill, which was placed on the calendar:

H.R. 5787. An act to remove an impediment to oil and gas leasing of certain Federal lands in Corpus Christi, TX, and Port Hueneme, CA, and for other purposes.

The Committee on the Judiciary was discharged from the further consideration of the following bill; which was placed on the calendar:

H.R. 6286. An act to amend title 35, United States Code, to increase the effectiveness of the patent laws, and for other purposes.

MEASURES HELD AT THE DESK

The following bills were ordered held at the desk by unanimous consent:

H.R. 2568. An act to amend the Internal Revenue Code of 1954 to extend for 2 years the exclusion from gross income with respect to educational assistance programs, and for other purposes;

H.R. 3971. An act to provide that any Osage headright or restricted real estate or funds which is part of the estate of a deceased Osage Indian who did not possess a certificate of competency at the time of death shall be exempt from any estate or inheritance tax imposed by the State of Oklahoma;

H.R. 5361. An act to amend the Internal Revenue Code of 1954 to extend for one year the exclusion from gross income with respect to group legal services plans, and for other purposes;

H.R. 5386. An act to amend part A of title XVIII of the Social Security Act with respect to the payment rates for routine home care and other services included in hospice care;

H.R. 6112. An act to amend the Tax Equity and Fiscal Responsibility Act of 1982 with respect to the effect of the 1985 increase in the Federal unemployment tax rate on certain small business provisions contained in State unemployment compensation laws;

H.R. 5760. An act to declare that the United States holds in trust for the Cocopah Indian Tribe of Arizona certain land in Yuma County, AZ.

H.R. 6216. An act to amend the Bankruptcy Amendments and Federal Judgeship Act of 1984 to make technical corrections with respect to the retirement of certain bankruptcy judges, and for other purposes;

H.R. 6228. An act providing for an extension until April 21, 1992, of five patents relating to oral hypoglycemic drugs of the sulfonylurea class;

H.R. 6234. An act to authorize the Secretary of the Interior to sell certain property located in Lake Sumner State Park, in the State of New Mexico;

ENROLLED BILLS PRESENTED

The Secretary reported that on today, October 3, 1984, he had presented to the President of the United States the following enrolled bills:

S. 917. An act to direct the secretary of the Department of Transportation to conduct an independent study to determine the adequacy of certain industrial practices and Federal Aviation Administration rules and regulations, and for other purposes; and

S. 1841. An act to promote research and development, encourage innovation, stimulate trade, and make necessary and appropriate modifications in the operation of the antitrust laws.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with acccompanying papers, reports, and documents, which were referred as indicated:

EC-3847. A communication from the Administrator of the Health Care Financing Administration (HHS) transmitting, pursuant to law, a report on a new Privacy Act system of records; to the Committee on Governmental Affairs.

EC-3848. A communication from the Director of Selective Service transmitting, pursuant to law, a report on a computer matching program to identify S.S.S. registration violators; to the Committee on Governmental Affairs.

EC-3849. A communication from the manager for Personnel and Benefits, Farm Credit Banks of Spokane transmitting, pursuant to law, the 1982 and 1983 reports on the Twelfth Farm Credit District Retirement and Thrift Plans and the Incentive Deferred Compensation Plan; to the Committee on Governmental Affairs.

EC-3850. A communication from the Acting Administrator of the General Service Administration, transmitting, pursuant to law, the annual report for 1983 on the records disposition activities of the Federal Government; to the Committee on Governmental Affairs.

EC-3851. A communication from the Assistant Secretary of Health and Human Services for Health transmitting, purusant to law, a report on an altered Privacy Act system of records; to the Committee on Governmental Affairs.

EC-3852. A communication from the Chairman of the U.S. Merit Systems Protection Board transmitting, pursuant to law, a report entitled "Significant Actions of the Office of Personnel Management: A Labor-Management Dialogue"; to the Committee on Governmental Affairs.

EC-3853. A communication from the President of the Jewish War Veterans, USA National Memorial, Inc., transmitting, pursuant to law, the annual audit report of the corporation for 1984; to the Committee on the Judiciary.

EC-3854. A communication from the Attorney General of the United States transmitting, pursuant to law, a report on the recent awarding of the Young American Medals for Bravery for 1983; to the Committee on the Judiciary.

EC-3855. A communication from the Secretary of Education transmitting, pursuant to law, a report entitled "The Condition of Bilingual Education in the Nation, 1984"; to the Committee on Labor and Human Resources.

EC-3856. A communication from the Director of the Equal Employment Opportunity Commission transmitting, pursuant to law, the annual report for 1982 on employment of minorities, women, and the handicapped in the Federal Government; to the Committee on Labor and Human Resources.

EC-3857. A communication from the Secretary of Health and Human Services transmitting, pursuant to law, the annual report on the status of handicapped children in Head Start programs; to the Committee on Labor and Human Resources.

EC-3858. A communication from the Secretary of Health and Human Services transmitting, pursuant to law, the annual report for 1983 on the status and accomplishments of the Runaway and Homeless Youth Centers; to the Committee on Labor and Human Resources.

EC-3859. A communication from the Assistant Secretary of Defense for Manpower, Installations, and Logistics transmitting, pursuant to law, a secret report on the combat-to-support ratio of U.S. forces in Europe; to the Committee on Armed Services.

EC-3860. A communication from the Secretary of Defense transmitting, pursuant to law, a secret report relating to U.S. troop strength in Europe; to the Committee on Armed Services.

EC-3861. A communication from the Administrator of the Panama Canal Commission transmitting, pursuant to law, a report on a claim for damages to a vessel in transit through the canal; to the Committee on Armed Services.

EC-3862. A communication from the Secretary of Transportation transmitting, pursuant to law, a report on the status of the Nation's local public transportation, conditions, and performance; to the Committee on Banking, Housing, and Urban Affairs.

EC-3863. A communication from the Administrator of the Federal Insurance Administration transmitting, pursuant to law, a report on a plan to bring all communities containing flood risk zones into full program status by September 30, 1987; to the Committee on Banking, Housing, and Urban Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. PACKWOOD, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute:

H.R. 3942: A bill to provide for commercialization of expendable launch vehicles and associated services (Rept. No. 98-646).

● Mr. GORTON. Mr. President, I join my colleagues, Senator TRIBLE, the original Senate sponsor of this legislation, Senator HOLLINGS, the ranking Democrat on the Committee on Commerce, Science and Transportation, and Senator HEFLIN, the ranking Democrat on the Subcommittee on Science, Technology, and Space, in offering for consideration H.R. 3942, the Commercial Space Launch Act.

This bill, which represents compromise legislation worked out between the members of the Senate Subcommittee on Science, Technology, and Space and the House Subcommittee on Space Science and Applications, is an important step in providing the Department of Transportation with the exclusive licensing authority for commercial space launches. Consistent with an Executive order signed by the President in February 1984, H.R. 3942 would provide the Department of Transportation with the authority to expedite and facilitate a licensing process that has previously required a commercial launch operator to interact with as many as 18 Federal agencies and 22 different statutes. The Commercial Space Launch Act would allow the Secretary of the Department of Transportation, in consultation framework which would hasten, rather than hamper, the progress of this new commercial space activity.

Mr. President, the administration supports not only the privatization of expendable launch vehicles, but also the legislation before us that support this new initiative. I urge my colleagues to accept by unanimous consent H.R. 3942, the Commercial Space Launch Act, in order to help create a climate that encourages increased private sector investment and involvement in commercial space activities and to help maintain U.S. preeminence in space.●

● Mr. HOLLINGS. Mr. President, I would once again like to compliment the distinguished chairman and ranking member of the Subcommittee on Science, Technology, and Space for their work in getting H.R. 3942, the Commercial Space Launch Act, to the floor and to indicate my support for this measure.

Mr. President, I have long been an ardent advocate of commercial space launch legislation and am pleased to see this measure nearing enactment. As the chairman and ranking member know, I was an original cosponsor of S. 2931, the original Senate bill that has been incorporated into H.R. 3942, the House-passed version of the Commercial Space Launch Act. I also was the author of the first commercial space launch bill introduced in the 98th Congress, S. 560, and was a cosponsor of a similar measure in the 97th Congress.

My support for this measure is based on a long-held belief that there are increasing commercial and economic opportunities for commercial space activities. In particular, I believe that commercial space launch activities are commercially viable and that every effort must be made to clarify the rules of the game early on to create a stable decisionmaking and regulatory environment for commercial space launch firms.

Mr. President, H.R. 3942 takes a giant step in that direction by creating a one-stop licensing process for commercial space launch activities within the Department of Transportation and by promoting the use and acquisition of excess Government launch property and services.

I applaud the committee's efforts and the timely manner in which this legislation was considered. I also would like to compliment and chairman and ranking member of the House Science and Technology's Subcommittee on Space Science and Applications, Congressmen VOLKMER and LUJAN for initiating consideration of this measure and for their cooperation in working out the final details of this act.

Mr. President, I intend to support H.R. 3942 and ask the support of my colleagues for this important space commercialization initiative.●

● Mr. HEFLIN. Mr. President, I would like to compliment the distinguished chairman of the Subcommittee on Science, Technology, and Space, Senator GORTON, for the able job he has done with this legislation, and I would like to indicate my support for the Commercial Space Launch Act, H.R. 3942.

Mr. President, this legislation is another indication of the committee's continued support of space commercialization and privatization activities and another sign of the phenomenal opportunities that have emerged from the Nation's civilian space program. Mr. President, in a space of 25 years NASA has taken the U.S. civilian space program from the drawing board to the Moon and back, and in the course of this journey has created endless jobs and job opportunities. Now NASA is ready to bid farewell to their matured expendable launch vehicle systems, and the private sector is well-positioned to adopt these systems. In addition, the private sector is ready to develop their own launch capabilities. The combined affect of these commercialization and privatization activities should be a viable private sector launch industry and another opportunity for economic growth.

Mr. President, in framing the Commercial Space Launch Act, the committee was forced to deal with a variety of public health and safety, safety of property, national security and foreign policy interests. Despite the fact this bill was not referred to the committee until early June, every effort was made to get a clear understanding of these issues. Endless meetings were held with representatives of the Federal Government, commercial space launch firms and the user community. The results are combined in H.R. 3942, a bill that does much to regulate and promote the commercial space launch industry whilst protecting vital national interests.

In particular, there are two issues that deserve mentioning: The issue of the relationship of this act to other laws and international obligations and the relationship of this act to ongoing good-faith negotiations.

Mr. President, let me just say that I have long been an ardent advocate of States rights. However, I realize that to some degree, in this particular case, States rights need to be abridged.

In establishing a Federal licensing regime and in promoting commercial space launch activities, it was clear to the members of this committee that a State should not be able to arbitrarily preclude such activities. The "inconsistency standard" was adopted as the best possible remedy to a difficult situation. However, I think it necessary to say that such a standard is not meant to leave States unprotected. To the extent such orders, laws, rules, standards, or regulations are not inconsistent with this act, any State can adopt an order, law, rule, standard, or regulation that is more stringent and consistent with the act.

As for the relationship of the provisions of this act to ongoing good faith negotiations, I will only say that a very difficult decision had to be made. Simply put, the committee had to decide at what point ongoing good faith negotiations had to be protected from the terms and conditions promoted in this legislation. Mr. President, this was a most difficult decision. However, I do feel that the committee's position is well founded and that the standard created in section 25(b) of this bill is the best possible and most judicious remedy.

Mr. President, I have long been supportive of this Nation's civilian space program, and I will continue to support that program. More importantly, I will continue to work to expand the commercial applications of space technologies and to usher in the era of space commercialization. H.R. 3942 is an important step toward this overall goal. I support this measure and ask for the support of my colleagues in enacting this legislation.●

By Mr. ROTH, from the Committee on Governmental Affairs:

Special Report on a Profile of Organized Crime (with additional views) (Rept. No. 98-657).

● Mr. ROTH. Mr. President, on behalf of the Senate Committee on Governmental Affairs, I submit a report of its Permanent Subcommittee on Investigations entitled "Profile of Organized Crime: Great Lakes Region."

This report reflects the continuing efforts by the Permanent Subcommittee on Investigations to identify problems encountered by Federal law enforcement authorities in combating organized crime. The report updates the status of organized criminal activity in the Great Lakes region and discusses the concerns raised by several law enforcement officials as to the current focus of the U.S. Department of Justice Organized Crime Strike Forces.

During the hearings held earlier this year on the Great Lakes region, several local, county, and State police criticized the Federal focus on traditional organized crime or La Cosa Nostra and expressed their concern that too much emphasis was being placed on it by Federal officials in major urban areas and too little time spent on the smaller communities, which are also being plagued with organized criminal activity.

Tragically, organized crime has reached a level where it affects the daily lives of countless individuals throughout the country. But, recently, the Federal strike force program has enjoyed some remarkable successes—particularly in the area of traditional organized crime and labor racketeering. For these, the Justice Department and the Labor Department are to be congratulated. Although the subcommittee heard testimony in 1984 from some Ohio officials who believe more Federal emphasis must be devoted to small communities, I personally believe that State and local law enforcement people cannot expect the Federal Government to solve all of their problems. Moreover, it seems clear from the testimony of Criminal Division officials Jack Keeney and David Morgolis that the strike force concept has long since progressed beyond the notion that only the La Cosa Nostra should be targeted. This report emphasizes the subcommittee's belief that a broad definition of organized crime is required.

The report also addresses the problem of criminal involvement in the hazardous waste disposal industry in the Great Lakes region. Although the report notes that no direct link was found between traditional organized crime and the industry in this region, the report does identify the vulnerability of the industry to such influences. The reckless, illegal disposal of toxic waste is of major concern to us all. The potential harm to our society from this unconscionable behavior is staggering.

This report is part of a series of reports prepared by the minority staff under the direction of the subcommittee's ranking minority member, Senator SAM NUNN, and I commend Senator NUNN and his staff for their work on this project.●

● Mr. NUNN. Mr. President, the Permanent Subcommittee on Investigations today is issuing its report of public hearings on organized criminal activity in the Great Lakes States of Ohio, Michigan, Illinois, and adjacent areas.

Most of the preliminary inquiry leading to the January and February 1984 hearings was conducted by the subcommittee's minority staff under my direction and in coordination and cooperation with the majority staff under Chairman ROTH, who filed the report today. In profiling organized crime in the Great Lakes region, the report follows and complements the subcommittee's July 1984 report on organized crime in the Mid-Atlantic region.

Hearings by the Investigations Subcommittee into organized crime in the Great Lakes region revealed the existence of a debate within law enforcement over the issue of what is the best allocation of Federal law enforcement resources in combating organized crime. In testimony from local, county, State, and Federal law enforcement officials, two questions were raised time and again. First, are Federal law enforcement authorities in the Great Lakes region focusing too much of their investigative and prosecutive resources on La Cosa Nostra crime groups and their accomplices and neglecting the investigation of other major organized crime groups? And, second, are Federal antiorganized crime programs, particularly the Federal strike forces, giving sufficient attention to certain smaller but significant urban areas such as the Mahoning Valley in Ohio?

No one suggests that the La Cosa Nostra crime groups do not constitute a great menace to American society. One only has to read of the recent arrest of 366 La Cosa Nostra members in Italy who were allegedly tied to narcotics smuggling here in the United States to realize the serious threat of this crime conspiracy.

But, what this report points out, is that in areas of the United States such as the Great Lakes region, La Cosa Nostra figures and their accomplices do not dominate all of the underworld. A number of States, county, and local law enforcement officials testified that other significant organized crime groups often operate with few or no ties to La Cosa Nostra. Equally important, a number of police spokesmen said that even in their focus on La Cosa Nostra groups, Federal officials often tend to center their activities in cities like Clevland and Detroit when smaller communities such as Youngstown, OH have La Cosa Nostra gangs which are also firmly entrenched, and have been for many years.

Justice Department officials acknowledge that there is more to organized crime than La Cosa Nostra and its accomplices. They told the subcommittee that the subcommittee that the La Cosa Nostra gangs in some cities—Detroit and Cleveland, for example—are in a weakened condition. But, they said, these gangs are weak today due to the success of programs like the Federal strike force effort. Although, as the FBI has pointed out, in the past La Cosa Nostra families have been decimated by law enforcement or by violent gang warfare, they have managed to bounce back with an infusion of youthful leadership and regain their former levels of criminal effectiveness. Moreover, their national and international ties render them a real threat to society and deserving of special attention.

Certainly in some cities, such as Chicago, they remain a major problem to be accorded high priority by law enforcement agencies. Nevertheless, the subcommittee believes there is some merit to the proposal that Federal antiorganized crime programs be reviewed and that, in some areas such as Ohio and Michigan, serious consideration be given to the possibility that there may be too much focus on La Cosa Nostra groups and their accomplices and that there may be too much investigative and prosecutive concentration in big cities and not enough in smaller communities.

In testimony giving rise to these recommendations, Federal, State, and local law enforcement officials portrayed the varied and changing nature of organized crime in the Great Lakes region. In Cleveland, we heard of successful Federal law enforcement efforts against traditional organized crime families and the uncertain future of those families. Yet in Youngstown, a mere 90 miles away, we heard of the strength and entrenched power of organized crime families, relatively unharmed by any Federal enforcement effort. In Columbus and Akron, OH, we heard of the frustrations of State and local law enforcement in vying for Federal attention to significant nontraditional organized crime groups. In Detroit, we heard of an aging and increasingly nonviolent La Cosa Nostra family, whose presence no longer posed the most serious threat to law enforcement. By contrast, we heard of the rising importance of emerging organized crime groups in Detroit and the lack of Federal strike force interest in the problems generated by those groups.

Adding to the controversy over the Justice Department's priorities in the organized crime field was a confiden-

tial survey conducted by the subcommittee minority staff of 30 past and present strike force prosecutors and investigators in December 1983 and early January 1984. The respondents, who were promised anonymity, have a total of 256 years of service in law enforcement, or an average of 8.5 years each.

Twenty-nine of the thirty respondents said the overwhelming majority of their offices' cases were against La Costa Nostra members and their accomplices; and that this was a policy directed by the Justice Department in Washington. Twenty-six of the 30 respondents said they had firsthand, direct knowledge of instances in which the strike force did not investigate reputed major organized crime cases because they did not have a La Cosa Nosta connection. Twenty-three respondents felt the strike forces' preoccupation with La Cosa Nostra-related crime was not a wise and correct policy. Twenty-two said the strike forces investigated organized crime in the major metropolitan areas but were not attentive to similar activities in the outlying regions.

As I pointed out at the hearings, the survey was not the first choice of the subcommittee as a means of gathering information about the effectiveness, efficiency, and economy of strike force operations. But it was the only way, because the Justice Department generally refuses to allow field personnel to testify before the subcommittee, a policy with which the subcommittee continues to disagree.

In light of all those facts, the report recommends that the Justice Department and Congress review the Federal strike force program with an eye toward the possible need to expand its horizons beyond the La Cosa Nostra groups and their accomplices. The report also recommends that the Justice Department consider using the strike force mechanism in communities such as Youngstown, OH, where organized crime groups have been alleged to be exercising influence in public policy matters such as the selection of police chiefs. The mayor of Youngstown, well respected leaders of a bipartisan citizens reform league and other civic spokesmen from Youngstown came before the subcommittee and asked for Federal assistance in ridding their community of organized crime. It is the subcommittee's view that the requests from the mayor and his colleagues were sincere and deeply felt. The subcommittee recommends that appropriate Federal authorities give them prompt and serious consideration.

In addition, all strike forces should establish formal lines of communication with law enforcement in outlying communities within their jurisdiction. Testimony at these hearings indicated many instances where this had not been the case in the Great Lakes region. It was obvious to the members of this subcommittee that the absence of cooperation and coordination between Federal and State law enforcement agencies has hindered our fight against organized crime in parts of Great Lakes region. If we in Government want to responsibly combat organized crime, then, we must ourselves be as organized as our opponents. The recommendations in this report are designed to help law enforcement do precisely that.●

By Mr. THURMOND, from the Committee on the Judiciary, without amendment:

H.R. 597: A bill to amend sections 2733, 2734, and 2736 of title 10, United States Code and section 715 of title 32, United States Code, to increase the maximum amount of a claim against the United States that may be paid administratively under those sections and to allow increased delegation of authority to settle and pay certain of those claims, and for other purposes.

By Mr. PACKWOOD, from the Committee on Commerce, Science, and Transportation, without amendment:

S. Res. 464: An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 3942.

By Mr. STAFFORD, from the Committee on Environment and Public Works, without amendment:

S. Res. 465: An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to consideration of H.R. 5464; referred to the Committee on the Budget.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. THURMOND, from the Committee on the Judiciary:

Howard D. McKibben, of Nevada, to be U.S. District Judge for the District of Nevada.

Mr. HATCH, from the Committee on Labor and Human Resources:

Nam Pyo Suh, of Massachusetts, to be an Assistant Director of the National Science Foundation;

Rita R. Colwell, of Maryland, to be a Member of the National Science Board, National Science Foundation, for a term expiring May 10, 1990;

Linda M. Combs, of North Carolina, to be Deputy Under Secretary for Management, Department of Education.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly contituted committee of the Senate.)

By Mr. TOWER, from the Committee on Armed Services:

Mr. TOWER, Mr. President, from the Committee on Armed Services, I report favorably the following nominations:

In the Navy there is 1 promotion to the grade of captain (Michael L. Coats), in the Air Force there is 1 promotion to the grade of colonel (Richard M. Mullane), in the Air Force Reserve there is 1 appointment to the grade of colonel (Hiram B. Curry), in the Air National Guard there are 23 promotions to the grade of lieutenant colonel (list begins with Fred M. Bastion, Jr.), in the Air Force Reserve there are 846 promotions to the grade of lieutenant colonel (list begins with Robert D. Adams), in the Army there are 75 appointments to the grade of colonel and below (list begins with Margarette D. Dibenedetto), in the Navy there are 355 permanent promotions to the grade of chief warrant officer W-3 and W-4 (list begins with James David Acoba), and in the Army there are 64 appointments to the grade of brigadier general (list begins with Marvin G. O'Connell). Since these names have already appeared in the CONGRESSIONAL RECORD and to save the expense of printing again, I ask unanimous consent that they be ordered to lie on the Secretary's desk for the information of any Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The nominations ordered to lie on the Secretary's desk were printed in the RECORDS of September 17 and September 28, 1984, at the end of the Senate proceedings.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. HEINZ (for himself, Mr. RANDOLPH and Mr. PERCY):

S. 3047. A bill to amend the Trade Act of 1974; to the Committee on Finance.

By Mr. INOUYE:

S. 3048. A bill for the relief of Ms. Kikuko Satake; to the Committee on the Judiciary.

By Mr. MATHIAS:

S. 3049. A bill for the relief of John M. Sandstrand; to the Committee on the Judiciary.

By Mr. QUAYLE:

S. 3050. A bill to amend the Internal Revenue Code of 1954 to simplify the tax system by providing for a low rate progressive schedule and other purposes; to the Committee on Finance.

By Mr. GRASSLEY (for himself, Mr. BOSCHWITZ, Mr. DURENBERGER, Mr. DANFORTH, Mr. EAGLETON, and Mr. GLENN):

S. 3051. A bill granting the consent of Congress to the Midwest Interstate Compact on Low-level Radioactive Waste Management; to the Committee on the Judiciary.

By Mr. HEINZ (for himself and Mr. MOYNIHAN):

S. 3052. A bill to exclude certain Housing and Urban Development project notes from provisions of the Deficit Reduction Act of 1984 relating to private activity bonds; to the Committee on Finance.

By Mr. DANFORTH:

S. 3053. A bill to amend the Motor Vehicle Information and Cost Savings Act to provide for the appropriate treatment of meth-

anol, to establish a technology research program to study methanol powered vehicles, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. ZORINSKY:

S. 3054. A bill to amend section 2236 of title 10, United States Code, to increase the maximum contribution that may be made by the Federal Government toward the cost of construction of an armory by any State; to the Committee on Armed Services.

By Mr. MELCHER:

S. 3055. A bill to authorize the establishment of the Lewis and Clark National Historic Site in the State of Montana; to the Committee on Energy and Natural Resources.

By Mr. CHAFEE:

S. 3056. A bill to establish a comprehensive work program for recipients of aid to families with dependent children, consisting of redirection projects for teenage mothers, supported work programs, and improvements in the work incentive program; to the Committee on Finance.

By Mr. SPECTER:

S. 3057. A bill to amend the Internal Revenue Code of 1954 to extend the energy conservation investment tax credit to new diesel-electric locomotives; to the Committee on Finance.

By Mr. BYRD:

S. 3058. A bill for the relief of Ray M. Reed; to the Committee on the Judiciary.

By Mr. GORTON (for himself and Mr. DURENBERGER):

S. 3059. A bill to amend the Congressional Budget and Impoundment Control Act of 1974 to impose limits on aggregate Federal outlays, and for other purposes; pursuant to the order of August 4, 1977, referred jointly to the Committee on the Budget and the Committee on Governmental Affairs.

By Mr. HATCH:

S. 3060. A bill to provide for contribution of damages attributable to an agreement by two or more persons to fix, maintain, or stabilize prices under section 4, 4A, or 4C of the Clayton Act; to the Committee on the Judiciary.

By Mrs. HAWKINS (for herself and Mr. MATHIAS):

S. 3061. A bill to amend the Internal Revenue Code of 1954 to clarify the extent to which a State or political subdivision thereof may tax certain income from sources outside the United States; to the Committee on Finance.

By Mr. HEINZ:

So. 3062. A bill to deal with imputed interest rates; to the Committee on Finance.

By Mr. SPECTER:

S. 3063. A bill to amend title 18, United States Code, including; the Child Protection Act, to create remedies for children and other victims of pornography, and for other purposes; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. PACKWOOD from the Committee on Commerce, Science, and Transportation:

S. Res. 464. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 3942; to the Committee on the Budget.

By Mr. STAFFORD, from the Committee on Environment and Public Works:

S. Res. 465. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to consideration of H.R.5464; to the Committee on the Budget.

By Mr. GORTON (for himself, Mr. SYMMS, Mr. NICKELS, Mr. ABDNOR, Mr. ANDREWS, Mr. TOWER, Mrs. KASSEBAUM, Mr. GRASSLEY, Mr. EXON, Mr. DURENBERGER, Mr. CHAFEE, Mr. WILSON, Mr. LUGAR, and Mr. BOSCHWITZ):

S. Res. 466. Resolution expressing the sense of the Senate that the Customs Service should suspend for a period of at least 6 months the interim regulations issued on August 3, 1984, which change the standards and procedures for U.S. imports of textiles and apparel; to the Committee on Finance.

By Mr. ROTH (for himself, Mr. MATTINGLY, Mr. WILSON, Mr. DECONCINI, Mr. CHILES, Mr. MATSUNAGA, Mr. RANDOLPH, Mr. KENNEDY, Mr. STEVENS, Mr. COHEN, Mr. LAXALT, Mr. GLENN, Mr. PRYOR, Mr. GOLDWATER, Mr. RUDMAN, Mr. EAST, Mr. RIEGLE, Mr. NUNN, Mr. D'AMATO, Mr. PERCY, Mrs. KASSEBAUM, Mr. DURENBERGER, Mr. MCCLURE, Mr. WARNER, Mr. QUAYLE, Mr. EAGLETON, Mr. METZENBAUM, Mr. JEPSEN, and Mr. CRANSTON):

S. Res. 467. Resolution expressing the appreciation of the Senate to members of the entertainment industry, especially the Entertainment Industries Council, for their concern over the drug problem in America, and urging the industry to undertake a comprehensive program to Communicate to the citizens of the United States the dangers of drug abuse; to the Committee on the Judiciary.

By Mr. BAKER (for himself and Mr. BYRD):

S. Res. 468. Resolution to direct the Senate Legal Counsel to appear as amicus curiae in "Dr. Paul Kurtz v. William J. Barrett, Public Printer (Acting), et. al."; considered and agreed to.

S. Res. 469. Resolution to direct the Senate Legal Counsel to represent Reverend Richard C. Halverson in "Dr. Paul Kurtz v. Donald T. Regan, Secretary of the Treasury, et al."; considered and agreed to.

S. Res. 470. Resolution directing the Senate Legal Counsel to represent the Subcommittee on Alcoholism and Drug Abuse in obtaining a Writ of Habeas Corpus Ad Testificandum; considered and agreed to.

S. Res. 471. Resolution to direct the Senate Legal Counsel to intervene in "Production Steel, Inc. v. Bethlehem Steel; Corporation, et al."; considered and agreed to.

By Mr. BAKER (for Mr. ROTH, for himself, Mr. MATTINGLY, Mr. WILSON, Mr. DECONCINI, Mr. CHILES, Mr. MATSUNAGA, Mr. RANDOLPH, Mr. KENNEDY, Mr. STEVENS, Mr. COHEN, Mr. LAXALT, Mr. GLENN, Mr. PRYOR, Mr. GOLDWATER, Mr. RUDMAN, Mr. EAST, Mr. RIEGLE, Mr. NUNN, Mr. D'AMATO, Mr. PERCY, Mrs. KASSEBAUM, Mr. DURENBERGER, Mr. MCCLURE, Mr. WARNER, Mr. QUAYLE, Mr. EAGLETON, and Mr. METZENBAUM):

S. Res. 472. Resolution expressing appreciation of the Senate to members of the entertainment industry, especially the Entertainment Industries Council, for their concern over the drug problem in America, and urging the industry to undertake a comprehensive program to communicate to the citizens of the United States the dangers of drug abuse.

By Mr. CHAFEE:

S. Con. Res. 146. Concurrent resolution reaffirming the commitment of the United States to the treaty between the United States and the Union of Soviet Socialist Republics on the limitation of anti-ballistic missile system, and for other purposes; to the Committee on Foreign Relations.

By Mr. DODD:

S. Con. Res. 147. Concurrent resolution expressing the support of the Congress for Costa Rica's neutrality and urging the President to support such neutrality; to the Committee on Foreign Relations.

By Mr. GORTON (for himself, Mr. BAUCUS, Mr. COCHRAN, and Mr. HEINZ):

S. Con. Res. 148. Concurrent resolution relating to the consequences of the recent Interstate Commerce Commission decision to approve the acquisition of American Commercial Lines by CSX Corp.; to the Committee on Commerce, Science, and Transportation.

By Mr. BAKER (for Mr. WALLOP):

S. Con. Res. 149. Concurrent resolution directing the Secretary of the Senate to make corrections in the enrollment of S. 543; considered, and agreed to.

By Mr. BAKER (for Mr. HATCH):

S. Con. Res. 150. Concurrent resolution directing the Secretary of the Senate to make corrections in the enrollment of S. 2303; considered and agreed to.

S. Con. Res. 151. Concurrent resolution to correct technical errors in the enrollment of the bill H.R. 4164; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. QUAYLE:

S. 3050. A bill to amend the Internal Revenue Code of 1954 to simplify the tax system by providing for a low rate progressive schedule, and for other purposes; to the Committee on Finance.

SELF TAX PLAN ACT

● Mr. QUAYLE. Mr. President, today I am introducing a modified version of my SELF tax reform act; a plan I first introduced in May 1982, and which is presently before this chamber as S. 1040. Congressman RICHARD SCHULZE, a member of the House Ways and Means Committee is today offering a companion bill in that Chamber.

We believe this bill provides a model for personal income tax simplification. Our plan incorporates modifications to S. 1040 that I listed in a floor statement earlier this year on June 12:

SELF retains current law deductions for home mortgage interest, charities, medical expenses, IRA's, Keoughs, and other retirement plans.

SELF retains current law treatment of State and local bonds.

SELF indexes all rate schedules, exemptions, and zero bracket amounts to inflation and SELF will tax income at rates of 0, 15, 24, and 30 percent.

SELF provides zero bracket amounts of $6,000 for individuals and $10,000 for married taxpayers.

SELF will eliminate the marriage penalty by permitting optional separate filing by two-earner married couples.

THE CONSENSUS FOR REFORM

The issue of tax reform is not high on the national agenda. Since the President called for revamping the Federal tax system with a "historic reform for fairness, simplicity, and incentives for growth" in his 1984 State of the Union Address, dozens of reform proposals have sprouted on Capitol Hill. I am proud to have been the first in the Senate to introduce over 2 years ago, a major proposal for tax reform—the SELF tax plan. SELF incorporates what I believe should be the guiding principles of any Tax Code; simplicity, efficiency, low rates, and fairness. Although I believe SELF best meets these criteria, I also think it is significant that all the major reform proposals introduced after it strive for the same goals. We will have performed for the American taxpayer a great service, regardless of which proposal is enacted finally, as long as debate progresses to the point where the question is what kind of tax reform, and not whether to have tax reform. It is my hope that the President's treasury study, due in December, will propel Congress toward this much needed tax reform.

REASONS FOR TAX REFORM

The U.S. tax code represents a major impediment to continued American productivity and prosperity. A combination of punitively high marginal tax rates and hundreds of special exclusions, credits, exemptions, and deductions have an inappropriate distortive effect on individual economic decisions. Our current tax system wrongly induces individuals to consume rather than to save, and to invest in housing and other durable goods rather than financial investments that could lead to further economic growth.

The foundation of any tax reform must be a reduction in the top marginal income tax rate. Lower marginal tax rates have vital, far-reaching economic benefits for all income classes. Low rates encourage individual entrepreneurship, discourage tax avoidance, and allow individuals to make decisions on work, savings, and investments without regard to distorting tax rates.

I believe SELF serves as a model of a comprehensive personal income tax principally because it aims to eliminate the current distortions of high marginal tax rates by lowering the top marginal tax rate to 30 percent and broadening the tax base.

SELF could lower marginal tax rates even further or provide more tax incentives targeted to worthwhile social goals, but I prefer to contribute to the debate over tax reform a bill that reflects certain principles and political realities.

SELF is designed specifically to meet three critical political objectives: revenue neutrality, vertical equity and fairness. I believe that the size of Federal budget deficits will prevent Congress from considering seriously tax reform that would reduce Federal revenues significantly. For this reason, SELF was designed to be revenue neutral: to raise virtually the same amount of revenues as under current law. SELF also leaves undisturbed the present distribution of tax liability across income classes and gives due consideration to the hard working poor of America who are least able to pay.

Consequently, SELF completely circumvents the inevitable debate between tax reformists and their opponents about deficits and fairness, and allows us to address this critical issue on its own merits of efficiency and simplicity. If, as a result of bipartisan negotiation, others are willing to accept slightly higher deficits or a little less progressivity in exchange for a further few tax preferences to encourage saving and investment, I will not object. One such savings preference which we would endorse is favorable treatment of capital gains. A 33-percent capital gains income exclusion in SELF would retain the current 20-percent maximum rate and encourage savings.

CORPORATE TAXES

Enactment of changes in the personal income tax, as outlined in the SELF plan, would require some adjustments in corporate tax law. It would be unadvisable, for instance, to maintain corporate tax rates at their current level of 46 percent, while lowering rates on noncorporate business competitors to 30 percent. Such a divergence of rates and rules would encourage unproductive gamesmanship in order to avoid taxation.

Even the most minor changes in corporate taxation, such as would be required by SELF, can have unintended competitive and costly transitionary effects however. These problems are compounded in some of the tax proposals now before Congress. It is my fear that the confusion and apprehension over the effects of these changes on corporations could cause personal tax reform to fall by the wayside. Rather than risk this I have chosen not to confound tax reform by presenting a corporate tax plan at this time. Rather, I will be spending the coming months reviewing with business leaders and economists potential reforms in corporate income taxation consistent with those principles incorporated in SELF: greater simplicity, efficiency, lower rates, and more equity between assets and industries.

I would like to share with you now, however, what I believe should be the fundamental objectives of corporate tax reform. The primary goal of reform ought to be tax neutrality. The present system taxes long-term structures at significantly higher effective rates than shorter term equipment. This results in uneven tax burdens among industries. Under 1981 law, effective corporate tax rates ranged from minus 12.6 percent on commercial banks to plus 39.7 percent on apparel companies. This dispersion of 52.3 percentage points distorts the efficient allocation of capital to specific industries. Higher tax rates on plant and long term assets, such as equipment, discourage modernization and technological advancement, and have therefore contributed to the obsolescence of American plant and industry. The simplest way to restore tax neutrality would be to eliminate the investment tax credit and most other special tax preferences. This would raise the cost of corporate capital, however, thus requiring offsetting exclusions or rate reductions to restore overall capital incentives. One exclusion consistent with tax neutrality would be the elimination of the double taxation of dividends. Current law discourages equity financing because interest is deductible, but dividends are not. Allowing dividends to be deducted from corporate income would reduce the cost of equity capital and remove a significant distortion in corporate financing.

The top corporate tax rate should be roughly equal to the top personal rate to discourage individuals from shifting resources from corporate to noncorporate status to avoid taxes.

Implementation of all these goals, a top 30-percent rate, tax neutrality, a lower cost of capital, and the elimination of the double taxation of dividends—would entail a significant revenue loss, however. Some economists have suggested that a national sales tax or value added tax could be implemented on a temporary basis to compensate for these shortfalls. To be truthful, I am not convinced that we would be better off with a national sales tax than with reduced revenues and an efficient tax system. A sales tax sounds economically attractive. In fact, it may be too attractive—allowing Congress a permanent vehicle to raise more taxes.

SIMPLICITY

The driving force behind tax reform is the public's desire for simplicity. True—we need to reform the code to improve administrative and economic efficiency—but it is the perceived complexity and unfairness of the Tax Code that upsets individual taxpayers. To the extent that simplicity requires the wholesale elimination of tax expenditures and allows us to lower rates, it also brings us the beneficial derivatives of efficiency and fairness.

I believe that it is essential that individuals be able to understand the basic

requirements of the tax law and how to file their own returns. Our current code is a helter-skelter maze that confuses and discourages the average taxpayer. It lacks any semblance of horizontal equity. Although two-thirds of all taxpayers do not itemize, they find it difficult to understand a system that allows neighbors making the same income to pay thousands of dollars less in taxes because they know how to take advantage of some loopholes.

Current law is so complicated that not even the IRS is able to render consistently reliable interpretations of it. Ralph Nader's tax reform research group ran a test some years ago in which the tax data for a nonexistent couple with one child was submitted to 22 IRS offices around the country. Incredibly, each office came up with a different result, ranging from a refund of $811.96 to an underpayment of $52.14—a difference of $864.10.

While in 1954, only 18 percent of taxpayers used tax return preparers, now, more than 50 percent of all taxpayers employ professional help. But did this increase the accuracy of tax returns? No, because not even professionals can nail down the capricious nature of the code.

A 1980 IRS survey showed that 7.4 percent of all tax forms were in error—more than twice the 3.2-percent rate of 1953. Even three-fourths of all low income returns with itemized deductions contain errors. Meanwhile, the Office of Management and Budget—OMB—estimates that over 300 million man-hours a year are spent compiling personal tax forms, and over 650 million more Government hours are spent administering and monitoring the code every year. Yet, the IRS estimates that the system's complexity and burden encourages errors and tax avoidance that cost the Treasury over $95 billion per year.

One way to deal with the growing problem of tax evasion and avoidance is to lower marginal tax rates, thus lowering the cost to the taxpayer of complying with the intent of the Internal Revenue Code. One recent study of returns covering the period 1954 to 1982 showed that there is an extraordinarily strong correlation between effective marginal income tax rates and the number of returns filed. The IRS became aware of nearly 3,000 additional millionaires after the top marginal rate was lowered from 70 to 50 percent in 1981.

The principal of simplicity requires more than lower rates, however. It also requires that the Tax Code be purged of all but the most general and vital exclusions and deductions.

We must, of course, ask ourselves "at what price simplicity?" There are some deductions that are necessary to the maintenance of traditional American values, such as those for home mortgage interest, charities, and medical expenses. Others, such as IRA's and Keoughs, actually increase aggregate savings by increasing tax neutrality. While SELF allows these deductions, it draws the line at tax preferences that encourage saving, but which distort tax neutrality and reduce the tax base by targeting savings to specific investments—or which actually reduce aggregate savings by requiring higher marginal tax rates to recoup lost revenues.

EFFICIENCY

SELF is efficient in several ways. SELF intends to promote economic efficiency—to reduce the burden and role of taxation on individual economic decisions through lower rates and a broader base. An efficient system must do more than promote economic growth, however. It must also meet the raison d'etre of any tax system: it must raise adequate revenues.

On this score, the Joint Committee on Taxation has analyzed the SELF tax plan and released its finding that SELF would be virtually revenue neutral, yielding only $5.6 billion or 1.2 percent less than the current personal income tax law. I cannot imagine that we could carry out such major reform with any greater neutrality. Conversely, I don't think we will be able to carry out reform at all if we don't begin with a plan that is revenue neutral.

SELF is also efficient because it broadens the tax base, by eliminating most deductions and exclusions. Broadening the base is essential if we are to increase the neutrality and simplicity of the code and reduce avenues of avoidance and distortion. Income exclusions encourage individuals to invest in tax-free goods and services and to underestimate their true income. For instance, high tax rates and special treatment of fringe benefits have encouraged an erosion of the taxable base and inefficient investment in nontaxable employer provided benefits. These benefits now equal more than 20 percent of employee compensation—double what they were 20 years ago and rising.

LOW RATES

Even with the great Kennedy and Reagan tax cuts, over the last 20 years Federal tax policy has had two simultaneous—and regrettable—results: The upward creeping of marginal tax rates and the constriction of the tax base.

In 1960, less than 3 percent of the population was burdened by marginal tax rates in excess of 30 percent but, by 1981, more than 34 percent of Americans were so burdened. It is no wonder that over the years individuals and special interests have lobbied Congress for special tax preferences. The number of exemptions allowed against the income tax has doubled in the last 15 years. Unfortunately, the more Congress yielded to demands for additional tax preferences, the more Congress found it necessary to raise marginal tax rates in order to recoup lost revenues. This in turn only made more attractive special interest pleas for relief from ever higher tax rates.

SELF aims to reverse this degenerative cycle. I believe that the best way to reduce the role of taxation on individuals and their economic decisions is primarily through the reduction of tax rates and secondarily through the elimination of all but the most vital tax exclusions and exemptions. SELF cuts the top marginal tax rate 40 percent—reducing it to 30 percent on married couples with incomes over $45,000.

The efficacy of low rates has been demonstrated by the 1981 Economic Recovery Tax Act tax cuts. Instead of closing loopholes, Congress pursued tax reform in that bill by reducing the top marginal tax rate 28 percent—from 70 to 50 percent. So high is the penalty on taxable income at these rates that recently released data from the IRS showed that the share of income taxes paid by this group has actually increased. That data yields further credence to the theoretical arguments that marginal rates of taxation over 30 percent are counterproductive, and that the real way to soak the rich is to lower their rates and broaden the base.

There is no progress to be made by raising rates on the wealthy. Consider, for example, that if the Federal Government taxed at rates of 100 percent—confiscated—all personal taxable income over $60,000, the deficit would be reduced by no more than $33 billion. Of course, even this assumes that such individuals would continue to earn and report income over $60,000.

I believe that we need to continue along the Kennedy-Reagan path. The recently followed path of loophole closing without rate reductions is quickly approaching political and economic points of diminishing marginal returns. This past summer Congress spent hundreds of hours on the Deficit Reduction Act with the goal of reducing tax loopholes and increasing revenues. Can we continue on this course? I believe it will be more difficult to eliminate the remaining tax expenditures one at a time. I also question whether such marginal reductions can really increase revenues significantly. Cut off from one tax shelter, highly taxed investors will not fall back to submitting revenue to Uncle Sam. Instead, they will merely transfer resources to the next available shelter.

FAIRNESS

The fairness issue represents a potentially significant roadblock to tax reform. Although there is no economic theory to support, or philosophical principle to define, vertical equity as a standard for taxation, the undeniable

political fact is that no matter how efficient or simple tax reform may promise to be, it will never materialize if it upsets the political balance incorporated in our current system.

On this count, a Joint Committee on Taxation analysis has shown that SELF has an equal number of winners and losers across the income spectrum, and that SELF would leave virtually undisturbed the current distribution of tax liability by income class. Those taxpayers who would be most affected by SELF are those in the $10,000 to $20,000 range and they would have their aggregate tax burden reduced by 7.6 percent. At the other end of the spectrum, the largest increase in any income class would be a 4.6-percent rise in taxes paid by those in the $50,000 to $75,000 income range. Most significantly, despite a 40-percent cut in their top marginal tax rates those with incomes in excess of $100,000 would have their tax burdens reduced only 3.6 percent.

There is more to fairness than political expediency, however. Taxing the poor is just plain unfair. It takes money from those who need it to survive and provides perverse economic constraints. A recent study by Arthur Laffer demonstrated that the working poor face marginal income taxes as high as 278 percent because every dollar they earn reduces their welfare benefits and is taxed at rates in excess of 11 percent. By eliminating taxes on individuals with incomes less than $7,000 as well as on couples with two children with incomes less than $14,000, SELF eliminates much of this marginal tax on the working poor. SELF encourages the poor to work—without cutting back their benefits.

CONCLUSION

Next year, the Congress must finally undo the grip of the special interests and act on the need for tax simplification. By then the Treasury Department study ordered by President Reagan will be available, and I expect that the SELF-tax plan will be more widely viewed as the fairer, simpler, more efficient tax system that the American taxpayer deserves and the American economy requires.

TABLE 1.—DISTRIBUTION OF TAX LIABILITIES UNDER PRESENT (1982) LAW AND THE SELF TAX

[Income and payroll tax]

Expanded income in thousands of dollars	Tax liability		Change	
	Current in billions of dollars	SELF tax in billions of dollars	In billions of dollars	Percent
0 to 10	53.13	54.68	1.54	2.9
10 to 20	78.40	72.44	−5.97	−7.6
20 to 30	101.88	98.75	−3.13	−3.1
30 to 40	79.97	80.15	0.18	0.2
40 to 50	45.37	46.16	0.79	1.7
50 to 75	39.72	41.56	1.83	4.6
75 to 100	15.71	16.32	0.60	3.8
100 to 200	22.16	21.77	−0.39	−1.8
200	18.40	17.37	−1.03	−5.6
Total [1]	454.76	449.20	−5.57	−1.2

[1] May not add due to rounding.

TABLE 2.—SHARE OF TOTAL TAX PAID BY EACH INCOME CLASS UNDER PRESENT (1982) LAW AND SELF TAX

Expanded income (in thousands of dollars)	Percent of distribution		
	Current	SELF Tax	Change
0 to 10	11.68	12.17	0.49
10 to 20	17.24	16.13	−1.11
20 to 30	22.40	21.98	−0.42
30 to 40	17.59	17.84	0.25
40 to 50	9.98	10.28	0.30
50 to 75	8.73	9.25	0.52
75 to 100	3.45	3.63	0.18
100 to 200	4.87	4.85	−0.02
200	4.05	3.87	−0.18
Total [1]	100.0	100.0	0.00

[1] May not add due to rounding.

TABLE 3.—TAX INCREASES AND DECREASES UNDER THE SELF TAX

[1981 income levels; compared to 1984 present law]

Expanded income (in thousands of dollars)	Tax decrease		Tax increase	
	Returns (millions)	Average amount (dollars)	Returns (millions)	Average amount (dollars)
0 to 10	14.41	226	36.38	132
10 to 20	19.51	402	4.98	376
20 to 30	11.56	579	5.64	633
30 to 40	5.08	772	4.25	966
40 to 50	2.02	1,158	2.08	1,501
50 to 75	1.16	1,848	1.57	2,537
75 to 100	.35	3,255	.39	4,470
100 to 200	.35	7,382	.27	8,113
200	.09	37,015	.07	36,790
Total [1]	54.55	611	55.62	500

[1] May not add due to rounding.●

By Mr. GRASSLEY (for himself, Mr. BOSCHWITZ, Mr. DURENBERGER, Mr. DANFORTH, Mr. EAGLETON, and Mr. GLENN):

S. 3051. A bill granting the consent of Congress to the Midwest Interstate Compact on Low-Level Radioactive Waste Management; to the Committee on the Judiciary.

CONSENT OF CONGRESS TO THE MIDWEST INTERSTATE COMPACT ON LOW-LEVEL RADIOACTIVE WASTE MANAGEMENT

● Mr. GRASSLEY. Mr. President, on behalf of my State of Iowa and other States privy to this regional compact, I am pleased to introduce, by request, the Midwest interstate low-level radioactive waste compact. I am joined in introducing this bill by Senator BOSCHWITZ, Senator DURENBERGER, Senator DANFORTH, Senator EAGLETON, and Senator GLENN.

All of the States privy to this agreement—Iowa, Indiana, Michigan, Minnesota, Missouri, Ohio, and Wisconsin—have ratified the terms of this bill.

As mandated by the terms of the Low-Level Radioactive Waste Policy Act (Public Law 96-573), all regional compacts must receive prior congressional consent before enactment. Pursuant to the Senate rules, the Judiciary Committee has jurisdiction over interstate compacts generally. Currently four compacts, Northwest, Central, Southeast, and Rocky Mountain, have been referred to the Committee on the Judiciary. Hearings have been held by Chairman STROM THURMOND in connection with these four compacts.

I should note that Chairman THURMOND, one of the authors of the Low-Level Radioactive Waste Policy Act of 1980, has been very diligent in his efforts to move these compacts to full consideration by the Senate. He has been nevertheless willing to acknowledge concerns voiced by other members of the committee. It is a difficult balance to strike but one which the chairman has managed with his usual insight and finesse.

Not surprisingly, one of the concerns raised by States that do not have a disposal site within the boundaries of their compact, is the timetable mandated by the 1980 act. The act provides that as of January 1, 1986, those States with compacts ratified by Congress can bar waste from outside their regions. The concern then becomes, what happens to regional compacts like the Midwest compact, that have no access to depository sites? Because it takes from 3 to 5 years to develop a new waste facility it is already too late for these States to have disposal sites operational by the January 1, 1986, deadline. It is unlikely that Congress will ratify the compacts without some access provision for States that are making a good-faith effort to comply with the terms of the act.

In addition to the issue of access to existing disposal sites after 1981, several other concerns have been raised that Congress must be alert to in its review of the various compacts. For example, we must develop a uniform definition of low-level waste. Additionally, we must examine provisions regarding types of generators, inspection programs, exportation prohibitions, identification and certification requirements, transportation requirements, and provisions dealing with shared liability provisions. While this is not an exhaustive list of issues that need to be resolved, I have highlighted some concerns that I have heard.

It is likely that a hearing will be conducted on this compact. That will be an opportune time to form a record on the issue listed above. I am hopeful that we can resolve these issues quickly so as to achieve Congress' Low-Level Radioactive Waste Policy Act objective and its effective system of disposal, as soon as possible.●

By Mr. HEINZ (for himself and Mr. MOYNIHAN):

S. 3052. A bill to exclude certain Housing and Urban Development project notes from provisions of the Deficit Reduction Act of 1984 relating to private activity bonds; to the Committee on Finance.

TAX TREATMENT OF CERTAIN HUD PROJECT NOTES

● Mr. HEINZ. Mr. President, today I am introducing on behalf of Senators D'AMATO, MOYNIHAN, and myself, legislation to delay a provision of the Deficit Reduction Act of 1984 which threaten the future financing of public housing for low-income Americans.

Section 628 of the Tax Reform Act of 1984 made obligations that were tax exempt because of noncode statutes tax-exempt only if they met the appropriate requirement of sections 103 (b), (c), (h), (k), (l), and (n) and 103A of the Internal Revenue Code. Among the obligations affected by this provision are those issued by local public housing agencies of finance public housing projects. These obligations previously were tax exempt under the U.S. Housing Act of 1937. Section 628 applies to public housing obligations issued after June 19, 1984.

No time at all, therefore, was provided in the Tax Reform Act to work out transition problems. The three primary problems involve the applicability of section 103(c) of the IRC, which denies tax exemption to arbitrage bonds; the probable need to modify the procedures used to sell the obligations, which typically involved the aggregation of the notes is several local agencies into a single issue; and the continued tax exemption of obligations issued to finance public housing on Indian land.

Approximately $2.78 billion in obligations were issued under HUD's auspices after June 19 without regard to the provisions of section 628 of the Tax Reform Act and another $1.15 billion was about to be issued when the potential problems posed by section 628 were brought to HUD's attention by the private sector. HUD suspended all further note issuance in late August and began negotiations with Treasury to determine the manner of compliance with section 628. The suspension is still in effect and the transition issues are still unresolved. The suspension affects the financing of new projects, modernization of existing projects, and the refinancing of approximately $15 billion in outstanding short-term notes.

At the local level, failure to issue notes for new construction has caused serious disruption of plans. In the Pittsburgh area, for example, West Mifflin Manor, the turnkey public housing development for the elderly, is nearly ready for occupancy. This 107-unit project cannot go ahead, however, because of HUD's refusal to issue a note in the amount of $5,317,000. If this note is not issued soon, the developer will face additional interest expenses and the cost of the project will, of course, increase. Two more Allegheny County senior citizen high rises, located in Springdale and Penn Hills, may also be affected unless the bond problem in swiftly resolved.

The public housing program has for almost 50 years been a primary source of housing for low-income families and a major source of housing on Indian reservations. Under the program, local public agencies develop and operate housing units, which they have either constructed, rehabilitated, or acquired. Since many existing projects are aging, a major part of the current program is the modernization of these projects.

Financing for development or modernization is essentially a joint venture between HUD and the local agencies. Development of new projects is done in two ways—conventional, in which the local agency is responsible for the construction of the project; and turnkey, in which a private developer finances and builds a project at the request of the agency and sells the project to the agency at completion. Under the conventional method, temporary financing during the planning and construction phase is provided typically through direct HUD loans during the early stages when the amounts needed are small and then by the issuance of short-term tax-exempt notes by the local agency. Enough funds are included in each issuance to cover anticipated construction costs over a 6-month period and to refinance any previous HUD loans or previous notes. The funds are invested by the local agency until they are needed to pay construction expenses. The interest earned is subtracted from the estimated costs over the succeeding 6-month period when the next issue of notes is approved by HUD. Local agencies also earn interest on the traditional 10-percent holdback from the contractor until final acceptance of the project, but that income also serves to reduce the principal of the next note issue. Modernization projects are similarly financed, except that until now HUD permitted agencies to use investment income for any purpose. Under the turnkey method, notes are not issued until project completion and there is usually little opportunity for investment of the proceeds.

HUD guarantees the repayment of short-term notes by entering into a commitment to make a direct loan to a local agency which then can be pledged as security for the repayment of the agency's notes. Notes are not amortized, as interest is capitalized and added to the principal of the issue. After the completion of a project, HUD is supposed to refinance the short-term notes with long-term tax-exempt bonds issued by the agency, which generally have a term of 30 years for development projects and 20 years for modernization projects. HUD guarantees the repayment of these bonds by entering into an annual contributions contract to pay the principal and interest payments as they become due. Since 1974, however, HUD has not replaced short-term construction notes with long-term tax-exempt bonds, primarily because of longstanding administration efforts to refinance short-term notes by taxable notes sold to the Federal Financing Bank. For a brief period notes were authorized by the Congress to be refinanced by the bank but that approach has since been rejected by the Congress. Accordingly, at the completion of construction, short-term notes have been continually rolled over, thus accounting for the large volume of outstanding notes that must be refinanced about once a month. While the notes are not amortized, annual contributions are set aside by HUD on the basis of a 30-year amortization schedule and serve to reduce the amount of the refinancing notes.

Since the short-term notes that matured in September—approximately $1.5 billion—could not be refinanced by the issuance of new notes, HUD was required by its guarantee to retire the notes by making direct loans to the local agencies. The amount of these loans is treated as budget authority and as outlays in fiscal year 1984 in the Federal budget. In addition, the loans bear a higher interest rate than the agency notes, which will add to the budget impact of the program. Additional notes will mature on October 2 and again late in October in the amount of about $3 billion. The President can authorize unlimited lending authority without the need for congressional approval.

As of this date, HUD is not using its loan authority to fund new projects or modernization and all such activity has stopped.

With respect to the arbitrage issue, HUD has submitted various scenarios to Treasury as to how it would finance new developments and modernization in order to obtain a favorable ruling from the IRS. The major change proposed by HUD from previous policies will make it impossible for agencies to generate any investment income from modernization notes or to issue excessive notes. It is believed that the arbitrage limitations, as applied to the public housing program, can be complied with.

We are concerned with the potential impact of this requirement on smaller housing and redevelopment agencies, as well as smaller projects. We would encourage the development of regulations to allow these issuers to issue notes that conform to section 103, in a cost-efficient manner. These regulations, while meeting all relevant requirements, could utilize a certification process that would be relatively easy to implement, and would reduce the cost of public housing.

Mr. President, we are not seeking repeal of section 628. Rather, we are asking the Congress to direct HUD and IRS to promulgate regulations on this issue by a date certain. At the same time, we seek a postponement of section 628 as it applies to public housing obligations until the promulgation of workable regulations and the establishment of procedures by IRS necessary to effectuate them. We believe that the establishment of an adequate transition period will permit the continuation of a deserving program, subject to the restrictions intended by section 628, without needlessly adding to the Federal deficit.

Mr. President, I ask that the text be printed at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3052

Be it enacted by the Senate and House of Representatives of the United States of America in Congress, assembled,

SECTION 1. AMENDMENT OF DEFICIT REDUCTION ACT OF 1984, RELATING TO HUD PROJECT NOTES.

(a) HUD PROJECT NOTES.—Section 632 of the Deficit Reduction Act of 1984 is amended by adding new subsections at the end thereof as follows:

"(h) EXCEPTION OF HUD PUBLIC HOUSING PROJECT NOTES.—

"(1) IN GENERAL.—Notwithstanding any other provisions of this subtitle, the amendments made by this subtitle shall not apply to any obligation which bears or is accompanied by the certificate of the Secretary of Housing and Urban Development and as to which the full faith and credit of the United States is pledged to the payment of amounts agreed to be paid by the Secretary of Housing and Urban development pursuant to section 11(a) of the United States Housing Act of 1937, and which is issued prior to that date which is 30 days after the date on which the regulations prescribed under paragraph (2) are published in the Federal Register.

"(2) APPLICATION.—The Secretary of the Treasury, or his delegate shall prescribe regulations which clarify and specify the application of, and facilitate compliance with, the second sentence of paragraph (1) of section 103(m) of the Internal Revenue Code of 1954 with respect to obligations described in paragraph (1) of this subsection.

"(i) EXCEPTIONS FOR HUD URBAN RENEWAL PROJECT NOTES.—Notwithstanding any other provisions of this subtitle, the amendments made by this subtitle shall not apply to any obligations issued prior to September 1, 1984, with respect to which the Secretary of Housing and Urban Development has contracted to make payments and to such payments the full faith and credit of the United States is pledged pursuant to section 102(c) of the United States Housing Act of 1949.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) of this section is effective as of July 18, 1984, with regard to any taxable year, such that the tax exemption of interest on the obligations described in such amendment heretofore or hereafter accrued or paid shall not be adversely affected by the Deficit Reduction Act of 1984.●

● Mr. MOYNIHAN. Mr. President, I rise today to speak in support of a bill to solve a problem created by the Tax Reform Act of 1984, one that could cripple the Nation's public housing programs.

Section 628 of that Tax Reform Act transferred the authority under which local public housing agency obligations are determined to be tax exempt, from the Secretary of Housing and Urban Development to the Secretary of Treasury and the Internal Revenue Service. The Tax Reform Act of 1984 also imposed new restrictions on tax-exempt bonds, including new arbitrage requirements. While these changes seem, at first reading, uncomplicated and fully justified as sound tax policy, they have had serious and unintended consequences.

Pending resolution by HUD and Treasury of the substantive and procedural issues by the transfer of authority, HUD has suspended the sale of public housing obligations. These obligations, these public housing bonds, include those necessary to refinance approximately $15 billion in short-term public housing notes that mature every 90 days to 1 year, plus obligations to finance the necessary modernization of existing public housing units and development of new projects.

Mr. President, HUD's suspension of these sales of public housing notes has disrupted local housing projects in New York and around the country. Because maturing notes cannot now be rolled over, HUD has had to retire the notes by making direct loans. These loans have already added more than $1 billion in unanticipated outlays to the 1984 budget, and will add many billions more in outlays to the 1985 budget—unless and until the direct loans can be refinanced through a resumption of tax-exempt note sales. In addition, since HUD's new loans bear higher interest rates than do tax-exempt public housing notes, several hundred million dollars in additional budget authority and eventual outlays will result. Moreover, additional transactional and operational costs will be borne by the local and public housing agencies administering the 40-year-old public housing program.

This legislation would delay the effective date of section 628 of the Tax Reform Act of 1984, so as to give HUD and the Treasury the opportunity to work out the transition problems relating to these public housing project notes. With additional time, I hope that an orderly transition can be accomplished—one that will not disrupt the public housing program or add to the Federal deficit.

I urge my colleagues to join me in supporting the prompt passage of the bill.●

By Mr. DANFORTH:

S. 3053. A bill to amend the Motor Vehicle Information and Cost Savings Act to provide for the appropriate treatment of methanol, to establish a technology research program to study methanol-powered vehicles, and for other purposes; to the Committee on Commerce, Science, and Transportation.

METHANOL VEHICLES INCENTIVES ACT

● Mr. DANFORTH. Mr. President, this Nation has been trying for the last decade to free itself from its dependence on imported oil. Our need for oil is so great that our economic well-being and national security have become linked to the stability of the Persian Gulf. We have set aside billions of dollars for the development of synthetic fuels, and we have spent billions more to build up the strategic petroleum reserve.

This has been called an energy crisis. But we do not face a shortage of energy; our ability to produce electricity domestically has virtually no long-term limits. Instead, we face a shortage of liquid fuels, primarily for transportation. Transportation uses consume more than 60 percent of the oil used in this country.

And yet there exists a liquid fuel that is available in excess supply, that could be produced domestically in nearly inexhaustible quantities, that is a proven transportation fuel, that can be used in ordinary automobiles, and that can be delivered through our existing distribution network with only minor modifications. That fuel is methanol.

Methanol burns so efficiently that race cars use it at the Indianapolis 500. Methanol burns more cleanly than gasoline, producing less of the nitrogen oxide emissions that are believed to contribute to acid rain. And methanol can be delivered at a price today that is competitive with gasoline.

In my judgment, we need to begin an effort to convert a portion of your automobile fleet to methanol. Such an effort would have positive consequences for our national security, for our domestic economy, and for our environment. It is for these reasons that I am today introducing the Methanol Vehicles Incentives Act of 1984. I am doing so this late in the session in order to alert other Senators and the public of my interest in this subject and my hope to pursue it further next year in the Committee on Commerce, Science, and Transportation, and to solicit comments and suggestions before that time.

Methanol should not be confused with ethanol, even though both are alcohols. Ethanol is made from corn or agricultural wastes and is known as grain alcohol. Methanol is known as wood alcohol; it can be made from biomass, but currently is made from natural gas and coal. Both are now used as octane enhancers with gasoline, but only tax incentives keep ethanol economically viable. Additionally, the size

of its raw material base makes it unlikely that ethanol could ever make a major contribution to our transportation fuel needs. In contrast, methanol is currently available for about 40 cents a gallon and has a raw material base large enough to enable it to displace gasoline altogether.

At the present time, methanol is primarily used as a chemical feedstock; it is an import source of formaldehyde for use in plywood and other building materials. Virtually all of it is produced from natural gas, with the major exception being a coal-to-methanol plant opening last year by Tennessee Eastman. A major expansion of the methanol market would lead to increasing use of coal as a source; however, natural gas can meet the demand for methanol for the foreseeable future. Indeed, an enormous amount of excess methanol capacity exists in the world today; Du Pont recently halted production at a major facility in Beaumont, TX, because of the glut.

As a transportation fuel, methanol has only about half the energy per gallon of gasoline, but burns more efficiently. As a result, cars designed to run on methanol are expected to go about 60 to 80 percent as far per gallon as comparable gasoline-powered cars.

The California Energy Commission and the Bank of America each are conducting major fleet tests of methanol cars, with excellent results to date. The major remaining question methanol cars must face is their ability to start in cold weather. The results are not satisfactory for cars using pure methanol, and the methanol car of the future will run on a blend consisting of approximately 85 percent methanol combined with gasoline and other additives to improve lubrication and cold-start performance.

Methanol-powered cars have been shown to operate significantly more cleanly than gasoline-powered cars. Emissions of nitrogen oxides and hydrocarbons are reduced substantially. Emissions of formaldehyde would increase but can be controlled by a catalytic converter or similar device.

Mass production of methanol vehicles would not pose significant problems for American automakers. Some rubber parts and metal coatings must be replaced, the carburetor must be adjusted, and larger gas tanks may be desirable. However, the cost impact would be minor to nonexistent.

What, then, is preventing more widespread use of methanol? Inertia. For very good reason, automakers are unwilling to produce cars for which there is no current demand. Consumers are unwilling to purchase cars for which there is no readily available fuel supply. And service stations are unwilling to provide fuel for cars that are not on the road. In my judgment, Government action is needed to overcome the impasse.

The Methanol Vehicles Incentives Act of 1984 would encourage the production and use of methanol vehicles in several ways. It would offer an incentive to auto manufacturers by basing fuel economy ratings on the amount of gasoline consumed by a car. It would direct the executive branch to acquire 5,000 methanol-powered automobiles in each of the next 3 years and to fuel those vehicles, whenever practicable, at public service stations. It would provide grants to State and local agencies to purchase a like number of vehicles. And it would provide grants for the purchase of 50 methanol-powered buses for each of the next 3 years.

The fuel economy provision is particularly significant. Fuel economy standards were enacted particularly to reduce our dependence on petroleum, not on fuel generally, and should encourage, not discourage, the use of methanol. This legislation would accomplish that end. To illustrate, suppose a particular gasoline-powered car gets 30 miles a gallon. When converted to methanol, it might get only 20 miles a gallon. If that car runs on a blend of 90 percent methanol and 10 percent gasoline, it is getting 20 miles per gallon of the blend, but 200 miles per gallon of gasoline. The last figure is the significant one, and that is how the car would be rated for the purpose of computing corporate average fuel economy. Indeed, for administrative ease, a methanol-powered automobile would be deemed to operate on a blend that is 10 percent gasoline. Such a change would allow Detroit to produce big cars and high-performance cars—markets it has historically dominated but has had difficulty competing in recently because of the need to cut gasoline consumption. Consumer labels, however, would show the actual fuel economy of the vehicle.

The Federal fleet purchase contained in the act, in the words of Energy Secretary Hodel, "would demonstrate the benefits of methanol as a clean alternative fuel." I ask unanimous consent that a copy of a letter dated May 7, 1984, from Secretary Hodel to the President be included in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF ENERGY,
Washington, DC, May 7, 1984.

The PRESIDENT,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: The Cabinet Council Working Group on Methanol, which you established in January, is having continued success. In fact, considerable bipartisan Congressional interest has developed on the use of methanol as an alternative fuel in part as a result of your initiative.

Methanol offers considerable promise as part of a program to achieve both energy self-sufficiency and improved air quality. However, there are some technical difficulties, such as corrosion and cold weather ignition, that must be ironed out before methanol can be widely used by consumers: a Federal pilot project will help expedite this process.

I would like to suggest that we expand on the momentum already generated. This could be achieved by directing the Executive Branch to purchase up to 5000 "methanol" cars a year for five years, to be placed in 5 to 10 locations around the country. The projects would demonstrate the benefits of methanol as a clean alternative fuel.

The projects will also prove that an alternative fuel such as methanol can not only provide superior driving performance to gasoline and diesel at a lower cost per mile, with less pollution, but that as an alternative to gasoline it will decrease our dependence on imported oil and increase our energy security.

Respectfully,

DONALD PAUL HODEL.

Mr. DANFORTH. Mr. President, the State grant program would double the number of methanol vehicles involved in the demonstration and would have the additional benefit of wide geographic dispersion, providing information on vehicle performance under a wide variety of conditions and creating outlets for methanol supply upon which a nationwide network could later be built.

Finally, development of a major automotive market for methanol would stimulate the Nation's coal industry in an environmentally acceptable way. In my own State of Missouri, we have an abundance of coal. But most of it has such a high sulfur content, it is unacceptable for utility use. Since sulfur extraction is a necessary part of the coal-to-methanol process, such coal could be used to meet our energy needs without contributing to excess sulfur loadings in the atmosphere.

Mr. President, methanol can be produced inexpensively and burned efficiently. It can reduce our dependence on foreign suppliers of oil to the vanishing point, with important economic and strategic consequences. It can reduce the pollution of our skies and stimulate our domestic economy. I believe we should move forward quickly to stimulate the development and growth of an automotive market for methanol.

I ask unanimous consent that a copy of the bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3053

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Methanol Vehicle Incentives Act of 1984".

FINDINGS

SEC. 2. The Congress finds that—

(1) transportation uses account for more than 60 percent of the oil consumption of the Nation;

(2) continued reliance on imported oil is detrimental to the economy and security of the United States;

(3) methanol is a proven transportation fuel that burns more cleanly and efficiently than gasoline; and

(4) conversion of a portion of the transportation fleet of the Nation to methanol would stimulate development of a domestic coal-to-methanol industry, create jobs, reduce air pollution, and enhance national security.

PURPOSES

SEC. 3. The purposes of this Act are to—

(1) provide for the appropriate application of fuel economy standards to methanol powered automobiles;

(2) establish a technology research program to demonstrate the benefits of methanol powered vehicles to all levels of government; and

(3) increase the availability of methanol and methanol powered vehicles to consumers.

MANUFACTURING INCENTIVES FOR METHANOL POWERED AUTOMOBILES

SEC. 4. The Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1901 et seq.) is amended—

(1) in section 501 (15 U.S.C. 2001) by adding at the end thereof the following new paragraphs—

"(15) The term 'methanol mixture' means the mixture of methanol with other fuel, if any, used to operate a methanol powered automobile.

"(16) The term 'methanol powered automobile' means an automobile designed to operate on not less than 85 per centum methanol."; and

(2) in section 503(d) (15 U.S.C. 2003(d)) by adding at the end thereof the following new paragraphs—

"(4) If a manufacturer manufactures methanol powered automobiles, the fuel economy shall be based on the fuel content of the methanol mixture used to operate such automobiles. For purposes of this section, a gallon of the methanol mixture used to operate such automobiles shall be considered to contain one-tenth of a gallon of fuel.

"(5) For the purpose of labeling under section 506 (15 U.S.C. 2006), the EPA Administrator shall determine the fuel economy of a methanol powered automobile to be one-tenth of the fuel economy of such automobile as calculated under this subsection.".

METHANOL POWERED VEHICLE TECHNOLOGY RESEARCH PROGRAM

SEC. 5. The Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1901 et seq.) is amended by adding at the end thereof the following new section:

"METHANOL POWERED VEHICLE TECHNOLOGY RESEARCH PROGRAM

"SEC. 513. (a) As used in this section the term—

"(1) 'acquire' means to purchase, or to lease for a period of sixty continuous days or more;

"(2) 'methanol powered vehicle' means a methanol powered automobile or any other vehicle designed to operate on not less than 85 per centum methanol; and

"(3) 'executive agency' has the same meaning as such term has for purposes of section 105 of title 5, United States Code.

"(b)(1) The Secretary shall acquire not less than five thousand methanol powered vehicles during the fiscal year beginning on October 1, 1985, and each of the following two fiscal years.

"(2) Upon the request of the head of any executive agency, the Secretary may provide vehicles acquired pursuant to paragraph (1) to such agency. Any executive agency receiving such a vehicle, shall pay to the Secretary, for each vehicle received, an amount not to exceed the cost of a comparable gasoline powered vehicle.

"(3) The Secretary shall study the performance of methanol powered vehicles acquired under paragraph (1). Such study shall include, but not be limited to—

"(A) an evaluation of the performance of methanol powered vehicles in cold weather;

"(B) a study of the fuel economy, safety, and emissions of methanol powered vehicles; and

"(C) a comparison of the operation and maintenance costs of methanol powered vehicles to the operation and maintenance costs of other vehicles.

"(4) Any executive agency using a methanol powered vehicle shall cooperate with the Secretary in conducting the study under paragraph (3).

"(5) Upon request of the Secretary, the head of any executive agency is authorized to detail, on a reimbursable basis, any of the personnel of such agency to the Department of Transportation, to assist the Secretary in carrying out his duties under this section.

"(6) Any executive agency purchasing methanol for use under this program shall, whenever practicable, purchase methanol at locations where methanol is available for sale to the public for use in other vehicles.

"(7) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this subsection.

"(c)(1) The Secretary is authorized to make grants to any State or local government agency for the acquisition of methanol powered automobiles, in the amount of $1,000 for each methanol powered automobile to be acquired.

"(2) Any State or local government agency desiring to receive a grant under paragraph (1) shall submit an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require. Each such application shall provide assurances that—

"(A) funds provided under this subsection will be used only in accordance with the provisions of this subsection;

"(B) no less than twenty-five methanol powered automobiles will be acquired within a fiscal year by the State or local government agency;

"(C) the State or local government agency will submit an annual report to the Secretary concerning the items to be studied under subection (b) (3); and

"(D) any other reasonable assurances or arrangements will be performed which the Secretary determines are necessary to carry out the objectives of this subsection.

"(3) There are hereby authorized to be appropriated $5,000,000 for the fiscal year beginning October 1, 1985, and each of the following two fiscal years, to carry out the provisions of this subsection.

"(d) The Secretary shall submit annual reports of the actions taken and findings made under this section to the Congress.".

METHANOL POWERED BUS DEMONSTRATION PROGRAM

SEC. 6. (a) The Urban Mass Transportation Act of 1964 (49 U.S.C. 1601 et seq.) is amended by adding at the end thereof the following new section:

"METHANOL POWERED BUS DEMONSTRATION PROGRAM

"Sec. 23. (a) The Secretary shall carry out a demonstration program in accordance with this section for the acquisition and testing of methanol powered buses. To carry out such program, the Secretary shall, to the extent of available appropriations, make grants for the acquisition of not less than fifty methanol powered buses during each of the fiscal years 1986, 1987, and 1988.

"(b) Any recipient eligible to receive a grant under any other provision of this Act for the acquisition of a bus may elect to participate in the demonstration program under this section. Such recipient shall apply for—

"(1) a grant under such other provision for the acquisition of a methanol powered bus, which grant shall not exceed the Federal share of an amount equal to the cost of a comparable non-methanol powered bus (as determined by the Secretary); and

"(2) a supplemental grant under this section for 100 per centum of the amount, if any, by which the cost of a methanol powered bus (as determined by the Secretary exceeds the cost described in paragraph (1) of this subsection.

All the provisions of such other provision shall apply to each such grant, except, as determined by the Secretary to be inconsistent with this section.

"(c) Any recipient of a grant under this section shall agree to permit the Secretary to conduct the studies and tests required by subsection (d).

"(d) The Secretary shall conduct studies and tests of the methanol powered buses which are acquired with grants under this section. Such studies and tests shall include, at a minimum—

"(1) tests of the performance of such buses, including the performance of such buses in cold weather;

"(2) studies of the fuel economy of such buses, the safety of using methanol as bus fuel, the safety of methanol powered buses, and the emissions of such buses; and

"(3) a comparison of the operation and maintenance costs of such buses with the operation and maintenance costs of other buses.

"(e) The Secretary is authorized to provide to any recipient of a supplemental grant under this section technical assistance in the acquisition of methanal powered buses.

"(f) For purposes of this section, the term 'methanol powered bus' means a bus designed to operate using a fuel composed of at least 85 per centum methanol.

"(g)(1) There are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1986, 1987, and 1988 for making supplemental grants under subsection (b)(2) of this section.

"(2) There are authorized to be appropriated for each of the fiscal years 1986, 1987, and 1989 such sums as may be necessary to conduct the studies and tests required by subsection (d).".

(b)(1) The Secretary of Transportation shall submit reports of the actions taken and findings made under this section to the House of Representatives and Senate no

later than September 30 of 1986, 1987, 1988, and 1989.

(2) A final report summarizing all actions taken and findings made under this section shall be submitted to the House of Representatives and Senate no later than October 15, 1989.●

By Mr. ZORINSKY:

S. 3054. A bill to amend section 2236 of title 10, United States Code, to increase the maximum contribution that may be made by the Federal Government toward the cost of construction of an armory by any State; to the Committee on Armed Services.

COST SHARING FOR ARMORY CONSTRUCTION COSTS

● Mr. ZORINSKY. Mr. President, today I am introducing a bill to begin the process of examining the current Federal/State cost-sharing arrangement for the construction of certain Army National Guard and Air National Guard facilities; 10 U.S.C. 2231-2238 are the applicable sections of the United States Code regarding facilities for Reserve components for the military. Of particular note are the following sections:

SECTION 2233. ACQUISITION

(A) Subject to sections 2233A, 2234, 2235, 2236, and 2238 of this title and subsection (c) of this section, the Secretary of Defense may—

(4) contribute to any State such amounts for the acquisition, construction, expansion, rehabilitation, or conversion by it of additional facilities as he determines to be required by any increase in the strength of Army National Guard of the United States or the Air National Guard of the United States;

(5) contribute to any State amounts for the acquisition, construction, expansion, rehabilitation, and conversion by such State of such additonal facilities as the Secretary determines to be required because of the failure of existing facilities to meet the purposes of this chapter;

SECTION 2236. CONTRIBUTIONS TO STATES; OTHER USE PERMITTED BY STATES

(b) A contribution made for an armory under section 2233(a) (4) or (5) of this title may not be more than 75 percent of the cost of the construction to which it is applied. For the purpose of computing the cost of construction under this subsection, the amount contributed by the State may not include the cost or market value of any real property that it has contributed.

In short, sections 2233(a) (4) and (5) provide for Federal contributions to the States to construct Air and Army National Guard facilities required by any increase in strength or by the failure of existing facilities to meet the purposes set out in section 2231. Section 2236(b) provides that such contributions shall be limited to 75 percent of construction costs, which is defined to exclude the value of the real property required to be donated by the States.

Mr. President, I do not believe that many will seriously argue that substantial Federal contributions for the construction of Reserve facilities are unwarranted. Indeed, the current law is premised on the conclusion that State Guard units play an important role in the overall readiness capabilities of our military force structure, and that they will continue to do so. The conventional wisdom is that the role of the National Guard structure will become an even more important component of our national defense in the future, and accordingly, increased expenditures for construction of Guard facilities may be necessary.

The question I raise is whether the current 75-percent Federal share of these costs is sufficient considering the conflicting trends of increased future reliance on the National Guard, increasingly restrictive State spending levels for construction, and the substantial contributions the States already make in the forms of site-prepared land, armory equipment, and maintenance costs for many years. It is noteworthy, for example, that 10 U.S.C. 2236(b) specifically prevents the States from including the value of the real property they donate for Guard facilities in their contributions.

Mr. President, it is obvious that it would be impossible for the Senate to give proper consideration to this bill in what we all hope to be the waning hours of the 98th Congress. Indeed, we would not have nearly enough information available at this point, even if we had the time. My purpose in introducing this bill is to put the Senate on notice that the current Federal/State cost-sharing arrangement for constructing certain Army and Air National Guard facilities may be out of step with the needs of the States, and that we need to review the economic ramifications of the current formula.

In order to do this, we need more information. In conjunction with the introduction of this bill, I am requesting the General Accounting Office to examine the present cost-sharing arrangement and assess the impact, now and in the future, of that arrangement on the States. I hope that the GAO will be able to investigate this matter and submit a report by next January, when I plan to introduce this bill or a modified version thereof in the opening days of the 99th Congress. In the meantime, I would like my colleagues to generate their own opinions regarding the magnitude of this problem. I urge my fellow Members of the Senate to contact their home State officials, and to consider various solutions if changes are warranted. I would welcome the views of my colleagues on this proposal, and urge them to make their suggestions known to me as they see fit.

Mr. President, I appreciate the attention of the Senate in this matter, and I look forward to addressing these issues in greater detail when we reconvene in January.●

By Mr. CHAFEE:

S. 3056. An act to establish a comprehensive work program for recipients of aid to families with dependent children, consisting of redirection projects for teenage mothers, supported work programs, and improvements in the work incentive program; to the Committee on Finance.

WORK PROGRAM REFORM ACT

● Mr. CHAFEE. Mr. President, work training and placement programs are viewed as an increasingly important component of our Nation's welfare system. Over the past few years, States and localities have tested a number of alternative approaches to finding work for welfare recipients: job search, community work experience programs, work incentive [WIN] demonstrations, and support work programs—sometimes called grant diversion and work supplementation.

The legislation I am introducing today will build on the experiences of States, private organizations, and researchers to create a single comprehensive employment strategy that could be applied to the diverse individuals and families who must for a time rely on public assistance. In particular, this legislation will offer optimism in place of pessimism to teenage mothers and long-term AFDC recipients to end welfare dependency.

Briefly, the legislation would:

Create two special employment programs for welfare recipients: a project redirection program for young teenage mothers without a high school education; and a supported work or grant diversion program for long-term adult welfare recipients and otherwise hard-to-place workers.

Replace the existing Work Incentive [WIN] Program and WIN demonstrations with a more flexible pool of funds that could be used for initial screening, coordination of services, and innovative employment strategies.

PROJECT REDUCTION

There is a large group of welfare recipients, unwed mothers, for whom jobs are an alternative to welfare dependence. These young women under the age of 17 who are parents or expecting their first child present special problems. Most have not completed high school. They need continued education, increased knowledge of and training in the skills needed to obtain a job, dependable and affordable child care, a better understanding and use of birth control methods, and medical care for themselves and their children.

An example is Project Redirection, a program originally funded by the Ford Foundation and the Department of Labor, which meets the needs of teenage parents by linking them with an older woman in the community who can provide support and assistance, serving as a friend and role model for the teenager. Rather than create new

service programs to meet the needs of these teens, Project Redirection uses community women to help link the teenager to existing services. Under my bill States and localities would be permitted to operate projects similar to the successful Projection Redirection.

WORK INCENTIVE PROGRAM

The WIN Program, created in 1967 to help welfare recipients to find work, has never had the resources needed to provide the comprehensive services envisioned by its enabling legislation. Complicated—and sometimes unnecessary—program rules and a confusing administrative structure—the program is jointly administered by the Departments of Labor and Health and Human Services with a similar structure at the State level—led Congress, in an effort to find new solutions, to authorize WIN demonstration projects in the Omnibus Budget Reconciliation Act of 1981. These projects test single-agency administration and give States more flexibility to use limited WIN resources to help AFDC recipients to find and keep a job. Although not yet complete, these WIN demonstration projects are showing promising results: more welfare recipients are becoming an active part of the labor force, that is, they are training for work, constructively looking for work, or actually working.

The proposed legislation would build on this WIN demonstration experience, giving States authority to:

Conduct initial screening assessments;

Offer group and individual job search opportunities;

Operate a community work experience program [CWEP] statewide or in portions of the State;

Provide short term supportive services, such as day care, transportation, uniforms or other items needed by employable welfare recipients;

Offer other training and education services;

Operate a grant diversion of supported work program for hard to place welfare recipients; and

Operate a project redirection program that seeks to increase the employment opportunities of teenage mothers who have not completed school.

Those required to participate in the new comprehensive work program would be the same as in current law. All able-bodied adults who are not needed in the home to care for a child under the age of 6—or at State option, under age 3—or an incapacitated family member would be required to participate.

THE SUPPORTED WORK PROGRAM

Welfare recipients are a diverse group. Some come to the AFDC program with an established work history and marketable skills and are able to find a job and become self-supporting fairly quickly. For this group, a few of the basic WIN services—job search, for example—are all that are needed. Not all welfare recipients are this fortunate. Many come to the AFDC with little education, few if any job skills and no work experience, making hunting for and keeping a job especially difficult.

To help this group of welfare recipients—the long-term welfare client, the hard to place worker, the mentally retarded adult—the proposed legislation would create a new optional state program: supported work. Under supported work programs, part or all of AFDC grants may be used to supplement the wages paid to AFDC recipients. The supported work program would replace the existing State authority to operate a work supplementation program—States have not used this authority because it can restrict the amount of the Federal AFDC match—and eliminate the need to use the cumbersome waiver process to receive approval for such projects. Despite the problem, a number of States are now involved in grant diversion projects by waiver. It could be operated statewide or only in portions of the State.

The purpose of such a program would be to: reduce dependency on public assistance; provide real paying jobs needed by a range of employers; and generate revenue for the companies involved, helping to offset the cost. Supported work involves a four part approach to increasing the employability of long-term welfare recipients: First, close supervision; second, peer group support; third, gradually increasing performance expectations; and fourth, grant diversion using a portion of the AFDC payment as wages until the recipient becomes a regular employee.

With sensitive supervision and support services to ease the transition work, these AFDC recipients receive training in a job they will eventually be hired to perform—a job they would be unlikely to find on their own.

Employers will benefit in several ways. They will have employees who are more likely to stay in their jobs and be productive. The initial recruitment, supervison and training will be done by the State support work staff and later, they will receive training for the company's supervisory staff in working with hard to place employees. For the State and Federal Governments the benefits are clear: reduced welfare expenditures; a financial commitment by the private sector, which pays a portion of the wages, thus reducing program costs; and permanent, unsubsidized private sector jobs for recipients who are unlikely to find them on their own. And for those welfare recipients without special problems, a simple grant diversion program—using AFDC benefits to underwrite a job—would be offered.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3056

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Work Program Reform Act of 1984".

PURPPOSE AND COMPONENTS OF PROGRAM

SEC. 2. It is the purpose of this Act to allow States to establish a comprehensive work program for recipients of aid to families with dependent children. The program shall consist of the following components:

(1) redirection project for teenage mothers which utilize community women to guide teenage mothers to existing services in order to continue their educations and to receive job training, family planning services, and medical care;

(2) supported work program which will allow part or all of AFDC grants to be used to supplement the wages paid to recipients who are receiving on-the-job training; and

(3) more flexible work incentive programs for other AFDC recipients.

REDIRECTION PROJECTS

SEC. 3. Title XX of the Social Security Act is amended by adding at the end thereof the following new section:

"REDIRECTION PROJECTS FOR TEENAGE MOTHERS

"SEC. 2008. (a)(1) In addition to amounts paid to a State under section 2003, payments shall be made under this section to a State for the purpose of operating redirection projects for teenage mothers and pregnant teenagers.

"(b) The amount of the payments to be made to a State under this section shall be determined as follows:

"(1) For the first fiscal year in which the State operates redirection projects, a repayable grant shall be made to the State in such amount as the Secretary determines to be necessary to allow the State to establish such projects. Grants under this paragraph shall be subject to such amounts as may be provided in appropriation Acts. The amount of such grant shall be repaid by the State (without interest) during the following five fiscal years, either directly or by reducing the amount otherwise payable to the State under paragraph (2). A schedule of repayments shall be established by the Secretary and the State, which may be modified by mutual agreement, which provides for repayment within the five-year period and allows sufficient payments to remain available under paragraph (2) to continue operation of redirection programs.

"(2)(A) For any fiscal year, the State shall be entitled to an amount equal to the percentage, described in subparagraph (B), of the amount which the Secretary and the State jointly agree upon as being equal to the amount of Federal payments which would have been made to the State for the preceding fiscal year under part A of title IV of this Act with respect to aid to families with dependent children which would have been provided to or on behalf of individuals who left the AFDC rolls, or whose AFDC grants were reduced, because they were able to provide for their own support after participating in a redirection project within the

prior two fiscal years (referred to in this section as the "AFDC" savings').

"(B) The applicable percentage for a State for purposes of subparagraph (A) is—

"(i) 100 percent with respect to AFDC savings in the first fiscal year (after fiscal year 1984) for which the State implemented any redirection projects;

"(ii) 90 percent with respect to AFDC savings in the second such fiscal year;

"(iii) 80 percent with respect to AFDC savings in the third such fiscal year;

"(iv) 70 percent with respect to AFDC savings in the fourth fiscal year;

"(v) 60 percent with respect to AFDC savings in the fifth such fiscal year; and

"(vi) 50 percent with respect to AFDC savings in any fiscal year therafter.

"(c) Amounts paid to a State under subsection (b)(2) shall be used first to operate redirection projects, but any such amount in excess of the State's cost of operating such programs may be used for any other purpose allowed under this title.

"(d) For purposes of this section, a 'redirection project' is any program operated by the State, directly or under a contract or other agreement with another entity, which provides a comprehensive and coordinated approach to channeling services to pregnant teenagers and teenage mothers, for the purpose of allowing the teenager to continue her education and providing job training or counseling, family planning services, and health services. Wherever possible, a redirection project shall utilize the services of community women as counselors and advisors to the teenagers.

"(e) In order to receive any payments under this section for a fiscal year, the State must also have in effect for such fiscal year a supported work program under section 414(i), and work incentive program under section 445(h).".

SUPPORTED WORK PROGRAM

SEC. 4. (a) Section 414(c)(3) of the Social Security Act is amended—

(1) by striking out "or" at the end of subparagraph (B);

(2) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof "; or"; and

(3) by inserting after subparagraph (C) the following:

"(D) a supported job position provided to an eligible individual under as on-the-job training program described in subsection (i).".

(b) Section 414 of such Act is amended by adding at the end thereof the following new subsection:

"(i)(1) A State may enter into agreements with employers under which a supplemented job is provided to an individual while that individual is receiving on-the-job training from that employer. The amount and duration of the supplementation shall be determined on a case-by-case basis. Wherever possible the State shall place individuals in supplemented jobs which will, after the expiration of the supplementation, provide the individual with sufficient wages so that the individual will no longer require aid under the State plan.

"(2) Each agreement under paragraph (1) shall provide for an initial trial period, after which the employer shall determine whether to keep the individual in the on-the-job training status and subsequently take the individual as a regular (nonsupplemented) employee. If the employer releases the individual (other than for cause) at any time after the employer determined to keep the individual, the employer shall repay to the State any supplemented wages paid by the State for that employee after such determination.

"(3) The amount of the wage supplementation paid to an employer on behalf of an individual may not, when combined with the amount of any tax credit received by such employer with respect to the employment of that individual, exceed the amount of the wages paid to the individual.".

WORK INCENTIVE PROGRAM

SEC. 5. (a) Section 445 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(h) Any State receiving payments under section 2008 with respect to redirection projects shall also operate a work incentive demonstration program under this section. Such program may be operated without regard to the June 30, 1984, application deadline in subsection (b)(1) and without regard to the three-year time limitation in subsection (d). Under such demonstration program the State may provide—

"(1) initial screening and assessments;

"(2) group and individual job search opportunities;

"(3) a community work experience program, either statewide or in certain localities;

"(4) short-term supportive services for participants, such as child day care services, transportation, and uniforms;

"(5) other training and educational services;

"(6) coordination with the supported work program described in section 414(i); and

"(7) coordination with redirection projects operating under section 2008.".

AUTHORIZATION OF APPROPRIATION

There are authorized to be appropriated such sums as are needed to carry out the provisions of this act.●

By Mr. SPECTER:

S. 3057. A bill to amend the Internal Revenue Code of 1954 to extend the energy conservation investment tax credit to new diesel-electric locomotives; to the Committee on Finance.

EXTENSION OF ENERGY CONSERVATION INVESTMENT TAX CREDIT TO NEW DIESEL ELECTRIC LOCOMOTIVES

● Mr. SPECTER. Mr. President, I am today introducing legislation to extend the energy conservation tax credit to diesel electric locomotives.

This bill provides a 10-percent tax credit for investments in diesel-electric locomotives, which are defined as locomotives with at least 2,000 horespower that are at least 15 percent more efficient than the locomotives they replace.

This proposal would encourage the purchase of new, highly fuel-efficient locomotives while having a relatively insignificant impact on the Treasury. Extension of this tax credit will conserve energy, stimulate capital investment in a depressed industry, and restore a substantial number of jobs.

Sales in the domestic locomotive industry have declined from a high of 1,600 annually in the 1960's and 1970's to the present range of 300 to 500 per year. This decrease in demand for locomotives caused severe unemployment among industry builders and suppliers, including such vital items as steel. Overall, with the ripple effect, there was a loss of 19,400 jobs from 1979 to 1983. Further, companies in Canada and Europe—where there are nationalized railroad developers—and South American manufacturers now pose a potential competitive threat to domestic manufacturers.

Research and development of more fuel-efficient locomotives has resulted in locomotives being produced today that are 15 to 20 percent more efficient than those in 1970. With the reduction in purchases during the late 1970's and early 1980's, older operating units must now be replaced with newer units that are more efficient and promote energy conservation.

Restoring demand for fuel-efficient locomotives in the domestic market will allow domestic producers to pursue foreign sales more aggressively. The resulting benefit will hopefully be an increase in exports having a favorable impact on the U.S. balance of trade.

Specifically, stimulated production of new locomotives in 1985 and 1986 will help save 72 million gallons of fuel annually, a savings of 60,000 gallons of fuel per locomotive. It will cut locomotive operation costs by 15 percent and save $65 million in fuel costs. In addition, it will restore an estimated 11,600 jobs by 1985 at plants at LaGrange, IL, and Erie, PA, creating 180 man-months of employment for each new locomotive. Simultaneously, it would enhance steel industry employment and demand for steel.

The cost to the Treasury would be $75 million, but there would be increased tax revenues of $30 million a year paid by railroads due to fuel expense savings, and increased revenues paid by individuals—including Social Security and income taxes—of approximately $35 million each year. Thus, the total budget impact would be only $10 million per year.

I hope that the Finance Committee will schedule hearings on this legislation early in the next Congress.

I ask unanimous consent that the text of the bill be printed in full in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3057

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled.

SECTION. 1. NEW DIESEL-ELECTRIC LOCOMOTIVES QUALIFY FOR ENERGY CONSERVATION INVESTMENT TAX CREDIT.

(a) IN GENERAL. Subparagraph (A) of section 48(l)(2) of the Internal Revenue Code of 1954 (defining energy property) is amended—

(1) by striking out "or" at the end of clause (viii),

(2) by adding "or" at the end of clause (ix), and

(3) by adding at the end thereof the following new clause:

"(x) qualified diesel-electric locomotives,".

(b) QUALIFIED DIESEL-ELECTRIC LOCOMOTIVES.—Subsection (l) of section 48 of such Code (relating to energy property) is amended by adding at the end thereof the following new paragraph:

"(18) QUALIFIED DIESEL-ELECTRIC LOCOMOTIVES.—

"(A) IN GENERAL.—Paragraph (2)(A)(x) shall apply only with respect to the qualified investment in qualified diesel-electric locomotives of a taxpayer—

"(i) which is a common carrier regulated by the Interstate Commerce Commission or an appropriate State agency (as determined by the Secretary), and

"(ii) which is engaged in the trade or business of using rail transportation.

"(B) QUALIFIED DEISEL-ELECTRIC LOCOMOTIVE.—The term 'qualified diesel-electric locomotive' means a diesel-electric locomotive of at least 2,200 horsepower, which when operated in rail transportation is at least 15 percent more fuel efficient for equivalent work performed than any locomotive of the taxpayer replaced by such diesel-electric locomotive.".

(c) ENERGY PERCENTAGE.—The table in subparagraph (A) of section 46(b)(2) of such Code (relating to energy percentage) is amended by adding at the end thereof the following new clause:

"(VIII) Qualified diesel-electric locomotives.—Property described in section 48(l)(18).	10 percent	Jan. 1, 1985	Dec. 31, 1987."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1984.●

By Mr. GORTON (for himself and Mr. DURENBERGER):

S. 3059. A bill to amend the Congressional Budget and Impoundment Control Act of 1974 to impose limits on aggregate Federal outlays, and for other purposes; pursuant to the order of August 4, 1977, referred jointly to the Committee on the Budget and the Committee on Governmental Affairs.

LIMITS ON AGGREGATE FEDERAL OUTLAYS

● Mr. GORTON. Mr. President, rising Federal deficits have focused attention on various proposals to balance the Federal budget. Bringing the Federal budget closer to balance is a worthy goal which I strongly support. But I fear that by focusing our attention on this goal only, we run the risk of ignoring a more fundamental and potentially even more serious problem: the tendency of total Government spending to grow so fast as to outstrip our economy's ability to support it.

In recent years the share of our gross national product which Federal spending represents has grown alarmingly. In 1965 Federal spending was equal to 17 percent of GNP. By 1973 this had risen to over 18.5 percent, in 1980 to 22.5 percent, and in 1985 is projected to be over 23.5 percent of GNP. Gradually, and by accretion, we are allowing a change of the greatest significance to occur without conscious review by Congress.

It is my belief that the historic strength of the American economy, as well as its future vitality, rests on the proper balance of the public and private sectors, and that this balance is threatened by unwarranted and rapid growth of the sheer size of the Federal Government. I am, therefore, today introducing legislation to limit Federal spending first to a declining, then to a fixed percentage of GNP.

My bill does three things. First, after a 5-year phase-down, it would limit total Federal outlays to not more than 20 percent of the GNP trendline. It does so by establishing a point of order against any concurrent resolution, amendment, or conference report on the budget which would result in total outlays exceeding the limitation for the upcoming fiscal year. I say total outlays because, significantly, it includes off-budget spending, which is growing alarmingly and without close enough scrutiny. If a House of Congress wanted to pass a budget resolution or amendment exceeding the spending limitation, it would have to do so by a three-fifths majority. Further, it calls on the President to notify Congress if outlays will exceed the limitation, why such may be necessary, and what specific actions he or she recommends to bring spending in line. Finally, upon receipt of such a message, it calls on the Budget Committees to report revised concurrent resolutions which are in line with the outlays limitation.

This measure expands on a bill I introduced in the 97th Congress, by including off-budget items as well as on-budget Federal outlays. My bill would rein in Federal spending by making budget resolutions exceeding the limitation subject to a point of order, which could only be overturned by a three-fifths super majority of both Houses. It represents fundamental reform of Federal budgeting, and redirects our fiscal focus beyond the immediate balance of outgo and income, to the very heart of the debate over the Government's role in, and effect on the economy.

I view this bill not as a substitute for efforts to balance the budget, but as a complement to them. It could be entirely possible to balance the budget at very high spending levels through tax increases alone. It would be ironic indeed, if efforts toward fiscal prudence were to result in this most imprudent course of action. I believe my proposal today is part of the answer, and I welcome the support and guidance of my colleagues in promoting and perfecting this measure.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3059

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, (a) section 3 of the Congressional Budget and Impoundment Control Act of 1974 is amended by adding at the end thereof the following new paragraphs:

"(6) The term 'aggregate Federal outlays' means, with respect to a fiscal year, the sum of the total budget outlays for such fiscal year and the total off-budget outlays for such fiscal year.

"(7) The term 'total off-budget outlays' means, with respect to a fiscal year, the estimated amount of the total budget outlays that would be made during such fiscal year by all off-budget Federal entities during such fiscal year.

"(8) The term 'off-budget Federal entity' means any entity—

"(A) establishment by Federal law, and

"(B) the budget outlays of which are required by law to be excluded from the totals of—

"(i) the budget of the United States Government submitted by the President pursuant to section 1105 of title 31, United States Code, and

"(ii) the budget adopted by the Congress pursuant to title III of this Act.".

(b) Section 301(a) of such Act is amended)—

(1) by striking out "and" at the end of paragraph (6);

(2) by redesignating paragraph (7) as paragraph (9) and inserting after paragraph (6) the following new paragraphs:

"(7) the total off-budget outlays for such fiscal year;

"(8) aggregate Federal outlays for such fiscal year; and".

(c) Title III of the Congressional Budget Act of 1974 is amended by inserting after section 301 the following new section:

"LIMITATIONS ON AGGREGATE FEDERAL OUTLAYS

"SEC. 301A. (a) IN GENERAL.—Notwithstanding any other provision of law, it shall not be in order in the Senate or the House of Representatives to vote on the question of agreeing to any concurrent resolution on the budget or any amendment thereto or any conference report thereon for any fiscal year beginning after September 30, 1985, if—

"(1) the adoption of such concurrent resolution;

"(2) the adoption of such amendment; or

"(3) the adoption of such concurrent resolution in the form recommended in such conference report;

would cause the amount of aggregate Federal outlays set forth for such fiscal year in such concurrent resolution to exceed the amount specified for such fiscal year by subsection (b).

"(b) SPECIFICATION OF LIMITS.—For purposes of subsection (a), aggregate Federal outlays shall not exceed—

"(1) for the fiscal year ending on September 30, 1986, an amount equal to 23.0 percent of the adjusted gross national product;

"(2) for the fiscal year ending on September 30, 1987, an amount equal to 22.5 percent of the adjusted gross national product;

"(3) for the fiscal year ending on September 30, 1988, an amount equal to 22.0 percent of the adjusted gross national product;

"(4) for the fiscal year ending on September 30, 1989, an amount equal to 21.5 percent of the adjusted gross national product;

"(5) for the fiscal year ending on September 30, 1990, an amount equal to 21.0 percent of the adjusted gross national product;

"(6) for the fiscal year ending on September 30, 1991, an amount equal to 20.5 percent of the adjusted gross national product; and

"(7) for the fiscal year ending on September 30, 1991, an amount equal to 20.0 percent of the adjusted gross national product;

"(c) MARGIN OF ERROR.—Notwithstanding subsections (a) and (b), it shall be in order to consider a concurrent resolution on the budget for any fiscal year to which subsections (a) and (b) apply or any conference report thereon if—

"(1) the adoption of such concurrent resolution; or

"(2) the adoption of such concurrent resolution in the form recommended in such conference report;

would cause the amount of aggregate Federal outlays set forth in such concurrent resolution to exceed the amount specified for such fiscal year by subsections (a) and (b) by an amount which is equal to not more than two-tenths of 1 percent of the adjusted gross national product for such fiscal year.

"(d) POINT OF ORDER.—A point of order raised pursuant to subsections (a) and (b) may only be raised at the conclusion of debate and before a vote is taken on a concurrent resolution thereon. If any such point of order is sustained by the presiding officer of the House in which it is raised, an affirmative vote of three-fifths of the Members of such House duly chosen and sworn shall be required to sustain an appeal of such ruling. Debate on an appeal of such point of order shall be limited to two hours, to be equally divided between, and controlled by, the majority leader and the minority leader or their designees. An appeal on such a point of order is not subject to a motion to table.

"(e) WAIVER PROHIBITED.—The provisions of this section may not be waived pursuant to section 904 (b).

"(f) DEFINITIONS.—For purposes of this section—

"(1) The term 'adjusted gross national product' means an amount equal to the number obtained by multiplying the gross national product for a fiscal year by (1 + the floating gross national product trendline for such fiscal year).

"(2) The term 'gross national product' means the gross national product as computed by the Department of Commerce for the most recently completed fiscal year preceding the fiscal year for which a concurrent resolution on the budget is being considered.

"(3) The term 'floating gross national product trendline' means the average annual rate of change of the gross national product during the five most recent full fiscal years preceding the fiscal year for which a concurrent resolution on the budget is being considered.".

(d) Section 301(d) of such Act (31 U.S.C. 1322(d)) is amended—

(1) by redesignating paragraphs (3) through (8) as paragraphs (4) through (9), respectively; and

(2) by inserting after paragraph (2) the following new paragraph:

"(3) specific recommendations concerning whether aggregate Federal outlays for such fiscal year should exceed the amount specified for such fiscal year under subsections (a) and (b) of section 301A;".

(e) Section 310 (a) of such Act (31 U.S.C. 1331 (a)) is amended by adding at the end thereof the following: "The report accompanying any such concurrent resolution on the budget shall contain specific recommendations concerning whether aggregate Federal outlays for such fiscal year should exceed the amount specified for such fiscal year by subsections (a) and (b) of section 301A.".

(f) Section 904 of such Act (31 U.S.C. 1301) is amended by—

(1) striking out "titles I, III, and IV" in subsection (a) and inserting in lieu thereof "title I, title III except section 312(a)), and title IV"; and

(2) striking out "or IV" in subsection (b) and inserting in lieu thereof "(except section 301A) or title IV".

(g) Title III of such Act is further amended by inserting at the end thereof the following new section:

"NOTIFICATION BY THE PRESIDENT OF EXCESS SPENDING

"SEC. 3. (a) NOTIFICATION.—The President shall transmit a notice to the Committees on the Budget of the Senate and the House of Representatives at any time he determines that the amount of aggregate Federal outlays for a fiscal year will exceed the amount of aggregate Federal outlays for such fiscal year set forth in the second required concurrent resolution adopted pursuant to section 310 for such fiscal year or in any concurrent resolution on the budget for such fiscal year adopted after such second required concurrent resolution for such fiscal year. The notice shall include recommendations for legislation, rescissions, deferrals, and other actions that will reduce aggregate Federal outlays to the amount specified in such concurrent resolution.

"(b) REVISED CONCURRENT RESOLUTION ON THE BUDGET AND RECONCILIATION INSTRUCTIONS.—Within forty-five days after receipt of the notice required by subsection (a) for any fiscal year, the Committees on the Budget of the Senate and the House of Representatives shall each report to their respective Houses a concurrent resolution on the budget which contains appropriate revisions of the most recently agreed to concurrent resolution on the budget for such fiscal year. Such revised concurrent resolution may contain specifications and directions for one or more committees to determine and recommend changes in bills, laws, and resolutions in accordance with this title and to report or submit such determinations and recommendations pursuant to the procedures established by section 310(c).".

(h) The table of contents in section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended—

(1) by inserting after the item relating to section 301 the following new item:

"Sec. 301A. Limitations on aggregate Federal outlays.";

and

(2) by inserting after the item relating to section 311 the following new item:

"Sec. 312. Notification by the President of excess spending.".

SEC. 2. Section 1105(a) of title 31, United States Code, is amended by adding at the end thereof the following new paragraph:

"(25) recommendations for insuring that aggregate Federal outlays for the ensuing fiscal year do not exceed the amount specified for such fiscal year by subsections (a) and (b) of section 301A of the Congressional Budget Act of 1974, or a detailed statement specifying the reasons why aggregate Federal outlays for such fiscal year should exceed such amount and recommendations for methods to reduce such outlays as soon as possible to the amount specified for such fiscal year by section 301A.". Sec. 3. Section 1106 (b) of title 31, United States Code, is amended by inserting before the period at the end thereof the following: "and shall include a report on the progress made since the transmittal of the message required by section 1105 (a) toward insuring that aggregate Federal outlays for the fiscal year in progress do not exceed the amount specified for such fiscal year by section 301A of the Congressional Budget Act of 1974.".●

By Mr. HATCH:

S. 3060. A bill to provide for contribution of damages attributable to an agreement by two or more persons to fix, maintain, or stabilize prices under section 4, 4A, or 4C of the Clayton Act; to the Committee on the Judiciary.

PREFERENTIAL TREATMENT UNDER THE CLAYTON ANTI-TRUST ACT

Mr. HATCH. Mr. President, today, as we are near to adjournment of the 98th Congress, I take this opportunity, in introducing this bill, to highlight a problem we should address and solve early in the 99th Congress.

Our Government has a duty, which is properly imposed by the antitrust laws, to penalize businesses which engage in price fixing. Price fixing is detrimental to the consumer and a free and competitive economy. However, laws which are designed to deter and punish wrongdoing should not permit preferential treatment among wrongdoers. Such preferential treatment is accorded to wrongdoers today.

In the case of Texas Industries, Inc. against Radcliff Materials, Inc., the U.S. Supreme Court decided that no remedy of contribution among wrongdoers is known at common law and that if such a remedy is appropriate, it is the duty of Congress rather than the courts to provide one.

No one can quarrel with the premise that the plaintiff is entitled to a full and complete measure of damages for injuries he has sustained. However, basic fairness requires two major changes to our antitrust laws in distributing damages in price fixing cases. First, defendants should be permitted to claim contribution from coconspirators for their share of damages when a plaintiff sues fewer than all the conspirators in a price fixing case. Second, my bill provides for claim reduction when some defendants choose to settle with the plaintiff, while others proceed to trial. Simply stated, claim reduction means that the liability of the settling defendants is "carved out" from the liability accruing to the remaining defendants. The formula for "carve out" is based on the market share of each price fixing defendant. Thus, the "carve out" provisions of my bill do not impose the liability of those who settle upon those who choose to litigate. The present law provides that, if a defendant settles for less than the total liability—a common occurrence—the unpaid liabil-

ity is shifted to the remaining defendants. Thus, those who choose to litigate now face the risk that they will be held liable not only for the damages attributable to their wrongdoing, but for the entire unpaid damages of all companies which have settled. Succintly, "carve out" means equity and fairness.

In conclusion, this bill makes it economically possible for small firms which believe in their innocence to litigate rather than settle to avoid the possibility of financial disaster.

Finally, my bill would only be applied to cases commencing from this date forward.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3060

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Clayton Act (15 U.S.C. 12 et seq.) is amended by inserting after section 4H the following new section:

"SEC. 41. (a) Two or more persons who are subject to liability for damages attributable to an agreement to fix, maintain, or stabilize prices under section 4, 4A, or 4C of this Act may claim contribution among them according to the damages attributable to each such person's sales or purchases of goods or services. A claim for contribution by such person or persons against whom an action has been commenced may be asserted by cross-claim, counter-claim, third-party claim, or in a separate action, whether or not an action has been brought or a judgment has been rendered against the persons from whom contribution is sought.

"(b) A release or a covenant not to sue or not to enforce a judgment received in settlement by one of two or more persons subject to contribution under this section shall not discharge any other persons from liability unless its terms expressly so provide. The court shall reduce the claim of the person giving the release or covenant against other persons subject to liability by the greatest of: (1) any amount stipulated by the release or covenant, (2) the amount of consideration paid for it, or (3) treble the actual damages attributable to the settling person's sales or purchases of goods or services. Under item (3) above, actual damages shall not be trebled in proceedings under section 4A of this Act.

"(c) A release or covenant, or an agreement which provides for a release or covenant, entered into in good faith, relieves the recipient from liability to any other person for contribution, with respect to the claim of the person giving the release or covenant, or agreement, unless the settlement provided for in any such release, covenent, or agreement is not consummated.

"(d) Nothing in this section shall affect the joint and several liability of any person who enters into a agreement to fix, maintain, or stabilize prices.

"(e) This section shall apply only to actions under secton 4, 4A, or 4C of this Act commenced after October 3, 1984."

By Mrs. HAWKINS (for herself and Mr. MATHIAS):

S. 3061. A bill to amend the Internal Revenue Code of 1954 to clarify the extent to which a State of political subdivision thereof may tax certain income from sources outside the United States; to the Committee on Finance.

WORLDWIDE COMBINED UNITARY TAX METHOD

● Mrs. HAWKINS. Mr. President, today I am introducing legislation to prohibit the use of the worldwide combined unitary tax method which threatens trade and investment between the United States and other nations. Federal legislation is essential to curb this practice because it is a contradiction to the concept of uniform regulation of foreign commerce recognized by the Constitution.

In September 1983, President Reagan appointed a working group to address this problem headed by Secretary Regan and composed of leading representatives of the business community, State governments, and the Federal Government. Testimony before the task force showed that worldwide apportionment is contrary to Federal tax and trade policy and is an impediment to international commerce. Foreign governments are increasingly angry and dismayed that the United States does not speak with one voice on this international issue. Over the past 8 years, during treaty negotiations, numerous countries including Canada, Japan, France, and the United Kingdom have urged the United States to adopt an equitable and uniform tax system. These countries are among our staunchest allies and are our major trading partners. They deserve to be treated in a fair and acceptable manner—not subjected to differing state policies on tax and trade.

The British Government in particular, was assured that unitary taxation would be dealt with domestically when it agreed to ratify a 1978 new tax treaty with the United States. The final draft did not include article IX(4) which would have outlawed worldwide combination for British companies. Two administrations have renewed that promise to the British, but we have not yet delivered. The legislation I am introducing today will not only assure our negotiated partners that we keep our promises, but will also demonstrate our continued commitment to international economic prosperity.

A review of the major objections to the unitary tax reveals that the criticism is logical and that the problem should be addressed at the Federal level, if we wish to preserve this Nation's history as an attractive investment site.

The administrative costs and burdens placed on a company complying with the unitary tax are clearly excessive. Oftentimes the costs incurred exceed the amount of the actual tax paid. This is partially due to the fact that the requirements differ from State to State. I submit that this is the very reason our forefathers gave the responsibility of administering commerce to the Federal Government rather than having a fragmented policy from several sources. Consider the problems of a company with employees totaling 80,000 in 110 countries.

The language and cultural differences as well as currencies affected by the fluctuation in the exchange rates present insurmountable problems when all of the financial statements of the entire unitary group must be converted to the U.S. accounting principles and then altered to meet each of the individual State regulations. This requirement is further shown to be less than reasonable when one realizes that it applies to a company even if the corporation's in-State operations have no functional relationship with the other members of the unitary group.

Another objection often raised is that the use of the unitary tax leads to a very real double taxation of corporate profits. States using the unitary method combine the pretax income of corporations which they deem to be unitary in nature, and apportion the profits of this unitary group for taxation—with no deduction for corporate income taxes which have already been paid on this income in other countries. Double taxation is a policy which this Nation has historically recognized as an unfair method to collect revenue and therefore avoided.

The logical result of a continued policy permitting worldwide unitary taxation embodies the objection which I find to be crucially important to economic growth, and that is the retaliation by other countries. No other country in the world uses a method of taxation which reaches out to tax income beyond its jurisdiction. However, if we do not act now, it is conceivable that some countries may soon adopt their own form of the unitary tax which would undoubtedly be a form most advantageous to the host municipality regardless of the protests by American companies investing abroad. In fact, the British Government is now considering a bill which would withdraw tax rebates now given to the U.S. multinationals that manufacture in Great Britain. As American corporations absorb the resulting loss, our communities in which they operate would be included in the list of losers if this were adopted.

The most important issue relating to unitary taxation is the implication on future investment within unitary jurisdiction. By allowing the States to formulate their own tax policies beyond the water's edge and, thus, for-

mulating piecemeal trade policy for the United States, we are subjecting this Nation as a whole to possible disinvestment. As long as the worldwide unitary method can be used by one state, any state can adopt it. That possibility, if left unleashed, will undoubtedly dissuade some foreign companies considering a major long-term investment from making it in any of our States.

In my State of Florida, the unitary tax was adopted at a special session of the legislature in 1983, which the Governor called. Since its enactment, both national and foreign multinationals, which we depend for new jobs and investments in our State, have withdrawn plans to expand or have threatened to leave the State in protest of the tax. The Florida Department of Commerce testified at hearings in the State that in trade missions, industrial site selection conferences, and in contact with prospective industrial recruits, at least half of the companies raised the unitary tax issue and indicated that it would have a negative effect on their decision to invest in Florida. Similar problems occurred in Oregon which has since repealed the tax.

In my mind, the extent of the adverse effects of this tax in the minds of the business community is best illustrated by a resolution adopted by the Board of Directors of Association Industries of Florida. This Board of Directors and the membership is composed primarily of State-based employers. Essentially, the resolution states that if the State of Florida needs the funds generated by the unitary tax, State-based businesses will pay increased taxes in an effort to lower the tax liability under the unitary method for multinational corporations. This demonstrates that Floridians desire to promote a hospitable environment for investment in the State, recognizing the crucial role multinationals play in the long-term preservation of a healthy economy.

Mr. President, I believe that this legislation is essential and long overdue. Should we delay further action to consolidate this country's trade policy only to allow more States to flirt with the concept of unitary tax, and send prohibitive messages to companies desiring to invest on our soil? Recognizing the problems caused by unitary taxation, numerous modifying proposals have been introduced in various State legislatures. This haphazard approach cannot produce the uniformity that is required in the area of international taxation and international relations.

This bill provides the needed uniformity by preventing State taxation of foreign source income and by prohibiting taxation of income of affiliates that derive 80 percent or more of their income from foreign sources. The standard for determining income is the same one used at the Federal level and the States are required to follow the Internal Revenue Code in making source determination. Dividends and royalties from foreign affiliates are also included since they are a form of foreign source income.

This uniform approach based on existing rules for determining source of income eliminates all of the problems associated with unitary taxation. States will only be able to tax income earned within their borders. Second, they will conform to accepted methods of international taxation. Third, compliance will be cost efficient since corporations will be able to rely on Federal tax computations when filing State tax returns. And finally, disruption in the United States' foreign relations will be eliminated. Furthermore, this legislation will encourage the free flow of trade by requiring States to tax both foreign and domestic corporations on the same basis used by other taxing authorities. Equality in taxation will permit fair and efficient international competition.●

By Mr. HEINZ:

S. 3062. A bill to deal with imputed interest rates; to the Committee on Finance.

REPEAL OF IMPUTED INTEREST RATE PROVISIONS

● Mr. HEINZ. Mr. President, I am today introducing legislation to provide relief from the increase in the imputed interest rates which was included in the Deficit Reduction Act of 1984.

As we all probably know by now, the Deficit Reduction Act of 1984 requires that beginning January 1, 1984, sellers of property must charge buyers interest equal to at least 110 percent of the interest paid by the Federal Government on obligations of similar maturity. This is known as the applicable Federal rate. This means that if a seller takes back financing for 10 years, the seller must charge the buyer 110 percent of the rate which the Federal Government pays on 10 year notes. Sellers not charging this mandated interest rate will be taxed as if receiving 120 percent of the Federal rate. Federal 10-year notes today are about 13 percent, meaning a seller must charge at least 14.3 percent. There were exceptions for principal residences under $250,000 and farms under $1 million, which would remain at 9 percent imputed interest.

The new imputed interest rate is absurd. The Government has no right to interfere and insert itself into negotiations between buyers and sellers in the free marketplace in this manner. It is a mistake, and we should correct it. I applaud Senators MELCHER, SYMMS, and DURENBERGER for their efforts, and I have cosponsored and support each of their bills. I believe that the SYMMS approach of total repeal of the original issue discount [OID] and imputed interest provisions and a return to prior law is the correct approach. This would allow us time to study the issue and determine exactly what type of legislation is needed to correct any abuses that might exist. If this fails, then I think that the simplest and easiest solution is merely to reduce the imputed interest rate, which is exactly what my bill would do—it reduces the safe-harbor interest rate to 10 percent compounded semiannually. If the safe harbor rate of 10 percent is not met, then interest can be imputed at 12 percent.

Under prior law, the safe-harbor rate was 9 percent simple interest. This rate was so low that the majority of taxpayers were never affected; however, if a person sells property now, they are sure to run afoul of the tax laws.

The legislation I am introducing today would change the safe-harbor rate to 10 percent, compounded semiannually, and an imputed rate of 12 percent, compounded semiannually. Further, all assumable loans are exempted from this provision. This would clearly be the simplest and easiest method to correct the situation. There would be none of the problems inherent in trying to find the "applicable Federal rate," and in having different interest rates for different types of property.

I have been advised by the realtors in Pennsylvania that the owner-financed property sells with a 10- to 13-percent interest rate, that these rates were used even when interest rates were at their higherst, and that they continue to be used. I believe that increasing the interest rate above this level, will destroy owner financing.

In these times of high uncertain interest rates, transactions often will go forward only when the seller steps in to finance part of, or all of, the purchase price in order to sell. If we take away seller financing, or make it so complicated that it cannot be used, then we take away the most sensible, reasonable, and practical means by which an American can buy or sell a home, rental property, farm, raw land, small business, or investment property.

The new tax law goes into effect in January 1985. If it remains unchanged, it means that in these times of high interest rates, the private marketplace will no longer be able to facilitate sales at a reasonable rate of interest. Now is the time to make the change, and the changes should be simply and straightforward. Remember, we have been studying tax reform and simplification in the Finance Committee. I believe that my bill keeps the Tax Code simple and minimizes Goverment's intension into people's lives.

I ask that the text of my bill be printed at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3062

SEC. . DISCOUNT RATES FOR IMPUTED INTEREST.

(a) AMENDMENTS TO SECTION 483.—

(1) IMPUTED RATE.—The last sentence of section 483 (b) of the Internal Revenue Code of 1954 (defining total unstated interest) is amended by striking out "120 percent of the applicable Federal rate determined under section 1274 (d)" and inserting in lieu thereof "12 percent, compounded semiannually".

(2) TEST RATE.—Subparagraph (B) of section 483 (c) (1) of such Code (relating to payments to which subsection (a) applies) is amended by striking out "110 percent of the applicable Federal rate determined under section 1274 (d)" and inserting in lieu thereof "10 percent compounded semiannually".

(b) AMENDMENTS TO SECTION 1274.—

(1) IMPUTED RATE.—Subparagraph (B) of section 1274 (b)(2) of the Internal Revenue Code of 1954 (defining imputed principal amount) is amended by striking out "120 percent of the applicable Federal rate" and inserting in lieu thereof "12 percent".

(2) TEST RATE.—Paragraph (3) of section 1274 (c) (defining testing amount) is amended by striking out "110 percent of the applicable Federal rate" and inserting in lieu thereof "10 percent, compounded semimannually".

(c) SPECIAL RULES FOR ASSUMPTIONS.—

(1) SECTION 483.—Section 483 (d) of the Internal Revenue Code of 1954 (relating to exceptions) is amended by adding at the end thereof the following new paragraph:

"(5) ASSUMTIONS.—This section shall not apply to any debt instrument assumed in any sale or exchange if the terms and conditions of such instrument are not modified.".

(2) SECTION 1274.—Paragraph (4) of section 1274 (c) of such Code (relating to exceptions) is amended by adding at the end thereof the following new subparagraph:

"(G) ASSUMPTIONS.—This section shall not apply to any debt instrument assumed in any sale or exchange if the terms and conditions of such instrument are not modified.".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the amendments made by section 41 of the Tax reform Act of 1984.

By Mr. SPECTER:

S. 3063. A bill to amend title 18, United States Code, including the Child Protection Act, to create remedies for children and other victims of pornography, and for other purposes; to the Committee on the Judiciary.

PORNOGRAPHY VICTIMS PROTECTION ACT

Mr. SPECTER. Mr. President, I am today introducing a bill, the Pornograph Victims Protection Act, that represents a major step forward in the campaign against sexual exploitation of children and women. The bill allows victims of child pornography and adults who are coerced, intimidated, or fraudulently induced into posing or performing in pornography to institute Federal civil actions against producers and distributors. If they prevail, victims would recover three times actual damages and their costs of suit. They also could seek an injunction to prevent further production and distribution of the pornography. Furthermore, the bill authorizes the Attorney General to seek $100,000 in civil penalties from any person violating Federal child or adult pornography statutes.

The bill also includes new criminal sanctions on coerced adult pornography. Criminal prohibitions on production and interstate distribution of such pornography would be incorporated into current child pornography statutes. Any person who forced another to perform in pornography to be distributed interstate would thus be subject to 10 years imprisonment and $100,000 in criminal fines.

This legislation results from extensive hearings before the Subcommittee on Juvenile Justice, which I called to explore the new approaches to combating pornography being advocated by women's groups and others. In the past 6 months, the subcommittee has heard from victims of sexual exploitation, from experts on the harm caused by involvement in pornography and the connection between violent pornography and sexual aggression, from women advocating broad civil remedies, and from the American Civil Liberties Union, which expressed concern that some such remedies violate the first amendment.

The factual and legal issues surrounding pornography clearly are difficult and complex. Witnesses disagreed sharply about the general social effects of such materials. Some, such as Andrea Dworkin and Catherine MacKinnon, claimed that violent pornography is central to gender unequally in our society. Others, including Barry Lynn of the American Civil Liberties Union, denied that such a broad factual claim has been conclusively established. Of course, even if one accepts that pornography has deleterious effects, legislation in this area must be crafted carefully in light of the Constitution's protections for speech.

The subcommittee gave extensive consideration to the ordinance which was enacted by the city of Indianapolis and the ordinance which was adopted by the city council of the city of Minneapolis, but later vetoed by the mayor. Those ordinances propose a significant extension of civil causes of action based on a civil rights approach.

Such an approach is worth further analysis and consideration, but on the current state of the record, it is my judgment that it is premature to introduce such legislation at the Federal level.

The Indianapolis/Minneapolis proposals would allow any woman to sue anyone trafficking in pornography on the theory that all women are harmed by such materials. Such a cause of action might go so far as to create a class action where any woman could sue on the theory that all women are being harmed by pornographic material on the theory that all women are degraded; that women are held up to ridicule and scorn as a class; and that women are denied equal treatment with men on such matters as job opportunities and access to housing.

Such a cause of action would face a severe constitutional hurdle on first amendment issues of freedom of speech and expression. It may be that further hearings to gather more facts and examine more case histories would provide an evidentiary basis to justify findings of fact to support such legislation. But, on this state of the record such legislation would be premature.

By initiating this analysis, including publication of the Indianapolis/Minneapolis ordinances at the conclusion of the floor statement, we invite public comment on this important subject. Depending upon the other subjects which require the attention of the Juvenile Justice Subcommittee in the 99th Congress, this topic may well command further hearings and consideration.

The provision in the Indianapolis/Minneapolis ordinances providing for a cause of action for women attacked as a direct result of pornography also merits further study. Such a causal connection is difficult to prove, but there may be a sufficient evidentiary basis where attacks occur against women and children which duplicate pornographic books or movies so as to justify a finding of proximate cause by a jury. Again, this issue would face difficult first amendment hurdles, but is worthy of further consideration.

The hearings which we have held do, however, provide an evidentiary basis for legislation which incorporates some of the features of the Indianapolis/Minneapolis ordinances.

Testimony before the subcommittee provided substantial evidence that many individuals are forced to perform in ways suggested by such materials, and do suffer serious harm. These harms are especially severe when the victims are children. Yet children are not the only victims of pornographers. Adult women and men often are brutalized through rapes, beatings and threats to coerce them into sexually explicit performances. Pornographic films are replete with scenes in which victims are beaten, dismembered, bitten, and cut, with blood and wounds graphically shown. In the movies known as snuff films, victims sometimes are actually murdered.

People are coerced into performing in pornography largely because a huge national market exists for such materials. Consumers have spent hundreds of millions of dollars to see these magazines, films, and videos. Given the enormous profit potential of such pro-

ductions, elimination of this type of coercion will require Government action to reduce demand. The Pornography Victims Protection Act therefore criminalizes the production of sexually explicit materials through coercion, intimidation or fraudulent inducement, if the defendant knows they will be shipped interstate. It also prohibits the interstate distribution of such materials if a defendant knows they were produced against the person's will.

As a supplement to criminal sanctions, the legislation gives eligible victims a direct civil action against pornographers and against those who knowingly distribute child or coerced adult pornography. Such civil actions will help ensure that pornography victims will be compensated by their exploiters. Under the bill, victims would receive three times their actual damages and the costs of bringing the suit. In addition, victims could seek injunctions to prevent further distribution of material produced against their will.

It is important to note that such injunctions will never constitute a prior restraint of speech. The bill makes clear that no injunction may be issued prior to a full adversary proceeding and a final judicial determination that the material constitutes child or coerced adult pornography.

In addition to providing monetary and injunctive relief to victims, direct civil actions will facilitate enforcement of related criminal statutes. Current enforcement of these laws is seriously inadequate. This is due, in part, to the difficulties prosecutors face is discovering those who produce child and coerced adult pornography. Investigations of these cases generally are difficult, expensive and time consuming, and victims frequently cannot be identified. Furthermore, prosecutors simply have not given child pornography cases high priority, often on the grossly mistaken assumption that this is a victimless crime. Such attitudes seem to be changing, but there remains an urgent need for alternative protective mechanisms.

Civil causes of action represent a valuable new tool for enforcing Federal prohibitions on child and coerced adult pornography. Since the burden of proof is far less stringent in civil proceedings, legal attacks on pornographers would be greatly eased. In addition, evidence obtained in the course of a civil proceeding often would be available for later use in criminal prosecutions.

The Pornography Victims Protection Act provides one further mechanism for deterring sexual exploitation and compensating victims. Under the bill, the Attorney General is authorized to seek $100,000 in civil penalties from child and coerced adult pornographers. If the Government prevails, the penalty is distributed among all identified victims in the case, or to the Government. This type of action, like a direct action for victims, eases attacks on pornographers by establishing lower burden of proof requirements. Unlike direct actions, however, victims would not be required to come forward publicly. This is an especially valuable benefit in child pornography cases since children often are unwilling or unable to endure the severe traumas of courtroom testimony.

In addition to establishing several new civil and criminal remedies, this bill expands the scope of Federal child pornography laws in one further way. Currently, these statutes are limited to situations in which child pornography producers know or should know that the pornography will be disseminated interstate. This bill would expand Federal law by including civil remedies where children or adults are themselves transported interstate for the purpose of producing pornography, even if no interstate distribution can be established.

I believe the Pornography Victims Protection Act would constitute significant legislation that will effectively eliminate much sexual exploitation in the United States, while giving victims the opportunity to recover significant compensation for their injuries.

I urge my colleagues to support this bill.

I ask unanimous consent that the bill and copies of the Minneapolis and Indianapolis antipornography ordinances be included in the RECORD.

There being no objection, the ordinances were ordered to be printed in the RECORD, as follows:

AN ORDINANCE OF THE CITY OF MINNEAPOLIS

AMENDING TITLE 7, CHAPTER 139 OF THE MINNEAPOLIS CODE OF ORDINANCES RELATING TO CIVIL RIGHTS: IN GENERAL

The City Council of the City of Minneapolis do ordain as follows:

Section 1. That section 139.10 of the above-entitled ordinance be amended to read as follows:

139.10 Finding, declaration of policy and purpose

(a) *Findings.* The council finds that discrimination in employment, labor union membership, housing accommodations, property rights, education, public accommodations and public services based on race, color, creed, religion, ancestry, national origin, sex, including sexual harassment and pornography, affectional preference, disability, age marital status, or status with regard to public assistance or in housing accommodations based on familial status adversely affects the health, welfare, peace and safety of the community. Such discriminatory practices degrade individuals, foster intolerance and hate, and create and intensify unemployment, sub-standard housing, under-education, ill health, lawlessness and poverty, thereby injuring the public welfare.

(1) Special findings on pornography: The Council finds that pornography is central in creating and maintaining the civil inequality of the sexes. Pornography is a systematic practice of exploitation and subordination based on sex which differentially harms women. The bigotry and contempt it promotes, with the acts of aggression it fosters, harm women's opportunities for equality of rights in employment, education, property rights, public accommodations and public services; create public harassment and private denigration; promote injury and degradation such as rape, battery and prostitution and inhibit just enforcement of laws against these acts; contribute significantly to restricting women from full exercise of citizenship and participation in public life, including in neighborhoods; damage relations between the sexes; and undermine women's equal exercise of rights to speech and action guaranteed to all citizens under the constitutions and laws of the United States and the State of Minnesota.

(b) *Declaration of policy and purpose.* It is the public policy of the City of Minneapolis and the purpose of this title:

(1) To recognize and declare that the opportunity to obtain employment, labor union membership, housing accommodations, property rights, education, public accommodations and public services without discrimination based on race, color, creed, religion, ancestry, national origin, sex, including sexual harassment and pornography, affectional preference, disability, age, marital status, or status with regard to public assistance or to obtain housing accommodations without discrimination based on familial status is a civil right;

(2) To prevent and prohibit all discriminatory practices based on race, color, creed, religion, ancestry, national origin, sex, including sexual harassment and pornography, affectional preference, disability, age, marital status, or status with regard to public assistance with respect to employment, labor union membership, housing accommodations, property rights, education, public accommodations or public services;

(3) To prevent and prohibit all discriminatory practices based on familial status with respect to housing accommodations;

(4) To prevent and prohibit all discriminatory practices of sexual subordination or inequality through pornography;

(5) To protect all persons from unfounded charges of discriminatory practices;

(6) To eliminate existing and the development of any ghettos in the community; and

(7) To effectuate the foregoing policy by means of public information and education, mediation and conciliation, and enforcement.

Section 3. That Section 139.20 of the above-entitled ordinance be amended by adding thereto a new subsection (gg) to read as follows:

(gg) *Pornography.* Pornography is a form of discrimination on the basis of sex.

(1) Pornography is the sexually explicit subordination of women, graphically depicted, whether in pictures or in words, that also includes one or more of the following:

(i) women are presented dehumanized as sexual objects, things or commodities; or

(ii) women are presented as sexual objects who enjoy pain or humiliation; or

(iii) women are presented as sexual objects who experience sexual pleasure in being raped; or

(iv) women are presented as sexual objects tied up or cut up or mutilated or bruised or physically hurt; or

(v) women are presented in postures of sexual submission; or

(vi) women's body parts—including but not limited to vaginas, breasts, and buttocks—are exhibited, such that women are reduced to those parts; or

(vii) women are presented as whores by nature; or

(viii) women are presented being penetrated by objects or animals; or

(ix) women are presented in scenarios of degradation, injury, abasement, torture, shown as filthy or inferior, bleeding, bruised, or hurt in a context that makes these conditions sexual.

(2) The use of men, children, or transsexuals in the place of women in (1)(i-ix) above is pornography for purposes of subsections (l)-(p) of this statute.

Section 4. That Section 139.40 of the above-entitled ordinance be amended by adding thereto new subsections (l), (m), (n), (o), (p), (q), (r) and (s) to read as follows:

(l) *Discrimination by trafficking in pornography.* The production, sale, exhibition, or distribution of pornography is discrimination against women by means of trafficking in pornography:

(1) City, state, and federally funded public libraries or private and public university and college libraries in which pornography is available for study, including an open shelves, shall not be construed to be trafficking in pornography but special display presentations of pornography in said places is sex discrimination.

(2) The formation of private clubs or associations for purposes of trafficking in pornography is illegal and shall be considered a conspiracy to violate the civil rights of women.

(3) Any woman has a cause of action hereunder as a woman acting against the subordination of women. Any man or transsexual who alleges injury by pornography in the way women are injured by it shall also have a cause of action.

(m) *Coercion into pornographic performances.* Any person, including transsexual, who is coerced, intimidated, or fraudulently induced (hereafter, "coerced") into performing for pornography shall have a cause of action against the maker(s), seller(s), exhibitor(s) or distributor(s) of said pornography for damages and for the elimination of the products of the performance(s) from the public view.

(1) *Limitation of action.* This claim shall not expire before five years have elapsed from the date of the coerced performance(s) or from the last appearance or sale of any product of the performance(s), whichever date is later;

(2) Proof of one or more of the following facts or conditions shall not, without more, negate a finding of coercion;

(i) that the person is a woman; or

(ii) that the person is or has been a prostitute; or

(iii) that the person has attained the age of majority; or

(iv) that the person is connected by blood or marriage to anyone involved in or related to the making of the pornography; or

(v) that the person has previously had, or been thought to have had sexual relations with anyone, including anyone involved in or related to the making of the pornography; or

(vi) that the person has previously posed for sexually explicit pictures for or with anyone, including anyone involved in or related to the making of the pornography at issue; or

(vii) that anyone else, including a spouse or other relative, has given permission on the person's behalf; or

(viii) that the person actually consented to a use of the performance that is changed into pornography; or

(ix) that the person knew that the purpose of the acts or events in question was to make pornography; or

(x) that the person showed no resistance or appeared to cooperate actively in the photographic sessions or in the sexual events that produced the pornography; or

(xi) that the person signed a contract, or made statements affirming a willingness to cooperate in the production of pornography; or

(xii) that no physical force, threats, or weapons were used in the making of the pornography; or

(xiii) that the person was paid or otherwise compensated.

(n) *Forcing pornography on a person.* Any woman, man, child, or transsexual who has pornography forced on him/her in any place of employment, in education, in a home, or any public place has a cause of action against the perpetrator and/or institution.

(o) *Assault or physical attack due to pornography.* Any woman, man, child, or transsexual who is assaulted, physically attacked or injured in a way that is directly caused by specific pornography has a claim for damages against the perpetrator, the maker(s), distributor(s), seller(s), and/or exhibitor(s), and for an injunction against the specific pornography's further exhibition, distribution, or sale. No damages shall be assessed (A) against maker(s) for pornography made, (B) against distributor(s) for pornography distributed, (C) against seller(s) for pornography sold, or (D) against exhibitors for pornography exhibited prior to the enforcement date of this act.

(p) *Defenses.* Where the materials which are the subject matter of a cause of action under subsections (l), (m), (n), or (o) of this section are pornography, it shall not be a defense that the defendant did not know or intend that the materials were pornography or sex discrimination.

(q) *Severability.* Should any part(s) of this ordinance be found legally invalid, the remaining part(s) remain valid.

(r) Subsections (l), (m), (n), and (o) of this section are exceptions to the second clause of section 141.90 of this title.

(s) *Effective date.* Enforcement of this ordinance of December 30, 1983, shall be suspended until July 1, 1984 ("enforcement date") to facilitate training, education, voluntary compliance, and implementation taking into consideration the opinions of the City Attorney and the Civil Rights Commission. No liability shall attach under (l) or as specifically provided in the second sentence of (o) until the enforcement date. Liability under all other sections of this act shall attach as of December 30, 1983.

AN ORDINANCE OF THE CITY OF MINNEAPOLIS

AMENDING TITLE 7, CHAPTER 141 OF THE MINNEAPOLIS CODE OF ORDINANCES RELATING TO CIVIL RIGHTS: ADMINISTRATION AND ENFORCEMENT

The City Council of the city of Minneapolis do ordain as follows:

Section 1. That Section 141.50(l) of the above-entitled ordinance be amended by adding thereto a new subsection (3) to read as follows:

(3) *Pornography:* The hearing committee or court may order relief, including the removal of violative material, permanent injunction against the sale, exhibition or distribution of violative material, or any other relief deemed just and equitable, including reasonable attorney's fees.

Section 2. That Section 141.60 of the above-entitled ordinance be amended as follows:

141.60 Civil action, judicial review and enforcement.

(a) *Civil actions.*

(1) An individual alleging a violation of this ordinance may bring a civil action directly in court.

(2) a complainant may bring a civil action at the following times:

(i) Within forty-five (45) days after the director, a review committee or a hearing committee has dismissed a complaint for reasons other than a conciliation agreement to which the complainant is a signator; or

(ii) After forty-five (45) days from the filing of a verified complaint if a hearing has not been held pursuant to section 141.50 or the department has not entered into a conciliation agreement to which the complaint is a signator. The complainant shall notify the department of his/her intention to bring a civil action, which shall be commenced within ninety (90) days of giving the notice. A complainant bringing a civil action shall mail, by registered or certified mail, a copy of the summons and complaint to the department and upon receipt of same, the director shall terminate all proceedings before the department relating to the complaint and shall dismiss the complaint.

No complaint shall be filed or reinstituted with the department after a civil action relating to the same unfair discriminatory practice has been brought unless the civil action has been dismissed without prejudice.

Govt. Ops.—Your Committee, to whom was referred ordinances amending Title 7 of the Minneapolis Code of Ordinances, to add pornography as discrimination against women and provide just and equitable relief upon finding of discrimination by hearing committee of the Civil Rights Commission, and having held public hearings thereon, recommends that the following ordinances be given their second readings for amendment and passage:

a. Ordinance amending Chap 139 relating to *Civil Rights: In General;*

b. Ordinance amending Chap 141 relating to *Civil Rights: Administration and Enforcement.*

CITY-COUNTY GENERAL ORDINANCE NO. 35, 1984

PROPOSAL NO. 298, 1984

A general ordinance amending the "Code of Indianapolis and Marion County, Indiana", Chapter 16, Human Relations; Equal Opportunity.

Be it ordained by the city-county council of the city of Indianapolis and of Marion County, Indiana:

Section 1. The "Code of Indianapolis and Marion County, Indiana", Section 16-1, Findings, policies and purposes, is hereby amended, by deleting the words ~~cross-hatched~~ and adding the words underlined, to read as follows:

Sec. 16-1. Findings, policies and purposes.

(a) Findings. The City-County Council hereby makes the following findings:

(1) The Council finds that the practice of denying equal opportunities in employment, education, access to and use of public accommodations, and acquisition of real estate based on race, color, religion, ancestry, national origin, handicap, or sex is contrary to

the principles of freedom and equality of opportunity and is a burden to the objectives of the policies contained herein and shall be considered discriminatory practices.

(2) Pornography is a discriminatory practice based on sex which denies women equal opportunities in society. Pornography is central in creating and maintaining sex as a basis for discrimination. Pornography is a systematic practice of exploitation and subordination based on sex which differentially harms women. The bigotry and contempt it promotes, with the acts of aggression it fosters, harm women's opportunities for equality of rights in employment, education, access to and use of public accommodations, and acquisition of real property; promote rape, battery, child abuse, kidnapping and prostitution and inhibit just enforcement of laws against such acts; and contribute significantly to restricting women in particular from full exercise of citizenship and participation in public life, including in neighborhoods.

(b) It is the purpose of this ordinance to carry out the following policies of the City of Indianapolis and Marion County:

(1) To provide equal employment opportunity in all city and county jobs without regard to race, color, religion, handicap, national origin, ancestry, age, sex, disabled veteran, or Vietnam era veteran status;

(2) To encourage the hiring of the handicapped in both the public and the private sectors and to provide equal access to the handicapped to public accommodations;

(3) To utilize minority-owned businesses, securing goods and services for the city and county in a dollar amount equal to at least ten (10) percent of monies spent by the City of Indianapolis and Marion County;

(4) To utilize women-owned businesses and encourage the utilization of women in construction and industry;

(5) To protect employers, labor organizations, employment agencies, property owners, real estate brokers, builders, lending institutions, governmental and educational agencies and other persons from unfounded charges of discrimination;

(6) To provide all citizens of the City of Indianapolis and Marion County equal opportunity for education, employment, access to public accommodations without regard to race, religion, color, handicap, sex, national origin, ancestry, age, or disabled veteran or Vietnam era veteran status;

(7) To provide all citizens of the City of Indianapolis and Marion County equal opportunity for acquisition through purchase or rental of real property including, but not limited to housing without regard to race, sex, religion or national origin; and

(8) To prevent and prohibit all discriminataory practices of sexual subordination or inequality through pornography.

Section 2. The "Code of Indianapolis and Marion County, Indiana", Chapter 16, Section 16-3, Definitions, is hereby amended by deleting the words crosshatched and adding the words underlined to read as follows:

Sec. 16-3. Definitions.

As used in this chapter, the following terms shall have the meanings ascribed to them in this section:

(a) Acquisition of real estate shall mean the sale, rental, lease, sublease, construction or financing, including negotiations and any other activities or procedures incident thereto, of:

(1) Any building, structure, apartment, single room or suite of rooms or other portion of a building, occupied as or designed or intended for occupancy as living quarters by one or more families or single individuals;

(2) Any building, structure or portion thereof, or any improved or unimproved land utilized or designed or intended for utilization, for business, commercial, industrial or agricultural purposes;

(3) Any vacant or unimproved land offered for sale or lease for any purpose whatsoever.

(b) Appointing authorities shall mean and include the mayor, city-county council and such other person or agency as may be entitled to appoint any member of the equal opportunity advisory board created in this chapter.

(c) Appraiser shall mean any person who, for a fee or in relation to his/her employment or usual occupation, establishes a value for any kind of real estate, the acquisition of which is defined in this section.

(d) Board shall mean the equal opportunity advisory board.

(e) Complainant shall mean any person who signs a complaint on his/her own behalf alleging that he/she has been aggrieved by a discriminatory practice.

(f) Complaint shall mean a written grievance filed with the office of equal opportunity, either by a complainant or by the board of office, which meets all the requirements of section 16-18 and 16-19.

(g) Discriminatory practice shall mean and include the following:

(1) The exclusion from or failure or refusal to extend to any person equal opportunities or any difference in the treatment of any person by reason of race, sex, religion, color, national origin or ancestry, handicap, age, disabled veteran or Vietnam era veteran status.

(2) The exclusion from or failure or refusal to extend to any person equal opportunities or any different in the treatment of any person, because the person filed a complaint alleging a violation of this chapter, testified in a hearing before any members of the board or otherwise cooperated with the office or board in the performance of its duties and functions under this chapter, or requested assistance from the board in connection with any alleged discriminatory practice, whether or not such discriminatory practice was in violation of this chapter;

(3) In the case of a real estate broker or real estate salesperson or agent, acting in such a capacity in the ordinary course of his/her business or occupation, who does any of the following:

(A) Any attempt to prevent, dissuade or discourage any prospective purchaser, lessee or tenant of real estate from viewing, buying, leasing or renting the real estate because of the race, sex, religion or national origin of:

I. Students, pupils or faculty of any school or school district;

II. Owners or occupants, or prospective owners or occupants, of real estate in any neighborhood or on any street or block; provided, however, this clause shall not be construed to prohibit disclosure in response to inquiry by any prospective purchaser, lessee or tenant of:

(i) Information reasonably believed to be accurate regarding such race, sex, religion or national origin; or

(ii) The honest professional opinion or belief of the broker, salesperson or agent regarding factors which may affect the value or desirability of property available for purchase or lease.

(B) Any solicitation, promotion or attempt to influence or induce any owner to see, lease or list for sale or lease any real estate, which solicitation, promotion or attempted inducement includes representations concerning:

I. Race, sex, religion or national origin or present, prospective or possible purchasers or occupants of real estate in any area, neighborhood or particular street or block;

II. Present, prospective or possible neighborhood unrest, tension or change in the race, sex, religion or national origin of occupants or prospective occupants of real estate in any neighborhood or any street or block;

III. Present, prospective or possible decline in market value of any real estate by reason of the present, prospective or possible entry into any neighborhood, street or block of persons of a particular race, sex, religion or national origin;

IV. Present, prospective or possible decline in the quality of education offered in any school or school district by reason of any change in the race, sex, religion or national origin of the students, pupils or faculty of such school or district.

(4) Trafficking in pornography: The production, sale, exhibition, or distribution of pornography.

(A) City, state, and federally funded public libraries or private and public university and college libraries in which pornography is available for study, including on open shelves, shall not be construed to be trafficking in pornography, but special display presentations of pornography in said places is sex discrimination.

(B) The formation of private clubs or associations for purposes of trafficking in pornography is illegal and shall be considered a conspiracy to violate the civil rights of women.

(C) This paragraph (4) shall not be construed to make isolated passages or isolated parts actionable.

(5) Coercion into pornographic performance: Coercing, intimidating or fraudulently inducing any person, including a man, child or transsexual, into performing for pornography, which injury may date from any appearance or sale of any product(s) of such performance.

(A) Proof of the following facts or conditions shall not constitute a defense:

I. That the person is a women; or

II. That the person is or has been a prostitute; or

III. That the person has attained the age of majority; or

IV. That the person is connected by blood or marriage to anyone involved in or related to the making of the pornography; or

V. That the person has previously had, or been thought to have had, sexual relations with anyone, including anyone involved in or related to the making of the pornography; or

VI. That the person has previously posed for sexually explicit pictures for or with anyone, including anyone involved in or related to the making of the pornography at issue; or

VII. That anyone else, including a spouse or other relative, has given permission on the person's behalf; or

VIII. That the person actually consented to a use of the performance that is changed into pornography; or

IX. That the person knew that the purpose of the acts or events in question was to make pornography; or

X. That the person demonstrated no resistance or appeared to cooperate actively in the photographic sessions or in the sexual events that produced the pornography; or

XI. That the person signed a contract, or made statements affirming a willingness to

cooperate in the production of pornography; or

XII. That no physical force, threats, or weapons were used in the making of the pornography; or

XIII. That the person was paid or otherwise compensated.

(b) Forcing pornography on a person: The forcing of pornography on any woman, man, child or transsexual in any place of employment, in education, in a home or in any public place.

(7) Assault or physical attack due to pornography: The assault, physical attack, or injury on any woman, man, child, or transsexual in a way that is directly caused by specific pornography.

(8) Defenses. Where the materials which are the subject matter of a complaint under paragraphs (4), (5), (6), or (7) of this subsection (g) are pornography, it shall not be a defense that the respondent did not know or intend that the materials were pornography or sex discrimination; provided, however, that in the cases under paragraph (g)(4) of Section 16-3 or against a seller, exhibitor or distributor under paragraph (g)(7) of Section 16-3, no damages or compensation for losses shall be recoverable unless the complainant proves that the respondent knew or had reason to know that the materials were pornography. Provided, further, that it shall be a defense to a complaint under paragraph (g)(4) of Section 16-3 that the materials complained of are those covered only by paragraph (q)(6) of Section 16-3.

(h) Education shall mean the construction, maintenance or operation of any school or educational facility utilized or intended to be utilized for the education or training of persons residing within the territorial jurisdiction of the office and controlled by a public governmental board or agency which operates one or more elementary or secondary schools.

(i) Employer shall mean:

(1) Any political subdivision within the county, not represented by the corporation counsel, pursuant to IC 18-4-7-5, and any separate municipal corporation which has territorial jurisdiction primarily within the county; and

(2) Any person who employs at the time of any alleged violation six (6) or more employees within the territorial jurisdiction of the office.

(j) Employment shall mean a service performed by an individual for compensation on behalf of an employer, except that such services shall not include the following:

(1) Services performed by an individual who in fact is engaged in an independently established trade, occupation, business or profession, and who has been and will continue to be free from direction or control over the manner of performance of such services;

(2) Services performed by an agent who received compensation solely upon a commission basis and who controls his/her own time and efforts; or

(3) Services performed by an individual in the employ of his/her spouse, child or parent.

(k) Employment agency shall mean and include any person undertaking, with or without compensation, to procure, recruit, refer or place any individual for employment.

(l) Labor organization shall mean and include any organization which exists for the purpose, in whole or in part, of collective bargaining or dealing with employers concerning grievances, terms or conditions of employment, or for other mutual aid or protection in relation to employment.

(m) Lending institution shall mean any bank, building and loan association, insurance company or other corporation, association, firm or enterprise, the business of which consists in whole or in part in making or guaranteeing loans, secured by real estate or any interest therein.

(n) Office shall mean the office of equal opportunity created by this chapter.

(o) Owner shall mean and include the titleholder of record, a contract purchaser, lessee, sublessee, managing agent or other person having rights of ownership or possession, or the right to sell, rent of lease real estate.

(p) Person shall mean and include one or more individuals, partnerships, associations, organizations, cooperatives, legal representatives, trustees, trustees in bankruptcy, receivers, governmental agencies and other organized groups of persons.

(q) Pornography shall mean the graphic sexually explicit subordination of women, whether in pictures or in words, that also includes one or more of the following:

(1) Women are presented as sexual objects who enjoy pain or humiliation; or

(2) Women are presented as sexual objects who experience sexual pleasure in being raped; or

(3) Women are presented as sexual objects tied up or cut up or mutilated or bruised or physically hurt, or as dismembered or truncated or fragmented or severed into body parts; or

(4) Women are presented being penetrated by objects or animanls; or

(5) Women are presented in scenarios of degradation, injury, abasement, torture, shown as filthy or inferior, bleeding, bruised, or hurt in a context that makes these conditions sexual;

(6) Women are presented as sexual objects for domination, conquest, violation, exploitation, possession, or use, or through postures or positions of servility or submission or display.

The use of men, children, or transsexuals in the place of women in paragraphs (1) through (6) above shall also constitute pornography under this section.

(r) Public accommodation shall mean an establishment which caters to or offers its services, facilities or goods to the general public.

(s) Public facility shall mean any facility or establishment, other than an educational institution, which is owned, operated or managed by or on behalf of a governmental agency.

(t) Real estate broker shall mean any person who, for a fee or other valuable consideration, sells, purchases, rents, leases or exchanges, or negotiates or offers or attempts to negotiate the sale, purchase, rental, lease or exchange of real property owned by another person; or a person who is licensed and holds himself/herself out to be engaged in the business of selling, purchasing, renting, leasing or exchanging real property for other persons, or who manages and collects rents for the real property of another.

(u) Real estate salesperson or agent shall mean any person employed by a real estate broker to perform or assist in performing any or all of the functions of the real estate broker.

(v) Respondent shall mean one or more persons against whom a complaint is filed under this chapter, and who the complaint alleges has committed or is committing a discriminatory practice.

Section 3. The "Code of Indianapolis and Marion County, Indiana", Chapter 16, Section 16-6, Persons and activities to which sections 16-14 and 16-15 do not apply, is hereby amended by deleting the words crosshatched and adding the words underlined to read as follows:

Sec. 16-16. Persons and activities to which sections 16-14 and 16-15 do not apply.

(a) Section 16-14 and 16-15 shall not apply to employment performed for the consolidated city and department or agency thereof, or any employment performed for the country or agency thereof which is represented by the corporation counsel pursuant to IC 18-4-7-5.

(b) Subject to the provisions of section 16-3(g)(4), the provisions of sections 16-14 and 16-15 shall not include any not-for-profit corporation or association organized exclusively for fraternal or religious purposes, nor any school, education, charitable or religious institution owned or conducted by, or affiliated with, a church or religious institution, nor any exclusively social club, corporation or association that is not organized for profit and is not in fact open to the general public.

(c) Sections 16-14 and 16-15 shall not apply to the rental of rooms in a boarding-house or rooming house or single-family residential unit; provided, however, the owner of the building or unit actually maintains and occupies a unit or room in the building as his/her residence and, at the time of the rental owner intends to continue to so occupy the unit or room therein for an indefinite period subsequent to the rental.

(d) The following shall not be discrimination on the basis of sex:

(1) For any person to maintain separate restrooms or dressing rooms for the exclusive use of either sex;

(2) For an employer to hire and employ employees; for an employment agency to classify or refer for employment any individual; for a labor organization to classify its membership or to classify or refer for employment any individual; or for an employer, labor organization or joint labor-management committee, controlling apprenticeship or other training or retraining programs, to admit or employ any individual in any such program; on the basis of sex in those certain instances where sex is a bona fide occupational qualification reasonably necessary to the normal operation of that particular business or enterprise.

Section 4. The "Code of Indianapolis and Marion County, Indiana", Chapter 16, Section 16-17, Grounds for complaint; persons who may file; persons against whom complaint may be made, is hereby amended by deleting the words crosshatched and adding the words underlined to read as follows:

Sec. 16-17. Grounds for complaint; persons who may file; persons against whom complaint may be made.

(a) A complaint charging that any person has engaged in or is engaging in a discriminatory practice prohibited by sections 16-14 and/or 16-15 may be filed with the office by any person claiming to be aggrieved by the practice, or by one or more members of the board or employees of the office who have reasonable cause to believe that a violation of sections 16-14 and 16-15 has occurred, in any of the following circumstances:

(1) In the case of the acquisition of real estate, against the owner of the real estate, a real estate broker, real estate salesperson or agent, or a lending instituion or appraiser;

(2) In the case of education, against the governing board of any public school district which operates schools within the territorial limits of the consolidated city or of the county;

(3) In the case of a public accommodation, against the owner or person in charge of any such establishment, or both;

(4) In the case of a public facility, against the governmental body which operates or has jurisdiction over the facility;

(5) In the case of employment, against any employer, employment agency or labor organization;

(6) In the case of trafficking in pornography, coercion into pornographic performances, and assault or physical attack due to pornography (as provided in Section 16-3 (g)(77)) against the perpetrator(s), maker(s), seller(s), exhibitor(s), or distributor(s).

(7) In the case of forcing pornography on a person, against the perpetrator(s) and/or institution.

(b) In the case of trafficking in pornography, any woman may file a complaint as a woman acting against the subordination of women and any man, child, or transsexual may file a complaint but must prove injury in the same way that a woman is injured in order to obtain relief under this chapter.

(c) In the case of assault or physical attack due to pornography, compensation for losses or an award of damages shall not be assessed against (1) maker(s), for pornography made, (2) distributor(s), for pornography distributed, (3) seller(s), for pornography sold, or (4) exhibitor(s) for pornography exhibited, prior to the effective date of this act.

Section 5. The "Code of Indianapolis and Marion County, Indiana", Chapter 16, Section 16-26, Hearing, findings and recommendations when conciliation not effected, is hereby amended by deleting the words crosshatched and adding the words underlined to read as follows:

Sec. 16-26. Hearings, findings and recommendations when conciliation not effected.

(a) Hearing to be held; notice. If a complaint filed pursuant to this article has not been satisfactorily resolved within a reasonable time through informal proceedings pursuant to section 16-24, or if the panel investigating the complaint determines that a conciliation conference is inappropriate under the circumstances surrounding the complaint, the complaint adjudication committee may hold a public hearing thereon upon not less than ten (10) working days' written notice to the complainant or other aggrieved person, and to the respondent. If the respondent has not previously filed a written response to the complaint, he may file such response and serve a copy thereof upon the complainant and the office not later than five (5) working days prior to the date of the hearing.

(b) Powers; rights of parties at hearing. In connection with a hearing held pursuant to subsection (1), the complaint adjudication committee shall have power upon any matter pertinent to the complaint or response thereto, to subpoena witnesses and compel their attendance; to require the production of pertinent books, papers or other documents; and to administer oaths. The complainant shall have the right to be represented by the chief officer or any attorney of his/her choice. The respondent shall have the right to be represented by an attorney or any other person of his/her choice. The complainant and respondent shall have the right to appear in person at the hearing, to be represented by an attorney or any other person, to subpoena and compel the attendance of witnesses, and to examine and cross-examine witnesses. The complaint adjudication committee may adopt appropriate rules for the issuance of subpoenas and the conduct of hearings under this section. The complaint adjudication committee and the board shall have the power to enforce discovery and subpoenas by appropriate petition to the Marion County Circuit or superior courts.

(c) Statement of evidence; exception; arguments. Within thirty (30) working days from the close of the hearing, the complaint adjudication committee shall prepare a report containing written recommended findings of fact and conclusions and file such report with the office. A copy of the report shall be furnished to the complainant and respondent, each of whom shall have an opportunity to submit written exceptions within such time as the rules of the complaint adjudication committee shall permit. The complaint adjudication committee may, in its discretion, upon notice to each interested party hear further evidence or argument upon the issues presented by the report and exceptions, if any.

(d) Findings of fact; sustaining or dismissing complaint. If, upon the preponderance of the evidence, the committee shall be of the opinion that any respondent has engaged or is engaging in a discriminatory practice in violation of the chapter, it shall state its findings of fact and conclusions and serve a copy thereof upon the complainant and the respondent. In addition, the committee may cause to be served on the respondent an order requiring the respondent to cease and desist from the unlawful discriminatory practice and requiring such person to take further affirmative action as will effectuate the purposes of this chapter, including but not limited to the power to restore complainant's losses incurred as a result of discriminatory treatment, as the committee may deem necessary to assure justice; to require the posting of notice setting forth the public policy of Marion County concerning equal opportunity and respondent's compliance with said policy in places of public accommodations; to require proof of compliance to be filed by respondent at periodic intervals; to require a person who has been found to be in violation of this ordinance, and who is licensed by a city or county agency authorized to grant a license, to show cause to the licensing agency why his license should not be revoked or suspended. If, upon the preponderance of the evidence, the committee shall be of the opinion that any respondent has not engaged in a discriminatory practice in violation of this chapter it shall state its findings of fact and conclusions and serve a copy thereof upon the complainant and the respondent, and dismiss the complaint. Findings and conclusions made by the committee shall be based solely upon the record of the evidence presented at the hearing.

(e) Appeal to the board. Within thirty (30) working days after the issuance of findings and conclusions by the committee, either the complainant or the respondent may file a written appeal of the decision of the committee to the board; however, in the event that the committee requires a respondent to correct or eliminate a discriminatory practice within a time period less than thirty (30) working days, then that respondent must file his/her appeal within that time period. After considering the record of the evidence presented at the hearing and the findings and conclusions of the committee, the board may affirm the decision of the committee and adopt the findings and conclusions of the committee, or it may affirm the decision of the committee and make supplemental findings and conclusions of its own, or it may reverse the decision of the committee and make findings of fact and conclusions to support its decision. The board may also adopt, modify or reverse any relief ordered by the committee. The board must take any of the above actions within thirty (30) working days after the appeal is filed.

(f) Members of board who are ineligible to participate. No member of the board who initiated a complaint under this chapter or who participated in the investigation thereof shall participate in any hearing or determination under this section as a member of either a hearing panel, the complaint adjudication committee or of the board.

(g) Applicability of state law; judicial review. Except as otherwise specifically provided in this section or in rules adopted by the board of the complaint adjudication committee under this chapter, the applicable provisions of the Administrative Adjudication Act, IC 4-22-1, shall govern the conduct of hearings and determinations under this section, and findings of the board hereunder shall be subject to judicial review as provided in that act.

Section 6. The "Code of Indianapolis and Marion County, Indiana", chapter 16, Section 16-27, Court enforcement, is hereby amended by deleting the words crosshatched and adding the words underlined to read as follows:

Sec. 16-27. Court enforcement.

(a) Institution of action. In any case where the board or the committee has found that a respondent has engaged in or is engaging in a discriminatory practice in violation of sections 16-14 and/or 16-15, and such respondent has failed to correct or eliminate such discriminatory practice within the time limit prescribed by the board or the committee and the time limit for appeal to the board has elapsed, the board may file in its own name in the Marion County circuit or superior courts a complaint against the respondent for the enforcement of section 16-26. Such complaint may request such temporary or permanent injunctive relief as may be appropriate and such additional affirmative relief or orders as will effectuate the purposes of this chapter and as may be equitable, within the powers and jurisdiction of the court.

(b) Record of hearing; evidentiary value. In any action filed pursuant to this section, the board may file with the court a record of the hearing held by the complaint adjudication committee pursuant to section 16-26, which record shall be certified by the secretary of the board as a true, correct and complete record of the proceedings upon which the findings of the complaint adjudication committee and/or the board were based. The court may, in its discretion, admit any evidence contained in the record as evidence in the action filed under subsection (1), to the extent such evidence would be admissible in court under the rules of evidence if the witness or witnesses were present in court, without limitation upon the right of any part to offer such additional evidence as may be pertinent to the issues and as the court shall, in its discretion, permit.

(c) Temporary judicial relief upon filing of complaint. Upon the filing of a complaint pursuant to section 16-17 by a person claim-

ing to be aggrieved, the chief officer, in the name of the board and in accordance with such procedures as the board shall establish by rule, may seek temporary orders for injunctions in the Marion County circuit or superior courts to prevent irreparable harm to the complainant, pending resolution of the complaint by the office, complaint adjudication committee and the board.

(d) Enforcement of conciliating agreements. If the board determines that any party to a conciliation agreement approved by the chief officer under section 16-24 has filed or refused to comply with the terms of the agreement, it may file a complaint in the name of the board in the Marion County circuit or superior courts seeking an appropriate decree for the enforcement of the agreement.

(e) Trial de novo upon finding of sex discrimination related to pornography. In complaints involving discrimination through pornography, judicial review shall be de novo. Notwithstanding any other provision to the contrary, whenever the board or committee has found that a respondent has engaged in or is engaging in one of the discriminatory practices set forth in paragraph (g)(4) of Section 16-3 or as against a seller, exhibitor or distributor under paragraph (g)(7) of Section 16-3, the board shall, within ten (10) days after making such finding, file in its own name in the Marion County circuit or superior court and action for declaratory and/or injunctive relief. The board shall have the burden of proving that the actions of the respondent were in violation of this chapter.

Provided, however, that in any complaint under paragraph (g)(4) of Section 16-3 or against a seller, exhibitor or distributor under paragraph (g)(7) of Section 16-3 no temporary or permanent injunction shall issue prior to a final judicial determination that said activities of respondent do constitute a discriminatory practice under this chapter.

Provided further, that no temporary or permanent injunction under paragraph (g)(4) of Section 16-3 or against a seller, exhibitor or distributor under paragraph (g)(7) of Section 16-3 shall extend beyond such material(s) that, having been described with reasonable specificity by the injunction, have been determined to be validly proscribed under the ordinance.

Section 7. (a) Because this ordinance amends certain provisions adopted in General Ordinance No. 24, 1984, the effective date of that ordinance is postponed until the effective date of this ordinance. (b) The expressed or implied repeal or amendment, by General Ordinance No. 24, 1984, or by this ordinance, of any other ordinance or part of any other ordinance does not affect any rights or liabilities accrued, penalties incurred, or proceedings begun prior to the effective date of this ordinance. Those rights, liabilities, and proceedings are continued, and penalties shall be imposed and en forced under the repealed or amended ordinance as if this ordinance or General Ordinance No. 24, 1984, had not been adopted. (c) An offense, committed before the effective date of this ordinance, under any ordinance expressly or impliedly repealed or amended by this ordinance shall be prosecuted and remains punishable under the repealed or amended ordinance as if this ordinance had not been adopted.

Section 8. Should any provision (section, paragraph, sentence, clause, or any other portion) of this ordinance be declared by a court of competent jurisdiction to be invalid for any reason, the remaining provisions shall not be affected unless such remaining provisions clearly cannot, without the invalid provision or provisions, be given the effect intended by the council in adopting this ordinance. It is further declared to be the intent of the City-County Council that the ordinance be upheld as applied to the graphic depiction of actual sexual subordination whether or not upheld as applied to material produced without the participation of human subjects nor shall a judicial declaration that any provision (section, paragraph, sentence, clause or any other portion) of this ordinance cannot validly be applied in a particular manner or to a particular case or category of cases affect the validity of that provision (section, paragraph, sentence, clause or any other portion) as applied in other ways or to other categories of cases unless such remaining application would clearly frustrate the Council's intent in adopting this ordinance. To this end, the provisions of this ordinance are severable.

Section 9. This ordinance shall be in full force and effect upon adoption and compliance with IC 36-3-4-14.

The foregoing was passed by the City-County Council this 11th day of June, 1984, at 8:44 p.m.

ADDITIONAL COSPONSORS

S. 2720

At the request of Mrs. HAWKINS, the names of the Senator from North Carolina [Mr. HELMS], and the Senator from Kansas [Mr. DOLE] were added as cosponsors of S. 2720, a bill to recognize the organization known as the Women's Army Corps Veterans' Association.

S. 2725

At the request of Mr. DECONCINI, the name of the Senator from Ohio [Mr. GLENN] was added as a cosponsor of S. 2725, a bill to amend part A of title XVIII of the Social Security Act with respect to payment rates of hospice care.

S. 2927

At the request of Mr. GRASSLEY, the name of the Senator from Pennsylvania [Mr. HEINZ], was added as a cosponsor of S. 2927, a bill to amend title 5 of the United States Code regarding the authority of the Special Counsel.

S. 2930

At the request of Mr. SYMMS, the names of the Senator from Colorado [Mr. ARMSTRONG], the Senator from Hawaii [Mr. INOUYE], the Senator from Pennsylvania [Mr. HEINZ], and the Senator from California [Mr. CRANSTON] were added as cosponsors of S. 2930, a bill to repeal the changes made by the Tax Reform Act of 1984 with respect to the tax treatment of debt instruments issued for property.

S. 2946

At the request of Mr. D'AMATO, the name of the Senator from New Jersey [Mr. LAUTENBERG] was added as a cosponsor of S. 2946, a bill to require the Secretary of Health and Human Services to coordinate and support research concerning Alzheimer's disease and related disorders, and for other purposes.

SENATE JOINT RESOLUTION 264

At the request of Mr. TSONGAS, the name of the Senator from Illinois [Mr. PERCY] was added as a cosponsor of Senate Joint Resolution 264, a joint resolution to designate the month of March 1985 as "National Hemophilia Awareness Month."

SENATE JOINT RESOLUTION 311

At the request of Mr. LEVIN, the names of the Senator from Rhode Island [Mr. CHAFEE], the Senator from Connecticut [Mr. WEICKER], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Minnesota [Mr. BOSCHWITZ], the Senator from New York [Mr. D'AMATO], the Senator from California [Mr. WILSON], the Senator from New York [Mr. MOYNIHAN], and the Senator from Oklahoma [Mr. BOREN] were added as cosponsors of Senate Joint Resolution 311, a joint resolution to designate the week of October 13, 1984, through October 19, 1984, as "National Independent Laboratory Week."

SENATE JOINT RESOLUTION 346

At the request of Mr. LEVIN, the name of the Senator from Tennessee [Mr. SASSER] was added as a cosponsor of Senate Joint Resolution 346, a joint resolution to designate the year of 1985 as the "Year of the Teacher."

SENATE JOINT RESOLUTION 351

At the request of Mr. SASSER, the names of the Senator from Arizona [Mr. DECONCINI], the Senator from Indiana [Mr. QUAYLE], and the Senator from North Carolina [Mr. EAST] were added as cosponsors of Senate Joint Resolution 351, a joint resolution designating the week beginning February 17, 1985, as a time to recognize volunteers who give their time to become "Big Brothers and Big Sisters" to youth in need of adult companionship.

SENATE CONCURRENT RESOLUTION 74

At the request of Mr. TSONGAS, the names of the Senator from Montana [Mr. BAUCUS], the Senator from Delaware [Mr. ROTH], the Senator from Missouri [Mr. DANFORTH], and the Senator from Delaware [Mr. BIDEN] were added as cosponsors of Senate Concurrent Resolution 74, a concurrent resolution to encourage and support the people of Afghanistan in their struggle to be free from foreign domination.

SENATE RESOLUTION 386

At the request of Mr. LEVIN, the names of the Senator from Kansas [Mrs. KASSEBAUM], the Senator from New Jersey [Mr. LAUTENBERG], and the Senator from Illinois [Mr. PERCY] were added as cosponsors of Senate Resolution 386, a resolution entitled the "Mandela Freedom Resolution."

SENATE RESOLUTION 449

At the request of Mrs. HAWKINS, the name of the Senator from Indiana [Mr. QUAYLE] was added as a cosponsor of Senate Resolution 449, a resolution condemning the Government of Nicaragua for engaging in the international trafficking of narcotics.

AMENDMENT NO. 4404

At the request of Mr. DODD, the names of the Senator from Hawaii [Mr. MATSUNAGA], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Rhode Island [Mr. PELL], and the Senator from Tennessee [Mr. SASSER] were added as cosponsors of amendment No. 4404 intended to be proposed to House Joint Resolution 648, a joint resolution making continuing appropriations for the fiscal year 1985, and for other purposes.

AMENDMENT NO. 6933

At the request of Mr. HOLLINGS, the name the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of amendment No. 6933 proposed to House Joint Resolution 648, a joint resolution making continuing appropriations for the fiscal year 1985, and for other purposes.

SENATE CONCURRENT RESOLUTION 146—REAFFIRMING U.S. COMMITMENT TO THE ABM TREATY

Mr. CHAFEE submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 146

Whereas the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Limitation of Anti-Ballistic Missile Systems, done at Moscow on May 26, 1972 (hereafter in this concurrent resolution referred to as the "ABM Treaty") has been highly successful in limiting the anti-ballistic missile systems of the United States and the Soviet Union and has stabilized this aspect of the arms race;

Whereas the control of defensive systems is inextricably linked to efforts to control strategic offensive nuclear arms;

Whereas serious questions have been raised about possible violations and questionable practices with respect to the ABM Treaty;

Whereas the ABM Treaty established the Standing Consultative Commission to address questions of compliance with the Treaty; and

Whereas new developments and new technologies raise important new issues which may require further clarification with respect to their relationship to the ABM Treaty: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the President should—

(1) continue to act in accordance with the obligations of the United States under the ABM Treaty;

(2) pursue outstanding questions about compliance with the ABM Treaty through appropriate diplomatic channels;

(3) undertake negotiations, as necessary, to strengthen and clarify provisions of the ABM Treaty and resolve differences of interpretation regarding the Treaty;

(4) obtain the approval of the Congress before taking any action which would be inconsistent with the obligations of the United States under the ABM Treaty; and

(5) report to the Congress on the status of programs which affect obligations of the United States under the ABM Treaty.

SEC. 2. The Secretary of the Senate shall transmit a copy of this concurrent resolution to the President.

● Mr. CHAFEE. Mr. President, 12 years ago today the treaty between the United States and the Soviet Union limiting antiballistic missile systems entered into force. I am today submitting legislation designed to reaffirm our commitment to the ABM Treaty and calling for negotiations to clarify and strengthen the arms control regime created by the ABM Treaty.

The ABM Treaty has served to limit strictly the deployment of antimissile defense systems by the two superpowers and has thereby stabilized this aspect of the arms race.

By making the decision in 1972 to limit the defense, the United States and the Soviet Union also made it possible to negotiate limits on offensive systems, limitations which were established by the SALT I and SALT II accords. Even though the SALT II Treaty was not ratified by the United States, we have continued to observe the numerical ceilings it would have imposed on offensive nuclear forces, and the Soviets have exercised restraint as well.

It is difficult to believe that either side would have agreed to limit their respective offensive arsenals in the face of extensive defensive deployments by the other side. It is for this reason that the ABM Treaty can be said to have served as the foundation for the successfully negotiated offensive arms limitation agreements.

I believe that the ABM Treaty and the regime imposing limits on defense which it established will also serve as an integral component of the next arms control agreement, regardless of whether it is a version of the administration's START proposals or some other new form of agreement. I make this statement because it is now more true than it was at the time of the original agreement that one cannot speak seriously about limiting or reducing the offensive armaments of the United States and the U.S.S.R unless one has some idea of what the rules of the game regarding missile defense will be. Neither side is likely to accept limits on its own offensive systems in the absence of some assurance that the other side will limit the defense.

Recently a number of questions have been raised about the continued relevance of the ABM Treaty. Allegations, some of them quite serious, have been raised concerning compliance on the part of the Soviet Union. In addition, the program contained in the administration's strategic defense initiative [SDI] could bring the United States into conflict with the provisions of the treaty.

Although administration spokesman have been unwilling to state definitively the types of potential violations which could result from a continuation of SDI programs, it is certainly clear that even partial deployment of an area defense or a space-based defense system would be a violation. Some SDI programs could raise serious problems in the testing phase. Others might require clarification or modification of provisions of the treaty itself.

Congress has expressed its concerns about these issues in a number of ways. The 1985 Department of Defense Authorization Act, for example, requires reports about the programs contained in the SDI and their potential impact on the ABM Treaty. These reports will be essential elements in the debate over the SDI and our national strategy. It is essential that they be comprehensive and include a careful legal analysis of our obligations and commitments under the treaty. The Congress needs to have complete information about potential conflicts between SDI programs and the ABM Treaty before we vote on these programs next year.

I believe, Mr. President, that more is needed. That is why I am today submitting a concurrent resolution which calls on the United States to reaffirm its commitment to the ABM Treaty. In addition, my resolution calls on the President to pursue such negotiations as might be required to clarify compliance questions with the Soviets, to improve the ability to verify such compliance, and to identify areas where the treaty needs to be clarified, modified, or strengthened. Technological developments have not been frozen during the 12 years of the treaty's existence, and it is thoroughly appropriate for the two sides to explore these issues through negotiations.

My concurrent resolution also calls on the President to consult with the Congress before taking any actions which would be inconsistent with our obligations under the treaty and to report to Congress on the status of programs which could have an impact on our obligations and commitments under the treaty.

While it may not be possible to pass this resolution during the few days of this session which remain, it is my hope that by introducing this resolution now I am providing a vehicle to focus attention and discussion in the coming months. I am prepared to offer this same or similar legislation in the next Congress, at which time I will

hope to see it enacted. I believe this is a valuable instrument for preserving the AMB regime, and I hope my colleagues will join me in the resolution.

SENATE CONCURRENT RESOLUTION 147—RELATING TO COSTA RICA'S NEUTRALITY

Mr. DODD submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. RES. 147

Whereas November 17, 1984, marks the first anniversary of Costa Rica's proclamation of neutrality;

Whereas such neutrality enables Costa Rica to minimize its involvement in Central America's conflicts, thereby preserving domestic stability and democracy and enhancing its ability to address its severe economic problems;

Whereas such neutrality also enables Costa Rica to play an important role in attempts to achieve political settlements of Central America's conflicts; and

Whereas it is in the interest of the United States that Costa Rica maintain its neutral status: Now, therefore be it

Resolved by the Senate (the House of Representatives concurring), That the Congress supports Costa Rica's neutrality and urges the President to support such neutrality.

COSTA RICA'S NEUTRALITY

● Mr. DODD. Mr. President, today I am submitting a concurrent resolution to express support for Costa Rica's declared position of neutrality. This resolution is identical to House Concurrent Resolution 359, introduced by Congressman BARNES on September 18.

We are all familiar with the theme of national security and the symbols associated with it—large standing armies, bloated defense budgets, row upon row of warriors and weapons. Sadly, this pattern has become, for all practical purposes, the accepted norm. But Costa Rica is the exception that proves the rule. It is determined to protect itself with wisdom, not weapons.

Central America is not a region known for its political stability. Yet Costa Rica is different. It is different because it abolished its standing army in 1949, yet it has remained free and independent. It is different because it chose the democratic route, and has stuck with it. And it is different because it has refused to be anyone's pawn in the conflicts that rage throughout the region. To underscore this position, Costa Rica formally announced its neutrality on November 17, 1983.

That decision deserves our commendation and respect. So as we approach the first anniversary of Costa Rica's neutrality proclamation, I offer this concurrent resolution to reaffirm our strong support for it.●

SENATE CONCURRENT RESOLUTION 148—RELATING TO THE ACQUISITION OF AMERICAN COMMERCIAL LINES BY CSX CORP.

Mr. GORTON (for himself, Mr. BAUCUS, Mr. COCHRAN, and Mr. HEINZ) submitted the following concurrent resolution; which was referred to the Committee on Commerce, Science, and Transportation:

S. CON. RES. 148

Whereas a primary goal of the national transportation policy of the United States is the promotion and preservation of competition among the various modes of transportation that move goods and merchandise among communities across the nation;

Whereas the competition that exists between barge carriers and railroads on thousands of miles of U.S. trade routes is an important element of this policy;

Whereas the Panama Canal Act of 1912 places limits on railroad ownership of competing water carriers, and the Congress has done nothing in the intervening years since 1912 to change the intent of that Act;

Whereas Congress' decision to deregulate the U.S. railroad industry with the Staggers Rail Act of 1980 was predicated, in part, on the preservation of intermodal competition, including that which exists between railroads and barge carriers;

Whereas on September 7, 1984, the Interstate Commerce Commission issued a decision approving the acquisition of the nation's largest barge company, American Commercial Lines, by the nation's second largest railroad, CSX Corporation, after determining that the two companies do, in fact, compete;

Whereas the Interstate Commerce Commission decision, which is a precedent for the acquisition of barge lines by railroads with which they compete, threatens barge companies and their customers nationwide, which may now have to compete against Interstate Commerce Commission-approved railbarge companies—companies with the economic leverage to drive independent barge lines out of business through cross-modal subsidization and rate manipulation;

Whereas the effect of such a trend competition between railroads and barge lines and an increase in shipping rates and a reduction in the transportation options available to shippers;

Whereas thousands of farmers, coal producers, and other shippers benefit significantly from the competition that exists between railroads and barge lines;

Whereas the chairman of the Interstate Commerce Commission has confirmed this danger by publicly acknowledging that with the approval of this transaction, he could not imagine another rail-barge transaction that would not be approved by the Interstate Commerce Commission; and

Whereas the Interstate Commerce Commission indicated in its written decision on the CSX-American Commercial Lines takeover that it has reservations about the potential anti-competitive effects of its decision: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that, the Interstate Commerce Commission decision to approve the acquisition of American Commercial Lines by CSX Corporation misconstrues the intent of Congress with regard to the need to preserve railroad-barge line competition as specified in the Panama Canal Act of 1912 and the Staggers Rail Act of 1980, and should be reversed on appeal.

● Mr. GORTON. Mr. President, on September 7, 1984, the Interstate Commerce Commission issued a decision approving the acquisition of the Nation's largest barge line, American Commercial Lines, by the Nation's second largest railroad, CSX Corp. The ramifications of this transaction affect the very core of our country's national transportation system and the competitive premise on which it is based. I believe that the Congress cannot be silent on this issue, and I am therefore joining with my colleagues, Senator BAUCUS, Senator COCHRAN, and Senator HEINZ, to introduce a concurrent resolution which expresses the sense of the Congress that the Interstate Commerce decision is ill advised, misconstrues the intent of Congress, and should be overturned on appeal.

Intermodal competition—the competition that exists between different modes or types of transportation, such as rail versus barge traffic—is a fundamental part of the transportation policy of the United States. This fact is never more basic than in the case of rail and barge competition. From the Ohio River to the Mississippi River system and Gulf Intercoastal Waterway to the Snake and Columbia River system in the Pacific Northwest, railroad-barge competition is a cornerstone of the transportation industry. Direct and indirect competition between these two types of transportation encourages efficiency, lower shipping costs, and a greater variety of transportation options for shippers throughout the country.

Congress has long recognized the importance of intermodal competition with regard to railroads and barge lines. As far back as the Panama Canal Act of 1912 and as recently as the Staggers Rail Act of 1980, Congress has emphasized the requirement that interstate commerce is best served by competition among different modes of transportation. The Panama Canal Act places specific limits on railroad ownership of competing barge lines, and the Congress has done nothing in the intervening years since 1912 to change the intent of that act. The Staggers Rail Act reemphasizes the need to foster intermodal competition, including that which exists between railroads and barge companies. In fact, Congress' decision to deregulate the railroad industry was predicated on the conviction that competition must be the cornerstone on our transportation system.

The Interstate Commerce Commission sanctioned takeover of American Commercial Lines is the first action of its kind. However, the Chairman of the Interstate Commerce Commission has confirmed the dangerous prece-

dent that this decision would set by publicly acknowledging that with the approval of the CSX-American Commercial Lines takeover, he could not imagine another railroad-barge transaction that would not be approved by the Interstate Commerce Commission. The impact of such a trend should not be misunderstood. Barge companies all over the Nation would have to compete against Interstate Commerce Commission-approved railroad-barge conglomerates—conglomerates with the economic leverage to drive independent barge lines out of business through cross-modal subsidization and rate manipulation.

There is no question as to whether or not CSX and American Commercial Lines are competitors. Ironically, this barge company and this railroad company are perhaps the preeminent example of railroad-barge competition in the United States. They compete over routes serving 29 States and hundreds of communities, and they offer shippers distinct rate and service options for their cargo. To permit the Interstate Commerce Commission to allow this takeover without congressional scrutiny would be a serious blow to intermodal competition and the dictates of Congress.

I urge those of my colleagues who feel as I do to cosponsor this resolution.●

SENATE RESOLUTION 464—ORIGINAL RESOLUTION REPORTED WAIVING CONGRESSIONAL BUDGET ACT

Mr. PACKWOOD, from the Committee on Commerce, Science, and Transportation, reported the following original resolution; which was referred to the Committee on the Budget:

S. RES. 464

Resolved, That, pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of H.R. 3942. Such waiver is necessary because H.R. 3942 authorizes the enactment of new budget authority which would first become available in fiscal year 1985 and such Act was not reported on or before May 25, 1984, pursuant to section 402(a) of the Congressional Budget Act of 1974 for such authorizations. H.R. 3942 would authorize not to exceed $4,000,000 for fiscal year 1985 for activities of the Department of Transportation.

It was not possible for the Committee on Commerce, Science, and Transportation to have reported H.R. 3942 before the statutory deadline, as it was not received in the Senate until June 7, 1984. In addition, the commercial space launch and launch operation activities authorized in H.R. 3942 were not established within the Department of Transportation until February 1984, pursuant to Executive Order No. 12465.

H.R. 3942 will enhance the ability of the Federal Government to establish a licensing scheme to assist the private sector in expanding the potential for growth in the commercial applications of space technology that have been developed over the past twenty-five years. Facilitation of the commercial development of expendable launch vehicles is an important component of the Nation's space transportation program. The authorization of appropriations in H.R. 3942 will permit activities which will produce a stronger, more efficient launch capability for the United States that will contribute to the Nation's continued leadership in space.

The Department of Transportation has advised the Committee on Commerce, Science, and Transportation that current funding levels within the account of the Office of the Secretary for fiscal year 1985 are adequate for implementation of this legislation. Thus, congressional consideration of this authorization will neither interfere with nor delay the appropriations process, nor increase outlays in fiscal year 1985.

SENATE RESOLUTION 465—ORIGINAL RESOLUTION REPORTED WAIVING CONGRESSIONAL BUDGET ACT

Mr. STAFFORD, from the Committee on Environment and Public Works, reported the following original resolution; which was referred to the Committee on the Budget:

S. RES. 465

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of H.R. 5464, a bill to authorize appropriations for the Connecticut Coastal National Wildlife Refuge.

Such waiver is necessary because section 402(a) of the Congressional Budget Act of 1972 provides that it shall not be in order in either the House of Representatives or the Senate to consider any bill or resolution which, directly or indirectly, authorizes the enactment of new budget authority for a fiscal year, unless that bill or resolution is reported in the House or the Senate, as the case may be, on or before May 15 preceding the beginning of such fiscal year.

The Committee on Environment and Public Works was unable to act on this House bill prior to the May 25, 1984, reporting deadline for fiscal year 1985 authorizations since the House passed the bill on September 11, 1984. The Committee was thus unable to report this bill prior to May 25, 1984.

Pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to H.R. 5464 as reported by the Committee on Environment and Public Works.

SENATE RESOLUTION 466—RELATING TO CUSTOMS TREATMENT OF TEXTILES AND APPAREL

Mr. GORTON (for himself, Mr. SYMMS, Mr. NICKLES, Mr. ABDNOR, Mr. ANDREWS, Mr. TOWER, Mrs. KASSEBAUM, Mr. GRASSLEY, Mr. EXON, Mr. DURENBERGER, Mr. CHAFEE, Mr. WILSON, and Mr. LUGAR) submitted the following resolution; which was referred to the Committee on Finance:

S. RES. 466

Whereas changes in longstanding standards and procedures for determining the country of origin of imported textiles and apparel for quota purposes as well as substantial new documentation, inspection and enforcement requirements, will disrupt hundreds of millions of dollars of U.S. trade in textiles and apparel;

Whereas this disruption is expected to result in increased prices and reduced availability of textile and apparel products to U.S. consumers;

Whereas the regulations were promulgated on an interim basis without notice and opportunity for public comment prior to their effective date and without any accompanying analysis of their likely effect on consumer prices or U.S. trade regulations;

Whereas the regulations go far beyond their objective of detering import fraud and will severely restrict many longstanding and entire legitimate business practices;

Whereas the regulations have provoked strong protests by U.S. trading partners and risk foreign retaliation against U.S. exports, particularly agricultural products; and

Whereas reductions in trade resulting from restrictions on U.S. imports or retaliation against U.S. exports will adversely affect employment in other U.S. industries including shipping and port operations and the agriculture industry: Now, therefore be it

Resolved, That it is the sense of the Senate that—

(1) the Customs Service should suspend the operation of the interim regulations for a period of at least six months to permit the completion of a comprehensive analysis of the likely effects of the regulations on:

(a) consumer prices for textiles and apparel;

(b) the availability of textile and apparel supplies to meet U.S. market demand;

(c) U.S. relations with major trading partners and the risk of foreign retaliation against U.S. exports;

(d) potential job losses in other sectors, including shipping, as a result of reduce trade volumes; and

(e) the foreign relations of the United States.

(2) In developing this analysis, the Customs Service should actively encourage participation by retailers, carriers, importers, consumers, the agricultural community, and other affected groups.

● Mr. GORTON. Mr. President, in the past 2 months the issue of import quotas has once again reared its head. On August 3, 1984, the U.S. Customs Service, at the direction of the administration and the urging of the American textile industry, published regulations which would tighten U.S. quota requirements on textile imports.

Under the MultiFiber Arrangement Regarding International Trade in Textiles [MFA] established in 1973, the United States has negotiated bilateral agreements with 28 countries. These agreements delineate for our trading partners certain limits or quotas on the quantity of textiles they may export to the United States. Many of the world's textile exporters have established the business practice of combining their resources and labor to produce various parts of products in one or more countries, combining them in another, and then exporting them to the United States under the

final country's quota. This practice has drawn protests from the domestic textile industry which maintains that such practices allow textile exporters to overstep their quotas, thereby cutting into the domestic textile market.

Although the claims of the American textile manufacturers may have some merit, the manner in which the new regulations were promulgated is highly questionable and could have a devasting negative impact on American agriculture, American retailers, American ports, American consumers, and scores of American jobs. The decision to change the rules was made unilaterally by the United States without consulting our trading partners overseas or the pertinent American industries that would be effected by the regulations.

Perhaps the greatest negative result of the administration's tightening of texile quotas is the retaliation that will most assuredly occur. China has already warned that it is quite likely that it would interrupt its importation of American grain as an expression of its displeasure over the new rules. As the U.S. wheat associates have pointed out, the volume of textile business at stake is only a fraction of the potential loss of U.S. agriculture export business to China. Other nations, including Canada, Japan, the Common Market countries, and a number of Third World countries have condemned the United States for moving unilaterally and ignoring usual procedures for altering trade quota agreements.

American retailers suggest that changes to the rules usher in substantial new documentation, inspection, and enforcement standards and will disrupt hundreds of millions of dollars of U.S. trade in textiles and apparels. The result will be higher prices and narrower selection for consumers. American ports, which are the vital links in our import-export industry, stand to lose millions of dollars of cargo, both incoming and outgoing.

With the foregoing considerations in mind, I believe that it is prudent for Senators to express their misgivings about both the validity and the timeliness of the new textile rules. Consequently, today I am joining with Senators SYMMS, NICKLES, ABDNOR, ANDREWS, TOWER, KASSEBAUM, GRASSLEY, EXON, DURENBERGER, CHAFEE, WILSON, and LUGAR, to offer a resolution which expresses the sense of the Senate that the Customs Service should suspend the operation of the interim regulations for a period of at least 6 months to permit the completion of a comprehensive analysis of the likely effects of the regulations.

Mr. President, I appreciate the cosponsorship of those Senators I have listed. None of them is new to this issue and each has been helpful to me in sharing their knowledge and deep concern about the ramifications of the new regulations. I encourage the rest of my colleagues who are likewise concerned to join us on this resolution.●

SENATE RESOLUTION 467—EXPRESSING APPRECIATION TO THE ENTERTAINMENT INDUSTRY

Mr. ROTH (for himself, Mr. MATTINGLY, Mr. WILSON, Mr. DECONCINI, Mr. CHILES, Mr. MATSUNAGA, Mr. RANDOLPH, Mr. KENNEDY, Mr. STEVENS, Mr. COHEN, Mr. LAXALT, Mr. GLENN, Mr. PRYOR, Mr. GOLDWATER, Mr. RUDMAN, Mr. EAST, Mr. RIEGLE, Mr. NUNN, Mr. D'AMATO, Mr. PERCY, Mrs. KASSEBAUM, Mr. DURENBERGER, Mr. MCCLURE, Mr. WARNER, Mr. QUAYLE, Mr. EAGLETON, Mr. METZENBAUM, Mr. JEPSEN, and Mr. CRANSTON) submitted the following resolution; which was referred to the Committee on the Judiciary.

S. RES. 467

Whereas the growing incidence of drug usage in the United States presents a clear and present danger to our society; and

Whereas efforts to reduce the supply of drugs in the United States have not been successful to a satisfactory degree; and

Whereas in light of this failure to substantially curtail drug supplies, the reduction of drug demand may be our only other means of lessening the impact of drugs in our society; and

Whereas the entertainment industry of the United States, comprising radio, television, movies, theater, video and audio recordings, and other communications means, has extraordinary ability to reach the citizens of this country, especially the youth of America: Therefore be it

Resolved, That:

(1) the Senate commends those members of the entertainment industry, especially the Entertainment Industries Council, who are now working to use the substantial influence and resources of the industry to effectively discourage the use of drugs in our society; and

(2) the Senate urges the entertainment industry to continue to use the enormous resources at its disposal to communicate the dangers of drug usage to our citizens in the same creative and effective manner that we have come to expect in the commercial activities of the industry.

● Mr. ROTH. Mr. President, the war on drugs in this country has been long and frustrating. It has been fought on domestic and foreign fronts by many Congresses, and many administrations. There have been successes and failures, but no decisive victories. The price and availability of drugs have fluctuated to both ends of the spectrum but the weather and foreign political intrusions have been as much a cause as our own hard-fought efforts.

Several new factors have recently influenced the tides of this seemingly endless battle. The results are becoming apparent. On June 21, 1984, the Permanent Subcommittee on Investigations heard from representatives of the National Federation of Parents for Drug Free Youth, the Pharmacists Against Drug Abuse Foundation—a pharamaceutical industry group committed to drug abuse education, representatives of our educational system, a representative of the Congressional Families for Drug Free Youth, and the Entertainment Industries Council. All these groups are working to curtail the demand for drugs in our society, particularly among the youth of America. Each is working against incredible odds. Their dedication cannot be ignored and should not go unhealed by this body.

Mr. President, today I would like to pay particular tribute to the Entertainment Industries Council, a recently formed nonprofit group in Hollywood dedicated to the deglamorization of drug abuse in the media. The Entertainment Industries Council has already, in its short history, garnered the recognition and support of the administration, many Members of Congress, and a growing number of leaders in the entertainment industry. The council recognizes the potential which lies in using all aspects of the entertainment industry to educate the public on the realities of the consequences of drug abuse. Tapping this potential, however, will not be easy. I come today with 28 of our fellow Members from both sides of the aisle to lend our support to the Entertainment Industries Council and the entire industry in this crucial undertaking.

Mr. President, today I would like to introduce a resolution of the Senate which tells the entertainment industry that we here applaud their efforts, that we understand the importance of their assistance, and that we urge them to continue to use their enormous resources to communicate the danger of drug to our country. ●

SENATE RESOLUTION 473—EXPRESSING THE SENSE OF THE SENATE WITH RESPECT TO INTERNATIONAL TERRORISM

Mr. SPECTER submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 473

Whereas in the past decade ther have been nearly 6,500 terrorist incidents around the world, killing over 3,500 people and wounding more than 7,600, including over 2,500 incidents against Americans;

Whereas terrorism anywhere affects nations everywhere by chilling the free exercise of sovereign authority;

Whereas rampant terrorism by its very nature threatens world order and thereby all civilized nations and their citizens;

Whereas any and every nations has the right, under current principles of international law, to assert jurisdiction over offenses considered to be "universal crimes", such as piracy and slavery, in order to protect sovereign authority, universal values, and the interests of mankind; and

Whereas individuals committing "universal crimes" may be prosecuted in any nation in which the offender may be found, irrespective of the nationality of the offender or victim or the place of the offense: NCW, therefore, be it

Resolved, That it is the sense of the Senate that the President should call for international negotiations for the purpose of agreeing on a definition of "international terrorist crimes" and for the purpose of considering whether such a crime would constitute a universal crime under international law. Such definition should require that acts constituting an international terrorist crime—

(1) involve the threat or use of violence or be dangerous to human life,

(2) would be a crime in the prosecuting jurisdiction if committed within its boundaries,

(3) appear to be intended—

(A) to intimidate or coerce a civilian population;

(B) to influence the policy of a government by intimidation or coercion; or

(C) to affect the conduct of a government by assassination or kidnaping; and

(4) transcend national boundaries in terms of the means by which they are accomplished, the persons they appear intended to coerce or intimidate, or the locale in which their perpetrators operate or seek asylum.

These international negotiations should also include consideration of establishing an international criminal court along the lines of the International Military Tribunal established after World War II for the trial of major war criminals at Nuremberg, Germany, that would have jursidiction over the crime of international terrorism.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to the President.

Mr. SPECTER. Mr. President, today I am introducing a resolution expressing the sense of the Senate that the President should call for international negotiations aimed at determining an international definition of terrorism which could then be established as a universal crime punishable by any nation that captures the terrorist.

In submitting this resolution, it is obvious that the Senate cannot act on this matter during the course of the 98th Congress. By introducing this resolution at this time with its inclusion in the CONGRESSIONAL RECORD, the proposal will be on record for consideration by the Members of the Senate until the 99th Congress reconvenes. At that time, the resolution will be resubmitted, perhaps with some strengthening modifications from continuing study in the interim.

The resolution proposes guidelines for arriving at a definition of international terrorism, suggesting that it should involve the threat or use of violence or acts dangerous to human life that would be a crime in the prosecuting jurisdiction if committed there, and that appear to be intended to intimidate or coerce a civilian population, to influence the policy of a government by intimidation, or to affect the conduct of a government by assassination or kidnapping. The acts must be international in the sense that they transcend national boundaries. This language closely parallels the definition of international terrorism codified in the Foreign Intelligence Surveillance Act at 50 U.S.C. 1801(c).

A universal crime, according to well-established principles of international law, is an offense that, by its very nature, affects the interests of all nations, regardless of where committed or the nationality of the victim or the offender. It is a crime against humankind, and any country may prosecute and punish the criminal on behalf of the world community.

The resolution also calls on the President to include on the agenda for these negotiations consideration of establishing an international criminal court along the lines of the International Military Tribunal established after World War II for the trial of major war criminals at Nuremberg, Germany. Such an international forum could provide an optional alternative to persecution by an individual nation and may, in some cases, provide a more credible and collective judgment. Jurisdiction could be limited to established universal crimes.

The oldest universal crime is piracy, but this principle has also applied over the years to the slave trade, the counterfeiting of foreign moneys or securities, traffic in women and children for immoral purposes, injury to submarine cables, traffic in obscene publications, the use of explosives or poison to cause a common danger, and torture.

The Constitution of the United States of America recognizes the legitimacy of this interest in article 1, section 8, where it gives Congress the power to define and punish piracies and felonies committed on the high seas and offenses against the law of nations. Moreover, its application has been upheld in a number of opinions handed down by the U.S. Supreme Court. See, e.g., *United States* v. *Smith* (18 U.S.C. (5 Wheat.) 153 (1820)); *United States* v. *Klintock* (18 U.S. (5 Wheat.) 144 (1820)).

If piracy and torture violate the law of nations, surely the heinois acts of terrorism do. In the past decade, there have been nearly 6,500 terrorist incidents around the world, killing over 3,500 people and wounding more than 7,600, including over 2,500 incidents against Americans. Aside from the tragic death toll, terrorism's pernicious influence on sovereign authority and fundamental world order poses a grave threat to all civilized nations and their citizens.

This grim menace requires a determined response. Just as pirates often had to be apprehended on the high seas and brought forcibly back to the prosecuting country, so we must be prepared to seize and arrest terrorists wherever they may hide and bring them back to justice here in the U.S. courts.

Even abduction of these criminal defendants in other countries to bring them back here for trial has been upheld by the U.S. Supreme Court. In the landmark case of Ker versus Illinois, reported in volume 342 of the official United States Reports at page 519, decided nearly 100 years ago, the State of Illinois kidnaped a defendant in Peru who was charged with a crime in Illinois, and brought him back to Illinois for trial, where he was convicted. The Supreme Court of the United States said it was appropriate to try that man in Illinois and to convict him notwithstanding the means which were used to bring him back to trial in that jurisdiction.

No country in the world nor in the history of the development of law has more rigorous concepts of due process than the United States of America and the U.S. Supreme Court. Yet, the Ker precedent has been upheld in a number of decisions, most notably in an opinion written by Justice Hugo Black—well known for his concern about defendants' rights—in the case of Frisbie versus Collins, handed down by the Supreme Court of the United States in 1952.

In the Frisbie case, Justice Black stated:

> This court has never departed from the rule announced in Ker versus Illinois, that the power of a court to try a person for a crime is not impaired by the fact that he had been brought in the court's jurisdiction by reason of a forcible abduction.

Thus, the concept of universal jurisdiction over international terrorists regardless of where they are found, and its practical application through international seizure and arrest, are merely natural extensions of well-established rules of law here in America as well as among nations.

This legislation supplements legislation I introduced on September 25, 1984, S. 3018, making terrorist acts against U.S. Government employees abroad a crime punishable in our courts.

In making terrorism a universal crime, we broaden both the class of people protected—all citizens of any nation—and the class of protectors—all law-abiding nations. In doing so, we enhance the likelihood that terrorists will be punished and deterred. No longer will prosecution of a terrorist be limited by the inclination or ability of any country. Nor will it be limited to the coincidence of an extradition treaty between the country asserting jurisdiction over the terrorist and the country in which that terrorist is found.

The political use of terror generated by violent acts against innocent victims is intolerable. It is an affront to all nations of the world, and requires

an international resolve to combat it. This Nation of laws must exercise its leadership role and call on all civilized nations to translate international indignation into international action by making terrorism a universal crime.

AMENDMENTS SUBMITTED

TOY SAFETY ACT

KASTEN AMENDMENT NO. 6978

Mr. STEVENS (for Mr. KASTEN) proposed an amendment to the bill (H.R. 5818) to amend the Federal Hazardous Substances Act to apply the notice and repair, replacement, and refund provisions of that act to defective toys and other articles intended for use by children; as follows:

Strike all after the enacting clause and insert in lieu the following:

That this Act may be cited as the "Toy Safety Act of 1984".

SEC. 2. (a) Section 15 of the Federal Hazardous Substances Act (15 U.S.C. 1274) is amended—

(1) by redesignating subsections (c), (d), and (e) as subsections (d), (e), and (f), respectively; and

(2) by inserting immediately after subsection (b) the following:

"(c)(1) If the Commission determines (after affording interested persons, including consumers and consumer organizations, an opportunity for a hearing in accordance with subsection (e) of this section) that any toy or other article intended for use by children that is not a banned hazardous substance contains a defect which creates a substantial risk of injury to children (because of the pattern of defect, the number of defective toys or such articles distributed in commerce, the severity of the risk, or otherwise) and that notification is required to protect adequately the public from such toy or article, the Commission may order the manufacturer or any distributor or dealer of such toy or article to take any one or more of the following actions:

"(A) To give public notice that such defective toy or article contains a defect which creates a substantial risk of injury to children.

"(B) To mail such notice to each person who is a manufacturer, distributor, or dealer of such toy or article.

"(C) To mail such notice to every person to whom the person giving notice knows such toy or article was delivered or sold.

An order under this paragraph shall specify the form and content of any notice required to be given under the order.

"(2) If the Commission determines (after affording interested persons, including consumers and consumer organizations, an opportunity for a hearing in accordance with subsection (e) of this section) that any toy or other article intended for use by children that is not a banned hazardous substance contains a defect which creates a substantial risk of injury to children (because of the pattern of defect, the number of defective toys or such articles distributed in commerce, the severity of the risk, or otherwise) and that action under this paragraph is in the public interest, the Commission may order the manufacturer, distributor, or dealer to take whichever of the following actions the person to whom the orders is directed elects:

"(A) If repairs to or changes in the toy or article can be made so that it will not contain a defect which creates a substantial risk of injury to children, to make such repairs or changes.

"(B) To replace such toy or article with a like or equivalent toy or article which does not contain a defect which creates a substantial risk of injury to children.

"(C) To refund the purchase price of such toy or article (less a reasonable allowance for use, if such toy or article has been in the possession of the consumer for 1 year or more (i) at the time of public notice under paragraph (1)(A), or (ii) at the time the consumer receives actual notice that the toy or article contains a defect which creates a substantial risk of injury to children, whichever first occurs).

An order under this paragraph may also require the person to whom it applies to submit a plan, satisfactory to the Commission, for taking the action which such person has elected to take. The Commission shall specify in the order the person to whom refunds must be made if the person to whom the order is directed elects to take the action described in subparagraph (C). If an order under this paragraph is directed to more than one person, the Commission shall specify which person has the election under this paragraph. An order under this paragraph may prohibit the person to whom it applies from manufacturing for sale, offering for sale, distributing in commerce, or importing into the customs territory of the United States (as defined in general headnote 2 to the Tariff Schedules of the United States), or from doing any combination of such actions, with respect to the toy or article with respect to which the order was issued.".

(b) Section 15(d)(1) of the Federal Hazardous Substances Act, as so redesignated by subsection (a) of this section, is amended by striking "subsection (b)" and inserting in lieu therof "subsection (b) or (c)".

(c) Section 15(d)(2) of such Act, as so redesignated by subsection (a) of this section, is amended—

(1) by striking "an article" and inserting in lieu thereof "a toy, article"; and

(2) by inserting "toy," immediately before "article" the second and third time it appears.

(d) Section 15 (d)(2) and (e) of such Act, as so redesignated by subsection (a) of this section, is amended by striking "subsection (a) or (b)" and inserting in lieu thereof "subsection (a), (b) or (c)".

Amend the title so as to read: "An Act to enable the Consumer Product Safety Commission to protect the public by ordering notice and repair, replacement or refund of certain toys or articles intended for use by children if such toys or articles contain a defect which creates a substantial risk of injury to children.".

AMERICAN CONSERVATION CORPS ACT

MOYNIHAN (AND OTHERS) AMENDMENT NO. 6979

Mr. BYRD (for Mr. MOYNIHAN) (for himself, Mr. MATHIAS, Mr. MCCLURE, Mr. WALLOP, Mr. JOHNSTON, Mr. BUMPERS, Mr. HATFIELD, Mr. CHAFEE, Mr. MITCHELL, Mr. GLENN, Mr. HOLLINGS, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEVIN, Mr. METZENBAUM, Mr. PELL, Mr. PRYOR, Mr. QUAYLE, and Mr. RANDOLPH) proposed an amendment to the bill (H.R. 999) to provide for the conservation, rehabilitation, and improvement of natural and cultural resources located on public or Indian lands; as follows:

Strike all after the enacting clause and insert in lieu thereof the following:

SHORT TITLE

SECTION 1. This act may be cited as the "American Conservation Corps Act of 1984".

CONGRESSIONAL FINDINGS AND PURPOSE

SEC. 2. (a) FINDINGS.—The Congress finds that—

(1) conserving or developing natural and cultural resources and enhancing and maintaining environmentally important lands and waters through the use of the Nation's young men and women, is beneficial not only to the youth of the Nation by providing them with education and work opportunities, but is also beneficial for the Nation's economy and its environment; and

(2) through this work experience opportunity, the Nation's youth will further their understanding and appreciation of the natural and cultural resources in addition to learning basic and fundamental work ethics including discipline, cooperation, understanding to live and work with others, and learning the value of a day's work for a day's wages.

(b) PURPOSE.—It is the purpose of this Act to—

(1) enhance and maintain conservation, rehabilitation, and improvement work on Federal and non-Federal public lands and Indian lands, improve and restore Federal and non-Federal public lands and Indian lands, resources, and facilities, conserve energy and restore and maintain community lands, resources, and facilities;

(2) establish an American Conservation Corps to carry out a program to improve, restore, maintain, and conserve these lands and resources in the most cost-effective manner;

(3) assist State and local governments in carrying out needed non-Federal public land and resource conservation, rehabilitation, and improvement projects;

(4) provide for implementation of the program in such manner as will foster conservation and the wise use of natural and cultural resources through the establishment of working relationships among the Federal, State, and local governments, Indian tribes, and other public and private organizations; and

(5) increase (by training and other means) employment opportunities for young men and women including, but not limited to, those who are economically, socially, physically, or educationally disadvantaged and who may not otherwise be productively employed.

DEFINITIONS

SEC. 3. For purposes of this Act—

(1) The term "Federal public lands" means any lands or waters (or interest therein) owned or administered by the United States.

(2) The term "non-Federal public lands" means any lands or waters (or interest therein) owned or administered by any

agency or instrumentality of a State or local government.

(3) The term "program" means the conservation, rehabilitation, and improvement program established by this Act.

(4) The term "program agency" means any Federal agency or instrumentality with responsibility for the management of any public or Indian lands, any state agency designated by the Governor to manage the program in that state, and the governing body of any Indian tribe.

(5) The term "Indian tribe" means any Indian tribe, band, nation, or other group which is recognized as an Indian tribe by the Secretary of the Interior. Such term also includes any Native village corporation, regional corporation, and Native group established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1701 et seq.).

(6) The term "Indian" means a person who is a member of an Indian tribe.

(7) The term "Indian lands" means any real property owned by an Indian tribe, any real property held in trust by the United States for individual Indians or Indian tribes, and any real property held by individual Indians or Indian tribes which is subject to restrictions on alienation imposed by the United States.

(8) The term "employment security service" means the agency in each of the several States with responsibility for the administration of unemployment and employment programs, and the oversight of local labor conditions.

(9) The term "chief administrator" means the head of any program agency as that term is defined in paragraph (4).

(10) The term "enrollee" means any individual enrolled in the American Conservation Corps in accordance with section 5.

(11) The term "crew leader" means an enrollee appointed under authority of this Act for the purpose of supervising other enrollees engaged in work projects pursuant to this Act.

(12) The term "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(13) The term "economically disadvantaged" with respect to youths has the same meaning given such term in section 4(8) of the Job Training Partnership Act.

PUBLIC LANDS CONSERVATION, REHABILITATION, AND IMPROVEMENT PROGRAM

SEC. 4. (a) ESTABLISHMENT OF PROGRAMS.—There is hereby established within the Department of the Interior and the Department of Agriculture an American Conservation Corps.—

(1) ESTABLISHMENT OF PROGRAM ON FEDERAL PUBLIC LANDS.—Not later than ninety days after the enactment of this Act, the Secretary of the Interior and the Secretary of Agriculture, after consultation with the Secretary of labor, shall establish and administer a conservation, rehabilitation, and improvement program on Federal public lands and Indian lands to carry out the purposes of this Act.

(2) ESTABLISHMENT OF PROGRAM ON NON-FEDERAL PUBLIC LANDS.—The Secretary of the Interior, after consultation with the Secretary of Agriculture and the Secretary of Labor, shall establish and administer a conservation, rehabilitation, and improvement program on non-Federal public lands to carry out the purposes of this Act.

(b) REGULATIONS AND ASSISTANCE.—The Secretary of the Interior and the Secretary of Agriculture, after consultation with the Secretary of Labor, shall jointly promulgate the regulations necessary to implement the programs established by subsection (a). Within thirty days after the enactment of this Act, the Secretary of the Interior and the Secretary of Agriculture shall establish procedures to give Federal and non-Federal program agencies and other interested parties, including the public, adequate notice and opportunity to comment upon and participate in the formulation of such regulations. The Secretary of the Interior and the Secretary of Agriculture shall provide assistance, consistent with the terms of this Act, to program agencies for the establishment and operation of residential and nonresidential American Conservation Corps center and for the implementation by the American Conservation Corps of projects designed to carry out the purposes of this Act.

(c) PROJECTS INCLUDED.—The programs established under this section may include projects such as—

(1) wildlife habitat conservation, rehabilitation, and improvement;

(2) rangeland conservation, rehabilitation, and improvement;

(3) recreational area development, maintenance, and improvement;

(4) urban revitalization;

(5) historical and cultural site preservation and maintenance;

(6) fish culture and habitat maintenance and improvement and other fishery assistance;

(7) road and trail maintenance and improvement;

(8) eroision, flood, drought, and storm damage assistance and control;

(9) stream, lake, and waterfront harbor and port improvement, and pollution control;

(10) insect, disease, rodent, and fire prevention and control;

(11) improvement of abandoned railroad bed and right-of-way;

(12) energy conservation projects and renewable resource enhancement;

(13) recovery of biomass from public lands, particularly forestlands;

(14) reclamation and improvement of strip-mined land; and

(15) forestry, nursery, and silvicultural operation.

(d) PREFERENCE FOR CERTAIN PROJECTS.—The programs shall provide a preference for those projects which—

(1) will provide long-term benefits to the public;

(2) will instill in the enrollee involved a work ethic and a sense of public service;

(3) will be labor intensive; and

(4) can be planned and initiated promptly.

(e) LIMITATION TO FEDERAL AND NON-FEDERAL PUBLIC LANDS.—Projects to be carried out under the program shall be limited to projects on Federal and non-Federal public lands or Indian lands except where a project involving other lands will provide a documented public benefit as determined by the Secretary of the Interior or the Secretary of Agriculture. The regulations promulgated under subsection (b) shall establish the criteria necessary to make such determinations.

(f) CONSISTENCY.—All projects selected and carried out under this Act for conservation, rehabilitation, or improvement of any Federal or non-Federal public lands or Indian lands shall be consistent with the provisions of law and policies relating to the management and administration of such lands, with all other applicable provisions of law, and with all management, operational, and other plans and documents, which govern the administration of the area.

(g) CONSERVATION CENTER.—(1) Each program agency may apply for approval of conservation centers to carry out projects under this Act.

(2) Applications for approval of conservation centers on Federal public lands shall be submitted to the Secretary of the Interior or the Secretary of Agriculture in such manner as is provided for by the regulations promulgated under subsection (b). Applications for the approval of conservation centers on non-Federal public lands or Indian lands shall be submitted to the Secretary of the Interior. No application may be submitted to the Secretary of the Interior or the Secretary of Agriculture before the 30-day period for review and comment by the appropriate State Job Training Coordinating Council (established under the Job Training Partnership Act), if any, which shall consult with the appropriate Private Industry Council, or Councils, in the area in which a project is carried out. Comments of the State Job Training Coordinating Council and Private Industry Council shall be forwarded to the Secretary at the time the grant application is submitted.

(3) No grant or other agreement may be entered into under this section unless an application is submitted to and approved by the Secretary of the Interior or the Secretary of Agriculture, as the case may be. Each application shall contain—

(A) a comprehensive description of the objectives and performance goals for the conservation center and a description of the types of projects to be carried out, including a description of the types and duration of training and work experience to be provided;

(B) a plan to make arrangements for certification of the training skills acquired by enrollees under this Act;

(C) a plan to make arrangements for the award of academic credit by educational institutions and agencies to enrollees for competencies developed under training programs or from work experience under this Act;

(D) an estimate of the number of enrollees and crew leaders necessary for the proposed projects, the length of time for which the services of such personnel will be required and the services which will be required for their support;

(E) a description of the facilities and equipment to be available for use in the center;

(F) a plan for managing the conservation center, supplying the necessary equipment and material, and administering the payroll; and

(G) such other information as the Secretary of the Interior and the Secretary of Agriculture shall prescribe.

(4) In approving the location and type of conservation centers, the Secretary of the Interior and the Secretary of Agriculture shall give due consideration to—

(A) the proximity of the center to the work to be done;

(B) the cost and means of transportation available between the center and the homes of the enrollees who may be assigned to those centers;

(C) the access of economically, socially, physically, or educationally disadvantaged youths to the centers; and

(D) the cost of establishing the center.

Every effort shall be made to assign youths to residential or nonresidential centers as near to their homes as practicable.

(5)(A) Every conservation center shall have sufficient supervisory staff appointed by the chief administrator which may include enrollees who have displayed exceptional leadership qualities.

(B) No project shall be undertaken without the on-site presence of knowledgeable and competent supervision, and all projects undertaken shall be documented in advance in an approved written project plan.

(h) LOCAL GOVERNMENT PARTICIPATION.—Any State carrying out a program under this Act shall provide a mechanism under which local governments within the State may be approved by the State to participate in the program and to carry out projects in accordance with the requirements of this Act.

(i) AGREEMENTS.—Program agencies may enter into contracts and other appropriate arrangements with local government agencies and nonprofit organizations for the management of conservation centers under the program.

(j) JOINT PROJECTS.—The Secretary of the Interior and the Secretary of Agriculture are authorized to develop jointly with the Secretary of Labor regulations designed to allow, where appropriate, joint projects in which activities supported by funds authorized under this Act are coordinated with activities supported by funds authorized under employment and training statutes administered by the Department of Labor (including the Job Training Partnership Act). Such regulations shall provide standards for approval of joint projects which meet both the purposes of the Act and the purposes of such employment and training statutes under which funds are available to support the activities proposed for approval. Such regulations shall also establish a single mechanism for approval of joint projects developed at the State or local level.

ENROLLMENT, FUNDING, AND MANAGEMENT

SEC. 5.(a)(1)(A) ENROLLMENT IN PROGRAM.—Enrollment in the American Conservation Corps shall be limited to individuals who, at the time of enrollment, are—

(i) unemployed;

(ii) not less than sixteen or more than twenty-five years of age (except that programs limited to the months of June, July, and August may include individuals not less than fifteen years and not more than twenty-one years of age at the time of their enrollment); and

(iii) citizens (including those citizens of the Northern Mariana Islands as defined in Public Law 98-213 (97 Stat. 1459)) or lawful permanent residents of the United States.

(B) Special efforts shall be made to recruit and enroll individuals who, at the time of enrollment, are economically disadvantaged.

(C) In addition to recruitment and enrollment efforts required in subparagraph (B), the Secretary of the Interior and the Secretary of Agriculture shall make special efforts to recruit enrollees who are socially, physically, and educationally disadvantaged youths.

(D) Notwithstanding subparagraph (A), a limited number of special corps members may be enrolled without regard to their age so that the corps may draw upon their special skills which may contribute to the attainment of the purposes of the Act.

(2) Except in the case of a program limited to the months of June, July, and August, individuals who at the time of applying for enrollment have attained age sixteen but not attained age nineteen, and who are no longer enrolled in any secondary school shall not be enrolled unless they give adequate written assurances, under criteria to be established by the Secretary of the Interior and the Secretary of Agriculture, that they did not leave school for the express purpose of enrolling. The regulations promulgated under section 4(b) shall provide such criteria.

(3) The selection of enrollees to serve in the American Conservation Corps in any conservation center shall be the responsibility of the chief administrator of the program agency. Enrollees shall be selected from those qualified persons who have applied to, or been recruited by, the program agency, a State employment security service, a local school district with an employment referral service, an administrative entity under the Job Training Partnership Act, a community or community-based nonprofit organization, the sponsor of an Indian program, or the sponsor of a migrant or seasonal farmworker program.

(4)(A) Except for a program limited to the months of June, July, and August, any qualified individual selected for enrollment may be enrolled for a period not to exceed twenty-four months. When the term of enrollment does not consist of one continuous twenty-four-month term, the total of shorter terms may not exceed twenty-four months.

(B) No individual may remain enrolled in the American Conservation Corps after that individual has attained the age of twenty-six, except as provided in section 5(a)(1)(B).

(5) Within the American Conservation Corps the directors of centers shall establish and stringently enforce standards of conduct to promote proper moral and disciplinary conditions. Enrollees who violate these standards shall be transferred to other locations, or dismissed, if it is determined that their retention in that particular center, or in the Corps, will jeopardize the enforcement of such standards or diminish the opportunities of other enrollees. Such disciplinary measures will be subject to expeditious appeal to the appropriate Secretary.

(b) SERVICES, FACILITIES, SUPPLIES, ET CETERA.—The program agency shall provide quarters, board, limited and emergency medical care, transportation from conservation centers to work sites, and other services, facilities, supplies, and equipment. Whenever possible, the Secretary of the Interior and the Secretary of Agriculture shall make arrangements with the Secretary of Defense to have such logistical support provided by a military installation near the proposed center, including the provision of temporary tent centers where needed. Basic standards of work requirements, health, nutrition, sanitation, and safety for all conservation centers shall be established and enforced.

(c) REQUIREMENT OF PAYMENT FOR CERTAIN SERVICES.—Enrollees shall be required to pay a reasonable portion of the cost of room and board provided at conservation centers into rollover funds administered by the appropriate Secretary. Such payments and rates are to be established after evaluation of costs of providing the services. The rollover funds established pursuant to this section shall be used solely to defray the costs of room and board for enrollees. The Secretary of the Interior and the Secretary of Agriculture are authorized to make available to program agencies surplus food and equipment as may be available from Federal programs.

FEDERAL AND STATE EMPLOYEE STATUS

SEC. 6. (a) IN GENERAL.—Enrollees, crew leaders, and volunteers are deemed as being responsible to, or the responsibility of, the program agency administering the project on which they work. Non-Federal program agencies shall be required as a minimum to provide tort claims protection and work related injury claim benefits to enrollees and crew leaders. Except as otherwise specifically provided in the following paragraphs, enrollees and crew leaders in Federal projects for which funds have been authorized pursuant to paragraphs (2), (3), (4), and (5) of section 13(a) shall not be deemed Federal employees and should not be subject to the provisions of law relating to Federal employment;

(1) For purposes of subchapter I of chapter 81 of title 5, United States Code, relating to the compensation of Federal employees for work injuries, enrollees and crew leaders serving Federal program agencies shall be deemed civil employees of the United States within the meaning of the term "employee" as defined in section 8101 of title 5, United States Code, and the provisions of that subchapter shall apply, except—

(A) the term "performance of duty" shall not include any act of an enrollee or crew leader while absent from his or her assigned post of duty, except while participating in an activity authorized by or under the direction and supervision of the Secretary of the Interior or the Secretary of Agriculture or the conservation supervisory staff (including an activity while on pass or during travel to or from such post of duty); and

(B) compensation for disability shall not begin to accrue until the day following the date on which the injured enrollee's or crew leader's employment is terminated.

(2) For purposes of chapter 171 of title 28, United States Code, relating to tort claims procedure, enrollees and crew leaders on Federal projects shall be deemed employees of the United States within the meaning of the term "employee of the Government" as defined in section 1671 of title 28, United States Code.

(3) For purposes of section 5911 of title 5, United States Code, relating to allowances for quarters, enrollees and crew leaders shall be deemed employees of the United States within the meaning of the term "employee" as defined in that section.

(b) AMENDMENT OF TITLE 5.—Section 8322(b) title 5, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (11);

(2) by striking out the period at the end of paragraph (12) and inserting in lieu thereof "; and"; and

(3) by adding after paragraph (12) the following new paragraph:

"(13) service as an enrollee or crew leader only if the enrollee or crew leader in the American Conservation Corps later becomes subject to this subchapter.".

USE OF VOLUNTEERS

SEC. 7. Where any program agency has authority to use volunteer services in carrying out functions of the agency, such agency may use volunteer services for purposes of assisting projects related to conservation centers established under this Act and may expend funds made available for those purposes to the agency, including funds made available under this Act, to provide for services or costs incidental to the utilization of

such volunteers, including transportation, supplies, lodging, subsistence, recruiting, training, and supervision. The use of volunteer services permitted by this section shall be subject to the condition that such use does not result in the displacement of any enrollee.

TENNESSEE VALLEY AUTHORITY

SEC. 8. The Board of Directors of the Tennessee Valley Authority may accept the services of volunteers and provide for their incidental expenses to carry out any activity of the Tennessee Valley Authority except policy-making or law or regulatory enforcement. Such volunteers shall not be deemed employees of the United States Government except for the purposes of chapter 81 of title 5 of the United States Code, relating to compensation for work injuries, and shall not be deemed employees of the Tennessee Valley Authority except for the purposes of tort claims to the same extent as a regular employee of the Tennessee Valley Authority would be under indentical circumstances.

SPECIAL RESPONSIBILITIES

SEC. 9. (a) PAY.—(1) The rate of pay for enrollees shall be 95 percent of the pay rate for members of the Armed Forces in the enlisted grade E-1 who have served for four months or more on active duty, from which a reasonable charge for enrollee room and board shall be deducted by the program agency.

(2) Enrollees shall receive $50 cash incentive stipends for every three months of enrollment in the program.

(3) The rate of pay for crew leaders shall be at a wage comparable to the compensation in effect for grades GS-3 to GS-7.

(b) COORDINATION.—The Secretary of the Interior and the Secretary of Agriculture and the chief administrators of other program agencies carrying out programs under this Act shall coordinate the programs with related Federal, State, local, and private activities.

(c) CERTIFICATION AND ACADEMIC CREDIT.—Pursuant to the provisions of paragraphs (B) and (C) of section 4(g)(3), the Secretary of the Interior and the Secretary of Agriculture shall provide guidance and assistance to program agencies in securing certification of training skills or academic credit for competencies developed under this Act.

(d) RESEARCH AND EVALUATION.—The Secretary of the Interior and the Secretary of Agriculture shall provide for research and evaluation to—

(1) determine costs and benefits, tangible and otherwise, of work performed under this Act and of training and employable skills and other benefits gained by enrollees, and

(2) identify options for improving program productivity and youth benefits, including improved alternatives for: organization, subjects, sponsorship, and funding of work projects; recruitment and personnel policies; siting and functions of conservation centers; work and training regimes for youth of various origins and needs; and cooperative arrangements with programs, persons, and institutions not covered under this Act.

(e) DEMONSTRATIONS.—The Secretary of the Interior and the Secretary of Agriculture may authorize pilot or experimental projects to demonstrate or test new or alternative arrangements or subjects of work and training for programs under this Act, which may include alternatives identified under subsection (d)(2).

(f) CCC SITES.—The Secretary of the Interior, after consultation with the Secretary of Agriculture, shall study sites at which Civilian Conservation Corps activities were undertaken for purposes of determining a suitable location and means to commemorate the Civilian Conservation Corps. Not later than one year after the date of the enactment of this Act, the Secretary of the Interior shall submit a report to the Congress containing the results of the study carried out under this section. The report shall include cost estimates and recommendations for any legislative action.

(g) STUDY.—(1) Program agencies shall not use more than 10 per centum of the funds available to them to provide training and educational materials and services for enrollees and may enter into arrangements with academic institutions or education providers, to include local education agencies, community colleges, four-year colleges, area vocational technical schools and community based organizations, for academic study by enrollees during nonworking hours to upgrade literacy skills, obtain a high school diploma or its equivalency, or college degrees, or enhance employable skills. Enrollees who have not obtained a high school diploma or its equivalency shall have priority to receive services under this subsection. Whenever possible, an enrollee seeking study or training not provided at his or her conservation center shall be offered assignment to a conservation center providing such study or training.

(2) Standards and procedures with respect to the awarding of academic credit and certifying educational attainment in programs conducted under paragraph (1) shall be consistent with the requirement of applicable State and local law and regulations.

(h) GUIDANCE AND PLACEMENT.—Program agencies shall provide such job guidance and placement information and assistance for enrollees as may be necessary. Such assistance shall be provided in coordination with appropriate State, local, and private agencies and organizations.

ANNUAL REPORT

SEC. 10. The Secretary of the Interior and the Secretary of Agriculture shall prepare and submit to the President and to the Congress at least once each year a report detailing the activities carried out under this Act. Such report shall be submitted not later than December 31 of each year following the date of enactment of this Act. The report shall describe (1) conservation work procedures, accomplishments, and benefits; (2) the short-term post-program experience of enrollees, including data on the number of those terminating from the program who are unemployed, employed, have left the labor force, and are enrolled in further education and shall also report on the long-term impacts of the program on the employability of enrollees; (3) other youth benefits; and (4) problems and opportunities encountered in carrying out the Act which require attention. The Secretary of the Interior and the Secretary of Agriculture shall include in such report such recommendations as each considers appropriate.

LABOR MARKET INFORMATION

SEC. 11. The Secretary of Labor shall make available to the Secretary of the Interior and the Secretary of Agriculture and to any program agency under this Act such labor market information as is appropriate for use in carrying out the purposes of this Act.

EMPLOYEE APPEAL RIGHTS

SEC. 12. (a) In the case of—

(1) the displacement of a Federal employee (as defined in paragraph (1) of section 7511(a) of title 5, United States Code) or the failure to reemploy such a Federal employee from a reemployment priority list or return a Federal employee from furlough affected under title 5, United States Code, part 351 or 752, contrary to a certification under section 13(b) (1) or (2), or

(2) the displacement of such a Federal employee by reason of the use of one or more volunteers under section 7 of this Act.

such employee is entitled to appeal such action to the Merit Systems Protection Board under section 7701 of title 5, United States Code.

(b) In the case of—

(1) the displacement of any other individual employed (either directly or under contract with any private contractor) by a progam agency or grantee, or the failure to reemploy an employee in layoff status, contrary to a certification under section 13(b) (1) or (2), or

(2) the displacement of such individual by reason of the use of one or more volunteers under section 7 of this Act,

the requirements contained in section 144 of the Job Training Partnership Act (Public Law 97-300) shall apply, and such individual shall be deemed an interested person for purposes of the application of such requirements.

(c) For purposes of this section, the term "displacement" includes, but is not limited to, any partial displacement through reduction of nonovertime hours, wages, or employment benefits.

AUTHORIZATION OF APPROPRIATIONS

SEC. 13. (a) DISTRIBUTION OF FUNDS.—Of the sums appropriated pursuant to subsection (f) to carry out this Act for any fiscal year—

(1) not less than 35 per centum shall be made available to the Secretary of the Interior for expenditure by State program agencies;

(2) not less than 25 per centum shall be made available to the Secretary of Agriculture for expenditure by program agencies within the Department of Agriculture;

(3) not less than 25 per centum shall be made available to the Secretary of the Interior for expenditure by program agencies within the Department of the Interior;

(4) not less than 25 per centum shall be made available to the Secretary of the Interior for expenditure by the governing bodies of participating Indian tribes; and

(5) the remaining amount shall be made available to the Secretary of the Interior and the Secretary of Agriculture, under such terms as are provided for in regulations promulgated under section 4(b), for expenditure by other Federal program agencies and for demonstration projects or projects of special merit carried out by any program agency or by any nonprofit organization or local government which is undertaking or proposing to undertake projects consistent with the purposes of this Act.

Fifteen per centum of the amount disbursed to State program agencies under paragraph (1) (or to local governments within the State where subsection (c) applies) shall be divided equally among the States and 85 per centum of such amount shall be distributed among such States proportionately according to the total youth population of such States between the ages of fifteen and twenty-five (as determined on the basis of the most recent census). Any State receiving

funds for the operation of any conservation center shall be required to provide not less than 15 per centum of the cost of operation of such center. Any State receiving funds for any fiscal year shall provide not less than 10 per centum of such funds to local governments approved by the State under section (4)(h) to carry out projects under this Act unless no such local government in that State is approved before the end of such fiscal year. In any case where no such local government is approved before the end of such fiscal year, such 10 per centum may be expended by the State in accordance with this Act.

(b) AWARDS OF GRANTS.—The Secretary of the Interior and the Secretary of Agriculture shall not make any grant to, or enter into any agreement with any program agency for the funding of any conservation center under this Act unless such agency certifies that projects carried out by the conservation center will not—

(1) result in the displacement of individuals currently employed (either directly or under contract with any private contractor) by the program agency concerned (including partial displacement through reduction of nonovertime hours, wages, or employment benefits);

(2) result in the employment of any individual when any other person is in a layoff status from the same or substantially equivalent job within the jurisdiction of the program agency concerned; or

(3) impair existing contracts for services.

(c) STATE SHARE TO LOCAL GOVERNMENTS.—If, at the commencement of any fiscal year, any State does not have a program agency designated by the Governor to manage the program in that State, then during such fiscal year each local government within such State may establish a program agency to carry out the program within the political subdivision which is under the jurisdiction of such local government. In any such case, the State share (or a reasonable portion thereof, including amounts authorized to be appropriated pursuant to subsection (f) for such State) may be made available by the Secretary of the Interior for expenditure by such local government program agencies to carry out the program within such political subdivisions. Such local government program agencies shall be in all respects subject to the same requirements as State program agencies. Where more than one local government within a State has established a program agency under this subsection, the Secretary of the Interior shall allocate funds between such agencies in such manner as he deems equitable.

(d) PAYMENT TERMS.—Payments under grants under this section may be made in advance or by way of reimbursement and at such intervals and on such conditions as the Secretary of the Interior or the Secretary of Agriculture, as appropriate, finds necessary.

(e) USE OF FUNDS.—Contract authority under this Act shall be subject to the availability of appropriations. Funds provided under this Act shall only be used for activities which are in addition to those which would otherwise be carried out in the area in the absence of such funds. Not more than 10 per centum of the funds made available to any program agency for projects during each fiscal year may be used for the purchase of major capital equipment.

(f) APPROPRIATION LEVELS.—There is authorized to be appropriated for the purposes of carrying out this Act $50,000,000 for fiscal year 1985, $75,000,000 for fiscal year 1986, and $100,000,000 for fiscal year 1987. Funds appropriated under this Act shall remain available until expended.

OPPOSING THE "BLACKSPOT" POLICY OF THE GOVERNMENT OF SOUTH AFRICA

PERCY AMENDMENT NO. 6980

Mr. STEVENS (for Mr. PERCY) proposed an amendment to the concurrent resolution (S. Con. Res. 65) expressing the sense of the Congress that the Republic of South Africa should cease its blackspot policy of forcibly removing black South Africans from their legally acquired residences and relocating them, and for other purposes; as follows:

On page 5, line 15, strike out "and".

On page 5, between lines 15 and 16, insert the following:

"(3) at such times that any 'homeland' official applies for a visa for travel to the United States, no such visa should be granted to such official unless such official holds a passport which is recognized as valid by the Government of the United States; and".

On page 5, line 16, strike out "(3)" and insert in lieu thereof "(4)".

On page 5, after line 22, insert the following:

"SEC. 2. The Clerk of the House shall transmit a copy of this concurrent resolution to the President with the request that he further transmit such copy to the Ambassador of the Republic of South Africa to the United States and to the Prime Minister of the Republic of South Africa.".

MR. HELMS, CONTINUING APPROPRIATIONS, 1985

ZORINSKY (AND OTHERS) AMENDMENT NO. 6981

Mr. ZORINSKY (for himself, Mr. DODD, and Mr. EXON) proposed an amendment to the joint resolution (H.J. Res. 648) making continuing appropriations for the fiscal year 1985, and for other purposes; as follows:

At the end of the matter proposed to be inserted, add the following:

"SEC. . Notwithstanding any other provision of this joint resolution, none of the funds appropriated by this joint resolution may be available for payment for the United States share of the capital stock of the Inter-American Investment Corporation and none of the provisions of title II of S. 2416, as introduced in the Senate on March 13, 1984, shall have the force or effect of law.".

ABDNOR (AND PRESSLER) AMENDMENT NO. 6982

Mr. ABDNOR (for himself and Mr. PRESSLER) proposed an amendment to the joint resoluton (H.J. Res. 648), supra; as follows:

On page 9, line 10, insert the following:

Sec. . Section 5 of Public Law 97-273 (96 Stat. 1182) is amended by striking out the period at the end of the first sentence and inserting in lieu thereof a comma and "and the Hilltop and Gray Goose irrigation projects.".

DODD (AND KASTEN) AMENDMENT NO. 6983

Mr. DODD (for himself and Mr. KOSTEN) proposed an amendment to the joint resolution (H.J. Res. 648), supra; as follows:

On page 9, line 10 strike out the period and insert in lieu thereof the following: ": *Provided further,* That, notwithstanding any other provision of law, if at any time following the appropriation of funds herein the duly elected President of El Salvador should be deposed by military coup or decree all funds appropriated herein for El Salvador and not theretofore obligated or expended shall not thereafter be available for expenditure or obligation unless reappropriated by Congress.".

PRESSLER AMENDMENT NO. 6985

Mr. PRESSLER proposed an amendment to the joint resolution (H.J. Res. 648), supra; as follows:

H.J. Res. 648 is further amended by striking the following on page 49, lines 13 through 17: "Turkey is making efforts to ensure that the Turkish Cypriot community is not taking any actions with regard to the region of Famagusta/Varosha which would prejudice the outcome or otherwise impede intercommunal talks on the future of Cyprus." and inserting the following in lieu thereof: "the formerly Greek-Cypriot occupied area of Famagusta/Varosha has been returned to the Government of Cyprus under the auspices of the United Nations for the immediate resettlement of refugees.".

PRYOR (AND OTHERS) AMENDMENT NO. 6986

Mr. PRYOR (for himself, Mr. DIXON, Mr. PROXMIRE, Mr. BURDICK, Mr. MELCHER, Mr. LEAHY, Mr. BUMPERS, Mr. ANDREWS, and Mr. BINGAMAN) proposed an amendment to the joint resolution (H.J. Res. 648), supra; as follows:

At the end, add the following: "Notwithstanding any other provision of the joint resolution, not to exceed $705,500,000 may be appropriated to carry out chapter 2 of part 2 of the Foreign Assistance Act of 1961.".

McCLURE (AND OTHERS) AMENDMENT NO. 6987

Mr. McCLURE (for himself, Mr. GLENN, Mr. PERCY, Mr. MATHIAS, Mr. BINGAMAN, Mr. DANFORTH, and Mr. WARNER) proposed an amendment to the joint resolution (H.J. Res. 648), supra; as follows:

Page 9, line 10. Strike the period and insert in lieu thereof the following: ": *Provided further,* That in addition to amounts otherwise appropriated by this joint resolution for "International Organizations and Programs" there is hereby appropriated $5,700,000 for the International Atomic Energy Agency.".

HAWKINS (AND OTHERS) AMENDMENT NO. 6984

Mrs. HAWKINS (for herself, Mr. DODD, Mr. PERCY, Mr. PELL, Mr. CRANSTON, Mr. MOYNIHAN, Mr. DANFORTH, Mr. LEVIN, Mr. INOUYE, and Mr. WILSON) proposed an amendment to the joint resolution (H.J. Res. 648), supra; as follows:

On page 8, line 9, after "1984" strike from the coma down through the word "Fund" on line 13.

PERCY AMENDMENT NO. 6988

Mr. PERCY proposed an amendment to the joint resolution (H.J. Res. 648), supra; as follows:

At the end of amendment No. 8, add the following:

SEC. . In addition to funds otherwise appropriated by this joint resolution for such purposes, there are hereby appropriated to the President to carry out section 301 of the Foreign Assistance Act of 1961, $100,000 for the fiscal year 1985, which amount shall be available only for the United Nations Voluntary Fund for Victims of Torture.

CRANSTON (AND OTHERS) AMENDMENT NO. 6989

Mr. CRANSTON (for himself, Mr. HATFIELD, Mr. GLENN, Mr. STAFFORD, Mr. PROXMIRE, Mr. PELL, Mr. LEVIN, and Mr. MOYNIHAN) proposed an amendment to the joint resolution (H.J. Res. 648), supra; as follows:

At the end of the community amendment add the following: the Foreign Assistance Act of 1961, as amended, is further amended by adding the following new section:

Sec. 620F. Nuclear Non-Proliferation Conditons on Assistance to Pakistan

(a) Notwithstanding any other provision of law, and in accordance with the provisions of subsection (b), no defense articles or services shall be sold or otherwise provided to Pakistan, and no military credits or assistance shall be furnished, if ninety days after the enactment of this section, Pakistan engages in a program to develop or construct a nuclear explosive device, or acquires technology or equipment for use in a nuclear explosive device, or produces special nuclear material in a form and concentration suitable for nuclear explosive purposes.

(b) The prohibitions in subsection (a) on assistance to Pakistan may be waived by the President if, after receiving information requiring termination of such assistance, the President determines in writing to the Chairman of the Senate Foreign Relations committee and the Speaker of the House of Representative that such termination would irrevocably harm the urgent national security interests of the United States. Such determination by the President shall be accompanied by a comprehensive report of suitable classification describing:

(i) any acquisitions by Pakistan of material, equipment or technology which can be used for the manufacture of nuclear weapons together with an assessment of Pakistan's intentions and capabilities for use of such material, equipment, or technology;

(ii) the impact of a halt of U.S. military sales, assistance, or credits to Pakistan on U.S. national security interests in that region;

(iii) the impact on international norms against proliferation of ongoing U.S. military assistance in the presence of a continuing Pakistan nuclear explosives development program;

(iv) the prospects for success of any U.S. initiative to mediate the Indo/Pakistan conflict in order to reduce tensions and the motivation to acquire nuclear weapons.

WARNER AMENDMENT NO. 6990

Mr. WARNER proposed an amendment to the joint resolution (H.J. Res. 648), supra, as follows:

At the end of page 13, line 2, strike the period and insert:

(a) The Secretary of Defense shall provide for an objective study to supplement and update the report entitled "Military Spouse and Family Issues, Europe, 1982."

(b) The study shall include within its scope all areas in which members of the uniformed services are assigned to permanent duty stations and to which the dependents of members of the uniformed services are permitted to travel at Government expense.

(c) The Secretary shall select an independent organization to conduct the study referred to in subsection (a) with such administrative support and technical advice as may be necessary for such organization to carry out the study. Such support and advice may be provided by the Secretary on an in-house basis and to reduce contractual expenditures to include collating, tabulating, computer, word processor, printing, and similar routine services.

(d) A report containing the results of the study carried out under this section shall be submitted to the Committees on Appropriations and Armed Services of the Senate and the House of Representatives not later than May 1, 1985.

(e) For the purpose of contracting out the study called for by this section, the Secretary of Defense may utilize not more than $250,000 out of any funds available to the Department of Defense.

LEVIN (AND WARNER) AMENDMENT NO. 6991

Mr. LEVIN (for himself and Mr. WARNER) proposed an amendment to the joint resolution (H.J. Res. 648), supra; as follows:

In the appropriate place in the section, insert the following proviso: *"Provided* That of the funds appropriated for 'Research, Development, Test and Evaluation, Army' for Fiscal Year 1985, the sum of $1,300,000 shall be available only for the purpose of carrying out the methanol car research program authorized in Sec. 202(a) of the Department of Defense Authorization Act, 1985: *Provided further,* That approximately 50% of the methanol used in this project shall be derived from coal and approximately 50% shall be derived from natural gas."

MATTINGLY AMENDMENT NO. 6992

Mr. MATTINGLY proposed an amendment to the joint resolution (H.J. Res. 648), supra; as follows:

At the end of the amendment add a new section as follows:

SEC. . (a) Notwithstanding any other provision of this joint resolution, of the total amount appropriated by this joint resolution, or any other Act appropriating funds for the Department of Defense for fiscal year 1985, for programs and activities subject to the reporting requirements of the Federal Procurement Data System Individual Contract Action Report (SF-279), an amount not less than $1,000,000,000 may not be apportioned or utilized for the costs of consultants, studies, analyses, management support services or other advisory and assistance services which are included in such reported programs and activities.

(b) Not later than September 1, 1985, the Secretary of Defense shall submit a report to the Congress indicating the manner in which compliance with subsection (a) has been achieved.

INOUYE AMENDMENT NO. 6993

Mr. INOUYE proposed an amendment (which was subsequently modified) to the joint resolution (H.J. Res 648), supra; as follows:

On page 13, line 2, before the period insert a colon and the following: *"Provided further,* That during the fiscal year 1985, no funds availabe to the Central Intelligence Agency, the Department of Defense of any other agency or entity of the United States involved in intelligence activities may be obligated or expended for the purpose or which would have the effect of supporting, directly or indirectly, military or paramilitary operations in Nicaragua by any nation, group, organization, movement, or individual, except as specifically provided in this subsection: *Provided further,* That of the funds made available by the joint resolution for activities of the Central Intelligence Agency, not to exceed $2,000,000 may be obligated or expended solely for the safe and expeditious withdrawal from Nicaragua of any individual who is engaged, or who has been engaged, directly or indirectly, in military or paramilitary operations in Nicaragua, and not to exceed $4,000,000 may be obligated or expended solely to provide humanitarian support outside Nicaragua for individuals (and the families of such individuals) who have been engaged, directly or indirectly, In paramilitary operations in Nicaragua and who are not equipped for military or paramilitary operations while outside Nicaragua".

TECHNICAL CORRECTIONS TO ACT OF JANUARY 12, 1983

ANDREWS AMENDMENT NO. 6994

Mr. BAKER (for Mr. ANDREWS) proposed an amendment to the joint resolution (H.J. Res. 158) to make technical corrections in the Act of January 12, 1983 (Public Law 97-459); as follows:

1. Amendment to Sec. 205. On page 5, line 13, after the word "jurisdiction", insert the following language: "with the consent of the owners of such interests. The tribe may purchase all of the interests in such tract".

2. Amendment to Sec. 206. On page 7, after line 18, add the following new paragraph (4).

"(4) Any ineligible devisee shall also have the right to renounce his or her devise in favor of a person or persons who are eligible to inherit."

3. On page 8, beginning with line 2, strike all through page 10, line 2, and substitute a new Sec. 207 as follows:

"SEC. 207(a). No undivided interest in any tract of trust or restricted land within a tribe's reservation or otherwise subject to a tribe's jurisdiction shall descend by intestacy or devise but shall escheat to that tribe if such interest represents 2 per centum or less of the total acreage in such tract and is incapable of earning $100 in any one of the five years from the date of decedent's death. Where the fractional interest has earned to its owner less than $100 in any one of the five years before the decendent's death, there shall be a rebuttable presumption that such interest is incapable of earning $100 in any one of the five years following the death of the decedent.

"(b) Nothing in this section shall prohibit the devise of such an escheatable fractional interest to any other owner of an undivided fractional interest in such parcel or tract of trust or restricted land.

"(c) Notwithstanding the provisions of subsection (a), any Indian tribe may, subject to the approval of the Secretary, adopt its own code of laws to govern the disposition of interests that are escheatable under this section, and such codes or laws shall take precedence over the escheat provisions of subsection (a), *Provided*, The Secretary shall not approve any code or law that fails to accomplish the purpose of preventing further descent or fractionation of such escheatable interests."

CANCELLATION OR ABANDONMENT OF A TRADEMARK

MATHIAS (AND LEAHY) AMENDMENT NO. 6995

Mr. BAKER (for Mr. MATHIAS, for himself and Mr. LEAHY) proposed an amendment to the bill (S. 1990) to clarify the circumstances under which a trademark may be canceled or abandoned; as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

TITLE I

SHORT TITLE

SEC. 101. This title may be cited as the "Trademark Clarification Act of 1984".

AMENDMENT TO THE TRADEMARK ACT

SEC. 102. Section 14(c) of the Trademark Act of 1946, commonly known as the Lanham Trademark Act of 1946, commonly known as the Lanham Trademark Act (15 U.S.C. 1054(c)) is amended by adding before the semicolon at the end of such section a period and the following: "A registered mark shall not be deemed to be the common descriptive name of goods or services solely because such mark is also used as a name of or to identify a unique product or service. The primary significance of the registered mark to the relevent public rather than purchaser motivation shall be the test for determining whether the registered mark has become the common descriptive name of goods or services in connection with which it has been used".

DEFINITIONS

SEC. 103. Section 45 of such Act (15 U.S.C. 1127) is amended as follows:

(1) Strike out "The term 'trade-mark' includes any word, name, symbol, or device or any combination thereof adopted and used by a manufacturer or merchant to identify his goods and distinguish them from those manufactured or sold by others." and insert in lieu thereof the following: "The term 'trademark' includes any word, name, symbol, or device or any combination thereof adopted and used by a manufacturer or merchant to identify and distinguish his goods, including a unique product, from those manufactured or sold by others and to indicate the source of the goods, even if that source is unknown.".

(2) Strike out "The term 'service mark' means a mark used in the sale or advertising of services to identify the services of one person and distinguish them from the services of others." and insert in lieu thereof the following: "The term 'service mark' means a mark used in the sale or advertising of services to identify and distinguish the services of one person, including a unique service, from the services of others and to indicate the source of the services, even if that source is unknown.".

(3) Add at the end of subparagraph (b) in the paragraph which begins "A mark shall be deemed to be 'abandoned' ", the following new sentence: "Purchaser motivation shall not be a test for determining abandonment under this subparagraph.".

JUDGMENTS

SEC. 104. Nothing in this title shall be construed to provide a basis for reopening of any final judgment entered prior to the date of enactment of this title.

TITLE II

SHORT TITLE

SEC. 201. This title may be cited as the "State Justice Institute Act of 1984".

DEFINITIONS

SEC. 202. As used in this title, the term—

(1) "Board" means the Board of Directors of the Institute;

(2) "Director" means the Executive Director of the Institute;

(3) "Governor" means the Chief Executive Officer of a State;

(4) "Institute" means the State Justice Institute;

(5) "recipient" means any grantee, contractor, or recipient of financial assistance under this title;

(6) "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States; and

(7) "Supreme Court" means the highest appellate court within a State unless, for the purposes of this title, a constitutionally or legislatively established judicial council acts in place of that court.

ESTABLISHMENT OF INSTITUTE; DUTIES

SEC. 203. (a) There is established a private nonprofit corporation which shall be known as the State Justice Institute. The purpose of the Institute shall be to further the development and adoption of improved judicial administration in State courts in the United States. The Institute may be incorporated in any State pursuant to section 204(a)(6) of this title. To the extent consistent will the provisions of this title, the Institute may exercise the powers conferred upon a nonprofit corporation by the laws of the State in which it is incorporated.

(b) The Institute shall—

(1) direct a national program of assistance designed to assure each person ready access to a fair and effective system of justice by providing funds to—

(A) State courts;

(B) national organizations which support and are supported by State courts; and

(C) any other nonprofit organization that will support and achieve the purposes of this title;

(2) foster coordination and cooperation with the Federal judiciary in areas of mutual concern;

(3) promote recognition of the importance of the separation of powers doctrine to an independent judiciary; and

(4) encourage education for judges and support personnel of State court systems through national and State organizations, including universities.

(c) The Institute shall not duplicate functions adequately performed by existing nonprofit organizations and shall promote, on the part of agencies of State judicial administration, responsibility for the success and effectiveness of State court improvement programs supported by Federal funding.

(d) The Institute shall maintain its principal offices in the State in which it is incorporated and shall maintain therein a designed agent to accept service of process for the Institute. Notice to or service upon the agent shall be deemed notice to or service upon the Institute.

(e) The Institute, and any program assisted by the Institute, shall be eligible to be treated as an organization described in section 170 (c)(2)(B) of the Internal Revenue Code of 1954 (26 U.S.C. 170 (c)(2)(B)) and as an organization described in section 501 (c)(3) of the Internal Revenue Code of 1954 (26 U.S.C. 501 (c)(3)) which is exempt from taxation under section 501 (a) of such Code (26 U.S.C. 501 (a)). If such treatments are conferred in accordance with the provisions of such Code, the Institute, and programs assisted by the Institute, shall be subject to all provisions of such Code relevant to the conduct of organizations exempt from taxation.

(f) The Institute shall afford notice and reasonable opportunity for comment to interested parties prior to issuing rules, regulations, guidelines, and instructions under this title, and it shall published in the Federal Register, at least thirty days prior to their effective date, all rules, regulations, guidelines, and instructions.

BOARD OF DIRECTORS

SEC. 204. (a)(1) The Institute shall be supervised by a Board of Directors, consisting of eleven voting members to be appointed by the President, by and with the advice and consent of the Senate. The Board shall have both judicial and nonjudicial members, and shall, to the extent practicable, have a membership representing a variety of backgrounds and reflecting participation and interest in the administration of justice.

(2) The Board shall consist of—

(A) six judges, to be appointed in the manner provided in paragraph (3);

(B) one State court administrator, to be appointed in the manner provided in paragraph (3); and

(C) four members from the public sector, no more than two of whom shall be of the same political party, to be appointed in the manner provided in paragraph (4).

(3) The President shall appoint six judges and one State court administrator from a list of candidates submitted to the President by the Conference of Chief Justices. The Conference of Chief Justices shall submit a list of at least fourteen individuals, including judges and State court administrators, whom the conference considers best quali-

fied to serve on the Board. Whenever the term of any of the members of the Board described in subparagraphs (A) and (B) terminates and that member is not to be reappointed to a new term, and whenever a vacancy otherwise occurs among those members, the President shall appoint a new member from a list of three qualified individuals submitted to the President by the Conference of Chief Justices. The President may reject any list of individuals submitted by the Conference under this paragraph and, if such a list is so rejected, the President shall request the Conference to submit to him another list of qualified individuals. Prior to consulting with or submitting a list to the President, the Conference of Chief Justices shall obtain and consider the recommendations of all interested organizations and individuals concerned with the administration of justice and the objectives of this title.

(4) In addition to those members appointed under paragraph (3), the President shall appoint four members from the pubic sector to serve on the Board.

(5) The President shall make the initial appointments of members of the Board under this subsection within ninety days after the effective date of this title. In the case of any other appointment of a member, the President shall make the appointment not later than ninety days after the previous term expires or the vacancy occurs, as the case may be. The Conference of Chief Justices shall submit lists of candidates under paragraph (3) in a timely manner so that the appointments can be made within the time periods specified in this paragraph.

(6) The intial members of the Board of Directors shall be the incorporators of the Institute and shall determine the State in which the Institute is to be incorporated.

(b)(1) Except as provided in paragraph (2), the term of each voting member of the Board shall be three years. Each member of the Board shall continue to serve until the successor to such member has been appointed and qualified.

(2) Five of the members first appointed by the President shall serve for a term of two years. Any member appointed to serve an unexpired term which has arisen by virtue of the death, disability, retirement, or resignation of a member shall be appointed only for such unexpired term, but shall be eligible for reappointment.

(3) The term of initial members shall commence from the date of the first meeting of the Board, and the term of each member other than an initial member shall commence from the date of termination of the preceding term.

(c) No member shall be reappointed to more than two consecutive terms immediately following such member's initial term.

(d) Members of the Board shall serve without compensation, but shall be reimbursed for actual and necessary expenses incurred in the performance of their official duties.

(e) The members of the Board shall not, by reason of such membership, be considered officers or employees of the United States.

(f) Each member of the Board shall be entitled to one vote. A simple majority of the membership shall constitute a quorum for the conduct of business. The Board shall act upon the concurrence of a simple majority of the membership present and voting.

(g) The Boad shall select from among the voting members of the Board a chairman, the first of whom shall serve for a term of three years. Thereafter, the Board shall annually elect a chairman from among its voting members.

(h) A member of the Board may be removed by a vote of seven members for malfeasance in office, persistent neglect of, or inability to discharge duties, or for any offense involving moral turpitude, but for no other cause.

(i) Regular meetings of the Board shall be held quarterly. Special meetings shall be held from time to time upon the call of the chairman, acting at his own discretion or pursuant to the petition of any seven members.

(j) All meetings of the Board, any executive committee of the Board, and any council established in connection with this title, shall be open and subject to the requirements and provisions of section 552b of title 5, United States Code, relating to open meetings.

(k) In its direction and supervision of the activities of the Institute, the Board shall—

(1) establish policies and develop such programs for the Institute that will further the achievement of its purpose and performance of its functions;

(2) establish policy and funding priorities and issue rules, regulations, guidelines, and instructions pursuant to such priorities;

(3) appoint and fix the duties of the Executive Director of the Institute, who shall serve at the pleasure of the Board and shall be a nonvoting ex officio member of the Board;

(4) present to other Government departments, agencies, and instrumentalities whose programs or activities relate to the administration of justice in the State judiciaries of the United States, the recommendations of the Institute for the improvement of such programs or activities;

(5) consider and recommend to both public and private agencies aspects of the operation of the State courts of the United States considered worthy of special study; and

(6) award grants and enter into cooperative agreements or contracts pursuant to section 206 (a).

OFFICERS AND EMPLOYEES

SEC. 205. (a)(1) The Director, subject to general policies established by the Board, shall supervise the activities of persons employed by the Institute and may appoint and remove such employees as he determines necessary to carry out the purposes of the Institute. The Director shall be responsible for the executive and administrative operations of the Institute, and shall perform such duties as are delegated to such Director by the Board and the Institute.

(2) No political test or political qualification shall be used in selecting, appointing, promoting, or taking any other personnel action with respect to any officer, agent, or employee of the Institute, or in selecting or monitoring any grantee, contractor, person, or entity receiving financial assistance under this title.

(b) Officers and employees of the Institute shall be compensated at rates determined by the Board, but not in excess of the rate of level V of the Executive Schedule specified in section 5316 of title 5, United States Code.

(c)(1) Except as otherwise specifically provided in this title, the Institute shall not be considerd a department, agency, or instrumentality of the Federal Government.

(2) This title does not limit the authority of the Office of Management and Budget to review and submit comments upon the Institute's annual budget request at the time it is transmitted to the Congress.

(d)(1) Except as provided in paragraph (2), officers and employees of the Institute shall not be considered officers or employees of the United States.

(2) Officers and employees of the Institute shall be considered officers and employees of the United States solely for the purposes of the following provisions of title 5, United States Code: Subchapter I of chapter 81 (relating to compensation for work injuries); chapter 83 (relating to civil service retirement); chapter 87 (relating to life insurance); and chapter 89 (relating to health insurance). The Institute shall make contributions under the provisions referred to in this subsection at the same rates applicable to agencies of the Federal Government.

(e) The Institute and its officers and employees shall be subject to the provisions of section 552 of title 5, United States Code, relating to freedom of information.

GRANTS AND CONTRACTS

SEC. 206. (a) The Institute is authorized to award grants and enter into cooperative agreements or contracts, in a manner consistent with subsection (b), in order to—

(1) conduct research, demonstrations, or special projects pertaining to the purposes described in this title, and provide technical assistance and training in support of tests, demonstrations, and special projects;

(2) serve as a clearinghouse and information center, where not otherwise adequately provided, for the preparation, publication, and dissemination of information regarding State judicial systems;

(3) participate in joint projects with other agencies, including the Federal Judicial Center, with respect to the purposes of this title;

(4) evaluate, when appropriate, the programs and projects carried out under this title to determine their impact upon the quality of criminal, civil, and juvenile justice and the extent to which they have met or failed to meet the purposes and policies of this title;

(5) encourage and assist in the furtherance of judicial education;

(6) encourage, assist, and serve in a consulting capacity to State and local justice system agencies in the development, maintenance, and coordination of criminal, civil, and juvenile justice programs and services; and

(7) be responsible for the certification of national programs that are intended to aid and improve State judicial systems.

(b) The Institute is empowered to award grants and enter into cooperative agreements or contracts as follows:

(1) The Institute shall give priority to grants, cooperative agreements, or contracts with—

(A) State and local courts and their agencies,

(B) national nonprofit organizations controlled by, operating in conjunction with, and serving the judicial branches of State governments; and

(C) national nonprofit organizations for the edcuation and training of judges and support personnel of the judicial branch of State governments.

(2) The Institute may, if the objective can better be served thereby, award grants or enter into cooperative agreements or contracts with—

(A) other nonprofit organizations with expertise in judicial administration;

(B) institutions of higher education;

(C) individuals, partnerships, firms, or corporations; and

(D) private agencies with expertise in judicial administration.

(3) Upon application by an appropriate Federal, State, or local agency or institution and if the arrangements to be made by such agency or institution will provide services which could not be provided adequately through nongovernmental arrangements, the Institute may award a grant or enter into a cooperative agreement or contract with a unit of Federal, State, or local government other than a court.

(4) Each application for funding by a State or local court shall be approved, consistent with State law, by the State's supreme court, or its designated agency or council, which shall receive, administer, and be accountable for all funds awarded by the Institute to such courts.

(c) Funds available pursuant to grants, cooperative agreements, or contracts awarded under this section may be used—

(1) to assist State and local court systems in establishing appropriate procedures for the selection and removal of judges and other court personnel and in determining appropriate levels of compensation;

(2) to support education and training programs for judges and other court personnel, for the performance of their general duties and for specialized functions, and to support national and regional conferences and seminars for the dissemination of information on new developments and innovative techniques;

(3) to conduct research on alternative means for using nonjudicial personnel in court decisionmaking activities, to implement demonstration programs to test innovative approaches, and to conduct evaluations of their effectiveness;

(4) to assist State and local courts in meeting requirements of Federal law applicable to recipients of Federal funds;

(5) to support studies of the appropriateness and efficacy of court organizations and financing structures in particular States, and to enable States to implement plans for improved court organization and finance;

(6) to support State court planning and budgeting staffs and to provide technical assistance in resource allocation and service forecasting techniques;

(7) to support studies of the adequacy of court management systems in State and local courts and to implement and evaluate innovative responses to problems of record management, data processing, court personnel management, reporting and transcription of court proceedings, and juror utilization and management;

(8) to collect and compile statistical data and other information on the work of the courts and on the work of other agencies which relate to and effect the work of courts;

(9) to conduct studies of the causes of trial and appellate court delay in resolving cases, and to establish and evaluate experimental programs for reducing case processing time;

(10) to develop and test methods for measuring the performance of judges and courts and to conduct experiments in the use of such measures to improve the functioning of such judges and courts;

(11) to support studies of court rules and procedures, discovery devices, and evidentiary standards, to identify problems with the operation of such rules, procedures, devices, and standards, to devise alternative approaches to better reconcile the requirements of due process with the need for swift and certain justice, and to test the utility of those alternative approaches;

(12) to support studies of the outcomes of cases in selected subject matter areas to identify instances in which the substance of justice meted out by the courts diverges from public expectations of fairness, consistency, or equity, to propose alternative approaches to the resolving of cases in problem areas, and to test and evaluate those alternatives;

(13) to support programs to increase court responsiveness to the needs of citizens through citizen education, improvement of court treatment of witnesses, victims, and jurors, and development of procedures for obtaining and using measures of public satisfaction with court processes to improve court performance;

(14) to test and evaluate experimental approaches to providing increased citizen access to justice, including processes which reduce the cost of litigating common grievances and alternative techniques and mechanisms for resolving disputes between citizens; and

(15) to carry out such other programs, consistent with the purposes of this title, as may be deemed appropriate by the Institute.

(d) The Institute shall incorporate in any grant, cooperative agreement, or contract awarded under this section in which a State or local judicial system is the recipient, the requirement that the recipient provide a match, from private or public sources, not less than 50 per centum of the total cost of such grant, cooperative agreement, or contract, except that such requirement may be waived in exceptionally rare circumstances upon the approval of the chief justice of the highest court of the State and a majority of the Board of Directors.

(e) The Institute shall monitor and evaluate, or provide for independent evaluations of, programs supported in whole or in part under this title to ensure that the provisions of this title, the bylaws of the Institute, and the applicable rules, regulations, and guidelines promulgated pursuant to this title, are carried out.

(f) The Institute shall provide for an independent study of the financial and technical assistance programs under this title.

LIMITATIONS ON GRANTS AND CONTRACTS

SEC. 207. (a) With respect to grants made and contracts or cooperative agreements entered into under this title, the Institute shall—

(1) ensure that no funds made available to recipients by the Institute shall be used at any time, directly or indirectly, to influence the issuance, amendment, or revocation of any Executive order or similar promulgation by any Federal, State, or local agency, or to undertake to influence the passage or defeat of any legislation or constitutional amendment by the Congress of the United States, or by any State or local legislative body, or any State proposal by initiative petition, or of any referendum, unless a governmental agency, legislative body, a committee, or a member thereof—

(A) requests personnel of the recipients to testify, draft, or review measures or to make representations to such agency, body, committee, or member; or

(B) is considering a measure directly affecting the activities under this title of the recipient or the Institute;

(2) ensure all personnel engaged in grant, cooperative agreement or contract assistance activities supported in whole or part by the Institute refrain, while so engaged, from any partisan political activity; and

(3) ensure that each recipient that files with the Institute a timely application for refunding is provided interim funding necessary to maintain its current level of activities until—

(A) the application for refunding has been approved and funds pursuant thereto received; or

(B) the application for refunding has been finally denied in accordance with section 9 of this title.

(b) No funds made available by the Institute under this title, either by grant, cooperative agreement, or contract may be used to support or conduct training programs for the purpose of advocating particular nonjudicial public policies or encouraging nonjudicial political activities.

(c) The authorization to enter into cooperative agreements, contracts or any other obligation under this title shall be effective only to the extent, and in such amounts, as are provided in advance in appropriation Acts.

(d) To ensure that funds made available under this Act are used to supplement and improve the operation of State courts, rather than to support basic court services, funds shall not be used—

(1) to supplant State or local funds currently supporting a program or activity; or

(2) to construct court facilities or structures, except to remodel existing facilities to demonstrate new architectural or technological techniques, or to provide temporary facilities for new personnel or for personnel involved in a demonstration or experimental program.

RESTRICTIONS ON ACTIVITIES OF THE INSTITUTE

SEC. 208. (a) The Institute shall not—

(1) participate in litigation unless the Institute or a recipient of the Institute is a party, and shall not participate on behalf of any client other than itself;

(2) interfere with the independent nature of any State judicial system or allow financial assistance to be used for the funding of regular judicial and administrative activities of any State judicial system other than pursuant to the terms of any grant, cooperative agreement, or contract with the Institute, consistent with the requirements of this title; or

(3) undertake to influence the passage or defeat of any legislation by the Congress of the United States or by any State or local legislative body, except that personnel of the Institute may testify or make other appropriate communication—

(A) when formally requested to do so by a legislative body, committee, or a member thereof;

(B) in connection with legislation or appropriations directly affecting the activities of the Institute; or

(C) in connection with legislation or appropriations dealing with improvements in the Sate judiciary, consistent with the provisions of this title.

(b)(1) The Institute shall have no power to issue any shares of stock, or to declare or pay any dividends.

(2) No part of the income or assets of the Institute shall ensure to the benefit of any director, officer, or employee, except as reasonable compensation for services or reimbursement for expenses.

(3) Neither the Institute nor any recipient shall contribute or make available Institute funds or program personnel or equipment to any political party or association, or the

campaign of any candidate for public or party office.

(4) The Institute shall not contribute or make available Institute funds or program personnel or equipment for use in advocating or opposing any ballot measure, initiative, or referendum.

(c) Officers and employees of the Institute or of recipients shall not at any time intentionally identify the Institute or the recipient with any partisan or nonpartisan political activity associated with a political party or association, or the campaign of any candidate for public or party office.

SPECIAL PROCEDURES

SEC. 209. The Institute shall prescribe procedures to ensure that— .

(1) financial assistance under this title shall not be suspended unless the grantee, contractor, person, or entity receiving financial assistance under this title has been given reasonable notice and opportunity to show cause why such actions should not be taken; and

(2) financial assistance under this title shall not be terminated, an application for refunding shall not be denied, and a suspension of financial assistance shall not be continued for longer than thirty days, unless the recipient has been afforded reasonable notice and opportunity for a timely, full, and fair hearing, and, when requested, such hearing shall be conducted by an independent hearing examiner. Such hearing shall be held prior to any final decision by the Institute to terminate financial assistance or suspend or deny funding. Hearing examiners shall be appointed by the Institute in accordance with procedures established in regulations promulgated by the Institute.

PRESIDENTIAL COORDINATION

SEC. 210. The President may, to the extent not inconsistent with any other applicable law, direct that appropriate support functions of the Federal Government may be made available to the Institute in carrying out its functions under this title.

RECORDS AND REPORTS

SEC. 211. (a) The Institute is authorized to require such reports as it deems necessary from any recipient with respect to activities carried out pursuant to this title.

(b) The Institute is authorized to prescribe the keeping of records with respect to funds provided by any grant, cooperative agreement, or contract under this title and shall have access to such records at all reasonable times for the purpose of ensuring compliance with such grant, cooperative agreement, or contract or the terms and conditions upon which financial assistance was provided.

(c) Copies of all reports pertinent to the evaluation, inspection, or monitoring of any recipient shall be submitted on a timely basis to such recipient, and shall be maintained in the principal office of the Institute for a period of at least five years after such evaluation, inspection, or monitoring. Such reports shall be available for public inspection during regular business hours, and copies shall be furnished, upon request, to interested parties upon payment of such reasonable fees as the Institute may establish.

(d) Non-Federal funds received by the Institute, and funds received for projects funded in part by the Institute or by any recipient from a source other than the Institute, shall be accounted for and reported as receipts and disbursements separate and distinct from Federal funds.

AUDITS

SEC. 212. (a)(1) The accounts of the Institute shall be audited annually. Such audits shall be conducted in accordance with generally accepted auditing standards by independent certified public accountants who are certified by a regulatory authority of the jurisdiction in which the audit is undertaken.

(2) The audits shall be conducted at the place or places where the accounts of the Institute are normally kept. All books, accounts, financial records, reports, files, and other papers or property belonging to or in use by the Institute and necessary to facilitate the audits shall be made available to the person or persons conducting the audits. The full facilities for verifying transactions with the balances and securities held by depositories, fiscal agents, and custodians shall be afforded to any such person.

(3) The report of the annual audit shall be filed with the General Accounting Office and shall be available for public inspection during business hours at the principal office of the Institute.

(b)(1) In addition to the annual audit, the financial transactions of the Institute for any fiscal year during which Federal funds are available to finance any portion of its operations may be audited by the General Accounting Office in accordance with such rules and regulations as may be prescribed by the Comptroller General of the United States.

(2) Any such audit shall be conducted at the place or places where accounts of the Institute are normally kept. The representatives of the General Accounting Office shall have access to all books, accounts, financial records, reports, files, and other papers or property belonging to or in use by the Institute and necessary to facilitate the audit. The full facilities for verifying transactions with the balances and securities held by depositories, fiscal agents, and custodians shall be afforded to such representatives. All such books, accounts, financial records, reports, files, and other papers or property of the Institute shall remain in the possession and custody of the Institute throughout the period beginning on the date such possession or custody commences and ending three years after such date, but the General Accounting Office may require the retention of such books, accounts, financial records, reports, files, and other papers or property for a longer period under section 3523(c) of title 31, United States Code.

(3) A report of such audit shall be made by the Comptroller General to the Congress and to the Attorney General, together with such recommendations with respect thereto as the Comptroller General deems advisable.

(c)(1) The Institute shall conduct, or require each recipient to provide for, an annual fiscal audit. The report of each such audit shall be maintained for a period of at least five year at the principal office of the Institute.

(2) The Institute shall submit to the Comptroller General of the United States copies of such reports, and the Comptroller General may, in addition, inspect the books, accounts, financial records, files, and other papers or property belonging to or in use by such grantee, contractor, person, or entity, which relate to the disposition or use of funds received from the Institute. Such audit report shall be available for public inspection during regular business hours, at the principal office of the Institute.

REPORT BY ATTORNEY GENERAL

SEC. 213. On October 1, 1987, the Attorney General, in consultation with the Federal Judicial Center, shall transmit to the Committees on the Judiciary of the Senate and the House of Representatives a report on the effectiveness of the Institute in carrying out the duties specified in section 283(b). Such report shall include an assessment of the cost effectiveness of the program as a whole and, to the extent practicable, of individual grants, an assessment of whether the restrictions and limitations specified in sections 207 and 208 have been respected, and such recommendations as the Attorney General, in consultation with the Federal Judicial Center, deems appropriate.

AMENDMENTS TO OTHER LAWS

SEC. 214. Section 628(b) of title 28, United States Code, is amended by—

(1) striking out "and" at the end of paragraph (3);

(2) striking out the period at the end of paragraph (4) and inserting in lieu thereof "; and"; and

(3) inserting the following new paragraph (5) at the end thereof:

"(5) Insofar as may be consistent with the performance of the other functions set forth in this section, to cooperate with the State Justice Institute in the establishment and coordination of research and programs concerning the administration of justice.".

AUTHORIZATIONS

SEC. 215. There are authorized to be appropriated to carry out the purposes of this title, $13,000,000 for fiscal year 1986, $15,000,000 for fiscal year 1987, and $15,000,000 for fiscal year 1988.

EFFECTIVE DATE

SEC. 216. The provisions of this title shall take effect on October 1, 1985.

TITLE III

SHORT TITLE

SEC. 301. This title may be cited as the "Semiconductor Chip Protection Act of 1984".

PROTECTION OF SEMICONDUCTOR CHIP PRODUCTS

SEC. 302. Title 17, United States Code, is amended by adding at the end thereof the following new chapter:

"CHAPTER 9—PROTECTION OF SEMICONDUCTOR CHIP PRODUCTS

"Sec.
"901. Definitions.
"902. Subject matter of protection.
"903. Ownership and transfer.
"904. Duration of protection.
"905. Exclusive rights in mask works.
"906. Limitation on exclusive rights: reverse engineering; first sale.
"907. Limitation on exclusive rights: innocent infringement.
"908. Registration of claims of protection.
"909. Mask work notice.
"910. Enforcement of exclusive rights.
"911. Civil actions.
"912. Relation to other laws.
"913. Transitional provisions.
"914. International transitional provisions.

"§ 901. Definitions

"(a) As used in this chapter—

"(1) a 'semiconductor chip product' is the final or intermediate form of any product—

"(A) having two or more layers of metallic, insulating, or semiconductor material, deposited or otherwise placed on, or etched away or otherwise removed from, a piece of

semiconductor material in accordance with a predetermined pattern; and

"(B) intended to perform electronic circuitry functions;

"(2) a 'mask work' is a series of related images, however fixed or encoded—

"(A) having or representing the predetermined, three-dimensional pattern of metallic, insulating, or semiconductor material present or removed from the layers of a semiconductor chip product; and

"(B) in which series the relation of the images to one another is that each image has the pattern of the surface of one form of the semiconductor chip product;

"(3) a mask work is 'fixed' in a semiconductor chip product when its embodiment in the product is sufficiently permenant or stable to permit the mask work to be perceived or reproduced from the product for a period of more than transitory duration;

"(4) to 'distribute' means to sell, or to lease, bail, or otherwise transfer, or to offer to sell, lease, bail, or otherwise transfer;

"(5) to 'commercially exploit' a mask work is to distribute to the public for commercial purposes a semiconductor chip product embodying the mask work; except that such term includes an offer to sell or transfer a semiconductor chip product only when the offer is in writing and occurs after the mask work is fixed in the semiconductor chip product;

"(6) the 'owner' of a mask work is the person who created the mask work, the legal representative of that person if that person is deceased or under a legal incapacity, or a party to whom all the rights under this chapter of such person or representative are transferred in accordance with section 903(b); except that, in the case of a work made within the scope of a person's employment, the owner is the employer for whom the person created the mask work or a party to whom all the rights under this chapter of the employer are transferred in accordance with section 903(b);

"(7) an 'innocent purchaser' is a person who purchases a semiconductor chip product in good faith and without having notice of protection with respect to the semiconductor chip product;

"(8) having 'notice of protection' means having actual knowledge that, or reasonable grounds to believe that, a mask work is protected under this chapter; and

"(9) an 'infringing semiconductor chip product' is a semiconductor chip product which is made, imported, or distributed in violation of the exclusive rights of the owner of a mask work under this chapter.

"(b) For purposes of this chapter, the distribution or importation of a product incorporating a semiconductor chip product as a part thereof is a distribution or importation of that semiconductor chip product.

"§ 902. Subject matter of protection

"(a)(1) Subject to the provisions of subsection (b), a mask work fixed in a semiconductor chip product, by or under the authority of the owner of the mask work, is eligible for protection under this chapter if—

"(A) on the date on which the mask work is registered under section 908, or is first commercially exploited anywhere in the world, whichever occurs first, the owner of the mask work is (i) a national or domiciliary of the United States, (ii) a national, domiciliary, or sovereign authority of a foreign nation that is a party to a treaty affording protection to mask works to which the United States is also a party, or (iii) a stateless person, wherever that person may be domiciled;

"(B) the mask work is first commercially exploited in the United States; or

"(C) the mask work comes within the scope of a Presidential proclamation issued under paragraph (2).

"(2) Whenever the President finds that a foreign nation extends, to mask works of owners who are nationals or domiciliaries of the United States protection (A) on substantially the same basis as that on which the foreign nation extends protection to mask works of its own nationals and domiciliaries and mask works first commercially exploited in that nation, or (B) on substantially the same basis as provided in this chapter, the President may by proclamation extend protection under this chapter to mask works (i) of owners who are, on the date on which the mask works are registered under section 908, or the date on which the mask works are first commercially exploited anywhere in the world, whichever occurs first, nationals, domiciliaries, or sovereign authorities of that nation, of (ii) which are first commercially exploited in that nation.

"(b) Protection under this chapter shall not be available for a mask work that—

"(1) is not original; or

"(2) consists of designs that are staple, commonplace, or familiar in the semiconductor industry, or variations of such designs, combined in a way that, considered as a whole, is not original.

"(c) In no case does protection under this chapter for a mask work extend to any idea, procedure, process, system, method of operation, concept, principle, or discovery, regardless of the form in which it is described, explained, illustrated, or embodied in such work.

"§ 903. Ownership, transfer, licensing, and recordation

"(a) The exclusive rights in a mask work subject to protection under this chapter belong to the owner of the mask work.

"(b) The owner of the exclusive rights in a mask work may transfer all of those rights, or license all or less than all of those rights, by any written instrument signed by such owner or a duly authorized agent of the owner. Such rights may be transferred or licensed by operation of law, may be bequeathed by will, and may pass as personal property by the applicable laws of intestate succession.

"(c)(1) Any document pertaining to a mask work may be recorded in the Copyright Office if the document filed for recordation bears the actual signature of the person who executed it, or if it is accompanied by a sworn or official certification that it is a true copy of the original, signed document. The Register of Copyrights shall, upon receipt of the document and the fee specified pursuant to section 908(d), record the document and return it with a certificate of recordation. The recordation of any transfer or license under this paragraph gives all persons constructive notice of the facts stated in the recorded document concerning the transfer or license.

"(2) In any case in which conflicting transfers of the exclusive rights in a mask work are made, the transfer first executed shall be void as against a subsequent transfer which is made for a valuable consideration and without notice of the first transfer, unless the first transfer is recorded in accordance with paragraph (1) within three months after the date on which it is executed, but in no case later than the day before the date of such subsequent transfer.

"(d) Mask works prepared by an officer or employee of the United States Government as part of that person's official duties are not protected under this chapter, but the United States Government is not precluded from receiving and holding exclusive rights in mask works transferred to the Government under subsection (b).

"§ 904. Duration of protection

"(a) The protection provided for a mask work under this chapter shall commence on the date on which the mask work is registered under section 908, or the date on which the mask work is first commercially exploited anywhere in the world, whichever occurs first.

"(b) Subject to subsection (c) and the provisions of this chapter, the protection provided under this chapter to a mask work shall end ten years after the date on which such protection commences under subsection (a).

"(c) All terms of protection provided in this section shall run to the end of the calendar year in which they would otherwise expire.

"§ 905. Exclusive rights in mask works

"The owner of a mask work provided protection under this chapter has the exclusive rights to do and to authorize any of the following:

"(1) to reproduce the mask work by optical, electronic, or any other means;

"(2) to import or distribute a semiconductor chip product in which the mask work is embodied; and

"(3) to induce or knowingly to cause another person to do any of the acts described in paragraphs (1) and (2).

"§ 906. Limitation on exclusive rights: reverse engineering; first sale

"(a) Notwithstanding the provisions of section 905, it is not an infringement of the exclusive rights of the owner of a mask work for—

"(1) a person to reproduce the mask work solely for the purpose of teaching, analyzing, or evaluating the concepts or techniques embodied in the mask work or the circuitry, logic flow, or organization of components used in the mask work; or

"(2) a person who performs the analysis or evaluation described in paragraph (1) to incorporate the results of such conduct in an original mask work which is made to be distributed.

"(b) Notwithstanding the provisions of section 905(2), the owner of a particular semiconductor chip product made by the owner of the mask work, or by any person authorized by the owner of the mask work, may import, distribute, or otherwise dispose of or use, but not reproduce, that particular semiconductor chip product without the authority of the owner of the mask work.

"§ 907. Limitation on exclusive rights: innocent infringement

"(a) Notwithstanding any other provision of this chapter, an innocent purchaser of an infringing semiconductor chip product—

"(1) shall incur no liability under this chapter with respect to the importation or distribution of units of the infringing semiconductor chip product that occurs before the innocent purchaser has notice of protection with respect to the mask work embodied in the semiconductor chip product; and

"(2) shall be liable only for a reasonable royalty on each unit of the infringing semiconductor chip product that the innocent purchaser imports or distributes after having notice of protection with respect to

the mask work embodied in the semiconductor chip product.

"(b) The amount of the royalty referred to in subsection (a)(2) shall be determined by the court in a civil action for infringement unless the parties resolve the issue by voluntary negotiation, mediation, or binding arbitration.

"(c) The immunity of an innocent purchaser from liability referred to in subsection (a)(1) and the limitation of remedies with respect to an innocent purchaser referred to in subsection (a)(2) shall extend to any person who directly or indirectly purchases an infringing semiconductor chip product from an innocent purchaser.

"(d) The provisions of subsections (a), (b), and (c) apply only with respect to those units of an infringing semiconductor chip product that an innocent purchaser purchased before having notice or protection with respect to the mask work embodied in the semicoductor chip product.

"§ 908. Registration of claims of protection

"(a) The owner of a mask work may apply to the Register of Copyrights for registration of a claim of protection in a mask work. Protection of a mask work under this chapter shall terminate if application for registration of a claim of protection in the mask work is not made as provided in this chapter within two years after the date on which the mask work is first commercially exploited anywhere in the world.

"(b) The Register of Copyrights shall be responsible for all adminstrative functions and duties under this chapter. Except for section 708, the provisions of chapter 7 of this title relating to the general responsibilities, organization, regulatory authority, actions, records, and publications of the Copyright Office shall apply to this chapter, except that the Register of Copyrights may make such changes as may be necessary in applying those provisions to this chapter.

"(c) The application for registration of a mask work shall be made on a form prescribed by the the Register of Copyrights. Such form may require any information regarded by the Register as hearing upon the preparation or identification of the mask work, the existence or duration of protection of the mask work under this chapter, or ownership of the mask work. The application shall be accompanied by the fee set pursuant to subsection (d) and the identifying material specified pursuant to such subsection.

"(d) The Register of Copyrights shall by regulation set reasonable fees for the filing of applications to register claims of protection in mask works under this chapter, and for other services relating to the administration of this chapter or the rights under this chapter, taking into consideration the cost of providing those services, the benefits of a public record, and statutory fee schedules under this title. The Register shall also specify the identifying material to be deposited in connection with the claim for registration.

"(e) If the Register of Copyrights, after examining an application for registration, determines, in accordance with the provisions of this chapter, that the application relates to a mask work which is entitled to protection under this chapter, then the Register shall register the claim of protection and issue to the application a certificate of registration of the claim of protection under the seal of the Copyright Office. The effective data or registration of a claim of protection shall be the date on which an application, deposit of identifying material, and fee, which are determined by the Register of Copyrights or by a court of competent jurisdiction to be accoptable for registration of the claim, have all been received in the Copyright Office.

"(f) In any action for infringement under this chapter, the certificate of registration of a mask work shall constitute prima facie evidence (1) of the facts stated in the certificate, and (2) that the applicant issued the certificate has met the requirements of this chapter, and the regulations issued under this chapter, with respect to the registration of claims.

"(g) Any applicant for registration under this section who is dissatisfied with the refusal of the Register of Copyrights to issue a certificate of registration under this section may seek judicial review of that refusal by bringing an action for such review in an appropriate United States district court not later than sixty days after the refusal. The provisions of chapter 7 of title 5 shall apply to such judicial review. The failure of the Register of Copyrights to issue a certificate of registration within four months after an application for registration is filed shall be deemed to be a refusal to issue a certificate of registration for purposes of this subsection and section 910 (b) (2), except that, upon a showing of good cause, the district court may shorten such four-month period.

"§ 909. Mask work notice

"(a) The owner of a mask work provided protection under this chapter may affix notice to the mask work, and to masks and semiconductor chip products embodying the mask work, in such manner and location as to give reasonable notice of such protection. The Register of Copyrights shall prescribe by regulation, as examples, specific methods of affixation and positions of notice for purposes of this section, but these specifications shall not be considered exhaustive. The affixation of such notice is not a condition of protection under this chapter, but shall constitute prima facie evidence of notice of protection.

"(b) The notice referred to in subsection (a) shall consist of—

"(1) the words 'mask work', the symbol *M*, or the symbol M (the letter M in a circle); and

"(2) the name of the owner or owners of the mask work or an abbreviation by which the name is recognized or is generally known.

"§ 910. Enforcement of exclusive rights

"(a) Except as otherwise provided in this chapter, any person who violates any of the exclusive rights of the owner of a mask work under this chapter, by conduct in or affecting commerce, shall be liable as an infringer of such rights.

"(b)(1) The owner of a mask work protected under this chapter, or the exclusive licensee of all rights under this chapter with respect to the mask work, shall, after a certificate or registration of a claim of protection in that mask work has been issued under section 908, be entitled to institute a civil action for any infringement with respect to the mask work which is committed after the commencement of protection of the mask work under section 904(a).

"(2) In any case in which an application for registration of a claim of protection in a mask work and the required deposit of identifying material and fee have been received in the Copyright Office in proper form and registration of the mask work has been refused, the applicant is entitled to institute a civil action for infringement under this chapter with respect to the mask work if notice of the action, together with a copy of the complaint, is served on the Register of Copyrights, in accordance with the Federal Rules of Civil Procedure. The Register may, at his or her option, become a party to the action with respect to the issue of whether the claim of protection is eligible for registration by entering an appearance within sixty days after such service, but the failure of the Register to become a party to the action shall not deprive the court of jurisdiction to determine that issue.

"(c)(1) The Secretary of the Treasury and the United States Postal Service shall separately or jointly issue regulations for the enforcement of the rights set forth in section 905 with respect to importation. These regulations may require, as a condition for the exclusion of articles from the United States, that the person seeking exclusion take any one or more of the following actions:

"(A) Obtain a court order enjoining, or an order of the International Trade Commission under section 337 of the Tariff Act of 1930 excluding, importation of the articles.

"(B) Furnish proof that the mask work involved is protected under this chapter and that the importation of the articles would infringe the rights in the mask work under this chapter.

"(C) Post a surety bond for any injury that may result if the detention or exclusion of the articles proves to be unjustified.

"(2) Articles imported in violation of the rights set forth in section 905 are subject to seizure and forfeiture in the same manner as property imported in violation of the customs laws. Any such forfeited articles shall be destroyed as directed by the Secretary of the Treasury or the court, as the case may be, except that the articles may be returned to the country of export whenever it is shown to the satisfaction of the Secretary of the Treasury that the importer had no reasonable grounds for believing that his or her acts constituted a violation of the law.

"§ 911. Civil actions

"(a) Any court having jurisdiction of a civil action arising under this chapter may grant temporary restraining orders, preliminary injunctions, and permanent injunctions on such terms as the court may deem reasonable to prevent or restrain infringement of the exclusive rights in a mask work under this chapter.

"(b) Upon finding an infringer liable, to a person entitled under section 910(b)(1) to institute a civil action, for an infringement of any exclusive right under this chapter, the court shall award such person actual damages suffered by the person as a result of the infringement. The court shall also award such person the infringer's profits that are attributable to the infringement and are not taken into account in computing the award of actual damages. In establishing the infringer's profits, such person is required to present proof only of the infringer's gross revenue, and the infringer is required to prove his or her deductible expenses and the elements of profit attributable to factors other than the mask work.

"(c) At any time before final judgment is rendered, a person entitled to institute a civil action for infringement may elect, instead of actual damages and profits as provided by subsection (b), an award of statutory damages for all infringements involved in the action, with respect to any one mask work for which any one infringer is liable individually or for which any two or more

infringers are liable jointly and severally, in an amount not more than $250,000 as the court considers just.

"(d) An action for infringement under this chapter shall be barred unless the action is commenced within three years after the claim accrues.

"(e)(1) At any time while an action for infringement of the exclusive rights in a mask work under this chapter is pending, the court may order the impounding, on such terms as it may deem reasonable, of all semiconductor chip products, and any drawings, tapes, masks, or other products by means of which such products may be reproduced, that are claimed to have been made, imported, or used in violation of those exclusive rights. Insofar as practicable, applications for orders under this paragraph shall be heard and determined in the same manner as an application for a temporary restraining order or preliminary injunction.

"(2) As part of a final judgment or decree, the court may order the destruction or other disposition of any infringing semiconductor chip products, and any masks, tapes, or other articles by means of which such products may be reproduced.

"(f) In any civil action arising under this chapter, the court in its discretion may allow the recovery of full costs, including reasonable attorneys' fees, to the prevailing party.

"§ 912. Relation to other laws

"(a) Nothing in this chapter shall affect any right or remedy held by any person under chapters 1 through 8 of this title, or under title 35.

"(b) Except as provided in section 908(b) of this title, references to 'this title' or 'title 17' in chapters 1 through 8 of this title shall be deemed not to apply to this chapter.

"(c) The provisions of this chapter shall preempt the laws of any State to the extent those laws provide any rights or remedies with respect to a mask work which are equivalent to those rights or remedies provided by this chapter, except that such preemption shall be effective only with respect to actions filed on or after January 1, 1986.

"(d) The provisions of sections 1338, 1400(a), and 1498 (b) and (c) of title 28 shall apply with respect to exclusive rights in mask works under this chapter.

"(e) Notwithstanding subsection (c), nothing in this chapter shall detract from any rights of a mask work owner, whether under Federal law (exclusive of this chapter) or under the common law or the statutes of a State, heretofore or hereafter declared or enacted, with respect to any mask work first commercially exploited before July 1, 1983.

"§ 913. Transitional provisions

"(a) No application for registration under section 908 may be filed, and no civil action under section 910 or other enforcement proceeding under this chapter may be instituted, until sixty days after the date of the enactment of this chapter.

"(b) No monetary relief under section 911 may be granted with respect to any conduct that occurred before the date of the enactment of this chapter, except as provided in subsection (d).

"(c) Subject to subsection (a), the provisions of this chapter apply to all mask works that are first commercially exploited or are registered under this chapter, or both, on or after the date of the enactment of this chapter.

"(d)(1) Subject to subsection (a), protection is available under this chapter to any mask work that was first commercially exploited on or after July 1, 1983, and before the date of the enactment of this chapter, if a claim of protection in the mask work is registered in the Copyright Office before July 1, 1985, under section 908.

"(2) In the case of any mask work described in paragraph (1) that is provided protection under this chapter, infringing semiconductor chip product units manufactured before the date of the enactment of this chapter may, without liability under sections 910 and 911, be imported into or distributed in the United States, or both, until two years after the date of registration of the mask work under section 908, but only if the importer or distributor, as the case may be, first pays or offers to pay the reasonable royalty referred to in section 907(a)(2) to the mask work owner, on all such units imported or distributed, or both, after the date of the enactment of this chapter.

"(3) In the event that a person imports or distributes infringing semiconductor chip product units described in paragraph (2) of this subsection without first paying or offering to pay the reasonable royalty specified in such paragraph, or if the person refuses or fails to make such payment, the mask work owner shall be entitled to the relief provided in sections 910 and 911.

"§ 914. International transitional provisions

"(a) Notwithstanding the conditions set forth in subparagraphs (A) and (C) of section 902(a)(1) with respect to the availability of protection under this chapter to nationals, domiciliaries, and sovereign authorities of a foreign nation, the Secretary of Commerce may, upon the petition of any person, or upon the Secretary's own motion, issue an order extending protection under this chapter to such foreign nationals, domiciliaries, and sovereign authorities if the Secretary finds—

"(1) that the foreign nation is making good faith efforts and reasonable progress toward—

"(A) entering into a treaty described in section 902(a)(1)(A); or

"(B) enacting legislation that would be in compliance with subparagraph (A) or (B) of section 902(a)(2); and

"(2) that the nationals, domiciliaries, and sovereign authorities of the foreign nation, and persons controlled by them, are not engaged in the misappropriation, or unauthorized distribution or commercial exploitation, of mask works; and

"(3) that issuing the order would promote the purposes of this chapter and international comity with respect to the protection of mask works.

"(b) While an order under subsection (a) is in effect with respect to a foreign nation, no application for registration of a claim for protection in a mask work under this chapter may be denied solely because the owner of the mask work is a national, domiciliary, or sovereign authority of that foreign nation, or solely because the mask work was first commercially exploited in that foreign nation.

"(c) Any order issued by the Secretary of Commerce under subsection (a) shall be effective for such period as the Secretary designates in the order, except that no such order may be effective after the date on which the authority of the Secretary of Commerce terminates under subsection (e). The effective date of any such order shall also be designated in the order. In the case of an order issued upon the petition of a person, such effective date may be no earlier than the date on which the Secretary receives such petition.

"(d)(1) Any order issued under this section shall terminate if—

"(A) the Secretary of Commerce finds that any of the conditions set forth in paragraphs (1), (2), and (3) of subsection (a) no longer exist; or

"(B) mask works of nationals, domiciliaries, and sovereign authorities of that foreign nation or mask works first commercially exploited in that foreign nation become eligible for protection under subparagraph (A) or (C) of section 902(a)(1).

"(2) Upon the termination or expiration of an order issued under this section, registrations of claims of protection in mask works made pursuant to that order shall remain valid for the period specified in section 904.

"(e) The authority of the Secretary of Commerce under this section shall commence on the date of the enactment of this chapter, and shall terminate three years after such date of enactment.

"(f)(1) The Secretary of Commerce shall promptly notify the Register of Copyrights and the Committees on the Judiciary of the Senate and the House of Representatives of the issuance or termination of any order under this section, together with a statement of the reasons for such action. The Secretary shall also publish such notification and statement of reasons in the Federal Register.

"(2) Two years after the date of the enactment of this chapter, the Secretary of Commerce, in consultation with the Register of Copyrights, shall transmit to the Committees on the Judiciary of the Senate and the House of Representatives a report on the actions taken under this section and on the current status of international recognition of mask work protection. The report shall include such recommendations for modifications of the protection accorded under this chapter to mask works owned by nationals, domiciliaries, or sovereign authorities of foreign nations as the Secretary, in consultation with the Register of Copyrights, considers would promote the purposes of this chapter and international comity with respect to mask work protection.".

TECHNICAL AMENDMENT

SEC. 303. The table of chapters at the beginning of title 17, United States Code, is amended by adding at the end thereof the following new item:

"9. Protection of semiconductor chip products ..... 901".

AUTHORIZATION OF APPROPRIATIONS

SEC. 304. There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this title and the amendments made by this title.

BAKER AMENDMENT NO. 6996

Mr. BAKER proposed an amendment to amendment No. 6995 proposed by Mr. MATHIAS (and Mr. LEAHY) to the bill S. 1990, supra; as follows:

TITLE IV—FEDERAL COURTS IMPROVEMENTS

SUBTITLE A—CIVIL PRIORITIES

ESTABLISHMENT OF PRIORITY OF CIVIL ACTIONS

SEC. 401. (a) Chapter 111 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"S 1657. Priority of civil actions

"(a) Notwithstanding any other provision of law, each court of the United States shall determine the order in which civil actions are heard and determined, except that the court shall expedite the consideration of any action brought under chapter 153 or section 1826 of this title, any action for temporary or preliminary injunctive relief, or any other action if good cause therefor is shown. For purposes of this subsection, 'good cause' is shown if a right under the Constitution of the United States or a Federal Statute (including rights under section 552 of title 5) would be maintained in a factual context that indicates that a request for expedited consideration has merit.

"(b) The Judicial Conference of the United States may modify the rules adopted by the courts to determine the order in which civil actions are heard and determined, in order to establish consistency among the judicial circuits.".

(b) The section analysis of chapter 111 of title 28, United States Code, is amended by adding at the end thereof the following new item:

"1657. Priority of civil actions.".

AMENDMENTS TO OTHER LAWS

SEC. 402. The following provisions of law are amended—

(1)(A) Section 309(a)(10) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g(a)(10) is repealed.

(B) Section 310(c) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437h (c)), is repealed.

(2) Section 552 (a)(4)(D) of title 5, United States Code, is repealed.

(3) Section 6(a) of the Commodity Exchange Act (7 U.S.C. 8(a)) is amended by striking out "The proceedings in such cases in the court of appeals shall be made a preferred cause and shall be expedited in every way."

(4)(A) Section 6(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136d(c)(4)) is amended by striking out the second sentence.

(B) Section 10(d)(3) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136h(d)(3)) is amended by striking out "The court shall give expedited consideration to any such action.".

(C) Section 16(b) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136n(b)) is amended by striking out the last sentence.

(D) Section 25(a)(4)(E)(iii) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136w(a)(4)(E)(iii) is repealed.

(5) Section 204(d) of the Packers and Stockyards Act, 1921 (7 U.S.C. 194(d)), is amended by striking out the second sentence.

(6) Section 366 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1366) is amended in the fourth sentence by striking out "At the earliest convenient time, the court, in term time or vacation," and inserting in lieu thereof "the court".

(7)(A) Section 410 of the Federal Seed Act (7 U.S.C. 1600) is amended by striking out "The proceedings in such cases in the court of appeals shall be made a preferred cause and shall be expedited in every way.".

(B) Section 411 of the Federal Seed Act (7 U.S.C. 1601) is amended by striking out "The proceedings in such cases shall be made a preferred cause and shall be expedited in every way.".

(8) Section 816(c)(4) of the Act of October 7, 1975, commonly known as the Department of Defense Appropriation Authorization Act of 1976 (10 U.S.C. 2304 note) is amended by striking out the last sentence.

(9) Section 5(d)(6)(A) of the Home Owners' Loan Act of 1933 (12 U.S.C. 146(D)(6)(A)) is amended by striking out "Such proceedings shall be precedence over other cases pending in such courts, and shall be in every way expedited.".

(10)(A) Section 7A(f)(2) of the Clayton Act (15 U.S.C. 18a(f)(2)) is amended to read as follows: "(2) certifies to the United States district court for the judicial district within which the respondent resides or carries on business, or in which the action is brought, that it or he believes that the public interest requires relief pendente lite pursuant to this subsection, then upon the filing of such motion and certification, the chief judge of such district court shall immediately notify the chief judge of the United States court of appeals for the circuit in which such district court is located, who shall designate a United States district judge to whom such action shall be assigned for all purposes.".

(B) Section 11(e) of the Clayton Act (15 U.S.C. 21(e)) is amended by striking out the first sentence.

(11) Section 1 of the Act of February 11, 1903, commonly known as the Expediting Act (15 U.S.C. 28) is repealed.

(12) Section 5(e) of the Federal Trade Commission Act (15 U.S.C. 45(e)) is amended by striking out the first sentence.

(13) Section 21(f)(3) of the Federal Trade Commission Imporvements Act of 1980 (15 U.S.C. 57a-1(f)(3)) is repealed.

(14) Section 11A(c)(4) of the Securities Exchange Act of 1934 (15 U.S.C. 78K-1(c)(4)) is amended—

(A) by striking out "(A)" after "(4)"; and

(B) by striking out subparagraph (B).

(15)(A) Section 309(e) of the Small Business Investment Act of 1958 (15 U.S.C. 687a(e)) is amended by striking out the sixth sentence.)

(B) Section 309(f) of the Small Business Investment Act of 1958 (15 U.S.C. 687a(f)) is amended by striking out the last sentence.

((C) Section 311(a) of the Small Business Investment Act of 1958 (15 U.S.C. 687(a)) is amended by striking out the last sentence.

(16) Section 10(c)(2) of the Alaska Natural Gas Transportation Act (15 U.S.C. 719h (c)(2)) is repealed.

(17) Section 155(a) of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1415(a)) is amended by striking out "(1)" and by striking out paragraph (2).

(18) Section 503(b)(3)(E) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2003(b)(3)(E)) is damended by striking out clause (ii) and redesignating clauses (iii) and (iv) as clauses (ii) and (iii), respectively.

(19) Section 23(d) of the Toxic Substances Control Act (15 U.S.C. 2622(d)) is amended by striking out the last sentence.

(20) Section 12(e)(3) of the Coastal Zone Management Improvement act of 1980 (16 U.S.C. 1463a(e)(3)) is repealed.

(21) Section 11 of the Act of September 28, 1976 (16 U.S.C. 1910), is amended by striking out the last sentence.

(22)(A) Section 807(b) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3117(b)) is repealed.

(B) Section 1108 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3168) is amended to read as follows:

"INJUNCTIVE RELIEF

"SEC. 1108. No court shall have jurisdiction to grant any injunctive relief lasting longer than ninety days against any action pursuant to this title except in conjunction with a final judgment entered in a case involving an action pursuant to this title.".

(23)(A) Section 10(b)(3) of the Central Idaho Wilderness Act of 1980 (Public Law 96-312; 94 Stat. 948) is repealed.

(B) Section 10(c) of the Central Idaho Wilderness Act of 1980 is amended to read as follows:

"(c) Any review of any decision of the United States District Court for the District of Idaho shall be made by the Ninth Circuit Court of Appeals of the United States.".

(24)(A) Section 1964(b) of title 18, United States Code, is amended by striking out the second sentence.

(B) Section 1966 of title 18, United States Code, is amended by striking out the last sentence.

(25)(A) Section 408(1)(5) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(i)(5)) is amended by striking out the last sentence.

(B) Section 409(g)(2) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 348(g)(2)) is amended by striking out the last sentence.

(26) Section 8(f) of the Foreign Agents Registration Act of 1938 (22 U.S.C. 618(f)) is amended by striking out the last sentence.

(27) Section 4 of the Act of December 22, 1974 (25 U.S.C. 640d-3), is amended by striking out "(a)" and by striking out subsection (b).

(28)(A) Section 3310(e) of the Internal Revenue Code of 1954 (26 U.S.C. 3310 (e)) is repealed.

(B) Section 6110(f)(5) of the Internal Revenue Code of 1954 (26 U.S.C. 6110(f)(5)) is amended by striking out "and the Court of Appeals shall expedite any review of such decision in every way possible".

(C) Section 6363(d)(4) of the Internal Revenue Code of 1954 (26 U.S.C. 6363(d)(4)) is repealed.

(D) Section 7609(h)(3) of the Internal Revenue Code of 1954 (26 U.S.C. 7609(h)(3)) is repealed.

(E) Section 9010(c) of the Internal Revenue Code of 1954 (26 U.S.C. 9010(c)) is amended by striking out the last sentence.

(F) Section 9011(b)(2) of the Internal Revenue Code of 1954 (26 U.S.C. 9011(b)(2)) is amended by striking out the last sentence.

(29)(A) Section 596(a)(3) of title 28, United States Code, is amended by striking out the last sentence.

(B) Section 636(c)(4) of title 28, United States Code, is amended in the second sentence by striking out "expeditious and".

(C) Section 1296 of title 28, United States Code, and the item relating to that section in the section analysis of chapter 83 of that title, are repealed.

(D) Subsection (c) of section 1364 of title 28, United States Code, the section heading of which reads "Senate actions", is repealed.

(E) Section 2284(b)(2) of title 28, United States Code, is amended by striking out the last sentence.

(F) Section 2349(b) of title 28, United State Code, is amended by striking out the last two sentences.

(G) Section 2467 of title 28, United States Code, and the item relating to that section in the section analysis of chapter 169 of that title, are repealed.

(30) Section 10 of the Act of March 23, 1932, commonly known as the Norris-LaGuardia Act (29 U.S.C. 110), is amended by striking out "with the greatest possible expedition" and all that follows through the end of the sentence and inserting in lieu thereof "expeditiously".

(31) Section 10(i) of the National Labor Relations Act (29 U.S.C. 160(i)) is repealed.

(32) Section 11(a) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 660(a)) is amended by striking out the last sentence.

(33) Section 4003(e)(4) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1303(e)(4) is repealed.

(34) Section 106(a)(1) of the Federal Coal Mine Health and Safety Act of 1969 (30 U.S.C. 816(a)(1)) is amended by striking out the last sentence.

(35) Section 1016 of the Impoundment Control Act of 1974 (31 U.S.C. 1406) is amended by striking out the second sentence.

(36) Section 2022 of title 38, United States Code, is amended by striking out "The court shall order speedy hearing in any such case and shall advance it on the calendar.".

(37) Section 3628 of title 39, United States Code, is amended by striking out the fourth sentence.

(38) Section 1450(i)(4)) of the Public Health Service Act (42 U.S.C. 300j-9(i)(4) is amended by striking out the last sentence.

(39) Section 304(e) of the Social Security Act (42 U.S.C. 504(e)) is repealed.

(43) Section 814 of the Act of April 11, 1968 (42 U.S.C. 3614), is repealed.

(44) The matter under the subheading "Exploration of National Petroleum Reserve in Alaska" under the headings "ENERGY AND MINERALS" and "GEOLOGICAL SURVEY" in title I of the Act of December 12, 1980 (94 Stat. 2964; 42 U.S.C. 6508), is amended in the third paragraph by striking out the last sentence.

(45) Section 214(b) of the Emergency Energy Conservation Act of 1979 (42 U.S.C. 8514(b)) is repealed.

(46) Section 2 of the Act of February 25, 1885 (43 U.S.C. 1062), is amended by striking out "; and any suit brought under the provisions of this section shall have precedence for hearing and trial over other cases on the civil docket of the court, and shall be tried and determined at the earliest practicable day".

(47) Section 23(d) of the Outer Continental Shelf Lands Act (43 U.S.C. 1349(d)) is repealed.

(48) Section 511(c) of the Public Utilities Regulatory Policies Act of 1978 (43 U.S.C. 2011(c)) is amended by striking out "Any such proceeding shall be assigned for hearing at the earliest possible date and shall be expedited by such court.".

(49) Section 203(d) of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1652(d)) is amended by striking out the fourth sentence.

(50) Section 5(f) of the Railroad Unemployment Insurance Act (45 U.S.C. 355(f)) is amended by striking out ", and shall be given precedence in the adjudication thereof over all other civil cases not otherwise entitled by law to precedence".

(51) Section 305(d)(2) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 745(d)(2)) is amended—

(A) in the first sentence by striking out "Within 180 days after" and inserting in lieu thereof "After"; and

(B) in the last sentence by striking out "Within 90 days after" and inserting in lieu thereof "After".

(52) Section 124(b) of the Rock Island Transition and Employee Assistance Act (45 U.S.C. 1018(b)) is amended by striking out ", and shall render a final decision no later than 60 days after the date the last such appeal is filed".

(53) Section 402(g) of the Communications Act 1934 (47 U.S.C. 402(g)) is amended—

(A) by striking out "At the earliest convenient time the" and inserting in lieu thereof "The"; and

(B) by striking out "10(e) of the Administrative Procedure Act" and inserting in lieu thereof "706 of title 5, United States Code".

(54) Section 405(e) of the Surface Transportation Assistance Act of 1982 (Public Law 97-424; 49 U.S.C. 2305(e)) is amended by striking out the last sentence.

(55) Section 606(c)(1) of the Rail Safety and Service Improvement Act of 1982 (Public Law 97-468; 49 U.S.C. 1205(c)(1)) is amended by striking out the second sentence.

(56) Section 13A(a) of the Subversive Activities Control Act of 1950 (50 U.S.C. 792a note) is amended in the third sentence by striking out "or any court".

(57) Section 12(a) of the Military Selective Service Act of 1967 (50 U.S.C. App. 462(a)) is amended by striking out the last sentence.

(58) Section 4(b) of the Act of July 2, 1948 (50 U.S.C. App. 1984(b)), is amended by striking out the last sentence.

EFFECTIVE DATE

SEC. 403. The amendments made by this subtitle shall not apply to cases pending on the date of the enactment of this subtitle.

Subtitle B—District Court Organization

SEC. 404. This subtitle may be cited as the "Federal District Court Organization Act of 1984".

SEC. 405. The second sentence of subsection (c) of section 112 of title 28, United States Code, is amended to read as follows:

"Court for the Eastern District shall be held at Brooklyn, Hauppauge, and Hempstead (including the village of Uniondale).".

SEC. 406. (a) Subsection (a) of section 93 of title 28, United States Code, is amended—

(1) in paragraph (1) by striking out "De Kalb," and "McHenry,"; and

(2) in paragraph (2)—

(A) by inserting "De Kalb," immediately after "Carroll,"; and

(B) by inserting "McHenry," immediately after "Lee,".

(b) The amendments made by subsection (a) of this section shall apply to any action commenced in the United States District Court for the Northern District of Illinois on or after the effective date of this subtitle, and shall not affect any action pending in such court on such effective date.

"(c) The second sentence of subsection (b) of section 93 of title 28, United States Code, is amended by inserting 'Champaign/Urbana,' before 'Danville'."

SEC. 407. (a) Subsection (b) of section 124 of title 26, United States Code, is amended—

(1) by striking out "six divisions" and inserting in lieu thereof "seven divisions";

(2) in paragraph (4) by striking out ", Hidalgo, Starr,"; and

(3) by adding at the end thereof the following:

"(7) The McAllen Division comprises the counties of Hidalgo and Starr.

"Court for the McAllen Division shall be held at McAllen.".

(b) The amendments made by subsection (a) of this section shall apply to any action commenced in the United States District Court for the Southern District of Texas on or after the effective date of this subtitle, and shall not affect any action pending in such court on such effective date.

SEC. 408. (a) Paragraph (1) of section 90(a) of title 28, United States Code, is amended—

(1) by inserting "Fannin," after "Dawson,";

(2) by inserting "Gilmer," after "Forsyth,"; and

(3) by inserting "Pickens," after "Lumpkin,".

(b) Paragraph (2) of section 90(a) of title 28, United States Code, is amended by striking out "Fannin,", "Gilmer,", and "Pickens,".

(c) Paragraph (6) of section 90(c) of title 28, United States Code, is amended by striking out "Swainsboro" each place it appears and inserting in lieu thereof "Statesboro".

(d) The amendments made by this section shall apply to any action commenced in the United States District Court for the Northern District of Georgia on or after the effective date of this subtitle, and shall not affect any action pending in such court on such effective date.

SEC. 409. Section 85 of title 28, United States Code, is amended by inserting "Boulder," before "Denver".

SEC. 410. The second sentence of section 126 of title 28, United States Code, is amended by inserting "Bennington," before "Brattleboro".

SEC. 411. (a) The amendments made by this subtitle shall take effect on January 1, 1985.

(b) The amendments made by this subtitle shall not affect the composition, or preclude the service, of any grand or petit jury summoned, impaneled, or actually serving on the effective date of this subtitle.

Subtitle C—Amendments to the Federal Courts Improvements Act of 1982

This subtitle may be cited as the "Technical Amendments to the Federal Courts Improvement Act of 1982".

SEC. 412. (a) Section 1292(b) of title 28, United States Code, is amended by inserting "which would have jurisdiction of an appeal of such action" after "The Court of Appeals."

(b) Section 1292(c)(1) of title 28, United States Code, is amended by inserting "or (b)" after "(a)".

SEC. 413. Section 337(c) of the Tariff Act of 1930 (19 U.S.C. 1337(c)) is amended in the fourth sentence by inserting ", within 60 days after the determination becomes final," after "appeal such determination".

SEC. 414. (a) Sections 142, 143, and 144 of title 35, United States Code, are amended to read as follows:

"§ 142. Notice of appeal

"When an appeal is taken to the United States Court of Appeals for the Federal Circuit, the appellant shall file in the Patent and Trademark Office a written notice of appeal directed to the Commissioner, within such time after the date of the decision from which the appeal is taken as the Commissioner prescribes, but in no case less than 60 days after that date.

"§ 143. Proceedings on appeal

"With respect to an appeal described in section 142 of this title, the Commissioner shall transmit to the United States Court of Appeals for the Federal Circuit a certified list of the documents comprising the record in the Patent and Trademark Office. The court may request that the Commissioner forward the original or certified copies of such documents during pendency of the appeal. In an ex parte case, the Commissioner shall submit to the court in writing the grounds for the decision of the Patent and Trademark Office, addressing all the issues involved in the appeal. The court

shall, before hearing an appeal, give notice of the time and place of the hearing to the Commissioner and the parties in the appeal.

"§ 144. Decision on appeal

"The United States Court to Appeals for the Federal Circuit shall review the decision from which an appeal is taken on the record before the Patent and Trademark Office. Upon its determination the court shall issue to the Commissioner its mandate and opinion, which shall be entered of record in the Patent and Trademark Office and shall govern the further proceedings in the case.".

(b) Paragraphs (2), (3), and (4) of subsection (a) of section 21 of the Act entitled "An Act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes", approved July 5, 1946 (15 U.S.C. 1071(a) (2), (3), and (4)), are amended to read as follows:

"(2) When an appeal is taken to the United States Court of Appeals for the Federal Circuit, the appellant shall file in the Patent and Trademark Office a written notice of appeal directed to the Commissioner, within such time after the date of the decision from which the appeal is taken as the Commissioner prescribed, but in no case less than 60 days after that date.

"(3) The Commissioner shall transmit to the United States Court of Appeals for the Federal Circuit a certified list of the documents comprising the record in the Patent and Trademark Office. The court may request that the Commissioner forward the original or certified copies of such documents during pendency of the appeal. In an ex parte case, the Commissioner shall submit to that court a brief explaining the grounds for the decision of the Patent and Trademark Office, addressing all the issues involved in the appeal. The court shall, before hearing an appeal, give notice of the time and place of the hearing to the Commissioner and the parties in the appeal.

"(4) The United States Court of Appeals for the Federal Circuit shall review the decision from which the appeal is taken on the record before the Patent and Trademark Office. Upon its determination the court shall issue its mandate and opinion to the Commissioner, which shall be entered of record in the Patent and Trademark Office and shall govern the further proceedings in the case.".

(c) The amendment section shall apply to proceedings pending in the Patent and Trademark Office on the date of the enactment of this Act and to appeals pending in the United States Court of Appeals for the Federal Circuit on such date.

SEC. 415. Any individual who, on the date of the enactment of the Federal Courts Improvement Act of 1982, was serving as marshall for the Court of Appeals for the District of Columbia under section 713(c) of title 28, United States Code, may, after the date of the enactment of this Act, so serve under that section as in effect on the date of the enactment of the Federal Courts Improvement Act of 1982. While such individual so serves, the provisions of section 714(a) of title 28, United States Code, shall not apply to the Court of Appeals for the District of Columbia.

SEC. 416. Title 28, United States Code, is amended in the following respects:

(a) There shall be inserted, after section 797 thereof, in Chapter 51 thereof, the following new section 798, which shall read as follows:

"798. Places of holding Court; appointment of special masters.

a. The United States Claims Court is hereby authorized to utilize facilities and hold court in Washington, D.C. and in four locations outside of the Washington, D.C. metropolitan area, for the purpose of conducting trials and such other proceedings as may be appropriate to executing the courts' functions. The Director of the Administrative Office of the United States Courts shall designate such locations and provide for such facilities.

b. The Chief Judge of the Claims may appoint special masters to assist the court in carrying out its functions. Any special masters so appointed shall carry out their responsibilities and be compensated in accordance with procedures set forth in the rules of the court."

(b) The caption of Chapter 51, Title 28 shall be amended to include the following item:

"798. Places of holding Court; appointment of special masters."

SEC. 501. Chapter 18 of title 35, United States Code, is amended—

(1) by adding "or any novel variety of plant which is or may be protectable under the Plant Variety Protection Act (7 U.S.C. 2321 et seq.)" immediately after "title" in section 201(d);

(2) by adding ": *Provided*, That in the case of a variety of plant, the date of determination (as defined in section 41(d) of the Plant Variety Protection Act (7 U.S.C. 2401(d))) must also occur during the period of contract performance" immediately after "agreement" in section 201(e);

(3) in section 202(a), by amending clause (i) to read as follows:

"(i) when the contractor is not located in the United States or does not have a place of business located in the United States or is subject to the control of a foreign government,"; by striking the word "or" before "iii", and by adding, after the words "security of such activities" in the first sentence of such paragraph, the following:

"or, iv) when the funding agreement includes the operation of a Government-owned, contractor-operated facility of the Department of Energy primarily dedicated to that Department's naval nuclear propulsion or weapons related programs and all funding agreement limitations under this subparagraph on the contractor's right to elect title to a subject invention are limited to inventions occurring under the above two programs of the Department of Energy."

(4) by amending paragraphs (a) and (2); of section 202(b) to read as follows:

"(b)(1) The rights of the Government under subsection (a) shall not be excercised by a Federal agency unless it first determines that at least one of the conditions identified in clauses (i) through (iii) of subsection (a) exists. Except in the case of subsection (a)(iii), the agency shall file with the Secretary of Commerce, within thirty days after the award of the applicable funding agreement, a copy of such determination. In the case of a determination under subsection (a)(ii), the statement shall include an analysis justifying the determination. In the case of determinations applicable to funding agreements with small business firms, copies shall also be sent to the Chief Counsel for Advocacy of the Small Business Administration. If the Secretary of Commerce believes that any individual determination or pattern of determinations is contrary to the policies and objectives of this chapter or otherwise not in conformance with this chapter, the Secretary shall so advise the head of the agency concerned and the Administrator of the Office of Federal Procurement Policy, and recommend corrective actions.

"(2) Whenever the Administrator of the Office of Federal Procurement Policy has determined that one or more Federal agencies are utilizing the authority of clause (i) or (ii) of subsection (a) of this section in a manner that is contrary to the policies and objectives of this chapter, the Administrator is authorized to issue regulations describing classes of situations in which agencies may not exercise the authorities of those clauses.";

4A. By adding at the end of section 202(b) the following new paragraph:

"(4) If the contractor believes that a determination is contrary to the policies and objectives of this chapter or constitutes an abuse of discretion by the agency, the determination shall be subject to the last paragraph of section 203(2)."

(5) by amending paragraphs (1), (2), (3), and (4) of section 202 (c) to read as follows:

"(1) That the contractor disclose each subject invention to the Federal agency within a reasonable time after it becomes known to contractor personnel responsible for the administration of patent matters, and (or such additional time as may be approved by the Federal agency) whether the contractor will retain title to a subject invention: *Provided*, That in any case where publication, on sale, or public use, has initiated the one year statutory period in which valid patent protection can still be obtained in the United States, the period for election may be shortened by the Federal agency to a date that is not more than sixty days prior to the end of the statutory period: *And provided further*, That the Federal Government may receive title to any subject invention in which the contractor does not elect to retain rights or fails to elect rights within such times.

"(3) That a contractor electing rights in a subject invention agrees to file a patent application prior to any statutory bar date that may occur under this title due to publication, on sale, or public use, and shall thereafter file corresponding patent applications in other countries in which it wishes to retain title within reasonable times, and that the Federal Government may receive title to any subject inventions in the United States or other countries in which the contractor has not filed patent applications on the subject invention within such times.

"(4) With respect to any invention in which the contractor elects rights, the Federal agency shall have a nonexclusive, nontransferrable, irrevocable, paid-up license to practice or have practiced for or on behalf of the United States any subject invention throughout the world: *Provided*, That the funding agreement may provide that such XXX right, including the right to assign, or have assigned foreign patent rights in the subject invention, as are determined by the agency as necessary for meeting the obligations of the United States under any treaty, international agreement, arrangement of cooperation, memorandum of understanding, or similar arrangement, including military agreements relating to weapons development and production.".

(6) by striking out "may" in section 202(c)(5) and inserting in lieu thereof "as well as any information on utilization or efforts at obtaining utilization obtained as part of a proceeding under section 203 of this chapter shall";

(7) by striking out "and which is not, itself, engaged in or does not hold a substantial interest in other organizations engaged in the manufacture or sales of products or the use of processes that might utilize the invention or be in competition with embodiments of the invention" in clause (A) of section 202(c)(7);

(8) by amending clauses (B)-(D) of section 202(c)(7) to read as follows: "(B) a requirement that the contractor share royalties with the inventor; "(C) except with respect to a funding agreement for the operation of a Government-owned-contractor-operated facility, a requirement that the balance of any royalties or income earned by the contractor with respect to subject inventions, after payment of expenses; (including payments to inventors) incidental to the administration of subject inventions," be utilized for the support of scientific research or education; (D) a requirement that, except where it proves infeasible after a reasonable inquiry, in the licensing of subject inventions shall be given to small business firms; and (E) with respect to a funding agreement for the operation of a Government-owned-contractor-operated facility, requirements (i) that after payment of patenting costs, licensing costs, payments to inventors, and other expenses incidental to the administration of subject inventions, 100 percent of the balance of any royalties or income earned and retained by the contractor during any fiscal year, up to an amount equal to five percent of the annual budget of the facility, shall be used by the contractor for scientific research, development, and education consistent with the research and development mission and objectives of the facility, including activities that increase the licensing potential of other inventions of the facility; provided that if said balance exceeds five percent of the annual budget of the facility, that 75 percent of such excess shall be payed to the Treasury of the United States and the remaining 25 percent shall be used for the same purposes as described above in this clause (D); and (ii) that, to the extent it provides the most effective technology transfer, the licensing of subject inventions shall be administered by contractor employees on location at the facility."

(9) By adding "(1.) before the word "With" in the first line of section 203, and by adding at the end of section 203 the following: "(2) A determination pursuant to this section or section 202(b)(4) shall not be subject to the Contract Disputes Act (41 U.S.C. s. 601 et seq.). An administrative appeals procedure shall be established by regulations promulgated in accordance with section 206. Additionally, any contractor, inventor, assignee, or exclusive licensee adversely affected by a determination under this section may, at any time within sixty days after the determination is issued, file a petition in the United States Claims Court, which shall have jurisdiction to determine the "appeal on the record and to affirm, reverse, remand or modify, ", as appropriate, the determination of the Federal agency. In cases described in paragraphs (a) and (c), the agency's determination shall be held in abeyance pending the exhaustion of appeals or petitions filed under the preceding sentence.";

(10) by amending section 206 to read as follows:

"§ 206. Uniform clauses and regulations

"The Secretary of Commerce may issue regulations which may be made applicable to Federal agencies implementing the provisions of sections 202 through 204 of this chapter and shall establish standard funding agreement provisions required under this chapter. The regulations and the standard funding agreement shall be subject to public comment before their issuance.";

(11) in section 207 by inserting "(a)" before "Each Federal" and by adding the following new subsection at the end thereof:

"(b) For the purpose of assuring the effective management of Government-owned inventions, the Secretary of Commerce authorized to—

"(1) assist Federal agency efforts to promote the licensing and utilization of Government-owned inventions;

"(2) assist Federal agencies in seeking protection and maintaining inventions in foreign countries, including the payment of fees and costs connected therewith; and

"(3) consult with and advise Federal agencies as to areas of science and technology research and development with potential for commercial utilization."; and

(12) in section 208 by striking out "Administrator of General Services" and inserting in lieu thereof "Secretary of Commerce".

(13) By deleting from the first sentence of section 210(c), "August 23, 1971 (36 Fed. Reg. 16887)" and inserting in lieu thereof "February 18, 1983", and by inserting the following before the period at the end of the first sentence of section 210(c) "except that all funding agreements, including those with other than small business firms and nonprofit organizations, shall include the requirements established in paragraph 202(c)(4) and section 203 of this title."

(14) by adding at the end thereof the following new section:

"SEC. 212. Disposition of rights in educational awards

"No scholarship, fellowship, training grant, or other funding agreement made by a Federal agency primarily to an awardee for educational purposes will contain any provision giving the Federal agency any rights to inventions made by the awardee." and

(15) by adding at the end of the table of sections for the chapter the following new item:

"212. Disposition of rights in educational awards."

CONTINUING APPROPRIATIONS, 1985

DODD AMENDMENT NO. 6997

Mr. DODD proposed an amendment to the joint resolution (H.J. Res. 648), supra; as follows:

On page 13, line 2, strike out the period and insert a colon and the following: *"Provided further,* That none of the funds appropriated by this subsection may be made available, directly or indirectly, for planning, directing, executing, or supporting acts of terrorism (as defined in the amendment proposed to be made by section 2 of S. 3625, as reported from the Committee on the Judiciary on September 18, 1984) in, over, or offshore from the territory of Nicaragua: *Provided further,* That the prohibition on funding contained in the preceding proviso shall be carefully monitored by the comptroller General of the United States who shall report quarterly thereon to the appropriate committees of the Congress.".

LEAHY AMENDMENT NO. 6998

Mr. LEAHY proposed an amendment to the joint resolution (H.J. Res. 648), supra; as follows:

On page 13, line 2, insert the following: Strike out the period and insert the following:

"At the end of section 887 of S. 3026, delete the period and insert the following: ', and these obligations shall be reported to the Congress on September 30, 1985.' "

METZENBAUM AMENDMENT NO. 6999

Mr. METZENBAUM proposed an amendment to the joint resolution (H.J. Res. 648), supra; as follows:

On page 13, line 2, strike out the period and insert in lieu thereof a colon and the following: *"Provided further,* That notwithstanding any other provision of this joint resolution, none of the funds appropriated or otherwise made available to or for the use of the Department of Defense may be appropriated, transferred, or otherwise made available to or for the use of the Merchant Ship Construction Revolving Fund.".

HATFIELD AMENDMENT NO. 7000

Mr. HATFIELD proposed an amendment to the joint resolution (H.J. Res. 648), supra; as follows:

On page 13, line 17, after word "law", insert the following: (with the exception of the following provisions contained in S. 2852, which shall not be enacted into law and shall have no force and effect: *Provided further,* That (a) effective October 1, 1984, section 10301(b) of title 49, United States Code, is amended (1) by striking out '7' and inserting in lieu thereof '5', and (2) by striking out '4 members' and inserting in lieu thereof '3 members'.

(b) The office as member of the Interstate Commerce Commission, referred to in section 502(c) of the Omnibus Budget Reconciliation Act of 1982, Public Law 97-253, which is scheduled, pursuant thereto, to be abolished as of January 1, 1986, is hereby abolished, effective October 1, 1984.

(c) The office as member of the Interstate Commerce Commission, the term for which is prescribed by law to expire on December 31, 1988, is abolished, effective October 1, 1984.

(d) Effective October 1, 1984, section 502(d) of the Omnibus Budget Reconciliation Act of 1982 is repealed: *Provided, however,* That the person serving in the office described in subparagraph (d) of section 502, on July 1, 1984, may be reappointed to fill that office for a term which would end on December 31, 1985, notwithstanding the provisions of section 10301(c) of title 49, United States Code, but may not be reappointed to fill that office for any term thereafter.").

DANFORTH (AND LAUTENBERG) AMENDMENT NO. 7001

Mr. DANFORTH (for himself and Mr. LAUTENBERG) proposed an amendment to the joint resolution (H.J. Res. 648), supra; as follows:

At the appropriate place in the bill, insert the following:

SEC. . Not withstanding any other provisions of this joint resolution to the con-

trary, none of the funds in this Act shall be available for the planning or execution of programs, the total obligations for which are in excess of $126,500,000 in fiscal year 1985 for "State and community highway safety" authorized under 23 U.S.C. 402. Any amount provided in this joint resolution under the heading relating to Highway Traffic Safety Grants for the purposes specified in this subsection which is not identical to the obligation level specified in this subsection shall have no force and effect.

SEC. . Notwithstanding any other provision of this joint resolution, not to exceed $7,500,000 shall be available in the fiscal year ending September 30, 1985, from unobligated balances in the appropriations "Highway Safety Research and Development", "Railroad Research and Development", and "Research, Training and Human Resources", for the purposes of carrying out a national program to encourage the use of automobile safety belts and passive restraints as authorized by 23 U.S.C. 403.

DECONCINI AMENDMENT NO. 7002

Mr. DECONCINI proposed an amendment to the joint resolution (H.J. Res. 648), supra; as follows:

At the appropriate place in the resolution add the following new section:

(a) Notwithstanding Section 16 of the Federal Airport Act (as in effect on November 25, 1947), the Secretary of Transportation is authorized, subject to the provisions of Section 4 of the Act of October 1, 1949 (50 App. U.S.C. 16222(c)), and the provisions of subsection (b) of this section, to grant release from any of the terms, conditions, reservations, and restrictions contained in a deed of conveyance dated July 30, 1984, under which the United States conveyed certain property to the City of Flagstaff for airport purposes.

(b) Any release granted by the Secretary of Transportation under subsection (a) shall be subject to the following conditions:

(1) the City of Flagstaff shall agree that in conveying any interest in the property which the United States conveyed pursuant to the deed described in subsection (a), the City of Flagstaff will receive an amount which is equal to the fair market value (as determined pursuant to regulations issued by such Secretary); and

(2) any such amount so received shall be used for the development, improvement, operation, or maintenance of a public airport.

LEVIN AMENDMENT NO. 7003

Mr. LEVIN proposed an amendment to the joint resolution (H.J. Res. 648), supra; as follows:

At the appropriate place in the bill insert the following here: "For necessary expenses to carry out a series of highway projects in the vicinities of Pontiac and East Lansing, Michigan, which demonstrate methods of enhancing safety and promoting economic development through construction of grade separations and road widenings on a highway on the Federal-aid primary system and on highways on the Federal-aid urban system; $12,000,000, to remain available until expended.".

RIEGLE AMENDMENT NO. 7004

Mr. RIEGLE proposed an amendment to the joint resolution (H.R. Res. 648), supra; as follows:

On page 13, line 17, strike out the period and insert in lieu thereof the following: ": *Provided*, That, no later than ten days after the date of the enactment of this joint resolution, the President shall, pursuant to section section 10 of the Railway Labor Act (45 U.S.C. 160), create a board to investigate and report respecting the dispute between Continental Airlines and the Air Line Pilots Association, and, no later than thirty days after the date of the creation of such board, such board shall report its findings to the President.".

DURENBERGER (AND BOSCHWITZ) AMENDMENT NO. 7005

Mr. DURENBERGER (for himself and Mr. BOSCHWITZ) proposed an amendment to the joint resolution (H.J. Res. 648), supra; as follows:

At the appropriate place, insert the following new section:

SEC. . The Secretary of Transportation shall waive the alternate design requirements, specified in 'Alternate Design for Bridges Policy Statement' (49-FR93 #21409), allowing construction of a steel deck tied arch option only (including approach spans), for the Smith Avenue High Bridge, St. Paul, Minnesota."

DECONCINI AMENDMENT NO. 7006

Mr. DECONCINI proposed an amendment to the joint resolution (H.J. Res. 648), supra; as follows:

At the end of committee amendment No. 11, add the following new section:

"SEC. . It is the sense of the Congress that—

"(1) voter registration drives should be encouraged by governmental entities at all levels; and,

"(2) voter registration drives conducted by State governments on a nonpartisan basis do not violate the provisions of the Intergovernmental Personnel Act (42 U.S.C. 4728, 4763)."

MOYNIHAN AMENDMENT NO. 7007

Mr. MOYNIHAN proposed an amendment to the joint resolution (H.J. Res. 648), supra; as follows:

At the end of the matter proposed to be inserted, insert the following: On page 56, between lines 5 and 6, insert the following:

SEC. . (a) Section 921(a)(17) of title 18 of the United States Code is redesignated as section 921(a)(17)(A) and a new subparagraph (B) is added to section 921(a)(17) to read as follows:

"(B) The term 'armor piercing ammunition' means solid projectiles or projectile cores constructed from tungsten alloys, steel, iron, brass, bronze, beryllium copper, or depleted uranium. The term shall not include shotgun shot required by Federal or State environmental or game regulations for hunting purposes, frangible projectiles designed for target shooting or any projectile which the Secretary of the Treasury finds is primarily intended to be used for sporting purposes. The term 'solid' in the first sentence of this subparagraph means made entirely from one or more of the substances specified therein, but may include the presence of trace elements of other substances."

(b) Section 922(a) of title 18 of the United States Code is amended—

(1) by striking out "and" at the end of paragraph (5);

(2) by striking out the period at the end of paragraph (6) and inserting in lieu thereof "and"; and

(3) by adding after paragraph (6) the following:

"(7) for any person to manufacture or import armor piercing ammunition, except that this paragraph shall not apply to (A) the manufacture or importation of armor piercing ammunition for the use of the United States or any department or agency thereof or any State or any department, agency, or political subdivision thereof, or (B) the manufacture of armor piercing ammunition for the sole purpose of exportation.".

(c) Subparagraph (A) of section 923(a)(1) of title 18 of the United States Code is amended to read as follows:

"(A) of destructive devices, ammunition for destructive devices or armor piercing ammunition, a fee of $1,000 per year;".

(d) Subparagraph (C) of section 923(a)(1) of title 18 of the United States Code is amended to read as follows:

"(C) of ammunition for firearms, other than ammunition for destructive devices or armor piercing ammunition, a fee of $10 per year.".

(e) Subparagraphs (A) and (B) of section 923(a)(2) of title 18 of the United States Code are amended to read as follows:

"(A) of destructive devices, ammunition for destructive devices or armor piercing ammunition, a fee of $1,000 per year; or

"(B) of firearms other than destructive devices or ammunition for firearms other than destructive devices, or ammunition other than armor piercing ammunition, a fee of $50 per year.".

(f) Section 924(c) of title 18 of the United States Code is amended (a) by striking the period at the end of paragraph (2) and adding in lieu thereof a comma and the word "or" and (b), by adding a new paragraph (3) to read as follows:

"(3) during and in relation to the commission of a violent felony uses or carriers a firearm and is in possession of armor piercing ammunition capable of being fired in that firearm shall, in addition to the punishment provided for the commission of such felony, be sentenced to a term of imprisonment for not less than five years. Notwithstanding any other provision of law, the court shall not suspend the sentence of any person convicted of a violation of this subsection, nor place him on prohibition, nor shall the term of imprisonment run concurrently with any other term of imprisonment, including that imposed for the felony in which the armor piercing ammunition was used or carried. No person sentenced under this subsection shall be eligible for parole during the term of imprisonment imposed herein. For the purpose of this paragraph, the term violent felony means (A) a felony (which may be prosecuted in a court of the United States) that has as an element, the use, attempted use, or threatened use of physical force against the person or property of another, or (B) any other felony (which may be prosecuted in a court of the United States) that, by its nature involves a substantial risk that physical force against

the person or property of another may be used in the course of its commission.".

(g) The amendment shall take effect on the date of enactment of this section, except that subsections (c), (d), and (e) shall take effect on the first day of the first calendar month which begins more than ninety days after the date of the enactment of this section. And that subsection (f) of this section shall take effect nonwithstanding any other provision of law, and notwithstanding any other provision of law contained herein after or herein before in this joint resolution.

JEPSEN AMENDMENT NO. 7008

Mr. JEPSEN proposed an amendment to the joint resolution (H.J. Res. 648), supra; as follows:

On page 29 following line 5 insert the following new section:

The Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to undertake such structural and nonstructural measures as he deems feasible to prevent flood damage to communities in the Pearl River Basin, Saint Tammany Parish, Louisiana.

(I)(a) The Secretary of the Army, acting through the Chief of Engineers, shall, after consultation with the advisory committee established under subsection (b), carry out a demonstration project for the development, operation, and maintenance of a recreation and greenbelt area on and along the Des Moines River, Iowa, between the point at which the Des Moines River is intersected by United States Highway 20 to the point downstream at which relocated United States Highway 92 intersects the Des Moines River. Subject to subsection (b) and (c) of this section, such project shall include, but not be limited to—

(1) the construction, operation, and maintenance of recreational facilities and streambank stabilization structures;

(2) the operation and maintenance of all structures constructed before the date of enactment of this joint resolution (other than any such structure operated and maintained by any person under a permit or agreement with the Secretary) within the area described in the Des Moines Recreational River and Greenbelt Map and on file with the Committee on Public Works and Transportation of the House of Representatives; and

(3) such tree plantings, trails, vegetation, and wildlife protection and development and other activities as will enhance the natural environment for recreational purposes.

(b)(1) The advisory committee referred to in subsection (a) shall be constituted as follows:

(A) five persons shall be appointed by the Governor of Iowa;

(B) two persons shall be appointed by their respective board of supervisors to represent each of Mahaska, Marion, Warren, Jasper, Polk, Dallas, Boone, and Webster Counties;

(C) one person shall be appointed by the mayor of the city of Des Moines and one additional person shall be appointed by the mayor of each other incorporated municipality within whose boundaries a portion of such recreation area lies; and

(D) three employees or officials of the Corps of Engineers shall be appointed by the Secretary.

(2) Each member of the advisory committee shall serve at the pleasure of the authority which appointed such member.

(3) No member of the advisory committee who is not an officer or employee of the United States shall receive compensation on account of his service on the committee or travel expenses or per diem in lieu of subsistence with respect to the performance of services for the committee. Members of such advisory committee who are officers or employees of the United States shall not receive additional compensation on account of their service on the committee.

(4) The advisory committee may elect such officers and spokesmen as it deems appropriate and may appoint such ad hoc committees of interested citizens as it deems appropriate to assist the committee in advising the Secretary.

(c) The construction and maintenance of structures and plant and husbandry activities referred to in subsection (a) of this section shall be conditioned upon the ownership by the United States of the land or interests therein necessary for such purposes.

(d) In carrying out the project described in subsection (a) of this section, the Secretary may acquire by purchase, donation, exchange, or otherwise land and interests therein, as the Secretary determines are necessary to carry out such project. If the Secretary purchases any land or interest therein from any State or local agency, he shall not pay more than the original cost paid by such State or local agency for such land or interest therein. No land or interest therein may be acquired by the United States to carry out such project without the consent of the owner, and nothing herein shall constitute an additional restriction on the use of any land or any interest therein which is not owned by the United States.

(c) Notwithstanding any other provision of law, the Federal share of the project to be carried out pursuant to this section shall be 100 per centum of the cost of the project.

(f) There is authorized to be appropriated to carry out this section $6,000,000, for fiscal years beginning after September 30, 1983.

EVANS (AND GORTON) AMENDMENT NO. 7009

Mr. EVANS (for himself and Mr. GORTON) proposed an amendment to the joint resolution (H.J. Res. 648), supra; as follows:

On page 29 after line 5, insert the following new section:

Notwithstanding any other provision of this Joint Resolution, the Secretary of the Army, acting through the Chief of Engineers, is directed to use $6 million of available funds for detailed planning and initial design of the permanent solution (single retention structure) to the problems caused by the eruption of Mount St. Helens on the Cowlitz River and its tributaries in Washington.

CRANSTON (AND OTHERS) AMENDMENT NO. 7010

Mr. CRANSTON (for himself, Mr. EAGLETON, Mr. BINGAMAN, Mr. HEINZ, Mr. RIEGLE, Mr. MATSUNAGA, Mr. LAUTENBERG, and Mr. DODD) proposed an amendment to the joint resolution (H.J. Res. 648), supra; as follows:

On page 46, line 8, add at the end of the committee amendment No. 32 the following new section:

SEC. 127A, Notwithstanding any other provision of this joint resolution, no part of the funds made available under this joint resolution may be used by the Director of the Office of Personnel Management after September 1, 1985, for salaries and expenses for that Office if the Director has not by that date submitted to the Committees of the Congress described in section 103(a)(2) of the amendment adopted by the House of Representatives on June 28, 1984, to S. 958, 98th Congress, Second Session, the report required under title I of such amendment.

CRANSTON AMENDMENT NO. 7011

Mr. CRANSTON (for himself, Mr. KENNEDY, Mr. MOYNIHAN, and Mr. RIEGLE) proposed an amendment to the joint resolution (H.J. Res. 648), supra; as follows:

At the end of committee amendment No. 32, strike out the period and insert in lieu thereof "and $8,350,000 for fiscal year 1985 for the Food and Drug Administration for activities (including construction) related to acquired immune deficiency syndrome.".

PACKWOOD AMENDMENT NO. 7012

Mr. PACKWOOD proposed an amendment to the joint resolution (H.J. Res. 648), supra; as follows:

On page 42, strike all from line 17 through line 11 on page 45.

WEICKER AMENDMENT NO. 7013

Mr. WEICKER proposed an amendment to the joint resolution (H.J. Res. 648), supra; as follows:

On page 56, line 5, strike the period and add the following: "or except for such medical procedures necessary for the victims of rape or incest.".

BRADLEY (AND OTHERS) AMENDMENT NO. 7014

Mr. BRADLEY (for himself, Mr. PERCY, and Mr. LAUTENBERG) proposed an amendment to the joint resolution (H.J. Res. 648), supra; as follows:

SEC. . There are hereby appropriated $400,000 to carry out the provisions of S. 2456, as passed by the Senate on September 21, 1984.

KASTEN (AND MATTINGLY) AMENDMENT NO. 7015

Mr. KASTEN (for himself and Mr. MATTINGLY) proposed an amendment to the joint resolution (H.J. Res. 648), supra; as follows:

At the appropriate place in the joint resolution, add the following new provision:

"SEC. . Notwithstanding any other provision of law or this Act, none of the funds provided in this Act or any other provision of law shall be available for the United States' proportionate share for any "post adjustment allowance" for United Nations employees of any United Nations organization implemented after July 31, 1984, or for any such "post adjustment allowance" which is calculated by using any methodology not used in calculating such "post adjustment allowance" prior to January 1, 1984."

BINGAMAN (AND DOMENICI) AMENDMENT NO. 7016

Mr. BINGAMAN (for himself, Mr. DOMENICI, Mr. GOLDWATER, and Mr. DECONCINI) proposed an amendment to the joint resolution (H.J. Res. 648), supra; as follows:

At the appropriate place in the bill add the following new section:

SEC. . The Secretary of Commerce shall conduct a coordinated study, in cooperation with the Secretary of the Treasury and the Chairman of the Federal Trade Commission, of Indian artifact commercial fraud. Such study shall be completed no later than April 15, 1985, and a full report on the study results shall be made to the Committee on Governmental Affairs of the Senate and the Energy and Commerce Committee of the House of Representatives.

RUDMAN (AND HOLLINGS) AMENDMENT NO. 7017

Mr. RUDMAN (for himself and Mr. HOLLINGS) proposed an amendment to the joint resolution (H.J. Res. 648), supra; as follows:

At the appropriate place in the bill, add the following:

SEC. . Notwithstanding any other provision of this joint resolution, the following additional amounts are hereby appropriated for the Department of State, Administration of Foreign Affairs, and all to remain available until September 30, 1986; $81,200,000 for "Salaries and expenses"; $28,000,000 for "Acquisition, operation, and maintenance of buildings abroad"; and $1,000,000 for "Emergencies in the diplomatic and consular service" to pay rewards for information concerning terrorist acts: *Provided*, That these funds shall be available only upon enactment of authorizing legislation: *Provided further*, That the Department shall report to the appropriate committees in Congress on the obligation of funds every thirty days from the date of enactment.

EIDEN AMENDMENT NO. 7018

Mr. BIDEN proposed an amendment to amendment No. 7017 proposed by Mr. RUDMAN (and Mr. HOLLINGS) to the joint resolution (H.J. Res. 648), supra; as follows:

At the end of the amendment offered by Mr. RUDMAN, add the following: *Provided, however*, That none of these funds may be obligated or expended until the President certifies in writing to the Chairman of the Committee on Foreign Relations of the Senate and the Chairman of the Committee on Foreign Affairs of the House of Representatives either (1) that the funds provided for U.S. embassy security are sufficient to provide adequate security at a level of risk which the President considers acceptable, or (2) that the funds are insufficient and that adequate security at an acceptable level of risk could be achieved by such additional funds as the President may specify.

LEAHY AMENDMENT NO. 7019

Mr. LEAHY proposed an amendment to the joint resolution (H.J. Res. 648), supra; as follows:

At the end add the following sections:

TITLE—INTELLIGENCE PROVISIONS

PERFORMANCE BY THE CENTRAL INTELLIGENCE AGENCY OF SECURITY-RELATED DUTIES

SEC. 01. (a) Notwithstanding any other provision of law, there are transferred to the Director of Central Intelligence so much of the functions of the Administrator of General Services and his designees under sections 1 and 2 of the Act of June 1, 1948 (62 Stat. 281, chapter 359; 40 U.S.C. 318-318a) as related to the protection of real property (and personal property and persons thereon) of the Central Intelligence Agency, except that the Director of Central Intelligence may not prescribe any rule or regulation authorized by section 2 of such Act without the approval of the Attorney General.

(b) The limitations on penalites contained in section 4 of such Act shall apply with respect to functions transferred to the Director of Central Intelligence by subsection (a).

COUNTERINTELLIGENCE AND OFFICIAL REPRESENTATION

SEC. 02. (a) It is the sense of the Congress that the numbers, status, privileges and immunities, travel, accommodations, and facilities within the United States of official representatives to the United States of any foreign government that engages in intelligence activities within the United States harmful to the national security of the United States should not exceed the respective numbers, status, privileges and immunities, travel, accommodations, and facilities within such country of official representatives of the United States to such country.

(b) Beginning one year after the date of enactment of this section, and at intervals of one year thereafter, the President shall prepare and transmit to the Committee on Foreign Relations and Select Committee on Intelligence of the Senate and the Committee on Foreign Affairs and Permanent Select Committee on Intelligence of the House of Representatives a report on the numbers, status, privileges and immunities, travel, accommodations, and facilities within the United States of official representatives to the United States of any foreign government that engages in intelligence activities within the United States harmful to the national security of the United States and the respective numbers, status, privileges and immunities, travel, accommodations, and facilities within such country of offical representatives of the United States to such country and on any actions which may have been taken with respect thereto.

(c) Section 203 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 4303) is amended—

(1) in subsection (a) by striking out the fifth sentence; and

(2) by amending subsection (b) to read as follows:

"(b) There shall also be a Deputy Director of the Office of Foreign Missions. Either the Director or the Deputy Director of such Office shall be an individual who has served in the United States Foreign Service, while the other of the two shall be an individual who has served in the United States intelligence community."

(d) The amendments made by subsection (c) shall apply only with respect to any appointment of a Director or Deputy Director of the Office of Foreign Missions, as the case may be, after the date of enactment of this section.

RUDMAN (AND OTHERS) AMENDMENT NO. 7020

Mr. RUDMAN (for himself, Mr. THURMOND, Mr. PACKWOOD, and Mr. METZENBAUM) proposed an amendment to the joint resolution (H.J. Res. 648), supra; as follows:

At the end of section 137, add the following new subsection:

"(e) Section 510 of Public Law 98-411 is hereby repealed."

CHILES (AND HAWKINS) AMENDMENT NO. 7021

Mr. CHILES (for himself and Mr. HAWKINS) proposed an amendment to the joint resolution (H.J. Res. 648), supra; as follows:

In lieu of the language proposed to be stricken, insert the following:

SEC. 124. Notwithstanding any other provision of this Joint Resolution, the Secretary of the Department of Transportation shall grant an exemption from the January 1, 1985 deadline for compliance with the provisions of Public Law 96-193, if an applicant for such exemption submits to the Secretary prior to January 1, 1985 an application for exemption which complies with the provisions of subsections (b) or (c) of this section.

(b) The Secretary shall specify the form and manner in which any application shall be made. Any such application from a person operating aircraft for which equipment to assure compliance with the provisions of Public Law 96-193 ("hush kits") is currently under development shall include a copy of a contract entered into by the applicant and a known supplier of equipment which would bring the applicant into compliance with the provisions of Public Law 96-193.

(c) Applicants currently operating equipment obtained prior to January 1, 1980 for which no such compliance equipment is currently under development shall accompany their application with a sworn commitment to enter into a contract not later than June 1, 1985 for aircraft which will comply with the provisions of Public Law 96-193.

(d) Nothing in this section shall be construed to limit the power of the Secretary to deny any application or revoke any exemption granted under this section if, after examining any contract submitted under Subsection (b) or (c) of this section, the Secretary determines that the applicant or holder of such exemption will not be able to comply with the requirements of Public Law 96-193 within the timeframe set forth in such exemption.

(e) Any exemption granted under this section shall expire not later than December 31, 1985 except that, if the Secretary determines that equipment to insure compliance with the provisions of Public Law 96-193 which has been certified by the Department for that purpose will not be available to the holder of the exemption by that date, the Secretary may extend such exemption for such period as the Secretary determines is necessary to insure compliance with such provisions.

(f) No person receiving an exemption under the provisions of this section may increase either the frequency of operations into the plan for which the exemption was granted, or increase the number of non-compliant aircraft operated at the place for

which the exemption was granted beyond that existing in the 12 months prior to the granting of the exemption.

(g) The povisions of this section shall be applicable to persons submitting applications for international operations at Miami International Airport, Florida, and Bangor, Maine.

PRESSLER AMENDMENT NO. 7022

Mr. PRESSLER proposed an amendment to the joint resolution (H.J. Res. 648), supra; as follows:

On page 49, lines 13 through 17: "Turkey is making efforts to ensure that the Turkish Cypriot community is not taking any actions with regard to the region of Famagusta/Varosha which would prejudice the outcome or otherwise impede intercommunal talks on the future of Cyprus." and inserting the following in lieu thereof: "the formerly Greek-Cypriot occupied area of Famagusta/Varosha has been returned to the Government of Cyprus under the auspices of the United Nations for the immediate resettlement of refugees.".

BRADLEY (AND NICKLES) AMENDMENT NO. 7023

Mr. BRADLEY (for himself and Mr. NICKLES) proposed an amendment to the joint resolution (H.J. Res. 648), supra; as follows:

In lieu of the matter intended to be inserted, by the committee amendment and designated Sec. 13 add the following:

Of the funds appropriated to the Energy Security Reserve by the Department of the Interior and Related Agencies Appropriations Act, 1980 (Public Law 96-126) and subsequently made available to carry out Title I, part B of the Energy Security Act (Public Law 96-294) by Public Laws 96-304 and 96-514, $9,000,000,000 are rescinded;

Provided, That none of the funds made available to carry out Title I, part B of the Energy Security Act shall be obligated to projects whose products will cost significantly more than projected market prices of competing fuels over the lifetime of the project;

Provided further, That of the Energy Security Reserve funds remaining available to carry out Title I of the Energy Security Act, funds shall be obligated only to projects whose primary conversion technologies comply with and promote the diversity objectives set forth in Title I of the Energy Security Act;

Provided further, That Sections 116(f) and 121 of Title I, part B of the Energy Security Act are repealed and that Section 175 of the United States Synthetic Fuels Corporation Act of 1980 (42 USC 8775) is amended by adding the following new subsections:

"(l) Chapters 5 and 7 of title 5, United States Code (containing provisions popularly known as the Administrative Procedure Act, the Freedom of Information Act, and the Government in the Sunshine Act) shall apply to the Corporation as if it were an agency of the United States.

"(m) Section 1905 of title 18, United States Code (relating to disclosure of confidential information) shall apply—

"(1) to Directors, officers, and employees of the Corporation as if they were officers or employees of the United States; and

"(2) to the Corporation as if it were an agency of the United States.".

Section 118(a) of the Energy Security Act of 1980 (Public Law 96-294) is amended by striking out "the Directors and officers of the Corporation and to" and inserting in lieu thereof "all the Directors and to the officers and".

Section 118(c)(3) of the Energy Security Act of 1980 (Public Law 96-294) is repealed.

Provided further, That Section 117(b)(2) of the Energy Security Act of 1980 (Public Law 96-294) is amended—

(1) by striking out "taking into consideration" and inserting in lieu thereof "in accordance with"; and

(2) by striking out ". If the Board of Directors": and all that follows through "Board of Directors to such effect".

The amendments made by subsection (a) of this section shall take effect 30 days after the date of enactment of this Act.

METZENBAUM AMENDMENT NO. 7024

Mr. McCLURE (for Mr. METZENBAUM) proposed an amendment to the joint resolution (H.J. Res 648), supra; as follows:

Page 55, line 24, after the period, insert:

SEC. . (a) Section 117 of the United States Synthetic Fuels Corporation Act of 1980 is amended by adding at the end thereof the following new subsection:

"(f) Subject to section 118, Directors, officers, and employees of the Corporation shall be subject to the same standards of ethical conduct and financial reporting as are set forth in Executive Order 11222. The Chairman shall promptly implement such standards.".

(b) Section 168 of the United States Synthetic Fuels Corporation Act of 1980 is amended by—

(1) Redesignating section 168 as subsection 168(a); and

(2) Inserting at the end thereof the following new subsection:

"(b) An aggrieved person may bring action in the district courts of the United States to enforce, and secure compliance with, the policies and guidelines of the Corporation implementing the requirements of subsection 121 (a) and (b) for public disclosure of information and the requirements of subsection 116(f) for meetings of the Board of Directors to be open to the public and preceded by reasonable public notice.".

McCLURE AMENDMENT NO. 7025

Mr. McCLURE proposed an amendment to the joint resolution (H.J. Res 648), supra; as follows:

Page 54, line 8. After "SEC. 135." insert the following: "Notwithstanding any other provision of this joint resolution," and change "Of" to read "of".

ABDNOR (AND OTHERS) AMENDMENT NO. 7026

Mr. ABDNOR (for himself, Mr. STAFFORD, Mr. RANDOLPH, and Mr. MOYNIHAN) proposed an amendment to the joint resolution (H.J. Res. 648) supra; as follows:

In lieu of the language proposed to be stricken on page 58 beginning on line 1 through line 5, insert the following and number accordingly:

SEC. . That this Act may be cited as the "Water Resources Development Act of 1984".

"TITLE I

"Notwithstanding any other provision of law, the Secretary of the Army, acting through the Chief of Engineers (hereinafter in this Act referred to as the "secretary"), shall, from funds appropriated, obligate no sums in excess of the sums specified in this title for the combined purpose of the "Construction, General" account and the "Flood Control, Mississippi River and Tributaries" account:

"(1) For the fiscal year ending September 30, 1986, the sum of $1.4 billion.

"(2) For the fiscal year ending September 30, 1987, the sum of $1.4 billion.

"(3) For the fiscal year ending September 30, 1988, the sum of $1.5 billion.

"(4) For the fiscal year ending September 30, 1989, the sum of $1.5 billion.

"(5) For the fiscal year ending September 30, 1990, the sum of $1.6 billion.

"Nothing contained herein limits or otherwise amends authority conferred under section 10 of the River and Harbor Act of September 22, 1922 (42 Stat. 1043; 33 U.S.C. 621). Any amounts obligated against funds furnished or reimbursed by Federal or non-Federal interests shall not be counted against the limitation on obligations provided for in this Act.

"TITLE II—GENERAL PROVISIONS

"SEC. 201. (a) Prior to initiating construction of any water resources project authorized prior to this Act, in this Act, or subsequent to the Act, which is under the jurisdiction of the Secretary and which can be anticipated to provide flood control benefits, more than 10 per centum of which are produced by an increase in anticipated land values to a land owner, the Secretary shall enter into an agreement with such owner, or owners that provides that such owner or owners will repay to the Secretary, for deposit in the Treasury, either prior to construction or when such benefits are realized, 50 per centum of that portion of the project's costs allocated to the owner's benefits.

"(b) For any study initiated by the Secretary subsequent to the enactment of this Act, the Secretary shall, if appropriate, include information in such study report on the likelihood that the requirements of subsection (a) of this section are applicable.

"SEC. 202. Any report describing a project having recreation benefits that is submitted subsequent to the enactment of this Act to the Committee on Environment and Public Works of the Senate or the Committee on Public Works and Transportation of the House of Representatives by the Secretary, or by the Secretary of Agriculture under authority of Public Law 83-566, as amended, shall describe the usage of other, similar public recreational facilities within the general area of the project, and the anticipated impact of the proposed project on the usage of such existing recreational facilities.

"SEC. 203. (a) Any project, or separable element thereof, that is under the responsibility of the Secretary, and for which construction has not commenced within ten years following the date of the authorization of such project, shall no longer be authorized after such ten-year period unless the Secretary, after consultation with the affected State or States, notifies the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives that continued authorization of such project, or separable element thereof, remains needed and justified.

"(b) Any project, or separable element thereof, qualifying for deauthorization under the terms of this section upon enactment of this Act or which will qualify within one year of enactment of this Act, shall not be deauthorized until such one year period has elapsed.

"SEC. 204. Any feasibility survey authorized by any resolution of a committee or Act of Congress to be undertaken by the Secretary is automatically rescinded and is no longer authorized if no funds are appropriated for such survey within five full fiscal years following its approval.

"SEC. 205. The second sentence of the definition of "works of improvement", contained in section 2 of Public Law 83-566, as amended, is further amended by adding after "$250,000" the following: "but not more than $10,000,000, for any projects submitted to the Committee on Environmental and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives: *Provided*, That any such project with an anticipated Federal cost exceeding $10,000,000 must be authorized by Act of Congress.".

"SEC. 206. Section 2 of Public Law 83-566, as amended, is further amended by deleting the period and inserting a colon at the conclusion of the proviso, and adding the following: "And provided further, That each such project submitted to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives must contain benefits directly related to agriculture that account for at least 20 per centum of the total benefits of the projects.".

"SEC. 207. The Secretary of Agriculture, acting through the Administrator of the Soil Conservation Service, shall study and report to the appropriate committees of the Senate and the House of Representatives by April 1, 1986, on the feasibility, the desirability, and the public interest involved in requiring that full public access be provided to any or all water impoundments that have recreation-related potential and that were authorized pursuant to Public Law 83-566, as amended.

"SEC. 208. Subsection (a) of section 134 of Public Law 94-587 is amended to read as follows:

"(a) The Secretary of the Army, acting through the Chief of Engineers, is authorized and directed within ninety days after enactment of the Water Resources Development Act of 1984 to institute a procedure enabling the engineer officer in charge of each district under the direction of the Chief of Engineers to certify, at the request of local interests, that particular local improvements for flood control can reasonably be expected to be compatible with a specific, potential project then under study or other form of consideration. Such certification shall be interpreted to assure interests that they may go forward to construct such compatible improvements at local expense with the understanding that such improvements can be reasonably expected to be included within the scope of the Federal project, if later authorized, both for the purposes of analyzing the cost and benefits of the project and assessing the local participation in the costs of such project."

"SEC. 209. (a) The Secretary shall undertake a program of research for the control of river ice, and to assist communities in breaking up such ice, which otherwise is likely to cause or aggravate flood damage or severe streambank erosion.

"(b) The Secretary is further authorized to provide technical assistance to local units of government to implement local plans to control or break up river ice. As part of such authority, the Secretary shall acquire necessary ice-control or ice-breaking equipment, which shall be loaned to local units of government together with operating assistance, where appropriate.

"(c) For the purposes of subsections (a) and (b) of this section, the sum of $5,000,000 is authorized to be appropriated to the Secretary in each of the fiscal years ending September 30, 1986, through September 30, 1990, such sums to remain available until expended.

"(d) To implement further the purposes of this section, the Secretary, in consultation and cooperation with local officials, is authorized and directed to undertake a demonstration program for the control of river ice at Hardwick, Vermont. The work authorized by this subsection shall be designed to minimize the danger of flooding due to ice problems in the vicinity of such community. In the design, construction, and location of ice-control structures for this project, full consideration will be given to the recreational, scenic, and environmental values of the reach of river affected by the project, in order to minimize project impacts on these values. Full opportunity shall be given to interested environmental and recreational organizations to participate in such planning. For the purposes of this subsection, the sum of $900,000 is authorized to be appropriated to the Secretary for the fiscal year ending September 30, 1986, or thereafter, such sum to remain available until expended.

"(e) No later than March 1, 1988, the Secretary shall report to the Congress on activities under this section.

"SEC. 210. (a) The Secretary shall, upon the request of local public officials, survey the potential and methods for rehabilitating former industrial industrial sites, millraces, and similar types of facilities already constructed for use as hydroelectric facilities. The Secretary shall, upon request, provide technical assistance to local public agencies, including electric cooperatives, in designing projects to rehabilitate sites that have been surveyed, or are qualified for survey, under this section.

"(b) There is authorized to be appropriated to the Secretary, to implement this section, the sum of $5,000,000 for each of the fiscal years ending September 30, 1986, through September 30, 1990, such sums to remain available until expended.

"SEC. 211. Section 221(b) of the Flood Control Act of 1970 (Public Law 91-611) is amended by deleting the period at the end thereof, inserting a colon, and adding the following: *"Provided*, That where the non-Federal interest is the State itself, the agreement may reflect that it does not obligate future legislative appropriations or other funds for such performance and payment when obligating future appropriations or other funds would be inconsistent with State constitutional limitations.".

"SEC. 212. Notwithstanding any other provision of law, construction on any project, or separable element thereof, authorized in this Act and under the responsibility of the Secretary shall not commence until the project has been studied by the Chief of Engineers and reported favorably thereon.

"SEC. 213. Subject to the provisions and requirements of title VI of this Act, the sums to be obligated for any project authorized by this Act shall not exceed the sum listed in this Act for the specific project, as of the month and year listed for such project (or, if no date is listed, the cost shall be considered to be as of the date of the enactment of this Act), plus such amounts, if any, as may be justified solely by reason of increases in construction costs, as determined by engineering cost indices applicable to the type of construction involved, and by reason of increases in land costs.

"SEC. 214. The Secretary shall not require, under section 4 of the Flood Control Act of December 22, 1944 (58 Stat. 889), and the Federal Water Project Recreation Act, non-Federal interests to assume operation and maintenance of any recreational facility operated by the Secretary at any water resources project as a condition to the construction of new recreational facilities at such project or any other water resources project.

"SEC. 215. (a) The Secretary may enter into a contract providing for the recovery of an appropriate share of the costs of a project under his responsibility with a Federal Project Repayment District or other political subdivision of a State prior to the construction, operation, improvement, or financing of such project. The Federal Project Repayment District shall include lands and improvements which receive identifiable benefits from the construction or operation of such project. Such districts shall be established in accordance with State law, shall have specific boundaries which may be changed from time to time based upon further evaluations of benefits, and shall include the power to collect a portion of the transfer price from any transaction involving the sale, transfer, or change in beneficial ownership of lands and improvements within the district boundaries.

"(b) Cost recovery pursuant to the provisions of this section shall be deemed to meet cost recovery requirements of other provisions of Federal law if the economic study required by subsection (c) of this section demonstrates that income to the Federal Government equals or exceeds that required over the term of repayment required by that cost recovery provision.

"(c) Prior to execution of an agreement pursuant to subsection (a) of this section, the Secretary shall require and approve a study from the State or political subdivision demonstrating that the revenues to be derived from a contract under this section, or an agreement with a Federal Project Repayment District, will be sufficient to equal or exceed the cost recovery requirements over the term of repayment required by Federal law.

"SEC. 216. Section 202 of the Flood Control Act of 1968 (Public Law 90-483) shall apply to all projects authorized by this Act.

"SEC. 217. It is the sense of the Congress that the parties to various lawsuits that have been filed concerning the issuance of Federal permits necessary for the construction of a coal slurry pipeline development which would use Missouri River water, should work to conclude such suits as expeditiously as possible consistent with the rights and interests of all the parties, and that all parties to such suits should act in a fair and reasonable manner.

"SEC. 218. (a) Notwithstanding any other provision of law, the Secretary shall not initiate the construction of any water resources project, or separable element thereof, if such project has been modified to increase any of the following project parameters by more than 25 per centum:

"(1) acreage of land acquisition;

"(2) linear miles of stream channel inundated;

"(3) width or depth of any navigation channel;

"(4) displacement of dwelling units;

"(5) hydroelectric generating capacity; or

"(6) linear miles of stream channelization.

"(b) Not later than one hundred and eighty days after a water resources project is proposed by the Secretary to be modified in excess of the limitation described in subsection (a) of this section, the Secretary shall prepare and transmit to Congress a report identifying such project and describing the extent of the proposed modification, together with his recommendations thereon, accompanied by the views of other appropriate Federal and non-Federal agencies.

"SEC. 219 (a) The Congress finds that—

"(1) the Ogallala aquifer lies beneath, and provides needed water supplies to, the six States of the High Plains Region: Colorado, Kansas, Nebraska, New Mexico, Oklahoma and Texas;

"(2) the High Plains region has become an important source of agricultural commodities and livestock for domestic and international markets, providing 15 per centum of the Nation's supply of wheat, corn, feed grains, sorghum, and cotton, plus 38 per centum of the value of livestock raised in the United States; and

"(3) annual precipitation is the High Plains region ranges from fifteen to twenty-two inches, providing inadequate supplies of surface water and recharging of the Ogallala aquifer needed to sustain the agricultural productivity and economic vitality of the High Plains region.

"(b) It is, therefore, the purpose of this section to establish a comprehensive research and development program to assist those portions of the High Plains region dependent on water from the Ogallala aquifer to—

"(1) plan for the development of an adequate supply of water in the region;

"(2) develop and provide information and technical assistance concerning water-conservation management practices to agricultural producers in the region;

"(3) examine alternatives for the development of an adequate supply of water for the region; and

"(4) develop water-conservation management practices which are efficient for agricultural producers in the region.

"(c) The Water Resources Research Act (Public Law 98-242) is amended by adding at the end thereof the following new title:

"'TITLE III—OGALLALA AQUIFER RESEARCH AND DEVELOPMENT

"'SEC. 301. (a) There is hereby established the High Plains Study Council composed of—

"'(1) the Governor of each State of the High Plains region (defined for the purposes of this title as the States of Colorado, Kansas, Nebraska, New Mexico, Oklahoma, and Texas, and referred to herein after in this title as the 'High Plains region'), or a designee of the Governor;

"'(2) a representative of the Department of Agriculture; and

"'(3) a representative of the Secretary.

"'(b) The Council established pursuant to this section shall—

"'(1) review research work being performed by each State committee established under section 302 of this Act; and

"'(2) coordinate such research efforts to avoid duplication of research and to assist in the development of research plans within each state of the High Plains region that will benefit the research needs of the entire region.

"'SEC. 302. (a) The Secretary shall establish within each State of the High Plains region an Ogallala aquifer technical advisory committee (hereinafter in this title referred to as the 'State committee'). Each State committee shall be composed of no more than seven members, including—

"'(1) a representative of the United States Department of Agriculture;

"'(2) a representative of the Secretary; and

"'(3) at the appointment of the Governor of the State, five representatives from agencies of that State having jurisdiction over water resources, the agricultural community, the State Water Research Institute (as designated under this Act), and others with a special interest or expertise in water resources.

"'(b) The State committee established pursuant to subsection (a) of this section shall—

"'(1) review existing State laws and institutions concerning water management and, where appropriate, recommend changes to improve State or local management capabilities and more efficiently use the waters of such State, if such a review is not already being undertaken by the State;

"'(2) establish, in coordination with other State committees, State priorities for research and demonstration projects involving water resources; and

"'(3) provide public information, education, extension, and technicial assistance on the need for water conservation and information on proven and cost-effective water management.

"'(c) Each State committee established pursuant to this section shall elect a chairman, and shall meet at least once every three months at the call of the chairman, unless the chairman determines, after consulation with a majority of the members of the committee, that such a meeting is not necessary to achieve the purposes of this section.

"'SEC. 303. The Secretary shall annually allocate among the States of the High Plains region funds authorized to be appropriated for this section for research in—

"'(1) water-use efficiency;

"'(2) cultural methods;

"'(3) irrigation technologies;

"'(4) water-efficient crops; and

"'(5) water and soil conservation.

Funds distributed under this section shall be allocated to each State committee for use by institutions of higher education within each State. To qualify for funds under this section an institution of higher education shall submit a proposal to the State committee describing the costs, methods, and goals of the proposed research. Proposals shall be selected by the State committee on the basis of merit.

"'Sec. 304. The Secretary shall annually divide funds authorized to be appropriated under this section among the States of the High Plains region for research into—

"'(1) precipitation management;

"'(2) weather modification;

"'(3) aquifer recharge opportunities;

"'(4) saline water uses;

"'(5) desalinization technologies;

"'(6) salt tolerant crops; and

"'(7) ground water recovery.

Funds distributed under this section shall be allocated by the Secretary to the State committee for distribution to institutions of higher education within such State. To qualify for a grant under this section, an institution of higher education shall submit a research proposal to the State committee describing the costs, methods, and goals of the proposed research. Proposals shall be selected by the State committee on the basis of merit.

"'Sec. 305. The Secretary shall annually allocate among the States of the High Plains region funds authorized to be appropriated under this section for grants to farmers for demonstration projects for—

"'(1) water-efficient irrigation technologies and practices;

"'(2) soil and water conservation management systems; and

"'(3) the growing and marketing of more water-efficient crops.

Grants under this section shall be made by each State committee in amounts not to exceed 85 per centum of the cost of each demonstration project. To qualify for a grant under this section, a farmer shall submit a proposal to the State committee describing the costs, methods, and goals of the proposed project. Proposals shall be selected by the State committee on the basis of merit. Each State committee shall monitor each demonstration project to assure proper implementation and make the results of the project available to other State committees.

"'SEC. 306. The Secretary, acting through the United States Geological Survey and in cooperation with the States of the High Plains region, is authorized and directed to monitor the levels of the Ogallala aquifer, and report annually to Congress.

"'SEC. 307. Not later than one year after the date of enactment of this title, and at intervals of one year thereafter, the Secretary shall prepare and transmit to the Congress a report on activities undertaken under this title.

"'SEC. 308. (a) For each of the fiscal years ending September 30, 1986, through September 30, 1990, the following sums are authorized to be appropriated to the Secretary to implement the following sections of this title, and such sums shall remain available until expended:

"'(1) $500,000 for the purposes of section 302;

"'(2) $6,000,000 for the purposes of section 303;

"'(3) $2,000,000 for the purposes of section 304;

"'(4) $2,000,000 for the purposes of section 305; and

"'(5) $500,000 for the purposes of section 306.

"'(b) Funds made available under this title for distribution to the States of the High Plains region shall be distributed equally among the States.".

"'SEC. 220. (a) The Secretary is authorized to make grants to States for the establishment and operation of programs to promote water conservation and nonstructural flood control alternatives. To qualify to receive such a grant, a State shall establish or augment an office and program to—

"(1) publicize the range of nonstructural flood control methods, including, but not limited to, flood-proofing of structures, flood plain management, greenbelts along rivers and streams, protection of upstream wet land or recharge areas, relocation of structures out of the flood plain, and flood warning systems; and

"(2) promote increased efficiency of water-use in the municipal, industrial, and agricultural sectors by publicizing the range of methods which help save water such as

water-saving plumbing fixtures, revised rate structures, plumbing code alterations, outdoor water-use plans, innovative landscaping, recycling techniques, and other measures.

"(b) Funds provided under this section shall not be used to develop or implement plans for dams, stream channelization or dredging, or any other structural measures for river control.

"(c)(1) For the purposes of this section, the word "States" includes Puerto Rico and the District of Columbia.

"(2) For the purposes of this section, there is authorized to be appropriated to the Secretary, for distribution equally among the States, the sum of $50,000,000 for each of the fiscal years ending September 30, 1986, through the fiscal year ending September 30, 1990.

"(d) The Secretary, not later than October 1, 1988, shall report to the Congress on activities undertaken under this section.

"SEC. 221. (a) The Congress finds that increasing scientific evidence indicates the level of the oceans will rise significantly over the next seventy-five years.

"(b) The Secretary, in cooperation with the National Oceanic and Atmospheric Administration, the Federal Emergency Management Agency, and other appropriate Federal, State, and local agencies and the private sector, is authorized to conduct a study of shoreline protection and beach erosion control policy and related projects of the Secretary, in view of the prospect for long-term increases in the levels of the ocean. Such study shall include, but is not limited to—

"(1) an assessment of the probability and the extent of coastal flooding and erosion;

"(2) an appraisal of various strategies for managing relocation, disinvestment, and reinvestment in coastal communities exposed to coastal flooding and erosion;

"(3) a summary of the legal and institutional impact of rising sea level on riparian lands; and

"(4) recommendations for new or additional criteria for Federal participation in shoreline protection projects.

"(c) Within three years after the date of enactment of this Act, the Secretary shall transmit the study prepared pursuant to subsection (b) of this section, together with supporting documentation and the recommendations of the Secretary on such study, to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives.

"(d) For the purposes of this section, there is authorized to be appropriated to the Secretary for the fiscal year ending September 30, 1986, or thereafter, the sum of $3,000,000, such sum to remain available until expended.

"SEC. 222. During the design of each water resources project which has a cost in excess of $10,000,000 and which was authorized prior to, in, or subsequent to this Act and undertaken by the Secretary, on which construction has not been initiated as of the date of enactment of this Act, the Secretary shall require a review of the cost effectiveness of such design. The review shall employ cost control techniques which will ensure that such project is designed in the most cost-effective way for the life of the project.

"SEC. 223. (a) In the case of any water resources preauthorization study undertaken by the Secretary, the Secretary shall prepare a feasibility report. Such feasibility report shall describe, for each alternative analyzed, the national economic development benefits and costs, the environmental quality impacts, and other impacts of concern to Federal, State, local, and international entities, including appropriate levels on non-Federal financing and the ability of non-Federal interests to contribute such levels. The feasibility report shall also include the views of other Federal agencies and non-Federal agencies with regard to the recommended plan. This subsection shall not apply to any study with respect to which a report has been submitted to Congress before the date of enactment of this Act, or for a study related to any project authorized in this Act.

"(b) Before initiating any feasibility study under subsection (a) of this section, if such study had not been initiated prior to enactment of this Act, the Secretary shall first perform, at Federal expense, a reconnaissance of the water resources problem in order to identify potential solutions to such problem in sufficient detail to enable the Secretary to determine whether or not planning to develop a project should proceed to the preparation of a feasibility report. Such reconnaissance shall include a preliminary analysis of the Federal interest, costs, benefits, environmental impacts of such project, and an estimate of the costs of preparing the feasibility report. The duration of a reconnaissance shall normally be no more than twelve months, but in all cases is to be limited to eighteen months.

"(c)(1) The Secretary shall not initiate any feasibility study after the date of enactment of this Act until appropriate non-Federal interests agree, by contract, to contribute 50 per centum of the cost for such study during the period of such study. Not more than one-half of such non-Federal contribution may be made by the provision of services, materials, supplies or other in-kind services necessary to prepare the feasibility report.

"(2) This subsection shall not apply to any water resources study primarily designed for the purposes of navigational improvements in the nature of dams, locks, and channels on the Nation's system of inland waterways.

"SEC. 224. (a)(1) In the case of any water resources project authorized to be constructed by the Secretary in this Act, or authorized to be constructed by the Secretary prior or subsequent to the date of enactment of this Act, construction of which has not commenced as of the date of enactment of this Act, and which necessitates the mitigation of fish and wildlife losses, including the acquisition of lands or interests in lands to mitigate losses to fish and wildlife, as a result of such project, such mitigation, including acquisition of the lands or interests, (1) shall be undertaken or acquired before any construction of the project (other than such acquisition) commences, or (2) shall be undertaken or acquired concurrently with lands and interests in lands for project purposes (other than mitigation of fish and wildlife losses), whichever the Secretary determines is appropriate.

"(2) For the purposes of this subsection, any project on which more than 50 per centum of the land needed for the project, exclusive of mitigation lands, has been acquired shall be deemed to have commenced construction under this subsection.

"(b)(1) After consultation with appropriate Federal and non-Federal agencies, the Secretary is authorized to mitigate damages to fish and wildlife resulting from any water resources project under his jurisdiction, whether completed, under construction, or to be constructed, to the extent that such mitigation features cost no more than $7,500,000 per project. Such mitigation may include the acquisition of lands, or interests therein, provided that acquisition under this paragraph shall not be by condemnation in the case of projects completed as of the date of enactment of this Act or on which at least 10 per centum of the physical construction on the project has been completed as of the date of enactment of this Act; Provided, that acquisition of water, or interests therein under this paragraph, shall not be by condemnation. The Secretary, shall, under the terms of this paragraph, obligate no more than $40 million in any fiscal year.

"(2) Whenever after his review the Secretary determines that such mitigation features under this subsection are anticipated to cost more than $7,500,000 per project or costs less than $7,500,000 per project and are likely to require condemnation under the proviso in paragraph (1) of this subsection, the Secretary shall transmit to Congress a report on such proposed modification, together with his recommendations.

"(c) Costs incurred to mitigate damages to fish and wildlife under the terms of this section shall be allocated among authorized project purposes in accordance with applicable cost allocation procedures, and shall be subject to cost-sharing or reimbursement to the same extent as such other project costs are shared or reimbursed: Provided, however, That when such costs are covered by contracts entered into prior to the date of enactment of the non-Federal interests or until such contracts are complied with or renegotiated.

"(d) After the date of enactment of this Act, the Secretary shall not submit any proposal for the authorization of any water resources project to the Congress unless such report contains (1) a recommendation with a specific plan to mitigate fish and wildlife losses created by such project, or (2) a determination by the Secretary that such project will have negligible adverse impact on fish and wildlife. In carrying out this subsection, the Secretary shall consult with appropriate Federal and non-Federal agencies.

"(e) In those cases when the Secretary, as part of any report to Congress, recommends activities to enhance fish and wildlife resources, the costs of such enhancement shall be a Federal cost when such enhancement provides benefits that are determined to be national, including benefits to species that are identified by the National Marine Fisheries Service as of national economic importance, species that are subject to treaties or international convention to which the United States is a party, anadromous fish, or when such enhancement is designed to benefit species that have been listed as threatened or endangered by the Secretary of the Interior under the terms of the Endangered Species Act, as amended (16 U.S.C. 1531, et seq.). When benefits of enhancement do not qualify under the preceding sentence, 25 per centum of such enhancement costs shall be provided by non-Federal interests under a schedule of reimbursement determined by the Secretary, except that when benefits are limited to a single State, such non-Federal interests shall provide 33⅓ per centum of such costs.

"(f) The provisions of subsections (a), (b), and (d) shall be deemed to supplement the responsibility and authority of the Secretary pursuant to the Fish and Wildlife Coordination Act, and nothing herein is intended to affect that Act.

"SEC. 225. (a) The Secretary is authorized to plan, design, and construct streambank erosion control projects not specifically authorized by Congress when, in the opinion of the Secretary, such work is economically feasible and environmentally acceptable. Prior to construction of any projects for this purpose, non-Federal interests shall agree to provide, without cost to the United States, all lands, easements, and rights-of-way necessary for construction and subsequent operation of the project; hold and save the United States free from damages due to construction, operation, and maintenance of the project except damages due to the fault or negligence of the United States or its contractors; and operate and maintain the project upon completion.

"(b) For the purposes of this section, the sum of $15,000,000 is authorized to be appropriated to the Secretary for each of the fiscal years beginning with the fiscal year ending September 30, 1986. Not more than $2,000,000 shall be allotted for the construction of a project under this section at any single locality and such amount shall be sufficient to complete Federal participation in the project.

"SEC. 226. (a) The Congress finds that it is necessary and cost-effective to encourage as many bidders as possible for contracts to be let by the Secretary, and it is therefore the policy of Congress to direct the Secretary to prepare any proposal for the construction of a civil works project in a manner that assures, to the greatest extent reasonable, that no potential bidder shall be precluded from competing fairly for such contract because of the size of such bidder.

"(b) The Secretary is further directed not to require that contractors on civil works construction projects under his direction be required to perform recordkeeping that is, by law or regulations, the responsibility of the Secretary.

"TITLE III—PROJECT PROVISIONS

"SEC. 301. (a) The Secretary is authorized and directed to take such action as may be necessary at a cost of $4,118,000, and substantially in accordance with the study directed by the District Engineer and dated July 20, 1981, to correct erosion problems along the banks of the Warrior River in order to protect Mound State Park, near Moundville, Alabama.

"(b) The Secretary is authorized to preserve and protect the Fort Toulouse National Historic Landmark and Taskigi Indian Mound in the county of Elmore, Alabama, by instituting bank stabilization measures, in accordance with Alternative B contained in the District Engineer's Design Supplement Report entitled "Jones Bluff Reservoir, Alabama River, Alabama, Fort Toulouse, Design Report, National Historic landmark," dated July 1975, at a cost of $15,400,000 (October 1982).

"(c) The Secretary in order to protect the cultural, economic, environmental, and historical resources of Tangier Island, Virginia, located in Chesapeake Bay, is authorized and directed to design and construct a structure approximately eight thousand two hundred feet in length on the western shore of Tangier Island, adequate to protect such island from further erosion at a cost of $5,400,000.

"(d) Prior to any construction under this section, non-Federal interests shall provide without cost to the United States all necessary lands, easements, rights-of-way, and relocations, agree to operate and maintain the structures after construction, and hold and save the United States free from damages due to the construction works.

"(e) Notwithstanding the provisions of this section, the Secretary shall give priority in the allocation of funds for design and construction of projects for the purposes of erosion control to projects authorized prior to the enactment of this Act.

"SEC. 302. The project for hurricane-flood protection and beach erosion control along the Delaware Coast from Cape Henlopen to Fenwick Island at the Delaware-Maryland State Line, authorized by Section 203 of the Flood Control Act of 1968 (Public Law 90-483), is hereby modified by deleting hurricane-flood protection and authorizing the construction of sand bypass facilities and stone revetment erosion control measures at Indian River Inlet, Delaware, as described in the re-evaluation report of the Philadelphia District Engineer, dated January 1984, at a Federal cost for such additional facilities of $4,000,000 (October 1983), Provided, however, that project costs shall be allocated under the terms of Section 111 of Public Law 90-483, if that is determined by the Secretary of the Army, acting through the Chief of Engineers, to be appropriate.

"SEC. 303. (a) The Secretary is authorized to construct, at Federal expense, a set of emergency gates in the conduit of the Abiquiu Dam, New Mexico, to increase safety and enhance flood and sediment control: Provided, That such feature, which was eliminated during original construction due to cost constraints, shall be considered as completing the original design concept for the project.

"(b) For purposes of this section, the sum of $2,500,000 is authorized to be appropriated to the Secretary for the fiscal year ending September 30, 1986, or thereafter, such sums to remain available until expended.

"SEC. 304. The Secretary shall promptly transfer to the responsibility of the Corps of Engineers district engineer in Albuquerque, New Mexico, those portions of the State of New Mexico that, as of the date of enactment of this Act, are under the responsibility of the district engineers in Sacramento, California, and Los Angeles, California.

"SEC. 305. The Waterbury, Vermont, project in the Winooski River Basin, authorized for modification is section 10 of the 1944 Flood Control Act, approved as Public Law 78-534 of December 22, 1944, is hereby further modified to provide that any major rehabilitation of such project to terminate abnormal seepage through or under the dam and to restore the concrete work on such dam shall be undertaken by the Secretary. Nothing in this section shall be construed as altering the conditions established in the Federal Power Commission license numbered 2090, issued on September 16, 1954.

"SEC. 306. The city waterway navigation channel project, Tacoma Harbor, Washington, authorized by the first section of the River and Harbor Act of June 13, 1902 (32 Stat. 347), is hereby modified to direct the Secretary to redefine the boundaries of such project in accordance with the recommendations contained in appendix B of the feasibility report of the Seattle District Engineer, dated November 1981.

"SEC. 307. (a) The Secretary, in cooperation with the government of the Trust Territory of the Pacific Islands, is hereby authorized and directed to study and draft plans for development, utilization, and conservation of water and related land resources of such territory.

"(b) The study authorized by this section shall include appropriate consideration of the needs for flood protection, wise use of flood plain land, navigation facilities, hydroelectric power generation, regional water supply and waste water management facilities systems, general recreational facilities, enhancement and control of water quality, enhancement and conservation of fish and wildlife, and other measures for environmental improvement and economic and human resources development. Such studies shall also be compatible with comprehensive development plans formulated by local planning agencies and other interested Federal agencies.

"(c) There is authorized to be appropriated to the Secretary for the fiscal year ending September 30, 1986, or thereafter, a sum of $500,000 to carry out the provisions of this section.

"SEC. 308. The second paragraph under the center heading "BRAZOS RIVER BASIN" in section 10 of the Flood Control Act of 1946 (60 Stat. 641) is amended by inserting "or water supply" after "irrigation".

"SEC. 309. The Pick-Sloan Missouri Basin program shall be prosecuted, as authorized and in accordance with applicable laws including the requirements for economic feasibility, to its ultimate develoment on an equitable basis as rapidly as may be practicable, within the limit of available funds and the cost recovery and repayment principles established by Senate Report Numbered 470 and House of Representatives Report Numbered 282, Eighty-ninth Congress, first session.

"SEC. 310. The project for Jackson Hole Snake River local protection and levees, Wyoming, authorized by the River and Harbors Act of 1950 (Public Law 81-516), is hereby modified to provide that the operation and maintenance of the project, and additions and modifications thereto constructed by non-Federal interests, shall be the responsibility of the Secretary: Provided, That non-Federal interests shall pay the initial $35,000 in cash or materials, of any such cost expended in any one year.

"SEC. 311. The project for flood protection for the Rio Grande Floodway, Truth or Consequences Unit, New Mexico, authorized by the Flood Control Acts of 1948 and 1950, is hereby modified to provide that the Secretary is authorized to construct a flood control dam on Cuchillo Negro Creek, a tributary of the Rio Grande, in lieu of the authorized floodway.

"SEC. 312. (a) (1) The Congress finds that the irrigation ditch systems in New Mexico, known as the Acequia Systems, date from the eighteenth century, and that these early engineering works have significance in the settlement and develoment of the western portion of the United States.

"(2) The Congress, therefore, declares that the restoration and preservation of the Acequia Systems has cultural and historic values, as well as economic values, to the region.

"(b) The Secretary is authorized and directed to undertake, without regard to economic analysis, such measures as are necessary to protect and restore the river diversion structures and associated canals attendant to the operations of the community ditch and Acequia Systems in New Mexico that are declared to be a political subdivision of the State of New Mexico; Provided, That the State of New Mexico, or other non-Federal interests, shall pay 20 per centum of the cost of any work undertaken under this section.

"(c) For the fiscal year ending September 30, 1986, and thereafter, the sum of $40,000,000 is authorized to be appropriated for the purposes of subsection (b) of this section, such sums to remain available until expended.

"(d) The Secretary is further authorized and directed to consider the historic Acequia Systems (community ditches) of the Southwestern United States as public entities, if these systems are chartered by the respective State laws as political subdivisions of that State. This public entity status will allow the officials of these Acequia Systems to enter into agreements and serve as local sponsors of water-related projects of the Secretary.

"SEC. 313. (a) The Secretary is authorized to implement a program of research in order to demonstrate the cropland irrigation and conservation techniques described in the report issued by the New England Division Engineer, dated May 1980, for the Saint John River Basin, Maine.

"(b) For the purposes of this section, there is authorized to be appropriated to the Secretary the sums of $1,825,000 in the fiscal year ending September 30, 1986, $820,000 in the fiscal year ending September 30, 1987, and $785,000 for the fiscal year ending September 30, 1988, such sums to remain available until expended.

"SEC. 314. (a) Bank protection activities conducted under the Rio Grande Bank protection project pursuant to the Act of April 25, 1945 (59 Stat. 89), may be undertaken in Starr County, Texas, notwithstanding any provision of such Act establishing the counties in which such bank protection activities may be undertaken.

"(b) Any bank protection activity undertaken in Starr County, Texas, pursuant to subsection (a) of this section shall be—

"(1) in accordance with such specifications as may be prepared for such purpose by the International Boundary and Water Commission, United States and Mexico; and

"(2) except as provided in subsection (a) of this section, subject to the terms and conditions generally applicable to activities conducted under the Rio Grande Bank protection project.

"SEC. 315. (a) The Secretary, upon completion of any necessary recordation of the survey and/or plat of each townsite specified under this section, is authorized to—

"(1) sell those lands and improvements in each townsite which are suitable for residential, commercial, or industrial use, all in accordance with the provisions of subsection (b) of this section.

"(2) transfer, without cost, muncipal facilities to the appropriate local government entity or entities; and

"(3) transfer, without cost, all school buildings, facilities, related equipment, and land used for educational purposes to the appropriate school district.

(b)(1) All property authorized to be sold, at fair market value, under this section shall be offered for sale in accordance with the following:

"(A) First preference shall be given to residents of improved residential properties within a townsite or to an opeator of a commercial concession within a townsite for a period of thirty days to purchase the property in which they so reside or operate.

"(B) In lieu thereof, said resident or operator shall have the preference, denoted as the second preference, to purchase another available improved residential or commercial lot, or an unimproved residential or commercial lot, in the same townsite for a period of thirty days which may, in the discretion of the Secretary, run concurrently with that in (A) above.

"(C) Thereafter, for a period of thirty days, a preference, denoted the third preference, to purchase an available residential lot, improved or unimproved, shall be given, without difference or distinction, to project-connected employees who are eligible to be tenants of Federal housing in a townsite, to any public employees who work in a townsite, and to retired employees or their surviving spouses who, during their years of employment, lived in one of the townsites.

"(D) Subsequent thereto, for an additional thirty-day period, a preference, denoted the fourth preference, to purchase improved residential property in a townsite shall be given to any person, corporation or agency agreeing to lease said property to a person or persons who has elected not to exercise a preference to purchase property under (A) or (B) above.

"(E) After all preference rights have expired, the remaining property which, in the judgment of the Secretary, is suitable for development, shall be offered for sale to the public.

"(F) The Secretary is further authorized to transfer, without cost, to a local government entity or entities any property not purchased under the preference rights set forth in subparagraphs (A) through (E) of this paragraph and any other remaining property within the townsite boundaries.

"(2) The purchase of property pursuant to the first, second, or third preference right under subsection (b)(1) of this section shall render the purchaser and his/her spouse ineligible to purchase any other property under such preferences.

"(c) When financing for purchasers of residential property under subsection (b)(1)(A) through (b)(1)(E) cannot reasonably be obtained from other sources, the Secretary may accept, in partial payment of the purchase price of the residential property, notes secured by mortgages on the property, subject to such terms and conditions as he determines appropriate: *Provided*, That the interest rate charged to the purchasers will not be more favorable than that then being charged by the Farmers Home Administration for its single family rural housing loan program. The Secretary may sell such notes and transfer, assign, or convey the mortgages securing such notes on terms that he deems appropriate.

"(d) The Secretary is further authorized to provide temporary financial assistance to the appropriate local government entity or entities for the townsites specified in this section for a period of five years, in amounts equal to the following percentages of the entity's budget for operating expenses:

"First year—100 per centum;

"Second year—80 per centum;

"Third year—60 per centum;

"Fourth year—40 per centum;

"Fifth year—20 per centum;

"(e) The Secretary is hereby authorized to perform those acts necessary to delegate authority, to prescribe such rules and regulations, and to establish such terms and conditions as he may deem appropriate for the purpose of carrying out the provisions and objectives of this section.

"(f)(1) For the purposes of this section "townsite" means:

"(A) The area referred to as Riverdale, North Dakota, containing eight hundred and ninety-two acres, more or less, as depicted on drawing numbered MGR160.2E1, dated November 10, 1981, on file in the office of the district engineer, United States Army Engineer District, Omaha, Nebraska.

"(B) The area referred to as Pickstown, South Dakota, containing three hundred and ninety-three acres, more or less, as depicted on drawing numbered MR315-2E1, dated November 3, 1981, on file in the office of the district engineer, United States Army Engineer District, Omaha, Nebraska.

"(2) For the purposes of this section, the terms:

"(A) "Local government entity" shall mean any public or quasi-public organization, including an incorporated municipality, that in the judgment of the Secretary would be able to provide any or all of those public facilities or services essential to the operation of the townsite.

"(B) "Municipal facilities" shall include fire and police protection systems, waste treatment plants, water treatment and distribution facilities, parks, streets and roads, cemeteries, power distribution systems, municipal government buildings, and other property suitable for use for local municipal purposes, together with underlying lands, easements, and rights-of-way, as well as equipment, materials, and supplies therefor.

"SEC. 316. (a)(1) To improve water quality and fulfill the goals of the clean lakes program established in section 314 of the Clean Water Act, the Secretary is authorized to initiate a demonstration program to remove excess silt from Lake Herman, Lake County, South Dakota.

"(2) For the purpose of this subsection, there is authorized to be appropriated to the Secretary for the fiscal year ending September 30, 1986, or thereafter, the sum of $5,000,000, such sum to remain available until expended.

"(b) The Secretary is authorized and directed to undertake a demonstration project for the removal of silt and aquatic growth, in Lake Worth, Tarrant County, Texas, to construct silt traps and to provide other devices or equipment to prevent and abate the further deposit of sediment in Lake Worth, and to use the dredged material in the reclamation of despoiled land, and other actions necessary to the success of the demonstration, all at full Federal expense and at a cost of $1,750,000 (October 1983).

"(c) The Secretary is authorized and directed to conduct mitigation activities recommended in the 1982 Environmental Protection Agency Diagnostic Feasibility Study for Gorton's Pond in Warwick, Rhode Island. Activities will include the installation of retention basins, the dredging of inlets and outlets in recommended areas and the disposal of dredge material, and weed harvesting and nutrient inactivation. For purposes of this subsection, there is authorized to be appropriated to the Secretary for the fiscal year ending September 30, 1986, or thereafter, the sum of $730,000, such sum to remain available until expended.

"SEC. 317. (a) The Secretary, after consultation with the National Oceanic and Atmospheric Administration, the National Marine Fisheries Service, the United States Fish and Wildlife Service, and other appropriate governmental agencies, and the National Research Council of the National Academy of Sciences, is authorized and directed to undertake studies to identify the impacts on the United States of potential Canadian tidal power development in the Bay of Fundy, and submit such studies to the appropriate committees of the Congress.

"(b) The Secretary shall conduct the studies authorized in subsection (a) of this section in two phases:

"(1) Studies to be completed not later than October 1, 1986, to (A) identify effects of any such projects on tidal ranges and resulting impacts to beaches and estuarine areas, and (B) identify further studies which would be needed to meet the requirements of paragraph (2) of this subsection; and

"(2) Studies to be completed not later than October 1, 1989, to (A) determine further environmental, social, economic, and institutional impacts of such tidal power development, and (B) determine what measures could be taken in Canada and the United States to offset or minimize any adverse impacts of such development on the United States.

"(c) In the fiscal year ending September 30, 1986, or in any fiscal year thereafter, there is authorized to be appropriated to the Secretary the sum of $1,100,000 for the purposes of subsection (b)(1) of this section, and the sum of $8,900,000 for the purposes of subsection (b)(2) of this section, such sums to remain available until expended.

"SEC. 318. (a)(1) Downstream recreation on the Gauley River is declared to be an additional project purpose of the Summerville Lake project, West Virginia, under the direction of the Secretary. Releases at times and levels (minimum two thousand four hundred cubic feet per second) suitable for such recreation shall commence on the first weekend after Labor Day of each year and continue during each weekend thereafter (and during such weekday periods as the Secretary finds appropriate) for approximately five weeks.

"(2) Releases shall also be made at other times during the year as appropriate: *Provided,* That such releases are not injurious to other purposes of the Summerville Lake project. The Secretary shall schedule such releases as early as practical and provide adequate advance public notice of such whitewater release.

(b) The Secretary may temporarily suspend (for such period as may be necessary) or modify any release required under subsection (a)(1) of this section or scheduled under subsection (a)(2) of this section when necessary for purposes of flood control or any other project purpose, or for reasons of public health and safety.

"SEC. 319. The three flood water control structures on the Johns Creek tributary and the program of land treatment for erosion and sediment control in the Nonconnah Creek Basin, Tennessee, are authorized to be constructed in accordance with the recommendations contained in the joint report of the district engineer and the State conservationist contained in Senate Document 95-96, at a Federal cost of $16,663,300 (June, 1981).

"SEC. 320. Subject to the provisions of section 212 of this Act, the Secretary is authorized to participate with appropriate non-Federal sponsors in a project to demonstrate, on an expedited basis, the feasibility of non-Federal cost sharing for rural flood protection under the provisions of sections 208 and 215 and title VI of this Act. Such project shall consist of channel restoration and improvements on the James River in South Dakota, and may include consideration of offstream storage, small impoundments on tributaries, and other features identified by the Secretary to alleviate flood damage and to regulate flows on such river, at a Federal cost not to exceed $20,000,000: *Provided,* That the Secretary shall report to Congress no later than September 30, 1987, on the extent to which additional features may be required to alleviate flood damage and regulate flows on such river.

"SEC. 321. The last sentence under the center heading "ARKANSAS-RED RIVER BASIN" in section 201 of the Flood Control Act of 1970 (84 Stat. 1825) is amended to read as follows: "Construction shall be initiated in the Red River Basin in accordance with the recommendations regarding General Design Memorandum numbered 25 by the Director of Civil Works on behalf of the Chief of Engineers dated August 8, 1977.".

"SEC. 322. The project on Milk River for local flood protection at Havre, Montana, autorized by section 10 of the Flood Control Act approved December 22, 1944 (58 Stat. 897), is hereby modified to authorize the Secretary to reconstruct or replace, whichever he determines necessary and appropriate, the water supply intake weir of the city of Havre, Montana, at a cost of $1,400,000.

"SEC. 323. The Secretary is authorized and directed to improve public access to, and lessen a health and safety hazard, at Pearson-Skubitz Big Hill Lake, Kansas, by upgrading existing roads to the extent feasible and acquiring additional rights-of-way and constructing new roads as required, at a cost of $1,800,000 (October 1983).

"SEC. 324. That portion of the Hudson River in the New York Bay lying within the area described in Senate Report 98-340 for Section 326 is hereby declared to be not a navigable water of the United States within the meaning of the Constitution and the laws of the United States, except for the purposes of the Federal Water Pollution Control Act.

"SEC. 325. (a) The portion of the flood control project for the Illinois River and tributaries, Illinois, Wisconsin, and Indiana, authorized by section 203 of the Flood Control Act of 1962 (76 Stat. 1189) which is to be located on the Sangamon River, Illinois, about one mile upstream from Decatur, Illinois, and which is known as the William L. Springer Lake project is not authorized after the date of enactment of this Act.

"(b) Notwithstanding section 203 of the Federal Property and Administrative Services Act of 1949 and any other provision of law, before any lands acquired by the United States for the William L. Springer Lake project referred to in subsection (a) of this section are sold or otherwise disposed of or used for any purpose other than to carry out such project, such lands shall first be made available for purchase by the City of Decatur, Illinois, at the price at which such lands were acquired by the United States: *Provided,* That such lands remain in public ownership for use for public purposes, and that if any of such lands are not so owned or used, then such lands shall revest in the United States.

"SEC. 326. (a) The Big South Ford National River and Recreation Area, Tennessee and Kentucky, established pursuant to section 108 of the Water Resources Development Act of 1974 (Public Law 93-251), as amended, shall hereafter be known and designated as the "John Sherman Cooper National Recreation Area." Any reference in any law, map regulation, document, record, or other paper of the United States to such recreation area shall be deemed to be a reference to such area as the "John Sherman Cooper National Recreation Area."

"(b) Section 108(3)(2)(k) of Public Law 93-251, as amended, is amended further by striking the figure "$103,522,000" and inserting in lieu thereof "$156,122,000".

"SEC. 327. For purposes of the Act entitled "An Act to provide for the alteration of certain bridges over navigable waters of the United States, for the apportionment of the cost of such alterations between the United States and the owners of such bridges, and for other purposes", approved June 21, 1940 (33 U.S.C. 551 et seq.), the Port of Houston Authority bridge over Greens Bayou approximately two and eight-tenth miles upstream of the confluence of Greens Bayou, Texas, and the Houston Ship Channel is hereby declared to be a lawful bridge for all purposes of such Act. The Secretary of Transportation is authorized to reimburse the bridge owner for work done prior to the date of enactment of this section which work, under the Act of June 21, 1940 (33 U.S.C. 511 et seq.), would be the responsibility of the United States if performed after the date of enactment of this section: *Provided,* That any reimbursement under this section shall not exceed $450,000.

"SEC. 328. (a) The Secretary is authorized to undertake the following reconnaissance studies in the State of Utah in order to determine if improvements for the purposes of flood control and related purposes are economically and environmentally justified, then report on such studies to Congress:

"(1) the Provo River, from the mouth of Provo Canyon to Utah Lake;

"(2) the existing levees along Utah Lake from the Provo River south along Interstate Highway 15;

"(3) Interstate Highway 15, adjacent to Utah Lake;

"(4) Rock, Little Rock, and Slate Canyons in the city of Provo;

"(5) the Bear River, its tributaries and outlets;

"(6) the Weber River, its tributaries and outlets; and

"(7) the Sevier River, its tributaries and outlets.

"(b) For the purposes of this section, the Sum of $1,600,000 is authorized to be appropriated to the Secretary for the fiscal year ending September 30, 1986, or thereafter.

"SEC. 329. Upon the request of the State of Illinois, the Secretary shall amend the contract between the State of Illinois and the United States for use of storage space for water supply in Rend Lake on the Big Muddy River in Illinois to relieve the State of Illinois of the requirement to make annual payments for that portion of the maintenance and operation costs applicable to future water supply as is consistent with the Water Supply Act of 1958 (Public Law 85-500), until such time and in such proportion as the storage is used for water supply purposes.

"SEC. 330. In addition to amounts authorized to be appropriated to carry out agreements entered into by the Secretary with the State of Illinois pursuant to section 110 of the River and Harbor Act of 1958 relating to the repair and modification of the Illinois and Mississippi Canal (Hennepin Canal), there is authorized to be appropriated to the Secretary not to exceed $15,000,000 to carry out such agreements.

"SEC. 331. The Lowndesville Recreation Area, located within the Richard B. Russell Dam and Lake project, South Carolina and Georgia, shall hereafter be known and designated as the "Jim Rampey Recreation Area". Any reference in any law, map, regulation, document, record, or other paper of the United States to such recreation area shall be deemed to be a reference to such areas as the "Jim Rampey Recreation Area".

"SEC. 332. (a) The Secretary is authorized, and upon the request of any appropriate State or local authority in the Washington metropolitan area in Maryland, to permit the delivery of water from the District of Columbia water system at the Dalecarlia filtration plant, or at any other point on such water system, to any such appropriate State or local authority. All of the expenses of installing a connection or connections and appurtenances thereto, and any subsequent changes therein, as may be necessary to make such delivery of water, shall be paid by the requesting entity, which shall also pay those charges for the use of such water as may be determined from time to time, in advance, by the Secretary. Payments shall be made at such time and under such regulations as the Secretary may prescribe. The Secretary may revoke at any time any permit for the use of water which may have been granted.

"(b) The Secretary is authorized to purchase water from any appropriate State or local authority in the Washington metropolitan area in Maryland which has completed a connection with the District of Columbia water system. The Secretary is authorized to pay charges as may be agreed upon, for the use of such water by the Secretary.

"SEC. 333. Section 44 of the Water Resources Development Act of 1974 (Public Law 93-251, 88 Stat. 12) is amended by striking subsection (b)(2) and inserting in lieu thereof the following:

"(2) The lands conveyed pursuant to this section, including the Olson 2nd addition, shall be used by the Mountrail County Park Commission, Mountrail County, North Dakota, solely for public park and recreation purposes: *Provided*, That the park commission may designate a portion of the lands conveyed for leasing of cabin sites. The Mountrail County Park Commission shall reimburse the Federal Government for lands so used at the fair market value for such property. If any lands used for public purposes are ever used for any other purpose, title thereto shall revert to, and become the property of, the United States which shall have the right of immediate entry thereof. The Secretary of the Army is authorized to execute and file an amended deed to reflect the provisions of this Act."

"SEC. 334. The authorization for the Lake Brownwood modification project, Pecan Bayou, Texas, contained in the Flood Control Act of 1968 (Public Law 90-483), is hereby terminated.

"SEC. 335. Section 56 of Public Law 93-251 is amended to read as follows: "The project for Libby Dam (Lake Koocanusa), Montana, authorized by the Flood Control Act approved May 17, 1950 (64 Stat. 170), is hereby modified to provide that the Secretary of the Army, acting through the Chief of Engineers, is authorized to compensate the drainage districts and owners of leveed and unleveed tracts, in Kootenai Flats, Boundary County, Idaho, for modification to facilities, including gravity drains, structures, pumps, and additional pumping operational costs made necessary by, and crop and other damages resulting from, the duration of higher flows or water fluctuations during drawndown and power generation operations at Libby Dam, and shall compensate landowners in Kootenai Flats for erosion of their property which has occurred since commencement of the drawndown and power generation operations at Libby Dam and as a result of those operations without regard to historic patterns of erosion, maintenance of existing levees, erosion that might otherwise have occurred without the construction of the dam; or any special and direct benefits to the lands within the project area as a result of the construction of Libby Dam, and shall control erosion caused by the duration of higher flows of water fluctuation during the drawndown and power generation operations at Libby Dam, except that the total of all such erosion compensation shall not exceed $1,500,000."

"TITLE IV—DAM SAFETY

"SEC. 401. (a) Section 1 of Public Law 92-367 (86 Stat. 506) is amended by replacing the final period with a comma and inserting the following after the comma: "unless such barrier, due to its location or other physical characteristics, is likely to pose a significant threat to human life or property in the event of its failure.".

"(b) Public Law 92-367 is further amended by inserting after section 6 the following sections:

"SEC. 7. There is authorized to be appropriated to the Secretary of the Army, acting through the Chief of Engineers (hereafter in this Act referred to as the 'Secretary'), $15,000,000 for each of the fiscal years ending September 30, 1986, through September 30, 1990. Sums appropriated under this section shall be distributed annually among those States on the following basis: One-third equally among those States that have established dam safety programs approved under the terms of section 8 of this Act, and two-thirds in proportion to the number of dams located in each State that has an established dam safety program under the terms of section 8 of this Act to the number of dams in all States with such approved programs. In no event shall funds distributed to any State under this section exceed 50 per centum of the reasonable cost of implementing an approved dam safety program in such State.

" "SEC. 8. (a) In order to encourage the establishment and maintenance of effective programs intended to assure dam safety to protect human life and property, the Secretary shall provide assistance under the terms of section 7 of this Act to any State that establishes and maintains a dam safety program which is approved under this section. In evaluating a State's dam safety program, under the terms of subsections (b) and (c) of this section, the Secretary shall determine that such program includes the following:

"(1) a procedure, whereby, prior to any construction the plans for any dam will be reviewed to provide reasonable assurance of the safety and integrity of such dam over its intended life;

"(2) a procedure to determine, during and following construction and prior to operation of each dam built in the State, that such dam has been constructed and will be operated in a safe and reasonable manner;

"(3) a procedure to inspect every dam within such State at least once every five years, except that such inspections shall be required at least every three years for any dam the failure of which is likely to result in the loss of human life;

"(4) a procedure for more detailed and frequent safety inspections, when warranted;

"(5) the State has or can be expected to have authority to require those changes or modifications in a dam, or its operation, necessary to assure the dam's safety;

"(6) the State has or can be expected to develop a system of emergency procedures that would be utilized in the event a dam fails or for which failure is imminent together with an identification for those dams where failure could be reasonably expected to endanger human life, of the maximum area that could be inundated in the event of the failure of such dam, as well as identification of those necessary public facilities that would be affected by such inundation;

"(7) the State has or can be expected to have the authority to assure that any repairs or other changes needed to maintain the integrity of any dam will be undertaken by the dam's owner, or other responsible party; and

"(8) the State has or can be expected to have authority and necessary emergency funds to make immediate repairs or other changes to, or removal of, a dam in order to protect human life and property, and if the owner does not take action, to take appropriate action as expeditiously as possible.

"(b) Any program which is submitted to the Secretary under the authority of this section shall be deemed approved one hundred and twenty days following its receipt by the Secretary unless the Secretary determines that such program fails to reasonably meet the requirements of subsection (a) of this section. If the Secretary determines such a program cannot be approved, he shall immediately notify such State in writing, together with his reasons and those changes needed to enable such plan to be approved.

"(c) Utilizing the expertise of the Board established under section 10 of this Act, the Secretary shall review periodically the implementation and effectiveness of approved State dam safety programs. In the event the Board finds that a State program under this Act has proven inadequate to reasonably protect human life and property, and the Secretary agrees, the Secretary shall revoke approval of such State program and without assistance under the terms of section 7 of this Act until such State program has been approved.

"SEC. 9. Not later than eighteen months after enactment of the Dam Safety Act of 1984, the Director of the Federal Emergency Management Agency shall report to the Congress on the need for and possible effects of a Federally sponsored program of reinsurance or guarantees of insurance for owners of dams. This report shall include information on a variety of possible Federal reinsurance or guarantees programs and their cost, possible effects such a program or programs might have on the private reinsurance business, and the number of dam owners possibly affected by such a program.

"SEC. 10. (a) There is authorized to be established a Federal Dam Safety Review Board (hereinafter in this Act referred to as the 'Board'), which shall be responsible for reviewing the procedures and standards utilized in the design and safety analysis of dams constructed and operated under authority of the United States, and to monitor State implementation of this Act. The Board is authorized to hire necessary staff and shall review as expeditiously as possible the plans and specifications on all dams specifically authorized by Congress prior to initiation of construction of such dam, and file an advisory report on the safety of such dam with the appropriate agency, the appropriate State, and the Congress. The Board is authorized to utilize the expertise of other agencies of the United States and to enter into contracts for necessary studies to carry out the requirements for this section. There is authorized to be appropriated to the Board such sums as may be necessary to carry out this section.

" "(b) The Board shall also study the need for a Federal loan program to assist the owners of non-Federal dams in rehabilitating such structures for safety deficiencies. This study shall include a quantitative assessment of the availability of funds from existing Federal programs and all other sources for dam rehabilitation, a quantitative assessment of the need for such funds, and an analysis of any impediments which are found to the utilization of existing Federal sources of funds for this purpose.

" "(c) The Board shall consist of nine members selected for their expertise in dam safety, including one representative each from the Department of the Army, the Department of the Interior, the Tennessee Valley Authority, the Federal Emergency Management Agency, and the Department of Agriculture, plus four members, appointed by the President for periods of four years, on a rotating basis, who are not employees of the United States. At least two members of the Board shall be employees of the States having an approved program under section 8 of this Act. The Chairman of the Board shall be selected from among those members who are not employees of the United States.

" "SEC. 11. The head of any agency of the United States that owns or operates a dam, or proposes to construct a dam in any State, shall, when requested by such State, consult fully with such State on the design and safety of such dam and allow officials of such State to participate with officials of such agency in all safety inspections of such dam.

" "SEC. 12. The Secretary shall, at the request of any State that has or intends to develop a dam safety program under section 8 of this Act, provide training for State dam safety inspectors. There is authorized to be appropriated to carry out this section $1,000,000 for the fiscal year ending September 30, 1986, and $500,000 during each of fiscal years ending September 30, 1987, through September 30, 1990.

" "SEC. 13. The Secretary, in cooperation with the National Bureau of Standards, shall undertake a program of research in order to develop improved techniques and equipment for rapid and effective dam inspection, together with devices for the continued monitoring of dams for safety purposes. The Secretary shall provide for State participation in such research and periodically advise all States and the Congress of the results of such research. There is authorized to be appropriated to carry out this section $1,000,000 for each of the fiscal years ending September 30, 1986, through September 30, 1990.

" "SEC. 14. The Secretary is authorized to maintain and periodically publish updated information on the inventory of dams authorized in section 5 of this Act. For the purpose of carrying out this section, there is authorized to be appropriated to the Secretary $500,000 for each of the fiscal years ending September 30, 1986, through September 30, 1990.".

" "SEC. 402. Any report that is submitted to the Committee on Environment and Public Works of the Senate or the Committee on Public Works and Transportation of the House of Representatives by the Secretary, or the Secretary of Agriculture acting under Public Law 83-566, as amended, which proposes construction of a water impoundment facility, shall include information on the consequences of failure and geologic or design factors which could contribute to the possible failure of such facility.

" "SEC. 403. This title shall be known as the "Dam Safety Act of 1984".

"TITLE V—INLAND NAVIGATION

"SEC. 501. (a) Any sums deposited in the Inland Waterways Trust Fund, established pursuant to Public Law 95-502, shall be available for obligation by the Secretary, upon his request, to be utilized for the construction of any lock and/or dam project for the purposes of commercial navigation on the inland waterways of the United States, if such construction was initiated after June 30, 1984: *Provided, however,* That such Trust Fund shall be the sole source of Federal funding for the commercial navigational features and components of all such projects authorized to be constructed by the Secretary.

"(b) For the purpose of this section, the term:

"(1) "inland waterways of the United States" means those waterways and harbors authorized to be constructed or maintained by the Secretary to depths of fourteen feet or less and utilized for the purposes of commercial navigation, provided that such definition includes the Columbia River, Oregon and Washington, from Lewistown, Idaho, to the downstream side of Bonneville Lock and Dam; and

"(2) "commercial navigational features and components" means those portions of a lock and/or dam project on the inland waterways of the United States that is designated and utilized primarily for the purposes of commercial navigation.

"SEC. 502. The following works of improvement to the inland waterways of the United States are hereby adopted authorized to be prosecuted by the Secretary in accordance with the plans and subject to the conditions recommended in the respective reports hereinafter designated: *Provided,* That the figures listed in this title shall be subject to the limitations provided under section 212 and 213 of this Act.

"(1) Helena Harbor, Phillips County, Arkansas: Report of the Chief of Engineers dated October 17, 1980, at a Federal cost of $42,000,000 (October 1982);

"(2) White River Navigation to Batesville, Arkansas: Report of the Chief of Engineers dated December 23, 1981, at a Federal cost of $20,500,000 (October 1982);

"(3) Lake Pontchartrain, North Shore, Louisiana: Report of the Chief of Engineers dated February 14, 1979, at a Federal cost of $850,000 (October 1982);

"(4) Greenville Harbor, Mississippi: Report of the Chief of Engineers dated November 15, 1977, and February 22, 1982, at a Federal cost of $27,700,000 (October 1982);

"(5) Vicksburg Harbor, Mississippi: Report of the Chief of Engineers dated August 13, 1979, at a Federal cost of $54,700,000 (October 1982);

"(6) Atlantic Intracoastal Waterway Bridges, North Carolina: Report of the Chief of Engineers dated October 1, 1975, at a Federal cost of $8,000,000 (October 1982);

"(7) Olcott Harbor, New York: Report of the Chief of Engineers dated June 11, 1980, at a Federal cost of $5,320,000 (October 1982);

"(8) Bonneville Lock and Dam, Oregon and Washington-Columbia River and Tributaries Interim Report: Reports of the Chief of Engineers dated March 14, 1980, and February 10, 1981, at a Federal cost of $177,000,000 (October 1982);

"(9) Memphis Harbor, Memphis, Tennessee: Report of the Chief of Engineers dated February 25, 1981, at a Federal cost of $43,000,000 (October 1982);

"(10) Gallipolis Locks and Dam Replacement, Ohio River, Ohio and West Virginia: Report of the Chief of Engineers dated April 8, 1982, at a Federal cost of $313,000,000 (October 1982);

"(11) Lock and Dam 7 Replacement, Monongahela River, Pennsylvania: Report of the Board of Engineers for Rivers and Harbors, dated March 21, 1984, at a Federal cost of $95,000,000 (October, 1983);

"(12) Lock and Dam 7 Replacement, Monongahela River, Pennsylvania: Report of the Board of Engineers for Rivers and Harbors, dated March 21, 1984, at a Federal cost of $70,750,000 (October, 1983);

"(13) St. Louis Harbor, Missouri and Illinois: Report of the Chief of Engineers dated April 30, 1984, at a Federal cost of $11,050,000 (October, 1983); and

"(14) Oliver Lock Replacement, Black Warrior-Tombigbee Rivers, Alabama: Report of the Chief of Engineers, dated September 26, 1984, at a Federal cost of $109,300,000 (October, 1983).

SEC. 503. (a) The Secretary is authorized to reimburse the State of New York for 50 per centum of the cost of operating, maintaining, and rehabilitating the New York State Barge Canal: *Provided, however,* That control and operation of the canal shall continue to reside with the State of New York.

"(b) For the purposes of this Section, the "New York State Barge Canal" is defined to be—

"(1) the Erie Canal, which connects the Hudson River at Waterford with the Niagara River at Tonawanda;

"(2) the Oswego Canal, which connects the Erie Canal at Three Rivers with Lake Ontario at Oswego;

"(3) the Champlain Canal, which connects the easterly end of the Erie Canal at Waterford with Lake Champlain at Whitehall; and

"(4) the Cayuga and Seneca Canals, which connect the Erie Canal at a point near Montezuma with Cayuga and Seneca Lake and through Cayuga Lake and Ithaca and through Seneca Lake with Montour Falls.

"SEC. 504 (a) To ensure the coordinated development and enhancement of the Upper Mississippi River System, the Congress declares that the purpose of this section is to recognize such System as a nationally significant ecosystem and a nationally significant commercial navigation system. The Congress further recognizes that such System provides a diversity of opportunities and experiences. Such System shall be administered and regulated in recognition of its several purposes.

"(b) For purposes of this section—

"(1) the term "Master Plan" means the Comprehensive Master Plan for the Management of the Upper Mississippi River System, dated January 1, 1982, prepared by the Upper Mississippi River Basin Commission and submitted to the Congress pursuant to the Act entitled "An Act to amend the Internal Revenue Code of 1954 to provide that income from the conducting of certain bingo games by certain tax-exempt organizations will not be subject to tax, and for other purposes", approved October 21, 1978 (92 Stat. 1693; Public Law 95-502), hereafter in this Act referred to as the "Act of October 21, 1978"; and 9

"(2) the terms "Upper Mississippi River System" and "System" mean those river reaches having commercial navigation channels on the following rivers: the Mississippi River main stem north of Cairo, Illinois; the Minnesota River, Minnesota; the Black River, Wisconsin; the Saint Croix River,

Minnesota and Wisconsin; the Illinois River and Waterway, Illinois; and the Kaskaskia River, Illinois.

"(c)(1) The Congress hereby approves the Master Plan as a guide for future water policy on the Upper Mississippi River System. Such approval shall not constitute authorization of any recommendation contained in the Master Plan.

"(2) Section 101 of the Act of October 21, 1978 is amended by striking out the last two sentences of subsection (b) and the last sentence of subsection (j).

"(d)(1) The Congress hereby gives its consent to the States of Illinois, Iowa, Minnesota, Missouri, and Wisconsin, or any two or more of such States, to enter into agreements, not in conflict with any law of the United States, for cooperative effort and mutual assistance in the comprehensive planning for the use, protection, growth, and development of the Upper Mississippi River System, and to establish such agencies, joint or otherwise, as they may deem desirable for making effective such agreements.

"(2) Each officer or employee of the United States responsible for management of any part of the System is authorized in accordance with such officer's or employee's legal authority to assist and participate, when requested by any agency established under paragraph (1) of this subsection, in programs or deliberations of such agency.

"(e)(1) Notwithstanding the provisions of Section 212 of this Act, the Secretary is authorized to provide for the engineering, design, and construction, at a Federal cost of $245,000,000 (October 1983), of a second lock at locks and dam 26, Mississippi River, Alton Illinois and Missouri. Such second lock shall be 110 feet by 600 feet and shall be constructed at or in the vicinity of the location of the replacement lock authorized by section 102 of Public Law 95-502.

"(2) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this subsection.

"(f)(1) The Secretary, acting in consultation with the Secretary of Transportation and the States in the System, shall monitor traffic movements on the System for the purpose of verifying lock capacity, updating traffic projections, and refining the economic evaluations so as to verify the need for future capacity expansion of the System as well as the future need for river rehabilitation and environmental enhancement.

"(2) There are authorized to be appropriated to the Secretary for the first fiscal year beginning after the date of enactment of this Act, and for each of nine fiscal years following thereafter, such sums as may be necessary to carry out paragraph (1) of this subsection.

"(g)(1) The Secretary of the Interior, in concert with any appropriate State agency, is authorized to undertake with respect to the Upper Mississippi River System, substantially in accordance with the recommendations of the Master Plan—

"(A) a habitat rehabilitation and enhancement program to plan, construct, and evaluate projects to protect, enhance, or rehabilitate aquatic and terrestrial habitats lost or threatened as a result of man-induced activities or natural factors;

"(B) the implementation of a long-term resource monitoring program; and

"(C) the implementation of a computerized inventory and analysis system.

"(2) For the purposes of carrying out subparagraph (g)(1)(A) of this subsection, there are authorized to be appropriated to the Secretary of the Interior not to exceed $8,200,000 for the first fiscal year beginning after the date of enactment of this Act, not to exceed $12,400,000 for the second fiscal year beginning after the date of enactment of this Act, and not to exceed $13,000,000 for each of the succeeding eight fiscal years.

"(3) For purposes of carrying out subparagraph (g)(1)(B) of this subsection, there are authorized to be appropriated to the Secretary of the Interior not to exceed $7,680,000 for the first fiscal year beginning after the date of enactment of this Act and not to exceed $5,080,000 for each of the succeeding nine fiscal years.

"(4) For the purposes of carrying out subparagraph (g)(1)(C) of this subsection, there are authorized to be appropriated to the Secretary of the interior—

"(A) not to exceed $40,000 for the first fiscal year beginning after the date of enactment of this Act;

"(B) not to exceed $280,000 for the second fiscal year beginning after the date of enactment of this Act;

"(C) not to exceed $1,220,000 for the third fiscal year beginning after the date of enactment of this Act; and

"(D) not to exceed $775,000 for each of the succeeding seven fiscal years.

"(h)(1) The Secretary of the Interior, in consultation with the Secretary and working through an agency, if any, established by the States for management of the System under subsection (d) of this section, is authorized to implement a program of recreational projects for the System and to conduct an assessment of the economic benefits generated by recreational activities in the System.

"(2) For purposes of carrying out the program of recreational projects authorized in paragraph (1) of this subsection, there are authorized to be appropriated to the Secretary of the Interior not to exceed $500,000 for each of the first ten fiscal years beginning after the date of enactment of this Act and, for purposes of carrying out the assessment of the economic benefits of recreational activities as authorized to be appropriated to the Secretary of the Interior not to exceed $500,000 for each of the first ten fiscal years beginning after the date of enactment of this Act and, for purposes of carrying out the assessment of the economic benefits of recreational activities as authorized in paragraph (1) of this subsection, there are authorized to be appropriated to the Secretary of the Interior not to exceed $300,000 for the first and second fiscal years and $150,000 for the third fiscal year beginning after the computerized inventory and analysis system implemented pursuant to subsection (g)(1)(c) of this section is fully functional.

"(i) None of the funds appropriated pursuant to the authorization contained in subsections (g) and (h) of this section shall be considered to be attributable to commercial navigation.

"(j) This section may be cited as the "Upper Mississippi River System Management Act of 1984.".

"TITLE VI—COST SHARING

"SEC. 601. (a) The construction of any water resource project or related land resources project authorized to be constructed by the Secretary in this Act or authorized to be constructed by the Secretary after the date of enactment of this Act, excluding any project for the purposes of navigation, shall; except as otherwise provided in this title, be initiated only after the appropriate Federal agency has entered into an agreement with a non-Federal project sponsor to share the costs of construction in accordance with the following guidelines, and agrees to pay, upon completion of project construction, 100 per centum of operation, maintenance, and rehabilitation costs:

"(1) hydroelectric power: construction shall not be initiated until the appropriate Power Marketing Administrator designated pursuant to section 302 of the Department of Energy Organization Act (Public Law 95-91) determines that the hydroelectric power expected to be generated and not required in the operation of the project can, under the applicable Federal power marketing law, be marketed so that, in addition to 100 per centum of operation, maintenance and replacement costs, 100 per centum of the capital investment allocated to the purpose of hydroelectric power (with interest at rates established pursuant to or prescribed by applicable law) and any other costs assigned in accordance with law for return from power revenues can be returned within the period or periods established for the return of such costs by or pursuant to such applicable Federal power marketing law: *Provided*, That contracts for the sale of power by the appropriate Power Marketing Administrator may provide for an advance of funds by the purchaser for transfer to the Federal agency constructing the project, and such advances shall be available for construction of the project;

"(2) municipal and industrial water: 100 per centum;

"(3) recreation: 50 per centum of joint and separable costs;

"(4) beach erosion control; not less than 50 per centum for publicly owned shores and not less than 100 per centum for privately owned shores within project limits; and

"(5) urban and rural flood protection, rural drainage, or agricultural water supplies: not less than 35 per centum, or, for projects covered by section 3 of the Flood Control Act of 1936, as amended, the value of lands, easements, right-of-way and relocations required for project construction, whichever is greater, subject to an ability to pay determination under section 603 of this title: *Provided*, That, in the case of projects authorized to be constructed in Reclamation States which provide for agricultural water supplies, such as projects shall also be subject to Federal reclamation law as amended.

"(b) Any cost-sharing agreement for the construction of any water or related land resources project involving two or more purposes may provide for an allocation of costs to each purpose which is greater or lesser than the actual costs associated with each purpose, but the total non-Federal contribution for any such multipurpose project shall equal the amount determined by adding together the cost-sharing and repayment requirements calculated under this section for each purpose separately.

"SEC. 602. (a) Payment in kind may be accepted for any non-Federal contribution under this Act, except that, notwithstanding any other provision of this Act, 5 per centum of the cost of any project (other than a project or component of a project for commercial navigation, agricultural water supply, or hydroelectric power generation) undertaken by the Secretary on which construction is initiated after the date of enactment of this act shall be paid in cash by the non-Federal project sponsor during the construction of such project.

"(b) To the extent that urban and rural flood protection benefits are provided by

nonstructural measures, a cash contribution shall not be required of non-Federal project sponsors.

"(c) Except as otherwise provided in this title or existing law, the appropriate Federal agency may permit the full non-Federal contribution to be made, without interest, during construction of the project or, with interest, over a period of not less than thirty years nor more than fifty years from the date of project completion.

"(d) Any repayment by any non-Federal sponsor under this section shall include—

"(i) the applicable rate of interest, if any, authorized by law for the project, or

"(ii) when no other rate is provided by law, the rate of interest determined by the Secretary of the Treasury, taking into consideration the average market yields on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the reimbursement period, during the month preceding the fiscal year in which funds for the construction of the project are first disbursed.

"(e) At the request of any non-Federal private or public sponsor the appropriate Federal agency may permit such non-Federal sponsor to delay the initial payment of any non-Federal contribution under this Act for up to one year after the date when construction is begun on the project for which such contribution is to be made.

"(f) At the request of any non-Federal public sponsor, the appropriate Federal agency shall consider a non-Federal contribution of 25 per centum, including not less than 5 per centum in cash, made during construction of the project, to be in fulfillment of section 601(a)(5) of this title.

"(g) At the request of any non-Federal public sponsor, the appropriate Federal agency shall consider the cost of work undertaken in accordance with section 134(a) of Public Law 94-578, as amended, by non-Federal sponsor to be in satisfaction or partial satisfaction of the requirements of subsection (a) of this section if—

"(1) the work undertaken has been previously approved by the Division Engineer of the Corps of Engineers; and

"(2) the credit sought is only for non-Federal funds expended for such work.

"SEC. 603. Any cost-sharing agreement under this Act with a non-Federal private or public sponsor of an urban and rural flood protection, rural drainage, or agricultural water supply project shall be subject to the ability of any such non-Federal sponsor to pay. The ability of any non-Federal sponsor to pay shall be determined by the appropriate Federal agency in accordance with any applicable law or, in the absence of applicable law, under procedure to be determined by the appropriate agency.

"SEC. 604. No additional cost sharing or repayment shall be required from any non-Federal sponsor for any water or related land resources project authorized prior to the date of enactment of this Act beyond any applicable cost-sharing and repayment requirements of existing law, but construction shall not be initiated prior to the fiscal year ending September 30, 1995, on any such project or separable element thereof unless—

"(a) a non-Federal sponsor agrees to pay any cost-sharing and repayment requirements associated with such project under existing law and 50 per centum of any additional cost-sharing or repayment contributions associated with such project under sections 601 and 602 of this title;

"(b) such project is an uncompleted unit (or reformulation of such unit) of a comprehensive river basin program of development to be located in a State in which large acreages of land or volumes of water have been dedicated to such program for the benefit of citizens in other States and thereby denied to the use of the citizens of such State, or

"(c) such project is a separable element for which construction funds were appropriated prior to January 1, 1983.

In determining priorities for development among projects authorized for development prior to the date of enactment of this Act, the appropriate Federal agencies shall consult with the States in which such projects are to be located and shall consider any priorities established by any State for the development of such projects.

TITLE VII

"SEC. 701. Subject to the provisions of sections 212 and 213 and title VI of this Act, the following works of improvement of rivers and harbors and other waterways for flood control and other purposes are hereby adopted and authorized to be prosecuted by the Secretary in accordance with the plans and subject to the conditions recommended in the respective reports hereinafter designated:

"(a) FLOOD CONTROL.—

"(1) Village Creek, Jefferson County, Alabama: Report of the Chief of Engineers dated December 23, 1982, at a Federal cost of $20,700,000 (October 1982);

"(2) Eight Mile Creek, Paragould, Arkansas: Report of the Chief of Engineers dated August 10, 1979, at a Federal cost of $14,500,000 (October 1982);

"(3) Fourche Bayou Basin, Little Rock, Arkansas: Report of the Chief of Engineers dated September 4, 1981, at a Federal cost of $19,700,000 (October 1982);

"(4) Helena and vicinity, Arkansas: Report of the Chief of Engineers dated June 23, 1983, at a Federal cost of $11,600,000 (October 1982);

"(5) Little Colorado River at Holbrook, Arizona: Report of the Chief of Engineers dated December 23, 1981 at a Federal cost of $7,730,000 (October 1982);

"(6) Cache Creek Basin, California: Report of the Chief of Engineers dated April 27, 1981, at a Federal cost of $21,100,000 (October 1982), provided the Secretary acts in coordination with the State of California to assure that such project poses no danger to any component of its State park system;

"(7) Redbank and Fancher Creeks, California: Report of the Chief of Engineers dated May 7, 1981, at a Federal cost of $57,200,000 (October 1982);

"(8) Santa Ana River Mainstem, Including Santiago Creek, California: Report of the Chief of Engineers dated January 15, 1982, at a Federal cost of $1,211,000,000 (October 1983): *Provided*, That construction is restricted to the following elements of the project: improvements at Prado Dam which limit the reservoir taking line to no greater than an elevation of 566 feet; Santa Ana River Channel improvements in Orange County; improvements along Santiago Creek; improvements of the Oak Street Drain; and improvement of the Mill Creek levees; features for mitigation of project effects and preservation of endangered species, and recreation features identified in the Chief of Engineers' Report for these project elements;

"(9) Fountain Creek, Pueblo, Colorado, Phase I GDM: Report of the Chief of Engineers dated December 23, 1981, at a Federal cost of $6,600,000 (October 1982);

"(10) Metropolitan Denver and South Platte River and Tributaries, Colorado, Wyoming, and Nebraska: Report of the Chief of Engineers dated December 23, 1981, at a Federal cost of $9,080,000 (October 1982);

"(11) Oates Creek, Georgia: Report of the Chief of Engineers dated December 23, 1981, at a Federal cost of $8,360,000 (October 1982);

"(12) Agana River, Guam: Report of the Chief of Engineers dated March 14, 1977, at a Federal cost of $5,820,000 (October 1982);

"(13) Alenaio Stream, Hawaii: Report of the Chief of Engineers dated August 15, 1983, at a Federal cost of $4,579,000 (October 1982);

"(14) Big Wood River and Tributaries, Idaho, Interim Report—Little Wood River, Vicinity of Gooding and Shoshone, Idaho: Report of the Chief of Engineers dated November 2, 1977, at a Federal cost of $3,750,000 (October 1982);

"(15) North Branch of Chicago River Illinois: Report of the Board of Engineers for Rivers and Harbors dated January 3, 1984, at a Federal cost of $11,800,000 (October 1983);

"(16) Rock River at Rockford and Vicinity, Illinois, Loves Park Interim: Report of the Chief of Engineers dated September 15, 1980, at a Federal cost of $22,800,000 (October 1982);

"(17) The project for flood control, Little Calumet River, Indiana: In accordance with plan 3A contained in the Report of the Board of Engineers for Rivers and Harbors dated November 14, 1983, at a Federal Cost of $57,700,000 (October 1983), with the additional provision that the Secretary is directed to include levees and other necessary structural measures in the Gary, Indiana, portion of such project from Clinc Avenue to the Eastern boundary of the project;

"(18) Des Moines River Basin, Iowa and Minnesota: Report of the Chief of Engineers dated July 22, 1977, at a Federal cost of $11,200,000;

"(19) Mississippi River, Coon Rapids Dam to Ohio River Green Bay Levee and Drainage District No. 2, Iowa: Report of the Chief of Engineers dated October 21, 1981, at a Federal cost of $5,480,000;

"(20) Interim Report on Perry Creek, Iowa: Report of the Chief of Engineers dated February 4, 1982, at a Federal cost of $20,900,000;

"(21) Halstead, Kansas: Report of the Chief of Engineers dated May 8, 1979, at a Federal cost of $6,130,000 (October 1982);

"(22) Atchafalaya Basin Floodway system, Louisiana: Report of the Chief of Engineers dated February 28, 1983, at a Federal cost of $195,000,000 (October 1982);

"(23) Bushley Bayou, Louisiana, Phase I GDM: Reports of the Chief of Engineers dated April 30, 1980, and August 12, 1982, at a Federal cost of $42,800,000 (October 1982);

"(24) Louisiana State Penitentiary Levee, Mississippi River: Report of the Chief of Engineers dated December 10, 1982, at a Federal cost of $20,500,000 (October 1982);

"(25) Quincy Coastal Streams, Massachusetts, Town Brook Interim: Report of the Chief of Engineers dated December 14, 1981, at a Federal cost of $25,100,000 (October 1982);

"(26) Mississippi River at St. Paul, Minnesota: Report of the Chief of Engineers dated June 16, 1983, at a Federal cost of $7,200,000 (October 1982);

"(27) Redwood River at Marshall, Minnesota: Report of the Chief of Engineers dated November 16, 1981, at a Federal cost of $3,130,000 (October 1982);

"(28) Root River Basin, Minnesota: Report of the Chief of Engineers dated May 13, 1977, at a Federal cost of $8,150,000 (October 1982);

"(29) South Fork Zumbro River Watershed at Rochester, Minnesota: Report of the Chief of Engineers dated February 23, 1979, at a Federal cost of $77,800,000 (October 1982);

"(30) Horn Lake Creek and Tributaries, Including Cow Pen Creek, Tennessee and Mississippi: Report of the Chief of Engineers dated January 4, 1983, at a Federal cost of $2,450,000 (October 1982);

"(31) Sowashee Creek, Mississippi: Report of the Board of Engineers for Rivers and Harbors, dated June 15, 1984, at a Federal cost of $10,910,000 (October 1983);

"(32) Brush Creek and Tributaries, Missouri and Kansas: Report of the Chief of Engineers dated January 3, 1983, at a Federal cost of $12,100,000;

"(33) Maline Creek, Missouri: Report of the Chief of Engineers dated November 2, 1982, at a Federal cost of $37,200,000;

"(34) St. Johns Bayou and New Madrid Floodway, Missouri Phase I GDM: Report of the Chief of Engineers dated January 4, 1983, at a Federal cost of $69,000,000;

"(35) Robinson's Branch of the Rahway River at Clark, Scotch Plains, and Rahway, New Jersey: Report of the Chief of Engineers dated October 10, 1975, at a Federal cost of $13,500,000 (October 1982);

"(36) Rahway River and Van Winkles Brook at Springfield, New Jersey; Report of the Chief of Engineers dated October 24, 1975, at a Federal cost of $12,300,000 (October 1982);

"(37) Green Brook Subbasin, Raritan River Basin, New Jersey: Report of the Chief of Engineers dated September 4, 1981, at a Federal cost of $72,900,000 (October 1982);

"(38) Middle Rio Grande Flood Protection, Bernalillo to Belen, New Mexico: Report of the Chief of Engineers dated June 23, 1981, at a Federal cost of $39,200,000 (October 1982): *Provided*, That the Secretary is authorized also to increase flood protection through the dredging of the bed of the Rio Grande in the vicinity of Albuquerque, New Mexico, to an elevation lower than existed on the date of enactment of this Act;

"(39) Puerco River and Tributaries, Gallup, New Mexico: Report of the Chief of Engineers dated September 4, 1981, at a Federal cost of $3,220,000 (October 1982);

"(40) Cazenovia Creek Watershed, New York: Report of the Chief of Engineers dated September 8, 1977, at a Federal cost of $1,803,000 (October 1982);

"(41) Mamaroneck and Sheldrake Rivers Basin and Byram River Basin, New York and Connecticut: Report of the Chief of Engineers dated April 4, 1979, at a Federal cost of $44,100,000 (October 1982);

"(42) Hocking River at Logan and Nelsonville, Ohio: Report of the Chief of Engineers dated June 23, 1978, at a Federal cost of $6,244,000 for Logan and $6,757,000 for Nelsonville (October 1982);

"(43) Miami River, Fairfield, Ohio: Report of the Chief of Engineers dated June 23, 1980, at a Federal cost of $9,180,000 (October 1982);

"(44) Miami River, Little Miami River, Interim Report Number Two, West Carrollton, Holes Creek, Ohio: Report of the Chief of Engineers dated December 23, 1981, at a Federal cost of $5,950,000 (October 1982);

"(45) Muskingum River Basin, Ohio (Mansfield): Report of the Chief of Engineers dated February 3, 1978, at a Federal cost of $3,500,000 (October 1982):

"(46) Scioto River at North Chillicothe Ohio: Report of the Chief of Engineers dated September 4, 1981, at a Federal cost of $9,070,000 (October 1982);

"(47) Fry Creeks, Oklahoma: Report of the Chief of Engineers dated September 7, 1983, at a Federal cost of $8,500,000 (October 1982);

"(48) Mingo Creek, Tulsa, Oklahoma: Report of the Chief of Engineers dated November 16, 1981, at a Federal cost of $87,800,000 (October 1982):

"(49) Parker Lake, Muddy Boggy Creek, Oklahoma: Report of the Chief of Engineers dated May 30, 1980, at a Federal cost of $40,200,000 (October 1982);

"(50) Harrisburg, Pennsylvania, Phase I GDM: Report of the Chief of Engineers dated May 16, 1979, at a Federal cost of $102,000,000 (October 1982);

"(51) Lock Haven, Pennsylvania, Phase I GDM: Report of the Chief of Engineers dated December 14, 1981, at a Federal cost of $65,500,000 (October 1982);

"(52) Saw Mill Run, Pittsburgh, Pennsylvania: Report of the Chief of Engineers dated January 30, 1978, at a Federal cost of $7,020,000 (October 1982);

"(53) Wyoming Valley, Pennsylvania: Phase I GDM: Report of the Chief of Engineers dated October 19, 1982, at a Federal cost of $212,900,000 (October 1982);

"(54) Big River Reservoir, Rhode Island: Report of the Chief of Engineers dated March 9, 1983 at a Federal cost of $40,900,000 (October 1982);

"(55) Nonconnah Creek, Tennessee and Mississippi: Report of the Chief of Engineers dated December 23, 1982, at a Federal cost of $19,200,000 (October 1982);

"(56) Buffalo Bayou and Tributaries, Texas: Report of the Chief of Engineers dated June 13, 1978, at a Federal cost of $75,000,000 (October 1982);

"(57) Boggy Creek, Austin, Texas: Report of the Chief of Engineers dated January 19, 1981, at a Federal cost of $13,800,000 (October 1982);

"(58) Lake Wichita, Holliday Creek, Texas: Report of the Chief of Engineers July 9, 1979, at a Federal cost of $14,900,000 (October 1982);

"(59) Lower Rio Grand, Texas: The project for flood control, Lower Rio Grande Basin, Texas: Report of the Board of Engineers for Rivers and Harbors, dated April 29, 1983, at a Federal cost of $114,400,000 (October 1983):

"(60) James River Basin, Richmond, Virginia, Phase I GDM: Report of the Chief of Engineers dated November 16, 1981, at a Federal cost of $79,600,000 (October 1982);

"(61) Sims Bayou, Texas: Report of the Chief of Engineers, dated April 17, 1984, at a Federal cost of $104,200,000 (October 1983);

"(62) Chehalis River at South Aberdeen and Cosmopolis, Washington: Report of the Chief of Engineers dated February 8, 1977, at a Federal cost of $19,300,000 (October 1982);

"(63) Yakima Union Gap, Washington: Report of the Chief of Engineers dated May 7, 1980, at a Federal cost of $8,640,000 (October 1983);

"(64) Threemile Creek, Mobile, Alabama: Report of the Chief of Engineers dated April 20, 1984, at a Federal cost of $8,900,000 (October 1983);

"(65) Upper Little Arkansas River Watershed, Kansas: Report of the Chief of Engineers dated December 15, 1983, at a Federal cost of $9,950,000 (October 1983);

"(66) South Quincy Drainage and Levee District, Illinois: Report of the Chief of Engineers dated January 24, 1984, at a Federal cost of $11,100,000 (October 1983);

"(67) Tonawanda Creek Watershed, New York: Report of the Chief of Engineers dated July 2, 1984, at a Federal cost of $30,900,000 (October 1983);

"(68) Park River, at Grafton, North Dakota: Report of the Chief of Engineers dated April 17, 1984, at a Federal cost of $126,000,000 (October 1983); and

"(69) Centralia, Chehalis River and Tributaries, Washington: Report of the Chief of Engineers dated June 20, 1984, at a Federal cost of $18,600,000 (October 1983);

"(b) HYDROPOWER DEVELOPMENT.—

"(1) Scammon Bay, Alaska (Hydropower): Report of the Chief of Engineers dated August 9, 1983, at a Federal cost of $1,483,000 (October 1982);

"(2) South Central Railbelt Area, Alaska, Hydroelectric Power, Valdez and Copper River Basin: Report of the Chief of Engineers dated October 29, 1982, at a Federal cost of $40,500,000 (October 1982);

"(3) Murray Lock and Dam, Hydropower, Arkansas: Report of the Chief of Engineers dated December 23, 1981, at a Federal cost of $92,900,000 (October 1982);

"(4) Arkansas River and Tributaries, Arkansas and Oklahoma, Hydropower, Locks and Dams Nos. 13 and 9 and Toad Suck Ferry Lock and Dam (No. 8): Report of the Chief of Engineers dated September 1, 1983, at a Federal cost of $260,300,000 (October 1982);

"(5) Metropolitan Atlanta Area Water Resources Management Study, Georgia: Report of the Chief of Engineers dated June 1, 1982, at a Federal cost of $24,500,000 (October 1982);

"(6) W. D. Mayo Lock and Dam 14, Hydropower, Oklahoma: Report of the Chief of Engineers dated December 23, 1981, at a Federal cost of $112,100,000 (October 1982);

"(7) Blue River Lake, Hydroelectric Power, Willamette River Basin, Oregon: Report of the Chief of Engineers dated August 9, 1983, at a Federal cost of $28,600,000 (October 1982);

"(8) McNary Lock and Dam Second Powerhouse, Columbia River, Oregon and Washington, Phase I GDM: Report of the Chief of Engineers dated June 24, 1981, at a Federal cost of $600,000,000 (October 1982); and

"(9) Gregory County Hydroelectric Pumped Storage Facility, Stages I and II, South Dakota: Report of the Chief of Engineers dated April 26, 1983, together with such additional associated multipurpose water supply and irrigation features as are generally described in the final feasibility report of the District Engineer, at a Federal cost of $1,280,000,000, not to exceed $100,000,000 of which may be used to construct such associated water supply and irrigation features: Provided, That the additional associated multipurpose water supply and irrigation features shall be undertaken concurrently by the Secretary of the Interior or in accordance with the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof and supplemental thereto), as a unit of the Pick-Sloan Missouri River Basin program: *Provided further*, That the Secretary of the Interior is authorized to undertake a feasibility study of the additional associated multipurpose water supply and irrigation features of the Gregory County Hydroelectric Pumped Storage Facility and that construction of the Gregory County Hydroelectric Pumped

Storage Facility and such additional associated multipurpose water supply and irrigation features shall not be undertaken until the Secretary of the Interior has completed the feasibility report on such additional features and submitted such report to the Congress along with his certification that, in his judgment, the benefits of such features will exceed the costs and that such additional features are physically and financially feasible, and the Congress has authorized the appropriation of funds for the construction thereof.

"(c)(1) SHORELINE PROTECTION.—

"(A) Charlotte County, Florida: Report of the Chief of Engineers dated April 2, 1982, at a Federal cost of $1,440,000 (October 1982);

"(B) Indian River County, Florida: Report of the Chief of Engineers dated December 21, 1981, at a Federal cost of $2,300,000 (October 1982);

"(C) Panama City Beaches, Florida: Report of the Chief of Engineers dated July 8, 1977, at a Federal cost of $26,200,000 (October 1982);

"(D) Saint Johns County, Florida: Report of the Chief of Engineers dated February 26, 1980, at a Federal cost of $7,660,000 (October 1982);

"(E) Jekyll Island, Georgia: Report of the Chief of Engineers dated March 3, 1976, at a Federal cost of $5,870,000 (October 1982);

"(F) Casino Beach, Illinois Shoreline, Illinois: Report of the Board of Engineers for Rivers and Harbors dated December 1, 1983, at a Federal cost of $3,290,000 (October 1983);

"(G) Atlantic Coast of Maryland and Assateague Island, Virginia: Report of the Chief of Engineers dated September 29, 1981, at a Federal cost of $21,000,000 (October 1982);

"(H) Atlantic Coast of New York City from Rockaway Inlet to Norton Point, New York: Report of the Chief of Engineers dated August 18, 1976, at a Federal cost of $3,300,000 (October 1982);

"(I) The project for shoreline protection for the southeast shore of Maumee Bay, Lake Erie, Ohio, from Cedar Point National Wildlife Refuge to West Bay Shore Road, Oregon, Ohio: Report of the Chief of Engineers, dated July 9, 1984, at a Federal cost of $8,140,000. *Provided*, That the Secretary is further authorized to contract with the State of Ohio on the items of local cooperation for such project, which are to be assumed by the State, notwithstanding that the State may elect to make its performance of any obligation contingent upon the State legislature making the necessary appropriations and funds being allocated for the same or subject to the availability of funds on the part of the State;

"(J) Presque Isle Peninsula, Erie, Pennsylvania: Report of the Chief of Engineers dated October 2, 1981, at a Federal cost of $18,550,000 (October 1982);

"(K) Folly Beach, South Carolina: Report of the Chief of Engineers dated March 17, 1981, at a Federal cost of $1,110,000 (October 1982);

"(L) Dade County, North of Haulover Beach Park, Florida: Report of the Chief of Engineers dated December 27, 1983, at a Federal cost of $4,256,000 (October 1983);

"(M) Monroe County, Florida: Report of the Chief of Engineers dated April 27, 1984, at a Federal cost of $1,549,000 (October 1983);

"(N) Indiana Shoreline Erosion, Indiana: Report of the Chief of Engineers dated November 18, 1983, at a Federal cost of $7,760,000 (October 1983);

"(O) Wrightsville Beach, North Carolina: Report of the Chief of Engineers dated December 19, 1983, to extend the period of Federal participation in the periodic nourishment of the existing project;

"(P) Willoughby Spit and Vicinity, Norfolk, Virginia: Report of the Chief of Engineers dated April 17, 1984, at a Federal cost of $1,835,000 (October 1983); and

"(Q) Cape May Point, New Jersey: Report of the Chief of Engineers, for beach erosion control and storm protection, dated September 30, 1975, at a Federal cost of $5,000,000 (October 1982), subject to the completion of Phase I Advanced Engineering and Design;

"(2) Construction of the projects authorized in this subsection shall be subject to determinations of the Secretary, after consultation with the Secretary of the Interior, that the construction will be in compliance with the Coastal Barrier Resources Act (Public Law 97-348);

"(d) MITIGATION.—

"(1) Fish and Wildlife Program for the Sacramento River Bank Protection Project, California. First Phase: Report of the Chief of Engineers dated September 1, 1981, at a Federal cost of $832,000 (October 1982);

"(2) Richard B. Russell Dam and Lake, Savannah River, Georgia and South Carolina, Fish and Wildlife Mitigation Report: Report of the Chief of Engineers dated May 11, 1982, at a Federal cost of $18,700,000 (October 1982);

"(3) Davenport, Iowa Local Protection Project—Fish and Wildlife Mitigation Plan: Report of the Chief of Engineers dated July 9, 1979, at a Federal cost of $387,000;

"(4) West Kentucky Tributaries Projects, Fish and Wildlife Mitigation Plan, Obion Creek, Kentucky: Report of the Chief of Engineers dated September 16, 1980, at a Federal cost of $3,980,000 (October 1982);

"(5) Downstream Measures at Harry S. Truman Dam and Reservoir, Missouri: Report of the Chief of Engineers dated December 21, 1981, at a Federal cost of $2,000,000;

"(6) Smithville Lake, Little Platte River, Missouri—Plan for Replacement of the Trimble Wildlife Area: Report of the Chief of Engineers dated September 22, 1977, at a Federal cost of $7,770,000;

"(7) Cape May Inlet to Lower Township, New Jersey, Phase I GDM: Report of the Chief of Engineers dated December 23, 1981, including construction of measures at Lower Township to mitigate for the erosion attributed to the existing navigation project generally in accordance with mitigation features for Lower Township of Plan B of the Phase I General Design Memorandum, titled: "Cape May Inlet to Lower Township, New Jersey," dated August 1980, at a Federal cost of $17,000,000 (October 1982);

"(8) Cooper Lake and Channels Project, Texas, Report on Fish and Wildlife Mitigation: Report of the Chief of Engineers dated May 21, 1982, at a Federal cost of $7,570,000 (October 1982);

"(9) Missouri River, Fish and Wildlife Mitigation; Iowa, Nebraska, Kansas and Missouri: Report of the Chief of Engineers dated April, 1984, at a Federal cost of $49,400,000 (October 1983);" and

"(10) Yazoon Backwater Project, Mississippi—Fish and Wildlife Mitigation Report: Report of the Chief of Engineers dated July 12, 1984, at a Federal cost of $4,993,000 (October 1983);"

"(e) BANK STABILIZATION.—

"(1) Bethel, Alaska: Report of the Chief of Engineers dated July 30, 1983, at a Federal cost of $13,780,000 (October 1982);

"(f) DEMONSTRATION.—

"(1) Cabin Creek, West Virginia, Demostration Reclamation Project: Report of the Chief of Engineers dated March 1, 1979, at a Federal cost of $32,800,000 (October 1982); and

"(2) Lava Flow Control, Island of Hawaii, Hawaii: Report of the Chief of Engineers dated July 21, 1981, at a Federal cost of $3,950,000 (October 1982).

"TITLE VIII—WATER SUPPLY LOANS

"SEC. 801. (a) The Congress hereby finds that—

"(1) many water supply systems are in deterioration and that adequate Federal authority does not exist to address the problems of existing municipal and industrial water supply systems;

"(2) certain regions of the Nation are facing serious water supply problems and large quantities of water are being wasted as a result of aging and deteriorating water supply and distribution facilities;

"(3) modernizing existing water supply systems is an important part of any effort to rejuvenate the Nation's cities and remove impediments to economic growth;

"(4) many water supply systems have experienced difficulty in obtaining capital necessary to accomplish repairs, rehabilitations, expansions, and improvements required for efficient and reliable operation;

"(5) in light of historic and continuing Federal involvement in meeting many other water supply problems, there is a national need to rehabilitate and upgrade existing water supply systems;

"(6) in all regions of the country and in all circumstances in which the Federal Government is involved in providing water supply, it is essential to promote water conservation; and

"(7) encouraging the use of low-flow devices in new construction, improving metering and rate schedules and leak detection programs, and adopting other water conservation methods saves water and energy.

"(b) The Congress hereby declares that—

"(1) the Federal Government shall provide financial assistance in the form of loans to water supply system operators;

"(2) such assistance shall be directed especially to systems without alternative financing sources and systems with severe drinking water quality problems; and

"(3) such assistance shall be used for, among other purposes, improved water conservation.

SEC. 802. (a) Subject to the provisions of this title, the Secretary may make loans to—

"(1) any department, agency, or instrumentality of one or more State or local governments which operates a water supply system, and

"(2) any person who operates a water supply system the rates and services of which are subject to regulation by a department, agency, or instrumentality of a State government, for the purpose of repair, rehabilitation, or expansion, of such system.

"(b) The Secretary shall allocate—

"(1) one-half of the funds to be loaned in each fiscal year among the States in proportion to each State's population, or such lesser figure if the total amount of loans for which eligible water supply operators in a State apply is less than the sums allocated to such State; and

"(2) the remainder of the funds at the discretion of the Secretary.

"(c) No loan may be made under this title for any purpose not related to water supply or water conservation.

"(d) No loan may be made under this title for the purpose of acquisition by an operator of a water supply system of another such system.

"SEC. 803. (a) Any operator of a water supply system seeking a loan under this title shall submit an application to the Secretary for such loan in such form and manner as the Secretary may require by regulation. Applications for loans in the following fiscal year shall be submitted to the Secretary not later than March 1, 1985, and annually thereafter. Not later than September 1, 1985, and annually thereafter, the Secretary shall approve or disapprove such applications.

"(b) Any application for a loan under this title shall include, among other things:

"(1) a detailed plan and estimated cost of the project for which the loan is applied;

"(2) a showing (A) that the applicant holds or can acquire all lands and interests in land (except public and other lands and interests in land owned by the United States which are within the administrative jurisdiction of the Secretary and subject to disposition by the Secretary) and rights to the use of water pursuant to applicable State law necessary for the successful completion, operation, and maintenance of the project, and (B) that the applicant is ready, willing, and able to finance the portion of the cost of the project which will not be covered by the loan; and

"(3) an assessment of the improvements the proposed project will make in supplying water for domestic, commercial, and industrial purposes, as well as public purposes including fire protection and recreation.

"(c) The Secretary may only make loans under this title with respect to projects which the Secretary determines are technically feasible and which constitute a reasonable financial risk.

"(d) In making loans under this title, the Secretary shall give priority—

"(1) to water supply systems otherwise unable to obtain financial assistance; and

"(2) to water supply systems that will use the proceeds of such loans to pay the costs of installing a new system or improving an existing system to achieve compliance with the provisions of the Safe Drinking Water Act of 1974 (42 U.S.C. 300f et seq.) and regulations promulgated thereunder.

"SEC. 804. (a) The Governor of any State may submit by April 1, 1985, and annually thereafter, a priority list of water supply projects in such State to be financed by loans under this title. Such list shall include the name of each project for which loan applications have been submitted to the Secretary, the priority ranking of such project, and the recommended level of financing from loans under this title.

"(b) The Secretary may take into account the priority lists submitted pursuant to subsection (a) of this section in allocating funds among the candidate projects in such State.

"SEC. 805. (a) The Secretary may only make loans under this title to an operator of a water supply system if the Secretary determines that, before completion of the proposed project, the operator will, to the best of the operator's ability, implement a model water conservation program or a water conservative program, suitable to local conditions, which is equivalent to a model water conservation program.

"(b) For purposes of this section, the term "model water conservation program" includes the following:

"(1) encouraging each community served by the water supply system to establish plumbing codes which promote water conservation in new construction;

"(2) to the extent feasible and appropriate, utilizing water meters which promote water conservation;

"(3) establishing water rate schedules which encourage water conservation;

"(4) providing a comprehensive leak detection and repair program for water supply systems;

"(5) making public information available on home and business water conservation techniques and benefits; and

"(6) developing a drought contingency plan.

"SEC. 806. (a) The Secretary shall enter into an agreement with each person to whom a loan is to be made under this title. Such agreement shall include the following terms, among others—

"(1) the maximum amount of the loan to be made and the time and method of making funds available under the loan;

"(2) an interest rate determined by the Secretary of the Treasury, taking into consideration the average market yields on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the reimbursement period, during the month preceding the fiscal year in which funds are first disbursed;

"(3) a repayment period, not to exceed thirty years, and a plan of repayment of the sums lent, plus interest; and

"(4) such provisions as the Secretary shall deem necessary or proper to provide assurance of and security for prompt repayment of the loan and interest, including a provision that the operator of the water supply system shall maintain adequate rates in order to be expected to meet its obligations under the agreement and to maintain, repair, and rehabilitate the project for which the loan is made.

"(b) The Secretary may agree to an interest rate and a plan of repayment in accordance with section 301(b) of the Water Supply Act of 1958 (72 Stat. 319; Public Law 85-500), if the Secretary determines that terms in accordance with subsection (a) of this section would represent a severe economic burden on the recipient of the loan.

"SEC. 807. Amounts of loans (including interest accruing on such loans) repaid under this title shall be deposited in the general fund of the Treasury.

"SEC. 808. The Secretary shall issue such regulations and carry out such actions as may be necessary to carry out the objectives of this title.

"SEC. 809. There is authorized to be appropriated to the Secretary for the purposes of this title, the sum of $200,000,000 for the fiscal year ending September 30, 1986, $400,000,000 for the fiscal year ending September 30, 1987, $600,000,000 for the fiscal year ending September 30, 1988, $700,000,000 for the fiscal year ending September 30, 1989, and $800,000,000 for the fiscal year ending September 30, 1990, such sums to remain available until expended.

"SEC. 810. (a) The Secretary shall submit to Congress, no later than September 30, 1989, a report on—

"(1) the characteristics of applicants for and approved recipients of loans extended under this title with respect to regional distribution, size, ownership, and other parameters;

"(2) the purposes for which such loans have been used;

"(3) water conservation measures that have been implemented by the recipients of such loans;

"(4) the impact of such loans on the financial health of the recipients of such loans;

"(5) the extent to which the needs of water supply systems, as indicated by the applications for loans under this title received by the Secretary and by other factors, are met by such loans;

"(6) the contribution of State priority lists to the process of selecting projects;

"(7) recommendations on the need for a continuation of the loan program established by this title after September 30, 1990, the appropriate levels of funding for subsequent fiscal years, and needed changes in the eligibility criteria, allocation of funds, or other aspects of the program; and

"(8) recommendations on additional mechanisms for financing the rehabilitation and expansion of water supply systems.

"(b) For the purpose of this section, there is authorized to be appropriated to the Secretary the sum of $2,000,000 for the fiscal year ending September 30, 1986, or any fiscal year thereafter, such sum to remain available until expended.

"SEC. 811. Notwithstanding any other provision of law, the development, expansion, and rehabilitation of municipal and industrial water supply and distribution systems, either alone or as part of a multiple purpose project authorized in this Act or subsequent to this Act, is hereby declared to be a legitimate Federal purpose.

"SEC. 812. For purposes of this title—

"(1) the term "expansion", as used with respect to a water supply system, means the installation of water supply facilities necessary to increase the service capability or capacity of the water supply system;

"(2) the term "rehabilitation", as used with respect to a water supply system, means the repair or replacement of components or facilities required to restore service reliability or efficiency of the water supply system;

"(3) the term "State" means the fifty States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands; and

"(4) the term "water supply system" means the facilities used in the production and pumping of water for consumption (including, but not limited to, water storage, desalination, and other collection and purification techniques), water treatment facilities (other than sewage treatment facilities), and the water distribution and conveyance facilities used to provide water for municipal and industrial purposes.

"SEC. 813. This title may be cited as the "Water Supply Rehabilitation and Conservation Act of 1984".

"TITLE IX—HARBORS

"SEC. 901. (a) There is authorized to be established a National Commission on Harbor Maintenance (hereinafter in this title referred to as the "Commission"), which shall report to the President and the Congress no later than two years after the date of enactment of this Act on the annual and long-term costs of maintaining the Nation's harbors, and make such recommendations as it finds appropriate on what portion of the costs of such maintenance, if any, should be assumed by non-Federal interests. In the event the Commission makes recommendations for the non-Federal assumption of a portion of harbor maintenance costs, consid-

eration shall be given without prejudice to the recovery of such costs through ad valorem based vessel charges, uniform national tonnage fees, port-specific fees, and any other method of collection which the Commission may choose to consider.

"(b) The Commission shall be composed of the Secretary of the Army, the Secretary of Transportation, the Secretary of the Treasury, the Secretary of Commerce, the Secretary of Agriculture, and a chairman to be appointed by the President.

"(c) The Commission shall weigh the interests of the port authorities, navigation districts, and similar organizations, as well as shippers and carriers of the United States and the impact on U.S. trade and the economy in making its recommendations, and shall include in its report an assessment of the impact of its recommendations on each of these interests.

"(d) To assist the Commission in its work, there is authorized to be established a Shipping Advisory Board to be composed of eleven members, selected by the Commission Chairman, to provide representation for the United States port interests from various coasts and the Great Lakes, both large and small United States ports, United States shippers of bulk and general cargoes, and United States carriers of both bulk and general cargoes.

"(e) To carry out the purposes of this section, there is authorized to be appropriated to the Commission for the fiscal year ending September 30, 1986, or thereafter, the sum of $3,000,000, such sum to remain available until expended.

"(f) Until such time as the report of the Commission is submitted to the Congress, and Congress acts by law to adopt, reject, or modify the recommendations, if any, of the Commission, the Secretary shall obligate from sums appropriated no more than $420,000,000 in any single fiscal year for the purpose of operating and maintaining the harbors of the United States.

"(g) Nothing in this section shall be construed to prohibit or otherwise interfere with the authority of the Secretary or other Federal agency to operate or maintain any harbor of the United States for emergency purposes or for purposes of Coast Guard navigation requirements, Department of the Navy navigation requirements, or requirements for vessels carrying military personnel and materiel.

"(h) Beginning on October 1, 1984, the Secretary shall undertake no construction work on any harbor except under the terms of section 903, 904, 905, or 911 of this Title.

"SEC. 902. (a) The appropriate non-Federal interests shall be responsible for 50 per centum of the costs incurred by the Secretary for surveying, planning, designing, and engineering that may be necessary prior to the construction of any harbor.

"(b)(1) A non-Federal interest may undertake a feasibility study for improvements to any harbor, and submit such study to the Secretary. To assist non-Federal interests, the Secretary shall, as soon as practicable, promulgate guidelines for harbor feasibility studies in order to provide sufficient information for the formulation of a plan of study.

"(2)(A) The Secretary shall review each feasibility study submitted by non-federal interests for any harbor submitted under paragraph (b)(1) of this section for the purpose of determining whether or not such study was prosecuted in accordance with the guidelines promulgated under such paragraph and was developed in compliance with Federal laws and regulations applicable to navigation projects for harbors.

"(B) Not later than one hundred and eighty days after receiving any feasibility study under paragraph (b)(1) of this section, the Secretary shall transmit to the Congress, in writing, the results of such study and any recommendations the Secretary may have concerning the project described in such study.

"(3) The costs of studies made under this subsection shall be borne by the non-Federal interests, except that whenever a study results in the construction of a project by the Secretary, 50 per centum of the cost of such study shall be credited toward the non-Federal interest's cost-sharing requirement under this Title.

"SEC. 903. (a)(1) The non-federal share of the cost of construction of general cargo harbors on which construction has not been commenced as of October 1, 1984, shall be 30 per centum, Provided, however, that the Federal share of the cost of projects constructed to depths no deeper than 20 feet below mean low water shall be 100 per centum

"(2) For purposes of this section, a project shall be deemed to have commenced construction if the non-Federal interest has entered into a written contract as of December 31, 1983, with the Secretary to provide local cooperation required pursuant to the project authorization, including where applicable, an agreement under section 221 of Public Law 91-611, as amended.

"(b) Prior to Federal initiation of construction of a project approved pursuant to this section, or a general cargo harbor previously authorized by the Congress for which construction has not commenced under the terms of subsection (a)(2) of this section, the Secretary and the non-federal interest shall enter into a cooperative agreement according to procedures set forth in the Federal Grant and Cooperative Agreement Act of 1977 (41 U.S.C. 501). The non-Federal interest shall agree to:

"(1) provide to the Federal Government lands, easements, and rights-of-way, required for construction, operation, and maintenance of such project;

"(2) hold and save the United States free from damages due to the construction or operation and maintenance of such project except for damages due to the fault or negligence of the United States or its contractors; and

"(3) provide to the Federal Government the non-Federal share of all other costs of construction of such project: *Provided, however,* That the value and costs of providing lands, easements, and rights-of-way, shall be credited toward the non-Federal share of the cost of construction. Any cost differential needed to fulfill the non-Federal share shall be provided to the Federal Government on a pro rata basis during the period of construction, beginning not later than one year after construction is initiated.

"SEC. 904. (a) Any non-Federal interest is authorized to undertake navigational improvements in deep-draft harbors of the United States, subject to obtaining any permits required pursuant to Federal and State laws in advance of the actual construction of such improvements.

"(b) The Secretary is authorized to complete and transmit to the appropriate non-Federal interest any study for improvements to deep-draft harbors of the United States which were initiated prior to the date of enactment of this Act, or, upon the request of such non-Federal interest, to terminate such study and transmit such partially completed study to the non-Federal interest. Studies under this subsection shall be completed without regard to the requirements of subsection (c) of this section.

"(c) When requested by an appropriate non-Federal interest, the Secretary is authorized to undertake all necessary studies and engineering for any construction to be undertaken under subsection (a) of this section, and assist in obtaining all necessary permits: *Provided,* That the non-Federal interest contracts with the Secretary to reimburse the United States for the cost of such studies and engineering during the period that they are conducted.

"(d) The Secretary is authorized to complete deep-draft harbor construction projects for which construction was initiated by the Secretary prior to the date of enactment of this Act: *Provided,* That for projects in which the appropriate non-Federal interest has not entered into a written contract as of December 31, 1983, with the Secretary to provide the local cooperation required pursuant to the project authorizations, including, where

"(e) Whenever a non-Federal interest constructs improvements to any harbors, the Secretary shall be responsible for maintenance to forty-five feet below mean low water, and 50 per centum of the costs of incremental maintenance below forty-five feet below mean low water: *Provided,* That the Secretary certifies that the project is constructed in accordance with appropriate engineering and design standards.

"(f) Pursuant to subsection (a) of this section the non-Federal interest shall provide 50 per centum of the costs expended on any relocation and alteration of existing pipelines, cables, and related facilities (but not to include any cost for upgrading or improvements to such pipelines, cables, and related facilities necessary for the construction of deep-draft harbors).

"(g) Notwithstanding any other provision of this Act and in order to be consistent with the provisions and requirements of section 604 of this Act, the non-Federal sponsor of any deep-draft harbor, if such authorization occurred prior to January 1, 1972, shall be required to contribute 12½ per centum of the cost of construction of any such project on a periodic basis during the period of construction, plus an additional 12½ per centum of the cost of construction over a thirty year period commencing once the project is available for use by vessels having drafts greater than forty five feet, together with interest on the unpaid balance at a rate determined by the Secretary of the Treasury under the terms of section 911(b)(1) of this title; *Provided* That the value and the costs of construction of dredged disposal sites shall be a non-Federal responsibility, and shall not be considered a part of the cost of such project when the appropriate level of cost sharing is calculated.

"SEC. 905. (a) Nothing in this title shall be construed to prohibit or otherwise interfere with the Secretary or other Federal authority to operate, maintain, or improve any harbor for purposes of Coast Guard navigation requirements, Department of the Navy navigation requirements, or requirements for vessels carrying military personnel and materiel.

"(b) Any project authorized under the provisions of this section may include additional improvements requested by the appropriate non-Federal interest: *Provided,* That prior to the commencement of such

improvements, the appropriate non-Federal interest enters into a contract with the Secretary or other Federal authority to pay, during the period of construction, that portion of the project's cost which the Secretary or other Federal authority determines to be allocable to non-defense-related needs, if such project is a deep-draft harbor, or 30 per centum of the cost during the period of construction, if such project is a general cargo harbor. If such non-Federal interest fails to so participate, the Secretary or other Federal authority shall design such project solely to meet national defense requirements.

"(c) If non-Federal interests undertake a project under the terms of section 904 of this title which can be expected to provide direct benefits to the national defense requirements of the United States, the Secretary or other Federal authority is authorized prior to the commencement of construction to contract with such non-Federal interests, subject to appropriations Acts, to pay, during the period of construction, that portion of the project costs directly attributable to national defense-requirements, as defined in subsection (a) of this section.

"(d) Whenever the Secretary undertakes improvements to a general cargo harbor, the Secretary is authorized to reduce the percentage share of commitment required by the non-Federal interest on a proportional basis related to that portion of the traffic that provides direct benefits to the national defense requirements of the United States.

"SEC. 906. (a) Notwithstanding any other provision of law, any appropriate non-Federal interest, upon enactment of this Act and in accordance with the provisions of this section, is authorized to recover its obligations for construction under the terms of Sections 903, 904, 905, or 911 of this title, together with its costs for incremental maintenance work undertaken pursuant to section 904 or 911 of this title, including asssociated administrative expenditures, by the collection of fees for the use of such projects by vessels in commercial waterway transportation. Such fees shall be established after a public hearing held pursuant to State law and shall reflect to a reasonable degree the benefits provided by the project to a particular class or type of vessel.

"(b) Fees collected by a non-Federal interest pursuant to the authority of this Section shall be used only for the purpose or paying for the non-Federal share of the cost of construction and incremental maintenance work on harbors, or any obligations undertaken for that purpose.

"(c) Fees authorized by this section shall not be imposed on:

"(1) vessels owned and operated by the United States or any other nation or any political subdivision thereof and not engaged is commercial service;

"(2) vessels used by a State or political subdivision thereof in transporting persons or property in the business of the State or political subdivision and not engaged in commercial service;

"(3) vessels in intraport movements; and

"(4) vessels with design drafts of 14 feet or less.

"SEC. 907. (a) Upon the application of the appropriate non-Federal interest, the Secretary is authorized to guarantee, and to enter into commitments to guarantee, the payment of the interest on, and the unpaid balance of the principal of, up to 90 percentum of any obligation issued by a non-Federal interest to finance the non-Federal portion of the cost of a general cargo harbor or a deep-draft harbor undertaken under the terms of Section 903 or 904 of this title.

"(b) An obligation guaranteed under this section shall have a maturity date not to exceed 30 years or the useful life of the project, whichever is less.

"(c) The costs that shall be financed by a guaranteed obligation shall include the associated costs of the project including environmental mitigation, the acquisition and preparation of dredge spoil disposal sites, easements, rights of way, and similarly related costs.

"(d)(1) The non-Federal interest shall convey to the Secretary such security interest in the project as the Secretary may reasonably require to protect the interests of the United States.

"(2) The non-Federal interest shall not be required to convey a security interest in any asset other than those which are a part of the project, nor to provide any additional collateral or guarantees to the Secretary.

"(3) The security interest in the project conveyed to the Secretary shall be subordinant to any lender's security interest, covering funds provided to the non-Federal interest for the project, but not covered by the guarantee of the Secretary.

"(e) The full faith and credit of the United States is pledged to the payment of any guarantee made under this section with respect to both principal and interest, including interest as provided for in the guarantee occurring between date of default on a guaranteed obligation and the payment in full of the amount guaranteed.

"(f) Any guarantee or commitment to guarantee made by the Secretary under this section shall be conclusive evidence of the eligibility of the obligation for that guarantee, and the validity of any commitment to guarantee so made shall be incontestable.

"(g) The aggregate unpaid principal amount of the obligations guaranteed under this section and outstanding at any loss shall not exceed $2,000,000,000. No additional limitations may be imposed on commitments to guarantee obligations for any fiscal year, except in such amounts as those established in advance in authorization Acts.

"(h) The Secretary shall assess a guarantee fee of not less than one-quarter of one per centum per annum, nor more than one per centum per annum of the average principal amount of a guaranteed obligation outstanding. All monies received by the Secretary shall be deposited in general fund of the Treasury.

"(i)(1) In the event of a default, which has continued for 30 days, in any payment of the non-Federal interest of principal or interest due under an obligation guaranteed under this section, the obligee or his agent shall have the right to demand at or before the expiration of such period as may be specified in the guarantee or related agreements, but not later than 90 days from the date of that default, payment by the Secretary of the unpaid principal amount of that obligation and of the unpaid interest thereon to the date of payment. Within such a period as may be specified in the guarantee or related agreements, but not later than 30 days from the date of that demand, the Secretary shall promptly pay the obligee or his agent the unpaid principal amount of that obligation and unpaid interest to the date of payment. The Secretary shall not be required to make that payment if, prior to the expiration of that period, he shall find that there was no default by the obligor in the payment of principal or interest or that the default has been remedied prior to any such demand.

"(2) Any amount required to be paid by the Secretary under this section shall be paid in cash.

"(3) In the event of any default under any guaranteed obligation or any related agreement, the Secretary shall take such action against the non-Federal interest or any other parties liable thereunder that, in the Secretary's discretion, may be required to protect the interests of the United States. A suit may be brought in the name of the United States or in the name of the obligee, and the obligee shall make available to the United States all records and evidence necessary to prosecute any such suit. A his discretion, the Secretary shall accept a conveyance of title to a possession of property from the non-Federal interest or other parties liable to the Secretary, and may purchase the property for an amount not to exceed the unpaid principal amount of the obligation and interest thereon. In the event the Secretary shall receive, through the sale of property, an amount of cash in excess of any payment made to an obligee under this section and the expenses of collection of those amounts, the Secretary shall pay that excess to the non-Federal interest.

"(4) The Secretary may not issue a guarantee when the interest is exempt from Federal income tax under section 103 of the Internal Revenue Code of 1954.

"(5) To make any payments required under any guarantee under this section, there is authorized to be appropriated to the Secretary such sums as may be necessary.

"SEC. 908. (a) The Secretary, upon receipt from an appropriate non-Federal interest of a written notice of intent to construct improvements, shall initiate procedures to establish a schedule of compliance for the purpose of joint processing of all Federal permits required prior to initiation of such construction activities.

"(b)(1) Within fifteen days of the receipt of correpondence under the terms of subsection (a) of this section, the Secretary shall publish such notice in the Federal Register. The Secretary shall also notify in writing all State and local agencies that may be required to issue permits for construction of such improvements and related activities that such construction is proposed. The Secretary shall solicit the cooperation of such agencies and request that they also become parties to a memorandum of agreement (hereinafter in this Act referred to as the "agreement"). If within thirty days following publication of notice in the Federal Register any such agency advises the Secretary in writing of its willingness to become a signatory to the agreement, the Secretary shall include such agency in the agreement.

"(2) Within ninety days of the Secretary's receipt of the correspondence described in subsection (a) of this section, the Secretary of the Interior, the Secretary of Commerce, the Administrator of the Environmental Protection Agency, and any State or local agencies which have notified the Secretary in writing shall enter into the agreement with the Secretary to establish a schedule of compliance with the necessary Federal permits required for undertaking such improvements. The schedule of compliance shall not exceed two years from the date of the agreement.

"(c)(1) The agreement shall, to the extent possible, consolidate hearing and comment

periods, procedures for data collection and report preparation, and the environmental review and permitting process with data collection and analysis associated with the feasibility study conducted by the non-Federal interest. The agreement will also detail the non-Federal interest's responsibilities with respect to data development, and information necessary to process each permit, including a schedule of dates when such information and data will be provided to the appropriate Federal, State, or local agency.

"(2) Such agreement shall also include a scheduled date by which the Secretary, taking into consideration the views of all of the affected Federal agencies, shall determine whether there is a reasonable likelihood the necessary permit or permits will not be issued, in which case the Secretary shall so notify the appropriate non-Federal interest. The Secretary may revise the agreement only once to extend the schedule of compliance for a period not to exceed one hundred and twenty days for the purpose of allowing the non-Federal interest to revise the original application to meet the objections of the Federal agencies.

"(d) Six months prior to the final day of the schedule the Secretary shall provide to Congress a written progress report. The report shall be transmitted to the Committee on Environment and Public Works of the United States Senate and the Committee on Public Works and Transportation of the United States House of Representatives. The report will summarize all work completed in accordance with the agreement and shall include a detailed work plan which shall assure completion of all remaining work in accordance with the agreement.

"(e) Not later than the final day of the compliance schedule, the Secretary shall notify the non-Federal interest as to whether the permit or permits are issued.

"(f) Not later than March 1, 1986, the Secretary shall prepare and transmit to the Congress a report describing the amount of time required to issue Federal environmental permits related to construction of harbor improvements. The Secretary shall include in such report recommendations for reducing the amount of time required to issue such permits, including any proposed changes in existing law.

"SEC. 909. For the purposes of this Title, the terms—

"(1) "harbors" means the channels and harbors of the United States with a depth authorized by law of fourteen feet or greater and a width authorized by law, or to the depths and widths the construction of which was initiated by non-Federal interests after July 1, 1970, and prior to January 1, 1981, or to the depths and widths that may be constructed under the terms of this title: Provided, That such term does not mean local access or berthing channels: And provided further, That such terms shall be considered for the Columbia River, Oregon and Washington, to include the channels only up to the downstream side of Bonneville Lock and Dam, Oregon and Washington;

"(2) "general cargo harbor" means a harbor which is constructed to a depth no greater than forty-five feet;

"(3) the term "deep-draft harbor" means a harbor which is constructed to a depth of greater than forty-five feet; and

"(4) the term "non-Federal interests" has the meaning such term has under section 221 of Public Law 91-611, as amended.

"SEC. 910. Subject to the provisions of Section 212 of this Act, the following works for improvement of general cargo harbors are hereby adopted and authorized to be prosecuted by the Secretary in accordance with the plans and subject to the conditions recommended in the respective reports hereinafter designated: Provided, That the figures listed in this title shall be subject to the limitations provided under section 213 of this Act and this title:

"(1) Kodiak Harbor, Alaska: Report of the Chief of Engineers dated September 7, 1976, at a Federal cost of $13,400,000 (October 1982);

"(2) Oakland Outer Harbor, California: Report of the Chief of Engineers dated January 7, 1980, at a Federal cost of $36,040,000 (October 1982);

"(3) Richmond Harbor, California: Report of the Chief of Engineers dated August 8, 1982, at a Federal cost of $48,400,000 (October 1982);

"(4) Sacramento River, Deepwater Ship Channel, California: Report of the Chief of Engineers dated November 20, 1981, at a Federal cost of $77,000,000 (October 1982);

"(5) New Haven Harbor, Connecticut: Report of the Chief of Engineers dated July 26, 1982, at a Federal cost of $23,000,000 (October 1982);

"(6) Jacksonville Harbor, Mill Cove, Florida: Report of the Chief of Engineers dated February 12, 1982, at a Federal cost of $57,090,000 (October 1982);

"(7) Manatee Harbor, Florida: Report of the Chief of Engineers dated May 12, 1980, at a Federal cost of $10,600,000 (October 1982);

"(8) Tampa Harbor, East Bay Channel, Florida: Report of the Chief of Engineers dated January 25, 1979, to assume maintenance (October 1982);

"(9) Savannah Harbor, widening, Georgia: Report of the Chief of Engineers dated December 19, 1978, at a Federal cost of $11,700,000 (October 1982);

"(10) Grand Haven Harbor, Michigan: Report of the Chief of Engineers dated October 9, 1979, at a Federal cost of $12,900,000 (October 1982);

"(11) Monroe Harbor, Michigan: Report of the Chief of Engineers dated November 25, 1981, at a Federal cost of $68,700,000 (October 1982);

"(12) Gulfport Harbor, Mississippi: Report of the Chief of Engineers dated January 16, 1978, except that the Chief of Engineers is authorized to construct the project in the most cost effective and environmentally sound manner at a Federal cost not to exceed $73,700,000 (October 1982);

"(13) Wilmington Harbor, Northeast Cape Fear River, North Carolina: Report of the Chief of Engineers dated September 16, 1980, at a Federal cost of $7,740,000 (October 1982);

"(14) Portsmouth Harbor and the Piscataqua River Basin, Maine and New Hampshire: Report of the Board of Engineers for Rivers and Harbors dated March 21, 1984, at a Federal cost of $21,300,000 (October 1983):

"(15) Gowanus Creek, Channel, New York: Report of the Chief of Engineers dated September 14, 1982, at a Federal cost of $2,000,000 (October 1982);

"(16) Kill Van Kull and Newark Bay Channels, New York and New Jersey: Report of the Chief of Engineers dated December 14, 1981, at a Federal cost of $178,000,000 (October 1982);

"(17) San Juan Harbor, Puerto Rico, Phase I GDM: Report of the Chief of Engineers dated December 23, 1982, at a Federal cost of $72,800,000 (October 1982);

"(18) Charleston Harbor, South Carolina: Report of the Chief of Engineers dated August 27, 1981, at a Federal cost of $76,100,000 (October 1982);

(19) Brazos Island Harbor, Texas, Brownsville Channel: Report of the Chief of Engineers dated December 20, 1979, at a Federal cost of $26,700,000 (October 1982);

"(20) Crown Bay Channel-Saint Thomas Harbor, Virgin Islands: Report of the Chief of Engineers dated April 9, 1982, at a Federal cost of $3,500,000 (October 1982);

"(21) Blair and Sitcum Waterways, Tacoma Harbor, Washington: Report of the Chief of Engineers dated February 8, 1977, at a Federal cost of $30,000,000 (October 1982);

"(22) Grays Harbor, Washington: Report of the Board of Engineers for Rivers and Harbors, dated January 17, 1983, at a Federal cost of $77,850,000 (October 1983);

"(23) Hampton Roads and Vicinity, Virginia (Drift Removal): Report of the Chief of Engineers dated October 19, 1983, at a Federal cost of $2,170,000 (October 1983);

"(24) Barnegat Inlet, New Jersey, Phase I GDM: Report of the Chief of Engineers dated January 20, 1983, as modified by the Supplemental Chief of Engineers Report dated May 21, 1984, at a Federal cost of $20,802,000 (October 1983);

"(25) St. Paul Island Harbor, Alaska: Report of the Chief of Engineers dated August 10, 1983, at a Federal cost of $11,900,000 (October 1983);" and

"(26) Duluth-Superior Harbor, Minnesota and Wisconsin: Report of the Chief of Engineers dated August 16, 1984, at a Federal cost of $8,500,000 (October 1983).

"SEC. 911. (a) Notwithstanding any other provision of this Title, the following works for improvement of deep-draft harbors are hereby authorized to be prosecuted by the Secretary under the terms of this section and in accordance with the plans and subject to the conditions recommended in the respective reports hereinafter designated: *Provided,* That the figures listed in this section shall be subject to the limitations provided under a section 213 of this Act. *And provided further,* That any such work shall be subject to the conditions described in subsection (b) of this section. *And provided still further,* That the terms of this section shall apply to any deep-draft harbor authorized for construction subsequent to the enactment of this Act:

"(1) Norfolk Harbor and Channels, Virginia: Report of the Chief of Engineers dated November 20, 1981, at a cost of $514,000,000 (October 1983); and

"(2) Mobile Harbor, Alabama: Report of the Chief of Engineers dated November 18, 1981, at a cost of $468,900,000 (October 1983); and

"(3) Mississippi River Ship Channel, Gulf to Baton Rouge, Louisiana; Report of the Chief of Engineers dated April 9, 1983, at a cost of $525,000,000 (October 1983).

"(b)(1) No construction on any project authorized pursuant to this section shall be undertaken by the Secretary until the non-Federal sponsor agrees in writing, and shows evidence satisfactory to the Secretary that such sponsor possesses the legal and financial capability of raising the funds necessary, to pay 25 per centum of the cost of such project on a periodic basis during the construction of such project, then pay an additional 25 per centum of the cost of such project over a 30-year period commencing once the project is available for use by vessels having drafts greater than 45 feet, together with interest on the unpaid balance at a rate to be determined by the Secretary of the Treasury. The Secretary of the

Treasury, in determining such rate of interest, shall consider the average market yields on Federal Securities of similar maturity during the 12 months preceding the date of the Secretary of Treasury's determination.

"(2) The authority for any project undertaken pursuant to this section shall expire at the end of the fifth full fiscal year following the date on which such project was authorized, unless 10 per centum of the funds necessary for the construction of such project, or separable element thereof approved jointly by the Secretary and the non-Federal interest, shall have been obligated jointly by Federal and non-Federal interests.

"(3) Any increment of construction under the terms of this section to a depth of forty-five feet shall, for the purposes of cost-sharing by non-Federal interests, be treated as a general cargo harbor.

"(c) No projects undertaken under the authority of this section shall be eligible for any guarantees under the terms of section 907 of this Title.

"SEC. 912. This title may be cited as the "National Harbors Improvement Act of 1984".

PRYOR (AND BUMPERS) AMENDMENT NO. 7028

Mr. JOHNSTON (for Mr. PRYOR, for himself and Mr. BUMPERS) proposed an amendment to the joint resolution (H.J. Res. 648), supra; as follows:

At the appropriate place add the following new section:

"The Secretary of Army acting through the Chief of Engineers is directed to utilize $2.5 million of funds previously appropriated for Felsenthal National Wildlife Refuge, Arkansas for the development of recreational facilities as authorized by law."

THURMOND (AND HOLLINGS) AMENDMENT NO. 7029

Mr. JOHNSTON (for Mr. THURMOND, for himself and Mr. HOLLINGS) proposed an amendment to the joint resolution (H.J. Res. 648), supra; as follows:

On page 29, following line 5, insert the following:

"(F) The Lowndesville Recreation Area, located within the Richard B. Russell Dam and Lake Project, South Carolina and Georgia, shall hereafter be known and designated as the 'Jim Rampey Recreation Area'. Any reference in any law, map, regulation, document, record, or other paper of the United States to such recreation area shall be deemed to be a reference to such area as the 'Jim Rampey Recreation Area'."

STENNIS AMENDMENT NO. 7030

Mr. JOHNSTON (for Mr. STENNIS) proposed an amendment to the joint resolution (H.J. Res. 648), supra; as follows:

At the appropriate place, insert the following:

"The Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to plan, design, engineer, and construct the Sowashee Creek, Mississippi, project for flood control substantially in accordance with the report of the District Engineer, dated July, 1983, at an estimated Federal cost of $10,905,500."

EVANS (AND GORTON) AMENDMENT NO. 7031

Mr. EVANS (for himself and Mr. GORTON) proposed an amendment to the joint resolution (H.J. Res. 648), supra; as follows:

Insert the following new section at the end of the joint resolution:

SALMON HATCHERIES

SEC. . (a) For conduct of a study regarding salmon stock production of hatcheries in the Pacific Northwest $500,000 will be provided from available funds, in accordance with the provisions of this section.

(b) In consultation with the National Marine Fisheries Service and the Bureau of Indian Affairs, the Fish and Wildlife Service (hereinafter in this section referred to as the "Service") shall, to the extent provided in advance by appropriations Acts, enter into a contract within 60 days after the date of enactment of this Act with a private entity for a study of State and Federally funded salmon hatcheries in the States of Washington, Oregon and Idaho, in accordance with the provisions of this section. The purpose of such study is to develop information to assist in evaluating the production and effectiveness of such hatcheries in increasing salmon stock levels as expeditiously and cost-effectively as possible, and in providing for a more effective system of disseminating the information necessary to improve future enhancement activities for salmon stock at such hatcheries.

(c) In carrying out subsection (b) of this section, the Service shall enter into such a contract only with an entity whose personnel—

(1) possess expertise in (A) salmon production and management in the Pacific Northwest, (B) mathematical and statistical data systems used by the Federal, State and tribal governments, and (C) international interception problems;

(2) are not presently employees of (A) any entity involved in the operation, management or development of hatcheries or (B) any entity engaged in hydropower production; and

(3) do not represent any organized salmon recreational or commercial fishing activity.

(d)(1) Such study shall—

(A) evaluate existing salmon stock production activities at such hatcheries, including consideration of such factors regarding survival of hatchery-produced salmon stocks as management practices and environmental constraints;

(B) formulate recommendations for any necessary changes in salmon stock production, alternative strategies for major production units, and small-scale experiments; and

(C) develop objective criteria, including cost criteria, to assess proposals for the improvement of existing hatcheries and the development of new hatcheries.

(2) Such study shall also consider the consequences of the interaction of salmon stock production activities and international salmon interception problems.

(3) The study to be conducted under this subsection shall also devise a system to—

(A) develop expedited methods for assessing difficulties in increasing salmon stock production at such hatcheries; and

(B) collect, organize and analyze information on any changes in salmon stock production due to the implementation of recommendations formulated under this section.

(4) Such study shall also consider other studies to assess wild and natural salmon stocks and the potential for natural salmon production.

(e)(1) The Director of the Service shall establish an Advisory Committee to assist in carrying out the purposes of this section. The Advisory Committee shall be composed of representatives of—

(A) agencies within the Federal Government and the governments of the States of Washington, Oregon and Idaho which have responsibilities for the management and enhancement of salmon;

(B) Treaty Indian tribes;

(C) the Northwest Power Planning Council; and

(D) the Salmon and Steelhead Advisory Committee established pursuant to the Salmon and Steelhead Conservation and Enhancement Act of 1980 (16 U.S.C. 3301 et seq.).

(2) The Advisory Committee shall conduct an ongoing review of the study to be conducted under this section, and shall submit to the Director its recommendations for issues to be included as part of such study, methodologies to be employed in such study, and any preliminary and final drafts of the study required to be submitted under this section. Neither the Director nor the entity conducting the study under this section shall be bound by such recommendations.

(3) The Advisory Committee shall not be subject to the Federal Advisory Committee Act (5 App. U.S.C. 1 et seq.).

(f) The study required by subsection (d) of this section shall be submitted to the Service not later than 18 months after the date of enactment of this Act. The Service shall immediately transmit such study to the Congress without change.

(g) The Comptroller General of the United States, and any of the Comptroller General's duly authorized representatives, shall have access, for the purpose of audit and examination, to any books, documents, papers and records of the entity conducting the study required by this subsection that are pertinent to the funds received under this section.

(h) Employees of such entity shall not, by reason of such employment, be considered to be employees of the Federal Government for any purpose.

HEINZ AMENDMENT NO. 7032

Mr. HEINZ proposed an amendment to the joint resolution (H.J. Res. 648), supra; as follows:

At the end of the joint resolution, add the following new section:

SEC. . (a) Notwithstanding section 2(d) of the Act entitled "An Act to provide greater protection against the introduction and dissemination of diseases of livestock and poultry, and for other purposes", approved July 2, 1962 (21 U.S.C. 134a(d)) or any other provision of law, the Secretary of the Treasury is authorized and directed to pay out of any money in the Treasury not otherwise appropriated, the sum of—

(1) $61,867.80 to Roger Moyer of Lititz, Pennsylvania; and

(2) $136,167.12 to Keystone Mills of Ephrata, Pennsylvania;

in addition to any indemnity payment received from the Department of Agriculture, for compensation for related losses resulting from the infection of avian influenza to the poultry flock purchased by the said Roger Moyer and Keystone Mills on February 9 and 11, 1984, which was determined nega-

tive for avian influenza by the Animal and Plant Health Inspection Service of such Department.

(b) Any payment of a claim with funds made available pursuant to subsection (a), shall be in full settlement of all claims by a claimant against the United States.

(c) No part of the amount appropriated in subsection (a) in excess of 10 per centum thereof shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this subsection shall be guilty of a misdemeanor, and upon conviction thereof shall be fined a sum not to exceed $1,000.

WETLANDS LOAN EXTENSION ACT

MITCHELL AMENDMENT NO. 7033

Mr. BYRD (for Mr. MITCHELL) proposed an amendment to the bill (H.R. 5271) to extend the Wetlands Loan Act; as follows:

On page 1, line 8, strike "September 30, 1994," and insert in lieu thereof "September 30, 1986,".

On page 2, lines 1 and 2, strike "October 1, 1994," and insert in lieu thereof "October 1, 1986,".

WEICKER AMENDMENT NO. 7034

Mr. BAKER (for Mr. WEICKER) proposed an amendment to the bill (H.R. 5271), supra; as follows:

SEC. 1. (a) On page 1, line 2, insert "Title I".

(b) On page 1, line 9, strike "Sec. 2" and substitute "Sec. 102".

SEC. 2. Add at the end thereof a new title as follows:

TITLE II—TO ESTABLISH THE CONNECTICUT COASTAL NATIONAL WILDLIFE REFUGE

"FINDINGS AND PURPOSES

"SEC. 201. (a) FINDINGS.—The Congress finds that—

"(1) Chimon Island, off the coast of Norwalk, is the most important heron rookery in Connecticut and contains one of the three largest wading bird colonies in the Northeast United States;

"(2) Milford Point, a narrow ten-acre tombolo, is one of the few remaining nesting sites in Connecticut for the piping plover;

"(3) Falkner's Island supports the only significant breeding population of the roseate tern in Connecticut and the only major population of the common tern; and

"(4) Sheffield Island is an excellent potential nesting habitat for heron.

"(b) PURPOSES.—The purposes for which the Connecticut Coastal National Wildlife Refuge is established are—

"(1) to enhance the population of herons, egrets, terns, and other shore and wading birds within the refuge;

"(2) to encourage natural diversity of fish and wildlife species within the refuge;

"(3) to provide for the conservation and management of all fish and wildlife, within the refuge;

"(4) to fulfill the international treaty obligations of the United States respecting fish and wildlife; and

"(5) to provide opportunities for scientific research, environmental education, and fish and wildlife-oriented recreation.

"DEFINITIONS

"SEC. 202. As used in sections 201 through 205 of this Act—

"(1) The term "refuge" means the Connecticut Coastal National Wildife Refuge.

"(2) The term "Secretary" means the Secretary of the Interior.

"(3) The term "selection area" means the lands and waters of Chimon Island, Milford Point, Falkner's Island, and Sheffield Island in the State of Connecticut.

"ESTABLISHMENT OF REFUGE

"SEC. 203. (a) SELECTION.—(1) Within ninety days after the effective date of this Act, the Secretary shall—

"(A) designate approximately one hundred and forty-five acres of land and waters within the selection area as land which the Secretary considers appropriate for the refuge;

"(B) prepare a detailed map depicting the boundaries of the land designated under subparagraph (A), which map shall be on file and available for public inspection at offices of the United States Fish and Wildlife Service, and publish notice in the Federal Register of such availability.

"(2) The Secretary may make such minor revisions in the boundaries designated under paragraph (1)(B) of this subsection as may be appropriate to carry out the purpose of this Act or to facilitate the acquisition of property within the refuge.

"(b) ACQUISITION.—(1) Except as provided in paragraph (2), the Secretary shall acquire (by donation, purchase with donated or appropriated funds, or exchange) lands, waters, or interests therein within the boundaries designated under subsection (a)(1)(B).

"(2) The Secretary of the department in which the Coast Guard is operating shall transfer jurisdiction over Falkner's Island, Connecticut, to the Department of the Interior; except that the Coast Guard shall remain responsible for the operation and maintenance of the lighthouse on the island.

"(c) ESTABLISHMENT.—The Secretary shall establish the national wildlife refuge, by publication of a notice to that effect in the Federal Register, whenever sufficient property has been required under this section to constitute an area that can be effectively managed as a national wildlife refuge.

"ADMINISTRATION

"SEC. 204. The Secretary shall administer all lands, waters, and interests therein, acquired under section 203 of this Act in accordance with the provisions of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd-668ee). The Secretary may utilize such additional statutory authority as may be available to him for the conservation and development of wildlife and natural resources, the development of outdoor recreation opportunities, and interpretive education as he deems appropriate to carry out the purposes of the refuge.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 205. There is authorized to be appropriated to the Department of the Interior $2,500,000 from funds not otherwise appropriated from the Land and Water Conservation Fund for the acquisition of lands for the refuge, which sums shall remain available until expended.".

JOHNSTON AMENDMENT NO. 7035

Mr. BYRD (for Mr. JOHNSTON) proposed an amendment to the bill (H.R. 5271), supra; as follows:

SEC. 1. H.R. 5271 is amended by adding at the end thereof a new title as follows:

"TITLE III—TO ESTABLISH THE ATCHAFALAYA NATIONAL WILDLIFE REFUGE

"DECLARATION OF FINDINGS AND PURPOSES

"SEC. 301. (a) FINDINGS.—The Congress finds that—

"(1) thousands of acres of bottomland hardwoods are being cleared each year in the Mississippi River Delta;

"(2) these forested wetlands represent one of the most valuable and productive wildlife habitat types in the United States and have extremely high recreational value for hunters, fishermen, trappers, birdwatchers, nature photographers, and others, and

"(3) the Atchafalaya area is a bottomland hardwood swamp which provides habitat for a diversity of wildlife, including herons, egrets, and other wading birds; mallards, wood ducks, and countless waterfowl; black bears, deer, bobcat, muskrat, and other mammals; a large population of alligators; and the Louisiana crawfish, as well as bass, catfish, and other fish.

"(b) PURPOSES.—The purposes for which the Atchafalaya National Wildlife Refuge is established are—

"(1) to provide for the conservation and management of all fish and wildlife within the refuge;

"(2) to fulfill the international treaty obligations of the United States with respect to fish and wildlife; and

"(3) to provide opportunities for scientific research, environmental education, and fish and wildlife-oriented recreation, including hunting, fishing and trapping, birdwatching, nature photography, and others.

"DEFINITIONS

"SEC. 302. As used in sections 301 through 305 of this Act—

"(1) The term "Refuge" means Atchafalaya National Wildlife Refuge.

"(2) The term "Secretary" means the Secretary of the Interior.

"(3) The term "Selection area" means those lands and waters that are depicted on the map dated September 21, 1984, on file with the United States Fish and Wildlife Service which are not owned by the State of Louisiana and which are available from willing sellers.

"ESTABLISHMENT OF REFUGE

"SEC. 303. (a)(1) SELECTION.—Within one hundred and eighty days after the effective date of this Act, the Secretary shall—

"(A) designate with the concurrence of the State of Louisiana land and waters within the selection area as land which the Secretary and the State of Louisiana consider appropriate for the refuge;

"(B) prepare a detailed map with the concurrence of the State of Louisiana, depicting the boundaries of the land designated under subparagraph (A), which map shall be on file and available for public inspection at offices of the United States Fish and Wildlife Service, and publish notice in the Federal Register of such availability.

"(2) The Secretary may make such minor revisions in the boundaries designated under paragraph (1)(B) of this subsection as may be appropriate to carry out the purpose

of this Act or to facilitate the acquisition of property within the refuge.

"(b) ACQUISITION.—The Secretary shall acquire with funds provided under Public Law 98-396, the lands, waters, or interests therein within the boundaries designated under subsection (a)(1)(B). The Secretary is authorized to include in any transfer of property to the United States, pursuant to this Act, language requiring the United States, in the event that such property is no longer required for fish and wildlife conservation and prior to any subsequent sale, exchange, other transfer of the property acquired, to first offer such property to the vendors, their heirs, successors or assigns, at the same price then being offered by any third party, which price shall in no event be less than the current fair market value.

"(c) ESTABLISHMENT.—The Secretary shall establish the National Wildlife Refuge, by publication of a notice to that effect in the Federal Register, whenever sufficient property has been acquired under this section to constitute an area that can be effectively managed as a national wildlife refuge.

"ADMINISTRATION

"SEC. 304. The Secretary shall administer all lands, waters, and interests therein, acquired under section 303 of this Act in accordance with the provisions of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd-668ee). The Secretary may utilize such additional statutory authority as may be available to him for the conservation and development of wildlife and natural resources, the development of outdoor recreation opportunities, and interpretive education as he deems appropriate to carry out the purposes of the refuge: *Provided, however,* That the Secretary shall enter into a cooperative agreement with the State of Louisiana to provide for management of the refuge by the State in a manner that is consistent with the responsibilities of the Secretary as the primary Administrator of the refuge and the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd-668ee).

"SEC. 305. The refuge shall be treated as a fee area for purposes of applying section 401 of the Act commonly referred to as the Refuge Revenue Sharing Act (16 U.S.C. 715s).

"EFFECTIVE DATE

"SEC. 306. This Act shall take effect October 1, 1984, or on the date of its enactment, whichever date is later."

UNIFORM SINGLE AUDIT ACT

DURENBERGER AMENDMENT NO. 7036

Mr. BAKER (for Mr. DURENBERGER) proposed an amendment to the bill (S. 1510) to establish uniform single financial audit requirements for State and local governments and nonprofit organizations and other recipients of Federal assistance, and for other purposes; as follows:

SHORT TITLE; PURPOSE

SECTION 1. (a) This Act may be cited as the "Single Audit Act of 1984".

(b) It is the purpose of this Act—

(1) to improve the financial management of State and local governments with respect to Federal financial assistance programs;

(2) to establish uniform requirements for audits of Federal financial assistance provided to State and local governments;

(3) to promote the efficient and effective use of audit resources; and

(4) to ensure that Federal departments and agencies, to the maximum extent practicable, rely upon and use audit work done pursuant to chapter 75 of title 31, United States Code (as added by this Act).

AMENDMENT TO TITLE 31, UNITED STATES CODE

SEC. 2. (a) Subtitle V of title 31, United States Code, is amended by adding at the end thereof the following new chapter:

"CHAPTER 75—REQUIREMENTS FOR SINGLE AUDITS

"Sec.
"7501. Definitions.
"7502. Audit requirements; exemptions.
"7503. Relation to other audit requirements.
"7504. Cognizant agency responsibilities.
"7505. Regulations.
"7506. Monitoring responsibilities of the Comptroller General.
"7507. Effective date; report.

"§ 7501. Definitions

"As used in this chapter, the term—

"(1) 'cognizant agency' means a Federal agency which is assigned by the Director with the responsibility for implementing the requirements of this chapter with respect to a particular State or local government.

"(2) 'Comptroller General' means the Comptroller General of the United States.

"(3) 'Director' means the Director of the Office of Management and Budget.

"(4) 'Federal financial assistance' means assistance provided by a Federal agency in the form of grants, contracts, loans, loan guarantees, property, cooperative agreements, interest subsidies, insurance, or direct appropriations, but does not include direct Federal cash assistance to individuals.

"(5) 'Federal agency' has the same meaning as the term 'agency' in section 551(1) of title 5, United States Code.

"(6) 'generally accepted accounting principles' has the meaning specified in the generally accepted government auditing standards.

"(7) 'generally accepted government auditing standards' means the standards for audit of governmental organizations, programs, activities, and functions, issued by the Comptroller General.

"(8) 'independent auditor' means—

"(A) an external State or local government auditor who meets the independence standards included in generally accepted government auditing standards, or

"(B) a public accountant who meets such independence standards.

"(9) 'internal controls' means the plan of organization and methods and procedures adopted by management to ensure that—

"(A) resource use is consistent with laws, regulations, and policies;

"(B) resources are safeguards against waste, loss, and misuse; and

"(C) reliable data are obtained, maintained, and fairly disclosed in reports.

"(10) 'Indian tribe' means any Indian tribe, band, nation, or other organized group or community, including any Alaskan Native village or regional or village corporation (as defined in, or established under, the Alaskan Native Claims Settlement Act) that is recognized by the United States as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

"(11) 'local government' means any unit of local government within a State, including a county, borough, municipality, city, town, township, parish, local public authority, special district, school district, intrastate district, council of governments, and any other instrumentality of local government.

"(12) 'major Federal assistance program' means any program for which total expenditures of Federal financial assistance by the State or local government during the applicable year exceed—

"(A) $20,000,000 in the case of a State or local government for which such total expenditures for all programs exceed $7,000,000,000;

"(B) $19,000,000 in the case of a State or local government for which such total expenditures for all programs exceed $6,000,000,000 but are less than or equal to $7,000,000,000;

"(C) $16,000,000 in the case of a State or local government for which such total expenditures for all programs exceed $5,000,000,000 but are less than or equal to $6,000,000,000;

"(D) $13,000,000 in the case of a State or local government for which such total expenditures for all programs exceed $4,000,000,000 but are less than or equal to $5,000,000,000;

"(E) $10,000,000 in the case of a State or local government for which such total expenditures for all programs exceed $3,000,000,000 but are less than or equal to $4,000,000,000;

"(F) $7,000,000 in the case of a State or local government for which such total expenditures for all programs exceed $2,000,000,000 but are less than or equal to $3,000,000,000;

"(G) $4,000,000 in the case of a State or local government for which such total expenditures for all programs exceed $1,000,000,000 but are less than or equal to $2,000,000,000;

"(H) $3,000,000 in the case of a State or local government for which such total expenditures for all programs exceed $1,000,000,000 but are less than or equal to $1,000,000,000; and

"(I) the larger of (i) $300,000 or (ii) 3 percent of such total expenditures for all programs, in case of a State or local government for which such total expenditures for all programs exceed $100,000 but are less than or equal to $100,000,000.

"(13) 'public accountants' means those individuals who meet the qualification standards included in generally accepted government auditing standards for personnel performing government audits.

"(14) 'State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands, any instrumentality thereof, any multi-State, regional, or interstate entity which has governmental functions, and any Indian tribe.

"(15) 'subrecipient' means any person or government department, agency, or establishment that receives Federal financial assistance through a State or local government, but does not include an individual that receives such assistance.

"§ 7502. Audit requirements; exemptions

"(a)(1)(A) Each State and local government which receives a total amount of Federal financial assistance equal to or in excess of $100,000 in any fiscal year of such

government shall have an audit made for such fiscal year in accordance with the requirements of this chapter and the requirements of the regulations prescribed pursuant to section 7505 of this title.

"(B) Each State and local government that receives a total amount of Federal financial assistance which is equal to or in excess of $25,000 but less than $100,000 in any fiscal year of such government shall—

"(i) have an audit made for such fiscal year in accordance with the requirements of this chapter and the requirements of the regulations prescribed pursuant to section 7505 of this title; or

"(ii) comply with any applicable requirements concerning financial or financial and compliance audits contained in Federal statutes and regulations governing programs under which such Federal financial assistance is provided to that government.

"(C) Each State and local government that receives a total amount of Federal financial assistance which is less than $25,000 in any fiscal year of such government shall be exempt for such fiscal year from compliance with—

"(i) the audit requirements of this chapter; and

"(ii) any applicable requirements concerning financial or financial and compliance audits contained in Federal statutes and regulations govening programs under which such Federal financial assistance is provided to that government.

The provisions of clause (ii) of this subparagraph do not exempt a State or local government from compliance with any provision of a Federal statute or regulation that requires such government to maintain records concerning Federal financial assistance provided to such government or that permits a Federal agency or the Comptroller General access to such records.

"(2) For purposes of this section, a State or local government shall be considered to receive Federal financial assistance whether such assistance is received directly from a Federal agency or indirectly through another State or local government.

"(b)(1) Except as provided in paragraphs (2) and (3), audits conducted pursuant to this chapter shall be conducted annually.

"(2) If a State or local government is required—

"(A) by constitution or statute, as in effect on the date of enactment of this chapter, or

"(B) by administrative rules, regulations, guidelines, standards, or policies, as in effect on such date,

to conduct its audits less frequently than annually, the cognizant agency for such government shall, upon request of such government, permit the government to conduct its audits pursuant to this chapter biennially, except as provided in paragraph (3). Such audits shall cover both years within the biennial period.

"(3) Any State or local government that is permitted, under clause (B) of paragraph (2), to conduct its audits pursuant to this chapter biennially by reason of the requirements of a rule, regulation, guideline, standard, or policy, shall, for any of its fiscal years beginning after December 31, 1986, conduct such audits annually unless such State or local government codifies a requirement for biennial audits in its constitution or statutes by January 1, 1987. Audits conducted biennially under the provisions of this paragraph shall cover both years within the biennial period.

"(c) Each audit conducted pursuant to subsection (a) shall be conducted by an independent auditor in accordance with generally accepted government auditing standards, except that, for the purposes of this chapter, such standards shall not be construed to require economy and efficiency audits, program results audits, or program evaluations.

"(d)(1) Each audit conducted pursuant to subsection (a) for any fiscal year shall cover the entire State or local government's operations except that, at the option of such government—

"(A) such audit may, except as provided in paragraph (5), cover only each department, agency, or establishment which received, expended, or otherwise administered Federal financial assistance during such fiscal year; and

"(B) such audit may exclude public hospitals and public colleges and universities.

"(2) Each audit shall encompass the entirety of the financial operations of such government or of such department, agency, or establishment, whichever is applicable, and shall determine and report whether—

"(A)(i) the financial statements of the government, department, agency, or establishment present fairly its financial position and the results of its financial operations in accordance with generally accepted accounting principles; and

"(ii) the government, department, agency or establishment has compiled with laws and regulations that may have a material effect upon the financial statements;

"(B) the government, department, agency, or establishment has internal control systems to provide reasonable assurance that it is managing Federal financial assistance programs in compliance with applicable laws and regulations; and

"(C) the government, department, agency, or establishment has complied with laws and regulations that may have a material effect upon each major Federal assistance program.

In complying with the requirements of subparagraph (C), the independent auditor shall select and test a representative number of transactions from each major Federal assistance program.

"(3) Transactions selected from Federal assistance programs, other than major Federal assistance programs, pursuant to the requirements of paragraphs (2)(A) and (2)(B) shall be tested for compliance with Federal laws and regulations that apply to such transactions. Any noncompliance found in such transactions by the independent auditor in making determinations required by this paragraph shall be reported.

"(4) The number of transactions selected and tested under paragraphs (2) and (3), the selection and testing of such transactions, and the determinations required by such paragraphs shall be based on the professional judgment of the independent auditor.

"(5) Each State or local government which, in any fiscal year of such government, receives directly from the Department of the Treasury a total of $25,000 or more under chapter 67 of this title (relating to general revenue sharing) and which is required to conduct an audit pursuant to this chapter for such fiscal year shall not have the option provided by paragraph (1)(A) for such fiscal year.

"(6) A series of audits of individual departments, agencies, and establishments for the same fiscal year may be considered to be an audit for the purpose of this chapter.

"(e)(1) Each State and local government subject to the audit requirements of this chapter, which receives Federal financial assistance and provides $25,000 or more of such assistance in any fiscal year to a subrecipient, shall—

"(A) if the subrecipient conducts an audit in accordance with the requirements of this chapter, review such audit and ensure that prompt and appropriate corrective action is taken on instances of material noncompliance with applicable laws and regulations with respect to Federal financial assistance provided to the subrecipient by the State or local government; or

"(B) if the subrecipient does not conduct an audit in accordance with the requirements of this chapter—

"(i) determine whether the expenditures of Federal financial assistance provided to the subrecipient by the State or local government are in accordance with applicable laws and regulations; and

"(ii) ensure that prompt and appropriate corrective action is taken on instances of material noncompliance with applicable laws and regulations with respect to Federal financial assistance provided to the subrecipient by the State or local government.

"(2) Each such State and local government shall require each subrecipient of Federal assistance through such government to permit, as a condition of receiving funds from such assistance, the independent auditor of the State or local government to have such access to the subrecipient's records and financial statements as may be necessary for the State or local government to comply with this chapter.

"(f) The report made on any audit conducted pursuant to this section shall, within thirty days after the completion of such report, be transmitted to the appropriate Federal officials and made available by the State or local government for public inspection.

"(g) If an audit conducted pursuant to this section finds any material noncompliance with applicable laws and regulations by, or material weakness in the internal controls of, the State or local government with respect to the matters described in subsection (d)(2), the State or local government shall submit too appropriate Federal officials a plan for corrective action to eliminate such material noncompliance or weakness or a statement describing the reasons that corrective action is not necessary. Such plan shall be consistent with the audit resolution standard promulgated by the Comptroller General (as part of the standards for internal controls in the Federal Government) pursuant to section 3512(b) of this title.

"§ 7503. Relation to other audit requirements

"(a) An audit conducted in accordance with this chapter shall be in lieu of any financial or financial and compliance audit of an individual Federal assistance program which a State or local government is required to conduct under any other Federal law of regulation. To the extent that such audit provides a Federal agency with the information it requires to carry out its responsibilities under Federal law or regulation, a Federal agency shall rely upon and use that information and plan and conduct its own audits accordingly in order to avoid a duplication of effort.

"(b) Notwithstanding subsection (a), a Federal agency shall conduct any additional audits which are necessary to carry out its responsibilities under Federal law or regulation. The provisions of this chapter do not authorize any State or local government (or subrecipient thereof) to constrain, in any

manner, such agency from carrying out such additional audits.

"(c) The provisions of this chapter do not limit the authority of Federal agencies to conduct, or enter into contracts for the conduct of, audits and evaluations of Federal financial assistance programs, nor limit the authority of any Federal agency Inspector General or other Federal audit official.

"(d) Subsection (a) shall apply to a State or local government which conducts an audit in accordance with this chapter even though it is not required by section 7502(a) to conduct such audit.

"(e) A Federal agency that performs or contracts for audits in addition to the audits conducted by recipients pursuant to this chapter shall, consistent with other applicable law, arrange for funding the cost of such additional audits. Such additional audits include economy and efficiency audits, programs results audits, and program evaluations.

"§ 7504. Cognizant agency responsibilities

"(a) The Director shall designate cognizant agencies for audits conducted pursuant to this chapter.

"(b) A cognizant agency shall—

"(1) ensure that audits are made in a timely manner and in accordance with the requirements of this chapter;

"(2) ensure that the audit reports and corrective action plans made pursuant to section 7502 of this title are transmitted to the appropriate Federal officials; and

"(3)(A) coordinate, to the extent practicable, audits done by or under contract with Federal agencies that are in addition to the audits conducted pursuant to this chapter; and (B) ensure that such additional audits build upon the audits conducted pursuant to this chapter.

"§ 7505. Regulations

"(a) The Director, after consultation with the Comptroller General and appropriate Federal, State, and local government officials, shall prescribe policies, procedures, and guidelines to implement this chapter. Each Federal agency shall promulgate such amendments to its regulations as may be necessary to conform such regulations to the requirements of this chapter and of such policies, procedures, and guidelines.

"(b)(1) The policies, procedures, and guidelines prescribed pursuant to subsection (a) shall include criteria for determining the appropriate charges to programs of Federal financial assistance for the cost of audits. Such criteria shall prohibit a State or local government which is required to conduct an audit pursuant to this chapter from charging to any such program (A) the cost of any financial or financial and compliance audit which is not conducted in accordance with this chapter, and (B) more than a reasonably proportionate share of the cost of any such audit that is conducted in accordance with this chapter.

"(2) The criteria prescribed pursuant to paragraph (1) shall not, in the absence of documentation demonstrating a higher actual cost, permit (A) the ratio of (i) the total charges by a government to Federal financial assistance programs for the cost of audits performed pursuant to this chapter, to (ii) the total cost of such audits, to exceed (B) the ratio of (i) total Federal financial assistance expended by such government during the applicable fiscal year or years, to (ii) such government's total expenditures during such fiscal year or years.

"(c) Such policies, procedures, and guidelines shall include such provisions as may be necessary to ensure that small business concerns and business concerns owned and controlled by socially and economically disadvantaged individuals will have the opportunity to participate in the performance of contracts awarded to fulfill the audit requirements of this chapter.

"§ 7506. Monitoring responsibilities of the Comptroller General

"The Comptroller General shall review provisions requiring financial or financial and compliance audits of recipients of Federal assistance that are contained in bills and resolutions reported by the committees of the Senate and the House of Representatives. If the Comptroller General determines that a bill or resolution contains provisions that are inconsistent with the requirements of this chapter, the comptroller General shall, at the earliest practicable date, notify in writing—

"(1) the committee that reported such bill or resolution; and

"(2)(A) the Committee on Governmental Affairs of the Senate (in the case of a bill or resolution reported by a committee of the Senate); or

"(B) the Committee on Government Operations of the House of Representatives (in the case of a bill or resolution reported by a committee of the House of Representatives).

"§ 7507. Effective date; report

"(a) This chapter shall apply to any State or local government with respect to any of its fiscal years which begin after December 31, 1984.

"(b) The Director, on or before May 1, 1987, and annually thereafter, shall submit to each House of Congress a report on operations under this chapter. Each such report shall specifically identify each Federal agency or State or local government which is failing to comply with this chapter.".

(b) The provisions of this Act shall not diminish or otherwise affect the authority of the Tennessee Valley Authority to conduct its own audits of any matter involving funds disbursed by the Tennessee Valley Authority.

(c) The table of chapters for subtitle V of title 31, United States Code, is amended by inserting after the item relating to chapter 73 the following new item:

"75. Requirements for Single Audits . 7501".

Amend the title so as to read "An Act to establish uniform audit requirements for State and local governments receiving Federal financial assistance.".

AWARDS OF EXPENSES OF CERTAIN PROCEEDINGS

GRASSLEY AMENDMENT NO. 7037

Mr. BAKER (for Mr. GRASSLEY) proposed an amendment to the bill (H.R. 5479) to amend section 504 of title 5, United States Code, and section 2412 of title 28, United States Code, with respect to awards of expenses of certain agency and court proceedings, and for other purposes; as follows:

Strike out all after the enacting clause and insert in lieu thereof the following

That (a) section 504(a)(1) of title 5, United States Code, is amended—

(1) by striking out "as a party to the proceeding", and

(2) by adding at the end thereof the following: "The decision of the adjudicative officer on the application for fees and other expenses shall be the final administrative decision under this section.".

(b) Section 504(a)(2) of title 5, United States Code, is amended by adding at the end thereof the following: "When the United States appeals the underlying merits of an adversary adjudication, no decision on an application for fees and other expenses in connection with that adversary adjudication shall be made under this section until a final and unreviewable decision is rendered by the court on the appeal or until the underlying merits of the case have been finally determined pursuant to the appeal.".

(c) Section 504(b) of title 5, United States Code, is amended—

(1) by amending paragraph (1)(B) to read as follows:

"(B) 'party' means a party, as defined in section 551(3) of this title, who is (i) an individual whose net worth did not exceed $2,000,000 at the time the adversary adjudication was initiated, or (ii) any owner of an unincorporated business, or any partnership, corporation, association, unit of local government, or organization, the net worth of which did not exceed $7,000,000 at the time the adversary adjudication was initiated, and which had not more than 500 employees at the time the adversary adjudication was initiated; except that an organization described in section 501(c)(3) of the Internal Revenue Code of 1954 (26 U.S.C. 501(c)(3)) exempt from taxation under section 501(a) of such Code, or a cooperative association as defined in section 15(a) of the Agricultural Marketing Act (12 U.S.C. 1141j(a)), may be a party regardless of the net worth of such organization or cooperative association;";

(2) in paragraph (1)(C)—

(A) by inserting "(i)" before "an adjudication under";

(B) by inserting before the semicolon at the end thereof the following: ", and (ii) any appeal of a decision made pursuant to section 6 of the Contract Disputes Act of 1978 (41 U.S.C. 605) before an agency board of contract appeals as provided in section 8 of that Act (41 U.S.C. 607)"; and

(C) by striking out "and" at the end thereof;

(3) by striking out the period at the end of subparagraph (D) and inserting in lieu thereof "; and"; and

(4) by adding at the end thereof the following:

"(E) 'position of the agency' includes the underlying action which led to the adversary adjudication; except that fees and expenses may not be awarded to a party for any portion of the adversary adjudication in which the party has unreasonably protracted the proceedings.".

(d) Section 504(c)(2) of title 5, United States Code, is amended to read as follows:

"(2) If a party or the United States is dissatisfied with a determination of fees and other expenses made under subsection (a), that party or the United States (as the case may be) may, within 30 days after the determination is made, appeal the determination to the court of the United States having jurisdiction to review the merits of the underlying decision of the agency adversary adjudication. The court's determination on all appeals heard under this paragraph shall be based solely on the factual record made before the agency. The court may modify the determination of fees and other expenses only if the court finds that the fail-

ure to make an award of fees and other expenses, or the calculation of the amount of the award, was unsupported by substantial evidence.".

(e) Section 504(d) of title 5, United States Code, is amended to read as follows:

"(d) Fees and other expenses awarded under this subsection shall be paid by any agency over which the party prevails from any funds made available to the agency by appropriation or otherwise.".

(f) Section 504 of title 5, United States Code, is amended by adding at the end thereof the following:

"(f) If complete payment of the fees and other expenses awarded under this section is not made within 60 days after the final agency action making an award of such fees and other expenses, interest shall be paid on the amount remaining due. Such interest shall be computed at the rate the Secretary of the Treasury establishes for interest payments under section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611), and shall run from the date which is 61 days after the date of such award up to and including the date such payment is posted by certified or registered mail.".

SEC. 2. (a) Section 2412 of title 28, United States Code, is amended—

(1) in subsections (a) and (b) by striking out "or any agency and any official of the United States" each place it appears and inserting in lieu thereof "or any agency or any official of the United States";

(2) in subsection (d)(1)(A) by inserting ", including proceedings for judicial review of agency action," after "in tort)"; and

(3) in subsection (d)(1)(B) by inserting immediately after "action" the following: "or within 30 days after the party prevails on remand ordered pursuant to section 205(g) or 1631(c)(3) of the Social Security Act (42 U.S.C. 405(g) or 1383(c)(3))".

(b) Section 2412(d)(2) of title 28, United States Code, is amended—

(1) in subparagraph (B)—

(A) in clause (i) by striking out "$1,000,000" and inserting in lieu thereof "$2,000,000"; and

(B) by striking out "(ii)" and all that follows through the end of the subparagraph and inserting in lieu thereof the following: "or (ii) any owner of an unincorporated business, or any partnership, corporation, association, unit of local government, or organization, the net worth of which did not exceed $7,000,000 at the time the civil action was filed, and which had not more than 500 employees at the time the civil action was filed; except that an organization described in section 501(c)(3) of the Internal Revenue Code of 1954 (26 U.S.C. 501(c)(3)) exempt from taxation under section 501(a) of such Code, or a cooperative association as defined in section 15(a) of the Agricultural Marketing Act (12 U.S.C. 1141j(a)), may be a party regardless of the net worth of such organization or cooperative association;";

(2) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof a semicolon; and

(3) by adding at the end thereof the following:

"(D) 'position of the United States' includes the underlying agency action which led to the litigation; except that fees and expenses may not be awarded to a party for any portion of the litigation in which the party has unreasonably protracted the proceedings;

"(E) 'civil action brought by or against the United States' includes an appeal by a party, other than the United States, from a decision of a contracting officer rendered pursuant to a disputes clause in a contract with the Government or pursuant to the Contract Disputes Act of 1978;

"(F) 'court' includes the United States Claims Court;

"(G) 'final judgment' means a judgment that is final and not appealable;

"(H) 'prevailing party in a civil action' includes a party who, pursuant to section 205(g) or 1631(c)(3) of the Social Security Act (42 U.S.C. 405(g) or 1383(c)(3)), has won an order remanding the cause for further hearing, except that this provision shall not apply—

"(i) to cases to the extent that the remand was based on section 2(d) of the Social Security Disability Benefits Reform Act of 1984;

"(ii) to cases to the extent the remand is requested by the claimant in order to introduce new evidence which the claimant had not introduced or attempted to introduce at the administrative agency level; or

"(iii) to cases in which, after the remand, the claimant has not prevailed with respect to the underlying issue; and

"(I) 'prevailing party', in the case of eminent domain proceedings, means a party who obtains a final judgment (other than by settlement), exclusive of interest, the amount of which is at least as close to the highest valuation of the property involved that is attested to at trial on behalf of the property owner as it is to the highest valuation of the property involved that is attested to at trial on behalf of the Government.".

(c) Section 2412(d)(4) of title 28, United States Code, is amended to read as follows:

"(4) Fees and other expenses awarded under this subsection to a party shall be paid by any agency over which the party prevails from any funds made available to the agency, by appropriation or otherwise.".

(d) Section 2412 of title 28, United States Code, is amended by adding at the end thereof the following:

"(f) If complete payment of the costs or fees and other expenses awarded under this section is not made within 60 days after the award of such costs or fees and other expenses, interest shall be paid thereafter on the amount remaining due. Such interest shall be computed at the rate the Secretary of the Treasury establishes for interest payments under section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611), and shall run from the date which is 61 days after the date of such award up to and including the date such payment is posted by certified or registered mail.".

SEC. 3. Section 206 of the Equal Access to Justice Act is amended—

(1) by striking out "Nothing" and inserting in lieu thereof "(a) Except as provided in subsection (b), nothing"; and

(2) by adding at the end thereof the following:

"(b) Section 206(b) of the Social Security Act (42 U.S.C. 406(b)(1)) shall not prevent an award of fees and other expenses under section 2412(d) of title 28, United States Code. Section 206(b)(2) of the Social Security Act shall not apply with respect to any such award but only if any fees collected by the claimant's attorney or withheld for such attorney pursuant to such section 206(b) are refunded to the claimant insofar as the fees relate to the same work for which the claimant's attorney is awarded fees under section 2412(d) of title 28, United States Code.".

SEC. 4. Section 203(c) of the Equal Access to Justice Act (Public Law 96-481) is repealed.

SEC. 5. Section 204(c) of the Equal Access to Justice Act is repealed.

SEC. 6. Section 207 of the Equal Access to Justice Act, is repealed.

SEC. 7. Section 208 of the Equal Access to Justice Act is amended by adding at the end thereof the following: "Awards may be made for fees incurred before October 1, 1981, in any such adversary adjudication or civil action.".

SEC. 8. (a) Section 7430(b)(1) of the Internal Revenue Code of 1954 (relating to maximum dollar amount) is amended by striking out "$25,000" and inserting in lieu thereof "$50,000".

(b) Subparagraph (A) of section 7430(c)(2) of such Code (defining prevailing party) is amended to read as follows:

"(A) IN GENERAL.—The term 'prevailing party' means any party to any proceeding described in subsection (a) (other than the United States or any creditor of the taxpayer involved)—

"(1) which has substantially prevailed with respect to—

"(I) the amount in controversy, or

"(II) the most significant issue or set of issues presented, and

"(ii) with respect to which the United States has not established that its position in the civil proceeding was substantially justified.

In determining whether the position of the United States in any civil proceeding was substantially justified, the court may take into account the administrative actions of the Internal Revenue Service in the matter giving rise to the issues in such proceeding. Notwithstanding this subparagraph, a party shall not be treated as a prevailing party if special circumstances would make an award unjust.".

(c) Section 7430(f) of such Code (relating to termination date) is amended by striking out "1985" and inserting in lieu thereof "1989".

SEC. 9. (a) Except as otherwise provided in this section, the amendments made by this Act shall be effective as of October 1, 1984, and shall apply to cases pending on such date.

(b) The amendments made to section 504(b)(1)(C)(ii) of title 5, United States Code, by subsection (c)(2) of the first section of this Act, and the amendments to section 2412(d)(2)(E) of title 28, United States Code, made by section 2(b)(3) of this Act shall apply to any adversary adjudication which was pending on or commenced on or after October 1, 1981 in which application for fees and expenses were timely filled and were dismissed for lack of jurisdiction.

(c)(1) Except as provided in paragraph (2), the amendments made by section 8 of this Act shall apply to civil actions or proceedings pending on, or commenced after, the 45th day after the date of the enactment of this Act.

(2) The amendments made by section 8 shall not apply to any action or proceeding pending on such 45th day if there has been a determination by any court of the United States (including the Tax Court and the United States Claims Court) with respect to—

(A) the awarding of reasonable litigation costs in such proceeding, or

(B) the most significant issue or set of issues presented in such proceeding.

Amend the title so as to read: "A bill to amend section 504 of title 5, United States Code, and section 2412 of title 28, United States Code, with respect to awards of ex-

penses of certain agency and court proceedings, and for other purposes.".

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON EAST ASIAN AND PACIFIC AFFAIRS

Mr. BAKER. Mr. President, I ask unanimous consent that the Subcommittee on East Asian and Pacific Affairs of the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, October 3, to hold a hearing on United States-Japan trade relations: The $30 billion deficit; at 2 p.m.—can coal help bridge the gap?

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON INTERGOVERNMENTAL RELATIONS

Mr. BAKER. Mr. President, I ask unanimous consent that the Subcommittee on Intergovernmental Relations of the Committee on Governmental Affairs be authorized to meet during the session of the Senate on Wednesday, October 3, to hold a hearing on State lotteries.

The PRESIDING OFFICER. Without objection, it is so ordered.

PARKS ACT OF 1969

WALLOP AMENDMENT NO. 7038

Mr. BAKER (for Mr. WALLOP) proposed an amendment of the House to the bill (S. 864) to amend the Volunteers in the Parks Act of 1969, and for other purposes; as follows:

Strike out all after the enacting clause, and insert: That (a) section 4 of the Volunteers in the Parks Act of 1969 (84 Stat. 472; 16 U.S.C. 18j) as amended is further amended by striking out "$250,000" and substituting "$1,000,000". The amendment made by this subsection shall apply with respect to fiscal years beginning after September 30, 1984.

(b) Section 1 of such Act is amended by adding the following at the end thereof: "In accepting such services of individuals or volunteers, the Secretary shall not permit the use of volunteers in hazardous duty or law enforcement work or in policymaking processes, or to displace any employee: *Provided*, That the services of individuals whom the Secretary determines are skilled in performing hazardous activities may be accepted.

SEC. 2. Section 307 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2766; 43 U.S.C. 1737) is amended by adding at the end thereof the following new subsections:

"(d) The Secretary may recruit, without regard to the civil service classification laws, rules, or regulations, the services of individuals contributed without compensation as volunteers for aiding in or facilitating the activities administered by the Secretary through the Bureau of Land Management.

"(e) In accepting such services of individuals as volunteers, the Secretary—

"(1) shall not permit the use of volunteers in hazardous duty or law enforcement work, or in policymaking processes or to displace any employee; and

"(2) may provide for services or costs incidental to the utilization of volunteers, including transportation, supplies, lodging, subsistence, recruiting, training, and supervision.

"(f) Volunteers shall not be deemed employees of the United States except for the purposes of the tort claims provisions of title 28, United States Code, and subchapter 1 of chapter 81 of title 5, United States Code, relating to compensation for work injuries.

"(g) Effective with fiscal years beginning after September 30, 1984, there are authorized to be appropriated such sums as may be necessary to carry out the provisions of subsection (d), but not more than $250,000 may be appropriated for any one fiscal year."

SEC. 3. (a) The Congress finds that—

(1) the public lands administered by the National Park Service, the Bureau of Land Management, and the United States Fish and Wildlife Service contain valuable wildlife, scenery, natural and historic features, and other resources;

(2) the Congress has specified the duties and responsibilities of the National Park Service, the Bureau of Land Management, and the United States Fish and Wildlife Service to balance the conservation and protection of these public lands and resources with permitted uses in ways Congress has found to be appropriate for each of the various land areas;

(3) the National Park Service, the Bureau of Land management, and the United States Fish and Wildlife Service are currently under congressional mandates to maintain sufficient visitors and recreational services in our national parks, campgrounds, and wildlife refuges;

(4) the Congress has authorized the National Park Service, the Bureau of Land Management, and the United States Fish and Wildlife Service to contract for the provisions of certain facilities, accommodations, and services by non-Federal entities, but with certain limitations that reflect the values and appropriate management policies of the various conservation areas, parks, wildlife refuges, and other public lands;

(5) expansion of the contracting authority of the managers of these conservation areas, parks, wildlife refuges, and lands should be considered only after careful study of the existing management mandates and contracting authorities; and

(6) management and regulation of natural resources on Federal lands, are inherently government functions and should be performed by Federal employees.

(b)(1)(A) the provisons of Office Management and Budget Circular A-76 and any similar provisions in any other order or directive shall not apply to activities conducted by the National Park Service, United States Fish and Wildlife Service and the Bureau of Land Management which involve ten full time equivalents (FTE) or less.

(B) For fiscal years 1985 through and including 1988, no contracts, for activities conducted by the National Park Service, United States Fish and Wildlife Service, or the Bureau of Land Management which have been subject to the provisions of Office of Management and Budget Circular A-76 or any similar provision in any other order or directive, shall be entered into by the United States until funds have been specifically provided therefore by an Act of Congress.

(2) Nothing in this section shall prevent the National Park Service, United States Fish and Wildlife Service and the Bureau of Land Management from entering into contracts for services and materials under provisions of law and rules, regulations, orders, and policies other than the circular referred to in paragraph (1) or any similar order or directive.

SEC. 4. (a) Beginning in fiscal year 1985, the National Park Service shall implement a maintenance management system into the maintenance and operations programs of the National Park System. For purposes of this section the term "maintenance management system" means a system that contains but is not limited to the following elements:

(1) a work load inventory of assets including detailed information that quantifies for all assets (including but not limited to buildings, roads, utility systems and grounds that must be maintained) the characteristics affecting the type of maintenance work performed;

(2) a set of maintenance tasks that describe the maintenance work in each unit of the National Park System;

(3) a description of work standards including frequency of maintenance, measurable quality standard to which assets should be maintained, methods for accomplishing work, required labor, equipment and material resources, and expected worker production for maintenance task;

(4) a work program and performance budget which develops an annual work plan identifying maintenance needs and financial resources to be devoted to each maintenance task;

(5) a work schedule which identifies and prioritizes tasks to be done in a specific time period and specifies required labor resources;

(6) work order specifying job authorizations and a record of work accomplished which can be used to record actual labor and material costs; and

(7) reports and special analyses which compare planned versus actual accomplishments and costs and can be used to evaluate maintenance operations.

(b) The National Park Service shall transmit to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the U.S. Senate, at the end of each fiscal year, a copy of a report summarizing the status of implementation of a maintenance management system until such a system has been implemented.

The report shall incorporate the following information:

(1) the number of units in the National Park System that have implemented a maintenance management system during the period;

(2) contract costs versus management efficiencies achieved;

(3) the total amount of dollars spent on contracts for services; and

(4) estimation of the total value of benefits achieved through greater management efficiency.

NOTICES OF HEARINGS

Mr. D'AMATO. Mr. President, I would like to announce for the information of the Senate and the public the scheduling of a public hearing before the Subcommittee on Securities of the Committee on Banking, Housing, and Urban Affairs to review tender offer tactics. This hearing will

be held on January 7 in New York City.

For further information regarding this hearing you may contact Mr. Robert Salomon in my office at 224-6542.

ADDITIONAL STATEMENTS

THE EFFECT OF THE PRESIDENT'S STEEL IMPORT PROGRAM ON IRON ORE

● Mr. DURENBERGER. Mr. President, in recent weeks we have heard a lot about the steel industry, its present state and especially its future. President Reagan's proposal to reduce steel imports has drawn praise and criticism in almost equal measure. For every person who applauded the President's balanced approach, it seems there has been another urging the United States to encircle its ports with protective walls.

I am among those who believe that generally President Reagan's proposal is reasonable. As a Senator from a State that depends on both agriculture and the steel industry for a significant share of its livelihood I am keenly aware of the potential for retaliation if we erect unwarranted trade barriers.

For most of the last decade the agriculture policy of this country has been to encourage farmers to plant fence row to fence row. We have told them that in return for their production we will open foreign markets and put our best minds to work on developing new uses for their commodities. Yet, anyone who has spent any time in rural America knows we have failed. Agriculture in much of our country is in a depression. To invite trade retaliation by imposing mandatory steel import quotas could have been the death knell for all but the largest of the corporate farmers.

At the same time, the voluntary steel quotas—backed up by the strong and consistent negotiating that already is occurring between our country and the major steel exporters—will effectively address the unfair foreign competition facing domestic steel producers. When fully implemented, the President's plan should go a long way toward helping the import-injured domestic steel industry generate some of the cash flow needed to modernize its plant and equipment, enabling it to compete effectively in the domestic and foreign steel markets.

This administration walked a very thin economic and political tightrope and, remarkably, managed to keep its balance. I believe President Reagan's comprehensive plan is far superior to the imposition of quotas as recommended by the International Trade Commission.

But the President's plan is not perfect because it is not complete. More needs to be done before the domestic steel industry is safely on the road to recovery; I want to address two of the areas that demand immediate attention.

The first is the obligation of the steel companies to use this breathing space wisely. Reducing foreign steel to 18.5 precent of the U.S. market will take its toll on American consumers who may eventually be asked to pay a higher price for everything from frying pans to cars. I believe that slightly higher price is worth the investment in an industry that is as basic to the economic strength and security of the United States as steel.

But I want to put the steel companies on notice right now: This Senator and the American public will not stand idly by and watch our contribution and sacrifice be abused. We will not tolerate steel companies pouring billions of dollars—dollars desperately needed for modernization—into corporate acquisitions. America needs a steel industry, not a national holding company for oil firms or financial institutions.

My second point, Mr. President, is far more important. As I said earlier, I've intently watched the reaction to President Reagan's proposals and judging from the geographic backdrop one would think that the domestic steel industry exists only in places like Pittsburgh, Cleveland, Buffalo, and a handful of other cities. You would think the decisions made affect only the steelworkers in West Virginia or the auto workers in Detroit.

Mr. President, the steel industry is also Hibbing, and Buhl, and Mountain Iron. It's the Iron Range of Northeastern Minnesota. And if the news from the executive offices in Pittsburgh is gloomy, the news from the mines and taconite plants of the Iron Range is downright bleak.

Yesterday, the Hibbing Taconite Co.—owned jointly by Pickands Mather & Co., Bethlehem Steel, and LTV Steel—announced that it will close in mid-November for an indefinite period of time. Nine hundred employees will be laid off.

This plant, which has an annual production capacity of 8.1 million tons of taconite pellets, produced only half of that amount last year.

The Hibbing Taconite Co. is the third Iron Range taconite plant to cut back production this fall. U.S. Steel's Minntac plant at Mountain Iron reopened last week after a 7-week layoff. Reserve Mining Co. has cut its production in half, laying off about 200 employees and putting 600 more on short workweeks.

By no means is this a new situation. The boom and bust cycle of the Iron Range has been a fact of life since 1890 when the first mining operation, the Mountain Iron Co., opened. The current desperation of the industry on the Iron Range goes back to the late 1970's. Unemployment in some Iron Range cities has been at virtually 100 percent; countywide, one-third or more of the workers have been unemployed for long periods of time.

Yet this period of bust is different from the other cycles. It is deeper and longer and, more importantly, the future is more uncertain. The administration effectively limited imports of steel and semifinished goods, but ignored imported ore.

I cosponsored the Fair Trade in Steel Act of 1984 (S. 2380) for many reasons, but mainly because it recognized the disaster of ignoring domestic iron ore. It set limits on imported ore, limits I believe are vital to America's steel industry.

Frankly, I don't see how the President can announce a comprehensive plan for the production of domestic steel and not at the same time provide a limitation on imports into the United States of iron ore. A viable domestic steel industry will be only as good as the availability of raw materials. We cannot permit the domestic steel industry to become totally dependent on foreign sources for iron ore. To do so would be detrimental to our economic growth and to our national defense. We must maintain a viable domestic iron ore industry just as we must maintain a viable domestic steel industry.

Mr. President, we are courting disaster. The large steel plants located near the eastern coast and the Gulf of Mexico already are using iron ore from Venezuela, Brazil, or Africa because of the low cost of water transportation. Without ore import limits, that situation will only grow worse. There is under construction right now a $4.9 billion iron ore operation in Brazil. Production is scheduled to begin in a few months and full capacity is expected by the summer of 1986—less than 2 years from now. When fully on-line, the Brazil Carajas operation will produce 35 million tons of high-grade ore per year. Long-term contracts covering 80 percent of the production already have been signed. Believe it or not, the project was facilitated and subsidized by U.S. contributions to and vote at the I.M.F.

We are losing our domestic iron ore capacity to imports we subsidize and it is every bit as serious as the threat to the production plants in Pittsburgh, Cleveland, and the other steel capitals. Steel companies have an obligation to share with the iron ore industry the breathing room gained from the import limitations. They must to the fullest extent possible utilize domestic iron ore in the steel-making process. The utilization of domestic iron ore by American steel companies is essential

if U.S. iron ore mines are to become more productive. And this increased productivity through greater utilization, along with the necessary investments in modernization, are the only way to reduce costs and increase employment.

American steel companies must make a commitment to cut the import of foreign produced slabs and ingots produced from foreign iron ore. The use of these foreign-made products in the steel-making process is counterproductive to the establishment of a viable domestic iron ore industry.

Mr. President, we in Congress share the challenge of assuring access to a domestic supply of iron ore. In fact, we have an obligation to the security of our country to develop our mineral independence in much the same way that we have begun the process of oil independence.

More than half of 13 critical and strategic minerals is imported into this country. In many cases—including chrome, manganese, platinum, bauxite, and cobalt, imports account for more than 80 percent of our demand.

All too often our dependence on countries like the Soviet Union and South Africa for these critical minerals has developed not because we are without domestic resources, but because we have done little to make extraction of our own reserves technologically feasible, economical, and environmentally safe. Our dependence is caused by our failure to manage our reserves.

Mr. President, steel import limits are necessary and investment in the modernization of plants is crucial. But while we do all this we must keep in mind that unless we have access to the raw product—iron ore—we cannot maintain a steel industry. And the only absolutely certain source of iron ore—the only sources we can depend on in all times—is the reserve found in our own country. That is true for iron ore and it is true for other critical minerals as well.●

KANSAS CITY BOYS SAVE PARAPLEGIC NEIGHBOR

● Mr. EAGLETON. Mr. President, I would like to bring to the attention of my Senate colleagues the heroics of two of my younger constituents, ages 11 and 13, from Kansas City, MO—Dan and Clint Waisner. The two boys' quick actions saved the life of Mark Hogue, a paraplegic neighbor, who has no use of his legs and one arm. I commend the young men on their unselfish efforts in risking their lives to save another.

Kansas City Fire Battalion Chief Nathaniel Friends said of Clint, who rushed into the burning home to drag his handicapped neighbor to safety, "He had done most of our work for us before we got there, because that's the most important thing—getting the person out. The kid saved the man's life."

The younger brother, Dan, had run home to call the Fire Department as his older brother, Clint, rushed in to save Mr. Hogue. The boys were playing outside when two children ran out of a nearby house screaming, "Fire," and saying that their father was still inside. Clint dragged the neighbor from the basement across the street to another neighbor's lawn.

The Kansas City Fire Department is working on issuing a special citation to Clint Waisner for his valiant efforts. It certainly is well deserved.

I know my colleagues join me in saluting the valiant efforts of Clint and Dan.●

CHARTER FOR WOMEN'S ARMY CORPS VETERANS ASSOCIATION

● Mr. D'AMATO. Mr. President, I rise today to cosponsor S. 2720 and to urge my colleagues to join in support of this bill to grant a Federal charter to one of our country's most worthwhile military organizations, the Women's Army Corps Veterans Association. S. 2720, introduced by the distinguished junior Senator from Florida, recognizes the contributions this deserving charitable organization has made to help our women veterans.

In May 1946, veterans and active members of the Women's Army Corps met in Chicago to form the WAC Veterans Association. The State-chartered, nonprofit corporation began work toward establishing a national organization. Their goal was realized almost 5 years to the day later when they received their national certificate of incorporation.

Today, the 50 members from New York and members from all across the country desire a Federal charter in order to have a voice within the Veterans' Administration system, as well as with other veterans groups. With this Federal charter, they will be accepted as an association and be able to become a voting member of the National Veterans' Administration Volunteer Service [VAVS] Committee.

Since 1948, members of this association have participated in volunteer work at Veterans' Administration hospitals and now serve 30 VA hospitals and nursing homes. Their thousands of dollars of donations and their tens of thousands of hours of volunteer work prove them worthy of national recognition as a nonprofit organization.

In 1981, the President issued a congratulatory letter to the association for their 35th national convention. A year earlier, they were invited to the White House for a reception in honor of the Veterans' Administration's 50th anniversary. Last year, their national president delivered a wreath to the Tomb of the Unknown Soldier and presented a plaque as a tribute to the unknowns to the memorial display room at Arlington Cemetery. Only organizations whose main purpose is to commemorate military service are given the distinction of presenting plaques by the Department of the Army. In addition, Congress established the Women's Advisory Committee to the VA to study medical care for women veterans. I am pleased to say that the Chairman of this committee—Col. Lorraine Rossi, retired—and three others are members of the association.

These few highlights I have mentioned are representative of the countless projects the WAC Association has undertaken for the benefit of veterans. The association, through generous voluntary contributions of time and money, has been successful for nearly four decades. I hope that through S. 2720 the association can be assured of continued success in the future. I urge my colleagues to support this measure to grant a Federal charter to the Women's Army Corps Veterans' Administration.●

PASSENGER VESSELS

● Mr. PRESSLER. Mr. President, for the sake of U.S. national security and enhanced economic welfare, this amendment deserves the support of every Member of this Chamber. There are currently only two U.S.-flag vessels active in the United States. Only two vessels which can be called upon in a war or crisis to provide essential troopship and hospital ship capability. Through this amendment we now have the opportunity to double the capacity of this national security asset at absolutely no cost to the Government. I suggest we do it.

Passenger vessels have a long and honored heritage of contributing to military efforts. The most recent example is the British experience in the Falkland Islands. In that campaign, Great Britain used four of its commercial passenger vessels to ferry thousands of troops halfway around the world to the Falklands, where they subsequently acted as housing for troops and provided essential medical facilities. British leaders afterwards acknowledged that this capacity was integral to Great Britain's success. It is disheartening to note that if we were to engage in a similar conflict, we would have only half the capacity that the British utilized.

In fact, this vessel shortage has already been a factor in U.S. military operations. During the U.S. operation in Grenada, our Government found it necessary to ask Britain to loan us a passenger vessel to evacuate U.S. citizens from the island. Fortunately, the military opposition on the island was

limited and did not necessitate the vessel's use. However, for the United States it was once both an explicit example of the need to expand our fleet and an embarrassing glimpse of one of our greatest weaknesses.

In contrast to our very limited capacity, the Soviet Union operates over 60 passenger vessels which can readily be converted to military use. Although the United States does maintain a sealift reserve, it is composed of but several dozen aging and deteriorating vessels of World War II vintage which would take months to activate and would be of questionable military utility.

Adopting this amendment would also result in numerous economic benefits. Thousands of seagoing and shoreside jobs would be created, and U.S. shipyards and their workers will be guaranteed millions of dollars of business annually. Moreover, the U.S. Treasury will benefit from millions of dollars worth of revenue generated by this increased employment and shipyard business, and billions of dollars of American tourist dollars which normally would be lost to foreign cruise ships will be recirculated within the U.S. economy.

It is clearly in our national interest to permit these passenger vessels to enter the U.S. trade. Economically, the benefits of this amendment are compelling on their own. However, these benefits are ancillary to the urgent need to immediately increase our U.S. sealift capacity for national security.●

FEDERAL EMPLOYEE WELLNESS

● Mr. BINGAMAN. Mr. President, on July 25, when the Senate considered the Treasury appropriation bill (H.R. 5798), I participated with the distinguished Senator from South Dakota, the chairman of the Treasury Appropriations Subcommittee, and the Senator from Arizona, the ranking Democrat on the subcommittee on the issue of wellness for Federal civilian workers. My two colleagues subsequently joined with me in requesting that a "blue ribbon panel" of public health experts and management specialists be convened to assess the present level of health promotion activities in the Federal civilian sector and to make recommendations on how current wellness programs for Federal workers can be expanded and improved. Our request called upon the Office of Personnel Management and the U.S. Department of Health and Human Services to undertake this task. There is one other Federal agency, the Division of Federal Employee Occupational Health [DFEOH], of the Public Health Service, which has made significant contributions in the areas of health promotion and wellness of the Federal work force, which should also be included in the study.

Since the passage of Public Law 79-658 in August 1946, the Federal Government has had an occupational health focus. The Division of Federal Employee Occupational Health within the Public Health Service, Department of Health and Human Services, serves as the Federal Government's consultation authority on the development, implementation, and evaluation of occupational health programs for Federal agencies. All Federal agencies interested in initiating an occupational health program must consult with the Division of Federal Employee Occupational Health to receive its recommendations based on current standards, guidelines and practices within the field of occupational health. In addition, the Division operates 156 health units and four employee assistance programs which serve about 270,000 Federal employees located throughout the United States. Participating agencies reimburse the Division for these services. Its emphasis on a three pronged program of health promotion, primary and secondary disease prevention, and worksite health protection is based on its mission "to keep Federal employees healthy, productive, and on the job."

Within the past 10 years, the Division has become increasingly involved in the operation of employee counseling services to help agency management by providing a resource for troubled employees to overcome problems affecting their job. These counseling programs are equipped to deal with problems ranging from alcohol and drug dependency to budgeting and the availability of good child care centers. This year 35,000 Federal employees had access to employee counseling units operated by the Division.

All health unit staff have received basic training in health promotion. Health information and behavioral modification programs have been conducted across the 15 bands of the Surgeon General's health promotion spectrum. Since the beginning of fiscal year 1984, over 3,000 health promotion programs have been generated by the Division's 156 health units reaching close to 60,000 Federal employees.

All appropriate health screening modalities have been made available to the Federal population served. Thus far this fiscal year, over 200,000 screenings have been performed for cancer, hypertension, diabetes, vision, glaucoma, and hearing loss.

In the area of worksite health protection the Division's industrial hygienist has conducted 37 surveys involving over 100 site visits for approximately 20 Federal agencies to determine specific worksite hazards which deleteriously affect the health of over 10,000 Federal workers.

The Division's future concerns are developing better ways of bringing the benefits of worksite health promotion and occupational health services to a broader base of Federal workers. In addition, the Division is developing better measurement systems to define specifically the health and cost benefits of such services.

While the budget for this worksite health promotion and occupational health program, the Division of Federal Employee Occupational Health, is about $15 million, efforts are underway to eliminate $1.2 million from the Division's budget for the funding of the core staff, which is essential for maintaining occupational health standards, coordination, and consultative responsibilities as mandated by its legislative authority. Continuation of the Division can potentially save millions of tax dollars.

Mr. President, I hope the budget for this function can be maintained so that leadership for the provision of worksite health programs can be continued. I also plan to request that the Division of Federal Employee Occupational Health of the Public Health Service be intimately involved in the wellness study I requested.●

GOLDEN ANNIVERSARY OF THE MARK TWAIN NATIONAL FOREST

● Mr. EAGLETON. Mr. President, the Mark Twain National Forest celebrates its 50th birthday this year. It is one of Missouri's most valuable resources. The timber, mining, and recreational users have shared in its history and development over the last half of century, and share in this year's celebration.

The forest that once was scorched and scarred now is lush and a plentiful setting for Missouri's wildlife including deer and wild turkey. The Mark Twain National Forest houses most of Missouri's wilderness areas. The rare and beautiful Irish Wilderness is found in this forest, which was designated by this Congress as wilderness. The Mark Twain National Forest also borders along this Nation's first wild and scenic riverway.

Some of the country's best hardwoods are harvested from this magnificent forest. The University of Missouri along with the U.S. Forest Service has undertaken important studies on some of the Mark Twain's hardwoods, which will help foresters of the future.

I am proud of the accomplishments made in the past 50 years and look forward to the Forest Service's stewardship in preserving some of our country's finest land in the years to come. I commend the Forest Service on an excellent record in the Mark Twain National Forest, and wish the Forest

Service staff and all those who have served the forest a special golden anniversary.

Mr. President, Missouri's fine department of conservation magazine has recently printed an excellent article entitled, "50 Years for Mark Twain National Forest" by John Wylie. I ask that this article detailing the history of the Mark Twain National Forest be printed in its entirety.

The article referred to follows:

50 YEARS FOR MARK TWAIN NATIONAL FOREST

(By John E. Wylie)

The Mark Twain National Forest is celebrating a birthday. It is the 50th year, the golden anniversary of the National Forest in Missouri. Enough time has elapsed that we tend to forget what a momentous event this was for conservation in Missouri.

The founding of the forest was far more than buying land. For the first time, professional foresters came into the state to manage land and wildlife resources. These people and the ideas they brought with them were revolutionary. In an era of cut and get out, wear out and move on, they preached the gospel of wise use and renewable resources.

Only a few people still living can remember what the Ozarks were like in those days. Wildfires were so bad that many considered them unstoppable. As a result of fire and open-range grazing of hogs, cattle and goats, vast areas of soil were exposed; the white flint rocks looked like snow on the hillsides. There was little merchantable timber, and when a tree made it to market size, it was cut by the poor folks trying to eke out a subsistence living from the impoverished land.

Deer and turkeys had all but vanished. Unregulated hunting had reduced population to scattered flocks and herds in remote areas, and food and cover were so poor that these populations had no opportunity to expand. Many other wildlife species were also at low ebbs. Streams were rapidly filling with gravel.

Land acquisition because the first order of business. Eventually nearly one and one-third million acres of public land were acquired. Fire control began, and fire towers appeared on many high knobs and ridges. With immeasurable help from the Civilian Conservation Corps, millions of trees were planted and fire-scarred cull trees cut so that the young trees would have a chance to grow.

Wildlife refuges were established, and the first deer-restocks efforts were begun. Later, these refuges supplied the deer to restock the remainder of the state.

Small lakes and public campgrounds were built.

Open-range grazing was regulated. Later, State and county laws eliminated the practice.

Perhaps more important in the long run were the educational efforts started by these early foresters. They tended to be missionaries for the cause of conservation, and their teaching and philosophies carried over into private conversations with many early lay conservationists and political leaders. The old Rose Cliff Hotel in Van Buren became a mecca for foresters, journalists, teachers and businessmen interested in forest and wildlife conservation. A land ethic was born. This movement eventually led to the idea of a non-political, professionally staffed Conservation Commission for Missouri.

These 50 years have been monumental ones for all of Missouri. Forest land that once was scorched and horribly impoverished has now been restored to the point that thousands of acres are designated wilderness. Other areas are a part of the National Park Service's Scenic Riverways system. Fifty years ago, who would ever have thought it possible?

The unstoppable fires stopped. Wildlife is back; forest industries are supplying jobs and consumer products; the streams run clear; and hikers, campers, floaters, fishermen and hunters enjoy thousands of days of outdoor recreation in these Ozark forests.

We think of the National Forest as land and resources, and it is this that we celebrate for its 50 golden years. But it is the men and women, past and present, of the U.S. Forest Service who deserve the congratulations. Their long hours, often sleepless nights and real dedication have made it all happen. It is these folks who have put the gold into this golden anniversary of the Mark Twain National Forest.●

JOHN NAILL, JR.

● Mr. PRYOR. Mr. President, it is with a great deal of pride today that I rise to pay tribute to a fellow Arkansan. John Naill, Jr., of Brinkley, AR, is completing a most exemplary term as a member of the Federal Farm Credit Board.

Appointed in 1978, John has given of his time and talents over the past 6 years in representing farmers in Illinois, Missouri, and Arkansas as their voice on the Board. John's colleagues on the Board recognized the contributions he had to make by electing him vice-chairman in 1982 and by elevating him to the chairmanship of the Board in 1983.

John Naill has brought a host of qualifications to the Board, not the least of which is that he is a farmer himself. John Naill raises cotton, soybeans, grain sorghum, wheat, and peanuts, and has 250 beef cattle on a 3,000-acre family-owned farm. He is a graduate of the U.S. Military Academy at West Point, a former chairman of the Federal Land Bank Association of Lonoke, AR, and an area president of the Arkansas Association of Conservation Districts.

At the Board's April meeting this year, John's service was recognized in a resolution adopted by the Board. It reads:

The Federal Farm Credit Board hereby records its high esteem for John D. Naill, Jr., for his superior, dedicated service on the Board from 1978 to 1984 as representative of the Sixth Farm Credit District; and for the distinction with which he served as Chairman of the Board in 1983, a momentous year in which the Board assumed a leadership role in promoting greater efficiency through system coordination and more enlightened planning (Project 1995); greater System legislative involvement (Farm Credit Council); and for the firm, fair and straight forward manner in which he deals with all issues; and for his sound judgment, keen perception, sharp wit (enhanced through cartooning) and warm personality, all of which were brought to bear in keeping the Board on its steadfast course of serving the best interest of the System's farmer and cooperative borrowers, as well as the public interest.

We in Arkansas have long known the talents of this man and his dedication to American agriculture. We are proud to have been able to share these talents and dedication over the past 6 years with farmers across the country.●

CIVIL RIGHTS ACT OF 1984

● Mr. HATFIELD. Mr. President, it is regrettable that a bill of the significance of the Civil Rights Act of 1984 has been obscured by this past week's procedural haggling and political demagoguery. My cosponsorship of S. 2568 stems from my deep belief that the Supreme Court decision in the Grove City case was wrong. That court decision held that only the departments within the college which receive Federal funds must abide by Federal antidiscrimination laws. In my opinion, Congress clearly intended that Federal aid to the math department of one university precluded discrimination in the science or history departments of that same university. But without S. 2568, the flawed interpretation of congressional intent by the Supreme Court in the Grove City case will stand. That simply cannot be, and that is why Congress should pass S. 2568.

I also regret that S. 2568 was ever given the title "The Civil Rights Act of 1984." Such a title, whether it accurately reflects the substance of the legislation or not, invites political posturing, stereotyping, and indeed polarization. What is lost behind this bill "label" is a thorough, enlightened debate on the issue. And whenever the Senate is faced with legislation of this magnitude, such debate is absolutely essential.

Compounding this problem, Mr. President, is the exigency of the hour. Whenever the Senate approaches an adjournment date, rules go out the window, debate goes out the window, and mob rule prevails. While I may be overstating matters, I would quickly suggest that the public's impression of this week's proceedings is not far from my description of how the Senate has operated this past week.

Because other Senators wish to speak on this issue, I will not delay the Senate with an iteration of my views on this subject. I appeared before Senator STAFFORD's subcommittee and testified on S. 2568 and stated my support for the bill, as well as my reservations about where this body may be heading by tracking Federal dollars. I stated my aversion to the present practice of making this Nation's colleges and universities the foot soldiers

of the Selective Service System. I stated my intention to offer an amendment to S. 2568 to repeal the so-called Solomon-Hayakawa law, an intention which is no longer possible because of the procedural situation in which the Senate now finds itself.

My opinions on these issues have not changed. It appears the Senate will not have the opportuity to vote on S. 2568 this year, and that is indeed unfortunate. This issue will remain, however, and will become a burning issue in the 99th Congress.

I ask that my testimony before the Senate Subcommittee on Education, Arts, and Humanities be printed in the RECORD.

The testimony follows:

TESTIMONY OF SENATOR MARK O. HATFIELD

Mr. Chairman, the ink had barely dried on the Supreme Court's decision in the *Grove City College* case before a wave of protest swept through the halls of Congress. Because the Court's holding was predicated on its interpretation of Congressional intent, Congress immediately saw the need to remedy a "misinterpretation" of its handiwork. And so the "Civil Rights Act of 1984" came into being, and it did so in a most timely manner. After all, the Court's holding that Title IX was intended by Congress to apply in a "program specific" manner portended doom for effective enforcement of anti-discrimination laws. As you know, Mr. Chairman, I am a cosponsor of S. 2568 and am committed to seeing S. 2568 expeditiously approved.

Mr. Chairman, S. 2568 applies to four key pieces of civil rights legislation. However, because of the time constraints and because of the jurisdiction of this Subcommittee, my testimony this morning will be limited to the provisions of S. 2568 as they pertain to Title IX of the Education Act of 1972.

As you know, the Supreme Court ruled in the *Grove City College* case that the Title IX prohibition against sex discrimination in federally-assisted education programs only applied to programs which receive federal money.

Mr. Chairman, this portion of the Court's decision cannot stand. I was here for the debate on Title IX and remember clearly that Congress did not intend a "program specific" application of Title IX. The issue of Congressional intent aside, good common sense requires that Title IX apply on an "institution-wide" basis. It is ludicrous to suggest that a college could lawfully receive federal assistance in its Science Department and therefore be under the anti-discrimination protections of Title IX, and yet be free to blatantly discriminate in its hiring practices in other departments within the University. But that result is now possible under the Supreme Court's recent ruling.

Mr. Chairman, how important is Title IX? It would be useful for purposes of illustration to look at the athletic departments of major college and universities in the United States. For many years, women's athletic programs were fed crumbs, while the men's program feasted on mouth-watering portions of money. But in the wake of Title IX's passage, those inequities in funding slowly began to change. And today, women's athletic programs are better funded than they ever have been, and the athletic opportunties for women have increased dramatically. Title IX's anti-discrimination provisions have been the catalyst for these changes. However, because colleges and universities never receive federal assistance for their athletic programs, the *Grove City College* decision operates as an open invitation for colleges and universities to return to the discriminatory budgetary practices which prevailed prior to Title IX's passage.

S. 2568 rescinds this open invitation. S. 2568 provides Title IX with the broadest coverage possible, a distinction it enjoyed prior to the Court's decision. S. 2568 sustains the momentum which has been generated in the last decade toward pushing those individuals and institutions which discriminate on the basis of sex, race, age or handicap further back into the dark days of American history.

Now Mr. Chairman, as this Committee knows well, the essence of S. 2568 involves the "program specific" versus "institution-wide" controversy. But if Congress is to be competent in its analysis of the *Grove City College* decision, then it must focus its attention on another controversy, on an issue which I perceive to be of great consequence to the preservation of all civil rights and individual liberties. I am referring to the practice of "tracking the federal dollar," a practice which is evolving into the federal government's all-purpose instrument of intervention.

What I fear is being overlooked by the advocates of comprehensive civil rights legislation are the ominous implications of this practice of tracking the federal dollar. The first 14 pages of the *Grove City College* decision dealt with this issue: that is, whether federal aid to the student constituted federal aid to the College. Basing its decision on "clear statutory language, powerful evidence of Congressional intent, and a longstanding and coherent administrative construction of the phrase 'received financial assistance,'" the Court held that a federal loan to a student constituted aid to Grove City College.

Mr. Chairman, let us examine the direct implications of that line of reasoning and let us do so by examining the fact situation presented in the *Grove City College* case. Here we had a college which historically had refused any federal money and had an exemplary civil rights record. Grove City College simply sought to remain free from the paperwork and regulation of the federal government. But becuase the College accepted students who received student loans, Grove City College was now answerable to the federal government and was no longer independent.

Let me make the record clear right away. Title IX would be of limited use if applied to only those colleges which received direct financial aid. And therefore, the inclusion of indirect federal aid in the definition of "financial assistance" is necessary to ensure that Title IX's provisions have their intended broad impact. The committee may find a way to accommodate small colleges like Grove City College with respect to the Federal paperwork requirements occasioned by Title IX, and I certainly would welcome a fair accommodation to those small schools if it were possible.

Nonetheless, the Committee would serve the interests of this country well by examining the issues of how far the federal government should go in tracking the billions of dollars it appropriates. The court does not say how "indirect" aid can become before it is no longer tracked. But we must ask ourselves that very question. How far are we going to go in tracking federal dollars?

There is a Chinese proverb which reads "fishes see the worm, not the hook." In our enthusiasm to eradicate discrimination, and we all are dedicated to that cause, we need to be mindful of the means we employ. And if those means involve a continued expansion of the federal government's power and presence in our lives, then we are moving closer to the "big brother" government we all wish to avoid.

No one doubts that this nation's progress in civil rights issues can be attributed in large part to the role of the federal government. What I am saying today is simply this: Congress had better exercise extreme caution and care when it permits the federal government to track the dollars it appropriates and to force recipients of those dollars to implement a federal policy.

As a liberal Republican, I am dedicated to the diffusion and the decentralization of power. The federal government today is preempting state governments, local governments, and private citizens at every turn. The Tenth Amendment is being starved to death while the federal government fattens itself on gluttonous portions of jurisdiction and power. Colleges have the duty not to discriminate, and the federal government has a legitimate interest in seeing that federal dollars are not used to perpetuate discriminatory educational systems. But when colleages are ordered to further federal policies unrelated to the educational process, then we have a problem.

To the point, the fact that colleges and universities are required by law to serve as the "foot soldiers" of the Selective Service System poses a menace to our civil rights and liberties. This law is intolerable, and it came about because of the practice of tracking the federal dollar.

Make no mistake, the federal government has a method of operation. Step One: Give the college assistance with no strings attached. Step Two: Allow the college to become dependent upon that assistance for its very existence. And then, Step Three: Blackmail the college. Threaten to take away the money if the college doesn't submit to whatever the federal government asks. That is the modus operandi of the federal government. That is why colleges and universities now are being forced to carry out our nation's draft laws. The government says "Do what we tell you to do, or we might take away your money." And so the colleges and the universities are forced into reluctant compliance, and that is one of the reasons the cases of the *Selective Service System* versus *Minnesota Public Interest Research Group* and versus *Bradley Boe* are pending in the Supreme Court today.

Well, Mr. Chairman, there is a nexus between education and efforts to abolish discrimination. But where is the nexus between education and registering for military service? Why are our colleges and universities being turned into the "special deputies" of the draft? It is my profound hope that this Committee examine this issue in the context of the *Grove City College* decision and S. 2568. The Supreme Court has yet to announce a decision on the constitutionality of the Hayakawa/Solomon amendment, and I look forward to its holding. However, as framers of policy, Congress must reconsider the wisdom of this policy and the wisdom of all policies which emanate from the practice of tracking the federal dollar.

Tracking is a bureaucrat's dream. It represents power and the ultimate authority—the ability to punish. While tracking has served the enforcement of civil rights legislation well, the practice of tracking federal appropriations must be viewed as an extraordi-

nary means to effectuate public policy. The use of tracking to enforce the draft laws points to precisely how dangerous this practice can be.●

FLEET PURCHASE AGREEMENTS

● Mr. PRYOR. Mr. President, I rise today to express my support for S. 2770, important legislation which Senator MELCHER has introduced and I am cosponsoring to end an unfair and discriminatory practice that adversely affects consumers and franchised automobile dealers all across the country. The procedure is fleet discounting, which allows corporate fleet purchasers to buy vehicles directly from manufacturers at prices less than that which franchised dealers have to pay for the same vehicles.

Clearly, fleet purchasing agreements harm both consumers, who are forced to subsidize the manufacturer discounts to fleet purchasers when they buy cars from dealers, and the dealers themselves, who find their markets eroded by fleet purchasers who compete head to head with them and are able to sell vehicles at prices under that which the dealers can sell since the fleet purchasers bought the vehicles at a discount.

The ultimate victim of this unfair and discriminatory procedure is the marketplace. Fair competition is strangled, both for auto dealers and the automobile owners as they attempt to sell their cars at a competitive disadvantage. In no way does the bill seek to prevent fleet purchasers from selling vehicles. On the contrary, it simply would promote free and fair competition. Without this bill, fair competition simply does not exist.

Fleet purchase discounts cannot be justified on the basis of volume, as some might think. Fleet purchasers can buy vehicles at cheaper prices than franchised dealers no matter how small the purchaser may be. Likewise, no matter how big the franchised dealer's operation may be, they cannot buy their vehicles at the discounts afforded to fleet purchasers.

The intent of this bill is clear: It would ensure fair competition in the automobile and truck marketplace, preserve the franchise system of motor vehicle distribution and eliminate discriminatory practices which injure both dealers and consumers. In addition, it would eliminate a preferred class of customers which is now created by manufacturer programs, and would allow all purchasers to enter the automotive marketplace on an equal footing.

Mr. President, I urge my colleagues to join with us in this effort to promote fairness and to see that this issue is addressed—as it should be—by Congress.●

JAMES BOONE: THE SPIRIT OF CHARITY

● Mr. BIDEN. Mr. President, more than 20 years ago, near his home in Milford, DE, James Boone observed a man in terrible condition. He had been neglected, beaten, and generally ignored by those who should have been taking care of him—and he was mentally retarded. All of us have seen such spectacles, but few of us have reacted with the innate generousity of spirit displayed by James Boone.

He took in his battered neighbor, sought and obtained legal guardianship over him, and has given him a home ever since—acting only through a human responsibility he felt in his heart. A few years later, he arranged with State authorities to provide a home for two other retarded men—he called them his boys and they remained with him until his own health prevented him from continuing to care for them.

Today, more than 80 years old, James Boone is himself beset with a disabling illness, but the strength of his compassionate example remains unabated. He reached out to others in need, not because he was obliged to by anything other than his conscience and not because he expected any compensation other than the sense of having done what he should. He did it, very simply, because he loves and cares for people, and because for him to feel such compassion is to act upon it.

In writing to the people of Corinth, the Apostle Paul said,

> Now abideth faith, hope, charity, these three; but the greatest of these is charity.

But Paul was not speaking for what writer John Boyle O'Reilly called "* * * organized charity * * * In the name of a cautious, statistical Christ." The Apostle was evoking the personal, uncompelled, and spontaneous reaction to need that is the basis of our morality and the ruling impulse of true charity.

Mr. President, in any time or place such a sense of charity is more rare than we might wish it to be. But in our time, in Milford, DE, James Boone has reminded us, quietly and asking no thanks, what charity should be and do, that the human spirit at its fullest recognizes no moral distinction between giving and receiving. His life is a lesson in what it should mean to be human, and he should know that it has not been lost upon us.●

DONALD K. SHARPE: AN EXTRAORDINARY "ORDINARY" CITIZEN

● Mr. BIDEN. Mr. President, one of the most durable myths of American society is that the ordinary citizen who claims no special political or social position of power can nevertheless significantly influence the course of events in the community by the force of his energy, imagination, and initiative. And that myth has endured for more than two centuries because, as both our literature and our history remind us, it is deeply rooted in reality. There have been many such Americans.

But in recent years, as our society and its institutions have grown larger and more impersonal, the myth of the individual has lost some of its power to inspire us. We are more inclined than ever, I fear, to believe that "You can't beat city hall." And there is no doubt that we pay a heavy price for that cynical view. We cannot believe that and remain the people we have always thought ourselves to be.

Fortunately, however, we are not compelled to abandon the myth, because American society continues to produce extraordinary ordinary citizens whose individual deeds steadily reshape our world. In my own State of Delaware, Donald K. Sharpe—better known to his allies and adversaries alike as Donny Sharpe—has demonstrated for more than 20 years that he is one of those unique and invaluable individuals who reassure us that both the reality and the myth are as durable as ever.

No one in Delaware has had greater personal impact on the preservation of our natural heritage over the past two decades. And no one claims less personal credit for what he has accomplished.

Donny Sharpe is a wage earner, an autoworker and a member of the UAW. He is a working man, and he is proud of it. But he would be the first to tell you that what he has done falls modestly within the range of ordinary citizenship. Other Delawareans know better.

Next week, the Du Pont Co., Delaware's leading corporate citizen, will present the States of Delaware and Pennsylvania with a joint deed to more than 1,700 acres of land stretching across their mutual boundary and lying within the valley of the White Clay Creek. The White Clay Creek Preserve will be a unique bi-State wilderness park, planned with the assistance of the National Park Service and administered by the two States together.

White Clay Creek is the one almost entirely undeveloped Piedmont stream remaining in Delaware. Its valley is a place of great natural beauty, and it shelters a wide variety of animals and plants, some of them truly rare. It is the prime trout-fishing stream in Delaware, and its stately hardwood forest is an oasis of serenity in the midst of one of the most highly developed areas in the country.

The grant of those precious acres, in perpetuity, is an act of outstanding corporate good citizenship on the part

of the Du Pont Co. It creates a natural legacy of unparalleled value for future generations in the bi-State area. It also establishes, to a very real degree, a monument to the 20-year effort spearheaded by Donny Sharpe to preserve the White Clay Valley from the twin tides of urbanization and industrialization that are sweeping all around it.

The White Clay Creek Preserve is not, of course, the achievement of any one person. Donny Sharpe would be quick to say that, and he would be right. Over the past two decades, at least 20 public and private organizations in both Delaware and Pennsylvania have taken an active hand in saving the White Clay Valley, many of them working together as the Coalition for Natural Stream Valleys.

But as with any community-based effort that achieves significant results, success in saving the White Clay Creek boils down in the end to a question of individual leadership, and no one involved in this effort will tell you it could have succeeded without Donny Sharpe.

The chronology of events affecting preservation of the White Clay Valley is studded for more than 20 years with references to Donny Sharpe—as an organizer, as a lobbyist, as a spokesman, as a negotiator, as an innovator, and as a leader. He organized committees and recruited members; passed around petitions: called press conferences; formed coalitions; conducted hayrides, walks and picnics; drew up park plans; tracked down parcels of land and agitated for their acquisition; lobbied county, State and Federal agencies; buttonholed legislators; and made saving White Clay Creek a major community issue with broad public support.

When the years have weighed against him, he has been tireless and impossible to discourage. When he has been opposed by powerful interests or impeded by stubborn bureaucracy, he has been a skillful and creative advocate. When the future of the White Clay Valley has been at stake, he has been everywhere. And he has succeeded.

White Clay Creek will continue to flow freely through a natural stream valley of great beauty, where grateful future generations will find an asylum of wilderness in an increasingly crowded landscape. The birds will sing, the fish will swim, the deer will browse, the squirrels will chatter in the trees, and our children will know the world as it was once when the human race was young.

But, Mr. President, I believe something even more important than that has been preserved in the White Clay Valley. The myth of the individual that is so necessary to the very spirit of our democracy has once more been sustained by the personal dedication of an ordinary private citizen to the achievement of an important public purpose.

On the geographic map of the United States of America, White Clay Creek is a feature of no importance, perhaps, to any but the people of Delaware and Pennsylvania who live within a few miles of it. But on the moral map of American democracy, the example of Donald K. Sharpe and a multitude of other ordinary Americans who voluntarily shoulder the responsibility for the future of our society and the quality of our national life, looms large and encouraging to all of us.●

U.S. NATIONAL SECURITY POLICY OBJECTIVES

● Mr. SYMMS. Mr. President, on September 17, 1984, the Air Force Association of the USAF passed an excellent statement of policy entitled "The Price of Freedom." I ask that this brilliant description of sound U.S. national security policy objectives be printed in the CONGRESSIONAL RECORD.

The article follows:

THE PRICE OF FREEDOM

Freedom is what the United States is all about. The price of freedom is eternal vigilance.

Our Founding Fathers commitment to freedom and just peace gave birth and purpose to America. But freedom and the peace to enjoy it are not an automatic birthright of Americans. These precious commodities have to be earned, sustained, and defended in a world divided by competing ideologies, differing values, and conflicting standards of conduct—all the while imperiled by weapons of apocalyptic destructiveness.

These are the realities; probably they will persist for years to come. We can't shout them away with the slogans of pacifism and accommodation. Even with the best of intentions, we cannot wish them away or ignore their presence. The foundaitons of peace with freedom must be built on the nation's firm resolve not to lose either and the military means to safeguard both.

Peace must not degrade into a choice between capitulation to aggressive totalitarianism or nuclear holocaust. If we make the forces of freedom strong enough to deter both, we will not be faced with this intolerable choice. There is no other choice, for anything less jeopardizes both peace and our freedom.

The cry is rising at home and abroad that the West should "give peace a chance." This is a case of the right message going to the wrong address. This bitter irony was captured by the President of France when he said the West produces pacifists while the Soviets produce weapon systems. Peace is not being threatened by the United States, for our nation does not seek to conquer or coerce. Neither is peace threatened by NATO, a purely defensive alliance. The threat to peace comes from Soviet imperialism that promises to dispatch to the "garbage heap of history" those who stand in its way, that violates treaties, invades its neighbors, and builds arsenals far in excess of legitimate defense needs.

Arms-control and arms-reduction negotiations are not at an impasse because the U.S. representatives walked out on their counterparts or failed to offer real cutbacks in nuclear force levels. The U.S. representatives not only stayed, but they remained ready to negotiate. The Soviets did walk out, leaving the U.S. delegation face to face with empty chairs and empty rhetoric.

Since 1946, when the U.S. had a monopoly in nuclear weapons, this nation has worked earnestly toward their control, in consonance with the repeated mandates of both of its political parties. The Soviet Union has used arms control as a device for gaining strategic advantages.

The U.S. position on arms control and arms reduction rests on the belief that a full-scale nuclear war would be catastrophic and therefore must be deterred. Further, although the U.S. and the U.S.S.R. will be rivals for the forseeable future, they share a common interest in reducing the risk of such a war, in which all of humanity would be the loser. Finally, the U.S. approach to arms control recognizes that the Soviets will not give "something for nothing." The modernization of the U.S. strategic forces, therefore, is not only imperative to enhance national security but also to provide leverage if and when the Soviets return to the bargaining table.

This Association believes that the U.S. position on strategic arms reduction must treat as nonnegotiable four fundamental principles. To be acceptable, an agreement must:

Produce significant reductions in the arsenals of both sides.

Results in equal levels of arms on both sides, since an unequal agreement, like an unequal balance of forces, might encourage coercion and aggression.

Be fully verifiable, because when national security is at stake, agreements cannot be based only upon trust.

Enhance U.S. and allied security and reduce the risk of war.

Arms control is not an end in itself but rather a complementary element of national security to ensure peace and stability. The President's Commission on Strategic Forces, known also as the Scowcroft Commission, succeeded in formulating a brilliant concept for a longterm bipartisan approach that fused strategic force requirements and arms control. The crowning achievement of the Scowcroft Commission was a national consensus of broad political reach. But Soviet intransigence, aimed deliberately at eroding this consensus, is threatening to divide America and thereby cause the loss of the momentum toward strategic stability as well as equitable arms control. We must not let this happen. We must not let the Soviet Union manipuate America's political process or subvert key decisions on vital national security issues. We must not let the Soviet Union dictate our position on arms-control objectives or our definition of peace with freedom. In short, we must not let the Kremlin demoralize or dupe us by its political maneuvers that seek to humiliate us and separate us from our allies. The central requirement, this Association believes, is to retain that consensus and keep intact the five-pronged strategic force modernization program that the Scowcroft Commission endorsed. Elimination of any one component could collapse the entire program structure or lead to piecemeal attrition of the other elements. This U.S. strategic force modernization effort does not move the world toward nuclear war but away from it by enhancing the strategic balance, creating incentives for the Soviets to reduce their in-

ventory of first strike weapons, and moving toward a mix of offensive and defensive and strategic capabilities.

Modern ICBMs—both the MX and the single-warhead small ICBM type—are imperative to provide a response to the some 800 MX equivalents in the Soviet ICBM arsenal. These Soviet weapons have put at risk the US ICBM force of Minuteman II and Minuteman III missiles. This Soviet move is designed to render obsolete a key component of our strategic forces and thus, by default, permit them to dictate the makeup of the US arsenal. Our failure to counteract this Soviet advantage could have disastrous consequences. At a minimum, it would create an incentive for the Soviets to erode, in similar fashion, either the sea-based or air-breathing leg of the U.S. triad.

The other elements of the mutually reinforcing modernization package—the B-1B and Advanced Technology Bomber, the Trident D-5 sea-launched ballistic missile, improved, survivable command and control systems, and revitalized strategic defenses—must be developed and deployed with the same vigor as the new ICBMs. All are essential to counter present and projected Soviet force levels. Deterrence is a product of capability and credibility. If either is low, so is deterrence.

The quickest, surest way to weaken the U.S. capability to deter is to freeze current strategic force levels or to enter into unilateral moratoriums on the testing of new, essential weapon systems. The nation must not forget the warning by President Kennedy, on March 2, 1962, that "we now know enough about broken negotiations, secret preparations, and the advantages gained from a long test series never to offer again an uninspected moratorium."

This Association is equally concerned about attempts to shortchange fundamental force structure requirements in both the strategic and conventional warfare arenas by alleging that correcting deficiencies in readiness and sustainability must be funded first. We need both essential force levels and essential preparedness and sustainability. One will not work without the other. Sidestepping politically tough decisions on the acquisition of essential weapon systems or needed increases in force levels by portraying readiness and sustainability as the only urgent defense requirements—and thereby creating the mirage of a prodefense posture with the electorate—may buy votes but hurts defense. Underequipped, understrength forces mismatched against superior enemy forces would not gain from ample stores. Under such circumstances, the only beneficiary might be the enemy, after he overruns the defender's position and captures these stores.

These issues—and the fundamental question of preserving peace and deterring war—can be resolved only if the electorate understands them fully. War is an act of politics meant to compel the defender to do the aggressor's will. The defender either submits to the will of the aggressor by capitulation and suffers the consequence or contests the aggressor on the battlefield. The Soviet Union understands the politics of war with alarming clarity. It is Moscow's avowed creed that, when waged by the Communist camp, any war is just and progressive, for it would be the continuation of revolutionary policy, whose ultimate goal is to make the world over in the Soviet image.

Under our system of government, policy ultimately is the responsibility of the American people. The political will of the people determines whether the military forces needed to deter aggression are put in place or not and whether or not freedom—America's own or that of allies—is worth defending and fighting for.

This Association believes that the task of keeping all of our citizen properly informed on matters affecting national security, preservation of peace, and deterence of war is paramount. We have long been concerned with correcting distorted public impressions, inadvertent or deliberate, concerning the role and responsibility of the nation's military forces. The Vietnam era, and the extensive media reporting associated with it, exacerbated this pervasive problem and has left lasting scars on our democratic society and our services.

We support enthusiastically current efforts by respected individuals, agencies, and responsible media leaders to correct false impressions, avoid slanted reporting, and provide the nation with the comprehensive and balanced information needed to make proper provision for our national security.

It is our firm belief that nothing would strengthen America's deterrence capabilities—and hence the chances for peace—more than the restoration of an enduring, bipartisan consensus on our vital national security requirements and of the will to support them on a sustained basis. The stakes for America, for peace, and for freedom demand this from us now and in the years ahead.

This is our challenge. Peace through strength is not just a slogan; it must become a fact of life.●

GRIZZLIES, SHEEP, AND PEOPLE

● Mr. SYMMS. Mr. President, a copy of the September Idaho Wool Growers bulletin just arrived in my office. In this newsletter is an article entitled "Grizzlies & Sheep & People," by the executive director of the Idaho Wool Growers Association, Stan Boyd.

Many man/bear encounters occurred in 1984 involving the grizzly bear. All of us are concerned about protecting our natural resources, including wildlife. Endangered species merit special attention. But in some cases, as Stan's article points out, people have become the endangered ones.

As I read Stan's article with a great deal of interest, it struck me that all of us would be much better off if we would adopt the commonsense solutions suggested by Stan in his article.

The time has come for us to approach grizzly bear problems on a reasoned basis and my colleagues are urged to seriously consider the commonsense recommendations made by Stan Boyd.

I ask that the article be printed in the RECORD as it appears in the Idaho Wool Growers bulletin.

The article follows:

[From the Idaho Wool Growers Association, September 1984]

GRIZZLIES & SHEEP & PEOPLE

(By Stan Boyd)

Like a slow but sure infestation of noxious weeds in your back pasture, the past decade has seen the grizzly making the news more and more until like the weeds, the grizzly issue is at our front door.

The summer of '84 has seen this conflict between man and beast come to a head of sorts. The logical questions to follow are: 1) "why is that" and 2) "who's winning?" To answer the second question first, right now neither one is winning. In fact the score card shows both losing. In visiting with folks from various backgrounds and opinions, most all agree that if a little more common sense were to be injected into the grizzly bear recovery plan, the three-way clash between grizzlies, sheep and people could be lessened significantly. Hopefully, the first question will be answered by the end of this article.

To begin with, most folks are concerned about truly endangered species—all types, including the sheepherder. These same folks agree the activities of the grizzly this year show that the current recovery plan for the grizzly bear needs to be modified. A sample of recent grizzly encounters are as follows:

"July 30, Brigitt Fredenhagen, 25, Basel, Switzerland was killed by a grizzly while camping in the back country of Yellowstone National Park about 10 miles north of Yellowstone Lake.

August 5, Bryon Lyrip, Santa Barbara, California, while camped with his family at the Grant Village Campground on the southeast shore of Yellowstone Lake was severely mauled by a grizzly.

On August 20, Robert and Barbara Pettings—she a Yellowstone employee—were attacked and injured by a grizzly in Hayden Valley area of the park.

August 24, a grizzly took a midnight stroll through a laundromat in the town of West Yellowstone, Montana.

August 29, a grizzly was wounded while trying to feast on Bill Enget's buck herd. The incident occurred on private ground less than 300 yards from Enget's house.

September 3, Jim Marshall, West Yellowstone, Montana, was chased a short distance while attempting to empty garbage into a dumpster. An hour later Marshall spotted two other grizzlies eating out of a dumpster on the same street.

September 5, an out-of-state couple were severely mauled in Glacier National Park. This was the third such incident this year in the park.

A wool grower that's been in the news the past year in regards to grizzly-sheep conflict is Bill Enget of St. Anthony. Bill owns a ranch near the east end of Henry's Lake Flat, just over the Continental Divide from Yellowstone National Park. His family has grazed sheep in the area since 1924. During the summer of 1983, a prominent but now deceased grizzly, No. 38, and her two cubs took a liking to Bill's unadvertised hospitality, as well as his sheep. They moved in to the Two Top Area of Bill's range. The Two Top Area is classified Situation I, which means all management of the area is worked around the grizzly. This area borders Bill's privately owned ground, which is classified Situation III. This means if a grizzly shows up, the grizzly has to be moved.

What is lacking is a Situation II Area, or buffer zone, between the two other zones which gives all parties involved a chance to work things out before a conflict arises.

When grizzly No. 38 first showed up in the Two Top Area, Bill contacted the proper authorities and the bureaucrats moved in. Over a year later, which is right now, Bill Enget has lost his range "temporarily" and 'ol No. 38 is dead, subdued not by an angry rancher, but a sedative overdose administered by representatives of the Interagency

Grizzly Bear Committee. See what I mean by nobody winning?

As mentioned above, the Enget family was the recipient of another visit by a grizzly in the early morning hours of August 29. Unfortunately, there wasn't time for visiting with authorities in regards to steps to be taken. The bear crawled right into Bill's buck herd, less than 300 yards from his house. When the dust settled, a wounded grizzly was on the run.

In my opinion, the single most important decision made that started all this fuss occurred around 1971 with the closing of all open-pit garbage dumps in our National Parks. Grizzlies had been feeding in these dumps for some 50 years. The reasoning given by the Park Service is that the bears, because of smell or whatever, associated man with garbage. They didn't want the bears putting two and two together and start eating tourists on a regular basis. Also preservationists couldn't stand the thought of all those natural wild carnivores turning into bums hanging around garbage dumps all day. Thus the dumps were closed and the bears, grizzly and otherwise, faced with a sudden food shortage, did the natural thing—they left. Thus started the increase of grizzly-sheep-people conflict reports.

A sense of fair play and rational thinking is needed on behalf of all parties concerned.

The following would go a long way in getting things started:

1. Start a feeding program in the remote confines of Yellowstone and Glacier National Parks. I'm not advocating a return to the open-pit garbage dump days, but rather a feeding program utilizing deer and elk road kills collected during the winter and/or carcasses collected from over-populated herds. All governmental, environmental, and citizen groups involved simply have to face reality. They can have grizzlies eating these unnaturally placed carcasses in peace and quiet or they can have grizzlies eating out of dumpsters in West Yellowstone, raiding campgrounds, or eating sheep. All of these will only lead to more dead grizzlies, sheep and people. Since 1970, a total of 193 dead grizzlies have been documented. The breakdown is as follows: Sixteen have died naturally; 42 have been killed illegally; and 135 have been killed through human actions deemed legal or at least unavoidable. The largest number, 87, were victims of management. The vast majority of these were killed by unintentional drug overdose administered by authorities trying to relocate the bears. If a feeding program were implemented, we might just find fewer bears having the need or desire to leave the parks and wind up a statistic like so many others. It's worth a try.

2. Transport immediately, before conflict occurs those grizzlies found in areas where if left alone, the chances for conflict are high. In other words, if the authorities know a grizzly is in the area, don't wait for the grizzly to wander onto private ground, or into a laundromat, or into a campground.

3. Reclassify the Two Top Area from Situation I to Situation II. As mentioned, this area borders private property (Situation III) and is used for a variety of multiple uses. A buffer zone is sorely needed here. Enget shares the valley with several summer homes and Island Park is less than four miles away.

4. Give Bill Enget his range back. He has proven he is willing to work with state and federal officials in regards to the grizzly. He is willing to accept the risk of losing sheep to the grizzly and is willing to move his sheep when such problems occur. He should not be penalized for cooperating.

As mentioned above, these suggestions are just a starting point. What is certain is that the present plan for managing grizzlies isn't working very well. It's time to reassess and strive for a plan that is flexible, comprehensive and fair for all parties involved.●

NICARAGUA'S UNTOLD STORIES

● Mr. SYMMS. Mr. President, "Nicaragua's Untold Stories," an article by Robert Leiken, appeared in the October 8 edition of the New Republic. The notable fact about the author is that he is clearly not a supporter of the administration's policy toward Nicaragua. In fact, he condemns the mining of Nicaragua's harbors, has testified against funding to the Contras before Congress, and supports a negotiated settlement to what I believe he misterms the "civil war" in El Salvador.

Despite my disagreements with Mr. Leiken's approach to solutions in Central America, I admire his intellectual honesty about the internal situation in Nicaragua. There are many in the media whose reporting, purposefully or not, shapes the internal situation to suit their politics. Mr. Leiken, to his credit, does not.

Some of the most significant of Mr. Leiken's observations are that:

First, sympathy with the Contras is becoming more open and more pervasive.

Second, the standard of living in Nicaragua was deteriorating well before the U.S. backed Contras turned to economic sabotage in the spring of 1983.

Third, the Sandinistas have no intention of holding fair elections. The control of the press is vital to ensure that the world community views the election process as legitimizing Sandinista rule.

Fourth, the myth of popular support for the Sandinistas is destroyed by the revelation that draft resistance is widespread and increasing, that life is worse in almost every respect than under Somoza, and that attendance at Sandinista rallies and other demonstrations of public support is mandated by the issuance of ration cards, which are confiscated from those who refuse to participate in Sandinista activities.

Fifth, the Sandinistas continue to enjoy the support and favor of the major media, largely because many reporters in Nicaragua confuse desire with reality; that is, they want prospects to be brighter than they were under Somoza. But, despite Sandinista disinformation, the people of Nicaragua do not view the Sandinistas as victims of American aggression, but instead see themselves as victimized by the Sandinistas.

Mr. President, I submit "Nicaragua's Untold Stories" to the RECORD and hope my colleagues will read it before deciding upon continued American aid to the freedom fighters there.

The material follows:

NICARAGUA'S UNTOLD STORIES

(By Robert S. Leiken)

The 72-year-old señora lives in a solid stone house constructed by the Sandinista government. her son, German Pomares, was a founder of the Sandinista National Liberation Front (F.S.L.N.) who perished leading the final offensive against Somoza in 1979. Set off by a well-kept garden from the shacks of the cotton field workers of El Viejo, Mrs. Pomares's home appears comfortable. But inside, the mother of the nationally revered martyr sleeps on a cot covered with rags, and she hobbles through bare, unfurnished room. She lives on a pension equivalent to $10 a month. She has made four trips to the local hospital, but has yet to succeed in getting a doctor's appointment. Three times she has requested an audience with Comandante Tomas Borge, now the sole surviving founder of the F.S.L.N. Each time, her son's old comrade has refused to receive her.

For one who has sympathized with the Sandinistas, it is painful to look into the house they are building, but it is unwise not to. I spent ten days in Nicaragua in August, accompanied by my brother, a trade unionist from Boston. It was my sixth visit since the revolution, and my longest since 1981. I have testified in Congress against aid to the *Contras* and have supported (and continue to support) negotiations to end the civil war in El Salvador. Yet each succeeding trip to Nicaragua drains my initial reservoir of sympathy for the Sandinistas. Last year I wrote in my introduction to a book treated by the press as the "Democratic alternative to the Kissinger Report" that the Sandinistas' "failure to preserve the revolutionary alliance with the middle class and small producers as well as sectarian political and cultural policies [had] polarized the country, led to disinvestment, falling productivity and wages, labor discontent, and an agrarian crisis." This visit convinced me that the situation is far worse than I had thought, and disabused me of some of the remaining myths about the Sandinista revolution.

Everywhere we went we confronted the disparity between these myths and the unpleasant truth. The Sandinistas blame Nicaragua's economic crisis on the *Contra* war and U.S. economic sanctions. Yet the standard of living in Nicaragua was deteriorating well before the U.S.-backed *contras* turned to economic sabotage in the spring of 1983. A December 1981 internal staff memorandum of the International Monetary Fund found that real wages had fallen 71 percent since July 1979. They have continued to decline in succeeding years. And even with the U.S. "economic boycott," over 25 percent of Nicaragua's exports still go the United States, not much less than under Somoza. Nicaragua can no longer sell sugar at subsidized prices to the United States, but what it has lost in this market it has sold to Iran at prices above those of the world market. The war and U.S. sanctions have compounded a mess created by the Sandinistas themselves.

Nicaraguans themselves do not seem to accept Sandinista claims that *Yanqui* aggression is responsible for the general scarcity of consumer goods. Peasants are obligated to sell their goods to the Ministry of Commerce and Industry, and contend that its prices are too low to enable them to

make ends meet. A large portion of the peasantry is now producing only for its own consumption, and the resulting shortages have dramatically driven up prices. The marketplace, once the bustling center of Nicaraguan life, is now a daunting experience for buyers and sellers alike. As shoppers make the rounds looking for rice, beans, milk, toilet paper, soap, or light bulbs, the shopkeepers' constant reply is *"No hay"* (There isn't any). For anyone unable to afford the inflated prices or without the foreign exchange to shop at the new foreign currency stores, Eastern European-style queuing is now routine.

One of the most depressing aspects of our trip was to hear from so many that their lives are worse today than they were at the time of Somoza. Before the revolution Nicaraguans ate well by Central American standards. Thanks to the country's fertile soil and its small population, even poor Nicaraguans were accustomed to beef and chicken. Now consumer goods available to the masses in other Central American countries are no longer obtainable. Barefoot children are hardly uncommon in the region, but I had never seen so many completely naked. As we encountered them, their distended stomachs displaying the telltale signs of malnutrition, Nicaraguans would bitterly recall the government slogan, *"Los ninos son los mimados de la revolucion"* ("Children are the spoiled one of the revolution").

The shortage of basic necessities is also breeding pervasive corruption. When we asked a rural storekeeper why he was able to sell Coca-Cola while many restaurants in Managua were not, he said that he had obtained the soft drink with a bribe. We later met Ramiro, a Coca-Cola deliveryman in Leon and a former member of the F.S.L.N., hitchhiking home from the city of Chinandega. He was returning from his five-hour weekly excursion after work to procure the three bottles of milk his children need. The milk cost him 150 cordobas, 30 percent of his weekly wages. (The official exchange rate is 28 cordobas to the dollar; the real, or black market, exchange rate is 250 to 1.) To get the money, he told us, he accepts bribes from some of his customers for extra cases of Coke. "This system is corrupting me against my will," he said.

Ramiro's desperate measures hardly merit censure. But others, especially high-ranking Sandinistas, are turning big profits from the scarcity. Members of a leather workers cooperative in Masaya told us that they are officially allotted 10,000 meters of leather a month; they receive between 5,000 and 7,000 meters. The cooperative's Sandinista directors sell the remainder in Managua's Eastern Market and pocket the money. It is now a general practice for coordinators of the neighborhood Sandinista Defense Committees (C.D.S.) to sell part of the provisions allotted to them by the government on the private market. The people are then informed that provisions have run out.

In the village of El Transito, two hours northwest of Managua, most of the people belonged to the C.D.S. at the outset of the revolution. Now there is but one member, the coordinator, formerly the village's leading Somocista. (The transformation of Somocistas into Sandinistas and of Sandinistas into oppositionists is very common. In every town we visited we were told that former Somoza officials are now running C.D.S.s.) The coordinator enriches himself by selling C.D.S. foodstuffs and supplies in the Eastern Market. As we passed his house, we were able to peer through the window and see him standing there in his dark glasses, isolated and reviled.

The life-styles of the new rich contrast vividly with that of the rest of the country, and with official rhetoric. A Sandinista nomenklatura has emerged. Party members shop at hard-currency stores, dine at luxury restaurants restricted to party officials, and vacation in the mansions of the Somoza dynasty, labeled "protocol houses." Vans pull up daily at government and party offices, to deliver ham, lobster, and other delicacies unavailable elsewhere. In a private state dining room, I ate a sumptuous meal with a comandante at a long table, attended by five servants. The image of the protruding stomachs of the "spoiled ones of the revolution" intruded while we consumed our lemon meringue pie.

Intellectuals and former officials claim that decadence is endemic in upper government and party echelons. A former Sandinista diplomat recounted tales of high jinks and extravagance by Sandinista officials on foreign junkets, and women state employees complained of the same sexual harassment and blackmail that is common elsewhere in Central America. The swinging Sandinista leadership cynically presents an image of revolutionary asceticism to the outside world while being addicted to the very vices that it routinely denounces in "degenerate bourgeois society."

The widespread corruption from the lowest to the highest levels of government makes it hard for Nicaraguans to accept the notion that their problems originate from abroad, or that they should endure further sacrifices "to confront the imperialist enemy." A jobless worker in the Indian town of Monimbo complained, "The C.D.S. insists that we unscrew the street lights to conserve energy in the fight against imperialism. People are falling in holes while the Sandinistas get rich on our misery. What are their sacrifices?"

Those Sandinistas who have refused to be corrupted recognize that their dreams have turned into a nightmare. One government official, a good friend, told me, "We have given birth to a freak. But we must keep him alive." Yet what is to be done when the freak becomes a menace to its people and neighbors? There is a general impression among those in the United States properly aghast at the C.I.A. mining of ports and U.S. support for the professional torturers among the contras that the Sandinistas are the victims, not the victimizers. Inside Nicaragua, however, the image is reversed.

The word Nicaraguans employ the most frequently to describe the Sandinista government is engaño (hoax or trick). In the city of Chinadega, we talked with transport workers from an opposition union who on their own time and with their union dues had painted road signs to make the city safer for driving. The Sandinista government took credit for the improvement. The national literacy campaign is one of the most vaunted achievements of the revolution, praised even by many of the government's critics. Yet two "graduates" of the literacy program in a peasant village told us they could not read their diplomas. We couldn't find one student from the campaign there or in the neighboring village who had learned to read. The campaign did somewhat better in the larger cities such as León, where, we were told, some had learned to read in follow-up courses. But most had forgotten the little they had learned, and at best could now only sign their name for election registration.

The most outrageous engaño occurred during Pope John Paul II's visit to Managua in March 1983. According to Sandinista accounts, the Pope's mass had been "spontaneously" interrupted by the crowd, offended by the Pope's failure to heed the request of mourning mothers who wanted him to pray for their sons killed in the battle against the contras. Two former government officials, who are still Sandinista supporters, told us a different story. They had been appalled at the interruptions made by cadre from the Sandinista women's organization, furnished with microphones and loudspeakers. After the Pope left, the crowd departed in disgust and the Sandinista leadership was left awkwardly standing on the platform. The two officials, depressed by the spectacle, retired to a bar located next to the offices of the F.S.L.N. radio station. They overheard a group of Sandinista radio employees at an adjoining table bragging about how they had played pre-recorded tapes of crowds chanting Sandinista slogans into the sound system.

The Sandinista engaño has been most successful among the resident foreign press. Journalists familiar with the atrocities of the right-wing tyrannies of Central America wish to believe, quite understandably, that the Sandinistas present an alternative. In today's Nicaragua it is easy to confuse desire with reality. The resident press also frequently merges with the larger population of "internationalists," a term which embraces all those foreigners expressing solidarity with Sandinistas, from Bulgarian and Cuban apparatchiks to idealistic North Americans and West Europeans. It is the general feeling among Nicaraguans that the foreign press in Managua strongly sympathizes with the government, and that it is dangerous to speak openly with them. Disaffected Sandinista intellectuals, friends of friends, who poured their hearts out to me in Managua were afraid to meet with reporters from the U.S. press. We spoke with a resident of Monimbo, where a spontaneous insurrection had ignited the revolution against Somoza in February 1978. We had spent an evening together a year before with a mutual friend, yet initially he was still distrustful. He told us that the revolution had produced "many advances for the people"; two hours later, he was saying, "Monimbo appears to be sleeping, the way it was during the time of Somoza, but the people are united. One day soon they will stand up again."

One of the most common means of sustaining the myth of popular support is the Sandinistas' use of the rationing system as a lever. In numerous villages and cities, we learned that ration cards are confiscated for nonattendance at Sandinista meetings. In Masaya we were told the before one of the "Face-the-People" meetings (in which comandantes meet with local residents) the ration cards of members of cooperatives were collected; their return was made conditional on attendance. At one such meeting in Chinandega, Ortega branded talk of inflation "a counterrevolutionary plot." A pound of beans could still be purchased for five cordobas, he claimed. A man in the audience stood up and shouted, "Comandante, here's ten cordobas. Please get me a pound of beans." According to his neighbors, he was imprisoned later that day.

Although Nicaraguans still for the most part bow to government pressure, they do so sullenly and without conviction. We witnessed two Sandinista demonstrations, one in Masaya and the other in Chinandega, two

historically pro-Sandinista cities. The Chinandega rally, held at 10 on a Wednesday morning, celebrated the fifth anniversary of the literacy campaign. It was attended entirely by students obligated to go by school authorities. As they marched through the streets chanting slogans distributed to them on small pieces of paper by their Sandinista instructors, pedestrians did not so much as turn their heads. Some of the presumably grateful, presumably literate, people came to greet the comandante sent from Managua.

In Masaya the demonstration did not even benefit from student participation. As we approached the gathering in the fading afternoon, a large group of students stood on the steps of the Catholic school. They had refused to join the demonstration because the Sandinistas had removed several of their Catholic teachers. The small group of demonstrators had glazed looks in their eyes as the last speeches wound down. I asked a campesino in attendance whether any of the comandantes had come. He answered, "I don't know. I slept through it."

The Nicaraguan populace has been saturated with Sandinista bombast which issues from radio, television, newspapers, local and national political meetings, and block committees, and which is propagated in the schools, the factories, and the cooperatives. The people resist in different ways: with the indifference and boredom we saw in Chinandega and Masaya; with a resurgence in religious feelings which had filled churches and Catholic schools; with suspiciousness and bitter humor.

Jokes and wisecracks against the Sandinistas are proliferating. The two pro-Sandinista newspapers, Barricada and Nuevo Diaro, are referred to as Burricada (as in bore) and Nuevo Diablo. The F.S.L.N. is "the Somocista National Liberation Front." "Why do people prefer Tona [one of the two Nicaraguan beers]? Because the other, La Victoria, is bitter." Suspicions of the government are so deep that families of the war dead no longer believe that the government coffins shipped back from the front contain the bodies of their sons. (The coffins are sealed as a matter of policy.) People believe, improbably, that the coffins hold rocks or banana tree trunks. In Monimbo we were told that when a family and friends tried to open coffins with a hammer and chisel, they were carried off by the police.

Nor is popular discontent restricted to these forms of passive resistance. Sympathy with the contras is becoming more open and more pervasive. I was stunned to hear peasants refer to the contras as "Los Muchachos," the boys—the admiring term used to describe the Sandinistas when they were battling the National Guard. It was apparent that many Nicaraguans are listening to the "Fifteenth of September," the contra radio station. It must be noted, however, that the contras do not operate in the areas we visited, and sympathy toward them may well be proportionate to absence of direct contact.

Draft resistance has become a mass movement in Nicaragua. The government passed legislation last September under which Nicaraguan men between the ages of 16 and 40 can be drafted for two years. When we were in Nicaragua, four hundred women gathered outside the draft board in La Paz Centro, a trading town thirty-five miles northwest of Managua, to protest forced recruitment of their sons. The demonstration was the latest in a string of anti-draft demonstrations in cities and towns throughout Nicaragua. New York Times correspondent Stephen Kinzer, one of the few resident reporters to sniff out the engano of Sandinista policies, reported on June 26 that "draft evasion is widespread," and found that high school attendance in six major provincial capitals had declined by as much as 40 percent. A student in León said that his high school class of forty-five had fallen to fourteen during the past year. Honduran researchers say Nicaraguan draft evaders pay 25,000 cordobas to be transported across the border, part of the money going to Nicaraguan Army officials in bribes. The demand is so great that border smugglers are now requiring groups no smaller than five. Draft resistance strikes a powerful blow at the myth of widespread popular support for the government. Young people have historically been the mainstay of Sandinista support.

Perhaps the most illuminating political event in the five years of Sandinista rule was a rally held for opposition presidential candidate Arturo Cruz in Chinandega on August 5. On that Sunday morning, Sandinista chicanery, censored domestic and lackadaisical international press coverage, and the growing vigor of the opposition converged.

Chinandega, a city of approximately 60,000, was historically the heart of Sandinista organizing efforts and support. These efforts radiated out to the surrounding cotton and sugar fields, to the country's two largest sugar refineries nearby, to the stevedores at Corinto, Nicaragua's largest port, and down to León, another center of anti-Somoza resistance. One would have expected that here the opposition would be weakest, the government strongest.

The Chinandega demonstration was the last series of six held in support of Cruz. Each rally had been larger than the last. The organizers were denied access to Sandinista-controlled TV stations. They were able to place an ad on the one local non-Sandinista radio station, but they relied chiefly on two vehicles with loudspeakers, and on word-of-mouth. Two days before the rally three "angels," as members of the state security are commonly known, called on the organizers of the demonstration and accused them of being C.I.A. agents. The turbas divinas, "divine mobs" of Sandinista supporters, circled their houses at night beating sticks against cans and chanting until the small hours of the morning. (Somoza's version of the turbas—the Nicolasa—used to employ the very same method against the opposition.) Meanwhile, Sandinista newspapers and television branded the opposition as consisting of contras and agents of American imperialism, and announced that further "aggressions" by them would not be permitted. Local authorities implied that the demonstration would be declared illegal. The day before the rally, Daniel Ortega, the head of the Sandinista government and the Sandinista presidential candidate, spoke to two hundred youths in El Viejo, a village three miles away. El Viejo's residents later claimed that the youths had been incited against the demonstration's leaders.

Fearing an attack by the turbas, organizers did not put up the banners or placards until early on the morning of the demonstration. But as they were working, fifty turbas burst into the soccer field, tearing down the banners and dispersing the organizers. They returned later during the day to try to repair the damage.

We spoke with two organizers—middle-class, professional women who had belonged to the F.S.L.N. before the revolution. (According to one, "the F.S.L.N. says that the opposition is Somocista. But most of the old Somocistas are working with the government. The opposition has remained the same. It is the F.S.L.N. that has changed.") They told us that after the turbas' nighttime serenading, they went to complain to the offices of the party representative, the chief of police, and the chief of state security, and to the Sandinistas. They were assured that the turbas would be controlled and that the demonstration would not be obstructed. After the early-morning attack, the two women went to the house of the local party leader. The door was open, and they entered. In the next room they heard the turbas informing him of the success of their mission.

There is no question that many who wished to go to the Cruz rally stayed at home. On the day of the rally, local authorities impeded traffic from outlying areas into Chinandega. As Cruz marched through the city, many people opened their doors, gave him the "V" for victory sign, and then ducked back into their homes to avoid the ever-present eyes of the C.D.S. One woman said she did not go to the demonstration because she lived too close to the Sandinista youth office. She told of others who received threatening phone calls. Two weeks after the demonstration, a gas station attendant in Managua told us he had gone to the rally and that three friends who had accompanied him were in jail.

As might be expected, estimates of the turnout vary. Opposition figures soared as high as 20,000; local newsmen said 7,000. Given Sandinista efforts to reduce attendance, even 7,000 seems an impressive number, especially since three months before, the F.S.L.N. only managed to get 2,500 to Chinandega for the country's principal May Day rally. NBC taped the entire Cruz demonstration. Should this tape ever be shown publicly, experts will be able to make an accurate judgment about the number of demonstrators. When I viewed the tape it was evident that these thousands of demonstrators were hardly "bourgeoisie," as the Sandinistas claimed. They were overwhelmingly workers, peasants, and young people. I learned later that workers had hired their own trucks to come from the San Antonio Refinery and from the port of Corinto. They chanted slogans like "El frente y Somoza son la misma cosa." ("The Sandinistas and Somoza are the same thing.")

When Cruz began to speak, dozens of turbas armed with sticks, stones, and machetes surrounded the field. They came in on what appeared to be army trucks chanting, "Power to the people." They proceeded to break the windows and puncture the tires of demonstrators' cars. The police seemed to make no serious effort to restrain them. When the turbas attacked the demonstrators themselves, opposition youths dispersed, only to return wielding their own sticks and stones. Outnumbered, the turbas were routed.

The almost complete absence of foreign and domestic press coverage enable Sandinista officials to characterize the demonstration their own way. We encountered a Sandinista official drunk at midday on the streets of El Viejo. He told us that the demonstration had taken place at the private home of a bourgeoisie and was attended only by a handful of plutocrats. In Managua, the Sandinistas told us that there had been several hundred demonstrators. The

following day the Nicaraguan press carried no mention of the event except for one photograph in the official newspaper Barricada which purported to show the turbas attacked by "fascist" demonstrators. La Prensa had devoted several articles and photographs to the demonstration and the clashes, but these were all censored, and the paper did not appear. This was the very day that Daniel Ortega had announced the lifting of press censorship.

The demonstrations for Cruz's candidacy tested the popular mood and the prospects for "the first free elections in Nicaragua," as the Sandinistas' slogan puts it. Among the conditions that Cruz and his supporters have laid down as indispensable for participation are guarantees of freedom of movement, assembly, and equal access to the press and television; sufficient time to campaign; international observers, and, most importantly, guarantees that if he won the election he would be allowed to take office. What happened at Chinanega strongly suggests that neither a genuine election nor a genuine campaign can take place.

Chinandega also exposed the Sandinistas' electoral stratagem. Their decision to hold elections in November was based on a rudimentary political calculation. They judged that the external legitimacy provided by elections would more than compensate for their internal cost. They knew that power does not often change hands in Central America through elections. Somoza's elections had proven that, and the Sandinistas are in a far better position to control elections than Somoza ever was.

Yet their calculations were wrong on two counts. First, they failed to account for the Nicaraguan people. High-level Sandinista officials to whom I have spoken seem to live, along with their international supporters, in a dream world. They deem that the "anti-imperialist sentiments" of the Nicaraguan people allow them to bear any sacrifice even when their "anti-imperialist" leaders bear none. They receive favorable reports from lower-level cadre whose jobs depends on the perception of success. The Sandinistas knew that after five years of enforced political paralysis, the opposition was poorly organized, divided, and amateurish. The spontaneous popular reception for Cruz took them by surprise. Second, they failed to recognize the degree to which they have alienated progressive opinion in Latin America and Western Europe. Cruz's recent highly successful trip to Costa Rica, Venezuela, and Colombia, and his support from European Social Democrats like Spanish Socialist Prime Minister Felipe Gonzalez, has confounded the F.S.L.N.'s electoral plans.

Thus the Sandinistas find themselves in a quandary. Will they back down and permit Cruz to run under reasonable conditions, or will they go ahead with a discredited election? Thus far at least, the Sandinistas seem unwilling to pay the price of submitting their rule to a popular test. One Sandinista official, whom I have always considered a moderate, told me privately that they would prefer a U.S. intervention because it would "vastly accelerate the Latin American revolution against U.S. imperialism." He told me that the Nicaraguan Army would immediately invade Honduras and Costa Rica and be greeted as "liberators" by the people.

One can only hope that cooler Sandinista heads will prevail. Authentic elections may be the last chance to avert full-scale civil war. If democratic channels cannot be opened, the civilian opposition will be forced to link up with the armed opposition—which is exactly what happened in the 1970s in El Salvador after fraudulent elections. The United States, which has a monstrous record in Nicaragua, can do something to help. What is needed now most urgently is a bipartisan effort in support of authentic elections in Nicaragua.

As we pulled out of Managua in the fading light of a Sunday afternoon, we found ourselves directly behind an army convoy made up of about twenty vehicles. But unlike the army convoys I have seen in El Salvador, Honduras, and elsewhere, it would not permit traffic to pass. A large vehicle with a blinking light occupied the left lane, forcing vehicles coming toward us off the road. A soldier with a machine gun was poised on the rear truck. It took us four hours to cover the fifty miles to Leon. It was a grueling microcosm of Nicaragua today: the Sandinistas in the "vanguard" preventing the normal flow of traffic, whether out of real fear, paranoia, or bullying. Behind them the rest of the population followed, inconvenienced, irritated, and enduring another pointless "sacrifice" for the Sandinistas' militarism. Our inconvenience was only four hours: the Nicaraguan people experience this twenty-four hours a day. Their patience has worn thin.

LABOR UNDER SIEGE

(By Sam Leiken)

In the last several years, a number of union friends of mine have returned from Sandinista-sponsored tours of Nicaragua with enthusiastic reports of the achievements of the revolution. I visited Nicaragua myself this summer, meeting with members of both the official Sandinista labor federation and the independent unions. I didn't expect to discover a workers' paradise in this underdeveloped and crisis-ridden region, or to see workers running the factories. But I did hope to find signs of progress toward empowering the workers and peasants. Instead, I saw a labor movement battling a "Socialist" government which resists worker demands with tactics ranging from state-controlled unions to spurious arrests and violent goon squads.

In the 1970s labor was united against the Somoza regime, and workers expected that it would remain united to rebuild the country in the aftermath of Somoza's fall. But after assuming power, the Sandinistas sought a large measure of control over the workers by enrolling all Nicaraguan unions in the *Central Sandinista de Trabajadores* (C.S.T.). In 1980 the C.S.T. joined the World Federation of Trade Unions, headquartered in Prague. "The F.S.L.N. wanted to impose a central union, not build one," one opposition labor leader told me.

When centralizing efforts failed, the Sandinistas used state power to penalize unions unwilling to affiliate with them to organize disruptive factions, and ultimately to jail opposition union leaders. I was told of death threats, beatings, police raids on union headquarters, military conscription of union dissidents, and blacklisting. Opposition leaders are now reluctant to use the recently restored right to strike for fear of being charged with "economic sabotage" and "abetting imperialism."

I talked with truckers from the port city of Corinto who had voted to disaffiliate their local from C.S.T. and to join the independent C.U.S., which is associated with the A.F.L.-C.I.O. through the International Confederation of Free Trade Unions. Soon thereafter, the local's office was attacked by police and *turbas*. Later some had their drivers' licenses revoked, and a half-dozen union leaders were jailed. In another incident a leader of the other independent union, the C.T.N., said he had been beaten and his nose broken by *turbas* at the Managua airport in full view of military and civil police.

The Sandinista have also alienated workers in their own unions, which has led to increasing numbers of wildcat strikes. Several years ago, when the Sandinistas nationalized the German Pomares sugar works, they ousted the independent union. Then, to ensure a docile new leadership, they stacked the vote by trucking in illiterate cane cutters. This summer workers at the refinery defied their leaders: they struck after the union allowed management to cut back worker access to the company store's superior goods and low prices.

While we were in Managua there was a wildcat sit-in at the government-owned Victoria Brewery. Truck drivers there earn 3,000 cordobas a month. Rents average 1,000 a month, and a pair of pants costs 1,000. One deliveryman told me, "We've had the same salaries for the last five years and now hunger has made us explode." The Victoria workers knew that to return to work without a contract can spell defeat. Forced to go back on the job, they effected a slowdown as a way to sustain their leverage.

The official F.S.L.N. newspaper, Barricada, carried a single article on the Victoria "labor dispute." It quoted Sandinista union leaders as saying that they offered "full support to the workers," but also said that they were urging them to return to work immediately. In contrast, La Prensa carried a front-page picture of 200 Coca-Cola drivers parading their trucks in solidarity with the Victoria workers. I was able to confirm La Prensa's report that solidarity brigages were sent by the competing brewery Tona, La Milca fruit punch, Pepsi-Cola, and Standard Steel. Several of these unions also have announced impending strikes.

The dissident labor leaders I met were plainspoken, accustomed to dealing with concrete facts. The C.S.T. official I spoke with talked grandly about how the Sandinistas reorganized Nicaragua's tiny, undeveloped labor unions "by industrial branch." Yet he was at a loss to explain why they had abolished the Nicaraguan equivalent of the U.S. National Labor Relations Board (Tribunales de Trabajo).

He often contradicted what the workers had told me. The workers at the San Antonio sugar refinery said that they had launched a wildcat strike last February to uphold a wage agreement reached between workers and management. According to the workers, the labor minister, backed by the C.S.T. leadership, disallowed the labor contract because its wages exceeded government guidelines. The C.S.T. official claimed that the labor minister had rejected the contract because its wages were too low, and even credited the C.S.T. with leading the strike to raise wages. He went on to dismiss the Victoria wildcatters as "backward" and "disobedient." He saw his role not as a representative of the workers, but as their "Intermediary" with the employer.

Numerous dissident union leaders described their situation as closely resembling that of the Solidarity movement. One leader, comparing Nicaragua to Poland, told me: "We are both small countries and have suffered many invasions. We both experience long lines and scarcity while many of our products are shipped off to the Soviet bloc. We are Catholic countries with close ties between the unions and the church. We

live under regimes where citizens can be jailed at will. And both governments brand independent unions 'anti-Socialist agents of imperialism.'" Listening, I found myself wishing that some of my fellow union activists had come with me to Nicaragua. They would have been as shocked and disappointed at the repressiveness of this "government of workers and peasants" as I was.●

MR. STOCKMAN'S DEFINITION OF POOR

● Mr. CHILES. Mr. President, as a member of the Senate Budget Committee and the Senate Committee on Aging and coming from a State with over 2 million elderly constituents, I am appalled at information which I became aware of today. I wish to make the Senate aware of this information, as well.

David Stockman testified before the House Ways and Means Subcommittees on Oversight and Public Assistance and Unemployment on September 20 on the subject of poverty in America. I am now aware that during the course of his testimony he adamantly repeated some statistics which were virtually the same as controversial statistics he had cited in earlier testimony before the same subcommittees. The implicit conclusion of Stockman's testimony is that an elderly couple receiving medicare benefits is not poor if they had at least $2,700 in income in 1983.

Stockman reaches this conclusion by arguing that medicare benefits eliminate the need for private medical insurance premiums for the elderly costing $1,675 per person per year or $3,350 per couple. Stockman, therefore, treats $3,350 as part of the income of each elderly couple. Since the U.S. Census Bureau poverty line income for an elderly couple was $6,023 in 1983, he counts a couple as poor only if they have less than $2,700—$6,023 minus $3,350 medicare—of other income.

Stockman's conclusion is absurd. An elderly couple could not survive, in 1983, with only $2,700 for all their expenses other than medical costs paid by medicare. According to figures from a Census Bureau publication, in 1983, an average elderly couple with income at the poverty line spent over $3,000 for rent alone, if they rented their living quarters. According to Stockman this couple would not be poor even though they had no money for food, clothing, transportation, or medical costs not paid by medicare. Yet with respect to food costs, the Census Bureau assumes that an elderly couple with income at the poverty line spent $2,000 in 1983. And, on the average, at least 30 percent of an elderly couple's medical expenses—other than for nursing home care—must be paid for by the couple themselves.

Using his same absurd methodology, Stockman concludes, not surprisingly, that only 3.3 percent of elderly citizens in the United States are poor. This figure is far lower than that found by virtually any other researcher to date.

Let me put this whole situation into simpler language. Mr. Stockman told the House Ways and Means subcommittees that an elderly couple can live on $2,700 per year.

That's $52 per week.

Think of it, living on $52 per week. You've got to buy your groceries out of that, pay the rent, pay the utility bills, pay transportation, and pay for some of your medical bills.

But the couple doesn't have to worry about paying $3,350 in yearly medical insurance premiums because they are covered under medicare.

That leaves them with $2,700 for all their other expenses.

And if they have the money, Mr. Stockman says they are not poor.

I believe his conclusion is outrageous.

EULOGIZING FRED WARING

● Mr. HEINZ. Mr. President, I rise today to pay tribute to one of Pennsylvania's native sons and perhaps the finest American entertainer in the last half century, Fred Waring, whose musical genius was stilled this summer.

Known to generations as the man who taught America to sing, Fred Waring is one of the most fascinating and far-reaching figures in the history of show business. Fred Waring's band, the Pennsylvanians, broke new ground every year, starring in the first musical motion picture ever and auditioning in the early 1920's with Thomas Edison to make the first electronic music in history.

In 1981 this body awarded a Congressional Gold Medal to Waring. Today I present a brief eulogy in tribute to this contemporary genius from Pennsylvania.

EULOGY TO FRED WARING

There was music before he came. But after his touch, music was never the same. In his passing it stands as a legacy to his genius, reaching out to all of us, young and old, and to a future world that will know a better kind of musical form because of this man from Pennsylvania: Frederic Malcolm Waring.

Born June 9, 1900, in Tyrone, PA, Fred Waring began his musical career at an early age, appearing on stage when he was 5 years old. Even as a boy he was a leader when it came to music, leading the Boy Scout Drum Corps in Tyrone.

We know music was his destiny. As a teenager, he and Freddie Buck joined to form the "Waring-McClintock Snap Orchestra," which included Fred's younger brother, Tom, and his partner/drummer Poley McClintock. McClintock stayed with Fred and ;o red with his orchestra for many ve rs of success.

Jnder Waring's musical mastery, the quartet, which we saw grow to become "Waring's Banjo Orchestra," toured colleges, played fraternity parties, proms, and local dances.

More than a success, this was a sensation. They sang together, a previously unknown type of collaboration. The innovative, dashing new sound generated music that we had never heard before.

An architecture student at Penn State, Fred Waring left school to manage his band full time. The world may have lost an architect, but we gained a master builder of musical artistry. In the twenties, the band became "Fred Waring's Pennsylvanians," the name that's now famous around the world.

For the Pennsylvanians, the future only got brighter. They continued playing major colleges and universities, toured vaudeville houses, and played movie theaters for weeks at a time. Word of this exciting ensemble delivered record audiences.

It was on to Hollywood for the Pennsylvanians, and they took the town by storm. The Pennsylvanians starred in the first musical motion picture, "Syncopation," were featured in the first talkie shorts; and headlined their own musicals such as "Help Yourself" and "Rah Rah Daz," a Cole Porter revue in Paris.

In the thirties, we saw the Pennsylvanians grow to become a 30-piece jazz orchestra, making history when they scored an unprecedented 6-month run at New York's famous Roxy Theater. Fred Waring's players continued to make history. They won a featured slot on the weekly "Old Gold Radio Show," the beginning of live musical spectaculars on network radio.

The variety of styles, continued innovation and sheer originality combined to make Waring the classic man we all knew him to be. Waring's "Pleasure Time" broadcasts are chronicled as classics in the history of radio.

Through the war years, Waring's music lifted the spirits of a nation preoccupied with gloom. He played not only for his audience, but for all of us throughout the country, participating in war bond rallies, entertaining at Army camps and military training centers. Fred Waring was always available to support a good cause.

With the lifting of travel restrictions, the Pennsylvanians hit the road for the first time in 10 years. They drew record crowds. Though radio remotes Americans across the land enjoyed these tour performances. Waring also started performing on television in 1949, introducing spectaculars for General Electric. This was to be the first of many television shows.

Fred Waring was a man of many firsts in the music world. A pioneer of recording, he auditioned for his first record to Thomas Edison in the early 1920's. He made his first dance recordings and the first electronic recording. Throughout his life he recorded more than 2,000 songs and put together over 100 albums, many of which are still heard often in the Heinz household.

His career spanned almost seven decades and continued to stay at the cutting edge of musical innovation.

To share his great knowledge and love of music, he established the Shawnee Press Music Publishing Co., which helped other young artists share their potential with the music world. Waring also organized the Fred Waring Choral Music Workshop in 1946, which was conducted each summer at East Stroudsburg State College until it moved to Penn State. He not only started this talent incubator, but also taught classes and helped organize new groups, such as the Blenders, allowing young artists the opportunity to tour with the Pennsylvanians.

Waring became known as "the King of the Road" in the 1960's and 1970's, putting on more than 40,000 miles a year, mostly by bus. As he put it, "There is no substitute for live entertainment."

As dear to Fred Waring as his music was his family. A father of five, grandfather of 14, and great-grandfather of 2, he had a family worthy of pride. He was married to the former concert pianist Virginia Morely, a woman who shared his joy for melodies.

His fellow Pennsylvanians reaped praise on the man from Tyrone. In 1977, Pennsylvania Govenor Shapp saluted Waring by proclaiming Fred Waring Day throughout the Commonwealth.

As the Pennsylvanians toasted their 63rd anniversary in show business, Waring was honored by awards from the American Choral Director's Association and the Music Educator's National Conference. He was further honored by the Association of Professional Vocal Ensembles in 1979 as they named him "America's Singing Master."

As the State of Pennsylvania celebrated its 300th birthday, my Senate colleagues and I bestowed a Congressional Gold Medal on Waring to commemorate his many years as a servant of the American spirit.

Fred Waring was never content to simply play, he continually pressed for innovation and perfection, making music such as the world had never known.

On July 29, 1984, Frederic Malcolm Waring passed away at the age of 84. Although we mourn his passing, we know that Pennsylvania and the world is better for having known him. He left us a legacy in song. It was to music that he dedicated his life and through music that he will be remembered for all time.●

IN RECOGNITION OF MAJ. GEN. JOHN B. CONAWAY

● Mr. HUDDLESTON. Mr. President, I am proud to call to the Senate's attention the recognition by the Department of the Air Force of my good friend and an outstanding Kentuckian, Maj. Gen. John B. Conaway.

In recognition of his dedicated service, General Conaway, Director of the Air National Guard, has been chosen to receive the Eugene M. Zuckert Management Award by Secretary of the Air Force Orr and Air Force Chief of Staff Gabriel. John is truly deserving of this award as he continues to bring distinction to those members of the Armed Forces who serve in the defense of our great country.

I submit for the RECORD the citation accompanying General Conaway's commendation.

The citation follows:

CITATION TO ACCOMPANY THE 1983 EUGENE M. ZUCKERT MANAGEMENT AWARD TO MAJ. GEN. JOHN B. CONAWAY

Maj. Gen. John B. Conaway, as Director, Air National Guard, demonstrated superior management ability in improving the Air National Guard as a vital element of the Total Force.

With personal expertise, outstanding initiative, foresight and direction, General Conaway concentrated his talents on force modernization and mission readiness. His management accomplishments extend to every functional area and his credibility as an astute manager of resources is known and accepted throughout Congress, OSD, the Air Staff, States and ANG units. His many achievements contributed significantly to insuring the Air National Guard can achieve its goals as part of the Total Force and that as a nation we can meet our worldwide commitments. His actions dramatically increased the combat readiness and sustainability of units nationwide and led to attainment of the highest state of equipment modernization in the history of the Air National Guard. His efforts to emphasize recruiting, retention, training, ground and air safety, operational, logistical, and facility support are indeed commendable and will have a lasting favorable impact both on the national and international scene. Numerous programs he developed, guided, or directed have been acknowledged and accepted Guard and Air Force-wide. Additionally, he improved many programs affecting human relations and employee motivation.

These distinctive achievements of Major General Conaway demonstrated his outstanding management talents and reflect great credit upon himself, the Air National Guard, and the United States Air Force.●

PROPOSED ARMS SALES

● Mr. PERCY. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $50 million or, in the case of major defense equipment as defined in the act, those in excess of $14 million. Upon such notification, the Congress has 15 calendar days during which the sale may be reviewed. The provision stipulates that, in the Senate, the notification of proposed sales be sent to the chairman of the Foreign Relations Committee.

In keeping with my intention to see that such information is available to the full Senate, I ask to have printed in the RECORD at this point the notification I have received. A portion of the notification, which is classified information, has been deleted for publication, but is available to Senators in the office of the Foreign Relations Committee, room SD-423.

The notification follows:

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, DC, September 28, 1984.

Hon. CHARLES H. PERCY,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 84-71 and under separate cover the classified annex thereto. This Transmittal No. 84-71, replacing Transmittal No. 84-39 sent on 20 September 1984, concerns the Department of the Navy's proposed Letter of Offer to Canada for defense articles and services estimated to cost $68 million. Shortly after this letter is delivered to your office, we plan to notify the news media of the unclassified portion of this Transmittal.

Sincerely,

PHILIP C. GAST,
Director.

TRANSMITTAL NO. 84-71

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective Purchaser: Canada.

(ii) Total Estimated Value:

	Millions
Major Defense equipment [1]	$37
Other	31
Total	68

[1] As defined in Section 47(6) of the Arms Export Control Act.

(iii) Description of Articles or Services Offered: A quantity of eight AN/SQR-19 Tactical Towed Array Sonars (TACTAS) with handling and stowage subsystems, support, and documentation.

(iv) Military Department: Navy (LDB and LDH).

(v) Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid: None.

(vi) Sensitivity of Technology Contained in the Defense Articles or Defense Services Proposed to be Sold: See Annex under separate cover.

(vii) Section 28 Report: Included in report for quarter ending 31 March 1984.

(viii) Date Report Delivered to Congress: 28 September 1984.

POLICY JUSTIFICATION

CANADA—TACTICAL TOWED ARRAY SONAR

The Government of Canada has requested the purchase of a quantity of eight AN/SQR-19 Tactical Towed Array Sonars (TACTAS) with handling and stowage sub-

systems, support, and documentation at an estimated cost of $68 million.

This sale will contribute to the foreign policy and national security objectives of the United States by improving the military capabilities of Canada; furthering NATO rationalization, standardization, and interoperability; and enhancing the defenses of the Western Alliance.

The importance of enhanced joint North American Anti Submarine Warfare (ASW) capability has been underscored by Soviet stated intent to project nuclear-armed submarines to the U.S. shore in retaliation against Pershing II deployment in Europe. Purchase of the shipboard ASW system is required by Canada to upgrade and modernize its ASW capability. The AN/SQR-19 will be installed on board the new Canadian Patrol Frigates scheduled to be introduced into the Canadian Forces fleet in approximately 1989. This new class of frigates represents the largest modernization program undertaken by Canada since World War II. The Canadian Navy will be capable of absorbing this ASW system within its inventory. Additionally, the Canadians will be capable of performing the required maintenance for this ASW system without impact on their current military capabilities.

The sale of this equipment and support will not affect the basic military balance in the region.

The prime contractor will be the Chesapeake Instrument Division of Gould Incorporated of Glen Burnie, Maryland.

Implementation of this sale will not require the assignment of any additional U.S. Government personnel or contractor representatives to Canada.

There will be no adverse impact on U.S. defense readiness as a result of this sale.●

NATIONAL DRUG ABUSE EDUCATION AND PREVENTION WEEK

● Mr. CHILES. Mr. President, last week our Nation observed National Drug Abuse Education and Prevention Week. As a Senate sponsor of the joint resolution to establish this week, I am pleased to say it was an overwhelming success. An important effort was undertaken to expose the destructive nature that illicit drugs pose to so many people in the United States.

Two decades have passed and countless drug-related deaths have occurred since drug abuse began to approach epidemic proportions in the United States. We have gone far in enacting stringent laws to thwart the proliferation of narcotics. We have gone far in strengthening our border patrols, Coast Guard, and other police forces to curb the influx of illegal drugs into our cities and towns. But today, drug abuse remains a national tragedy.

Each of us has been exposed to the statistics on drug abuse. We must not forget the deaths, the broken lives and the distressed families which these figures represent. Moreover, we must always be aware of the less noticeable results of drug abuse; the promotion of criminal behavior among those addicted to drugs, the wasted potential of drug abusers to America's workforce, and the fear which strikes every American touched, even remotely, by the effects of drug abuse.

To reverse this trend that is personally and economically detrimental to our society, we must intensify our efforts to educate ourselves and our children on the dangers of drug abuse. The joint resolution to establish National Drug Abuse Education and Prevention Week was aimed to stimulate that effort. One group which was integral to its success and will continue to play an extremely important role in educating us to the problems associated with narcotics abuse is Pharmacists Against Drug Abuse [PADA].

PADA has a unique strategy for dealing with this epidemic. Operating under the premise that most adults visit a drug store an average of once each week, this group is educating pharmacists to be the principal drug abuse information resource in many communities. Pharmacists are asked to display and distribute drug abuse pamphlets to parents and children and are being trained by PADA as antidrug abuse spokespersons for community and school groups.

Such a program promotes the goals of the National Drug Abuse Education and Prevention Week long in to the future. It is easily accessible, highly informative, and specific in its purpose of eradicating the use and abuse of illicit substances. With groups such as Pharmacists Against Drug Abuse leading the way, we can show our young people that illegal drugs are the problem, and not the answer to any problem.●

REVITALIZING DOWNTOWN: A NATIONAL VIDEO CONFERENCE

● Mr. DURENBERGER. Mr. President, I take great pleasure in drawing to the attention of my colleagues President Reagan's recent remarks before a national videoconference of the revitalization of older comercial districts in the small towns and cities of rural America, sponsored by the National Trust for Historic Preservation, the U.S. Department of Agriculture, and the National Endowment for the Arts. The administration's enthusiastic support of the program provided the opporunity for the National Trust to tap the expertise of the Agriculture Department as the premier Federal specialist in rural development and contributed immensely to the event's tremendous success. The National Endowment's oversight ensured smooth coordination.

The President took the opportunity to salute the productivity of the tax incentives for the preservation of older and historic buildings, enacted as part of the 1981 Economic Recovery Tax Act. These credits have dramatically contributed to historic preservation's effectiveness as an innovative [illegible] for economic development in rural [illegible] urban areas alike.

In my home State of Minnesota, the Main Street Program is responsible for providing the essential training and technical assistance to five communities seeking to revive central business districts. Fergus Falls, Morris, Hastings, Hopkins, and Stillwater have among them over 30 individual storefront renovations. Organizational efforts in the towns have been monumental. In every case, as a result of those efforts, a thriving program has taken hold.

In the small towns of America, historic preservation is now at the hub of commercial activity, recreating the vigorous hustle and bustle that one characterized "Main Street, U.S.A." The National Trust's Main Street Center is stimulating a resurgence of the economic vitality and hometown tradition that reserves a special place in our hearts for this Nation's main streets.

I ask that President Reagan's remarks be printed in the RECORD.

The remarks follow:

REMARKS OF PRESIDENT RONALD REAGAN ON REVITALIZING DOWNTOWN: A NATIONAL VIDEO CONFERENCE, SEPTEMBER 18, 1984

Good morning. I am delighted to join the National Trust for Historic Preservation, the Department of Agriculture and the National Endowment for the Arts in welcoming you to this, the first National Videoconference on the revitalization of America's towns. Small towns have a special place in my heart. Your see, I grew up in Dixon, Illinois. Back home in Dixon, family helped family and neighbor helped neighbor. You knew the grocer, the butcher, the minister and the teacher. And when you walked down Main Street, people you passed had a kind word.

Small towns like Dixon and the towns that each of you represent are the guardians of our bedrock values; values like faith, family, hardwork, neighborhood and freedom. They are good places to work in, good places to live in and some of the best places in America in which to raise families. It's no coincidence that today when you are seeing a rebirth of optimism and self-confidence across our land, Americans are once again discovering the virtues of our small towns.

Nothing better exemplifies the small town spirit of working together than the efforts of the National Trust for Historic Preservation and the pioneering accomplishments of its National Main Street Center. Since 1980, the National Main Street Center has gone to work in over 100 small towns, spurring downtown investment, aiding new business starts and enouraging low interest loans for renovations. To everyone who has had a hand in making this project such a success, you have my heartfelt thanks. And I urge each of you to go on taking full advantage of all the resources, enthusiasm and expertise that the National Main Street Center has to offer.

At the same time, I'd like to draw your attention to a major innovation that our administration put into effect less than three years ago: increased tax credits for the renovation of older buildings. With that one initiative, we helped to send your tax dollars

back into your communities. In 1983 alone, more than $2 billion in private funds was put to work preserving and rehabilitating older buildings across America. And in New York State, a study calculated that $100 million in rehabilitation projects generated $10 million in direct revenues for the state and its localities. Better yet, it also provided more than 5,000 jobs.

Across America, people are getting the message. Our tax credits have made the preservation of our older building not only a matter of respect for beauty and history, but of economic good sense. Indeed, forecasts indicate that by the end of this year, some $6 billion of private-sector rehabilitation will have taken place since we put our tax credits into effect. That comes to almost as much in private funds spent in just three years as all the taxpayer's money that was spent over nine years during the peak of federal urban renewal.

When you leave this Conference, I know your efforts will help to give our towns more restored buildings, more jobs, and a renewed sense of pride. And that will be good for our entire nation. For while our country's muscle may lie in our great industrial cities, America's heart is in our small towns. Thank you. God bless you all.●

FEDERAL INTERAGENCY ARSON PREVENTION AND CONTROL TASK FORCE ACT

● Mr. PRYOR. Mr. President, I support legislation which the Senator from Ohio [Mr. GLENN] has introduced to strengthen the Federal Government's efforts to deal with the devastating problems of arson, the Federal Interagency Arson Prevention and Control Task Force Act, S. 2844.

I am convinced that congressional approval of S. 2844 will help coordinate efforts of the Federal Government to prevent arson by increasing cooperation and information distribution. At the same time, it will reduce jurisdictional problems and duplicative efforts among various Federal agencies. The end result will be a more focused strategy and a more efficient use of Federal resources.

Mr. President, arson is a cowardly and thoughtless destroyer of life and property. Each year it kills almost 1,000 people and results in $1 billion in direct property losses and $15 billion in indirect losses. Clearly these figures demonstrate the need for a coherent and organized Federal approach to this problem.

This bill, which is currently pending in the Committee on Governmental Affairs, of which I am a member, would create a task force to outline the most effective manner for the Federal Government to wage the fight against arson. This task force would specifically consider the best ways for the Federal Government to assist State and local governments. It would coordinate antiarson training, grant assistance, research and development, as well as compile relevant statistical information and report annually to Congress. This report will help Congress come to grips with the nature and the extent of arson as a national problem so that it can deal with it in an educated fashion.

Finally, because fire service and law enforcement officials are the real experts on arson, they will be asked to serve on subcommittees to this task force. Representatives from the following groups and others will be asked to participate: the International Association of Arson Investigators, International Association of Chiefs of Police, International Association of Fire Fighters, International Association of Fire Chiefs, Fire Marshal's Association of North America, National Association of Attorneys General, National District Attorneys Association, and the Joint Council of Fire Service Organizations.

Mr. President, the approval of this bill is one step which Congress should take to address the growing problem of arson. I will do all I can to see that this bill is acted on quickly by the full Senate.●

THE TYPICAL AIR FORCE PERSON

● Mr. GOLDWATER. Mr. President, in a recent issue of the Air Force magazine, there appeared a very interesting compilation directed to the young and dedicated who are gaining experience in the force. I ask that it be printed in the RECORD.

The material follows:

YOUNG, DEDICATED, AND GAINING EXPERIENCE

Everybody talks about them. The Pentagon controls them, Congress pays them, and the press speculates about them.

Who are they? They are the average. The typical Air Force person—the average Air Force enlisted member and officer.

But who are they?

First, off, they are "hes," although there are more "shes" wearing Air Force blue today than ever before—11.3 percent of the service's 560,000 people in 1984, up from 3.8 percent a decade ago. And those "shes" are in more jobs than before, with only ten percent of the officer positions in the Air Force closed by law to women and only five enlisted specialties off limits to women.

By and large, these average Air Force people are married. More than half of Air Force spouses work outside the home. Also, 24,350 members are married to other military members (4.35 percent).

These typical Air Force people are spending more time in one place than they did ten years ago. The average tour length is actually up 108 percent, for an average time on station of four years. They are moving fifty-four percent less frequently than they did in 1974.

They are also extending their overseas tours—serving twenty-five percent longer than is required on three-year accompanied tours, and even spending an extra eight months on generally unaccompanied tours of eighteen months.

If our average people are among the Air Force's 106,707 officers, their average age is thirty-two, and they are senior captains. They have 1.8 dependents and a bachelor's degree with some credits toward a master's.

If they are among the 489,159 enlisted people, they are staff sergeants, are twenty-eight years old, and have 2.4 dependents. They are high-school graduates and have earned some credits toward a college degree.

Air Force retention figures are up, and Air Force people are now staying in the service longer. The average time in service is now fifteen years for the officer corps and eight years for the enlisted force—a fifty percent increase over 1979.

However, Air Force officers are retiring slightly sooner than they used to. The average retirement age is now 45.8 years, with twenty-four years of service—about six months earlier than a decade ago. The enlisted force is retiring slightly later than ten years ago, with an average retirement age now of forty-two years and an average service career of twenty-three years.

Although our average service people make more money today than did their predecessors, their actual purchasing power has dropped by twelve percent since 1972. The average pay (base pay and allowances for subsistence and quarters) on January 1, 1972, was $7,336 for enlisted people and $16,144 for officers. In constant 1972 dollars, the enlisted force averaged only $6,908 and officers only $14,787 on January 1, 1984. In addition, our average Air Force people now receive 8.7 percent less than the private sector pays employees in comparable jobs.

Rounding out our "average" force are the Air National Guard and Air Force reserve folks.

Of the 12,571 ANG officers, 5.9 percent are women. Of the 88,618 enlisted people, 10.9 percent are women. The officers' average age is 38.3 years, they average 15.7 years of service, and most of them are married. Enlisted ANG members average 33.9 years of age and 11.4 years of service. Sixty-eight percent are married.

In the Air Force Reserve, there are 67,972 selected reserves assigned either to units or mobilization augmentee positions. The average Reserve officer is 38.9 years old, married, has 2.2. dependents, and has a bachelor's degree. The average Reserve enlisted person is 33.3 years old, married, has 1.8 dependents, and has a high-school diploma.

Ninety-one percent of Reserve officers have served on active duty, and 12.6 percent are women. Almost seventy-eight percent of the enlisted Reserve force have served on active duty, and 22.2 percent are women.

So that's the average—a force that's young, dedicated to a career in the service, and gaining experience.●

DERRY TOWNSHIP SENIOR CITIZENS COUNCIL

● Mr. HEINZ. Mr. President, I bring to the attention of the Senate the exemplary and unusually valuable work of the Senior Citizens Council of Derry Township, PA, a group formed 10 years ago to provide transportation and assistance for persons aged 60 or over.

During the past decade, this council has provided over 100,000 rides to 50,000 persons, enough people to fill Pennsylvania State University's Beaver Stadiu. While Dauphin County has provided the vans and insurance coverage, the senior citizens council has supplied and organized volunteers as drivers and dispatchers as well as

paid for all the operating and maintenance costs. The council's vans have logged more than 250,000 miles, 10 times the distance around the Earth at the Equator. This service has been provided to citizens on a voluntary contribution basis, while donations of community service groups and generous individuals provide for deficits.

Mr. President, on the 10th anniversity of the Derry Township Senior Citizens Council, which is to be celebrated on October 11, 1984, I commend the council members and extend my congratulations and sincere appreciation to them for the exemplary conduct in providing a model to all of the concept of local self-help and concern for community and individual well-being.●

EULOGY OF CLARENCE REISEN

● Mr. LAUTENBERG. Mr. President, I want the RECORD to carry a message of bereavement for the loss of a close personal friend and an esteemed leader in the community. Mr. Clarence Reisen, age 62, collapsed and died suddenly on Tuesday, September 25, 1984. He leaves his wife, Mitzi, four children, and five grandchildren. They will miss him greatly since his role as husband, father, and grandfather was one that most would envy. He was deeply loved, a caring man, and an inspired leader.

Clarence Reisen served as the president of the Jewish Community Federation known as Metro West which serves the largest Jewish community in the State of New Jersey. The services offered to the community include a home for the aged, the WMHA, hospital, family counseling, job training, and many other vital programs.

Clarence Reisen epitomized the concept of voluntary community service. In addition to his leadership in the Jewish community, he served on the board of the New Jersey Symphony Orchestra, the Newark Museum, and the United Community Fund of the Oranges and Maplewood. Under his tenure in offices, more funds were raised than at any time in the history of this 62-year-old federation. At the same time, new programs were initiated and never have there been a more committed or larger core of volunteers.

My heartfelt sympathy extends to his immediate family particularly his wife with whom my wife and I share a very close friendship. Our community and our world was made richer by his service and his influence in the community will endure far beyond his years.●

NEITHER MADMEN NOR MESSIAHS

● Mr. GOLDWATER. Mr. President, our colleague, Senator DAVID DURENBERGER, has written a very interesting book, entitled "Neither Madmen Nor Messiahs." It is a study of national security for America and it shows very clearly his background in intelligence as an Army officer, his absorption of intelligence from the Intelligence Committee and, to top all of that, he has done detailed research on the subjects of war and peace. It is a book that could well become a textbook and I urge every one of my colleagues to obtain a copy of it and read it. It will help them.●

TWO SMALL WATERSHED PROJECTS APPROVED

● Mr. STAFFORD. Mr. President, on September 26 the Committee on Environment and Public Works approved resolutions authorizing two Soil Conservation Service small watershed projects: Turkey Creek watershed, Oklahoma, and Indian Creek-Van Buren, IA-MO.

The Turkey Creek watershed project in Alfalfa, Garfield, Major, and Kingfisher Counties is primarily a flood control project. Its primary structural measures consist of 11 floodwater retarding dams. The total project cost is $4,586,200, of which $1,108,300 is the responsibility of local sponsors.

The Indian Creek-Van Buren project in Van Buren County, IA, and Clark County, MO, will provide flood prevention, municipal and industrial water supply, other agricultural water supply, and fish and wildlife benefits. Its primary structural measures consist of six single purpose flood control dams and one multipurpose dam. The total project cost is $4,609,510, of which $1,908,620 is the responsibility of local sponsors.

A September 25 hearing of the Subcommittee on Water Resources revealed that these two projects enjoy strong local support, and appear to be acceptable environmentally and economically. I am, therefore, pleased to request that the text of the committee resolutions authorizing these two projects be printed at this point in the RECORD.

The material follows:

COMMITTEE RESOLUTION

Resolved by the Committee on Environment and Public Works of the United States Senate, That pursuant to the provisions of Section 2 of Public Law 566, Eighty-third Congress, as amended, by Public Law 1018, Eighty-fourth Congress, the project for flood prevention, recreation, and watershed protection, in the Turkey Creek Watershed, Alfalfa, Garfield, and Major Counties, Oklahoma is hereby approved substantially in accordance with the report of the Soil Conservation Service, Department of Agriculture, dated November, 1983 with the conditions that (1) the approval of appropriations for the project be limited to—$4,586,200—the estimated Federal cost of the project as shown in the work plan for such project updated to current price levels, plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuation in the cost of construction as indicated by engineering cost indexes applicable to the type of construction involved; and (2) the purposes served by the project shall be those set forth in the watershed work plan submitted for the project and the scope of the project purposes and of the project shall be substantially as set forth in such work plan.

JENNINGS RANDOLPH,
Ranking Minority Member.

COMMITTEE RESOLUTION

Resolved by the Committee on Environment and Public Works of the United States Senate, That pursuant to the provisions of Section 2 of Public Law 566, Eighty-third Congress, as amended, by Public Law 1018, Eighty-fourth Congress, the projection for flood prevention, recreation, and watershed protection, in the Indiana Creek-Van Buren Watershed, Van Buren County, Iowa and Clark County, Missouri is hereby approved substantially in accordance with the report of the Soil Conservation Service, Department of Agriculture, dated May, 1983 with the conditions that (1) the approval of appropriations for the project be limited to—$4,609,510—the estimated Federal cost of the project as shown in the work plan for such project updated to current price levels, plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuation in the cost of construction as indicated by engineering cost indexes applicable to the type of construction involved; and (2) the purposes served by the project shall be those set forth in the watershed work plan submitted for the project and the scope of the project purposes and of the project shall be substantially as set forth in such work plan.

JENNINGS RANDOLPH,
Ranking Minority Member.

GREYMARKET GOODS

● Mr. CHAFEE. Mr. President, on March 12, 1984, the Subcommittee on International Trade conducted a hearing on a request for authorization of appropriations for the U.S. Customs Service.

During that hearing I questioned Commissioner of Customs von Raab about proposed changes in the Treasury Department longstanding rules regarding imports into the United States where the importers decline to sell through their domestic subsidiaries but sell directly to large merchandising outlets—commonly called "grey market" goods or "parallel imports."

The longstanding regulations allow an exception to the general rule based on section 526 of the Tariff Act of 1930. That general rule provides that articles bearing a recorded trademark may be denied entry into the United States.

For over 30 years Customs interpretation of this law, and its regulations providing the exception, permitted entry of goods into the United States where the U.S. trademark owner is affiliated with a foreign trademark owner, owns the corresponding foreign trademarks, or has authorized application of its trademark abroad. A change

in this longstanding policy would increase substantially the prices of certain goods to the American consumer.

At the time of the subcommittee hearing several court cases, challenging the Customs's existing regulations, were pending. The Customs Service agreed to take no action until these five suits were concluded.

The opinion in one such case, Vivitar Corp. against the United States, No. 84-1-00067 U.S. Court of International Trade, filed January 19, 1984, was rendered at the end of August, and concluded that the Custom Service's longstanding interpretation of the Tariff Act should not be disturbed because of commercial reliance on this policy and the fact that substantial business had been based on this interpretation. Further, after an exhaustive review and analysis of the legislative history of section 526, the Court decided that Customs' construction of this section is fully consistent with congressional intent.

I request that the full opinion of the Court of International Trade be printed in the RECORD.

The opinion follows:

VIVITAR CORPORATION, PLAINTIFF v. THE UNITED STATES, ET AL., DEFENDANTS, AND 47TH STREET PHOTO, INC., DEFENDANT-INTERVENOR

[Court No. 84-1-00067]

This case having been submitted for decision and the Court, after deliberation, having rendered a decision therein; now, in conformity with that decision,

IT IS hereby ordered: that plaintiff's motion for summary judgment is hereby denied; and it is further

Ordered: that defendants' cross-motion for summary judgment is granted; and that this action be and the same is dismissed.

BACKGROUND

In this action plaintiff seeks a declaratory judgment that the United States Customs Service must exclude all imports bearing plaintiff's trademark that are entered without the written consent of plaintiff.[1] Plaintiff contends that 19 U.S.C. § 1526(a) (1982) gives it an unqualified right to demand such exclusion.[2]

Plaintiff is a California corporation and the owner of the Vivitar trademark in the United States. Plaintiff licenses foreign manufacturers to apply the Vivitar trademark to a variety of photographic equipment. Plaintiff's wholly owned subsidiaries market this equipment outside of the United States. Apparently these subsidiaries are not licensed to market these goods in the United States. The parties agree that third parties unrelated to plaintiff are importing into the United States equipment bearing the Vivitar trademark, which equipment was manufactured by the foreign licensees. The parties also agree that plaintiff has not given its written consent to these particular imports.

The unauthorized importation of genuine trademarked goods is a widespread practice. Apparently a number of American trademark owners authorize foreign companies to apply the American-owned trademark to goods manufactured abroad. Often the foreign companies are authorized to market the trademarked goods abroad, but are not authorized to import the goods into the United States except through channels approved by the trademark owner. Due to a variety of market conditions there are often substantial price differences between the price the foreign companies charge abroad and the price in the United States. When the United States price is substantially higher than the foreign price, importers can profitably buy large quantities of the trademarked goods overseas, import them to the United States, and sell them to distributors and retailers at a discount. American companies such as intervenor 47th Street Photo, Inc. and *amicus curiae* K mart Corporation purchase large quantities of these imports and offer them for sale at prices often far below those of retailers selling goods the American trademark owner has authorized for importation. However, since these goods are sold outside of the trademark owner's intended chain of distribution, they frequently have different warranties and packaging from that intended by the trademark owner. This pattern of unauthorized importation is part of what is known as the gray market.

The Customs Service does not prohibit gray market imports as described above. The Customs Service interprets § 1526(a) to deny trademark owners the right to require the exclusion of trademarked goods manufactured abroad when the trademark owner has authorized the foreign manufacturer to apply the trademark to the goods. 19 C.F.R. § 133.21 (1983).[3] Plaintiff contends that the Customs Service's interpretation of § 1526(a) is contrary to law. This matter is before the court on plaintiff's and defendants' cross-motions for summary judgment.[4]

EXHAUSTION OF ADMINISTRATIVE REMEDIES

Initially, *amicus curiae* K mart contends that this action should be dismissed because plaintiff has failed to exhaust its administrative remedies. This court will, where appropriate, require the exhaustion of administrative remedies. 28 U.S.C. § 2637 (1982). Plaintiff has satisfied this requirement.

On May 14, 1982, plaintiff submitted to the Customs Service a formal request for a letter ruling that would bar commercial importation of goods bearing the Vivitar trademark unless Vivitar consented to the importation.[5] Plaintiff supplemented this request with further information on July 15, 1982 and August 25, 1982. The Customs Service has never formally responded to this request. As K mart admits, a Customs letter ruling is agency action which is subject to judicial review. Under the circumstances of this case, failure to act on plaintiff's request for a letter ruling amounts to final agency action towough withholding of relief. 5 U.S.C. § 551(10)(B), (13), § 704 (1982).[6] Plaintiff waited over eighteen months for a formal response to its request. It would be pointless and unjust to require plaintiff to await a ruling that may never be made.[7]

Moreover, the issue before the court is purely one of the validity of the administrative interpretation of a statute. There is no problem with identifying the pertinent facts contained in the administrative and legislative history. Thus, little would be gained by awaiting a possible response to plaintiff's request for a letter ruling. See *National Automatic Laundry and Cleaning Council* v. *Schultz*. 443 F.2d 689, 695 (D.C. Cir. 1971).

K Mart apparently contends that the present action is not presented properly as an appeal from the Customs Service's failure to act, since plaintiff's initial action was presented in the form of a mandamus action. This contention is meritless. Plaintiff's complaint is not limited to requesting mandamus relief. And in any case, since plaintiff has satisfied the requirement of exhaustion of administrative remedies, it is irrelevant how its action for judicial review is labeled.

LACK OF MATERIAL FACTUAL DISPUTES

Intervenor opposes plaintiff's motion for summary judgment on the grounds that material issues of fact exist requiring a trial. "'In ruling on cross-motions for summary judgment, the court must determine if there exist any genuine issues of material fact.'" *PPG Industries, Inc.* v. *United States*, 7 CIT——, Slip Op, 84-27 at 3 (March 28, 1984) (citing *American Motorists Insurance Co.* v. *United States*, 5 Cit——, Slip Op. 83-8 (February 1, 1983)). The court can only grant summary judgment if no material issues of fact are in dispute. Intervenor contends that a trial is necessary to determine plaintiff's corporate structure. Intervenor argues that this is needed to ascertain the proper application of the Customs Service's administrative practice to imports bearing plaintiff's trademark. Intervenor also contends that a trial is needed to determine the Customs Service's historic administrative practice concerning unauthorized importation of goods bearing genuine trademarks. Intervenor contends further that there is a factual dispute over whether plaintiff consents to the importation of all goods sold overseas by its subsidiaries, and whether plaintiff is harmed by this importation.[8]

Intervenor is correct in noting that plaintiff's relationship with its overseas manufacturers and subsidiaries is material. See 19 C.F.R. § 133.21(c) (footnote 3, *supra*). But no material facts concerning this relationship are in dispute. Plaintiff admits that its overseas distributors are wholly owned subsidiaries and that it consents to overseas manufacturers' applying the Vivitar trademark to goods sold overseas. Thus, plaintiff admits all the material facts necessary to application of current Customs Service policy. What plaintiff contests is the legality of that policy.

Intervenor is also correct in noting that the Customs Service's historic administrative practice is relevant to determining the proper application of § 1526(a). See *Norwegian Nitrogen Products Co.* v. *United States*, 288 U.S. 294, 311 (1933). But again no trial is necessary concerning this issue. All parties and *amici curiae* have submitted substantial material documenting the administrative history of § 1526(a). No party has challenged the authenticity of the material submitted. The court may take judicial notice of the material submitted and of material reviewed in its independent legal research into the history of § 1526(a). These are legislative facts of general application, not specific to the parties, which the court may freely notice. *See* Fed. R. Evid. 201(a), Notes of Advisory Committee; *Treasure Salvors, Inc.* v. *Unidentified Wrecked and Abandoned Sailing Vessel*, 569 F. 2d 330, 336 (5th Cir. 1978); *Association of National Advertisers, Inc.* v. *Federal Trade Commission*, 627 F.2d 1151, 1161-1163 (D.C. Cir. 1979), *cert. denied*, 447 U.S. 921 (1980).

Intervenor's contention that plaintiff impliedly consents to the importation of goods bearing its trademark also does not require trial. Intervenor has not contended that plaintiff has consented in writing to the entries it now wishes to control. Such a contention would be a material factual dispute.

[1] See footnotes at end of article.

See 19 U.S.C. § 1526(a). Instead intervenor contends that facts admitted by the plaintiff concerning its structure and licensing arrangements require the court to imply as a matter of law that plaintiff consents to importation of all goods manufactured by its licensees bearing its trademark. This contention is disputed by the parties, but it does not require a trial since it is a legal issue, and all the material facts concerning the issue are undisputed.

Finally, plaintiff's contention that it is commercially injured-in various ways by unauthorized imports is not material to plaintiff's action under § 1526(a). The statute does not require any trademark owner to demonstrate actual commercial injury. Thus, the fact that intervenor disputes this contention is irrelevant.[9]

Therefore, the court concludes that there are no material issues of fact requiring trial and that this case is appropriate for summary disposition.

HISTORY OF § 1526(a)

The central issue in this case is the proper construction of § 1526(a). Plaintiff contends that the plain language of the statute gives it the right to require the exclusion of all goods bearing the Vivitar trademark. Plaintiff further contends that this construction is supported by the legislative and administrative history of the statute. Defendant and intervenor concede that the literal language of § 1526(a) supports plaintiff's construction. But they contend that the legislative history demonstrates that Congress intended a much narrower scope than that which is evident in the literal words of § 1526(a), and that this construction is supported by the Customs Service's longstanding administrative practice and Congressional ratification.

The principle purpose of statutory construction is to determine and give effect to Congressional intent. *United States* v. *Siemens America, Inc.*, 68 CCPA 62, 68, 653 F.2d 471 (1981), *cert. denied*, 454 U.S. 1150 (1982). To determine Congressional intent, the court must look to the language of the statute. *Id.* But statutory language cannot control if clearly demonstrated Congressional intent requires a different construction. *Bob Jones University* v. *United States*, —— U.S. ——, 103 S. Ct. 2017, 2025 (1983); *Church of the Holy Trinity* v. *United States*, 143 U.S. 457, 459 (1892). Legislative history is important evidence of Congressional intent. *British Steel Corporation* v. *United States*, 6 CIT ——, 573 F.Supp. 1145, 1148, (1983). And in construing a statute, the administrative practice of the agency charged with administering the statute is entitled to substantial deference. *Zenith Radio Corporation* v. *United States*, 437 U.S. 443, 450 (1978); *Melamine Chemicals, Inc.* v. *United States*, 732 F.2d 924 (Fed. Cir. 1984). Therefore, a careful examination of the legislative and administrative history is essential in determining the intended scope of § 1526(a).

Congress first restricted importation of merchandise bearing trademarks in 1871. 16 Stat. 580 (1871). This act and a number of subsequent acts restricted importation of merchandise bearing a trademark that "copied or simulated" a domestic trademark. These restrictions were put in their current form by the Trademark Act of 1905, Pub. L. 58-84, 33 Stat. 724 (1905). Section 27 of the act (Now 15 U.S.C. § 1124 (1982)) provides in relevant part that "no article of imported merchandise . . . which shall copy or simulate a trade-mark registered in accordance with the provisions of this Act . . . shall be admitted to entry. . . ."

After enactment of this section, a pair of Second Circuit cases tested the meaning of the term "copy or simulate." *Fred Gretsch Mfg. Co.* v. *Schoening*, 238 F. 780 (2d Cir. 1916); *A. Bourjois & Co, Inc.* v. *Katzel*, 275 F. 539 (2d. Cir. 1921), *rev'd*, 260 U.S. 689 (1923). In the *Gretsch* case, a German company manufactured violin strings under the trademark "Eternelle." Schoening had an exclusive agency for the scale of "Eternelle" strings in the United States and registered "Eternelle" as his trademark in the United States. Gretsch purchased "Eternelle" strings in Germany and attempted to import them. Schoening sought to bar the importation, claiming that the trademark on Gretsch's strings copied or simulated its trademark despite the fact that the imported strings were identical to the strings Schoening marketed. In *Katzel*, a French company manufactured face powder in France and sold it in the United States under its trademark "Java". The French company sold its entire United States operation and trademark to Bourjois. Bourjois then imported the powder from France, repackaged it, and sold it under the "Java" trademark. Katzel bought the power directly from the French manfacturer and sold it in the original French packaging. Bourjois brought suit claiming that Katzel's use of the "Java" trademark violated Bourjois' trademark rights.

In both cases, the Second Circuit held that the trademark on the challenged imports did not copy or simulate the plaintiffs' marks. The court decided that section 27 was not intended to bar imports bearing a trademark if the trademark accurately described the manufacturing source for the goods.

There is no exclusive right to the use of a name or symbol or emblematic device except to denote the authenticity of the article with which it has become identified by association. The name has no office except to vouch for the genuineness of the thing which it distinguishes for all counterfeits; and until it is sought to be used as a false token . . . the law of trade-mark cannot be invoked. *A. Bourjois & Co.* v. *Katzel*, 275 F. at 541, quoting *Apollinaris Co.* v. *Scherer*, 27 F. 18, 20 (2d Cir. 1886).

LEGISLATIVE HISTORY

Section 1526(a) was enacted in response to the Second Circuit decision in *Katzel*. As Judge Hand noted, it "was intended only to supply the casus omissus, supposed to exist in section 27 of the Act of 1905 . . ., because of the decision of the Circuit Court of Appeals in *Bourjois* v. *Katzel*. . . . Had the Supreme Court reversed that decision [earlier], it would not have been enacted at all." *Coty, Inc.* v. *LeBlume Import, Co., Inc.*, 292 F. 264, 269 (S.D.N.Y. 1923), *eff'd*, 293 F. 344 (2d Cir. 1923). The section was added as a floor amendment to the Tariff Act of 1922, Pub. L. No. 68-318, § 526, 42 Stat. 975 (1922). The legislative history is sparse, consisting of a short floor debate and a brief paragraph in the Conference Report. But the history makes very clear that the purpose of § 1526(a) was to reverse the Second Circuit *Katzel* decision. The Conference Report notes:

A recent decision of the circuit court of appeals holds that existing law does not prevent the importation of merchandise bearing the same trade-mark as merchandise of the United States, if the imported merchandise is genuine and if there is no fraud upon the public. The Senate amendment makes such importation unlawful without the consent of the owner of the American trademark. H.R. Rep. No. 1223, 67th Cong., 2d Sess. 158 (1922).

In the floor debates, both proponents and opponents of the section note that the purpose of the section was to give trademark owners the protection denied them by the Second Circuit. One of the section's sponsors, Senator McCumber noted "the courts have held that we cannot prevent any product being shipped into the United States if it is in violation of a trade-mark where the foreign maker has sold trade-mark and all, patent and everything in the United States." 62 Cong. Rec. 11604 (1922). Another proponent, Senator Sutherland noted that:

[A]ll that this paragraph does is to prevent fraud, and I believe that the Senate is in favor of protecting the property rights of American citizens who have purchased trade-marks from foreigners, and when these foreigners deliberately violate the property rights of those to whom they have sold these trade-marks by shipping over to this country goods under those identical trade-marks. *Id.* at 11603. Senator Moses objected to the section because "[a] case involving its entire principle has been heard in the circuit court of appeals and is now on its way to the Supreme Court of the United States for final determination." [10] Id.

The floor debate was brief,[11] but far-ranging. A number of examples where the section would apply were discussed. In all of them, the sponsors made clear that the purpose of the amendment was to protect an American trademark owner who had purchased the right to use a trademark in America from an independent foreign company. Senator McCumber illustrated the limited scope intended for the section:

Suppose not only the patent but the trade-mark, which is "Bayer's Aspirin" with a red cross, is sold to an American concern outright. The patent will defend against any importations so long as the patent lasts; but suppose, now, the patent expires. Then the German firm, notwithstanding that they have sold all rights, including the trademark, begin to ship in Bayer's Aspirin with the same kind of a trade-mark that they had before, although the right is owned in the United States. According to the decision that was read by the Senator from West Virginia the American purchasers of these rights are entirely unprotected, and this is to give the opportunity to protect the American purchaser. That is all there is to it. . . . *Id.* at 11604; *see* remarks of Senator Sutherland, *supra.*

At the end of the debate, Senator Lenroot expressed a concern as to whether the section would apply in a case involving facts similar to the facts at issue here. Senator Lenroot wanted to know whether an international corporation could designate an American agent to register its trademark in the United States and then use that registration to bar unauthorized imports. "I want to inquire whether any American could purchase [the product] abroad and import it without the written consent of [the] agent here in the United States, and if not, why not? There is no fraud, no deceit." *Id.* at 11605. Senator McCumber clearly did not believe that the section applied to these facts. "[I]f there has been no transfer of trade-mark, that presents an entirely different question. . . . The mere fact of a foreigner having a trade-mark and registering that trade-mark in the United States, and selling the goods in the United States through an agency, of course, would not be affected by the provision." *Id.* Apparently Senator Lenroot was unconvinced that the

language proposed was sufficiently narrow to achieve the stated purpose. He restated his example, making clear that the agent registering the trademark was domiciled in the United States, and stated that under the section the product "could not be bought in the markets of the world and sold here within the written consent of the [trademark owner] or [its] agent domiciled here in America." *Id.*

However, the sponsors of the section apparently did not believe that the section created these rights. And all concerned with the debate believed that the purpose of the section was to reverse the result in *Katzel.*

Shortly after § 1526(a) became law the Supreme Court reversed the Second Circuit decision in *Katzel.* In *Katzel,* the Supreme Court held that the Trademark Act of 1905 outlawed importation of trademark goods from a foreign manufacturer when the foreign manufacturer had sold the American trademark to the plaintiff. The court held that this followed from the law governing assignment of trademark rights. *A. Bourjois & Company, Inc.* v. *Katzel,* 260 U.S. 689, 691 (1923); Trademark Act of 1905, Pub. L. No. 58-84, § 10, 33 Stat. 727 (1905). In a similar case, the Supreme Court held that § 27 of the 1905 act (§ 1124) required the same result. *A. Bourjois & Co., Inc.* v. *Aldridge,* 263 U.S. 675 (1923) *answering questions certified at* 292 F. 1013 (2d Cir. 1922).

Since Congress passed § 1526(a) to provide rights that the Supreme Court held were already provided by the Trademark Act of 1905, it is not surprising that the Bureau of Customs issued one set of regulations to implement both statutes. Customs Regulations of 1923, Articles 475-480. These regulations offer little insight into the Bureau of Customs' interpretation of § 1526(a). The relevant language notes that "[t]rade-marks owned by an American citizen . . . are entitled to the protection of section 526 . . . if the mark has been registered." *Id.* at Article 476. But the regulations do not describe what does or does not constitute a violation of the section.

Section 1526(a) was reenacted without change in the Tariff Act of 1930. Congress debated the section at length in the context of a proposed amendment which would have drastically altered the section.[12] The debate contains only brief references to the existing scope of § 1526(a), but it seems to reflect the views of the original sponsors. Senator Reed noted:

At the present time the tariff laws forbid the importation of an article bearing a trade-mark registered in America unless the owner of that trade-mark consents in writing to the importation. Obviously the purpose of that provision is to protect the American owner of the trade-mark against importations of articles which have been stamped with his mark without his consent. 71 Cong. Rec. 3873 (1929).

ADMINISTRATIVE POLICY AND PRACTICE

Customs Regulations issued shortly after the reenactment of § 1526(a) could be read as suggesting that the Bureau of Customs would apply the section broadly.

Prohibition of entry.—Entry is prohibited of imported mechandise bearing a genuine trade-mark when such trade-mark is recorded with the Treasury Department and registered under the trade-mark law of February 20, 1905, if compliance is had with all provisions of section 526 of the tariff act of 1930, provided the period of protection for such trade-mark has not expired. Customs Regulations of 1931, Article 518(a).

If the Bureau of Customs did intend a sweeping result, that view was short lived. In 1936, the Bureau of Customs issued a new regulation setting out its interpretation of § 1124 and § 1526(a). T.D. 48537 (1936). Article 518 was amended to read:

Prohibition of importation.—(a) Merchandise of foreign of domestic manufacture is prohibited importation when it bears a name or mark which copies or simulates a trade-mark or trade name entitled to the protection of the Trade-Mark Act of 1905 or the Trade-Mark Act of 1920, unless such merchandise is imported by or for the account of, or with the written consent of, the owner of the protected trade-mark or trade name.

(b) A name or mark (including a name or mark which is a genuine trade-mark or trade name in a foreign country) on an article of foreign manufacture identical with a trade-mark or trade name protected by the trade-mark laws of the United States, as well as a name or mark on an article of foreign or domestic manufacture counterfeiting such protected trade-mark or trade name, or so resembling such protected trade-mark or trade name as to be likely to cause confusion or mistake in the minds of the public or to deceive purchasers, shall be deemed for the purposes of these regulations to copy or simulate such protected trade-mark or trade name. *However, merchandise manufactured or sold in a foreign country under a trade-mark or trade name, which trade-mark is registered and recorded, or which trade name is recorded under the trade-mark laws of the United States, shall not be deemed for the purpose of these regulations to copy or simulate such United States trade-mark or trade name (if such foreign trade-mark or trade name and such United States trade-mark or trade name are owned by the same person, partnership, association, or corporation.* T.D. 48537 (1936) (emphasis added.)

The new regulation appears to respond to the concerns raised by Senator Lenroot in the initial debate over § 1526(a). Goods of foreign manufacture bearing a genuine trademark were prohibited imports absent the American trademark owner's consent.[13] But this protection was not extended if the same entity owned the foreign and domestic trademarks. Thus, the plaintiff in *Katzel* that bought the United States trademark rights to a product was protected. Imports of genuine goods bearing the trademark of the foreign company that sold its U.S. rights were outlawed. but the 1936 regulation bars a company from registering a trademark in both the United States and abroad, selling the trademarked goods in both markets, and restricting the importation of the goods it sells abroad.[14]

The essential thrust of this regulation has remained unchanged since 1936.

In 1953, the Bureau of Customs expanded its construction of the limits on § 1526(a). T.D. 53399 (1953). The new regulation, 19 C.F.R. § 11.14, denied trademark owners the right to prohibit imports if the American and foreign trademarks were owned by related companies as defined by § 45 of the Lanham Act, Pub. L. No. 79-489, 60 Stat. 443 (1946).[15] This regulation was consistent with Customs' policy in the application of the prior regulation. Commissioner of Customs Frank Dow explained Customs' policy in a 1951 letter to Senator Paul Douglas.

As interpreted by the Bureau, section 526 prohibits importation of genuine articles of foreign origin bearing a genuine trade-mark valid in the foreign country which articles were not produced by or with the authority of the United States owner of such mark.

However, if the United States trade-mark owner and the owner of the foreign rights to the same mark are one and the same person, articles produced and sold abroad by the foreign owner may be imported by anyone for the reason that the trade-mark owner has himself introduced the articles into commerce or authorized such introduction and may not unreasonably restrict the use of the product thereafter. For this purpose a foreign subsidiary or licensee of the United States trade-mark owner is considered to stand in the same shoes as such trade-mark owner.

In 1959, the Bureau of Customs amended 19 C.F.R. § 11.14 to eliminate the provision for related companies. T.D. 54932 (1959). There is no evidence that this amendment reflected a substantive change in Customs' policy, especially since the amendment retained the limitation based on ownership of the foreign and domestic trademark by the same person, partnership, association, or corporation.

The Bureau of Customs reaffirmed its interpretation of § 1526(a) in a pair of letters in 1962 and 1963, a series of letters in 1968 and 1969, and a 1969 Treasury decision. Deputy Commissioner Flinn wrote in 1963:

It has been the Bureau's position for many years that in permitting anyone to import merchandise manufactured or sold by the foreign parent or subsidiary corporation of an American trademark owner is the correct interpretation of section 526 of the tariff act and section 42 of the trademark law.

And in 1962 he wrote:

It is the Bureau's opinion that a foreign wholly owned subsidiary and its United States parent corporation are the same corporation within the meaning of section 11.14(b) of the Customs Regulations. This interpretation has been consistently applied for some years before insertion of the "related companies" provision in the customs regulations and since the "related companies" provision was deleted from the regulations in 1959.

In 1968, Paul K. McCarthy, Assistant Director (Restricted Merchandise) for Customs wrote Peter Gray, the Managing Director for plaintiff's predecessor corporation:

[I]t is our position that only trademarks, on foreign-made products, which were unauthorized when introduced into foreign commerce are prohibited importation under section 1526, title 19, United States Code. Thus if any goods sold to markets abroad by a foreign branch, subsidiary or agent should be offered for importation into the United States, those goods would be considered to bear genuine "VIVITAR" trademarks and would be admissible to entry. This position is based on the legislative and judicial history of 19 U.S.C. 1526.

And in 1969, Mr. McCarthy wrote again to Mr. Gray analyzing the statutory basis for Customs' interpretation.

The purpose of the relevant law, section 1526, title 19, United States Code, is to protect American firms which have bought trademarks from foreign firms, against fraudulent competition by the foreign firms. Obviously this purpose is not served when an American trademark owner authorizes foreign use of his genuine trademark, even though it is not intended that merchandise so marked will be imported into the United States.

And T.D. 69-12(2) (1969) provides:

Trademarks and Trade Names.—The trademark or trade name on imported foreign-produced merchandise shall not be deemed to copy or simulate a registered trademark or trade name, if the foreign producer is the parent or subsidiary of the American owner or the firms are under a common control. Further, if a foreign producer has been authorized by the American owner to produce and sell goods abroad bearing the recorded trademark or trade name, merchandise so produced and sold is deemed admissible.

In 1972, the Bureau of Customs revised 19 C.F.R. § 11.14. The new regulation, 19 C.F.R. § 133.21, embodied the construction of § 1526(a) which the Customs Service (previously named Bureau of Customs) had generally maintained, from 1936.[16] The regulation makes clear that Customs will not restrict genuine imports bearing a trademark registered in the United States if the foreign and domestic trademark owners are the same, closely related, or the American trademark owner consented to the application of its trademark to the important goods. The Justice Department's comments on the regulation provide a detailed analysis of, and further justification for, Customs' interpretation of § 1526(a). Justice analyzed the litigated history of the *Katzel* case and the legislative history of § 1526(a) and agreed that Congressional intent and public policy required a narrow reading of § 1526(a). Letter from Walter B. Comegys, Acting Assistant Attorney General, Antitrust Division to Myles J. Ambrose, Commissioner of Customs, dated April 19, 1971.[17]

Although Customs' stated policy seems clear, there is some evidence that the Bureau of Customs did not always apply its construction of § 1526(a) uniformly. In the hearings on the Lanham Act, the Justice Department objected to New Jersey Zinc Company's use of its trademark to restrict imports.

[Section 1526] obviously was designed to prevent the importation into the United States of foreign merchandise bearing counterfeit trademarks, etc. It was the ingenuity of the New Jersey Zinc Co.'s lawyers to pervert this provisions [sic] of the Tariff Act to serve their own purposes, namely, to exclude absolutely from the United States zinc produced abroad under licenses granted by New Jersey Zinc Co. under its patents and bearing New Jersey's trademark as required by New Jersey.

Hearings on H.R. 82 before a Subcommittee of the Senate Committee on Patents, 78th Cong., 2d Sess. 68 (1944). Also, the briefs filed by the Justice Department in an antitrust action indicated that Customs was excluding perfumes bearing American trademarks even though the foreign trademark for the perfumes was owned by companies related to the American trademark owners. *United States* v. *Guerlain, Inc.*, 155 F. Supp. 77, 79–80 (S.D.N.Y. 1957), *vacated and remanded*, 358 U.S. 915 (1958), *dismissed*, 172 F. Supp. 107 (S.D.N.Y. 1958).[18]

The Bureau of Customs' exclusion of goods bearing the Guerlain and the New Jersey Zinc trademarks appears contrary to Customs' policy as contained in their regulations and the letter of Commissioner Dow. It is especially difficult to see how Customs could exclude the goods in *Guerlain* if Customs knew the foreign and the domestic trademark owners were commonly controlled. This would have been directly contrary to the newly promulgated Customs regulations of 1953.

John F. Atwood, a Customs Law Specialist, provides a plausible explanation for this apparent inconsistency in practice in his comprehensive review of Customs' interpretation of § 1124 and § 1526. In discussing the *Guerlain* case, he concludes that the Bureau of Customs "had always denied complete exclusionary protection to an American trademark registrant when it knew the importer to be a subsidiary or parent of the foreign user of the trademark. Prior to 1953, however, the Customs Regulations were not set up to specifically elicit this kind of information." Atwood, *Import Restrictions on Trademarked Merchandise—The Role of the United States Bureau of Customs* 59 Trademark Rep. 301, 307 (1969). "[S]ome Customs trademark recordants who had recorded before 1953 undoubtably continued to be permitted to exclude merchandise from their foreign supplier, since Customs did not know of the relationship between the two entities." *Id.* at 310. This interpretation is supported by the Customs Regulations governing recording of trademarks. Customs Regulations of 1936, Article 519.

Therefore, the court concludes that, since 1936, Customs, in essence, has construed § 1526(a) so as to deny American trademark owners the right to exclude goods manufactured abroad bearing their trademarks, when control of the foreign trademark is in the hands of the American trademark owner. Customs, in its own writings, and in the writings it gathered in the regulation promulgation process, has provided persuasive exegesis of the legal justification for this construction. *See* letters of Commissioner Dow, Mr. McCarthy, and Mr. Comegys. Thus, this construction is entitled to substantial weight. *Securities and Exchange Commission* v. *Sloan*, 436 U.S. 103, 117–118 (1978). Customs' longstanding construction has been consistently applied since at least 1962, and, as discussed above, probably reflects Customs general practice under its regulations since 1936.

CONGRESSIONAL RATIFICATION

In 1976 and 1978, Congress indicated its acceptance of Customs' interpretation of § 1526(a) by failing to amend § 1526(a) when it enacted legislation closely related to this provision. In 1976, a House Report, prepared as background for the proposed Customs Modernization Act of 1975, carefully examined the administrative practice under § 1526(a). The report noted that § 1526:

Has been consistently interpreted by the United States Customs Service for the past 20 years as excluding from protection foreign-produced merchandise bearing a genuine trademark created, owned, and registered by a citizen of the United States if the foreign producer has been authorized by the American trademark owner to produce and sell abroad goods bearing the recorded trademark. H.R. Rep. 138, 94th Cong., 2d Sess. 54 (1976). In 1978, another House Report repeated the analysis of the 1976 report. H.R. Rep. 621, 95th Cong., 1st Sess. 27 (1978). Both reports were prepared in the context of proposals for substantial amendments to § 1526.

In 1978 Congress adopted two major amendments to § 1526. The first permitted travelers to freely import trademarked goods for personal use. Pub. L. No. 95–410, 92 Stat. 903 (1978), (19 U.S.C. § 1526(d)). The second specified the procedure to be followed by the Customs Service when it discovers imported goods bearing a counterfeit mark. 92 Stat. 903–904, 19 U.S.C. § 1526(e). Congress examined Customs' administrative practice towards imports bearing both genuine and counterfeit trademarks. After this examination, Congress decided to define strict statutory standards for imports bearing counterfeit marks while altering Customs' administrative practice concerning imports bearing genuine marks. This failure to alter § 1526(a) is sufficient indication of Congressional acquiescence in Customs' administrative practice. *Haig* v. *Agee*, 453 U.S. 280, 301 (1981).[19]

VALIDITY OF CURRENT AGENCY INTERPRETATION

This case presents a conflict between the expansive literal language of § 1526(a) and the much narrower construction contained in the legislative history and administrative practice. The court will not determine the scope of § 1526(a) by mechanically applying the language of the statute. Nor will it blindly defer to administrative practice or the legislative history. The court must determine the scope Congress intended for § 1526(a) from all these sources.[20]

The court will give deference to a longstanding agency construction and practice under a statute it is charged with administering. *Commonwealth Oil Refining Co.* v. *United States*, 60 CCPA 162, 173–177, 480 F.2d 1352 (1973). The agency construction will be upheld if it is a reasonable interpretation of the statute. The court " 'need not find that [the agency's] construction is the only reasonable one, or even that it is the result [the court] would have reached had the question arisen in the first instance in judicial proceedings.' " *Zenith Radio Corporation* v. *United States*, 437 U.S. 443, 450 (1978), *quoting Unemployment Compensation Commission* v. *Aragon*, 329 U.S. 143, 153 (1946).

Customs' construction of § 1526(a) is entitled to even greater deference here because, despite substantial controversy, Customs has consistently maintained it and Congress accepted it when the interpretation was brought to its attention while it was amending § 1526. *Zemel* v. *Rusk*, 381 U.S. 1, 11–12 (1965); *Norwegian Nitrogen Products Co.* v. *United States*, 288 U.S. 294, 313 (1933).

Therefore, the question is whether Customs' interpretation is "sufficiently reasonable" to be accepted by this court in light of the normal aids to statutory construction. *Zenith Radio*, 437 U.S. at 450; *Train* v. *Natural Resources Defense Council*, 421 U.S. 60, 75 (1975). The court is convinced that Customs' interpretation is a reasonable construction reflecting Congress' intent, and in fact is a necessary construction of the statute to avoid results Congress clearly did not intend.

To determine the meaning Congress intended for a statute, the court must look to "the evil it was designed to remedy . . . , the situation as it existed, and as it was pressed upon the attention of Congress." *Church of the Holy Trinity*, 143 U.S. at 463; *see also Federal Deposit Insurance Corporation* v. *Tremaine*, 133 F.2d 827, 830 (2d Cir. 1943). This rule has special force in this case because the sponsors of § 1526(a) repeatedly stated that the purpose of the section was only to reverse the *Katzel* decision. As shown by the legislative history, Congress adopted § 1526(a) to protect an American trademark owner, like the one in *Katzel*, who had purchased the trademark of an independent foreign company. Congress decided it was unfair to permit unauthorized imports of goods bearing the foreign company's trademark. These imports violated the rights the American trademark owner purchased from the foreign company in an arms-length transaction. This is the problem Congress was confronted with by the

Katzel decision, and the sole purpose of § 1526(a) was to resolve this problem.

Moreover, construing § 1526(a) to apply when a foreign source of imports is related to, or the agent of, the American trademark owner could lead to results that Congress could not reasonably have intended when it enacted the section. Plaintiff's reading of § 1526(a) would give a foreign manufacturer of trademarked goods a competitive advantage over an American manufacturer when both were engaged in world-wide marketing of their product. Since § 1526(a) only applies to goods manufactured abroad, the American manufacturer would not be able to employ § 1526(a) to restrict unauthorized imports of its goods sold by its overseas distributors.[21] *See* § 1526(a), footnote 2 *supra.* But the foreign manufacturer could from an American subsidiary corporation, transfer the American trademark rights to that corporation, and then have the subsidiary use § 1526(a) to restrict any unauthorized imports of the foreign manufacturer's goods. The only way an American trademark owner could overcome this marketing advantage is by moving its manufacturing operations abroad so it too could restrict access to the United States market.

The Tariff Act of 1922 is "An Act To . . . encourage the industries of the United States." Tariff Act of 1922, Pub. L. No. 67-318, Preamble, 46 Stat. 590 (1922). Congress was, in large part, motivated by a desire to protect American industry from the competitive advantages it saw available to foreign industry. S. Rep. No. 595, 67th Cong., 2d Sess., 1-3 (1922), H.R. Rep. No. 248, 67th Cong. 1st Sess. 1-2 (1922). It is difficult to believe that a Congress so concerned with protecting American industry would give foreign industry an important competitive advantage that could only be remedied by American industries fleeing abroad. This result is particularly unreasonable given that § 1526(a) was intended to protect "the property rights of American citizens who have purchased trade-marks from foreigners . . . when these foreigners deliberately violate these property rights." 62 Cong. Rec. 11603. No member of Congress involved in the debate of § 1526(a), which was enacted as part of the Tariff Act of 1922, believed that the purpose of § 1526(a) was to encourage the foreign manufacture of trademarked goods. Plaintiff's interpretation of § 1526(a) would permit an unintended construction of the literal language of § 1526(a) to give a competitive advantage to foreign manufacturers contrary to the basic purposes of the Tariff Act of 1922 and the expressed Congressional intent in enacting § 1526(a).

Plaintiff contends that the Customs Service's interpretation of § 1526(a) is unreasonable because it permits gray market importers to unfairly exploit plaintiff's good will.[22] According to this argument, plaintiff markets goods bearing its trademark under a variety of different circumstances worldwide. In some markets, plaintiff's goods are marketed with a minimum of supporting expenses. Plaintiff contends that the low price for its goods in these markets reflects minimal expense on advertising, merchandising, customer services and warranties. In the United States, plaintiff incurs substantial expenses in support of its trademark. It advertises the quality of its mark extensively. It maintains a wide network of authorized distributors to insure quality and widespread availability. It offers a variety of customer services. And it offers an extensive warranty program. Plaintiff contends that its higher prices in the United States reflect the added expenses incurred in building its reputation. Plaintiff contends that sellers of gray market goods who purchase goods abroad, which are not priced to reflect the reputation plaintiff built in the United States, "free ride" on plaintiff's reputation here.[23]

There are several answers to this argument. Intervenor contends that it does not free ride on plaintiff's reputation because it also incurs substantial advertising, marketing, and warranty expenses on behalf of goods bearing plaintiff's trademark. Also, plaintiff could protect itself against free riding by using marketing and labeling practices to make clear that goods plaintiff sells abroad are not supported by the same services as those plaintiff sells in the United States.

But the fundamental answer to this argument is that it poses a problem that § 1526(a) was not intended to deal with. Congress enacted § 1526(a) as a special remedy to protect American businesses that purchase foreign trademarks from imports that violate the rights the American businesses purchase. On the other hand, free riding can be a form of unfair competition affecting any trademark owner. Free riding is regulated under the Lanham Act, 15 U.S.C. § 1114, and by non-statutory law. *See, e.g., Professional Golfers Association* v. *Bankers Life & Casualty Co.*, 514 F.2d 665, 670-671 (5th Cir. 1975). Plaintiff would apparently have the court infer that Congress intended § 1526(a) as an additional remedy for violations of the law of unfair competition generally. There is no evidence that Congress intended such a sweeping scope to § 1526(a), and the court declines to so interpret it.

If plaintiff is suffering from unfair competition generally, relief might be available under the Lanham Act or other laws.[24] But plaintiff has brought his claim under § 1526(a) and has not attempted to provide the elements of a claim for unfair competition. Plaintiff seeks an unqualified right to demand exclusion of unauthorized imports bearing its trademark. Section 1526(a) does not give plaintiff this right.

Finally, the court is reluctant to disturb the Customs Service's longstanding construction of § 1526(a) because of the substantial commercial reliance on Customs' interpretation. Customs has uniformly applied this interpretation since at least 1962, and business has been built based on this interpretation. Reliance, of course, would not justify Customs' maintaining a position clearly contrary to law, nor is it sufficient to persuade the court not to entertain plaintiff's suit on the grounds of laches. But as discussed above, Customs' construction of § 1526(a) is reasonable and consistent with Congressional intent. Congress has acquiesced in this interpretation despite continuing public controversy. Congress is best suited to determine whether the current balance in trademark rights in international commerce is inappropriate.

Therefore, it is ordered: Plaintiff's motion for summary judgment is denied. Defendants' motion for summary judgment is granted.●

FOOTNOTES

[1] Plaintiff's complaint seeks relief in the nature of mandamus. In a later filing, plaintiff conceded that declaratory relief would be adequate. Therefore, the court will treat plaintiff's action as one for declaratory or injunctive relief.

[2] 19 U.S.C. § 1526(a) provides: Except as provided in subsection (d) of this section, it shall be unlawful to import into the United States any merchandise of foreign manufacture if such merchandise, or the label, sign, print, package, wrapper, or receptacle, bears a trademark owned by a citizen of, or by a corporation or association created or organized within, the United States, and registered in the Patent and Trademark Office by a person domiciled in the United States, under the provisions of sections 81 to 109 of title 15, and if a copy of the certificate or registration of such trademark is filed with the Secretary of the Treasury, in the manner provided in section 106 of said title 15, unless written consent of the owner of such trademark is produced at the time of making entry.

[3] 19 C.F.R. § 133.21 provides in relevant part:

(b) *Identical trademark.* Foreign-made articles bearing a trademark identical with one owned and recorded by a citizen of the United States or a corporation or association created or organized within the United States are subject to seizure and forfeiture as prohibited importations.

(c) *Restrictions not applicable.* The restrictions set forth in paragraphs (a) and (b) of this section do not apply to imported articles when:

(1) Both the foreign and the U.S. trademark or trade name are owned by the same person or business entity;

(2) The foreign and domestic trademark or trade name owners are parent and subsidiary companies or are otherwise subject to common ownership or control (see §§ 133.2(d) and 133.12(d));

(3) The articles of foreign manufacture bear a recorded trademark or trade name applied under authorization of the U.S. owner; 19 C.F.R. § 133.21(b), (c) only speaks to seizure and forfeiture of trademarked goods. The parties agree that the Customs Service uses the same criteria for determining whether to exclude goods bearing a registered trademark.

[4] This court has previously determined that it has jurisdiction over plaintiff's claim. *Vivitar Corporation* v. *United States*, 7 CIT ——, 595 F.Supp. 1419 (1984).

[5] Letter rulings are authorized by 19 C.F.R. § 177.1 *et seq.* (1983). They represent the official position of the Customs Service until modified or revoked. 19 C.F.R. § 177.9.

[6] It should be noted that the instant case arises under 28 U.S.C. § 1581(i). The court expresses no opinion as to the appropriate circumstances for judicial review of requests for letter rulings that may be eventually reviewable pursuant to 28 U.S.C. § 1581(h).

[7] The Customs Service is engaged in an ongoing inquiry into gray market trade practices. 49 Fed. Reg. 21453 (1984). There is no indication that this inquiry will lead to agency action responding to plaintiff's request. And regardless, the Customs Service will not issue a letter ruling involving any issue while the issue is being litigated before this court. 19 C.F.R. § 177.7.

[8] Intervenor also contends that a number of plaintiff's factual allegations should not be considered due to the absence of certified copies of supporting documents. Court of International Trade Rule 56(f). The court declines to require full technical compliance with Rule 56(f) because the documents referred to by intervenor either support undisputed facts (plaintiff's ownership of the Vivitar trademark in America) or nonmaterial facts. *See* Rule 1 of this court.

[9] Plaintiff's standing to bring this action is not challenged. It alleges a legal injury stemming from adverse agency action. *See* 28 U.S.C. § 2631(i).

[10] The *Ketzel* case was awaiting decision in the Supreme Court at this point.

[11] The Senate considered the section under a rule limiting debate to ten minutes.

[12] The proposed amendment would have outlawed importation of all goods bearing a trademark registered by an American citizen. The amendment was intended to compel American trademark owners to produce their goods domestically. 71 Cong. Rec. 3871 (1929).

[13] Plaintiff and *amicus curiae* COPIAT contend that the 1936 regulations do not limit § 1526(a). They note that the limiting language of Articles 518 is only directed to imports bearing a trademark that copies or simulates a registered trademark. They argue that § 1526(a) does not refer to marks that copy or simulate a registered mark so the regulation does not limit § 1526(a). The court rejects this construction of the regulation. Article 518 plainly states that a trademark on an article of foreign manufacture *identical with* an American trademark "shall be deemed for the purposes of this regulation to copy or simulate" the American

trademark. § 1526(a) is specifically targeted at these articles. Therefore, it seems Customs intended Article 518 to implement § 1526(a).

[14] In testimony before Congress, the United States Tariff Commission contended that § 1526(a) could not be so limited, and that the 1936 regulation only applied to enforcement of § 1124. Hearings on H.R. 82 before the Subcommittee of the Senate Committee on Patents, 78th Cong. 2d Sess. 86-87 (1944). This construction is not entitled to substantial weight since the Tariff Commission was not the agency charged with enforcing § 1526(a). As discussed in note 13, *supra*, the Commission's construction of the 1936 regulation is plainly wrong.

[15] Section 45 of the Lanham Act provides in relevant part: The term "related company" means any person who legitimately controls or is controlled by the registrant or applicant for registration in respect to the nature and quality of the goods or services in connection with which the mark is used.

[16] *See* footnote 3, *supra*.

[17] Plaintiff contends that the Customs Service's interpretation of § 1526(a) as explained by the Justice Department should be given little weight because it has not been consistently maintained. Plaintiff relies heavily on an *amicus curiae* brief filed by the Antitrust Division and signed by the Chief Counsel of the Customs Service in *Bell & Howell: Mamiya Co.* v. *Masel Supply Co.*, 719 F.2d 42 (2d Cir. 1983). The brief does not persuasively demonstrate any inconsistency in policy. The focus of the *Mamiya* case is the right of a trademark owner to enjoin the importation of goods bearing infringing trademarks under § 1124. The brief discusses at length the policies involved in trademark infringement and the relevance of antitrust law. The brief mentions § 1526(a) only in passing and suggests that the legislative history of the various trademark laws does not conclusively require the court to limit protection of the trademark laws when an American trademark owner is related to a foreign manufacturer of the trademarked goods. Because the *Mamiya* brief focuses on trademark infringement and antitrust issues and not on § 1526(a), and because the brief does not attempt to comprehensively analyze the policy or legislative history behind § 1526(a), the court does not consider the brief directly inconsistent with Customs' long maintained position on § 1526(a).

[18] *Guerlain* is one of several antitrust actions involving a group of closely related French perfume manufacturers and their American distributors. The Justice Department alleged that the defendants monopolized the importation and use of their product. The American distributors prevented any competitors from importing the French manufacturers' trademarked products by registering the identical trademarks in the United States and demanding that the Bureau of Customs exclude any imports by competitors. Apparently the Bureau of Customs excluded competing imports despite the close relationship between the foreign manufacturers and the American distributors. Brief of the United States on Motion to Vacate Judgments and to Remand to the District Court for Consideration of Motion to Dismiss Filed by United States, *Guerlain, Inc.* v. *United States*, 358 U.S. 915 (1958).

[19] Plaintiff contends that Congressional approval should not be inferred since neither the Senate Report nor the Conference Report discuss Customs' administrative practice concerning § 1526(a). This contention is not persuasive. The Conference Report notes that the Conference Committee considered whether the new § 1526(e) would apply to all goods regulated by § 1124 or only counterfeit goods. Section 1124 regulates imports of genuine good, counterfeit goods, and goods bearing marks deceptively similar to registered trademarks. The Senate accepted the House position that the section should only apply to counterfeit goods. It is reasonable to assume that the conference accepted Customs' policy concerning genuine goods. *See* H.R. Rep. 1517, 95th Cong., 2d Sess. 17 (1978).

[20] Plaintiff argues at length that the court should not consider the legislative and administrative history of § 1526(a) because the plain language of the statute would allow plaintiff to prevail. The statutory language is, of course, fundamental to understanding Congressional intent. But even though "courts are ordinarily duty bound to interpret statutes in accordance with their clear meaning, statutory clarity does not bar a court's consideration of legislative history where such history clearly indicates 'that Congressional intent differed from that manifested by the language used.'" *British Steel Corporation* v. *United States*, 6 CIT, 573 F.Supp. 1145, 1148, *quoting Zenith Radio Corporation* v. *United States*, 1 CIT 180, 184, 509 F.Supp. 1282 (1981). See also discussion *supra* at page 11.

[21] Although this scenario does not appear to raise problems under current market conditions, it is nonetheless a possibility under plaintiff's construction.

[22] The United States District Court in *Osawa & Co.* v. *B&H Photo*, 83 Civ. 6874 (S.D.N.Y May 24, 1984) accepted this theory when it expressed strong doubt as to the validity of Customs' current policy under § 1526(a).

[23] It should be noted that this alleged free riding only exploits plaintiff's added costs in the United States. When plaintiff sells its goods abroad through its overseas distributors it receives full value for the cost of making and distributing the goods abroad.

[24] Whether this court has jurisdiction to grant relief regarding unfairly competing imports is an open question upon which this court expresses no opinion. The court does not wish to imply by this discussion that plaintiff has an unfair competition claim.

THE PRODUCT LIABILITY ACT

● Mr. KENNEDY. Mr. President, on August 10, 1984, the Senate, by unanimous consent, sequentially referred S. 44, the Product Liability Act, to the Labor and Human Resources Committee for the purpose of examining the impact that legislation would have on the operation of workers' compensation system in this country and for other purposes.

Under the terms of the sequential referral, the Labor Committee was to be discharged from further consideration of S. 44 if we did not act on it by the close of business on September 12, 1984. That was the date of the first executive session scheduled after the August break and the press of other business made it impossible for our committee to convene and act on S. 44 at that time. However, during these past 8 weeks, committee members and staff have examined the deliberations of the Commerce Committee on S. 44, our own hearings on the Longshore and Harbor Workers' Compensation Act, Labor Committee hearings on bills to create Federal standards on State workers' compensation held during the 94th and 95th Congress and hearings held in the 97th and 98th Congress on problems of workers exposed to toxic substances in the workplace.

As a result of this review, a number of Labor Committee members felt that, despite our committee's inability to act formally on S. 44, the Senate should have an opportunity to evaluate some of the worker-protection issues raised by the bill. We have therefore prepared a detailed statement of our views of the record.

Mr. President, I ask that our joint statement together with the separate and concurring views of Senator RIEGLE and a copy of the original referral request Senator HATCH and I sent to Senators PACKWOOD and HOLLINGS be printed in the RECORD in their entirety.

Joint statements of Senators KENNEDY, EAGLETON, and METZENBAUM respecting certain worker protection issues raised by S. 44, the Product Liability Act, together with the separate and concurring views of Senator RIEGLE follow:

INTRODUCTION

S. 44 proposes sweeping changes in the tort law governing product liability law, which would have a profoundly adverse effect on the rights of American workers. The bill's proponents do not contend otherwise; indeed, they anticipate that S. 44 will result in fewer product liability suits, that when suits are filed it will be much more difficult for plaintiffs to prevail, and that even when plaintiffs prevail their amount of recovery will be substantially reduced. Since workers injured by defective products have been forced to resort to both the state workers' compensation system and product liability suits in order to obtain just compensation, enactment of S. 44 would elevate the significance of the workers' compensation system, thereby placing additional burdens on a system that has already proven to be grossly inadequate from the perspective of worker protection. Thus, while S. 44 suffers from manifold substantive deficiencies, its threshold defect is a one dimensional approach to workers' compensation that seeks to change the operation of that system in ways which will benefit only tort defendants, rather than solving the problems of workers and employers.

The bill also contains a number of provisions which will affect the prospects of recovery for a large and growing group of American workers we feel a special responsibility to—the victims of occupational disease.

For more than a generation we have permitted manufacturers and employers to introduce new chemicals into the work place without adequate prior testing, warning or safety precautions. The consequences of indifference are now well documented and the bill for our national neglect is now coming due. On-the-job exposure to asbestos, radiation, cotton dust, benzene, lead, arsenic, coke oven emissions and other hazardous agents already has left a horrible legacy for workers, and millions more continue to be exposed to known toxic chemicals and other harmful substances every day.

Neither the product liability system nor the worker compensation system is well designed at present to assist occupational disease victims. The sponsors of S. 44 initially sought to limit expressly the right of state courts to fashion certain remedies favorable to occupational disease victims. Although public pressure forced a retreat from that posture, the bill continues to undermine victims; rights while failing to address the most difficult issues raised by worker exposure to toxic substances. We regard these issues and the creation of a fair and coherent system for compensating victims of occupational disease to be an overriding policy question which should be our first priority. A federal product liability bill that fails to deal squarely and openly with the spectrum of problems associated with occupational health and safety should not be enacted by the 98th Congress.

I. WORKERS' COMPENSATION SYSTEMS AND PRODUCT LIABILITY LAW

Under current law, workers in the 50 states normally have two separate options for obtaining relief for occupationally caused illness or injury: the workers' compensation system and products liability law. The workers' compensation system provides

persons who are victims of on-the-job injury or death with a right to benefits paid for by their employer as part of a state-regulated insurance system. In additional, the product liability law of the 50 states may accord injured workers or their survivors a right to sue the manufacturer or distributor of the product that caused their injury.

Injured workers frequently are forced to resort to the tort system in order to secure appropriate compensation for themselves and their families. One recent study concluded that approximately 50 percent of all product liability damages paid by manufacturers compensate workers for job-related injuries. Another study concluded that while 11 percent of the claims made by workers injured on the job were product-related, those claims resulted in 42 percent of the total amount of payments made on all produce liability claims.[1] This is not a mere happenstance.

Over the years, the law concerning work place safety has evolved with two principal objectives in mind; establishing a mechanism to insure fair compensation for injured product users, and creating incentives to encourage employers responsibility to provide a safe and healthful working environment for their workers.

Indeed providing a safe work place in order to prevent future injuries or diseases is as important a concern as providing compensation for victims of past occurrences. Yet it is clear that the law has failed to achieve either of its two principle objectives whether through the workers' compensation system, the tort system or the two systems combined.

a. Inadequacy of the Workers' Compensation System.

Beginning at the end of the last century, state after state enacted workers' compensation laws in response to the unjust and unfair results produced by the decisions of their respective courts. Workers injured on the job because of their employer's actions all too frequently were denied recovery in the face of a morass of common law defenses embraced by the courts—assumption of the risk, fellow servant, and contributory negligence provided the rationale successfully relied upon by corporate defendants. The underlying premise of workers' compensation was that there would be a tradeoff: in exchange for the promise of prompt, certain payments for out-of-pocket damages regardless of employer fault, workers gave up the right to recover from their employers for pain and suffering.

The workers' compensation system was a success initially, but in recent years has proven inadequate to the task of providing adequate, prompt and equitable compensation for workers. In July 1972, the National Commission on State Workmen's Compensation Laws concluded that "the protection furnished by workers' compensation to American workers presently is, in general, inadequate and inequitable." Over ten years later, that verdict still holds true for many state programs. According to the Department of Labor, as of July 1, 1984, 21 of the 50 states still provide maximum temporary total disability benefits, which are less than the state's average weekly wage.[2] Twenty-three states provide maximum permanent total disability benefits which are below the state's average weekly wage. Twenty-eight states provide maximum weekly death benefits below the state's average weekly wage. In addition, many state compensation laws simply do not provide protection for large numbers of workers. As of July 1, 1984, 15 states still exempted some small employers and their employees from coverage and 38 states exempted certain classes of employers, such as charitable organizations. Lengthy delays in resolving claims pose another major obstacle to workers seeking adequate compensation. These delays have taken a terrible toll on workers and their families, and are particularly troublesome since their elimination was one of the main objectives of the compensation system in the first place.

In short the workers' compensation system is simply not meeting either of its basic objectives: income maintenance for injured workers and their families is woefully inadequate in many states and employers do not have sufficient incentive to expend the resources necessary to improve safety and health practices and thereby protect workers from injury.

The workers' compensation system has proven particularly inadequate for those workers suffering from occupational diseases. It is hardly surprising that the system has proven to be of little value from either a compensation or prevention perspective in this regard since the workers' compensation system was created long before the widespread use of chemicals and other toxic substances in the work place.

Today, coverage for occupational disease under state compensation laws is generally unsatisfactory. Restrictive statutory definitions make it difficult to establish the occupational cause of a disease, and unrealistically short statutes of limitation result in the exclusion of many latent disease claims. Occupational diseases generally occur many years after exposure. Injured workers may no longer work for the same employer, or they may have been exposed to multiple sources of a disease-causing substance. Accordingly, workers often are unable to trace the source of their disease, particularly as has increasingly proved to be the case, they are already retired when the disease first appears. Since compensation is based on a wage loss concept and generally assumes an employer-employee relationship, conceptual difficulties in designing systems for compensating occupational disease victims and a lack of incentive for employers to help solve those difficulties, has meant little, if any, assistance for workers. Employers have learned, instead, that they can absorb the premiums paid to insurance carriers or the expenditures for self-insurance as an ordinary cost of operating, and continue with business "as usual."

Congress, aware of the magnitude of work place safety and health issues, has attempted to address the problem through regulation. In enacting the Occupational Safety and Health Act of 1970, 29 U.S.C. sec. 651 et. seq., it was the intent of Congress that the Secretary of Labor would exercise his delegated rulemaking authority to establish meaningful standards that would protect workers against a multitude of occupational hazards and then vigorously enforce those standards through an effective federal compliance program. In this manner, it was anticipated that the OSHA Act would provide the stimulus for corporations to make the capital expenditures and devote the manpower necessary to alleviate safety and health hazards throughout the nation's workplaces. Although some progress has been made, we cannot help but observe that many needed federal standards have been successfully delayed or buried by those interests who now praise S. 44 because now, they say, only federal legislation can provide rational incentives for safe products.

b. Consequences of Inadequacy.

The documented inadequacies of the workers' compensation system for making victims of occupational disease whole have led to two distinct developments. First, efforts to create new systems for compensating victims of occupational disease have been initiated in Congress and in the private sector. Among the federal initiatives that have been proposed is H.R. 3175, the Occupational Disease Compensation Act of 1983, introduced by Congressman George Miller and currently pending before the House Education and Labor Committee. H.R. 3175 would provide employees exposed to asbestos or other toxic substances in the course of employment with compensation benefits at substantially increased levels. Legislation designed to compensate asbestos victims through a no-fault system which would supplement state compensation awards has also been introduced in the Senate. In addition a number of bills have been introduced that create new compensation rights for individuals and workers exposed to environmental hazards and pollutants.[3]

Second, workers have increasingly turned to the tort system to obtain adequate compensation for themselves and their families. In the past two decades, state courts, especially in the more populous, industrial states, have issued decisions in product liability cases enabling individuals harmed by defective or unreasonably dangerous products to prevail in damages actions against the producers and sellers of these products.[4] This development in tort law comports with the same two objectives that were behind the workers' compensation system: adequate redress for those injured and appropriate incentives for those whose products cause injury. Indeed, in the eyes of some analysts, the state courts have acted at least in part to fill the void created because the compensation system was not accomplishing its mission. Thus, as a general matter, modern product liability law requires that one who manufactures or sells a hazardous or defective product should bear the cost of compensating those harmed by that product. In addition, the decisions of the state courts generally have concluded that placing the cost of any harms caused by a hazardous or defective product on those who profit from its sale serves an overriding societal purpose by encouraging manufacturers and sellers to ensure that their products are safe.

This body of state product liability law is built around the concept of strict liability, which holds manufacturers liable for all defects in their products, whether or not discoverable, so long as the defects make the product unreasonably dangerous. State law thus has made it possible for innocent victims of these products to be made whole, or as nearly whole as possible, through substantial damage awards from juries that include compensation for pain and suffering. Moreover, the size of these awards—sometimes accompanied by awards for punitive damages—has created a strong incentive for manufacturers to design safer products. A recent study by the Rand Corporation concludes that product liability lawsuits, rather than federal regulation or market incentives, have had the greatest safety-related impact on product design decisions. Thus, for example, the study found that at least some corporations have been willing to establish formal product safety activities only after lawsuits resulting in substantial judgments against them had increased their "awareness" of the need to take preventive

measures against possible product liability suits.[6]

Admittedly the tort system is itself flawed in a number of respects. Given the economic and psychological barriers involved in initiating a law suit, many injured victims of defective products will never file suit in the first place. Of those who do sue, some receive large damage awards for their injuries, but many others do not prevail at all. Moreover, from the standpoint of employer incentives, the uneven development of the common law from state to state does not offer the best method for assuring safety in product design.

Despite its shortcomings, however, the existing tort law system has achieved substantial success in filling a gap created by an inadequate workers' compensation system by compensating some workers who have suffered from defective products and, in so doing, has encouraged the production of safe and healthful products. And it has accomplished these things despite the efforts of tort defendants to prevent workers from using the tort system by opposing state court efforts to compensate victims and by seeking to force workers to use the workers' compensation system before availing themselves of a tort remedy.

II. EFFECTS OF S. 44

What S. 44 does is to reduce drastically those desirable aspects of tort law discussed above without breathing so much as one word about the proven need to eliminate the inadequacies of the workers' compensation system. As is clear from the Committee Report, S. 44 focuses solely on eliminating "uncertainty" in the current state tort laws through a single set of federal standards designed to reduce litigation costs and insurance rates.[7] Assuming for the moment that uniformity in the law is a worthy goal in this context,[8] we agree with Senator Hollings that S. 44, which would require the state courts to interpret a variety of new and often obscure legal terms and principles, cannot fulfill even that goal.[9] More important, we also share Senator Hollings' assessment that the proponents of the bill have not offered any economic justification for radically tipping the balance against plaintiffs, inasmuch as the present costs of product liability litigation and insurance are well within the reasonable range for most manufacturers.[10]

Far more serious than S. 44's failure to meet its own professed objectives, however, is its undermining of the rights of persons injured by defective or hazardous products. The impact of the bill's proposed changes on workers' rights merits particular attention. For illustrative purposes, we cite some of the most objectionable features here, although our treatment is not intended to be exhaustive.

1. Section 5 of the bill would retain the common law rule of strict liability for defective product construction but would require the victim to prove manufacturer negligence in design defect cases. Because almost all of the most serious work place injuries involve defects in design or engineering rather than construction, this change would diminish substantially workers' opportunity to recover for exposure to such unreasonable risks. Application of this section to occupational disease claims would have particularly disturbing results.

An examination of the asbestos problem is illustrative. As a result of exposure to asbestos in the work place, thousands of American workers have developed or will develop debilitating, and sometimes fatal, diseases. These victims have sued asbestos manufacturers in strict liability in courts throughout the nation. The potential liability from these tort actions provided the financial incentive for manufacturers to develop substitutes for asbestos during the late 1960s and the early 1970s. Consequently, untold numbers of workers will be spared the agony of asbstos related disease in the future. If S. 44's section 5 had been in effect, however, the financial incentive to develop alternatives would not have existed because successful suits would have been virtually impossible.

An asbestos manufacturer probably would have enjoyed a complete defense pursuant to section 5(b)(2)(A) of S. 44. According to that section, a manufacturer escapes liability by establishing that the "means to eliminate the danger . . . was not within practical technological feasibility and the benefits and usefulness of the product to the public outweighed the likelihood and probable seriousness of the harm." Practical technological feasibility is defined in section 2(9) of S. 44 in a manner that manufacturers could claim that no practical alternatives to asbestos existed for insulation. Manufacturers could also argue that the public benefits of asbestos as an insulator during World War II were so great as to outweigh the harms. Moreover, under section 5(b)(2)(B) a manufacturer escapes liability by showing that the "harm was caused by an unavoidably dangerous product." An "unavoidably dangerous product" is defined in section 5(b)(3) as one that "(A) is useful and desirable to the public" and "(B) has a known but reasonable risk which, in light of the state of scientific and technical knowledge at that time, can not be made safe without impairing the effectiveness of the product's intended and ordinary use." Asbestos might well constitute an "unavoidably dangerous product" under this definition. Manufacturers could argue that it was a useful and desirable product and that, although some studies had shown the risk involved with asbestos as early as the 1930s, the state of scientific knowledge at that time did not exist to provide alternatives. This scientific knowledge later expanded as a direct result of strict liability litigation which made it financially necessary to develop substitutes for asbestos.

While substitutes for asbestos were developed, many other toxic substances exist in the work place today. Scientific knowledge about them is not broad enough to determine whether asbestos-type diseases will manifest themselves in the future, even though scientists now assert that some risk exists through exposure to them. If S. 44 were enacted into law, manufacturers of these substances would probably have a complete defense to product liability actions since scientific knowledge of these substances is still limited. Without the threat of these actions, it makes economic sense for these manufacturers to cease testing for health dangers and cease research for substitute substances. In sum, S. 44 removes the financial incentives for manufacturers to prevent toxic exposure.

The proponents of S. 44 have argued that the bill is not intended to address occupational claims or that the bill actually aids victims of occupational diseases.[11] They claim that S. 44 opens the courtroom doors for asbestos victims under the "liberal" statute of repose contained in section 11(b)(2) and 11(b)(3).[12] Those subsections permit a claimant whose disease is caused by prolonged exposure to a defective substance and whose disease does not manifest itself within 25 years, to file a suit within two years after the manifestation of the disease. The proponents of S. 44 point out that in some states, occupational disease claimants are barred from filing suit because the disease manifests itself long after the applicable statute of limitations has run out. While it is true that a few states have retained restrictive statutes of limitation, this fact provides only a smoke screen for the real defects of S. 44. Section 11's statute of repose is a procedural solution that does not remedy the substantive defects of S. 44. The fact that S. 44 does not bar an occupational disease claimant from the courtroom has little meaning if other provisions of S. 44 preclude a victim from prevailing once he has gotten inside the door. Indeed, the procedural solution of section 11 acts as a cruel hoax on the worker who pays litigation expenses with little hope of recovery. Manufacturers have little threat of liability from an occupational disease claim under S. 44. Section 11(b) does not alter this fact.

2. Section 6 of the bill, dealing with product warnings or instructions, substitutes negligence theory for strict liability with regard to all claims alleging a failure to warn; this applies to warnings at time of manufacture (see § 6(b)) and also post-manufacture warnings (see § 6(c)). The inevitable result would be to lessen the responsibility imposed on manufacturers at a time when what is needed are more detailed and pointed warnings concerning the toxic effects of new chemicals and other materials in the work place. Moreover, even where warnings are required, § 6(d) would absolve the manufacturer of any duty to warn the product user if the warning is transmitted to an employer or other third party who could be expected to convey the information. By making workers dependent on their employers to relay appropriate warnings as to the potential hazards of work place materials, the bill further limits rights of recovery for employment-related accidents or injuries. Experience has taught us the inadequacy of warnings given by a field supervisor far removed from employer headquarters, or indeed by any supervisor in the press of a deadline work situation, regarding the proper application or effects of the many toxic materials now in use. Under S. 44, those warnings apparently would insulate the manufacturer so long as the once-removed employer, whose exclusive liability is under the workers' compensation system, knows of the existence of a danger.

A manufacturer's duty to warn under S. 44 may also conflict with a manufacturer's obligation under various state "right to know" laws. These laws usually grant workers access to health hazard information and require certain manufacturers and employers to disclose this information through labeling and other means. Last fall, the Occupational Safety and Health Administration (OSHA) promulgated a new rule that imposes a Federal "right-to-know" standard on certain manufacturers, importers, and distributors. The standard requires employers to inform workers of toxic hazards by labeling chemical containers and providing data sheets which provide detailed information about the physical and chemical hazards of the substances handled and breathed by workers.

The employers' duty to communicate under the state right-to-know laws and the OSHA regulation are of critical importance to workers' safety and health. Yet, the federal solution proposed under S. 44, by effec-

tively encouraging worker ignorance, sends a contrary signal to that intended by federal regulation. And the proponents have failed to acknowledge, much less to address, the effect of this federal solution on state right-to-know laws.

3. Section 9, addressing the determination of responsibility interposes roadblocks to recovery even after a manufacturer or product seller has been found liable. In particular, the principles of comparative responsibility set forth in Section 9 (a) and (b)—and applicable to workers under Sec. 10(a)—would reduce damages awarded against each defendant by the amount attributable to parties not before the court, including product sellers outside the jurisdiction, bankrupt manufacturers or immune governmental entities. This approach effectively undermines the traditional, well-settled doctrine of joint and several liability, which enables an innocent injured party to secure full compensation while leaving the wrongdoers to apportion liability among themselves. By eliminating the notion of entire responsibility for each of several joint participants, section 9 at best would delay, and at worst could prevent, the worker's full recovery whenever more than one party is responsible for his injury.

4. Yet another obstacle to worker recoveries is the expansion of certain affirmative defenses that the manufacturer may assert based on the conduct of product users or other parties. Under §§ 9 (c) and (d), a manufacturer would not appear to be liable for the misuse, modification or alteration of a product even if that misuse, modification or alteration were foreseeable. As one prominent state jurist has explained, the liability that remains for "reasonably anticipated" misuse "probably limits (the supplier's) duty to intended users. If so, one could put on every product the label 'This product is intended to be used by trained workmen' " thereby immunizing the supplier from liability.[13] Under § 9(e), the bill expands the traditional definition of assumption of risk so that the manufacturer is absolved from liability to the extent that the injured party knew of the danger and voluntarily encountered it even if in doing so he acted reasonably. This could well mean that an employee who is injured while working on or around a dangerous piece of equipment under a direct order from his employer will be found to have assumed the risk.[14]

5. Besides making it more difficult for injured workers to receive adequate compensation and removing incentives to the manufacture of safe and healthful products,[15] the changes proposed by S. 44 would place more pressure on the already overburdened workers' compensation system, and create additional problems in administering that system.

Under section 10(a), an injured workers' damages against a negligent manufacturer or product seller are reduced by the amount of his workers' compensation benefits. But in contrast to the prevailing rule that allows an employer or his insurance carrier to recover from a third party tortfeasor what it has paid in benefits, under S. 44, the employer gets nothing back.

Section 10(b) of S. 44 places financial pressures on the workers' compensation system by altering the universal rule of subrogation in workers' compensation proceedings. That provision states that "neither the employer nor the workers' compensation insurance carrier of the employer shall have a right of subrogation contribution, or implied indemnity against the manufacturer or product seller * * *" The bill thus enables third party tortfeasors to shift what may be a substantial part of their losses onto the workers' compensation system.

This section has particularly serious financial implications for the Federal Employees Compensation Act (FECA), the workers' compensation program for employees of the Federal government. Under FECA, the Federal government pays out wage replacement and other benefits to Federal workers covered by FECA who qualify for the benefits. Current law grants the Federal government a right to file for indemnification against the manufacturer of the defective product that injures the Federal employee in order to recoup the workers' compensation costs it has assumed. Since section 3(b)(2) of S. 44 specifically preempts FECA, however, section 10(b) removes this right of indemnification.

Apart from the fact of reduced benefits, the bill's method for accomplishing the reduction of the award can only produce confusion, to the further detriment of injured workers and their families. Under Section 10, the trier-of-fact must base the reduction on his own determination of "the present value of all workers' compensation benefits to which the employee is or would be entitled for the harm." This judicial assessment, however, is in no way binding in the workers' compensation forum. Thus, while the reduction is guaranteed, the benefits are not. Where, as may often occur, the product liability action is resolved before workers' compensation benefits have been determined, an injured worker may find himself victimized by judicial over-estimates of the total amount of future benefits. And to make this adverse result even more likely the bill does not permit the injured worker to introduce evidence of judicial estimates in his workers' compensation proceeding.

Moreover, by creating an offset for benefits to which the injured employee would have been entitled, the bill appears to contemplate that damages will be reduced even where the employee fails to take advantage of his workers' compensation remedy. Workers' compensation acts generally have shorter statutes of limitation or notice provisions than exist under product liability law, and employees therefore may retain rights under the tort system after their workers' compensation remedy has expired. Under S. 44, such employees would be doubly penalized for having failed to file a compensation claim.

Finally, the bill requires a court to make the determination of workers' compensation benefits, an area in which trial courts have little expertise. In adjudicating a product liability action based on fault, a trial judge does not have the facts necessary to adjudicate a workers' compensation claim premised on no-fault principles.

CONCLUSION

Even more troubling than what S. 44 has to say about workers' compensation is what it does not say. The plain intention and effect of this bill is to reduce substantially the availability and amount of damages awards for workers injured by defective products. Yet despite the close and long-standing relationship between the tort and compensation systems in the 50 states, there is not one word to suggest that the sweeping changes proposed for tort law should be accompanied by an equally thorough overhaul of the compensation system. The problems of workers' compensation, like those of product liability, are national problems. Whatever may be the effects on interstate commerce of a lack of uniformity in the law, those effects are felt no less strongly in compensation law than in tort law. This bill should be rejected for all the reasons stated above, but most of all because it ignores the real challenge—to develop a coherent, fair, and logical system that will provide fully adequate compensation for workers and other product users and encourage the production of safe and healthful products.

FOOTNOTES

[1] Hearings on S. 44 before the Subcommittee on the Consumer of the Senate Committee on Commerce, Science and Transportation, 98th Cong., 1st Sess., 306 (1983) (statement of Robert Taft, Jr., General Counsel for Special Committee for Work Place Product Liability Reform), hereinafter cited as 1983 Hearings on S. 44.

[2] Statistics from the U.S. Department of Labor, Employment Standards Administration, Office of State Liaison and Legal Analysis, Division of State Workers' Compensation Programs, Glenn A. Whittington, Director.

[3] Although these proposals differ substantially they do reflect a general agreement that new compensation mechanisms are needed to ensure fairer, more expeditious resolution of claims. The central dispute is whether claimants must give up the right to sue in order to receive compensation and, if so, what price should be exacted for giving up that right.

3a Last week, both Houses approved the conference report on S. 38, the Longshoremen's and Harbor Workers Compensation Act Amendments of 1984, which includes a new and innovative mechanism for compensating occupational disease victims through the workers' compensation system.

[4] See e.g. *Greenman v. Yuba Power Products, Inc.*, 59 Cal. 2d 57, 377 P. 2d 897 (1963); *Sindell* v. *Abbott Laboratories*, 26 Cal. 3d 588, 607 P.2d 924 (1980); *Beshada* v. *Johns-Manville Products Corp.*, 90 N.J. 191, 447 A.2d 539 (1982). *See also Larsen* v. *General Motors Corp.*, 391 F.2d 495 (8th Cir. 1968). See generally Restatement of Torts (2d) sec. 402A.

[5] Eads and Reuter, Designing Safer Products (Rand Corp., 1983), viii. The other factors were found to influence product design decisions largely through the product liability mechanism. See, e.g., id., at 50 (discussing reputation capital).

[6] Id., at 106. See also id., at 8 ("If toxic torts remain in the existing tort system, producers will introduce new materials with a greater caution and invest more in investigating the health effects of materials.").

[7] See S. Rep. No. 476, 98th Cong., 2d Sess., 2-8 (1984), hereinafter cited as 1984 Report on S. 44. significantly, the bill committee refers to the Federal Interagency Task Force on Product Liability (1977) as identifying "the causes of the product liability problem." Id., at 2. Although the committee identifies and relies on "two principal causes"—insurance ratemaking and litigation uncertainties—it consigns the third "principal cause" cited by the Task Force—unsafe manufacturing practices—to a footnote which is never pursued. Ibid.

[8] We find it ironic that the chief proponents of this bill—the business and manufacturing communities—traditionally have opposed federal laws that would ameliorate the condition of workers on the ground that a diversity of approaches adopted to the needs of the 50 states is superior to a single federal dictate. Those federalism arguments are not even acknowledged, much less distinguished, in the course of advocating a federal statute that would preempt state laws recognized for 200 years as an important exercise of state authority and responsibility.

[9] 1984 Report on S. 44, supra, note 7, at 73-75.

[10] Id., at 75-78. Moreover, as Senator Hollings also makes clear, there is no evidence to show that S. 44 would reduce the costs currently associated with State product liability law. Id., at 78-81.

[11] See, e.g., "Product Liability's Confusion and Cost," Washington Times, June 15, 1984, p.

[12] The questionable constitutionality of and rationale underlying a statute of repose also merits attention. Senator Hollings notes that several state courts have recently invalidated these statutes on constitutional grounds and argues that a 25-year statute of repose ignores the fact that capital goods are often designed for use beyond 25 years. 1984 Report on S. 44, supra, note 7, at 99.

[13] Hearings on S. 44 before the Subcommittee on the Consumer of the Senate Committee on Commerce, Science and Transportation, 98th Cong. 2d Sess. 379 (1984) (statement of Hon. Jack Pope, Chief Justice, Supreme Court of Texas, representing the Conference of Chief Justices).

[14] Moreover, an employee faces the dilemma of no recovery under S. 44 if he complies with an employer's request and is injured, or dismissal if he refuses to comply because of recent changes in NLRB law. See *ABF Freight Systems, Inc.*, 271 NLRB NO. 6 (1984); *Meyers Industries, Inc.*, 268 NLRB No. 73 (1984). In these cases, with an employer's request because of safety concerns. *Cf. NLRB* v. *City Disposal Systems, Inc.*, —— U.S. —— (1984).

[15] Other provisions of S. 44 that undermine the tort law's objectives of compensation and safety are ably criticized at length by Senator Hollings. See, e.g., 1984 Report on S. 44, supra note 7, at 99 (addressing proposed 25-year statute of repose for capital goods); 100–101 (addressing proposed restrictions on availability of punitive damages); 94–95 (addressing proposed elimination of product seller's liability).

Views of Senator Riegle on S. 44

INTRODUCTION

The Product Liability Act (S. 44) is an attempt to establish uniform standards of product liability law throughout the United States. On March 27, 1984, the Committee on Commerce, Science, and Transportation reported S. 44 by a vote of 11–5. Analysis of the bill and the accompanying report revealed that some of S. 44's provisions dealt with matters falling within the jurisdiction of the Committee on Labor and Human Resources. Specifically, the bill alters the current operation of the workers' compensation systems and affects workers' rights in securing compensation for work-related injuries and diseases. The Committee on Labor and Human Resources sought referral of S. 44's provisions addressing these issues because of the Committee's well established jurisdiction over workers' health and compensation issues.

The Committee on Labor and Human Resources has considered issues of workers' compensation and its relationship to States and their workers' compensation laws for years. In thousands of pages of hearings during the past decade, the Committee has developed information and expertise on the relationship between state and Federal workers' compensation systems, the adequacy of standards, the pre-emption of existing state rights, and the relationship of workers' compensation with other forms of compensation systems, including product liability litigation.

Referral of S. 44 to the Committee on Labor and Human Resources was granted pursuant to unanimous consent on August 10, 1984. The Committee received sequential referral of the following provisions:

"Section 3(b)(2), as it relates to the Federal Employees' Compensation Act, and Section 10, as it relates to the rights of employers and employees under the Longshoremen's and Harbor Workers Act, the Federal Employees' Compensation Act, and any state workers' compensation act . . ."

Under the terms of the referral, the Committee had one legislative week to act on the bill, at which point the bill would be automatically discharged. Due to the limited period of the referral and the urgency of other matters, the Committee was unable to take any action on S. 44.

As I have stated elsewhere, I agree that the product liability tort lay system requires reform because of the uncertainty and unfairness which is evident in the present system. Moreover, I concur with the views of Senator Kennedy that any Federal reform would be incomplete unless it also addresses the workers' compensation systems. Unfortunately, I do not believe that S. 44 achieves either of these results. The following discussion highlights some of my particular concerns as ranking minority of the Labor Subcommittee. I would suggest that action on product liability legislation occur only after the Labor and Human Resources Committee has more adequate time to assess the effects of this legislation, and I also have signed a letter urging referral to the Judiciary Committee.

DISCUSSION

Workers' compensation laws, which exist in all states, provide cash benefits, medical care, and rehabilitative services for workers who suffer job-related injuries and diseases. These laws are based on a no-fault principle whereby an employer must pay regardless of fault in exchange for immunity from lawsuits by the employee. Product liability tort law, which is primarily a body of state law evolving from individual cases, permits a person injured by a product to sue the manufacturer or distributor of the product for the injury suffered. While workers' compensation focuses on employer responsibility and product liability focuses on manufacturer responsibility, both systems have evolved with the principles of insuring fair compensation for injured individuals and creating financial incentives to encourage the responsible production of a safe work environment and product.

From the perspective of the worker, the two systems are inextricably intertwined. This fact is not surprising since the worker is exposed to the employer's work place and the manufacturer's product at the same time. Consequently, injured workers may choose either the workers' compensation system or the product liability system in order to secure adequate compensation for themselves and their families.[1]

The development of the workers' compensation system and the product liability tort law system has also been integrally related. The workers' compensation system evolved because of inadequacies in the tort system to effectuate the common goals of adequate compensation and safety. Likewise, the inability to reform the workers' compensation system adequately has forced workers to file suit under the product liability tort law system.

A. Current state of our product liability laws

Product liability law has developed primarily during the past two decades. State courts have issued decisions whereby an individual injured by a defective or unreasonably dangerous product is awarded damages paid by the manufacturer of the product. Courts have awarded these damages in order to provide appropriate compensation for injured victims and to provide appropriate incentives for manufacturers to design and produce safe products.

Under product liability law, a plaintiff may establish liability under a theory of negligence, breach of warranty, or strict tort liability. Some of state product liability law has been fashioned around the concept of strict liability. Under this concept, manufacturers are liable for all defects in their products, regardless of whether the defects were discoverable, provided that the defects make the product unreasonably dangerous. As one court has stated, the purpose of strict liability is "to insure that the costs of injuries resulting from defective products are borne by the manufacturers that put such products on the market rather than by the injured persons who are powerless to protect themselves."[2] In theory, this concept makes sense. Damage awards compensate innocent victims for their wages, medical costs, rehabilitation cost, pain and suffering. In the case of persons killed by the product, compensation exists for the survivors of the deceased. Furthermore, damage awards, which sometimes include punitive damages, provide strong incentives for manufacturers to make their products safe.

Unfortunately, the product liability system has not always worked well in practice. Inconsistent interpretations by state courts cause great confusion and uncertainty for manufacturers whose products are distributed throughout many states. The patchwork of product liability law created by the states poses a burden on interstate and international commerce since it ignores the national and multinational character of industry today.

The Subcommittee on Labor of this Committee held three days of hearings this spring (April 24, April 30, and May 21, 1984) to address the issue of occupational disease compensation. Testimony indicated that workers have often had to rely on the product liability in order to secure adequate compensation for diseases incurred by exposure to toxic substances. However, we found that the current product liability system is not channeling enough of the available resources to the victims of such exposure.[3]

B. Current state of the workers' compensation system

During the first decade of this century, U.S. industrial injury rates reached their all-time peak. Despite this fact, remedies available to compensate disabled workers and their families proved inadequate and inequitable. Applying common law defenses of contributory negligence, fellow servant, and assumption of risk courts frequently denied recovery to workers injured on the job because of their employer's actions. When workers did prevail, awards were generally inadequate and inconsistent. The shortcomings of the common law handling of work-related injuries were well known at the beginning of this century.[4]

In response to this situation, states enacted workers' compensation laws. These laws were premised on the principle of liability without fault, whereby an employer bears the costs of work-related injury because of the inherent hazards of industrial employment, in exchange for immunity from an employee's lawsuit. Five basic objectives exist for state workers' compensation laws: (1) Broad coverage of employees and work-related injuries and diseases; (2) sufficient protection against interruption of income; (3) sufficient medical care and rehabilitation services; (4) encouragement of safety; and (5) efficient delivery of benefits and services.

While the workers' compensation system was a success initially, it has proven inadequate in recent years in meeting its basic objectives. Pursuant to the Occupational Safety and Health Act of 1970, Congress established the National Commission on State Workmen's Compensation Laws to evaluate the adequacy of the workers' compensation system. After studying the system for one year, the Commission reported in 1972 that the "inescapable conclusion is that State workmen's compensation laws in general are inadequate and inequitable."[5] In order to remedy this situation, the Commission made 84 specific recommendations for

[1] Footnotes at end of article.

reform, 19 of which it termed "essential." The Commission recommended that the states have until July, 1975 to adopt the 19 essential reforms. Statistics complied by the U.S. Department of Labor demonstrate that over twelve years later, the conclusion that the state systems are inadequate and inequitable in these essential areas still holds true.[6]

The workers' compensation system has also proven inadequate for workers suffering from occupational diseases. Testimony before the Subcommittee on Labor indicated that only a very small percentage of those severely disabled by occupational disease receive benefits under workers' compensation. Over 90 percent of those who have lung disorders and cancers from work place exposure to toxic substances have to litigate their claims before receiving compensation under state workers' compensation laws.[7]

The major reason that accounts for this situation is that workers' compensation determinations do not adequately address occupational disease concepts. Statutory definitions in workers' compensation laws often require a claimant to establish a specific cause. While a worker can often point to a specific incident that caused a traumatic injury, it is virtually impossible to establish a specific incident or cause of an occupational disease. Furthermore, states have established statutes of limitation that are unrealistically short for many occupational diseases. A terrible disease such as asbestosis may not manifest itself until 30 or 40 years after exposure to asbestos fibers. By that time, some states have barred a worker from bringing a claim. Clearly, the increased use of product liability actions for occupational diseases and the failure to compensate victims of these dreaded diseases benefit neither the business community nor the worker.

In sum, the product liability tort law system and the workers' compensation system are integrally related from the perspective of the American worker. Inherent in the body of product liability law is uncertainty and confusion that requires a solution. Moreover, the workers' compensation system is not meeting the worthwhile objectives that its enactors envisioned. Any Federal solution must address the flaws in both systems in order to benefit both American commerce and the American worker. Unfortunately, the Product Liability Act (S. 44) fails to do this.

C. The Product Liability Act

The Product Liability Act (S. 44) has the worthy goal of seeking to eliminate the uncertainty that now exists in the area of product liability through the creation of a uniform body of law. Unfortunately, the bill contains provisions that will exacerbate the uncertainty problem and will result in greater litigation.

The ambiguous legal terms contained in the bill will be subject to wide variations of interpretation throughout the state and Federal court system. It is easy to see how the definition of "practical technological feasibility" contained in section 2(9) of the bill as applied to the same product in 50 states could lead to wide confusion to industry. Moreover, the section concerned with punitive damages poses several problems of a practical and an administrative nature. I have stated concerns that S. 44 will exacerbate the uncertainty problem more fully in the report that accompanied S. 44 when it was reported out of the Commerce Committee.[8] I remain convinced that S. 44 does not adequately resolve the problems that exist in the product liability.

My concerns with S. 44 are equally as great from my perspective as the ranking member of the Subcommittee on Labor.

I am particularly concerned that the bill will exacerbate the problems inherent in the workers' compensation system and the problem faced by victims of occupational disease.

One major problem facing workers' compensation is its failure to provide adequate compensation. Section 10(a) of S. 44 will only add to this problem. Under section 10(a), an injured worker's damages awarded against a manufacturer must be reduced by the amount paid and the "present value of all workers' compensation benefits to which the employee is or would be entitled. . . ." The proponents of S. 44 contend that this subsection prevents a dual recovery for the same injury. Yet, to accomplish this result, the drafters of S. 44 could have simply offset the workers' compensation benefits actually paid to the worker. Section 10(a)'s language, however, reduces a claimant's award regardless of whether the injured worker filed a claim and regardless of whether the statute of limitations bars that workers' compensation claim. The judicial determination of workers' compensation benefits contemplated in section 10(a) also poses problems. The judicial determination of benefits does not bind a subsequent determination by a workers' compensation board. While the reduction is guaranteed, the benefits are not. Consequently, an injured worker may be a victim of a judicial over-estimation of the total amount of future benefits.

Section 10(a) also raises questions of social and public policy. It shifts the burden of paying for injuries that arise from the use of a defective product in the work place from the manufacturer to the employer, whose liability is established without fault under the workers' compensation system. A simple example illustrates the problem.

Suppose a worker suffers an injury on the job that results from a punch press that is defective in manufacture, in that the press does not have safety devices that were available at the time of manufacture and are not included when the employer purchases it. The employer acts without fault by instructing the employee regarding the proper use of the punch press and by informing the employee about all of the known hazards. The injured worker files a workers' compensation claim and receives $50,000. The worker also files a product liability suit against the negligent manufacturer and is awarded $60,000. Section 10(a) requires the reduction of the liability of the manufacturer, who was negligent, from $60,000 to $10,000, while the employer, who was without fault, must pay $50,000.

The operation of section 10(a) effectively thwarts the objectives of both the workers' compensation and the product liability systems. The manufacturer of the defective product is not encouraged to make its product safer since section 10(a) excuses it from paying five-sixths of the damages. The employer, whose behavior was laudable must pay five-sixths of the damages. In sum, section 10(a) does not promote improved safety in the work place, nor the marketing of safer products.

I am also concerned with the way in which section 10(b) may increase financial pressure on the workers' compensation system and may increase the cost of workers' compensation insurance coverage for employers. Section 10(b) alters the universal rule of subrogation in workers' compensation proceedings by stating that "neither the employer nor the workers' compensation insurance carrier of the employer shall have a right of subrogation, contribution, or implied indemnity against the manufacturer or product seller. . . ." This subsection thus enables third party tortfeasors to shift much of their liability onto the workers' compensation system.

Advancements in safer products in the workplace could be inhibited under S. 44. For example, section 5(b)(2) of that bill provides that a product is not unreasonably dangerous due to design if a means of making it safer, at that time, was not within so-called "practical technological feasibility." In assessing feasibility, the question is what was known at the time of manufacture and whether the available technology was economically feasible for use at that time. The practical effect of the definition is a freezing of technology. Even if a safer design was known at the time, if no manufacturer of the product utilized the safer design, then its use would apparently not be economically feasible to any of them. In effect, the language of the bill might possibly set the lowest possible standard as the standard for the product.

Moreover, S. 44 insulates manufacturers from liability in the case of "unavoidably dangerous products." (Section 5(b)(2)(B) and Section 5(b)(3)). Under current law, the benefits of manufacture must outweigh the risks and the manufacturer must continue to try to find ways to reduce the risk of use of the product. Under S. 44, the fact that a product is unavoidably dangerous may reduce this obligation.

CONCLUSION

While I support the goal of product liability reform, S. 44 will not correct the uncertainty inherent in the system. Moreover, I am concerned that S. 44 fails to address the problems inherent in the workers' compensation system and may actually exacerbate those problems. Since the Labor and Human Resources Committee had much too little time to address some of the concerns I have raised here, I suggest that the 98th Congress is not the appropriate time to enact the product liability bill as written. I stand ready to work with the interested parties during the next Congress to enact a uniform product liability bill that will address the problems faced by American manufacturers and American workers under the current systems.

FOOTNOTES

[1] Statistics demonstrate the interrelationship between the two systems. One recent study noted that approximatley 50% of all product liability damages paid by manufacturers compensate workers for job-related injuries. AFL-CIO Fact Sheet, 98-21, May 23, 1984, p. 1.

[2] *Geenman v. Yuba Power Products, Inc.*, 59 Cal. 2d 57, 377 P.2d 897 (1963).

[3] *See, e.g.*, the following study presented to the Labor Subcommittee: Kakalik, Ebener, Felstiner, Haggstrom, and Shanley, *Variation in Asbestos Litigation Compensation and Expenses* (Rand Corp., 1984).

[4] *See generally, Report of the National Commission on State Workmen's Compensation Laws* (1972), pp. 33-35.

[5] *Id.* at 119.

[6] Statistics from the U.S. Department of Labor, Employment Standards Administration, Office of State Liaison and Legislative Analysis, Division of State Workers' Compensation Programs, Glenn A. Whittington, Director (July, 1984).

The statistics demonstrate the systems' inadequacy in the level of benefits, for example. The National Commission recommended that by July 1, 1975,

the maximum weekly benefit for temporary total disability, permanent total disability, and death should be at least 100% of the state's average weekly wage (SAWW). The Department of Labor's most recent statistics reveal, however, that 21 of the 50 states have maximum temporary total disability weekly benefits that are less than the SAWW; 23 have maximum permanent total disability weekly benefits that are less than the SAWW; and more than half (27) have maximum death weekly benefits that are less than the SAWW. (Table 3).

[7] Hearings on Occupational Disease, 1984 before the Subcommittee on Labor of the Senate Committee on Labor and Human Resources, 98th Cong. 2d Sess., 460 (1984) (statement of Kenneth Young, Executive Assistant to the President, American Federation of Labor and Congress of Industrial Organizations).

[8] *See* S. Rep. No. 476, 98th Cong., 2d Sess., 104–105 (1984).

U.S. SENATE, COMMITTEE ON LABOR AND HUMAN RESOURCES,
Washington, DC, June 14, 1983.

Hon. BOB PACKWOOD,
Chairman, Committee on Commerce, Science and Transportation, Russell Building, Washington, DC.

Hon. ERNEST F. HOLLINGS,
Ranking Minority Member, Committee on Commerce, Science and Transportation, Russell Building, Washington, DC.

DEAR BOB AND FRITZ: We are writing to ask that you agree to refer S. 44, the Product Liability Act, sequentially to the Labor and Human Resources Committee, following the reporting of the bill by your Committee. We make this request because our review of S. 44, together with the report which accompanied last year's version of the bill, persuades us that this legislation deals directly and substantially with subject matter falling within the jurisdiction of this Committee.

The Labor and Human Resources Committee exercises general jurisdiction over matters regulating employer-employee relations and Senate Rule 25 vests exclusive subject matter jurisdiction in Committee over workers' compensation and occupational safety and health. Since at least 1973, any legislation which has sought to (1) establish federal rules governing the compensation of injured workers, (2) preempt the application of state workers' compensation laws, (3) amend existing federal workers' compensation statutes, or (4) delineate the responsibility of employers and manufacturers for compensation claims arising from work place injuries have been referred exclusively to this committee.

In our view, S. 44 in its current form meets each of these tests and should therefore be reviewed by the committee with expertise in these matters. Sections 9, 10 and 11 of the bill establish a new federal regime which delineates the obligations of employers and manufacturers to one another in work place injury cases, specifies how product liability judgments are calculated when work place injuries are also compensated by workers' compensation, and prohibits actions against employers by employees covered by workers' compensation, regardless of the circumstances. Since adoption of these rules would inextricably enmesh a new federal statute in the operation of every federal and state workers' compensation system, we believe that a bill including these sections in any form could not properly be reported by your committee without violating Senate Rule 15.

We are also concerned about the potential impact which new legal standards proposed in S. 44 would have on the ability of workers to recover for injuries resulting from exposure to toxic substances. By one estimate, approximately 50 percent of all damages awarded in product liability lawsuits involve work place injuries. Those sections of the bill which would establish a uniform statute of repose, prohibit the use of offensive collateral estoppel and eliminate the rule of strict liability, particularly as it is applied currently to product sellers, appear to fundamentally alter the practical means for determining if, how and by whom individuals are compensated for work place injuries.

For example, the bill's statute of repose provision conditions the right to maintain a product liability suit on whether an individual's harm was "caused by the cumulative effect of prolonged exposure to a defective product," and on whether the harm manifests itself within 25 years of the date of product delivery. Although this 25-year period is more generous than the rule imposed by some jurisdictions, a number of industrial states, including those in which large numbers of asbestos related lawsuits have been filed, currently place no such limit on the right of recovery. Similarly, since the source of occupational exposure is often difficult to determine, elimination of the doctrine of strict liability as it has been applied to retailers, wholesalers, and distributors may increase substantially the burden of proof injured parties must meet in toxic substance and other health related litigation.

We of course recognize your committee's legitimate interest in addressing these broad legal issues as you consider uniform product liability legislation. We are concerned, however, that the special considerations which should govern cases involving exposure to toxic substances not be overlooked during the Senate's deliberations on generic tort legislation.

We stand ready to work with your committee in addressing all of these issues and we look forward to hearing from you on this matter in the near future.

Sincerely,

EDWARD M. KENNEDY,
Ranking Minority Member.
ORRIN G. HATCH,
Chairman.●

SENATE SCHEDULE

Mr. BAKER. Mr. President, may I announce once more that when we finish some routine business that needs to get to the House of Representatives, it is the intention of the leadership on this side to ask the Senate to stand in recess until the hour of 2:30 p.m. There will be no votes between now and 2:30 p.m. Senators may wish to have a chance to get away for a few minutes.

ARKANSAS WILDERNESS ACT

Mr. BAKER. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 2125.

The PRESIDING OFFICER (Mr. QUAYLE) laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 2125) entitled "An Act to designate certain national forest system lands in the State of Arkansas for inclusion in the National Wilderness Preservation System, and for other purposes," do pass with the following amendment:

Strike out all after the enacting clause, and insert:

That this Act may be cited as the "Arkansas Wilderness Act of 1984".

SEC. 2. (a) The Congress finds that—

(1) many areas of undeveloped national forest system lands in the State of Arkansas possess outstanding natural characteristics which give them high values as wilderness and will, if properly preserved, contribute as an enduring resource of wilderness for the benefit of the American people;

(2) the Department of Agriculture's second roadless area review and evaluation (RARE II) of national forest system lands in the State of Arkansas and the related congressional review of such lands have identified areas which, on the basis of their land-form, eco-system, associated wildlife, and location, will help to fulfill the national forest system's share of a quality National Wilderness Preservation System; and

(3) the Department of Agriculture's second roadless area review and evaluation of national forest system lands in the State of Arkansas and the related congressional review of such lands have also identified areas which do not possess outstanding wilderness attributes or which possess outstanding energy, mineral, timber, grazing, dispersed recreation, and other values and which should not now be designated as components of the National Wilderness Preservation System but should be available for nonwilderness multiple uses under the land management planning process and other applicable laws.

(b) The purposes of this Act are to—

(1) designate certain national forest system lands in the State of Arkansas as components of the National Wilderness Preservation System, in order to promote, perpetuate, and preserve the wilderness character of the land, protect watersheds and wildlife habitat, preserve scenic and historic resources, and promote scientific research, primitive recreation, solitude, physical and mental challenge, and inspiration for the benefit of all the American people, to a greater extent than is possible in the absence of wilderness designation; and

(2) insure that certain other national forest system lands in the State of Arkansas be available for nonwilderness multiple uses.

SEC. 3. In furtherance of the purposes of the Wilderness Act, the following lands in the State of Arkansas are hereby designated as wilderness and, therefore, as components of the National Wilderness Preservation System:

(a) certain lands in the Ouachita National Forest, Arkansas, which comprise approximately seven thousand five hundred and sixty-eight acres, as generally depicted on a map entitled "Black Fork Mountain Wilderness—Proposed", dated September 1984, and which shall be known as the Black Fork Mountain Wilderness;

(b) certain lands in the Ouachita National Forest, Arkansas, which comprise approximately six thousand three hundred and ten acres, as generally depicted on a map entitled "Dry Creek Wilderness—Proposed", dated September 1984, and which shall be known as the Dry Creek Wilderness;

(c) certain lands in the Ouachita National Forest, Arkansas, which comprise approximately ten thousand eight hundred and eighty-four acres, as generally depicted on a map entitled "Poteau Mountain Wilder-

ness—Proposed", dated September 1984, and which shall be known as the Poteau Mountain Wilderness;

(d) certain lands in the Ouachita National Forest, Arkansas, which comprise approximately ten thousand one hundred and five acres, as generally depicted on a map entitled "Flatside Wilderness—Proposed", dated September 1984, and which shall be known as the Flatside Wilderness:

(e) certain lands in the Ozark-Saint Francis National Forest which comprise approximately one thousand five hundred and four acres, as generally depicted on a map entitled "Upper Buffalo Addition—Proposed", dated November 1983, and which are hereby incorporated in and shall be deemed to be a part of the Upper Buffalo Wilderness as designated by Public Law 93-622;

(f) certain lands in the Ozark-Saint Francis National Forest which comprise approximately fifteen thousand one hundred and seventy-seven acres, as generally depicted on a map entitled "Hurricane Creek Wilderness—Proposed", dated November 1983, and which shall be known as the Hurricane Creek Wilderness;

(g) certain lands in the Ozark-Saint Francis National Forest, Arkansas which comprise approximately eleven thousand eight hundred and twenty-two acres, as generally depicted on a map entitled "Richland Creek Wilderness—Proposed", dated November 1983, and which shall be known as the Richland Creek Wilderness;

(h) certain lands in the Ozark-Saint Francis National Forest, Arkansas which comprise approximately ten thousand seven hundred and seventy-seven acres, as generally depicted on a map entitled "East Fork Wilderness—Proposed", dated September 1984, and which shall be known as the East Fork Wilderness; and

(i) certain lands in the Ozark-Saint Francis National Forest, Arkansas, which comprise approximately sixteen thousand nine hundred and fifty-six acres, as generally depicted on a map entitled "Leatherwood Wilderness—Proposed", dated November 1983, and which shall be known as the Leatherwood Wilderness.

SEC. 4. (a) The Congress finds that—

(1) the Department of Agriculture has completed the second roadless area review and evaluation program (RARE II);

(2) The Congress has made its own review and examination of national forest system roadless areas in Arkansas and of the environmental impacts associated with alternative allocations of such areas.

(b) On the basis of such review, the Congress hereby determines and directs that—

(1) without passing on the questions of the legal and factual sufficiency of the RARE II Final Environmental Impact Statement (dated January 1979) with respect to national forest system lands in States other than Arkansas, such statement shall not be subject to judicial review with respect to national forest system lands in the State of Arkansas;

(2) with respect to the national forest system lands in the State of Arkansas which were reviewed by the Department of Agriculture in the second roadless area review and evaluation (RARE II) and those lands referred to in subsection (d), that review and evaluation or reference shall be deemed for the purposes of the initial land management plans required for such lands by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, to be an adequate consideration of the suitability of such lands for inclusion in the National Wilderness Preservation System and the Department of Agriculture shall not be required to review the wilderness option prior to the revisions of the plans, but shall review the wilderness option when the plans are revised, which revisions will ordinarily occur on a ten-year cycle, or at least every fifteen years, unless, prior to such time the Secretary of Agriculture finds that conditions in a unit have significantly changed;

(3) areas in the State of Arkansas reviewed in such final environmental statement or referenced in subsection (d) and not designated wilderness upon enactment of this Act shall be managed for multiple use in accordance with land management plans pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1984, as amended by the National Forest Management Act of 1976: *Provided*, That such areas need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of the initial land management plans;

(4) in the event that revised land management plans in the State of Arkansas are implemented pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, and other applicable law, areas not recommended for wilderness designation need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of such plans, and areas recommended for wilderness designation shall be managed for the purpose of protecting their suitability for wilderness designation as may be required by the Forest and Rangeland renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, and other applicable law; and

(5) unless expressly authorized by Congress, the Department of Agriculture shall not conduct any further statewide roadless area review and evaluation of national forest system lands in the State of Arkansas for the purpose of determining their suitability for inclusion in the National Wilderness Preservation System.

(c) As used in this section, and as provided in section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, the term "revision" shall not include an "amendment" to a plan.

(d) The provisions of this section shall also apply to national forest system roadless lands in the State of Arkansas which are less than five thousand acres in size.

SEC. 5. As soon as practicable after the date of enactment of this Act, the Secretary of Agriculture shall file maps and legal descriptions of each wilderness area designated by this Act with the Committee on Energy and Natural Resources of the United States Senate, and the Committee on Interior and Insular Affairs and the Committee on Agriculture of the House of Representatives, and each map and legal description shall have the same force and effect as if included in this Act: *Provided, however*, That correction of clerical and typographical errors in such legal descriptions shall be on file and available for public inspection in the office of the Chief, United States Forest Service, Department of Agriculture.

SEC. 6. Subject to valid existing rights, each wilderness area designated by this Act shall be administered by the Secretary of Agriculture in accordance with the provisions of the Wilderness Act of 1964 (78 Stat. 892) governing areas designated by that Act as wilderness areas, except that, with respect to any area designated in this Act, any reference in such provisions to the effective date of the Wilderness Act of 1964 shall be deemed to be a reference to the effective date of this Act.

SEC. 7. Congress does not intend that designation of wilderness areas in the State of Arkansas lead to the creation of protective perimeters or buffer zones around each wilderness area. The fact that nonwilderness activities or uses can be seen or heard from areas within the wilderness shall not, of itself, preclude such activities or uses up to the boundary of the wilderness area.

Mr. BUMPERS. Mr. President, I rise in support of the motion to agree to the House amendment to S. 2125, the Arkansas wilderness bill.

Mr. President, S. 2125, sponsored by Senator PRYOR and myself, passed the Senate unanimously on August 9 of this year and was then referred jointly to the Interior and Insular Affairs and Agriculture Committees of the House of Representatives. In my judgment, S. 2125, as passed by the Senate, was an excellent bill and deserved to be enacted into law without change. In order to enact an Arkansas wilderness bill this year, however, it was necessary to reach a compromise among the members of the Arkansas congressional delegation, and the House amendment to the Senate-passed bill reflects that compromise. The bill would designate roughly 91,103 acres of national forest lands in Arkansas in nine separate areas as additions to the National Wilderness Preservation System. This represents about 80 percent of the acreage contained in the Senate-passed bill. In reaching this compromise, we have been careful to retain the character and integrity of these incredibly beautiful and pristine areas.

The bill as amended designates the following areas as wilderness:

Black Fork Mountain Wilderness, 7,568 acres;

Dry Creek Wilderness, 6,310 acres;

Poteau Mountain Wilderness, 10,884 acres;

Flatside Wilderness, 10,105 acres;

Upper Buffalo Wilderness Additions, 1,504 acres;

Hurricane Creek Wilderness Additions, 15,177 acres;

Richland Creek Wilderness, 11,822 acres;

East Fork Wilderness, 10,777 acres; and

Leatherwood Wilderness, 16,956 acres.

I want to comment briefly about two changes made by the House amendment. As passed by the Senate, S. 2125 contained statutory language providing for special management of some 3,400 acres of land that lie between the two separate units of the Poteau Mountain Wilderness. This acreage covers land with very high wilderness potential but which is also popular for off-road vehicle use. Although the area was eminently qualified for wilderness designation, it was agreed by everyone concerned—local citizens,

local groups, local officials, and members of the Arkansas congressional delegation—that this acreage should remain open to motorized use. Thus, section 4 of the Senate-passed bill contained statutory language providing for special management of this acreage. When the bill reached the House, however, Congressman SEIBERLING, chairman of the Public Lands and National Parks Subcommittee of the House Committee on Interior and Insular Affairs, objected on technical grounds to providing for special management of this acreage by statutory language. He agreed fully and completely with the interest of the delegation in protecting this pristine area, however, and suggested that the Forest Service be given directions for managing this acreage in report language. Thus, the report language accompanying the House amendment to this bill directs the Forest Service to manage this 3,400 acres to maintain its existing wild character, with no timber harvest, mineral leasing, or new road construction permitted. To echo the language of the House report, the Arkansas congressional delegation expects and trusts that the Forest Service will manage this area accordingly. If it is not so managed, I can assure the Members of this body that I will be seeking legislation next Congress to protect this area. Local citizens want and expect this area to be managed in a manner that will protect its integrity and character while at the same time allowing motorized vehicle use. I cannot stress too much the importance of protecting the terms of this management with the local citizenry.

Second, although the House amendment deletes the southern unit of the Senate-passed East Fork Wilderness area, I want to underscore and reiterate the language of the House report: This area contains a great number of unique wilderness, recreation, esthetic, and water quality values. The Blue Hole, located in the center of the southern portion, is particularly significant. It is, indeed, a spectacularly beautiful area, and it would be tragic if it were not managed in a manner that preserves its pristine beauty and integrity.

To echo the House Committee report, we expect the Forest Service to manage this area and adjacent watershed as delineated by the 1,280-foot contour line upstream from a line running diagonally north and south through the center of section 10 township 10 n., range 18 w., fifth principal meridian, to retain its undisturbed and natural conditions. This is a magnificent area that must be preserved.

I urge the Senate to adopt this measure quickly and send it to the President for signature.

Mr. PRYOR. Mr. President, I am pleased to support the motion to agree to the House amendment to S. 2125 and to send this legislation to the President for his approval. I am pleased to be a cosponsor of this bill.

This legislation represents a major achievement and is the result of careful, constructive discussions by interested parties. I would especially commend my colleagues, Senator DALE BUMPERS and Congressman BERYL ANTHONY for their tireless efforts to develop this legislation.

Finally, Mr. President, I want to echo the remarks of Senator BUMPERS, and especially his comments about the direction provided the Forest Service on the appropriate management of both the Blue Hole area and the Poteau Mountain scenic area. Both of these two areas are very important to the Arkansas congressional delegation, and they should be managed so that their beauty and pristine character are maintained even though they are not designated as wilderness areas.

Mr. BAKER. Mr. President, I thank the Senators from Arkansas.

Mr. President, I move that the Senate concur in the House amendment.

The motion was agreed to.

Mr. WARNER. Mr. President, I will not object. But I just want to point out that this is another wilderness bill which is moving, and the Virginia wilderness bill is still in a hold state. I am not objecting to my good friend and colleague from Arkansas. I hope that in due course, the Virginia wilderness bill will be accorded the same treatment.

Mr. BAKER. Mr. President, what is the status?

Mr. BYRD. Mr. President, the status is—if I may say to the majority leader—we are attempting to clear this matter with Mr. WARNER. I have every confidence, and every good reason to believe that he is going to be happy before the day is over.

Mr. WARNER. I thank the distinguished minority leader. He has been most cooperative, and, indeed, the ranking minority member of the Senate Agriculture Committee likewise, who is present on the floor in their offer to help.

Thank you.

WYOMING WILDERNESS ACT

Mr. BAKER. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 543.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 543) entitled "An Act to designate certain national forest system lands in the State of Wyoming for inclusion in the National Wilderness Preservation System to release other forest lands for multiple use management, to withdraw designated wilderness areas in Wyoming from minerals activity, and for other purposes", do pass with the following amendment:

Strike out all after the enacting clause, and insert:

TITLE I—SHORT TITLE, FINDINGS AND PURPOSES

SHORT TITLE

SEC. 101. This Act may be cited as "The Wyoming Wilderness Act of 1984."

DECLARATION OF FINDINGS AND PURPOSES

SEC. 102.(a) The Congress finds that—

(1) certain areas of undeveloped national forest lands in the State of Wyoming possess outstanding natural characteristics giving them high values as wilderness and will, if properly preserved, be an enduring resource of wilderness for the benefit of the American people;

(2) review and evaluation of roadless and undeveloped lands in the national forest system of Wyoming have identified those areas which, on the basis of their landform, ecosystem, associated wildlife, and location, will help to fulfill the national forest system's share of a quality National Wilderness Preservation System; and

(3) review and evaluation of roadless and undeveloped lands in the national forest system in Wyoming have also identified those areas which should be specially managed, deserve further study, or which should be available for multiple uses other than wilderness, subject to the Forest Service's land management planning process and the provisions of this Act.

(b) The purposes of this Act are to—

(1) designate certain national forest system lands in Wyoming for inclusion in the National Wilderness Preservation System in order to preserve the wilderness character of the land and to protect watersheds and wildlife habitat, preserve scenic and historic resources, and promote scientific research, primitive recreation, solitude, physical and mental challenge, and inspiration for the benefit of all of the American people;

(2) insure that certain national forest system lands in the State of Wyoming be made available for uses other than wilderness in accordance with applicable national forest laws and planning procedures and the provisions of this Act.

TITLE II—ADDITIONS TO THE NATIONAL WILDERNESS PRESERVATION SYSTEM

SEC. 201. (a) In furtherance of the purposes of the Wilderness Act (78 Stat. 890), the following national forest system lands in the State of Wyoming, as generally depicted on maps appropriately referenced herein, are hereby designated as wilderness, and, therefore, as components of the National Wilderness Preservation System:

(1) certain lands in the Bighorn National Forest, which comprise approximately one hundred ninety-five thousand five hundred acres as generally depicted on a map entitled, "Cloud Peak Wilderness Area—Proposed," dated September 1984, and which shall be known as the Cloud Peak Wilderness;

(2) certain lands in the Shoshone National Forest, which comprise approximately one hundred and one thousand nine hundred and ninety-one acres, as generally depicted on a map entitled, "Popo Agie Wilderness Area—Proposed," dated September 1982, and which shall be known as the Popo Agie Wilderness;

(3) subject to valid existing rights and reasonable access to exercise such rights, cer-

tain lands in the Bridger-Teton National Forest, which comprise approximately two hundred eighty-seven thousand acres, as generally depicted on a map entitled, "Gros Ventre Wilderness Area—Proposed," dated September 1984, and which shall be known as the Gros Ventre Wilderness;

(4) certain lands in the Bridger-Teton National Forest, which comprise approximately fourteen thousand acres, as generally depicted on a map entitled, "Winegar Hole Wilderness Area—Proposed," dated September 1984, and which shall be known as the Winegar Hole Wilderness;

(5) certain lands in the Targhee National Forest which comprise approximately one hundred sixteen thousand five hundred thirty-five acres as generally depicted on a map entitled, "Jedediah Smith Wilderness Area—Proposed," dated September 1984, and which shall be known as the Jedediah Smith Wilderness;

(6) subject to Section 201(c) of this Act, certain lands in the Medicine Bow National Forest which comprise approximately thirty one thousand three hundred acres as generally depicted on a map entitled, "Huston Park Wilderness Area—Proposed," dated September 1984, and which shall be known as the Huston Park Wilderness;

(7) subject to Section 201(c) of this Act, certain lands in the medicine Bow National Forest which comprise approximately ten thousand four hundred acres as generally depicted on a map entitled, "Encampment River Wilderness Area—Proposed," dated September 1984, and which shall be known as the Encampment River Wilderness;

(8) subject to Section 201(c) of this Act, certain lands in the Medicine Bow and Routt National Forests of Wyoming and Colorado, which comprise approximately twenty three thousand acres as generally depicted on a map entitled, "Platte River Wilderness Area—Proposed," dated September 1984, and which shall be known as the Platte River Wilderness;

(9) certain lands in the Bridger-Teton National Forest, which comprise approximately twenty-eight thousand one hundred and fifty-six acres as generally depicted on a map entitled, "Corridor Addition to the Teton Wilderness Area—Proposed," dated September 1982, and which are hereby incorporated in and which shall be deemed a part of the Teton Wilderness as designated by Public Law 88-577;

(10) certain lands in the Bridger-Teton National Forest which comprise approximately thirty six thousand acres as generally depicted on maps entitled, "Silver Creek addition to the Bridger Wilderness—Proposed," and "Newfork Lake Addition to the Bridger Wilderness—Proposed," dated September 1984, and which are hereby incorporated in and which shall be deemed a part of the Bridger Wilderness as designated by Public Law 88-577;

(11) certain lands in the Shoshone National Forest, which comprise approximately six thousand four hundred and ninety-seven acres, as generally depicted on a map entitled, "Glacier Addition to the Fitzpatrick Wilderness—Area Proposed," dated September 1982, which are hereby incorporated in and which shall be deemed a part of the Fitzpatrick Wilderness as designated by Public Law 94-557 and Public Law 94-567; *Provided*, that within the area referred to in this subparagraph, occasional motorized access for administrative purposes and related activities as determined necessary by the Secretary for habitat management, trapping, transporting and proper management of the area's bighorn sheep population may be allowed;

(12) certain lands in the Shoshone National Forest, which comprise approximately ten thousand acres, as generally depicted on a map entitled, "South Fork addition to the Washakie Wilderness—Proposed," dated September 1984, and which are hereby incorporated in and which shall be deemed a part of the Washakie Wilderness as designated by Public Law 92-476;

(13) certain lands in the Shoshone National Forest, which comprise approximately twenty three thousand seven hundred and fifty acres, as generally depicted on a map entitled, "High Lakes Addition to the Absaroka-Beartooth Wilderness—Proposed," dated September 1984, and which are hereby incorporated in and which shall be deemed a part of the Absaroka-Beartooth Wilderness as designated by Public Law 95-249.

(b) The previous classification of each of the following is hereby abolished: the Cloud Peak Primitive Area, the Popo Agie Primitive Area, and the Glacier Primitive Area.

(c) The designation and continued existence of the Huston Park, Encampment River, Platte River and Savage Run Wildernesses shall not, under any federal law, in any way impair or affect any present or future water rights for, and shall not prevent, impair, or in any way affect construction, operation or maintenance of, the Stage II or Stage III water development projects as presently defined in Wyoming Statutes, Section 41-2-204(a) (iii) and (iv) (1984 Cum. Supp.), (Wyoming Laws 1979, ch. 126, Sec. 1), or any subsequent modification thereof, including the water rights required therefor, to the extent that such modification provides for the diversion and transportation of water in the Little Snake River Basin for storage or use in said basin or in Wyoming east of the Continental Divide. No term or condition shall be imposed on any permit, license, right-of-way or other authorization for said projects on the basis of any present or future wilderness characteristics, wilderness designations, or wilderness studies or evaluations of lands in the Medicine Bow National Forest or in Natrona, Sweetwater, or Carbon Counties in Wyoming.

LEGAL DESCRIPTION AND WILDERNESS BOUNDARIES

SEC. 202. As soon as practicable after the enactment of this Act, a map and a legal description of each area described in Title II and III shall be filed with the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the House of Representatives, and each such map and description shall have the same force and effect as if included in this Act, except that correction of clerical and typographical errors in each such legal description and map may be made. Each such map and legal description shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Department of Agriculture.

APPLICATION OF THE WILDERNESS ACT OF 1964

SEC. 203. Subject to valid existing rights, each wilderness area designated by this act shall be administered by the Secretary in accordance with the provisions of this Act and the Wilderness Act, except that any reference in the provisions of the Wilderness Act to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this Act.

TITLE III—WILDERNESS STUDY AREAS

SEC. 301. (a) In furtherance of the purposes of the Wilderness Act, the Secretary of Agriculture shall, upon revision of the initial land management plans for the Bridger-Teton, Targhee and Shoshone National Forests required by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, review the following lands as to their suitability for preservation as wilderness:

(1) certain lands in the Bridger-Teton and Targhee National Forests of Wyoming, which comprise approximately one hundred and thirty-five thousand eight hundred and forty acres, as generally depicted on a map entitled, "Palisades Wilderness Study Area—Proposed," dated September 1984, and which shall be known as the Palisades Wilderness Study Area;

(2) certain lands in the Bridger-Teton National Forest, which comprise approximately thirty thousand acres, as generally depicted on a map entitled, "Shoal Creek Wilderness Study Area—Proposed," dated September 1984, and which shall be known as the Shoal Creek Wilderness Study Area;

(3) certain lands in the Shoshone National Forest of Wyoming, which comprise approximately fourteen thousand seven hundred acres, as generally depicted on a map entitled, "High Lakes Wilderness Study Area—Proposed," dated September 1984, and which shall be known as the High Lakes Wilderness Study Area.

(b) Subsequent to such review the Secretary shall submit his reports and findings to the President and the President shall submit his recommendations to the Congress within three years of the date of receipt of the Secretary's report.

(c) Subject to valid existing rights and reasonable access to exercise such rights, until Congress determines otherwise, the Palisades, High Lakes and Shoal Creek Wilderness Study Areas shall be administered by the Secretary of Agriculture so as to maintain their presently existing wilderness character and potential for inclusion in the National Wilderness Preservation System: *Provided, that:*

(1) with respect to oil and gas exploration and development activities, the Palisades Wilderness Study Area shall be administered under reasonable conditions to protect the environment according to the laws and regulations generally applicable to non-wilderness lands within the National Forest System;

(2) subject to valid existing rights, the Palisades Wilderness Study Area as designated by this Act is hereby withdrawn from all forms of appropriation under the mining laws;

(3) the provisions of Section 308 of the Interior Department Appropriations Act for fiscal year 1984 (Public Law 98-146) or similar provisions which may hereafter be enacted concerning oil and gas leasing, exploration and development in further planning or wilderness study areas shall not apply to the Palisades Wilderness Study Area;

(4) within the Palisades, High Lakes and Shoal Creek Wilderness Study areas, snowmobiling shall continue to be allowed in the same manner and degree as was occurring prior to the date of enactment of this Act.

TITLE IV—RELEASE OF LANDS FOR MULTIPLE USE MANAGEMENT

ADMINISTRATIVE AND CONGRESSIONAL REVIEW OF ROADLESS AREAS

SEC. 401. (a) The Congress finds that—

(1) the Department of Agriculture has completed the second roadless area review and evaluation program (RARE II); and

(2) the Congress has made its own review and examination of national forest roadless areas in Wyoming and the environmental impacts associated with alternative allocations of such areas.

(b) On the basis of such review, the Congress hereby determines and directs that—

(1) without passing on the question of the legal and factual sufficiency of the RARE II final environmental statement (dated January 1979) with respect to national forest lands in states other than Wyoming, such statement shall not be subject to judicial review with respect to national forest system lands in the state of Wyoming;

(2) with respect to the national forest lands in the State of Wyoming which were reviewed by the Department of Agriculture in the second roadless area review and evaluation (RARE II) and those lands referred to in subsection (d) except those lands remaining in wilderness study upon enactment of this Act and subject to Section 301, that review and evaluation or reference shall be deemed for the purposes of the initial land management plans required for such lands by the Forest and Rangeland Renewable Resources Planning Act of 1976 (Public Law 94-588) to be an adequate consideration of the suitability of such lands for inclusion in the National Wilderness Preservation System and the Department of Agriculture shall not be required to review the wilderness option prior to the revisions of the plans, but shall review the wilderness option when the plans are revised, which revisions will ordinarily occur on a ten-year cycle, or at least every fifteen years, unless, prior to such time, the Secretary finds that conditions in a unit have significantly changed;

(3) Areas in the State of Wyoming reviewed in such final environmental statement or referred to in subsection (d) and not designated wilderness or wilderness study upon enactment of this Act shall be managed for multiple use in accordance with land management plans pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 as amended by the National Forest Management Act of 1976; *Provided:* That such areas need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of the initial land management plans;

(4) in the event that revised land management plans in the State of Wyoming are implemented pursuant to Section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 as amended by the National Forest Management Act of 1976, and other applicable law, areas not recommended for wilderness designation need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of such plans and areas recommended for wilderness designation shall be managed for the purpose of protecting their suitability for wilderness designation as may be required by the Forest and Rangeland Renewable Resources Planning Act of 1974 as amended by the National Forest Management Act of 1976, and other applicable law;

(5) unless expressly authorized by Congress, the Department of Agriculture shall not conduct any further statewide roadless area review and evaluation of national forest system lands in the State of Wyoming for the purpose of determining their suitability for inclusion in the National Wilderness Preservation System.

(c) As used in this section, and as provided in section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 as amended by the National Forest Management Act of 1976, the term "revision" shall not include an "amendment" to a plan.

(d) The provisions of this section shall also apply to:

(1) national forest system roadless areas or portions thereof in the State of Wyoming identified by unit plans listed at the end of this subparagraph, which are not designated as wilderness by this Act:

National Forest	Unit Plan
Bridger-Teton	Union Pass
Bridger-Teton	Big Piney
Bridger-Teton	Spread Creek
Bridger-Teton	North Gros Ventre
Targhee	West Slope-Tetons
Targhee	Island Park
Medicine Bow	Huston Park
Medicine Bow	Savage Run
Shoshone	Beartooth Plateau

(2) that portion of the Beartooth-High Lakes Area not included in wilderness or wilderness study by this Act; and

(3) national forest roadless lands in the State of Wyoming which are less than 5,000 acres in size.

(e) The provisions of this section shall not apply to the area referred to in Section 5 of Public Law 92-476 (86 Stat. 792) and generally known as the Dunoir Special Management Unit, which shall continue to be managed pursuant to Public Law 92-476.

TITLE V—MISCELLANEOUS PROVISIONS

GRAZING IN WILDERNESS AREAS

SEC. 501. The Secretary of Agriculture is directed to review all policies, practices and regulations of the Department of Agriculture regarding livestock grazing in national forest wilderness areas in the State of Wyoming in order to insure that such policies, practices and regulations fully conform with and implement the intent of Congress regarding grazing in such areas, as such intent is expressed in the Wilderness Act, as interpreted by Public Law 98-406.

STATE WATER ALLOCATION AUTHORITY

SEC. 502. As provided in section 4(d)(6) of the Wilderness Act, except as provided in Section 201(c) of this Act, nothing in this Act shall constitute an express or implied claim or denial on the part of the Federal Government as to exemption from Wyoming water laws.

STATE FISH AND WILDLIFE AUTHORITY

SEC. 503. As provided in section 4(d)(7) of the Wilderness Act, nothing in this Act shall be construed as affecting the jurisdiction or responsibilities of the State of Wyoming with respect to wildlife and fish in the national forests in Wyoming.

PROHIBITION OF BUFFER ZONES

SEC. 504. Congress does not intend that the designation of wilderness areas in the State of Wyoming lead to the creation of protective perimeters or buffer zones around each wilderness area. The fact that nonwilderness activities or uses can be seen or heard from within any wilderness area shall not, of itself, preclude such activities or uses up to the boundary of the wilderness area.

PROTECTION OF ARCHAEOLOGICAL RESOURCES

SEC. 505. (a) Within the areas described in sections 201 and 301, and within any previously-designated components of the National Wilderness Preservation System in the State of Wyoming, and in furtherance of the purposes of the Wilderness Act, section 6 of the National Forest Management Act, the Archaeological Resources and Protection Act, and the Historic Preservation Act, the Secretary shall cooperate with the Secretary of the Interior and with agencies and institutions of the State of Wyoming, in conducting a cultural resources management program.

(b) Such program shall have as its purpose the protection of archaeological sites and interpretation of such sites for the public benefit and knowledge, and compliance with all federal and state historic and cultural resource preservation statutes, regulations, guidelines and standards, insofar as these activities are compatible with the purposes for which the affected lands were designated as wilderness of special management areas.

SEC. 506. If any provision of this Act or the application thereof is held invalid, the remainder of the Act and the application thereof shall not be affected thereby.

Mr. WALLOP. Mr. President, I rise to express strong support for S. 543, the Wyoming Wilderness Act of 1984. This bill represents 5 years of effort to round out the Wyoming National Forest portion of the National Wilderness Preservation System. Shortly after the Forest Service completed their RARE II recommendations, my colleagues from Wyoming, Senator SIMPSON and Congressman CHENEY, and I began a diligent effort to develop a wilderness proposal that would be acceptable to the people of our State as well as the public land users throughout the country. We have stood in the center of a wide spectrum of views. We heard the cries of those whose future had been placed on hold because of delays in releasing lands for multiple use; and we heard the cries of those who spoke of the need to protect and save lands for future generations. It has not been an easy task. Anyone who has observed or been closely associated with negotiations on any of the various State wilderness bills which have been enacted during the 98th Congress can attest to the difficulty in achieving consensus.

During this session of Congress, the Public Lands and Reserved Water Subcommittee has held hearings on 11 wilderness bills and it now appears that Congress will have passed legislation adding some 8 million acres to the National Wilderness Preservation System. Just as several other States have been able to work through their difficulties and arrive at a consensus, we have managed to achieve an agreement on Wyoming's wilderness bill which I believe will be acceptable to a majority of Wyoming citizens.

This wilderness bill is the culmination of a lot of effort on the part of a lot of people, each with good reason from their perspective. Clearly, not all views could be accommodated, but I am pleased to say that the vast majority of Wyoming people will be well-

served by this comprehensive wilderness legislation.

The Wyoming Wilderness Act, as I view it, represents the needs of all Wyoming residents. I am proud of this legislation, because it does address the economic and environmental needs of the State, sets aside pristine land for future generations, and it allows those dependent on the use of national forest resources the chance to plan for the future.

This legislation assures protection for highly prized natural habitat as wilderness, reaffirms State water rights, and releases a large portion of National Forest lands for uses other than wilderness. There are 9,252,329 acres of National Forest System lands in Wyoming. Of these, 2,193,202 acres already are included in the National Wilderness Preservation System. During RARE II, the Forest Service studied 3,928,000 acres which met the preliminary criteria for roadless area review. On the basis of this study, the Carter administration recommended 996,000 acres for wilderness designation. The Wyoming Wilderness Act of 1984 will designate 883,049 acres of wilderness; bringing the State total to 3,079,251 acres. Another 180,540 acres in the Palisades, Shoal Creek, and High Lakes areas are to be further evaluated as to their potential for possible future inclusion in the system. The bill contains language to ensure that some 3 million acres of RARE II lands not designated as wilderness or wilderness study will be released for such nonwilderness uses as are deemed appropriate through the forest land management planning process, and prohibits lawsuits challenging the release of nonwilderness lands.

It is a bill I am proud to sponsor. At this time it is appropriate to extend my gratitude to all who have worked so diligently to this end. I express my appreciation.

Now, Mr. President, inasmuch as the legislative report that accompanies this bill does not reflect the amendments passed by the House, I would like to offer for the record a summary of the areas designated by the bill and some additional remarks regarding specific areas.

Wilderness areas designated by the Wyoming Wilderness Act

Area	Acres
Cloud Peak Wilderness	195,500
Popo Agie Wilderness	101,991
Gros Ventre Wilderness	287,080
Jedediah Smith Wilderness (West Slope of Tetons)	116,535
Huston Park Wilderness	31,300
Encampment River	10,400
Platte River Wilderness	22,000
Winegar Hole Wilderness	14,000
Corridor addition to Teton Wilderness	28,156
Silver Creek addition to Bridger Wilderness	14,880
Newfork Lake addition to Bridger Wilderness	20,960
Glacier addition to Fitzpatrick Wilderness	6,497
South Fork addition to Washakie Wilderness	10,000
High Lakes addition to Beartooth-Absaroka Wilderness	23,750
Total wilderness	883,049

Wilderness study areas designated by the Wyoming Wilderness Act

Palisades Wilderness Study Area.	135,840
High Lakes Wilderness Study Area	14,700
Shoal Creek	30,000
Total wilderness study	180,540

WATER RIGHTS IN CERTAIN WILDERNESS AREAS

Mr. President, an important provision in this legislation which allowed it to clear the hurdle of Wyoming concerns deals with the water language in section 201(c) of the bill. This language is the product of long hours of negotiation and compromise between the members of the Wyoming delegation and my distinguished colleague from the House, Congressman SEIBERLING.

This language intends to make clear that notwithstanding the designation of certain national forest lands in Wyoming as wilderness, the stage II and proposed stage III water projects which will supply water to 50 percent of all the people living in Wyoming will be available for diversion by the State permittees. That is the case whether or not the diversion for these projects, or their subsequent modification, takes place within the limits of the proposed wilderness areas, or above them. The development of stage II and stage III cannot be impaired, nor can any water rights therefore be affected by the designation of these wilderness areas.

Although we want the land to be otherwise managed as a wilderness, with respect to the waters necessary for diversion for the stage I and stage III projects, the Forest Service shall carry out its responsibilities under Federal law as if these lands were being administered under the Organic Administration Act of 1897. By so providing we do not strip the Forest Service of any reasonable powers which it might otherwise have under Federal law. It was our intention to provide complete protection for the stage II and stage III projects against the effects of any wilderness designation in southeast Wyoming. I'm happy to say I think we have achieved this objective. There must be no unreasonable Federal bar to the access of Wyoming citizens to water resources within the State.

CLOUD PEAK WILDERNESS

One area receiving considerable attention throughout negotiations was the Rock Creek drainage area on Big Horn National Forest. I resisted inclusion of Rock Creek in the Cloud Peak Wilderness inasmuch as most of the drainage is covered with oil and gas leases. In addition, the drainage contains at least two potential reservoir sites. I am convinced water will eventually become one of Wyoming's most important resources and I feel very strongly that we must maintain options for its eventual development and management.

I also believe it is important to maintain a transportation corridor between the wilderness boundary and the forest boundary. I would, however, hope that if the Forest Service finds it necessary to construct resource roads into the Rock Creek drainage for oil and gas exploration or timber management purposes that such roads can be closed and restored to a near-natural condition at the conclusion of the use or activity.

CORRIDOR ADDITION TO THE TETON WILDERNESS

The boundary of this 28,156-acre area has been drawn in such a way as to provide for several small enclaves which have been left outside of the wilderness boundary at key access points so that hunters and others can continue to drive into them and park or camp as they have in the past. It should be noted that there is an abandoned, rustic, log fire lookout on Huckleberry Ridge which was built in the 1930's. The structure has historic value and will be used by the Forest Service for monitoring the Wilderness Natural Fire Program.

GLACIER ADDITION TO THE FITZPATRICK WILDERNESS (WHISKEY MOUNTAIN)

This area provides habitat for the largest herd of Rocky Mountain bighorn sheep in the conterminous United States. The Forest Service and Wyoming Game and Fish Department conduct extensive surveys, trapping operations, tagging and transporting of the sheep to other areas. It is expected that these administrative operations will be allowed to continue, unimpaired by wilderness designation, and language has been included in the bill to allow occasional, limited motorized access for sheep management purposes. Let me emphasize that this language is not intended to allow motorized access for hunting.

BEARTOOTH-HIGH LAKES AREA

Portions of this area are adjacent to the Absaroka-Beartooth Wilderness in Montana, and the bill designates 23,750 acres of the area as an addition to that wilderness. The remaining 14,700 acres of the area have been placed in wilderness study status because of conflicts with snowmobile use. The bill specifically provides that snowmobiling may continue in the study area.

PALISADES WILDERNESS STUDY AREA

The Palisades Area encompasses about 247,000 acres straddling the border between Wyoming and Idaho. This bill affects only that portion of

the Palisades Area which lies in Wyoming—about 135,884 acres. The area is blanketed with oil and gas leases, and was placed in further planning status by the Forest Service at the conclusion of its 1979 RARE II study because the area was thought to have high potential for oil and gas. The area is situated in the Overthrust Belt—a geologic region stretching from the southwestern United States into Canada, where significant amounts of oil and gas have been found in recent years. In 1984, the U.S. Geological Survey issued a report on its assessment of mineral potential of Forest Service roadless areas, as required by the Wilderness Act of 1964. The Palisades was one of two wilderness study areas in Wyoming deemed to have high potential for oil and gas. Specifically, the Survey's report said:

Studies from 1979 to 1982 of the West and East Palisades roadless areas, which lie within the Idaho-Wyoming thrust belt, document structure, reservoir formations, source beds, and thermal maturities comparable to those in producing oil and gas fields farther south in the belt. Therefore, the areas are highly favorable for the occurrence of oil and gas."

In the Wyoming Wilderness Act, the Palisades Area has been placed in wilderness study status with the expectation that by the time the area is again reviewed for possible wilderness classification when the first-generation section 6 plan is revised, there will have been sufficient time and opportunity for lessees to either prove or disprove the Survey's assessment. The bill provides that oil and gas exploration and development, including reasonable access by road, may proceed according to the laws and regulations generally applicable to nonwilderness areas, but that in every other respect, the area is to be managed so as to protect its suitability for future wilderness designation.

SOUTH GROS VENTRE-UPPER GREEN RIVER AREA

For the past several years, there has been a growing concern among citizens in the area of the Bridger-Teton National Forest about timbering plans and practices in that forest. The Bridger-Teton is located within the Greater Yellowstone Ecosystem—a region which includes Yellowstone and Grand Teton National Parks, a significant amount of roadless and highly scenic land, and diverse and very important range of wildlife species. In recent months, edges of the Gros Ventre Wilderness—country known as the South Gros Ventre-Upper Green River Area.

The Wyoming congressional delegation sought to include in this bill a provision that would have prohibited clear-cutting in this very sensitive area and would have required the Forest Service to carefully examine its timber management practices to make certain they are compatible with the important recreation, wildlife, and watershed values of the area. However, we were unable to reach agreement on a provision, and in the interest of securing enactment of the rest of the bill, we agreed to drop the provision and pursue solutions to the problem by other means.

I wish to make it clear to the Forest Service that the Wyoming congressional delegation is very concerned about the timber management program in the Bridger-Teton National Forest, and intends to work to insure that the program does not do damage to the recreational, wildlife, scenic, and other values which we regard as the most important attributes of the forest and the region of which it is a part. We believe the Forest Service must pay more attention to the views of citizens outside the agency who share an interest in forest management.

And, finally, the bill contains provisions to preserve existing grazing privileges in wilderness areas, prohibit buffer zones, and protect archaeological resources.

I urge my colleagues to support the Wyoming Wilderness Act of 1984.

Mr. SIMPSON. Mr. President, I doubt that I can adequately explain the strong emotion of relief which I feel as the Senate prepares to act upon this legislation. Rarely have I seen an issue—with possibly the exception of that old demon of mine—immigration reform—touch the raw nerves of so many people—both in Wyoming and across the Nation.

This bill represents literally years of negotiations and compromise. Even before it was introduced to the Senate for the first time over 2 years ago the entire Wyoming congressional delegation has earnestly studied the roadless area review and evaluation [RARE II] findings, studied the area on the ground, and sought the opinions and comments of the citizens living near the affected areas. Once the measure was introduced, the congressional delegation participated in hearings both in Wyoming and here in Washington. From these hearings, as well as from the thousands of phone calls and letters, the delegation has put together a bill that is both fair and equitable and one that attempts to address the many needs from all sides—including the preservationists and those who depend on the national forests for developmental purposes.

As many of my Senate colleagues who have worked on wilderness bills for their own States will agree, this is no easy task. On one side of the issue are those who strongly feel that indeed Wyoming already had more than enough wilderness, while, on the other hand, there are those who state that Wyoming needs millions of acres added to the wilderness preservation system. It has been a monumental task to reach an agreement among the opposing views and I would like to commend my fine friends and my Wyoming colleagues, Senator MALCOLM WALLOP and Congressman DICK CHENEY, in their efforts to bring success to this endeavor.

I know the awesome amount of time, patience, and cooperation they and my staff and their staffs have shown in the legislative process to get this bill through their respective committees. These two fine friends deserve the bulk of the credit in getting this one done. In addition, I would also like to commend the efforts of the very able and patient Congressman JOHN SEIBERLING. He is pleasant to work with. He, myself, Congressman DICK CHENEY and Senator MALCOLM WALLOP, have been meeting on many occasions eyeball to eyeball over this bill in order to get it passed in this session. Those were some exciting and mostly enjoyable meetings, yet often fraught with strong feelings and emotion, but we continued to slog along—to meet, discuss, and compromise and we now have the opportunity to vote on this measure today. The legislative process has again worked, though there were times when it seemed to be moving so very slowly—but it did indeed work.

Mr. President, I grew up in the beautiful State of Wyoming and have personally visited—by foot, horseback, or 4-wheeled vehicle—most of the areas that are being dealt with in this bill. And let me share with my colleagues this fact—the wilderness areas that are being created in this measure are truly and honestly worthy and deserving of the classification of being included in the wilderness preservation system as mandated by the original 1964 Act. Wilderness areas are being created here from literally one end of the State to the other, including areas that are just a few miles from the major population center of the State to the high rugged terrain near the boundaries of Yellowstone National Park. These pristine and magnificent areas will be a haven not only for wildlife, but for people in my native State of Wyoming and across the Nation, as well as the world, and all will be able to enjoy the undisturbed beauty and solitude that these areas provide.

However, this bill will do far more than preserve nearly 1 million acres of awesome country. The nearly 3 million acres that are now here released for multiple-use management will also play a vital role to the people and industries of Wyoming. Under the wise stewardship of the Forest Service managers these lands can now be administered to their fullest and best use. And I have often seen where this wise management has promoted necessary protection for wildlife as well as provided opportunities for careful de-

velopment or resources including oil and gas reserves and timber harvests—and this coming at a time when the economy of the State of Wyoming would greatly benefit.

Now let me take just a few minutes to discuss additional attributes of the bill. I firmly believe that it represents a fair and even-handed approach to resolving all of the remaining wilderness issues in Wyoming.

In essence, our bill first, creates an additional 884,049 acres of wilderness areas in the State of Wyoming; second, provides for the withdrawal, subject to any existing valid legal rights, of all mineral activity in the wilderness areas; third, releases the remaining acreage considered in the RARE II study to multiple use including grazing recreation, snowmobiling, and wildlife protection, as well as possible mineral exploration and development; fourth, designates specific wilderness study areas that will be managed in a manner to protect their wilderness characteristics, while allowing certain activities during their further study for the possible inclusion into the wilderness system; and fifth, includes sufficient language which states that the environmental impact statement accompanying the RARE II study is indeed sufficient for the lands in Wyoming in order that we may avoid any RARE II study.

The bill incorporates the agreement that was reached earlier in this legislative session on just how long and under what management scheme should the legislatively released lands be governed. This compromise directs the Forest Service to require that the released lands need not be managed to protect their suitability for wilderness for at least one complete forest planning cycle. This would mean that lands which are released with the enactment of this bill will not be reconsidered for possible wilderness designation during the implementation and life of a forest plan—approximately 10 to 15 years. This will give the Forest Service and those who depend upon the forest for activities such as energy exploration or timbering a definite period of time for planning for certain developmental uses. Once the planning cycle is completed, the Forest Service may once again evaluate the lands and then determine what might be the best use.

Again, I express my deepest gratitude to my friend of many years, my Senate colleague, the senior Senator from Wyoming for his herculean effort to make this legislation law. As always, it has been a rich pleasure to associate myself with him and to work closely with him for over 2 years on this issue. We always will continue to work closely together in the future on all issues. And again I congratulate our remarkably adroit and canny chum in the House of Representatives for his steady and patient effort.

Now, a brief review of the specifics of the bill. The presently existing congressionally designated wilderness areas in Wyoming shall include:

Area:	Acres
Bridger Wilderness	392,169
Fitzpatrick Wilderness	192,074
North Absaroka Wilderness	350,904
Savage Run Wilderness	15,260
Teton Wilderness	557,312
Washakie Wilderness	686,584
Total	2,194,303

New wilderness areas to be created by this Wyoming Wilderness Act include:

Area:	Acres
Cloud Peak	195,500
Encampment River Wilderness.	10,400
Gros Ventre Wilderness	287,080
Huston Park	31,300
Jedediah Smith Wilderness	116,535
Platte River Wilderness	23,000
Popo Agie Wilderness	101,991
Corridor addition (Teton Wilderness)	28,156
Glacier Primitive Area addition (Fitzpatrick Wilderness)	6,497
High Lakes addition (Absaroka-Beartooth Wilderness)	23,750
Newfork Lake addition (Bridger Wilderness)	20,960
Silver Creek addition (Bridger Wilderness)	14,880
South Fork addition (Washakie Wilderness)	10,000
Winegar Hole Wilderness	14,000
Total	884,049

As a consequence, we now shall have a total of 3,078,352 acres in Wyoming as wilderness. This translates to approximately 33 percent of all of the national forest land in Wyoming.

During the long and arduous deliberations of the bill, the Gros Ventre Wilderness was a subject of particular controversy in view of the existing oil and gas lease in the area. The validity of certain of those leases is currently being decided in the courts and the congressional delegation did not wish to interfere with the ongoing and proper court proceedings. Thus, the compromise that was reached designates that area as wilderness, subject to valid existing rights, and guarantees access in order to develop those leases, should they indeed be proven to be valid. Thus, the area is protected from all future development, but the regulated development of prior existing rights will be allowed—as is required by the Wyoming and U.S. Constitutions and by the original Wilderness Act of 1964.

The Wyoming congressional delegation felt very strongly that any wilderness areas so designated by the bill in southeastern Wyoming would not be allowed to interfere with the necessary water development projects for that area of the State. Water development is a very sensitive and critical issue for the people of Wyoming and the future proposed projects in southeastern Wyoming will affect approximately two-thirds of the State's population. Therefore, in order to meet this concern, language has been inserted into the measure that specifies that the creation of these science and beautiful wilderness areas will not adversely affect present and future planned water activities.

In addition, the bill will also create three wilderness study areas. These areas will be managed to protect their wilderness characteristics during a further study period, but some nonwilderness activities will be allowed during that study. Those areas are as follows:

Area:	Acres
High Lakes Wilderness Study Area	14,700
Palisades Wilderness Study Area	135,840
Shoal Creek Wilderness Study Area	30,000
Total	180,540

The High Lakes Wilderness Study Area was created specifically in order to allow the continued snowmobile and recreational use that is presently so popular in the vicinity. This area will not be again studied for any possible inclusion into the wilderness preservation system until the second generation of forest management plans—approximately 1995.

The Palisades area is nationally known for its high energy producing potential. For this reason, specific language was added to the bill that would allow further exploration and development of valid existing rights while protecting this area from other forms of development. Like the High Lakes Wilderness Study Area, the Palisades area will not be restudied again until approximately 1995.

In conclusion, Mr. President, we have a good bill—a good result—one that has truly withstood the fires of debate and has been tempered and honed by wise and thoughtful compromise. I recommend its passage to my fellow colleagues.

SENATE CONCURRENT RESOLUTION 149—DIRECTING THE SECRETARY OF THE SENATE TO MAKE CORRECTIONS IN THE ENROLLMENT OF S. 543

Mr. BAKER. Mr. President, I send to the desk a concurrent resolution, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the concurrent resolution.

The assistant legislative clerk read as follows:

S. CON. RES. 149

Resolved by the Senate (the House of Representatives concurring), That in the enrollment of the bill (S. 543), entitled "The Wyoming Wilderness Act of 1984" the Secretary

of the Senate shall make the following corrections:

1. Strike section 201(a)(8) and insert in lieu thereof:

"(8) subject to section 201(c) of this Act, certain lands in the Medicine Bow National Forest which comprise approximately twenty two thousand acres as generally depicted on a map entitled Platte River Wilderness Area—Proposed," dated October 1984, and which shall be known as the Platte River Wilderness;".

Mr. WALLOP. Mr. President, may I ask what this does? When the House amendments came over, they added some 300,000 acres on the bill which left the Senate on wilderness, and included in those 300,000 acres are 700 acres of Colorado wilderness which the Colorado delegation wished not to have there. We have checked with Congressman SEIBERLING. He agrees with this procedure.

I ask that the Senate support it.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution (S. Con. Res. 543) was agreed to.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, I move that the Senate concur in the House amendment.

The motion was agreed to.

WETLANDS LOAN ACT EXTENSION

Mr. BAKER. Mr. President, if the minority leader has no objection, I ask the Chair to lay before the Senate Calendar 1229.

Mr. BYRD. I have no objection, Mr. President.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

Calendar No. 1229, a bill (H.R. 5271) to extend the Wetlands Loan Act.

AMENDMENT NO. 7033

Mr. BYRD. Mr. President, I send an amendment to the desk on behalf of Mr. MITCHELL and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD], for Mr. MITCHELL, proposes an amendment numbered 7033.

Mr. BYRD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1, line 8, strike "September 30, 1994," and insert in lieu thereof "September 30, 1986,".

On page 2, lines 1 and 2, strike "October 1, 1994," and insert in lieu thereof "October 1, 1986".

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Maine [Mr. MITCHELL].

The amendment (No. 7033) was agreed to.

AMENDMENT NO. 7034

Mr. BAKER. Mr. President, I send an amendment to the desk in behalf of Mr. WEICKER, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Tennessee [Mr. BAKER], for Mr. WEICKER, proposes an amendment numbered 7034.

Mr. BAKER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

SEC. 1. (a) On page 1, line 2, insert "Title I".

(b) On page 1, line 9, strike "Sec. 2" and substitute "Sec. 102".

SEC. 2. Add at the end thereof a new title as follows:

"TITLE II—TO ESTABLISH THE CONNECTICUT COASTAL NATIONAL WILDLIFE REFUGE

"FINDINGS AND PURPOSES

"SEC. 201. (a) FINDINGS.—The Congress finds that—

"(1) Chimon Island, off the coast of Norwalk, is the most important heron rookery in Connecticut and contains one of the three largest wading bird colonies in the Northeast United States;

"(2) Milford Point, a narrow ten-acre tombolo, is one of the few remaining nesting sites in Connecticut for the piping plover;

"(3) Falkner's Island support the only significant breeding population of the roseate tern in Connecticut and the only major population of the common tern; and

"(4) Sheffield Island is an excellent potential nesting habitat for heron.

"(b) PURPOSES.—The purposes for which the Connecticut Coastal National Wildlife Refuge is established are—

"(1) to enhance the populations of herons, egrets, terns, and other shore and wading birds within the refuge;

"(2) to encourage natural diversity of fish and wildlife species within the refuge;

"(3) to provide for the conservation and management of all fish and wildlife, within the refuge;

"(4) to fulfill the international treaty obligations of the United States respecting fish and wildlife; and

"(5) to provide opportunities for scientific research, environmental education, and fish and wildlife-oriented recreation.

"DEFINITIONS

"SEC. 202. As used in sections 201 through 205 of this Act—

"(1) The term "refuge" means the Connecticut Coastal National Wildlife Refuge.

"(2) The term "Secretary" means the Secretary of the Interior.

"(3) The term "selection area" means the lands and waters of Chimon Island, Milford Point, Falkner's Island, and Sheffield Island in the State of Connecticut.

"ESTABLISHMENT OF REFUGE

"SEC. 203. (a) SELECTION.—(1) Within ninety days after the effective date of this Act, the Secretary shall—

"(A) designate approximately one hundred and forty-five acres of land and waters within the selection area as land which the Secretary considers appropriate for the refuge;

"(B) prepare a detailed map depicting the boundaries of the land designated under subparagraph (A), which map shall be on file and available for public inspection at offices of the United States Fish and Wildlife Service, and publish notice in the Federal Register of such availability.

"(2) The Secretary may make such minor revisions in the boundaries designated under paragraph (1)(B) of this subsection as may be appropriate to carry out the purpose of this Act or to facilitate the acquisition of property within the refuge.

"(b) ACQUISITION.—(1) Except as provided in paragraph (2), the Secretary shall acquire (by donation, purchase with donated or appropriated funds, or exchange) lands, waters, or interest therein within the boundaries designated under subsection (a)(1)(B).

"(2) The Secretary of the department in which the Coast Guard is operating shall transfer jursidiction over Falkner's Island, Connecticut, to the Department of the Interior; except that the Coast Guard shall remain responsible for the operation and maintenance of the lighthouse on the island

"(c) ESTABLISHMENT.—The Secretary shall establish the national wildlife refuge, by publication of a notice to that effect in the Federal Register, whenever sufficient property has been acquired under this section to constitute an area that can be effectively managed as a national wildlife refuge.

"ADMINISTRATION

"SEC. 204. The Secretary shall administer all lands, waters, and interests therein, acquired under section 203 of this Act in accordance with the provisions of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd-668ee). The Secretary may utilize such additional authority as may be available to him for the conservation and development of wildlife and natural resources, the development of outdoor recreation opportunities, and interpretive education as he deems appropriate to carry out the purposes of the refuge.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 205. There is authorized to be appropriated to the Department of the Interior $2,500,000 from funds not otherwise appropriated from the Land and Water Conservation Fund for the acquisition of lands for the refuge, which sums shall remain available until expended."

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Connecticut [Mr. WEICKER].

The amendment (No. 7034) was agreed to.

AMENDMENT NO. 7035

Mr. BYRD. Mr. President, I send an amendment to the desk on behalf of Mr. JOHNSTON and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD], for Mr. JOHNSTON, proposes an amendment numbered 7035.

Mr. BYRD. Mr President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

SEC. 1. H.R. 5271 is amended by adding at the end thereof a new title as follows:

"TITLE III—TO ESTABLISH THE ATCHAFALAYA NATIONAL WILDLIFE REFUGE

"DECLARATION OF FINDINGS AND PURPOSES

"SEC. 301. (a) FINDINGS.—The Congress finds that—

"(1) thousands of acres of bottomland hardwoods are being cleared each year in the Mississippi River Delta;

"(2) these forested wetlands represent one of the most valuable and productive wildlife habitat types in the United States and have extremely high recreational value for hunters, fishermen, trappers, birdwatchers, nature photographers, and others, and

"(3) the Atchafalaya area is a bottomland hardwood swamp which provides habitat for a diversity of wildlife, including herons, egrets, and other wading birds; mallards, wood ducks and countless waterfowl; black bears, deer, bobcat, muskrat, and other mammals; a large population of alligators; and the Louisiana crawfish, as well as bass, catfish, and other fish.

"(b) PURPOSES.—The purposes for which the Atchafalaya National Wildlife Refuge is established are—

"(1) to provide for the conservation and management of all fish and wildlife within the refuge;

"(2) to fulfill the international treaty obligations of the United States with respect to fish and wildlife; and

"(3) to provide opportunities for scientific research, environmental education, and fish and wildlife-oriented recreation, including hunting, fishing and trapping, birdwatching, nature photography, and others.

"DEFINITIONS

"SEC. 302. As used in sections 301 through 305 of this Act—

"(1) The term 'Refuge' means Atchafalaya National Wildlife Refuge.

"(2) The term 'Secretary' means the Secretary of the Interior.

"(3) The term 'Selection area' means those lands and waters that are depicted on the map dated September 21, 1984, on file with the United States Fish and Wildlife Service which are not owned by the State of Louisiana and which are available from willing sellers.

"ESTABLISHMENT OF REFUGE

"SEC. 303. (a)(1) SELECTION.—Within one hundred and eighty days after the effective date of this Act, the Secretary shall—

"(A) designate with the concurrence of the State of Louisiana land and waters within the selection area as land which the Secretary and the State of Louisiana consider appropriate for the refuge;

"(B) prepare a detailed map with the concurrence of the State of Louisiana, depicting the boundaries of the land designated under subparagraph (A), which map shall be on file and available for public inspection at offices of the United States Fish and Wildlife Service, and publish notice in the Federal Register of such availability.

"(2) The Secretary may make such minor revisions in the boundaries designated under paragraph (1)(B) of this subsection as may be appropriate to carry out the purpose of this Act or to facilitate the acquisition of property within the refuge.

"(b) ACQUISITION.—The Secretary shall acquire with funds provided under Public Law 98-396, the lands, waters, or interests therein within the boundaries designated under subsection (a)(1)(B). The Secretary is authorized to include in any transfer of property to the United States, pursuant to this Act, language requiring the United States, in the event that such property is no longer required for fish and wildlife conservation and prior to any subsequent sale, exchange, other transfer of the property acquired, to first offer such property to in the vendors, their heirs, successors or assigns, at the same price then being offered by any third party, which price shall in no event be less than the current fair market value.

"(c) ESTABLISHMENT.— The Secretary shall establish the National Wildlife Refuge, by publication of a notice to that effect in the Federal Register, whenever sufficient property has been acquired under this section to constitute an area that can be effectively managed as a national wildlife refuge.

"ADMINISTRATION

"SEC. 304. The Secretary shall administer all lands, waters, and interests therein, acquired under section 303 of this Act in accordance with the provisions of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd-668ee). The Secretary may utilize such additional authority as may be available to him for the conservation and development of wildlife and natural resources, the development of outdoor recreation opportunities, and interpretive education as he deems appropriate to carry out the purposes of the refuge: *Provided, however,* That the Secretary shall enter into a cooperative agreement with the State of Louisiana to provide for management of the refuge by the State in a manner that is consistent with the responsibilities of the Secretary as the primary Administrator of the refuge and the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd-668ee).

"SEC. 305. The refuge shall be treated as a fee area for purposes of applying section 401 of the Act commonly referred to as the Refuge Revenue Sharing Act (16 U.S.C. 715s).

"EFFECTIVE DATE

"SEC. 306. This Act shall take effect October 1, 1984, or on the date of its enactment, whichever date is later."

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Louisiana [Mr. JOHNSTON].

The amendment (No. 7035) was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

So the bill (H.R. 5271), as amended, was passed.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SINGLE AUDIT ACT OF 1984

Mr. BAKER. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 1510.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 1510) entitled "An Act to establish uniform single audit requirements for State and local governments who receive Federal assistance and for recipients of Federal assistance from such governments, and for other purposes", do pass with the following amendments:

Strike out all after the enacting clause and insert:

SHORT TITLE; PURPOSE

SECTION 1. (a) This Act may be cited as the "Single Audit Act of 1984".

(b) It is the purpose of this Act—

(1) to improve the financial management and accountability of State and local governments with respect to Federal financial assistance programs;

(2) to establish uniform requirements for audits of Federal financial assistance provided to State and local governments;

(3) to promote the efficient and effective use of audit resources; and

(4) to assure that Federal departments and agencies, to the maximum extent practicable, rely upon and use audit work done pursuant to this Act.

AMENDMENT TO TITLE 31, UNITED STATES CODE

SEC. 2. (a) Subtitle V of title 31, United States Code, is amended by adding at the end thereof the following new chapter:

"CHAPTER 75—REQUIREMENTS FOR SINGLE AUDITS

"Sec.
"7501. Definitions.
"7502. Annual audit requirements.
"7503. Relation to other audit requirements.
"7504. Cognizant agency responsibilities.
"7505. Regulations.
"7506. Effective date; report.

"§ 7501. Definitions

"As used in this chapter—

"(1) 'cognizant agency' means a Federal agency which is assigned by the Director of the Office of Management and Budget with the responsibility for implementing the requirements of this chapter.

"(2) 'Federal financial assistance' means assistance provided by a Federal agency in

the form of grants, contracts, loans, loan guarantees, property, cooperative agreements, interest subsidies, insurance, or direct appropriations, but does not include direct Federal cash assistance to individuals.

"(3) 'Federal agency' has the same meaning as the term 'agency' in section 551(1) of title 5, United States Code.

"(4) 'generally accepted accounting principles' has the meaning specified in the generally accepted government auditing standards.

"(5) 'generally accepted government auditing standards' means the standards for audit of governmental organizations, programs, activities, and functions, issued by the Comptroller General of the United States.

"(6) 'independent auditor' means—

"(A) an external State or local government auditor who meets the independence standards included in generally accepted government auditing standards, or

"(B) a public accountant who meets such independence standards.

"(7) 'internal controls' means the plan of organization and methods and procedures adopted by management ensure that—

"(A) resource use is consistent with laws, regulations, and policies;

"(B) resources are safeguarded against waste, loss, and misuse; and

"(C) reliable data are obtained, maintained, and fairly disclosed in reports.

"(b) 'local government' means any unit of local government within a State, including a county, borough, municipality, city, town, township, parish, local public authority, special district, school district, intrastate district, council of governments, and any other instrumentality of local government, and any federally recognized Indian tribal government or Alaska native village that carries out substantial governmental duties and powers.

"(9) 'major Federal assistance program' means any program for which total expenditures of Federal financial assistance by the State or local government during the applicable fiscal year—

"(A) is greater than $3,000,000; or

"(B) is greater than the larger of (i) $100,000 or (ii) 3 per centum of the total Federal financial assistance expended by such government.

"(10) 'public accountants' means those individuals who meet the qualification standards included in generally accepted government auditing standards for personnel performing government audits.

"(11) 'State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands, any instrumentality thereof, and any multi-State, regional, or interstate entity which has governmental functions.

"§ 7502. Annual audit requirements

"(a) Each State and local government which receives a total of $100,000 or more in Federal financial assistance in any of its fiscal years shall have an audit made for such fiscal year in accordance with the requirements of this chapter and the requirements of the regulations prescribed pursuant to section 7505. For purposes of this chapter, a State or local government is considered to receive Federal financial assistance whether it is received directly from a Federal agency or indirectly through another State or local government.

"(b) Each audit required by subsection (a) shall be conducted by an independent auditor in accordance with generally accepted governmental auditing standards.

"(c)(1) Each audit required by subsection (a) for any fiscal year shall cover the entire State or local government's operations except that, at the option of such government—

"(A) such audit may, except as provided in paragraph (4), cover only each department, agency, or establishment which received, expended, or otherwise administered Federal financial assistance during such fiscal year; and

"(B) such audit may exclude public hospitals and public colleges and universities.

"(2) Each such audit shall encompass the entirety of the financial operations of such government or of such department, agency, or establishment, whichever is applicable, and shall determine and report whether—

"(A)(i) the financial statements of the government, department, agency, or establishment present fairly its financial position and the results of its financial operations in accordance with generally accepted accounting principles and (ii) the government, department, agency, or establishment has complied with laws and regulations that may have a material effect upon the financial statements;

"(B) the government, department, agency, or establishment has internal control systems to provide reasonable assurance that it is managing Federal financial assistance programs in compliance with applicable laws and regulations; and

"(C) the government, department, agency, or establishment has complied with laws and regulations that may have a material effect upon each Federal financial assistance program from which transactions are selected and tested pursuant to paragraph (3).

"(3) Each such audit shall include the selection and testing, on the basis of the independent auditor's professional judgment, of a representative number of transactions (A) from each major Federal assistance program, and (B) from a sample of other programs.

"(4) Each State or local government which, in any of its fiscal years, receives directly from the Department of the Treasury a total of $25,000 or more under chapter 67 of this title (relating to general revenue sharing) and which is required to conduct an audit under this chapter for such fiscal year shall not have the option provided by paragraph (1)(A) for such fiscal year.

"(5) A series of audits of individual departments, agencies, and establishments for the same fiscal year may be considered to be an audit for the purpose of this chapter.

"(d) Each State and local government which receives Federal financial assistance shall—

"(1)(A) maintain an adequate internal control system for assuring the proper distribution of Federal financial assistance to subrecipients and for assuring that the expenditure of such assistance by subrecipients is in accordance with applicable laws and regulations; and (B) require its independent auditor to review such system in compliance with the audit requirements contained in subsection (d)(2)(B); and

"(2) require each subrecipient of such assistance through such government to permit, as a condition of receiving funds from such assistance, the independent auditor of the State or local government to have such access to the subrecipient's records and financial statements as may be necessary for the State or local government to comply with this chapter.

"(e) The report made on any audit conducted under this section shall, within thirty days after the completion of such report, be transmitted to the appropriate Federal officials and made available by the State or local government for public inspection.

"(f) If an audit conducted under this section finds any material noncompliance with applicable laws and regulations by, or material weakness in the internal controls of, the State or local government with respect to the matters described in subsection (c)(2), the State or local government shall submit to appropriate Federal officials a plan for corrective action to eliminate such material noncompliance or weakness or a statement describing the reasons that corrective action is not necessary. Such plan shall be consistent with the audit resolution standard promulgated by the Comptroller General (as part of the standards for internal controls in the Federal Government) pursuant to section 3512(b) of title 31, United States Code.

"§ 7503. Relation to other audit requirements

"(a) An audit conducted in accordance with this chapter shall be in lieu of any financial or financial and compliance audit of an individual Federal assistance program which a State or local government is required to conduct under any other Federal law or regulation. To the extent that such audit provides a Federal agency with the information it requires to carry out its responsibilities under Federal law or regulation, a Federal agency shall rely upon and use that information and plan and conduct its own audits accordingly in order to avoid a duplication of effort.

"(b) Notwithstanding subsection (a), a Federal agency shall conduct any additional audits which are necessary to carry out its responsibilities under Federal law or regulation and nothing in this chapter shall be construed to authorize any State or local government (or subrecipient thereof) to constrain, in any manner, such agency from carrying out such additional audits.

"(c) Subsection (a) shall apply to a State or local government which conducts an audit in accordance with this chapter even though it is not required by section 7502(a) to conduct such audit.

"§ 7504. Cognizant agency responsibilities

"(a) The Director of the Office of Management and Budget shall designate cognizant agencies for audits conducted under this chapter.

"(b) A cognizant agency shall ensure, at a minimum, that—

"(1) audits are made in a timely manner and in accordance with the requirements of this chapter; and

"(2) the audit reports and corrective action plans made pursuant to section 7502 are transmitted to the appropriate Federal officials.

"§ 7505. Regulations

"(a) The Director of the Office of Management and Budget, after consultation with the Comptroller General of the United States, shall prescribe regulations to implement this chapter.

"(b)(1) Such regulations shall include criteria for determining the appropriate charges to programs of Federal financial assistance for the cost of audits. Such criteria shall prohibit a State or local government

which is required to conduct an audit under this chapter from charging to such programs the cost of any financial or financial and compliance audit which is not conducted in accordance with this chapter.

"(2) The criteria prescribed under paragraph (1) shall not, in the absence of documentation demonstrating a higher actual cost, permit (A) the ratio of (i) the total charges to Federal financial assistance programs for the cost of audits performed pursuant to this chapter, to (ii) the total cost of such audits, to exceed (B) the ratio of (i) total Federal financial assistance expended by a government during the applicable fiscal year, to (ii) the government's total expenditures during such fiscal year.

"(c) Such regulations shall include such procedures as may be necessary to assure that small business concerns and business concerns owned and controlled by socially and economically disadvantaged individuals will have the opportunity to participate in the performance of contracts awarded to fulfill the audit requirements of this chapter.

"§ 7506. Effective date; report

"(a) This chapter shall apply to any State or local government with respect to any of its fiscal years which begin after June 30, 1984.

"(b) The Director of the Office of Management and Budget, on or before May 1, 1986, and annually thereafter, shall submit to each House of Congress a report on operations under this chapter. Each such report shall specifically identify each Federal agency or State or local government which is failing to comply with this chapter.".

(b) The table of chapters for subtitle V of title 31, United States Code, is amended by inserting after the item relating to chapter 73 the following new item:

"75. Requirements for Single Audits. 7501".

Amend the title so as to read: "An Act to establish uniform audit requirements for State and local governments receiving Federal financial assistance.".

Mr. BAKER. Mr. President, I move that the Senate concur in the House amendments with an amendment, which I send to the desk.

AMENDMENT NO. 7036

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Tennessee [Mr. BAKER], for Mr. DURENBERGER, proposes an amendment numbered 7036.

Mr. BAKER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

SHORT TITLE; PURPOSE

SECTION 1. (a) This Act may be cited as the "Single Audit Act of 1984".

(b) It is the purpose of this Act—

(1) to improve the financial management of State and local governments with respect to Federal financial assistance programs;

(2) to establish uniform requirements for audits of Federal financial assistance provided to State and local governments;

(3) to promote the efficient and effective use of audit resources; and

(4) to ensure that Federal departments and agencies, to the maximum extent practicable, rely upon and use audit work done pursuant to chapter 75 of title 31, United States Code (as added by this Act).

AMENDMENT TO TITLE 31, UNITED STATES CODE

SEC. 2. (a) Subtitle V of title 31, United States Code, is amended by adding at the end thereof the following new chapter:

"CHAPTER 75—REQUIREMENTS FOR SINGLE AUDITS

"Sec.
"7501. Definitions.
"7502. Audit requirements; exemptions.
"7503. Relation to other audit requirements.
"7504. Cognizant agency responsibilities.
"7505. Regulations.
"7506. Monitoring responsibilities of the Comptroller General.
"7507. Effective date; report.

"7501. Definitions

"As used in this chapter, the term—

"(1) 'cognizant agency' means a Federal agency which is assigned by the Director with the responsibility for implementing the requirements of this chapter with respect to a particular State or local government.

"(2) 'Comptroller General' means the Comptroller General of the United States.

"(3) 'Director' means the Director of the Office of Management and Budget.

"(4) 'Federal financial assistance' means assistance provided by a Federal agency in the form of grants, contracts, loans, loan guarantees, property, cooperative agreements, interest subsidies, insurance, or direct appropriations, but does not include direct Federal cash assistance to individuals.

"(5) 'Federal agency' has the same meaning as the term 'agency' in section 551(1) of title 5, United States Code.

"(6) 'generally accepted accounting principles' has the meaning specified in the generally accepted government auditing standards.

"(7) 'generally accepted government auditing standards' means the standards for audit of governmental organizations, programs, activities, and functions, issued by the Comptroller General.

"(8) 'independent auditor' means—

"(A) an external State or local government auditor who meets the independence standards included in generally accepted government auditing standards, or

"(B) a public accountant who meets such independence standards.

"(9) 'internal controls' means the plan of organization and methods and procedures adopted by management to ensure that—

"(A) resource use is consistent with laws, regulations, and policies;

"(B) resources are safeguarded against waste, loss, and misuse; and

"(C) reliable data are obtained, maintained, and fairly disclosed in reports.

"(10) 'Indian tribe' means any Indian tribe, band, nation, or other organized group or community, including any Alaskan Native village or regional or village corporation (as defined in, or established under, the Alaskan Native Claims Settlement Act) that is recognized by the United States as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

"(11) 'local government' means any unit of local government within a State, including a county, borough, municipality, city, town, township, parish, local public authority, special district, school district, intrastate district, council of governments, and any other instrumentality of local government.

"(12) 'major Federal assistance program' means any program for which total expenditures of Federal financial assistance by the State or local government during the applicable year exceed—

"(A) $20,000,000 in the case of a State or local government for which such total expenditures for all programs exceed $7,000,000,000;

"(B) $19,000,000 in the case of a State or local government for which such total expenditures for all programs exceed $6,000,000,000 but are less than or equal to $7,000,000,000;

"(C) $16,000,000 in the case of a State or local government for which such total expenditures for all programs exceed $5,000,000,000 but are less than or equal to $6,000,000,000;

"(D) $13,000,000 in the case of a State or local government for which such total expenditures for all programs exceed $4,000,000,000 but are less than or equal to $5,000,000,000;

"(E) $10,000,000 in the case of a State or local government for which such total expenditures for all programs exceed $3,000,000,000 but are less than or equal to $4,000,000,000;

"(F) $7,000,000 in the case of a State or local government for which such total expenditures for all programs exceed $2,000,000,000 but are less than or equal to $3,000,000,000;

"(G) $4,000,000 in the case of a State or local government for which such total expenditures for all programs exceed $1,000,000,000 but are less than or equal to $2,000,000,000;

"(H) $3,000,000 in the case of a State or local government for which such total expenditures for all programs exceed $100,000,000 but are less than or equal to $1,000,000,000; and

"(I) the larger of (i) $300,000, or (ii) 3 percent of such total expenditures for all programs, in the case of a State or local government for which such total expenditures for all programs exceed $100,000 but are less than or equal to $100,000,000.

"(13) 'public accountants' means those individuals who meet the qualification standards included in generally accepted government auditing standards for personnel performing government audits.

"(14) 'State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands, any instrumentality thereof, any multi-State, regional, or interstate entity which has governmental functions, and any Indian tribe.

"(15) 'subrecipient' means any person or government department, agency, or establishment that receives Federal financial assistance through a State or local government, but does not include an individual that receives such assistance.

"§ 7502. Audit requirements; exemptions

"(a)(1)(A) Each State and local government which receives a total amount of Federal financial assistance equal to or in excess of $100,000 in any fiscal year of such government shall have an audit made for such fiscal year in accordance with the requirements of this chapter and the requirements of the regulations prescribed pursuant to section 7505 of this title.

"(B) Each State and local government that receives a total amount of Federal financial assistance which is equal to or in excess of $25,000 but less than $100,000 in any fiscal year of such government shall—

"(i) have an audit made for such fiscal year in accordance with the requirements of this chapter and the requirements of the regulations prescribed pursuant to section 7505 of this title; or

"(ii) comply with any applicable requirements concerning financial or financial and compliance audits contained in Federal statutes and regulations governing programs under which such Federal financial assistance is provided to that government.

"(C) Each State and local government that receives a total amount of Federal financial assistance which is less than $25,000 in any fiscal year of such government shall be exempt for such fiscal year from compliance with—

"(i) the audit requirements of this chapter; and

"(ii) any applicable requirements concerning financial or financial and compliance audits contained in Federal statutes and regulations governing programs under which such Federal financial assistance is provided to that government.

The provisions of clause (ii) of this subparagraph do not exempt a state or local government from compliance with any provision of a Federal statute or regulation that requires such government to maintain records concerning Federal financial assistance provided to such government or that permits a Federal agency or the Comptroller General access to such records.

"(2) For purposes of this section, a State or local government shall be considered to receive Federal financial assistance whether such assistance is received directly from a Federal agency or indirectly through another State or local government.

"(b)(1) Except as provided in paragraphs (2) and (3), audits conducted pursuant to this chapter shall be conducted annually.

"(2) If a State or local government is required—

"(A) by constitution or statute, as in effect on the date of enactment of this chapter, or

"(B) by administrative rules, regulations, guidelines, standards or policies, as in effect on such date,

to conduct its audits less frequently than annually, the cognizant agency for such government shall, upon request of such government, permit the government to conduct its audits pursuant to this chapter biennially, except as provided in paragraph (3). Such audits shall cover both years within the biennial period.

"(3) Any State or local government that is permitted, under clause (B) of paragraph (2), to conduct its audits pursuant to this chapter biennially by reason of the requirements of a rule, regulation, guideline, standard, or policy, shall, for any of its fiscal years beginning after December 31, 1986, conduct such audits annually unless such State or local government codifies a requirement for biennial audits in its constitution or statutes by January 1, 1987. Audits conducted biennially under the provisions of this paragraph shall cover both years within the biennial period.

"(c) Each audit conducted pursuant to subsection (a) shall be conducted by an independent auditor in accordance with generally accepted government auditing standards, except that, for the purposes of this chapter, such standards shall not be construed to require economy and efficiency audits, program results audits, or program evaluations.

"(d)(1) Each audit conducted pursuant to subsection (a) for any fiscal year shall cover the entire State or local government's operations except that, at the option of such government—

"(A) such audit may, except as provided in paragraph (5), cover only each department, agency, or establishment which received, expended, or otherwise administered Federal financial assistance during such fiscal year; and

"(B) such audit may exclude public hospitals and public colleges and universities.

"(2) Each audit shall encompass the entirety of the financial operations of such government or of such department, agency, or establishment, whichever is applicable, and shall determine and report whether—

"(A)(i) the financial statements of the government, department, agency, or establishment present fairly its financial position and the results of its financial operations in accordance with generally accepted accounting principles; and

"(ii) the government, department, agency, or establishment has complied with laws and regulations that may have a material effect upon the financial statements;

"(B) the government, department, agency, or establishment has internal control systems to provide reasonable assurance that it is managing Federal financial assistance programs in compliance with applicable laws and regulations; and

"(C) the government, department, agency, or establishment has complied with laws and regulations that may have a material effect upon each major Federal assistance program.

In complying with the requirements of subparagraph (C), the independent auditor shall select and test a representative number of transactions from each major Federal assistance program.

"(3) Transactions selected from Federal assistance programs, other than major Federal assistance programs, pursuant to the requirements of paragraphs (2)(A) and (2)(B) shall be tested for compliance with Federal laws and regulations that apply to such transactions. Any noncompliance found in such transactions by the independent auditor in making determinations required by this paragraph shall be reported.

"(4) The number of transactions selected and tested under paragraphs (2) and (3), the selection and testing of such transactions, and the determinations required by such paragraphs shall be based on the professional judgment of the independent auditor.

"(5) Each State or local government which, in any fiscal year of such government, receives directly from the Department of the Treasury a total of $25,000 or more under chapter 67 of this title (relating to general revenue sharing) and which is required to conduct an audit pursuant to this chapter for such fiscal year shall not have the option provided by paragraph (1)(A) for such fiscal year.

"(6) A series of audits of individual departments, agencies, and establishments for the same fiscal year may be considered to be an audit for the purpose of this chapter.

"(e)(1) Each State and local government subject to the audit requirements of this chapter, which receives Federal financial assistance and provides $25,000 or more of such assistance in any fiscal year to a subrecipient, shall—

"(A) if the subrecipient conducts an audit in accordance with the requirements of this chapter, review such audit and ensure that prompt and appropriate corrective action is taken on instances of material noncompliance with applicable laws and regulations with respect to Federal financial assistance provided to the subrecipient by the State or local government; or

"(B) if the subrecipient does not conduct an audit in accordance with the requirements of this chapter—

"(i) determine whether the expenditures of Federal financial assistance provided to the subrecipient by the State or local government are in accordance with applicable laws and regulations; and

"(ii) ensure that prompt and appropriate corrective action is taken on instances of material noncompliance with applicable laws and regulations with respect to Federal financial assistance provided to the subrecipient by the State or local government.

"(2) Each such State and local government shall require each subrecipient of Federal assistance through such government to permit, as a condition of receiving funds from such assistance, the independent auditor of the State or local government to have such access to the subrecipient's records and financial statements as may be necessary for the State or local government to comply with this chapter.

"(f) The report made on any audit conducted pursuant to this section shall, within thirty days after the completion of such report, be transmitted to the appropriate Federal officials and made available by the State or local government for public inspection.

"(g) If an audit conducted pursuant to this section finds any material noncompliance with applicable laws and regulations by, or material weakness in the internal controls of, the State or local government with respect to the matters described in subsection (d)(2), the State or local government shall submit to appropriate Federal officials a plan for corrective action to eliminate such material noncompliance or weakness or a statement describing the reasons that corrective action is not necessary. Such plan shall be consistent with the audit resolution standard promulgated by the Comptroller General (as part of the standards for internal controls in the Federal Government) pursuant to section 3512(b) of this title.

"§ 7503. Relation to other audit requirements

"(a) An audit conducted in accordance with this chapter shall be in lieu of any financial or financial and compliance audit of an individual Federal assistance program which a State or local government is required to conduct under any other Federal law or regulation. To the extent that such audit provides a Federal agency with the information it requires to carry out its responsibilities under Federal law or regulation, a Federal agency shall rely upon and use that information and plan and conduct its own audits accordingly in order to avoid a duplication of effort.

"(b) Notwithstanding subsection (a), a Federal agency shall conduct any additional audits which are necessary to carry out its responsibilities under Federal law or regulation. The provisions of this chapter do not authorize any State or local government (or subrecipient thereof) to constrain, in any manner, such agency from carrying out such additional audits.

"(c) The provisions of this chapter do not limit the authority of Federal agencies to conduct, or enter into contracts for the conduct of, audits and evaluations of Federal fi-

nancial assistance programs, nor limit the authority of any Federal agency Inspector General or other Federal audit official.

"(d) Subsection (a) shall apply to a State or local government which conducts an audit in accordance with this chapter even though it is not required by section 7502(a) to conduct such audit.

"(e) A Federal agency that performs or contracts for audits in addition to the audits conducted by recipients pursuant to this chapter shall, consistent with other applicable law, arrange for funding the cost of such additional audits. Such additional audits include economy and efficiency audits, program results audits, and program evaluations.

"§ 7504. Cognizant agency responsibilities

"(a) The Director shall designate cognizant agencies for audits conducted pursuant to this chapter.

"(b) A cognizant agency shall—

"(1) ensure that audits are made in a timely manner and in accordance with the requirements of this chapter;

"(2) ensure that the audit reports and corrective action plans made pursuant to section 7502 of this title are transmitted to the appropriate Federal officials; and

"(3)(A) coordinate, to the extent practicable, audits done by or under contract with Federal agencies that are in addition to the audits conducted pursuant to this chapter; and (B) ensure that such additional audits build upon the audits conducted pursuant to this chapter.

"§ 7505. Regulations

"(a) The Director, after consultation with the Comptroller General and appropriate Federal, State, and local government officials, shall prescribe policies, procedures, and guidelines to implement this chapter. Each Federal agency shall promulgate such amendments to its regulations as may be necessary to conform such regulations to the requirements of this chapter and of such policies, procedures, and guidelines.

"(b)(1) The policies, procedures, and guidelines prescribed pursuant to subsection (a) shall include criteria for determining the appropriate charges to programs of Federal financial assistance for the cost of audits. Such criteria shall prohibit a State or local government which is required to conduct an audit pursuant to this chapter from charging to any such program (A) the cost of any financial or financial and compliance audit which is not conducted in accordance with this chapter, and (B) more than a reasonably proportionate share of the cost of any such audit that is conducted in accordance with this chapter.

"(2) The criteria prescribed pursuant to paragraph (1) shall not, in the absence of documentation demonstrating a higher actual cost, permit (A) the ratio of (i) the total charges by a government to Federal financial assistance programs for the cost of audits performed pursuant to this chapter, to (ii) the total cost of such audits, to exceed (B) the ratio of (i) total Federal financial assistance expended by such government during the applicable fiscal year or years, to (ii) such government's total expenditures during such fiscal year or years.

"(c) Such policies, procedures, and guidelines shall include such provisions as may be necessary to ensure that small business concerns and business concerns owned and controlled by socially and economically disadvantaged individuals will have the opportunity to participate in the performance of contracts awarded to fulfill the audit requirements of this chapter.

"§ 7506. Monitoring responsibilities of the Comptroller General

"The Comptroller General shall review provisions requiring financial or financial and compliance audits of recipients of Federal assistance that are contained in bills and resolutions reported by the committees of the Senate and the House of Representatives. If the Comptroller General determines that a bill or resolution contains provisions that are inconsistent with the requirements of this chapter, the Comptroller General shall, at the earliest practicable date, notify in writing—

"(1) the committee that reported such bill or resolution; and

"(2)(A) the Committee on Governmental Affairs of the Senate (in the case of a bill or resolution reported by a committee of the Senate); or

"(B) the Committee on Government Operations of the House of Representatives (in the case of a bill or resolution reported by a committee of the House of Representatives).

"§ 7507. Effective date; report

"(a) This chapter shall apply to any State or local government with respect to any of its fiscal years which begin after December 31, 1984.

"(b) The Director, on or before May 1, 1987, and annually thereafter, shall submit to each House of Congress a report on operations under this chapter. Each such report shall specifically identify each Federal agency or State or local government which is failing to comply with this chapter.".

(b) The provisions of this Act shall not diminish or otherwise affect the authority of the Tennessee Valley Authority to conduct its own audits of any matter involving funds disbursed by the Tennessee Valley Authority.

(c) The table of chapters for subtitle V of title 31, United States Code, is amended by inserting after the item relating to chapter 73 the following new item:

"75. Requirements for Single Audits . 7501".

Amend the title so as to read "An Act to establish uniform audit requirements for State and local governments receiving Federal financial assistance.".

Mr. DURENBERGER. Mr. President, on November 2, 1983, the Senate passed S. 1510, the Uniform Single Audit Act of 1983. Earlier this year, the House amended the bill and returned it to the Senate. Today I rise to offer an amendment to the House amendment to S. 1510. It is my understanding that the House of Representatives has agreed to accept my amendment and will send the bill on to the President as quickly as possible. Mr. President, my amendment to this important intergovernmental legislation is as follows:

Section 7501 of this bill is the "Definitions" section, and while most of the terms are self-explanatory, "major Federal assistance program" does require more detailed explanation. As defined in this section, a "major Federal assistance program" is a program that will receive special attention from whomever conducts the single audit. A major Federal assistance program is defined by a dollar amount which is related to the recipient's total Federal assistance expenditures. This should not be confused with a recipient's receipt of Federal assistance. Oftentimes, the amount received and the amount expended do not match. And in some cases, a recipient of Federal assistance may make a portion of a particular grant available to another government. Therefore, it should be clear that what we intend is for this definition to apply only to a recipient's total Federal expenditures. The definition outlines for each State and local government a sliding scale that will be used to determine what size program, based upon their total Federal expenditures, will constitute a major Federal assistance program. All programs for which expenditures are equal to or in excess of the amount found on the sliding scale will be tested separately for compliance with Federal laws and regulations. The specifics of how to test major Federal assistance programs and other facets of the single audit will be discussed later in my statement.

Mr. President, section 7502 of this bill addresses the single audit requirements. The first part of this section describes who will and who will not be subject to the provisions of this bill. This section requires that all State and local governments that receive, not expend, $100,000 or more of Federal assistance during the State or local government's fiscal year, not the Federal Government's fiscal year, shall conduct a single audit pursuant to the requirements of this bill. If a State or local government receives a total amount of Federal assistance that is equal to or greater than $25,000 but less than $100,000, that State or local government shall have the option of doing either a single audit—pursuant to the requirements of this bill—or complying with any applicable requirements concerning financial or financial aid compliance audits for any Federal grant provided to that government. In some cases, if a local government, for example, has one or two Federal grants, they may decide that it is advantageous for them to wait to see if Federal auditors will want to check those two programs. And if the Federal auditors do, then so be it. There may be a case, however, when Federal auditors may not want to see particular grant expenditures from a government. This does not then give the recipient government a "blank check" to disregard any applicable Federal laws or regulations. We clearly expect and intend for the recipient government to be as responsible as possible and comply with applicable Federal requirements. What this section does reveal is a certain amount of trust we, the Congress, have in State and local governments. Our desire, therefore, is to relieve State and local governments of the Federal Government's "grant-by-grant audit ap-

proach." Thus, single audits conducted pursuant to this act shall be in lieu of this aforementioned approach.

Governments that receive less than $25,000 of Federal assistance will not be required to conduct an audit as mandated by this bill, nor will these governments be required to conduct, or have conducted, financial or financial aid compliance audits for any Federal assistance programs that they receive. This, however, does not mean that the Congress believes that governments to which this section applies should be any less responsible in carrying out the intent of Congress with respect to those programs. In fact, the act also requires that governments keep adequate records for a couple of years on these programs in order that the Federal Government can audit any of these programs if it so chooses. We see auditing of this nature to be on a random basis only, or in cases where fraud, waste, or abuse is suspected. In short, we expect governments to which this exemption applies to be as responsible with the expenditure of these revenues as if the funds were their own. In further consideration of this point, a State or local government shall be considered to have received Federal assistance whether the funds were received directly or indirectly through another State or local government.

Audits required under this bill will be conducted annually or biennially. Mr. President, we realize that some States audit, as a matter of policy, on a cycle other than annual or biennial. With this bill, we will move those governments to at least a biennial, but preferably an annual, audit cycle. In all cases, the audits, whether completed on an annual or biennial basis, must cover the entire period of the audit cycle.

Each government will have to decide for itself, except as provided for in the General Revenue Sharing Act, if it would like to audit on an agency-by-agency basis, or if it would like to audit the entirety of a government's operations. Mr. President, I recognize that some departments in some States are larger than some State governments altogether. Therefore, this section is provided to enable all governments the greatest amount of flexibility when designing its audit. Finally, the audit may include State hospitals and/or State universities or colleges. This, however, is up to the State government to decide.

Mr. President, the next section, section 7502, describes the specifics of how an audit shall be conducted under this bill. Section 7502(d)(1) states that the required audit shall encompass the entirety of the financial operations of the government, or department, or agency. Clause (A)(i) of this section requires that the audit determine and report whether the financial statements of the government or department, present fairly its financial operations and if they are in accordance with generally accepted accounting principles. The second part of this subparagraph instructs that, as part of the audit, the auditor shall report and determine if the government or department has complied with laws and regulations that may have a material effect upon the financial statements. This means, as part of the auditor's assurance on the financial statement of the government, the auditor must check for compliance with Federal laws and regulations for which any noncompliance would negatively impact the overall financial position of the government. However, in this case, as in all cases in this bill, materiality, or specifically, what would or would not have a significant impact on the financial statements of the government, shall be based upon the independent auditor's professional judgment.

Subparagraph 7502(d)(2)(B) says that the independent auditor should review the significant internal controls established by the government to assure that it is managing Federal assistance in compliance with Federal laws and regulations. In this case, too, the number of transactions selected and the amount of testing is left to the professional judgment of the auditor. Mr. President, internal controls are very important. In fact, good internal controls may reduce the need for extensive testing for compliance with Federal laws and regulations. It is my hope that governments will continue to improve their existing internal controls systems, and establish new ones where they are absent, in the hope that a more limited amount of compliance testing of major Federal assistance programs could be the end result. This is a goal that I know my friends at the general Accounting Office share as well.

In subparagraph (2)(C) of section 7502(d) there is the requirement that for major Federal assistance programs, the Government or department conduct specific tests for compliance with Federal laws and regulations that may have a material effect upon each major Federal assistance program. Mr. President, this is a most important subparagraph, because it is here that specific testing of Federal assistance programs for compliance with Federal laws and regulations is required. Earlier in my statement, I explained what constituted a major Federal assistance program. In this subparagraph, we are telling the independent auditor what to do with each such program. This subparagraph instructs the auditor to test each major Federal assistance program for compliance. However, even in testing these programs, the independent auditor is to determine what laws and regulations may have a material effect upon each program—not the Federal executive departments and agencies or the Office of Management and Budget. This also means that the compliance supplement to OMB Circular A-102, attachment P, may be used as a guide by independent auditors, but need not be. Auditors can choose for themselves whether or not they would like to refer to the supplement. This is not to say that the compliance supplement is not useful; it is only to say that its use is not mandatory. We also expect that neither OMB nor any other Federal department or agency will prepare a document that mandates specific tests for compliance in the future. This bill sets the parameters for audit of Federal assistance programs, and no regulations or policies designed to implement this bill shall add any additional requirements unless the Congress acts specifically to do so.

Furthermore, the bill does not require the auditor to draw a sample from nonmajor programs, for purposes of conducting specific tests for compliance with Federal laws and regulations. I believe, as do my colleagues, that what we have required of State and local governments, with respect to major Federal assistance programs, is sufficient and will account for a great amount of testing that far exceeds what we had ever planned for. But be that as it may, we believe that no specific testing should be conducted on a pool of nonmajor programs and certainly that no Federal policy or regulation should be crafted as such to require of State and local governments testing of these programs.

Paragraph 7502(d)(3) says that transactions drawn from nonmajor programs at the time transactions are being tested with respect to overall financial statements shall also be tested for compliance with Federal laws and regulations that specifically relate to the transaction drawn from the sample. This is a very important point to understand, Mr. President, because a misunderstanding of this paragraph could result in an undue amount of work for State and local governments.

For example, if an auditor examined a payroll transaction that was charged to a nonmajor program, the auditor would determine that the individual was employed during the period; that the position could reasonably be charged to the program; that the individual was paid the correct salary for his position; and that the individual's salary was correctly charged to the program. The auditor would not test for general compliance with civil rights, Davis-Bacon, or other so-called cross-cutting provisions. If the auditor examined a travel claim that was charged to a nonmajor program, the auditor would determine whether the person who performed the travel

worked on the program; whether administrative travel was an allowable charge to the program; and whether the travel allowances were within administratively prescribed limits. The auditor would not be testing the transaction for compliance with relocation or cash management limitations. If the auditor examined a payment to a subrecipient, the auditor would determine whether the payment to the subrecipient was to carry out the purpose of the program and whether the grantee had a system in place to monitor the subrecipients' compliance with program provisions. The auditor would not be required to determine if Federal financial reports were prepared for the program. If the auditor examined a program-related payment made directly to an individual or organization, the auditor would determine whether the payment was for the purposes intended by the program and for allowed services and whether the individual or organization was eligible. The auditor would not test for the program's overall compliance with such features as civil rights, cash management, and Federal financial reports.

Paragraph 7502(d)(4) states that for all cases described in paragraph 7502 (d)(2) and (d)(3), the number of transactions selected and tested, the actual selection and testing of the transactions drawn by the auditor, and the determinations required by this bill shall all be based upon the professional judgment of the independent auditor. Here, too, we do not want the Federal Government dictating the number of transactions to be tested, or the selection and testing procedures. This should be left completely up to the professional judgment of the auditor. If the auditor can sign the audit report and stake his professional reputation upon it, that is sufficient for our purpose.

Paragraph 7502(d)(5) states that if a local government receives from the Treasury general revenue-sharing funds in excess of $25,000, the audit must cover all departments regardless of whether or not the department or agency of the local government expended GRS funds. Paragraph (6) of this subsection allows State and local governments to audit on a department-by-department basis if they so desire. For example, the State of Texas audits on a department-by-department basis. A series of these audits, by the State auditor for the same fiscal year, would be acceptable.

Subsection (7502)(e) of the bill deals with the matter of subrecipients. Mr. President, this subsection requires that if a State or local government is required to conduct an audit pursuant to this bill, and if that government participates in a grant program or project and subsequently passes through $25,000 or more to a particular subrecipient, the State or local government that passed the funds through shall review the audit made by the subrecipient, provided that audit was conducted pursuant to this chapter. If the subrecipient conducts an audit pursuant to this chapter, it is the responsibility of the government passing the funds to the subrecipient to review the completed single audit and to ensure that any corrective action required has been taken pursuant to the specific grant program in question. However, if the subrecipient does not conduct a single audit, then the government passing the funds through to the subrecipient will have to check to see if the funds were spent by the subrecipient in accordance with applicable laws and regulations. It is also the responsibility of the government passing funds through subrecipients to make sure that corrective action is taken in cases of material noncompliance. Access to records and financial statements of subrecipient will be required by State and local governments as a condition of the subrecipient's receiving funds. This will apply only to the extent that a State or local government must make a review of subrecipient records to comply with ths chapter. Section 7502(f) of this bill requires that the report made pursuant to this bill be sent to Federal officials as soon as possible upon completion of the report.

Subsection (g) of section 7502 requires that State and local governments present to appropriate Federal officials a plan for how they intend to correct material weaknesses in, their internal control systems and material noncompliance with applicable laws and regulations. It is not required, and the Federal executive agencies and departments may not under the auspices of this audit, require any additional corrective action to be taken by State and local governments on matters other than material noncompliance. Any corrective action beyond what is required by this act would be at the option of each State or local government.

Mr. President, section 7503 of this bill is entitled "Relation to other audit requirements." This is a very important section. If a State or local government to which this bill applies conducts a single audit pursuant to this act, this single audit shall be in lieu of any financial or financial and compliance audit that a State or local government is required to conduct by any other Federal statute, regulation, or policy circular. And Federal agencies shall rely upon and use the single audit report to every extent practicable in any additional audit work they may perform in accordance with this act. Mr. President, we do not see many instances in the future that would require the Federal executive agencies and departments to conduct additional work. Our interest is for this audit to be sufficient for Federal purposes, and in those few cases where it is not, this audit is intended to serve as the starting point, not to be duplicated.

Mr. President, I want to draw particular attention to subsection 7503(e) of this bill. To a large extent, this is one of the most important provisions of this bill. This subsection requires that if a Federal department or agency wants to conduct additional audit work in addition to the audit conducted pursuant to this bill or any forthcoming regulations of policies, the Federal Government must either arrange for, and pay for, the conduct of such additional work, or conduct such additional work themselves. In any case, Mr. President, this additional work must build upon and not duplicate the work conducted pursuant to this bill. I cannot overemphasize the significance of that last statement. If we truly desire to make some sense out of our Federal audit policy, put to good use our audit resources, and truly relieve State and local governments of Federal policies that have been at best inconsistent, and at worst nonexistent, then this subsection of the bill must be implemented and monitored effectively. This subsection also lists what we feel are examples of additional work. However, this list should not be considered to be all-inclusive.

Mr. President, section 7504, discusses "Cognizant Agency Responsibilities." I believe the provisions of this section are very clear. I do not, nor do my colleagues of the Senate, wish to see a cognizant agency's responsibilities expanded beyond those that are clearly identified in this legislation. However, subparagraph 7504(a)(3)(A) warrants additional discussion. Another major initiative of this bill is to have additional audit work performed for or by the Federal Government done in a coordinated manner in order to eliminate the revolving door of Federal auditors in and out of State and local governments. The cognizant agencies shall prepare one plan of any necessary additional work that accommodates the concerns of all Federal executive agencies and departments. By doing this, the entire Federal Government would at most have to return to a State or local government only once after the State or local government had completed its single audit. Mr. President, I will personally monitor this section very closely. Effective implementation of this section of this bill will ensure more efficient use of Federal audit resources.

Mr. President, section 7505 of this bill is the section on regulations. Subsection (a) of this section requires the Director of the Office of Management and Budget, in consultation with the Comptroller General, to prescribe policies and procedures to implement this

act. Each agency will in turn amend its regulations or policies to conform with this statute.

Paragraphs 7504 (b)(1) and (b)(2) place with the Federal Government the responsibility of assuring that State and local governments are adequately paid for the work they perform in conducting the single audit. The Federal Government shall pay its fair and representative share of the cost of this audit, and any regulations or policies designed to implement this subsection should provide State and local governments with the easiest possible access to such funds. Mr. President, this, too, I will monitor closely.

Section 7506 of this legislation requires that the Comptroller General monitor bills and resolutions that are reported, not introduced, by committees of Congress. The responsibilities of the Comptroller General, or his designee at the General Accounting Office, will then notify in writing, probably by letter, the respective committees mentioned in the bill at the earliest possible date. This section should not be construed to mean that the Congress desires a report of any kind. A letter or similar communication will be sufficient.

Finally Mr. President, section 7507 requires the first audits conducted under this act to cover the first fiscal year that begins after December 31, 1984, for affected State and local governments.

Mr. President, before I conclude, I want to thank the many people who have worked on this legislation over the years—and it has been about 9 years—to assure its final passage. It is unfortunate that I cannot name them all but, in fact, there has been so much effort by so many, that some will be overlooked.

I did not originate the concept contained in this bill. I inherited it when I became chairman of the Subcommittee on Intergovernmental Relations in 1981. Previous to that time, the single audit concept had been a title in the omnibus grant reform legislation authored by our distingished chairman, Senator ROTH. It fell to me to keep at this process until the bill could muster final passage. Senator ROTH's long interest and leadership in the field of intergovernmental relations is well known to our colleagues and I am quite pleased that we can give him this victory today.

During my tenure as the sponsor of this legislation, I have watched many devote countless hours to hearings, markups, and negotiation to put this concept into law. We would not be here passing this bill without the work of the Comptroller General of the United States, Charles A. Bowsher. His efforts to educate us on the technicalities of auditing and the record of his agency to assure that audit resources are applied wisely to the oversight of Federal funds have been our point of reference throughout. Mr. Bill Broadus, of the General Accounting Office, deserves a special note of thanks for his continuing availability to the Senate to provide advice and guidance.

There have, of course, been many in the State and local government community who have taken a keen interest in this legislation. Mr. Tom Hayes, the auditor for the State of California; Mr. Frank Greathouse of Tennessee, and Mr. Bob Cronson of Illinois, have done a considerable service by making their experience as practitioners of the audit process at the State level available to us whenever it was needed. And at the local level, there was Mr. Dwight Hadley, of the Government Finance Officers Association.

In that context, I would also mention Harold Steinberg, who, during many of the critical months on this legislation, was the Associate Director for Management at the Office of Management and Budget, who came to Government to see the single audit applied. Hal also wins a victory today.

Finally, thanks to the staffs of the Senate and the House, in particular, Mr. John Duncan and Mr. Mike Mitchell, of the majority staff of the Senate Committee on Governmental Affairs, and Mr. Mike Quaranta and Mr. Larry Hunter, of my subcommittee staff. Auditing is a difficult and technical field of Government management. They had to learn it well to make this bill possible and their work has produced an excellent result. I am sure they will soon forget the detail—gladly forget the detail—but they will always have the satisfaction of bringing this important reform to our federal system of Government.

Mr. President, it has been my pleasure to work with Congressman JACK BROOKS, the distinguished Chairman of the House Committee of Government Operations, in reaching agreement on this legislation. His watchful oversight of Federal funds holds us all to a high standard. I am honored to think that he has added this bill to his long and distinguished record in the Congress.

I ask unanimous consent that a section-by-section analysis be printed in the RECORD.

There being no objection, the analysis was ordered to be printed in the RECORD, as follows:

SECTION-BY-SECTION ANALYSIS—THE SINGLE AUDIT ACT OF 1984

SECTION 1—SHORT TITLE AND PURPOSES

The act is to be cited as the "Single Audit Act of 1984."

The purpose of the Act is to establish uniform single financial and compliance audit requirements for State and local governments that are recipients of Federal financial assistance.

SECTION 2—CHAPTER 75—REQUIREMENTS FOR SINGLE AUDITS

Section 7501. Definitions

Section 7501 defines the following terms: (1) cognizant agency, (2) Comptroller General, (3) Director, (4) Federal financial assistance, (5) Federal agency, (6) generally accepted accounting principles, (7) generally accepted government auditing standards, (8) independent auditor, (9) internal controls, (10) Indian tribe, (11) local government, (12) major Federal assistance program, (13) public accountants, (14) State, and (15) subrecipient.

Section 7502. Audit requirements; exemptions

Subparagraph (a)(1)(A) requires that each State and local government that receives $100,000 or more in Federal financial assistance in any fiscal year conduct a single audit as defined by the Act.

Subparagraph (a)(1)(B) requires that each State and local government that receives $25,000 or more but less than $100,000 in Federal financial assistance in any fiscal year either conduct a single audit as defined by the Act or conduct financial and compliance audits as required by applicable Federal statutes and requirements.

Subparagraph (a)(1)(C) states that each State and local government that receives less than $25,000 in Federal financial assistance in any fiscal year will be exempt from the requirements of the single audit. Such recipients also will be exempt from any requirements for financial and compliance audits contained in the Federal statutes and regulations governing the programs under which the assistance is provided. The subparagraph further states that its provisions do not exempt State and local governments from compliance with record keeping requirements contained in Federal programs from which funds are received or from requirements that permit Federal agency officials or the Comptroller General access to these records.

Paragraph (a)(2) states that for the purposes of the single audit a State and local government is considered to have received Federal assistance whether the funds are received directly from the Federal Government or indirectly through another State or local government.

Paragraph (b)(1) states that single audits shall be conducted annually accept as provided by paragraph (b)(2).

Paragraph (b)(2) permits a recipient government to conduct a biennial audit if provision for a bienniel audit is contained in its Constitution or Statues. If the recipient audits by policy on a schedule other than annually it has until December 31, 1986 to codify its policy for audit schedule. Starting January 1, 1987 to have started at least one single audit and to conduct single audits annually thereafter.

Subsection (c) requires that each single audit be conducted by an independent auditor according to generally accepted government auditing standards, except that such standards will not require economy and efficiency audits, program results audits, or program evaluations.

Paragraph (d)(1) requires that, except for the two exempted situations the single audit must cover the entire State or local government's operations.

Subparagraph (d)(1)(A) permits the single audit to cover only the department, agency, or establishment which received, expended or administered Federal financial assistance during the fiscal year of the audit.

Subparagraph (d)(1)(B) permits the single audit to exclude coverage of public hospitals and public colleges and universities.

Paragraph (d)(2) requires that the single audit encompass the entirety of the financial operation of the government or department, agency or establishment, whichever is applicable.

Clause (d)(2)(A)(i) requires that the single audit determine whether the financial statements of the government present the financial position and the financial operation of the government fairly and in accordance with generally accepted accounting principles.

Clause (d)(2)(A)(ii) requires that the single audit determine whether the government has complied with laws and regulations that have a material effect on the financial statements.

Subparagraph (d)(2)(B) requires that the single audit determine whether the government's internal control systems provide reasonable assurance that the government is managing Federal funds in compliance with applicable laws and regulations

Subparagraph (d)(2)(C) requires that the single audit determine whether the government has complied with laws and regulations that have a material effect on each major Federal assistance program. In complying with this subparagraph, the independent auditor is to select and test a representative number of transactions from each major Federal assistance program.

Paragraph (d)(3) requires that transactions selected from non-major Federal programs, as required by paragraphs 2(A) and 2(B), must be tested for compliance with applicable Federal laws and regulations. Any non-compliance in these transactions with laws and regulations that apply to these actions must be reported.

Paragraph (d)(4) states that the manner for selecting transactions, including the number of transactions selected, the testing of transactions and the determinations required by paragraphs (d)(2) and (d)(3) will be based on the professional judgement of the auditor.

Paragraph (d)(5) states that any State or local government that receives $25,000 or more in general revenue sharing funds in any fiscal year and that is required to conduct a single audit will not have the option to cover only each department, agency or establishment that received or expended Federal funds in that fiscal year as provided by subparagraph (d)(1)(A).

Paragraph (d)(6) states that a series of audits of individual departments, agencies and establishments for the same fiscal year may be considered a single audit.

Subparagraph (e)(1)(A) requires each State or local government required to conduct a single audit, and that provides $25,000 or more of these funds to a subrecipient, to review any single audit done by the subrecipient and ensure that corrective action is taken in instances of material noncompliance with applicable laws and regulations.

Clauses (e)(1)(B)(i) and (ii) require that in instances where the subrecipient does not conduct a single audit, each State or local government must determine whether the subrecipient expended funds in accordance with applicable laws and regulations and that corrective action is taken in instances of material noncompliance with applicable laws and regulations.

Paragraph (e)(2) states that, as a condition for receiving Federal funds through a State or local government, each subrecipient must provide the independent auditor of the State or local government access to its records and financial statements.

Subsection (f) requires the State or local government to transmit the report on the single audit to the appropriate officials and make the report available to the public within thirty days after the completion of the report.

Subsection (g) requires the State or local government to submit to the appropriate Federal officials a corrective action plan for any material noncompliance with applicable laws and regulations or material weakness in their internal control systems discovered by the single audit. The plan must be consistent with the audit resolution standard promulgated by the Comptroller General. If a corrective action plan is not submitted for instances of noncompliance or weaknesses in internal controls, the recipient government must explain why a plan is not needed.

Section 7503. Relation to other audit requirements

Subsection (a) states that a single audit will be in lieu of any financial or financial and compliance audit of an individual Federal assistance program required of a recipient government. To the extent that the single audit provides the information needed by a Federal agency, it should rely on the single audit to fulfill its audit responsibilities. If a Federal agency must conduct its own audit it should use the information contained in the single audit in order to avoid duplication.

Subsection (b) stipulates that, subsection (a) notwithstanding, a Federal agency will conduct any additional audits required of it and that a State or local government, or subrecipient thereof, cannot in any way constrain a Federal agency from carrying out additional audits.

Subsection (c) states that the single audit does not limit the authority of Federal agencies to conduct or contract for audits and evaluations of Federal assistance programs, nor does it limit the authority of any Federal agency Inspector General or other Federal audit official.

Subsection (d) states that subsection (a) applies to a State or local government which conducts a single audit even though it is not required by section 7502(a) to conduct a single audit.

Subsection (e) states that a Federal agency that performs or contracts for audits in addition to the single audit must fund the cost of the additional audits. Additional audits include economy and efficiency audits, program results audits and program evaluations.

Section 7504. Cognizant agency responsibilities

Subsection (a) requires the Director to designate cognizant agencies for single audits.

Subsection (b) states the duties of the cognizant agency.

Paragraph (b)(1) states that the cognizant agency must ensure that audits are made in a timely manner and in accordance with the requirements of the Act.

Paragraph (b)(2) states that the cognizant agency must ensure that the audit reports and corrective action plans are transmitted to the appropriate Federal officials.

Paragraph (b)(3) states that the cognizant agency must coordinate audits done by or under contract with Federal agencies that are in addition to the single audit and ensure that additional audits build upon the single audit.

Section 7505. Regulations

Subsection (a) requires that the Director, after consultation with the Comptroller General and appropriate Federal, State and local officials, issue policies, procedures, and guidelines to implement the Act. Each Federal agency must develope any amendments to its regulations needed to bring its regulations into conformance with the Act and with the Director's regulations.

Paragraph (b)(1) requires that the Director's regulations include the criteria for determining the appropriate charges to programs of Federal assistance for the cost of audits. The criteria are to prohibit a State or local government conducting a single audit from charging to the program the cost of any financial or financial and compliance audit which is not part of the single audit, and from charging more than a reasonably proportionate share of the cost of the single audit.

Paragraph (b)(2) states that the criteria to establish charges will not, in the absence of evidence of higher cost, permit the ratio of the total charges to the programs for the single audit to the total cost of such audits to exceed the ratio of the total Federal assistance expended by the government during the applicable year to the government's total expenditures during the applicable year.

Subsection (c) states that the Director's regulations will ensure that small businesses and minority owned businesses will have the opportunity to participate in contracts awarded to carry out single audits.

Section 7506. Monitoring responsibilities of the Comptroller General

Section 7506 requires the Comptroller General to review provisions contained in bills and resolutions reported by the Committees of the Senate and House of Representatives that require financial or financial and compliance audits of Federal assistance recipients. If the Comptroller General determines that a bill or resolution contains provisions inconsistent with the single audit requirements he must notify in writing the committee that reported the bill or resolution as well as the Committee on Governmental Affairs in the case of bills or resolutions reported by a Senate Committee, or the Committee on Government Operations in the case of bills or resolutions reported by a House Committee.

Section 7507. Effective date; report

Subsection (a) stipulates that the requirements of the Act will apply to any State or local government for any fiscal year beginning after December 31, 1984.

Subsection (b) requires the Director to submit to each House of Congress by May 1, 1987 and annually thereafter a report on the implementations of the single audit. Each report must identify each Federal agency or State or local government which is failing to comply with the requirements of the Act.

Subsection 1(b) stipulates that the provisions of the Act will not diminish the authority of the Tennessee Valley Authority to conduct its own audits of funds disbursed to the Tennessee Valley Authority.

Subsection 1(c) states that the table of chapters for subtitle V of title 31, United States Code is amended by inserting after the item relating to chapter 73 the following new item:

"75. Requirements for Single Audits . 7501."

The title is amended to read "An Act to establish uniform audit requirements for

State and local governments receiving Federal financial assistance."

Mr. ROTH. Mr. President, I rise today in support of the amendment offered by the distinguished Senator from Minnesota. The legislation the Senate considers today provides a statutory basis for the "single audit" of Federal assistance funds distributed to State and local governments.

The single audit, or unified audit as it is sometimes labeled, is a major intergovernmental reform. It will permit more effective use of limited audit resources, it will reduce the audit burden at the State and local levels and it will provide more useful audit information to Federal program officials.

The single audit proposal has received a thorough review by the Congress. It is supported by the administration. It has the backing of the Comptroller General of the United States, the major State and local government organizations and the principal professional auditing organizations. I commend my colleague for his perseverance in developing this legislation, and I look forward to its enactment in these final days of the 98th Congress.

Mr. President, the audit is our principal means for ensuring the proper expenditure of Federal assistance funds. The audit is intended to verify that funds have not been expended fraudulently, in any unauthorized manner, or for purposes other than that which Congress intended. The audit is particularly important because of the complexity of the Federal grant system in which the Congress creates programs that State and local governments administer.

Unfortunately, we have made poor use of the audit as a test for sound financial practices. As government has taken on new roles and the grant system has become increasingly complex, we have not adapted the audit tool to meet our oversight needs. These problems have been well documented in recent years in reports issued by the General Accounting Office [GAO], the joint financial management improvement project [JFMIP], and the U.S. Advisory Commission on Intergovernmental Relations [ACIR].

These studies show that certain programs receive audit overkill, as they are reviewed time after time after time. Other programs never receive the appropriate audit review. In 1981 the ACIR reported that 10 percent of all Federal programs account for 90 percent of the outlays to State and local governments. Yet most Federal audit resources are devoted to reviewing the 90 percent of Federal programs that account for only 10 percent of Federal outlays.

This is a senseless, inefficient use of auditing resources. The current audit system is particularly burdensome to the State and local governments and nonprofit organizations that administer our grant-in-aid system. Because auditing is performed today on a program-by-program basis, recipients must accommodate successive teams of Federal auditors from an array of Federal agencies. Each audit team requires staff time, the use of office space, and other resources from the recipient jurisdictions. And many times these successive Federal audit teams review exactly the same financial information.

The single organization-wide audit legislation we consider today is a far more sensible approach. The bill requires an independent auditor to carry out a single financial and compliance audit of all Federal funds received by a State or local government.

This legislation will reduce the audit burden on recipients in two principal ways. First, because this is a single audit, it will eliminate the unending battery of Federal auditors that descend on certain jurisdictions. The single audit will contain all relevant financial and compliance information. This data then will be forwarded to all Federal agencies that have awarded funds during the period of time covered by the audit. Additionally, the legislation will encourage greater Federal reliance on qualified audits conducted by State and local units of government. This will reduce the need for a Federal audit presence to those instances where problems are uncovered and audit followup is required.

Because the single audit is a comprehensive audit of a jurisdiction's financial operations, it will provide Federal program officials a far more complete audit picture than is possible under the current fragmented system.

Mr. President, the single audit is widely accepted by the professional audit community. The Office of Management and Budget, since its issuance of "Attachment P" in 1979, has called for implementation of the single audit. Yet as of 1983, only about 1,800 single audits had been conducted in the over 80,000 State and local governments nationwide. Clearly, a legislative mandate is needed to spur implementation of this important reform.

Greater use of the single audit will tie accountability to the expenditure of Federal funds. The legislation will strike a balance between our need to oversee the use of Federal funds and our goal of avoiding undue burdens on recipient jurisdictions. Finally, it will advance the use of the audit tool to provide a coordinated and comprehensive audit review instead of the duplicative and gap-riddled audit picture we now receive.

Mr. President, for all of these reasons, I urge prompt acceptance of the amendment and approval of the bill as amended.

Mr. WILSON. Will the Senator from Minnesota yield for a question?

Mr. DURENBERGER. I will be happy to yield to my distinguished colleague from California.

Mr. WILSON. As a cosponsor of this bill, I am looking forward to passage of S. 1510. I would, however, seek clarification of section 7502 dealing with audit requirements and exemptions.

Is it the Senator's understanding that this section of the bill is not intended to require that an auditor, in my State the auditor general of California, travel throughout California and test Federal assistance programs for compliance with Federal laws regulations of its subrecipients?

Mr. DURENBERGER. That is correct. The intent is not to require the auditors for the recipient to audit any of the subrecipient's expenditures, but to require auditors to review and report on the recipient's procedures to monitor subrecipient expenditures.

Mr. WILSON. I thank the Senator for his clarification.

Mr. SASSER. Mr. President, I strongly support S. 1510, the Single Audit Act of 1984. Passage of this measure will establish in statute consistent requirements for financial audits of Federal assistance to States and local governments. The Congress, the Federal agencies, and the recipient governments will all benefit. Audits conducted using procedures required by this bill will be complete and predictable, and therefore a better tool of accountability for the agencies and for Congress. Yet, the grant-by-grant auditing that has proven to be so disruptive to the daily operations of States and local governments will be unnecessary. In a nutshell, audit resources will be used more efficiently and effectively.

Legislation to accomplish the same purposes as S. 1510 has passed the Senate several times in past Congresses. I am pleased that I was responsible for shaping the single audit bills that originally passed the Senate in the 96th Congress.

Now, the Senate finally has the opportunity to vote on a measure that has House approval, too, so that it will soon become law. I commend Senator DURENBERGER for introducing and shaping S. 1510 and for his success in achieving a compromise with the House on this legislation.

This bill requires States and local governments that receive over $100,000 in Federal assistance to obtain an independent audit of their financial operations once a year. The audit would encompass the internal control system of the recipient government and a review of that government's compliance with applicable laws and requirements. Those governments receiving less than $100,000 but more than $25,000 would have the

option of substituting a single audit for program-by-program audits if they choose to do so.

Both the Office of Management and Budget and the General Accounting Office have endorsed the single audit approach to achieving accountability in the Federal grant system. The principles of the single audit are already contained in attachment P of circular A-102 issued by OMB. This administrative approach has proven the efficiency of the single audit. But legislation is needed to achieve full compliance from all the Federal agencies.

This audit reform for Federal grant programs follows the practice of several progressive States, including my State of Tennessee. There, the comptroller of the treasury, William Snodgrass, has effectively instituted a single audit policy for local governments within the State. I note here the leadership that William Snodgrass, Tennessee's comptroller of the treasury, and Frank L. Greathouse, the director of the Division of State and Municipal Audits have shown, not only in reforming the auditing practices in their own State, but in making those reforms national policy.

The measure before us shifts the responsibility for accounting and auditing for Federal assistance programs from the Federal Government to those levels of government that implement Federal grant programs. If the Federal auditing standards set forth in the bill are met, then auditors at the State and local level will replace the Federal auditors.

To facilitate this delegation of the audit, this bill requires the Federal agencies, the Office of Management and Budget, and the General Accounting Office to "get their act together" on audit requirements for Federal assistance programs.

The end result will be augmented audit resources that will cover the large gaps now found in grant auditing. This, in turn, gives the Congress and the agencies a more effective tool for monitoring the administration of the $90 billion Federal assistance system.

This legislation, S. 1510, provides an orderly approach to streamlining the requirements associated with the Federal assistance system and reducing the paperwork burdens that system imposes on State and local governments. I urge rapid passage of this measure.

Mr. LEVIN. Will the Senator from Minnesota clarify one part of this bill which has been of concern to the auditor for the State of Michigan? I am confident that the language changes made in the bill on this subject have resolved our problem, but I want to clarify this for the record. In section 7502(d)(4) of the bill, it states that the number of transactions to be selected under this bill for testing is to be determined by the independent auditor. Is that the sponsor's understanding?

Mr. DURENBERGER. It is. Determination of the number of transactions to be selected for testing under section 7502(d)(4) is within the sole discretion of the independent auditor.

Mr. LEVIN. I thank the Senator from Minnesota for this further clarification of the legislative language.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Tennessee.

The motion was agreed to.

Mr. BAKER. Mr. President, I also move that the Senate concur in the House amendment to the title.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Tennessee.

The motion was agreed to.

ALCOHOL ABUSE, DRUG ABUSE, AND MENTAL HEALTH AMENDMENTS—CONFERENCE REPORT

Mr. BAKER. Mr. President, I submit a report of the committee of conference on S. 2303 and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. WALLOP). The report will be stated.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2303) to revise and extend the Alcohol and Drug Abuse and Mental Health Services blocks grant, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of October 1, 1984.)

Mr. HATCH. Mr. President, I urge my colleagues to expeditiously approve the conference report accompanying S. 2303, the reauthorization of the Alcohol, Drug Abuse and Mental Health Administration [ADAMHA] block grant, the National Institute of Alcoholism and Alcohol Abuse [NIAAA] and the National Institute of Drug Abuse [NIDA]. This legislation assures the continuation of Federal support for the State supported community-based mental health services, alcohol and substance abuse services, as well as increasing research and Federal support for demonstration grants studying and searching for a solution to the devastating problems of alcoholism and drug abuse.

The Alcohol, Drug Abuse, and Mental Health Services [ADMS] block has contributed to the achievement of an important national health objective. The ADMS block has functioned as expected when it was authorized in 1981. It has provided States greater freedom and flexibility to target resources on areas of highest priority, as these are defined by State and local government. It has done so not only by providing States greater responsibility and authority for decisions in the expenditure of funds, but also streamlining and easing the administrative burden that accompanied the various categorical programs consolidated in the block.

The process of the appropriation and allocation of block grant and institute funds is an important step in improving a State's ability to provide mental health, alcohol, and drug services. The conference report for S. 2303 extends for 3 years the authorization of appropriations for the ADMS block grant under title XIX of the Public Health Services at the following levels:

ADMS:	*Millions*
Fiscal 1985	$515
Fiscal 1986	545
Fiscal 1987	576

In addition, NIAAA and NIDA are extended for 2 years at:

NIAAA:	*Millions*
Fiscal 1985	$52
Fiscal 1986	61
NIDA:	
Fiscal 1985	68
Fiscal 1986	74

Incorporated into this legislation is an important achievement of Congress. I was pleased to spearhead legislation directing alcohol and drug abuse services, as well as research for women. We all agree that alcohol and drug abuse is a rapidly growing problem among women. Through this block grant, we are assuring that States target money to serving the problems of women and substance abuse. The conference agreement reflects the further effort that each State would determine the appropriate mix of new alcohol and drug abuse services available for women based upon local needs. The development of separate and discrete treatment services in outpatient settings and cost-effective residential facilities such as halfway houses, should be given high priority for support. This support is directed for women of all ages, because we know that the problems of alcohol and substance abuse touch all ages, various types of employment, socioeconomic levels, and all geographic areas of our country. I am hopeful that this conference agreement, when enacted, will provide a catalyst in reducing the tragedies of alcohol and substance abuse among women.

The conference agreement also revises the formula for allocating block grant funds between States phasing in a national allocation based upon the relative population and per capita income of each State. Population and per capita income are a more reliable and equitable means of allocating block grant funds between States than

the existing allotment formula. The General Accounting Office has worked closely with the conferees to develop the new formula.

Also, the Secretary of HHS must enter into an agreement with a nongovernmental entity to review the current formula for allocating funds under the block to determine whether a more equitable formula can be devised. The Secretary would be required to report to Congress by October 1, 1985, on this review and to include any recommendations considered appropriate. There should be a continuing effort to develop a method for accurately assessing the need of States for alcohol and drug abuse and mental health services. The Secretary should arrange with a nongovernmental entity to undertake a study to ensure a more equitable formula for this program.

Another enhancement to the States is increasing the percentage, from 15 to 25 percent, of its allotment that can be allocated, at State discretion, between alcohol and drug abuse and mental health activities.

Mr. President, alcoholism, alcohol abuse, and drug abuse continue to be the major health problems in the United States today. This legislation will continue the very important work done by NIAAA and NIDA and continue their emphasis on prevention and research, as well as services provided by the ADMS block grant. This legislation enables the institutes to continue their dedication to research, prevention, and education concerning alcoholism and drug abuse. This authorizes the funding for alcohol and drug abuse research in 1985, 1986, and 1987; it requires demonstration projects for drug abuse for alcoholism and alcohol abuse; it includes new authorizations for research in the areas of alcoholism, alcohol abuse, and drug abuse among women; and it extends the authorization appropriations for the ADAMHS block grant. The ADAMHS block grant is the cornerstone and principal source of Federal support for prevention and treatment services. Funds are allocated directly to the States and assists literally thousands of community-based programs providing alcoholism, drug abuse, and mental health prevention and treatment services.

This is landmark legislation for this Congress in that it authorizes funds for the institutes to study the prevention and treatment of alcoholism, alcohol abuse, and drug abuse among women. This bill requires the Secretary of Health and Human Services to create a periodic program of research, investigations, experiments, and studies with an eye toward cataloging and finding ways to prevent and, most importantly, treat the alcoholism and drug abuse problems that exist among all women including homemakers, single women, divorced and widowed mothers, displaced homemakers, women over 65, and pregnant women.

Under this legislation, both NIAAA and NIDA will receive funds for demonstration projects to support the development and demonstration of new methods for the prevention, treatment, and rehabilitation of individuals who suffer from alcoholism and drug abuse. The projects are essential since they create an arena from which new and improved research can flourish. Moreover, since education is the cornerstone of prevention, both NIDA and NIAAA are encouraged under this legislation to use private and public resources to increase public awareness. Also, grants will be available to train health professionals in the identification and treatment of patients suffering from alcoholism and drug abuse.

Finally, Mr. President, the Secretary of Health and Human Services, in appointing members to the National Advisory Council on Alcoholism & Alcohol Abuse is strongly encouraged to ensure that the membership of that very necessary advisory council is representative at all times of both the public and private sectors in order for the council to provide a broad spectrum of advice to the Secretary.

Mr. President, I strongly urge all my colleagues to join Senators HAWKINS, QUAYLE, RIEGLE, KENNEDY, and MATSUNAGA, Representatives WAXMAN and BROYHILL, me and all the conferees from the House Energy and Commerce Committee who have unanimously approved this legislation as we seek expeditious passage of this bill. These programs provide the hope and future for literally millions who suffer from the disease of alcoholism and alcohol abuse and drug abuse.

Mrs. HAWKINS. Mr. President, we are reporting to the floor today the Conference Report of S. 2303, legislation to reauthorize appropriations for the alcohol, drug abuse, and mental health program.

This legislation is special to me for a number of reasons. Within this bill is a special first—the authorization of funds for the National Institutes of Drug Abuse, and Alcoholism and Alcohol Abuse, to study the prevention and treatment of alcohol abuse, alcoholism and drug abuse among women. Undertaken by these institutes will be a program of research, investigations, experiments, and studies with an eye toward cataloging and finding ways to prevent and treat the alcoholism and drug abuse problems that exist among homemakers, single women, divorced and widowed mothers, displaced homemakers, women over 65, and pregnant women.

Another important aspect contained in this conference report is the request for media involvement in drug abuse education and prevention. The aforementioned institutes are directed to enter into contracts with television networks and/or producers to create and promote informative and cost-effective commercials depicting the effects of alcohol and drug abuse. These public service announcements shown on prime-time television would fight drug and alcohol abuse through prevention.

In our continued efforts to provide the assistance necessary for those served by ADAMHA, and in our continued efforts to achieve the eradication of drug and alcohol abuse, I am pleased to see this important legislation finally nearing enactment. The National Institutes of Drug Abuse, and Alcoholism and Alcohol Abuse, and the Mental Health Administration, continue to provide invaluable services in researching the causes, and treating the results, of substance abuse, and need to be funded adequately and promptly.

I would, therefore, like to request my colleagues in the Senate to give speedy approval to this legislation, and would hope that my colleagues in the House of Representatives would do the same.

I would like to take this opportunity to express my particular appreciation to the chairman of the Senate Labor and Human Resources Committee, Senator ORRIN HATCH, for his unstinting efforts in assuring the enactment of S. 2303.

Mr. GRASSLEY. Mr. President, I urge my colleagues to approve S. 2303 and thereby to reauthorize the alcohol, drug abuse, and mental health services block grant.

The Senate-House conference committee, of which I was a member, is recommending to both Houses of Congress a number of important changes in the program. The most important of these is a revision of the allocation formula which determines how much Federal support each State receives through the grant. I am particularly pleased to have been able to continue, as a conferee, the effort to introduce greater equity into this allocation formula which I began with the Grassley-Proxmire "equity adjustment" amendment to S. 2303 in committee.

Everyone concedes that the present block grant allocation formula severely discriminates against a small number of States, including my own State of Iowa. As the allocation formula is presently structured, Iowa stands to get in fiscal year 1985 through the present allocation formula about 39 percent of what it would get were the formula more equitable—based, say, strictly on population. Other States get vastly more than they would get under such a more equitable formula—some, for example, get 150 percent more than they would from such a population-based formula.

These inequities result from the adoption in 1981 of a formula based on the amount of Federal money which was in the States through the mental health and substance abuse categorical programs which existed prior to the block grant. That distribution pattern reflected many things, but it did not reflect an equitable distribution principle. Institution of the block grant essentially froze the preexisting inequitable distribution of Federal funds for these programs for the 3-year period of the block grant.

Clearly, this situation cries out for rectification. In the Committee on Labor and Human Resources in the Senate, I introduced an "equity adjustment" amendment which would have helped the States, including my own State of Iowa, which are treated the worst by the formula. The General Accounting Office has helped the Senate-House conferees to refine the new, more equitable formula called for by the House bill. This new formula will treat presently deprived States equitably without at the same time causing any reductions in the allocations made to those States which are excessively benefiting from the present formula. The new formula puts the program on an equitable basis and all my colleagues in the Senate should be able to support the change.

The bill reported by the conferees also stipulates that "psychosocial rehabilitation services may be offered by a community mental health center in lieu of day treatment or other partial hospitalization services." This is not a major change, but it does help to relieve a problem experienced by some rural community mental health centers in Iowa, if not elsewhere. I want to point out also that, at my urging, the Committee on Labor and Human Resources, in the report which accompanied S. 2303—Report No. 98-381, stressed that psychosocial rehabilitation programs under appropriate supervision may be used to meet the day treatment or partialization services required by the act. The committee stressed that one of the purposes of this block grant is to make mental health services more widely available to those in need of them. Restrictive definitions of the core services required under section 1915(C)(4) frustrate achievement of this purpose.

Finally, equally as important as the changes which were made in the law, the conferees retained a provision which stipulates that the Secretary may not prescribe for the States the manner in which they comply with the terms of the block grant. Iowa State government administrators responsible for State administration of the block grant opposed removal of this stipulation. I supported retention of this provision not only because of their opposition to its deletion, but also because the purpose of the block grants we instituted in 1981 was to give the States maximum discretion in management of these programs, and I see no reason to retreat from this principle now. We have tried to improve accountability for how funds are spent under this program, not by encouraging the development of more Federal regulation, but by improving the Secretary's capacity to conduct data collection activities which would help the Department of Health and Human Services and the Congress understand how the block grant money is being spent.

Mr. KENNEDY. Mr. President, I urge the adoption of the conference agreement on S. 2303, the Alcohol, Drug Abuse, and Mental Health Amendments of 1984. This bill reauthorizes the alcohol, drug abuse, and mental health block grant and the National Institutes on Drug Abuse and Alcoholism. As ranking minority member of the Labor and Human Resources Committee, I am pleased to have contributed to the development of this legislation.

In addition to reauthorizing these important programs, the conference agreement establishes a number of important new initiatives to help us deal with the serious national problems of mental illness and substance abuse.

The most important of these initiatives include:

A mandate that the Secretary develop a national plan for prevention and treatment of alcoholism.

A 5-percent set-aside of block grant funds to assure greater attention to the needs of women who abuse drugs and alcohol.

Establishment of a statutory basis for the successful community support program [CSP] for the chronically mentally ill and a broadcasting of its character to include such other neglected populations as children and the elderly.

A 10-percent set-aside of block grant funds to begin to address the largely neglected needs of mentally ill children and to initiate services for the significant proportion of our population that still lacks access to community mental health centers.

Institution of a program of grants to encourage States to develop comprehensive mental health plans.

The national plan for alcoholism mandates that the Secretary of Health and Human Services develop a national plan for alcoholism treatment and prevention. Alcoholism is a national problem. Alcohol abusers total 14.7 million, increasing by 400,000 each year. Studies indicate that alcohol-related direct and indirect costs range from $78 to $120 billion annually. However, comparatively little is spent on treatment—about 1 percent of the total economic cost of alcoholism. All studies have shown that treatment is cost effective. Nevertheless, 85 percent of alcoholics still do not receive treatment. Most Federal health programs do not adequately cover treatment for alcoholics, and private coverage, while increasing, is still scanty. A national plan for alcoholism treatment and prevention would provide the national focus that this devastating problem needs and would be a first step toward lessening the effects we all feel from it.

The set-aside aimed at meeting the special needs and priorities of alcoholic women is badly needed. Studies have shown that women are not receiving or do not have access to services which successfully treat them, despite the fact that they currently comprise about one-half of the alcoholic population in this country. This bill requires that the States develop programs and activities for the prevention and treatment of alcoholism, alcohol and drug abuse among women.

The chronically mentally ill are among the most ill-treated of our dependent populations. Indeed, our failure to provide a decent service system for this population is a national disgrace.

Psychotropic drugs have largely emptied our Nation's State mental hospitals. Tragically, however, the promise deinstitutionalization has offered for a better and more fulfilling life for our Nation's chronically mentally ill has largely gone unfulfilled. Without adequate community support and services, hundreds of thousands have been effectively abandoned by our society, abandoned to a desolate world of single room occupany hotels, slum-like board and care homes, a world of sleeping on grates and begging for meals, or repetitious and unnecessary psychotic episodes that lead to costly hospitalization, stabilization, and discharge, only to begin the cycle again.

The Community Support Program, funded on a demonstration basis by NIMH, as well as a number of successful programs operated by States, has proven there is a better way. With effective case-management services, a developed continuum of care from institutions to independent living, and inexpensive but well-planned social support services, this tragic cycle can be broken. Indeed, evaluations of the community support program have shown rates of hospitalization 50 percent lower than for comparable populations without access to community services. To ensure the program's continued priority within the Department of Health and Human Services, S. 2303 places it on a statutory basis and establishes an authorization of $20 million, well above last years' appropriation of $7 million.

Other populations that have been neglected in our current mental health service delivery system are the

elderly, children, and those resident in areas without community health centers. The elderly receive community services at a lower rate than the population as a whole, even though an estimated 10 to 25 percent in the community have some degree of mental impairment and the suicide rate of the elderly is 1½ times the rate for all ages.

Of 3 million seriously disturbed children, an estimated two-thirds are not getting the treatment they need.

About half the catchment areas in the country had not established community mental health centers at the time the creation of new centers essentially stopped as a result of the creation of the block grant and funding cuts in 1981.

In addition to placing the CSP on a statutory basis and expanding its funding, the program addresses the needs of these underserved populations in three ways.

First, the bill expands the Community Support Program to include the elderly and children. Second, it establishes a 10-percent set-aside for the funding of new services for seriously ill children and the establishment of new services for populations without access to comprehensive mental health centers. Finally, it encourages States to develop comprehensive mental health plans to address the key needs of all underserved populations.

Some statistics illustrate the vital importance of an effective planning function. ADAMHA block grant funds are a small proportion of total national expenditures for mental health. State-only and medicaid expenditures on the chronically mentally ill, for example, were an estimated $5.8 billion in 1983. Inclusion of expenditures by medicare, OASDI, SSI, title XX, and other Federal programs brings the total non-PHS funding for this group alone to $8.7 billion. This compares to less than $0.3 billion in the mental health portions of the block grant last year.

A significant portion of these national expenditures, however, are wasted on unnecessary institutional and custodial care. States do not even track a significant portion of this medicaid expenditure on the chronically mentally ill. By contrast, a comprehensive and coordinated continuum of care, with careful planning, objective-setting, and tracking, would bring far more effective and humane treatment even without greater expenditures.

While ADAMHA funds are a small proportion of total expenditures, they can be vital in creating incentives for a reformed mental health system. I believe that the administration's philosophy of simply giving money to States in the form of block grants without standards, accountability, or uniform reporting is wrong. Rather, block grants should be a component of a creative Federal-State partnership that assures national needs are met.

This legislation provides for new planning grant authority to the States as well as allowing States to use block grant funds for planning purposes. States receiving grants or using block grant funds for planning, however, must develop a plan for an organized, coordinated system of care for the mentally ill. This system of care must utilize all available funding, not just PHS funds, and must establish measurable goals and objectives to meet the needs of specific populations.

This bill is a significant improvement over current law, but it does not assert the national interest in and responsibility for these highly dependent populations forcefully enough. A more responsible approach, proposed in the Omnibus Health Reauthorization bill I introduced, would make receipt of ADAMHA funds contingent on States developing a comprehensive plan for an effective community-based treatment system for the chronically mentally ill and a program to address the needs of the elderly, children, and residents of areas without services. States would be required to develop a system for accounting for all funds spent on the mentally ill, and would track progress toward plan implementation. Case management services—the heart of an effective treatment program for the chronically mentally ill—would be fully phased in over a 3-year period.

It should also be recognized that the funding levels provided in this bill, while an improvement over current levels, are less than two-thirds of 1980 spending in real terms. In view of the needs of this population, this is not good enough. While the great bulk of mental health services should come from reorientation of existing funding, significant increases in PHS support are also necessary.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SENATE CONCURRENT RESOLUTION 150—DIRECTING SECRETARY OF THE SENATE TO MAKE CORRECTIONS IN THE ENROLLMENT OF S. 2303

Mr. BAKER. Mr. President, in behalf of Senator HATCH, I send a concurrent resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 150) directing the Secretary of the Senate to make corrections in the enrollment of S. 2303.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its consideration.

The concurrent resolution (S. Con. Res. 150) was considered and agreed to. The concurrent resolution reads as follows:

S. CON. RES. 150

Resolved by the Senate (the House of Representatives concurring), That, in the enrollment of the bill (S. 2303) to revise and extend the Alcohol and Drug Abuse and Mental Health Services block grant, the Secretary of the Senate shall, in the amendment of the House of Representatives to the title of the bill, strike out "and to revise and extend the Developmental Disabilities Assistance and Bill of Rights Act".

Mr. BAKER. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table is agreed to.

SENATE CONCURRENT RESOLUTION 151—TO CORRECT TECHNICAL ERRORS IN THE ENROLLMENT OF H.R. 4164

Mr. BAKER. Now, Mr. President, on behalf of Senator STAFFORD, I send another resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 151) to correct technical errors in the enrollment of the bill H.R. 4164.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its consideration.

The concurrent resolution (S. Con. Res. 151) was considered and agreed to, as follows:

S. CON. RES. 151

To correct technical errors in the enrollment of the bill H.R. 4164.

Resolved by the Senate (the House of Representatives concurring), That in the enrollment of the bill (H.R. 4164) to amend the Vocational Education Act of 1963 to strengthen and expand the economic base of the Nation, develop human resources, reduce structural unemployment, increase productivity, and strengthen the Nation's defense capabilities by assisting the States to expand, improve, and update high-quality programs of vocational-technical education, and for other purposes, the Clerk of the House of Representatives shall make the following corrections:

(1) In section 102(b) of the Carl D. Perkins Vocational Education Act (as amended by the first section of the bill) strike out "section 113(b)(1)" after "provision of" and insert in lieu thereof "section 111(b)(1)".

(2) In section 342 of such Act (as so amended) insert "(a)" after "342.".

(3) In section 342(c)(3) of such Act (as so amended) strike out "this title" and insert in lieu thereof "title II".

(4) In section 421(a)(2) of the Carl D. Perkins Vocational Education Act (as amended by the first section of the bill) insert the following new sentence after the paragraph designation: "The Secretary shall take such action as may be necessary to secure the data required by this section at reasonable cost.".

Mr. BAKER. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AWARDS OF EXPENSES OF CERTAIN AGENCY AND COURT PROCEEDINGS

Mr. BAKER. Mr. President, if there is no objection, I ask the chair to lay before the Senate Calendar Order 1176.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 5479) to amend section 504 of title 5, United States Code, and section 2412 of title 28, United States Code, with respect to awards of expenses of certain agency and court proceedings, and for other purposes.

AMENDMENT NO. 7037

(Purpose: To amend the Equal Access to Justice Act, and for other purposes)

Mr. BAKER. Mr. President, on behalf of Mr. GRASSLEY, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Tennessee [Mr. BAKER], for Mr. GRASSLEY, Mr. DOMENICI, Mr. HEFLIN, and Mr. DOLE proposes an amendment numbered 7037.

Mr. BAKER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

That (a) section 504(a)(1) of title 5, United States Code, is amended—

(1) by striking out "as a party to the proceeding", and

(2) by adding at the end thereof the following: "The decision of the adjudicative officer on the application for fees and other expenses shall be the final administrative decision under this section.".

(b) Section 504(a)(2) of title 5, United States Code, is amended by adding at the end thereof the following: "When the United States appeals the underlying merits of an adversary adjudication, no decision on an application for fees and other expenses in connection with that adversary adjudication shall be made under this section until a final and unreviewable decision is rendered by the court on the appeal or until the underlying merits of the case have been finally determined pursuant to the appeal.".

(c) Section 504(b) of title 5, United States Code, is amended—

"(1) by amending paragraph (1)(B) to read as follows:

"(B) 'party' means a party, as defined in section 551(3) of this title, who is (i) an individual whose net worth did not exceed $2,000,000 at the time the adversary adjudication was initiated, or (ii) any owner of an unincorporated business, or any partnership, corporation, association, unit of local government, or organization, the net worth of which did not exceed $7,000,000 at the time the adversary adjudication was initiated, and which had not more than 500 employees at the time the adversary adjudication was initiated; except that an organization described in section 501(c)(3) of the Internal Revenue Code of 1954 (26 U.S.C. 501(c)(3)) exempt from taxation under section 501(a) of such Code, or a cooperative association as defined in section 15(a) of the Agricultural Marketing Act (12 U.S.C. 1141j(a)), may be a party regardless of the net worth of such organization of cooperative association;";

(2) in paragraph (1)(C)—

(A) by inserting "(i)" before "an adjudication under";

(B) by inserting before the semicolon at the end thereof the following: ", and (ii) any appeal of a decision made pursuant to section 6 of the Contract Disputes Act of 1978 (41 U.S.C. 605) before an agency board of contract appeals as provided in section 8 of that Act (41 U.S.C. 607)"; and

(C) by striking out "and" at the end thereof;

(3) by striking out the period at the end of subparagraph (D) and inserting in lieu thereof ", and"; and

(4) by adding at the end thereof the following:

"(E) 'position of the agency' includes the underlying action which led to the adversary adjudication; except that fees and expenses may not be awarded to a party for any portion of the adversary adjudication in which the party has unreasonably protracted the proceedings.".

(d) Section 504(c)(2) of title 5, United States Code, is amended to read as follows:

"(2) If a party or the United States is dissatisfied with a determination of fees and other expenses made under subsection (a), that party or the United States (as the case may be) may, within 30 days after the determination is made, appeal the determination to the court of the United States having jurisdiction to review the merits of the underlying decision of the agency adversary adjudication. The court's determination on all appeals heard under this paragraph shall be based solely on the factual record made before the agency. The court may modify the determination of fees and other expenses only if the court finds that the failure to make in award of fees and other expenses, or the calculation of the amount of the award, was unsupported by substantial evidence.".

(e) Section 504(d) of title 5, United States Code, is amended to read as follows:

"(d) Fees and other expenses awarded under this subsection shall be paid by any agency over which the party prevails from any funds made available to the agency by appropriation or otherwise.".

(f) Section 504 of title 5, United States Code, is amended by adding at the end thereof the following:

"(f) If complete payment of the fees and other expenses awarded under this section is not made within 60 days after the final agency action making an award of such fees and other expenses, interest shall be paid on the amount remaining due. Such interest shall be computed at the rate the Secretary of the Treasury establishes for interest payments under section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611), and shall run from the date which is 61 days after the date of such award up to and including the date such payment is posted by certified or registered mail.".

SEC. 2. (a) Section 2412 of title 28, United States Code, is amended—

(1) in subsections (a) and (b) by striking out "or any agency and any official of the United States" each place it appears and inserting in lieu thereof "or any agency or any official of the United States";

(2) in subsection (d)(1)(A) by inserting ", including proceedings for judicial review of agency action," after "in tort)"; and

(3) in subsection (d)(1)(B) by inserting immediately after "action" the following: "or within 30 days after the party prevails on remand ordered pursuant to section 205(q) or 1631(c)(3) of the Social Security Act (42 U.S.C. 405(g) or 1383(c)(3))".

(b) Section 2412(d)(2) of title 28, United States Code, is amended—

(1) in subparagraph (B)—

(A) in clause (i) by striking out "$1,000,000" and inserting in lieu thereof "$2,000,000"; and

(B) by striking out "(ii)" and all that follows through the end of the subparagraph and inserting in lieu thereof the following: "or (ii) any owner of an unincorporated business, or any partnership, corporation, association, unit of local government, or organization, the net worth of which did not exceed $7,000,000 at the time the civil action was filed, and which had not more than 500 employees at the time the civil action was filed; except that an organization described in section 501(c)(3) of the Internal Revenue Code of 1954 (26 U.S.C. 501(c)(3)) exempt from taxation under section 501(a) of such Code, or a cooperative association as defined in section 15(a) of the Agricultural Marketing Act (12 U.S.C. 1141j(a)), may be a party regardless of the net worth of such organization or cooperative association;";

(2) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof a semicolon; and

(3) by adding at the end thereof the following:

"(D) 'position of the United States' includes the underlying agency action which led to the litigation; except that fees and expenses may not be awarded to a party for any portion of the litigation in which the party has unreasonably protracted the proceedings;

"(E) 'civil action brought by or against the United States' includes an appeal by a party, other than the United States, from a decision of a contracting officer rendered pursuant to a disputes clause in a contract with the Government or pursuant to the Contract Disputes Act of 1978;

"(F) 'court' includes the United States Claims Court;

"(G) 'final judgment' means a judgment that is final and not appealable;

"(H) 'prevailing party in a civil action' includes a party who, pursuant to section 205(g) or 1631(c)(3) of the Social Security Act (42 U.S.C. 405(g) or 1383(c)(3)), has won an order remanding the cause for further

hearing, except that this provision shall not apply—

"(I) to cases to the extent that the remand was based on section 2(d) of the Social Security Disability Benefits Reform Act of 1984;

"(ii) to cases to the extent the remand is requested by the claimant in order to introduce new evidence which the claimant had not introduced or attempted to introduce at the administrative agency level; or

"(iii) to cases in which, after the remand, the claimant has not prevailed with respect to the underlying issue; and

"(i) 'prevailing party', in the case of eminent domain proceedings, means a party who obtains a final judgment (other than by settlement), exclusive of interest, the amount of which is at least as close to the highest valuation of the property involved that is attested to at trial on behalf of the property owner as it is to the highest valuation of the property involved that is attested to at trial on behalf of the Government.".

(c) Section 2412(d)(4) of title 28, United States Code, is amended to read as follows:

"(4) Fees and other expenses awarded under this subsection to a party shall be paid by any agency over which the party prevails from any funds made available to the agency, by appropriation or otherwise.".

(d) Section 2412 of title 28, United States Code, is amended by adding at the end thereof the following:

"(f) If complete payment of the costs or fees and other expenses awarded under this section is not made within 60 days after the award of such costs or fees and other expenses, interest shall be paid thereafter on the amount remaining due. Such interest shall be computed at the rate the Secretary of the Treasury establishes for interest payments under section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611), and shall run from the date which is 61 days after the date of such award up to and including the date such payment is posted by certified or registered mail.".

SEC. 3. Section 206 of the Equal Access to Justice Act is amended—

(1) by striking out "Nothing" and inserting in lieu thereof "(a) Except as provided in subsection (b), nothing"; and

(2) by adding at the end thereof the following:

"(b) Section 206(b) of the Social Security Act 42 U.S.C. 406(b)(1)) shall not prevent an award of fees and other expenses under section 2412(d) of title 28, United States Code. Section 206(b)(2) of the Social Security Act shall not apply with respect to any such award but only if any fees collected by the claimant's attorney or withheld for such attorney pursuant to such section 206(b) are refunded to the claimant insofar as the fees relate to the same work for which the claimant's attorney is awarded fees under section 2412(d) of title 28, United States Code.".

SEC. 4. Section 203(c) of the Equal Access to Justice Act (Public Law 96-481) is repealed.

SEC. 5. Section 204(c) of the Equal Access to Justice Act is repealed.

SEC. 6. Section 207 of the Equal Access to Justice Act, is repealed.

SEC. 7. Section 208 of the Equal Access to Justice Act is amended by adding at the end thereof the following: "Awards may be made for fees incurred before October 1, 1981, in any such adversary adjudication or civil action.".

SEC. 8. (a) Section 7430(b)(1) of the Internal Revenue Code of 1954 (relating to maximum dollar amount) is amended by striking out "$25,000" and inserting in lieu thereof "$50,000".

(b) Subparagraph (A) of section 7430 (c)(2) of such Code (defining prevailing party) is amended to read as follows:

"(A) IN GENERAL.—The term 'prevailing party' means any party to any proceeding described in subsection (a) (other than the United States or any creditor of the taxpayer involved)—

"(i) which has substantially prevailed with respect to—

"(I) the amount in controversy, or

"(II) the most significant issue or set of issues presented, and

"(ii) with respect to which the United States has not established that its position in the civil proceeding was substantially justified.

In determining whether the position of the United States in any civil proceeding was substantially justified, the court may take into account the administrative actions of the Internal Revenue Service in the matter giving rise to the issues in such proceeding. Notwithstanding this subparagraph, a party shall not be treated as a prevailing party if special circumstances would make an award unjust.".

(c) Section 7430(f) of such Code (relating to termination date) is amended by striking out "1985" and inserting in lieu there "1989".

SEC. 9. (a) Except as otherwise provided in this section, the amendments made by this Act shall be effective as of October 1, 1984, and shall apply to cases pending on such date.

(b) The amendments made to section 504 (b)(1)(C)(ii) of title 5, United States Code, by subsection (c)(2) of the first section of this Act, and the amendments to section 2412 (d)(2)(E) of title 28, United States Code, made by section 2 (b)(3) of this Act shall apply to any adversary adjudication which was pending on or commenced on or after October 1, 1981 in which applications for fees and expenses were timely filed and were dismissed for lack of jurisdiction.

(c)(1) Except as provided in paragraph (2), the amendments made by section 8 of this Act shall apply to civil actions or proceedings pending on, or commenced after, the 45th day after the date of the enactment of this Act.

(2) The amendments made by section 8 shall not apply to any action or proceeding pending on such 45th day if there has been a determination by any court of the United States (including the Tax Court and the United States Claims Court) with respect to—

(A) the awarding of reasonable litigation costs in such proceeding, or

(B) the most significant issue or set of issues presented in such proceeding.

Amend the title so as to read: "A bill to amend section 504 of title 5, United States Code, and section 2412 of title 28, United States Code, with respect to awards of expenses of certain agency and court proceedings, and for other purposes.".

Mr. GRASSLEY. Mr. President, today we are moving the adoption of the Senate substitute to H.R. 5479, reauthorization of the Equal Access to Justice Act. This concept first appeared as legislation in the 95th Congress when Senator PETE DOMENICI introduced a bill similar to the act we have before us. The bill was finally enacted into law in 1980 with an effective date of October 1981.

The bill was designed with two purposes in mind. The initial aim was to force Government agencies to be responsible for their conduct. Adopting the rule that a Government entity must be held accountable for attorneys' fees where it could not show that its actions were substantially justified would provide incentive for agencies to thoroughly examine actions contemplated against private citizens. Rather than holding the losing agency automatically liable for attorneys' fees, and therefore perhaps discouraging valid agency actions, allowing the agency to prove it acted with justification seemed the appropriate course to follow.

In addition, the act was designed to provide those of modest means with access to the judicial process, hence the title—Equal Access to Justice Act. In order to allow small businesses and private individuals, those who were being injured most through arbitrary Government action and regulation, to pursue litigation against the Government, the sections relating to limitation of income and corporation size were included in the bill. Instead of facing bankruptcy due to the high cost of litigation, these sections allowed the little guy to fight city hall and to actually come out ahead if he prevailed in litigation.

We have reached a point in the process where, if we fail to reauthorize this important law, it will expire. The reasons that led to it's passage are no less persuasive today than they were in 1980. Fear of extensive costs associated with the first bill should largely be eliminated by examining its history.

In 1979 the Congressional Budget Office estimated that the EAJA would cost $367 million over a 3-year period. The actual costs over a similar period amount to approximately $3.5 million or about 1 percent of the estimated cost.

Every witness present at the two hearings held on this issue by the Subcommittee on Administrative Practice and Procedure testified that the EAJA should become permanent law. Those witnesses included Senator DOMENICI, who introduced S. 919, the original bill to reauthorize the EAJA, the Department of Justice, the Small Business Administration, the Administrative Conference of the United States, the National Labor Relations Board, the American Bar Association, the National Federation of Independent Businesses, the Small Business Legislative Council, McQuiston Associates, Small Business United, Small Business Legal Defense Committee, Women's Association of Government Contractors, Alliance for Justice, Washington Legal Foundation, and the Center on National Labor Policy. The Judiciary

Committee concurs in this view and believes that the act in large measure is working as intended. Its very existence has tended to restrain regulatory activities which in turn restrain agency actions which go beyond Congress' intent. However, without the act this deterrent effect would disappear, returning us to a similar situation which led to the initial passage of the EAJA.

During the hearing process a number of legitimate issues were raised regarding the interpretation or misinterpretation of the EAJA. In addition to making the law permanent, with an eye toward clarification, Senator HEFLIN and I proposed a number of revisions, which the Judiciary Committee then adopted.

The substitute we are proposing to H.R. 5479 is a product of those revisions and negotiations between Senator DOLE, who had concerns regarding the award of attorneys' fees in tax cases, Senator LONG who objected to the award of attorneys' fees in Social Security administrative proceedings, and the House Judiciary Committee. I am hopeful that this product will be acceptable to all concerned and this bill will soon find its way to the President's desk for signature.

In that we could not reach an agreement on the treatment of Social Security administrative cases and time is short, rather than let the bill die, I will leave that issue for consideration next year.

Regarding the issue of Social Security treatment under the EAJA, it should be noted, that the term "adversarial adjudication" would apply to Social Security administrative proceedings in which the position of the United States is represented by counsel. See House Report 98-992, pages 7 and 8.

The revisions we made to the act which related to the definition of position of the Government may need further clarification. In addition to the litigation position, the court should examine the Government action which led to the private party decision to litigate in determining whether the Government position was substantially justified.

If the Government forces the party into court without substantial justification, it is our intention the Government be responsible for all that party's attorneys' fees incurred until such time as its position becomes justified. Where the Government adopts a justified litigation position sometime during the proceeding and a party unreasonably protracts the litigation—the Government will not be liable for the fees incurred during the protracted portion of the litigation. If the adoption of the justified position leads rapidly to settlement, the Government will be liable for settlement costs unless the party again unreasonably protracts settlement negotiations.

The Judiciary Committee does not intend that S. 919, a bill to amend the Equal Access to Justice Act, authorize any additional budget authority for fiscal year 1985, other than that already available to the Federal agencies affected by this legislation.

I would like to take this opportunity to commend and thank Senator DOMENICI for his strong leadership in this area, Senator THURMOND for his strong support in the Judiciary Committee and Senator HEFLIN for his able assistance as ranking minority member of the Subcommittee on Administrative Practice and Procedure. In addition, two individuals who provided invaluable assistance to the committee in its deliberations on this issue were Sam Gerdano of the Office of Advocacy of the Small Business Administration and Mary Candace Fowler of the Administrative Conference of the United States.

The type of fee-shifting provided by the Equal Access to Justice Act allows judicial process and deters unwarranted Government action. To let it expire would serve no purpose and certainly raise questions as to our commitment to responsible Government. Therefore, I move the adoption of this substitute amendment.

Mr. DOMENICI. Mr. President, it is 7 years to the week that the Senate first voted on the concept that when a small business or individual citizen prevails in litigation with the Federal Government then that individual would be reimbursed his attorney fees and costs, if the Government could not justify its position. Four years ago, that concept was enacted as Public Law 96-481. The Congress acted on a trial basis to modify the "American rule" regarding attorney's fees. For 3 years we have monitored this fee shifting mechanism to gauge its affectiveness in combating overregulation and restoring balance between the regulatory powers of our Federal Government and our citizens who said that the Government could be capricious, arbitrary, and unresponsive. Today we are voiding the sunset provisions of the Equal Access to Justice Act and thereby making a permanent change in our administrative law system. This law will now be a permanent statute.

Senator GRASSLEY, chairman of the Subcommittee on Administrative Practice and Procedure of the Committee on the Judiciary, is to be commended for his tireless effort in bringing these amendments through not only the Judiciary Committee but also negotiating with the Finance Committee. The extension of Equal Access to Contractor Board of Appeals Cases is due to his perserverence.

Mr. President, this legislation has often been characterized as the law that negates the old adage "you can't fight city hall." This legislation is even more significant in the evolutions of our process of administrative law.

In 1916, Elihu Root in an address as president of the American Bar Association, made a statement that can hardly be improved upon even with the hindsight of more than half a century:

> There is one special field of law development which has manifestly become inevitable. We are entering upon the creation of a body of administrative law quite different in its machinery, its remedies and its necessary safeguards from the old methods of regulation by specific status enforced by the courts.
>
> The necessities of our situation have already led to an extensive employment of the method.
>
> Before these agencies the old doctrine prohibiting the delegation of legislative power has virtually retired from the field and given up the fight. There will be no withdrawal from these experiments. We shall go on; we shall expand them, whether we approve theoretically or not, because such agencies furnish protection to rights and obstacles to wrong doing which under our new social and industrial conditions cannot be practically accomplished by the old and simple procedure of legislatures and courts as in the last generation. 41 A.B. 355, 368, 369, (1916)"

At the same time he uttered important words of caution:

> If we are to continue a government of limited power, these agencies of regulation must themselves be regulated. . . . The rights of the citizen against them must be made plain.

Today the volume or regulation of Federal agencies far exceeds the volume of the legislative output of Congress. For example, the accumulation of agency legislation by regulation in the Federal Register since 1934 fills far more shelf space than the accumulation of congressional legislation since 1789.

The Comptroller General of the United States in a report issued on March 16, 1978, identified 120 Federal agencies with regulatory impact on the private sector.

Consequently, the average American is much more directly and more frequently affected by the administrative process than by the legislative or judicial process. The original tenent for administrative proceeding was the need of modern governments for the reasonable exercise of discretionary power and the public's demand for speedy, inexpensive, and procedurally simple adjudication.

As President Roosevelt stated in 1940:

> The administrative tribunal or agency has been evolved in order to handle controversies arising under particular statutes. It is characteristic of these tribunals that simple and non-technical hearings take the place of court trials and informal proceeding supersede rigid and formal pleadings and processes. A common sense resort to usual and practical sources of information takes the place of archaic and technical application of

rules of evidence and an informed and expert tribunal renders its decision with an eye that looks forward to results rather than backward to present and to the leading case.

However, this has not been the case. In 1955, the President's conference on administrative procedure was called to consider the problem of "unnecessary delay, expense, and volume of records in some adjudicatory and rulemaking proceedings in the executive department and administrative agencies."

In 1971, a report of the President's advisory council on executive organization entitled, "Report in Selected Independent Regulatory Agencies," concluded:

The judicial cast of agency review proceedings places too great an emphasis on legal perspectives to the detriment of economic, financial, technical and social perspectives. One result is a high level of legal skill among agency professionals and commissioners but generally insufficient capability in other disciplines. Overjudicialization encumbers the time and energies of commissioners and staff, causes undue case backlogs, imposes high costs upon litigants, prevents anticipatory action through rulemaking, deters informal settlements.

American administrative law has gone through three stages of development: First, the first focus was on constitutional underpinnings of the administrative process, with a good deal of emphasis on separation and delegation of powers; second, the next focus was on judicial review and the relationship between the agencies and the judicial branch of Government; third, the last major stage was formalization of procedures for adjudication and for rulemaking.

And now we have entered the age of pervasive Federal regulation and there are few elements of life, commercial or otherwise, where the Federal Government does not have some role to play.

In fact, pollsters have indicated that the American people consider one of the major domestic problems to be the size and unresponsiveness of the Federal bureaucracy.

This law will combat this growing tendency of escalating legal and related costs deterring Americans from enforcing and defending their legal rights against the Federal Government in its regulatory capacity.

The basic problem this law seeks to overcome is the inability of many Americans to combat the vast resources of the Government in administrative adjudication. In the usual case, a party has to weigh the high cost of litigation or agency proceedings against the value of the rights to be asserted. Individuals and small business are in far too many cases forced to knuckle under the regulations even though they have a direct and substantial impact because they cannot afford the adjudication process. In many cases the Government can proceed in expectation of outlasting its adversary. The purpose of the bill is to redress the balance between the Government acting in its discretionary capacity and the individual.

Today, the average American must be made to feel that he can question the exercise of the Government's discretionary power as to its reasonableness without incurring large costs if he prevails.

Providing for award of legal fees to prevailing private litigants, except where the governmental action was substantially justified, will not deter the Government from pursuing meritorious governmental action. The purpose is to readjust the tension between the Government acting in its regulatory capacity and individual rights. It is to insure against capricious and arbitrary Federal regulation.

There have been numerous documented cases of conflicting regulations in areas of overlapping jurisdiction of various agencies. Regulations have proliferated as agencies have expended their jurisdiction, unchallenged, through regulatory flat.

This bill will, as Elihu Root said allow "The agencies of regulation to be regulated" by those affected by their regulation. Those who are affected by regulations will be given the incentive to challenge such regulations. Today, the prevailing attitude is, "if I win in court, I still lose because of the cost." And when Americans give in, the arbitrary exercise of power by administrative agencies will continue to grow larger and stronger.

This bill, by requiring litigants who prevail to be entitled to fees, will prevent spurious suits and insures the contesting of meritorious disputes with a fairer presentation of the issues.

Mr. President, I am very proud to see this legislation pass. We know the process is a slow one. The magnitude of this legislation is great indeed. The major newspaper in my State editorialized that this law was a "mini Magna Charta," protecting the rights of the average citizen against the Federal Government. Today we are acting to move this experiment into a permanent statute of law.

Mr. WEICKER. Mr. President, today is a great day for small business as the Senate proceeds to hopefully extend the Equal Access to Justice Act. I rise in support of the bill before us and am confident that all of my colleagues in the Senate will join me in doing so.

The Equal Access to Justice Act [EAJA], first enacted in 1980, represented a major step and accomplishment for the small business community. It provided for the first time that small businesses and individuals could collect attorneys' fees in cases where the Government could not demonstrate that it was substantially justified in the actions it brought against them. Before that, small business had no effective means to fight against abusive and unwarranted intrusions by Federal agencies. Often small businesses were forced to accept, without adequate recourse, objectionable Government actions because the legal costs in fighting back were simply too high. Since the private party in actions against the Government must meet certain financial eligibility requirements, the law is available only to small businesses and individuals for whom financial constraints would otherwise chill their efforts to challenge the Government.

Mr. President, at the time EAJA was enacted, critics expressed doubts about both its merits and costs, and conjectured that it might ultimately cost the Government hundreds of millions of dollars in attorneys' fees awards. No one who supports fair dealing by the Government could legitimately argue then or now with the merits of EAJA. Those who opposed EAJA, citing fear of projected huge costs to the Government in the award of fees, have clearly been wrong. As Frank Swain, the chief counsel for advocacy at the SBA, has noted "this law is not fulfilling the fears of its opponents. It has neither strained the federal budget nor crippled legitimate agency enforcement. The courts and agencies are not clogged with frivolous EAJA claims for attorneys' fees." And since awards under EAJA have totaled less than $2 million since its enactment, the facts clearly support Mr. Swain's observations.

Mr. President, virtually every small business person, every small business association and every supporter of small business supports the extension of EAJA. The enactment of EAJA in 1980 represented an historic moment in recognizing the legitimate rights and needs of small business; extension of the act in the bill before us today is a signal to all that those rights and needs are as strong today—if not stronger—as they were in 1980.

Indeed, Mr. President, the bill now before the Senate not only extends EAJA but recognizes that certain adjustments had to be made in the act to ensure that its provisions applied to a greater number of small businesses and extended as well to cases that heretofore had not been subject to compliance. Under the bill before us, parties eligible for reimbursement for individuals is increased from a net worth of $1 million to a net worth of $2 million, and for sole owners of unincorporated businesses, partnerships, and corporations, is increased from a net worth of no more than $5 million to a net worth of $7 million. Perhaps most significant is that the bill extends the coverage of the act to Tax Court cases and boards of contract appeals cases where abuses against small business are frequently most onerous

and costly. The extension of EAJA to these cases and to these forums is a major step in permitting small businesses to deter unreasonable Government actions in areas most critical to their survival. The bill also clarifies that awards may result when the original agency mistake costs a small business or citizen money to litigate, even when the Government surrenders at the outset of the case. This corrects previous ambiguous language that permitted some courts to rule that fees were not warranted if the Government's conduct in the case were reasonable and it reached the courtroom stage.

Mr. President, I applaud all who worked so diligently to craft this bill which not only makes essential clarifications of EAJA, but most important, reauthorizes and extends its provisions. This bill is vital to small business and I urge my colleagues to support it.

Mr. SASSER. Mr. President, as a cosponsor of S. 919, I am pleased that this important bill is finally before the Senate. I take particular pleasure in seeing this matter up as it incorporates legislation of my own, S. 1029, which allows coverage under the Equal Access to Justice Act for agency boards of contract appeals.

This matter first came to my attention, Mr. President, when I learned that a series of court cases had determined that the Equal Access to Justice Act could not be applied to actions before agency boards of contract appeal without specific congressional language on this point. Discussions with several small business groups and procurement specialists indicated that coverage of such boards under the Equal Access to Justice Act was a critical matter of concern.

This point was borne out in hearings on the Equal Access to Justice Act before the Subcommittee on Administrative Practice and Procedures of the Judiciary Committee. Witness after witness at those hearings indicated that they knew of no good reason or policy ground to exclude contract appeals boards from coverage under the act. Several of the witnesses cited the lack of coverage under the act for contract appeals boards as one of the major flaws in the act.

Expanding the Equal Access to Justice Act in this manner, Mr. President, goes far in securing the basic promise of this important piece of legislation. This act represents a sound congressional response to the realization that individuals and small businesses with disputes with the Federal Government may be intimidated by the Government's greater resources. The Equal Access to Justice Act reduces the likelihood that such individuals or firms will bypass litigation and accept inequitable settlements out of court.

Extending coverage under the Act as I porposed in S. 1029 furthers the equitable nature of this important legal tool. This expansion is one that has broad support in the legal community and the small business community. I thank my colleagues on the Judiciary Committee for including the language of S. 1029 in S. 919.

In closing, I urge my colleagues to support this important measure. The Equal Access to Justice Act expired as of October 1 of this year. We need to act now to rectify this situation. Without the Equal Access to Justice Act, small business and individual litigants across the country are deprived of a valuable tool. It is through measures such as this that the promise of our judicial system can become a reality for many.

Mr. HEFLIN. Mr. President, I rise today in strong support of the Equal Access to Justice Act. This act provides that when an individual or small business litigates against the Federal Government on either the administrative or judicial level and prevails, that individual is entitled to recoup legal expenses and costs, if the Government cannot show that its conduct was substantially justified.

This law provides the average citizen with the resources to fight Government overregulation. It further serves as a strong warning to the Government that if an agency pursues an action against an individual or small businessman, that action must be meritorious.

I supported the Equal Access to Justice Act when it passed the Senate in the 96th Congress and it is my belief that we should act to make this legislation permanent.

As a former chief justice of the Supreme Court of Alabama, I fervently believe that everyone is entitled to his or her day in court. We cannot continuously subject the citizens of this great country to the demands of Government regulations without providing them the resources to fight regulations which are unjust.

This legislation expands the eligibility limitation for those who are eligible to receive payments under the act up to $2 million for individuals and up to $7 million for small businesses.

This legislation clarifies the definition of the phrase "position of the United States" to include the underlying agency conduct which led to the litigation.

Further, this bill will extend coverage of the Equal Access to Justice Act to proceedings involving the Board of Contract Appeals.

The bill reported out of the Subcommittee on Administrative Practice and Procedure, of which I am ranking minority member, and the bill on Equal Access to Justice reported by the full Senate Judiciary. Committee also contained a provision covering proceedings under the Social Security Act at the administrative hearing level.

I am profoundly disappointed that my colleagues, in an attempt to enact the overall legislation, have deleted the provisions applying to these cases.

We have heard evidence of the abuse in the area of disability review by the Social Security Administration and it is my belief that this is an area that is ripe for protection.

The overall emphasis of the Equal Access to Justice Act is that it is a fair and just method of balancing the inequities when individuals and small businesses are pitted against the U.S. Government.

I believe that this protection is needed across the board, especially in situations where individuals who depend on disability payments for their livelihood are unjustly denied their payments.

However, this seems to be a fight which will have to be fought another day.

This legislation provides us with the opportunity to keep big government from getting bigger. Oftentimes, individuals in this country get the idea there is no way to "fight city hall." The Equal Access to Justice Act not only allows citizens to fight city hall—but to do so without sacrificing their life savings.

This is legislation with a history of proven success and it will ensure an even more successful future, with our support.

Thank you, Mr. President.

Mr. DOLE. Mr. President, I join the Senator from Iowa, Mr. GRASSLEY, in supporting this substitute for H.R. 5479. The substitute contains modifications to the current attorney's fees provisions in code section 7439, which are within the jurisdiction of the Finance Committee. We have reached agreement with respect to the Finance Committee provisions of the substitute, and my statement is a technical explanation of those provisions of the substitute.

BACKGROUND

In 1982, Congress passed legislation in the Tax Equity and Fiscal Responsibility Act of 1982 [TEFRA] that enabled taxpayers who prevailed in civil tax actions to recover awards, up to $25,000, for litigation costs and attorney fees when the position of the United States is unreasonable. Congress believed that fee awards in such tax cases would deter overreaching by the Internal Revenue Service and would enable individual taxpayers to exercise their rights regardless of their economic circumstances. However, when Congress enacted this legislation, it was also concerned with the ever-increasing caseload of the Tax Court and the uniqueness of tax litigation.

Because of the uniqueness of tax litigation and the special powers granted the IRS, Congress created the U.S. Tax Court, and empowered it with special procedural powers which are not granted to other courts. Thus, any attorney's fees legislation had to accommodate the unique characteristics of the Tax Court and tax litigation, such as the volume of litigation, the multiplicity of issues and number of years involved, the small tax case procedure, the IRS administrative hearing process and other unique characteristics of tax litigation which are not present in other types of civil litigation. Therefore, Congress decided to limit the award of litigation costs to only those cases in which the Government has acted unreasonably. In addition, Congress placed other limitations on the award of litigation costs, such as the taxpayer must exhaust administrative remedies, declaratory judgment proceedings are excluded, and the taxpayer must prove that the litigation costs are reasonable.

REASONS FOR CHANGE

Even though the 1982 TEFRA legislation has only been in effect for a short period of time, members of the small business community and others have expressed concerns over the impact of some of the rules. In order to address these concerns while recognizing the interest of the Government as tax collector and the uniqueness of tax litigation, this amendment will make several changes to section 7430 of the Internal Revuenue Code which provides for the recovery of attorney's fees in civil tax litigation cases.

STANDARD

Under TEFRA, the standard for an award of attorney's fees is that the Government's position must be unreasonable. This amendment changes that standard to the position of the Government must be substantially justified. This change will conform the standard for tax cases and other cases under the Equal Access to Justice Act as a matter of simplicity. However, it should not be inferred that any substantial change in the awarding of attorney's fees will result since, as a practical matter, the question of whether the Government was substantially justified in taking its position involves the same weighing of facts and law as is necessary under the reasonableness standard.

In 1982, the Finance Committee devoted careful attention to the standard for an award. The committee reviewed the substantially justified standard contained in the Equal Access to Justice Act. The committee found that the Judiciary Committee report on the Equal Access to Justice Act stated that the substantially justified standard was intended to be applied by the courts as one of reasonableness in law and fact. The majority of the courts have followed this legislative intent and interpreted the substantially justified standard under the act to be one of reasonableness in law and fact. The standard of the attorney's fees provision in TEFRA is the same in practical effect to the Judiciary Committee's intent in applying the substantially justified standard in the Equal Access to Justice Act and the subsequent court cases applying the standard.

DETERMINATION OF THE POSITION OF THE UNITED STATES

Under TEFRA, the reasonableness of the position of the United States is to be made on the basis of the facts and legal precedents relating to the case as revealed in the record. The court cannot look beyond the court filings and briefs of the Government in determining whether or not the position of the United States is reasonable.

This amendment will allow the court, in its discretion, to look beyond the court proceedings if necessary in order to determine whether the position of the United States is reasonable. In the vast majority of the cases the courts will have sufficient information in the record to make the determination without looking at the Commissioner's conduct prior to the litigation. However, there are rare circumstances where it may be necessary for the court to look beyond the actual court proceedings in order to make a fair and informed decision on whether or not the position of the United States on the substantive litigation was reasonable.

An example of this type of case may be one in which the IRS has consistently maintained a position on the substantive issue during the administrative process. Then, when the taxpayer files a petition in the Tax Court, the IRS concedes the case. Since the only information on the record would be the petition and other papers filed with the court, this information alone may not be sufficient to make a determination of whether the position of the Government is reasonable. In these cases the court may, in its discretion, look beyond the actual litigation to determine if the position of the United States during the litigation is reasonable.

This is only an example and I do not want to infer that simply because the IRS concedes a case on the eve of actual litigation, that the position of the United States was not reasonable. The position of the United States on the substantive issue may still be reasonable and several recent decisions have so held. There are many reasons why cases are conceded on the eve of litigation and nothing in this amendment should be construed as an attempt to make the position of the United States unreasonable, per se, in these cases. However, in making that determination, the court may want to consider the IRS conduct during the administrative process if the record does not contain sufficient facts and legal precedents to determine if the position of the Government was reasonable.

The Tax Court and other courts of jurisdiction over tax litigation should use their decretion and not open up every petition for an award of attorney fees into an exhaustive examination of the IRS's actions in following or departing from, administrative procedures. If the Tax Court and other courts consider the Commissioner's position on the substantive tax issues as revealed in the record to have been sufficiently meritorious even though the Commissioner did not prevail, the court can and should decline to examine the administrative process. In addition, any examination of the IRS's actions during the administrative process should be limited only to those actions that relate to the substantive tax issues claimed to have given rise to liability for tax. IRS administrative conduct with respect to issues not relating to the substantive tax issues in the litigation are not relevant to a determination of the reasonableness of the position of the Government on the substantive issues involved in the litigation. In addition, a departure from IRS procedural rules should only be reviewed by a court if it is relevant to a determination of the position of the United States on the substantive issues. A departure from these rules without more should not be used as a yardstick to find that the position of the United States on the substantive issues in the litigation was unreasonable.

Finally, it is the intent of this amendment that any examination of the administrative process should be solely for the purpose of determining the liability of the Government to the prevailing party for fees and costs incurred during the actual court litigation, as defined in TEFRA, and is not to be construed as otherwise sanctioning or inviting a departure from the usual rule that, in tax litigation, the courts will not go behind a deficiency notice.

INITIAL BURDEN OF PROOF

The rule of TEFRA is that the initial burden of proof is on the taxpayer to submit evidence that the position of the Government was not reasonable. This amendment will shift the initial burden of proof from the taxpayer to the Government to present evidence that its position during the tax litigation was reasonable. This change in the initial burden of proof should be limited solely to the question of the reasonableness of the Government's position on the substantive tax issues involved in the determining liability for tax and is not intended to relieve the taxpayer of the burden of proving that he has substantially prevailed, ex-

hausted his administrative remedies as to his right to fees and costs, and that the amount of the claimed fees and costs is reasonable. This shift in the initial burden of proof is limited to the determination of whether or not the Government's position of the substantive tax issues is reasonable.

INCREASE IN FEE AWARD

The TEFRA attorney's fees provision limits the amount that may be awarded for litigation costs to $25,000. This amendment will increase the amount that may be awarded for litigation costs to $50,000. This amendment does not change the other provisions to TEFRA relating to an award of attorney fees. The $50,000 limitation still applies regardless of the number of parties to the proceeding or the number of tax years at issue. In addition, any award of attorney's fees is still limited to the reasonable amount of cost incurred by the taxpayer in the litigation of a civil tax action or proceeding.

EFFECTIVE DATE

The attorney's fees provisions of TEFRA applied to civil actions or proceedings commenced after February 28, 1983, and before January 1, 1986. This amendement will apply to civil tax actions or proceedings commenced 45 days after the date of enactment and before January 1, 1990. Therefore, the attorney's fees provisions of code section 7430 as modified by this amendment will sunset on December 31, 1989, but will continue to apply through final disposition of any action or proceeding commenced before January 1, 1990. The TEFRA attorney's fees provision will continue to apply through final disposition of any award or denial of attorney's fees made before the effective date of this amendment.

Mr. President, this amendment addresses the major concerns of small businesses with the attorney's fees provisions of current law and, at the same time, accommodates the interest of the Government as tax collector and the uniqueness of tax litigation. However, I wish to emphasize that the purpose of these changes to current law is not to encourage further hearings on petitions for awards of attorney fees. The determination of liability for fees and costs should be made to the maximum extent possible on the basis of affidavits and other moving papers without any further hearings or proceedings. I am aware of the existing rules of the court, particularly the Tax Court, on applications for awards of attorney fees. These rules should continue to apply except as specific modifications may be necessary to reflect the new provisions of this amendment.

Mr. DECONCINI. Mr. President, I take this opportunity to state my strong support for the equal access to justice bill before us. It is the product of 3 years of experience under the original version of the bill drafted by Senator DOMENICI and myself, as well as numerous hearings held this Congress on how to continue to perfect its provisions to insure equal access to our system of justice by all parties aggrieved by actions of the Government. The 3-year experiment has proven a success and the modifications offered to the original law have made it even broader and better. I want to especially thank Senators DOMENICI and GRASSLEY for their sustained efforts to make the original 3-year experiment a part of our permanent law. I have had the privilege of testifying before the Grassley subcommittee in support of the bill and in working with Senators GRASSLEY and DOLE in working out suitable compromises on various provisions in the bill. I want to express my appreciation to these members for their cooperation and willingness to accept suggestions.

I hope that as we send this bill to the House it will receive a favorable reception. Congressman KASTENMEIER has performed yeoman duty on his side, but I understand that some opposition may still remain from the Ways and Means Committee. I hope these differences can be resolved without endangering passage of the bill. Again, my congratulations to the distinguished authors of this bill and my thanks for their permitting me to play some small role in its passage.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the bill.

The bill (H.R. 5479) was ordered to a third reading, was read the third time, and passed, as amended.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The PRESIDING OFFICER. The title is appropriately amended.

Mr. BAKER. Mr. President, I ask unanimous consent that Calendar Order No. 1111, S. 919, the Senate companion measure, be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

BILL HELD AT DESK—H.R. 2790

Mr. BAKER. Mr. President, I ask unanimous consent that when the Senate receives from the House H.R. 2790, to amend the Colorado River Basin Salinity Control Act, it be held at the desk pending further disposition.

The PRESIDING OFFICER. Without objection, it is so ordered.

VOLUNTEERS IN THE PARKS ACT AMENDMENTS

Mr. BAKER. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 864.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 864) entitled "An Act to amend the Volunteers in the Parks Act of 1969, and for other purposes.", do pass with the following amendment:

Strike out all after the enacting clause, and insert: That (a) section 4 of the Volunteers in the Parks Act of 1969 (84 Stat. 472; 16 U.S.C. 18j) is amended by striking out "$250,000" and substituting "$1,000,000". The amendment made by this subsection shall apply with respect to fiscal years beginning after September 30, 1984.

(b) Section 1 of such Act is amended by adding the following at the end thereof: "In accepting such services of individuals or volunteers, the Secretary shall not permit the use of volunteers in hazardous duty or law enforcement work, or in policymaking processes, or to displace any employee.".

SEC. 2. Section 307 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2766; 43 U.S.C. 1737) is amended by adding at the end thereof the following new subsections:

"(d) The Secretary may recruit, without regard to the civil service classification laws, rules, or regulations, the services of individuals contributed without compensation as volunteers for aiding in or facilitating the activities administered by the Secretary through the Bureau of Land Management.

"(e) In accepting such services of individuals as volunteers, the Secretary—

"(1) shall not permit the use of volunteers in hazardous duty or law enforcement work, or in policymaking processes or to displace any employee; and

"(2) may provide for services or costs incidental to the utilization of volunteers, including transportation, supplies, lodging, subsistence, recruiting, training, and supervision.

"(f) Volunteers shall not be deemed employes of the United States except for the purposes of the tort claims provisions of title 28, United States Code, and subchapter 1 of chapter 81 of title 5, United States Code, relating to compensation for work injuries.

"(g) Effective with fiscal years beginning after September 30, 1984, there are authorized to be appropriated such sums as may be necessary to carry out the provisions of subsection (d), but not more than $250,000 may be appropriated for any one fiscal year.".

SEC. 3. (a) The Congress finds that—

(1) the public lands administered by the National Park Service, the Bureau of Land Management, and the United States Fish and Wildlife Service contain valuable wildlife, scenery, natural and historic features, and other resources;

(2) the Congress has specified the duties and responsibilities of the National Park Service, the Bureau of Land Management, and the United States Fish and Wildlife Service to balance the conservation and protection of these public lands and resources with permitted uses in ways Congress has found to be appropriate for each of the various land areas;

(3) the National Park Service, the Bureau of Land Management, and the United States Fish and Wildlife Service are currently under congressional mandates to maintain sufficient visitor and recreational services in our national parks, campgrounds, and wildlife refuges;

(4) the Congress has authorized the National Park Service, the Bureau of Land Management, and the United States Fish and Wildlife Service to contract for the provision of certain facilities, accommodations, and services by non-Federal entities, but with certain limitations that reflect the values and appropriate management policies of the various conservation areas, parks, wildlife refuges, and other public lands; and

(5) expansion of the contracting authority of the managers of these conservation areas, parks, wildlife refuges, and lands should be considered only after careful study of the existing management mandates and contracting authorities and after congressional approval of such expansion.

(b) The Act of August 18, 1970, entitled "An Act to improve the administration of the national park system by the Secretary of the Interior, and to clarify the authorities applicable to the system, and for other purposes" (16 U.S.C. 1a-1 through 1a-7) is amended by adding the following new section at the end thereof:

"SEC. 13. (a) Following the date of enactment of this section, the provisions of Office of Management and Budget Circular A-76 and any similar provisions in any other order or directive shall not apply to activities conducted by the National Park Service, except as may be specifically authorized by a provision of law enacted after the date of the enactment of this section.

"(b) Nothing in this section shall prevent the National Park Service from entering into contracts for services and materials under provisions of law and rules, regulations, orders, and policies other than the circular referred to in subsection (a) or any similar order or directive.".

"(c) Section 307 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1737) is amended by adding the following new subsection at the end thereof:

"(h)(1) Following the date of enactment of this subsection, the provisions of Office of Management and Budget Circular A-76 and any similar provisions in any other order or directive shall not apply to activities conducted by the Bureau of Land Management except as may be specifically authorized by a provision of law enacted after the date of the enactment of this subsection.

"(2) Nothing in this subsection shall prevent the Bureau of Land Management from entering into contracts for services and materials under provisions of law and rules, regulations, orders, and policies other than the circular referred to in paragraph (1) or any similar order or directive.".

"(d)(1) Following the date of enactment of this subsection, the provisions of Office of Management and Budget Circular A-76 and any similar provisions in any other order or directive shall not apply to activities conducted by the United States Fish and Wildlife Service except as may be specifically authorized by a provision of law enacted after the date of the enactment of this subsection.

"(2) Nothing in this subsection shall prevent the United States Fish and Wildlife Service from entering into contracts for services and materials under provisions of law an rules, regulations, orders, and policies other than the circular referred to in paragraph (1) or any similar order or directive.

Mr. BAKER. Mr. President, I move that the Senate concur in the House amendment with a further Senate amendment which I send to the desk in behalf of the distinguished occupant of the chair [Mr. WALLOP].

AMENDMENT NO. 7038

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Tennessee [Mr. BAKER], for Mr. WALLOP, proposes an amendment numbered 7038.

Strike out all after the enacting clause, and insert: That (a) section 4 of the Volunteers in the Parks Act of 1969 (84 Stat. 472; 16 U.S.C. 18j) as amended is further amended by striking out "$250,000" and substituting "$1,000,000". The amendment made by this subsection shall apply with respect to fiscal years beginning after September 30, 1984.

(b) Section 1 of such Act is amended by adding the following at the end thereof: "In accepting such services of individuals or volunteers, the Secretary shall not permit the use of volunteers in hazardous duty or law enforcement work or in policymaking processes, or to displace any employee: *Provided*, That the services of individuals whom the Secretary determines are skilled in performing hazardous activities may be accepted.

SEC. 2. Section 307 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2766; 43 U.S.C. 1737) is amended by adding at the end thereof the following new subsections:

"(d) The Secretary may recruit, without regard to the civil service classification laws, rules, or regulations, the services of individuals contributed without compensation as volunteers for aiding in or facilitating the activities administered by the Secretary through the Bureau of Land Management.

"(e) In accepting such services of individuals as volunteers, the Secretary—

"(1) shall not permit the use of volunteers in hazardous duty or law enforcement work, or in policymaking processes or to displace any employee; and

"(2) may provide for services or costs incidental to the utilization of volunteers, including transportation, supplies, lodging, subsistence, recruiting, training, and supervision.

"(f) Volunteers shall not be deemed employees of the United States except for the purposes of the tort claims provisions of title 28, United States Code, and subchapter 1 of chapter 81 of title 5, United States Code, relating to compensation for work injuries.

"(g) Effective with fiscal years beginning after September 30, 1984, there are authorized to be appropriated such sums as may be necessary to carry out the provisions of subsection (d), but not more than $250,000 may be appropriated for any one fiscal year.".

SEC. 3. (a) The Congress finds that—

(1) the public lands administered by the National Park Service, the Bureu of Land Management, and the United States Fish and Wildlife Service contain valuable wildlife, scenery, natural and historic features, and other resources;

(2) the Congress has specified the duties and responsibilities of the National Park Service, the Bureau of Land Management, and the United States Fish and Wildlife Service to balance the conservation and protection of these public lands and resources with permitted uses in ways Congress has found to be appropriate for each of the various land areas;

(3) the National Park Service, the Bureau of Land Management, and the United States Fish and Wildlife Service are currently under congressional mandates to maintain sufficient visitor and recreational services in our national parks, campgrounds, and wildlife refuges;

(4) the Congress has authorized the National Park Service, the Bureau of Land Management, and the United States Fish and Wildlife Service to contract for the provision of certain facilities, accommodations, and services by non-Federal entities, but with certain limitations that reflect the values and appropriate management policies of the various conservation areas, parks, wildlife refuges, and other public lands;

(5) expansion of the contracting authority of the managers of these conservation areas, parks, wildlife refuges, and lands should be considered only after careful study of the existing management mandates and contracting authorities; and

(6) management and regulation of natural resources on Federal lands are inherently government functions and should be performed by Federal employees.

(b)(1)(A) The provisions of Office of Management and Budget Circular A-76 and any similar provisions in any other order or directive shall not apply to activities conducted by the National Park Service, United States Fish and Wildlife Service and the Bureau of Land Management which involve ten full time equivalents (FTE) or less.

(B) For fiscal years 1985 through and including 1988, no contracts, for activities conducted by the National Park Service, United States Fish and Wildlife Service, or the Bureau of Land Management which have been subject to the provisions of Office of Management and Budget Circular A-76 or any similar provision in any other order or directive, shall be entered into by the United States until funds have been specifically provided therefor by an Act of Congress.

(2) Nothing in this section shall prevent the National Park Service, United States Fish and Wildlife Service and the Bureau of Land Management from entering into contracts for services and materials under provisions of law and rules, regulations, orders, and policies other than the circular referred to in paragraph (1) or any similar order or directive.

SEC. 4. (a) Beginning in fiscal year 1985, the National Park Service shall implement a maintenance management system into the maintenance and operations programs of the National Park System. For purposes of this section the term "maintenance management system" means a system that contains but is not limited to the following elements:

(1) a work load inventory of assets including detailed information that quantifies for all assets (including but not limited to buildings, roads, utility systems and grounds that must be maintained) the characteristics affecting the type of maintenance work performed;

(2) a set of maintenance tasks that describe the maintenance work in each unit of the National Park System;

(3) a description of work standards including frequency of maintenance, measurable quality standard to which assets should be maintained, methods for accomplishing

work, required labor, equipment and material resources, and expected worker production for each maintenance task;

(4) a work program and performance budget which develops an annual work plan identifying maintenance needs and financial resources to be devoted to each maintenance task;

(5) a work schedule which identifies and prioritizes tasks to be done in a specific time period and specifies required labor resources;

(6) work orders specifying job authorizations and a record of work accomplished which can be used to record actual labor and material costs; and

(7) reports and special analyses which compare planned versus actual accomplishments and costs and can be used to evaluate maintenance operations.

(b) The National Park Service shall transmit to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the U.S. Senate, at the end of each fiscal year, a copy of a report summarizing the status of implementation of a maintenance management system until such a system has been implemented.

The report shall incorporate the following information:

(1) the number of units in the National Park System that have implemented a maintenance management system during the period;

(2) contract costs versus management efficiencies achieved;

(3) the total amount of dollars spent on contracts for services; and

(4) estimation of the total value of benefits achieved through greater management efficiency.

Mr. WALLOP. Mr. President, S. 864, a bill to amend the Volunteers in the Park Act of 1969, was passed in the Senate 1 year ago on September 15, 1983. On August 6, 1984, the House of Representatives passed S. 864, with one unrelated and two related amendments. The related amendments would place a $1 million annual authorization ceiling on the National Park Service's Volunteer Program and the second would place a $250,000 annual authorization ceiling on the Bureau of Land Management's Volunteer Program. We have no objection to these amendments.

The unrelated amendment adds a new section to the bill which would exempt the National Park Service, the Bureau of Land Management, and the Fish and Wildlife Service from the Office of Management and Budget's Circular No. A-76 contracting directive or similar provisions, except as specifically authorized by law. The amendment does not, however, prevent the agencies from entering into contracts for services and materials under other provisions of law and rules, regulations, orders, and policies other than the A-76 or similar directives. I would like to point out here that the Park Service contracted out nearly $89 million in projects during the past fiscal year.

There has been growing concern among my colleagues, both in the Senate and in the House, about the manner in which the Department of the Interior has moved forward in implementing the contracting guidelines within Interior agencies. Interior's attempt to review functions carried out by the agencies that are commercial in nature has created some problems in implementation and understanding the issue.

The A-76 process may not clearly distinguish between commercial activities and mission-related responsibilities. And where commercial activities and agency activities overlap, potential consequences exist for a loss of nationally significant resources. Because of the individual character, requirements, and responsibilities of each park unit, the general A-76 process, as developed by the Interior Department, could have a negative impact on the resources that those parks are to protect.

Perhaps there is an alternative to A-76 that will accomplish what the A-76 process intended, but without the potentially dangerous side-effects that concern many of my colleagues.

Last year, at my request and the request of Senator McCLURE, the Comptroller General undertook a study of the maintenance operations of the National Park System. The request was stimulated in part by a 1980 report by the General Accounting Office which highlighted a NPS construction backlog of health and safety deficiencies estimated at $1.6 billion. As my colleagues will recall, the NPS implemented the 5-year, $1 billion Park Restoration and Improvement Program to try to bring park facilities up to an acceptable safety standard.

I mention this by way of background for what I am about to describe in our amendment to S. 864. The 1984 GAO report, which I just mentioned, identified an area where the National Park Service is very weak, its maintenance program. The report—National Park Service needs a maintenance management system—states the following:

The Service has billions of dollars in assets that should be properly maintained. The Service has not had a systematic servicewide approach to maintaining its assets and does not know if proper maintenance has been done and whether maintenance has been done efficiently. Past inspections indicated that park facilities were deteriorating at an accelerated rate. Further, the Service is not in a $1 billion multiyear park restoration and improvement program to restore and rehabilitate park facilities. Unless the service improves its management of maintenance activities, newly restored facilities and systems also may be subjected to accelerated deterioration.

The Park Service recognizes the benefits of implementing such a system, and in fact, has begun pilot projects at several park units. Preliminary results show that such a system can stretch limited dollars farther than the current system provides. Savings of up to 15 percent of the Service's current maintenance budget would allow them to accomplish additional needed work. The kind of savings and efficiency possible under a maintenance management system in the NPS make it a viable alternative to that contemplated by the A-76 process. In developing such a system, numerous benefits could accrue:

First, the Service's most efficient organization is identified;

Second, maintenance levels are determined and performance standards are developed to achieve those maintenance levels;

Third, jobs that should be contracted are identified in the process of developing the system.

I urge my colleagues to support our amendment to ban implementation of the A-76 program for 10 FTE's or less, and prohibit the NPS, BLM, and Fish and Wildlife Service from entering into contracts under the provision of A-76 until Congress specifically provides the funds by an act of Congress. We also require the National Park Service, in the upcoming fiscal year, to begin to hire consulting firms with professional maintenance engineers capable of working with park operations people who are familiar with the resources, in designing a maintenance management system for the service. My amendment does not call for any additional authorizations; the Service is simply directed to proceed with the implementation of the recommendations contained in the GAO report using available park operations money. Further, the amendment requires that an annual report be forwarded to the Congress. The report would require some specific information, such as:

First, the number of parks that are developing a maintenance management system;

Second, contract costs versus management efficiencies achieved;

Third, the total amount of dollars spent on contracts for services; and

Fourth, estimation of the total value of benefits achieved through greater management efficiency.

The National Park Service has spent in excess of $3 million to implement the A-76 process, with little or no benefit to the private sector. Instituting the maintenance management system will involve the private sector immediately as expert consultants will be hired to work with the professional park operations personnel at the Park Service.

I am assured by GAO that Service personnel are capable of developing a system for each unit within 3 or 4 years, with the assistance of consultants. The benefit of hiring a nonservice consultant is the assurance that traditional methods and habits won't

interfere with the need to develop the most efficient system available.

I should assure my colleagues that the system studies in the GAO report have been successfully used by parks Canada and several State park departments in the United States.

I should also remind you that such a system would include the Service's preservation maintenance program which, conservatively speaking, contains 10,000 primary historic structures and thousands of structures of secondary importance. A maintenance management system would also include the 7,000 miles of roads in the parks that, in today's dollars, are a $20 billion asset investment.

GAO estimates that conversion of the Service's maintenance operation to a maintenance management system could cost $10 million. This amount is justified, however, by the GAO as follows:

First, the large annual Park Service maintenance budget—was in excess of $290 million in fiscal year 1985;

Second, the Service's current maintenance problems; and

Third, the potential to recapture the development and implementation costs through reduced maintenance costs, increased productivity, and the nonmeasurable benefits.

My colleagues, who have expressed sincere concerns about the impact of the A-76 process on the natural and cultural resources of the park system, and the negative impact on employee morale, should be encouraged by the development of a maintenance management system, since core mission functions are protected by this systems approach. My colleagues who, like myself, believe in the private sector contracting and the A-76 process should support this amendment as it will result in contracting the functions and jobs that should be better performed in the private sector.

Therefore, I urge my colleagues to accept this amendment in the nature of a substitute.

Mr. BAUCUS. Mr. President, I rise in support of S. 864, a bill to amend the Volunteers in the Parks Act of 1969. Included in these amendments is a provision restricting the implementation of OMB Circular A-76 in our national parks, wildlife refuges and Bureau of Land Management administered lands.

The Department of the Interior has accelerated the contracting of Federal jobs to the point that natural resource protection and public safety in our national parks and wildlife refuges is threatened. I fear that the implemenation of this program will be detrimental to our natural resources.

Our parks and refuges represent an important part of this country's heritage. The care, maintenance, and management of these resources is of critical concern to all Americans.

Each national park and wildlife refuge is a unique environment. Each was created under a carefully thought-out specific mandate. The management of these areas has evolved through careful stewardship. The employees of these areas are some of the most dedicated in the entire Federal system.

APPLICATION OF A-76 IN NATURAL RESOURCE MANAGEMENT

OMB Circular A-76 was not intended to be utilized in slap-dash fashion. Any governmental function which is so intimately related to the public interest as to mandate performance by Government employees, is exempted from the requirements of A-76. The regulation specifically states that "regulation of the use of space, ocean, rivers, and other natural resources" are considered governmental functions.

OMB Circular A-76 is directed at "commercial activity." This activity is defined as: First, operated by a Federal agency that "provides a product or service which could be obtained from a commercial source." It was meant for things such as janitorial services or mailroom operations.

The Department of the Interior in its implementation of OMB Circular A-76 has been irresponsible to the spirit of the circular. Natural resource agencies have always been recognized for the unique management situations confronting them.

Rather than take a go-slow approach, the Department moved up the date for implementation of A-76 far ahead of OMB's date of implementation; the end of fiscal year 1987. Former Interior Secretary James Watt had hoped to have A-76 implemented by the end of fiscal 1984. When it became apparent that this date could not be met, Secretary Clark eased the deadline somewhat, setting first a 1985 date and apparently now, a 1986 date. But, this action does not alleviate my concerns with the implementation of A-76 in our national parks, wildlife refuges, and Bureau of Land Management lands.

A GO-SLOW APPROACH

My concern for the Department of the Interior's actions in regards to A-76 are not new. As part of the supplemental agriculture appropriations passed by Congress last spring, I offered an amendment to send a signal to the Department of the Interior to go slow. This amendment was accepted and became law.

Basically, the amendment asked that the Department of the Interior send up their study reports prior to undertaking the actual contracting out of any governmental service determined to be contracted out as part of A-76. Since that time, the Park Service has used my amendment to accelerate contracting out.

There is a growing awareness that the Department of the Interior's implementation of A-76 is out of control. Even OMB has objected to Interior's handling of the program, and requested that the Department "halt any study currently underway of under 10 FTE's" where the Department does "not foresee savings significantly greater than the costs of completing the study."

EXISTING CONTRACTING IN PARKS

The National Park Service already contracts out at least 15 percent of its operations. This figure does not include the substantial amount of services provided by the private sector through concessions contracts. Contracting out in national parks has long been an important part of park management. This contracting is undertaken not just because it is a way to reduce Federal employment, but because it was appropriate and desirable in meeting the needs of the visiting public and in protecting the natural and cultural resources of the individual park unit.

There is nothing wrong with contracting, per se, but this contracting should only occur under carefully thought-out conditions.

NEED TO GET PROGRAM BACK ON TRACK

There is a need for a carefully thought-out approach to this problem. This amendment to the Volunteers in Parks Act will accomplish two goals. It will: First, require Congress to act prior to implementation of OMB circular A-76 studies by the National Park Service, the U.S. Fish and Wildlife Service, or the Bureau of Land Management for 4 years. It will thus insure that ill-conceived contracting out does not irreparably damage natural resource protection or public safety. Second, the amendment addresses the critical need to have the Park Service implement a system to manage overall maintenance activities in our national parks and monuments.

The Department of the Interior's National Park Service manages the 334 unit National Park System which includes national parks, preserves, monuments, seashores, rivers, battlefields, and historic sites on over 79 million acres of developed and undeveloped land. The Service spends millions of dollars annually—about $290 million in fiscal year 1983—to maintain facilities valued in billions of dollars, including buildings, roads, bridges, monuments, hiking trails, and ultility systems. The General Accounting Office visited a number of national park units in 1983. What they found was that important maintenance tasks are simply not being accomplished. Most park superintendents said that shortages of money and personnel were the primary reason certain maintenance was not being undertaken, but

none of the superintendents knew how much money was even needed.

Instead of working to insure adequate maintenance facilities, the Department of the Interior has chosen to abdicate its responsibility and turn these functions over to the private sector. If they lack the ability to manage the resources internally, the effect of turning these functions over to the private sector will be unthinkable.

It is irresponsible to move forward with an accelerated A-76 implementation program without looking at the overall direction of maintenance management. You cannot separate the need for well-thought-out management controls from contracting out.

CONCLUSION

I commend my colleague from Wyoming, Senator WALLOP, and my colleague from Arkansas, Senator BUMPERS, for their leadership in working with me to resolve this issue.

Mr. President, I believe that this bill is prudent, much-needed legislation. I urge my colleagues to enact it promptly.

Mr. President, because of the issue of Government bidding and the effects of the OMB Circular A-76 on the bidding process, I wonder if my distinguished colleague from Wyoming would mind clarifying a few points about the effects of the Senate amendments on the A-76 process.

It is my understanding that any Government function consisting of 10 FTE's or fewer is exempted from having to undergo an A-76 type study. I have some fear, however, that this exemption might prompt some agencies to group smaller functions into larger categories in order to circumvent or escape the 10 or under requirement. To avoid any confusion on this point, I believe it is the Senate's clear intent that the Park Service, Fish and Wildlife Service, and the Bureau of Land Management utilize only their current inventory of job functions, as they submitted them to Congress in the hearing process.

S. 864 also requires that the Department submit any contract proposal developed pursuant to the provisions of Office of Management and Budget circular A-76 or any similar provision in any order or directive to Congress before they can proceed. It is my understanding that this process allows the study portion of the A-76 program to go forward, but stops the process short of any actual solicitation or granting of public bids. This approach allows the Government to continue the internal study of efficiency.

I believe the Senator from Wyoming and I agree that there is a need for increased efficiency in Government operations. This need should not, however, alter the congressional, statutory mandates given our various Government agencies. What we are proposing today is a responsible contract study program that allows internal review but also assures responsible congressional oversight.

Mr. WALLOP. Mr. President, I am certainly pleased to help clarify with my colleague from Montana some of the points included in S. 864 and the A-76 circular.

The Senator from Montana is correct in his assertion that any Government function in the Park Service, Fish and Wildlife Service or Bureau of Land Management of 10 FTE's or fewer, is exempt from the A-76 circular. It is not the intent of the Senate that this should encourage the bunching of job descriptions and, to avoid confusion, these agencies should address only those functions identified by their current inventory.

On his second point, it is absolutely the intent of this legislation that only the study portion of the A-76 guidelines be allowed to go forward. Any actual contract/bid portion of the circular can only be completed after the Congress has acted in an appropriations bill.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 7038) was agreed to.

BILL PLACED ON CALENDAR—HR 5787

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be discharged from further consideration of H.R. 5787, a bill to remove an impediment to oil and gas leasing of certain Federal lands in Corpus Christi, TX, and Port Hueneme, CA, and that it be placed on the calendar

The PRESIDING OFFICER. Without objection, it is so ordered.

APPRECIATION TO THE ENTERTAINMENT INDUSTRY

Mr. BAKER. Mr. President, I now send to the desk a resolution for Mr. ROTH and others, and I ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 472) expressing the appreciation of the Senate to members of the entertainment industry, especially the Entertainment Industries Council, for their concern over the drug problem in America, and urging the industry to undertake a comprehensive program to communicate to the citizens of the United States the dangers of drug abuse.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 472) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 472

Expressing the appreciation of the Senate to members of the entertainment industry, especially the Entertainment Industries Council, for their concern over the drug problem in America, and urging the industry to undertake a comprehensive program to communicate to the citizens of the United States the dangers of drug abuse.

Whereas the growing incidence of drug usage in the United States presents a clear and present danger to our society; and

Whereas efforts to reduce the supply of drugs in the United States have not been successful to a satisfactory degree; and

Whereas in light of this failure to substantially curtail drug supplies, the reduction of drug demand may be our only other means of lessening the impact of drugs in our society; and

Whereas the entertainment industry of the United States, comprising radio, television, movies, theater, video and audio recordings, and other communications means, has extraordinary ability to reach the citizens of this country, especially the youth of America:

Therefore be it Resolved that:

(1) the Senate commends those members of the entertainment industry, especially the Entertainment Industries Council, who are now working to use the substantial influence and resources of the industry to effectively discourage the use of drugs in our society; and

(2) the Senate urges the entertainment industry to continue to use the enormous resources at its disposal to communicate the dangers of drug usage to out citizens in the same creative and effective manner that we have come to expect in the commercial activities of the industry.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

BILL HELD AT DESK—H.R. 6216

Mr. BAKER. Mr. President, I ask unanimous consent that once the Senate receives from the House H.R. 6216, to amend the Bankruptcy Amendments and Federal Judgeship Act of 1984 to make technical corrections with respect to the retirement of certain bankruptcy judges, it be held at the desk pending further disposition.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXTENSION OF PATENT NO. 3,376,198

Mr. BAKER. Mr. President, I ask that the Chair lay before the Senate a

message from the House of Representatives on S. 1711.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 1711) entitled "An Act to extend Patent Numbered 3,376,198, and for other purposes", do pass with the following amendments:

Strike out all after the enacting clause, and insert: That the Secretary of Commerce, acting through the Commissioner of Patents and Trademarks, shall, when patent numbered 3,376,198 (relating to the production of antibodies in milk) expires, extend such patent for fifteen years, with all the rights pertaining thereto.

Amend the title so as to read; "An Act providing for a fifteen-year extension of patent numbered 3,376,198.".

Mr. BAKER. Mr. President, I move the Senate concur in the House amendments.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

BILL PLACED ON CALENDAR—H.R. 6286

Mr. BAKER. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of H.R. 6286.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. And that that measure be placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

VIRGINIA WILDERNESS ACT

Mr. BAKER. Mr. President, a matter that I am sure brings great pleasure to our colleague from Virginia, I now ask the Chair lay before the Senate Calendar No. 1193, S. 2805.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 2805) to designate certain public lands in Virginia as additions to the National Wilderness Preservation System.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Agriculture, Nutrition, and Forestry with an amendment to strike out all after the enacting clause and insert the following:

That this Act may be cited the "Virginia Wilderness Act of 1984."

DESIGNATION OF WILDERNESS AREAS

SEC. 2. In furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131-1136), the following lands in the State of Virginia are hereby designated as wilderness and, therefore, as components of the National Wilderness Preservation System:

(1) certain lands in the Jefferson National Forest, Virginia, which comprise approximately six thousand three hundred and seventy-five acres, as generally depicted on a map entitled "Beartown Wilderness—Proposed", dated February 1984, and which shall be known as the Beartown Wilderness;

(2) certain lands in the Jefferson National Forest, Virginia, which comprise approximately five thousand five hundred and eighty acres, as generally depicted on a map entitled "Kimberling Creek Wilderness—Proposed", dated 1984, and which shall be known as the Kimberling Creek Wilderness;

(3) certain lands in the Jefferson National Forest, Virginia, which comprise approximately five thousand seven hundred and thirty acres, as generally depicted on a map entitled "Lewis Fork Wilderness—Proposed", dated February 1984, and which shall be known as the Lewis Fork Wilderness;

(4) certain lands in the Jefferson National Forest, Virginia, which comprise approximately three thousand four hundred acres, as generally depicted on a map entitled "Little Dry Run Wilderness—Proposed", dated February 1984, and which shall be known as the Little Dry Run Wilderness;

(5) certain lands in the Jefferson National Forest, Virginia, which comprise approximately three thousand eight hundred and fifty-five acres, as generally depicted on a map entitled "Little Wilson Creek Wilderness—Proposed", dated February 1984, and which shall be known as the Little Wilson Creek Wilderness;

(6) certain lands in the Jefferson National Forest, Virginia, which comprise approximately eight thousand two hundred and fifty-three acres, as generally depicted on a map entitled "Mountain Lake Wilderness—Proposed", dated February 1984, and which shall be known as the Mountain Lake Wilderness;

(7) certain lands in the Jefferson National Forest, Virginia, which comprise approximately three thousand three hundred and twenty-six acres, as generally depicted on a map entitled "Peters Mountain Wilderness—Proposed", dated February 1984, and which shall be known as the Peters Mountain Wilderness;

(8) certain lands in the Jefferson National Forest, Virginia, which comprise approximately two thousand four hundred and fifty acres, as generally depicted on a map entitled "Thunder Ridge Wilderness—Proposed", dated February 1984, and which shall be known as the Thunder Ridge Wilderness;

(9) certain lands in the Jefferson National Forest, Virginia, which comprise approximately two hundred acres, as generally depicted on a map entitled "James River Face Wilderness Addition—Proposed", dated September 1984, and which are hereby incorporated in, and shall be deemed to be a part of, the James River Face Wilderness as designated by Public Law 93-622;

(10) certain lands in the George Washington National Forest, Virginia, which comprise approximately six thousand seven hundred and twenty-five acres, as generally depicted on a map entitled "Ramseys Draft Wilderness—Proposed", dated January 1984, and which shall be known as the Ramseys Draft Wilderness; and

(11) certain lands in the George Washington National Forest, Virginia, which comprise approximately ten thousand and ninety acres, as generally depicted on a map entitled "Saint Mary's Wilderness—Proposed", dated January 1984, and which shall be known as the Saint Mary's Wilderness.

MAPS AND DESCRIPTIONS

SEC. 3. As soon as practicable after enactment of this Act, the Secretary of Agriculture shall file a map and a legal description of each wilderness area designated by this Act with the Committee on Interior and Insular Affairs and the Committee on Agriculture of the United States House of Representatives and with the Committee on Agriculture, Nutrition, and Forestry of the United States Senate. Each such map and description shall have the same force and effect as if included in this Act, except that correction of clerical and typographical errors in each such map and description may be made by the Secretary. Each such map and description shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Department of Agriculture.

ADMINISTRATION OF WILDERNESS

SEC. 4. Subject to valid existing rights, each wilderness area designated by this Act shall be administered by the Secretary of Agriculture in accordance with the provisions of the Wilderness Act governing areas designated by that Act as wilderness, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the date of enactment of this Act.

EFFECTS OF RARE II

SEC. 5. (a) The Congress finds that—

(1) the Department of Agriculture has completed the second roadless area review and evaluation program (RARE II); and

(2) the Congress has made its own review and examination of National Forest System roadless areas in the State of Virginia and of the environmental impacts associated with alternative allocations of such areas.

(b) On the basis of such review, the Congress hereby determines and directs that—

(1) without passing on the question of the legal and factual sufficiency of the RARE II final environmental statement (dated January 1979) with respect to National Forest System lands in States other than Virginia, such statement shall not be subject to judicial review with respect to National Forest System lands in the State of Virginia;

(2) with respect to the National Forest System lands in the State of Virginia which were reviewed by the Department of Agriculture in the second roadless area review and evaluation (RARE II) and those lands referred to in subsection (d), except those lands designated for wilderness study upon enactment of this Act, that review and evaluation or reference shall be deemed for the purposes of the initial land management plans required for such lands by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, to be an adequate consideration of the suitability of such lands for inclusion in the National wilderness Preservation System and the Department of Agriculture shall not be required to review the wilderness option prior to the revisions of the plans, but shall review the wilderness option when the plans are revised, which revisions will ordinarily occur on a ten-year cycle, or at least every fifteen years, unless, prior to such time, the Secretary of Agriculture finds that conditions in a unit have significantly changed;

(3) areas in the State of Virginia reviewed in such final environmental statement or referenced in subsection (d) and not designated as wilderness or for wilderness study upon enactment of this Act shall be man-

aged for multiple use in accordance with land management plans pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976: *Provided* That such areas need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of the initial land management plans;

(4) in the event that revised land management plans in the State of Virginia are implemented pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, and other applicable law, areas not recommended for wilderness designation need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of such plans, and areas recommended for wilderness designation shall be managed for the purpose of protecting their suitability for wilderness designation as may be required by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, and other applicable law; and

(5) unless expressly authorized by Congress, the Department of Agriculture shall not conduct any further statewide roadless area review and evaluation of National Forest System lands in the State of Virginia for the purpose of determining their suitability for inclusion in the National Wilderness Preservation System.

(c) As used in this section, and as provided in section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, the term "revision" shall not include an "amendment" to a plan.

(d) The provisions of this section shall also apply to National Forest System roadless lands in the State of Virginia which are less than five thousand acres in size.

DESIGNATION OF WILDERNESS STUDY AREAS

SEC. 6. (a) In furtherance of the purposes of the Wilderness Act, the Secretary of Agriculture shall review, as to their suitability for preservation as wilderness, the following lands in the State of Virginia:

(1) certain lands in the George Washington National Forest, which comprise approximately nine thousand three hundred acres, as generally depicted on a map entitled "Rough Mountain Wilderness Study Area—Proposed", dated 1984, and which shall be known as the Rough Mountain Wilderness Study Area;

(2) certain lands in the George Washington National Forest, which comprise approximately five thousand six hundred acres, as generally depicted on a map entitled "Rich Hole Wilderness Study Area—Proposed", dated January 1984, and which shall be known as the Rich Hole Wilderness Study Area;

(3) certain lands in the Jefferson National Forest, which comprise approximately five thousand eight hundred and seventy-five acres, as generally depicted on a map entitled "Barbours Creek Wilderness Study Area—Proposed", dated February 1984, and which shall be known as the Barbours Creek Wilderness Study Area; and

(4) certain lands in the Jefferson National Forest, which comprise approximately four thousand three hundred acres, as generally depicted on a map entitled "Shawvers Run Wilderness Study Area—Proposed", dated February 1984, and which shall be known as the Shawvers Run Wilderness Area.

(b) In carrying out the review required under this section, the Secretary shall give public notice at least sixty days in advance of any hearing or other public meeting concerning a study area.

(c) Subject to valid existing rights, the wilderness study areas designated by this section shall, until Congress determines otherwise, be administered by the Secretary so as to maintain their presently existing wilderness character and potential for inclusion in the National Wilderness Preservation System.

(d) The Secretary, in consultation with the Environmental Protection Agency and the State of Virginia, shall evaluate and report to Congress no later than two years after the date of enactment of this Act on the effects of the proposed industrial development site at Covington, Virginia, on air quality on the areas designated for wilderness study by this Act. The Secretary shall provide an interim report to the appropriate committees of Congress no later than one year after the date of enactment of this Act.

BUFFER ZONES

SEC. 7. Congress does not intend that designation of wilderness areas in the State of Virginia lead to the creation of protective perimeters or buffer zones around each wilderness area. The fact that nonwilderness activities or uses can be seen or heard from areas within the wilderness shall not, of itself, preclude such activities or uses up to the boundary of the wilderness area.

Mr. BAKER. Mr. President, is the amendment a committee substitute?

The PRESIDING OFFICER. The amendment is a substitute.

Mr. BAKER. I ask the Chair put the question on the committee substitute.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. BAKER. Mr. President, may we have third reading?

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. BAKER. Mr. President, I now ask that the Chair lay before the Senate H.R. 5121.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 5121) to designate certain forest system lands in the State of Virginia as wilderness, and for other purposes.

Mr. BAKER. Mr. President, I move to strike all after the enacting clause and insert the text of S. 2805, as amended.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. WARNER. Mr. President, I express my profound gratitude to the distinguished majority leader and minority leader who facilitated the passage of this legislation. This legislation is cosponsored by myself and my distinguished colleague Mr. TRIBLE on the Senate side, and on the House side by two Members of Congress, Mr. BOUCHER of the Ninth Congressional District and Mr. OLIN of the Sixth Congressional District. It represents a joint bipartisan effort by the Virginia congressional delegation. It is an important step forward in the history of the Commonwealth.

The Virginia Wilderness Act of 1984 reflects a delicate balance between the desire to preserve Virginia in its natural state and the need to promote economic growth.

It is the result of years of hard work by many interested Virginians, including sportsmen, environmentalists, industrialists, property owners, and State and local officials.

The bill designates 11 areas totaling approximately 56,000 acres of land as part of the National Wilderness Preservation System.

These proposed wilderness areas represent less than 4 percent of Virginia's national forest lands.

The areas earmarked for wilderness include nine areas in the Jefferson National Forest: Beartown in Tazewell County, Kimberling Creek in Bland County, Lewis Fork in Smyth and Grayson Counties, Little Wilson Creek in Grayson County, Little Dry Run in Wythe County, Mountain Lake in Giles and Craig Counties, Peters Mountain in Giles County, Thunder Ridge in Botetourt, Rockbridge, and Bedford Counties, and James River Face Addition in Rockbridge County.

Also included for wilderness designation are two areas in the George Washington National Forest.

They are Ramsey's Draft in Augusta County and St. Mary's in Augusta County.

Mr. David Cockrell and Mr. Emett Pritchard of the Division of Health, Physical Education, and Recreation of Virginia Polytechnic Institute & State University in Blacksburg, VA, have prepared a summary of each of Virginia's proposed wilderness areas.

The descriptions are largely derived from the U.S. Department of Agriculture's Forest Service RARE II summaries.

I request that this summary of the proposed Virginia wilderness areas be included in the RECORD.

Four other areas totaling approximately 25,000 acres are designated for wilderness study—a classification that will temporarily protect them from development while their qualities are evaluated to determine if they are worthy of the wilderness designation.

While this evaluation is underway, the Forest Service will work in conjunction with the EPA and the State of Virginia to determine what impact the air quality and plant and wildlife of these four sites will have on a large

scale industrial expansion being planned in a nearby community.

The proposed Virginia wilderness areas are class II, and they will remain class II if designated as wilderness.

Designating lands as wilderness does not change their air quality standards under the Clean Air Act.

Under existing law, the Governor of Virginia has the authority by administrative action to upgrade all class II areas in Virginia to class I regardless of whether they are wilderness or not.

Because class I's air quality standards are so stringent, a class I area can curtail economic growth in nearby communities.

Although I cannot guarantee that some future Congress will not unilaterally upgrade all wilderness areas to class I, two factors make this highly unlikely in my judgment.

These factors are the total number of wilderness sites throughout the United States which would be impacted and the number of wilderness sites which are in close proximity to urban areas.

As of 1980, at least 23 cities with populations in excess of 10,000 have class II wilderness sites within 20 miles of their borders.

Several of these cities are large and well known such as Albuquerque, Salt Lake City, and Tucson.

As of December 1983, there were more than 160 wilderness sites in the U.S. with a class II air quality designation.

More than 20 States have wilderness bills pending in this Congress so that by the end of 1984 the number of class II wilderness areas will increase substantially.

More and more States and their Representatives in the Congress will have a stake in any upgrading of the air quality standards of wilderness areas.

Formidable opposition could be anticipated if Congress were to take any action that might preempt the future economic growth of these prominent American cities and those smaller communities that are also near class II wilderness sites.

Despite this, there is still some degree of apprehension on this issue and the air quality study proposed in this bill will answer many of the questions that have been asked.

This evaluation will determine whether or not these study sites—if made wilderness and if someday upgraded to class I air quality standards—will limit the future economic development of nearby communities. When that question is answered, I will once again evaluate the appropriateness of designating these areas as wilderness.

All the lands included in this bill are federally owned as part of the National Forest System, so no private property will be condemned. In addition, lands that adjoin the sites will not be affected as the bill prohibits the establishment of buffer zones around the wilderness areas.

Hence this will preclude the possibility of banning nonwilderness activities in tracts surrounding the wilderness designations, simply because they could be seen or heard from the wilderness areas themselves.

In addition to establishing roughly 56,000 acres of wilderness, the bill closes out the RARE II uncertainties that have existed since 1979.

Approximately 157,000 acres of land that had been held in wilderness study in Virginia since 1979, will now be released for multiple use management by the Forest Service. We are thus returning to multiple use roughly three times the amount of land being placed in wilderness. This newly released land will thus be available for mining, timber production, petroleum production, and intensive recreational uses subject to National Forest Service management plans.

The drafting of this legislation has involved extensive discussions among all Virginians and it reflects a balance that is fair to all interests.

It insures that present and future generations will have the opportunity to visit Virginia wilderness areas, and it does so without jeopardizing jobs or unduly hindering development of our natural resources.

The legislation will protect forever an irreplaceable part of our natural heritage, so that our children and grandchildren will have the opportunity to experience what we all too often take for granted.

As a result, I ask the Senate to act favorably on this needed legislation and I extend my appreciation to all Virginians, the chairman of the Subcommittee on Soil and Water Conservation, Forestry and Environment and the chairman of the Committee on Agriculture, Nutrition, and Forestry for their great assistance in moving this legislation to this point.

Mr. TRIBLE. Mr. President, I am very pleased to join with the senior Senator from Virginia, Mr. WARNER, in coming before this body today to speak in behalf of S. 2805, the Virginia Wilderness Act.

This bill is the product of many months of field hearings and discussions with interested parties. The bill is carefully drawn to balance industry and conservation concerns.

Briefly, the bill protects the choicest 81,000 acres of natural wilderness either in wilderness or wilderness study categories. It returns 157,000 acres to Forest Service multiple-use management to be used for future timber or mineral resources. In order to answer industry concerns about economic expansion in the vicinity of wilderness, the bill also requires a definitive study of air-quality's impact on nearby wilderness areas.

The bill places roughly 56,000 acres in 11 areas into the National Wilderness Preservation System. Nine of these areas were recommended for wilderness in RARE II: Beartown, Little Dry Run, Lewis Fork, Little Wilson Creek, Kimberling Creek, Thunder Ridge, and Peters Mountain in the Jefferson Forest; and Ramseys Draft and St. Mary's in the George Washington Forest.

The 10th area, Mountain Lake in the Jefferson Forest, was recommended for further planning in RARE II, the area's study is now complete and the Forest Service endorses Mountain Lake for inclusion in the wilderness system. This area, along with Ramseys Draft and Peters Mountain, were designated in the Eastern Wilderness Act of 1975 as wilderness study area. The 11th area is a 200-acre addition to the existing James River Face Wilderness area; currently Virginia's only permanent wilderness area. All 11 areas have been managed as wilderness since the early 1970's; many have been untouched by development activities since the creation of the national forests in Virginia.

These areas possess exceptional wilderness qualities: Virgin stands of hemlock and spruce; mature hardwood forests; large populations of black bear, Virginia white tail deer, wild turkey, and other species. The Appalachian trail and native trout streams traverse a number of the areas. The recreational and sport opportunities for hunting, fishing, hiking, and camping area are exceptional. Individually and collectively, these areas deserve the protection of permanent wilderness status.

An additional four areas comprising 25,000 acres are designated as wilderness study. The study designation protects them from development activities and preserves their wilderness qualities, while the Forest Service continues to study them for possible future inclusion in the national wilderness system. These areas are: Rough Mountain and Rich Hole in the George Washington Forest; and Shawvers Run and Barbours Creek in the George Washington Forest. Rough Mountain and Rich Hole were recommended for wilderness in RARE II; Shawvers Run and Barbours Creek were designated as nonwilderness. We include the last two in our bill because of strong local support for their wilderness designation.

The acreage placed into permanent wilderness by this bill is less than 4 percent of the national forest lands in the State and less than 1 percent of the total land in Virginia.

There has been overwhelming public support for this proposal. Over 5,000 interested individuals have written me

expressing their wish that these areas be protected. However, manufacturing industries in the vicinity of the wilderness areas have voiced concern about the future of industrial growth in the area. Some believe that a future Governor of Virginia, or perhaps a future Congress, will upgrade wilderness areas from class II to class I air quality under the prevention of significant deterioration [PSD] program.

There is no doubt that such an upgrade would make it difficult to attract new industry to the area. However, a thorough review of the law and the facts convinces me that such an upgrade is improbable.

Creating jobs for the future is important to every State and can be guaranteed only by continued economic growth through industrial expansion.

Congress recognizes that decisions about industrial expansion and air-quality controls should be left to the States. The Clean Air Act gives sole authority to the Governor to upgrade any area within a State from class II to class I.

For an upgrade to take place, the law requires the Governor to hold thorough public hearings coupled with extensive analysis of the potential health, economic, social, environmental, and energy impacts of the upgrade. Also, the Governor must consult with the Federal Government when the lands involved belong to a Federal agency.

All parties: national and Virginia environmental organizations, the Governor of Virginia and Virginia's two U.S. Senators, have indicated that they not only would not seek, but would oppose, such an upgrade of wilderness from class II to class I.

However, in an effort to put to rest any final fears about the impact of wilderness designation on economic development, our bill requires that the Secretary of Agriculture in cooperation with the Environmental Protection Agency, investigate the impact of air-quality standards on the four study areas in the bill. The Secretary is required to report the findings to Congress in 2 years. This study will provide us with a basis for appropriate action in the future.

In summary, Mr. President, I believe that this bill represents a balanced approach to wilderness preservation in Virginia. It is the culmination of years of work on many parts: industry, conservationists, Forest Service, and the Virginia congressional delegation. It is a good proposal which protects both the environment and economic interests. I believe that it's time to resolve this issue so that we can proceed to other matters, and I urge my colleagues to join Senator WARNER and me in supporting this important measure.

Mr. HELMS. Mr. President, the Virginia wilderness bill is the last bill in a package of six bills that were recently reported by the Senate Committee on Agriculture, Nutrition, and Forestry. Wilderness bills for Georgia, Mississippi, Texas, Tennessee, and Pennsylvania were passed by the Senate yesterday.

The Virginia wilderness bill incorporates the standard release language that was agreed to earlier this year and has been included in a number of wilderness bills already enacted by Congress. Other amendments to the bills are covered in some detail in the committee report. Also, an additional amendment will be offered to the Virginia bill to clarify map references.

The Virginia wilderness bill was reported by the committee with an amendment. The bill would designate approximately 55,984 acres in 11 areas as wilderness. The bill also designates four areas for wilderness study, totaling approximately 25,075 acres. The bill requires the Forest Service to conduct an air quality study on the impact of increased emissions on the wilderness study areas.

Mr. President, I am pleased today that the committee is able to consider the Virginia wilderness bill. As has been the case in each of the previous nine wilderness bills reported by the committee and passed by the Senate this year, the Virginia bill is reasonable, and provides for the continuation of responsible management of the National Forest System. I would like to commend the Senators from Virginia for the work and effort that they and their staffs have put into these bills.

The passage of this bill will bring the total number of Eastern wilderness bills passed by the Committee on Agriculture, Nutrition, and Forestry to 10 for this session. The members of the committee have again demonstrated their commitment to the development of the National Wilderness Preservation System, as well as their perseverance in insisting on sound multiple-use management policy.

Mr. RANDOLPH. Mr. President, I commend the very able Senator from Virginia [Mr. WARNER] for his diligence and perseverance in bringing the Virginia Wilderness Act to the Senate for consideration. He has been an effective and constructive advocate.

I am particularly interested in the Senator's comments regarding the impact air quality designations of the wilderness areas will have on large-scale industrial expansion being planned in nearby communities. As the Senator knows, we have discussed this issue on several occasions and he shares my concern that we take no action that will adversely impact ongoing and proposed economic development activities in Virginia and the adjoining counties in West Virginia. We have been particularly concerned over the expansion activities of Westvaco Corp. in our States.

It is my judgment, after careful study of this wilderness proposal and based on my understanding of the Clean Air Act, there does not appear to be anything in the creation of certain wilderness areas by the bill likely to seriously affect proposed Westvaco operations in Virginia and West Virginia.

As the Senator stated, provisions of the Clean Air Act give only the Governor of Virginia, in this instance, the authority to reclassify any wilderness areas in the State as class I areas. This seems quite unlikely to occur. Since the passage of the Clean Air Act, there has been only one instance of an upgrading: an Indian reservation in Montana. My long experience on the Senate committee that drafted the Clean Air Act causes me to believe it is inconceivable that the Congress will legislate any classification changes in the foreseeable future.

My review of the Clean Air Act, of which I was an author, indicates that in the extremely remote event of a wilderness area being upgraded to class I, industrial development would not be completely foreclosed and certainly not in the large area feared. It seems from maps provided by Westvaco that several of the proposed wilderness areas for which it sought further study appear already in areas influenced by existing class I designations.

Mr. WARNER. Mr. President, I agree with the Senator from West Virginia [Mr. RANDOLPH].

Those of us who proposed the Virginia Wilderness Act have painstakingly reviewed the economic impact of this bill. We concluded that this measure will not inhibit industrial expansion being planned in nearby communities. This includes the activities of Westvaco Corp.

As I indicated, under existing law, the Governor of Virginia has the authority by administrative action to upgrade all class II areas in Virginia to class I regardless of whether they are wilderness or not. Further, it is highly unlikely that some future Congress will upgrade wilderness areas to class I.

There were more than 160 wilderness sites in the United States with a class II air quality designation as of last December. More than 20 States have wilderness bills pending in this Congress. By the end of 1984, the number of class II wilderness areas will increase substantially. Many States and Members of Congress have an intense concern over any upgrading of the air quality standards of wilderness areas. Very significant opposition would be generated if Congress were to take any action that might adversely affect the future growth of Ameri-

can cities and smaller communities that are near class II wilderness sites.

Mr. STEVENS. Mr. President, I want to commend the Senators from Virginia and the members of the Agriculture Committee in working out a wilderness bill.

As you know Mr. President, I have risen on several prior occasions when the Senate has considered wilderness legislation to point out that it has done so only when the Senate delegation from the State or States affected has agreed to the terms of the legislation.

This is an important principle which should be followed at all times when the Senate considers legislation impacting on the use—or as is the case here, nonuse—of public land in a State. This is of importance to the people of Eastern States where there is relatively little public land relative to the amount of private land. It is a principle of vital importance to States, such as my State of Alaska, where the Federal Government remains the dominant land owner.

Again I congratulate the Chairman of the Agriculture Committee and the Senators from Virginia in working out a bill acceptable to all.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

The bill (H.R. 5121), as amended, was passed.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. WARNER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EXECUTIVE SESSION

Mr. BYRD. Mr. President, I have a little present I want to give to the distinguished majority leader.

Mr. BAKER. Mr. President, I thank the minority leader from the bottom of my heart.

I hold in my hand the approval and clearance notations on 11 new members of the Federal judiciary. This has been cleared on the Democratic side and has been cleared on this side. I am profoundly grateful to the minority for doing that. He did not have to do that under the circumstances. It is well within his power to stop us from doing this, but I express my gratitude—and I am sure the gratitude of the President of the United States—to all Senators, and particularly to the minority leader and to the distinguished ranking minority member of the Judiciary Committee.

Mr. President, I ask unanimous consent that the Senate now go into executive session for the purpose of considering the following judicial nominations: Calendar Nos. 973, 1007, 1011, 972, 974, 975, 1013, 1019, 1012, 1009, and 1028.

There being no objection, the Senate proceeded to the consideration of executive business.

The PRESIDING OFFICER. The nominations will be stated.

Mr. BAKER. Mr. President, I ask unanimous consent that the nominations be considered and confirmed en bloc.

The PRESIDING OFFICER. Without objection, the nominations are considered en bloc and confirmed en bloc.

The nominations considered and confirmed en bloc are as follows:

THE JUDICIARY

Emory M. Sneeden, of South Carolina, to be United States Circuit Judge for the Fourth Circuit.

H. Ted Milburn, of Tennessee, to be United States Circuit Judge for the Sixth Circuit.

Thomas A. Higgins, of Tennessee, to be United States District Judge for the Middle District of Tennessee.

Juan R. Torruella, of Puerto Rico, to be United States Circuit Judge for the First Circuit.

Cynthia Holcomb Hall, of California, to be United States Circuit Judge for the Ninth Circuit.

Charles E. Wiggins, of Virginia, to be United States Circuit Judge for the Ninth Circuit.

William D. Keller, of California, to be United States District Judge for the Central District of California.

Walter S. Smith, Jr., of Texas, to be United States District Judge for the Western District of Texas.

Charles R. Norgle, Sr., of Illinois, to be United States District Judge for the Northern District of Illinois.

Richard F. Suhrheinrich, of Michigan, to be United States District Judge for the Eastern District of Michigan.

Howard D. McKibben, of Nevada, to be United States District Judge for the District of Nevada.

CHARLES R. NORGLE, SR.

● Mr. PERCY. Mr. President, I am pleased that the Senate is about to act on the nomination of Charles R. Norgle, Sr., of Illinois to be a U.S. District Judge for the Northern District of Illinois. It was my pleasure to recommend Mr. Norgle to the President on July 19, for appointment to this important position. When confirmed, Mr. Norgle will fill one of the five newly created seats in the U.S. District Court for the Northern District of Illinois.

Charles Norgle currently serves with distinction as a Du Page County Circuit Judge. He began his service on the bench in 1973 when he was first appointed as a Du Page County Associate Judge. He previously served 2 years as Du Page County Public Defender and 1 year as Du Page County Assistant State's Attorney. Mr. Norgle holds a J.D. degree from John Marshall Law School.

I am convinced that Judge Norgle will continue to uphold the tradition of excellence which now exists on the Northern District Court. He gained the respect and admiration of many of our sitting judges and the Chicago legal community.

One interesting fact about Judge Norgle's background illustrates one of the many reasons I can support his confirmation without question. During his law school days, Charles Norgle held a full-time job during the day, attended law school classes at night, and managed to raise nine children. Only an enormous amount of energy and a complete devotion to the law could have made possible the task which he had set out for himself. Certainly that energy and devotion are evident in Judge Norgle's 12 years on the bench. In that 12 years he has demonstrated a deep understanding of the law and the judiciary. His approach to each of the hundreds of cases he presided over every year is conscientious and meticulous. When editorializing about his race for Du Page County Circuit Court Judge, the Chicago Suburban Tribune called Judge Norgle "an experienced, intelligent, thoughtful, articulate judge." I could not agree more.●

Mr. THURMOND. Mr. President, I rise today to give my unqualified support to Dean Emory M. Sneeden of South Carolina, President Reagan's nominee for the position of U.S. Circuit Court Judge for the Fourth Circuit Court of Appeals.

Dean Sneeden was born in Wilmington, NC. He was on active duty with the U.S. Army from 1945 to 1946. After leaving the Army, he entered Wake Forest University where in 1949 he received his bachelor of science degree. Dean Sneeden then entered the Wake Forest University School of Law. However, prior to graduation, he was recalled to active duty with the Army and in 1953, after a brief leave of absence, he received his J.D. degree.

He later attended the Hague Academy of International Law, The Hague, Netherlands. In 1955, Dean Sneeden transferred from the infantry to the Judge Advocate General's Corps, where he gained the reputation as one of the most competent and able jurists in the Army. Dean Sneeden served with distinction throughout this period, rising to the rank of brigadier general, where he served in the very prestigious position of Chief Judge of the entire U.S. Army.

After his retirement in 1975, Dean Sneeden joined the staff of the Senate Judiciary Committee. During his tenure on the committee he served with distinction in a number of positions, including minority chief counsel

and staff director for the Subcommittee on Antitrust and Monopoly, chief minority counsel for the Committee on the Judiciary, and later as the chief counsel for the Judiciary Committee.

Dean Sneeden became an associate dean and lecturer of law at the University of South Carolina Law School in 1978. After leaving the Senate, he remained in that position until he joined the very prestigious law firm of McNair, Glenn, Konduros, Corley, Singletary, Porter & Dibble, one of South Carolina's outstanding law firms.

Dean Sneeden is recognized as an able scholar. He has been a guest faculty participant in seminars at Harvard University School of Law, the John F. Kennedy School of Government, and the Brookings Institute. His publications appear in such distinguished journals as the Antitrust Bulletin and the Harvard Journal on Legislation.

Dean Sneeden is known as a man of ability, integrity, and independence. He is a dedicated and trustworthy individual whose actions exemplify the courage of his convictions. Dean Sneeden's impressive record speaks for itself. He has the experience and judicial temperament to become an outstanding judge for the circuit court of appeals. It was with considerable pride that I recommended Dean Sneeden to President Reagan for this very important position, and it is with an equal amount of pride that I today recommend him to this body. I urge my colleagues to vote in favor of his confirmation.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the nominations were confirmed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, I ask unanimous consent that the President be immediately notified that the Senate has given its consent to these nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate return to the consideration of legislative business.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, will the distinguished majority leader provide for me a 15-minute order following the standing order for the two leaders?

Mr. BAKER. Yes.

Mr. President, I announced earlier that the Senate would convene at 2:30 p.m. Would the minority leader mind if we came in at 2 p.m., had leader time, and a special order of 15 minutes in his favor?

Mr. BYRD. That is all right.

ORDER FOR RECESS UNTIL 2 P.M. TODAY; ORDER FOR RECOGNITION OF SENATOR BYRD

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate stand in recess until 2 p.m. today; that after the recognition of the two leaders under the standing order, there be a special order in favor of the distinguished minority leader for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 2 P.M. TODAY

Mr. BAKER. Mr. President, I move, in accordance with the order previously entered, that the Senate stand in recess until 2 p.m. today.

The motion was agreed to; and at 9:32 a.m. the Senate recessed until 2 p.m. today, Thursday, October 4, 1984.

NOMINATIONS

Executive nominations received by the Senate October 3, 1984:

INTER-AMERICAN DEVELOPMENT BANK

Jose Manuel Casanova, of Florida, to be U.S. Executive Director of the Inter-American Development Bank for a term of 3 years, reappointment.

FOREIGN CLAIMS SETTLEMENT COMMISSION OF THE UNITED STATES

Frank H. Conway, of Massachusetts, to be a member of the Foreign Claims Settlement Commission of the United States for the term expiring September 30, 1987, reappointment.

DEPARTMENT OF THE INTERIOR

John D. Ward, of Colorado, to be Director of the Office of Surface Mining Reclamation and Enforcement, vice James R. Harris.

NATIONAL ADVISORY COUNCIL ON WOMEN'S EDUCATIONAL PROGRAMS

Elizabeth Helms Adams, of California, to be a member of the National Advisory Council on Women's Educational Programs for a term expiring May 8, 1987, vice Diana Powers Evans, term expired.

EXPORT-IMPORT BANK OF THE UNITED STATES

Richard H. Hughes, of Oklahoma, to be a member of the Board of Directors of the Export-Import Bank of the United States for a term expiring January 20, 1985, vice James Ernest Yonge, resigned.

MARINE MAMMAL COMMISSION

Karen Pryor, of Washington, to be a member of the Marine Mammal Commission for the term expiring May 13, 1986, vice Donald Kenneth MacCallum, term expired.

Robert Elsner, of Alaska, to be a member of the Marine Mammal Commission for the term expiring May 13, 1987, vice Robert B. Weeden, term expired.

NATIONAL SCIENCE FOUNDATION

Annelise Graebner Anderson, of California, to be a member of the National Science Board, National Science Foundation, for a term expiring May 10, 1990, vice Walter Eugene Massey, term expired.

Simon Ramo, of California, to be a member of the National Science Board, National Science Foundation, for a term expiring May 10, 1990, vice Eugene H. Cota-Robles, term expired.

Karen J. Lindstedt-Siva, of California, to be a member of the National Science Board, National Science Foundation, for a term expiring May 10, 1990, vice Charles Pence Slichter, term expired.

U.S. ADVISORY COMMISSION ON PUBLIC DIPLOMACY

Tom C. Korologos, of Virginia, to be a member of the U.S. Advisory Commission on Public Diplomacy for a term expiring July 1, 1987, reappointment.

IN THE COAST GUARD

The following Regular officers of the U.S. Coast Guard for promotion to the grade of captain:

Robert T. Willoughby	Richard E. Ruhe, Jr.
Donald C. Addison	Theodore P. Brandsma
John P. Deleonardis	Daniel K. Shorey
Alfred W. Harrell	Richard R. Bock
George F. Martin	David A. Meadows
Morris D. Helton	David O. Drake
Norman T. Saunders	David E. Clements
Richard D. Herr	James C. Card
Galen R. Siddall	Michael B. Stenger
Andrew F. Durkee, Jr.	Edward K. Roe, Jr.
William R. Wilkins	Richard S. Jarombek
Stephen P. Plusch	George E. Watts
David N. Arnold	Kenneth W. Thompson
Harry E. Budd, Jr.	James R. Sherrard
Alan D. Rosebrook	Berne C. Miller
Robert E. Hammond II	Jerry J. Surbey
Arnold H. Litteken, Jr.	Gordon G. Piche
Thomas J. McCarthy	Joseph H. Maka
Walter C. Reissig	Richard L. Anderson
Larry A. Murdock	John E. Lindak
David Zawadzki	Timothy V. Johnson
George A. Bachtell	Robert J. Heid
Charles W. Murray	Jerry C. Bacon
Gary C. Nelson	Richard V. Butchka
Larry R. Hyde	Ronald J. Davies
Stephen H. Davis	Leo J. Black, Jr.
Robert L. Zeller	Delbert L. Hemphill
William J. Loefstedt	William H. Rollins, Jr.
James H. Donahue	Donald A. Anderson
	Roger T. Rufe, Jr.

The following Regular officers of the U.S. Coast Guard for promotion to the grade of lieutenant:

Richard S. Randall	Carl K. Anderson
David B. Hill	Paul K. Larson
Steven L. Hein	Douglas G. Becker
Jeffrey R. Pettitt	Michael J. Sigmon
Robert F. Corbin	Roy A. Nash
Richard W. Hatton	Bruce D. Branham
Edward R. Saleeby	Marvin P. Shook, Jr.
John E. Long	John E. Frost
Richard R. Schaefer	Jeffrey D. Holmgren
Patrick J. Nemeth	Rodrick M. Ansley
Keith D. Lepage	Steve T. Carter
George H. Self, Jr.	John J. Andrzejewski
Scott H. Evans	Vincent M. Campos
Mark P. Blace	David D. Skewes
Steven W. Ellis	David A. Masiero
Kevin L. Maehler	John H. Korn
Charles D. Pratt	Dennis M. Holland
Gerald R. Girard	P.C. Kelly
Edwin H. Daniels, Jr.	Davin R. Cilley
James B. Stricker III	David F. Quick
Larry E. Duerr	Shane C. Ishiki
Dan Larson	Bennett T. Bonomi
Lawrence V. Williams	Timothy V. Skuby
James I. Crowley	Everett F. Rollins III

Patrick H. Stadt
Mark P. Watson
Scott D. Genovese
Richard M. O'Rourke
Patrick J. Dietrich
Timothy J. Leahy
William A. Dyson
Phillip J. Johnson
Jeffrey S. Gorden
Mark A. Feldman
Michael M. Millar
Michael A. Jett
Robert S. Disbrow
James L. Durrett
Garry C. Garner
Carsten L. Henningsen III
Christopher J. Smith
Michael W. Dubose
Joseph S. Domozick
Lewis S. Blankenship
Daniel A. Mussatti
John D. Bogle
Daniel A. Cutrer
David N. Griffith
Paul T. Butler
Harold W. Finch, Jr.
Keith L. Patterson
William D. Baumgartner
Richard B. Burt
Harry E. Haynes III
Mark J. Yost
Dale G. Streyle
James A. Sartucci
David F. Gosselin
Hale B. Simonds
Kevin D. Krumdieck
Randell B. Sharpe
Charles W. Jenkins
Stephen J. Danscuk
Kenneth B. Parris
Glenn G. Miller
Marc C. Cruder
Robert E. Mobley
Douglas S. Daeffler
Carlton J. Ditto
James W. Wright
John H. Sweeney
Rodney D. Raines III
Charles Rice
Donald A. Hermanson
Wallace T. Williamson
William M. Salbonik
Andrew J. Kot, Jr.
Kenneth E. Woycke
Michael S. Black
Peter D. Christensen
Richard J. Blount, Jr.
Larry L. Stover
Richard A. McCullough
David T. Ormes
William C. Richards
Mark A. Tilford
Glen R. Zeamer
David M. Poissant
Lary R. Hammond
Edward G. Leblanc
Kenneth G. Forstmeier
James C. Preisig
Robert C. Weil
William L. Zack
Curtis A. Stock
Steven W. Carman
Larry R. White
Mark A. Jackson
Michele Fitzpatrick
John G. Cline
Stephen E. Mehling
Daniel N. Riehm
William R. Marhoffer
Brandt R. Weaver
David S. Hill
Michael O. Aholt
Jay J. Brown
William H. Reynolds
George H. Heintz
Michael R. Wroblewski
George J. Rezendes, Jr.
Jeffrey H. Barker
Raymond H. Carlson, Jr.
Paul J. Reid
Ralph A. Petereit
Mark R. Steinhilber
Kevin J. Cavanaugh
Michael A. Suire
Daniel L. Wright
Kathy A. Hamblett
Darren B. Wolter
Baird S. Ritter
Jeff R. Brown
Robert M. Hilpert
Joseph C. Lichamer
Joseph F. Rodriguez
Robert W. Danahy
Tracy S. Allen
Tim L. Fields
Michael C. Ghizzoni
Thomas L. Rydell
Louis R. Montello, Jr.
Steven M. Veit
James D. Maes
Craig M. Juckniess
Michael A. Neussl
Brian F. Binney
Joseph W. Brubaker
Kenneth W. Wilson
John M. Fidaleo
Michael D. Hudson
Gregory A. Mitchell III
Gregory L. Shelton
Jack N. Dujmovic
Robert J. Wilson IV
Jay D. Melott
George A. Asseng, Jr.
Michael J. Brown
Michael S. Fijalka
Michael R. Linsey
Christine J. Quedens
Leroy A. Jacobs, Jr.
Amancio S. Sanches
Bret K. McGough
John J. Wrynn, Jr.
Christopher D. Mills
Christopher P. Otto
Matthew D. Edwards
Christopher K. Lockwood
Jonathon P. Benvenuto
Michael P. Nerino
Joseph J. Sikora
Jody B. Turner
Douglas S. Taylor
Franklin R. Albero
Robert A. Ball, Jr.
Robert E. Day, Jr.
Michael E. Raber
Michael D. Inman
Luke Brown
William S. Benton
Monyee S. Smith
Theodore F. Gandy
Edward J. Wielichzhiewicz
Steven P. How
David E. Flesher
Robert J. Jones
Patrick W. Barnes
Clark D. Fowler
David J. Regan
Ronald J. Lokites
James A. McEwen
Tamara D. Rose
Joanne McCaffrey
Dean T. Baldus
Jean M. Butler
Stephen B. Glynn
Gary M. Smialek
Robert E. Acker
Bryan S. Kogut
Sharon W. Fijalka
James M. Sylvester
Kenneth J. Thorkildsen
Austin F. Callwood
Stanley J. O'Loughlin III
Richard D. Wright
Ian Grunther
Matthew K. Mumford
Richard M. Naccara
Grady H. Tuell
Frederick W. Rossmann
Gardner R. Yates, Jr.
Martin P. Conricote
Robert G. Bill, Jr.
Susan D. McKay
Elizabeth A. Steigerwald
Michael R. Mathwig
Sharon K. Christopherson
Kenneth P. Peters
Victor M. Rodriguez
Frank M. Faith, Jr.

The following temporary officers of the U.S. Coast Guard to be permanent commissioned officers in the grade of lieutenant (junior grade):

Lawrence V. Williams
Donald A. Hermanson
Wallace T. Williamson
William M. Salbonik
Andrew J. Kot, Jr.
Kenneth E. Woycke
Michael S. Black
Peter D. Christensen
Richard J. Blount, Jr.
Larry L. Stover
Richard A. McCullough
David T. Ormes
William C. Richards
Mark A. Tilford
Glen R. Zeamer
David M. Poissant
Larry R. Hammond
Edward G. Leblanc
David B. Hill
Michael A. Jett
Robert S. Disbrow
James L. Durrett
Garry C. Garner
Carsten L. Henningsen III
Christopher J. Smith
Michael W. Dubose
Joseph S. Domozick
Lewis S. Blankenship
Daniel A. Mussatti
John D. Bogle
Daniel A. Cutrer
David N. Griffith
Paul T. Butler
Harold W. Finch, Jr.
Keith L. Patterson

The following Reserve officers of the U.S. Coast Guard to be permanent commissioned officers in the grade of lieutenant:

Michael R. Beal
Kevin P. McGonagle

The following-named officer to be a permanent commissioned officer in the Coast Guard in the grade of chief warrant officer, W-4, having been found fit for duty while on the temporary disability retired list:

William J. Kaszubski

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Subject to qualifications provided by law, the following for permanent appointment to the grades indicated in the National Oceanic and Atmospheric Administration:

To be captains

John K Callahan, Jr.
Roy K. Matsushige
Charles Y. Molyneaux, Jr.
Bernard N. Mandelkern

To be commanders

William L. Adams
Stephen H. Manzo
Patrick L. Wehling, Jr.
George W. Jamerson
Burl L. Wescott
Robert K. Norris
Frank B. Arbusto, Jr.
Gerald W. Stanley

To be lieutenant commanders

Ted I. Lillestolen
Gary A. Van Den Berg
David L. Gardner
Dean L. Smehil
Neal G. Millett
Alan R. Bunn
Maureen R. Kenny
Stephen C. Jameson
Roger L. Parsons

To be lieutenants

Jose A. Rivera
J. Scott Ferguson
George E. White
Steven J. Konrad
James R. Gordon
Peter J. Celone
Richard E. Groff
John Zabitchuck
Jonathan Bailey
Franklin E. Ohlinger
Timothy B. Wright
Bradford L. Benggio
Richard S. Brown
Michael W. White

IN THE AIR FORCE

The following-named officers for permanent promotion in the U.S. Air Force, under the provisions of section 628, title 10, United States Code, as amended, with dates of rank to be determined by the Secretary of the Air Force.

LINE OF THE AIR FORCE

To be colonel

Dorsey, Clark B., [redacted]
Holtz, Robert L., [redacted]
Riedel, Jay E., [redacted]
Yandell, John R., [redacted]

JUDGE ADVOCATE

To be lieutenant colonel

Greenberg, Harvey, [redacted]

IN THE AIR FORCE

The following persons for Reserve of the Air Force appointment, in grade indicated, under the provisions of section 593, title 10, United States Code, with a view to designation under the provisions of section 8067, title 10, United States Code, to perform the duties indicated.

MEDICAL CORPS

To be colonel

Bart, Gerald N., [redacted]

To be lieutenant colonel

Payne, Gillis L., Jr., [redacted]

IN THE ARMY

The following officer for permanent promotion in the U.S. Army in accordance with the appropriate provisions of title 10, United States Code, section 624:

ARMY

To be major

Reeves, Lee E., Jr., [redacted]

IN THE ARMY

The following-named officers for permanent promotion in the U.S. Army in accordance with the appropriate provisions of title 10, United States Code, section 624:

ARMY

To be major

Despain, Milton M., [redacted]
Voss, Robert D., [redacted]

IN THE ARMY

The following-named officer for appointment as a branch transfer from Army Nurse Corps to Chemical under automatic integration in the Regular Army of the United States, in the grade of captain, under the provisions of sections 531, 532, 533, 3063, 3064, and 3283, title 10, United States Code:

McAndrew, Patrick B., [redacted]

The following-named Distinguished Honor Graduate of Officer Candidate School for appointment in the Regular Army of the United States, in the grade of second lieutenant, under the provisions of sections 531, 532, and 533, title 10, United States Code:

Hall, Gary A., [redacted]

The following-named officers for appointment under automatic integration in the Regular Army of the United States, in their promotion grade of major, under the provi-

sions of sections 531, 532, and 533, title 10, United States Code:

Absher, Charles W., xxx-xx-xxxx
Hunsaker, Kim D., xxx-xx-xxxx
Witt, William A., xxx-xx-xxxx

The following-named officer for appointment in the Regular Army of the United States, in his active duty grade of lieutenant colonel, under the provisions of sections 531, 532, and 533, title 10, United States Code:

Wigger, Lones W., Jr., xxx-xx-xxxx

IN THE ARMY

The following-named officers for permanent promotion in the U.S. Army in accordance with the appropriate provisions of title 10, United States Code, section 624:

ARMY

To be colonel

Pinomarina, Nestor G., xxx-xx-xxxx

To be lieutenant colonel

Bills, Peter J., xxx-xx-xxxx
Biskey, Alan D., xxx-xx-xxxx
Thornton, Robert E., xxx-xx-xxxx
Toland, Ray B., xxx-xx-xxxx

To be major

Burmood, Richard C., xxx-xx-xxxx
Sims, Isaac Jr., xxx-xx-xxxx

CHAPLAIN

To be major

Wight, William W., xxx-xx-xxxx

JUDGE ADVOCATE GENERAL'S CORPS

To be major

Houpe, David V., xxx-xx-xxxx
Jordan, Deborah E., xxx-xx-xxxx

IN THE ARMY

The following-named officers for promotion in the Reserve of the Army of the United States, under the provisions of title 10, United States Code, section 3383:

ARMY PROMOTION LIST

To be colonel

Bragg, Robert M., xxx-xx-xxxx
Clark, William N., xxx-xx-xxxx
Cottrell, David D., xxx-xx-xxxx
Glodek, Thomas R., xxx-xx-xxxx
Lau, Calvin, xxx-xx-xxxx
Lewis, Robert P., xxx-xx-xxxx
Morris, Benjamin O., xxx-xx-xxxx
Oshea, Timothy C., xxx-xx-xxxx
Pajak, Roger F., xxx-xx-xxxx
Perez, Edward G., xxx-xx-xxxx

CHAPLAIN

To be colonel

Gasquet, Mark C., xxx-xx-xxxx
McTaggart, Edward P., xxx-xx-xxxx
Rawlings, Lewis T., xxx-xx-xxxx

ARMY PROMOTION LIST

To be lieutenant colonel

Adams, Eugene C., xxx-xx-xxxx
Archibald, Michael, xxx-xx-xxxx
Arthurs, James S., xxx-xx-xxxx
Barron, William E., xxx-xx-xxxx
Battles, Fred C., xxx-xx-xxxx
Baumann, Allen A., xxx-xx-xxxx
Bonnell, Robert S., xxx-xx-xxxx
Brant, David W., xxx-xx-xxxx
Briggs, Errol C., xxx-xx-xxxx
Campbell, Willis M., xxx-xx-xxxx
Carroll, James J., xxx-xx-xxxx
Chesnut, Robert W., xxx-xx-xxxx
Clarkson, Nathaniel, xxx-xx-xxxx
Cloman, James R., xxx-xx-xxxx
Clymer, Albert A., xxx-xx-xxxx
Conlon, Arthur, xxx-xx-xxxx
Davis, Jerome F., xxx-xx-xxxx
Demeyer, Dennis E., xxx-xx-xxxx
Duster, Joseph R., xxx-xx-xxxx
Eggers, Russell A., xxx-xx-xxxx
Ely, Roy A., xxx-xx-xxxx
Equinozzi, Arthur M., xxx-xx-xxxx
Franklin, Miles H., xxx-xx-xxxx
Freeman, Ronald P., xxx-xx-xxxx
Gandy, Raymond E., Jr., xxx-xx-xxxx
Gardiner, William S., xxx-xx-xxxx
Gilbert, Robert B., xxx-xx-xxxx
Glass, Glen A., xxx-xx-xxxx
Gordon, Maurice K., II, xxx-xx-xxxx
Gray, John W., xxx-xx-xxxx
Halsey, Hugh W., xxx-xx-xxxx
Hardy, Bob A., xxx-xx-xxxx
Heaney, Herbert S., xxx-xx-xxxx
Hemingson, Harold K., xxx-xx-xxxx
Horan, John J., xxx-xx-xxxx
Huth, Melvin G., xxx-xx-xxxx
Johnson, James D., xxx-xx-xxxx
Johnston, Julian, B. xxx-xx-xxxx
Kelly, Charles W., IV, xxx-xx-xxxx
Kopacz, Joseph C., xxx-xx-xxxx
Krause, Garith W., xxx-xx-xxxx
Krier, Andrew M., xxx-xx-xxxx
Krueger, Kerry L., xxx-xx-xxxx
Lagattuta, Frank C., xxx-xx-xxxx
Lawhon, Edward H., xxx-xx-xxxx
Lemaire, Harold C., xxx-xx-xxxx
Lloyd, Jules B., xxx-xx-xxxx
Logan, Peter J., xxx-xx-xxxx
Martin, Lawrence E., xxx-xx-xxxx
Matuska, Michael C., xxx-xx-xxxx
McCloskey, James E., xxx-xx-xxxx
McGovern, Barnard F., xxx-xx-xxxx
McReynolds, Frank L., xxx-xx-xxxx
Murray, Robert E., xxx-xx-xxxx
Nadal, Rafael L., xxx-xx-xxxx
Nazzaro, Richard A., xxx-xx-xxxx
Nibarger, Daniel P., xxx-xx-xxxx
Noland, Jon R., xxx-xx-xxxx
O'Dell, Glenn L., xxx-xx-xxxx
Okimoto, Thomas A., xxx-xx-xxxx
Olson, James H., xxx-xx-xxxx
Osteen, David A., xxx-xx-xxxx
Paris, Gary E., xxx-xx-xxxx
Peggs, William J., xxx-xx-xxxx
Pomeroy, Robert G., xxx-xx-xxxx
Pomije, Henry W., xxx-xx-xxxx
Popken, Robert E., xxx-xx-xxxx
Price, James C., xxx-xx-xxxx
Rehberg, Clark F., xxx-xx-xxxx
Rivera, Jose M., xxx-xx-xxxx
Roe, John C., xxx-xx-xxxx
Rollins, Gene D., xxx-xx-xxxx
Romanowski, Bernard, xxx-xx-xxxx
Seigman, James E., xxx-xx-xxxx
Sinkewich, Lawrence, xxx-xx-xxxx
Smith, Kelley C., xxx-xx-xxxx
Sparkman, Thomas F., xxx-xx-xxxx
Spitznagle, William, xxx-xx-xxxx
Stubblefield, Alfred, xxx-xx-xxxx
Treese, Edwin J., xxx-xx-xxxx
Turner, Robert H., xxx-xx-xxxx
Warren, Charles V., xxx-xx-xxxx
Weaver, James B., xxx-xx-xxxx
Wilczak, Thomas P., xxx-xx-xxxx
Wilson, James L., xxx-xx-xxxx

ARMY NURSE CORPS

To be lieutenant colonel

Gallivan, Nancy J., xxx-xx-xxxx

MEDICAL CORPS

To be lieutenant colonel

Bergstrom, Jon F., xxx-xx-xxxx
Hodgell, Robert D., xxx-xx-xxxx
Roque, Celia G., xxx-xx-xxxx

MEDICAL SERVICE CORPS

To be lieutenant colonel

Bateman, Robert M.I., xxx-xx-xxxx
Melville, Thomas G., xxx-xx-xxxx
Thoma, John M., xxx-xx-xxxx
Wise, Charles R., xxx-xx-xxxx

VETERINARY CORPS

To be lieutenant colonel

Gordon, John C., xxx-xx-xxxx

The following-named officers for appointment in the Reserve of the Army of the United States, under the provisions of title 10, United States Code, section 593 and 3353:

MEDICAL CORPS

To be colonel

Close, James M., xxx-xx-xxxx
Quarantillo, Edward, xxx-xx-xxxx
Spiegl, Phillip G., xxx-xx-xxxx
Whang, Robert, xxx-xx-xxxx

MEDICAL CORPS

To be lieutenant colonel

Biggers, William H., xxx-xx-xxxx
Colon-Arvello, C., xxx-xx-xxxx
Cooper, Ronald H., xxx-xx-xxxx
Duffy, Adrian D., xxx-xx-xxxx
Dorazio, Richard A., xxx-xx-xxxx
Gilday, Robert F.X., xxx-xx-xxxx
Gill, Wilfred M., xxx-xx-xxxx
Huang, Yuan-Chao xxx-xx-xxxx
Jewett, Darrell C., xxx-xx-xxxx
Johnson, Rodney xxx-xx-xxxx
Kobb, Victor L., xxx-xx-xxxx
Lawrence, Dale N., xxx-xx-xxxx
Navarro, Alfonso V., xxx-xx-xxxx
Rando, Joseph J., xxx-xx-xxxx
Sare, Zlatko xxx-xx-xxxx
Schussheim, Arnold xxx-xx-xxxx
Scottoloni, Alfred xxx-xx-xxxx
Scudder, Harry G., xxx-xx-xxxx
Selman, Francis J., xxx-xx-xxxx
Sun, Jong C., xxx-xx-xxxx
Weisser, Roland J., xxx-xx-xxxx
Woo, David D.B., xxx-xx-xxxx

The following-named Army National Guard officers for promotion in the Reserve of the Army of the United States, under the provisions of title 10, United States Coast Guard, section 3385:

ARMY PROMOTION LIST

To be colonel

Baldwin, Edward S., xxx-xx-xxxx
Bilo, William C., xxx-xx-xxxx
Boland, David D., xxx-xx-xxxx
Cole, John C., xxx-xx-xxxx
Ferling, Robert W., xxx-xx-xxxx
Fidler, Philip R., xxx-xx-xxxx
Foster, David A., xxx-xx-xxxx
Freeman, David F.R., xxx-xx-xxxx
Gill, Dwight A. xxx-xx-xxxx
Henderson, Howard G., xxx-xx-xxxx
Johnson, Carl O. Jr., xxx-xx-xxxx
Johnson, Edwin E. Jr., xxx-xx-xxxx
Johnson, Richard D., xxx-xx-xxxx
McClure, Marcus O., xxx-xx-xxxx
Morris, Richard F., xxx-xx-xxxx
O' Connell, Robert J., xxx-xx-xxxx
O' Leary, Joseph P., xxx-xx-xxxx
Spaulding, Wayne J., xxx-xx-xxxx
Vanderveen, James R., xxx-xx-xxxx

ARMY PROMOTION LIST

To be lieutenant colonel

Adamo, Anthony R., xxx-xx-xxxx
Baran, Frank P., xxx-xx-xxxx
Borycz, Edmund S., xxx-xx-xxxx
Brumaghim, Myron. K., xxx-xx-xxxx
Casey, Dennis J., xxx-xx-xxxx
Cox, Lynn R., xxx-xx-xxxx
Deaton, Robert E., xxx-xx-xxxx
Dreiman, Richard J., xxx-xx-xxxx
Eaton, Ronald R., xxx-xx-xxxx
Fore, William G., Jr., xxx-xx-xxxx
Gourley, Jerome G., xxx-xx-xxxx
Green, Frank B., xxx-xx-xxxx
Greene, Patricia A., xxx-xx-xxxx
Harrision, Riley P., xxx-xx-xxxx

Hathcock, John D., xxx-xx-xxxx
Icenhower, Jerry D., xxx-xx-xxxx
Isham, Virgil B., xxx-xx-xxxx
James, William G., xxx-xx-xxxx
Jeanette, Jackie W., xxx-xx-xxxx
Jessup, Gregory A., xxx-xx-xxxx
Kauffman, Leonard A., xxx-xx-xxxx
Kelley, Wiliam J., xxx-xx-xxxx
Kinley, Thomas D., xxx-xx-xxxx
Krisak, Ronald W., xxx-xx-xxxx
Krull, Harley A., xxx-xx-xxxx
La Grow Joseph A., xxx-xx-xxxx
Looney, James B., xxx-xx-xxxx
Martin, Donnie L., xxx-xx-xxxx
Mc Nelley, Rodney A., xxx-xx-xxxx
Meeks, Cordell D., Jr., xxx-xx-xxxx
Meola, Mario., xxx-xx-xxxx
Merchant, Denis L., xxx-xx-xxxx
Mereness, Lawrence., xxx-xx-xxxx
Mitchell, John W., Jr., xxx-xx-xxxx
Mooneyham, Joseph S., xxx-xx-xxxx
Munkholm, Gray O., xxx-xx-xxxx
Murray, Louis L., Jr., xxx-xx-xxxx
Overturf, Wayne E., xxx-xx-xxxx
Ralph, Carole A., xxx-xx-xxxx
Ramirez, Carlos., xxx-xx-xxxx
Scearce, Grover E., xxx-xx-xxxx
Smith, David E., xxx-xx-xxxx
Soares, Francis C., xxx-xx-xxxx
Strawn, Marvin I., xxx-xx-xxxx
Sylvester, Gerald W., xxx-xx-xxxx
Thompson, Mathew A., xxx-xx-xxxx

ARMY NURSE CORPS

To be lieutenant colonel

Intress, Jane L., xxx-xx-xxxx
Newman, Ruth A., xxx-xx-xxxx

MEDICAL SERVICE CORPS

To be lieutenant colonel

Bomar, Julian C., xxx-xx-xxxx

IN THE ARMY

The following-named officers for promotion in the Reserve of the Army of the United States, under the provisions of title 10, United States Code, sections 3366, 3367 and 3370:

ARMY NURSE CORPS

To be colonel

Bolden, Pinkie L., xxx-xx-xxxx
Capper, Wallen J., xxx-xx-xxxx
Davis, Billie C., xxx-xx-xxxx
Ferington, Felicitu, xxx-xx-xxxx
Ferreira, Naomi, J., xxx-xx-xxxx
Finch, Barbara A., xxx-xx-xxxx
Fitzsimons, Claudia, xxx-xx-xxxx
Ford, Nancy I., xxx-xx-xxxx
Galey, Joan L.J., xxx-xx-xxxx
Gibbens, Dorothy J., xxx-xx-xxxx
Gonzalez, Ana, xxx-xx-xxxx
Howard, John H., xxx-xx-xxxx
Jantz, Duane L., xxx-xx-xxxx
Landis, Billye J., xxx-xx-xxxx
Mitchell, Georgia R., xxx-xx-xxxx
Pecukonis, Edward R., xxx-xx-xxxx
Piemonte, Robert, VI., xxx-xx-xxxx
Policare, Rocco J., xxx-xx-xxxx
Radle, Patricia J., xxx-xx-xxxx
Ray, Geraldyn M., xxx-xx-xxxx
Rowser, Essie L., xxx-xx-xxxx
Stanfield, Ruby N., xxx-xx-xxxx
Sullivan, Flora M., xxx-xx-xxxx
Sweeney, Sandra S., xxx-xx-xxxx
Thornton, Marilyn J., xxx-xx-xxxx
Wilson, Elizabeth P., xxx-xx-xxxx

DENTAL CORPS

To be colonel

Ballinger, Mark E., xxx-xx-xxxx
Courson, Richard C., xxx-xx-xxxx
Dedeaux, Paul J., xxx-xx-xxxx
Duckworth, James H., xxx-xx-xxxx
Dunn, Rex M., xxx-xx-xxxx
Essig, Milton E., xxx-xx-xxxx
Flynn, Walter M., xxx-xx-xxxx
Goldman, Barry M., xxx-xx-xxxx
Gustincic, David J., xxx-xx-xxxx
Haas, Eugene C., xxx-xx-xxxx
Hardy, John B., xxx-xx-xxxx
High, Roy S., xxx-xx-xxxx
Hoopes, Grover R., xxx-xx-xxxx
Johnson, Dean F., xxx-xx-xxxx
Katz, Robert A., xxx-xx-xxxx
Keith, Francis E., xxx-xx-xxxx
King, Max C., xxx-xx-xxxx
Klinger, Brent J., xxx-xx-xxxx
Kozal, Richard A., xxx-xx-xxxx
Lainson, Phillip A., xxx-xx-xxxx
Lemoine, David L., xxx-xx-xxxx
Lesmeister, Warren xxx-xx-xxxx
Poidmore, Sam J., xxx-xx-xxxx
Pommert, Charles J., xxx-xx-xxxx
Ricks, Claude L., xxx-xx-xxxx
Riggle, Brian M., xxx-xx-xxxx
Seymour, Fred W., xxx-xx-xxxx
Testo, Ernest J., xxx-xx-xxxx
Vitori, Robert A., xxx-xx-xxxx
Wilson, Roy L., xxx-xx-xxxx

MEDICAL CORPS

To be colonel

Allen, William R., xxx-xx-xxxx
Altman, Ruben, xxx-xx-xxxx
Anderson, Arthur O., xxx-xx-xxxx
Andes, Willard A., xxx-xx-xxxx
Arrington, Robyn J., xxx-xx-xxxx
Babcoke, Gary A., xxx-xx-xxxx
Bal, Jose A., xxx-xx-xxxx
Ballard, Phillip W., xxx-xx-xxxx
Barrow, Emile A., xxx-xx-xxxx
Beck, Jere L., xxx-xx-xxxx
Beekman, Jerome F., xxx-xx-xxxx
Beirne, Gilbert, xxx-xx-xxxx
Bench, Clyde J., xxx-xx-xxxx
Berger, Bernard W., xxx-xx-xxxx
Bikle, Daniel D., xxx-xx-xxxx
Bishop, Don L., xxx-xx-xxxx
Bloom, Kenneth, xxx-xx-xxxx
Board, John P., Jr., xxx-xx-xxxx
Boncina, Thomas, xxx-xx-xxxx
Brackett, Fred B., xxx-xx-xxxx
Brown, Robert S., xxx-xx-xxxx
Burroughs, Franklin, xxx-xx-xxxx
Butler, John E., xxx-xx-xxxx
Cabaud, Henry E., xxx-xx-xxxx
Carlin, Jean E., xxx-xx-xxxx
Clagett, George P., xxx-xx-xxxx
Cockrell, Wayne P., xxx-xx-xxxx
Congdon, James E., xxx-xx-xxxx
Covert, Thomas J., xxx-xx-xxxx
Currie, John M., xxx-xx-xxxx
Curtis, David J., xxx-xx-xxxx
Daneault, Fernand, xxx-xx-xxxx
Dees, Strawford H., xxx-xx-xxxx
Degreen, Hyatt P., xxx-xx-xxxx
Derr, Frank N., xxx-xx-xxxx
Deruyter, Hans A., xxx-xx-xxxx
Dilallo, Chester A., xxx-xx-xxxx
Donley, Patrick J., xxx-xx-xxxx
Duke, Dean W., xxx-xx-xxxx
Eisma, Jose A., xxx-xx-xxxx
Ersay, Ronald E., xxx-xx-xxxx
Fielding, Leonard T., xxx-xx-xxxx
Fitzwater, James E., xxx-xx-xxxx
Forster, Wolfram R., xxx-xx-xxxx
Frothingham, Rodney, xxx-xx-xxxx
Gallagher, Edgar G., xxx-xx-xxxx
Garza, Ben L., xxx-xx-xxxx
Griffith, Thomas G., xxx-xx-xxxx
Grossman, Joshua B., xxx-xx-xxxx
Hale, Nathan P., xxx-xx-xxxx
Haller, James G., xxx-xx-xxxx
Hanking, William H., xxx-xx-xxxx
Hannon, Donald W., xxx-xx-xxxx
Hauge, Arthur L., xxx-xx-xxxx
Haynes, James L., xxx-xx-xxxx
Heinitsh, Harry E., xxx-xx-xxxx
Hijmans, Jacqueline, xxx-xx-xxxx
Hoefner, Victor C., I, xxx-xx-xxxx
Holt, Charlene A., xxx-xx-xxxx
Hopkins, Charles D., xxx-xx-xxxx
Howe, Patrick A., xxx-xx-xxxx
Huggins, Phillip K., xxx-xx-xxxx
Hunter, Samuel B., xxx-xx-xxxx
Jackman, Roger L., xxx-xx-xxxx
Johnson, Larry D., xxx-xx-xxxx
Justice, Glen R., xxx-xx-xxxx
Katz, Theodore T., xxx-xx-xxxx
Kimball, Gordon R., xxx-xx-xxxx
Kingsley, Edwin J., xxx-xx-xxxx
Kitchens, Craig S., xxx-xx-xxxx
Knight, Wade L., xxx-xx-xxxx
Lababidi, Zuhdi A., xxx-xx-xxxx
Labarre, William E., xxx-xx-xxxx
Logan, William J., xxx-xx-xxxx
Marquez, Ramon L., xxx-xx-xxxx
McNitt, Theodore R., xxx-xx-xxxx
Melendez, Luis, H., xxx-xx-xxxx
Mongaya, Romeo B., xxx-xx-xxxx
Moore, Eugene A., xxx-xx-xxxx
Myers, Robert L., xxx-xx-xxxx
Nichols, James W., xxx-xx-xxxx
Nottebart, Harry C., xxx-xx-xxxx
Oddi, Michael A., xxx-xx-xxxx
Owens, Eddie L., xxx-xx-xxxx
Paulson, Bradford A., xxx-xx-xxxx
Person, Donald A., xxx-xx-xxxx
Prall, Robert H. xxx-xx-xxxx
Raia, Theodore J., xxx-xx-xxxx
Rosario, Norman, xxx-xx-xxxx
Rossiter, Francis P., xxx-xx-xxxx
Rudd, George H., xxx-xx-xxxx
Saunders, John R., xxx-xx-xxxx
Sbarbaro, John A., xxx-xx-xxxx
Schaupp, Ronald, xxx-xx-xxxx
Seaman, Richard W., xxx-xx-xxxx
Seliskar, John E., xxx-xx-xxxx
Sethi, Gulshan K., xxx-xx-xxxx
Sever, Joseph G., xxx-xx-xxxx
Shapiro, Robert L., xxx-xx-xxxx
Shildt, Richard A., xxx-xx-xxxx
Shmigel, Boris M., xxx-xx-xxxx
Shmookler, Barry M., xxx-xx-xxxx
Snodgrass, Phillip, xxx-xx-xxxx
Teer, Norman H., xxx-xx-xxxx
Tipton, Ancel C., Jr., xxx-xx-xxxx
Vanek, David, xxx-xx-xxxx
Walker, Robert A., xxx-xx-xxxx
Wehunt, William D., xxx-xx-xxxx
Welch, Roland L., xxx-xx-xxxx
White, Allison R., Jr., xxx-xx-xxxx

MEDICAL SERVICE CORPS

To be colonel

Bratland, Gary L., xxx-xx-xxxx
Brown, Duncan M., xxx-xx-xxxx
Campanaro, Joseph A., xxx-xx-xxxx
Dingman, Dennis A., xxx-xx-xxxx
Dwarica, Leonard A., xxx-xx-xxxx
Herden, Everett L., xxx-xx-xxxx
Hosley, Morrison J., xxx-xx-xxxx
Hougland, Arthur E., xxx-xx-xxxx
Kowalski, Larry M., xxx-xx-xxxx
Langhus, Mons A., xxx-xx-xxxx
Lasalvia, Anthony J., xxx-xx-xxxx
Martin, John A., xxx-xx-xxxx
McGill, Ralph S., xxx-xx-xxxx
McNabb, Michael T., xxx-xx-xxxx
Merritt, William H., xxx-xx-xxxx
Moore, Edward J., xxx-xx-xxxx
Nelson, Jerald O., xxx-xx-xxxx
Oakley, William E., xxx-xx-xxxx
Parker, John L., xxx-xx-xxxx
Perrino, Carl A., xxx-xx-xxxx
Saunders, Francis B., xxx-xx-xxxx
Selman, Steven E., xxx-xx-xxxx
Stephens, Loretta J., xxx-xx-xxxx
Stewart, Willie C., xxx-xx-xxxx
Stone, Robert P., xxx-xx-xxxx
Thompson, Edward A., xxx-xx-xxxx
Uhlmann, Jerry B., xxx-xx-xxxx
Washburn, Paul L., xxx-xx-xxxx
Whitney, Charles C., xxx-xx-xxxx
Williams, Robert L., xxx-xx-xxxx

ARMY MEDICAL SPECIALIST CORPS

To be colonel

Hanses, Judith R., xxx-xx-xxxx
Hart, James C., xxx-xx-xxxx
Kozlow, Beverly K., xxx-xx-xxxx
Zimmer, David H., xxx-xx-xxxx

VETERINARY CORPS

To be colonel

Jones, William O., xxx-xx-xxxx
Rodriguez, Pedro, xxx-xx-xxxx

ARMY NURSE CORPS

To be lieutenant colonel

Adams, Nancy L., xxx-xx-xxxx
Adaniel, Eleanor M., xxx-xx-xxxx
Anderson, Wilmer J., xxx-xx-xxxx
Andresky, Judith T., xxx-xx-xxxx
Ards, Carl B., Jr., xxx-xx-xxxx
Bangert, Judith A., xxx-xx-xxxx
Barron, Velma J., xxx-xx-xxxx
Bibey, Dorothy L., xxx-xx-xxxx
Bittel, Eileen M., xxx-xx-xxxx
Boquard, Patricia M., xxx-xx-xxxx
Boy, Kathryn W., xxx-xx-xxxx
Brecher, Nancy R., xxx-xx-xxxx
Brown, Virginia P., xxx-xx-xxxx
Bruce, Catherine A., xxx-xx-xxxx
Bryden, Eunice, xxx-xx-xxxx
Burke, Robert G., xxx-xx-xxxx
Cadorette, Syliva A., xxx-xx-xxxx
Campbell, Sandra J., xxx-xx-xxxx
Cantrell, Barbara J., xxx-xx-xxxx
Cardona, Virginia D., xxx-xx-xxxx
Carpenter, Mildred, xxx-xx-xxxx
Clarke, Sheila J., xxx-xx-xxxx
Conrad, Laura P., xxx-xx-xxxx
Cotterman, Jo Ann, xxx-xx-xxxx
Coughlan, Kathleen, xxx-xx-xxxx
Crane, Sue M., xxx-xx-xxxx
Crowson, Susan F., xxx-xx-xxxx
Dahl, Carol J., xxx-xx-xxxx
Darden, Arnetta L., xxx-xx-xxxx
Dempsey, Albert F., Jr., xxx-xx-xxxx
Drake, Audrey C., xxx-xx-xxxx
Evans, Loma A., xxx-xx-xxxx
Galla, Mary K., xxx-xx-xxxx
Gearhart, Sharon K., xxx-xx-xxxx
George, Geraldine M., xxx-xx-xxxx
Giedt, Jane F., xxx-xx-xxxx
Golden, Veronica R., xxx-xx-xxxx
Gravett, Wanda S., xxx-xx-xxxx
Greaves, Peggy E., xxx-xx-xxxx
Green, Irene A., xxx-xx-xxxx
Greene, Carol J., xxx-xx-xxxx
Hall, Jacqueline D., xxx-xx-xxxx
Hall, Mary F., xxx-xx-xxxx
Hall, Rebecca L., xxx-xx-xxxx
Harris, Madalyn B., xxx-xx-xxxx
Healy, Barbara M., xxx-xx-xxxx
Higgenbotham, P., xxx-xx-xxxx
Hoftiezer, Mary E., xxx-xx-xxxx
Huddleston, Joy L., xxx-xx-xxxx
Hutcherson, Annette, xxx-xx-xxxx
Hutcherson, Joan, xxx-xx-xxxx
Ibrahim, Elvira R., xxx-xx-xxxx
Jamieson, Sharon A., xxx-xx-xxxx
Johnson, Donald L., xxx-xx-xxxx
Johnson, Eva W., xxx-xx-xxxx
Johnson, Linda W., xxx-xx-xxxx
Jones, David P., xxx-xx-xxxx
Jones, Racheal L., xxx-xx-xxxx
Jones, William M., xxx-xx-xxxx
Keaveny, Mark W., xxx-xx-xxxx
Kesler, Linda L., xxx-xx-xxxx
King, Elizabeth R., xxx-xx-xxxx
Knight, Willie L., xxx-xx-xxxx
Kodlick, James R., xxx-xx-xxxx
Kramer, Linda C., xxx-xx-xxxx
Lansden, Shirley J., xxx-xx-xxxx
Leavitt, Emily R., xxx-xx-xxxx
LeMaster, Diane A., xxx-xx-xxxx
Leyba, Emma I., xxx-xx-xxxx
Lloyd, Robyn D., xxx-xx-xxxx
Lugo, Norma J., xxx-xx-xxxx
Lupacchino, Delia R., xxx-xx-xxxx
Madsen, Jane D., xxx-xx-xxxx
Maggard, Emma G., xxx-xx-xxxx
Mailey, Sharon K., xxx-xx-xxxx
Maltais, Elizabeth, xxx-xx-xxxx
Manela, Julita S., xxx-xx-xxxx
Manger, Maryn E., xxx-xx-xxxx
Manning, Frankie T., xxx-xx-xxxx
McCormack, Mary B., xxx-xx-xxxx
McDermott, Maureen, xxx-xx-xxxx
McDonald, Betty J., xxx-xx-xxxx
McGrath, Barbara J., xxx-xx-xxxx
McGregor, Virginia, xxx-xx-xxxx
McKeral, Patricia J., xxx-xx-xxxx
McMahon, Susan, xxx-xx-xxxx
Moeller, Winona M., xxx-xx-xxxx
Nelson, Joann W., xxx-xx-xxxx
Newman, Ruth A., xxx-xx-xxxx
O'Brien, Rosa L., xxx-xx-xxxx
O'Connor, Theresa, xxx-xx-xxxx
Olszanowski, P. L., xxx-xx-xxxx
O'Neil, James A., xxx-xx-xxxx
Padgett, Dolores J., xxx-xx-xxxx
Paduano, Mary A., xxx-xx-xxxx
Panter, Stephen D., xxx-xx-xxxx
Paulson, Nancy L., xxx-xx-xxxx
Pollock, Carol L., xxx-xx-xxxx
Powell, Ellen S., xxx-xx-xxxx
Price, William A., xxx-xx-xxxx
Rogers, Hyacinth A., xxx-xx-xxxx
Rorick, Robert C., xxx-xx-xxxx
Rudzki, Stella P., xxx-xx-xxxx
Russell, Kathleen T., xxx-xx-xxxx
Ryder, Cecil A., xxx-xx-xxxx
Satterfield, P. B., xxx-xx-xxxx
Sauer, Ronda L., xxx-xx-xxxx
Saul, Renee A., xxx-xx-xxxx
Seginski, Tincia A., xxx-xx-xxxx
Shaw, Hazel F., xxx-xx-xxxx
Sheppard, Helen R., xxx-xx-xxxx
Smith, Joan M., xxx-xx-xxxx
Solomon, Sandra S., xxx-xx-xxxx
Sorge, Myrtle C., xxx-xx-xxxx
Souder, Judy E., xxx-xx-xxxx
Sturrup, Jenesta L., xxx-xx-xxxx
Tablit, Odelia M., xxx-xx-xxxx
Tennis, George W., xxx-xx-xxxx
Tezak, Dolores A., xxx-xx-xxxx
Thompson, Sandra J., xxx-xx-xxxx
Torpey, Judith A., xxx-xx-xxxx
Truslow, Carol C., xxx-xx-xxxx
Vorheis, Nora A., xxx-xx-xxxx
Walker, Margaret A., xxx-xx-xxxx
Waros, Joy Ann H., xxx-xx-xxxx
White, Wanda F. P., xxx-xx-xxxx
Wilczek, Audrey A., xxx-xx-xxxx
Wilkes, Joyce C., xxx-xx-xxxx
Wilson, Jennifer A., xxx-xx-xxxx
Wood, Curtis J., xxx-xx-xxxx
Wright, Mary J., xxx-xx-xxxx
Young, Charlotte F., xxx-xx-xxxx

DENTAL CORPS

To be lieutenant colonel

Baeder, William F., xxx-xx-xxxx
Baldwin, John K., xxx-xx-xxxx
Battle, Pat M., xxx-xx-xxxx
Berrong, Joseph M., xxx-xx-xxxx
Beschenbossel, John, xxx-xx-xxxx
Blanks, Terry C., xxx-xx-xxxx
Briscoe, John E., xxx-xx-xxxx
Bryan, James G., Jr., xxx-xx-xxxx
Burbey, Mark A., xxx-xx-xxxx
Campbell, Samuel, Jr., xxx-xx-xxxx
Childress, Joseph, xxx-xx-xxxx
Christian, Charles, xxx-xx-xxxx
Clark, Charles B., xxx-xx-xxxx
Clark, James E., Jr., xxx-xx-xxxx
Cooke, Harold G., xxx-xx-xxxx
Cooper, Charles A., xxx-xx-xxxx
Cothren, Frederec B., xxx-xx-xxxx
Didomenico, Ronald, xxx-xx-xxxx
Dokken, Steven P., xxx-xx-xxxx
Dugan, Kevin J., xxx-xx-xxxx
Faunce, Frank R., xxx-xx-xxxx
Flaxman, Norman A., xxx-xx-xxxx
Forsythe, Larry J., xxx-xx-xxxx
Gerloff, Roger H., xxx-xx-xxxx
Giunta, John L., xxx-xx-xxxx
Gordon, Robert C., xxx-xx-xxxx
Greenstein, Gary, xxx-xx-xxxx
Hedlund, Steven K., xxx-xx-xxxx
Horiuchi, Harvard S., xxx-xx-xxxx
Kendall, Ralph L., Jr., xxx-xx-xxxx
Kirkpatrick, Seba W., xxx-xx-xxxx
Klee, Jimmy M., xxx-xx-xxxx
Klenotic, Ronald, xxx-xx-xxxx
Larsen, Steven J., xxx-xx-xxxx
Madden, John P., xxx-xx-xxxx
Meele, Fred E., xxx-xx-xxxx
Meenaghan, Michael, xxx-xx-xxxx
Middleton, Carney M., xxx-xx-xxxx
Mitsch, John D., xxx-xx-xxxx
Murphy, Francis L., xxx-xx-xxxx
Nealeans, Alan V., xxx-xx-xxxx
Papador, Gerald J., xxx-xx-xxxx
Parrish, Walter B., xxx-xx-xxxx
Pienowski, Walter, xxx-xx-xxxx
Rosenfeld, Stephen, xxx-xx-xxxx
Schoonover, Joseph, xxx-xx-xxxx
Shell, Jon E., xxx-xx-xxxx
Shropshire, Jack C., xxx-xx-xxxx
Silverman, Ronald D., xxx-xx-xxxx
Skeeters, Thomas M., xxx-xx-xxxx
Smith, Randell L., xxx-xx-xxxx
Stephens, George M., xxx-xx-xxxx
Stroeberg, Alan M., xxx-xx-xxxx
Thompson, Harry P., xxx-xx-xxxx
Thompson, Tommy D., xxx-xx-xxxx
Tri, Terrance L., xxx-xx-xxxx
Tsunehiro, John K., xxx-xx-xxxx
Veal, William T., xxx-xx-xxxx
Vit, Robert W., xxx-xx-xxxx
Watson, Henry G., xxx-xx-xxxx
Watts, Thomas C., xxx-xx-xxxx
Whitehill, Harry V., xxx-xx-xxxx
Williams, Edward M., xxx-xx-xxxx
Wilson, Lawrence G., xxx-xx-xxxx
Wright, Ronald D., xxx-xx-xxxx

MEDICAL CORPS

To be lieutenant colonel

Abesamis, C. M., xxx-xx-xxxx
Acosta, Jose, M., xxx-xx-xxxx
Ahn, Kyung, J., xxx-xx-xxxx
Alexander, Milton D., xxx-xx-xxxx
Alleman, Allen C., xxx-xx-xxxx
Ayala, Jaime, xxx-xx-xxxx
Barkin, Jamie S., xxx-xx-xxxx
Battad, Gerino, L., xxx-xx-xxxx
Bergstrom, John G., xxx-xx-xxxx
Biggers, Jackson A., xxx-xx-xxxx
Bihl, John H., xxx-xx-xxxx
Bilkey, Paz Q., xxx-xx-xxxx
Burdick, Duncan C., xxx-xx-xxxx
Burgos, Francisco L., xxx-xx-xxxx
Cameron, John A., xxx-xx-xxxx
Chan, Him W., xxx-xx-xxxx
Chandler, Arthur C., xxx-xx-xxxx
Chapunoff, Marcos, xxx-xx-xxxx
Comparini, Silvia O., xxx-xx-xxxx
Curtis, John D., xxx-xx-xxxx
Dedo, Richard G., xxx-xx-xxxx
Delmazo, Jacinto, xxx-xx-xxxx
Dickinson, Ellen S., xxx-xx-xxxx
Dubick, Marc N., xxx-xx-xxxx
Emslie, Robert J., xxx-xx-xxxx
Gattis, Bruce W., xxx-xx-xx...
Gibbs, Stephen D., xxx-xx-xxxx
Goel, Veena G., xxx-xx-xxxx
Goldstein, Dan N., xxx-xx-xxxx
Goodwin, John W., xxx-xx-xxxx
Greenhill, Andrew H., xxx-xx-xxxx
Haley, Philip R., xxx-xx-xxxx
Heltai, Andre L., xxx-xx-xxxx
Hendricks, John C., xxx-xx-xxxx
Hendrix, Ernest L., xxx-xx-xxxx

Hickman, Thomas J., xxx-xx-xxxx
Hill, Purvis W. Jr., xxx-xx-xxxx
Hodgell, Robert D., xxx-xx-xxxx
Holcomb, John R., xxx-xx-xxxx
Hunter, Gary R., xxx-xx-xxxx
Jacobs, James W., xxx-xx-...
Janarious, Francis, xxx-xx-xxxx
Janssen, Gerriet A., xxx-xx-xxxx
Jones, Spencer B., xxx-xx-xxxx
Jun, Young A., xxx-xx-xxxx
Kassab, Wafik M., xxx-xx-xxxx
Kelly, Thomas F., xxx-xx-xxxx
Kim, Sae K., xxx-xx-xxxx
Konstantin, Karl A., xxx-xx-xxxx
Kung, Luke C., xxx-xx-xxxx
Lantz, Stephen M., xxx-xx-xxxx
Lee, James R. Jr., xxx-xx-xxxx
Leonard, Charles F., xxx-xx-xxxx
Leslie, Edward D., xxx-xx-xxxx
Lewis, Gilbert S., xxx-xx-xxxx
Lin, Jain I., xxx-xx-xxxx
Loo, Tsu T., xxx-xx-xxxx
Lord, Jonathan G., xxx-xx-xxxx
Lowthian, John T., xxx-xx-xxxx
Manzano, Verm G., xxx-xx-xxxx
McKinney, Reginald, xxx-xx-xxxx
Merring, Leroy L., xxx-xx-xxxx
Monkowski, Alfred M., xxx-xx-xxxx
Mora, Pedro A., xxx-xx-xxxx
Moscowitz, Richard, xxx-xx-xxxx
Nelson, Morton, xxx-xx-xxxx
Nelson, Robert A., xxx-xx-xxxx
Nensel, Richard E., xxx-xx-xxxx
Noh, Inkyu, xxx-xx-xxxx
Noriega, Angel C., xxx-xx-xxxx
Olsan, Richard D., xxx-xx-xxxx
Omeara, Owen P., xxx-xx-xxxx
Ongcapin, Emelie H., xxx-xx-xxxx
Pack, Ronald L., xxx-xx-xxxx
Palandjian, Rebecca, xxx-xx-xxxx
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Newman, John F., xxx-xx-xxxx
Newman, Robert A., xxx-xx-xxxx
Norris, Jimmy A., xxx-xx-xxxx
Nowakowski, Robert xxx-xx-xxxx
Obrien, Donald E., xxx-xx-xxxx
Palmer, Gerald A., xxx-xx-xxxx
Pitts, Larry C., xxx-xx-xxxx
Platte, Richard C., xxx-xx-xxxx
Quigg, Loren T., xxx-xx-xxxx
Rawlings, Donald C., xxx-xx-xxxx
Reisenleiter, Philip xxx-xx-xxxx
Rhodes, Allen E., xxx-xx-xxxx
Romines, Robert B., xxx-xx-xxxx
Rosnick, Denis xxx-xx-xxxx
Rumbaugh, Paul C., xxx-xx-xxxx
Salter, Cecil S., xxx-xx-xxxx
Salzman, Robert D., xxx-xx-xxxx
Sawa, Joseph S., xxx-xx-xxxx
Scantlin, Marshall xxx-xx-xxxx
Schneider, Robert J., xxx-xx-xxxx
Schrimsher, Robert xxx-xx-xxxx
Schumeyer, Gerard xxx-xx-xxxx
Sessions, George R., xxx-xx-xxxx
Shaw, Peter B., xxx-xx-xxxx
Sheets, David L., xxx-xx-xxxx
Smith, Donald B., xxx-xx-xxxx
Smith, Michael J., xxx-xx-xxxx
Soma, David J., xxx-xx-xxxx
Southworth, George xxx-xx-xxxx
Speer, William L., xxx-xx-xxxx
Spencer, Kenneth E., xxx-xx-xxxx
Sprowls, John F ., xxx-xx-xxxx
Stagliano, Richard, xxx-xx-xxxx
Starcher, Bobby L., xxx-xx-xxxx
Steinberg, Arthur F., xxx-xx-xxxx
Strohmeyer, Michael, xxx-xx-xxxx
Svetlik, Mary A., xxx-xx-xxxx
Touchard, George H., xxx-xx-xxxx
Tragis, John C., xxx-xx-xxxx
Tuell, Henry O., xxx-xx-xxxx
Tyler, James M., xxx-xx-xxxx
Verzwyvelt, Lynn J., xxx-xx-xxxx
Vigna, John E., xxx-xx-xxxx
Vivalda, Eugene J., xxx-xx-xxxx
Vocelka, Robert R., xxx-xx-xxxx
Washburn, Lee P., xxx-xx-xxxx
Weber, Roy F., xxx-xx-xxxx
Wells, Walter L., xxx-xx-xxxx
West, Richard A., xxx-xx-xxxx
Wiles, James R., xxx-xx-xxxx
Williams, Barry O., xxx-xx-xxxx
Williams, Roger F., xxx-xx-xxxx
Williamson, Donna C., xxx-xx-xxxx
Wills, Clarence R., xxx-xx-xxxx
Wright, Kenneth, xxx-xx-xxxx
Zabrycki, Andrew G., xxx-xx-xxxx
Zold, Anthony C., xxx-xx-xxxx

ARMY MEDICAL SPECIALISTS CORPS

To be lieutenant colonel

Barefoot, Diana M., xxx-xx-xxxx
Briley, Jackie W., xxx-xx-xxxx
Carpenter, Celeste, xxx-xx-xxxx
Gardner, Christa H., xxx-xx-xxxx
Greathouse, David G., xxx-xx-xxxx
Gudger, Trina D., xxx-xx-xxxx
Hirsch, Kathleen M., xxx-xx-xxxx
Needham, Suzanne L., xxx-xx-xxxx
Palmer, Allen C., xxx-xx-xxxx
Reed, Karen F., xxx-xx-xxxx
Shaffer, Joseph G., xxx-xx-xxxx

VETERINARY CORPS

To be lieutenant colonel

Brown, Joanne M., xxx-xx-xxxx
Derstine, Henry W., xxx-xx-xxxx
Dixon, Robert S., xxx-xx-xxxx
Fitzsimons, Bernard, xxx-xx-xxxx
Franz, David R., xxx-xx-xxxx
Gaither, Richard M., xxx-xx-xxxx
Garrett, Joe C., xxx-xx-xxxx
Hoffman, Martin L., xxx-xx-xxxx
Jaax, Gerald P., xxx-xx-xxxx
Ksiazek, Thomas G., xxx-xx-xxxx
Lively, Lafon C., xxx-xx-xxxx
Marrs, Glen E., xxx-xx-xxxx
Meyer, Colin G., xxx-xx-xxxx
Miller, John G., xxx-xx-xxxx
Nold, James B., xxx-xx-xxxx
Rankin, James T., xxx-xx-xxxx
Rodney, William G., xxx-xx-xxxx
Smith, Harold M., xxx-xx-xxxx
Weske, John T., xxx-xx-xxxx
Yonushonis, William, xxx-xx-xxxx

MEDICAL CORPS

To be lieutenant colonel

Andersen, Peter A., xxx-xx-xxxx
Anderson, Donald R., xxx-xx-xxxx
Anderson, Thomas M., xxx-xx-xxxx
Ansinelli, Richard, xxx-xx-xxxx
Atkinson, Alva W., xxx-xx-xxxx
Bailey, Bruce O., xxx-xx-xxxx
Bala, Padma, xxx-xx-xxxx
Barrett, John R., xxx-xx-xxxx
Beam, Thomas E., xxx-xx-xxxx
Bennion, Scott D., xxx-xx-xxxx
Berger, Timothy G., xxx-xx-xxxx
Bergin, Donald J., xxx-xx-xxxx
Berrey, Bedford H., xxx-xx-xxxx
Bollerup, Edwin J., xxx-xx-xxxx
Bowen, James N., xxx-xx-xxxx
Bowman, Greg A., xxx-xx-xxxx
Breitweser, James A., xxx-xx-xxxx
Brown, Jerry M., xxx-xx-xxxx
Brown, Sam Jr., xxx-xx-xxxx
Brunsvold, Robert A., xxx-xx-xxxx
Carroll, Dale A., xxx-xx-xxxx
Castillo, Isabelo C., xxx-xx-xxxx
Chismire, Kevin J., xxx-xx-xxxx
Craig, Daniel B., xxx-xx-xxxx
Current, John D., xxx-xx-xxxx
Davidson, Howard, xxx-xx-xxxx
Davis, Jon S., xxx-xx-xxxx
Diehl, Louis F., xxx-xx-xxxx
Dorsett, Roswell B., xxx-xx-xxxx
Downey, Gordon O., xxx-xx-xxxx
Ducloux, Harold P., xxx-xx-xxxx
Duster, Mark C., xxx-xx-xxxx
Dye, Scott F., xxx-xx-xxxx
Edwards, Fred H., xxx-xx-xxxx
Ellington, David A., xxx-xx-xxxx
Fogarty, John P., xxx-xx-xxxx
Foulks, Charles J., xxx-xx-xxxx
Fox, Richard F., xxx-xx-xxxx
Gardner, Richard D., xxx-xx-xxxx
Gelnett, Mary J., xxx-xx-xxxx
George, David P., xxx-xx-xxxx
Gooden, Stephen M., xxx-xx-xxxx
Gray, Ronald K., xxx-xx-xxxx
Griffin, Gerald D., xxx-xx-xxxx
Haas, Royce A., xxx-xx-xxxx
Habib, Tahira, xxx-xx-xxxx
Hahn, David B., xxx-xx-xxxx
Hanley, James F., xxx-xx-xxxx
Harvey, Robert C., xxx-xx-xxxx
Hawkins, Ronald T., xxx-xx-xxxx
Hill, Frank C., xxx-xx-xxxx
Hodge, Gerald M., xxx-xx-xxxx
Hoffer, Thomas C., xxx-xx-xxxx
Hope, John M., xxx-xx-xxxx
Hopkinson, William J., xxx-xx-xxxx
Humm, Gayle A., xxx-xx-xxxx
Hunter, James G., xxx-xx-xxxx
Imai, Walter K., xxx-xx-xxxx
Jaccard, John T., xxx-xx-xxxx
James, William D., xxx-xx-xxxx
Jamison, Rodney K., xxx-xx-xxxx
Johnson, Eric A., xxx-xx-xxxx
Kelley, Kevin C., xxx-xx-xxxx
Kellogg, Eugene L., xxx-xx-xxxx
Klein, Michael A., xxx-xx-xxxx
Kolb, Melvin M., xxx-xx-xxxx
Kyser, Perry L., xxx-xx-xxxx
Lane, William N., xxx-xx-xxxx
Leeper, David H., xxx-xx-xxxx
Lehrner, Lawrence M., xxx-xx-xxxx
Lorenzen, Earl A., xxx-xx-xxxx
Mahood, Arif, xxx-xx-xxxx
Marino, Paul F., xxx-xx-xxxx
Martin, George R., xxx-xx-xxxx
McCabe, James M., xxx-xx-xxxx
McIlwain, Thomas P., xxx-xx-xxxx
McKinney, Harry D., xxx-xx-xxxx
Meadors, Gilcin F., xxx-xx-xxxx
Meitzer, Sean M., xxx-xx-xxxx
Mercer, Lloyd F., xxx-xx-xxxx
Miles, Brian J., xxx-xx-xxxx
Moore, Jack Jr., xxx-xx-xxxx
Moore, John W., xxx-xx-xxxx
Moseley, Preston W., xxx-xx-xxxx
Moss, Jesse Jr., xxx-xx-xxxx
Mount, Philip M., xxx-xx-xxxx
Mozingo, George W., xxx-xx-xxxx
Muench, Alan G., xxx-xx-xxxx
Muller, Thomas W., xxx-xx-xxxx
Murray, William C., xxx-xx-xxxx
Nguyen, Tu H., xxx-xx-xxxx
Nickel, Gary W., xxx-xx-xxxx
Nidhiry, Gracy E., xxx-xx-xxxx
Nilakantan, Shanti, xxx-xx-xxxx
Nylundmorgan, Barbara, xxx-xx-xxxx
Oliphant, John R., xxx-xx-xxxx
Orecchia, Paul M., xxx-xx-xxxx
Park, Gordon S., xxx-xx-xxxx
Perry, David J., xxx-xx-xxxx
Petzold, Robert W., xxx-xx-xxxx
Phillips, Yancy Y., xxx-xx-xxxx
Picou, Keith A., xxx-xx-xxxx
Pierce, Richard, xxx-xx-xxxx
Porr, Darrel R., xxx-xx-xxxx
Pumphrey, Robert S., xxx-xx-xxxx
Ramirez, Hector, Jr., xxx-xx-xxxx
Reid, Michael L., xxx-xx-xxxx
Richardson, Michael, xxx-xx-xxxx
Ridenour, Robert, xxx-xx-xxxx
Robinson, Richard J., xxx-xx-xxxx
Roden, William C., xxx-xx-xxxx
Russell, Robert B., xxx-xx-xxxx
Sakas, Edward L., xxx-xx-xxxx
Salanova, Vicenta, xxx-xx-xxxx
Salminen, Eric R., xxx-xx-xxxx
Sauri, Michael A., xxx-xx-xxxx
Scavone, John A., xxx-xx-xxxx
Shah, Aparna S., xxx-xx-xxxx
Shaukat, Muhammad I., xxx-xx-xxxx
Siletchnik, Mark D., xxx-xx-xxxx
Sjogren, Maria H., xxx-xx-xxxx
Skarin, Robert M., xxx-xx-xxxx
Slover, Robert H., xxx-xx-xxxx
Smerz, Richard W., xxx-xx-xxxx
Squire, Edward N., xxx-xx-xxxx
Stith, Rosa B., xxx-xx-xxxx
Stone, Irvin K., xxx-xx-xxxx
Sullivan, Rebecca A., xxx-xx-xxxx
Tezak, Richard W., xxx-xx-xxxx
Tolls, Ronald M., xxx-xx-xxxx
Townsend, Donald C., xxx-xx-xxxx

Trant, Collie M., xxx-xx-xxxx
Tripp, Glenn C., xxx-xx-xxxx
Utz, Joseph A., xxx-xx-xxxx
Vaccaro, John A., xxx-xx-xxxx
Vandewalle, Michael, xxx-xx-xxxx
Wahl, Richard C., xxx-xx-xxxx
Wehrle, Paul A., xxx-xx-xxxx
Wehrly, David J., xxx-xx-xxxx
Weir, Linda K., xxx-xx-xxxx
Wells, Larry J., xxx-xx-xxxx
Weyandt, Timothy B., xxx-xx-xxxx
White, Steven M., xxx-xx-xxxx
Wikert, Gary A., xxx-xx-xxxx
Wilson, Linda O., xxx-xx-xxxx
Young, Robert M., xxx-xx-xxxx
Yovanoff, James, xxx-xx-xxxx

DENTAL CORPS

To be lieutenant colonel

Adamson, Dennis N., xxx-xx-xxxx
Albright, Michael D., xxx-xx-xxxx
Angello, Anthony J., xxx-xx-xxxx
Bach, Durwood E., xxx-xx-xxxx
Black, Richard R., xxx-xx-xxxx
Bradigan, Terry W., xxx-xx-xxxx
Bronstein, Alan B., xxx-xx-xxxx
Bruegger, Robert R., xxx-xx-xxxx
Burchett, Paul J., xxx-xx-xxxx
Calverley, Mickey J., xxx-xx-xxxx
Cannava, Paul A., xxx-xx-xxxx
Christensen, George, xxx-xx-xxxx
Clem, David B., xxx-xx-xxxx
Cole, Thomas R., xxx-xx-xxxx
Connor, Joseph P., xxx-xx-xxxx
Crowther, Bruce Q., xxx-xx-xxxx
Cuenin, Paul R., xxx-xx-xxxx
Davis, Larry D., xxx-xx-xxxx
Downs, Roger H., xxx-xx-xxxx
Ekvall, William M., xxx-xx-xxxx
Farabee, Ernest C., xxx-xx-xxxx
Fearon, Christopher, xxx-xx-xxxx
Fisher, Jon G., xxx-xx-xxxx
Ford, Lavelle N., xxx-xx-xxxx
Fox, Michael W., xxx-xx-xxxx
Galan, Michael J., xxx-xx-xxxx
Gladfelter, Iri A., xxx-xx-xxxx
Gottlieb, Samuel N., xxx-xx-xxxx
Hackman, Steven T., xxx-xx-xxxx
Hinger, Alvin H., xxx-xx-xxxx
Hirata, Ronald H., xxx-xx-xxxx
Hollinger, Louis R., xxx-xx-xxxx
Holman, Dennis J., xxx-xx-xxxx
Howell, Phillip C., xxx-xx-xxxx
Kern, Stephen B., xxx-xx-xxxx
Kittle, Paul E., xxx-xx-xxxx
Lawson, Theodore J., xxx-xx-xxxx
Livesay, Thomas G., xxx-xx-xxxx
Loveridge, Larry W., xxx-xx-xxxx
McDonnell, Carbra J., xxx-xx-xxxx
Meharg, Michael P., xxx-xx-xxxx
Miller, John R., xxx-xx-xxxx
Mills, William P., xxx-xx-xxxx
Minjarez, Pete II, xxx-xx-xxxx
Mitchell, William C., xxx-xx-xxxx
Montoya, Ralph G., xxx-xx-xxxx
Mulrean, Joseph C., xxx-xx-xxxx
O'Brock, Ernest F., xxx-xx-xxxx
Olsen, Dearl P., xxx-xx-xxxx
Olson, Arvid K., xxx-xx-xxxx
Osmond, Joseph R., xxx-xx-xxxx
Palou, Miguel E., xxx-xx-xxxx
Parks, Ralph D., xxx-xx-xxxx
Patterson, Adrian L., xxx-xx-xxxx
Piautz, Henry S., xxx-xx-xxxx
Pohjola, Randall M., xxx-xx-xxxx
Portell, Frank R., xxx-xx-xxxx
Porter, William A., xxx-xx-xxxx
Ray, Vincent R., xxx-xx-xxxx
Regennitter, Frederick, xxx-xx-xxxx
Releford, Richard D., xxx-xx-xxxx
Reside, Glenn J., xxx-xx-xxxx
Rominger, Olivia S., xxx-xx-xxxx
Rossi, Remo J., xxx-xx-xxxx
Sakata, Marlin K., xxx-xx-xxxx
Shipley, Richard D., xxx-xx-xxxx
Sigler, Ernest W., xxx-xx-xxxx
Stanton Steven L., xxx-xx-xxxx
Strong, Scott L., xxx-xx-xxxx
Sutley, Stephen H., xxx-xx-xxxx
Swistak, Gary P., xxx-xx-xxxx
Teweles, Robert B., xxx-xx-xxxx
Thoren, James M., xxx-xx-xxxx
Torres, Cesar P., xxx-xx-xxxx
Townsend, Larry W., xxx-xx-xxxx
Verhoef, Douglas R., xxx-xx-xxxx
Waddell, Henry T., xxx-xx-xxxx
Waters, Jay M., xxx-xx-xxxx
Wills,, Leon R., xxx-xx-xxxx
Wintle, Bruce D., xxx-xx-xxxx
Woller, Phillip A., xxx-xx-xxxx
Worley, Timothy J., xxx-xx-xxxx
Yancich, Peter P., xxx-xx-xxxx

IN THE MARINE CORPS

The following-named Marine Corps Enlisted Commissioning Education Program graduates for permanent appointment to the grade of second lieutenant in the U.S. Marine Corps, pursuant to title 10, United States Code, section 531:

Bady, David W., xx...
Baker, Greggory L., xx...
Blackmore, John R., xx...
Brown, Ricky E., xx...
Colvin, Kirk W., xx...
Forsthoefel, Matthew S., xx...
Gregory, Bobby G., Jr., xx...
Grinde, Paul A., xx...
Hayes, James M., xx...
Hernandez, Jose A., xx...
Hyde, Timothy J., xx...
Jackson, Jimmy A., xx...
Kline, Deborah J., xx...
Kotruch, John C., xx...
Krivdo, Michael E., xx...
Legan, Duane M., xx...
Lewis, Kent B., xx...
McNamara, John E., xx...
Miles, Wendy E., xx...
Paquette, Michael A., xx...
Sauers, Peter F., xx...
Scott, Russell W., III, xx...
Spooner, Earl L., xx...
Wood, David S., xx...
Wrightson, Charles F., xx...

The following-named Naval Reserve Officers Training Corps graduates for permanent appointment to the grade of second lieutenant in the U.S. Marine Corps, pursuant to title 10, United States Code, sections 531 and 2107:

Abbott, Eric L., xx...
Abbott, Preston G., xxxx
Acock, Mitchell D., xx...
Adamchik, Walter R., xx...
Adams, Mark A., xx...
Adamus, Stanely J., xx...
Aeppli, Mark L., xx...
Aiken, Scott D., xx...
Alexander, Edward P., xx...
Allen, Jonathan G., xx...
Andrews, Elgin B., xx...
Ansley, Jeffrey D., xx...
Arendt, Mark D., xx...
Armstrong, Eric A., xx...
Averyt, Brian H., xxxx
Baim, Fay E., xx...
Baker, Joe D., II, xx...
Banks, Sidney M., xx...
Barnard, Lawrence E., xx...
Barth, John D., xx...
Barthol, David T., xx...
Beller, Stephen C., xx...
Berger, Steven W., xx...
Bernal, Ronnie A., xx...
Bessette, Gerald R., xx...
Bettendorf, Hugh J., xx...
Bevan, Timothy P., xx...
Bianca, Andrew D., xx...
Black, Mark E., xx...
Blackburn, William F., xx...
Bonam, Gregory J., xxxx
Booth, Erik K., xx...
Borsody, Joseph J., xx...
Botond, Andrew I., xx...
Brady, Jeffrey L., xx...
Brewer, Brent A., xx...
Britt, Eric A., xx...
Brooke, Nicholas S., xx...
Brown, Russell O., xx...
Browne, Gene C., Jr., xx...
Brubaker, Kurt J., xx...
Burchinal, David L., xx...
Burg, Claude J., xx...
Burke, Tracy W., xx...
Burtis, Brett K., xx...
Burton, Brian A., xx...
Bynum, Andreas L., xx...
Caldwell, Kenneth C., xx...
Campbell, Partick J., xx...
Caramanian, Max xx...
Casey, John M., xx...
Cavagnaro, James J., xx...
Cervantes, Kenneth M., xx...
Chaddic, John L., xx...
Chapman, Kurt J., xx...
Chartier, James B., xxxx
Chiarotti, Charles G., xx...
Chiarson, Kerry L., xx...
Clark, Brian J., xx...
Clark, Thomas S., III, xx...
Coco, Joseph D., xx...
Coffman, David W., xx...
Connelly, Patrick P., xx...
Copp, Adam J., xx...
Costello, Christopher P., xx...
Coulter, Jeffrey M., xx...
Crawford, David M., xx...
Croxton, Martin F., xx...
Crump, Dennis R., xx...
Daley, Thomas F., xx...
Daniel, Matthew F., xx...
Danner, David A., xx...
Dantonio, Patrick J., xx...
Davis, Brian J., xx...
Dawson, David A., xx...
Day, James P., xx...
Dearolph, Jeffrey E., xxxx
Decker, William A., xx...
Deep, David J., xxxx
Delaney, Edward C., xx...
Delaney, Thomas E., xx...
Delatte, Patrick M., xx...
Delorier, Peter L., xx...
Demorat, David A., xx...
Denn, Douglas A., xx...
Deschak, Robert, xx...
Dietrich, Stanton W., xx...
Dittes, Annette E., xx...
Dogonniuck, Christopher C., xx...
Dogs, Dennis A., xx...
Doig, Michael A., xx...
Donovan, Michael J., xx...
Dopilka, Shelia A., xx...
Dorion, Michael F., xx...
Douquet, Gregory M., xx...
Dube, Hans G., xx...
Dugan, Moises S., xx...
Dumas, Lorena, xx...
Duncan, Barry T., xx...
Duncan, Robert A., xx...
Duren, Jennifer N., xx...
Duval, Lawrence R., xx...
Earls, Alfred L., xxxx
Ebert, Richard V., xx...
Elkins, Thomas A., xx...
Emerson, Thomas J., Jr., xx...

English, Michael E., XX...
Enterline, Greg A., XX...
Entner, Jeffrey G., XX...
Escalante, Yori R., XX...
Fagan, Thomas W., XX...
Farmer, Thomas L., Jr., XX...
Felton, Carl, XX...
Ferencz, Nicholas, III, XXXX
Fitzpatrick, William P., Jr., XX...
Flanagan, Jack E., XX...
Flessner, Mark, XX...
Fortunato, Andrew W., XX...
Foster, Timothy S., XX...
Franchetti, Lisa M., XX...
Freemon, Bennett C., XX...
Freund, Kirk L., XX...
Gancas, Rod M., XX...
Gannon, James M., XX...
Gardner, Robert L., XX...
Garner, John S., XX...
Garrett, Patsy A., XX...
Gats, Cindy H., XX...
Gentil, Mark S., XX...
Gentry, Roy E., Jr., XX...
Gerstbrein, Brad R., XX...
Gibbs, Tricia A., XX...
Gillette, Gregory D., XX...
Gionfriddo, Robert J., XX...
Giornelli, Raymond B., XX...
Gonzalez, Gilberto C., XX...
Grant, Jeffrey G., XX...
Graul, Michael H., XX...
Greco, Anthony J., XX...
Greer, Adam T., XX...
Greisen, Bruce R., XX...
Griffin, Brian E., XX...
Grosscup, Kevin D., XX...
Haas, Dennis R., XX...
Hager, Gregory S., XX...
Haile, Douglas L., XX...
Halbhuber, Jeffrey L., XX...
Hall, Michael J., XX...
Hansen, David K., XX...
Hansen, Robert A., XX...
Hardie, Michael J., XX...
Harrington, Timothy J., XX...
Hartig, Brian J., XX...
Hatcher, Wesley M., XX...
Hawkins, Daniel H., XX...
Haws, Gregory J., XXXX
Haynes, Jeffrey M., XX...
Headlee, Daniel W., XX...
Hearn, Brent, II, XX...
Hearney, Brian T., XX...
Heckroth, Nelson T., XX...
Heffner, Scott A., XX...
Hennelly, John C., XX...
Henry, Brian F., XX...
Henry, Keith P., XX...
Henry, Mark K., XX...
Herdegen, Dale W., XX...
Herran, Francisco, XX...
Hewlett, Clifford T., XX...
Hicks, Raymond C., XX...
Hildner, Steven T., XX...
Hirsch, Chandler B., XX...
Hirsch, Chester L., XX...
Hoggatt, Cory D., XX...
Holton, Christopher W., XX...
Hopkins, Andrew E., XX...
Houser, Christopher B., XX...
Hower, Michael J., XX...
Hughes, Kenneth M., XX...
Hunter, David S., XX...
Hurley, William J., XX...
Hussey, Michael F., XX...
Ingebretsen, David A., XX...
Isleib, Charles C., XX...
Ivens, Albert H., XXXX
Jackman, Brett L., XX...
Jamail, Clarence D., XX...
Jamieson, Richard G., XX...
Janik, Frank C., XX...
Jeffries, Edward M., XX...
Jenkins, Kevin D., XX...
Jensen, Richard B., XX...
Jester, Diana M., XX...
Jones, Kathleen A., XX...
Jones, Michael S., XX...
Jung, Curt R., XX...
Kallerson, Douglas D., XX...
Karam, Mariana R., XX...
Karnes, Jeffrey A., XXXX
Kelly, James J., III, XX...
Kelly, Kathleen P., XX...
Kennedy, Daniel P., XX...
Kennedy, Paul J., XX...
Kessler, Ann C., XX...
Kirby, Michael C., XX...
Kirk, Kerry D., XX...
Kleinsmith, Douglas R., XX...
Kliewer, Kevin B., XX...
Koenig, George A., XX...
Kondas, Charles E., XX...
Korman, Michael A., XX...
Kowald, Cash G., XX...
Kowalsky, David S., XX...
Kucera, Dane P., XX...
Kuhn, Eric M., XX...
Kurihara, Joel O., XX...
Kute, Theresa L., XX...
Kutina, Kevin K., XX...
Lain, Robert J., XX...
Lambert, Alan D., XX...
Landry Paul C., XX...
Largent, Scott D. XXXX
Latham, William H., XX...
Latimer, Henry G., XX...
Lauridsen, Timothy P., XX...
Lauson, William J., XX...
Lawlor, James J., Jr., XX...
Lehmann, Gary C., XX...
Lemke, Jacqueline M., XX...
Lillie, Christopher T., XX...
Lindquist, Douglas E., XX...
Lipka, Andrew A., XX...
Livingston, Ashley M., XX...
Long, Kimberly A., XX...
Lonnemann, Michael J., XX...
Looney, Patrick G., XX...
Lord, John S., XX...
Lunde, Kern D., XX...
Lyons, Martin A., XX...
Macfarlane, Colin J., XX...
Macgregor, Mary J., XX...
Mackey, Stephen A., XX...
Malavet, Joaquin F., XX...
Malik, John C., III, XX...
Malone, Eric L., XX...
Maloy, Patrick O., XX...
Manis, Christopher S., XX...
Manring, Keith G., XX...
Marello, Joseph C., Jr., XX...
Marente, John V., XX...
Marti, John R., XX...
Marvin, Stephen J., XX...
Masimore, William R., XX...
Massman, Lauri A., XX...
Massman, Scott M., XX...
McAllister, James C., Jr., XX...
McCarthy, Michael P., XX...
McCarthy, Patrick M., XX...
McCaskill, John R., Jr., XX...
McCormack, Michael P., XX...
McElvain, Richard A., XX...
McEvers, Marcia L., XX...
McGavic, Derrick E., XX...
McGee, Russell O., XX...
McGraw, Mark D., XX...
McIntire, Scott R., XX...
McLaughlin, Stephen D., XX...
McMillan, Jeffrey M., XX...
McMonagle, Robert B., XX...
Medeiros, Scott J., XX...
Medeiros, Stephen A., XX...
Meizoso, Stephen C., XX...
Merle, Stephen C., XX...
Michaels, Timothy R., XX...
Miller, Douglas W., XX...
Miller, Gerald J., XX...
Misiolek, Theodore J., Jr., XX...
Mobley, Joe K., XX...
Mock, Andrew J., XX...
Moin, Wilson J., XX...
Montgomery, Joseph E., IV, XX...
Morgan, Sara E., XX...
Morgan, William F., XX...
Morrissey, Michael D., XX...
Mullally, Patrick S., XX...
Murray, Owen W., XX...
Murray, Tom R., III, XX...
Murtha, James C., XX...
Musselman, Mark A., XX...
Mylio, Christopher J., XX...
Neights, Gary M., Jr., XX...
Nicholls, Marc T., XX...
Nickle, Bruce E., XX...
Nierle, James E., XX...
Noe, Scott A., XX...
Noel, Jeffrey S. XXXX
O'Brien, Robert E. XXXX
O'Connor, John A., XX...
Olszowy, David P., XX...
Ovenshire, Clayton S., XX...
Page, Earl A., XX...
Palermo, Michael S., XX...
Pappas, Andrew, XX...
Patten, Eric A., XX...
Paul, John E., XX...
Peadon, Russell L., XX...
Pearson, Robert S., XX...
Peifer, Douglas C., XX...
Perkins, Walter D., XX...
Perun, John J., Jr., XX...
Petersen, Douglas K., XX...
Pickett, David W., XX...
Plaziak, Michael R., XX...
Polk, William M., XX...
Pollock, John M., XX...
Polydores, Paul L., XX...
Porter, William J., III, XX...
Post, Jonathan P., XX...
Probert, Jeffrey A., XX...
Pumphrey, Edward A., IV, XX...
Quimby, Kurt W., XX...
Quintana, Miguel E., XX...
Raney, Johnny R., XX...
Rapp, Edward B., XX...
Recio, Francisco, XX...
Rentner, Michael J., XX...
Richardson, Michael P., XX...
Riley, Wendell, XX...
Ripley, John F. XXXX
Robinson, Donald E., XX...
Rodman, Joseph P., XX...
Rogers, Kevin C., XX...
Rogers, Michael J., XX...
Rollins, Charles H., III, XX...
Ross, Gerald A., XX...
Ruane, Thaddeus A., XX...
Ruby, John M., XX...
Russell, John J., XX...
Samuels, John P., XX...
Sanborn, Russell A., XX...
Scarcia, Domenic J., XX...
Schade, Jeffrey P., XXXX
Schmidt, Dwight C., XX...
Schmidt, Steven J., XX...
Schwartz, Garry S., XX...
Seidel, Gregory E., XX...
Shah, Najeeb A., XX...
Sharp, Christopher A., XX...
Sharp, Daniel L., XX...
Sheedy, Daniel S., XX...
Shinkle, Bruce D., XX...
Shiring, Michael T., XX...

Sibert, William, XX...
Silk, Bradford J., XX...
Sisk, James G., XXXX
Skinner, John A., XXXX
Smart, John J., XX...
Smith, Andrew H., XX...
Smith, Cary K., Jr., XX...
Smith, George W., Jr., XX...
Smith, Linda M., XX...
Smith, Stephen T., XX...
Smithmeck, Matthew J., XX...
Snow, Gordon M., XX...
Snuffer, Michael K., XX...
Sonnemaker, Scott A., XX...
Sprenger, Matthew E., XX...
Squires, Steven D., XX...
Starich, Michael P., XX...
Stephens, Edward C., XX...
Stevenson, Robert J., XX...
Stuart, Joseph M., XX...
Sullivan, Daniel J., XX...
Summers, Eugene L., XX...
Sweeney, Stephen P., XX...
Sweet, John M., Jr., XX...
Taylor, Bryan F., XX...
Thacker, Ellen M., XX...
Thomas, Gregory S., XX...
Thomas, Michael K., XX...
Thomas, Tommy D., XX...
Thompson, Frederick D., XXXX
Thompson, Timothy L., XX...
Tinner, Timothy G., XX...
Tomilowitz, Robert P., XX...
Tran, Van K., X...
Trepa, Kevin M., XX...
Treuting, William T., XXXX
Triola, Richard B., XX...
Underwood, James T., XX...
Underwood, Kent F., XX...
Valdyke, Brad E., XXXX
Vanderneck, Gustave R., II. XXXX
Varanka, William M., XX...
Vendrzyk, Judith M., XX...
Vickers, David A., XX...
Villarreal, Jerry A., XX...
Vonachen, John R., XX...
Walker, Brynne V., XX...
Walker, Michael A., XX...
Walker, Roger C., XX...
Walters, Ricky Z., XX...
Waugh, David C., XX...
Wayson, Robert E., XX...
Wedekind, Lawrence G., XX...
Wegmann, James J., XX...
Weinberg, Steven B., XX...
Wendel, Robert F., XX...
West, Michael B., XX...
West, Michael E., XX...
Wiechmann, Jeff R., XXXX
Wiersma, David B., XX...
Wilhoite, Brian K., XX...
Williams, Richard R., III, XX...
Wills, Martin D., X...
Willson, Clinton S., XX...
Wilson, John W., XXXX
Windsor, Steven W., XX...
Woolford, Mark L., XX...
Woolsey, David A., XX...
Wooten, Kevin M., XX...
York, Will T., III, XX...
Young, Joseph P., XXXX
Young, Richard T., XX...

CONFIRMATION

Executive nomination confirmed by the Senate October 3, 1984:

DEPARTMENT OF STATE

William L. Eagleton, Jr., of Washington, a career member of the Senior Foreign Service, class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Syrian Arab Republic.

The above nomination was approved subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

HOUSE OF REPRESENTATIVES—*Wednesday, October 3, 1984*

The House met at 11 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

The mouth of the righteous is a fountain of life, but the mouth of the wicked conceals violence. Hatred stirs up strife, but love covers all offenses.—Proverbs 10:11, 12.

Enable us, Holy God, to act on what we believe to be right and true and just, and to do so in ways that show respect with those with whom we disagree. May we realize that Your righteous congregation is wider and broader than ever we could measure or determine. Help us and all people, O God, to put away any judgments that belong to You and do what we can to live together in peace. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

FLORIDA CITRUS BOWL GAME

(Mr. NELSON of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. NELSON of Florida. Mr. Speaker, I want to share with my colleagues in the Congress an exciting event that we will be having in Orlando, FL, December 22 at 1 p.m. It is the Florida Citrus Bowl. The festivities will be broadcast nationally on NBC-TV. There will be a spectacular half-time show that will be presented by Walt Disney World.

This bowl football game will be a match-up of two of the top college teams playing before a sell-out crowd of 51,000 fans. Indeed, over $1.2 million that will be awarded to the two college teams.

No bowl game can match the Florida Citrus Bowl for its week of hospitality for the two teams and their families. Hospitality at Walt Disney World, Seaworld, and the Kennedy Space Center will be enjoyed by all.

The Florida Citrus Bowl is primarily sponsored by the Florida Citrus Commission and it is for the benefit of the Shriner's Hospital for Burned & Crippled Children.

I am delighted to have the opportunity, Mr. Speaker, to bring this to the attention of our colleagues.

LEGISLATION TO SIMPLIFY TAX CODE—SELF TAX

(Mr. SCHULZE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHULZE. Mr. Speaker, today I am introducing legislation which will simplify the Tax Code, restore equity and efficiency to our tax system, and lower rates for all Americans. This measure is a companion bill to one offered today by Senator QUAYLE who first sponsored a similar plan in May 1982. Our bill responds to the pressing need for comprehensive tax reform by emphasizing four principles: Simplicity, efficiency, low rates, and fairness.

This SELF plan, as its acronym suggests, is designed to allow all taxpayers to prepare and file their annual tax returns without seeking professional assistance.

In short, the SELF measure demystifies the complicated 2,000-page maze we call the Tax Code and provides greater incentives to earn and save income.

The time for a full rethinking of our tax laws is long overdue. America's taxpayers rightly perceive our tax structure to be unfair and unweildy, and they deserve better than a Tax Code which even the Internal Revenue Service finds inconsistent and unenforceable. They are willing to pay their fair share and voluntarily comply with understandable and equitable rules, but it is now our responsibility to offer American taxpayers a workable alternative to our present tax muddle.

I believe the self plan is such an alternative, and I urge my colleagues to give it their consideration and support.

DEMOCRATS ACCUSED OF "LYNCH" MENTALITY

(Mr. COELHO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COELHO. Mr. Speaker, yesterday the President accused Democrats of having a "lynch" mentality regarding the scores of Reagan appointees who have ethical problems.

He said all of these charges are "baseless" ahd that all of the accusation have "been proven false."

Now I'm not familiar with all 137 charges against Mr. Donovan, but it's the President's statement I want to respond to.

What about Rita Lavelle, Mr. President? She's going to jail.

What about Thomas Reed, your former national security adviser? He's currently under indictment for insider stock trading.

What about Paul Thayer, your former No. 2 man at Defense? He's now facing civil charges and is under criminal investigation.

What about Richard Allen's watches? What about William Casey's stock transactions? What about William French Smith's tax credits? And what about Charles Wick's wiretaps?

Mr. Speaker, I could go on and on. Many others have been forced to resign—but curiously, the President hasn't had the backbone to fire these people.

Mr. President, they aren't trumped up charges by Democrats, and they haven't been proven false. You're just mad because your own people got caught redhanded.

ANOTHER ECONOMIC BOOM

(Mr. REGULA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. REGULA. Mr. Speaker, a recent issue of U.S. News & World Report carried a story with a headline, "Why World May Be Near Another Economic Boom."

It goes on to say in the story as follows:

> After more than a decade of instability and uncertainty inflation and near stagnation, the United States and the free world appear to be headed for long-lasting recovery with a big "if." If governments don't mess things up.

How do governments mess things up? By overtaxing, overspending, and overregulating.

We have an opportunity to stop that from happening. There are three elements necessary for the economic boom that is described in the U.S. News article.

One, low inflation. Two, real growth in productivity in our economy; and third, reasonable and stable interest rates.

Two of these have been achieved. Inflation is low and stable. Real growth in productivity is back again, 3.5 percent this year.

The third is coming. Lower interest rates as compared to 1980 have been achieved, but still more needs to be done. If we are to avoid aborting this economic recovery, we need to do it by reducing the high Federal deficits that our Nation has at the present time.

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

Mr. Speaker, the first order of business in 1985 should be a bipartisan deficit reduction bill.

REAGAN ADMINISTRATION ETHICS DISHONOR ROLL

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, yesterday President Reagan said that officials of his administration face a "lynch atmosphere" in response to a question about the sleaziness of his appointees. The President is wrong. His administration came to office with scorn for the ethics laws. Some appointees had the mistaken belief that Government service meant the Government was supposed to serve them.

Today I am placing in the RECORD the updated Reagan administration ethics dishonor roll. Sad to say, the list now contains 11 names. This roll is merely a compendium of newspaper accounts of legal or ethical questions raised about Reagan appointees. Some of the individuals listed have been cleared by more or less credible investigations. Others have resigned, maintaining their innocence, but aborting any further investigation.

I prepared this list to show how the massive volume of published allegations of wrongdoing undermines public confidence in Government. And, this list demonstrates that the Reagan administration is not being attacked by a lynch mob, but rather is being undermined by a glut of sleazy individuals appointed to important Government positions.

□ 1110

CRIME LEGISLATION

(Mr. GEKAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GEKAS. Mr. Speaker, twice in the last week the House of Representatives has overwhelmingly adopted legislation that would bring about long needed reform in our law enforcement arena, the so-called crime package, in two different forms.

Now, I consider that the latest package, the one that we voted on most recently, is flawed in many respects, both in insanity defense reform and in sentencing, and has other kinds of miscarriages of reform.

But the message is clear: The House passed this legislation in the rush of the last hours of business because of the prompting of the President of the United States for over 2 years, and perhaps even more than that, that the American public demands reform in these areas. The public is sick and tired of violent crime and sick and tired of a Congress that refuses to act on it. And, therefore, what the House has done in this last minute response, both in the Halls of the House and in the Senate, is to confirm that the President was right, that at last there will be something done and that the President was correct.

PRESIDENT'S POLICIES TOWARD WOMEN ARE UNFAIR

(Ms. OAKAR asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. OAKAR. Mr. Speaker, the Reagan-controlled, Republican-controlled Senate's record related to issues that affect every single woman in this country is shameful.

At the President's insistence, they killed the Civil Rights Act of 1984 related to access and equal access to education; they are holding up the Divorced Spouses Equity Act; they are holding up the latchkey program, the WIC program, Head Start and the Pay Equity and Fair Management Act of 1984, which could serve as a benchmark for fair pay standards nationally for women.

Do not tell the American women you are fair, Mr. President, when you explicitly let it be known that you wanted every piece of recent legislation passed in the House affecting women killed in the Senate.

Your policies to women are unfair, and the inaction in the Senate, which you control, proves it.

MERRY CHRISTMAS FROM INDIANTOWN'S T&M RANCH

(Mr. LEWIS of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEWIS of Florida. Mr. Speaker, last year I had the honor and pleasure of helping deliver 435 beautifully sculpted Christmas ornaments to you and other Members of the House of Representatives from the residents of the T&M Ranch in Indiantown, FL.

These wonderful people in my 12th District of Florida have honored me again this year by asking me to present you with another ornament from their "Angels of the World" collection. This year the 100 Members of the U.S. Senate also will be recipients of this gift from the T&M Ranch.

As I mentioned last year, the T&M Ranch is a home and school for mentally handicapped adults who go there to learn the necessary vocational and individual skills that will enable them to eventually become working members of their communities.

The T&M Ranch residents craft these beautiful angel ornaments, which are designed by renowned sculptor Laszlo Ispanky. The ornaments are sold for a nominal sum and the funds are used to teach T&M Ranch residents money management and personal needs care.

Merry Christmas, Mr. Speaker and my fellow colleagues, from the T&M Ranch.

POINT OF ORDER

Mr. WALKER. Mr. Speaker, I have a point of order.

The SPEAKER pro tempore (Mr. RAHALL). The gentleman will state it.

Mr. WALKER. Mr. Speaker, a few moments ago we heard a rather long, involved speech referring to Senate votes and what the actions from the Senate were.

Is it correct that such a speech is out of order in the House of Representatives?

The SPEAKER pro tempore. Direct references to actions of the other body are not in order.

Mr. WALKER. And so it is a fact that that speech was, under the parliamentary rules of the House, out of order?

The SPEAKER pro tempore. But a Member can refer to the legislative product that is in this body.

Mr. WALKER. I would say to the Chair, though, that that was not the content of the speech; and so, therefore, that speech would be out of order?

The SPEAKER pro tempore. If it had been brought to the attention of the Chair at the proper time, the Chair would have ruled in accordance with the rules of the House.

Mr. WALKER. I thank the Chair.

KENNEDY CENTER BAILOUT

(Mr. SHAW asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHAW. Mr. Speaker, as we predicted, it happened, and it happened exactly as we predicted, in the wee hours of the morning, in the darkness of night, the other body attached to the continuing resolution a provision that would bail out the Kennedy Center's indebtedness to the U.S. Government. This is a forgiveness of indebtedness in the amount of $43 million that is going to end up costing the American taxpayers $800 million.

If I were allowed to under the rules, I would say to the other body "Shame on you."

We know what this is going to cost. At a time when the American——

The SPEAKER pro tempore. The gentleman will proceed in order, the Chair will so advise.

Mr. SHAW. At a time when the American farmers are losing their land, they are not asking to be bailed out, as the Washington theater-goers are; at a time when farmers are losing

their farms, from Idaho to Illinois, from Alabama to Mississippi, we are not bailing them out, we are not forgiving the indebtedness that they have on their mortgages, but we are forgiving the indebtedness owed by the Kennedy Center and subsidizing the Washington theater-goers.

So I would say to the conferees from the House: When we get into the conference on the continuing resolution, stand firm, stand up for the American people and remove this wart from the continuing resolution.

CORRECTIONS NEEDED IN TAX BILL

(Mr. FAZIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FAZIO. Mr. Speaker, I think there is wide agreement in the Congress that one of the unforeseen effects of the imputed interest provision in our recent tax bill has been to severely crimp the ability of individuals to help finance the sale of their property.

My farmers in California particularly have been hard hit by declining property values. They need every tool available to make transactions of any sort possible to help stabilize their operations. Commercial, industrial, and other high value residential sectors also need help.

Given the extremely high interest rates that are likely to persist into the indefinite future, I hope our Tax Committee could propose some corrections to this problem.

Several good proposals have been advanced, but unless we act quickly, this week, in fact, a very serious hardship will be worked upon the public during a very difficult period of time.

THE KENNEDY CENTER BAILOUT

(Mr. MOLINARI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MOLINARI. Mr. Speaker and my colleagues, I am absolutely outraged by what is happening in the waning days of this session.

As the gentleman from Florida indicated, the Kennedy Center bailout package is on its way. It is in a form where we are not going to have the opportunity, as we have asked for many months, to debate that issue. What we are going to be doing is forgiving $30 million in past due interest. That is bad enough. But we are going to be forgiving 33 years in advance interest on a debt that is owed to the taxpayers of this country.

We begged for the opportunity to debate that bill on the floor. We have been denied that opportunity. It is a disgrace what is happening. I am terribly upset with the actions of this Congress.

A MESSAGE OF THANKS AND APPRECIATION FROM THE CHAIRMAN OF THE COMMITTEE ON APPROPRIATIONS

(Mr. WHITTEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WHITTEN. Mr. Speaker, I take this opportunity to thank the Speaker and the many others who participated in my portrait unveiling ceremony on September 20.

In accordance with long-standing practice, portraits of chairmen of the House Committee on Appropriations have been displayed in rooms of the Appropriations Committee in the Capitol. The people of Mississippi, through a private portrait fund raising committee, have been kind enough to donate a portrait of me which now hangs in the U.S. Capitol in the office of the committee chairman with those of former chairmen George H. Mahon and James A. Garfield, among others.

I especially want to thank EDDIE BOLAND for the great job he did as master of ceremonies. I also greatly appreciate the kind remarks made by the Speaker, by the majority whip, TOM FOLEY, filling in for the majority leader who was unavoidably called away; and by BOB MICHEL, the minority leader of the House; and by BILL NATCHER and SIL CONTE from the Committee on Appropriations and to NEAL SMITH and JOE MCDADE, members of the Appropriations Committee who served on the Portrait Committee.

I am grateful to all of my colleagues and friends who attended the unveiling ceremony in Statuary Hall of the U.S. Capitol, and especially to my fellow Mississippians who made a trip to Washington just for the ceremony.

Again, I thank the Speaker for accepting the portrait on behalf of the House of Representatives and all who participated in the ceremony.

□ 1120

BAHA'IS FACING MORE EXECUTIONS IN IRAN

(Mr. PORTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PORTER. Mr. Speaker, last month Manuchehr Ruhi was executed in Iran for the simple reason that he is a Baha'i.

The American Baha'i community, and indeed all who care for human rights, are outraged by Mr. Ruhi's execution. It is feared that his untimely death may represent the start of a new program against the Baha'i community in Iran.

As many of my colleagues are aware, the Baha'is are a religious minority that believe in the same tenets as most organized religions—social equality, pacifism, and tolerance. The religion was founded about 140 years ago in Persia, and throughout their history the Baha'is have suffered severe persecution in their homeland.

Currently 750 Baha'is are languishing in prisons in Iran, subjected to harassment and tortured by prison guards to recant their faith. In addition to the 170 Baha'is already executed, 32 Baha'is have received death sentences, and it is feared that resumption of mass executions is imminent.

I hope that Members of Congress will raise their voices in protest and bring this matter forcefully to public attention. Perhaps, one day soon the misguided fanatics in Iran will cease to rule that troubled land.

TRUTH

(Mr. ROEMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROEMER. Mr. Speaker, yesterday's debate on the Jones bill on a balanced budget had to disturb any nonpolitician in America. We will never get a decent budget with lower deficits with the kind of devisive, "I am not the problem", nitpicking, partisan whimpering of yesterday.

We heard from those who said spending is too high, yet let us give the generals a blank check. We heard from those who talk fiscal responsibility back home but vote for every spending bill that floats across this room. We even heard from those who will not raise your taxes, but gladly raise your interest rates and the debt burden on your children.

Frankly, we did not hear enough of the truth. The truth that the deficit is a problem; that high interest rates are a threat to economic freedom. That we must work together to restore budgetary control using both tax reform and spending discipline.

Now that is the truth; it is not good politics, but that is the truth.

INVESTIGATION OF MR. ROOSEVELT'S SCARE TACTICS IS NEEDED

(Mr. OXLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OXLEY. Mr. Speaker, among the most reprehensible acts I can think of is when con artists try to bilk older Americans out of their limited incomes and savings. This is exactly what James Roosevelt is doing. In fundraising letters to the elderly, he has cheated them out of millions of

dollars by purposely and inaccurately portraying the Social Security system and Medicare on the verge of collapse and misinforming them that Congress is going to slash funding for both systems—unless they give to his organization, the so-called National Committee to Preserve Social Security & Medicare.

Shortly after Congress passed the historic Social Security Amendments of 1983, letters began pouring into my office from frightened senior citizens who had read in Mr. Roosevelt's letter that the Social Security system was going broke and that they were about to lose their only source of income. Actuarial estimates show, however, that the Social Security Amendments of 1983 insured an economically solvent Social Security system beyond the year 2000 and a viable Medicare program until 1992, allowing sufficient time for Congress to solve any long-term medicare funding problems.

Mr. Roosevelt now has a new scare tactic in the works. Soon after President Reagan urged Congress to pass legislation to allow a cost-of-living allowance [COLA] for Social Security recipients even if the 3 percent inflation trigger is not reached, Mr. Roosevelt sent out another misleading and inaccurate fundraising letter to seniors. One senior was so confused by Mr. Roosevelt's letter that she sent me the $10 solicited by the letter.

The Postal Service already has forced Mr. Roosevelt to modify the erroneous indentification on the letters' envelopes, although they remain misleading. I urge the Social Security Subcommittee of the House Ways and Means Committee and the Justice Department to investigate Mr. Roosevelt's use of scare tactics designed to frighten the elderly and disabled. He should not be allowed to alarm them any longer.

FACTS AND ISSUES, NOT IMAGES

(Mr. LEVIN of Michigan asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEVIN of Michigan. Mr. Speaker, on Monday, in a speech to the Detroit Economic Club, President Reagan attempted to paint a rosy picture of his economic policies, and a negative one of what he called the Carter-Mondale administration. In one breath, the President claimed, and I quote, "In 1980 with Washington in charge, all they ever did was fumble." In another, he turned to the president of Chrysler and praised the firm for its recovery. The President's statements take the prize for gall, but not for candor. In the first place, Chrysler could not have survived without action by Washington, and in the second place, Mr. Reagan opposed that assistance to Chrysler.

Mr. Reagan's Houdini approach in Detroit followed a similar sleight-of-hand in Buffalo, where he praised a senior citizens facility built with the help of a Federal program which he has tried to shrink. In the last few weeks we have seen the President claiming credit for what he opposed, and blaming others for what is his responsibility.

Clearly it is time to talk facts and issues, not images.

PARTISAN RESEARCH SHOULD NOT BE DONE AT THE TAXPAYERS' TIME AND EXPENSE

(Mr. WALKER asked and was given permission to address the House for 1 minute.)

Mr. WALKER. Mr. Speaker, I was rather shocked to see in this morning's Washington Post that the Speaker of the House had commissioned the Congressional Research Service to monitor, study and report on television network coverge of the President and the opposition party. This is the same Speaker who earlier this year used his power to try to censor House television coverage.

The use of the nonpartisan Congressional Research Service, which was created in 1970 by the Legislative Reorganization Act out of the old legislative reference service, is clearly contrary to the intent of Congress that the Service be used for legislative, not partisan political research purposes.

Mr. Speaker, this massive study which runs some 163 pages has been over a year in the making and has consumed the time of at least seven CRS personnel, and it is a blatant waste of the taxpayers' dollars and an abuse of political power.

Partisan research such as this should be left to our political party committees and not be done at the taxpayers' time and expense. Where is the sleaze, Mr. Speaker? Well, here is some of it.

QUAALUDE ABUSE IS DECREASING

(Mr. SMITH of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. SMITH of Florida. Mr. Speaker, the Broward County medical examiner has provided me with statistics that should make us all proud of recent legislation that we have passed.

As a State legislator in Florida, where quaaludes were a favorite drug among young people, I sponsored a bill that made illegal the prime ingredient in quaaludes—methaqualone. In June, a similar Federal bill was signed into law, after being originally introduced by me.

I knew that the bill would have a positive impact, but even I did not expect the results that have occurred in Florida.

In 1982, Broward County saw 186 traffic arrests for driving under the influence of quaaludes. In 1983 it was 84. So far in 1984, it has been nine.

Even more importantly, in 1982 the county had 36 deaths attributable to quaaludes. In 1983 it was six. So far in 1984 it has been just one. As Broward County's chief medical examiner said, "something sure as hell worked."

One thing that worked was the Florida law banning methaqualone. I expect that, once the new Federal law if fully implemented, we will save the lives of young people and innocent victims nationwide.

Mr. Speaker, for the benefit of my colleagues I would like to submit the text of the letter from Dr. Ronald Wright:

UNIVERSITY OF MIAMI,
SCHOOL OF MEDICINE,
September 24, 1984.

Re methaqualone.

Congressman LARRY SMITH,
4747 Hollywood Boulevard,
Hollywood, FL.

DEAR CONGRESSMAN: I received a call from the press in reference to your claim of decrease in Methaqualone deaths.

The following are figures for Broward County for the last three years:

	Traffic arrests, DUI ludes	All deaths, ludes
1982	186	36
1983	84	6
1984 to Sept. 24, 1984	9	1

Something sure as hell worked.

Sincerely,

RONALD K. WRIGHT, M.D.,
Chief Medical Examiner.

CONGRESS HAS MADE PROGRESS ON MILITARY PROCUREMENT

(Mr. BRITT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BRITT. Mr. Speaker, allow me to recount a familiar story: The GAO releases a report on military spare-parts procurement. Congress holds hearings uncovering horror stories of outrageous overcharges on routine items such as wrenches and bolts. The Pentagon produces a plan of action, designed to solve the problem. All this may sound like yesterday's headlines, but it is actually all drawn from the records of hearings held in 1961—23 years ago.

We can be pleased with the progress made by the 98th Congress on military procurement reform. We have enacted the Competition in Contracting Act of

1984. The Defense Procurement Reform Act of 1984, now awaiting the President's signature, makes it easier to buy spare parts direct from the producer and avoid markups by the middleman. Yesterday, an important bill, of which I was a cosponsor, was passed which will increase competitive bidding on spare parts. This bill places individuals in procurement centers who will break out spare parts from sole-source procurement contracts.

But we in the Congress must keep in mind that the spare-parts problem did not begin last year, but has been around for decades. In the next session of Congress, we must exercise our oversight responsibility to see that the American people are spared a replay of the horror stories 10, 20 years hence.

TOUGH MEDICINE IN A BIPARTISAN MANNER

(Mr. DORGAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORGAN. Mr. Speaker, yesterday I listened with interest to the discussion about a balanced budget. I recall the first State of the Union Address given by President Reagan at the microphone behind me, and he said this deficit of ours, this Federal debt is so large, that if you stacked $1,000 bills it would reach 67 miles in the air. But he said he could solve this deficit problem by 1983.

Now, in the five budgets submitted by this President, he will have recommended that we create another stack of $1,000 bills 67 miles high. I notice that people on the other side of the aisle constantly badger the people on this side of the aisle because they say we do not follow Ronald Reagan's lead.

□ 1130

Well, the reason we have created the doubling of the deficit in this country is because we have followed the President's lead, that is our problem. We have done exactly what the President has asked us to do and we have not had the courage to say no.

Now this deficit problem is a bipartisan problem and cannot be solved by slogans and cannot be solved by political smoke. It can only be solved by real tough medicine in a bipartisan manner. I hope finally that is what the House of Representatives and the other body begins to do with some leadership from a President who understands what the deficits will do to this country if we do not get them under control.

PRESIDENT UNWILLING TO BALANCE HIS OWN BUDGET

(Mr. HARRISON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HARRISON. Mr. Speaker, I understand the President and some of his supporters on the Republican side of the aisle still want to bog us down at this late hour with consideration of a constitutional amendment to balance the budget, so I just rise again to say what I have said before: The best balanced budget amendment we could have would be for the President to amend his own budget to bring it into balance and send it down to us.

Of course, we know he has not, and of course we know he will not, so I just say to my colleagues that if this President and his colleagues on the Republican side of the aisle still persist in trying to write into the Constitution a requirement that future Presidents do what he has not been willing to do, then we ought to remember what the good Sisters of Mercy taught me at St. Mary's Grade School many years ago: Beware of him who tells you to do what he says and not what he does.

CITIZENS SHOULD DECIDE HOW TO BALANCE BUDGET

(Mr. CRAIG asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CRAIG. Mr. Speaker, I have before me House Joint Resolution 243. This is the document that would cause this body to vote up or down or allowing the citizens of this country the right to decide whether they wanted their Congress by the Constitution to balance its budget.

Yesterday, we saw a very interesting circus on this floor, as some Members tried to create the illusion that H.R. 6300 was the vehicle that would bring us to a balanced budget.

Mr. Chairman, 83 percent of the American public by the latest polling, know that the only way this House will be forced to stay within spending limits is to create a constitutional amendment to balance the budget and limit taxes.

The only vehicle for that is House Joint Resolution 243. Let us not be fooling ourselves once again.

PITTSBURGH'S MOM'S HOUSE

(Mr. COYNE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COYNE. Mr. Speaker, more than 1,800 babies were born in 1982 to Allegheny County mothers aged 10 to 19. Two-thirds of those who were unwed and who chose to keep their children failed to complete school.

No one should have to choose between keeping a child and going to school. I am happy to report that in Pittsburgh, young mothers are no longer faced with an either/or decision. Mom's House, a project of people concerned for the unborn child, now offers free day care to any single, divorced, or separated mother of an infant or toddler who desires to continue her education. Mom's House also offers informal classes on essential parenting skills and, when necessary, provides counseling on how to go about pursuing an education. To qualify for these services, a mother must attend school regularly, maintain passing grades and contribute 3 hours a week to center activities.

I commend the effort by the tutors, teachers, students, and others who have made Mom's House a reality. it is my hope that its example can be an inspiration to other cities in the country now seeking to provide services for young women facing a very difficult time in their lives.

PROVIDING FOR CONSIDERATION OF H.R. 5377, U.S.-ISRAEL FREE TRADE AREA ACT

Mr. PEPPER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 598 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 598

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 5377) authorizing the President to enter into, and to proclaim modifications necessary to implement, a trade agreement with Israel providing for duty-free treatment for, and the elimination of import restrictions on, the products of Israel, and the first reading of the bill shall be dispensed with. All points of order against the consideration of the bill for failure to comply with the provisions of clause 2(l)(6) of rule XI and section 303(a) of the Congressional Budget Act of 1974 (Public Law 93-344) are hereby waived. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means, the bill shall be considered as having been read for amendment under the five-minute rule. No amendment to the bill shall be in order except the amendment in the nature of a substitute recommended by the Committee on Ways and Means now printed in the bill, said amendment shall be considered as having been read and shall not be subject to amendment, and all points of order against said amendment for failure to comply with the provisions of section 303(a) of the Congressional Budget Act of 1974 (Public Law 93-344) are hereby waived. At the conclusion of the consideration of the bill for

amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions. After the vote on passage of H.R. 5377, it shall be in order to consider a motion in the House to take from the Speaker's table the bill (H.R. 3398) to change the tariff treatment with respect to certain articles, and for other purposes, with the Senate amendments thereto, to agree to the amendment of the Senate to the title of the bill, and to concur in the Senate amendment to the text of the bill with an amendment in the nature of a substitute consisting of the texts of the following bills, if and as passed by the House: H.R. 2848; H.R. 3398; H.R. 3795; H.R. 4784; H.R. 4901; H.R. 5188; H.R. 5377; H.R. 6023; H.R. 6064; and H.R. 6301. The Senate amendments and the House amendment shall be considered as having been read. All points of order against the motion are hereby waived, debate on the motion shall continue not to exceed one hour, and the previous question shall be considered as ordered on the motion to final adoption. It shall then be in order to move that the House insist on its amendment to the Senate amendment to H.R. 3398 and request a conference with the Senate thereon.

The SPEAKER pro tempore (Mr. WRIGHT). The gentleman from Florida [Mr. PEPPER] is recognized for 1 hour.

Mr. PEPPER. Mr. Speaker, I yield 30 minutes, for debate only, to my friend, the able gentleman from Tennessee [Mr. QUILLEN], and to myself such time as I may consume.

Mr. Speaker, House Resolution 598 is a modified closed rule providing for the consideration of H.R. 5377, the Israeli Free Trade Zone.

The 1 hour of general debate is to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means. Clause 2(l)(6) of rule XI, the 3-day layover requirement is waived against consideration of the bill.

That rule requires copies of the committee report to be available 3 calendar days, excluding weekends and holidays, prior to consideration of the measure on the floor. Obviously, during the final days of the Congress we must act expeditiously on legislation, and it is sometimes necessary to consider legislation before the committee report has been available for 3 days.

Members should note that copies of the committee report have been available since Monday.

The rule also waives section 303(a) of the Congressional Budget Act. Section 303(a) of the Congressional Budget Act prohibits consideration of new budget authority, increases or decreases in revenue, increases in the public debt or new entitlement authority prior to the adoption of the first concurrent budget resolution.

When the Committee on Rules met to grant a rule, the House had not completed action on the first concurrent budget resolution for fiscal year 1985. Because the legislation authorizes the President to reduce tariffs on goods from Israel, it would affect the level of revenues raised through tariffs in fiscal year 1985 and would have violated section 303(a). However, this waiver is not necessary in light of the adoption on Monday of the conference report on the first concurrent budget resolution for fiscal year 1985.

The bill is to be considered as read for amendment and the rule makes in order only the Committee on Ways and Means amendment in the nature of a substitute now printed in the bill. The substitute is to be considered as read and is not subject to amendment.

Section 303(a) of the Congressional Budget Act is also waived against the substitute.

As I mentioned before, when the committee met to grant this bill a rule, the House had not considered the conference report on the first concurrent budget resolution and a waiver of section 303(a) was necessary, although it is not necessary now.

One motion to recommit is also provided by the rule.

After the vote on passage of H.R. 5377, the rule allows a motion to take H.R. 3398 from the Speaker's table with a Senate amendment, to agree to the Senate amendment to the title, and concur in the Senate amendment to the text, with an amendment in the nature of a substitute. That substitute shall consist of the text of the following bills if passed by the House:

H.R. 2848, H.R. 3398, H.R. 3795, H.R. 4784, H.R. 4901, H.R. 5188, H.R. 5377, H.R. 6023, H.R. 6064, H.R. 6301.

The Senate amendments and the House amendment are considered as read.

The rule waives all points of order against the motion and 1 hour of debate is provided. The previous question is considered as ordered on the motion to final adoption.

Finally, the rule provides that it is then in order to move that the House insist on its amendment to the Senate amendments to H.R. 3398 and request a conference with the Senate.

I would like to make a few observations, Mr. Speaker, about the procedure included in the rule to move to conference with the other body.

H.R. 3398 is a tariff bill passed by the House over a year ago. When the Senate completed action on H.R. 3398 on September 20, 1984, it included many provisions not contained in H.R. 3398 as passed by the House. The rule before the Members simply packages a number of trade bills that have already passed the House, as well as the trade bills granted rules Monday, into a single substitute to the Senate amendments to H.R. 3398.

I want it to be clear, Mr. Speaker, that under the proposed rule, only those measures that have passed the House, and in the form that they passed the House, are included in the motion specified in the rule. This procedure is not unique and has been used on many occasions to facilitate a conference with the other body. It is made necessary because the Senate amendments to H.R. 3398 go beyond the scope of the House-passed version of H.R. 3398.

Of these 10 bills which will be packaged as a substitute to the Senate version of H.R. 3398, 5 have already passed the House. The other 5 bills were granted rules on Monday. The rule states that the text of the bills, if and as passed by the House, are contained in the substitute for the Senate amendments to H.R. 3398. In other words, if any of the rules granted on Monday are not passed by the House, they will not be a part of the House amendment to the Senate amendments.

Mr. Speaker, H.R. 5377 is important legislation authorizing the President and the special trade representative to enter into negotiations with Israel to establish a bilateral and mutually-advantageous free trade zone; in other words, mutually beneficial to both countries. This legislation is necessary because the President currently does not have the authority to enter into any agreement establishing a free trade zone.

In addition, it is important for the Congress to set forth a policy concerning the applicability of import relief action relating to Israel. Apparently because the Senate has adopted, as part of H.R. 3398, an amendment relating to free trade zones with Canada as well as Israel, the House should adopt legislation in order to establish a House position prior to the conference with the other body.

□ 1140

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as has been ably explained, this is an unusual rule. It is a modified closed rule on the United States-Israel free trade zone bill, but it also provides for 10 trade bills to be joined together for a conference with the other body. I recall in the Committee on Rules combining two or three bills to go to conference, but never a maximum of 10 bills. We perhaps are setting a record today in allowing this to happen. It is a good idea, I think, to go to conference, and in making that statement I want the Members to know that I support this rule and urge its adoption.

I think Members understand why this procedure was suggested to the Rules Committee, and it will ensure that the hard negotiations on an omnibus trade remedies bill will occur in conference committee.

The bill now before the House, to establish an American-Israeli free trade zone, is an important measure which I support, as I have previously stated.

President Reagan and Prime Minister Shamir agreed last year to proceed with bilateral negotiations to create a free trade zone between our two countries. H.R. 5377 authorizes the President to enter into such a trade agreement and provides for congressional review and approval of any trade agreement submitted by the President.

However, it does give him broad authority on negotiations and a proclamation to do certain things.

Since the creation of the modern state of Israel following World War II, the United States and Israel have established firm ties of friendship and mutual support. In the trade area, we are Israel's major trading partner and provide a market for about 25 percent of Israel's total exports. Yet, through the years, we have maintained a trade surplus.

This bill will provide congressional assistance to the President to expand our close and friendly relations with Israel in commercial trade. Since I believe a well-negotiated agreement with protections for certain import-sensitive American industries would be beneficial for both countries, I urge adoption of the rule and of the bill.

□ 1150

Mr. Speaker, I yield 2 minutes to the gentleman from Minnesota [Mr. FRENZEL].

Mr. FRENZEL. Mr. Speaker, this is an unusual rule.

As most Members know, the authority to allow the United States to negotiate with Israel for a free-trade agreement is one that is carrying a good deal of baggage. All of that baggage is going to be rolled up at the conclusion of festivities today, and we are going into conference on more than a half dozen bills that are highly complicated.

If the United States-Israel free trade authority should not pass, neither will any other element of the trade package pass. Without the engine of this bill, the train will never leave the station.

This is a rule that provides us with what I think will be a splendid agreement both for Israel and the United States.

Mr. Speaker, I hope it is promptly adopted, and I yield back the balance of my time.

Mr. PEPPER. Mr. Speaker, I have no further requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF H.R. 6301, STEEL IMPORT STABILIZATION ACT

Mr. WHEAT. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 596 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 596

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 6301) to provide authority for enforcing arrangements restricting the importation of carbon and alloy steel products into the United States that are entered into for purposes of implementing the President's national policy for the steel industry, and for other purposes, and the first reading of the bill shall be dispensed with. All points of order against the consideration of the bill for failure to comply with the provisions of clause 2(l)(6) of rule XI and section 303(a) of the Congressional Budget Act of 1974 (Public Law 93-344) are hereby waived. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means, the bill shall be considered as having been read for amendment under the five-minute rule. No amendment to the bill shall be in order except the amendments recommended by the Committee on Ways and Means now printed in the bill, said amendments shall be considered en bloc and considered as having been read, and shall not be subject to amendment or to a demand for a division of the question in the House or in the Committee of the Whole. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER pro tempore. The gentleman from Missouri [Mr. WHEAT] is recognized for 1 hour.

Mr. WHEAT. Mr. Speaker, for purposes of debate only, I yield 30 minutes to the gentleman from Tennessee [Mr. QUILLEN], pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 596 is a modified closed rule providing for the consideration of H.R. 6301, the Steel Import Stabilization Act. The rule provides for 1 hour of general debate to be divided equally between the chairman and ranking minority member of the Committee on Ways and Means.

All points of order against the bill for failure to comply with clause 2(l)6) of rule XI are waived. That is the rule which requires that committee reports be available to Members for 3 days prior to consideration on the floor. The waiver was necessary in order that this important legislation be considered in the few remaining days of this session. It should be noted that the committee report has been available since Monday.

The rule also waives points of order against consideration of the bill for failure to comply with section 303(a) of the Congressional Budget Act. Section 303(a) prohibits consideration of legislation which reduces or increases revenues, prior to the adoption of the first budget resolution. When the Rules Committee reported this rule, the first budget resolution for fiscal year 1985 had not yet been adopted; and, since H.R. 6301 decreases revenues in fiscal year 1985 by extending tariff reductions, a waiver of section 303(a) was required. The adoption Monday of the budget resolution has rendered this waiver unnecessary.

The rule also provides that the bill shall be considered as having been read for amendment under the 5-minute rule and no amendment to the bill shall be in order except amendments recommended by the Committee on Ways and Means now printed in the bill. The amendments shall be considered en bloc and shall be considered as having been read. They shall not be subject to amendment or to a demand for a division of the question in the House or in the Committee of the Whole.

At the conclusion of the consideration of the bill for amendment, the committee shall rise and report the bill to the House with such amendments as may have been adopted. The previous question shall be considered as ordered on the bill and amendments thereto. Finally, the rule provides for one motion to recommit.

Mr. Speaker, for sometime now the U.S. steel industry has suffered greatly due to foreign imports. Earlier this year, the International Trade Commission, under the procedures set forth in section 201 of the Trade Act of 1974, recommended that mandatory quotas be imposed on imported steel. The President rejected the ITC's recommendation. However, he did announce that he intended to negotiate arrangements and bilateral restraints with steel-exporting countries to limit overall steel imports. H.R. 6301 provides the President with the legislative authority to enforce bilateral arrangements entered into to reduce the import of carbon and steel alloy products. The bill provides the President with such authority for a maximum of 5 years, with that authority subject to annual renewal.

The bill also requires the Secretary of Labor, in consultation with the Steel Advisory Committee, to prepare a plan to assist workers in communities that are adversely affected by steel imports. Finally, Mr. Speaker, H.R. 6301 provides authorizations through September 30, 1987, for a

worker and firm adjustment assistance program.

Mr. Speaker, the effect of foreign exports on our domestic steel industry is a matter which deeply concerns many of us. Therefore, I urge that we adopt the rule so that we may proceed to consideration of this important piece of legislation.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may use.

Mr. Speaker, this bill would add congressional input to the President's decision regarding trade remedies for the American steel industry announced in mid-September.

The American steel industry has suffered a loss of its market in recent years because of a substantial increase in subsidized imports. Several weeks ago the President rejected a recommendation for mandatory quotas on imported steel and instead announced his intention to negotiate bilaterally with countries exporting large quantities of low-priced, subsidized steel to the United States. The President declared that his policy aimed at a steel import share of about 18.5 to 20 percent of the domestic market.

H.R. 6301 provides authority to impose import restraints to enforce any bilateral agreements, but conditions this on reinvestment and modernization efforts by the American steel industry. The bill further provides provisions to assist steelworkers who have lost their jobs through worker retraining and relocation programs as well as a reauthorization of trade adjustment assistance.

The bill also contains sense of the Congress provisions that steel imports should be reduced to about 17 percent of the domestic market.

Mr. Speaker, the rule has been ably explained. I support the rule and urge adoption of the measure when it is before this body.

Mr. Speaker, I yield 2 minutes to the gentleman from Minnesota [Mr. FRENZEL].

□ 1200

Mr. FRENZEL. Mr. Speaker, the bill the consideration of which is provided under this rule is not my favorite bill. In fact, I think it stinks. It is a totally unwise, even pernicious, as economic policy.

Nevertheless, the arrangement under which we are working today requires that all of these bills go into conference. In my judgment, it is best for our total overall trade policy that all of the rules be passed and that all the bills be put into conference.

There is no guarantee that we will be able to bring a bill back at all, or that we can bring one back that the President will be able to sign. But I hope the House will give the policy a chance. The two principal policies are GSP and the U.S.-Israel free trade.

We have to put these bills into conference. Therefore, I suggest an aye vote on this rule, even though the bill it is considering is unworthy.

Mr. QUILLEN. Mr. Speaker, I yield 1 minute to the gentleman from Ohio [Mr. REGULA].

Mr. REGULA. Mr. Speaker, I thank the gentleman for yielding.

I would urge my colleagues to support this rule. This bill is essential if the President is to fully implement the policy that he adopted in response to the recommendations of the International Trade Commission.

I think that the terms of the bill are very reasonable and will do a great deal to protect our national security in terms of the steel industry and to provide the necessary tools for the President to achieve some desirable results for the steel industry of this Nation.

Mr. WHEAT. Mr. Speaker, for purposes of debate only, I yield 3 minutes to the gentleman from Minnesota [Mr. OBERSTAR].

Mr. OBERSTAR. Mr. Speaker, we really ought to be here debating a rule providing for the consideration of H.R. 5081, the Fair Trade in Steel and Iron Ore Act. That legislation is clear and tough and would be effective in slowing down imports of foreign subsidized steel and iron ore. It would establish quotas in law on imported steel and iron ore.

This bill, H.R. 6301, the President's proposal, to be implemented under this legislation, will not.

Nothing could underscore more dramatically the precarious condition of the domestic iron ore industry in northeastern Minnesota, which I represent than this headline from this morning's Duluth News Tribune and Herald, the principal newspaper in my district, which says, "Hibbing Taconite To Be Shut Down. 900 To Be Laid Off Next Month. Reopening Date Not Set." Hibbing Taconite is a plant that processes low-grade ore, called taconite, into a high-grade, 65-percent iron-bearing pellet, which is a blast furnace feed. The plant has a production capacity in excess of 9 million tons annually.

I am really disappointed in the remarks of my colleague, the gentleman from Minnesota who spoke just preceding, that this bill stinks. I think that remark shows an insensitivity to the problems in the State that we both represent in an industry that is essential to the economy of Minnesota as a whole and to northeastern Minnesota, specifically.

The workers, 900 of them, will have no idea of whether or when they will be called back. They are employed in the most modern taconite processing facility in the country and probably the most modern and up to date, without Government subsidies, the only facility of its kind in the world that has been operating since February, this story says, when it reopened after a 5-month shutdown. Of 15,000 workers in iron ore processing and mining in northeastern Minnesota, some 8,000 are laid off. That stinks, not this bill, not the effort to stem the flow of imports of iron ore and steel subsidized by foreign governments and international lending institutions.

Iron ore is the essential ingredient in the fabrication of steel. The health of the iron ore mining and processing industry and of the area that I represent are inextricably linked to the success and the prosperity of the steel industry.

We are celebrating this year the 100th anniversary of the first shipment of iron ore from northeastern Minnesota. Since that time, 3,200 million tons of iron ore have been shipped to America's steel industry; 99 percent of the iron ore for that steel industry during World War II came from northeastern Minnesota. When that high-grade ore was depleted, new processes were brought into play to upgrade low-quality iron-ore-bearing material called taconite to make it a high-grade blast furnace feed. The taconite industry has prospered because the steel industry prospered.

The SPEAKER pro tempore. The time of the gentleman from Minnesota has expired.

Mr. WHEAT. Mr. Speaker, I yield 3 additional minutes to the gentleman.

Mr. OBERSTAR. Mr. Speaker, I thank the gentleman for yielding.

Mr. FRENZEL. Mr. Speaker, will the gentleman yield?

Mr. OBERSTAR. Yes; I would be glad to yield.

Mr. FRENZEL. Mr. Speaker, I thank the gentleman for yielding.

I apologize if I demonstrated insensitivity to the gentleman or his constituents. I simply was trying to make the point that although I believe the bill is unwise policy, I am supporting the rule so that the bill can be debated. I was trying to make the contrast, and I do apologize to the gentleman.

Mr. OBERSTAR. Mr. Speaker, I accept the gentleman's apology.

The iron ore mining and processing industry accounts for 55 percent of the regional economy of northeastern Minnesota. In 1981, that industry bought $900 million in goods and services from 2,000 Minnesota businesses and employed 15,000 people with a $400 million payroll. Last year, because of imports, that industry bought $450 million of goods and services, employing about 8,000 people with a payroll of under $200 million. It is going down further this year. Unless we do something about unfair iron ore and steel imports into this country, we are going to have all the people of the iron ore mining industry laid off.

In last Friday's Wall Street Journal, the Brazilian Government had full

page inserts bragging about their exports of steel, subsidized by that government. The headline reads: "Steel Exports are Booming."

Another story on the other side says: "The Carajas iron ore project will start full industrial operations—with considerable generation of foreign exchange for Brazil; annual revenues of $700 million are forecast."

And their market—the U.S. steel industry. They are subsidizing that ore production with a World Bank loan, with subsidized financing from other governments, such as Japan and European Common Market countries and their target is the world's largest, open, free market, the United States.

We are not playing on a level field with our competition. They are subsidizing to the hilt. They are taking jobs away from American workers and taking markets from American industry. The domestic steel industry has not been subsidized and the domestic iron ore industry has not been subsidized, and we are not paying workers $5 and $6 a day either. We are sustaining a viable, vibrant national economy, with a basic industry.

I just wish we were here with a really tough and effective bill that would do something about imports. This legislation depends on the good will and the negotiating skill of this administration, in which I have frankly very little confidence.

I commend the Committee on Ways and Means, which has improved a very weak and ineffectual policy proposed by the administration. I fault the steel industry for not bargaining hard enough with the administration to get quotas. They cut and run, took the first crumb that was offered to them.

This legislation is an improvement. It will help, if it is vigorously implemented; but the future is uncertain and it remains to be seen whether this bill will provide the protection that our workers need.

Mr. WHEAT. Mr. Speaker, despite disagreements about the specifics about how best to handle steel problems in this country, there is no doubt that the steel industry and steelworkers still suffer. This legislation will begin the process of restoring that industry to full health.

I would urge the House to adopt this resolution so that we may move to the consideration of this important issue.

● Mr. GAYDOS. Mr. Speaker, in his book, "No Final Victories," Lawrence O'Brien describes politics, especially congressional politics, as the art of compromise.

And as we review this bill before us, the Steel Import Stabilization Act, I feel as though Mr. O'Brien was talking about it even though he made his statement several years ago.

This measure is a masterful piece of compromise. It endorses the President's decision to negotiate voluntary export restraints on steel with those nations presently flooding the American market.

It requires the steel industry to use the cash flow generated by these to be negotiated restraints for plant modernization and development of new technologies and for retraining steelworkers whose jobs are permanently lost.

It expresses the "sense of Congress" that these voluntary agreements achieve an import penetration of no more than a 17-percent share of the American market.

It is such a masterful job that almost everyone walks away happily. The steel industry was satisfied with the President's decision, so congressional support obviously is acceptable.

The steel workers can point to the retraining provision and the plant modernization provision as the key issue in the effort to both save American steelmaking jobs and to help those workers whose jobs in the steel industry have disappeared forever.

Members of Congress who have steelmaking plants in their districts can support this bill and go on record as saying they have fulfilled their commitment to keep one of America's basic industries going and to force it to become competitive.

But, I ask you, what will this bill really do? Does it really add anything to clarify the real needs of the industry?

In his rejection of the International Trade Commission recommendation of quotas and tariffs on steel imports, the President says the voluntary agreements to be negotiated will do the job because, he says:

> He will enforce to the fullest all existing trade laws, especially with regard to unfair trade practices such as subsidization and downstream dumping.

That sounds great. But there is a question: Is the President willing to, or can he, fulfill that commitment?

Time and time again, administration after administration has said it will enforce the trade laws this Congress has passed. And time after time, administration after administration has failed in the task or not really bothered to do the job.

Since 1974, when we passed one of the trade reform measures, I have taken an active role. I have felt and still believe that unless the laws we pass are enforced, they will be and are ineffective, impotent and, in the long run, destructive of the overall economic benefits that they were devised in the first instance to protect.

Up to now, history has proven me correct. We have passed trade bills that leave so much room for administrative mumbo-jumbo that steel imports that should be stopped at the dock come pouring into this country.

The procedures we have devised and adopted make it difficult at best to get quick approval even when a complaint, such as the 201 case filed by Bethlehem Steel and the United Steelworkers, is justified.

We have seen voluntary restraints reached before, and fail.

We have seen techniques such as the trigger price mechanism tried, and found wanting.

And now we are getting set for a new round—more voluntary agreements and more enforcement of existing laws. Do we have the customs officers to enforce the laws? Are the customs officers we have trained? Do they know what to look for?

We don't have answers to those questions. All we have is another adminstration saying that "We will enforce existing trade laws."

This bill offers us the opportunity to insist that the dollars earned by the steel companies from the voluntary restraints will go back into the industry.

The measure also requires the Labor Department to develop a plan within the next 6 months for assisting workers in communities that have been adversely affected by steel imports, including retraining and relocation for laid-off workers, and extends for 2 years the current authorization—an outlay of $350 million—for trade adjustment assistance for workers and firms as provided for in the Trade Act of 1974.

These are most commendable objectives. The President didn't touch on them and, quite frankly, they are vital elements of any program. In fact, I consider these the most important elements of the bill before us and, if you want to know the truth, they are the most compelling reason for any one to support this bill.

I do have reservations about the effort, as I have already stated. I question the commitment of this administration to truly enforce the trade laws that exist once the voluntary agreements are reached with the steel importing nations.

The President does not need our approval to reach these agreements with the steel trading nations. He and U.S. Trade Representative Bill Brock already have that authority.

Should we liken this approval, this congressional endorsement to the infamous "Gulf of Tonkin" resolution which put this body in the position of later having to repudiate itself?

I have reservations about the sense of Congress section of this bill which suggests that an import penetration of 17 percent is acceptable.

If, as a body, we feel that 17 percent of the American steel market is a fair share for imports, then let us set a quota of 17 percent. We proved that a quota could work when President Ford acted on behalf of the specialty steel industry. If it worked so well then, why not now?

What this bill does is tell the President and Ambassador Brock that we would prefer that the voluntary agreements allow a 17-percent share of the American steel market for imports rather than the 18, 19, or 20 percent share that has been mentioned, but without any strings attached. In effect, we are saying that whatever the agreement, it's OK with us.

As you can see, Mr. Speaker, I find myself between a rock and a hard place. Because this may well be the only solution available to the steel industry and America's steelworkers at this point and time.

At the same time, given the weight of historical failures to enforce fully our trade laws, I believe we are committing ourselves to a course of action doomed to failure.

I hope I am wrong. I will be the first to cheer if I am. But if I am not, let's see if we can generate the same degree of support and enthusiasm for the Fair Trade in Steel Act that we had just 2 weeks ago with 222 cosponsors.●

Mr. WHEAT. Mr. Speaker, I have no further requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF H.R. 2848, SERVICE INDUSTRIES COMMERCE DEVELOPMENT ACT OF 1983

Mr. HALL of Ohio. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 595 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 595

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2848) to establish a service industries development program, and for other purposes, and the first reading of the bill shall be dispensed with. All points of order against the consideration of the bill for failure to comply with the provisions of clause 2(l)(3)(A) of rule XI are hereby waived. After general debate, which shall be confined to the bill and to the amendment made in order by this resolution and which shall continue not to exceed one hour, thirty minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on Energy and Commerce and thirty minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means, the bill shall be considered as having been read for amendment under the five-minute rule. No amendment to the bill shall be in order to except the amendment in the nature of a substitute printed in the Congressional Record of October 1, 1984, by, and if offered by, Representative Florio of New Jersey, said amendment shall be considered as having been read and shall not be subject to amendment, and all points of order against said amendment for failure to comply with the provisions of clause 7 of rule XVI are hereby waived. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

□ 1210

The SPEAKER pro tempore. The gentleman from Ohio [Mr. HALL] is recognized for 1 hour.

Mr. HALL of Ohio. Mr. Speaker, I yield 30 minutes to the gentleman from Tennessee [Mr. QUILLEN] for purposes of debate only, pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 595 provides for the consideration of H.R. 2848, the Service Industries Commerce Development Act. The rule provides 30 minutes of general debate to be equally divided and controlled by the chairman and ranking minority member of the Committee on Energy and Commerce, and 30 minutes of general debate to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means. The bill shall be considered as having been read for amendment.

It should be noted that the rule waives clause 2(l)(3)(A) of rule XI against consideration of the bill. Clause 2(l)(3)(A) of rule XI requires that committee reports must include oversight findings and recommendations separately set out and clearly identified. The bill H.R. 2848 was introduced on May 2, 1983, and referred to the Committee on Energy and Commerce. It was amended and favorably reported by that committee on May 16, 1983, and then sequentially referred to the Committee on Foreign Affairs and to the Committee on Ways and Means.

The Ways and Means Committee reported H.R. 2848 adversely on September 22, 1983. The Foreign Affairs Committee did not act on the bill, and was discharged from considering it on October 31, 1983. When the Ways and Means Committee adversely reported the bill, that committee did not include in its report the oversight findings and recommendations required by clause 2(l)(3)(A) of rule XI. For this reason, a waiver is needed. However, the report issued by the Committee on Energy and Commerce does contain the required oversight findings and recommendations section.

The rule makes in order an amendment in the nature of a substitute printed in the CONGRESSIONAL RECORD of October 1, 1984 by, and is offered by, Representative FLORIO of New Jersey. The substitute shall be considered as read and shall not be subject to amendment. This substitute embodies an agreement developed by the Energy and Commerce and Ways and Means Committees.

With respect to the substitute, the rule waives clause 7 of rule XVI. This is the rule dealing with germaneness. This waiver may be necessary because of certain amendments to the Trade Act made by the substitute.

The rule also provides for one motion to recommit, with or without instructions.

Mr. Speaker, H.R. 2848 is one of several trade-related bills pending floor consideration. This bill would establish a service industries development program within the Commerce Department. This program would be responsible for advising U.S. service firms concerning world market opportunities and trends. The bill also would make it clear that the President has the same authority to deal with unfair trade practices in the services sector that he currently has with respect to the goods sector.

Mr. Speaker, I am not aware of any opposition to this rule on H.R. 2848, and I would urge my colleagues to adopt it.

Mr. QUILLEN. Mr. Speaker, I yield myself as much time as I may use.

Mr. Speaker, this rule will set in motion a very unusual procedure. It makes in order under a modified closed rule permitting no other amendments a substitute to be offered by the gentleman from New Jersey [Mr. FLORIO], to an Energy and Commerce bill that was rejected by the Ways and Means Committee after sequential referral to that committee.

Also, because of the rule providing for consideration of the American-Israeli Free Trade Zone bill, this bill, should it pass the House, will be inserted into the House position for the omnibus trade bill conference with the other body.

Neither the chairman nor the ranking Republican member of the Ways and Means Committee requested this procedure, and I opposed this rule when the matter was brought before the Rules Committee. This bill was not even on the Rules Committee agenda for Monday's meeting.

In any case, this rule makes in order H.R. 2848, the Service Industries Commerce Development Act. The stated purpose of the bill is to promote the international competitiveness of American service firms.

The bill establishes a service industry development program within the Commerce Department to advise and assist our service companies concerning world market opportunities and trends. The bill also amends the Trade

Act of 1974 to make it clear the President has the same authority to deal with unfair trade practices in the services sector that he has in the goods sector.

Mr. Speaker, as I said, I opposed the Florio amendment being added since both the chairman and the ranking Republican member of the Ways and Means Committee requested a modified closed rule. It seems to me that the Rules Committee was playing cat and mouse with this measure.

Mr. Speaker, an effort will be made on this measure to defeat the previous question. I support this effort.

Mr. Speaker, I yield 2 minutes to the gentleman from Minnesota [Mr. FRENZEL].

Mr. FRENZEL. Mr. Speaker, this bill was not in the package taken to the Rules Committee by the Ways and Means Committee. It is not part of the Ways and Means Committee's essential agreement, nor our discussions with the administration or with the other body.

If there was ever a splendid target for mischief, or for the addition of another worthy cause, like balancing the budget, this bill and its rule is the best target that I can imagine. The bill is redundant as it was reported. The total bill that covered it was reported unfavorably by the Ways and Means Committee.

Nearly the same language is in the Senate bill. The matter will be in conference. The members of the Energy and Commerce Committee will be part of that conference. So the passage of this rule and this bill is totally redundant. Therefore, in my judgment, it is a good and healthy idea to talk about the balanced budget on this rule because we interfere with nothing useful. I suggest a no vote on the previous question.

I yield back the balance of my time.

Mr. QUILLEN. Mr. Speaker, I will advise the gentleman from Ohio [Mr. HALL] that I have several requests for time.

Mr. Speaker, I yield 5 minutes to the gentleman from Mississippi [Mr. LOTT].

Mr. LOTT. Mr. Speaker, I thank the gentleman for yielding and want to urge my colleagues to vote to defeat the previous question on this rule.

Mr. Speaker, today we want to give the House the chance it was denied yesterday to vote on a balanced budget constitutional amendment. I want to serve notice on all my colleagues here and now that the vote you are about to cast may be your only chance in this Congress to go on record for such a constitutional amendment.

We had a parade of speakers in the well yesterday who said they were all for a constitutional amendment, but that the Jones balanced budget bill was the only game in town. Well, that was yesterday; today is today; and now is your chance to match your rhetoric with your vote.

Mr. Speaker, what we are asking on this rule is a "no" vote on the previous question so that we can offer a substitute rule making in order a new title to the bill. That new title would consist of the provisions of House Joint Resolution 243 as introduced by the gentleman from New York [Mr. CONABLE] and cosponsored by some 170 House Members. That amendment would be subject to 5 hours of debate and one substitute amendment.

The substitute rule goes on to provide that if the Conable amendment is adopted in the Committee of the Whole, there would be a separate rollcall vote on it in the House. If it is then adopted by the House, by a two-thirds vote, it would be automatically engrossed in a separate joint resolution. That is the proecedure we now use under House Rule 49 for transferring the debt level increase figures from budget resolutions to separate joint resolutions. Let's use that same procedure to reduce the debt level and balance our budgets.

For my colleagues who think they can hide behind the previous question vote as a mere procedural vote, let me caution you that this vote will be widely interpreted and portrayed as the balanced budget constitutional amendment vote in this Congress.

For my colleagues who think they can duck the issue by hiding behind the germaneness rule as an excuse, let me remind you that yesterday you suspended all the rules of the House to pass a meaningless bill. Today you are being asked on this vote to waive just one House rule in order to vote on a meaningful constitutional amendment.

Can you honestly go back home and tell your constituents that you thought the germaneness rule of the House was more important than mandating a balanced budget by constitutional amendment? Can you honestly look at all the times you have voted for waivers on all manner of rules in this Congress and now turn around and refuse to grant a waiver on the most important amendment in this Congress? I think not.

So this is the final day of reckoning on the balanced budget issue in this Congress. The next vote you're going to cast is the real balanced budget vote. A "no" vote on the previous question is a "no" vote on deficits. A "yes" vote is a vote for continued unbalanced budgets and mounting deficits. Let's do the right thing, the responsible thing, and the courageous thing by making this balanced budget amendment in order under this rule. Vote down the previous question.

□ 1220

Mr. MACK. Mr. Speaker, will the gentleman yield?

Mr. LOTT. I will be glad to yield to the gentleman from Florida.

Mr. MACK. I thank the gentleman for yielding.

Mr. Speaker, as you know, there are going to be people who say that this is strictly a procedural vote, and I think many of those people made that same statement last week in a vote against the procedure to allow the criminal-justice-reform vote to come to the floor of the House.

What is the gentleman telling us, what is the gentleman suggesting now on this particular vote? Those people who want to see that the balanced budget amendment gets to the floor should do what?

Mr. LOTT. They should vote "no" on the previous question.

This may be their only opportunity to get a vote on the issue in this Congress.

Mr. MACK. So a "no" vote on the previous question is a vote to allow the balanced budget amendment to be voted on on the floor of the House?

Mr. LOTT. That is right.

Mr. MACK. And that is the only time in this session?

Mr. LOTT. That is correct. They could not hide behind the procedural vote last week on the crime package, and they cannot do it today on the balanced budget constitutional amendment. This is the vote, this is the issue the American people will understand, this is the only avenue we have available to us under the procedures of the House as it stands to get a clear vote on the issue.

Mr. MACK, Well, as the gentleman indicated yesterday, the feeling was that they had to vote for the Jones bill because it was the only game in town. I would suggest the gentleman's wording about "game" is exactly what it was; when you see roughly 400 Members standing here on the floor of the House cheering and clapping for a bill that they know has no meaning to it is truly a game.

Mr. LOTT. We want to give them an opportunity to really stand and cheer today, to do something for the American people, to mandate and bind us into a process that will give us a balanced budget.

Mr. MACK. I thank the gentleman for his time.

Mr. LOTT. Mr. Speaker, I yield back the balance of my time.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I urge defeat of the previous question; 194 Members of this body signed a discharge petition to provide for consideration of a constitutional amendment for a balanced budget. I think it is time the House had an opportunity to vote on that. This is an opportunity to do so.

Mr. Speaker, I urge a "no" vote on the previous question.

Mr. Speaker, I yield 3 minutes to the gentleman from Idaho [Mr. CRAIG].

Mr. CRAIG. I appreciate my colleague yielding.

Mr. Speaker, I join with my colleague from Mississippi in stressing that a "no" vote on the previous question on this rule is a "no" vote for continuing higher deficits.

Yesterday we saw in a rather interesting debate and a carnival atmosphere, an attempt by the other side of the aisle to say to the American public that a statute that would be created by the passage of H.R. 6300 would set in motion a procedure that would take us a step toward the idea of a balanced budget.

I stand before you today advocating a "no" vote on the previous question to bring forth a rule that would allow a vote on House Joint Resolution 243.

House Joint Resolution 243 is not a small step toward a balanced budget; it is a giant step toward allowing the American people to vote as they have said in large numbers they wanted the opportunity to vote, on the question of a constitutional amendment that would force this Congress to balance its budget and limit its ability to tax.

That is the issue today, that is the issue before the House, and that is what would be produced by a "no" vote on the previous question.

On October 10, 1978, this body created Public Law 95-435, and it said at that time that Congress shall balance its budget.

That was in 1978.

On April 2, 1979, once again, by the passage of Public Law 96-5, this Congress said that it believed it was fiscally responsible to balance revenues and expenditures but, of course, we know what happened. We know that this body violated its own law, violated the law that it created, violated the intent that was projected, violated its trust with the American people, violated every aspect of the conduct and the oath we take to uphold the Constitution and the laws of this land by ignoring the law that we put in place on October 10, 1978, and the law that this body put in place on April 2, 1979.

Those laws have said very clearly, not may but shall, this Congress shall bring by a certain date its revenues and its expenditures into line. Now that is the law. One of them was repealed in 1982.

Yesterday we passed a law and we know by past history and past action that this body will violate its own law.

There is one law you cannot violate, and that is the Constitution of the United States, and that is what we are asking you to vote for today.

Mr. Speaker, I yield back the balance of my time.

Mr. WALKER. Mr. Speaker, I move a call of the House.

The SPEAKER pro tempore (Mr. WRIGHT). The Chair does not recognize the gentleman for that purpose at this time.

Mr. WALKER. Mr. Speaker, a point of order; a quorum is not present and I move a call of the House.

The SPEAKER pro tempore. No point of order is entertainable at this particular time during debate.

If the gentleman would withhold his request, at a later moment it might be that it would be timely.

At the present time the House is debating under a rule which permits 1 hour of debate on the resolution that stands before the House.

The Chair recognizes the gentleman from Ohio [Mr. HALL].

Mr. HALL of Ohio. Mr. Speaker, I yield 5 minutes to the gentleman from New Jersey [Mr. FLORIO].

Mr. FLORIO. Mr. Speaker, it is interesting to follow the debate on this rule because the concerns of some on the other side really have nothing to do with the bill that the rule is designed to deal with.

The key point for this House, is to look at the appropriateness of the rule so that we can get to this very important legislation that the rule is designed to expedite.

The legislation is designed to promote the U.S. service industry, and of course the jobs that come with the capability of exporting around the world.

I think it is fairly clear that unless we take some action in the nature of the legislation the rule is designed to move, that we are going to continue to lose jobs in the fastest growing part of our whole economy.

The majority of all new jobs in the United States are in the service sector. The Commerce Department estimates that 60 percent of the U.S. gross national product is attributable to the service sector, and that about 70 percent of the nonfarm work force in the United States is employed in the service sector.

This is really a two-part bill; the first part would be to establish a service industries development program within the Commerce Department which would be responsible for advising U.S. firms concerning world market opportunities and trends. It would also have the responsibility for improving the Government's data gathering and analysis function on services so that effective trade policy can be developed.

□ 1230

The administration has recognized the inadequacy of official data for a long period of time.

At our hearing on this matter, witnesses from the Commerce Department and from the Office of the U.S. Trade Representative, acknowledged the data currently available to the Government does not accurately measure the competitiveness of U.S. service firms in the world market.

The second part of the bill would amend section 301 of the Trade Act of 1974 to make it clear that the President has the same authority to deal with unfair trade practices in the "services" sector that he currently has in the "goods" sector.

The administration and most of the Congress and industry agree that this type of authority provides the best incentive for our trading partners to negotiate meaningful international treaties concerning services, to protect our firms against unfair competition and to protect American jobs.

So, I would just suggest that this rule is certainly in order. If individuals on the other side have some ideological agenda that they want to follow, that is fine, let them follow it some other place. This bill is important if we are going to protect American jobs and this is not the place, at the end of a session, to be engaging in these games at the point of risking the opportunity to correct problems that we have in the service area. We need to ensure that American jobs will be protected in the fastest growing component of our economy.

Mr. QUILLEN. Mr. Speaker, I yield 4 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, we have indeed come to a time when we are really going to vote on a balanced budget.

The question that the American people have answered affirmatively, time after time, when polled, was whether or not they wanted a balanced budget amendment to the Constitution. Overwhelmingly they have said that that is indeed what they want.

This is the House's opportunity to decide whether or not we are even going to allow consideration of that amendment on the floor. That is what this is all about. It does not say whether you are going to vote for a balanced budget or not, it says whether or not you are even willing to have it debated, even whether you are willing to have it considered.

We know that the House leadership up until this time has not permitted this bill onto the floor. Here is a chance to decide whether or not we as a House are going to deny the American people one of those things that they say they want most in order to get the deficit in line.

So, the vote on the previous question becomes a key vote, a key vote that will be played out across the country. Those who the other day voted against the previous question, believing that they could hide behind procedural nuances I think found out that that is no longer good enough. That the American people have begun to

understand that we hide in the back rooms using our procedures on too many instances and that, indeed, procedural questions can be perceived as substantive questions across the country.

That is precisely how this particular vote is going to be perceived. It is going to be the key question on whether or not you were for bringing the balanced budget amendment to the Constitution to this floor. I hope that no one will be fooled. I hope that there are no Members of Congress who come to this floor today thinking that there is some other vote that they will be able to cast. This is the whole question.

I think that it is clear to the American people that what we did yesterday was a sham. The feedback from around the country is that they understand that that was a sham. Now, here is the real vote. Here is the real question before you and you have got to make a decision. Your decision has to be to vote "no" on the previous question to make in order consideration of the balanced budget amendment to the Constitution.

Mr. CRAIG. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Idaho [Mr. CRAIG].

Mr. CRAIG. I thank the gentleman for yielding.

Can my colleague tell us why we are having to use a procedural vote today for this most important statement?

Mr. WALKER. Well, obviously because we have come to the end of the legislative session an issue that has 80 percent support among the American people and could not be brought to the floor under regular means because the House leadership blocked it coming out.

Mr. CRAIG. Does the gentleman mean an issue that 83 percent of the American people say they support has been blocked by the leadership of this House?

Mr. WALKER. That is exactly right.

Mr. CRAIG. For how long?

Mr. WALKER. The back rooms in the House of Representatives have refused to allow that particular bill to come to the floor. This is the only opportunity left open to us. This is the procedural way of trying to get that bill out here for a vote. We wish we did not have to do it this way, we would prefer to do it another way, but the regular ways have been blocked by people who believe backrooms are more important than grassroots.

Mr. WEBER. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Minnesota [Mr. WEBER].

Mr. WEBER. I thank the gentleman for yielding.

Mr. Speaker, I guess I am a late participant in the debate, but are we not precisely in the position that we were in last week on the crime bill, where the Democratic leadership of this body did not want the crime bill to come to the floor for a vote, and we attempted procedurally to permit that issue to come up?

Mr. WALKER. The gentleman is absolutely correct. We are in precisely the same position. The point that I made was that many Members thought they could hide behind a procedural vote there, that they thought the backrooms would protect them and now they have found out that they could not be protected. We have had a couple of substantive votes on crime. We are in precisely the same place here.

A proper vote, a "no" vote on the previous question, will get the real issue to the floor and that, after all, is what the American people want to see done.

Mr. WEBER. I thank the gentleman.

Mr. HALL of Ohio. Mr. Speaker, I yield 3 minutes to the gentleman from Michigan [Mr. BONIOR].

Mr. BONIOR of Michigan. Mr. Speaker, the real question that we face here in this early afternoon on the, hopefully, second day before we adjourn this Congress, is whether or not we want to continue the traditions of this body which has, I believe, held this institution in high esteem for 200 years.

This institution cannot function without rules, without orderly conduct, without some sense of letting the majority function and express its will.

If we take the actions that are suggested by my colleagues on the Republican side and vote down the previous question, make no mistake about it, we will be opening up a box that we will come to regret not only in the next 5 to 6 weeks before this election, but, indeed, in Congresses to follow.

What then will prevent—if we go ahead and take the actions that are suggested by my colleagues on the other side of the aisle—a minority made up of any coalition in the House from defeating previous questions on rules that will be brought before this body in the next Congress, or even later on in the week?

The basic question that we face here is an orderly democratic institutional process. It seems to me that if want to avoid getting ourselves into the morass, the destruction, that the other body finds itself—and we have had no better example than this past week to understand how chaotic the institution of this Congress can become as demonstrated by the other body—than we should defeat the previous question.

But if we want to continue the fine traditions that were set forth in this body by Members who preceded us and served us very well, then we should uphold what the Rules Committee has suggested on a bill that traditionally requires a closed rule, a bill that I might add that the minority has traditionally gone along with, that the gentleman from New York [Mr. CONABLE], I believe, has suggested that we close, if I am not mistaken, and I stand corrected if I am.

□ 1240

It is only in this orderly process that we as an institution can function in a decent and honorable way. I would urge, with every vibrant part of my body, that my colleagues on my side of the aisle stay with the committee on this vital question.

Mr. QUILLEN. Mr. Speaker, may I inquire of the gentleman from Ohio how many requests he has? I have four requests pending.

Mr. HALL of Ohio. Mr. Speaker, I would like to respond by saying that right at this point we have three or four Members who would like to be able to speak on this rule.

Mr. QUILLEN. Mr. Speaker, I yield 2 minutes to the gentleman from Florida [Mr. MACK].

Mr. MACK. Mr. Speaker, ever since January of this year many of us have been coming to the floor of the House to ask unanimous consent to allow the balanced budget amendment to come to the floor for the purpose of a discussion, debate, and a vote. And right from the beginning, someone from the majority has stood up and blocked that particular request.

And let me remind you that request to bring the balanced budget amendment is not from an individual Member of Congress; it is from individual Members of Congress who represent 512,000 people.

As a result of that particular request, we saw the rules of the House changed in midstream to say that we no longer could even come to the floor of the House and ask unanimous consent to bring up an issue that is so important to the American people.

The gentleman who spoke before me talked about traditions of the House. Well, is it a tradition of the House to manipulate the ratios of committees to extend your control? Is it a tradition of the House to change the rules in midstream? Is it a tradition of the House to manipulate the minority or to allow the majority to do whatever they want at any moment?

If that is the tradition, then we have every right to be out every day demanding that our views and our issues and our concerns have the opportunity to be talked about.

So once again you need to think real closely when you vote on the previous question as to whether you can defend the vote that you make like you are going to have to defend the vote you made last week on the crime package. We offer you that opportunity; we hope that you are going to support us

and allow the balanced budget amendment to be discussed on the floor of the House.

Mr. LOTT. Mr. Speaker, will the gentleman yield?

Mr. MACK. I yield to the gentleman from Mississippi.

Mr. LOTT. In view of some of the comments that were made just a moment ago, I would like to clear up the record.

First of all, clearly, to defeat the previous question, it takes a majority vote of the House. No minority can defeat the previous question. It takes a majority.

Second, we are not proposing—I know I am not, and I do not think the gentleman is—calling for an open rule. The only change that would be made is there would be this one additional amendment that would be made in order, the Conable resolution.

Mr. MACK. I thank the gentleman for his comments.

Mr. HALL of Ohio. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I believe it is important for all Members to understand that by defeating the previous question on the rule, it will not achieve the aim of making a balanced budget constitutional amendment in order. An amendment to this rule which would make a balanced budget constitutional amendment in order would probably not be germane, in all likelihood. The precedents are clear that such an amendment to the rule would make in order a matter totally unrelated to the legislation provided by the rule, and a point of order will probably be made against such an amendment to the rule. If precedence is followed, I am confident it will be sustained.

Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. FROST].

Mr. FROST. Mr. Speaker, I would like to underscore in perhaps more direct language the point just made by the previous speaker.

What is being engaged in by the minority on this issue is a sham. Under the precedents of the House, a constitutional amendment could not be offered as an amendment to this rule, even if the previous question were to be defeated. So that even if the previous question should go down, there undoubtedly would be a ruling of the Chair that that matter were nongermane.

This is a political sham. It has no chance of being considered under the rulings and precedents of this House, and the previous question should be upheld.

Mr. LOTT. Mr. Speaker, will the gentleman yield?

Mr. FROST. I yield to the gentleman from Mississippi.

Mr. LOTT. I appreciate the gentleman's yielding, and I would like to clear up the record as far as a point of order. First of all, one would have to be made, and then the Chair would have to rule. Neither of the gentleman have stated definitely what that ruling might be, because I think that would be clearly out of order at this time. And, third, are you telling me that on a procedural point an issue of this consequence is going to be ruled out and that the House will not have an opportunity to vote on this substantive issue?

Mr. FROST. My colleague on the Rules Committee knows very well the precedents of the House and knows that it is highly likely that if a point of order were made, that the Chair would hold that a constitutional amendment is nongermane and cannot be offered as an amendment to this rule.

My colleague is a very capable member of the Rules Committee, where we serve together, and I am sure he is well versed on the precedents of the House and the very high likelihood that this matter would be nongermane and could not be considered by the House even if the previous question were defeated.

Mr. QUILLEN. Mr. Speaker, I yield 2 minutes to the gentleman from Minnesota [Mr. WEBER].

Mr. WEBER. Mr. Speaker, our distinguished colleague from Michigan said a few minutes ago that the question facing this House is whether or not we will uphold the traditions and the rules of the House.

In my judgment, that is not the question facing the House today. The question is whether or not we will continue to allow the rules and the procedures of the House to be manipulated and, in my judgment, abused, to block the will of the people on an important piece of legislation and to prevent the Members of this body from being held accountable for their views on that important piece of legislation.

Now, let us consider those two points. First of all, blocking the will of the people. There really cannot be serious argument about that if you are objective about it. Public opinion polls consistently show not just a plurality or even a narrow majority in favor of a constitutional amendment to require a balanced budget, but an overwhelming consensus among the American people, 70 to 80 percent and 80 percent plus, according to some polls, of the American people of both parties and in all regions of the country support a constitutional amendment to require a balanced budget.

Furthermore, 32 of the 34 required States have as of today petitioned this Congress to call a constitutional convention for the purpose of passing a balanced budget constitutional amendment.

Now, I suggest to you that if we were forced to call a constitutional convention, it may well push us toward a constitutional crisis. But so great is the support for this issue at the grassroots level that people are taking that extreme action.

We are blocking the will of the people by refusing to vote on this issue.

What about the second point that Members of this body are being not held accountable for their views on this issue?

This is the second time, in my judgment, in the last couple of weeks that this kind of a situation has faced us. Last week, many Members of this body voted to prevent consideration of the crime package on a vote exactly like this, a vote on the previous question, and then several hours later, when that vote came up on the motion to recommit, many of those Members switched their positions and voted in favor of the crime bill. They tried to hide behind the procedural issues. That is exactly what we are seeing here today. We should vote down the previous question.

Mr. QUILLEN. Mr. Speaker, I yield 5 minutes to the gentleman from Georgia [Mr. GINGRICH].

Mr. GINGRICH. Mr. Speaker, I think that the debate today has been fascinating for most Americans from the standpoint that those who control the rules, those who write the rules, those who control the calendar, all profess to be happy with their work.

Well, those of use who are in the minority are trying to point out that those rules are not fair, that control is not fair, and in fact while it is perfectly reasonable for a tax increase Democrat to vote in favor of their leadership's position, it is not reasonable for the American people or for Republicans to be happy with it.

I think what happened in the last few weeks is very simple and very clear. The Democratic Party has historically been a tax increase party in America, and the Democratic Party's Presidential candidate kicked off his campaign with a tax increase pledge that Secretary of the Treasury Don Regan estimated might cost American families $157 a month in tax increases.

□ 1250

According to virtually every public opinion poll, working Americans oppose Democratic tax increases. Working Americans want Government in Washington to be frugal, the tax increase Democrats seem to want to protect their Washington bureaucratic welfare state allies by making American families be frugal through tax increases.

The liberal Democratic leadership of the House is apparently worried by the collapse of Coach Taxhike and his tax increase team. For 2 years the Democratic tax increase team has controlled the House. The Democratic

team elected a protax increase Speaker. The Democratic team elected the Budget Committee chairman, the chairman of the Ways and Means Committee; the Democrats stacked the key committees, stacked the committee staffs, and controlled the calendar to stop the American peoples' agenda from coming to the floor.

Just last week we saw the Democrats shift suddenly on a key bill. Democrats who have been talking fondly of the rules and of procedures, which they should be fond of, they write them, they manipulate them, they dominate totally the proceedings. It was the Democratic Speaker who proudly asserted that he controls the calendar and he decides what bills to bring up.

The situation grew so bad, the Congressional Quarterly, a nonpartisan publication, wrote a cover article about one Democratic chairman entitled, "From Activist to Obstructionist." That journal went on the describe how the Democrats had turned one committee into "the graveyard of legislation," and explained how they had bottled up legislation.

For 2 years, we Republicans have made the point that the American people wanted a vote on key issues. For 2 years the American people and the news media have grown more and more unhappy with tax increase Democrats who bottle up legislation. Faced with public unpopularity for their tax increase positions, the Democrats have been looking for figleaves to hide behind. Just last week we saw some Democrats vote both ways on a crime bill in a mere 5 hours. At 12:58 Tuesday, only 25 Democrats voted to bring up the crime bill; at 6:17 that very same day, some 59 Democrats who had voted against considering the crime bill voted to pass it.

Clearly the will of the American people was finally forcing change on the Democratic Party in the House. Yesterday we saw the liberal Democratic leadership effort to gain ground in the balanced budget movement. Suddently protax increase Democrats voted for a balanced budget bill. However, the liberal bill that came up yesterday is only a law, not a constitutional change. That liberal bill, for those who talk about the rules of the House and the procedures, that liberal bill, as I understand it, never came out of committee; was never given a rule to come to the floor; was never consulted with the Republican side, and was purely brought up at the whim of the leadership on the schedule they decided in the manner they decided.

Now, it is perfectly reasonable for a tax increase Democrat to say, "I am happy with my leadership; I am happy with the rules; I am happy with the way you run the House." I think they should vote for the previous question. But when they vote for the previous question, they should not plan to go home and explain how, through some mysterious agency the balanced budget amendment never came to the floor.

It is clearly appropriate for the people's House to override the Speaker, and to bring up a bill, if, in the decision of a majority of the Members of the House the will of the people has been so clearly disserved by the process of the House. Now, we have 194 Members, as I understand it, who signed a balanced budget discharge petition. How many signed yesterday's liberal bill? Zero. There was no discharge petition. There was no need for it. It was the gimmick of the week, and it was brought up to serve the will of the leadership.

I urge a vote "no" on the previous question.

Mr. HALL of Ohio. Mr. Speaker, I yield 6 minutes to the gentleman from Michigan [Mr. DINGELL].

Mr. DINGELL. I thank the gentleman for yielding to me this time.

Mr. Speaker, I would like to bring the attention of the House back to the issue at hand. We have two questions that can be part of this debate. One is the issue that has been injected of a balanced budget. The proponents of the effort to vote down the previous question would have us believe that the constitutional amendment should be adopted.

The other is another deficit of enormous magnitude, which represents an immense threat to this country. The budgetary deficit that was submitted by President Reagan to the Congress in January is enormous, and it does threaten the well-being of this country. It is a matter which should be addressed by the Congress in the appropriate time and fashion.

The bill, for which this rule is the vehicle to floor consideration, is a simple proposal. It is a proposal which would permit the President to do two things which are extremely important in terms of addressing the other deficit which can destroy this country. That is a trade deficit which is going to exceed $100 billion this year.

If you saw the last month, it was $9 billion in 1 month, and that was supposedly a good month. This country can go broke with either deficit. I say that both questions should be addressed. But I say that right now you have a chance to afford this country and the President an opportunity to address the second deficit which will exceed $100 billion. That is our deficit in balance of trade. Something which is going to be a debt which will be owed to foreigners, and which is on call by foreigners, can destroy this Nation as quickly or more quickly than the deficit in the Federal budget, because that is largely owed by Americans to Americans.

Now, let us look at the underpinnings of this. The bill which would be put on the floor by this rule is a very simple one; it says two things: One is that the President should conduct a program for the identification of and the encouragement of our trade in services and mechanisms to assure that those trades in foreign services do prosper and are not subject to inhibitions.

The second is it would expand the section 301 trade provisions to permit the President to identify where discriminations take place against U.S. exports of goods and services. Now remember that this country, in the year in which we now find ourselves, has been running a trade deficit of over $100 billion a year, probably approaching $130 billion. One of the few elements in which this Nation has been showing a profit in our foreign trade efforts has been not the trade in goods, but the trade in services: insurance, accounting engineering, architectural services, professional services, and things of that kind, including legal services and other services in consulting, advertising, and the sale of software.

Those are the one area in which this country has been showing a profit. That profit has been, as near as I can gather, about $7 or $8 billion a year. But it is an area of profit which has been rapidly eroding because of discriminatory practices by foreigners. The same discriminatory practices that have been destroying our steel industry, our auto industry, and that have been savagely impairing our export of agricultural commodities are now coming into play against our sale of services in the world marketplace.

This bill is an attempt to see to it that we now have mechanisms to enhance our efforts in the area and at the same time to see to it that we are able to prevent discrimination.

□ 1300

I would urge my colleagues to keep their eye on the ball. I would urge my colleagues to recognize that, regardless of their feelings on a balanced budget amendment, they not throw away at this point in the session an opportunity to strike a great blow for the economic prosperity of this country, for our foreign trade, and for one of the few areas where this country is now showing a profit.

The rule is a modest one. It is a fair one. It is a part of a trade package which has been agreed upon by both sides.

It represents a vehicle to put on the floor a bill on which there is agreement between the staffs and the House and the Senate and the U.S. Trade Representative.

I would urge my colleagues not to throw away a chance to protect and

preserve the one area of profit that we have in foreign trade and that we see to it that we do bring to the floor a bill which makes sense, which enhances our foreign trade picture.

Do not confuse it with other issues which may or may not have great merit in our view, but which afford opportunities.

I yield briefly to the gentleman.

Mr. WALKER. I thank the gentleman for yielding to me.

Mr. Speaker, I think the gentleman would agree with me that there is nothing in the action proposed by those who are attempting to defeat the previous question that would prevent that rule from coming to the floor.

Mr. DINGELL. Mr. Speaker, I will not agree with that at all. As long as the gentleman has raised the question, I will make the categorical statement that the effort to defeat the previous question affords rich opportunity, not only for some unknown motion which is unacceptable probably to a large number of Members, but which affords exquisite opportunity for the killing of the bill, which I regard as essential.

The Rules Committee is open for business. Discharge petitions are available to the gentleman. Unanimous consent mechanisms are available to the gentleman. The art of friendly persuasion and getting the required number of votes is available to the gentleman.

He has not met those tests. I see no reason why the orderly business of the House should be disrupted for frivolity.

I yield to the gentleman from Michigan.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. QUILLEN. Mr. Speaker, may I inquire as to how much time is remaining on the debate?

The SPEAKER pro tempore. The gentleman from Tennessee [Mr. QUILLEN] has 4 minutes remaining and the gentleman from Ohio [Mr. HALL] has 11 minutes remaining.

Mr. QUILLEN. Mr. Speaker, I have only one request for time, and I understand the gentleman from Ohio has one request. Therefore, I yield the remaining portion of our debate to the gentleman from Ohio [Mr. LATTA].

The SPEAKER pro tempore. The gentleman from Ohio [Mr. LATTA] is recognized for 4 minutes.

Mr. LATTA. I yield myself such time as I may consume.

Mr. Speaker, at the outset, let me just say after listening to the gentleman from Michigan [Mr. DINGELL] point out how important this piece of legislation is, let me recall a little legislative history.

It was reported out of committee on October 31, 1983. Almost a year ago, that is how important this piece of legislation is.

Let me also point out that I disagree with him when he says that if the previous question is voted down and another rule comes forward, that is going to kill the bill, that is not necessarily so.

It is interesting to note that the last time this House voted on the question of a constitutional amendment for a balanced budget was on October 1, 1982, and that every speaker who has spoken on the Democratic side in opposition to the attempt to vote down the previous question voted against the constitutional amendment on that date.

Let me say, on October 1, 1982, the vote in this House after the Republican-controlled U.S. Senate had passed the resolution by a two-thirds vote, the House voted 236 to 187 in favor, but not the two-thirds required under the constitution to submit this matter to the States.

So, I think that it is something that should be brought before this House, and I think perhaps the leadership has been a little bit lax in not bringing it to the House so at least under this body could have had an opportunity to debate it fully.

The American people support a constitutional amendment for a balanced budget because they well realize that with the spenders in control of this House cannot restrain themselves from spending more and more and more every year.

And it is also strange to me to listen to all of these orators, come election time, pointing their fingers at the White House and saying, "Look how the deficit has gone up."

At the same time, all through the year, they are voting for every bill and every increased expenditure that comes down the pike. How they can do that with a straight face is more than I know, but they do it religiously. On the matter which came up yesterday let me say it was certainly a sham. The American people will see through it.

As a matter of fact, right in the resolution itself it provided that the President could send up two budgets; one in balance and the other with a deficit. And on the subject of a balanced budget, let me say everybody knows you can balance the budget very easily.

All you have to do is to cut out all the Social Security and I see my good chairman over there, Congressman PEPPER from Florida, he would not want that to happen and neither would I.

And you could cut out all the defense money in one sweep and balance the budget. These extremes could happen under the Jones proposal. It would be balanced.

That is not what we are talking about, but that is what we did yesterday. We passed a worthless document. We took up a lot of time of the House. It is going nowhere. The other body is not going to take it up. It is high time we do something right and the right thing to do is to the thing that the American people are demanding—pass a resolution for a balanced budget and submit it to the States.

Only two more States, as you know, need to request a Constitutional Convention. Only 2 more, 32 of the 34 needed have already petitioned the Congress, and certainly the scholars among you do not want to see that happen, but it is going to happen unless this House takes some action and now is the time to take that action.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. HALL of Ohio. Mr. Speaker, I yield 5 minutes to the distinguished majority whip [Mr. FOLEY].

Mr. FOLEY. I thank the gentleman for yielding this time to me.

Mr. Speaker, I think that the House of Representatives is always under the greatest strain just before an election when the pressures on the people's body, as probably intended by the Constitution, become very severe.

Each of us is especially conscious of our responsibility to represent the people who have sent us to this body. Each of us is conscious of the national debate that proceeds on a variety of important issues.

Unfortunately too, some of us have a tendency in this time to allow rhetoric and emotion to cloud the debates a little more often than they do at other times of the year; and that is probably to be expected.

I think there is no question that the House is divided on the issue which has been discussed collaterally today, the balanced budget amendment.

Some of us feel that this particular amendment, although conscientiously offered and supported by many Members, would have effects very different from those that are intended and would severely damage the processes of fiscal responsibility in the United States.

But whatever one's opinion on these particular issues, they are not properly addressed in the context of this bill.

What is at issue today is not, in my judgment, the question of whether a constitutional amendment will be added to this bill. Indeed, there is no way, if the rules of the House are sustained, that this is even possible.

□ 1310

While obviously none of us has the ability to prejudge a ruling of the Chair until it is made or a parliamentary opinion until it is given, I think it is clear that any presiding officer of either party—and any Member of this House, irrespective of his or her opin-

ion on this issue, would be required under the precedents, traditions, and rules of the House to decide that an attempt to amend the bill with a resolution providing for a constitutional amendment is not germane and not within the rules of this body.

I have personal confidence that any Member on either side of the aisle, if given the chair, and any parliamentary expert of either party, if asked for advice, would be obliged to and would rule in that way.

We have had rulings of the Chair time and time again that were discomforting in their result to the majority party, and I am proud of that. We even had a moment when a Member of the majority party, in the chair, had to rule on a question of proper speech on the floor by a leader of the Democratic Party and so ruled conscientiously. Every Member of this body, including the Member involved, can take great pride that we have never stinted in our responsibility as a majority party to enforce the rules impartially, fairly, and accurately, because respect for the rules of this body lies at the very foundation of its ability to serve the people.

In fact, one of the great stories of our constitutional history tells of one of our Founding Fathers sitting in the gallery with a visitor from a European country who saw the tumult on the floor, with Members speaking and walking around.

The visitor asked, "What is happening there, sir?" and he replied, "There, sir, the people are governing."

But they are governing through and because of respect for rules that protect above everything else the rights of the minority, that protect the rights of the people to have their judgments made here in an orderly, conscientious, and effective way.

Mr. EDWARDS of Oklahoma. Mr. Speaker, will the majority whip yield?

Mr. FOLEY. I will not yield at this point.

Mr. Speaker, in my judgment there is no way under any circumstance, that defeating this previous question can, under the rules, lead to the adding of a constitutional amendment.

For this reason, I ask the Members to vote for the previous question and to respect the rules of the House of Representatives.

Mr. EDWARDS of Oklahoma. Mr. Speaker, will the gentleman yield?

The SPEAKER pro tempore. The time of the gentleman from Washington [Mr. FOLEY] has expired. The time allotted to the gentleman has been consumed.

Mr. HALL of Ohio. Mr. Speaker, I would be glad to yield 2 minutes to the distinguished majority whip.

Mr. EDWARDS of Oklahoma. Mr. Speaker, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from Ohio.

Mr. EDWARDS of Oklahoma. I thank the gentleman for yielding.

Mr. Speaker, I think the majority whip has made a very good statement, and I agree with him that we ought to abide by rules. However, I think his statement is somewhat irrelevant to what we are talking about here because the rules of the House, in any debate, are what the Committee on Rules says they are.

I have been in this House for 8 years, and we have repeatedly used the Committee on Rules to allow amendments that would not otherwise be germane to come to the floor. Nobody is talking about changing the rules. We are talking about permitting a rule to be brought up which makes it germane and permissible, and that is a very different thing than what the whip has been talking about.

Mr. FOLEY. I will answer the gentleman. I think that normally speaking, if you defeat the previous question you are allowed to offer an amendment to the bill. In this case, however, amendment is one that cannot be offered to any bill within the rules of the House because it is a constitutional amendment. It is, by its very nature, an improper amendment to add to a bill.

We do not, for example, approve constitutional amendments by anything less than a two-thirds vote; nor do we submit them to the President for the signature into law, yet the purpose here, in contradiction of the rules and traditions of the body, is to add just such an amendment to a bill requiring only a majority vote for passage and the President's signature.

Mr. EDWARDS of Oklahoma. Mr. Speaker, I would suggest to the gentleman that we do have a procedure, and that procedure has been used on debt ceiling questions. The gentleman knows as well as I do that when the Committee on Rules wishes to make it possible for this body to consider an issue, it can do so.

Yesterday, we went through the motions of pretending we were doing something about a balanced budget. It is within the ability of this House, through the rule, to bring this up.

Mr. FOLEY. Mr. Speaker, reclaiming my time, I will tell the gentleman that I know of no Committee on Rules in the history of this House that has ever made in order a constitutional amendment to a bill. I know of no such case in the entire history of the House, going back to its foundation. As for the bill we took up yesterday, I believe it was an important step and will defend that point with the gentleman, if it was not, I do not know why we had over 400 Members of the House of Representatives, including a vast majority of the gentleman's party, voting in support of it.

The question here has nothing to do with individual opinions of the merits of the proposed constitutional amendment but whether we are going to abide by the rules and traditions of the House so that everyone's opinion can be respected.

Vote the previous question.

● Mr. DASCHLE. Mr. Speaker, in the debate on H.R. 6300, requiring the administration and the House and Senate Budget Committees to report a balanced Federal budget, I indicated that while I supported such an action, it was not my preferred approach to achieving some badly needed fiscal responsibility. My first choice then, as it is now and has been in the past, is a constitutional amendment mandating a balanced Federal budget.

We have managed only once, in the 6 years I have been in Congress, to bring such an amendment to the floor for consideration. At that time, although we achieved a majority vote in its favor, we could not achieve the two-thirds vote necessary for passage. Since that time, although there has been considerable interest in bringing the issue up again, as evidenced by the almost 200 signatures on a forcing discharge petition, we have not had the opportunity to consider this measure again.

I fully realize that many of my colleagues, as well as the leadership of my party, have serious reservations about the appropriateness of placing such a budgetary restriction in the Constitution itself. Their opposition to this amendment for those constitutional reasons has been used as a political football by some supporters of the amendment, who have attempted to paint opponents of this amendment as unconcerned about rising budget deficits. To my mind, such attacks are counterproductive, partisan in nature, and unworthy of regard.

However, at the same time, I must state my own personal conviction that opposition to this amendment, while in most cases well intentioned, is also mistaken. The great majority of our States operate under a balanced budget constitutional restraint, and while it is true that the parallels in the functions of State and National Government are not always exact, there are substantial similarities. In addition, the historically unmatched deficits we are seeing today have to call into real question whether the traditional incentives for responsible budgeting are any longer adequate.

On October 2, we made a start toward resolving part of this problem by passing in a bipartisan manner, H.R. 6300, which mandates the major players in the budget process to report out balanced Federal budgets. While such a step is certainly to the good, to my mind it is simply not enough. We need to pass a constitutional amendment balancing the Federal budget, and we need to do it now.

The strength of my feeling on this issue is so strong that I feel compelled to take extraordinary measures, in opposition to my party leadership, to at least give us the opportunity to consider this measure. For this reason, I will support whatever parliamentary procedures are necessary to allow us to bring this measure before the House. This is not my preferred way of doing things. I would much prefer operating in regular procedure, with ample time for debate, amendment, and improvement. But, frankly, I feel the matter is far too pressing to allow for such normal procedure.

In taking this position, however, I must also express my disappointment with many of my colleagues who turned this issue into a partisan political football, with the end of seeking partisan political gain. I feel the issue is much too important for our future economic survivability to be turned into a simplistic heroes and villains scenario, suitable perhaps for 30-second political commercials, but detrimental to any serious discussion. There are honest and deep-rooted sincerely held differences of opinion about the efficacy and appropriateness of amending the Constitution in this way. I happen to believe that it is, indeed, both appropriate and efficacious. And I would resist as strongly as I can any attempt to paint opponents of my position as unmotivated, unscrupulous, and uncaring.

Perhaps it is an overly fond wish on my part, so deep into the election cycle as we are, but I would hope that the debate on this issue, and the attempt to even get it to the floor for consideration, will be waged on the merits of the issue, rather than on any partisan political advantage that can be momentarily gained by stirring partisan speeches. We have all—in this House, in the other body, and in past and present administrations—played a part in bringing about this deficit crisis. It is now time that we all play a part, in as nonpartisan a way as possible, in bringing about a solution to that crisis.●

Mr. HALL of Ohio. Mr. Speaker, I have no further request for time, and I move the previous question on the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. LOTT. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 238, nays 179, not voting 15, as follows:

[Roll No. 436]

YEAS—238

Ackerman	Gephardt	Obey
Addabbo	Gibbons	Olin
Akaka	Glickman	Ortiz
Albosta	Gonzalez	Ottinger
Alexander	Gore	Owens
Andrews (TX)	Gray	Panetta
Annunzio	Guarini	Patman
Anthony	Hall (IN)	Patterson
Applegate	Hall (OH)	Pease
Aspin	Hamilton	Penny
AuCoin	Hance	Pepper
Bates	Harkin	Pickle
Bedell	Harrison	Price
Bellenson	Hatcher	Rahall
Bennett	Hawkins	Rangel
Berman	Hayes	Ratchford
Biaggi	Heftel	Reid
Boggs	Hertel	Richardson
Boland	Hightower	Rodino
Boner	Howard	Roe
Bonior	Hoyer	Roemer
Bonker	Hubbard	Rose
Borski	Huckaby	Rostenkowski
Bosco	Hughes	Rowland
Boucher	Jones (NC)	Roybal
Boxer	Jones (OK)	Russo
Breaux	Jones (TN)	Sabo
Brooks	Kaptur	Savage
Brown (CA)	Kastenmeier	Scheuer
Bryant	Kazen	Schroeder
Burton (CA)	Kennelly	Schumer
Byron	Kildee	Seiberling
Carper	Kleczka	Sharp
Carr	Kogovsek	Sikorski
Chappell	Kolter	Sisisky
Clarke	Kostmayer	Skelton
Clay	LaFalce	Slattery
Coelho	Lantos	Smith (FL)
Coleman (TX)	Leath	Smith (IA)
Collins	Lehman (CA)	Solarz
Conyers	Lehman (FL)	Spratt
Cooper	Leland	St Germain
Coyne	Levin	Staggers
Crockett	Levine	Stark
Daniel	Lipinski	Stenholm
de la Garza	Long (LA)	Stokes
Dellums	Long (MD)	Stratton
Derrick	Lowry (WA)	Studds
Dicks	Luken	Swift
Dingell	Lundine	Synar
Dixon	MacKay	Tallon
Donnelly	Markey	Tauzin
Dorgan	Martinez	Thomas (GA)
Dowdy	Matsui	Torres
Downey	Mavroules	Torricelli
Durbin	Mazzoli	Towns
Dwyer	McCloskey	Traxler
Dymally	McCurdy	Udall
Dyson	McHugh	Valentine
Early	McNulty	Vento
Eckart	Mica	Walgren
Edgar	Mikulski	Watkins
Edwards (CA)	Miller (CA)	Waxman
Evans (IL)	Mineta	Weaver
Fascell	Minish	Weiss
Fazio	Mitchell	Wheat
Feighan	Moakley	Whitley
Flippo	Mollohan	Whitten
Florio	Montgomery	Williams (MT)
Foglietta	Moody	Wilson
Foley	Morrison (CT)	Wirth
Ford (MI)	Mrazek	Wise
Ford (TN)	Murphy	Wolpe
Fowler	Murtha	Wright
Frank	Natcher	Wyden
Frost	Neal	Yates
Fuqua	Nichols	Yatron
Garcia	Nowak	Young (MO)
Gaydos	Oakar	
Gejdenson	Oberstar	

NAYS—179

Anderson	Bateman	Britt
Andrews (NC)	Bereuter	Broomfield
Archer	Bethune	Brown (CO)
Badham	Bilirakis	Burton (IN)
Barnard	Billey	Carney
Bartlett	Boehlert	Chandler
Chappie	Ireland	Quillen
Clinger	Jacobs	Ray
Coats	Jeffords	Regula
Coleman (MO)	Jenkins	Ridge
Conable	Johnson	Rinaldo
Conte	Kasich	Ritter
Corcoran	Kemp	Roberts
Coughlin	Kindness	Robinson
Courter	Kramer	Rogers
Craig	Lagomarsino	Roth
Crane, Daniel	Latta	Roukema
D'Amours	Leach	Rudd
Dannemeyer	Lent	Sawyer
Darden	Levitas	Schaefer
Daschle	Lewis (CA)	Schneider
Daub	Lewis (FL)	Schulze
DeWine	Livingston	Sensenbrenner
Dickinson	Lloyd	Shaw
Dreier	Loeffler	Shelby
Duncan	Lott	Shumway
Edwards (AL)	Lowery (CA)	Shuster
Edwards (OK)	Lujan	Siljander
Emerson	Lungren	Skeen
English	Mack	Smith (NE)
Erdreich	Madigan	Smith (NJ)
Erlenborn	Marlenee	Smith, Denny
Evans (IA)	Marriott	Smith, Robert
Fiedler	Martin (IL)	Snowe
Fields	Martin (NY)	Snyder
Fish	McCain	Solomon
Franklin	McCollum	Spence
Frenzel	McDade	Stangeland
Gekas	McEwen	Stump
Gilman	McKernan	Sundquist
Gingrich	McKinney	Tauke
Goodling	Michel	Taylor
Gradison	Miller (OH)	Thomas (CA)
Green	Molinari	Vander Jagt
Gregg	Moore	Vandergriff
Gunderson	Moorhead	Volkmer
Hall, Ralph	Morrison (WA)	Vucanovich
Hall, Sam	Myers	Walker
Hammerschmidt	Nelson	Weber
Hansen (ID)	Nielson	Whitehurst
Hansen (UT)	O'Brien	Whittaker
Hartnett	Oxley	Williams (OH)
Hefner	Packard	Winn
Hiler	Parris	Wolf
Hillis	Pashayan	Wortley
Holt	Paul	Wylie
Hopkins	Petri	Young (AK)
Horton	Porter	Young (FL)
Hunter	Pritchard	Zschau
Hyde	Pursell	

NOT VOTING—15

Barnes	Crane, Philip	Martin (NC)
Bevill	Davis	McCandless
Broyhill	Ferraro	McGrath
Campbell	Gramm	Shannon
Cheney	Hutto	Simon

□ 1330

The Clerk announced the following pair:

On this vote:

Mr. Barnes for, with Mr. McGrath against.

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. McCANDLESS. Mr. Speaker, during the vote on rollcall No. 436 ordering the previous question on House Resolution 595, I was unavoidably absent.

Had I been present, I would have voted "nay" on ordering the previous question.

Mr. Speaker, during rollcall vote 436, on ordering the previous question on House Resolution 595, I was meeting

with constituents and officials of a Federal agency on a matter of dire consequences to my constituents. Because our discussions had reached a crucial point, it was necessary to forgo interrupting our meeting for the vote.

Mr. Speaker, I have ardently supported the enactment of a balanced budget constitutional amendment. I have cosponsored House Joint Resolution 243, which calls for such an amendment. I have also signed discharge petition 10, which would bring this proposal, currently bottled up in committee, to the House floor for a vote. Imposing fiscal responsibility on this body is of fundamental importance to our country's continued economic prosperity. Therefore, had I been able to vote on rollcall vote 436, I would have voted "nay," which would have allowed the constitutional balanced budget amendment to be considered on the floor, and would have urged my colleagues to do likewise.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment bills of the House of the following titles:

H.R. 3601. An act to modify the boundary of the Pike National Forest in the State of Colorado, and for other purposes;

H.R. 3697. An act to modify Federal land acquisition and disposal policies carried out with respect to Fire Island National Seashore, and for other purposes; and

H.R. 5997. An act to modify the U.S. Post Office and Courthouse in Pendleton, Oregon, as the "John F. Kilkenny U.S. Post Office and Courthouse."

The message also announced that the Senate agrees to the amendments of the House to the bill (S. 416) "An act to amend the Wild and Scenic Rivers Act by designating a segment of the Illinois River in Oregon and the Owyhee River in Oregon as components of the National Wild and Scenic Rivers System."

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 905) "An act to establish the National Archives and Records Administration as an independent agency."

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the amendments of the House to the bill (S. 1097) "An act to consolidate and authorize certain atmospheric and satellite programs and functions of the National Oceanic and Atmospheric Administration under the Department of Commerce."

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills and a concurrent resolution of the House of the following titles:

H.R. 999. An act to provide for the conservation, rehabilitation, and improvement of natural and cultural resources located on public or Indian lands, and for other purposes;

H.R. 2645. An act to amend the Act of August 15, 1978, regarding the Chattahoochee River National Recreation Area in the State of Georgia;

H.R. 2889. An act to amend the National Historic Preservation Act, and for other purposes;

H.R. 5818. An act to amend the Federal Hazardous Substances Act to apply the notice and repair, replacement, and refund provisions of that act to defective toys and other articles intended for use by children;

H.R. 5946. An act to reform the Residential Conservation Service and to repeal the Commercial and Apartment Conservation Service; and

H. Con. Res. 122. Concurrent resolution expressing the sense of the Congress that the Republic of South Africa should cease its "blackspot" policy of removing black South Africans from their ancestral land and relocating them.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 2663. An act pertaining to the inheritance of trust or restricted land on the Lake Traverse Indian Reservation, North Dakota and South Dakota, and for other purposes.

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 6028, DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATION ACT, 1985

Mr. NATCHER. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight, October 3, 1984, to file a conference report on the bill (H.R. 6028) making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1985, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

PROVIDING FOR CONSIDERATION OF H.R. 3795, WINE EQUITY AND EXPORT EXPANSION ACT OF 1984

Mr. MOAKLEY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 597 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 597

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for consideration of the bill (H.R. 3795) to harmonize, reduce, and eliminate barriers to trade in wine on a basis which assures substantially equivalent competitive opportunities for all wine moving in international trade, and the first reading of the bill shall be dispensed with. All points of order against the consideration of the bill for failure to comply with the provisions of clause 2(l)(6) of rule XI and section 303(a) of the Congressional Budget Act of 1974 (Public Law 93-344) are hereby waived. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means, the bill shall be considered as having been read for amendment under the five minute rule. No amendment to the bill shall be in order except the amendment in the nature of a substitute recommended by the Committee on Ways and Means now printed in the bill, said amendment shall be considered as having been read and shall not be subject to amendment, and all points of order against said amendment for failure to comply with the provisions of section 303(a) of the Congressional Budget Act of 1974 (Public Law 93-344) are hereby waived. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from Massachusetts [Mr. MOAKLEY] is recognized for 1 hour.

Mr. MOAKLEY. Mr. Speaker, I yield the customary 30 minutes, for purposes of debate only, to the gentleman from Ohio [Mr. LATTA], and pending that I yield myself such time as I may use.

Mr. Speaker, House Resolution 597 is the rule providing for the consideration of H.R. 3795, the Wine Equity and Export Expansion Act of 1984. It is a modified closed rule that provides for 1 hour of general debate to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means.

Mr. Speaker, House Resolution 597 waives clause 2(l)(6) of rule XI, the 3-day layover rule. The Ways and Means Committee reported H.R. 3795 on Thursday, September 27, 1984, but, since printed copies of the report have not been available for the required 3 days, the waiver is necessary. However, copies of the report have been available since Monday, October 1.

House Resolution 597 also waives points of order against consideration of the bill for failure to comply with section 303(a) of the Congressional Budget Act, which prohibits consideration of any legislation which reduces or increases revenues prior to the adoption of the first budget resolution. H.R. 3795 grants the President

discretion to reduce or increase wine import tariffs which could affect the level of revenues in fiscal year 1985. When the Rules Committee granted the rule for H.R. 3795, the first budget resolution for fiscal year 1985 had not yet been adopted and this waiver was required. Since the conference report on the budget resolution was passed October 1, the waiver against the bill is no longer necessary.

Mr. Speaker, House Resolution 597 provides that H.R. 3795 shall be considered as having been read for amendment. The rule allows only the Ways and Means Committee amendment in the nature of a substitute, which shall be considered as read, and which shall not be subject to amendment. House Resolution 597 also waives section 303(a) of the Budget Act against the substitute, but as I explained earlier in my statement the waiver is no longer necessary since the budget resolution was adopted October 1.

Mr. Speaker, the rule provides one motion to recommit, with or without instructions.

Mr. Speaker, H.R. 3795, the Wine Equity Act is an attempt to help the U.S. wine industry compete with the foreign wine industry. This bill would require the President and the U.S. Trade Representative to seek the reduction or elimination of trade barriers, subsidies, and other factors that serve to hurt the U.S. wine industry. H.R. 3795 also expands the definition of the domestic wine industry to include grape growers as well as wine producers.

Mr. Speaker, the domestic wine industry is a rapidly growing industry that currently employs upwards of 100,000 workers. The rapid growth of the industry is a result of domestic wine sales, which increased 18 percent from 1979 to 1983; however, the United States over the years has imported considerably more wine than it has exported. This imbalance in U.S. wine trade resulted in a trade deficit of $822 million in 1983.

Mr. Speaker, H.R. 3795 has three major provisions that are designed to address the problems that the domestic wine industry faces. The first provision would be the reduction of trade barriers that hamper U.S. wine exports. These barriers take a variety of forms, such as import prohibitions or quotas, bottling and labeling requirements, and discriminatory practices of liquor control boards. These measures cause an imbalance in international wine trade because of the relative accessibility enjoyed by foreign wine traders in the U.S. market while the U.S. wine industry faces restrictive tariff and nontariff barriers in virtually every existing or potential foreign market. H.R. 3795 would allow the President to take appropriate action with regard to wine trade if he determines that a foreign country is acting inconsistently with existing trade agreements or is unjustifiably restricting imports of U.S. wine.

The second provision deals with U.S. wine export promotion. This legislation encourages the President to initiate and fund a wine export promotion program, with the cooperation of the American wine industry, with the sole purpose of expanding the export opportunities of the U.S. wine industry. The final provision would amend the Tariff Act of 1930 by requiring the International Trade Commission to include domestic grape growers as well as wine producers in the definition of the wine industry.

Finally, Mr. Speaker, H.R. 3795 focuses attention on the need for fairness in the international wine trading industry.

I urge adoption of House Resolution 597.

Mr. Speaker, I yield to the gentleman from Ohio for purposes of debate only.

Mr. Speaker, I move the previous question on the resolution.

□ 1340

Mr. LATTA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in the Rules Committee both the chairman and the ranking Republican member of the Committee on Ways and Means requested a modified, closed rule on this bill.

The Rules Committee provided exactly what they requested. Under this rule no amendments except Ways and Means Committee amendments are in order. In addition, the rule waives points of order because the printed committee report had not been available for 3 days at the time the rule was reported.

And, finally, there are waivers of the Budget Act requirement which prohibits new spending or changes in revenue. Prior to the adoption of a first budget resolution. At the time this rule was reported Monday, such a waiver was still required. However, the House agreed to a budget resolution conference report later Monday afternoon, and now this waiver is no longer necessary.

Mr. Speaker, this rule is not a problem, but the legislation it makes in order has the potential to cause trouble.

The goal of expanding wine exports is great and I support the goal. However, this bill could risk foreign retaliation against other U.S. agricultural exports.

In the Rules Committee it was noted Monday that one target of European retaliation could be soybeans grown in the United States. Soybeans are an important crop in many parts of this Nation, and we should be very careful about doing anything to jeopardize our export markets for such a large and important crop.

Then on Tuesday, October 2, the European Community Information Service issued a bulletin called European Community News. That bulletin makes specific reference to the Wine Equity Act, concludes as follows:

> Any such legislation, if adopted, would be open to challenge before the GATT and retaliation.

Mr. Speaker, at the time of the Rules Committee meeting, the administration opposed the Wine Equity and Export Expansion Act because it would not, as intended, help to reduce foreign barriers to U.S. wine exports. Instead, the administration contends that this legislation would restrict wine imports coming into the United States, could adversely affect other U.S. industries and would put us in violation of our international obligations.

Mr. Speaker, for all these reasons, I hope Members will consider their votes carefully on this bill and not vote in favor of a bill which could invite serious retaliation and do more harm than good in the long run.

Mr. Speaker, I yield 2 minutes to the gentleman from Minnesota [Mr. FRENZEL].

Mr. FRENZEL. Mr. Speaker, I am not going to suggest that this rule be defeated. The House should take up this bill.

However, I must say that the gentleman from Ohio is dead right. There are a number of features in the total trade package which we are going to send forth today that are totally unacceptable to the trading world, and to the administration, and to many Members of Congress.

Unfortunately, one of those very bad features, section 8, in this Wine Equity Act, could shipwreck the whole trade package. Somewhere along the line, if we are going to get a bill, and if we are going to get a bill made into law, that section is going to have to be changed.

A motion to recommit will be offered to remove the offending section 8 which is contrary to international obligations in a number of different ways. That motion to recommit is supported by the administration and will support our soybean and corn growers who now stand at risk of losing billions of dollars in sales of their products in Europe.

Section 8 of the wine equity bill is simply a popular mistake. If we pass it, this bill will be contrary to our international agreements, and our farmers and exporters will have to pay for it.

I hope the House will be smarter than that. It should accept the motion to recommit so that we can clean up the bill before we go to conference.

I yield back the balance of my time.

Mr. LATTA. Mr. Speaker, I yield such time as he may consume to the

gentleman from Massachusetts [Mr. CONTE].

□ 1350

Mr. CONTE. Mr. Speaker, I rise in support of this rule providing for the consideration of H.R. 3795, the Wine Equity and Export Expansion Act. This rule provides for 1 hour of debate, and permits the offering of a motion to recommit with instructions. Although I will oppose the motion to recommit, I do support this rule-making such a motion in order.

Mr. Speaker, the Wine Equity Act is a measure intended to help alleviate an extremely unfair situation facing the American wine industry. It is not a protectionist measure—on the contrary, the purpose of this bill is to try to get foreign countries to open up their markets to American wine exports on the same practically barrier-free terms with which we permit foreign wine to enter the United States.

Mr. Speaker, when an American winegrower seeks to sell his product overseas, he faces significant tariff and nontariff barriers, while the United States imposes only token tariffs and no nontariff barriers on imported wine. This bill would simply direct the President to seek to reduce such trade barriers in negotiations with our trading partners, and permit the use of existing Trade Act remedies, including section 301 "escape clause" relief, in pursuing this objective.

Mr. Speaker, more than 330 of our colleagues have cosponsored the Wine Equity Act. I know that we will be discussing the merits of that measure in more detail once this rule is adopted. But at this point I would urge my colleagues to adopt the rule and permit us to work our will on this measure.

Mr. MOAKLEY. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF H.R. 6023, GENERALIZED SYSTEM OF PREFERENCES RENEWAL ACT OF 1984

Mr. BONIOR of Michigan. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 594 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 594

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for consideration of the bill (H.R. 6023) to amend the Trade Act of 1974 to renew the authority for the operation of the Generalized System of Preferences, and for other purposes, and the first reading of the bill shall be dispensed with. All points of order against the consideration of the bill for failure to comply with the provisions of clause 2(l)(6) of rule XI and section 303(a) of the Congressional Budget Act of 1974 (Public Law 93-344) are hereby waived. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means, the bill shall be considered as having been read for amendment under the five-minute rule. No amendment to the bill shall be in order except the amendment in the nature of a substitute recommended by the Committee on Ways and Means now printed in the bill. Said amendment shall be considered as having been read, and all points of order against said amendment for failure to comply with the provisions of section 303(a) of the Congressional Budget Act of 1974 (Public Law 93-344) are hereby waived. No amendment to said substitute shall be in order except an amendment printed in the Congressional Record of October 1, 1984 by, and if offered by, Representative Gephardt of Missouri, which shall be debatable for not to exceed one hour, equally divided and controlled by Representative Gephardt and a Member opposed thereto. Said amendment shall not be subject to amendment or to a demand for a division of the question in the House or in the Committee of the Whole, and all points of order against said amendment for failure to comply with section 303(a) of the Congressional Budget Act of 1974 (Public Law 93-344) are hereby waived. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from Michigan [Mr. BONIOR] is recognized for 1 hour.

Mr. BONIOR of Michigan. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Tennessee [Mr. QUILLEN], pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 594 provides for the consideration of H.R. 6023, the extension of generalized system of preferences. House Resolution 594 allows for 1 hour of general debate to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means. The rule waives all points of order against consideration of the bill for failure to comply with clause 2(L)(6) of rule XI(11) which requires that measures reported by committees must layover for 3 days after the reports become available to Members not including Saturdays and Sundays and legal holidays. H.R. 6023 was filed on September 27 and copies of the report were not available until October 1. However, since we are nearing the end of our legislative session and need to work quickly, and since reports to H.R. 6023 are, and have been widely available since early Monday morning, the Committee on Rules waived the point of order.

The rule also waives all points of order against consideration of H.R. 6023 for failure to comply with section 303(a) of the Congressional Budget Act of 1974. That section precludes consideration of measures providing for an increase or decrease in revenues, increases in the public debt or new entitlements prior to adoption of the first concurrent budget resolution. Because H.R. 6023 deals with tariffs, it may have the effect of increasing or decreasing revenues and could have an impact on the public debt. Therefore, a waiver was granted.

Mr. Speaker, it was October 1 when the Committee on Rules considered this resolution, and no first budget resolution had yet been adopted. The Committee on Rules granted this waiver which has become routine. Of course, subsequent House action on the first budget resolution has made the point of order as well as the waiver moot.

Mr. Speaker, House Resolution 594 allows for no amendments to H.R. 6023 except one Committee on Ways and Means amendment in the nature of a substitute now printed in the bill. The committee substitute shall be considered as read. All points of order against the committee substitute for failure to comply with section 303(a) of the Congressional Budget Act are waived. Again, subsequent House action on the first concurrent budget resolution made the waiver moot.

Mr. Speaker, the rule allows for no amendments to the committee substitute except an amendment printed in the CONGRESSIONAL RECORD of October 1, 1984, by and if offered by Representative GEPHARDT of Missouri. Representative GEPHARDT's amendment shall be debatable for 1 hour equally divided and controlled by Representative GEPHARDT and a Member opposed to the amendment. The amendment shall not be amendable and shall not be subject to a demand for a division of the question in the House or in the Committee of the Whole. As with the base bill, H.R. 6023 and the committee substitute, all points of order against Representative GEPHARDT's amendment for failure to comply with section 303(a) of the Congressional Budget Act, were waived although subsequent House action eliminates the need for the waiver.

Finally, Mr. Speaker, the rule allows for a motion to recommit with or without instructions.

Mr. Speaker, H.R. 6023, the Generalized System of Preferences Renewal

Act of 1984, provides unilateral, nonreciprocal duty-free treatment to about 3,000 articles imported from 140 developing countries. The purpose of the program is to assist these countries in developing their economies through preferential U.S. market access.

According to the Committee on Ways and Means report, the value of U.S. imports receiving GSP duty-free treatment has grown from $3.2 billion in 1976 to $10.8 billion in 1983. This legislation reauthorizes the GSP program for an additional 5 years, until January 3, of 1990.

Among other things, this legislation would preclude the President from designating any country for the GSP list that was not taking steps to afford "internationally recognized worker rights" to its people. The only way the President can have this requirement is to report to Congress that the designation is in the national economic interest.

Currently, the 1974 Trade Act prohibits GSP duty-free treatment to import sensitive articles. This legislation adds to the list of prohibited articles additional import sensitive products. The bill also provides a formula for graduating GSP countries from GSP duty-free status. As countries become more and more developed and economically stronger, H.R. 6023 provides, for the first time, a method of retiring their GSP eligibility.

Mr. Speaker, H.R. 6023 deals with a large number of countries and an enormous number of import products. It was carefully and skillfully crafted and House Resolution 594 reflects the need to maintain that balance while considering the bill on the floor. Yet, House Resolution 594 also provides for the consideration of an alternative approach to graduating countries from the GSP eligibility which is embodied in Representative GEPHARDT's amendment.

Mr. Speaker, House Resolution 594 is a fair rule under which to consider H.R. 6023 and I urge its immediate adoption.

□ 1400

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this rule makes in order an important trade bill to renew the authority for the operation of the generalized system of preferences.

Under current law, this authority will expire in 3 months. H.R. 6023 extends until 1990 authority to allow duty-free entry of trade goods into the United States. The bill also places certain restrictions on preferential treatment, expands the existing list of product exclusions from GSP, and changes the criteria for determining a country's eligibility for GSP treatment.

The rule makes in order an amendment to be offered by the gentleman from Missouri [Mr. GEPHARDT]. The Gephardt amendment, which was rejected by the Ways and Means Committee, would remove Taiwan, Korea, and Hong Kong from GSP status. Since the chairman and ranking Republican member of the Ways and Means Committee did not request that the Gephardt amendment be made in order, I opposed this part of the rule when the Rules Committee met on this bill yesterday, Members should also be aware that Bill Brock, our former colleague who has done such an outstanding job as our trade representative, also opposes the Gephardt amendment.

Nevertheless, this is an important bill that the Congress must approve before adjournment, and I urge adoption of the rule and of the bill without the Gephardt amendment.

Mr. Speaker, I yield 2 minutes to the gentleman from Minnesota [Mr. FRENZEL].

Mr. FRENZEL. Mr. Speaker, this is the other vital element of the trade package that we are considering.

As I explained a moment ago, there are only two features of all those that are going in the conference that are sought by the administration in a general way. They are the extension of GSP, which is enormously important to the United States in a symbolic way to show that it is willing to share its markets with the less developed countries of the world, and the United States-Israel Free Trade Agreement.

It is exceedingly important that the Gerhardt amendment, which will gut the GSP bill, be defeated. If it is not, it is unlikely that the administration would be able to sign off on the total package.

We must get to the business. The rule should be adopted, but the Gephardt amendment should be defeated.

Mr. BONIOR of Michigan. Mr. Speaker, I yield such time as he may consume to the gentleman from Missouri [Mr. GEPHARDT] for purposes of debate only.

Mr. GEPHARDT. Mr. Speaker, I would like to explain the amendment that I will offer in the course of the debate of this legislation regarding the renewal of the generalized system of preferences.

Many years ago, as a result of action at the United Nations, the generalized system of preferences was talked about and conceived and finally put into place in the United States some time in the early seventies. The theory of this system is that underdeveloped countries who had not been heavily involved in world trade would, because of this preferences act, have the opportunity to have access to the markets of industrialized successful trading nations.

After the United States put this legislation in place, I think it is clear that a number of underdeveloped countries have had opportunity to have access to our markets and to develop their export industries.

At present, the generalized system presents special zero tariffs to approximately 3,000 categories of products imported from some 140 countries and territories. From 1976 to 1983, the value of imports receiving GSP treatment has risen from $3 billion to $10.8 billion and accounts for 5.3 percent of our total nonpetroleum imports.

In 1983, the top 15 countries accounted for 87 percent of GSP imports. The top three beneficiary developing countries alone—Taiwan, South Korea, and Hong Kong—accounted for 52 percent of all GSP imports.

The thrust of my amendment will be to graduate out of the GSP system those three countries, Taiwan, South Korea, and Hong Kong. These three countries are already major trading nations exporting together in 1983 more than $26.5 billion worth of goods to the United States alone.

Of that total, more than $5.6 billion received GSP duty-free treatment.

The U.S. trade deficit with these three countries exceeded $13 billion in 1983 and will reach $19.5 billion in 1984.

In 1983, Taiwan enjoyed $3 billion in duty-free GSP exports out of $12 billion in total exports to the United States.

Our trade deficit with Taiwan in 1983 was $7.5 billion and is expected to reach $11 billion this year.

South Korea enjoyed $1.5 billion in GSP exports out of a total of $7.5 billion in total exports to the United States. Our trade deficit with South Korea in 1983 was $1.7 billion and is expected to more than double this year to $3.7 billion.

Hong Kong enjoyed $1 billion in duty-free GSP exports out of $7 billion in total exports to the United States. Our trade deficit with Hong Kong was over $4 billion and is expected to rise to more than $5 billion this year.

These figures, I would submit, are important. The volume of these three countries' exports to the United States, not covered by GSP, indicates that they can and do compete very well in world trade.

In the Subcommittee on Trade's letter of transmittal forwarding this bill to the full committee, the subcommittee gave this brief history of GSP.

The concept of the generalized system of preferences program was first introduced in the United Nations Conference on Trade Development in 1964. Developing countries asserted that one of the major impediments to accelerated growth in development was their inability to compete on an equal basis with developed countries in the international trading system.

These countries have not only proved their ability to compete in the international trading arena, but have

surpassed many developed countries' ability to compete.

Since the program began 10 years ago, Taiwan, South Korea, and Hong Kong have leapfrogged many traditional sources of U.S. imports.

□ 1410

Today they represent the fifth, seventh, and ninth largest sources of imports into the United States, respectively.

In comparison, Taiwan, South Korea, and Hong Kong ranked 11th, 18th, and 19th in 1974, the year before the program began.

And for further comparison, the United Kingdom currently ranks 6th, France ranks 8th, and Italy ranks 10th.

So in point of fact, two of the countries represented in this amendment are better off in terms of imports in the United States than two of our oldest and closest allies, Great Britain and France.

Faced with these facts, I think it is simply hard to justify that these three countries need GSP treatment to become more competent in world trade. Graduating these countries out of GSP will give other developing countries a better opportunity to compete for duty-free treatment. These three countries are now self-sufficient trading partners with the United States. They no longer need or should qualify for a special advantage.

Additionally, at a time when the U.S. merchandise trade deficit reached $119 billion in the second quarter of this year, the continuation of special privileges for countries like these is hard to justify when they account for almost $20 billion of our current trade deficit, or one-sixth of our entire trade deficit.

Now, I know it has been argued and will be argued when we get to the specifics of this amendment that what has been done in the bill will give us sufficient leverage with these countries to negotiate new treaties that will take care of a lot of the outstanding problems between our countries. I have no problem with the desire to negotiate, and I have no problem with the argument that there has been an attempt in the bill to give us leverage to get that negotiation. But I would submit this: The outstanding issues between our country, between these three countries and our country, with regard to patent and copyright and a lot of other outstanding issues, are very important issues. Very little progress has been made. We have not been able to get a negotiation fully started or even completed. It seems to me the best way to send a message to these important allies—and they are important and good allies of the United States—is to take this action with regard to graduation. I cannot think of a better way to set the stage for a true and meaningful negotiation which can get rid of the issues which stand between us so that we can reach some meaningful treaties that will give some very good treatment with regard to tariffs, nontariff barriers, or whatever questions are involved, so that we can continue this important relationship.

I think it is time for the United States to be aggressive with regard to trade policy. Everybody is not for free trade, but everybody is for fair trade. I think the best way to attain fair trade is to graduate out these three very successful trading partners and then set the stage for a good and meaningful negotiation on the many issues that we have between us.

Mr. DOWNEY of New York. Mr. Speaker, will the gentleman yield?

Mr. GEPHARDT. I yield to the gentleman from New York.

Mr. DOWNEY of New York. I want to ask the gentleman if under his amendment the graduation would be immediate or phased?

Mr. GEPHARDT. It would be an immediate graduation.

Mr. DOWNEY of New York. If I could propound another question to the gentleman, what leverage would we have over the Taiwanese, for instance, who are currently counterfeiting Roscoe screwdrivers and selling them from Taiwan to the Philippines and they have the potential to cost jobs on Long Island? What leverage would we have under the gentleman's amendment to prevent the Taiwanese from doing that?

Mr. GEPHARDT. I think that we have more leverage then we would have under provisions in the bill.

As the gentleman knows, in the bill it is stated that we can take the step of graduation if certain facts are true, certain criteria are met, and in most of these cases, those criteria would be met and we could enter into that negotiation.

My problem is that these issues have been hanging around for a long time. If what I am hearing is correct in the last few days, this graduation business is important to these countries. Both representatives of the countries and representatives of companies in the United States that trade with these companies have been in contact with me in the last few days, saying this is a very important issue to them. If it is, and if the graduation takes place as a result of this legislation, I think there is going to be a lot more meaningful negotiation than we have had in the past with half measures.

Mr. DOWNEY of New York. If the gentleman will yield further, I have a different view of it, and my view is simply this: that GSP was once decided to be a gift to help countries develop, and indeed we still offer it as an incentive to help developing countries and that is good trade policy. What we have attempted to do with the GSP, without the gentleman's amendment, is to use it not only as a spur to development, but also as a tool to gain access into the markets of Korea and Taiwan and to prevent, to use it as a lever to prevent the sort of counterfeiting of copyright and trademark that they are engaged in.

The gentleman makes the case that if we graduate these countries, then we will have greater leverage. I would make the argument—and we will do this later on, as well—that if we do what the gentleman is suggesting, we will have no leverage; that indeed there will be no incentive for these countries to stop counterfeiting toys, machine tools, tapes, and books and that we will see more jobs in this country lost.

So I would hope that during the course of debate we can discuss this question, because there is no doubt that they are major trading countries. The gentleman has made that point and I think he has made it eloquently. The question is, in the world as it exists today, how do we prevent the sort of piracy and trademark copyright that has gone on?

There is no question that in the past we have been unsuccessful, and that is because the only remedy, the 301 remedy which has been available, requires a detailed case-by-case study by the Commerce Department; it takes years and has been ineffectively applied.

Under this legislation, what we would do is, we would say to these countries, we are going to reduce your GSP benefits and if you want to buy back into higher GSP levels, you have got to give us access to your markets and you have got to be more forthcoming with respect to violations of trademarks and copyrights.

I thank the gentleman for yielding. It will be, I am sure, an interesting debate. But I hope that Members who are as anxious to keep jobs in this country, manufacturers going, understand that there are two sides of the same question.

Mr. GEPHARDT. I thank the gentleman for his views. I think we share a common goal. I think we disagree on the way to get to the goal.

I think the way that is provided in the bill is the carrot, and I guess I am suggesting the stick; and therein lies our difference.

Mr. QUILLEN. Mr. Speaker, I opposed the Gephardt amendment in the Rules Committee, and I will oppose it on the floor of the House and urge its defeat.

Mr. Speaker, I yield 2 minutes to the gentleman from Minnesota [Mr. FRENZEL].

Mr. FRENZEL. Mr. Speaker, there will be plenty of debate on this bill later on, but the gentleman from Mis-

souri made such a splendid speech I thought I ought to comment on it a bit.

The gentleman wants to cut back three countries from our list, selected arbitrarily not by their need but simply because they ship a lot of things to us. They are not even in the top 10 GSP countries in terms of per capita income and, therefore, the gentleman calls them favored countries. What he means is, I think, that they are very competitive, hardworking countries.

The USIC—the International Trade Commission—did a study last year and concluded that if we took these countries off GSP, their share of exports to the United States would not go to developing countries, it would go to Japan.

Now, if the Members of this House think it is a good idea to shift some more of our imports over to Japan, then they ought to vote for the Gephardt amendment. Otherwise, I think they would be well advised to vote against it, as I shall.

It is also true that the bill provides for graduation. Under the bill as it is written, those three countries stand to lose about half of their trade with the United States.

We were also told how big and powerful they are, Mr. Speaker. Their penetration in the U.S. market accounts for three-tenths of 1 percent of the U.S. consumption of goods they ship to the United States. GSP is useful. It is necessary. If GSP is not comprehensive, our bill will not be acceptable either to the world or to the administration. And if the Gephardt amendment is adopted, we are likely not to lose GSP but to lose Israel and wine and steel and everything else in the package.

Mr. BONIOR of Michigan. Mr. Speaker, I yield 1 minute to the gentleman from Florida [Mr. GIBBONS].

Mr. GIBBONS. Mr. Speaker, I want to also put myself on record as being opposed to the Gephardt amendment. I know that this is not the general debate on the bill or on the amendment, so I am going to be very brief and just say that it is not in the best interest of the United States to adopt the Gephardt amendment, and I will expand on that when we get to the debate on the amendment.

□ 1420

Mr. BONIOR of Michigan. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BONIOR of Michigan. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to insert their remarks in the RECORD on the following House Resolutions: House Resolution 597, House Resolution 594, House Resolution 595, House Resolution 596, and House Resolution 598.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

UNITED STATES-ISRAEL FREE TRADE AREA ACT

The SPEAKER pro tempore. Pursuant to House Resolution 598 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the state of the Union for the consideration of the bill, H.R. 5377.

□ 1420

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 5377) authorizing the President to enter into, and to proclaim modifications necessary to implement, a trade agreement with Israel providing for duty-free treatment for, and the elimination of import restrictions on, the products of Israel, with Mr. ROWLAND in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from Illinois [Mr. ROSTENKOWSKI] will be recognized for 30 minutes and the gentleman from Minnesota [Mr. FRENZEL] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Illinois [Mr. ROSTENKOWSKI].

Mr. ROSTENKOWSKI. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of H.R. 5377, authorizing the President to enter into a "reciprocal and mutually advantageous" free trade area between the United States and Israel, and to make any changes in U.S. tariffs or other import restrictions which may be necessary to implement the agreement. On the basis of extensive testimony and a factfinding trip to Israel by some of its Members, the Committee on Ways and Means favorably reported the bill, with an amendment, to the House by a rollcall vote of 33–0.

H.R. 5377 as amended authorizes the President to make changes in U.S. tariffs on imports from Israel, without seeking prior congressional approval. This grant of authority is consistent with past congressional practice. However, any provision on nontariff barriers could be implemented only after expedited congressional approval.

Considerable concern was expressed by private sector witnesses and Members of Congress about Israeli subsidies and import restrictions, and about the potentially harmful impact of a free trade area on certain import-sensitive U.S. products. The committee shares these concerns but believes that the bill adequately protects U.S. interests in these areas. The bill makes it clear that the United States reserves all rights under its antidumping and countervailing duty laws to deal with unfairly traded Israeli goods which injure U.S. producers. In addition, the U.S. Trade Representative has assured the committee that an Israeli commitment to phase out is subsidies will be a precondition of any agreement.

As for Israel's competition with import-sensitive U.S. goods. H.R. 5377 as reported requires strict rules-of-origin to prevent the mere transshipment of products from other countries under a free trade area. And the U.S. Trade Representative has assured the committee that duty-free treatment of imports from Israel will be phased in over a period of years to minimize any potential adverse impact on U.S. industries.

Taken as a whole, the committee believes that a free trade area with Israel would be in the overall U.S. economic interest by removing the competitive export disadvantage we face with Europe in the Israeli market—Europe established a free trade area with Israel in 1975. In addition, since the vast majority of Israeli products already enter the United States duty-free, we would be increasing our export opportunities at little cost to ourselves. I urge your support for the bill.

Mr. FRENZEL. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in strong support of H.R. 5377, which, as far as I know, was reported unanimously from the Ways and Means Committee.

The bill authorizes the President to enter into and implement a trade agreement providing for a duty-free trade zone between the United States and Israel. The duty-free trade zone would be the whole of both countries. The discussion of this trade zone was initiated by Israel last year, and eagerly accepted by the United States. Preliminary negotiations have already taken place.

It should be worth noting that Israel and the European community already have a free trade agreement which will be fully phased in in a couple of years. If the United States and Israel were not to negotiate a free trade zone of their own, U.S. goods will be at a disadvantage in the Israeli market.

The Israeli market is a small but sophisticated one which favors U.S. goods. Without this trade agreement,

U.S. shippers would have some difficulties.

The United States will benefit from this arrangement as much, if not more, than Israel. The United States already has a $400 million trade surplus with Israel, excluding military goods. Israel purchases about $300 million in agriculture products from the United States. In addition, when you compare duty-free treatment already enjoyed by certain exports, the United States will be advantaged by across-the-board duty-free access. About 60 percent of United States exports to Israel are now duty-free, while Israel's imports to the United States are about 90 percent duty-free. Furthermore, 40 percent of U.S. exports have Israel duties exceeding 10 percent, while U.S. duties on Israeli products are relatively low.

This bill will, however, be the first such agreement that we have ever entered into. We have a sectoral agreement with automobiles with Canada, and we have some one-way agreements under GSP And CBI. This is a far-reaching first, a precedent-setting agreement for the United States which I believe will be of great benefit to both countries.

The United States will have an immediate benefit. Israel, over the long haul, will also have a benefit. Israel has received a great deal of aid from the United States. In my judgment, a far better way to help the nation of Israel, but to help it help themselves, is to offer it free access to our markets.

Israel is not going to overwhelm us with goods produced by low-cost labor. It is a high-labor country. It is not going to bomb us with agriculture or cheap textiles. It is a high-wage, high-value economy.

The Trade Subcommittee, under the strong leadership of Congressman SAM GIBBONS of Florida, visited Israel during the August break. We looked over the situation from top to bottom. Israeli business people had the same nervousness about the agreement that United States business people had. Even those who wanted to be sure that they were protected in both countries understand that an agreement is in the best interests of both countries and in the best interests of the people of both countries.

We believe the United States will be well protected. We have confidence in the U.S. Trade Representative to achieve a good agreement with Israel, and we have provided in this bill the maximum flexibility so that he can negotiate it. We have not tried to tie his hands so that he would be obliged to protect certain areas and be blindsided in others.

The bill gives him enough authority to do a good job for us. Mr. Chairman, this is a most important bill for the United States. It is more important for Israel. It is also important for the world. I hope it will be unanimously adopted.

Mr. GIBBONS. Mr. Chairman, I yield myself such time as I may consume.

□ 1430

Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, this is an important piece of legislation and I am glad the House of Representatives has reached it.

In rising to support this bill, I first want to pay tribute to its principal sponsor, the gentleman from New York [Mr. DOWNEY]. Mr. DOWNEY has taken hold of this issue, has handled it with great skill and great feeling for the problems involved and without his skill and leadership we would not have made such substantial progress as we made here.

Mr. Chairman, the Israel Free Trade Zone is designed to help both the United States and Israel. We are negotiating here for a bilateral free trade zone. This differs from the free trade zone that we established in the Caribbean Basin area because in the Caribbean Basin area we unilaterally granted a one-way free trade zone, or almost free trade zone.

This bill does not waive any of the normal statutes that we have that have been in force for some time, and we hope to strengthen concerning unfair trade practices concerning subsidies in dumping.

This bill does not allow for just pass-through operations between countries sending their goods to Israel, having slight transformations take place, and then just sending the goods on to the United States.

At least 35 percent of the value added to any product must be Israeli in origin, except that up to 15 percent of U.S. origin can be added to make up that total of 35 percent.

There is a protection under this bill for agricultural products, giving them a fast track for agriculture perishables. And, as I say, simple things like adding water or diluting or repackaging are things that cannot be done if there products are to receive duty free treatment.

When this bill was first being considered, I made a public statement and I want to make it again here. I support this bill because I think it strengthens Israel and I think it strengthens the United States.

In order that the Arab neighbors of Israel and our friends in the Arab world will understand what this is all about, I offered then and I offer now, if they want to seek a free trade zone with the United States, I cannot guarantee them that it will be adopted, but I will introduce legislation for them.

I have told this to the Israelis and they applaud that position. They are interested in establishing better relationships with their Arab neighbors and they have no objection to it, I want to explain that over again now so that we are not creating any ill will by this bilateral free trade zone.

The Subcommittee on Trade of the Committee on Ways and Means, as it has done in the past, spent extensive time studying this subject. We not only had formal and informal hearings here on it, we not only had formal and informal discussions with the administration on it, but we spent a very busy week in Israel studying this question on the ground.

I must say that there is some misapprehension in Israel proper about this because this is going to subject industries in Israel to very severe challenges, far greater challenges than any industry in this country will ever have.

Israel already has a free trade zone with the European Community and you can be impressed when you see all the European products that have made their way into the Israeli economy because of European Community-Israeli Free Trade Zone. It is essential that the United States get the same kind of advantage in Israel that Europe now has there.

This bill will not hurt the economy of America. In fact, this bill will to some extent strengthen the economy of America, and it will certainly strengthen the economy of Israel and perhaps make it possible over a long period of time for us to reduce this substantial amount of foreign aid that is necessary to support the country of Israel.

I hope that all Members will support this bill on passage. It is one of the most effective things that we can do to produce peace and better understanding in the Mideast. It is also a very effective tool in working out our relationships with the people of Israel on an economic basis.

Mr. Chairman, I rise in support of H.R. 5377, a bill to authorize the establishment of a free trade area between the United States and Israel.

I strongly support this legislation for a number of reasons. This bill will be an important step in liberalizing trade, at a time when protectionism is on the rise in many countries. It represents not a one-way liberalization of trade, but a two-way mutually advantageous reduction of trade barriers in the United States and Israel. U.S. exporters for the first time will be able to compete on an equal footing with exporters of manufactured goods from the European Community; EC exports to Israel have gradually displaced our own, largely due to the fact that Israel and the EC established a free trade area for industrial products in 1975. So it is very much in the economic interest of the United States to obtain a re-

duction in Israeli tariffs and nontariff trade barriers.

Some Members of Congress have expressed concern about Israeli subsidies; about the risk that Israeli exports of textile goods and agricultural products will flood our market and injure our producers; and about the precedent that a United States-Israeli free trade area sets for additional free trade areas.

As chairman of the Ways and Means Subcommittee on Trade, I share these concerns about subsidized and dumped exports to our market. But this agreement does not weaken existing rights under our antidumping and countervailing duty laws. In addition, the Committee on Ways and Means has received assurances from the U.S. Trade Representative that he will seek an Israeli commitment to phase out its subsidies as a precondition for entering into an agreement. This would increase—not diminish—our firms' protection against subsidized trade.

H.R. 5377 also contains provisions to protect U.S. firms against the mere diversion of goods from third countries through Israel and into the United States. It establishes expedited procedures for relief from imports of agricultural perishables. And while the bill grants the President the authority to reduce or eliminate tariffs of Israeli products without prior congressional approval, the U.S. Trade Representative has assured the committee that tariff reductions will be phased in over a period of years. This will give U.S. producers a chance to adjust gradually to any increase in imports. Since 90 percent of Israeli exports already enter the United States on a duty-free basis, the competitive position of most U.S. firms will not be changed.

As for the fear that this bill will open the floodgates for numerous additional free trade areas, I would simply note that this bill provides negotiating authority for Israel only. Any proposal for additional trade areas would have to go through the same intense congressional scrutiny which this proposal has undergone.

The potential benefits to U.S. producers of a free trade area with Israel are at least equal to those which Israel is likely to enjoy. H.R. 5377 merits the support of the House and I strongly urge you to support it.

Mr. YATES. Mr. Chairman, will the gentleman yield?

Mr. GIBBONS. I yield to the gentleman from Illinois.

Mr. YATES. I thank the gentleman for yielding to me.

Mr. Chairman, I want to congratulate the gentleman and also commend him for bringing out such a very constructive bill. It will be a very good source of interchange of trade between the United States and Israel. It is a good bill for the United States. It is a good bill for Israel.

Mr. Chairman, we are nearing the end of this Congress and I am delighted that the House is considering H.R. 5377 today. With this bill we provide the authority for the President to strengthen the economy of an important ally.

The bill, which I was pleased to cosponsor, is important to Israel and it is important to the United States. Israel is as strong and effective an ally as we have. Among the nations of the Middle East, Israel stands as the region's single democratic nation and I think everyone in this House will agree that we have a very real and direct interest in protecting that democracy. For the past few years, the Israeli economy has been under considerable pressure. The bill we are debating will not solve the economic problems of Israel but I am convinced that the authority contained in H.R. 5377 for a free trade agreement with Israel will make a significant contribution to our efforts to help Israel help herself.

This is not charity and the free trade area concept is not a new idea. The Common Market established a free trade relationship with Israel in 1975 and by 1984, European exports to Israel will be entering that country duty free.

I support the specific definitions and requirements that are provided in the bill for the duty-free treatment of Israeli products as well as other provisions that are designed to protect import-sensitive industries in this country. The bill makes good economic sense and it is in the interest of the United States. I hope you will join me in voting for it.

Mr. GIBBONS. Mr. Chairman, I thank the gentleman for his kind remarks, and I appreciate them very much.

Mr. CONABLE. Mr. Chairman, I yield myself 4 minutes.

Mr. Chairman, I support H.R. 5377 and I support it strongly. It provides for development and implementation of a duty-free trade zone between the United States and Israel. In fact, we have had very little experience with such a duty-free trade zone, although we have half a duty-free trade zone in the Caribbean Basin where the trade benefits go to the Caribbean countries only. Israel has some experience with free trade zones and discussions leading up this legislation were initiated by Israel in order to improve its trade relationship between the United States and put the United States in a position comparable to that occupied by the European Community.

As the gentleman from Minnesota said, Israel has had a free trade arrangement with the European Communities and much of its trade is now going that way. It would like to have a similar arrangement with us.

The European Community free trade arrangement of Israel has been in effect since 1975.

Several months ago, the Committee on Ways and Means' Trade Subcommittee visited Israel to examine its agricultural and industrial capacity and to get an Israeli view of this kind of legislation.

I am sure my colleagues are well aware that Israel is not a great economic power, although it is a strong ally of ours, but those who are concerned about some sort of massive inflow of goods from Israel as a result of this legislation should be reassured.

We learned among other things that Israeli leaders who are supportive of such an agreement are just as concerned and sensitive about the impact of increased imports as their U.S. counterparts.

The concept of a free trade area has been favorable, however, in general concept by all sectors of the Israeli economy. Our country will benefit from a free trade zone as much if not more than Israel. We already have a $400 million trade surplus for the Israelis if military goods are excluded.

Israel purchases about $300 million in agricultural products from us and we should enjoy a big advantage through across-the-board duty-free access. About 60 percent of U.S. exports to Israel are now duty free while Israel's imports to this country are 90 percent duty free under GSP and 40 percent of our exports bear Israeli duties exceeding 10 percent, while U.S. duties on Israeli products are relatively low.

I mention these figures because I think it is important to understand that we stand to benefit from this arrangement considerably more than the Israelis do.

All of the U.S. trade laws will apply against any unfair trade practices or serious import surges that may result from such an agreement. Our special trade representatives, Ambassador Block, has guaranteed that all duty-free reductions in sensitive product areas will be phased in over a multiyear period.

Israel already has agreed to conform its subsidy practices to GATT rules and to eliminate any adverse effect of domestic internal subsidies on the U.S. market. This is backed up by terms of the free trade zone agreement.

Incidentally, this agreement has already had a good deal of preliminary negotiation.

It appears that the achievement of a satisfactory agreement is indeed a decided possibility.

In other words, this legislation is not just academic. It doubtless will result in the achievement of the negotiation provided we do not impose so many conditions on the continuance of these negotiations that we greatly reduce

our leeway in bargaining with the Israelis.

I believe this legislation maintains tight congressional oversight while providing a high degree of flexibility regarding our trade negotiations. We have much to gain from H.R. 5377 and little to lose.

I urge my colleagues to approve the measure.

Mr. GIBBONS. Mr. Chairman, I yield 6 minutes to the gentleman from New York [Mr. DOWNEY], who, as we know, is a principal sponsor of this legislation.

Mr. DOWNEY of New York. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. JONES of Oklahoma. Mr. Chairman, will the gentleman yield before he begins?

Mr. DOWNEY of New York. I yield to the gentleman from Oklahoma.

Mr. JONES of Oklahoma. I thank the gentleman for yielding.

Mr. Chairman, I want to commend the gentleman from New York [Mr. DOWNEY] for being the driving force behind this legislation. I want to particularly commend and thank the distinguished chairman of the subcommittee and ranking Republicans on the committee and subcommittee and the chairman of the full committee for moving this along.

I rise in strong support of this legislation. I think it is a proper precedent for these two countries who are so close. It gives negotiating authority to the President to negotiate free trade between our countries.

Both countries gain and I think it is clearly a very good bill.

Implementation of this legislation will herald in a new era of economic relations between us and our greatest ally in the Middle East. It represents an opportunity for Israel to work its way out of enormous budget problems through greater industrial output, and the enhancement of the economic sector will also strengthen Israel's social fabric, so sorely tested in the recent political stalemate.

A free trade agreement with Israel will be a boon to American consumers, who will be able to purchase Israeli goods without also paying a duty. It also represents a great opportunity to American exporters, who will finally be able to compete with their European counterparts who have enjoyed duty-free access to the Israeli market for years.

Finally, the bill represents U.S. assistance to Israel in the form of savings to Israeli consumers and more business for Israeli companies, rather than direct financial aid from the people of the United States. As the Israeli economy is strengthened by the free trade area, their dependence on U.S. aid for their defense needs should diminish.

I would like to thank the chief sponsor for this bill, Mr. DOWNEY, for the fine leadership he has shown throughout on this legislation, as well as the chairman of the Trade Subcommittee Mr. GIBBONS and the full Ways and Means Committee Mr. ROSTENKOWSKI, for their support and their sensitivity to the need to bring this bill to the floor before the end of the session.

□ 1440

Mr. DOWNEY of New York. First of all, Mr. Chairman, I want to thank the subcommittee chairman, the gentleman from Florida [Mr. GIBBONS], for his diligent support on this. Without him, it would not have been possible. The trip to Israel was thorough, and he worked tirelessly, and he should be recognized as the moving force, along with the gentleman from New York [Mr. CONABLE], and the gentleman from Minnesota [Mr. FRENZEL].

I have not had the opportunity to say to the body or to the country how much this Member from New York will miss his colleague, the gentleman from New York [Mr. CONABLE]. We share a similar alma mater. He is truly one of the most outstanding Members of this institution and he will be sorely missed.

Mr. Chairman, it has been almost a year since President Reagan and Prime Minister Shamir met in Washington for the first time and agreed to try something new in trade—a free trade area between our two countries.

The idea was Israel's and it was extraordinary since most small countries, especially those facing severe economic constraints, are quick to erect tariff and nontariff barriers to shield their economies from foreign competition.

Israel is a dramatic exception.

Though only the size of Massachusetts with a population less than that of Detroit, and struggling against a heavy defense burden, high inflation, and a large foreign debt, Israel is pursuing a policy of trade liberalization. This policy initiative comes at a time when other countries facing economic hardships are building up economic barriers.

The two-way political advantages of the arrangement we bring up today are familiar to the 200 of us who cosponsored the bill. Preventing Soviet military domination of the eastern Mediterranean and the Middle East depends heavily on the potential contributions of the one stable, democratic and military dependable ally in that volatile part of the world—Israel.

For Israel, a country which has faced and surmounted enormous obstacles in its struggle for survival—a struggle it continues to face to this day—a reciprocal free trade agreement with the United States shows the world that the two nations have a strong economic as well as political stake in each other's continued well-being.

The Israeli economy, ladies and gentleman, is something that is in very desperate shape. There is a joke that goes around in Israel, What is the difference between a dollar and a shekel?" and the answer to that query is, "A dollar," and while it is funny, it points up the fact that the Israeli economy is in desperate trouble.

Mr. Chairman, since normal trading relations are denied Israel by its neighboring countries, and many other markets are also closed by the Arab countries' economic boycott, it is critical for Israel to cement the healthy commercial ties she does enjoy. This is especially the case for a small and trade-oriented country like Israel, where almost 50 percent of the gross national product is exported, and where imports in civilian goods and services alone are equivalent to over 60 percent of GNP.

Despite its small size, Israel consistently ranks among the top three markets in the Middle East for American goods and services. But Israeli trade barriers, while much diminished from the country's early years, are still a problem for American companies; 40 to 45 percent of American products still face tariffs in Israel. This bill establishes the mechanism to eliminate them.

It should not be forgotten either that due to a free trade arrangement between Israel and the European Community, signed in 1975, European exporters manufacturing products similar to American goods are encountering lower and lower tariffs, which by 1989 will be entirely eliminated on manufactured products. A United States-Israel FTA would level the playing field for U.S. companies in the Israeli market, valued at about $8 billion in merchandise imports. Israel also imports over $3 billion in American services, a sector of United States-Israel trade which will be included as part of a free trade area.

While the United States already exports a broad array of goods and services to Israel, with duty-free treatment and a reduction in nontariff barriers, we are likely to see a particular increase in exports of electrical and electronic equipment; processed food and grain products; office machinery and computer/data processing equipment; power generating machinery and equipment; tobacco products; paper products; telecommunications and transport equipment; and a wide variety of consumer goods, including home appliances. Services such as banking, insurance, credit institutions, data and information services and tourism and franchises would also likely benefit.

Increasing American exports to friendly trading partners like Israel offers overall economic benefits for

the U.S. economy, such as stimulating growth and production in a noninflationary environment, and creating new jobs; $1 billion in exports creates about 25,000 additional American jobs, according to U.S. Government estimates.

Increasing Israeli exports will be beneficial not only to Israel but to the United States as well, since Israel will use some of the foreign exchange earned to purchase more final products and product inputs from the United States, its No. 1 trading partner.

Earning foreign exchange from increased exports will also help Israel to service its debt, a large portion of which is owed to the United States. In addition, Israel offers some advanced new technologies in such specialized fields as fiber optics, robotics, irrigation, solar energy, and medical equipment which could greatly benefit Americans in an environment of increased economic cooperation.

While the United States has much to gain from a free trade area with Israel, there is little risk for us in opening wide our markets to a country of 4 million people, whose entire GNP was only about half the size of IBM's gross earnings last year. Israel's total exports to the United States are at most one-half of 1 percent of total imports coming into the United States. Israel is not a cheap labor enclave to be feared by American workers. In fact, it is one of the most heavily unionized nations in the world, and the country is currently plagued by a shortage of skilled industrial workers which severely limits its capacity to export. The United States traditionally has a large trade surplus with Israel, so increasing trade relations between the two countries is unlikely to enlarge the overall U.S. trade deficit.

Finally, most of Israel's products—over 90 percent—already come into the United States duty free, so it is unlikely there would be any dramatic surges in the present amount of goods exported from Israel to the United States. A substantial portion of Israeli goods currently come in duty free because of GSP, a program aimed at encouraging exports from lesser developed countries. But the GSP's many limitations on the amount and kind of products a country can export duty-free leaves Israel vulnerable to sudden tariff restrictions, especially on the more technologically advanced products Israel sees as its major exports of the future.

Some critics of the FTA have said that this is a move toward bilateralism in our trade relations and a blow to the established multilateral system epitimized by the General Agreement on Tariffs and Trade [GATT]. But this is a hollow argument. Free trade areas and customs unions are specifically cited by the GATT in one of its incorporating articles as appropriate trading behavior as long as the agreement concluded does not raise barriers to those outside of the pact and as long as the agreement covers substantially all trade conducted among the members. Reciprocity—the mutual removal of barriers—is, after all, the cornerstone and the goal of the GATT. Moreover, a bilateral FTA should in no way diminish the U.S. pursuit of multilateral trade liberalization.

Rather, it is the finest example of a successful removal of impediments to trade flows and the pursuit of economic cooperation and it is my hope that it spurs trade talks with other countries with whom we have made little progress since the Tokyo round ended several years ago.

In sum, I am proud to have been the sponsor of this forward-thinking legislation in the House and wish to acknowledge the help and cooperation at all turns of the special trade representative, my colleague BILL FRENZEL, the research staff of the American Israel Public Affairs Committee, and most of all to my Subcommittee Chairman, SAM GIBBONS for his support all of the way through.

Mr. CONABLE. Mr. Chairman, I yield 3 minutes to a valued member of the committee, the gentleman from South Carolina [Mr. CAMPBELL].

Mr. CAMPBELL. I thank the gentleman for yielding this time to me.

Mr. Chairman, I wonder if the distinguished chairman of the subcommittee, the gentleman from Florida [Mr. GIBBONS], would allow me to engage him in a brief colloquy.

I am sure the gentleman well remembers the discussion we had, and the concern that some of us had over textiles. As the distinguished chairman knows, we are very concerned about the possibility of transshipments and the increased imports of textiles and apparel through Israel.

I want to be absolutely clear that this legislation does, in fact, contain a rules-of-origin provision similar to the CBI and that it is the gentleman's understanding that the 35-percent domestic content requirement be strictly enforced. Is that a correct assumption?

Mr. GIBBONS. Mr. Chairman, if the gentleman will yield, I want to assure this body that the gentleman is correct. The bill requires that the 35-percent content requirement be strictly enforced, and certainly that 35-percent content applies to textiles and to garments, as it does to all other products.

Mr. CAMPBELL. I thank the gentleman for that assurance, and I am delighted that we have this clear.

I would like to ask the gentleman one other question, if I might, and this second concern deals with testimony in a statement given by Ambassador Brock, and that concerns his commitment. I want to be certain on the 3 guidelines that he detailed before our committee, the first one being the import sensitivity of textiles, apparel and other articles will be taken into account in negotiations with Israel, and the second one being the elimination of Israeli export subsidies in these areas will serve as a precondition for U.S. agreement to this free trade zone, and finally, that tariffs on these import sensitive products would be phased out over a multiyear period.

Is that the gentleman's understanding of the commitment from Ambassador Brock?

Mr. GIBBONS. If the gentleman from South Carolina will yield, that is my understanding of Ambassador Brock's commitment.

Mr. CAMPBELL. I thank the gentleman very much. I am glad that we are perfectly clear on these items.

□ 1320

Mr. GIBBONS. Mr. Chairman, I yield 1 minute to the gentleman from Texas [Mr. PICKLE].

Mr. PICKLE. Mr. Chairman, I thank the subcommittee chairman for yielding time to me.

Mr. Chairman, this is good legislation. It is good for the United States, it is good for Israel. It means that these two countries will be able to trade more extensively with each other. It means more jobs and more productivity for both. I think it should have the strong support of the Members of this House.

Thus, I stand today in support of this bill, which proposes the establishment of a free trade area with Israel. Passage of this legislation will be a positive step toward strengthening relations between our country and the State of Israel.

We always hear about the strategic importance of Israel, and what a strong ally Israel has been and continues to be to the United States. This is beyond refute. But, Israel is also a strong trading partner, in fact we enjoy a $400 million trade surplus with Israel, which means we are exporting more to Israel than we are bringing in in Israeli goods. Passage of this legislation will enable our exporters to maintain this favorable position in the Israeli market.

I am aware of concerns expressed by some of our domestic industries about allowing Israeli goods to enter duty free. In fact, amendments were offered in committee proposing to exempt some products from the FTA agreement, particularly textiles and apparel products. I supported these amendments in committee and feel that the present inability of our domestic industries to compete with imports must be addressed in some fashion in the very near future. The answer to the problems of the textile industry, however, are not to be found in exempting

textile imports from the United States-Israel Free Trade Area Agreement. Israel, too, like the United States, is hard pressed to compete with cheap imports from other countries with low wage scales. Both our textile industries are operating at a comparative disadvantage, and it seems to me that this may be yet another area for increased cooperation between our countries: improving the competitiveness of the textile industry. I know that my State is looking to Israel for technical assistance in arid land management, and hopefully we will both learn something about making things grow on rangeland!

The establishment of a United States-Israel Free Trade Area is good trade policy. Such an arrangement—which would be reciprocal—would benefit the U.S. economy by expanding trade, and would also strengthen the Israeli economy by increasing its export potential with the United States. The FTA will ensure a permanent, stable trading environment in which the U.S. share of Israel's $8 billion market will grow substantially. Unless the FTA legislation is passed, U.S. exporters will be handicapped in the Israeli market because Israel has already negotiated a free trade agreement with the European Community. It behooves us to enter into negotiations with Israel at this time in order to protect our future trade interests.

Both countries will gain from this arrangement. Passage of this legislation will not result in a flood of Israeli goods into the U.S. market duty free; 90 percent of Israeli imports already enter duty free. Passage of this legislation will expand and strengthen existing relations between our two countries—relations which serve to protect our mutual security interests as well as our global economic interests. I strongly support this legislation, Mr. Chairman, and encourage my colleagues to consider the benefits accruing to both the United States and Israel as a result of enactment of this legislation.

Mr. GIBBONS. Mr. Chairman, I yield 2 minutes to the gentleman from Georgia [Mr. JENKINS].

Mr. JENKINS. Mr. Chairman, the gentleman from South Carolina [Mr. CAMPBELL] has already stated some of the problems that the textile industry had with the bill as originally introduced and has extracted from the subcommittee chairman certain commitments that were made in the committee as far as import-sensitive articles.

There has been no general objection raised to the bill itself in the Committee on Ways and Means. There has been no opposition to the bill as far as Israel is concerned, by any member of the committee. There have been raised some real serious questions as far as the textile industry and the shoe industry and import-sensitive products. The Ambassador has indicated that there will be a phase-in as far as import-sensitive articles are concerned, and I would hope we could anticipate that will be true.

I simply want to point out to my colleagues in the House that as we go down this road further and further, we ought to make sure in the future that we have some of these commitments in the legislation. We attempted to do this in the committee. We were unable to do it.

Members may ask, why should we have such commitments in the legislation? I want to point out that our past has not been the best as far as administrations living up to commitments that they have made to the textile industry, and for that reason alone the Members from the textile areas have generally preferred and do prefer to have these commitments reduced to legislative language.

Nevertheless, having lost that battle, I believe that this is a bill that ought to be supported by the Members of the House. It has already passed the Senate, and I would hope that we could take a look at this bill as it is enacted into law and hopefully the administration will live up to the commitments made to the textile and shoe industries in this instance.

Mr. Chairman, I urge my colleagues to support the bill.

Mr. CONABLE. Mr. Chairman, I now yield 3 minutes to the distinguished gentleman from Ohio [Mr. KASICH].

Mr. KASICH. Mr. Chairman, I rise in very strong support of the free trade area between the United States and the State of Israel. Here we have an example of cooperation between the two countries working for the benefit of both.

From the perspective of the United States, it is estimated now that our products have 20 percent of the market in Israel, and that means between 40,000 and 50,000 jobs for American workers.

If we are able to up that to just 40 percent, it would mean an additional 40,000 jobs. However, if we were to lose 10 percent of that penetration, it would cost about 20,000 American jobs.

It is important to point out that the State of Israel has made an agreement to establish a free trade area with the European Community. So if America is to remain competitive, it is essential for us to negotiate the free trade area, which not only helps us in terms of our ability to sell products to Israel on a competitive basis with our European friends, but also will help the Israelis by allowing them to import goods at lower prices.

From their perspective, it is important for the Israelis to have long-term, duty-free access to U.S. markets because that allows them to restructure their economy to their best advantage. What is important to know is that the State of Israel does not now have a significant impact on American imports. In fact, only one-half of 1 percent of total American imports is accounted for by the State of Israel. So those who are concerned about the impact of Israeli imports, should take another look at this argument.

Additionally, this may help the State of Israel in terms of reducing the need for foreign aid. If Israel can move in the direction of additional exports, we all know, as our friend, the gentleman from New York, argues, it hopefully will reduce their dependence on other countries.

So this allows the State of Israel to create a healthier economy, which is not only in the best interest of the State of Israel but also in the best interest of the United States. This general agreement, No. 1, is going to help the United States because it is going to mean a potential for additional jobs which are related to exports to the State of Israel, and, No. 2, it is going to help the State of Israel because it is going to allow them to have careful planning and do the things they do best. It allows them to strengthen their economy, and a strong Israel and a strong Israeli economy is, without question, in the best interest of the United States.

So, Mr. Chairman, again it is a question of a good partnership and a good friendship and further cementing a relationship which is absolutely vital to the free world.

Mr. Chairman, I thank the gentleman from New York for yielding time to me.

Mr. CONABLE. Mr. Chairman, I yield 3 minutes to the gentleman from Illinois [Mr. PORTER].

Mr. PORTER. Mr. Chairman, I would like to give my strong support to the establishment of a United States-Israeli free trade area. The elimination of substantially all trade restrictions between the United States and Israel would reaffirm our commitment to this historical, cultural, and strategic ally of the United States. But more than this, this agreement would be a positive boon to U.S. business.

Due to Soviet intrasigence and the Syrian military buildup, we must ensure the continued stability and economic viability of Israel. This agreement would help to do this by putting United States-Israeli economic cooperation on a firm footing.

An FTA would also halt the decline in the share of the Israeli market held by U.S. companies. We will always have a geographical disadvantage in competition with European countries for the Israeli market, but recent developments have worsened the problem.

The high value of the dollar has made our goods more expensive in Israel. More importantly, Israel and the European Economic Community have already concluded their own Free Trade Association. Signed in 1975 and to be fully implemented by 1989, this agreement will substantially improve the Europeans ability to undercut U.S. business in Israel. In order to better compete with the EEC, we must establish a free trade area.

Almost all Israeli exports already enter the United States duty-free, while over one-third of U.S. exports to Israel must pay large duties. This agreement would eliminate the minor restrictions still facing Israeli goods while removing the rather substantial barriers facing the United States.

I must emphasize that this agreement should cover as many goods as possible. The EEC agreement with Israel excludes a number of goods. If the United States is able to eliminate more restrictions than the EEC, we could actually gain a substantial advantage over the European countries and increase our share of the Israeli market.

A very broad free trade area is also necessary in order to comply with the General Agreement on Tariffs and Trade to which the United States is the leading member. The GATT specifically allows free trade areas only if they are broadly based and equitable. Unlike the EEC-Israeli free trade agreement, we must consider our leadership role in the GATT and fully comply with its provisions or risk seeing a plethora of limited, single-commodity free trade areas spawn throughout the world, wrecking the spirit of multilateralism that has made the system work.

There has been some talk of specifically exempting textiles and apparel from this agreement. How can this be so? Am I to believe that the American textile industry needs protection from a country that buys more textiles from the United States than it sells? Does the industry need protection from a country that exports so few textiles to the United States that it does not come under the multifiber agreement? A country that produces only two-tenths of 1 percent of U.S. imports? I would suggest, Mr. Speaker, that this is not the case. A free trade area in textiles would, in fact, help to ensure that U.S. manufacturers continue to run up a surplus in their trade with Israel.

Mr. Chairman, a free trade area between the United States and Israel would be good for both countries and for U.S. business. I strongly support this legislation and call on my colleagues to vote for H.R. 5377.

□ 1500

Mr. GIBBONS. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Florida [Mr. SMITH].

Mr. SMITH of Florida. Mr. Chairman, today the House considers a bill which will help our own economy and the economy of an important ally. The United States-Israel free trade area bill will create a bilateral tariff free trade agreement which will stimulate new trade between the two nations.

American companies will greatly benefit from a United States-Israel free trade area. Israel has an $8 billion import market and is one of the top three markets in the Middle East. Nearly one-half of U.S. exports currently face some type of tariff. The elimination of Israeli tariffs for U.S. goods will help our exports in this growing market.

If this bill is not enacted, U.S. exports will likely decline since a free trade arrangement between Israel and the European Community has been signed and is to come into effect by 1989.

American exports currently account for 20 percent of the Israeli import market. This bill is likely to stimulate new bilateral trade, and an increase to 40 percent of the Israeli import market would mean 40,000 additional American jobs. While our trade deficit continues to grow, Members are aware of the need to find new ways to promote U.S. exports. This bill is one such way.

A United States-Israel Free Trade Zone also will not harm our domestic economy with cheap products. Over 90 percent of Israeli exports to the United States already receive duty-free status. Through this bill, Israel will be able to increase exports, restructure its economy and thus reduce dependence on foreign aid.

I urge my colleagues to support this bill which will only reduce our rapidly growing trade deficit and help an important ally help itself.

Mr. Chairman, I want to commend the gentleman from Florida [Mr. GIBBONS] and the whole Ways and Means Committee for bringing this important bill to the floor of the House.

Mr. CONABLE. Mr. Chairman, I yield such time as he may consume to the gentleman from Iowa [Mr. LEACH].

Mr. LEACH of Iowa. Mr. Chairman, I rise in support of this measure, which, in my estimation presents us with an opportunity all too rare—a chance to promote the economic well-being of the United States while at the same time bringing substantial benefits to one of our closest and most important friends and allies.

The measure we have before us, which would authorize the President's Trade Representative to pursue the establishment of a free trade area with Israel, would bring significant advantages to both the Israeli and the American economies. We all are aware that Israel's economy is beset with problems of extraordinary magnitude, not the least of which is hyperinflation of more than 400 percent annually. In large measure this is the case because Israel faces barriers to its economic improvement unknown elsewhere in the world. Economic boycotts by other nations in the region, enormous expenditures on defense, accelerated infrastructure demands, and an enormous per capita foreign debt all loom as formidable obstacles to the improvement of the economy.

As a small and arid nation, Israel is largely dependent on imports of foodstuffs to sustain its population, while as a resource-poor country it is faced with the reality of having to promote long-term economic health through advanced technology and specialized industrial growth. It is precisely in these two areas that the United States can be of the most assistance to Israel. This Nation's farm output is far and away the most abundant on the planet, and its creativity and innovation in the high-tech fields is similarly unparalleled.

While for Israel the prospect of subjecting its industries to unregulated competition from large and well-established U.S. exporters is a high price to pay, the advantages which would accrue to the overall Israeli economy from such an agreement make it desirable in the long run. The free trade area agreement would go far in assisting Israel to ease balance-of-payments pressure, create new high-tech industries to generate employment, and lessen its dependence on foreign public and private aid.

For the United States, the establishment of a free trade area agreement would have a salutory effect on many of our export industries—which have been facing unprecedented difficulties in recent years due to the strong dollar abroad. In 1983, the United States sent more than $1.5 billion in exports to Israel under conditions of substantial tariffs and duties, the elimination of which could only lead to even greater penetration of Israeli markets. The potential decline of market-share to European products as a result of recent trade agreements between Israel and the European Community could be reversed. Numerous industries, including electronics, iron and steel, motor vehicles, heavy equipment, and appliances which are fundamental to our own industrial health could benefit from a relaxation of trade barriers.

Of additional importance is the effect that such an agreement could have on one of the most beleaguered sectors of the American economy—agriculture. In 1982 and 1983, Israel imported more than $100 million in corn and over $225 million in soybeans from

the United States. Such exports could only rise with completely free access to these markets and the overall improvement in the Israeli economy which increased trade opportunities would provide. In addition, significant opportunities for American processed grain products could be anticipated as, under the European Community agreements, such products coming from Europe continue to be subject to tariffs.

In sum, I would simply note that this legislation reaffirms the traditional U.S. commitment to free trade—a commitment which seems to be perpetually eroding—and it is in the best interests of both the United States and of Israel. It is essential that we continue to assist one of our most valued friends and do so in a manner which is hurtful to neither our interests nor theirs. I urge the adoption of the bill.

Mr. CONABLE. Mr. Chairman, I yield 3 minutes to a valued member of the committee, the gentleman from California [Mr. THOMAS].

Mr. THOMAS of California. Mr. Chairman, I thank my colleague from New York for yielding.

Mr. Chairman, I would ask the distinguished chairman of the Trade Subcommittee if I could ask him some questions so that I can understand what the agreement is, not only in terms of this House, but also with Ambassador Brock.

Before I do so, I do want to say the chairman of the subcommittee and the gentleman from New York [Mr. CONABLE] and my colleague, the gentleman from Minnesota, BILL FRENZEL, as well as the author of this bill, the gentleman from New York [Mr. DOWNEY], have extended inordinate courtesies to me, although I am not a member of the subcommittee, in terms of my ability to participate as though I were a member of the subcommittee and I want to thank those individuals for allowing me to do that.

Mr. Chairman, I understand that the Ambassador has agreed that the import-sensitive products will not be subject to duty-free treatment under this agreement for a period of several years after the United States and Israel negotiate an agreeement.

I understand further that the Ambassador has agreed to request additional International Trade Commission advice on import-sensitive items before making any duty modifications. Is that the understanding of the gentleman from Florida?

Mr. GIBBONS. Mr. Chairman, if the gentleman will yield.

Mr. THOMAS of California. Certainly.

Mr. GIBBONS. It is my understanding that the gentleman's statement is correct.

Mr. THOMAS of California. I have also heard the Ambassador has indicated how he will identify import-sensitive products and that to do so he will rely on a recent International Trade Commission report to identify import-sensitive items.

Further, I believe the Ambassador told the Committee on Ways and Means last week that he will consider information other than that supplied by the International Trade Commission in defining import-sensitive products. Is my understanding correct?

Mr. GIBBONS. Mr. Chairman, if the gentleman will yield.

Mr. THOMAS of California. Certainly.

Mr. GIBBONS. The gentleman's understanding is correct.

Mr. THOMAS of California. I thank the gentleman very much.

Finally, Mr. Chairman, I understand that in some cases outside the import-sensitive category, the Ambassador plans to phase in duty reductions over a number of years, depending upon negotiations. And that the bill, although silent, does not automatically result in elimination of U.S. duties as a result.

Mr. GIBBONS. That is correct. That is my understanding as well.

Mr. THOMAS of California. Mr. Chairman, I thank the gentleman very much.

Mr. CONABLE. Mr. Chairman, I yield 1 minute to the distinguished gentleman from New York [Mr. GREEN].

Mr. GREEN. Mr. Chairman, I thank my colleague from New York for yielding.

Mr. Chairman, during the August recess I was privileged to join the Trade Subcommittee on its trip to Israel to study this legislation. One thing emerged clearly from that trip, though this legislation is important to our friend and ally Israel, it is also extremely important from the point of view of the U.S. exports. We currently run a surplus in our trade with Israel, even disregarding the military sales financed by our foreign aid program. However, Israel has a free trade agreement with the European Community that will phase in by 1989. If we do not have some comparable arrangement, the products that we export to Israel will on average be at a 10-percent disadvantage compared with European Community products. Thus, even though the free trade arrangement is of advantage to Israel, the House should clearly understand that this arrangement is of great advantage to the United States and its export trade. I urge the passage of this measure.

Mr. GIBBONS. Mr. Speaker, I yield 2 minutes to a very distinguished member of our committee, the gentleman from North Dakota [Mr. DORGAN].

Mr. DORGAN. I thank the gentleman for yielding the time.

Mr. Chairman, I want to say that I think the chairman of the subcommittee and the members of the full Committee on Ways and Means have reported out a good bill and have done some awfully good work on an important issue.

It has been pointed out before that this is one of those bills that will be very good for us and also good for an important ally of the United States. We increasingly face some very stiff competition in world trade. I represent North Dakota, which is one of the most rural States in the Nation and whose products, notably food products such as wheat, barley, corn, and other commodities, must find foreign markets and from that vantage point, I think this is a good bill.

I understand how sensitive this issue of trade is to all of us, but this is one instance when we all can gain from the passage of this bill. Israel can gain. The United States can gain. And rural America can gain.

Israel has been a very good customer for American agricultural products. We face in rural America some very stiff competition, for example, from the EEC. It should be noted, that the EEC has already negotated with Israel a free trade zone. It is our interest then to proceed ahead on the same basis and develop a foundation for effective competition with the EEC.

This country can compete favorably with any other country in the world in trade. These are times when we see many different interests moving toward protectionism. Well, you know, I think it is in our interest always to be the leader in the world to try to establish more and more free trade relationships. This bill happens to be one element of that approach.

Speaking as someone from rural America, someone who represents a lot of family farmers, I say this is a bill that is well done, and one we ought to pass. One that will benefit Israel and the United States.

Mr. CONABLE. Mr. Chairman, I now yield 5 minutes to an articulate, long-time advocate of trade outreach, the gentleman from New York [Mr. KEMP].

Mr. KEMP. Mr. Chairman, I thank my colleague from New York for yielding.

It is interesting that this bill has such strong bipartisan support. The gentleman from North Dakota has suggested that this is important for the rural and agricultural United States. I represent an area not unlike that of the gentleman from New York (Mr. CONABLE), which has urban, rural, and suburban elements. We, too, strongly support not only the idea of a free trade relationship with the State of Israel, but generally speaking, free trade in a world that is, as the gentleman from North Dakota pointed out, increasingly looking toward protectionism.

Our friend, the gentleman from Florida [Mr. GIBBONS] has been a longtime proponent of reducing trade barriers, not adding barriers, and has been for a long time an articulate opponent of high tariffs and the type of beggar-thy-neighbor activities that took place in the late 1920's and the early 1930's. This led not only to a trade war, given the reaction to the Smoot-Hawley Tariff Act, which was a one-third increase in U.S. tariffs in 1929 and 1930; it also led to a situation in which the European allies of the United States from World War I could not earn the foreign exchange to pay back the debt that they owed to the United States because they had no market for their goods. It led to a trade war and ultimately increased tensions and hostility and led to real war.

So I hope our colleagues on both sides of the aisle, while they are going to vote for this free trade relationship with the State of Israel for very good business reasons, recognize that it also builds a premise for our country and for our world: If we wish to create a more peaceful world and a better economic climate for other allies, other friends, and potential friends, we have a stake in extending liberal markets on a reciprocal basis throughout the world.

Mr. CONABLE. Mr. Chairman, will the gentleman yield?

Mr. KEMP. I would be glad to yield to my friend, the gentleman from New York.

Mr. CONABLE. Mr. Chairman, I think the gentleman is making an important philosophical point, but I would like to add to it the fact that this is a very good deal for us; 90 percent of Israel's trade with this country comes in duty free. Only about 60 percent of our trade with Israel goes in duty free. Their tariffs are considerably higher than ours, and so to get a free-trade arrangement with them means that the balance moves in our favor, given the historical facts, of our trade with Israel, as a result of moving to a free-trade arrangement.

Mr. KEMP. I recognize that and I appreciate the gentleman's eloquence on that subject.

It also helps us vis-a-vis Europe, because Europe has had this kind of relationship with Israel which has given the EEC a competitive advantage over U.S. exports. Not only will this strengthen Israel's economy and their ability to finance their debts by building up their exports, it will also do the same thing for the United States. We've always enjoyed a favorable balance of trade with Israel; and a free-trade agreement will allow us to expand our exports even more.

It is desperately important that we help create jobs in the export markets, and I think many speakers today have pointed out the mutual benefits to the United States and Israel that would result from expanding trade.

I was simply alluding to the point that the gentleman from Florida and the gentleman from New York have made so often in the past: That if we have this stake in a relationship with the State of Israel, which is reciprocal and mutual and many faceted, we also ought to consider the benefits that would accrue to those nations who look to us for markets in other parts of the world.

□ 1510

I might mention the Caribbean Initiative, which was supported by both the leadership on the minority and the majority side in this House. It is incredibly important to our friends in Central America that we open up our markets to their products because the same benefits would accrue to them as would accrue to Israel.

The gentleman from New York pointed out a little bit earlier, I think, that ultimately peace and prosperity in the world are enhanced when we have strong and position relationships with the economies of the other nations in the world. It is heartening to hear of free trade so uniformly praised here on the floor. I would hope that those who are supporting this effort on behalf of Israel recognize that there are many other friends of the United States in this world who need this kind of relationship with the United States, which we are holding out here today as an example of the highest form of mutual cooperation and trade and commerce between two nations.

This brings to mind other cooperative undertakings that can be mutually beneficial. It has long been my opinion that we should invite other nations into the Camp David accords, those nations in North Africa, those Arab countries who wish to participate in this type of relationship with the United States. If they begin, as Egypt did, and as Lebanon briefly did, to make peace with Israel, one of the benefits that could accrue to their economy is for the United States to hold out the type of reciprocity that is manifest in this relationship with Israel.

I personnally believe that we could make a great step toward peace in the Middle East, we could take steps toward a better relationship with the African countries, and of course, toward stability and prosperity in the Caribbean and Central America, by making sure that our markets are open and trade is liberal and consumers are protected from noncompetitive pricing practices.

I say that as a member of Congress from Buffalo, NY, who has steel and auto industries and problems in exports.

But our problems are not the result of trading with other countries. Our problems have been self-inflicted because of our high interest rates and the artificial rise of the dollar, which has been pushed even higher recently by a monetary policy that seems bent on producing illiquidity.

The way to make American industry and American goods and services competitive in world markets is liberal trade and not to be protectionist. It is to change the climate in this country so that we can both have our producers freely export to other countries, and have the benefit of imports for our consumers; that is what trade really means. A nation that does not import is ultimately a nation that does not export. And where there are problems such as high interest rates and a rising dollar, and tax policies that discourage exports, we should change the policies that are punishing the ability of this Nation to be competitive.

I just wanted to congratulate my good friend from New York [Mr. CONABLE] for his tremendous efforts in this area, and also my friend from Florida [Mr. GIBBONS] and suggest that we pass this overwhelmingly and get on to the next task, of opening up and boosting our trade relationships with other nations in other parts of the world. It would be to their benefit, to the benefit of American workers, American consumers, the American people, and would make for a more peaceful relationship with parts of the world that are desperately looking for leadership from the United States of America.

I hope that by international monetary reform and domestic, we can stabilize exchange rates, lower our interest rates and see a world wide economic expansion that will both create jobs here and abroad while increasing the demand for steel, autos, machine tools, agricultural products and other exports.

Economic growth is the answer not zero-sum economics that enrich some and impoverish others.

I hope this bill passes unanimously.

Mr. GIBBONS. Mr. Chairman, I yield such time as he may consume to the gentleman from New York [Mr. WEISS].

Mr. WEISS. Mr. Chairman, I rise in strong support of H.R. 5377, a bill to provide the President with the authority to negotiate a free trade agreement [FTA] with Israel. The creation of a FTA between the United States and Israel would not only generate more jobs in the United States by insuring us a permanent share of the Israeli market, but help bring stability to an export-oriented Israeli economy.

The United States and Israel are not just strategic allies but economic partners as well. Despite its small size and population, Israel ranks as the second

or third largest importer of U.S. products in the Middle East. Of the $8 billion in goods imported by Israel, American exporters supply 20 percent. These imports bring substantial benefits to the American economy and our workers. The Department of Commerce estimates that 40,000 to 50,000 American jobs are dependent on exports to Israel.

The American share of the Israeli market is now being threatened by the creation of a free trade arrangement between Israel and the European Common Market. As a result of this agreement, which will be completely phased in by 1989, the Common Market's share of Israeli imports has already increased, from 33 percent in 1980 to just over 40 percent in 1983.

Without a similar trade arrangement between Israel and the United States, American exports will be replaced by European goods, resulting in a loss of American jobs and an increase in our already expanding trade deficit. We cannot be sanguine about losing the $400 million trade surplus that we now enjoy with Israel.

For Israel, a free trade agreement with the United States would considerably aid its proposed export-led recovery. Growth in Israel can only come from greater industrialization, which requires an ever expanding export market. In the long term, Israel plans to rebuild its economy around its natural, comparative advantages—its human resources and the high-technology goods that they can produce. Israel has staked its economic future on production for international high-tech markets, not on flooding markets with inexpensive, labor-intensive goods.

By securing Israeli access to a targeted and narrow high-tech market in the United States, the free trade agreement will ensure increased Israeli exports, enable it to reduce its debt burden and over the long term assist Israel in reducing its dependence on foreign aid. For the United States, the free trade agreement will expand the American share of the Israeli market, increase U.S. jobs, and ensure a continued trade surplus with our Middle East ally.

I urge adoption of H.R. 5377.

Mr. GIBBONS. Mr. Chairman, I yield 1 minute to the gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. Mr. Chairman, I rise in support of this legislation.

Mr. CONABLE. Mr. Chairman, I yield 2 minute to the gentleman from Indiana, [Mr. MYERS].

Mr. MYERS. Mr. Chairman, I thank our friend from New York [BARBER CONABLE] for yielding this time, a Member that we certainly are going to miss in the future since his days are numbered here in this Chamber. He has been a most valuable Member.

I want to support this legislation, but I do have some reservations. I see the intent of it and certainly support the intent of the legislation. However, I think there are some problems with it for some of the industries from my congressional district back in Indiana and others in our country.

One is a company that produces trifluralin, which is an agricultural herbicide that also is produced in Israel. Because of the regulations in this country, this company in Indiana, Eli Lilly & Co., cannot produce it as cheap as it can be produced in Israel. Also, bromide is another that is produced in my district, as well as the tomato industry. These industries are all concerned about the applications of the provisions of this law.

Is there a transition period in here under section 201, is there an opportunity that these industries may have time so that they can be competitive with outside imports coming in from Israel?

Mr. GIBBONS. Will the gentleman yield?

Mr. MYERS. I yield to the chairman for a response.

Mr. GIBBONS. Let me assure the gentleman that we took into consideration the products he was thinking about and talked about in his remarks, and we have discussed those not only with the Israelis but with Ambassador Brock.

This agreement will be phased in and the import-sensitive ones will be phased in over a multiyear time.

Israel does present some natural advantages in the liquid minerals areas such as bromine compounds. Unfortunately, the bromide industry around the world is in serious trouble because bromines have been found to be harmful to human health and really the problems that industry is undergoing really cannot be blamed on Israel.

But I want to assure the gentleman that we did consider those industries, and tomatoes, and others, and there is, in my opinion, appropriate remedies within this bill and within the existing trade laws.

Mr. MYERS. Would that be under the GSP agreements, then?

Mr. GIBBONS. No; under the standard unfair trade laws that we have. And in this bill Ambassador Brock has assured us that he would phase in those very sensitive products.

Mr. MYERS. I thank the chairman for his response. We need to protect jobs in this country.

Mr. CONABLE. Mr. Chairman, I have no further requests for time. I would urge my colleagues to support this measure. I think it is in the interests of this country and clearly in the interests of our longstanding ally in the Middle East.

I would like to see other countries follow this course also with us, but I must acknowledge that we are dealing here only with Israel, and each country will be considered on a case-by-case basis.

In the event it appears generalized trade negotiations go forward as some would wish in the future, inevitably this precedent will not carry beyond Israel, but only will serve as some kind of a laboratory for the encouragement of this approach. We will have to see what this experience teaches us.

I yield back the balance of my time.

Mr. GIBBONS. Mr. Chairman, I yield myself such time as I may consume.

I am about to yield back the balance of my time on this but before I do I wanted to explain to the Members the nature of the committee amendment we will be taking up in just a moment.

This committee amendment is practically a technical amendment. It really is the amendment that the Ways and Means Committee reported; that is, the bill, and it just incorporates in there the rules of origin and all of the things we have been discussing here.

It is technical in nature and is not substantive and has been covered by the general debate we have already had.

Mr. Chairman, as I close, I want to pay tribute to the gentleman from New York [Mr. CONABLE.] He has been here 20 years and in those 20 years he has been one of the most effective legislators that I have ever seen in my 32 years of legislative experience. He is a wonderful, fine American. He and his wife, Charlotte, are a very unique team that come here to serve their country and to help the United States and to help their community. He is the epitome of integrity, not only integrity from an honesty point of view, but integrity from an intellectual point of view. He has been a great philosopher and technician and practical worker in the areas of trade and in all of the other areas that the Committee on Ways and Means deals in, particularly in Social Security and Medicare and in the tax law, the very intricacies of the tax laws.

□ 1520

All of us have known, in his 20 years of experience, that when he spoke he was speaking from an intellectual and integrity base that could not be challenged. This Congress is losing a great American when BARBER CONABLE retires. We need him.

I hope that he will come back to serve his country in some other capacity when he retires from here. He is too young, too bright, too dedicated for the public to lose.

Mr. KEMP. Mr. Chairman, will the gentleman yield?

Mr. GIBBONS. I would be glad to yield to the gentleman from New York [Mr. KEMP].

Mr. KEMP. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I was listening to the gentleman's [Mr. GIBBONS] comments from the back of the chamber here.

Mr. Chairman, I just wanted to rise very briefly to thank the gentleman [Mr. GIBBONS] on a bipartisan basis because the gentleman from Florida, a leading member of his own party, is someone who has a great deal of credibility in these chambers and speaks on behalf of us all when he praises our friend BARBER CONABLE.

I have served in the western New York congressional district contiguous to that of BARBER CONABLE for the 14 years I have been in Congress. There is no one I know who has more integrity, credibility, and honor than BARBER CONABLE, and he is a great credit to this body and our great Nation.

I certainly thank the gentleman from Florida.

He has certainly served this country and our district very well, over the years, and I wanted to be his comrade in arms.

Mr. CONABLE. Mr. Chairman, will the gentleman yield to me?

Mr. GIBBONS. I yield to the gentleman from New York [Mr. CONABLE].

Mr. CONABLE. I thank the gentleman for yielding.

Mr. Chairman, let me thank my friends and assure them that I leave with no need for an additional boost. Just to have served in this great body is a great privilege. I leave behind me so many fine friends who have labored in Common Cause with me here that I am confident the country is going to be in good hands and somehow we will be able to struggle along despite my departure.

Mr. Chairman, I appreciate very much the things the gentlemen have said and I thank them.

Mr. COURTER. Mr. Chairman, I rise in support of this legislation to establish a United States-Israel free trade area.

The reduction in trade barriers and the expansion of trade are two goals that the United States should always pursue, for the sake of our own economy and to promote economic development abroad. In the case of Israel, however, the elimination of tariffs and other trade barriers will also serve the important U.S.-foreign-policy goal of helping the economy of a key friend and ally in the Mideast.

A United States-Israel free trade area would extend to our economic relations the same cooperation that Americans and Israelis enjoy in the military, strategic, political, and diplomatic spheres.

In addition, more than other types of assistance, trade liberalization will promote enterprise and real economic growth in Israel, contributing to a permanent solution of Israel's economic problems.

This legislation will benefit the American economy by giving our exporters duty-free access to the $8 billion annual Israeli import market. This presents rich opportunities for export sales in many sectors, from raw materials to advanced computers. Due to the existing free trade arrangement Israel maintains with the EEC, a United States-Israel free trade area is needed to give U.S. exporter the same competitive advantages that Europeans have in the Israeli market.

In sum, Mr. Chairman, this legislation serves important U.S. economic- and foreign-policy objectives, helps Israel's economy and fosters closer contact between the Israeli and American peoples. Expanded trade is a fitting and natural means of enhancing cooperation between allies. The House should approve this measure without delay and send it to the President for his signature.

Mrs. LLOYD. Mr. Chairman, I rise in support of H.R. 5377 to authorize the President to sign a trade agreement with Israel providing for the duty-free treatment of many products and for the removal of some other restrictions. This cooperation between the United States and the nation of Israel can work to the advantage of both. We are Israel's leading trade partner and over the past we have enjoyed a surplus in our trade with them. This agreement will mean an increase in the number of American jobs related to exports and it will also be of great benefit to the economy of Israel.

We readily recognize what a valuable ally Israel is and that she needs our support. Through the increased trade promoted by this bill, we will have done much to assist her economy in a most efficient way, that is by encouraging a stimulation of production for export.

Because the textile industry is so important to my district, I am concerned over the economic injury it might face as a result of this bill. I would like to associate myself with the remarks of the gentleman from South Carolina [Mr. CAMPBELL] and the gentleman from Florida [Mr. GIBBONS].

Mr. PANETTA. Mr. Chairman, I rise to express my deep concern over whether workable safeguards have been provided for America's farmers in H.R. 5377, the Israel Free Trade Act of 1984.

Let me preface my remarks by stating from the outset my full support for strengthening relations with Israel. Few today question Israel's value as a strategic asset to the United States or, more importantly, as an ally and partner in protecting shared interests in the Middle East.

As recent events in Lebanon have demonstrated, the United States and Israel face common dangers in the Middle East and must forge a common response to them. The 19-point strategic cooperation agreement concluded last November by President Reagan and Israeli Prime Minister Yitzhak Shamir represented an essential step toward the realization of that goal.

In this connection, while I believe that the intent of the trade legislation (H.R. 5377) under consideration today is laudable, its enactment would strike yet another blow against the struggling American farm industry.

I hasten to assure my colleagues that my purpose in joining this debate is not to raise the specter of protectionism. That the United States has long recognized and encouraged Israel's importance as a trading partner is evident: Israel is today the seventh largest beneficiary of duty-free treatment under the U.S. generalized system of preferences. In fact, an estimated $1 billion in Israeli imports entered the United States last year duty free.

Mr. Chairman, without an exemption for agriculture products, particularly those that are import sensitive, I have great concerns about the impact of a duty-free trade zone with Israel. In the absence of adequate and effective safeguards, agriculture producers stand to suffer losses as a result of lower priced imports. Clearly, we should not embark on a course which will cause further injury to a vital domestic industry.

I do not think anyone would dispute that a free trade zone agreement with Israel will open our markets to an increase in imports, including agricultural products. That is the intent of this proposal. The issue that I believe that we ought to be looking at which American producers will face the greatest challenge as a result of this plan.

The problems imports present to the domestic agriculture industry have been highlighted in numerous instances. The ability of U.S. agriculture producers to operate and sell their products is constantly being threatened and challenged by rising imports. Many of the lower priced imported products are supported by Government subsidies which allow these products an advantage and the opportunity to consume a larger share of our domestic markets.

Since 1978, U.S. imports of tomato products from Israel have increased dramatically—more than 99 percent in canned tomatoes, and over 150 percent in tomato sauce. During that same period, domestic, sales have remained static at 7 million tons annually. At present, 85 percent of Israel's tomato crop is marketed in the United States.

In the area of artichokes, 90 percent of which are grown in my congressional district, foreign competition has already caused the closure of a number of processing plants since 1970. While artichoke imports from Israel are not a significant factor in today's domestic

market, very real concern has been expressed about the ability of American farmers to survive under the proposed plan. Further injury to the domestic artichoke industry will have a devastating impact on farm communities such as Castroville, CA.

Turning to another area for concern, Israel today is a prime source of imported fresh-cut roses. In 1983, foreign roses captured 25 percent of the domestic market—a sharp rise from its 8-percent market share in 1980. California is the top rose-producing State in the country. However, this is not likely to be the case much longer in the face of increasing imports, which in the case of Israel are produced and marketed with the help of Government subsidies.

Mr. Chairman, domestic agriculture producers are currently facing tough economic times. Farm foreclosures have reached record levels while farm incomes are declining. Without special exemptions for crops which are highly sensitive to imports, we can expect to see further injury to the agriculture industry as a result of the free trade zone with Israel.

The question we must ask ourselves, at this late date, is whether it is fair to ask America's struggling farm community to sustain a further erosion of its competitive position for the sake of a foreign policy gesture of largely symbolic value. The prospect of duty-free agricultural imports is, I can assure my colleagues, anything but a symbolic threat to American farmers.

My hope is that the administration will do everything possible to ensure that our farms are protected in the implementation of this bill. I recognize that this bill will be adopted. It can only work if it recognizes both the needs of our friends and our farmers.

● Mr. RAHALL. Mr. Chairman, normally I would not rise in support of a measure which liberalizes our trade laws, especially to the benefit of a single nation.

However, I will vote for H.R. 5377, a bill which will establish a United States-Israel free trade area.

I will vote for this bill because it would establish a two-way free trade area between the United States and Israel. As Israel would benefit, so should the United States, and in this regard I would through my vote send a message to the Israeli Government and to Israeli industry.

That message is: Do not purchase your coal needs from South Africa. Buy your coal from West Virginia.

This is a very important consideration from my standpoint. The congressional district which I represent is the largest metallurgical coal producer in the United States. About 40 percent of our production is for the export market. We are, as such, interested in selling coal overseas because the economy and employment situation of southern West Virginia is so coal dependent.

We are justifiably upset, then, when our allies go elsewhere for their coal needs.

We are justifiably upset when a strong ally such as Israel comes to the United States for billions of taxpayer dollars to finance their military security, but for energy security, they go to the apartheid government of South Africa which produces coal with slave labor.

It is true that Israel during the first 6 months of 1984 purchased 123,402 short tons of U.S. coal. This was slightly less, however, than the amount of U.S. coal purchased by our dear friends in Albania during that same period.

Indeed, in all of 1983, Israel bought less U.S. coal than did Romania. They also bought less U.S. coal than did the Egyptians. But Israel did buy many thousands of tons of coal from South Africa.

We in southern West Virginia can only hope. We can hope that under the legislation we are considering today, Israel may, in fact, buy more United States and West Virginia coal than does Albania, or does Romania, who really aren't the greatest of allies with the United States.

As an October 1983 editorial in a West Virginia newspaper stated, when discovering that Israel had taken delivery of 160,000 tons of South African coal from a Spanish ship:

> That's good news for the coal miner in South Africa, but what about the coal miners and coal operators in West Virginia and the rest of the United States who have to shell out those hard earned tax dollars to support the Israeli government and its continual fights with its neighbors?

As the language of H.R. 5377 states, all trade agreements between the United States and Israel under the bill are to be "reciprocal and mutually advantageous." In this spirit, I will vote for this bill.●

● Mr. MOLLOHAN. Mr. Chairman, I rise today in support of H.R. 5377, the United States-Israel free trade area legislation. As you know, this bill would eliminate all tariffs on goods traded between the two Nations.

I am pleased to see the House consider this legislation for two reasons. First the bill is an affirmation of the United States' longstanding commitment to the State of Israel. That commitment has manifested itself through diplomatic relations, military cooperation, cultural exchanges, economic understandings, and above all, a shared ideal of what is decent in this troubled day. I mention this history not because it is unknown to my colleagues, but because it places this bill in the proper context: H.R. 5377 is one more step—a significant one—in the history of United States-Israeli cooperation, but it does not break new ground. Close to 90 percent of all goods imported from Israel presently enter the United States duty free. This is, in effect, an extension of previous trade agreements.

The second reason I am going to vote for this bill today is that it will be good for the U.S. economy. Currently the American share of Israel's $11 billion import market is about 20 percent. If we do not establish a free trade area, that percentage will almost certainly drop, because Israel has established a free trade area with the European Community. If we do establish a free trade area, that percentage is likely to increase substantially. The major U.S. industrial exports to Israel that are presently subject to tariff include several items of particular interest to my area: chemicals, metal products, and motor vehicles and parts.

Mr. Speaker, this bill is good for the United States, good for Israel, and I urge my colleagues to support it.

Thank you.

● Mr. BIAGGI. Mr. Chairman, as a cosponsor of H.R. 5377 I rise in support and urge my colleagues to complete final action before the 98th Congress adjourns sine die. The establishment of a United States-Israel free trade area is long overdue and would most certainly be mutually beneficial.

H.R. 5377 authorizes the President to sign a trade agreement with Israel providing duty-free treatment of almost all products traded between our two nations, and to eliminate other trade barriers. Before entering into a free trade agreement with Israel, the bill provides that U.S. negotiators should insist on an Israel commitment to phase out the subsidies it provides in various forms to different types of products.

One must view this proposal as a key element of what is our overall policy with Israel—namely, to help promote a strong and sovereign Israel. This includes far more than the mere provision of military aid. A nation, to be strong, must be so economically and militarily. Israel's military strength is quite evident, but her economy continues to be hindered by excessive inflation rates. The establishment of a free trade area between Israel, and her major trading partner, the United States, should do a great deal to bolster their economic condition.

The idea of establishing free trade areas with Israel is not new. In 1975 the European Economic Community entered into such an agreement with Israel, which means that its exports are able to enter Israel duty free while U.S. exports continue to be subject to duties of as much as 10.5 percent. Unless we change our law, we will continue to operate from a disadvantageous position with respect to Israel's $8 billion trade market.

Passage of this bill will only make a good situation better. As it is now, the United States enjoys a favorable balance of trade with Israel. Through the years we have traditionally had a substantial trade surplus in our trade with Israel. In 1983 alone, our trade surplus was some $400 million. Total U.S. nonmilitary exports to Israel were about $1.7 billion in 1983. Overall, the United States accounts for about 25 percent of Israel's exports and supplies about 20 percent of its nonmilitary imports.

Passage of H.R. 5377 will lead to an expansion of trade between our two nations, thus providing the potential for an even greater surplus. It will bring our trade policies in conformance with those who have enjoyed superior access to Israel's market. It will provide a secure and stable trading framework between our two nations and will stimulate new investment in Israel.

I contend that passage of this legislation is not only in our best economic interests but in our best national security interest as well. Every step we take to bolster Israel and keep her strong is an investment in our own security. Strong and unimpeded trade between the United States and Israel is such a step which we should allow to happen as soon as possible.●

● Ms. MIKULSKI. Mr. Chairman today we are considering legislation to establish a free trade area between the United States and Israel. I urge my colleagues to join me in support of this bill, so vital to both countries; economic and political interests.

The cornerstone of a free trade area [FTA] is the elimination of all tariffs and other trade barriers between two countries. The economic gains for both the United States and Israel are clear. Today 45 percent of U.S. exports to Israel face Israeli tariffs. Without these trade restrictions, American companies will substantially increase their access to Israel's $7 billion import market.

Israel's economic isolation, imposed by the Arab boycott, and her limited resources make Israel heavily dependent on international trade. By facilitating a strong and stable commercial tie with Israel, we help bolster her economy and reduce her dependence on foreign aid.

Some opponents of the United States-Israel free trade area fear harm to domestic industries. Yet Israel exports—90 percent of which already enter the United States duty free—account for only five-tenths percent of total American imports. Because of Israel's strong labor union movement, we are not threatened by a flood of imports of cheap, labor-intensive products under a FTA. Moreover, the European community has already negotiated a FTA with Israel. Without our own FTA, American exports will be handicapped in the Israeli market.

Other opponents request exclusion from FTA for a particular product. Israel's scarcity of water and land necessary for agricultural production, and her tiny market share of American imported manufactured products, make the case for exclusions exceptionally weak. also the General Agreement on Tariffs and Trade mandates that a FTA cover "Substantially all Trade." Thus, total product coverage is desirable, non-threatening, and necessary.

I have long been a firm and unswerving support of Israel. Despite numerous obstacles, Israel remains one of the world's few genuine democracies. Yet Israel continues to endure cultural isolation and military threat. Ever since Americans helped Israel gain independence, we have had a special relationship with her. The United States and Israel share a moral commitment and an alliance of principles. We cannot go to far in helping Israel flourish.

The establishment of a United States-Israel free trade area is mutually advantageous. Moreover, it reaffirms our commitment as Israel's friend and ally. With a FTA between our countries, we create a permanent, stable trading framework benefit to our mutual interests. It is good trade policy and good foreign policy. I urge my colleagues to vote for this important legislation.●

● Mr. FEIGHAN. Mr. Chairman, one of the great challenges facing the United States is our capacity to prosper and compete in a period of rapid change and intensifying internatinal competition. Our ability to create jobs and to encourage economic progress here at home will depend in large part on our ability to adapt and to modify our trading policies. The legislation now before us, H.R. 5733, is an important example of the kind of change that can increase our trade potential and develop American industries and jobs.

The European Economic Community and Israel signed an agreement in 1975 that will substantially eliminate tariffs on industrial and agricultural products traded between Common Market countries and Israel by 1989. Products from the United States entering Israel will be subject to a tariff of 10.5 percent while European products will enter duty free. As a result, American products will cost considerably more than competitive products manufactured in Europe. One estimate suggests that as many as 20,000 export-related jobs in this country could be lost as a result.

H.R. 5733, which authorizes the President to negotiate a free trade agreement with Israel, will not only help avoid that possibility becoming a reality, but will also increase demand in Israel for a wide range of American products. Iron and steel, automobiles, pharmaceuticals, and appliances manufactured here will become price-competitive with European products. Moreover, a free trade agreement can increase the level of trade between the United States and Israel. Currently, the United States is Israel's major trading partner, supplying one-fifth of Israel's nonmilitary imports and receiving a quarter of Israel's exports. Since 1979, American trade with Israel has increased at an annual rate of 10 percent. A free trade agreement could substantially increase our trade, laying a foundation for a strong and stable policy of reciprocal commerce.

Mr. Chairman, Israel is America's closest friend in one of the most turbulent areas of the planet. While fashioning and maintaining a vibrant democracy, the people of Israel have also created an economy that is free and open to American products. Now, we have a chance to ensure that the openness continues, and that American firms and farms can increase their exports and improve their performance. Forty-five percent of the American products now entering Israel are subject to tariffs, while only 10 percent of Israel's goods entering the United States are dutiable. The passage of H.R. 5377 can make an important contribution to reducing and eliminating those tariffs. The resulting increases in trade, jobs and competition will be a benefit for both our countries.●

● Mr. NICHOLS. Mr. Chairman, I reluctantly must question this Israel Free Trade Area Act. I say reluctantly, because I value the friendship and strong anti-Communist ties we share with the country of Israel and I have supported those ties on numerous occasions through both economic and military assistance in this House.

My concern, however, stems from the fact that during the past 2 years there has been a trade imbalance in textiles between our two countries, and I represent a district in which the economy is based on textiles and apparels. I have undue concern over the prospects of further encouchment from imported textiles. Mr. Chairman, my home county of Talladega, in the State of Alabama, currently suffers from an unemployment rate exceeding 15 percent, and I am advised that Israel is perhaps the sixth largest supplier of cotton sheething, with the current trend projecting an increase in a wide range of textile goods.

Recently, the American Textile Manufacturers Institute conducted an economic assessment of this bill on the U.S. textile industry, with the results being that passage of this bill could directly jeopardize some 50,000 American jobs in textile, apparels, and footwear, at a time when the textile industry is plagued with imports from many countries throughout the world. I find

reason to question the exemption of any country to allow textiles to be shipped into the United States entirely duty free.

It is my understanding that efforts to amend the bill were made by our colleague, Mr. JENKINS, during consideration in the full Ways and Means Committee, to no avail. Despite verbal assurances from Secretary Brock that the textile industry will not be adversely affected by this bill, based on the large increase in textile imports that the administration has continued to allow to enter the United States during these past 2 years, we should defeat this legislation, or modify it so as to exempt textiles.●

● Mr. MATSUI. Mr. Chairman, I rise today to urge my colleagues to approve this legislation. H.R. 5377, as favorably reported by the Ways and Means Committee would authorize the President to enter into a reciprocal and mutually advantageous trade agreement with Israel providing for duty-free treatment and harmonization, reduction, or elimination of nontariff trade barriers.

Under this legislative proposal, the President may proclaim duty-free treatment without further congressional approval. Any provision on nontariff measures would be implemented only after expedited congressional approval.

It should be noted by my colleagues that Israeli articles under the agreement must meet rule-of-origin requirements of direct importation, thus providing a level of safeguards to protect against transshipment of products from other nations not covered by the free-trade status. Also, there is a 35-percent minimum local content, of which a maximum 15 percent may be U.S. content; substantial transformation; and prohibition of mere pass-through operations. Existing laws providing relief from import competition or unfair-trade practices would continue to apply to imports from Israel, as well as expedited procedures for relief on imports of agricultural perishables.

I wish to mention also, that Ambassador William E. Brock, the U.S. Trade Representative, has given assurances to the full Ways and Means Committee that special consideration will be given during the negotiations with the Government of Israel to those products which were identified as being import sensitive in the estimate of the International Trade Commission. This point in particular is vital to the interests of California and I would like to commend the USTR for his sensitivity in this area.

Because of the unique and special relationship that the United States has with Israel, I feel that it is important that this be the first free-trade area entered into by the United States, aside from the bilateral free-trade arrangement with Canada in the automotive sector. In addition, I would like to point out that unlike the Caribbean Basin Initiative [CBI], the United States-Israel arrangement would be a two-way free trade area.

In conclusion, I would like to urge my colleagues to join me in supporting this vital and important legislative initiative.

Thank you.●

● Mr. ADDABBO. Mr. Chairman, I rise in strong support of H.R. 5377, the United States-Israel free trade bill. This measure authorizes the President to enter into a duty-free agreement with out allies in the Middle East. It would eliminate trade restrictions and permit all products that are traded between Israel and the United States to flow freely.

I support this measure because I believe it will strengthen both our economies. It will allow the United States to compete with European Common Market nations, who by 1989 will have lifted all trade duties in their dealings with Israel. It will also allow the State of Israel to export their goods and services to the United States at a reasonable charge.

There are several provisions in the bill which are aimed at protecting U.S. industries and agriculture from any ill-effects of lifting trade duties. A product can enter the United States from Israel only if it is entirely native in origin or substantially transformed in the country into a new or different article. The product must be directly imported to the United States and have a minimum of 35 percent of the appraised value being produced in that country.

The bill will offer protection for import-sensitive U.S. industries and authorize the President to suspend duty-free treatment for those products deemed by the International Trade Commission [ITC] to have received substantial economic injury or threat.

Other provisions which protect U.S. agriculture are also included. These measures protecting agriculture extend many of the same provisions as they do to import-sensitive industry. In fact, there is a special provision to provide the petitioners with emergency relief from the Agriculture Department. I believe these provisions offer substantial protection to the American farmer.

My overall evaluation of this legislation is that it will not only strengthen economic ties between Israel and the United States but that it will lift both our economies at a very critical time. I urge my colleagues on both sides of the aisle to support this historic legislation.●

● Mr. LEVINE of California. Mr. Chairman, I rise in support of H.R. 5377, the United States-Israel Free Trade Area Act, which authorizes the President to enter into a reciprocal and mutually advantageous trade agreement with Israel providing for duty-free treatment and harmonization, reduction, or elimination of nontariff barriers.

Mr. Chairman, I want to emphasize the words "mutually advantageous," for that is what this bill is. It would establish a permanent framework for trade between the United States and Israel, providing each nation with significant economic benefits.

U.S. products form a substantial part of Israel's import market and could gain an even greater share with the approval of an FTA. Israel currently imports approximately $8 billion in nonmilitary goods, with nearly $1.8 billion coming from the United States alone. In fact, Israel is the third largest importer of U.S. products in the Middle East. Currently approximately 40–50 percent of American exported products are subject to duties in Israel. This bill would authorize the elimination of tariffs, providing opportunities for the United States to increase our already substantial exports to Israel. It is estimated that United States exports to Israel account for some 20,000 export-related jobs. It stands to reason that the more we export to Israel, the more jobs will be created here at home.

While the United States is now Israel's foremost trading partner, America's lead is facing increasing competition from European products currently enjoying more favorable import duties. Israel has signed a free-trade agreement with the European Community [EC]. Once that agreement is fully implemented in 1989, U.S. exporters will be at a disadvantage in Israel's markets in the absence of their own free-trade agreement.

A free trade area agreement with Israel would ensure reciprocal duty-free trade between the United States and Israel at a time of increasing concern that the United States is at a disadvantage in international trade. At this time, 90 percent of Israel's exports to the United States enter duty free, while only 55 percent to 60 percent of U.S. exports enter Israel without tariffs. Once this free-trade agreement with Israel is in place, U.S. exports to that country will enjoy the same duty-free status as Israeli imports in the United States.

Not only is H.R. 5377 good trade policy, but it is good foreign policy. Israel is our strongest ally and the only democracy in the Middle East. We have a special relationship with that courageous country, and we have an interest in ensuring its stability. So often we are concerned with its military stability, but we must be concerned with its economic stability as well. Establishing strong and stable commercial ties with other nations is vital to Israel. The markets of neighboring countries, however, remain

closed to it as a result of economic boycotts. A free-trade area with the United States would provide a stable, dependable market for Israel's exports, essential to a strong Israeli economy and to Israel's continued growth and self-reliance. The permanent trading framework of a free-trade area is especially important as Israel faces one of the most serious economic crises in its history, with a more than 400-percent inflation rate and a per capita debt burden among the highest in the world.

H.R. 5377 contains provisions to protect import-sensitive U.S. industries from injury due to the importation of less expensive Israeli products. It authorizes the President to suspend duty-free treatment for Israeli products if the U.S. industry affected by those products has obtained a finding from the U.S. International Trade Commission that increased imports are a substantial cause of serious economic injury or threat of injury.

Mr. Chairman, H.R. 5377 is a fair bill that will benefit both the United States and Israel. I strongly support this bill and I urge my colleagues to join me in voting for it.

Thank you.●

● Mr. OTTINGER. Mr. Chairman, I would like to join my colleagues today in urging passage of H.R. 5377, to establish a free-trade area between the United States and Israel.

A reciprocal trade arrangement as outlined by H.R. 5377 would benefit the American economy by expanding trade and maintaining the position of U.S. exporters in the Israeli market vis-a-vis their European competitors. An FTA would also strengthen the Israeli economy by increasing its export potential and by stabilizing commercial relations with the United States, its largest trading partner.

Israel's total civilian imports currently comprise $8 billion worth of goods and another $3 billion in services. Its markets include chemicals, textiles, construction equipment, agricultural products, electrical goods and appliances, and telecommunications equipment, all fertile areas for American exports. Unencumbered access to these markets would clearly be an advantage, especially in light of our present recordbreaking trade deficits.

Moreover, the recent agreement between the European Economic Community and Israel to establish a free-trade area potentially threatens our exporters by putting them at a disadvantage with their European competitors. In the face of eroding American commercial strength, fueled by skyrocketing deficits, we cannot afford to lose our vital trading position with Israel.

The bill also serves to strengthen the economic position of Israel, a critical strategic ally, at a time of financial crisis in that country. In light of the crippling Arab embargo on Israeli goods, it is crucial that we mutually remove restrictive barriers in our trade policies. The United States is Israel's most significant trade partner. The FTA will help Israel by increasing exports, reducing dependence on foreign aid, reducing balance of payments and external debt, and enhancing development of new technologies. Because Israel accounts for only 0.5 percent of American imports, such an arrangement presents no threat of a glut of Israeli goods or services in our markets while promising an increase in export-related jobs and opportunities.

Few international issues promise such mutually advantageous opportunities as free trade between the United States and Israel. I strongly urge my colleagues to pass this important legislation.●

● Ms. SNOWE. Mr. Chairman, I had intended to oppose the Israel Free Trade Zone legislation because of my serious concern with the plight of our import-sensitive industries, in particular shoes, textiles, apparel, and other leather products. I regret that the amendments offered by Mr. Jenkins in committee to exempt these seriously import-injured sectors were not accepted.

I understand, however, that the administration has given assurances to both the House and the Senate that imports in sensitive categories would be phased in over a number of years in order to ensure that already devastated domestic industries are not hurt further. In addition, the U.S. Trade Representative said in a recent letter that the administration views as a precondition to the conclusion of a free trade agreement between the United States and Israel agreement by Israel to eliminate its export subsidy programs. The administration has also given assurances that strict rules of origin will prevent transshipments.

For these reasons, I felt that I could support the legislation. It is helpful economically both for the United States and for Israel. Because Europe already has a free trade arrangement with Israel, American business is at a competitive disadvantage in that lucrative market unless we have a similar arrangement. And, we have a great interest in helping Israel—our most important friend and ally in the Mideast—to strengthen its economy.

At the same time, we must make the administration aware that we will be watching to see that it abides by its commitments to import-sensitive industries. Many of us have in our States industries that are dying today because of surging imports and inadequate methods to give them relief. We must be vigilant in ensuring that this well-intentioned legislation does not open any more gates to footwear, textile, and apparel imports.●

● Mr. BLILEY. Mr. Chairman, I wish to state my strong support for H.R. 5377 which grants the President the authority to negotiate a Free Trade Agreement [FTA] with the State of Israel. This important legislation provides important benefits to both nations and is one of the finest examples of the traditional American principle of free world trade that this body has recently passed.

To explain my reasons for supporting a United States-Israel Free Trade Agreement, I would like first to review the current trade situation of Israel and the United States. Israel is covered under the General System of Preferences [GSP] as a developing country. Under the GSP, approximately 90 percent of Israeli products already enter the United States without tariffs or other trade barriers being applied. However, the GSP is specifically geared to developing nations and developing industries. There are provisions under GSP for a nation or at least certain industries and products of a nation to be removed from the GSP and therefore to be subject to U.S. tariffs.

Israel has already reached, and is currently implementing, a Free Trade Agreement with the European Economic Community [EEC]. Under this agreement goods from the EEC, many of which we know to be subsidized for export below production costs, would be sold in Israel with no tariff add-ons. American goods are at a disadvantage compared to EEC goods today. When the Israel-EEC Free Trade Agreement is put into effect this comparative disadvantage will increase.

So we can see that, although the United States is currently the largest trading partner for Israel, that relationship is in jeopardy. U.S. exports to Israel could become noncompetitive with goods from the EEC unless we take action to correct the threatened imbalance in tariff applications. Also, although Israel enjoys GSP privileges from the United States, American products are now subject to tariffs before their price is set for the Israeli market. The tariff rates in Israel average slightly over 10 percent.

Generally, listing the relative advantages to each country of a Free Trade Agreement we find a balance in favor of the United States. Israeli tariffs on American goods would be removed. The initial result of this step would be a 10 percent price reduction in the price of American goods in Israel. In the longer term, American goods would be able to compete with EEC goods on an even basis with no tariffs imposed on products from either source. The price reduction, along with a guarantee that no tariff increases or other protectionist measures could ever be taken against American goods entering Israel would open

the Israeli market to a great expansion of American business. The advantages accruing to Israel include a stable and long-term open market in American without threat of being removed from the GSP or having protectionist actions taken in favor of domestic American industries. Also, linked to the FTA with the EEC, Israel would be in a position to strengthen her economy by enlarging her export industries because the absence of tariffs would make Israeli products more competitive in world markets.

There are a few specific industries which are concerned that an FTA with Israel might adversely affect their profitability. One of those industries is the U.S. bromine industry. I have been working with the administration to resolve these concerns and I am greatly encouraged by assurances of the U.S. Trade Representative that passing this bill will in no way adversely affect any American industry. Because H.R. 5377 gives the President authority to negotiate an agreement with Israel, any industry that may be harmed by barring tarriffs on Israeli goods may be excluded from any agreement that is reached; or special provisions may be put in an agreement to address specific problem areas.

I would like to say that there are also a number of important American industries which would profit from an FTA with Israel. The tobacco industry has long been one of the strongest proponents of free trade. This is easily understood when you know that America makes the best cigarettes in the world and that our products are sought out even though they are priced artificially high. Governments have traditionally kept tight control over tobacco products because they can provide a great deal of revenue to the government which operates a government monopoly on tobacco and also charges enormous tariffs on American products. If tariffs are removed from American tobacco in Israel then American exports could jump dramatically. My district has recently been hard hit by layoffs in the tobacco industry and an FTA with Israel could go a long way toward at least ensuring that no more layoffs are necessary.

Overall, we can see signficant benefits to American industry from an FTA with Israel. Our balance-of-trade deficit could be lessened as our exports remain competitive with goods from the FEC. Our industries can keep their work forces employed with increased production. Our consumers can benefit from increased competition on goods which the Israelis will sell here. Israel will be assured of long-term access to foreign markets for its goods. This development can help the economic crisis that Israel now faces and could lessen the need for large-scale, direct American assistance. I strongly support H.R. 5377 and I urge my colleagues to vote in favor of its passage.●

● Mr. SHANNON. Mr. Chairman, I rise to join my colleagues in support of H.R. 5377. This bill would authorize the President to negotiate a complete reciprocal free trade agreement with Israel and would eliminate virtually all tariffs on goods traded in either direction. Such an agreement will provide significant benefits for both the United States and Israel.

The FTA will open Israel's substantial import market to the United States, providing a permanent, stable framework within which the U.S. market share can expand. Benefits to Israel under the FTA include duty-free treatment of products not presently covered by the GSP, and secure, predictable duty-free treatment of items covered by GSP but subject to changes if GSP is not renewed. Free access to U.S. markets will encourage investment and industrial development and improve balance of payments.

Israel has proved to be an important ally in a very unstable region. It is in our national interest that Israel remain strong and secure. I believe that economic cooperation and the elimination of trade barriers between the two nations are important steps toward that goal.●

● Mr. SOLARZ. Mr. Speaker, I am pleased to add my voice with those of Members from both sides of the aisle on behalf of this excellent legislation.

For decades, there has been an unshakeable and vigorous consensus in the United States on behalf of strong ties between our country and Israel. Israel, it has long been recognized, is our Nation's most reliable and democratic ally, and a significant strategic asset as well, in the Middle East.

The strength of that consensus has made possible a longstanding military and economic aid program for Israel. That will continue as we persist in our efforts to bring peace and stability to that troubled region of the world.

This legislation, the United States-Israeli free trade area, adds a new and, importantly, a mutually beneficial facet to our relationship with Israel. If enacted into law, the bill will provide a "reciprocal and mutually advantageous" free trade area between the United States and Israel. The legislation authorizes the President to sign a trade agreement with Israel providing for duty-free treatment of almost all products traded between the two nations, and it provides for the elimination of other trade restrictions.

Our countries already enjoy a healthy trading relationship. U.S. markets currently account for 25 percent of Israel's exports. In turn, Israel's total imports currently consist of American goods in the range of 20 percent. We already have a $400 million trade surplus with Israel; consequently, as Israeli trade barriers to U.S. goods fall, U.S. exports to that country will increase. Thus, American firms in the export market have a significant stake in seeing this legislation become law.

Equally important, the European Community negotiated with Israel, in 1975, an agreement similiar to that envisioned by this legislation. If we fail to enact our bill, goods produced in the United States for export to Israel will be at a marked competitive disadvantage. For this reason as well, it makes eminent sense, in terms of the competitive position of our own industries, to support this legislation.

Elimination of barriers to trade between the United States and Israel will only serve to bring our two countries even closer together than we are today. I commend the members of the Ways and Means Committee for their diligent work on this measure. I urge its passage by the House.●

Mr. GIBBONS. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. All time has expired.

Pursuant to the rule, the bill is considered as having been read for amendment under the 5-minute rule. No amendments are in order except the amendment in the nature of a substitute recommended by the Committee on Ways and Means now printed in the bill which shall be considered as having been read and shall not be subject to amendment.

The text of the bill is as follows:

H.R. 5377

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the President may enter into a reciprocal and mutually advantageous trade agreement with the Government of Israel providing for the continuance of existing duty-free treatment of, and the elimination of existing duties and other import restrictions on, articles that are the product of Israel and may proclaim such continuances and modifications regarding the tariff treatment of, and such modifications of import restrictions on, such articles as the President determines to be necessary or appropriate to carry out the trade agreement.

The CHAIRMAN. The Clerk will designate the committee amendment in the nature of a substitute.

The text of the committee amendment in the nature of a substitute is as follows:

Strike out all after the enacting clause and insert:

That this Act may be cited as the "United States-Israel Free Trade Area Act".

SEC. 2. (a) Subject to sections 3, 4, 5, and 6, the President may enter into a reciprocal and mutually advantageous trade agreement with the Government of Israel providing for—

(1) the continuance of existing duty-free treatment of, and the elimination of exist-

ing duties on, articles that are eligible Israeli articles under section 3; and

(2) the harmonization, reduction, or elimination of nontariff barriers to (and other distortions of) trade between the United States and Israel.

(b)(1) The President may proclaim such continuances and modifications regarding the duty-free treatment of eligible Israeli articles as the President determines to be necessary or appropriate to carry out the provisions of the trade agreement entered into under the authority of subsection (a)(1).

(2) The provisions of the trade agreement relating to the measures referred to in subsection (a)(2) shall be treated as a trade agreement entered into under the authority of section 102 of the Trade Act of 1974 (19 U.S.C. 2112) and shall enter into force with respect to the United States if (and only if) subsections (c), (d), and (e) of that section are complied with in regard to such provisions.

SEC. 3. (a)(1) For purposes of any trade agreement provision entered into under the authority of section 2(a)(1), an article is considered to be an eligible Israeli article only if—

(A) that article is the growth, product, or manufacture of Israeli or is a new or different article of commerce that has been grown, produced, or manufactured in Israel;

(B) that article is imported directly from Israel into the customs territory of the United States; and

(C) the sum of—

(i) the cost of value of the materials produced in Israel, plus

(ii) the direct costs of processing operations performed in Israel,

is not less than 35 percent of the appraised value of such article at the time it is entered.

If the cost or value of materials produced in the customs territory of the United States is included with respect to an article to which this subsection applies, an amount not to exceed 15 percent of the appraised value of the article at the time it is entered that is attributable to such United States cost or value may be applied toward determining the percentage referred to in subparagraph (C).

(2) No article may be considered to be an eligible Israeli article by virtue of having merely undergone—

(A) simple combining or packaging operations; or

(B) mere dilution with water or mere dilution with another substance that does not materially alter the characteristics of the article.

(b) As used in this section, the phrase "direct costs of processing operations" includes, but is not limited to—

(1) all actual labor costs involved in the growth, production, manufacture, or assembly of the specific merchandise, including fringe benefits, on-the-job training and the cost of engineering, supervisory, quality control, and similar personnel; and

(2) dies, molds, toolings, and depreciation on machinery and equipment which are allocable to the specific merchandise.

Such phrase does not include costs which are not directly attributable to the merchandise concerned, or are not costs of manufacturing the product, such as (A) profit, and (B) general expenses of doing business which are either not allocable to the specific merchandise or are not related to the growth, production, manufacture, or assembly of the merchandise, such as administrative salaries, casualty and liability insurance, advertising, and salesmen's salaries, commissions or expenses.

(c) The Secretary of the Treasury, after consultation with the United States Trade Representative, shall prescribe such regulations as may be necessary to carry out this section.

SEC. 4. (a) The President may by proclamation suspend the duty-free treatment provided under any trade agreement provision entered into under the authority of section 2(a)(1) with respect to any eligible Israeli article and may proclaim a duty rate for such article if such action is proclaimed under section 203 of the Trade Act of 1974 or section 232 of the Trade Expansion Act of 1962.

(b) In any report by the United States International Trade Commission (hereinafter referred to in this Act as the "Commission") to the President under section 201(d)(1) of the Trade Act of 1974 regarding any article for which duty-free treatment has been proclaimed by the President under section 2(b)(1), the Commission shall state whether and to what extent its findings and recommendations apply to such an article when imported from Israel.

(c) For purposes of subsections (a) and (c) of section 203 of the Trade Act of 1974, the suspension of the duty-free treatment under subsection (a) shall be treated as an increase in duty.

(d) No proclamation which provides solely for a suspension referred to in subsection (a) with respect to any article shall be made under subsections (a) and (c) of section 203 of the Trade Act of 1974 unless the Commission, in addition to making an affirmative determination with respect to such article under section 210(b) of the Trade Act of 1974, determines in the course of its investigation under that section that the serious injury (or threat thereof) substantially caused by imports to the domestic industry producing a like or directly competitive article results from the duty-free treatment provided under any trade agreement provision entered into under the authority of section 2(a)(1).

(e)(1) Any proclamation issued under section 203 of the Trade Act of 1974 that is in effect when duty-free treatment is proclaimed under section 2(b)(1) shall remain in effect until modified or terminated.

(2) If any article is subject to import relief at the time duty-free treatment is proclaimed under section 2(b)(1), the President may reduce or terminate the application of such import relief to the importation of such article before the otherwise scheduled date on which such reduction or termination would occur pursuant to the criteria and procedures of subsections (h) and (i) of section 203 of the Trade Act of 1974.

SEC. 5. (a) If a petition is filed with the Commission under the provisions of section 201 of the Trade Act of 1974 regarding a perishable product provided duty-free treatment under any trade agreement provision entered into under the authority of section 2(a)(1) and alleges injury from imports of that product, then the petition may also be filed with the Secretary of Agriculture with a request that emergency relief be granted under subsection (c) with respect to such article.

(b) Within 14 days after the filing of a petition under subsection (a)—

(1) if the Secretary of Agriculture has reason to believe that a perishable product from Israel is being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing a perishable product like or directly competitive with the imported product and that emergency action is warranted, he shall advise the President and recommend that the President take emergency action; or

(2) the Secretary of Agriculture shall publish a notice of his determination not to recommend the imposition of emergency action and so advise the petitioner.

(c) Within 7 days after the President receives a recommendation from the Secretary of Agriculture to take emergency action under subsection (b), he shall issue a proclamation withdrawing the duty-free treatment provided to the perishable product under any trade agreement provision entered into under the authority of section 2(a)(1) or publish a notice of his determination not to take emergency action.

(d) The emergency action provided under subsection (c) shall cease to apply—

(1) upon the proclamation of import relief under section 202(a)(1) of the Trade Act of 1974;

(2) on the day the President makes a determination under section 203(b)(2) of such Act not to impose import relief;

(3) in the event of a report of the Commission containing a negative finding, on the day the Commission's report is submitted to the President; or

(4) whenever the President determines that because of changed circumstances such relief is no longer warranted.

(e) For purposes of this section, the term "perishable products" means any—

(1) live plant provided for in subpart A of part 6 of schedule 1 of the Tariff Schedules of the United States (19 U.S.C. 1202, hereinafter referred to as the "TSUS");

(2) fresh or chilled vegetable provided for in items 135.10 through 138.42 of the TSUS;

(3) fresh mushroom provided for in item 144.10 of the TSUS;

(4) fresh fruit provided for in items 146.10, 146.20, 146.30, 146.50 through 146.62, 146.90, 146.91, 147.03 through 147.33, 147.50 through 149.21 and 149.50 of the TSUS;

(5) fresh cut flowers provided for in items 192.17, 192.18, and 192.21 of the TSUS.

(6) Concentrated citrus fruit provided for in items 165.25 and 165.35 of the TSUS.

(f) No proclamation issued under section 2(b)(1) shall affect fees imposed under section 22 of the Agricultural Adjustment Act (7 U.S.C. 624).

SEC. 6. (a) Neither the taking effect of any trade agreement provision entered into under the authority of section 2(a)(1), nor any proclamation issued under section 2(b)(1) to implement any such provision, may affect in any manner, or to any extent, the application to eligible Israeli articles of section 232 of the Trade Expansion Act of 1962, section 337 or title VII of the Tariff Act of 1930, chapter 1 of title II and chapter 1 of title III of the Trade Act of 1974, or any other provision of law under which relief from injury caused by import competition or by unfair import trade practices may be sought.

(b) Notwithstanding any other provision of law, no trade benefit shall be extended to any country by reason of the extension of any trade benefit to Israel under, or in accordance with, this Act.

Mr. GIBBONS. Mr. Chairman, as far as I know, there is no controversy on this amendment.

Mr. Chairman, I ask for adoption of the committee amendment in the nature of a substitute.

The CHAIRMAN. The question is on the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore [Mr. MURTHA] having assumed the chair, Mr. ROWLAND, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5377) authorizing the President to enter into, and to proclaim modifications necessary to implement, a trade agreement with Israel providing for duty-free treatment for, and the elimination of import restrictions on, the products of Israel, pursuant to House Resolution 598, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. DOWNEY of New York. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 416, nays 6, not voting 10, as follows:

[Roll No. 437]

YEAS—416

Ackerman	Bethune	Campbell
Addabbo	Bevill	Carney
Akaka	Biaggi	Carper
Albosta	Billrakis	Carr
Anderson	Bliley	Chandler
Andrews (NC)	Boehlert	Chappell
Andrews (TX)	Boggs	Chappie
Annunzio	Boland	Clarke
Anthony	Boner	Clay
Applegate	Bonker	Clinger
Archer	Borski	Coats
Aspin	Bosco	Coelho
AuCoin	Boucher	Coleman (MO)
Badham	Boxer	Coleman (TX)
Barnard	Britt	Collins
Barnes	Brooks	Conable
Bartlett	Broomfield	Conte
Bateman	Brown (CA)	Conyers
Bates	Brown (CO)	Cooper
Bedell	Broyhill	Corcoran
Beilenson	Bryant	Coughlin
Bennett	Burton (CA)	Courter
Bereuter	Burton (IN)	Coyne
Berman	Byron	Craig
Crane, Daniel	Holt	Moorhead
Crane, Philip	Hopkins	Morrison (CT)
D'Amours	Horton	Morrison (WA)
Daniel	Howard	Mrazek
Dannemeyer	Hoyer	Murphy
Darden	Hubbard	Murtha
Daschle	Huckaby	Myers
Daub	Hughes	Natcher
de la Garza	Hunter	Neal
Dellums	Hutto	Nelson
Derrick	Hyde	Nielson
DeWine	Ireland	Nowak
Dickinson	Jacobs	O'Brien
Dicks	Jeffords	Oakar
Dingell	Jenkins	Oberstar
Dixon	Johnson	Obey
Donnelly	Jones (NC)	Olin
Dorgan	Jones (OK)	Ortiz
Dowdy	Jones (TN)	Ottinger
Downey	Kaptur	Owens
Dreier	Kasich	Oxley
Duncan	Kastenmeier	Packard
Durbin	Kazen	Panetta
Dwyer	Kemp	Parris
Dymally	Kennelly	Pashayan
Dyson	Kildee	Patterson
Early	Kindness	Paul
Eckart	Kleczka	Pease
Edgar	Kogovsek	Penny
Edwards (AL)	Kolter	Pepper
Edwards (CA)	Kostmayer	Petri
Edwards (OK)	Kramer	Pickle
Emerson	LaFalce	Porter
English	Lagomarsino	Price
Erdreich	Lantos	Pritchard
Erlenborn	Latta	Pursell
Evans (IA)	Leach	Quillen
Evans (IL)	Leath	Rahall
Fascell	Lehman (CA)	Rangel
Fazio	Leland	Ratchford
Feighan	Lent	Ray
Fiedler	Levin	Regula
Fields	Levine	Reid
Fish	Levitas	Richardson
Flippo	Lewis (CA)	Ridge
Florio	Lewis (FL)	Rinaldo
Foglietta	Lipinski	Ritter
Foley	Livingston	Roberts
Ford (MI)	Lloyd	Robinson
Ford (TN)	Loeffler	Rodino
Fowler	Long (LA)	Roe
Frank	Long (MD)	Roemer
Franklin	Lott	Rogers
Frenzel	Lowery (CA)	Rose
Frost	Lowry (WA)	Rostenkowski
Fuqua	Lujan	Roth
Garcia	Luken	Roukema
Gaydos	Lundine	Rowland
Gejdenson	Lungren	Roybal
Gekas	Mack	Rudd
Gephardt	MacKay	Russo
Gibbons	Madigan	Sabo
Gilman	Markey	Sawyer
Gingrich	Marlenee	Schaefer
Glickman	Marriott	Scheuer
Gonzalez	Martin (IL)	Schneider
Goodling	Martin (NY)	Schroeder
Gore	Martinez	Schulze
Gradison	Matsui	Schumer
Gramm	Mavroules	Seiberling
Gray	Mazzoli	Sensenbrenner
Green	McCain	Sharp
Gregg	McCandless	Shaw
Guarini	McCloskey	Shelby
Gunderson	McCollum	Shumway
Hall (IN)	McCurdy	Shuster
Hall (OH)	McDade	Sikorski
Hall, Ralph	McEwen	Siljander
Hall, Sam	McHugh	Sisisky
Hamilton	McKernan	Skeen
Hammerschmidt	McKinney	Skelton
Hance	McNulty	Slattery
Hansen (ID)	Mica	Smith (FL)
Hansen (UT)	Michel	Smith (IA)
Harkin	Mikulski	Smith (NE)
Harrison	Miller (CA)	Smith (NJ)
Hartnett	Miller (OH)	Smith, Denny
Hatcher	Mineta	Smith, Robert
Hawkins	Minish	Snowe
Hayes	Mitchell	Snyder
Hefner	Moakley	Solarz
Heftel	Molinari	Solomon
Hertel	Mollohan	Spence
Hightower	Montgomery	Spratt
Hiler	Moody	St Germain
Hillis	Moore	Staggers
Stangeland	Traxler	Whitten
Stark	Udall	Williams (MT)
Stenholm	Valentine	Williams (OH)
Stokes	Vander Jagt	Wilson
Stratton	Vandergriff	Winn
Studds	Vento	Wirth
Stump	Volkmer	Wise
Sundquist	Vucanovich	Wolf
Swift	Walgren	Wolpe
Synar	Walker	Wortley
Tallon	Watkins	Wright
Tauke	Waxman	Wyden
Tauzin	Weaver	Wylie
Taylor	Weber	Yates
Thomas (CA)	Weiss	Yatron
Thomas (GA)	Wheat	Young (AK)
Torres	Whitehurst	Young (FL)
Torricelli	Whitley	Young (MO)
Towns	Whittaker	

NAYS—6

Bonior	Nichols	Savage
Crockett	Patman	Zschau

NOT VOTING—10

Alexander	Ferraro	Shannon
Breaux	Lehman (FL)	Simon
Cheney	Martin (NC)	
Davis	McGrath	

□ 1540

Mr. ZSCHAU changed his vote from "yea" to "nay."

Messrs. DURBIN, ECKART, McKERNAN, FOGLIETTA, and HAYES changed their votes from "nay" to "yea."

So the bill was passed.

The results of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

STEEL IMPORT STABILIZATION ACT

The SPEAKER pro tempore (Mr. MURTHA). Pursuant to House Resolution 596 and rule XXIII, the Chair declares the House in the Committee of the Whole House of the State of the Union for the consideration of the bill, H.R. 6301.

□ 1544

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 6301) to provide authority for enforcing arrangements restricting the importation of carbon and alloy steel products into the United States that are entered into for purposes of implementing the President's national policy for the steel industry, and for other purposes, with Mr. REID in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from Illinois [Mr. ROSTENKOWSKI] will be recognized for 30 minutes and the gentleman from New York [Mr. CONABLE] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Illinois [Mr. ROSTENKOWSKI].

Mr. ROSTENKOWSKI. Mr. Chairman, I yield myself such time as I may consume.

I rise in support of H.R. 6301, the Steel Import Stabilization Act, which I introduced last week along with 19 of my colleagues.

During the past 2 weeks, the issue of steel imports has come to a head. On September 18, President Reagan rejected the import quotas that were recommended by the International Trade Commission and instead committed the administration to a program of negotiated restraint agreements and vigorous use of unfair-trade laws that would apparently control imports at about 20 percent of U.S. consumption.

The major steel companies seemed satisfied with the announced program, but pointed out that its success will depend on its implementation. The United Steelworkers, by contrast, expressed "deep disappointment" at the President's action. They pointed out that the President's plan fails to tie import relief to modernization and investment—as does the Fair Trade in Steel Act—and that it doesn't commit the Government and industry to sufficient action to assist unemployed steelworkers.

Prior to the President's decision, the Committee on Ways and Means had been considering the Fair Trade in Steel Act, which would have established legislated quotas at approximately 15 percent of U.S. consumption. We all know that passage of a steel quota bill now would be nothing more than an empty, political gesture. It would stand no chance of becoming law.

Having analyzed the President's decision and the reaction of the industry, the unions, and my colleagues in the congressional steel caucus, I believe H.R. 6301 offers a sensible, tempered response to the current situation. Last week the Committee on Ways and Means favorably reported the bill to the full House. The key provision in the bill ties the President's authority to implement negotiated-restraint agreements to the industry's efforts to modernize, invest, and to remain internationally competitive in its price and cost structure. In exchange, the industry will get comprehensive restraint agreements covering all troublesome product sectors and exporting countries. The bill would limit the duration of his authority to 5 years, so that everyone knows in advance that after a fixed period the import restraints will cease.

This legislation, furthermore, states the sense of the Congress that the President utilize his authority to restore normal import shares—which we believe to be 17 percent, rather than the President's target of 20 percent.

The bill contains serveral provisions committing both the industry and the Federal Government to undertake increased efforts to assist unemployed steelworkers. The authorization for worker and firm trade-adjustment assistance under the Trade Act of 1974 would be extended for 2 additional years, through 1987. Major companies with significant unemployment would be required to set aside 1 percent of net cash-flow for purposes of worker retraining. And, the Secretary of Labor would be directed to draw up and submit to Congress proposals to assist unemployed steelworkers and to facilitate pretraining and relocation for workers unlikely to return to the steel mills.

In the crucial area of unfair trade, the bill would establish congressional monitoring of any injury to U.S. industry and force fast and vigorous action by the administration under existing unfair-trade laws. Finally, the bill states the sense of the Congress that if the President's program is not producing satisfactory results, further legislative action will be considered.

Mr. Chairman, we aren't here to debate the merits of free trade or protectionism. We are here to help one of America's most fundamental industries. To do nothing is to invite more foreign imports. To vote for quotas without hope of enactment is to invite the Nation's cynicism.

H.R. 6301 is a compromise which will toughen our position against unfair trade; it will push back present levels of steel imports; it will assist unemployed steelworkers—and most significantly, it will require the industry to put their earnings into modernization as a fair exchange for beefed up Federal restraints.

I strongly urge you to support passage of H.R. 6301.

□ 1550

Mr. CONABLE. Mr. Chairman, I yield myself 4 minutes.

Mr. Chairman, I oppose H.R. 6301, the Steel Import Stabilization Act, with full knowledge of its popularity with those from steel-producing areas. One of the basic problems involved in the protection of an industry as basic as steel, as the chairman described it, is that as you increase the cost of steel in this country by whatever protective device, inevitably you encourage the importation of steel in the shape of automobiles, and refrigerators, and all those other things that we would like to have made in this country, and would like to have made with products sufficiently cheap, so that it also can compete in the world and in our domestic market.

This particular bill is probably not as bad as it could be. But the fact that a worse bill is possible does not mean that I would be here urging my colleagues to support it. I happen to think this bill represents the wrong answers to our basic steel industry's problems. I fear its surface appeal will garner support for it today.

Among other things, the bill includes a sense-of-Congress provision to the effect the President should restrict steel imports to an arbitrary 17-percent level. There is no empirical or other evidence to support the 17-percent figure. In my view, it simply represents an effort to get a rather high degree of protection for the steel industry.

Those who do not believe in Government intrusion in the economy, I am sure, will not believe either that congressional intrusion is inherently more efficient than other types of governmental intrusion. Here Congress is setting a standard, finding a fact simply by voting to make it a fact.

This bill also requires that profits coming from a supported steel industry be used for modernization purposes only. Now, I will be the first to acknowledge that one of the reasons our steel industry is in bad trouble is because it has not voluntarily modernized. But the idea that we are inherently more wise in forcing the investment of steel profits in a certain way than the directors of steel companies and their management, I think again reflects the folly of Government decisionmaking.

The bill also would require steel companies with high unemployment to put at least 1 percent of their net cash flow into worker retraining. There is not much direction to the companies on this point, inasmuch as there are many skilled occupations in the industry, one wonders what the authors had in mind when they drafted it. More importantly, this provision represents another intrusion into management decisionmaking which generally is better left to the private sector.

H.R. 6301 also would reauthorize the Trade Adjustment Assistance Program through 1988. It is premature, but I am opposed to reauthorization in any case. It is, in my opinion, expensively ineffective, largely because it gives some workers unemployment benefits far beyond those available to others in our labor force who are no less unemployed. At the very least, I think the 99th Congress should take a close look at the entire Trade Adjustment Assistance Program before taking any action with respect to reauthorization.

In summary, Mr. Chairman, H.R. 6301 is an attempt to get a political seat on a bandwagon organized in the wake of the President's announcement of a new steel policy 2 weeks ago. The net result of this bill would be to saddle the President's program with added requirements which would be tough to enforce, and which would be easy to use in undermining not only his basic policy, but sound economic policy generally.

Mr. Chairman, I urge my colleagues to vote against the bill, and to permit the new steel initiative to go forward according to the President's announcement.

Mr. PEASE. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, I am delighted to rise today in support of Chairman ROSTENKOWSKI's Steel Import Stabilization Act. The health and competitiveness of the steel industry is crucial to the people of my district in Ohio. The steel program announced by President Reagan on September 18 fails to address the basic problems facing the U.S. steel industry in general and the U.S. Steel Lorain Works in particular.

In order to survive the recession that still drags at the heels of one of Ohio's most vital industries, our domestic steel industry must modernize and must develop world class steelmaking technology. Job security for those workers fortunate enough to have survived the nightmare of the last few years depends on the industry's commitment to modernization.

Adjustment for those workers who lost their jobs depends on the steel industry's commitment to retraining. Former Vice President Mondale accurately characterized President Reagan's steel policy as "Let it Rust." The President's negotiated agreements may provide short-term restraints on steel imports which will generate direct cash transfers to steel company coffers. Unfortunately, however, the President's steel plan ignores the desperate need to modernize steel technology in this country. It will mortgage the future of one of our most basic and strategic industries and deny retraining to workers who have given a lifetime of service to their company. As Chairman ROSTENKOWSKI notes in the committee report, Congress intends—through H.R. 6301—that the industry must commit "substantially all of its cash flow" to modernization "directly related to steel operations. It would not include any investment in any non-steel-related operations" that would drain resources from building competitive steel facilities or deny desperately needed retraining to dedicated employees.

Having had the pleasure of being instrumental in shaping the principle of linkage of import restraints to industry restructuring as it is embodied in H.R. 6301, I strongly support tying annual renewal of the President's enforcement authority to an ongoing commitment by the industry to modernize its plants and to earmarking 1 percent of the industry's net cash flow to retraining for workers. Also included in the bill is a 2-year extension of the Trade Adjustment Assistance Program to provide the necessary authority to continue maintenance benefits without which a steelworker would not have the means to support his family while undergoing retraining.

Current estimates project that as many as 125,000 workers will not return to the steel mills, and in the long run, this number will be even larger as excess plant capacity is reduced and as gains in productivity through technology are implemented.

It is our intention in this bill that those blue-collar employees who are permanently separated from the company or on extended layoff should be the prime recipients of the funds generated by the retraining earmark. It would defeat the purpose of the 1-percent earmark of net cash-flow for retraining if these funds were diverted to defray the wage and benefits costs of a company that is in the process of retraining and upgrading the skills of its active work force. These activities are expected to continue; however, the first level of commitment to retraining is to those workers who are separated from the company.

Current contractual obligations between the steel companies and the steelworkers union to provide a comprehensive range of services to dislocated employees include job search assistance, job development and posting, social services referral, referral for testing and assessment and counseling—all leading up to retraining and job placement. Because these contractual obligations at present do not require company funding, it is our intention that each of the major steel companies subject to H.R. 6301 could institute and continue to implement such a program as a response to the earmark requirement. The earmark for retraining goes above and beyond the commitment to structurally unemployed workers embodied in the contractual agreement; it includes a commitment to retraining cyclically unemployed workers. In addition, this earmark is not intended to be used to supersede training provided through the Jobs Partnership Training Act, although the earmark can be used by the industry to provide the money it needs to match JPTA funds for retraining.

The funds generated by the 1 percent earmark can be used for any training program or education program designed to provide job-specific skills provided by an educational or training institution. The term "educational or training institution" means a State education agency, a local education agency, or an institution of higher education or any other training program approved, accredited, certified, or established by a nationally recognized accrediting agency or association or by a Federal, State, or local government.

With these clarifications in mind, I look forward to expeditious enactment of landmark legislation to bring new productivity and prosperity to our steel industry.

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Mr. CONABLE. Mr. Chairman, I yield such time as he may consume to the gentleman from Virginia [Mr. BLILEY].

Mr. BLILEY. Mr. Chairman, I rise in opposition to H.R. 6301. I fully understand and appreciate the situation that the U.S. steel industry is in. Without trying to assign blame for those woes, I sympathize for the plight of American steelworkers.

But I do not believe that harming our international trade relations is the way to help. So many of our citizens depend on exports for their jobs; whole industries in some districts may be imperiled by this upsetting our trade relations.

The President has promised to bring steel's problems to the international negotiating table and press for fairness and equity. That is the way we should go. Whether you support the President or not, you can see that where the domestic content legislation would have been a monumental failure, negotiated import agreements have given the American auto industry the chance to get back on its feet. And it has. Why should we approach steel any differently?

Granted, there have been serious allegations that foreign steel is illegally subsidized, and these allegations have been supported in many ways.

But what will passage of this legislation gain us? If we are retaliating against what we perceive to be unfair trading practices abroad, cannot other nations retaliate against our actions? Games of international one-upmanship can quickly translate into lost jobs not only in our country, but with some of our important trading partners, as well.

In my district, we have a couple of steel plants. We also have the world's largest cigarette manufacturing facility. Fully one-third of those cigarettes are produced for export. Those exports mean jobs for Americans, taxes for cities, States, and the Federal Government. We have been negotiating abroad for years to get more markets opened up for our exports. Success has been slow and grudging. Passage of bills like this will bring that progress to a halt altogether.

I do not want to criticize the efforts of sincere, intelligent Members who are trying only to protect their constituents. That is one of the priorities of an elected official, to look out for his or her people. I would just like to point out that there is an incredible fallout from those efforts, and little of it is positive.

Other Members—including myself—will work to support the efforts that the administration has publicly stated it is willing to make and is making on behalf of fair trade in steel. But I am willing to do it the right way—the way

that does not harm other export industries in order to address the problems of one distressed domestic industry.

I urge Members to vote against this legislation and to get behind efforts to address trade problems in a manner that will not have such harmful residual effects on the rest of the country.

Mr. CONABLE. And now, Mr. Chairman, for a report of predictable excellence, I yield 5 minutes to the distinguished gentleman from Minnesota [Mr. FRENZEL].

Mr. FRENZEL. Overwhelmed as usual, I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in opposition to H.R. 6301, the Steel Import Stabilization Act. This bill represents a hastily drafted political response to the President's new steel policy, announced on September 18. It is not offered as an alternative, but piggy-backs the President's program with additional requirements which will be difficult to enforce and could undermine the effectiveness of the new steel initiative.

The proponents assert that it provides supplementary authority to the President so that he might better enforce his recently announced program of negotiating limitations on steel imports. However, it contains a sense of Congress pronouncement that the President should use this authority to restrict steel imports to an arbitrary 17-percent level which, say the sponsors, "resembles conditions of fair trade and unsubsidized competition." Such a statement has no substantial basis. It is based on campaign rhetoric.

Language in the bill threatens further legislative action if the President's program "does not produce satisfactory results." There is no evidence or technical data to support this figure, it is merely a request for a high degree of protection for the steel industry at the expense of the rest of the U.S. economy. It is another example of the "Pull-up-the-gangplank-I'm-aboard philosophy."

While the "findings" and saber-rattlings in H.R. 6301 serve only political purposes, they are not nearly as worrisome as three provisions which make up the bill's substance. The first is the requirement that annual renewal of Presidential enforcement authority be contingent upon a determination that the steel industry has reinvested "substantially all of its net cash flow" into modernized steel mills and equipment. In my view, it would be a mistake for the Government to become entangled in plans and actions the steel industry is taking to rationalize and become more competitive. The Europeans had to work tirelessly to encourage the decline of their steel industry in this way. For the United States to follow a similar line of lunacy would be doubly unwise given the track record that Government mandated investment schemes have had.

I think we can expect to have no better luck with the second requirement in the bill that steel companies devote at least 1 percent of their net cash flow to worker retraining programs. This second intrusion into financial decisions better left to the private sector is made worse by the fact that it is such a vague directive. The language seems to say that struggling steel companies ought to begin setting up vocational schools that teach skills used in other industries. Is this really a practical option? The committee's report mentions a voucher system but fails to outline what kind of training might fulfill the legislation's intent or how the voucher system would be administered and what institutions might be eligible to participate. How do we protect ailing steel companies from having to pay for liberal arts coursework, for example?

The problem with the reinvestment and the retraining requirements is that noncompliance by a single large steel maker—perhaps one that is being forced to begin the process of closing down—will jeopardize the steel import restraint program for the rest of the industry.

Finally, the bill would prematurely reauthorize the trade adjustment assistance program through 1988. As my colleagues know, I join the administration in opposing reauthorization of this program because it is costly and for the most part ineffective. Also, it singles out workers thrown out of work by imports for benefits beyond what is available to all other unemployed Americans under the Job Training Partnership Act. Putting reauthorization of this program in legislation that is a substitute for a steel quota bill is an attempt to hide the shortcomings of the TAA program and to avoid debate on its merits. In my view, 5 days before adjournment of the 98th Congress is no time to reauthorize a program with so many problems—especially when it doesn't expire for another year!

Mr. Chairman, I make these comments not because I think we will be able to defeat this bill but so that my colleagues might see a little better what all the interest in getting a trade bill this year is obscuring. There are many tariff and trade provisions that House and Senate conferees should bury entirely. Those that tie the hands of the financial managers of our steel industries, that offer arbitrary import levels as magically correct for our market, that leave industries with the full weight of retraining, and that reauthorize an ineffective TAA program ought to be among the first to go.

Mr. Chairman, I urge my colleagues to vote "no" on H.R. 6301 and to allow the President to implement his steel initiative as announced.

Mr. PEASE. Mr. Chairman, I yield 4 minutes to the gentleman from New York [Mr. LAFALCE].

Mr. LAFALCE. I thank the gentleman for yielding.

Mr. Chairman, the gentleman from Minnesota [Mr. FRENZEL] said if we are not careful we are going to embark upon the path of industrial policy and yet about a week ago President Reagan and got up, and President Reagan said today: "I am announcing a government policy for the steel industry."

Ladies and gentlemen, we have got industrial policy. The question is, do we have good industrial policy or bad industrial policy. The Reagan program is bad industrial policy.

My esteemed friend from New York [Mr. CONABLE] worries about protectionism. Well, you know, the fact of the matter is, in July of this year steel imports accounted for about 34 percent of the domestic market.

Now President Reagan says it ought to be about 18.5 percent and Mondale said 17 percent. Well, that is insignificant. If both our presidential contenders want roughly the same 17 percent or 18.5 percent and both are going to use protectionism whether quotas or voluntary imports, we ought to make sure that the public gets something for that Government policy or industrial policy, call it what you will, for that protectionism whether it is quota or voluntary agreement, call it what you will, and what are we getting for it.

Under the Reagan Government policy, absolutely nothing. And that is why I rise in strong support of this bill. Because the President's recently-announced program of assistance to the steel industry will be implemented, I hope, under this bill.

So to produce what we desperately need; a world-class steel industry capable of competing in international markets, this bill gives us some hope that we would be able to achieve that.

The President's proposal, as it stands, will not do this.

President Reagan refused to make a part of this program the one essential element to make it work, conditionality.

While the President's program is intended to respond to the industry's competitive difficulties, it does nothing to improve the industry's competitive position. It will not reduce costs. It will not guarantee investment and modernization. It will not assist dislocated workers. It will not ensure that the industry makes the necessary restructuring efforts.

But H.R. 6301 specifically conditions the trade relief the industry is to receive a new investment, modernization, worker retraining and thus pro-

vides at least some guarantee that the country will get a competitive steel industry in return for the trade relief that it is giving the industry whether under President Reagan or President Mondale.

Our Government has given trade relief in other forms of Government assistance to the steel industry before. We will do so again. That is the reality. But our ability to compete internationally continues to deteriorate. Despite the assistance granted in the past, many of our steel producers still operate without outmoded plants and equipment. Plants continue to close; diversification out of steel continues and more than 100,000 steel industry employees remain on layoff.

If we do not take this opportunity to condition trade relief on specific efforts to improve the industry's competitiveness, we risk simply repeating the mistakes of the past.

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The President's plan offers nothing but the prospect of continued protection. It will only insulate the industry from its foreign competitors, decreasing what pressure exists for the industry to restructure.

This is not the first time our Government has granted assistance to the steel industry; however, ladies and gentlemen, if we adopt the principles of conditionality set forth in this bill, it could be the first time we attempt to do it correctly.

Mr. RITTER. Mr. Chairman, will the gentleman yield?

Mr. LAFALCE. I have no further time.

Mr. RITTER. Mr. Chairman, has the gentleman's time expired?

The CHAIRMAN. The gentleman from New York [Mr. LAFALCE] has 20 seconds remaining.

Mr. RITTER. I think that is not quite enough to say what I would like to say. I will take my own time.

Mr. LAFALCE. I will try to remain around. Perhaps we can engage in a dialog on the gentleman's time.

Mr. CONABLE. Mr. Chairman, I now yield 5 minutes to the gentleman from Ohio [Mr. REGULA].

Mr. REGULA. I thank the gentleman for yielding this time to me.

Mr. Chairman and members of the committee, I first want to compliment the chairman of the Committee on Ways and Means for bringing this bill to the floor in a prompt manner. I think it is essential to deal with the problems affecting the steel industry.

Earlier this afternoon the distinguished gentleman from Florida mentioned the fact that the trade deficit is one of the most serious facing this Nation, and certainly that is true. What we hope to address today, in part, is that trade deficit.

Every emerging nation seems to feel that it is necessary to have a steel mill and an airline. As a result, today in the free world we have about 200 million tons of excess capacity to produce steel. What happens to that steel capacity? The logical answer to most countries is to try to dump it into the American market, robbing the American steelworker and the American economy of jobs and adversely affecting the gross national product.

As one of the original sponsors, I support this bill. It gives teeth to the President's steel proposal. It provides statutory tools that I think the President's negotiators will need. It also adds the two dimensions of plant modernization and worker retraining not addressed in the President's plan.

The impact of the loss of steel imports is reflected in more than the industry's profits and losses. It has a human dimension as well. It has a human dimension of people out of work because of the dumping that comes from other nations. I think what we need here is something to prevent our trading partners from exporting their unemployment to the United States.

There is a further dimension to this problem, and that is national security. We all remember so well that the United States in World War II was the arsenal of democracy. Why the arsenal of democracy? In part because we could produce. We could produce bombers, we could produce ships, we could produce the necessary guns, and so on, to insure the security of the free world. Without steel capacity, we cannot be the arsenal of democracy in the future. It takes years to build a steel mill. If we lose the capacity to produce steel, it will be a sad day for national security.

I would point out, on the subject of modernization, that the environmental protection laws that have been passed in recent years have impacted most heavily on the steel industry. There has been an enormous cost to this industry to meet the requirements enacted by Congress. For that reason, it has been difficult to modernize. We need to give this industry breathing room to meet the challenge of competition in the years ahead.

Finally, my colleagues, this bill will provide powerful leverage for the President's negotiators as they seek to implement the President's steel policy. The President took the first step. It is vital that we take the second step with this legislation to insure that we have both fairness as well as freedom in our steel industry and in our trade relations with other nations.

Mr. CONABLE. Mr. Chairman, will the gentleman yield?

Mr. REGULA. I yield to the gentleman from New York.

Mr. CONABLE. I thank the gentleman for yielding.

Mr. Chairman, I know the gentleman is very proud that his is the only district in the country where a major new steel plant is being built. I would like to ask the gentleman if that plant is being built because the people who are doing it are confident they cannot compete?

Mr. REGULA. That plant is being built because Government, labor, and management worked together. It represents a gamble, but I would point out to the gentleman that the plant in question—and, I might add, that was visited by President Reagan last week—is in a highly specialized industry. It will produce probably the finest steel in the world. It is used as a highly specialized product and is not in quite the same ballpark as our basic steel industry.

Mr. CONABLE. I do believe though, that that plant is a living, breathing example of the possibility for the American steel industry if the workers and the management and the good Representatives all get together and do what is necessary to see steel succeed, even though it is a highly competitive market.

Mr. REGULA. I agree with the gentleman, and I appreciate the fact that he brought it up. It is a shining example of American can-do spirit. I might add that, thanks in part to the 1981 tax bill and the leadership that the gentleman from New York and the chairman provided, it was possible for that mill to be built.

Mr. CONABLE. If I may be forgiven for saying so, I hope that the course of the Timken Co. in your district is the future course of American steel and not the constant seeking of protection.

Mr. REGULA. That is true. I would point out that I think one of the key elements of this bill is the requirement that cash flow go back into modernization. We are building in an incentive here for our industry to do exactly what is happening in that plant.

Mr. PEASE. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Ohio [Ms. OAKAR].

Ms. OAKAR. I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in support of this bill, even though it is the least we should be doing.

I rise in support of the Steel Import Stabilization Act. Our economic vitality and strength as a nation are directly related to the health of our basic industries. No industry is more basic than steel and our steel industry is not healthy. In 1982, U.S. steel production and shipments fell to their lowest levels in the post-World War II period, with the industry operating at less than 50-percent capacity and suffering losses of $2.5 billion. These dismal figures translate into heavy unemployment and consequent hardship for tens of thousands of Americans.

Imports, on the other hand, enjoy a healthy level, capturing a significant

part of our own steel market. Today, they average a quarter of domestic sales.

Clearly, action on this problem is long overdue and the Steel Import Stabilization Act is a step in the right direction, although it does not go as far as it should. It is commonly known that steel manufactured abroad has a competitive advantage over our domestically produced product. By limiting steel imports, we help to save jobs and we move to even the table for American manufacturers. For those workers and communities that suffer continuing distress due to domestic steel production declines, there is badly needed assistance, including retraining and relocation should they prove necessary. To provide for the revitalization of our domestic industry, the bill requires industry investment of revenues generated by the provisions of this bill in new plants and equipment, in modernization of existing facilities and in research and development.

Action is needed today and I urge passage of this bill.

Mr. PEASE. Mr. Chairman, I yield 30 seconds to the gentleman from Pennsylvania [Mr. GAYDOS].

Mr. GAYDOS. I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in reluctant support of this legislation.

Mr. Chairman, I stand here today to thank the present administration for finally explaining its reason for the staggering merchandise trade deficits we are recording as America's standing in the world market continues to go from bad to worse.

I want to thank this administration for clearing the air by telling us that the record merchandise trade deficits—$69.4 billion in 1983; $83.7 billion for the first 8 months of 1984; a projected deficit of $130 billion for all of this year; and even larger deficits for the next 2 years—are all part of a carefully designed plan.

I want to thank this administration for informing all of America that the pain and suffering felt by American companies, American cities, and American workers is all part of a plan to enable some heavily indebted nations meet their obligations to American banks.

I am sure that a number of people, especially officials in the banks that lent the money, officials of the World Bank and the International Monetary Fund that endorsed the loans, and officials in the indebted countries, particularly Brazil, Argentina, and Mexico, are delighted that our trading doors will remain open to their goods so they can raise the foreign capital needed to pay the interest on those loans—loans which perhaps should not have been granted in the first place, because it is unlikely they will ever be repaid.

But, since the interest is being paid, the banks don't have to report the loans as bad debt and the countries do not have to imply that they are going bankrupt.

I want to thank this administration for providing this indirect foreign aid to assist those indebted nations in keeping their economies growing, their basic industries expanding, their merchandise trade picture in the black, their workers on the job.

Thanks a lot.

At long last we have learned that we do have an industrial policy and an international trade policy. We have at long last learned that America's basic industries do not count in the New America; that those cities and towns that in the past depended on basic industries for jobs and taxes will have to find some other way to provide basic needs for their citizens; that American workers will have to fend for themselves when their jobs are lost forever.

We can see that concern for the high interest rates those foreign countries must pay for their loans. But what about the American steel industry which, because of its poor performance over the past several years, is finding it increasingly difficult to attract the funds needed to refurbish existing plants; build new, modern mills; and incorporate the new technological advances that will make American steel competitive here at home.

What can we do for steel companies such as Bethlehem, Armco, and Inland which recently were added to Standard & Poor's credit watch list because, and I quote from the Wall Street Journal—

> The steel industry has yet to significantly participate in the 18-month-long economic expansion.

So here we are, waiting. We have a huge Federal budget deficit which drives interest rates up. We have a massive—and growing—merchandise trade deficit, which this administration says is necessary so the indebted nations will be able to make the interest payments on their loans. And we have American industry drying up and American workers idled.

We are faced with growing imports and declining exports, even though this administration says we must develop our exporting industries.

For how long can we continue this pattern of huge foreign borrowing? If we don't stop soon, the United States will become a net debtor nation some time next year. Within a year or two, without some change in thinking, our foreign debt will become the largest in the world—larger than that of Argentina, Mexico, or Brazil, whom we seem so anxious to assist through this new, indirect form of foreign aid.

The trade deficit ultimately endangers the fundamental health of our economy. If we cannot compete in world markets by exporting goods, then we cannot sustain basic jobs for American workers. And, once those export markets are lost, they may be lost forever, even if the dollar comes down and the yen, mark, pound, franc, and peso go up.

This administration has made a great to-do about the new agreements with Japan for the increased exports of American beef and citrus. Yet, between 1981 and 1983, total exports of agricultural and food products declined by 16 percent and, over the same period, real net farm income fell by 37 percent.

And, if we can accept the words of the Japanese themselves, increasing imports of citrus and beef to Japan is just a drop in the bucket.

In his book "Trade War," Steven Schlosstein interviewed Iwamochi Shizuma, president of the Central Union of Agricultural Cooperatives, who said:

> Any increase in our imports of American beef will ultimately mean a reduction in your feed grain exports to this country (Japan). So what you gain in one area, you will lose in another. . . . But what we find difficult to understand is why your Government is putting so much pressure on an area that, even assuming complete liberalization, which is doubtful in any event, the maximum export grain is only about $500 million before any cutbacks in feed grain sales.

So what are we gaining from the fantastic agreements this administration is signing with the Japanese?

Between 1981 and 1983, the United States was transformed from a net exporter to a net importer of machinery and equipment. Now, almost 40 percent of the domestic market for machine tools is taken by foreign imports.

The same can be said for other American industries. At one time this Nation was the primary world producer of electronic equipment, television sets, motorcycles, bicycles. Today, we would be hard pressed to have any kind of selection from American manufacturers.

It's almost as if we have given up, and with the blessing of this administration.

Many industries have failed to recover the jobs lost during the recession and probably never will. Compared with prerecession peak levels, employment is still down in primary metals by 23 percent and in nonelectric machinery by 11 percent.

There are estimates that the weak exports and strong imports caused by the overvalued dollar have cost roughly 2 million American jobs since 1980.

In fact, a study by the New York Stock Exchange on U.S. international competitiveness noted that more than twice as many manufacturing jobs were destroyed by foreign trade than were created in 1982.

The apparel and textile industry in 1982 lost 208,000 jobs, the auto industry lost 161,000 jobs, the shoe industry

lost 142,000 jobs, and the iron and steel industry lost 137,000 jobs.

Yes; it is true that new manufacturing jobs were created. The computer industry, which produced the most new jobs in 1982 created nearly as many as were lost by the steel industry that year—135,000 computer jobs gained compared to 137,000 steel jobs lost.

Overall, the picture for 1982 wasn't a good one. We lost 1.1 million manufacturing jobs because of foreign trade, while gaining just over 500,000.

In the steel industry, in fact, employment has shrunk from more than a half million workers to about 250,000, a 50-percent loss in the 10 years since 1974, and, given the present outlook for the industry, more jobs are likely to be lost—forever.

That is one of the reasons 222 Members of the House cosponsored H.R. 5081, the Fair Trade in Steel Act of 1984.

Those 222 Members of Congress believed that assigning a 15-percent share of the American steel market to imported steel for a 5-year period would be a reasonable idea.

Those Members believed that the firm limit would allow the steel industry a reasonable amount of time to modernize plants, to earn dollars to reinvest in the industry, to put Americans back to work in making steel.

No one will deny that problems exist in the American steel industry. And no one will deny that some of those problems are of the industry's own making.

But it is not true that the American steel industry isn't doing anything to help itself, despite the severe demands on its financial resources.

The myth that the steel industry is just sitting around waiting to be saved by the Federal Government is just that—a myth.

The American steel industry, despite its poor—and that is at best—financial picture, has and is making giant strides toward developing new processes and new products.

The current issue of Business Week magazine details the efforts by United States Steel Corp. and Bethlehem Steel to perfect a process to pour thinner steel slabs. Instead of slabs that are 10 inches thick, the new slabs would be 1 inch thick.

The cost savings, the energy savings, the plant savings to be gained from this process, once perfected, could do wonders toward revitalizing our steel industry.

But there is a catch. In the article it mentions that once the technique is perfected, the mini-mills, which have stayed out of the sheet end of steel because of the investment required, will be able to enter the fray at a reasonable cost investment.

And we can be sure the manufacturers of foreign steel will make every effort to get this technology adapted for their own plants so they can stay even with American producers.

But, before we get carried away too far, don't forget the cost of developing the process and the time to develop it.

United States Steel and Bethlehem, using a $30 million loan from the U.S. Department of Energy, will spend $45 million over the next 5 years. And, if the program is successful, the $30 million Energy Department loan will have to be repaid.

But it is important to remember that the timeframe about which we are talking is 5 years—and that's only for the development of the process. We aren't even mentioning the time and cost for implementing this new technology, assuming the project is a successful one.

And that's just one of the projects aimed at bringing new technology to the American Steel industry.

Just recently, the American Iron & Steel Institute held a seminar in which its research and development experts and marketing experts talked about research projects to develop new technology and the development of new product lines to meet the changing needs of steel consumers.

The most recent issue or Iron Age magazine discusses some of these efforts, including a nine-member consortium of steel and aluminum companies that have jointly invested in a research facility.

Does that sound like an industry that is preparing to fold its tent? Does that sound like an industry that isn't trying to compete?

The efforts by the integrated steel companies to make their operations more efficient has been taking place over the past several years. Plants that would cost too much to modernize have been closed. Steelworkers whose jobs were in those plants are out of work and have little prospect of returning to jobs in the steel industry.

Those weren't easy decisions for the steelmakers. It isn't pleasant to have to tell some long-time employees that their jobs no longer exist.

The United Steelworkers, too, have made contribution. In the last round of bargaining talks, the steelworkers made a number of concessions aimed at giving the companies some breathing space.

And, I feel sure, both the companies and the union will be prepared to work closely together in the future in order to continue the efforts to bring American steel back into the competitive picture.

So here we are. At the same time our steel industry is investing what financial resources it has into the development of new technology and is regrouping by closing plants and laying off workers in order to make itself more efficient so as to compete with foreign steelmakers, the voices of gloom and doom say the steel industry isn't worth the effort needed to save it.

From where I sit and from what I have seen, the industry desperately needs more time, time to continue its research projects and time to implement the fruits of that research.

And the time can only be had by stemming the flood of imports. Mind you, no one has ever said we should stop all steel imports to the United States. All anyone has asked is that the flow be limited to a reasonable percentage of the American market.

Why? Just look at what has been happening. For the first 6 months of 1984 steel imports averaged nearly a 25-percent share of the American market. In the month of July, however, steel imports reached the 2.7-million-ton mark, which translates into nearly a 33-percent share.

And, if I were a betting man, I would say that we can expect steel imports to continue at these high levels for the rest of the year.

This administration has determined, in the face of all kinds of evidence, that instead of imposing specific quotas on steel imports, it will develop voluntary restraint agreements with certain steel exporting nations to limit the flow of foreign steel to the United States.

As a part of that program, the administration says it will enforce to the fullest all of the trade laws currently on the books with respect to unfair trade practices, such as subsidies and dumping.

None of us is blind to the deceptive and unfair practices of some of our trading partners in their attempts to snare a share of the American steel market.

None of us is so naive as to believe that many foreign nations, in their efforts to join the industrial world, have not provided subsidies to their steel industries, allowing them to operate inefficiently but still keep the costs of their steel below that of American steel.

Everyone here is aware that many countries own their steel industries, enabling those industries to produce quantities well beyond home needs without having to worry about profits or research and development funds or competition.

It's no secret that many foreign producers are being told by their governments to increase steel production, are being urged and supported in efforts to expand production facilities, not because home consumption is up, but because the way to raise capital is by exporting the excess production.

And where do they ship their excess steel? Right to the good old U.S. of A. We have the most open-door policy of any trading nation in the world and our trading partners know it and use

that knowledge to cut into our markets.

Let me just give you a brief idea of what I mean. In 1981, Taiwan's China Steel, a government-owned company, produced 3.2 million tons of steel and the nation consumed 4.6 million tons. Thus, Taiwan had to import 1.4 million tons to meet their home needs.

In 1982, however, China Steel produced 4.2 million tons, but only 4 million was needed for home consumption. The rest was exportable.

Further, it was recently reported that China Steel has plans to increase steel production even though domestic consumption isn't expected to increase substantially in the near future.

Here is another example. In 1981, Brazil consumed 91 percent of the raw steel its own industry produced. In 1982, home consumption of Brazilian steel fell to 82 percent. What did Brazil do with the excess 18 percent? Much of it came here.

In fact, according to figures from the International Iron & Steel Institute for 1981 and 1982, only the European Economic Community showed a drop in steel production and an increase in home consumption of steel. Other nations were—and, believe me, still are—producing more steel than they need. And they are shipping it to the United States in increasing quantities.

Again, the question is: What should we, as a nation, do?

Other nations have answers. They impose quotas, charge high tariffs, and develop nontariff barriers to make it difficult at best for foreign products, including American goods, to enter their countries.

Every country has some system to be used to protect their developing industries or their primary industries from severe competition from abroad.

South Korea requires licenses for all imports and restricts imports of steel products that directly compete with products made by South Korea's steel industry.

Brazil enforces what it calls the "law of similars," which states that products that would compete with Brazilian-made products cannot be imported without government permission.

The EEC negotiates bilateral agreements on steel imports that specify the amount allowed into the EEC market and sets the price level. Steel imports outside the agreements are subject to dumping regulations and must be sold at higher prices than imports covered by the bilateral agreements.

And Taiwan recently adopted an antidumping law to prevent foreign countries from selling goods in Taiwan cheaper than in their own domestic markets.

Well, we have laws and rules and regulations, too, but in the past they have either been unenforceable or unenforced.

To my way of thinking, if they are unenforceable, then they must be changed so they can serve the purpose for which they were designed.

If, however, they are unenforced, that is an entirely different story. If the laws we have are workable and this and other administrations have failed or refused to enforce them, then the burden felt by the American steel industry is, to at least some degree, their responsibility.

I sincerely hope this administration will enforce the laws. I have confidence that if they are properly enforced and if there is an adequate number of trained personnel to enforce them, the laws we have will do a great deal to insure that we will achieve what we have been aiming for.

But I have my doubts. Other administrations have said they would enforce the laws, but they didn't. And the result was a continued erosion of the steel market here for American steel companies.

We have seen that imposed quotas work. The Ford administration proved the workability of quotas in specialty steel in 1974. The quotas gave the specialty steel industry time to modernize and to compete.

That is why I prefer the formal quota route. It works. It has worked in the past and, I believe, it would work today.

Mr. PEASE. Mr. Chairman, I yield such time as he may consume to the gentleman from Michigan [Mr. FORD].

Mr. FORD of Michigan. I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in strong support of H.R. 6301, the Steel Import Stabilization Act. This is our sole opportunity to provide some relief from the flood of foreign steel imports that has devastated our domestic industry and has ravaged our steel communities. Since 1979, nearly 60 percent of our domestic steelworkers have lost their jobs—200,000 steelworkers have been laid off. At the same time, steel imports have reached record levels. In July of this year, imports surged to one-third of our total domestic consumption. In order to provide more thorough relief, I would have preferred that the House consider H.R. 5081, the Fair Trade in Steel Act, which I have cosponsored. This legislation, or even the recommended relief of the International Trade Commission [ITC], would have provided substantially more help to the American steel industry and its workers.

I was disappointed that President Reagan refused to adopt the quotas and tariffs recommended by the ITC after its thorough investigation into the section 201 petition jointly filed by the Bethlehem Steel Corp. and the United Steelworkers of America. The President's intention to negotiate bilateral voluntary restraint agreements with foreign steel producers is vague and unenforceable. In addition, the President's program completely fails to recognize one of the most important facets of the 201 petition and the Fair Trade in Steel Act—mandatory reinvestment and modernization.

By no means will H.R. 6301 correct the most serious deficiencies of the President's program. However, this legislation goes a long way toward putting some teeth in the President's relief plan. The Steel Import Stabilization Act provides the President with broad authority to enforce steel export restraint agreements and requires the steel industry to reinvest and to modernize its steel operations. Further, this bill lowers the President's proposed import cap from 18.5 percent to 17 percent of our domestic market.

This bill also provides assistance to steelworkers who face long term unemployment and a bleak future in the steel industry. First, H.R. 6301 would reauthorize the Trade Adjustment Assistance Program for 2 additional years. Second, this bill contains provisions that would require major steel producers with significant unemployment to devote at least 1 percent of their net cash-flow to retraining assistance. This measure also requires the Department of Labor to propose to Congress within 6 months a comprehensive plan for assisting workers in communities that have been adversely affected by imports.

I urge my colleagues to support this legislation.

Mr. PEASE. Mr. Chairman, I yield 3 minutes to the gentleman from New York [Mr. LUNDINE].

Mr. LUNDINE. I thank the gentleman for yielding this time to me.

Mr. Chairman, I rise in support of this bill. Steel production is basic to an industrial economy and the United States cannot be economically strong without a healthy industrial base. If we do not take some action to reduce the level of foreign steel imports coming into the United States, our steel industry is not going to be able to garner sufficient resources to modernize so that it can compete internationally over the long term.

In the 1950's the United States was the leading world steel producing country, holding nearly 50 percent of the world market. Today, U.S. producers are struggling to hold on to 50 percent of the domestic U.S. market. Last month, foreign steel imports captured 33 percent of the U.S. market. The primary cause for the erosion of the U.S. comparative advantage in steel is a failure to improve productivity performance and to make the necessary investments to keep U.S. steel capacity world class.

If we are to have a healthy steel sector in the United States in the future, we must take the necessary steps to insure that a level of investment is made in our domestic steel industry. Many U.S. steel plants are simply not technologically competitive. Last year, the United States produced only about 30 percent of its steel by the continuous casting process, while Japan has continous casting in over 80 percent of its plants. The United States still produces a small percentage of its steel using the outdated open-hearth method of production, while the Japanese have totally rid their industry of this technology.

Since the U.S. comparative advantage began to slip, U.S. steel firms have benefited from a lot of protectionism. What we have repeatedly done, however, is offer up this protectionism in incremental doses with no requirement that steel companies take certain actions to modernize their steel operations in exchange for this protectionism.

The committee is to be particularly commended for two aspects of this bill. First, the requirement that the enforcement authority to carry out this steel program be tied to a requirement of plowback of industry profits into a steel modernization program is long overdue in this industry. As someone who has been advocating industrial strategy for many years now, this dose of specific "industrial policy" is very refreshing. This kind of strategic thinking worked for this country in the Chrysler Loan Guarantee Program and it must begin to be the guiding principle in the future when we apply restrictive trade actions in any industry.

Second, the emphasis in the report accompanying this bill on the need for a comprehensive steel policy is important and appropriate. Unfortunately, the commitment called for in the report and the actual language of the bill before us are inconsistent on this report. The specific language in this bill deals only with carbon steel products, and the steel industry in this country is made up of carbon as well as specialty steel products.

We cannot have a comprehensive steel policy without dealing with specialty steel. Ironically, the specialty steel sector is the portion of our steel industry which has invested in modernization and is technologically progressive. Their competitiveness has been seriously hampered, however, by foreign dumping and subsidization which has been proven time and time again in trade cases. The remedies which have been applied from these trade cases have often been too little, or too late.

Currently, as a result of a positive injury determination by the International Trade Commission 2 years ago, there are quotas on some specialty steel products. The product lines which are not covered, however, are suffering from dramatic surges in imports through foreign product diversion into those categories of products. For example, some import categories of specialty steel wire have increased by 150 percent over the last year as foreign countries are seeking to evade the quotas on specialty rod.

The problem of diversion into the uncovered specialty steel is serious and will intensify with passage of this bill. Foreign nations will seek to shift production from carbon steel products into the uncovered specialty steel product lines.

This problem will not be addressed in trade cases in the near future. The specialty steel producers who have products who remain vulnerable are by and large small producers without the capacity to obtain successful trade relief given recent developments. The Senate has included much broader enforcement language than that which is included under section 5 of the bill before us such that it would encompass both carbon and specialty steel products. I urge the members of the conference committee to consider this Senate position carefully in light of the commitment in the committee report to development of a comprehensive steel policy.

□ 1620

Mr. PEASE. Mr. Chairman, I yield 3 minutes to the gentleman from New York [Mr. STRATTON].

Mr. STRATTON. Mr. Chairman, I, too, rise in support of H.R. 6301, the Steel Import Stabilization Act. I would also like to reiterate the comments of my colleague from New York, Mr. LUNDINE, in urging the members of the conference committee to accept the language passed by the other body that would include specialty steel in an effective enforcement mechanism.

I am especially pleased by the action of the Committee on Ways and Means in response to the President's unfortunate decision to deny a recommendation for import quotas and an aggressive U.S. steel trade policy. I am also in full support of the decision by the committee to make import relief measures contingent upon the domestic steel industry's reinvestment and modernization efforts to make the industry more competitive internationally, and to ensure the continued vigor of the work force.

However, the bill we are now considering defines steel products very narrowly, to include only carbon steel products. I recognize the report language that states that the committee does not intend to exclude attention to specialty steel problems, but would also hope that the broader enforcement authority language as contained in the omnibus trade bill in the other body would be accepted by the House managers.

Specialty steel is but a small part of the steel industry, so small, I am afraid, that it often falls through the cracks. Yet there are 1,000 jobs in my district in connection with the Al Tech Specialty Steel Corp., in Watervliet, NY, and another 1,000 in Mr. LUNDINE's district. These companies are highly vulnerable to foreign imports. In fact, we have seen almost a 150-percent increase in imports in some categories of specialty steel wire in the last year because of efforts by foreign countries to evade quotas on specialty rod steel. We are therefore concerned that if restraints are placed only on carbon steel more specialty steel products will be exported to the United States in order to get around the new restrictions, and as a result the specialty steel industry will be even further damaged than it has already been. So, while I rise in support of this bill, I want to urge very strongly that further action by the committee is desperately needed to include a mechanism to address the problems of the specialty steel industry, the best mechanism being the acceptance by the House managers of the more responsive language on specialty steel approved by the other body.

Mr. CONABLE. Mr. Chairman, I yield 5 minutes to the gentleman from Pennsylvania [Mr. RITTER].

Mr. RITTER. Mr. Speaker, I thank the gentleman from New York for yielding, and I rise in strong support of the bill.

I just would like to make a point to my friends who are arguing that this is rampant protectionism. The fact of the matter is, that even if we had at this stage of the game one of the most productive and competitive and modernized steel industries around the world, we would probably still be faced with the very significant problem of unfair trade practices such as dumping and illegal subsidization. Why? Because there are certain countries who feel it is in their interest, for their national prestige, to have steel industries. This would be regardless of what the overall world market conditions might be telling them.

Thus, you have a government policy that says, "We will export unemployment. We will subsidize lower prices, no matter how low, so long as our workers keep working." Well, at that point there is very little chance for a market oriented American steel industry, even if it had completed modernization.

What we are trying to do here is back up the President's program. I would like to say a few words about the President's program. The President's program was the first comprehensive approach to the problem of steel dumping that we have yet to see

from the U.S. Government. The President provided this kind of comprehensive remedy above and beyond the International Trade Commission recommendations. The President has provided the kind of commitment to negotiate with the steel exporting nations in the very same way we negotiated with Japan to slow the pace of Japanese automobile exports to the United States.

I think people have to understand that the economic recovery that we are currently experiencing is in large measure due to a healthy and vibrant automobile industry and that had the Japanese had the chance to simply flood the American market as we were retooling, as we were modernizing, as we were solving our problems, the economic recovery that we are witnessing today might never have happened.

This bill complements the President's program. The gentleman from New York stated that the President's program did not provide for a modernization commitment on the part of the industry. However, I point out to the gentleman that although this bill requires using the cash flow derived from carbon and alloy steel production and business for modernization, the steel industries today have a variety of businesses that they are involved in and money is, as they say, "fungible."

So even this bill where it provides more of a push in that direction, that I know the gentleman from New York and I myself support, there is still the question of where those resources go within the corporation.

I agree with the idea that the steel industry if it receives preferential treatment on imports should make some commitment to its workers, and I support the retraining feature in this bill.

I also support the trade adjustment assistance feature.

What we are talking about here are whole communities that are at risk, whole communities whose life and times could be leveled by a policy that did not address the tens of thousands, literally, of workers that are being hurt by foreign governments dumping steel. We have seen the examples throughout the country. The gentleman from Ohio [Mr. WILLIAMS], our colleague, has faced this situation in Youngstown, OH.

Finally, and I reiterate the comments made by my colleague, the gentleman from Ohio [Mr. REGULA] on negotiating these agreements. This Steel Trade Stabilization Act will provide our trade negotiators with a very substantial lever in much the same way the domestic content bill provided leverage to the Japanese investors.

Mr. PEASE. Mr. Chairman, I yield 3 minutes to the gentleman from Ohio [Mr. APPLEGATE].

Mr. APPLEGATE. Mr. Chairman, with steel imports reaching 32 percent in July and over 30 percent for August and with 150,000 steelworkers out of work and some 250,000 who are dependent upon the steel industry out of work, it is ludicrous to think that we can wish away the problem through free trade.

□ 1630

That would be fine if all of our trading partners played by the same rule, but they do not. Offsetting subsidies and illegal dumping through quotas, as this bill proposes, is not a permanent solution but it is an immediate, although temporary resolution until the long-range Federal economic dilemma is cured. And that fact is recognized in the bill which says that "the ability of the domestic steel industry to be internationally competitive is, and has been, impeded by the effects of the enormous Federal budget deficit, an overvalued dollar, increasing trade deficits," and then it goes on to say "as well as serious injury," that it has been subjected to because of unfair imports.

For years we who represent those steel districts have been telling the House of the economic devastation that has been done to the towns and the cities, and of the massive layoffs.

Finally, ITC in their deliberations of petitions under section 201 confirmed our statements. The ITC found that indeed steel products were being sent to the United States in such quantities as to cause economic havoc, and as a remedy they recommended to the President the imposition of a tariff quota plan which he rejected as being protectionist and not in the best interest of the Nation.

Instead, the President offered a plan of negotiated voluntary restraints with our foreign trading partners.

In response to the President's action we now have before us H.R. 6301, the Import Stabilization Act. I would like to commend Chairman ROSTENKOWSKI and Chairman JACK MURTHA, the Congressional Steel Caucus, for the work they have done on this. Unfortunately the bill does not mandate that the President act. It only allows him to negotiate these voluntary quotas. And I cannot help but regret that the Steel Caucus and the other 221 Members of the Congress that cosponsored the Fair Trade in Steel Act will not have the opportunity to vote on the bill.

My understanding of both bills does not allow me to accept H.R. 3601 as a substitute for the Fair Trade in Steel Act. However, understanding the obstacles against H.R. 5081, I do support H.R. 3601 as we are running out of time, and I urge the support and passage of the bill.

The CHAIRMAN. The Chair announces that the gentleman from New York [Mr. CONABLE] has 10½ minutes remaining and the gentleman from Ohio [Mr. PEASE] has 8 minutes remaining.

Mr. CONABLE. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Utah [Mr. NIELSON].

Mr. NIELSON of Utah. Mr. Chairman, I appreciate the gentleman from New York yielding to me. Several points have been stressed already and I will mention them only briefly.

First, we do need steel mills for national defense purposes.

Second, the steel industry has been a victim of unfair trade practices such as subsidization and dumping.

Third, in my area, which has the largest steel plant west of the Mississippi, both management and labor have given up quite a bit to try to save that particular steel plant which was built during World War II.

I am sorry that this bill comes to us on a closed rule basis. I would much prefer to look at some of the aspects of H.R. 5081, the Fair Trade in Steel Act, which I believe has some aspects that ought to be in this bill.

I am concerned about the fact that we require all of the money to go into modernization. While I support the idea that we should put money into modernization, requiring all of it to go into modernization will undoubtedly lead to financial collapse in many cases.

I also object to the 1 percent required for retraining without some more definite idea of how we are going to retrain and in what areas, which I think we should do through the Training Readjustment Act directly and not through this vehicle.

I would like to suggest, however, in spite of my difficulties with the bill, we may need to support it in order to have a vehicle to negotiate with the other body.

We have in the other body the Domenici amendment which is very important because it does for copper what this bill does for steel; namely encourages negotiation.

I happen to represent Kennecott Copper Co.'s Bingham Canyon Mine, which is the largest open pit copper mine in the country. So I am also interested in the copper as well as the steel industry. It seems to me that we should treat both industries in the same fashion. I hope that if and when we have a chance to go to conference with the other body on this or any other bill involving steel, the Domenici amendment regarding copper will be agreed to by this body.

Mr. CONABLE. Mr. Chairman, I now yield 3 minutes to the distinguished gentleman from Indiana [Mr. HILLIS].

Mr. HILLIS. Mr. Chairman, I come before the House today in support of H.R. 6301, the Steel Stabilization Act of 1984.

This measure represents a clear, effective means of arresting the continuing decline in our domestic steel industry. H.R. 6301 would establish a comprehensive program to rebuild our Nation's historical base in its most important industry. The failure to enact this legislation will hasten the closure of domestic steel facilities and send a clear signal to overseas suppliers that the Congress is willing to tolerate ruinous trading practices.

As little as 10 years ago the market share of foreign steel was only a small fraction of our total domestic needs. This is no longer true: in July of this year imports rose to approximately 32 percent. At the same time that these imports increased thousands of American steelworkers remained unemployed, their plants idled.

There are numerous reasons accounting for this decline, including the strength of our currency, the age of our steel facilities, comparative wage levels, and numerous documented instances of unfair trading practices. To those who say that this legislation is unnecessary I ask: Now can American industry compete against wages of less than $3 per hour and dumping margins ranging from 50 to 100 percent?

It is claimed that our steel industry has brought this crisis on itself, and that if given relief will be unwilling to spend the billions of dollars necessary for modernization. Anyone who has taken the opportunity of talking to either steel labor or management will find them willing to admit to past mistakes, and an awareness of the danger of ever being unresponsive to future changes in the market. It is also clear that management and labor are responding to the market: the use of continuous casting increased to almost 36 percent in the first half of 1984.

Much modernization remains to be done. The Office of Technology Assessment has estimated that more than $30 billion will be required just to replace obsolete steelmaking equipment. The only source for this capital will be from the steel industry itself.

H.R. 6301 will give our steel industry the breathing period which it needs to affect this modernization. It will require the industry to make necessary investments. It will give the President the legislative mandate needed to implement his recently announced four part program.

The International Trade Commission has recognized the injury caused by foreign steel imports to our domestic steel industry, and it has acted. The President also recognized this injury, and also acted. Now it is time for the Congress to act. I urge my colleagues to support H.R. 6301, the Steel Stabilization Act of 1984.

Mr. PEASE. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Arizona [Mr. UDALL].

Mr. UDALL. Mr. Chairman, today we focus on a troubled industry: steel. I know the serious problems in that area and I am going to stand by my brothers and sisters from steel country on this bill.

But I would like to say a word about another basic industry: copper. Copper in a high-tech industrial base is simply vital. It is not just another commodity. It is a strategic mineral.

Half of the copper in this Nation is produced in Arizona, most of it in the district of myself and Congressman MCNULTY. We made our case to the International Trade Commission and they unanimously found that in the case of copper there was clear dumping and relief was clearly deserved, although they could not agree on the details of the relief.

All we are asking here is not an amendment today, although I think we ought to be in this bill, I think copper is entitled to as much relief as steel, but we are asking that when the matter goes to conference that the amendment of the Senator from New Mexico, which is in the Senate bill, the Senate-approved bill, be approved by the House conferees.

We are down from 25,000 workers 2 years ago to something like 11,000. There are ghost towns in Arizona. There are communities and families broken up.

We need help and we think we are entitled to ask for help when we get to conference on this legislation.

Mr. MCNULTY. Will the gentleman yield?

Mr. UDALL. I yield to my colleague from Arizona.

Mr. MCNULTY. Does the gentleman agree with me that the case made by the International Trade Commission for the copper industry for the kind of relief provided by this bill is a more substantial case than even that for steel?

Mr. UDALL. At least as substantial and in my judgment more so.

Mr. MCNULTY. If the gentleman would yield further, would the gentleman agree with me that it is appropriate to express our disappointment that this body has thus far not been willing to contemplate an amendment to provide coverage of copper?

Mr. UDALL. I agree with the gentleman and I think we will continue to press our case.

Mr. MCNULTY. If I could ask one further question of the gentleman, if he will further yield, does the gentleman share my disappointment that the captains of the steel industry and the captains of the labor unions that represent the workers in that industry have not rallied more strongly to the cause of copper?

□ 1640

Mr. UDALL. I agree entirely. There is an irony here in that the copper-workers largely belong to the steelworkers' union. Yet, more efforts have been made to give relief to the steel industry than to copper.

Mr. COLEMAN of Texas. Mr. Chairman, will the gentleman yield?

Mr. UDALL. I yield to the gentleman from Texas.

Mr. COLEMAN of Texas. I thank the gentleman for yielding.

I just have one other statement to make, Mr. Chairman. I notice the gentleman from Utah pointed out the necessity in terms of our national defense to maintain a strong steel industry. Certainly the same holds true for copper.

Would the gentleman agree?

Mr. UDALL. It has long been known that copper is one of the most strategic materials for our defense stockpile. We fought that fight over the years, and I totally agree with the gentleman [Mr. COLEMAN].

Mr. CONABLE. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Youngstown, Ohio [Mr. WILLIAMS].

Mr. WILLIAMS of Ohio. Mr. Chairman, I rise in support of the bill, H.R. 6301, the Steel Import Stabilization Act.

With Congress just a short time away from adjournment, there are many pieces of legislation—many good pieces of legislation—that will not reach the floor due to the limits of time. Because of that, some problems which need to be solved through the legislative process will go unresolved—for now. But through this bill, we have the opportunity in this Congress to use the legislative process to help solve the problems faced by this country's steel industry and its steelworkers—working and not working.

The President 2 weeks ago today presented his program on import relief for the steel industry. We would be remiss if we did not do everything we can, given the limits of time, to ensure that real relief is provided. A program of trade agreements without enforcement authority is like entering into a contract with no penalty for violation.

Although we would like to rely on good faith, the realities of the marketplace—the depressed market for steel and the Third-World-debt situation—could cause that faith on the part of our trading partners to waiver. This bill provides enforcement authority. It also contains the sense of Congress that this authority is to be used to bring imports down to a level of 17 percent, closer to what we believe would be a market penetration by imported steel at fair levels. The provision of enforcement authority gives the steel industry the assurance it needs to reinvest in aging facilities—knowing that they'll have a chance of return on that investment through becoming more efficient and therefore

more competitive in the world marketplace, knowing that—for the 5 years for which the enforcement authority is provided—they won't be put out of business by unfairly dumped or subsidized foreign steel.

The provision of enforcement authority covers not only actions by our trading partners but actions by our steel companies, as well. The legislation provides that the enforcement authority shall be renewed by Congress only if the steel companies move to increase their international competitiveness through cost control, research and development, reinvestment, and modernization.

The legislation does not stop at reinvestment in facilities but extends to people as well. This bill responds to the people hurting the most from our steel situation—the steelworkers—too many of whom have been out of work and, with their families and communities—many of which I represent—have suffered severe economic dislocation. Whether enforcement authority shall be continued by Congress also depends on reinvestment in those people. Major steel companies with significant unemployment must devote one percent of their net cash flow to worker retraining. It also requires—I emphasize requires—the Secretary of Labor to come up with a plan that would assist workers in communities adversely affected by steel imports—communities such as I represent in the Youngstown-Warren area of Ohio—and that he come up with a plan that would provide for retraining of steelworkers who most likely will never go back to work in the mills. And while those steelworkers are being retrained, and while the steel industry is modernizing, trade adjustment assistance for both would be extended through 1987.

The bill also warns—through a sense of Congress—that if this program does not work Congress will take further legislative action to help resolve the problems of this country's steel industry, its steelworkers, and the communities in which they live. That is the aim of this bill, that is why I joined 20 of my colleagues in introducing it, and that is why I am urging my colleagues to cast their votes in favor of this critical piece of legislation.

Mr. PEASE. Mr. Chairman, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. COYNE].

Mr. COYNE. Mr. Chairman, I rise in support of the Steel Import Stabilization Act.

For those Members of this House who question the need for legislation of this sort, I would summarize the arguments in favor in one word: "Jobs."

Let us consider the question: Is the Pittsburgh area better off in terms of steel jobs than it was a few years ago? In 1979, steel-related employment in Pittsburgh accounted for 100,000 jobs. By 1982, that number had dropped to 61,700, a decrease of about 38 percent.

A key reason for the decline in the number of jobs in Pittsburgh and elsewhere is the increased amount of imported steel, which now accounts for about a quarter of this Nation's steel consumption.

Something has to be done. The recent initiative by the administration, while packaged well from a public-relations standpoint, misses the point.

It demands no real commitment to an effort by the steel industry to use gains made during a period of import relief toward productive investment and modernization in the steel industry itself. There is nothing in the President's initiative to preclude a steel corporation from investing profits accrued from trade restraints in the acquisition of an oil company.

The Steel Import Stabilization Act, building upon the administration's effort to secure bilateral agreements to limit steel imports, would require the principal beneficiaries of these agreements—the steel companies—to prove annually that substantially all related cash flow is reinvested in plant modernization and other competitive activities.

The bill we consider today, unlike the administration's initiative, provides real assistance to those steelworkers who have shouldered the burden of imports at the expense of their jobs. This bill extends the Trade Adjustment Assistance Act for 2 years. In addition, it requires major steel producers to earmark at least 1 percent of net cash flow to retraining assistance.

The administration's bill would target imported steel at 20 percent of the U.S. market. The Steel Import Stabilization Act would limit such imports to a more reasonable 17 percent.

We need swift action on this matter if we are to preserve American steel, our fourth largest industry. Steel is our most important industrial material, accounting for 90 percent of all metals we consume. In areas such as western Pennsylvania, it remains as a key employer. It is truly a national industry and, as such, deserves a national initiative such as this legislation to preserve its fiscal health.

I urge a yes vote on the Steel Import Stabilization Act.

Mr. PEASE. Mr. Chairman, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. WALGREN].

Mr. WALGREN. Mr. Chairman, I rise to urge support for H.R. 6301, an attempt to stabilize steel imports. I regret we are not doing more to reduce imports rather than stabilize them. But at least this legislation tries to do something.

Three weeks ago, the Pittsburgh headlines read: "Study Finds Pessimism Over Health of Local Economy." The survey showed that only 41 percent of the people in western Pennsylvania believed that the economy of our region will become better.

The administration claims to have led "the strongest economic expansion in 30 years." From Pittsburgh's viewpoint, we are still waiting for the "economic recovery." When unemployment was 10.8 percent in 1982 across the Nation—the highest since the Depression—unemployment was 16.5 percent in Pittsburgh. Today, with unemployment just over 8 percent nationally, it is still at 15 percent in Pittsburgh. The "economic optimism" that the President touts has passed us by.

The steel industry is basic to Pittsburgh's economic health; basic to our national defense; and basic to the Nation's industrial health. But that industry has hit rock bottom, operating at only 56 percent of capacity in 1983, and only 52 percent in recent weeks. Unemployment hovers around 30 percent.

The Steel Import Stabilization Act, is a small step I must emphasize. The step is small. Yet it is still a step. This bill would give the President the authority to implement agreements voluntarily restraining imports the President may be able to negotiate. I regret the President chose to pursue voluntary restraint instead of mandating quotas on unfairly traded imports that has been recommended by the International Trade Commission. I Support the bill before us today and commend the Ways and Means Committee for developing it. But all our experience tells us it is not enough.

In the last 15 years, imports have risen steadily from 17 percent in 1970, to 25 percent in 1982, and jumping to 32 percent in July 1984—an all-time high. Had imports in July been held to 15 percent, we could have saved 48,000 jobs. The tragedy of these imports is the tragedy felt by family after family in my area whose livelihoods depend on a vigorous steel industry.

The Steel Import Stabilization Act authorizes the President to enforce agreements on steel imports and urges him to reduce imports to the 17-percent level. It goes beyond the President's program in two commendable ways: First, it ties his authority to enforce restraint agreements to an annual determination that the industry has devoted substantially all of its net cash flow to modernization of steel mill plant and equipment; and second, it extends trade adjustment assistance for 2 additional years and requires companies with significant unemployment to devote at least 1 percent of their net cash flow to retraining unemployed workers. It also requires the U.S. Department of Labor to develop and propose a new program to assist steelworkers in retraining. These two features of this bill are not in the President's program but should be

fundamental to a sincere revitalization effort.

There are at least three steps that ought to be taken to truly bring back the steel industry. First is elimination of the Federal budget a deficit, a deficit that has ballooned from $27 billion in 1979 to $200 billion in 1984. The deficit is a sleeping giant hovering over our economy which has overvalued the U.S. dollar and literally subsidizes an unprecedented tide of imports. Because of the high value of the dollar, we now have the largest trade deficit in history: it has tripled since 1980, now reaching over $100 billion. A shift of $60 billion in the trade deficit translates into 2 million U.S. jobs. Until the President grapples with the Federal budget deficit and the trade deficit, the U.S. steel industry and the economies of areas like Pittsburgh will continue to decline.

Another step the President could take is to permanently establish a Steel Advisory Committee to develop a comprehensive, long-term, strategy at the Federal level. I have introduced H.R. 6140 to do that. Under my bill, the committee—taking the tripartite approach—would be a high-level council, composed of labor and management representatives, Federal representatives, outside experts, and local government representatives from steel communities. Only by a good coordination of Federal policies affecting the industry can we expect to revive the steel industry.

Finally, we need the fair trade in steel bill. This bill would limit steel imports at 15 percent. Everyone should note that the President had available under our current laws the ability to put real limits on imports, known as the 201 authority. Sadly, he declined to use it.

The bill before us today is only a partial solution, but it is something. I urge support for it.

Mr. PEASE. Mr. Chairman, I yield 1 minute to the gentleman from Pennsylvania [Mr. KOSTMAYER].

Mr. KOSTMAYER. I thank the gentleman.

I rise in strong support of this legislation, the Steel Import Stabilization Act, which has been endorsed by the House congressional steel caucus. This legislation is intended to strengthen the very limited help the administration extended the steel industry 2 weeks ago when it declined to impose quotas on imported steel, and instead simply agreed to try to negotiate voluntary accords with steel exporting countries.

In addition to the steel caucus, this bill is supported by every single other member of the Pennsylvania congressional delegation, Republican and Democrat alike. That I think is a very real indication of just how important tough import relief is to our State's economy, and how naive it is to think that the steel industry can rebound without first addressing the question of unfair steel imports.

I would have preferred that the Ways and Means Committee had brought to the floor today the Fair Trade in Steel Act, imposing a 5-year period of comprehensive, across-the-board quotas. As it is, the bill before us today grants the President the authority to rigorously enforce the voluntary agreements he has stated his administration will try to negotiate.

The problem with the administration's approach is that history shows we need a comprehensive, tough response to predatory steel pricing and dumping. The Trade Act currently on the books simply hasn't worked. When we seek to stop dumping of one product, an offending importer can simply shift production and shipments to any of a wide range of other products. This practice is well documented, and led the General Accounting Office to conclude that it is "highly improbable that U.S. industry is being adequately protected by the Trade Act."

While it is not as strong as I would like, the bill before us today does incorporate an important principle from the Fair Trade in Steel Act, and that is that it conditions annual renewal of the President's authority to enforce trade agreements on reinvestment by the steel companies in plant and equipment. The bill says, in essence, we will help stem imports, but only if the industry moves forward and modernizes, as well all acknowledge and it needs to do.

Specifically, the industry must: First, reinvest all of its net cash flow into modernization of plant and equipment, except for 1 percent of such sums which will be devoted to worker retraining; and second, take sufficient action to maintain its international competitiveness, including controls over costs and increased funding for R&D.

So this bill speaks to the future, to the futures of the working men and women in the steel industry. It says, we are not giving up on the steel industry. We think with a plan, combining import relief with aggressive reinvestment in modernizing our plants, we can turn the industry around and get people back to work.

Mr. Chairman, I think the administration missed an important opportunity to press forward with the notion of conditionality. That is, that in return for some limited relief from foreign imports, the American steel industry will revitalize itself. That was what the fair trade in steel bill would have done, and that is why this bill is needed. This is not as good but it is a step in the right direction.

In the first year of that legislation when we could reduce imports to 15 percent we would have generated $2.8 billion for modernization in the industry, we would have saved $700 million in unemployment compensation benefits, and generated $1.3 billion in new taxes for local, State, and Federal governments. This bill moves in the right direction. It does not go far enough. It is too much carrot and too little stick.

Unfortunately at this late date it is the best we can do, and I urge along with every other Pennsylvania Member, passage of this important bill.

Mr. CONABLE. Mr. Chairman, I yield 1 minute to the distinguished gentlemwoman from Nevada [Mrs. VUCANOVICH].

Mrs. VUCANOVICH. I thank the gentleman.

Mr. Chairman, if this bill passes I hope that the Domenici amendment to instruct the President to enter into negotiations with copper-producing countries will be considered favorably when this bill goes to conference.

World copper prices are at an all-time low. And our domestic copper industry is hanging on by a thread.

If something is not done we will not have a domestic industry.

The President's actions on steel have set a precedent for this approach and I think it is important for the copper industry that the Domenici amendment be retained in the conference committee.

Mr. Chairman, I yield back the balance of my time.

Mr. CONABLE. Mr. Chairman, may I inquire how much time the respective sides have remaining at this point?

The CHAIRMAN. The gentleman from New York [Mr. CONABLE] has 3½ minutes remaining; the gentleman from Ohio [Mr. PEASE] has 2½ minutes remaining.

Mr. CONABLE. Mr. Chairman, I yield the balance of my time to the distinguished gentleman from New York [Mr. KEMP].

The CHAIRMAN. The gentleman from New York is recognized for 3½ minutes.

Mr. KEMP. Mr. Chairman, I have been listening to the debate and listening over the years to the problems that exist in steel, and of course watching them firsthand from my own area of western New York. I was just now listening to the gentleman from Arizona [Mr. UDALL], and the gentlewoman from Nevada [Mrs. VUCANOVICH] about copper industry and I think it is safe to say there is not an area in the country that is not in some way hurt by imports of one sort or another. I'd like to discuss what I believe to be the real culprit however.

Commodity prices, not just copper but commodity prices across the board, have dropped 25 percent in the last 6 months and interest rates went up, why? Because of monetary policy being too restrictive.

Now let me just say on behalf of an issue that won't get discussed today but at least I can broach the subject by suggesting that it is incredibly important that this Federal Reserve Bank liquidity crisis in the world be brought to an end so that growth can replace austerity and interest rates can come down and we can compete again internationally.

The dollar is not competitive against foreign currencies because interest rates have been raised artificially higher and are causing such a shortage of dollars that commodity prices across the board are dropping and the dollar rising have caused American products to be less competitive and forced bankruptcies. We are subsidizing imports and punishing our exports thus hurting our industry, losing jobs and unnecessarily punishing our economy.

What the steel industry needs is the same thing that the copper industry needs and every other industry needs, a booming economy in the United States and a strong recovery in the world. And you are not going to get a recovery in the world under the current conditions in which interest rates in the United States are nearly four times higher than the rate of inflation and our central bank is overly restrictive and causing the demand for dollars to exceed the supply.

Right now our central bank has raised the short-term Fed funds rates from 10½ to over 11½ on the premise that out there somewhere is inflation lurking. I do not know if anyone can see it other than Paul Volcker, but if you look at the markets, if you look at commodity futures, if you look at gold and the traditional harbingers of inflation, they are not signaling inflation and a need for tighter money and higher interest rates. On the contrary the markets are signaling deflation and, indeed, a requirement to ease and let interest rates come down which would bring the dollar into a more competitive position vis-a-vis other strong currencies in the world.

Mr. Chairman, we desperately need restoration of an international monetary agreement in which there are more stable exchange rates in which the value of our dollar can be stabilized, in which our interest rates can come down, and in which trade can be liberalized. What steel needs as I said before is single-digit interest rates, a booming United States and world economy and tax laws that encourage capital investment and help reduce the cost of producing steel in the United States.

It needs an auto industry selling 10 million domestic units instead of an automobile industry selling 6 or 7 million units.

It needs a housing industry at 2.2 million new starts per year instead of a housing industry at 1.7 a year.

You get a boom in housing, and in autos and in the world economy and you will find that the demand for copper and steel and other related industries will be rising commensurately. As I said, it requires that we take steps to change our tax laws. We need lower rates of taxation on capital and labor. We need to make American labor more competitive against foreign labor, not by cutting wages but by cutting tax rates. Foreign producers can get a dollar of income to the worker at lower cost to the employer because, in part, tax rates are much lower.

I say that I can understand why Member after Member stands up and defends his or her home industry. But, Mr. Chairman, there is no place in recorded history in which measures taken to interfere with trade have actually helped a national economy. What this world needs is a rapid growth in the U.S. economy and a boom in the world economy. Protectionist measures only hurt the consumers, the poor, and the Nation's overall economy.

Let me ask the question: How is the Third World and the developed industrial world ever going to pay back their debt if they cannot trade with the United States? It happened in the thirties that nations went bankrupt; we should not let happen in the eighties. I ask the Members to please give some consideration to the long-range need to liberalize trade, bring down interest rates, modernize the world monetary system and change our tax laws to encourage capital formation and create jobs.

Imagine for a moment if tax rates were lower and interest rates were 6 or 7 percent the impact on our steel, auto, and housing industry. We took steps in the early 1960's under President Kennedy along these lines and we had full employment and no inflation. That should be our goal—we can do it again—we must do it again, for all our people.

□ 1650

Mr. ROSTENKOWSKI. Mr. Chairman, I yield the remainder of my time to the gentleman from Pennsylvania [Mr. KOLTER].

Mr. KOLTER. Mr. Chairman, today I rise in support of the Steel Import Stabilization Act introduced by my colleague from Illinois.

In light of recent developments on the steel issue, this bill, H.R. 6301, represents the best legislative vehicle for providing meaningful import relief to the domestic steel industry during these final days of the 98th Congress.

The No. 1 issue back home in my district in western Pennsylvania is jobs. The steel industry has been suffering from imports for the past several years. Thousands of steel workers have been laid-off. Sadly, most will never return to their former jobs. When I was elected to Congress in November 1982, many of those hardworking Americans were on the verge of losing their homes and all they had worked for. In some instances, families were breaking up because neither spouse could provide enough for their family. Ultimately, the children suffered the most.

Three critical elements of this bill offer a ray of hope for the domestic steel industry and its talented employees.

First and foremost, this bill gives congressional authority to the President to enforce any bilateral agreement regarding imported steel products into the United States established as a part of the steel program announced on September 18, 1984. This bill urges the administration to achieve a 17 percent import penetration-level upon full implementation of the program. Limiting imports means we can control the damage being done to the domestic steel industry.

According to a Congressional Research Service report entitled: "Steel Import Limits: Estimated Import Reductions Under Three Alternative Proposals," steel imports would decline under both the President's decision and H.R. 6301.

The key factor I want to point out is that a far greater reduction in imports could be achieved by enactment of this bill. The CRS study finds that under the President's decision, should it achieve its goals, steel imports could be reduced to a level of 19.70 million tons, a drop of about 1.20 million tons. Under the Steel Import Stabilization Act, with its 17 percent market share target, steel imports would drop by about 4 million tons.

With respect to jobs, the President's decision could mean that about 3,500 jobs might be saved, while under H.R. 6301, an estimated 11,000 steel jobs would be preserved.

Second, this measure establishes conditionality for import relief. Steel makers must reinvest net cash flow from steel operations into new equipment and modernization. These dollars are vital if the domestic industry is to survive in a rapidly changing world. Nearly everyone in the industry acknowledges that in order to survive, a steelmaker must use continuous casting. Yet in 1983, only 31 percent of this Nation's steel was continuously cast. During the same year, 60.4 percent of the European Economic Community's steel, and 86.3 percent of Japan's steel output was continuously cast. That is quite a difference.

The U.S. steel industry needs the time and the capital to continue making itself world class. Linking import relief to investment establishes a set of checks and balances, and a signal to the industry and the financial markets that the Congress will not

turn its back on one of this Nation's most important industries during its period of crisis.

Finally, this measure provides help for those former steelworkers in dire need of job retraining. This bill reauthorizes the Trade Readjustment Assistance Program through 1987. It also directs steelmakers experiencing significant unemployment to devote 1 percent of net cash flow from steel operations to worker retraining. These two provisions address the critical question that we must answer in the coming years. How can we help the displaced worker?

While trade adjustment assistance might not be the best program, it is one important alternative for those seeking an opportunity to help themselves. Just last week, one of my constituents who was laid-off from a specialty pipe and tube producer began retraining for a new future in the electronics field. This would have never been possible without TRA funds.

Mr. Chairman, the steel industry has fought a long hard battle here in Washington. It serves the interests of no one to try and place blame on management, or labor, or Government. The domestic steel industry needs our help. We would be remiss if we failed to pass the best remaining alternative.

● Mr. NOWAK. Mr. Chairman, this afternoon we are considering H.R. 6301, the Steel Import Stabilization Act, a measure designed to put some teeth into the administration's recently announced national steel policy.

Current statistics indicate a horrible injustice being dealt American steelworkers and their families and to the American steel industry by illegally dumped and subsidized foreign steel. In the first 8 months of 1984, foreign imports swelled to 17.63 million tons, a 73-percent increase over the same period in 1983, capturing more than 25 percent of our market.

When the President announced his national steel policy on September 18, 1984, he reaffirmed the ITC's June 1984 ruling that imports are a substantial cause of serious injury to the domestic steel industry. I agreed with the President's rejection of the ITC's remedy recommendations, but also found the President's steel policy falling significantly short of the comprehensive and broad-based relief program needed to stem the tide of steel imports into this country.

As a member of the executive committee of the Congressional Steel Caucus since it was founded, I have been a cosponsor of legislation—Fair Trade in Steel Act—first introduced in 1982, which would have established across-the-board import quotas on all carbon steel products for up to 5 years. However, because of the administration's opposition and mixed views in congress on mandating quotas, this legislation has been stymied in congressional committees.

In light of dissatisfaction with the President's relief program, I joined other members of the Congressional Steel Caucus in urging the House Ways and Means Committee to continue to pursue additional legislative relief during this Congress.

As a result, H.R. 6301, a compromise bill, was developed and introduced, with my support, strengthening the President's proposals. This legislation not only grants the President the authority to enforce all export restraint agreements, but ties that enforcement to the annual determination that the industry is reinvesting essentially all of its net cash flow back into plant and equipment modernization. This compromise legislation also extends the present Trade Adjustment Assistance Program authorization for an additional 2 years, as well as directing the development of new assistance and retraining programs for dislocated workers.

While I still believe mandated quotas would provide the steel industry with a more guaranteed period of relief, this compromise (H.R. 6301), demanding cooperation from the Government, the industry, and unions alike, provides more meaningful relief to the industry and its workers than the President's program standing alone.

Therefore, I urge my colleagues to take a positive step toward revitalizing our Nation's steel industry by voting for H.R. 6301.●

● Mr. BONKER. Mr. Chairman, I rise today to reluctantly support H.R. 6301, the Steel Import Stabilization Act. I am reluctant because I oppose legislative attempts, however sugarcoated, to establish import quotas.

Over the past two decades we have developed, in cooperation with our trading partners, an elaborate and comprehensive administrative system of providing import relief to U.S. industries. While this system is not perfect and needs reform, it must continue to serve as the basis of import restrictions. If Congress begins enacting quotas by legislative fiat, whether its for steel, autos, textiles, or footware, the legal and administrative system we have nourished will collapse. Every industry seeking protection will circumvent our trade remedy laws by coming directly to Congress, where political considerations will more often than not outweigh the best interests of the U.S. economy.

The sections of this bill that direct the President to limit steel imports to 17 percent of the U.S. market and threaten legislated quotas if he does not, are objectionable and I oppose them. Fortunately, however, these provisions have no immediate or mandatory effect. Moreover, the President has already established his intention to reduce steel imports to approximately 18.5 percent of the U.S. market, so these sections do not materially alter the existing policy of this Government.

As I stated at the outset, I do support this bill, even with the reservations just noted. I support Chairman ROSTENKOWSKI's bill because it rectifies what I believe to be significant defects in the President's steel import program. The President has promised substantial protection for the U.S. steel industry, but has asked for nothing in return. This bill would make import protection conditional on annual determinations by the President that the steel industry is investing all of its profits in the modernization of its steelmaking capabilities. Furthermore, H.R. 6023 ensures the continuation of Trade Adjustment Assistance and expands worker assistance and retraining programs for displaced steelworkers. The President's proposal offers no such assistance.

I urge my colleagues to vote for the committee bill.●

● Mr. MILLER of California. Mr. Chairman, I would like to express my support for the Steel Import Stabilization Act. I am particularly encouraged by the emphasis this legislation places on modernizing the Nation's steel facilities and investing in the men and women who make up the work force in that industry.

The American steel industry's decline in the last few years is well known. Domestic production in 1982 and 1983 has fallen to lower levels than at any time since the 1940's. The steel industry has nearly drowned in red ink as failing profitability creates a climate for mergers, shutdowns, and layoffs.

There has been a tragic, human side to the deterioration of the steel industry. A 60-percent decline in employment between 1979 and 1983 has meant the loss of 200,000 jobs in the industry. In my home district of Contra Costa County, CA, nearly half the jobs in steel have been lost since the beginning of this decade.

There are many reasons for this decline. Consumption of domestic steel products has flattened over the last several years due to structural changes in the economy and a strong dollar. And while domestic consumption has declined, foreign consumption and production has risen, especially in developing countries.

In addition, our domestic industry has been slow in modernizing its facilities and plants. These conditions have been greatly worsened by unparalleled levels of foreign steel imports, much of it underwritten by foreign government subsidization, which has reduced demand for domestically produced steel.

The legislation before us today takes the important step of empowering the President to enforce voluntary trade restraint agreements with foreign steel competitors. This authority will enable the President to negotiate lower, more equitable import levels.

But this legislation does not merely impose trade barriers and allow our domestic industry to forestall much needed modernization of its facilities. H.R. 6301 conditions import restraints on modernization and the retraining of workers displaced by the reconstruction of the steel industry. I am pleased to have worked with members of the Ways and Means Committee on these provisions because they are essential to assure that the profits of fair trade are well spent.

Under the Steel Import Stabilization Act, major steel companies will be required to spend substantially all their net cash flow from steel operations on investment in new plants and equipment, modernization of existing facilities and research and development.

Steel companies which have suffered or which anticipate significant unemployment also will be required to spend 1 percent of their net cash profits for worker retraining. Funds for worker retraining will be available to equip steelworkers with the skills needed to work either at steel jobs demanding new skills or in jobs of comparable worth outside the steel industry.

Worker retraining must be a component of this legislation. It is not enough to have a healthy industry if the men and women whose labor built and sustained the industry are cast aside without resources. "Modernization" cannot be interpreted as a license to displace thousands of workers, throwing them out of work and onto public assistance without any effort at teaching them new skills or finding them new jobs.

We believe that retraining is a legitimate responsibility of the private sector which will profit from the imposition of trade restrictions. Our national economy would not be entirely well served if, as a result of import restrictions, we have a healthy industry, but also tens of thousands of unemployed and underskilled steelworkers.

This legislation strikes a needed balance: It gives the industry the time and the resources to modernize, and it gives thousands of jobless steelworkers, who may never go back to the mills, an opportunity to learn new skills and to qualify for new jobs.

I urge my colleagues to support this important legislation.●

● Mr. DASCHLE. Mr. Chairman, I am, basically, committed to a free and fair trade philosophy, which holds that all countries, our own included, are benefited by the reduction of all trade barriers.

However, there are specific cases in which it becomes clear that a straightforward free trade philosophy will not work. It's like the old joke about the school that instituted the honor system for its students. It had to be abandoned soon afterwards, however, when it was determined that the teachers had the honor, but the students had the system. The same might be said of our position with the steel industry, especially as it regards our import policy. We have been trying as hard as we know how to maintain an open and fair system of steel trade. Our trading partners, however, have made the determination that they would rather resort to highly questionable, if not illegal, export subsidies for their steel products, and dump them at below the cost of production on the American market.

This subsidization and dumping is not some figment of the imagination of the steel industry. The administration's trade overseer, the International Trade Commission has made a strong finding that such illegal dumping activities are indeed going on, and made an equally strong recommendation that countervailing duties be placed on this illegally subsidized and dumped steel.

Though the President did not impose such duties, he has recently stated that, as an alternative, he would negotiate voluntary limitations on steel imports, in much the same way that such voluntary quotas have been negotiated on the importation of Japanese cars. Frankly, I far prefer these voluntary agreements to statutorily imposed ones. However, I am not so naive as to believe that, in these upcoming negotiations, our trading partners are going to be all that eager to agree to restrictions on their dumping practices.

This is why I support the legislaton before us today. While I may not agree with all of the particulars of the legislation, it is my strong feeling that we need to send to our trading partners a clear message that we are strongly in support of the President's attempt to prevent, or at least mitigate, these unfair trading practices. We need to give to our negotiators a position of strength to deal from, to enable them to say to their counterparts that, yes, we are dead serious in our insistence that they stop these inequitable practices, and that, if they do not agree to voluntarily restrain themselves, they will be facing even harsher restrictions, statutory in nature, to force them into fair practices.

It is my sincere hope that such statutory restrictions do not become necessary. But we do not live in a perfect world, and we need to make clear to our trading partners that if they do not agree to stop their illegal practices, we will stop them for them. That is why I support this legislation, and urge my colleagues to do likewise.●

The CHAIRMAN. All time has expired.

Pursuant to the rule, the bill is considered as having been read for amendment under the 5-minute rule. No amendments are in order except the amendments recommended by the Committee on Ways and Means now printed in the bill, which shall be considered en bloc, and considered as having been read, but shall not be subject to amendment.

The text of the bill is as follows:

H.R. 6301

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Steel Import Stabilization Act".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) the United States steel industry has a serious need to modernize its plant and equipment in order to enhance its international competitiveness, and needs increased capital investments to effect that modernization;

(2) the ability of the domestic steel industry to be internationally competitive is, and has been, impeded by the effects of the enormous Federal budget deficit, an overhauled dollar, and increasing trade deficits, as well as serious injure due to imports of, and subsidies, dumping, and the use of other unfair and restrictive foreign trade practices regarding, carbon and steel ally products;

(3) the extensiveness of the unfair trade practices engaged in the international market regarding such products imposes unusually harsh burdens on the United States steel industry in combating those practices through the trade remedy laws;

(4) expeditious and effective action under the President's national policy for the steel industry, including more vigorous efforts by the executive branch to self-initiate and pursue remedies against those practices, is needed to eliminate the adverse effects of those unfair trade practices;

(5) import relief should not be granted to the steel industry unles it is tied to a firm commitment by that industry to engage in serious and substantial modernization during the period of relief; and

(6) full and effective implementation of the national policy for the steel industry will substantially improve the economy and employment in both the steel and iron ore-producing sectors.

(b) PURPOSES.—The purposes of this Act are—

(1) to supplement the authority of the President to achieve the goals of the national policy for the steel industry by granting enforcement powers regarding those bilateral arrangements that are entered into or undertaken for purposes of implementing that national policy; and

(2) to make the continuation of those powers subject to the condition that the steel industry undertake a comprehensive modernization of its plant and equipment.

SEC. 3. SENSE OF CONGRESS REGARDING THE NATIONAL POLICY FOR THE STEEL INDUSTRY.

It is the sense of the Congress that—

(1) the President should, in conjunction with the authority granted under this Act, implement the national policy for the steel industry in such a manner as to restore the foreign share of the United States market for carbon and alloy steel products to a level commensurate with that which would obtain under conditions of fair, unsubsidized competition in that market, which level should, when that policy is fully implemented, result in a foreign share of the domestic market approximating 17 percent, subject to such modifications that changes in market conditions and the composition of the steel industry may require;

(2) the national policy for the steel industry should not be implemented in a manner contrary to the anti-trust laws; and

(3) if the national policy for the steel industry does not produce satisfactory results within a reasonable period of time, the Congress will consider taking such legislative actions concerning steel and iron ore products as may be necessary or appropriate to stabilize conditions in the domestic market for such products.

SEC. 4. DEFINITIONS.

As used in this Act—

(1) The term "bilateral arrangement" means any arrangement, agreement, or understanding (including, but not limited to, any surge control understanding or suspension agreement) entered into or undertaken by the United States and any foreign country or customs union containing such quantitative limitations or other restrictions on the importation into, or exportation to, the United States of categories of carbon and steel alloy products as may be necessary to implement the national policy for the steel industry.

(2) The term "carbon and alloy steel products" means articles of the kinds subject to the investigation of the United States International Trade Commission numbered TA-201-51, and fabricated structural steel articles provided for under items 652.97 and 653.00 of the Tariff Schedules of the United States (19 U.S.C. 1202, as in effect on the effective date of this Act).

(3) The term "national policy for the steel industry" means those actions and elements described in Executive Communication 4046, dated September 18, 1984 (printed as House Document 98-263).

(4) The term "steel industry" means producers in the United States of carbon and alloy steel products.

SEC. 5. ENFORCEMENT AUTHORITY.

(a) IN GENERAL.—Subject to subsection (b) and section 6, the President is authorized to carry out such actions as may be necessary or appropriate to enforce the quantitative limitations and restrictions contained in each bilateral arrangement or other export measure required by a foreign government or customs union. Such actions may include, but are not limited to, requirements that valid export licenses or other documentation issued by a foreign government be presented as a condition for the entry into the United States for carbon and alloy steel products.

(b) CRITERIA.—In applying the authority provided for under subsection (a), the President shall, to the extent practicable, cover all categories of carbon and steel alloy products, avoid distortions among those categories, and include all exporting countries and customs unions from which surges in exports of those products to the United States are being, or have been, experienced.

SEC. 6. EFFECTIVE PERIOD OF ACT.

(a) IN GENERAL.—Section 5 shall terminate—

(1) at the close of the fifth anniversary of the effective date of this Act; or

(2) at the close of the first, second, third, or fourth anniversary of the effective date of this Act, unless the President, before each such anniversary, submits to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate (in writing and together with the reasons therefore) an affirmative annual determination described in subsection (b).

(b) AFFIRMATIVE ANNUAL DETERMINATION.—(1) An affirmative annual determination is a determination by the President that the steel industry, taken as a whole, has, during the 12-month period ending at the close of an anniversary referred to in subsection (a)(2)—

(A) invested substantially all of its net cash flow from carbon and alloy steel product operations for purposes of reinvestment in, and modernization of, that industry through investment in modern plant and equipment, research and development, and other appropriate projects; and

(B) taken sufficient action to maintain its international competitiveness, including action to restrain and discipline pricing policies and to control costs of production.

(2) The President may not consider paragraph (1)(A) as being complied with unless the President finds that—

(A) each major company with significant reinvestment or modernization needs has committed all of its net cash flow (except that required to be committed to retraining under subparagraph (B)) from carbon and alloy steel product operations during the applicable 12-month period to meet those needs; and

(B) each major company that has, or reasonably anticipates, significant unemployment in carbon and alloy steel product operations has committed for the applicable 12-month period not less than 1 percent of such net cash flow to the retraining of workers, including former workers who were laid off from such operations at any time since January 1, 1982.

(3) For purposes of this subsection—

(A) The term "major company" means an enterprise whose raw steel production in the United States during 1983 exceeded 1,500,000 net tons.

(B) The term "net cash flow" means annual net (after tax) income plus depreciation, depletion allowances, amortization, and changes in reserves minus dividends.

(4) For purposes of carrying out this subsection, the President shall take into account such information as may be available from the United States International Trade Commission and other appropriate sources relating to the modernization efforts of the steel industry.

SEC. 7. DEPARTMENT OF LABOR WORKER ASSISTANCE PLAN.

Within 6 months after the effective date of this Act, the Secretary of Labor shall prepare (in consultation with the Steel Advisory Committee established on November 3, 1983, by the Secretary of Commerce and the Secretary of Labor (48 F.R. 51165)) and submit to the Congress a proposed plan of action for assisting workers in communities that are adversely affected by imports of carbon and alloy steel products; which assistance shall include retraining and relocation for former workers in the steel industry who will likely be unable to return to employment in that industry. The plan required under this section shall be based upon existing authorities for providing such assistance, but shall be accompanied by such recommendations for additional statutory authority as the Secretary of Labor considers necessary to carry out the purposes of the plan.

SEC. 8. EXTENSION OF ADJUSTMENT ASSISTANCE FOR WORKERS AND FIRMS.

Sections 245 and 285 of the Trade Act of 1974 (19 U.S.C. 2317 and the note preceding 2271) are each amended by striking out "1985" and inserting in lieu thereof "1987".

SEC. 9. EFFECTIVE DATE.

This Act shall take effect on October 1, 1984.

COMMITTEE AMENDMENTS

The CHAIRMAN. The Clerk will designate the committee amendments.

The committee amendments are as follows:

Committee amendments: Page 2, lines 19 and 20, strike the word, "steel", after the word, "and", and insert the word, "steel", after the word, "alloy".

Page 5, line 8, after the word, "undertaken", add a comma and the words, "or previously entered into or undertaken,".

Page 6, line 9, after the word, "restrictions", insert: "(including export measures required by a foreign government or customs union)".

Page 6, lines 11 and 12, after the word, "arrangment", in line 11, strike: "or other export measure required by a foreign government or cutoms union".

Page 7, line 16, after "(A)", strike "invested" and insert "committed".

The CHAIRMAN. The Chair recognizes the gentleman from Illionis [Mr. ROSTENKOWSKI] in support of the committee amendments.

Mr. ROSTENKOWSKI. Mr. Chairman, the amendments that are being considered are technical in nature, and I ask for their adoption.

The CHAIRMAN. The question is on the committee amendments considered en bloc.

The committee amendments were agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose, and the Speaker pro tempore [Mr. MURTHA] having assumed the chair [Mr. REID] Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 6301) to provide authority for enforcing arrangements restricting the importation of carbon and alloy steel products into the United States that are entered into for purposes of implementing the President's national policy for the steel industry, and for other purposes, pursuant to House Resolution 596, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

The question is on the amendments.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. CONABLE

Mr. CONABLE. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. CONABLE. Intractably, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. CONABLE moves to recommit the bill, H.R. 6301, to the Committee on Ways and Means.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The motion to recommit was rejected.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. LAFALCE. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 285, nays 134, not voting 13, as follows:

[Roll No. 438]

YEAS—285

Ackerman	Brown (CA)	Dymally
Addabbo	Broyhill	Dyson
Akaka	Bryant	Early
Albosta	Burton (CA)	Eckart
Alexander	Burton (IN)	Edgar
Anderson	Byron	Edwards (AL)
Andrews (NC)	Carper	Edwards (CA)
Andrews (TX)	Carr	Erdreich
Annunzio	Chappell	Evans (IL)
Applegate	Clay	Fascell
Aspin	Clinger	Fazio
AuCoin	Coelho	Feighan
Barnard	Collins	Fields
Barnes	Conte	Fish
Bartlett	Conyers	Flippo
Bates	Cooper	Florio
Bevill	Coughlin	Foglietta
Biaggi	Coyne	Ford (MI)
Bilirakis	Crockett	Ford (TN)
Boehlert	D'Amours	Fowler
Boggs	Darden	Frank
Boland	Daschle	Frost
Boner	de la Garza	Fuqua
Bonior	Dellums	Garcia
Bonker	DeWine	Gaydos
Borski	Dicks	Gejdenson
Bosco	Dingell	Gekas
Boucher	Dixon	Gephardt
Boxer	Donnelly	Gilman
Breaux	Dowdy	Gonzalez
Britt	Downey	Goodling
Brooks	Durbin	Gore
Broomfield	Dwyer	Gramm
Gray	Marriott	Sabo
Guarini	Martin (IL)	Savage
Gunderson	Martinez	Sawyer
Hall (IN)	Matsui	Scheuer
Hall (OH)	Mavroules	Schneider
Hall, Ralph	McCain	Schulze
Hall, Sam	McCloskey	Schumer
Hamilton	McDade	Seiberling
Hance	McEwen	Sensenbrenner
Hansen (UT)	McKernan	Sharp
Harrison	McKinney	Shelby
Hatcher	McNulty	Shuster
Hawkins	Mikulski	Sikorski
Hayes	Miller (CA)	Sisisky
Hefner	Miller (OH)	Skelton
Heftel	Mineta	Smith (FL)
Hertel	Mitchell	Smith (NJ)
Hightower	Moakley	Snowe
Hillis	Mollohan	Snyder
Holt	Montgomery	Solarz
Hopkins	Moody	Solomon
Horton	Morrison (CT)	Spratt
Howard	Mrazek	St Germain
Hoyer	Murphy	Staggers
Hubbard	Murtha	Stark
Hughes	Myers	Stokes
Hunter	Natcher	Stratton
Ireland	Nichols	Studds
Jacobs	Nielson	Swift
Jenkins	Nowak	Synar
Johnson	O'Brien	Tallon
Jones (NC)	Oakar	Tauzin
Jones (OK)	Oberstar	Thomas (GA)
Jones (TN)	Obey	Torres
Kaptur	Ortiz	Torricelli
Kasich	Owens	Towns
Kastenmeier	Patman	Traxler
Kazen	Patterson	Udall
Kennelly	Pease	Vander Jagt
Kildee	Pepper	Vandergriff
Kleczka	Pickle	Vento
Kogovsek	Price	Volkmer
Kolter	Pursell	Walgren
Kostmayer	Quillen	Walker
LaFalce	Rahall	Watkins
Lantos	Rangel	Weaver
Lehman (CA)	Ratchford	Weiss
Lehman (FL)	Regula	Wheat
Leland	Reid	Whitley
Lent	Richardson	Whitten
Levin	Ridge	Williams (MT)
Levitas	Rinaldo	Williams (OH)
Lipinski	Ritter	Wilson
Lloyd	Rodino	Wirth
Loeffler	Roe	Wise
Long (LA)	Rogers	Wolpe
Long (MD)	Rose	Wright
Lowry (WA)	Rostenkowski	Wylie
Luken	Roth	Yates
Lundine	Rowland	Yatron
Madigan	Roybal	Young (FL)
Markey	Russo	Young (MO)

NAYS—134

Anthony	Dreier	Levine
Archer	Duncan	Lewis (CA)
Badham	Edwards (OK)	Lewis (FL)
Bateman	Emerson	Livingston
Bedell	English	Lott
Beilenson	Evans (IA)	Lowery (CA)
Bennett	Fiedler	Lujan
Bereuter	Foley	Lungren
Berman	Franklin	Mack
Bethune	Frenzel	MacKay
Bliley	Gingrich	Marlenee
Brown (CO)	Glickman	Martin (NY)
Campbell	Gradison	Mazzoli
Carney	Green	McCandless
Chandler	Gregg	McCollum
Chappie	Hammerschmidt	McCurdy
Clarke	Hansen (ID)	McHugh
Coats	Harkin	Mica
Coleman (MO)	Hartnett	Michel
Conable	Hiler	Molinari
Corcoran	Huckaby	Moore
Courter	Hutto	Moorhead
Craig	Hyde	Morrison (WA)
Crane, Daniel	Jeffords	Neal
Crane, Philip	Kemp	Nelson
Daniel	Kindness	Olin
Dannemeyer	Kramer	Oxley
Daub	Lagomarsino	Packard
Derrick	Latta	Panetta
Dickinson	Leach	Parris
Dorgan	Leath	Pashayan
Paul	Siljander	Thomas (CA)
Penny	Skeen	Valentine
Petri	Slattery	Vucanovich
Porter	Smith (IA)	Waxman
Pritchard	Smith (NE)	Weber
Ray	Smith, Denny	Whitehurst
Roberts	Smith, Robert	Whittaker
Robinson	Spence	Winn
Roemer	Stangeland	Wolf
Roukema	Stenholm	Wortley
Schaefer	Stump	Wyden
Schroeder	Sundquist	Young (AK)
Shaw	Tauke	Zschau
Shumway	Taylor	

NOT VOTING—13

Cheney	Gibbons	Rudd
Coleman (TX)	Martin (NC)	Shannon
Davis	McGrath	Simon
Erlenborn	Minish	
Ferraro	Ottinger	

□ 1710

Messrs. SHAW, LUJAN, and CAMPBELL changed their votes from "yea" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERMISSION TO INCLUDE IN THE RECORD EXTRANEOUS MATERIAL RELATING TO H.R. 3150, LAND EXCHANGE BETWEEN THE UNITED STATES AND THE SABINE RIVER AUTHORITY

Mr. DE LA GARZA. Mr. Speaker, yesterday the House, under suspension of the rules, passed H.R. 3150, as amended, a bill providing for certain land exchanges and related transactions involving the Forest Service of the U.S. Department of Agriculture and the Sabine River Authorities of Texas and Louisiana, which operate the Toledo Bend project on the Sabine River. The bill as passed contained an amendment to the bill as ordered reported by the Committee on Agriculture that was developed with the consultation and cooperation of the Committee on Energy and Commerce. I ask unanimous consent to include in the RECORD extraneous material consisting of the report on the bill H.R. 3150 that would have been filed by the Committee on Agriculture. The report relates to the bill as it appeared prior to the amendment to which I have referred.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. JEFFORDS. Mr. Speaker, reserving the right to object, it is impossible to hear on this side as to just what the request was, and I would ask the gentleman from Texas to please state what he has asked. Members over here cannot hear.

I yield to the gentleman from Texas.

Mr. DE LA GARZA. Mr. Speaker, I would inform the gentleman that this is the report on the bill, H.R. 3150, that would have been filed prior to the passage of the bill.

Due to the fact that we reached agreement on an amendment immediately prior to the consideration of the bill, I am now asking unanimous consent to file the report on the bill with the bill, as passed.

Mr. JEFFORDS. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The extraneous material referred to is as follows:

H.R. 3150

The amendments are as follows:

Strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. Not later than one hundred and eighty days after the date of enactment of this Act, the Secretary of Agriculture shall convey, in exchange for the land and other consideration specified in section 2, to the Sabine River Authority of Texas lands owned by the United States in the Sabine National Forest in and adjacent to the Toledo Bend Reservoir, located in Louisiana and Texas, as generally depicted on a map dated August 1984 on file in the office of the Chief, Forest Service, United States Department of Agriculture, as follows:

(a) approximately thirty-one thousand acres of such lands which are inundated and below an elevation of one hundred and seventy-two feet mean sea level;

(b) that portion of Recreational Site No. 5 consisting of approximately eleven acres of such lands, not subject to inundation, which are heavily developed for recreational use and lie above one hundred and seventy-five feet mean sea level; and

(c) approximately one hundred and seven acres of such lands in the flood plain which are at an elevation of one hundred and seventy-two feet mean sea level or higher but not higher than one hundred and seventy-five feet mean sea level and which after the conveyance of lands described in clauses (a) and (b) of this section would no longer be immediately adjacent to land owned by the United States in the Sabine National Forest.

SEC. 2. In exchange for the conveyance of those lands described in section 1, the Sabine River Authority of Texas shall (a) convey, by quit claim deed, to the United States those lands in the flood plain comprising approximately five hundred and eighty-six acres as generally depicted on a map dated August 1984 on file in the office of the Chief, Forest Service, United States Department of Agriculture, which are at an elevation of one hundred and seventy-two feet mean sea level or higher but not higher than one hundred and seventy-five feet mean sea level and which lie on the shoreline of the Toledo Bend Reservoir and are immediately adjacent to land owned by the United States in the Sabine National Forest and (b) deposit with the Secretary the sum of $650,000.

SEC. 3. In the deed of exchange for the lands described in section 1, the Secretary of Agriculture shall convey all right, title and interest to such lands except that the Secretary shall reserve for the United States any subsurface rights that it owns, including, but not limited to, oil and gas, and shall provide that title in the lands described in section 1(a) shall revest in the United States upon failure by the Sabine River Authority of Texas to use the lands for project purposes. Any lands so revested in the United States shall be included in and shall resume their previous status as National Forest System lands.

SEC. 4. Upon completion of the conveyances described in sections 1 and 2, the Sabine River Authority of Texas and the Sabine River Authority of Louisiana shall be exempt from Federal land-use fees and administration charges referred to in the license for the project numbered 2305 issued by the Federal Energy Regulatory Commission or any renewal or extension thereof.

SEC. 5. The exchange provided for under this Act shall be considered an exchange under the Act of December 4, 1967, as amended (16 U.S.C. 484a), notwithstanding the acreages involved, and the sums deposited with the Secretary of Agriculture under section 2 shall be handled in the same manner as sums deposited with the Secretary under that Act.

Amend the title so as to read: "A bill to direct the Secretary of Agriculture to convey, for certain specified consideration, to the Sabine River Authority approximately thirty-one thousand acres of land within the Sabine National Forest to be used for the purposes of the Toledo Bend project, Louisiana and Texas; and for other purposes.".

BRIEF EXPLANATION

H.R. 3150, as ordered reported by the Committee on Agriculture, would—

(1) direct the Secretary of Agriculture to convey to the Sabine River Authority approximately 31,000 acres of land inundated by the Toledo Bend Reservoir, and a total of approximately 118 acres of other land owned by the United States adjacent to the reservoir;

(2) retain in the United States any subsurface rights it now owns in the lands to be conveyed to the Authority;

(3) provide that the lands conveyed to the Authority would revert to the United States if the Authority puts them to use other than for purposes of the Toledo Bend Project;

(4) direct the Authority, in exchange for the conveyance of lands described above, to convey to the United States approximately 586 acres of land at the shoreline of the reservoir and adjacent to national forest lands and to pay the United States the sum of $650,000; and

(5) upon completion of the conveyance described above, exempt the Authority from Federal land use fees and administrative charges referred to in the Authority's license for the Project. Such fees have been waived since the inception of the Project and it is expected that the fees would continue to be waived since power is sold by the Project without profit.

PURPOSE AND NEED

The Sabine River Authority of Texas and the Sabine River Authority of Louisiana (referred to collectively in this section as "the Authority") as licensees operate the Toledo Bend Reservoir on the Sabine National Forest 'Toledo Bend Project No. 2305). A 50 year license was issued for the Project by the Federal Power Commission on October 14, 1963. Under the license, approximately 31,000 acres of the National Forest was flooded to create the reservoir. The license established a fee for the use of this Federal land. However, this fee and other administrative fees have been waived each year by the Federal Energy Regulatory Commission (FERC). Under FERC regulations (18 CFR 11.24), waiver of fees may be granted to State and Municipal licensees to the extent that power generated, transmitted, or distributed by a project is sold directly or indirectly to the public without profit. The primary purposes of the Project are water distribution and the generation of hydroelectric power.

The immediate need for this bill resulted from a hearing in 1975, after which FERC decided fees had been improperly waived because the Auhtority failed to prove it was not making a profit on Project power sales. However, on March 18, 1980, FERC reversed this decision, indicating that the degree of proof required of the Authority in this connection was less onerous than suggested by the original decision.

The Authority contends that a profit cannot occur from Project power sales. At initiation of the Project, rates to be charged for power were established in a 50 year Power Sales Agreement, the terms of which can only be changed by mutual agreement. Moreover, the selling price in this Agreement is far too low to cover costs and return a profit.

Although there is no expectation that the fee waiver situation will change, the Authority is concerned that there could be a change in the FERC regulations. Also, it would like to be relieved of the administrative burden of having to annually request the waiver. To accomplish this, the Authority wishes to acquire the Federal lands occupied by the Reservoir. Although the fair market value of the inundated portion of the lands is difficult, if not impossible, to measure accurately, the Auhtority is willing to pay a premium, in the form of land and money, in return for being released from the possibility of future fees.

This project was built without Federal funds. The project was actually rejected by Federal authorities as not economically feasible. Thus, it is relevant to mention other benefits accruing to the United States as a result of this project.

The U.S. Forest Service owns some 260 miles of shoreline or 13,150 acres of property which have been converted to valuable "shoreline" lands by the Toledo Bend Reservoir. The average value of these lands in the period 1963–64 when land was being acquired for the project was $60 per acre. Due almost exclusively to the existence of the reservoir, it is estimated that the value of the Federal land today has risen to at least $1,088 per acre. At this average value, the government has received a direct benefit of $14,307,200.

The Toledo Bend Project has also created tremendous recreational benefit. The reservoir is readily accessible and the population within a 70 mile radius of the Project is approximately 1,200,000. It is estimated that the annual attendance for recreation is 3,000,000 visitor days. And it is estimated that the recreation expenditures induced by the Project are about $12,500,000 each year.

In summary, H.R. 3150 has several purposes. Primarily, upon completion of the exchange, the Sabine River Authorities of Texas and Louisiana will no longer be subjected to the risk of paying use and administrative fees to the Federal government. The Authorities will also be relieved of the administrative cost and burden of annually applying for waiver of fees.

This bill also, in effect, establishes a fair value for the interest being conveyed by the United States in the inundated lands. Because this value cannot be established in the market, it is appropriate that the Congress determine a reasonable sum after review of all the facts and circumstances.

H.R. 3150, as amended, also provides the U.S. Forest Service with an opportunity to consolidate its lands in the Sabine National Forest that lie along the Toledo Bend Reservior. Specifically, in the land exchange, the Forest Service will obtain a 586 acre tract of valuable timberland that adjoins existing National Forest boundaries.

SECTION-BY-SECTION ANALYSIS

Section 1 of H.R. 3150, as reported by the Committee on Agriculture, provides that not later than 180 days after the date of enactment, the Secretary of Agriculture shall convey, in exchange for the land and other consideration specified in section 2, to the Sabine River Authority of Texas lands owned by the United States in the Sabine National Forest in and adjacent to the Toledo Bend Reservoir, located in Louisiana and Texas, as generally depicted on a map dated August 1984 on file in the office of the Chief of the Forest Service, as follows;

(a) approximately 31,000 acres of inundated lands;

(b) that portion of Recreational Site No. 5 consisting of approximately 11 acres of such lands; and

(c) approximately 107 acres of such lands in the flood plain and which after the conveyance of land described in clauses (a) and (b) would no longer be immediately adjacent to land owned by the United States in the Sabine National Forest.

Section 2 provides that, in exchange for the conveyance of those lands described in section 1, the Sabine River Authority of Texas shall (a) convey, by quit claim deed, to the United States those lands, as generally depicted on a map on file in the office of the Chief of the Forest Service, consisting of approximately 586 acres and which lie on the shoreline of the Toledo Bend Reservoir and are immediately adjacent to land owned by the United States in the Sabine National Forest, and (b) deposit with the Secretary the sum of $650,000.

Section 3 provides that in the deed for the lands described in section 1, the Secretary shall convey all right, title, and interest to such lands, except that the Secretary shall reserve for the United States any subsurface rights that it owns, including, but not limited to, oil and gas, and shall provide that title in lands described in section 1 shall revest in the United States upon failure by the Sabine River Authority of Texas to use the lands for project purposes.

Section 4 provides that upon completion of the conveyances described in sections, 1 and 2, the Sabine River Authority of Texas and the Sabine River Authority of Louisiana shall be exempt from Federal land-use fees and administration charges referred to in the license for the project issued by the Federal Energy Regulatory Commission or any renewal or extension thereof.

Section 5 provides that the exchange provided shall be considered an exchange under the Act of December 4, 1967, as amended, notwithstanding the acreages involved, and the sums deposited with the Secretary under section 2 shall be handled in the same manner as sums deposited with the Secretary under that Act. That Act, commonly known as the Sisk Act, provides, in connection with exchanges involving National Forest lands between the Secretary of Agriculture and State, county, or municipal governments, that the exchange may be completed by such government's depositing funds with the Secretary if they do not have sufficient land to complete the exchange. Such deposits are placed in a special fund in the Treasury which, when appropriated, is available to the Secretary to purchase land for National Forest purposes in the same State in which the exchange occurred.

COMMITTEE CONSIDERATION

A. HEARINGS

The Subcommittee on Forests, Family Farms, and Energy met, pursuant to notice, on September 11, 1984, to hear testimony on H.R. 3150, a bill to direct the Secretary of Agriculture to enter into a specific land exchange with the Sabine River Authorities of Texas and Louisiana.

Chairman Whitley opened the hearing with a brief statement and submitted detailed background information for the record. He noted that the issue to be addressed by H.R. 3150 has been before the Congress for many years. Specifically, Chairman Whitley said that on June 18, 1970, Congressman Wright Patman introduced the first bill to resolve the question of fee payments by the Authorities for the use of lands flooded by the Toledo Bend Project. However, he noted that this is the first time in the long history of the issue that the Authorities have offered consideration consisting of an exchange of land and a cash payment.

The first scheduled witness was Mr. Gary Cargill, Associate Deputy Chief of the Forest Service, U.S. Department of Agriculture. Mr. Cargill expressed the Department's strong opposition to H.R. 3150, as introduced, because it does not require any compensation for the Federal lands. However, Mr. Cargill said that a draft substitute for the bill, negotiated in consultation with the Department, was preferable to the original H.R. 3150. Moreover, Mr. Cargill stated the Department would have no objection to the draft bill to be offered as an amendment in the nature of a substitute to H.R. 3150, and would support its enactment if the cash equalization payment were increased.

Mr. Cargill stated that it is very difficult to establish a value for the inundated lands involved in the exchange. However, he said that the Forest Service believes the best approach is to view the matter as though the Authorities had paid for the land when the project was begun, an approach that would reflect 1963 land values, and compute interest on the amount determined. Using this method, Mr. Cargill said that the value is substantially more than has been offered.

Mr. Cargill concluded his remarks by emphasizing that the proposed land exchange can be of overall public benefit. However, he asked that the Subcommittee further consider the amount of the cash equalization payment.

Following Mr. Cargill's statement, the Chairman and other Members of the Subcommittee discussed the additional consideration provided to the United States by the enhanced value of U.S. lands due to the construction of the Sabine Project.

The next witness was Mr. Sam F. Collins, Executive Vice President and General Manager of the Sabine River Authority of Texas. Mr. Collins related that the Toledo Bend Project is unique because it was constructed without Federal funding. He said that it is the fifth largest manmade reservoir in the country.

According to Mr. Collins, the Project wanted to purchase these lands in question in 1963, before they were flooded pursuant to the Federal Power Commission license. He said the parties intended to agree later on the issue of user fees for the flooded National Forest lands. Mr. Collins concluded by expressing his strong support of the proposed substitute to H.R. 3150.

The last witness to testify was H. David Smith, Jr., Chairman's Representative, Sabine River Authority, State of Louisiana. Mr. Smith testified that he was in basic agreement with all of Mr. Collins' statements. He made clear that the Authorities offered to buy the lands in question when the project was started, but Federal law probibited the sale.

Under questioning by Chairman Whitley, Mr. Collins and Mr. Smith agreed that as a practical matter the 31,000 acres are now worthless; the Forest Service has been adequately compensated by the enhanced value of its remaining lands; and the cash payment should be viewed as an incentive to settle the issue.

B. SUBCOMMITTEE MARKUP

On September 11, 1984, the Subcommittee on Forests, Family Farms, and Energy held a business meeting to consider H.R. 3150. Mr. Whitley, Chairman of the Subcommittee, announced that a draft amendment in the nature of substitute for the text of H.R. 3150, as introduced, would be the markup vehicle. The amendment in the nature of a substitute contained, except for technical changes, the same provisions as the bill as ordered reported by the full Committee. Mr. Huckaby and Mr. Marlenee indicated that testimony showed the value of the Federal lands submerged by the waters of the reservoir was minimal and that the compensation to be provided by the Authority would be more than adequate. At the request of the Chairman, counsel described three technical amendments to the substitute that were recommended by the Department of Agriculture. During discussion of the amendments, it was concluded that any mineral rights of the Authority in the lands to be conveyed by the Authority to the United States would be transferred to the United States. By voice vote, the Subcommittee agreed to the technical amendments. The Subcommittee, by voice vote, in the presence of a quorum, ordered H.R. 3150, as amended by the substitute, as amended, reported to the full Committee with a recommendation that it do pass.

C. FULL COMMITTEE MARKUP

On September 19, 1984, the Committee on Agriculture held a business meeting to consider H.R. 3150, as reported to it by the Subcommittee on Forests, Family Farms, and Energy. After a brief discussion of the bill by Mr. Whitley, Mr. Marlenee and Mr. Huckaby, the Committee, by voice vote, in the presence of a quorum, ordered H.R. 3150, as amended, reported to the House with a recommendation that it do pass.

Administration position

At the time of filing this report, the Committee has not received any report from the Administration on the bill as ordered reported by the Committee. The testimony of Gary Cargill, Associate Deputy Chief of the Forest Service, U.S. Department of Agriculture, summarized in this report, contains the views of the Department of Agriculture on the amendment in the nature of a substitute which has been incorporated into H.R. 3150, as reported.

Budget Act compliance (section 308 and section 403)

The provisions of clause 2(1)(3)(B) of Rule XI of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974 (relating to estimates of

new budget authority or new or increased tax expenditures) are not considered applicable. The estimate and comparison prepared by the Director of the Congressional Budget Office under clause 2(1)(3)(C) of Rule XI of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974 submitted to the Committee prior to the filing of this report are as follows:

CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 20, 1984.

Hon. E DE LA GARZA,
Chairman, Committee on Agriculture, Longworth House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed H.R. 3150, a bill to direct the Secretary of Agriculture to convey, for certain specified consideration, to the Sabine River Authority approximately thirty-one thousand acres of land within the Sabine National Forest, to be used for the purposes of the Toledo Bend Project, Louisiana and Texas; and for other purposes, as ordered reported by the House Committee on Agriculture, September 19, 1984.

H.R. 3150 directs the Secretary of Agriculture to convey approximately 31,118 acres of land in the Sabine National Forest to the Sabine River Authority in exchange for approximately 586 acres of land on the shoreline of the Toledo Bend Reservoir plus a cash equalization payment of $650,000. Assuming enactment of H.R. 3150 by October 1984, the exchange would occur in fiscal year 1985 and the government would receive the $650,000 in that fiscal year. No official appraisal has been made of the lands to be exchanged.

No direct budget impact to state or local governments is expected to result from enactment of this bill.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

ERIC HANUSHEK,
(For Rudolph G. Penner).

Inflationary impact statement

Pursuant to clause 2(l)(4) of Rule XI of the Rules of the House of Representatives, the Committee estimates that enactment of H.R. 3150, as amended, will have no inflationary impact on the national economy.

Oversight statement

No summary of oversight findings and recommendations made by the Committee on Government Operations under clause 2(b)(2) of Rule X of the Rules of the House of Representatives was available to the Committee with reference to the subject matter specifically addressed by H.R. 3150, as amended.

No specific oversight activities other than the hearings detailed in this report were conducted by the Committee within the definition of clause 2(b)(1) of Rule X of the Rules of the House of Representatives.

WINE EQUITY AND EXPORT EXPANSION ACT OF 1984

The SPEAKER pro tempore. Pursuant to House Resolution 597 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 3795.

□ 1725

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3795) to harmonize, reduce, and eliminate barriers to trade in wine on a basis which assures substantially equivalent competitive opportunities for all wine moving in international trade, with Mr. LEVIN of Michigan in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from Illinois [Mr. ROSTENKOWSKI] will be recognized for 30 minutes and the gentleman from New York [Mr. CONABLE] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Illinois [Mr. ROSTENKOWSKI].

Mr. ROSTENKOWSKI. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of H.R. 3795, the Wine Equity and Export Expansion Act of 1984. The purpose of this bill is to strengthen the international competitiveness of the U.S. wine industry and to improve economic conditions for U.S. grape growers. The bill notes the inequity that exists in international conditions affecting trade in wine; stresses the need to reduce foreign barriers to U.S. wine exports; and encourages the export promotion of U.S. wine. The Committee on Ways and Means last week reported H.R. 3795 favorably to the House by a voice vote with amendments. The bill, as reported, is a substitute for H.R. 3795, as introduced.

Mr. Chairman, foreign barriers to wine imports are generally far more restrictive than U.S. restrictions—in fact, the United States has the lowest tariff on wine of any major wine-producing country. Among the nontariff barriers facing U.S. wine exporters are: Quotas; bottling and labeling requirements; minimum import price and markup practices; and discriminatory practices of liquor control boards. While some progress has been made in reducing the barriers—most recently in the European Communities and Japan—much more work must be done to significantly expand export opportunities for U.S. wine producers.

H.R. 3795 as amended, directs the President and the U.S. Trade Representative to seek the reduction or removal of barriers to U.S. exports of wine to potentially important foreign markets. It requires reports to Congress identifying existing barriers, outlining actions the President has taken to obtain their reduction or removal, and if applicable, his reasons for not taking action. The bill also encourages the establishment of a wine export promotion program and enables grape growers to obtain relief under U.S. antidumping and countervailing duty laws if they are injured by imports of wine resulting from these unfair trade practices.

The bill as amended was developed with the full support of Members from California who sponsored the original bill and representatives of the wine and grape industries, as a compromise between industry desires for tougher measures and other agricultural interests who were concerned about possible foreign retaliation.

The Committee believes H.R. 3795 as amended strikes a successful balance between these concerns and gives the President an effective tool for addressing the many longstanding trade barriers and unfair trade practices distorting international wine trade. The growing importance of the U.S. wine industry makes timely passage of H.R. 3795 essential. I urge your support for this bill.

□ 1720

Mr. Speaker, I reserve the balance of my time.

Mr. CONABLE. Mr. Chairman, I yield myself 4 minutes.

Mr. Chairman, I oppose H.R. 3795, the Wine Equity and Export Expansion Act. It would require the President to initiate an investigation of nontariff and tariff barriers set up by our major trading partners to thwart the importation of our wine and other grape products. It also would require that the President consult with leaders of other nations on these matters under section 301 of the 1974 Trade Act. If the consultations should fail, the President would be encouraged to begin restricting trade in wine.

An underriding objection to this bill, Mr. Chairman, is that it will result inevitably in retaliation against domestic exporters of citrus fruit, raisins, almonds, and other items in which U.S. shippers already are highly competitive. Dealing in foreign trade on a sectoral basis, as this bill would do, should be discouraged as a general rule. The costs to U.S. consumers, and to the entire world trade system, are prohibitively high. It is in direct conflict with the principles of comparative advantage which work so successfully under the existing multilateral negotiation system.

H.R. 3795 is the wrong way to help the domestic wine industry. As many of my colleagues are well aware, that industry would be much better served through the Reciprocal Trade and Investment Act, now resting in the other body. This piece of legislation which might very well wind up in a major trade conference, addresses leading concerns raised by the wine industry in ways that will not result in harm to other sectors of the U.S. economy.

Mr. Chairman, I therefore urge my colleagues to disapprove this measure. A vote for H.R. 3795 will not do much, in my opinion, to increase sales of U.S. wines abroad. Our wine industry can be assisted in a much more productive fashion through another mechanism. A vote against H.R. 3795, on the other hand, would be a vote for the rest of the domestic economy.

Mr. Chairman, at the appropriate time I intend to offer a motion to recommit which will strike title 8 of this provision.

Now title 8 is a clear violation of the GATT. I know many of my colleagues are scornful of the GATT, but we have been in trouble under that before; allowing ourselves to get backed into a corner on DISC.

I can assure you that the European Community is going to be extremely interested in enforcing the GATT with respect to the issue involved in section 8 of the Wine Equity Act.

The GATT, the subsidies code, the antidumping code, all specified that dumped or subsidized imports must cause material injury to an industry producing a like product. For obvious reasons, an apple is not a like product of imported apple juice, just as wheat is not the same thing as bread. The raw material and the final processed agricultural product represent distinct products with distinct characteristics, markets, and usage.

Section 8 broadens the injury definition to include grapes as a like product to wine. Now, I understand the reason in back of this, but I must tell you that the Europeans will insist on the full protection of the GATT and are very likely if we pass a Wine Equity Act immediately to interpose some kind of a protein equity act to retaliate against some of the soybean imports into their county for which we negotiated tariff-free entry in the Kennedy round years ago, and which the Europeans would love to have some excuse for evading.

They will retaliate, I assure you, if section 8 remains in this provision. I think to remove it would make it a considerably less potentially harmful bill and at the appropriate time I will offer a motion to strike section 8.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. EDWARDS].

Mr. EDWARDS of California. I thank the gentleman for yielding this time to me.

Mr. Chairman, I rise today in support of H.R. 3795, the Wine Equity and Export Expansion Act. I commend the distinguished members of the Trade Subcommittee on the Ways and Means Committee, and their chairman, Mr. GIBBONS, for their work on this measure. Their hearings made very clear the need for this Congress to take action if we are to see American wine treated fairly in international trade.

I will not take the time of my colleagues to restate the many problems faced by the American winemaker when attempting to sell abroad, but I do want to point out that the problems are historical. The maze of restrictions and the large imbalance in trade predate the Tokyo and Kennedy rounds of multilateral trade negotiations.

It is not unreasonable for Congress to act if countries are found to be playing in violation of the rules or treating American products unfairly. For those countries playing by the rules, there is nothing to fear from this legislation. We seek only an equal opportunity to market American wines on the same conditions and under those same rules.

This bill will help us to achieve that and I urge my colleagues to join with me today in support of this legislation.

Mr. CONABLE. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from New York [Mr. MRAZEK].

Mr. MRAZEK. Mr. Chairman, I think that there are serious questions about passing the Wine Equity Act. In fact, it does not meet the current law's first requirement that there be a demonstrable case in which imports are actually hurting a domestic industry.

The bill would change the law to say that wine makers do not have to show that they are being hurt. They would only need to show that their suppliers need to sell more grapes, and I believe this change would set an astoundingly bad precedent.

There is little doubt that the European community would retaliate in kind, as they have threatened to do in the past. Of course, we have not taken it terribly seriously in the past.

But if we violate article 6, we would be placed in an indefensible position if the EC carried through on its threats of retaliation. While our trading partners would concede our right under article 6 to impose countervailing duties, they would regard section 8 as a form of cheating, since it is contrary to the provisions of GATT.

I can only submit that this is a very explosive precedent, one that I think holds serious problems for us in the future, and I would hope that we would eliminate section 8 from the bill.

□ 1730

Mr. CONABLE. Mr. Chairman, I yield 4 minutes to the distinguished gentleman from Kansas [Mr. Roberts].

Mr. ROBERTS. I thank the gentleman for yielding this time to me.

Mr. Chairman, I rise in opposition to this bill. We have really been asked to consider several bills in a package as of this afternoon, and my colleagues can tell by the titles that these bills are being offered under the banners of fair trade and a so-called level playing field. We have the wine equity bill, which we are discussing right now. We just passed the Steel Import Act, the extension of the generalized system of preference, and the Israel Free Trade Zone Act, which I have no real objection to.

Members can tell that the sponsors and the cosponsors of this package have engaged in a great deal of understandable election year rhetoric about unfair trade practices and the need to make the playing field level for all the players in the world export and import game. I am for that. Who on earth could be against fair trade as opposed to free trade?

We all know what the Japanese and the European Common Market are doing in their national interest. I also know that Ivory soap pure free trade simply does not exist in today's world of tariffs and subsidies. I would only ask that my colleagues, in our efforts to level the playing field, not put the farmer out of this ball game.

Should this bill pass, it will result in retaliation against U.S. farm exports and once again will be using the farmer, stockmen, and agriculture. The European Common Market has just met with our United States trade representatives in Geneva. They have indicated that they are considering indirectly subsidizing agriculture. All they need is an excuse, with the passage of this bill, to offer that kind of retaliation.

You can call this bill fair trade if you want, but by any other definition it is protectionism. The editorial in the Washington Post yesterday actually points out the impact of changing the law in regard to dumping, what that impact would have on our trade relations with the Chinese.

We in wheat country do not need to be reminded of the impact of protectionism when it comes to trade with the Chinese. Last year we lost nearly a half billion dollars in wheat sales to the Chinese as a result of the textile dispute, a dispute, by the way, that involved only $40 million worth of additional textile imports. As a result, our wheat producers have seen their recent price increase weaken and deteriorate.

We now have a long-term agreement with the Soviet Union. We are opening the granary doors to the Soviets and we are closing them to the Chinese. Now the European EEC folks have warned that they will retaliate if this wine equity bill is enacted. What is on the list for retaliation? Citrus, specialty crops, corn gluten, and soybeans.

I share my colleagues' frustration on the trade issue. However, most of the trade problems and the imbalance can be attributed to the exchange rate of

the American dollar, high interest rates and budget deficits. I submit to my colleagues that that problem is our responsibility right here in this body. That answer lies in each Member summing up the courage to control entitlements and spending instead of trying to address these special trade issues in this fashion.

Every time one of my colleagues raises the issue of fair trade and proposes an import quota or tariff restriction or whatever, I know it makes a nice-sounding press release to that Members aggrieved special interest, but that fair trade flag also gets planted squarely on the back of the Kansas wheat producer in the form of retaliation. We are the ones who get hurt. That is not fair, I submit to my colleagues. In fact, it is counter-productive and I urge my colleagues to support the motion to recommit and to strike section 8.

The CHAIRMAN. The gentleman from Illinois [Mr. ROSTENKOWSKI] has 24 minutes remaining and the gentleman from New York [Mr. CONABLE] has 20 minutes remaining.

Mr. CONABLE. Mr. Chairman, I have 3 assorted gentlemen from California who would like to be recognized seriatim.

I yield such time as he may consume to the gentleman from California [Mr. DREIER].

Mr. DREIER of California. I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in support of H.R. 3795, the Wine Equity Act. This bill will help to eliminate many of the inequities faced by domestic wine producers in efforts to penetrate foreign markets. American wines are highly recognized around the world for their quality and value, but restrictive and prohibited trade barriers continually plague this product abroad. Inequities and imbalances have long existed in the international wine trade. For example, in 1982, $781 million foreign wines were imported into the United States while only $38 million in domestic wine was exported. Restrictive trade barriers must not be allowed to continue. Enactment of this legislation will provide the President with the necessary authority to ensure that international wine trade is conducted in a fair and equitable marketplace, which will benefit all wine producers, and the world economy as a whole.

Mr. CONABLE. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. SHUMWAY].

Mr. SHUMWAY. I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in support of H.R. 3795, the Wine Equity and Export Expansion Act of 1984, and urge my colleagues to join me in endorsing this needed legislation.

Essentially, the bill before us seeks to strengthen the international competitiveness of the growing U.S. wine industry by expanding opportunities for the export of domestic wines through more equitable trade conditions; it also recognizes the need for product promotion. The legislation focuses attention on the barriers and inequitable conditions which exist in international trade, and which are impeding potential wine exports.

The American wine/grape industry has experienced significant growth in the past several years. The number of bonded cellars has increased from 769 in 1978 to 1,084 in 1982. I am particularly aware of this dynamic expansion because 55 percent of those cellars, accounting for some 90 percent of total domestic wine production, are located in California. In the late 1970's, American wine consumption increased and, as a result, supply fell short of demand for both domestic and imported wines. As a result, growers increased their acreage. In California, that acreage was increased by 56 percent over the past 10 years. Meanwhile, imports have risen by about 40 percent since 1979. Italy is the major importer, nearly 55 percent of total volume, followed by France 19 percent, and West Germany 12 percent.

The United States has the lowest tariff on wine imports of any major wine producing country: 77 percent of the wine we import is subject to a duty of only 37.5 cents per gallon. By contrast, U.S. wine exports face duties which may be as high as $5.22 per gallon. Foreign barriers to U.S. wine exports also include quotas, minimum import price and markup requirements, and certification and labeling requirements, among others.

It should be made clear that our own wine industry is not seeking higher tariffs or quotas on foreign wine imports—they ask only for an opportunity to compete effectively and fairly in the international marketplace. I believe that is a worthwhile goal. The industry is growing; it is labor intensive, and it provides employment for large numbers of unskilled and low-skilled individuals. In this critical period of economic recovery, it makes sense for us to take prudent steps to encourage increased growth in already successful industries such as domestic wines, and particularly to stimulate needed exports. This bill will help increase access to foreign markets, and will give the domestic wine industry the chance to compete it so deserves.

Mr. CONABLE. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. LEWIS].

Mr. LEWIS of California. I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in support of the Wine Equity Act.

Mr. Chairman, I also wish to add my support to that of my colleagues for the passage of H.R. 3795, the Wine Equity and Export Expansion Act. As one of the original cosponsors, I supported the reciprocal trade approach set out in the first version of this bill. I understand the concern of those export interests that do not wish to give a legal excuse to our trading partners to retaliate against U.S. exports. This version, as reported out of the Ways and Means Committee, responds to those concerns and is now GATT compatible. It is intended to identify those barriers that are unfair and burden U.S. commerce, report them to the Congress, and direct the President to seek the elimination of the unfair barriers through existing legal means.

Mr. Chairman, I am troubled by some of the arguments that I continue to hear leveled against this bill. During consideration of this bill in the Senate, Sir Roy Denman of the Delegation of the Commission of the European Communities, sent a letter on September 14, opposing the legislation to a number of Senators stating:

> Consultation with Congress is in reality bound to produce considerable support for U.S. action of a retaliatory kind under Section 301 if foreign barriers were not reduced or removed.

Imagine that. If we find that the EC is unfairly treating our exports we will want to take action to seek redress. In Denman's view this is unacceptable. Such arrogance. It is OK for them to maintain unfair barriers and if we seek to take action, they threaten to retaliate against our products. Where is the fairness in that?

The Wine Equity Act is long overdue. We need to play under the same rules in international trade. This legislation will give Congress additional information about the rules in wine trade. It will assist the President and the Congress in future trade consultations and negotiations. We are operating at a disadvantage that needs to be changed. I urge the support of the Members in passage of H.R. 3795.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield such time as he may consume to the gentleman from South Dakota [Mr. DASCHLE].

Mr. DASCHLE. I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in support of H.R. 3795. The Wine Equity Act we are discussing today is, in its simplest terms, just what its title says it is. Its provisions do not call for any protection of a U.S. industry. They do not call for any specific trade advantages for a U.S. product. They do not impose any unilateral, restrictive prohibitions on imports of a competing foreign product. What the Wine Equity Act does, as its title accurately indicates, is to apply a fairness standard in the international trade in wines.

The bill as reported from the Committee on Ways and Means also does not statutorily mandate anything. It

only urges the appropriate administrative agencies to consult with major foreign wine-producing nations to reduce or eliminate wine trade barriers, work to correct any barriers the Trade Representative's Office determines should be counteracted, and report to the Congress on progress made.

The United States has the lowest tariff on table wine of any significant wine-producing country. We impose no nontariff trade obstacles to the entry, distribution, or sale of foreign wines. Foreign wines move freely in the U.S. market, subject only to the same laws and regulations which apply to domestically produced products.

Sad to say, however, this is not the case with many of our trading partners. Japan, for instance, imposes import duties of $4.50 per gallon on American wines. Mexico, Brazil, Argentina, and Chile, through various devices like quotas, certification procedures testing, and restrictive licensing procedures, severely impede the availability and affordability of American wines in their markets while at the same time imposing none of those obstacles on their domestic production.

While such double standards may have been marginally acceptable at a time when the United States was running a trade surplus, as has historically been the case, the situation is now drastically different. Even the most conservative estimates now indicate that the trade deficit for the past year will run well over $100 billion. The latest figures available, from 1982, indicate that foreign wines with a value of $781 million were imported into the United States, while the value of U.S. wine exports totaled only $38 million.

Given this situation, it is increasingly apparent that we simply cannot afford to let this double standard continue any longer. We must emphasize that the legislation before us does not attempt in any way to protect the domestic market for our wine producers. It is a carefully crafted attempt to establish a level playing field for American wine products in foreign trade. It says, simply, that other countries are perfectly free to impose any and all tariff and nontariff trade barriers to our wine products. However, it also informs these countries that, if in good faith bargaining with our Trade Representative, they refuse to discuss our concerns over these unfair restrictions, such actions may be met with reciprocal restrictions to their products on our part.

It leaves the decision as to whether internal protections of foreign products are worth the imposition of mirror image restraints on their products in this country. If these foreign governments decide that their protectionist provisions are still worth it, that's fine. However, passage of this legislation will make it clear that, while we will not instigate any protectionist measures for our wine industry, we are quite prepared to see that those countries who choose to ignore our example will face exactly the same restrictions they impose on our products on their own.

There are a number of technical terms that can be used to describe this legislation like reciprocity, mirror image sanctions, fair trade. But there is one simple way that best describes. In the wine trade, we are saying to our trading partners that we are following the Golden Rule, and expect them to do the same. That rule says, simply, "Do unto others as you would have them do unto you." This is all the bill does, and I urge my colleagues to give it their overwhelming approval.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. DIXON].

Mr. DIXON. I thank the gentleman for yielding time to me.

Mr. Chairman, I want to take this opportunity to speak in support of the Wine Equity Act.

The Wine Equity Act is an important step in making wine competition more equitable between wine trading countries. Unfair barriers to the American wine trade will be clearly identified, and the President will be required to discuss these problems with the designated country. Until this bill was introduced, problems with wine trade was always at the bottom of any executive branch trade talks.

For years domestic winemakers have suffered financially due to unfair trade barriers imposed on American wine exports, and a domestic wine market that is more profitable for subsidized foreign-made wines.

European wine overproduction, particularly in France and Italy, has resulted in a steady influx of foreign wines into the American market. Over the past 10 years, this influx has resulted in a 156-percent increase in the volume of wine shipped into the United States.

American winemakers have unduly suffered because of unfair trade policies that restrict competition abroad, and a generous American trade policy that has allowed European wines to control 25 percent of the domestic market.

Unlike other industries seeking import relief, the American winemakers are only seeking to expand export opportunities. They seek to do this by harmonizing trade relations between the wine trading countries. No import quotas or violation of international trade obligations are sought. In fact, the provisions of this bill are compatible with the general agreement on tariffs and trade [GATT].

The Wine Equity Act is the result of extensive consultations with the U.S. wine and grape industry to deal with the serious inequities in international wine trade. It represents the best legislation that could be produced within the guidelines of GATT. Historically, there has been a substantial imbalance in U.S. wine trade. The deficit in 1983 was $822 million.

We owe it to American wine producers to create a climate that is conducive to fair and competitive trade. I urge my colleagues to join me in voting for this bill.

Mr. CONABLE. Mr. Chairman, I now yield 2 minutes to my friend, the gentleman from California [Mr. LAGOMARSINO].

Mr. LAGOMARSINO. I thank the gentleman for yielding this time to me.

Mr. Chairman, I rise in support of the Wine Equity and Export Expansion Act, H.R. 3795. The American wine industry has for years been seeking a reduction in those tariff and nontariff barriers maintained by foreign countries with significant potential markets for U.S. wine. Because of the U.S. Government policy in the form of prohibition that eliminated the U.S. wine industry while foreign competitors were developing improved products and production capability; and because of the indifference by our own Government toward the development of export markets for U.S. wine following prohibition, there has been a historical imbalance in international wine trade that in recent years has grown to a deficit of almost three quarters of a billion dollars per year.

Today and through the end of this session we are considering trade legislation that will deal with some of the many trade problems of a myriad of sectors in our economy. We are to consider steel, shoes, copper and many others who are looking for import relief. This industry is not looking for such relief but instead, wants to export. Rather than have the interests of the wine and grape industry again be relegated to the "back of the line" in the consideration of our trade problems, this Congress should direct through the passage of the Wine Equity Act, that the President use every legal means available to him to seek the expansion of export markets for American wines.

I think this bill does just that and hope my colleagues will join with me in support of H.R. 3795.

Mr. CONABLE. Mr. Chairman, I yield 2 minutes to the earnest and distinguished gentlewoman from Nebraska [Mrs. SMITH].

Mrs. SMITH of Nebraska. I thank the gentleman for yielding this time to me.

Mr. Chairman, I rise in opposition to the Wine Equity Act, and in particular to section 8 of the bill,

I oppose this legislation because it threatens U.S. farm exports by invit-

ing retaliation from other countries, and it is inconsistent with our obligations under the GATT.

Section 8 of the bill would grant independent grape growers the protection they were denied earlier this year by the International Trade Commission. The grape growers claim their industry is being injured by imports of subsidized wine from Europe. But the International Trade Commission defined the domestic industry as including only producers of wine, and found no reasonable indication that the industry was injured or threatened by imports. Wine producers themselves did not seek any protection from the ITC.

There is no doubt that if this legislation becomes law that the European Community [EC] will retaliate against U.S. farm exports. In fact, I received a copy of a news release from the EC, which says in part:

Faced with such measures, the Commission would propose to the EC Council of Ministers to act immediately so as to offset the injury that could be caused. We cannot of course in these circumstances anticipate which imports would be affected. Clearly, given the huge agricultural trade surplus which the United States has with the Community, agriculture goods would be a candidate.

Mr. Chairman, as I have said on this floor many times this past year in opposition to protectionist legislation, the granting of special relief to one industry will only cause injury in another industry. In most cases the industry which receives the brunt of the reaction is agriculture. Retaliation is especially harmful to agriculture at this time when it is depending heavily on export markets. Farm exports will reach $38 billion in value, producing an overall agriculture trade balance of $21 billion in 1984. This made up for about 27 percent of the nonagriculture trade deficit. USDA estimates that exports generated about $82 billion in total U.S. business activities.

In 1983 U.S. farmers exported about 51 percent of their wheat crop, 53 percent of their soybeans, and about 38 percent of total cropland harvested produced food grains for export. These figures show how important farm exports are to the American farmer and, by extension, the U.S. economy.

We have little to gain and a great deal to lose by giving one group of producers special standing before the ITC. In Nebraska alone, we exported $1.75 billion worth of agriculture products in 1983.

As world trade becomes increasingly competitive, the internal pressure for protection against competition is building. Obviously, some American industries are facing unfair trade practices in the world today. These barriers to free trade should be removed, however, not matched in an ever-escalating exercise in barrier building.

To retreat into the dark isolation of protectionism is to throw in the towel economically. History provides ample precedent of the economic damage that can be inflicted through protectionist policies. America's economic greatness developed as a result of our competitiveness and the efficiency and ingenuity that go along with it. An expanding economy cannot be long maintained when bound by the chains of protectionism.

I urge the House to vote down this bill and the protectionist philosophy it embodies.

Mr. CONABLE. Mr. Chairman, I yield 3 minutes to our flamboyant and persuasive friend, the gentleman from Massachusetts [Mr. CONTE].

□ 1740

Mr. CONTE. Mr. Chairman, I rise in support of H.R. 3795, the Wine Equity Act. As one of the original sponsors of this measure, I want to commend the leadership of the Trade Subcommittee and the full Ways and Means Committee for bringing this measure to the floor.

Mr. Chairman, my district in western Massachusetts is not a major commercial grape growing area. But making wine, particularly within the ethnic communities of that area, is very much a part of the cultural environment in which I grew up. I am very proud of that heritage, and am therefore very disturbed by the restrictions on American wine producers that have been imposed by foreign countries.

The days when American wines were put down by snobs as inferior to European wines are long over. American wines are fully capable of holding their own in international competition—as long as it's a fair fight. But today that fight is far from fair. The American winemaker seeking to market his product abroad is continually faced with a maze of prohibitive trade barriers, including both tariff and nontariff restrictions.

The United States imposes duties on imported wine ranging from approximately 21 cents to 37½ cents per gallon. This contrasts with significantly higher duties imposed on American wines by other countries, ranging as high as $4.80 per gallon.

In addition, and in marked contrast to the wine industries in many other countries, the U.S. wine industry receives no Government aid or subsidy, and the United States imposes no nontariff trade barriers on foreign wines.

Foreign wines can move freely within the American market, on the same terms as American wines, unlike American wines in other countries.

Mr. Chairman, I was shocked to learn that the United States imported $781 million worth of foreign wines in 1982, while only $38 million worth of U.S. wine was exported. This trade deficit alone amounted to over 2 percent of the entire national trade deficit.

Certainly some of this problem has to do with the current strength of the dollar compared to foreign currencies, which has the effect of making our exports comparatively more expensive in countries with weaker currencies. But a significant aspect of the problem, and the one which the Wine Equity Act seeks to remedy, is a situation in which foreign wines enter the United States comparatively duty-free, while American wine exports face a variety of tariff and nontariff barriers abroad. This situation is clearly unfair.

Mr. Chairman, I want to stress that the objective of the Wine Equity Act is not protection, but promotion. The more than 300 cosponsors of this measure are not seeking to protect the domestic market from foreign competition. The American wine industry is fully capable and prepared to meet the competition on its own terms, in an American market where everyone plays by the same rules.

The problem is overseas, where everyone does not play by the same rules. Outside of the United States, the American wine exporter finds, in addition to significant trade barriers, a variety of regulatory obstacles to free and fair competition.

Those obstacles may include certification requirements, license and quota systems, Government monopolies at the national, local, or other level, unreasonable customs delays or procedures, reference price systems, and process, bottling and labeling requirements that are not applied to wines produced in that country.

As originally introduced, the Wine Equity Act would have required foreign countries to harmonize their trade barriers against American wines with the very minimal restrictions that the United States places on the importation of wine from those countries. This provision was opposed by the administration and by various agricultural groups, which were concerned that it might be inconsistent with our obligations under the General Agreement on Tariffs and Trade [GATT], and might therefore provide an excuse for foreign retaliation against American agricultural exports.

Those objections have been met, and the bill has been redrafted and reported out by the committee in a way that will enable us to meet our GATT commitments. The bill would now direct the President to seek reductions in tariffs on U.S. wines through consultations with our trading partners. The legislation also directs the President to use existing trade remedies, including section 301 of the 1974 Trade Act, to investigate nontariff barriers to U.S. wine exports. With these changes, the legislation is GATT-compatible and should not provide any justification

for foreign retaliation against American products, agricultural or otherwise.

Mr. Chairman, the American wine industry has suffered greatly at the hands of unfair foreign competition—not in terms of the domestic market, but in the American industry's efforts to promote its products overseas. The time has come to play fair, and to open up foreign markets to the American wine industry.

I urge the adoption of this measure.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 4 minutes to the gentleman from Florida [Mr. GIBBONS].

Mr. GIBBONS. Mr. Chairman, I rise in support of this bill.

I want to speak because I think I have heard some distorted debate in this chamber. It has gotten pretty confused today and I am going to try to straighten it out.

First of all, this bill does not require the imposition of any restrictions or any quotas or any orderly marketing agreements. It just directs the President through his trade representative to go out and negotiate and report back to Congress on what progress he has made in that negotiation. Now, that is fair. There is nothing wrong with that, not a thing wrong with it.

I get sick and tired, you know, I come in and support the position of agriculture on free trade, keeping the playing field level, but it is unfair for the subsidized interests in this country to come in here and ask everybody else, the nonsubsidized industries, to take the rap for all the subsidies they get.

Now, nobody subsidizes more than the European Community. Frankly, we went to Geneva with them a couple years ago and sat down and said we would like to negotiate on agriculture, and they thumbed their noses at us.

We sat down at that same meeting and said that we would like to negotiate and work on trade in services, and they thumbed their noses at us.

We told them that we wanted to talk about reversing this erroneous decision that was made on not being able to rebate taxes at the borders, such as they do, and they thumbed their noses at us.

Now, enough is enough. Nobody has wrecked the world sugar market like the Europeans, nobody. Nobody has wrecked the world dairy industry the most like the Europeans, nobody, and they will not sit down and negotiate.

Now, there is nothing in this bill to fear unless the Europeans and others fear to talk about the problem and I cannot believe they would do that, but they put up a stiff front and they make all kinds of threatening arguments that they are going to do this and do that.

Well, there are two sides to this question. I think the wine people have been very fair. They had 300 plus cosponsors. I have never seen so many cosponsors on a bill in my life in the House of Representatives. They had a very tough bill, but they sat down with us in the Trade Subcommittee of the Ways and Means Committee and they played very fair. They said, "We don't want to be protectionist," and this bill is not protectionist.

They said, "All we want is a fair opportunity to go out and compete in the world markets like everybody else," and that is all this bill gives them.

They said grapes are as essential to wine as petroleum is to gasoline. You cannot separate the two. The grape growing industry is a part of the wine industry and the Europeans subsidize their grape industry, but they do not subsidize their wine industry. When we try to bring a subsidy action against the Europeans, all their subsidies are against the General Agreement on Tariffs and Trade, but they say wine is different than grapes.

Baloney. You cannot separate wine from grapes. They are essential to wine.

Now, you know, some day this stuff has got to stop and this is just as good a place to stop as any.

This bill does not require the Europeans to do a darned thing except to come in and talk, and they ought to tall. This bill does not require the Europeans to do anything except stop subsidizing and they agreed in 1948 they would not subsidize. The agreed in 1959 they would not subsidize, and they ought to stop.

Now, I have been trying to eliminate subsidies in world trade.

The CHAIRMAN. The time of the gentleman from Florida has expired.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield the genteman 1 additional minute.

Mr. GIBBONS. I have been trying to stop subsidies in world trade and we have got to have some action, some movement on this. Subsidies in world trade are always more disastrous to trade than the ad valorem tariff barriers that were slapped on in the thirties.

There is no end to this kind of war if we do not agree to quit subsidizing. We have got to do that, but we cannot get the Europeans' attention. This bill I hope will get their attention.

There are a lot more things that I think we ought to do, but this bill is not a bad bill. The motion to recommit should be defeated. This bill should be passed overwhelmingly.

Mr. CONTE. Mr. Chairman, will the gentleman yield?

Mr. GIBBONS. I yield to the gentleman from Massachusetts.

Mr. CONTE. Mr. Chairman, I want to take this opportunity to commend the gentleman in the well. This is one of the greatest speeches the gentleman has ever made.

You know, these people in the Farm Belt that are crying about retaliation are in here with their hands out, with the PIK program and other subsidy programs that are costing the taxpayers billions of dollars in subsidies and yet the poor wine industry that does not want a nickel from the taxpayers are getting rubbed the wrong way.

Mr. CONABLE. Mr. Chairman, I yield such time as he may consume to the gentleman from Minnesota [Mr. WEBER].

Mr. WEBER. Mr. Chairman, I rise in opposition to H.R. 3795, the Wine Equity and Export Expansion Act of 1984. This is a special interest bill that seeks to protect certain California grape growers and wine producers at the expense of other U.S. agriculture interests and consumers. The bill is in violation of the General Agreement on Tariffs and Trade [GATT] and, if enacted, will result in retaliation by the European Community and perhaps others against U.S. agriculture exports. Also, this legislation is an example of sectoral reciprocity, an approach that assumes neat economic cubicles which do not exist in the real world. We can expect to frustrate U.S. trade policy and to invite retaliation if we pass this bill.

The bill requires the U.S. Trade Representative to enter into consultations with each major wine trading country to seek a reduction or elimination of tariff or nontariff barriers to trade in U.S. produced wine. If those consultations are unsuccessful, the President can take "all appropriate and feasible" actions to protect U.S. interests under section 301 of the Trade Act of 1974. These provisions are as objectionable for what they do not contain as for what they contain. There is no negotiating authority for the President to achieve any agreement to reduce barriers on wine and no authority to discuss possible trade concessions outside the narrow wine sector.

We are naive to think that longstanding practices by foreign countries will be dropped at our request without a serious negotiation and a willingness on our part to discuss bilateral trade problems. Sectoral discussions have rarely been successful because economies cannot be broken down into neat sector packages; trading interests are different and wide ranging and, therefore, require a bilateral or multilateral approach.

In the context of multilateral trading interests, the administration has not ignored U.S. wine producers. As a result of a study on U.S. exports of alcoholic beverages, including wine, directed under the Trade Agreements Act of 1979, the United States was able to begin pressuring for improved trade practices in this area. In July 1983 the United States and the European Com-

munity reached an agreement to end the discrimination in certain wine making and labeling practices. The European Community implemented regulatory changes under the accord effective July 6, 1984. In addition, the European Community has agreed to eliminate compensatory charges levied on imports of U.S. bottled wine as part of its reference price system. Also, as a part of its latest liberalization package, Japan agreed to reduce its duties on four wine categories by about 31 percent per liter.

Finally, I must turn to the worst provision of the bill and the provision that most threatens U.S. agriculture interests other than wine. Section 8 of the bill changes our countervailing and dumping duty laws so that the definition of "industry" is broadened to include grape producers in cases were producers of wine and grape products are experiencing import competition. In other words, grape producers could file a case against wine imports because this bill would now describe them as part of a U.S. industry producing a "like product." This provision is clearly GATT illegal. Article VI of the GATT and both the subsidies and dumping codes specifically require that complainants be producers of a like product. There is a long history of interpreting like product as the "identical" or with "characteristics closely resembling" those of the product under consideration. Indeed, the United States has argued successfully in the GATT that agriculture inputs do not constitute a like product. This bill makes a unilateral departure from GATT principles and likely will result in retaliation. The EC, in registering their opposition to this provision, outlined possible areas of retaliation; vulnerable sectors would include corn gluten, soybeans, citrus, almonds, raisins, and walnuts.

Mr. Chairman, this bill is special interest legislation requested by E&J Gallo of Modesto, CA, a producer that accounts for over one-third of total domestic wine production. I would hope we would not pass such a protectionist piece of legislation for a narrow sector of our economy, especially when it could lead to a negative impact on so many other U.S. interests. I urge my colleagues to vote "no" on H.R. 3795.

Mr. CONABLE. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. HORTON].

Mr. HORTON. Mr. Chairman, I rise in support of the Wine Equity Act. This simply worded, but important measure, has undergone months of deliberation, negotiation, renegotiation, and perfecting; it has overcome what I considered unjustified criticism, and it has finally wound its way through the legislative process to the floor of this House.

I am a principal sponsor of this bill, together with my colleagues Congressmen COELHO and THOMAS of California. We represent important wine grape and wine producing regions of the United States. We understand the importance of the wine industry to our States—New York and California—and we understand its increasingly significant importance to our national economy as well. We are proud of the quality of our domestically produced products, many of which are on par or superior to wines produced in major regions of the world, most notably those of France, Italy, and Germany.

We seek no protection with this legislation. We ask for no quotas on imports, or tariffs. Our only objective is to compete on equal terms with the Europeans. We seek the same open and free access to their markets as they have in ours. Our bill calls for the negotiation of an international wine trade agreement so that all nations can play by the same set of rules. I do not believe there is any legitimate reason, whatsoever, for this bill not to be soundly passed by this body.

Once again, these are the important points to consider: The Wine Equity Act seeks no tariffs or quotas on imported wines; it seeks no advantages in the sale of U.S. wines—either domestically or with our trading partners. Our wine industry seeks the opportunity to market their product abroad under the same open market conditions that are allowed foreign produced wines imported into the United States.

The Wine Equity Act is GATT compatible, and it will help give our industry the opportunity it seeks and deserves. The legislation deserves the enthusiastic support of this House and I urge its adoption.

□ 1750

Mr. CONABLE. Mr. Chairman, I yield 4 minutes to the gentleman from Minnesota [Mr. FRENZEL].

Mr. FRENZEL. Mr. Chairman, I rise in opposition to H.R. 3795, the Wine Equity and Export Expansion Act. This legislation is a thinly disguised effort to restrict wine imports. We have been told by the European Community that enactment will result in retaliation in citrus, almonds, raisins, and walnuts, and soybeans and corn gluten feed—all areas where U.S. exports are highly competitive.

I question whether we ought to violate the basic principles which support the international trading system and subject ourselves to this legitimate retaliation in order to achieve import restrictions for one industry which has been unable to demonstrate that imports are the principal cause of its problems.

The bill before us calls upon the President to initiate an investigation of nontariff and tariff barriers of major foreign trading partners to imports of wine and other grape products, and directs him to enter into consultations on the issue under section 301 of the Trade Act of 1974. Because the President's authority to offer concessions on products our trading partners export to the United States expired 2 years ago, it is ill-informed to believe that these talks would somehow be successful. Rather, as the proponents of this bill intend, the President is encouraged to begin applying restrictions to trade in wine.

In many ways provisions in H.R. 3785 will disrupt and duplicate ongoing efforts by the administration to study and achieve reductions in barriers to wine export. For example, just 2 years ago the President submitted a comprehensive report to Congress that identified export barriers as well as foreign market potential for wine exports. In July 1983, the administration finalized an accord with the European Community on regulatory barriers to trade in wine and several U.S. wine producers have recently been successful in establishing a market for their products in the European Community. Is it really appropriate for the Congress to commission another costly study and to disrupt on going negotiations?

Approaching trade relationships on a sectoral basis as this bill would do is a dangerous game to play. Any political mileage to be gained from this bill is not worth the costs it will impose on other U.S. exporters and consumers, and the trading system in general. Sectoral reciprocity, as those in the trade field call it, conflicts directly with the principles of comparative advantage that serve as the basis for trading concessions achieved in multilateral trade negotiaitons. Because of diverse economic capabilities among nations, all trade negotiations that achieve concessions for the products in which the United States specializes, such as agriculture exports, cut across sectoral lines. If the U.S. unilaterally raises duties on wine, in violation of these long-standing obligations, the European Community has every right, under agreements the United States has adopted, to raise duties on U.S. exports.

Section 8 of H.R. 3795 is contrary to definitions outlined in the subsidies and antidumping codes which limit petitioners in CVD and antidumping cases to those industries seeking protection against a like foreign industry. H.R. 3795 would rewrite the law to enable one industry in particular, the grapegrowers, to file an antidumping case against imports of European wines.

The International Trade Commission recently rejected this petition on the grounds that grapes and wine are distinct products with separate markets and uses. Common sense suggests that injury due to dumped imports of wine would be felt first by the wine

producers who are competing directly with the foreign product and they should be the industry to file the case. If imports are not injuring the processed wine industry, perhaps wine imports are not the major problem facing the growers.

Mr. Chairman, the House will vote later today on a motion authorizing a conference with the Senate on a large trade bill which will no doubt include the troublesome sections of H.R. 3795. In my view a Senate amendment to H.R. 3398, entitled the "Reciprocal Trade and Investment Act," addresses concerns raised by the wine industry in a way that will not result in harm to other sectors of the U.S. economy. This amendment, which resembles H.R. 1571, favorably approved by the Ways and Means Committee last spring, reinforces the President's authority to "seek substantially equivalent commercial market opportunities" for U.S. products. This goal is to be achieved after considering overall trading relationships between countries, including the particular economic advantages of each. I would emphasize that this amendment does not authorize the President to seek access on a product-by-product basis nor does it instruct him to protect noncompetitive industries from import competition.

We are aware that the European Community has indicated that enactment of the bill, as it appears before the House, will result in retaliation. The retaliation will affect soybeans, corn gluten and feed, $5 billion worth of our exports to the EC and other commodities as well.

The really bad section of this bill is section 8. What it does is violate our international agreements which specify that countervailing duty and antidumping actions may be brought by producers of like products. The grapegrowers would like to be included as they could be under our law and under international agreement, but only if they can prove injury to the wine processors, the vineyards themselves. The grapegrowers are anxioius to go around the vineyards saying, "Never mind whether they have been hurt," as is required under international law. "We have to have a special direct pipeline to raise our case."

That is what violates GATT. That is what upsets our trading partners. That is what has the administration upset. That is what has the soybean growers upset, the corngrowers upset, the farm bureau upset, and everyone who is engaging in export operations within our society upset as well.

The vineyards, I might add, are not necessarily in support of this bill.

I am going to read a list of small wine operations which oppose this bill: Almaden Vineyards, Beringer Vineyards, Callaway Vineyards, Gold Seal Vineyards of New York, Great Western of New York, Inglenook of California, Taylor of California, and so forth. There are many vineyards who do not support this bill.

I just came from a conference committee with the distinguished gentleman from Washington [Mr. BONKER], who tells me that at least the grapegrowers that he has communicated with in his State do not support it either.

He indicates that he will have a statement. Unfortunately, he will probably not be able to be here by the time the debate suspends, but he will put his remarks into the RECORD indicating that this is a problem and that section 8 must be removed if we are to get a bill signed and made into law.

I have a telegram from a group calling itself the Export Processing Industry Coalition, National Soybean Processors, Corn Refiners, Millers National Federation and the 10 international unions of the AFL-CIO, which urge us to strike section 8.

I have a telegram from the soybean processors urging us to strike section 8.

Ambassador Brock, our Special Trade Representative, urges us to strike section 8.

Practically nobody except a few folks representing some grapegrowers who claim they have been injured, are asking us to include section 8.

Some our speakers have asked for a fair fight in their attempt to sell wine around the world. Nobody would like to deny them a fair fight. I do not think, however, that it makes any sense to suspend and violate our international obligations for a single, elite group especially when the violation will hurt all the other agricultural producers of this country.

I urge a vote for the Conable motion to recommit which will strip section 8 and in no way harm the other aspirations of the wine industry in the United States.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. LEHMAN].

Mr. LEHMAN of California. Mr. Chairman, I rise in support of the Wine Equity Act which is very important to the wine growers of my district.

Mr. Chairman, on behalf of California's grape growers, who are experiencing an unprecedented period of economic difficulties, I rise in strong support of the Wine Equity Act.

The economic crisis in California's vineyards is real. Fresno County, CA, which I represent, is the largest grape producing county in America. It has been estimated that 30 percent of Fresno County's 9,000 grape growers are expected to be forced out of business by low grape prices in the coming year.

As the market for American wines has been eroded by subsidized foreign imports, many grape growers have adjusted their production to produce raisins instead of wine grapes. This has caused a glut of immense proportions in America's raisin market. Well over 150,000 tons, or almost an entire year's consumption of raisins, are currently in storage. Growers sold over 30,000 tons of raisins at a significant loss to cattle feeders earlier this year in a move planned to make room for this year's harvest in raisin warehouses.

Much to their credit, grape growers have banded together to increase their promotional activities for grapes, wine, and raisins. Raisin growers are also instituting a modified payment-in-kind program that will be privately administered at no cost to the Federal Government. Unfortunately, however, these efforts will not be enough.

Earlier this year California's grape growers were denied relief in the form of an unfair trade practices petition by the International Trade Commission. The ITC held that grape growers are not a part of the wine industry. The reasoning behind such a preposterous decision is mind boggling.

Mr. Chairman, the Wine Equity Act will solve this problem and ensure that the International Trade Commission will give grape growers the recognition they deserve by the Reagan administration.

I urge my colleagues to vote in favor of this sorely needed legislation.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield such time as she may consume to the gentlewoman from California [Mrs. BOXER].

Mrs. BOXER. Mr. Chairman, I rise to speak on behalf of a long overdue piece of legislation, the Wine Equity and Export Expansion Act. If you have followed the success of American wines, you know that not only are we producing more wine, but the quality of our wines is equal or superior to that of any country in the world. It has long since become commonplace for California cabernets and chardonnays to win tastings against premium European counterparts.

Why then, in 1982 for example, did the United States import foreign wines with a value of $781 million while U.S. wine exports amounted to only $38 million for a wine trade deficit of $743 million? Wine amounted to over 2 percent of the entire U.S. trade deficit. A big part of the answer is unfair trade policy.

This bill is designed to encourage equity and fairness by giving the President the tools to ensure that American wines will be admitted into a foreign country on the same fair and equal basis that wines of that country are admitted into the United States. This is accomplished by providing the President with necessary authority to eliminate tariff and nontariff trade barriers, and if necessary, to enact

similar restrictions on an offending country's wine exports to this country. In addition, provisions for export promotion are included.

The Wine Equity Act represents simple fairness and equal treatment. And, it will help us reduce our increasingly serious trade deficit problem. I urge my colleagues to support this needed legislation.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. Bosco].

Mr. BOSCO. Mr. Chairman, I rise in strong support of H.R. 3795, the Wine Equity Act.

Like other members with strong agricultural constituencies, I am sensitive to administration concerns over potential foreign trade retaliation and the unraveling of earlier accords negotiated with the European Community. I believe my record in opposition to domestic content legislation speaks to that fact.

However, the domestic wine industry faces a unique set of problems. In 1982 the U.S. wine trade deficit reached $822 million—with wine imports growing at a rate six times faster than the growth in U.S. consumption. This enormous deficit is not, and I repeat not, due to the unwillingess of our wine producers to modernize and meet the challenge of expanding world markets. Any close examination of the industry will reveal just the opposite: Efficiencies brought about by the introduction of new technologies, new product research, and new quality controls should allow the industry to compete successfully in the international arena.

Instead, the industry's inability to compete can be chiefly ascribed to one simple fact: Despite months of administration plodding and pleading, other wine-producing countries are not interested in opening their markets or limiting government subsidies. Through continued storage subsidies, investment grants and subsidized credit, foreign government subsidies have struck a severe blow to free trade.

Mr. Chairman, H.R. 3795 is a fair and responsible approach to a protectionist international wine trading system that has failed miserably, and which threatens the economic viability of our own industry. The actions called for in this legislation are forceful enough, yet flexible enough, to develop and expand foreign market access for our industry without in any way lessening our national goal of promoting a free trading system. Indeed, H.R. 3795 will enhance such a system. Perhaps most importantly, proponents of this legislation recognize that a continuation in the status quo will only further exacerbate trade tensions, leading to calls for more protectionism, and greater foreign wine trade restrictions.

I am convinced that our goal of improving market access, opening the international wine trades, and ensuring the survival of our wine industry cannot be achieved without the type of well-coordinated and comprehensive approach provided in this bill. The administration has admitted that it has had little success in its attempts to achieve meaningful tariff and barrier concessions from our foreign competitors. Let us give our negotiators a hand and approve this legislation.

Mr. CONABLE. Mr. Chairman, I yield 4 minutes to the gentleman from California [Mr. THOMAS], a member of the committee.

Mr. THOMAS of California. Mr. Chairman, I want to spend a little time talking about the bill we have before us because apparently a number of speakers are talking about the bill as it was introduced and not the bill we have before us.

The distinguished chairman of the subcommittee, I think, spelled out exactly what this bill does at the present time. That is, I will freely admit, that the original Wine Equity Act bill was a sectoral reciprocity bill. This bill, as it now stands before us, is not a reciprocity bill. There are no automatic penalties. Instead it relies on section 301 of the Trade Act of 1974.

This bill has the President consulting with major wine trading countries in efforts to eliminate foreign trade barriers. Withdrawal of trade concessions is not mandatory. It is the President who has discretion. No action is required.

Further, all the bill does is encourage the President to use export promotion funds to expand wine exports.

Finally, this infamous section 8 dealing with a very limited standing provision allowing grape growers to seek relief under U.S. countervailing duty and antidumping law. I do not believe this violative of GATT.

This amendment only expands the definition of an industry as applied to those actions to cover grape growers. Other commodity groups will continue to be assessed on a case-by-case basis.

The standing provision, I believe, appears consistent with the U.S. law. The key to defining the processed agricultural product industry entitled to countervailing or antidumping relief has been the degree to which raw product producers and processors are integrated.

My colleague from Minnesota indicated a number of wineries or vineyards that were opposed to this act.

I want my colleagues to understand that these folks who do not have their family name on the label, wineries such as Almaden or Taylor, are in fact owned by major multinational corporations. Of course, they import wine. So they are not too concerned with what wine you drink, they are going to make money either way.

But if you ask the people who put their name on the label, Wentake people, the Moldavi people, the Sebastiani people, who are the ones who are truly the grape growers, they will tell you that they are directly affected. They are the ones who are producing the American grapes that go into American wine.

Let me tell you also that there is a direct relationship between those who grow wine grapes and the final product. It has been alleged that because the grape can be used for a number of different purposes there is not a direct relationship.

Well, maybe if you grow Thompson seedless grapes it is possible. But if you grow a petit sera grape, if you grow Chardonet grapes, if you grow Cabernet Sauvignon grapes because of the seeds, because of the skins, you simply do not have a table market available. You cannot turn them into raisins. They are directly dependent upon what happens with American wines.

This bill is a reasonable bill. It has been amended significantly. It seems to me that this is the least those folks who are heavily subsidized can do for an industry that is not subsidized, has been penalized historically both in the Constitution and legislatively

I urge support of H.R. 3795 and opposition to the motion to recommit.

Mr. CONABLE. Mr. Chairman, I yield my remaining time to the distinguished minority leader, the gentleman from Illinois [Mr. MICHEL].

Mr. MICHEL. Mr. Chairman, I am opposed to this legislation for a number of reasons, but let me address just one.

We cannot fight unfair trade practices with unfair trade practices of our own. When we do that, we are asking for trouble.

□ 1800

In this case, the trouble is going to come tumbling down on the shoulders of our American farmers.

You cannot enact legislation of this construction without the full knowledge that corn and soybean growers in the Midwest are going to suffer the retaliation of our European trading partners.

What these grain farmers do not need now is to incur the wrath of some of their largest and best customers abroad.

But that is exactly what will happen with passage of this kind of unwarranted interference in the market.

And make no mistake about it, our European trading partners have already promised us retaliation, and the first on their list will be corn gluten, feed, soybean oils, and meal.

I talked to the French Ambassador, particularly, because we have considerable trade between our two countries in that regard, and he made the point over and over again, recognizing, of course, that I come from the Midwest where this is very critical for us.

Agricultural exports are the only bright spot, frankly, on our trade horizon. We have a surplus. We have to make sure that surplus grows.

The only way we are going to survive and prosper as a producing nation is to be competitive in an open and fair market. You do not assure a fair market and you do not compete, in my judgment, by pulling stunts like this.

We can be tough on imports without being unfair to importers. Do not make the principle of fair trade and the livelihood of the American farmer the sacrificial lamb for a select few.

As the gentleman from Minnesota has already alluded to, the American Soybean, the Grain Sorghum Producers Association, the Miller's National Federation, the National Corn Grower's Association, the National Grain Trade Council, the Grange, the rice growers, and the soybean processors all share the concerns that I have made here, and I would urge Members to either oppose the legislation or, at best, it will be my understanding that either the gentleman from New York or the gentleman from Minnesota will offer a motion to recommit with instructions, and I would certainly urge Members, if they feel as I do, to support that motion to recommit.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. LUNDINE].

Mr. LUNDINE. Mr. Chairman, I rise in strong support of this bill. In the spirit of free trade, the United States has continued to maintain a relatively open market for wine and grape products. The United States has the lowest tariff on wine imports of any major wine producing country. Unfortunately, U.S. producers are not afforded the same access to foreign markets as foreign producers in the U.S. market. Instead, U.S. producers, in addition to higher tariffs, encounter many nontariff barriers in foreign markets such as import prohibitions or quotas, certifications, bottling and labelling requirements, and discriminatory practices of liquor control boards.

These impediments to freer international trade in wines is a major reason the U.S. exports very little wine (only about 2 percent of its domestic production) and why imports have been steadily increasing into the United States since the late 1970's. The United States had a wine trade deficit of $822 million in 1983, with a wine import-export ratio of 100-1 with the European Economic Community which accounts for nearly all U.S. imports. These foreign impediments to free international trade in wines is a primary reason why U.S. wine producers and grape growers are facing a serious crisis which is challenging their long-term viability.

Earlier this year, the American Grape Growers Alliance for Fair Trade filed a case before the International Trade Commission in search of a remedy to the growing unfair imbalance in wine trade. Unfortunately, the International Trade Committee concluded that there was no indication that the wine industry was experiencing material injury as a result of imports. In conducting this investigation, however, the ITC chose to restrict its examination solely to the effect on wine producers, and not consider the impact on the grape grower from an increasing trend of foreign wine imports. It is no wonder that the ITC reached the conclusion it did given the narrow scope of their investigation.

The havoc this international wine trade situation is causing is very visible in my district in upstate New York. Unless the market situation improves, it has been estimated that about one-third of the grape growers in the Finger Lakes region of New York State which I represent will go out of business in the near future. This will mean that this area of our country which has produced grapes almost since the birth of our Nation will be economically devastated.

This bill before us is not a protectionist measure. Rather, this bill is designed to expand export opportunities for U.S. wines abroad and to make sure that U.S. grape growers do not continue to be unfairly victimized by foreign nontariff barriers in the wine field. U.S. grape growers and wine producers are internationally competitive and they want to export. Given a fair shake in the international marketplace, their products can help us reduce the staggering international trade imbalance we are facing this year which is expected to exceed $120 billion. Our trading partners should have no quarrel with this bill since it merely seeks to ensure that there is a truly open international market in wine trade.

In addition, this bill will require the International Trade Commission, in all future cases which might come before it, to include domestic grape growers as well as wine producers in the definition of the wine industry. Such a basic definition is wholly appropriate given the fact that the wine industry is a key lifeline for the continued viability of a grape industry in the United States.

I urge the adoption of this bill.

● Mr. MATSUI. Mr. Chairman, the bill before the House of Representatives, H.R. 3795, the Wine Equity and Export Expansion Act of 1984, attempts to harmonize, reduce, and eliminate tariff and nontariff trade barriers which exist in the international wine trade. The bill does not seek to provide the means to control imports, impose additional duties that will increase the cost of wine to consumers, nor seek special treatment in the American market.

Despite the fact that American wine has achieved worldwide recognition, the American wine producer seeking to market the product abroad is continually plagued with a maze of restrictive and prohibitive trade barriers. In 1983 alone, the U.S. trade deficit was more than $60 billion of which the wine trade element was $862 million. In addition, the wine trade deficit has grown 35 percent since 1979.

Historically, there has been an imbalance in the international wine trade. This results from the easy accessibility enjoyed by foreign wines in the United States, which is in direct contrast to the export position of the U.S. wine industry.

Unlike the wine industry in many foreign nations, the U.S. wine industry receives no Government aid or subsidy and the United States imposes no nontariff trade barriers on foreign wines. Foreign wines can move freely within the American market, subject only to the same laws applicable to the American produced wines and to payment of the lowest duties assessed anywhere by a significant wine producing country. This legislation will help to encourage equity within the international wine trade.

Extensive negotiations were undertaken to modify the bill to assure its GATT compatibility, thereby removing any legal basis for retaliation and still provide the President additional tools in dealing with trade barriers.

The reciprocal aspects of the original legislation have been dropped entirely. The amendments now direct the President to seek reductions in tariffs on U.S. wines through consultations with our trading partners.

The amendments further direct the President to use existing U.S. law, section 301 of the 1974 Trade Act, to investigate nontariff barriers to wine in those countries designated through the process provided for in the bill. If barriers are found that burden U.S. commerce and are just unjustifiable, unreasonable, or discriminatory, the President is expected to pursue negotiations under GATT procedures to remove those barriers. If a country refuses and the negotiations are unsuccessful, the President is directed to use his discretionary authority under section 301 and other existing GATT compatible U.S. laws, to compensate the wine industry.

I feel that these efforts will afford the President with the necessary tools which can then be utilized to highlight the problems that U.S. wine producers face in the international marketplace. Our legislative endeavors

have been tempered by the realization that flexibility must be given the U.S. trade representative but lest there be any mistake, the intent is abundantly that concrete results are expected from this bill.

I urge my colleagues to support this bill and vote for its approval by the House of Representatives.

Thank you.●

● Mr. BONKER. Mr. Chairman, I rise to state my support for the Wine Equity Act, and to explain why my support is tempered with concern.

Barriers to U.S. wine exports around the world, especially in Europe, are unreasonable, unfair, and unjustifiable. Reduction or elimination of these barriers must be a top priority of our trade negotiators. Those provisions of the Wine Equity Act that require the President to enter into serious negotiations on this matter are entirely correct and appropriate.

Furthermore, in the absence of strong reciprocity legislation—which the House has not had the opportunity to vote on—the bill's demand for retaliatory action against foreign wine producers under section 301 of the Trade Act, should negotiations fail, is a reasonable response to an intractable problem.

There are elements of this bill, however, that I am concerned about. Most important is the new standing given to grape growers to bring unfair trade cases against foreign wine producers. There is little question of the intimate relationship between growing grapes and making wine. I am concerned, however, that this expansion of the trade law may lead to similar adjustments in foreign trade laws regarding different products; the end result being the imposition of broad, new restrictions on U.S. exports. The language in the Senate bill on this matter is far more sweeping and I hope it will be strenuously opposed in conference.

While I do have concerns about this bill, I want to reiterate my support and urge the bill's passage.●

● Mr. ROYBAL. Mr. Chairman, it is with pleasure that I add my support for the passage of the Wine Equity and Export Expansion Act. Over the last 10 years, U.S. wine and California wine in particular, has improved in quality to the point where it can compete with the best wines of the world. Even the more common table or jug wines are proving to be superior to those of France and Italy. The California producers take pride in their accomplishments and I know for a fact that many are making extensive efforts to expand markets abroad. American wine shipments to Japan increased 50 percent in 1983 over 1982. The increase was over a very small base but it illustrates that in spite of the high tariffs and taxes and the nontariff barriers, American wine is in demand and can be sold. Just think what the increase would be if the tariff and nontariff barriers were reduced or eliminated!

This bill is not what I would have preferred. The original Wine Equity Act called for true equity in that it sought reciprocal treatment for our wines in those countries that ship products to our open market. I realize that such an approach would violate some of our international obligations so this compromise, reported out of the Trade Subcommittee and the full Ways and Means Committee, is a realistic alternative to the first bill. This bill will clearly identify the unfair barriers to the American wine trade, and perhaps, even identify unfair practices that are used against other U.S. agricultural products. The most important factor in this bill is that it requires the President to at least consult with the designated country about the problems. Until the introduction of this legislation, the executive branch relegated wine to the bottom of the list during trade talks with other countries. This will no longer be the case.

I can assure you that the industry will do its part. It will aggressively seek to market its products abroad. it now needs the help of its Government to assist by seeking the elimination or reduction of those barriers that have for years, restricted the free flow of products in international trade.

I ask that all of my colleagues join with me, the American Soybean Association, other farm groups, the unions and the more than 300 other cosponsors of this legislation, in support of its passage.●

● Mr. PANETTA. Mr. Chairman, I rise in strong support of H.R. 3795, the Wine Equity and Export Expansion Act. As an original cosponsor of this legislation and a sponsor of legislation in previous Congresses to bring equity to our domestic wine industry, I am pleased to see this measure come to the floor of the House for consideration.

H.R. 3795 is a strong and sound effort to achieve greater equity for our domestic wine producers. At present, our Nation suffers a severe trade imbalance in the wine industry. The trade deficit in this industry was more than $800 million in 1982, and the United States has sold only about 2 percent of our domestic wines abroad. This is a disturbing fact in view of the rise in imports and the larger share of the American wine market which imports consume.

At present, our domestic wine producers are at a disadvantage in competing with foreign producers. In wine-producing countries, numerous trade barriers have been established which significantly deter the ability of domestic producers to export their products abroad. One condition which acts as a deterrent is in the area of wine labeling. Foreign wine producers must only obtain a certificate from their government confirming that they have complied with the labeling regulations, while not being required to comply with the same standards and procedures required of American winemakers. At the same time, the United States offers the lowest tariffs on wine imports of any major wine producing country.

The Wine Equity and Export Expansion Act directs the President and the U.S. Trade Representative to take actions to eliminate trade barriers and other factors which harm the domestic wine industry. In addition, this legislation requires the President to put forth an export program to encourage the promotion abroad of U.S. wine. Furthermore, domestic grape growers and wine producers would be included in the definition of the wine industry. All of these provisions are essential if we are to begin to bring some equity to the American wine industry and allow this industry to compete with foreign producers.

H.R. 3795 offers a comprehensive approach to aid the U.S. wine industry. This measure has been cosponsored by more than 300 Members of the House of Representative. This is a clear indication that the problems American wine producers face are clearly recognize and that there is strong bipartisan support for efforts to correct the current inequities. I trust the House will adopt this measure and I urge the support of my colleagues.●

Mr. ROSTENKOWSKI. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read for amendment under the 5-minute rule. No amendments are in order except the amendment in the nature of a substitute recommended by the Committee on Ways and Means now printed in the bill which shall be considered as having been read and shall not be subject to amendment.

The text of the bill is as follows:

H.R. 3795

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Wine Equity Act of 1983".

SEC. 2. CONGRESSIONAL FINDINGS AND PURPOSES.

(a) Congress finds that—

(1) there is a substantial imbalance in international wine trade resulting from the easy accessibility enjoyed by foreign wines to the American market which is in direct contrast to the export position of the American wine industry in virtually every existing or potential foreign wine market;

(2) the United States Government does not impose any nontariff trade obstacles to the entry, distribution, and sale of foreign wines;

(3) foreign wines move freely in the American market subject only to the same laws

and regulations which apply to American wines and to payment of the lowest duties assessed anywhere in the world by a significant wine-producing country on foreign wine;

(4) American wine producers seeking to market their products abroad are faced with a maze of restrictive and prohibitive tariff and nontariff barriers; and

(5) the authority of the President under the Trade Act of 1974 to negotiate reductions in tariff barriers has expired.

(b) The purposes of this Act are—

(1) to provide wine consumers with the greatest possible choice of wines from wine-producing countries;

(2) to achieve access to foreign markets for United States wine substantially equivalent to the market access afforded to foreign wine by the United States;

(3) to eliminate tariff and nontariff barriers existing in the international trade; and

(4) to provide the President with the authority and remedies to deal with trade barriers relating to wine.

SEC. 3. DEFINITIONS.

For purposes of this Act—

(1) The term "designated major trading country" means any country, or group of countries represented as an economic union, in which wine is produced or from which wine is exported which the United States Trade Representative, after consultation with the Committee on Finance of the Senate and Committee on Ways and Means of the House of Representatives and representatives of the wine industry, designates as such a country. The criteria for designating a country or group of countries as a designated major trading country under this Act include, but are not limited to, market potential for the export of the United States wines and foreign wine production.

(2) The term "harmonization" means the reduction of tariff and nontariff barriers on imported wine by a designated major trading country so as to accord to United States wine shipped to that country market access equal or substantially equivalent to the access accorded to wine entering the United States.

(3) The term "nontariff barriers" includes, but is not limited to, certification requirements, license and quota systems, government monopolies at any level of government, unreasonable customs delays or procedures, reference price systems, and process, bottling and labeling requirements.

(4) The term "wine" means any substance that—

(A) is made from grapes or grape products or other fruit or fruit products;

(B) contains not less than 0.5 per centum alcohol by volume and not more than 24 per centum alcohol by volume, including all dilutions and mixtures thereof by whatever process produced; and

(C) is for nonindustrial use.

SEC. 4. HARMONIZATION OF TARIFF AND NONTARIFF BARRIERS.

(a) The President shall direct the United States Trade Representative to negotiate the harmonization of tariff and nontariff barriers on wine with each designated major trading country. The President shall also direct the United States Trade Representative to conduct negotiations with designated major trading countries which do not export wine to the United States so as to seek elimination of all tariff and nontariff barriers of such countries to the importation of United States wine.

(b) If a country does not provide harmonization to United States produced-wine within one hundred and eighty days after the country's designation as a designated major trading country to the tariff and nontariff barriers the President shall impose on wine imported from that country tariff and nontariff barriers equal or substantially equivalent to the tariff and nontariff barriers applied by that country to United States wine.

(c) If any country on which tariff and nontariff barriers have been imposed at any time subsequent to such negotiations agrees to the harmonization of tariff and nontariff barriers, the President is authorized to remove those tariff and nontariff barriers. If any country which has agreed to harmonization reimposes any tariff or nontariff barrier subsequent to an agreement, the President is authorized to impose on that country equal or substantially equivalent tariff and nontariff barriers.

SEC. 5. REPORTING.

(a) The United States Trade Representative shall report to the Committee on Finance of the Senate and Committee on Ways and Means of the House of Representatives at the commencement of each negotiation initated under section 4(a). This report shall include a description of the tariff and nontariff barriers and other distortions to trade that are to be negotiated and the proposed harmonization remedies that may be necessary to respond to those tariff and nontariff barriers.

(b) At the end of each negotiation or at the end of the one-hundred-and-eighty-day period established by section 4(b), the United States Trade Representative shall again submit a report to the Committee on Finance of the Senate and Committee on Ways and Means of the House of Representatives outlining the results of the negotiations and action to be taken by the United States.

SEC. 6. CONSULTATIONS.

For purposes of identifying further tariff and nontariff barriers to, and potential markets for, United States wine, the United States Trade Representative shall consult with the Committee on Finance of the Senate, the Committee on Ways and Means of the House of Representatives, and with representatives of the wine industry.

SEC. 7. ASSISTANCE OF OTHER AGENCIES.

(a) Each department, agency, and instrumentality of the United States, including independent agencies, shall furnish to the United States Trade Representative, upon his request, such data, reports, and other information as the United States Trade Representative deems necessary to carry out his functions under this Act.

(b) The head of any department, agency, or instrumentality of the United States may detail such personnel and may furnish such services, with or without reimbursement, as the United States Trade Representative may request for purposes of carrying out his functions under this Act.

The CHAIRMAN. The clerk will designate the committee amendment in the nature of a substitute.

The text of the committee amendment in the nature of a substitute is as follows:

Strike out all after the enacting clause and insert in lien thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Wine Equity and Export Expansion Act of 1984".

SEC. 2. CONGRESSIONAL FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) there is a substantial imbalance in international wine trade resulting, in part, from the relative accessibility enjoyed by foreign wines to the United States market while the United States wine industry faces restrictive tariff and nontariff barriers in virtually every existing or potential foreign market;

(2) the restricted access to foreign markets and the continued low prices for United States wine and grape products adversely affect the economic position of our Nation's winemakers and grape growers, as well as all other domestic sectors that depend upon wine production;

(3) the competitive position of United States wine in international trade has been weakened by foreign trade practices, high domestic interest rates, and unfavorable foreign exchange rates;

(4) wine consumption per capita is very low in many major nonwine producing markets and the demand potential for United States wine is significant; and

(5) the United States winemaking industry has the capacity and the ability to export substantial volumes of wine and an increase in United States wine exports will create new jobs, improve this Nation's balance of trade, and otherwise strengthen the national economy.

(b) PURPOSES.—The purposes of this Act are—

(1) to provide wine consumers with the greatest possible choice of wines from wine-producing countries;

(2) to encourage the initiation of an export promotion program to develop, maintain, and expand foreign markets for United States wine; and

(3) to achieve greater access to foreign market for United States wine through the reduction or elimination of tariff barriers and nontariff barriers to (or other distortions of) trade in wine.

SEC. 3. DEFINITIONS.

For purposes of this Act—

(1) The term "Committees" means the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

(2) The term "grape product" means grapes, and any product (other than wine) made from grapes, including, but not limited to, raisins and grape juice, whether or not concentrated.

(3) The term "major wine trading country" means any foreign country, or group of foreign countries, designated as such under section 4.

(4) The phrase "nontariff barrier to (or other distortion of)", in the context of trade in United States wine, include any measure implemented by the government of a major wine trading country that either gives a competitive advantage to the wine industry of that country or restricts the importation of United States wine into that country.

(5) The term "Trade Representative" means the United States Trade Representative.

(6) The term "United States wine" means wine produced within the customs territory of the United States.

(7) The term "wine" means any fermented alcoholic beverage that—

(A) is made from grapes or othe fruit;

(B) contains not less than 0.5 per centum alcohol by volume and not more than 24 per centum alcohol by volume, including all dilutions and mixtures thereof by whatever process produced; and

(C) is for nonindustrial use.

SEC. 4. DESIGNATION OF MAJOR WINE TRADING COUNTRIES.

(a) DESIGNATION OF COUNTRIES.—The Trade Representative shall designate as a major wine trading country each foreign country, or group of foreign countries represented as an economic union, that, in the judgment of the Trade Representative—

(1) is a potential significant market for United States wine; and

(2) maintain tariff barriers or nontariff barriers to (or other distortions of) trade in United States wine.

(b) DESIGNATION FACTORS.—In deciding, for purposes of subsection (a)(2), whether a foreign country or group of countries maintains nontariff barriers to (or other distortions of) trade in United States wine, the Trade Representative shall take into account—

(1) the review and report required under section 854(a) of the Trade Agreements Act of 1979 (19 U.S.C. 2135 note);

(2) such relevant actions that may have been taken by that country or group since that review was conducted; and

(3) such information as may be submitted under section 6 by representatives of the wine and grape products industries in the United States, as well as other sources.

SEC. 5. ACTIONS TO REDUCE OR ELIMINATE TARIFF AND NON-TARIFF BARRIERS AFFECTING UNITED STATES WINE.

(a) TRADE REPRESENTATIVE CONSULTATIONS.—The President shall direct the Trade Representatives to enter into consultations with each major wine trading country to seek a reduction or elimination of that country's tariff barriers and nontariff barriers to (or other distortions of) trade in United States wine.

(b) PRESIDENTIAL REPORTS.—(1) The President shall notify each of the Committees regarding the extent and effect of the efforts undertaken since the submission of the report required under section 854(a) of the Trade Agreements Act of 1979, and during the twelve-month period beginning on the date of the enactment of this Act, to expand opportunities in each major wine trading country for exports of United States wine. Such notification, which shall be in the form of a separate written report (that must be submitted within thirty days after the close of that twelve-month period) for each major wine trading country, shall include—

(A) a description of each act, policy, and practice (and of its legal basis and operation) in that country that constitutes a tariff barrier or nontariff barrier to (or other distortion of) trade in United States wine (and that description shall be based upon an updating of the report that was submitted to the Congress under section 854(a) of the Trade Agreements Act of 1979);

(B) an assessment of the extent to which each such act, policy, or practice is subject to international agreements to which the United States is a party;

(C) information with respect to any action taken, or proposed to be taken, under existing authority to eliminate or reduce each such act, policy, or pratice, including, but not limited to—

(i) any action under section 301 of the Trade Act of 1974, and

(ii) any negotiation or consultation with any foreign government;

(D) if action referred to in subparagraph (C) was not taken, an explanation of the reasons therefor; and

(E) recommendations to the Congress of any additional legislative authority or other action which the President believes is necessary and appropriate to obtain the elimination or reduction of foreign tariff barriers or nontariff barriers to (or other distortions of) trade in United States wine.

(2) The reports required under paragraph (1) shall be developed and coordinated by the Trade Representative through the interagency trade organization established by section 242(a) of the Trade Expansion Act of 1962.

(c) PRESIDENTIAL ACTION.—If the President, after taking into account information and advice received under subsections (a) and (b), section 6, or from other sources, has reason to believe that any act, policy, or practice of a major wine trading country constitutes a tariff barrier or nontariff barrier to (other other distortion of) trade in United States wine and—

(1) is inconsistent with the provisions of, or otherwise denies benefits to the United States under, any trade agreement; or

(2) is unjustifiable, unreasonable, or discriminatory and burdens or restricts United States commerce;

the President, if he determines that action by the United States is appropriate, shall take all appropriate and feasible action under section 301 of the Trade Act of 1974 to enforce the rights of the United States under such trade agreement or to obtain the elimination of such act, policy, or practice.

SEC. 6. REQUIRED CONSULTATIONS.

The Trade Representative shall consult with the committees and with representatives of the wine and grape products industries in the United States—

(1) before identifying tariff barriers and nontariff barriers to (or other distortions of) trade in United States wine and designating major wine trading countries under section 4;

(2) in developing the reports required under section 5(b); and

(3) for purposes of determining whether action by the President is appropriate under section 301(c) or any other provision of chapter 1 of title III of the Trade Act of 1974 with respect to any act, policy, or practice referred to in section 5(b)(1).

SEC. 7. UNITED STATES WINE EXPORT PROMOTION.

In order to develop, maintain, and expand foreign markets for United States wine, the President is encouraged to—

(1) utilize, for the fiscal year ending September 30, 1985, the authority provided under section 135 of the Omnibus Budget Reconciliation Act of 1982 to make available sufficient funds to initiate, in cooperation with nongovernmental trade associations representative of United States wineries, an export promotion program for United States wine; and

(2) request, for each subsequent fiscal year, an appropriation for such a wine export promotion program that will not be at the expense of any appropriations requested for export promotion programs involving other agriculture commodities.

SEC. 8. AMENDMENT TO THE TARIFF ACT OF 1930.

(a) AMENDMENT.—Section 771 of the Tariff Act of 1930 (19 U.S.C. 1671) is amended by inserting before the period at the end of paragraph (4)(A) the following: "; except that in the case of wine and grape products subject to investigation under this title, the term also means the domestic producers of the principal raw agricultural product (determined on either a volume or value basis) which is included in the like domestic product, if those producers allege material injury, or threat of material injury, as a result of imports of such wine and grape products".

(b) REFILING OF PETITIONS.—No provision of title VII of the Tariff Act of 1930 shall be interpreted to prevent the refiling of a petition under section 702 or 732 of that title that was filed before the date of the enactment of this Act, if the purpose of such refiling is to avail the petitioner of the amendment made by subsection (a).

The CHAIRMAN. The question is on the Committee amendment in the nature of a substitute.

The Committee amendment in the nature of a substitute was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore [Mr. KILDEE] having assumed the chair, Mr. LEVIN of Michigan, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3795) to harmonize, reduce, and eliminate barriers to trade in wine on a basis which assures substantially equivalent competitive opportunities for all wine moving in international trade, pursuant to House Resolution 597, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. CONABLE

Mr. CONABLE. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. CONABLE. In its present form, I am, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. CONABLE moves to recommit the bill H.R. 3795 to the Committee on Ways and Means with instructions to report back the same to the House forthwith with the following amendment:

Strike section 8.

The SPEAKER pro tempore. The gentleman from New York [Mr. CONABLE] is recognized for 5 minutes in support of his motion to recommit.

Mr. CONABLE. Mr. Speaker, this, in my view, is the most significant vote on this measure. The striking of section 8 would greatly improve the bill and make it, I believe, much more acceptable to some of those of us who have objected to the bill.

The issue, of course, is what constitutes a like product. With respect to other measures, the subsidies code, the antidumping code, all specify that

dumped or subsidsized imports must cause material injury to an industry producing a like product.

Section 8 says that this rule shall continue except that in the case of wine and grape products subject to investigation under this title, the term also means the domestic producers of the principal raw agricultural product.

In other words, it treats grapes differently from other raw agricultural products, the assumption being that this raw fruit should be singled out, although many raw agricultural products still will not have the remedy provided by this bill for grapes. This is the point of the measure to which many of our trading partners object. As I have said before, the Europeans take their wine very seriously, and so do many Americans. In that reason, it seems to me that this contentious section ought to be removed from the bill.

Mr. Speaker, I yield the remainder of my time to the gentleman from Minnesota [Mr. FRENZEL].

Mr. FRENZEL. Mr. Speaker, we have been over the purpose of this motion to recommit before. The House is aware that this particular section, section 8, is the only section in this bill that will inhibit its final signing or the final passage of any bill.

You do not have to be against the bill to vote for the motion to recommit. All you have to do is acknowledge that it will be dangerous for the United States to challenge the EC to a trade war in which their victims, our producers, are going to be corn growers, corn processors, soybean growers, soybean processors, citrus growers, raisin growers, almond growers, and the like.

□ 1810

If we simply accept the motion to recommit, we will send forward a bill which will give unnecessary protection to the interests of the people who make wine.

Taking the grape growers out will merely protect other U.S. exporters of much greater number. Therefore, I do not see how this House can let pass this opportunity to make the change.

I have already read into the RECORD the name of the many vineyards who oppose the bill. I have listed the number of unions who oppose the bill, and the number of producer groups who also oppose the bill. Obviously, our trading partners opposed the bill.

The Ambassador, the Special Trade Representative and the administration oppose this section. However, if we accept the motion to recommit, we can send the bill to conference with a pretty good prospect of bringing back a total trade package which can get signed by the President, and which will enhance U.S. trade prospects and those of our trading partners around the world.

If this motion is not accepted, we imperil the Israel bill, the steel bill, the wine bill, the trade remedies bill, the reciprosities bill, the broker's bill, the tariff measures, all of the things that are in this bill. It seems to me that the House has the greatest risk riding on this particular vote that it will face this year in any kind of a trade vote.

If the Members opt to vote for the motion to recommit, you can keep our farm exporters exporting. If the Members vote against the motion to recommit, you are likely to find that they will be retaliated against, and will have great difficulty.

I hope you will support the motion to recommit.

Mr. ROSTENKOWSKI. Mr. Speaker, I oppose the gentleman's motion. The Committee on Ways and Means carefully considered this issue and decided that the change in standing requirements was fully justified. We examined the relationship of the grape growers and the wine producers very carefully in the committee, and concluded that the groups are so interrelated that they truly represent the single industry.

Therefore, we consider it essential, the committee did, to override the ITC decision.

Mr. Speaker, I yield the balance of my time to the gentleman from Florida [Mr. GIBBONS].

Mr. GIBBONS. I thank the gentleman for yielding to me.

Mr. Speaker, I guess few people in this Chamber have as much personal interest in the outcome of this whole package of legislation than I do: I have devoted 2 years to working on this subject. It has been a tough 2 years, and there is no one in this Chamber that has greater respect for Mr. CONABLE and Mr. FRENZEL than I do. I work closely with them. But when I think they are wrong, I do not mind disagreeing with them.

The issue here is whether parts of the grape industry are going to be considered a part of the wine industry for dumping cases and countervailing duty cases. Obviously, those parts of the grape industry that grow table grapes or grow raisin grapes are not in the industry, they are not in the wine industry. The part of the grape raising business that devotes their whole grape raising operation to the development of wine, the processing of wine, are an integral part of the wine industry.

Now, these people have to go in and prove that they have been injured, they have to prove that they are part of the wine industry, and they do not get any special treatment. I have heard the European Community bluster before, and, you know, I am a friend of the European Community, but in this case they are wrong.

As I said before, nobody is required to do anything under this bill except talk, except when you come to this question of whether there is a subsidy that injures this industry. Now, the ITC has found in the past, for instance, in the orange industry that the orange grower was a part of the orange processing industry. In this particular case, the ITC decided that the grape growers were not a part of it. What we are trying to do here is to tell the ITC that a grape that is grown for the wine industry is a part of the wine industry, and they are to be considered when they look at injury caused by subsidies or dumping. That is all that it is.

There is no stretch of the imagination that would give the European Community the right to retaliate against everything else. Sure, they can bluster and say they are going to retaliate, but they do not have any right to retaliate. They have signed the 1979 subsidy agreement; they do not control our industry.

Mr. THOMAS of California. Mr. Speaker, will the gentleman yield on that point?

Mr. GIBBONS. I yield to the gentleman.

Mr. THOMAS of California. Before there was a Wine Equity Act, was the European Community threatening corn gluten feed and soybeans in terms of retaliation?

Mr. GIBBONS. They have been threatening them as long as I have been a Member of Congress, and that is a long time.

Mr. THOMAS of California. If there is no Wine Equity Act, if the gentleman would continue to yield, would they be threatening to do something about corn gluten feed and soybeans?

Mr. GIBBONS. They would be threatening something else. You know, I like the European Community, they do a fine job, but in this case they are wrong. They cannot just recklessly retaliate against everything in American industry because they do not like the domestic legislation that we pass. I am sure that they would say that the grape-growing industry in France, or the grape-growing industry in Germany or in Italy is all part of the wine industry.

There are some grapes that you can eat, and there are some grapes that you just cannot eat. That is the difference here. I hope that the motion to recommit will be defeated and that we will go on and pass this bill.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. CONABLE. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the

point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

Pursuant to the provisions of clause 5 of rule XV, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the question of passage.

The vote was taken by electronic device, and there were—yeas 178, nays 239, answered "present" 1, not voting 14, as follows:

[Roll No. 439]

YEAS—178

Alexander	Hamilton	Paul
Andrews (NC)	Hansen (ID)	Pease
Anthony	Hansen (UT)	Penny
Archer	Harkin	Petri
Aspin	Hartnett	Porter
Barnard	Hefner	Pritchard
Barnes	Heftel	Pursell
Bartlett	Hightower	Quillen
Bateman	Hiler	Roberts
Bedell	Hillis	Robinson
Bennett	Holt	Roemer
Bereuter	Hopkins	Rose
Bethune	Hubbard	Roth
Bevill	Huckaby	Roukema
Bliley	Hunter	Rowland
Boner	Hutto	Sawyer
Bonker	Hyde	Schaefer
Breaux	Jeffords	Scheuer
Brown (CO)	Jenkins	Schroeder
Burton (IN)	Johnson	Schumer
Campbell	Jones (OK)	Seiberling
Carney	Jones (TN)	Sensenbrenner
Chandler	Kasich	Sharp
Coats	Kastenmeier	Shaw
Coleman (MO)	Kemp	Shelby
Conable	Kennelly	Sisisky
Corcoran	Kindness	Skeen
Courter	Kleczka	Skelton
Craig	Kramer	Slattery
Crane, Daniel	Latta	Smith (IA)
Crane, Philip	Leach	Smith (NE)
Dannemeyer	Levitas	Smith (NJ)
Daschle	Lewis (FL)	Smith, Denny
Daub	Livingston	Smith, Robert
de la Garza	Lloyd	Spence
Derrick	Lott	Stangeland
DeWine	Lungren	Stenholm
Dickinson	Mack	Stump
Dorgan	Madigan	Sundquist
Dowdy	Marriott	Synar
Downey	Martin (IL)	Tallon
Durbin	Mazzoli	Tauke
Edwards (AL)	McCloskey	Taylor
Edwards (OK)	McCollum	Traxler
Emerson	McEwen	Valentine
English	McKinney	Volkmer
Erdreich	Mica	Watkins
Evans (IA)	Michel	Weber
Evans (IL)	Miller (OH)	Whitehurst
Fields	Montgomery	Whitley
Flippo	Moore	Whittaker
Franklin	Morrison (CT)	Whitten
Frenzel	Mrazek	Williams (MT)
Gejdenson	Nelson	Winn
Gingrich	Nichols	Wirth
Glickman	Nielson	Wolf
Gore	O'Brien	Wylie
Gradison	Oxley	Yates
Green	Parris	
Gregg	Patman	

NAYS—239

Ackerman	Applegate	Bilirakis
Addabbo	AuCoin	Boehlert
Akaka	Badham	Boggs
Albosta	Bates	Boland
Anderson	Beilenson	Bonior
Andrews (TX)	Berman	Borski
Annunzio	Biaggi	Bosco
Boucher	Hammerschmidt	Ortiz
Boxer	Hance	Ottinger
Britt	Harrison	Owens
Brooks	Hatcher	Packard
Broomfield	Hawkins	Panetta
Brown (CA)	Hayes	Pashayan
Broyhill	Hertel	Patterson
Bryant	Horton	Pepper
Burton (CA)	Howard	Pickle
Byron	Hoyer	Price
Carper	Hughes	Rahall
Carr	Ireland	Rangel
Chappell	Jacobs	Ratchford
Chappie	Jones (NC)	Ray
Clarke	Kaptur	Regula
Clay	Kazen	Reid
Clinger	Kildee	Richardson
Coelho	Kogovsek	Ridge
Coleman (TX)	Kolter	Rinaldo
Collins	Kostmayer	Ritter
Conte	LaFalce	Rodino
Conyers	Lagomarsino	Roe
Cooper	Lantos	Rogers
Coughlin	Leath	Rostenkowski
Coyne	Lehman (CA)	Roybal
Crockett	Lehman (FL)	Russo
D'Amours	Leland	Sabo
Daniel	Lent	Savage
Darden	Levin	Schneider
Davis	Levine	Schulze
Dellums	Lewis (CA)	Shumway
Dicks	Lipinski	Shuster
Dingell	Loeffler	Sikorski
Dixon	Long (LA)	Siljander
Donnelly	Long (MD)	Smith (FL)
Dreier	Lowery (CA)	Snowe
Duncan	Lowry (WA)	Snyder
Dwyer	Luken	Solarz
Dymally	Lundine	Solomon
Dyson	MacKay	Spratt
Early	Markey	St Germain
Eckart	Marlenee	Staggers
Edgar	Martin (NY)	Stokes
Edwards (CA)	Martinez	Stratton
Fascell	Matsui	Swift
Fazio	Mavroules	Tauzin
Feighan	McCain	Thomas (CA)
Fiedler	McCandless	Thomas (GA)
Fish	McCurdy	Torres
Florio	McDade	Torricelli
Foglietta	McHugh	Towns
Foley	McKernan	Udall
Ford (MI)	McNulty	Vander Jagt
Ford (TN)	Mikulski	Vandergriff
Fowler	Miller (CA)	Vento
Frank	Mineta	Vucanovich
Frost	Mitchell	Walgren
Fuqua	Moakley	Walker
Garcia	Molinari	Waxman
Gaydos	Mollohan	Weaver
Gekas	Moody	Weiss
Gephardt	Moorhead	Wheat
Gibbons	Morrison (WA)	Williams (OH)
Gilman	Murphy	Wilson
Gonzalez	Murtha	Wise
Goodling	Myers	Wolpe
Gray	Natcher	Wortley
Guarini	Neal	Wright
Gunderson	Nowak	Wyden
Hall (IN)	Oakar	Young (FL)
Hall (OH)	Oberstar	Young (MO)
Hall, Ralph	Obey	Zschau
Hall, Sam	Olin	

ANSWERED "PRESENT"—1

Stark

NOT VOTING—14

Cheney	Martin (NC)	Simon
Erlenborn	McGrath	Studds
Ferraro	Minish	Yatron
Gramm	Rudd	Young (AK)
Lujan	Shannon	

□ 1830

Messrs. GOODLING, WORTLEY, PEPPER, and ZSCHAU changed their votes from "yea" to "nay."

Messrs. WILLIAMS of Montana, SCHUMER, HEFNER, WHITTEN, EVANS of Illinois, FLIPPO, HUNTER, EDWARDS of Oklahoma, ENGLISH, and WIRTH changed their votes from "nay" to "yea."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the passage of the bill.

The bill was passed.

The title of the bill was amended so as to read: "A bill to expend markets for United States wine through the harmonization, reduction, or elimination of barriers to international trade in such wine, to promote exports of United States wine to foreign markets, and for other purposes."

A motion to reconsider was laid on the table.

VOTE ON WINE EQUITY ACT

(Mr. FOLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FOLEY. Mr. Speaker, the House of Representatives adopted by voice vote the so-called Wine Equity Act, H.R. 3795. I wish to state that I regret the action of the House in passing that bill which I feel will be disadvantageous to our international trade position. And had there been a recorded vote on the bill I would have voted "no."

REPORT ON RESOLUTION PROVIDING FOR A MOTION TO AGREE TO SENATE AMENDMENT TO H.R. 5172, NATIONAL BUREAU OF STANDARDS AUTHORIZATION ACT, 1984 AND 1985

Mr. BONIOR of Michigan, from the Committee on Rules, submitted a privileged report (Rept. No. 98-1130) on the resolution (H. Res. 600) providing for a motion to take the bill (H.R. 5172) to authorize appropriations to the Secretary of Commerce for the programs of the National Bureau of Standards for fiscal years 1984 and 1985 and for related purposes, from the Speaker's table and to agree to the Senate amendment, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION WAIVING CERTAIN POINTS OF ORDER AGAINST CONFERENCE REPORTS ON H.R. 4164, VOCATIONAL TECHNICAL EDUCATION ACT OF 1984, AND S. 2496, ADULT EDUCATION ACT AMENDMENTS OF 1984

Mr. BONIOR of Michigan, from the Committee on Rules, submitted a privileged report (Rept. No. 98-1131) on the resolution (H. Res. 601) waiving certain points of order against the conference reports on the bills (H.R. 4164)

to amend the Vocational Education Act of 1963 to strengthen and expand the economic base of the Nation, develop human resources, reduce structural unemployment, increase productivity, and strengthen the Nation's defense capabilities by assisting the States to expand, improve, and update high-quality programs of vocational-technical education, and for other purposes, and (S. 2496) to amend the Adult Education Act in order to simplify requirements for States and other recipients participating in Federal adult education programs, and for other purposes, which was referred to the House Calendar and ordered to be printed.

GENERALIZED SYSTEM OF PREFERENCES RENEWAL ACT OF 1984

The SPEAKER pro tempore. Pursuant to House Resolution 594 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 6023.

□ 1840

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 6023), to amend the Trade Act of 1974 to renew the authority for the operation of the Generalized System of Preferences, and for other purposes, with Mr. HARRISON in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from Illinois [Mr. ROSTENKOWSKI] will be recognized for 30 minutes and the gentleman from New York [Mr. CONABLE] will be recognized for 30 minutes.

The Chair now recognizes the gentleman from Illinois [Mr. ROSTENKOWSKI].

□ 1840

Mr. ROSTENKOWSKI. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of H.R. 6023, a bill to amend and renew the Generalized System of Preferences Program, which expires on January 3, 1985. The GSP Program provides duty-free tariff treatment to about 3,000 items imported from 140 developing countries. Its purpose is to promote economic development in those countries through the use of preferential trade treatment rather than aid. Despite the importance of the GSP Program to developing countries, GSP imports are an insignificant factor in the U.S. economy, accounting for only 4 percent of total U.S. imports and less than 1 percent of total U.S. consumption.

Last week, the Committee on Ways and Means favorably reported H.R. 6023 to the House by voice vote with an amendment. The major change made by the committee was to extend the GSP Program for 5, rather than 10, years. Congress then can evaluate the program and decide whether a further extension is warranted.

The committee also strengthened protections available to U.S. industry in several different areas. Before designating a country as eligible for GSP treatment, the President must consider to what extent U.S. firms have "equitable and reasonable" access to its markets; whether the country enforces U.S. patents, trademarks, and copyrights; and whether the country complies with internationally reorganized worker rights.

Finally, in order to spread GSP benefits more evenly among developing countries, H.R. 6023 as amended establishes clear criteria to withdraw GSP benefits from certain countries or products. In essence, these criteria would assure that GSP benefits go to countries with demonstrated economic need.

The committee believes that the GSP Program is achieving the worthwhile objective of accelerating economic growth in developing countries. By providing fair and reasonable access to the U.S. market, it has resulted in increased exports and foreign exchange earnings for these countries, at the same time benefiting rather than harming the U.S. economy by increasing demand for U.S. exports.

I believe the bill warrants your support, and I strongly urge its passage.

Mr. Chairman, I reserve the balance of my time.

Mr. CONABLE. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, H.R. 6023 would extend the Generalized System of Preferences [GSP] Program for a 5-year period. The program, designed to help developing countries and ourselves in the process, has been operating over the past decade and is scheduled to expire at the end of this year.

This is extremely important legislation, not just to the affected developing countries. U.S. trade interests and foreign policy would be enhanced by a renewal, and both would be damaged should the program not be renewed.

In many respects, a simple, 1-year extension would be preferable to the legislation before us. I had hoped that renewal legislation would provide more discretion for the leveraging of benefits for trade concessions with respect to GSP users. I also am sensitive to problems that some of my colleagues have with other provisions of this measure. And frankly, I think that 5 years is too short a period of time for this kind of program. It might have been better if we had been able to take another year to work out some of these problems to the greater satisfaction of all concerned, and if we could have then packaged a more acceptable proposition for a 10-year run. But it is so important to make sure that the GSP Program does go on that I am willing to accept some relatively minor shortcomings and support H.R. 6023.

The bill has been described in detail by the distinguished chairman of our committee, and will be analyzed even further by other commmittee members. Therefore, I will not elaborate. This bill represents the best that the Committee on Ways and Means could produce on a highly sensitive subject and I accept it. The worst thing we could do would be to defeat the measure entirely, and doom the prospects for a continued GSP Program.

Mr. Chairman, I reserve the balance of my time.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 6 minutes to the gentleman from Ohio [Mr. PEASE].

Mr. PEASE. Mr. Chairman, I rise in strong support of this GSP bill. Originally, GSP was a unilateral commitment on the part of advanced nations like the United States to help LDC's export and thus become less dependent on foreign aid while benefiting the people who live in those lesser developed countries.

This year, the renewal year of GSP, the Reagan administration wants to change the character and purpose of the program somewhat and to inject an element of reciprocity into the granting of GSP privileges.

In particular, the administration seeks to use GSP to provide negotiating leverage for market access of American goods going into LDC's and as a way to provide leverage for intellectual property rights. That is, to protect American companies which hold patents and trademarks which are infringed in these Third World countries.

If one accepts the premise that GSP will be changed from a program of unilateral preferences to that of reciprocity, then it seems to me that we ought to use that leverage as well to avoid social dumping, that is, unfair competition from foreign workers whose low wages result from them being denied free exercise of basic labor rights.

Now is the time for the concept of fair trade to be expanded to take into account respect for internationally recognized rights of workers.

Who really benefits from duty-free access to GSP to the U.S. market? Is it the people of the LDC's who achieve broad-based development? Or are the people of those countries exploited in terms of their labor so that the benefi-

ciaries of GSP are not the people but rather multinational corporations?

We need to insure in this bill that the benefits of GSP do flow to the poor of those countries.

□ 1850

In the 1980's and beyond, capital and technology are mobile. They can move any place. But workers are not. Workers are bound by national laws and personal allegiance to their countries, to their States, and to their areas.

The result is an escalating trend toward global production that undercuts the rights of all workers in this country and elsewhere.

These economic facts of life—and they are facts of life—combine to steal American jobs and to diminish the rights of American workers to the lowest common international denominator.

H.R. 6023 breaks new ground in the advancement of human rights through its linkage of special trade benefits and worker rights. It also provides effective steps for American workers to redress unfair foreign competition from governments which are willing to grind their workers to attract investment from U.S. multinational corporations.

Antilabor policies may in the short run profit companies that use GSP and cheap labor to produce low-priced goods for export to the United States. But this sort of exploitation undermines the development of self-reliant economies in much of the Third World. Ignoring labor rights violations means ignoring the role of increased wages and better working conditions in achieving and sustaining long-term development and economic vitality among the lesser developed nations of the world.

H.R. 6023 makes a start toward counteracting capital flight and the exporting of American jobs.

Disparity in labor rights, make no mistake, between American workers and LDC nation workers is a growing factor in the competitive decline of American industry.

Mr. CONABLE. Mr. Speaker, I yield 8 minutes to the gentleman from Minnesota [Mr. FRENZEL].

Mr. FRENZEL. Mr. Chairman, I rise in support of H.R. 6023 to extend the generalized system of preferences program for developing countries for an additional 5-year period. The existing 10-year program expires the end of this year and must be renewed if the United States is going to maintain its commitment to help the developing countries lift themselves by their own bootstraps.

The 5-year period called for in our bill is not adequate. As the bill was introduced, it called for a 10-year renewal, which is the length of time that the current law was given. It is the length of time given to the CBI. It is the length of time necessary to make economic decisions in a complex society, to make arrangements, provide for investment, and so forth. I am very disappointed that it is only 5 years.

The bill before us is a very complicated bill. Mostly it was worked out between the distinguished gentleman from Ohio [Mr. PEASE] and myself in an attempt to satisfy our urges, and those of the committee, to have a GSP extension, but, at the same time, to provide for swifter graduation of countries which were more developed, that is, by the standard of per capita GNP, and to provide incentives so that we could offer these LDC trading partners a greater incentive to maintain their GSP privileges.

Specifically the gentleman from Ohio [Mr. PEASE] and I sought to include access to their markets for our goods, unrestricted investment in their country, market access on services, adherence to international copyright conventions, and to provide some kind of reasonable labor standards or progress thereto within these countries.

The idea is we give in this bill the authority to the U.S. Trade Representative, or to the administration, to negotiate with these countries and say, "Even though you may have been graduated into a new class and you will lose some GSP privileges, if you will give us a reasonable market access or if you will abide by the copyright law where you have been cheating before, or if you will elevate the standards of labor in your country, then we will give you a bit of a carrot as well as the stick. You will be able to maintain some of your GSP privileges."

Even so, this bill provides for what I think are rather severe phasing out or graduation or GSP privileges.

It is the best bill that the committee could pass. My first choice would be the Senate bill.

But I am grateful to those who participated in negotiating a bill that provided for more severe graduation because they, too, knew that we had to have a bill on extended law or we would break faith with the LDC's.

It is interesting to note that the countries to whom we give GSP as a group are about the only countries left that we have a plus balance of trade with. Now, that is not true for some of the prominent ones which will be noted in the following discussion. Nevertheless, it is true for the group.

As we wish to sell, we must also buy in these markets. To give these countries a special shot at our market is the intention of the bill.

The good will and economic assistance which the GSP program generates between the United States and developing countries everywhere far exceeds the actual size of the program. Dutyfree imports under GSP amount to less than 4 percent of total U.S. imports. During the past 10 years the program has been in effect, although the value of imported products have increased substantially, GSP imports have averaged a steady and insignificant 3 percent of total imports into this country. Yet, through GSP, and the recognition of developmental needs by the United States that is inherent in the program, these countries have improved their economic security and independence. I think we all recognize that more prosperity breeds a greater degree of political stability.

The renewal bill before the House today makes substantial changes in the existing program, and represents a compromise among various concerns that Members of Congress had about how the program worked in the past and what new directions GSP should take in the future. The compromises were tough, but I believe we have a good bill that will maintain a viable yet tightly controlled GSP program for the next 5 years.

One important new emphasis H.R. 6023 gives to the GSP program is that benefits for certain of the more developed of the developing countries will be contingent upon steps these countries take to improve their trading relationship with the United States. Among such steps would be to increase market access for U.S. exports, remove barriers to trade in services, provide adequate and effective copyright protection and ensure workers' rights. Although under the GATT, this program was designed to be a unilateral grant of "special and differential treatment" for developing countries, important leverage can be exercised on a product by product basis.

In addition to leveraging the top countrys' GSP benefits H.R. 6023 provides for significant graduation of products when compared to the existing program. Countries that have per capita incomes of $5,000 or higher, or use 10 percent or more of total GSP benefits during any one year, will have their GSP benefits cut in half automatically. Each item can be imported up to only $25 million or 25 percent of total imports of that item rather than $57 million or 50 percent—the so-called competitive need limits. These countries can avoid reductions on some products and can buy back benefits on other products if they provide concessions to U.S. trading interests. However, they cannot increase their GSP benefits beyond existing levels. The countries to which these more strict requirements apply are Taiwan, Hong Kong, South Korea, Singapore, and Israel.

For the lesser developing countries, the President under H.R. 6023 will have more discretion as to how GSP benefits are distributed. For the more advanced countries in that group, such

as Mexico, Brazil, and India, the President may reduce benefits by half in product lines where these countries are competitive or in situations where there are unresolved trade problems—such as inadequate copyright protection. Countries with severe economic hardships, including debt problems, can expect more flexibility under the program. Also, for countries willing to buy back benefits with trade concessions, the President can waive competitive need limits and increase benefits on certain products beyond existing levels. However, the waiver cannot be applied to a combined value greater than 25 percent of total GSP imports the previous year.

Although this bill gives the President certain options that allows him to reward good trading partners, recognize developmental needs in various countries, and leverage GSP benefits for U.S. trade concessions, overall the new program will be more restrictive. The total level of benefits is expected to be reduced because more products will be subject to lower benefits than products for which benefits will be expanded. Since GSP imports currently make up such a small part of total U.S. imports, it is hard to imagine that the program can be any threat at all to U.S. producers. Indeed many U.S. firms improve their competitive position by using GSP inputs. The GSP program is as important for such U.S. interests as it is for developing countries.

Finally, the bill contains a ceiling beyond which a country would graduate entirely from the GSP program. When a country reaches a per capita income of $9,000—as measured principally by the World Bank—that country will no longer be eligible for GSP benefits on any product. Although still considered developing countries, those reaching per capita incomes of $9,000 will be considered too competitive to participate in our GSP program. This provision does create some problems in the GATT because it will treat countries, rather than only certain products, less favorably than most developing countries with which they are associated for other purposes—such as IMF, World Bank, UNCTAD, and GATT. However, a ceiling is important to some members.

Other countries, including all of the industrialized world, give GSP privileges to the LCD's. They have not, I might add, cut out Hong Kong, Korea and Taiwan as a member of this body will try to do later by amendment the reason they have not is that such conduct is not smart. It is another shot in the foot.

Graduation is the most important feature of this bill. The bill is supported by all the departments of our administration, including State, Commerce, and STR. Our country would, I think, be very much embarrassed were we not able to extend GSP.

I would like to talk a little bit about the Gephardt amendment. The gentleman from Missouri, a member of our committee, believes that we should remove three of the top performers under GSP. Korea, Hong Kong, and Taiwan from GSP privileges.

In my judgment, this would be a very unwise process and procedure. As I explained earlier, no other industrialized country, which offers GSP privileges, sees fit to cut out these countries.

In addition, some of them are important to us from a strategic and tactical standpoint. They are certainly important to us as trading partners and in other ways as well.

I think what the Gephardt amendment loses sight of is that we have finally produced a GSP bill that enables us to give an incentive to these countries to do things that we want them to do. For instance, certainly two out of those three countries, perhaps all three, have been alleged to have violated copyright, patent and intellectual properties of international laws.

If the gentleman's amendment is accepted, we will lose our ability, any clout or leverage we have, to ask, and to force, and to encourage those countries to begin to do business with us in a better way with respect to copyright, patent infringement, labor standards, market access, services, and investments.

Under this bill America can do nothing but win. Yes, we give away some free access to our market. That access has been a flat 3 percent of our imports since GSP was first inaugurated in the 1974 Trade Act. It has not increased overall, but it has offered these trading partners of ours a chance to compete with countries that might be better and more sophisticated than they are.

Another point I might make against the Gephardt amendment is that the International Trade Commission has found that if we get rid of these three countries and give them no GSP, their proportion of the market is likely to be picked up by Japan, rather than by other LDC's.

It seems to me preferable to continue this preference rather than to give it to Japan, which I think has the largest balance of trade against the United States.

□ 1900

I believe that we need a GSP. I am not sure this is the best bill, but I think that the committee has done us a good job in getting any bill at all in what has been a very difficult environment for trade expansion and enhancement this year.

I hope the bill will be passed without amendment.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 2 minutes to the gentleman from Kansas [Mr. GLICKMAN].

Mr. GLICKMAN. Mr. Chairman, I would like to take a moment to commend the Ways and Means Committee from incorporating language in the bill designed to bring to the forefront the need to eliminate unfair trade barriers imposed by other countries on U.S. products. Certainly, in instances where countries are imposing restrictions unfairly on our products entering their markets, it makes little sense for us to in turn be extending preferential treatment to their products coming into our market as is the case under the Generalized System of Preferences Program. In my view, this is leverage which our negotiators should use and use forcefully.

Let me cite just one example of a GSP-beneficiary country which has imposed unfair trade restrictions on U.S. products: Brazil. Brazil ranks fifth among the nations which take advantage of the GSP. At the same time, while Brazil's aircraft industry has been marketing airplanes with considerable success in this country, they have a virtual closed-door policy when it comes to U.S. general aviation aircraft being marketed there. Negotiations to remedy this very unfair situation have been halting at best, and I would hope this leverage would be used to prod some flexibility on the part of the Brazilians.

It is my understanding that bilateral trade talks are scheduled to resume here in Washington later this month with Brazilian officials. That is encouraging, and I hope there will be serious attention paid to the inequitable position that exists in the area of aviation trade. I also hope our negotiators will not hesitate to make the point that at least this Member of Congress is going to be watching those negotiations with great interest and that, if negotiations do not move off dead center soon, benefits—like GSP status—will need to be carefully re-examined with the Congress' concern about open access to markets fully in mind. Specifically, if Brazil wants to sell its domestically produced airplanes into the U.S. market, surely it must realize that its markets must be open and accessible to our domestically produced general aviation aircraft.

Mr. FRENZEL. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 5 minutes to the gentleman from Florida [Mr. GIBBONS].

Mr. GIBBONS. Mr. Chairman, I want to start off my remarks by paying tribute to the two people of the Congress who have done the most work on this, Mr. FRENZEL and Mr. PEASE. This is a very tough subject to work with. There is not a great deal of

constituency for this subject, but it is a matter of simple justice that we must do.

Let me try to put this in perspective. GSP, when compared to total American consumption, goods that come into this country under the generalized system of preferences, is less than 1 percent of all our consumption. So it is not a big item, but it is an important item. Less than 4 percent of all imported goods that come into this country come in under the GSP.

So while it is not a big item, it is an important item because these are the lesser developed countries that we are talking about.

All industrialized countries have a generalized system of preferences. It is something that we agreed to 10 years ago and we are still attempting to carry out. This bill is important because the President in his present situation has no ability to negotiate with any foreign country to get us better market access. But if we pass this GSP bill, the President will be able to go to all of the GSP countries and say, "Look, we want, as a condition to granting you GSP, better access to your markets. Two, we want you to live up to the internationally recognized labor rights that we have all agreed to."

And because America is a group of highly educated people and innovative people, we have a lot of intellectual property rights that we need to protect, and we have no way to protect them except by bargaining in the international arena, and we can say now to these countries, "You recognize our patent rights, you recognize our copyright laws and those rights that are granted, and do not infringe upon those by stealing or just converting those to your own use."

So trademarks, copyrights, and patents are some of the things that can be protected because of the power that the President will have to negotiate effectively with these developing countries.

Now, I want to spend just a couple of minutes talking about Mr. GEPHARDT's amendment. I know the gentleman is well motivated in his amendment; but, frankly, it strikes the wrong way, and I hope we will not adopt it. It would say to Hong Kong, Korea, and Taiwan, "You do not need to worry about our copyright laws, you do not need to worry about our patent laws, you do not need to worry about our trademark laws, because you are not going to get any generalized special preference."

Most of the new developing trade in the world is done by those Asian countries in the Pacific Basin.

Mr. GEPHARDT does not mean for his amendment to be anti-Asian, but it will be interpreted by our Asian friends as being anti-Asian because it only picks out Asian countries.

These Asian countries all have a special need. Hong Kong is just going through the worst trials and tribulations that you can understand. No one really knows what the future of Hong Kong will be. If we do not give Hong Kong the same kind of rights that other developing nations have, then Hong Kong is going to be decapitalized, it is going to be in effect turned over, ripe for Communist exploitation. That would be a mistake because Hong Kong is a bright light in a nonmarket area of the world, and it is the leading example of what free people can do when they put themselves to work. Hong Kong has virtually no trade barriers against the United States. It would be unfair for us to throw up trade barriers against little Hong Kong.

Now, Taiwan has also just come through a very trying experience. We no longer recognize them as an independent country. They have got some kind of limbo status that is not well defined, and we do not need to do anything to make Taiwan more unstable than it already is.

We do not want to say that we have abandoned Taiwan, and we do not want to give up our leverage over Taiwan in trying to get them to drop some of the trade practices that they follow. And that is what would happen if we pass the Gephardt amendment.

Korea in the post-World War II days has been one of the strongest allies and one of the most determined allies the United States has had. We have fought side by side with them and they have fought side by side with us. They are a poor developing country. Yes, they have a good trade balance with us now, but overall Korea does not have a positive trade balance, and they have a very tough situation in meeting their international debt obligations. We cannot cut Korea off for security reasons and we cannot cut them off for economic reasons.

So if we cut off Korea, Taiwan, and Hong Kong we are going to be saying to that great Asian market out there, far bigger than any other market in the world, that we are anti-Asian, and it will spread throughout Asia like a bunch of locusts and we will lose the great trade opportunities that are developing there.

There is now more trade from America across the Pacific than there is across the Atlantic. It is very important that we look to the future. Our future is in Asia, and we should not turn our backs on it now.

Mr. THOMAS of California. Mr. Chairman, I rise in support of this legislation. Having fought the GSP Program ever since I came to Congress, I want to explain why.

Farmers in my district feel GSP unfairly gives foreign producers access to our market though we have limited access to theirs. Many also feel benefits have been awarded when the United States has little information about how those benefits will affect other countries. In addition, some industries are already so competitive that their exports confront ours in major world markets but GSP never seemed to take that fact into consideration. To address those concerns, my colleague from California [Mr. MATSUI] and I introduced H.R. 3581 to exclude agricultural products from GSP coverage.

Thanks in large part to discussions with Ambassador Bill Brock, the U.S. Trade Representative, changes addressing farm concerns are incorporated in this legislation. The Ambassador and I began working last March, and we found that many concerns I have heard can be handled by altering the program's administration. I want to explain the changes we worked out and I would also like to introduce for the RECORD a copy of a letter the Ambassador has written to Senator WILSON and me as it explains a portion of what I am about to relate.

We have agreed to change the process through which benefits are granted. Not only will a standard form be used to judge requests, but petitions not meeting the standard will in most cases be refused review. Information on beneficiary country exports, market shares and other factors will be required. Those seeking modification of GSP benefits will not be subject to higher information requirements than are imposed on those seeking benefits. Countries' ability to compete in particular product lines will be taken into account in deciding whether to give them benefits, and section 501 of the Trade Act of 1974 has been amended to require the Government to look at whether exports of an article are sensitive to price changes so the United States is not merely giving duties away.

In fact, important aspects of the petition process will become a good deal tougher. For example, where petitions for benefits have been denied, no reconsideration on the articles involved will be allowed for a minimum of 3 years. Longer bans on reconsideration are possible where warranted by such considerations as production and investment patterns in the United States. These restrictions apply to beneficiaries' imports; our own industry's right to annually seek GSP changes is unimpaired. More information will also be available about the GSP process. Data used in making GSP decisions and the analysis supporting those decisions will generally be available on request. Moreover, the Ambassador has agreed that before decisions are made, interested parties will have a chance to submit more information to the Government if they feel the International Trade Commis-

sion has incorrectly assessed a petition.

Our agreement also requires new regulations to clarify GSP modification processes, makes it clear that countries unfair export practices must be considered in assessing petitions, and require a report on GSP's impact on U.S. industries producing like or directly competitive products.

Mr. Chairman, part of my understanding with the Ambassador is contained in the bill's language, while other portions are described in the accompanying Subcommittee on Trade and Ways and Means Committee reports. We concluded that in many cases explaining the operation and means of implementing changes made by this bill eliminated the need to develop a complicated process for running the GSP Program. Nevertheless, we both consider these provisions binding as part and parcel of the statutory changes implementation, particularly those changes made in sections 501 and 502.

To those in this body who cosponsored H.R. 3581 and to others interested in this program, I want to express my hope that you will be able to support the bill Ways and Means is offering. Having discussed these changes with a number of farmers and major farm organizations, I can tell you that the changes I have discussed have been very well received. While many of us would still prefer exclusion for philosophical reasons, I hope you will bear in mind the fact that without passage of this bill, none of the improvements I have mentioned will come about. For that reason, I urge you to support passage.

At this point in the RECORD I include the following material:

BROCK/THOMAS AGREEMENT GSP PROGRAM CHANGES

I. GSP CRITERIA

A. on the basis of amendments to section 501 and on clarification of the meaning of section 502(c)(4) authority, market access, export practices, the volume and value of a nation's exports, U.S. and world market shares of a nation and a country's level of competitive ability and development are to be considered when the President makes decisions concerning expansion of the list of eligible articles, designation and redesignation and waivers of competitive need or other limits.

B. paragraph (1) of section 501 of the Trade Act of 1974 is amended by adding these words: "through an expansion of their exports". The criterion will require consideration of whether particular countries are actually likely to benefit from an extension of GSP an article.

II. PETITION STANDARDS

A. no greater information requirements may be imposed on petitioners asking for the removal of GSP treatment than are imposed on petitioners seeking grants of duty-free treatment;

B. a standard petition, with clearly-stated information standards, will be developed for use in administering the GSP program and petitions which fail to provide requested information will in most cases be refused review; and

C. denial of a petition to add an article or articles to the list of eligible articles will prevent reconsideration of petitions on the same article or articles for a minimum of three years, with longer periods allowed where warranted by circumstances relating to production and/or investment.

III. REVIEWS OF PRODUCTS

A. as part of the general review of individual countries' competitiveness, the President will consider competitiveness in particular products; and

B. the review will incorporate public hearings.

IV. DURING REDESIGNATION OF GRADUATED COUNTRIES, BOTH THE FACTORS LISTED IN SECTION 501 AND SECTION 502(C) WILL BE WEIGHED BY THE PRESIDENT IN MAKING A FINAL DECISION

V. REPORTING AND DISCLOSURE REQUIREMENTS

A. a report will be issued by the President on GSP's effect on like and directly competitive products, and on beneficiary developing country exports, and will be incorporated in the general report required by the bill.

B. the President will (1) issue aggregate data used in making GSP decisions (but not business confidential information); (2) allow an interested party to submit a response to a sanitized International Trade Commission report by submitting additional information prior to a final decision on a petition; and (3) release the analysis and conclusions supporting the final decision (but not inter- or intra-agency advice or memoranda) if that information is requested.

VI

New regulations must be issued to describe the administrative processes available to U.S. industry seeking modification of GSP benefits.

THE U.S. TRADE REPRESENTATIVE,
Washington, September 14, 1984.

Hon. WILLIAM M. THOMAS,
House of Representatives,
Washington, DC.

DEAR BILL: This is in response to your letter of June 30 concerning the operation of the U.S. Generalized System of Preferences (GSP) and its renewal, particularly with respect to the treatment of agricultural products. As you will recall, I provided an interim response to this letter earlier this month expressing my desire to reach agreement on the various issues raised in your letter.

As I indicated, I am prepared to make compromises where necessary provided they are in the best interests of the overall program. I have identified several areas where changes responsive to your concerns appear to be possible. I understand that these changes will result in a GSP renewal proposal that you will support in Congress.

Our respective staffs have met frequently to discuss possible measures to accommodate the interests of the agricultural community. A great deal of time and effort has been put into these discussions. I am particularly grateful to the members of the agricultural community who volunteered to work with us on these important issues.

I would like to begin by reviewing our position regarding modifications in the petitioning process. As you know, there has been a broad disparity in the quantity and quality of information contained in the hundreds of petitions requesting modifications in the list of articles eligible for duty-free treatment under the GSP. This disparity has been a source of concern for domestic and foreign parties with an interest in the requested modification. It has also placed this office in an unenviable position in determining whether a petition satisfies the GSP's informational requirements.

To address this problem, my office will develop a standard petition form as you have suggested. The form, which would be required of all petitioners, would encompass all of the types of information set forth in the current regulations. It could also include other information which would assist the President in his assessment of the relevant policy considerations. Incomplete petitions would not be accepted unless it is demonstrated that missing information was not available to the petitioner. I welcome suggestions regarding areas to be covered by a standard form.

A standardized petition form could be useful in two respects. First, it would ensure that the petitioner has fully studied the anticipated benefits of its request before filing. Second, it would ensure that other interested parties have a clearer indication of the petitioner's situation, better enabling them to assess their own interest in the issue.

You raised the issue of providing interested parties an opportunity to comment on information collected during the interagency review prior to a final determination. As you know, the President must obtain the advice of the U.S. International Trade Commission on the probable economic effect on the relevant U.S. industry of granting GSP status to a particular product before taking such action. I will make arrangements with the Commission for the issuance of a public report of the Commission's factual findings at a point sufficiently early in the review to allow interested parties an opportunity to comment on such findings. Of course we will continue to release to interested parties any other information collected during the interagency review of any petition with the exception of: (1) information which, if revealed, would disclose the operations of an individual firm; and (2) internal governmental advice or memoranda.

The next point you raised concerns the granting of GSP treatment on a generalized basis, and not limiting GSP status to the petitioner. As you know, I must insist that GSP benefits continue to be conferred on a generalized basis. To do otherwise would violate the legal requirements of the General Agreement on Tariffs and Trade (GATT). The selective granting of benefits would also be an administrative nightmare and would impair the interests of many U.S. producers as well as U.S. importers.

As you noted, the GSP is a departure from the most-favored-nation principle embodied in Article I of the GATT. Recognizing that a program of tariff preferences for the benefit of developing countries could make a useful contribution to the international trading system, the GATT's contracting parties agreed to a waiver of Article I which allows for such a derogation. The waiver, which was originally adopted in 1971, was made permanent during the Tokyo Round of Multilateral Trade Negotiations through its incorporation into the GATT Framework Agreement.

The GATT waiver for GSP programs provides specific parameters for GSP schemes. It requires that the schemes be "generalized, nonreciprocal and nondiscriminatory." For a GSP program to be "generalized," tariff preferences must be bestowed general-

ly to beneficiary countries. A GSP scheme which conferred benefits only to selective beneficiaries (e.g., only those filing petitions) would not fall within the scope of the waiver and would violate Article I, thus rendering the donor country susceptible to claims for compensation. I should note that all of the 19 other industrialized countries maintaining GSP programs grant preferences on a generalized basis.

A selective awarding of GSP benefits would impair the interests of many U.S. industries as well as the importing community. For example, high-tech producers in your State claim that the duty-savings they realize on components imported from GSP suppliers are critical to their ability to compete with Japan in international end-product markets. Such producers are anxious to maintain a variety of GSP-eligible sources. The same is true with respect to many other U.S. producers.

You asked how we can obtain adequate information unless petitions are required from all potential beneficiaries and, in particular, how we can ensure that only those countries in need of (and deserving of) GSP treatment would be granted GSP treatment. We must bear in mind that petitions serve a useful role in the product review but are not the only source of economic data in this process.

I realize that your concern with respect to the granting of GSP treatment on a generalized basis also relates to the issue of whether U.S. producers of like or directly competitive articles are likely to be affected adversely. This issue will be fully addressed by the U.S. International Trade Commission, which will report to the President its findings with respect to the impact on U.S. producers of the possible designation of all potentially eligible beneficiary countries. As I indicated earlier, I will make arrangements with the Commission for the issuance of a public report of its factual findings at a point sufficiently early in the review to give interested parties an opportunity to comment on the findings. Also, my office will continue to release to interested parties the other types of information I noted earlier.

The main purpose of the petition, whether it be a petition to add or remove a product, is to demonstrate whether the requested action could produce a result consistent with the program's objectives. In the case of product addition requests filed by beneficiary country governments or exporters, the key point to be addressed in the petition is how the requested action would further the economic development of the beneficiary country.

Please note that my strong objection to the selective inclusion of beneficiaries (i.e., only those filing petitions) does not prohibit the selective exclusion of competitive suppliers. The Administration recognizes that there are products in which individual beneficiaries have achieved a sufficiently high level of competitiveness to warrant their exclusion from GSP treatment. In fact, the Administration implemented a policy of discretionary graduation based on this concept in 1981. Through this policy, over $1 billion in imports from beneficiary countries are currently excluded from GSP treatment even though the program's statutory limits have not been reached.

One of the three contexts in which this policy has been and would be applied concerns adding new products to the GSP list. If the interagency review concludes that one or more individual countries are already sufficiently competitive with respect to a product about to be added to the GSP, they will be barred from eligibility at the outset. The Administration's renewal proposal would codify this practice by including as a new statutory element for Presidential consideration the beneficiary country's competitiveness in the product of concern. I will work with you to make sure that report language addresses this practice.

In assessing a beneficiary's competitiveness with respect to a product, several factors must be examined. Among these are the various factors you enumerated in your letter (size of the industry, level of worldwide exports and productive capability). You mentioned the possibility of developing legislative history that would require these factors to be considered with respect to all countries that stand to materially benefit from the granting of preferential treatment to a product. I would support this. I would strongly object, however, to your suggestion that a "complete study" of these factors be supplied to the relevant industry. This would be unnecessarily burdensome, particularly in light of the fact that we will make available to any interested party the relevant material collected during the course of the review. This material will include the Commission report discussed earlier.

On another subject, you asked for an explanation of why the GSP cannot be used as a lever for resolving trade disputes with developing countries. It is clear that a renewed GSP program must promote the further integration of developing countries into the international trading system. In fact, the Administration's renewal bill was designed with this goal in mind. In all GSP determinations, the President will be required to examine the extent to which a beneficiary has assured the United States of equitable and reasonable access to its markets; the extent to which it is providing adequate protection for U.S. intellectual property; and the extent to which it is eliminating trade-distorting investment practices. I would support report language stating that the reasonableness of a beneficiary country's export practices should also be considered in all GSP determinations.

What I must oppose are any forms of automatic conditionality based on reciprocity-type considerations. Such provisions would violate the GATT requirement that GSP programs be administered on a "nonreciprocal" basis. Furthermore, automatic conditionality presents several other problems. One of these is that it leaves the President no flexibility to differentiate among beneficiaries at various levels of development and competitiveness—a factor that clearly relates to the speed with which a developing country should assume the full responsibilities of the international trading system.

I would also oppose any attempt to insert product-specific or sectoral reciprocity into the GSP program. In addition to the points noted above, market access evaluations cannot be conducted in such an isolated context.

Another point you raised concerns repeated requests to add a product to the GSP list. While there have been very few instances where such petitions were accepted for formal review, the simple fact that the petition has been filed can be alarming. To clarify this situation, we will amend the regulations to bar from consideration any product addition request that has been reviewed within the previous three years. This provision would be effective upon enactment of the legislation and would apply to product petitions reviewed during the three years prior to enactment.

In certain instances it may be appropriate to apply a longer waiting period. In gauging the appropriate period beyond three years for these special cases, I would consider factors such as production methods or processes and investment requirements as well as information indicating a change in circumstances since the previous review.

You expressed concern that graduation from GSP treatment has rarely occurred for agricultural items and correctly noted that not one of the 26 country/product combinations removed from eligibility in 1984 were for agricultural products. There is a very simple reason for this: no one filed a petition requesting graduation with respect to an agricultural product. The industrial products sector was considerably more active, filing numerous petitions. Of the 17 petitions filed on industrial products, 11 were accepted for formal review and 9 (covering the 26 country/product combinations you mentioned) were ultimately granted.

You asked for my comments on the concept of conducting an annual review of eligible articles for the purpose of graduating competitive beneficiary countries. The Administration's bill requires the President to complete such a review, covering all GSP products, by January 1987 and periodically thereafter. The GSP's annual product review procedures would also be maintained providing interested parties an opportunity to request modifications on specific products on a more regular basis. I support your proposal to hold public hearings as part of the 1987 and periodic reviews.

You suggested that examinations of countries' competitiveness should take into account the volume and value of the country's exports to the United States and worldwide, the U.S. and world market share of the country's exports, and the development level of the industry in the country. Such information (to the extent it is available) is already taken into consideration in such examinations and I would support legislative history clarifying our practice in this regard.

I hope that I have been able to answer your questions and concerns. You have represented your agricultural community admirably. Many of your suggestions demonstrate a keen interest in making the program more effective and equitable and could represent important improvements to the GSP program. For this I am grateful to you and your staff.

I know that you understand the importance of this legislation to President Reagan's commitment to the international trading system. We must all keep in mind that GSP imports account for only 4 percent of total U.S. imports and that GSP imports of agricultural products account for well under 1 percent of total U.S. imports. On the other hand, the GSP program is of enormous importance to the lesser developed countries of the world which purchase $14 billion of U.S. farm goods each year.

Thank you again for your thoughtful letter. I look forward to working with you both toward Congressional approval of a renewed GSP program.

Very truly yours,

WILLIAM E. BROCK.

Mr. ROSTENKOWSKI. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read for amendment under the 5-minute rule. No amendments are in order except the amendment in the nature of a substitute recommended by the Committee on Ways and Means now printed in the bill which shall be considered as having been read and shall not be subject to amendment except by an amendment printed in the CONGRESSIONAL RECORD of October 1, 1984, by, and if offered by, Representative GEPHARDT, which shall be debatable for not to exceed 1 hour, equally divided and controlled by Representative GEPHARDT and a Member opposed thereto and shall not be subject to amendment.

The text of the bill is as follows:

H.R. 6023

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; STATEMENT OF PURPOSE.

(a) This Act may be cited as the "Generalized System of Preferences Renewal Act of 1984".

(b) The purpose of this Act is to—

(1) promote the development of developing countries, which often need temporary preferential advantages to compete effectively with industrialized countries;

(2) promote the notion that trade, rather than aid, is a more effective and cost-efficient way of promoting broad-based sustained economic development;

(3) take advantage of the fact that developing countries provide the fastest growing markets for United States exports and that foreign exchange earnings from trade with such countries through the Generalized System of Preferences can further stimulate United States exports;

(4) allow for the consideration of the fact that there are significant differences among developing countries with respect to their general development and international competitiveness;

(5) encourage the providing of increased trade liberalization measures, thereby setting an example to be emulated by other industrialized countries;

(6) recognize that a large number of developing countries must generate sufficient foreign exchange earnings to meet international debt obligations;

(7) promote the creation of additional opportunities for trade among the developing countries;

(8) integrate developing countries into the international trading system with its attendant responsibilities in a manner commensurate with their development;

(9) encourage developing countries to eliminate or to reduce significant barriers to trade in goods and services and to investment, and

(10) address the concerns listed in the preceding paragraphs in a manner that—

(A) does not adversely affect United States producers and workers, and

(B) conforms to the international obligations of the United States under the General Agreement on Tariffs and Trade.

SEC. 2. 10-YEAR EXTENSION OF THE GENERALIZED SYSTEM OF PREFERENCES.

(a) Section 505 of the Trade Act of 1974 (19 U.S.C. 2465) is amended to read as follows:

"SEC. 505. TERMINATION OF DUTY-FREE TREATMENT.

"No duty-free treatment provided under this title shall remain in effect after January 3, 1995.".

(b) The table of contents of the Trade Act of 1974 is amended by striking out the item relating to section 505 and inserting in lieu thereof the following:

"Sec. 505. Termination of duty-free treatment.".

SEC. 3. CONSIDERATION OF A BENEFICIARY DEVELOPING COUNTRY'S COMPETITIVENESS IN EXTENDING PREFERENCES.

Section 501 of the Trade Act of 1974 (19 U.S.C. 2461) is amended—

(1) by striking out "and" at the end of paragraph (2),

(2) by striking out the period at the end of paragraph (3) and inserting in lieu thereof "; and", and

(3) by adding at the end thereof the following new paragraph:

"(4) the extent of the beneficiary developing country's competitiveness with respect to eligible articles.".

SEC. 4. AMENDMENTS RELATING TO THE BENEFICIARY DEVELOPING COUNTRY DESIGNATION CRITERIA AND THE PROVISION OF PROTECTION FOR INTELLECTUAL PROPERTY.

(a) Paragraph (4) of section 502(b) of the Trade Act of 1974 (19 U.S.C. 2462(b)) is amended—

(1) by inserting ", including patents, trademarks, or copyrights," after "control of property" in subparagraphs (A) and (B), and

(2) by inserting ", including patents, trademarks, or copyrights" after "control of such property" in subparagraph (C).

(b) Subsection (c) of section 502 of the Trade Act of 1974 (19 U.S.C. 2462) is amended—

(1) by striking out "and" at the end of paragraph (3),

(2) by striking out the period at the end of paragraph (4) and inserting in lieu thereof a semicolon, and

(3) by adding at the end thereof the following new paragraphs:

"(5) the extent to which such country is providing adequate and effective means under its laws for foreign nationals to secure, to exercise, and to enforce exclusive rights in intellectual property, including patents, trademarks, and copyrights; and

"(6) the extent to which such country has taken action to reduce trade distorting investment practices and policies (including export performance requirements)."

SEC. 5. ARTICLES WHICH MAY NOT BE DESIGNATED AS ELIGIBLE ARTICLES.

Paragraph (1) of section 503(c) of the Trade Act of 1974 (19 U.S.C. 2463(c)(1)) is amended—

(1) by striking out "and" at the end of subparagraph (F),

(2) by redesignating subparagraph (G) as subparagraph (H).

SEC. 6 LIMITATIONS ON PREFERENTIAL TREATMENT.

(a) Subsection (a) of section 504 of the Trade Act of 1974 (19 U.S.C. 2464) is amended—

(1) by striking out "The President" and inserting in lieu thereof "(1) The President", and

(2) by adding at the end thereof the following new paragraph:

"(2) The President shall, as necessary, advise the Congress and, by no later than January 4, 1988, submit to the Congress a report on the application of sections 501 and 502(c), with particular emphasis on—

"(A) the extent to which beneficiary developing countries have—

"(i) assured the United States that such countries will provide equitable and reasonable access to the markets and basic commodity resources of such countries,

"(ii) provided adequate and effective means for foreign nationals to secure, to exercise, and to enforce exclusive rights in intellectual property, including patents, trademarks, and copyrights, and

"(iii) taken action to reduce trade-distorting investment practices and policies (including export performance requirements), and

"(B) the actions the President has taken to withdraw, to suspend, or to limit the application of duty-free treatment with respect to any country which has failed to adequately take the actions described in clause (i).

(b) Subsections (c) and (d) of section 504 of the Trade Act of 1974 (19 U.S.C. 2464 (c) and (d)) are amended to read as follows:

"(c)(1) Whenever the President determines that any country—

"(A) has exported (directly or indirectly) to the United States during a calendar year a quantity of an eligible article having an appraised value in excess of an amount which bears the same ratio to $25,000,000 as the gross national product of the United States for the preceding calendar year (as determined by the Department of Commerce) bears to the gross national product of the United States for calendar year 1974, or

"(B) except as provided in subsection (d), has exported (either directly or indirectly) to the United States a quantity of any eligible article equal to or exceeding 50 percent of the appraised value of the total imports of such article into the United States during any calendar year,

then, not later than 90 days after the close of such calendar year, such country shall not be treated as a beneficiary developing country with respect to such article.

"(2)(A) Not later than January 4, 1987, and periodically thereafter, the President shall conduct a general review of eligible articles based on the considerations described in section 501 or 502(c).

"(B) If, after any review under subparagraph (A), the President determines that this subparagraph should apply because a beneficiary developing country has demonstrated a sufficient degree of competitiveness (relative to other beneficiary developing countries) with respect to any eligible article, then paragraph (1) shall be applied to such country with respect to such article by substituting—

"(i) '1984' for '1974' in subparagraph (A), and

"(ii) '25 percent' for '50 percent' in subparagraph (B).

"(3)(A) Not earlier than January 4, 1987, the President may waive the application of this subsection with respect to any eligible article of any beneficiary developing country if, before the 90th day after the close of the calendar year for which a determination described in paragraph (1) was made with respect to such eligible article, the President—

"(i) receives the advice of the International Trade Commission on whether any industry in the United States is likely to be adversely affected by such waiver,

"(ii) determines, based on the considerations described in sections 501 and 502(c) and the advice described in clause (i), that such waiver is in the national economic interest of the United States, and

"(iii) publishes the determination described in clause (ii) in the Federal Register.

"(B) In making any determination under subparagraph (A), the President shall give great weight to—

"(i) the extent to which the beneficiary developing country has assured the United States that such country will provide equitable and reasonable access to the markets and basic commodity resources of such country, and

"(ii) the extent to which such country provides adequate and effective means under its law for foreign nationals to secure, to exercise, and to enforce exclusive rights in intellectual property, including patent, trademark, and copyright rights.

"(C) Any waiver granted pursuant to this paragraph shall remain in effect until the President determines that such waiver is no longer warranted due to changed circumstances.

"(4) Except in any case to which paragraph (2)(B) applies, the President may waive the application for this subsection if, before the 90th day after the close of the calendar year for which a determination described in paragraph (1) was made, the President determines and publishes in the Federal Register that, with respect to such country—

"(A) there has been an historical preferential trade relationship between the United States and such country,

"(B) there is a treaty or trade agreement in force covering economic relations between such country and the United States, and

"(C) such country does not discriminate against, or impose unjustifiable or unreasonable barriers, to, United States commerce.

"(5) A country which is no longer treated as a beneficiary developing country with respect to an eligible article by reason of this subsection may be redesignated a beneficiary developing country with respect to such article, subject to the provisions of sections 501 and 502, if imports of such article from such country did not exceed the limitations in paragraph (1) (after application of paragraph (2)) during the preceding calendar year.

"(6)(A) This subsection shall not apply to any beneficiary developing country which the President determines, based on the considerations described in sections 501 and 502(c), to be a least-developed beneficiary developing country.

"(B) The President shall—

"(i) make a determination under subparagraph (A) with respect to each beneficiary developing country before July 4, 1985, and periodically thereafter, and

"(ii) notify the Congress at least 60 days before any such determination becomes final.

"(7) For purposes of this subsection, the term 'country' does not include an association of countries which is treated as one country under section 502(a)(3), but does include a country which is a member of any such association.

"(d)(1) Subsection (c)(1)(B) (after application of subsection (c)(2)) shall not apply with respect to any eligible article if a like or directly competitive article is not produced in the United States on January 3, 1935.

"(2) The President may disregard subsection (c)(1)(B) with respect to any eligible article if the appraised value of the total imports of such article into the United States during the preceding calendar year is not in excess of an amount which bears the same ratio to $1,000,000 as the gross national product of the United States for that calendar year (as determined by the Department of Commerce) bears to the gross national product of the United States for calendar year 1979.".

SEC. 7. EFFECTIVE DATE.

The amendments made by this Act shall take effect on January 4, 1985.

The CHAIRMAN. The Clerk will designate the committee amendment in the nature of a substitute.

The text of the committee amendment in the nature of a substitute is as follows:

Strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE; STATEMENT OF PURPOSE.

(a) This Act may be cited as the "Generalized System of Preferences Renewal Act of 1984".

(b) The purpose of this Act is to—

(1) promote the development of developing countries, which often need temporary preferential advantages to compete effectively with industrialized countries;

(2) promote the notion that trade, rather than aid, is a more effective and cost-efficient way of promoting broad-based sustained economic development;

(3) take advantage of the fact that developing countries provide the fastest growing markets for United States exports and that foreign exchange earnings from trade with such countries through the Generalized System of Preferences can further stimulate United States exports;

(4) allow for the consideration of the fact that there are significant differences among developing countries with respect to their general development and international competitiveness;

(5) encourage the providing of increased trade liberalization measures, thereby setting an example to be emulated by other industrialized countries;

(6) recognize that a large number of developing countries must generate sufficient foreign exchange earnings to meet international debt obligations;

(7) promote the creation of additional opportunities for trade among the developing countries;

(8) integrate developing countries into the international trading system with its attendant responsibilities in a manner commensurate with their development;

(9) encourage developing countries—

(A) to eliminate or reduce significant barriers to trade in goods and services and to investment,

(B) to provide effective means under which foreign nationals may secure, exercise, and enforce exclusive intellectual property rights, and

(C) to afford workers internationally recognized worker rights; and

(10) address the concerns listed in the preceding paragraphs in a manner that—

(A) does not adversely affect United States producers and workers, and

(B) conforms to the international obligations of the United States under the General Agreement on Tariffs and Trade.

SEC. 2. CONSIDERATION OF A BENEFICIARY DEVELOPING COUNTRY'S COMPETITIVENESS IN EXTENDING PREFERENCES.

Section 501 of the Trade Act of 1974 (19 U.S.C. 2461) is amended—

(1) by inserting "through the expansion of their exports" before the semicolon at the end of paragraph (1);

(2) by striking out "and" at the end of paragraph (2);

(3) by striking out the period at the end of paragraph (3) and inserting in lieu thereof "; and"; and

(4) by adding at the end thereof the following new paragraph:

"(4) the extent of the beneficiary developing country's competitiveness with respect to eligible articles.".

SEC. 3. AMENDMENTS RELATING TO THE BENEFICIARY DEVELOPING COUNTRY DESIGNATION CRITERIA.

(a) Subsection (a) of section 502 of the Trade Act of 1974 (19 U.S.C. 2462(a)) is amended by adding at the end thereof the following new paragraph:

"(4) For purposes of this title, the term 'internationally recognized worker rights' includes—

"(A) the right of association;

"(B) the right to organize and bargain collectively;

"(C) a prohibition on the use of any form of forced or compulsory labor;

"(D) a minimum age for the employment of children; and

"(E) acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health.".

(b) Subsection (b) of section 502 of the Trade Act of 1974 (19 U.S.C. 2462(b)) is amended—

(1) by striking out "Hungary" in the list of countries preceding paragraph (1);

(2) by inserting ", including patents, trademarks, or copyrights," after "control of property" in paragraph (4) (A) and (B);

(3) by inserting ", including patents, trademarks, or copyrights" after "control of such property" in paragraph (4)(C);

(4) by striking out "and" at the end of paragraph (6);

(5) by striking out the period at the end of paragraph (7) and inserting in lieu thereof "; and";

(6) by inserting after paragraph (7) the following new paragraph:

"(8) if such property has not taken or is not taking steps to afford internationally recognized worker rights to workers in the country (including any designated zone in that country)."; and

(7) by striking out "and (7)" in the unnumbered paragraph at the end of the subsection and inserting in lieu thereof "(7), and (8)".

(c) Subsection (c) of section 502 of the Trade Act of 1974 (19 U.S.C. 2462) is amended—

(1) by striking out "and at the end of paragraph (3);

(2) by striking out the period at the end of paragraph (4) and inserting in lieu thereof a semicolon; and

(3) by adding at the end thereof the following new paragraphs:

(5) the extent to which such country is providing adequate and effective means under its laws for foreign nationals to secure, to exercise, and to enforce exclusive rights in intellectual property, including patents, trademarks, and copyrights;

"(6) the extent to which such country has taken action to—

"(A) reduce trade distorting investment practices and policies (including export performance requirements); and

"(B) reduce or eliminate barriers to trade in services; and

"(7) whether or not such country has taken or is taking steps to afford to workers in that country (including any designated zone in that country) internationally recognized worker rights.".

SEC. 4. ARTICLES WHICH MAY NOT BE DESIGNATED AS ELIGIBLE ARTICLES; REGULATIONS.

(a) Subsection (c)(1)(E) of section 503 of the Trade Act of 1974 (19 U.S.C. 2463(c)(1)(E)) is amended to read as follows:

"(E) footwear, handbags, luggage, flat goods, work gloves, and leather wearing apparel which were not eligible articles for purposes of this title on April 1, 1984,".

(b) Such section 503 is further amended by adding at the end thereof the following new subsection:

"(d) Notwithstanding any other provision of law, the Secretary of the Treasury shall, after consulting with the United States Trade Representative, prescribe regulations governing rule-of-origin requirements under this title.".

SEC. 5. LIMITATIONS ON PREFERENTIAL TREATMENT.

(a) Subsection (a) of section 504 of the Trade Act of 1974 (19 U.S.C. 2464) is amended—

(1) by striking out "The President" and inserting in lieu thereof "(1) The President"; and

(2) by adding at the end thereof the following new paragraph:

"(2) The President shall, as necessary, advise the Congress and, by no later than January 4, 1987, submit to the Congress a report on the application of sections 501 and 502(c), and the actions the President has taken to withdraw, to suspend, or to limit the application of duty-free treatment with respect to any country which has failed to adequately take the actions described in section 502(c).".

(b) Subsections (c) and (d) of section 504 of the Trade Act of 1974 (19 U.S.C. 2464 (c) and (d) are amended to read as follows:

"(c)(1) Subject to paragraphs (2) through (8) and subsection (d), whenever the President determines that any country—

"(A) has exported (directly or indirectly) to the United States during a calendar year a quantity of an eligible article having an appraised value in excess of an amount which bears the same ratio to $25,000,000 as the gross national product of the United States for the preceding calendar year (as determined by the Department of Commerce) bears to the gross national product of the United States for calendar year 1974; or

"(B) has exported (either directly or indirectly) to the United States a quantity of any eligible article equal to or exceeding 50 percent of the appraised value of the total imports of such article into the United States during any calendar year;

then, not later than July 1 of the next calendar year, such country shall not be treated as a beneficiary developing country with respect to such article.

"(2)(A) Not later than January 4, 1986, and periodically thereafter, the President shall conduct a general review of eligible articles based on the considerations described in section 501 or 502(c).

"(B) If, after any review under subparagraph (A), the President determines that this subparagraph should apply because a beneficiary developing country has demonstrated a sufficient degree of competitiveness (relative to other beneficiary developing countries) with respect to any eligible article, then paragraph (1) shall be applied to such country with respect to such article by substituting—

"(i) '1984' for '1974' in subparagraph (A) of that paragraph; and

"(ii) '25 percent' for '50 percent' in subparagraph (B) of that paragraph.

"(3) If the President determines that any beneficiary developing country, in any calendar year after 1984—

"(A) has a per capita gross national product (calculated on the basis of the best available information, including that of the World Bank) of $5,000 or more; or

"(B) exported (either directly or indirectly) to the United States a quantity of articles that was duty-free under this title and had an appraised value of more than 10 percent of the appraised value of the total imports of all articles that entered the United States duty-free under this title during that year;

then not later than July 1 of the next calendar year paragraph (1) shall be applied to such country with respect to all eligible articles by substituting—

"(i) '1984' for '1974' in subparagraph (A) of that paragraph; and

"(ii) '25 percent' for '50 percent' in subparagraph (B) of that paragraph.

"(4) If the President determines that any beneficiary developing country had for any calendar year (hereafter in this paragraph referred to as the 'determination year') after 1984, a per capita gross national product (calculated on the basis of the best available information, including that of the World Bank) of $9,000 or more, than paragraph (1)(B) shall thereafter be applied with respect to the eligible articles of that country as follows:

"(A) In the case of eligible articles that were subject during the determination year of a 50 percent limitation under paragraph (1)(B), '25 percent' shall be substituted for '50 percent' in that paragraph with respect to eligible articles of that kind during the 24-month period beginning not later than July 1 of the year after the determination year.

"(B) In the case of eligible articles that were subject during the determination year to a 25 percent limitation under paragraph (1)(B), that limitation shall continue to apply to eligible articles of that kind during the 12-month period beginning not later than July 1 of the year after the determination year.

"(C) The country shall not be treated as a beneficiary developing country with respect to eligible articles—

"(i) to which subparagraph (A) applies, after the close of the 24-month period referred to in that subparagraph; or

"(ii) to which subparagraph (B) applies, after the close of the 12-month period referred to in that subparagraph.

"(5)(A) Not earlier than January 4, 1986, the President, subject to subparagraph (C), may waive the application of this subsection with respect to any eligible article of an beneficiary developing country if, before July 1 of the year after the calendar year for which a determination described in paragraph (1) was made with respect to such eligible article the President—

"(i) receives the advice of the International Trade Commission on whether any industry in the United States is likely to be adversely affected by such waiver,

"(ii) determines, based on the considerations described in sections 501 and 502(c) and the advice described in clause (i), that such waiver is in the national economic interest of the United States, and

"(iii) publishes the determination described in clause (ii), together with a summary of the reasons therefor, in the Federal Register.

"(B) Any waiver granted under this paragraph shall remain in effect until the President determines that such waiver is no longer warranted due to changed circumstances.

"(C)(i) No waiver may be granted under subparagraph (A) with respect to paragraph (4).

"(ii) No waiver granted under subparagraph (A) with respect to paragraph (1), in regard to any eligible article of a beneficiary developing country to which a determination under paragraph (3) applies, may result in the imposition of any limitation exceeding that that would apply under paragraph (1) (A) or (B) without regard to paragraphs (2) through (8).

"(iii) The waiver authority under subparagraph (A) is limited, with respect to the eligible articles of countries not subject to paragraph (3) or (4), during each 12-month period for which that authority is effective following the close of a calendar year referred to in subparagraph (A) to a quantity of those articles that has an aggregate value equal to 25 percent of the total value of all articles that entered the United States duty-free under this title during that calendar year. There shall be counted against the limitation imposed under the preceding sentence for any 12-month period only that quantity of any eligible article of any country not subject to paragraph (3) or (4) that—

"(I) entered the United States duty-free under this title during that period; and

"(II) is in excess of the quantity of that article that would have been so entered during that period if the 1974 limitation applied under paragraph (1)(A) and the 50-percent limitation applied under paragraph (1)(B).

"(6) Except in any case to which paragraph (2)(B), (3), or (4) applies, the President may waive the application of this subsection if, not later than July 1 of the year after the calendar year for which a determination described in paragraph (1) was made, the President determines and publishes in the Federal Register that, with respect to such country—

"(A) there has been an historical preferential trade relationship between the United States and such country,

"(B) there is a treaty or trade agreement in force covering economic relations between such country and the United States, and

"(C) such country does not discriminate against, or impose unjustifiable or unreasonable barriers to, United States commerce.

"(7) A country which is no longer treated as a beneficiary developing country with respect to an eligible article by reason of this subsection (other than paragraph (4)) may be redesignated a beneficiary developing country with respect to such article, subject to the provisions of sections 501 and 502, if imports of such articles from such country did not exceed the limitations (as they may have been adjusted as a result of the application of paragraph (2)(B) or (3)) in paragraph (1) during the preceding two calendar years.

"(8) For purposes of this subsection, the term 'country' does not include an association of countries which is treated as one country under section 502(a)(3), but does include a country which is a member of any such association.

"(d)(1) Subsection (c)(1)(B) shall not apply with respect to any eligible article if a like or directly competitive article is not produced in the United States on January 3, 1985.

"(2) The President may disregard subsection (c)(1)(B) with respect to any eligible article if the appraised value of the total imports of such article into the United States during the preceding calendar year is not in excess of an amount which bears the same ratio to $5,000,000 as the gross national product of the United States for that calendar year (as determined by the Department of Commerce) bears to the gross national product of the United States for calendar year 1984.".

SEC. 6. 10-YEAR EXTENSION OF THE GENERALIZED SYSTEM OF PREFERENCE AND REPORTS.

(a) Section 505 of the Trade Act of 1974 (19 U.S.C. 2465) is amended to read as follows:

"SEC. 505. TERMINATION OF DUTY-FREE TREATMENT AND REPORTS.

"(a) No duty-free treatment provided under this title shall remain in effect until after January 3, 1990.

"(b) On or before January 4, 1990, the President shall submit to the Congress a full and complete report regarding the operation of this title.

"(c) The President shall submit an annual report to the Congress on the status of internationally recognized worker rights within each beneficiary developing country.".

(b) The table of contents of the Trade Act of 1974 is amended by striking out the item relating to section 505 and inserting in lieu thereof the following:

"Sec. 505. Termination of duty-free treatment and reports.".

SEC. 7. AGRICULTURAL EXPORTS OF BENEFICIARY DEVELOPING COUNTRIES.

(a) Title V of the Trade Act of 1974 (19 U.S.C. 2461 et seq.) is further amended by adding at the end thereof the following new section:

"SEC. 506. AGRICULTURAL EXPORTS OF BENEFICIARY DEVELOPING COUNTRIES.

"The appropriate agencies of the United States shall assist beneficiary developing countries to develop and implement measures designed to assure that the agricultural sectors of their economies are not directed to export markets to the detriment of the production of foodstuffs for their citizenry."

(b) The table of contents of such Act of 1974 is amended by adding after the item relating to item 505 the following:

"Sec. 506. Agricultural exports of beneficiary developing countries.".

SEC. 8. EFFECTIVE DATE.

The amendments made by this Act shall take effect on January 4, 1985.

□ 1910

PARLIAMENTARY INQUIRY

Mr. SCHULZE. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. SCHULZE. My inquiry is, Mr. Chairman, whether this question is divisible. We are talking about three separate nations. Can this amendment be divided so that separate vote may be taken on each of those three different nations?

The CHAIRMAN (Mr. HARRISON). The rule states as follows with reference to the Gephardt amendment:

Said amendment shall not be subject to amendment or to a demand for a division of the question in the House or in the Committee of the Whole.

Mr. SCHULZE. So we have no choice but to vote for the three as a lump and no opportunity to divide the question.

The CHAIRMAN. The gentleman states the fact.

Mr. GIBBONS. Mr. Chairman, at the appropriate time I would like to be recognized in opposition to the Gephardt amendment.

The CHAIRMAN. Does the gentleman from Missouri [Mr. GEPHARDT] offer his amendment?

Mr. GEPHARDT. I do, Mr. Chairman.

AMENDMENT OFFERED BY MR. GEPHARDT

Mr. GEPHARDT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GEPHARDT: Before paragraph (b)(1) of section 3 of the bill, insert the following:

"(1) by inserting the following in alphabetical order in the list of countries preceding paragraph (1): "Taiwan", "Hong Kong", and "Republic of Korea";".

Redesignate the succeeding paragraphs of such section (3) accordingly.

The CHAIRMAN. Pursuant to House Resolution 594, the gentleman from Missouri [Mr. GEPHARDT] will be recognized for 30 minutes and the gentleman from Florida [Mr. GIBBONS] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Missouri [Mr. GEPHARDT].

Mr. GEPHARDT. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this amendment is very simple and very straightforward. In the early 1970's we set up, pursuant to an initiative that started in the United Nations, a system of generalized preferences, and the theory of that system was to try to get developing countries involved in foreign trade, to help their economies grow, and to, in a greater way, open the stable markets of industrialized countries like the United States to those developing countries.

I want to state that the thrust of my amendment is simply to graduate out of that system the three countries that have been the most successful in using the system in the past 10 or 12 years because of my belief that the system should be reserved for those countries that are truly developing, and should not be used by countries that have developed.

Mr. Chairman, I want to state that the three countries that are the subject of my amendment—Taiwan, South Korea, and Hong Kong—are good and stable and strong allies of the United States. I mean, no sectioning out or no singling out of any countries. I believe that these are strong and stable allies of our country, but I also believe that there is general agreement that there should be a graduation of countries as they become developed countries.

Today, earlier in the debate, the general debate on the rule, there seemed to be general agreement among everyone that there should be graduation of countries that have reached certain levels of trade with the United States. I would like my colleagues to listen closely if they would to the present situation.

At present the GSP grants special zero tariffs to approximately 3,000 categories of products imported from some 140 countries and territories. From 1976 to 1983, the value of imports receiving GSP treatment has risen from $3 billion to $10.8 billion and accounts for 5.3 percent of our total nonpetroleum imports.

In 1983, the top 15 countries accounted for 87 percent of GSP imports. The top three beneficiary developing countries alone—Taiwan, South Korea, and Hong Kong—accounted for 52 percent of the whole GSP program. So three countries which are the subject of this amendment dominate or claim more than half of the total that is in the GSP program of zero tariffs. These three countries are already major trading nations, exporting together in 1983 more than $26.5 billion worth of goods to the United States alone. Of that total, $26.5 billion, more than $5.6 billion received GSP duty-free treatment.

So obviously there is about $20 billion worth of goods that they are paying some duty on, according to the GATT and other measures that we have passed through the years.

The U.S. trade deficit with these countries exceeded $13 billion in 1983 and will reach $19.5 billion, or almost 20 percent of our entire trade deficit, in 1984.

If Members think these countries are still developing countries, I would like them to consider for a moment the top 10, I will call it the top 10, of countries that export to the United States. This is total exports, GSP and otherwise. No. 5 is Taiwan. Of all the countries in the world that ship to the United States, Taiwan is No. 5. The United Kingdom is No. 6. Korea is No. 7. France is No. 8 and Hong Kong is No. 9.

So in terms of all the countries in the world that ship goods and products to the United States, these three countries which are enjoying GSP treatment are in the top 10, and one of them ships more to the United States than the United Kingdom.

So if anyone can make an argument that these are still developing countries that need the help of this preference, then I do not know how we define the term "developing."

I think most people agree that the goal is to have graduation out of the GSP program. The real debate here tonight is whether or not this amendment, which exempts these three countries out immediately, is the best way to go about this, or whether or not we should use the procedure that has been worked out in the bill.

In the bill there are a number of criteria set out for graduation. There is also the power of the President to waive all those criteria if the President wants to keep these countries in. The complaint of the Trade Office about my amemdment is that if we go the farthest step of exempting these countries out that we will lose leverage over them and we will not be able to continue to try to negotiate with them about a whole host of grievances we have with them with regard to tariffs they have on products we are trying to send to their country or with regard to patent and copyright questions which we have very grave grievances about.

I frankly do not understand that leverage argument. If it is leverage to leave them in and let the President negotiate with them, with power of waiver and all kinds of other powers, would we get not gain more leverage by exempting them out and then carrying on the negotiations? It really boils down to whether you believe in the carrot or whether you believe in the stick.

I frankly believe we are at a time in our history, with a $120 billion trade deficit, that we need to use the stick and not the carrot, and let me make it very specific. Let us take Korea.

The average tariff that Korea puts on products coming from the United States to Korea is between 40 and 50 percent. The average tariff that we have on products coming from Korea to the United States is between 5 and 10 percent.

We have been trying over the years to negotiate those tariffs down. We have not made much progress. In addition, they have nontariff barriers on many of our goods and products. For a number of years we have been trying to negotiate with regard to our grievances about patents and copyrights. What is happening is that companies are going to these three countries and they are taking our patents and copyrights, going there and producing goods that they could not produce in the United States under our patents and copyright laws and they are shipping the goods back to the United States.

□ 1920

We have not been able to resolve those differences. The same goes with regard to Taiwan. In August the Office of the U.S. Trade Representative briefly announced some changes in tariff on the part of Taiwan. Let me read you a few of them. As a result of that negotiation and persuasion by the Special Trade Representative, they lowered the tariff on prepared vegetables from 65 to 60 percent. They lowered the tariff on apple, grape, and cranberry juice from 75 to 70 percent. They lowered the tariff on other vegetable juices from 75 to 70 percent. They lowered the tariff on canned corn from 60 to 50 percent. They lowered the tariff on cat and dog food from a 100 to 75 percent, and the list goes on. I could read through it. I do not want to bore you with it.

The point is that the progress that is being made is slow and measured and in my view, not enough.

It is time, I believe, that the United States carry out an aggressive but fair trade policy with these three important and good allies and friends of the United States.

Mr. CONABLE. Mr. Chairman, will the gentleman yield?

Mr. GEPHARDT. I will yield.

Mr. CONABLE. The gentleman suggests that the way to handle these countries is to terminate GSP for them and then to negotiate with them after having terminated their GSP status.

One of the problems with that is that the Congress has given the President no power to negotiate, except within the framework of GSP, where the power to graduate is part of this measure; but if these countries are not under GSP, "that's all she wrote." The President has no authority to reduce tariffs in return for concessions.

Thus, we are left in a position where we simply have no leverage at all. That is the position that is being suggested here and we lose that leverage if the gentleman's amendment passes.

Mr. GEPHARDT. Well, I could not disagree more with the gentleman. In my view, if they are exempted out of GSP, we are in a strong position.

Mr. CONABLE. But the President has no authority.

Mr. GEPHARDT. I disagree with the gentleman. I think the President does have authority to negotiate treaties, certainly to negotiate with regard to patent and copyright and with regard to tariffs that Korea is charging or Taiwan is charging to American products going to those countries.

Mr. CONABLE. But he has no chance to negotiate tariff reductions of the sort the gentleman is suggesting if these countries are no longer under GSP.

Mr. GEPHARDT. What the gentleman is not saying and what I believe to be true is that the President can negotiate and bring back a treaty to this Congress which this Congress can approve and I believe would approve if we got some progress on these basic major questions that divide our countries.

All I am suggesting is that we have not seen much improvement in these situations in the last 2, 3, 4, or 5 years.

I am suggesting that these countries are developed countries. They have reached a very high level of performance with regard to trade and it is time to have a fair trade, as well as free trade with these countries.

Mr. CONABLE. I think the gentleman is truly optimistic if he believes that we could get serious negotiations going when the President has no authority to negotiate.

Mr. GEPHARDT. In the last 2 days, I have had numerous contacts with the representatives of these countries. I think we have tremendous leverage if we take this needed step.

Mr. SKELTON. Mr. Chairman, will the gentleman yield?

Mr. GEPHARDT. I will yield.

Mr. SKELTON. As I understand it, the GSP is a generalized system of preferences. When we say preferences, that means we give certain countries preferential treatment; is that not correct?

Mr. GEPHARDT. That is correct.

Mr. SKELTON. Now, these certain countries, and I suppose there is a whole list of them that get these preferential types of treatments, receive it because they are developing countries; is that not correct?

Mr. GEPHARDT. That was the intent originally.

Mr. SKELTON. And that is why the law was passed; is that right?

Mr. GEPHARDT. That is correct.

Mr. SKELTON. And that is why a group of countries were so named.

Mr. GEPHARDT. That is correct.

Mr. SKELTON. Now, when a purpose ceases to exist to put someone in that generalized system of preferences, they should be removed; is that not correct?

Mr. GEPHARDT. That is my belief.

Mr. SKELTON. And from what the gentleman has told us, these countries are competing more than as an average trading partner with us; is that not correct?

Mr. GEPHARDT. These are some of the most successful trading countries in the world and dominate a good deal of our market.

Mr. SKELTON. Now, could the gentleman just for example purposes give us categories of some developing nations on the one hand and some nations that are outside of the general system of preference groups?

Mr. GEPHARDT. Well, the original intent of the law was to bring into greater commerce and trade countries which had really not been involved in foreign trade. Last year this House granted these kinds of special prefer-

ences to a number of countries in the Caribbean basin.

It is my belief that if you take and graduate out some of the countries we are talking about tonight, you would open up the ability for countries like those in the Caribbean basin to have a better chance to compete in our marketplace, because they would have zero tariffs and with many of the commodities we are talking about, Taiwan and Hong Kong would have a tariff of 5, 6, or 7 percent.

Mr. SKELTON. Some people have expressed that this is going to interfere with our efforts to export, is that not correct, the gentleman has heard that?

Mr. GEPHARDT. Well, the argument that is made is that if we take this step there will be retaliation by other countries. I think the flaw in that argument is that we are not taking back something that was never expected to be taken back. This was a concession given 10 or 12 years ago in order to allow underdeveloped countries to develop their foreign trade, with the expectation that countries would be graduated out at some point in time.

Mr. SKELTON. Well, it seems to me these particular countries, from what the gentleman said earlier, place us at a great disadvantage because of the high or extremely high tariffs that they have for the goods and products that we sent to them from our country; is that not correct?

Mr. GEPHARDT. That is my belief.

Mr. SKELTON. So it is the gentleman's opinion then that this would not interfere whatsoever with our export attempts to them or other countries?

Mr. GEPHARDT. Well, as I stated earlier in the argument, I believe that is not a question tonight of whether or not graduation should occur. I think there is general agreement on that.

The question is how it should occur.

It is my strong belief that by passing this amendment and exempting these three countries forthwith upon the passage of this law, that we would see a serious and meaningful negotiation between our countries that would resolve many of the major disputes that exist between us.

Mr. SKELTON. Mr. Chairman, I thank the gentleman.

Mr. SCHULZE. Mr. Chairman, will the gentleman yield for just a minute?

Mr. GEPHARDT. I will yield.

Mr. SCHULZE. What the gentleman is saying is that in our trade relationships there are times when countries mature and we should sort of cut them off; is that correct?

Mr. GEPHARDT. No one is cutting anyone off.

Mr. SCHULZE. But if we eliminate GSP——

Mr. GEPHARDT. Let me answer the question. If these countries are exempted, they have every right to sell their goods, to continue selling their goods to the United States under the same laws and tariffs that apply to the United Kingdom, France, and every other country in the world. They will do very well in our marketplace.

Mr. SCHULZE. So we are not really cutting them off totally from trade. What we are doing is cutting them off from these preferences which we have given them.

Mr. GEPHARDT. We are cutting them off from zero tariffs.

Mr. SCHULZE. So should we not use some kind of standard, is what I am getting at; for instance, GNP or income, per capita income, or some kind of level of standard, so we can say they are a nation that has developed to the point where they are able to survive in the world of nations on their own, if their GNP capita is to that point; is that the criteria the gentleman is using in this instance?

Mr. GEPHARDT. Unfortunately in the bill, the criteria that is set out is not to me acceptable criteria. I do not think anyone looking at the facts could conclude that these countries belong in the GSP. The criteria that were put in the bill were for purposes of obtaining leverage, so-called leverage over these countries, so that there could be negotiations.

My point is that, fine, if you want criteria, let us write criteria. I think under anybody's criteria, these countries would be graduated out and I think that if the object here is leverage in negotiations, the best way to obtain that is through graduating them out.

Mr. SCHULZE. It just seems to me that what we are doing is arbitrarily taking a per capita point and saying, whether it is $2,000 or $2,200 per individual, our Nation is about $12,000, we are saying, "Oh, don't get close. You have reached a sufficient point of income and we are not going to help you anymore."

It seems that what we have done is had too much success. I do not know that that is really the direction we should be going.

Mr. GEPHARDT. I appreciate the gentleman's thought. I am not trying to set up a criteria for how you get too close to the United States.

My point is that there are serious disputes between our countries that are not being resolved and in my view will not be resolved until we get serious about this matter.

Mr. Chairman, I am going to reserve the balance of my time at this point, and I will yield time to Members who want to support the amendment.

The CHAIRMAN. The gentleman has consumed 18 minutes.

The Chair recognizes the gentleman from Florida [Mr. GIBBONS].

Mr. GIBBONS. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from New York [Mr. CONABLE].

Mr. CONABLE. Mr. Chairman, I thank the distinguished gentleman from Florida for recognizing me for 3 minutes and I also greatly appreciate the words the gentleman spoke earlier about my pending departure.

Mr. Chairman, I think it is important for people to understand where we stand.

□ 1930

Under the Constitution, control of international trade is reserved to the Congress. The Presidents cannot negotiate unless Congress give them the power to negotiate international trading arrangements. There is no generalized authority to negotiate given to the President.

Normally we give a modest residual power to the President, in between the big multinational agreements but we have not seen fit to do this in recent years. The result is that the President can graduate countries under GSP only if those countries are listed as GSP eligible. If they are not GSP eligible, that ends any possibility of serious negotiation without a specific grant of such authority from the Congress.

The administration intends to graduate the more developed of the LDC's or lesser developed countries. Clearly Taiwan, Korea, and Hong Kong would be graduated to some extent.

I would not want my colleagues to believe that even under the existing situation where there is a nongraduated GSP, that means that goods from those countries flood in here under GSP. Many goods do come from Korea, Hong Kong, and Taiwan, but not under GSP.

As a matter of fact, the administration has been sufficiently tough in designating import-sensitive items so that the number of things that normally would be GSP eligible are not made GSP free for these countries.

For instance, in 1982 Taiwan had $4 billion of goods that were eligible and they were permitted only $2 billion of GSP free entry into this market. I do not know how much we sent to Taiwan, but obviously it was different types of goods than what they sold us.

Korea had $1,700 million of GSP eligible goods and sent in just $1 billion. Hong Kong had $2.4 billion that was GSP eligible and sent in only $800 million.

I say this because I do not want my colleagues to believe that GSP has been an open door for these countries. We are, of course, concerned with import-sensitive goods coming from them. It is a carefully administered program.

But once we take the country off GSP for whatever reason, obviously we lose the leverage that comes with

their hope of getting GSP free goods into our market, and we lose also then the opportunity to achieve specific advancement through negotiation rather than through some kind of confrontational strategy which in my view would be unproductive.

Mr. GIBBONS. Mr. Chairman, I yield 4 minutes to the gentleman from New York [Mr. DOWNEY].

Mr. DOWNEY of New York. I thank the gentleman.

My colleagues, Mr. GEPHARDT, who spoke in the well before me, made one of my arguments. He started talking about the size of the tariff that is currently being levied against the United States for goods that go into places like Korea and Taiwan. In fact, the fact is that we all want to reduce the size of that levy and we now have a mechanism to do that; that is, to use both the carrot and the stick which is currently what this bill provides.

It provides for a reduction in GSP benefits so that those countries that have done the things that we do not like, erecting barriers, tariff and nontariff, doing the counterfeiting, will be forced, forced at the negotiating table to do that.

As my friend from New York [Mr. CONABLE] has pointed out, the gentleman from Missouri may believe fervently in his heart that that authority exists for the President to do, but it is definitely not my position or that of the gentleman from New York or the subcommittee chairman that the President has this authority to do the things that the gentleman from Missouri wants to do.

We are not here debating whether counterfeiting occurs or does not occur. It occurs in motion pictures, it occurs in tools, and I am about to show you some of the examples of how it occurs and how it is putting American workers out of business.

This is a screwdriver, one made in my district and the other in Taiwan. I was contacted in my office. Only your carpenter could tell for sure which is which. The marketplace for these Rosco screwdrivers in the United States is fairly well penetrated by the Rosco Screwdriver Co. in the United States. They have tried to expand abroad. They have tried to market this quality product in places like the Philippines and in other countries.

They have been unable to do this because the Taiwanese, willfully and shamefully, produce the same exact screwdriver, not in quality, of course, and have taken away their worldwide markets.

What does the gentleman from Missouri suggest that we do about this? He suggests that we graduate and remove the only leverage that we have over these pirates, take that out of the hands of the President and say to them, "Look, we know we don't like this counterfeiting and at some distant point in the future we are prepared to do something."

We cannot wait, my friends, we cannot wait because jobs are being lost in America. We have the tools, if you will pardon the pun, to deal with this problem right now. We can say to the Taiwanese, "If you like GSP, if you want to continue to have it, and it has benefited you," and to the Koreans, "you had better stop doing this because unless you do we will not give you those levels of GSP. And unless you stop the pirating of films, and tapes, and books in other markets you will be hurt."

We have that power to do that today, not in some ethereal time in the future. We can do it now.

If we pass the Gephardt amendment we will cost many hundreds of thousands of jobs I believe over time in this country. We will not be helping the American worker by doing this because import-sensitive items are not included in GSP. So we do not have to worry about that hurting us.

What we have to worry about is the worldwide markets that American companies might ordinarily have not being available to them because we have no control, no opportunity to negotiate over the people who are doing things that harm us.

So if you are worried about American jobs, and I am, the ITC suggests that over the last few years we have lost 131,000 jobs to pirating and counterfeiting. We have today a way to deal with that in this bill. If you take that away from us, if you do pass the Gephardt amendment, we are going to lose jobs and not get them.

I hope, I hope if you are serious about people who work, that we give ourselves and our trading partners the opportunity to work this problem out in a reasonable way.

Mr. GEPHARDT. Mr. Chairman, I yield 2 minutes, for the purposes of debate, to the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. I thank the gentleman for yielding.

I want to commend the gentleman from Missouri [Mr. GEPHARDT] for offering the amendment and the excellent arguments he has provided.

I think the gentleman from New York presents a challenge to those of us that would support this amendment. He has sort of an argument here that suggests that two wrongs make a right, that because we have got counterfeiting and because we have a generalized system of preferences which is being abused, that somehow if we add these together that is going to end up with a good solution and we are going to have more trade.

I submit to the gentleman that the purpose for which this was initiated is failing. That is to say that these products are being produced today and are being counterfeited in spite of the fact that we are providing a tremendous benefit to these three countries.

These three countries alone in terms of a deficit in 1983, a balance-of-trade deficit with the United States was a $13 billion deficit. This year it is projected to be almost $20 billion in deficit.

So the thing is if this is the tool that is supposed to prevent counterfeiting, it is a pretty darn expensive tool and it is not doing the job.

These nations have risen to be our fifth, our seventh, and our ninth highest trading partners in this country. They do not qualify and it is unjustified to offer the same benefits to them that we would offer to LDC countries.

By doing so, I might add to my friends, that diminishes the value of what you are trying to do at the Caribbean Basin Initiative, the value of what you are trying to do to other less developed countries in terms of this system of preferences.

This system of preferences with the inclusion of countries such as this has really become a mockery of what the intention for it was. It diminishes our ability and the value of what is characterized as a general system of preferences. It causes all sorts of international problems in terms of this issue.

So I suggest to my friends that the Gephardt amendment will provide us with the opportunity to address and to make the generalized system of preferences what it was intended to do initially when it was enacted into law 10 or 12 years ago.

Mr. Chairman, the purpose of the generalized system of preferences—to assist the economic development of poorer countries—is sound. This is a policy which, with responsible safeguards, must be pursued. However, the GSP program must be finely balanced. It is a program that can endanger a sound American industrial base, and the practice of free and fair trade. It can also hinder the development of lesser developed nations.

The GSP classification should not be permanent. Under the current situation it is being treated in such a manner. Right now the GSP is not accomplishing its intended goals. This classification is not helping poorer nations. Rather, the GSP is guaranteeing an unfair trade advantage for a handful of countries. In dollar value the vast majority of GSP duty-free products come from seven nations, and three countries account for over one-half of total GSP imports in dollar value.

Mr. Chairman, the GSP classification should face reality. This system should not be self-perpetuating. We must recognize that Taiwan, South Korea, and Hong Kong do have a modern industrial base and are able to compete on a fair and free basis.

The artificial designation of these countries runs counter to the basic concept of the law. In addition, by providing industrialized countries with an unfair trade advantage and an indirect subsidy, our Government is jeopardizing American jobs and industry.

I urge my colleagues to support the Gephardt amendment. It is a free trade amendment that recognizes the benefits of the generalized system of preferences and the need to conduct this program in a responsible manner.

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Mr. GIBBONS. Mr. Chairman, I yield such time as he may consume to the gentleman from Virginia [Mr. BLILEY].

Mr. BLILEY. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, as a member of the Energy and Commerce Committee's Oversight and Investigations Subcommittee, chaired by my distinguished colleague, Mr. DINGELL, I want to draw the Members' attention to some of the effects of the amendment we currently have before us that the amendment's sponsor may not have intended nor realized.

The Oversight and Investigations Subcommittee has conducted extensive hearings into the subject of import dumping and counterfeit products and violations of trade agreements on the part of Asian countries.

As a letter from U.S. Trade Representative Bill Brock which Members had delivered today correctly points out, this amendment will remove our leverage to work on these and other problems. There is no doubt but that some of our allies need to be told in no uncertain terms that certain dubious trade practices will not be tolerated.

Perhaps that is what the gentleman intends to do with his amendment—I don't know. But I do know that by deleting the eligibility of Taiwan, South Korea, and Hong Kong from the generalized system of preferences, we will not accomplish this.

If the gentleman means simply to cut these countries off in order to accommodate the growth and development of other, less developed nations, then, again, he should be congratulated. But he should also, again, have a clear picture of the consequences of those actions. Will removing these three countries open the way for other less developed nations to develop and compete? Or will it just mean another, bigger slice of the international trade pie for Japan?

I only want to raise these points for the Members' benefit so that the effects of the gentleman's amendment can be discussed and explored at the same time that his intentions are.

Mr. GIBBONS. Mr. Chairman, I yield 2 minutes to the gentleman from Minnesota [Mr. FRENZEL].

Mr. FRENZEL. Mr. Chairman, the last speaker said this will diminish CBI. Actually these three countries are shipping to us a degree of sophistication that cannot be matched yet in the Caribbean. We hope that the CBI will escalate Caribbean capability and that those countries will eventually be competitive in these kinds of products.

As a matter of fact these three countries are shipping products that are competitive with Japan and if we knock them off of GSP their share of our market will go to Japan, according to the International Trade Commission.

Mr. Chairman, I ought to point out at this time what is excepted from GSP. People seem to think it is a large open-handed gift to these countries.

In the first place all sensitive articles are exempt from GSP. We cannot give it on textiles, we cannot give it on footwear, we cannot give it on leather, we cannot give it on steel. So in the first place most of the things that people want to ship to us cannot get in.

It only covers 3 percent of our imports. One-half of the objects eligible for GSP never make it. So we give about half the GSP we could possible give. In addition we graduate products if they become more than half of any product exported to the United States, or exceed $56 million in value.

The special trade representative says, "Don't take away my leverage." So far just on the threat of taking GSP away we have been able to make good progress with Korea on chocolate and cigarettes, we have made good progress on software all around the world.

Remember too that these countries are not very fancy countries, as the gentlemen from Missouri would have you believe.

Korea's per capita GNP is 1,700 bucks, Taiwan about 1,400.

The gentleman compares them to Great Britain and France at $19,199 and $12,190. They are not in the same category. They do happen to be good competitors.

Let us not send them this message. The message you send will be to Japan that they can take over that share of the market.

Defeat the Gephardt amendment.

Mrs. KENNELLY. Mr. Chairman, I rise in support of the amendment offered by my colleague, Mr. GEPHARDT, to graduate Taiwan, Hong Kong, and Korea from the GSP system.

These countries are the top three exporters under GSP. They have proven their ability to compete effectively in the U.S. marketplace, and no longer need the preferential treatment afforded by the GSP system.

In 1974, before GSP was enacted, none of the three ranked among the top 10 exporters to this country. This year, they all do. Taiwan is No. 5, ahead of the United Kingdom; Korea is No. 7, ahead of France; and Hong Kong is No. 9, ahead of Italy. It is clear that GSP has served its purpose in these countries and served it well.

GSP is a prudent way to help developing countries improve their economies through preferential trade benefits. But when those benefits are no longer necessary, they must end. Taiwan, Korea, and Hong Kong together account for almost $20 billion of our current trade deficit. They don't need our help. Graduation of these countries will enable less developed countries to capture a larger share of the markets now occupied by the top three.

GSP is an excellent program and should be renewed. Let's make sure its benefits go to those countries for whom they were intended. Taiwan, Hong Kong, and Korea should be graduated. I urge my colleagues to support the Gephardt amendment.

It is the practical thing to do.

Mr. Chairman, I thank the gentleman from Missouri [Mr. GEPHARDT].

Mr. GIBBONS. Mr. Chairman, might I inquire as to the time I have remaining?

The CHAIRMAN. The gentleman from Florida [Mr. GIBBONS] has 20 minutes remaining; the gentleman from Missouri [Mr. GEPHARDT] has 8 minutes remaining.

Mr. GIBBONS. Mr. Chairman, I yield 4 minutes to the gentleman from Pennsylvania [Mr. SCHULZE].

Mr. SCHULZE. Mr. Chairman, removal of the Republic of China from the GSP Program runs counter to the very purpose and goal of duty-free trade with developing countries. There is no doubt that Taiwan has been a leading beneficiary of GSP, and the legislation before us today recognizes the need to provide a more balanced distribution of GSP benefits among developing states. But it is simply wrong and illogical to exclude Taiwan or any nation from GSP for doing what the program encourages it to do, namely, develop its export markets and forge closer economic ties with the United States.

The Republic of China has used America's offer of duty-free trade to develop its economy and further its trade relations with the United States, just as we had hoped when we first passed GSP in 1974. To now drop them from GSP for no reason other than their success in striving toward the goals of GSP, is hypocrisy at its worst and sets a poor example for U.S. trade relations with other developing nations. If we exclude the Republic of China from GSP we effectively undercut the U.S. policy of encouraging free trade, and we signal other developing countries that we will not tolerate too much success under our trade program.

Today, all GSP imports represent only 3.2 percent of total U.S. imports and less than 1 percent of total consumption. But for less developed countries, including Taiwan, the GSP program represents a vital lifeline to free trade with the industrialized nations. GSP exports, for example, account for over 8 percent of Taiwan's total gross national product. Elimination of GSP trade with Taiwan, therefore, would undermine its efforts to develop economically and threaten its political stability. Indeed, Taiwan ranks only 26th in per capita GNP among beneficiary countries using GSP and, as a small island state, lacks natural resources and economies of scale which other nations take for granted.

In short, it depends on GSP to remain competitive in the global marketplace.

More broadly, we should not lose sight of the fact that the benefits from GSP flow two ways. The United States gains from continuing GSP with all current beneficiaries not only by substituting trade for aid, but by strengthening our economic and political links with a majority of the world's nations and people. Taiwan, in particular, stands out as a long-committed and dependable U.S. ally in the Far East and as an enviable model for other Third World nations seeking closer cooperation with the United States.

Moreover, the GSP Program has benefited U.S. consumers of Taiwan's products by making them available at lower costs, and has helped expand U.S. trade with Taiwan, making it one of the fastest-growing markets for U.S. exports. GSP has also enabled Taiwan to take a more responsible role in world trade by underscoring the advantages of free trade. Denying Taiwan the same GSP benefits enjoyed by other developing countries, then, amounts to a shortsighted reversal of U.S. trade policy that will result in irreparable damage to both United States and Taiwan interests. We cannot afford such an unmitigated mistake.

I strongly urge my colleagues to support renewal of a GSP Program which offers all developing countries duty-free access to U.S. markets.

Vote "no" on the Gephardt amendment.

Mr. GEPHARDT. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio [Mr. FEIGHAN].

Mr. FEIGHAN. Mr. Chairman, I rise to support the amendment offered by the gentleman from Missouri.

I believe the generalized system of preferences once made economic sense. But it has become clear that the system no longer serves its original purpose.

The GSP system now provides—in effect—subsidies for economics that are in direct competition with our own. South Korea, Taiwan, and Hong Kong account for nearly 50 percent of the imports under the GSP system. They have benefited over the years from the reduced cost of exporting.

They have been able to target particular markets and enter into head-to-head competition with American-made products. I submit that this is not the purpose of the GSP system. And there is no continuing U.S. interest in extending these benefits to these three countries.

I urge adoption of this amendment. Fairness to our own constituents demands a recognition of the existing reality of the international marketplace.

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Mr. ECKART. Mr. Chairman, will the gentleman yield?

Mr. FEIGHAN. I yield to the gentleman from Ohio.

Mr. ECKART. I thank the gentleman for yielding.

I would like to associate myself with the gentleman's remarks and point out that these three countries which once were infants in swaddling clothes in international trade have now grown up to be 200-pound, full-scale adults in the world of international trade. Therefore, the special protections that they enjoy ought to be more appropriately addressed by the Gephardt amendment.

I support the Gephardt amendment, urge its adoption and with it the graduation of these three countries to send the clear message that here in America charity begins at home.

Mr. GIBBONS. Mr. Chairman, I yield 8 minutes to the gentleman from New York [Mr. SOLARZ].

Mr. SOLARZ. I thank the gentleman for yielding me this time.

Mr. Chairman, I rise in opposition to the amendment. I was reluctant to participate in this debate for two reasons. First, I have great respect for the gentleman from Missouri, and assume that any amendment that he offers is presumptively entitled to the most serious and sympathetic consideration.

Second, I was not inclined to participate because I do not serve on the Ways and Means Committee and therefore can lay no particular claim to the economic expertise which has informed the arguments of my associates from New York, Mr. DOWNEY, Mr. CONABLE, as well as several other members of the committee who have spoken.

In view of the fact that the adoption of this amendment would have potentially profound consequences for our interests in Asia, and in view of the fact that I am, after all, the chairman of the Subcommittee on Asian and Pacific Affairs, I thought it might be helpful if I took this opportunity to share some thoughts about the consequences of adopting this amendment with our colleagues in the House.

The adoption of the Gephardt amendment would be a very serious mistake.

A few days ago, Great Britain and the People's Republic of China concluded a long and arduous negotiation which resulted in an agreement with respect to the future of Hong Kong. That agreement provides that by 1997 sovereignty over all of Hong Kong will be returned to the People's Republic of China. At the same time, the PRC will guarantee that the people on Hong Kong are able to maintain their existing social aand economic system.

We have a very real interest in the successful implementation of this agreement. But the viability of these arrangements will ultimately depend on the extent to which the people of Hong Kong have confidence in their future. There may never be a good time to remove a GSP preference for a country like Hong Kong. But there could never be a worse time to do so than right now.

If only 1 week after this agreement was negotiated—at a time when the people on Hong Kong are examining not only the letter, but the spirit of this agreement, to determine whether it will make for them a peaceful and prosperous future possible—the Congress of the United States were to deprive them of this GSP status, it could literally pull the rug out from under whatever prospects there are for the successful implementation of this agreement.

You might ask what this really means for the United States and why we should care whether the people on Hong Kong have faith in their future.

We ought to care for three reasons. First, the lives of 4 million people are involved here. Second, we clearly have a stake in the stability of Asia. A precipitous collapse of confidence in Hong Kong would surely not contribute to the stability in this very important part of the world.

Third, to a significant extent, the future of Taiwan, and its relationship to the People's Republic of China, will be determined by what happens with Hong Kong. We clearly have a vital interest in a peaceful resolution of the Taiwan problem. Should a situation develop, between the PRC and Taiwan, where the People's Republic of China attempts to resolve that problem by force, it would create the gravest dilemmas for our country and world clearly prejudice our capacity to have a constructive relationship with the most populous, and one of the most powerful nations in the world.

I would submit that the prospects for a peaceful resolution of the Taiwan problem depend, to a very large degree, on the successful implementation of the agreement between the United Kingdom and the Peoples Republic of China. If the agreement

does not work; if the people on Hong Kong lack confidence in their ability to live within the framework of the agreement that has been negotiated; if there is a precipitous collapse there; if hundreds of thousands, maybe millions of people on Hong Kong should flee that territory, then the chances for a peaceful resolution of the Taiwan problem will go from negligible to nil.

Whereas, if the new arrangements on Hong Kong can work; if it can be demonstrated that the people there can have a peaceful and prosperous future within the framework of the agreement that Britain has negotiated with the Peoples Republic of China, then there is a hope, looking to the future, that the people on Taiwan might feel that a way can be found to address their interests in a fashion which is also acceptable to the Peoples Republic of China. The stakes are tremendously high.

If the Congress, at this time, withdraws GSP from Hong Kong, it could precipitate a collapse of confidence which would make it literally impossible to have a successful transition to a peaceful and prosperous future for Hong Kong in association with the People's Republic of China. That would literally doom whatever chances there are for a peaceful transition for Taiwan as well. That in turn would have extraordinarily adverse consequences for the United States.

For those reasons, and because I think it is discriminatory with respect to South Korea and Taiwan, which have lower GDP's and lower per capita incomes than several other countries that will continue to receive GSP, then I think for that reason adoption of the amendment would be a mistake. It would shake the confidence of the people on Taiwan and South Korea in the United States. These are two important countries. Their security and stability depends on their confidence in our reliability, and I think it really would be most unfortunate for the marginal benefits, if any, for us if we deprive them of this status.

Mr. GIBBONS. Mr. Chairman, will the gentleman yield?

Mr. SOLARZ. I yield to the gentleman.

Mr. GIBBONS. I want to commend the gentleman in the well for a very important statement. This bill has minor economic impact upon the United States, and really minor economic impact upon the rest of the world. It has very important political impact upon a large part of the world.

More than half of the people on Earth live in the Pacific Basin. This signal to those people that live in the Pacific Basin, that we are going to cut off these market economies from access to the other market economies would be disasterous for the whole idea that we have been trying to promote since World War II.

The gentleman in the well has made a very important statement about a very important subject.

Mr. DOWNEY of New York. Mr. Chairman, will the gentleman yield?

Mr. SOLARZ. I yield to the gentleman.

Mr. DOWNEY of New York. I thank the gentleman for yielding.

Mr. Chairman, I too want to congratulate the gentleman. With respect to Korea, this is their No. 1 economic concern. They provide us a defensive cover. They provide several billions of dollars in defensive aid both for their own country and they support us in that particular area of the world. As the gentleman has suggested, the economic consequences are really dwarfed by the political downside which I think he has amply talked about.

Mr. SOLARZ. I thank the gentleman for really reinforcing that point. I would also point out to our colleagues that there simply is no logic in taking a country like South Korea, with a per capita GNP of $1,607 and depriving it of GSP status, when Singapore, which has a per capita GNP of $5,290 would be permitted to remain in.

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There is no way that our friends in the Republic of Korea can read this amendment other than as a discriminatory one because countries with better economies are permitted to continue enjoying these benefits while they are not.

Mr. GEPHARDT. Mr. Chairman, I yield 3 minutes to the gentleman from Mississippi [Mr. MONTGOMERY].

Mr. MONTGOMERY. Mr. Chairman, I rise in support of the Gephardt amendment. I appreciate what the gentleman from New York said; his vital concern about millions of people in Korea and Hong Kong.

I am concerned about 1,200 jobs in my home district that would be affected if the Gephardt amendment is not adopted.

I will not get into the technicalities of the bill. I have great respect for the members of the Committee on Ways and Means and I planned not to take the floor on this amendment, but when I hear from private enterprise back in my home State who is very concerned about this bill and feel that they will be seriously hurt if the Gephardt amendment is not adopted, I have to speak out.

The story I will tell you is really an American dream that happened to a young man that had an idea. He started a business 12 years ago, a sound equipment business. He did not get any help from the Federal Government. He did it on his own. He now has 1,200 employees, and he made it by selling sound equipment and he says if you enact the Gephardt amendment it will be a chance for him to further compete with these three countries that the Gephardt amendment knocks out.

Let me quote from this person who made it on his own: He was out in the open market. He is selling sound equipment. Being in the electronics business and I quote: "As well as being the largest producer of sound equipment in the world," and he started 12 years ago, "I know that in today's world of electronics, technology is available to almost every country that is willing to seek it out."

The United States established the GSP system to help developing countries at a time after World War II when such help was urgently needed by these countries.

Further I quote:

> I realize there is little we can do about the high price of the American dollar in export markets, but the matter of fact is that we are opening up home markets to so-called developing nations under the well-intended but now grossly outdated GSP program.

That is the end of the quote.

And I say to my colleagues that the time has come to worry about American businesses and let Taiwan, South Korea, and Hong Kong take care of themselves.

Mr. GIBBONS. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. COLEMAN].

Mr. COLEMAN of Texas. I thank the gentleman for yielding me this time.

Mr. Chairman, there was only one real issue that has bothered me and I know some others about the Gephardt amendment. Certainly no one would suggest motives other than to benefit America on the part of our colleague from Missouri, but I do have one problem with the statement that was made at the very outset of this debate. That was the statement by our colleague from Missouri who suggested that because of the rate of trade, because of how large a trading partner some country is with us, that they are therefore already a developed nation.

I suggest that is not a standard to use. The criteria for an underdeveloped country, the criteria for a developing country and the criteria for an advanced developing country are not subject to black and white decisions or simply how much trade they do with us.

I do not believe for example, that our third largest trading partner, Mexico, is the most advanced country in the world. Yet no one suggests that they be cut off. Certainly the President does have the ability, indeed the duty, to list specific items or goods we import which will be removed and which have been removed in the past from GSP. But we should not remove an entire country from this treatment.

I happen to think that this amendment overreaches itself to the extent that by completely cutting them off we are losing something in the process. To all of my colleagues, I would only suggest that rather than the big approach of lopping these countries completely off we continue to give to our trade ambassador and the President of the United States the authority to deal with which products should be removed from GSP and let the administration make decisions about the developed status of other nations. I think the administration has made some mistakes in their timing in the past about removing certain products from GSP. But let us permit the administration in a sensible way to deal with these countries from the standpoint of our trade relations, to make trade more fair, and to decide whether they really are advanced, developing, still underdeveloped, or perhaps just developing countries. These questions are important also as part of the larger picture of international relations on issues other than just trade. I hope my colleagues will pass the bill without this amendment.

The CHAIRMAN. The time of the gentleman has expired.

The Chair would advise that at this point the gentleman from Missouri [Mr. GEPHARDT] has 3 minutes remaining, and the gentleman from Florida [Mr. GIBBONS] has 5 minutes remaining.

The Chair recognizes the gentleman from Florida [Mr. GIBBONS].

Mr. GIBBONS. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. LAGOMARSINO].

Mr. LAGOMARSINO. I thank the gentleman for yielding this time to me.

Mr. Chairman, with respect to Korea, Korea is still a developing country; 9 of the 10 top beneficiaries under the GSP program have higher per capita GNP's than Korea. Its per capita GNP of $1,900 is approximately one-third that of Singapore, Hong Kong, and Israel and is far less than the per capita GNP's of Mexico, Brazil, Venezuela, Argentina, and Taiwan.

Korea imports more than it exports and imports more from the United States than any other country, and, of course, those imports mean jobs for U.S. workers.

Korea's international debt of $41 billion is equivalent to that of Argentina. To date, Korea has met those debt service obligations and removal of GSP benefits would have a severe impact on its continued ability to do that.

Korea spends 6 percent of its GNP annually on defense and more than $1 billion annually for the maintenance of U.S. troops in Korea and relies on GSP exports to meet those commitments.

GSP removal from Korea graduating would not help other developing countries. As the U.S. International Trade Commission found, the developed countries and not the less-developed countries would be beneficiaries of graduation.

I urge my colleagues to vote down the Gephardt amendment.

Mr. GEPHARDT. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan [Mr. BONIOR].

Mr. BONIOR of Michigan. I thank my colleague for yielding and I rise in support of the Gephardt amendment.

Mr. Chairman, just in a very brief response to my colleague from New York who raised the question of problems with our friends in Hong Kong and the possibility down the road of future problems with the Taiwanese because of treaties that are now underway and may happen in the future, I would say to those who are listening to that argument that they ought to understand that we are not talking about the major bulk of trade of these two entities with the United States, as has been mentioned several times here this evening; Hong Kong enjoys $1 billion in duty-free GSP exports out of $67 billion, and in the case of Taiwan, it is 3 out of 13.

So, while it is important, we ought not to be under the illusion that the economies of those countries are so dependent upon this that they will in some way be dealt a serious blow.

The thing that I want to address the most tonight is the question that was raised by those who were interested in the intellectual property right issue and the effect that this somehow is going to provide a carrot to get some kind of leverage on our friends and in these countries, I guess in particular the Taiwanese.

People understand right now that under 301 of the same law that was passed in 1974, the President has the authority to do several things and the authority that he has is far more flexible and far more lasting than the GSP carrot approach that has been advocated by my colleagues.

For instance, the President can affect any of the countries' products, not just the 10 to 25 percent that they are now benefiting under GSP.

Second, it can use quotas instead of tariffs.

Third, he can raise the tariffs and fourth, he has the leverage to do that at any time that he deems necessary or is propitious to resolve the conflict.

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Mr. GIBBONS. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, I did not come here to defend the President, but the President has no power to negotiate now. The Congress has not seen fit to grant him any. The fact is, really, no President since 1974 has had much power to negotiate except in the Tokyo rounds, and all of our tariffs are bound now. So a President cannot just go out helter-skelter and say, "I am going to raise this," or do that.

Mr. CONABLE. If the gentleman will yield briefly, I think the gentleman who preceded my friend in the well may have been talking about the President's power with respect to unfair trade cases.

Mr. GIBBONS. Yes, and the President just cannot do these kinds of things without some power from the Congress, and the Congress has not granted him the power. The power is in us, so we cannot really criticize him for not doing this.

But unless we grant him this GSP power, and unless we keep these countries in there, the President will just be naked as far as negotiating with these countries is concerned, and he needs to be able to negotiate with them because we have certain advantages we need to get from them.

The gentleman from New York [Mr. SOLARZ], pointed out so well why this would be penny wise and pound foolish. We have a lot riding on the future of Hong Kong. That, in turn, has a lot riding on it for the future of Taiwan, and the whole stability in the Far East depends upon Korea and the way it cooperates.

Mr. BONKER. Mr. Chairman, will the gentleman yield?

Mr. GIBBONS. I would be glad to yield to the gentleman from Washington.

Mr. BONKER. I thank the gentleman for yielding.

Mr. Chairman, I just want to pause for a moment to commend the gentleman for his usual eloquence. I fully support his position on this.

I think what the gentleman is doing is very consistent with what he wants to do on reciprocity, and that is, give the President the authority that he needs to deal with these countries in bringing about fair trade between the United States and others. It is totally consistent, so I would join the gentleman in opposing the amendment.

Mr. GIBBONS. There is no way America can regain its prosperity or its trade balance by excluding these three countries. The GSP imports from these three countries only amounts to three-tenths of 1 percent of all of our imports, of all of our consumption in the United States, so it is miniscule. But the political significance of this is very great.

As I have said, more than half of the people of the world live on the Pacific rim. These people would immediately interpret this slap in the face—and I know that my friend, the gentleman from Missouri, does not intend it to be a slap in the face but that is what it is—as a step back. We would begin to lose whatever influence and whatever

leverage we have out there and the great markets we have out there.

We have greater markets in this area of the world now then we have any other place in the world, in the Pacific rim. We must continue to exploit and develop those markets.

This GSP does not affect footwear, or textiles, or steel, or any of the other import-sensitive items. If we cut them off, then they are going to shift their production into those areas and hurt us where it really will hurt.

Mr. GEPHARDT. Mr. Chairman, I yield such time as he may consume to the gentleman from Washington [Mr. BONKER].

Mr. BONKER. I thank the gentleman for yielding time to me.

Mr. Chairman, I rise today in opposition to the Gephardt amendment to H.R. 6023, the generalized system of preferences renewal. This amendment, which would statutorily exclude South Korea, Taiwan, and Hong Kong from GSP, is not without merit. These three countries are the top GSP beneficiaries, garnering over 50 percent of all GSP imports. With the help of GSP, these newly industrialized countries have developed into powerful and competitive world traders in a wide variety of products. Each of these countries maintains a substantial surplus trade balance with the United States. Furthermore, there is little doubt that to some degree, their success under GSP has come at the expense of poorer developing countries, which are most in need of the commercial benefits GSP can deliver.

These factors argue persuasively for a change in the status quo. GSP benefits to Hong Kong, Taiwan, and South Korea must be curtailed. It would be a grave mistake, however, to eliminate these three countries from the program altogether, as suggested by the gentleman from Missouri.

Under the provisions of H.R. 6023, the so-called competitive need limitation formula for South Korea, Taiwan, and Hong Kong would automatically be cut in half. This significant and mandatory reduction in benefits may be waived only if the President determines that restoration of benefits would be in the national economic interest. The committee bill further states that our preeminent economic interests are: increased protection for intellectual property rights; expansion of market access for U.S. traders and investors; and greater compliance with internationally recognized worker rights. In sum, this bill gives the United States meaningful new leverage in the negotiation of trade agreements with South Korea, Hong Kong, and Taiwan, that will expand markets for American exports and create jobs for American workers. To statutorily exclude these three countries from the program will strip our negotiators of an important, if not indispensable, bargaining tool.

Supporters of the Gephardt amendment have argued that the administration could have reduced GSP benefits at any time under existing law to put pressure on Korea, Taiwan, or Hong Kong, but has refused to do so. They use this argument to suggest that H.R. 6023 does nothing substantively to alter the status quo. This analysis is fundamentally wrong.

Existing law dates back to the Trade Act of 1974, which established GSP as a unilateral grant of tariff preferences to any eligible developing country. There is nothing in the current law to suggest that GSP benefits may be adjusted selectively on a product-by-product, or country-by-country basis, in return for reciprocal trade concessions elsewhere. H.R. 6023 is a dramatic departure from the existing program. This bill would establish for the first time the principle of reciprocity within the context of GSP—especially with regard to more advanced developing states.

The committee bill is a responsible, creative, and bipartisan approach to GSP reform. It will result in greater protection for U.S. copyrights, trademarks, and patents; it will expand foreign market access for U.S. exporters and investors; and it will enhance the rights of workers around the world. Passage of the committee language is in our own best interests.

I urge the defeat of the Gephardt amendment.

Mr. GEPHARDT. Mr. Chairman, I yield the balance of my time to the gentleman from Illinois [Mr. RUSSO].

Mr. RUSSO. I thank the gentleman for yielding this time to me.

Mr. Chairman, we have heard comments by our colleagues about how important clout is under GSP and how much pressure we can exert on these countries if we keep GSP. What we have not been told is that under present law, the President already has clout. When he wants to grant GSP, he can demand certain rights and certain concessions, but has the President done it? The answer is no. We have never used our clout. We have never asked them for anyting. It is a breach of promise by those so-called free traders who say if you set up a system of GSP, we will graduate the more developed countries out of the marketplace and help the poorer countries.

What has all of our clout under GSP done for us? In "other prepared vegetables" the current duty is 65 percent, so we squeezed hard and used our muscle and what have these countries done? They have given us a 60-percent duty, today.

Under apple, grape, and cranberry juice the current duty is 75 percent, so we squeezed them again and we negotiated and we hit them hard and so they lowered their tariff down to 70 percent.

On other vegetable juices they have a 70-percent tariff. We used the muscle under GSP and our powers of negotiation under USTR, and they reduced it to 50 percent.

What we have to do here is to graduate these countries as was intended under GSP and then if they show us the good faith that they have not shown over the last 10 years, then we can give them GSP back. We have tried it the old way for 10 years. It has not worked. Why do we not try an incentive program that says if you do well, we will give you GSP back.

● Mr. ACKERMAN. Mr. Chairman, I rise to express my strong opposition to the efforts to remove Hong Kong, South Korea, and Taiwan from the list of nations eligible for participation in the Generalized System of Preferences. The economic stability of our allies must be a fundamental component of U.S. foreign policy. Naturally, during difficult economic times, we often look to short-term answers for extremely challenging problems. But this attempt to exclude three strategic economic and political partners of the United States—Hong Kong, South Korea, and Taiwan—is a dangerous proposal.

Certainly, this Congress has expended tremendous energy studying the various policy options available to deal with the complex trade issues affecting our economy. The extension of the Generalized System of Preferences is one of several pieces of extremely important legislation reported by the Ways and Means Committee in this session. Unfortunately, the effort on the floor of the House to blindside this bill by removing South Korea, Hong Kong, and Taiwan reflects a shortsighted view of America's economic and political interests in Asia.

The purpose of this law, adopted as part of the Trade Act of 1974, was to assist our friends in developing their export economies. A key component of this act, which will remain in force, is an established procedure for the exemption of products which are import-sensitive to domestic U.S. industries, or which have achieved competitiveness. The amendment before us, however, seeks to eliminate these three countries from the GSP program completely, in a clear attempt to bypass the established product-by-product graduation system established under the law. This amendment swings an ax when a scalpel would be far more appropriate in order to cut away some of the particularly sensitive problems affecting GSP.

Mr. Chairman, efforts must continue to liberalize trade relationships between the United States and developing countries throughout the world. We must use all opportunities to work

with our allies so that they can open their markets to American exports, and so that we can ensure that unfair trading practices are eliminated whenever possible. By maintaining the Generalized System of Preferences, we continue an important means of expanding our trade relations with developing countries. GSP also utilizes American leverage to accomplish our national goals and ideals in the trade sector.

The interests of the United States will be best served if we work with our allies to see that they develop economically, and become productive self-sustaining nations. GSP is a key mechanism for allowing this goal to be achieved. I am proud to support the extension of this policy. I must oppose the mistaken attempt to exclude three of our most loyal allies—Hong Kong, Taiwan, and South Korea—from participation in the GSP program.●

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from Missouri [Mr. GEPHARDT] to the committee amendment in the nature of a substitute.

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. GEPHARDT. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 174, noes 233, answered "present" 1, not voting 24, as follows:

[Roll No. 440]

AYES—174

Addabbo	Durbin	Jacobs
Akaka	Dwyer	Jenkins
Albosta	Dyson	Jones (TN)
Alexander	Early	Kasich
Andrews (TX)	Eckart	Kastenmeier
Annunzio	Edgar	Kennelly
Applegate	Edwards (CA)	Kildee
Aspin	Erdreich	Kleczka
Barnes	Evans (IL)	Kolter
Bates	Fascell	Kostmayer
Beilenson	Fazio	Lantos
Boland	Feighan	Lehman (CA)
Boner	Flippo	Lehman (FL)
Bonior	Florio	Leland
Borski	Foglietta	Levin
Bosco	Ford (MI)	Levine
Boxer	Ford (TN)	Lipinski
Britt	Frank	Long (LA)
Brooks	Frost	Luken
Broyhill	Garcia	Lundine
Bryant	Gaydos	Markey
Burton (CA)	Gejdenson	Matsui
Carper	Gephardt	Mavroules
Carr	Gilman	McCloskey
Clarke	Glickman	McKernan
Clay	Gonzalez	Mikulski
Coelho	Gore	Miller (CA)
Collins	Gray	Mineta
Conte	Guarini	Mitchell
Conyers	Hall (IN)	Moakley
Coyne	Hall (OH)	Mollohan
Crockett	Harrison	Montgomery
D'Amours	Hatcher	Moody
Dellums	Hawkins	Morrison (CT)
Dingell	Hayes	Mrazek
Donnelly	Hertel	Murphy
Dorgan	Howard	Murtha
Dowdy	Hoyer	Natcher
Nowak	Roe	Stark
Oakar	Rose	Stokes
Oberstar	Rostenkowski	Studds
Olin	Roybal	Tauzin
Ottinger	Russo	Torres
Owens	Savage	Torricelli
Panetta	Schneider	Towns
Patman	Schumer	Traxler
Pepper	Seiberling	Valentine
Price	Shelby	Vento
Rahall	Sikorski	Volkmer
Rangel	Skelton	Walgren
Ratchford	Slattery	Weaver
Regula	Smith (FL)	Wheat
Reid	Smith (IA)	Whitten
Richardson	Smith (NJ)	Williams (OH)
Ridge	Snowe	Wise
Rinaldo	Solomon	Wolpe
Ritter	St Germain	Yates
Rodino	Staggers	Young (MO)

NOES—233

Ackerman	Gingrich	Michel
Anderson	Goodling	Miller (OH)
Andrews (NC)	Gradison	Molinari
Anthony	Green	Moore
Archer	Gregg	Moorhead
AuCoin	Gunderson	Morrison (WA)
Badham	Hall, Ralph	Myers
Bartlett	Hall, Sam	Neal
Bateman	Hamilton	Nelson
Bennett	Hammerschmidt	Nichols
Bereuter	Hance	Nielson
Berman	Hansen (UT)	O'Brien
Bethune	Harkin	Obey
Bevill	Hartnett	Ortiz
Biaggi	Hefner	Oxley
Bilirakis	Heftel	Packard
Bliley	Hightower	Parris
Boehlert	Hiler	Pashayan
Boggs	Hillis	Patterson
Bonker	Holt	Paul
Boucher	Hopkins	Pease
Breaux	Horton	Penny
Broomfield	Hubbard	Petri
Brown (CO)	Huckaby	Pickle
Burton (IN)	Hughes	Porter
Byron	Hunter	Pritchard
Campbell	Hutto	Quillen
Carney	Hyde	Ray
Chandler	Ireland	Roberts
Chappell	Jeffords	Robinson
Chappie	Johnson	Roemer
Clinger	Jones (OK)	Rogers
Coats	Kaptur	Roth
Coleman (MO)	Kazen	Roukema
Coleman (TX)	Kemp	Rowland
Conable	Kindness	Sabo
Cooper	Kogovsek	Sawyer
Corcoran	Kramer	Schaefer
Coughlin	Lagomarsino	Scheuer
Courter	Latta	Schroeder
Craig	Leach	Schulze
Crane, Daniel	Leath	Sensenbrenner
Crane, Philip	Lent	Sharp
Daniel	Levitas	Shaw
Dannemeyer	Lewis (CA)	Shumway
Darden	Lewis (FL)	Shuster
Daschle	Livingston	Siljander
Daub	Lloyd	Sisisky
Davis	Loeffler	Skeen
de la Garza	Long (MD)	Smith (NE)
Derrick	Lott	Smith, Denny
DeWine	Lowery (CA)	Smith, Robert
Dickinson	Lowry (WA)	Snyder
Dicks	Lujan	Solarz
Dixon	Lungren	Spence
Downey	Mack	Spratt
Dreier	MacKay	Stangeland
Duncan	Madigan	Stenholm
Dymally	Marlenee	Stratton
Edwards (AL)	Marriott	Stump
Edwards (OK)	Martin (IL)	Sundquist
Emerson	Martin (NY)	Swift
English	Martinez	Synar
Evans (IA)	Mazzoli	Tallon
Fiedler	McCain	Taylor
Fields	McCandless	Thomas (CA)
Foley	McCollum	Thomas (GA)
Fowler	McCurdy	Vander Jagt
Franklin	McDade	Vandergriff
Frenzel	McEwen	Vucanovich
Fuqua	McHugh	Walker
Gekas	McKinney	Watkins
Gibbons	Mica	Waxman
Weber	Winn	Wyden
Weiss	Wirth	Wylie
Whitehurst	Wolf	Young (FL)
Whitley	Wortley	Zschau
Whittaker	Wright	

ANSWERED "PRESENT"—1

Bedell

NOT VOTING—24

Barnard	Jones (NC)	Shannon
Brown (CA)	LaFalce	Simon
Cheney	Martin (NC)	Tauke
Erlenborn	McGrath	Udall
Ferraro	McNulty	Williams (MT)
Fish	Minish	Wilson
Gramm	Pursell	Yatron
Hansen (ID)	Rudd	Young (AK)

□ 2030

Mr. McCURDY and Mr. HEFNER changed their votes from "aye" to "no."

Mr. ANDREWS of Texas, Mrs. COLLINS, and Messrs. WHITTEN, LEHMAN of Florida, SMITH of Florida, and PANETTA changed their votes from "no" to "aye."

So the amendment to the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. The question is on the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore [Mr. WRIGHT] having assumed the chair, Mr. HARRISON, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 6023) to amend the Trade Act of 1974 to renew the authority for the operation of the Generalized System of Preferences, and for other purposes, pursuant to House Resolution 594, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. RUSSO. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were refused.

So the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the following bills:

H.R. 6301, the Steel Import Stabilization Act; H.R. 3795, the Wine Equity Act; H.R. 5377, the Israel Free Trade Zone Act; and H.R. 6023, Generalized System of Preferences Renewal Act.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment bills of the House of the following titles:

H.R. 2859. An act for the relief of John Brima Charles;

H.R. 4994. An act to exempt from taxation by the District of Columbia certain property of the Jewish War Veterans, U.S.A. National Memorial, Incorporated;

H.R. 5513. An act to designate the Delta States Research Center in Stoneville, MS, as the "Jamie Whitten Delta States Research Center";

H.R. 5631. An act to provide for the acquisition of a visitor contact and administrative site for the Big Thicket National Preserve in the State of Texas;

H.R. 5782. An act granting the consent of Congress to an amendment to the Delaware River Basin Compact; and

H.R. 6223. An act to amend the act providing for the incorporation of certain persons as Group Hospitalization, Inc.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2878) "An act to amend and extend the Library Services and Construction Act."

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2166) "An act to authorize appropriations to carry out the Indian Health Care Improvement Act, and for other purposes."

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2496) "An act to amend the Adult Education Act in order to simplify requirements for States and other recipients participating in Federal adult education programs, and for other purposes."

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2819) "An act to make essential technical corrections to the Housing and Urban-Rural Recovery Act of 1983."

The message also announced that the Senate agrees to the amendments of the House to the amendments of the Senate to the bill (H.R. 5618) "An act to amend title 38, United States Code, to revise and improve Veterans' Administration health programs, and for other purposes."

The message also announced that the Senate had passed with an amendment in which the concurrence of the House is requested, a joint resolution of the House of the following title:

H.J. Res. 158. Joint resolution to make technical corrections in the Act of January 12, 1983 (Public Law 97-459).

The message also announced that the Senate had passed bills and joint resolutions following titles, in which the concurrence of the House is requested:

S. 794. An act for the relief of Edwina Carol Baxter;

S. 1688. An act to amend the Act of October 18, 1972, to authorize additional authorization of appropriations for Sitka National Historical Park, Alaska;

S. 1946. An act for the relief of Catherine and Robert Fossez;

S.J. Res. 352. Joint resolution designating October 1984 as "National Head Injury Awareness Month"; and

S.J. Res. 354. Joint resolution designating the week of January 7 through January 13, 1985, as "National Productivity Improvement Week."

SERVICE INDUSTRIES COMMERCE DEVELOPMENT ACT OF 1983

The SPEAKER pro tempore. Pursuant to House Resolution 595 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for consideration of the bill, H.R. 2848.

□ 2040

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for consideration of the bill (H.R. 2848) to establish a service industries development program, and for other purposes, with Mrs. SCHROEDER in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from New Jersey [Mr. FLORIO] will be recognized for 15 minutes; the gentleman from New York [Mr. LENT] will be recognized for 15 minutes; the gentleman from Illinois [Mr. ROSTENKOWSKI] will be recognized for 15 minutes; and the gentleman from New York [Mr. CONABLE] will be recognized for 15 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. FLORIO].

□ 2040

Mr. FLORIO. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, I rise in support of the bill H.R. 2848, the Services Industries Commerce Development Act and the amendment that I will offer at the appropriate time. This legislation is designed to promote U.S. service industry exports such as tourism, transportation, insurance, communications, data processing, and financial services.

World trade in services has grown at an annual rate of 17 percent over the last decade—more than three times as fast as trade in goods. During this period, the United States has remained the world's largest service exporter.

Today the majority of all new jobs created in the U.S. economy are in the service sector. The Commerce Department estimates that about 60 percent of the U.S. gross national product is attributable to the services sector and that about 70 percent of the nonfarm work force in the United States is employed in the services sector.

All the news on services, however, is not good. Although the United States continues to dominate world trade in services, its position is being eroded more and more by other countries. In 1972, the United States accounted for 20 percent of all world trade in services; yet, by 1980 the U.S. share fell to only 15 percent.

Like U.S. merchandise exports, American service exports have also begun to decline seriously. Only a few years ago, America's surplus in services trade was large enough to offset our merchandise trade deficit. Experts now say that in just a few years the United States will have a deficit in services trade nearly as large as our deficit in merchandise trade.

There are two important reasons U.S. leadership in service industry trade is now being challenged. First, the governments of our major foreign competitors generally have done a better job than we have in providing business with information on world market opportunities and conditions. Second, in the absence of an international trade agreement on services, many countries are arbitrarily establishing protectionist barriers that discriminate against U.S. service firms.

To address these problems, the nations of the world need to negotiate an agreement on trade in services. U.S. efforts to initiate the negotiating process at the GATT level have had very limited success so far. Even after negotiations begin, it will be a long time before a services agreement can be implemented.

Thus, in the short term, the bill before us will be needed in order to permit the United States to limit foreign access to the domestic service market, if appropriate, in order to promote fair services trade relations between the United States and other countries. Finally, much better data is needed in order to understand more accurately the nature and problems of the service sector and to develop an effective trade policy.

U.S. service industries have sought trade in services legislation for several years. The bill we are considering today has the strong support of the Committee on Energy and Commerce and the Committee on Ways and Means, both of which reported the legislation more than 1 year ago. The amendment I am offering reflects an agreement of both committees on how best to deal with the declining competitiveness of U.S. service industries.

This amendment has two major parts. The first part would establish a service industries development program within the Commerce Department which would be responsible for advising U.S. service firms concerning world market opportunities and trends. It would also have responsibility for improving the Government's data gathering and analysis functions on services so that effective trade policy can be developed.

The administration has recognized the inadequacy of official data for a long time. The Work Program on Trade in Services approved by the administration's Cabinet level Trade Policy Committee in April 1981, stated that the lack of adequate service trade data is a major obstacle to U.S. efforts to develop service sector trade policy.

At our hearing on this matter witnesses from the Commerce Department and the Office of the U.S. Trade Representative [USTR] acknowledged that data currently available to the Government does not accurately measure the competitiveness of U.S. service firms in world markets—overall or by specific service industry. For example, the Commerce Department concluded over 1 year ago that data on the foreign operations of U.S. insurance firms was inadequate to permit the Government to develop a sound policy on international insurance issues.

The second part of the amendment would amend section 301 of the Trade Act of 1974 to make it clear that the President has the same authority to deal with unfair trade practices in the services sector that he currently has in the goods sector. Industry, the administration, and most of Congress agree that this type of authority provides the best incentive for our trading partners to negotiate a meaningful international treaty concerning services and to protect our firms against unfair competition.

Madam Chairman, we need this bill to begin to reestablish fair trade in services for American firms. With almost three-quarters of our workers and nearly two-thirds of our GNP attributable to the service sector, our economic future is greatly dependent on the health of our service industries. I, therefore, urge my colleagues to vote for this bill and the amendment I will offer to it.

□ 2050

Mr. LENT. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, I rise in support of H.R. 2848, the Services Industries Development Act. The amendment which will be offered by my colleague, chairman FLORIO, at the conclusion of general debate is a compromise between the Committee on Energy and Commerce and the Committee on Ways and Means. This bill will provide a program to promote exports in our services sector.

Trade in services is a vital part of our economy and our international trade. The area of services includes insurance, banking, advertising, transportation, and communications, just to name a few. The service sector accounts for 69 percent of U.S. GNP and most of our jobs. Moreover, the United States exports more services than any other country. Yet, as critical as services are to our economy, there exists no international agreement covering services trade.

The U.S. Trade in services has consistently produced a surplus in the U.S. current account. In recent years, however, service exports have not grown as much as they should have. Since 1981, the U.S. trade in services surplus has shrunk by approximately 25 percent. The growth of nontariff barriers such as restrictions on market access, discriminatory tax and licensing procedures and subsidies to local firms, as well as the lack of information concerning trade in services has hampered our export of services.

The bill is intended to send a clear signal to our trading allies that we are committed to the pursuit of an open trade environment for services as well as goods.

I see this bill accomplishing just that by:

First, making the negotiation of an international agreement on services a principal trade objective under the Trade Act of 1974;

Second, establishing a comprehensive service industries development program in the Department of Commerce; and

Third, strengthening the President's authorities to address service sector problems.

The Senate has also recognized the need for trade in services legislation, and it is included in its omnibus trade legislation. The Senate bill differs from the House bill in some areas, such as data collection authority and remedies. Reserving the right to address these issues at conference, I fully concur with Chairman FLORIO that we should move ahead with this bill at this time. I am informed that the administration has some technical reservations about this legislation but does not oppose its passage.

I support this bill and urge my colleagues to vote for it.

Mr. ROSTENKOWSKI. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, I rise in support of H.R. 2848 as amended in consultation with the Committee on Ways and Means. The bill contains very useful provisions supported by the services private sector which focus attention on the need to develop better data and analysis within the Government on trade and competitive problems in services industries. The bill also clarifies the President's authorities under section 301 of the Trade Act of 1974 to restrict services in the bill in response to foreign unfair trade practices. Finally, the bill sets forth objectives for negotiating the reduction and elimination of foreign trade barriers to U.S. services trade.

Madam Chairman, H.R. 2848 has been amended by the Committee on Energy and Commerce to remove the serious objections to the original bill on these provisions within the jurisdiction of the Committee on Ways and Means. Based on these changes and the need to address an increasingly important sector of our economy, I support passage of the bill.

Mr. FRENZEL. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, as I stated earlier there is no reason to have this bill up. It is a redundant operation.

On the other hand, there is nothing wrong with it.

I reserve the balance of my time.

Mr. LENT. Madam Chairman, I yield back the balance of my time.

Mr. ROSTENKOWSKI. Madam Chairman, I yield back the balance of my time.

Mr. FRENZEL. Madam Chairman, I yield back the balance of my time.

Mr. FLORIO. Madam Chairman, I yield back the balance of my time.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read for amendment under the 5-minute rule.

No amendments are in order except the amendment in the nature of a substitute printed in the CONGRESSIONAL RECORD of October 1, 1984, by, and if offered by Representative FLORIO, which shall be considered as having been read and shall not be subject to amendment.

The text of the bill is as follows:

H.R. 2848

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Service Industries Commerce Development Act of 1983".

DEFINITIONS

SEC. 2. As used in this Act—

(1) The term "barriers to, or other distortions of, international trade in service" includes—

(A) Barriers to the right of establishment in foreign markets; and

(B) restrictions on the operation of enterprises in foreign markets, including direct or indirect restrictions on the transfer of the information into, or out of, the country or instrumentality concerned and restrictions on the use of data processing facilities within or outside of such country or instrumentality.

(2) The term "foreign supplier" means a supplier whose corporate headquarters is located in a foreign country, and includes all subsidiaries and affiliates of such a supplier.

(3) The term "Secretary" means the Secretary of Commerce.

(4) The term "services" means economic outputs which are not tangible goods or structures, including but not limited to, transportation, communications, retail and wholesale trade, advertising, construction, design and engineering, utilities, insurance, real estate, professional services, entertainment, and tourism, and overseas investments which are necessary for the export and sale of such services.

(5) The term "Supplier" means any person who is engaged in the business of providing services for ultimate sale in the United States and includes as one entity all persons who control, are controlled by, or are in common control with, such person. Such term also includes any predecessor or successor of such a supplier.

SERVICE INDUSTRIES DEVELOPMENT PROGRAM AND REPORTS

SEC. 3. (a)(1) The Secretary shall establish in the Department of Commerce a service industries development program designed to—

(A) develop policies regarding services that are designed to increase the international competitiveness of United States service industries in interstate and foreign commerce;

(B) on an annual basis, collect and analyze information regarding purchases by domestic entities of services from foreign suppliers;

(C) develop a data base for assessing the adequacy of current, as well as for developing future, United States policies and actions pertaining to services, including, but not limited to, the collection and analysis of data on an annual basis concerning sales by United States service industries and their affiliates to customers in foreign countries;

(D) provide statistical, analytical, and policy information to State and local governments and United States service industries;

(E) collect and analyze information pertaining to the international operations and competitiveness of United States service industries, including information with respect to—

(i) activities and policies of foreign governments toward foreign and United States service industries,

(ii) United States regulation of service industries, and

(iii) the adequacy of current United States policies and activities to strengthen the competitiveness of United States service industries in interstate and foreign commerce; and

(F) conduct studies of United States service industries, including assessments of their present and future ability to compete in interstate and foreign commerce.

(2)(A) The Secretary shall seek to establish arrangements with the private sector regarding the access by the Secretary to private sector information that is necessary for the Secretary to carry out his functions under subsection (a).

(B) The Secretary may request persons to submit to him any information referred to in subparagraph (A) that the Secretary considers to be critical for the carrying out of such functions.

(C) All information to which the Secretary is given access under subparagraph (A), is submitted to the Secretary under subparagraph (B), or produced under subparagraph (D) shall be confidential and shall not be disclosed; except (i) the Secretary may disclose the information if the provider of the information in writing waives confidentiality, or (ii) when required under court order. The Secretary shall, by regulation, prescribe such procedures as may be necessary to preserve such confidentiality, except that—

(i) the Secretary shall release upon request any such information to the Congress or any committee thereof; and

(ii) the Secretary may release or make public any such information, excluding investment and income data, in any aggregate or summary statistical form which does not directly or indirectly disclose the identity or business operations of the person who submitted the information.

(D)(i) The Secretary may issue subpenas requiring the production of any information requested by him for purposes of carrying out paragraphs (1) (B) and (C). Such production of information may be required from any place within the United States.

(ii) if a person issued a subpena under clause (i) refuses to obey such subpena or is guilty of contumacy, any court of the United States within the judicial district within which such person is found or resides or transacts business may (upon application by the Secretary) order such person to appear before the Secretary to produce the information. Any failure to obey such order of the court may be punished by such court as a contempt thereof.

(iii) The subpenas of the Secretary shall be served in the manner provided for subpenas issued by a United States district court under the Federal Rules of Civil Procedure for the United States district courts.

(iv) All process of any court to which application may be made under this paragraph may be served in the judicial district wherein the person required to be served resides or may be found.

(E)(i) It is unlawful for any person to refuse, willfully to obey a request by the Secretary for information issued under subparagraph (B).

(ii) Any person who is found by the Secretary, after notice and an opportunity for a hearing in accordance with section 554 of title 5, United States Code, to have violated clause (i) shall be liable to the United States for a civil penalty. The amount of the civil penalty shall not exceed $10,000. The amount of such civil penalty shall be assessed by the Secretary, or his designee, by written notice.

(iii) Any person against whom a civil penalty is assessed under clause (ii) may obtain review thereof in the appropriate court of the United States by filing a notice of appeal in such court within thirty days from the date of such order and by simultaneously sending a copy of such notice by certified mail to the Secretary. The Secretary shall promptly file in such court a certified copy of the record upon which such violation was found or such penalty imposed, as provided in section 2112 of title 28, United States Code. The findings and order of the Secretary shall be set aside by such court if they are not found to be supported by substantial evidence, as provided in section 706(2) of title 5, United States Code.

(iv) If any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order, or after the appropriate court has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General of the United States, who shall recover the amount assessed in any appropriate district court of the United States. In such action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

(v) The Secretary may compromise, modify, or remit, with or without conditions, any civil penalty which is subject to imposition or which has been imposed under this subparagraph.

(3) Nothing in this section shall authorize the release of information to, or the use of information by, the Secretary in a manner inconsistent with law or any procedure established pursuant thereto.

(b) The Secretary shall consult regularly with representatives of State governments and representative of United States service industries concerning the development and implementation of policies on services referred to in subsection (a)(1)(A) and other activities which are conducted pursuant to subsections (a) and (c). The Secretary shall provide to State and local governments, upon their request, advice, assistance, and (except as may be otherwise prohibited by law) information concerning United States policies on foreign commerce as submitted to the Congress and the President not later than thirty days after the close of the period covered by the report containing—

(1) an analysis of the activities during the period covered by the report of foreign suppliers within the various service industries in the United States market;

(2) an analysis of Federal, State, and local regulations during such period of both foreign and United States suppliers and the potential effect of such regulation on trade relationships and negotiations;

(3) an analysis of the activities during such year of United States suppliers of services in foreign countries, including the types of services provided, the value of investment made in such services, and the income resulting from their provision; and

(4) a study and an analysis of barriers to or other distortions of international trade in services, including the impact during such year of any act, policy, or practice of each designated major trading country that limits the access of United States suppliers of services to markets in that country in a manner that is unjustifiable, unreasonable, or discriminatory.

For purposes of paragraph (4)—

(A) The term "designated major trading country" means any major trading country which the Secretary, after consultation with

the Committee on Finance and the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Ways and Means, the Committee on Energy and Commerce of the House of Representatives, designates as a country with respect to which the study and analysis under such paragraph is necessary and appropriate.

(B) The term "major trading country" means Canada, the European Economic Community, the individual member countries of such community, Japan, and any other foreign country or instrumentality designed by the Secretary for consideration for designation under subparagraph (A).

PRESIDENTIAL AUTHORITY

SEC. 4. (a) Notwithstanding any other provision of law, the President may impose, in accordance with subsections (b), (c), (d), (e), and (f) of this section, such terms, conditions, or limitations, as he deems appropriate, under which foreign suppliers shall be eligible to engage in interstate commerce in the United States.

(b) Within one hundred and twenty days after receiving a report under section 3(c), the President shall—

(1) review all acts, policies, and practices discussed in the report as required under paragraph (4) of such section;

(2) determine whether limitations should be imposed under subsection (a); and

(3) publish notice in the Federal Register—

(A) of each determination made under paragraph (2) together with a description of the limitations which the President proposes to implement under subsection (a) as a result of that determination, and

(B) that written comment of interested persons regarding such determination and the proposed limitations may be submitted to the Secretary during the one hundred and fifty-day period beginning on the date of publication of the notice.

(c) The President may not impose any limitation under subsection (a) until he has taken into account all comments that are timely submitted in accordance with subsection (b)(3)(B) with respect to the determination and proposed limitations concerned.

(d)(1) Any interested person may file a petition with the Secretary requesting the President to take action under subsection (a) and setting forth the allegations in support of the request. The Secretary shall review the allegations in the petition and, not later than forty-five days after the date on which he received the petition, shall determine whether to initiate an investigation.

(2) If the Secretary determines not to initiate an investigation with respect to a petition, he shall inform the petitioner of his reasons therefor and, within ten days after the date on which the petitioner is so informed, shall publish notice of the determination, together with a summary of such reasons, in the Federal Register.

(3) If the Secretary determines to initiate an investigation with respect to a petition under paragraph (1), he shall initiate an investigation regarding the issues raised. The Secretary shall publish the text of the petition in the Federal Register and shall, as soon as possible, provide opportunity for the presentation of views concerning the issues, including a public hearing within the thirty-day period after the date of the determination or on a date after such period if agreed to by the peritioner. The Secretary shall also consult with the Federal agency having jurisdiction over the particular service industry involved and the Congress.

(4) On the date an affirmative determination is made under paragraph (3), the Secretary shall initiate consultations with the foreign nation involved.

(e) On the basis of the investigation undertaken under subsection (d)(3) and the consultation, if any, under subsection (d)(4), the Secretary shall recommend to the President what action, if any, he should take under subsection (a) regarding the issues raised in the petition. The Secretary shall make the recommendation not later than ninety days after the date on which the Secretary determines to initiate the investigation under subsection (d)(1).

(f)(1) If the President decides to take action on his own motion under subsection (a) regarding a matter for which no petition or resolution was received under subsection (d), the President shall publish notice of his determination, including the reasons for the determination in the Federal Register. Unless he determines that expeditious action is required, the President shall provide an opportunity for the presentation of views concerning the taking of such action.

(2) Not later than twenty-one days after the date on which he receives the recommendation of the Secretary under subsection (e) with respect to a petition, the President shall determine what action, if any, he will take under subsection (a), and shall publish notice of his determination, including reasons for the determination, in the Federal Register.

AUTHORIZATION OF APPROPRIATIONS

SEC. 5. There are authorized to be appropriated $5,000,000 to carry out the activities authorized by this Act.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. FLORIO

Mr. FLORIO. Madam Chairman, I offer an amendment in the nature of a substitute.

The CHAIRMAN. The Clerk will designate the amendment in the nature of a substitute.

The text of the amendment in the nature of a substitute offered by Mr. FLORIO is as follows:

Strike out all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Service Industries Commerce Development Act of 1984".

SEC. 2. STATEMENT OF PURPOSES.

The purposes of this Act are—

(1) to encourage further expansion of international trade in services, and to enhance the free flow of foreign direct investment with implications for trade in services, through the negotiation of agreements (both bilateral and multilateral) which reduce or eliminate barriers and other trade-distorting measures; and

(2) to promote the expansion of United States service industries in foreign commerce.

SEC. 3. DEFINITIONS.

As used in this Act—

(1) The term "Secretary" means the Secretary of Commerce.

(2) The term "services" means economic outputs associated with international trade that are not tangible goods (but may or may not be related to trade in such goods) or structures, including, but not limited to, transportation, communications, retail and wholesale trade, advertising, construction, design and engineering, utilities, insurance, real estate, professional services, entertainment, and tourism, and foreign direct investments by United States persons which are necessary for the export and sale of such services.

SEC. 4. SERVICE INDUSTRIES DEVELOPMENT PROGRAM, COORDINATION, AND REPORTS.

(a) PROGRAM.—

(1) IN GENERAL.—The Secretary shall establish in the Department of Commerce a service industries development program designed to—

(A) develop, in consultation with other Federal agencies as appropriate, policies regarding services that are designed to increase the competitiveness of United States service industries in foreign commerce;

(B) develop a data base for assessing the adequacy of current, as well as for developing future, Government policies and actions pertaining to services, including, but not limited to, export and import data generally, and pertaining to individual service industries;

(C) collect and analyze, in consultation with appropriate agencies, information pertaining to the international operations and competitivenss of United States service industries, including information with respect to—

(i) activities and policies of foreign governments toward foreign and United States service industries,

(ii) Federal, State, and local regulation of both foreign and United States suppliers of services, and the potential effect of such regulation on trade relationships and negotiations,

(iii) the adequacy of current United States policies and activities to strengthen the competitiveness of United States service industries in foreign commerce,

(iv) tax treatment of services, with particular emphasis on the effect of United States taxation on the international competitiveness of United States firms and exports; and

(v) treatment of services in international agreements of the United States;

(D) conduct studies of United States service industries, including assessments of their present and future ability to compete in foreign commerce; and

(E) conduct a program of research and analysis of service-related issues and problems, including forecasts and industrial strategies.

(2) INFORMATION.—

(A) PRIVATE SECTOR ARRANGEMENTS.—The Secretary shall seek to establish arrangements with the private sector regarding the access by the Secretary to private sector information that is necessary for the Secretary to carry out his functions under paragraph (1).

(B) CRITICAL INFORMATION.—The Secretary may require persons to submit to him any information referred to in subparagraph (A) that the Secretary considers to be critical for the carrying out of such functions.

(C) CONFIDENTIALITY.—Information to which the Secretary is given access under subparagraph (A), which is submitted to the Secretary under subparagraph (B), or which is produced under paragraph (3), shall be confidential and shall not be disclosed, except that—

(i) the Secretary may disclose such information if the person who provided the information waives confidentiality in writing;

(ii) the Secretary may release or make public such information in any aggregate or summary statistical from which does not di-

rectly or indirectly disclose the identity or business operations of the person who provided the information;

(iii) the Secretary shall release the information when so required by court order; and

(iv) the Secretary shall release such information upon request to the Congress or any committee thereof.

The Secretary shall, by regulation, prescribe such procedures as may be necessary to preserve the confidentiality of the information required to be kept confidential by this subparagraph.

(3) PROHIBITED ACTS.—

(A) Any person who—

(i) fails to furnish information required by the Secretary under paragraph (2)(B); or

(ii) fails to comply with any rule or regulation issued by the Secretary to carry out this section:

is subject to a civil penalty not exceeding $10,000 under a proceeding brought under this paragraph.

(B) Whenever it appears that any person has violated subparagraph (A)(i) of (ii), a civil action may be brought by the Secretary in an appropriate district court of the United States, and upon a proper showing by the Secretary of the relevance to the purposes of this section of the demand for information or the rule or regulation, the court may either enter a restraining order or a permanent or temporary injunction commanding such person to furnish the information or to comply with the rule or regulation, as the case may be, or impose the civil penalty under subparagraph (A).

(4) CONSULTATION.—The Secretary shall consult regularly with representatives of United States service industries concerning the development and implementation of the policies on services referred to in paragraph (1)(A) and other activities which are conducted pursuant to this subsection and subsection (c).

(b) COORDINATION REGARDING TRADE IN SERVICES.—

(1) AT FEDERAL LEVEL.—

(A) IN GENERAL.—The United States Trade Representative, through the interagency trade organization established pursuant to section 242(a) of the Trade Expansion Act of 1962 or any subcommittee thereof, shall, in conformance with this Act and other provisions of law, develop (and coordinate the implementation of) United States policies concerning trade in services.

(B) FEDERAL AGENCIES.—In order to encourage effective development, coordination, and implementation of United States policies on trade in services—

(i) each department or agency of the United States responsible for the regulation of any service sector industry shall, as appropriate, advise and work with the United States Trade Representative concerning matters that have come to the department's or agency's attention with respect to—

(I) the treatment afforded United States service sector interest in foreign markets, or

(II) allegations of unfair practices by foreign governments or companies in a service sector; and

(ii) the Department of Commerce, together with other appropriate agencies as requested by the United States Trade Representative, shall provide staff support and other assistance for negotiations on service-related issues by the United States Trade Representatives and the domestic implementation of service-related agreements.

(C) NO EFFECT ON EXISTING AUTHORITIES.—Nothing in this subsection shall be construed to affect in any manner or to any extent any existing authority or responsibility with respect to any specific service sector.

(2) AT STATE LEVEL.—

(A) STATEMENT OF POLICY.—It is the policy of Congress that the President shall, as he deems appropriate—

(i) consult with State governments on issues of trade policy, including negotiating objectives and implementation of trade agreements, affecting the regulatory authority on non-Federal governments, or their procurement of goods and services;

(ii) establish one or more intergovernmental policy advisory committees on trade which shall serve as a principal forum in which State and local governments may consult with the Federal Government with respect to the matters described in clause (i); and

(iii) provide to State and local governments and to United States service industries, upon their request, advice, assistance, and (except as may be otherwise prohibited by law) data, analyses, and information concerning United States policies on international trade in services.

(B) ESTABLISHMENT OF NON-FEDERAL GOVERNMENTAL TRADE ADVISORY COMMITTEES.—Section 135 (19 U.S.C. 2155) is amended—

(i) by inserting "and the non-Federal governmental sector" after "private sector" in subsection (a),

(ii) by adding at the end of subsection (c) the following new paragraph:

"(3) The President—

"(A) may establish policy advisory committees representing non-Federal governmental interests to provide, where the President finds it necessary, policy advice—

"(i) on matters referred to in subsection (a), and

"(ii) with respect to implementation of trade agreements, and

"(B) shall include as members of committees established under paragraph (1) representatives of non-Federal governmental interests where he finds such inclusion appropriate after consultation by the Trade Representative with such representatives.";

(iii) by inserting "or non-Federal government" after "private" each place it appears in subsections (g) and (j);

(iv) by inserting "government," before "labor" in subsection (j); and

(v) by adding at the end thereof the following new subsection:

"(m) NON-FEDERAL GOVERNMENT DEFINED.—The term 'non-Federal government' means—

"(1) any State, territory, or possession of the United States, or the District of Columbia, or any political subdivision thereof, or

"(2) any agency or instrumentality of any entity described in paragraph (1).."; and

(vi) by inserting "or Public" after "Private" in the heading thereof.

(C) CONFORMING AMENDMENTS.—

(i) Section 104(c) (19 U.S.C. 2114(c)) is amended by inserting "or non-Federal governmental" after "private".

(ii) Sections 303 (19 U.S.C. 2413) and 304(b)(2) (19 U.S.C. 2414(b)(2)) are each amended by striking out "private sector".

(iii) The table of sections for chapter 3 of title I is amended by inserting "and public" after "private" in the item relating to section 135.

(c) BIENNIAL REPORT.—On not less than a biennial basis commencing with 1986, the Secretary shall prepare a report (which shall be submitted to the Congress and to the President not later than 30 days after the close of the period covered by the report) containing an analysis of the information collected under subsection (a)(1).

SEC. 5. AMENDMENTS TO THE TRADE ACT OF 1974.

(a) PRESIDENTIAL DETERMINATIONS AND ACTION UNDER TITLE III REGARDING SERVICES.—Section 301 of the Trade Act of 1974 (19 U.S.C. 2411) is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively, and by adding immediately after subsection (b) the following new subsection:

"(d) ACTIONS ON SERVICES.—

"(1) IN GENERAL.—With respect to actions on the services of a foreign country under subsection (b), the President may restrict, in the manner and to the extent he deems appropriate, the terms and conditions, or deny the issuance, of any service sector access authorization, notwithstanding any other provision of law governing that authorization.

"(2) AFFECTED AUTHORIZATIONS.—Actions under paragraph (1) shall apply only with respect to service sector access authorizations granted, or applications therefor pending, on or after the date a petition is filed under section 302(a) or a determination to initiate is made by the United States Trade Representative (hereinafter in this chapter referred to as the 'Trade Representative') under section 302(c).

"(3) CONSULTATION.—Before the President takes action under subsection (b) involving the imposition of fees or other restrictions on the services of a foreign country, the Trade Representative shall, if the services involved are subject to regulation by any agency of the Federal Government or of any State, consult with the head of the agency concerned."; and

(2) by amending paragraph (1) of subsection (e) (as redesignated by paragraph (1)) to read as follows:

"(1) DEFINITIONS.—For purposes of this section—

"(A) The term 'commerce' includes, but is not limited to, services associated with international trade, whether or not such services are related to specific products.

"(B) The term 'service sector access authorization' means any license, permit, order, or other authorization, issued under the authority of Federal law, that allows a foreign supplier of services access to the United States market in a service sector concerned.

"(C) The term 'services' has the same meaning as is given to that term in section 3(3) of the Services Industries Commerce Development Act of 1984.".

(b) NEGOTIATING OBJECTIVES.—

(1) IN GENERAL.—Chapter 1 of title I of the Trade Act of 1973 (19 U.S.C. 2111-2119) is amended by inserting immediately after section 104 the following new section:

"SEC. 104A. NEGOTIATING OBJECTIVES WITH RESPECT TO TRADE IN SERVICES.

"Principal United States negotiating objectives under section 102 with respect to trade in services shall be—

"(1) to reduce or to eliminate barriers to, or other distortions of, international trade in services including, but not limited to—

"(A) barriers that deny national treatment, and

"(B) restrictions on the establishment and operation of enterprises providing services in foreign markets, including—

"(i) direct or indirect restrictions on the transfer of information into, or out of, the country or instrumentality concerned, and

"(ii) restrictions on the use of data processing facilities within or outside of such country or instrumentality; and

"(2) to develop internationally agreed rules, including dispute settlement procedures, which will reduce or eliminate such barriers or distortions and help insure open international trade in services.".

(2) CONFORMING AMENDMENTS.—

(A) The table of contents for chapter 1 of title I is amended by inserting after the item relating to section 104 the following new item:

"Sec. 104A. Negotiating objectives with respect to trade in services.".

(B) Paragraph (3) of section 102(g) (19 U.S.C. 2112(g)(3)) is amended to read as follows:

"(3) The term 'international trade' includes trade in both goods and services.".

The CHAIRMAN. The gentleman for New Jersey [Mr. FLORIO] is recognized in support of this amendment.

Mr. FLORIO. Madam Chairman, I rise in support of my amendment. In the economies of the United States and most other industrial countries, the service sector has assumed increasing importance over the last 30 years. By 1978, "services" accounted for at least as much of the Gross Domestic Product of nearly all GATT nations as "goods."

The United States has been a leader in the development of service industries trade, but it now faces two major problems to the future growth of this sector of the economy. First, the governments of our major foreign competitors generally have done a better job than we have in providing business with information on world market opportunities and conditions. Second, in the absence of an international trade agreement on services, many countries are arbitrarily establishing protectionist barriers that discriminate against U.S. service firms.

To address these problems, the nations of the world need to negotiate an agreement on trade in services. U.S. efforts to initiate the negotiating process at the GATT level have had very limited success so far. Even after negotiations begin, it will be a long time before a services agreement can be implemented.

Thus, in the short term, the bill before us will be needed in order to permit the United States to limit foreign access to the domestic service market, if appropriate, in order to promote fair services trade relations between the United States and other countries. Finally, much better data is needed in order to understand more accurately the nature and problems of the service sector and to develop an effective trade policy.

U.S. service industries have sought trade in services legislation for several years. The amendment we are considering today has the strong support of the Committee on Energy and Commerce and the Committee on Ways and Means, both of which reported the legislation more than a year ago. The amendment I am offering reflects an agreement of both committees on how best to deal with the declining competitiveness of U.S. service industries.

This amendment has two major parts. The first part would establish a service industries development program within the Commerce Department which would be responsible for advising the U.S. service firms concerning world market opportunities and trends. It would also have responsibility for improving the Government's data-gathering and analysis functions on services so that effective trade policy can be developed.

The second part of the amendment would amend section 301 of the Trade Act of 1974 to make it clear that the President has the same authority to deal with unfair trade practices in the services sector that he currently has in the goods sector. Industry, the administration, and most of Congress agree that this type of authority provides the best incentive for our trading partners to negotiate a meaningful international treaty concerning services and to protect our firms against unfair competition.

Madam Chairman, it is now time for the House to enact this important legislation which addresses a long-neglected issue in International Trade Policy.

I urge my colleagues to support this amendment.

Mr. LENT. Madam Chairman, will the gentleman yield?

Mr. FLORIO. I yield to the gentleman from New York.

Mr. LENT. I thank the gentleman for yielding.

Chairman FLORIO, is this the amendment which I referred to earlier, that reflects the results of negotiations between the Committees on Energy and Commerce, Ways and Means, and Foreign Affairs?

Mr. FLORIO. The gentleman is correct.

Mr. LENT. I commend the gentleman from New Jersey on his willingness to work with those of us who share his interest in promoting the U.S. export of services.

I support the amendment and urge my colleagues to do the same.

The CHAIRMAN. The question is on the amendment in the nature of a substitute offered by the gentleman from New Jersey [Mr. FLORIO].

The amendment in the nature of a substitute was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore [Mr. MURTHA] having assumed the chair, Mrs. SCHROEDER, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2848) to establish a service industries development program, and for other purposes, pursuant to House Resolution 595, she reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. FLORIO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous material on the bill, just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

OMNIBUS TARIFF AND TRADE ACT OF 1984

Mr. ROSTENKOWSKI. Mr. Speaker, pursuant to House Resolution 598, I move to take from the Speaker's table the bill (H.R. 3398) to change the tariff treatment with respect to certain articles and for other purposes, with Senate amendment thereto, to agree to the amendment of the Senate to the title of the bill, and to concur in the Senate amendment to the text of the bill with an amendment in the nature of a substitute consisting of the texts of the following bills as passed by the House: H.R. 2848; H.R. 3398; H.R. 3795; H.R. 4784; H.R. 4901; H.R. 5188; H.R. 5377; H.R. 6023; H.R. 6064; and H.R. 6301.

The clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to House Resolution 598, the Senate amendments and the House amendment are considered as read.

The text of the Senate amendments is as follows:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Omnibus Tariff and Trade Act of 1984".

(b) TABLE OF CONTENTS.—

TITLE I—TARIFF SCHEDULES AMENDMENTS

Subtitle A—Reference to Tariff Schedules

Sec. 101. Reference.

Subtitle B—Permanent Changes in Tariff Treatment

Sec. 111. Coated textile fabrics.
Sec. 112. Warp knitting machines.
Sec. 113. Certain gloves.
Sec. 114. Pet toys.
Sec. 115. Water chestnuts and bamboo shoots.
Sec. 116. Gut for use in manufacture of sterile surgical sutures.
Sec. 117. Orange juice products.

Sec. 118. Reimportation of certain articles originally imported duty free.
Sec. 119. Geophysical equipment.
Sec. 120. Scrolls or tablets imported for use in religious observances.
Sec. 121. Naphtha.
Sec. 122. Steel pipes and tubes used in lamp-posts.
Sec. 123. Wearing apparel.
Sec. 124. Recently developed dairy products.
Sec. 125. Technical amendment.
Sec. 126. Continuation of duty-free treatment for meta-toluic acid (MTA).
Sec. 127. Ferroalloys.

Subtitle C—Temporary Changes in Tariff Treatment

Sec. 141. Crude feathers and down.
Sec. 142. Canned corned beef.
Sec. 143. Hovercraft skirts.
Sec. 144. MXDA.
Sec. 145. 4,4'-Bis(alpha,alpha-Dimethylbenzyl) diphenylamine.
Sec. 146. Flecainide acetate.
Sec. 147. Caffeine.
Sec. 148. Watch crystals.
Sec. 149. Unwrought lead.
Sec. 150. Flat knitting machines.
Sec. 151. Certain menthol feedstocks.
Sec. 152. 2-Methyl, 4-chlorophenol.
Sec. 153. Unwrought alloys of cobalt.
Sec. 154. Certain intermediates for the production of dyes.
Sec. 155. Certain sulfa compounds.
Sec. 156. Certain parts for spindle motors.
Sec. 157. Melamine.
Sec. 158. 4-Chloro-3-methylphenol.
Sec. 159. Certain clock radios.
Sec. 160. Rifampin.
Sec. 161. Mepenzolate bromide.
Sec. 162. Desipramine hydrochloride.
Sec. 163. Diphenyl guanidine and di-orthotolyl guanidine.
Sec. 164. Continuation of suspension of duty on certain forms of zinc.
Sec. 165. Clomiphene citrate.
Sec. 166. Terfenadine.
Sec. 167. Dicyclomine hydrochloride.
Sec. 168. Lactulose.
Sec. 169. Iron-dextran complex.
Sec. 170. Circular knitting machines.
Sec. 171. Uncompounded allyl resins.
Sec. 172. o-Benzyl-p-chlorophenol.
Sec. 173. Narrow fabric looms.
Sec. 174. Nicotine resin complex.
Sec. 175. Tartaric acid and certain tartaric chemicals.
Sec. 176. Magnesium chloride and magnesium nitrate.
Sec. 177. Potassium mixtures.
Sec. 178. Certain benzenoid chemicals.
Sec. 179. Lace-braiding machines.
Sec. 180. Yttrium.
Sec. 181. Natural graphite.
Sec. 182. Tetraamino biphenyl.
Sec. 183. Certain chemical intermediate.
Sec. 184. Certain magnetron tubes.
Sec. 185. Certain metal umbrella frames.
Sec. 186. Photograph albums.

Subtitle D—Effective Dates

Sec. 199. Effective dates.

TITLE II—CUSTOMS AND MISCELLANEOUS AMENDMENTS

Subtitle A—Amendments to the Tariff Act of 1930

Sec. 201. Packaging materials for merchandise entitled to same condition drawback.
Sec. 202. Public disclosure of certain manifest information.
Sec. 203. Virgin Islands excursion vessels.
Sec. 204. Unlawful importation or exportation of certain vehicles.
Sec. 205. Increase in amount for informal entry of goods.
Sec. 206. Certain country of origin marking requirements.
Sec. 207. Equipments and repairs of certain vessels exempt from duties.
Sec. 208. Fungible merchandise entitled same condition drawback.
Sec. 209. Drawback for certain bulk articles.
Sec. 210. Investigations of countervailing duties and antidumping duties.
Sec. 211. Articles returned from space.
Sec. 212. Processed agricultural products.
Sec. 213. Customs brokers.

Subtitle B—Miscellaneous Provisions

Sec. 241. Duty-free entry for pipe organ for the Crystal Cathedral, Garden Grove, California.
Sec. 242. Duty-free entry for scientific equipment for the Ellis Fischel State Cancer Hospital, Columbia, Missouri.
Sec. 243. Enforcement of arrangement on European community export of pipes and tubes.
Sec. 244. No state or local tax on inventory located in foreign trade zones.
Sec. 245. Denial of deduction for certain foreign advertising expenses.
Sec. 246. Certain relics and curios.
Sec. 247. Modification of duties on certain articles used in civil aviation.
Sec. 248. Reliquidation of certain mass spectrometer systems.
Sec. 249. Max Planck Institute for radioastronomy.
Sec. 250. Study on honey imports.
Sec. 251. Products of Caribbean Basin countries entered in Puerto Rico.
Sec. 252. Clarification of the scope of investigations under section 201 of the Trade Act of 1974.
Sec. 253. Duty-free entry for research equipment for North Dakota State University, Fargo, North Dakota.
Sec. 254. Negotiations on restraint of copper production.
Sec. 255. Data on international trade in services.
Sec. 256. User fee for customs services at certain small airports.
Sec. 257. Copyright protection of computer software.
Sec. 258. Analysis of economic impact of import restrictions.
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TITLE III—MISCELLANEOUS AMENDMENTS TO THE TRADE ACT OF 1974

Sec. 301. Short title; amendment of Trade Act of 1974.
Sec. 302. Statement of purposes.
Sec. 303. Analysis of foreign trade barriers.
Sec. 304. Amendments to title III of the Trade Act of 1974.
Sec. 305. Negotiating objectives with respect to international trade in services and investment and high technology industries.
Sec. 306. Provisions relating to international trade in services.
Sec. 307. Negotiating authority with respect to foreign direct investment.
Sec. 308. Negotiation of agreements concerning high technology industries.
Sec. 309. Disapproval of Presidential determinations under section 203 of the Trade Act of 1974.

TITLE IV—TRADE WITH ISRAEL AND CANADA

Sec. 401. Negotiation of trade agreements to reduce trade barriers.
Sec. 402. Joint commission to resolve economic disputes between the United States and Canada.

TITLE V—GENERALIZED SYSTEM OF PREFERENCES

Sec. 501. Short title; statement of purpose.
Sec. 502. 10-year extension of the generalized system of preferences.
Sec. 503. Consideration of a beneficiary developing country's competitiveness in extending preferences.
Sec. 504. Amendments relating to the beneficiary developing county designation criteria and the provision of protection for intellectual property.
Sec. 505. Articles which may not be designated as eligible articles.
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TITLE VI—SMALL BUSINESS TRADE REMEDIES

Sec. 601. Short title; references.
Sec. 602. Establishment of small business trade assistance office.
Sec. 603. Judicial review of certain actions by court of appeals for the Federal circuit.
Sec. 604. Industry-labor coalitions treated as interested parties.
Sec. 605. Hearings.
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Sec. 611. Comments on suspension agreements.
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Sec. 613. Waiver of deposit of estimated antidumping duties.
Sec. 614. Conditional payment of countervailing duties.
Sec. 615. Drawbacks.
Sec. 616. Duties of customs officers.
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Sec. 619. Foreign market value.
Sec. 620. Subsidies discovered during proceeding.
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Sec. 622. Confidential information.
Sec. 623. Interest.
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TITLE VII—TRADE LAW REFORM

Sec. 701. Reference.
Sec. 702. Burden of persuasion.
Sec. 703. Consideration of cumulative impact of imports.
Sec. 704. Threat of material injury.
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Sec. 706. No compromises of countervailing or antidumping duty cases.
Sec. 707. Revocation of countervailing duty orders.
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Sec. 712. Special rules regarding downstream dumping.
Sec. 713. Quantitative restriction agreements.
Sec. 714. Security in lieu of estimated duty.
Sec. 715. Export validation requirement for steel products.
Sec. 716. Sales for importation.
Sec. 717. Sales for future delivery and irrevocable offers.
Sec. 718. History of imports in sufficient volume.

TITLE VIII—TRADE WITH NONMARKET ECONOMIES

Sec. 801. Creation of artificial pricing investigation remedy.
Sec. 802. Definitions; technical and conforming amendments.
Sec. 803. Effective date.

TITLE IX—INTERNATIONAL TRADE AND EXPORT POLICY STUDY COMMISSION

Sec. 901. Short title.
Sec. 902. Establishment.
Sec. 903. Duties.
Sec. 904. Final report.
Sec. 905. Termination.
Sec. 906. Authorization.

TITLE X—WINE TRADE

Sec. 1001. Short title.
Sec. 1002. Congressional findings and purposes.
Sec. 1003. Definitions.
Sec. 1004. Designation of major wine trading countries.
Sec. 1005. Actions to reduce or eliminate tariff and nontariff barriers affecting United States Wine.
Sec. 1006. Required consultations.
Sec. 1007. United States wine export promotion.

TITLE XI—TELECOMMUNICATIONS PRODUCT CLASSIFICATION

Sec. 1101. Short title.
Sec. 1102. Tariff schedule nomenclature.

TITLE I—TARIFF SCHEDULES AMENDMENTS

Subtitle A—Reference to Tariff Schedules

SEC. 101. REFERENCE.

Whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a schedule, item, headnote or other provision, the reference shall be considered to be made to a schedule, item, headnote or other provision of the Tariff Schedules of the United States (19 U.S.C. 1202).

Subtitle B—Permanent Changes in Tariff Treatment

SEC. 111. COATED TEXTILE FABRICS.

(a) Headnote 5 of schedule 3 is amended to read as follows:

"5. (a) Except as otherwise provided in subsection (b) of this headnote, for the purposes of parts 5, 6, and 7 of this schedule and parts 1 (except subpart A), 4, and 12 of schedule 7, in determining the classification of any article which is wholly or in part of a fabric coated or filled, or laminated, with nontransparent rubber or plastics (which fabric is provided for in part 4C of this schedule), the fabric shall be be regarded not as a textile material but as being wholly of rubber or plastics to the extent that (as used in the article) the nontransparent rubber or plastics forms either the outer surface of such article or the only exposed surface of such fabric.

"(b) Any fabric described in part 4C of this schedule shall be classified under part 4C whether or not also described elsewhere in the schedules.".

(b) The headnotes to subpart C of part 4 of schedule 3 are amended—

(1) by striking out clause (vii) in headnote 1; and

(2) by inserting "or value" after "quantities" in headnote 2(c).

(c) Part 12 of schedule 7 is amended by inserting immediately after headnote 1 of part 12 headnote the following new headnote:

"2. This part does not cover fabrics, coated or filled, or laminated, with rubber or plastics provided for in part 4C of schedule 3.".

SEC. 112. WARP KNITTING MACHINES.

(a) Subpart E of part 4 of schedule 6 is amended by striking out item 670.20 and inserting in lieu thereof the following new items with article descriptions at the same indentation level as the article description in item 670.19:

"670.20	Warp knitting machines.	Free		40% ad val.
670.21	Other	5.6% ad val.	4.7% ad val.	40% ad val.".

(b) Item 912.14 of the Appendix is repealed.

(c)(1) The rate of duty in column numbered 1 for item 670.21 (as added by subsection (a)) shall be subject to all staged rate reductions for item 670.20 that were proclaimed by the President before the date of the enactment of this Act.

(2) Whenever the rate of duty specified in column numbered 1 for such item 670.21 is reduced to the same level as the corresponding rate of duty specified in the column entitled "LDDC" for such item, or to a lower level, the rate of duty in such "LDDC" column shall be deleted.

SEC. 113. CERTAIN GLOVES.

Subpart C of part 1 of schedule 7 is amended—

(1) by amending headnote 1—

(A) by striking out "and" at the end of paragraph (a),

(B) by striking out the period at the end of paragraph (b) and inserting, "; and", and

(C) by adding at the end thereof the following new paragraph:

"(C) the term 'with fourchettes' includes only gloves which, at a minimum, have fourchettes extending from fingertip to fingertip between each of the four fingers."; and

(2) by amending item 705.85 by striking out "textile fabric" and "or sidewalls".

SEC. 114. PET TOYS.

Subpart A of part 13 of schedule 7 is amended by inserting immediately after item 790.55 the following new item:

"790.57	Toys for pets, of textile materials.	8.5% ad val.	80% ad val.".

SEC. 115. WATER CHESTNUTS AND BAMBOO SHOOTS.

(a) Items 903.45, 903.50, and 903.55 are repealed.

(b) Subpart A of part 8 of schedule 1 is amended as follows:

(1) Item 137.84 is amended by striking out "25% ad val." in column 1 and inserting in lieu thereof "Free".

(2) Item 138.40 is amended by striking out "17.5% ad val." in column 1 and inserting in lieu thereof "Free".

(c) Subpart C of part 8 of schedule 1 is amended as follows:

(1) Item 141.70 is amended by striking out "7% ad val." in column 1 and inserting in lieu thereof "Free".

(2) Item 141.78 is amended by striking out "8.1% ad val." in column 1, and inserting in lieu thereof "Free".

SEC. 116. GUT FOR USE IN MANUFACTURE OF STERILE SURGICAL SUTURES.

(a) Subpart C of part 13 of schedule 7 is amended by striking out item 792.22 and inserting in lieu thereof the following new items with the article description at the same indentation level as the article description in item 792.20:

"792.24	If imported for use in the manufacture of sterile surgical sutures.	5.4% ad val.	3.5% ad val.	40% ad val.
792.26	Other	11.2% ad val.	7.7% ad val.	40% ad val.".

(b)(1) The rate of duty in column numbered 1 for item 792.24 (as added by subsection (a)) shall be subject to any staged rate reductions for item 495.10 which are proclaimed by the President before the date of the enactment of this Act.

(2) Whenever, after the application of paragraph (1), the rate of duty provided for item 792.24 in the column numbered 1 is not greater than the rate of duty provided for such item in the column designated "LDDC", no rate of duty shall be provided for such item in the column designated "LDDC".

(c) The rate of duty in column numbered 1 for item 792.26 (as added by subsection (a)) shall be subject to the same staged rate reductions that were proclaimed by the President before the date of the enactment of this Act for item 792.20.

SEC. 117. ORANGE JUICE PRODUCTS.

Subpart A of part 12 of schedule 1 is amended—

(1) by inserting after item 165.25 the following new items and the superior heading thereto, with such superior heading at the same indentation level as the article description "Lime" in item 165.25:

	"Orange:		
165.27	Not concentrated and not made from a juice having a degree of concentration of 1.5 or more (as determined before correction to the nearest 0.5 degrees).	20¢ per gal.	70¢ per gal.
165.29	Other	35¢ per gal.	70¢ per gal.".

(2) by redesignating items 165.30 and 165.35 as items 165.32 and 165.36, respectively.

SEC. 118. REIMPORTATION OF CERTAIN ARTICLES ORIGINALLY IMPORTED DUTY FREE.

Item 801.00, is amended by inserting "or which were previously entered free of duty pursuant to the Caribbean Basin Economic Recovery Act or title V of the Trade Act of 1974" after "previous importation".

SEC. 119. GEOPHYSICAL EQUIPMENT.

Part 1 of schedule 8 is amended by inserting in numerical sequence the following new item that has the same indentation as "Exhibition" in item 802.10:

"802.50	Rendition of geophysical or contracting services in connection with the exploration for, or the extraction or development of, natural resources.	Free.....	Free".

SEC. 120. SCROLLS OR TABLETS IMPORTED FOR USE IN RELIGIOUS OBSERVANCES.

Part 4 of schedules 8 is amended—

(1) by striking out "and 854.30" in headnote 1 and inserting in lieu thereof "854.30, and 854.40"; and

(2) by inserting in numercial sequence the following:

"854.40	Scrolls or tablets of wood or paper, commonly known as gohonzon, imported for use in public or private religious observances, whether or not imported for the use of a religious institution.	Free.....	Free".

SEC. 121. NAPHTHAS.

Subpart B of part 1 of schedule 4 of the Tariff Schedules of the United States (19 U.S.C. 1202) is amended by inserting the following in numerical order and at the same level of indentation as item 407.09:

	"Naphthas derived from petroleum, shale oil, natural gas, or combinations thereof, containing by weight over 5 percent of any product described in this part:		
407.11	For not over 190,000,000 pounds entered during the 12-month period beginning January 1 in any year.	0.25¢ per gal.	0.5¢ per gal.
407.13	Other.....	1.7¢ per lb. + 13.6% ad val., but not less than the highest rate applicable to any component material.	7¢ per lb. + 43.5% ad val., but not less than the highest rate applicable to any component material.".

SEC. 122. STEEL PIPES AND TUBES USED IN LAMP-POSTS.

(a) Subpart F of part 3 of schedule 6 is amended by inserting after item 653.37 the following new item with the same indentation as "Of brass" in item 653.37:

"653.38	Tapered steel pipes and tubes chiefly used as parts of illuminating articles.	11.9% ad val.	7.6% ad val.	45% ad val.".

(b)(1) Notwithstanding any other provision of law, any reduction authorized under section 101 of the Trade Act of 1974 (19 U.S.C. 2111) in the rate of duty provided in any rate column for item 653.39 which takes effect after the date of enactment of this Act shall apply to the rate of duty provided in the corresponding column for item 653.38.

(2) Whenever, after the application of paragraph (1), the rate of duty provided for item 653.38 in the column numbered 1 is not greater than the rate of duty provided for such item in the column designated "LDDC", no rate of duty shall be provided for such item in the column designated "LDDC".

SEC. 123. WEARING APPAREL.

The headnotes for part 6 of schedule 3 are amended by adding at the end thereof the following new headnote:

"(3)(a) Except as provided in (b) of this headnote, each garment is to be separately classified under the appropriate tariff item, even if 2 or more garments are imported together and designed to be sold together at retail.

"(b) The provisions of (a) of this headnote shall not apply to—

"(i) suits,

"(ii) pajamas and other nightwear,

"(iii) playsuits, washsuits, and similar apparel,

"(iv) judo, karate, and other oriental martial arts uniforms,

"(v) swimwear, and

"(vi) infants' sets for children who are not over 2 years of age.".

SEC. 124. RECENTLY DEVELOPED DAIRY PRODUCTS.

(a) Subpart D of part 4 of schedule 1 is amended—

(1) by adding at the end thereof the following new items with the same indentation as "Malted milk" in item 118.30:

"118.35	Whey protein concentrate.	Lb.....	10% ad val.	20% ad val.
118.40	Lactalbumin.....	Lb.....	Free.....	Free
118.45	Milk protein concentrate.	Lb.....	0.2¢ per lb.	5.5¢ per lb.".

and

(2) by inserting after the heading of such subpart the following:

"Subpart D headnote:	"1. For purposes of item 118.45, the term 'milk protein concentrate' means any complete milk protein (casein plus albumin) concentrate that is 40 percent or more protein by weight.".

(b)(1) The aggregate quantity of articles provided for in items 118.35, 118.40, or 118.45 of the Tariff Schedules of the United States which may be entered during any 1-year period beginning after the date that is 14 months after the date of enactment of this Act shall not exceed the aggregate quantity of such articles entered during the 1-year period beginning on the date of enactment of this Act.

(2) The Secretary shall allocate the limitation provided in paragraph (1) among foreign countries, group of countries, or areas in a manner which, to the fullest extent practicable, results in an equitable distribution of such limitation.

(3) The Secretary shall take such actions as may be necessary or appropriate to enforce the provisions of this subsection, including, without limitation, the issuance of orders to customs officers to bar entry of an article if the entry of such article would cause the quantitative limitations established under paragraph (1) to be exceeded.

(4)(A) The Secretary is authorized to issue such implementing regulations, including the issuance of import licenses, as may be necessary or appropriate to effect the purposes of this subsection and to enforce the provisions of this subsection.

(B) Before prescribing any regulations under subparagraph (A), the Secretary shall—

(i) consult with interested domestic parties,

(ii) afford an opportunity for such parties to comment on the proposed regulations, and

(iii) consider all such comments before prescribing final regulations.

(c) The superior heading for item 493.12 of the Tariff Schedules of the United States is amended by inserting "(other than a product described in item 118.45)" after "value thereof".

SEC. 125. TECHNICAL AMENDMENT.

Headnote 3(a)(i) of the general headnotes and rules of interpretation is amended by striking out "of schedule 7, part 2, subpart E, and except as provided in headnote 4 of schedule 7, part 7, subpart A" and inserting in lieu thereof "of subpart E of part 2 of schedule 7, and except as provided in headnote 3 of subpart A of part 7 of Schedule 7".

SEC. 126. CONTINUATION OF DUTY-FREE TREATMENT FOR META-TOLUIC ACID (MTA).

Subpart B of part 1 of schedule 4 of the Tariff Schedules of the United States (19 U.S.C. 1202) is amended by striking out item 404.28 and inserting in lieu thereof the following:

	"Products provided for in the Chemical Appendix to the Tariff Schedules:		
404.27	Meta-toluic acid (MTA).....	Free.....	7¢ per lb. + 57% ad val.
404.29	Other.....	1.7¢ per lb. + 17.9% ad val.	7¢ per lb. + 57% ad val.".

SEC. 127. FERROALLOYS.

(a) Congress hereby finds that—

(1) ferroalloys are products which impart distinctive qualities to steel, especially alloys, iron, and aluminum and are essential to the production of those products;

(2) the economic health and national defense of any modern industrial nation rest on its having a secure supply of ferroalloys, and the United States can assure that supply only if it maintains the capacity to produce a significant portion of its needs domestically;

(3) the domestic ferroalloy industry has suffered from the unremitting pressure of low-priced imports for many years, and consequently it has suffered massive losses and its capacity has dwindled in recent years;

(4) imports have caused this result not because of any superiority—since the American industry is as technologically modern and efficient as any in the world—but rather because of artificial advantages afforded by subsidies, by non-free-market pricing policies, and by other policies of their governments;

(5) the application of existing trade laws has not prevented imports from causing the industry's severe decline;

(6) unless effective import relief is promptly forthcoming, the industry will soon shrink to where it will be able to supply only a small portion of the Nation's needs;

(7) such a result would gravely damage the national security and the economic and international interests of the United States; and

(8) the additional tariffs enacted by this section would preserve the Nation's essen-

tial capacity to produce the large volume products high carbon ferromanganese, high carbon ferrochrome, 50 percent ferrosilicon, 75 percent ferrosilicon, silicon metal, and silicomanganese and also chromium metal, a smaller volume product especially crucial to the national security.

(b)(1) Item 606.24 is amended—

(A) by striking out "1.9% ad val." and inserting in lieu thereof "Fair price differential + 1.9% ad val.", and

(B) by striking out "7.5% ad val." and inserting in lieu thereof "Fair price differential + 7.5% ad val.".

(2) Item 606.30 is amended—

(A) by striking out "1.6% ad val." and inserting in lieu thereof "Fair price differential + 1.6% ad val.",

(B) by striking out "1.5% ad val." and inserting in lieu thereof "Fair price differential + 1.5% ad val.", and

(C) by striking out "10.5% ad val." and inserting in lieu thereof "Fair price differential + 10.5% ad val.".

(3) Subpart B of part 2 of schedule 6 is amended—

(A) by redesignating items 606.36, 606.37, 606.39, and 606.40 as items 606.38, 606.39, 606.40, and 606.41, respectively, and

(B) by striking out item 606.35 and inserting in lieu thereof the following:

"606.35	Containing over 8 percent but not over 30 percent by weight of silicon.	Free	2¢ per lb. on silicon content
	Containing over 30 percent but not over 60 percent by weight of silicon:		
606.36	Containing over 2 percent by weight of magnesium.	Free	2¢ per lb. on silicon content
606.37	Other	Fair price differential	Fair price differential + 2¢ per lb. on silicon content".

(4) Item 606.39 (as redesignated by paragraph (3)(A) of this subsection) is amended—

(A) by striking out "1.6% ad val." and inserting in lieu thereof "Fair price differential + 1.6% ad val.",

(B) by striking out "1.5% ad val." and inserting in lieu thereof "Fair price differential + 1.5% ad val.", and

(C) by striking out "11.5% ad val." and inserting in lieu thereof "Fair price differential + 11.5% ad val.".

(5) Item 606.44 is amended—

(A) by striking out "4.7% ad val." and inserting in lieu thereof "Fair price differential + 4.7% ad val.",

(B) by striking out "3.9% ad val." and inserting in lieu thereof "Fair price differential + 3.9% ad val.", and

(C) by striking out "23% ad val." and inserting in lieu thereof "Fair price differential + 23% ad val.".

(6) Item 632.18 is amended—

(A) by striking out "4.2% ad val." and inserting in lieu thereof "Fair price differential + 4.2% ad val.",

(B) by striking out "3.7% ad val." and inserting in lieu thereof "Fair price differential + 3.7% ad val.", and

(C) by striking out "30% ad val." and inserting in lieu thereof "Fair price differential + 30% ad val.".

(7) Item 632.42 is amended—

(A) by striking out "5.3% ad val." and inserting in lieu thereof "Fair price differential + 5.3% ad val.", and

(B) by striking out "21% ad val." and inserting in lieu thereof "Fair price differential + 21% ad val.".

(8) Item 632.86 is amended—

(A) by striking out "9% ad val." and inserting in lieu thereof "Fair price differential + 9% ad val.", and

(B) by striking out "45% ad val." and inserting in lieu thereof "Fair price differential + 45% ad val.".

(c) The headnotes to part 2 of schedule 6 are amended by adding at the end thereof the following new headnote:

"5. (a) For purposes of this part, the term 'fair price differential' means, with respect to any article, the amount equal to the excess, if any, of—

"(i) the fair price of such article, over

"(ii) the duty declared value of such article (including cost, insurance, and freight) at the United States port of entry.

"(b)(i) For purposes of this headnote, the term 'fair price' means, with respect to an article, the sum of—

"(A) the amount determined by the Secretary of Commerce to be the average cost incurred by producers in producing such article in the United States at technologically efficient facilities, plus

"(B) an amount prescribed by the Secretary of Commerce with respect to such article for general expenses and profit.

"(ii) The amount prescribed by the Secretary of Commerce under subdivision (i)(B) shall not be less than the amount determined with respect to such article under section 773(e)(1)(B) of the Tariff Act of 1930 (19 U.S.C. 1677b(e)(1)(B)) at the time such amount is prescribed under subdivision (i)(B).

"(iii) By no later than December 31 of 1984, and of each year thereafter, the Secretary of Commerce shall determine, and publish in the Federal Register, the fair price for each of the following items of this part: 606.24; 606.30; 606.37; 606.39; 606.44; 632.18; 632.42; and 632.86.

"(iv) The fair price determined under subdivision (iii) shall apply during the calendar year that succeeds the calendar year in which such determination is made.".

(d) The provisions of Presidential Proclamation 4707 of December 11, 1979, which would otherwise be applicable to articles entered, or withdrawn from warehouse, for consumption after December 31, 1984, shall not apply with respect to the following items of the Tariff Schedules of the United States: 606.30; 606.37 (as added by subsection (b)(3)(B) of this section); 606.39 (as redesignated by subsection (b)(3)(A)); 606.44; 632.18; and 632.42.

Subtitle C—Temporary Changes in Tariff Treatment

SEC. 141. CRUDE FEATHERS AND DOWN.

Items 903.70 and 903.80 of the Appendix are each amended by striking out "On or before 6/30/84" and inserting in lieu thereof "On or before 6/30/87."

SEC. 142. CANNED CORNED BEEF.

Subpart 3 of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"903.15	Corned beef in airtight containers (provided for in item 107.48, part 2B, schedule 1).	3% ad val	No change.	On or before 12/31/89".

SEC. 143. HOVERCRAFT SKIRTS.

Item 905.40 of the Appendix is amended—

(1) by striking out "manmade" and inserting in lieu thereof "man-made", and

(2) by striking out "6/30/83" and inserting in lieu thereof "6/30/86".

SEC. 144. MXDA.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new items:

"907.02	m-Xylenediamine (MXDA) (provided for in item 404.38, part 1B, schedule 4).	Free	No change.	On or before 6/30/87
907.04	1, 3-Bis(aminomethyl)cyclohexane (1,3-BAC) (provided for in item 407.05, part 1B, schedule 4).	Free	No change.	On or before 6/30/87".

SEC. 145. 4,4'-Bis(alpha,alpha-DIMETHYLBENZYL) DIPHENYLAMINE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following item:

"906.95	4,4'-Bis(alpha,alpha-dimethylbenzyl)diphenylamine (provided for in item 404.88, part 1B, schedule 4).	Free	No change.	On or before 6/30/87".

SEC. 146. FLECAINIDE ACETATE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.21	Flecainide acetate (provided for in item 412.12, part 1C, schedule 4).	Free	No change.	On or before 6/30/87".

SEC. 147. CAFFEINE.

Item 907.22 of the Appendix is amended—

(1) by striking out "6% ad val." and inserting in lieu thereof "4.1% ad val."; and

(2) by striking out "12/31/83" and inserting in lieu thereof "12/31/85".

SEC. 148. WATCH CRYSTALS.

(a) Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

		1	LDDC	2	
"909.40	Watch glasses other than round watch glasses (provided for in item 547.13, part 3C, schedule 5).	6.2% ad val.	4.9% ad val.	No change.	On or before 12/31/87".

(b) Effective with respect to articles provided for in item 909.40 (as added by subsection (a)) that are entered, or withdrawn from warehouse for consumption, on or after each of the dates set forth below, column 1 for such item is amended by strik-

ing out the rate of duty in effect on the day before such date and inserting in lieu thereof the rate of duty appearing below next to each such date:

Date:	Rate of duty:
January 1, 1985	5.9% ad val.
January 1, 1986	5.6% ad val.
January 1, 1987	5.2% ad val.

SEC. 149. UNWROUGHT LEAD.

(a) Item 911.50 of the Appendix is amended by striking out "6/30/83" and inserting in lieu thereof "6/30/88".

(b) Section 114 of Public Law 96-609 is amended by striking out "July 1, 1983" in subsection (b) and inserting in lieu thereof "July 1, 1986".

SEC. 150. FLAT KNITTING MACHINES.

Item 912.13 of the Appendix is amended—

(1) by striking out "(provided for in item 670.19 or 670.20," and inserting in lieu thereof ", and parts thereof (provided for in items 670.19, 670.20, and 670.74,"; and

(2) by striking out "6/30/83" and inserting in lieu thereof "6/30/88".

SEC. 151. CERTAIN MENTHOL FEEDSTOCKS.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.13	Mixtures containing not less than 90 percent by weight of stereoisomers of 2-iso-propyl-5-methylcyclo-hexanol, but containing not more than 30 percent by weight of any one such stereoisomer (provided for in item 407.16, part 1B, schedule 4).	Free	No change.	On or before 6/30/87".

SEC. 152. 2-METHYL, 4-CHLOROPHENOL.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"906.97	2-Methyl, 4-chlorophenol (provided for in item 403.56, part 1B, schedule 4).	Free	No change.	On or before 12/31/87".

SEC. 153. UNWROUGHT ALLOYS OF COBALT.

Item 911.90 of the Appendix is amended by striking out "6/30/83" and inserting in lieu thereof "6/30/85".

SEC. 154. CERTAIN INTERMEDIATES FOR THE PRODUCTION OF DYES.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new items:

"907.31	Beta-Naphthol (provided for in item 403.29, part 1B, schedule 4).	Free	No change.	On or before 12/31/86
907.34	6-Amino-1-naphthol-3-sulfonic acid (provided for in item 405.00, part 1B, schedule 4).	Free	No change.	On or before 12/31/86
907.35	2-(4-Amino-phenyl)-6-methylbenzo-thiazole-7-sulfonic acid (provided for in item 406.40, part 1B, schedule 4).	Free	No change.	On or before 12/31/86".

SEC. 155. CERTAIN SULFA COMPOUNDS.

(a) Item 907.19 of the Appendix is amended—

(1) by striking out "13.3% ad val." and inserting in lieu thereof "Free";

(2) by striking out "7 per lb. + 80% ad val." and inserting in lieu thereof "Free"; and

(3) by striking out "12/31/83" and inserting in lieu thereof "12/31/86".

(b) Subpart B of part I of the Appendix is amended by inserting in numerical sequence the following new items:

"907.33	Acetylsulfaguan-idine (CAS No. 19077-97-5, provided for in item 406.56, part 1B, schedule 4).	Free	Free	On or before 12/31/87
907.36	Sulfamethazine (provided for in item 411.24, part 1C, schedule 4).	Free	Free	On or before 12/31/87
907.37	Sulfaguanidine (provided for in item 411.27, part 1C, schedule 4).	Free	Free	On or before 12/31/87
907.38	Sulfaquinoza-line (provided for in item 411.81, part 1C, schedule 4).	Free	Free	On or before 12/31/87
907.39	Sulfanilamide (provided for in item 411.81, part 1C, schedule 4).	Free	Free	On or before 12/31/87".

SEC. 156. CERTAIN PARTS FOR SPINDLE MOTORS.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"912.03	Parts designed for use exclusively in permanent magnet, brushless, electronically commutated, direct current, computer memory disk drive spindle motors of less than 1/20 horsepower (provided for in items 682.55, 682.60, and 685.90, part 5, schedule 6).	Free	No change.	On or before 12/31/85".

SEC. 157. MELAMINE.

(a) Subpart A of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"901.25	Melamine (provided for in item 425.10, part 2D, schedule 4).	5.1% ad val.	Free	On or before 12/31/86".

(b) Effective with respect to articles provided for in item 901.25 (as added by subsection (a)) that are entered, or withdrawn from warehouse for consumption, on or after January 1, 1986, column 1 for such item is amended by striking out "5.1% ad val." and inserting in lieu thereof "5.3% ad val.".

SEC. 158. 4-CHLORO-3-METHYLPHENOL.

Item 907.06 of subpart B of part 1 of the Appendix is amended by striking out "6/30/84" and inserting in lieu thereof "6/30/87".

SEC. 159. CERTAIN CLOCK RADIOS.

Item 911.95 of the Appendix is amended by striking out "9/30/84" and inserting in lieu thereof "12/31/85".

SEC. 160. RIFAMPIN.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"906.99	Rifampin (provided for in item 437.32, part 3B, schedule 4).	Free	No change.	On or before 12/31/86".

SEC. 161. MEPENZOLATE BROMIDE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"906.56	Mepenzolate bromide (provided for in item 412.02, part 1C, schedule 4).	Free	No change.	On or before 12/31/87".

SEC. 162. DESIPRAMINE HYDROCHLORIDE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"906.54	Desipramine hydrochloride (provided for in item 412.35, part 1C, schedule 4).	Free	No change.	On or before 12/31/87".

SEC. 163. DEPHENYL GUANIDINE AND DI-ORTHO-TOLYL GUANIDINE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"906.50	Diphenyl guanidine, and di-ortho-tolyl guanidine (provided for in item 405.52, part 1B, schedule 4).	Free	No change.	On or before 6/30/87".

SEC. 164. CONTINUATION OF SUSPENSION OF DUTY ON CERTAIN FORMS OF ZINC.

Items 911.00, 911.01, 911.02, and 911.03 of the Appendix are each amended by striking out "6/30/84" and inserting in lieu thereof "6/30/89".

SEC. 165. CLOMIPHENE CITRATE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.42	Clomiphene citrate (provided for in item 412.50, part 1C, schedule 4).	Free	No change.	On or before 6/30/86".

SEC. 166. TERFENADINE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.25	Terfenadine (provided for in item 411.58, part 1C, schedule 4).	Free.....	No change.	On or before 6/30/86".

SEC. 167. DICYCLOMINE HYDROCHLORIDE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"906.53	Dicyclomine hydrochloride (provided for in item 412.02, part 1C, schedule 4).	Free.....	No change.	On or before 6/30/86".

SEC. 168. LACTULOSE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.76	Lactulose (provided for in item 439.50, part 3C, schedule 4).	Free.....	No change.	On or before 6/30/87".

SEC. 169. IRON-DEXTRAN COMPLEX.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.79	Iron-dextran complex (provided for in item 440.00, part 3C, schedule 4).	Free.....	No change.	On or before 6/30/87".

SEC. 170. CIRCULAR KNITTING MACHINES.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new items with a superior heading that has the same indentation as "Powerdriven" in item 912.13:

"912.17	Circular knitting machines: Cylinder and dial machines designed for sweater strip or garment length knitting (provided for in item 670.17, part 4E, schedule 6).	Free.....	No change.	On or before 12/31/89
912.18	Double cylinder machines for sweater strip or garment length knitting (provided for in item 670.17 part 4E, schedule 6).	Free.....	No change.	On or before 12/31/89".

SEC. 171. UNCOMPOUNDED ALLYL RESINS.

Item 907.16 of the Appendix is amended by striking out "9/30/84" and inserting in lieu thereof "12/31/86".

SEC. 172. o-BENZYL-p-CHLOROPHENOL.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.23	o-Benzyl-p-chlorophenol (provided for in item 408.16, part 1C, schedule 4).	Free.....	No change.	On or before 12/31/87".

SEC. 173. NARROW FABRIC LOOMS.

(a) Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"912.04	Power driven weaving machines for weaving fabrics not over 12 inches in width (provided for in item 670.14, part 4E, schedule 6), not including parts thereof (provided for in item 670.74, part 4E, schedule 6).	Free.....	No change.	On or before 6/30/87".

(b) The headnotes for subpart B of part 1 of the Appendix is amended by adding at the end thereof the following new headnote:

"(7) Parts of power driven weaving machines for weaving fabrics not over 12 inches in width which are excluded from item 912.04 are classifiable under item 670.74 and are dutiable at the rate that would apply to the machines of which they are parts in the absence of the duty suspension provided for in item 912.04.".

SEC. 174. NICOTINE RESIN COMPLEX.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"927.63	Nicotine resin complex (provided for in item 437.13, part 3B, schedule 4).	Free.....	No change.	On or before 6/30/87".

SEC. 175. TARTARIC ACID AND CERTAIN TARTARIC CHEMICALS.

Items 907.65, 907.66, 907.68, and 907.69 are each amended by striking out "6/30/84" and inserting in lieu thereof "6/30/88".

SEC. 176. MAGNESIUM CHLORIDE AND MAGNESIUM NITRATE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"906.52	Mixtures of 5-chloro-2-methyl-4-isothiazolin-3-one, 2-methyl-4-isothiazolin-3-one, magnesium chloride and magnesium nitrate (provided for in item 432.25, part 2E, schedule 4).	Free.....	No change.	On or before 6/30/87".

SEC. 177. POTASSIUM MIXTURES.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.41	Mixtures of potassium 1-(p-chlorophenyl)-1,4-dihydro-6-methyl-4-oxopyridazine-3-carboxylate ("fenridazon-potassium") and formulation adjuvants (provided for in item 408.38, part 1C, schedule 4).	Free.....	No change.	On or before 6/30/87".

SEC. 178. CERTAIN BENZENOID CHEMICALS.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new items:

"906.30	Trichlorosalicylic acid (provided for in item 404.46, part 1B, schedule 4).	Free.....	Free.....	On or before 6/30/86
906.32	m-Aminophenol (provided for in item 404.92, part 1B, schedule 4).	Free.....	Free.....	On or before 6/30/86
906.36	6-Amino-1-naphthol-3-sulfonic acid (provided for in item 405.00, part 1B, schedule 4).	Free.....	Free.....	On or before 6/30/86
906.38	4-Acetaminobenzene-sulfonyl chloride (provided for in item 405.33, part 1B, schedule 4).	Free.....	Free.....	On or before 6/30/86".

SEC. 179. LACE-BRAIDING MACHINES.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"912.11	Decorative lace-braiding machines using the Jacquard system, and parts thereof (provided for in items 670.25 and 670.74, part 4E, schedule 6).	Free.....	No change.	On or before 6/30/87".

SEC. 180. YTTRIUM.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.51	Yttrium bearing ores, materials, and compounds containing by weight more than 19% but less than 85% yttrium oxide equivalent (provided for in item 423.00 or 423.96, part 2C, schedule 4, or item 603.70, part 1, schedule 6).	Free.....	No change.	On or before 6/30/89".

SEC. 181. NATURAL GRAPHITE.

Item 909.01 of subpart B of part 1 of the Tariff Schedules of the United States is amended by striking out "12/31/84" and inserting in lieu thereof "12/31/87".

SEC. 182. TETRAAMINO BIPHENYL.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.32	Tetraamino biphenyl (provided for in item 404.90, subpart 1C, schedule 4).	Free.....	No change.	On or before 12/31/88".

SEC. 183. CERTAIN CHEMICAL INTERMEDIATE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"906.51	(6R,7R)-7-((R)-2-Amino-2-phenyl-acetamido)-3-methyl-8-ozo-5-thia-1-azabicyclo (4.2.0) oct-2-ene-2-carboxylic acid disolvate (provided for in item 406.42, part 1B, schedule 4).	Free.....	No change.	On or before 12/31/86".

SEC. 184. CERTAIN MAGNETRON TUBES.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"912.02	Magnetron tubes with an operating frequency of 2.450 GHZ and a minimum power of at least 300 watts and a maximum power not greater than 2,000 watts (provided for in item 684.28, part 5, schedule 6).	Free.....	No change.	On or before 12/31/86".

SEC. 185. CERTAIN METAL UMBRELLA FRAMES.

Subpart B of part 1 of the Appendix is amended by inserting in numerical order the following new item:

"912.45	Frames for hand-held umbrellas chiefly used for protection against rain (provided for in item 751.20, part 8B, schedule 7).	Free.....	No change.	On or before 6/30/87".

SEC. 186. PHOTOGRAPH ALBUMS.

Subpart A of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"901.55	Photograph albums (provided for in item 256.60, part 4C, schedule 2).	31% ad val.	5% ad val.	On or before 12/31/85".

Subtitle D—Effective Dates

SEC. 199. EFFECTIVE DATES.

(a) As used in this section, the term "entered" means entered, or withdrawn from warehouse, for consumption in the customs territory of the United States.

(b) Except as provided in subsections (c) and (d), the amendments made by subtitles B and C shall apply with respect to articles entered on or after the fifteenth day after the date of the enactment of this Act.

(c)(1) Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, upon proper request filed with the customs officer concerned on or before the ninetieth day after the date of the enactment of this Act, the application of the amendments made by this Act to the entry of any article described in paragraph (2) shall be treated as provided in such paragraph.

(2) In the case of the application of the amendment made by section 112, 115, 118, 141, 142, 143, 147, 149, 150, 153, 155(a), 158, 159, and 164 to any entry—

(A) which was made after the applicable date and before the fifteenth day after the date of the enactment of this Act; and

(B) with respect to which there would have been no duty or a lesser duty if the amendment made by such section applied to such entry;

such entry shall be liquidated or reliquidated as though such entry had been made on the fifteenth day after the date of the enactment of this Act.

(3) For purposes of paragraph (2), the term "applicable date" means—

(A) in the case of sections 112, 115, 143, 149, 150, and 153, June 30, 1983;

(B) in the case of section 118, June 1, 1982;

(C) in the case of sections 147 and 155 (a), December 31, 1983;

(D) in the case of sections 141, 158, and 164, June 30, 1984; and

(E) in the case of section 159, September 30, 1984.

(d)(1) The amendments made by section 117 of this Act shall apply to articles entered after March 31, 1985.

(2) The amendment made by section 142 of this Act shall apply with respect to articles entered on or after October 30, 1983.

(3) The amendments made by section 137 shall apply with respect to articles entered after December 31, 1984.

(4) The amendment made by section 126 shall apply with respect to articles entered after June 30, 1985.

(5) The amendments made by section 127 shall apply to articles entered after December 31, 1984.

TITLE II—CUSTOMS AND MISCELLANEOUS AMENDMENTS

Subtitle A—Amendments to the Tariff Act of 1930

SEC. 201. PACKAGING MATERIALS FOR MERCHANDISE ENTITLED TO SAME CONDITION DRAWBACK.

(a) Section 313(j) of the Tariff Act of 1930 (19 U.S.C. 1313(j)) is amended by adding at the end thereof the following new paragraph:

"(3) Packaging material that is imported for use in packaging or repackaging imported merchandise to which paragraph (1) applies shall be eligible under the same conditions provided in such paragraph for refund, as drawback, of 99 per centum of any duty, tax, or fee imposed under Federal law on the importation of such material.".

(b) The amendment made by subsection (a) shall take effect on or after the fifteenth day after the date of the enactment of this Act.

SEC. 202. PUBLIC DISCLOSURE OF CERTAIN MANIFEST INFORMATION.

(a) Section 431 of the Tariff Act of 1930 (19 U.S.C. 1431) is amended—

(1) by striking out the period at the end of the paragraph designated as "Third" in subsection (a) and inserting in lieu thereof "; and the names of the shippers of such merchandise."; and

(2) by adding at the end thereof the following new subsection:

"(c)(1) Except as provided in subparagraph (2), the following information, when contained in such manifest, shall be available for public disclosure:

"(A) The name and address of each importer or consignee and the name and address of the shipper to such importer or consignee, unless the importer or consignee has made a biennial certification, in accordance with procedures adopted by the Secretary of the Treasury, claiming confidential treatment of such information.

"(B) The general character of the cargo.

"(C) The number of packages and gross weight.

"(D) The name of the vessel or carrier.

"(E) The port of loading.

"(F) The port of discharge.

"(G) The country or origin of the shipment.

"(2) The information listed in paragraph (1) shall not be available for public disclosure if—

"(A) the Secretary of the Treasury makes an affirmative finding on a shipment-by-shipment basis that disclosure is likely to pose a threat of personal injury or property damage; or

"(B) the information is exempt under the provisions of section 552(5)(1) of title 5 of the United States Code.

"(3) The Secretary of the Treasury, in order to allow for the timely dissemination and publication of the information listed in paragraph (1), shall establish procedures to provide access to manifests. Such procedures shall include provisions for adequate protection against the public disclosure of information not available for public disclosure from such manifests.".

(b) The amendments made by subsection (a) shall take effect on or after the fifteenth day after the date of the enactment of this Act.

SEC. 203. VIRGIN ISLANDS EXCURSION VESSELS.

(a) Section 441(3) of the Tariff Act of 1930 (19 U.S.C. 1441(3)) is amended to read as follows:

"(3) Vessels carrying passengers on excursion from the United States Virgin Islands to the British Virgin Islands and returning, and licensed yachts or undocumented American pleasure vessels not engaged in trade: Provided, That such vessels do not in any way violate the customs or navigation laws of the United States and have not visited any hovering vessel: Provided further, That the master of any such vessel which has on board any article required by law to be entered shall be required to report such article to the appropriate customs officer within twenty-four hours after arrival.".

(b) The amendment made by subsection (a) shall apply with respect to vessels returning from the British Virgin Islands on or after the fifteenth day after the date of the enactment of this Act.

SEC. 204. UNLAWFUL IMPORTATION OR EXPORTATION OF CERTAIN VEHICLES.

(a) Part V of title IV of the Tariff Act of 1930 (19 U.S.C. 1581 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 627. UNLAWFUL IMPORTATION OR EXPORTATION OF CERTAIN VEHICLES; INSPECTIONS.

"(a)(1) Whoever knowingly imports, exports, or attempts to import or export—

"(A) Any stolen self-propelled vehicle, vessel, aircraft, or part of a self-propelled vehicle, vessel, or aircraft; or

"(B) any self-propelled vehicle or part of a self-propelled vehicle from which the identification number has been removed, obliterated, tampered with, or altered;

shall be subject to a civil penalty in an amount determined by the Secretary, not to exceed $10,000 for each violation.

"(2) Any violation of this subsection shall make such self-propelled vehicle, vessel, aircraft, or part thereof subject to seizure and forfeiture under this Act.

"(b) A person attempting to export a used self-propelled vehicle shall present, pursuant to regulations prescribed by the Secretary, to the appropriate customs officer both the vehicle and a document describing such vehicle which includes the vehicle identification number, before lading if the vehicle is to be transported by vessel or aircraft, or before export if the vehicle is to be transported by rail, highway, or under its own power. Failure to comply with the regulations of the Secretary shall subject such person to a civil penalty of not more than $500 for each violation.

"(c) For purposes of this section—

"(1) the term 'self-propelled vehicle' includes any automobile, truck, tractor, bus, motorcycle, motor home, self-propelled agricultural machinery, self-propelled construction equipment, self-propelled special use equipment, and any other self-propelled vehicle used or designed for running on land but not on rail;

"(2) the term 'aircraft' has the meaning given it in section 101(5) of the Federal Aviation Act of 1958 (49 U.S.C. 1301(5));

"(3) the term 'used' refers to any self-propelled vehicle the equitable or legal title to which has been transferred by a manufacturer, distributor, or dealer to an ultimate purchaser; and

"(4) the term 'ultimate purchaser' means the first person, other than a dealer purchasing in his capacity as a dealer, who in good faith purchases a self-propelled vehicle for purposes other than resale.

"(d) Customs officers may cooperate and exchange information concerning motor vehicles, off-highway mobile equipment, vessels, or aircraft, either before exportation or after exportation or importation, with such Federal, State, local, and foreign law enforcement or governmental authorities, and with such organizations engaged in theft prevention activities, as may be designated by the Secretary.".

(b) The amendment made by subsection (a) shall take effect on or after the fifteenth day after the date of the enactment of this Act.

SEC. 205. INCREASE IN AMOUNT FOR INFORMAL ENTRY OF GOODS.

(a) Paragraph (1) of section 498 of the Tariff Act of 1930 (19 U.S.C. 1498) is amended—

(1) by striking out "$250" and inserting in lieu thereof "$1,000"; and

(2) by inserting before the semicolon at the end thereof: ", except that this paragraph does not apply to articles valued in excess of $250 classified in—

"(A) schedule 3,

"(B) parts 1, 4A, 7B, 12A, 12D, and 13B of schedule 7, and

"(C) parts 2 and 3 of the Appendix,

of the Tariff Schedules of the United States, or to any other article for which formal entry is required without regard to value.".

(b) The amendment made by subsection (a) shall apply with respect to articles entered, or withdrawn from warehouse for consumption, on or after the fifteenth day after the date of the enactment of this Act.

SEC. 206. CERTAIN COUNTRY OF ORIGIN MARKING REQUIREMENTS.

(a) Section 304 of the Tariff Act of 1930 (19 U.S.C. 1304) is amended—

(1) by redesignating subsections (c), (d), and (e) as subsections (f), (g), and (h), respectively;

(2) by inserting immediately after subsection (b) the following new subsections:

"(c) MARKING OF CERTAIN PIPE AND FITTINGS.—No exception may be made under subsection (a)(3) with respect to pipes of iron, steel, or stainless steel, to pipe fittings of steel, stainless steel, chrome-moly steel, or cast and malleable iron each of which shall be marked with the English name of the country of origin by means of die stamping, cast-in-mold lettering, etching, or engraving.

"(d) MARKING OF COMPRESSED GAS CYLINDERS.—No exception may be made under subsection (a)(3) with respect to compressed gas cylinders designed to be used for the transport and storage of compressed gases whether or not certified prior to exportation to have been made in accordance with the safety requirements of sections 178.36 through 178.68 of title 49, Code of Federal Regulations, each of which shall be marked with the English name of the country of origin by means of die stamping, molding, etching, raised lettering, or an equally permanent method of marking.

"(e) MARKING OF CERTAIN MANHOLE RINGS OR FRAMES, COVERS, AND ASSEMBLIES THEREOF.—No exception may be made under subsection (a)(3) with respect to manhole rings or frames, covers, and assemblies thereof each of which shall be marked on the top surface with the English name of the country of origin by means of die stamping, cast-in-mold lettering, etching, or engraving."; and

(3) by striking out "subsection (c)" in subsection (g) (as so redesignated) and inserting in lieu thereof "subsection (f)".

(b) The amendments made by subsection (a) shall apply with respect to articles entered, or withdrawn from warehouse for consumption, on or after the fifteenth day after the date of the enactment of this Act; except for such of those articles that, on or before such fifteenth day, had been taken onboard for transit to the customs territory of the United States.

SEC. 207. EQUIPMENTS AND REPAIRS OF CERTAIN VESSELS EXEMPT FROM DUTIES.

(a) Section 466(e) of the Tariff Act of 1930 (19 U.S.C. 1466(e)) is amended to read as follows:

"(e)(1) In the case of any vessel referred to in subsection (a) that arrives in a port of the United States two years or more after its last departure from a port in the United States, the duties imposed by this section shall apply only with respect to—

"(A) fish nets and netting, and

"(B) other equipments and parts thereof, repair parts and materials purchased, or repairs made, during the first six months after the last departure of such vessel from a port of the United States.

"(2) If such vessel is designed and used primarily for transporting passengers or property, paragraph (1) shall not apply if the vessel departed from the United States for the sole purpose of obtaining such equipments, parts, materials, or repairs.".

(b)(1) The amendment made by subsection (a) shall apply with respect to entries made in connection with arrivals of vessels on or after the fifteenth day after the date of the enactment of this Act.

(2) Upon request therefor filed with the customs officer concerned on or before the ninetieth day after the date of the enactment of this Act, any entry in connection with the arrival of a vessel used primarily for transporting passengers or property—

(A) made before the fifteenth day after the date of the enactment of this Act but not liquidated as of January 1, 1983, or

(B) made before the fifteenth day after the date of the enactment of this Act but which is the subject of an action in a court of competent jurisdiction on September 19, 1983, and

(C) with respect to which there would have been no duty if the amendment made by subsection (a) applied to such entry,

shall, notwithstanding the provisions of section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) or any other provision of law, be liquidated or reliquidated as though such entry had been made on the fifteenth day after the date of the enactment of this Act.

SEC. 208. FUNGIBLE MERCHANDISE ENTITLED SAME CONDITION DRAWBACK.

(a) Section 313(j) of the Tariff Act of 1930 (19 U.S.C. 1313(j)) is amended—

(1) by redesignating paragraph (2) as paragraph (3);

(2) by inserting after paragraph (1) the following new paragraph:

"(2) If merchandise which is fungible to imported merchandise on which was paid any duty, tax, or fee because of its importation, or an aggregate of such imported merchandise and fungible merchandise (either or which has been imported by a person prior to the subsequent exportation by the same person of such commercially identical merchandise) is—

"(A) before the close of the a three-year period beginning on the date of importation—

"(i) exported from the United States; or

"(ii) destroyed under Customs supervision; and

"(B) not used within the United States before such exportation or destruction;

then upon such exportation or destruction 99 per centum of the amount of each such duty, tax or fee so paid shall be refunded as drawback, notwithstanding the fact that none of the imported merchandise may actually have been exported or destroyed under Customs supervision.".

(b) The amendment made by subsection (a) shall take effect on or after the fifteenth day after the date of enactment of this Act.

SEC. 209. DRAWBACK FOR CERTAIN BULK ARTICLES.

(a) Section 313 of the Tariff Act of 1930 (19 U.S.C. 1313) is amended—

(1) by redesignating subsections (k) and (l) as subsections (l) and (m), respectively, and

(2) by inserting after subsection (j) the following new subsection:

"(k) For purposes of subsections (a) and (b), the use of any domestic merchandise acquired in exchange for imported merchandise of the same kind and quality shall be treated as the use of such imported merchandise if no certificate of delivery is issued with respect to such imported merchandise.".

(b) The amendment made by this section shall apply with respect to articles entered, or withdrawn from warehouse, for consumption after the date of enactment of this Act.

SEC. 210. INVESTIGATIONS OF COUNTERVAILING DUTIES AND ANTIDUMPING DUTIES.

(a)(1) Subsection (a) of section 701 of the Tariff Act of 1930 (19 U.S.C. 1671(a)) is amended—

(A) by inserting ", or sold (or likely to be sold) for importation," after "imported" in paragraph (1);

(B) by inserting "or by reason of sales (or the likelihood of sales) of that merchandise for importation" immediately after "by reason of imports of that merchandise" in paragraph (2); and

(C) by adding at the end thereof the following new sentence: "For purposes of this subsection and section 705(b)(1), a reference to the sale of merchandise includes the entering into of any leasing arrangement regarding the merchandise that is equivalent to the sale of the merchandise.".

(2) Section 705(b)(1) of the Tariff Act of 1930 (19 U.S.C. 1671(b)(1)) is amended by inserting ", or sales (or the likelihood of sales) for importation," immediately after "by reason of imports".

(b) Section 731 of the Tariff Act of 1930 (19 U.S.C. 1673) is amended by adding at the end thereof the following new sentence: "For purposes of this section and section 735(b)(1), a reference to the sale of foreign merchandise includes the entering into of any leasing arrangement regarding the merchandise that is equivalent to the sale of the merchandise.".

SEC. 211. ARTICLES RETURNED FROM SPACE.

(a) Headnote 5 of the general headnotes of the Tariff Schedules of the United States (19 U.S.C. 1202) is amended—

(A) by striking out "media; and" in subdivision (e) and inserting in lieu thereof "media,";

(B) by adding after subdivision (e) the following new subdivision:

"(f) articles returned from space within the purview of section 484a of the Tariff Act of 1930; and"; and

(C) by redesignating subdivision (f) as subdivision (g).

(b) Part III of title IV of the Tariff Act of 1930 (19 U.S.C. 1481 et seq.) is amended by adding the following new section:

"SEC. 484a. ARTICLES RETURNED FROM SPACE NOT TO BE CONSTRUED AS IMPORTATION.

"The return of articles from space shall not be considered an importation, and an entry of such articles shall not be required, if:

"(1) such articles were previously launched into space from the customs territory of the United States aboard a spacecraft operated by, or under the control of, United States persons and owned—

"(A) wholly by United States persons, or

"(B) in substantial part by United States persons, or

"(C) by the United States;

"(2) such articles were maintained or utilized while in space solely on board such spacecraft or aboard another spacecraft which meets the requirements of paragraph (1) (A) through (C) of this section; and

"(3) such articles were returned to the customs territory directly from space aboard such spacecraft or aboard another spacecraft which meets the requirements of paragraph (1) (A) through (C) of this section;

without regard to whether such articles have been advanced in value or improved in condition by any process or manufacture or other means while in space.

"(c) The amendments made by this section shall apply with respect to articles launched into space from the customs territory of the United States on or after December 31, 1984.".

SEC. 212. PROCESSED AGRICULTURAL PRODUCTS.

(a) Section 771(4) of the Tariff Act of 1930 (19 U.S.C. 1677(4)) is amended by adding at the end thereof the following new subparagraph:

"(E) SPECIAL RULE FOR PROCESSED AGRICULTURAL PRODUCTS.—

"(i) IN GENERAL.—In the case of a processed agricultural product, the term 'industry' means—

"(I) the domestic producers of such product; and

"(II) the domestic producers of the principal raw agricultural commodity which is a part of such product (as determined on the basis of the volume or value of such commodity produced), but only if producers of such raw agricultural commodity allege that they are materially injured, or threatened with material injury, by reason of the imports concerned.

"(ii) PROCESSED AGRICULTURAL PRODUCT DEFINED.—For purposes of clause (i), the term 'processed agricultural product' means any product of farm, forest, or fishery which has undergone processing beyond that customarily required to prepare such product for marketing in such product's natural form.".

(b) Notwithstanding any other provision of law, any petition for relief under section 702 or section 732 of the Tariff Act of 1930 which was filed prior to the date of enactment of this Act may be refiled under such section.

SEC. 213. CUSTOMS BROKERS.

(a) Section 641 of the Tariff Act of 1930 (19 U.S.C. 1641) is amended to read as follows:

"SEC. 641. CUSTOMS BROKERS.

"(a) DEFINITIONS.—For purposes of this section—

"(1) The term 'customs broker' means any person granted a customs broker's license by the Secretary under subsection (b).

"(2) The term 'customs business' means those activities involving transactions with the Customs Service concerning—

"(A) the entry and admissibility of merchandise,

"(B) the classification and valuation of such merchandise,

"(C) the payment of duties, taxes, or other charges assessed or collected by the Customs Service upon merchandise by reason of its importation, or

"(D) the refund, rebate, or drawback of such duties, taxes, or other charges.

"(3) The term 'Secretary' means the Secretary of the Treasury.

"(b) CUSTOM BROKERS LICENSES.—

"(1) IN GENERAL.—No person may conduct customs business (other than solely on such person's own behalf) unless such person holds a valid customs brokers license issued by the Secretary under paragraph (2) or (3).

"(2) LICENSES FOR INDIVIDUALS.—The Secretary may grant an individual a customs brokers license only if that individual is a citizen of the United States. Before granting the license, the Secretary may require an applicant to provide any information that the Secretary determines to be necessary to establish that the applicant is of good moral character and qualified to render valuable service to others in the conduct of customs business. In assessing the qualifications of an applicant, the Secretary may conduct an examination to determine the applicant's knowledge of customs and related laws, regulations and procedures, bookkeeping, accounting, and any other appropriate matters.

"(3) LICENSES FOR CORPORATIONS.—The Secretary may grant a customs brokers license to any corporation, association, or partnership that is organized or existing under the laws of any of the several States of the United States if at least one officer of the corporation or association, or one member of the partnership, holds a valid customs brokers license granted under paragraph (2).

"(4) DUTIES.—A customs broker shall exercise responsible supervision and control over the customs business that the customs broker conducts.

"(5) LAPSE OF LICENSE.—If a corporation, association, or partnership that is licensed as a customs broker under paragraph (3) fails to have, for any continuous period of 120 days, at least one officer of the corporation or association, or at least one member of the partnership, validly licensed under paragraph (2), in addition to any other sanction under this section (including paragraph (6)), the customs broker's license of such corporation, association, or partnership shall expire at the close of such 120-day period.

(6) PROHIBITED ACTS.—Any person who intentionally transacts customs business (other than solely on such person's own behalf) without holding a valid customs brokers license granted to such person under this subsection shall be liable to the United States for a monetary penalty not to exceed $10,000 for each such transaction as well as for each violation of any other provision of this section. This penalty shall be assessed in the same manner and under the same procedures as the monetary penalties provided for in subsection (d)(2)(A).

"(c) CUSTOMS BROKERS PERMITS.—

"(1) IN GENERAL.—Each person granted a customs brokers license under subsection (b) shall—

"(A) be issued a permit, in accordance with regulations prescribed under this section, for each customs district in which that person conducts customs business; and

"(B) regularly employ in each customs district for which such a permit is issued at least one individual who is licensed under subsection (b)(2) to exercise responsible supervision and control over the customs business conducted by that person in that district.

"(2) LAPSE OF PERMIT.—If a customs broker granted a permit under paragraph (1) fails to employ, for any continuous period of 120 days, at least one individual who is licensed under subsection (b)(2) within the district for which a permit was issued, in addition to any other sanction under this section (including any sanction imposed under subsection (d)), such permit shall expire at the end of such 120-day period.

"(d) DISCIPLINARY PROCEEDINGS.—

"(1) GENERAL RULE.—The Secretary may impose a monetary penalty in all cases (other than in the case of infractions described in subparagraph (B)(iii)) or revoke or suspend a license or permit of any customs broker, if the Secretary determines that the broker—

"(A) has made, or caused to be made, in any application for any license or permit under this section, or in any report filed with the Customs Service, any statement which was, at the time and in light of the circumstances under which it was made, false or misleading with respect to any material fact, or has omitted to state in any such application or report any material fact which was required to be stated therein;

"(B) has been convicted at any time after the filing of an application for license under subsection (b) of any felony or misdemeanor which the Secretary finds—

"(i) involved the importation or exportation of merchandise;

"(ii) arose out of the conduct of the customs business of the customs broker; or

"(iii) involved larceny, theft, robbery, extortion, forgery, counterfeiting, fraudulent concealment, embezzlement, fraudulent conversion, or misappropriation of funds;

"(C) has violated any provision of any law enforced by the Customs Service or violated the rules or regulations issued under any such provision;

"(D) has counseled, commanded, induced, procured, or knowingly aided or abetted the violations by any other person of any provision of any law enforced by the Customs Service or of the rules or regulations issued under any such provision;

"(E) has knowingly employed, or continues to employ, any person who has been convicted of a felony, without written approval of such employment from the Secretary; or

"(F) has, in the course of the customs business of such broker and with the intent to defraud, wilfully and knowingly deceived, misled, or threatened any client or prospective client.

"(2) PROCEDURES.—

"(A) MONETARY PENALTY.—

"(i) NOTICE.—Unless action has been taken under subparagraph (B), the appropriate customs officer shall serve notice in writing upon any customs broker to show cause why the broker should not be subject to a monetary penalty not to exceed $30,000 in total for a violation or violations of this section. Such notice shall advise the customs broker of the allegations or complaints against him and shall explain that the broker has a right to respond to the allegations or complaints in writing within 30 days of the date of the notice.

"(ii) CONSIDERATION OF ALLEGATIONS AND RESPONSES.—Before imposing a monetary penalty, the customs officer shall consider the allegations or complaints and any timely response made by the customs broker and issue a written decision.

"(iii) REMISSION OR MITIGATION OF PENALTIES.—A customs broker against whom a monetary penalty has been issued under this section shall have a reasonable opportunity under section 618 to make representations seeking remission or mitigation of the monetary penalty.

"(iv) WRITTEN DECISION.—After the conclusion of any proceeding under section 618, the appropriate customs officer shall provide to the customs broker a written decision which sets forth the final determination and the findings of fact and conclusions of law or which such determination is based.

"(B) REVOCATION OR SUSPENSION.—

"(i) NOTICE OF COMPLAINT.—The appropriate customs officer may, for good and sufficient reason, serve notice in writing upon any customs broker to show cause why a license or permit issued under this section should not be revoked or suspended. Such notice shall be in the form of a statement specifically setting forth the grounds of the complaint, and shall allow the customs broker 30 days to respond.

"(ii) NOTICE OF HEARING.—If no response to the notice provided under clause (i) is filed, or the appropriate customs officer determines that the revocation or suspension is still warranted after receiving such a response, the appropriate customs officer shall notify the customs broker in writing of—

"(I) a hearing to be held within 15 days, or at a later date if the broker requests an extension and shows good cause therefor, before an administrative law judge appointed pursuant to section 3105 of title 5, United States Code, who shall serve as the hearing officer, and

"(II) the right of the customs broker to be represented by counsel at such hearing.

"(iii) TESTIMONY; CROSS EXAMINATION.—Testimony presented at the hearing described in clause (ii), including the proof of the charges and the response thereto, shall be taken under oath and the right of cross-examination accorded to both parties at such hearing.

"(iv) TRANSCRIPT.—A transcript of the hearing described in clause (ii) shall be made and a copy shall be provided to the appropriate customs officer and the customs broker.

"(v) POST-HEARING BRIEF.—The customs broker and the appropriate customs officer shall be provided a reasonable period of time after receipt of the transcript in which to file a post-hearing brief.

"(vi) WAIVER OR ABSENCE.—If the customs broker waives the hearing, or the broker or his designated representative fails to appear at the appointed time and place, the hearing officer shall make findings and recommendations based on the record submitted by the parties.

"(vii) TRANSFER OF RECORD.—The hearing officer shall promptly transmit the record of the case along with the findings of fact and recommendations of the hearing officer to the Secretary for decision.

"(viii) DECISION OF THE SECRETARY.—The Secretary will issue a written decision based solely on the record which sets forth findings of fact and the reasons for the decision of the Secretary. Such decision may provide for the sanction contained in the notice to show cause or any lesser sanction authorized by this subsection, including a monetary penalty not to exceed $30,000, than was contained in the notice to show cause.

"(3) SETTLEMENT AND COMPROMISE.—The Secretary may settle and compromise any disciplinary proceeding which has been instituted under this subsection according to the terms and conditions agreed to by the parties, including but not limited to the reduction of any proposed suspension or revocation to a monetary penalty.

"(4) LIMITATION OF ACTIONS.—Notwithstanding section 621, no proceeding under this subsection or subsection (b)(6) shall be commenced unless such proceeding is instituted by the appropriate service of written notice within 5 years from the date the alleged violation was committed; except that if the alleged violation consists of fraud, the 5-year period of limitation shall commence running from the time such alleged violation was discovered.

"(e) JUDICIAL APPEAL.—

"(1) IN GENERAL.—A customs broker, applicant, or other person directly affected may appeal any decision of the Secretary denying or revoking a license or permit under subsection (b) or (c), or revoking or suspending a license or permit or imposing a monetary penalty in lieu thereof under subsection (d)(2)(B), by filing in the Court of International Trade, within 60 days after the issuance of the decision or order, a written petition requesting that the decision or order be modified or set aside in whole or in part. A copy of the petition shall be transmitted promptly by the clerk of the court to the Secretary or his designee. In cases involving revocation or suspension of a license or permit or imposition of a monetary penalty in lieu thereof under subsection (d)(2)(B), after receipt of the petition, the Secretary shall file in court the record upon which the decision or order complained of was entered, as provided in section 2635(d) of title 28, United States Code.

"(2) CONSIDERATION OF OBJECTIONS.—The court shall not consider any objection to the admission of evidence or testimony or to the decision or order of the Secretary unless that objection was raised before the hearing officer in suspension or revocation proceedings or there were reasonable grounds for failure to do so.

"(3) CONCLUSIVENESS OF FINDINGS.—The findings of the Secretary as to the facts, if supported by substantial evidence, shall be conclusive.

"(4) ADDITIONAL EVIDENCES.—If any party applies to the court for leave to present additional evidence and the court is satisfied that the additional evidence is material and that reasonable grounds existed for the failure to present the evidence in the proceedings before the hearing officer, the court may order the additional evidence to be taken before the hearing officer and to be presented in a manner and upon the terms and conditions prescribed by the court. The Secretary may modify the findings of facts on the basis of the additional evidence presented. The Secretary shall then file with the court any new or modified findings of fact which shall be conclusive if supported by substantial evidence, together with a recommendation, if any, for the modification or setting aside of the original decision or order.

"(5) EFFECT OF PROCEEDINGS.—The commencement of proceedings under this subsection shall, unless specifically ordered by the court, operate as a stay of the decision of the Secretary except in the case of a denial of a license or permit.

"(6) FAILURE TO APPEAL.—If an appeal is not filed within the time limits specified in this section, the decision by the Secretary shall be final and conclusive. In the case of a monetary penalty imposed under subsection (d)(2)(B) of this section, if the amount is not tendered within 60 days after the decision becomes final, the license shall automatically be suspended until payment is made to the Customs Service.

"(f) REGULATIONS BY THE SECRETARY.—The Secretary may prescribe such rules and regulations relating to the customs business of customs brokers as the Secretary considers necessary to protect importers and the revenue of the United States, and to carry out the provisions of this section, including rules and regulations governing the licensing of or issuance of permits to customs brokers, the keeping of books, accounts, and records by customs brokers, and documents and correspondence, and the furnishing by customs brokers of any other information relating to their customs business to any duly accredited officer or employee of the United States Customs Service.

"(g) TRIENNIAL REPORTS BY CUSTOMS BROKERS.—

"(1) IN GENERAL.—On February 1, 1985, and on February 1 of each third year thereafter, each person who is licensed under subsection (b) shall file with the Secretary of the Treasury a report as to—

"(A) whether such person is actively engaged in business as a customs broker; and

"(B) the name under, and the address at, which such business is being transacted.

"(2) SUSPENSION AND REVOCATION.—If a person licensed under subsection (b) fails to file the required report by March 1 of the reporting year, the license is suspended, and may be thereafter revoked subject to the following procedures:

"(A) The Secretary shall transmit written notice of suspension to the licensee no later than March 31 of the reporting year.

"(B) If the licensee files the required report within 60 days of receipt of the Secretary's notice, the license shall be reinstated.

"(C) In the event the required report is not filed within the 60-day period, the license shall be revoked without prejudice to the filing of an application for a new license.

"(h) FEES AND CHARGES.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary may prescribe reasonable fees and charges to defray the costs of the Customs Service in carrying out the provisions of this section, including, but not limited to, a fee for licenses issued under subsection (b) and fees for any test administered by him or under his direction.

"(2) EXCEPTIONS.—The Secretary shall not impose any fees or charges with respect to audits of individuals or disciplinary proceedings.".

(b) Section 1581(g) of title 28, United States Code, is amended to read as follows:

"(g) The Court of International Trade shall have exclusive jurisdiction of any civil action commenced to review—

"(1) any decision of the Secretary of the Treasury to deny a customs brokers license under section 641(b) (2) or (3) or (c) of the Tariff Act of 1930, or to deny a customs brokers permit under section 641(c)(1) of such Act, or to revoke a license or permit under section 641 (b)(5) or (c)(2) of such Act; and

"(2) any decision of the Secretary of the Treasury to revoke or suspend a customs brokers license or permit, or impose a monetary penalty in lieu thereof, under section 641(d)(2)(B) of the Tariff Act of 1930.";

(c) Section 1582(1) of title 28, United States Code, is amended to read as follows:

"(1) to recover a civil penalty under section 592, 641(a)(1)(C), 641(d)(2)(A); 704(i)(2), or 734(i)(2) of the Tariff Act of 1930;".

(d) Section 2631(g) of title 28, United States Code, is amended to read as follows:

"(g)(1) A civil action to review any decision of the Secretary of the Treasury to deny a customs brokers license under section 641(b) (2) or (3) of the Tariff Act of 1930, or to deny a customs brokers permit under section 641(c)(1) of such Act, or to revoke such license or permit under section 641 (b)(5) or (c)(2) of such Act, may be commenced in the Court of International Trade by the person whose license or permit was denied or revoked.

"(2) A civil action to review any decision of the Secretary of the Treasury to revoke or suspend a customs broker's license or permit or impose a monetary penalty in lieu thereof under section 641(d)(2)(B) of the Tariff Act of 1930 may be commenced in the Court of International Trade by the person against whom the decision was issued.".

(e) Section 2636(h) of title 28, United States Code, is amended to read as follows:

"(h) A civil action contesting the denial or revocation by the Secretary of the Treasury of a customs broker's license or permit under subsection (b) or (c) of section 641 of the Tariff Act of 1930, or the revocation or suspension of such license or permit or the imposition of a monetary penalty in lieu thereof by such Secretary under section 641(d) of such Act, is barred unless commenced in accordance with the rules of the Court of International Trade within sixty days after the date of the entry of the decision or order of such Secretary.".

(f) Section 2640(a)(5) of title 28, United States Code, is amended to read as follows:

"(5) Civil actions commenced to review any decision of the Secretary of the Treasury under section 641 of the Tariff Act of 1930, with the exception of decisions under section 641(d)(2)(B), which shall be governed by subdivision (d) of this section.".

(g) Section 2643 of title 28, United States Code, is amended by adding the following new subsection:

"(e) In any proceeding involving assessment or collection of a monetary penalty under section 641(b)(6) or 641(d)(2)(A) of the Tariff Act of 1930, the court may not render judgment in an amount greater than that sought in the initial pleading of the United States, and may render judgment in such lesser amount as shall seem proper and just to the court.".

(h) Section 564 of the Tariff Act of 1930 (19 U.S.C. 1564) is amended by adding the following sentence at the end thereof: "The provisions of this section shall apply to licensed customs brokers who otherwise possess a lien for freight, charges, or contribution in general average upon the merchandise under the statutes or common law of any State or by reason of an order of any court of competent jurisdiction.".

(i) Section 520(a) of the Tariff Act of 1930 (19 U.S.C. 1520(a)) is amended by adding at the end thereof the following:

"(4) PRIOR TO LIQUIDATION.—Whenever it is ascertained prior to the liquidation of an entry that excess duties, fees, charges, or exactions have been deposited or paid by reason of a clerical error.".

(j)(1) The amendments made by this section shall take effect upon the close of the 180th day following the date of enactment of this Act with the following exceptions:

(A) Section 641(c)(1)(B) and Section 641(c)(2) of the Tariff Act of 1930, as added by this Act, shall take effect three years after the effective date of this Act.

(B) The amendments made to the Tariff Act of 1930 by subsections (h) and (i) shall take effect on the date of enactment of this Act.

(2) A license in effect on the date of enactment of this Act under section 641 of the Tariff Act of 1930 (as in effect before such date of enactment) shall continue in force as a license to transact customs business as a customs broker, subject to all the provisions of this subsection and such licenses shall be accepted as permits for the district or districts covered by that license.

(3) Any proceeding for revocation or suspension of a license instituted under section 641 of the Tariff Act of 1930 before the effective date of this Act shall continue and be governed by the law in effect at the time the proceeding was instituted.

(k) If any provision of, or amendment made by, this section or its application to any person or circumstances is held invalid, it shall not affect the validity of the remaining provisions or their application to any other person or circumstances.

Subtitle B—Miscellaneous Provisions

SEC. 241. DUTY-FREE ENTRY FOR PIPE ORGAN FOR THE CRYSTAL CATHEDRAL, GARDEN GROVE, CALIFORNIA.

The pipe organ that was imported for the use of the Crystal Cathedral of Garden Grove, California, and entered in six shipments between April 30, 1981, and April 8, 1982, at Los Angeles, California, shall be considered to have been admitted free of duty as of the date of each such entry. If the liquidation of any such entry has become final, the Secretary of the Treasury shall reliquidate each such entry and make the appropriate refund of any duty paid on such organ.

SEC. 242. DUTY-FREE ENTRY FOR SCIENTIFIC EQUIPMENT FOR THE ELLIS FISCHEL STATE CANCER HOSPITAL, COLUMBIA, MISSOURI.

Notwithstanding any provision of the Tariff Act of 1930 or any other provisions of the law to the contrary, the Secretary of the Treasury shall reliquidate, as duty free, the entries numbered 220286 (dated November 7, 1975) and 235380 (dated January 23, 1976) made at Chicago, Illinois, and covering scientific equipment for the use of the Ellis Fischel Cancer Hospital, Columbia, Missouri, in accordance with the decision of the Department of Commerce in docket numbered 76-00199-33-00530.

SEC. 243. ENFORCEMENT OF ARRANGEMENT ON EUROPEAN COMMUNITY EXPORT OF PIPES AND TUBES.

(a) In connection with the provisions of the Arrangement on European Communities' Export of Pipes and Tubes to the United States of America, contained in an exchange of letters dated October 21, 1982 between representatives of the United States and the Commission of the European Communities, including any modification, clarification, extension or successor agreement thereto (collectively referred to hereinafter as "the Arrangement"), the Secretary of Commerce is authorized to request the Secretary of the Treasury to take action pursuant to subsection (b) of this section whenever he determines that:

(1) the level of exports of pipes and tubes to the United States from the European Communities is exceeding the average share of annual United States apparent consumption specified in the Arrangement, or

(2) distortion is occurring in the pattern of United States-European Communities trade within the pipe and tube sector taking into account the average share of annual United States apparent consumption accounted for by European Communities articles within product categories developed by the Secretary of Commerce.

Any request to the Secretary of the Treasury pursuant to this subsection by the Secretary of Commerce shall identify one or more categories of pipe and tube products with respect to which action under subsection (b) is requested.

(b) At the request of the Secretary of Commerce pursuant to subsection (a), the Secretary of the Treasury shall take such action as may be necessary to ensure that the aggregate quantity of European Communities articles in each product category identified by the Secretary of Commerce in such request that are entered into the United States are in accordance with the terms of the Arrangement. The Secretary of the Treasury is authorized to promulgate regulations establishing the terms and conditions under which European Communities articles may be denied entry into the United States pursuant to this subsection.

(c) Nothing in this section shall deny the executive branch the authority to authorize the importation of tonnages in appropriate categories in excess of the tonnage specified in those categories, as may be required in emergency economic situations related to domestic market demand, including domestic processing and production, for pipe and tube products.

SEC. 244. NO STATE OR LOCAL TAX ON INVENTORY LOCATED IN FOREIGN TRADE ZONES.

(a) Section 15 of the Act of June 18, 1934 (48 Stat. 1002; 19 U.S.C. 81o), commonly known as the Foreign Trade Zones Act, is amended by adding at the end thereof the following new subsection:

"(e) Tangible personal property imported from outside the United States and held in a zone for the purpose of storage, sale, exhibition, repackaging, assembly, distribution, sorting, grading, cleaning, mixing, display,

manufacturing, or processing, and tangible personal property produced in the United States and held in a zone for exportation, either in its original form or as altered by any of the above processes, shall be exempt from State and local ad valorem taxation.".

(b) The amendment made by subsection (a) shall take effect on January 1, 1983.

SEC. 245. DENIAL OF DEDUCTION FOR CERTAIN FOREIGN ADVERTISING EXPENSES.

(a) Section 162 of the Internal Revenue Code of 1954 (relating to trade or business expenses) is amended by redesignating subsection (j) as subsection (k) and by inserting after subsection (i) the following new subsection:

"(j) CERTAIN FOREIGN ADVERTISING EXPENSES.—

"(1) IN GENERAL.—No deduction shall be allowed under subsection (a) for any expenses of an advertisement carried by a foreign broadcast undertaking and directed primarily to a market in the United States. This paragraph shall apply only to foreign broadcast undertakings located in a country which denies a similar deduction for the cost of advertising directed primarily to a market in the foreign country when placed with a United States broadcast undertaking.

"(2) BROADCAST UNDERTAKING.—For purposes of paragraph (1), the term 'broadcast undertaking' includes (but is not limited to) radio and television stations.".

(b) The amendment made by subsection (a) shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 246. CERTAIN RELICS AND CURIOS.

Section 925 of title 18, United States Code, is amended by inserting at the end thereof the following:

"(e) Notwithstanding any other provision of this title, the Secretary shall authorize the importation of, by any licensed importer, the following:

"(1) All rifles and shotguns listed as curios or relics by the Secretary pursuant to section 921(a)(13), and

"(2) All handguns, listed as curios or relics by the Secretary pursuant to section 921(a)(13), provided that such handguns are generally recognized as particularly suitable for or readily adaptable to sporting purposes.".

SEC. 247. MODIFICATION OF DUTIES ON CERTAIN ARTICLES USED IN CIVIL AVIATION.

(a) The President may proclaim modifications in the rate of duty column numbered 1 and in the article descriptions, including the superior headings thereto, for the articles provided for in the following items in the Tariff Schedules of the United States (19 U.S.C. 1202) in order to provide duty-free coverage comparable to the expanded coverage provided by all other signatories to the Agreement on Trade in Civil Aircraft pursuant to the extension of the Annex to the Agreement on Trade in Civil Aircraft of October 6, 1983, if such articles are certified for use in civil aircraft in accordance with headnote 3 to schedule 6, part 6, subpart C of such Schedules:

646.95	680.92	708.03
660.85	680.95	708.05
660.97	681.01	708.07
661.06	681.15	708.09
661.10	681.18	708.21
661.15	681.21	708.23
661.20	681.24	708.25
661.35	682.05	708.27
680.59	683.05	708.29
680.61	683.07	711.77
680.62	683.15	711.78
	708.01	711.98
		712.49

(b) For purposes of section 125 of the Trade Act of 1974, the duty-free treatment, if any, proclaimed under the first section of this Act shall be considered to be trade agreement obligations entered into under the Trade Act of 1974 of benefit to foreign countries or instrumentalities.

SEC. 248. RELIQUIDATION OF CERTAIN MASS SPECTROMETER SYSTEMS.

Notwithstanding sections 514 and 520 of the Tariff Act of 1930 and any other provision of law, the Secretary of the Treasury is authorized to reliquidate within six months of the date of enactment of this Act the entry of 2 mass spectrometer systems—

(1) which were imported into the United States for the use of Montana State University, Bozeman, Montana, and

(2) with respect to which applications were filed with the International Trade Administration of the Department of Commerce for duty-free entry of scientific instruments that were assigned the docket numbers 82-00323 and 83-108 (described in 47 Federal Register 41409 and 48 Federal Register 13214, respectively),

if the Secretary of Commerce finds that these systems are eligible to enter free of duty pursuant to headnote 6 of part 4 of schedule 8 of the Tariff Schedules of the United States.

SEC. 249. MAX PLANCK INSTITUTE FOR RADIOASTRONOMY.

(a)(1) The Secretary of the Treasury is authorized and directed to admit free of duty any article provided by the Max Planck Institute for Radioastronomy of the Federal Republic of Germany to the joint astronomical project being undertaken by the Steward Observatory of the University of Arizona and the Max Planck Institute for the construction, installation, and operation of a sub-mm telescope in the State of Arizona if—

(A) such article is an instrument or apparatus (within the meaning of headnote 6(a) of part 4 of schedule 8 of the Tariff Schedules of the United States (19 U.S.C. 1202)), and

(B) no instruments or apparatus of equivalent scientific value for the purposes for which such article is intended to be used is being manufactured in the United States.

(2) For purposes of paragraph (1)(B), scientific testing equipment provided by the Max Planck Institute and necessary for aligning, calibrating, or otherwise testing an instrument or apparatus shall be considered to be part of such instrument or apparatus.

(b) The University of Arizona or the Max Planck Institute shall submit to the United States Customs Service and to the International Trade Administration descriptions of the articles sought to be admitted free of duty containing sufficient detail to allow the United States Customs Service to determine whether subsection (a)(1)(A) is satisfied and the International Trade Administration to determine whether subsection (a)(1)(B) is satisfied. The descriptions may be submitted in a single or in several submissions to each agency, as the University of Arizona or the Max Planck Institute deem appropriate during the course of the project. The United States Customs Service and the International Trade Administration are directed to make their respective determinations under this section within ninety days of the date the agency receives a sufficient submission of information with respect to any article.

(c) The Secretary of the Treasury is authorized and directed to readmit free of duty any article admitted free of duty under subsection (a) and subsequently returned to the Federal Republic of Germany for repair, replacement, or modification.

(d) The Secretary of the Treasury is authorized and directed to admit free of duty any repair components for articles admitted free of duty under subsection (a).

(e) If any article admitted free of duty under subsection (a) is used for any purpose other than the joint project described in subsection (a)(1) within five years after being entered, duty on the article shall be assessed in accordance with the procedures established in headnote 1 of part 4 of schedule 8 (19 U.S.C. 1202).

(f) The provisions of subsection (a) shall apply with respect to articles entered for consumption after the day which is 15 days after the date of enactment of this Act and before November 1, 1993.

SEC. 250. STUDY ON HONEY IMPORTS.

(a) The Congress finds that—

(1) in 1976 the International Trade Commission found that honey imports threatened serious injury to the domestic honey industry and recommended action to control honey imports,

(2) the domestic honey industry is essential for production of many agricultural crops,

(3) a significant part of our total diet is dependent directly or indirectly on insect pollination, and

(4) it is imperative that the domestic honey bee industry be maintained at a level sufficient to provide crop pollination.

(b) It is the sense of the Congress that the Secretary of Agriculture should promptly request the President to call for an International Trade Commission investigation of honey imports, under section 22 of the Agriculture Adjustment Act.

SEC. 251. PRODUCTS OF CARIBBEAN BASIN COUNTRIES ENTERED IN PUERTO RICO.

Subsection (a) of section 213 of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703) is amended by adding at the end thereof the following new paragraph:

"(3) Notwithstanding section 311 of the Tariff Act of 1930, the products of a beneficiary country which are imported directly from such country into Puerto Rico may be entered under bond for processing or use in manufacturing in Puerto Rico. No duty shall be imposed on the withdrawal from warehouse of the product of such processing or manufacturing if, at the time of such withdrawal, such product meets the requirements of paragraph (1)(B).".

SEC. 252. CLARIFICATION OF THE SCOPE OF INVESTIGATIONS UNDER SECTION 201 OF THE TRADE ACT OF 1974.

Subsection (b) of section 201 of the Trade Act of 1974 (19 U.S.C. 2251(b)) is amended—

(1) by inserting "any significant increase in the volume or share of total imports attributable to domestic producers in the industry," after "profit," in paragraph (2)(A),

(2) by striking out subparagraph (B) of paragraph (2) and inserting in lieu thereof the following:

"(B) with respect to threat of serious injury—

"(i) a decline in sales of the article like or directly competitive with the imported article,

"(ii) a higher or growing inventory (whether maintained by domestic producers, importers, or retailers),

"(iii) an upward trend in imports or sales for importation (either actual or relative to apparent domestic consumption),

"(iv) an upward trend in the volume or share of total imports, or sales for importation, attributable to domestic producers, and

"(v) a downward trend in production, profits, wages or employment (or increasing underemployment) in the domestic industry concerned; and",

(3) by inserting "regardless of whether the imports are attributable to domestic producers in the industry" after "production" in paragraph (2)(C),

(4) by striking out "may" in paragraph (3)(A) and inserting in lieu thereof "shall", and

(5) by adding at the end thereof the following new paragraphs:

"(7) For purposes of this section, the term 'significant idling of productive facilities' means a decline in domestic production (either actual or relative to apparent domestic consumption), the closing of plants, or the underutilization of production capacity.

"(8) Notwithstanding the authority under paragraph (2) to take into account all economic factors in making a determination under paragraph (1), the Commission shall not take into account any consideration described in paragraph (3), (4), (5), or (6) of section 202(c) in making such a determination.

"(9) A finding by the Commission—

"(A) that a significant number of firms in the domestic industry operate at a reasonable level of profit, or

"(B) that the profits of the domestic industry are not in a downward trend,

shall not preclude a determination by the Commission under paragraph (1) that an article is being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or threat of serious injury, to such domestic industry.

"(10) For purposes of this subsection, the importation of any articles by domestic producers in an industry shall not be considered to be a positive effort to compete but shall be a factor supporting the existence of serious injury, or the threat of serious injury, to such industry.

"(11) In making its determination under paragraph (1), the Commission shall take full account of the effect of plant closings on the production, employment, capacity, capacity utilization and profits of a domestic industry.".

SEC. 253. DUTY-FREE ENTRY FOR RESEARCH EQUIPMENT FOR NORTH DAKOTA STATE UNIVERSITY, FARGO, NORTH DAKOTA.

The research equipment that was imported for the use of North Dakota State University, Fargo, North Dakota, and entered on September 15, 1983, under entry number 83-116431-9, at Seattle, Washington, shall be considered to have been admitted free of duty as of the date of such entry. If the liquidation of such entry has become final, the Secretary of the Treasury shall reliquidate such entry and make the appropriate refund of any duty paid on such equipment.

SEC. 254. NEGOTIATIONS ON RESTRAINT OF COPPER PRODUCTION.

The President, acting through the United States Trade Representative, shall immediately take action to initiate negotiations with the governments of the principal foreign copper-producing countries to conclude voluntary restraint agreements with those governments for the purpose of effecting a balanced reduction of total annual foreign copper production for a period of between three and five years in order to—

(1) allow the price of copper on international markets to rise modestly to levels which will permit the remaining copper operations located in the United States to attract needed capital, and

(2) achieve a secure domestic supply of copper.

SEC. 255. DATA ON INTERNATIONAL TRADE IN SERVICES.

(a) The International Investment Survey Act of 1976 (Public Law 94-472; 22 U.S.C. 3101, et seq.) is hereby redesignated the "International Investment and Trade in Services Survey Act".

(b)(1) Subsection (a) of section 2 of the International Investment and Trade in Services Survey Act (22 U.S.C. 3301) is amended—

(A) by striking out "and" at the end of paragraph (6),

(B) by inserting "and trade in services" after "international investment" in paragraph (7),

(C) by redesignating paragraph (7) as paragraph (9), and

(D) by inserting after paragraph (6) the following new paragraphs:

"(7) United States service industries engaged in interstate and foreign commerce account for a substantial part of the labor force and gross national product of the United States economy, and such commerce is rapidly increasing;

"(8) international trade in services is an important issue for international negotiations and deserves priority in the attention of governments, international agencies, negotiators, and the private sector; and".

(2) Subsection (b) of section 2 of such Act is amended—

(A) by inserting "and United States foreign trade in services, whether directly or by affiliates, including related information necessary for assessing the impact of such investment and trade," after "international investment" the first place it appears; and

(B) by inserting "and trade in services" after "international investment" the second place it appears.

(3) Subsection (c) of section 2 of such Act is amended by striking out "or United States investment abroad" and inserting in lieu thereof ", United States investment abroad, or trade in services".

(c) Section 3 of such Act (22 U.S.C. 3102) is amended—

(1) by striking out "and" at the end of paragraph (10),

(2) by striking out the period at the end of paragraph (11) and inserting in lieu thereof a semicolon, and

(3) by adding at the end thereof the following new paragraphs:

"(12) 'trade in services' means the payment to, or receipt from, any person (whether affiliated or unaffiliated) of funds for the purchase or sale of a service; and

"(13) 'services' means the rental or leasing of tangible property, the transfer of intangible assets, tourism, construction, wholesale and retail trade, and all economic outputs other than tangible goods.".

(d)(1) Subsection (a) of section 4 of such Act (22 U.S.C. 3103(a)) is amended—

(A) by striking out "presentation relating to international investment" in paragraph (3) and inserting in lieu thereof "presentation",

(B) by inserting "and trade in services" after "international investment" each place it appears in paragraphs (1), (2), and (3),

(C) by striking out "and" at the end of paragraph (3),

(D) by redesignating paragraph (4) as paragraph (5), and

(E) by inserting after paragraph (3) the following new paragraph:

"(4) conduct (not more frequently than once every five years and in addition to any other surveys conducted pursuant to paragraphs (1) and (2)) benchmark surveys with respect to trade in services between unaffiliated United States persons and foreign persons; and".

(2) Subparagraph (C) of section 4(b)(2) of such Act is amended by inserting "(including trade in both goods and services)" after "regarding trade".

(3) Subsection (f) of section 4 of such Act is amended by inserting "and trade in services" after "international investment".

(e) Subsection (b) of section 5 of such Act (22 U.S.C. 3104) is amended by striking out "international investment" each place it appears.

SEC. 256. USER FEE FOR CUSTOMS SERVICES AT CERTAIN SMALL AIRPORTS.

(A) The Secretary of the Treasury shall make customs services available and charge a fee for the use of such customs services at—

(1) the airport located at Lebanon, New Hampshire, and

(2) any other airport designated by the Secretary of the Treasury under subsection (c).

(b) The fee which is charged under subsection (a) shall be paid by each person using the customs services at the airport and shall be in an amount equal to the expenses incurred by the Secretary of the Treasury in providing the customs services which are rendered to such person at such airport (including the salary and expenses of individuals employed by the Secretary of the Treasury to provide such customs services).

(c) The Secretary of the Treasury may designate 4 airports under this subsection. An airport may be designated under this subsection only if—

(1) the Secretary of the Treasury has made a determination that the volume or value of business cleared through such airport is insufficient to justify the availability of customs services at such airport, and

(2) the governor of the State in which such airport is located approves such designation.

(d) Any person who, after notice and demand for payment of any fee charged under subsection (a), fails to pay such fee shall be guilty of a misdemeanor and if convicted thereof shall pay a fine that does not exceed an amount equal to 200 percent of such fee.

(e) Fees collected by the Secretary of the Treasury under subsection (a) with respect to the provision of services at an airport shall be deposited in an account within the Treasury of the United States that is specially designated for such airport. The funds in such account shall only be available, as provided by appropriation Acts, for expenditures relating to the provision of customs services at such airport (including expenditures for the salaries and expenses of individuals employed to provide such services).

SEC. 257. COPYRIGHT PROTECTION OF COMPUTER SOFTWARE.

Since the development of computer software and other information technologies is increasingly important to economic growth and productivity in the United States and other nations;

Since the United States is the world leader in the technological development of computer software and in the production and sale of computer software;

Since the United States has since 1964 considered computer software a work of au-

thorship protected by copyright and this form of intellectual property right protection has served to encourage continuing research, development, and innovation of computer software;

Since copyright protection is afforded computer software by most industrialized nations including Japan, the Netherlands, France, the Federal Republic of Germany, the United Kingdom, South Africa, Hungary, Taiwan, and Australia;

Since Japan is reveiwing a proposal to abandon copyright protection of software and to adopt a system that rejects the principle that software is a work of authorship;

Since Japan is reviewing a proposal that also provides broadly for the compulsory licensing of software; and

Since the enactment by Japan of such a proposal could prompt the adoption of similar proposals by other nations currently considering this question, with serious adverse effects on the existing international order for the protection of intellectual property rights: Now, therefore, be it

Declared that is the sense of the Congress that—

(1) copyright protection is an essential form of intellectual property right protection for computer software;

(2) any proposal to abandon copyright protection of software or to provide a new system of legal protection that incorporates compulsory licensing of software would (A) disserve the goal of promoting continuing development and innovation in computer software; (B) undermine the international consensus that computer software is a work of authorship protected by copyright; (C) result in economic harm to the computer software industry of the United States, and also of Japan and of other nations; and (D) contribute to increasing trade tensions among the nations of the world; and

(3) if a nation withdraws copyright protection of software or provides for broad compulsory licensing of software, it would be in the interests of the United States and other nations to seek appropriate relief, including that provided under the Universal Copyright Convention, to ensure the just protection of intellectual property rights and the promotion of free and fair trade.

SEC. 258. ANALYSIS OF ECONOMIC IMPACT OF IMPORT RESTRICTIONS.

(a) Section 202 of the Trade Act of 1974 (19 U.S.C. 2252) is amended by adding at the end thereof the following new subsection:

"(e)(1) The Council of Economic Advisers shall prepare an analysis of the economic impact of any increase in, or imposition of, any duty or other import restriction which the Commission recommended in the report submitted under section 201(d).

"(2) The analysis prepared under subparagraph (1) shall include, but is not limited to—

"(i) the effect of the import restrictions on—

"(I) prices,

"(II) pretax revenues, and

"(III) employment,

in the industries which are to be protected by the import restrictions,

"(ii) the cost to domestic consumers of the import restrictions,

"(iii) the effect of the import restrictions on output, employment, and profits in all industries other than the industries being protected by the import restrictions, taking into account—

"(I) the effect of the import restrictions on production costs and the international competitive position of such industries, and

"(II) the effect of possible retaliatory trade actions by foreign countries,

"(iv) an estimate of the transfer of income to foreign producers which will occur by reason of the import restrictions,

"(v) the effect of the import restrictions on the current balance-of-payments account of the United States, and

"(vi) the net impact on the economy as a whole of the import restrictions, including the impact on its international competitiveness.

"(3) The chairman of the Council of Economic Advisers within 30 days of the date on which the President receives the report of the International Trade Commission, shall submit to the President and to the Congress a report on the analysis prepared under subparagraph (1)".

(b) Subsection (d) of section 201 of the Trade Act of 1974 (19 U.S.C. 2251(d)) is amended by adding at the end thereof the following new paragraph:

"(2) The Commission shall submit to the Council of Economic Advisers a copy of the report submitted by the Commission to the President under paragraph (1) at the same time such report is submitted to the President.".

SEC. 259. NOTIFICATION OF CERTAIN ACTIONS BY THE UNITED STATES CUSTOMS SERVICE.

(a) The Commissioner of Customs shall notify the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives at least 180 days prior to taking any action which would—

(1) result in a significant reduction in force of employees other than by means of attrition,

(2) eliminate or relocate any office of the United States Customs Service,

(3) eliminate any port of entry, or

(4) significantly reduce the number of employees assigned to any office of the United States Customs Service or any port of entry.

(b) The provisions of this section shall not apply after September 30, 1985.

SEC. 260. HOGS AND PORK PRODUCTS FROM CANADA.

The pork industry contributes $9,000,000,000 annually to the United States economy;

Over four hundred fifty thousand United States farmers produce pork for domestic and foreign markets;

United States imports of live hogs from Canada averaged one hundred thousand animals each year between 1970 and 1974, yet since 1981, such imports have increased yearly from one hundred forty-six thousand head to an estimated more than one million head in 1984;

The adverse economic effect of the recent surge in imports of Canadian hogs and pork products on United States pork producers has been estimated to be in excess of $500,000,000 in 1982 and 1983, and approximately $300,000,000 during the first five months of 1984;

The Canadian Government provides price support for hogs at a level equal to 90 per centum of the previous five-year average market price, indexed for changes in cash costs of production of hogs, which represented a payment of $6.54 per head to Canadian pork producers last year, and all but one provincial government of Canada also provide direct production assistance to support Canadian pork producers; and

It is essential that the administration act immediately to address the threat to the United States pork production industry caused by the dramatic increase in imports of hogs and pork products from Canada.

It is the sense of the Senate that the President should direct appropriate members of the administration, including the United States Trade Representative, the Secretary of Agriculture, and the Secretary of Commerce, to aggressively pursue discussions with the Canadian Government directed toward resolving this situation and use all available authorities in an effort to protect the economic viability of the United States pork industry and to promote free and fair trade.

TITLE III—MISCELLANEOUS AMENDMENTS TO THE TRADE ACT OF 1974

SEC. 301. SHORT TITLE; AMENDMENT OF TRADE ACT OF 1974.

(a) This title may be cited as the "International Trade and Investment Act".

(b) Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Trade Act of 1974.

SEC. 302. STATEMENT OF PURPOSES.

The purposes of this title are—

(1) to foster the economic growth of, and full employment in, the United States by expanding competitive United States exports through the achievement of commercial opportunities in foreign markets substantially equivalent to those accorded by the United States;

(2) to improve the ability of the President—

(A) to identify and to analyze barriers to (and restrictions on) United States trade and investment, and

(B) to achieve the elimination of such barriers and restrictions;

(3) to encourage the expansion of international trade in services through the negotiation of agreements (both bilateral and multilateral) which reduce or eliminate barriers to international trade in services; and

(4) to enhance the free flow of foreign direct investment through the negotiation of agreements (both bilateral and multilateral) which reduce or eliminate the trade distortive effects of certain investment-related measures.

SEC. 303. ANALYSIS OF FOREIGN TRADE BARRIERS.

(a) Title I (19 U.S.C. 2111 et seq.) is amended by adding at the end thereof the following new chapter:

"CHAPTER 8—BARRIERS TO MARKET ACCESS

"SEC. 181. ACTIONS CONCERNING BARRIERS TO MARKET ACCESS.

"(a) NATIONAL TRADE ESTIMATES.—

"(1) IN GENERAL.—Not later than the date on which the initial report is required under subsection (b)(1), the United States Trade Representative, through the interagency trade organization established pursuant to section 242(a) of the Trade Expansion Act of 1962:

"(A) identify and analyze acts, policies, or practices which constitute significant barriers to, or distortions of—

"(i) United States exports of goods or services (including agricultural commodities; and property protected by trademarks, patents, and copyrights exported or licensed by United States persons), and

"(ii) foreign direct investment by United States persons, especially if such investment has implications for trade in goods or services; and

"(B) make an estimate of the trade-distorting impact on United States commerce of

any act, policy, or practice identified under subparagraph (A).

"(2) CERTAIN FACTORS TAKEN INTO ACCOUNT IN MAKING ANALYSIS AND ESTIMATE.—In making any analysis or estimate under paragraph (1), the Trade Representative shall take into account—

"(A) the relative impact of the act, policy, or practice on United States commerce;

"(B) the availability of information to document prices, market shares, and other matters necessary to demonstrate the effects of the act, policy, or practice;

"(C) the extent to which such act, policy, or practice is subject to international agreements to which the United States is a party; and

"(D) any advice given through appropriate committees established pursuant to section 135.

"(3) ANNUAL REVISIONS AND UPDATES.—The Trade Representative shall annually revise and update the analysis and estimate under paragraph (1).

"(b) REPORT TO CONGRESS.—

"(1) IN GENERAL.—On or before the date which is one year after the date of the enactment of the International Trade and Investment Act, and each year thereafter, the Trade Representative shall submit the analysis and estimate under subsection (a) to the Committee on Finance of the Senate and to the Committee on Ways and Means of the House of Representatives.

"(2) REPORTS TO INCLUDE INFORMATION WITH RESPECT TO ACTION BEING TAKEN.—The Trade Representative shall include in each report submitted under paragraph (1) information with respect to any action taken (or the reasons for no action taken) to eliminate any act, policy, or practice identified under subsection (a), including, but not limited to—

"(A) any action under section 301, or

"(B) negotiations or consultations with foreign governments.

"(3) CONSULTATION WITH CONGRESS ON TRADE POLICY PRIORITIES.—The Trade Representative shall keep the committees described in paragraph (1) currently informed with respect to trade policy priorities for the purposes of expanding market opportunities.

"(c) ASSISTANCE OF OTHER AGENCIES.—

"(1) FURNISHING OF INFORMATION.—The head of each department or agency of the executive branch of the Government, including any independent agency, is authorized and directed to furnish to the Trade Representative or to the appropriate agency, upon request, such data, reports, and other information as is necessary for the Trade Representative to carry out his functions under this section.

"(2) RESTRICTIONS ON RELEASE OR USE OF INFORMATION.—Nothing in this subsection shall authorize the release of information to, or the use of information by, the Trade Representative in a manner inconsistent with law or any procedure established pursuant thereto.

"(3) PERSONNEL AND SERVICES.—The head of any department, agency, or instrumentality of the United States may detail such personnel and may furnish such services, with or without reimbursement, as the Trade Representative may request to assist in carrying out his functions.".

(b) The table of contents for title I is amended by adding at the end thereof the following:

"CHAPTER 8—BARRIERS TO MARKET ACCESS

"Sec. 181. Actions concerning barriers to market access.".

SEC. 304. AMENDMENTS TO TITLE III OF THE TRADE ACT OF 1974.

(a) Section 301(a) (19 U.S.C. 2411(a)) is amended to read as follows:

"(a) DETERMINATIONS REQUIRING ACTION.—

"(1) IN GENERAL.—If the President determines that action by the United States is appropriate—

"(A) to enforce the rights of the United States under any trade agreement; or

"(B) to respond to any act, policy, or practice of a foreign country or instrumentality that—

"(i) is inconsistent with the provisions of, or otherwise denies benefits to the United States under, any trade agreement, or

"(ii) is unjustifiable, unreasonable, or discriminatory and burdens or restricts United States commerce;

the President shall take all appropriate and feasible action within his power to enforce such rights or to obtain the elimination of such act, policy, or practice.

"(2) SCOPE OF ACTION.—The President may exercise his authority under this section with respect to any goods or sector—

"(A) on a nondiscriminatory basis or solely against the foreign country or instrumentality involved, and

"(B) without regard to whether or not such goods or sector were involved in the act, policy, or practice identified under paragraph (1).".

(b) Section 301(b) (19 U.S.C. 2411(b)) is amended—

(1) by striking out "and" at the end of paragraph (1);

(2) in paragraph (2)—

(A) by inserting "notwithstanding any other provision of law," before "impose";

(B) by striking out "products" and inserting in lieu thereof "goods"; and

(C) by striking out the period and inserting in lieu thereof a semicolon and "and"; and

(3) by adding at the end thereof the following:

"(3) propose legislation where necessary and appropriate to carry out the objectives of subsection (a).

Any legislation proposed under paragraph (3) shall be treated as an implementing bill pursuant to the provisions of section 151, except that, for purposes of section 151(c)(1), no trade agreement shall be required and the day on which the implementing bill is submitted shall be treated as the day on which the trade agreement is submitted. The President shall notify Congress, and publish notice in the Federal Register, of his intention to propose legislation under paragraph (3) at least ninety days before the implementing bill is submitted.".

(c)(1) Section 302 (19 U.S.C. 2412) is amended to read as follows:

"SEC. 302. INITIATION OF INVESTIGATIONS BY UNITED STATES TRADE REPRESENTATIVE.

"(a) FILING OF PETITION.—

"(1) IN GENERAL.—Any interested person may file a petition with the United States Trade Representative (hereinafter in this chapter referred to as the 'Trade Representative') requesting the President to take action under section 301 and setting forth the allegations in support of the request.

"(2) REVIEW OF ALLEGATIONS.—The Trade Representative shall review the allegations in the petition and, not later than forty-five days after the date on which he received the petition, shall determine whether to initiate an investigation.

"(b) DETERMINATIONS REGARDING PETITIONS.—

"(1) NEGATIVE DETERMINATION.—If the Trade Representative determines not to initiate an investigation with respect to a petition, he shall inform the petitioner of the reasons therefor and shall publish notice of the determination, together with a summary of such reasons, in the Federal Register.

"(2) AFFIRMATIVE DETERMINATION.—If the Trade Representative determines to initiate an investigation with respect to a petition, he shall initiate an investigation regarding the issues raised. The Trade Representative shall publish a summary of the petition in the Federal Register and shall, as soon as possible, provide opportunity for the presentation of views concerning the issues, including a public hearing—

"(A) within the thirty-day period after the date of the determination (or on a date after such period if agreed to by the petitioner) if a public hearing within such period is requested in the petition; or

"(B) at such other time if a timely request therefor is made by the petitioner or by any interested person.

"(c) DETERMINATION TO INITIATE BY MOTION OF TRADE REPRESENTATIVE.—

"(1) DETERMINATION TO INITIATE.—If the Trade Representative determines with respect to any matter that an investigation should be initiated in order to advise the President concerning the exercise of the President's authority under section 301, the Trade Representative shall publish such determination in the Federal Register and such determination shall be treated as an affirmative determination under subsection (b)(2).

"(2) CONSULTATION BEFORE INITIATION.—The Trade Representative shall, before making any determination under paragraph (1), consult with appropriate committees established pursuant to section 135.".

(2)(A) Section 141(d) is amended—

(i) by striking out "and" at the end of paragraph (6),

(ii) by striking out the period at the end of paragraph (7) and inserting in lieu thereof a semicolon and "and", and

(iii) by adding at the end thereof the following new paragraph:

"(8) provide, where authorized by law, copies of documents to persons at cost, except that any funds so received shall be credited to, and be available for use from, the account from which expenditures relating thereto were made.".

(B) Section 303 (19 U.S.C. 2413) is amended—

(i) by striking out "with respect to a petition";

(ii) by inserting "or the determination of the Trade Representative under section 302(c)(1)" after "in the petition"; and

(iii) by inserting "(if any)" after "petitioner".

(C) Section 304 (19 U.S.C. 2414) is amended by striking out "issues raised in the petition" and inserting in lieu thereof "matters under investigation" in paragraph (1) of subsection (a).

(D) The item relating to section 302 in the table of contents is amended to read as follows:

"Sec. 302. Initiation of investigations by United States Trade Representative.".

(d) Section 303 (19 U.S.C. 2413) is amended—

(1) by inserting "(a) IN GENERAL.—" before "On"; and

(2) by adding at the end thereof the following new subsection:

"(b) DELAY OF REQUEST FOR CONSULTATIONS FOR UP TO 90 DAYS.—

"(1) IN GENERAL.—Notwithstanding the provisions of subsection (a)—

"(A) the United States Trade Representative may delay for up to 90 days any request for consultations under subsection (a) for the purpose of verifying or improving the petition to ensure an adequate basis for consultation, and

"(B) if such consultations are delayed by reason of subparagraph (A), each time limitation under section 304 shall be extended for the period of such delay.

"(2) NOTICE AND REPORT.—The Trade Representative shall—

"(A) publish notice of any delay under paragraph (1) in the Federal Register, and

"(B) report to Congress on the reasons for such delay in the report required by section 306.".

(e)(1) Paragraph (1) of section 301(d) (19 U.S.C. 301(d)) is amended to read as follows:

"(1) DEFINITION OF COMMERCE.—The term 'commerce' includes, but is not limited to—

"(A) services (including transfers of information) associated with international trade, whether or not such services are related to specific goods, and

"(B) foreign direct investment by United States persons with implications for trade in goods or services.".

(2) Section 301(d) (19 U.S.C. 2411(d)) is amended by adding at the end thereof the following new paragraphs:

"(3) DEFINITION OF UNREASONABLE.—The term 'unreasonable' means any act, policy, or practice which, while not necessarily in violation of or inconsistent with the international legal rights of the United States, is otherwise deemed to be unfair and inequitable. The term includes, but is not limited to, any act, policy, or practice which denies fair and equitable—

"(A) market opportunities;

"(B) opportunities for the establishment of an enterprise; or

"(C) provision of adequate and effective protection of intellectual property rights.

"(4) DEFINITION OF UNJUSTIFIABLE.—

"(A) IN GENERAL.—The term 'unjustifiable' means any act, policy, or practice which is in violation of, or inconsistent with, the international legal rights of the United States.

"(B) CERTAIN ACTIONS INCLUDED.—The term 'unjustifiable' includes, but is not limited to, any act, policy, or practice described in subparagraph (A) which denies national or most-favored-nation treatment, the right of establishment, or protection of intellectual property rights.

"(5) DEFINITION OF DISCRIMINATORY.—The term 'discriminatory' includes where appropriate any act, policy, or practice which denies national or most-favored-nation treatment to United States goods, services, or investment.".

(3) Section 301(d) (19 U.S.C. 2411(d)) is amended by striking out the heading and inserting in lieu thereof:

"(d) DEFINITIONS; SPECIAL RULE FOR VESSEL CONSTRUCTION SUBSIDIES.—For purposes of this section—".

(f) Section 305 of the Trade Act of 1974 (19 U.S.C. 2415) is amended by adding at the end thereof the following new subsection:

"(c) CERTAIN BUSINESS INFORMATION NOT MADE AVAILABLE.—

"(1) IN GENERAL.—Except as provided in paragraph (2), and notwithstanding any other provision of law (including section 552 of title 5, United States Code), no information requested and received by the Trade Representative in aid of any investigation under this chapter shall be made available to any person if—

"(A) the person providing such information certifies that—

"(i) such information is business confidential,

"(ii) the disclosure of such information would endanger trade secrets or profitability, and

"(iii) such information is not generally available;

"(B) the Trade Representative determines that such certification is well-founded; and

"(C) to the extent required in regulations prescribed by the Trade Representative, the person providing such information provides an adequate nonconfidential summary of such information.

"(2) USE OF INFORMATION.—The Trade Representative may—

"(A) use such information, or make such information available (in his own discretion) to any employee of the Federal Government for use, in any investigation under this chapter, or

"(B) may make such information available to any other person in a form which cannot be associated with, or otherwise identify, the person providing the information.".

SEC. 305. NEGOTIATING OBJECTIVES WITH RESPECT TO INTERNATIONAL TRADE IN SERVICES AND INVESTMENT AND HIGH TECHNOLOGY INDUSTRIES.

(a)(1) Chapter 1 of title I is amended by inserting immediately after section 104 the following new section:

"SEC. 104A. NEGOTIATING OBJECTIVES WITH RESPECT TO TRADE IN SERVICES, FOREIGN DIRECT INVESTMENT, AND HIGH TECHNOLOGY PRODUCTS.

"(a) TRADE IN SERVICES.—Principal United States negotiating objectives under section 102 shall be—

"(1) to reduce or to eliminate barriers to, or other distortions of, international trade in services (particularly United States service sector trade in foreign markets), including barriers that deny national treatment and the rights of establishment and operation in such markets; and

"(2) to develop internationally agreed rules, including dispute settlement procedures, which—

"(A) are consistent with the commercial policies of the United States, and

"(B) will reduce or eliminate such barriers or distortions and help ensure open international trade in services: Provided, That in pursuing these objectives, United States negotiators shall take into account legitimate United States domestic objectives including, but not limited to, the protection of legitimate health or safety, essential security, environmental, consumer or employment opportunity and the laws and regulations related thereto.

"(b) FOREIGN DIRECT INVESTMENT.—Principal United States negotiating objectives under section 102 shall be—

"(1) to reduce or to eliminate artificial or trade-distorting barriers to foreign direct investment, to expand the principle of national treatment, and to reduce unreasonable barriers to establishment; and

"(2) to develop internationally agreed rules, including dispute settlement procedures, which—

"(A) will help ensure a free flow of foreign direct investment, and

"(B) will reduce or eliminate the trade distortive effects of certain investment related measures: Provided, That in pursuing these objectives including, but not limited to, the protection of legitimate United States health and safety, essential security, environmental, consumer or employment opportunity interests and the laws and regulations related thereto.

"(c) HIGH TECHNOLOGY PRODUCTS.—Principal United States negotiating objectives shall be—

"(1) to obtain and preserve the maximum openness with respect to international trade and investment in high technology products and related services;

"(2) to obtain the elimination or reduction of, or compensation for, the significantly distorting effects of, foreign government acts, policies, or practices identified in section 181, with particular consideration given to the nature and extent of foreign government intervention affecting United States exports of high technology products or investments in high technology industries, including—

"(A) foreign industrial policies which distort international trade or investment;

"(B) measures which deny national treatment or otherwise discriminate in favor of domestic high technology industries;

"(C) measures which fail to provide adequate and effective means for foreign nationals to secure, exercise, and enforce exclusive rights in intellectual property (including trademarks, patents, and copyrights);

"(D) measures which impair access to domestic markets for key commodity products; and

"(E) measures which facilitate or encourage anticompetitive market practices or structures;

"(3) to obtain commitments that official policy of foreign countries or instrumentalities will not discourage government or private procurement of foreign high technology products and related services;

"(4) to obtain the reduction or elimination of all tariffs on, and other barriers to, United States exports of high technology products and related services;

"(5) to obtain commitments to foster national treatment;

"(6) to obtain commitments to—

"(A) foster the pursuit of joint scientific cooperation between companies, institutions or governmental entities of the United States and those of the trading partners of the United States in areas of mutual interest through such measures as financial participation and technical and personnel exchanges, and

"(B) ensure that access by all participants to the results of any such cooperative efforts should not be impaired; and

"(7) to provide effective minimum safeguards for the acquisition and enforcement of intellectual property rights and the property value of proprietary data.

"(d) DEFINITION OF BARRIERS AND OTHER DISTORTIONS.—For purposes of subsection (a), the term 'barriers to, or other distortions of, international trade in services' includes, but is not limited to—

"(1) barriers to the right of establishment in foreign markets, and

"(2) restrictions on the operation of enterprises in foreign markets, including—

"(A) direct or indirect restrictions on the transfer of information into, or out of, the country or instrumentality concerned, and

"(B) restrictions on the use of data processing facilities within or outside of such country or instrumentality.".

(2) The table of contents for chapter 1 of title I is amended by inserting after the item relating to section 104 the following new item:

"Sec. 104A. Negotiating objectives with respect to trade in services, foreign direct investment, and high technology products.".

SEC. 306. PROVISIONS RELATING TO INTERNATIONAL TRADE IN SERVICES.

(a)(1) The United States Trade Representative, through the interagency trade organization established pursuant to section 242(a) of the Trade Expansion Act of 1962 or any subcommittee thereof, shall, in conformance with other provisions of law, develop (and coordinate the implementation of) United States policies concerning trade in services.

(2) In order to encourage effective development and coordination of United States policies on trade in services, each department or agency of the United States responsible for the regulation of any service sector industry shall, as appropriate, advise and work with the United States Trade Representative concerning matters that have come to the department's or agency's attention with respect to—

(A) the treatment afforded United States service sector interests in foreign markets, or

(B) allegations of unfair practices by foreign governments or companies in a service sector.

(3) Nothing in this section shall be construed to alter any existing authority or responsibility with respect to any specific service sector.

(b)(1) The Secretary of Commerce is authorized to establish a service industries development program. Such program shall be designed to—

(A) promote competitiveness of United States service firms and American employees through appropriate economic policies;

(B) promote actively the use and sale of United States services abroad and develop trade opportunities for United States service firms;

(C) develop a data base for policymaking pertaining to services;

(D) collect and analyze, in consultation with appropriate agencies, information pertaining to the international operations and competitiveness of United States service industries, including information with respect to—

(i) United States regulation of service industries;

(ii) tax treatment of services, with particular emphasis on the effect of United States taxation on the international competitiveness of United States firms and exports;

(iii) antitrust policies as such policies affect the competitiveness of United States firms;

(iv) treatment of services in international agreements of the United States; and

(v) adequacy of current United States export promotion activities in the service sector. For purposes of the collection and analysis required by this subsection, and for the purpose of any reporting the Department of Commerce makes to the Congress of the United States, such collection and reporting shall distinguish between income from investment and income from noninvestment services;

(E) provide, together with other appropriate agencies, staff support for negotiations on service-related issues by the United States Trade Representative and the domestic implementation of service-related agreements;

(F) collect such statistical information on the domestic service sector as may be necessary for the development of governmental policies toward the service sector;

(G) conduct sectoral studies of domestic service industries;

(H) collect comparative international information on service industries and policies of foreign governments toward services;

(I) develop policies to strengthen the export competitiveness of domestic service industries;

(J) conduct a program of research and analysis of service-related issues and problems, including forecasts and industrial strategies; and

(K) provide statistical, analytical, and policy information to State and local governments and service industries.

(2) The Secretary of Commerce shall carry out the program under this subsection from funds otherwise made available to him which may be used for such purposes.

(c)(1) It is the policy of Congress that the President shall, as he deems appropriate—

(A) consult with State governments on issues of trade policy affecting the regulatory authority of non-Federal governments, or their procurement of goods and services; and

(B) establish one or more intergovernmental policy advisory committees on trade which shall serve as a principal forum in which State and local governments may consult with the Federal Government with respect to the matters described in subparagraph (A).

(2) Section 135 (19 U.S.C. 2155) is amended—

(A) by inserting "and the non-Federal governmental sector" after "private sector" in subsection (a),

(B) by adding at the end of subsection (c) the following new paragraph:

"(3) The President—

"(A) may establish policy advisory committees representing non-Federal governmental interests to provide, where the President finds it necessary, policy advice—

"(i) on matters referred to in subsection (a), and

"(ii) with respect to implementation of trade agreements, and

"(B) shall include as members of committees established under paragraph (2) representatives of non-Federal governmental interests where he finds such inclusion appropriate after consultation by the Trade Representative with such representatives.";

(C) by inserting "or non-Federal government" after "private" each place it appears in subsections (g) and (j);

(D) by inserting "government," before "labor" in subsection (j); and

(E) by adding at the end thereof the following new subsection:

"(m) NON-FEDERAL GOVERNMENT DEFINED.—The term 'non-Federal government' means—

"(1) any State, territory, or possession of the United States, or the District of Columbia, or any political subdivision thereof, or

"(2) any agency or instrumentality of any entity described in paragraph (1).";" and

(F) by inserting "or Public" after "Private" in the heading thereof.

(3)(A) Section 124(c) (19 U.S.C. 2114(c)) is amended by inserting "or non-Federal governmental" after "private".

(B) Sections 303 (19 U.S.C. 2413) and 304(b)(2) (19 U.S.C. 2414(b)(2)) are each amended by striking out "private sector".

(C) The table of sections for chapter 3 of title I is amended by inserting "and public" after "private" in the item relating to section 135.

SEC. 307. NEGOTIATING AUTHORITY WITH RESPECT TO FOREIGN DIRECT INVESTMENT.

(a) Paragraph (3) of section 102(g) (19 U.S.C. 2112(g)(3)) is amended to read as follows:

"(3) the term 'international trade' includes—

"(A) trade in both goods and services, and

"(B) foreign direct investment by United States persons, especially if such investment has implications for trade in goods and services.".

(b)(1) If the United States Trade Representative, with the advice of the committee established by section 242 of the Trade Expansion of 1962 (19 U.S.C. 1872), determines that action by the United States is appropriate to respond to any export performance requirements of any foreign country or instrumentality that adversely affect the economic interests of the United States, then the United States Trade Representative shall seek to obtain the reduction and elimination of such export performance requirements through consultations and negotiations with the foreign country or instrumentality concerned.

(2) In addition to the action referred to in subsection (1), the United States Trade Representative may impose duties or other import restrictions on the products or services of such foreign country or instrumentality for such time as he determines appropriate, including the exclusion from entry into the United States of products subject to such requirements.

(3) Whenever the international obligations of the United States and actions taken under subsection (2) make compensation necessary or appropriate, compensation may be provided by the United States Trade Representative subject to the limitations and conditions contained in section 123 of the Trade Act of 1974 (19 U.S.C. 2133) for providing compensation for actions taken under section 203 of that Act.

SEC. 308. NEGOTIATION OF AGREEMENTS CONCERNING HIGH TECHNOLOGY INDUSTRIES.

(a) The President may enter into such bilateral or multilateral agreements as may be necessary or appropriate to achieve the objectives of this section and the negotiating objectives under section 104A(c) of the Trade Act of 1974.

(b)(1) Chapter 2 of title I is amended by inserting at the end thereof the following new section:

"SEC. 128. MODIFICATION AND CONTINUANCE OF TREATMENT WITH RESPECT TO DUTIES ON HIGH TECHNOLOGY PRODUCTS.

"(a) In order to carry out any agreement concluded as a result of the negotiating objectives under section 104A(c), the President may proclaim, subject to the provisions of chapter 3—

"(1) such modification, elimination, or continuance of any existing duty, duty-free, or excise treatment, or

"(2) such additional duties,

as he deems appropriate.

"(b) The President shall exercise his authority under subsection (a) only with respect to the following items listed in the Tariff Schedules of the United States (19 U.S.C. 1202):

"(1) Transistors (provided for in item 587.70, part 5, schedule 6).

"(2) Diodes and rectifiers (provided for in item 687.72, part 5, schedule 6).

"(3) Monolithic integrated circuits (provided for in item 687.74, part 5, schedule 6).

"(4) Other integrated circuits (provided for in item 687.77, part 5, schedule 6).

"(5) Other components (provided for in item 687.81, part 5, schedule 6).

"(6) Parts of semiconductors (provided for in item 687.85, part 5, schedule 6).

"(7) Parts of automatic data-processing machines and units thereof (provided for in item 676.52, part 4G, schedule 6) other than parts incorporating a cathode ray tube.

"(c) TERMINATION.—The President may exercise his authority under this section only during the 5-year period beginning on the date of the enactment of the International Trade and Investment Act.".

(2) The table of contents of chapter 1 of title I is amended by adding at the end thereof the following new item:

"Sec. 128. Modification and continuance of treatment with respect to duties on high technology products.".

SEC. 309. DISAPPROVAL OF PRESIDENTIAL DETERMINATIONS UNDER SECTION 203 OF THE TRADE ACT OF 1974.

(a)(1) Paragraph (1) of section 203(c) of the Trade Act of 1974 (19 U.S.C. 2253(c)(1)) is amended to read as follows:

"(1) If the President reports under subsection (b) that he is taking action which differs from the action recommended by the Commission under section 201(d)(1)(A), or that he will not provide import relief, the action recommended by the Commission shall take effect (as provided in paragraph (2)) upon enactment of a joint resolution described in section 152(a)(1)(A) within the 90-day period beginning on the date on which the document referred to in subsection (b) is transmitted to the Congress.".

(2) Paragraph (2) of section 203(c) of the Trade Act of 1974 (19 U.S.C. 2253(c)(2)) is amended—

(A) by striking out "adoption of such resolution" and inserting in lieu thereof "enactment of the joint resolution referred to in paragraph (1)", and

(B) by striking out "section 201(b)" and inserting in lieu thereof "section 201(d)".

(b) Subparagraph (A) of section 152(a)(1) of the Trade Act of 1974 (19 U.S.C. 2192(a)(1)(A)) is amended by striking out "concurrent resolution" and inserting in lieu thereof "joint resolution".

(c) Paragraph (4) of section 330(d) of the Tariff Act of 1930 (19 U.S.C. 1330(d)(4)) is amended by striking out "the concurrent resolution described in such section 152" and inserting in lieu thereof "the joint resolution described in such section 152(a)(1)(A)".

TITLE IV—TRADE WITH ISRAEL AND CANADA

SEC. 401. NEGOTIATION OF TRADE AGREEMENTS TO REDUCE TRADE BARRIERS.

(a) Subsection (b) of section 102 of the Trade Act of 1974 (19 U.S.C. 2112(b)) is amended—

(1) by striking out "Whenever" and inserting in lieu thereof "(1) Whenever", and

(2) by adding at the end thereof the following new paragraphs:

"(2) Trade agreements that provide for the elimination or reduction of any duty imposed by the United States may be entered into under paragraph (1) only with Israel or Canada: Provided, That the negotiation of such eliminations or reductions takes fully into account any product that benefits from a discriminatory preferential tariff arrangement between Israel and a third country, if the tariff preference on such product has been the subject of a challenge by the United States Government under the authority of section 301 of the Trade Act of 1974 and the General Agreement on Tariffs and Trade.

"(3) Notwithstanding any other provision of law, no trade benefit shall be extended to any country by reason of the extension of any trade benefit to Israel or Canada under a trade agreement entered into under paragraph (1) with Israel or Canada.

"(4)(A) Notwithstanding paragraph (2), a trade agreement that provides for the elimination or reduction of any duty imposed by the United States may be entered into under paragraph (1) with any country other than Israel or Canada if—

"(i) such country requested the negotiation of such an agreement, and

"(ii) the President, at least 60 days prior to the date notice is provided under subsection (e)(1)—

"(I) provides written notice of such negotiations to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives, and

"(II) consults with such committees regarding the negotiation of such agreement.

"(B) The provisions of section 151 shall not apply to an implementing bill (within the meaning of section 151(b)) if—

"(i) such implementing bill contains a provision approving of any trade agreement which—

"(I) is entered into under this section with any country other than Israel or Canada, and

"(II) provides for the elimination or reduction of any duty imposed by the United States, and

"(ii) either—

"(I) the requirements of subparagraph (A) were not met with respect to the negotiation of such agreement, or

"(II) the Committee on Finance of the Senate or the Committee on Ways and Means of the House of Representatives disapproved of the negotiation of such agreement before the close of the 60-day period which begins on the date notice is provided under subsection (A)(ii)(I) with respect to the negotiation of such agreement.

"(C) The 60-day period described in subparagraphs (A)(ii) and (B)(ii)(II) shall be computed without regard to—

"(i) the days on which either House of Congress is not in session because of an adjournment of more than 3 days to a day certain or an adjournment of the Congress sine die, and

"(ii) any Saturday and Sunday, not excluded under clause (i), when either House of Congress is not in session.".

(b) Paragraph (1) of section 102(g) of the Trade Act of 1974 (19 U.S.C. 2112(g)) is amended to read as follows:

"(1) the term 'barrier' includes—

"(A) the American selling price basis of customs evaluation as defined in section 402 or 402a of the Tariff Act of 1930, as appropriate, and

"(B) any duty or other import restriction;".

(c)(1) Section 102 of the Trade Act of 1974 (19 U.S.C. 2112) is amended by striking out "Nontariff" in the heading.

(2) The table of contents of the Trade Act of 1974 is amended by striking out "Nontariff" in the item relating to section 102.

(d) Paragraph (1) of section 151(b) of the Trade Act of 1974 (19 U.S.C. 2191(b)(1)) is amended—

(1) by striking out "and" at the end of subparagraph (B),

(2) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof "; and", and

(3) by adding at the end thereof the following new subparagraph:

"(D) if such agreement is with Israel—

"(i) provisions which require articles imported from Israel to meet requirements similar to the requirements provided in section 213(a) of the Caribbean Basin Economic Recovery Act, and

"(ii) provisions which establish emergency relief similar to the emergency relief provided in section 213(f) of the Caribbean Basin Economic Recovery Act from articles imported from Israel which are like, or directly competitive with, perishable products produced in the United States, with the term 'perishable products' meaning the following—

"(I) vegetables provided for in Schedule 1, Part 8 of the TSUS;

"(II) edible nuts and fruits provided for in Schedule 1, Part 9 of the TSUS;

"(III) fresh cut flowers provided for in items 192.17, 192.18, and 192.21 of the TSUS; and

"(IV) concentrated citrus fruit juice provided for in items 165.25 and 165.35 of the TSUS.".

SEC. 402. JOINT COMMISSION TO RESOLVE ECONOMIC DISPUTES BETWEEN THE UNITED STATES AND CANADA.

Subsection (b) of section 612 of the Trade Act of 1974 (19 U.S.C. 2486(b)) is amended to read as follows:

"(b) The President is authorized to seek (through an agreement) establishment of a joint commission to resolve trade and other economic issues between the United States and Canada.".

TITLE V—GENERALIZED SYSTEM OF PREFERENCES

SEC. 501. SHORT TITLE; STATEMENT OF PURPOSE.

(a) This title may be cited as the "Generalized System of Preferences Renewal Act of 1984".

(b) The purpose of this title is to—

(1) promote the development of developing countries, which often need temporary preferential advantages to compete effectively with industrialized countries;

(2) promote the notion that trade, rather than aid, is a more effective and cost-efficient way of promoting broad-based sustained economic development;

(3) take advantage of the fact that developing countries provide the fastest growing markets for United States exports and that foreign exchange earnings from trade with such countries through the Generalized System of Preferences can further stimulate United States exports;

(4) allow for the consideration of the fact that there are significant differences among developing countries with respect to their general development and international competitiveness;

(5) encourage the providing of increased trade liberalization measures, thereby setting an example to be emulated by other industrialized countries;

(6) recognize that a large number of developing countries must generate sufficient foreign exchange earnings to meet international debt obligations;

(7) promote the creation of additional opportunities for trade among the developing countries;

(8) integrate developing countries into the international trading system with its attendant responsibilities in a manner commensurate with their development;

(9) encourage developing countries to eliminate or to reduce significant barriers to trade in goods and services and to investment, and

(10) address the concerns listed in the preceding paragraphs in a manner that—

(A) does not adversely affect United States producers and workers, and

(B) conforms to the international obligations of the United States under the General Agreement on Tariffs and Trade.

SEC. 502. 10-YEAR EXTENSION OF THE GENERALIZED SYSTEM OF PREFERENCES.

(a) Section 505 of the Trade Act of 1974 (19 U.S.C. 2465) is amended to read as follows:

"SEC. 505. TERMINATION OF DUTY-FREE TREATMENT.

"No duty-free treatment provided under this title shall remain in effect after January 3, 1995.".

(b) The table of contents of the Trade Act of 1974 is amended by striking out the item relating to section 505 and inserting in lieu thereof the following:

"Sec. 505. Termination of duty-free treatment.".

SEC. 503. CONSIDERATION OF A BENEFICIARY DEVELOPING COUNTRY'S COMPETITIVENESS IN EXTENDING PREFERENCES.

Section 501 of the Trade Act of 1974 (19 U.S.C. 2461) is amended—

(1) by striking out "and" at the end of paragraph (2),

(2) by striking out the period at the end of paragraph (3) and inserting in lieu thereof "; and", and

(3) by adding at the end thereof the following new paragraph:

"(4) the extent of the beneficiary developing country's competitiveness with respect to eligible articles.".

SEC. 504. AMENDMENTS RELATING TO THE BENEFICIARY DEVELOPING COUNTRY DESIGNATION CRITERIA AND THE PROVISION OF PROTECTION FOR INTELLECTUAL PROPERTY.

(a) Paragraph (4) of section 502(b) of the Trade Act of 1974 (19 U.S.C. 2462(b)) is amended—

(1) by inserting ", including patents, trademarks, or copyrights," after "control of property" in subparagraphs (A) and (B), and

(2) by inserting ", including patents, trademarks, or copyrights" after "control of such property" in subparagraph (C).

(b) Subsection (c) of section 502 of the Trade Act of 1974 (19 U.S.C. 2462) is amended—

(1) by striking out "and" at the end of paragraph (3),

(2) by striking out the period at the end of paragraph (4) and of inserting in lieu thereof the following: "and the extent to which such country has assured the United States that it will refrain from engaging in unreasonable export practices;", and

(3) by adding at the end thereof the following new paragraphs:

"(5) the extent to which such country is providing adequate and effective means under its laws for foreign nationals to secure, to exercise, and to enforce exclusive rights in intellectual property, including patents, trademarks, and copyrights; and

"(6) the extent to which such country has taken action to reduce trade distorting investment practices and policies (including export performance requirements).".

SEC. 505. ARTICLES WHICH MAY NOT BE DESIGNATED AS ELIGIBLE ARTICLES.

Paragraph (1) of section 503(c) of the Trade Act of 1974 (19 U.S.C. 2463(c)(1)) is amended by striking out subparagraph (B) and inserting in lieu thereof the following new subparagraph:

"(3) footwear, handbags, luggage, flat goods, work gloves, and leather wearing apparel which were not eligible articles for purposes of this title on April 1, 1984,".

SEC. 506. LIMITATIONS ON PREFERENTIAL TREATMENT.

(a) Subsection (a) of section 504 of the Trade Act of 1974 (19 U.S.C. 2464) is amended—

(1) by striking out "The President" and inserting in lieu thereof "(1) The President", and

(2) by adding at the end thereof the following new paragraph:

"(2) The President shall, as necessary, advise the Congress and, by no later than January 4, 1988, submit to the Congress a report on the application of sections 501 and 502(c), with particular emphasis on—

"(A) the extent to which beneficiary developing countries have—

"(i) assured the United States that such countries will provide equitable and reasonable access to the markets and basic commodity resources of such countries,

"(ii) provided adequate and effective means for foreign nationals to secure, to exercise, and to enforce exclusive rights in intellectual property, including patents, trademarks, and copyrights, and

"(iii) taken action to reduce trade-distorting investment practices and policies (including export performance requirements), and

"(B) the actions the President has taken to withdraw, to suspend, or to limit the application of duty-free treatment with respect to any country which has failed to adequately take the actions described in subparagraph (A).".

(b) Subsections (c) and (d) of section 504 of the Trade Act of 1974 (19 U.S.C. 2464 (c) and (d)) are amended to read as follows:

"(c)(1) Whenever the President determines that any country—

"(A) has exported (directly or indirectly) to the United States during a calendar year a quantity of an eligible article having an appraised value in excess of an amount which bears the same ratio to $25,000,000 as the gross national product of the United States for the preceding calendar year (as determined by the Department of Commerce) bears to the gross national product of the United States for calendar year 1974, or

"(B) except as provided in subsection (d), has exported (either directly or indirectly) to the United States a quantity of any eligible article equal to or exceeding 50 percent of the appraised value of the total imports of such article into the United States during any calendar year,

then, not later than 90 days after the close of such calendar year, such country shall not be treated as a beneficiary developing country with respect to such article.

"(2)(A) Not later than January 4, 1987, and periodically thereafter, the President shall conduct a general review of eligible articles based on the considerations described in section 501 or 502(c).

"(B) If, after any review under subparagraph (A), the President determines that this subparagraph should apply because a beneficiary developing country has demonstrated a sufficient degree of competitiveness (relative to other beneficiary developing countries) with respect to any eligible article, then paragraph (1) shall be applied to such country with respect to such article by substituting—

"(i) '1984' for '1974' in subparagraph (A), and

"(ii) '25 percent' for '50 percent' in subparagraph (B).

"(3)(A) Not earlier than January 4, 1987, the President may waive the application of this subsection with respect to any eligible article of any beneficiary developing country if, before the 90th day after the close of the calendar year for which a determination described in paragraph (1) was made with respect to such eligible article, the President—

"(i) receives the advice of the International Trade Commission on whether any industry in the United States is likely to be adversely affected by such waiver,

"(ii) determines, based on the considerations described in sections 501 and 502(c) and the advice described in clause (i), that such waiver is in the national economic interest of the United States, and

"(iii) publishes the determination described in clause (ii) in the Federal Register.

"(B) In making any determination under subparagraph (A), the President shall give great weight to—

"(i) the extent to which the beneficiary developing country has assured the United States that such country will provide equitable and reasonable access to the markets and basic commodity resources of such country, and

"(ii) the extent to which such country provides adequate and effective means under its law for foreign nationals to secure, to exercise, and to enforce exclusive rights in intellectual property, including patent, trademark, and copyright rights.

"(C) Any waiver granted pursuant to this paragraph shall remain in effect until the President determines that such waiver is no longer warranted due to changed circumstances.

"(4) Except in any case to which paragraph (2)(B) applies, the President may waive the application of this subsection if, before the 90th day after the close of the calendar year for which a determination described in paragraph (1) was made, the President determines and publishes in the Federal Register that, with respect to such country—

"(A) there has been an historical preferential trade relationship between the United States and such country,

"(B) there is a treaty or trade agreement in force covering economic relations between such country and the United States, and

"(C) such country does not discriminate against, or impose unjustifiable or unreasonable barriers to, United States commerce.

"(5) A country which is no longer treated as a beneficiary developing country with respect to an eligible article by reason of this subsection may be redesignated a beneficiary developing country with respect to such article, subject to the provisions of sections 501 and 502, if imports of such article from such country did not exceed the limitations in paragraph (1) (after application of paragraph (2)) during the preceding calendar year.

"(6)(A) This subsection shall not apply to any beneficiary developing country which the President determines, based on the considerations described in sections 501 and 502(c), to be a least-developed beneficiary developing country.

"(B) The President shall—

"(i) make a determination under subparagraph (A) with respect to each beneficiary developing country before July 4, 1985, and periodically thereafter, and

"(ii) notify the Congress at least 60 days before any such determination becomes final.

"(7) For purposes of this subsection, the term 'country' does not include an association of countries which is treated as one

country under section 502(a)(3), but does include a country which is a member of any such association.

"(d)(1) Subsection (c)(1)(B) (after application of subsection (c)(2)) shall not apply with respect to any eligible article if a like or directly competitive article is not produced in the United States on January 3, 1985.

"(2) The President may disregard subsection (c)(1)(B) with respect to any eligible article if the appraised value of the total imports of such article into the United States during the preceding calendar year is not in excess of an amount which bears the same ratio to $1,000,000 as the gross national product of the United States for that calendar year (as determined by the Department of Commerce) bears to the gross national product of the United States for calendar year 1979.".

SEC. 507. IMPLEMENTATION OF CUSTOMS CONVENTION ON CONTAINERS, 1972.

(a) Subpart C of part 1 of schedule 8 is amended—

(1) by amending headnote 1 to such subpart by inserting ", accessories and equipment" immediately before the period at the end thereof; and

(2) by amending the article description for item 808.00 by striking out ", and repair components" and all that follows thereafter and inserting in lieu thereof ", repair components for containers of foreign production which are instruments of international traffic, and accessories and equipment for such containers, whether or not the accessories and equipment are imported with a container to be reexported separately or with another container, or imported separately to be reexported with a container.".

(b) Subsection (a) of section 322 of the Tariff Act of 1930 (19 U.S.C. 1322(a)) is amended by striking out "granted the customary exceptions" and inserting in lieu thereof "excepted".

SEC. 508. DATE OF LIQUIDATION OR RELIQUIDATION.

(a)(1) Section 505 of the Tariff Act of 1930 (19 U.S.C. 1505) is amended by adding at the end thereof the following new subsection:

"(c) Duties determined to be due on liquidation or reliquidation shall be due 15 days after the date of that liquidation or reliquidation, and unless payment of the duties is received by the appropriate customs officer within 30 days after that date, shall be considered delinquent and bear interest from the date of liquidation or reliquidation at a rate determined by the Secretary of the Treasury.".

(2) The amendment made by paragraph (1) shall take effect on the 30th day after the date of the enactment of this Act.

(b)(1) Section 520 of the Tariff Act of 1930 (19 U.S.C. 1520) is amended by adding at the end thereof the following new subsection.

"(d) If a determination is made to reliquidate an entry as a result of a protest filed under section 514 of this Act or an application for relief made under subsection (c)(1) of this section, or if reliquidation is ordered by an appropriate court, interest shall be allowed on any amount paid as increased or additional duties under section 505(c) of this Act at the annual rate established pursuant to that section and determined as of the 15th day after the date of liquidation or reliquidation. The interest shall be calculated from the date of payment to the date of (1) the refund, or (2) the filing of a summons under section 2632 of title 28, United States Code, whichever occurs first.".

(2) The amendment made by paragraph (1) shall apply with respect to reliquidation determinations made or ordered on or after the date of the enactment of this Act.

SEC. 509. EFFECTIVE DATE.

The amendments made by this title shall take effect on January 4, 1985.

TITLE VI—SMALL BUSINESS TRADE REMEDIES

SEC. 601. SHORT TITLE; REFERENCES.

(a) This title may be cited as the "Small Business Trade Remedies Act of 1984".

(b) Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a title, subtitle, part, section, or other provision, the reference shall be considered to be made to a title, subtitle, part, section, or other provision of the Tariff Act of 1930 (19 U.S.C. 1202 et seq.).

SEC. 602. ESTABLISHMENT OF SMALL BUSINESS TRADE ASSISTANCE OFFICE.

Part 2 of title II (19 U.S.C. 1330-1341) is amended by inserting after section 338 the following new section:

"SEC. 339. SMALL BUSINESS TRADE ASSISTANCE OFFICE.

"(a) There is established within the Department of Commerce a Small Business Trade Assistance Office which shall provide full information to the public, upon request, concerning—

"(1) remedies and benefits available under the trade laws, and

"(2) the petition and application procedures, and the appropriate filing dates, with respect to such remedies and benefits.

"(b) Each agency responsible for administering a trade law shall provide technical assistance to eligible small businesses to enable them to prepare and file petitions and applications (other than those which, in the opinion of the agency, are frivolous) for the remedies and benefits that may be available under such law.

"(c) For purposes of this section—

"(1)(A) The term 'eligible small business' means any business concern which, in the agency's judgment, due to the small size of such concern, has neither the adequate internal resources nor financial ability necessary to obtain qualified outside assistance in preparing and filing petitions and applications for remedies and benefits available under the trade laws.

"(B) In determining whether a business concern is an 'eligible small business', the agency may consult with the Small Business Administration and shall consult with any other agency that has provided assistance under subsection (b) to that business concern.

"(C) An agency decision regarding whether a business concern is an eligible small business for purposes of this section is not reviewable by any other agency or by any court.

"(2) The term 'trade laws' includes, but is not limited to—

"(A) chapter 1 of title II of the Trade Act of 1974 (19 U.S.C. 2251 et seq., relating to relief caused by import competition);

"(B) chapters 2 and 3 of such title II (relating to adjustment assistance for workers and firms);

"(C) chapter 1 of title III of the Trade Act of 1974 (19 U.S.C. 2411 et seq., relating to relief from foreign import restrictions and export subsidies);

"(D) title VII of the Tariff Act of 1930 (19 U.S.C. 1671 et seq., relating to the imposition of countervailing duties and antidumping duties);

"(E) section 232 of the Trade Expansion Act of 1962 (19 U.S.C. 1862, relating to the safeguarding of national security); and

"(F) section 337 of the Tariff Act of 1930 (19 U.S.C. 1337, relating to unfair practices in import trade).".

SEC. 603. JUDICIAL REVIEW OF CERTAIN ACTIONS BY COURT OF APPEALS FOR THE FEDERAL CIRCUIT.

(a) Paragraphs (1)(A), (1)(B), and (2)(A) of section 516A(a) (19 U.S.C. 1561a(a)) are each amended by striking out all that follows "in which the matter arises" and inserting in lieu thereof "may appeal such determination to the Court of Appeals for the Federal Circuit, contesting any factual findings or legal conclusions upon which the determination is based."

(b)(1) Section 516A of the Tariff Act of 1930 (19 U.S.C. 1516a) is amended—

(A) by striking out subsection (a)(3),

(B) by striking out "United States Court of International Trade, or of the Court of Appeals for the Federal Circuit" in subsection (c)(1) and inserting in lieu thereof "Court of Appeals for the Federal Circuit",

(C) by striking out "the United States Court of International Trade" each place it appears in subsections (c)(2) and (d) and inserting in lieu thereof "the Court of Appeals for the Federal Circuit",

(D) by striking out "action" each place it appears in subsection (d) and inserting in lieu thereof "appeal", and

(E) by striking out "of the United States Court of International Trade or" in subsection (e).

(2) Each of the following provisons of title 28, United States Code, and any references to any such provision, are repealed:

(A) Section 1581(c).

(B) Section 2631(c).

(C) Section 2632(c).

(D) Section 2635(b).

(E) Section 2636(c).

(F) Section 2636(d).

(G) Section 2640(b).

(3) Section 1295(a) of title 28, United States Code, is amended by—

(A) striking out "and" at the end of paragraph (9);

(B) striking out the period at the end of paragraph (10) and inserting in lieu thereof "; and"; and

(C) adding at the end thereof the following:

"(11) of appeals described in section 516A of the Tariff Act of 1930.

For purposes of paragraph (11), the provisions of section 516A of the Tariff Act of 1930 shall apply to such appeal and, except to the extent it is inconsistent with such section, the Court of Appeals for the Federal Circuit may take such action on appeal as may be taken pursuant to this title.".

(4) Section 2631(j)(1) of title 28, United States Code, is amended—

(A) by inserting "and" at the end of subparagraph (A),

(B) by striking out subparagraph (B), and

(C) by redesignating subparagraph (C) as subparagraph (B).

(5) Section 2639(a)(1) of title 28, United States Code, is amended by striking out "516, or 516A" and inserting in lieu thereof "or 516".

(6) Section 2647 of title 28, United States Code, is amended to read as follows:

"§ 2647. Precedence of cases

"The following civil actions in the Court of International Trade shall be given precedence, in the following order, over other civil actions pending before the Court, and shall be assigned for hearing at the earliest practicable date and expedited in every way

"(1) First, a civil action involving the exclusion of perishable merchandise or the redelivery of such merchandise.

"(2) Second, a civil action commenced under section 515 of the Tariff Act of 1930 involving the exclusion or redelivery of merchandise.

"(3) Third, a civil action commenced under section 516 of the Tariff Act of 1930.".

(c) The amendments made by this section shall apply to agency determinations made on or after the date of the enactment of this Act.

SEC. 604. INDUSTRY-LABOR COALITIONS TREATED AS INTERESTED PARTIES.

(a) Paragraph (9) of section 771 (19 U.S.C. 1655) is amended—

(1) by striking out "and" at the end of subparagraph (D);

(2) by striking out the period at the end of subparagraph (E) and inserting in lieu thereof ", and"; and

(3) by adding at the end thereof the following new subparagraph:

"(F) an association, a majority of whose members is composed of interested parties described in subparagraph (C), (D), or (E) with respect to a like product.".

(b) Title VII is amended by striking out "subparagraph (C), (D), or (E) of section 771(9)" each place it appears and inserting in lieu thereof "subparagraph (C), (D), (E), or (F) of section 771(9)".

SEC. 605. HEARINGS.

Section 774(a) (19 U.S.C. 1677c(a)) is amended to read as follows:

"(a) INVESTIGATION HEARINGS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the administering authority and the Commission shall each hold a hearing in the course of an investigation upon the request of any party to the investigation before making a final determination under section 705 or 735.

"(2) EXCEPTION.—If investigations are initiated under subtitle A and subtitle B regarding the same merchandise from the same country within 6 months of each other (but before a final determination is made in either investigation), the holding of a hearing by the Commission in the course of one of the investigations shall be treated as compliance with paragraph (1) for both investigations, unless the Commission considers that special circumstances require that a hearing be held in the course of each of the investigations. During any investigation regarding which the holding of a hearing is waived under this paragraph, the Commission shall allow any party to submit such additional written comment as it considers relevant.".

SEC. 606. RELEASE OF CONFIDENTIAL INFORMATION.

Section 777 (19 U.S.C. 1677f) is amended—

(1) by striking out "submitted)" in the first sentence of subsection (b) and inserting in lieu thereof "submitted, or an officer or employee of the United States Customs Service who is directly involved in conducting an investigation regarding fraud under this title)",

(2) by striking out the second sentence of subsection (b) and inserting in lieu thereof the following new sentence: "The administering authority and the Commission shall require that information for which confidential treatment is requested be accompanied by—

"(A) either—

"(i) a nonconfidential summary in sufficient detail to permit a reasonable understanding of the substance of the information submitted in confidence, or

"(ii) a statement that the information is not susceptible to summary accompanied by a statement of the reasons in support of the contention, and

"(B) either—

"(i) a statement which permits the administering authority to release under administrative protective order, in accordance with subsection (c), the information submitted in confidence, or

"(ii) a statement that the information should not be released under administrative protective order."; and

(3) by inserting "(before or after receipt of the information requested)" after "application," in subsection (c)(1)(A).

SEC. 607. ADJUSTMENTS STUDY.

The Secretary of Commerce shall undertake a study of the current practices that are applied in the making of adjustments to purchase prices and exporter's sales prices under sections 772 (d) and (e) (19 U.S.C. 1677a (d) and (e)) and foreign market value and constructed value under section 773 (19 U.S.C. 1677b) in determining antidumping duties. The study shall include, but not be limited to—

(1) a review of the types of adjustments currently being made;

(2) a review of private sector comments and recommendations regarding the subject that were made at congressional hearings during the first session of the ninety-eighth Congress; and

(3) the manner and extent to which such adjustments lead to inequitable results.

Within one year after the date of the enactment of this Act, the Secretary of Commerce shall complete the study required under this section and shall submit to Congress a written report regarding the study and containing such recommendations as the Secretary deems appropriate regarding the need, and the means, for simplifying and modifying current practices in the making of such adjustments.

SEC. 608. SAMPLING AND AVERAGING IN DETERMINING UNITED STATES PRICE AND FOREIGN MARKET VALUE.

(a) Subtitle D of title VII (19 U.S.C. 1677a et seq.) is amended by adding immediately after section 777 the following new section:

"SEC. 777A. SAMPLING AND AVERAGING.

"(a) IN GENERAL.—For the purpose of determining United States price or foreign market value under sections 772 and 773, and for purposes of carrying out annual reviews under section 751, the administering authority may—

"(1) use averaging or generally recognized sampling techniques whenever a significant volume of sales is involved or a significant number of adjustments to prices is required, and

"(2) decline to take into account adjustments which are insignificant in relation to the price or value of the merchandise.

"(b) SELECTION OF SAMPLES AND AVERAGES.—The authority to select appropriate samples and averages shall rest exclusively with the administering authority; but such samples and averages shall be representative of the transactions under investigation.".

(b) Subsection (f) of section 773 (19 U.S.C. 1677b(f)) is repealed.

(c) The table of contents for title VII is amended by inserting after the entry for section 777 the following:

"Sec. 777A. Sampling and averaging.".

SEC. 609. WAIVER OF VERIFICATION.

Subsection (b) of section 703 (19 U.S.C. 1671b(b)) is amended by adding at the end thereof the following new paragraph:

"(3) PRELIMINARY DETERMINATION UNDER WAIVER OF VERIFICATION.—Within 55 days after the initiation of an investigation the administering authority shall cause an official designated for such purpose to review the information concerning the case received during the first 50 days of the investigation, and, if there appears to be sufficient information available upon which the determination can reasonably be based, to disclose to the petitioner and any interested party, then a party to the proceedings that requests such disclosure, all available nonconfidential information and all other information which is disclosed pursuant to section 777. Within 3 days (not counting Saturdays, Sundays, or legal public holidays) after such disclosure, the petitoner and each party which is an interested party described in subparagraph (C), (D), (E), or (F) of section 771(9) to whom such disclosure was made may furnish to the administering authority an irrevocable written waiver of verification of the information received by the authority, and an agreement that it is willing to have a determination made on the basis of the record then available to the authority. If a timely waiver and agreement have been received from the petitioner and each party which is an interested party described in subparagraph (C), (D), (E), or (F) of section 771(9) to whom the disclosure was made, and the authority finds that sufficient information is then available upon which the preliminary determination can reasonably be based, a preliminary determination shall be made on an expedited basis on the basis of the record established during the first 50 days after the investigation was initiated.".

SEC. 610. TERMINATION OF INVESTIGATIONS INITIATED BY ADMINISTERING AUTHORITY.

Sections 704 and 734 are each amended by adding at the end thereof the following new subsection:

"(k) TERMINATION OF INVESTIGATIONS INITIATED BY ADMINISTERING AUTHORITY.—The administering authority may terminate any investigation initiated by the administering authority under section 702(a) after providing notice of such termination to all parties to the investigation.".

SEC. 611. COMMENTS ON SUSPENSION AGREEMENTS.

Sections 704(e)(3) and 734(e)(3) are each amended by striking out "all parties to the investigation" and inserting in lieu thereof "all interested parties described in section 771(9)".

SEC. 612. FINAL DETERMINATION OF CRITICAL CIRCUMSTANCES.

(a)(1) Paragraph (2) of section 705(a) is amended by adding at the end thereof the following new sentence: "Such findings may be affirmative even though the preliminary determination under section 703(e)(1) was negative.".

(2) Subsection (c) of section 705 is amended by adding at the end thereof the following new paragraph:

"(4) EFFECT OF AFFIRMATIVE DETERMINATION UNDER SUBSECTION (a)(2).—If the determination of the administering authority under subsection (a)(2) is affirmative, then the administering authority shall—

"(A) in cases where the preliminary determinations by the administering authority under sections 703(b) and 703(e)(1) were both affirmative, continue the retroactive suspension of liquidation and the posting of a cash deposit, bond, or other security previously ordered under section 703(e)(2);

"(B) in cases where the preliminary determination by the administering authority under section 703(b) was affirmative, but the preliminary determination under sec-

tion 703(e)(1) was negative, shall modify any suspension of liquidation and security requirement previously ordered under section 703(d) to apply to unliquidated entries of merchandise entered, or withdrawn from warehouse, for consumption on or after the date which is 90 days before the date on which suspension of liquidation was first ordered; or

"(C) in cases where the preliminary determination by the administering authority under section 703(b) was negative, shall apply any suspension of liquidation and security requirement ordered under subsection 705(c)(1)(B) to unliquidated entries of merchandise entered, or withdrawn from warehouse, for consumption on or after the date which is 90 days before the date on which suspension of liquidation is first ordered.".

(3) Subparagraph (A) of section 705(c)(3) is amended by inserting "paragraph (4) or" after "under".

(b)(1) Paragraph (3) of section 735(a) is amended by adding at the end thereof the following new sentence: "Such findings may be affirmative even though the preliminary determination under section 733(e)(1) was negative.".

(2) Subsection (c) of section 735 is amended by adding at the end thereof the following new paragraph:

"(4) EFFECT OF AFFIRMATIVE DETERMINATION UNDER SUBSECTION (a)(3).—If the determination of the administering authority under subsection (a)(3) is affirmative, then the administering authority shall—

"(A) in cases where the preliminary determinations by the administering authority under sections 733(b) and 733(e)(1) were both affirmative, continue the retroactive suspension of liquidation and the posting of a cash deposit, bond, or other security previously ordered under section 733(e)(2);

"(B) in cases where the preliminary determination by the administering authority under section 733(b) was affirmative, but the preliminary determination under section 733(e)(1) was negative, shall modify any suspension of liquidation and security requirement previously ordered under section 733(d) to apply to unliquidated entries of merchandise entered, or withdrawn from warehouse, for consumption on or after the date which is 90 days before the date on which suspension of liquidation was first ordered; or

"(C) in cases where the preliminary determination by the administering authority under section 733(b) was negative, shall apply any suspension of liquidation and security requirement ordered under subsection 735(c)(1)(B) to unliquidated entries of merchandise entered, or withdrawn from warehouse, for consumption on or after the date which is 90 days before the date on which suspension of liquidation is first ordered.".

(3) Subparagraph (A) of section 735(c)(3) is amended by inserting "paragraph (4) or" after "under".

SEC. 613. WAIVER OF DEPOSIT OF ESTIMATED ANTIDUMPING DUTIES.

Paragraph (1) of section 736(c) is amended by inserting "and was sold to any person that is not related to such manufacturer, producer, or exporter" after "for consumption".

SEC. 614. CONDITIONAL PAYMENT OF COUNTERVAILING DUTIES.

Subtitle A of title VII is amended by adding at the end thereof the following new section:

"SEC. 708. CONDITIONAL PAYMENT OF COUNTERVAILING DUTY.

"(a) IN GENERAL.—For all entries, or withdrawals from warehouse, for consumption of merchandise subject to a countervailing duty order on or after the date of publication of such order, no customs officer may deliver merchandise of that class or kind to the person by whom or for whose account it was imported unless that person complies with the requirement of subsection (b) and deposits with the appropriate customs officer an estimated countervailing duty in an amount determined by the administering authority.

"(b) IMPORTER REQUIREMENTS.—In order to meet the requirements of this subsection, a person shall—

"(1) furnish, or arrange to have furnished, to the appropriate customs officer such information as the administering authority deems necessary for ascertaining any countervailing duty to be imposed under this subtitle,

"(2) maintain and furnish to the customs officer such records concerning such merchandise as the administering authority, by regulation, requires, and

"(3) pay, or agree to pay on demand, to the customs officer the amount of countervailing duty imposed under this subtitle on that merchandise.".

SEC. 615. DRAWBACKS.

Title VII is amended—

(1) by striking out section 740, and

(2) by adding at the end of subtitle D the following new section:

"SEC. 780. DRAWBACKS.

"For purposes of any law relating to the drawback of customs duties, countervailing duties and antidumping duties imposed by this title shall be treated as any other customs duties.".

SEC. 616. DUTIES OF CUSTOMS OFFICERS.

Subtitle B of title VII is amended by striking out section 739.

SEC. 617. COMMERCIAL QUANTITIES OF MERCHANDISE.

(a) Section 771(17) and paragraphs (1)(A) and (4)(A) of section 773(a) are each amended by striking out "wholesale quantities" each place it appears in the heading and the text and inserting in lieu thereof "commercial quantities".

(b) Paragraph (14) of section 771 is amended by striking out "at wholesale" and inserting in lieu thereof "in commercial quantities".

SEC. 618. RESELLER'S PRICE TAKEN INTO ACCOUNT IN DETERMINING PURCHASE PRICE.

Subsection (b) of section 772 is amended by inserting "a reseller or" after "date of importation, from".

SEC. 619. FOREIGN MARKET VALUE.

(a) Paragraph (1) of section 773(a) (19 U.S.C. 1677b(a)) is amended by striking out "time of exportation of such merchandise to the United States" and inserting in lieu thereof "time such merchandise is first sold within the United States by the person for whom (or for whose account) the merchandise is imported to any other person who is not described in subsection (e)(3) with respect to such person".

(b) Section 773 (19 U.S.C. 1677b) is amended by adding at the end thereof the following new subsection:

"(g) EXPORTATION FROM AN INTERMEDIATE COUNTRY.—If—

"(1) a reseller purchases the merchandise from the manufacturer or producer of the merchandise,

"(2) the manufacturer or producer of the merchandise does not know (at the time of the sale to such reseller) the country to which such reseller intends to export the merchandise,

"(3) the merchandise is exported by, or on behalf of, such reseller to a country other than the United States,

"(4) the merchandise enters the commerce of such country but is not substantially transformed in such country, and

"(5) the merchandise is subsequently exported to the United States,

such country shall be treated, for purposes of this section, as the country from which the merchandise was exported.

SEC. 620. SUBSIDIES DISCOVERED DURING PROCEEDING.

Section 775 is amended by striking out "investigation" each place it appears in the text and in the heading and inserting in lieu thereof "proceeding".

SEC. 621. RECORDS OF EX PARTE MEETINGS.

Paragraph (3) of section 777(a) (19 U.S.C. 1677f(a)(3)) is amended to read as follows:

"(3) EX PARTE MEETINGS.—The administering authority and the Commission shall maintain a record of any ex parte meeting between—

"(A) interested parties or other persons providing factual information in connection with a proceeding, and

"(B) the person charged with making the determination, or any person charged with making a final recommendation to that person, in connection with that proceeding, if information relating to that proceeding was presented or discussed at such meeting. The record of such an ex parte meeting shall include the identity of the persons present at the meeting, the date, time, and place of the meeting, and a summary of the matters discussed or submitted. The record of the ex parte meeting shall be included in the record of the proceeding.".

SEC. 622. CONFIDENTIAL INFORMATION.

Section 777 (19 U.S.C. 1677f), as amended by section 605, is further amended—

(1) by striking out "confidential information" each place it appears in the text and headings of subsections (a)(4)(A) and (c) and in the heading of subsection (b) and inserting in lieu thereof "proprietary business information",

(2) by striking out "confidential" each place it appears in subsections (a)(4)(B) and (b) and inserting in lieu thereof "proprietary business information",

(3) by striking out "nonconfidential summary" in subsection (b)(1)(A)(i) and inserting in lieu thereof "summary that is not to be treated as proprietary business information which is", and

(4) by striking out "nonconfidential submissions" in the heading for paragraph (4) of subsection (a) and inserting in lieu thereof "submissions that are not proprietary business information".

SEC. 623. INTEREST.

Section 778 (19 U.S.C. 1677g) is amended to read as follows:

"SEC. 778. INTEREST ON CERTAIN OVERPAYMENTS AND UNDERPAYMENTS.

"(a) GENERAL RULE.—Interest shall be payable on overpayments and underpayments of amounts deposited on merchandise entered, or withdrawn from warehouse, for consumption on and after—

"(1) the date of publication of a countervailing or antidumping duty order under this title or section 303, or

"(2) the date of a finding under the Antidumping Act, 1921.

"(b) RATE.—The rate of interest payable under subsection (a) for any period of time is the rate of interest established under section 6621 of the Internal Revenue Code of 1954 for such period.".

SEC. 624. SMALL BUSINESS INTERNATIONAL TRADE ADVOCATE.

(a) ESTABLISHMENT OF OFFICE.—The Secretary of Commerce shall establish within the Department of Commerce the Small Business International Trade Advocate Office which shall be headed by the Small Business International Trade Advocate (hereinafter in this section referred to as the "Advocate").

(b) FUNCTIONS OF ADVOCATE.—

(1) IN GENERAL.—The Advocate shall assist small businesses in the preparation for, and participation in, any proceedings relating to the administration of the trade laws of the United States.

(2) INITIATION AND INTERVENTION.—The Advocate—

(A) may, at the request of any person—

(i) initiate an investigation under section 702(a) or 732(a) of the Tariff Act of 1930 in the same manner as the administering authority, and

(ii) intervene in any administrative proceeding under title VII of such Act if the Advocate determines such person is a small business which is unable to finance initiation of, or participation in, such a proceeding, and

(B) shall, for purposes of subparagraph (A)(ii), have all rights under title VII of such Act to which an interested party is entitled.

(3) REQUESTS FOR INVESTIGATIONS.—The Advocate may each fiscal year request the United States International Trade Commission to conduct not more than 3 investigations (similar to investigations under section 332(g) of the Tariff Act of 1930) to assist small businesses in preparing for proceedings under title VII of such Act.

(c) SMALL BUSINESS.—For purposes of this section, the term "small business" means a small business concern (within the meaning of section 3 of the Small Business Act).

(d) REPORT TO CONGRESS.—Each fiscal year the Advocate shall report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives with respect to its activities during the preceding fiscal year.

(e) AUTHORIZATION.—There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

(f) EFFECTIVE DATE.—The provisions of this section shall apply to fiscal years beginning after September 30, 1984.

SEC. 625. EFFECTIVE DATES.

(a) Except as provided in subsection (b), this title, and the amendments made by this title, shall take effect on the date of the enactment of this Act.

(b)(1) The amendments made by sections 604 and 608 shall apply with respect to investigations initiated by petition or by the administering authority under subtitles A and B of title VII of the Tariff Act of 1930 on or after the date of enactment of this Act.

(2) The amendments made by section 603 shall apply with respect to determinations made under section 303 or title VII of the Trade Act of 1930 after the date of enactment of this Act.

TITLE VII—TRADE LAW REFORM

SEC. 701. REFERENCE.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a title, subtitle, part, section, or other provision, the reference shall be considered to be made to a title, subtitle, part, section, or other provision of the Tariff Act of 1930 (19 U.S.C. 1202 et seq.).

SEC. 702. BURDEN OF PERSUASION.

Section 751 of the Tariff Act of 1930 (19 U.S.C. 1675) is amended by adding at the end of subsection (b)(1) the following: "During an investigation by the Commission, the party seeking revocation of an antidumping order shall have the burden of persuasion with respect to whether there are changed circumstances sufficient to warrant revocation of the antidumping order."

SEC. 703. CONSIDERATION OF CUMULATIVE IMPACT OF IMPORTS.

Subparagraph (E) of section 771(7) (19 U.S.C. 1677(7)(E)) is amended by adding at the end thereof the following new clause:

"(iii) CUMULATION.—In determining material injury or threat of material injury under section 703, 705, 733, or 735 of this subtitle, the Commission shall consider the cumulative impact of imports from two or more countries subject to investigation under section 701 or 703 or subject to final orders under section 706 or 736, as appropriate, if, after reviewing the factors and conditions of trade, the Commission determines that:

"(I) the marketing of such imports is reasonably coincident, and

"(II) imports from each source have contributed to the overall material injury to the industry resulting from imports.".

SEC. 704. THREAT OF MATERIAL INJURY.

Paragraph (7) of section 771 (19 U.S.C. 1677(7)) is amended by inserting after subparagraph (E) the following new subparagraph:

"(F) THREAT OF MATERIAL INJURY.—

"(i) IN GENERAL.—In determining whether an industry in the United States is threatened with material injury by reason of imports (or sales for importation) of any merchandise, the Commission shall consider, among other relevant economic factors—

"(I) if a subsidy is involved, such information as may be presented to it by the administering authority as to the nature of the subsidy (particularly as to whether the subsidy is an export subsidy inconsistent with the Agreement),

"(II) any increase in production capacity or existing unused capacity in the exporting country likely to result in a significant increase in imports of the merchandise to the United States,

"(III) any rapid increase in United States market penetration and the likelihood that the penetration will increase to an injurious level,

"(IV) the probability that imports of the merchandise will enter the United States at prices that will have a depressing or suppressing effect on domestic prices of the merchandise,

"(V) any substantial increase in inventories of the merchandise in the United States,

"(VI) the presence of underutilized capacity for producing the merchandise in the exporting country, and

"(VII) any other demonstrable adverse trends that indicate the probability that the importation (or sale for importation) of the merchandise (whether or not it is actually being imported at the time) will be the cause of actual injury.

"(VIII) the potential for product-shifting if production facilities owned or controlled by the foreign manufacturers, which can be used to produce products subject to investigation(s) under section 701 or 731 or to find orders under section 706 or 736, are also used to produce the merchandise under investigation.

"(ii) BASIS FOR DETERMINATION.—Any determination by the Commission under this title that an industry in the United States is threatened with material injury shall be made on the basis of evidence that the threat of material injury is real and that actual injury is imminent. Such a determination may not be made on the basis of mere conjecture or supposition.

SEC. 705. VERIFICATION OF AMOUNT OF NET SUBSIDY.

Section 771(6) (19 U.S.C. 1677) is amended by inserting "verified" before "amount".

SEC. 706. NO COMPROMISES OF COUNTERVAILING OR ANTIDUMPING DUTY CASES.

Section 617 (19 U.S.C. 1617) is amended—

(1) by striking out "Upon" and inserting in lieu thereof "(a) Upon",

(2) by adding at the end thereof the following new subsection:

"(b) This section shall not apply to any claim arising with respect to any duty imposed by title VII of this Act.".

SEC. 707. REVOCATION OF COUNTERVAILING DUTY ORDERS.

(a) Paragraph (2) of section 104(b) of the Trade Agreements Act of 1979 (19 U.S.C. 1671, note) is amended by adding at the end thereof the following new sentence: "A negative determination by the Commission under this paragraph shall not be based, in whole or in part, on any export taxes, duties, or other charges levied on the export of merchandise to the United States specifically intended to offset the subsidy received.".

(b) Section 751 (19 U.S.C. 1675) is amended by adding, "The administering authority shall not revoke, in whole or in part, a countervailing duty order or terminate a suspended investigation on the basis of any export taxes, duties, or other charges levied on the export of merchandise to the United States specifically intended to offset the subsidy received." after the first sentence of subsection (c).

SEC. 708. INDUSTRY AND LABOR ASSOCIATIONS TREATED AS INTERESTED PARTIES.

(a) Paragraph (9) of section 771 (19 U.S.C. 1677(9)) is amended—

(1) by striking out "and" at the end of subparagraph (D);

(2) by striking out the period at the end of subparagraph (E) and inserting in lieu thereof ", and"; and

(3) by adding at the end thereof the following new subparagraph:

"(F) an association, a majority of whose members is composed of interested parties described in subparagraph (C), (D), or (E) with respect to a like product.".

(b) Title VII is amended by striking out "subparagraph (C), (D), or (E) of section 771(9)" each place it appears and inserting in lieu thereof "subparagraph (C), (D), (E), or (F) of section 771(9)".

SEC. 709. SIMULTANEOUS INVESTIGATIONS.

Section 705(a)(1) is amended to read as follows:

"(1) IN GENERAL.—Within 75 days after the date of the preliminary determination under section 703(b), the administering authority shall make a final determination of whether or not a subsidy is being provided with respect to the merchandise; except that when an investigation under this subtitle is initiated simultaneously with an investigation under subtitle B, which involves imports of the same class or kind of merchandise from the same or other countries, the administering authority, if requested by the petitioner, shall extend the date of the final determination under this paragraph to the date of the final determination of the administering authority in such investigation initiated under subtitle B.".

SEC. 710. SUBSIDIES.

Section 771 (19 U.S.C. 1677) is amended by adding at the end thereof the following new paragraph:

"(18) UPSTREAM SUBSIDY.—

"(A) IN GENERAL.—The term 'upstream subsidy' means any subsidy described in subparagraph (A) or (C) of paragraph (5) which—

"(i) is paid or bestowed by the government of a country with respect to a product that is used in the manufacture or production in such country of merchandise which is the subject of an investigation under subtitle A,

"(ii) results in a price for the product for such use that is lower than the generally available price of the product in such country, and

"(iii) has a significant effect on the cost of manufacturing or producing the merchandise.

In applying this paragraph, an association of 2 or more foreign countries, political subdivisions, dependent territories, or possessions of foreign countries organized into a customs union outside the United States shall be treated as one country if the subsidy is provided by the customs union.

"(B) ADJUSTMENT OF GENERALLY AVAILABLE PRICE IN CERTAIN CIRCUMSTANCES.—If the administering authority decides that the generally available price for a product within the country of the manufacture, production, or export of the merchandise under investigation is artificially depressed by reason of any subsidy, or because of sales thereof in such country at less than fair value, the administering authority shall adjust such generally available price so as to offset such depression before applying subparagraph (A)(ii).

"(C) INCLUSION OF AMOUNT OF SUBSIDY.—If the administering authority decides, during the course of an investigation under subtitle A, that an upstream subsidy is being or has been paid or bestowed with respect to the merchandise under investigation, the administering authority shall include in the amount of any countervailing duty imposed under that subtitle on the merchandise an amount equal to the difference between the prices referred to in subparagraph (A)(ii), adjusted, if appropriate, for artificial depression.".

SEC. 711. COUNTERVAILING DUTIES APPLY ON COUNTRY-WIDE BASIS.

Subsection (a) of section 706 (19 U.S.C. 1671e(a)) is amended—

(1) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and

(2) by adding after paragraph (1) the following new paragraph:

"(2) shall presumptively apply to all merchandise of such class or kind exported from the country investigated, except that if—

"(A) the administering authority determines there is a significant differential between companies receiving subsidy benefits, or

"(B) a State-owned enterprise is involved, the order may provide for differing countervailing duties,".

SEC. 712. SPECIAL RULES REGARDING DOWNSTREAM DUMPING.

(a) Section 771 of the Tariff Act of 1930 (19 U.S.C. 1677) is amended by adding a new paragraph (18) to read as follows:

"(18) DOWNSTREAM DUMPING.—

"(1) DEFINITION.—Downstream dumping occurs when—

"(A) a material or component incorporated in merchandise subject to investigation under subtitle B is purchased from another country by the manufacturer or producer at a price that is below its foreign market value (as determined under subtitle B without regard to this subsection),

"(B) that purchase price—

"(i) is lower than the generally available price of the material or component in the country of manufacture or production, or

"(ii) if in the judgment of the administering authority the generally available price of the material or component in the country of manufacture or production is artificially depressed by reason of other sales at below foreign market value, is lower than the price at which the material or component would be generally available in such country but for such depression, and

"(C) the amount of the downstream dumping with respect to that component or material, as defined in section 773(e)(2), has a significant effect on the cost of manufacturing or producing the merchandise under investigation.".

(b) Section 773 of the Tariff Act of 1930 (19 U.S.C. 1677b) is amended as follows:

(1) By amending paragraph (a) to insert a new subparagraph (3) to read as follows:

"(3) Whenever the administering authority determines that 'downstream dumping,' as defined in section 771(18), of a material or component used in the manufacture of the final export product is occurring or has occurred, then notwithstanding paragraph (1), the foreign market value may be the constructed value of the merchandise as determined under subsection (e) of this section.".

(2) By amending paragraph (a)(2) by striking out "under subsection (e) of this section" and inserting "under subsection (e)(1) of this section".

(c) Section 773 of the Tariff Act of 1930 (19 U.S.C. 1677b) is amended as follows:

(1) By renumbering subsection (b) as paragraph (b)(1) and inserting a new paragraph (b)(2) to read as follows:

"(2) Whenever the administering authority has reasonable grounds to believe or suspect that 'downstream dumping,' as defined in section 771(18), of a material or component incorporated in final export product is occurring or has occurred, the administering authority shall determine whether 'downstream dumping' of such material or component has in fact occurred, and if so, shall determine the constructed value of the merchandise under investigation pursuant to subsection (e).".

(2) By renumbering subsection (e) as subsection (e)(1) and by adding a new paragraph (e)(2) to read as follows:

"(2) If the administering authority determines that the downstream dumping of a material or component incorporated in the final export product is occurring or has occurred, the administering authority shall, in calculating the cost of the material or component pursuant to subsection (e)(1), include an amount equal to the difference between—

"(A) the price referred to in paragraph (1)(A) at which the material or component was purchased, and

"(B) either—

"(i) the generally available price, referred to in paragraph (1)(B)(i), of the material or component or

"(ii) the price, referred to in paragraph (1)(B)(ii), of the material or component that would pertain but for artificial depression,

whichever is appropriate, except that in no event shall the amount be greater than the amount by which the foreign market value of the material or component exceeds its purchase price.".

(d) Section 733 of the Tariff Act of 1930 (19 U.S.C. 1673b) is amended by adding at the end thereof the following new subsection:

"(b)(1) Whenever the administering authority concludes, prior to a preliminary determination under section 733(b), that there is a reasonable basis to believe or suspect that downstream dumping is occurring, the time period within which a preliminary determination must be made shall be extended to 250 days after the filing of a petition under section 732(b) or commencement of an investigation under section 732(a) (310 days in cases declared extraordinarily complicated under section 733(c)), if the administering authority concludes that such additional time is necessary to make the required determination concerning downstream dumping.

"(2) Whenever the administering authority concludes, after a preliminary determination under section 733(b), that there is a reasonable basis to believe or suspect that downstream dumping is occurring:

"(A) in cases in which the preliminary determination was negative, the time period within which a final determination must be made shall be extended to 165 days under section 735(a)(1) or 225 days under section 735(a)(2), as appropriate; or,

"(B) in cases in which the preliminary determination is affirmative, the determination concerning downstream dumping:

"(i) need not be made until the conclusion of the first annual review of any eventual Antidumping Duty Order under section 751, or, at the option of the petitioner,

"(ii) will be made in the investigation and the time period within which a final determination must be made shall be extended to 165 days under section 735(a)(1) or 225 days under section 735(a)(2), as appropriate, except that the suspension of liquidation ordered in the preliminary determination shall terminate at the end of 120 days from the date of publication of that determination and not be resumed unless and until the publication of an Antidumping Duty Order under section 736(a).

There may be an extension of time for the making of a final determination under this subsection only if the administering authority determines that such additional time is necessary to make the required determination concerning downstream dumping.".

SEC. 713. QUANTITATIVE RESTRICTION AGREEMENTS.

(a) Subsection (c) of section 734 (19 U.S.C. 1673c(c)) is amended by adding at the end thereof the following new paragraph:

"(3) QUANTITATIVE RESTRICTIONS AGREEMENTS.—The administering authority may accept an agreement with—

"(A) the government of the country in which the merchandise which is the subject of the investigation was produced, or

"(B) the exporters of such merchandise who account for substantially all the imports of such merchandise,

to restrict the volume of imports of such merchandise into the United States if the agreement will eliminate completely the injurious effect of the exports of the merchandise to the United States.".

(b) Subsection (d) of section 734 (19 U.S.C. 1673c(d)) is amended by adding at the end thereof the following new paragraph:

"(3) REGULATIONS GOVERNING ENTRY OR WITHDRAWALS.—In order to carry out an agreement concluded under subsection (b) or (c) of this section, the administering authority is authorized to prescribe regulations governing the entry, or withdrawal

from warehouse, for consumption of merchandise covered by such agreement.".

SEC. 714. SECURITY IN LIEU OF ESTIMATED DUTY.

(a) Paragraph (1) of section 736(c) (19 U.S.C. 1673e(c)) is amended to read as follows:

"(1) CONDITIONS FOR WAIVER OF DEPOSIT OF ESTIMATED DUTIES.—The administering authority may permit, for not more than 90 days after the date of publication of an order under subsection (a), the posting of a bond or other security in lieu of the deposit of estimated antidumping duties required under subsection (a)(3) if—

"(A) the case has not been designated as extraordinarily complicated by reason of—

"(i) the number and complexity of the transactions to be investigated or adjustments to be considered,

"(ii) the novelty of the issues presented, or

"(iii) the number of firms whose activities must be investigated,

or the final determination has not been postponed under section 735(a)(2)(A);

"(B) on the basis of information presented to it by any manufacturer, producer, or exporter in such form and within such time as it may require, it is satisfied that it will be able to determine, within 90 days after the date of publication of an order under subsection (a), the foreign market value and the United States price for all merchandise of such manufacturer, producer, or exporter described in that order which was entered, or withdrawn from warehouse, for consumption on or after the date of publication of—

"(i) an affirmative preliminary determination by the administering authority under section 733(b), or

"(ii) if its determination under section 733(b) was negative, an affirmative final determination by the administering authority under section 735(a),

and before the date of publication of the affirmative final determination by the Commission under section 735(b);

"(C) the party submitting the information provides credible evidence that the weighted average of the amount by which the foreign market value of the merchandise exceeds the United States price of the merchandise is significantly less than the amount of such excess specified in the antidumping duty order published under subsection (a); and

"(D) the data concerning the foreign market value and the United States price apply to sales in the usual wholesale quantities and in the ordinary course of trade and the number of such sales are sufficient to form an adequate basis for comparison".

(b) Paragraph (2) of section 736(c) (19 U.S.C. 1673e(c)(2)) is amended by designating the current text of paragraph (2) as subparagraph (B) and by inserting prior thereto the following new subparagraph:

"(A) PROVISION OF CONFIDENTIAL INFORMATION; WRITTEN COMMENTS.—Before determining whether to permit the posting of bond or other security in lieu of the deposit of estimated antidumping duties under paragraph (1), the administering authority shall—

"(i) make all confidential information supplied to the administering authority under paragraph (1) available under protective order to all interested parties described in subparagraph (C), (D), (E), or (F) of section 771(9) who are parties to the proceeding, and

"(ii) afford all interested parties an opportunity to file written comments on whether the posting of bond or other security in lieu of the deposit of estimated antidump- ing duties under paragraph (1) should be permitted.".

SEC. 715. EXPORT VALIDATION REQUIREMENT FOR STEEL PRODUCTS.

Section 626 (19 U.S.C. 1626) is amended to read as follows:

"SEC. 626. STEEL PRODUCTS TRADE ENFORCEMENT.

"In order to monitor and enforce export measures required by a foreign government or customs union, the Secretary of the Treasury may, upon receipt of a request by the President of the United States and by a foreign government or customs union, require the presentation of a valid export license or other documents issued by such foreign government or customs union as a condition for entry into the United States of steel products specified in the request. The Secretary may provide by regulation for the terms and conditions under which such merchandise attempted to be entered without an accompanying valid export license or other documents may be denied entry into the United States.".

SEC. 716. SALES FOR IMPORTATION.

(a)(1) Subsection (a) of section 701 (19 U.S.C. 1671(a)) is amended—

(A) by inserting ", or sold (or likely to be sold) for importation," after "imported" in paragraph (1);

(B) by inserting "or by reason of sales (or the likelihood of sales) of that merchandise for importation" immediately after "by reason of imports of that merchandise" in paragraph (2); and

(C) by adding at the end thereof the following new sentence: "For purposes of this subsection and section 705(b)(1), a reference to the sale of merchandise includes the entering into of any leasing arrangement regarding the merchandise that is equivalent to the sale of the merchandise.".

(2) Section 705(b)(1) (19 U.S.C. 1671(b)(1)) is amended by inserting ", or sales (or the likelihood of sales) for importation," immediately after "by reason of imports".

(b) Section 731 (19 U.S.C. 1673) is amended (1) by inserting "or by reason of sales (or the likelihood of sales) of that merchandise for importation" immediately after "by reason of imports of that merchandise" in paragraph (2), and (2) by adding at the end thereof the following new sentence: "For purposes of this section and section 735(b)(1), a reference to the sale of foreign merchandise includes the entering into of any leasing arrangement regarding the merchandise that is equivalent to the sale of the merchandise.".

(c) Section 735 (19 U.S.C. 1673d) is amended by adding ", or sales (or the likelihood of sales) for importation," after "by reason of imports" in paragraph (1) of subsection (b).

(d) subsection (a) of sections 703 and 733 (19 U.S.C. 1671b and 1673b) are amended by adding "or sales (or the likelihood of sales) for importation," after "by reason of imports".

SEC. 717. SALES FOR FUTURE DELIVERY AND IRREVOCABLE OFFERS.

Sections 702 and 732 (19 U.S.C. 1671a and 1673a) are each amended by adding at the end thereof the following new subsection:

"(e) SPECIAL RULES.—In making determinations under paragraph (1) of subsection (c), the existence of sales for future delivery or irrevocable offers to sell the merchandise that is the subject of the petition may be a basis for an affirmative determination.".

SEC. 718. HISTORY OF IMPORTS IN SUFFICIENT VOLUME.

Sections 702 and 732 (19 U.S.C. 1671a and 1673a) are each amended by adding at the end thereof the following new subsection:

"(f) SPECIAL RULES.—In making determinations under paragraph (1) of subsection (c), the absence of a history of imports in sufficient volume to be a present cause of material injury shall not be a basis for a decision not to initiate an investigation if a sufficient allegation of threat of material injury is made.".

TITLE VIII—TRADE WITH NONMARKET ECONOMIES

SECTION 801. CREATION OF ARTIFICIAL PRICING INVESTIGATION REMEDY.

(a) AMENDMENT OF TITLE VII.—Title VII of the Tariff Act of 1930 (19 U.S.C. 1671 et seq.) is amended by redesignating subtitles C and D as subtitles D and E, respectively, and by inserting after subtitle B the following new subtitle:

"Subtitle C—Imposition of Artificial Pricing Duties

"SEC. 741. ARTIFICIAL PRICING DUTIES IMPOSED.

"(a) IN GENERAL.—If—

"(1) the administering authority determines that a class or kind of merchandise which is the product of a nonmarket economy country is being, or is likely to be, sold in the United States at an artificial price, and

"(2) in the case of a country which is a party to the General Agreement on Tariffs and Trade, or which is a country under the Agreement pursuant to section 701(b), the Commission determines that—

"(A) an industry in the United States—

"(i) is materially injured, or

"(ii) is threatened with material injury, or

"(B) the establishment of an industry in the United States is materially retarded,

by reason of imports of such merchandise,

then there shall be imposed upon such merchandise an artificial pricing duty in an amount equal to the amount by which the minimum allowable import price exceeds the actual price for such merchandise.

"(b) DUTY IN ADDITION TO OTHER DUTIES.—Any duty imposed under this section shall be in addition to any other duty other than a countervailing or antidumping duty.

"SEC. 742. PROCEDURES FOR INITIATING AN ARTIFICIAL PRICING DUTY INVESTIGATION.

"(a) INITIATION BY ADMINISTERING AUTHORITY.—An artificial pricing duty investigation shall be commenced whenever the administering authority determines, from information available to it, that a formal investigation is warranted into the question of whether the elements necessary for the imposition of a duty under section 741 exist. If the investigation concerns a country which is a party to the General Agreement on Tariffs and Trade, or which is a country under the Agreement pursuant to section 701(b), the administering authority shall immediately notify the Commission in the manner prescribed in subsection (d).

"(b) INITIATION BY PETITION.—

"(1) PETITION REQUIREMENTS.—

"(A) FILING OF PETITION.—An artificial pricing duty proceeding shall be commenced whenever an interested party described in subparagraph (C), (D), or (E) of section 771(9) files a petition with the administering authority, on behalf of an industry, which—

"(i) alleges the elements necessary for the imposition of the duty imposed by section 741, and

"(ii) is accompanied by information reasonably available to the petitioner supporting the allegations.

"(B) AMENDMENT OF PETITION.—Any petition under this paragraph may be amended at such time, and upon such conditions, as the administering authority and the Commission may permit.

"(2) SIMULTANEOUS FILING WITH COMMISSION.—The petitioner shall file a copy of the petition with the Commission on the same day as it is filed with the administering authority, if the allegations are made against a country which is a party to the General Agreement on Tariffs and Trade, or which is a country under the Agreement pursuant to section 701(b).

"(c) PETITION DETERMINATION.—Within 20 days after the date on which a petition is filed under subsection (b), the administering authority shall—

"(1) determine whether the petition alleges the elements necessary for the imposition of a duty under section 741 and contains information reasonably available to the petitioner supporting the allegations,

"(2) determine whether the subject of the petition is a nonmarket economy country,

"(3) if the determinations under paragraphs (1) and (2) are affirmative—

"(A) commence an investigation to determine whether the class or kind of merchandise described in the petition is being, or is likely to be, sold in the United States at an artificial price, and

"(B) provide for the publication of notice of the determinations in the Federal Register,

"(4) if the determination under paragraph (1) is negative, dismiss the petition, terminate the proceeding, notify the petitioner in writing of the reasons for the determination, and provide for the publication of notice of the determination in the Federal Register, and

"(5) if the determination under paragraph (2) is negative, terminate the proceeding, notify the petitioner in writing that the petition should be filed under section 702 or 732, as appropriate, and provide for the publication of notice of the determination in the Federal Register.

"(d) NOTIFICATION TO COMMISSION OF DETERMINATION.—In the case of a petition making allegations against a country that is a party to the General Agreement on Tariffs and Trade, or which is a country under the Agreement pursuant to section 701(b), the administering authority shall—

"(1) notify the Commission immediately of any determination made under subsection (a) or (c) by the administering authority, and

"(2) if the determination is affirmative, make available to the Commission such information as the administering authority may have relating to the matter under investigation.

Information shall be made available under paragraph (2) under such procedures as the administering authority and the Commission may establish to prevent unauthorized disclosure of any information to which confidential treatment has been given by the administering authority.

"(e) NO DUPLICATION OF INVESTIGATION.—Except as provided in section 748(b), the administering authority shall not initiate an artificial pricing investigation pursuant to a petition filed by an entity with respect to the artificial pricing of an article from a nonmarket economy country with respect to which that entity has filed a petition for a countervailing duty or antidumping duty investigation under section 303 of the Trade Act of 1974 (19 U.S.C. 2413) or this title if—

"(1) the countervailing duty or antidumping duty proceeding is in process, or

"(2) a countervailing duty or antidumping duty is in effect with respect to such article.

"SEC. 743. PRELIMINARY DETERMINATIONS.

"(a) DETERMINATIONS BY COMMISSION OF REASONABLE INDICATION OF INJURY.—Except in the case of a petition dismissed by the administering authority under section 742(c)(4) or (5), the Commission, within 45 days after the date on which a petition is filed under section 742(b)(2) or on which the Commission receives notice from the administering authority of an investigation commenced under section 742(a), shall make a determination, based upon the best information available to the Commission at the time of the determination, of whether there is a reasonable indication that—

"(1) an industry in the United States—

"(A) is materially injured, or

"(B) is threatened with material injury, or

"(2) the establishment of an industry in the United States is materially retarded.

by reason of imports of the merchandise which is the subject of the investigation by the administering authority. If that determination is negative, the investigation shall be terminated.

"(b) PRELIMINARY DETERMINATION BY ADMINISTERING AUTHORITY.—Within 85 days after the date on which a petition is filed under section 742(b), or an investigation is commenced under section 742(a), but not before an affirmative determination by the Commission under subsection (a) if such a determination is required, the administering authority shall make a determination, based upon the best information available to such administering authority at the time of the determination, of whether there is a reasonable basis to believe or suspect that the merchandise is being sold, or is likely to be sold, at an artificial price. If the determination of the administering authority is affirmative, the determination shall include the estimated average amount by which the minimum allowable import price exceeds the actual price for such merchandise.

"(c) EXTENSION OF PERIOD IN EXTRAORDINARILY COMPLICATED CASES.—

"(1) IN GENERAL.—If—

"(A) the petitioner makes a timely request for an extension of the period within which the determination must be made under subsection (b), or

"(B) the administering authority concludes that the parties concerned are cooperating and determines that—

"(i) the case is extraordinarily complicated by reason of—

"(I) the number and complexity of the transactions to be investigated, or adjustments to be considered,

"(II) the novelty of the issues presented, or

"(III) the number of firms whose activities must be investigated, and

"(ii) additional time is necessary to make the preliminary determination,

then the administering authority may postpone making the preliminary determination under subsection (b) of this section until not later than the 150th day after the date on which a petition is filed under section 742(b), or an investigation is commenced under section 742(a).

"(2) NOTICE OF POSTPONEMENT.—The administering authority shall notify the parties to the investigation, not later than 20 days before the date on which the preliminary determination would otherwise be required under subsection (b), if the administering authority intends to postpone making the preliminary determination under paragraph (1). The notification shall include an explanation of the reasons for the postponement, and notice of the postponement shall be published in the Federal Register.

"(d) EFFECT OF DETERMINATION BY ADMINISTERING AUTHORITY.—If the preliminary determination of the administering authority under subsection (b) is affirmative, the administering authority—

"(1) shall order the suspension of liquidation of all entries of merchandise subject to the determination which are entered, or withdrawn from warehouse, for consumption on or after the date of publication of the notice of the determination in the Federal Register,

"(2) shall order the posting of a cash deposit, bond, or other security, as the administering authority deems appropriate, for each entry of the merchandise concerned equal to the estimated average amount by which the minimum allowable import price exceeds the actual price of such merchandise, and

(3) in the case of an investigation in which a determination under section 741(b) is required, shall make available to the Commission all information upon which determination was based and which the Commission considers relevant to the injury determination of the Commission.

Information shall be made available under paragraph (3) under such procedures as the administering authority and the Commission may establish to prevent unauthorized disclosure of any information to which confidential treatment has been given by the administering authority.

"(e) CRITICAL CIRCUMSTANCES DETERMINATIONS.—

"(1) IN GENERAL.—If a petitioner alleges critical circumstances in the original petition, or by amendment at any time more than 20 days before the date of a final determination by the administering authority, then the administering authority shall promptly determine, on the basis of the best information available to the administering authority at that time, whether there is a reasonable basis to believe or suspect that—

"(A)(i) there is a history of dumping or artificial pricing in the United States or elsewhere of the class or kind of merchandise which is the subject of the investigation, or

"(ii) the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the merchandise which is the subject of the investigation at an artificial price, and

"(B) there have been massive imports of the class or kind of merchandise which is the subject of the investigation over a relatively short period.

"(2) SUSPENSION OF LIQUIDATION.—If the determination of the administering authority under paragraph (1) is affirmative, then any suspension of liquidation ordered under subsection (d)(1) shall apply, or, if notice of such suspension of liquidation is already published, be amended to apply, to unliquidated entries of merchandise entered, or withdrawn from warehouse, for consumption on or after the date which is 90 days before the date on which suspension of liquidation was first ordered.

"(f) NOTICE OF DETERMINATIONS.—Whenever the Commission or the administering authority makes a determination under this section, the petitioner, other parties to the investigation, and the other agency shall be notified by the Commission or the administering authority of the determination and of the facts and conclusions of law upon which the determination is based, and such notice of the determination shall be published in the Federal Register.

"SEC. 744. TERMINATION OR SUSPENSION OF INVESTIGATION.

"(a) TERMINATION OF INVESTIGATION ON WITHDRAWAL OF PETITION.—An investigation under this subtitle may be terminated by either the administrative authority or, if appropriate, the Commission after notice to all parties to the investigation, upon withdrawal of the petition by the petitioner. The Commission may not terminate an investigation under the preceding sentence before a preliminary determination is made by the administering authority under section 743(b).

"(b) AGREEMENTS TO ELIMINATE ARTIFICIAL PRICING OR TO CEASE EXPORTS OF ARTIFICIALLY PRICED MERCHANDISE.—The administering authority may suspend an investigation if the exporters of the merchandise which is the subject of the investigation who account for substantially all of the imports of that merchandise agree—

"(1) to cease exports of the merchandise to the United States within 6 months after the date on which the investigation is suspended, or

"(2) to revise the prices to eliminate completely any amount by which the minimum allowable import price of the merchandise which is the subject of the agreement exceeds the actual price of such merchandise.

"(c) AGREEMENTS ELIMINATING INJURIOUS EFFECT.—

"(1) GENERAL RULE.—If the administering authority determines that extraordinary circumstances are present in a case, the administering authority may suspend an investigation upon the acceptance of an agreement from the government of the nonmarket economy country under investigation, or from exporters described in subsection (b), if the agreement will eliminate completely the injurious effect of exports to the United States of the merchandise which is the subject of the investigation.

"(2) CERTAIN ADDITIONAL REQUIREMENTS.—Except in the case of an agreement by a foreign government to restrict the volume of imports of the merchandise which is the subject of the investigation into the United States, the administering authority may not accept an agreement under this subsection unless—

"(A) the suppression or undercutting of price levels of domestic products by imports of such merchandise will be prevented, and

"(B) for each entry of each exporter the amount by which the estimated minimum allowable import price exceeds the actual price will not exceed 15 percent of the weighted average amount by which the estimated minimum allowable import price exceeded the actual price for all artificially priced entries of the exporter examined during the course of the investigation.

"(3) QUANTITATIVE RESTRICTIONS AGREEMENTS.—The administering authority may accept an agreement with a foreign government under this subsection to restrict the volume of imports of merchandise which is the subject of an investigation into the United States, but the administering authority may not accept such an agreement with exporters.

"(4) DEFINITION OF EXTRAORDINARY CIRCUMSTANCES.—

"(A) EXTRAORDINARY CIRCUMSTANCES.—For purposes of this subsection, the term 'extraordinary circumstances' means circumstances in which—

"(i) suspension of an investigation will be more beneficial to the domestic industry than continuation of the investigation, and

"(ii) the investigation is complex.

"(B) COMPLEX.—For purposes of this paragraph, the term 'complex' means—

"(i) there are a large number of transactions to be investigated or adjustments to be considered,

"(ii) the issues raised are novel, or

"(iii) the number of firms involved is large.

"(d) ADDITIONAL RULES AND CONDITIONS.—

"(1) PUBLIC INTEREST; MONITORING.—The administering authority shall not accept an agreement under subsection (b) or (c) unless—

"(A) the administering authority is satisfied that suspension of the investigation is in the public interest, and

"(B) effective monitoring of the agreement by the United States is practicable.

"(2) EXPORTS OF MERCHANDISE TO UNITED STATES NOT TO INCREASE DURING INTERIM PERIOD.—The administering authority may not accept any agreement under subsection (b) unless that agreement provides a means of ensuring that the quantity of the merchandise covered by that agreement exported to the United States during the period provided for elimination of the artificial pricing or cessation of exports does not exceed the quantity of such merchandise exported to the United States during the most recent representative period determined by the administering authority.

"(3) REGULATIONS GOVERNING ENTRY OR WITHDRAWALS.—In order to carry out an agreement concluded under subsection (b) or (c), the administering authority is authorized to prescribe regulations governing the entry, or withdrawal from warehouse, for consumption of merchandise covered by such agreement.

"(e) SUSPENSION OF INVESTIGATION PROCEDURE.—Before an investigation may be suspended under subsection (b) or (c) the administering authority shall—

"(1) notify the petitioner of, and consult with the petitioner concerning, its intention to suspend the investigation, and notify the other parties to the investigation and, if appropriate, the Commission not less than 30 days before the date on which it suspends the investigation,

"(2) provide a copy of the proposed agreement to the petitioner at the time of the notification, together with an explanation of how the agreement will be carried out and enforced (including any action required of foreign governments), and of how the agreement will meet the requirements of subsections (b) and (d) or (c) and (d), and

"(3) permit all parties to the investigation to submit comments and information for the record before the date on which notice of suspension of the investigation is published under subsection (f)(1)(A).

"(f) EFFECTS OF SUSPENSION OF INVESTIGATION.—

"(1) IN GENERAL.—If the administering authority determines to suspend an investigation upon acceptance of an agreement described in subsection (b) or (c), then—

"(A) the administering authority shall suspend the investigation, publish notice of suspension of the investigation, and issue an affirmative preliminary determination under section 743(b) with respect to the merchandise which is the subject of the investigation, unless such a determination in the same investigation has been previously issued,

"(B) the Commission shall suspend any investigation the Commission is conducting with respect to that merchandise, and

"(C) the suspension of investigation shall take effect on the day on which such notice is published.

"(2) LIQUIDATION OF ENTRIES.—

"(A) CESSATION OF EXPORTS; COMPLETE ELIMINATION OF ARTIFICIAL PRICING.—If the agreement accepted by the administering authority is an agreement described in subsection (b), then—

"(i) notwithstanding the affirmative preliminary determination required under paragraph (1)(A), the liquidation of entries of merchandise which is the subject of the investigation shall not be suspended under section 743(d)(1).

"(ii) if the liquidation of entries of such merchandise was suspended pursuant to a previous affirmative preliminary determination in the same case with respect to such merchandise, that suspension of liquidation shall terminate, and

"(iii) the administering authority shall refund any cash deposit and release any bond or other security deposited under section 743(d)(1).

"(B) OTHER AGREEMENTS.—If the agreement accepted by the administering authority is an agreement described in subsection (c), then the liquidation of entries of the merchandise which is the subject of the investigation shall be suspended under section 743(d)(1), or, if the liquidation of entries of such merchandise was suspended pursuant to a previous affirmative preliminary determination in the same case, that suspension of liquidation shall continue in effect, subject to subsection (h)(3), but the security required under section 743(d)(2) may be adjusted to reflect the effect of the agreement.

"(3) WHERE INVESTIGATION IS CONTINUED.—If, pursuant to subsection (g), the administering authority and, if appropriate, the Commission, continue an investigation in which an agreement has been accepted under subsection (b) or (c), then—

"(A) if the final determination by the administering authority or the Commission under section 745 is negative, the agreement shall have no force or effect and the investigation shall be terminated, or

"(B) if the final determinations by the administering authority and the Commission under such section are affirmative, the agreement shall remain in force, but the administering authority shall not issue an artificial pricing duty order in the case so long as—

"(i) the agreement remains in force,

"(ii) the agreement continues to meet the requirements of subsections (b) and (d) or (c) and (d), and

"(iii) the parties to the agreement carry out their obligations under the agreement in accordance with its terms.

"(g) INVESTIGATION TO BE CONTINUED UPON REQUEST.—If the administering authority, within 20 days after the date of publication of the notice of suspension of an investigation, receives a request for the continuation of the investigation from—

"(1) the government of the nonmarket economy country under investigation,

"(2) an exporter or exporters accounting for a significant proportion of exports to the United States of the merchandise which is the subject of the investigation, or

"(3) an interested party described in subparagraph (C), (D), or (E) of section 771(9) which is a party to the investigation,

than the administering authority and, if appropriate, the Commission shall continue the investigation.

"(h) REVIEW OF SUSPENSION.—

"(1) IN GENERAL.—Within 20 days after the suspension of an investigation under subsection (c), an interested party which is a party to the investigation and which is de-

scribed in subparagraph (C), (D), or (E) of section 771(9) may, by petition filed with the Commission and with notice to the administering authority, ask for a review of the suspension.

"(2) COMMISSION INVESTIGATION.—Upon receipt of a review petition under paragraph (1), the Commission shall, within 75 days after the date on which the petition is filed, determine whether the injurious effect of imports of the merchandise which is the subject of the investigation is eliminated completely by the agreement. If the Commission determination under this subsection is negative, the investigation shall be resumed on the date of publication of notice of such determination as if the affirmative preliminary determination under section 743(b) had been made on that date.

"(3) SUSPENSION OF LIQUIDATION TO CONTINUE DURING REVIEW PERIOD.—The suspension of liquidation of entries of the merchandise which is the subject of the investigation shall terminate at the close of the 20-day period beginning on the day after the date on which notice of suspension of the investigation is published in the Federal Register, or, if a review petition is filed under paragraph (1) with respect to the suspension of the investigation, in the case of an affirmative determination by the Commission under paragraph (2), the date on which notice of the affirmative determination by the Commission is published. If the determination of the Commission under paragraph (2) is affirmative, then the administering authority shall—

"(A) terminate the suspension of liquidation under section 743(d)(1), and

"(B) release any bond or other security, and refund any cash deposit, required under section 743(d)(2).

"(i) VIOLATION OF AGREEMENT.—

"(1) IN GENERAL.—If the administering authority determines that an agreement accepted under subsection (b) or (c) is being, or has been, violated, or no longer meets the requirements of such subsection (other than the requirement, under subsection (c)(1), of elimination of injury) and subsection (d), then, on the date of publication of such determination, the administering authority shall—

"(A) suspend liquidation under section 743(d)(i) of unliquidated entries of the merchandise made on or after the later of—

"(i) the date which is 90 days before the date of publication of the notice of suspension of liquidation, or

"(ii) the date on which the merchandise, the sale or export to the United States of which was in violation of the agreement, or under an agreement which no longer meets the requirements of subsections (b) and (d) or (c) and (d), was first entered, or withdrawn from warehouse, for consumption,

"(B) if the investigation was not completed, resume the investigation as if the affirmative preliminary determination under section 743(b) were made on the date of the determination under this paragraph,

"(C) if the investigation was completed under subsection (g), issue an artificial pricing duty order under section 746(a) effective with respect to entries of merchandise the liquidation of which was suspended, and

"(D) notify the petitioner, interested parties who are or were parties to the investigation, and, if appropriate, the Commission of the action under this paragraph.

"(2) INTENTIONAL VIOLATION TO BE PUNISHED BY CIVIL PENALTY.—Any person who intentionally violates an agreement accepted by the administering authority under subsection (b) or (c) shall be subject to a civil penalty assessed in the same amount, in the same manner, and under the same procedure, as the penalty imposed for a fraudulent violation of section 592(a) of this Act.

"(j) DETERMINATION NOT TO TAKE AGREEMENT INTO ACCOUNT.—In making a final determination under section 745, or in conducting a review under section 751, in a case in which the administering authority has terminated a suspension of investigation under subsection (i)(1), or has continued an investigation under subsection (g), the Commission and the administering authority shall consider all of the merchandise which is the subject of the investigation, without regard to the effect of any agreement under subsection (b) or (c).

"SEC. 745. FINAL DETERMINATIONS.

"(a) FINAL DETERMINATION BY ADMINISTERING AUTHORITY.—

"(1) IN GENERAL.—Within 75 days after the date of the preliminary determination under section 743(b), the administering authority shall make a final determination of whether the merchandise which is the subject of the investigation is being, or is likely to be, sold in the United States at an artificial price.

"(2) CRITICAL CIRCUMSTANCES DETERMINATIONS.—If the final determination of the administering authority is affirmative, then that determination, in any investigation in which the presence of critical circumstances has been alleged under section 743(e), shall also contain a finding as to whether—

"(A)(i) there is a history of dumping or artificial pricing in the United States or elsewhere of the class or kind of merchandise which is the subject of the investigation, or

"(ii) the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the merchandise which is the subject of the investigation at an artificial price, and

"(B) there have been massive imports of the class or kind of merchandise which is the subject of the investigation over a relatively short period.

"(b) FINAL DETERMINATION BY COMMISSION.—

"(1) IN GENERAL.—If the Commission has made an affirmative preliminary determination under section 743, then the Commission shall make a final determination of whether—

"(A) an industry in the United States—

"(i) is materially injured, or

"(ii) is threatened with material injury, or

"(B) the establishment of an industry in the United States is materially retarded,

by reason of imports of the merchandise with respect to which the administering authority has made an affirmative determination under subsection (a).

"(2) PERIOD FOR INJURY DETERMINATION FOLLOWING AFFIRMATIVE PRELIMINARY DETERMINATION BY ADMINISTERING AUTHORITY.—If the preliminary determination by the administering authority under section 743(b) is affirmative, then the Commission shall make the determination required by paragraph (1) before the later of—

"(A) the 120th day after the day on which the administering authority makes the affirmative preliminary determination under section 743(b), or

"(B) the 45th day after the day on which the administering authority makes the affirmative final determination under section (a).

"(3) PERIOD FOR INJURY DETERMINATION FOLLOWING NEGATIVE PRELIMINARY DETERMINATION BY ADMINISTERING AUTHORITY.—If the preliminary determination by the administering authority under section 743(b) is negative, and the final determination under subsection (a) is affirmative, then the final determination by the Commission under this subsection shall be made within 75 days after the date of that affirmative final determination.

"(4) CERTAIN ADDITIONAL FINDINGS.—

"(A) If the finding of the administering authority under subsection (a)(2) is affirmative, then the final determination of the Commission shall include findings as to whether—

"(i) there is material injury which will be difficult to repair, and

"(ii) the material injury was by reason of such massive imports of the artificially priced merchandise over a relatively short period.

"(B) If the final determination of the Commission is that there is not material injury but that there is threat of material injury, then the determination shall also include a finding as to whether material injury by reason of imports of the merchandise with respect to which the administering authority has made an affirmative determination under subsection (a) would have been found but for any suspension of liquidation of entries of that merchandise.

"(c) EFFECT OF FINAL DETERMINATIONS.—

"(1) EFFECT OF AFFIRMATIVE DETERMINATION BY THE ADMINISTERING AUTHORITY.—If the determination of the administering authority under subsection (a) is affirmative, then—

"(A) the administering authority, in a case in which a determination by the Commission is required, shall make available to the Commission all information upon which such determination was based and which the Commission considers relevant to the determination, under such procedures as the administering authority and the Commission may establish to prevent unauthorized disclosure of any information to which confidential treatment has been given by the administering authority, and

"(B) in cases where the preliminary determination by the administering authority under section 743(b) was negative, the administering authority shall order under paragraphs (1) and (2) of section 743(d) the suspension of liquidation and the posting of a cash deposit, bond, or other security.

"(2) ISSUANCE OF ORDER; EFFECT OF NEGATIVE DETERMINATION.—If the determinations of the administering authority and, if required, the Commission under subsections (a)(1) and (b)(1) are affirmative, then the administering authority shall issue an artificial pricing duty order under section 746(a). If either of such determinations is negative, the investigation shall be terminated upon the publication of notice of that negative determination and the administering authority shall—

"(A) terminate the suspension of liquidation under section 743(d)(1), and

"(B) release any bond or other security and refund any cash deposit required under section 743(d)(2).

"(3) EFFECT OF NEGATIVE DETERMINATIONS UNDER SUBSECTIONS (a)(2) AND (b)(4)(A).—If the determination of the administering authority or the Commission under subsections (a)(2) and (b)(4)(A), respectively, is negative, then the administering authority shall—

"(A) terminate any retroactive suspension of liquidation required under section 743(e)(2), and

"(B) release any bond or other security, and refund any cash deposit required under section 743(d)(2) with respect to entries of

the merchandise the liquidation of which was suspended retroactively under section 743(e)(2).

"(d) PUBLICATION OF NOTICE OF DETERMINATIONS.—Whenever the administering authority or the Commission makes a determination under this section, the petitioner, other parties to the investigation, and the other agency shall be notified of the determination and of the facts and conclusions of law upon which the determination is based, and notice of the determination shall be published in the Federal Register.

"SEC. 746. ASSESSMENT OF DUTY.

"(a) PUBLICATION OF ARTIFICIAL PRICING DUTY ORDER.—Within 7 days after being notified by the Commission of an affirmative determination under section 745(b), or within 7 days after an affirmative determination by the administering authority under section 745(a), if its determination by the Commission is required, the administering authority shall publish an artificial pricing duty order which—

"(1) directs customs officers to assess an artificial pricing duty equal to the amount by which the minimum allowable import price of the merchandise exceeds the actual price of such merchandise, within 6 months after the date on which the administering authority received satisfactory information upon which the assessment may be based, but in no event later than 12 months after the end of the annual accounting period of the manufacturer or exporter within which the merchandise is entered, or withdrawn from warehouse, for consumption.

"(2) includes a description of the class or kind of merchandise affected, in such detail as the administering authority deems necessary, and

"(3) requires the deposit of estimated artificial pricing duties along with the deposit of estimated normal customs duties on the merchandise pending liquidation of entries of such merchandise.

"(b) IMPOSITION OF DUTIES.—

"(1) GENERAL RULE.—If the Commission, in the final determination under section 745(b), finds material injury or threat of material injury which, but for the suspension of liquidation under section 743(d)(1), would have led to a finding of material injury, then entries of the merchandise subject to the artificial pricing duty order, the liquidation of which has been suspended under section 743(d)(1), shall be subject to the imposition of artificial pricing duties under section 741(a).

"(2) SPECIAL RULE.—If the Commission, in the final determination under section 745(b), finds threat of material injury (other than threat of material injury described in paragraph (1)) or material retardation of the establishment of an industry in the United States, then merchandise subject to an artificial pricing duty order which is entered, or withdrawn from warehouse, for consumption on or after the date of publication of notice of an affirmative determination of the Commission under section 745(b) shall be subject to the imposition of artifical pricing duties under section 741(a), and the administering authority shall release any bond or other security, and refund any cash deposit made, to secure the payment of artificial pricing duties with respect to entries of the merchandise entered, or withdrawn from warehouse, for consumption before that date.

"SEC. 747. TREATMENT OF DIFFERENCE BETWEEN DEPOSIT OF ESTIMATED ARTIFICIAL PRICING DUTY AND FINAL ASSESSED DUTY UNDER ARTIFICIAL PRICING DUTY ORDER.

"(a) DEPOSIT OF ESTIMATED ARTIFICIAL PRICING DUTY UNDER SECTION 743(d)(2).—If the amount of a cash deposit, or the amount of any bond or other security, required as security for an estimated artificial pricing duty under section 743(d)(2) is different from the amount of the artificial pricing duty determined under an artificial pricing duty order issued under section 746, then the difference for entries of merchandise entered, or withdrawn from warehouse, for consumption before notice of the affirmative determination of the Commission under section 745(b) is published shall be—

"(1) disregarded, to the extent that the cash deposit, bond, or other security is lower than the duty under the order, or

"(2) refunded or released, to the extent that the cash deposit, bond or other security is higher than the duty under the order.

"(b) DEPOSIT OF ESTIMATED ARTIFICIAL PRICING DUTY UNDER SECTION 746(a)(3).—If the amount of an estimated artificial pricing duty deposited under section 746(a)(3) is different from the amount of the artificial pricing duty determined under an artificial pricing duty order issued under section 746, then the difference for entries of merchandise entered, or withdrawn from warehouse, for consumption after notice of the affirmative determination of the Commission under section 745(b) is published shall be—

"(1) collected, to the extent that the deposit under section 706(a)(3) is lower than the duty determined under the order, or

"(2) refunded, to the extent that the deposit under section 706(a)(3) is higher than the duty determined under the order.

together with interest as provided by section 778.

"SEC. 748. CHANGE FROM ARTIFICIAL PRICING DUTY INVESTIGATION TO ANTIDUMPING DUTY OR COUNTERVAILING DUTY INVESTIGATION: CHANGE FROM ANTIDUMPING DUTY OR COUNTERVAILING DUTY INVESTIGATION TO ARTIFICIAL PRICING DUTY INVESTIGATION.

"(a) CHANGE FROM ARTIFICIAL PRICING DUTY INVESTIGATION TO ANTIDUMPING DUTY OR COUNTERVAILING DUTY INVESTIGATION.—

"(1) If in the course of an artificial pricing duty investigation, the administering authority determines that—

"(A) the industry or sector of the nonmarket economy country under investigation is market-oriented, and

"(B) there is sufficient verifiable information to permit the investigation to be conducted as an antidumping duty or countervailing duty investigation.

then the administering authority shall treat the investigation as if the investigation had been commenced as an antidumping duty or countervailing duty investigation, whichever the administering authority determines to be appropriate.

"(2) Whenever the administering authority determines under paragraph (1) that an artificial pricing investigation will be treated as an antidumping duty or countervailing duty investigation, the administering authority shall terminate the artificial pricing investigation and begin to conduct the antidumping duty or countervailing duty investigation at the same time period as such investigation would have been had such investigation been originally commenced as an antidumping duty or countervailing duty investigation, except that—

"(A) if the administering authority had not previously made a preliminary artificial pricing duty determination—

"(i) the administering authority shall have an additional 30 days in which to make a preliminary antidumping duty or countervailing duty determination, and

"(ii) any determination made under section 743(c) to postpone a preliminary artificial pricing duty determination shall apply as if such determination had been made under section 703(c) or 733(c), whichever is appropriate, or

"(B) if the administering authority had previously made a preliminary artificial pricing duty determination the administering authority shall make a preliminary antidumping duty or countervailing duty determination within 30 days of the date on which the artificial pricing duty investigation is terminated (but any suspension of liquidation and any deposit, bond, or other security requirement previously imposed under paragraphs (1) and (2) of section 743(d) shall remain in effect until the administering authority makes a preliminary antidumping duty or countervailing duty determination).

"(3) No later than 10 days before making a determination under paragraph (1), the administering authority shall notify the petitioner of, and consult with the petitioner concerning, the intention of the administering authority to treat an artificial pricing duty investigation as an antidumping or countervailing duty investigation.

"(b) CHANGE FROM ANTIDUMPING DUTY OR COUNTERVAILING DUTY INVESTIGATION TO ARTIFICIAL PRICING DUTY INVESTIGATION.—

"(1) If in the course of an antidumping duty or countervailing duty investigation, the administering authority determines that—

"(A) the industry or sector of the nonmarket economy country under investigation is not market-oriented, and

"(B) there is insufficient verifiable information to permit the investigation to be conducted as an antidumping duty or countervailing duty investigation,

then the administering authority shall treat the investigation as if the investigation had been commenced as an artificial pricing duty investigation.

"(2) Whenever the administering authority determines under paragraph (1) that an antidumping duty or countervailing duty investigation will be treated as an artificial pricing duty investigation, the administering authority shall terminate the antidumping duty or countervailing duty investigation and begin to conduct an artificial pricing duty investigation at the same time period as such investigation would have been had such investigation been originally commenced as an artificial pricing duty investigation, except that—

"(A) if the administering authority had not previously made a preliminary antidumping duty or countervailing duty determination—

"(i) the administering authority shall have an additional 30 days in which to make a preliminary artificial pricing duty determination, and

"(ii) any determination made under section 703(c) or 733(c) to postpone a preliminary countervailing duty or antidumping duty determination shall apply as if such determination had been made under section 743(c), or

"(B) if the administering authority had previously made a preliminary antidump-

ing duty or countervailing duty determination, the administering authority shall make a preliminary artificial pricing duty determination within 30 days of the date on which the antidumping duty or countervailing duty determination is terminated (but any suspension of liquidation and any deposit, bond, or other security requirement previously imposed under paragraphs (1) and (2) of section 703(d) or paragraphs (1) and (2) of section 733(d) shall remain in effect until the administering authority makes a preliminary artificial pricing duty determination).

"(3) No later than 10 days before making a determination under paragraph (1), the administering authority shall notify the petitioner of, and consult with the petitioner concerning, the intention of the administering authority to treat an antidumping duty or countervailing duty investigation as an artificial pricing duty investigation.

"(c) NOTICE OF DETERMINATION.—Whenever the administering authority makes a determination under subsection (a)(1) or (b)(1), the petitioner, other parties to the investigation, and the other agency shall be notified of the determination and of the facts and conclusions of law upon which the determination is based, and notice of the determination shall be published in the Federal Register.".

SEC. 802. DEFINITIONS; TECHNICAL AND CONFORMING AMENDMENTS.

(a) ADDITIONAL DEFINITIONS.—Section 771 of the Tariff Act of 1930 (19 U.S.C. 1677) is amended by adding at the end thereof the following new paragraphs:

"(18) NONMARKET ECONOMY COUNTRY.—(A) The term 'nonmarket economy country' means a country which is on a list of such countries published annually by the administering authority beginning on the ninetieth day after the date of enactment of this Act.

"(B) In general, countries shall be included on such list if their economy does not operate on market principles of cost or pricing structures so that sales or offers of sale of merchandise in that country do not reflect the fair value of the merchandise.

"(C) In determining whether an economy operates on market principles the administering authority shall take into account the following as well as other factors he may deem appropriate—

"(i) the extent to which the country's currency is convertible;

"(ii) the extent to which wage rates are determined by free bargaining between labor and management; and

"(iii) the extent to which joint ventures or other investments by foreign firms are permitted.

"(D)(i) The administering authority shall establish a procedure whereby countries that have been placed on the list may request that they be removed. Such procedure, as well as the procedure relating to the annual publication of the list, shall provide ample opportunity for public comment prior to a decision by the Secretary.

"(ii) The administering authority may, at its discretion, add or delete countries from the list, subject to the same procedures for public comment specified in subparagraph (ii).

"(E) Only countries on the list published by the administering authority shall be nonmarket economy countries for purposes of petitions filed or investigations initiated under section 742 of this Act. The question of whether a country is properly included on the list shall not be an issue in an investigation begun pursuant to section 742.

"(19) MINIMUM ALLOWABLE IMPORT PRICE.—The term 'minimum allowable import price' means—

"(A) the trade-weighted average price of eligible market economy foreign producers in arms-length sales to customers in the United States during the investigatory period; or

"(B) if there are no eligible market economy producers, the constructed value of such or similar merchandise in a market economy country or countries as determined under section 773(e); or

"(C) if the administering authority cannot determine the trade-weighted average price of eligible market economy foreign producers under subparagraph (A), the prices, determined in accordance with section 773(a), at which such or similar merchandise is sold by an eligible market economy foreign producer to—

"(i) the United States; or

"(ii) if there are no sales to the United States, other countries.

"(2) ELIGIBLE MARKET ECONOMY FOREIGN PRODUCERS.—The term 'eligible market economy foreign producers' means producers in countries other than the United States that are not nonmarket economy countries as defined in paragraph (18) who—

"(A) produce the article, or a like article, that is the subject of the investigation,

"(B) export the article, or a like article, to the United States, and

"(C) are not subject to an antidumping or countervailing duty order under section 736 or 706 respectively against the article, or a like article, that is the subject of the investigation during the period of the investigation.".

(b) ADMINISTRATIVE AND JUDICIAL REVIEW OF DETERMINATIONS.—

(1) ADMINISTRATIVE REVIEW.—

(A) PERIODIC REVIEW.—Paragraph (1) of section 751(a) of the Tariff Act of 1930 (19 U.S.C. 1675(a)(1)) is amended—

(i) by inserting "an artificial pricing duty order under this title" after "1921,",

(ii) by striking out "and" at the end of clause (B),

(iii) by adding "and" at the end of clause (C),

(iv) by inserting "or at artificial prices" after "fair value" in clause (C), and

(v) by inserting after clause (C) the following new clause:

"(D) review and determine (in accordance with paragraph (3)), the amount of any artificial pricing duty,".

(B) DETERMINATION OF ARTIFICIAL PRICING DUTIES.—Subsection (a) of section 751 of the Tariff Act of 1930 (19 U.S.C. 1675(a)) is amended by adding at the end thereof the following new paragraph:

"(3) DETERMINATION OF ARTIFICIAL PRICING DUTIES.—For the purpose of paragraph (1)(D), the administering authority shall determine—

"(A) the minimum allowable import price and the actual price of each entry of merchandise subject to the artificial pricing duty order and included within that determination, and

"(B) the amount, if any, by which the minimum allowable import price of each such entry exceeds the actual price of the entry.

The administering authority, without revealing confidential information, shall publish notice of the results of the determination of artificial pricing duties in the Federal Register, and that determination shall be the basis for the assessment of artificial pricing duties on entries of the merchandise included within the determination and for deposits of estimated duties.".

(C) REVIEWS.—

(i) IN GENERAL.—Paragraph (1) of section 751(b) of the Tariff Act of 1930 (19 U.S.C. 1675(b)(1)) is amended—

(I) by striking out "or 734" and inserting in lieu thereof "734, or 744",

(II) by striking out "or 735(b)" and inserting in lieu thereof "735(b), 744(h)(2), 745(a), or 745(b)",

(III) by striking out "or 734(h)(2)" and inserting in lieu thereof "734(h)(2), or 744(h)(2)", and

(IV) by striking out "or 734(c)" and inserting in lieu thereof "734(c), or 744(c)".

(ii) LIMITATIONS.—Paragraph (2) of section 751(b) of the Tariff Act of 1930 (19 U.S.C. 1675(b)(2)) is amended—

(I) by striking out "or 735(b)" in clause (A) and inserting in lieu thereof "735(b), or 745(b)",

(II) by striking out "or 735(a)" in clause (B) and inserting in lieu thereof "735(a), or 745(a)", and

(III) by striking out "or 734" and inserting in lieu thereof "734, or 744".

(D) SUSPENSIONS.—Subsection (e) of section 751 of the Tariff Act of 1930 (19 U.S.C. 1675(e)) is amended by striking out "or 734(i)" and inserting in lieu thereof "734(i), or 744(i)".

(2) JUDICIAL REVIEW.—

(A) IN GENERAL.—Paragraph (1) of section 516A(a) of the Tariff Act of 1930 (19 U.S.C. 1516a) is amended—

(i) by striking out "or 702(c)" in subparagraph (A)(i) and inserting in lieu thereof "702(c), or 742(c)",

(ii) by striking out "or 733(a)" in subparagraph (A)(iii) and inserting in lieu thereof "733(a), or 743(a)",

(iii) by striking out "or 733(c)" in subparagraph (B)(i) and inserting in lieu thereof "733(c), or 743(c)", and

(iv) by striking out "or 733(b)" in subparagraph (B)(ii) and inserting in lieu thereof "733(b), or 743(b)".

(B) REVIEWABLE DETERMINATIONS.—Paragraph (2) of section 516A(a) of the Tariff Act of 1930 (19 U.S.C. 1516a(a)(2)) is amended—

(i) by striking out "or countervailing" in subparagraph (A)(ii) and inserting in lieu thereof "countervailing, or artificial pricing",

(ii) by striking out "or 735" in clauses (i) and (ii) of subparagraph (B) and inserting in lieu thereof "735, or 745",

(iii) by striking out "or 734" in subparagraph (B)(iv) and inserting in lieu thereof "734, or 744",

(iv) by striking out "duty or a countervailing" in subparagraph (B)(iv) and inserting in lieu thereof ", countervailing, or artificial pricing", and

(v) by striking out "or 734(h)" in subparagraph (B)(v) and inserting in lieu thereof "734(h), or 744(h)".

(d) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Subsection (c) of section 773 of the Tariff Act of 1930 (19 U.S.C. 1677b(c)) is repealed.

(2) Subsection (f) of section 303 of such Act (19 U.S.C. 1303(f)) and subsection (c) of section 701 of such Act (19 U.S.C. 1671(c)) are each amended—

(A) by inserting "(1)" before "For", and

(B) by inserting at the end thereof the following new paragraph:

"(2) For provisions of law applicable in the case of a product of a nonmarket economy country, see subtitle C of title VII of this Act.".

(3) Section 731 of such Act (19 U.S.C. 1673) is amended—

(A) by inserting "(a) IN GENERAL.—" before "If", and

(B) By adding at the end thereof the following new subsection:

"(b) CROSS REFERENCE.—

"For provisions of law applicable in the case of a product of a nonmarket economy country, see subtitle C of title VII of this Act.".

(e) CLERICAL AMENDMENT.—The table of contents for title VII of the Tariff Act of 1930 is amended by redesignating subtitles C and D as subtitles D and E, respectively, and by inserting after the items relating to subtitle B the following new items:

"Subtitle C—Imposition of Artificial Pricing Duties

"Sec. 741. Artificial pricing duties imposed.
"Sec. 742. Procedures for initiating an artificial pricing duty investigation.
"Sec. 743. Preliminary determinations.
"Sec. 744. Termination or suspension of investigations.
"Sec. 745. Final determinations.
"Sec. 746. Assessment of duty.
"Sec. 747. Treatment of difference between deposit of estimated artificial pricing duty and final assessed duty under artificial pricing duty order.
"Sec. 748. Treatment of artificial pricing investigations as antidumping duty or countervailing duty investigations and the treatment of antidumping duty or countervailing duty investigations as artificial pricing investigations.".

SEC. 803. EFFECTIVE DATE.

The amendments made by section 801 shall apply with respect to petitions filed, requests made, and resolutions adopted after the date of the enactment of this Act.

TITLE IX—INTERNATIONAL TRADE AND EXPORT POLICY STUDY COMMISSION

SEC. 901. SHORT TITLE.

This title may be cited as the "International Trade and Export Policy Study Commission Act of 1984".

SEC. 902. ESTABLISHMENT.

(a) There is established the International Trade and Export Policy Study Commission (hereafter in this Act referred to as the "Commission").

(b)(1) The Commission shall be composed of eighteen members as follows:

(A) Six members appointed by the President in accordance with paragraph (2)(A).

(B) Six members appointed by the President pro tempore of the Senate from members of the Senate in accordance with paragraph (2)(B), upon the recommendation of the majority leader or the minority leader of the Senate, as the case may be, with respect to members appointed from the political party of that leader.

(C) Six Members of the House of Representatives appointed by the Speaker of the House of Representatives in accordance with paragraph (2)(B).

(2)(A) The President shall appoint individuals to serve as members of the Commission under paragraph (1)(A) who are especially qualified to serve on the Commission due to the education, training, or experience of such individuals. Of the members appointed by the President under such paragraph, at least five members shall be individuals who are not officers or employees of the United States, and at least two members shall be representatives of businesses or labor organizations. Not more than three members of the Commission appointed under such paragraph shall be members of the same political party.

(B)(i) In appointing members to the Commission, the President pro tempore of the Senate and the Speaker of the House of Representatives shall give special consideration to the appointment of members of the Senate or the House of Representatives, as the case may be, who are members of the committees of their respective Houses which have legislative jurisdiction over, or special concerns with respect to, matters relating to international trade.

(ii) Not more than three members of the Commission appointed under paragraph (1)(B) shall be members of the same political party, and not more than three members of the Commission appointed under paragraph (1)(C) shall be members of the same political party.

(3) The first eighteen appointments to the Commission shall be made within thirty days after the date of the enactment of this Act. A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(4) Members of the Commission shall be appointed to serve for the life of the Commission.

(5) Each member of the Commission appointed under paragraph (1)(A) who is not an officer or employee of the United States shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for grade GS-18 of the General Schedule under section 5332 of title 5, United States Code, for each day (including traveltime) during which such members are engaged in the actual performance of the duties of the Commission. All members of the Commission who are officers or employees of the United States shall serve without additional compensation.

(B) While away from their homes or regular places of business in the performance of services for the Commission, all members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under sections 5702 and 5703 of title 5, United States Code.

(c)(1) Nine members of the Commission shall constitute a quorum, but a lesser number may hold hearings.

(2) The Chairman and Vice Chairman of the Commission shall be elected by and from the members of the Commission for the life of the Commission.

(3) The Commission shall meet at the call of the Chairman or a majority of its members.

(d)(1) The Chairman of the Commission, in consultation with the Vice Chairman, and without regard to the civil service laws, rules, and regulations, is authorized to appoint and fix the compensation of a staff director and such other additional personnel as may be necessary to enable the Commission to carry out its functions.

(2) Any Federal employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(3) The Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for GS-18 of the General Schedule under section 5332 of such title.

(e)(1) The Commission may, for the purpose of carrying out this Act, hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission considers appropriate.

(2) The Commission may secure directly from any department or agency of the United States information necessary to enable the Commission to carry out this Act. Upon request of the Chairman of the Commission, the head of such department or agency shall furnish such information to the Commission.

(3) The Commission may accept, use, and dispose of gifts or donations of services or property.

(4) The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(5) The Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative and support services as the Commission may request.

SEC. 903. DUTIES.

(a) The Commission shall study and make recommendations concerning international trade and export policies and practices of the United States, including recommendations for such changes in laws and regulations as may be required in order to—

(1) facilitate the administration of the trade and export functions of the Federal Government;

(2) enhance export growth;

(3) provide for removal of trade barriers;

(4) provide for common understanding of international trade by businesses;

(5) develop expertise on foreign business practices and trade issues; and

(6) accomplish such other purposes as the Commission considers appropriate.

(b) In conducting the study required by subsection (a), the Commission shall review and make recommendations concerning—

(1) existing impediments to exporting by American industries, including—

(A) regulations, paperwork requirements, and procedures imposed by the United States Government, especially export controls;

(B) the impact of the antitrust laws on exports;

(C) insufficient financing, Government credits, and incentives for export expansion, uncertainty as to the continuation of the special tax treatment for Domestic International Sales Corporations, and the lack of Export-Import Bank and the Foreign Credit Insurance Association support and responsiveness;

(D) the lack of a unified, coherent, and clearly enunciated United States Government policy which supports the export community and which is carried out by all Federal agencies; and

(E) the lack of research and development capabilities to help improve the ability of American industries to compete with foreign industries;

(2) the needs of American industry for information and opportunities to enhance exporting, particularly the needs of small and medium sized firms, including needs for—

(A) specific sales or representation leads;

(B) specific information on market conditions, practices, and potentials;

(C) information about and lists of individual foreign buyers and foreign representatives;

(D) opportunities to meet directly in the United States with individual foreign buyers and foreign representatives;

(E) opportunities for publicity of companies, products, and interests abroad;

(F) opportunities to display or otherwise expose products abroad;

(G) assistance in making successful bids for major overseas contracts;

(H) general information on methods of exporting and on countries to which products can be exported; and

(I) information on the benefits of exporting;

(3) methods for improving export incentives for United States businesses, including—

(A) export financing;

(B) export insurance;

(C) tax benefits; and

(D) the facilitation of the creation of trading companies;

(4) the need for a closer integration of trade and international monetary policy, including the need to relieve trade policy of major burdens created by the recurrence of currency exchange rate misalignments;

(5) the need to coordinate American trade policies and practices with the promotion of industrial revitalization in the United States;

(6) the need for high quality data in order to identify markets, new products, and industries, and the failure to effectively communicate such data to American industry;

(7) the need for directing Federal resources to provide sustained economic growth and employment;

(8) the need for cooperation and support among the principal sectors of the economy, including business, labor, government, and the public;

(9) the impact of, and the proper role for, international trade activities by State and local governments, including export promotion activities, State export-import banks, and State export trade companies;

(10) the organizational structures under which other industrial nations, such as Japan, Great Britain, Canada, and West Germany, carry out the international trade activities of those nations;

(11) the organizational structure of Federal agencies which make and carry out trade policies, including the need for strengthened and integrated implementation of international trade functions and improvements in the Foreign Commercial Service; and

(12) the need to promote institutional and noninstitutional educational activities that will contribute to the ability of United States businesses to succeed in the marketing of United States goods and services abroad, such as—

(A) government-sponsored work-study programs which allow United States representatives of business, labor, and government to live overseas and analyze foreign market opportunities, study existing trade and cultural barriers, and develop expertise on foreign business practices and trade issues; and

(B) the promotion of foreign language capabilities to facilitate United States commerce by overcoming language and marketing barriers.

SEC. 904. FINAL REPORT.

Not later than July 1, 1985, the Commission shall transmit to the President and to the Congress a report containing a detailed statement of the study conducted by the Commission under this Act and the recommendations of the Commission with respect to the matters specified in section 903, including any recommendations for legislation the Commission considers appropriate.

SEC. 905. TERMINATION.

The Commission shall terminate on July 1, 1985.

SEC. 906. AUTHORIZATION.

For fiscal years 1984 and 1985, there are authorized to be appropriated such sums as may be necessary to carry out this Act.

TITLE X—WINE TRADE

SEC. 1001. SHORT TITLE.

This title may be cited as the "Wine Equity and Export Expansion Act of 1984".

SEC. 1002. CONGRESSIONAL FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) there is a substantial imbalance in international wine trade resulting, in part, from the relative accessibility enjoyed by foreign wines to the United States market while the United States wine industry faces restrictive tariff and nontariff barriers in virtually every existing or potential foreign market;

(2) the restricted access to foreign markets and the continued low prices for United States wine and grape products adversely affect the economic position of our Nation's winemakers and grape growers, as well as all other domestic sectors that depend upon wine production;

(3) the competitive position of United States wine in international trade has been weakened by foreign trade practices, high domestic interest rates, and unfavorable foreign exchange rates;

(4) wine consumption per capita is very low in many major non-wine producing markets and the demand potential for United States wine is significant; and

(5) The United States winemaking industry has the capacity and the ability to export substantial volumes of wine and an increase in United States wine exports will create new jobs, improve this Nation's balance of trade, and otherwise strengthen the national economy.

(b) PURPOSES.—The purposes of this title are—

(1) to provide wine consumers with the greatest possible choice of wines from wine-producing countries;

(2) to encourage the initiation of an export promotion program to develop, maintain, and expand foreign markets for United States wine; and

(3) to achieve greater access to foreign markets for United States wine and grape products through the reduction or elimination of tariff barriers and nontariff barriers to (or other distortions of) trade in wine.

SEC. 1003. DEFINITIONS.

For purposes of this title—

(1) The term "Committees" means the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

(2) The term "grape product" means grapes and any product (other than wine) made from grapes, including, but not limited to, raisins and grape juice, whether or not concentrated.

(3) The term "major wine trading country" means any foreign country, or group of foreign countries, designated as such under section 1004.

(4) The phrase "nontariff barrier to (or other distortion of)", in the context of trade in United States wine, includes any measure implemented by the government of a major wine trading country that either gives a competitive advantage to the wine industry of that country or restricts the importation of United States wine into that country.

(5) The term "Trade Representative" means the United States Trade Representative.

(6) The term "United States wine" means wine produced within the customs territory of the United States.

(7) The term "wine" means any fermented alcoholic beverage that—

(A) is made from grapes or other fruit;

(B) contains not less than 0.5 percent alcohol by volume and not more than 24 percent alcohol by volume, including all dilutions and mixtures thereof by whatever process produced; and

(C) is for nonindustrial use.

SEC. 1004. DESIGNATION OF MAJOR WINE TRADING COUNTRIES.

(a) DESIGNATION OF COUNTRIES.—The Trade Representative shall designate as a major wine trading country each foreign country, or group of foreign countries represented as an economic union, that, in the judgment of the Trade Representative—

(1) is a potential significant market for United States wine; and

(2) maintains tariff barriers or nontariff barriers to (or other distortions of) trade in United States wine.

(b) DESIGNATION FACTORS.—In deciding, for purposes of subsection (a)(2), whether a foreign country or group of countries maintains nontariff barriers to (or other distortions of) trade in United States wine, the Trade Representative shall take into account—

(1) the review and report required under section 854(a) of the Trade Agreements Act of 1979 (19 U.S.C. 2135 note);

(2) such relevant actions that may have been taken by that country or group since that review was conducted; and

(3) such information as may be submitted under section 1006 by representatives of the wine and grape products industries in the United States, as well as other sources.

SEC. 1005. ACTIONS TO REDUCE OR ELIMINATE TARIFF AND NONTARIFF BARRIERS AFFECTING UNITED STATES WINE.

(a) TRADE REPRESENTATIVE CONSULTATIONS.—The President shall direct the Trade Representative to enter into consultations with each major wine trading country to seek a reduction or elimination of that country's tariff barriers and nontariff barriers to (or other distortions of) trade in United States wine.

(b) PRESIDENTIAL REPORTS.—(1) The President shall notify each of the Committees regarding the extent and effect of the efforts undertaken since the submission of the report required under section 854(a) of the Trade Agreements Act of 1979, and during the 12-month period beginning on the date of the enactment of this Act, to expand opportunities in each major wine trading country for exports of United States wine. Such notification, which shall be in the form of a separate written report (that must be submitted within 30 days after the close of that 12-month period) for each major wine trading country, shall include—

(A) a description of each act, policy, and practice (and of its legal basis and operation) in that country that constitutes a tariff barrier or nontariff barrier to (or other distortion of) trade in United States wine (and that description shall be based upon an updating of the report that was submitted to the Congress under section 854(a) of the Trade Agreements Act of 1979);

(B) an assessment of the extent to which each such act, policy, or practice is subject to international agreements to which the United States is a party;

(C) information with respect to any action taken, or proposed to be taken, under exist-

ing authority to eliminate or reduce each such act, policy, or practice, including, but not limited to—

(i) any action under the Trade Act of 1974, and

(ii) any negotiation or consultation with any foreign government;

(D) if action referred to in subparagraph (C) was not taken, an explanation of the reasons therefore; and

(E) recommendations to the Congress of any additional legislative authority or other action which the President believes is necessary and appropriate to obtain the elimination or reduction of foreign tariff barriers or nontariff barriers to (or other distortions of) trade in United States wine.

(2) The reports required under paragraph (1) shall be developed and coordinated by the Trade Representative through the interagency trade organization established by section 242(a) of the Trade Expansion Act of 1962.

(c) PRESIDENTIAL ACTION.—If the President, after taking into account information and advice received under subsections (a) and (b), section 1006 or from other sources, determines that action is appropriate to respond to any act, policy or practice of a major wine trading country constitutes a tariff barrier or nontariff barrier to (or other distortion of) trade in United States wine and—

(1) is inconsistent with the provisions of, or otherwise denies benefits to the United States under, any trade agreement; or

(2) is unjustifiable, unreasonable, or discriminatory and burdens or restricts United States commerce;

the President, shall take all appropriate and feasible action under the Trade Act of 1974 to enforce the rights of the United States under any such trade agreement or to obtain the elimination of such act, policy, or practice.

SEC. 1006. REQUIRED CONSULTATIONS.

The Trade Representative shall consult with the Committees and with representatives of the wine and grape products industries in the United States—

(1) before identifying tariff barriers and nontariff barriers to (or other distortions of) trade in United States wine and designating major wine trading countries under section 1004;

(2) in developing the reports required under section 1005(b); and

(3) for purposes of determining whether action by the President is appropriate under any provision of the Trade Act of 1974 with respect to any act, policy, or practice referred to in section 1005(b)(1).

SEC. 1007. UNITED STATES WINE EXPORT PROMOTION.

In order to develop, maintain, and expand foreign markets for United States wine, the President is encouraged to—

(1) utilize, for the fiscal year ending September 30, 1985, the authority provided under section 135 of the Omnibus Budget Reconciliation Act of 1982 to make available sufficient funds to initate, in cooperation with nongovernmental trade associations representative of United States wineries, an export promotion program for United States; and

(2) request, for each subsequent fiscal year, an appropriation for such a wine export promotion program that will not be at the expense of any appropriations requested for export promotion programs involving other agriculture commodities.

TITLE XI—TELECOMMUNICATIONS PRODUCT CLASSIFICATION

SEC. 1101. SHORT TITLE.

This title may be cited as the "Telecommunications Product Classification Act".

SEC. 1102. TARIFF SCHEDULE NOMENCLATURE.

(a) IN GENERAL.—The Tariff Schedules of the United States (19 U.S.C. 1202) are amended as follows:

(1) Part 5 of schedule 6 is amended—

(A) by inserting after headnote 5 the following new headnote:

"6. For purposes of the tariff schedules, the term 'entertainment broadcast band receivers' means those radio receivers designed principally to receive signals in the AM (550–1650 kHz) and FM (88–108 mHz) entertainment broadcast bands, whether or not capable of receiving signals on other bands (e.g., aviation, television, marine, public safety, industrial, and citizens band).",

(B) by striking out items 684.62 through 684.64 and inserting, in numerical sequence and subordinate to the superior heading to item 684.62, the following new items:

	"Telephonic apparatus and instruments and parts thereof:			
684.57	Telephone switching apparatus (including private branch exchange and key system switching apparatus), and parts and components thereof.	8.5% ad val.	.....	35% ad val.
684.58	Telephone sets and other terminal equipment and parts thereof.	8.5% ad val.	.....	35% ad val.
684.59	Other.....	8.5% ad val.	.....	35% ad val.
684.63	If Canadian article and original motor vehicle equipment (see headnote 2, part 6B, schedule 6).	Free.....	.....	
	Other:			
684.65	Switching apparatus and parts thereof.	5.6% ad val.	4.7% ad val.	35% ad val.
684.66	Terminal apparatus (including teleprinting and teletypewriting machines) and parts thereof.	5.6% ad val.	4.7% ad val.	35% ad val.
684.67	Other.....	5.6% ad val.	4.7% ad val.	35% ad val.".

(C) by inserting, in numerical sequence, the following new item:

"684.80	Communications satellites (however provided for in this part) and parts thereof.	Free".		

(D) by redesignating 685.10, 685.11, 685.13, 685.14, 685.15, 685.16, 685.17, 685.18, 685.20, and 685.22 as 684.90, 684.92, 684.94, 684.96, 684.98, 685.00, 685.02, 685.04, 685.06, and 685.08 respectively.

(E) by striking out items 685.23 through 685.31 and inserting, in numerical sequence and subordinate to the superior heading to item 685.21, the following new items:

"685.10	Radio receivers, other than solid-state (tubeless).	6% ad val.	.....	35% ad val.
	Solid-state (tubeless) radio receivers:			
685.12	Designed for motor-vehicle installation.	8.9% ad val.	8% ad val.	35% ad val.
	Other:			
685.14	Entertainment broadcast band receivers.	7.7% ad val.	6% ad val.	35% ad val.
685.16	Other.....	7.7% ad val.	6%ad val.	35% ad val.
	Transceivers:			
	Citizens band:			
685.18	Hand-held.....	6% ad val.	.....	35% ad val.
685.20	Other.....	6% ad val.	.....	35% ad val.
685.22	Low-power radio-telephonic transceivers operating on frequencies from 49.82 to 49.90 mHz.	3.8% ad val.	2.4% ad val.	35% ad val.
685.24	Other transceivers.	6% ad val.	.....	35% ad val.
	Other transmission apparatus incorporating reception apparatus:			
685.25	Cordless handset telephones.	6% ad val.	.....	35% ad val.
685.28	Other.....	6% ad val.	.....	35% ad val.
	Other:			
685.30	Transmitters.....	6% ad val.	.....	35% ad val.
685.32	Other, including parts.	6% ad val.	.....	35% ad val.
685.34	Radiotelegraphic and radiotelephonic transmission and reception apparatus, and radiobroadcasting transmission and reception apparatus, if certified for use in civil aircraft (see headnote 3, part 6C, schedule 6).	Free.",		

(F) by redesignating 685.33, 685.34, and 685.36 as 685.36, 685.37, and 685.38, respectively.

(G) by inserting, in numerical sequence and at the same hierarchical level as the article description for item 685.40, the following new item:

"685.39	Telephone answering machines, and parts thereof.	4.5% ad val.	3.9% ad val.	35% ad val.".

(H) by striking out the article description for item 685.40 and inserting in lieu thereof the following: "Tape recorders and dictation recording and transcribing machines (other than telephone answering machines), and parts thereof",

(I) by striking out item 685.50 and inserting in lieu thereof the following:

	"Other:			
685.48	Articles designed for connection to telegraphic or telephonic apparatus or instruments or to telegraphic or telephonic networks.	5.9% ad val.	4.9% ad val.	35% ad val.
685.49	Other	5.9% ad val.	4.9% ad val.	35% ad val.".

(J) by striking out item 688.15 and inserting, in numerical sequence and subordinate to the superior heading to item 688.10, the following new items:

	"Other:			
688.17	With modular telephone connectors.	5.8% ad val.	5.3% ad val.	35% ad val.
688.18	Other	5.8% ad val.	5.3% ad val.	35% ad val.";

(K) by redesignating item 688.16 as item 688.19, with the article description therefor subordinate to the article description for items 688.17 and 688.18 (as added by subparagraph (G)), and

(L) by striking out item 688.43 and inserting, in numerical sequence and subordinate to the superior heading to item 688.34, the following new items:

	"Other:			
688.41	Articles designed for connection to telegraphic or telephonic apparatus or instruments or to telegraphic or telephonic networks.	4.5% ad val.	3.9% ad val.	35% ad val.
688.42	Other	4.5% ad val.	3.9% ad val.	35% ad val.";

(2) Subpart A of part 2 of schedule 7 is amended—

(A) by inserting in numerical sequence the following new items:

"707.90	Optical fibers, whether or not in bundles, cables or other wire put up, with or without connectors and whether mounted or not mounted.	13.1% ad val.	8.4% ad val.	65% ad val.";

and

(B) by redesignating items 708.09 and 708.29 as 708.10 and 708.30, respectively.

(3) Subpart A of part 3 of schedule 8 is amended by striking out the superior heading to item 837.00 and inserting in lieu thereof the following: "Articles for the National Aeronautics and Space Administration and articles (other than communications satellites and parts thereof) imported to be launched into space under launch services agreements with the National Aeronautics and Space Administration:".

(4) Subpart B of part 3 of schedule 8 is amended by striking out the superior heading to item 842.10 and inserting in lieu thereof the following: "Upon the request of the Department of State, articles (other than communications satellites and parts thereof) which are the property of a foreign government or of a public international organization:".

(b) CONFORMING AMENDMENTS.—

(1) RATE REDUCTIONS.—

(A) The rate of duty in column numbered 1 of the Tariff Schedules of the United States (as added by subsection (a)) for each item set forth below in the column headed "A" in the table under subparagraph (C) shall be subject to all staged rate reductions for the corresponding item set forth below in the column headed "B" in such table which were proclaimed by the President before the date of the enactment of this Act.

(B) Whenever the rate of duty specified in column numbered 1 of the Tariff Schedules of the United States for each item set forth below in the column headed "A" in the table under subparagraph (C) is reduced to the same level, or to a lower level, as the corresponding rate of duty specified in the column entitled "LDDC" of the Tariff Schedules of the United States for such item, the rate of duty in such "LDDC" column shall be deleted.

(C) The table referred to in this subparagraph is as follows:

A	B
676.13	676.15
676.14	676.15
676.28	676.30
676.29	676.30
676.53	676.52
676.54	676.52
678.49	678.50
678.53	678.50
684.65	684.64
684.66	684.64
684.67	684.64
685.21	685.21
685.22	685.24
685.23	685.24
685.26	685.26
685.39	685.40
685.48	685.50
685.49	685.50
688.17	688.15
688.18	688.15
688.41	688.43
688.42	688.43
707.90	708.29
707.92	708.09

(2) AUTHORITY UNDER THE TARIFF ACT OF 1930.—Subsection (a) of section 322 of the Tariff Act of 1930 (19 U.S.C. 1322 (a)) is amended by adding at the end thereof the following new sentence: "The authority delegated to the Secretary by this subsection shall not extend to communications satellites and components and parts thereof.".

(c) MODIFICATION OF SCHEDULE B.—The President shall modify schedule B of the Tariff Schedules of the United States to reflect the changes made by this section.

(d) EFFECTIVE DATE.—The amendments made by this title shall apply with respect to articles entered, or withdrawn from warehouse, for consumption on or after the date of the enactment of this title.

Amend the title so as to read: "An Act to amend the trade laws, authorize the negotiation of trade agreements, extend trade preferences, change the tariff treatment with respect to certain articles and for other purposes.".

The SPEAKER pro tempore. The Clerk will designate the House amendment.

The text of the House amendment is as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Tariff and Trade Act of 1984".

(b) TABLE OF CONTENTS.—

TITLE I—TARIFF SCHEDULES AMENDMENTS

Subtitle A—Reference to Tariff Schedules

Sec. 101. Reference.

Subtitle B—Permanent Changes in Tariff Treatment

Sec. 111. Fresh asparagus.
Sec. 112. Apple and pear juice.
Sec. 113. Orange juice.
Sec. 114. Plywood.
Sec. 115. Classification of certain cordage.
Sec. 116. Classification of certain articles of wearing apparel.
Sec. 117. Classification of naphtha and motor fuel blending stock.
Sec. 118. Chipper knife steel.
Sec. 119. Gut for surgical sutures.
Sec. 120. Duty-free treatment of certain previously imported articles.
Sec. 121. Duty-free treatment of articles exported for purposes of rendering certain geophysical or contracting services.
Sec. 122. Implementation of customs convention on containers, 1972.
Sec. 123. Scrolls or tablets used in religious observances.
Sec. 124. Classification of textile fabrics.
Sec. 125. Duty-free treatment to warp knitting machines.
Sec. 126. Classification of certain gloves.
Sec. 127. Uniform tariff treatment of pet toys.

Subtitle C—Temporary Changes in Tariff Treatment

Sec. 131. Fresh, chilled, or frozen brussels sprouts.
Sec. 132. β-naphthol.
Sec. 133. 4-chloro-3-methylphenol.
Sec. 134. Tetra amino biphenyl.
Sec. 135. 6-amino-1-naphthol-3-sulfonic acid.
Sec. 136. DSA.
Sec. 137. Guanidines.
Sec. 138. Certain antibiotics.
Sec. 139. Acetylsulfaguanidine.
Sec. 140. Fenridazon-potassium.
Sec. 141. Uncompounded allyl resins.
Sec. 142. Sulfamethazine.
Sec. 143. Sulfaguanidine.
Sec. 144. Terfenadine.
Sec. 145. Sulfathizole.
Sec. 146. Sulfaquinoxaline and sulfanilamide.
Sec. 147. Dicyclomine hydrochloride and mepenzolate bromide.
Sec. 148. Amiodarone.
Sec. 149. Desipramine hydrochloride.
Sec. 150. Clomiphene citrate.
Sec. 151. Yttrium bearing materials and compounds.
Sec. 152. Tartaric acid and chemicals.
Sec. 153. Certain mixtures of magnesium chloride and magnesium nitrate.
Sec. 154. Nicotine resin.
Sec. 155. Rifampin.
Sec. 156. Lactulose.
Sec. 157. Iron-dextran complex.
Sec. 158. Natural graphite.
Sec. 159. Zinc.
Sec. 160. Certain diamond tool blanks.
Sec. 161. Clock radios.
Sec. 162. Lace-braiding machines.
Sec. 163. Certain magnetron tubes.
Sec. 164. Narrow fabric looms.
Sec. 165. Umbrella frames.
Sec. 166. Crude feathers and down.

Sec. 167. Canned corned beef.
Sec. 168. Hovercraft skirts.
Sec. 169. Disposable surgical drapes and sterile gowns.
Sec. 170. MXDA.
Sec. 171. 4,4-Bis(A, A-dimethylbenzyl) diphenylamine.
Sec. 172. Flecainide acetate.
Sec. 173. Caffeine.
Sec. 174. Watch crystals.
Sec. 175. Unwrought lead.
Sec. 176. Flat knitting machines.
Subtitle D—Technical Amendments
Sec. 181. Technical and conforming amendments.
Subtitle E—Effective Dates
Sec. 191. Effective dates.
TITLE II—CUSTOMS AMENDMENTS
Sec. 201. Same kind and quality drawbacks; packaging material drawbacks.
Sec. 202. Duty-free treatment for certain vessel repairs and equipments.
Sec. 203. Date of liquidation or reliquidation.
Sec. 204. Increase in value of goods eligible for informal entry.
Sec. 205. Operation of certain duty-free sales enterprises.
Sec. 206. Customs brokers.
Sec. 207. Public disclosure of certain manifest information.
Sec. 208. Virgin Islands excursion vessels.
Sec. 209. Unlawful importation or exportation of certain vehicles.
Sec. 210. Elimination of sureties on customs bonds.
Sec. 211. Controlled substances provisions.
Sec. 212. Seizures and forfeitures.
TITLE III—MISCELLANEOUS TRADE AMENDMENTS
Sec. 301. Civil aircraft agreement.
Sec. 302. Duty-free entry of articles required for the installation and operation of a telescope in Arizona.
Sec. 303. Duty-free entry of organs imported for the use of Trinity Cathedral of Cleveland, Ohio.
Sec. 304. Columbia-Snake Customs District.
Sec. 305. Sense of Congress regarding possible EEC action on corn gluten.
Sec. 306. Foreign trade zones.
Sec. 307. Duty-free entry for pipe organ for the Crystal Cathedral, Garden Grove, California.
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TITLE IV—UNITED STATES-ISRAEL FREE TRADE AREA
Sec. 401. Short title.
Sec. 402. Trade agreement authority.
Sec. 403. Criteria for duty-feee treatment of articles.
Sec. 404. Application of certain other trade law provisions.
Sec. 405. Fast track procedures for perishable articles.
Sec. 406. Construction of title.
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Sec. 501. Short title; statement of purpose.
Sec. 502. Consideration of a beneficiary developing country's competitiveness in extending references.
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Sec. 504. Articles which may not be designated as eligible articles; regulations.
Sec. 505. Limitations on preferential treatment.
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TITLE VI—SMALL BUSINESS TRADE ASSISTANCE AND TRADE MONITORING
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Sec. 701. Reference.
Subtitle A—Amendments to Countervailing Duty and Antidumping Duty Laws
Sec. 711. Clarification of general rule.
Sec. 712. Termination or suspension of investigation.
Sec. 713. Reviews and determinations regarding certain agreements.
Sec. 714. Initiation of antidumping duty investigations.
Sec. 715. Definitions and special rules regarding upstream and other subsidies, downstream dumping, material injury and interested parties.
Sec. 716. Hearings.
Sec. 717. Verification of information.
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Sec. 719. Sampling and averaging in determining United States price and foreign market value.
Sec. 720. Elimination of interlocutory appeals.
SUBTITLE B—Miscellaneous Provisions
Sec. 731. Definition of domestic producers.
Sec. 732. Adjustments study.
Sec. 733. Effective dates.
TITLE VIII—AUTHORIZATION OF APPROPRIATIONS FOR CUSTOMS AND TRADE AGENCIES
Sec. 801. United States International Trade Commission.
Sec. 802. United States Customs Service.
Sec. 803. Office of the United States Trade Representative.
TITLE IX—ENFORCEMENT AUTHORITY FOR THE NATIONAL POLICY FOR THE STEEL INDUSTRY
Sec. 901. Short title.
Sec. 902. Findings and purposes.
Sec. 903. Sense of Congress regarding the national policy for the steel industry.
Sec. 904. Definitions.
Sec. 905. Enforcement authority.
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Sec. 908. Extension of adjustment assistance for workers and firms.
Sec. 909. Effective date.
TITLE X—ELIMINATION OF BARRIERS TO INTERNATIONAL TRADE IN UNITED STATES WINE
Sec. 1001. Short title.
Sec. 1002. Congressional findings and purposes.
Sec. 1003. Definitions.
Sec. 1004. Designation of major wine trading countries.
Sec. 1005. Actions to reduce or eliminate tariff and nontariff barriers affecting United States Wine.
Sec. 1006. Required consultations.
Sec. 1007. United States wine export promotion.
TITLE XI—SERVICE INDUSTRIES COMMENCE DEVELOPMENT
Sec. 1101. Short title.
Sec. 1102. Statement of purposes.
Sec. 1103. Definitions.
Sec. 1104. Service industries development program, coordination, and reports.
Sec. 1105. Amendments to the Trade Act of 1974.

TITLE I—TARIFF SCHEDULES AMENDMENTS

Subtitle A—Reference to Tariff Schedules

SEC. 101. REFERENCE.

Whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a schedule, item, headnote or other provision, the reference shall be considered to be made to a schedule, item, headnote or other provision of the Tariff Schedules of the United States (19 U.S.C. 1202) of the Appendix thereto.

Subtitle B—Permanent Changes in Tariff Treatment

SEC. 111. FRESH ASPARAGUS.

Subpart A of part 8 of schedule 1 is amended by adding before the superior heading to items 135.10 through 135.7 the following new items:

	"Asparagus:		
135.03	If fresh or chilled; entered during the period from September 15 to November 15, inclusive, in any year, and transported to the United States by air..	5% ad val.	..... 50% ad val.
135.05	Other.....	25% ad val.	..... 50% ad val.".

SEC. 112. APPLE AND PEAR JUICE.

Item 165.15 is amended by striking out "Free" and inserting in lieu thereof "0.1¢ per gal.".

SEC. 113. ORANGE JUICE.

Subpart A of part 12 of schedule 1 is amended by inserting after item 165.25 the following new items:

	"Orange:		
165.27	Not concentrated and not made from a juice having a degree of concentration of 1.5 or more (as determined before correction to the nearest 0.5 degree).....	20¢ per gal.	..... 70¢ per gal.
165.29	Other.....	35¢ per gal.	..... 70¢ per gal.".

SEC. 114. PLYWOOD.

Headnote 1 of part 3 of schedule 2 is amended—

(1) in paragraph (b) by inserting immediately before the semicolon at the end thereof the following: "or any edge of which has

been tongued, grooved, lapped, or otherwise worked";

(2) in paragraph (c) by inserting immediately before the semicolon at the end thereof the following: "or any edge of which has been tongued, grooved, lapped, or otherwise worked"; and

(3) in paragraph (e) by striking out "chiefly used in the construction of walls, ceilings, or other parts of buildings" and inserting in lieu thereof "other than plywood, woodveneer panels, or cellular panels".

SEC. 115. CLASSIFICATION OF CERTAIN CORDAGE.

Subpart E of part 1 of schedule 3 is amended—

(1) by striking out "each of which consists" in headnote 3(c) and inserting in lieu thereof, "and fibrillated or fibrillating strips of any dimension which consists, after fibrillation in the case of strips,"; and

(2) by inserting after "embraces" in headnote 3(d) the following: "non-fibrillated or non-fibrillating".

SEC. 116. CLASSIFICATION OF CERTAIN ARTICLES OF WEARING APPAREL.

The headnotes to part 6 of schedule 3 are amended by adding at the end thereof the following:

"3. For purposes of this part, except for suits; pajamas and other nightwear; playsuits, washsuits, and similar apparel; judo, karate and other oriental martial arts uniforms; swimwear; and infants' sets for children up to and including 24 months of age, all garments are to be separately classified under their appropriate tariff items, even if two or more such articles are imported together and designed to be sold together at retail.".

SEC. 117. CLASSIFICATION OF NAPHTHA AND MOTOR FUEL BLENDING STOCK.

Headnote 1 to part 10 of schedule 4 is amended—

(1) by amending headnote 1 by inserting "naphthas (whether or not catalytic naphthas) provided for in item 475.35, motor fuel blending stock," immediately after "except";

(2) by amending headnote 2—

(A) by striking out "and" at the end of subdivision (a);

(B) by striking out the period at the end of subdivision (b) and inserting in lieu thereof "; and";

(C) by adding at the end thereof the following:

"(c) 'Motor fuel blending stocks' (item 475.27) is any product (except naphthas provided for in item 475.35) derived primarily from petroleum, shale oil, or natural gas, whether or not containing additives, which is chiefly used for direct blending in the manufacture of motor fuel.";

(3) by inserting in numerical sequence the following new item:

"475.27	Motor fuel blending stock	1.25¢ per gal.	.....	2.5¢ per gal.";

and

(4) by amending item 475.30 by striking out "fuel)" and inserting in lieu thereof "fuel or motor fuel blending stock)".

SEC. 118. CHIPPER KNIFE STEEL.

(a) Item 606.93 is amended by striking out "8.3% ad val. + additional duties (see headnote 4)" in rate column numbered 1 and inserting in lieu thereof "Free".

(b) Item 911.29 of the Appendix is repealed.

SEC. 119. GUT FOR SURGICAL SUTURES.

Subpart C of part 13 of schedule 7 is amended by striking out item 792.22 and inserting in lieu thereof the following:

"792.24	If imported for use in the manufacture of sterile surgical sutures	5.4% ad val.	3.5% ad val.	40% ad val
"792.26	Other	11.2% ad val.	7.7% ad val.	40% ad val.".

(b)(1) The rate of duty in column numbered 1 for item 792.24 of such Schedules (as added by subsection (a)) shall be subject to any staged rate reductions for item 495.10 which were proclaimed by the President before the date of the enactment of this Act.

(2) Whenever the rate of duty specified in column numbered 1 for such item 792.24 is reduced to the same level as the corresponding rate of duty specified in the "LDDC" column for such item, the rate of duty in the "LDDC" column shall be deleted from such Schedules.

(c) The rate of duty in column numbered 1 for item 792.26 of such Schedules (as added by subsection (a)) shall be subject to the same staged rate reductions that were proclaimed by the President before the date of the enactment of this Act for item 792.22.

SEC. 120. DUTY-FREE TREATMENT OF CERTAIN PREVIOUSLY IMPORTED ARTICLES.

Clause (1) of the item 801.00 is amended by striking out "lease to a foreign manufacturer" and inserting in lieu thereof "lease or similar use agreements".

SEC. 121. DUTY-FREE TREATMENT OF ARTICLES EXPORTED FOR PURPOSES OF RENDERING CERTAIN GEOPHYSICAL OR CONTRACTING SERVICES.

Part 1 of schedule 8 is amended by inserting in numerical sequence the following new item:

"802.50	Rendition of geophysical or contracting services in connection with the exploration for, or the extraction or development of, natural resources	Free	Free".

SEC. 122. IMPLEMENTATION OF CUSTOMS CONVENTION ON CONTAINERS, 1972.

(a) Subpart C of part 1 of schedule 8 is amended—

(1) by amending headnote 1 to such subpart by inserting ", accessories and equipment" immediately before the period at the end thereof; and

(2) by amending the article description for item 808.00 by striking out ", and repair components" and all that follows thereafter and inserting in lieu thereof ", repair components for containers of foreign production which are instruments of international traffic, and accessories and equipment for such containers, whether the accessories and equipment are imported with a container to be reexported separately or with another container, or imported separately to be reexported with a container.".

(b) Subsection (a) of section 322 of the Tariff Act of 1930 (19 U.S.C. 1322(a)) is amended by striking out "granted the customary exceptions" and inserting in lieu thereof "excepted".

SEC. 123. SCROLLS OR TABLETS USED IN RELIGIOUS OBSERVANCES.

Part 4 of schedule 8 is amended—

(1) by striking out "and 854.30" in headnote 1 and inserting in lieu thereof "854.30, and 854.40"; and

(2) by inserting in numerical sequence the following:

"854.40	Scrolls or tablets of wood or paper, commonly known as Gohonzon, imported for use in public or private religious observances, whether or not any of the foregoing is imported for the use of a religious institution	Free	Free".

SEC. 124. CLASSIFICATION OF TEXTILE FABRICS.

(a) Headnote 5 of schedule 3 is amended to read as follows:

"5. (a) Except as otherwise provided in subsection (b) of this headnote, for the purposes of parts 5, 6, and 7 of this schedule and parts 1 (except subpart A), 4, and 12 of schedule 7, in determining the classification of any article which is wholly or in part of a fabric coated or filled, or laminated, with nontransparent rubber or plastics (which fabric is provided for in part 4C of this schedule), the fabric shall be regarded not as a textile material but as being wholly of rubber or plastics to the extent that (as used in the article) the nontransparent rubber or plastics forms either the outer surface of such article or the only exposed surface of such fabric.

"(b) Any fabric described in part 4C of this schedule shall be classified under part 4C whether or not also described elsewhere in the schedules.".

(b) The headnotes to subpart C of part 4 of schedule 3 are amended—

(1) by striking out clause (vii) in headnote 1; and

(2) by inserting "or value" after "quantities" in headnote 2(c).

(c) Part 12 of schedule 7 is amended by inserting immediately after headnote 1 of part 12 headnote the following new headnote:

"2. This part does not cover fabrics, coated or filled, or laminated, with rubber or plastics provided for in part 4C of schedule 3.".

SEC. 125. DUTY-FREE TREATMENT TO WARP KNITTING MACHINES.

(a) Subpart E of part 4 of schedule 6 is amended by striking out item 670.20 and inserting in lieu thereof the following:

"670.20	Warp knitting machines	Free	.....	40% ad val.
670.21	Other	5.9% ad val.	4.7% ad val.	40% ad val.".

(b) Item 912.14 of the Appendix to such Schedules is repealed.

(c)(1) The rate of duty in column numbered 1 for item 670.21 (as added by subsection (a)) shall be subject to all staged rate reductions for item 670.20 that were proclaimed by the President before the date of the enactment of this Act.

(2) Whenever the rate of duty specified in column numbered 1 for such item 670.21 is reduced to the same level as the corresponding rate of duty specified in the column entitled "LDDC" for such item, or to a lower level, the rate of duty in such "LDDC" column shall be deleted.

SEC. 126 CLASSIFICATION OF CERTAIN GLOVES.

Subpart C of part 1 of schedule 7 is amended—

(1) by amending headnote 1—

(A) by striking out "and" at the end of paragraph (a),

(B) by striking out the period at the end of paragraph (b) and inserting "; and", and

(C) by adding at the end thereof the following new paragraph:

"(c) the term 'with fourchettes' includes only gloves which, at a minimum, have four-

chettes extending from fingertip to fingertip between each of the four fingers."; and

(2) by amending item 705.85 by striking out "textile fabric" and "or sidewalls".

SEC. 127. UNIFORM TARIFF TREATMENT OF PET TOYS.

Subpart A of part 13 of schedule 7 is amended by inserting immediately after item 790.55 the following new item:

"790.57	Toys for pets, of textile materials	8.5% ad val.		80% ad val.".

Subtitle C—Temporary Changes in Tariff Treatment

SEC. 131. FRESH, CHILLED, OR FROZEN BRUSSELS SPROUTS.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new items:

"903.29	Brussels sprouts, fresh, chilled, or frozen, but not reduced in size and not otherwise prepared or preserved (provided for in item 137.71, part 8A, schedule 1)	12.5% ad val.	No change.	On or before 12/30/87
903.33	Brussels sprouts, fresh, chilled, or frozen, and cut, sliced or otherwise reduced in size, but not otherwise prepared or preserved (provided for in item 138.46, part 8A, schedule 1)	7% ad val.	No change.	On or before 12/30/87".

SEC. 132. β-NAPHTHOL.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.31	β-Naphthol (provided for in item 403.29, part 1B, schedule 4)	Free	No change.	On or before 9/30/87".

SEC. 133. 4-CHLORO-3-METHYLPHENOL.

Item 907.08 of the Appendix is amended by striking out "6/30/84" and inserting in lieu thereof "9/30/87".

SEC. 134. TETRA AMINO BIPHENYL.

That subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.32	3,3'-Diaminobenzidine (provided for in item 404.90, part 1C, schedule 4)	Free	No change.	On or before 9/30/88".

SEC. 135. 6-AMINO-1-NAPHTHOL-3-SULFONIC ACID.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.34	6-Amino-1-naphthol-3-sulfonic acid (provided for in item 405.00, part 1B, schedule 4)	Free	No change.	On or before 9/30/87".

SEC. 136. DSA.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.35	2-(4-Aminophenyl)-6-methylbenzothiazole-7-sulfonic acid (provided for in item 406.39, part 1B, schedule 4)	Free	No change.	On or before 9/30/87".

SEC. 137. GUANIDINES.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"906.50	Diphenyl guanidine and di-ortho-tolyl guanidine (provided for in item 405.52, part 1B, schedule 4)	Free	No change.	On or before 9/30/87".

SEC. 138. CERTAIN ANTIBIOTICS.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"906.51	(6R,7R)-7-[(R)-2-Amino-2-phenylacetamido]-3-methyl-8-oxo-5-thia-1-azabicyclo[4.2.0]oct-2-ene-2-carboxylic acid disolvate (provided for in item 406.42, part 1B, schedule 4)	Free	No change.	On or before 9/30/87".

SEC. 139. ACETYLSULFAGUANIDINE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.33	Acetylsulfaguanidine (provided for in item 406.56, part 1B, schedule 4)	Free	No change.	On or before 9/30/87".

SEC. 140. FENRIDAZON-POTASSIUM.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.41	Mixtures of potassium 1-(p-chlorophenyl)-1,4-dihydro-6-methyl-4-ozopyridazine-3-carboxylate ('fenridazon-potassium') and formulation adjuvants (provided for in item 408.38, part 1C, schedule 4)	Free	No change.	On or before 9/30/87".

SEC. 141. UNCOMPOUNDED ALLYL RESINS.

Item 907.16 of the Appendix is amended by striking out "9/30/84" and inserting in lieu thereof "9/30/86".

SEC. 142. SULFAMETHAZINE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.36	Sulfamethazine (provided for in item 411.24, part 1C, schedule 4)	Free	Free	On or before 9/30/87".

SEC. 143. SULFAGUANIDINE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.37	Sulfaguanidine (provided for in item 411.27, part 1C, schedule 4)	Free	Free	On or before 9/30/87".

SEC. 144. TERFENADINE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.25	Terfenadine (provided for in item 411.58, part 1C, schedule 4)	Free	No change.	On or before 9/30/87".

SEC. 145. SULFATHIAZOLE.

(a) Item 907.19 is amended to read as follow:

"907.19	Sulfathiazole (provided for in item 411.80, part 1C, schedule 4)	Free	Free	On or before 9/30/87".

(b) Section 136 (b) and (c) of the Act entitled "An Act to reduce certain duties, to suspend temporarily certain duties, to extend certain existing suspensions of duties, and for other purposes" (approved January 12, 1983; Public Law 97-446) is repealed.

SEC. 146. SULFAQUINOXALINE AND SULFANILAMIDE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.38	Sulfaquinoxaline and sulfanilamide (provided for in item 411.87, part 1C, schedule 4)	Free	Free	On or before 9/30/87".

SEC. 147. DICYCLOMINE HYDROCHLORIDE AND MEPENZOLATE BROMIDE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"906.53	Dicyclomine hydrochloride and mepenzolate bromide (provided for in item 412.02, part 1C, schedule 4)	Free	No change.	On or before 9/30/87".

SEC. 148. AMIODARONE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following:

"907.18	Amiodarone (provided for in item 412.12, part 1C, schedule 4)	Free	No change.	On or before 9/30/87".

SEC. 149. DESIPRAMINE HYDROCHLORIDE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"906.54	Desipramine hydrochloride (provided for in item 412.35, part 1C, schedule 4)	Free	No change.	On or before 9/30/87".

SEC. 150. CLOMIPHENE CITRATE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.42	Clomiphene citrate (provided for in item 412.50, part 1C, schedule 4)	Free	No change.	On or before 9/30/87".

SEC. 151. YTTRIUM BEARING MATERIALS AND COMPOUNDS.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.51	Yttrium bearing materials and compounds containing by weight more than 19% but less than 85% yttrium oxide equivalent (provided for in items 423.00 or 423.96, part 2C, schedule 4, or item 603.70, part 1, schedule 6)	Free	No change.	On or before 6/30/88".

SEC. 152. TARTARIC ACID AND CHEMICALS.

Items 907.65, 907.66, 907.68, and 907.69 of the Appendix are each amended by striking out "6/30/84" and inserting in lieu thereof "6/30/88".

SEC. 153. CERTAIN MIXTURES OF MAGNESIUM CHLORIDE AND MAGNESIUM NITRATE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"906.52	Mixtures of 5-chloro-2-methyl-4-isothiazolin-3-one, 2-methyl-4-isothiazolin-3-one, magnesium chloride, and magnesium nitrate (provided for in item 432.25, part 2E, schedule 4)	Free	No change.	On or before 9/30/87".

SEC. 154. NICOTINE RESIN.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.63	Nicotine resin complex (provided for in item 437.13, part 3B, schedule 4)	Free	No change.	On or before 9/30/87".

SEC. 155. RIFAMPIN.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"906.99	Rifampin (provided for in item 437.32, part 3B, schedule 4)	Free	No change.	On or before 9/30/87".

SEC. 156. LACTULOSE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.76	Lactulose (provided for in item 439.50, part 3C, schedule 4)	Free	No change.	On or before 9/30/87".

SEC. 157. IRON-DEXTRAN COMPLEX.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"907.79	Iron-dextran complex (provided for in item 440.00, part 3C, schedule 4)	Free	No change.	On or before 9/30/87".

SEC. 158. NATURAL GRAPHITE.

Item 909.01 of the Appendix is amended by striking out "12/31/84" and inserting in lieu thereof "12/31/87".

SEC. 159. ZINC.

Items 911.00, 911.01, 911.02, and 911.03 of the Appendix are each amended by striking out "6/30/84" and inserting in lieu thereof "6/30/89".

SEC. 160. CERTAIN DIAMOND TOOL BLANKS.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"910.00	Tool blanks and drill blanks, wholly or in chief value of industrial diamonds (provided for in item 520.21, part 1H, or item 523.91, part 1K, schedule 5)	Free	30% ad val.	On or before 9/30/87".

SEC. 161. CLOCK RADIOS.

Item 911.95 of the Appendix is amended by striking out "9/30/84" and inserting in lieu thereof "9/30/86".

SEC. 162. LACE-BRAIDING MACHINES.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"912.11	Decorative lace-braiding machines using the jacquard system, and parts thereof (provided for in items 670.25 and 670.74, part 4E, schedule 6)	Free	No change.	On or before 9/30/87".

SEC. 163. CERTAIN MAGNETRON TUBES.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"912.02	Magnetron tubes with an operating frequency of 2.450 GHz and a minimum power of at least 300 watts and a maximum power not greater than 2000 watts (provided for in item 684.28, part 5, schedule 6)	Free	No change.	On or before 12/31/86".

SEC. 164. NARROW FABRIC LOOMS.

(a) Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"912.04	Power driven weaving machines for weaving fabrics not over 12 inches in width (provided for in item 670.14, part 4E, schedule 6)	Free	No change.	On or before 9/30/87".

(b) Subpart E of part 4 of schedule 6 is amended by adding the following new headnote:

"Subpart E headnote: "1. For purposes of applying item 670.74 to parts of articles provided for under item 912.04, any such part that is entered, or withdrawn from warehouse for consumption, during the effective period of item 912.04 shall be dutiable at the rate that would apply if that item had not been enacted.".				

SEC. 165. UMBRELLA FRAMES.

Subpart B of part 1 of the Appendix is amended by inserting in numerical order the following new item:

"912.45	Frames for hand-held umbrellas chiefly used for protection against rain (provided for in item 751.20, part 8B, schedule 7)	Free	No change.	On or before 9/30/85".

SEC. 166. CRUDE FEATHERS AND DOWN.

Items 903.70 and 903.80 of the Appendix to the Schedules are each amended by striking out "On or before 6/30/84" and inserting in lieu thereof "On or before 6/30/87."

SEC. 167. CANNED CORNED BEEF.

Subpart B of part 1 of the Appendix to the Schedules is amended by inserting in numerical sequence the following new item:

"903.15	Corned beef in airtight containers (provided for in item 107.48, part 2B, schedule 1)	3% ad val.	No change.	On or before 10/29/89".

SEC. 168. HOVERCRAFT SKIRTS.

Item 905.40 of the Appendix to the Schedules is amended by striking out "6/30/83" and inserting in lieu thereof "6/30/86".

SEC. 169. DISPOSABLE SURGICAL DRAPES AND STERILE GOWNS.

Subpart B of part 1 of the Appendix to the Schedules is amended by inserting in numerical sequence the following new item:

"905.50	Bonded fiber fabric disposable gowns, sterilized or in immediate packings ready for sterilization, for use in performing surgical procedures, of manmade fibers (provided for in items 379.96 and 383.92, part 6F, schedule 3) and bonded fiber fabric disposable surgical drapes, of manmade fibers (provided for in item 389.62, part 7B, schedule 3)	5.6% ad val.	26.5% ad val.	On or before 1/1/89".

SEC. 170. MXDA.

Subpart B of part 1 of the Appendix to the Schedules is amended by inserting in numerical sequence the following new item:

"907.03	m-Xylenediamine (MXDA) (provided for in item 404.88, part 1B, schedule 4)	Free	No change.	On or before 6/30/86
907.04	1, 3-Bis[aminomethyl] cyclohexane (1, 3-BAC) (provided for in item 407.05, part 1B, schedule 4)	Free	No change.	On or before 6/30/86".

SEC. 171. 4,4-Bis(A, A-dimethylbenzyl) diphenylamine.

Subpart B of part 1 of the Appendix to the Schedules is amended by inserting in numerical sequence the following item:

"907.06	4,4-Bis (a, a-dimethylbenzyl diphenylamine (provided for in item 404.88, part 1B, schedule 4)	Free	No change.	On or before 6/30/86".

SEC. 172. FLECAINIDE ACETATE.

Subpart B of part 1 of the Appendix to the Schedules is amended by inserting in numerical sequence the following new item:

"907.21	Flecainide acetate (provided for in item 412.12, part, 1C, schedule 4)	Free	No change.	On or before 6/30/86".

SEC. 173. CAFFEINE.

Item 907.22 of the Appendix to the Schedules is amended—

(1) by striking out "6% ad val." and inserting in lieu thereof "4.1% ad val."; and

(2) by striking out "12/31/83" and inserting in lieu thereof "12/31/85".

SEC. 174. WATCH CRYSTALS.

(a) Subpart B of part 1 of the Appendix to the Schedules is amended by inserting in numerical sequence the following new item:

"909.40	Watch glasses other than round watch glasses (provided for in item 547.13, part 3C, schedule 5)	6.2% ad val.	No change.	On or before the 3-year period beginning on the date of the enactment of this item 6/30/86".

(b) During such time as item 909.40 (as added by subsection (a)) is in effect, the rate of duty on watch glasses provided for in such item that are products of a least developed developing country shall be 4.9 percent ad valorem.

(c) Effective with respect to articles provided for in item 909.40 (as added by subsection (a)) that are entered, or withdrawn from warehouse for consumption, on or after each of the dates set forth below, column 1 for such item is amended by striking out the rate of duty in effect on the day before such date and inserting in lieu thereof the rate of duty appearing below next to each such date:

Date:	Rate of duty:
January 1, 1984	5.9% ad val.
January 1, 1985	5.6% ad val.
January 1, 1986	5.2% ad val.

SEC. 175. UNWROUGHT LEAD.

(a) Item 911.50 of the Appendix to the Schedules is amended by striking out "6/30/83" and inserting in lieu thereof "6/30/88".

(b) Section 114 of Public Law 96-609 is amended by striking out "July 1, 1983" in subsection (b) and inserting in lieu thereof "July 1, 1988".

SEC. 176. FLAT KNITTING MACHINES.

Item 912.13 of the Appendix to the Schedules is amended—

(1) by striking out "(provided for in item 670.19 or 670.20," and inserting in lieu thereof ", and parts thereof (provided for in items 670.19, 670.20, and 670.74,"; and

(2) by striking out "6/30/83" and inserting in lieu thereof "6/30/88".

Subtitle D—Technical Amendments

SEC. 181. TECHNICAL AND CONFORMING AMENDMENTS.

(a) The schedules are further amended as follows:

(1) Headnote 9(a) of the general headnotes is amended by striking out "warehouse, for consumption" and inserting in lieu thereof "warehouse for consumption,".

(2) The superior heading to items 346.05 and 346.10 and the superior heading to items 346.15 through 346.24 are each amended by striking out "Fabric" and inserting in lieu thereof "Fabrics".

(3) The article description for item 535.13 is amended by aligning the indentation of that description with that of the article description for item 535.12.

(4) Headnote 1(ii) to subpart D of part 6 of schedule 6 is amended by striking out "5(e)" and inserting in lieu thereof "5(f)".

(5) Item 642.34 is amended by striking out "12% ad val." and inserting in lieu thereof "10% ad val.".

(6) Headnote 6 to subpart E of part 2 of schedule 7 is amended—

(A) by striking out "through (h)" in paragraph (a) and inserting in lieu thereof "through (ij)";

(B) by striking out "paragraph (c)" in paragraph (b) and inserting in lieu thereof "paragraph (d)",

(C) by striking out "paragraph (d)" in subparagraph (d)(ii)(I) and inserting in lieu thereof "paragraph (e)"; and

(D) by redesignating paragraph (i) as paragraph (ij).

(7) Item 737.73 is amended by inserting a comma immediately after "ware".

(8) The article description for each of items 745.41 and 745.42 is amended by aligning the indentation of that description with that of the article description for item 745.34.

(9) The article description for each of items 870.50, 870.55, and 870.60 is amended by aligning the indentation of that description with that of the article description for item 870.25.

(b) The Appendix to the schedules is amended as follows:

(1) The article description for item 903.25 is amended to read as follows: "Culled carrots, fresh or chilled, in immediate containers each holding more than 100 pounds (provided for in item 135.42, part 8A, schedule 1), if entered for consumption during the period from August 15 in any year to the 15th day of the following February, inclusive".

(2) Item 906.10 is amended by striking out "386.09" and inserting in lieu thereof "386.13".

(3) The article description for item 906.12 is amended—

(A) by aligning the indentation of that description with that of the article description for item 906.10; and

(B) by inserting ", part 6F," after "383.50".

(4) The article description for item 907.00 is amended to read follows: "p-Hydroxybenzoic acid (provided for in item 404.42, part 1B, schedule 4)".

(5) The article description for item 907.01 is amended to read as follows: "Triphenyl phosphate (provided for in item 409.34, part 1C, schedule 4)".

(6) The article description for item 907.14 is amended to read as follows: "Mixtures of 3-ethylbiphenyl (m-ethylbiphenyl) and 4-ethylbiphenyl (p-ethylbiphenyl) (provided for in item 407.16, part 1B, schedule 4)".

(7) The article description for item 907.15 is amended to read as follows: "1,1-Bis(4-chlorophenyl)-2,2,2-trichloroethanol (Dicofol) (provided for in item 408.28, part 1C, schedule 4)".

(8) Item 912.30 is amended by striking out "737.21,".

(c) The Educational, Scientific, and Cultural Materials Importation Act of 1982 (Public Law 97-446, 19 U.S.C. 1202 note) is amended as follows:

(1) Section 162 is amended by inserting a comma after "Architectural" in the article description for item 273.52 (as set forth in paragraph (2) of such section).

(2) Section 163(c) is amended—

(A) by striking out "headnote 2 as headnote 1," in paragraph (1) and inserting in lieu thereof "headnotes 2 and 3 as headnotes 1 and 2, respectively,"; and

(B) by striking out "models) and wall charts of an educational, scientific or cultural character," and inserting in lieu thereof "models), globes, and wall charts of an educational, scientific or cultural character;" in the article description for item 870.35 (as set forth in paragraph (3) of such section).

(3) Section 165 is amended—

(A) by redesignating items 870.50, 870.55, and 870.60 (as set forth in subsection (b)(1) of such section) as items 870.65, 870.66, and 870.67, respectively;

(B) by aligning the indentation of the article description of item 870.67 (as redesignated by paragraph (1)) with the indentation of "Articles for the blind:" immediately preceding item 870.65 and 870.66 (as so redesignated);

(C) by amending headnote 2 of part 7 of schedule 8 (as set forth in subsection (b)(2) of such section)—

(i) by redesignating it as headnote 3; and

(ii) by striking out "870.50, 870.55, and 870.60—" and inserting in lieu thereof "870.65, 870.66, and 870.67—".

(d) Section 504 of the Tariff Act of 1930 (19 U.S.C. 1504) is amended—

(1) by striking out ", his consignee, or agent" in subsection (a) and inserting in lieu thereof "of record";

(2) by striking out ", his consignee, or agent" and ", consignee, or his agent" in subsection (b) and inserting in lieu thereof "of record";

(3) by striking out "or consignee" each place it appears in subsection (c) and inserting in lieu thereof "of record"; and

(4) by striking out ", his consignee, or agent" in subsection (d) and inserting in lieu thereof "of record".

Subtitle E—Effective Dates

SEC. 191. EFFECTIVE DATES.

(a) Except as provided in subsections (b) and (c), the amendments made by subtitles B, C, and D shall apply with respect to articles entered on or after the 15th day after the date of the enactment of this Act.

(b)(1) The amendments made by each of the following sections shall apply with respect to articles entered after the date appearing opposite that section:

Section 118	April 1, 1985.
Section 141	September 30, 1984.
Section 161	September 30, 1984.

(2) The amendments made by section 122 shall apply with respect to articles entered on or after a date to be proclaimed by the President which shall be consonant with the entering into force for the United States of the Customs Convention on Containers, 1972.

(c)(1) Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, upon proper request filed with the customs officer concerned on or before the 90th day after the date of the enactment of this Act the entry of any article described in paragraph (2) or (3) shall be treated as provided in such paragraph.

(2)(A) In the case of the application of any amendment made by section 133, 145, 152, 159, 166, 168, 173, 175, 176, or 181 (a) or (b) to any entry—

(i) which was made after the applicable date and before the 15th day after the date of the enactment of this Act; and

(ii) with respect to which there would have been no duty or a lesser duty if the amendment made by such section applied to such entry;

such entry shall be liquidated or reliquidated as though such entry had been made on the 15th day after the date of the enactment of this Act.

(B) For purposes of subparagraph (A), the term "applicable date" means—

(i) in the case of section 181(a) or (b), January 12, 1983,

(ii) in the case of sections 168, 175, and 176, June 30, 1983,

(iii) in the case of section 173, December 31, 1983,

(iv) in the case of sections 133, 152, 159, and 166, June 30, 1984, and

(v) in the case of section 145, January 1, 1984.

(C) In the case of the application of any amendment made by section 140 or 153 to any entry—

(1) that was made before the 15th day after the date of the enactment of this Act;

(2) that was unliquidated, or the liquidation of which was not final, on such 15th day; and

(3) with respect to which there would have been no duty if the amendment made by such section applied to such entry;

such entry shall be liquidated as though the entry had been made on such 15th day.

(d) For purposes of this section—

(1) The term "entered" means entered, or withdrawn from warehouse for consumption, in the customs territory of the United States.

(2) The term "entry" includes any withdrawal from warehouse.

TITLE II—CUSTOMS AMENDMENTS

SEC. 201. SAME KIND AND QUALITY DRAWBACKS; PACKAGING MATERIAL DRAWBACKS.

(a) Section 313(j) of the Tariff Act of 1930 (19 U.S.C. 1313(j)) is amended by adding at the end thereof the following new paragraph:

"(3) If there is, with respect to imported merchandise on which was paid any duty, tax, or fee imposed under Federal law because of its importation, any other merchandise (whether imported or domestic) that—

"(A) is fungible with such imported merchandise;

"(B) is, before the close of the three-year period beginning on the date of importation of the imported merchandise, either exported or destroyed under Customs supervision;

"(C) before such exportation or destruction—

"(i) is not used within the United States, and

"(ii) is in the possession of the party claiming drawback under this paragraph; and

"(D) is in the same condition at the time of exportation or destruction as was the imported merchandise at the time of its importation;

then upon the exportation or destruction of such other merchandise the amount of each such duty, tax, and fee paid regarding the imported merchandise shall be refunded as drawback, but in no case may the total drawback on the imported merchandise, whether available under this paragraph or any other provision of law or any combination thereof, exceed 99 percent of that duty, tax, or fee.".

(b)(1) Section 313(j) of the Tariff Act of 1930 (19 U.S.C. 1313(j)) is amended by adding at the end thereof the following new paragraph:

"(3) Packaging material that is imported for use in performing incidental operations regarding the packaging or repackaging of imported merchandise to which paragraph

(1) applies shall be treated under such paragraph in the same manner as such merchandise for purposes of refund, as drawback, 99 per centum of any duty, tax, or fee imposed under Federal law on the importation of such material.".

(2) The amendment made by paragraph (1) shall take effect on the fifteenth day after the date of the enactment of this Act.

SEC. 202. DUTY-FREE TREATMENT FOR CERTAIN VESSEL REPAIRS AND EQUIPMENTS.

(a) Section 466(e) of the Tariff Act of 1930 (19 U.S.C. 1466(e)) is amended to read as follows:

"(e) In the case of any vessel referred to in subsection (a) that arrives in a port of the United States two years or more after its last departure from a port of the United States, the duties imposed by this section shall apply only with respect to (1) fish nets and netting, and (2) other equipments, and parts thereof, and repair parts and materials purchased, or repairs made, during the first six months after the last departure of such vessel from a port of the United States: Provided, That if such vessel is designed and used primarily for transporting passengers or property, this subsection shall not apply if the vessel departed from the United States for the sole purpose of obtaining such equipments, parts, materials, or repairs.".

(b)(1) The amendment made by subsection (a) shall apply with respect to entries made in connection with arrivals of vessels on or after the 15th day after the date of the enactment of this Act.

(2) Upon request therefor filed with the customs officer concerned on or before the 90th day after the date of the enactment of this Act, any entry in connection with the arrival of a vessel used primarily for transporting passengers or property—

(A) made before the 15th day after the date of the enactment of this Act but not liquidated as of January 1, 1983, or

(B) made before such 15th day but which is the subject of an action in a court of competent jurisdiction on the date of the introduction of this Act, and

(C) with respect to which there would be no duty if the amendment made by subsection (a) applies to such entry,

shall, notwithstanding the provisions of section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) or any other provision of law, be liquidated or reliquidated as though such entry had been made on or after the 15th day after the date of the enactment of this Act.

SEC. 203. DATE OF LIQUIDATION OR RELIQUIDATION.

(a)(1) Section 505 of the Tariff Act of 1930 (19 U.S.C. 1505) is amended by adding at the end thereof the following new subsection:

"(c) Duties determined to be due upon liquidation or reliquidation shall be due 15 days after the date of that liquidation or reliquidation, and unless payment of the duties is received by the appropriate customs officer within 30 days after that date, shall be considered delinquent and bear interest from the 15th day after the date of liquidation or reliquidation at a rate determined by the Secretary of the Treasury.".

(2) The amendment made by paragraph (1) shall take effect on the 30th day after the date of the enactment of this Act.

(b)(1) Section 520 of the Tariff Act of 1930 (19 U.S.C. 1520) is amended by adding at the end thereof the following new subsection:

"(d) If a determination is made to reliquidate an entry as a result of a protest filed under section 514 of this Act or an application for relief made under subsection (c)(1) of this section, or if reliquidation is ordered by an appropriate court, interest shall be allowed on any amount paid as increased or additional duties under section 505(c) of this Act at the annual rate established pursuant to that section and determined as of the 15th day after the date of liquidation or reliquidation. The interest shall be calculated from the date of payment to the date of (1) the refund, or (2) the filing of a summons under section 2632 of title 28, United States Code, whichever occurs first.".

(2) The amendment made by paragraph (1) shall apply with respect to reliquidation determinations made or ordered on or after the date of the enactment of this Act.

SEC. 204. INCREASE IN VALUE OF GOODS ELIGIBLE FOR INFORMAL ENTRY.

(a) Paragraph (1) of section 498(a) of the Tariff Act of 1930 (19 U.S.C. 1498(a)(1)) is amended—

(1) by striking out "$250" and inserting in lieu thereof "$1,250"; and

(2) by inserting before the semicolon at the end thereof ", except that this paragraph does not apply to articles valued in excess of $250 classified in—

"(A) schedule 3,

"(B) parts 1, 4A, 7B, 12A, 12D, and 13B of schedule 7, and

"(C) parts 2 and 3 of the Appendix,

of the Tariff Schedules of the United States, or to any other article for which formal entry is required without regard to value".

(b) The amendments made by subsection (a) shall apply with respect to articles entered, or withdrawn from warehouse for consumption, after the 15th day after the date of the enactment of this Act.

SEC. 205. OPERATION OF CERTAIN DUTY-FREE SALES ENTERPRISES.

Section 555 of the Tariff Act of 1930 (19 U.S.C. 1555) is amended—

(1) by striking out "Buildings" in the first sentence thereof and inserting in lieu thereof "(a) Subject to subsection (b), buildings"; and

(2) by inserting at the end thereof the following:

"(b) If a State or local governmental authority, incident to its jurisdiction over any airport, seaport, or other exit point facility, requires that a concession or other form of approval be obtained from that authority with respect to the operation of a duty-free sales enterprise under which merchandise is delivered to such facility for exportation, merchandise incident to such operation may not be withdrawn from a bonded warehouse and transferred to such facility unless the operator of the duty-free sales enterprise demonstrates to the Secretary of the Treasury that the concession or approval required for the enterprise has been obtained. For purposes of this subsection, the term 'duty-free sales enterprise' means an entity that sells, in less than wholesale quantities, duty-free or tax-free merchandise that is delivered from a bonded warehouse to an airport, seaport, or point of exit from the United States for exportation by, or on behalf of, individuals departing from the United States.".

SEC. 206. CUSTOMS BROKERS.

(a) Section 641 of the Tariff Act of 1930 (19 U.S.C. 1641) is amended to read as follows:

"SEC. 641. CUSTOMS BROKERS.

"(a) DEFINITIONS.—As used in this section:

"(1) The term 'customs broker' means any person granted a customs broker's license by the Secretary under subsection (b).

"(2) The term 'customs business' means those activities involving transactions with the Customs Service concerning the entry and admissibility of merchandise, its classification and valuation, the payment of duties, taxes, or other charges assessed or collected by the Customs Service upon merchandise by reason of its importation, or the refund, rebate, or drawback thereof.

"(3) The term 'Secretary' means the Secretary of the Treasury.

"(b) CUSTOM BROKER'S LICENSES.—

"(1) IN GENERAL.—No person may conduct customs business (other than solely on behalf of that person) unless that person holds a valid customs broker's license issued by the Secretary under paragraph (2) or (3).

"(2) LICENSES FOR INDIVIDUALS.—The Secretary may grant an individual a customs broker's license only if that individual is a citizen of the United States. Before granting the license, the Secretary may require an applicant to show any facts deemed necessary to establish that the applicant is of good moral character and qualified to render valuable service to others in the conduct of customs business. In assessing the qualifications of an applicant, the Secretary may conduct an examination to determine the applicant's knowledge of customs and related laws, regulations and procedures, bookkeeping, accounting, and all other appropriate matters.

"(3) LICENSES FOR CORPORATIONS, ETC.—The Secretary may grant a customs broker's license to any corporation, association, or partnership that is organized or existing under the laws of any of the several States of the United States if at least one officer of the corporation or association, or one member of the partnership, holds a valid customs broker's license granted under paragraph (2).

"(4) DUTIES.—A customs broker shall exercise responsible supervision and control over the customs business that it conducts.

"(5) LAPSE OF LICENSE.—The failure of a customs broker that is licensed as a corporation, association, or partnership under paragraph (3) to have, for any continuous period of 120 days, at least one officer of the corporation or association, or at least one member of the partnership, validly licensed under paragraph (2) shall, in addition to causing the broker to be subject to any other sanction under this section (including paragraph (6)), result in the revocation by operation of law of its license.

"(6) PROHIBITED ACTS.—Any person who intentionally transacts customs business, other than solely on the behalf of that person, without holding a valid customs broker's license granted to that person under this subsection shall be liable to the United States for a monetary penalty not to exceed $10,000 for each such transaction as well as for each violation of any other provision of this section. This penalty shall be assessed in the same manner and under the same procedures as the monetary penalties provided for in subsection (d)(2)(A).

"(c) CUSTOMS BROKER'S PERMITS.—

"(1) IN GENERAL.—Each person granted a customs broker's license under subsection (b) shall—

"(A) be issued a permit, in accordance with regulations prescribed under this section, for each customs district in which that person conducts customs business; and

"(B) except as provided in paragraph (2), regularly employ in each customs district for which a permit is so issued at least one individual who is licensed under subsection (b)(2) to exercise responsible supervision and control over the customs business conducted by that person in that district.

"(2) EXCEPTION.—If a person granted a customs broker's license under subsection (b)

can demonstrate to the satisfaction of the Secretary that—

"(A) he regularly employs in the region in which that district is located at least one individual who is licensed under subsection (b)(2), and

"(B) that sufficient procedures exist within the company for the person employed in that region to exercise responsible supervision and control over the customs business conducted by that person in that district,

the Secretary may waive the requirement in paragraph (1)(B).

"(3) LAPSE OF PERMIT.—The failure of a customs broker granted a permit under paragraph (1) to employ, for any continuous period of 180 days, at least one individual who is licensed under subsection (b)(2) within the district or region (if paragraph (2) applies) for which a permit was issued shall, in addition to causing the broker to be subject to any other sanction under this section (including any in subsection (d)), result in the revocation by operation of law of the permit.

"(d) DISCIPLINARY PROCEEDINGS.—

"(1) GENERAL RULE.—The Secretary may impose a monetary penalty in all cases with the exception of the infractions described in clause (iii) of subparagraph (B) of this subsection, or revoke or suspend a license or permit of any customs broker, if it is shown that the broker—

"(A) has made or caused to be made in any application for any license or permit under this section, or report filed with the Customs Service, any statement which was, at the time and in light of the circumstances under which it was made, false or misleading with respect to any material fact, or has omitted to state in any such application or report any material fact which was required to be stated therein;

"(B) has been convicted at any time after the filing of an application for license under subsection (b) of any felony or misdemeanor which the Secretary finds—

"(i) involved the importation or exportation of merchandise;

"(ii) arose out of the conduct of its customs business; or

"(iii) involved larceny, theft, robbery, extortion, forgery, counterfeiting, fraudulent concealment, embezzlement, fraudulent conversion, or misappropriation of funds;

"(C) has violated any provision of any law enforced by the Customs Service or the rules or regulations issued under any such provision;

"(D) has counseled, commanded, induced, procured, or knowingly aided or abetted the violations by any other person of any provision of any law enforced by the Customs Service, or the rules or regulations issued under any such provision;

"(E) has knowingly employed, or continues to employ, any person who has been convicted of a felony, without written approval of such employment from the Secretary; or

"(F) has, in the course of its customs business, with intent to defraud, in any manner willfully and knowingly deceived, misled or threatened any client or prospective client.

"(2) PROCEDURES.—

"(A) MONETARY PENALTY.—Unless action has been taken under subparagraph (B), the appropriate customs officer shall serve notice in writing upon any customs broker to show cause why the broker should not be subject to a monetary penalty not to exceed $30,000 in total for a violation or violations of this section. The notice shall advise the customs broker of the allegations or complaints against him and shall explain that the broker has a right to respond to the allegations or complaints in writing within 30 days of the date of the notice. Before imposing a monetary penalty, the customs officer shall consider the allegations or complaints and any timely response made by the customs broker and issue a written decision. A customs broker against whom a monetary penalty has been issued under this section shall have a reasonable opportunity under section 618 to make representations seeking remission or mitigation of the monetary penalty. Following the conclusion of any proceeding under section 618, the appropriate customs officer shall provide to the customs broker a written statement which sets forth the final determination and the findings of fact and conclusions of law on which such determination is based.

"(B) REVOCATION OR SUSPENSION.—The appropriate customs officer may, for good and sufficient reason, serve notice in writing upon any customs broker to show cause why a license or permit issued under this section should not be revoked or suspended. The notice shall be in the form of a statement specifically setting forth the grounds of the complaint, and shall allow the customs broker 30 days to respond. If no response is filed, or the appropriate customs officer determines that the revocation or suspension is still warranted, he shall notify the customs broker in writing of a hearing to be held within 15 days, or at a later date if the broker requests an extension and shows good cause therefor, before an administrative law judge appointed pursuant to section 3105 of title 5, United States Code, who shall serve as the hearing officer. If the customs broker waives the hearing, or the broker or his designated representative fails to appear at the appointed time and place, the hearing officer shall make findings and recommendations based on the record submitted by the parties. At the hearing, the customs broker may be represented by counsel, and all proceedings, including the proof of the charges and the response thereto shall be presented with testimony taken under oath and the right of cross-examination accorded to both parties. A transcript of the hearing shall be made and a copy will be provided to the appropriate customs officer and the customs broker; they shall thereafter be provided reasonable opportunity to file a post-hearing brief. Following the conclusion of the hearing, the hearing officer shall transmit promptly the record of the hearing along with his findings of fact and recommendations to the Secretary for decision. The Secretary will issue a written decision, based solely on the record, setting forth his findings of fact and the reasons for his decision. Such decision may provide for the sanction contained in the notice to show cause or any lesser sanction authorized by this subsection, including a monetary penalty not to exceed $30,000, than was contained in the notice to show cause.

"(3) SETTLEMENT AND COMPROMISE.—The Secretary may settle and compromise any disciplinary proceeding which has been instituted under this subsection according to the terms and conditions agreed to by the parties, including but not limited to the reduction of any proposed suspension or revocation to a monetary penalty.

"(4) LIMITATION OF ACTIONS.—Notwithstanding section 621, no proceeding under this subsection or subsection (b)(6) shall be commenced unless such proceeding is instituted by the appropriate service of written notice within 5 years from the date the alleged violation was committed; except that if the alleged violation consists of fraud, the 5-year period of limitation shall commence running from the time such alleged violation was discovered.

"(e) JUDICIAL APPEAL.—

"(1) IN GENERAL.—A customs broker, applicant, or other person directly affected may appeal any decision of the Secretary denying or revoking a license or permit under subsection (b) or (c), or revoking or suspending a license or permit or imposing a monetary penalty in lieu thereof under subsection (d)(2)(B), by filing in the Court of International Trade, within 60 days after the issuance of the decision or order, a written petition requesting that the decision or order be modified or set aside in whole or in part. A copy of the petition shall be transmitted promptly by the clerk of the court to the Secretary or his designee. In cases involving revocation or suspension of a license or permit or imposition of a monetary penalty in lieu thereof under subsection (d)(2)(B), after receipt of the petition, the Secretary shall file in court the record upon which the decision or order complained of was entered, as provided in section 2635(d) of title 28, United States Code.

"(2) CONSIDERATION OF OBJECTIONS.—The court shall not consider any objection to the decision or order of the Secretary, or to the introduction of evidence or testimony, unless that objection was raised before the hearing officer in suspension or revocation proceedings unless there were reasonable grounds for failure to do so.

"(3) CONCLUSIVENESS OF FINDINGS.—The findings of the Secretary as to the facts, if supported by substantial evidence, shall be conclusive.

"(4) ADDITIONAL EVIDENCE.—If any party applies to the court for leave to present additional evidence and the court is satisfied that the additional evidence is material and that reasonable grounds existed for the failure to present the evidence in the proceedings before the hearing officer, the court may order the additional evidence to be taken before the hearing officer and to be presented in a manner and upon the terms and conditions prescribed by the court. The Secretary may modify the findings of facts on the basis of the additional evidence presented. The Secretary shall then file with the court any new or modified findings of fact which shall be conclusive if supported by substantial evidence, together with a recommendation, if any, for the modification or setting aside of the original decision or order.

"(5) EFFECT OF PROCEEDINGS.—The commencement of proceedings under this subsection shall, unless specifically ordered by the court, operate as a stay of the decision of the Secretary except in the case of a denial of a license or permit.

"(6) FAILURE TO APPEAL.—If an appeal is not filed within the time limits specified in this section, the decision by the Secretary shall be final and conclusive. In the case of a monetary penalty imposed under subsection (d)(2)(B) of this section, if the amount is not tendered within 60 days after the decision becomes final, the license shall automatically be suspended until payment is made to the Customs Service.

"(f) REGULATIONS BY THE SECRETARY.—The Secretary may prescribe such rules and regulations relating to the customs business of customs brokers as the Secretary considers necessary to protect importers and the revenue of the United States, and to carry out the provisions of this section, including

rules and regulations governing the licensing of or issuance of permits to customs brokers, the keeping of books, accounts, and records by customs brokers, and documents and correspondence, and the furnishing by customs brokers of any other information relating to their customs business to any duly accredited officer or employee of the United States Customs Service.

"(g) TRIENNIAL REPORTS BY CUSTOMS BROKERS.—

"(1) IN GENERAL.—On February 1, 1985, and on February 1 of each third year thereafter, each person who is licensed under subsection (b) shall file with the Secretary of the Treasury a report as to—

"(A) whether such person is actively engaged in business as a customs broker; and

"(B) the name under, and the address at, which such business is being transacted.

"(2) SUSPENSION AND REVOCATION.—If a person licensed under subsection (b) fails to file the required report by March 1 of the reporting year, the license is suspended, and may be thereafter revoked subject to the following procedures:

"(A) The Secretary shall transmit written notice of suspension to the licensee no later than March 31 of the reporting year.

"(B) If the licensee files the required report within 60 days of receipt of the Secretary's notice, the license shall be reinstated.

"(C) In the event the required report is not filed within the 60-day period, the license shall be revoked without prejudice to the filing of an application for a new license.

"(h) FEES AND CHARGES.—The Secretary may prescribe reasonable fees and charges to defray the costs of the Customs Service in carrying out the provisions of this section, including, but not limited to, a fee for licenses issued under subsection (b) and fees for any test administered by him or under his direction; except that no separate fees shall be imposed to defray the costs of an individual audit or of individual disciplinary proceedings of any nature.".

(b) Section 1581(g) of title 28, United States Code, is amended to read as follows:

"(g) The Court of International Trade shall have exclusive jurisdiction of any civil action commenced to review—

"(1) any decision of the Secretary of the Treasury to deny a customs broker's license under section 641(b)(2) or (3) or (c) of the Tariff Act of 1930, or to deny a customs broker's permit under section 641(c)(1) of such Act, or to revoke a license or permit under section 641(b)(5) or (c)(2) of such Act; and

"(2) any decision of the Secretary of the Treasury to revoke or suspend a customs broker's license or permit, or impose a monetary penalty in lieu thereof, under section 641(d)(2)(B) of the Tariff Act of 1930.".

(c) Section 1582(1) of title 28, United States Code, is amended to read as follows:

"(1) to recover a civil penalty under section 592, 641(a)(1)(C), 641(d)(2)(A), 704(i)(2), or 734(i)(2) of the Tariff Act of 1930;".

(d) Section 2631(g) of title 28, United States Code, is amended to read as follows:

"(g)(1) A civil action to review any decision of the Secretary of the Treasury to deny a customs broker's license under section 641(b) (2) or (3) of the Tariff Act of 1930, or to deny a customs broker's permit under section 641(c)(1) of such Act, or to revoke such license or permit under section 641(b)(5) or (c)(2) of such Act, may be commenced in the Court of International Trade by the person whose license or permit was denied or revoked.

"(2) A civil action to review any decision of the Secretary of the Treasury to revoke or suspend a customs broker's license or permit or impose a monetary penalty in lieu thereof under section 641(d)(2)(B) of the Tariff Act of 1930 may be commenced in the Court of International Trade by the person against whom the decision was issued.".

(e) Section 2636(h) of title 28, United States Code, is amended to read as follows:

"(h) A civil action contesting the denial or revocation by the Secretary of the Treasury of a customs broker's license or permit under subsection (b) or (c) of section 641 of the Tariff Act of 1930, or the revocation or suspension of such license or permit or the imposition of a monetary penalty in lieu thereof by such Secretary under section 641(d) of such Act, is barred unless commenced in accordance with the rules of the Court of International trade within sixty days after the date of the entry of the decision or order of such Secretary.".

(f) Section 2640(a)(5) of title 28, United States Code, is amended to read as follows:

"(5) Civil actions commenced to review any decision of the Secretary of the Treasury under section 641 of the Tariff Act of 1930, with the exception of decisions under section 641(d)(2)(B), which shall be governed by subdivision (d) of this section.".

(g) Section 2643 of title 28, United States Code, is amended by adding the following new subsection:

"(e) In any proceeding involving assessment or collection of a monetary penalty under section 641(b)(6) or 641(d)(2)(A) of the Tariff Act of 1930, the court may not render judgment in an amount greater than that sought in the initial pleading of the United States, and may render judgment in such lesser amount as shall seem proper and just to the court.".

(h) Section 564 of the Tariff Act of 1930 (19 U.S.C. 1564) is amended by adding the following sentence at the end thereof: "The provisions of this section shall apply to licensed customs brokers who otherwise possess a lien for the purposes stated above upon the merchandise under the statutes or common law, or by order of any court of competent jurisdiction, of any State.".

(i) Section 520(a) of the Tariff Act of 1930 (19 U.S.C. 1520(a)) is amended by adding the following subdivision (4):

"(4) PRIOR TO LIQUIDATION.—Prior to the liquidation of an entry, whenever it is ascertained that excess duties, fees, charges, or exactions have been deposited or paid by reason of clerical error.".

(j)(1) The amendments made by this section shall take effect upon the close of the 180th day following the date of the enactment of this Act with the following exceptions:

(A) Section 641(c)(1)(B) and section 641(c)(2) of the Tariff Act of 1930, as added by this section, shall take effect three years after the date of the enactment of this Act.

(B) The amendments made to the Tariff Act of 1930 by subsections (h) and (i) shall take effect on such date of enactment.

(2) A license in effect on the date of enactment of this Act under section 641 of the Tariff Act of 1930 (as in effect before such date of enactment) shall continue in force as a license to transact customs business as a customs broker, subject to all the provisions of this section and such licenses shall be accepted as permits for the district or districts covered by that license.

(3) Any proceeding for revocation or suspension of a license instituted under section 641 of the Tariff Act of 1930 before the date of the enactment of this Act shall continue and be governed by the law in effect at the time the proceeding was instituted.

(4) If any provision of this section or its application to any person or circumstances is held invalid, it shall not affect the validity of the remaining provisions or their application to any other person or circumstances.

SEC. 207. PUBLIC DISCLOSURE OF CERTAIN MANIFEST INFORMATION.

(a) Section 431 of the Tariff Act of 1930 (19 U.S.C. 1431) is amended—

(1) by striking out the period at the end of the paragraph designated as "Third" in subsection (a) and inserting in lieu thereof "; and the names of the shippers of such merchandise."; and

(2) by adding at the end thereof the following new subsection:

"(c)(1) Except as provided in subparagraph (2), the following information, when contained in such manifest, shall be available for public disclosure:

"(A) The name and address of each importer or consignee and the name and address of the shipper to such importer or consignee, unless the importer or consignee has made a biennial certification, in accordance with procedures adopted by the Secretary of the Treasury, claiming confidential treatment of such information.

"(B) The general character of the cargo.

"(C) The number of packages and gross weight.

"(D) The name of the vessel or carrier.

"(E) The port of loading.

"(F) The port of discharge.

"(G) The country of origin of the shipment.

"(2) The information listed in paragraph (1) shall not be available for public disclosure if—

"(A) the Secretary of the Treasury makes an affirmative finding on a shipment-by-shipment basis that disclosure is likely to pose a threat of personal injury or property damage; or

"(B) the information is exempt under the provisions of section 552(b)(1) of title 5 of the United States Code.

"(3) The Secretary of the Treasury, in order to allow for the timely dissemination and publication of the information listed in paragraph (1), shall establish procedures to provide access to manifests. Such procedures shall include provisions for adequate protection against the public disclosure of information not available for public disclosure from such manifests.".

(b) The amendments made by subsection (a) shall take effect on the fifteenth day after the date of the enactment of this Act.

SEC. 208. VIRGIN ISLANDS EXCURSION VESSELS.

(a) Section 441(3) of the Tariff Act of 1930 (19 U.S.C. 1441(3)) is amended to read as follows:

"(3) Vessels carrying passengers on excursion from the United States Virgin Islands, and return, and licensed yachts or undocumented American pleasure vessels not engaged in trade: Provided, That such vessels do not in any way violate the customs or navigation laws of the United States and have not visited any hovering vessel: Provided further, That the master of any such vessel which has on board any article required by law to be entered shall be required to report such article to the appropriate customs officer within twenty-four hours after arrival.".

(b) The amendment made by subsection (a) of this Act shall apply with respect to vessels returning from the British Virgin Islands on or after the fifteenth day after the date of the enactment of this Act.

SEC. 209. UNLAWFUL IMPORTATION OR EXPORTATION OF CERTAIN VEHICLES.

(a) Part V of title IV of the Tariff Act of 1930 (19 U.S.C. 1581 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 627. UNLAWFUL IMPORTATION OR EXPORTATION OF CERTAIN VEHICLES; INSPECTIONS.

"(a)(1) Whoever knowingly imports, exports, or attempts to import or export—

"(A) any stolen self-propelled vehicle, vessel, aircraft, or part of a self-propelled vehicle, vessel, or aircraft; or

"(B) any self-propelled vehicle or part of self-propelled vehicle from which the identification number has been removed, obliterated, tampered with, or altered;

shall be subject to a civil penalty in an amount determined by the Secretary, not to exceed $10,000 for each violation.

"(2) Any violation of this subsection shall make such self-propelled vehicle, vessel, aircraft, or part thereof subject to seizure and forfeiture under this Act.

"(b) A person attempting to export a used self-propelled vehicle shall present, pursuant to regulations prescribed by the Secretary, to the appropriate customs officer both the vehicle and a document describing such vehicle which includes the vehicle identification number, before lading if the vehicle is to be transported by vessel or aircraft, or before export if the vehicle is to be transported by rail, highway, or under its own power. Failure to comply with the regulations of the Secretary shall subject such person to a civil penalty of not more than $500 for each violation.

"(c) For purposes of this section—

"(1) the term 'self-propelled vehicle' includes any automobile, truck, tractor, bus, motorcycle, motor home, self-propelled agricultural machinery, self-propelled construction equipment, self-propelled special use equipment, and any other self-propelled vehicle used or designed for running on land but not on rail;

"(2) the term 'aircraft' has the meaning given it in section 101(5) of the Federal Aviation Act of 1958 (49 U.S.C. 1301(5));

"(3) the term 'used' refers to any self-propelled vehicle the equitable or legal title to which has been transferred by a manufacturer, distributor, or dealer to an ultimate purchaser; and

"(4) the term 'ultimate purchaser' means the first person, other than a dealer purchasing in his capacity as a dealer, who in good faith purchases a self-propelled vehicle for purposes other than resale.

"(d) Customs officers may cooperate and exchange information concerning motor vehicles, off-highway mobile equipment, vessels, or aircraft, either before exportation or after exportation or importation, with such Federal, State, local, and foreign law enforcement or governmental authorities, and with such organizations engaged in theft prevention activities, as may be designated by the Secretary.".

(b) The amendment made by subsection (a) shall take effect on the fifteenth day after the date of the enactment of this Act.

SEC. 210. ELIMINATION OF SURETIES ON CUSTOMS BONDS.

(a) The Commissioner of Customs may not publish, nor take any other action to give force and effect to, any final rule that would revise any provision in 19 CFR part 113 or section 142.4 (as in effect on March 1, 1984) relating to the requirement for sureties on customs bonds—

(1) unless the Commissioner submits to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate, on the same day, a report containing—

(A) the text of the draft final rule;

(B) an analysis of the revenue impact of the rule;

(C) a regulatory impact analysis;

(D) the estimated cost benefit of the rule to the Customs Service and to the importing community, and an explanation in support of those estimates; and

(E) a justification for each revision to be effected by the rule; and

(2) until the close of the first period of 90 calendar days of continuous session of Congress occurring after the date on which the report is submitted under paragraph (1).

(b) For purposes of subsection (a)—

(1) continuity of session of Congress is broken only by an adjournment of the Congress sine die; and

(2) the days on which either House of Congress is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of any period of time in which Congress is in continuous session.

SEC. 211. Controlled substances provisions.

(a) This section may be cited as the "Comprehensive Drug Penalty Act of 1984".

(b)(1) Section 511(a) of the Controlled Substances Act (21 U.S.C. 881(a)) is amended by adding at the end the following new matter:

"(7) If the offense involved is a felony, all land and buildings used, or intended for use, for holding or storage of property described in paragraph (1) or (2) or for cultivation of any plant that is such property, except that no land or building shall be forfeited under this paragraph, to the extent of the interest of an owner, by reason of any act or omission established by that owner to have been committed or omitted without the knowledge or consent of that owner.

The court may order forfeiture of less than the whole of any land or building under paragraph (7) if the owner establishes that forfeiture of the whole would be grossly disproportionate to the severity of the offense or to the extent of the use or intended use. If land under paragraph (7) is used or intended to be used for cultivation, the court shall order forfeiture of only the portion of the tract so used or intended to be used, and if the cultivation is dispersed over less than all of the tract, the court may order forfeiture of a portion of the tract equal to the areas used or intended to be used for cultivation.".

(2) Section 511(d) of the Controlled Substances Act (21 U.S.C. 881(d)) is amended—

(A) by inserting "(1)" before "The provisions of law"; and

(B) by adding at the end the following new paragraph:

"(2) In addition to the venue under section 1395 of title 28, United States Code, or any other provision of law, in the case of property of a defendant charged with a violation that is the basis for forfeiture under this section, a proceeding for forfeiture may be brought in the judicial district in which the defendant is found or in which the prosecution is brought.".

(3) Section 511(e) of the Controlled Substances Act (21 U.S.C. 881(e)) is amended in the sentence beginning "The Attorney General" by striking out "The" and inserting in lieu thereof "Except as provided in subsection (h) of this section, the".

(c) Section 511 of the Controlled Substances Act (21 U.S.C. 881) is amended by adding at the end the following new subsections:

"(h) During the period beginning on the date of the enactment of this subsection, and ending on September 30, 1987, the Attorney General shall forward to the Treasurer of the United States for deposit in the Department of Justice Forfeiture Fund any amounts of moneys and proceeds remaining after payment of expenses of proceedings for forfeiture under subsection (e) of this section.

"(i) The filing of an indictment or information alleging a violation of this title or title III that is related to a civil forfeiture proceeding under this section shall, upon motion of the United States or a claimant in that proceeding, and for good cause shown, stay the civil forfeiture proceeding.".

(d)(1) A reference in this section to a section or other provision is a reference to a section or other provision of the Controlled Substances Act (21 U.S.C. 801 et seq.).

(2) Section 401(b)(1)(A) (21 U.S.C. 841(b)(1)(A)) is amended—

(A) in the sentence beginning "In the case of", by striking out "$25,000, or both" and inserting in lieu thereof "$250,000, or both if such person is an individual, or to a fine of not more than $1,000,000 if such person is other than an individual"; and

(B) in the sentence beginning "If any person", by striking out "$50,000, or both" and inserting in lieu thereof "$500,000, or both if such person is an individual, or to a fine of not more than $2,000,000 if such person is other than an individual".

(3) Section 401(b)(1)(B) (21 U.S.C. 841(b)(1)(B)) is amended—

(A) in the sentence beginning "In the case of", by striking out "$15,000, or both" and inserting in lieu thereof "$250,000, or both if such person is an indivdual, or to a fine of not more than $1,000,000 if such person is other than an individual"; and

(B) in the sentence beginning "If any person", by striking out "$30,000, or both" and inserting in lieu thereof "$500,000, or both if such person is an individual, or to a fine of not more than $1,000,000 if such person is other than an individual".

(4) Section 401(b)(2) (21 U.S.C. 841(b)(2)) is amended—

(A) in the sentence beginning "In the case of", by striking out "$10,000, or both" and inserting in lieu thereof "$100,000, or both if such person is an individual, or to a fine of not more than $250,000 if such person is other than an individual"; and

(B) in the sentence beginning "If any person", by striking out "$20,000, or both" and inserting in lieu thereof "$250,000, or both if such person is an individual, or to a fine of not more than $500,000 if such person is other than an individual".

(5) Section 401(b)(3) (21 U.S.C. 841(b)(3)) is amended—

(A) in the sentence beginning "In the case of", by striking out "$5,000, or both" and inserting in lieu thereof "$10,000, or both if such person is an individual, or to a fine of not more than $25,000 if such person is other than an individual"; and

(B) in the sentence beginning "If any person", by striking out "$10,000, or both" and inserting in lieu thereof "$25,000, or both if such person is an individual, or to a fine of not more than $50,000 if such person is other than an individual".

(6) Section 401(b)(5) (21 U.S.C. 841(b)(5)) is amended—

(A) in the sentence beginning "Notwithstanding paragraph (1)(B)", by striking out "$25,000, or both" and inserting in lieu thereof "$250,000, or both if such person is an individual, or to a fine of not more than $1,000,000 if such person is other than an individual"; and

(B) in the sentence beginning "If any person", by striking out "$50,000, or both" and inserting in lieu thereof "$500,000, or both if such person is an individual, or to a fine of not more than $2,000,000 if such person is other than an individual".

(7) Section 401(b)(6) (21 U.S.C. 841(b)(6)) is amended—

(A) in the sentence beginning "In the case of", by striking out "and in addition, may be fined not more than $125,000" and inserting in lieu thereof "a fine of not more than $250,000, or both if such person is an individual, or to a fine of not more than $1,000,000 if such person is other than an individual"; and

(B) in the sentence beginning "If any person", by striking out "and in addition, may be fined not more than $250,000" and inserting in lieu thereof "a fine of not more than $500,000, or both if such person is an individual, or to a fine of not more than $1,000,000 if such person is other than an individual".

(8) Section 401(d) (21 U.S.C. 841(d)) is amended by striking out "$15,000, or both" and inserting in lieu thereof "$250,000, or both if such person is an individual, or to a fine of not more than $1,000,000 if such person is other than an individual".

(9) Section 402(c)(2)(A) (21 U.S.C. 842(c)(2)(A)) is amended by striking out "$25,000, or both" and inserting in lieu thereof "$250,000, or both if such person is an individual, or to a fine of not more than $1,000,000 if such person is other than an individual".

(10) Section 402(c)(2)(B) (21 U.S.C. 842(c)(2)(B)) is amended by striking out "$50,000, or both" and inserting in lieu thereof "$500,000, or both if such person is an individual, or to a fine of not more than $1,000,000 if such person is other than an individual".

(11) Section 403(c) (21 U.S.C. 843(c)) is amended—

(A) by striking out "$30,000, or both" and inserting in lieu thereof "$250,000, or both if such person is an individual, or to a fine of not more than $1,000,000 if such person is other than an individual"; and

(B) by striking out "$60,000, or both" and inserting in lieu thereof "$500,000, or both if such person is an individual, or to a fine of not more than $1,000,000 if such person is other than an individual".

(12) Section 408(a)(1) (21 U.S.C. 848(a)(1)) is amended—

(A) by striking out "$100,000" and inserting in lieu thereof "$500,000 if such person is an individual, or a fine of not more than $1,000,000 if such person is other than an individual"; and

(B) by striking out "$200,000" and inserting in lieu thereof "$1,000,000 if such person is an individual, or a fine of not more than $2,000,000 if such person is other than an individual".

(13) Part D is amended by adding at the end the following new sections:

"ALTERNATIVE FINE

"SEC. 413. In lieu of a fine otherwise authorized by this part, a defendant who derives profits or other proceeds from an offense may be fined not more than twice the gross profits or other proceeds.

"GENERAL PROVISIONS RELATING TO FINES

"SEC. 414. (a) In determining whether to impose a fine under this part, and the amount, time, and method of payment of a fine, the court shall—

"(1) give primary consideration to the need to deprive the defendant of profits or other proceeds from the offense;

"(2) consider the defendant's income, earning capacity, and financial resources;

"(3) consider the burden that the fine will impose on the defendant and on any person who is legally or financially dependent on the defendant; and

"(4) consider any other pertinent equitable factor.

"(b) As a condition of a fine, the court may require that payment be made in installments or within any period that is not longer than the maximum applicable term of probation or imprisonment, whichever is longer. If not otherwise required by such a condition, payment of a fine shall be due immediately.

"(c) If a fine is imposed on an organization, it is the duty of each individual authorized to make disbursements for the organization to pay the fine from assets of the organization.

"(d)(1) A defendant who has paid part of a fine, may petition the court for extension of the time for payment, modification of the method of payment, or remission of all or part of the unpaid portion.

"(2) The court may enter an appropriate order under this subsection, if it finds that—

"(A) the circumstances that warranted the fine in the amount imposed, or payment by the time or method specified, no longer exist; or

"(B) it is otherwise unjust to require payment of the fine in the amount imposed or by the time or method specified.

"CRIMINAL FORFEITURE

"SEC. 415. (a) If an indictment or information alleges that property is subject to forfeiture under this section, the United States may request an order for seizure of such property in the same manner as provided for a search warrant. The court shall order seizure if there is probable cause to believe that—

"(1) the property is subject to forfeiture; and

"(2) an order restraining transfer of the property is not sufficient to ensure availability of the property for forfeiture.

"(b) Any person who is convicted of a felony under this title or title III shall forfeit to the United States such person's interest in—

"(1) any property constituting or derived from gross profits or other proceeds obtained from the offense;

"(2) any property used, or intended to be used, to commit the offense; and

"(3) in the case of a conviction under section 408 of this title, in addition to the property described in paragraphs (1) and (2), such person's interest in, claim against, or property or contractual right of any kind affording a source of control over, the continuing criminal enterprise.

"(c) The court shall order forfeiture of property referred to in subsection (b) if the trier of fact determines beyond a reasonable doubt that such property is subject to forfeiture.

"(d) The United States shall, to the maximum extent practicable, provide notice of the provisions of subsections (e), (f), and (g) to any person with an alleged interest in property forfeited under subsection (c) and shall, in the manner prescribed by the Attorney General, provide public notice of the forfeiture.

"(e)(1) Not later than 60 days after the date of an order under subsection (c), any person with an alleged interest in the property may petition the Attorney General for remission or mitigation of the forfeiture.

"(2) Not later than 90 days after the filing of a petition under paragraph (1), the Attorney General shall make a written determination with respect to the petition. Except as provided in subsection (f), the property shall be disposed of pursuant to such determination, which shall not be subject to review.

"(3) A period specified in this subsection may be extended by the court for good cause shown.

"(f)(1) Any person (other than a defendant convicted of the offense on which the forfeiture is based) may petition the court for remission or mitigation of the forfeiture. A petition under this subsection shall be filed not later than 60 days after the date of the order under subsection (c), or, if a petition is filed under subsection (e), not later than 60 days after the date of the determination of the Attorney General.

"(2) The court shall grant appropriate relief if, after a hearing, the petitioner establishes by a preponderance of the evidence that—

"(A) at the time of the offense the petitioner had an interest in the property that was separate from or superior to the interest of the defendant; or

"(B) in the case of an interest acquired for value after the offense, when acquiring the interest the petitioner did not know or have reason to know of the offense or of any order restraining transfer of the property.

"(g) A petition to the Attorney General or the court under this section shall be verified and shall set forth the relief sought, the nature and extent of the petitioner's interest in the property, the time and circumstances of the petitioner's acquisition of interest, and any additional facts and circumstances supporting remission or mitigation.

"(h)(1) Except as provided in paragraph (2), the customs laws relating to disposition of seized or forfeited property shall apply to property under this section, to the extent that such laws are not inconsistent with this section.

"(2) The duties of the Secretary of the Treasury with respect to dispositions of property under the customs laws shall be performed under paragraph (1) by the Attorney General, except to the extent that such duties arise from forfeitures effected under the customs laws.

"(i) In any disposition of property under this section, a convicted person shall not be permitted to acquire property forfeited by such person.

"(j) In any action brought by the United States under this section, the district courts of the United States shall have jurisdiction to enter such restraining orders or prohibitions, or to take such other actions, including, but not limited to, the acceptance of satisfactory performance bonds, in connection with any property or other interest subject to forfeiture under this section, as it shall deem proper.

"(k)(1) In addition to any order authorized by subsection (j), the court may, before the filing of an indictment or information, enter an order restraining the transfer of property that is or may be subject to forfeiture.

"(2) An order shall be entered under this subsection if the court determines that—

"(A) there is a substantial probability that the United States will prevail on the issue of forfeiture;

"(B) there is a substantial probability that failure to enter the order will result in unavailability of the property for forfeiture; and

"(C) the need to assure availability of the property outweighs the hardship on any

person against whom the order is to be entered.

"(3)(A) Except as provided in subparagraph (B), an order under this subsection shall be entered only after notice to persons appearing to have an interest in the property and opportunity for a hearing.

"(B) A temporary order under this subsection may be entered upon application of the United States, without notice or opportunity for a hearing, if an information or indictment has not been filed and the United States demonstrates that provision of notice will jeopardize the availability of the property for forfeiture. Such a temporary order shall expire not more than 10 days after the date on which it is entered, except that the court may extend the effective period of the order for not more than 10 days for good cause shown and for a longer period with the consent of each person affected by the order.

"(l) There may be a rebuttable presumption at trial that any property of a person convicted of a felony under this title or title III is subject to forfeiture under this section if the United States establishes by a preponderance of the evidence that—

"(1) such property was acquired by such person during the offense or within a reasonable time after the offense; and

"(2) there was no likely source for such property other than the offense.".

(e)(1) Section 1010(b)(1) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(1)) is amended in the sentence beginning "In the case of" by striking out "$25,000, or both" and inserting in lieu thereof "$500,000, or both if such person is an individual, or shall be fined not more than $1,000,000 if such person is other than an individual".

(2) Section 1010(b)(2) of such Act (21 U.S.C. 960(b)(2)) is amended in the sentence beginning "In the case of" by striking out "$15,000, or both" and inserting in lieu thereof "$500,000, or both if such person is an individual, or shall be fined not more than $1,000,000 if such person is other than an individual".

(3) Section 1010(b) of such Act (21 U.S.C. 960(b)) is amended by adding at the end the following new paragraph:

"(3) In the case of a violation under subsection (a) involving more than 1,000 pounds of marihuana, the person committing such violation shall be imprisoned not more than fifteen years, or fined not more than $250,000, or both if such person is an individual, or shall be fined not more than $1,000,000 if such person is other than an individual.".

(4) Section 1011(2) of such Act (21 U.S.C. 961(2)) is amended by striking out "$25,000" and inserting in lieu thereof "$50,000".

(5) Part A of such Act is amended by adding at the end the following new section:

"APPLICABILITY OF SECTION 413 AND SECTION 414

"SEC. 1017. Sections 413 and 414 shall apply with respect to fines under this part to the same extent that such sections apply with respect to fines under part D of title II. For purposes of such application, any reference in such section 413 or 414 to 'this part' shall be deemed to be a reference to part A of title III.".

(f) Section 408 of the Controlled Substances Act (21 U.S.C. 848), as amended by section 4(1) of this Act, is further amended—

(1) in subsection (a)—

(A) by striking out "SEC. 408. (a)(1)" and inserting in lieu thereof "SEC. 408. (a)";

(B) by striking out "paragraph (2)" each place it appears and inserting in lieu thereof "section 415"; and

(C) by striking out paragraph (2); and

(2) by striking out subsection (d).

(g)(1) The table of contents for part D of title II of the Comprehensive Drug Abuse Prevention and Control Act of 1970 is amended by inserting after the item relating to section 412 the following new items:

"Sec. 413. Alternative fine.
"Sec. 414. General provisions relating to fines.
"Sec. 415. Criminal forfeiture.".

(2) The table of contents for part A of title III of the Comprehensive Drug Abuse Prevention and Control Act of 1970 is amended by inserting after the item relating to section 1016 the following new item:

"Sec. 1017. Applicability of section 413 and section 414.".

(h)(1) Chapter 31 of title 28, United States Code, is amended by adding at the end the following new section:

"§ 530A. Department of Justice Forfeiture Fund

"(a) There is established in the Treasury a fund to be known as the Department of Justice Forfeiture Fund (hereinafter in this section referred to as the 'fund'), which shall be available to the Attorney General, subject to appropriation, during the period beginning on the date of the enactment of this section and ending on September 30, 1987. The fund shall be available with respect to the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), section 1963(c) of title 18, United States Code, and section 274 of the Immigration and Nationality Act (8 U.S.C. 1324) for payment (to the extent that such payment is not otherwise provided for by law)—

"(1) of expenses of forfeiture and sale, including expenses of seizure and detention;

"(2) of rewards for information resulting in a conviction or forfeiture;

"(3) of liens against forfeited property;

"(4) of amounts with respect to remission and mitigation;

"(5) for equipping for law enforcement functions of forfeited vessels, vehicles, and aircraft retained as provided by law for official use by the Drug Enforcement Administration, the Federal Bureau of Investigation, or the Immigration and Naturalization Service; and

"(6) for purchase of evidence of any violation.

"(b)(1) Any reward under subsection (a)(2) of this section shall be paid at the discretion of the Attorney General or his delegate, except that the authority to pay a reward of $10,000 or more may be delegated only to the Administrator of the Drug Enforcement Administration, the Director of the Federal Bureau of Investigation, or the Commissioner of Immigration and Naturalization. Any such reward shall not exceed $250,000, except that a reward for information resulting in a forfeiture, shall not exceed the lesser of $250,000 or one-quarter of the amount realized by the United States from the property forfeited.

"(2) Any amount under subsection (a)(6) of this section shall be paid at the discretion of the Attorney General or his delegate, except that the authority to pay $100,000 or more may be delegated only to the Administrator of the Drug Enforcement Administration, the Director of the Federal Bureau of Investigation, or the Commissioner of Immigration and Naturalization. No such payment shall exceed $250,000.

"(3) Amounts under subsection (a) of this section shall be available, at the discretion of the Attorney General, to reimburse the applicable appropriation for expenses incurred by the Coast Guard for a purpose specified in such subsection.

"(c) There shall be deposited in the fund during the period beginning on the date of the enactment of this section and ending on September 30, 1987—

"(1) the proceeds (after payment of expenses of forfeiture and sale) from forfeiture under the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), and section 274 of the Immigration and Nationality Act (8 U.S.C. 1324);

"(2) the proceeds (after payment of expenses of forfeiture and sale) from forfeiture under section 1963(c) of title 18, United States Code, in any case in which the racketeering activity consists of a narcotic or other dangerous drug offense referred to in section 1961(1)(A) of such title; and

"(3) earnings on amounts invested under subsection (d) of this section.

"(d) Amounts in the fund which are not currently needed for the purposes of this section shall be invested in obligations of, or guaranteed by, the United States.

"(e) Not later than four months after the end of each fiscal year, the Attorney General shall transmit to the Congress a report on receipts and disbursements with respect to the fund for such year.

"(f)(1) There are authorized to be appropriated from the fund for each of the four fiscal years beginning with fiscal year 1984, such sums as may be necessary under subsection (a) of this section, except that not more than $10,000,000 are authorized to be appropriated from the fund under paragraphs (2), (5), and (6) of such subsection for each such fiscal year.

"(2) At the end of each of the first three of such four fiscal years, any amount in the fund in excess of $10,000,000 shall be deposited in the general fund of the Treasury. At the end of the last of such four fiscal years, any amount in the fund shall be deposited in the general fund of the Treasury, and the fund shall cease to exist.".

(2) The table of sections for chapter 31 of title 28, United States Code, is amended by adding at the end the following new item:

"530A. Department of Justice Forfeiture Fund".

SEC. 212. SEIZURES AND FORFEITURES.

(a)(1) Section 602 of the Tariff Act of 1930 (19 U.S.C. 1602) is amended by inserting "aircraft," after "vehicle,".

(2) The sentence beginning "All vessels," in section 605 of the Tariff Act of 1930 (19 U.S.C 1605) is amended by inserting "aircraft," after "vehicles," the first place it appears.

(3) Section 606 of the Tariff Act of 1930 (19 U.S.C. 1606) is amended by inserting "aircraft," after "vehicle,".

(b) Section 607 of the Tariff Act of 1930 (19 U.S.C. 1607) is amended to read as follows:

"SEC. 607. SEIZURE; VALUE $100,000 OR LESS, PROHIBITED MERCHANDISE, TRANSPORTING CONVEYANCES.

"(a) If—

"(1) the value of such seized vessel, vehicle, aircraft, merchandise, or baggage does not exceed $100,000;

"(2) such seized merchandise is merchandise the importation of which is prohibited; or

"(3) such seized vessel, vehicle, or aircraft was used to import, export, transport, or store any controlled substance;

the appropriate customs officer shall cause a notice of the seizure of such articles and the intention to forfeit and sell or otherwise dispose of the same according to law to be published for at least three successive weeks in such manner as the Secretary of the Treasury may direct. Written notice of seizure together with information on the applicable procedures shall be sent to each party who appears to have an interest in the seized article.

"(b) As used in this section, the term 'controlled substance' has the meaning given that term in section 102 of the Controlled Substances Act (21 U.S.C. 802).".

(c) Section 608 of the Tariff Act of 1930 (19 U.S.C. 1608) is amended—

(1) in the sentence beginning "Any person", by inserting "aircraft," after "vehicle,"; and

(2) in the sentence beginning "Upon the filing", by inserting after "penal sum of" the following: "$2,500 or 10 percent of the value of the claimed property, whichever is lower, but not less than".

(d) Section 609 of the Tariff Act of 1930 (19 U.S.C. 1609) is amended—

(1) by striking out "If no" and inserting in lieu thereof "(a) If no";

(2) by inserting "aircraft," after "vehicle,";

(3) by inserting after "according to law, and" the following: "(except as provided in subsection (b) of this section)"; and

(4) by adding at the end the following new subsection:

"(b) During the period beginning on the date of the enactment of this subsection and ending on September 30, 1987, the appropriate customs officer shall deposit the proceeds of sale (after deducting such expenses) in the Customs Forfeiture Fund.".

(e) Section 610 of the Tariff Act of 1930 (19 U.S.C. 1610) is amended—

(1) by striking out "VALUE MORE THAN $10,000" in the section heading and inserting in lieu thereof "JUDICIAL FORFEITURE PROCEEDINGS"; and

(2) by striking out "If the value of any vessel, vehicle, merchandise, or baggage so seized is greater than $10,000," and inserting in lieu thereof "If any vessel, vehicle, aircraft, merchandise, or baggage is not subject to section 607 of this Act,".

(f) Section 611 of the Tariff Act of 1930 (19 U.S.C. 1611) is amended by inserting "aircraft," after "vehicle," each place it appears.

(g) Section 612 of the Tariff Act of 1930 (19 U.S.C. 1612) is amended—

(1) by inserting "aircraft," after "vehicle," each place it appears;

(2) in the sentence beginning "Whenever it appears"—

(A) by striking out "Whenever" and inserting in lieu thereof "(a) Whenever";

(B) by striking out "the value of"; and

(C) by striking out "as determined under section 606 of this Act, does not exceed $10,000" and inserting in lieu thereof "is subject to section 607 of this Act";

(3) in the sentence beginning "If such value"—

(A) by striking out "such value of"; and

(B) by striking out "exceeds $10,000" and inserting in lieu thereof "is not subject to section 607 of this Act,"; and

(4) by adding at the end the following new subsection:

"(b) If the expense of keeping the vessel, vehicle, aircraft, merchandise, or baggage is disproportionate to the value thereof, and such value is less than $1,000, such officer may proceed forthwith to order destruction or other appropriate disposition of such property, under regulations prescribed by the Secretary of the Treasury.".

(h)(1) The sentence beginning "Except as" in section 613(a) of the Tariff Act of 1930 (19 U.S.C. 1613(a)) is amended by inserting "aircraft," after "vehicle,".

(2) The sentence beginning "If no" in section 613(a) of the Tariff Act of 1930 (19 U.S.C. 1613(a)) is amended—

(A) by striking out "If no application" and inserting in lieu thereof "Except as provided in subsection (c), if no application"; and

(B) in paragraph (3), by striking out "with the Treasurer of the United States as a customs or navigation fine" and inserting in lieu thereof "in the general fund of the Treasury of the United States".

(3) Section 613(b) of the Tariff Act of 1930 (19 U.S.C. 1613(b)) is amended by inserting after "and (2) of this section" the following: "or subsection (a)(1), (a)(3), or (a)(4) of section 613A of this Act".

(i) Part V of title IV of the Tariff Act of 1930 (19 U.S.C. 1581 et seq.) is amended by adding after section 613 the following new section:

"SEC. 613A. CUSTOMS FORFEITURE FUND.

"(a) There is established in the Treasury of the United States a fund to be known as the Customs Forfeiture Fund (hereinafter in this section referred to as the 'fund'), which shall be available to the United States Customs Service, subject to appropriation, during the period beginning on the date of the enactment of this section and ending on September 30, 1987. The fund shall be available with respect to seizures and forfeitures by the United States Customs Service under any law enforced or administered by it for payment (to the extent that such payment is not reimbursed under section 524 of this Act)—

"(1) of all proper expenses of the seizure or the proceedings of forfeiture and sale (not otherwise recovered under section 613(a)), including, but not limited to, expenses of inventory, security, maintaining the custody of the property, advertising and sale, and if condemned by the court and a bond for such costs was not given, the costs as taxed by the court;

"(2) of awards of compensation to informers under section 619 of this Act;

"(3) for satisfaction of—

"(A) liens for freight, charges, and contributions in general average, notice of which has been filed with the appropriate customs officer according to law; and

"(B) other liens against forfeited property;

"(4) of amounts authorized by law with respect to remission and mitigation;

"(5) for equipping for law enforcement functions of forfeited vessels, vehicles, and aircraft retained as provided by law for official use by the United States Customs Service; and

"(6) of claims of parties in interest to property disposed of under section 612(b) of this Act, in the amounts applicable to such claims at the time of seizure.

In addition to the purposes described in paragraphs (1) through (6), the fund shall be available for purchases by the United States Customs Service of evidence of (A) smuggling of controlled substances, and (B) violations of the currency and foreign transaction reporting requirements of chapter 53 of title 31, United States Code, if there is a substantial probability that the violations of these requirements are related to the smuggling of controlled substances.

"(b)(1) Payment under paragraphs (3) and (4) of subsection (a) of this section shall not exceed the value of the property at the time of the seizure.

"(2) Amounts under subsection (a) of this section shall be available, at the discretion of the Commissioner of Customs, to reimburse the applicable appropriation for expenses incurred by the Coast Guard for a purpose specified in such subsection.

"(c) There shall be deposited in the fund during the period beginning on the date of the enactment of this section, and ending on September 30, 1987, all proceeds from forfeiture under any law enforced or administered by the United States Customs Service (after reimbursement of expenses under section 524 of this Act) and all earnings on amounts invested under subsection (d) of this section.

"(d) Amounts in the fund which are not currently needed for the purposes of this section shall be invested in obligations of, or guaranteed by, the United States.

"(e) Not later than four months after the end of each fiscal year, the Commissioner of Customs shall transmit to the Congress a report on receipts and disbursements with respect to the fund for such year.

"(f)(1) There are authorized to be appropriated from the fund for each of the four fiscal years beginning with fiscal year 1984, not more than $10,000,000.

"(2) At the end of each of the first three of such four fiscal years, any amount in the fund in excess of $10,000,000 shall be deposited in the general fund of the Treasury. At the end of the last of such four fiscal years, any amount in the fund shall be deposited in the general fund of the Treasury, and the fund shall cease to exist.".

(j)(1) Section 614 of the Tariff Act of 1930 (19 U.S.C. 1614) is amended by inserting "aircraft," after "vehicle," each place it appears.

(2) Section 615 of the Tariff Act of 1930 (19 U.S.C. 1615) is amended—

(A) in the matter before the proviso, by inserting "aircraft," after "vehicle," each place it appears; and

(B) in paragraph (1) of the proviso, by striking out "vessel or vehicle" and inserting in lieu thereof "vessel, vehicle, or aircraft".

(k) Part V of title IV of the Tariff Act of 1930 (19 U.S.C. 1581 et seq.), as amended by subsection (i), is further amended by adding after section 615 the following new section:

"SEC. 616. TRANSFER OF FORFEITED PROPERTY.

"(a) The Secretary of the Treasury may discontinue forfeiture proceedings under this Act in favor of forfeiture under State law. If a complaint for forfeiture is filed under this Act, the Attorney General may seek dismissal of the complaint in favor of forfeiture under State law.

"(b) If forfeiture proceedings are discontinued or dismissed under this section—

"(1) the United States may transfer the seized property to the appropriate State or local official; and

"(2) notice of the discontinuance or dismissal shall be provided to all known interested parties.

"(c) The Secretary of the Treasury may transfer any property forfeited under this Act to any State or local law enforcement agency which participated directly in the seizure or forfeiture of the property.

"(d) The United States shall not be liable in any action relating to property transferred under this section if such action is based on an act or omission occurring after the transfer.".

(l) Section 619 of the Tariff Act of 1930 (19 U.S.C. 1619) is amended—

(1) by inserting "aircraft," after "vehicle," each place it appears, and

(2) by striking out "$50,000" each place it appears and inserting in lieu thereof "$250,000".

(m) The sentence beginning "Whenever any" in section 618 of the Tariff Act of 1930 (19 U.S.C. 1618) is amended by inserting "aircraft," after "vehicle," each place it appears.

(n)(1) Part V of title IV of the Tariff Act of 1930 (19 U.S.C. 1581 et seq.), as amended by subsections (i) and (k) is further amended by adding after section 588 the following new section:

"SEC. 589. ENFORCEMENT AUTHORITY OF CUSTOMS OFFICERS.

"Subject to the direction of the Secretary of the Treasury, an officer of the customs may—

"(1) carry a firearm;

"(2) execute and serve any order, warrant, subpena, summons, or other process issued under the authority of the United States;

"(3) make an arrest without a warrant for any offense against the United States committed in the officer's presence or for a felony, cognizable under the laws of the United States committed outside the officer's presence if the officer has reasonable grounds to believe that the person to be arrested has committed or is committing a felony; and

"(4) perform any other law enforcement duty that the Secretary of the Treasury may designate.".

(2) Section 7607 of the Internal Revenue Code of 1954 is repealed.

(3) The table of sections for subchapter A of chapter 78 of the Internal Revenue Code of 1954 is amended by striking out the item relating to section 7607.

(o) The amendments made by this section shall take effect—

(1) on the date of the enactment of this Act, or

(2) if the effective date of the amendments made by sections 311 through 321 of H.J. Res. 648 of the 98th Congress is later than the date of the enactment of this Act, on the day after such effective date, and shall supercede all of those amendments.

TITLE III—MISCELLANEOUS TRADE AMENDMENTS

SEC. 301. CIVIL AIRCRAFT AGREEMENT.

(a) The President may proclaim modifications in the rate of duty column numbered 1 and in the article descriptions, including the superior headings thereto, for the articles provided for in the following items in the Tariff Schedules of the United States (19 U.S.C. 1202) in order to provide duty-free coverage comparable to the expanded coverage provided by all other signatories to the Agreement on Trade in Civil Aircraft pursuant to the extension of the Annex to the Agreement on Trade in Civil Aircraft on October 6, 1983, and recorded in the decision of the Committee on March 22, 1984, if such articles are certified for use in civil aircraft in accordance with headnote 3 to schedule 6, part 6, subpart C of such Schedules:

646.95	680.95	708.05
660.85	681.01	708.07
660.97	681.15	708.09
661.06	681.18	708.21
661.10	681.21	708.23
661.15	681.24	708.25
661.20	682.05	708.27
661.35	683.05	708.29
680.59	683.07	711.77
680.61	683.15	711.78
680.62	708.01	711.98
680.92	708.03	712.49.

(b) For purposes of section 125 of the Trade Act of 1974, the duty-free treatment, if any, proclaimed under subsection (a) shall be considered to be trade agreement obligations entered into under the Trade Act of 1974 of benefit to foreign countries or instrumentalities.

SEC. 302. DUTY-FREE ENTRY OF ARTICLES REQUIRED FOR THE INSTALLATION AND OPERATION OF A TELESCOPE IN ARIZONA.

(a) The Secretary of the Treasury is authorized and directed to admit free of duty instruments and apparatus (within the meaning of headnote 6(a) to part 4 of schedule 8 of the Tariff Schedules of the United States (19 U.S.C. 1202)) imported by, or on the behalf of, the University of Arizona for use in the installation or operation of a sub—mm telescope in the State of Arizona which isthe subject of a joint astronomical project undertaken by the Steward Observatory of the University of Arizona and the Max Planck Institute for Radioastronomy of the Federal Republic of Germany.

(b) The provisions of subsection (a) shall apply with respect to articles entered, or withdrawn from warehouse for consumption, before November 1, 1993.

SEC. 303. DUTY-FREE ENTRY OF ORGANS IMPORTED FOR THE USE OF TRINITY CATHEDRAL OF CLEVELAND, OHIO.

The organs made by Flentrop Orgel Bouw, the Netherlands, that were imported for the use of Trinity Cathedral of Cleveland, Ohio, and entered during 1973–1978 shall be considered to have been admitted free of duty on the dates of entry. If the liquidation of any such entry has become final, the Secretary of the Treasury, if request therefor is filed with the appropriate customs officer within 180 days after the date of the enactment of this Act, shall reliquidate the entry and make the appropriate refund of any duty paid.

SEC. 304. COLUMBIA-SNAKE CUSTOMS DISTRICT.

The Commissioner of the United States Customs Service shall establish a customs district that shall—

(1) be known as the Columbia-Snake Customs District;

(2) have headquarters at Portland, Oregon; and

(3) consist of the following areas:

(A) The State of Oregon.

(B) That part of the State of Idaho below 47 latitude.

(C) The following counties in the State of Washington:

Adams,
Asotin,
Benton,
Clark,
Columbia,
Cowlitz,
Franklin,
Garfield,
Klickitat,
Skamania,
Wahkiakum,
Walla Walla, and
Whitman.

(D) That area of Pacific County, State of Washington, south of a line that would be in effect if the northern boundary of Wahkiakum County were extended westward to the Pacific Ocean.

The ports of entry for Columbia-Snake Customs District are those ports of entry that were within the areas described in paragraph (3) on the date of the enactment of this Act; except that Boise, Idaho, is an additional port of entry for that District.

SEC. 305. SENSE OF CONGRESS REGARDING POSSIBLE EEC ACTION ON CORN GLUTEN.

Whereas—

(1) the European Council of Ministers has directed the Commission of the European Community (EC) to initiate consultations with the United States and other interested parties under article XXVIII of the General Agreement on Tariffs and Trade (GATT) for the purpose of imposing tariff or tariff quota restrictions on imports of nongrain feed ingredients, including corn gluten feed;

(2) the EC has considered proposals to impose a domestic consumption tax on vegetable fats and oils, which would undermine the intention of the duty-free binding on certain corn and soybean products imported from the United States;

(3) the EC has bound in the GATT that it will impose no import duties on soybeans, soybean meal, corn gluten feed, and other corn by-products, and such zero-tariff bindings were agreed to in return for United States trade concessions to the EC during previous rounds of trade negotiations;

(4) the EC has not demonstrated sound economic justification for restrictions on the import of nongrain feed ingredients and such restrictions would only shift the financial burden of EC Common Agricultural Policy (CAP) reform from the EC to other countries, with negligible improvement in the current EC budget situation;

(5) action by the EC to breach a negotiated concession would severely erode the basic GATT principle of comparative advantage and set a dangerous precedent which could threaten other previously negotiated concessions and serve as a precursor to restrictions on the import of soybeans and soybean products; and

(6) the official position of the United States, as stated by the Secretary of Agriculture, is that there is strong support for the EC efforts to balance the Agricultural budget, but that the United States will oppose any efforts to limit its exports of corn gluten feed to the EC;

it is the sense of Congress that—

(A) the President should continue to firmly oppose the imposition of any restriction on European Community imports of nongrain feed ingredients, including corn gluten, and should support the current duty-free binding on such products;

(B) the President should continue to rigorously oppose any European Community proposals which would violate the intent of the existing duty-free binding in the General Agreement on Tariffs and Trade on soybeans and soybean products and reaffirm the United States conviction that the imposition of a consumption tax on vegetable fats and oils by the European Community would represent a restraint of trade; and

(C) if unilateral action is taken by the European Community to restrict or inhibit the importation of either nongrain feed ingredients, including corn gluten feed, or vegetable fats and oils, including soybean products, the United States should act immediately to restrict European Community imports of at least the aggregate value of the reduced and potentially reduced United States export products.

SEC. 306. FOREIGN TRADE ZONES.

(a)(1) The Congress finds that a delicate balance of the interests of the bicycle industry and the bicycle component parts industry has been reached through repeated revision of the Tariff Schedules of the United

States so as to allow duty free import of those categories of bicycle component parts which are not manufactured domestically. The Congress further finds that this balance would be destroyed by exempting otherwise dutiable bicycle component parts from the customs laws of the United States through granting foreign trade zone status to bicycle manufacturing and assembly plants in the United States and that the preservation of such balance is in the public interest and in the interest of the domestic bicycle industry.

(2) Section 3 of the Act of June 18, 1934 (commonly known as the Foreign Trade Zones Act (19 U.S.C. 81c)), is amended—

(A) by inserting "(a)" immediately before the first word thereof;

(B) by redesignating paragraphs (a) and (b) as paragraphs (1) and (2), respectively; and

(C) by adding at the end thereof the following new subsection:

"(b) The exemption from the customs laws of the United States provided under subsection (a) shall not be available before June 30, 1986, to bicycle component parts unless such parts are reexported from the United States, whether in the original package, as components of a completely assembled bicycle, or otherwise.".

(3) The amendments made by paragraph (2) shall take effect on the fifteenth day after the date of the enactment of this Act.

(b)(1) Section 15 of such Act of June 18, 1934 (19 U.S.C. 81o) is amended by adding at the end thereof the following new subsection:

"(e) Tangible personal property imported from outside the United States and held in a zone for the purpose of storage, sale, exhibition, repackaging, assembly, distribution, sorting, grading, cleaning, mixing, display, manufacturing, or processing, and tangible personal property produced in the United States and held in a zone for exportation, either in its original form or as altered by any of the above processes, shall be exempt from State and local ad valorem taxation.".

(2) The amendment made by paragraph (1) shall take effect on January 1, 1983.

SEC. 307. DUTY-FREE ENTRY FOR PIPE ORGAN FOR THE CRYSTAL CATHEDRAL, GARDEN GROVE, CALIFORNIA.

The pipe organ which was imported for the use of the Crystal Cathedral of Garden Grove, California, and entered in six shipments between April 30, 1981, and April 8, 1982, at Los Angeles, California, shall be considered to have been admitted free of duty as of the date of each such entry. If the liquidation of any such entry has become final, the Secretary of the Treasury shall reliquidate each such entry and make the appropriate refund of any duty paid on such organ.

SEC. 308. DUTY-FREE ENTRY FOR SCIENTIFIC EQUIPMENT FOR THE ELLIS FISCHEL STATE CANCER HOSPITAL, COLUMBIA, MISSOURI.

Notwithstanding any provision of the Tariff Act of 1930 or any other provisions of the law to the contrary, the Secretary of the Treasury shall reliquidate, as duty free, the entries numbered 220286 (dated November 7, 1975) and 235380 (dated January 23, 1976) made at Chicago, Illinois, and covering scientific equipment for the use of the Ellis Fischel Cancer Hospital, Columbia, Missouri, in accordance with the decision of the Department of Commerce in docket numbered 76-00199-33-00530.

TITLE IV—UNITED STATES-ISRAEL FREE TRADE AREA

SEC. 401. SHORT TITLE.

This title may be cited as the "United States-Israel Free Trade Area Act".

SEC. 402. TRADE AGREEMENT AUTHORITY.

(a) BASIC AUTHORITY.—Subject to sections 403, 404, 405, and 406, the President may enter into a reciprocal and mutually advantageous trade agreement with the Government of Israel providing for—

(1) the continuance of existing duty-free treatment of, and the elimination of existing duties on, articles that are eligible Israeli articles under section 403; and

(2) the harmonization, reduction, or elimination of nontariff barriers to (and other distortions of) trade between the United States and Israel.

(b) IMPLEMENTATION.—The President may proclaim such contunances and modifications regarding the duty-free treatment of eligible Israeli articles as the President determines to be necessary or appropriate to carry out the provisions of the trade agreement entered into under the authority of subsection (a)(1).

(2) The provisions of the trade agreement relating to the measures referred to in subsection (a)(2) shall be treated as a trade agreement entered into under the authority of section 102 of the Trade Act of 1974 (19 U.S.C. 2112) and shall enter into force with respect to the United States if (and only if) subsections (c), (d), and (e) of that section are compiled with in regard to such provisions.

SEC. 403. CRITERIA FOR DUTY-FREE TREATMENT OF ARTICLES.

(a) IN GENERAL.—(1) For purposes of any trade agreement provisions entered into under the authority of section 402(a)(1), an article is considered to be an eligible Israeli article only if—

(A) that article is the growth, product, or manufacture of Israel or is a new or different article of commerce that has been grown, produced, or manufactured in Israel;

(B) that article is imported directly from Israel into the customs territory of the United States; and

(C) the sum of—

(i) the cost of value of the materials produced in Israel, plus

(ii) the direct costs of processing operations performed in Israel,

is not less than 35 percent of the appraised value of such article at the time it is entered.

If the cost or value of materials produced in the customs territory of the United States is included with respect to an article to which this subsection applies, an amount not to exceed 15 percent of the appraised value of the article at the time it is entered that is attributable to such United States cost or value may be applied toward determining the percentage referred to in subparagraph (C).

(2) No article may be considered to be an eligible Israeli article by virtue of having merely undergone—

(A) simple combining or packaging operations; or

(B) mere dilution with water or mere dilution with another substance that does not materially alter the characteristics of the article.

(c) DEFINITION.—As used in this section, the phrase "direct costs of processing operations" includes, but is not limited to—

(1) all actual labor costs involved in the growth, production, manufacture, or assembly of the specific merchandise, including fringe benefits, on-the-job training and the cost of engineering, supervisory, quality control, and similar personnel; and

(2) dies, molds, tooling, and depreciation on machinery and equipment which are allocable to the specific merchandise.

Such phrase does not include costs which are not directly attributable to the merchandise concerned, or are not costs of manufacturing the product, such as (A) profit, and (B) general expenses of doing business which are either not allocable to the specific merchandise or are not related to the growth, production, manufacture, or assembly of the merchandise, such as administrative salaries, casualty and liability insurance, advertising, and salesmen's salaries, commissions or expenses.

(c) REGULATIONS.—The Secretary of the Treasury, after consultation with the United States Trade Representative, shall prescribe such regulations as may be necessary to carry out this section.

SEC. 404. APPLICATION OF CERTAIN OTHER TRADE LAW PROVISIONS.

(a) SUSPENSION OF DUTY-FREE TREATMENT.—The President may by proclamation suspend the duty-free treatment provided under any trade agreement provision entered into under the authority of section 402(a)(1) with respect to any eligible Israeli article and may proclaim a duty rate for such article if such action is proclaimed under section 203 of the Trade Act of 1974 or section 232 of the Trade Expansion Act of 1962.

(b) ITC REPORTS.—In any report by the United States International Trade Commission (hereinafter referred to in this title as the "Commission") to the President under section 201(d)(1) of the Trade Act of 1974 regarding any article for which duty-free treatment has been proclaimed by the President under section 402(b)(1), the Commission shall state whether and to what extent its findings and recommendations apply to such an article when imported from Israel.

(c) TREATMENT OF SUSPENSION.—For purposes of subsections (a) and (c) of section 203 of the Trade Act of 1974, the suspension of the duty-free treatment under subsection (a) shall be treated as an increase in duty.

(d) COMMISSION DETERMINATIONS.—No proclamation which provides solely for a suspension referred to in subsection (a) with respect to any article shall be made under subsections (a) and (c) of section 203 of the Trade Act of 1974 unless the commission, in addition to making an affirmative determination with respect to such article under section 201(b) of the Trade Act of 1974, determines in the course of its investigation under that section that the serious injury (or threat thereof) substantially caused by imports to the domestic industry producing a like or directly competitive article results from the duty-free treatment provided under any trade agreement provision entered into under the authority of section 402(a)(1).

(e) RELATIONSHIP BETWEEN DUTY-FREE TREATMENT AND IMPORT RELIEF.—(1) Any proclamation issued under section 203 of the Trade Act of 1974 that is in effect when duty-free treatment is proclaimed under section 402(b)(1) shall remain in effect until modified or terminated.

(2) If any article is subject to import relief at the time duty-free treatment is proclaimed under section 402(b)(1), the President may reduce or terminate the application of such import relief to the importation of such article before the otherwise scheduled date on which such reduction or termination would occur pursuant to the criteria

and procedures of subsections (h) and (i) of section 203 of the Trade Act of 1974.

SEC. 405. FAST TRACK PROCEDURES FOR PERISHABLE ARTICLES.

(a) IN GENERAL.—If a petition is filed with the Commission under the provisions of section 201 of the Trade Act of 1974 regarding a perishable product provided duty-free treatment under any trade agreement provision entered into under the authority of section 402(a)(1) and alleges injury from imports of that product, then the petition may also be filed with the Secretary of Agriculture with a request that emergency relief be granted under subsection (c) with respect to such article.

(b) ACTION BY SECRETARY OF AGRICULTURE.—Within 14 days after the filing of a petition under subsection (a)—

(1) if the Secretary of Agriculture has reason to believe that a perishable product from Israel is being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing a perishable product like or directly competitive with the imported product and that emergency action is warranted, he shall advise the President and recommend that the President take emergency action; or

(2) the Secretary of Agriculture shall publish a notice of this determination not to recommend the imposition of emergency action and so advise the petitioner.

(c) ACTION BY PRESIDENT.—Within 7 days after the President receives a recommendation from the Secretary of Agriculture to take emergency action under subsection (b), he shall issue a proclamation withdrawing the duty-free treatment provided to the perishable product under any trade agreement provision entered into under the authority of section 402(a)(1) or publish a notice of his determination not to take emergency action.

(i) TERMINATION OF EMERGENCY ACTION.—The emergency action provided under subsection (c) shall cease to apply—

(1) upon the proclamation of import relief under section 202(a)(1) of the Trade Act of 1974;

(2) on the day the President makes a determination under section 203(b)(2) of such Act not to impose import relief;

(3) in the event of a report of the Commission containing a negative finding, on the day the Commission's report is submitted to the President; or

(4) whenever the President determines that because of changed circumstances such relief is no longer warranted.

(d) DEFINITION.—For purposes of this section, the term "perishable product" means any—

(1) live plant provided for in subpart A of part 6 of schedule 1 of the Tariff Schedules of the United States (19 U.S.C. 1202, hereinafter referred to as the "TSUS");

(2) fresh or chilled vegetable provided for in items 135.10 through 138.42 of this TSUS;

(3) fresh mushroom provided for in item 144.10 of the TSUS;

(4) fresh fruit provided for in items 146.10, 146.20, 146.30, 146.50 through 146.62, 146.90, 146.91, 147.03 through 147.33, 147.50 through 149.21 and 149.50 of the TSUS;

(5) fresh cut flower provided for in items 192.17, 192.18, and 192.21 of the TSUS; and

(6) concentrated citrus fruit provided for in items 165.25 and 165.35 of the TSUS.

(f) NO EFFECT ON CERTAIN FEES.—No proclamation issued under section 402(b)(1) shall affect fees imposed under section 22 of the Agricultural Adjustment Act (7 U.S.C. 624).

SEC. 406. CONSTRUCTION OF TITLE.

(a) APPLICATION OF IMPORT RELIEF REMEDIES UNAFFECTED.—Neither the taking effect of any trade agreement provision entered into under the authority of section 102(a)(1), nor any proclamation issued under section 102(b)(1) to implement any such provision, may affect in any manner, or to any extent, the application to eligible Israeli articles of section 232 of the Trade Expansion Act of 1962, section 337 of title VII of the Tariff Act of 1930, chapter 1 of title II and chapter 1 of title III of the Trade Act of 1974, or any other provision of law under which relief from injury caused by import competition or by unfair import trade practices may be sought.

(b) NO EXTENSION OF BENEFITS TO ANY OTHER COUNTRY.—Notwithstanding any other provision of law, no trade benefit shall be extended to any country by reason of the extension of any trade benefit to Israel under, or in accordance with, this title.

TITLE V—GENERALIZED SYSTEM OF PREFERENCES RENEWAL

SEC. 501. SHORT TITLE; STATEMENT OF PURPOSE.

(a) SHORT TITLE.—This title may be cited as the "Generalized System of Preferences Renew Act of 1984".

(b) PURPOSE.—The purpose of this title is to—

(1) promote the development of developing countries, which often need temporary preferential advantages to compete effectively with industrialized countries;

(2) promote the notion that trade, rather than aid, is a more effective and cost-efficient way of promoting broad-based sustained economic development;

(3) take advantage of the fact that developing countries provide the fastest growing markets for United States exports and that foreign exchange earnings from trade with such countries through the Generalized System of Preferences can further stimulate United States exports;

(4) allow for the consideration of the fact that there are significant differences among developing countries with respect to their general development and international competitiveness;

(5) encourage the providing of increased trade liberalization measures, thereby setting an example to be emulated by other industrialized countries;

(6) recognized that a large number of developing countries must generate sufficient foreign exchange earnings to meet international debt obligations;

(7) promote the creation of additional opportunities for trade among the developing countries;

(8) integrate developing countries into the international trading system with its attendant responsibilities in a manner commensurate with their development;

(9) encourage developing countries—

(A) to eliminate or reduce significant barriers to trade in goods and services and to investment,

(B) to provide effective means under which foreign nationals may secure, exercise, and enforce exclusive intellectual property rights, and

(C) to afford workers internationally recognized worker rights; and

(10) address the concerns listed in the preceding paragraphs in a manner that—

(A) does not adversely affect United States producers and workers, and

(B) conforms to the international obligations of the United States under the General Agreement on Tariffs and Trade.

SEC. 502. CONSIDERATION OF A BENEFICIARY DEVELOPING COUNTRY'S COMPETITIVENESS IN EXTENDING PREFERENCES.

Section 501 of the Trade Act of 1974 (19 U.S.C. 2461) is amended—

(1) by inserting "through the expansion of their exports" before the semicolon at the end of paragraph (1);

(2) by striking out "and" at the end of paragraph (2);

(3) by striking out the period at the end of paragraph (3) and inserting in lieu thereof "; and"; and

(4) by adding at the end thereof the following new paragraph:

"(4) the extent of the beneficiary developing country's competitiveness with respect to eligible articles.".

SEC. 503. AMENDMENTS RELATING TO THE BENEFICIARY DEVELOPING COUNTRY DESIGNATION CRITERIA.

(a) DEFINITION.—Subsection (a) of section 502 of the Trade Act of 1974 (19 U.S.C. 2462(a)) is amended by adding at the end thereof the following new paragraph:

"(4) For purposes of this title, the term 'internationally recognized worker rights' includes—

"(A) the right of association;

"(B) the right to organize bargain collectively;

"(C) a prohibition on the use of any form of forced or compulsory labor;

"(D) a minimum age for the employment of children; and

"(E) acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health.".

(b) RESTRICTIONS ON DESIGNATION.—Subsection (b) of section 502 of the Trade Act of 1974 (19 U.S.C. 2462(b)) is amended—

(1) by striking out "Hungary" in the list of countries preceding paragraph (1);

(2) by inserting ", including patents, trademarks, or copyrights," after "control of property" in paragraph (4)(A) and (B);

(3) by inserting ", including patents, trademarks, or copyrights" after "control of such property" in paragraph (4)(C);

(4) by striking out "and" at the end of paragraph (5);

(5) by striking out the period at the end of paragraph (7) and inserting in lieu thereof "; and";

(6) by inserting after paragraph (7) the following new paragraph:

"(8) if such country has not taken or is not taking steps to afford internationally recognized worker rights to workers in the country (including any designated zone in that country).''; and

(7) by striking out "and (7)" in the unnumbered paragraph at the end of the subsection and inserting in lieu thereof "(7), and (8)".

(c) DESIGNATION FACTORS.—Subsection (c) of section 502 of the Trade Act of 1974 (19 U.S.C. 2462) is amended—

(1) by striking out "and" at the end of paragraph (3);

(2) by striking out the period at the end of paragraph (4) and inserting in lieu thereof a semicolon; and

(3) by adding at the end thereof the following new paragraphs:

"(5) the extent to which such country is providing adequate and effective means under its laws for foreign nationals to secure, to exercise, and to enforce exclusive rights in intellectual property, including patents, trademarks, and copyrights;

"(6) the extent to which such country has taken action to—

"(A) reduce trade distorting investment practices and policies (including export performance requirements); and

"(B) reduce or eliminate barriers to trade in services; and

"(7) whether or not such country has taken or is taking steps to afford to workers in that country (including any designated zone in that country) internationally recognized worker rights.".

SEC. 504. PARTICLES WHICH MAY NOT BE DESIGNATED AS ELIGIBLE ARTICLES; REGULATIONS.

(a) ARTICLES NOT ELIGIBLE FOR DESIGNATION.—Subsection (c)(1)(E) of section 503 of the Trade Act of 1974 (19 U.S.C. 2463(c)(1)(E)) is amended to read as follows:

"(E) footwear, handbags, luggage, flat goods, work gloves, and leather wearing apparel which were not eligible articles for purposes of this title on April 1, 1984.".

(b) REGULATIONS.—Such section 503 is further amended by adding at the end thereof the following new subsection:

"(d) Notwithstanding any other provision of law, the Secretary of the Treasury shall, after consulting with the United States Trade Representative, prescribe regulations governing rule-of-origin requirements under this title.".

SEC. 505. LIMITATIONS ON PREFERENTIAL TREATMENT.

(a) REPORTS.—Subsection (a) of section 504 of the Trade Act of 1974 (19 U.S.C. 2464) is amended—in lieu thereof "(1) The President"; and

(2) by adding at the end thereof the following new paragraph:

"(2) The President shall, as necessary, advise the Congress and, by no later than January 4, 1987, submit to the Congress a report on the application of sections 501 and 502(c), and the actions the President has taken to withdraw, to suspend, or to limit the application of duty-free treatment with respect to any country which has failed to adequately take the actions described in section 502(c).".

(b) LIMITATIONS.—Subsections (c) and (d) of section 504 of the Trade Act of 1974 (19 U.S.C. 2464 (c) and (d) are amended to read as follows:

"(c)(1) Subject to paragraphs (2) through (8) and subsection (d), whenever the President determines that any country—

"(A) has exported (directly or indirectly) to the United States during a calendar year a quantity of an eligible article having an appraised in value in excess of an amount which bears the same ratio to $25,000,000 as the gross national product of the United States for the preceding calendar year (as determined by the Department of Commerce) bears to the gross national product of the United States for calendar year 1974; or

"(B) has exported (either directly or indirectly) to the United States a quantity of any eligible article equal to or exceeding 50 percent of the appraised value of the total imports of such article into the United States during any calendar year;

"(2)(A) Not later than January 4, 1986, and periodically thereafter, the President shall conduct a general review of eligible articles based on the considerations described in section 501 or 502(c).

"(B) If, after any review under subparagraph (A), the President determines that this subparagraph should apply because a beneficiary developing country has demonstrated a sufficient degree of competitiveness (relative to other beneficiary developing countries) with respect to any eligible article, then paragraph (1) shall be applied to such country with respect to such article by substituting—

"(i) '1984' for '1974' in subparagraph (A) of that paragraph; and

"(ii) '25 percent' for '50 percent' in subparagraph (B) of that paragraph.

"(3) If the President determines that any beneficiary developing country, in any calendar year after 1984—

"(A) has a per capita gross national product (calculated on the basis of the best available information, including that of the World Bank) of $5,000 or more; or

"(B) exported (either directly or indirectly) to the United States a quantity of articles that was duty-free under this title and had an appraised value of more than 10 percent of the appraised value of the total imports of all articles that entered the United States duty-free under this title during that year;

then not later than July 1 of the next calendar year paragraph (1) shall be applied to such country with respect to all eligible articles by substituting—

"(i) '1984' for '1974' in subparagraph (A) of that paragraph; and

"(ii) '25 percent' for '50 percent' in subparagraph (B) of that paragraph.

"(4) If the President determines that any beneficiary developing country had, for any calendar year (hereafter in this paragraph referred to as the 'determination year') after 1984, a per capita gross national product (calculated on the basis of the best available information, including that of the World Bank) of $9,000 or more, then paragraph (1)(B) shall thereafter be applied with respect to the eligible articles of that country as follows:

"(A) In the case of eligible articles that were subject during the determination year to a 50 percent limitation under paragraph (1)(B), '25 percent' shall be substituted for '50 percent' in that paragraph with respect to eligible articles of that kind during the 24-month period beginning not later than July 1 of the year after the determination year.

"(B) In the case of eligible articles that were subject during the determination year to a 25 percent limitation under paragraph (1)(B), that limitation shall continue to apply to eligible articles of that kind during the 12-month period beginning not later than July 1 of the year after the determination year.

"(C) The country shall not be treated as a beneficiary developing country with respect to eligible articles—

"(i) to which subparagraph (A) applies, after the close of the 24-month period referred to in that subparagraph; or

"(ii) to which subparagraph (B) applies, after the close of the 12-month period referred to in that subparagraph.

"(5)(A) Not earlier than January 4, 1986, the president, subject to subparagraph (C), may waive the application of this subsection with respect to any eligible article of any beneficiary developing country if, before July 1 of the year after the calendar year for which a determination described in paragraph (1) was made with respect to such eligible article, the President—

"(i) receives the advice of the International Trade Commission on whether any industry in the United States is likely to be adversely affected by such waiver,

"(ii) determines, based on the considerations described in sections 501 and 502(c) and the advice described in clause (i), that such waiver is in the national economic interest of the United States, and

"(iii) publishes the determination described in clause (ii), together with a summary of the reasons thereof, in the Federal Register.

"(B) Any waiver granted under his paragraph shall remain in effect until the President determines that such waiver is no longer warranted due to changed circumstances.

"(C)(i) No waiver may be granted under subparagraph (A) with respect to paragraph (4)

(ii) No waiver granted under subparagraph (A) with respect to paragrph (1), in regard to any eligible article of a beneficiary developing country to which a determination under paragraph (3) applies, my result in the imposition of any limitation exceeding that that would apply under paragraph (1)(A) or (B) without regard to paragraphs (2) through (8).

"(iii) The waiver authority under subparagraph (A) is limited, with respect to the eligible articles of countries not subject to paragraph (3) or (4), during each 12-month period for which that authority is effective following the close of a calendar year referred to in subparagraph (A) to a quantity of those articles that has an aggregate value equal to 25 percent of the total value of all articles that entered the United States duty-free under this title during that calendar year. There shall be counted against the limitation imposed under the preceding sentence for any 12-month period only that quantity of any eligible article of any country not subject to paragraph (3) or (4) that—

"(I) entered the United States duty-free under this title during that period; and

"(II) is in excess of the quantity of that article that would have been so entered during that period if the 1974 limitation applied under paragraph (1)(A) and the 50 percent limitation applied under paragraph (1)(B).

"(6) Except in any case to which paragraph (2)(B), (3), or (4) applies, the President may waive the application of this subsection if, not later than July 1 of the year after the calendar year for which a determination described in paragraph (1) was made, the President determines and publishes in the Federal Register that, with respect to such country—

"(A) there has been an historical preferential trade relationship between the United States and such country,

"(B) there is a treaty or trade agreement in force covering economic relations between such country and the United States, and

"(C) such country does not discriminate against, or impose unjustifiable or unreasonable barriers to, United States commerce.

"(7) A country which is no longer treated as a beneficiary developing country with respect to an eligible article by reason of this subsection (other than paragraph (4)) may be redesignated a beneficiary developing country with respect to such article, subject to the provisions of section 501 and 502, if imports of such article from such country did not exceed the limitations (as they may have been adjusted as a result of the application of paragraph (2)(B) or (3)) in paragraph (1) during the preceding two calendar years.

"(8) For purposes of this subsection, the term 'country' does not include an association of countries which is treated as one country under section 502(a)(3), but does include a country which is a member of any such association.

"(d)(1) Subsection (c)(1)(B) shall not apply with respect to any eligible article if a

like or directly competitive article is not produced in the United States on January 3, 1985.

"(2) The President may disregard subsection (c)(1)(B) with respect to any eligible article if the appraised value of the total imports of such article into the United States during the preceding calendar year is not in excess of an amount which bears the same ratio to 5,000,000 as the gross (as determined by the Department of Commerce) bears to the gross national product of the United States for calendar year 1984.".

SEC. 506. 5-YEAR EXTENSION OF THE GENERALIZED SYSTEM OF PREFERENCES AND REPORTS.

(a) EXTENSION.—Section 505 of the Trade Act of 1974 (19 U.S.C. 2465) is amended to read as follows:

"SEC. 505. TERMINATION OF DUTY-FREE TREATMENT AND REPORTS.

"(a) No duty-free treatment provided under this title shall remain in effect after January 3, 1990.

"(b) On or before January 4, 1990, the President shall submit to the Congress a full and complete report regarding the operation of this title.

"(c) The President shall submit an annual report to the Congress on the status of internationally recognized worker rights within each beneficiary developing country."

(b) CONFORMING AMENDMENT.—The table of contents of the Trade Act of 1974 is amended by striking out the item relating to section 505 and inserting in lieu thereof the following:

"Sec. 505. Termination of duty-free treatment and reports.".

SEC. 507. AGRICULTURAL EXPORTS OF BENEFICIARY DEVELOPING COUNTRIES.

(A) REQUIREMENTS ON AGENCIES.—Title V of the Trade Act of 1974 (19 U.S.C. 2461 et seq.) is further amended by adding at the end thereof the following new section:

"SEC. 506. AGRICULTURAL EXPORTS OF BENEFICIARY DEVELOPING COUNTRIES.

"The appropriate agencies of the United States shall assist beneficiary developing countries to develop and implement measures designed to assure that the agricultural sectors of their economies are not directed to export markets to the detriment of the production of foodstuffs for their citizenry."

(b) CONFORMING AMENDMENT.—The table of contents of such Act of 1974 is amended by adding after the item relating to item 505 the following:

"Sec. 506. Agricultural exports of beneficiary developing countries.".

SEC. 508. EFFECTIVE DATE.

The amendments made by this title shall take effect on January 4, 1985.

TITLE VI—SMALL BUSINESS TRADE ASSISTANCE AND TRADE MONITORING

SEC. 601. ESTABLISHMENT OF TRADE REMEDY ASSISTANCE OFFICE AND TARGETING SUBSIDY MONITORING PROGRAM IN THE UNITED STATES INTERNATIONAL TRADE COMMISSION.

(a) Part 2 of title II of the Tariff Act of 1930 (19 U.S.C. 1330-1341) is amended

(1) by inserting after section 338 the following new section:

"SEC. 339. TRADE REMEDY ASSISTANCE OFFICE.

"(a) There is established in the Commission a Trade Remedy Assistance Office which shall provide full information to the public, upon request, concerning—

"(1) remedies and benefits available under the trade laws, and

"(2) the petition and application procedures, and the appropriate filing dates, with respect to such remedies and benefits.

"(b) Each agency responsible for administering a trade law shall provide technical assistance to eligible small businesses to enable them to prepare and file petitions and applications (other than those which, in the opinion of the agency, are frivolous) to obtain the remedies and benefits that may be available under that law.

"(c) For purposes of this section—

"(1) The term 'eligible small business' means any business concern which, in the agency's judgment, due to its small size, has neither adequate internal resources nor financial ability to obtain qualified outside assistance in preparing and filing petitions and applications for remedies and benefits under trade laws. In determining whether a business concern is an 'eligible small business', the agency may consult with the Small Business Administration, and shall consult with any other agency that has provided assistance under subsection (b) to that business concern. An agency decision regarding whether a business concern is an eligible small business for purposes of this section is not reviewable by any other agency or by any court.

"(2) The term 'trade laws' means—

"(A) chapter 1 of title II of the Trade Act of 1974 (19 U.S.C. 2251 et seq., relating to relief caused by import competition);

"(B) chapters 2 and 3 of such title II (relating to adjustment assistance for workers and firms);

"(C) chapter 1 of title III of the Trade Act of 1974 (19 U.S.C. 2411 et seq., relating to relief from foreign import restrictions and export subsidies);

"(D) title VII of the Tariff Act of 1930 (19 U.S.C. 1671 et seq., relating to the imposition of countervailing duties and antidumping duties);

"(E) section 232 of the Trade Expansion Act of 1962 (19 U.S.C. 1862, relating to the safeguarding of national security); and

"(F) section 337 of the Tariff Act of 1930 (19 U.S.C. 1337, relating to unfair practices in import trade."; and

(2) by amending section 340 to read as follows:

"SEC. 340. MONITORING OF FOREIGN INDUSTRIAL PLANS AND POLICIES.

"(a) The Commission shall establish and implement a continuing program to monitor and analyze the industrial plans and policies of foreign countries and instrumentalities.

"(b) In implementing the program, the Commission shall give priority to those countries and instrumentalities and product sectors in which the United States has significant economic or commercial interests. The Commission shall consult with other appropriate Federal agencies and solicit the views and comments of the public in determining priorities for purposes of the preceding sentence.

"(c) The Commission shall regularly report the information resulting from the program to the administering authority (as defined in section 771(1)) and shall make such information (other than that requiring confidential treatment) available to the public.

"(d) Each agency of the United States shall provide to the Commission, upon its request, such information as the Commission considers to be necessary or appropriate for purposes of carrying out this section. Classified information shall be provided to the Commission under this subsection if the provider agency is satisfied that the Commission will enforce appropriate measures to prevent the loss or unauthorized disclosure of the information.".

(b) Section 339 of the Tariff Act of 1930 (as added by subsection (a)(1)) shall take effect on the 90th day after the date of the enactment of this Act.

SEC. 602. INDUSTRIAL TARGETING STUDIES.

The Secretary of Commerce, the Secretary of Labor, the United States Trade Representative, and the Comptroller General of the United States shall each undertake, and submit to the Congress not later than June 1, 1985, a comprehensive study of the problem of foreign industrial targeting, whereby foreign governments adopt plans or schemes of coordinated activities to foster and benefit specific industries, and of the desirability or need to amend the United States trade laws in order to provide effective remedies for domestic industries against the adverse effects of such targeting. To the extent consistent with agency jurisdiction, such studies shall include, but are not limited to—

(1) an analysis of—

(A) whether foreign industrial targeting should be considered as an unfair trade practice under United States law;

(B) whether current law, including the remedies under title VII of the Tariff Act of 1930, adequately address the subsidy elements of foreign industrial policy measures; and

(C) the extent to which foreign industrial targeting practices are significantly affecting United States commerce; and

(2) any recommended legislation considered necessary based on the study results.

SEC. 701. REFERENCE.

Except as otherwise expressly provided whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a title, subtitle, part, section, or other provision, the reference shall be considered to be made to a title, subtitle, part, section, or other provision of the Tariff Act of 1930 (19 U.S.C. 1202 et seq.).

SUBTITLE A—AMENDMENTS TO COUNTERVAILING DUTY AND ANTIDUMPING DUTY LAWS

SEC. 711. CLARIFICATION OF GENERAL RULE.

(a) Section 701(a) (19 U.S.C. 1671(a)) is amended—

(1) by inserting ", or sold (or likely to be sold) for importation," after "imported" in paragraph (1);

(2) by inserting "or by reason of sales (or the likelihood of sales) of that merchandise for importation" immediately after "by reason of imports of that merchandise" in paragraph (2); and

(3) by adding at the end thereof the following new sentence: "For purposes of this subsection and section 705(b)(1), a reference to the sale of merchandise includes the entering into of any leasing arrangement regarding the merchandise that is equivalent to the sale of the merchandise.".

(b) Section 705(b)(1) (19 U.S.C. 1671(b)(1)) is amended by inserting ", or sales (or the likelihood of sales) for importation," immediately after "by reason of imports".

(c) Section 731 (19 U.S.C. 1673) is amended by adding at the end thereof the following new sentence: "For purposes of this section and section 735(b)(1), a reference to the sale of foreign merchandise includes the entering into of any leasing arrangement regarding the merchandise that is equivalent to the sale of the merchandise.".

SEC. 712. TERMINATION OR SUSPENSION OF INVESTIGATION.

(a) Section 704 (19 U.S.C. 1671c) is amended—

(1) by amending subsection (a) to read as follows:

"(a) TERMINATION OF INVESTIGATION UPON WITHDRAWAL OF PETITION.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), an investigation under this subtitle may be terminated by either the administering authority or the Commission, after notice to all parties to the investigation, upon withdrawal of the petition by the petitioner or by the administering authority if the investigation was initiated under section 702(a).

"(2) SPECIAL RULES FOR QUANTITATIVE RESTRICTION AGREEMENTS.—

"(A) IN GENERAL.—Subject to subparagraphs (B) and (C), the administering authority may not terminate an investigation under paragraph (1) by accepting, with the government of the country in which the subsidy practice is alleged to occur, an understanding or other kind of agreement to limit the volume of imports into the United States of the merchandise that is subject to the investigation unless the administering authority is satisfied that termination on the basis of that agreement is in the public interest.

"(B) PUBLIC INTEREST FACTORS.—In making a decision under subparagraph (A) regarding the public interest, the administering authority shall take into account—

"(i) whether, based upon the relative impact on consumer prices and the availability of supplies of the merchandise, the agreement would have a greater adverse impact on United States consumers than the imposition of countervailing duties;

"(ii) the relative impact on the international economic interests of the United States; and

"(iii) the relative impact on the competitiveness of the domestic industry producing the like merchandise, including any such impact on employment and investment in that industry.

"(C) PRIOR CONSULTATIONS.—Before making a decision under subparagraph (A) regarding the public interest, the administering authority shall consult with—

"(i) potentially affected consuming industries; and

"(ii) potentially affected producers and workers in the domestic industry producing the like merchandise, including producers and workers not party to the investigation.

"(3) LIMITATION ON TERMINATION BY COMMISSION.—The Commission may not terminate an investigation under paragraph (1) before a preliminary determination is made by the administering authority under section 703(b).";

(2) by amending subsection (b)—

(A) by striking out "or offset" in the side-heading thereto;

(B) by amending paragraph (1) to read as follows:

"(1) to eliminate the subsidy completely with respect to that merchandise exported directly or indirectly to the United States on the date the investigation is suspended, or"; and

(C) by striking out "within 6 months after the date on which" in paragraph (2) and inserting in lieu thereof "on the date";

(3) by amending subsection (d)—

(A) by adding at the end of paragraph (1) the following:

"In applying subparagraph (A) with respect to any quantitative restriction agreement under subsection (c), the administering authority shall take into account, in addition to such other factors as are considered necessary or appropriate, the factors set forth in subsection (a)(2)(B) (i), (ii), and (iii) as they apply to the proposed suspension and agreement, after consulting with the appropriate consuming industries, producers, and workers referred to in subsection (a)(2)(C)(i) and (ii).".

(B) by striking out paragraph (2), and

(C) by redesignating paragraph (3) as paragraph (2); and

(4) by amending subsection (i)(1)—

(A) by striking out "and" at the end of subparagraph (C),

(B) by redesignating subparagraph (D) as subparagraph (E), and

(C) by inserting immediately after subparagraph (C) the following new subparagraph:

"(D) if it considers the violation to be international, notify the Commissioner of Customs who shall take appropriate action under paragraph (2), and".

(b) Section 734 (19 U.S.C. 1673c) is amended—

(1) by amending subsection (a) to read as follows:

"(a) TERMINATION OF INVESTIGATION UPON WITHDRAWAL OF PETITION.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), an investigation under this subtitle may be terminated by either the administering authority or the Commission, after notice to all parties to the investigation, upon withdrawal of the petition by the petitioner or by the administering authority if the investigation was initiated under section 732(a).

"(2) SPECIAL RULES FOR QUANTITATIVE RESTRICTION AGREEMENTS.—

"(A) IN GENERAL.—Subject to subparagraphs (B) and (C), the administering authority may not terminate an investigation under paragraph (1) by accepting an understanding or other kind of agreement to limit the volume of imports into the United States of the merchandise that is subject to the investigation unless the administering authority is satisfied that termination on the basis of that agreement is in the public interest.

"(B) PUBLIC INTEREST FACTORS.—In making a decision under subparagraph (A) regarding the public interest, the administering authority shall take into account—

"(i) whether, based upon the relative impact on consumer prices and the availability of supplies of the merchandise, the agreement would have a greater adverse impact on United States consumers than the imposition of antidumping duties;

"(ii) the relative impact on the international economic interests of the United States; and

"(iii) the relative impact on the competitiveness of the domestic industry producing the like merchandise, including any such impact on employment and investment in that industry.

"(C) PRIOR CONSULTATIONS.—Before making a decision under subparagraph (A) regarding the public interest, the administering authority shall consult with—

"(i) potentially affected consuming industries; and

"(ii) Potentially affected producers and workers in the domestic industry producing the like merchandise, including producers and workers not party to the investigation.

"(3) LIMITATION ON TERMINATION BY COMMISSION.—The Commission may not terminate an investigation under paragraph (1) before a preliminary determination is made by the administering authority under section 733(b).";

(2) by striking out "within 6 months after the date on which" in subsection (b)(1) and inserting in lieu thereof "on the date";

(3) by amending subsection (d) to read as follows:

"(d) ADDITIONAL RULES AND CONDITIONS.—The administering authority may not accept an agreement under subsection (b) or (c) unless—

"(1) it is satisfied that suspension of the investigation is in the public interest, and

"(2) effective monitoring of the agreement by the United States is practicable."; and

(4) by amending subsection (i)(1)—

(A) by striking out "and" at the end of subparagraph (C),

(B) by redesignating subparagraph (D) as subparagraph (E), and

(C) by inserting immediately after subparagraph (C) the following new subparagraph:

"(D) if it considers the violation to be intentional, notify the Commissioner of Customs who shall take appropriate action under paragraph (2), and".

SEC. 713. REVIEWS AND DETERMINATIONS REGARDING CERTAIN AGREEMENTS.

(a) Subtitle C (19 U.S.C. 1675) is amended—

(1) by amending the subtitle heading to read as follows:

"Subtitle C—Reviews; Other Actions Regarding Agreements

"CHAPTER 1—REVIEW OF AMOUNT OF DUTY AND AGREEMENTS OTHER THAN QUANTITATIVE RESTRICTION AGREEMENTS"

(2) by amending section 751—

(A) by inserting "if a request for such a review has been received and" immediately before "after publication of notice" in that part of paragraph (1) of subsection (a) that precedes subparagraph (A); and

(B) by amending subsection (b)(1)—

(i) by striking out "704 or 734" and inserting in lieu thereof "704 (other than a quantitative restriction agreement described in subsection (a)(2) or (c)(3)) or 734 (other than a quantitative restriction agreement described in subsection (a)(2))", and

(ii) by striking out ", or 735(b)," and inserting in lieu thereof ", 735(b), 762(a)(1), or 762(a)(2),"; and

(3) by adding at the end thereof the following new chapter:

"CHAPTER 2—NEGOTIATIONS AND DETERMINATIONS REGARDING QUANTITATIVE RESTRICTION AGREEMENTS

"SEC. 761. REQUIRED NEGOTIATIONS.

"(a) IN GENERAL.—

"(1) AGREEMENTS IN RESPONSE TO SUBSIDIES.—Within 90 days after the administering authority accepts a quantitative restriction agreement under section 704(a)(2) or (c)(3), the President shall enter into negotiations with the government that is party to the agreement for purposes of—

"(A) eliminating the subsidy completely, or

"(B) reducing the net subsidy to a level that eliminates completely the injurious effect of exports to the United States of the merchandise.

"(2) AGREEMENTS IN RESPONSE TO DUMPING PRACTICES.—Within 90 days after the administering authority accepts a quantitative restriction agreement under section 734(a)(2), the President shall enter into negotiations with the government of the country from which was exported the merchandise that was the subject of the terminated investigation for purposes of—

"(A) eliminating the dumping practice; or

"(B) reducing the dumping margin to a level that eliminates completely the injurious effect of exports to the United States of the merchandise.

"(b) MODIFICATION OF AGREEMENTS ON BASIS OF NEGOTIATIONS.—The administering authority may not implement any modification to a quantitative restriction agreement resulting from negotiations entered into under subsection (a) unless before the first anniversary of the date on which the administering authority accepts the agreement the following occur:

"(1) The President submits to the administering authority, and at the same time provides to those persons who were, or are, petitioners and interested parties in the related proceedings under subtitle A or B—

"(A) a description of the proposed actions that the government concerned is willing to take in order to achieve the objectives referred to in subsection (a)(1)(A) or (B) or (2)(A) or (B), as the case may be; and

"(B) the proposed modifications to the quantitative restrictions provided for in the agreement that the President believes are justified in response to the implementing of such actions.

"(2) The administering authority, on the basis of the best information available to it, decides that the proposed actions referred to in paragraph (1)(A) will either—

"(A) eliminate completely the subsidy or dumping practice; or

"(B) reduce the net subsidy or dumping margin.

"(3) If the decision of the administering authority under paragraph (2)(B) is affirmative, the Commission, on the basis of the best information available to it, decides that the proposed actions and the proposed modifications referred to in paragraph (1) are likely to eliminate completely the injurious effect of exports to the United States of the merchandise.

"(4) The administering authority invites the comment of those persons referred to in paragraph (1) regarding the proposed actions and modifications and takes into account all such comment that is timely submitted.

"(5) The administering authority is satisfied that the government concerned has implemented the actions referred to in subsections (a)(1)(A) or (B) or (2)(A) or (B), as the case may be, that it proposed to take.

"(c) SPECIAL RULE REGARDING AGREEMENTS UNDER SECTION 704(c)(3).—This chapter shall cease to apply to a quantitative restriction agreement described in section 704(c)(3) at such time as that agreement ceases to have force and effect under section 704(f) or violation is found under section 704(i).

"SEC. 762. REQUIRED DETERMINATIONS.

"(a) IN GENERAL.—Before the expiration date, if any, of a quantitative restriction agreement accepted under section 704(a)(2), 704(c)(3) (if suspension of the related investigation is still in effect), or 734(a)(2)—

"(1) the administering authority shall determine—

"(A) whether any subsidy is being provided with respect to the merchandise subject to the agreement and, if being so provided, the net subsidy, or

"(B) whether the merchandise is being sold in the United States at less than fair value and, if being so sold, the margin of sales at less than fair value; and

"(2) the Commission shall determine whether imports of the merchandise of the kind subject to the agreement will, upon termination of the agreement, materially injure, or threaten with material injury, an industry in the United States or materially retard the establishment of such an industry.

"(b) DETERMINATIONS.—The determinations required to be made by the administering authority and the Commission under subsection (a) shall be made on the record, under such procedures as the administering authority and the Commission, respectively, shall by regulation prescribe, and shall be treated as final determinations made under section 705 or 735, as the case may be, for purposes of judicial review under section 516A. If the determinations by each are affirmative, the administering authority shall issue a countervailing duty order or antidumping duty order under section 706 or 736 effective with respect to merchandise entered on and after the date on which the agreement terminates.

"(c) HEARINGS.—The determination proceedings required to be prescribed under subsection (b) shall provide that the administering authority and the Commission must, upon the request of any interested party, hold a hearing in accordance with section 774 on the issues involved.".

(b) The table of contents for subtitle C of title VII is amended to read as follows:

"Subtitle C—Reviews; Other Actions Regarding Agreements

"CHAPTER 1—REVIEW OF AMOUNT OF DUTY AND AGREEMENTS OTHER THAN QUANTITATIVE RESTRICTION AGREEMENTS

"Sec. 751. Administrative review of determinations.

"CHAPTER 2—NEGOTIATIONS AND DETERMINATIONS REGARDING QUANTITATIVE RESTRICTION AGREEMENTS

"Sec. 761. Required negotiations.

"Sec. 762. Required determinations.".

SEC. 714. INITIATION OF ANTIDUMPING DUTY INVESTIGATIONS.

Section 732(a) (19 U.S.C. 1673a(a)) is amended to read as follows:

"(a) INITIATION BY ADMINISTERING AUTHORITY.—

"(1) IN GENERAL.—An antidumping duty investigation shall be commenced whenever the administering authority determines, from information available to it, that a formal investigation is warranted into the question of whether the elements necessary for the imposition of a duty under section 731 exist.

"(2) CASES INVOLVING CERTAIN MERCHANDISE OF A KIND SUBJECT TO PREVIOUS DETERMINATIONS UNDER SECTION 735.—

"(A) IN GENERAL.—If—

"(i) within the 2-year period before the date on which a petition is filed under subsection (b), final affirmative determinations were made under section 735 (a) and (b) regarding merchandise of the same class or kind as that covered by the petition (other than merchandise of that kind or class imported from the country to which the petition applies or from any additional supplier country); and

"(ii) in that petition the petitioner also alleges that the elements necessary for the imposition of a duty under section 731 exist with respect to merchandise of that same class or kind being, or likely to be, imported from one or more additional supplier countries;

the administering authority shall decide, within 20 days after the date on which the petition is filed, whether information reasonably available to the petitioner in the petition, as well as such relevant information as may be available to the administering authority, regarding each additional supplier country is sufficient to commence a formal investigation under paragraph (1) regarding imports of merchandise of that class or kind from that country.

"(B) ACTION AFTER DECISION.—If the decision of the administering authority under subparagraph (A) regarding an additional supplier country—

"(i) is affirmative, a formal investigation shall be commenced under paragraph (1); or

"(ii) is negative, the administering authority and the Commission shall monitor importations of merchandise of that class or kind from that country for such period of time (but not less than one year) as may be necessary for the administering authority to decide whether or not there is sufficient information to commence a formal investigation under paragraph (1) regarding that country, and if that decision is affirmative, the administering authority shall immediately commence such an investigation.

"(C) DEFINITION.—For purposes of this paragraph, the term 'additional supplier country' means a country—

"(i) other than the country to which the petition referred to in subparagraph (A) applies; and

"(ii) regarding which no investigation is currently pending under this subtitle with respect to imports from that country of the class or kind of merchandise covered by that petition.

"(D) EXPEDITIOUS ACTION.—The administering authority and the Commission, to the extent practicable, shall expedite proceedings under this subtitle undertaken as a result of a formal investigation commenced on any petition referred to in subparagraph (A) or under subparagraph (B).".

SEC. 715. DEFINITIONS AND SPECIAL RULES REGARDING UPSTREAM AND OTHER SUBSIDIES, DOWNSTREAM DUMPING, MATERIAL INJURY, AND INTERESTED PARTIES.

(a) Section 771 (19 U.S.C. 1655) is amended as follows:

(1) Paragraph (5) is amended to read as follows:

"(5) SUBSIDY.—

"(A) IN GENERAL.—The term 'subsidy' has the same meaning as the term 'bounty or grant' as that term is used in section 303 of this Act, and includes, but is not limited to, the following:

"(i) Any export subsidy described in Annex A to the Agreement (relating to illustrative list of export subsidies).

"(ii) The following domestic subsidies, if provided or required by government action to a specific enterprise or industry, or group of enterprises or industries, whether publicly or privately owned, and whether paid or bestowed directly or indirectly on the manufacture, production, or export of any class or kind of merchandise:

"(I) The provision of capital, loans, or loan guarantees on terms inconsistent with commercial considerations.

"(II) The provision of goods or services at preferential rates.

"(III) The grant of funds or forgiveness of debt to cover operating losses sustained by a specific industry.

"(IV) The assumption of any costs or expenses of manufacture, production, or distribution.

"(iii) Any natural resource subsidy described in subparagraph (B).

"(iv) Any upstream subsidy determined under section 771A.

"(B) NATURAL RESOURCE SUBSIDY.—

"(i) IN GENERAL.—A natural resource subsidy exists if a natural resource product is

provided or sold within a country (hereinafter referred to as the 'exporting country') by a government-regulated or controlled entity, for use (directly or indirectly) in the manufacture or production of any class or kind of merchandise in the exporting country, at a domestic price that, by reason of such regulation or control—

"(I) is lower than the export price or fair market value (whichever is appropriate) of the product in the exporting country, and

"(II) is not freely available to United States producers for purchase of that product for export to the United States,

and that product would, if sold at the export price or fair market value (whichever is appropriate), constitute a significant portion of the total cost of the manufacture or production of such merchandise.

"(ii) LEVEL OF NATURAL RESOURCE SUBSIDY.—The level of a natural resource subsidy is the difference between the domestic price of the natural resource product and the export price of that product; except that if—

"(I) there are no significant exports of that product, or

"(II) the export price of that product is distorted by being either significantly higher or lower than market prices in the relevant market by reason of quotas or other government manipulation,

the level of the natural resource subsidy is the difference between that domestic price and the fair market value of that product.

"(iii) DETERMINATION OF FAIR MARKET VALUE.—For purposes of this subparagraph, the term 'fair market value' means the price that a willing buyer would pay a willing seller for a natural resource product in an arms-length transaction in the absence of government regulation. In determining the fair market value, the administering authority shall take into account—

"(I) the prices at which the product is generally available in world markets, and

"(II) the market clearing price or the average United States price, whichever is appropriate, at which the product is generally available to United States producers, and shall into account the extent, if any, to which—

"(III) a comparative advantage of the exporting country in relation to other sellers (for example, any cost savings resulting from such factors as the availability of abundant supplies, lower production costs, or lower transportation costs), and

"(IV) the availability or lack of access to export markets,

would result in a different market price in the exporting country in the absence of government regulation.".

(2) Paragraph (7) is amended—

(A) by inserting the following new clause at the end of subparagraph (C):

"(iv) CUMULATION.—For purposes of clauses (i) and (ii), the Commission shall cumulatively assess the volume and effect of imports from two or more countries of like products subject to investigation if such imports compete with each other and with like products of the domestic industry in the United States market.";

(B) by amending subparagraph (E) to read as follows:

"(E) STANDARD FOR DETERMINATION.—The presence or absence of any factor which the Commission is required to evaluate under subparagraph (C) or (D) shall not necessarily give decisive guidance with respect to the determination by the Commission of material injury."; and

(C) by inserting after subparagraph (E) the following new subparagraph:

"(F) THREAT OF MATERIAL INJURY.—In determining whether there is a threat of material injury, the Commission shall consider, among other relevant economic factors—

"(i) if a subsidy is involved, such information as may be presented to it by the administering authority as to the nature of the subsidy (particularly as to whether the subsidy is an export subsidy inconsistent with the Agreement), and

"(ii) whether there is, based on any demonstrable adverse trend regarding the merchandise concerned (such as an increase in production capacity in the exporting country likely to result in a significant increase in exports thereof to the United States, a rapid increase in United States market penetration and the likelihood that the penetration will increase to an injurious level, the likelihood that imports will enter at prices that will have a depressing or suppressing effect on domestic prices, or a substantial increase in inventories in the United States), a probability that the merchandise (whether or not it is actually being imported at the time) will be the cause of actual injury.

A determination may not be made on the basis of mere supposition or conjecture, and sufficient information must exist for concluding that the threat of injury is real and that actual injury is imminent.".

(3) Paragraph (9) is amended—

(A) by striking out "and" at the end of subparagraph (D);

(B) by striking out the period at the end of subparagraph (E) and inserting in lieu thereof ", and"; and

(C) by adding at the end thereof the following new subparagraph:

"(F) an association, a majority of whose members is composed of interested parties described in subparagraph (C), (D), or (E) with respect to a like product.".

(b) Subtitle D of title VII is amended by adding after section 771 the following new section:

"SEC. 771A. UPSTREAM SUBSIDIES AND DOWNSTREAM DUMPING.

"(a) UPSTREAM SUBSIDIES.—

"(1) DEFINITION.—The term 'upstream subsidy' means any action of a kind described or referred to in section 771(5)(A) (i), (ii), or (iii) by the government of a country that—

"(A) is paid or bestowed by that government with respect to a product that is used in the manufacture or production in that country of merchandise which is the subject of an investigation under subtitle A or B,

"(B) results in a price for the product for such use that is lower than the generally available price of the product in that country, and

"(C) has a significant effect on the cost of manufacturing or producing the merchandise.

In applying this definition, an association of 2 or more foreign countries, political subdivisions, dependent territories, or possessions of foreign countries organized into a customs union outside the United States shall be treated as being one country.

"(2) ADJUSTMENT OF GENERALLY AVAILABLE PRICE IN CERTAIN CIRCUMSTANCES.—If the administering authority decides that the generally available price for a product in the country of the manufacture, production, or export of the merchandise under investigation is artificially depressed by reason of any subsidy, or because of sales thereof in such country at less than fair value, the administering authority shall adjust such generally available price so as to offset such depression before applying paragraph (1)(B).

"(3) INCLUSION OF AMOUNT OF SUBSIDY.—If the administering authority decides, during the course of an investigation under subtitle A or B, that an upstream subsidy is being or has been paid or bestowed regarding the merchandise under investigation, the administering authority shall include in the amount of any countervailing duty or dumping duty imposed under that subtitle on the merchandise an amount equal to the difference between the prices referred to in paragraph (1)(B), adjusted, if appropriate, for artificial depression.

"(b) DOWNSTREAM DUMPING.—

"(1) DEFINITION.—Downstream dumping occurs when—

"(A) a product that is used in the manufacture or production of merchandise subject to investigation under subtitle A or B is purchased at a price that is below its foreign market value (as determined under subtitle B without regard to this subsection),

"(B) that purchase price—

"(i) is lower than the generally available price of the product in the country of manufacture or production, or

"(ii) if the generally available price of the product in the country of manufacture or production is artificially depressed by reason of any subsidy or other sales at below foreign market value, is lower than the price at which the product would be generally available in such country but for such depression, and

"(C) the difference between the foreign market value and such purchase price has a significant effect on the cost of manufacturing or producing the merchandise under investigation.

"(2) INCLUSION OF AMOUNT ATTRIBUTABLE TO DOWNSTREAM DUMPING.—If the administering authority decides, during the course of an investigation under subtitle A or B, that downstream dumping is occurring, or has occurred, with respect to any product used in the manufacture or production of the merchandise under investigation, the administering authority, in calculating the amount of any countervailing duty or antidumping duty on such merchandise, shall include an amount equal to the difference between—

"(A) the price referred to in paragraph (1)(A) at which the product was purchased, and

"(B) either—

"(i) the generally available price, referred to in paragraph (1)(B)(i), of the product, or

"(ii) the price, referred to in paragraph (1)(B)(ii), of the product that would pertain but for artificial depression,

whichever is appropriate.

"(c) SCOPE OF INQUIRY BY ADMINISTERING AUTHORITY.—The administering authority is not required, in undertaking an investigation under subtitle A or B, to inquire regarding the presence of an upstream subsidy, or of downstream dumping, beyond that stage in the manufacture or production of the class or kind of merchandise that immediately precedes the final manufacturing or production stage before export to the United States, unless reasonably available information indicates that such a subsidy is being or has been paid or bestowed, or such dumping is occurring or has occurred, before such immediately preceding stage and is having or has had a substantial effect on the price of the merchandise.".

(c)(1) Section 514(a) (19 U.S.C. 1514(a)) is amended by striking out "771(9) (C), (D), and (E) of this Act." and inserting in lieu

thereof "771(9) (C), (D), (E), and (F) of this Act.".

(2) Sections 704 (g)(2) and (h)(1) and 734 (g)(2) and (h)(1) (19 U.S.C. 1671c (g)(2) and (h)(1) and 1673c (g)(2) and (h)(1)) are each amended by striking out "(C), (D), or (E)" and inserting in lieu thereof "(C), (D), (E), and (F)".

(3) Section 2631(k)(2) of title 28, United States Code, is amended—

(A) by striking out "and" at the end of subparagraph (C),

(B) by striking out the period at the end of subparagraph (D), and inserting in lieu thereof ", and", and

(C) by adding at the end thereof the following new subparagraph:

"(E) an association composed of members who represent parties-at-interest described in subparagraph (B), (C), or (D).".

(4) The table of contents for title VII is amended by inserting after the entry for section 771 the following:

"Sec. 771A. Upstream subsidies and downstream dumping.".

SEC. 716. HEARINGS.

Section 774(a) (19 U.S.C. 1677c(a)) is amended to read as follows:

"(a) INVESTIGATION HEARINGS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the administering authority and the Commission shall each hold a hearing in the course of an investigation upon the request of any party to the investigation before making a final determination under section 705, 735, or 762(b).

"(2) EXCEPTION.—If investigations are initiated under subtitle A and subtitle B regarding the same merchandise from the same country within 6 months of each other (but before a final determination is made in either investigation), the holding of a hearing by the Commission in the course of one of the investigations shall be treated as compliance with paragraph (1) for both investigations, unless the Commission considers that extraordinary circumstances require that a hearing be held in the course of each of the investigations. During any investigation regarding which the holding of a hearing is waived under this paragraph, the Commission shall allow any party to submit such additional written comment as it considers relevant.".

SEC. 717. VERIFICATION OF INFORMATION.

Section 776(a) (19 U.S.C. 1677e(a)) is amended to read as follows:

"(a) GENERAL RULE.—The administering authority shall verify all information relied upon in making—

"(1) a final determination in an investigation,

"(2) a revocation under section 751(c), and

"(3) a review and determination under section 751(a), if—

"(A) verification is timely requested by an interested party as defined in section 771(9)(C), (D), (E), or (F), and

"(B) no verification was made under this paragraph during the 2 immediately preceding reviews and determinations under that section of the same order, finding, or notice, except that this clause shall not apply if good cause for verification is shown.

In publishing notice of any action referred to in paragraph (1) (2), or (3), the administering authority shall report the methods and procedures used to verify such information. If the administering authority is unable to verify the accuracy of the information submitted, it shall use the best information available to it as the basis for its action, which may include, in actions referred to in paragraph (1), the information submitted in support of the petition.".

SEC. 718. RELEASE OF CONFIDENTIAL INFORMATION.

Section 777 (19 U.S.C. 1677f) is amended—

(1) by amending subsection (b)—

(A) by striking out "submitted)" in the first sentence and inserting in lieu thereof "submitted, or an officer or employee of the United States Customs Service who is directly involved in conducting an investigation regarding fraud under this title)", and

(B) by amending the second sentence thereof to read as follows:

"The administering authority and the Commission shall require that information for which confidential treatment is requested be accompanied by—

"(A) a nonconfidential summary in sufficient detail to permit a reasonable understanding of the substance of the information submitted in confidence, or a statement that the information is not susceptible to summary accompanied by a statement of the reasons in support of the contention, and

"(B) a statement permitting the administering authority to release under administrative protective order, in accordance with subsection (c), the information submitted in confidence, or a statement that the information should not be released under administrative protective order.";

(2) by inserting ", before or after receipt of the information requested," after "application," in subsection (c)(1)(A); and

(3) by inserting ", except that no distinction may be made between corporate counsel and retained counsel" immediately before the period at the end of the first sentence of subsection (c)(1)(B).

SEC. 719. SAMPLING AND AVERAGING IN DETERMINING UNITED STATES PRICE AND FOREIGN MARKET VALUE.

(a) Subtitle D of title VII (19 U.S.C. 1677a et seq.) is further amended by adding immediately after section 777 the following new section:

"SEC. 777A. SAMPLING AND AVERAGING.

"(a) GENERAL RULE.—For the purpose of determining United States price or foreign market value under sections 772 and 773, and for purposes of carrying out annual reviews under section 751, the administering authority may—

"(1) use averaging or generally recognized sampling techniques whenever a significant volume of sales is involved or a significant number of adjustments to prices is required, and

"(2) decline to take into account adjustments which are insignificant in relation to the price or value of the merchandise.

"(b) SELECTION OF SAMPLES AND AVERAGES.—The authority to select appropriate samples and averages shall rest exclusively with the administering authority; but such samples and averages shall be representative of the transactions under investigation.".

(b) Subsection (f) of section 773 (19 U.S.C. 1677b(f)) is repealed.

(c) The table of contents for title VII is amended by inserting after the entry for section 777 the following:

"Sec. 777A. Sampling and averaging.".

SEC. 720. ELIMINATION OF INTERLOCUTORY APPEALS.

(a) Section 516A(a) (19 U.S.C. 1516a(a)) is amended as follows:

(1) Paragraph (1) is amended to read as follows:

"(1) REVIEW OF CERTAIN DETERMINATIONS.—Within 30 days after the date of publication in the Federal Register of—

"(A) a determination by the administering authority, under 702(c) or 732(c) of this Act, not to initiate an investigation,

"(B) a determination by the Commission, under section 751(b) of this Act, not to review a determination based upon changed circumstances, or

"(C) a negative determination by the Commission, under section 703(a) or 733(a) of this Act, as to whether there is reasonable indication of material injury, threat of material injury, or material retardation,

an interested party who is a party to the proceeding in connection with which the matter arises may commence an action in the United States Court of International Trade by filing concurrently a summons and complaint, each with the content and in the form, manner, and style prescribed by the rules of that court, contesting any factual findings or legal conclusions upon which the determination is based.".

(2) Paragraph (2)(A) is amended—

(A) by striking out "the date of publication in the Federal Register of" in the matter preceding clause (i); and

(B) by amending clauses (i) and (ii) to read as follows:

"(i) the date of publication in the Federal Register of—

"(I) notice of any determination described in clause (ii), (iii), (iv), or (v) of subparagraph (B), or

"(II) an antidumping or countervailing duty order based upon any determination described in clause (i) of subparagraph (B), or

"(ii) the date of mailing of a determination described in clause (vi) of subparagraph (B),".

(3) Amend paragraph (2)(B) to read as follows:

"(B) REVIEWABLE DETERMINATIONS.—The determinations which may be contested under subparagraph (A) are as follows:

"(i) Final affirmative determinations by the administering authority and by the Commission under section 705 or 735 of this Act, including any negative part of such a determination (other than a part referred to in clause (ii)).

"(ii) A final negative determination by the administering authority or the Commission under section 705 or 735 of this Act, including, at the option of the appellant, any part of a final affirmative determination which specifically excludes any company or product.

"(iii) A final determination, other than a determination reviewable under paragraph (1), by the administering authority or the Commission under section 751 of this Act.

"(iv) A determination by the administering authority, under section 704 or 734 of this Act, to suspend an antidumping duty or a countervailing duty investigation, including any final determination resulting from a continued investigation which changes the size of the dumping margin or net subsidy calculated, or the reasoning underlying such calculations, at the time the suspension agreement was concluded.

"(v) An injurious effect determination by the Commission under section 704(h) or 734(h) of this Act.

"(vi) A determination by the administering authority as to whether a particular type of merchandise is within the class or kind of merchandise described in an existing finding of dumping or antidumping or countervailing duty order.".

(4) Redesignate paragraph (3) as paragraph (4) and after paragraph (2) insert the following:

"(3) EXCEPTION.—Notwithstanding the limitation imposed by paragraph (2)(A)(ii) of this subsection, a final affirmative determination by the administering authority under section 705 or 735 of this Act may be contested by commencing an action, in accordance with the provisions of paragraph (2)(A), within thirty days after the date of publication in the Federal Register of a final negative determination by the Commission under section 705 or 735 of this Act which is predicated upon the size of either the dumping margin or net subsidy determined to exist.".

(b) Title 28, United States Code, is amended as follows:

(1) Section 2636 is amended—

(A) by amending subsection (c) to read as follows:

"(c) A civil action contesting a reviewable determination listed in section 516A of the Tariff Act of 1930 is barred unless commenced in accordance with the rules of the Court of International Trade within the time specified in such section."; and

(B) by striking out subsection (d) and redesignating subsections (e) through (i) as (d) through (h), respectively.

(2) Section 2647 is amended to read as follows:

"§ 2647. Precedence of cases

"The following civil actions in the Court of International Trade shall be given precedence, in the following order, over other civil actions pending before the Court, and shall be assigned for hearing at the earliest practicable date and expedited in every way:

"(1) First, a civil action involving the exclusion of perishable merchandise or the redelivery of such merchandise.

"(2) Second, a civil action commenced under section 515 of the Tariff Act of 1930 involving the exclusion or redelivery of merchandise.

"(3) Third, a civil action commenced under section 516 or 516A of the Tariff Act of 1930.".

SUBTITLE B—MISCELLANEOUS PROVISIONS

SEC. 731. DEFINITION OF DOMESTIC PRODUCERS.

(a) Section 771 (19 U.S.C. 1571) is amended by inserting before the period at the end of paragraph (4)(A) the following: "; except that in the case of wine and grape products subject to investigation under this title, the term also means the domestic producers of the principal raw agricultural product (determined on either a volume or value basis) which is included in the like domestic product, if those producers allege material injury, or threat of material injury, as a result of imports of such wine and grape products".

(b) No provision of title VII of the Tariff Act of 1930 shall be interpreted to prevent the refiling of a petition under section 702 or 732 of that title that was filed before the date of the enactment of this Act, if the purpose of such refiling is to avail the petitioner of the amendment made by subsection (a).

SEC. 732. ADJUSTMENTS STUDY.

The Secretary of Commerce shall undertake a study of the current practices that are applied in the making of adjustments to purchase prices and exporter's sales prices under section 772 (d) and (e) (19 U.S.C. 1677a (d) and (e)) and foreign market value and constructed value under section 773 (19 U.S.C. 1677b) in determining antidumping duties. The study shall include, but not be limited to—

(1) a review of the types of adjustments currently being made;

(2) a review of private sector comments and recommendations regarding the subject that were made at congressional hearings during the first session of the ninety-eighth Congress; and

(3) the manner and extent to which such adjustments lead to inequitable results.

Within one year after the date of the enactment of this Act, the Secretary of Commerce shall complete the study required under this section and shall submit to Congress a written report regarding the study and containing such recommendations as the Secretary deems appropriate regarding the need, and the means, for simplifying and modifying current practices in the making of such adjustments.

SEC. 733. EFFECTIVE DATES.

(a) Except as provided in subsection (b), this title, and the amendments made by it, shall take effect on the date of the enactment of this Act.

(b)(1) The amendments made by sections 711, 713, 714, 715, and 719 shall apply with respect to investigations initiated by petition or by the administering authority under subtitles A and B of title VII of the Tariff Act of 1930 on or after such effective date.

(2) The amendments made by section 720 shall apply with respect to civil actions pending on, or filed on or after, the date of the enactment of this Act.

TITLE VIII—AUTHORIZATION OF APPROPRIATIONS FOR CUSTOMS AND TRADE AGENCIES

SECTION 801. UNITED STATES INTERNATIONAL TRADE COMMISSION.

The first sentence of paragraph (2) of section 330(e) of the Tariff Act of 1930 (19 U.S.C. 133(e)(2)) is amended to read as follows: "There are authorized to be appropriated to the Commission for necessary expenses (including the rental of conference rooms in the District of Columbia and elsewhere) for fiscal year 1985 not to exceed $28,410,000; of which not to exceed $2,500 may be used, subject to approval by the Chairman of the Commission, for reception and entertainment expenses.".

SEC. 802. UNITED STATES CUSTOMS SERVICE.

Section 301 of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075) is amended as follows:

(1) Subsection (b) is amended to read as follows:

"(b) There are authorized to be appropriated to the Department of the Treasury not to exceed $686,399,000 for the salaries and expenses of the United States Customs Service for fiscal year 1985; of which (A) $28,070,000 is for the operation and maintenance of the air interdiction program of the Service, and (B) not to exceed $11,000,000 is for the implementation of the 'Operation EXODUS' program and any related program designed to enforce or monitor export controls under the Export Administration Act of 1979.".

(2) Subsection (d) is redesignated as subsection (e).

(3) The following new subsection is inserted immediately after subsection (c):

"(d) No part of any sum that is appropriated under subsection (b) for fiscal years after September 30, 1984, may be used for administrative expenses to pay any employee of the United States Customs Service overtime pay in an amount exceeding $25,000; except that the Commissioner of Customs or his designee may waive this limitation in individual cases in order to prevent excessive costs or to meet emergency requirements of the Service.".

SEC. 803. OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE.

Section 141(f)(1) of the Trade Act of 1974 (19 U.S.C. 2171(f)(1)) is amended—

(1) by striking out $11,100,000 for fiscal year 1983" and inserting in lieu thereof "$14,179,000 for fiscal year 1985"; and

(2) by striking out "$65,000" and inserting in lieu thereof "$68,000".

TITLE IX—ENFORCEMENT AUTHORITY FOR THE NATIONAL POLICY FOR THE STEEL INDUSTRY

SEC. 901. SHORT TITLE

This title may be cited as the "Steel Import Stabilization Act".

SEC. 902. FINDINGS AND PURPOSES.

(1) the United States steel industry has a serious need to modernize its plant and equipment in order to enhance its international competitiveness, and needs increased capital investments to effect that modernization;

(2) the ability of the domestic steel industry to be internationally competitive is, and has been impeded by the effects of the enormous Federal budget deficit, an overvalued dollar, and increasing trade deficits, as well as serious injury due to imports of, and subsidies, dumping, and the use of other unfair and restrictive foreign trade practices regarding, carbon and alloy steel products;

(3) the extensiveness of the unfair trade practices engaged in the international market regarding such products imposes unusually harsh burdens on the United States steel industry in combating those practices through the trade remedy laws;

(4) expeditious and effective action under the President's national policy for the steel industry, including more vigorous efforts by the Executive Branch to self-initiate and pursue remedies against those practices, is needed to eliminate the adverse effects of those unfair trade practices;

(5) import relief should not be granted to the steel industry unless it is tied to a firm commitment by that industry to engage in serious and substantial modernization during the period of relief; and

(6) full and effective implementation of the national policy for the steel industry will substantially improve the economy and employment in both the steel and iron ore-producing sectors.

(b) Purposes.—The purposes of this title are—

(1) to supplement the authority of the President to achieve the goals of the national policy for the steel industry by granting enforcement powers regarding those bilateral arrangements that are entered into or undertaken for purposes of implementing that national policy; and

(2) to make the continuation of those powers subject to the condition that the steel industry undertake a comprehensive modernization of its plant and equipment.

SEC. 903. SENSE OF CONGRESS REGARDING THE NATIONAL POLICY FOR THE STEEL INDUSTRY.

It is the sense of the Congress that—

(1) the President should, in conjunction with the authority granted under this title, implement the national policy for the steel industry in such a manner as to restore the foreign share of the United States market for carbon and alloy steel products to a level commensurate with that which would obtain under conditions of fair, unsubsidized competition in that market, which

level should, when that policy is fully implemented, result in a foreign share of the domestic market approximating 17 percent, subject to such modifications that changes in market conditions and the composition of the steel industry may require;

(2) the national policy for the steel industry should not be implemented in a manner contrary to the antitrust laws; and

(3) if the national policy for the steel industry does not produce satisfactory results within a reasonable period of time, the Congress will consider taking such legislative actions concerning steel and iron ore products as may be necessary or appropriate to stabilize conditions in the domestic market for such products.

SEC. 904. DEFINITIONS.

As used in this title—

(1) The term "bilateral arrangement" means any arrangement, agreement, or understanding (including, but not limited to, any surge control understanding or suspension agreement) entered into or undertaken, or previously entered into or undertaken, by the United States and any foreign country or customs union containing such quantitative limitations or other restrictions on the importation into, or exportation to, the United States of categories of carbon and steel alloy products as may be necessary to implement the national policy for the steel industry.

(2) The term "carbon and alloy steel products" means articles of the kinds subject to the investigation of the United States International Trade Commission numbered TA-201-51, and fabricated structural steel articles provided for under items 652.97 and 653.00 of the Tariff Schedules of the United States (19 U.S.C. 1202, as in effect on the effective date of this title).

(3) The term "national policy for the steel industry" means those actions and elements described in Executive Communication 4046, dated September 18, 1984 (printed as House Document 98-263).

(4) The term "steel industry" means producers in the United States of carbon and alloy steel products.

SEC. 905. ENFORCEMENT AUTHORITY

(a) IN GENERAL.—Subject to subsection (b) and section 906, the President is authorized to carry out such actions as may be necessary or appropriate to enforce the quantitative limitations and restrictions contained in each bilateral arrangement (including export measures required by the foreign government). Such actions may include, but are not limited to, requirements that valid export licenses or other documentation issued by a foreign government be presented as a condition for the entry into the United States of carbon and alloy steel products.

(b) CRITERIA.—In applying the authority provided for under subsection (a), the President shall, to the extent practicable, cover all categories of carbon and steel alloy products, avoid distortions among those categories, and include all exporting counties and customs unions from which surges in exports of those products to the United States are being, or have been, experienced.

SEC. 906. EFFECTIVE PERIOD OF TITLE.

(a) IN GENERAL.—Section 905 shall terminate—

(1) at the close of the fifth anniversary of the effective date of this title; or

(2) at the close of the first, second, third, or fourth anniversary of the effective date of this title, unless the President, before each such anniversary, submits to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate (in writing and together with the reasons therefor) an affirmative annual determination described in subsection (b).

(b) AFFIRMATIVE ANNUAL DETERMINATION.—(1) An affirmative annual determination is a determination by the President that the steel industry, taken as a whole, has, during the 12-month period ending at the close of an anniversary referred to in subsection (a)(2)—

(A) committed substantially all of its net cash flow from carbon and alloy steel product operations for purposes of reinvestment in, and modernization of, that industry through investment in modern plant and equipment, research and development, and other appropriate projects; and

(B) taken sufficient action to maintain its international competitiveness, including action to restrain and discipline pricing policies and to control costs of production.

(2) The President may not consider paragraph (1)(A) as being complied with unless the President finds that—

(A) each major company with significant reinvestment or modernization needs has committed all of its net cash flow (except that required to be committed to retraining under subparagraph (B)) from carbon and alloy steel product operations during the applicable 12-month period to meet those needs; and

(B) each major company that has, or reasonably anticipates, significant unemployment in carbon and alloy steel product operations has committed for the applicable 12-month period not less than 1 percent of such net cash flow to the retraining of workers, including former workers who were laid off from such operations at any time since January 1, 1982.

(3) For purposes of this subsection—

(A) The term "major company" means an enterprise whose raw steel production in the United States during 1983 exceeded 1,500,000 net tons.

(B) The term "net cash flow" means annual net (after tax) income plus depreciation, depletion allowances, amortization, and charges in reserves minus dividends.

(4) For purposes of carrying out this subsection, the President shall take into account such information as may be available from the United States International Trade Commission and other appropriate sources relating to the modernization efforts of the steel industry.

SEC. 907 DEPARTMENT OF LABOR WORKER ASSISTANCE PLAN.

Within 6 months after the effective date of this title, the Secretary of Labor shall prepare (in consultation with the Steel Advisory Committee established on November 3, 1983, by the Secretary of Commerce and the Secretary of Labor (48 F.R. 51165)) and submit to the Congress a proposed plan of action for assisting workers in communities that are adversely affected by imports of carbon and alloy steel products; which assistance shall include retraining and relocation for former workers in the steel industry who will likely be unable to return to employment in that industry. The plan required under this section shall be based upon existing authorities for providing such assistance, but shall be accompanied by such recommendations for additional statutory authority as the Secretary of Labor considers necessary to carry out the purposes of the plan.

SEC. 908. EXTENSION OF ADJUSTMENT ASSISTANCE FOR WORKERS AND FIRMS.

Section 245 and 285 of the Trade Act of 1974 (19 U.S.C. 2317 and the note preceding 2271) are each amended by striking out "1985" and inserting in lieu thereof "1987".

SEC. 909. EFFECTIVE DATE.

This title shall take effect on October 1, 1984.

TITLE X—ELIMINATION OF BARRIERS TO INTERNATIONAL TRADE IN UNITED STATES WINE

SECTION 1001. SHORT TITLE.

This title may be cited as the "Wine Equity and Export Expansion Act of 1984".

SEC. 1002. CONGRESSIONAL FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) there is a substantial imbalance in international wine trade resulting, in part, from the relative accessibility enjoyed by foreign wines to the United States market while the United States wine industry faces restrictive tariff and nontariff barriers in virtually every existing or potential foreign market;

(2) the restricted access to foreign markets and the continued low prices for United States wine and grape products adversely affect the economic position of our Nation's winemakers and grape growers, as well as all other domestic sectors that depend upon wine production;

(3) the competitive position of United States wine in international trade has been weakened by foreign trade practices, high domestic interest rates, and unfavorable foreign exchange rates;

(4) wine consumption per capita is very low in many major non-wine producing markets and the demand potential for United States wine is significant; and

(5) the United States winemaking industry has the capacity and the ability to export substantial volumes of wine and an increase in United States wine exports will create new jobs, improve this Nation's balance of trade, and otherwise strengthen the national economy.

(b) PURPOSES.—The purposes of this title are—

(1) to provide wine consumers with the greatest possible choice of wines from wine-producing countries;

(2) to encourage the initiation of an export promotion program to develop, maintain, and expand foreign markets for United States wine; and

(3) to achieve greater access to foreign markets for United States wine through the reduction or elimination of tariff barriers and nontariff barriers to (or other distortions of) trade in wine.

SEC. 1003. DEFINITIONS.

For purposes of this title—

(1) The term "Committees" means the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

(2) The term "grape product" means grapes and any product (other than wine) made from grapes, including, but not limited to, raisins and grape juice, whether or not concentrated.

(3) The term "major wine trading country" means any foreign country, or group of foreign countries, designated as such under secton 1004.

(4) The phrase "nontariff barrier to (or other distortion of)", in the context of trade in United States wine, includes any measure implemented by the government of a major wine trading country that either gives a competitive advantage to the wine industry of that country or restricts the importation of United States wine into that country.

(5) The term "Trade Representative" means the United States Trade Representative.

(6) The term "United States wine" means wine produced within the customs territory of the United States.

(7) The term "wine" means any fermented alcoholic beverage that—

(A) is made from grapes or other fruit;

(B) contains not less than 0.5 percent alcohol by volume and not more than 24 percent alcohol by volume, including all dilutions and mixtures thereof by whatever process produced; and

(C) is for nonindustrial use.

SEC. 1004. DESIGNATION OF MAJOR WINE TRADING COUNTRIES.

(a) DESIGNATION OF COUNTRIES.—The Trade Representative shall designate as a major wine trading country each foreign country, or group of foreign countries represented as an economic union, that, in the judgment of the Trade Representative—

(1) is a potential significant market for United States wine; and

(2) maintains tariff barriers or nontariff barriers to (or other distortions of) trade in United States wine.

(b) DESIGNATION FACTORS.—In deciding, for purposes of subsection (a)(2), whether a foreign country or group of countries maintains nontariff barriers to (or other distortions of) trade in United States wine, the Trade Representative shall take into account—

(1) the review and report required under section 854(a) of the Trade Agreements Act of 1979 (19 U.S.C. 2135 note);

(2) such relevant actions that may have been taken by that country or group since that review was conducted; and

(3) such information as may be submitted under section 1006 by representatives of the wine and grape products industries in the United States, as well as other sources.

SEC. 1005. ACTIONS TO REDUCE OR ELIMINATE TARIFF AND NONTARIFF BARRIERS AFFECTING UNITED STATES WINE.

(a) TRADE REPRESENTATIVE CONSULTATIONS.—The President shall direct the Trade Representative to enter into consultations with each major wine trading country to seek a reduction or elimination of that country's tariff barriers and nontariff barriers to (or other distortions of) trade in United States wine.

(b) PRESIDENTIAL REPORTS.—(1) The President shall notify each of the Committees regarding the extent and effect of the efforts undertaken since the submission of the report required under section 854(a) of the Trade Agreements Act of 1979, and during the 12-month period beginning on the date of the enactment of this Act, to expand opportunities in each major wine trading country for exports of United States wine. Such notification, which shall be in the form of a separate written report (that must be submitted within 30 days after the close of that 12-month period) for each major wine trading country, shall include—

(A) a description of each act, policy, and practice (and of its legal basis and operation) in that country that constitutes a tariff barrier or nontariff barrier to (or other distortion of) trade in United States wine (and that description shall be based upon an undating of the report that was submitted to the Congress under section 854(a) of the Trade Agreements Act of 1979);

(B) an assessment of the extent to which each such act, policy, or practice is subject to international agreements to which the United States is a party;

(C) information with respect to any action taken, or proposed to be taken, under existing authority to eliminate or reduce each such act, policy, or practice, including, but not limited to—

(i) any action under section 301 of the Trade Act of 1974, and

(ii) any negotiation or consultation with any foreign government;

(D) if action referred to in subparagraph (C) was not taken, an explanation of the reasons therefor; and

(E) recommendations to the Congress of any additional legislative authority or other action which the President believes is necessary and appropriate to obtain the elimination or reduction of foreign tariff barriers or nontariff barriers to (or other distortion of) trade in United States wine.

(2) The reports required under paragrph (1) shall be developed and coordinated by the Trade Representative through the interagency trade organization established by section 242(a) of the Trade Expansion Act of 1962.

(c) PRESIDENTIAL ACTION.—If the President, after taking into account information and advice received under subsections (a) and (b), section 1006, or from other sources, has reason to believe that any act, policy, or practice of a major wine trading country constitutes a tariff barrier or nontariff barrier to (or other distortion of) trade in United States wine and—

(1) is inconsistent with the provisions of, or otherwise denies benefits to the United States, any trade agreement; or

(2) is unjustifiable, unreasonable, or discriminatory and burdens or restricts United States commerce;

the President, if he determines that action by the United States is appropriate, shall take all appropriate and feasible action under section 301 of the Trade Act of 1974 to enforce the rights of the United States under any such trade agreement or to obtain the elimination of such act, policy, or practice.

SEC. 1006. REQUIRED CONSULTATIONS.

The Trade Representative shall consult with the Committees and with representatives of the wine and grape products industries in the United States—

(1) before identifying tariff barriers and nontariff barriers to (or other distortions of) trade in United States wine and designating major wine trading countries under section 1004;

(2) in developing the reports required under section 1005(b); and

(3) for purposes of determining whether action by the President is appropriate under section 301(c) or any other provision of chapter 1 of title III of the Trade Act of 1974 with respect to any act, policy, or practice referred to in section 1005(b)(1).

SEC. 1007. UNITED STATES WINE EXPORT PROMOTION.

In order to develop, maintain, and expand foreign markets for United States Wine, the President is encouraged to—

(1) utilize, for the fiscal year ending September 30, 1985, the authority provided under section 135 of the Omnibus Budget Reconciliation Act of 1982 to make available sufficient funds to initiate, in cooperation with nongovernmental trade associations representative of United States wineries, an export promotion program for United States wine; and

(2) request, for each subsequent fiscal year, an appropriation for such a wine export promotion program that will not be at the expense of any appropriations requested for export promotion programs involving other agriculture commodities.

TITLE XI—SERVICE INDUSTRIES COMMERCE DEVELOPMENT

SEC. 1101. SHORT TITLE.

This title may be cited as the "Service Industries Commerce Development Act of 1984".

SEC. 1102. STATEMENT OF PURPOSES.

The purposes of this title are—

(1) to encourage further expansion of international trade in services, and to enhance the free flow of foreign direct investment with implications for trade in services, through the negotiation of agreements (both bilateral and multilateral) which reduce or eliminate barriers and other trade-distorting measures; and

(2) to promote the expansion of United States service industries in foreign commerce

SEC. 1103. DEFINITIONS.

As used in this title—

(1) The term "Secretary" means the Secretary of Commerce.

(2) The term "services" means economic outputs associated with international trade that are not tangible goods (but may or may not be related to trade in such goods) or structures, including, but not limited to, transportation, communciations, retail and wholesale trade, advertising, construction, design and engineering, utilities, insurance, real estate, professional services, entertainment and tourism, and foreign direct investment by United States persons which are necessary for the export and sale of such services.

SEC. 1104. SERVICE INDUSTRIES DEVELOPMENT PROGRAM, COORDINATION AND REPORTS.

(a) PROGRAM.—

(1) IN GENERAL.—The Secretary shall establish in the Department of Commerce a service industries development program designed to—

(A) develop, in consultation with other Federal agencies as appropriate, policies regarding services that are designed to increase the competitiveness of United States service industries in foreign commerce;

(B) develop a data base for assessing the adequacy of current, as well as for developing future, Government policies and actions pertaining to services, including, but not limited to, export and import data generally, and pertaining to individual service industries:

(C) collect and analyze, in consultation with appropriate agencies, information pertaining to the international operations and competitiveness of United States service industries, including information with respect to—

(i) activities and policies of foreign governments toward foreign and United States service industries,

(ii) Federal, State, and local regulation of both foreign and United States suppliers of services, and the potential effect of such regulation on trade relationships and negotiations,

(iii) the adequacy of current United States policies and activities to strengthen the competitiveness of United States service industries in foreign commerce,

(iv) tax treatment of services, with particular emphasis on the effect of United States taxation on the international competitiveness of United States firms and exports; and

(v) treatment of services in international agreements of the United States;

(D) conduct studies of United States service industries, including assessments of

their present and future ability to compete in foreign commerce; and

(E) conduct a program of research and analysis of service-related issues and problems, including forecasts and industrial strategies.

(2) INFORMATION.—

(A) PRIVATE SECTOR ARRANGEMENTS.—The Secretary shall seek to establish arrangements with the private sector regarding the access by the Secretary to private sector information that is necessary for the Secretary to carry out his functions under paragraph (1).

(B) CRITICAL INFORMATION.—The Secretary may require persons to submit to him any information referred to in subparagraph (A) that the Secretary considers to be critical for the carrying out of such functions.

(C) CONFIDENTIALITY.—Information to which the Secretary is given access under subparagraph (A), which is submitted to the Secretary under subparagraph (B), or which is produced under paragraph (3), shall be confidential and shall not be disclosed, except that—

(i) the Secretary may disclose such information if the person who provided the information waives confidentiality in writing;

(ii) the Secretary may release or make public such information in any aggregate or summary statistical form which does not directly or indirectly disclose the identity or business operations of the person who provided the information;

(iii) the Secretary shall release the information when so required by court order; and

(iv) the Secretary shall release such information upon request to the Congress or any committee thereof.

The Secretary shall, by regulation, prescribe such procedures as may be necessary to preserve the confidentiality of the information required to be kept confidential by this subparagraph.

(3) PROHIBITED ACTS.—

(A) Any person who—

(i) fails to furnish information required by the Secretary under paragraph (2)(B); or

(ii) fails to comply with any rule or regulation issued by the Secretary to carry out this section;

is subject to a civil penalty not exceeding $10,000 under a proceeding brought under this paragraph.

(B) Whenever it appears that any person has violated subparagraph (A) (i) or (ii), a civil action may be brought by the Secretary in an appropriate district court of the United States, and upon a proper showing by the Secretary of the relevance to the purposes of this section of the demand for information or the rule or regulation, the court may either enter a restraining order or a permanent or temporary injunction commanding such person to furnish the information or to comply with the rule or regulation, as the case may be, or impose the civil penalty under subparagraph (A).

(4) CONSULTATION.—The Secretary shall consult regularly with representatives of United States service industries concerning the development and implementation of the policies on services referred to in paragraph (1)(A) and other activities which are conducted pursuant to this subsection and subsection (c).

(b) COORDINATION REGARDING TRADE IN SERVICES.—

(1) AT FEDERAL LEVEL.—

(A) IN GENERAL.—The United States Trade Representative, through the interagency trade organization established pursuant to section 242(a) of the Trade Expansion Act of 1962 or any subcommittee thereof, shall, in conformance with this Act and other provisions of law, develop (and coordinate the implementation of) United States policies concerning trade in services.

(B) FEDERAL AGENCIES.—In order to encourage effective development, coordination, and implementation of United States policies on trade in services—

(i) each department or agency of the United States responsible for the regulation of any service sector industry shall, as appropriate, advise and work with the United States Trade Representative concerning matters that have come to the department's or agency's attention with respect to—

(I) the treatment afforded United States service sector interest in foreign markets, or

(II) allegations of unfair practices by foreign governments or companies in a service sector; and

(ii) the Department of Commerce, together with other appropriate agencies as requested by the United States Trade Representative, shall provide staff support and other assistance for negotiations on service-related issues by the United States Trade Representatives and the domestic implementation of service-related agreements.

(C) NO EFFECT ON EXISTING AUTHORITIES.—Nothing in this subsection shall be construed to affect in any manner or to any extent any existing authority or responsibility with respect to any specific service sector.

(2) AT STATE LEVEL.—

(A) STATEMENT OF POLICY.—It is the policy of Congress that the President shall, as he deems appropriate—

(i) consult with State governments on issues of trade policy, including negotiating objectives and implementation of trade agreements, affecting the regulatory authority of non-Federal governments, or their procurement of goods and services;

(ii) establish one or more intergovernmental policy advisory committees on trade which shall serve as a principal forum in which State and local governments may consult with the Federal Government with respect to the matters described in clause (i); and

(iii) provide to State and local governments and to United States service industries, upon their request, advice, assistance, and (except as may be otherwise prohibited by law) data, analyses, and information concerning United States policies on international trade in services.

(B) ESTABLISHMENT OF NON-FEDERAL GOVERNMENTAL TRADE ADVISORY COMMITTEES.—Section 135 (19 U.S.C. 2155) is amended—

(i) by inserting "and the non-Federal governmental sector" after "private sector" in subsection (a),

(ii) by adding at the end of subsection (c) the following new paragraph:

"(3) The President—

"(A) may establish policy advisory committees representing non-Federal government interests to provide, where the President finds necessary, policy advice—

"(i) on matters referred to in subsection (a), and

"(ii) with respect to implementation of trade agreements, and

"(B) shall include as members of committees established under paragraph (1) representatives of non-Federal governmental interests where he finds such inclusion appropriate after consultation by the Trade Representative with such representatives.";

(iii) by inserting "or non-Federal government" after "private" each place it appears in subsections (g) and (j);

(iv) by inserting "government," before "labor" in subsection (j); and

(v) by adding at the end thereof the following new subsection:

"(l) NON-FEDERAL GOVERNMENT DEFINED.—The term 'non-Federal government' means—

"(1) any State, territory, or possession of the United States, or the District of Columbia, or any political subdivision thereof, or

"(2) any agency or instrumentality of any entity described in paragraph (1)."; and

(vi) by inserting "or Public" after "Private" in the heading thereof.

(C) CONFORMING AMENDMENTS.—

(i) Section 104(c) (19 U.S.C. 2114(c)) is amended by inserting "or non-Federal governmental" after "private".

(ii) Sections 303 (19 U.S.C. 2413) and 304(b)(2) (19 U.S.C. 2414(b)(2)) are each amended by striking out "private sector".

(iii) The table of sections for chapter 3 of title I is amended by inserting "and public" after "private" in the item relating to section 135.

(c) BIENNIAL REPORT.—On not less than a biennial basis commencing with 1986, the Secretary shall prepare a report (which shall be submitted to the Congress and to the President not later than 30 days after the close of the period covered by the report) containing an analysis of the information collected under subsection (a)(1).

SEC. 1105 AMENDMENTS TO THE TRADE ACT OF 1974.

(a) PRESIDENTIAL DETERMINATIONS AND ACTION UNDER TITLE III REGARDING SERVICES.—Section 301 of the Trade Act of 1974 (19 U.S.C. 2411) is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively, and by adding immediately after subsection (b) the following new subsection:

"(d) ACTIONS ON SERVICES.—

"(1) IN GENERAL.—With respect to actions on the services of a foreign country under subsection (b), the President may restrict, in the manner and to the extent he deems appropriate, the terms and conditions, or deny the issuance, of any service sector access authorization, notwithstanding any other provision of law governing that authorization.

"(2) AFFECTED AUTHORIZATIONS.—Actions under paragraph (1) shall apply only with respect to service sector access authorizations granted, or applications therefor pending, on or after the date a petition is filed under section 302(a) or a determination to initiate is made by the United States Trade Representative (hereinafter in this chapter referred to as the 'Trade Representative') under section 302(c).

"(3) CONSULTATION.—Before the President takes action under subsection (b) involving the imposition of fees or other restrictions on the services of a foreign country, the Trade Representative shall, if the services involved are subject to regulation by any agency of the Federal Government or of any State, consult with the head of the agency concerned."; and

(2) by amending paragraph (1) of subsection (e) (as redesignated by paragraph (1)) to read as follows:

"(1) DEFINITIONS.—For purposes of this section—

"(A) The term 'commerce' includes, but is not limited to, services associated with international trade, whether or not such services are related to specific products.

"(B) The term 'service sector access authorization' means any license, permit, order, or other authorization, issued under the authority of Federal law; that allows a foreign supplier of services access to the

United States market in a service sector concerned.

"(C) The term 'services' has the same meaning as is given to that term in section 3(3) of the Services Industries Commerce Development Act of 1984.".

(b) NEGOTIATING OBJECTIVES.—

(1) IN GENERAL.—Chapter 1 of title I of the Trade Act of 1974 (19 U.S.C. 2111-2119) is amended by inserting immediately after section 104 the following new section:

"SEC. 104A. NEGOTIATING OBJECTIVES WITH RESPECT TO TRADE IN SERVICES.

"Principal United States negotiating objectives under section 102 with respect to trade in services shall be—

"(1) to reduce or to eliminate barriers to, or other distortions of, international trade in services including, but not limited to—

"(A) barriers that deny national treatment, and

"(B) restrictions on the establishment and operation of enterprises providing services in foreign markets, including—

"(i) direct or indirect restrictions on the transfer of information into, or out of, the country or instrumentality concerned, and

"(ii) restrictions on the use of data processing facilities within or outside of such country or instrumentality; and

"(2) to develop internationally agreed rules, including dispute settlement procedures, which will reduce or eliminate such barriers or distortions and help insure open international trade in services.".

(2) CONFORMING AMENDMENTS.—

(A) The table of contents for chapter 1 of title I is amended by inserting after the item relating to section 104 the following new item:

"Sec. 104A. Negotiating objectives with respect to trade in services.".

(B) Paragraph (3) of section 102(g) (19 U.S.C. 2112(g)(3)) is amended to read as follows:

"(3) The term 'international trade' includes trade in both goods and services.".

The SPEAKER pro tempore. The gentleman from Illinois [Mr. ROSTENKOWSKI] is recognized for 1 hour.

Mr. ROSTENKOWSKI. Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. Pursuant to House Resolution 598, the previous question is considered as ordered.

The question is on the motion offered by the gentleman from Illinois [Mr. ROSTENKOWSKI].

The motion was agreed to.

A motion to reconsider was laid on the table.

APPOINTMENT OF CONFEREES ON H.R. 3398

Mr. ROSTENKOWSKI. Mr. Speaker, pursuant to House Resolution 598, I move that the House insist on its amendment to the Senate amendment to H.R. 3398 and request a conference with the Senate thereon.

The SPEAKER pro tempore. The gentleman from Illinois [Mr. ROSTENKOWSKI] is recognized for 1 hour.

Mr. ROSTENKOWSKI. Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. ROSTENKOWSKI].

The motion was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. Without objection, the Chair appoints the following conferees:

From the Committee on Ways and Means: Messrs. ROSTENKOWSKI, GIBBONS, JONES of Oklahoma, JENKINS, DOWNEY of New York, PEASE, HANCE, CONABLE, VANDER JAGT, ARCHER, and FRENZEL.

Additional conferees solely for the consideration of title XI of the House amendment, and sections 255, 302, 304(b)(2), 306(b), and 402, and title IX of the Senate amendment:

From the Committee on Energy and Commerce: Messrs. DINGELL, FLORIO, and BROYHILL.

From the Committee on Foreign Affairs: Messrs. BONKER, MICA, and ROTH.

There was no objection.

□ 2100

DIRECTING THE CLERK TO MAKE TECHNICAL CORRECTIONS IN ENROLLMENT OF H.R. 5167, DEPARTMENT OF DEFENSE AUTHORIZATION ACT, 1985

Mr. PRICE. Mr. Speaker, I ask unanimous consent for the immediate consideration of the concurrent resolution (H. Con. Res. 369) to direct the Clerk of the House of Representatives to make technical corrections in the enrollment of the bill, H.R. 5167.

The SPEAKER pro tempore. The Clerk will report the concurrent resolution.

The Clerk read the concurrent resolution as follows:

H. CON. RES. 369

Resolved by the House of Representatives (the Senate concurring), That, in the enrollment of the bill (H.R. 5167), to authorize appropriations for military functions of the Department of Defense and to prescribe military personnel levels for the Department of Defense for fiscal year 1985, to revise and improve defense procurement, compensation, and management programs, to establish new defense educational assistance programs, to authorize appropriations for national security programs of the Department of Energy, and for other purposes, the Clerk of the House of Representatives shall make the following corrections:

(1) In the table of contents—

(A) in the item relating to section 205, strike out "antisatellite" and insert in lieu thereof "anti-satellite";

(B) in the item relating to section 525, strike out "0-3" and insert in lieu thereof "0-2";

(C) in the item relating to section 1007, strike out "with respect to" and all that follows and insert in lieu thereof "in connection with cooperative agreements on air defense in Central Europe.";

(D) in the item relating to section 1213, strike out "of future" and insert in lieu thereof "and for future";

(E) in the item relating to section 1302, strike out "defense";

(F) in the item relating to section 1514, strike out "advanced cruise missile" and insert in lieu thereof "Advanced Cruise Missile";

(G) in the item relating to section 1539, strike out "Environmental Impact Statement" and insert in lieu thereof "environmental impact statement"; and

(H) in the item relating to the heading for part C of title XVI, strike out "PROGRAM REVISIONS" and insert in lieu thereof "SPECIAL PROGRAM PROVISIONS".

(2) In section 101(a)(2), insert "for procurement of weapons and tracked combat vehicles" in subparagraphs (C) and (D) before "to be derived".

(3) In section 102—

(A) insert "(1)" in subsection (b) before "Funds are hereby";

(B) strike out "(c)" at the beginning of subsection (c) and insert in lieu thereof "(2)" and strike out "subsection (a)" therein and insert in lieu thereof "paragraph (1)";

(C) redesignate the first subsection (d) as subsection (c) and in paragraph (3) of that subsection—

(i) strike out "conversion, Navy" and insert in lieu thereof "conversion for the Navy"; and

(ii) strike out "acts" and insert in lieu thereof "Acts";

(D) in subsection (d)—

(i) insert "(1) before "Funds are hereby"; and

(ii) redesignate clauses (1), (2), and (3) as clauses (A), (B), and (C), respectively;

(E) redesignate subsection (e) as paragraph (2) and strike out "subsection (d)" therein and insert in lieu thereof "paragraph (1)";

(F) redesignate subsections (f), (g), (h), and (i) as subsections (e), (f), (g), and (h), respectively; and

(G) redesignate subsection (j) as subsection (i) and strike out "aircraft; and a" in that subsection and insert in lieu thereof "aircraft. A".

(4) In section 103—

(A) strike out the semicolon at the end of subsection (a)(2) and insert in lieu thereof a period;

(B) in subsection (b)—

(i) insert a comma after "merged with" both places it appears;

(ii) strike out "subsection (a)(1)" both places it appears and insert in lieu thereof "paragraph (1),";

(iii) strike out "(b)(1)" and insert in lieu thereof "(3)"; and

(iv) redesignate paragraph (2) as paragraph (4) and strike out "other procurement of" in that paragraph and insert in lieu thereof "other procurement for";

(C) redesignate subsection (c) as subsection (b) and strike out "or" in that subsection after "97-377),"; and

(D) redesignate subsections (d) and (e) as subsections (c) and (d), respectively.

(5) In section 108, insert a comma after "1858)".

(6) In section 110(g)—

(A) insert a comma in paragraph (1) after "694)"; and

(B) strike out "1985" in paragraph (2) and insert in lieu thereof "1984".

(7) In section 201(a), strike out "$9,408,596,000" and insert in lieu thereof "$9,409, 596,000".

(8) In section 202(a)(2), strike out "referred to in paragraph (1)(B)" and insert in lieu thereof "described in paragraph (1)".

(9) In section 205, insert an open quotation mark at the beginning of subsection (c) of the section proposed to be amended by that section and strike out "this section" in that subsection and insert in lieu thereof "subsection (a)".

(10) In section 207—

(A) strike out "nominates" in paragraph (1) and insert in lieu thereof "appoints, by and with the advice and consent of the Senate,";

(B) insert "and" at the end of paragraph (1); and

(C) strike out paragraph (2) and redesignate paragraph (3) as paragraph (2).

(11) In the heading for title IV, insert "AUTHORIZATIONS" at the end.

(12) In section 513, strike out "(a)" before "Section 3851".

(13) In the heading for section 514, strike out "LIEUTANANTS" and insert in lieu thereof "LIEUTENANTS".

(14) In the heading for section 523, strike out "TO".

(15) In section 525—

(A) strike out "0-3" in the heading and insert in lieu thereof "0-2"; and

(B) redesignate paragraph (4) as subsection (c).

(16) In the matter proposed to be inserted by the amendments made by section 531(1), insert a comma after "1981".

(17) In section 542(a)(1), insert a semicolon and close quotation marks before the semicolon.

(18) In section 543—

(A) insert "PROGRAM" in the heading after "ROTC"; and

(B) in the matter proposed to be stricken out by subsection (a)(1), insert "at least" after "have".

(19) In section 602(f)(3)—

(A) strike out "(A)" before "For the period beginning";

(B) strike out "annualized cost" and insert in lieu thereof "median annual costs"; and

(C) strike out "(B)" and run the sentence beginning "In determining" in after "fiscal year 1984.".

((2)(A) In clause (G) of section 1072(2) of title 10, United States Code, as proposed to be added by section 645(a)(3), insert a period at the end.

(B) Section 645(b) is amended—

(i) by striking out "Section 1006 of Public Law 97-252" and inserting in lieu thereof "Section 1006(d) of the Uniformed Services Former Spouses' Protection Act (title X of Public Law 97-252; 96 Stat. 738)"; and

(ii) by inserting "and" at the end of paragraph (1) and by inserting a period at the end of paragraph (2).

(21) In section 1411 of title 38, United States Code, as proposed to be added by section 702—

(A) in subsection (a)(1)(A)—

(i) insert "first" before "becomes a member"; and

(ii) strike out "initially" and insert in lieu thereof "first";

(B) strike out "the completion of the service establishing such eligibility" is subsection (a)(1)(B) and insert in lieu thereof "December 31, 1976, and";

(C) strike out "subsection (c)" in subsection (b) and insert in lieu thereof "subsection (c)(1)"; and

(D) insert "after December 31, 1976," in subsection (c)(2) after "Any individual who".

(22) In section 1412 of title 38, United States Code, as proposed to be added by section 702—

(A) in subsection (a)(1)(A)—

(i) insert "first" before "becomes a member"; and

(ii) strike out "initially" and insert in lieu thereof "first";

(B) strike out "the completion of the service establishing such eligibility" in subsection (a)(1)(B) and insert in lieu thereof "December 31, 1976, and";

(C) strike out "years of continuous active duty" in subsection (a)(1)(B)(ii) and insert in lieu thereof "continuous years"; and

(D) redesignate subsection (c) as paragraph (2), insert "after December 31, 1976," in that paragraph after "Any individual who", and insert immediately before that paragraph the following:

"(c) The basic pay of any individual described in subsection (a)(1)(A) of this section who does not make an election under subsection (d)(1) of this section shall be reduced by $100 for each of the first 12 months after such individual is entitled to such pay. Amounts withheld from basic pay under this paragraph shall revert to the Treasury.

"(d)(1) An individual described in subsection (a)(1)(A) of this section may make an election not to receive educational assistance under this chapter. Any such election shall be made at the time the individual initially enters on active duty as a member of the Armed Forces. Any individual who makes such an election is not entitled to educational assistance under this chapter.

(23)(A) In subsection (c) of section 1415 of title 38, United States Code, as proposed to be added by section 702, insert "the amount of" before "any such increase".

(B) In subsection (d) of that section—

(i) strike out "In the case" and insert in lieu thereof "(1) Subject to paragraph (2) of this subsection, in the case";

(ii) insert "under this chapter" after "to such individual" the first place it appears; and

(iii) add at the end the following new paragraph (2):

"(2) The number of months for which the rate of the basic educational assistance allowance applicable to an individual is increased under paragraph (1) of this subsection may not exceed the number of months of entitlement to educational assistance under chapter 34 of this title that the individual had remaining on December 31, 1989.

(24) In section 1416 of title 38, United States Code, as proposed to be added by section 702, strike out "(a)".

(25) In section 1422(b) of title 38, United States Code, as proposed to be added by section 702—

(A) insert ", pursuant to regulations to be prescribed by the Secretary," after "by the Secretary concerned";

(B) strike out "regulations to be prescribed by the Secretary" and insert in lieu thereof "such regulations";

(C) insert "concerned" after "as the Secretary"; and

(D) insert "the amount of" before "any such increase".

(26) In section 1431(e)(2) of title 38, United States Code, as proposed to be added by section 702, insert "portion" after "major".

(27) In section 1433(a)(1) of title 38, United States Code, as proposed to be added by section 702, strike out "32,".

(28) In section 1435(b) of title 38, United States Code, as proposed to be added by section 702—

(A) strike out "appropriations made" in paragraph (1) and all that follows in that paragraph and insert in lieu thereof "funds appropriated to, or otherwise available to, the Veterans' Administration for the payment of readjustment benefits."; and

(B) strike out "1415(b)" in paragraph (2) and insert in lieu thereof "1415(c)".

(29) In section 703—

(A) strike out subsection (b);

(B) redesignate subsection (c) as subsection (b); and

(C) strike out subsection (d) and insert in lieu thereof the following new subsections (c) and (d):

(c) Section 1781 is amended—

(1) in subsection (a)—

(A) by inserting "30," after "chapter" the first place it appears;

(B) by striking out "36," and inserting in lieu thereof "36 of this title or 106 or 107 of title 10,"; and

(C) by striking out the comma after "chapter 31"; and

(2) by inserting "30," in subsection (b)(1) after "Chapters".

(d) Section 1795(a) is amended—

(1) by inserting "30," in clause (4) after "Chapters"; and

(2) by striking out "Chapter 107" in clause (5) and inserting in lieu thereof "Chapters 106 and 107".

(30) In section 2006 of title 10, United States Code, as proposed to be added by section 706—

(A) strike out "1415(b)" in subsection (b)(2)(A) and insert in lieu thereof "1415(c)"; and

(B) strike out "subsection (g)" in subsection (e)(3) and insert in lieu thereof "subsection (f)".

(31) In section 708 of title 10, United States Code, as proposed to be added by section 707, insert "determining the member's" in subsection (c)(2) after "for the purpose of" the second place it appears.

(32)(A) In subsection (b)(3) of section 1002 strike out "construction of" and insert in lieu thereof "construct".

(B) At the end of subsection (d)(2) of that section, add the following new subparagraph:

"(C) The requirement under clause (i) of subparagraph (B) is satisfied in any year by the submission of the report required by section 1003(c) for that year."

(C) In subsection (e)(2) of that section—

(i) strike out "(A)";

(ii) strike out "section 201" and insert in lieu thereof "this Act"; and

(iii) insert "operational" after "Director of".

(33) In section 1006, strike out "NATO" and insert in lieu thereof "other North Atlantic Treaty Organization".

(34) In section 1102(7), strike out "programs and projects" and insert in lieu thereof "programs, projects, and tasks".

(35) In section 1109(c), strike out "March 15, 1985" and insert in lieu thereof "December 31, 1984".

(36) In section 2302(5) of title 10, United States Code, as proposed to be added by section 1211, insert a comma in the third sentence after "test".

(37) In section 2303a of title 10, United States Code, as proposed to be added by section 1212(a)—

(A) in subsection (a)—

(i) strike out "no" and insert in lieu thereof "a";

(ii) insert "(1)" after "thereto) that"; and

(iii) strike out "procedure or form, or" and insert in lieu thereof "procedure, or form, or (2) has";

(B) in subsection (c), by inserting a comma after "procedure"; and

(C) in subsection (d)(2), strike out "subsection (c)" and insert in lieu thereof "subsections (a) and (b)".

(38) In section 2305(d)(2)(B)(ii) of title 10, United States Code, as proposed to be added by section 1213(a), strike out "of" after "qualification".

(39) In section 1213, insert close quotations marks and a period at the end of subsection (a).

(40) In section 2318 of title 10, United States Code, as proposed to be added by section 1216(a)—

(A) strike out "competition advocates" in subsection (a) and insert in lieu thereof "advocates for competition";

(B) insert "(1)" before "In addition to" in subsection (a);

(C) redesignate subsection (b) as paragraph (2) and strike out "established pursuant to subsection (a)" therein and insert in lieu thereof "of the Defense Logistics Agency";

(D) redesignate subsection (c) as subsection (b) and insert "named in section 2303(a) of this title" in that subsection after "of an agency"; and

(E) redesignate subsection (d) as subsection (c) and insert "of the Department of Defense" in that subsection after "of an agency".

(41) In section 2319 of title 10, United States Code, as proposed to be added by section 1216(a)—

(A) strike out "will not be" in subsection (b)(5) and insert in lieu thereof "is not";

(B) strike out "Except as" in subsection (c)(1) and all that follows in that subsection and insert in lieu thereof "Subsection (b) of this section does not apply with respect to a qualification requirement established by statute or administrative action before the date of the enactment of the Defense Procurement Reform Act of 1984 unless such requirement is a qualified products list.";

(C) strike out "Except with respect to" in subsection (c)(2) and all that follows through "bidders list" and insert in lieu thereof "(A) Except as provided in subparagraph (B)";

(D) insert at the end of paragraph (2) of subsection (c) the following new subparagraph:

"(B) The waiver authority provided in this paragraph does not apply with respect to a qualified products list.

(E) in paragraph (3) of subsection (c)—

(i) insert "(A)" after "potential offeror" the second place it appears; and

(ii) insert ", or (B) has not been identified as meeting a qualification requirement established after the date of the enactment of the Defense Procurement Reform Act of 1984" after "products list";

(F) in paragraph (4) of subsection (c), strike out "if" and all that follows through "being used" and insert in lieu thereof "if the basis for the referral is a challenge by the offeror to either the validity of the qualification requirement";

(G) insert a comma in subsection (d)(1)(A) after "seek qualification"; and

(H) insert a comma in the first sentence of subsection (e) after "qualified manufacturers list".

(42) In section 2320 of title 10, United States Code, as proposed to be added by section 1216(a)—

(A) in subsection (a)(4), strike out "Defense Spare Parts Procurement Reform Act" and insert in lieu thereof "Defense Procurement Reform Act of 1984";

(B) in subsection (b), strike out "paragraph (1)" in the matter preceding paragraph (1) and insert in lieu thereof "subsection (a)"; and

(C) in subsection (d), strike out "paragraph" and insert in lieu thereof "subsection".

(43) In section 2321 of title 10, United States Code, as proposed to be added by section 1216(a)—

(A) strike out the comma in subsection (a) after "technical data" the first place it appears;

(B) in the second sentence of subsection (b)—

(i) strike out "state" after "notice shall";

(ii) insert "state" in paragraph (1) before "the grounds"; and

(iii) strike out "the requirement for" in paragraph (2) and insert in lieu thereof "require";

(C) in subsection (d)(2)—

(i) strike out "If after" and insert in lieu thereof "After"; and

(ii) strike out "determines that" and all that follows through "shall" and insert in lieu thereof "shall,"; and

(D) in subsection (f)(2)(B), strike out "assertive" and insert in lieu thereof "asserted".

(44) In section 2322 of title 10, United States Code, as proposed to be added by section 1216(a), strike out "part B of the Defense Procurement Reform Act of 1984" in subsection (b) and insert in lieu thereof "this section".

(45) In section 2323 of title 10, United State Code, as proposed to be added by section 1216(a)—

(A) in subsection (a)—

(i) strike out "subsection (b)" and insert in lieu thereof "subsection (b)(2)"; and

(ii) strike out "full and open"; and

(B) in subsection (b)—

(i) insert "(1)" after "sale to the public"; and

(ii) strike out "items or shall" and insert in lieu thereof "items, or (2) shall".

(46) In section 1216(b), strike out "2319(a)" and insert in lieu thereof "2320(a)".

(47) In section 1232(b), strike out "679" and insert in lieu thereof "681".

(48) In section 1245—

(A) strike out "by regulations" and insert in lieu thereof "by regulation";

(B) insert "procedures" after "the use of"; and

(C) strike out "4(b)" and "403(b)" and insert in lieu thereof "4(6)" and "403(6)", respectively.

(49) In section 1401(g)—

(A) strike out "at the end thereof" in paragraph (1) and insert in lieu thereof "after section 2006 (as added by section 706(a)(1))";

(B) redesignate section 2006, 2007, and 2008 of title 10, United States Code, as proposed to be added by paragraph (1), as sections 2007, 2008, and 2009, respectively;

(C) strike out "at the end thereof" in paragraph (2) and insert in lieu thereof "after the item relating to section 2006 (as added by section 706(a)(2))"; and

(D) redesignate the items relating to sections 2006, 2007, and 2008, as proposed to be added by paragraph (1), to refer to sections 2007, 2008, and 2009, respectively.

(50) In section 1401(i), redesignate the section proposed to be added by paragraph (1) as section 2484 (and redesignate the item relating to that section proposed to be added by paragraph (2) so as to refer to section 2484).

(51) In section 1405(29)—

(A) reset the matter in subparagraph (B) preceding clause (i) so as to be paragraphed and cut in 4 ems; and

(B) in the matter proposed to be stricken out by subparagraph (B)(iii), strike out "days" and insert in lieu thereof "day".

(52) In the heading for part D of title XV, strike out "MATTER" and insert in lieu thereof "MATTERS".

(53) In section 1542(b)—

(A) Strike out "the necessary"; and

(B) strike out "while they" and all that follows and insert in lieu thereof "as they struggle to regain their freedom.".

(54) In part E of title XV, redesignate section 1554 as section 1544.

Mr. PRICE (during the reading). Mr. Speaker, I ask unanimous consent that the concurrent resolution be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Illinois?

There was no objection.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON S. 2048, ORGAN PROCUREMENT AND TRANSPLANTATION ACT

Mr. WAXMAN. Mr. Speaker, I call up the conference report on the Senate bill (S. 2048) to provide for the establishment of a task force on organ procurement and transplantation and an organ procurement and transplantation registry, and for other purposes, and ask unanimous consent for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent that the statement of the managers be read in lieu of the report.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of October 2, 1984.)

Mr. WAXMAN (during the reading). Mr. Speaker, I ask unanimous consent that the statement be considered as read.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER pro tempore. The gentleman from California [Mr. WAXMAN] will be recognized for 30

minutes and the gentleman from North Carolina [Mr. BROYHILL] will be recognized for 30 minutes.

The Chair recognizes the gentleman from California [Mr. WAXMAN].

Mr. WAXMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it is with pleasure that I report that the conferees on S. 2048 have agreed on a conference report that will provide hope to thousands of Americans who are waiting for an organ transplant. The legislation is the product of extensive work by Members on both sides of the aisle. The legislation reflects the wide agreement among scientists, surgeons, and patients that the Nation's system for procuring human organs could be made more effective.

The conference agreement contains several major provisions I would like to summarize. First, the legislation authorizes the Secretary of Health and Human Services to make grants to develop and strengthen local organ procurement organizations; $25 million is authorized for this purpose over the next 3 years.

The legislation establishes a national Organ Procurement and Transplantation Network to match donor organs with transplant patients. The Network will utilize computers and a 24-hour phone number to speed the matching process.

It requires the establishment of a scientific registry to facilitate an ongoing evaluation of the scientific and clinical status of organ transplantation.

It prohibits the buying and selling of human organs.

It requires the Secretary of Health and Human Services to convene a conference to determine the feasibility of developing a registry of voluntary bone marrow donors.

Finally, it establishes a task force on organ transplantation to provide the President, the Congress and the Secretary with expert advice on many of the most difficult ethical and social issues relating to transplantation.

I regret to report that the legislation does not contain the provision of the House amendment establishing a 2-year-grant program to assist transplant patients in paying for the high costs of immunosuppressant drugs. Our Senate colleagues were unwilling to accept this provision at this time. Instead, the conferees agreed that the first action of the task force on organ transplantation will be to assess and report to the Congress on immunosuppressive medications used to prevent organ rejection. The task force's evaluation will include an analysis of the advantages of providing such patients assistance through programs of Federal grants or by expanding coverage through existing Federal health programs. The report on immunosuppressive medications will be submitted to the Congress early next year and will permit Members to determine early in the next Congress the most appropriate action in this area.

I want to single out four Members of the conference who have devoted their time, energies and considerable compassion in developing a bill which enjoys such broad support among the public and within the Congress.

ALBERT GORE, chairman of the Subcommittee on Investigations and Oversight of the House Science and Technology Committee deserves special recognition as the original author of this legislation. The hearings his subcommittee conducted over the last 2 years raised public consciousness about organ transplantation and identified the problems in organ procurement that this legislation addresses.

DOUG WALGREN and BARBARA MIKULSKI are senior Members of the Subcommittee on Health and the Environment and original cosponsors of this legislation. DOUG WALGREN is the principal sponsor, along with the ranking minority member Mr. MADIGAN, of the House proposal to assist transplant patients in paying for the costs of immunosuppressive drugs.

BARBARA MIKULSKI is the author of provisions in the bill establishing procedures that could lead to development of a national registry to enhance research into narrow transplants involving unrelated donors.

Finally, I want to thank the ranking minority member of the subcommittee, Mr. MADIGAN, who is an original cosponsor of this legislation for his personal commitment to strengthening the Nation's organ procurement system by stimulating private sector activities.

Mr. Speaker, I urge support for the legislation.

Mr. Speaker, I yield such time as he may consume to the gentleman from Tennessee [Mr. GORE].

Mr. GORE. I thank my colleague for yielding.

Mr. Speaker, this represents 2 years of hard work. I want to thank and commend my colleagues on both sides of the aisle. This has been truly a bipartisan effort from start to finish. I want to thank them for all of the hard work and cooperation. It is an excellent bill.

Mr. Speaker, we have every hope and expectation that this legislation will save many thousands of lives. It represents a true compromise. It also represents a great step forward in setting up a national system for organ transplantation, establishing a national computerized registry, outlawing the buying and selling of human organs triggering a set of educational and training programs in every hospital and medical community throughout this country in order to greatly increase the rate of organ donation.

We feel we can triple the rate of organ donation and save many thousands of lives.

I thank my colleagues, and particularly the chairman of the subcommittee, who is one of the most able legislators in this body.

Mr. BROYHILL. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, I am pleased to join my colleagues in both the House and Senate in supporting the conference report on S. 2048, the National Organ Transplant Act. I believe this legislation takes the necessary first steps to better coordinate and improve our Nation's organ procurement activities and organ transplantation.

S. 2048 addresses the need for a framework to coordinate organ procurement activities and offers assistance to those organizations which serve those in need of transplants. The legislation provides grants for 3 years to strengthen and expand local procurement organizations across the country.

The legislation will also help to support a national organ computer system, which will maintain a national registry of individuals who need organs and will operate a national computer and a 24-hour telephone system to help match donated organs with potential recipients.

Unlike the House-passed bill, S. 2048 does not provide for a grant program for immunosuppressive drugs which are needed for patients receiving organ transplants. Because these drugs are costly, yet are essential to the success of organ transplants, the conferees have instructed the task force to complete a thorough assessment of the availability of insurance converage of such drugs.

Finally, the National Organ Transplant Act outlaws the buying and selling of human organs.

In conclusion, I want to reiterate my support for the conference report on S. 2048. I believe the National Organ Transplant Act will strengthen the relationship between the Federal Government and private sector health organizations, and will leave the operation of the organ transplant system in the hands of the procurement and transplant centers which already exist.

● Mr. WALGREN. Mr. Speaker, the House today can take a crucial step in developing the new frontiers of lifesaving medical care by approving the compromise organ transplant bill, H.R. 5080 that has been recommended by the House-Senate conference. The goal of the bill is to strengthen the communications system we use to match those in need of transplanted organs with available organs, along with several other important provisions.

The National Organ Transplant Act will increase the availability of lifesav-

ing medical treatment by creating a national system to increase organ donation and match available organs with those in need of them. It does so by creating a national computerized network that would build on existing transplant organizations, retaining the expertise of medical professionals and the many private, voluntary groups that have developed these services this far.

I regret the Senate did not agree to my proposal to help make immunosuppressive drugs available to those unable to pay for them. These medications to overcome the body's natural rejection reaction after a transplant operation are essential and expensive, costing in the range of $5,000 to $8,000 per year.

Many are now exhausting public donations that were collected in the emotional crisis at the time of their transplant—or in the case of kidneys, leading less of a life because they do not have the means to pay for necessary drugs.

Testimony by leading transplant surgeons before our committee demonstrated their view that it is pennywise and pound foolish to promote transplant operations without helping to sustain the transplant after the operation. It seems very shortsighted to me to match donor organs with recipients and then fail to provide the medical treatment required to make the transplant successful.

My amendment, adopted by the House but rejected by the Senate, would have provided transplant centers with a fund to assist those recipients who cannot otherwise pay for immunosuppressive drugs. The alternatives are either to deny the transplant, or require the transplant center to consume its own resources in providing these drugs.

I understand that the chairman of the Senate Labor and Human Resources Committee [Senator HATCH] has made a commitment to work with us in the next Congress on a suitable payment method. I am grateful for the Senate's support of a provision directing the Task Force on Organ Transplantion to examine the extent of insurance and other coverage for these drugs that currently exists and develop and present to the Congress possible approaches to helping people pay for immunosuppressive drugs. The task force is to report to Congress within 1 year after it establishment. I look forward to their study next year and hope to be working with a supportive administration on this problem, not against them as we have this year.

I encourage support for the National Organ Transplant Act today as a critical step forward in the development of transplant capability which promises so much for the future.●

Mr. WAXMAN. Mr. Speaker, I yield back the balance of my time.

Mr. BROYHILL. Mr. Speaker, I yield back the balance of my time.

Mr. WAXMAN. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON H.R. 5603, DEVELOPMENTAL DISABILITIES ACT OF 1984

Mr. WAXMAN. Mr. Speaker, I call up the conference report on the bill (H.R. 5603) to amend the Public Health Service Act to revise and extend the authorities of that act for assistance for alcohol, and drug abuse, and mental-health services and to revise and extend the Developmental Disabilities Assistance and Bill of Rights Act.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Pursuant to the rule, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House on September 25, 1984.)

The SPEAKER pro tempore. The gentleman from California [Mr. WAXMAN] will be recognized for 30 minutes and the gentleman from North Carolina [Mr. BROYHILL] will be recognized for 30 minutes.

The Chair recognizes the gentleman from California [Mr. WAXMAN].

Mr. WAXMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, The conference substitute for H.R. 5603 extends for 3 years the authorities for the Developmental Disabilities Assistance Act. This program has the support of the disabled and their families, it has been well reviewed by the GAO, and the administration has requested reauthorization.

The major components of the act are:

Grants to States to coordinate and provide services for the disabled;

Grants to States to protect the rights of the disabled;

Grants to university affiliated facilities for training professionals to work with the disabled;

Grants for special research and demonstration projects regarding developmental disabilities.

The conference substitute makes only one major change in present law: Under current law, States may choose any of four services to provide with the grants money they receive. The Senate bill proposed to require that States provide employment-related services, thus possibly forcing States to discontinue existing programs that are functioning well.

The conference agreement provides that after 1986 States must provide employment-related services only if appropriations for the year equal a level of $50.25 million, a level that affords sufficient room for current services to be continued. I would note that there is no minimum amount required of the States to meet this mandate and that the conferees do not intend for States to be forced to trim other services to meet this mandate. Clearly States may choose to devote resources to this priority, but equally clearly they may choose to devote only nominal amounts. That decision is to be made by the States.

This conference report represents substantial progress and I urge Members to support it.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BROYHILL. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I rise in support of the conference report on H.R. 5603 which provides for a 3-year extension of the Developmental Disabilities Assistance and Bill of Rights Act. This program assists States in providing care, treatment, and other services to the severely chronically disabled.

H.R. 5603 provides for the following major changes to the Existing Developmental Disabilities Act:

Reorganizes the current act into five parts per the recommendation of the administration.

Includes employment-related activities as a priority service provided by States after fiscal year 1986 only if the State grants appropriation exceeds $50.25 million.

Provides for increases in the minimum allotments for State grants, protection and advocacy [P&A] systems, and university affiliated facilities [UAF] when a corresponding increase in the appropriation occurs.

I am joined by my colleague, Mr. MADIGAN of Illinois, the ranking Republican of the Subcommittee on Health and the Environment. As well as all of the House and Senate conferees in supporting the conference report on H.R. 5603.

I urge my colleagues to join me in supporting this worthy program.

Mr. WAXMAN. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

APPOINTMENT OF CONFEREES ON S. 2574, NURSE EDUCATION AMENDMENTS OF 1984

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S.

2574) to revise and extend title VIII of the Public Health Service Act, relating to nurse education, with the House amendments thereto, insist on the House amendments, and agree to the conference asked by the Senate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

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Mr. BROYHILL. Mr. Speaker, reserving the right to object, the gentleman from California and I have had a number of conversations about this legislation prior to going to conference.

I would like to yield at this time to the gentleman from Utah who has questions, about the numbers that were in the House bill compared to those that were in the bills reported from the other body. I would like to let him ask some questions of the gentleman from California.

Mr. NIELSON of Utah. Mr. Speaker, I would ask of the gentleman from California if I am correct that the House version of this legislation contained an authorization of $2.9 billion and the Senate legislation contained an authorization of $2.4 billion and yet the proposed conference agreement authorizes $3.4 billion. Am I correct in those numbers?

I yield to the gentleman for his response.

Mr. WAXMAN. The expectation is that the conference agreement will be at the same level as the House-passed bill. There have been differences in the programs that are covered by the Senate bill and the House bill. The House-passed bill did not go as far as the Senate-passed bill. We will incorporate some of their recommendations, but the total amount, as we expected in the conference will be at approximately the same level of spending.

Mr. BROYHILL. Further reserving the right to object, Mr. Speaker, I would like to repeat what the gentleman from California said. We have had some preliminary discussions, not only among potential House conferees, but also with potential conferees from the other side. We do feel that in conference we can come under or reach about the same funding levels as in the House-passed bill.

As the gentleman from Utah recalls, we did have quite a bit of discussion and debate because of the high numbers in the bill that came out of committee. As the gentleman from Utah recalls, we did have a significant reduction in the authorization levels in the bill that finally passed the House as compared to that which passed the committee.

This request is to permit S. 2574 to go to conference and to work out a bill that we can bring back to the House. Just as one conferee I can say that I will put forth my best efforts to come back with a bill that is within the guidelines of the House bill.

I yield to the gentleman from Utah.

Mr. NIELSON of Utah. My concern was that it appeared, at least on first glance, that we have tentative conference agreement that contains authorization levels that are higher than either the Senate or the House bills. You can assure me that that is not going to be the case?

Mr. BROYHILL. I yield to the gentleman from California for his response.

Mr. WAXMAN. There was a suggestion that that might have been the result of some negotiations, but the gentleman from North Carolina and I have had discussions, as he has indicated, and he is quite persuasive in bringing home certain points to me in the direction of those discussions.

I would expect fully, that once the conference meets and the conferees get into these issues, that the conference agreement will have a total amount of money to be expended under the authorization of around the same amount as the House-passed bill. It will not be, as had been reported by some, that it would be a much higher figure than either the House or the Senate bill.

Mr. NIELSON of Utah. I thank the gentleman.

Mr. BROYHILL. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California? The Chair hears none and, without objection, appoints the following conferees: Messrs. DINGELL, WAXMAN, SCHEUER, LUKEN, BROYHILL, and MADIGAN.

There was no objection.

PERMISSION TO FILE CONFERENCE REPORT ON S. 540 AND S. 2574

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent that the managers on the part of the House for the bills S. 450 and S. 2574 have until midnight to file conference reports.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

SAN JUAN BASIN WILDERNESS PROTECTION ACT OF 1984

Mr. SEIBERLING. Mr. Speaker, I ask unanimous consent that the Committee on Interior and Insular Affairs be discharged from further consideration of the bill (H.R. 6296) entitled: "The San Juan Basin Wilderness Protection Act of 1984," and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. LUJAN. Mr Speaker, reserving the right to object, I do so to ask the gentleman from Ohio if it is his intention to offer the amendment in the nature of a substitute to the bill which was provided to the minority?

I yield to the gentleman for his response.

Mr. SEIBERLING. Mr. Speaker, if the gentleman will yield, I would say to the gentleman that it is my intention to offer that compromise which the gentleman already has a copy of and a copy is at the desk, and I will offer that as a substitute.

Mr. LUJAN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the bill, as follows:

H.R. 6296

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "San Juan Basin Wilderness Protection Act of 1984".

SEC. 2. (a) In furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131-1136), the following lands are hereby designated as wilderness, and, therefore, as components of the National Wilderness Preservation System—

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. SEIBERLING

Mr. SEIBERLING. Mr. Speaker, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. SEIBERLING: On page 1, strike all after the enacting clause and insert in lieu thereof the following:

"TITLE I—SAN JUAN BASIN

SEC. 101. This Act may be cited as the "San Juan Basin Wilderness Protection Act of 1984".

SEC. 102. (a) In furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131-1136), the following lands are hereby designated as wilderness, and, therefore, as components of the National Wilderness Preservation System—

(1) certain lands in the Albuquerque District Bureau of Land Management, New Mexico, which comprise approximately three thousand nine hundred and sixty-eight acres, as generally depicted on a map entitled "Bisti Wilderness—Proposed", dated June 1983, and which shall be known as the Bisti Wilderness; and

(2) certain lands in the Albuquerque District Bureau of Land Management, New Mexico, which comprise approximately twenty three thousand eight hundred and seventy-two acres, as generally depicted on a map entitled "De-na-zin Wilderness—Proposed", dated June 1983, and which shall be known as the De-na-zin Wilderness.

(b) Subject to valid existing rights each wilderness area designated by this Act shall be administered by the Secretary of the Interior in accordance with the provisions of the Wilderness Act, except that any refer-

ence in such provisions to the effective date of the Wilderness Act (or any similar reference) shall be deemed to be a reference to the effective date of this Act, and any reference to the Secretary of Agriculture shall be deemed to be a reference to the Secretary of the Interior.

(c) As soon as practicable after enactment of this Act, a map and a legal description of each wilderness area designated by this Act shall be filed by the Secretary of the Interior with the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the House of Representatives. Each such map and description shall have the same force and effect if included in this Act, except that correction of clerical and typographical errors in each such legal description and map may be made by the Secretary subsequent to such filings. Each such map and legal description shall be on file and available for public inspection in the Office of the Director of the Bureau of Land Management, Department of the Interior.

(d) Within the wilderness areas designated by this Act, the grazing of livestock, where established prior to the date of enactment of this Act, shall be permitted to continue subject to such reasonable regulations, policies, and practices as the Secretary of the Interior deems necessary, as long as such regulations, policies, and practices fully conform with and implement the intent of Congress regarding grazing in such areas as such intent is expressed in the Wilderness Act and this Act.

SEC. 103. (a) In recognition of its paramount aesthetic, natural, scientific, educational, and paleontological values, the approximately two thousand seven hundred and twenty acre area in the Albuquerque District of the Bureau of Land Management, New Mexico, known as the "Fossil Forest", as generally depicted on a map entitled "Fossil Forest", dated June 1983, is hereby withdrawn, subject to valid existing rights, from all forms of appropriation under the mining laws and from disposition under all laws pertaining ot mineral leasing and geothermal leasing and all amendments thereto. The Secretary of the Interior shall administer the area in accordance with the Federal Land Policy and Management Act and shall take such measures as are necessary to insure that no activities are permitted within the area which would significantly disturb the land surface or impair the area's existing natural, educational, and scientific research values, including paleontological study, excavation, and interpretation.

(b) Within one year of the date of enactment of this Act the Secretary of the Interior shall promulgate rules and regulations for the administration of the Fossil Forest area referred to in subsection (a) in accordance with the provisions of this Act and shall file a copy of such rules and regulations with the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate.

(c) The Bureau of Land Management is hereby directed to conduct a long-range study of the Fossil Forest to determine how best to manage the area's resource values identified in section 103(a) of this Act. Within eight years of enactment of this Act, the Secretary shall forward the study results and management plan for the area to Congress. During the study period and until Congress determines otherwise, the Fossil Forest area shall be managed under the provisions of this Act.

SEC. 104. (a) The Secretary of the Interior shall exchange such public lands or interest in such lands, mineral or nonmineral, as are of approximately equal value and selected by the State of New Mexico, acting through its commissioner of public lands, for any State lands or interest therein, mineral or nonmineral, located within the boundaries of any of the tracts designated as wilderness under section 2. For the purpose of this section, the term public lands shall have the same meaning as defined in section 103(c) of the Federal Lands Policy and Management Act of 1976.

(b) Within one hundred and twenty days of enactment of this Act, the Secretary of the Interior shall give notice to the New Mexico Commissioner of Public Lands of the tracts to be designated as wilderness pursuant to section 102 of this Act and of the Secretary's duty to exchange public lands selected by the State for any State land contained within the boundaries of the designated wilderness areas. Such notice shall contain a listing of all public lands which are located within the boundaries of the State, which have not been withdrawn from entry and which the Secretary identifies as being available to State in exchange for such State lands as may be within the designated wilderness areas.

(c) The value of the State and public lands to be exchanged under this section shall be determined as of the date of enactment of this Act.

(d) After the receipt of this list of available public lands, if the commissioner of public lands gives notice to the Secretary of the State's selection of lands, the Secretary shall notify the State in writing as to whether the Department of the Interior considers the State and Federal lands to be of approximately equal value. In case of disagreement between the Secretary and the commissioner as to relative value of the acquired and selected lands, the Secretary and the commissioner shall agree on the appointment of a disinterested independent appraiser who will review valuation data presented by both parties and determine the amount of selected land which best represents approximate equal value. Such determination will be binding on the Secretary and the commissioner. The transfer of title to lands or interests therein to the State of New Mexico shall be completed within two years of the date of enactment of this Act.

SEC. 105. (a) The Secretary of the Interior shall exchange any lands held in trust for an Indian whose lands are located within the boundary of the De-na-zin area referred to in section 102(a)(2) at the request of the Indian for whom such land is held in trust. Such lands shall be exchanged for lands approximately equal in value selected by the Indian allottee concerned and such lands so selected and exchanged shall thereafter be held in trust by the Secretary in the same manner as the lands for which they were exchanged.

(b) Except as provided herein, nothing in this Act shall affect the transfer to the Navajo Tribe of any lands selected by the Navajo Tribe pursuant to Public Law 93-531 and Public Law 96-305: *Provided, however,* That, notwithstanding the limitations imposed by section 4 of Public Law 96-305, within eighteen months after the date of enactment of this Act, the Navajo Tribe, after consultation with the Relocation Commission, shall have the authority to and shall select lands in New Mexico administered by the Bureau of Land Management of equal acreage in lieu of the lands which have been previously selected by the Navajo Tribe within the boundaries of the Fossil Forest, as described in section 103(a) of this Act. A border of any parcel of land so selected shall be within eighteen miles of the boundary of the Navajo Reservation described in Executive Order dated January 6, 1880.

(c) Title to such in lieu selections shall be taken in the name of the United States in trust for the benefit of the Navajo Tribe as a part of the Navajo Reservation, and shall be subject only to valid existing rights as of December 1, 1983."

Mr. SEIBERLING (during the reading). Mr. Speaker, I ask unanimous consent to dispense with further reading of the amendment in the nature of a substitute, and that it be printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. SEIBERLING. Mr. Speaker, I rise in support of the substitute to H.R. 6296 which has been negotiated by our colleague BILL RICHARDSON. The proposed substitute bill is similar to H.R. 3766 which was introduced by Congressman RICHARDSON in August of 1983 and which passed the House on suspension on June 18 of this year.

Briefly, the substitute bill,

Designates a 3,968 acre Bisti Wilderness exactly as was proposed in the House-passed bill.

Designates a 23,872 acre De-na-zin Wilderness exactly as was was proposed in the House-passed bill.

Protects an approximate 2,720-acre area known as the fossil forest from mineral leasing, coal development, mining, or any other significant surface or subsurface disturbance that could impair the area's world renown deposits of fossilized logs and dinosaur skeletons. According to archeological experts, the fossil forest contains some of the finest fossil assembleges in the world, and especially significant for it its large number of cretaceous fossil tree stumps, which have been preserved upright in their original growing position and location.

The substitute bill withdraws the fossil forest from any and all disposition under the mining and mineral leasing laws, and in particular, voids pending applications for coal leases in the area. It also requires the Navajo Nation to select lands in lieu of those which it has previously selected within the 2,720 acre area. The bill further provides for a long-range study on how to best manage the area's aesthetic, natural, scientific, educational, and paleontological values and protects the area from mining or other threats until Congress determines otherwise. A further description of the values and concerns in the fossil forest can be found in House Report 98-834.

Provides for a land and mineral interest exchange within the proposed De-na-zin Wilderness.

The major change in the substitute is that it does not reconfirm the ongoing wilderness study of the Ah-shi-sle-pah Wilderness study area pursuant to section 603 of the Federal Land Policy and Management Act, and does not authorize the Navajo Nation to select lands outside the WSA in lieu of its pending selection inside the WSA. Pursuant to the agreement Congressman RICHARDSON has reached with the rest of the New Mexico delegation, Ah-shi-sle-pah will remain in its current wilderness study status under FLPMA, subject, of course, to the Navajo selections.

Mr. Speaker, I am pleased that Congressman RICHARDSON has been able to work out this compromise agreement on his bill and would particularly like to commend him for his effective leadership and perseverance in pursuing the protection of these magnificent badlands areas in the San Juan Basin. I know that he and I both would have preferred to see a bill that included wilderness designation of the Ah-shi-sle-pah area, but I believe the substitute is the best we can do under the circumstances. I urge its approval.

Mr. Speaker, at this time I yield to the gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. I thank the gentleman for yielding to me.

Mr. Speaker, I rise in support of the substitute to the legislation (H.R. 6296) which I introduced with Congressmen LUJAN and SEIBERLING last week. As has already been described by Mr. SEIBERLING, the substitute bill protects three of the four magnificent areas in the San Juan Basin which were slated for wilderness or other protection in my original San Juan Basin Wilderness bill, H.R. 3766.

I first became alarmed about the San Juan Basin areas early in 1982 when former Interior Secretary James Watt moved to drop the Bisti Badlands area from wilderness study status and when it appeared likely that he might also propose issuing coal leases in the De-na-zin, fossil forest, and Ah-shi-sle-pah areas. In response to tremendous concern by my constituents over the fate of the four areas and over coal leasing plans in the basin in general, I asked the Subcommittees on Public Lands and National Parks and Mining, Forest Management, and BPA to conduct a public hearing on the San Juan Basin situation. At that hearing, which was held on May 21, 1983, we heard testimony from 73 witnesses and found that there was overwhelming sentiment to permanently protect the four areas.

As a result of the hearing and other public input, in August 1983, I introduced H.R. 3766 to add Bisti, De-na-zin, and Ah-shi-sle-pah to the National Wilderness Preservation System and to provide permanent protection for the archeological and other natural values of the fossil forest. After additional public hearings and a compromise which placed the Ah-shi-sle-pah area in wilderness study status, H.R. 3766 passed the House on June 18 of this year. However, since that time, H.R. 3766 has languished in the Senate and it appears that it will not be discharged from the Senate Committee on Energy and Natural Resources. Accordingly, when it became apparent to me last week that the bill would not move in the Senate this year, I conferred with Senators BINGAMAN and DOMENICI and my colleagues in the House and I agreed to introduce new legislation (H.R. 6296) that could be used as a vehicle to move substitute legislation forward.

I am happy to report that yesterday, after protracted negotiations, we were able to agree to the substitute before us today. As I have already stated three of the four areas proposed for protection in my original bill will be fully protected under the provisions of the substitute. To wit:

The 3,968 acre Bisti and 23,872 acre De-na-zin areas will become wilderness exactly as proposed in my original bill, and, I might note, will be the first Bureau of Land Management wilderness areas in our State. It is appropriate that these two areas will be the flagship BLM wilderness areas in the State because they possess an extraordinary mix of natural and cultural values. Not only are the areas renowned for their scenic badlands terrain, but they also harbor numerous other values including rich deposits of dinosaur and early mammal fossils, cultural artifacts and other remains of past civilizations, sites of great religious significance to the Navajo people and true opportunities for solitude and primitive recreation.

Wilderness designation will insure that these values are permanently protected and that pending applications for coal leases are terminated in the areas. I should also note, and express my sincere thanks to the Navajo Nation for having already shifted their proposed land selections under the Navajo-Hopi Relocation Act to lands outside the proposed De-na-zin Wilderness. Further details concerning the Bisti and De-na-zin areas can be found in House Report 98–834.

The 2,720-acre Fossil Forest Area will be withdrawn from mineral leasing and mining, thereby terminating the pending coal lease applications in the area, and protecting the area from disturbance. Such protection is critical because the 2,720-acre Fossil Forest Area represents one of the finest assemblages of fossilized stumps and dinosaur skeletons known anywhere in the world. While numerous remnants of fossil forests exist elsewhere in North America, the large number of in situ stumps preserved upright and in their original growing location in the Fossil Forest is without peer. Protection of this resource in an undisturbed condition is critical for archeologists because proper excavation and interpretation of the area will probably require decades or even centuries. Stated simply, the vast archeological resources of the area cannot be properly studied and excavated over the next several years, and any disruption of the area by coal mining or other activity could, even if it dug up and preserved the fossilized stumps, logs, and bones themselves, destroy the in situ fossilized record and community which makes the area so unique.

The substitute bill before us withdraws and protects the Fossil Forest Area unless and until a future Congress determines that it should be made available for other uses than those mentioned in the bill. The substitute, like my original bill, also requires the Navajo Nation to select lands outside the Fossil Forest in lieu of the lands already selected within the area. The Navajo fully support this alternative selection mandate as well as the bill's provisions for protection of the area. The substitute finally requires the Secretary of the Interior to complete a long-range study of the aesthetic, natural, scientific, educational, and paleontological values of the area and to submit the study and management plan for the area to Congress within 8 years.

Mr. Speaker, I am disappointed that the bill before us today will not afford additional protection for the existing Ah-shi-sle-pah Wilderness study area. I personally toured the area after our hearing in May 1983 and feel it has many of the same rich values as Bisti and De-na-zin. Indeed, according to studies by the Bureau of Land Management it may be the most significant area of all in terms of dinosaur fossils alone. However, it is also the richest in strippable coal resources. As such, it has been ardently sought for leasing by industry, even though it contains, by BLM's own admission, only nine-tenths of 1 percent of the Federal recoverable coal in the San Juan Basin, and an even smaller percentage of the total—Federal, State, private—recoverable coal.

My original bill would have designated Ah-shi-sle-pah as wilderness, and I still believe, along with Senator BINGAMAN, conservationists, the Navajo Nation and others that that is the appropriate designation for the area. Nevertheless, in the interest of reaching a compromise that would protect the other areas, I first agreed with Congressman LUJAN to statutorily place Ah-shi-sle-pah in wilderness study status only, with discretionary authority for the Navajo Nation to

make alternative land selections outside the wilderness study area. Our further negotiations this week proved that even that designation was unsatisfactory, and we were only able to agree to leave Ah-shi-sle-pah in its current wilderness study status under section 603 of FLPMA, but without discretionary authority for the Navajo to select outside of the area. Our agreement will allow the ongoing wilderness study of Ah-shi-sle-pah to continue, but may mean that the bulk of the area which is currently under selection by the Navajo, is transferred in trust to the Navajo Nation in the near future. I am disappointed in the result, but am convinced that it will be better to gain protection for Bisti, Dena-zin, and the Fossil Forest this year than to leave all four areas in limbo until next Congress.

In summary, Mr. Speaker, I am convinced that the substitute before us today reflects the best possible compromise that can be reached under the circumstances. It will protect three of the finest natural areas in New Mexico and will ensure that a small portion of the San Juan Basin is protected to the benefit and enjoyment of future generations. I urge my colleagues support of the substitute.

Mr. LUJAN. Mr. Speaker, I wish to rise in strong support of H.R. 6296, the Bisti Wilderness bill and would like to thank the chairman [Mr. SEIBERLING] for assisting us in this expedited process.

As my colleagues will recall, we passed H.R. 3766, another Bisti Wilderness bill, in June of this year and you may be asking why are we considering the issue again?

Stated simply, the other body did not act on the first bill but is ready to resolve the issue now so we are sending them a new bill. We have been working closely with all parties involved and believe we have arrived at a final compromise which everyone can accept.

The State of New Mexico, the Navajo Tribe, the New Mexico delegation, the Sierra Club, and Wilderness Society, and others who worked closely with us, all support the final bill. It has taken some time to get to this point, and I am pleased we are resolving it in this bipartisan fashion.

The bill we passed earlier this year would have designated two new BLM wilderness areas totalling 27,840 acres in the San Juan Basin. A third area, the Fossil Forest would be withdrawn, subject to valid existing rights, from all mining and mineral leasing.

The Fossil Forest will be managed to protect its important paleontological, scientific, and natural values. The earlier bill also specifically mentioned an area known as Ah-shi-sle-pah and expanded somewhat the size of the area currently being studied by BLM under the wilderness study provisions on FLPMA, the Federal Land Policy and Management Act.

The new bill before us today retains the wilderness designations and the special protection for the Fossil Forest Area. We added a study requirement for fossil forest to give us the opportunity to take another look after the scientific experts have had some time to study and explore the area.

The Ah-shi-sle-pah area is no longer mentioned in the bill which leaves the area in the section 603 status provided for in FLPMA. I believe this is appropriate and support this change in the bill.

The in lieu selections provision is altered somewhat to reflect the other changes in the bill but in principal the tribe will receive the same consideration as the earlier bill provided.

Overall, the changes are minor and reflect a balanced and timely compromise. I urge my colleagues to support the bill.

The SPEAKER pro tempore. The question is on the amendment in the nature of a substitute offered by the gentleman from Ohio [Mr. SEIBERLING].

The amendment in the nature of a substitute was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SEIBERLING. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just considered and passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

REQUEST FOR CONSIDERATION OF SENATE AMENDMENT TO H.R. 999, AMERICAN CONSERVATION CORPS ACT OF 1983

Mr. SEIBERLING. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 999) to provide for the conservation, rehabilitation, and improvement of natural and cultural resources located on public or Indian lands, and for other purposes, with a Senate amendment thereto, and to concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Strike out all after enacting clause and insert:

SHORT TITLE

SECTION 1. This Act may be cited as the "American Conservation Corps Act of 1984".

CONGRESSIONAL FINDINGS AND PURPOSE

SEC. 2. (a) FINDINGS.—The Congress finds that—

(1) conserving or developing natural and cultural resources and enhancing and maintaining environmentally important lands and waters through the use of the Nation's young men and women, is beneficial not only to the youth of the Nation by providing them with education and work opportunities, but is also beneficial for the Nation's economy and its environment; and

(2) through this work experience opportunity, the Nation's youth will further their understanding and appreciation of the natural and cultural resources in addition to learning basic and fundamental work ethics including discipline, cooperation, understanding to live and work with others, and learning the value of a day's work for a day's wages.

(b) PURPOSE.—It is the purpose of this Act to—

(1) enhance and maintain conservation, rehabilitation, and improvement work on Federal and non-Federal public lands and Indian lands, improve and restore Federal and non-Federal public lands and Indian lands, resources, and facilities, conserve energy and restore and maintain community lands, resources, and facilities;

(2) establish an American Conservation Corps to carry out a program to improve, restore, maintain, and conserve these lands and resources in the most cost-effective manner;

(3) assist State and local governments in carrying out needed non-Federal public land and resource conservation, rehabilitation, and improvement projects;

(4) provide for implementation of the program in such manner as will foster conservation and the wise use of natural and cultural resources through the establishment of working relationships among the Federal, State, and local governments, Indian tribes, and other public and private organizations; and

(5) increase (by training and other means) employment opportunities for young men and women including, but not limited to, those who are economically, socially, physically, or educationally disadvantaged and who may not otherwise be productively employed.

DEFINITIONS

SEC. 3. For purposes of this Act—

(1) The term "Federal public lands" means any lands or waters (or interest therein) owned or administered by the United States.

(2) The term "non-Federal public lands" means any lands or waters (or interest therein) owned or administered by any agency or instrumentality of a State or local government.

(3) The term "program" means the conservation, rehabilitation, and improvement program established by this Act.

(4) The term "program agency" means any Federal agency or instrumentality with responsibility for the management of any public or Indian lands, any State agency designated by the Governor to manage the program in that State, and the governing body of any Indian tribe.

(5) The term "Indian tribe" means any Indian tribe, band, nation, or other group which is recognized as an Indian tribe by the Secretary of the Interior. Such term also includes any Native village corporation, regional corporation, and Native group established pursuant to the Alaska Native

Claims Settlement Act (43 U.S.C. 1701 at seq.).

(6) The term "Indian" means a person who is a member of an Indian tribe.

(7) The term "Indian lands" means any real property owned by an Indian tribe, any real property held in trust by the United States for individual Indians or Indian tribes, and any real property held by individual Indians or Indian tribes which is subject to restrictions on alienation imposed by the United States.

(B) The term "employment security service" means the agency in each of the several States with responsibility for the administration of unemployment and employment programs, and the oversight of local labor conditions.

(9) The term "chief administrator" means the head of any program agency as that term is defined in paragraph (4).

(10) The term "enrollee" means any individual enrolled in the American Conservation Corps in accordance with section 5.

(11) The term "crew leader" means an enrollee appointed under authority of this Act for the purpose of supervising other enrollees engaged in work projects pursuant to this Act.

(12) The term "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(13) The term "economically disadvantaged" with respect to youths has the same meaning given such term in section 4(8) of the Job Training Partnership Act.

PUBLIC LANDS CONSERVATION, REHABILITATION, AND IMPROVEMENT PROGRAM

SEC. 4. (a) ESTABLISHMENT OF PROGRAMS.—There is hereby established within the Department of the Interior and the Department of Agriculture an American Conservation Corps.—

(1) ESTABLISHMENT OF PROGRAM ON FEDERAL PUBLIC LANDS.—Not later than ninety days after the enactment of this Act, the Secretary of the Interior and the Secretary of Agriculture, after consultation with the Secretary of Labor, shall establish and administer a conservation, rehabilitation, and improvement program on Federal public lands and Indian lands to carry out the purposes of this Act.

(2) ESTABLISHMENT OF PROGRAM ON NON-FEDERAL PUBLIC LANDS.—The Secretary of the Interior, after consultation with the Secretary of Agriculture and the Secretary of Labor, shall establish and administer a conservation, rehabilitation, and improvement program on non-Federal public lands to carry out the purposes of this Act.

(b) REGULATIONS AND ASSISTANCE.—The Secretary of the Interior and the Secretary of Agriculture, after consultation with the Secretary of Labor, shall jointly promulgate the regulations necessary to implement the programs established by subsection (a). Within thirty days after the enactment of this Act, the Secretary of the Interior and the Secretary of Agriculture shall establish procedures to give Federal and non-Federal program agencies and other interested parties, including the public, adequate notice and opportunity to comment upon and participate in the formulation of such regulations. The Secretary of the Interior and the Secretary of Agriculture shall provide assistance, consistent with the terms of this Act, to program agencies for the establishment and operation of residential and nonresidential American Conservation Corps centers and for the implementation by the American Conservation Corps of projects designed to carry out the purposes of this Act.

(c) PROJECTS INCLUDED.—The programs established under this section may include projects such as—

(1) wildlife habitat conservation, rehabilitation, and improvement;

(2) rangeland conservation, rehabilitation, and improvement;

(3) recreational area development, maintenance, and improvement;

(4) urban revitalization;

(5) historical and cultural site preservation and maintenance;

(6) fish culture and habitat maintenance and improvement and other fishery assistance;

(7) road and trail maintenance and improvement;

(8) erosion, flood, drought, and storm damage assistance and control;

(9) stream, lake, and waterfront harbor and port improvement, and pollution control;

(10) insect, disease, rodent, and fire prevention and control;

(11) improvement of abandoned railroad bed and right-of-way;

(12) energy conservation projects and renewable resource enhancement;

(13) recovery of biomass from public lands, particularly forestlands;

(14) reclamation and improvement of strip-mined land; and

(15) forestry, nursery, and silvicultural operations.

(d) PREFERENCE FOR CERTAIN PROJECT.—The programs shall provide a preference for those projects which—

(1) will provide long-term benefits to the public;

(2) will instill in the enrollee involved a work ethic and a sense of public service;

(3) will be labor intensive; and

(4) can be planned and initiated promptly.

(e) LIMITATION TO FEDERAL AND NON-FEDERAL PUBLIC LANDS.—Projects to be carried out under the program shall be limited to projects on Federal and non-Federal public lands or Indian lands except where a project involving other lands will provide a documented public benefit as determined by the Secretary of the Interior or the Secretary of Agriculture. The regulations promulgated under subsection (b) shall establish the criteria necessary to make such determinations.

(f) CONSISTENCY.—All projects selected and carried out under this Act for conservation, rehabilitation, or improvement of any Federal or non-Federal public lands or Indian lands shall be consistent with the provision of law and policies relating to the management and administration of such lands, with all other applicable provisions of law, and with all management, operational, and other plans and documents which govern the administration of the area.

(g) CONSERVATION CENTERS.—(1) Each program agency may apply for approval of conservation centers to carry out projects under this Act.

(2) Applications for approval of conservation centers on Federal public lands shall be submitted to the Secretary of the Interior or the Secretary of Agriculture in such manner as is provided for by the regulations promulgated under subsection (b). Applications for the approval of conservation centers on non-Federal public lands or Indian lands shall be submitted to the Secretary of the Interior. No application may be submitted to the Secretary of the Interior or the Secretary of Agriculture before the 30-day period for review and comment by the appropriate State Job Training Coordinating Council (established under the Job Training Partnership Act), if any, which shall consult with the appropriate Private Industry Council, or Councils, in the area in which a project is carried out. Comments of the State Job Training Coordinating Council and Private Industry Council shall be forwarded to the Secretary at the time the grant application is submitted.

(3) No grant or other agreement may be entered into under this section unless an application is submitted to and approved by the Secretary of the Interior or the Secretary of Agriculture, as the case may be. Each application shall contain—

(A) a comprehensive description of the objectives and performance goals for the conservation center and a description of the types of projects to be carried out, including a description of the types and duration of training and work experience to be provided;

(B) a plan to make arrangements for certification of the training skills acquired by enrollees under this Act;

(C) a plan to make arrangements for the award of academic credit by educational institutions and agencies to enrollees for competencies developed under training programs or from work experiences under this Act;

(D) an estimate of the number of enrollees and crew leaders necessary for the proposed projects, the length of time for which the services of such personnel will be required and the services which will be required for their support;

(E) a description of the facilities and equipment to be available for use in the center;

(F) a plan for managing the conservation center, supplying the necessary equipment and material, and administering the payroll; and

(G) such other information as the Secretary of the Interior and the Secretary of Agriculture shall prescribe.

(4) In approving the location and type of conservation centers, the Secretary of the Interior and the Secretary of Agriculture shall give due consideration to—

(A) the proximity of the center to the work to be done;

(B) the cost and means of transportation available between the center and the homes of the enrollees who may be assigned to those centers;

(C) the access of economically, socially, physically, or educationally disadvantaged youths to the centers; and

(D) the cost of establishing the center.

Every effort shall be made to assign youths to residential or nonresidential centers as near to their homes as practicable.

(5)(A) Every conservation center shall have sufficient supervisory staff appointed by the chief administrator which may include enrollees who have displayed exceptional leadership qualities.

(B) No project shall be undertaken without the on-site presence of knowledgeable and competent supervision, and all projects undertaken shall be documented in advance in an approved written project plan.

(h) LOCAL GOVERNMENT PARTICIPATION.—Any State carrying out a program under this Act shall provide a mechanism under which local governments within the State may be approved by the State to participate

in the program and to carry out projects in accordance with the requirements of this Act.

(i) AGREEMENTS.—Program agencies may enter into contracts and other appropriate arrangements with local government agencies and nonprofit organizations for the management of conservation centers under the program.

(j) JOINT PROJECTS.—The Secretary of the Interior and the Secretary of Agriculture are authorized to develop jointly with the Secretary of Labor regulations designed to allow, where appropriate, joint projects in which activities supported by funds authorized under this Act are coordinated with activities supported by funds authorized under employment and training statutes administered by the Department of Labor (including the Job Training Partnership Act). Such regulations shall provide standards for approval of joint projects which meet both the purposes of this Act and the purposes of such employment and training statutes under which funds are available to support the activities proposed for approval. Such regulations shall also establish a single mechanism for approval of joint projects developed at the State or local level.

ENROLLMENT, FUNDING, AND MANAGEMENT

SEC. 5. (a)(1)(A) ENROLLMENT IN PROGRAM.—Enrollment in the American Conservation Corps shall be limited to individuals who, at the time of enrollment, are—

(i) unemployed;

(ii) not less than sixteen or more than twenty-five years of age (except that programs limited to the months of June, July, and August may include individuals not less than fifteen years and not more than twenty-one years of age at the time of their enrollment); and

(iii) citizens (including those citizens of the Northern Mariana Islands as defined in Public Law 98-213 (97 Stat. 1459)) or lawful permanent residents of the United States.

(B) Special efforts shall be made to recruit and enroll individuals who, at the time of enrollment, are economically disadvantaged.

(C) In addition to recruitment and enrollment efforts required in subparagraph (B), the Secretary of the Interior and the Secretary of Agriculture shall make special efforts to recruit enrollees who are socially, physically, and educationally disadvantaged youths.

(D) Notwithstanding subparagraph (A), a limited number of special corps members may be enrolled without regard to their age so that the corps may draw upon their special skills which may contribute to the attainment of the purposes of the Act.

(2) Except in the case of a program limited to the months of June, July, and August, individuals who at the time of applying for enrollment have attained age sixteen but not attained age nineteen, and who are no longer enrolled in any secondary school shall not be enrolled unless they give adequate written assurances, under criteria to be established by the Secretary of the Interior and the Secretary of Agriculture, that they did not leave school for the express purpose of enrolling. The regulations promulgated under section 4(b) shall provide such criteria.

(3) The selection of enrollees to serve in the American Conservation Corps in any conservation center shall be the responsibility of the chief administrator of the program agency. Enrollees shall be selected from those qualified persons who have applied to, or been recruited by, the program agency, a State employment security service, a local school district with an employment referral service, an administrative entity under the Job Training Partnership Act, a community or community-based nonprofit organization, the sponsor of an Indian program, or the sponsor of a migrant or seasonal farmworker program.

(4)(A) Except for a program limited to the months of June, July, and August, any qualified individual selected for enrollment may be enrolled for a period not to exceed twenty-four months. When the term of enrollment does not consist of one continuous twenty-four-month term, the total of shorter terms may not exceed twenty-four months.

(B) No individual may remain enrolled in the American Conservation Corps after that individual has attained the age of twenty-six, except as provided in section 5(a)(1)(B).

(5) Within the American Conservation Corps the directors of centers shall establish and stringently enforce standards of conduct to promote proper moral and disciplinary conditions. Enrollees who violate these standards shall be transferred to other locations, or dismissed, if it is determined that their retention in that particular center, or in the Corps, will jeopardize the enforcement of such standards or diminish the opportunities of other enrollees. Such disciplinary measures will be subject to expeditious appeal to the appropriate Secretary.

(b) SERVICES, FACILITIES, SUPPLIES, ET CETERA.—The program agency shall provide quarters, board, limited and emergency medical care, transportation from conservation centers to work sites, and other services, facilities, supplies, and equipment. Whenever possible, the Secretary of the Interior and the Secretary of Agriculture shall make arrangements with the Secretary of Defense to have such logistical support provided by a military installation near the proposed center, including the provision of temporary tent centers where needed. Basic standards of work requirements, health, nutrition, sanitation, and safety for all conservation centers shall be established and enforced.

(c) REQUIREMENT OF PAYMENT FOR CERTAIN SERVICES.—Enrollees shall be required to pay a reasonable portion of the cost of room and board provided at conservation centers into rollover funds administered by the appropriate Secretary. Such payments and rates are to be established after evaluation of costs of providing the services. The rollover funds established pursuant to this section shall be used solely to defray the costs of room and board for enrollees. The Secretary of the Interior and the Secretary of Agriculture are authorized to make available to program agencies surplus food and equipment as may be available from Federal programs.

FEDERAL AND STATE EMPLOYEE STATUS

SEC. 6. (a) IN GENERAL.—Enrollees, crew leaders, and volunteers are deemed as being responsible to, or the responsibility of, the program agency administering the project on which they work. Non-Federal program agencies shall be required as a minimum to provide tort claims protection and work related injury claim benefits to enrollees and crew leaders. Except as otherwise specifically provided in the following paragraphs, enrollees and crew leaders in Federal projects for which funds have been authorized pursuant to paragraphs (2), (3), (4), and (5) of section 13(a) shall not be deemed Federal employees and should not be subject to the provisions of law relating to Federal employment:

(1) For purposes of subchapter I of chapter 81 of title 5, United States Code, relating to the compensation of Federal employees for work injuries, enrollees and crew leaders serving Federal program agencies shall be deemed civil employees of the United States within the meaning of the term "employee" as defined in section 8101 of title 5, United States Code, and the provisions of that subchapter shall apply, except—

(A) the term "performance of duty" shall not include any act of an enrollee or crew leader while absent from his or her assigned post of duty, except while participating in an activity authorized by or under the direction and supervision of the Secretary of the Interior or the Secretary of Agriculture or the conservation supervisory staff (including an activity while on pass or during travel to or from such post of duty); and

(B) compensation for disability shall not begin to accrue until the day following the date on which the injured enrollee's or crew leader's employment is terminated.

(2) For purposes of chapter 171 of title 28, United States Code, relating to tort claims procedure, enrollees and crew leaders on Federal projects shall be deemed employees of the United States within the meaning of the term "employee of the Government" as defined in section 2671 of title 28, United States Code.

(3) For purposes of section 5911 of title 5, United States Code, relating to allowances for quarters, enrollees and crew leaders shall be deemed employees of the United States within the meaning of the term "employee" as defined in that section.

(b) AMENDMENT OF TITLE 5.—Section 8332(b) of title 5, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (11);

(2) by striking out the period at the end of paragraph (12) and inserting in lieu thereof "; and"; and

(3) by adding after paragraph (12) the following new paragraph:

"(13) service as an enrollee or crew leader only if the enrollee or crew leader in the American Conservation Corps later becomes subject to this subchapter.".

USE OF VOLUNTEERS

SEC. 7. Where any program agency has authority to use volunteer services in carrying out functions of the agency, such agency may use volunteer services for purposes of assisting projects related to conservation centers established under this Act and may expend funds made available for those purposes to the agency, including funds made available under this Act, to provide for services or costs incidental to the utilization of such volunteers, including transportation, supplies, lodging, subsistence, recruiting, training, and supervision. The use of volunteer services permitted by this section shall be subject to the condition that such use does not result in the displacement of any enrollee.

TENNESSEE VALLEY AUTHORITY

SEC. 8. The Board of Directors of the Tennessee Valley authority may accept the services of volunteers and provide for their incidental expenses to carry out any activity of the Tennessee Valley Authority except policymaking or law or regulatory enforcement. Such volunteers shall not be deemed employees of the United States Government except for the purposes of chapter 81 of title 5 of the United States Code, relating to

compensation for work injuries, and shall not be deemed employees of the Tennessee Valley Authority except for the purposes of tort claims to the same extent as a regular employee of the Tennessee Valley Authority would be under identical circumstances.

SPECIAL RESPONSIBILITIES

SEC. 9. (a) PAY.—(1) The rate of pay for enrollees shall be 95 percent of the pay rate for members of the Armed Forces in the enlisted grade E-1 who have served for four months or more on active duty, from which a reasonable charge for enrollee room and board shall be deducted by the program agency.

(2) Enrollees shall receive $50 cash incentive stipends for every three months of enrollment in the program.

(3) The rate of pay for crew leaders shall be at a wage comparable to the compensation in effect for grades GS-3 to GS-7.

(b) COORDINATION.—The Secretary of the Interior and the Secretary of Agriculture and the chief administrators of other program agencies carrying out programs under this Act shall coordinate the programs with related Federal, State, local, and private activities.

(c) CERTIFICATION AND ACADEMIC CREDIT.—Pursuant to the provisions of paragraphs (B) and (C) of section 4(g)(3), the Secretary of the Interior and the Secretary of Agriculture shall provide guidance and assistance to program agencies in securing certification of training skills or academic credit for competencies developed under this Act.

(d) RESEARCH AND EVALUATION.—The Secretary of the Interior and the Secretary of Agriculture shall provide for research and evaluation to—

(1) determine costs and benefits, tangible and otherwise, of work performed under this Act and of training and employable skills and other benefits gained by enrollees, and

(2) identify options for improving program productivity and youth benefits, including improved alternatives for: organization, subjects, sponsorship, and funding of work projects; recruitment and personnel policies; siting and functions of conservation centers; work and training regimes for youth of various origins and needs; and cooperative arrangements with programs, persons, and institutions not covered under this Act.

(e) DEMONSTRATIONS.—The Secretary of the Interior and the Secretary of Agriculture may authorize pilot or experimental projects to demonstrate or test new or alternative arrangements or subjects of work and training for programs under this Act, which may include alternatives identified under subsection (d)(2).

(f) CCC SITES.—The Secretary of the Interior, after consultation with the Secretary of Agriculture, shall study sites at which Civilian Conservation Corps activities were undertaken for purposes of determinig a suitable location and means to commemorate the Civilian Conservation Corps. Not later than one year after the date of the enactment of this Act, the Secretary of the Interior shall submit a report to the Congress containing the results of the study carried out under this section. The report shall include cost estimates and recommendations for any legislative action.

(g) STUDY.—(1) Program agencies shall not use more than 10 per centum of the funds available to them to provide training and educational materials and services for enrollees and may enter into arrangements with academic institutions or education providers, to include local education agencies, community colleges, four-year colleges, area vocational-technical schools and community based organizations, for academic study by enrollees during nonworking hours to upgrade literacy skills, obtain a high school diploma or its equivalency, or college degrees, or enhance employable skills. Enrollees who have not obtained a high school diploma or its equivalency shall have priority to receive services under this subsection. Whenever possible, an enrollee seeking study or training not provided at his or her conservation center shall be offered assignment to a conservation center providing such study or training.

(2) Standards and procedures with respect to the awarding of academic credit and certifying educational attainment in programs conducted under paragraph (1) shall be consistent with the requirement of applicable State and local law and regulations.

(h) GUIDANCE AND PLACEMENT.—Program agencies shall provide such job guidance and placement information and assistance for enrollees as may be necessary. Such assistance shall be provided in coordination with appropriate State, local, and private agencies and organizations.

ANNUAL REPORT

SEC. 10. The Secretary of the Interior and the Secretary of Agriculture shall prepare and submit to the President and to the Congress at least once each year a report detailing the activities carried out under this Act. Such report shall be submitted not later than December 31 of each year following the date of enactment of this Act. The report shall describe (1) conservation work procedures, accomplishments, and benefits; (2) the short-term post-program experience of enrollees, including data on the number of those terminating from the program who are unemployed, employed, have left the labor force, and are enrolled in further education and shall also report on the long-term impacts of the program on the employability of enrollees; (3) other youth benefits; and (4) problems and opportunities encountered in carrying out the Act which require attention. The Secretary of the Interior and the Secretary of Agriculture shall include in such report such recommendations as each considers appropriate.

LABOR MARKET INFORMATION

SEC. 11. The Secretary of Labor shall make available to the Secretary of the Interior and the Secretary of Agriculture and to any program agency under this Act such labor market information as is appropriate for use in carrying out the purposes of this Act.

EMPLOYEE APPEAL RIGHTS

SEC. 12. (a) In the case of—

(1) the displacement of a Federal employee (as defined in paragraph (1) of section 7511(a) of title 5, United States Code) or the failure to reemploy such a Federal employee from a reemployment priority list or return a Federal employee from furlough affected under title 5, United States Code, part 351 or part 752, contrary to a certification under section 13(b) (1) or (2), or

(2) the displacement of such a Federal employee by reason of the use of one or more volunteers under section 7 of this Act,

such employee is entitled to appeal such action to the Merit Systems Protection Board under section 7701 of title 5, United States Code.

(b) In the case of—

(1) the displacement of any other individual employed (either directly or under contract with any private contractor) by a program agency or grantee, or the failure to reemploy an employee in layoff status, contrary to a certification under section 13(b) (1) or (2), or

(2) the displacement of such individual by reason of the use of one or more volunteers under section 7 of this Act.

the requirements contained in section 144 of the Job Training Partnership Act (Public Law 97-300) shall apply, and such individual shall be deemed an interested person for purposes of the application of such requirements.

(c) For purposes of this section, the term "displacement" includes, but is not limited to, any partial displacement through reduction of nonovertime hours, wages, or employment benefits.

AUTHORIZATION OF APPROPRIATIONS

SEC. 13. (a) DISTRIBUTION OF FUNDS.—Of the sums appropriated pursuant to subsection (f) to carry out this Act for any fiscal year—

(1) not less than 35 per centum shall be made available to the Secretary of the Interior for expenditure by State program agencies;

(2) not less than 25 per centum shall be made available to the Secretary of Agriculture for expenditure by program agencies within the Department of Agriculture;

(3) not less than 25 per centum shall be made available to the Secretary of the Interior for expenditure by program agencies within the Department of the Interior;

(4) not less than 5 per centum shall be made available to the Secretary of the Interior for expenditure by the governing bodies of participating Indian tribes; and

(5) the remaining amount shall be made available to the Secretary of the Interior and the Secretary of Agriculture, under such terms as are provided for in regulations promulgated under section 4(b), for expenditure by other Federal program agencies and for demonstration projects or projects of special merit carried out by any program agency or by any nonprofit organization or local government which is undertaking or proposing to undertake projects consistent with the purposes of this Act.

Fifteen per centum of the amount disbursed to State program agencies under paragraph (1) (or to local governments within the State where subsection (c) applies) shall be divided equally among the States and 85 per centum of such amount shall be distributed among such States proportionately according to the total youth population of such States between the ages of fifteen and twenty-five (as determined on the basis of the most recent census). Any State receiving funds for the operation of any conservation center shall be required to provide not less than 15 per centum of the cost of operation of such center. Any State receiving funds for any fiscal year shall provide not less than 10 per centum of such funds to local governments approved by the State under section (4) (h) to carry out projects under this Act unless no such local government in that State is approved before the end of such fiscal year. In any case where no such local government is approved before the end of such fiscal year, such 10 per centum may be expended by the State in accordance with this Act.

(b) AWARDS OF GRANTS.—The Secretary of the Interior and the Secretary of Agriculture shall not make any grant to, or enter into any agreement with any program agency for the funding of any conservation center under this Act unless such agency

certifies that projects carried out by the conservation center will not—

(1) result in the displacement of individuals currently employed (either directly or under contract with any private contractor) the the program agency concerned (including partial displacement through reduction of nonovertime hours, wages, or employment benefits);

(2) result in the employment of any individual when any other person is in a layoff status from the same or substantially equivalent job within the jurisdiction of the program agency concerned; or

(3) impair existing contracts for services.

(c) STATE SHARE TO LOCAL GOVERNMENTS.—If, at the commencement of any fiscal year, any State does not have a program agency designated by the Governor to manage the program in that State, then during such fiscal year each local government within such State may establish a program agency to carry out the program within the political subdivision which is under the jurisdiction of such local government. In any such case, the State share (or a reasonable portion thereof, including amounts authorized to be appropriated pursuant to subsection (f) for such State) may be made available by the Secretary of the Interior for expenditure by such local government program agencies to carry out the program within such political subdivisions. Such local government program agencies shall be in all respects subject to the same requirements as State program agencies. Where more than one local government within a State has established a program agency under this subsection, the Secretary of the Interior shall allocate funds between such agencies in such manner as he deems equitable.

(d) PAYMENT TERMS.—Payments under grants under this section may be made in advance or by way of reimbursement and at such intervals and on such conditions as the Secretary of the Interior or the Secretary of Agriculture, as appropriate, finds necessary.

(e) USE OF FUNDS.—Contract authority under this Act shall be subject to the availability of appropriations. Funds provided under this Act shall only be used for activities which are in addition to those which would otherwise be carried out in the area in the absence of such funds. Not more than 10 per centum of the funds made available to any program agency for projects during each fiscal year may be used for the purchase of major capital equipment.

(f) APPROPRIATION LEVELS.—There is authorized to be appropriated for the purposes of carrying out this Act $50,000,000 for fiscal year 1985, $75,000,000 for fiscal year 1986, and $100,000,000 for fiscal year 1987. Funds appropriated under this Act shall remain available until expended.

Mr. SEIBERLING (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment be considered as read.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Ohio?

Mr. LUJAN. Mr. Speaker, reserving the right to object, I would ask the gentleman from Ohio for a little bit of explanation of the Senate amendment.

I yield to the gentleman for his response.

Mr. SEIBERLING. Mr. Speaker, this marks the fourth time the House of Representatives will have voted to establish a Youth Conservation Jobs Program similar to the Civilian Conservation Corps Program of the 1930's.

The purpose of H.R. 999 is the same—to provide meaningful work for our Nation's youth in helping to improve our Nation's public lands and community resources.

The need is the same today as it was 50 years ago. Unemployment among our Nation's youth remains at dismally high levels. They despair at ever finding meaningful work and training for jobs that have a real future. In our urban centers, we are witnessing the development of what sociologists are calling an underclass of youth who, unless we help them, will never have the experience of a meaningful job, who may never be given a chance at a job at all.

Meanwhile, our Federal, State, and local parks, forests, and other public resources are in disrepair. There is a backlog of work to be done all over our Nation.

The purpose of H.R. 999, as it passed the House, was to make a serious attempt to meet some of these needs—to put youth, particularly disadvantaged youth, to work at jobs that will benefit the public resources of our Nation.

Basically, the House bill provided $300 million a year through fiscal 1989 for an American Conservation Corps Program. The funding was to be derived from moneys the Federal Government receives from various Federal leasing and permitting activities. The rationale was to take some of the revenues generated by public resources and put them back to work in improving these resources and in helping our Nation's youth.

In taking this approach, the House would have given the American people a bargain. Based on previous experience with such programs, the American Conservation Corps would more than pay for itself. We would be getting more than a dollar back for each dollar spent. Indeed, at hearings held by the Subcommittee on Public Lands and National Parks, which I chair, we had testimony that similar programs have brought as much as $5 and $6 for every dollar expended, with the average about $1.20.

That the House agreed that this was a bargain is attested to by the strong bipartisan support it received. A similar bill passed the House twice during the 97th Congress. During the 98th Congress, 187 Members cosponsored the measure. Indeed, H.R. 999 was reported favorably by two committees, and it passed the House on March 1, 1983, by a vote of 301–87.

In short, the support for H.R. 999 has been tremendous. It has, therefore, been puzzling as to why the Senate has waited so long to act. Senators MOYNIHAN and MATHIAS took the lead in the Senate, where there was also bipartisan support for the bill. To their credit, they negotiated a compromise version that retains the essential elements of the program.

Unfortunately, the Senate Energy and Natural Resources Committee reduced the funding levels that would make the program what it was meant to be. From $300 million annually for 6 years they reduced to a 3-year program that totals less than 1 year of the House-passed bill. Specifically, the Senate version would authorize $50 million in fiscal 1985, $75 million in 1986, and $100 million in 1987.

For someone unfamiliar with such programs, the amounts may seem reasonable. They are not. Assuming that the full first-year authorization were appropriated, a $50 million Federal outlay would fund less than 20 year-round youth enrollees in each of 26 States and territories, excluding Federal lands. Total youth served nationwide for all elements of the program would be 18,517 at the $50 million level; a grand total of less than 85,000 for the entire 3 years.

By contrast, the House level of $300 million would serve a total of over 113,000 youth each year, and well over 600,000 youth over the 6 years. This does not include the additional youth that would be served by spinoff programs established by State and local agencies and nonprofit organizations.

Does the difference matter? Well, to put it another way, there are currently 1.4 million teenagers who are looking for work and who can't find a job. The unemployment rate for black teenagers alone is nearly 42 percent; they and other disadvantaged youth are the most in need of work and least able to find it.

The difference also matters for the natural and cultural resources of this country which need the work that would be provided at the House-passed levels. Indeed, the House version would only make a start in the repair of our Nation's public resources, the cost of which is in the billions.

H.R. 999 was, in fact, intended to supplement but not supplant existing conservation work programs. It would do work that would otherwise not be done. The Senate funding levels would drastically limit the amount of work that could be accomplished.

Furthermore, if appropriations are not adequate, youth enrollment in the corps may be at even more unaccepted low levels. The result could be that the bureaucratic expenditure to establish and run the program in the Federal agencies and all the States might not be warranted.

It is unfortunate that the full Senate was never given a specific op-

portunity to vote on these funding levels. Despite the wide support for the bill and the hard work that the sponsors put into forging a compromise on it, the Senate leadership apparently demanded a take-it-or-leave-it approach that left no room for compromise. And I have been told informally that if the House attempts to make such a compromise—even to restoring modest levels that are substantially less than we approved last year—the bill would die in the Senate.

At the end of my remarks, I include a comparison of the estimated numbers of youth that would be served annually, at alternative funding levels. Certainly there is room for compromise that could be made on a rational, informed basis.

While it is regrettable that we could not have done more this year, I pledge to do everything I can to reopen this issue early in the 99th Congress. Certainly we need to examine more closely other aspects of the Senate amendments. And we must find a way to assure that this worthy and much-needed program is adequately funded.

Also, it is my expectation that appropriated funds which are authorized to be expended for the Youth Conservation Corps program, as established by Public Law 93-408, may be expended for the purposes of this act in fiscal year 1985. The remaining authorization of fiscal year 1985 expenditures under this act could be reduced by those sums.

Before closing, I would like to thank my colleagues who have done so much work on behalf of this legislation. The memory of Mr. Perkins is especially strong and endearing, as he was such a staunch leader in the Education and Labor Committee and cared so much about our Nation's young people. I also want to thank other members of both the Interior Committee and Education and Labor Committees—particularly Mr. UDALL, Mr. LUJAN, Mr. YOUNG, Mr. HAWKINS, Mr. ERLENBORN, and Mr. JEFFORDS. Special thanks go to Mr. CONTE and Mr. BEREUTER, who spoke up so often and so eloquently for this legislation.

I would also like to thank staff members who have worked so hard on it, including Loretta Neumann and Dora Miller from the Interior Committee; and Dick Johnson and Beth Buehlmann from the Education and Labor Committee.

Both Senator MOYNIHAN and Senator MATHIAS deserve our thanks for working so hard on the legislation in the Senate. Their staff, Gray Maxwell of Senator MOYNIHAN'S office and John Rixey of Senator MATHIAS' office provided outstanding assistance to them.

I would also like to note that 45 organizations representing a wide variety of concerns, have supported the bill. Following my remarks, I would like to insert a list of them. One person merits special mention—Syd Howe of the Human Environment Center who has kept the spirit of the conservation corps alive for over 3 years.

Mr. Speaker, in closing I would simply urge Members to support final passage of H.R. 999. While it may not go as far as we want, at least it's a first step in the right direction.

Supporting organizations (45): AFL-CIO, American Forestry Association, Center for Community Change, Children's Foundation, Environmental Action, Environmental Defense Fund, Environmental Policy Center, Environmentalists for Full Employment, Friends of the Earth, Full Employment Action Council, Izaak Walton League of America, Mexican American Legal Defense & Education Fund, NAACP, National Association of CCC Alumni, National Association of Conservation Districts, YMCA of the U.S.A., National Association of State Conservation Corps Program Agents, National Association of State Park Directors, National Audubon Society, National Board—YWCA, National Conference of State Historic Preservation Officers, National Congress of American Indians, National Council of La Raza, National Council of Negro Women, National Parks & Conservation Association, National Recreation & Park Association, National Trust for Historic Preservation, National Urban Coalition, National Urban League, National Trails Council, National Wildlife Federation, National Youth Work Alliance, Native Americans Rights Fund, Natural Resources Defense Council, Northeast Utilities, Preservation Action, Roosevelt Centennial Youth Project, Sierra Club, the Hartford Steam Boiler Inspection & Insurance Co., the Wilderness Society, Trust for Public Land, U.S. Conference of Mayors, U.S. Student Association, Urban Environment Conference, American Hiking Society.

AMERICAN CONSERVATION CORPS—ESTIMATED NUMBERS OF YOUTH SERVED ANNUALLY, AT ALTERNATIVE FUNDING LEVELS

[All dollar figures in millions]

Federal appropriation level	(Deduct) 6 percent Federal administration cost	35 percent to States	15 percent State match	Total for State programs	65 percent for Federal and Indian programs	Total for programs	(Assumed) summer program allocation	Number of youth served, summer	(Assumed) year-round program allocation	Number of youth served, year-round	Total youth served
$50	$3	$16.45	$2.90	$19.35	$30.55	$49.90	$9.98	7,339	$39.92	11,178	18,517
$100	6	32.9	5.81	38.71	61.1	99.81	19.96	14,678	79.84	22,356	37,034
$150	9	49.35	8.71	58.06	91.65	149.71	29.94	22,017	119.77	33,534	55,551
$200	12	65.8	11.61	77.41	122.2	199.61	39.92	29,356	159.69	44,712	74,068
$250	15	82.25	14.51	96.77	152.75	249.52	49.91	36,695	199.61	55,890	92,585
$300 [1]	18	129.25	22.81	152.59	152.75	304.81	60.96	44,825	243.84	68,277	113,102

[1] The final $50,000,000 goes to States alone, and only under the House bill; top-of-column percentages are not applicable at the $300,000,000 Federal level.

Assumptions: 1. Eight-week summer corps: $1,700/position and 1.25 youth served/position/year.
2. Year-round corps: $10,000/annual position and 2.8 youth served by each annual position.
3. Each Federal dollar for States is matched with 17.6 cents (15 percent State match).
4. 12.5 percent of Federal funds for States is divided equally among States (House 10 percent, Senate 15 percent), remainder on youth population basis.
5. 80 percent of expenditures go to year-round program and 20 percent to summer one.

Note.—The above estimates ignore a dozen or more States expected to sustain their own corps funding well in excess of a 15 percent to 85 percent State-Federal match. Also excluded are enrollee positions existing and expected to grow under local philanthropy, fees for services, and other fund sources, all stimulated by ACC.

□ 2120

Mr. LUJAN. Mr. Speaker, I thank the gentleman for his explanation and I agree with him that this kind of legislation is something that needs to be passed.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Ohio?

Mr. CONTE. Mr. Speaker, reserving the right to object, I rise in strong support of this legislation to establish an American Conservation Corps.

Mr. Speaker, let me take this opportunity to commend the able work of Representative SEIBERLING. As an original sponsor of H.R. 999, I've worked with the gentleman from Ohio for over 3 years on this bill, and his leadership in guiding this legislation through his committee and in prying the distinguished other body is commendable. As many Members know, it's not easy to get results from the Senate.

Mr. Speaker, this bill has a long and successful history in the House of Representatives but a slow and dismal life in the other body.

In the 97th Congress, the House passed the bill by a wide margin, but it

died in the Senate. In March 1983, the House approved H.R. 999 by an overwhelming margin—301 to 87. Since that time this important Conservation and Youth Employment Program has been stalled by a few in the other body. Sounds familiar, doesn't it.

The legislation now before the House is well balanced and very conservatively funded, maybe even underfunded. The Senate amendments provided $50 million in fiscal year 1986, $75 million the year after and $100 million in fiscal year 1987. This authorization would serve some 18,500 youth in the first year, and 37,000 in the third year. The House authorized funding level would serve an estimated 113,000 young people annually.

Fiscally minded Members—as we all are—should also be pleased with the cost effectiveness of this type of program. Do you remember the old CCC of the Depression Era of the YACC?

Programs like the ACC have a clear and demonstrated record of success. During the last Congress, administration officials testified before a House subcommittee that for each dollar spent in the YCC Program, $1.04 was returned in the value of the work, averaged nationwide. In the case of the YACC, the cost/benefit ratio is even higher. The average return was $1.20 for each dollar spent. In fact, for some individual cases, the value of the work reached over $7 per $1 expended.

Besides addressing the chronic problem of high unemployment among our youth, this program is productive, worthwhile and needed. It's not a make work program. Some projects undertaken by the ACC would include the conservation of forests and rangelands; the preservation of fish and wildlife habitat; the revitalization of urban areas; the preservation of historic and cultural sites; and so forth.

Mr. Speaker, I urge my colleagues to support this cost-effective program designed to ease youth unemployment and at the same time to address legitimate conservation needs. And it may do some of the great good that the old CC camps did during the Depression.

Mr. LEVITAS. Would the gentleman yield?

I thank the gentleman for yielding.

Mr. Speaker, when this legislation first passed through the House, I was unavoidably absent on official business and was not able to vote in support of it and I would like to simply associate myself with the remarks of the gentleman from Massachusetts.

I think this is important legislation and I hope that the House will swiftly take action to approve its final passage, and I commend the gentleman from Ohio [Mr. SEIBERLING] for bringing it to our attention.

Mr. CONTE. Mr. Speaker, I withdraw my reservation of objection.

Mr. WALKER. Mr. Speaker, reserving the right to object, can the gentleman from Ohio tell me what the administration's position is on this legislation?

Mr. SEIBERLING. If the gentleman would yield, I am unaware of the administration's position. Perhaps the gentleman from Vermont [Mr. JEFFORDS], however, who is acting minority leader on this matter, could explain what that position is, if they have one.

Mr. WALKER. Mr. Speaker, further reserving the right to object, I yield to the gentleman from Vermont.

Mr. JEFFORDS. I thank the gentleman for yielding.

Mr. Speaker, I will be happy to advise the gentleman as well as I can. Initially, when the bill passed the House, the administration was opposed to the bill. It is my understanding from information which I have received from people that the other body has been involved with this, that the administration now because of the reduction in the authorized spending amount is no longer opposed to the bill. That is my understanding.

We inquired to try and ascertain the answer that the gentleman desires; however, we have not received any response from the White House as far as this side of the aisle in this body is concerned.

But I expect that the lack of response is acquiescence, and that is the way I interpret it.

Mr. WALKER. Further reserving the right to object, Mr. Speaker, it was my understanding that the administration still has reservations if not outright opposition about this legislation. Would not it be worthwhile to find out just exactly where they do stand before bringing this out to the floor under unanimous-consent procedure?

Mr. JEFFORDS. If the gentleman would yield, when we attempted to ascertain that, we just had no response. We have been waiting all day for a response and it was my understanding that if they had objections they would be back in touch with us.

So I am taking their nonresponse as acquiescence in the bill with reduced spending. That is the way I interpret it.

Mr. WALKER. Well, that does not strike me as being a particularly logical sequence.

Mr. Speaker, I would say to the gentleman in that the administration, up until now at least, on the public record has indicated they are opposed to this legislation. Would not it be reasonable to withdraw the legislation at this point and wait until we find some explanation from the administration about their desires on this?

It seems silly to bring it up by unanimous consent only to send it down for a pocket veto here at the end of the session if in fact it is going to pass the House with the administration's approval, then I think it is perfectly logical to have it out here under unanimous consent.

Mr. SEIBERLING. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I will be glad to yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Speaker, this bill was very carefully worked over by Senator QUAYLE, Senator MATHIAS, Senator MOYNIHAN, and the committees, including the committee chaired by the chairman of the Senate Appropriations Committee.

So I think it is safe to assume that they felt that the drastic reduction in the authorization that they made was something that would be acceptable or they would not have sent it back over here.

We will send it if there is no objection to the President. If the administration does not like it, as the gentleman has already pointed out, they do not have to do anything. It will just die, but I do feel that with all the work that has been on this bill with the tremendous majorities that it has received every time it has come up in the House, the fact that it passed the Senate without a single dissenting vote would indicate that it has very widespread support on all sides of the aisle and since it is only an authorization bill and appropriates no money, I would suggest that the thing to do at this late stage in this Congress is to send it to the White House. There is not time to tinker with it any more and let them decide what they want to do.

Mr. WALKER. Mr. Speaker, further reserving the right to object, I would say to the gentleman that I am one Member of Congress that would rather like to know what the administration that previously has been opposed to this bill is going to say, since this one Member of Congress can take steps to assure that the consideration of this bill does not come up, it seems to me it would be more logical for the gentleman to withdraw the bill at this time until we have an opportunity to find that out, and thereby not put in jeopardy all the hard work that has gone into the bill.

Mr. SEIBERLING. If the gentleman would yield, if it were vetoed it would be in jeopardy and if it does not pass the House it will be in jeopardy, so I do not see that it makes much difference, but I suggest to the gentleman that the administration's original objections were to the funding levels in the bill. They have been reduced 600 percent from what they were.

Mr. WALKER. Further reserving the right to object, Mr. Speaker, I would say to the gentleman, here is the situation you are in: That I, for one, would like to know what that position is. If the administration, in fact, has no objection, then we can go

ahead with this bill. If I object here, all the hard work goes down the drain.

Mr. SEIBERLING. If the gentleman will yield, no, it will not.

Mr. Speaker, we will go get a rule and bring it right back up again when it will pass 4 to 1, as it did before. So I am merely suggesting to the gentleman, and I have eight more bills including a lot of bills that the Members on that side of the aisle want, and if he objects to this bill we will just grind the whole thing to a halt right now and let it go.

So, the gentleman is making a threat here which I think should not be made at this hour. This thing has been worked out. It is a consensus bill and I do not think it would be right for one person to hold it up in this manner.

Mr. WALKER. Mr. Speaker, the gentleman from Pennsylvania is attempting to be reasonable but the gentleman from Pennsylvania has had this bill sprung on him. I know only that the administration in the past has been opposed to it.

This is the first that I knew that the bill was coming up here late this evening. It seems to me that it is reasonable for me to suggest as someone who does have some concerns in that area, that maybe it ought to be something where we know what is going on before we bring the bill up.

Mr. SEIBERLING. Mr. Speaker, would the gentleman yield?

Mr. WALKER. I will be glad to yield to the gentleman.

Mr. SEIBERLING. I thank the gentleman for yielding to me.

Mr. Speaker, let me simply say that the facts are that this is the bill that the administration originally objected to. That bill had much greater authorization in it and so they have not objected to this bill.

They have known that it was pending for weeks. They have known that it was before the House today. The gentleman from Vermont has tried to get them to take the position and they have not objected so on that basis, it seems to me that if they had an objection they would have registered it by now and I would recommend that the gentleman withhold it and allow us to make some progress.

Mr. WALKER. Mr. Speaker, I just got word right now that the administration is opposed to the bill. They have just called, and I object.

□ 2130

The SPEAKER pro tempore. Objection is heard.

The Chair recognizes the gentleman from Ohio [Mr. SEIBERLING].

Mr. SEIBERLING. Mr. Speaker, the next bill I had on the agenda was the Pennsylvania wilderness bill that Senator HEINZ and Senator SPECTER have agreed to. I do not intend to offer it at this time, or any of the other bills, including Mississippi and some others that I had on the agenda.

CONFERENCE REPORT ON S. 1097, AUTHORIZING APPROPRIATIONS FOR THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Mr. FUQUA. Mr. Speaker, I call up the conference report on the bill (S. 1097) to consolidate and authorize certain atmosphere and satellite programs and functions of the National Oceanic and Atmospheric Administration under the Department of Commerce, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to the rule, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of September 28, 1984, page H10391.)

The SPEAKER pro tempore. The gentleman from Florida [Mr. FUQUA] will be recognized for 30 minutes and the gentleman from New York [Mr. CARNEY] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Florida [Mr. FUQUA].

Mr. FUQUA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the committee of conference for the bill, S. 1097, authorizing funds for the National Oceanic and Atmospheric Administration [NOAA] for the fiscal years 1984, 1985, and 1986, has successfully concluded its work. I want to acknowledge the fine efforts of the House conferees and the staff on both sides of the aisle in completing this conference.

The conference report on S. 1097 was filed on September 28, 1984, and is included in the RECORD of that day.

The report before you includes the disposition of differences in three areas: In fiscal year 1985 funding levels; in the requirement for a successful launch of the NOAA-F spacecraft prior to transfer of the NOAA-D satellite to the Navy Remote Ocean Sensing System [NROSS]; and in the application of 30-day stay in the A-76 process governing contracting out of NOAA functions.

With respect to funding, the report authorizes $929,023,000 for NOAA's atmospheric and oceanic research and services for fiscal year 1985, which is exactly the level of funding appropriated by this House in the Commerce/State/Justice appropriations bill for fiscal year 1985.

This level of funding will enable NOAA to fulfill the environmental responsibilities which the Congress has mandated for it—responsibilities in such crucial areas as tornado and hurricane forecasting, aviation and agricultural weather services, ocean pollution research, and research into acid rain, the "greenhouse effect," and other forms of atmospheric pollution.

With respect to remote sensing of the world's oceans, the report would make the NOAA-D weather satellite available for the Navy Remote Ocean Sensing System [NROSS], pending reimbursement by the Navy and pending a successful launch of the next polar-orbiting weather satellite in November. This compromise will enable the Navy to remain on schedule for a 1989 launch of NROSS. A program which will be of great importance not only to the military readiness, but also to civilian shipping, fishing, and offshore energy exploration. Transferring NOAA-D to the NROSS system will also guarantee that all future NOAA polar-orbiting weather satellites will carry search-and-rescue packages, which in the past 2 years alone have been responsible for saving nearly 300 stranded sailors and pilots around the world.

The conferees also adopted a responsible compromise position on the provision relating to contracting out of NOAA functions under OMB Circular A-76. The A-76 process in NOAA has been highly controversial—in fact, it has already been reviewed by six congressional committees. The substitute recognizes that the A-76 process can be used to reduce inefficiencies. At the same time, by mandating a 30-day stay in the process, the substitute provides the Congress with an adequate opportunity for considering A-76 proposals without imposing undesirable delays in NOAA's efforts to improve management.

The conference action before us represents a fair compromise between the actions of the two Houses, and I urge the support of my colleagues for the conference report.

Mr. Speaker, I reserve the balance of my time.

Mr. CARNEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the conference agreement on S. 1097, the National Oceanic and Atmospheric Administration [NOAA] authorization for fiscal year 1985.

When this bill passed the House, several of the minority members of the Committee on Science and Technology had serious concerns with it, because of the funding levels and provisions added on through floor amendments.

I am pleased to say that our concerns have been addressed by this agreement. The funding levels have been brought into conformity with the Commerce Appropriations law for fiscal year 1985, and the most objectionable provisions have been deleted or modified substantially. All of the minority House conferees have signed the conference agreement.

I urge my colleagues to support the conference agreement.

Mr. SCHEUER. Mr. Speaker, will the gentleman yield?

Mr. FUQUA. I yield to the distinguished gentleman from New York, the chairman of the subcommittee.

Mr. SCHEUER. I thank the gentleman for yielding.

Mr. Speaker, I rise in support of the conference report and urge my colleagues to do likewise.

Mr. Speaker, S. 1097 marks the beginning of a new relationship between Congress and the National Oceanic and Atmospheric Administration.

NOAA was established in 1970 with the mission of providing services and research in the sea and in the air.

In the intervening 14 years, the Congress has come to recognize NOAA as a first-rate scientific and service organization, and has voted on numerous occasions to expand NOAA's environmental responsibilities.

However, the Congress has never reviewed and evaluated the missions and programs of this important agency as a whole, with the view of understanding how its components ought to relate to each other and to national priorities.

S. 1097 and its companion bill, H.R. 2900, have provided Members with a unique opportunity to review and reorder the agency's priorities.

This type of oversight can only help NOAA to improve its programs and to keep them in tune with the needs of the public.

The conference report before us is a good compromise between the interests of the two Houses.

By the very nature of the process, one is never happy with every element of a compromise, and I for one, wish that the House conferees had been able to prevail on the issue to acid rain reporting.

However, it became clear as the conference unfolded that if the House had held firm on his provision, the conferees would never have reached agreement on S. 1097. Indeed, a hold was placed on this bill by an opponent of the acid rain reporting provision and it became clear after months of discussion that S. 1097 would not move without deletion of this provision.

Although we were not able to prevail on this single issue, we will be sending a bill to the President which provides for a number of essential environmental initiatives.

Among these I might mention: Funding for ocean pollution research and for research on a whole host of atmospheric pollutants; strong support for weather services and severe weather warnings; protection against overly hasty contracting out of a variety of environmental functions; and enhancement of a variety of satellite programs which save stranded pilots and mariners, which monitor environmental trends, and which provide environmental information to over 120 nations of the developing world.

By dropping the section on acid rain, we have allowed this bill and these important programs to go forward.

We fully intend to review the acid rain reporting provision next Congress and to do everything in our power to persuade our colleagues in the other body to support such a provision.

Mr. Speaker, the conference report on S. 1097 is a solid and an historic piece of legislation, and I strongly urge my colleagues to support it.

● Mr. D'AMOURS. Mr. Speaker, I respectfully disagree with the conference report to S. 1097. My disagreement is not with regard to what is contained in the conference report, but rather what has not been adopted by the conferees. I wholeheartedly support the provisions contained in the conference report, but I am distressed that the acid precipitation reporting provision was not included in the report.

As passed by the House, S. 1097 contained an important amendment that would have directed the National Weather Service to issue periodic reports on the acid content found in precipitation. Acid precipitation information is currently being collected by the National Acid Precipitation Assessment Program which was established by Congress in 1980. This information would have been transferred to the weather service to be issued as part of the routine local weather information.

The purpose of this provision was simple. Acid precipitation is a national problem. Because the Northeastern United States are the most directly affected by acid precipitation, residents of those States have been the most vocal about solving the problem. Unfortunately, what is not understood is that large areas of the United States are vulnerable to damage. If we are to resolve this problem which is most evident in New England, we need to make the American public as a whole more aware of the scope of the problem. By presenting the information as part of regular weather reports, Americans could have begun to appreciate the fact that areas of the United States other than New England are at risk from acid precipitation.

Undoubtedly, nothing short of a definitive plan of action for reducing acidic emissions will have a significant impact on halting this environmental devastation. I had sincerely hoped that we would have been able to enact a meaningful emissions reduction program in this Congress. I believe our strongest ally in this effort to control acid-producing emissions is an informed and active public that understands the need for an immediate emissions reduction program and urges its elected representatives to respond accordingly. This amendment would have aided in the effort to educate the public on the dangers of acid precipitation. It is unfortunate that short-sighted parochial interests led to the dropping of this provision.

In closing, Mr. Speaker, I would like to thank Mr. FUQUA, Mr. SCHEUER, Mr. JONES, and other Members of the House Conference Committee for giving me the time to try to get the Senate to agree to this provision.●

● Mr. STUDDS. Mr. Speaker, I rise in support of the conference report and wish to comment, in particular, on language restricting the contracting of activities performed by the National Oceanic and Atmospheric Administration [NOAA]. This provision, which is section 205(B) of the bill, would allow Congress 30 working days to review specific proposals that certain NOAA activities be performed by the private sector. This language is very important in light of the hasty and ill-considered manner in which NOAA had originally embarked on its effort to contract out critical nautical services. Earlier this year, NOAA was proceeding with a program to contract out the work performed by its chartmaking branch and by the Atlantic and Pacific Marine Centers, work that involved the collection and consolidation of navigational data used on nautical charts. NOAA's nautical charts have historically been of high quality and contain information that is absolutely vital to the national security and to the safety of everyone who tries to navigate on the waterways of the United States.

NOAA's plan to contract with the private sector for the preparation and production of its nautical charts was the subject of a hearing held by the Subcommittee on Coast Guard and Navigation on April 5 of this year. At that time, many Members, myself included, were highly critical of that plan. It became abundantly clear during the course of that hearing that the plan had not been developed with sufficient attention to national security, public safety, or governmental efficiency. The NOAA witness was unable to adequately answer questions regarding:

First, the availability of private companies with the experience and resources needed to do the jobs now done by NOAA;

Second, the possible liability of the Government for any mistakes made by the contractors it hires to do the job;

Third, the ability of the Government to order contractors to work under difficult or dangerous conditions, or to respond immediately and effectively to emergency situations;

Fourth, the fact that NOAA's plans were based on the recommendations of a consultant who had virtually no knowledge of nautical cartography; and

Fifth, the fact that the views of the Coast Guard, the Defense Department, the fishing industry, vessel pilot associations, and recreational boaters were never solicited by NOAA.

Through subsequent conversations and correspondence with NOAA officials, I now believe that the concerns raised at the hearing in April are being at least partially addressed. Those of us who shared those concerns remain interested and determined that the contracting process will be carried out in a manner that will serve the public interest, and that we will have assurances that high quality nautical charts will continue to be produced.

The legislation we are considering today will not prevent NOAA from going forward with a carefully thought out plan for contracting appropriate services to the private sector. It will, however, make certain that Congress is aware of those efforts, and that interested Representatives will have an opportunity to comment on the contracting plans as they evolve. This degree of caution is, it seems to me, fully warranted by the events of the past year, events which indicate both that congressional oversight is necessary, and that criticism of certain aspects of NOAA planning will cause NOAA to modify and improve its procedures.●

● Mr. JONES of North Carolina. Mr. Speaker, I rise in strong support of the conference report on S. 1097, authorizing appropriations for several important programs in the National Oceanic and Atmospheric Administration [NOAA]. I would like to commend the diligence and leadership of Chairman FUQUA, of the Committee on Science and Technology, and the fine efforts of the subcommittee chairman, Congressman SCHEUER, in bringing this important legislation before the House today.

Mr. Speaker, S. 1097 proposes to reauthorize several important atmospheric and oceanic programs within NOAA, over which the Committee on Merchant Marine and Fisheries and the Committee on Science and Technology exercise jurisdiction. I will address my comments to those programs of particular interest to the Committee on Merchant Marine and Fisheries. Section 203 authorizes funds relating to NOAA's oceanic research and service activities, including mapping and charting, for fiscal years 1984, 1985, and 1986 in the amount of $104 million, $109 million, and $115 million, respectively. These funds are to be used to finance activities conducted pursuant to the Coast and Geodetic Survey Act of 1947, and include undersea marine resources, air-sea interactions and ocean and Great Lakes environmental research, as well as research relating to marine pollution and ocean dumping. Further, section 204 of the legislation authorizes funds for its executive direction and administration accounts and for its marine and aircraft services for fiscal years 1984, 1985, and 1986 in the amount of $113 million, $121.4 million, and $124 million, respectively.

Contained in section 205(b) is an important restriction on the use of funds authorized under this legislation to issue a request for proposal or, in certain circumstances, to award any contract for, the performance of any function or activity that was, on January 26, 1984, performed by NOAA employees unless NOAA has presented to Congress a full and complete statement of the proposed action and a 30-day waiting period has expired. I would point out to my colleagues that this requirement is not a prohibition on the contracting out of nongovernmental functions; rather, it is simply a requirement that NOAA report to Congress on its proposed intentions for contracting out functions that are presently performed by NOAA employees before it undertakes those contracts. It is, in essence, a modest proposal to permit Congress to exercise its appropriate oversight responsibilities and to ensure that activities that are inherently governmental are retained within NOAA.

Mr. Speaker, title V of S. 1097 proposes to reauthorize selected ocean and coastal programs within NOAA and EPA. First, it proposes amendments to and reauthorization of title II of the Marine, Protection, Research and Sanctuaries Act [MPRSA] at $12 million for 1984, $12.6 million for 1985, and $13.3 million for 1986. These noncontroversial amendments to title II include requirements for greater coordination between marine research within NOAA and the regulatory program for ocean dumping in the Environmental Protection Agency [EPA]. It also contains greater specificity in the research authorized by title II for EPA to ensure that EPA develops information on the critical issues associated with marine pollution and ocean dumping. Further, it would call upon EPA, in cooperation with NOAA and other appropriate State and local officials, to assess the feasibility of developing regional waste management plans in coastal areas. Such plans would require the development of a comprehensive regional disposal strategy and address, among other factors, the types of materials that will require disposal, the environmental, economic and health factors associated with the disposal alternatives, and the applicable laws and regulations governing waste disposal in the region. The amendments require EPA to submit to Congress within 1 year a report on sewage sludge disposal in the New York region. This report, in essence, is to constitute a regional waste management strategy for the New York-New Jersey region. The amendments in title V also consolidate the reporting requirements of title II of the MPRSA.

Further, title V proposes to reauthorize the National Ocean Pollution Planning Act for fiscal years 1984, 1985 and 1986 in the amount of $3 million, $3.2 million and $3.4 million, respectively. Title V also contains several amendments that emphasize the importance of marine pollution research for the Great Lakes and calls for greater coordination of that research.

Once again, I would like to commend my colleagues on the Committee on Science and Technology for their efforts in bringing this measure before us today, and I urge adoption of this conference report.●

Mr. FUQUA. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the conference report.

The conference report was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. FUQUA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report on S. 1097, just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

CHILDREN'S PRODUCTS SAFETY ACT OF 1984

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 5818) to amend the Federal Hazardous Substances Act to apply the notice and repair, replacement, and refund provisions of that act to defective toys and other articles intended for use by children, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Strike out all after the enacting clause and insert:

That this Act may be cited as the "Toy Safety Act of 1984".

SEC. 2. (a) Section 15 of the Federal Hazardous Substances Act (15 U.S.C. 1274) is amended—

(1) by redesignating subsections (c), (d), and (e) as subsections (d), (e), and (f), respectively; and

(2) by inserting immediately after subsection (b) the following:

"(c)(1) If the Commission determines (after affording interested persons, including consumers and consumer organizations, an opportunity for a hearing in accordance

with subsection (e) of this section) that any toy or other article intended for use by children that is not a banned hazardous substance contains a defect which creates a substantial risk of injury to children (because of the pattern of defect, the number of defective toys or such articles distributed in commerce, the severity of the risk, or otherwise) and that notification is required to protect adequately the public from such toy or article, the Commission may order the manufacturer or any distributor or dealer of such toy or article to take any one or more of the following actions:

"(A) To give public notice that such defective toy or article contains a defect which creates a substantial risk of injury to children.

"(B) To mail such notice to each person who is a manufacturer, distributor, or dealer of such toy or article.

"(C) To mail such notice to every person to whom the person giving notice knows such toy or article was delivered or sold.

An order under this paragraph shall specify the form and content of any notice required to be given under the order.

"(2) If the Commission determines (after affording interested persons, including consumers and consumer organizations, an opportunity for a hearing in accordance with subsection (e) of this section) that any toy or other article intended for use by children that is not a banned hazardous substance contains a defect which creates a substantial risk of injury to children (because of the pattern of defect, the number of defective toys or such articles distributed in commerce, the severity of the risk, or otherwise) and that action under this paragraph is in the public interest, the Commission may order the manufacturer, distributor, or dealer to take whichever of the following actions the person to whom the order is directed elects:

"(A) If repairs to or changes in the toy or article can be made so that it will not contain a defect which creates a substantial risk of injury to children, to make such repairs or changes.

"(B) To replace such toy or article with a like or equivalent toy or article which does not contain a defect which creates a substantial risk of injury to children.

"(C) To refund the purchase price of such toy or article (less a reasonable allowance for use, if such toy or article has been in the possession of the consumer for 1 year or more (i) at the time of public notice under paragraph (1)(A), or (ii) at the time the consumer receives actual notice that the toy or article contains a defect which creates a substantial risk of injury to children, whichever first occurs).

An order under this paragraph may also require the person to whom it applies to submit a plan, satisfactory to the Commission, for taking the action which such person has elected to take. The Commission shall specify in the order the person to whom refunds must be made if the person to whom the order is directed elects to take the action described in subparagraph (C). If an order under this paragraph is directed to more than one person, the Commission shall specify which person has the election under this paragraph. An order under this paragraph may prohibit the person to whom it applies from manufacturing for sale, offering for sale, distributing in commerce, or importing into the customs territory of the United States (as defined in general headnote 2 to the Tariff Schedules of the United States), or from doing any combination of such actions, with respect to the toy or article with respect to which the order was issued.".

(b) Section 15(d)(1) of the Federal Hazardous Substances Act, as so redesignated by subsection (a) of this section, is amended by striking "subsection (b)" and inserting in lieu thereof "subsection (b) or (c)".

(c) Section 15(d)(2) of such Act, as so redesignated by subsection (a) of this section, is amended—

(1) by striking "an article" and inserting in lieu thereof "a toy, article"; and

(2) by inserting "toy," immediately before "article" the second and third time it appears.

(d) Section 15 (d)(2) and (e) of such Act, as so redesignated by subsection (a) of this section, is amended by striking "subsection (a) or (b)" and inserting in lieu thereof "subsection (a), (b), or (c)".

Amend the title so as to read: "An Act to enable the Consumer Product Safety Commission to protect the public by ordering notice and repair, replacement or refund of certain toys or articles intended for use by children if such toys or articles contain a defect which creates a substantial risk of injury to children.".

Mr. WAXMAN (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from California?

Mr. NIELSON of Utah. Mr. Speaker, reserving the right to object, and I will not object, but I simply want to ask two questions.

Initially we called this bill the Children's Products Safety Act in accordance with the wishes of the Toy Manufacturers of America. Is it the gentleman's impression that this is the same bill and that the title does not affect the content?

Mr. WAXMAN. There are no substantive differences between the House-passed bill and the Senate bill.

Mr. NIELSON of Utah. I thank the gentleman.

The second question: The Toy Manufacturers' Association preferred the term "retailers" and the Senate uses the word "dealers." Is there any substantial difference as far as the gentleman can tell between "retailers" and "dealers"?

Mr. WAXMAN. They are legally synonymous. There is no difference between the two terms.

Mr. NIELSON of Utah. And the Toy Manufacturers are agreeable to that?

Mr. WAXMAN. Yes; they are.

Mr. Speaker, I strongly support H.R. 5818 as amended by the Senate. There are no substantive differences between the bill before us and that adopted by the House on the Suspension Calendar by voice vote. The Senate amendment makes only technical changes in the House-passed bill.

H.R. 5818 as amended by the Senate modifies the Federal Hazardous Substances Act to enable the Consumer Product Safety Commission [CPSC] to recall quickly dangerous toys or other articles used by children. Currently, the CPSC can recall and order corrected a dangerously defective toaster faster than a deadly toy. This ironic result is caused by an inconsistency in the law that requires the CPSC to promulgate a special rule before it can recall dangerous toys. This additional rulemaking requirement does not apply to recalls of other dangerously defective consumer products.

This time-consuming procedure has delayed by as much as 14 months the recall of toys that are alleged to have caused deaths and serious injuries. There is no reason for the law to be more lax where toys are concerned. When a toy has been determined to be hazardous, the lives and safety of children should not be jeopardized by delaying the recall. The CPSC should be able to recall the hazardous toy as quickly as any other consumer product.

Greater toy safety has been overwhelmingly endorsed by the public. According to a recent Lou Harris Poll, 88 percent of those surveyed wanted the CPSC to do more to assure that toys are safe. The Toy Safety Act responds to that demand. It authorizes the CPSC to give public notice about any toy that poses a substantial risk of injury to children. In addition, it empowers the agency to order the toymaker to repair, replace, or give a refund for the dangerously defective toy.

The legislation has been endorsed by the Consumer Product Safety Commission, Consumer Federation of America, Consumers Union, American Academy of Pediatrics, and the administration. The bill is not opposed by the Toy Manufacturers of America.

I urge my colleagues to support H.R. 5818 with the Senate amendment.

Mr. NIELSON of Utah. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate amendments to the bill, H.R. 5818, just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

CONFERENCE REPORT ON H.R. 2867 HAZARDOUS AND SOLID WASTE AMENDMENTS OF 1984

Mr. FLORIO submitted the following conference report and statement on the bill (H.R. 2867) to amend the Solid Waste Disposal Act to authorize appropriations for the fiscal years 1984 through 1986, and for other purposes:

CONFERENCE REPORT (H. REPT. No. 98-1133)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2867) to amend the Solid Waste Disposal Act to authorize appropriations for the fiscal years 1985 through 1988, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate to the text of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SHORT TITLE AND TABLE OF CONTENTS

SECTION 1. This Act may be cited as "The Hazardous and Solid Waste Amendments of 1984".

TABLE OF CONTENTS

Sec. 1. Short title and table of contents.
Sec. 2. Authorizations for fiscal years 1985 through 1988.
TITLE I—PROVISIONS RELATING PRIMARILY TO SUBTITLES A AND B OF THE SOLID WASTE DISPOSAL ACT
Sec. 101. Findings and objectives of Solid Waste Disposal Act.
Sec. 102. Dioxins from resource recovery facilities.
Sec. 103. Ombudsman.
TITLE II—PROVISIONS RELATING PRIMARILY TO SUBTITLE C OF THE SOLID WASTE DISPOSAL ACT
Subtitle A—Amendments Primarily to Section 3004
Sec. 201. Land disposal of hazardous waste.
Sec. 202. Minimum technological requirements.
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Sec. 222. Listing and delisting of hazardous waste.
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Sec. 224. Waste minimization.
Sec. 225. Basis of authorization.
Sec. 226. Availability of information.
Sec. 227. Interim authorization of State programs.
Sec. 228. Application of amendments to authorized States.
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Sec. 241. Management of used oil.
Sec. 242. Recovery and recycling of used oil.
Sec. 243. Expansion during interim status.
Sec. 244. Inventory of Federal agency hazardous waste facilities.
Sec. 245. Export of hazardous waste.
Sec. 246. Domestic sewage.
Sec. 247. Exposure information and health assessments.
TITLE III—PROVISIONS RELATING PRIMARILY TO SUBTITLE D OF THE SOLID WASTE DISPOSAL ACT
Sec. 301. Size of waste-to-energy facilities.
Sec. 302. Subtitle D improvements.
TITLE IV—PROVISIONS RELATING PRIMARILY TO SUBTITLE G OF THE SOLID WASTE DISPOSAL ACT
Sec. 401. Citizen suits.
Sec. 402. Imminent hazard.
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TITLE V—PROVISIONS RELATING TO SEVERAL SUBTITLES OF THE SOLID WASTE DISPOSAL ACT
Sec. 501. Use of recovered materials by Federal agencies.
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TITLE VI—UNDERGROUND STORAGE TANKS
Sec. 601. Underground storage tank regulation.
TITLE VII—OTHER PROVISIONS
Sec. 701. Report to Congress on injection of hazardous waste.
Sec. 702. Extending the useful life of sanitary landfills.
Sec. 703. Uranium mill tailings.
Sec. 704. National Ground Water Commission.

AUTHORIZATIONS FOR FISCAL YEARS 1985 THROUGH 1988

SEC. 2. (a) Section 2007(a) of the Solid Waste Disposal Act (relating to general authorization) is amended by striking out "and $80,000,000 for the fiscal year ending September 30, 1982" and substituting "$80,000,000 for the fiscal year ending September 30, 1982, $70,000,000 for the fiscal year ending September 30, 1985, $80,000,000 for the fiscal year ending September 30, 1986, $80,000,000 for the fiscal year ending September 30, 1987, and $80,000,000 for the fiscal year 1988.".

(b) Section 3011(a) of the Solid Waste Disposal Act (relating to State hazardous waste programs) is amended by striking out "and $40,000,000 for the fiscal year 1982" and substituting "$40,000,000 for the fiscal year 1982, $55,000,000 for the fiscal year 1985, $60,000,000 for the fiscal year 1986, $60,000,000 for the fiscal year 1987, and $60,000,000 for the fiscal year 1988".

(c) Section 3012 of the Solid Waste Disposal Act (relating to the hazardous waste inventory) is amended by striking out "$20,000,000" in subsection (c)(2) and inserting in lieu thereof "$25,000,000 for each of the fiscal years 1985 through 1988".

(d) Section 4008(a)(1) of the Solid Waste Disposal Act (relating to development and implementation assistance) is amended by striking out "and $20,000,000 for fiscal year 1982" and substituting "$20,000,000 for the fiscal year 1982, and $10,000,000 for each of the fiscal years 1985 through 1988".

(e) Section 4008 (a)(2)(C) of the Solid Waste Disposal Act (relating to implementation assistance) is amended by striking out "and $10,000,000 for fiscal year 1982" and substituting "$10,000,000 for fiscal year 1982, and $10,000,000 for each of the fiscal years 1985 through 1988".

(f) Section 4008(e)(2) of the Solid Waste Disposal Act (relating to special communities) is amended by striking out "and $1,500,000 for each of the fiscal years 1981 and 1982" and substituting ", $1,500,000 for each of the fiscal years 1981 and 1982, and $500,000 for each of the fiscal years 1985 through 1988".

(g) Section 4008 of the Solid Waste Disposal Act (relating to Federal assistance for certain programs) is amended in paragraph (4) of subsection (f) (relating to assistance to States for discretionary programs for recycled oil) by striking out "and $5,000,000 for fiscal year 1983" and substituting ", $5,000,000 for fiscal year 1983, and $5,000,000 for each of the fiscal years 1985 through 1988".

(h) Section 5006 of the Solid Waste Disposal Act (relating to Department of Commerce functions) is amended by inserting after "1982" the following "and $1,500,000 for each of the fiscal years 1985 through 1988".

(i) Section 2007 of the Solid Waste Disposal Act (relating to criminal investigators) is amended by adding the following new subsections at the end thereof:

"(e) CRIMINAL INVESTIGATORS.—There is authorized to be appropriated to the Administrator $3,246,000 for the fiscal year 1985, $2,408,300 for the fiscal year 1986, $2,529,000 for the fiscal year 1987, and $2,529,000 for the fiscal year 1988 to be used—

"(1) for additional officers or employees of the Environmental Protection Agency authorized by the Administrator to conduct criminal investigations (to investigate, or supervise the investigation of, any activity for which a criminal penalty is provided) under this Act; and

"(2) for support costs for such additional officers or employees.

"(f) UNDERGROUND STORAGE TANKS.—(1) There are authorized to be appropriated to the Administrator for the purpose of carrying out the provisions of subtitle I (relating to regulation of underground storage tanks), $10,000,000 for each of the fiscal years 1985 through 1988.

"(2) There is authorized to be appropriated $25,000,000 for each of the fiscal years 1985 through 1988 to be used to make grants to the States for purposes of assisting the States in the development and implementation of approved State underground storage tank release detection, prevention, and correction programs under subtitle I."

(j) There is authorized to be appropriated for purposes of section 221(b) of this Act (entitled "Small Quantity Generator Waste")

$500,000 for each of the fiscal years 1985 through 1987.

(k) Section 4008(a)(2) of the Solid Waste Disposal Act is amended by adding the following new subparagraph after subparagraph (C):

"(D) There are authorized—

"(i) to be made available $15,000,000 out of funds appropriated for fiscal year 1985, and

"(ii) to be appropriated for each of the fiscal years 1986 though 1988, $20,000,000

for grants to States (and where appropriate to regional, local, and interstate agencies) to implement programs requiring compliance by solid waste management facilities with the criteria promulgated under section 4004(a) and section 1008(a)(3) and with the provisions of section 4005. To the extent practicable, such programs shall require such compliance not later than 36 months after the date of the enactment of the Hazardous and Solid Waste Amendments of 1984.".

(l) For provisions authorizing the appropriation of funds for the National Ground Water Commission, see section 704 of this Act.

TITLE I—PROVISIONS RELATING PRIMARILY TO SUBTITLES A AND B OF THE SOLID WASTE DISPOSAL ACT

FINDINGS AND OBJECTIVES OF SOLID WASTE DISPOSAL ACT

SEC. 101. (a) Section 1002(b) of the Solid Waste Disposal Act is amended by—

(1) striking out paragraph (5) and substituting:

"(5) the placement of inadequate controls on hazardous waste management will result in substantial risks to human health and the environment;

"(6) if hazardous waste management is improperly performed in the first instance, corrective action is likely to be expensive, complex, and time consuming;

"(7) certain classes of land disposal facilities are not capable of assuring long-term containment of certain hazardous wastes, and to avoid substantial risk to human health and the environment, reliance on land disposal should be minimized or eliminated, and land disposal, particularly landfill and surface impoundment, should be the least favored method for managing hazardous wastes; and";

(2) redesignating paragraph (6) as paragraph (8); and

(3) striking out the semicolon in redesignated paragraph (8) and substituting a period.

(b) Section 1003 of the Solid Waste Disposal Act is amended by—

(1) adding "AND NATIONAL POLICY" to the title, inserting "(a) OBJECTIVES.—" after "SEC. 1003.", and adding the following new subsection at the end thereof:

"(b) NATIONAL POLICY.—The Congress hereby declares it to be the national policy of the United States that, wherever feasible, the generation of hazardous waste is to be reduced or eliminated as expeditiously as possible. Waste that is nevertheless generated should be treated, stored, or disposed of so as to minimize the present and future threat to human health and the environment."; and

(2) striking out paragraph (4) of subsection (a) (as designated by paragraph (1) of this subsection), substituting the following new paragraphs in such subsection (a), and redesignating paragraphs (5) through (8) thereof as paragraphs (8) through (11):

"(4) assuring that hazardous waste management practices are conducted in a manner which protects human health and the environment;

"(5) requiring that hazardous waste be properly managed in the first instance thereby reducing the need for corrective action at a future date;

"(6) minimizing the generation of hazardous waste and the land disposal of hazardous waste by encouraging process substitution, materials recovery, properly conducted recycling and reuse, and treatment;

"(7) establishing a viable Federal-State partnership to carry out the purposes of this Act and insuring that the Administrator will, in carrying out the provisions of subtitle C of this Act, give a high priority to assisting and cooperating with States in obtaining full authorization of State programs under subtitle C;".

DIOXINS FROM RESOURCE RECOVERY FACILITIES

SEC. 102. Section 1006(b) of the Solid Waste Disposal Act is amended by inserting "(1)" after "INTEGRATION WITH OTHER ACTS.—" and by adding the following new paragraph at the end thereof:

"(2)(A) As promptly as practicable after the date of the enactment of the Hazardous and Solid Waste Amendments of 1984, the Administrator shall submit a report describing—

"(i) the current data and information available on emissions of polychlorinated dibenzo-p-dioxins from resource recovery facilities burning municipal solid waste;

"(ii) any significant risks to human health posed by these emissions; and

"(iii) operating practices appropriate for controlling these emissions.

"(B) Based on the report under subparagraph (A) and on any future information on such emissions, the Administrator may publish advisories or guidelines regarding the control of dioxin emissions from such facilities. Nothing in this paragraph shall be construed to preempt or otherwise affect the authority of the Administrator to promulgate any regulations under the Clean Air Act regarding emissions of polychlorinated dibenzo-p-dioxins.".

OMBUDSMAN

SEC. 103. (a) Subtitle B of the Solid Waste Disposal Act is amended by inserting the following new section after section 2007:

"OFFICE OF OMBUDSMAN

"SEC. 2008. (a) ESTABLISHMENT; FUNCTIONS.—The Administrator shall establish an Office of Ombudsman, to be directed by an Ombudsman. It shall be the function of the Office of Ombudsman to receive individual complaints, grievances, requests for information submitted by any person with respect to any program or requirement under this Act.

"(b) AUTHORITY TO RENDER ASSISTANCE.—The Ombudsman shall render assistance with respect to the complaints, grievances, and requests submitted to the Office of Ombudsman, and shall make appropriate recommendations to the Administrator.

"(c) EFFECT ON PROCEDURES FOR GRIEVANCES, APPEALS, OR ADMINISTRATIVE MATTERS.—The establishment of the Office of Ombudsman shall not affect any procedures for grievances, appeals, or administrative matters in any other provision of this Act, any other provision of law, or any Federal regulation.

"(d) TERMINATION.—The Office of the Ombudsman shall cease to exist 4 years after the date of enactment of the Hazardous and Solid Waste Amendments of 1984.".

(b) The table of contents for such Act is amended by inserting the following new item after the item relating to section 2007: "Sec. 2008. Office of Ombudsman.".

TITLE II—PROVISIONS RELATING PRIMARILY TO SUBTITLE C OF THE SOLID WASTE DISPOSAL ACT

Subtitle A—Amendments Primarily to Section 3004

LAND DISPOSAL OF HAZARDOUS WASTE

SEC. 201. (a) LAND DISPOSAL OF CERTAIN HAZARDOUS WASTES.—Section 3004 of the Solid Waste Disposal Act is amended by inserting "(a) IN GENERAL.—" after "3004." and by adding the following at the end thereof:

"(b) SALT DOME FORMATIONS, SALT BED FORMATIONS, UNDERGROUND MINES AND CAVES.—(1) Effective on the date of the enactment of the Hazardous and Solid Waste Amendments of 1984, the placement of any noncontainerized or bulk liquid hazardous waste in any salt dome formation, salt bed formation, underground mine, or cave is prohibited until such time as—

"(A) the Administrator has determined, after notice and opportunity for hearings on the record in the affected areas, that such placement is protective of human health and the environment;

"(B) the Administrator has promulgated performance and permitting standards for such facilities under this subtitle; and

"(C) a permit has been issued under section 3005(c) for the facility concerned.

"(2) Effective on the date of enactment of the Hazardous and Solid Waste Amendments of 1984, the placement of any hazardous waste other than a hazardous waste referred to in paragraph (1) in a salt dome formation, salt bed formation, underground mine, or cave is prohibited until such time as a permit has been issued under section 3005(c) for the facility concerned.

"(3) No determination made by the Administrator under subsection (d), (e), or (g) of this section regarding any hazardous waste to which such subsection (d), (e), or (g) applies shall affect the prohibition contained in paragraph (1) or (2) of this subsection.

"(4) Nothing in this subsection shall apply to the Department of Energy Waste Isolation Pilot Project in New Mexico.

"(c) LIQUIDS IN LANDFILLS.—(1) Effective 6 months after the date of the enactment of the Hazardous and Solid Waste Amendments of 1984, the placement of bulk or noncontainerized liquid hazardous waste or free liquids contained in hazardous waste (whether or not absorbents have been added) in any landfill is prohibited. Prior to such date the requirements (as in effect on April 30, 1983) promulgated under this section by the Administrator regarding liquid hazardous waste shall remain in force and effect to the extent such requirements are applicable to the placement of bulk or noncontainerized liquid hazardous waste, or free liquids contained in hazardous waste, in landfills.

"(2) Not later than 15 months after the date of the enactment of the Hazardous and Solid Waste Amendments of 1984, the Administrator shall promulgate final regulations which—

"(A) minimize the disposal of containerized liquid hazardous waste in landfills, and

"(B) minimize the presence of free liquids in containerized hazardous waste to be disposed of in landfills.

Such regulations shall also prohibit the disposal in landfills of liquids that have been absorbed in materials that biodegrade or that release liquids when compressed as might occur during routine landfill operations. Prior to the date on which such final

regulations take effect, the requirements (as in effect on April 30, 1983) promulgated under this section by the Administrator shall remain in force and effect to the extent such requirements are applicable to the disposal of containerized liquid hazardous waste, or free liquids contained in hazardous waste, in landfills.

"(3) Effective 12 months after the date of the enactment of the Hazardous and Solid Waste Amendments of 1984, the placement of any liquid which is not a hazardous waste in a landfill for which a permit is required under section 3005(c) or which is operating pursuant to interim status granted under section 3005(e) is prohibited unless the owner or operator of such landfill demonstrates to the Administrator, or the Administrator determines, that—

"(A) the only reasonably available alternative to the placement in such landfill is placement in a landfill or unlined surface impoundment, whether or not permitted under section 3005(c) or operating pursuant to interim status under section 3005(e), which contains, or may reasonably be anticipated to contain, hazardous waste; and

"(B) placement in such owner or operator's landfill will not present a risk of contamination of any underground source of drinking water.

As used in subparagraph (B), the term 'underground source of drinking water' has the same meaning as provided in regulations under the Safe Drinking Water Act (title XIV of the Public Health Service Act).

"(4) No determination made by the Administrator under subsection (d), (e), or (g) of this section regarding any hazardous waste to which such subsection (d), (e), or (g) applies shall affect the prohibition contained in paragraph (1) of this subsection.

"(d) PROHIBITIONS ON LAND DISPOSAL OF SPECIFIED WASTES.—(1) Effective 32 months after the enactment of the Hazardous and Solid Waste Amendments of 1984 (except as provided in subsection (f) with respect to underground injection into deep injection wells), the land disposal of the hazardous wastes referred to in paragraph (2) is prohibited unless the Administrator determines the prohibition on one or more methods of land disposal of such waste is not required in order to protect human health and the environment for as long as the waste remains hazardous, taking into account—

"(A) the long-term uncertainties associated with land disposal,

"(B) the goal of managing hazardous waste in an appropriate manner in the first instance, and

"(C) the persistence, toxicity, mobility, and propensity to bioaccumulate of such hazardous wastes and their hazardous constituents.

For the purposes of this paragraph, a method of land disposal may not be determined to be protective of human health and the environment for a hazardous waste referred to in paragraph (2) (other than a hazardous waste which has complied with the pretreatment regulations promulgated under subsection (m)), unless, upon application by an interested person, it has been demonstrated to the Administrator, to a reasonable degree of certainty, that there will be no migration of hazardous constituents from the disposal unit or injection zone for as long as the wastes remain hazardous.

"(2) Paragraph (1) applies to the following hazardous wastes listed or identified under section 3001:

"(A) Liquid hazardous wastes, including free liquids associated with any solid or sludge, containing free cyanides at concentrations greater than or equal to 1,000 mg/l.

"(B) Liquid hazardous wastes, including free liquids associated with any solid or sludge, containing the following metals (or elements) or compounds of these metals (or elements) at concentrations greater than or equal to those specified below:

"(i) arsenic and/or compounds (as As) 500 mg/l;

"(ii) cadmium and/or compounds (as Cd) 100 mg/l;

"(iii) chromium (VI and/or compounds (as Cr VI)) 500 mg/l;

"(iv) lead and/or compounds (as Pb) 500 mg/l;

"(v) mercury and/or compounds (as Hg) 20 mg/l;

"(vi) nickel and/or compounds (as Ni) 134 mg/l;

"(vii) selenium and/or compounds (as Se) 100 mg/l; and

"(viii) thallium and/or compounds (as Th) 130 mg/l.

"(C) Liquid hazardous waste having a pH less than or equal to two (2.0).

"(D) Liquid hazardous wastes containing polychlorinated biphenyls at concentrations greater than or equal to 50 ppm.

"(E) Hazardous wastes containing halogenated organic compounds in total concentration greater than or equal to 1,000 mg/kg.

When necessary to protect human health and the environment, the Administrator shall substitute more stringent concentration levels than the levels specified in subparagraphs (A) through (E).

"(3) During the period ending 48 months after the date of the enactment of the Hazardous and Solid Waste Amendments of 1984, this subsection shall not apply to any disposal of contaminated soil or debris resulting from a response action taken under section 104 or 106 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 or a corrective action required under this subtitle.

"(e) SOLVENTS AND DIOXINS.—(1) Effective 24 months after the date of enactment of the Hazardous and Solid Waste Amendments of 1984 (except as provided in subsection (f) with respect to underground injection into deep injection wells), the land disposal of the hazardous wastes referred to in paragraph (2) is prohibited unless the Administrator determines the prohibition of one or more methods of land disposal of such waste is not required in order to protect human health and the environment for as long as the waste remains hazardous, taking into account the factors referred to in subparagraph (A) through (C) of subsection (d)(1). For the purposes of this paragraph, a method of land disposal may not be determined to be protective of human health and the environment for a hazardous waste referred to in paragraph (2)(other than a hazardous waste which has complied with the pretreatment regulations promulgated under subsection (m)), unless upon application by an interested person it has been demonstrated to the Administrator, to a reasonable degree of certainty, that there will be no migration of hazardous constituents from the disposal unit or injection zone for as long as the wastes remain hazardous.

"(2) The hazardous wastes to which the prohibition under paragraph (1) applies are as follows—

"(A) dioxin-containing hazardous wastes numbered F020, F021, F022, and F023 (as referred to in the proposed rule published by the Administrator in the Federal Register for April 4, 1983), and

"(B) those hazardous wastes numbered F001, F002, F003, F004, and F005 in regulations promulgated by the Administrator under section 3001 (40 C.F.R. 261.31 (July 1, 1983)), as those regulations are in effect on July 1, 1983.

"(3) During the period ending 48 months after the date of the enactment of the Hazardous and Solid Waste Amendments of 1984, this subsection shall not apply to any disposal of contaminated soil or debris resulting from a response action taken under section 104 or 106 of the Comprehenisve Environmental Response, Compensation, and Liability Act of 1980 or a corrective action required under this subtitle.

"(f) DISPOSAL INTO DEEP INJECTION WELLS SPECIFIED SUBSECTION (d) WASTES; SOLVENTS AND DIOXINS.—(1) Not later than 45 months after the date of enactment of the Hazardous and Solid Waste Amendments of 1984, the Administrator shall complete a review of the disposal of all hazardous wastes referred to in paragraph (2) of subsection (d) and in paragraph (2) of subsection (e) by underground injection into deep injection wells.

"(2) Within 45 months after the date of the enactment of the Hazardous and Solid Waste Amendments of 1984, the Administrator shall make a determination regarding the disposal by underground injection into deep injection wells of the hazardous wastes referred to in paragraph (2) of subsection (d) and the hazardous wastes referred to in paragraph (2) of subsection (e). The Administrator shall promulgate final regulations prohibiting the disposal of such wastes into such wells if it may reasonably be determined that such disposal may not be protective of human health and the environment for as long as the waste remains hazardous, taking into account the factors referred to in subparagraphs (A) through (C) of subsection (d)(1). In promulgating such regulations, the Administrator shall consider each hazardous waste referred to in paragraph (2) of subsection (d) or in paragraph (2) of subsection (e) which is prohibited from disposal into such wells by any State.

"(3) If the Administrator fails to make a determination under paragraph (2) for any hazardous waste referred to in paragraph (2) of subsection (d) or in paragraph (2) of subsection (e) within 45 months after the date of enactment of the Hazardous and Solid Waste Amendments of 1984, such hazardous waste shall be prohibited from disposal into any deep injection well.

"(4) As used in this subsection, the term 'deep injection well' means a well used for the underground injection of hazardous waste other than a well to which section 7010(a) applies.

"(g) ADDITIONAL LAND DISPOSAL PROHIBITION DETERMINATIONS.—(1) Not later than 24 months after the date of enactment of the Hazardous and Solid Waste Amendments of 1984, the Administrator shall submit a schedule to Congress for—

"(A) reviewing all hazardous wastes listed (as of the date of the enactment of the Hazardous and Solid Waste Amendments of 1984) under section 3001 other than those wastes which are referred to in subsection (d) or (e); and

"(B) taking action under paragraph (5) of this subsection with respect to each such hazardous waste.

"(2) The Administrator shall base the schedule on a ranking of such listed wastes considering their intrinsic hazard and their volume such that decisions regarding the land disposal of high volume hazardous wastes with high intrinsic hazard shall, to

the maximum extent possible, be made by the date 45 months after the date of enactment of the Hazardous and Solid Waste Amendments of 1984. Decisions regarding low volume hazardous wastes with lower inherent hazard shall be made by the date 66 months after such date of enactment.

"(3) The preparation and submission of the schedule under this subsection shall not be subject to the Paperwork Reduction Act of 1980. No hearing on the record shall be required for purposes of preparation or submission of the schedule. The schedule shall not be subject to judicial review.

"(4) The schedule under this subsection shall require that the Administrator shall promulgate regulations in accordance with paragraph (5) or make a determination under paragraph (5)—

"(A) for at least one-third of all hazardous wastes referred to in paragraph (1) by the date 45 months after the date of enactment of the Hazardous and Solid Waste Amendments of 1984;

"(B) for at least two-thirds of all such listed wastes by the date 55 months after the date of enactment of such Amendments; and

"(C) for all such listed wastes and for all hazardous wastes identified under 3001 by the date 66 months after the date of enactment of such Amendments.

In the case of any hazardous waste identified or listed under section 3001 after the date of enactment of the Hazardous and Solid Waste Amendments of 1984, the Administrator shall determine whether such waste shall be prohibited from one or more methods of land disposal in accordance with paragraph (5) within 6 months after the date of such identification or listing.

"(5) Not later than the date specified in the schedule published under this subsection, the Administrator shall promulgate final regulations prohibiting one or more methods of land disposal of the hazardous wastes listed on such schedule except for methods of land disposal which the Administrator determines will be protective of human health and the environment for as long as the waste remains hazardous, taking into account the factors referred to in subparagraph (A) through (C) of subsection (d)(1). For the purposes of this paragraph, a method of land disposal may not be determined to be protective of human health and the environment (except with respect to a hazardous waste which has complied with the pretreatment regulations promulgated under subsection (m)) unless, upon application by an interested person, it has been demonstrated to the Administrator, to a reasonable degree of certainty, that there will be no migration of hazardous constituents from the disposal unit or injection zone for as long as the wastes remain hazardous.

"(6)(A) If the Administrator fails (by the date 45 months after the date of enactment of the Hazardous and Solid Waste Amendments of 1984) to promulgate regulations or make a determination under paragraph (5) for any hazardous waste which is included in the first one-third of the schedule published under this subsection, such hazardous waste may be disposed of in a landfill or surface impoundment only if—

"(i) such facility is in compliance with the requirements of subsection (o) which are applicable to new facilities (relating to minimum technological requirements); and

"(ii) prior to such disposal, the generator has certified to the Administrator that such generator has investigated the availability of treatment capacity and has determined that the use of such landfill or surface impoundment is the only practical alternative to treatment currently available to the generator.

The prohibition contained in this subparagraph shall continue to apply until the Administrator promulgates regulations or makes a determination under paragraph (5) for the waste concerned.

"(B) If the Administrator fails (by the date 55 months after the date of enactment of the Hazardous and Solid Waste Amendments of 1984) to promulgate regulations or make a determination under paragraph (5) for any hazardous waste which is included in the first two-thirds of the schedule published under this subsection, such hazardous waste may be disposed of in a landfill or surface impoundment only if—

"(i) such facility is in compliance with the requirements of subsection (o) which are applicable to new facilities (relating to minimum technological requirements); and

"(ii) prior to such disposal, the generator has certified to the Administrator that such generator has investigated the availability of treatment capacity and has determined that the use of such landfill or surface impoundment is the only practical alternative to treatment currently available to the generator.

The prohibition contained in this subparagraph shall continue to apply until the Administrator promulgates regulations or makes a determination under paragraph (5) for the waste concerned.

"(C) If the Administrator fails to promulgate regulations, or make a determination under paragraph (5) for any hazardous waste referred to in paragraph (1) within 66 months after the date of enactment of the Hazardous and Solid Waste Amendments of 1984, such hazardous waste shall be prohibited from land disposal.

"(h) VARIANCES FROM LAND DISPOSAL PROHIBITIONS.—(1) A prohibition in regulations under subsection (d), (e), (f), or (g) shall be effective immediately upon promulgation.

"(2) The Administrator may establish an effective date different from the effective date which would otherwise apply under subsection (d), (e), (f), or (g) with respect to a specific hazardous waste which is subject to a prohibition under subsection (d), (e), (f), or (g) or under regulations under subsection (d), (e), (f), or (g). Any such other effective date shall be established on the basis of the earliest date on which adequate alternative treatment, recovery, or disposal capacity which protects human health and the environment will be available. Any such other effective date shall in no event be later than 2 years after the effective date of the prohibition which would otherwise apply under subsection (d), (e), (f), or (g).

"(3) The Administrator, after notice and opportunity for comment and after consultation with appropriate State agencies in all affected States, may on a case-by-case basis grant an extension of the effective date which would otherwise apply under subsection (d), (e), (f), or (g) or under paragraph (2) for up to one year, where the applicant demonstrates that there is a binding contractual commitment to construct or otherwise provide such alternative capacity but due to circumstances beyond the control of such applicant such alternative capacity cannot reasonably be made available by such effective date. Such extension shall be renewable once for no more than one additional year.

"(4) Whenever another effective date (hereinafter referred to as a "variance") is established under paragraph (2), or an extension is granted under paragraph (3), with respect to any hazardous waste, during the period for which such variance or extension is in effect, such hazardous waste may be disposed of in a landfill or surface impoundment only if such facility is in compliance with the requirements of subsection (o).

"(i) PUBLICATION OF DETERMINATION.—If the Administrator determines that a method of land disposal will be protective of human health and the environment, he shall promptly publish in the Federal Register notice of such determination, together with an explanation of the basis for such determination.

"(j) STORAGE OF HAZARDOUS WASTE PROHIBITED FROM LAND DISPOSAL.—In the case of any hazardous waste which is prohibited from one or more methods of land disposal under this section (or under regulations promulgated by the Administrator under any provision of this section) the storage of such hazardous waste is prohibited unless such storage is solely for the purpose of the accumulation of such quantities of hazardous waste as are necessary to facilitate proper recovery, treatment or disposal.

"(k) DEFINITION OF LAND DISPOSAL.—For the purposes of this section, the term 'land disposal', when used with respect to a specified hazardous waste, shall be deemed to include, but not be limited to, any placement of such hazardous waste in a landfill, surface impoundment, waste pile, injection well, land treatment facility, salt dome formation, salt bed formation, or underground mine or cave.

"(l) BAN ON DUST SUPPRESSION.—The use of waste or used oil or other material, which is contaminated or mixed with dioxin or any other hazardous waste identified or listed under section 3001 (other than a waste identified solely on the basis of ignitability), for dust suppression or road treatment is prohibited.

"(m) TREATMENT STANDARDS FOR WASTES SUBJECT TO LAND DISPOSAL PROHIBITION.—(1) Simultaneously with the promulgation of regulations under subsection (d), (e), (f), or (g) prohibiting one or more methods of land disposal of a particular hazardous waste, and as appropriate thereafter, the Administrator shall, after notice and an opportunity for hearings and after consultation with appropriate Federal and State agencies, promulgate regulations specifying those levels or methods of treatment, if any, which substantially diminish the toxicity of the waste or substantially reduce the likelihood of migration of hazardous constituents from the waste so that short-term and long-term threats to human health and the environment are minimized.

"(2) If such hazardous waste has been treated to the level or by a method specified in regulations promulgated under this subsection, such waste or residue thereof shall not be subject to any prohibition promulgated under subsection (d), (e), (f), or (g) and may be disposed of in a land disposal facility which meets the requirements of this subtitle. Any regulation promulgated under this subsection for a particular hazardous waste shall become effective on the same date as any applicable prohibition promulgated under subsection (d), (e), (f), or (g).

"(n) AIR EMISSIONS.—Not later than 30 months after the date of enactment of the Hazardous and Solid Waste Amendments of 1984, the Administrator shall promulgate such regulations for the monitoring and control of air emissions at hazardous waste treatment, storage, and disposal facilities, including but not limited to open tanks, sur-

face impoundments, and landfills, as may be necessary to protect human health and the environment.".

MINIMUM TECHNOLOGICAL REQUIREMENTS

SEC. 202. (a) Section 3004 of the Solid Waste Disposal Act is amended by inserting the following new subsection after subsection (n):

"(o) MINIMUM TECHNOLOGICAL REQUIREMENTS.—(1) The regulations under subsection (a) of this section shall be revised from time to time to take into account improvements in the technology of control and measurement. At a minimum, such regulations shall require, and a permit issued pursuant to section 3005(c) after the date of enactment of the Hazardous and Solid Waste Amendments of 1984 by the Administrator or a State shall require—

"(A) for each new landfill or surface impoundment, each new landfill or surface impoundment unit at an existing facility, each replacement of an existing landfill or surface impoundment unit, and each lateral expansion of an existing landfill or surface impoundment unit, for which an application for a final determination regarding issuance of a permit under section 3005(c) is received after the date of enactment of the Hazardous and Solid Waste Amendments of 1984—

"(i) the installation of two or more liners and a leachate collection system above (in the case of a landfill) and between such liners; and

"(ii) ground water monitoring; and

"(B) for each incinerator which receives a permit under section 3005(c) after the date of enactment of the Hazardous and Solid Waste Amendments of 1984, the attainment of the minimum destruction and removal efficiency required by regulations in effect on June 24, 1982.

The requirements of this paragraph shall apply with respect to all waste received after the issuance of the permit.

"(2) Paragraph (1)(A)(i) shall not apply if the owner or operator demonstrates to the Administrator, and the Administrator finds for such landfill or surface impoundment, that alternative design and operating practices, together with location characteristics, will prevent the migration of any hazardous constituents into the ground water or surface water at least as effectively as such liners and leachate collection systems.

"(3) The double-liner requirement set forth in paragraph (1)(A)(i) may be waived by the Administrator for any monofill, if—

"(A) such monofill contains only hazardous wastes from foundry furnace emission controls or metal casting molding sand,

"(B) such wastes do not contain constituents which would render the wastes hazardous for reasons other than the Extraction Procedure ("EP") toxicity characteristics set forth in regulations under this subtitle, and

"(iii) such monofill meets the same requirements as are applicable in the case of a waiver under section 3005(j) (2) or (4).

"(4)(A) Not later than 30 months after the date of enactment of the Hazardous and Solid Waste Amendments of 1984, the Administrator shall promulgate standards requiring that new landfill units, surface impoundment units, waste piles, underground tanks and land treatment units for the storage, treatment, or disposal of hazardous waste identified or listed under section 3001 shall be required to utilize approved leak detection systems.

"(B) For the purposes of subparagraph (A)—

(i) the term 'approved leak detection system' means a system or technology which the Administrator determines to be capable of detecting leaks of hazardous constituents at the earliest practicable time; and

"(ii) the term 'new units' means units on which construction commences after the date of promulgation of regulations under this paragraph.

"(5)(A) The Administrator shall promulgate regulations or issue guidance documents implementing the requirements of paragraph (1)(A) within 2 years after the date of the enactment of the Hazardous and Solid Waste Amendments of 1984.

"(B) Until the effective date of such regulations or guidance documents, the requirement for the installation of two or more liners may be satisfied by the installation of a top liner designed, operated, and constructed of materials to prevent the migration of any constituent into such liner during the period such facility remains in operation (including any post-closure monitoring period), and a lower liner designed, operated and constructed to prevent the migration of any constituent through such liner during such period. For the purpose of the preceding sentence, a lower liner shall be deemed to satisfy such requirement if it is constructed of at least a 3-foot-thick layer of recompacted clay or other natural material with a permeability of no more than 1×10^{-7} centimeter per second.

"(6) Any permit under section 3005 which is issued for a landfill located within the State of Alabama shall require the installation of two or more liners and a leachate collection system above and between such liners, notwithstanding any other provision of this Act.

"(8) In addition to the requirements set forth in this subsection, the regulations referred to in paragraph (1) shall specify criteria for the acceptable location of new and existing treatment, storage, or disposal facilities as necessary to protect human health and the environment. Within 18 months after the enactment of the Hazardous and Solid Waste Amendments of 1984, the Administrator shall publish guidance criteria identifying areas of vulnerable hydrogeology.".

GROUND WATER MONITORING

SEC. 203. Section 3004 of the Solid Waste Disposal Act is amended by adding the following new subsection after subsection (o) thereof:

"(p) GROUND WATER MONITORING.—The standards under this section concerning ground water monitoring which are applicable to surface impoundments, waste piles, land treatment units, and landfills shall apply to such a facility whether or not—

"(1) the facility is located above the seasonal high water table;

"(2) two liners and a leachate collection system have been installed at the facility; or

"(3) the owner or operator inspects the liner (or liners) which has been installed at the facility.

This subsection shall not be construed to affect other exemptions or waivers from such standards provided in regulations in effect on the date of enactment of the Hazardous and Solid Waste Amendments of 1984 or as may be provided in revisions to those regulations, to the extent consistent with this subsection. The Administrator is authorized on a case-by-case basis to exempt from ground water monitoring requirements under this section (including subsection (o)) any engineered structure which the Administrator finds does not receive or contain liquid waste (nor waste containing free liquids), is designed and operated to exclude liquid from precipitation or other runoff, utilizes multiple leak detection systems within the outer layer of containment, and provides for continuing operation and maintenance of these leak detection systems during the operating period, closure, and the period required for post-closure monitoring and for which the Administrator concludes on the basis of such findings that there is a reasonable certainty hazardous constituents will not migrate beyond the outer layer of containment prior to the end of the period required for post-closure monitoring.".

BURNING AND BLENDING OF HAZARDOUS WASTES

SEC. 204. (a)(1) Section 3010 of the Solid Waste Disposal Act is amended by inserting the following after the first sentence thereof: "Not later than 15 months after the date of enactment of the Hazardous and Solid Waste Amendments of 1984—

"(1) the owner or operator of any facility which produces a fuel (A) from any hazardous waste identified or listed under section 3001, (B) from such hazardous waste identified or listed under section 3001 and any other material, (C) from used oil, or (D) from used oil and any other material;

"(2) the owner or operator of any facility (other than a single- or two-family residence) which burns for purposes of energy recovery any fuel produced as provided in paragraph (1) or any fuel which otherwise contains used oil or any hazardous waste identified or listed under section 3001; and

"(3) any person who distributes or markets any fuel which is produced as provided in paragraph (1) or any fuel which otherwise contains used oil or any hazardous waste identified or listed under section 3001

shall file with the Administrator (and with the State in the case of a State with an authorized hazardous waste program) a notification stating the location and general description of the facility, together with a description of the identified or listed hazardous waste involved and, in the case of a facility referred to in paragraph (1) or (2), a description of the production or energy recovery activity carried out at the facility and such other information as the Administrator deems necessary. For purposes of the preceding sentence, the term 'hazardous waste listed under section 3001' also includes any commercial chemical product which is listed under section 3001 and which, in lieu of its original intended use, is (i) produced for use as (or as a component of) a fuel, (ii) distributed for use as a fuel, or (iii) burned as a fuel. Notification shall not be required under the second sentence of this subsection in the case of facilities (such as residential boilers) where the Administrator determines that such notification is not necessary in order for the Administrator to obtain sufficient information respecting current practices of facilities using hazardous waste for energy recovery. Nothing in this subsection shall be construed to affect or impair the provisions of section 3001(b)(3). Nothing in this subsection shall affect regulatory determinations under section 3014.".

(2) Section 3010 of such Act is amended by striking out "the preceding sentence" each place it occurs and substituting "the preceding provisions".

(b)(1) Section 3004 of the Solid Waste Disposal Act is amended by adding the following new subsections after subsection (p):

"(q) HAZARDOUS WASTE USED AS FUEL.—(1) Not later than two years after the date of the enactment of the the Hazardous and Solid Waste Amendments of 1984, and after notice

and opportunity for public hearing, the Administrator shall promulgate regulations establishing such—

"(A) standards applicable to the owners and operators of facilities which produce a fuel—

"(i) from any hazardous waste identified or listed under section 3001, or

"(ii) from any hazardous waste identified or listed under section 3001 and any other material;

"(B) standards applicable to the owners and operators of facilities which burn, for purposes of energy recovery, any fuel produced as provided in subparagraph (A) or any fuel which otherwise contains any hazardous waste identified or listed under section 3001; and

"(C) standards applicable to any person who distributes or markets any fuel which is produced as provided in subparagraph (A) or any fuel which otherwise contains any hazardous waste identified or listed under section 3001

as may be necessary to protect human health and the environment. Such standards may include any of the requirements set forth in paragraphs (1) through (7) of subsection (a) as may be appropriate. Nothing in this subsection shall be construed to affect or impair the provisions of section 3001(b)(3). For purposes of this subsection, the term 'hazardous waste listed under section 3001' includes any commercial chemical product which is listed under section 3001 and which, in lieu of its original intended use, is (i) produced for use as (or as a component of) a fuel, (ii) distributed for use as a fuel, or (iii) burned as a fuel.

"(2)(A) This subsection, subsection (r), and subsection (s) shall not apply to petroleum refinery wastes containing oil which are converted into petroleum coke at the same facility at which such wastes were generated, unless the resulting coke product would exceed one or more characteristics by which a substance would be identified as a hazardous waste under section 3001.

"(B) The Administrator may exempt from the requirements of this subsection, subsection (r), or subsection (s) facilities which burn de minimis quantities of hazardous waste as fuel, as defined by the Administrator, if the wastes are burned at the same facility at which such wastes are generated; the waste is burned to recover useful energy, as determined by the Administrator on the basis of the design and operating characteristics of the facility and the heating value and other characteristics of the waste; and the waste is burned in a type of device determined by the Administrator to be designed and operated at a destruction and removal efficiency sufficient such that protection of human health and environment is assured.

"(C)(i) After the date of the enactment of the Hazardous and Solid Waste Amendments of 1984 and until standards are promulgated and in effect under paragraph (2) of this subsection, no fuel which contains any hazardous waste may be burned in any cement kiln which is located within the boundaries of any incorporated municipality with a population greater than 500,000 (based on the most recent census statistics) unless such kiln fully complies with regulations (as in effect on the date of the enactment of the Hazardous and Solid Waste Amendments of 1984) under this subtitle which are applicable to incinerators.

"(ii) Any person who knowingly violates the prohibition contained in clause (i) shall be deemed to have violated section 3008(d)(2).

"(r) LABELING.—(1) Notwithstanding any other provision of law, until such time as the Administrator promulgates standards under subsection (q) specifically superceding this requirement, it shall be unlawfuls for any person who is required to file a notification in accordance with paragraph (1) or (3) of section 3010 to distribute or market any fuel which is produced from any hazardous waste identified or listed under section 3001, or any fuel which otherwise contains any hazardous waste identified or listed under section 3001 if the invoice or the bill of sale fails—

"(A) to bear the following statement: 'WARNING: THIS FUEL CONTAINS HAZARDOUS WASTES', and

"(B) to list the hazardous wastes contained therein.

Beginning ninety days after the enactment of the Hazardous and Solid Waste Amendments of 1984, such statement shall be located in a conspicuous place on every such invoice or bill of sale and shall appear in conspicuous and legible type in contrast by typography, layouts, or color with other printed matter on the invoice or bill of sale.

"(2) Unless the Administrator determines otherwise as may be necessary to protect human health and the environment, this subsection shall not apply to fuels produced from petroleum refining waste containing oil if—

"(A) such materials are generated and reinserted onsite into the refining process;

"(B) contaminants are removed; and

"(C) such refining waste containing oil is converted along with normal process streams into petroleum-derived fuel products at a facility at which crude oil is refined into petroleum products and which is classified as a number SIC 2911 facility under the Office of Management and Budget Standard Industrial Classification Manual.

"(3) Unless the Administrator determines otherwise as may be necessary to protect human health and the environment, this subsection shall not apply to fuels produced from oily materials, resulting from normal petroleum refining, production and transportation practices, if (A) contaminants are removed; and (B) such oily materials are converted along with normal process streams into petroleum-derived fuel products at a facility at which crude oil is refined into petroleum products and which is classified as a number SIC 2911 facility under the Office of Management and Budget Standard Classification Manual.

"(s) RECORDKEEPING.—Not later than 15 months after the date of enactment of the Hazardous and Solid Waste Amendments of 1984, the Administrator shall promulgate regulations requiring that any person who is required to file a notification in accordance with subparagraph (1), (2), or (3), of section 3010(a) shall maintain such records regarding fuel blending, distribution, or use as may be necessary to protect human health and the environment.".

(2) Section 3003 of the Solid Waste Disposal Act is amended by adding the following new subsection after subsection (b):

"(c) FUEL FROM HAZARDOUS WASTE.—Not later than 2 years after the date of enactment of the Hazardous and Solid Waste Amendments of 1984, and after opportunity for public hearing, the Administrator shall promulgate regulations establishing standards, applicable to transporters of fuel produced (1) from any hazardous waste identified or listed under section 3001, or (2) from any hazardous waste identified or listed under section 3001 and any other material, as may be necessary to protect human health and the environment. Such standards may include any of the requirements set forth in paragraphs (1) through (4) of subsection (a) as may be appropriate.".

DIRECT ACTION

SEC. 205. Section 3004 of the Solid Waste Disposal Act is amended by adding the following new subsection after subsection (s) thereof:

"(t) FINANCIAL RESPONSIBILITY PROVISIONS.—(1) Financial responsibility required by subsection (a) of this section may be established in accordance with regulations promulgated by the Administrator by any one, or any combination, of the following: insurance, guarantee, surety bond, letter of credit, or qualification as a self-insurer. In promulgating requirements under this section, the Administrator is authorized to specify policy or other contractual terms, conditions, or defenses which are necessary or are unacceptable in establishing such evidence of financial responsibility in order to effectuate the purposes of this Act.

"(2) In any case where the owner or operator is in bankruptcy, reorganization, or arrangement pursuant to the Federal Bankruptcy Code or where (with reasonable diligence) jurisdiction in any State court or any Federal Court cannot be obtained over an owner or operator likely to be solvent at the time of judgment, any claim arising from conduct for which evidence of financial responsibility must be provided under this section may be asserted directly against the guarantor providing such evidence of financial responsibility. In the case of any action pursuant to this subsection, such guarantor shall be entitled to invoke all rights and defenses which would have been available to the owner or operator if any action had been brought against the owner or operator by the claimant and which would have been available to the guarantor if an action had been brought against the guarantor by the owner or operator.

"(3) The total liability of any guarantor shall be limited to the aggregate amount which the guarantor has provided as evidence of financial responsibility to the owner or operator under this Act. Nothing in this subsection shall be construed to limit any other State or Federal statutory, contractual or common law liability of a guarantor to its owner or operator including, but not limited to, the liability of such guarantor for bad faith either in negotiating or in failing to negotiate the settlement of any claim. Nothing in this subsection shall be construed to diminish the liability of any person under section 107 or 111 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 or other applicable law.

"(4) For the purpose of this subsection, the term 'guarantor' means any person, other than the owner or operator, who provides evidence of financial responsibility for an owner or operator under this section.".

CONTINUING RELEASES AT PERMITTED FACILITIES

SEC. 206. Section 3004 of the Solid Waste Disposal Act is amended by adding the following new subsection after subsection (t) thereof:

"(u) CONTINUING RELEASES AT PERMITTED FACILITIES.—Standards promulgated under this section shall require, and a permit issued after the date of enactment of the Hazardous and Solid Waste Amendments of 1984 by the Administrator or a State shall require, corrective action for all releases of hazardous waste or constituents from any

solid waste management unit at a treatment, storage, or disposal facility seeking a permit under this subtitle, regardless of the time at which waste was placed in such unit. Permits issued under section 3005 shall contain schedules of compliance for such corrective action (where such corrective action cannot be completed prior to issuance of the permit) and assurances of financial responsibility for completing such corrective action.".

CORRECTIVE ACTION BEYOND FACILITY BOUNDARIES; UNDERGROUND TANKS

SEC. 207. Section 3004 is amended by adding the following after subsection (u):

"(v) CORRECTIVE ACTIONS BEYOND FACILITY BOUNDARY.—As promptly as practicable after the date of the enactment of the Hazardous and Solid Waste Amendments of 1984, the Administrator shall amend the standards under this section regarding corrective action required at facilities for the treatment, storage, or disposal, of hazardous waste listed or identified under section 3001 to require that corrective action be taken beyond the facility boundary where necessary to protect human health and the environment unless the owner or operator of the facility concerned demonstrates to the satisfaction of the Administrator that, despite the owner or operator's best efforts, the owner or operator was unable to obtain the necessary permission to undertake such action. Such regulations shall take effect immediately upon promulgation, notwithstanding section 3010(b), and shall apply to—

"(1) all facilities operating under permits issued under subsection (c), and

"(2) all landfills, surface impoundments, and waste pile units (including any new units, replacements of existing units, or lateral expansions of existing units) which receive hazardous waste after July 26, 1982.

Pending promulgation of such regulations, the Administrator shall issue corrective action orders for facilities referred to in paragraph (1) and (2), on a case-by-case basis, consistent with the purposes of this subsection.

"(w) UNDERGROUND TANKS.—Not later than March 1, 1985, the Administrator shall promulgate final permitting standards under this section for underground tanks that cannot be entered for inspection. Within 48 months after the date of the enactment of the Hazardous and Solid Waste Amendments of 1984, such standards shall be modified, if necessary, to cover at a minimum all requirements and standards described in section 9003.".

FINANCIAL RESPONSIBILITY FOR CORRECTIVE ACTION

SEC. 208. Section 3004(a) of the Solid Waste Disposal Act (as redesignated by section 201 of this Act) is amended by inserting "(including financial responsibility for corrective action)" immediately after "and financial responsibility" in paragraph (6).

MINING WASTE AND OTHER SPECIAL WASTES

SEC. 209. Section 3004 of the Solid Waste Disposal Act is amended by adding the following new subsection after subsection (w):

"(x) If (1) solid waste from the extraction, beneficiation or processing of ores and minerals, including phosphate rock and overburden from the mining of uranium, (2) fly ash waste, bottom ash waste, slag waste, and flue gas emission control waste generated primarily from the combustion of coal or other fossil fuels, or (3) cement kiln dust waste, is subject to regulation under this subtitle, the Administrator is authorized to modify the requirements of subsections (c), (d), (e), (f), (g), (o), and (u) and section 3005(j), in the case of landfills or surface impoundments receiving such solid waste, to take into account the special characteristics of such wastes, the practical difficulties associated with implementation of such requirements, and site-specific characteristics, including but not limited to the climate, geology, hydrology and soil chemistry at the site, so long as such modified requirements assure protection of human health and the environment.".

Subtitle B—Amendments Primarily to Section 3005

AUTHORITY FOR PERMIT TO CONSTRUCT HAZARDOUS WASTE TREATMENT, STORAGE, OR DISPOSAL FACILITIES

SEC. 211. Section 3005(a) of the Solid Waste Disposal Act is amended by—

(1) striking "a" immediately after "owning or operating" in the first sentence and inserting in lieu thereof "an existing facility or planning to construct a new";

(2) inserting in the second sentence "and the construction of any new facility for the treatment, storage, or disposal of any such hazardous waste" immediately after "any such hazardous waste"; and

(3) adding the following at the end thereof: "No permit shall be required under this section in order to construct a facility if such facility is constructed pursuant to an approval issued by the Administrator under section 6(e) of the Toxic Substances Control Act for the incineration of polychlorinated biphenyls and any person owning or operating such a facility may, at any time after operation or construction of such facility has begun, file an application for a permit pursuant to this section authorizing such facility to incinerate hazardous waste identified or listed under this subtitle.".

PERMIT LIFE

SEC. 212. Section 3005(c) of the Solid Waste Disposal Act is amended by adding the following new paragraph after paragraph (2):

"(3) Any permit under this section shall be for a fixed term, not to exceed 10 years in the case of any land disposal facility, storage facility, or incinerator or other treatment facility. Each permit for a land disposal facility shall be reviewed 5 years after date of issuance or reissuance and shall be modified as necessary to assure that the facility continues to comply with the currently applicable requirements of this section and section 3004. Nothing in this subsection shall preclude the Administrator from reviewing and modifying a permit at any time during its term. Review of any application for a permit renewal shall consider improvements in the state of control and measurement technology as well as changes in applicable regulations. Each permit issued under this section shall contain such terms and conditions as the Administrator (or the State) determines necessary to protect human health and the environment.".

INTERIM STATUS

SEC. 213.(a) Section 3005(e) of the Solid Waste Disposal Act is amended by—

(1) inserting "(1)" after "interim Status.—",

(2) redesignating existing paragraphs (1) through (3) as subparagraphs (A) through (C),

(3) adding the following at the end thereof: "This paragraph shall not apply to any facility which has been previously denied a permit under this section or if authority to operate the facility under this section has been previously terminated.

"(2) In the case of each land disposal facility which has been granted interim status under this subsection before the date of enactment of the Hazardous and Solid Waste Amendments of 1984, interim status shall terminate on the date 12 months after the date of the enactment of such Amendments unless the owner or operator of such facility—

"(A) applies for a final determination regarding the issuance of a permit under subsection (c) for such facility before the date 12 months after the date of the enactment of such Amendments; and

"(B) certifies that such facility is in compliance with all applicable groundwater monitoring and financial responsibility requirements.

"(3) In the case of each land disposal facility which is in existence on the effective date of statutory or regulatory changes under this Act that render the facility subject to the requirement to have a permit under this section and which is granted interim status under this subsection, interim status shall terminate on the date 12 months after the date on which the facility first becomes subject to such permit requirement unless the owner or operator of such facility—

"(A) applies for a final determination regarding the issuance of a permit under subsection (c) for such facility before the date 12 months after the date on which the facility first becomes subject to such permit requirement; and

"(B) certifies that such facility is in compliance with all applicable groundwater monitoring and financial responsibility requirements."; and

(4) amending subparagraph (A)(as redesignated by paragraph (1) of this subsection) to read as follows:

"(A) owns or operates a facility required to have a permit under this section which facility—

"(i) was in existence on November 19, 1980, or

"(ii) is in existence on the effective date of statutory or regulatory changes under this Act that render the facility subject to the requirement to have a permit under this section;".

(b) Section 3009 of the Solid Waste Disposal Act is amended by adding the following at the end thereof: "Nothing in this title (or in any regulation adopted under this title) shall be construed to prohibit any State from requiring that the State be provided with a copy of each manifest used in connection with hazardous waste which is generated within that State or transported to a treatment, storage, or disposal facility within that State."

(c) Section 3005(c) of the Solid Waste Disposal Act is amended by inserting "(1)" after "PERMIT ISSUANCE.—" and by adding the following new paragraph at the end thereof:

"(2)(A)(i) Not later than the date 4 years after the enactment of the Hazardous and Solid Waste Amendments of 1984, in the case of each application under this subsection for a permit for a land disposal facility which was submitted before such date, the Administrator shall issue a final permit pursuant to such application or issue a final denial of such application.

"(ii) Not later than the date 5 years after the enactment of the Hazardous and Solid Waste Amendments of 1984, in the case of each application for a permit under this

subsection for an incinerator facility which was submitted before such date, the Administrator shall issue a final permit pursuant to such application or issue a final denial of such application.

"(B) Not later than the date 8 years after the enactment of the Hazardous and Solid Waste Amendments of 1984, in the case of each application for a permit under this subsection for any facility (other than a facility referred to in subparagraph (A)) which was submitted before such date, the Administrator shall issue a final permit pursuant to such application or issue a final denial of such application.

"(C) The time periods specified in this paragraph shall also apply in the case of any State which is administering an authorized hazardous waste program under section 3006. Interim status under subsection (e) shall terminate for each facility referred to in subparagraph (A)(ii) or (B) on the expiration of the 5 or 8 year period referred to in subparagraph (A) or (B), whichever is applicable, unless the owner or operator of the facility applies for a final determination regarding the issuance of a permit under this subsection within—

"(i) 2 years after the date of the enactment of the Hazardous and Solid Waste Amendments of 1984 (in the case of a facility referred to in subparagraph (A)(ii)), or

"(ii) 4 years after such date of enactment (in the case of a facility referred to in subparagraph (B)).".

NEW AND INNOVATIVE TREATMENT TECHNOLOGIES

SEC. 214. (a) Section 3005 of the Solid Waste Disposal Act is amended by adding the following new subsection after subsection (f):

"(g) RESEARCH, DEVELOPMENT, AND DEMONSTRATION PERMITS.—(1) The Administrator may issue a research, development, and demonstration permit for any hazardous waste treatment facility which proposes to utilize an innovative and experimental hazardous waste treatment technology or process for which permit standards for such experimental activity have not been promulgated under this subtitle. Any such permit shall include such terms and conditions as will assure protection of human health and the environment. Such permits—

"(A) shall provide for the construction of such facilities, as necessary, and for operation of the facility for not longer than one year (unless renewed as provided in paragraph (4)), and

"(B) shall provide for the receipt and treatment by the facility of only those types and quantities of hazardous waste which the Administrator deems necessary for purposes of determining the efficacy and performance capabilities of the technology or process and the effects of such technology or process on human health and the environment, and

"(C) shall include such requirements as the Administrator deems necessary to protect human health and the environment (including, but not limited to, requirements regarding monitoring, operation, insurance or bonding, financial reponsibility, closure, and remedial action), and such requirements as the Administrator deems necessary regarding testing and providing of information to the Administrator with respect to the operation of the facility.

The Administrator may apply the criteria set forth in this paragraph in establishing the conditions of each permit without separate establishment of regulations implementing such criteria.

"(2) For the purpose of expediting review and issuance of permits under this subsection, the Administrator may, consistent with the protection of human health and the environment, modify or waive permit application and permit issuance requirements established in the Administrator's general permit regulations except that there may be no modification or waiver of regulations regarding financial responsibility (including insurance) or of procedures established under section 7004(b)(2) regarding public participation.

"(3) The Administrator may order an immediate termination of all operations at the facility at any time he determines that termination is necessary to protect human health and the environment.

"(4) Any permit issued under this subsection may be renewed not more than 3 times. Each such renewal shall be for a period of not more than 1 year.".

EXISTING SURFACE IMPOUNDMENTS

SEC. 215. Section 3005 of the Solid Waste Disposal Act is amended by adding the following new subsection:

"(j) INTERIM STATUS SURFACE IMPOUNDMENTS.—(1) Except as provided in paragraph (2), (3), or (4), each surface impoundment in existence on the date of enactment of the Hazardous and Solid Waste Amendments of 1984 and qualifying for the authorization to operate under subsection (e) of this section shall not receive, store, or treat hazardous waste after the date 4 years after such date of enactment unless such surface impoundment is in compliance with the requirements of section 3004(o)(1)(A) which would apply to such impoundment if it were new.

"(2) Paragraph (1) of this subsection shall not apply to any surface impoundment which (A) has at least one liner, for which there is no evidence that such liner is leaking; (B) is located more than ¼ mile from an underground source of drinking water; and (C) is in compliance with generally applicable ground water monitoring requirements for facilities with permits under subsection (c) of this section.

"(3) Paragraph (1) of this subsection shall not apply to any surface impoundment which (A) contains treated waste water during the secondary or subsequent phases of an aggressive biological treatment facility subject to a permit issued under section 402 of the Clean Water Act (or which holds such treated waste water after treatment and prior to discharge); (B) is in compliance with generally applicable ground water monitoring requirements for facilities with permits under subsection (c) of this section; and (C)(i) is part of a facility in compliance with section 301(b)(2) of the Clean Water Act, or (ii) in the case of a facility for which no effluent guidelines required under section 304(b)(2) of the Clean Water Act are in effect and no permit under section 402(a)(1) of such Act implementing section 301(b)(2) of such Act has been issued, is part of a facility in compliance with a permit under section 402 of such Act, which is achieving significant degradation of toxic pollutants and hazardous constituents contained in the untreated waste stream and which has identified those toxic pollutants and hazardous constituents in the untreated waste stream to the appropriate permitting authority.

"(4) The Administrator (or the State, in the case of a State with an authorized program), after notice and opportunity for comment, may modify the requirements of paragraph (1) for any surface impoundment if the owner or operator demonstrates that such surface impoundment is located, designed and operated so as to assure that there will be no migration of any hazardous constitutent into ground water or surface water at any future time. The Administrator or the State shall take into account locational criteria established under section 3004(o)(7).

"(5) The owner or operator of any surface impoundment potentially subject to paragraph (1) who has reason to believe that on the basis of paragraph (2), (3), or (4) such surface impoundment is not required to comply with the requirements of paragraph (1), shall apply to the Administrator (or the State, in the case of a State with an authorized program) not later than twenty-four months after the date of enactment of the Hazardous and Solid Waste Amendments of 1984 for a determination of the applicability of paragraph (1) (in the case of paragraph (2) or (3)) or for a modification of the requirements of paragraph (1) (in the case of paragraph (4)), with respect to such surface impoundment. Such owner or operator shall provide, with such application, evidence pertinent to such decision, including:

"(A) an application for a final determination regarding the issuance of a permit under subsection (c) of this section for such facility, if not previously submitted;

"(B) evidence as to compliance with all applicable ground water monitoring requirements and the information and analysis from such monitoring;

"(C) all reasonably ascertainable evidence as to whether such surface impoundment is leaking; and

"(D) in the case of applications under paragraph (2) or (3), a certification by a registered professional engineer with academic training and experience in ground water hydrology that—

"(i) under paragraph (2), the liner of such surface impoundment is designed, constructed, and operated in accordance with applicable requirements, such surface impoundment is more than ¼ mile from an underground source of drinking water and there is no evidence such liner is leaking; or

"(ii) under paragraph (3), based on analysis of those toxic pollutants and hazardous constituents that are likely to be present in the untreated waste stream, such impoundment satisfies the conditions of paragraph (3).

In the case of any surface impoundment for which the owner or operator fails to apply under this paragraph within the time provided by this paragraph or paragraph (6), such surface impoundment shall comply with paragraph (1) notwithstanding paragraph (2), (3), or (4). Within twelve months after receipt of such application and evidence and not later than thirty-six months after such date of enactment, and after notice and opportunity to comment, the Administrator (or, if appropriate, the State) shall advise such owner or operator on the applicability of paragraph (1) to such surface impoundment or as to whether and how the requirements of paragraph (1) shall be modified and applied to such surface impoundment.

"(6)(A) In any case in which a surface impoundment becomes subject to paragraph (1) after the date of enactment of the Hazardous and Solid Waste Amendments of 1984 due to the promulgation of additional listings or characteristics for the identification of hazardous waste under section 3001, the period for compliance in paragraph (1) shall be four years after the date of such promulgation, the period for demonstrations under paragraph (4) and for submission of

evidence under paragraph (5) shall be not later than twenty-four months after the date of such promulgation, and the period for the Administrator (or if appropriate, the State) to advise such owners or operators under paragraph (5) shall be not later than thirty-six months after the date of promulgation.

"(B) In any case in which a surface impoundment is initially determined to be excluded from the requirements of paragraph (1) but due to a change in condition (including the existence of a leak) no longer satisfies the provisions of paragraph (2), (3), or (4) and therefore becomes subject to paragraph (1), the period for compliance in paragraph (1) shall be two years after the date of discovery of such change of condition, or in the case of a surface impoundment excluded under paragraph (3) three years after such date of discovery.

"(7)(A) The Administrator shall study and report to the Congress on the number, range of size, construction, likelihood of hazardous constituents migrating into ground water, and potential threat to human health and the environment of existing surface impoundments excluded by paragraph (3) from the requirements of paragraph (1). Such report shall address the need, feasibility, and estimated costs of subjecting such existing surface impoundments to the requirements of paragraph (1).

"(B) In the case of any existing surface impoundment or class of surface impoundments from which the Administrator (or the State, in the case of a State with an authorized program) determines hazardous constituents are likely to migrate into ground water, the Administrator (or if appropriate, the State) is authorized to impose such requirements as may be necessary to protect human health and the environment, including the requirements of section 3004(o) which would apply to such impoundments if they were new.

"(C) In the case of any surface impoundment excluded by paragraph (3) from the requirements of paragraph (1) which is subsequently determined to be leaking, the Administrator (or, if appropriate, the State) shall require compliance with paragraph (1), unless the Administrator (or, if appropriate, the State) determines that such compliance is not necessary to protect human health and the environment.

"(8) In the case of any surface impoundment in which the liners and leak detection system have been installed pursuant to the requirements of paragraph (1) and in good faith compliance with section 3004(o) and the Administrator's regulations and guidance documents governing liners and leak detection systems, no liner or leak detection system which is different from that which was so installed pursuant to paragraph (1) shall be required for such unit by the Administrator when issuing the first permit under this section to such facility. Nothing in this paragraph shall preclude the Administrator from requiring installation of a new liner when the Administrator has reason to believe that any liner installed pursuant to the requirements of this subsection is leaking.

"(9) In the case of any surface impoundment which has been excluded by paragraph (2) on the basis of a liner meeting the definition under paragraph (12)(A)(ii), at the closure of such impoundment the Administrator shall require the owner or operator of such impoundment to remove or decontaminate all waste residues, all contaminated liner material, and contaminated soil to the extent practicable. If all contaminated soil is not removed or decontaminated, the owner or operator of such impoundment shall be required to comply with appropriate post-closure requirements, including but not limited to ground water monitoring and corrective action.

"(10) Any incremental cost attributable to the requirements of this subsection or section 3004(o) shall not be considered by the Administrator (or the State, in the case of a State with an authorized program under section 402 of the Clean Water Act)—

"(A) in establishing effluent limitations and standards under section 301, 304, 306, 307, or 402 of the Clean Water Act based on effluent limitations guidelines and standards promulgated any time before twelve months after the date of enactment of the Hazardous and Solid Waste Amendments of 1984; or

"(B) in establishing any other effluent limitations to carry out the provisions of section 301, 307, or 402 of the Clean Water Act on or before October 1, 1986.

"(11)(A) If the Administrator allows a hazardous waste which is prohibited from one or more methods of land disposal under subsection (d), (e), or (g) of section 3004 (or under regulations promulgated by the Administrator under such subsections) to be placed in a surface impoundment (which is operating pursuant to interim status) for storage or treatment, such impoundment shall meet the requirements that are applicable to new surface impoundments under section 3004(o)(1), unless such impoundment meets the requirements of paragraph (2) or (4).

"(B) In the case of any hazardous waste which is prohibited from one or more methods of land disposal under subsection (d), (e), or (g) of section 3004 (or under regulations promulgated by the Administrator under such subsection) the placement or maintenance of such hazardous waste in a surface impoundment for treatment is prohibited as of the effective date of such prohibition unless the treatment residues which are hazardous are, at a minimum, removed for subsequent management within one year of the entry of the waste into the surface impoundment.

"(12)(A) For the purposes of paragraph (2)(A) of this subsection, the term 'liner' means—

"(i) a liner designed, constructed, installed, and operated to prevent hazardous waste from passing into the liner at any time during the active life of the facility; or

"(ii) a liner designed, constructed, installed, and operated to prevent hazardous waste from migrating beyond the liner to adjacent subsurface soil, ground water, or surface water at any time during the active life of the facility.

"(B) For the purposes of this subsection, the term 'aggressive biological treatment facility' means a system of surface impoundments in which the initial impoundment of the secondary treatment segment of the facility utilizes intense mechanical aeration to enhance biological activity to degrade waste water pollutants and

"(i) the hydraulic retention time in such initial impoundment is no longer than 5 days under normal operating conditions, on an annual average basis;

"(ii) the hydraulic retention time in such initial impoundment is no longer than 30 days under normal operating conditions, on an annual average basis: Provided, That the sludge in such impoundment does not constitute a hazardous waste as identified by the extraction procedure toxicity characteristic in effect on the date of enactment of the Hazardous and Solid Waste Amendments of 1984; or

"(iii) such system utilizes activated sludge treatment in the first portion of secondary treatment.

"(C) For the purposes of this subsection, the term 'underground source or drinking water' has the same meaning as provided in regulations under the Safe Drinking Water Act (title XIV of the Public Health Service Act).

"(13) The Administrator may modify the requirements of paragraph (1) in the case of a surface impoundment for which the owner or operator, prior to October 1, 1984, has entered into, and is in compliance with, a consent order, decree, or agreement with the Administrator or a State with an authorized program mandating corrective action with respect to such surface impoundment that provides a degree of protection of human health and the environment which is at a minimum equivalent to that provided by paragraph (1).".

Subtitle C—Amendments Primarily to Other Sections in Subtitle C

SMALL QUANTITY GENERATOR WASTE

SEC. 221. (a) Section 3001 of the Solid Waste Disposal Act is amended by adding the following new subsection after subsection (c):

"(d) SMALL QUANTITY GENERATOR WASTE.—(1) By March 31, 1986, the Administrator shall promulgate standards under sections 3002, 3003, and 3004 for hazardous waste generated by a generator in a total quantity of hazardous waste greater than 100 kilograms but less than 1,000 kilograms during a calendar month.

"(2) The standards referred to in paragraph (1), including standards applicable to the legitimate use, reuse, recycling, and reclamation of such wastes, may vary from the standards applicable to hazardous waste generated by larger quantity generators, but such standards shall be sufficient to protect human health and the environment.

"(3) Not later than 270 days after the enactment of the Hazardous and Solid Waste Amendments of 1984 any hazardous waste which is part of a total quantity generated by a generator generating greater than 100 kilograms but less than 1,000 kilograms during one calendar month and which is shipped off the premises on which such waste is generated shall be accompanied by a copy of the Environmental Protection Agency Uniform Hazardous Waste Manifest form signed by the generator. This form shall contain the following information:

"(A) the name and address of the generator of the waste;

"(B) the United States Department of Transportation description of the waste, including the proper shipping name, hazard class, and identification number (UN/NA), if applicable;

"(C) the number and type of containers;

"(D) the quantity of waste being transported; and

"(E) the name and address of the facility designated to receive the waste.

If subparagraph (B) is not applicable, in lieu of the description referred to in such subparagraph (B), the form shall contain the Environmental Protection Agency identification number, or a generic description of the waste, or a description of the waste by hazardous waste characteristic. Additional requirements related to the manifest form shall apply only if determined necessary by the Administrator to protect human health and the environment.

"(4) The Administrator's responsibility under this subtitle to protect human health and the environment may require the promulgation of standards under this subtitle for hazardous wastes which are generated by any generator who does not generate more than 100 kilograms of hazardous waste in a calendar month.

"(5) Until the effective date of standards required to be promulgated under paragraph (1), any hazardous waste identified or listed under section 3001 generated by any generator during any calendar month in a total quantity greater than 100 kilograms but less than 1,000 kilograms, which is not treated, stored, or disposed of at a hazardous waste treatment, storage, or disposal facility with a permit under section 3005, shall be disposed of only in a facility which is permitted, licensed, or registered by a State to manage municipal or industrial solid waste.

"(6) Standards promulgated as provided in paragraph (1) shall, at a minimum, require that all treatment, storage, or disposal of hazardous wastes generated by generators referred to in paragraph (1) shall occur at a facility with interim status or a permit under this subtitle, except that onsite storage of hazardous waste generated by a generator generating a total quantity of hazardous waste greater than 100 kilograms, but less than 1,000 kilograms during a calendar month, may occur without the requirement of a permit for up to 180 days. Such onsite storage may occur without the requirement of a permit for not more than 6,000 kilograms for up to 270 days if such generator must ship or haul such waste over 200 miles.

"(7)(A) Nothing in this subsection shall be construed to affect or impair the validity of regulations promulgated by the Secretary of Transportation pursuant to the Hazardous Materials Transportation Act.

"(B) Nothing in this subsection shall be construed to affect, modify, or render invalid any requirements in regulations promulgated prior to January 1, 1983 applicable to any acutely hazardous waste identified or listed under section 3001 which is generated by any generator during any calendar month in a total quantity less than 1,000 kilograms.

"(8) Effective March 31, 1986, unless the Administrator promulgates standards as provided in paragraph (1) of this subsection prior to such date, hazardous waste generated by any generator in a total quantity greater than 100 kilograms but less than 1,000 kilograms during a calendar month shall be subject to the following requirements until the standards referred to in paragraph (1) of this subsection have become effective:

"(A) the notice requirements of paragraph (3) of this subsection shall apply and in addition, the information provided in the form shall include the name of the waste transporters and the name and address of the facility designated to receive the waste;

"(B) except in the case of the onsite storage referred to in paragraph (6) of this subsection, the treatment, storage, or disposal of such waste shall occur at a facility with interim status or a permit under this subtitle;

"(C) generators of such waste shall file manifest exception reports as required of generators producing greater amounts of hazardous waste per month except that such reports shall be filed by January 31, for any waste shipment occurring in the last half of the preceding calendar year, and by July 31, for any waste shipment occuring in the first half of the calendar year; and

"(D) generators of such waste shall retain for 3 years a copy of the manifest signed by the designated facility that has received the waste.

Nothing in this paragraph shall be construed as a determination of the standards appropriate under paragraph (1).

"(9) The last sentence of section 3010(b) shall not apply to regulations promulgated under this subsection."

(b) The Administrator of the Environmental Protection Agency shall undertake activities to inform and educate the waste generators of their responsibilities under the amendments made by this section during the period within 30 months after the enactment of the Hazardous and Solid Waste Amendments of 1984 to help assure compliance.

(c) The Administrator of the Environmental Protection Agency in cooperation with the States shall conduct a study of hazardous waste identified or listed under section 3001 of the Solid Waste Disposal Act which is generated by individual generators in total quantities for each generator during any calendar month of less than 1,000 kilograms. The Administrator may require from such generators information as may be necessary to conduct the study. Such study shall include a characterization of the number and type of such generators, the quantity and characteristics of hazardous waste generated by such generators, State requirements applicable to such generators, the individual and industry waste management practices of such generators, the potential costs of modifying those practices and the impact of such modifications on national treatment and disposal facility capacity, and the threat to human health and the environment and the employees of transporters or others involved in solid waste management posed by such hazardous wastes or such management practices. Such study shall be submitted to the Congress not later than April 1, 1985.

(d) The Administrator of the Environmental Protection Agency shall cause to be studied the existing manifest system for hazardous wastes as it applies to small quantity generators and recommend whether the current system shall be retained or whether a new system should be introduced. The study shall include an analysis of the cost versus the benefits of the system studied as well as an analysis of the ease of retrieving and collating information and identifying a given substance. Finally, any new proposal shall include a list of those standards that are necessary to protect human health and the environment. Such study shall be submitted to the Congress not later than April 1, 1987.

(e) The Administrator of the Environmental Protection Agency, in conjunction with the Secretary of Transportation, shall prepare and submit to the Congress a report on the feasibility of easing the administrative burden on small quantity generators, increasing compliance with statutory and regulatory requirements, and simplifying enforcement efforts through a program of licensing hazardous waste transporters to assume the responsibilities of small quantity generators relating to the preparation of manifests and associated recordkeeping and reporting requirements. The report shall examine the appropriate licensing requirements under such a program including the need for financial assurances by licensed transporters and shall make recommendations on provisions and requirements for such a program including the appropriate division of responsibilities between the Department of Transportation and the Environmental Protection Administration. Such report shall be submitted to the Congress not later than April 1, 1987.

(f)(1) The Administrator of the Environmental Protection Agency shall, in consultation with the Secretary of Education, the States, and appropriate educational associations, conduct a comprehensive study of problems associated with the accumulation, storage and disposal of hazardous wastes from educational institutions. The study shall include an investigation of the feasibility and availability of environmentally sound methods for the treatment, storage or disposal of hazardous waste from such institutions, taking into account the types and quantities of such waste which are generated by these institutions, and the nonprofit nature of these institutions.

(2) The Administrator shall submit a report to the Congress containing the findings of the study carried out under paragraph (1) not later than April 1, 1987.

(3) For purposes of this subsection—

(A) the term "hazardous waste" means hazardous waste which is listed or identified under Section 3001 of the Solid Waste Disposal Act;

(B) the term "educational institution" includes, but shall not be limited to,

(i) secondary schools as defined in section 198(a)(7) of the Elementary and Secondary Education Act of 1965; and

(ii) institutions of higher education as defined in section 1201(a) of the Higher Education Act of 1965.

LISTING AND DELISTING OF HAZARDOUS WASTE

SEC. 222.(a) Section 3001 of the Solid Waste Disposal Act is amended by inserting the following new subsections at the end thereof:

"(e) SPECIFIED WASTES.—(1) Not later than 6 months after the date of enactment of the Hazardous and Solid Waste Amendments of 1984, the Administrator shall, where appropriate, list under subsection (b)(1), additional wastes containing chlorinated dioxins or chlorinated-dibenzofurans. Not later than one year after the date of enactment of the Hazardous and Solid Waste Amendments of 1984, the Administrator shall, where appropriate, list under subsection (b)(1) wastes containing remaining halogenated dioxins and halogenated-dibenzofurans.

"(2) Not later than 15 months after the date of enactment of the Hazardous and Solid Waste Amendments of 1984, the Administrator shall make a determination of whether or not to list under subsection (b)(1) the following wastes: Chlorinated Aliphatics, Dioxin, Dimethyl Hydrazine, TDI (toluene diisocyanate), Carbamates, Bromacil, Linuron, Organo-bromines, solvents, refining wastes, chlorinated aromatics, dyes and pigments, inorganic chemical industry wastes, lithium batteries, coke byproducts, paint production wastes, and coal slurry pipeline effluent.

"(f) DELISTING PROCEDURES.—(1) When evaluating a petition to exclude a waste generated at a particular facility from listing under this section, the Administrator shall consider factors (including additional constituents) other than those for which the waste was listed if the Administrator has a reasonable basis to believe that such additional factors could cause the waste to be a hazardous waste. The Administrator shall provide notice and opportunity for comment on these additional factors before granting or denying such petition.

"(2)(A) To the maximum extent practicable the Administrator shall publish in the Federal Register a proposal to grant or deny a petition referred to in paragraph (1) within 12 months after receiving a complete application to exclude a waste generated at a particular facility from being regulated as a hazardous waste and shall grant or deny such a petition within 24 months after receiving a complete application.

"(B) The temporary granting of such a petition prior to the enactment of the Hazardous and Solid Waste Amendments of 1984 without the opportunity for public comment and the full consideration of such comments shall not continue for more than 24 months after the date of enactment of the Hazardous and Solid Waste Amendments of 1984. If a final decision to grant or deny such a petition has not been promulgated after notice and opportunity for public comment within the time limit prescribed by the preceding sentence, any such temporary granting of such petition shall cease to be in effect.

"(g) EP TOXICITY.—Not later than 28 months after the date of enactment of the Hazardous and Solid Waste Amendments of 1984 the Administrator shall examine the deficiencies of the extraction procedure toxicity characteristic as a predictor of the leaching potential of wastes and make changes in the extraction procedure toxicity characteristic, including changes in the leaching media, as are necessary to insure that it accurately predicts the leaching potential of wastes which pose a threat to human health and the environment when mismanaged.

"(h) ADDITIONAL CHARACTERISTICS.—Not later than 2 years after the date of enactment of the Hazardous and Solid Waste Amendments of 1984, the Administrator shall promulgate regulations under this section identifying additional characteristics of hazardous waste, including measures or indicators of toxicity.".

(b) Section 3001(b)(1) of the Solid Waste Disposal Act is amended by adding the following at the end thereof: "The Administrator, in cooperation with the Agency for Toxic Substances and Disease Registry and the National Toxicology Program, shall also identify or list those hazardous wastes which shall be subject to the provisions of this subtitle solely because of the presence in such wastes of certain constituents (such as identified carcinogens, mutagens, or teratagens) at levels in excess of levels which endanger human health.".

CLARIFICATION OF HOUSEHOLD WASTE EXCLUSION

SEC. 223. (a) Section 3001 of the Solid Waste Disposal Act is amended by adding the following new subsection at the end thereof:

"(g) CLARIFICATION OF HOUSEHOLD WASTE EXCLUSION.—A resource recovery facility recovering energy from the mass burning of municipal solid waste shall not be deemed to be treating, storing, disposing of, or otherwise managing hazardous wastes for the purposes of regulation under this subtitle, if—

"(1) such facility—

"(A) receives and burns only—

"(i) household waste (from single and multiple dwellings, hotels, motels, and other residential sources), and

"(ii) solid waste from commercial or industrial sources that does not contain hazardous waste identified or listed under this section, and

"(B) does not accept hazardous wastes identified or listed under this section, and

"(2) the owner or operator of such facility has established contractual requirements or other appropriate notification or inspection procedures to assure that hazardous wastes are not received at or burned in such facility.".

WASTE MINIMIZATION

SEC. 224. (a) Section 3002 of the Solid Waste Disposal Act is amended by—

(1) inserting "(a) IN GENERAL.—" after "3002.";

(2) adding the following new subsection at the end thereof:

"(b) WASTE MINIMIZATION.—Effective September 1, 1985, the manifest required by subsection (a)(5) shall contain a certification by the generator that—

"(1) the generator of the hazardous waste has a program in place to reduce the volume or quantity and toxicity of such waste to the degree determined by the generator to be economically practicable; and

"(2) the proposed method of treatment, storage, or disposal is that practicable method currently available to the generator which minimizes the present and future threat to human health and the environment."; and

(2) amending subsection (a)(6) to read as follows:

"(6) submission of reports to the Administrator (or the State agency in any case in which such agency carries out a permit program pursuant to this subtitle) at least once every 2 years, setting out—

"(A) the quantities and nature of hazardous waste identified or listed under this subtitle that he has generated during the year;

"(B) the disposition of all hazardous waste reported under subparagraph (A);

"(C) the efforts undertaken during the year to reduce the volume and toxicity of waste generated; and

"(D) the changes in volume and toxicity of waste actually achieved during the year in question in comparison with previous years, to the extent such information is available for years prior to enactment of the Hazardous and Solid Waste Amendments of 1984.".

(b) Section 3005 of the Solid Waste Disposal Act is amended by adding the following new subsection after subsection (g):

"(h) WASTE MINIMIZATION.—Effective September 1, 1985, it shall be a condition of any permit issued under this section for the treatment, storage, or disposal of hazardous waste on the premises where such waste was generated that the permittee certify, no less often than annually, that—

"(1) the generator of the hazardous waste has a program in place to reduce the volume or quantity and toxicity of such waste to the degree determined by the generator to be economically practicable; and

"(2) the proposed method of treatment, storage, or disposal is that practicable method currently available to the generator which minimizes the present and future threat to human health and the environment.".

(c) Section 8002 of the Solid Waste Disposal Act is amended by adding the following new subsection after subsection:

"(r) MINIMIZATION OF HAZARDOUS WASTE.—The Administrator shall compile, and not later than October 1, 1986, submit to the Congress, a report on the feasibility and desirability of establishing standards of performance or of taking other additional actions under this Act to require the generators of hazardous waste to reduce the volume or quantity and toxicity of the hazardous waste they generate, and of establishing with respect to hazardous wastes required management practices or other requirements to assure such wastes are managed in ways that minimize present and future risks to human health and the environment. Such report shall include any recommendations for legislative changes which the Administrator determines are feasible and desirable to implement the national policy established by section 1003.".

BASIS OF AUTHORIZATION

SEC. 225. Section 3006(b) of the Solid Waste Disposal Act is amended by adding the following at the end thereof: "In authorizing a State program, the Administrator may base his findings on the Federal program in effect one year prior to submission of a State's application or in effect on January 26, 1983, whichever is later.".

AVAILABILITY OF INFORMATION

SEC. 226. (a) Section 3006 of the Solid Waste Disposal Act is amended by adding the following new subsection after subsection (e) thereof:

"(f) AVAILABILITY OF INFORMATION.—No State program may be authorized by the Administrator under this section unless—

"(1) such program provides for the public availability of information obtained by the State regarding facilities and sites for the treatment, storage, and disposal of hazardous waste; and

"(2) such information is available to the public in substantially the same manner, and to the same degree, as would be the case if the Administrator was carrying out the provisions of this subtitle in such State.".

(b) The amendment made by subsection (a) shall apply with respect to State programs authorized under section 3006 before, on, or after the date of enactment of the Hazardous and Solid Waste Amendments of 1984.

INTERIM AUTHORIZATION OF STATE PROGRAMS

SEC. 227. Section 3006(c) of the Solid Waste Disposal Act is amended by—

(1) striking out "twenty-four-month period beginning on the date six months after the date of promulgation of regulations under sections 3002 through 3005" and inserting in lieu thereof "period ending no later than January 31, 1986";

(2) inserting "(1)" after Interim Authorization.—"; and

(3) by inserting the following at the end thereof:

"(2) The Administrator shall, by rule, establish a date for the expiration of interim authorization under this subsection.

"(3) Pending interim or final authorization of a State program for any State which reflects the amendments made by the Hazardous and Solid Waste Amendments of 1984, the State may enter into an agreement with the Administrator under which the State may assist in the administration of the requirements and prohibitions which take effect pursuant to such Amendments.

"(4)(A) In the case of a State permit program for any State which is authorized under subsection (b) or under this subsection, until such program is amended to reflect the amendments made by the Hazardous and Solid Waste Amendments of 1984 and such program amendments receive interim or final authorization, the Administrator shall have the authority in such State to issue or deny permits or those portions of permits affected by the requirements and prohibitions established by the Hazardous and Solid Waste Amendments of 1984. The Administrator shall coordinate with States the procedures for issuing such permits.".

APPLICATION OF AMENDMENTS TO AUTHORIZED STATES

SEC. 228. Section 3006 of the Solid Waste Disposal Act is amended by adding the following new subsection after subsection (f):

"(g) AMENDMENTS MADE BY 1984 ACT.—(1) Any requirement or prohibition which is applicable to the generation, transportation, treatment, storage, or disposal of hazardous waste and which is imposed under this subtitle pursuant to the amendments made by the Hazardous and Solid Waste Amendments of 1984 shall take effect in each State having an interim or finally authorized State program on the same date as such requirement takes effect in other States. The Administrator shall carry out such requirement directly in each such State unless the State program is finally authorized (or is granted interim authorization as provided in paragraph (2)) with respect to such requirement.

"(2) Any State which, before the date of the enactment of the Hazardous and Solid Waste Amendments of 1984 has an existing hazardous waste program which has been granted interim or final authorization under this section may submit to the Administrator evidence that such existing program contains (or has been amended to include) any requirement which is substantially equivalent to a requirement referred to in paragraph (1) and may request interim authorization to carry out that requirement under this subtitle. The Administrator shall, if the evidence submitted shows the State requirement to be substantially equivalent to the requirement referred to in paragraph (1), grant an interim authorization to the State to carry out such requirement in lieu of direct administration in the State by the Administrator of such requirement.".

FEDERAL FACILITIES

SEC. 229. Section 3007 of the Solid Waste Disposal Act is amended by adding the following new subsection after subsection (b) thereof:

"(c) FEDERAL FACILITY INSPECTIONS.—Beginning 12 months after the date of enactment of the Hazardous and Solid Waste Amendments of 1984, the Administrator shall, or in the case of a State with an authorized hazardous waste program the State may, undertake on an annual basis a thorough inspection of each facility for the treatment, storage, or disposal of hazardous waste which is owned or operated by a Federal agency to enforce its compliance with this subtitle and the regulations promulgated thereunder. The records of such inspections shall be available to the public as provided in subsection (b).".

STATE-OPERATED FACILITIES

SEC. 230. Section 3007 of the Solid Waste Disposal Act is amended by adding the following new subsection after subsection (c):

"(d) STATE-OPERATED FACILITIES.—The Administrator shall annually undertake a thorough inspection of every facility for the treatment, storage, or disposal of hazardous waste which is operated by a State or local government for which a permit is required under section 3005 of this title. The records of such inspection shall be available to the public as provided in subsection (b).".

MANDATORY INSPECTIONS

SEC. 231. Section 3007 of the Solid Waste Disposal Act is amended by inserting the following new subsection after subsection (d) thereof:

"(e) MANDATORY INSPECTIONS.—(1) The Administrator (or the State in the case of a State having an authorized hazardous waste program under this subtitle) shall commence a program to thoroughly inspect every facility for the treatment, storage, or disposal of hazardous waste for which a permit is required under section 3005 no less often than every 2 years as to its compliance with this subtitle (and the regulations promulgated under this subtitle). Such inspections shall commence not later than 12 months after the date of enactment of the Hazardous and Solid Waste Amendments of 1984. The Administrator shall, after notice and opportunity for public comment, promulgate regulations governing the minimum frequency and manner of such inspections, including the manner in which records of such inspections shall be maintained and the manner in which reports of such inspections shall be filed. The Administrator may distinguish between classes and categories of facilities commensurate with the risks posed by each class or category.

"(2) Not later than 6 months after the date of enactment of the Hazardous and Solid Waste Amendments of 1984, the Administrator shall submit to the Congress a report on the potential for inspections of hazardous waste treatment, storage, or disposal facilities by nongovernmental inspectors as a supplement to inspections conducted by officers, employees, or representatives of the Environmental Protection Agency or States having authorized hazardous waste programs or operating under a cooperative agreement with the Administrator. Such report shall be prepared in cooperation with the States, insurance companies offering environmental impairment insurance, independent companies providing inspection services, and other such groups as appropriate. Such report shall contain recommendations on provisions and requirements for a program of private inspections to supplement governmental inspections.".

FEDERAL ENFORCEMENT

SEC. 232. (a) Section 3008(d) of the Solid Waste Disposal Act is amended as follows:

(1) in paragraph (1)—

(A) insert after "knowingly transports" the following: "or causes to be transported", and

(B) strike out "section 3005 (or 3006 in the case of a State program)" and substitute "this subtitle";

(2) in paragraph (2)—

(A) strike out "either";

(B) strike out "section 3005 (or 3006 in the case of a State program)" and substitute "this subtitle"; and

(C) strike out subparagraph (B) and substitute:

"(B) in knowing violation of any material condition or requirement of such permit; or

"(C) in knowing violation of any material condition or requirement of any applicable interim status regulations or standards;"; and

(3) strike out all after paragraph (2) and substitute:

"(3) knowingly omits material information or makes any false material statement or representation in any application, label, manifest, record, report, permit, or other document filed, maintained, or used for purposes of compliance with regulations promulgated by the Administrator (or by a State in the case of an authorized State program) under this subtitle;

"(4) knowingly generates, stores, treats, transports, disposes of, exports, or otherwise handles any hazardous waste (whether such activity took place before or takes place after the date of the enactment of this paragraph) and who knowingly destroys, alters, conceals, or fails to file any record, application, manifest, report, or other document required to be maintained or filed for purposes of compliance with regulations promulgated by the Administrator (or by a State in the case of an authorized State program) under this subtitle;

"(5) knowingly transports without a manifest, or causes to be transported without a manifest, any hazardous waste required by regulations promulgated under this subtitle (or by a State in the case of a State program authorized under this subtitle) to be accompanied by a manifest

shall, upon conviction, be subject to a fine of not more than $50,000 for each day of violation, or imprisonment not to exceed 2 years (5 years in the case of a violation of paragraph (1) or (2)), or both. If the conviction is for a violation committed after a first conviction of such person under this paragraph, the maximum punishment under the respective paragraph shall be doubled with respect to both fine and imprisonment.".

(b) Section 3008(e) of the Solid Waste Disposal Act is amended to read as follows:

"(e) KNOWING ENDANGERMENT.—Any person who knowingly transports, treats, stores, disposes of, or exports any hazardous waste identified or listed under this subtitle in violation of paragraph (1), (2), (3), (4), (5), or (6) of subsection (d) of this section who knows at that time that he thereby places another person in imminent danger of death or serious bodily injury, shall, upon conviction, be subject to a fine of not more than $250,000 or imprisonment for not more than 15 years, or both. A defendant that is an organization shall, upon conviction of violating this subsection, be subject to a fine of not more than $1,000,000.".

(c) Section 3008(d)(2)(A) of the Solid Waste Disposal Act is amended by striking out "having obtained".

INTERIM STATUS CORRECTIVE ACTION ORDERS

SEC. 233. (a) Section 3008 of the Solid Waste Disposal Act is amended by adding the following new subsection after subsection (g) thereof:

"(h) INTERIM STATUS CORRECTIVE ACTION ORDERS.—(1) Whenever on the basis of any information the Administrator determines that there is or has been a release of hazardous waste into the environment from a facility authorized to operate under section 3005(e) of this subtitle, the Administrator may issue an order requiring corrective action or such other response measure as he deems necessary to protect human health or the environment or the Administrator may commence a civil action in the United States district court in the district in which the facility is located for appropriate relief, including a temporary or permanent injunction.

"(2) Any order issued under this subsection may include a suspension or revocation of authorization to operate under section 3005(e) of this subtitle, shall state with reasonable specificity the nature of the required corrective action or other response measure, and shall specify a time for compliance. If any person named in an order fails to comply with the order, the Administrator may assess, and such person shall be liable to the United States for, a civil penalty in an amount not to exceed $25,000 for each day of noncompliance with the order.".

(b) Subsection (b) of section 3008 of the Solid Waste Disposal Act is amended by inserting "issued under this section" immediately after "Any order".

EFFECTIVE DATE OF REGULATIONS

SEC. 234. Section 3010(b) of the Solid Waste Disposal Act is amended by adding the following at the end thereof: "At the time a regulation is promulgated, the Administrator may provide for a shorter period prior to the effective date, or an immediate effective date for:

"(1) a regulation with which the Administrator finds the regulated community does not need 6 months to come into compliance;

"(2) a regulation which responds to an emergency situation; or

"(3) other good cause found and published with the regulation.".

SUBTITLE D—NEW SECTIONS IN SUBTITLE C

MANAGEMENT OF USED OIL

SEC. 241.(a) Section 3014 of the Solid Waste Disposal Act (relating to restrictions on recycled oil) as redesignated by section 502 of this Act (relating to technical and clerical amendments) is amended by inserting "(a) IN GENERAL.—" after "3014." and by adding the following at the end thereof:

"(b) IDENTIFICATION OR LISTING OF USED OIL AS HAZARDOUS WASTE.—Not later than 12 months after the date of enactment of the Hazardous and Solid Waste Amendments of 1984 the Administrator shall propose whether to list or identify used automobile and truck crankcase oil as hazardous waste under section 3001. Not later than 24 months after such date of enactment, the Administrator shall make a final determination whether to list or identify used automobile and truck crankcase oil and other used oil as hazardous wastes under section 3001.

"(c) USED OIL WHICH IS RECYCLED.—(1) With respect to generators and transporters of used oil identified or listed as a hazardous waste under section 3001, the standards promulgated under section 3001(d), 3002, and 3003 of this subtitle shall not apply to such used oil if such used oil is recycled.

"(2)(A) In the case of used oil which is exempt under paragraph (1), not later than 24 months after the date of enactment of the Hazardous and Solid Waste Amendments of 1984, the Administrator shall promulgate such standards under this subsection regarding the generation and transportation of used oil which is recycled as may be necessary to protect human health and the environment. In promulgating such regulations with respect to generators, the Administrator shall take into account the effect of such regulations on environmentally acceptable types of used oil recycling and the effect of such regulations on small quantity generators and generators which are small businesses (as defined by the Administrator).

"(B) The regulations promulgated under this subsection shall provide that no generator of used oil which is exempt under paragraph (1) from the standards promulgated under section 3001(d), 3002, and 3003 shall be subject to any manifest requirement or any associated recordkeeping and reporting requirement with respect to such used oil if such generator—

"(i) either—

"(I) enters into an agreement or other arrangement (including an agreement or arrangement with an independent transporter or with an agent of the recycler) for delivery of such used oil to a recycling facility which has a permit under section 3005(c) (or for which a valid permit is deemed to be in effect under subsection (d)), or

"(II) recycles such used oil at one or more facilities of the generator which has such a permit under section 3005 of this subtitle (or for which a valid permit is deemed to have been issued under subsection (d) of this section);

"(ii) such used oil is not mixed by the generator with other types of hazardous wastes; and

"(iii) the generator maintains such records relating to such used oil, including records of agreements or other arrangements for delivery of such used oil to any recycling facility referred to in clause (i)(I), as the Administrator deems necessary to protect human health and the environment.

"(3) The regulations under this subsection regarding the transportation of used oil which is exempt from the standards promulgated under sections 3001(d), 3002, and 3003 under paragraph (1) shall require the transporters of such used oil to deliver such used oil to a facility which has a valid permit under section 3005 of this subtitle or which is deemed to have a valid permit under subsection (d) of this section. The Administrator shall also establish other standards for such transporters as may be necessary to protect human health and the environment.

"(d) PERMITS.—(1) The owner or operator of a facility which recycles used oil which is exempt under subsection (c)(1), shall be deemed to have a permit under this subsection for all such treatment or recycling (and any associated tank or container storage) if such owner and operator comply with standards promulgated by the Administrator under section 3004; except that the Administrator may require such owners and operators to obtain an individual permit under section 3005(c) if he determines that an individual permit is necessary to protect human health and the environment.

"(2) Notwithstanding any other provision of law, any generator who recycles used oil which is exempt under subsection (c)(1) shall not be required to obtain a permit under section 3005(c) with respect to such used oil until the Administrator has promulgated standards under section 3004 regarding the recycling of such used oil.".

(b)(1) Section 7006(b) is amended by inserting after "3005" the following "(or in modifying or revoking any permit which is deemed to have been issued under section 3012(d)(1)".

(2) The third sentence of section 3006(b) is amended by inserting after "hazardous waste" the following "(and to enforce permits deemed to have been issued under section 3012(d)(1))".

RECOVERY AND RECYCLING OF USED OIL

SEC. 242. Section 3014(a) of the Solid Waste Disposal Act (entitled "Restrictions on Recycled Oil"), as redesignated by section 502 of this Act and amended by section 241 of this Act, is amended by striking out the period at the end thereof and substituting ", consistent with the protection of human health and the environment.".

EXPANSION DURING INTERIM STATUS

SEC. 243.(a) Subtitle C of the Solid Waste Disposal Act is amended by adding the following new section after section 3014:

"EXPANSION DURING INTERIM STATUS

"SEC. 3015. (a) WASTE PILES.—The owner or operator of a waste pile qualifying for the authorization to operate under section 3005(e) shall be subject to the same requirements for liners and leachate collection systems or equivalent protection provided in regulations promulgated by the Administrator under section 3004 before October 1, 1982, or revised under section 3004(o) (relating to minimum technological requirements), for new facilities receiving individual permits under subsection (c) of section 3005, with respect to each new unit, replacement of an existing unit, or lateral expansion of an existing unit that is within the waste management area identified in the permit application submitted under section 3005, and with respect to waste received beginning 6 months after the date of enactment of the Hazardous and Solid Waste Amendments of 1984.

"(b) LANDFILLS AND SURFACE IMPOUNDMENTS.—(1) The owner or operator of a landfill or surface impoundment qualifying for the authorization to operate under section 3005(e) shall be subject to the requirements of section 3004(o) (relating to minimum technological requirements), with respect to each new unit, replacement of an existing unit, or lateral expansion of an existing unit that is within the waste management area identified in the permit application submitted under this section, and with respect to waste received beginning 6 months after the date of enactment of the Hazardous and Solid Waste Amendments of 1984.

"(2) The owner or operator of each unit referred to in paragraph (1) shall notify the Administrator (or the State, if appropriate) at least 60 days prior to receiving waste. The Administrator (or the State) shall require the filing, within 6 months of receipt of such notice, of an application for a final determination regarding the issuance of a permit for each facility submitting such notice.

"(3) In the case of any unit in which the liner and leachate collection system has been installed pursuant to the requirements of this section and in good faith compliance with the Administrator's regulations and guidance documents governing liners and leachate collection systems, no liner or leachate collection system which is different from that which was so installed pursuant to this section shall be required for such unit by the Administrator when issuing the first permit under section 3005 to such facility, except that the Administrator shall not be precluded from requiring installation of a new liner when the Administrator has reason to believe that any liner installed pursuant to the requirements of this section is leaking. The Administrator may, under section 3004, amend the requirements for liners and leachate collection systems required under this section as may be necessary to provide additional protection for human health and the environment.".

(b) The table of contents for such subtitle C is amended by adding the following new item after the item relating to section 3014:

"Sec. 3015. Expansion during interim status.".

(c) Section 3005 of the Solid Waste Disposal Act is amended by adding the following new subsection after subsection (h):

"(i) INTERIM STATUS FACILITIES RECEIVING WASTES AFTER JULY 26, 1982.—The standards concerning ground water monitoring, unsaturated zone monitoring, and corrective action, which are applicable under section 3004 to new landfills, surface impoundments, land treatment units, and waste-pile units required to be permitted under subsection (c) shall also apply to any landfill, surface impoundment, land treatment unit, or waste-pile unit qualifying for the authorization to operate under subsection (e) which receives hazardous waste after July 26, 1982.".

INVENTORY OF FEDERAL AGENCY HAZARDOUS WASTE FACILITIES

SEC. 244. Subtitle C of the Solid Waste Disposal Act is amended by adding the following new section after section 3015:

"INVENTORY OF FEDERAL AGENCY HAZARDOUS WASTE FACILITIES

"SEC. 3016.(a) Each Federal agency shall undertake a continuing program to compile, publish, and submit to the Administrator (and to the State in the case of sites in States having an authorized hazardous waste program) an inventory of each site which the Federal agency owns or operates or has owned or operated at which hazardous waste is stored, treated, or disposed of or has been disposed of at any time. The inventory shall be submitted every 2 years beginning January 31, 1986. Such inventory shall be available to the public as provided in section 3007(b). Information previously submitted by a Federal agency under section 103 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, or under section 3005 or 3010 of this Act, or under this section need not be resubmitted except that the agency shall update any previous submission to reflect the latest available data and information. The inventory shall include each of the following:

"(1) A description of the location of each site at which any such treatment, storage, or disposal has taken place before the date on which permits are required under section 3005 for such storage, treatment, or disposal, and where hazardous waste has been disposed, a description of hydrogeology of the site and the location of withdrawal wells and surface water within one mile of the site.

"(2) Such information relating to the amount, nature, and toxicity of the hazardous waste in each site as may be necessary to determine the extent of any health hazard which may be associated with any site.

"(3) Information on the known nature and extent of environmental contamination at each site, including a description of the monitoring data obtained.

(4) Information concerning the current status of the site, including information respecting whether or not hazardous waste is currently being treated, stored, or disposed of at such site (and if not, the date on which such activity ceased) and information respecting the nature of any other activity currently carried out at such site.

"(5) A list of sites at which hazardous waste has been disposed and environmental monitoring data has not been obtained, and the reasons for the lack of monitoring data at each site.

"(6) A description of response actions undertaken or contemplated at contaminated sites.

"(6) An identification of the types of techniques of waste treatment, storage, or disposal which have been used at each site.

"(7) The name and address and responsible Federal agency for each site, determined as of the date of preparation of the inventory.".

"(b) ENVIRONMENTAL PROTECTION AGENCY PROGRAM.—If the Administrator determines that any Federal agency under subsection (a) is not adequately providing information respecting the sites referred to in subsection (a), the Administrator shall notify the chief official of such agency. If within 90 days following such notification, the Federal agency has not undertaken a program to adequately provide such information, the Administrator shall carry out the inventory program for such agency.".

EXPORT OF HAZARDOUS WASTE

SEC. 245. (a) Subtitle C of the Solid Waste Disposal Act is amended by inserting the following new section after section 3016:

"EXPORT OF HAZARDOUS WASTE

"SEC. 3017. (a) IN GENERAL.—Beginning 24 months after the date of enactment of the Hazardous and Solid Waste Amendments of 1984, no person shall export any hazardous waste identified or listed under this subtitle unless

"(1)(A) such person has provided the notification required in subsection (c) of this section,

"(B) the government of the receiving country has consented to accept such hazardous waste,

"(C) a copy of the receiving country's written consent is attached to the manifest accompanying each waste shipment, and

"(D) the shipment conforms with the terms of the consent of the government of the receiving country required pursuant to subsection (e), or

"(2) the United States and the government of the receiving country have entered into an agreement as provided for in subsection (f) and the shipment conforms with the terms of such agreement.

"(b) REGULATIONS.—Not later than 12 months after the date of enactment of the Hazardous and Solid Waste Amendments of 1984, the Administrator shall promulgate the regulations necessary to implement this section. Such regulations shall become effective 180 days after promulgation.

"(c) NOTIFICATION.—Any person who intends to export a hazardous waste identified or listed under this subtitle beginning 12 months after the date of enactment of the Hazardous and Solid Waste Amendments of 1984, shall, before such hazardous waste is scheduled to leave the United States, provide notification to the Administrator. Such notification shall contain the following information:

"(1) the name and address of the exporter;

"(2) the types and estimated quantities of hazardous waste to be exported;

"(3) the estimated frequency or rate at which such waste is to be exported; and the period of time over which such waste is to be exported;

"(4) the ports of entry;

"(5) a description of the manner in which such hazardous waste will be transported to and treated, stored, or disposed in the receiving country; and

"(6) the name and address of the ultimate treatment, storage or disposal facility.

"(d) PROCEDURES FOR REQUESTING CONSENT OF THE RECEIVING COUNTRY.—Within 30 days of the Administrator's receipt of a complete notification under this section, the Secretary of State, acting on behalf of the Administrator, shall—

"(1) forward a copy of the notification to the government of the receiving country;

"(2) advise the government that United States law prohibits the export of hazardous waste unless the receiving country consents to accept the hazardous waste;

"(3) request the government to provide the Secretary with a written consent or objection to the terms of the notification; and

"(4) forward to the government of the receiving country a description of the Federal regulations which would apply to the treatment, storage, and disposal of the hazardous waste in the United States.

"(e) CONVEYANCE OF WRITTEN CONSENT TO EXPORTER.—Within 30 days of receipt by the Secretary of State of the receiving country's written consent or objection (or any subsequent communication withdrawing a prior consent or objection), the Administrator shall forward such a consent, objection, or other communication to the exporter.

"(f) INTERNATIONAL AGREEMENTS.—Where there exists an international agreement between the United States and the government of the receiving country establishing notice, export, and enforcement procedures for the transportation, treatment, storage, and disposal of hazardous wastes, only the requirements of subsections (a)(2) and (g) shall apply.

"(g) REPORTS.—After the date of enactment of the Hazardous and Solid Waste Amendments of 1984, any person who exports any hazardous waste identified or listed under section 3001 of this subtitle shall file with the Administrator no later than March 1 of each year, a report summarizing the types, quantities, frequency, and ultimate destination of all such hazardous waste exported during the previous calendar year.

"(h) OTHER STANDARDS.—Nothing in this section shall preclude the Administrator from establishing other standards for the export of hazardous wastes under section 3002 or section 3003 of this subtitle.".

(b) The table of contents for such subtitle C is amended by adding the following new item after the item relating to section 3016:

"Sec. 3017. Export of hazardous waste.".

(c) Section 3008(d) of the Solid Waste Disposal Act, as amended by section 232 of this Act, is amended by adding after paragraph (5) "; or" and the following new paragraph:

"(6) knowingly exports a hazardous waste identified or listed under this subtitle (A) without the consent of the receiving country or, (B) where there exists an international agreement between the United States and the government of the receiving country establishing notice, export, and enforcement procedures for the transportation, treatment, storage, and disposal of hazardous wastes, in a manner which is not in conformance with such agreement".

DOMESTIC SEWAGE

SEC. 246. (a) Subtitle C of the Solid Waste Disposal Act is amended by adding the following new section after section 3017:

"DOMESTIC SEWAGE

"SEC. 3018. (a) REPORT.—The Administrator shall, not later than 15 months after the date of enactment of the Hazardous and Solid Waste Amendments of 1984, submit a report to the Congress concerning those substances identified or listed under section 3001 which are not regulated under this subtitle by reason of the exclusion for mixtures of domestic sewage and other wastes that pass through a sewer system to a publicly owned treatment works. Such report shall include the types, size and number of generators which dispose of such substances in this manner, the types and quantities disposed of in this manner, and the identification of significant generators, wastes, and waste constituents not regulated under existing Federal law or regulated in a manner sufficient to protect human health and the environment.

"(b) REVISIONS OF REGULATIONS.—Within 18 months after submitting the report specified in subsection (a), the Administrator shall revise existing regulations and promulgate such additional regulations pursuant to this subtitle (or any other authority of the Administrator, including section 307 of the Federal Water Pollution Control Act) as are necessary to assure that substances identified or listed under section 3001 which pass through a sewer system to a publicly owned treatment works are adequately controlled to protect human health and the environment.

"(c) REPORT ON WASTEWATER LAGOONS.—The Administrator shall, within 36 months after the date of the enactment of the Hazardous and Solid Waste Amendments of 1984, submit a report to Congress concerning wastewater lagoons at publicly owned treatment works and their effect on groundwater quality. Such report shall include—

"(1) the number and size of such lagoons;

"(2) the types and quantities of waste contained in such lagoons;

"(3) the extent to which such waste has been or may be released from such lagoons and contaminate ground water; and

"(4) available alternatives for preventing or controlling such releases.

The Administrator may utilize the authority of sections 3007 and 3013 for the purpose of completing such report.

"(d) APPLICATION OF SECTION 3010 AND SECTION 3007.—The provisions of sections 3007 and 3010 shall apply to solid or dissolved materials in domestic sewage to the same extent and in the same manner as such provisions apply to hazardous waste.".

(c) The table of contents for such subtitle C is amended by adding the following new item at the end thereof:

"Sec. 3018. Domestic sewage.".

EXPOSURE INFORMATION AND HEALTH ASSESSMENTS

SEC. 247. (a) Subtitle C of the Solid Waste Disposal Act is amended by adding the following new section after section 3018:

"EXPOSURE INFORMATION AND HEALTH ASSESSMENTS

"SEC. 3019. (a) EXPOSURE INFORMATION.—Beginning on the date nine months after the enactment of the Hazardous and Solid Waste Amendments of 1984, each application for a final determination regarding a permit under section 3005(c) for a landfill or surface impoundment shall be accompanied by information reasonably ascertainable by the owner or operator on the potential for the public to be exposed to hazardous wastes or hazardous constituents through releases related to the unit. At a minimum, such information must address:

"(1) reasonably foreseeable potential releases from both normal operations and accidents at the unit, including releases associated with transportation to or from the unit;

"(2) the potential pathways of human exposure to hazardous wastes or constituents resulting from the releases described under paragraph (1); and

"(3) the potential magnitude and nature of the human exposure resulting from such releases.

The owner or operator of a landfill or surface impoundment for which an application for such a final determination under section 3005(c) has been submitted prior to the date of enactment of the Hazardous and Solid Waste Amendments of 1984 shall submit the information required by this subsection to the Administrator (or the State, in the case of a State with an authorized program) no later than the date 9 months after such date of enactment.

"(b) HEALTH ASSESSMENTS.—(1) The Administrator (or the State, in the case of a State with an authorized program) shall make the information required by subsection (a), together with other relevant information, available to the Agency for Toxic Substances and Disease Registry established by section 104(i) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980.

"(2) Whenever in the judgment of the Administrator, or the State (in the case of a State with an authorized program), a landfill or a surface impoundment poses a substantial potential risk to human health, due to the existence of releases of hazardous constituents, the magnitude of contamination with hazardous constituents which may be the result of a release, or the magnitude of the population exposed to such release or contamination, the Administrator or the State (with the concurrence of the Administrator) may request the Administrator of the Agency for Toxic Substances and Disease Registry to conduct a health assessment in connection with such facility and take other appropriate action with respect to such risks as authorized by section 104(b) and (i) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980. If funds are provided in connection with such request the Administrator of such Agency shall conduct such health assessment.

"(c) MEMBERS OF THE PUBLIC.—Any member of the public may submit evidence of releases of or exposure to hazardous constituents from such a facility, or as to the risks or health effects associated with such releases or exposure, to the Administrator of the Agency for Toxic Substances and Disease Registry, the Administrator, or the State (in the case of a State with an authorized program).

"(d) PRIORITY.—In determining the order in which to conduct health assessments under this subsection, the Administrator of the Agency for Toxic Substances and Disease Registry shall give priority to those facilities or sites at which there is documented evidence of release of hazardous constituents, at which the potential risk to human health appears highest, and for which in the judgment of the Administrator of such Agency existing health assessment data is inadequate to assess the potential risk to human health as provided in subsection (f).

"(e) PERIODIC REPORTS.—The Administrator of such Agency shall issue periodic reports which include the results of all the assessments carried out under this section. Such assessments or other activities shall be reported after appropriate peer review.

"(f) DEFINITION.—For the purposes of this section, the term 'health assessments' shall include preliminary assessments of the potential risk to human health posed by individual sites and facilities subject to this section, based on such factors as the nature and extent of contamination, the existence of potential for pathways of human exposure (including ground or surface water contamination, air emissions, and food chain contamination), the size and potential susceptibility of the community within the likely pathways of exposure, the comparison of expected human exposure levels to the short-term and long-term health effects associated with identified contaminants and any available recommended exposure or tolerance limits for such contaminants, and the comparison of existing morbidity and mortality data on diseases that may be associated with the observed levels of exposure. The assessment shall include an evaluation of the risks to the potentially affected population from all sources of such contaminants, including known point or nonpoint sources other than the site or facility in question. A purpose of such preliminary assessments shall be to help determine whether full-scale health or epidemiological studies and medical evaluations of exposed populations shall be undertaken.

"(g) COST RECOVERY.—In any case in which a health assessment performed under this section discloses the exposure of a population to the release of a hazardous substance, the costs of such health assessment may be recovered as a cost of response under section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 from persons causing or contributing to such release of such hazardous substance or, in the case of multiple releases contributing to such exposure, to all such release.".

TITLE III—PROVISIONS RELATING TO SUBTITLE D OF THE SOLID WASTE DISPOSAL ACT

SIZE OF WASTE-TO-ENERGY FACILITIES

SEC. 301. (a) Section 4001 of the Solid Waste Disposal Act is amended by adding the following at the end thereof: "In developing such comprehensive plans, it is the intention of this Act that in determining the size of the waste-to-energy facility, adequate provision shall be given to the present and reasonably anticipated future needs of the recycling and resource recovery interest within the area encompassed by the planning process.".

(b) Section 4003 of the Solid Waste Disposal Act is amended by adding the following new subsection at the end thereof:

"(d) SIZE OF WASTE-TO-ENERGY FACILITIES.—Notwithstanding any of the above requirements, it is the intention of this Act and the planning process developed pursuant to this Act that in determining the size of the waste-to-energy facility, adequate provision shall be given to the present and reasonably anticipated future needs of the recycling and resource recovery interest within the area encompassed by the planning process.".

SUBTITLE D IMPROVEMENTS

SEC. 302. (a)(1) Subtitle D of the Solid Waste Disposal Act is amended by adding the following new section after section 4009:

"ADEQUACY OF CERTAIN GUIDELINES AND CRITERIA

"SEC. 4010. (a) STUDY.—The Administrator shall conduct a study of the extent to which the guidelines and criteria under this Act (other than guidelines and criteria for facilities to which subtitle C applies) which are applicable to solid waste management and disposal facilities, including, but not limited to landfills and surface impoundments, are adequate to protect human health and the environment from ground water contamination. Such study shall include a detailed assessment of the degree to which the criteria under section 1008(a) and the criteria under section 4004 regarding monitoring, prevention of contamination, and remedial action are adequate to protect ground water and shall also include recommendation with respect to any additional enforcement authorities which the Administrator, in consultation with the Attorney General, deems necessary for such purposes.

"(b) REPORT.—Not later than 36 months after the date of enactment of the Hazardous and Solid Waste Amendments of 1984, the Administrator shall submit a report to the Congress setting forth the results of the study required under this section, together with any recommendations made by the Administrator on the basis of such study.

"(c) REVISIONS OF GUIDELINES AND CRITERIA.—Not later than March 31, 1988, the Administrator shall promulgate revisions of the criteria promulgated under paragraph (1) of section 4004(a) and under section 1008(a)(3) for facilities that may receive hazardous household wastes or hazardous wastes from small quantity generators

under section 3001(d). The criteria shall be those necessary to protect human health and the environment and may take into account the practicable capability of such facilities. At a minimum such revisions for facilities potentially receiving such wastes should require ground water monitoring as necessary to detect contamination, establish criteria for the acceptable location of new or existing facilities, and provide for corrective action as appropriate.".

(2) The table of contents for such subtitle D is amended by adding the following new item after the item relating to 4009:

"Sec. 4010. Adequacy of certain guidelines and criteria".

(b) Section 4004(c) of the Solid Waste Disposal Act is amended by striking all after "subsection (a)" through "later".

(c) Section 4005 of the Solid Waste Disposal Act is amended by adding the following new subsection after subsection (b):

"(c) CONTROL OF HAZARDOUS DISPOSAL.—(1)(A) Not later than 36 months after the date of enactment of the Hazardous and Solid Waste Amendments of 1984, each State shall adopt and implement a permit program or other system of prior approval and conditions to assure that each solid waste management facility within such State which may receive hazardous household waste or hazardous waste due to the provision of section 3001(d) for small quantity generators (otherwise not subject to the requirement for a permit under section 3005) will comply with the applicable criteria promulgated under section 4004(a) and section 1008(a)(3).

"(B) Not later than 18 months after the promulgation of revised criteria under subsection 4004(a) (as required by section 4010(c)), each State shall adopt and implement a permit program or other system or prior approval and conditions, to assure that each solid waste management facility within such State which may receive hazardous household waste or hazardous waste due to the provision of section 3001(d) for small quantity generators (otherwise not subject to the requirement for a permit under section 3005) will comply with the criteria revised under section 4004(a).

"(C) The Administrator shall determine whether each State has developed an adequate program under this paragraph. The Administrator may make such a determination in conjunction with approval, disapproval or partial approval of a State plan under section 4007.

"(2)(A) In any State that the Administrator determines has not adopted an adequate program for such facilities under paragraph (1)(B) by the date provided in such paragraph, the Administrator may use the authorities available under sections 3007 and 3008 of this title to enforce the prohibition contained in subsection (a) of this section with respect to such facilities.

"(B) For purposes of this paragraph, the term 'requirement of this subtitle' in section 3008 shall be deemed to include criteria promulgated by the Administrator under sections 1008(a)(3) and 4004(a) of this title, and the term 'hazardous wastes' in section 3007 shall be deemed to include solid waste at facilities that may handle hazardous household wastes or hazardous wastes from small quantity generators.".

TITLE IV—PROVISIONS RELATING PRIMARILY TO SUBTITLE G OF THE SOLID WASTE DISPOSAL ACT

CITIZEN SUITS

SEC. 401. (a) Section 7002(a)(1) of the Solid Waste Disposal Act is amended by—

(1) inserting "prohibition," immediately after "requirement,";

(2) inserting "(A)" immediately after "(1)"; and

(3) inserting the following at the end thereof:

"(B) against any person, including the United States and any other governmental instrumentality or agency, to the extent permitted by the eleventh amendment to the Constitution, and including any past or present generator, past or present transporter, or past or present owner or operator of a treatment, storage, or disposal facility, who has contributed or who is contributing to the past or present handling, storage, treatment, transportation, or disposal of any solid or hazardous waste which may present an imminent and substantial endangerment to health or the environment; or".

(b) Section 7002(a) of the Solid Waste Disposal Act is amended by—

(1) inserting "or the alleged endangerment may occur" immediately after "the alleged violation occurred" in the first sentence following paragraph (2); and

(2) striking "to enforce such regulation or order, or to order the Administrator to perform such act or duty as the case may be" in the portion following paragraph (2) and inserting in lieu thereof the following: "to enforce the permit, standard, regulation, condition, requirement, prohibition, or order, referred to in paragraph (1)(A), to restrain any person who has contributed or who is contributing to the past or present handling, storage, treatment, transportation, or disposal of any solid or hazardous waste referred to in paragraph (1)(B), to order such person to take such other action as may be necessary, or both, or to order the Administrator to perform the act or duty referred to in paragraph (2), as the case may be, and to apply any appropriate civil penalties under section 3008 (a) and (g)."

(c) Section 7002 of the Solid Waste Disposal Act is amended by adding the following new subsection at the end thereof:

"(g) TRANSPORTERS.—A transporter shall not be deemed to have contributed or to be contributing to the handling, storage, treatment, or disposal, referred to in subsection (a)(1)(B) taking place after such solid waste or hazardous waste has left the possession or control of such transporter, if the transportation of such waste was under a sole contractual arrangement arising from a published tariff and acceptance for carriage by common carrier by rail and such transporter has exercised due care in the past or present handling, storage, treatment, transportation and disposal of such waste.".

(d) Section 7002(b) of the Solid Waste Disposal Act is amended to read as follows:

"(b) ACTIONS PROHIBITED.—(1) No action may be commenced under subsection (a)(1)(A) of this section—

"(A) prior to 60 days after the plaintiff has given notice of the violation to—

"(i) the Administrator;

"(ii) the State in which the alleged violation occurs; and

"(iii) to any alleged violator of such permit, standard, regulation, condition, requirement, prohibition, or order,

except that such action may be brought immediately after such notification in the case of an action under this section respecting a violation of subtitle C of this Act; or

"(B) if the Administrator or State has commenced and is diligently prosecuting a civil or criminal action in a court of the United States or a State to require compliance with such permit, standard, regulation, condition, requirement, prohibition, or order.

In any action under subsection (a)(1)(A) in a court of the United States, any person may intervene as a matter of right.

"(2) No action may be commenced under subsection (a)(1)(B) of this section prior to 90 days after the plaintiff has given notice of the endangerment to—

"(A) the Administrator;

"(B) the State in which the alleged endangerment may occur;

"(C) any person alleged to have contributed or to be contributing to the past or present handling, storage, treatment, transportation, or disposal of any solid or hazardous waste referred to in subsection (a)(1)(B),

except that such action may be brought immediately after such notification in the case of an action under this section respecting a violation of subtitle C of this Act.

"(B) No action may be commenced under subsection (a)(1)(B) of this section if the Administrator, in order to restrain or abate acts or conditions which may have contributed or are contributing to the activities which may present the alleged endangerment—

"(i) has commenced and is diligently prosecuting an action under section 7003 of this Act or under section 106 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980,

"(ii) is actually engaging in a removal action under section 104 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980;

"(iii) has incurred costs to initiate a Remedial Investigation and Feasibility Study under section 104 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 and is diligently proceeding with a remedial action under that Act; or

"(iv) has obtained a court order (including a consent decree) or issued an administrative order under section 106 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 or section 7003 of this Act pursuant to which a responsible party is diligently conducting a removal action, Remedial Investigation and Feasibility Study (RIFS), or proceeding with a remedial action.

In the case of an administrative order referred to in clause (iv), actions under subsection (a)(1)(B) are prohibited only as to the scope and duration of the administrative order referred to in clause (iv).

"(C) No action may be commenced under subsection (a)(1)(B) of this section if the State, in order to restrain or abate acts or conditions which may have contributed or are contributing to the activities which may present the alleged endangerment—

"(i) has commenced and is diligently prosecuting an action under subsection (a)(1)(B);

"(ii) is actually engaging in a removal action under section 104 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980; or

"(iii) has incurred costs to initiate a Remedial Investigation and Feasibility Study under section 104 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 and is diligently proceeding with a remedial action under that Act.

"(D) No action may be commenced under subsection (a)(1)(B) by any person (other than a State or local government) with re-

spect to the siting of a hazardous waste treatment, storage, or a disposal facility, nor to restrain or enjoin the issuance of a permit for such facility.

"(E) In any action under subsection (a)(1)(B) in a court of the United States, any person may intervene as a matter of right when the applicant claims an interest relating to the subject of the action and he is so situated that the disposition of the action may, as a practical matter, impair or impede his ability to protect that interest, unless the Administrator or the State shows that the applicant's interest is adequately represented by existing parties.

"(F) Whenever any action is brought under subsection (a)(1)(B) in a court of the United States, the plaintiff shall serve a copy of the complaint on the Attorney General of the United States and with the Administrator.".

(e) Section 7002(e) of the Solid Waste Disposal Act is amended by striking out "to any party" and substituting in lieu thereof "to the prevailing or substantially prevailing party" and inserting "or section 7006" after "this section".

IMMINENT HAZARD

SEC. 402. Section 7003(a) of the Solid Waste Disposal Act is amended by—

(1) inserting "past or present" after "evidence that the";

(2) striking "to immediately restrain any person" and inserting in lieu thereof "against any person (including any past or present generator, past or present transporter, or past or present owner or operator of a treatment, storage, or disposal facility) who has contributed or who is";

(3) striking "to stop" and inserting in lieu thereof "to restrain such person from";

(4) striking "or to take such other action as may be necessary" and substituting ", to order such person to take such other action as may be necessary, or both"; and

(5) inserting after the first sentence thereof the following: "A transporter shall not be deemed to have contributed or to be contributing to such handling, storage, treatment, or disposal taking place after such solid waste or hazardous waste has left the possession or control of such transporter if the transportation of such waste was under a sole contractural arrangement arising from a published tariff and acceptance for carriage by common carrier by rail and such transporter has exercised due care in the past or present handling, storage, treatment, transportation and disposal of such waste.".

ENFORCEMENT

SEC. 403. (a) Section 7003 of the Solid Waste Disposal Act is amended by adding the following new subsection after subsection (b) thereof:

"(c) IMMEDIATE NOTICE.—Upon receipt of information that there is hazardous waste at any site which has presented an imminent and substantial endangerment to human health or the environment, the Administrator shall provide immediate notice to the appropriate local government agencies. In addition, the Administrator shall require notice of such endangerment to be promptly posted at the site where the waste is located.".

(b) Subtitle G of the Solid Waste Disposal Act is amended by adding the following new section after section 7011:

"LAW ENFORCEMENT AUTHORITY

"SEC. 7012. The Attorney General of the United States shall, at the request of the Administrator and on the basis of a showing of need, deputize qualified employees of the Environmental Protection Agency to serve as special Deputy United States Marshals in criminal investigations with respect to violations of the criminal provisions of this Act.".

(c) Section 4005 of the Solid Waste Disposal Act is amended by inserting after the first sentence in subsection (a) the following: "The prohibition contained in the preceding sentence shall be enforceable under section 7002 against persons engaged in the act of open dumping.".

(d)(1) Section 3008(a)(1) of the Solid Waste Disposal Act is amended to read as follows: "(1) Except as provided in paragraph (2), whenever on the basis of any information the Administrator determines that any person has violated or is in violation of any requirement of this subtitle, the Administrator may issue an order assessing a civil penalty for any past or current violation, requiring compliance immediately or within a specified time period, or both, or the Administrator may commence a civil action in the United States district court in the district in which the violation occurred for appropriate relief, including a temporary or permanent injunction.".

(2) Section 3008(a)(3) of such Act is amended to read as follows:

"(3) Any order issued pursuant to this subsection may include a suspension or revocation of any permit issued by the Administrator or a State under this subtitle and shall state with reasonable specificity the nature of the violation. Any penalty assessed in the order shall not exceed $25,000 per day of noncompliance for each violation of a requirement of this subtitle. In assessing such a penalty, the Administrator shall take into account the seriousness of the violation and any good faith efforts to comply with applicable requirements.".

(3) Section 3008(b) of such Act is amended by inserting "the person or" before "persons".

(4) Section 3008(c) of such Act is amended to read as follows:

"(c) VIOLATION OF COMPLIANCE ORDERS.—If a violator fails to take corrective action within the time specified in a compliance order, the Administrator may assess a civil penalty of not more than $25,000 for each day of continued noncompliance with the order and the Administrator may suspend or revoke any permit issued to the violator (whether issued by the Administrator or the State).".

(5) Section 2002 of such Act is amended by inserting the following at the end thereof:

"(d) CRIMINAL INVESTIGATIONS.—In carrying out the provisions of this Act, the Administrator, and duly-designated agents and employees of the Environmental Protection Agency, are authorized to initiate and conduct investigations under the criminal provisions of this Act, and to refer the results of these investigations to the Attorney General for prosecution in appropriate cases.".

(6) Section 7006(b) of such Act is amended by inserting the following before the last sentence thereof: "Action of the Administrator with respect to which review could have been obtained under this subsection shall not be subject to judicial review in civil or criminal proceedings for enforcement.".

PUBLIC PARTICIPATION IN SETTLEMENTS

SEC. 404. Section 7003 of the Solid Waste Disposal Act is amended by adding the following new subsection after subsection (c) thereof:

"(d) PUBLIC PARTICIPATION IN SETTLEMENTS.—Whenever the United States or the Administrator proposes to covenant not to sue or to forbear from suit or to settle any claim arising under this section, notice, and opportunity for a public meeting in the affected area, and a reasonable opportunity to comment on the proposed settlement prior to its final entry shall be afforded to the public. The decision of the United States or the Administrator to enter into or not to enter into such Consent Decree, covenant or agreement shall not constitute a final agency action subject to judicial review under this Act or the Administrative Procedure Act.".

INTERIM CONTROL OF HAZARDOUS WASTE INJECTION

SEC. 405. (a) Subtitle G of the Solid Waste Disposal Act is amended by adding the following new section at the end thereof:

"INTERIM CONTROL OF HAZARDOUS WASTE INJECTION

"SEC. 7010. (a) UNDERGROUND SOURCE OF DRINKING WATER.—No hazardous waste may be disposed of by underground injection—

"(1) into a formation which contains (within one-quarter mile of the well used for such underground injection) an underground source of drinking water; or

"(2) above such a formation.

The prohibitions established under this section shall take effect 6 months after the enactment of the Hazardous and Solid Waste Amendments of 1984 except in the case of any State in which identical or more stringent prohibitions are in effect before such date under the Safe Drinking Water Act.

"(b) ACTIONS UNDER CERCLA.—Subsection (a) shall not apply to the injection of contaminated ground water into the aquifer from which it was withdrawn, if—

"(1) such injection is—

"(A) a response action taken under section 104 or 106 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, or

"(B) part of corrective action required under this title

intended to clean up such contamination;

"(2) such contaminated ground water is treated to substantially reduce hazardous constituents prior to such injection; and

"(3) such response action or corrective action will, upon completion, be sufficient to protect human health and the environment.

"(c) ENFORCEMENT.—In addition to enforcement under sections 7002 and 7003 of this Act, the prohibitions established under paragraphs (1) and (2) of subsection (a) shall be enforceable under the Safe Drinking Water Act in any State—

"(1) which has adopted identical or more stringent prohibitions under part C of the Safe Drinking Water Act and which has assumed primary enforcement responsibility under that Act for enforcement of such prohibitions; or

"(2) in which the Administrator has adopted identical or more stringent prohibitions under the Safe Drinking Water Act and is exercising primary enforcement responsibility under that Act for enforcement of such prohibitions.

"(d) The terms 'primary enforcement responsibility', 'underground source of drinking water', 'formation' and 'well' have the same meanings as provided in regulations of the Administrator under the Safe Drinking Water Act. The term 'Safe Drinking Water Act' means title XIV of the Public Health Service Act.".

(b) TABLE OF CONTENTS.—The table of contents for such subtitle G is amended by in-

serting the following new item at the end thereof:

"Sec. 7010. Interim control of hazardous waste injection.".

TITLE V—PROVISIONS RELATING TO SEVERAL SUBTITLES OF THE SOLID WASTE DISPOSAL ACT

USE OF RECOVERED MATERIALS BY FEDERAL AGENCIES

SEC. 501. (a) Section 6002 of the Solid Waste Disposal Act is amended by adding the following new subsections after subsection (g) thereof—

"(h) DEFINITION.—As used in this section, in the case of paper products, the term 'recovered materials' includes—

"(1) postconsumer materials such as—

"(A) paper, paperboard, and fibrous wastes from retail stores, office buildings, homes, and so forth, after they have passed through their end-usage as a consumer item, including: used corrugated boxes, old newspapers; old magazines; mixed waste paper; tabulating cards; and used cordage; and

"(B) all paper, paperboard, and fibrous wastes that enter and are collected from municipal solid waste, and

"(2) manufacturing, forest residues, and other wastes such as—

"(A) dry paper and paperboard waste generated after completion of the papermaking process (that is, those manufacturing operations up to and including the cutting and trimming of the paper machine reel into smaller rolls or rough sheets) including: envelope cuttings, bindery trimmings, and other paper and paperboard waste, resulting from printing, cutting, forming, and other converting operations; bag, box, and carton manufacturing wastes; and butt rolls, mill wrappers, and rejected unused stock; and

"(B) finished paper and paperboard from obsolete inventories of paper and paperboard manufacturers, merchants, wholesalers, dealers, printers, converters, or others;

"(C) fibrous byproducts of harvesting, manufacturing, extractive, or wood-cutting processes, flax, straw, linters, bagasse, slash, and other forest residues;

"(D) wastes generated by the conversion of goods made from fibrous material (that is, waste rope from cordage manufacture, textile mill waste, and cuttings); and

"(E) fibers recovered from waste water which otherwise would enter the waste stream.".

"(i) PROCUREMENT PROGRAM.—(1) Within 1 year after the date of publication of applicable guidelines under subsection (e), each procuring agency shall develop an affirmative procurement program which will assure that items composed of recovered materials will be purchased to the maximum extent practicable and which is consistent with applicable provisions of Federal procurement law.

"(2) Each affirmative procurement program required under this subsection shall, at a minimum, contain—

"(A) a recovered materials preference program;

"(B) an agency promotion program to promote the preference program adopted under subparagraph (A);

"(C) a program for requiring estimates of the total percentage of recovered material utilized in the performance of a contract; certification of minimum recovered material content actually utilized, where appropriate; and reasonable verification procedures for estimates and certifications; and

"(D) annual review and monitoring of the effectiveness of an agency's affirmative procurement program.

In the case of paper, the recovered materials preference program required under subparagraph (A) shall provide for the maximum use of the post consumer recovered materials referred to in subsection (h)(1).

"(3) In developing the preference program, the following options shall be considered for adoption:

"(A) Case-by-Case Policy Development: Subject to the limitations of subsection (c)(1) (A) through (C), a policy of awarding contracts to the vendor offering an item composed of the highest percentage of recovered materials practicable (and in the case of paper, the highest percentage of the post consumer recovered materials referred to in subsection (h)(1)). Subject to such limitations, agencies may make an award to a vendor offering items with less than the maximum recovered materials content.

"(B) Minimum Content Standards: Minimum recovered materials content specifications which are set in such a way as to assure that the recovered materials content (and in the case of paper, the content of post consumer materials referred to in subsection (h)(1)) required is the maximum available without jeopardizing the intended end use of the item, or violating the limitations of subsection (c)(1) (A) through (C).

Procuring agencies shall adopt one of the options set forth in subparagraphs (A) and (B) or a substantially equivalent alternative, for inclusion in the affirmative procurement program.".

(b) Section 6002(e) of the Solid Waste Disposal Act is amended by—

(1) adding the following after "section" in paragraph (1): ", and in the case of paper, provide for maximizing the use of post consumer recovered materials referred to in subsection (h)(1)"; and

(2) striking out "for at least three product categories" and all that follows down through "1982" and substituting "for paper within 180 days after the enactment of the Hazardous and Solid Waste Amendments of 1984, and for three additional product categories (including tires) by October 1, 1985".

(c) Section 6002(c)(1) of the Solid Waste Disposal Act is amended by inserting after "highest percentage of recovered materials practicable" the following: "(and in the case of paper, the highest percentage of the post-consumer recovered materials referred to in subsection (h)(1) practicable)".

(d) Section 6002(g) of the Solid Waste Disposal Act is amended by—

(1) striking out "the policy expressed in" and substituting "the requirements of"; and

(2) by inserting before the period at the end thereof the following: ", and to, every 2 years beginning in 1984, report to the Congress on actions taken by Federal agencies and the progress made in the implementation of this section, including agency compliance with subsection (d)".

(e) Section 6002(d)(1) of the Solid Waste Disposal Act is amended by striking out "5 years after the date of enactment of this Act" and substituting "18 months after the date of enactment of the the Hazardous and Solid Waste Amendments of 1984".

(f)(1) Section 4001 of the Solid Waste Disposal Act, as amended by section 301 of this Act, is further amended by inserting ", including those needs created by thorough implementation of section 6002(h)," after "adequate provision shall be given to the present and reasonably anticipated future needs".

(2) Section 1006(b) of the Solid Waste Disposal Act is amended by adding the following new paragraph after paragraph (2) thereof (as added by section 102 of this Act):

"(3) Notwithstanding any other provisions of law, in developing solid waste plans, it is the intention of this Act that in determining the size of a waste-to-energy facility, adequate provisions shall be given to the present and reasonably anticipated future needs, including those needs created by thorough implementation of section 6002(h), of the recycling and resource recovery interests within the area encompassed by the solid waste plan.".

TECHNICAL AND CLERICAL AMENDMENTS

SEC. 502. (a) Section 3007(b) of the Solid Waste Disposal Act is amended by inserting the following after the word "information": "(including records, reports, or information obtained by representatives of the Environmental Protection Agency)".

(b) Section 2006(1) of the Solid Waste Disposal Act is amended by striking out "detail" and substituting "detailed".

(c) Section 4005(a) of the Solid Waste Disposal Act is amended by inserting a closing parenthetical mark before the period at the end thereof.

(d) The second paragraph (2) in section 4008(d) of the Solid Waste Disposal Act is redesignated as paragraph (3).

(e) Section 4008 of the Solid Waste Disposal Act is amended by redesignating the second subsection (f) (entitled "Assistance to Municipalities for Energy and Materials Conservation and Recovery Planning Activities") as subsection (g).

(f) Section 8004(c) of the Solid Waste Disposal Act is amended by inserting "(1)" immediately after "COST SHARING.—".

(g)(1) Section 3012 of the Solid Waste Disposal Act entitled "Restrictions on Recycled Oil," is renumbered as section 3014 and inserted after section 3013.

(2) The item in the table of contents of such Act relating to 3012 of the Solid Waste Disposal Act and entitled "Restrictions on Recycled Oil," is renumbered as 3014 and inserted after the item relating to section 3013.

(h) Subsection (b) of section 4003 of the Solid Waste Disposal Act, entitled "Energy and Materials Conservation and Recovery Feasibility Planning and Assistance" is redesignated as subsection (c) of such section 4003.

TITLE VI—UNDERGROUND STORAGE TANKS

UNDERGROUND STORAGE TANK REGULATION

SEC. 601. (a) The Solid Waste Disposal Act is amended by adding the following new subtitle after subtitle H:

"Subtitle I—Regulation of Underground Storage Tanks

"DEFINITIONS AND EXEMPTIONS

"SEC. 9001. For the purposes of this subtitle—

"(1) The term 'underground storage tank' means any one or combination of tanks (including underground pipes connected thereto) which is used to contain an accumulation of regulated substances, and the volume of which (including the volume of the underground pipes connected thereto) is 10 percent or more beneath the surface of the ground. Such term does not include any—

"(A) farm or residential tank of 1,100 gallons or less capacity used for storing motor fuel for noncommercial purposes,

"(B) tank used for storing heating oil for consumptive use on the premises where stored,

"(C) septic tank,

"(D) pipeline facility (including gathering lines) regulated under—

"(i) the Natural Gas Pipeline Safety Act of 1968, (49 U.S.C. App. 1671, et seq.),

"(ii) the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2001, et seq.), or

"(iii) which is an intrastate pipeline facility regulated under State laws comparable to the provisions of law referred to in clause (i) or (ii) of this subparagraph;

"(E) surface impoundment, pit, pond, or lagoon,

"(F) storm water or waste water collection system,

"(G) flow-through process tank;

"(H) liquid trap or associated gathering lines directly related to oil or gas production and gathering operations; or

"(I) storage tank situated in an underground area (such as a basement, cellar, mineworking, drift, shaft, or tunnel) if the storage tank is situated upon or above the surface of the floor.

The term 'underground storage tank' shall not include any pipes connected to any tank which described in subparagraphs (A) through (I).

"(2) The term 'regulated substance' means—

"(A) any substance defined in section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (but not including any substance regulated as a hazardous waste under subtitle C), and

"(B) petroleum, including crude oil or any fraction thereof which is liquid at standard conditions of temperature and pressure (60 degrees Fahrenheit and 14.7 pounds per square inch absolute);

"(3) The term 'owner' means—

"(A) in the case of an underground storage tank in use on the date of enactment of the Hazardous and Solid Waste Amendments of 1984, or brought into use after that date, any person who owns an underground storage tank used for the storage, use, or dispensing of regulated sustances, and

"(B) in the case of any underground storage tank in use before the date of enactment of the Hazardous and Solid Waste Amendments of 1984, but no longer in use on the date of enactment of such Amendments, any person who owned such tank immediately before the discontinuation of its use.

"(4) The term 'operator' means any person in control of, or having responsibility for, the daily operation of the underground storage tank.

"(5) The term 'release' means any spilling, leaking, emitting, discharging, escaping, leaching, or disposing from an underground storage tank into ground water, surface water or subsurface soils.

"(6) The term 'person' has the same meaning as provided in section 1004(15), except that such term includes a consortium, a joint venture, and a commercial entity, and the United States Government.

"(7) The term 'nonoperational storage tank' means any underground storage tank in which regulated substances will not be deposited or from which regulated substances will not be dispensed after the date of the enactment of the Hazardous and Solid Waste Amendments of 1984.

"SEC. 9002. (a) UNDERGROUND STORAGE TANKS.—(1) Within 12 months after the date of enactment of the Hazardous and Solid Waste Amendments of 1984, each owner of an underground storage tank shall notify the State or local agency or department designated pursuant to subsection (b)(1) of the existence of such tank, specifying the age, size, type, location, and uses of such tank.

"(2)(A) For each underground storage tank taken out of operation after January 1, 1974, the owner of such tank shall, within 18 months after the date of enactment of the Hazardous and Solid Waste Amendments of 1984, notify the State or local agency, or department designated pursuant to subsection (b)(1) of the existence of such tanks (unless the owner knows the tank subsequently was removed from the ground). The owner of a tank taken out of operation on or before January 1, 1974, shall not be required to notify the State or local agency under this subsection.

"(B) Notice under subparagraph (A) shall specify, to the extent known to the owner—

"(i) the date the tank was taken out of operation,

"(ii) the age of the tank on the date taken out of operation,

"(iii) the size, type and location of the tank, and

"(iv) the type and quantity of substances left stored in such tank on the date taken out of operation.

"(3) Any owner which brings into use an underground storage tank after the initial notification period specified under paragraph (1), shall notify the designated State or local agency or department within 30 days of the existence of such tank, specifying the age, size, type, location and uses of such tank.

"(4) Paragraphs (1) through (3) of this subsection shall not apply to tanks for which notice was given pursuant to section 103(c) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980.

"(5) Beginning 30 days after the Administrator prescribes the form of notice pursuant to subsection (b)(2) and for 18 months thereafter, any person who deposits regulated substances in an underground storage tank shall reasonably notify the owner or operator of such tank of the owner's notification requirements pursuant to this subsection.

"(6) Beginning 30 days after the Administrator issues new tank performance standards pursuant to section 9003(e) of this subtitle, any person who sells a tank intended to be used as an underground storage tank shall notify the purchaser of such tank of the owner's notification requirements pursuant to this subsection.

"(b) AGENCY DESIGNATION.—(1) Within 180 days after the enactment of the Hazardous and Solid Waste Amendments of 1984, the Governors of each State shall designate the appropriate State agency or department or local agencies or departments to receive the notifications under subsection (a) (1), (2), or (3).

"(2) Within 12 months after the date of enactment of the Hazardous and Solid Waste Amendments of 1984, the Administrator, in consultation with State and local officials designated pursuant to subsection (b)(1), and after notice and opportunity for public comment, shall prescribe the form of the notice and the information to be included in the notifications under subsection (a) (1), (2), or (3). In prescribing the form of such notice, the Administrator shall take into account the effect on small businesses and other owners and operators.

"RELEASE DETECTION, PREVENTION, AND CORRECTION REGULATIONS

"SEC. 9003. (a) REGULATIONS.—The Administrator, after notice and opportunity for public comment, and at least 3 months before the effective dates specified in subsection (f), shall promulgate release detection, prevention, and correction regulations applicable to all owners and operators of underground storage tanks, as may be necessary to protect human health and the environment.

"(b) DISTINCTIONS IN REGULATIONS.—In promulgating regulations under this section, the Administrator may distinguish between types, classes, and ages of underground storage tanks. In making such distinctions, the Administrator may take into consideration factors, including, but not limited to: location of the tanks, soil and climate conditions, uses of the tanks, history of maintenance, age of the tanks, current industry recommended practices, national consensus codes, hydrogeology, water table, size of the tanks, quantity of regulated substances periodically deposited in or dispensed from the tank, the technical capability of the owners and operators, and the compatibility of the regulated substance and the materials of which the tank is fabricated.

"(c) REQUIREMENTS.—The regulations promulgated pursuant to this section shall include, but need not be limited to, the following requirements respecting all underground storage tanks—

"(1) requirements for maintaining a leak detection system, an inventory control system together with tank testing, or a comparable system or method designed to identify releases in a manner consistent with the protection of human health and the environment;

"(2) requirements for maintaining records of any monitoring or leak detection system or inventory control system or tank testing or comparable system;

"(3) requirements for reporting of releases and corrective action taken in response to a release from an underground storage tank;

"(4) requirements for taking corrective action in response to a release from an underground storage tank; and

"(5) requirements for the closure of tanks to prevent future releases of regulated substances into the environment.

"(d) FINANCIAL RESPONSIBILITY.—(1) As he deems necessary or desirable, the Administrator shall promulgate regulations containing requirements for maintaining evidence of financial responsibility as he deems necessary and desirable for taking corrective action and compensating third parties for bodily injury and property damage caused by sudden and nonsudden accidental releases arising from operating an underground storage tank.

"(2) Financial responsibility required by this subsection may be established in accordance with regulations promulgated by the Administrator by any one, or any combination, of the following: insurance, guarantee, surety bond, letter of credit, or qualification as a self-insurer. In promulgating requirements under this subsection, the Administrator is authorized to specify policy or other contractual terms, conditions, or defenses which are necessary or are unacceptable in establishing such evidence of financial responsibility in order to effectuate the purposes of this subtitle.

"(3) In any case where the owner or operator is in bankruptcy, reorganization, or arrangement pursuant to the Federal Bankruptcy Code or where with reasonable diligence jurisdiction in any State court of the Federal Courts cannot be obtained over an owner or operator likely to be solvent at the time of judgment, any claim arising from conduct for which evidence of financial responsibility must be provided under this subsection may be asserted directly against the guarantor providing such evidence of financial responsibility. In the case of any action pursuant to this paragraph such

guarantor shall be entitled to invoke all rights and defenses which would have been available to the owner or operator if any action had been brought against the owner or operator by the claimant and which would have been available to the guarantor if an action had been brought against the guarantor by the owner or operator.

"(4) The total liability of any guarantor shall be limited to the aggregate amount which the guarantor has provided as evidence of financial responsibility to the owner or operator under this section. Nothing in this subsection shall be construed to limit any other State or Federal statutory, contractual or common law liability of a guarantor to its owner or operator including, but not limited to, the liability of such guarantor for bad faith either in negotiating or in failing to negotiate the settlement of any claim. Nothing in this subsection shall be construed to diminish the liability of any person under section 107 or 111 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 or other applicable law.

"(5) For the purpose of this subsection, the term 'guarantor' means any person, other than the owner or operator, who provides evidence of financial responsibility for an owner or operator under this subsection.

"(e) NEW TANK PERFORMANCE STANDARDS.—The Administrator shall, not later than 3 months prior to the effective date specified in subsection (f), issue performance standards for underground storage tanks brought into use on or after the effective date of such standards. The performance standards for new underground storage tanks shall include, but need not be limited to, design, construction, installation, release detection, and compatibility standards.

"(f) EFFECTIVE DATES.—(1) Regulations issued pursuant to subsection (c) and (d) of this section, and standards issued pursuant to subsection (e) of this section, for underground storage tanks containing regulated substances defined in section 9001(2)(B) (petroleum, including crude oil or any fraction thereof which is liquid at standard conditions of temperature and pressure) shall be effective not later than 30 months after the date of enactment of the Hazardous and Solid Waste Amendments of 1984.

"(2) Standards issued pursuant to subsection (e) of this section (entitled 'New Tank Performance Standards') for underground storage tanks containing regulated substances defined in section 9001(2)(A) shall be effective not later than 36 months after the date of enactment of the Hazardous and Solid Waste Amendments of 1984.

"(3) Regulations issued pursuant to subsection (c) of this section (entitled 'Requirements') and standards issued pursuant to subsection (d) of this section (entitled 'Financial Responsibility') for underground storage tanks containing regulated substances defined in section 9001(2)(A) shall be effective not later than 48 months after the date of enactment of the Hazardous and Solid Waste Amendments of 1984.

"(g) INTERIM PROHIBITION.—(1) Until the effective date of the standards promulgated by the Administrator under subsection (e) and after 180 days after the date of the enactment of the Hazardous and Solid Waste Amendments of 1984, no person may install an underground storage tank for the purpose of storing regulated substances unless such tank (whether of single or double wall construction)—

"(A) will prevent releases due to corrosion or structural failure for the operational life of the tank;

"(B) is cathodically protected against corrosion, constructed of nocorrosive material, steel clad with a noncorrosive material, or designed in a manner to prevent the release or threatened release of any stored substance; and

"(C) the material used in the construction or lining of the tank is compatible with the substance to be stored.

"(2) Notwithstanding paragraph (1), if soil tests conducted in accordance with ASTM STandard G57-78, or another standard approved by the Administrator, show that soil resistivity in an installation location is 12,000 ohm/cm or more (unless a more stringent standard is prescribed by the Administrator by rule), a storage tank without corrosion protection may be installed in that location during the period referred to in paragraph (1).

"APPROVAL OF STATE PROGRAMS

"SEC. 9004. (a) ELEMENTS OF STATE PROGRAM.—(1) Beginning 30 months after the date of enactment of the Hazardous and Solid Waste Amendments of 1984, any State may, submit an underground storage tank release detection, prevention, and correction program for review and approval by the Administrator. The program may cover tanks used to store regulated substances referred to in 9001(2) (A) or (B) or both.

"(2) A State program may be approved by the Administrator under this section only if the State demonstrates that the State program includes the following requirements and standards and provides for adequate enforcement of compliance with such requirements and standards—

"(1) requirements for maintaining a leak detection system, an inventory control system together with tank testing, or a comparable system or method designed to identify releases in a manner consistent with the protection of human health and the environment;

"(2) requirements for maintaining records of any monitoring or leak detection system or inventory control system or tank testing system;

"(3) requirements for reporting of any releases and corrective action taken in response to a release from an underground storage tank;

"(4) requirements for taking corrective action in response to a release from an underground storage tank;

"(5) requirements for the closure of tanks to prevent future releases of regulated substances into the environment;

"(6) requirements for maintaining evidence of financial responsibility for taking corrective action and compensating third parties for bodily injury and property damage caused by sudden and nonsudden accidental releases arising from operating an underground storage tank;

"(7) standards of performance for new underground storage tanks; and

"(8) requirements—

"(A) for notifying the appropriate State agency or department (or local agency or department) designated according to section 9002(b)(1) of the existence of any operational or non-operational underground storage tank; and

"(B) for providing the information required on the form issued pursuant to section 9002(b)(2).

"(b) FEDERAL STANDARDS.—(1) A State program submitted under this section may be approved only if the requirements under paragraphs (1) through (7) of subsection (a) are no less stringent than the corresponding requirements standards promulgated by the Administrator pursuant to section 9003(a).

"(2)(A) A State program may be approved without regard to whether or not the requirements referred to in paragraphs (1), (2), (3), and (5) of subsection (a) are less stringent than the corresponding standards under section 9003(a) during the 1-year period commencing on the date of promulgation of regulations under section 9003(a) if State regulatory action but no State legislative action is required in order to adopt a State program.

"(B) If such State legislative action is required, the State program may be approved without regard to whether or not the requirements referred to in paragraphs (1), (2), (3), and (5) of subsection (a) are less stringent than the corresponding standards under section 9003(a) during the 2-year period commencing on the date of promulgation of regulations under section 9003(a) (and during an additional 1-year period after such legislative action if regulations are required to be promulgated by the State pursuant to such legislative action).

"(c) FINANCIAL RESPONSIBILITY.—(1) Corrective action and compensation programs financed by fees on tank owners and operators and administered by State or local agencies or departments may be submitted for approval under subsection (a)(6) as evidence of financial responsibility.

"(2) Financial responsibility required by this subsection may be established in accordance with regulations promulgated by the Administrator by any one, or any combination, of the following: insurance, guarantee, surety bond, letter of credit, or qualification as a self-insurer. In promulgating requirements under this subsection, the Administrator is authorized to specify policy or other contractual terms, conditions, or defenses which are necessary or are unacceptable in establishing such evidence of financial responsibility in order to effectuate the purposes of this subtitle.

"(3) In any case where the owner or operator is in bankruptcy, reorganization, or arrangement pursuant to the Federal Bankruptcy Code or where with reasonable diligence jurisdiction in any State court of the Federal Courts cannot be obtained over an owner or operator likely to be solvent at the time of judgment, any claim arising from conduct for which evidence of financial responsibility must be provided under this subsection may be asserted directly against the guarantor providing such evidence of financial responsibility. In the case of any action pursuant to this paragraph such guarantor shall be entitled to invoke all rights and defenses which would have been available to the owner or operator if any action had been brought against the owner or operator by the claimant and which would have been available to the guarantor if an action had been brought against the guarantor by the owner or operator.

"(4) The total liability of any guarantor shall be limited to the aggregate amount which the guarantor has provided as evidence of financial responsibility to the owner or operator under this section. Nothing in this subsection shall be construed to limit any other State or Federal statutory, contractual or common law liability of a guarantor to its owner or operator including, but not limited to, the liability of such guarantor for bad faith either in negotiating or in failing to negotiate the settlement of any claim. Nothing in this subsection shall be construed to diminish the liability of any person under section 107 or 111 of the Comprehensive Environmental Response, Com-

pensation and Liability Act of 1980 or other applicable law.

"(5) For the purpose of this subsection, the term 'guarantor' means any person, other than the owner or operator, who provides evidence of financial responsibility for an owner or operator under this subsection.

"(d) EPA DETERMINATION.—(1) Within 180 days of the date of receipt of a proposed State program, the Administrator shall, after notice and opportunity for public comment, make a determination whether the State's program complies with the provisions of this section and provides for adequate enforcement of compliance with the requirements and standards adopted pursuant to this section.

"(2) If the Administrator determines that a State program complies with the provisions of this section and provides for adequate enforcement of compliance with the requirements and standards adopted pursuant to this section, he shall approve the State program in lieu of the Federal program and the State shall have primary enforcement responsibility with respect to requirements of its program.

"(e) WITHDRAWAL OF AUTHORIZATION.—Whenever the Administrator determines after public hearing that a State is not administering and enforcing a program authorized under this subtitle in accordance with the provisions of this section, he shall so notify the State. If appropriate action is not taken within a reasonable time, not to exceed 120 days after such notification, the Administrator shall withdraw approval of such program and reestablish the Federal program pursuant to this subtitle.

"INSPECTIONS, MONITORING, AND TESTING

"SEC. 9005. (a) FURNISHING INFORMATION.—For the purposes of developing or assisting in the development of any regulation, conducting any study, or enforcing the provisions of this subtitle, any owner or operator of an underground storage tank (or any tank subject to study under section 9009 that is used for storing regulated substances) shall, upon request of any officer, employee or representative of the Environmental Protection Agency, duly designated by the Administrator, or upon request of any duly designated officer, employee, or representative of a State with an approved program, furnish information relating to such tanks, their associated equipment, their contents, conduct monitoring or testing, and permit such officer at all reasonable times to have access to, and to copy all records relating to such tanks. For the purposes of developing or assisting in the development of any regulation, conducting any study, or enforcing the provisions of this subtitle, such officers, employees, or representatives are authorized—

"(1) to enter at reasonable times any establishment or other place where an underground storage tank is located;

"(2) to inspect and obtain samples from any person of any regulated substances contained in such tank; and

"(3) to conduct monitoring or testing of the tanks, associated equipment, contents, or surrounding soils, air, surface water or ground water.

Each such inspection shall be commenced and completed with reasonable promptness.

"(b) CONFIDENTIALITY.—(1) Any records, reports, or information obtained from any persons under this section shall be available to the public, except that upon a showing satisfactory to the Administrator (or the State, as the case may be) by any person that records, reports, or information, or a particular part thereof, to which the Administrator (or the State, as the case may be) or any officer, employee, or representative thereof has access under this section if made public, would divulge information entitled to protection under section 1905 of title 18 of the United States Code, such information or particular portion thereof shall be considered confidential in accordance with the purposes of that section, except that such record, report, document, or information may be disclosed to other officers, employees, or authorized representatives of the United States concerned with carrying out this Act, or when relevent in any proceeding under this Act.

"(2) Any person not subject to the provisions of section 1905 of title 18 of the United States Code who knowingly and willfully divulges or discloses any information entitled to protection under this subsection shall, upon conviction, be subject to a fine of not more than $5,000 or to imprisonment not to exceed one year, or both.

"(3) In submitting data under this subtitle, a person required to provide such data may—

"(A) designate the data which such person believes is entitled to protection under this subsection, and

"(B) submit such designated data separately from other data submitted under this subtitle.

A designation under this paragraph shall be made in writing and in such manner as the Administrator may prescribe.

"(4) Notwithstanding any limitation contained in this section or any other provision of law, all information reported to, or otherwise obtained, by the Administrator (or any representative of the Administrator) under this Act shall be made available, upon written request of any duly authorized committee of the Congress, to such committee (including records, reports, or information obtained by representatives of the Evironmental Protection Agency).

"FEDERAL ENFORCEMENT

"SEC. 9006. (a) COMPLIANCE ORDERS.—(1) Except as provided in paragraph (2), whenever on the basis of any information, the Administrator determines that any person is in violation of any requirement of this subtitle, the Administrator may issue an order requiring compliance within a reasonable specified time period or the Administrator may commence a civil action in the United States district court in which the violation occurred for appropriate relief, including a temporary or permanent injunction.

"(2) In the case of a violation of any requirement of this subtitle where such violation occurs in a State with a program approved under section 9004, the Administrator shall give notice to the State in which such violation has occurred prior to issuing an order or commencing a civil action under this section.

"(3) If a violator fails to comply with an order under this subsection within the time specified in the order, he shall be liable for a civil penalty of not more than $25,000 for each day of continued noncompliance.

"(b) PROCEDURE.—Any order issued under this section shall become final unless, no later than 30 days after the order is served, the person or persons named therein request a public hearing. Upon such request the Administrator shall promptly conduct a public hearing. In connection with any proceeding under this section the Administrator may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and may promulgate rules for discovery procedures.

"(c) CONTENTS OF ORDER.—Any order issued under this section shall state with reasonable specificity the nature of the violation, specify a reasonable time for compliance, and assess a penalty, if any, which the Administrator determines is reasonable taking into account the seriousness of the violation and any good faith efforts to comply with the applicable requirements.

"(d) CIVIL PENALTIES.—(1) Any owner who knowingly fails to notify or submits false information pursuant to section 9002(a) shall be subject to a civil penalty not to exceed $10,000 for each tank for which notification is not given or false information is submitted.

"(2) Any owner or operator of an underground storage tank who fails to comply with—

"(A) any requirement or standard promulgated by the Administrator under section 9003;

"(B) any requirement or standard of a State program approved pursuant to section 9004, or

"(C) the provisions of section 9003(g)(entitled "Interim Prohibiton")

shall be subject to a civil penalty not to exceed $10,000 for each tank for each day of violation.

"FEDERAL FACILITIES

"SEC. 9007. (a) APPLICATION OF SUBTITLE.—Each department, agency, and instrumentality of the executive, legislative, and judicial branches of the Federal Government having jurisdiction over any underground storage tank shall be subject to and comply with all Federal, State, interstate, and local requirements, applicable to such tank, both substantive and procedural, in the same manner, and to the same extent, as any other person is subject to such requirements, including payment of reasonable service charges. Neither the United States, nor any agent, employee, or officer thereof, shall be immune or exempt from any process or sanction of any State or Federal court with respect to the enforcement of any such injunctive relief.

"(b) PRESIDENTIAL EXEMPTION.—The President may exempt any underground storage tanks of any department, agency, or instrumentality in the executive branch from compliance with such a requirement if he determines it to be in the paramount interest of the United States to do so. No such exemption shall be granted due to lack of appropriation unless the President shall have specifically requested such appropriation as a part of the budgetary process and the Congress shall have failed to make available such requested appropriations. Any exemption shall be for a period not in excess of one year, but additional exemptions may be granted for periods not to exceed one year upon the President's making a new determination. The President shall report each January to the Congress all exemptions from the requirements of this section granted during the preceding calendar year, together with his reason for granting each such exemption.

"STATE AUTHORITY

"SEC. 9008. Nothing in this subtitle shall preclude or deny any right of any State or political subdivision thereof to adopt or enforce any regulation, requirement or standard of performance respecting underground storage tanks that is more stringent than a regulation, requirement, or standard of performance in effect under this subtitle.

"STUDY OF UNDERGROUND STORAGE TANKS

"SEC. 9009. (a) PETROLEUM TANKS.—Not later than 12 months after the date of enactment of the Hazardous and Solid Waste Amendments of 1984, the Administrator shall complete a study of underground storage tanks used for the storage of regulated substances defined in section 9001(2)(B).

"(b) OTHER TANKS.—Not later than 36 months after the date of enactment of the Hazardous and Solid Waste Amendments of 1984, the Administrator shall complete a study of all other underground storage tanks.

"(c) ELEMENTS OF STUDIES.—The studies under subsections (a) and (b) shall include an assessment of the ages, types (including methods of manufacture, coatings, protection systems, the compatibility of the construction materials and the installation methods) and locations (including the climate of the locations) of such tanks; soil conditions, water tables, and the hydrogeology of tank locations; the relationship between the foregoing factors and the likelihood of releases from underground storage tanks; the effectiveness and costs of inventory systems, tank testing, and leak detection systems; and such other factors as the Administrator deems appropriate.

"(d) FARM, AND HEATING OIL TANKS.—Not later than 36 months after the date of enactment of the Hazardous and Solid Waste Amendments of 1984, the Administrator shall conduct a study regarding the tanks referred to in section 9001(1)(A) and (B). Such study shall include estimates of the number and location of such tanks and an analysis of the extent to which there may be releases or threatened releases from such tanks into the environment.

"(e) REPORTS.—Upon completion of the studies authorized by this section, the Administrator shall submit reports to the President and to the Congress containing the results of the studies and recommendations respecting whether or not such tanks should be subject to the preceding provisions of this subtitle.

"(f) REIMBURSEMENT.—(1) If any owner or operator (excepting an agency, department, or instrumentality of the United States Government, a State or a political subdivision thereof) shall incur costs, including the loss of business opportunity, due to the closure or interruption of operation of an underground storage tank solely for the purpose of conducting studies authorized by this section, the Administrator shall provide such person fair and equitable reimbursement for such costs.

"(2) All claims for reimbursement shall be filed with the Administrator not later than 90 days after the closure or interruption which gives rise to the claim.

"(3) Reimbursements made under this section shall be from funds appropriated by the Congress pursuant to the authorization contained in section 2007(g).

"(4) For purposes of judicial review, a determination by the Administrator under this subsection shall be considered final agency action.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 9010. For authorization of appropriations to carry out this subtitle, see section 2007(g).".

(b) The table of contents of the Solid Waste Disposal Act is amended by inserting the following after the items relating to subtitle H:

"Subtitle I—Regulation of Underground Storage Tanks

"Sec. 9001. Definitions.
"Sec. 9002. Notification.
"Sec. 9003. Release detection, prevention, and correction regulations.
"Sec. 9004. Approval of State programs.
"Sec. 9005. Inspections, monitoring, and testing.
"Sec. 9006. Federal enforcement.
"Sec. 9007. Federal facilities.
"Sec. 9008. State authority.
"Sec. 9009. Study of underground storage tanks.
"Sec. 9010. Authorization of appropriations.".

TITLE VII—OTHER PROVISIONS

REPORT TO CONGRESS ON INJECTION OF HAZARDOUS WASTE

SEC. 701. (a) The Administrator, in cooperation with the States, shall compile and, not later than 6 months after the date of enactment of the Hazardous and Solid Waste Amendments of 1984, submit to the Committee on Environment and Public Works of the United States Senate and the Committee on Energy and Commerce of the United States House of Representatives, an inventory of all wells in the United States which inject hazardous wastes. The inventory shall include the following information:

(1) the location and depth of each well;

(2) engineering and construction details of each, including the thickness and composition of its casing, the width and content of the annulus, and pump pressure and capacity;

(3) the hydrogeological characteristics of the overlying and underlying strata, as well as that into which the waste is injected;

(4) the location and size of all drinking water aquifiers penetrated by the well, or within a one-mile radius of the well or within two hundred feet below the well injection point;

(5) the location, capacity, and population served by each well providing drinking or irrigation water which is within a five-mile radius of the injection well;

(6) the nature and volume of the waste injected during the one-year period immediately preceding the date of the report;

(7) the dates and nature of the inspections of the injection well conducted by independent third parties or agents of State, Federal, or local government;

(8) the name and address of all owners and operators of the well and any disposal facility associated with it;

(9) the identification of all wells at which enforcement actions have been initiated under this Act (by reason of well failure, operator error, groundwater contamination or for other reasons) and an identification of the wastes involved in such enforcement actions; and

(10) such other information as the Administrator may, in his discretion, deem necessary to define the scope and nature of hazardous waste disposal in the United States through underground injection.

(b) In fulfilling the requirements of paragraphs (3) through (5) of subsection (a), the Administrator need only submit such information as can be obtained from currently existing State records and from site visits to at least 20 facilities containing wells which inject hazardous waste.

(c) The States shall make available to the Administrator such information as he deems necessary to accomplish the objectives of this section.

EXTENDING THE USEFUL LIFE OF SANITARY LANDFILLS

SEC. 702. Section 8002 of the Solid Waste Disposal Act is amended by adding the following new subsection after subsection (r) thereof:

"(s) EXTENDING LANDFILL LIFE AND REUSING LANDFILLED AREAS.—The Administrator shall conduct detailed, comprehensive studies of methods to extend the useful life of sanitary landfills and to better use sites in which filled or closed landfills are located. Such studies shall address—

"(1) methods to reduce the volume of materials before placement in landfills;

"(2) more efficient systems for depositing waste in landfills;

"(3) methods to enhance the rate of decomposition of solid waste in landfills, in a safe and environmentally acceptable manner;

"(4) methane production from closed landfill units;

"(5) innovative uses of closed landfill sites, including use for energy production such as solar or wind energy and use for metals recovery;

"(6) potential for use of sewage treatment sludge in reclaiming landfilled areas; and

"(7) methods to coordinate use of a landfill owned by one municipality by nearby municipalities, and to establish equitable rates for such use, taking into account the need to provide future landfill capacity to replace that so used.

The Administrator is authorized to conduct demonstrations in the areas of study provided in this subsection. The Administrator shall periodically report on the results of such studies, with the first such report not later than October 1, 1986. In carrying out this subsection, the Administrator need not dupicate other studies which have been completed and may rely upon information which has previously been compiled.".

URANIUM MILL TAILINGS

SEC. 703. Nothing in the Hazardous and Solid Waste Amendments of 1984 shall be construed to affect, modify, or amend the Uranium Mill Tailings Radiation Control Act of 1978.

NATIONAL GROUND WATER COMMISSION

SEC. 704.(a) There is established a commission to be known as the National Ground Water Commission (hereinafter in this section referred to as the "Commission").

(b) The duties of the Commission are to:

(1) Assess generally the amount, location, and quality of the Nation's ground water resources.

(2) Identify generally the sources, extent, and types of ground water contamination.

(3) Assess the scope and nature of the relationship between ground water contamination and ground water withdrawal and develop projections of available, usable ground water in future years on a nationwide basis.

(4) Assess the relationship between surface water pollution and ground water pollution.

(5) Assess the need for a policy to protect ground water from degradation caused by contamination.

(6) Assess generally the extent of overdrafting of ground water resources, and the adequacy of existing mechanisms for preventing such overdrafting.

(7) Assess generally the engineering and technological capability to recharge aquifers.

(8) Assess the adequacy of the present understanding of ground water recharge zones and sole source aquifers and assess the adequacy of knowledge regarding the interrelationship of designated aquifers and recharge zones.

(9) Assess the role of land-use patterns as these relate to protecting ground water from contamination.

(10) Assess methods for remedial abatement of ground water contamination as well as the costs and benefits of cleaning up polluted ground water and compare cleanup costs to the costs of substitute water supply methods.

(11) Investigate policies and actions taken by foreign governments to protect ground water from contamination.

(12) Assess the use and effectiveness of existing interstate compacts to address ground water protection from contamination.

(13) Analyze existing legal rights and remedies regarding contamination of ground water.

(14) Assess the adequacy of existing standards for ground water quality under State and Federal law.

(15) Assess monitoring methodologies of the States and the Federal Government to achieve the level of protection of the resource as required by State and Federal law.

(16) Assess the relationship between ground water flow systems (and associated recharge areas) and the control of sources of contamination.

(17) Assess the role of underground injection practices as a means of disposing of waste fluids while protecting ground water from contamination.

(18) Assess methods for abatement and containment of ground water contamination and for aquifer restoration including the costs and benefits of alternatives to abatement and containment.

(19) Assess State and Federal ground water law and mechanisms with which to manage the quality of the ground water resource.

(20) Assess the adequacy of existing ground water research and determine future ground water research needs.

(21) Assess the roles of State, local, and Federal Governments in managing ground water quality.

(c)(1) The Commission shall be composed of 19 members as follows:

(A) 6 appointed by the Speaker of the United States House of Representatives from among the Members of the House of Representatives, 2 of whom shall be members of the Committee on Energy and Commerce, 2 of whom shall be members of the Committee on Public Works and Transportation, and two of whom shall be members of the Committee on Interior and Insular Affairs;

(B) 4 appointed by the majority leader of the United States Senate from among the Members of the United States Senate;

(C) 8 appointed by the President as follows:

(i) 4 from among a list of nominations submitted to the President by the National Governors Association, two of whom shall be representatives of ground water appropriation States and two of whom shall be representatives of ground water riparian States;

(ii) one from among a list of nominations submitted to the President by the National League of Cities and the United States Conference of Mayors;

(iii) one from among a list of nominations submitted to the President by the National Academy of Sciences;

(iv) one from among a list of nominations submitted to the President by groups, organizations, or associations of industries the activities of which may affect ground water; and

(v) one from among a list of nominations submitted to the President from groups, organizations, or associations of citizens which are representative of persons concerned with pollution and environmental issues and which have participated, at the State or Federal level, in studies, administrative proceedings, or litigation (or any combination thereof) relating to ground water; and

(D) the Director of the Office of Technology Assessment.

A vacancy in the Commission shall be filled in the manner in which the original appointment was made. Appointments may be made under this subsection without regard to section 5311(b) of title 5, United States Code. Not more than three of the six members appointed under subparagraph (A) and not more than two of the four members appointed under subparagraph (B) may be of the same political party. No member appointed under paragraph (C) may be an officer or employee of the Federal Government.

(2) If any member of the Commission who was appointed to the Commission as a Member of the Congress leaves that office, or if any member of the Commission who was appointed from persons who are not officers or employees of any government becomes an officer or employee of a government, he may continue as a member of the Commission for not longer than the ninety-day period beginning on the date he leaves that office or becomes such an officer or employee, as the case may be.

(3) Members shall be appointed for the life of the Commission.

(4)(A) Except as provided in subparagraph (B), members of the Commission shall each be entitled (subject to appropriations provided in advance) to receive the daily equivalent of the maximum annual rate of basic pay in effect for grade GS-18 of the General Schedule for each day (including travel time) during which they are engaged in the actual performance of duties vested in the Commission. While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in Government service are allowed expenses under section 5703 of title 5 of the United States Code.

(B) Members of the Commission who are Members of the Congress shall receive no additional pay, allowances, or benefits by reason of their service on the Commission.

(5) Five members of the Commission shall constitute a quorum but two may hold hearings.

(6) The Chairman of the Commission shall be appointed by the Speaker of the House of Representatives from among members appointed under paragraph (1)(A) of this subsection and the Vice Chairman of the Commission shall be appointed by the majority leader of the Senate from among members appointed under paragraph (1)(B) of this subsection. The Chairman and the Vice Chairman of the Commission shall serve for the life of the Commission unless they cease to be members of the Commission before the termination of the Commission.

(7) The Commission shall meet at the call of the Chairman or a majority of its members.

(d)(1) The Commission shall have a Director who shall be appointed by the Chairman, without regard to section 5311(b) of title 5, United States Code.

(2) The Chairman may appoint and fix the pay of such additional personnel as the Chairman considers appropriate.

(3) With the approval of the Commission, the Chairman may procure temporary and intermittent services under section 3109(b) of title 5 of the United States Code.

(4) The Commission shall request, and the Chief of Engineers and the Director of the Geological Survey are each authorized to detail, on a reimbursable basis, any of the personnel of their respective agencies to the Commission to assist it in carrying out its duties under this section. Upon request of the Commission, the head of any other Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist it in carrying out its duties under this section.

(e)(1) The Commission may, for the purpose of carrying out this section, hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission considers appropriate.

(2) Any member or agent of the Commission may, if so authorized by the Commission, take any action which the Commission is authorized to take by this section.

(3) The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(4) The Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

(5) The Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out this section. Upon request of the Chairman of the Commission, the head of such department or agency shall furnish such information to the Commission.

(f)(1) The Commission shall transmit to the President and to each House of the Congress a report not later than October 30, 1986. The report shall contain a detailed statement of the findings and conclusions of the Commission with respect to each item listed in subsection (b), together with its recommendations for such legislation; and administrative actions, as it considers appropriate.

(2) Not later than one year after the enactment of the Hazardous and Solid Waste Amendments of 1984, the Commission shall complete a preliminary study concerning ground water contamination from hazardous and other solid waste and submit to the President and to the Congress a report containing the findings and conclusions of such preliminary study. The study shall be continued thereafter, and final findings and conclusions shall be incorporated as a separate chapter in the report required under paragraph (1). The preliminary study shall include an analysis of the extent of ground water contamination caused by hazardous and other solid waste, the regions and major water supplies most significantly affected by such contamination, and any recommendations of the Commission for preventive or remedial measures to protect human health and the environment from the effects of such contamination.

(g) The Commission shall cease to exist on January 1, 1987.

(h) Nothing in this section and no recommendation of the Commission shall affect any rights to quantitites of water established under State law, interstate compact, or Supreme Court decree.

(i) There is authorized to be appropriated for the fiscal years 1985 through 1987 not to exceed $7,000,000 to carry out this section.

And the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate to

the title of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment to the title of the bill insert the following: "An Act to amend the Solid Waste Disposal Act to authorize appropriations for the fiscal years 1985 through 1988, and for other purposes.".

And the Senate agree to the same.

For consideration of the House bill and the Senate amendments except for section 23(c) of the Senate amendment:

JOHN D. DINGELL,
JAMES J. FLORIO,
BARBARA A. MIKULSKI,
BILLY TAUZIN,
D.E. ECKART,
WAYNE DOWDY,
JIM BROYHILL,
NORMAN F. LENT,
DON RITTER.

Solely for consideration of section 28(c) and modifications thereof committed to conference:

DAN ROSTENKOWSKI,
SAM M. GIBBONS,
J.J. PICKLE,
BARBER B. CONABLE, JR.,
JOHN J. DUNCAN.

Solely for consideration of sections 29 and 45 of the Senate amendment and modifications thereof committed to conference:

HENRY A. WAXMAN,
JAMES H. SCHEUER,
ED MADIGAN.

Solely for consideration of section 3 of the House bill and modifications thereof committed to conference:

RICHARD D. SHELBY.

Solely for consideration of section 5 of the House bill and modifications thereof committed to conference:

JOHN BREAUX,

Managers on the part of the House.

ROBERT T. STAFFORD,
JOHN H. CHAFEE,
AL SIMPSON,
STEVE SYMMS,
JENNINGS RANDOLPH,
GEORGE J. MITCHELL,
FRANK R. LAUTENBERG,

Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2867) to amend the Solid Waste Disposal Act to authorize appropriations for the fiscal years 1985 through 1988, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment to the text of the bill struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

SECTION 1—SHORT TITLE AND TABLE OF CONTENTS

House bill.—The House bill provides that this legislation be cited as the "Hazardous Waste Control and Enforcement Act of 1983".

Senate amendment.—The Senate amendment provides that this legislation may be cited as the "Solid Waste Disposal Act Amendments of 1984."

Conference substitute.—The Conference substitute provides that this legislation may be cited as the "Hazardous and Solid Waste Amendments of 1984".

SECTION 2—AUTHORIZATIONS FOR FISCAL YEARS 1985 THROUGH 1988

House bill.—The House bill authorizes the appropriation of funds to carry out the responsibilities under the Solid Waste Disposal Act during fiscal years 1984, 1985 and 1986.

Senate amendment.—The Senate amendment authorizes the appropriation of funds to carry out the responsibilities under the Solid Waste Disposal Act during fiscal years 1985, 1986, 1987, 1988 and 1989.

Conference substitute.—The Conference substitute authorizes the appropriation of funds to carry out the responsibilities under the Solid Waste Disposal Act during fiscal years 1985, 1986, 1987 and 1988. The following table sets forth the Conference substitute:

AUTHORIZATION LEVELS, HAZARDOUS AND SOLID WASTE AMENDMENTS OF 1984

[Dollars in millions]

	Fiscal year—			
	1985	1986	1987	1988
General (RCRA S. 2007(a))	$70.0	$80.0	$80.0	$80.0
State hazardous waste programs (S. 3011(a))	55.0	60.0	60.0	60.0
Hazardous waste site inventory	25.0	25.0	25.0	25.0
Development and Implementation aid (S. 4008(a)(1))	10.0	10.0	10.0	10.0
Implementation assistance (S. 4008(a)(2)(c))	10.0	10.0	10.0	10.0
Special communities (S. 4008(e)(2))	.5	0.5	.5	0.5
State recycled oil programs (S. 4008(f)(4))	5.0	5.0	5.0	5.0
Department of Commerce functions (S. 5006)	1.5	1.5	1.5	1.5
Criminal investigators (S. 2007(e))	3.246	2.4083	2.529	2.529
Small Quantity Generator Education	.5	.5	.5	0
Underground Storage tanks	10.0	10.0	10.0	10.0
LUST (Grants to States)	25.0	25.0	25.0	25.0
Compliance with open dumping/sanitary landfill criteria	15.0	20.0	20.0	20.0
National Groundwater Commission	3.0	4.0	0	0
Total	233.74	253.90	250.02	249.52

SECTION 101—FINDINGS AND OBJECTIVES OF SOLID WASTE DISPOSAL ACT

House bill.—The House bill rewrites section 1002(b)(5) regarding the dangers of inadequate controls on hazardous waste, and adds two "congressional findings" paragraphs regarding the high cost of corrective action, and the inability of land disposal facilities to permanently contain some waste. It also strikes section 1003(4) and adds four new objectives: assuring proper management, reducing the need for corrective action, minimizing generation and land disposal, and establishing a viable"Federal-State" partnership and assisting the States.

Senate amendment.—The Senate amendment declares the national policy to be the minimization of the generation of hazardous wastes, and the proper disposal of what wastes are generated. It also adds a congressional finding that certain classes of land disposal facilities are not capable of assuring long-term containment of certain hazardous wastes, and that to avoid substantial risk to human health and the environment, reliance on land disposal, particularly landfill and surface impoundments, should be the least favored method for managing hazardous waste.

Conference substitute.—The Conference substitute combines the House and Senate provisions.

In specifying certain findings and objectives concerning hazardous waste control, the Conferees intend to convey a clear and unambiguous message to the regulated community and the Environmental Protection Agency: reliance on land disposal of hazardous waste has resulted in an unacceptable risk to human health and the environment. Consequently, the Conferees intend that through the vigorous implementation of the objectives of this Act, land disposal will be eliminated for many wastes and minimized for all others, and that advanced treatment, recycling, incineration and other hazardous waste control technologies should replace land disposal. In other words, land disposal should be used only as a last resort and only under conditions which are fully protective of human health and the environment.

The successful implementation of the 1984 amendments will require an improved working relationship between the Environmental Protection Agency and the states. The development of a viable federal-state partnership is one of the highest priorities of this legislation and the Agency should devote greater effort to assisting states in achieving authorization of their RCRA programs.

SECTION 102—DIOXINS FROM RESOURCE RECOVERY FACILITIES

House bill. —The House bill provides that EPA must promulgate regulations requiring new resource recovery facilities to comply with the best available control technology for emissions of dioxins into the ambient air. Such regulations would be superseded by any Clean Air Act regulations governing emissions of dioxins from resource recovery facilities. The House bill also authorizes EPA to promulgate regulations governing the use, revise, recyling, and reclamation of hazardous waste.

Senate amendment. —The Senate amendment does not contain a similar provision.

Conference substitute. —The Conference substitute eliminates the mandate that EPA promulgate a specific type of regulations by a date certain. Instead, EPA is directed to submit a report on the situation regarding the emission of dioxins from resource recovery facilities burning municipal solid waste. Based on this report and any future information on such emissions, EPA may publish advisories or guidelines. EPA's authority to promulgate regulations under, for example, the Clean Air Act is not affected by this provision.

Operating practices, rather than control technology, may be the key to minimizing dioxin emissions in these facilities. "Best available control technology "(BACT) can be difficult to define, and thus there could be significant delays in promulgating regulations of this type. In the interim, there could be a virtual halt to resource recovery progress, since there would be reluctant to design a facility until EPA's BACT rules were promulgated. The prospect of such a moritorium is troublesome in that EPA, in its most recent public statement on the issue, concluded that present emission levels of dioxins from the municipal waste com-

bustors they tested do not present a public health hazard.

The amendment is therefore restructured to require EPA to report on the available information on the emissions of dioxins resource recovery facilities burning municipal solid waste, and the risks to human health posed by these emissions. This report should update the previous EPA "Interim Evaluation of Health Risks Associated with Emissions of Tetrachlorinated Dioxins from Municipal Resource Recovery Facilities", taking into consideration any new data on dioxin emissions from this type of facility (including data from other countries), and any information based on improved risk assessment methodologies. The revised amendment requires that the report describe operating practices at resource recovery facilities that the Administrator judges to be necessary to maintain dioxin emissions from these facilities at a safe level. The amendment gives EPA the authority to issue any additional advisories, or guidelines that the Agency deems necessary to control dioxin emissions from such facilities.

The Conferees substitute does not include the House provision on the use, reuse, recycling, and reclamation of hazardous waste. EPA has the authority to regulate such activities and an explicit mandate is not necessary.

SECTION 103—OMBUDSMAN

House bill.—The House bill establishes an office of Ombudsman at the Environmental Protection Agency to assist the public in matters relating to the implementation and enforcement of the Solid Waste Disposal Act.

Senate amendment.—No provision.

Conference substitute.—The conference substitute adopts the House provision, except that the authorization for the office of Ombudsman expires at the end of fiscal year 1988.

The Conferees expect the Administrator to promptly appoint an Ombudsman who is genuinely dedicated to answering citizen inquires regarding RCRA programs and responding to complaints and requests for assistance. The individual appointed to this position should be of sufficient stature within the Agency that citizens will be able to secure meaningful assistance as quickly as possible. Fulfilling this important function will require staff resources at EPA headquarters in Washington and at each of the regional offices.

SECTION 201—LAND DISPOSAL OF HAZARDOUS WASTE

Salt dome formations, salt bed formations, underground mines and caves

House bill.—The House bill provides that, effective February 1, 1984, the placement of any bulk or containerized liquid hazardous waste in salt dome formations, salt bed formation, underground mines or caves is prohibited.

EPA is required to conduct a study and submit a report to Congress within two years of the date of enactment of this subsection regarding human health and environmental effects associated with the disposal of these wastes in these types of geologic formations. The report can suggest modifications to this ban that might be in order as a result of the study, however, further legislation is required to effect such modifications, if any.

The House bill also provides that the disposal of nonliquid hazardous wastes in these types of formations is prohibited, effective on the date of enactment, until such time as the Administrator promulgates performance and permitting standards for such geologic formations and issues a permit under section 3005(c) for a particular facility.

Finally, the House bill contains a provision stipulating that determinations made by the Administrator with respect to the land disposal of hazardous waste pursuant to other provisions of the House bill will not alter the statutory prohibitions noted above.

Senate amendment.—The Senate amendment does not contain similar provisions.

Conference substitute.—The conference substitute adopts a modified version of the House bill. Essentially, the conferees agreed that the placement of noncontainerized or bulk liquid hazardous wastes in all four types of geologic formations would be prohibited as of the date of enactment until:

(1) the Administrator determines, after notice and opportunity for hearings on the record in areas that would be affected by such disposal practices that the placement of these wastes in such formations is protective of human health and environment;

(2) the Administrator promulgates performance and permitting standards for these types of formations; and

(3) a final permit for a specific facility is issued under Section 3005(c) of RCRA.

The prohibition on the placement of any containerized liquid hazardous waste and non-liquid hazardous wastes in salt dome formations, salt bed formations, underground mines or caves shall be effective until such time as the Administrator issue a permit under Section 3005(c) for a particular facility.

As in the House bill, determinations made by the Administrator with respect to the land disposal of hazardous waste under new Section 3004 (d), (e), or (g) as contained in the conference substitute will not affect the prohibitions on placement of these wastes in these types of geologic formations.

Finally, the conference substitute contains a provision stipulating that these provisions do not affect the demonstration project being undertaken by the Department of Energy at its Waste Isolation Pilot Project in New Mexico.

Liquids in landfills

House bill.—The House bill contains three provisions regarding the disposal of liquids in landfills.

First, the bill prohibits the disposal of noncontainerized or bulk liquid hazardous waste in any landfill. The prohibition is effective 6 months after enactment of this provision. Prior to that date, regulations and requirments promulgated by EPA (as in effect on April 30, 1983) regarding such liquid waste disposal are to remain in force and effect.

Second, the bill requires EPA to promulgate, within 6 months of enactment, final regulations to minimize, to the extent technologically feasible, the disposal of containerized liquid hazardous wastes in landfills and to minimize, by means other than the addition of absorbents where technologically feasible, the presence of free liquids in containerized wastes disposed of in landfills. Regulations and requirements in effect as of April 30, 1983 pertaining to this issue are to remain in force and effect prior to the effective date of the required regulations.

Third, the bill prohibits the placement of nonhazardous bulk liquids in a permitted landfill under Subtitle C unless the owner or operator of such a landfill demonstrates, or the Administrator determines that:

(1) the only reasonably available alternative, such placement is placement in a landfill or surface impoundment not permitted under Subtitle C which contains or may reasonably be anticipated to contain hazardous waste; and

(2) the placement of such liquids in the owner or operator's landfill will not present a risk of contamination to any underground source of drinking water.

Finally, the House bill contains a stipulation that EPA determinations regarding the land disposal of hazardous waste pursuant to other provisions of the bill will not affect the statutory prohibition regarding the disposal of bulk or noncontainerized hazardous waste in landfills.

Senate amendment.—The Senate amendment contains a requirement that, not later than fifteen months after enactment of these provisions, EPA is to promulgate final regulations that would both prohibit the disposal of bulk or noncontainerized liquid hazardous waste in landfills and minimize the disposal of containerized liquid hazardous waste in landfills. Such regulations are also to prohibit the landfilling of liquids that have been absorbed in materials that biodegrade or that release liquids when compressed as might occur during routine landfill operations.

Prior to the effective date of the new regulations, the requirements set forth in regulations (as in effect on October 1, 1982) respecting the disposal in landfills of such liquid hazardous waste remain in effect.

Conference substitute.—The conference substitute adopted:

(1) the House bill with respect to the 6 month prohibition on the disposal of noncontainerized or bulk liquids in landfills; and

(2) the House bill with respect to the 12 month prohibition on the disposal of nonhazardous liquids in landfills.

The conference substitute also require that EPA promulgate final regulations, within 15 months of enactment, to:

(1) minimize the disposal of containerized liquid hazardous waste in landfills; and

(2) minimize the presence of free liquids in containerized hazardous waste to be disposed of in landfills. Such regulations, as in the Senate amendment are to prohibit the landfilling of liquids that have been absorbed in materials that biodegrade or that release liquids when compressed as might occur during landfill operations.

As in the House bill, the conference substitute requires the continued application, pending the date of the statutory prohibitions and the effective date of new regulations, of pertinent regulatory requirements in effect as of April 30, 1983. Finally, the conference substitute provides, as in the House bill, that determinations made by the Administrator with respect to the land disposal of hazardous waste pursuant to other provisions of the conference substitute will not alter the statutory prohibition on the placement of bulk or noncontainerized liquid hazardous waste in landfills.

Prohibition on land disposal of specified wastes

House bill.—The House bill provides that, effective 12 months after enactment, the land disposal of a set of hazardous wastes that are specifically listed in the bill (the "California list") is prohibited (32 months for underground injection) unless EPA determines that the prohibition of a particular method of land disposal is not necessary

to protect human health and the environment. Within 18 months EPA shall submit an interim report to Congress on the review of underground injection of "California list" wastes.

Within 12 months, EPA is to submit a schedule to Congress for reviewing all hazardous wastes to determine if a land disposal prohibition is warranted, as follows: review ⅓ of all listed or identified hazardous wastes in 32 months, ⅔ in 42 months, and all within 52 months.

If EPA fails to make a determination for any listed or identified hazardous waste within the allotted time, that waste is prohibited from land disposal. Regulatory prohibitions of one or more methods of land disposal are to be based on the following considerations: the long-term uncertainties associated with land disposal, the goal of managing hazardous waste in an appropriate manner in the first instance, and the waste's persistence, toxicity, mobility, and propensity to bioaccumulate.

Prohibitions are effective immediately or up to 42 months later (only up to 30 months later for wastes from Federal agencies or instrumentalities) based on the earliest date on which adequate alternative capacity will be available. In the case of prohibitions for which the effective date is not extended, EPA may grant case-by-case variances for up to 6 months, renewable twice, upon a showing of severe economic hardship by a generator.

EPA may require pretreatment and detoxification prior to land disposal, limit waste dilution, and impose other conditions.

Hazardous waste which is prohibited from any land disposal method may be stored only in order to accumulate the quantity necessary to facilitate proper recovery, treatment, or disposal.

"Land disposal" includes placement in a landfill, surface impoundment, waste pile, injection well, land treatment facility, salt dome formation, salt bed formation, or underground mine or cave.

Senate amendment.—The Senate amendment provides that within 32 months EPA shall prohibit the land disposal of the "California list" wastes, except for methods of land disposal of those wastes that EPA determines will be protective of health and the environment, in which case a notice to that effect shall be published in the Federal Register together with an explanation. A method of land disposal may not be determined to be protective of human health and the environment if a specified waste contains significant concentrations of one or more hazardous constituents that are highly toxic, highly mobile, or have a strong propensity to bioaccumulate, unless an interested person demonstrates to a reasonable degree of certainty that there will be no migration of such constituents from the disposal unit or injection zone for as long as the waste remains hazardous.

Within 24 months, EPA is to submit a schedule to Congress for reviewing all hazardous wastes to determine if a land disposal prohibition is warranted, as follows: ⅓ of the listed wastes in 48 months, ⅔ in 60 months, and all within 72 months. High-volume, high-hazard wastes shall be addressed first; low-volume, low hazard wastes shall be addressed last. Also, within 52 months, EPA is to prohibit as appropriate all toxicity-characterized wastes.

EPA shall prohibit the land disposal of hazardous wastes, except for methods of land disposal of those wastes that EPA determines will be protective of health and the environment, in which case a notice to that effect shall be published in the Federal Register together with an explanation. A method of land disposal may not be determined to be protective of health and the environment if a specified waste contains significant concentrations of one or more hazardous constituents that are highly toxic, highly mobile, or have a strong propensity to bioaccumulate, unless an interested person demonstrates to a reasonable degree of certainty that there will be no migration of such constituents from the disposal unit or injection zone for as long as the waste remains hazardous.

Prohibitions are effective immediately or up to 2 years later based on the earliest date on which adequate alternative capacity will be available. Two 1-year extensions may be granted where the applicant demonstrates that there is a binding contractual commitment to construct alternative capacity, but completion has been unavoidably delayed.

Within 24 months, EPA shall prohibit as appropriate the land disposal of dioxin-containing wastes (proposed EPA hazardous Waste Nos. F020, F021, F022, and F023), and F001, F002, F003, F004, and F005 wastes.

When promulgating prohibitions, EPA shall specify the levels or methods of treatment which substantially diminish the toxicity of the waste or substantially reduce the likelihood of migration. If EPA fails to promulgate regulations concerning California wastes or dioxins and F001-F005 wastes by the specified deadline, then 6 months after the deadline such wastes may be disposed in landfills or surface impoundments only if they have a double liner and leachate collection system, they monitor groundwater, and they satisfy EPA's locational criteria. This provision does not apply to contaminated soil and debris from cleanup or removal of releases. If EPA fails to promulgate regulations concerning chemicals used by drycleaners by the specified deadline, they shall be given 24 months rather than 6 months before being required to dispose of their wastes in a facility meeting the new minimum technological requirements set forth elsewhere in the Senate amendments.

Conference substitute.—The Conference substitute adopts provisions from both the House bill and the Senate amendment. It provides that, effective 32 months after enactment, the land disposal of the "California list" is prohibited (except for underground injection) unless the Administrator determines that the prohibition of a particular method of land disposal is not necessary to protect human health and the environment.

Effective 24 months after enactment, the land disposal of dioxin containing hazardous wastes identified and proposed to be added to 40 CFR 261.31 in an April 4, 1983 Federal Register notice and hazardous wastes numbered F001, F002, F003, F004, and F005 in EPA regulations (referred to here as solvents) is prohibited (except for underground injection) unless the Administrator determines that the prohibition of a particular method of land disposal is not necessary to protect human health and the environment. The selection of dioxins and solvents for early consideration and prohibition is adopted from the Senate bill.

The Administrator shall determine whether the disposal of the California list, dioxins and solvents into deep injection wells may not be protective of human health and the environment and the Administrator shall, not later than 45 months after enactment, promulgate final regulations prohibiting such disposal if it may reasonably be determined that such disposal may not be protective of human health and the environment for as long as the waste remains hazardous. If the Administrator fails to make a determination within 45 months, such hazardous waste shall be prohibited from disposal into deep injection wells.

As in the Senate amendment, statutory or regulatory prohibitions on land disposal of hazardous wastes shall be effective immediately upon the specified date unless the Administrator establishes another effective date with respect to a specific hazardous waste. Such extensions of the effective dates shall be based on the earliest date on which adequate alternative treatment, recovery or disposal capacity which protects human health and the environment will be available. Such extensions are limited to 30 months after the original effective date. Additional extensions of up to one year (renewable for no more than one additional year) may be granted on a case-by-case basis where an applicant demonstrates to the satisfaction of the Administrator that said applicant has a binding contractual commitment to construct or otherwise provide such alternative capacity but due to circumstances beyond the applicant's control such alternative capacity cannot reasonably be made available prior to the original effective date. For the duration of any such extension, use of landfills or surface impoundments for such wastes is restricted to those that meet the minimum technological requirements of the bill for new facilities.

With respect to contaminated soil and debris from a cleanup under section 104 or 106 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 or a corrective action under this Act, the statutory prohibitions on land disposal shall not be effective until the date 48 months after enactment.

Not later than 24 months after enactment, EPA must publish a schedule for making determinations on the prohibition of land disposal for each hazardous waste listed under section 3001. The schedule shall not be subject to judicial review. Failure to develop and publish the schedule, however, shall subject the Administrator to legal action. Athough the substance of the schedule may not be challenged insofar as it is left to the Agency's discretion, the requirement to develop and publish the schedule in a timely manner is a mandatory duty that may be compelled.

The schedule shall set forth a plan by which the Administrator shall make determinations regarding the imposition of a prohibition on land disposal for ⅓ of all listed wastes within 45 months, for ⅔ of all listed wastes within 55 months, and for all listed and identified hazardous wastes within 66 months. EPA is to schedule high-volume wastes that are intrinsically the most hazardous for early review. The goal of the statutory standard for the schedule is that the most hazardous wastes are reviewed first. Nevertheless, because an equally important goal is to publish the schedule quickly so that the land disposal restrictions effort can progress, the Conferees do not expect EPA to undertake a rigorous assessment of risk for purposes of developing the schedule.

Two of the critical factors in determining which wastes present the greatest hazards in land disposal are the toxicity of the waste and the volume of the waste being land disposed. However, these factors are not the only relevant ones and in some cases may

not give an accurate indication of which wastes present the greatest risks. For example, if a highly toxic waste degrades very rapidly, it may not present a serious risk in the land disposal environment. Likewise, a particular waste may not be very toxic relative to other hazardous wastes but may be so mobile (or in fact may mobilize other relatively immobile wastes) that it does in fact present a serious risk in land disposal. In establishing the schedule, EPA may consider factors other than toxicity and volume if they are relevant to the risk of the waste in land disposal.

For some listed wastes, very little data exists on basic constituent properties. Therefore, EPA can schedule some wastes for later review on the basis of unavailability of data. Use of this data availability factor in setting the schedule is at the discretion of the Administrator. This override to the basic environmental standard of the schedule should be used only in limited circumstances. EPA is to undertake efforts to obtain the missing data on these wastes. To obtain this data, EPA can rely on the authorities of Section 3007 of RCRA and sections 4 and 8(d) of the Toxic Subtances Control Act.

With respect to each waste scheduled for review and consideration by EPA within the 45 and 55 month schedule, the failure of the Agency to issue regulations by such 45 and 55 month date shall result in a statutory restriction on the use of landfills and surface impoundments for such wastes. Only after a generator certifies to EPA that such generator has investigated the availability of treatment capacity and determined that the use of a landfill or surface impoundment is the only practicable alternative to treatment currently available to the generator may such waste be placed in a landfill or surface impoundment. A further limitation is the condition that such landfill or surface impoundment must satisfy the minimum technological requirements of the bill for new facilities.

Failure of the Agency to issue final regulations for any hazardous waste by the date 66 months after enactment shall result in a statutory prohibition on land disposal of all listed and identified hazardous wastes for which land disposal regulations have not been issued.

The conference substitute adopts the Senate amendment on treatment standards; the House bill provisions on storage of hazardous waste prohibited from land disposal; and the House bill definition of land disposal.

Ban on dust suppression

House bill.—No provisions.

Senate amendment.—The Senate amendment bans the use of dioxin-contaminated wastes or any other hazardous waste as a dust suppressant (unless the waste is hazardous solely as a result of the ignitability characteristic).

Conference substititute.—The conference substitute adopts the Senate amendment.

Air emissions

House bill.—The House bill requires EPA to promulgate regulations, within 24 months, for monitoring and control of air emissions at hazardous waste treatment, storage, and disposal facilities.

Senate amendment.—The Senate amendment contains a similar provision with a due date of 36 months.

Conference substitute.—The conference substitute adopts the provision with a due date of 30 months.

SECTION 202—MINIMUM TECHNOLOGICAL REQUIREMENTS

House bill.—The House bill requires that all landfills and surface impoundments submitting permit applications after enactment shall be required to be double lined and to monitor ground water.

The double-liner requirement may be waived for monofill containing only foundry furnace emission control wastes or metal castings and wastes if certain conditions are met.

If certain mining and other mineral processing wastes, and fossil fuel wastes (Sec. 8002(f), (n), and (p) wastes) become subject to Subtitle C, the landfills and surface impoundments in which they are put must have ground water monitoring, and whatever else EPA requires.

Incinerators receiving a permit after enactment must achieve the minimum destruction and removal efficiency (99.99 percent) required by regulations in effect on June 24, 1982.

Senate amendment.—The Senate amendment requires that all landfills and surface impoundments submitting permit applications after enactment shall be required to have two or more liners and a leachate collection system above (in the case of a landfill) and between such liners unless alternative design, operating, and locational characteristics will prevent ground and surface water contamination at least as effectively; they must also monitor ground water. EPA shall implement these requirements within 2 years of enactment; until such implementation the requirements can be met by installing a top line and a lower liner, as defined in the bill. Each permit issued after enactment of this amendment shall require the installation of such liners, leachate collection systems and ground water monitoring.

The amendment also says that any permit issued for a landfill in Alabama shall require two or more liners and a leachate collection system above and between such liners.

The EPA Administrator shall promulgate regulations for the acceptable location of new and existing treatment, storage, and disposal facilities.

Conference substitute.—The Conference substitute adopts the Senate amendment with the addition of the House language on monofill waivers (above) and early leak detection systems as follows:

Within 30 months EPA promulgate regulations requiring all new landfills, surface impoundments, waste piles, underground tanks, and land treatment units to use approved leak detection systems.

By requiring EPA to promulgate regulations requiring approved leak detection systems, the Conferees intend that EPA use its discretion to require those types of leak detection systems that are appropriate for the facilities involved.

The provision, solely affecting facilities within Alabama, extends only to alternatives otherwise available regarding minimum technology requirements contained in this Section and does not affect other alternative operating or design options available to owners or operators of Alabama land disposal facilities under this or other Federal or State statutes or regulations.

SECTION 203—GROUND WATER MONITORING

House bill.—No provision.

Senate amendment.—The Senate amendment provides that Section 3004 standards concerning ground water monitoring at landfills, surface impoundments, waste piles, and land treatment facilities shall apply whether or not: (1) the facility is located above the seasonal high water table; (2) two liners and a leachate collection system have been installed; or (3) the liners are inspected. EPA may, in certain limited circumstances, exempt an engineered structure from ground water monitoring requirements when the agency finds they would be unnecessary.

Conference substitute.—The Conference substitute is the same as the Senate amendment.

SECTION 204—BURNING AND BLENDING OF HAZARDOUS WASTE

House bill.—The House bill provides that within 12 months producers, burners, distributors, and marketers of a fuel produced from a hazardous waste (including used oil) must notify EPA, unless specifically exempted by EPA. Within 2 years EPA must promulgate technical standards. Until EPA promulgates technical standards, cement kilns in urban areas (over 500,000 population) burning hazardous waste must meet incinerator standards.

A warning label must appear on the invoice or bill of sale accompanying waste-derived fuel. Fuels produced from petroleum refining wastes are exempt from the labeling requirement under certain circumstances.

Senate amendment.—The Senate amendment provides that within 15 months, producers, burners, distributors, and marketers of a fuel produced from a hazardous waste must notify EPA, unless specifically exempted by EPA. A single or two family residence burning hazardous waste derived fuel is exempt from the notification requirement. Within 15 months, EPA must establish recordkeeping requirements and within 2 years EPA must promulgate technical standards.

Beginning 90 days after enactment and until EPA promulgates regulations superceding this requirement, a warning label must appear on the invoice or bill of sale accompanying waste-derived fuels. Fuels produced from petroleum refining wastes and from oily materials resulting from normal petroleum refining production and transportation practices are exempt from the labeling requirement under certain circumstances.

Petroleum refinery wastes converted into petroleum coke are exempt from standards, labeling, and recordkeeping requirements. EPA may exempt facilities burning *de minimis* quantities of wastes as fuel. In both cases certain conditions must be met.

Conference substitute.—The Conference substitute is the same as the Senate amendment with the addition of the House provision that, until EPA promulgates technical standards, cement kilns in urban areas (over 500,000 population) burning hazardous waste must meet incinerator standards.

SECTION 205—DIRECT ACTION

House bill.—No provision.

Senate amendment.—The Senate amendment, which amends the Solid Waste Disposal Act and the Comprehensive Environmental Response, Compensation and Liability Act of 1980, clarifies certain aspects of financial responsibility requirements and provides for direct action against guarantors in appropriate cases.

Specifically, the Senate amendment: (1) provides claimants in appropriate circumstances with the right of direct action against guarantors (defined as persons who provide evidence of financial responsibility

to an owner or operator, (2) permits a guarantor when subject to a direct action suit to invoke as a defense the terms and conditions contained in the guarantor's policy of insurance with the owner or operator, (3) confirms, without diminishing any other statutory, contractual or common law liability of a guarantor, that the total liability of a guarantor is limited to the aggregate amount that the guarantor has provided as evidence of financial responsibility to a particular owner or operator, and (4) authorizes the Administrator to establish appropriate rules and defenses with respect to such actions.

Conference substitute.—The Conference substitute adopts the Senate amendment as it applies to the Solid Waste Disposal Act, but does not adopt the amendment as it applies to CERCLA. There are appropriate circumstances where a right of direct action should be available against guarantors, such as when court jurisdiction over the owner or operator of a hazardous waste facility cannot be obtained or where the owner or operator has declared bankruptcy. The Administrator has discretion to specify policy or other contractual terms, conditions or defenses that are unacceptable or are necessary to protect human health and the environment.

While the Conferees deleted this provision as applied to CERCLA, it was deleted because all CERCLA amendments to this bill were deleted.

SECTION 206—CONTINUING RELEASES AT PERMITTED FACILITIES

House bill.—The House bill requires that regulations and permits issued after enactment shall require corrective action for hazardous constituent releases from any solid waste management unit at a facility, regardless of when the waste was placed in the unit. Where such corrective action cannot be completed prior to issuance of the permit, the permit shall contain schedules for corrective action and assurances of financial responsibility to ensure adequate cleanup of the releases.

Senate amendment.—The Senate amendment is essentially the same as the House bill.

Conference-substitute.—The conference substitute adopts the Senate amendment. The purpose of this provision is to ensure that all facilities which seek a permit under section 3005(c) take all appropriate action to control and cleanup all releases of hazardous constituents from all solid waste management units at the time of permitting the facility. Current EPA regulations do not address all releases of hazardous constituents from solid waste management units at facilities receiving permits under section 3005(c). This could likely result in a situation of EPA issuing a final permit to a facility which is causing ground water contamination from inactive units, without the permit addressing that contamination in any way. The Conferees believe that all facilities receiving permits should be required to clean up all releases from all units at the facility, whether or not such units are currently active.

This provision provides also that, where corrective action cannot be completed prior to issuance of permit, the cleanup may occur after the date of final permit issuance only if the conditions, schedules, terms, and financial assurances of such cleanup actions are specified as a condition of the permit.

To obtain and interpret information may take a considerable amount of time. Rather than delay the issuance of RCRA permits until sufficient information is acquired to specify in compliance schedules the corrective action required and the financial assurances needed to assure its completion, the bill allows permits to be issued where owners or operators commit in a compliance schedule to obtain the information necessary to determine the extent and cost of corrective action. To do otherwise would prolong the period during which facilities are not subject to the more stringent Part 264 standards.

SECTION 207—CORRECTIVE ACTION BEYOND FACILITY BOUNDARIES; UNDERGROUND TANKS

House bill.—The House bill directs the Administrator to amend the standards under section 3004 to require that corrective action be taken beyond the facility boundary where necessary to protect human health and the environment. Such requirement would not be applicable where the owner or operator of the facility concerned demonstrates to the satisfaction of the Administrator that, despite the best efforts of the owner or operator, permission to undertake such actions could not be obtained.

Senate amendment.—The Senate amendment does not contain a similar provision.

Conference substitute.—The Conference substitute adopts the House provision. This provision overturns a policy of the Environmental Protection Agency which limited the scope of corrective action to the property of the polluting facility. Since most forms of pollution, particularly ground water contamination, do not observe territorial or property boundaries, such a restriction has no basis in logic. The provision therefore requires EPA to amend the application regulation to assure that corrective action beyond a facility boundary will be required where appropriate.

SECTION 208—FINANCIAL RESPONSIBILITY FOR CORRECTIVE ACTION

House bill.—No provision.

Senate amendment.—The Senate amendment directs the Administrator to promulgate regulations requiring owners and operators of Subtitle C facilities to provide evidence of financial responsibility for corrective action.

Conference substitute.—The Conference substitute is the same as the Senate amendment.

SECTION 209—MINING AND OTHER SPECIAL WASTES

House bill.—The House bill provides that landfills and surface impounds that contain wastes subject to the studies required under section 8002(f), (n), or (p) that become subject to regulation as hazardous wastes shall only be required to monitor ground water and comply with such other standards as are necessary to assure the protection of human health and the environment. Surface impoundments containing such wastes could also be exempted from the retrofit requirement that is applicable to other surface impoundments.

Senate amendment.—The Senate amendment provides that if mining wastes become subject to regulation as hazardous wastes the Administrator is authorized to modify the requirements relating to land disposal limitations, minimum technological requirements, and corrective action as they apply to landfills and surface impoundments containing such wastes to take into account various factors, so long as such modified requirements assure protection of human health and the environment.

Conference substitute.—The Senate amendment is adopted with modifications.

The purpose and intended effects of the House bill and Senate amendment are substantially similar except that the Senate amendment would not cover materials generated from the combustion of coal and other fossil fuels. The Conference substitute would encompass all of the so-called "special study wastes" described in section 8002(f), (n), (o), and (p) that become subject to regulation under subtitle C. In promulgating regulations, the Administrator is authorized to modify the requirements relating to liquids in landfills, prohibitions on land disposal, minimum technological requirements, deep well injection, corrective action, and interim status surface impoundments for these wastes as long as such modified requirements protect human health and the environment.

This amendment recognizes that even if some of the special study wastes are determined to be hazardous it may not be necessary or appropriate, because of their special characteristics and other factors, to subject such wastes to the same requirements that are applicable to other hazardous wastes, and that protection of human health and the environment does not necessarily imply the uniform application of requirements developed for disposal of other hazardous wastes.

The authority provided to the Administrator under this section is both waste-specific and requirement-specific. The Administrator could also exercise the authority to modify requirements for different classes of wastes.

Should these wastes become subject to the requirements of section 3005(j), relating to the retrofit of surface impoundments, the Administrator could modify such requirements so that they are not identical to the requirements that are applied to new surface impoundments containing such wastes. It is expected that before any of these wastes become subject to regulation under subtitle C the Administrator will determine whether the requirements of section 3004(b), (d), (e), (f), (g), (o), and (u), and section 3005(j) should be modified.

This authority is intended to extend to all of the wastes required to be studied by EPA pursuant to section 8002 (f), (n), (o), and (p), and does not in any way alter the existing scope of section 3001(b)(3)(A).

SECTION 211—AUTHORITY TO CONSTRUCT HAZARDOUS WASTE TREATMENT, STORAGE, OR DISPOSAL FACILITIES

House bill.—No provision.

Senate amendment.—The Senate amendment clarifies EPA's authority to require a permit to construct a Subtitle C facility and removes an inconsistency between the Toxic Substances Control Act and RCRA regulations regarding the construction of an incinerator for the destruction of PCBs.

Conference substitute.—The Conference substitute is the same as the Senate amendment.

SECTION 212—PERMIT LIFE

House bill.—The House bill requires that all permits must be reviewed and renewed every 10 years. Renewals shall be subject to the same requirements applicable to new permits. The House bill also authorizes EPA to issue class permits for containers, storage tanks, enclosed piles, and some mobile treatment units, but EPA must comply with the notice and hearing provisions of Section 7004(b)(2). Site-specific factors shall be promulgated for mobile treatment units, and may be promulgated for the others.

Senate amendment.—The Senate amendment states that permits are to be of fixed term, not exceeding 10 years for land disposal, incineration, and treatment. Land disposal permits shall be reviewed 5 years after issuance to assure continued compliance with currently applicable requirements. A permit may be reviewed and modified at any time. Permit renewals shall consider improvements in the state of control and measurement technology, as well as changes in applicable regulations.

Conference substitute.—The Conference substitute adopts the Senate amendment with a modification so that storage permits, as well as permits for land disposal, incineration, and treatment, shall be of limited duration. The authorization for EPA to issue class permits that is in the House bill, including the authorization to issue class permits for mobile treatment units, is not included in the Conference substitute. EPA already has such authority under existing law and inclusion of a partial list of facilities qualifying for class permits might have been interpreted to exclude other classes or facilities.

When issuing permits, whether individual or class, EPA must comply with the notice and hearing provisions of section 7002(b)(2). EPA is encouraged to use its existing authority to develop a permit program for mobile treatment units. Individual permits for each site that will be visited shall not be required although a unit specific permit should anticipate and specify the type of site and general location where such treatment unit is authorized to operate.

SECTION 213—INTERIM STATUS FACILITIES

House bill.—The House bill provides that interim status of existing land disposal facilities shall terminate 12 months after enactment unless the owner or operator (1) submits a so-called "Part B" application for a final permit, and (2) certifies that the facility is in compliance with ground water monitoring and financial responsibility requirements. It also provides that nothing in subtitle C or implementing regulations shall be construed to prevent a State from requiring a copy of each manifest for wastes generated, treated, stored, or disposed within the State.

It also directs that the Administrator and authorized States process all land disposal permit applications within 4 years (giving highest priority to those currently contaminating ground water), all incinerator permit applications within 5 years, and all other within 8 years. Interim status shall end for incinerators and "others" at the end of the 5- or 8-year period, unless final permit part B application is made (1) within 2 years of enactment for incinerators, and (2) within 4 years of enactment for "others".

Senate amendment.—The Senate amendment grants interim status to existing facilities which become subject to subtitle C but which were not previously required to have a permit under section 3005. Facilities previously denied a permit, or whose interim status has been previously terminated cannot qualify for this provision under any circumstances.

Conference substitute.—The Conference substitute adopts the House provisions, except that the requirement to give highest priority to facilities currently contaminating ground water is deleted. Such a requirement would have eliminated EPA's discretion to proceed with the issuance of permits to qualified facilities that are in compliance with the requirements of the Solid Waste Disposal Act and, at the same time, to devote to applications resulting in closures or corrective action the resources necessary to protect human health and the environment. Priority should be given to the review of permit applications for facilities currently contaminating ground water. Priority should also be given to the review of applications and the issuance of permits to qualified facilities. A determination as to which should receive the "highest" priority is a case-by-case determination that should not be directed statutorily.

The Conference substitute also adopts the Senate amendment, except such facilities are required, as a condition of interim status under this new provision, to submit an application for a determination regarding issuance of a final permit within six months of becoming subject to the Solid Waste Disposal Act.

SECTION 214—NEW AND INNOVATIVE TREATMENT TECHNOLOGIES

House bill.—The House bill authorizes EPA to issue permits for experimental facilities without first issuing permit standards. Duration of the permit is limited to 1 year. Permit application and issuance requirements may be modified or waived, except for financial responsibility and public participation requirements.

Senate amendment.—The Senate amendment does not contain a similar provision.

Conference substitute.—The Conference substitute is the same as the House bill with an additional authorization to renew such permits not more than three times. Prior to issuing a renewal permit, the Administration should review the facility's operation to determine whether the requirements and conditions set forth in the statute and the permit are being complied with.

SECTION 215—SURFACE IMPOUNDMENT

House bill.—The House bill requires existing interim status surface impoundments, with certain exceptions and modifications, to come into compliance with the minimum technological requirements for new surface impoundments.

The House bill prohibits any waste listed or identified pursuant to section 3001 from being placed or maintained in an existing interim status impoundment unless a final permit had been issued by EPA pursuant to section 3005(c). EPA is required to issue such final permits within four years of the date of enactment of this section.

In addition, the House bill provides a four year final permit issuance time schedule for those surface impoundments granted interim status after the date of enactment and which received hazardous waste listed or identified under section 3001 after the date of enactment.

The House bill requires existing interim status surface impoundments to file part B applications (to receive final permits) within 12 months of the date of enactment (or else the impoundment would lose interim status) and requires the final permit to contain a schedule to bring the impoundment into compliance with the minimum technological requirements for new surface impoundments (see discussion of section 203, supra) within two years of the issuance of the permit.

The House bill contains three exemptions from the general rule. Two exemptions applied to those impoundments not within one-quarter mile of an underground source of drinking water. Thus, if an impoundment was beyond one-quarter mile of such a drinking water source and had either a synthetic liner designed to prevent the migration of hazardous waste into the liner during the active life of the facility or a natural (clay) liner designed to prevent hazardous waste from migrating beyond the liner during the active life of the facility, it could be exempted from the general rule.

In addition, the House bill allows EPA to exempt from the requirements of the general rule those impoundments, wherever located, if the owner or operator could demonstrate that there would be no migration of any hazardous constituent into ground or surface water at any future time. For the purpose of this provision, the term "hazardous constituent" is defined to exclude those constituents determined at the time of permitting to be incapable of migrating in concentrations that may adversely affect human health and the environment.

Finally, the House bill provides specific authority for EPA to waive the requirements of this provision for those impoundments used solely for the placement of wastes described in section 8002 (f), (n), and (p)—relating to certain mining wastes, fly ash waste, bottom ash waste, clay waste, flue gas emission control waste and cement kiln dust waste. As to these impoundments, EPA is authorized to impose such requirements as necessary to protect human health and the environment (including, if necessary, the new minimum technological requirements).

Senate amendment.—The Senate amendment prohibits existing interim status surface impoundments from receiving, storing or treating hazardous wastes after four years from the date of enactment unless the impoundment is in compliance with the minimum technological requirements for new impoundments. The Senate amendment also contained provisions requiring those impoundments granted interim status after the date of enactment to come into compliance with the minimum technological requirements within four years of being granted interim status.

The Senate amendment contains specific exemptions for those impoundments: (1) which have at least one liner and for which there is no evidence of leakage, and (2) which are not located within an area of vulnerable hydrogeology. To qualify for this exemption, the Senate amendment required the impoundment to meet the applicable liner regulations for new impoundments in effect on the date of enactment and to be in compliance with ground water monitoring requirements applicable to facilities permitted under section 3005(c).

In addition to this exemption, the Senate amendment allows EPA (or authorized States) to modify the requirements of the general rule for those impoundments where the owner or operator could demonstrate that the location, design and operation of the impoundment would assure no migration of any hazardous constituent into ground or surface water at any time during the period hazardous waste remained in the impoundment. The Senate amendment contains no provision similar to the House definition of hazardous constituent for the purpose of this modification.

The Senate amendment contains an additional exemption for those impoundments which—

(1) contain treated waste water during the secondary or tertiary phase of an aggressive biological treatment facility;

(2) are in compliance with ground water monitoring requirements for facilities granted final permits; and

(3) are part of a facility in compliance with section 301(b)(2) of the Clean Water Act. In the case of a facility for which no effluent guidelines required under section 304(b)(2) of the Clean Water Act are in effect and no permit under section 402(a)(1) of that Act implementing section 301(b)(2) of that Act has been issued, the impoundment must be part of a facility in compliance with a permit under section 402 of the Clean Water Act and which is achieving significant degradation of toxic pollutants and hazardous constituents contained in the untreated waste stream and which has identified those pollutants and constituents to the appropriate permitting authority.

In order to be granted a modification or exemption pursuant to these provisions, the owner or operator has to submit appropriate evidence to EPA (or the authorized State) within 24 months of the date of enactment of this section. Within 12 months of receipt of the evidence and not later than 36 months after enactment of this section EPA (or the authorized State) is to advise the owner or operator whether and, if so, how the requirements of the general rule are to be modified and applied against the impoundment.

Finally, the Senate amendment contains separate authority allowing the Administrator to modify the requirements of this provision as to those impoundments used for the receipt, storage or treatment of mining waste.

Conference substitute.—The conference substitute contains elements of both the House bill and the Senate amendment, modified as discussed below.

Existing surface impoundments must come into compliance with the minimum technological requirements for new surface impoundments, with certain exceptions and modifications.

The first exemption from the general rule applies to any surface impoundment that has at least one liner and for which there is no evidence of leakage; is located more than one-quarter mile from an underground source of drinking water; and is in compliance with applicable ground water monitoring requirements for facilities with permits issued under section 3005(c) (hereinafter cited as the one-quarter mile rule).

The Conference substitute adopts the House definition of "liner" for the purpose of this exemption. Thus, the liner must be designed, constructed, installed, and operated so as to either prevent hazardous waste from passing into the liner or migrating beyond the liner to adjacent subsurface soil, ground water, or surface water at any time during the active life of the facility.

The second exemption applies to certain qualified wastewater treatment impoundments as set forth in the Senate amendment (hereinafter cited as the wastewater treatment rule).

In addition, the provision grant EPA the authority to modify the requirements of the general rule as that authority was set forth in the House bill. That is, the owner or operator must demonstrate no migration of any hazardous constituent into groundwater or surface water at any furture time. In this formulation, the conferees explicitly reject the provision contained in section 18 of the original House bill modifying the definition of hazardous constituent. In considering applications for modifications to the general rule pursuant to this authority, the Administrator (or the authorized State) is to take into account locational criteria that will attempt to define vulnerable hydrogeology.

As in the Senate amendment, an owner or operator who believes a particular impoundment qualities for an exemption or modification must submit evidence pertinent to such a decision, within 24 months of enactment. At a minimum such information must include the information set forth in this provision of the Conference substitute. Time periods for the review of submitted evidence are also set forth in the Senate amendment. In additon, the Confernece substitute makes clear that those impoundments for which the complete data necessary to make a determination as to an exemption or modification has not been submitted within the 24 month period must meet the requirements of the general rule. These rules are to be applied with respect to both existing interim status surface impoundments and those impoundments that become subject to RCRA regulation after the date of enactment due to the promulgation of additional listings or characteristics for the identification of hazardous waste under section 3001.

The Conference substitute contains separate authority, as in the Senate amendment, allowing the Administrator to modify these requirements as to those categories of waste mentioned in sections 8002 (f), (n), (o), and (p).

The House bill provides that the three exemptions granted would cease to apply at any time the Administrator determined that either: (1) the liner of the impoundment failed to prevent waste from passing into the liner (in the case of a synthetic liner) or migrating beyond the liner (in the case of a natural (clay) liner) and repairs acceptable to the Administrator had not been made; or (2) the impoundment had failed to prevent the migration of any hazardous constituent into the groundwater or surface water.

The Senate amendment provides that in the case of any impoundment that was subject to an exemption or modification and where the Administrator determined hazardous constituents were likely to migrate into ground water, requirements as may be necessary to protect human health and environment, including the application of the minimum technological requirements applicable to new surface impoundments, could be imposed by the Administrator.

The Conference substitute adopts a combination of these two provisions as explained more fully below. In the case of a surface impoundment (other than a wastewater treatment impoundment) which is initially determined to be excluded from the general rule but due to a change in condition, including the existence of a leak, subsequently becomes subject to the general rule, such impoundment must comply with the minimum technological requirements for new impoundments. Such compliance must be performed within two years after the discovery of the change of condition.

With respect to those impoundments that initially qualified for an exemption pursuant to the wastewater treatment rule such impoundment must, when it is determined that a change in condition would require application of the general rule, meet the minimum technological requirements for new impoundments. Where such an impoundment is found to be leaking, it must meet the minimum technology requirement unless the Administrator determines that such compliance is not necessary to protect human health and the environment. The period for achieving compliance with the new minimum technological requirements is three years.

The conferees agreed to define leaking as in the current EPA regulations, that is, a statistically significant increase over background concentrations, attributable to the surface impoundment. Other evidence of leaking, such as visible leaks or sudden drops in liquid level of the impoundment, also would be sufficient.

Finally, the Conference substitute specifically grants to the Administrator authority to take such action as may be necessary to protect human health and the environment, including the application of the minimum technological requirements, where it is determined that hazardous constituents are likely to migrate from any impoundment initially qualifying for an exemption or modification into groundwater or surface waste.

The Conference substitute adopts four provisions that were contained in either the original House bill or Senate amendment.

First, the Conferees adopted the provision of the Senate amendment generally prohibiting the Administrator, when issuing a permit to a surface impoundment facility, to require the installation of liners or leak detection systems different from those installed by the owner or operator in good faith compliance with this provision. However, the Administrator may require installation of a new liner when there is reason to believe that any installed liner is leaking.

Second, the Conferees adopted the provision of the House bill requiring any surface impoundment excluded from the general rule because of the existence of a natural (clay) liner upon the closure of such impoundment to remove or decontaminate all waste residues, all contaminated liner material and contaminated soil (to the extent practicable). In addition, if all contaminated soil is not removed or decontaminated, the owner or operator of the impoundment shall be required to comply with appropriate post-closure requirements including but not limited to groundwater monitoring and corrective action.

Third, the Conferees adopted the provisions of the House bill requiring those impoundments used for the storage or treatment of a waste that has been prohibited by the Administrator from one or more methods of land disposal to meet the minimum technological requirements applicable to new surface impoundments unless such impoundment qualifies for an exemption under the one-quarter mile rule or a modification under the no migration rule.

Finally, the Conferees adopted the provision of the House bill which requires those impoundments used for the treatment of a waste that has been prohibited from one or more methods of land disposal to remove the treatment residues at least once a year for subsequent management.

The Conference substitute also authorizes the Administrator to modify the minimum technology requirements in the case of a surface impoundment whose owner or operator has entered into, and is in compliance with, a consent decree with the Administrator (or an authorized State) if the consent decree mandates corrective action that provides protection of human health and the environment that is, at a minimum, the equivalent of the minimum technology requirements.

SECTION 221—SMALL QUANTITY GENERATOR WASTE

House bill.—The House bill requires EPA to issue regulations within eighteen months for generators, transporters, and disposers

of wastes from generators of 100-1,000 kg per month. The standards may vary from those for large quantity generators but must be sufficient to protect health and the environment.

Minimum requirements for the regulations are: (1) on-site storage by generators producing 100-1000 kg per month may occur up to 180 days without a permit; (2) subsequent treatment, storage, or disposal must be at a permitted facility; and (3) wastes shipped off-site must be accompanied by a manifest, though the manifest may vary from that used by large generators.

If the regulations have not been promulgated after thirty months, then: (1) in addition to the manifest requirements below, the manifest must indicate the name of the waste transporter and the name and address of the receiving facility; (2) all treatment, storage, or disposal must occur at a facility with interim status or a Subtitle C permit; (3) exception reports must be filed twice yearly; and (4) generators must retain copies of signed manifests for three years.

The required use of EPA's uniform hazardous waste manifest is phased-in in three steps: After 270 days for generators of over 250 kg per month, after 540 days for generators of over 100 kg per month, and after 810 days for generators of over 25 kg per month.

The most ignitable, corrosive, reactive, and toxic types of wastes generated in amounts under 25 kg per month must be accompanied by a notice to the transporter and the TSD facility. Existing regulations applicable to generators of less than 1,000 kg per month are not affected, nor are Department of Transportation regulations. RCRA Section 3010(b), providing a 6-month delay after promulgation before a regulation becomes effective, does not apply to regulations issued under this section.

EPA shall undertake a program to inform and educate small quantity waste generators of their new responsibilities; $500,000 per year is authorized for this purpose for FY84-FY86.

Within 30 months EPA shall study and recommend whether the current manifest system is appropriate for small quantity generators.

Within 18 months EPA and the Department of Transportation shall submit to Congress a report on the feasibility of establishing a licensing system whereby transporters assume the responsibilities of small quantity generators.

Senate amendment.—The Senate amendment requires EPA to study the small generator issue and submit a report to Congress by March 31, 1985. By March 31, 1986, EPA shall issue regulations under section 3005 (permits for treatment, storage, and disposal) as well as under section 3002, section 3003, and section 3004 covering the wastes from generators of less than 1,000 kg per month. The standards may very from those for large quantity generators but must be sufficient to protect health and the environment.

Minium requirements for the regulations are: (1) on-site storage by generators producing less than 1,000 kg per month may occur up to 180 days without a permit, unless the waste must be shipped over 200 miles, in which case on-site storage is allowed for up to 270 days for up to 6,000 kg of waste; and (2) subsequent treatment, storage, or disposal must be at a Subtitle C permitted facility for quantities above 100 kg/month. Below 100 kg/month EPA has discretion.

After 270 days and until March 31, 1986 (or until EPA issues small quantity generator rules, if prior to March 31, 1986), all wastes from generators of less than 1,000 kg/month shall go to Subtitle C facilities or facilities licensed by a State to manage municipal or industrial wastes.

If the regulations have not been promulgated by March 31, 1986, then: (1) all treatment, storage, and disposal by generators of 100 to 1,000 kg/month must occur at a facility with a Subtitle C permit; (2) exception reports must be filed twice yearly; and (3) generators must retain copies of signed manifests for three years.

EPA's uniform hazardous waste manifest must be used by generators of 100/1,000 kg per month after 270 days. Like the House bill, the Senate amendment requires that the manifest show the source, type, and amount of waste, and also requires its destination.

EPA may require the use of the manifest by generators of less than 100 kg per month. Existing regulations applicable to acutely hazardous wastes generated in quantities less than 1,000 kg per month are not affected by this subsection.

EPA is required to undertake a program to inform and educate small quantity waste generators of their new responsibilities.

EPA is directed in consultation with the Secretary of Education and appropriate educational insitutions, to conduct a comprehensive study of problems associated with the management and disposal of hazardous wastes from educational institutions.

Conference substitute.—The Conference substitute combines the House bill and the Senate amendment.

As in the Senate amendment, the Conference substitute requires EPA to study the small quantity generator issue and submit a report to Congress by March 31, 1985. As in the House bill, the Conference substitute requires. EPA to issue regulations by March 31, 1986, for generators, transporters, and disposers of wastes from generators of 100-1,000 kg per month. The standards may vary from those for large quantity generators but must be sufficient to protect health and the environment.

The Conference substitute explicitly provides that the requirements that are to be promulgated by March 31, 1986, for small quantity generators "may vary from the requirements applicable to hazardous waste generated in quantities greater than one thousand kilograms during any calendar month, to the extent the Administrator determines such standards are adequate to protect human health and the environment."

Concern has been expressed that retention of the law's underlying requirement and ultimate standard that RCRA regulations assure protection of human health and the environment might undercut the explicit authority to vary for small quantity generators the requirements applicable to hazardous waste generated in quantities greater than one thousand kilograms per month. Such a concern is based upon an improper reading of the law. It is based upon a mistaken belief that the Administrator is required by law to select a single regulatory approach that is applicable to all hazardous wastes and generators of hazardous waste. Having promulgated a regulatory program for large generators of chemical hazardous wastes, a program that EPA contends is protective of human health and the environment and is necessary to assure such protection, it is argued that the same regulatory program must be used whenever EPA is directed to promulgate regulations that assure protection of human health and the environment from hazardous waste. The notion is that if EPA is authorized and capable of developing different regulations for different situations, then the existing regulations for large generators are not "necessary" to protect human health and the environment and are, therefore, not legally defensible.

This amendment is a clarification of the Administrator's existing authority. As with other wastes, the Administrator may choose from a range of regulatory options that will satisfy the mandate that protection of human health and the environment be assured. When faced with a specific problem, the Administrator can often identify several options, each of which would protect human health and the environment. The Administrator is not required to select the option that would satisfy the statutory mandate in the most simple or most cost-effective manner. He has a responsibility to protect human health and the environment and, as such, may choose among several approaches. The selection of a particular approach shall be lawful provided it satisfies the statutory mandate and is not an arbitrary or capricious decision. Distinctions often can be and are made on the basis of waste characteristics, waste management practices and locational criteria. This amendment will simply clarify the Administrator's existing authority to make such distinctions in the specified instances.

It is recognized that many small quantity generators may be small businesses that may be adversely affected if the full set of Subtitle C regulations are required. Nevertheless, these quantities of wastes from smaller individual generators may cause potential harm if they are improperly managed. Given these considerations, the Agency should determine whether requirements for small quantity generators can be varied from those applicable to other generators while assuring protection of human health and the environment. In particular, the Administrator should examine whether it is possible to simplify, reduce the frequency of, or eliminate the existing reporting and recordkeeping requirements and still provide adequate protection of human health and the environment. Distinctions may be made from requirements for larger generators, and among classes of small quantity generators or of wastes produced by them.

Minimum requirements for the regulations are the same as in the Senate amendment.

The Conference substitute adopts the Senate amendment regarding use of the hazardous waste manifest by generators of the 100-1,000 kg per month after 270 days, as well as the provision that until March 31, 1986 (or until EPA issues small quantity generator rules, if prior to March 31, 1986), all wastes from generators of less than 1,000 kg per month shall go to Subtitle C facilities or facilities licensed by a State to manage municipal or industrial wastes.

If the regulations have not been promulgated by March 31, 1986, then: (1) all treatment, storage, and disposal by generators of 100 to 1,000 kg/month must occur at a facility with a Subtitle C permit; (2) exception reports must be filed twice yearly; and (3) generators must retain copies of signed manifests for three years.

The Conference substitute contains a specific provision stating that EPA's responsibility to protect human health and the environment may require the promulgation of

standards for waste generated in quantities less than 100 kg per month. The inclusion of a statutory 100 kg per month threshold for the first phase of EPA's small quantity generator regulatory program is not intended to imply that regulations for generators, transporters and disposers of waste from generators of less than 100 kg per month are not necessary.

As in the House bill, the Conference substitute provides that existing regulations (for acutely hazardous wastes) applicable to generators of less than 1,000 kg per month are not affected, nor are Department of Transportation regulations. RCRA (section 3010(b), providing a 6-month delay after promulgation before a regulation becomes effective, does not apply to regulations issued under this section.

EPA shall undertake a program to inform and educate small quantity waste generators of their new responsibilities; $500,000 per year for 3 years is authorized for this purpose.

By April 1987, EPA shall study and recommend whether the current manifest system is appropriate for small quantity generators. Also by April 1987, EPA and the Department of Transportation shall submit to Congress a report on the feasibility of establishing a licensing system whereby transporters assume the responsibilities of small quantity generators.

In calculating the weight of hazardous waste, the weight of containers that are not contaminated or mixed with hazardous waste shall not be included, as under current regulations.

The Conference substitute adopts the Senate amendment which directs the Administrator, in consultation with the Secretary of Education and appropriate educational institutions, to conduct a comprehensive study of problems associated with the management and disposal of hazardous wastes from educational institutions.

SECTION 222—LISTING AND DELISTING OF HAZARDOUS WASTE

House bill.—The House bill directs the Administrator to list, where appropriate, additional wastes containing chlorinated dioxins or chlorinated-dibenzofurans within two months after enactment and polycholorinated biphenyls (PCBs) within ten months after enactment. In addition, within one year of enactment the remaining halogenated dioxins and dibenzofurans are to be listed where appropriate.

With respect to delisting of hazardous wastes, the House bill directs the Administrator to consider factors (including additional constituents) other than those for which the waste was listed if he has a reasonable basis to believe such additional factors could cause the waste to be hazardous.

With respect to a petition requesting delisting submitted after enactment, the Administrator is directed to decide within 12 months of submission whether or not to grant it. With respect to petitions submitted before enactment, the Administrator is directed to make a decision within 18 months of enactment.

Senate amendment.—The Senate amendment directs the Administrator to identify wastes to be considered for listing within 2 years and additional wastes within 5 years after enactment. Within 2 years after enactment the Administrator is directed to promulgate standards regarding additional characteristics of hazardous waste (including measures of toxicity), and list additional wastes or publish reasons for not listing them.

In addition, the Administrator is directed to change the extraction procedure toxicity characteristic to predict the leaching potential of wastes upon exposure to more aggressive leaching media than the media presently used. In cooperation with the Agency for Toxic Substances and Disease Registry, the Administrator is also directed to identify or list those hazardous wastes which solely because of the presence of certain constituents warrant regulation under Subtitle C.

With respect to delisting, the Senate amendment directs EPA to consider factors other than those for which the waste was listed, if the Administrator has a reasonable basis to believe that such additional factors could cause the waste to be listed as hazardous. To the maximum extent practicable, the Administrator shall grant or deny a delisting petition within 24 months after receiving a complete application. In addition, the temporary granting of a delisting petition filed prior to enactment of this Act shall cease to be in effect for more than 24 months after enactment if a final decision to grant or deny such a petition has not been made.

Conference-substitute.—The Conference substitute adopts the House provision regarding listing with the following modifications: first, the requirement that the Administrator list PCBs as a hazardous waste within 10 months is omitted; second, the deadline for listing waste containing chlorinated dioxins or chlorinated dibenzofurans is extended from two to six months after enactment; and third, the provision in the Senate amendment directing the Administrator, in cooperation with the Agency for Toxic Substances and Disease Registry, to list wastes solely on the basis of certain constituents is included.

The omission by the Conference substitute of the requirement in the House bill that PCBs should be listed as a hazardous waste under Subtitle C should not be construed as a directive not to continue with the Agency's current plans to list PCBs as a hazardous waste. The Conferees recognize the grave dangers associated with PCBs, are aware of the Agency's regulatory proceedings regarding PCBs and urge the Administrator to bring PCBs under the regulatory structure of Subtitle C as expeditiously as possible to the extent such coverage is appropriate.

With respect to delisting, the Conference substitute adopts the Senate amendment.

The Conference substitute modifies the provision of the Senate amendment directs the Administrator to change the extraction procedure (EP) toxicity characteristic to more accurately reflect the leaching potential of wastes. The modification is not intended to alter the substance of the directive. The Conference expect the Administrator to take all necessary action to expeditiously revise the EP toxicity characteristic.

SECTION 223—CLARIFICATION OF HOUSEHOLD WASTE EXCLUSION

House bill.—No provision.

Senate amendment.—The Senate amendment clarifies that an energy recovery facility is exempt from hazardous waste requirements if it burns only residential and nonhazardous commercial wastes and establishes procedures to assure hazardous wastes will not be burned at the facility.

Conference substitute.—The Conference substitute is the same as the Senate amendment.

SECTION 224—WASTE MINIMIZATION

House bill.—No provision.

Senate amendment.—The Senate amendment provides that, effective September 1, 1984 {sic}, manifests must contain a generator certification that his waste volume has been reduced to the maximum degree econimically practical, and the proposed method of treatment, storage, or disposal is the one currently available to the generator which minimizes the threat to health and the environment. Biennial reports of generators must indicate efforts to reduce waste volume and toxicity, and report the reductions achieved. Furthermore, beginning September 1, 1984 {sic}, it shall be a condition of on-site RCRA permits that the generator annually certify: (1) that he has program in place to reduce waste generated to the extent economically practicable, and (2) that the proposed method of treatment, storage, or disposal is the one currently available to him that minimizes the threat to health and the environment.

EPA shall submit a report to Congress by October 1, 1986, on the feasibility and desirability of requiring generators to reduce the volume and toxicity of their wastes, and of establishing Federally required management standards.

Conference substitute.—The Conference substitute adopts the Senate provision, except the September 1, 1984 date is changed to September 1, 1985.

SECTION 225—BASIS OF AUTHORIZATION

House bill.—The House bill amends section 3006(b) by authorizing the Administrator to evaluate the equivalency of a State's hazardous waste program based on the Federal program which was in effect one year prior to the submission of the State's application or in effect on January 26, 1983, whichever is later.

Senate amendment.—The Senate amendment has no comparable provision.

Conference substitute.—The Conference substitute adopts the House provision.

SECTION 226—AVAILABILITY OF INFORMATION

House bill.—The House bill amends section 3006 to provide that, as a condition of authorization, States must make available to the public information obtained by the State regarding facilities and sites for the treatment, storage or disposal of hazardous waste. The State is obligated to make such information available to same extent that the Administrator would be if EPA were carrying out the provision of Subtitle C in such state.

Senate amendment.—No provision.

Conference substitute.—The conference substitute is the same as the House bill.

The purpose of this provision is to assure that citizens have access in authorized States to information obtained by the State concerning facilities that treat, store, or dispose of hazardous waste. Such information shall be available in authorized States under this provision in substantially the same manner and to the same degree as it would be available if the Administrator were running the hazardous waste program in the state.

This provision shall apply in those States that have already received interim authorization prior to enactment, as well as states which are granted interim or final authorization after enactment. In those States which have received interim authorization prior to enactment, the requirements of this provision may be phased-in in the same manner that changes in the Federal regulatory program, made after a State is authorized, are phased-in by authorized States (pursuant to EPA regulations). This is in-

tended to allow States sufficient time to make any changes to their regulations or statutes necessary to implement this provision.

This provision is not intended to be used in any way that would delay, impair or obstruct any ongoing criminal investigation or prosecution or other enforcement action.

SECTION 227—INTERIM AUTHORIZATION OF STATE PROGRAMS

House bill.—The House bill directs the Administrator to establish, by rule, a date for the interim authorization of a State program. The House bill also authorizes the Administrator to enter into an agreement with a State under which the State may assist in the administration of the requirements and prohibitions which take effect pursuant to the 1984 reauthorization and prior to the interim or final authorization of a State program.

With respect to States which have authorized permit programs (but which have not been amended to reflect the changes of this bill) the Administrator is authorized to issue and deny permits (or portions of permits) affected by the bill. The Administrator is directed to coordinate with States regarding the procedure for issuing such permits.

The House bill also extends by one year the deadline by which States' interim authorizations for the current program expire.

Senate amendment.—The Senate amendment modifies section 3006(c) by deleting the provision that established a two year limitation on the duration of a State's interim authorization and establishing in lieu thereof a specific date of January 31, 1986, by which interim authorization for the current subtitle C program will expire.

Conference substitute.—The Conference substitute adopts portions of the House bill and the Senate amendment. It adopts that portion of the Senate amendment which extends the deadline for interim authorization for the current program. This provision should improve the process by which States obtain authorization under the current program and facilitate authorization of State programs affected by this bill. It also adopts the House provisions requiring the Administrator to establish a date for the expiration of interim authorization and allowing agreements between the Administrator and States pending interim or final authorization.

SECTION 228—APPLICATION OF AMENDMENTS TO AUTHORIZED STATES

House bill.—The House bill mandates that any Subtitle C requirement or prohibition imposed by the (1984) reauthorization of the Solid Waste Disposal Act will take effect in interim or finally authorized States on the same date as it takes effect in other States, and shall be carried out unless the State has interim or final authorization with respect to such requirement or prohibition. Pending modifications of the state hazardous waste programs to incorporate such requirements, State may enter into cooperative agreements with the Administrator to implement and assist in the enforcement of the federal program.

Any state which, at the time of enactment, has an authorized program may submit evidence to the Administrator that such program is substantially equivalent to the federal program. The Administrator shall grant interim status to states which demonstrate that their programs are substantially equivalent to the federal program.

Senate amendment.—The Senate amendment includes a list of specific new requirements that shall apply directly in all (including authorized) States until the State is authorized to operate in lieu of the Federal program with respect to the particular requirement. The list includes: the small quantity generator manifest requirement; the statutory requirements that apply to small quantity generators if EPA regulations are not promulgated by March 31, 1986; land disposal prohibitions; ban on dust suppressants; ban on injection wells near underground drinking water sources; minimum technological requirements for new or expanded facilities; corrective actions at permitted facilities; labeling of fuels; fixed term for permits; and minimum technological requirements for existing surface impoundments and mandatory inspections.

Conference substitute.—The Conference substitute is the same as the House provision. The list in the Senate amendment serves to highlight the new requirements and prohibitions that will go into effect upon or shortly after enactment. The list is not exhaustive, for example, the ban on liquids in landfills should be included, but it does draw attention to the fact that this bill makes a number of significant changes to the existing program. Those who generate, transport, store, treat and dispose of hazardous waste should carefully review this legislation to assure that they are familiar with their new responsibilities.

SECTION 229—FEDERAL FACILITIES

House bill.—The House bill requires that beginning 1 year after enactment EPA or authorized States must annually inspect all Federal treatment, storage, and disposal facilities.

Senate amendment.—The Senate amendment directs that beginning 12 months after enactment EPA shall (and authorized States may) inspect each Federal treatment, storage, and disposal facility at least every 2 years.

Conference substitute.—The Conference substitute combines the House bill and Senate amendment. It requires that, beginning 12 months after enactment, EPA shall (and authorized States may) inspect each hazardous waste facility owned or operated by a Federal agency on an annual basis.

SECTON 230—STATE OPERATED FACILITIES

House bill.—The House bill directs the Administrator to conduct, on an annual basis, a thorough inspection of each Subtitle C landfill facility operated by a state or local government. The record of such inspection shall be made available to the public.

Senate amendment.—The Senate amendment is similar but requires the Administrator to inspect all treatment, storage and disposal facilities. The Senate amendment does not direct that such inspection be on an annual basis.

Conference substitute.—The conference substitute adopts the Senate amendment with the additional requirement that each facility owned or operated by a State or local government be inspected on an annual basis.

The purpose of this provision is to require EPA to undertake annual inspections of Subtitle C facilities that are owned or operated by State or local governments. For purposes of this provision, inspections may be conducted by any officer, employee, or representative of the EPA duly designated by the Administrator.

The Conferees intend for EPA to conduct such inspections at all state or locally owned or operated Subtitle C facilities regardless of whether the landfill is located in a State with interim authorization, final authorization, or in a non-authorized State. The purpose of the annual inspection is to provide for a Federal presence at State and locally operated Subtitle C facilities and to assure compliance with all applicable regulations and permit conditions.

SECTION 231—MANDATORY INSPECTIONS

House bill.—The House bill requires that, beginning 12 months after enactment, every hazardous waste treatment, storage, or disposal facility required to have a permit under Section 3005 shall be inspected at least every two years.

In addition, the Administrator is directed to report to Congress within 6 months on the potential for a program of private inspections to supplement governmental inspections of hazardous waste facilities.

Senate amendment.—The senate amendment contains a similar provision.

Conference substitute.—The conference substitute adopts the House provision. The Conferees believe that regular inspections of facilities that treat, store, and dispose of hazardous wastes are a vital component of any comprehensive hazardous waste control program that adequately protects public health and the environment. Current law, however, does not mandate that these facilities be regularly inspected. Although officers, employees, and representatives of the States and EPA are authorized by section 3007(a) to enter and inspect any facilities where hazardous wastes are handled, at present, far too few inspections are being conducted to effectively monitor compliance with RCRA and the applicable regulations at treatment, storage, and disposal facilities. Moreover, most inspections that do take place are conducted under widely varying state-formulated criteria for the qualifications of inspectors as well as the scope of the inspection. A mandatory program of frequent periodic inspections to uniform minimum standards should provide substantial incentives for voluntary compliance thus promoting greater protection of human health and the environment.

With respect to the report on the potential for private inspections as a supplement to governmental inspections, the Conferees encourage the Administrator to explore the possibility of inspection programs which would utilize the technical skills of the private sector. Such programs could provide an important and valuable means of supplementing Federal or State inspection and enforcement efforts, if there is assurance that such private action can be relied upon to present objective, unbiased results.

SECTION 232—FEDERAL ENFORCEMENT

House bill.—The House bill expands the list of prohibited actions which may constitute criminal offenses and raises the maximum criminal penalties. The statutory definition of "knowing endangerment" is rewritten.

Senate amendment.—The Senate amendment contains a similar provision, except the Senate amendment includes "exports" in violation of the Act as a potential criminal offense and clarifies that the criminal provisions of RCRA extend to any individual who knowingly and illegally handles hazardous waste.

Conference substitute.—The Conference substitute is the same as the Senate amendment.

SECTION 233—INTERIM STATUS CORRECTIVE ACTION ORDERS

House bill.—No provision.

Senate amendment.—The Senate amendment authorizes EPA to issue an order requiring corrective action or to commence a civil suit whenever there is a release of hazardous waste from an interim status facility, subject to a civil penalty of up to $25,000 per day for noncompliance.

Conference substitute.—The Conference substitute is the same as the Senate amendment.

The purpose of this section is to provide EPA with another tool to achieve effective corrective action at interim status facilities. Under EPA's current regulations the Agency does not attempt to impose groundwater corrective action requirements on owners and operators of land disposal facilities through the self-implementing interim status requirements. Instead such corrective action is only imposed through an individual permit issued to the facility. EPA's professed reason for this approach is that effective corrective action measures can be highly complex and generally need to be tailored to site-specific conditions. Such measures often require significant interaction between EPA and the regulated parties. Since such interaction is not compatible with the self-implementing nature of the interim status rules, EPA has concluded that corrective action should be addressed during the permit process.

While this approach to corrective action is generally rational, the permitting program may not always be an effective mechanism for dealing with significant contamination problems at interim status facilities. EPA's experience with RCRA permitting indicates that the issuance of a land disposal permit can be very time-consuming, often for reasons that do not involve the complexities of ground-water cleanup. For example, delays may occur in the issuance of a permit because EPA is working out appropriate conditions for a facility's contingency plan or its cap or its procedures for handling free liquids. While such issues are being resolved, the permit will not be issued and thus no ground-water cleanup will occur.

EPA should have the power to deal directly with an ongoing environmental problem without awaiting issuance of a final permit. Accordingly, this section has been added to the statute to allow EPA to seek corrective action for release of hazardous waste into the environment through an administrative order or through a civil action in Federal district court. Such relief may include seeking a temporary or permanent injunction but is not limited to those forms of relief.

The use of orders and civil suits overcomes the slowness of the permit process without sacrificing the need for interaction between the Agency and the owner or operator in developing appropriate corrective action measures. For example, the first stage of Agency action under this provision might very well be an order requiring the owner or operator to characterize the extent of contamination of the ground water by hazardous constituents and to submit a corrective action plan. The Agency and the owner or operator could then confer on the plan and make modifications that would be incorporated specifically in an amendment to the order.

The Agency will have considerable discretion to craft the content of the order. The Agency may, for example, impose civil penalties (up to $25,000 per day) or terminate the interim status of the facility. Where interim status is terminated in this manner EPA is not required to take final administrative action on the permit application for the facility. As another example, the Agency may use the order to gain access to any funds which have been set aside for corrective action through a financial assurance mechanism required by the hazardous waste regulations.

In authorizing the Agency to issue interim status corrective action orders were "necessary to protect human health or the environment", this provision does not alter existing law as to the scope of situations that may be addressed by EPA's "imminent hazard" actions under section 7003. EPA should continue to use that authority expansively and no implication should be drawn from this section of the bill that the Congress intends to narrow the existing section 7003.

This amendment is a supplement to EPA's power to impose corrective action through permits. EPA will generally use these orders to achieve the environmental standards promulgated under section 3004, although the Agency can use this authority to control those releases (e.g. certain air emissions) that are not fully addressed by existing section 3004 standards. Examples of where such orders might be needed include ground-water contamination from tanks (where the current regulations do not appear to require cleanup), from units subject to limited exemptions (*e.g.*, wastewater treatment units) or from "non-regulated" units (*i.e.*, units not subject to current corrective action requirements) at land disposal facilities.

SECTION 234—EFFECTIVE DATE OF REGULATIONS

House bill.—The House bill authorizes the Administrator to provide for an immediate effective date or an effective date of less than six months for regulations when: (1) the regulated community does not need six months to come into compliance; (2) the regulation responds to an emergency situation; or (3) when the Administrator finds other good cause.

Senate amendment.—No provision.

Conference substitute.—The conference substitute is the same as the House bill. The Conferees are aware that the Administrator's authority to establish an effective date of less than six months has been challenged in litigation and therefore regard the clarification of EPA's discretion in this area to be appropriate.

For those provisions of this Act which are immediately effective, it would be contrary to the public interest and impracticable for EPA to engage in the time-consuming rulemaking procedures required by Section A of the APA, 5 U.S.C. Section 553, to carry out swiftly its statutory mandate. Therefore, for such immediately effective provisions, EPA appropriately may invoke the "good cause" exemption of 5 U.S.C. Section 553(b)(B) and (d)(3), in issuing final substantive or interpretative rules to implement those provisions. This will enable the Agency to put into place swiftly the enacted requirements.

SECTION 241—MANAGEMENT OF USED OIL

House bill.—The House bill requires the Administrator to decide whether or not to list or identify used automobile and truck crankcase oil as a hazardous waste within 12 months of enactment and to make a final determination within 24 months of enactment. Within 24 months of enactment, the Administrator must promulgate standards for the generation, transportation and recycling of used oil, including burning and land application of used oil. In setting the standards, EPA is to take into account the effect of the regulations on environmentally acceptable types of used oil recycling, and on small quantity generators and on small businesses. The provision exempts used oil generators and transporters who meet certain requirements from manifesting and associated recordkeeping and reporting. Owners and operators of used oil recycling facilities would be deemed to have a permit if they comply with applicable standards set under this provision, unless EPA determines an individual permit is necessary to protect health and the environment.

The provision also amends section 7006(b) to provide for judicial review of permit provisions of this provision and amends section 3006(b) to provide for authorized States' authority regarding permit provisions of this section.

Senate amendment.—No provision.

Conference substitute.—The Conference substitute adopts the House provision, except that rules promulgated under section 3004 of the Solid Waste Disposal Act will apply to facilities which recycle used oil.

This provision supplements but does not overrule existing Section 3014 of the Solid Waste Disposal Act (added by the Used Oil Recycling Act of 1980). It requires the Administrator to determine within two years of enactment whether certain types of used oil should be identified or listed as a hazardous waste and to develop management standards for all used oil that is so identified or listed. EPA retains authority under Section 3014 to regulate all used oil that is not identified or listed as a hazardous waste. Any regulations adopted under this section should not discourage the recycling of used oil, consistent with protection of human health and the environment.

The Congress is including this provision because of EPA's failure to promulgate regulations in regard to recycling of oil as directed in the Used Oil Recycling Act of 1980. There is abundant evidence of harm due to improper recycling of used oil, such as incidents at Times Beach, Missouri, involving dioxin-contaminated used oil sprayed onto roads; incidents of used oil contaminated with other hazardous wastes being burned in large quantities for heating purposes; and the many used oil recycling sites on the list of Superfund National Priority Sites. At the same time, however, used oil, when properly recycled, can be a valuable resource, although there is at present little incentive for investment in safe recycling technologies because of existing regulatory uncertainty and inadequate regulatory coverage. This provision is designed to reduce the uncertainty and the gaps in the regulatory treatment of used oil by mandating a regulatory scheme that will assure that used oil is properly recycled. The provision sets new deadlines for promulgation of standards and provides more detailed direction for the standards than is contained in the current Section 3014.

The major change in this provision as adopted by the conferees from the provision passed by the House is the deletion of the reference to Section 3004 in Section 3014(c)(1). The effect of the deletion is to assure that facilities which recyle used oil will need to comply fully with the standards applicable to owners and operators of any hazardous waste treatment, storage and disposal facility.

SECTION 242—RECOVERY AND RECYCLING OF USED OIL

House bill.—The House bill amends that final sentence in section 3012 (relating to restriction on used oil and redesignated by these amendments as section 3014) by

adding the words "consistent with the protection of human health and the environment."

Senate amendment.—No provision.

Conference substitute.—The Conference substitute adopts the House provision. The purpose of the provision is to clarify the intent of section 3014 in order to assure that EPA's regulations in this area are protective of human health and environment. As now written, the sentence states that the regulations governing used oil "shall. . . not discourage the recovery or recycling of used oil." It was never Congress' intent that protection of human health and the environment be subordinated to the continuation of used oil recycling activities. The agency can and should prohibit or control used oil recycling practices that it determines will pose a potential hazard to human health and the environment even though such regulations would impede recycling.

The intent of the provision is to make it clear that Congress' paramount interest in regulating used oil is to assure protection of human health and the environment. Where protection of human health and the environment can be assured, however, the Administrator should make every effort not to discourage recycling of used oil. For example, if there are several alternative controls that would be environmentally acceptable, the Agency should allow those which would be least likely to discourage used oil recycling.

SECTION 243—EXPANSION DURING INTERIM STATUS

House bill.—The House bill requires that expansion of a treatment, storage, or disposal facility in excess of 10 percent of the capacity specified in the permit application requires a permit. EPA may issue regulations for expansions of 10 percent or less.

If the facility continues to receive waste, after July 26, 1982, interim status facilities (including replacements and expansions) are subject to the same ground water monitoring and corrective action standards as now facilities.

If the facility continues to receive waste, six months after enactment interim status facilities (including replacements and expansions) are subject to the same standards concerning liners and leachate collection systems as are new facilities.

In the case of any facility in which a liner and leachate collection system has been installed pursuant to the above and in compliance with EPA regulations and guidance, no different liner or leachate collection system shall be required by EPA when issuing permits.

The Senate amendment.—The Senate amendment provides that after July 26, 1982, interim status facilities are subject to the same ground water monitoring, unsaturated zone monitoring, and corrective action provisions applicable to new facilities.

Six months after enactment new units, replacement units, and expansions are subject to the same standards concerning liners and leachate collection systems as are new facilities. Owner-operators of such units must notify EPA 60 days prior to receiving wastes, and submit completed permit applications within 6 months of such notice.

The Senate amendment clarifies the Administrator's authority to order the installation of new liners if he suspects that those installed during interim status are leaking.

Conference substitute.—The Conference substitute provides that any expansion of a land disposal facility (landfills, surface impoundments, waste piles) shall be subject to minimum technology requirements promulgated by the Administrator. Owners and operators of such facilities shall notify the Administrator (or the State, if appropriate) at least 60 days before receiving hazardous waste. The Administrator (or the State) shall require the filing of a Part B application within 6 months after receiving such notification.

The Conference substitute adopts the Senate provision regarding good faith compliance with minimum technology requirements.

SECTION 244—INVENTORY OF FEDERAL AGENCY HAZARDOUS WASTE FACILITIES

House bill.—Each Federal agency must compile an inventory of hazardous waste sites it has ever owned or operated, and submit it to EPA and authorized States every 2 years beginning January 1, 1986.

Senate amendment.—Within 1 year, each Federal agency shall undertake a continuing program to compile and submit to EPA and authorized States an inventory of hazardous waste sites it has ever owned or operated. If an agency, after notice, fails to comply, EPA shall carry out the inventory for that agency.

Conference substitute.—The Conference substitute adopts the Senate amendment.

SECTION 245—EXPORT OF HAZARDOUS WASTE

House bill.—The House bill provides that, beginning 24 months after enactment, no person may export hazardous waste unless: (1) he has filed a notification, (2) the receiving country has consented to accept the waste, (3) a copy of the receiving country's written consent is attached to the manifest, and (4) the shipment conforms with the terms of the consent. EPA shall promulgate implementing regulations within 12 months.

Items (1)-(4) above do not apply if there exists an international agreement between the U.S. and the receiving country establishing hazardous waste export procedures. Exporters must file annual reports with EPA.

Senate amendment.—The Senate amendment is the same as the House bill with several minor and technical differences.

Conference substitute.—The Conference substitute adopts the Senate amendment.

SECTION 246—DOMESTIC SEWAGE

House bill.—The House bill provides that within 15 months EPA shall report to Congress on hazardous wastes exempt from Subtitle C because they are mixed with domestic sewage or other wastes that go to publicly owned treatment works (POTWs).

Within 18 months after submitting the report, EPA shall revise or promulgate regulations to control those wastes. Within 36 months of enactment EPA shall submit a report to Congress on wastewater lagoons at POTWs and their effect on groundwater.

Senate amendment.—The Senate amendment does not contain a similar provision.

Conference substitute.—The Conference substitute is the same as the House bill, with the clarification that EPA may use pretreatment standards under section 307 of the Clean Water Act to control hazardous wastes mixed with domestic sewage.

SECTION 247—EXPOSURE INFORMATION AND HEALTH ASSESSMENTS

House bill.—The House bill provides that EPA shall require all landfills to conduct a health effects study for the surrounding community within 1 year. EPA must define the extent of the effected community, which is to be no less than a 2.5 mile radius of the landfill.

Senate amendment.—The Senate amendment provides that beginning 9 months after enactment, all landfill and surface impoundment permit applications shall be accompanied by information on the potential for the public to be exposed to hazardous constituents. This information shall be transmitted to the Agency for Toxic Substances and Disease Registry (ATSDR). If ATSDR, EPA or the state judges that the facility poses a substantial potential health risk, ATSDR shall conduct a health assessment. The public may also submit evidence to ATSDR, to EPA, or to the State.

Conference substitute.—The Conference substitute restructures and modifies the Senate amendment to delete specific funding from the Comprehensive Environmental Response, Compensation and Liability Act of 1980, and to provide that health assessments by the ATSDR may be requested by the Administrator of EPA, or by an authorized State with the concurrence of EPA, in any case for which funds are transferred to ATSDR to perform such assessments.

The provision requires owners or operators of landfills and surface impoundments to submit information about the potential for the public to be exposed to hazardous wastes or constituents in connection with the facility. Whenever such a facility poses a substantial potential risk to human health, the Administrator or an authorized State can require ATSDR to perform a health assessment of the risks posed by such a facility.

SECTION 301—SIZE OF WASTE-TO-ENERGY FACILITIES

House bill.—The House bill states that in developing comprehensive State solid waste plans (under Subtitle D), the determination of the size of waste-to-energy facilities shall consider the present and future needs of recycling interests in the area.

Senate amendment.—The Senate amendment includes an identical provision.

Conference substitute.—The Conference substitute adopts this provision.

SECTION 302—SUBSTITUTE D IMPROVEMENTS

House bill.—The House bill requires a study of the adequacy of current criteria for solid waste management and disposal facilities and revision of those criteria as necessary to protect human health and the environment.

The Administrator is directed to prepare a report containing the results of the study, together with recommendations, for submission to Congress within 36 months after enactment.

Senate amendment.—The Senate amendment requires a revision of the current criteria for sanitary landfills as necessary to protect human health and the environment. In addition, the Senate amendment requires States to have programs enforcing the current criteria within 3 years, and implementing the revised criteria within 18 months after revision. In States which have no program to implement the revised criteria, the Administrator is authorized to enforce the prohibition on open dumping. Civil actions against persons subject to a compliance schedule issued by the State under an approved program are prohibited.

The Senate amendment authorizes $15 million from funds appropriated for FY 1985 and authorizes $20 million to be appropriated each year through FY 1989 for the purpose of assisting States in the implementation of Subtitle D programs.

Conference substitute.—The Conference substitute adopts the provision of the House bill directing the Administrator to conduct a study, as well as the Senate amendment,

with the exception of the Senate provisions which prohibits civil actions, which is deleted. In addition, the period of reauthorization extends only though FY 1988.

The States and the Administrator should act expeditiously in implementing these revisions and improvements to Subtitle D. Subtitle D facilities are the recipients of unknown quantities of hazardous waste and other dangerous materials resulting from the disposal or household waste, small quantity generator wastes and illegal dumping. Since construction, siting, and monitoring standards for these facilities are either nonexistent or far less restrictive than those governing hazardous waste disposal facilities, environmental and health problems caused by Subtitle D facilities are becoming increasingly serious and widespread. A high proportion of sites listed on the National Priority List were sanitary landfills. Without the additional environmental protection that the implementation of this provision will provide, even more Subtitle D facilities are destined to become Superfund sites.

SECTION 401—CITIZEN UNITS

House bill.—The House bill authorizes citizens to bring suits in cases where past or present management or disposal of hazardous or solid wastes has contributed to a situation that may present an imminent and substantial endangerment. If the Administrator or the State is diligently prosecuting an imminent hazard action the right of action is precluded. Citizens may not bring suit under this amendment regarding the siting of a facility.

The House bill also provides for the award of costs of litigation to "the prevailing or substantially prevailing party" in litigation under section 7002 and section 7006.

Senate amendment.—The Senate amendment contains a similar provision, limiting citizens' right of action but providing a statutory right of intervention and limiting the award of costs of litigation. In addition, the Senate amendment clarifies that a common carrier by rail is not subject to citizen suits if he merely transported the waste under a sole contractual arrangement and exercised due care.

Conference substitute.—The Conference substitute adopts the Senate amendment with additional limitations on citizens' right of action. Such actions are prohibited in the following cases: (1) with respect to siting and permitting of hazardous waste facilities; (2) where the administrator has commenced, and is diligently prosecuting, actions under section 7003 of RCRA or section 106 of CERCLA; (3) while the Administrator or the State is actually engaging in a removal action under section 104 of CERCLA or has incurred costs to initiate a Remedial Investigation/Feasibility Study (RIFS) under section 104 of CERCLA and is diligently proceeding with a remedial action; and (4) where the Administrator has obtained a court order (including a consent decree) or issued an administrative order under section 106 of CERCLA, or section 7003 of RCRA pursuant to which a responsible party is diligently conducting a removal action, RIFS or proceeding with a remedial action. Actions under subsection (a)(1)(B) are prohibited only as to the scope and duration of the court or administrative order.

Plaintiffs are required to notify the Administrator, the State and affected parties 90 days prior to commencement of an action under this section and the plaintiff is required to serve a copy of the complaint to the Administrator and the Attorney General of the United States.

With respect to the new cause of action pursuant to section 7002(a)(1)(B), the prohibition relating to removal actions under section 104 of CERCLA applies only while removal activities are in progress. The prohibition is not intended to bar an action alleging an imminent and substantial endangerment which may exist following the termination of any removal action at a site, where no future remedial action is planned.

A determination as to whether the Administrator "is diligently proceeding with a remedial action" is, by necessity, a case-by-case determination. Based upon its experience, the Agency estimates that it takes eighteen months to complete a RIFS which normally is immediately followed by an estimated four month period for the design stage. Actual construction activity should follow shortly thereafter. The Conferees intend that the section 7002(b)(2)(iii) prohibition be applied only when the RIFS, design, and construction activities at a site occur in a continuous, uninterrupted sequence.

Similarly, a determination as to whether a responsible party is diligently conducting a removal action, RIFS or proceeding with a remedial action pursuant to an order is, by necessity, a case-by-case determination. The Conferees intend that the section 7002(b)(2)(B)(iv) prohibition be limited only to the scope and duration of the court or administrative order. For example, an administrative order issued under section 106 of CERCLA or section 7003 of RCRA for surface cleanup at a site would not bar an action alleging that groundwater contamination at the site may present an imminent and substantial endangerment.

Conference substitute.—Finally, the Conference substitute adopts the House provision limiting the award of costs of litigation with the understanding that "the prevailing or substantially prevailing party" may include more than one litigant, where appropriate.

SECTION 402—IMMINENT HAZARD

House bill.—The House bill clarifies that section 7003 of RCRA applies to actions which took place prior to enactment of RCRA.

Senate amendment.—The Senate amendment contains a similar provision. In addition, the Senate amendment clarifies that a common carrier by rail shall not be considered to have contributed to the situation that poses imminent hazard if he merely transported the waste under a sole contractual arrangement, and exercised due care.

Conference substitute.—The Conference substitute is the same as the Senate amendment. Section 7003 focuses on the abatement of conditions threatening health and the environment and not particularly human activity. Therefore, it has always reached those persons who have contributed in the past or are presently contributing to the endangerment, including but not limited to generators, regardless of fault or negligence. The amendment, by adding the words "have contributed" is merely intended to clarify the existing authority. Thus for example, non-negligent generators whose wastes are no longer being deposited or dumped at a particular site may be ordered to abate the hazard to health or the environment posed by the leaking of the wastes they once generated and which have been deposited on the site. The amendment reflects the long-standing view that generators and other persons involved in the handling, storage, treatment, transportation or disposal of hazardous wastes must share in the responsibility for the abatement of the hazards arising from their activities. The section was intended and is intended to abate conditions resulting from past activities. Hence, the district court decisions in *United States* v. *Wade*, 546 F. Supp. 785 (E.D. Pa. 1982), *United States* v. *Waste Industries*, No. 80-4-Civ-7 (E.D. N.C. Jan. 3, 1983), and *United States* v. *Northeastern Pharmaceutical and Chemical Company, Inc., et. al.*, 579 F. Supp. 823 (W.D. Mo. 1984), which restricted the application of section 7003, are inconsistent with the authority conferred by the section as initially enacted and with these clarifying amendments.

SECTION 403—IMMEDIATE NOTICE

House bill.—The House bill requires that upon receipt of information of an imminent hazard, EPA shall provide immediate notice to the appropriate local government agencies, and post a notice at the site.

It also requires the Attorney General, at EPA's request, to deputize qualified EPA employees to act as special marshals in RCRA criminal investigations, clarifies EPA's authority to assess civil penalties administratively for past violations of the Solid Waste Disposal Act, and authorizes duly designated employees of EPA to conduct criminal investigations and to refer the results to the Attorney General.

Senate amendment.—The Senate amendment does not contain a similar provision.

Conference substitute.—The Conference substitute is the same as in the House bill.

In July 1984, after lengthy review and consideration of the Environmental Protection Agency's request for special deputation for the Agency's criminal investigators, the Department of Justice acknowledged the need by granting temporary deputation extending until September 30, 1984. In September 1984, at the request of the Environmental Protection Agency, the Department of Justice extended the special deputation through June 30, 1985. The EPA Administrator has demonstrated a need for law enforcement powers for Agency's criminal investigators. The special deputation should be made permanent and a substantial criminal investigative capability is needed in each Region. This will lead to the more efficient planning and development of existing and new criminal investigations.

SECTION 404—PUBLIC PARTICIPATION IN SETTLEMENTS

House bill.—No provision.

Senate amendment.—The Senate amendment requires EPA to provide for public notice and comment prior to entering into a settlement or a covenant not to sue in any imminent hazard action under Section 7003. A decision whether to settle is not subject to judicial review.

Conference substitute.—The Conference substitute is the same as the Senate amendment.

SECTION 405—INTERIM CONTROL OF HAZARDOUS WASTE INJECTION

House bill.—The House bill bans underground injection into or above a formation which contains, within ¼ mile of the injection wells, an underground source of drinking water, with a variance where it can be demonstrated that the waste will not migrate into drinking water sources or otherwise endanger them. This provision is to be enforced under Subtitle C of the Solid Waste Disposal Act (often referred to as RCRA) except in States with underground injection control (UIC) primary under the

Safe Drinking Water Act (SDWA) or in States where EPA has prescribed a UIC program (in which case it will be enforced under the SDWA).

Senate amendment.—The Senate amendment bans injection into or above a formation which contains, within ¼ mile of the injection wells, an underground source of drinking water. The ban does not apply if the injection is part of a federally supervised cleanup action under the Solid Waste Disposal Act or under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA).

Conference substitute.—The conference substitute bans underground injection into or above a formation which contains, within ¼ mile of the injection wells, an underground source of drinking water. This provision is to be enforced under RCRA except in States with underground injection control (UIC) primacy under the SDWA, where such UIC programs contains provisions no less stringent than this section, or in States where EPA has prescribed a UIC program in which case it will be enforced under the SDWA. The ban does not apply if the injection is part of a federally supervised cleanup action under the Solid Waste Disposal Act or under CERCLA and if such cleanup action, when completed, will be sufficient to protect human health and the environment.

SECTION 501—USE OF RECOVERED MATERIALS BY FEDERAL AGENCIES

House bill.—The House bill amends section 6002(d)(1) to require all Federal agencies that have responsibility for drafting or reviewing specifications for procurement items, to review and revise their standards and specifications that serve to exclude recovered materials or otherwise limit the use of recovered materials, within 18 months of enactment.

Senate amendment.—The Senate amendment contains a similar provision.

Conference substitute.—The conference substitute adopts the House bill.

The influence which the Federal government can exert through its purchasing power to stimulate demand of and use of recovered materials should be exercised more vigorously.

To assure the fullest participation by procuring agencies, the Conferees wish to resolve any ambiguity with respect to Section 6002's coverage of the Department of Transportation, in particular, the Federal Highway Administration (FHWA). The FHWA is a "procuring agency" under the Solid Waste Disposal Act, and is therefore fully responsible for implementing guidelines and other requirements of section 6002. It is the intent of Congress that both FHWA's direct procurement and indirect Federal-aid programs (Federal Highway Trust Fund) be covered by the requirements of Section 6002 as amended by this Act. Indirect purchases by the Federal Aviation Administration and the Urban Mass Transit Administration are also covered under Section 6002 in the same manner as is the FHWA. Coverage of the FHWA's direct and indirect procurement activities under this amendment extends to the review of procurement specifications pursuant to Section 6002(d), as amended, in addition to the affirmative procurement program required under this section.

Subsection (b)(2) requires the EPA to issue a procurement guideline for "tires" by October 1, 1985. The term "tires" refers to the use of rubber recovered from scrap tires for use in asphalt materials for road construction and maintenance. This is in line with existing Federal policy as established by the Surface Transportation Act of 1982. It also includes the use of retreaded tires. Both EPA and the Department of Energy have recognized retreading of tires as an effective means of resource recovery and reducing waste. Other promising uses of scrap tires, such as the State of New Jersey's innovative use of scrap tires for artificial reef construction, should be investigated by the EPA and the affected procuring agencies.

In obtaining certification of the percentage of postconsumer materials and the percentage of manufacturing forest residues and other wastes, it is the intent of Section 6002 as amended by this Act that vendors supply the procuring agency with a statement from the mill indicating the percentages used by the mill in producing the paper and their sources of raw material.

The Defense Acquisition Regulatory Council (DAR Council) and the Civilian Agency Acquisition Council (CAA Council) shall be responsible for incorporating the necessary provisions into the Federal Acquisition Regulations setting procedural guidelines to carry out the purposes of this section.

It is the intent of this provision to grant both the affected procuring agencies and the EPA flexibility in structuring guidelines and in structuring an affirmative procurement program in compliance this Act.

This provision requires a recovered materials certification and verification program only where appropriate. The EPA and the affected procuring agencies should exercise their discretion in good faith and not in a manner that would circumvent the overall intent of Section 6002 to procure items composed of the highest percentage of recovered materials practicable consistent with maintaining a satisfactory level of competition.

Finally, section 1004 of the Solid Waste Disposal Act specifically names the Government Printing Office (GPO) under its definition of "Federal Agency." Since the Joint Committee on Printing (JCP), by law, is responsible for drafting and reviewing specifications for procurement of paper by the GPO, the goals of PL 98-181 and of this bill can be fulfilled by a thorough review of procurement specifications by the Joint Committee on Printing. Specifically, certain specifications, such as brightness and speck count, may serve to preclude recycled paper, thus limiting full and open competition. The JCP should review these standards within 18 months of enactment, and a relaxation of these standards should serve to increase the competition for GPO bids without jeopardizing the intended end use of the item.

SECTION 502—TECHNICAL AND CLERICAL AMENDMENTS

House bill.—The House bill contains several technical and clerical corrections to various sections of the Solid Waste Disposal Act. These relate to incorrect section, subsection, and paragraph designations, spelling errors, and punctuation. The House bill redesignates section 3012 of the Solid Waste Disposal Act entitled "Restrictions on Recycled Oil" as 3012A. Also included in the House bill is an amendment to section 3007(b) to correct an omission made in section 12(b)(4) of Public Law 26-482 which amended that provision to insert a parenthetical phrase but did not indicate where in the provision the phrase was to be inserted.

Senate amendment.—Section 28(a) of the Senate amendment redesignates section 3012 of the Solid Waste Disposal Act (entitled "Restrictions on Recycled Oil") as section 3014. Section 28(b) of the Senate amendment redesignated subsection (b) of section 4003 of that Act (entitled "Energy and Materials Conservation and Recovery Feasibility Planning and Assistance") as subsection (c) of section 4003.

Conference substitute.—The conference substitute adopts the technical and clerical corrections made by the House bill, except with respect to the redesignation of section 3012 entitled "Restrictions on Recycled Oil" as 3012A. Instead the conferees agreed to section 28(a) of the Senate amendment regarding the redesignation of that section as section 3014. The conferees also adopted section 28(b) of the Senate amendment redesignating subsection (b) of section 4003 entitled "Energy and Materials Conservation and Recovery Feasibility Planning and Assistance" as subsection (c) of section 4003.

SECTION 601—UNDERGROUND STORAGE TANKS

House bill.—The House bill directs the Administrator to promulgate by March 1, 1985, final permitting standards for underground tanks containing hazardous wastes that cannot be entered for inspection.

Senate amendment.—The Senate amendment establishes a comprehensive regulatory program under the Safe Drinking Water Act for undergound storage tanks containing regulated substances. The key elements of this program are as follows:

(1) Notification and certification

Within 18 months, owners of underground storage tanks shall notify the appropriate State or local agency of the existence of the tanks, of tanks taken out of operation, and of tanks brought into use. Within 12 months of enactment, the Administrator is directed to design the notification form to be used by tank owners. Distributors of regulated substances and tank sellers shall inform owners and operators of the obligation to notify.

Three types of tanks are exempt from this notification requirement: those which have already made notification under the provisions of CERCLA, those which are in use but have been taken out of the ground, and those which were taken out of operation before January 1, 1974.

(2) Release detection, prevention, and correction regulations

The Administrator is directed to promulgate underground storage tank regulations for owners and operators storing or dispensing regulated substances. These regulations must be sufficient to protect human health and the environment, and must include the following elements: a monitoring system to identify releases; standards for the performance of new tanks; record keeping on the monitoring systems; corrective action in response to releases; reporting of releases; corrective action; and requirements for taking tanks out of operation.

Regulations for tanks containing petroleum must be promulgated within 30 months. There is no specified deadline for promulgation of regulations of other regulated substances.

Until the effective date of the regulations being promulgated, and after 90 days beyond the enactment of this title, no person may install an underground storage tank unless it is installed and brought into accordance with enforced national consensus codes.

The Senate amendment also provides the Administrator with the discretion to require that tank owners and operators maintain in-

surance or other proof of financial responsibility sufficient to assure that corrective action for releases, as well as compensation to third parties for bodily injury and property damage. In the alternative, the Administrator may recognize self-insurance pools and state programs based on fees and charges that finance a response authority as possible approaches to fulfill the requirements of this section.

(3) Approval of State programs

Thirty months after enactment, any State may submit to the Administrator a proposed program for underground storage tank release detection, prevention and correction for his review. The State program must include the components of the Federal program, provide for adequate enforcement of compliance, and have performance standards for new tanks that are no less stringent than Federal standards.

Within 180 days, the Administrator shall determine whether the State program includes the requirements of the Federal program. If it does, the Administrator shall approve the State program and permit the State to have primary enforcement responsibility for regulating underground storage tanks containing regulated substances. States may submit programs covering only tanks which contain petroleum substances, only tanks which contain hazardous substances, or programs covering both.

If the Administrator determines that a State with an approved tank program is not administering it properly, he shall notify the State. If appropriate State actions are not made within 90 days, he shall withdraw authorization of the State program.

(4) Inspections; monitoring and testing

At the request of the appropriate State or Federal agency, any owner or operator of an underground storage tank used for storing hazardous substances shall furnish information relating to his tanks, allow access to records related to such tanks, and conduct monitoring and testing when required. The appropriate officials are authorized to enter establishments containing underground storage tanks and to inspect and obtain samples.

(5) Federal enforcement

If the Administrator determines that any person is in violation of any provision, he may issue a compliance order, or the U.S. Government may commence a civil action in U.S. district courts for appropriate relief, including a temporary or permanent injunction. If a violation occurs in a State with an approved underground storage tank program, the Administrator shall give notice to the State prior to taking any enforcement actions. If a violator fails to comply with enforcement directives within the time period specified in an order, he shall be liable for a civil penalty not to exceed $25,000 for each day of continued noncompliance. Orders become final within 30 days unless the persons charged request a public hearing.

Any owner or operator who knowingly fails to notify State or Federal authorities, or submits false information about his tanks, shall be subject to a civil penalty not to exceed $10,000 per tank. Any owner or operator who installs or begins using an underground storage tank for storing hazardous substances without complying with the regulations regarding the use of such tanks shall be subject to a civil penalty not to exceed $10,000 per tank for each day of violation.

(6) Federal facilities

Each Federal agency having underground storage tanks containing hazardous substances shall be subject to and comply with all Federal, State, interstate, and local requirements for such tanks.

Neither the United States nor any Federal employee shall be immune or exempt from any process or sanction of any Federal court in regard to underground storage tank requirements. The President may exempt underground storage tanks owned by any Federal agency from compliance with Federal requirements if he determines it to be in the paramount interest of the United States to do so. No exemption shall be granted because of lack of appropriated funds unless the President shall have specifically requested such appropriations as part of the budgetary process, and the Congress shall have failed to make available such requested appropriation. An exemption shall not exceed one year unless the President makes a new determination.

(7) State authority

Nothing in this Title shall preclude or deny any State or local authority from adopting underground storage tank requirements that are more stringent than the Federal rules.

(8) Key definitions

"Regulated substance" means all substances designated under CERCLA [Sec. 101(4)] not including hazardous wastes listed or identified under Subtitle C of the Solid Waste Disposal Act and petroleum products that are a liquid at standard temperature and pressure.

"Underground storage tank" means the underground tank and connecting underground pipes which are used to contain an accumulation of regulated substances and which are substantially or totally beneath the surface of the ground, but not including above ground storage tanks which are in compliance with national consensus codes and for which 90% or more of the tank volume is above ground, farm or residential noncommercial tanks of less than 1,100 gallons of motor fuel, heating oil tanks used on the premises, residential septic tanks, pipelines regulated under the Natural Gas Pipeline Safety Act or the Hazardous Liquid Pipeline Act, surface impoundments, pits, ponds, lagoons, storm water and waste water collection systems, or flow through process tanks.

(9) Studies

Within 36 months of enactment of this title, the Administrator shall complete a study of the following excluded tanks: farm or residential tanks of 1,100 gallons or less for storing motor fuel for noncommercial purposes, and tanks used for storing heating oil for consumptive use on the premises. The study will include estimates of the number and location of these tanks and an analysis of the extent to which they are or may some day be leaking. On completion of this study, the Administrator shall submit a report to the President and Congress on whether these excluded tanks should be subject to regulation.

Within 12 months of enactment the EPA Administrator shall complete a study of the underground storage tanks containing petroleum. Within 36 months of enactment the Administrator shall complete a study of all other underground storage tanks containing substances regulated.

If any owner or operator of an underground storage tank containing regulated substances (except for the Federal Government) incurs costs or loss of business opportunity because of the studies authorized by this provision the Administrator shall provide fair reimbursement. The funds for such reimbursement will be appropriated by the Congress.

Conference-substitute.—The Conference substitute adopts the House bill with respect to underground storage tanks containing hazardous wastes and the Senate amendment with the following principal modifications:

1. The definition of underground storage tanks includes underground piping connected to above ground tanks provided the total volume that is below the surface exceeds 10 percent and excludes all septic tanks, oil and/or gas producing facility traps, tanks in basements, mines or underground rooms and intrastate pipelines regulated by state pipeline safety statutes comparable to the Hazardous Liquid Pipeline Act of 1979 or the Natural Gas Pipeline Safety Act of 1968.

2. Following enactment, the installation of bare steel tanks, i.e. those which provide little or no protection against corrosion, will be prohibited until the Administrator promulgates regulations establishing the conditions for installation. Bare steel tanks may be installed (pending promulgation of EPA regulations) only where properly conducted soil tests show resistivity at 12,000 ohms/cm or more. This provision replaces the provision in the Senate amendment which prohibits installation of bare steel tanks except in states that enforce a national consensus code.

3. The reference to "technical and managerial capabilities" of tank owners as factor to be considered by the Administrator in developing regulation is modified to exclude reference to "managerial capabilities".

4. The regulatory program promulgated by the Administrator must include leak detection systems, inventory control systems (together with periodic tank testing) or comparable systems or method of detecting releases consistent with protection of human health and the environment.

5. The Administator is directed to promulgate regulations on tank closure which will prevent releases of regulated substances into the environment.

6. The Administrator is directed to promulgate new tank standards and program regulations for all petroleum tanks within 30 months after enactment, new tank standards for the remaining regulated substances within 36 months and program regulations for the remaining regulated substances within 48 months.

7. With the exception of financial responsibility requirements, the components of an authorized state's regulatory program concerning underground storage tanks may be no less stringent than the program promulgated by the Administrator. Recognizing that some states may have regulatory programs in effect when the federal regulations are issued, and to mitigate the disincentive for states to develop programs rapidly under a "no less stringent" standard, the conference substitute allows states (with programs that are in effect) three years to come into compliance with this subsection.

8. The Administrator, in consultation with the states, is directed to develop a notification form for operational and non-operational tanks. To gain authorization, States must have a system for notification and tank inventory.

9. Following notification by the Administrator to a state that such state is not properly administering an authorized program,

such State would be allowed 120 (rather than 90) days to come into compliance before responsibility for the program reverts to the Administrator.

10. The entire provision concerning underground storage tanks will constitute a new Subtitle of the Solid Waste Disposal Act; Section 3008 will not be applicable to regulated substances. The civil penalty provisions contained in the Senate amendment will be applicable to violations involving storage tanks containing regulated substances.

Although the modifications of the Senate amendment are largely self-explanatory, a number of clarifications and explanations are warranted.

First, the deletion of the word "managerial" from the phrase "technical and managerial capabilities" as one of the factors to be considered by the Administrator in developing a regulatory program should not be construed as preventing any consideration of the particular needs or circumstances facing small businesses. The deletion of the word "managerial" is simply intended to ensure that EPA's regulations not be subject to varying standards based on limitations of managerial skills. However, the Conferees expect the Administrator, in developing a regulatory program affecting small businesses, to promulgate regulations which where appropriate, build on existing management practices.

Second, with respect to methods or systems of detecting releases of regulated substances, EPA is to be afforded broad discretion in determining which methods or systems are necessary in order to protect human health and the environment. In this regard, the Conferees believe that while sophisticated methods of inventory control may be adequate to determine whether a tank is leaking, exclusive reliance on a "dipstick" method of inventory control (even with periodic tank testing) will not be sufficiently reliable to detect slow leaks.

Third, the Conference substitute provides that the applicable provisions of the Solid Waste Disposal Act, including Sections 7002 and 7003 may be used to enforce Title I and specifically excludes application of Section 3008 to Subtitle I.

Fourth, the Conferees recognize that the Administrator is currently proceeding with rulemaking to regulate the disposal and storage of listed and identified hazardous waste in underground storage tanks. Enactment of Subtitle I is not intended to delay such rulemaking. However, the Conferees expect the underground tank regulations under Subtitle C to be revised to reflect, where appropriate, the requirements and prohibitions promulgated under Subtitle I.

Finally the Conferees are aware that there are appoximately two million underground tanks in the country in which gasoline and other hazardous substances are stored. Approximately 85 percent of these tanks are made of steel with no corrosion protection. Petroleum industry experts estimate that as many as 75,000 to 100,000 underground tanks are leaking and that 350,000 may develop leaks within the next five years.

Although it is difficult to determine the precise source of groundwater contamination, underground storage tanks are considered the source or probable source of substantial number of groundwater contamination cases. One state (Michigan) that has carefully monitored groundwater contamination has concluded that storage tanks are the leading cause of groundwater contamination (39 percent of 441 known incidents). Other states such as Alabama, California, Florida, Nevada, New Jersey, New York, North Carolina, Ohio, Maine, Montana, Pennsylvania, Rhode Island and Wisconsin have also experienced severe groundwater contamination caused by leaking underground storage tanks and most of these states have requested greater Federal involvement, including regulation, to help resolve this growing environmental problem. Because half the population of the United States depends on groundwater as a source of drinking water, the conferees believe this problem has become one of national significance and requires Federal legislation.

SECTION 701—REPORT TO CONGRESS ON INJECTION OF HAZARDOUS WASTE

House bill.—No provision.

Senate amendment.—The Senate amendment adds a new section 1426 in Part C of the safe Drinking Water Act to require that, by June 15, 1984 {sic}, EPA, with the States, shall compile and submit to Congress an inventory of all wells which inject hazardous wastes.

Conference substitute.—The Conference substitute is the same as the Senate amendment, except the June 15, 1984 date is changed to 6 months after enactment and the amendment is transferred to the Solid Waste Disposal Act.

SECTION 702—EXTENDING THE USEFUL LIFE OF SANITARY LANDFILLS

House bill.—No provision.

Senate amendment.—The Administrator is directed to conduct detailed, comprehensive studies of methods to extend the useful life of sanitary landfills and to better use sites in which filled or closed landfills are located.

Conference substitute.—The Conference substitute adopts the Senate amendment with a clarification that the Agency is not required to duplicate studies that have already been conducted.

SECTION 703—URANIUM MILL TAILINGS

House bill.—No provisions.

Senate amendment.—The Senate amendment includes a provision to assure that the Solid Waste Disposal Act Amendments of 1984 do not affect, modify, or amend the Uranium Mill Tailings Radiation Control Act of 1978, as amended (UMTRCA).

Conference substitute.—The Conference substitute is the same as the Senate amendment. Nothing in this section shall be deemed to preclude or to require the revision of existing regulations promulgated under UMTRCA.

SECTION 704—NATIONAL GROUNDWATER COMMISSION

House bill.—The House bill establishes a National Groundwater Commission. The duties of the Commission are to evaluate the quality of the nation's groundwater, identify the sources and extent of groundwater contamination, assess the need for a policy to protect groundwater, assess the adequacy of existing standards for groundwater quality under state and federal law and assess the effort of state, local, and federal agencies protecting and preserving the quality of the nation's fresh water aquifers.

The Commission is to be composed of 19 members, including 10 members of Congress, and nine others representing state, local, scientific, industry and environmental interests.

The Commission is directed to submit a report to Congress containing its findings and conclusions, together with its recommendations for legislation and administrative actions which it considers appropriate.

Senate amendment.—The Senate amendment does not contain a similar provision.

Conference substitute.—The conference substitute adopts the House provision. In carrying out its responsibilities, the Conferees direct the Commission to focus its efforts on the quality of the nation's groundwater. The problems with the quality of the groundwater supply are becoming increasingly apparent as the extent of contamination by the existing and abandoned hazardous waste facilities becomes known. It is expected that the Commission will be sensitive to the desirability of not disturbing existing water rights.

BIENNIAL REPORT

House bill.—No provision.

Senate amendment.—The Senate amendment directs the Administrator to report to the Congress (no less than every two years) concerning the quantities and types of hazardous waste generated, treated, stored and disposed of. States with authorized programs shall assist the Administrator in the compilation of such reports.

Conference substitute.—The conference substitute does not contain a similar provision. The Administrator has begun a program to compile data concerning the quantities and types of hazardous waste generated, treated, stored, and disposed of and to update such data on a regular basis. This information is available to the Congress and to the public and need not be submitted as a formal report to Congress. The Administrator is expected to continue this program and to seek more accurate data than has been available in the past.

PRESERVATION OF OTHER RIGHTS

House bill.—The House bill clarifies that enactment of section 7002(f) of the Resource Conservation and Recovery Act in 1976 was intended to preserve the rights of litigants under any statute or common law notwithstanding the enactment of RCRA.

Senate amendment.—The Senate amendment does not contain a similar provision.

Conference substitute.—The Conference substitute is the same as the Senate amendment. Failure to adopt the House amendment does not preclude the use of common law principles by the Federal courts in interpreting the provisions (such as section 7003) of RCRA.

HAZARDOUS CONSTITUENTS

House bill.—The House bill provides that, in the context of determining the applicability of a waiver from the requirement that surface impoundments receiving hazardous wastes must be lined, the term "hazardous constituent" does not include those hazardous constituents which the owner or operator demonstrates will not migrate into groundwater or surface water in concentrations which may adversely affect human health and the environment.

Senate amendment.—No provision.

Conference substitute.—The conference substitute omits the House provision.

JUDICIAL REVIEW

House bill.—The House bill contains no amendments to section 7006(a).

Senate amendment.—The Senate amendment revises section 7006 to: (1) allow review of regulations in United States Court of Appeals for circuits in which the petitioner resides or transacts business which is directly affected by such regulations; (2) to extend the period within which a petition may be filed from 90 to 120 days; (3) to es-

tablish a random selection procedure to determine in which court a regulation is to be reviewed when petitions have been filed in more than one court; and (4) to make minor additional modifications.

Conference substitute.—The Conference substitute is the same as the House bill.

SECTION 303 OF PUBLIC LAW 96-510

House bill.—The House bill contains no comparable provision.

Senate amendment.—The Senate amendment contains a revision to P.L. 96-510 (CERCLA) which will allow the continued collection of taxes for the Post-Closure Liability Fund under CERCLA.

Conference substitute.—The conference substitute omits the Senate amendment.

AMENDMENT TO CERCLA; STATE SHARE

House bill.—The House bill amends CERCLA to reduce (from 50 to 10 percent) a State's share of the cost of cleanup if the site was owned, but not operated, by the State or political subdivision. The House bill also provides a credit for expenditures incurred by a State for remedial actions between January 1, 1978, and December 11, 1980.

Senate amendment.—The Senate amendment contains five amendments to CERCLA.

Conference substitute.—The conference substitute contains no amendments to CERCLA.

For consideration of the House bill and the Senate amendments except for section 23(c) of the Senate amendment:

JOHN D. DINGELL,
JAMES J. FLORIO,
BARBARA A. MIKULSKI,
BILLY TAUZIN,
D.E. ECKART,
WAYNE DOWDY,
JIM BROYHILL,
NORMAN F. LENT,
DON RITTER.

Solely for consideration of section 28(c) and modifications thereof committed to conference:

DAN ROSTENKOWSKI,
SAM M. GIBBONS,
J.J. PICKLE,
BARBER B. CONABLE, Jr.,
JOHN J. DUNCAN.

Solely for consideration of sections 29 and 45 of the Senate amendment and modifications thereof committed to conference:

HENRY A. WAXMAN,
JAMES H. SCHEUER,
ED MADIGAN.

Solely for consideration of section 3 of the House bill and modifications thereof committed to conference:

RICHARD C. SHELBY,

Solely for consideration of section 5 of the House bill and modifications thereof committed to conference:

JOHN BREAUX,

Managers on the Part of the House.

ROBERT T. STAFFORD,
JOHN H. CHAFEE,
AL SIMPSON,
STEVE SYMMS,
JENNINGS RANDOLPH,
GEORGE J. MITCHELL,
FRANK R. LAUTENBERG,

Managers on the Part of the Senate.

Mr. FLORIO. Mr. Speaker, I ask unanimous consent for the immediate consideration of the conference report on the bill (H.R. 2867) to amend the Solid Waste Disposal Act to authorize appropriations for the fiscal years 1984 through 1986, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. FLORIO. Mr. Speaker, I ask unanimous consent that the statement of the managers be read in lieu of the report.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The Clerk read the statement.

Mr. FLORIO (during the reading). Mr. Speaker, I ask unanimous consent that the statement be considered as read.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The SPEAKER pro tempore. The gentleman from New Jersey [Mr. FLORIO] will be recognized for 30 minutes and the gentleman from North Carolina [Mr. BROYHILL] will be recognized for 30 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. FLORIO].

Mr. FLORIO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, after nearly 3 years' effort, today's consideration of H.R. 2867 marks the final legislative stage in the reauthorization of the Resource Conservation and Recovery Act, the law that governs the management and disposal of hazardous waste.

I would particularly like to recognize the efforts of the gentleman from Michigan [Mr. DINGELL], the gentleman from New York [Mr. LENT], the gentleman from North Carolina [Mr. BROYHILL], the gentlewoman from Maryland [Ms. MIKULSKI], the gentleman from Ohio [Mr. ECKART], and the gentleman from New Mexico [Mr. RICHARDSON], all members of our committee who have worked so hard to get to this point.

Mr. Speaker, it should be emphasized that this is no ordinary reauthorization. The bill agreed to be the members of conference committee will launch a dramatic overhaul of the way America manages its hazardous wastes. The regulatory program mandated by this bill, if conscientiously implemented, will force a massive change in this country's disposal practices: That is, away from land disposal and toward appropriate recycling, waste reduction and treatment.

Many of the market incentives for treatment technology already exist. This bill assures that these incentives for safe management are strengthened and that the regulatory system needed to guide them will provide long term protection of human health and the environment. Moreover, were land disposal continues it will be conducted only under the most stringent conditions. For example, the bill establishes rigorous technological requirements such as leak detection, double liners and leachate collection systems.

Mr. Speaker, the bill also mandates that in 66 months, 5½ years from now, land disposal of most hazardous wastes will come to an end. That is a big task for EPA to accomplish, but it is long overdue—and we have given the Agency all the tools, resources, and legislative instructions it needs to get the job done. Mr. Speaker, this is a carefully crafted, thoroughly reviewed piece of legislation—one which has the unanimous support of all the conferees. If EPA fails in this mission to carry out this legislation, it will only be the result of incompetence or a lack of will.

Mr. Speaker, this bill not only addresses the defects in the current law (such as the so-called "small generator" loophole or the "burning for energy recovery" loophole) it charts a dramatic new course for the future. While I do not minimize the magnitude of task that faces both government and industry, I believe that enactment and enforcement of this legislation will provide genuine protection of the public's health.

I would like to point out, however, that while the reauthorization of RCRA will help prevent the creation of new Superfund sites, Congress has not yet addressed the problem of cleaning up old sites. While enactment of H.R. 2867 is a major achievement, it is only half of the solution. I hope that the other body will recognize the critical importance of a strong Superfund bill enacted this year. Congress cannot adjourn and assume that it has fully dealt with the toxic waste crisis in this country just by enacting RCRA. To do the job right, both laws must be strengthened.

Finally, I would like to mention one provision of the House bill which was left out of the final bill. In the House bill, we made clear that all enforcement actions brought by the Government could draw upon principles of common law. Thus if, for some reason, the statute was silent on a particular point, the court would be free to look to common law to advance the basic purpose of RCRA. This right already exists in the citizen suit provision of RCRA (section 7002) and the House bill merely clarified that the Government in enforcing RCRA would have the same common law rights as the ordinary citizen. Although the conference committee did not, at the last minute, see fit to make this clarification, I do not think this omission should be construed as Congress' intent to dispense with Federal common law. On the contrary, the action of the Conferees simply indi-

cates that such clarification was not necessary. Therefore, the Government in enforcing RCRA, and courts in construing this statute, retain the right to rely on common law wherever it is appropriate.

H.R. 2867—THE HAZARDOUS AND SOLID WASTE AMENDMENTS OF 1984

POLICY

The overall policy which is reflected in the RCRA Reauthorization bill (H.R. 2867) is that America's almost total reliance on land disposal has resulted in an unacceptable risk to human and the environment and should be ended. The central purpose of H.R. 2867 is that land disposal should be drastically curtailed and for the most toxic wastes, eliminated entirely.

The proposed legislation is designed to encourage the development and implementation of advanced treatment, waste reduction and recycling technologies which will eventually eliminate the need for massive land disposal. Where land disposal remains necessary, it should be conducted in compliance with stringent safeguards in order to prevent groundwater contamination, toxic air emissions and other threats to public health.

LAND DISPOSAL PROHIBITIONS

H.R. 2867 would prohibit land disposal of solvents and wastes containing dioxin 24 months following enactment. In 32 months hazardous wastes on the California list (i.e. heavy concentrations of cyanide, arsenic, lead, mercury etc.) would also be banned from land disposal, except where EPA determines that a particular disposal or treatment method would be safe.

The legislation also requires EPA to develop a specific timetable in order to conduct a thorough review of all remaining hazardous wastes. One third of the wastes would have to be reviewed within 45 months, the second third within 55 months and the final third within 66 months. EPA's statutory mandate is to prohibit the land disposal of these wastes unless it finds that one or more methods of disposal will not harm public health or the environment. If EPA fails to meet either of its first two deadlines and if there is no treatment capacity, then the wastes that have not been reviewed would have to be sent to land disposal facilities that are double-lined and have leachate collection systems. If EPA fails to meet its final deadline, then all unreviewed wastes would be banned from land disposal, unless the generator qualifies for a limited variance.

LOOPHOLES

H.R. 2867 closes a number of regulatory loopholes which have allowed the disposal of significant quantities of hazardous waste to remain uncontrolled. Among these loopholes is the "small generator" exemption which permits the disposal of up to one metric ton a month (per generator) into so-called sanitary landfills or into sewers—disposal practices which obviously are not protective of human health or the environment. The legislation requires regulation of generators who produce more than 100 kilograms (220 pounds) each month. These generators will be required to send their hazardous wastes to an appropriate disposal or treatment facility.

Another major loophole which is addressed by this legislation concerns the use of hazardous wastes as fuel. Currently, some of the most dangerous wastes, such as PCBs and dioxin, are blended into used oil or other fuel and burned in residential boilers which are not capable of destroying the toxic component of these wastes. This practice, which has become increasingly prevalent, particularly in the Northeast, creates a substantial risk to those citizens whose health is most vulnerable, especially the elderly, young children and persons with respiratory illnesses. Under the legislation, EPA must issue regulations that would allow burning of hazardous wastes only under circumstances that would not harm public health.

ENFORCEMENT

H.R. 2867 contains a number of provisions designed to promote compliance with the bill's regulatory safeguards by increasing civil and criminal penalties for violators. For example, placing another person in danger of death or serious bodily injury by illegal disposal or management of hazardous waste carries a maximum 15 year prison sentence and a $250,000 fine. A corporation could be fined $1 million.

In addition, citizens would be provided the right to sue responsible parties and compel them to clean up hazardous waste sites. Congress has recognized that leaving all enforcement responsibility to EPA and the states has not been satisfactory in light of the widespread non-compliance by hazardous waste facilities. Citizen involvement, including lawsuits, to force abatement of public health dangers, is designed to lawsuits, to force abatement of public health dangers, is designed to complement the government's enforcement efforts and encourage greater compliance by the regulated community.

GROUND WATER COMMISSION

H.R. 2867 also establishes a 19-member National Groundwater Commission to investigate and report on causes of groundwater contamination and to recommend a national strategy for addressing threats to the Nation's freshwater aquifers.

LEAKING UNDERGROUND STORAGE TANKS

H.R. 2867 establishes a comprehensive regulatory program to prevent leaks from underground storage tanks. There are more than 2 million underground tanks in the United States which contain hazardous substances or gasoline. An estimated 100,000 are presently leaking (potentially contaminating ground water) and another 350,000 are expected to leak in the next five years. H.R. 2867 mandates the use of leak detection systems, the development of new tank standards which will protect against corrosion, as well as many other safeguards.

Mr. EDGAR. Mr. Speaker, will the gentleman yield?

Mr. FLORIO. I yield to the gentleman from Pennsylvania.

Mr. EDGAR. I thank the gentleman for yielding.

Mr. Speaker, I would just like to commend the gentleman on the legislation and point out that the legislation does include the establishment of a National Groundwater Commmission, which the gentleman and I have worked on, and I want to congratulate him for his efforts.

Mr. FLORIO. I thank the gentleman.

Mr. Speaker, I reserve the balance of my time.

□ 2140

Mr. BROYHILL. Mr. Speaker, I yield myself 5 minutes.

I rise in support of H.R. 2867. I believe it is an important environmental measure which is deserving of passage this year.

My understanding of this measure is that it incorporates a number of compromises on important issues such as small quantity generators, PCB's and underground storage tanks.

The language adopted on small quantity generators is virtually identical to that of an agreement reached by the business and environmental community this year. It provides for a workable regulatory program for small quantity generators of between 100 kilograms and 1,000 kilograms of hazardous waste per month. Appropriately, this program is restricted to that universe of generators—there is no regulation below 100 kilograms per month. In my opinion, regulation of these small generators should not go below 100 kilograms per month. I believe the conferees did well in adopting this commonsense compromise.

Further, the conferees agreed to drop a House provision which would have required the listing of PCB's under RCRA. I advocated and completely support this approach. PCB's are already regulated under the Toxic Substances Control Act and EPA is in the process now of reviewing whether or not supplemental regulation is appropriate under RCRA. It is clear that PCB's are now, and will continue to be, carefully monitored and that a mandatory listing procedure is inappropriate.

Further, the conferees adopted a compromise underground storage tank proposal. It appears that this proposal is a commonsense compromise between the House and Senate versions of the tank regulatory program which will provide a minimum amount of disruption to the regulated community.

In light of this sensible compromise provision, I can support H.R. 2867 and look forward to the President signing it into law this year.

Mr. Speaker, I yield 5 minutes to the gentleman from New York [Mr. LENT], the ranking minority member of the subcommittee who has worked so hard and effectively with respect to this program.

Mr. LENT. Mr. Speaker, I rise in support of the conference report on H.R. 2867—the Hazardous and Solid Waste Amendments of 1984. This is a carefully crafted compromise bill which has resulted from many years of hard work by both Members and staff. I want to particularly commend the chairman of the full committee on Energy and Commerce, the gentleman from Michigan [Mr. DINGELL], the gentleman from New Jersey [Mr. FLORIO], the gentleman from North

Carolina [Mr. BROYHILL], the gentleman from Ohio [Mr. ECKART], and the gentleman from Pennsylvania [Mr. RITTER].

In my opinion, this conference report represents a fair compromise between the provisions of H.R. 2867 and S. 757—its Senate companion measure. In most instances the differences between the two bills have been split almost equally—resulting in an important new environmental statute.

The Hazardous and Solid Waste Enforcement Act of 1984 represents a dramatic new shift in our national policy about hazardous waste disposal. After this measure is enacted, small quantity generators of hazardous waste who are now able to generate 2,200 kilograms or 1 ton of hazardous waste a month will have to dispose of their waste in a properly permitted facility rather than in an unregulated dump.

Following enactment, the EPA will be on a strict timetable for reviewing and banning hazardous waste from land disposal. Some of the most toxic chemicals will be banned by statute unless EPA determines that is not necessary to protect human health and the environment. These chemicals include arsenic, cyanide, and dioxins.

For too many years in this country, we have permitted the practice of dumping hazardous wastes in the land to go virtually unchecked. Even now that the EPA is requiring landfills to be lined, I do not feel confident that these liners will remain secure in the long term. Therefore, I believe it is appropriate for the Congress to intervene at this time and to establish a new policy which calls for a review of known hazardous wastes and a determination whether these wastes are appropriate for land disposal.

We simply cannot afford to allow these dangerous and persistent chemicals to continue to pollute our drinking water supplies—EPA must act quickly to evaluate them and ban them where necessary.

Surface impoundments, which are filled with liquid hazardous wastes, are also appropriately regulated in this measure. These facilities which are generally unlined and located within a one-quarter mile of underground sources of drinking water, are required to be double lined and have leak detection installed. Several narrow exemptions are provided, but on the whole, H.R. 2867 will result in these impoundments being appropriately safeguarded.

Dioxin emissions from resource recovery facilities are alos addressed in this legislation. EPA is directed to submit a report describing the current data and information on dioxins from resource recovery facilities, any significant risks to human health posed by these emissions and operating practices appropriate for controlling these emissions. Based on this report, EPA may publish advisories on guidelines regarding the control of dioxin emissions from resource recovery facilities.

I strongly endorse this provision because there is a resource recovery facility on Long Island which was forced to close by public pressure over dioxin emissions. If EPA had dioxin emission regulations in place, this closing could have been avoided. I will, therefore, work to assure that EPA prepare this dioxin report and guidelines in a timely fashion so that my facility might be reopened and closings in other parts of the country can be avoided.

One other important provision in H.R. 2867 should be mentioned—and that is the new regulatory program for underground storage tanks. Most of us here today are aware of the large number of these tanks which are leaking and polluting our precious ground water supplies. It is important that these tanks be regulated. I believe that H.R. 2867 does this in an evenhanded way which will result in increased environmental protection and a minimal amount of disruption to the regulated community.

In sum, Mr. Speaker, I wholeheartedly support H.R. 2867 and urge its expeditious passage today.

Mr. FLORIO. Mr. Speaker, I yield 4 minutes to the chairman of the full committee, the gentleman from Michigan [Mr. DINGELL].

Mr. DINGELL. Mr. Speaker, I thank my distinguished friend, the gentleman from New Jersey, the able chairman of the subcommittee.

Mr. Speaker, I rise in strong support of this conference report. We have worked over this legislation over a long number of months, and I am confident that it will lead this Nation forward in its absolutely essential task of controlling hazardous waste and protecting the public health and safety and the environment.

I would like to take just a minute to commend some of my colleagues who have worked extremely hard, often with difficulty and adversity, to come up with a reasonable and workable bill. I would like to commend the gentleman from New Jersey [Mr. FLORIO], the subcommittee chairman, as well as the gentlewoman from Maryland [Ms. MIKULSKI], the gentleman from Louisiana [Mr. TAUZIN], the gentleman from Ohio [Mr. ECKART], the gentleman from Mississippi [Mr. DOWDY], and the gentleman from Alabama [Mr. SHELBY]. I want also to commend our minority members starting with my good friend and ranking member, the gentleman from North Carolina [Mr. BROYHILL], the ranking member of the subcommittee, the gentleman from New York [Mr. LENT], and the gentleman from Pennsylvania [Mr. RITTER].

Section 42 of this legislation is a provision which states that nothing in this action shall affect or change the Uranium Mill Tailings Act, and in discussing the matter, the conferees agreed to accept the provision.

The section was added at the behest of the Senator from Wyoming [Mr. SIMPSON], and I want to commend him for his accommodation with respect to the agreement, not only on the statutory language but also on the statement of managers. What we agreed to in the conference committee was that the statement of managers would constitute, for purposes of legislative history, the sole explanation. For the benefit of my colleagues, I would like to quote that statement at this point:

House bill.—No provisions.

Senate amendment.—The Senate amendment includes a provision to ensure that the Solid Waste Disposal Act Amendments of 1984 do not affect, modify, or amend the Uranium Mill Tailings Radiation Control Act of 1978, as amended (UMTRCA).

Conference substitute.—The Conference substitute is the same as the Senate amendment. Nothing in this section shall be deemed to preclude or to require the revision of existing regulations promulgated under UMTRCA.

I think this resolution of the matter is entirely acceptable, and deeply appreciate the cooperation of the other body and, particularly, of the sponsor of the amendment, the Senator from Wyoming.

The majority and minority staffs of both this body and of the other body have worked long and hard on this, and they had invaluable support, as we always do, from the Office of Legislative Counsel.

Again, I think this is a superb piece of legislation, crafted with a great deal of care, and I urge my colleagues to support it.

Mr. FLORIO. Mr. Speaker, I yield 4 minutes to the gentleman from Ohio [Mr. ECKART], a very valuable member of the subcommittee who played a very significant role in the conference.

Mr. ECKART. Mr. Speaker, in March 1983, during subcommittee markup of H.R. 2867, I offered an amendment—along with my friend and distinguished colleague, JIM FLORIO—to prohibit land disposal of the California list wastes—that is, those with heavy concentrations of arsenic, cyanide, lead, mercury, PCB's, et cetera. My amendment also required EPA to conduct a waste-by-waste review of all the remaining listed and identified hazardous wastes and to allow continued land disposal of these wastes only under circumstances that will be protective of human health and the environment. Under my amendment, EPA's failure to review a waste would mean that, by statue, that the waste would be prohibited from any form of land disposal.

Mr. Speaker, with some modifications, this provision is contained in the final version of H.R. 2867.

By enacting this provision, as well as the other safeguards in this bill, Congress will be sending a clear and unambiguous message to the regulated community and the Environmental Protection Agency: reliance on land disposal of hazardous waste has resulted in an unacceptable risk to human health and the environment. Consequently, the Congress intends that through the vigorous implementation of the objectives of this act, land disposal will be eliminated for many wastes and minimized for all others, and that advanced treatment, recycling, incineration, and other hazardous-waste-control technologies should quickly replace land disposal. In other words, land disposal should be used only as a last resort and only under conditions which are fully protective of human health and the environment.

In addition, the enactment of this bill constitutes a recognition that the successful implementation of the 1984 amendments will require an improved working relationship between the Environmental Protection Agency and the States. Congress, in my opinion, regards the development of a viable Federal-State partnership to be one of the highest priorities of this legislation and expects the Agency to devote much greater effort to assisting States in achieving authorization of their RCRA programs.

Finally, I would like to mention that H.R. 2867 amends RCRA by adding a new title—Regulation of Underground Storage Tanks. There are more than 2 million underground tanks in the United States which contain hazardous substances or gasoline. An estimated 100,000 are presently leaking—potentially contaminating ground water—and another 350,000 are expected to leak in the next 5 years. Since half the population of this country depends on ground water as its source of drinking water, a contamination threat of this magnitude must be addressed. Consequenlty, H.R. 2867 mandates the use of leak detection or comparable systems, the development of new tank standards which will protect against corrosion, as well as many other safeguards. Implementation of these safeguards during the next decade and removal of leaking tanks will, in my view, go a long way toward preserving America's most precious natural resource, its freshwater aquifers.

Finally, I would like to mention that the statement of managers states that exclusive reliance on the use of dipsticks as a method of inventory control is not likely to be a good indicator of whether a tank has a slow leak. While that is entirely true, it should be stated that EPA should not be precluded from reviewing mechanical inventory control systems. Some of these systems, if they are backed up with sophisticated computer technology, may prove to be a reliable method of detecting leaks and EPA should examine these types of systems.

□ 2150

Mr. FLORIO. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. TORRES].

Mr. TORRES. Mr. Speaker, I would like to thank the gentleman for yielding. I wish to thank the distinguished subcommittee chairman as well as the other members of the conference committee for their support of language requiring that health-assessment studies be conducted at operating landfills. As the gentleman knows, for nearly 3 months 18 families remain evacuated from their homes because of dangerous gases escaping from the BKK landfill located in my district. I would like to ask whether a health-assessment study will be conducted at the BKK facility before any other facility in the Nation.

Mr. FLORIO. Yes; I wish to assure the gentleman from California that I am aware of the serious situation occurring at the BKK landfill in West Covina and believe that a health-assessment study should be conducted at that facility immediately and before any other study.

Mr. TORRES. I thank the gentleman very much.

● Mr. RITTER. Mr. Speaker, I rise in support of H.R. 2867 and urge its expeditious passage by the House today.

I have a particular interest in this bill because it will include a first-time regulatory program for underground storage tanks. I believe everyone here today is familiar with the alarming numbers of underground storage tanks which are leaking nationwide.

This provision is important to me because of several incidents which have occurred in my district where drinking water supplies have been contaminated with gasoline. In one instance, it has been determined that leaking underground storage tanks are the cause of the problem. In the other case, no one has yet been able to pin down the source of the contamination.

The tank regulatory program is very similar to the one contained in H.R. 4985, a measure I introduced earlier this year in response to this emerging national environmental problem. However, my bill included another provision which I consider essential to close the loophole which now exists for petroleum based spills and leaks. That provision ended the petroleum exclusion which exists in Superfund now and which precludes EPA action when the contamination is petroleum based.

Removing the petroleum exclusion would enable EPA to spend Superfund dollars to clean up a petroleum-based situation even when the source of the contamination is not known. If the responsible parties could be located, EPA could then pursue the responsible parties for reimbursement. Thus, in situations like that in my district, where EPA is now precluded from acting, cleanup of dangerous gasoline contamination could begin.

I believe this is an essential element of a comprehensive petroleum-leak program, however, it was not within the scope of this conference. But I plan to continue to fight to ensure its inclusion in any Superfund bill which is enacted next year.

There are any number of other provisions in this bill which deserve particular mention, but I will only name a few.

Most importantly, H.R. 2867 includes a new national policy that land disposal of hazardous waste should be a method of last resort. In this measure we have put the EPA on a schedule for determining which hazardous wastes should be banned from one or more methods of land disposal. This is extremely important in light of the discouraging news we are receiving about the long-term integrity of land-disposal facilities.

Further, there is a ban on the injection of hazardous wastes into underground sources of drinking water, and a ban of bulk liquids into landfills. Both of these are enviornmentally unsafe practices which are appropriately restricted by the terms of H.R. 2867.

For all of these reasons, I am a strong supporter of H.R. 2867 and hope that we can quickly send it to the Senate for passage today.●

● Mr. BREAUX. Mr. Speaker, I rise in strong support of H.R. 2867, providing amendments and improvements to the Solid Waste Disposal Act of 1976. I believe that this legislation heralds in a new era for the responsible disposal of this Nation's hazardous waste. By this legislation, the Congress is sending a clear signal to the American people that the long standing out-of-sight, out-of-mind attitude which has characterized our traditional hazardous waste disposal practices must come to an end. This legislation should also prove to be an enormous stimulant to the development of alternative treatment and destruction technologies so that we might once and for all stop the practices that have led to the poisoning of our land, water, air, and human resources.

I would not normally find it necessary to comment on specific provisions of the conference report and statement of managers, however, remarks made in the other body during its consideration of the conference report prompt me to make three points.

The first pertains to the exemption provided in section 215(j)(4) enabling certain existing surface impoundments to avoid the general rule of section 215(j)(1) requiring such impoundments to meet the new minimum tech-

nological requirements within 4 years of enactment. This exemption provides that if an owner or operator of such a facility demonstrates that a: "Surface impoundment is located, designed, and operated so as to assure that there will be no migration of any hazardous constituent into ground or surface water at any future time", then the Administrator is authorized to modify the 215(j)((1) requirement. Statements on the floor of the other body interpret the phrase "any future time" as being 150 years. This was not, in fact, the intent of the conferees and as the original author of this provision, I reject this interpretation. The phrase "any future time" means exactly what is says. No arbitrary outside time was assumed as being sufficient to meet this test.

The second pertains to statements made in the other body indicating that mining wastes—or for that matter any other wastes—that, "assume a solidified form after they are placed in a mine or cave" are not subject to the statutory prohibition on bulk or noncontainerized liquid waste placement in salt dome formations, salt bed formations, underground mines and caves, until the Administrator determines after hearings on the record in affected areas that such placement is protective of human health and the environment.

Again, I must take strong issue with this statement. The conferees, including this conferee, were directly confronted with the option of placing this interpretation in the statement of managers—and rejected it. Any waste that does not pass the EPA regulatory definition distinguishing between liquid and solid waste are subject to the prohibition noted above and the disposal of such waste is prohibited until the necessary hearings and determinations have been made.

In closing, Mr. Speaker, let me again reiterate my support for this important, indeed vital, piece of legislation. I would be remiss if I did not thank the distinguished chairman of the House committee, Mr. DINGELL, the chairman of the subcommittee, Mr. FLORIO, the subcommittee ranking member, Mr. LENT and their able staffs, particularly John Clough, Chris Harris, and Claire Whitney for the many courtesies and assistance they gave to me and my staff in the difficult process of forging this legislation.●

● Mr. SHELBY. Mr. Speaker, I rise in support of the conference report to H.R. 2867, the Solid Waste Disposal Act Amendments of 1984—a bill to reauthorized the Resource Conservation and Recovery Act [RCRA]. RCRA is one of this Nation's most important hazardous waste management laws.

The conference report makes changes in current law necessary to address a rising national concern over ineffective hazardous waste control and disposal. In meshing the work of both Houses, the conference report tightens up enforcement regulations governing the transport, storage, treatment and disposal of hazardous waste. Agreements were reached on often differing approaches to land disposal, underground tanks, surface impoundments, and small quantity generators of hazardous waste.

I want to praise, in particular, the compromise reached in conference on the regulation of hazardous waste generated by small quantity generators. These are businesses, as defined in the bill, that generate less than 1,000 kilograms but more than 100 kilograms of waste per month. Small quantity generators are now exempt from the RCRA management process under current EPA regulations. EPA's efforts to control the disposal of hazardous waste is concentrated on those large generators of hazardous waste that produce 97 percent of all hazardous waste in the country.

In mandating EPA regulations of SQG's for the first time, Congress has prescribed reasonable limits on EPA's regulatory authority.

The conference report requires that by March 31, 1986, the EPA must issue regulations for businesses generating between 100 and 1,000 kilograms per month. EPA is to take into account these small quantity generator's unique characteristics and their ability to comply with Federal regulations. Notwithstanding these special considerations, the regulations must be sufficient to protect human health and the environment.

By 270 days after enactment, the bill imposes a self-implementing requirement that these same SQG's must have a uniform shipping manifest to notice the waste haulers of the nature of the waste, the quantity of the waste, and the location of the waste disposal site.

The bill also provides authorization for a 2-years education program to be administered by EPA for the purpose of informing these SQG's of their new responsibilities under the act.

Mr. Chairman, many thousands of businesses and their proprietors will be affected by these new provisions. I have supported the gradual incorporation of these small quantity generators into the Federal regulatory process, by setting a reasonable threshold of regulation at 100 kilograms per month or about 220 pounds. I am pleased that the conference report contains this 100 kilograms per month threshold, and believe such a cutoff will result in a greater degree of voluntary compliance than any lower threshold.

We have tried to ensure that the new small quantity generator mandates will be realistic and responsible. We have tried to respond to the concerns of the small business community and environmental interests in balancing the need to adequately protect health and the environment and the need to keep compliance burdens to a minimum. I believe we have succeeded in these efforts, and have devised an economically and environmentally acceptable program. I am pleased to endorse the SQG component of this conference report.

This is a balanced and reasoned approach to hazardous waste management and disposal and I urge my colleauges' strong support.●

Mr. LENT. Mr. Speaker, we have no further requests for time.

Mr. FLORIO. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

EXEMPTING RESTAURANT CENTRAL KITCHENS FROM FEDERAL INSPECTION REQUIREMENTS

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 5223) to exempt restaurant central kitchens from Federal inspection requirements, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments as follows:

Strike out all after the enacting clause and insert:

That section 301(c)(2) of the Federal Meat Inspection Act (21 U.S.C. 661(c)(2)) is amended by adding the following sentence at the end thereof: "For the purposes of this subparagraph, operations conducted at a restaurant central kitchen facility shall be considered as being conducted at a restaurant if the restaurant central kitchen prepares meat or meat food products that are ready to eat when they leave such facility and are served in meals or as entrees only to customers at restaurants owned or operated by the same person, firm, or corporation owning or operating such facility: *Provided,* That such facility shall be subject to the provisions of section 202 of this Act: *Provided further,* That the facility may be subject to the inspection requirements under title I of this Act for as long as the Secretary deems necessary, if the Secretary determines that the sanitary conditions or practices of the facility or the processing procedures or methods at the facility are such that any of its meat or meat food products are rendered adulterated.".

SEC. 2. Section 5(c)(2) of the Poultry Products Inspection Act (21 U.S.C. 454(c)(2)) is amended by adding the following sentence at the end thereof: "For the purposes of this subparagraph, operations conducted at a restaurant central kitchen facility shall be considered as being conducted at a restaurant if the restaurant central kitchen prepares poultry products that are ready to eat when they leave such facility and are served in meals or as entrees only to customers at restaurants owned or operated by the same

person owning or operating such facility: *Provided,* That such facility shall be subject to the provisions of section 11(b) of this Act: *Provided further,* That the facility may be subject to the inspection requirements of this Act for as long as the Secretary deems necessary, if the Secretary determines that the sanitary conditions or practices of the facility or the processing procedures or methods at the facility are such that any of its poultry products are rendered adulterated.".

Amend the title so as to read: "An Act to amend the Federal Meat Inspection Act and the Poultry Products Inspection Act to exempt restaurant central kitchens under certain conditions from Federal inspection requirements.".

Mr. DE LA GARZA (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. JEFFORDS. Mr. Speaker, reserving the right to object, I do so only for the purposes of inquiring from our chairman, and I would yield to him for that purpose, as to what the amendment was which the other body attached and asked us to concur with.

Mr. DE LA GARZA. Mr. Speaker, will the gentleman yield?

Mr. JEFFORDS. I yield to the gentleman from Texas.

Mr. DE LA GARZA. Mr. Speaker, H.R. 5223, which the House passed earlier, is essentially identical to S. 2256, with the exception that an amendment has been added, a good amendment which we welcome because it strengthens the bill.

The House-passed bill would amend the Federal Meat Inspection Act and the Poultry Products Inspection Act to provide an exemption from Federal meat and poultry inspection requirements for restaurant central kitchens that prepare meat and poultry products that are: First, ready to eat when they leave such facility; and second, served in meals or entrees only to customers at restaurants owned or operated by the same person owning or operating such facility.

Restaurant central kitchens presently are subject to USDA inspection and equipment requirements on the same basis as meatpacking plants and processing operations. Restaurants, per se, are exempt from such requirements. The House-passed bill would put central kitchens that prepare meals ready to be served to customers at restaurants owned or operated by the same owner on a par with restaurants that serve meals prepared on the premises.

The Senate amendment would continue to subject these central kitchens to recordkeeping requirements of the act and permit USDA to examine their facilities, inventory, and records. It would also reimpose Federal inspection requirements should problems be discovered concerning sanitation of the premises or adulteration of meat or poultry products.

Mr. JEFFORDS. Mr. Speaker, I can say this time without any qualms about being contradicted that the administration has no objection to this bill.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Texas?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the matter just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

REDESIGNATION OF REGIONAL VETERANS' ADMINISTRATION MEDICAL CENTER IN POPLAR BLUFF, MI, AS "GENERAL BLACK JACK PERSHING REGIONAL VETERANS' ADMINISTRATION MEDICAL CENTER"

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent that the Committee on Veterans' Affairs be discharged from further consideration of the bill (H.R. 5252) to redesignate the Regional Veterans' Administration Medical Center located in Poplar Bluff, MO, as the "General Black Jack Pershing Regional Veterans' Administration Medical Center," and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

Mr. HAMMERSCHMIDT. Mr. Speaker, reserving the right to object, I do so for the purpose of yielding to the chairman of the committee for an explanation of his unanimous-consent request.

Mr. MONTGOMERY. Mr. Speaker, will the gentleman yield?

Mr. HAMMERSCHMIDT. I yield to the gentleman from Mississippi.

Mr. MONTGOMERY. Mr. Speaker, this bill would name the Veterans' Administration Medical Center in Poplar Bluff, MO, the John J. Pershing Veterans' Administration Medical Center. The bill is supported by all Members of the Missouri congressional delegation and the major veterans organizations chartered in the State of Missouri.

I plan to offer an amendment which is at the desk to make technical corrections to the bill. The amendment has been cleared with the gentleman from Arkansas [Mr. HAMMERSCHMIDT] and the author of the bill [Mr. EMERSON].

Mr. HAMMERSCHMIDT. Mr. Speaker, H.R. 5252 would name the Veterans' Administration Medical Center in Poplar Bluff, MO, after the late Gen. John J. Pershing.

The general was a great leader of men and made tremendous contributions to this Nation, particularly during World War I in Europe. He was beloved and respected for all of his life and it is a fitting tribute to him to have this VA Hospital bear his famous name.

Mr. Speaker, H.R. 5252 complies with the rules of the House Veterans' Affairs Committee with respect to naming hospitals in the VA system. Congressman BILL EMERSON and his colleagues from Missouri have done their job well in presenting this bill. It has the full support of all Members on our side of the aisle, and I urge its passage, and I support the request of our distinguished chairman.

Mr. EDGAR. Mr. Speaker, will the gentleman yield?

Mr. HAMMERSCHMIDT. Reserving the right to object, I yield to a member of the committee, the gentleman from Pennsylvania [Mr. EDGAR].

Mr. EDGAR. Mr. Speaker, I thank the gentleman for yielding. As the chairman of the Subcommittee on Hospitals and Health Care, I just want to indicate my support for the legislation.

Mr. HAMMERSCHMIDT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

Mr. BEREUTER. Mr. Speaker, reserving the right to object, I do so only to say that the bill is supported by the entire Nebraska delegation as well. We take a special interest in anything that is named after General Pershing.

I commend the committee and all its members for this action.

Mr. Speaker, I withdraw my reservation of objection.

Mr. EMERSON. Mr. Speaker, I am pleased to rise in strong support of this bill to name the Poplar Bluff, MO, Regional VA Medical Center in honor of General "Black Jack" Pershing, but before I continue I want to express my thanks to the gentleman from Mississippi [Mr. MONTGOMERY], the gentleman from Pennsylvania [Mr. EDGAR], and the gentleman from Arkansas [Mr. HAMMERSCHMIDT] for their help and assistance in moving this bill to the floor.

John Joseph Pershing was born September 13, 1860, near Laclede, MO. At a young age, Pershing was educated by his mother and became a teacher himself in the country schools near his home. By teaching and odd-jobbing, Pershing was able to save tuition money and entered the State Normal School in Kirksville, MO, in 1879. After 1 year's study, Pershing returned to teaching because he could not afford his tuition, but reentered the State Normal School in 1881. It was during his second year at the State Normal School that Pershing saw a newspaper announcement of competitive examinations for admission to the U.S. Military Academy. To his surprise, the tall, sober Missourian won admission to the freshman class of 1882.

John J. Pershing did well at West Point and was rewarded with cadet offices—corporal; sergeant; and then for his first-class year, the most coveted rank of all, first captain.

Pershing graduated from West Point in June 1886, 30 in a class of 77. Following graduation he joined the 6th Cavalry at Fort Bayard, NM. In 1891 the 6th Cavalry joined in the campaign to prevent a great Sioux war and Pershing was involved in the mopping-up after the Battle of Wounded Knee Creek. Pershing took command of a company of Sioux scouts and both he and the Sioux learned affection and respect for each other; the experience taught the young officer that men should be judged for what they do.

A brief stay at Fort Niobrara, NE, ended with Pershing's appointment, on September 25, 1891, as professor of military science and tactics, commandant of the university battalion, and teacher of fencing at the University of Nebraska, in Lincoln. Pershing used his spare time at the university to earn a law degree in 1893, an achievement that tempted him to briefly consider resigning from the Army.

Pershing's success with the Nebraska cadet battalion became legendary after he carried them to victory in national drill competition in 1892. In October 1895, he left Nebraska for field duty and helped round up Cree Indians in Montana for deportation to Canada.

In 1896, Pershing was transferred from Fort Assiniboine, MT, to Headquarters of the Army in Washington. From Washington, he went to West Point as instructor of tactics in June 1897.

In the confines of barracks, the old ramrod stiffness returned to Pershing and he became disliked as an instructor. The West Point cadets sought derisive names for him and hit on "Black Jack." It stemmed from his service in Montana with the Negro 10th Cavalry and his obvious respect and devotion for the men who served in that regiment. But, it also meant uncommon toughness to restive young men.

On May 5, 1898, First Lieutenant Pershing received orders to join the 10th Cavalry at Chickamauga, GA. He went with the 10th Cavalry to Cuba, where he took prominent parts in the battles of San Juan and Kettle Hills and in operations around Santiago. His reckless bravery won him praise from the commander of the 10th Cavalry who called Pershing "the coolest man under fire I ever saw."

After serving with the Bureau of Insular Affairs in Washington, Pershing served as adjutant general of the District of Zamboanga and of the Department of Mindanao, Phillipines.

Called home for service with the general staff in 1903, Pershing attended the Army War College in 1904-05. In February 1905, he married Frances Warren, daughter of Senator Francis Warren of Wyoming. In 1906 he was named military attaché in Japan and became official American observer of the Russo-Japanese War.

Pershing was recalled to the United States in 1914 and was stationed briefly in San Francisco. Pershing was transferred to Fort Bliss, TX, but left his wife and four children in California. A fire swept through the family's quarters in August 1915 and all but one child died.

In 1916, Pershing was chosen to command a punitive expedition to pursue Pancho Villa into Mexico in retaliation for his raid on Columbus, NM. Pershing never caught Pancho Villa, but his relentless quest broke the bandit's power.

On May 26, 1917, Pershing received the command he is most famous for—Commander of the American Expeditionary Forces. Upon the Americans' arrival in Europe, British and French generals urged Pershing to put his men into existing Allied divisions, but Pershing resisted all such efforts. In the hard drives of the spring of 1918, American units played crucial roles in halting the Germans at the Marne. Bloody fighting at Cantigny, in Belleau Wood, and Château Thierry baptized Americans in the realities of modern warfare and they acquitted themselves well. While Americans ground forward, the Allied forces struggled on until the German Army collapsed. With the armistice of November 11, 1918, active fighting ended, although Pershing had wanted to drive the enemy all the way to Berlin.

On September 3, 1919, Pershing was named General of the Armies, the first person ever to hold that rank in his own lifetime. On July 1, 1921, he became Chief of Staff of the Army.

After his retirement from the Army in September 1924, Pershing served as Chairman of the American Battle Monuments Commission. In 1931, he published "My Experiences in the World War," which won the Pulitzer Prize for history. His entire life typified the motto of his alma mater—"Duty, Honor, Country." From invalid quarters at Walter Reed Hospital Pershing counseled his former staff officer, George Marshall, on the conduct of global war. General Pershing died on July 15, 1948, and is buried in Arlington National Cemetery.

Mr. Speaker, this bill has the support of every congressionally chartered veterans organization that has a chapter in the State of Missouri, and it has been cosponsored by the entire Missouri, Nebraska, and Wyoming delegations. It has been a longstanding wish of many, many Missourians to honor General Pershing in this way—he is one of our State's most famous and favorite sons. I urge my colleagues to support this legislation honoring this great American soldier, citizen, and educator.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The Clerk read the bill, as follows:

H.R. 5252

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. The Congress finds that John Joseph Pershing—

(1) was born September 13, 1860, near Laclede, Missouri;

(2) graduated from the United States Military Academy in the class of 1886 after rising to the coveted rank of cadet first captain;

(3) served as commandant of the university battalion at the University of Nebraska and as instructor of tactics at the United States Military Academy;

(4) stemming from his service with and his obvious admiration of the men in the Negro Tenth Cavalry in Montana, was nicknamed "Black Jack" by the cadet of the United States Military Academy;

(5) served admirably in the service of the United States Army in Mexico, the Philippines, Japan, and various posts in the United States;

(6) was made Commander of the Allied Expeditionary Forces in Europe during World War I;

(7) is the only American to ever hold the rank of General of the Armies;

(8) served as Chief of Staff of the United States Army;

(9) after his retirement from the United States Army, served as Chairman of the American Battle Monuments Commission;

(10) received the Pulitzer Prize for history for publishing "My Experiences in the World War";

(11) often counseled his former staff officer, George C. Marshall, on the conduct of global war during World War II;

(12) had a career that spanned sixty years of military change; and

(13) died on July 15, 1946, in Walter Reed Hospital and is buried at Arlington National Cemetery.

SEC. 2. (a) The Regional Veterans' Administration Medical Center building located in Poplar Bluff, Missouri (currently known as the "Regional Veterans' Administration Medical Center"), is hereby redesignated and shall hereafter be known as the "Gen-

eral Black Jack Pershing Regional Veterans' Administration Medical Center".

(b) Any reference in law, map, regulation, document, record, or other paper of the United States to such building shall be deemed to be a reference to the "General Black Jack Pershing Regional Veterans' Administration Medical Center".

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. MONTGOMERY

Mr. MONTGOMERY. Mr. Speaker, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. MONTGOMERY: Strike all after the enacting clause and insert the following:

That the Veterans' Administration Medical Center in Poplar Bluff, Missouri, shall after the date of the enactment of this Act be known and designated as the "John J. Pershing Veterans' Administration Medical Center". Any reference to such medical center in any law, regulation, map, document, record, and other paper of the United States shall after such date be deemed to be a reference to the John J. Pershing Veterans' Administration Medical Center.

Mr. MONTGOMERY (during the reading). Mr. Speaker, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The title of the bill was amended so as to read: "A bill to redesignate the Veterans' Administration Medical Center located in Poplar Bluff, MO, as the "John J. Pershing Veterans' Administration Medical Center."

A motion to reconsider was laid on the table.

REQUEST FOR CONSIDERATION OF H.R. 2519, FOR THE RELIEF OF AUDREY O. LEWIS AND EMERSON B. VEREEN

Mr. SAM B. HALL, JR. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary be discharged from the further consideration of the bill (H.R. 2519), for the relief of Audrey O. Lewis and Emerson B. Vereen, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. CHANDLER. Mr. Speaker, reserving the right to object, we have no one here from the Judiciary Committee.

Mr. SAM B. HALL, JR. Mr. Speaker, will the gentleman yield?

Mr. CHANDLER. I yield to the gentleman from Texas.

Mr. SAM B. HALL, JR. This has already been cleared with the gentleman from Ohio [Mr. KINDNESS], who is the ranking minority member on the subcommittee.

Mr. CHANDLER. I am sorry, but I will have to object because I have no word from the gentleman from Ohio [Mr. KINDNESS].

The SPEAKER pro tempore. Objection is heard.

Mr. SAM B. HALL, JR. Mr. Speaker, I ask unanimous consent to withdraw the bill, H.R. 2519, at the present time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

MAKING IN ORDER CONSIDERATION OF CONFERENCE REPORT ON S. 1330 TOMORROW OR ANY DAY THEREAFTER

Mr. EDGAR. Mr. Speaker, I ask unanimous consent that the conference report on the Senate bill, S. 1330, be permitted to be brought up tomorrow or any day thereafter.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

A further message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 6163. An act to amend title 28, United States Code, with respect to the places where court shall be held in certain judicial districts, and for other purposes.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4164) "An act to amend the Vocational Education Act of 1963 to strengthen and expand the economic base of the Nation, develop human resources, reduce structural unemployment, increase productivity, and strengthen the Nation's defense capabilities by assisting the States to expand, improve, and update high-quality programs of vocational-technical education, and for other purposes."0[H03OC4-B1016]F

□ 2200

CONSERVATION SERVICE REFORM ACT OF 1984

Mr. RALPH M. HALL. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 5946) to reform the Residential Conservation Service and to repeal the Commercial and Apartment Conservation Service, with a Senate amendment thereto, and concur in the Senate amendment with an amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment and the House amendment to the Senate amendment, as follows:

Senate amendment: Strike out all after the enacting clause and insert:

SECTION 1. (a) During the period beginning on the date of the enactment of this Act and ending on January 1, 1986, the Secretary of Energy may not approve any plan under section 721(a) of the National Energy Conservation Policy Act (relating to energy conservation for commercial buildings and multifamily dwellings), and no public utility may be required to offer an energy audit to an eligible customer of such utility under section 731(a)(1) of such Act, except pursuant to a plan approved by the Secretary prior to the date of the enactment of this Act.

(b) Sections 215(d), and 217(e)(1) of the National Energy Conservation Policy Act (relating to utility programs and home heating supplier programs) are amended by striking out "January 1, 1985," each place it appears and inserting in lieu thereof "January 1, 1986,".

House amendment to the Senate amendment:

In lieu of the matter proposed to be inserted by the Senate amendment, insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Conservation Service Reform Act of 1984".

TITLE I—LIMITATION OF PROVISIONS REGARDING COMMERCIAL BUILDINGS AND MULTIFAMILY DWELLINGS

SEC. 101. NO APPROVAL, AFTER ENACTMENT DATE, OF ENERGY CONSERVATION PLANS FOR COMMERCIAL BUILDINGS AND MULTIFAMILY DWELLINGS.

Notwithstanding title VII of the National Energy Conservation Policy Act (relating to energy conservation for commercial buildings and multifamily dwellings), after the date of the enactment of this Act, the Secretary of Energy may not approve any energy conservation plan for commercial buildings and multifamily dwellings (within the meaning of such title VII).

SEC. 102. LIMITATION ON ENFORCEMENT OF TITLE VII.

The provisions of title VII shall not apply to any public utility except pursuant to an energy conservation plan for commercial buildings and multifamily dwellings (within the meaning of such title VII) approved by the Secretary of Energy before the date of the enactment of this Act.

SEC. 103. REPEAL OF PROVISIONS REGARDING COMMERCIAL BUILDINGS AND MULTIFAMILY DWELLINGS, EFFECTIVE JANUARY 1, 1986.

(a) IN GENERAL.—Effective January 1, 1986, title VII of the National Energy Conservation Policy Act (relating to energy conservation for commercial buildings and multifamily dwellings) is repealed.

(b) CLERICAL AMENDMENT.—The table of contents for such Act is amended by striking out the items relating to title VII.

TITLE II—RESIDENTIAL CONSERVATION SERVICE

SEC. 201. CHANGES IN CERTAIN PLAN REQUIREMENTS.

(a) INFORMATION REQUIREMENTS MADE APPLICABLE UNTIL JANUARY 1, 1990.—Sections 215(a) and (d) and 217(a)(1) of the National Energy Conservation Policy Act (relating to utility programs and home heating supplier programs) are amended by striking out

"January 1, 1985" each place it appears and inserting in lieu thereof "January 1, 1990".

(b) ELIMINATION OF REQUIREMENTS THAT PUBLIC UTILITIES ARRANGE FOR INSTALLATION OF SUGGESTED MEASURES AND FOR RELATED LOANS; ELIMINATION OF LISTING REQUIREMENTS.—

(1) UTILITY PROGRAMS.—Section 215(b) of such Act (relating to project manager requirements) is amended—

(A) by striking out "Each utility program shall include" through "procedures" and inserting in lieu thereof "Each utility program shall include procedures";

(B) by strking out "to" through "inspect" and inserting in lieu thereof "to inspect"; and

(C) by striking out "inspection;" and all that follows and inserting in lieu thereof "inspection.".

(2) HOME HEATING SUPPLIER PROGRAMS.—Section 217(a)(2) of such Act (relating to home heating supplier programs) is amended—

(A) by striking out "will—" through "inspect" and inserting in lieu thereof "will inspect"; and

(B) by striking out "installing, suggested measures;" and all that follows and inserting in lieu thereof "installing, suggested measures.".

(3) STATE PLANS.—Section 213(a) of such Act (relating to general plan requirements) is amended—

(A) by striking out paragraphs (2) and (3); and

(B) by redesignating paragraphs (4) through (9) as paragraphs (2) through (7), respectively.

(c) RULES.—Section 212(b)(2) of such Act (relating to rules of the Secretary) is amended by striking out subparagraphs (E) and (F) and inserting "and" at the end of subparagraph (C).

(d) EFFECT OF 1984 AMENDMENTS ON APPROVED PLANS.—Section 219 of such Act (relating to Federal standby authority) is amended by adding at the end thereof the following new subsection:

"(e) PLANS APPROVED BEFORE 1984 AMENDMENTS.—For purposes of this section, any residential energy conservation plan which was approved by the Secretary before the effective date of the Conservation Service Reform Act of 1984 shall be treated as an approved plan which is adequately implemented if such plan is adequately implemented in accordance with the requirements of this Act as amended by the Conservation Service Reform Act of 1984.".

(e) CONFORMING AMENDMENTS.—

(1) Paragraph (16) of section 210 of such Act is amended by striking out "215(b)(1)(A)" and inserting in lieu thereof "215(b)".

(2) Subparagraph (C) of section 212(b)(2) of such Act is amended by striking out "213(a)(4)" and inserting in lieu thereof "213(a)(2)".

(3) Subparagraph (A) of section 213(b)(2) of such Act is amended by striking out "215(b)(1)" and inserting in lieu thereof "215(b)".

(4) Subsection (b) of section 214 of such Act is amended by striking out "8" and inserting in lieu thereof "6".

(5) Section 215(a)(3) of such Act is amended by striking out "and the lists referred to in section 213(a) (2) and (3)".

(6) Subsection (d) of section 215 of such Act is amended by striking out ", the offer required under subsection (b)(1)(A)" and all that follows and by inserting in lieu thereof "and the offer required under subsection (b).".

(7) Section 215 of such Act is amended by striking out subsection (f) and by redesignating subsection (g) as subsection (f).

(8) Paragraph (1) of section 216(c) of such Act is amended by striking out subparagraph (A) and by redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively.

(9) Subparagraph (C) of section 216(c)(2) of such Act is amended by striking out "on the lists referred to in section 213(a)(2)".

(f) STATUTORY CONSTRUCTION.—Nothing in the amendments made by subsections (b) through (e) shall prevent implementation of a plan or program pursuant to the National Energy Conservation Policy Act as in effect before the date of the enactment of this Act.

(g) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall take effect 90 days after the date of the enactment of this Act.

(2) RULES.—The Secretary of Energy shall, within the 90-day period referred to in paragraph (1), amend the rules promulgated under section 212 of the National Energy Conservation Policy Act to carry out the amendments made by this Act.

(3) SPECIAL REQUIREMENT FOR PLANS APPROVED BEFORE 1984 AMENDMENTS.—The Secretary of Energy shall, with respect to any residential energy conservation plan approved by the Secretary of Energy before the effective date (as prescribed in paragraph (1)) of the amendments made by this section, require the appropriate official in charge of such plan to notify the Secretary of Energy, within 120 days of the date of enactment of this Act, that the amendments made by subsection (a) of this section shall be implemented for the duration of such plan.

SEC. 202. TIME LIMIT FOR ACTION ON APPLICATIONS FOR TEMPORARY PROGRAMS.

Any application for an exemption under section 218(a) of the National Energy Conservation Policy Act which is pending before the Secretary of Energy on the date of the enactment of this Act shall be deemed approved unless it is disapproved by the Secretary of Energy within 30 days after such date of enactment.

SEC. 203. TEMPORARY RELIEF FROM RCS REQUIREMENTS: PILOT ALTERNATIVE PLANS AND ALTERNATIVE PLANS FOR RESIDENTIAL BUILDINGS.

(a) IN GENERAL.—The National Energy Conservation Policy Act is amended by inserting the following new sections after section 225:

"SEC. 225A. TEMPORARY RELIEF FROM RCS REQUIREMENTS.

"(a) TIME FOR PILOT ALTERNATIVE PLANS.—

"(1) For the 90-day period beginning on the date of the enactment of this Act, the provisions of this title shall not apply to any utility.

"(2) In the case of a State which submits a plan under section 226A, the provisions of this title shall not apply, with respect to utilities included in such State plan, before the date that such plan is approved or disapproved.

"(3) In the case of a utility which submits a plan under section 226B, the provisions of this title shall not apply to such utility before the date that such plan is approved or disapproved.

"(b) TIME FOR ALTERNATIVE PLANS.—The provisions of this title shall not apply to any utiliity for the period beginning January 1, 1986, and ending June 30, 1986.

"SEC. 226A. PILOT ALTERNATIVE STATE PLANS.

"(a) IN GENERAL.—A Governor of any State or any State agency authorized to do so under State law may, within 90 days after the date of the enactment of this Act, submit a pilot alternative State plan to the Secretary.

"(b) APPROVAL BY THE SECRETARY.—

"(1) The Secretary shall approve or disapprove a plan under this section within 30 days after receipt.

"(2) If the Secretary does not approve or disapprove a plan submitted under subsection (a) within 30 days after receipt, the plan shall be deemed approved.

"(c) CONSEQUENCES OF APPROVAL.—(1) Beginning with the date on which a pilot alternative State plan is approved under subsection (b) with respect to a State, and ending on December 31, 1985—

"(A) sections 212(a) through (c)(3), 213 through 215, and sections 217, 218, and 219 shall not apply with respect to—

"(i) regulated utilities in such State, and

"(ii) nonregulated utilities which are included in the plan; and

"(B) sections 212 through 219 shall apply to nonregulated utilities which are not included in the plan and which do not have an approved pilot alternative utility plan under section 226B.

"(2) Any State which has a plan approved under subsection (b) shall continue to have such plan in effect until December 31, 1985.

"(d) CONTENT OF PLAN.—A plan submitted under section (a) shall not be disapproved by the Secretary if it meets the requirements of section 227A(d)(1) through (8), (10), and (11) and is consistent with the rules under section 215(c).

"(e) REPORT.—(1) A State which has a plan approved under subsection (b) shall submit a report to the Secretary, within the period beginning on January 1, 1986, and ending on March 1, 1986, describing the implementation of the plan and the results thereof.

"(2) Such report shall include the statements, description, and names set forth in section 227A(f).

"(f) ALTERNATIVE STANDARDS.—If a plan submitted under this section includes a statement (supported by evidence) that—

"(1) residential customers will not be adequately informed of the availability of benefits under such plan,

"(2) the number of residential buildings which have received benefits described in section 227A(d)(2) (regardless of whether included in a plan) prior to the effective date of the pilot alternative plan is so large that the results described in section 227A(d)(3) are unlikely to be reached in the absence of a finding under this subsection, or

"(3) the plan (or substantial portions thereof) will primarily benefit individuals with low or moderate incomes,

such plan may be implemented by substituting for '5 percent' (as such term is used in section 227A(d)(3)(A)) a percentage (determined by the Governor or State agency) which is less than 5 percent and greater than or equal to 3 percent.

"(g) MISCELLANEOUS PROVISIONS.—Rules similar to the rules under section 227A(h), (i), (j), and (l) shall apply to a plan approved under this section.

"SEC. 226B. PILOT ALTERNATIVE UTILITY PLANS.

"(a) IN GENERAL.—A regulated utility which is supported by the Governor and which is in a State in which a pilot alternative State plan has not been approved under section 226A and a nonregulated utility which is not included in a plan submitted by

a Governor or state agency as described in section 212(c) (if such inclusion is authorized under state law) or in a plan approved under section 226A may, within 90 days after the date of the enactment of this Act, submit a pilot alternative utility plan to the Secretary.

"(b) APPROVAL BY THE SECRETARY.—(1) Except as provided in paragraph (2)—

"(A) the Secretary shall approve or disapprove a plan under this section within 30 days after receipt; and

"(B) if the Secretary does not approve or disapprove a plan submitted under subsection (a) within 30 days after receipt, the plan shall be deemed approved.

"(2) A plan shall not be approved or deemed approved under paragraph (1) if it is for a regulated utility which is in a State in which a pilot alternative State plan has been approved under section 226A, or a nonregulated utility included in a plan submitted by a Governor or State agency as described in section 212(c) (if such inclusion is authorized under State law) or in a plan approved under section 226A.

"(c) CONSEQUENCES OF APPROVAL.—

"(1) Beginning with the date on which a pilot alternative utility plan is approved under subsection (b) with respect to a utility, and ending on December 31, 1985, sections 212(a) through (c)(3), 213 through 215, and sections 217, 218, and 219 shall not apply with respect to such utility.

"(2) Any utility which has a plan approved under subsection (b) shall continue to have such plan in effect until December 31, 1985.

"(d) CONTENT OF PLAN.—A plan submitted under subsection (a) shall not be disapproved by the Secretary if it meets the requirements of section 227B(d)(1) through (7), (9), and (10), and is consistent with the rules under section 215(c).

"(e) REPORT.—(1) A utility which has a plan approved under subsection (b) shall submit a report to the Secretary, within the period beginning on January 1, 1986, and ending on March 1, 1986, describing the implementation of the plan and the results thereof.

"(2) Such report shall include the statements, description, and names set forth in section 227B(f).

"(f) ALTERNATIVE STANDARDS.—If a plan submitted under this section includes a statement (supported by evidence) that—

"(1) residential customers will not be adequately informed of the availability of benefits under such plan.

"(2) the number of residential buildings which have received benefits described in section 227B(d)(2) (regardless of whether included in a plan) prior to the effective date of the pilot alternative plan is so large that the results described in section 227B(d)(3) are unlikely to be reached in the absence of a finding under this subsection, or

"(3) the plan (or substantial portions thereof) will primarily benefit individuals with low or moderate incomes.

such plan may be implemented by substituting for '5 percent' (as such term is used in section 227B(d)(3)(A)) a percentage (determined by the Governor) which is less than 5 percent and greater than or equal to 3 percent.

"(g) MISCELLANEOUS PROVISIONS.—Rules similar to the rules under section 227B(h), (i), and (k) shall apply to a plan approved under this section.

"SEC. 227A. ALTERNATIVE STATE PLANS.

"(a) IN GENERAL.—A Governor of any State or any State agency authorized to do so under State law may elect to formulate and certify an alternative State plan under this section.

"(b) CONSEQUENCES OF CERTIFICATION.—(1) Beginning with July 1, 1986, or the date on which the certification of a plan is made with respect to a State under subsection (e), whichever occurs later, and ending with the date on which a plan is no longer in effect under this section with respect to such State—

"(A) sections 212(a) through (c)(3), 213 through 215, and sections 217 and 218 shall not apply with respect to—

"(i) regulated utilities in such State, and

"(ii) nonregulated utilities which are included in the plan;

"(B) section 219 shall apply to utilities described in subparagraph (A) only to the extent provided for in subsection (g); and

"(C) sections 212 through 219 shall apply to nonregulated utilities which are not included in the plan and which have not certified an alternative utility plan under section 227B.

"(2) Except as provided in subsection (g), any State which certifies a plan under subsection (e) shall continue to have such plan in effect until the expiration of the 4-year period beginning on the date of such certification or until January 1, 1990, whichever occurs first.

"(c) FORMULATION OF PLAN.—In formulating any plan under this section, the Governor or State agency shall—

"(1) provide for advance notice to the public of proposed rulemaking for the purpose of formulating such plan;

"(2) publish a proposed rule on the content and implementation of the plan;

"(3) afford interested persons an opportunity to present oral and written comments on matters relating to such proposed rule; and

"(4) after taking such public comment into consideration, prescribe and make public a final rule setting forth the content and implementation of such plan.

"(d) CONTENT OF PLAN.—A plan certified pursuant to this section shall—

"(1) be designed to result in the dissemination of general energy conservation suggestions to all residential customers of utilities in the State;

"(2) be designed to result in—

"(A) specific energy conservation suggestions to each residential customer requesting such suggestions regarding the customer's residential building,

"(B) energy conservation improvements (which are included in such plan) to the customer's residential building, or

"(C) load management improvements (which are included in such plan) in the customer's residential building;

"(3) except as provided in subsection (k), for each year in which such plan is in effect, be designed to result in—

"(A)(i) in the case of a plan carried out solely by a State, benefits under paragraph (2) for a number of buildings equal to 5 percent or more of the residential buildings using natural gas or electric energy from utilities covered under section 211(a) in such State which did not, before such year, receive benefits under this Act, similar State law, or similar energy conservation program mandated or approved by a State agency (other than benefits under paragraph (1) or section 227B(d)(1) or a similar provision of the State law or energy conservation program); and

"(ii) in the case of any other plan, benefits under paragraph (2) for a number of buildings equal to 5 percent or more of the residential buildings served by the utilities included in the plan which did not, before such year, receive benefits under this Act, similar State law, or similar energy conservation program mandated or approved by a State agency (other than benefits under paragraph (1) or section 227B(d)(1) or a similar provision of the State law or energy conservation program);

"(B) energy consumption reductions (as determined by the Governor by rule) of an average of 10 percent or more (as compared to the preceding year) in the residential buildings in such State which receive specific energy conservation suggestions or energy conservation improvements under paragraph (2) during the year for which the determination is made; and

"(C) maximum kilowatt demand reductions (as determined by the Governor by rule) of an average of 10 percent or more (as compared to the preceding year) in the residential buildings in such State which receive load management improvements under paragraph (2) during the year for which the determination is made;

"(4) be designed to benefit individuals, including but not limited to individuals with low or moderate incomes;

"(5) contain adequate procedures to assure that, if a public utility supplies or installs residential energy conservation measures, such actions shall be consistent with section 216 and prices and rates of interest charged shall be fair and reasonable;

"(6) contain adequate procedures for preventing unfair, deceptive, or anticompetitive acts or practices affecting commerce which relate to the implementation of such plan;

"(7) be carried out by the State, by utilities within the State, or a combination of both;

"(8) be consistent with the rules under section 212(b)(2)(D);

"(9) contain rules consistent with the rules under section 215(c);

"(10) contain provisions to assure that any person who alleges any injury resulting from a violation of any plan provision shall be entitled to redress pursuant to State law or under such procedures as may be established by the Governor or State agency prior to the date on which the plan is certified under subsection (e); and

"(11) contain provisions described in section 213(b)(2)(B).

"(e) CERTIFICATION.—(1) A Governor or State agency which elects to certify a plan under this section shall certify, pursuant to a form to be prescribed by the Secretary (except as provided by paragraph (2)) to the Secretary that the plan—

"(A) has been formulated in accordance with subsection (c); and

"(B) will be adequately implemented.

"(2) If a form is not made available by the Secretary within 90 days after the date of the enactment of this section, the Governor or State agency may make such certification on a form prescribed by such Governor or State agency.

"(3) Any certification under this subsection shall include a detailed explanation of the manner in which the contents of the plan will be implemented.

"(f) ANNUAL REPORT.—(1) The State shall submit an annual report to the Secretary, within 60 days after the end of the 1-year period to which the report relates, describing the implementation of the plan and the results thereof.

"(2) Such report shall include—

"(A) a statement of the number of buildings receiving benefits under subsection (d)(2),

"(B) a statement of the energy savings resulting from the plan, including a statement of average energy consumption reductions in the case of residential buildings which receive energy conservation suggestions or energy conservation improvements under subsection (d)(2), and a statement of average maximum kilowatt demand reductions in the case of residential buildings which receive load management improvements under subsection (d)(2),

"(C) a statement of the proportion of individuals with low and moderate incomes who receive benefits under subsection (d)(2),

"(D) a detailed description of the benefits provided under the plan, and

"(E) the names of the entities carrying out the plan.

"(g) ADMINISTRATIVE AND JUDICIAL ENFORCEMENT PROCEEDINGS.—(1) At any time more than 1 year after an alternative State plan has been certified under subsection (e) with respect to a State, any resident of such State may petition the Secretary to conduct a public hearing to determine if the alternative State plan has been adequately implemented. A copy of such petition shall be transmitted to the Governor or the appropriate State agency on the same date it is transmitted to the Secretary. The Secretary shall have 90 days after the date on which such petition is received to make a determination on the matter.

"(2) Except as provided in paragraph (3), if the Secretary determines that the alternative State plan has not been adequately implemented, the Secretary shall, within the 90-day period described in paragraph (1), initiate standby authority under section 219 with respect to such State. If the Secretary does not initiate the standby authority within the 90-day period, the resident may bring a de novo action in the appropriate United States district court—

"(A) against the Secretary (with the State having the right to intervene) to require the Secretary to implement standby authority under section 219, or

"(B) against the State to require the State to adequately implement the alternative State plan certified under subsection (e).

If the court finds that the State has failed to adequately implement such plan, it shall order the remedy requested by the plaintiff under subparagraph (A) or (B). If an individual prevails in an action under subparagraph (A), the court shall award such individual reasonable fees and expenses of attorneys and costs.

"(3) If a State which had an approved plan in effect under section 212 on the day before the date on which certification was made under this section informs the Secretary in writing, within 30 days after receiving a copy of the petition described in paragraph (1), that it will no longer implement a plan certified under this section and that it will implement the approved plan which was in effect in the State on the day before certification of the alternative plan under this section—

"(A) the determinations and actions described in paragraph (2) may not be carried out; and

"(B) sections 212 through 219 shall apply in such State except to the extent an alternative utility plan under section 227B is implemented in such State.

"(4)(A) A resident may not petition the Secretary under paragraph (1) and may not bring an action under paragraph (2) if such petition or action is based solely on a failure to reach the results described in paragraph (3) of subsection (d) or subsection (k).

"(B) A court may not make a finding that a State has failed to adequately implement a plan under paragraph (2) if such finding is based solely on a failure to reach the results described in paragraph (3) of subsection (d) or subsection (k).

"(h) COVERAGE.—A plan certified under this section shall not apply to utilities other than utilities covered under section 211(a).

"(i) INCLUSION OF NONREGULATED UTILITIES.—No nonregulated utility may be included in a plan by a Governor or State agency under this section unless such inclusion is authorized under State law or the nonregulated utility agrees to such inclusion.

"(j) UTILITIES WITH RETAIL SERVICE TERRITORIES IN MORE THAN 1 STATE.— For purposes of this section, any utility with a retail service territory (as defined in section 227B(d)) in more than one State shall be considered to be a separate utility with respect to each State in which its retail service territory is located.

"(k) ALTERNATIVE STANDARDS.—(1) If—

"(A) the Governor or State agency which certifies a plan under this section finds—

"(i) with respect to the first year in which the alternative State plan is to be in effect, that residential customers will not be adequately informed of the availability of benefits under such plan, or

"(ii) with respect to any year in which the alternative State plan is to be in effect, that—

"(I) the number of residential buildings which have received benefits described in subsection (d)(2) (regardless of whether included in a plan) prior to such year is so large that the results described in subsection (d)(3) are unlikely to be reached in the absence of a finding under this subsection, or

"(II) such alternative State plan (or substantial portions thereof) will primarily benefit individuals with low or moderate incomes, and

"(B) such finding is made after interested persons are afforded an opportunity to present oral and written comments thereon (which, with respect to the first year in which an alternative State plan is to be in effect, may be in combination with the opportunity afforded under subsection (c)(3)), the results described in subsection (d)(3)(A) shall be applied to such year by substituting for '5 percent' a percentage (determined by such Governor or State agency) which is less than 5 percent and greater than or equal to 3 percent.

"(2) A finding under this subsection may not be made more frequently than once a year and each such finding shall be applicable to the implementation of an alternative State plan for a period, beginning on the date specified in such finding, not to exceed 12 months. Such period shall not begin before the date of such finding.

"(l) CLASSIFICATION AS LOAD MANAGEMENT IMPROVEMENT OR ENERGY CONSERVATION IMPROVEMENT.—For purposes of this section, in the case of a technique or installation which may be classified as either a load management improvement or an energy conservation improvement, the Governor, by rule, shall determine whether to treat such technique or installation as a load management improvement, an energy conservation improvement, or both.

"SEC. 227B. ALTERNATIVE UTILITY PLANS.

"(a) IN GENERAL.—A regulated utility which is in a State in which an alternative State plan is not in effect under section 227A and a nonregulated utility which is not included in a plan submitted by a Governor or State agency as described in section 212(c) (if such inclusion is authorized under State law) or in a plan certified under section 227A may elect to certify an alternative utility plan under this section.

"(b) CONSEQUENCES OF CERTIFICATION.—(1) Beginning with July 1, 1986, or the date on which the certification of a plan is made with respect to a utility under subsection (e), whichever occurs later and ending with the date on which a plan is no longer in effect under this section with respect to such utility—

"(A) sections 212 (a) through (c)(3), 213 through 215, and sections 217, 218, and 227A shall not apply with respect to such utility; and

"(B) section 219 shall apply to such utility only to the extent provided for in subsection (g).

"(2) Except as provided in subsection (g), any utility which certifies a plan under subsection (e) shall continue to have such plan in effect until the expiration of the 4-year period beginning on the day of such certification or until January 1, 1980, whichever occurs first.

"(c) FORMULATION OF PLAN.—The Governor or State agency authorized to do so under State law shall formulate a plan under this section on behalf of any regulated utility which has elected to certify a plan under this section. In formulating any plan under this section, the nonregulated utility or the Governor or State agency in the case of a regulated utility shall—

"(1) provide for advance notice to the public of such plan;

"(2) publish a description of the proposed content and implementation of the plan;

"(3) afford interested persons an opportunity to present oral and written comments on matters relating to such proposed plan; and

"(4) after taking such public comment into consideration, prescribe and make public the content and implementation of such plan.

"(d) CONTENT OF PLAN.—Any plan certified pursuant to this section shall—

"(1) be designed to result in the dissemination of general energy conservation suggestions to all residential customers of such utility;

"(2) be designed to result in—

"(A) specific energy conservation suggestions to each residential customer requesting such suggestions regarding the customer's residential building,

"(B) energy conservation improvements (which are included in such plan) to the customer's residential building, or

"(C) load management improvements (which are included in such plan) in the customer's residential building;

"(3) except as provided in subsection (j), for each year in which such plan is in effect and with respect to the retail service territory of the utility, be designed to result in—

"(A) benefits under paragraph (2) for a number of buildings equal to 5 percent or more of the residential buildings using natural gas or electric energy from such utility which did not, before such year, receive benefits under this Act, similar State law, or similar energy conservation program mandated or approved by a State agency (other than benefits under paragraph (1) or sec-

tion 227A(d)(1) or a similar provision of the State law or energy conservation program);

"(B) energy consumption reduction (as determined by the Governor by rule) of an average of 10 percent or more (as compared to the preceding year) in the residential buildings in such territory which receive specific energy conservation suggestions or energy conservation improvements under paragraph (2) during the year for which the determination is made; and

"(C) maximum kilowatt demand reductions (as determined by the Governor by rule) of an average of 10 percent or more (as compared to the preceding year) in the residential buildings in such territory which receive load management improvements under paragraph (2) during the year for which the determination is made;

"(4) be designed to benefit individuals including but not limited to individuals with low or moderate income;

"(5) contain adequate procedures to assure that, if a public utility supplies or installs residential energy conservation measures, such actions shall be consistent with section 216 and prices and rates of interest charged shall be fair and reasonable;

"(6) contain adequate procedures for preventing unfair, deceptive, or anticompetitive acts or practices affecting commerce which relate to the implementation of such plan;

"(7) be consistent with the rules under section 212(b)(2)(D);

"(8) contain rules consistent with the rules under section 215(C);

"(9) contain provisions to assure that any person who alleges any injury resulting from a violation of any plan provision shall be entitled to redress—

"(A) in the case of an alleged violation by a regulated utility, pursuant to State law or under such procedures as may be established by the Governor or State agency prior to the date on which the plan is certified under subsection (e), or

"(B) in the case of an alleged violation by a nonregulated utility, under such procedures as are established by the nonregulated utility prior to the date on which the plan is certified under subsection (e); and

"(10) contain provisions described in section 213(b)(2)(B).

For purposes of this subsection, the term 'retail service territory' means the territory in a State in which a utility makes retail sales to residential customers.

"(e) CERTIFICATION.—(1) A utility which elects to certify a plan under this section shall certify, pursuant to a form to be prescribed by the Secretary (except as provided by paragraph (2)), to the Secretary that the plan—

"(A) has been formulated in accordance with subsection (c); and

"(B) will be adequately implemented.

"(2) If a form is not made available to a utility by the Secretary within 90 days after the date of the enactment of this section, the utility may make such certification on a form prescribed by such utility.

"(3) Any certification under this subsection shall include a detailed explanation of the manner in which the contents of the plan will be implemented, and, in the case of a regulated utility, shall include a statement of support from the Governor or the State agency of the State concerned.

"(f) ANNUAL REPORT.—(1) The utility shall submit an annual report to the Secretary, within 60 days after the end of the 1-year period to which the report relates, describing the implementation of the plan and the results thereof.

"(2) Such report shall include—

"(A) a statement of the number of buildings receiving benefits under subsection (d)(2),

"(B) a statement of the energy savings resulting from the plan, including a statement of average energy consumption reductions in the case of residential buildings which receive energy conservation suggestions or energy conservation improvements under subsection (d)(2), and a statement of average maximum kilowatt demand reductions in the case of residential buildings which receive load management improvements under subsection (d)(2),

"(C) a statement of the proportion of individuals with low and moderate incomes who receive benefits under subsection (d)(2),

"(D) a detailed description of the benefits provided under the plan, and

"(E) the names of the entities carrying out the plan.

"(g) ADMINISTRATIVE AND JUDICIAL ENFORCEMENT PROCEEDINGS.—(1) At any time more than 1 year after an alternative utility plan has been certified under subsection (e) with respect to a utility, any residential customer of such utility may petition the Secretary to conduct a public hearing to determine if the alternative utility plan has been adequately implemented. A copy of such petition shall be transmitted to the utility on the same date it is transmitted to the Secretary. The Secretary shall have 90 days after the date on whcih such petition is received to make a determination on the matter.

"(2) Except as provided in paragraph (3), if the Secretary determines that the alternative utility plan has not been adequately implemented, the Secretary shall, within the 90-day period described in paragraph (1), initiate standby authority under section 219 with respect to the utility concerned. If the Secretary does not initiate such standby authority within such 90-day period, such customer may bring a de novo action in the appropriate United States district court—

"(A) against the Secretary (with the utility having the right to intervene) to require the Secretary to implement standby authority under section 219 with respect to such utility, or

"(B) against the utility to require the utility to adequately implement the alternative utility plan certified under subsection (e).

If the court finds that the utility has failed to adequately implement such plan, it shall order the remedy requested by the plaintiff under subparagraph (A) or (B). If an individual prevails in an action under subparagraph (A), the court shall award such individual reasonable fees and expenses of attorneys and costs.

"(3) If a utility which was within an approved State plan under section 212 on the day before the date on which certification was made under this section informs the Secretary in writing, within 30 days after receiving a copy of a petition described in paragraph (1), that it will no longer implement a plan certified under this section and that it will carry out a program in accordance with the State plan in effect under this part in the State—

"(A) the determinations and actions described in paragraph (2) may not be carried out; and

"(B) sections 212 through 219 shall apply to such utility unless it voluntarily or pursuant to State law becomes part of a State alternative plan implemented in the State under section 227A.

"(4) For purposes of implementing section 219(a)(2) to a regulated utility as a result of this subsection, the term 'each regulated utility in the State' in such section shall be deemed to mean only the utility with respect to which action is taken under this subsection.

"(5)(A) A residential customer may not petition the Secretary under paragraph (1) and may not bring an action under paragraph (2) if such petition or action is based solely on a failure to reach the results described in paragraph (3) of subsection (d) or subsection (j).

"(B) A court may not make a finding that a utility has failed to adequately implement a plan under paragraph (2) if such finding is based solely on a failure to reach the results described in paragraph (3) of subsection (d) or subsection (j).

"(h) COVERAGE.—A plan certified under this section shall not apply to utilities other than utilities covered under section 211(a).

"(i) UTILITIES WITH RETAIL SERVICE TERRITORIES IN MORE THAN 1 STATE.—For purposes of this section, any utility with a retail service territory (as defined in subsection (d)) in more than one State shall be considered to be a separate utility with respect to each State in which its retail service territory is located.

"(j) ALTERNATIVE STANDARDS.—(1) If—

"(A) the Governor of a State which includes a retail service territory (as defined in subsection (d)) of a utility which certifies a plan under this section finds, for such retail service territory—

"(i) with respect to the first year in which the alternative utility plan is to be in effect, that residential customers will not be adequately informed of the availability of benefits under such plan, or

"(ii) with respect to any year in which the alternative utility plan is to be in effect, that—

"(I) the number of residential buildings which have received benefits described in subsection (d)(2) (regardless of whether included in a plan) prior to such year is so large that the requirements of subsection (d)(3) are unlikely to be met in the absence of a finding under this subsection, or

"(II) such alternative utility plan (or substantial portions thereof) will primarily benefit individuals with low or moderate incomes, and

"(B) such finding is made after interested persons are afforded an opportunity to present oral and written comments thereon (which, with respect to the first year in which an alternative utility plan is to be in effect, may be in combination with the opportunity afforded under subsection (c)(3)), the requirements of subsection (d)(3)(A) shall be applied to such retail service territory for such year by substituting for '5 percent' a percentage (determined by such Governor) which is less than 5 percent and greater than or equal to 3 percent.

"(2) A finding under this subsection may not be made more frequently than once a year and each such finding shall be applicable to the implementation of an alternative utility plan for a period, beginning on the date specified in such finding, not to exceed 12 months. Such period shall not begin before the date of such finding.

"(k) CLASSIFICATION AS LOAD MANAGEMENT IMPROVEMENT OR ENERGY CONSERVATION IMPROVEMENT.—For purposes of this section, in the case of a technique or installation which may be classified as either a load management improvement or an energy conservation improvement, the Governor, by rule, shall determine whether to treat such tech-

nique or installation as a load management improvement, an energy conservation improvement, or both.".

(b) TVA AUTHORITY.—Paragraph (4) of section 212(c) is amended by inserting ", section 210(21), section 226A, section 226B, section 227A, or section 227B" after "this section,".

(c) CONFORMING AMENDMENTS.—

(1) Subsection (e) of section 218 of such Act is amended by striking out the period at the end of the second sentence and inserting in lieu thereof "or a plan in effect under section 226A, section 226B, section 227A, or section 227B which is applicable to such utility.".

(2) Subsection (a) of section 219 of such Act is amended by striking out "If" and inserting in lieu thereof "Except as provided in section 226A, section 226B, section 227A, or section 227B, if".

(3) Subsection (b) of section 219 of such Act is amended by striking out "If" and inserting in lieu thereof "Except as provided in section 226A, section 226B, section 227A, or section 227B, if".

(d) CLERICAL AMENDMENT.—The table of contents for such Act is amended by inserting after the item relating to section 225 the following new items:

"Sec. 225A. Temporary relief from RCS requirements.
"Sec. 226A. Pilot alternative State plans.
"Sec. 226B. Pilot alternative utility plans.
"Sec. 227A. Alternative State plans.
"Sec. 227B. Alternative utility plans.".

SEC. 204. REPORTS AND DISSEMINATION OF INFORMATION.

(a) IN GENERAL.—Section 225 of the National Energy Conservation Policy Act (relating to FTC study and report submitted before January 1, 1982) is amended to read as follows:

"SEC. 225. REPORTS AND DISSEMINATION OF INFORMATION.

"(a) GENERAL REPORT.—(1)(A) No later than January 1, 1986, the Secretary shall submit a report to the chairman of the Committee on Energy and Commerce of the House of Representatives and the chairman of the Committee on Energy and Natural Resources of the Senate relating to the operation of this part.

"(B) Not later than January 1 of every other year after 1986, the Secretary shall submit a report to the Chairman of the Committee on Energy and Commerce of the House of Representatives and the Chairman of the Committee on Energy and Natural Resources of the Senate relating to the operation of this part during the preceding 2-year period.

"(2) Each such report shall include—

"(A) a comparison of actual and predicted energy savings resulting from plans under this part,

"(B) identification of the most effective plans (or portions thereof),

"(C) an analysis, based on completed audits and other relevant data, of the energy saving potential of the installation of additional residential conservation measures, and

"(D) an analysis of economic, technical, behavioral, and other factors considered relevant to energy consumption by the Secretary.

Nothing in this paragraph shall require a survey of each residential building in which a residential energy conservation measure has been installed under this part.

"(b) SUMMARY OF ALTERNATIVE PLAN REPORTS.—No later than January 1, 1988, and no later than January 1 of each year thereafter, the Secretary shall submit a report to the Chairman of the Committee on Energy and Commerce of the House of Representatives and the Chairman of the Committee on Energy and Natural Resources of the Senate summarizing the annual reports the Secretary received under section 227A(f) and section 227B(f) during the 12-month period ending on the preceding September 15.

"(c) DISSEMINATION OF INFORMATION.—(1)(A) The Secretary shall at least annually, in fiscal years beginning after September 30, 1984, disseminate to the States and public utilities information providing technical assistance (including assistance in making calculations under sections 227A(d)(3)(B) and 227B(d)(3)(B)) and relating to the most cost-effective energy conservation procedures and devices (including residential energy conservation measures) and the most successful plans (or portions thereof) under this part.

"(B) The Secretary shall make the information described in subparagraph (A) available to the Public.

"(2) The Secretary shall conduct seminars in various regions of the Untied States to disseminate information described in paragraph (1).".

(b) Clerical Amendment.—The table of contents of such Act is amended by striking out the item relating to section 225 and inserting in lieu thereof the folowing:

"Sec. 225. Reports and dissemination of information.".

SEC. 205. LOAD MANAGEMENT IMPROVEMENT DEFINED.

Section 210 of the National Energy Conservation Policy Act (relating to definitions) is amended by inserting after paragraph (20) the following new paragraph:

"(21) The term 'load management improvements' means—

"(A) as determined by the Secretary—

"(i) load management techniques (other than time-of-day or seasonal rates), and

"(ii) the installation of energy-efficient electric appliances or any other devices which reduce kilowatt demand, and

"(B) as determined by the Governor of a State, any other imporvements in such State which are described in Clause (i) or (ii) of subparagraph (A).".

SEC. 206. LIMITATION ON SUPPLY AND INSTALLATION BY PUBLIC UTILITIES.

(a) ADDITIONAL REQUIREMENTS FOR WAIVER.—Section 216(e) of the National Energy Conservation Policy Act (relating to waiver of prohibition against supply and installation of residential energy conservation measures by public utilities) is amended—

(1) by striking out "The" and inserting in lieu thereof "(1) The",

(2) by striking out "charged and" and inserting in lieu thereof "charged, there will be no unfair competitive advantages to the utility (with respect to competitors such as small business) in carrying out such activities, and", and

(3) by adding at the end thereof the following new paragaph:

"(2) The Governor may not support the petition of a regulated utility under paragraph (2) before—

"(A) the Governor—

"(i) provides advance notice to the public of such waiver petition,

"(ii) affords interested persons an opportunity to present oral and written comments on the waiver petitions, and

"(iii) makes the determinations and findings which the Secretary is required to make in order to grant a waiver under paragraph (1), and sets forth, in writing, such findings and the reasons for such determinations and findings; and

"(B) the utility makes all relevant documents and records requested by the Governor available to the Governor.".

(b) CONTRACTING EXEMPTION.—Subsection (c) of such section is amended by adding at the end thereof the following new paragraph:

"(3) This subsection shall not apply to the supply or installation of residential energy conservation measures other than specific measures which the Secretary determines—

"(A) were being installed or supplied by a public utility on the date of the enactment of the Conservation Service Reform Act of 1984, or

"(B) were broadly advertised on or before such date of enactment.".

(c) GENERAL EXEMPTION.—Subsection (d) of such section is amended—

(1) by striking out "The" and inserting in lieu thereof: "(1) Except as provided in paragraph (2), the",

(2) by redesignating paragraphs (1) through (3) as subparagraphs (A) through (C), respectively, and

(3) by adding at the end thereof the following new paragraph:

"(2) Effective July 1, 1986, subparagraphs (A) and (B) of paragraph (1) shall not apply to the supply or installation of residential energy conservation measures other than measures which the Secretary determines were being installed or supplied by a public utility during the 12-month period ending June 1, 1984.

"(3)(A) If any person requests review of an exemption under paragraph (1) (A) or (B) by the Governor of the State in which the exemption applies, and such request includes adequate documentation, the Governor shall review such exemption under subparagraph (B).

"(B) If, after notice and opportunity for a public hearing, the Governor determines that with respect to an activity which is the subject of a request under subparagraph (A)—

"(i) the utility is not charging fair and reasonable prices and rates of interest,

"(ii) there are unfair competitive advantages to the utility (with respect to competitors such as small businesses),

"(iii) such activity is inconsistent with the prevention of unfair methods of competition or the prevention of unfair or deceptive acts or practices, or

"(iv) the utility has not provided the Governor with all documents and records he determines necessary to make the determination under clauses (i) through (iii),

and sets forth, in writing, such determination and the reasons for such determination, such exemption shall not apply to the activity which is the subject of such request.

"(C) Notwithstanding any findings of the Governor under subparagraph (B), the Governor may allow an exemption under paragraph (1) (A) or (B) if the utility establishes to the satisfaction of the Governor that it will provide appropriate competitive safeguards.".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect—

(1) on the date of the enactment of this Act with respect to pilot alternative plans under section 226A and 226B of the National Energy Conservation Policy Act, and

(2) on July 1, 1986, with respect to all public utilities within the meaning of section 216 of such Act.

Mr. RALPH M. HALL (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment and the House amendment to the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Texas?

Mr. MOORHEAD. Mr. Speaker, reserving the right to object——

Mr. DINGELL. Mr. Speaker, I reserve the right to object.

The SPEAKER pro tempore. The gentleman from Michigan [Mr. DINGELL] is protected.

The gentleman from California [Mr. MOORHEAD] is recognized.

Mr. MOORHEAD. Reserving the right to object, Mr. Speaker, I yield to the gentleman from Texas to explain what the bill does.

Mr. RALPH M. HALL. I thank the gentleman for yielding.

Mr. Speaker, this bill actually repeals a regulatory program that had not worked. It is an $8 billion program that garnered about 1.7-percent participation per year.

This body passed H.R. 5946 by voice vote under suspension on July 30 of this year.

The Senate, we are told, because of a lack of time sent it back with a simple 1-year extension of RCS and a 1-year delay of CACS. We accept this.

Our amendment simply gives the Senate a year to act on H.R. 5946 and if they do not act, the House bill we passed on July 30 becomes law.

Mr. MOORHEAD. Mr. Speaker, further reserving the right to object, can the gentleman explain what the position of the administration is on this bill?

Mr. RALPH M. HALL. If the gentleman will yield, yes. The administration has not opposed this. As a matter of fact the Task Force on Regulatory Reform put this in their top 20 on their target list.

Mr. MOORHEAD. Mr. Speaker, further reserving the right to object. I support the compromise amendment to H.R. 5946 offered by the gentleman from Texas [Mr. RALPH M. HALL]. The chairman of our subcommittee and I strongly disagree over the proper role of the Federal Government in the regulation of energy conservation. I commend him, however, as well as the gentleman from Texas [Mr. RALPH M. HALL] for their effort to work out a meaningful compromise with which we all can live. From my perspective, Mr. Chairman, this bill and the amendment thereto are an important step toward recognizing that the best way to achieve energy conservation is through the operation of the marketplace. Decontrol efforts during President Reagan's tenure have shown that the most rational energy choices are made when government interference is minimized.

In the 97th Congress, Mr. Chairman, I first introduced the "Energy Consumers Regulatory Reform Act" to promote the operation of the energy marketplace by repealing six regulatory programs which have burdened small businesses, cost energy consumers millions of dollars, and distorted the marketplace for energy conservation products and services over the last 7 years. I reintroduced this bill in the 98th Congress as H.R. 2283, and many members of this committee again cosponsored this bill.

Two of the programs singled out for repeal by my reform legislation are the Residential and Commerical and Apartment Conservation Service Programs.

The RCS and CACS Programs were enacted to enable households and businesses to undertake a full audit of their energy use and to help low- and moderate-income families identify cost-effective conservation measures which would lower their energy bills. These programs have failed dismally. They have not resulted in significant energy savings. They have not benefitted low- and moderate-income families. They have needlessly added to the burden of our Nation's ratepayers, small businesses, and utilities.

I applaud both this and the other body's recognition of the problems with these programs. I support this legislation with an amendment because it would repeal the Commercial and Apartment Conservation Service Program after a 1-year moratorium in the implementation of this program. I believe that the mistakes made with RCS should not be repeated.

Once operational, the Commercial and Apartment Conservation Service Program would have suffered from the same problems that have flawed the RCS Program and may result in even greater inequities. Like RCS, CACS audits would subsidize the affluent at the expense of the poor, elderly, and minorities. The subsidy, however, would be even larger than that provided under RCS. Comprehensive energy audits of large or multitenant buildings are far more complicated and costly than audits provided for single family dwellings under RCS. Also, CACS is fundamentally unfair since it forces residential ratepayers to subsidize commercial establishments.

It is also likely that CACS would be even less effective than RCS. A landlord has little incentive to install conservation measures when the cost of utilities are passed on to renters. On the other hand, renters are unlikely to invest in modifications which will improve the value of their landlords' property and which would only pay off over a period of time which is longer than the renters' tenancy. Also, renters are unlikely to invest in measures whose effectiveness is contingent upon other renters adopting similar conservation measures. This is particularly true in light of the dismally low rates of participation likely to be encountered.

Further, as with RCS, the likelihood that those few who do participate will install conservation measures is quite small. This should not be surprising. Many cost-effective conservation measures are obvious, and the marketplace has already insured their implementation. To the extent lower utility bills enhance the value of commercial property and improve the bottom line for businesses, owners, and entrepreneurs have a financial incentive to install cost-effective energy conservation measures.

Also, the CACS Program is anticompetitive. Small business, ready and willing to provide energy audits, would be unable to compete with the subsidized audits utilities are to provide commercial establishments under CACS.

Mr. Chairman, this bill and the amendment thereto would also extend the RCS Program for an additional 5 years. My preference, of course, would be to repeal this program as well. But I will support this legislation with the gentleman's amendment as the best possible compromise under the circumstances, and as a necessary first step in enacting all of the provisions of the "Energy Consumers' Regulatory Reform Act."

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Texas?

Mr. OTTINGER. Mr. Speaker, reserving the right to object, and I do so for the purpose of supporting the unanimous-consent request. The proposed amendment by Mr. HALL to the Senate amendment to H.R. 5946 is a reasonable compromise that combines both the Senate version and the House version of H.R. 5946 and leaves the principal elements of the House bill intact.

H.R. 5946, the Conservation Service Reform Act of 1984, passed the House on July 30, 1984, and was cosponsored by Congressman RALPH M. HALL of Texas, Congressman DINGELL, and myself. The House passed the bill by voice vote with the unanimous support of the House Energy and Commerce Committee. The House measure is the product of extensive negotiations among Members of both parties and all points of view.

The House bill makes several major reforms to the Residential Conservation Service [RCS] aimed at helping more residents to save more energy in their homes. The RCS Program cur-

rently requires large electric and gas utilities to offer on-site energy audits to their residential customers in order to provide expert recommendations on energy conservation improvements that are needed in the home. The House bill extends by 5 years, to January 1, 1990, the requirement that utilities notify their customers of this service. The House measure also gives States and utilities the option of developing an alternative energy conservation plan in place of the current RCS requirements. The plan must be designed to meet statutory goals for energy savings and the number of customers reached.

The House bill would also repeal, effective immediately upon enactment, the Commercial and Apartment Conservation Service [CACS] which has not yet gone into effect. The CACS program requires gas and electric utilities to offer energy audits to small commercial energy users and to centrally heated or cooled apartment houses.

I would note that the House bill was crafted after comprehensive hearings in the Subcommittee on Energy Conservation and Power, which I chair, and after extensive consultations with utilities, States, small businesses, consumer and environmental groups.

The intent of the Senate amendment on the other hand, is to postpone any change in the status quo for 1 year so that the Senate may consider what to do about the two programs. Under the Senate amendment, the customer notification requirement for RCS would be extended 1 year to January 1, 1986. The Senate proposal would postpone implementation of the CACS Program until January 1, 1986, by forbidding the Secretary of Energy from approving any State plans before that date and by providing that CACS audits may not be required before January 1, 1986, unless they are part of a plan approved by the Secretary before the date of enactment. The only CACS plan that has been approved to date is the State of Michigan's plan.

The Senate committee has held no hearings on these programs. However, the committee recognizes in its report that, without legislative action this year, the notification requirements of the RCS Program will terminate on January 1, 1985. The Senate report notes, as does the House report, that there is no termination date on the obligation of the utilities to provide the services under the RCS Program. The Senate implicitly recognizes the need for reform of the RCS Program by citing in the committee report several studies indicating that on average, the RCS Program has not achieved the degree of energy savings considered cost effective in the residential sector. The Senate has not raised any objections to the House measure. The Senate Energy Committee report (S. Rept. 98-265) states, "The committee reported the amendment discussed in this report in order to provide sufficient time to conduct oversight of these programs, so as to render an informed judgment on the issues raised by the House-passed bill."

The amendment before the House is a compromise proposal that recognizes the Senate's desire for a 1-year delay by postponing any major permanent changes in the status of the CACS and RCS Programs until January 1, 1986, and July 1, 1986, respectively.

The House compromise would accept the Senate proposals that the Secretary of Energy may not approve any State plans before January 1, 1986, and that CACS audits may not be required, except where a State plan was already approved before the date of enactment.

The compromise would delay total repeal of the CACS Program until January 1, 1986. This will give the Senate the time it was counting on to take legislative action to reverse the repeal, or make other amendments before the repeal takes effect. Under the compromise, CACS would retain the same postponement status proposed by the Senate in the period proceeding January 1, 1986.

Under the compromise, the alternative plan in the House bill would not take effect until July 1, 1986. Between January 1, 1985 and December 31, 1985, States would be required to carry out the RCS Program. However, States and utilities would be given the option of experimenting with a pilot alternative plan during calendar year 1985. The pilot plan would be substantially the same as the alternative plan in content but would not require the State hearing procedures or the judicial enforcement procedures proposed in the House bill for alternative plans. Instead, the pilot plan would have to be approved by DOE within 30 days of enactment. The plan would be free of DOE's standby enforcement authority once approved. In the 6-month period between the end of calendar year 1985 and July 1, 1986, States would be given a chance to assess their pilot programs, if they had chosen that option, and to decide whether to certify a permanent alternative plan or to implement the regular RCS plan. During this 6-month evaluation period, standby authority would not be in effect for any State.

This approach would also give the Senate the time it originally contemplated to review the regular RCS Programs, as well as pilot alternative programs, to decide if the alternative programs embody appropriate reforms to the RCS Program.

Several reforms to the existing RCS Program: namely; the elimination of the requirements that utilities list contractors and lenders and arrange for installation and financing of conservation measures, would go into effect 90 days after enactment, as provided under the House bill.

I would like to note one clarification of this measure's legislative intent for the record concerning the Tennessee Valley Authority [TVA], which is treated in most provisions of the bill as a State. In the case of TVA, the public notice and comment provisions of this bill may be satisfied without rulemaking, in the same manner as carried out by TVA under section 213 of the National Energy Conservation Policy Act.

I am attaching a summary of the provisions of the proposed House amendment.

SUMMARY OF THE HOUSE AMENDMENT

I. CACS

A. After the date of enactment, the Secretary of Energy could not approve any CACS plans.

B. After the date of enactment, CACS would not apply to any utilities except those subject to CACS plans approved before the date or enactment. (The only state with an approved plan is Michigan).

C. Effective January 1, 1986, CACS is repealed.

II. RCS

A. Pilot Alternative Plans:

One, within 90 days after enactment, a state may submit a pilot alternative plan to DOE.

Two, a utility with the support of the Governor may submit a pilot alternative plan to DOE.

Three, pilot alternative plans are the same in content as alternative plans proposed under the House bill. However, they do not require state hearings and the new House-proposed enforcement procedures do not apply to them. Customer participation goals for the plan shall be based on the number of eligible customers that have not already participated in similar federal or state conservation programs, including those state programs mandated or approved by the relevant state agency.

Four, plans shall stay in effect until December 31, 1985.

Five, DOE has 30 days to approve or disapprve a pilot plan. If DOE has not acted within 30 days, the plan is deemed approved.

Six, during the 90-day period after enactment, DOE's standby authority is temporarily suspended. During the one year pilot period (January 1, 1985–December 31, 1985), DOE may not impose standby authority on an approved pilot plan.

Seven, during the one-year test period, states must have in effect either an approved RCS plan or a pilot plan. DOE retains standby authority during the year for any states without an approved pilot plan.

Eight, between the end of the pilot period (December 31, 1985) and July 1, 1986, all states are given a six-month period free of standby authority to evaluate their programs and decide whether to implement regular RCS programs or alternative programs.

Nine, within 60 days after December 31, 1985, each state must submit an annual report on its pilot plan to DOE.

Ten, starting July 1, 1986, all states must have approved RCS plans, or alternative plans in effect.

Eleven, section 106 of the House bill governing limitation on supply and installation by public utilities (small business provisions) shall apply only to pilot alternative plans during the one-year test period (January 1, 1985–December 31, 1985). Starting July 1, 1986, Section 106 applies to all RCS plans.

B. House RCS Bill:

One, all principal elements of the House bill remain the same except for conforming changes to the above amendment.

Two, the reforms to the regular RCS programs—eliminating requirements that utilities provide lists of lenders and contractors and arrange for installation and financing of conservation measures—would take effect 90 days after enactment, as specified in the House bill.

Three, the notification date for RCS customers is extended to January 1, 1990, as proposed in the House bill.

Mr. Speaker, I congratulate, the gentleman from Texas [Mr. RALPH M. HALL] on a superb job of putting together a compromise that both satisfies the problems of the Senate and all the disparate views on our own committee.

I think he has done a superb craftsmanlike job and the compromise reached will give the Senate an opportunity to act, if it wishes, and does assure that the best elements of this program will go forward.

I would also like to express my appreciation, Mr. Speaker, to the gentleman from California [Mr. MOORHEAD] and the gentleman from North Carolina [Mr. BROYHILL] for their cooperation in reaching this compromise.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Texas?

Mr. DINGELL. Mr. Speaker, reserving the right to object, I have served now for 2 years on the Committee on Energy and Commerce with the distinguished gentleman from Texas [Mr. RALPH M. HALL]. He is one of our most able members and he has provided extraordinary leadership in resolving a very difficult question here for the benefit of the House, and he deserves the thanks of all of us for his skill and his leadership and the adroit fashion in which this matter has been handled.

Our thanks also go to our dear friend from California [Mr. MOORHEAD] who of course has provided the usual high level of effort and work that he always displays in situations of this type.

I thank the gentlemen.

Mr. Speaker, I urge my colleagues to support the request of the gentleman from Texas.

Mr. RALPH M. HALL. Mr. Speaker, will the gentleman yield to me?

Mr. DINGELL. Mr. Speaker, further reserving the right to object, I yield to the gentleman from Texas.

Mr. RALPH M. HALL. I thank the gentleman for yielding.

Mr. Speaker, let me thank the chairman of the Committee on Energy and Commerce, the gentleman from Michigan [Mr. DINGELL] and certainly thank the gentleman from California [Mr. MOORHEAD].

Let me say that it is an honor, in the sunset of his service, for me to cooperate with RICHARD OTTINGER, the gentleman from New York, in passing this, probably the last bill in his long tenure of service to this great body, to his State, and to this country.

I thank all of the gentlemen for the great support that they have given.

● Mr. LUKEN . Mr. Speaker, I rise in support of H.R. 5946, the Conservation Service Reform Act of 1984. In doing so, I want to highlight additional competitive protections that are provided in the legislation in addition to those existing currently under the Residential Conservation Service.

In addition to my service on the Energy and Commerce Committee, I chair the Subcommittee on Antitrust and Restraint of Trade Activities Affecting Small Business. In that capacity I held a hearing regarding utility competition with small business. During that hearing small business representatives testified about unfair competitive advantages held by regulated monopolies. Some of these unfair competitive advantages were:

First, cross subsidization of unregulated activities from revenues generated by the regulated activity.

Second, the provision of administrative and overhead to other lines of business. This may include the use of management, planning, accounting, legal assistance, research, and development resources to assist the unregulated business. In addition, the utility may make available office space, equipment, or personnel to the other businesses.

Third, loans, loan guarantees, or other financial subsidies.

Fourth, the use of the name, which has been developed as an asset due to the regulated line of business.

Fifth, credit information from bill payment records by customers.

Sixth, including billing the cost of unregulated services with the monthly utility bill.

Seventh, advertising unregulated activities in connection with utility advertising.

Eighth, consolidated tax returns which lower the overhead cost for the unregulated business.

I am pleased that this legislation addressed some of the concerns raised in the hearing by providing for a competition review at the State level to enable small business to raise concerns about the impact of utilities entering these businesses. This review would cover utilities applying for a waiver from the general prohibition on supply and installation of RCS conservation materials as well as those utilities which were grandfathered in at the time of the adoption of the 1978 legislation creating the Residential Conservation Service.

I am hopeful that Congress will continue to review this program in order to assure that fair competition is maintained in the marketplace. That is essential for the success of the Residential Conservation Service, and its acceptance in the community.●

Mr. DINGELL. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Texas?

There was no objection.

A motion to reconsider was laid on the table.

VIETNAM VETERANS AGENT ORANGE RELIEF ACT

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 1961) to amend title 38, United States Code, to provide disability and death allowances to veterans and the survivors of veterans who served in Southeast Asia during the Vietnam era and suffer from diseases that may be attributable to exposure to the herbicide known as "Agent Orange" and to veterans and the survivors of veterans who participated in atomic tests or the occupation of Hiroshima and Nagasaki and suffer from diseases that may be attributable to ionizing radiation, with Senate amendments thereto, and concur in the Senate amendments with amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments and the House amendments to the Senate amendments, as follows:

Senate amendments: Strike out all after the enacting clause and insert: That this Act may be cited as the "Veterans' Dioxin and Radiation Exposure Compensation Standards Act".

SEC. 2. The Congress makes the following findings:

(1) Veterans who served in Southeast Asia during the Vietnam conflict and veterans who participated in atmospheric nuclear tests or the American occupation of Hiroshima or Nagasaki are deeply concerned about possible long-term health effects of exposure to herbicides containing dioxin or to ionizing radiation.

(2) There is scientific and medical uncertainty regarding such long-term adverse health effects.

(3) In section 102 of Public Law 97-22, the Congress responded to such uncertainty by authorizing priority medical care at Veterans' Administration facilities for any disability of a veteran who may have been so exposed (even though there is insufficient medical evidence linking such disability with such exposure) unless the disability is found to have resulted from a cause other than the exposure.

(4) The Congress has further responded to such medical and scientific uncertainty by mandating, in section 307 of Public Law 96-151 and section 601 of Public Law 98-160,

the conduct of thorough epidemiological studies of the health effects experienced by veterans in connection with exposure both to herbicides containing dioxin and (if not determined to be scientifically infeasibly) to radiation, and by mandating, in Public Law 97-414, the development of radioepidemiological tables, currently projected for completion in summer 1984, setting forth the probabilities of causation between various cancers and exposure to radiation.

(5) There are a total of sixty-six federally sponsored research projects currently being conducted relating to herbicides containing dioxin, at a cost to the Federal Government in excess of $130,000,000, and, as of 1981, federally-sponsored research projects relating to ionizing radiation were costing the Federal Government in excess of $115,000,000.

(6) The initial results of one project—an epidemiological study, conducted by the United States Air Force School of Aerospace Medicine, of the health status of the "Ranch Hand" veterans who carried out the loading and aerial spraying of herbicides containing dioxin in Vietnam and in the process came into direct skin contact with such herbicides in their most concentrated liquid form—were released on February 24, 1984, and contained the conclusion "that there is insufficient evidence to support a cause and effect relationship between herbicide exposure and adverse health in the Ranch Hand group at this time".

(7) The "film badges" which were originally issued to members of the Armed Forces of the United States in connection with the nuclear testing program have previously constituted a primary source of dose information for veterans and survivors filing claims for Veterans' Administration disability compensation or dependency and indemnity compensation in connection with exposure to radiation.

(8) Such film badges often provide an incomplete measure of radiation exposure, since they were not capable of recording inhaled, ingested, or neutron doses (although the Defense Nuclear Agency currently has the capability to reconstruct individual estimates of such doses), were not issued to most of the participants, often provided questionable readings because they were shielded during the detonation, and were worn for only limited periods during and after each nuclear blast.

(9) Standards governing the reporting of dose estimates in connection with radiation-related claims for Veterans' Administration disability compensation vary among the several branches of the Armed Forces, and no uniform minimum standards exist.

(10) The Veterans' Administration has not promulgated permanent regulations setting forth specific guidelines, standards, and criteria for the adjudication of claims for Veterans' Administration disability compensation based on exposure to herbicides containing dioxin or to ionizing radiation.

(11) Such claims present adjudicatory issues which are significantly different from issues generally presented in claims based upon the usual types of injuries incurred in military service, particularly with respect to the difficulty of determining a connection between exposure during service and increased risk of adverse health effects (especially those involving long latency periods and ambiguities of causation) arising thereafter.

(12) It has always been the policy of the Veterans' Administration and is the policy of the United States, with respect to individual claims for service connection, that when, after consideration of all evidence and material of record, there is an appropriate balance of positive and negative evidence regarding the merits of an issue material to the determination of a claim, the benefit of the doubt in resolving each such issue will be given to the claimant.

SEC. 3. The purpose of this Act is to ensure that Veterans' Administration disability compensation is provided to veterans who were exposed during service in the Armed Forces in the Republic of Vietnam to a herbicide containing dioxin or to ionizing radiation in connection with atmospheric nuclear tests or with the American occupation of Hiroshima or Nagasaki, Japan (and dependency and indemnity compensation is provided to survivors of such veterans) for all disabilities arising subsequent to such service that are connected, based on sound scientific and medical evidence, to such exposure (and for all deaths resulting from such disabilities).

SEC. 4. Section 354 of title 38, United States Code, is amended in subsection (a)—

(1) by striking out the comma after "disabilities" and inserting in lieu thereof "(1)," and

(2) by inserting before the period a comma and "and (2) the provisions required by section 5 of the Veterans' Dioxin and Radiation Exposure Compensation Standards Act".

SEC. 5. (a) In carrying out the responsibilities of the Administrator of Veterans' Affairs under section 354(a)(2) of title 38, United States Code, and in order to promote consistency in claims processing and decisions, the Administrator shall prescribe regulations to—

(1) establish guidelines and (where appropriate) standards and criteria for the resolution of claims for benefits under laws administered by the Veterans' Administration where the benefit eligibility criteria include a requirement that a death or disability be service connected and the claim of service connection is based on a veteran's exposure during service—

(A) in the Republic of Vietnam prior to May 8, 1975, to a herbicide containing dioxin, or

(B) in connection with such veteran's participation in atmospheric nuclear tests or with the American occupation of Hiroshima or Nagasaki, Japan, prior to July 1, 1946, to ionizing radiation from the detonation of a nuclear device; and

(2) ensure that, with respect to such claims, when, after consideration of all evidence and material of record, there is an approximate balance of positive and negative evidence regarding the merits of an issue material to the determination of the claim, the benefit of the doubt in resolving each such issue will be given to the claimant, but nothing in this paragraph shall be construed as relieving a claimant of the burden of submitting evidence sufficient to justify a belief by a fair and impartial individual that the claim is well grounded.

(b)(1)(A) The guidelines required to be established in regulations prescribed under this section shall include guidelines governing the evaluation of the findings of scientific studies relating to the possible increased risk of adverse health effects of exposure to herbicides containing dioxin or to ionizing radiation. Such guidelines shall require that, in the evaluation of such studies, the Administrator shall take into account whether the findings are statistically significant, are capable of replication, and withstand peer review.

(B) The evaluations described in subparagraph (A) shall be made by the Administrator of Veteran's Affairs after receiving the advice of the appropriate panel of the Scientific Council of the Advisory Committee on Environment Hazards (established pursuant to subsection (d)). Such evaluations shall be published in the notice section of the Federal Register.

(C) The standards and criteria required to be established in regulations prescribed under this section shall include provisions governing the use in individual claims adjudications of the Administrator's evaluations made under subparagraph (B).

(2)(A)(i) In prescribing regulations under this section, the Administrator, after receiving the advice of the Advisory Committee and of the appropriate panel of the Scientific Council of the Advisory Committee on Environmental Hazards regarding the diseases named or described in subparagraph (B), shall make determinations, based on sound medical and scientific evidence, with respect to each disease named or described in subparagraph (B) as to whether service connection shall, subject to division (ii) of this subparagraph, be granted in the adjudication of individual cases. In making determinations regarding such diseases, the Administrator shall be highly cognizant of the need to maintain the policy of the United States with respect to the resolution of contested issues as set forth in section 2(12). The Administrator shall set forth in such regulations such determinations, together with any modifications of the maximum periods specified in such subparagraph and with any further specifications, relating to exposure or other relevant matter, of limitations on the circumstances under which service connection shall be granted, and shall implement such determinations in accordance with such regulations.

(ii) In the event that the Administrator makes a determination, pursuant to this subparagraph, that service connection shall be granted in the case of a disease named or described in subparagraph (B), the Administrator shall specify in such regulations that, in the adjudication of individual cases, service connection shall not be granted where there is sufficient affirmative evidence to the contrary or evidence to establish that an intercurrent injury or disease which is a recognized cause of the named or described disease has been suffered between the date of separation from service and the onset of such disease or that the disability is due to the veteran's own willful misconduct.

(iii) In the event that the Administrator does not make a determination, pursuant to this subparagraph, that service connection shall be granted in the case of a disease named or described in subparagraph (B), the Administrator shall include in the regulations prescribed under this section specification of the factors to be considered in the adjudication of the issue of service connection with respect to such disease.

(iv) In the adjudication of a claim based on a veteran's exposure to ionizing radiation from the detonation of nuclear weapons at Hiroshima or Nagasaki, Japan, for a disease otherwise not covered under subparagraph (B)(ii)(I), (B)(ii)(II), (B)(ii)(III), or (B)(ii)(IV), the Administrator shall ensure that careful and deliberate consideration is given to the claimant's contention of a connection between the veteran's disability and the exposure.

(B) The diseases referred to in subparagraph (A) as being named or described in this subparagraph are:

(i) In the case of a veteran who served in the Republic of Vietnam prior to May 8, 1975, and who, during such service, was exposed to a herbicide containing dioxin—

(I) a soft tissue sarcoma, if developed to a degree of disability of 10 per centum or more within thirty years after the date of last departure from the Republic of Vietnam during such service,

(II) porphyria cutanea tarda, if so developed within one year after the date of last departure from the Republic of Veitnam duing such service,

(III) chlorance, if so developed within one year after the date of last departure from the Republic of Vietnam during such service, or

(IV) any other diesease with respect to which the panel of the Scientific Council established pursuant to subsection (d)(4)(B)(i) finds that there is sound scientific or medical evidence indicating a connection to exposure to such herbicide and which has so developed within any maximum period of time after departure from the Republic of Vietnam during such service.

(ii) In the case of a veteran who, in connection with such veteran's participation in an atmospheric nuclear test or with the Amercan occupation of Hiroshima or Nagasaki, Japan, prior to July 1, 1946, was exposed, during such veteran's service, to ionizing radiation from the detonation of a nuclear device—

(I) leukemia and malignancies of the thyroid, female breast, lung, bone, liver, and skin, if developed to a degree of disability of 10 per centum or more,

(II) polycythemia vera if so developed,

(III) hypothyroidism or a thyroid nodule, if so developed, or

(IV) any other disease with respect to which the panel of the Scientific Council established pursuant to subsection (d)(4)(B)(ii) finds that there is sound scientific or medical evidence indication a connection to exposure to ionizing radiation and which has so developed within any maximum period of time after such exposure.

(3) The regulations presecribed under this section shall include a provision specifying that a claimant filing a claim based upon a veteran's exposure to a herbicide containing dioxin or to ionizing radiation from the detonation of a nuclear device shall not be required to produce evidence substantiating such veteran's exposure during service in the Armed Forces when the information in the veteran's service records and other records of the service concerned is not inconsistent with the claim that the veteran was present where and when the claimed exposure occurred.

(c)(1) The Administrator of Veteran's Affairs shall develop the regulations required by this section and any amendments to such regulations through a public review and comment process in accordance with the provisions of section 553 of title 5, United States Code. Such process may include consideration by the Administrator of the recommendations the Advisory Committee on Environmental Hazards and the Scientific Council thereof (established pursuant to subsection (d) with respect to the proposed regulations, and such process shall include consideration by the Administrator of the recommendations of the Committee and the Council with respect to the final regulations and proposed and final amendments to such regulations. The period for public review and comment shall be completed not later than ninety days after the proposed regulations or proposed amendments are published in the Federal Register.

(2)(A) Not later than one hundred and twenty days after the date of the enactment of this Act, the Administrator shall develop and publish in the Federal Register a proposed version of the regulations required to be prescribed by this section.

(B) Not later than three hundred days after such enactment date, the Administrator shall publish in the Federal Register the final regulations (together with explanations of the bases for the guidelines, standards, and criteria contained therein) required to be prescribed by this section.

(3) Notwithstanding section 211(a) of title 38, United States Code, or any other provision of law, subsequent to the publication of the final regulations required to be prescribed by this section, the Administrator's compliance with the provisions of, and any regulations precribed pursuant to, this section shall be subject to judicial review in accordance with the provisions of chapter 7 of title 5, United States Code.

(d)(1) The advisory committee referred to in subsection (b) and (c) of this section, to be known as the Advisory Committee on Environmental Hazards (hereinafter in this subsection referred to as the "Committee") shall consist of fifteen members appointed by the Administrator of Veterans' Affairs after requesting and considering recommendations from veteran organizations, including—

(A) eleven individuals (of whom none may be members of the Armed Forces or be employed by the Veterans' Administration or the Department of Defense and not more than three may be federal employees of other departments or agencies), appointed in consulation with the Director of the National Insitute of Health, including—

(i) three who are recognized medical or scientific authorities in fields pertinent to understanding the health affects of exposure to dioxin,

(ii) three who are recognized medical or scientific authorities in fields pertinent to understanding the health effects of exposure of ionizing radiation, and

(iii) five who are recognized medical or scientific authorities in fields, such as epidemiology and other scientific disciplines, pertient to determing and assessing the health effects of exposure to dioxin or ionizing radiation in exposed populations, and

(B) four individuals from the general public, including at least one disabled verteran, having a demonstrated interest in and experience relating to veterans' concerns regarding exposure to dioxin or ionizing radiation.

(2) The Committee shall include, as ex officio, nonvoting members, the Chief Medical Director and the Chief Benefits Director of the Veterans' Administration or their designees.

(3) The Committee shall submit to the Administor any recommendations it considers appropriate for administrative or legislative action.

(4)(A) The eleven members of the Committee described in paragraph (1)(A) shall, in addition to serving as members of the Committee, constitute a Scientific Council of the Committee.

(B) Such Council shall be subdivided into (i) an eight-member panel with responsibility for evaluating scientific studies relating to possible adverse health effects of exposure to dioxin, and (ii) an eight-member panel with responsibility for evaluating scientific studies relating to possible adverse health effects of exposure to ionizing radiation.

(C) Such Council shall make findings and evaluations regarding pertinent scientific studies and shall submit to the Committee and the Administrator directly periodic reports on such findings and evaluations.

(5) The Administrator shall designate one of the members of serve as the chairperson of the Committee and another member to serve as the chairperson of the Scientific Council.

(6) The Administrator shall determine the terms of service and pay and allowance of members of the Committee, except that a term of service of any such member may not exceed three years. The Administrator may reappoint any such member for additional terms of service.

(7) The Administrator shall provide administrative support services and fiscal support for the Committee.

SEC. 6. (a) In connection with the duties of the Director of the Defense Nuclear Agency, as Department of Defense Executive Agent for the Nuclear Test Personnel Review Program, relating to the preparation of radiation dose estimates with regard to claims for Veterans' Administration disability compensation—

(1) the Secretary of Defense shall prescribe guidelines and any amendments thereto through a public review and comment process in accordance with the provisions of section 553 of title 5, United States Code—

(A) specifying the minimum standards governing the preparation of radiation dose estimates in connection with claims for Veterans' Administration disability compensation and dependency and indemnity compensation,

(B) making such standards uniformly applicable to the several branches of the Armed Forces, and

(C) requiring that each such estimate furnished to the Veterans' Administration and to any veteran or survivor include information regarding all material aspects of the radiation environment to which the veteran was exposed and which form the basis of the claim, including inhaled, ingested, and neutron doses; and

(2) the Secretary of Health and Human Services, through the Director of the National Institutes of Health, shall—

(A) conduct a review of the current state of the art with respect to scientific and technical devices and techniques such as "whole body counters" which may be useful in determining previous radiation exposure.

(B) submit a report to the Administrator of Veterans' Affairs and the Committees on Veterans' Affairs of the House of Representatives and the Senate, not later than July 1, 1985, regarding the results of such review, including information concerning the availability of such devices and techniques, the categories of exposed individuals as to whom use of such devices and techniques may be appropriate, and the reliability and accuracy of dose estimates which may be derived from such devices and techniques, and

(C) enter into an interagency agreement with the Administrator of Veterans' Affairs for the purpose of assisting the Administrator in identifying agencies or other entities capable of furnishing services involving the use of such devices and techniques.

(b) The Administrator of Veterans' Affairs, in resolving material differences between a radiation dose estimate, from a credible source, submitted by a veteran or survivor and a radiation dose estimate prepared and transmitted by the Director of the Defense Nuclear Agency, shall provide for the preparation of a radiation dose estimate by an independent expert, who shall be selected by the Director of the National Institutes of Health and who shall not be affiliated with the Defense Nuclear Agency, and the Administrator shall provide for the consideration of such independent estimate in connection with the adjudication of the claim for Veterans' Administration compensation.

SEC. 7. (a) Paragraph (3) of section 307(b) of the Veterans' Health Programs Extension and Improvement Act of 1979 (Public Law 96-151; 93 Stat. 1097), as added by section 401(b)(2) of the Veterans' Health Care, Training, and Small Business Loan Act of 1981 (Public Law 97-72; 95 Stat. 1061), is amended to read as follows:

"(3) Immediately after the submission of each report under paragraph (2), the Administrator, based on the results described in such report and the comments and recommendations included therein and any other available pertinent information, shall evaluate the need for any amendments to regulations, prescribed pursuant to section 5 of the Veterans' Dioxin and Radiation Exposure Compensation Standards Act, for the resolution of claims for service connection based on the exposure specified in subsection (a)(1)(A) of such section. To the extent that the Administrator determines that any amendments to such regulations are needed, the Administrator, not later than ninety days after such submission, shall develop and publish in the Federal Register, for public review and comment, proposed amendments to such regulations.".

(b) Paragraph (5) of section 601(a) of the Veterans' Health Care Amendments of 1983 (Public Law 98-160; 97 Stat. 1007) is amended by redesignating subparagraph (B) as subparagraph (C) and inserting after subparagraph (A) a new subparagraph (B) as follows:

"(B) Immediately after the submission of each report under subparagraph (A), the Administrator, based on the results described in such report and the comments and recommendations included therein need for any amendments to regulations, prescribed pursuant to section 5 of the Veterans' Dioxin and Radiation Exposure Compensation Standards Act, for the resolution of claims for service connection based on the exposure specified in subsection (a)(1)(B) of such section. To the extent that the Administrator determines that any amendments to such regulations are needed, the Administrator, not later than ninety days after such submission, shall develop and publish in the Federal Register, for public review and comment, proposed amendments to such regulations.".

Amend the title so as to read "An Act to require the Administrator of Veterans' Affairs, after public notice and comment and after considering the recommendations of an advisory committee and its scientific council and subject to judicial review, to prescribe regulations governing the adjudication of the issue of service connection based on the diseases of certain veterans who, during service in the Armed Forces, were exposed to dioxin or radiation; to require that the Administrator include in such regulations determinations as to whether and under what circumstances service connection shall be granted with respect to certain specified diseases; and for other purposes.".

House amendments to the Senate amendments: In lieu of the matter proposed to be inserted by the Senate amendment to the text of the bill, insert the following:

SHORT TITLE

SECTION 1. This Act may be cited as the "Veterans' Dioxin and Radiation Exposure Compensation Standards Act".

FINDINGS

SEC. 2. The Congress makes the following findings:

(1) Veterans who served in the Republic of Vietnam during the Vietnam era and veterans who participated in atmospheric nuclear tests or the American occupation of Hiroshima or Nagasaki, Japan, are deeply concerned about possible long-term health effects of exposure to herbicides containing dioxin or to ionizing radiation.

(2) There is scientific and medical uncertainty regarding such long-term adverse health effects.

(3) In section 102 of Public Law 97-22, the Congress responded to that uncertainty by authorizing priority medical care at Veterans' Administration facilities for any disability of a veteran who may have been so exposed (even though there is insufficient medical evidence linking such disability with such exposure) unless the disability is found to have resulted from a cause other than the exposure.

(4) The Congress has further responded to that medical and scientific uncertainty by requiring, in section 307 of Public Law 96-151 and section 601 of Public Law 98-160, the conduct of thorough epidemiological studies of the health effects experienced by veterans in connection with exposure both to herbicides containing dioxin and (if not determined to be scientifically infeasible) to radiation, and by requiring in Public Law 97-414, the development of radioepidemiological tables setting forth the probabilities of causation between various cancers and exposure to radiation.

(5) There is some evidence that chloracne, porphyria cutanea tarda, and soft tissue sarcoma are associated with exposure to certain levels of dioxin as found in some herbicides and that most types of leukemia, malignancies of the thyroid, female breast, lung, bone, liver, and skin, and polycythemia vera are associated with exposure to certain levels of ionizing radiation.

(6) As of the date of the enactment of this Act, there are 66 federally sponsored research projects being conducted relating to herbicides containing dioxin, at a cost to the Federal Government in excess of $130,000,000 and, as of 1981, federally sponsored research projects relating to ionizing radiation were costing the Federal Government more than $115,000,000.

(7) The initial results of one project—an epidemiological study, conducted by the United States Air Force School of Aerospace Medicine, of the health status of the "Ranch Hand" veterans who carried out the loading and aerial spraying of herbicides containing dioxin in Vietnam and in the process came into direct skin contact with such herbicides in their most concentrated liquid form—were released on February 24, 1984, and contained the conclusion "that there is insufficient evidence to support a cause and effect relationship between herbicide exposure and adverse health in the Ranch Hand group at this time".

(8) The "film badges" which were originally issued to members of the Armed Forces in connection with the atmospheric nuclear test program have previously constituted a primary source of dose information for veterans (and survivors of veterans) filing claims for Veterans' Administration disability compensation or dependency and indemnity compensation in connection with exposure to radiation.

(9) These film badges often provide an incomplete measure of radiation exposure, since they were not capable of recording inhaled, ingested, or neutron doses (although the Defense Nuclear Agency currently has the capability to reconstruct individual estimates of such doses), were not issued to most of the participants in nuclear tests, often provided questionable readings because they were shielded during the detonation, and were worn for only limited periods during and after each nuclear detonation.

(10) Standards governing the reporting of dose estimates in connection with radiation-related claims for Veterans' Administration disability compensation vary among the several branches of the Armed Forces, and no uniform minimum standards exist.

(11) The Veterans' Administration has not promulgated permanent regulations setting forth specific guidelines, standards, and criteria for the adjudication of claims for Veterans' Administration disability compensation based on exposure to herbicides containing dioxin or to ionizing radiation.

(12) Such claims (especially those involving health effects with long latency periods) present adjudicatory issues which are significantly different from issues generally presented in claims based upon the usual types of injuries incurred in military service.

(13) It has always been the policy of the Veterans' Administration and is the policy of the United States, with respect to individual claims for service connection of diseases and disabilities, that when, after consideration of all evidence and material of record, there is an approximate balance of positive and negative evidence regarding the merits of an issue material to the determination of a claim, the benefit of the doubt in resolving each such issue shall be given to the claimant.

PURPOSE

SEC. 3. The purpose of this Act is to ensure that Veterans' Administration disability compensation is provided to veterans who were exposed during service in the Armed Forces in the Republic of Vietnam to a herbicide containing dioxin or to ionizing radiation in connection with atmospheric nuclear tests or in connection with the American occupation of Hiroshima or Nagasaki, Japan, for all disabilities arising after that service that are connected, based on sound scientific and medical evidence, to such service (and that Veterans' Administration dependency and indemnity compensation is provided to survivors of those veterans for all deaths resulting from such disabilities).

REQUIREMENT IN TITLE 38, UNITED STATES CODE, RELATING TO REGULATIONS

SEC. 4. Section 354(a) of title 38, United States Code, is amended—

(1) by striking out the comma after "disabilities" and inserting in lieu thereof "(1)"; and

(2) by inserting before the period a comma and "and (2) the provisions required by section 5 of the Veterans' Dioxin and Radiation Exposure Compensation Standards Act".

REQUIREMENT FOR AND CONTENT OF REGULATIONS

SEC. 5. (a) In carrying out the responsibilities of the Administrator of Veterans' Affairs under section 354(a)(2) of title 38, United States Code, and in order to promote consistency in claims processing and decisions, the Administrator shall prescribe regulations to—

(1) establish guidelines and (where appropriate) standards and criteria for the resolution of claims for benefits under laws administered by the Veterans' Administration where the criteria for eligibility for a benefit include a requirement that a death or disability be service connected and the claim of service connection is based on a veteran's exposure during service—

(A) in the Republic of Vietnam during the Vietnam era to a herbicide containing dioxin, or

(B) in connection with such veteran's participation in atmospheric nuclear tests or with the American occupation of Hiroshima or Nagasaki, Japan, prior to July 1, 1946, to ionizing radiation from the detonation of a nuclear device; and

(2) ensure that, with respect to those claims, the policy of the United States described in section 2(13) is carried out.

(b)(1)(A) The guidelines required to be established in regulations prescribed under this section shall include guidelines governing the evaluation of the findings of scientific studies relating to the possible increased risk of adverse health effects of exposure to herbicides containing dioxin or of exposure to ionizing radiation. Those guidelines shall require that, in the evaluation of those studies, the Administrator shall take into account whether the results are statistically significant, are capable of replication, and withstand peer review.

(B) The evaluations described in subparagraph (A) shall be made by the Administrator of Veterans' Affairs after receiving the advice of the appropriate panel of the Scientific Council of the Veterans' Advisory Committee on Environmental Hazards (established under section 6). Those evaluations shall be published in the notice section of the Federal Register.

(C) The standards and criteria required to be established in regulations prescribed under this section shall include provisions governing the use in the adjudication of individual claims of the Administrator's evaluations made under subparagraph (B).

(2)(A)(i) In prescribing regulations under this section, the Administrator (after receiving the advice of the Advisory Committee and of the appropriate panel of the Scientific Council of the Veterans' Advisory Committee on Environmental Hazards regarding the diseases described in subparagraph (B)) shall make determinations, based on sound medical and scientific evidence, with respect to each disease described in subparagraph (B) as to whether service connection shall, subject to division (II) of this subparagraph, be granted in the adjudication of individual cases. In making determinations regarding such diseases, the Administrator shall give due regard to the need to maintain the policy of the United States with respect to the resolution of contested issues as set forth in section 2(13). The Administrator shall set forth in such regulations such determinations, with any specification (relating to exposure or other relevant matter) of limitations on the circumstances under which service connection shall be granted, and shall implement such determinations in accordance with such regulations.

(ii) If the Administrator makes a determination, pursuant to this subparagraph, that service connection shall be granted in the case of a disease described in subparagraph (B), the Administrator shall specify in such regulations that, in the adjudication of individual cases, service connection shall not be granted where there is sufficient affirmative evidence to the contrary or evidence to establish that an intercurrent injury or disease which is a recognized cause of the described disease has been suffered between the date of separation from service and the onset of such disease or that the disability is due to the veteran's own willful misconduct.

(iii) With regard to each disease described in subparagraph (B), the Administrator shall include in the regulations prescribed under this section provisions specifying the factors to be considered in adjudicating issues relating to whether or not service connection should be granted in individual cases and the circumstances governing the granting of service connection for such disease.

(B) The disease referred to in subparagraph (A) are those specified in section 2(5) and any other disease with respect to which the Administrator finds (after receiving and considering the advice of the appropriate panel of the Scientific Council established under section 6(d)(2)) that there is sound scientific or medical evidence indicating—

(i) a connection to exposure to a herbicide containing dioxin, in the case of a veteran who was exposed to that herbicide during such veteran's service in the Republic of Vietnam during the Vietnam era, or

(ii) a connection to exposure to ionizing radiation, in the case of a veteran who was exposed to ionizing radiation in connection with such veteran's participation in an atmospheric nuclear test or with the American occupation of Hiroshima or Nagasaki, Japan, before July 1, 1946.

(3) The regulations prescribed under this section shall include—

(A) specification of the maximum period of time after exposure to such herbicide or ionizing radiation for the development of those diseases; and

(B) a requirement that a claimant filing a claim based upon a veteran's exposure to a herbicide containing dioxin or to ionizing radiation from the detonation of a nuclear device may not be required to produce evidence substantiating the veteran's exposure during active military, naval, or air service if the information in the veteran's service records and other records of the Department of Defense is not inconsistent with the claim that the veteran was present where and when the claimed exposure occurred.

"(c)(1) The Administrator of Veterans' Affairs shall develop the regulations required by this section (and any amendment to those regulations) through a public review and comment process in accordance with the provisions of section 553 of title 5, United States Code. That process may include consideration by the Administrator of the recommendations of the Veterans' Advisory Committee on Environmental Hazards and the Scientific Council thereof (established under section 6) with respect to the proposed regulations, and that process shall include consideration by the Administrator of the recommendations of the Committee and the Council with respect to the final regulations and proposed and final amendments to such regulations. The period for public review and comment shall be completed not later than 90 days after the proposed regulations or proposed amendments are published in the Federal Register.

"(2)(A) Not later than 180 days after the date of the enactment of this Act, the Administrator shall develop and publish in the Federal Register a proposed version of the regulations required to be prescribed by this section.

"(B) Not later than 300 days after the date of the enactment of this Act, the Administrator shall publish in the Federal Register the final regulations (together with explanations of the bases for the guidelines, standards, and criteria contained therein) required to be prescribed by this section.

ADVISORY COMMITTEE ON ENVIRONMENTAL HAZARDS

SEC. 6. (a) The advisory committee referred to in subsections (b) and (c) of section 5, to be known as the Veterans' Advisory Committee on Environmental Hazards (hereinafter in this section referred to as the "Committee") shall consist of fifteen members appointed by the Administrator of Veterans' Affairs after requesting and considering recommendations from veteran organizations, including—

(1) eleven individuals (of whom none may be members of the Armed Forces on active duty or employees of the Veterans' Administration or the Department of Defense and not more than three may be employees of other Federal departments or agencies), appointed, after requesting and considering the recommendations of the heads of Federal entities with particular expertise in biomedical and environmental science, including—

(A) three individuals who are recognized medical or scientific authorities in fields pertinent to understanding the health effects of exposure to dioxin;

(B) three individuals who are recognized medical or scientific authorities in fields pertinent to understanding the health effects of exposure to ionizing radiation; and

(C) five individuals who are recognized medical or scientific authorities in fields, such as epidemiology and other scientific disciplines, pertinent to determining and assessing the health effects of exposure to dioxin or ionizing radiation in exposed populations; and

(2) four individuals from the general public, including at least one disabled veteran, having a demonstrated interest in and experience relating to veterans' concerns regarding exposure to dioxin or ionizing radiation.

(b) The Committee shall include, as ex officio, nonvoting members, the Chief Medical Director and the Chief Benefits Director of the Veterans' Administration, or their designees.

(c) The Committee shall submit to the Administrator any recommendations it considers appropriate for administrative or legislative action.

(d)(1) The eleven members of the Committee described in subsection (a)(1) shall, in addition to serving as members of the Committee, constitute a Scientific Council of the Committee (hereinafter in this section referred to as the "Council").

(2) The Council shall be divided into (A) an eight-member panel with responsibility for evaluating scientific studies relating to possible adverse health effects of exposure to dioxin, and (B) an eight-member panel with responsibility for evaluating scientific studies relating to possible adverse health effects of exposure to ionizing radiation.

(3) The Council shall make findings and evaluations regarding pertinent scientific

studies and shall submit to the Committee and the Administrator directly periodic reports on such findings and evaluations.

(e) The Administrator shall designate one of the members to chair the Committee and another member to chair the Council.

(f) The Administrator shall determine the terms of service and pay and allowances of members of the Committee, except that a term of service of any member may not exceed three years. The Administrator may reappoint any member for additional terms of service.

(g) The Administrator shall provide administrative support services and fiscal support for the Committee.

NUCLEAR RADIATION MATTERS INVOLVING OTHER AGENCIES

SEC. 7. (a) In connection with the duties of the Director of the Defense Nuclear Agency, as Department of Defense Executive Agent for the Nuclear Test Personnel Review Program, relating to the preparation of radiation dose estimates with regard to claims for Veterans' Administration disability compensation and dependency and indemnity compensation under chapters 11 and 13, respectively, of title 38, United States Code—

(1) the Secretary of Defense shall prescribe guidelines (and any amendment to those guidelines) through a public review and comment process in accordance with the provisions of section 553 of title 5, United States Code—

(A) specifying the minimum standards governing the preparation of radiation dose estimates in connection with claims for such compensation,

(B) making such standards uniformly applicable to the several branches of the Armed Forces, and

(C) requiring that each such estimate furnished to the Veterans' Administration and to any veteran or survivor include information regarding all material aspects of the radiation environment to which the veterans was exposed and which form the basis of the claim, including inhaled, ingested, and neutron doses; and

(2) the Secretary of Health and Human Services, through the Director of the National Institutes of Health, shall—

(A) conduct a review of the reliability and accuracy of scientific and technical devices and techniques (such as "whole body counters") which may be useful in determining previous radiation exposure;

(B) submit to Administrator of Veterans' Affairs and the Committee on Veteran's Affairs of the House of Representatives and the Senate, not later than July 1, 1985, a report regarding the results of such review, including information concerning the availability of such devices and techniques, the categories of exposed individuals as to whom use of such devices and techniques may be appropriate, and the reliability and accuracy of dose estimates which may be derived from such devices and techniques; and

(C) enter into an interagency agreement with the Administrator of Veteran's Affairs for the purpose of assisting the Administrator in identifying agencies or other entities capable of furnishing services involving the use of such devices and techniques.

(b) The Administrator of Veterans' Affairs, in resolving material differences between a radiation dose estimate, from a credible source, submitted by a veteran or survivor and a radiation dose estimate prepared and transmitted by the Director of the Defense Nuclear Agency, shall provide for the preparation of a radiation dose estimate by an independent expert, who shall be selected by the Director of the National Institutes of Health and who shall not be affiliated with the Defense Nuclear Agency, and the Administrator shall provide for the consideration of such independent estimate in connection with the adjudication of the claim for Veterans' Administration compensation.

AMENDMENTS TO REGULATIONS

SEC. 8. (a) Paragraph (3) of section 307(b) of the Veterans' Health Programs Extension and Improvement Act of 1979 (38 U.S.C. 219 note) is amended to read as follows:

"(3) Immediately after the submission of each report under paragraph (2), the Administrator, based on the results described in such report and the comments and recommendations included therein and any other available pertinent information, shall evaluate the need for any amendments to regulations, prescribed pursuant to section 5 of the Veterans' Dioxin and Radiation Exposure Compensation Standards Act, for the resolution of claims for service connection based on the exposure specified in subsection (a)(1)(A) of such section. To the extent that the Administrator determines that any amendments to such regulations are needed, the Administrator, not later than 90 days after such submission, shall develop and publish in the Federal Register, for public review and comment, proposed amendments to such regulations.".

(b) Paragraph (5) of section 601(a) of the Veterans' Health Care Amendments of 1983 (Public Law 98-160; 97 Stat. 1007) is amended by redesignating subparagraph (B) as subparagraph (C) and inserting after subparagraph (A) the following new subparagraph (B):

"(B) Immediately after the submission of each report under subparagraph (A), the Administrator, based on the results described in such report and the comments and recommendations included therein and any other available pertinent information, shall evaluate the need for any amendments to regulations, prescribed pursuant to section 5 of the Veterans' Dioxin and Radiation Exposure Compensation Standards Act, for the resolution of claims for service connection based on the exposure specified in subsection (a)(1)(B) of such section. To the extent that the Administrator determines that any amendments to such regulations are needed, the Administrator, not later than 90 days after such subsmission, shall develop and publish in the Federal Register, for public review and comment, proposed amendments to such regulations.".

INTERIM BENEFITS FOR DISABILITY OR DEATH IN CERTAIN CASES

SEC. 9. (a)(1) In the case of veteran—

(A) who served in the active military, naval, or air service in the Republic of Vietnam during the Vietnam era; and

(B) who has a disease described in subsection (b) that became manifest within one year after the date of the veteran's most recent departure from the Republic of Vietnam during that service,

the Administrator shall (except as provided in subsection (c)) pay a monthly disability benefit to the veteran in accordance with this section.

(2) If a veteran described in paragraph (1) dies from the disease, the Administrator shall pay a monthly death benefit to the survivors of the veteran in accordance with this section.

(b) The diseases referred to in subsection (a) are chloracne and prophyria cutanea tarda.

(c) Benefits may not be paid under this section with respect to a disease occurring in a veteran—

(1) where there is affirmative evidence that the disease was not incurred by the veteran during service in the Republic of Vietnam during the Vietnam era;

(2) where there is affirmative evidence to establish that an intercurrent injury or disease which is a recognized cause of the disease was suffered by the veteran between the date of the veteran's most recent departure from the Republic of Vietnam during active military, naval, or air service and the onset of the disease; or

(3) if the Administrator determines, based on evidence in the veteran's service records and other records of the Department of Defense, that the veteran was not exposed to dioxin during active military, naval, or air service in the Republic of Vietnam during the Vietnam era.

(d)(1) A disability benefit payable to a veteran under this section for a disease described in subsection (b) shall be paid at the rate at which compensation would be payable under chapter 11 of title 38, United States Code, to that veteran for the disability resulting from that disease if the disability were determined to be service-connected.

(2) A death benefit payable under this section to the survivors of a veteran shall be paid to such survivors based upon the eligibility requirements (other than the requirement that death be the result of a service-connected or compensable disability) and at the rates that are applicable to dependency and indemnity compensation under chapter 13 of that title.

(e) A benefit may not be paid under this section with respect to a disease or the death of a veteran for any month for which compensation is payable to that veteran for that disease under chapter 11 of title 38, United States Code, or for which dependency and indemnity compensation is payable for that death under chapter 13 of such title.

(f) A disease establishing eligibility for a disability or death benefit under this section shall be treated for purposes of all other laws of the United States (other than chapters 11 and 13 of title 38, United States Code) as if such disease were service connected. The receipt of a disability benefit under this section shall be treated for purposes of all other laws of the United States as if such benefits were compensation under chapter 11 of such title, and the receipt of a death benefit under this section shall be treated for purposes of all other laws of the United States as if such benefit were dependency and indemnity compensation under chapter 13 of title 38, United States Code.

(g) For the purposes of this section:

(1) The term "Administrator" means the Administrator of Veterans' Affairs.

(2) The term "Vietnam era" means the period beginning on August 5, 1964, and ending on May 7, 1975.

(3) The term "veteran" has the meaning given that term in paragraph (2) of section 101 of title 38, United States Code, and includes a person who died in the active military, naval, or air service.

(4) The terms "service-connected" and "active military, naval, or air service" have the meaning given those terms in paragraphs (16) and (24), respectively, of section 101 of title 38, United States Code.

(h) (1) This section takes effect as of October 1, 1984. No benefit may be paid under this section for a period before that date.

(2) No benefit may be paid under this section for a period after September 30, 1986.

In lieu of the Senate amendment to the title of the bill, amend the title so as to read: "An Act to require the Administrator of Veterans' Affairs to prescribe regulations regarding the determination of service connection of certain disabilities of veterans who were exposed to dioxin in the Republic of Vietnam while performing active military, naval, or air service or to radiation from nuclear detonations while performing such service, to provide interim benefits for certain disabilities and deaths, and for other purposes."

Mr. MONTGOMERY (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendments and the House amendments to the Senate amendments be considered as read.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Mississippi?

Mr. HAMMERSCHMIDT. Mr. Speaker, reserving the right to object, the House passed H.R. 1961 on January 30, 1983, The bill would have paid compensation to veterans on a presumptive basis for three types of disabilities with respect to agent orange and three types of disabilities with respect to exposure to atomic radiation. The disabilities involved some speculation and were based on a desire to go the extra mile for these veterans even though actual scientific evidence did not exist as to a real relationship between exposure and the disabling conditions. As the bill was being considered by the House, it was clear that we were passing it as a sign of our positive concern to do the right thing by the veterans involved.

The other body, in its judgment of this issue, did not want to pay compensation to any of these veterans. Instead, it wanted to go another route by requiring the Veterans' Administration to establish specific advertised guidelines for providing presumptive service-connected benefits to so-called agent orange and radiation exposed veterans. It wanted to establish in law a highly specialized committee to advise the Administrator of Veterans' Affairs on these complex issues and it wanted to have judical review of claims of veterans on agent orange and radiation exposure and with respect to the establishment of guidelines and regulations.

Mr. Speaker, the House and Senate were far apart but we now have arrived at a reasonable compromise. The House would recede from its position with respect to four of the six disabilities. It would accept the Senate postition of the guidelines and the advisory group. The Senate would recede from its position on judicial review. Both bodies would then await the results of scientific studies, and in the interim both would expect a very positive attitude by the VA while those studies are pending with respect to the forthcoming guidelines in order that claims of veterans can be adjudicated in a fair and impartial way with reasonable doubt being resolved in their favor.

Mr. Speaker, the proposal before us results from painstaking negotiations with the other body. I urge its approval by the House.

Mr. Speaker, there are few issues in Veterans' Affairs more volatile than this one. Emotions run high because the health of veterans and their families are involved in a very personal way. This proposal is not perfect but it is a good start. The other body gave, and yet insisted, and so did we.

Finally, Mr. Speaker, let me comment upon the actions and attitudes of the members of the House Veterans' Affairs Committee as this matter has been pursued. We all recognized a number of problems and we all did everything we could to resolve them. The chairman of our committee, the gentleman from Mississippi [Mr. MONTGOMERY], was very personally involved, as were the chairman of the Subcommittee on Compensation, Pension and Insurance, the gentleman from Ohio [Mr. APPLEGATE], and the ranking member, Mr. MCEWEN, also of Ohio. Finally, Mr. Speaker, I pay tribute to the gentleman from South Dakota [Mr. DASCHLE] for his leadership, perseverance, and understanding of the complex issues involved—both factual and emotional. All are to be congratulated and each deserves our commendation.

Mr. Speaker, I also want to commend the distinguished chairman of the Senate Committee on Veterans' Affairs, Senator SIMPSON, and my counterpart in the other body, Senator CRANSTON. They have given leadership of the highest order in this entire endeavor.

Mr. Speaker, the courts, the Congress, veterans organizations, veterans themselves, and the scientific community have had great difficulty on these issues. The solution offered here is a positive beginning in resolving them. I urge the approval of the House.

Mr. Speaker, further reserving the right to object, I yield to the distinguished chairman of the Committee on Veterans' Affairs in order to explain his request.

Mr. MONTGOMERY. I thank the gentleman for yielding.

Mr. Speaker, I will be very brief.

Mr. Speaker, this bill is known as the agent orange and the atomic veterans bill. Mr. Speaker, the key sponsor of the legislation is Congressman TOM DASCHLE.

Mr. Speaker, the compromise agreement represents a responsible approach to the problem of resolving some of the numerous questions about compensation that have been raised by veterans exposed to dioxin in various herbicides used in Vietnam and by veterans exposed to radiation while serving in the occupation of Hiroshima and Nagasaki or participating in the atmospheric tests of nuclear devices.

We could not have reached this compromise agreement without the dedicated efforts of my colleagues on the Veterans' Affairs Committee, including especially four members. The chairman of the subcommittee, the distinguished gentleman from Ohio, Mr. APPLEGATE, was most helpful in bringing everyone together in order to get a bill we could all agree with. This was a most difficult task. The chief sponsor of the bill and the one who has insisted that we enact agent orange legislation is the gentleman from South Dakota, TOM DASCHLE. He has been in the forefront in seeking to improve benefits for Vietnam veterans who may suffer from disabilities due to exposure to herbicides while serving in Vietnam. I would also like to commend the gentlemen from Arkansas, Mr. HAMMERSCHMIDT and Dr. Roy Rowland from Georgia, who are responsible for the provisions relating to atomic veterans. This is their bill and I want them to know I appreciate their leadership in helping us resolve our differences with the other body.

There is no doubt the issue of agent orange is one of the most complicated problems our committee has faced in recent years. The most competent information we have received shows rather clearly that as of this date there is no medical condition directly traceable to dioxin in humans other than the skin condition, chloracne, and this condition is normally manifested only after massive exposure to dioxin. The amount of this contaminant in the herbicides used in Vietnam was very small and the likelihood of exposure to concentrated or significant amounts of dioxin was minimal, to say the least.

The one group that is generally conceded to have the highest exposure is the Ranch Hand unit, the Air Force group that loaded the aircraft with the herbicide and did the actual spraying. Comprehensive studies of the morbidity of this group have failed to identify any long term adverse health effects suffered by these individuals.

A recent study by the centers for disease control on birth defects of children born to Vietnam veterans shows that these veterans are at no increased risk of having children with birth defects.

In spite of the results of these research efforts, there remains a high level of concern among certain veterans and their families which has been kept in the forefront in the news

media, which in turn has been felt by the members of our committee and by all Members of the Congress.

Public concern about the health effects of low-level ionizing radiation has been heightened in recent years by the results of several studies. The Government has spent close to $2 billion for research in this area. To compound the problem, there is limited scientific understanding of the relationship between exposure to low doses of ionizing radiation and subsequent health problems. While much has been learned about the effects of high doses of radiation, scientists are still uncertain how low-level ionizing radiation exposure causes cancer and how to predict the effects of exposure to low doses of ionizing radiation.

The Congress has responded to these uncertainties by authorizing priority medical care at Veterans Administration facilities for any disability of a veteran who may have been so exposed, even though there is insufficient medical evidence linking such disability with that exposure. The Congress has further responded to that uncertainty by requiring the conduct of thorough epidemiological studies of the health effects experienced by veterans in connection with exposure both to herbicides containing dioxin and radiation.

The Congress has already provided over $50 million dollars for conduct of these studies; however we will not have the benefit of the results of them for several years. This compromise agreement will help the Government to respond to these groups of veterans until such time as we have more reliable data.

Earlier this year the House passed H.R. 1961 to provide limited temporary benefits for certain diseases which have been tentatively linked to exposure to dioxin and radiation. The Senate chose not to pursue our approach but rather amended our bill to require the Veterans Administration to formulate a formal rulemaking procedure for the agency in processing and deciding claims for benefits based on exposure to these hazards.

The compromise agreement represent portions of both bills. Temporary benefits will be authorized for two agent orange linked diseases, chloracne and a liver condition, porphyria cutanea tarda [PCT]. The Administrator will, under the amendments, be required to issue regulations pertaining to the other conditions named in our original bill, either recognizing the diseases as service-connected or explaining in regulations his reasons for not doing so. There regulations would be published as proposals, prior to implementation, to give the public an opportunity to comment and have input on the issues.

The amendments would also create an advisory committee, consisting of two scientific panels, one related to dioxin matters and one to radiation issues. That group would study and evaluate all technical, scientific, and medical literature on a continuing basis and in those cases where a link between exposure in service and subsequent disabilities is indicated, would report such information to the Administrator, who would in turn be required to address these issues in regulations.

The provisions relating to the promulgation of regulations of the type specified in the bill represent a dramatic departure from the usual and ordinary practice of the Veterans' Administration. In the past, the agency issued regulations when they felt they were justified in doing so. When, after having given a particular issue a thorough study within the agency, and a decision was made to take no action, that decision was disapproved or simply tabled with generally no public disclosure that the matter was even under consideration.

I have no problem with this method of management on routine matters. But in the sensitive and important issues involved in this legislation, I think it is in the best interest of our veterans, and for that matter, all of our citizens, that both affirmative and negative decisions be made a matter of public record. Under the compromise agreement, the Administrator is charged with evaluating sound scientific or medical evidence which indicates a correlation between exposure to the hazards of dioxin and radiation in service and to diseases which may develop after service. The Administrator would have the authority to add diseases to the list of chronic diseases now contained in section 312 of title 38 and determine the maximum postexposure periods to entitle veterans to presumptive service-connected benefits. As I said earlier, the Administrator would be required to publish his proposed regulations in order to give the public a chance to comment and provide additional information prior to final implementation of the regulations.

I would point out that it has been the long standing policy of the Veterans Administration that when, after careful consideration of all procurable and assembled data, a reasonable doubt arises regarding any issue in a claim, such doubt will be resolved in favor of the claimant. By reasonable doubt is meant one which exists by reason of the fact that the evidence does not satisfactorily prove or disprove the claim, yet a substantial doubt exists and is one within the range of probability as distinguished from pure speculation or remote possibility. This has sometimes been described in baseball terms as the tie goes to the runner, but if in the judgment of the umpire, he is either out or safe, that decision stands, even though it was a close call.

There has been concern expressed by some that the VA policy cited above in resolving doubt in deciding individual veterans' claims might somehow be influenced by regulation which will be issued by the Administrator on the agent orange and radiation related issues. I want to say for the record that in making determinations when prescribing regulations, we expect the Administrator to utilize sound medical judgment but that we do not expect the policy on resolving doubt in individual claims by regional office personnel or the Board of Veterans Appeals to be changed to any degree. What this legislation says is that the Administrator must give due regard to the need to maintain, unchanged, the doctrine of reasonable doubt as it applies to individual cases. What this legislation does not say is that the doctrine controls determinations made by the Administrator with respect to any of the diseases which are the subject of a rulemaking procedure undertaken by the Administrator pursuant to this legislation.

Finally, in addition to my colleagues on the Committee on Veterans' Affairs in the House, I want to pay special tribute to the distinguished chairman of the Committee on Veterans Affairs in the Senate, the gentleman from Wyoming, Senator ALAN SIMPSON, and the very able ranking minority member of the Senate Committee, my good friend from California, Senator ALAN CRANSTON, for their willingness to compromise and to make concessions necessary to get a bill that the House and Senate could agree to.

The subject matter is extremely complex. The issues involved were controversial and highly emotional, and the approaches adopted by the House and Senate on how to proceed were very different. Negotiations were ongoing for some time and it is to the credit of every member of the Senate Veterans' Affairs Committee, and especially the leadership of the committee, that we now have a bill. I am most grateful to the Senate committee and to its very excellent staff in working with us to resolve our differences.

This is a reasonable compromise and I am hopeful the President will sign the proposed legislation.

There follows a detailed explanation of the agreement reached with the other body:

EXPLANATORY STATEMENT OF HOUSE BILL, SENATE AMENDMENT (S. 1651), AND COMPROMISE AGREEMENT ON H.R. 1961, THE VETERANS' DIOXIN AND RADIATION EXPOSURE COMPENSATION ACT

This document explains the provisions of H.R. 1961 as passed by the House of Representatives, the provisions of the bill as passed by the Senate with an amendment incorporating the provisions of S. 1651 as reported, and the provisions of a compromise

agreed to by the Veterans' Affairs Committees of the House and Senate. The differences between the House bill, the Senate amendment, and the compromise agreement are noted below, except for clerical corrections, conforming changes made necessary by agreements reached between the Committees, and minor drafting, technical, and clarifying changes.

GENERAL

Both the House bill and the Senate amendment address, in different ways, the issue of how the Federal Government should respond to the serious concerns and numerous questions about compensation that have been raised by veterans who were exposed during their service in Vietnam to dioxin as found in various herbicides, such as Agent Orange, or who were exposed to ionizing radiation from nuclear detonations during atmospheric weapons tests or in connection with the American occupation of Hiroshima or Nagasaki, Japan.

House bill

The House bill would establish a new chapter 14, entitled "Disability and Death Allowances for Certain Veterans and Survivors", in title 38, United States Code, pursuant to which the Administrator of Veterans' Affairs would temporarily pay disability allowances to veterans (or allowances to the survivors of a veteran in case of the death of a veteran) who served in Southeast Asia during the Vietnam era and who have certain diseases or to veterans who participated in the testing of an atomic bomb or device or served in the occupation of Hiroshima or Nagasaki following World War II and who have certain diseases. Payment of benefits under this chapter would not be made where there is affirmative evidence that the disease was not incurred during the veteran's service or that intercurrent injury or disease which is a recognized cause of the disease in question has been suffered after the end of the veteran's service but before the onset of the disease which is the subject of the claim. Payments under this chapter would terminate one year after the Administrator submits the first report of the epidemiological study of Vietnam veterans that was mandated by Public Law 96-151. That first report is required to be submitted not later than February 14, 1986.

Under the House bill, for a veteran who served in Southeast Asia during the Vietnam era, the diseases that would qualify for these temporary allowances would be soft-tissue sarcoma becoming manifest within twenty years from the date of the veteran's departure from Southeast Asia; porphyria cutanea tarda becoming manifest within one year from that date; and chloracne becoming manifest within one year from that date. For a veteran who participated in the testing of an atomic bomb or device or in the occupation of Hiroshima or Nagasaki, the diseases that would qualify would be leukemia, polycythemia vera, and carcinoma of the thyroid, all of which would have to become manifest within twenty years from the date of the veteran's participation in the test or occupation.

The rates at which disability or death allowances would be paid under this new chapter 14 would be the rates that would be paid under chapter 11, relating to disability compensation, or chapter 13, relating to dependency and indemnity compensation (DIC), respectively of title 38 if the disability or death were service-connected.

A disease established eligibility for a disability or death allowance under new chapter 14 would be treated for purposes of all other laws of the United States as if the disease were service-connected and receipt of such an allowance would be treated for such purposes as receipt of disability compensation or DIC under chapter 11 or 13.

Senate amendment

The Senate amendment would require the VA, through a rulemaking process allowing for public participation and expressly subject to judicial review, to develop regulations setting forth guidelines and, when appropriate, standards and criteria for the adjudication of claims for VA benefits on the basis of a veteran's exposure to dioxin in Vietnam or ionizing radiation from nuclear detonations. In developing the mandated regulations, the Administrator would be required to determine specifically—based on sound scientific and medical evidence and the advice of an Advisory Committee on Environmental Hazards (which would be established pursuant to provisions in the Senate amendment) and being highly cognizant of the need to maintain the policy of the United States as set forth in section 2(12) (relating to giving VA claimants the benefit of the doubt in resolving issues material to the determination of a claim) with respect to the resolution of contested issues. In the case of veterans exposed to dioxin, the diseases specified in the Senate amendment are soft tissue sarcoma becoming manifest to a degree of disability of 10 percent within thirty years after the date of the veteran's last departure from Vietnam during service, and porphyria cutanea tarda and chloracne becoming so manifest within one year after that date. In the case of veterans exposed to radiation, the diseases, all of which would have to become manifest to a degree of disability of 10 percent, are leukemia, malignancies of the thyroid, female breast, lung, bone, liver, and skin, polycythemia vera, hypothyroidism, or a thyroid nodule. In addition to these diseases, the Administrator would be required to make specific determinations as to service connection in the case of any other disease as to which the Scientific Council of the Advisory Committee finds there is sound scientific or medical evidence indicating a connection to exposure to dioxin or radiation.

The timetable in the Senate amendment for the development of these regulations would be as follows: Proposed regulations would be developed and published in the Federal Register within 120 days after the date of enactment; then a period of not less than 90 days after the proposed regulations are published for public review and comment; and, finally, publication of final regulations not later than 300 days after the date of enactment.

The compromise agreement, as discussed in more detail below, melds the approaches of the above-described provisions and others in the House bill and the Senate amendment. Thus, the compromise agreement would establish, for a limited period of time, a program of temporary benefits for disability or death in cases involving certain specified diseases in the case of Vietnam-era veterans exposed to dioxin in Vietnam, by mandating the Administrator to develop, through a public rulemaking process, regulations relating to the adjudication of claims based on exposure to dioxin in Vietnam or radiation from nuclear detonations.

FINDINGS

The Senate amendment (section 2), but not the House bill, would express Congressional findings relating to the issues of veterans' exposure to dioxin or to radiation. These include findings noting the concerns of veterans about such exposures, the scientific and medical uncertainty about the long-term adverse health effects of such exposure, the Federal Government's response to these concerns, various matters related to exposure to ionizing radiation during the atmospheric nuclear tests, and other related matters.

The compromise agreement (section 2) follows the Senate amendment with modifications, first, to delete a reference to the date of completion of the radioepidemiological tables mandated by Public Law 97-414; second, to add a finding (in section 2(5)) noting that there is some evidence that certain diseases (chloracne, porphyria cutanea tarda, and soft tissue sarcoma) are associated with exposure to certain levels of dioxin and that certain other diseases (most types of leukemia, malignancies of the thyroid, female breast, lung, bone, liver, and skin, and polycythemia vera) are associated with exposure to certain levels of ionizing radiation; and, third, to delete a reference, in a finding relating to the difficulties involved in adjudicating claims based on exposure to dioxin or radiation, to the difficulty of determining a connection between such exposure and increased risk of adverse health effects.

PURPOSE

The House bill (section 2) would state the purpose of the legislation as being to provide certain benefits to certain veterans and survivors in connection with certain diseases that may be attributable to exposure to Agent Orange or ionizing radiation, notwithstanding that there is insufficient medical evidence to conclude that such diseases are service connected. The Senate amendment (section 3) would state the purpose as being to ensure that VA compensation is provided to veterans who were exposed to dioxin during service in Vietnam or to ionizing radiation from a nuclear detonation for all disabilities arising after service that are connected, based on sound scientific and medical evidence, to such exposure and that DIC is paid to the survivors of those veterans who die from such disabilities.

The compromise agreement (section 3) follows the Senate amendment.

REQUIREMENT IN TITLE 38, UNITED STATES CODE, RELATING TO REGULATIONS

The Senate amendment (section 4), but not the House bill, would amend present section 354(a) of title 38, United States Code, relating to regulations issued by the Administrator pertaining to service-connection of disabilities, to include a cross-reference to the new requirement to be established by section 5 of the Senate amendment that the Administrator issue regulations pertaining to the disposition of claims based on exposure to dioxin or radiation.

The compromise agreement (section 4) includes this provision.

The Committees note their intent that, by including this cross-reference in title 38, to the provisions (section 5) of the compromise agreement requiring the issuance of regulations, all title 38 definitions will be applicable to terms related to the regulations that the Administrator is required to issue pursuant to section 5 of the compromise agreement.

REQUIREMENT FOR AND CONTENT OF REGULATIONS

The Senate amendment (section 5), but not the House bill, would, as previously de-

scribed under the heading "General", require the Administrator, through a public participatory process in accordance with the provisions of section 553 of title 5, United States Code, relating to rulemaking, to prescribe regulations relating to resolution of claims for VA benefits based on certain veterans' in-service exposure to dioxin or ionizing radiation.

The compromise agreement (section 5) follows the Senate amendment with modifications as described below.

The Senate amendment (section 5(a)) would require the Administrator to prescribe regulations for the resolution of certain claims for benefits where eligibility for such benefits is based on a connection between a veteran's military service and his or her disability or death. The regulations would be required to establish guidelines to resolve a veteran's or survivor's claim for benefits based on a veteran's exposure to dioxin in the Republic of Vietnam prior to May 8, 1975, or to ionizing radiation as a result of the American occupation of Hiroshima or Nagasaki or in connection with participation in atmospheric nuclear tests.

The compromise agreement (section 5(a)) follows the Senate amendment but, with respect to claims based on exposure to dioxin in the Republic of Vietnam, limits (in section 5(a)(1)(A)) the scope of the regulations to exposures that occurred during the Vietnam era (defined, for title 38 purposes, as beginning on August 5, 1964, and ending on May 8, 1975).

The Senate amendment (section 5(b)) would set forth factors and principles which the mandated regulations would be required to encompass. Specifically, the Senate amendment would require (in section 5(b)(1)(A)) the regulations to include guidelines governing the evaluation of scientific studies relating to the possible increased risk of adverse health effects of exposure to herbicides containing dioxin or to ionizing radiation; require (in section 5(b)(1)(B)) the Administrator to make such evaluations after receiving the advice of the Scientific Council of the Advisory Committee (which would be established under section 5(d) of the Senate amendment) and to publish such evaluations in the Federal Register; and require (in section 5(b)(1)(C)) that the regulations include guidelines relating to the use of such evaluations in the adjudication of individual claims.

The Senate amendment would further require (in section 5(b)(2)(A)(i)) the Administrator, in prescribing the required regulations, to make determinations (to be published in the regulations), based on sound medical and scientific evidence, as to whether service connection shall be granted in the adjudication of individual cases involving certain diseases, and in making such determinations to be highly cognizant of the need to maintain the policy of the United States of giving claimants before the VA the benefit of reasonable doubt on each issue as to which, after consideration of all evidence and material of record, there is an approximate balance of positive and negative evidence regarding the merits thereof; and would require (in section 5(b)(2)(A)(ii)) the Administrator to specify in the required regulations that, in the adjudication of individual claims for benefits, service connection would not be granted where there is sufficient affirmative evidence to the contrary or evidence to establish that there is an intercurrent injury or disease.

The compromise agreement (section 5(b)) follows the Senate amendment except that the Administrator, in making determinations regarding whether service connection should be granted for certain diseases, would be required (in section 5(b)(2)(A)(i)) to give due regard to the need to maintain the policy of the United States described above as set forth in section 2(13) of the compromise agreement.

The Senate amendment (section 5(b)(2)(A)(iii)) would require the Administrator, in the event such a determination of service connection for any of the diseases identified in the legislation is not made, to specify in the regulations factors to be considered in adjudicating claims involving such diseases.

The compromise agreement (section 5(b)(2)(A)(iii)) would require the Administrator to specify in the regulations the factors to be considered in the adjudication of individual claims involving any of the diseases described in the compromise agreement and the circumstances (such as exposure levels, where appropriate) governing granting of service connection for those diseases.

The Senate amendment (section 5(b)(2)(B)) would specify the diseases as to which determinations regarding service connection would be made by regulation; would provide maximum post-exposure periods within which certain of the specified diseases would have to become manifest; and would provide for the appropriate panel of the Scientific Council of the Advisory Committee (which would be established under section 5(d) of the Senate amendment), on the basis of sound scientific or medical evidence indicating a correlation between exposure and specific diseases, to add diseases and associated maximum post-exposure periods as to which determinations would be made by the Administrator.

The compromise agreement (section 5(b)(2)(B)) would provide that the diseases as to which the Administrator would be required to make determinations by regulation regarding service connection would be those specified in section 2(5) of the compromise agreement (discussed above under the heading "Findings") and any other disease with respect to which the Administrator finds, after receiving and considering the advice of the appropriate panel of the Scientific Council, that there is sound scientific or medical evidence indicating a connection between either type of exposure and such disease. The compromise agreement would establish no maximum periods during which such diseases would have to become manifest (leaving that to the Administrator to consider establishing).

The Senate amendment (section 5(b)(3)) would specify that the regulations required to be prescribed by the Administrator would include a provision specifying that a claimant filing a claim based on exposure to dioxin or radiation shall not be required to produce evidence substantiating the exposure when the claim of exposure is not inconsistent with information in the veterans' service records and other records of the service concerned.

The compromise agreement (section 5(b)(3)) would require the regulations to include (1) specification of the maximum period of time after exposure to dioxin or ionizing radiation for the development of all diseases addressed in the regulations prescribed under the compromise agreement, and (2) a provision specifying that a claimant filing a claim based on exposure to dioxin or radiation shall not be required to produce evidence substantiating the claimed exposure when information in the veteran's service record or other records of the Department of Defense is not inconsistent with the claim that the veteran was present where and when that exposure occurred.

The Senate amendment (section 5(b)(2)(A)(iv)) would require the Administrator, in adjudicating claims based on exposure to ionizing radiation in Hiroshima or Nagasaki, Japan, following World War II and involving diseases not specified in the Senate amendment, to ensure that careful and deliberate consideration is given to the contention that a connection between the disease and such exposure exists.

The compromise agreement does not contain this provision.

Proposed: In not including this provision, the Committees note that it is their intention that such consideration would be given to these and all other such claims.

The Senate amendment (section 5(c)) set forth specifications pertaining to the mandated development of regulations. These included (in section 5(c)(1)(A)) a requirement that a proposed version of the regulations be developed and published in the Federal Register not later than 120 days after the date of enactment and (in section 5(c)(3)) a provision specifying that, notwithstanding section 211(a) of title 38, relating to the preclusion of judicial review of VA decisions in cases involving individual claims for benefits, the Administrator's compliance with the requirements of section 5 of the Senate amendment, and any regulations prescribed pursuant to that section, would be subject to judicial reivew (in accordance with the provisions of the Administrative Procedure Act) after publication of the final regulations.

The compromise agreement (section 5(c)) would modify the period within which a proposed version of the regulations must be developed and published in the Federal Register to require such development and publication not later than 180 days after the date of enactment and does not contain the provision regarding judicial review.

The Committees note that, because the Advisory Committee on Environmental Hazards and the Scientific Council thereof (described below) might not be established in time to review the proposed regulations prior to the publication deadline, the compromise agreement provides for, but does not require, the Administrator to obtain the recommendations of either the Committee or the Council prior to publishing proposed regulations. Nevertheless, the Committees believe that the Committee's and Council's recommendations would be very valuable to the final outcome of the mandated regulations and, for that reason, extended the period for the publication of the proposed regulations by 60 days. In light of the potential value of those recommendations, the Committees urge the Administrator to begin at once, prior to enactment of this legislation, the process of seeking out a broad spectrum of advice regarding possible Advisory Committee members so that as soon as the compromise agreement is enacted the Administrator will be ready to establish the Advisory Committee quickly and solicit its advice prior to the publication of the proposed regulations.

VETERANS' ADVISORY COMMITTEE ON ENVIRONMENTAL HAZARDS

The Senate amendment (section 5(d)) would establish an Advisory Committee on Environmental Hazards and a Scientific Council thereof (further subdivided into

two panels, one with particular responsibility for dioxin-related matters, the other for radiation-related matters), specify the membership of the Advisory Committee and Scientific Council, and set forth other matters relating to the functioning of the Committee and Council.

The compromise agreement (section 6) follows the Senate amendment with modifications to add "Veterans' " as the first word in the name of the Committee, and to require the Administrator, in selecting the medical and scientific authorities to serve on the Advisory Committee, to request and consider the recommendations of the heads of Federal entities with particular expertise in biomedical and environmental science, rather than only the Director of the National Institutes of Health.

The Committees note that the inclusion in the compromise agreement of a prohibition against active duty Armed Forces members and certain Federal employees serving on the Advisory Committee on Environmental Hazards is not intended to reflect upon the objectivity or integrity of any such individuals. Rather, this provision stems from the Committees' strong belief that the perception among veterans and the general public of the objectivity of the members of the Advisory Committee must be ensured. In this regard, although the compromise agreement would not preclude the appointment to the Advisory Committee of recent military or Federal retirees, the Committees are confident that the Administrator, before making any such appointments, would weigh very carefully the ramifications of such an appointment in terms of the perceived objectivity of the Advisory Committee.

NUCLEAR RADIATION MATTERS INVOLVING OTHER AGENCIES

The Senate amendment (section 6), but not the House bill, contains numerous provisions relating to nuclear radiation matters involving agencies other than the VA. These provisions, which relate to matters involving the Department of Defense and the Defense Nuclear Agency (relating to the issuance of guidelines pertaining to the preparation of radiation dose estimates in connection with VA claims), and the Department of Health and Human Services and the National Institutes of Health (relating to a review of techniques for determining prior radiation exposure and the selection of independent experts to provide dose estimates), are designed to improve the Federal Government's overall response to issues relating to radiation exposure and, ultimately, the way in which the VA responds to claims for benefits based on a veteran's exposure to ionizing radiation.

The compromise agreement (section 7) contains these provisions.

AMENDMENTS TO REGULATIONS

The Senate amendment (section 7), but not the House bill, would amend provisions relating to epidemiological studies of veterans exposed to dioxin or radiation in two public laws—Public Law 96-151, as amended by Public Law 97-72 and Public Law 98-100—to require the Administrator, as information becomes available from the two studies, to evaluate the need for any amendments to the regulations issued under this measure and, to the extent that the Administrator determines that any amendments to such regulations are required, the Administrator would be required to follow the process specified elsewhere in the legislation to develop such amendments.

The compromise agreement (section 8) contains these provisions.

INTERIM BENEFITS FOR DISABILITY OR DEATH IN CERTAIN CASES

The House bill (section 4), but not the Senate amendment, would, as described above (under the heading "General"), amend title 38, United States Code, to establish a temporary program pursuant to which disability and death allowances would be paid to certain veterans exposed to dioxin or radiation who have certain specified diseases.

The compromise agreement (section 9) follows the House bill with the following modifications. Under the compromise agreement, the Administrator, pursuant to a free-standing provision of law rather than an amendment to title 38, would pay a monthly disability benefit only to certain veterans who served in the Republic of Vietnam, who have either chloracne or prophyria cutanea tarda which became manifest within one year after the date of the veteran's last departure from Vietnam while in the service. In the event that a veteran dies from either such disease, the Administrator would pay a monthly death benefit to the veteran's survivors. Under the compromise agreement, bnefits would not be paid in cases involving affirmative evidence that the disease was not incurred during service or that an intercurrent injury or disease was involved (as described above under the heading "General") and also in cases in which the Administrator determines, based on evidence in the veteran's service record and records provided by the Secretary of Defense, that the veteran was not exposed to dioxin during the veteran's service. In addition, benefits would not be paid for any period before October 1, 1984, nor after September 30, 1986.

I thank the gentleman for yielding.

Mr. Speaker, if it is in order I would like to have the distinguished gentleman from Arkansas yield to the gentleman from Ohio [Mr. APPLEGATE], chairman of the Subcommittee on Compensation, Pension, and Insurance of the Committee on Veterans' Affairs.

Mr. HAMMERSCHMIDT. Mr. Speaker, further reserving the right to object, I yield to the distinguished chairman of the subcommittee, Mr. APPLEGATE of Ohio.

Mr. APPLEGATE. I thank the gentleman for yielding and I thank my chairman.

Mr. Speaker, as the gentleman knows, on January 30 of this year, the House passed H.R. 1961 to provide an interim benefit for Vietnam veterans exposed to agent orange and for veterans exposed to radiation while participating in nuclear tests or who served in the Armed Forces during the occupation of Hiroshima or Nagasaki.

A disability or death benefit would have been paid for three conditions which are said to be related to exposure to the dioxin in agent orange and for three conditions which can result from exposure to high levels of radiation.

Unfortunately, the U.S. Senate discarded entirely the provisions of our bill and substituted a rulemaking procedure for the Veterans' Administration to follow in the processing of agent orange and radiation related claims.

The compromise agreement we have before us today contains parts of both bills. First, it provides for payment of benefits for two of the three agent orange related disabilities we had in our original bill and requires the Administrator of the VA to issue specific regulations on the other conditions named in H.R. 1961.

The compromise agreement will also create a scientific council which will review all scientific and medical literature and identify medical conditions that could be related to exposure of agent orange or radiation while serving on active duty in our military forces. The VA Administrator would be required to rule on each of these specific issues raised by the scientific council.

Mr. Speaker, when I became chairman of the Subcommittee on Compensation, Pension and Insurance, I pledged to get to the bottom of the problems being faced by all veterans exposed to agent organge or radiation. With the help and dedication of my subcommittee members—especially TOM DASCHLE sponsor of the agent orange bill and JOHN PAUL HAMMERSCHMIDT, sponsor of atomic radiation bill, the prime sponsors, and Chairman SONNY MONTGOMERY—we faced those issues head-on. This legislation would not have succeeded without the diligence and dedication of these two gentlemen.

The Congress has already authorized over $50 million for a study by the Centers for Disease Control; however, these results will not be known for several more years. This compromise agreement is a great step forward in letting the Vietnam veteran and the atomic veteran know that we, on this committee, are concerned about their fears.

No longer will the Vietnam and atomic veterans be in the dark as to where the Veterans' Administration stands because under this agreement the VA must set forth formal procedures to deal with these issues. The scientific council established under this compromise will examine and evaluate—on a continuing basis—all issues raised by agent orange and radiation exposure. The VA will then have to either issue a formal regulation recognizing the disability or explain why not.

Mr. Speaker, this is a reasonable compromise to a very complicated and emotional issue. I wholeheartedly urge my colleagues to approve its passage.

I thank the gentleman for yielding.

□ 1010

Mr. HAMMERSCHMIDT. Mr. Speaker, further reserving the right to

object, I want to the thank the gentleman for his contribution.

Mr. Speaker, I yield to the gentleman from South Dakota [Mr. DASCHLE], the chief sponsor of the agent orange portion of this bill.

Mr. DASCHLE. Mr. Speaker, I rise in strong support of the conference agreement on H.R. 1961, the Agent Orange Relief Act. However, it is substantially different in some respects than the version I introduced in March 1983, and the one passed by the House this past January.

As my colleagues may recall, the House-passed legislation sought to establish presumptions in which the veteran is given the benefit of the doubt that certain illnesses are agent orange related unless the VA can prove otherwise. This approach is simple, direct, and leaves little room for bureaucratic discretion. Current law (title 38, section 312a) already permits the presumption of service-connection for over 40 diseases where there is uncertainty or doubt as to the etiology of the illness and its relationship to a veterans' military service. The only restriction is that the condition must originate within a certain time period after military discharge. This is the best approach to assist those veterans with rare and unexpected illnesses who need immediate assistance. Our original legislation which was subseqently passed by the House thus added threee agent orange related conditions—soft-tissue cancer, porphyria cutanea tarda, and chloracne—and three radiation-related conditions—leukemia, polycythemia-vera, and thyroid cancer—to section 312(a).

The Senate sought instead to resolve veterans' claims in these areas by amending the VA's present adjudication process and adding an independent scientific advisory committee. Several days of hearings convinced me that this approach was also very worthy of support. I offered an amendment in committee to include such a process in H.R. 1961. Both my amendment and the Senator's bill emphasized the oversight function of the advisory committee and its role in advising the VA as to what other suspected conditions should be considered for compensation. As veterans will be represented on the committee, far greater potential for sensitive consideration of veterans needs in addition to a thorough review scientific and medical evidence will now exist.

This agreed upon compromise will authorize for 2 years compensation for two agent-orange-related conditions, porphyria cutanea tarda and chloracne. Additionally, within 300 days of enactment, the Veterans' Administration [VA] must promulgate standards and criteria for the resolution of soft-tissue sarcoma claims. Development of standards and criteria are also required for the resolution of radiation-related claims including most leukemias, cancers of the thyroid, female breast, lung, bone, liver, and skin, as well as the blood disorder polycythemia-vera. The bill requires public review and comment on the proposed standards, a procedure the VA normally does not have to follow. The bill also requires establishment of an independent scientific advisory committee to make recommendations to the VA concerning other diseases which should be included in this process and to analyze agent orange and radiation-related studies.

Both the House and Senate recognized the need to clarify the vagaries inherent in the Veterans' Administration's process for resolving agent orange and radiation-related claims. In recent years the VA has demanded far greater standards of evidence for approving agent orange related claims than for the traditional, nonagent orange related claims. When filing a more traditional claim, a veteran has only to establish that his condition originated during his service period.

There are more stringent requirements for a veteran seeking approval of an agent orange related claim. Not a single claim has been approved thus far for veterans claiming agent orange causation. The VA denies such claims unless "a consensus of the medical community finds with reasonable medical certainty that exposure causes * * *" his disability. In essence, there are three requirements instead of the usual one to establish service-connection; a medical consensus, reasonable medical certainty, and direct causation. As with any hazardous chemical issue, prospects for realizing a consensus of opinion much less a conclusive link between exposure and adverse health effects are remote. It is unreasonable and unfair to require such standards for approval of agent orange claims. Most objectionable, this position ignores existing law (title 38, section 3.102) which requires a veteran's claim to be approved if there is reasonable doubt as to its origin. The guidelines and criteria provisions in this bill will make resolution of chemically related claims more fair by requiring that the reasonable doubt doctrine is adhered to.

An important oversight mechanism in our efforts to provide a more consistent and open claim's adjudication process is establishment of an independent scientific Environmental Hazards Advisory Committee. Several days of hearings on this legislation revealed wide-ranging opinions in the scientific community regarding the validity and conclusions which could be drawn from many agent orange and radiation-related scientific studies. Two subcommittees, one for dioxin, the other for radiation will evaluate these studies and relate their conclusions specifically to veterans' health concerns and VA compensation policy. The subcommittees will then make recommendations to the VA as to what additional diseases should be considered for compensation. Independent analysis of this information will ensure that viewpoints contrary to agency positions receive fair, impartial, and expeditious consideration.

Unfortunately, the Senate has rejected some of the most significant portions of the House version calling for direct compensation of veterans with soft-tissue sarcomas, leukemias, thyroid cancer, and polycythemia-vera. These provisions, at modest cost, would greatly assist many veterans who equally deserve the benefit of the doubt. The most these individuals can hope for is that the advisory committee at some future date will acknowledge a possible linkage of their condition to dioxin or radiation exposure, give them the benefit of the doubt of this fact, and recommend that they receive compensation. It is imperative in this regard, that the Veterans' Committee employ its oversight responsibilities to the fullest extent to ensure full consideration be given to these matters by the advisory committee.

Together, the original House and Senate passed bills complimented each other well. The House bill addressed the immediate needs of veterans afflicted with diseases associated with dioxin exposure. The Senate bill allows for public participation in a process for resolution of future claims.

The best compromise would have incorporated both the complete House passed version of H.R. 1961 and the Senate passed substitute. Together, they formed a prudent, comprehensive package which could have compensated deserving veterans over the next 5 years while initiating a process which would guarantee prompt and consistent treatment of veterans claims in the future. This agreement was unattainable and we are left with a version which for now only partially addresses the legitimate needs of some Vietnam veterans who remain in dire need of help.

To fully address these concerns I believe that at least two additional steps should be taken. One is to approve legislation authorizing judicial review of veterans' claims. H.R. 1961 would not be nearly so important if veterans had an opportunity to retain counsel and seek redress in an independent court of appeals. Second, Congress should consider the purchase of an excess coverage insurance policy in case the trust fund created by the recent court decision fails to adequately provide for those veterans and their families awarded damages. For a modest premium, we could ensure that funds continue to be available to those who have experienced serious and life-threatening handicaps.

No compromise would have possible at all, however, were it not for the leadership of our chairman, SONNY MONTGOMERY, and our subcommittee chairman DOUG APPLEGATE. It has been their partnership, their cooperation, and their deep appreciation for our veterans' needs that has made this legislative effort a success. In addition, I want to commend the House Veterans' Affairs Committee staff for their diligent efforts, their help and the resources they provided over the past months which has been extremely important in this effort. I am grateful for this support. I strongly urge my colleagues to support this measure.

Mr. EDGAR. Mr. Speaker, will the gentleman yield?

Mr. HAMMERSCHMIDT. Further reserving the right to object, I yield to the gentleman from Pennsylvania [Mr. EDGAR], the chairman of the Health and Hospital Subcommittee.

Mr. EDGAR. I thank the gentleman for yielding.

Today before our subcommittee we had an extensive hearing on the issue of agent orange as it relates to birth defects.

I think tonight's effort is an historic moment, a first step, as the gentleman from South Dakota [Mr. DASCHLE] indicated it does not do as much as some of us would have liked it to do, but it is an historic step for the House to move into the area of first having the Congress declare that agent orange did affect the health of Vietnam veterans. For that historic moment I think the bill is a good first step, an historic move.

I, too, would like to thank my colleague the gentleman from Arkansas [Mr. HAMMERSCHMIDT] and the gentleman from Mississippi [Mr. MONTGOMERY], the chairman of the committee, for their efforts to move this legislation and the gentleman from South Dakota [Mr. DASCHLE] for his work as chief sponsor.

But let me say just in closing that this compromise was put together by a great deal of staff effort on behalf of the House and the other body's staff. I want to thank them for their effort and congratulate the committee for moving the legislation at this time.

Mr. Speaker, 6 years of research and study on the part of the House Committee on Veterans' Affairs on the subject of the potential adverse health effects of exposure to agent orange among the Vietnam veteran population are culminating with passage of H.R. 1961 today.

For the first time the Congress is now declaring that exposure to the defoliant has affected the health of many Vietnam veterans who served in Vietnam. And, for the first time, the Congress, in approving this lsegislation, is willing to provide compensation for those disabilities.

This is a landmark opportunity. It is also, unfortunately, only a first step in a continuing process to further study this issue and determine where we go from here.

The compromise before us today is just that. The other body would accept only two of the three disabilities, chloracne and porphyria cutanea tarda (a liver disorder), attributable to exposure to agent orange and none of the disabilities approved by the House associated with exposure to ionizing radiation from atmospheric nuclear testing among the atomic veteran population as directly compensable. While we are discouraged about this inflexibility, we can also be encouraged as the compromise also contains a mechanism to allow the Veterans' Administration and the VA Administrator to establish guidelines and regulations to expand the current list of compensable disabilities where warranted by scientific evidence. It is our intention and our directive that these procedures, including the creation of a special scientific council which will review these decisions, will be implemented as soon as possible. It is also our hope that in making these deliberations they will grant all benefit of doubt to the veteran.

Mr. Chairman, as chairman of the House Veterans' Affairs Subcommittee on Hospitals and Health Care, I would like to express my sincere appreciation for the hard work, persistence, and commitment of the gentleman from South Dakota [Mr. DASCHLE] who we joined in introducing the original version of H.R. 1961. Without his leadership and the support of the chairman of the full Veterans' Affairs Committee SONNY MONTGOMERY we never would have reached this important milestone in keeping our commitment to the Nation's Vietnam veterans.

Mr. RATCHFORD. Mr. Speaker, will the gentleman yield?

Mr. HAMMERSCHMIDT. I yield to the gentleman from Connecticut [Mr. RATCHFORD], a member of the committee.

Mr. RATCHFORD. I thank the gentleman for yielding.

Mr. Speaker, our thanks go out to the gentleman from Mississippi [Mr. MONTGOMERY], the chairman; to the ranking member, the gentleman from Arkansas [Mr. HAMMERSCHMIDT] because I think we see tonight an historic first step toward saying to the Vietnam veterans, finally in America, one decade later, we are going to do something about agent orange.

This is something obviously that has been long overdue, something that has been ignored for over a decade. I have had, the gentleman has had, and many others have had the experience of having agent orange victims come to us and say, "When is our country going to recognize our plight? When is our country going to recognize the fact that we went to Vietnam. We served. We were exposed to agent orange and came back with these terrible problems."

Now, finally, a decade later, a commitment on behalf of the United States to do something about these problems.

Starting first with the liver problems. Starting with the chloracne problem, but then we must go on from there to look at soft tissue problems. Look at the whole question about birth defects.

But tonight we can say we are taking another step just as we did when we dedicated the Vietnam Memorial, another step in the healing process in dealing with our Vietnam veterans.

Finally, Mr. Speaker, we are taking another step toward treating the Vietnam veteran in the same manner and respect that we treat all veterans and moving away from an attitude that for over a decade treated the Vietnam veteran as the enemy.

This is a major step. I support it. I support the conference report.

Mr. HAMMERSCHMIDT. Mr. Speaker, further reserving the right to object, I would like to yield to the gentleman from Georgia [Mr. ROWLAND] who was the coauthor of the bill that covers disability with respect to exposure to atomic radiation.

Mr. ROWLAND. Mr. Speaker, I rise in strong support of the House/Senate compromise on H.R. 1961, formerly known as the the Agent Orange and Atomic Veterans Relief Act. I will confine my remarks to just those provisions dealing with compensation for veterans exposed to ionizing radiation during their military service. I would like to commend my colleage, Mr. DASCHLE, for his efforts in behalf of veterans exposed to agent orange in getting this legislation enacted this year. I want to also commend the chairman of the House Committee on Veterans' Affairs, Mr. MONTGOMERY, for his leadership in insuring that a bill was forged which recognized the special health problems that both atomic veterans and agent orange veterans have experienced.

This is an important step for the Congress to take recognition of the limitations of both past knowledge and past records of toxic exposure by our servicemen and women. I am pleased that this legislation clearly states the intent of Congress to compensate veterans for disabilities which have resulted from exposure to radiation, and to dioxin.

In passing this legislation, Congress is also recognizing that some evidence exists that certain disorders are associated with exposure. And in doing so, sets up the mechanism for establishing the service-connected status of these disorders with the advice of the newly created Scientific Council of the

Veterans Advisory Commission on Environmental Hazards.

I am pleased to have been a part of this effort to offer redress to veterans, their dependents, and their survivors. I urge swift passage of H.R. 1961 to set the wheels of justice in action that for many of our veterans will restore their faith in the implicit agreement made with the Government when they willingly sacrificed their lives in defense of this country.

Thank you.

● Mr. EDWARDS of California. Mr. Speaker, I rise in support of passage of the conference report on H.R. 1961, the agent orange compensation bill. I compliment the conferees for their work on this important measure.

I do regret that the House's original bill was drastically narrowed in scope during the conference committee because of the reluctance of the Senate conferees to accept the House provisions. I believe that the original House bill was, in itself, too narrow. Nonetheless, I think that this report is still a worthwhile step foward and worthy of our support.

With this report, a scientific board, to be set up in the Veterans' Administration, is directed to review the disabilities Vietnam veterans, and their affected children, are suffering due to agent orange exposure. The board is directed to establish guidelines and regulations to expand the list of disabilities for which compensation should be awarded.

I would hope that, in the work done by the board, the benefit of the doubt will be given to the veterans. For, it is the sad fact, but the fact nonetheless, that the state of scientific knowledge about agent orange and the dioxin it contains is full of inconsistencies, inconclusiveness, and just plain we don't have enough information to say for sure. But, obviously, something, and something serious, is going on.

The recent Air Force Ranch Hand Study, while positive for veterans for the most part, did find statistical differences in the rate of skin cancers, minor birth defects, and reported neonatal deaths between Vietnam veterans, and their affected children exposed to agent orange versus the control group which was not exposed.

The Center for Disease Control's recent study of birth defects among live births to male Vietnam veterans reports that while, for most defect groups, Vietnam veterans' risks were neither higher nor lower than those of other fathers, there were statistical differences with regard to spina bidifa, cleft lips, cleft palate, and neoplasms in the children of the Vietnam veterans.

I urge my colleagues to support this conferernce report. We must move forward on this, for our veterans, and for their children, and for ourselves.●

Mr. HAMMERSCHMIDT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Mississippi?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the amendments just adopted.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

REQUEST TO CONCUR IN SENATE AMENDMENT TO H.R. 5076, PENNSYLVANIA WILDERNESS ACT OF 1984

Mr. SEIBERLING. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 5076) to designate certain areas in Allegheny National Forest as wilderness and recreation areas, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Strike out all after the enacting clause and insert:

That this Act may be cited as the "Pennsylvania Wilderness Act of 1984".

FINDINGS

SEC. 2. The Congress finds and declares that—

(1) there is an urgent need to identify and protect natural areas to meet the recreational needs of Americans;

(2) certain lands within the Allegheny National Forest in Pennsylvania are worthy of inclusion in the National Wilderness Preservation System; and

(3) certain other lands within the Allegheny National Forest are suitable for designation as a national recreational area.

PURPOSE

SEC. 3. It is the purpose of this Act to—

(1) establish the Allegheny Islands Wilderness and the Hickory Creek Wilderness;

(2) establish the Allegheny National Recreation Area so as to ensure the preservation and protection of the area's natural, scenic, scientific, historic, archaeological, ecological, educational, watershed, and wildlife values and to provide for the enhancement of recreational opportunities, particularly undeveloped recreational opportunities; and

(3) ensure that any mineral exploration and development that takes place within the recreation area is done in an environmentally sound manner.

WILDERNESS DESIGNATIONS

SEC. 4. In furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131-1136), the following lands in the State of Pennsylvania are hereby designated as wilderness and, therefore, as components of the National Wilderness Preservation System:

(1) certain lands in the Allegheny National Forest, Pennsylvania which comprise approximately three hundred and sixty-eight acres, as generally depicted on a map entitled "Allegheny Islands Wilderness—Proposed", dated March 1984, composed of Crulls Island, Thompsons, Island, R. Thompsons Island, Courson Island, King Island, Baker Island, and No Name Island, and which shall be known as the Allegheny Islands, Wilderness; and

(2) certain lands in the Allegheny National Forest, Pennsylvania, which comprise approximately nine thousand three hundred and thirty-seven acres as generally depicted on a map entitled "Hickory Creek Wilderness—Proposed", dated March 1984, and which shall be known as the Hickory Creek Wilderness.

ADMINISTRATION OF WILDERNESS

SEC. 5. (a) Subject to valid existing rights, each wilderness area designated by this Act shall be administered by the Secretary of Agriculture in accordance with the provisions of the Wilderness Act governing area designated by that Act as wilderness, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the date of enactment of this Act.

(b) As provided in section 4(d)(8) of the Wilderness Act, nothing in this Act shall be construed as affecting the jurisdiction or responsibilities of the State of Pennsylvania with respect to wildlife and fish in the Allegheny National Forest in the State of Pennsylvania.

(c)(1) The Secretary is authorized to acquire by purchase, donation, or exchange, with donated or appropriated funds, such lands or interests in lands (including oil, gas, and other mineral interests and scenic easements) within the wilderness areas designated by this Act as the Secretary deems necessary to carry out the purposes of this Act. Such lands and interests in lands may be acquired only with the consent of the owner thereof.

(2) Not more than $2,000,000 is authorized to be appropriated for the purpose of acquiring, in accordance with this subsection, lands and interests in lands in the wilderness areas designated by this Act.

ALLEGHENY NATIONAL RECREATION AREAS

SEC. 6. (a) In furtherance of the findings and purposes of this Act, certain lands in the Allegheny National Forest, Pennsylvania, which comprise approximately twenty-three thousand one hundred acres, as generally depicted on a map entitled "Allegheny National Recreation Area—Proposed", dated March 1984, are hereby designated as the Allegheny National Recreation Area (hereinafter in this Act referred to as the "national recreation area"). The Secretary of Agriculture may revise the boundaries of the national recreation area to correct errors or to include additional lands acquired adjacent to the area.

(b) The national recreation area shall be managed for the purposes of—

(1) outdoor recreation including, but not limited to, hunting, fishing, hiking, backpacking, camping, nature study, and the use of motorized and nonmotorized boats on the Allegheny Reservoir;

(2) the conservation of fish and wildlife populations and habitat;

(3) the protection of watersheds and the maintenance of free flowing streams and

the quality of ground and surface waters in accordance with applicable law;

(4) the conservation of scenic, cultural, and other natural values of the area;

(5) allowing the development of privately-owned oil, gas, and mineral resources subject to reasonable conditions prescribed by the Secretary under subsection (c) for the protection of the area; and

(6) minimizing, to the extent practicable, environmental disturbances caused by resource development, consistent with the exercise of private property rights.

(c) The Secretary shall administer the national recreation area in accordance with the purposes described in subsection (b) and the laws, rules, and regulations applicable to the National Forest System. Subject to valid existing rights, any activity associated with the exploration, development, or transportation of oil, gas, or other minerals shall be subject to such reasonable conditions as the Secretary may prescribe, and in accordance with the management plan described in subsection (d), to achieve the purposes, described in subsection (b), of the national recreation area. For any such activity, the Secretary shall require a plan of operations which shall include provisions for adequate reclamation, including, to the extent practicable, revegetation and rehabilitation after each phase of operations is completed.

(d) The Secretary shall prepare, and may from time to time amend, a management plan for the national recreation area. The plan may be prepared in conjunction with, or incorporated with, ongoing planning for the Allegheny National Forest in accordance with the National Forest Management Act of 1976. The initial management plan and significant amendments or revisions shall be accompanied by an environmental impact statement prepared in accordance with the National Environmental Policy Act of 1969.

(e) The Secretary shall permit hunting, fishing, and trapping within the boundaries of the national recreation area in accordance with applicable Federal and State laws except that the Secretary may designate zones where, and establish periods when, no hunting, fishing, or trapping shall be permitted for reasons of public safety, administration, or public use and enjoyment. Except in * * *.

MAPS AND DESCRIPTIONS

SEC. 7. As soon as practicable after enactment of this Act, the Secretary of Agriculture shall file a map and a legal description fo the national recreation area and of each wilderness area designated by this Act with the Committee on Interior and Insular Affairs and the Committee on Agriculture of the United States House of Representatives and with the Committee on Agriculture, Nutrition, and Forestry of the United States Senate. Each such map and description shall have the same force and effect as if incuded in this Act, except that correction of clerical and typographical errors in such maps and descriptions may be made by the Secretary. Each such map and description shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Department of Agriculture.

EFFECT OF RARE II

SEC. 8. (a) The Congress finds that—

(1) the Department of Agriculture has completed the second roadless area review and evaluation program (RARE II); and

(2) the Congress has made its own review and examination of National Forest System roadless areas in the State of Pennsylvania, and of the environmental impacts associated with alternative allocations of such areas.

(b) On the basis of such review, the Congress hereby determines and directs that—

(1) without passing on the question of the legal and factual sufficiency of the RARE II final environmental statement (dated January 1979) with respect to National Forest System lands in States other than Pennsylvania, such statement shall not be subject to judicial review with respect to National Forest System lands in the State of Pennsylvania;

(2) with respect to the National Forest System lands in the State of Pennsylvania which were reviewed by the Department of Agriculture in the second roadless area review and evaluation (RARE II) and those lands referred to in subsection (d), that review and evaluation or reference shall be deemed for the purposes of the initial land management plans required for such lands by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, to be an adequate consideration of the suitability of such lands for inclusion in the National Wilderness Preservation System and the Department of Agriculture shall not be required to review the wilderness option prior to the revisions of the plans, but shall review the wilderness option when the plans are revised, which revisions will ordinarily occur on a ten-year cycle, or at least every fifteen years, unless, prior to such time, the Secretary of Agriculture finds that conditions in a unit have significantly changed;

(3) areas in the State of Pennsylvania reviewed in such final environmental statement or referenced in subsection (d) and not designated as wilderness or for special management under section 6 of this Act upon enactment of this Act shall be managed for multiple use in accordance with land management plans pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976: *Provided*, That such areas need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of the initial land management plans; and

(4) in the event that revised land management plans in the State of Pennsylvania are implemented pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, and other applicable law, areas not recommended for wilderness designation need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of such plans, and areas recommended for wilderness designation shall be managed for the purpose of protecting their suitability for wilderness designation as may be required by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, and other applicable law.

(c) As used in this section, and as provided in section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, the term "revision" shall not include an "amendment" to a plan.

(d) The provisions of this section shall also apply to National Forest System roadless lands in the State of Pennsylvania which are less than five thousand acres in size.

BUFFER ZONES

SEC. 9. The Congress does not intend that the designation of a wilderness area under this Act lead to the creation of protective perimeters or buffer zones around such wilderness area. The fact that nonwilderness activities or uses can be seen or heard from areas within a wilderness shall not preclude such activities or uses up to the boundary of the wilderness area.

Mr. SEIBERLING (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Ohio?

Mr. EMERSON. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

REQUEST TO CONCUR IN SENATE AMENDMENT TO H.R. 2645, TO AMEND ACT OF AUGUST 15, 1978, REGARDING CHATTAHOOCHEE RIVER NATIONAL RECREATION AREA

Mr. SEIBERLING. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 2645) to amend the act of August 15, 1978, regarding the Chattahoochee River National Recreation Area in the State of Georgia, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Page 2, line 9, strike out "February" and insert "September".

Page 2, line 11, strike out "7,328" and insert "6,800".

Page 2, strike out all after line 13 over to and including line 9 on page 3 and insert:

"(f)(1) The Secretary shall exchange those federally owned lands identified on the map referenced in section 101 of this Act as 'exchange lands' for non-Federal lands which are within the boundaries of the recreation area. The values of the lands exchanged under this subsection shall be equal, or shall be equalized in the same manner as provided in section 206 of the Federal Land Policy and Management Act of 1976.

Page 3, lines 21 and 22, strike out "and included within the recreation area" and insert "as part of the recreation area".

Page 3, strike out all after line 22 over to and including line 4 on page 4 and insert:

"(4) The Secretary shall publish a revision of the boundary map referred to in section 101 to exclude from the boundaries of the recreation area any exchange lands which are used to acquire non-Federal lands under paragraph (3).".

Page 4, strike out lines 7 to 16, inclusive, and insert:

"(d)(1) Notwithstanding any other authority of law, any department, agency, or in-

strumentality of the United States or of the State of Georgia, or any other entity which may construct any project recommended in the study entitled 'Metropolitan Atlanta Water Resources Management Study, Georgia: Report of Chief of Engineers,' dated June 1, 1982, which directly adversely impacts any lands within the authorized recreation boundaries of the Bowman's Island tract as shown on the map numbered and dated CHAT-20,003, September 1984, which were in Federal ownership as of September 1, 1984, shall, upon request by the Secretary, mitigate such adverse impacts. It is expressly provided that use of or adverse impact upon any other lands within the recreation area as result of any such project shall not require mitigation. Mitigation required by this paragraph shall be provided by payment to the United States of a sum not to exceed $3,200,000. The mitigation funds paid pursuant to this paragraph, shall be utilized by the Secretary for the acquisition of replacement lands. Such replacement lands shall be acquired only after consultation with the Governor of Georgia.

Page 4, strike out lines 17 to 22, inclusive, and insert:

"(2) In acquiring replacement lands under paragraph (1) priority shall be given to acquisition of lands within the recreation area boundary and those lands within or adjacent to the 2,000 foot wide corridor referred to in section 101. Any lands acquired pursuant to this subsection lying outside the boundaries of the recreation area shall, upon acquisition, be included within the recreation area and transferred to the Secretary for management under this Act. The Secretary shall publish a revised boundary map to include any lands added to the recreation area pursuant to this subsection.

Page 4, strike out lines 23 and 24 and insert:

"(3) If lands as described in paragraph (2) are not available for acquisition,

Page 5, line 5, strike out "$84,600,000" and insert: "$79,400,000".

Page 5, line 20, strike out "effect," and insert "effect on the natural or cultural resources of the recreation area,".

Page 10, lines 7 and 8, strike out "Georgia Chamber of Commerce" and insert "Business Council of Georgia".

Page 11, strike out lines 11 to 14, inclusive, and insert:

"(e) The Advisory Commission shall terminate on the date ten years after the date of the enactment of this subsection.".

□ 2220

Mr. SEIBERLING (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. LUJAN. Mr. Speaker, reserving the right to object, I take this time simply to ask the chairman of the committee, there is an indication that on all of these bills we are going to have an objection. I understand that the gentleman from Missouri has informed the chairman of the subcommittee of his intention to do that. Are we still going to continue to bring them up?

Mr. SEIBERLING. If the gentleman will yield, I just thought I would try one or two more and see if the gentleman objects.

Mr. EMERSON. Mr. Speaker, will the gentleman from New Mexico yield?

Mr. LUJAN. I yield to the gentleman from Missouri.

Mr. EMERSON. Mr. Speaker, it is not my personal desire to object to any of these bills. I am doing so to try to receive some accommodation from the gentleman from Ohio.

Mr. LUJAN. Mr. Speaker, continuing my reservation of objection, might I ask the gentleman, is it his intention to object to all of the bills that are brought up by the gentleman from Ohio?

Mr. EMERSON. If the gentleman will yield, yes, I will object.

Mr. LUJAN. Then I fail to see why we are continuing to bring them up if we know they are going to be objected to and we cannot act on them.

Mr. SEIBERLING. Well, I just think maybe the RECORD ought to show who is objecting to what.

Mr. LUJAN. Continuing my reservation of objection, the record is clear.

Mr. SEIBERLING. And then let those who want these pieces of legislation govern themselves accordingly.

Mr. LUJAN. Why do we not just list them? The hour is late.

Mr. SEIBERLING. Well, there are not that many, so perhaps that will be the net result.

Mr. LEVITAS. Mr. Speaker, will the gentleman yield?

Mr. LUJAN. I will be happy to yield to the gentleman from Georgia.

The SPEAKER pro tempore. If we could follow the procedure here, we could get the objections out of the way and get finished up here. Why do we not just follow the procedure?

Is there objection to the request of the gentleman from Ohio?

Mr. LEVITAS. Mr. Speaker, reserving the right to object, I do so to make this observation, if I may: I have had conversation with the distinguished gentleman from Missouri about his concerns and with the distinguished chairman of the subcommittee about his concerns, and far be it for me to suggest what course of action either of these two distinguished Members should follow. But I sort of feel like an innocent bystander at a brawl. The gentleman from Georgia and all of his colleagues from Georgia, Republicans and Democrats, House and Senate, to my knowledge, have no specific grievance with the gentleman from Missouri and have almost made a historic occasion of coming together in bipartisan brotherhood to pass this important piece of legislation. I am not sure that the results of the gentleman from Missouri in stopping this, which is certainly possible, is going to affect the judgment of the gentleman from Ohio on this legislation.

Mr. EMERSON. Mr. Speaker, will the gentleman yield?

Mr. LEVITAS. I yield to the gentleman from Missouri.

Mr. EMERSON. Let me say that the gentleman from Ohio has suggested that he wants to proceed here this evening by seeing who will object in order that Members who do not want me to object will use their influence with me so that I do not object.

And let me suggest, conversely, that I am going to object so that Members who do not want me to object will use their influence with the gentleman from Ohio.

Mr. LEVITAS. If I may further reserve the right to object, I think that the gentleman from Missouri will attest to the fact that notwithstanding the strong desires of the gentleman from Ohio, I have used none of my rather significant persuasive powers to urge him to change his position on this matter, and the same is true. I would just suggest that there are some innocent bystanders here.

Mr. EMERSON. I am assuming, if the gentleman will yield further, that there are a couple of days left in this session, and we may have an opportunity to talk further and, hopefully, resolve our differences.

I might, while the gentleman is yielding to me, say that this is not a very complex thing that I am seeking. I am seeking simply to add the word "trapping" to the enabling legislation of the Ozark Scenic Riverways. It is not complex. Trapping is the oldest form of economic activity that has occurred in Missouri under the European settlement, and the Indians did a great deal of it before the Europeans got there, so it is not like we are asking to break some rule that has never before been obtained. We are asking only to permit a very traditional activity in the Ozarks to continue, to continue an activity in the Ozarks that has been practiced for roughly 300 years, since the first Europeans wandered into that territory.

Mr. BARTLETT. Mr. Speaker, will the gentleman yield?

Mr. LEVITAS. I yield to the gentleman from Texas.

Mr. BARTLETT. I agree with the gentleman from Georgia that indeed it appears that none of the objections or the counters to the objections have anything to do with the legislation that is before us, and we do have another day or so. I do regret, as I know the gentleman from Georgia does, that we have somehow reached an impasse on an issue unrelated to the East Texas Wilderness bill or the other wilderness bills under consideration. I know people in Texas have been waiting for that particular wilderness bill for about 15 years. I do not say that to try to put pressure on the gentleman from Ohio or the gentleman from Mis-

souri, because I do not think anyone in this House is going to do that to either of them. I think that this House would like for the two gentlemen to work out perhaps a procedure to consider this legislation. We have legislative procedures here. That would be my counsel, some sort of procedure we could work out so that the 10 million or so folks who live within 5 hours of these wilderness areas would be able to enjoy those wilderness areas.

Mr. SEIBERLING. Mr. Speaker, will the gentleman yield?

Mr. LEVITAS. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Speaker, every single one of the bills that are pending here on which I was going to ask unanimous consent have been through the process of compromise and consensus, and they are all consensus bills that have been worked out on both sides of the aisle.

Now, the gentleman from Missouri has a particular change that he wants made in a particular bill that he has introduced, a bill that he wants passed that would make a change in existing law, that he has introduced in the Congress, which has been referred to our subcommittee. We have had a hearing on it. There is no consensus, and I have been trying to work one out. So far we have not found a basis for one.

So now what the gentleman from Missouri is trying to do is to use the leverage of objecting to force an agreement on which there is no consensus, and he is going to object to bills on which there is in order to have his own way. I do not think that that is a constructive way to proceed at this stage in this Congress.

So I am hoping that he will relent.

Mr. Speaker, I withdraw my unanimous-consent request, but I make one more unanimous-consent request, and this has been cleared with the leadership on that side of the aisle.

REQUEST FOR CONSIDERATION OF S. 2808, MISSISSIPPI NATIONAL FOREST WILDERNESS ACT OF 1984

Mr. SEIBERLING. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 2808) to designate certain National Forest System lands in the State of Mississippi as wilderness, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. EMERSON. Mr. Speaker, reserving the right to object, I do so in order to enable the gentleman from Ohio to explain the bill.

Mr. SEIBERLING. If the gentleman will yield, I would be happy to explain it.

This bill would designate two National Forest areas in Mississippi as components of the National Wilderness Preservation System. The first area of Black Creek comprises approximately 4,560 acres and protects the watershed of a creek that is under study for wild or scenic river designation.

The second area, a 960-acre leaf area represents a land form typical to southern Mississippi and would preserve an interesting mix of local flora and fauna

The areas would be the first onshore wilderness areas in the State. They are supported by the Mississippi delegation, including the deputy whip on that side of the aisle.

Mr. EMERSON. Mr. Speaker, let me say, reclaiming my time, that I indicated earlier that my bill is a very simple one, one simply to add the word "trapping" to the enabling legislation to the Ozark Scenic Riverways law.

This is an issue that has importance only to my congressional district. The Ozark Scenic Riverways are completely, entirely within my congressional district.

I might suggest to the gentleman from Ohio that if he would accept my bill as an amendment to the Mississippi bill that I would not object to it.

Mr. SEIBERLING. Well, I do not think I could do that, since that has not been discussed, even, with the authors of the bill.

Mr. EMERSON. Mr. Speaker, I regret that I must object.

The SPEAKER pro tempore. Objection is heard.

MORE ON THE "SLEAZE FACTOR"

(Mr. WIRTH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WIRTH. Mr. Speaker, yesterday, in response to a question about the indictment of his Secretary of Labor and the discussions about the "sleaze factor" in this administration, President Reagan made the following comment:

> The only sleaze factor that I've seen in all of the things that have been going on in these four years, is on the other side, with their baseless charges and accusations that have all been proven false.

That comment cannot go unanswered. We are familiar with Rita Lavelle, Richard Allen, and a whole catalog of transgressions. Let me give other examples.

The subcommittee I chair has jurisdiction over the Federal securities laws. In just that jurisdiction alone, two top administration officials have been sued by the SEC for insider trading—one of them criminally indicted—and two other Cabinet officials are under investigation by the Justice Department.

The charges made against former Assistant National Security Adviser Thomas Reed can hardly be called baseless. The SEC, an independent agency, sued Reed for profiting on inside information in connection with his stock dealings. Overnight, Mr. Reed turned a $3,000 investment in options into a profit of more than $400,000, and he tried to hide it by placing the trades in the accounts of friends. He consented to an SEC injunction and forfeited the profit. He resigned from his office. Recently, the district attorney for Manhattan announced the criminal indictment of Mr. Reed.

I also think few would argue that the charges against former Deputy Secretary of Defense Paul Thayer were baseless. The SEC charged that, when he was chairman of the board of LTV, and a director of numerous other corporations, Mr. Thayer passed along inside information about takeover activities involving LTV, Allied, and Anheuser-Busch to eight of his close personal friends. They made $1,900,000 in allegedly illegal profits.

And the examples go on and on. Millions of shareholders invest in our securities markets believing that they are fair, and that everyone plays by the same rules. The kinds of actions engaged in by Mr. Reed and Mr. Thayer undermine investor confidence in our markets. They are serious actions and should not be lightly dismissed by any public official.

There is another aspect of our jurisdiction over the Federal securities laws that this administration has attacked, and which demonstrates its insensitivity to abide by the law.

In 1977, after the disclosures of Lockheed's payment of $1.6 million in bribes to Prime Minister Tanaka of Japan, and at least $25 million in bribes to other countries; after disclosures of Exxon's payments of $50 million to government officials in Italy; and after almost 400 of our largest American corporations disclosed illegal bribes to foreign officials, paid through slush funds, offshore accounts, and other hidden accounting methods, Congress passed the Foreign Corrupt Practices Act, making those payments illegal in the United States and requiring that our public companies keep accurate books and records.

Soon after this administration took office, it took steps to gut the Foreign Corrupt Practices Act. It advocated absolute repeal of the requirement for accurate books and records. In a speech before the United Nations, Attorney General William French Smith said that the administration intended "to eliminate the more offensive provi-

sions of our law" and that the law's ban on American companies paying bribes to get business abroad should be eased to reflect the "reality" of dealing in international markets. It proposed "clarifying" the anti-bribery provisions, proposing loopholes in the law so wide that in the words of a New York Times editorial, you could "drive all of Lockheed through."

Chairman DINGELL and I began a review of the Justice Department's enforcement of the Foreign Corrupt Practices Act. By the end of last year, the Department had brought only a handful of cases alleging violations of the law, but had closed more than 90 cases without prosecution. After stalling us for more than 4 months, the Department turned over some of its files on closed cases. Although we have not completed our review, it appears that the Department simply failed to pursue a number of serious allegations of law violations.

This administration has repeatedly demonstrated a cavalier attitude toward certain law violations by corporate officials and by members of its own administration. The President's light-handed dismissal of serious allegations involving Government officials creates a cynicism and lack of confidence in the American public. His remarks should not have been made, and they cannot go unanswered.

SUPPLY-SIDE ECONOMICS CREATES TAX SCAM FOR THE WEALTHY

(Mr. ALEXANDER asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. ALEXANDER. Mr. Speaker, President Reagan has often referred to his 1980 election as a mandate for his radical fiscal and economic policies. Most of Mr. Reagans' positions are embodied in the 1981 Economic Recovery and Tax Act—which implemented his philosophy of supply-side economics and created one of the most effective tax scams for the wealthy this country has ever known.

Today, I include in the RECORD parts 5 and 6 of a series of 8 articles from the Arkansas Gazette entitled "Unfilled Promises of Supply-Side Economics." These two parts of the series—"Selling of a Concept" and "Tax Cuts Can Hurt"—describe in detail the evolution of supply-side economics, and the consequences of these policies on American taxpayers.

Mr. Speaker, I urge my colleagues to pay particular attention to one the key observations in the article—the staggering decline in the share of taxes paid by corporations from nearly 40 percent in the 1950's to slightly more than 8 percent in 1983. These statistics prompt me and anyone who reads these articles to ask a very disturbing question: If the wealthy corporate interests in our country are no longer pulling their share of the tax burden, who is?

SELLING A CONCEPT

(By Leland DuVall)

In 1976, when record numbers of Americans had been conditioned by 30 years of sustained prosperity to embrace the principles of the Republican Party, the GOP found itself with a dangerously-weakened philosophic base. Even though its post-war record with the voters was respectable, the elected leaders had demonstrated a surprising timidity in defending the faith.

In the 24 years between the departure of Harry Truman and the election of Jimmy Carter, Republicans occupied the White House two-thirds of the time—16 years for Eisenhower, Nixon and Ford and eight years for Kennedy and Johnson. The problem was that the standard-bearers had been selected for the pragmatic reason that they could win, rather than for the purity of their ideology.

President Eisenhower could not have been accused of holding doctrinaire views on economic policy—or, for that matter, on other aspects of government. Richard Nixon had cut and run when he encountered his first recession. His administration resorted to such non-Republican practices as price controls, export embargoes, and the appointment of an energy czar. The budget deficit soared from its $3.2 billion surplus in 1969 and a $2.8 billion deficit in 1970 to a $23 billion shortfall in 1972.

"We are all Keynesians now," Mr. Nixon proclaimed in explaining his actions.

President Ford, who undoubtedly considered himself a good Republican, contributed virtually nothing to restoring the philosophic strength of the party. His brief incumbency was concerned primarily with pardoning his predecessor and otherwise picking up the pieces after Watergate and preparing for his campaign. He did manage, however, to post a $66.4 billion deficit in 1976 and thereby to gain the dubious distinction of setting a record, war or peace, for "big spending." The high mark stood until Ronald Reagan hit the track.

Thus it could be argued that the last Republican president, prior to Ronald Reagan, who qualified as a true defender of the faith was Herbert Hoover, who departed in the utter confusion of 1933's dismal depression, carrying with him (rightly or wrongly) the stigma of having caused the disaster.

By the time of the Carter administration, the mood of the country was receptive to the message of an articulate Republican who would promise to rebuild the walls and restore the rituals of the Grand Old Party.

Republican presidents of the post-war era had sought to deal with public questions one at a time without attempting to fit solutions into a philosophic framework. But under the relative prosperity of modest unemployment and a growing GNP, the mood of the people was changing. The gathering strength on the right side of the political spectrum confirmed the belief that the time had come to return to the good old days when taxes were low and government was small and re-establish the wisdom of Calvin Coolidge as the guiding policies of a prosperous nation.

By 1980, a majority of the people had attained a level of affluence that prepared them to "think like Republicans." Having experienced the joys of capitalism to the degree that their modest savings were yielding dividends, large numbers of citizens longed for the unrestrained opportunities that, they believed, had been available to enterprising investors in the 1920 decade. They had attained "freedom from want" under the humanitarian policies of Franklin D. Roosevelt. Now they wanted freedom from government.

Andrew W. Mellon—who served as Secretary of the Treasury under Presidents Harding, Coolidge and Hoover—had enunicated the basic doctrine of the party and the ideal to which contemporary Republican leaders hoped to return. The way to achieve growth, prosperity and full employment, Mr. Mellon said, was to relieve corporations and wealthy investors of "heavy" tax burdens. The capital thus saved from the greedy hands of the IRS would be invested in industrial projects that would create jobs for the poor. The benefits of tax savings, for those with substantial incomes, would "trickle down" to the needy and, in the process, solve economic problems.

American voters—even those who were rising from the ranks in increasing numbers and beginning to enjoy the privileges of practicing capitalists—could not be expected to embrace the philosophy in its raw form. It would have to be packaged attractively, given an impressive name, and "mass marketed" after the fashion of a new headache remedy.

The first requirement was the development of a pseudoeconomic theory that would lend legitimacy to the project. Dr. Arthur Laffer provided the essential prop by drawing a theoretical "curve" that showed the debilitating influence of "high taxes" on investments.

In reality, the Curve of Laffer merely reduced to visual and graphic form the pronouncements of Andrew Mellon. "High tax rates," Mr. Mellon wrote, "inevitably put pressure upon the taxpayer to withdraw his capital from productive business and find lawful methods of avoiding the realization of taxable income."

The next logical step was the selection of a marketable name.

Since the days of the New Deal, government policy had been designed to qualify consumers for greater participation in the output of capitalism. The assumption was that farms, factories, oceans and mines had the potential to provide adequate amounts of goods and commodities. If consumers, by reason of increased income, could afford to maintain an acceptable standard of living, the profit-motivated capitalist system was prepared to supply the food, shelter, clothing and even luxuries—and to increase its earnings in the process.

Unfortunately for the purposes of the doctrinaire Republicans the Curve of Laffer disproved the assumption. In trying to appeal to working people as well as professional investors, Dr. Laffer said his curve applied equally to wage earners. For example, he assumed that they would stay off the job in order to avoid overtime pay that would push them into higher tax brackets. So for a name, the architects of restoration had to desert young Dr. Laffer and return to the very roots of Republicanism.

Jean Baptiste Say (1767-1832), a French economist, had stated the basic premise without adding any damaging specifics. Say's Law says simply: Supply creates its own demand.

The cure of our problems, it was argued, would come with expanded supply. More workers would be employed in production

and the additional flood of goods would force prices to decline. Thus unemployment and inflation would be cured with one stroke.

The marketable name came naturally and the new approach would be called "supply-side economics."

Say's Law, the Curve of Laffer, and supply-side economics obviously were a bit esoteric. Proponents of the campaign needed a sales slogan. They found it in a promise to "Rebuild America" and launched a national marketing effort on the theme. When people insisted America had not been torn down, and therefore did not have to be rebuilt, the sponsors changed the slogan to "Revitalize America."

The massive marketing campaign that followed employed advertising, mass mailings and speakers representing the major corporate organizations. Citizens apparently were receptive to the idea and the stage was set for returning an ideological Republican to the White House.

Ronald Reagan had been waiting in the wings for a long time. He fulfilled the requirements for the job description.

Armed with a mandate to install supply-side economics and revitalize America, Mr. Reagan translated the theories into a comprehensive policy that he called the "New Beginning." Minor components included accelerating the pace of deregulation, efforts to "reduce the size and scope of government," and a campaign to eliminate waste—particularly the kind that was practiced by welfare cheaters and people who relied on food stamps for part of their groceries.

The major feature—the dominant objective of the whole campaign—was wrapped up in the Economic Recovery Tax Act of 1981. Mr. Reagan shared with all true Republicans the belief that the graduated income tax was socialistic and, therefore, should be eliminated. Obviously, it could not be wiped out in a single stroke, but the 1981 Tax Act (ERTA) was a giant step in the right direction. The massive sales campaign had been successful in installing the desired policy and had gone a long way toward restoring the philosophic base of the Republican Party.

There remained only a need to wait for the "New Beginning" to work its magic and confirm the validity of Say's Law and the Curve of Laffer. In due course, the economy would boom (without inflation), unemployment would decline and the budget would be balanced. Even more important, the philosophic wisdom of true Republicanism would be reconfirmed.

TAX CUTS CAN HURT

(By Leland DuVall)

A democracy works best when its citizens understand the consequences of their decisions. For obvious reason, a candidate may prefer to have voters base their judgments on slogans, rather than on a full comprehension of the policies they are asked to approve.

A majority of those who participated in the 1980 presidential election favored a proposal to "Revitalize America." They were equally enthusiastic in their support of a vague promise to reduce the scope of government, eliminate waste, prune excessive spending and pass the savings back to the people in the form of lower taxes. The whole theory became a bit complex when people were asked to believe that, in the process of reducing the tax rate and collecting less revenue, the government would stimulate the economy and balance the budget.

The popularity of the solution to the nation's economic problems could be traced to the promise that the "tax burden" would be eased. Consequently, the bulk of President Reagan's domestic program was wrapped into a measure called the Economic Recovery Tax Act of 1981 (ERTA).

By some calculations, the nation's revenues would be reduced in the first five years of ERTA by $750 billion. Others placed the figure higher. The prospect of paying $750 billion less in taxes carried a compelling appeal to voters who did not notice, and were not told, that the nation's debt would rise by at least that amount during the same five years. Furthermore, the debt increase, in half-a-decade, would just about match all the federal debt accumulated by this country in its first 200 years (from 1776 through 1976).

The tax "savings" as a result of ERTA, in the first five years, are being covered by borrowing a comparable amount—from the public, from institutions, from the Federal Reserve and from foreign investors attracted to bonds and notes by the high interest rates that resulted from an excessive demand for credit. If, indeed, the performance of the economy is influenced by changes in the flow of funds to the government, whatever prosperity has been achieved during the marvelous recovery from the 1981–82 recession was financed with borrowed money.

Fiscal "conservatives" have argued, at least since the days of the New Deal, that a country could not "borrow its way out of difficulties," and, even if it tried, the notes eventually would fall due and have to be paid.

Those who proposed to "Revitalize America" with a tax cut obviously did not anticipate an explosion of the national debt. In fact, they resorted to a contorted sort of logic when they offered ERTA as a painless way to balance the budget: By forgiving $750 billion in taxes that would have paid over a five-year period, the government would so stimulate the economy that the newly-prosperous people would actually pay more money into the U.S. Treasury, albeit at a lower rate. This was the magic of supply-side economics.

Management of fiscal affairs had another side. The government would spend less so that, in reality, there would be no need to make up all of the $750 billion in lost revenues. Ronald Reagan campaigned on the vague promise that he would wipe out most of the deficit through the elimination of "waste, fraud, and mismanagement."

Since the deficit was only $27.7 billion in 1979 (and had never exceeded $60 billion in any one-year of the previous administration), the task may have seemed relatively simple. No one actually reduced the promise to figures, but the tone of the campaign rhetoric suggested that Mr. Reagan might be able to "save" enough on food stamps and assorted programs designed to benefit the poor to wipe out most of the gap between revenues and spending.

Since the ERTA was expected to "revitalize" the economy and create a few million new jobs, there was little reason for people to become disturbed over who derived the most benefits from the tax cuts. If corporations received $500 billion of the savings, as some analysts predicted, management would pour the money right back into the economy to refit and modernize the industrial base.

So went the promises at the beginning of the Reagan administration.

Three years into the tax reform, we can see that the only part of this program that worked according to expectation was the corporate tax "savings." Some say that was the idea in the first place.

A study commissioned by the Congress found that corporate tax payments in relation to government spending had declined sharply in the post-war period. In the early part of the 1950 decade, corporations kicked in 30 per cent of the money the government spent and individual income taxes accounted for 44.2 per cent. Last year, individual income taxes amounted to more than 49 per cent of spending while corporate income taxes equaled only 8.1 per cent.

The General Accounting Office and the Joint Committee on Taxation found that seven of the 29 industry groups paid less than 10 per cent of their income in taxes last year while the "average" corporation paid 16.1 per cent.

Some industry groups were remarkably successful in escaping all obligation to pay taxes. Five rubber companies with profits of $260.6 million claimed "refunds" amounting to 30 per cent of net income, while six chemical firms with pretax earnings of $1.2 billion, showed a "negative tax" of 17.7 per cent. This meant refunds were equal to 17.7 per cent of profits.

If generous tax treatment stimulates the economy, in keeping with the theory of supply-side economics, this country should be in the middle of a roaring capital boom, and it should not be forced to borrow $175 billion a year to finance the revenue shortfall. The tax reform act reduced corporate tax collections from $6.1 billion in 1981 to $37 billion in 1983, and the deficit rose from $57.9 billion in 1981 to the all-time record of $195.4 billion in 1983.

Effective corporate income tax rate [1]

	Percent
1950	40
1960	35
1970	25
1980	16.1

[1] Average rate.

Part of the problem was that Mr. Reagan failed miserably on his promise to reduce spending by eliminating waste, fraud and mismanagement. Government outlays in 1981 totaled $675.2 billion. Spending the following year rose to $728.4 billion and the total was up to $796 billion in 1983. Current estimates place spending this year at $853 billion, and Mr. Reagan has submitted a 1985 budget calling for outlays of $925 billion.

In the fourth year of his administration, Mr. Reagan is presiding over spending growth that exceeds the pace of any of his predecessors. Example: Spending during the Kennedy-Johnson administrations rose from $106.8 billion (1962) to $183.6 billion (1969) for a gain of $76.8 billion in an eight-year period that included the cost of fighting the Vietnam war. (In 1969, the budget even showed a surplus of $3.2 billion.) But in only two years, from the end of 1981 through 1983, while Mr. Reagan was claiming credit for eliminating waste and fraud, spending increased $139 billion.

One of the unanticipated consequences of the ERTA is the rapid rise in the cost of carrying the exploding debt. In 1980, the cost of interest was $52.5 billion. But interest payments for the first nine months of this fiscal year (October through June)

were $117 billion. The rise obviously caught the Reagan administration unprepared, since the amount budgeted for interest fo the entire year was $108.2 billion.

By a peculiar twist of mathematics, the United States finds itself in the position of borrowing to pay the interest on its debt. The projected deficit for all of this year is in the range of $175 billion, but the country already has shelled out more than two-thirds of that amount to service its existing debt. By the time the books are closed on fiscal 1984, we may find that interest payments amounted to 75 percent of the deficit. If we continue on the present course and make no adjustments in the ERTA, the debt will rise quickly to the point where we will have to cover all our interest payment with borrowed money.

So long as our taxing and spending balance forces the United States to go into the credit market for the money with which to service the national debt, we can be certain the obligation will grow at a componding rate. With our annual interest payments rising far above $100 billion, the country faces a complex problem. The components of the budget, excluding interest, would have to operate on a severely-restricted spending schedule in order to "save" the amount needed for debt service.

The ERTA set in motion the complex inter-related fiscal forces that inevitably will lead to one of two possible conditions: A tax increase to recapture part of the forfeited revenue or utter fiscal confusion. There is virtually no possibility the President will propose or Congress will accept reductions in spending for defense, entitlements, agriculture and the other essential government functions in amounts sufficient to provide enough "savings" to meet the rising cost of interest. Consequently, the outlays for debt service will continue to rise and compound.

The progress toward fiscal disaster can be halted only with an increase in revenue. Walter Mondale has faced the situation realistically; President Reagan has not.

GOLDWATER REMARKS ON C-12 AIRCRAFT BASED ON FAULTY INFORMATION

(Mr. MURTHA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MURTHA. Mr. Speaker, I rise to bring to the attention of this body and to set the record straight, incorrect and misleading information offered by Senator GOLDWATER which appears in the CONGRESSIONAL RECORD for September 24, 1984.

The essence of the Senator's remarks is that since the initial increment in 1974, unwanted and unnecessary C-12 aircraft have been repeatedly authorized, funded by the Congress, and procured by the four services on a sole-source basis. Senator GOLDWATER's conclusions are based upon faulty information.

Many Members of the Congress joined in 1973 to establish this unique program, which I have supported the full time I've been in Congress and I can say without reservation that we are pleased with the results. It was the intent then, as it is now, that the winner of the UX-CX competition would become the common utility transport aircraft for the four services. This was not an arbitrary action, rather it was the result of a carefully constructed plan which included a competitive source selection, emphasizing cost effectiveness, and a determination to apply the economies of scale and commonality to the defensewide utility airlift mission. The results of these efforts have far exceeded our expectations.

The C-12 won that competition—as it did in 1983 when we were required to replace the aging T-39—and today it is moving in the direction of satisfying the utility airlift requirement in all four services. Because of this we have and will continue to accrue savings through common training, a common DOD-wide logistics system, and through "economy of scale" procurement costs. In May 1984 a letter from the Secretary of Defense to Senator GOLDWATER, the Secretary, speaking of the utility airlift requirement, cites the advantages of standardization and states with respect to the Navy program: "we would not anticipate a new competition each year for 6 or 12 additional aircraft."

We in the House who followed this program fully agree. Introducing a dissimilar aircraft into the utility fleets of the four services now would effectively ignore the rationale used by the Congress and DOD to establish the utility airlift program. Mindful of these facts, we are certain that recompeting the utility airlift requirements at this late date would only result in driving utility airlift costs higher.

The need for these aircraft has never been seriously questioned except by Senator GOLDWATER. His assertion that, because an item is not requested by the DOD it is, therefore, not needed, is tantamount to saying the Congress should rubberstamp the annual budget request without question. In every instance where Congress has sought to authorize and fund C-12 aircraft there has been clear, unequivocal testimony by Defense witnesses regarding the urgency of the need.

In this year's budget the Army requested funds for nine RC-12D Guardrail aircraft. They enjoy one of the highest priorities within the Army, and I might add, the Congress.

The Navy also requested funds for 12 UC-12B aircraft, and informed the Congress that they were urgently needed to replace 18 old 1950 vintage piston engine aircraft that have become increasingly expensive and sometimes impossible to maintain. In fact, 4 of the 18 have already been retired because of age and nonavailability of av-gas at their overseas operating locations. Six more will soon be retired for the same reasons.

The six C-12D aircraft in this year's budget which have been authorized—and according to my information have tentatively been appropriated by both the House and Senate Appropriations Committees—were suggested by Senator DECONCINI to allow, under the provisions of the Posse Commitatus Act, C-12 aircraft to be used by U.S. Customs Service in that agency's air drug interdiction program. Senator DECONCINI describes them as one of the "crucial elements in the continuing national effort to provide an effective, efficient means of bringing the military into our civilian effort to combat drugs."

The funds which have been added for Air National Guard C-12J aircraft reflect the continuation of a program initiated by the Congress last year to replace the obsolete, wornout fleet of C-131 aircraft operated by the Guard. Testimony by Defense witnesses before the House Armed Services Committee establishes the fact that these aircraft have aged to the point that they are no longer safe to fly. Finally, funds have been added in this year's budget for six C-12D aircraft which will be delivered directly to the Army National Guard. Again the need is clear. Testimony has established the fact that the Army utility fleet has only 60 percent of its fixed-wing aircraft requirement and that most of these shortages exist in the inactive forces.

After carefully considering Senator GOLDWATER's recent remarks and after once again reviewing the history of C-12 procurement, I have concluded that no program in recent times has been so thoroughly examined by the GAO, the DOD, the Congress, and the courts. In every instance it has been found to be proper, legal, and in accordance with the intent of Congress. Further, and equally important, it has been an outstanding value by satisfying an important requirement at the least possible expense to the taxpayer.

We applaud the continued procurement of the common C-12 aircraft until the utility airlift shortfall is satisfied. It is a program that works.

□ 2250

AIRBASE DEFENSE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia [Mr. RAY] is recognized for 5 minutes.

● Mr. RAY. Mr. Speaker, I rise to express my concern over a recent action taken by the House and Senate appropriations committees which I believe has serious implications for the defense of our airbases in Europe.

House and Senate conferees on the defense authorization bill had agreed to include $250 million for the defense of our airbases, and the defense appro-

priations bill has now completely deleted that amount.

This action cripples negotiations and agreements between America and certain of its allies, and in my opinion seriously endangers the overall NATO defense strategy.

During my first 2 years in the Congress, I have taken a special interest in the subject of NATO air defense. I did so because I became disturbed during the course of intelligence briefings and Armed Services Committee hearings about a theme that was repeated over and over—our airbases in Europe are inadequately defended for the most part and probably could not survive beyond the early days of a war in Europe.

As I looked into this matter, it became clear to me that the reason for this problem is that neither the Army nor the Air Force has the clear responsibility to coordinate our airbase defense.

Therefore, neither the Army nor the Air Force has adequate forces dedicated to the ground air defense of our airbases, and neither service has committed sufficient resources to point airbase defense.

With your indulgence, I would like to review excerpts of a statement which I made to the House of Representatives on May 17, 1984, during consideration of the defense authorization bill.

Mr. Speaker, the U.S. share of the NATO defense burden has been calculated at $90 billion annually.

We spend these dollars to keep the world free—and thus far we have been successful. For some 39 years, Europe has been free from conflict—and this is a record for continuous peace in that continent.

As nearly as we can tell, we are going to have to maintain almost an eternal military presence in Europe in order to guarantee the defense of the free world.

The centerpiece of the NATO defense plan is our ability to get our planes airborne in a hurry.

It is well known that a key part of the Soviet war plan is to immobilize our air defense by a first strike conventional missile attack, followed by a fighter aircraft and bomber strikes.

Presently, there is no overall plan for airbase defense and survivability. Instead, this responsibility is spread among the Air Force and Army in a disjointed manner. And DOD has done nothing to fill in these critical gaps.

Our committee has heard numerous witnesses from all levels of DOD, and we are more convinced than ever that there is no overall plan. What is even more disturbing is the fact that no one in DOD seems to place a very high priority on coming up with such a plan.

In 1983, Congress requested DOD to come up with a comprehensive master plan for the defense of U.S. airbases in Europe by February 1, 1984. Due to internal disagreements between the Army, Air Force and DOD, no such plan was produced.

Because of this inadequate response, members of the Armed Services Committee have felt compelled to step in and do something to focus attention on this badly neglected priority.

Four years ago, Congress directed the procurement of the British Rapier missile for the defense of our airbases in the United Kingdom. According to that agreement, the Royal Air Force agreed to man the system which we were procuring for the defense of our airbases.

This program proved successful, so Congress then directed that the concept of U.S. procurement and European manning be extended to Western Europe.

The first goal was the securing of a treaty with West Germany to defend our airbases in the Federal Republic of Germany.

In fiscal years 1983-84, Congress authorized and appropriated $250 million for this purpose. At the same time, they asked DOD to provide a master plan for European airbase defense.

The DOD response has been inconsistent. On the one hand they expressed great enthusiasm for the initiative that Congress had taken.

In July 1984, DOD concluded the so-called Roland-Patriot agreement with the Federal Republic of Germany. The net effect of that agreement which covered three U.S. bases and six co-located bases was to reduce U.S. manpower commitment in Europe by 3,000 and to save us more than $1 billion over the next 10 years.

The United States is also in the final stages of negotiating an agreement between Turkey and the United Kingdom for the procurement of Rapier for the defense of U.S. airbases in Turkey. Those bases would be manned by the Turks.

All these actions by DOD were good. But they failed to come forward with the master plan for airbase defense that is needed to tie this whole network together. Once again, the reason was the same—the Army and the Air Force could not agree, and DOD would not force them to.

Let me tell you just how bad the problem is. Five of our airbases in Germany can only be defended in daytime under fair weather conditions. None of our airbases in Italy, the Netherlands, or anywhere else in Europe are any better defended than National Airport here in Washington.

But it gets worse. We have spent billions of dollars to pre-position materials and supplies in Europe at POMCUS sites, so that in the event of a crisis, all we will have to do is airlift our troops over to these sites. These POMCUS sites are completely vulnerable to air attack and—in all likelihood—will not even be there when our troops arrive.

We are spending billions of dollars to develop ground-launched cruise missile sites in Europe, but they would be completely undefended in the event of an air attack.

Mr. Speaker, the House Armed Services Committee simply does not understand this set of priorities. Why are we buying hundreds of the most sophisticated land-based fighters every year, when they will never get off the ground in an European war because our airbases will be closed down in the first 24-48 hours?

The committee decided that we were going to have to do something to get the attention of DOD. So we cut a number of Air Force aircraft programs. We did this to send a signal to DOD that we are not going to be willing to keep purchasing expensive aircraft if DOD isn't going to assume the responsibility of defending them.

We also provided $350 million to begin procurement of point air defense for airbases and GLCM sites in Italy and the United Kingdom. This sum was later reduced to 250 million by the Conference Committee.

Finally, the committee provided that the Air Force could not begin procurement of the F-15E dual role fighter until DOD submits a NATO master airbase defense plan for the Congress.

I am ashamed to say that the Europeans have done much better in this area than we have. For the first time in the 35-year history of NATO, European countries are agreeing to assume a new mission area—the defense of all main and colocated airbases in Europe.

What we are seeing is the evolution of a new formula for equal burdensharing in NATO—the Europeans are matching us dollar for dollar and assuming missions we would otherwise have to perform with U.S. manpower.

For all these reasons, I was very disturbed when the appropriations committee decided to strike the $250 million that the House and Senate Armed Services Committees had provided for this critical initiative.

In closing, I would like to address the arguments which are most often advanced to justify this regrettable action.

Some people say that $250 million was too much. When you consider the fact that we are spending 100 times that amount to procure new aircraft, that argument becomes nothing more than ridiculous.

Second, they say that DOD didn't spend the money we gave them last year. The Roland Patriot negotiations I mentioned earlier were very complex, and the agreement could not be implemented without special enabling legislation.

That legislation was not passed until Congress approved the DOD bill last

week. So DOD could not spend the money.

Mr. Speaker, we have been penny wise and pound foolish here.

I am a strong backer of defense and will continue to be so. But I want to serve notice on the services and the Department of Defense that I am going to continue to do everything that I can to correct the failure to come up with a sound master plan for the defense of our airbases.

We cannot ask our allies to cooperate in an overall plan when we can't even get our own Army and Air Force to do it. The time is long past to address this glaring weakness, and I hope my colleagues will support our efforts next year.●

CHICAGO'S 1984 COLUMBUS DAY PARADE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ANNUNZIO] is recognized for 5 minutes.

● Mr. ANNUNZIO. Mr. Speaker, the renowned Italian navigator, Christopher Columbus, discovered America 492 years ago on October 12, 1492, and Chicagoans will celebrate this monumental event in the history of civilization with a gigantic parade on Monday, October 8.

The guest of honor for this year's gala celebration will be Mr. Lee A. Iacocca, chairman of the board of directors and chief executive officer of the new Chrysler Corp. In addition to our honored guest, the parade will be led by the Honorable Harold Washington, mayor of Chicago; the Honorable James R. Thompson, Governor of Illinois; Congressman Marty Russo; His Eminence, the Most Reverend Joseph Cardinal Bernardin; Consul General of Italy Claudio Ferrari; the Honorable John Porcelli, mayor of Lincolnwood; Louis Galante, fire commissioner; Jerry Zurla, president of the Joint Civic Committee of Italian Americans; Joseph Tolitano, general chairman of the parade for 1984; Jerry Campagna, grand marshal; as well as myself, along with many other political dignitaries, members of the judiciary, businessmen from the community, and labor leaders.

The parade not only pays tribute to Christopher Columbus, the father of all immigrants, but also the theme of this year's parade, "The Italian Immigrants," recognizes the numerous lasting contributions of all Americans of Italian descent to our beloved America, for Italian culture, history, and traditions have been fundamental to the development of our country and all Western civilization.

Mr. Speaker, the President of the United States, the Honorable Ronald Reagan; the Governor of Illinois, the Honorable James R. Thompson; and the mayor of Chicago, the Honorable Harold Washington, have all issued proclamations in celebration of the Columbus national holiday in 1984, and copies of these proclamations follow:

[A proclamation by the President of the United States of America]

COLUMBUS DAY, 1984

In October of each year, we are privileged to honor Christopher Columbus, the Italian explorer whose epic voyages to the New World still excite the imagination.

Columbus challenged the unknown when he sailed westward in 1492 with his tiny fleet of ships. Others had preceded him; some indeed may have visited the Western Hemisphere. Yet his discovery of the New World stands as a unique and momentous achievement. His voyages ushered in a new phase in history and enriched mankind with new opportunities. They revolutionized the way man thought of himself and his world. This New World that Columbus revealed to Europe soon came to symbolize hope, freedom, and opportunity for all. A stream of settlers arrived to build a new society out of their dreams of liberty, justice, and economic opportunity.

We Americans will always feel that we stand at the frontier. Today our voyage of discovery continues—to the vastness of outer space, to the depths of the sea, to the mysteries of life itself. The willingness to strike out in new directions and to take risks is still at work. This spirit has enriched our lives and expanded our horizons. Thus, it is appropriate that we, both as Americans and as Columbus' spiritual heirs, should take inspiration from his blend of daring skill, enterprise, and imagination.

All Americans share in admiring Columbus' achievement. But those of Italian descent can take particular pride in honoring this bold son of Genoa who set forth in the service of Spain in search of the unknown. A host of other Italians have followed Columbus to this land, lending their talents and helping to create an unparalleled society of freedom and opportunity. This day is one of justifiable pride for Italy and Italians everywhere, and it symbolizes the respect we Americans have for our rich inheritance from the Old World.

In tribute to Columbus' achievement, the Congress of the United States, by joint resolution approved April 30, 1934 (48 Stat. 657), as modified by the Act of June 28, 1968 (82 Stat. 250), has requested the President to proclaim the second Monday in October of each year as Columbus Day.

Now, therefore, I, Ronald Reagan, President of the United States of America, do hereby proclaim Monday, October 8, 1984, as Columbus Day. I invite the people of this Nation to observe that day in schools, churches, and other suitable places with appropriate ceremonies in honor of this great explorer. I also direct that the flag of the United States be displayed on all public buildings on the appointed day in memory of Christopher Columbus.

In witness whereof, I have hereunto set my hand this twenty-first day of September, in the year of our Lord nineteen hundred and eighty-four, and of the Independence of the United States of America the two hundred and ninth.

RONALD REAGAN,
President.

STATE OF ILLINOIS—PROCLAMATION

Every American knows what historic event occurred in 1492, for in that year the history of the world took a dramatic leap. The voyage of Columbus, which spurred further exploration of the New World, is celebrated annually throughout the land.

Columbus and many other distinguished Italians have contributed to the growth of civilization. The Italian community is joined by Americans of every ethnic background in recognizing Columbus Day.

Italian-American residents in Illinois will be sponsoring their 28th annual Columbus Day Parade to honor their native hero.

Therefore, I, James R. Thompson, Governor of the State of Illinois, proclaim October 8, 1984, Columbus Day in Illinois.

CITY OF CHICAGO—PROCLAMATION

Whereas, the Joint Civic Committee of Italian Americans (JCCIA), is sponsoring its annual Columbus Day parade on Dearborn Street on October 8, 1984 at 1:00 p.m.; and

Whereas, the Joint Civil Committee of Italian Americans was formed for the purpose of making the public more aware of the contributions of Italian Americans to the political, social, cultural and economic history of America; and

Whereas, the parade is held each year in tribute to Christopher Columbus, the intrepid Genovese navigator-explorer and the event is a highlight of the Fall season in Chicago; and

Whereas, the JCCIA, under the leadership of its President, Jerome N. Zurla, has performed an outstanding service to the community for many years and this year's theme is "A Nation of Immigrants," with special emphasis on the Statute of Liberty.

Now, therefore, I, Harold Washington, Mayor of the City of Chicago, do hereby proclaim October 8, 1984 to be Columbus Day in Chicago and urge citizens to be cognizant of the events held in connection with this worthwhile observance in appreciation of the heritage provided to all by this great navigator-explorer.

The 500th anniversary of the discovery of America by Christopher Columbus is rapidly approaching, and in order that plans may be completed in time to insure appropriate observances throughout our Nation, I strongly supported the Christopher Columbus Quincentenary Jubilee Act, which was signed into law by the President just a few months ago. This act establishes a Commission to plan, encourage, coordinate, and conduct the commemoration of the voyages of discovery of Christopher Columbus. The Commission will complement the work already being done in Chicago in preparation for this historic occasion, and the Commission will provide great assistance in bringing to the attention of the Nation and the world Chicago's own grand world fair celebration. Excerpts from this Christopher Columbus Quincentenary Jubilee Act follow:

[Public Law 98-375, 98th Cong.]

An Act To establish the Christopher Columbus Quincentenary Jubilee Commission.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Christopher Columbus Quincentenary Jubilee Act".

FINDINGS AND DECLARATIONS

SEC. 2. The Congress finds and declares that—

(1) October 12, 1992, marks the five hundredth anniversary of the voyages of discovery of Christopher Columbus;

(2) the governments and people of Spain and Italy should be recognized and commended for their historic role and contribution to those voyages;

(3) all persons in this country should look with pride on the achievements and contributions of their ancestors with respect to those historic voyages; and

(4) as the Nation approaches the quincentennial of the voyages of discovery of Christopher Columbus, it is appropriate to celebrate and commemorate this anniversary through local, national, and international observances and activities planned, encouraged, coordinated, and conducted by a national commission representative of appropriate individuals and public and private authorities and organizations.

ESTABLISHMENT

SEC. 3. (a) There is established a commission to be known as the Christopher Columbus Quincentenary Jubilee Commission (hereinafter in this Act referred to as the "Commission") to plan, encourage, coordinate, and conduct the commemoration of the voyages of discovery of Christopher Columbus . . .

DUTIES

SEC. 4. (a) It shall be the duty of the Commission to prepare a comprehensive program for commemorating the quincentennial of the voyages of discovery of Christopher Columbus, and to plan, encourage, coordinate, and conduct observances and activities commemorating the historic events associated with those voyages. In carrying out this subsection, the Commission shall particularly examine the historic role of the government and people of Spain in order to promote a greater public awareness, understanding, and appreciation of the contributions made by Spain with respect to those voyages.

(b) Within two years after the date of the first meeting called pursuant to section 3(d) of this Act, the Commission shall submit to Congress a comprehensive report incorporating its recommendations for the commemoration of the quincentennial of the voyages of discovery of Christopher Columbus. The report required by this subsection shall include—

(1) recommendations for appropriate activities for the commemoration, including—

(A) the production, publication, and distribution of books, pamphlets, films, and other educational materials focusing on the history, culture, and political thought of the lands Christopher Columbus traveled from and to during the voyages of discovery;

(B) bibiographical and documentary projects and publications;

(C) conferences, convocations, lectures, seminars, and other similar programs;

(D) the development of libraries, museums, and exhibits, including mobile exhibits;

(E) ceremonies and celebrations commemorating specific events;

(F) programs focusing on the international significance of the voyages of discovery of Christopher Columbus; and

(G) the design, inscriptions, and other specifications relating to the issuance of commemorative coins, medals, and stamps, by the United States;

(2) recommendations for the allocation of financial and administrative responsibility among the public agencies and private organizations recommended for participation by the Commission; and

(3) recommendations for such legislation and administrative actions as the Commission deems necessary to carry out the commemoration of the voyage of discovery.

The President shall transmit the Commission's report to the Congress together with such comments and additional recommendations for legislation and administrative actions as the President deems appropriate.

(c) The Commission shall prepare and submit to the Congress an annual report on the activities of the Commission, including an accounting of funds received and expended.

(d) In preparing its plans and programs, the Commission shall consider any related plans and programs developed by State and local, and foreign governments, and private groups, including the 1992 World's Fair to be held in Chicago, Illinois, and in Seville, Spain. The Commission shall endeavor to plan and conduct its activities in such manner as to ensure that activities conducted pursuant to this Act do not duplicate activities of the 1992 World's Fair, which the Commission recognizes to be a major highlight of the quincentenary celebration.

(e) The Commission may designate special committees and invite representatives from such public agencies and private organizations to assist the Commission in carrying out this section as the Commission deems appropriate . . .

COORDINATION OF EFFORTS

SEC. 6. (a) In carrying out the purposes of this Act, the Commission shall consult, cooperate with, and seek advice and assistance from appropriate Federal departments and agencies, State and local public bodies, foreign governments, learned societies, and historical, patriotic, philanthropic, civic, professional, and related organizations. Such Federal departments and agencies are authorized and requested to cooperate with the Commission in planning, encouraging, coordinating, and conducting appropriate commemorative activities.

(b) The Secretary of State shall undertake a study of appropriate cooperative actions which might be taken with foreign governments to preserve and develop historic sites related to the voyages of discovery of Christopher Columbus, at such time and in such manner as will ensure that fitting observances and exhibits may be held at each such site during the commemoration. (In particular, the Secretary may consult with the governments of the nations of the Western Hemisphere which share the Columbian heritage and with the governments of Spain and Italy with respect to joint participation in events in the United States and in such nations.) The Secretary shall submit the results of the study to the Commission, together with his recommendations, affording the Commission an opportunity to review the study, and to incorporate such of its findings and recommendations as the Commission may deem appropriate in the report required by section 4 of this Act. . . .

Mr. ANNUNZI. Mr. Speaker, Monday's Columbus Day celebration will begin at Our Lady of Pompeii Church at 9 a.m. The principal celebrant will be Cardinal Bernardin, who will also give the homily. The host of the mass will be Rev. Peter J. Sordi, C.S., pastor of Our Lady of Pompeii Church, and the master of ceremonies will be Rev. Ken Vello. The deacon will be Rev. Frank DeVita, and Reverend Sordi and Rev. Lawrence L. Cozzi, C.S., administrator of the Villa Scalabrini Home for the Aged, will be assisting Cardinal Bernardin. Other concelebrants will include many Italian American priests in the Archdiocese of Chicago.

Members of the Fourth Degree Knights of Columbus will serve as the colorful honor guards, and will include Robert J. Hisel, Robert T. Kellam, John A. Ray, Darrell W. Beck, Charles H. Foos, Ben S. Daniel, August Hurt, Joseph G. Kaltwasser, Casimer J. Bukowski, and Edmund J. Swain. Following the mass, breakfast will be prepared by the Mother's Club of Our Lady of Pompeii Church, with Josephine Messina as chairlady.

At 10:30 a.m., the Order Sons of Italy in America and the Joint Civic Committee of Italian Americans will conduct the traditional wreath-laying ceremony at the Columbus Statue in Arrigo Park. Thomas Baratta of the Order Sons of Italy in America will coordinate this event, aided by the color guard of the Italian American War Veterans.

The main event of our celebration, Chicago's great Columbus Day parade, will begin at 1 p.m. and over 200 floats, bands, and marching units depicting the theme of the parade will participate. In addition to the native costumes from the various regions of Italy worn by women and children, hundreds of young people in school bands, corps of marchers, and drum and bugle corps will also participate. Christopher Columbus will be portrayed this year by Dominic Serge, 504 Clearwater North, Roselle, IL.

In addition to those watching the parade personally, millions of people nationwide are expected to enjoy the parade on WGN-TV. This year the sponsors for the parade programming are Dominick Di Matteo of Dominick's Finer Foods, Anthony Terlato of Paterno Imports, Anthony Fornelli of Festa Italiana, the Chrysler Dealers Association, and Contadina Tomato Paste.

One of the highlights of Chicago's Columbus Day celebration is the selection of the queen of the parade. This year, Gina Zordani, 13012 Westgate Drive, Palos Heights, IL, was chosen to reign as queen of the Columbus Day Parade.

Judged on her beauty, poise, and personality, Gina, as winner of the Columbus Day queen contest, received the following prizes: $1,000 from the Joint Civic Committee of Italian Americans; $100 from Dr. Claudio Ferrari, Consul General of Italy; two dinners at the Como Inn Restaurant, courtesy of Joseph Marchetti; two dinners at Giannotti's Restaurant, courte-

sy of Santo Cinquegrani; and a gown from J.C. Penney.

The members of the queen's court are Tina Imbrogno, 41 E. Lyndale, Northlake, IL; Rosemarie Andolino, 1444 James Court, Elk Grove, IL; Maria Tassone, 5641 S. McVickers, Chicago, IL; and Patricia Phillips, 1313 Peachtree Lane, Mt. Prospect, IL.

The chairman of the Queen's Contest was Fred Mazzei, cochairperson, Josephine Bianco, and the judges of the contest included Joseph Caliendo, fur fashion coordinator and designer of furs; Frank Cacciatore, Jr., past deputy director, State of Illinois Film Office; Gilbert Cataldo, executive director, Chicago Regional Port District; James De Leo, administrative assistant to the chief judge of the traffic court; Dr. John J. Drammis, Jr., director of the Chicago Cosmetic Surgery Center; Rose Farina, manager, Daley Center events, Chicago Council of Fine Arts; Rose Pace, publicist for J.C. Penney Co.; Richard Parrillo, chairman of the board of trustees of the Joint Civic Committee of Italian Americans; Judge Philip Romiti of the Illinois Appellate Court; Laura M. Spingola, president of Trade Resources, Ltd; and Dr. Carl Tintari, a cosmetic dentist.

The Joint Civic Committee of Italian Americans, comprised of more than 40 Italo-American civic organizations in the Chicagoland area, sponsors the Columbus Day parade and other related activities. Many local groups cooperate with the Joint Civic Committee of Italian Americans in this community-wide tribute to Columbus, and Anthony Sorrentino, consultant for the Joint Civic Committee of Italian Americans has helped to coordinate the various activities of the parade for many years.

The Columbus Day parade and related festivities will close with a reception at 3:30 p.m. at the Como Inn Restaurant, 546 North Milwaukee Avenue in Chicago, in honor of all the guests, the officers, subcommittee chairmen, and members who participated in making this event a memorable success.

On this 15th celebration of Columbus Day as a national holiday, I am honored to again participate as honorary parade chairman in the Columbus Day parade. The members of the Joint Civic Committee of Italian Americans are to be commended for their continuing and dedicated hard work and the imaginative creativity that goes into the planning of a grand event such as the Chicago Columbus Day parade. Our community and our city are proud of these citizens and of the work they are successfully completing.

Mr. Speaker, the officers and members of the 1984 Chicago Columbus Day Parade Committee are as follows:

LIST OF OFFICERS AND MEMBERS OF CHICAGO COLUMBUS DAY PARADE

COLUMBUS DAY PARADE COMMITTEE

Joseph Tolitano, General Chairman 1984; Frank Annunzio, Honorary Parade Chairman; and Jerry Campagna, Grand Marshal.

HONORARY CHAIRPERSONS

Honorable Harold Washington, Mayor, City of Chicago; Dr. Claudio Ferrari, Consul General of Italy; Honorable George W. Dunne, President, Cook County Board of Commissioners; Congressman Martin Russo; and Honorable James R. Thompson, Governor, State of Illinois.

JCCIA OFFICERS

Jerome N. Zurla, President; Charles C. Porcelli, 1st Vice President; Carl De Moon, 2nd Vice President; Anthony Terlato, 3rd Vice President; Fred Bartoli, 4th Vice President; Leonard Giampietro, 5th Vice President; John DeBella, Treasurer; Josephine L. Ortale, Secretary; Sam Cerniglia, Sergeant at Arms; and Anthony Sorrentino, Executive Director.

BOARD OF TRUSTEES

Richard Parrillo, Chairman, Congressman Frank Annunzio, Vice Chairman, Michael Annecca, Fred Bartoli, Anthony Bertuca, Victor Cacciatore, Jerry Campagna, Representative Ralph Capparelli, Michael Cardilli, Gilbert Cataldo, Michael Coccia, James L. Coli, Senator John D'Arco, Jr., James De Leo, Pat De Leo, Dominick De Matteo, Representative Marco Domico, Nello Ferrara, Anthony J. Fornelli, Paul Fosco, and Peter Fosco.

Fire Commissioner, Louis Galante, Leonard Giampietro, Dr. James F. Greco, Ernie Kumerow, Joseph Lizzadro, Jr., Steve Lombardo, Charles LoVerde, Joseph Marchetti, Pat Marcy, Jr., Michael R. Notaro, Charles C. Porcelli, Mayor John C. Porcelli, Nunzio Raimondi, Ciro Rossini, Dr. Salvatore Rotella, Dr. Mario O. Rubinelli, John Serpico, Dr. Raffaele Suriano, Anthony Terlato, Joseph Tolitano, Lester Trilla, Phillip Zinni, and Jerome Zurla.

CHAPLAIN

Reverend Armando Pierini, C.S.

THEME COORDINATOR

Theresa Petrone.

RELIGIOUS PROGRAM AND ORGANIZATIONS COMMITTEE

Reverend Lawrence Cozzi, C.S., Chairman, Reverend Armando Pierini, C.S., Advisor, Nick Bianco, John De Bella, Michael Palello, Elvira Panarese, Chief Anthony Pilas, Anthony Pope, and Lawrence Spallitta.

AUTHENTIC ITALIAN COSTUMES COMMITTEE

Ann Sorrentino, Chairperson, Elena Frigoletti, Mary Spallitta, and Pauline Jo Cusimano.

FINANCE AND SOUVENIR BOOK COMMITTEE

Mayor John C. Porcelli, Chairman, Ann Sorrentino, and Angeline Annunzio.

BANDS, MARCHERS AND TRANSPORTATION COMMITTEE

Marie Palello.

LABOR COMMITTEE

John Serpico, Chairman, Ernest Kumerow, Bruno Caruso, Robert LoVerde, Angelo Fosco, Charles LoVerde, Tony Judge, Armando Fosco, and Chuck Spranzo.

PROGRAM AND ARRANGEMENTS COMMITTEE

Domenick Di Frisco, Cochairman, Theresa Petrone, Jerry Zurla, Gilbert Cataldo, Anthony Fornelli, and James De Leo.

QUEEN CONTEST COMMITTEE

Fred Mazzei, Chairman, Josephine Bianco, Cochairperson, Anita Bianco, Nick Bianco, Marie Palello, Michael Palello, Hugo Panarese, Sam Bruno, Norma Battisti, Ange Tufano, Joe Mollica, and Rose and Josephine Ortale.

FLOATS COMMITTEE

Marie Palello, Chairperson.

FLOAT PERSONNEL COMMITTEE

Lawrence Spallitta, Chairman.

PARADE MARSHALS COMMITTEE

Marco De Stefano, Chairman, Alex Batinich, Larry Battisti, Rocco Bellino, John De Bella, Nick Bianco, Pasquale Caputo, Ettore Di Vito, Anthony Finley, Neil Francis, Mario Lombardi, Joe Mollica, Robi Neri, Mike Palello, Joseph Pantaleo, Anthony Pilas, Louis Rago, Ron Onesto, and Jeff Garzinetti.

OFFICE VOLUNTEERS

Russ Anderson, Bill Travers, Maria Serafini, Ann Leola Gervasio, Joan Piraino, Ann Yelmini, Josephine and Rose Ortale, Ann Sorrentino, Jo Ann Frisa Cole, Nancy Savino, Pauline Kaner, and Lucille Brahill.

STAFF PHOTOGRAPHER

Sam Bruno.

WOMEN'S DIVISION

Jeannine Riotto, President.

WEST SUBURBAN WOMEN'S DIVISION

Libby Hannigan.

YOUNG ADULT DIVISION

Patti DeBella.●

A TRIBUTE TO BARBER CONABLE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. HORTON] is recognized for 60 minutes.

GENERAL LEAVE

Mr. HORTON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my special order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. HORTON. Mr. Speaker, thank you for the opportunity to recognize the many talents and accomplishments of my close friend BARBER CONABLE. While we wish BARBER and his wife Charlotte well in their new endeavors, my wife Nancy and I deeply regret their decision to retire.

I have personally known BARBER for nearly 40 years. First as a fellow law student at Cornell University Law School and later as an attorney in the Rochester area. In both cases, BARBER stood out as a man of intelligence and integrity.

Seventeen years after our departure from law school, and during my first term in the House, BARBER was elected to replace former Congressman Ostertag. For the 20 years since then, we have worked together to serve the citizens of the greater Rochester area and

New York State. This close cooperation, was facilitated for many years by the fact that we have had neighboring offices both here and in Rochester.

The people in BARBER's congressional district share my appreciation for his legislative accomplishments and his service to his constituents. Perhaps more importantly, they view his prominence in this body as proof that one man, from a small community in upstate New York, can leave an indelible mark upon the Nation. He give credibility and honor to his office, and his decision to retire is universally regretted. I believe it is a tribute to his reputation that the Republican candidate for his seat is running on a platform that he will "be just like BARBER."

At a national level, BARBER receives tremendous respect from Members on both sides of the aisle. He has distinguished himself as a leading authority on tax policy and economic matters generally. As ranking minority member of the House Ways and Means Committee, he has directed major legislative efforts, including spending limitations, tax reform, revenue sharing, long-term care for the elderly, reduced Government regulation, financing of charities, social security, and civil rights. The respect with which he is held by the leadership on both sides of the aisle has allowed him to accomplish many tasks beyond the grasp of many of his colleagues. It is often said that no man is indispensible, but BARBER is truly irreplaceable.

BARBER, I would like to close with the thought that it has been a privilege to work with you these past 20 years. Through this time I have grown to appreciate and depend upon your friendship and advice.

God bless you, and good luck.

Mr. Speaker, I yield to the gentleman from Oklahoma [Mr. JONES].

Mr. JONES of Oklahoma. I thank the gentleman for yielding to me.

Mr. Speaker, if one asks Representative CONABLE's office for an information sheet on the New York Representative, you will be given a piece of paper entitled, "A Brief Biography of * * *." There are few of us in the House who are brief in our statements on any subject, not to mention when we are discussing ourselves. But this is characteristic of my good friend, and respected colleague—BARBER CONABLE.

Mr. CONABLE's biography modestly states that he is the senior Republican member on the Committee on Ways and Means, and he is a member of the Ethics Committee and the Joint Committee on Taxation. It would be more accurate to say: he is the "think tank" of the Republican party. He is the sachem of the Republican's in the House. This is my friend BARBER CONABLE.

There will be an abundance of sobriquets given for BARBER this evening, all deserved words of affection, respect, and admiration. But there is one term which I find particularly relevant when speaking of him; that term is "charisma." I am not speaking necessarily of the popular use of the term where political managers market their candidates on the basis of their political sex appeal, their charisma. I am speaking of the ancient Greek use of the term when charisma connated "a gift." BARBER CONABLE has that certain quality of an individual personality which sets him apart from most of his peers, he has no peerage. He's got heft. This is my friend BARBER CONABLE.

This is a personal testimony for me. Having worked with BARBER over the past 10 years on the Ways and Means Committee, I am humbled to have been able to have my name associated with the Conable-Jones Capital Cost Recovery Act, among the many joint projects we undertook. There is no one on our committee who can match his comprehension, depth of understanding, or prognastic skills in tax policy. He is the E.F. Hutton of our committee, of the Republican Party, of the House of Representatives. There is no doubt that his reasoned manner, quick wit, and sound judgment will be greatly mised in the years to come. This is my friend BARBER CONABLE.

In times of bitter, partisan, climate, BARBER CONABLE belies the notion of knowing where our citizens stand. Many Members of this body eschew the middle-of-the-road, thinking there are more fertile grounds to be found on the fringes. BARBER CONABLE knows the path of reason can oftentimes be a barren place. But BARBER has never forgotten his promise of standing up for his convictions. Robert Frost once wrote, "The middle-of-the-road is where the white line is—and that's the worst place to drive." But President Eisenhower accurately summarized in his first State of the Union Address the philosophy which BARBER has never forgotten. Mr. Eisenhower said, "There is, in our affairs at home, a middle way between untrammeled freedom of the individual and the demands for the welfare of the whole Nation. This way must avoid government by bureaucracy as carefully as it avoids neglect of the helpless." This is my friend BARBER CONABLE.

The citizens of the 30th Congressional District of New York are fortunate to have had BARBER CONABLE serve them over the past 20 years. Many of us come to our Nation's Capitol, enamored of the glitter, glitz, and limelight. Soon, our constituents are saying, "you can't come back to Pocatello." But BARBER has never forgotten the reasons for which he serves in th House—the citizens of New York's 30th Congressional District. He is one among them now, he was 10 years ago, and when he was first elected. This is my friend BARBER CONABLE.

As the 98th Congress concludes, and the final copy is put to bed on the accomplishments made in the last 2 years, a torch has been passed to a new generation. A transformation of responsibility of critical importance is taking place. This is indeed a sad event when speaking of the retirement of my friend BARBER CONABLE. But I am reminded of the words of English prelate High Latimer who stated in 1555, "Be of good cheer, brother, we shall this day kindle such a torch in England, as I trust in God, shall never be extinquished." The wisdom, compassion, honesty, and charisma BARBER CONABLE brought to the House of Representatives will never flicker or be forgotten.

This is the Nation's friend BARBER CONABLE.

Mr. HORTON. Mr. Speaker, I yield to the gentleman from Tennessee [Mr. DUNCAN].

Mr. DUNCAN. I thank the gentleman for yielding to me.

Mr. Speaker, I have had the privilege, since I was first elected to this Congress, to have served with outstanding Members. In 1965, there were only 21 Members of the freshman class from the Republican Party. This year, three Members of that class have chosen to retire. All three have distinguished themselves as intelligent, and pragmatic spokesmen of the minority position, and each has served admirably as ranking member in an important committee position. BARBER CONABLE, JACK EDWARDS, and JOHN ERLENBORN have distinguished themselves on both sides of the aisles.

BARBER and I have worked closely together on the Ways and Means Committee for the past 16 years, and no one hates to see him go more than I do. I am pleased that we have this opportunity to pay tribute to the man and his accomplishments today.

I need not remind my colleagues of BARBER's ability to grasp the technical nature of tax and trade issues, or make a reasoned and convincing argument in support of his position. His efforts, however, have not been without their frustrations. As a member of the tax writing committee, he has often had to take the lead on the unpopular but necessary course of raising the debt limit. The small minority he leads in the committee gives him little power to wield. This has not stopped him, however, from leaving his imprint on legislation and laws that affect every man, woman, and child in this country.

It was through his efforts that the tax reductions of 1981 were enacted, including the individual retirement accounts, and the indexing of income taxes. These will have far reaching effects encouraging savings, and protecting the middle class from the harsh tax consequences of inflation. He

played a major role in developing the Social Security Act amendments last year, insuring that this system remained solvent.

We have also enjoyed his gentle, good humor, and wit. He has been able to bring laughter, and insight both through his questions and comments in committee hearings. In those meetings we have also marveled at his doodles, intricate and bold designs covering a page. In the long, and often technical hearings of the Ways and Means Committee which would run into the lunch hour, or past dinner time, BARBER was able to offer some relief by passing out butterscotch candy which he kept tucked away in his desk drawer.

This House owes a debt of gratitude to BARBER CONABLE. Not only has he imparted his wisdom and wit to us, but he has also stood out as a model Congressman. One who could be examined from all sides and found to embody the best qualities of a "Representative." He has looked after the interests of his constituents at home, yet served the broader interests of the Nation as a whole. It is for these reasons that we will miss him.

Mr. HORTON. Mr. Speaker, I yield to the gentleman from New York [Mr. ADDABBO].

Mr. ADDABBO. I thank the gentleman for yielding to me.

Mr. Speaker, I join with all the Members of the New York State delegation in wishing a fond farewell to our distinguished colleague, BARBER B. CONABLE, JR.

After serving the people of the Genesee County area of upstate New York for 20 years, Mr. CONABLE will retire in January at the end of his 10th term. As a longtime Member of the House myself, I have watched with pleasure his progress through the House to become ranking Republican member of the Committee on Ways and Means, and I have witnessed his legislative work in the areas of tax reform, care of the elderly, social security, and historical conservation.

Mr. CONABLE leaves behind a legacy of outstanding service to his party members in the House through his work as chairman of the House Republican Policy Committee and the House Republican Research Committee. As chairman of a special Republican Task Force to investigate the seniority system, he has been an instrumental figure in the reform of congressional procedures. Recently he has been privileged to serve on two special Presidential commissions, the National Commission on Social Security Reform and the Task Force on Private Sector Initiatives.

I am sure that I speak for my colleagues as well as myself when I say that we will lose a respected and admired member on the occasion of Mr. CONABLE's retirement. I am sure he will bring the same energy and determination to his future endeavors that he brought to his work here with us, and I wish him and his family the best of luck.

Mr. HORTON. Mr. Speaker, I yield to the gentleman from Virginia [Mr. ROBINSON].

Mr. ROBINSON. I thank the gentleman for yielding to me.

Mr. Speaker, it has been a great privilege to have served in this House with the distinguished gentleman from New York [Mr. CONABLE]. As I came to the decision to complete my service here at the conclusion of my 7th term, I cannot chide the gentleman for deciding to do so at the close of his 10th; but I have to confess that I would feel somewhat more comfortable in returning to private life if I knew that BARBER CONABLE was staying on to continue his patrol of the thicket of Federal tax law, monitor the Social Security trust funds, press for realistic restructuring of fiscally shaky Federal retirement systems and, in general, hold before the House the touchstone of common sense.

As ranking minority member of the Committee on Ways and Means, our colleague has played a leadership role in the fashioning of the legislation which has brought a significant measure of tax reduction to most taxpayers in recent years. At the outset of that effort, and repeatedly since then, he has warned us that tax relief given most certainly would be snatched away, and a heavier burden than ever imposed, if the Congress did not mend its spending ways. He has proven himself a dependable, if grim, prophet; his warnings will echo in this Chamber until deficit spending is recognized as an anathema which can be exorcized only by recognizing the Federal revenue as a limiting factor in the appropriation process and in the scaling of entitlement program benefits.

BARBER CONABLE has been a friend to me throughout my service in the House. He has clarified for me many complexities. I will miss the benefits of his methodical, probing intellect.

The gentleman from New York has served his country, State, and district diligently and effectively. He will take with him from this place the best wishes of his colleagues for every happiness in the company of his family, and in all his undertakings.

Mr. HORTON. Mr. Speaker, I thank the gentleman for his remarks and I take this opportunity to commend the gentleman for his service in the House of Representatives. It has been a pleasure to work with you and we are sorry to see you make the decision to retire, but we wish you well in retirement. The gentleman has done an outstanding job.

Mr. HORTON. Mr. Speaker, I yield to the gentleman from Alabama [Mr. DICKINSON].

Mr. DICKINSON. I thank the gentleman for yielding to me.

Mr. Speaker, I want to thank the gentleman for making this opportunity available to us to pay respects to my long-time friend and colleague, BARBER CONABLE. The gentleman commented on the fact that I was not retiring. I confess I have thought of it.

Mr. Speaker, when I was first elected to the 89th Congress, we had a very small freshman class, as the gentleman will recall. As I recall, it was in the low teens; that was the total freshman class. During the 2 years of the 89th Congress we grew, I think to 20 Members or 21. Because it was such a close band, we were a close-knit band. We met every Monday afternoon, the 89th club, until 4 years ago.

□ 2240

So for 16 years, every Monday afternoon, we were in session and this group got together and discussed the legislation pending. We assisted each other and it was a real gratification, but certainly no surprise to see BARBER climb and rise in stature, not only on the committee through the seniority system but through his efforts and capabilities with the people on both sides of the aisle.

BARBER has been an outstanding Member of this very august body. It has been a very real pleasure and it has been a source of pride to associate with him.

The same is true of my good friend JOHN ERLENBORN, who has the special order earlier and also my equally good friend, JACK EDWARDS, who is retiring. All of us were in the same class and I have a special order following this to discuss JACK.

It is a sad time really after 20 years of association and becoming very close and fast friends to see the association terminate and to know that next year Congress, for those of us who remain, is going to be a very different place indeed, and we will very sincerely suffer their loss.

Mr. HORTON. Mr. Speaker, I thank the gentleman for his remarks and I want to join with him with regard to the comments he made with regard to JOHN ERLENBORN, a member of the 89th club and also JACK EDWARDS, who has also decided to retire.

Three unique, outstanding Members of the House of Representatives and it is the kind of loss that the Congress cannot really afford. All three of them are outstanding men and have devoted themselves not only to their districts but to the country and are widely respected on both sides of the aisle.

I will be glad to yield to the gentleman from Illinois [Mr. O'BRIEN].

Mr. O'BRIEN. I thank the gentleman for yielding to me.

Mr. Speaker, for the 20 years he has represented his upstate New York con-

gressional district, for his leadership as ranking Republican on the Ways and Means Committee, for his work to make taxation fair for all Americans, I join my fellow Members of Congress in saluting BARBER CONABLE.

BARBER CONABLE has continually and successfully moved legislation on spending limitations, tax reform, revenue sharing, long-term health care for the elderly, and reduced Government regulation. He has done this not only in his position on Ways and Means, but as a member of the House Ethics Committee, the Joint Committee on Taxation, the Budget Committee, and the Joint Economic Committee.

His high status in Congress has also seen him serve on two Presidential commissions, the National Commission on Social Security Reform and the Task Force on Private Sector Initiatives.

Only 20 years after BARBER CONABLE was born in Warsaw, Wyoming County, NY, he graduated from Cornell University. He then enlisted in the U.S. Marines and went ashore on the first day of the invasion of Iwo Jima. He later returned home to graduate with honors from Cornell Law School and join a Buffalo law firm.

He formed his own law firm in his native Genesee County in 1952, after seeing more military action in the Korean conflict. He left his law firm on his election to Congress. Then as now, however, he involved himself in such community activities as the Genesee County United Way, the Batavia Rotary Club, and the Genesee Council of Boy Scouts.

Without a doubt, this singularly effective and eloquent man will be missed by his many supporters and friends in Congress, including this Irish admirer from Illinois.

Mr. HORTON. I thank the gentleman.

Mr. Speaker, I will be glad to yield to the gentleman from Pennsylvania [Mr. COUGHLIN].

Mr. COUGHLIN. I want to commend the gentleman from New York for conducting this special order for BARBER CONABLE.

Mr. Speaker, I guess the loss of BARBER CONABLE and Charlotte to this body has got to be a loss that is of monumental proportions.

I think that there have been many, many commentaries upon what this means. It means something to me very personally because BARBER CONABLE, from the first day I came to this Congress 16 years ago was one who guided me, inspired me in the best traditions of the service of this country and I guess that after 20 years he is both a trusted colleague and a personal friend; one that I cannot say too much about in a personal relationship.

Mr. Speaker, it is with great pleasure that I join today in paying tribute to BARBER CONABLE who is retiring from Congress after serving for 20 years. BARBER is both a trusted colleague and a personal friend.

He has been the kind of thoughtful, low-key, hard-working legislator with a solid record of legislative accomplishment who understands that grandstanding and the glare of publicity do not get things done in Congress. Though always a member of the minority, BARBER is admired and respected by his colleagues on both sides of the aisle for his intelligence, fairness, and ability to bridge partisan differences.

BARBER'S quiet, patient leadership was critical in working out a plan to rescue the Social Security System last year. The continued viability of the Social Security Program is due in no small part to the efforts of BARBER CONABLE. He has provided the same kind of steady leadership through the years to make the tax system more equitable, to reduce Government regulation, and to make this body more efficient and responsive.

It has been my privilege to work with BARBER on numerous issues including the successful effort to institute tax indexing and the proposed tax limitation and balanced budget constitutional amendment. I have often sought his advice and judgment on difficult legislative issues.

As senior Republican on the Ways and Means Committee and as a member of the Budget Committee, BARBER CONABLE has had considerable influence on the shaping of public policy and the Nation's future. The loss of his vast experience, his tax expertise, and his commonsense approach to increasingly complex problems will be enormous for his New York constituents, for the Congress, and for the Nation.

I wish BARBER and his family all the very best in the coming years. I will miss his wise counsel and opportunity to work with him in the future but look forward to a long and continued friendship.

Mr. HORTON. I thank the gentleman for his remarks.

I yield to the gentleman from Wisconsin [Mr. PETRI].

Mr. PETRI. I thank the gentleman for yielding to me.

Mr. Speaker, I want to thank our colleague FRANK HORTON for organizing this special order to mark the retirement from this House of the Represenative from the 30th District of New York for the last 20 years, the Honorable BARBER B. CONABLE.

One of the pleasant surprises I had upon beginning service in the House was the discovery that there were among its Members a number of individuals of exceptional quality. It has been a privilege to serve and associate with one of these, BARBER CONABLE, for the last 6 years.

Representative Millicent Fenwick spoke for many of us over lunch in the Members' dining room a few years ago. She interrupted a discussion as to which Members were hot shots and which were big guns, to reach over and pat the Representative from the 30th District fondly on the hand and say, "And then there's BARBER—he's not a hot shot or a big gun, he's our great cannon we wheel into battle when we really need him."

Some men derive respect from the position they hold; Representative CONABLE, by virtue of his character, conferred enhanced respect upon his office. The House of Representatives is a greater institution for his having served here.

Mr. HORTON. Mr. Speaker, I yield to the gentleman from Nebraska [Mr. BEREUTER].

Mr. BEREUTER. I thank the gentleman for yielding to me, and I commend you for taking out the special order.

Mr. Speaker, the announcement of the gentleman from New York, BARBER CONABLE, of his retirement and the realization that he will no longer serve in this Chamber gives us a chance to reflect on his illustrious career as a public servant. BARBER CONABLE is an uncommon man. He is a genuine scholar, an intellectual, a man of ideas and principles. He is a person who has represented not only his own congressional district, but the Nation as a whole.

BARBER CONABLE has served in this body for almost 20 years and his influence will be here for many more. His scholarly approach to legislation, his ability to understand the whole and not just the parts, and his selfless devotion to the ideals guiding this democracy and this Congress have been left for us, and to those who come after us, as a legacy to be treasured and valued.

His expertise, his counsel, his commonsense and his good humor have been invaluable. The gentleman from Alexander, NY, is without a doubt one of the most skillful and respected legislators in the Congress. He has influenced this Member greatly during the last 6 years. His guidance and judgment will be sorely missed.

BARBER CONABLE leaves a reputation for rising above partisanship in his dedication to the best interests of our Nation. That is in the finest tradition of this body and the legislative process. We all are proud and privileged to have served with him. And we will miss his wisdom, his dedication, and his advocacy.

It is many a time that this Member has heard the gentleman from New York [Mr. CONABLE] recite from memory, and with great vigor and enthusiasm, poetry of very diverse nature. Yet in places as diverse as a Lincoln, Nebraska home, airplane

trips, a restaurant in Vienna, and a bus crossing the wintry plains of Hungary I have detected in him a special affection for Rudyard Kipling. And so today this Member will end with two small samples of Kipling for the gentleman from New York.

First from and for this Member, and many of my colleagues too, who think the gentleman from New York [BARBER CONABLE] is indeed our one man in a thousand, if indeed not one in a million or more, a few lines for BARBER from Kipling's poetry entitled "The Thousandth Man."

THE THOUSANDTH MAN

One man in a thousand, Solomon says,
Will stick more close than a brother.
And it's worth while seeking him half your days
If you find him before the other.
Nine hundred and ninety-nine depend
On what the world sees in you,
But the Thousandth Man will stand your friend
With the whole round world agin you. . . .

Second, I would offer a few lines from Kipling's poem entitled "A School Song" to characterize our esteemed colleague, BARBER CONABLE.

A SCHOOL SONG

. . . Some beneath the further stars
Bear the greater burden:
Set to serve the lands they rule,
(Save he serve no man may rule),
Serve and love the lands they rule;
Seeking praise nor guerdon.
This we learned from famous men,
Knowing not we learned it.
Only, as the years went by—
Lonely, as the years went by—
Far from help as years went by,
Plainer we discerned it.
Wherefore prise we famous men
From whose bays we borrow—
They that put aside To-day—
All the joys of their To-day—
And with toil of their To-day
Bought for us To-morrow!

Indeed BARBER CONABLE and his wonderful wife Charlotte have on many occasions put aside the joys of today for reasons of public service and for our future—and we Members, this great body, the people of New York and this Nation are much the better for those sacrifices and dedication. We will miss, without measure, our colleague but we wish the CONABLES an enriched measure of joy, good health, contentment, stimulation, and the great quantities of energy necessary to pursue other contributions for society and to visit these Halls of Congress with great frequency.

Mr. HORTON. I thank the gentleman for his very sincere and meaningful remarks.

I yield to the gentleman from Iowa.

Mr. LEACH of Iowa. I thank the gentleman for yielding to me.

Mr. Speaker, rising to extol the virtues of BARBER CONABLE is difficult. So many positive adjectives come to mind that I suspect this special order will amount to a competitive eulogium, with none of us coming close to describing the true mark of the man we so punctiliously have referred to as "our distinguished colleague from New York."

What we most admire about BARBER can perhaps best be understood by defining what he is not.

We politicians tend to fall prey to the sin of extremism—sometimes of ideas, more frequently of behavior. At one extreme are the ideologues. Their visions of the world are often grand, but their views are inevitably oversimple and to some degree distorted. Ideologues deal with people as they wish—or fear—they are, not as they really live their lives.

At the other extreme are the demagogs. Their championing of causes is often eloquent, but they are more concerned with gaining and maintaining power than with the ends political power should serve. Demagogs manipulate people; they do not serve them.

We all have known individuals who have come close to one or the other of these extremes and each of us, if we are honest with ourselves, would have to admit to evidencing from time to time a mix of both.

BARBER CONABLE is a politician of a much rarer sort. He is neither an ideologue nor a demagog. He is an idealist who has struggled with the issues that have confronted Congress during his tenure in all their complexity while never losing sight of his own values. He is a pragmatist who has used the influence he earned in this body with great effect, but most importantly with unyielding principle.

The theologian Reinhold Niebuhr once wrote that the temper and integrity with which the political fight is waged is more important to the health of our society than the outcome of any issue.

For 20 years BARBER CONABLE has been at the heart of every major debate in this body, and never have his colleagues been anything less than inspired by his temper and his integrity.

Lacking the muscle that majority party support implies, BARBER has demonstrated more fully than any individual I know how a member of the minority can effect legislation by the dint of logic and principle and personal stature.

He has been an ornament to this institution and a model for us all. If a history of Congress in the 20th century is written, BARBER CONABLE will be recorded as a legislator of the first magnitude.

Our distinguished colleague from New York and his most committed wife, Charlotte, will be much missed.

□ 2250

Mr. HORTON. I thank the gentleman.

Mr. Speaker, I would be happy to yield to the gentleman from Ohio [Mr. STOKES].

Mr. STOKES. I thank the gentleman for yielding.

Mr. Speaker, I would like to thank my distinguished colleague, the gentleman from New York [Mr. HORTON] for reserving this special order so that Members of the House can salute our good friend and colleague, BARBER CONABLE. When the House of Representatives completes the business of the 98th Congress later this week, Representative CONABLE will begin his retirement.

His departure from the House will be a great loss for each of us and a loss for this Nation. Mr. Speaker, BARBER CONABLE is a true statesman in every sense of the word. I rarely say that about any individual. However, in observing and working with him through the years, it is apparent that BARBER CONABLE has earned the title of statesman.

His primary concern in his 10 terms in the House of Representatives has been the people of this Nation. Each vote that he has cast and each action that he has taken has been designed to help the American people. I think that he has succeeded in serving his congressional district and the public. I know that he has made a lasting and indelible mark on this body.

Mr. Speaker, since 1967, Congressman CONABLE has been a member of the House Ways and Means Committee. Currently, he is the ranking Republican on that committee. BARBER is regarded as one of the leading authorities in the House on tax policies and economic matters. He has directed major legislative efforts including tax reforms and revenue sharing. His work on this committee has earned him the respect and admiration of Members on both sides of the aisle.

Mr. Speaker, I have had the opportunity to work closely with BARBER CONABLE on the House Committee on Standards of Official Conduct which I chair. In BARBER CONABLE, I found a fair and just man. As we all know, the committee has dealt with some very tough investigations in the last 2 years involving Members of the House.

Mr. Speaker, BARBER CONABLE has worked on that committee and worked behind the scenes to ensure that those investigations were done in an expeditious manner and void of any partisanship.

As chairman of the committee, I have enjoyed the counsel and support of Congressman CONABLE. He always has been willing to listen to the views of each of the Members and ready to deal with the difficult issues brought before the committee. I shall miss his leadership and sense of fairness as he takes leave of the House of Representatives and the committee.

Mr. Speaker, at this time, it is a distinct honor to join with my colleagues in saluting Representative BARBER CONABLE. Through his service in the House of Representatives, he has made an indelible mark on this Nation. He leaves all of us a legacy of integrity, ability, and dedication that will remain an inspiration and an example for all of us to follow and attempt to emulate.

Mr. HORTON. I thank the gentleman for his comments.

Mr. Speaker, I am happy to yield at this time to the gentleman from Nebraska [Mr. DAUB].

Mr. DAUB. I thank the gentleman for yielding. I was very happy to see the gentleman's "Dear Colleague" letter which requested all of us to take this opportunity to say a few words about our colleague, the gentleman from New York, BARBER CONABLE, so I want to first thank the gentleman from New York [Mr. HORTON] for making it possible for us all to get together at the end of this session to speak of BARBER CONABLE.

One of the great privileges of serving in this Congress is the opportunity to work with individuals of the caliber of BARBER CONABLE. Competent; thoughtful; personable, BARBER is the kind of Representative who brings the highest respect to this institution.

This House will miss not only his valued counsel and his commonsense but also his legislative craftsmanship and analysis. BARBER CONABLE has always been concerned with precision in legislating, and the laws of this land have been fine-tuned by his vigilance.

It is appropriate to thank the people of New York's 30th District for sharing this resource with us for the last two decades. We could use his insights and leadership for another 20 years but will regretfully allow him to return to upstate New York's snow belt with our warm appreciation and admiration of his exceptional public service to the people of this Nation.

Mr. HORTON. I thank the gentleman for his contribution.

Mr. Speaker, I am happy to yield to the gentleman from Indiana [Mr. JACOBS].

Mr. JACOBS. I thank the gentleman for yielding.

Mr. Speaker, I count it as a privilege both to serve with BARBER CONABLE and to have this opportunity to express my admiration for him. We are fellow Ways and Means members, and we are fellow marines.

BARBER is what I would call a clear-channel thinker. He is not bogged down by minutia. He makes a useful, I should say a superior contribution to our deliberations in the Committee on Ways and Means, and I might say to the gentleman from New York, since Kipling is in vogue tonight, it occurs to me that BARBER fits the pattern perfectly.

He has talked with crowds and kept his virtue, and walked with kings, nor lost the common touch. We lament his leaving us and expect to see him on many visits. We admire him.

Mr. HORTON. I thank the gentleman.

Mr. Speaker, I would now yield to the gentleman from California [Mr. THOMAS].

Mr. THOMAS of California. I thank the gentleman from New York for yielding.

Mr. Speaker, we go through these, for want of a better word, eulogies for Members who are leaving. I tend not to participate in all of them. I feel it is only appropriate to participate when you have a personal relationship with a Member which allows you to indicate that the leaving of that individual is a personal loss. So I do not often come to the floor and talk about Members who are leaving. I respect those who are leaving, but I do not talk about them. But I came here tonight at this late hour to talk about BARBER CONABLE because he, for me, represents a number of ideals personified.

He is, again for want of a better word, a renaissance man. He is an educated man. He is comfortable in a number of areas, but more than his brain and his knowledge, his character has been especially important to me. I look for benchmarks and guidelines.

As we oftentimes choose up sides, whether it be partisan or on a particular issue that cuts across partisan lines, I have always found that BARBER CONABLE, in terms of the way in which he conducts himself, is someone about whom I have always said, "Gee, I wish I could be more like him."

For 4 years I admired and respected him from afar. For 2 years I have had the extreme privilege of getting a little closer to him and sharing a committee assignment with him. I personally feel a little cheated because he is leaving so soon as far as my career is concerned, but he has had such a long and distinguished public service career, in uniform and out of uniform, that he certainly deserves the time for himself.

But I am here tonight to tell BARBER that as someone who admires quality and often does not see enough of it, that I admire him very much. He is a quality man. I look forward to, whenever he is willing, have him guide and assist me and to give me a helping hand.

I am sorry he is leaving. I think the House is less for it and it will be extremely difficult for us to try to fill the void that the leaving of BARBER CONABLE of New York will make in this institution.

I thank the gentleman again for the time he is taking.

□ 2300

Mr. HORTON. Mr. Speaker, I thank the gentleman for his very sincere remarks. It causes me to observe that it is 11 o'clock and the House went in at 11. We have had a very busy day and Members are still on the floor desiring to speak and the fact that so many Members have been here personally I think is a measure of the mark of esteem that BARBER CONABLE is held by Members of the House.

I would be glad to yield to the gentleman from New York [Mr. GREEN].

Mr. GREEN. Mr. Speaker, I thank the senior Member of our Republican delegation, the gentleman from New York, for yielding to me.

All I can say about BARBER CONABLE is that so many times I have turned to him for counsel and always found it to be wise counsel. Tax issues have been very important in this Congress since I have come here and whenever I needed guidance, there was BARBER CONABLE there and here he was as the ranking member of the Ways and Means Committee and yet he was still able, still willing to spend time with junior Members of the House and advise them as to what the issues were on the tax measures that were pending before the House and pending before the Ways and Means Committee.

He was always able and willing to do it in a very intellectual way, at the same time describing to us what the political issues were, too.

It is very rare in this House to find someone who had the intellectual integrity and the ability BARBER CONABLE had to take these very complicated issues and to lay them out in terms of national priorities, regional priorities, and to give junior Members like me the know-how to deal with these issues that were coming before the House.

I just think it was a great opportunity to be with him and to serve with him in this House. It is a great loss that he will not be here in the years ahead, but I do want to say thank you to BARBER CONABLE for all that he has done for us in these years.

I am delighted that my colleague, the gentleman from New York [FRANK HORTON] has taken this time so that all of us have the opportunity to say thank you.

Mr. HORTON. Mr. Speaker, I thank the gentleman very much.

I yield to the gentleman from New York [Mr. MARTIN].

Mr. MARTIN of New York. Mr. Speaker, I thank the gentleman, the senior Republican here from New York, for taking out this special order to pay tribute to a truly outstanding American.

I would remind the gentleman that when I was first elected to the Congress in 1980, I succeeded another great Member of this Chamber, BOB

McEWEN. I can recall right after the election Bob calling to congratulate me and I said, "Bob, don't leave, because I will be calling from time to time to ask for your guidance," and for 16 years I am sure he has been giving a lot of guidance from time to time and he said, "I'll be there," but he said, "I want you to keep one thing in mind. When you need that special advice and guidance that comes from experience, common sense and judgment, call BARBER CONABLE because there is a person that an awful lot of us relied on for any number of years for advice and guidance."

I have done that, and how right my predecessor, Bob McEwen, was, because here is a fellow that people on both sides of the aisle have relied on for judgment, advice, and guidance, for so many years.

It is going to be a tragic loss to this body.

It is interesting to note that for all the years that he served in this body and in the process of this great tribute, how many kind things have been said about him on both sides of the aisle. The fact of the matter is that in all the time he was in Congress he never drew a breath when he was in the majority, but he has left a stamp on this Congress, a stamp of excellence, a standard of confidence, a standard of intellectual ability and a standard of understanding of his colleagues that is going to be remembered for many, many years to come.

I want to point out that if BARBER were here that if we were inclined in this body to wear uniforms, I would suspect about this time that we would be retiring his uniform, because of how much the people who served with him over his 20 years honor and respect him for what he has done. It would be less than appropriate for me to stand up here tonight without pointing out that, yes, indeed, he wore the uniform before, the U.S. Marine Corps, something he will never forget.

As a matter of fact, every day I have seen him here in this Chamber he has still worn part of that uniform, his Marine Corps tie clip. He is very proud of that association and the Marine Corps is very proud of him.

So his entire association, not only did he serve 20 years here in the House serving his country, but in the Marine Corps, in the State government of the State of New York, where he has not been forgotten to this day.

To BARBER CONABLE and to his bride, I want to say, we are going to miss you, but we know you will only be a telephone call away when we need your advice and counsel.

Again I want to thank the gentleman from New York, Congressman HORTON for taking out this special order to pay tribute to indeed a great American.

Mr. HORTON. Mr. Speaker, I thank the gentleman very much.

I am glad to yield to the gentleman from Washington [Mr. MORRISON].

Mr. MORRISON of Washington. Mr. Speaker, I thank the gentleman for yielding. Just to prove that this tribute to BARBER CONABLE can be universal, those of us from the west coast found, too, that his advice and counsel has been outstanding, and particularly on behalf of many of the younger Members of Congress when we first came to this thicket and found ourselves embroiled in imponderable issues that we always found, I certainly did personally, that we could count on the advice and counsel of one BARBER CONABLE.

People often ask me about the people who make up this U.S. Congress and I often reply that it is just really a slice really across the middle of America; but there are some outstanding Members here, particularly since BARBER has announced his retirement, I pointed out that we are losing one of America's very, very finest.

So I appreciate this opportunity to pay tribute to him, just to say that we will miss him very, very much.

Mr. HORTON. Mr. Speaker, I would be happy to yield to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, as we pay tribute this evening to a gentleman who has served this body for 20 years in a most honorable and sterling manner, I would like to take this opportunity to thank the Dean of the Republican delegation of our State, Mr. HORTON, for making this time available to us. Although we can sympathize with BARBER CONABLE's decision to return to private life, we cannot help but feel that, in a way, this body is being somehow abandoned by one of its most stalwart Members.

BARBER CONABLE arrived in Congress after serving in the New York State Senate. In the two decades since his initial swearing-in as a Member of Congress, BARBER has earned an outstanding reputation that should be the hallmark of every Member of this institution. His thoughtful and analytical approach to every issue has left its mark on many major pieces of legislation, primarily the tax measures that this House must consider from time to time. As the ranking member of our House Ways and Means Committee, BARBER CONABLE has become one of our foremost tax experts; certainly, on this side of the aisle he has no equal. His staff have consistently been available for consultation, as has he, patiently explaining to one and all the ins and outs of highly complex tax matters. It is precisely because BARBER has been able to relate all of this information in his clear and concise, yet highly personable manner, that all of us in the New York delegation will miss him especially.

I have valued the opportunity of serving with BARBER over the past 12 years. BARBER's contributions have been fully set forth by others in this House. We will all miss his kind manner and extensive wisdom, yet hope that he feels secure in his decision to retire. Certainly, I think that there are some of us who do not. Many of us lament his leaving. Hopefully, BARBER will see fit to visit us from time to time, and many of us will welcome his presence. The mantle of reassurance from his expertise that has cloaked us over the years is now being lifted—we wish BARBER and his lovely wife, Charlotte, good health and happiness in their retirement and in all of their new endeavors.

Mr. HORTON. Mr. Speaker, I thank the gentleman for his remarks.

I am happy to yield to the gentleman from Ohio [Mr. MILLER].

Mr. MILLER of Ohio. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, it is my personal pleasure to join with my House colleagues today in paying tribute to our good friend and colleague, the distinguished Member from New York's 30th Congressional District: BARBER CONABLE.

This native of upstate New York, and World War II and Korean war veteran of the U.S. Marine Corps has represented his citizens fully and well during the past 20 years in Congress. I am proud to have served with BARBER and I am happy to join with my colleagues today in underscoring the important contributions this fine gentleman made to America and our economic health. During his 10 terms in the House, he was a leading authority on tax policy, revenue sharing, and governmental regulations as the ranking member of the important House Ways and Means Committee. I, for one, recognize the difficulties of being a member of this committee and I commend BARBER for accepting the responsibilities of the Ways and Means issues with grace, honest effort and diligence. I know that his personal attention to the troubled Social Security issue won him the respect and admiration of Members on both sides of the aisle. Beyond this body, his hard work earned the respect of Social Security recipients who know that without his efforts the system was heading for certain disaster.

BARBER—that is, BARBER's work—left a mark on our society and on the Congress. It is a mark that will serve as a true example to those who will follow him in service to America in this historic chamber. I can think of no better example. BARBER, thank you and I want you to depart knowing that we wish you and Charlotte only the best.

□ 2310

Mr. HORTON. I thank the gentleman from Ohio for his remarks and I

am happy to yield to the gentleman from Minnesota [Mr. FRENZEL].

I would like to point out that the House has been blessed by having two what you would call professional doodlers. With BARBER CONABLE's leaving we will only have one professional doodler left; namely, the gentleman from Minnesota [Mr. FRENZEL].

I am happy to yield to him.

Mr. FRENZEL. I thank the distinguished dean of the Republican delegation from New York for the accolade and for having this time for those of us who will miss BARBER CONABLE to express ourselves.

I could not help thinking as I listened to the large number of Members who have stayed up quite late and forgone other activities like going to bed, that they would probably prefer, what a nice tribute it is to a person that we all admire and for whom we have great affection. But, at the same time, I was thinking that were he here, the person who would be enjoying this the least would be our friend BARBER CONABLE, for one of the things about him that was most endearing was the fact that he would squirm if people would say nice things about him.

Today we were talking about this and I said, "BARBER, one of my employers used to have an old accountant who called this exercise 'putting wings on the dog,'" and BARBER said, "you mean 'putting wings on the pig,' don't you"?

Obviously BARBER is a silk purse and he certainly was not the year of the pig. His service here has been described by Members very accurately.

BARBER was not a tax technician, he was the tax philosopher. He had wide-ranging, thoughtful views on everything that we did, but particularly on the tax work to which he was assigned on the Ways and Means Committee. He was both our philosopher and our conscience and served, of course, with distinction on the Standards of Official Conduct Committee.

Also when the Budget Committee was put together for the first time, BARBER was one of its earliest members and served with dedication, trying to ensure that the Congress' budget process would actually produce some savings sometimes.

I think he is still scratching his head as to whether he has been successful at this or not.

I have only counted two blemishes on his record. One is his degree from Cornell and the other is his service in the Marines. But I suppose a graduate of Dartmouth who served in the Navy might tend to be overly critical about these things.

It has been noted that he had instant recall and could recite poetry or sing songs off key literally forever. And for those who have never heard his inspired rendition of the "St. James Infirmary Blues," I can only say that you are most fortunate among humanity to have missed that wonderful event.

BARBER CONABLE in his personal life is a person probably not wholly known to any of us. One of the real misfortunes about serving in the Congress is that our jobs make it very difficult for us to probe each other very deeply. We may know each other's wives; we probably do not know each other's children. We do not know much about our friends at home. That is unfortunate, because I believe that every Member is an extraordinary Member.

Certainly BARBER was.

On trips where one could get a personal glimpse, in our morning prayer breakfast where I remember an inspired presentation that he made, off campus where he could be a little more relaxed, BARBER was even more solid gold than he was in the Congress, and all of the good things you thought about him as you saw him perform here were also exemplified in his other activities.

Perhaps few things are so dear to him as his home and his wood lot in Alexander, NY. I have never been to Alexander, and with luck I will be able to avoid it the rest of my life.

Mr. HORTON. It is not bad.

Mr. FRENZEL. BARBER tells me there have been more people in the cemetery in Alexander who were placed there prior to 1820 than after 1820, and I believe it is a town of a few hundred people. But it is dear to him. I hope he has a chance to enjoy it more than he has had lately.

Of all of the people in the Congress, I suppose that I shall miss BARBER the most because I was most reliant on him to do my thinking, to be my counsel on the Ways and Means Committee.

My opportunity to serve with him was wonderful and enjoyable, but unfortunately I am a slow learner and I wish that he had stayed a few more terms, because certainly none of us, and certainly not I, is ready to replace BARBER in all of the things that he could do for all of us.

But in this body we respect each other's decisions. BARBER's decision to retire was a good one for him.

One of the hallmarks of a great legislator, a great statesman, and a great American is that he or she knows when to retire. BARBER knew when his time had come and he announced it without fanfare. And whatever he does he will do well. He will be happy. He and Charlotte will have I hope a happy and prosperous and healthy future in perhaps more than one career.

But those of us who served with him will always look on that decision with what I might call bittersweet memories, sweet because we remember him and we love him and we learned from him, but just a tinge of bitterness that we were not able to be with him a little bit longer and to learn a little bit more of his wisdom and his creativity.

I thank the gentleman for having this little discussion, and I believe personally that there is none among us who is more deserving of having wings put on him, whatever kind of animal he is, than BARBER CONABLE.

Mr. HORTON. I thank the gentleman for his very sincere remarks.

I will be glad to yield to the gentleman from New York [Mr. BOEHLERT].

Mr. BOEHLERT. I would like to thank the gentleman from New York for conducting this special order which is I think particularly meaningful to all of us, and the poignant remarks here this evening are evidence of that.

I think it is impossible to adequately describe the loss to this great institution, the people's House, upon the retirement of BARBER CONABLE. Over the years it has been a combination of his intellect and his integrity with a generous sprinkling of good humor that has won for him our respect and has marked him as someone very special. And when we think about what we are about in this House in our service, and as we look above the Speaker's chair and see etched on the wall that famous quotation of Daniel Webster, it says something that I think we are all striving for, and that is to do something worthy, to be remembered.

In his 20 years of service in the House of Representatives, BARBER CONABLE indeed has done something worthy, to be remembered.

While it has been said many, many times by many, many people, I would like to repeat it here this evening because it is so very revealing about this very special individual. In our lives we all strive to live up to high standards. BARBER CONABLE set those standards.

I thank him for the privilege of being here only too briefly as a colleague. In my prior incarnation I was privileged to be a member of the staff for two of his colleagues. As a staff member and as a Member of Congress, BARBER CONABLE always treated me the same way. He was available to give me guidance, to give me council, and set me on the right path.

I will personally miss his counsel. This body will personally miss his very special combination of intellect and integrity and his leadership.

□ 2320

Mr. Speaker, I wish to again thank the dean of our delegation, our distinguished colleague from New York [Mr. HORTON], for conducting this special order.

Mr. HORTON. I thank the gentleman.

Mr. Speaker, I am very happy to yield to the distinguished Republican

leader, the gentleman from Illinois [Mr. MICHEL].

Mr. MICHEL. Well, I thank the gentleman.

Mr. Speaker, this week we have been paying tribute to those of our retiring Members and I have made special mention of the tremendous losses that we have been suffering, or that we will be suffering on our side of the aisle particularly. Ranking members such as KENNETH ROBINSON; ranking member on the Permanent Select Committee on Intelligence, JACK EDWARDS; ranking member on the Subcommittee on Defense Appropriations, JOHN ERLENBORN; ranking member on the Committee on Education and Labor, JOEL PRITCHARD; ranking member of the Committee on Merchant Marine and Fisheries, LARRY WINN; ranking member on the Committee on Science and Technology, together with TOM CORCORAN.

I referred to the fact that we are losing seasoned veterans, I guess because this House has changed in recent years and many of our veterans just do not think it is worth their effort anymore.

Today we are paying tribute, of course, to yet another departing veteran, a real giant among his contemporaries, admired on both sides of the aisle for his intellect, integrity, common sense. I guess his biographical details by this time are known to each and every Member of this House; but you will not find the secret to his great success in the details of his biography.

BARBER CONABLE'S success can be summed up in one word, an old-fashioned one but a very good one, and that is character. As the ranking member of the Committee on Ways and Means he has become legendary for his combination, I guess, of personal integrity, knowledge of the issues, and enviable sense of the politically possible. BARBER CONABLE, in short, has always been a pro, a real pro in this House of Representatives.

Yet in many respects he is unlike the popular image of the professional politician. In fact the word "image" is one that is not in his political vocabulary.

BARBER has never tried to project an image. He is content with doing the job, acting responsibly and effectively for his constituents and the country.

In the midst of a lot of turmoil and frenzy, BARBER has been the calm, thoughtful center of the political and legislative hurricane on innumerable occasions in this body.

His advice, his counsel, and his knowledge have been invaluable to me, as I know they have been to other Members of our party.

I guess there is another committee upon which we have not dwelt at any great length on which BARBER has served, aside from the Committee on Ways and Means responsibility, and that is the very unheralded one in this body, the Committee on Standards of Official Conduct, the Ethics Committee.

People do not vie nor ask for service on that committee, but it is one of those chores that have to be performed in this body.

We like to think that we appoint to that committee men of just outstanding ability, character, and intestinal fortitude and all the rest of the things, to sit in judgment, often in very ticklish matters, relative to the conduct of our individual Members in this body.

BARBER has acquitted himself in fine fashion on that committee.

Then, personally, BARBER was the one who nominated me for my leadership position.

We have been good friends over a long period of years. He has been the kind of an individual that, as has been made mention of so frequently here today by younger Members, middle-aged Members, and older Members, of how often they would turn to BARBER for just a little bit of advice here or there, or that good counsel.

He has been a right arm to me in my leadership role. When we, in times past, when the elected leadership was that only group that would go down on occasions with the Chief Executive, be he of our party or the other party, I always thought that there were several people left out of that elected leadership role but who frankly should have been considered on a par, and that included the ranking member of the Committee on Ways and Means.

BARBER, having been included in our leadership meetings with the Chief Executive, has been of inestimable value to our President.

Now he is never one to sit in the back seat and if the occasion arises, when a point ought to be made that he has been reluctant to make it even in the highest circles. I know that the President and the Vice President have relied heavily on his advice from time to time, particularly in these past several years when tax legislation, the whole expenditure thing, have been uppermost in our minds.

Yes, BARBER CONABLE for me has just been of inestimable value and assistance to me. Then again on a personal note, to have known him and Charlotte, the way we have come to know one another, brought together actually by accident in this House, those are the nice things that we remember about the associations we have in this House, and obviously my very best and warmest wishes go out to BARBER and Charlotte for a very enjoyable retirement, although that word, in that sense, will never be played out, because we know BARBER. There will be so many occasions when he will be called upon, I am sure, in that private sector out there to utilize those tremendous talents that he has, and will still put them to work for many, many years to come.

I thank the gentleman [Mr. HORTON] for taking the time at this very late hour so that we might all pay appropriate tribute and respect to one of the real giants of this House of Representatives.

Again I thank the gentleman.

Mr. HORTON. I thank the Republican leader, Mr. MICHEL, for his very sincere remarks.

Mr. Speaker, in closing I would like to thank all of my colleagues who waited until 11:30 and who have testified here to BARBER'S outstanding leadership.

I would just add one other personal thought: I feel that I have been very fortunate to have known him on a personal basis because our two districts have been next to each other for the 20 years that he has been here and the 22 that I have been here. On many occasions I have had the opportunity to sit with him in airports or ride in airplanes back to Rochester. We have represented our districts together. So I have gotten to know him on a personal basis.

I personally am going to miss him. I know that he has made a great mark here as a Member, but he has been a personal friend and I will miss him as a personal friend. That leadership that he gives in those little odd moments which Mr. FRENZEL referred to a few moments ago have been very fortunate as far as I am concerned.

● Mr. WHITTEN. Mr. Speaker, I am pleased to join my colleagues in paying tribute to my friend and colleague BARBER CONABLE who is retiring from this body at the end of this session.

One of the ablest and hardest workers among our Members, he has made a real contribution to the work of this Congress—and most of its tax bills reflect his work, if not always his viewpoint.

BARBER'S work here was exceptional and he shall be missed by all. I wish the best to BARBER, his wife Charlotte, and all his family for the years to come.●

● Mr. CONTE. Mr. Speaker, I want to thank my good friend and colleague from New York, FRANK HORTON, for taking time today for a special order for the distinguished ranking Republican on the Ways and Means Committee, BARBER CONABLE.

BARBER'S departure from Congress will leave a gap that will not be easily filled—either on the Ways and Means Committee or within the ranks of the Republican party. His leadership on one of the House's most powerful committees is a testimony to both his political ability and intellect. And as a member of the Republican leadership, he has taken the lead on several of the

administration's initiatives in the past few years.

One of his challenges as ranking Republican on the Ways and Means Committee was being the floor manager of the overall administration tax proposal in 1981. Through skillful negotiations with the administration, members of the Ways and Means Committee, and members of the Senate Finance Committee, BARBER worked out a conference agreement that both Democrats and Republicans supported. And when it later became obvious that there were some unintended loopholes in that bill, BARBER worked hard to correct them.

BARBER's legislative successes reach far beyond that tax bill, however. He directed major legislative efforts including tax reform—especially in 1982 and 1984—revenue sharing, long-term care for the elderly, financing for charities, higher education, and Social Security. As recently as this past month, he was a leader in the House for reform of the Social Security disability process and for extension of the Educational Assistance Program.

Mr. Speaker, from the first moment he arrived in Congress, BARBER has embodied the very finest traditions of this "People's House." He has remained responsive to his district, but through his influential position on the Ways and Means Committee, he has had an important impact on the Nation—one that will last for years to come.

One thing that I respect about BARBER the most is the fact that in all his years here, I have never seen him take a position that was self-serving; in each and every case, the position he took was what was in the best interest of this country. We are going to miss BARBER CONABLE in the House. He is one of the great giants that ever served in the House: hardworking, conscientious, intelligent, a lot of wit, and just a beautiful human being.

BARBER, it's been a delight working with you. I know that you have mixed feelings about leaving this distinguished body. And I want you to know that I will miss you as a colleague—and a friend.●

● Mr. CAMPBELL. Mr. Speaker, I have been reading the many complimentary articles on our distinguished colleague, BARBER CONABLE, that have been appearing in various publications in the last few months. The accolades he has received, and the unparalleled respect and praise he receives from Members of this body is testimony in itself of his distinguished career in the House of Representatives.

As a member of the Ways and Means Committee, I have had the privilege of serving and working with BARBER. His advice is always sought, his tireless efforts are well known, and his expertise on tax, trade, and economic issues is unsurpassed. BARBER CONABLE has always fought for what he believes is right, whether it is specific tax provision or a sweeping reform proposal. To list his legislative accomplishments would take pages, and to list all of the bills that he has helped forge or his other nonquantifiable achievements would fill a volume.

It is easy for some people to get bogged down in the technicalities of the Tax Code, and it cannot be argued that BARBER's knowledge of the code is unmatched in this body. However, BARBER has never lost touch with the average taxpayer, social security recipient, or small businessman. He realizes that changes in the Tax Code and the Social Security System affect the average working person and retiree. While arguing the technicalities of tax indexing, he understood that this monumental reform would protect the average taxpayer from the ravages of inflation. When we were confronted with the financial crisis in the social security system, BARBER realized that definitive action was needed—a plan that protected beneficiaries and a plan that was balanced. Today, the Social Security System is projected to be in healthy shape for decades to come. I could continue with his achievements and his genuine interest in the economic well-being of this Nation, but I am sure that others will continue where I have left off.

Mr. Speaker, BARBER CONABLE has not only served his constituents in upstate New York with distinction, but the citizens and taxpayers of this Nation as well. There can be no doubt that BARBER's departure is a loss that will be felt for years. BARBER CONABLE has been a true leader in this body, not only on tax policy, but on many other issues as well. I have worked closely with BARBER, and I have enjoyed his friendship and respected his advice. I am thankful that I had the opportunity to serve and work with this outstanding man.●

● Mr. ERLENBORN. Mr. Speaker, it is with special pleasure that I take part in this salute to my very good friend and colleague, the gentleman from New York [Mr. CONABLE].

Both BARBER and I were first elected to Congress in 1964. As have I, he has decided to take his leave from these hallowed Halls at the end of this session.

Mr. Speaker, all who serve in Congress bring some special trait, competence, and character. So far as I am concerned, few have brought so much of all as has BARBER CONABLE. He surely will go down in history as one of the greatest of characters to have served in the House of Representatives.

BARBER is a man of both great wit and great intellect. He is one of those rare people who keeps his head while all around him are losing theirs. He has been a loyal and good shepherd not only for the people of New York's 30th Congressional District, but for all Americans. Our tax laws are fairer because BARBER CONABLE has been the ranking Republican on the Ways and Means Committee since 1978, and if he had his way, the Federal budget would be balanced.

The long and the short of it is that this man of quality has but one shortcoming. He's got a lot to learn about fishing. Retirement from Congress should give him the opportunity to finds lots of good fishing.

You and Charlotte deserve the very best, BARBER.●

● Mr. GRADISON. Mr. Speaker, BARBER CONABLE's career shows that renaissance men—and women—still exist in the highly specialized world in which we live today. But persons of so many parts are few and far between. BARBER CONABLE can greet you as comfortably in Japanese as English, can quote poetry and doggerel with equal facility, and can speak with authority on subjects as diverse as economics, trade, taxation, health care, and Social Security. But while his cerebral attainments are apparent to us all, citing them tells but part of the story. BARBER CONABLE is a natural leader, as shown not only in this House but as a Marine combat officer. He is articulate, speaks and writes with unusual clarity, and above all has the great gift of common sense in his prescription's for curing the Nation's economic ills. Of course, he will be missed in this House, but he leaves behind an example to challenge us all. And we have every reason to expect that he will move on to a larger stage from which he can point the way, toward a better America by his leadership, ideas, and example.●

● Mr. MOORE. Mr. Speaker, "representative Government is alive and well here in Washington" my friend and colleague BARBER CONABLE said recently, but I believe that representative Government will lose one of its wisest and most effective leaders when he retires at the end of the 98th Congress.

Having had the opportunity to work with BARBER on the House Ways and Means Committee, I have had the pleasure of working with a distinguished and very honorable man who has established himself as a leader on fiscal and tax policy. BARBER has served New York's 30th District and this Nation with total commitment over the last two decades, and the respect he has gained from both sides of the aisle is deserved and broadly acknowledged.

While he is a modest man, his contribution to this country has been anything but modest. He has played a major role in much of the key legislation which has come before Congress—ranging from Social Security to revenue sharing to tax proposals—and the

impression he has left will be permanent and has gone far in helping all of our citizens. I have never seen him cast a provincial vote. He has always spoken out and voted for what was best for the country as a whole.

BARBER as ranking minority member of the Ways and Means Committee will be sorely missed—by his Republican colleagues and his Democratic colleagues. BARBER worked hard in Washington and at home—and perhaps most importantly—he never forgot about the folks back home and stayed in touch with them. He has always been able to maintain his clear vision and see things from the working man's perspective.

We need more people like BARBER CONABLE in Congress. I consider it a true pleasure and a privilege to have worked with him, and I know the Ways and Means Committee will not be the same without his presence and his insights. He is a Congressman's Congressman.●

● Mr. ARCHER. Mr. Speaker, just about the last thing I ever wanted to do was to stand in the well of the House and bid farewell to my colleague and friend, BARBER CONABLE. With his retirement, the House of Representatives is losing one of its most able, articulate leaders.

It's rare indeed, I think, for an individual to leave the Congress with such an overwhelming degree of respect and admiration from all of us who remain here. If you were to sit down and paint a portrait of the complete statesman, you could select no better model than the gentleman from New York—and what a gentleman he is.

It has been an honor for me to serve with BARBER in the House—and an even greater honor to have served with him on the Ways and Means Committee during his tenure as its ranking Republican. He is a skilled legislator, a man of honor and unquestioned integrity whose intellect and judgment have made him an effective leader.

His constituents could not have been better served, and yet BARBER CONABLE's legislative focus has never been confined only to the region he has represented. He has the ability to grasp the scope of national and international issues while never losing sight of his specific representational responsibilities to the 30th Congressional District of New York.

All of us attempt to do that as we represent our own districts. Few indeed do it as well as the gentleman from New York.

BARBER CONABLE will be remembered for his legislative achievements—but he will also be remembered for what he brought to the legislative process itself.

I'll miss BARBER CONABLE—as I know his other colleagues will on both sides of the aisle. The Nation will miss his leadership as well. I hope we haven't heard the last of this gentleman yet. Somehow, I don't think we have.

Godspeed, BARBER—and thanks.●

● Mr. HUGHES. Mr. Speaker, I rise to join this tribute to our colleague BARBER CONABLE. In his two decades of service in the House, BARBER has proved himself to be a very able, thoughtful legislator. While I have not always agreed with BARBER on the issues, I have always appreciated his commitment to honesty and integrity in the legislative process.

As ranking minority member of the House Ways and Means Committee, BARBER has been an influential, effective leader of the minority members, and a dedicated member of the House Republican leadership as well. His articulate expression and facility with substantive issues have earned him the respect of Members on both sides of the aisle.

BARBER's record when he leaves the House will remain a source of pride and accomplishment. He will be sadly missed.●

● Mr. HOYER. Mr. Speaker, I would like to thank the gentleman from New York [Mr. HORTON] for arranging this special order to pay tribute to our colleague, BARBER CONABLE, who will be retiring from the House at the end of this session.

Even before coming to this House 3 years ago, I knew of the outstanding reputation of the gentleman from New York, [Mr. CONABLE]. Though I am not a member of the same committee nor the same party as BARBER CONABLE, I know that I share with all of my colleagues a tremendous respect for him. In this body there are a few Members who stand out as examples for the rest of us to follow. They are persons of intellect, integrity, civility, and courage. BARBER CONABLE in his 20 years representing the 30th Congressional District of New York has been one of those Members. He is held in the highest esteem by Members on both sides of the aisle. In his career, BARBER CONABLE has added significantly to the law of our land in the areas of taxes, trade, and Social Security to name just a few. This House will be poorer in his absence because of the loss of his expertise in those areas. Less tangibly, we will miss the contribution he has made to the comity and reputation of this body.

On February 13 of this year, soon after he had announced his retirement, the Washington Post printed this editorial tribute to BARBER CONABLE, which I would like to share with my colleagues:

MR. CONABLE RETIRES

For years it has been a tradition for districts in rural America, stretching from New England west through Upstate New York to the Midwest, to elect some of their most talented young men to the House of Representatives. If the district is wise enough to pick a man of longevity and character and intellect, he can hope to become one of the natural leaders of the Republicans in the House.

Barber Conable, who announced his retirement from the House this week, is a good example. When he was first elected to the House in 1964, he was a 42-year-old Cornell-trained lawyer and ex-Marine, a one-term state senator from Alexander, N.Y.—a hamlet near Rochester settled in the rush westward along the Erie Canal route in the early 19th century. Elected in a year his party was routed, Mr. Conable was scarcely noticed as he entered the House and, two years later, became a member of the House Ways and Means Committee.

Now his departure from the House is widely regretted, and not just by his constituents or his fellow Republicans. One of Mr. Conable's achievements has been to bring an unusual degree of civility and intellectual integrity to legislative deliberations—and fights. On a committee that considers tax legislation worth billions, he has decided issues on their merits, and his example has moved others to do so too. He also has recognized a duty to his party—with unfortunate results, in our view, in his sponsorship of the Reagan administration's tax cut measures in 1981. But his work on Social Security and trade, and on tax measures generally, has been exceedingly valuable. He has elevated, and by a considerable measure, the workings of the legislative process.

House Republican leader Robert Michel has noted that Mr. Conable is the fifth Republican with top rank on a committee to retire this year. Undoubtedly frustration at being part of what appears, again after a brief moment of hope after 1980, to be a permanent minority in the House has contributed to these decisions to retire. In Mr. Conable's case another factor may be his disagreement with the increasingly contentious tactics of many younger Republican congressmen and with the sometimes exotic doctrines they are quick to embrace. They come, many of them, from parts of the country where few voters have roots and they have worked, in many cases, mainly on political staffs and in campaigns—not with the ordinary people and natural leaders of small, long-established communities. Their natural habitat is Capitol Hill; Mr. Conable, for all the distinction that he has earned there, says he hopes to return to his farmhouse in Upstate New York.●

Mr. OBERSTAR. Mr. Speaker, in several months, the 99th Congress will almost certainly begin consideration of a major tax bill to reduce the Federal deficit and to provide some measure of reform at least.

Regardless of who is President, all of us in this House, Democrat and Republican alike, should feel a sense of loss that BARBER CONABLE will not be a Member of this House and no longer ranking minority member on the Ways and Means Committee when the House writes the 1985 Tax Act. He possesses the integrity, conscientiousness, and knowledge of tax issues which would be so useful in writing what I believe will be one of the most critical pieces of legislation of this decade. The Congress, the President, and the American people will face

some extremely difficult and critical decisions during that process.

While the gentleman and I would have sharply divergent views of the ideal tax bill, I nevertheless have tremendous respect for his thoughtfulness, for his consistency, and for the moderation which he brings to debate of public policy issues, particularly in debate among the members of his party.

When the House adjourns this week, BARBER CONABLE concludes two decades of service to his constituents and to the Nation in the Congress. His has been a rich, full tenure. As he returns to private life, he takes with him the memories of two decades of service and accomplishment. He leaves universally respected by members of both parties and of all ideologies.

I wish him and Charlotte much happines in the years ahead—years in which there will be more time for private concerns and the enjoyment of pleasures and pastimes deferred during BARBER's service in the House.●

● Mr. LOEFFLER. Mr. Speaker, it is a high honor and privilege to express my appreciation to a friend and colleague whom I consider to be one of the giants in this House—a man who has served these past two decades in this body with skill, integrity, and eloquence.

His departure leaves a void that will affect us all.

BARBER CONABLE is the epitome of what the ideal legislator should be. He is forthright, he is dedicated, and, most importantly he has worked tirelessly to foster the civility and comity so necessary to maintain our great deliberative body.

BARBER CONABLE has amassed a distinguished record of legislative achievement where, as ranking Republican on the Ways and Means Committee, he has focused on our tax policies, on Social Security, and on international trade policies.

My colleague, who hails from a family dedicated to the Republican Party, has provided leadership to our party as chairman of the Republican Policy Committee and the Republican Research Committee. He has further served our Nation—at his President's request—as member of both the National Commission on Social Security Reform and on the Task Force on Private Sector Initiatives, and for this I am deeply appreciative and grateful.

Throughout his long and distinguished years of public service, BARBER CONABLE strongly supported reduced taxes, responsible fiscal policies, and reduced Federal intervention in the lives of all Americans. In recent years, this leadership has been epitomized by his determination to secure passage of a constitutional amendment requiring a balanced budget—and this staunch effort will continue.

In all his years of service, BARBER CONABLE has sought to present his views with grace and forcefulness and clarity. His is a voice that will be sorely missed.

My wife Kathy joins me in wishing BARBER and Charlotte the very best in their future endeavors, and I offer him the heartfelt thanks of one who has been honored to call him friend.

We will miss you. Stay in close touch.●

● Mr. FUQUA. Mr. Speaker, I appreciate the opportunity afforded us by the gentleman from New York [Mr. HORTON] to pay tribute to an outstanding Member of this body who is voluntarily leaving us. I refer, of course, to Congressman BARBER CONABLE and I do not know who regrets his leaving more, the Members of this body who have been privileged to serve alongside such a fine gentleman or the constituents of New York's 30th Congressional District.

As Mr. CONABLE and I have served concurrently for 20 years, during which we have grown noticeably wiser if not noticeably older, I am well acquainted with the good work he has done here. Mr. CONABLE has represented his constituents ably and well, but, on a larger scale, our Nation has benefited from his guidance and voice in this body.

In this election year, it is tricky business to commend Members on the other side of the aisle, but I can say, with impunity, that Mr. CONABLE has left his mark upon this Nation and I feel privileged to commend him thereon.●

● Mr. NOWAK. Mr. Speaker, when our colleague, Representative BARBER B. CONABLE, JR., served in the Marines during World War II and the Korean conflict, the Corps had not yet adopted the slogan "* * * looking for a few good men."

Nevertheless, in BARBER CONABLE, clearly, the Marines got a good man.

Based on his dedication to the House of Representatives and his reputation as a fair and hard-working legislator, this body too can rate BARBER CONABLE among its outstanding Members.

Therefore, it is a pleasure today to join in this tribute to my colleague from New York State, the distinguished ranking minority member of the House Ways and Means Committee.

Knowing his affection for this institution, I can imagine BARBER's mixed emotions as he plans for his upcoming retirement after two decades of service here.

We in the New York delegation certainly will miss his wise counsel and staunch support on those many occasions when we work in bipartisan unison on matters of particular import to the Empire State.

On both sides of the aisle in the House, we will miss the presentation of BARBER's strongly held views during legislative debate, as well as his civility.

He has proven himself to be a big man, not only in stature but also in his capacity for disagreeing in gentlemanly fashion.

I am delighted to join Members on both sides of the aisle, therefore, in declaring that BARBER CONABLE indeed in word and deed has served his country well.

We wish him good health and continued success in his future endeavors.●

● Mr. DE LA GARZA. Mr. Speaker, I would like to join in paying tribute to our colleague BARBER CONABLE who will be leaving us with the adjournment of the 98th Congress. As fellow Members of the class of the 89th Congress it has been an honor and a privilege to serve with BARBER for the past 20 years.

During his years in Congress BARBER CONABLE has served the people of New York's 30th District with dedication and distinction. He is recognized as a man of integrity and ability, who has been a champion for the State of New York as well as for the Nation. His legislative record speaks for itself. Dedication and careful concern for his constituents and for his country have been hallmarks of his work in Congress over these past two decades.

BARBER's leadership has been instrumental in shepherding major legislation through the Congress. We have all been fortunate to have him as a colleague and to benefit from his extraordinary legislative ability.

In addition to a long and distinguished career as a legislator we are all familiar with BARBER CONABLE's warmth, good nature, and kindness. We will certainly miss his inspiration and strength.

BARBER has earned a special niche in this body and the void he will leave behind will not be an easy one to fill. I take this opportunity to wish him all the best the future can hold.●

● Mr. HUTTO. Mr. Speaker, I rise to applaud the fine work done in Congress by the gentleman from New York, the Honorable BARBER CONABLE, and to bemoan the fact that he is retiring from this body after this term.

I am from a different party. I am not on any committee with him. I am from a different part of the country. But it is impossible to have served 6 years with BARBER CONABLE without developimg a deep respect for him as one of the outstanding Members of the House. Though he has been here for 20 years, his office is in the Cannon Building and oftentimes I have walked with him from our building to the floor for votes. Through our discussions, it had become very obvious to me that BARBER is the kind of person that has made our country

great. His service transcends partisanship and puts the interest of our Nation ahead of political considerations. BARBER CONABLE is a man of great integrity whose work on the Ways and Means Committee and in the House has been outstanding. We will miss him here, but I join other Members in wishing him the best in his retirement.●

● Mr. GLICKMAN. Mr. Speaker, in the ads, they say "When E.F. Hutton talks, people listen." Here in the House of Representatives, for years we could rightly say "When BARBER CONABLE speaks, people listen." Without a doubt this man has one of the most well deserved reputations for integrity and common sense of all who have served in public life. We are of different parties, but that has never detracted from his ability to calmly, rationally, and sensibly present his case to me on any number of issues. From time to time, we would differ on policies, but I can say without question that I never had reason to doubt his sincerity or the thought he put into a position he had taken.

The respect that those of us in the House feel for this man stems in large part from the respect he has shown for the institution. He has treated this public trust with the greatest care. By limiting the campaign contributions he accepts, he has left not a shadow of a doubt about the basis for his decisions; by speaking his mind, he has made sure we each know where he stands and why. Through hard work and dedication, he has risen to a position of considerable influence. That position is one he well deserves and one from which he has contributed much.

I am sure that many in upstate New York have urged and urged BARBER to reconsider his decision to retire from the House. That is perfectly logical since it can be mighty difficult to give up a good thing. I, too, hate to see him leave. But I also know that he has given a full measure of service to his constituents, to this institution, and to his country. For that, he deserves not only our accolades, but also our best wishes for the very happiest of years to come.●

● Mr. MCHUGH. Mr. Speaker, it is a privilege for me to honor our departing colleague BARBER CONABLE. Throughout his distinguished career in the House of Representatives, he has brought great honor to this institution and to our country. The powerful example of his integrity and dedication as a legislator will continue to nourish our traditions and our ideals for a long time to come.

BARBER CONABLE has always exemplified the combining of effective representation of one's district with one's responsibilities as a national legislator. He has also exemplified a spirit of bipartisanship that has facilitiated many significant legislative achievements over the score of years he has served in Congress. I will always deeply appreciate the spirit of cooperation and championing of principle in which he joined with me during this present session in sponsoring congressional campaign reform legislation.

We will miss his friendly, cooperative, and highly principled presence in our midst. The New York delegation will especially miss him and his unfailing good humor, his reliable candor, and his gentlemanly respect for the viewpoints of others.●

● Mr. McGRATH. Mr. Speaker, I rise today to pay tribute to one of this body's leading legislators, BARBER CONABLE. During the 20 years he has served in the House, BARBER has developed a well-deserved reputation as the consummate legislator. The gentleman from New York has distinguished himself as a forceful leader in guiding the Republican party as ranking minority member on the Ways and Means Committee. His expertise on fiscal policy matters such as tax and Social Security issues have earned him respect on both sides of the aisle.

But BARBER is also admired. His honesty and professionalism are at the heart of his legislative style. I have been privileged to be a part of the New York delegation which holds BARBER in the highest esteem. The retirement of BARBER CONABLE will create a tremendous void on this side of the aisle, and indeed the entire Chamber.

I would like to take this opportunity to wish BARBER and his family continued health and happiness. BARBER, you have truly been a man among men whose presence and imprint in this body will not soon be forgotten.●

● Mr. GUNDERSON. Mr. Speaker, it is indeed a pleasure for me to join with all of the prior speakers in honoring the gentleman from New York [Mr. CONABLE].

You know, as I say that, I am reminded of the fact that protocol requires us to refer to each other as "gentlemen." And I imagine that rule must have evolved from more wishful thinking than anything else to serve as our reminder that, regardless of the issue, we should conduct ourselves and our debates with decorum, within the rules of the House, and with respect for each other.

Mr. Speaker, there is no doubt in my mind that, even without this rule, we would refer to the retiring ranking member of the Ways and Means Committee as the "gentleman" from New York since he is the epitome of integrity and political statesmanship—a man truly deserving of our respect and admiration.

Too often in our lives we confront people who say one thing, yet do another and base their advice on a "do as I say and not as I do" attitude. BARBER CONABLE is the antithesis of such people.

BARBER is not just a leader in the House of Representatives, but a leader who sets an example and, by doing so, invests in the future of the House and our entire country. Indeed, he has been that firm foundation that those of us who are younger Members could always look to for guidance and encouragement.

And if we follow his example and are fortunate enough to serve in this greatest of parliamentary and deliberative bodies for 20 years, as he has, maybe—just maybe—we will be as productive as he has been and as respected as he is.

In the last 4 years, BARBER and I have seldom disagreed on issues. One subject we did not see eye to eye on, however, was Federal dairy policy. I represent the largest dairy district in the United States and the gentleman from New York has a good number of dairy producers in his district as well.

We faced off on this issue last November and I must say in all candor that, notwithstanding our disagreement on the issue, I have never left the floor with a warmer feeling for an "adversary" than I did that day. Even though we were at opposite ends of a long and difficult debate, at all times BARBER treated me with the utmost courtesy and respect. It was an event I shall never forget.

And I will never forget BARBER or what he has taught me in the last 4 years. I can hope that those of us who remain will continue to follow his example in his absence and make his investment in each of us pay off.

I thank the gentleman for yielding.●

● Mr. FISH. Mr. Speaker, I am honored to have this opportunity to pay tribute to a valued colleague and dear friend, BARBER CONABLE, who is leaving Congress after 10 consecutive terms.

A native New Yorker, BARBER was born in Warsaw, Wyoming County, NY. After attending local schools, he was graduated from Cornell University in 1942 and enlisted in the U.S. Marine Corps. He was a member of the initial invasion units that landed at Iwo Jima and later served with occupational forces in Japan. After the war, BARBER returned to Cornell to study law, serving as editor of the Cornell Law Quarterly and graduating with honors in 1948. He joined a Buffalo law firm, but was recalled to active duty during the Korean conflict; he retired from the Marine Corps Reserve in 1972 with the rank of full colonel.

BARBER is well recognized both nationally and on Capitol Hill for his ability to recognize the need for and to initiate vital legislation while maintaining the strong Republican ideals in which he believes. He was a central figure, as the leading Republican spokesman, behind the House Tax

Reform Act of 1984, designed to reduce the Federal deficit while preserving the spirit of the the third phase of the President's 25 percent across-the-board tax reduction. He also played a key leadership role in congressional reorganization procedures and was chairman of a Republican task force which recommended the change in the Republican seniority system which we presently have.

BARBER has also earned a reputation in Congress as a watchdog for the elderly and disabled. He was an influential member in the Subcommittee on Social Security before rising to become the ranking minority member on the House Ways and Means Committee. During his tenure on this committee, he has been instrumental in guaranteeing cost-of-living-adjustment payments with his continued sponsorship of legislation ensuring COLA increases for each fiscal year. BARBER was also a key figure on the President's Task Force on Social Security Reform. Furthermore, with the introduction of the Medicare Long-Term Care Act of 1984, BARBER has sought to establish new programs for long-term health care of the elderly that will, by expanding available options, provide alternatives to expensive and confining medical care.

Throughout his congressional career, BARBER has always remained a compassionate and far-sighted legislator, developing a delicate balance between the various interests in his district and a keen sense of humanity, as a legislative colleague, as well as a dear friend of many years, I will sorely miss the presence of BARBER CONABLE.●

● Mr. RANGEL. Mr. Speaker, I rise to join in this tribute to my colleague and fellow New Yorker, BARBER CONABLE. Since the 94th Congress, I have had the privilege to serve with him on the Ways and Means Committtee.

During that period, I have had the opportunity to observe first hand why BARBER CONABLE is one of the most respected Members of the House. He has earned the admiration of his colleagues through his in-depth knowledge of the tax code as well as the bipartisan nature in which he approaches issues.

I dare say that there are few, if any Members, who have a fuller breadth of understanding of the tax code then does BARBER. Not only does he understand the intricacies, but he also has time and again demonstrated a unique understanding of the broad principles which underlie our tax policy. There are few Members of the Congress who have approached tax policy with more integrity than he.

It has been a pleasure to work with him over the years because of the even handed nature in which he approached all issues. BARBER has always been one to look for the right way to solve a tax policy question and for a good solution to the social welfare problems we have had to struggle with.

BARBER was also a fierce fighter and protector of the interests of the State of New York. Repeatedly, we worked together successfully on welfare, medicare, and tax issues that resulted in a better quality of life for New Yorkers. I always knew that BARBER would be there when New York needed him. Unfortunately for New York, he won't be in Congress after this session ends.

I know that I will miss him, but even more importantly, the Congress is losing one of its intellectual giants. We are certainly going to miss his wisdom and leadership come the 99th Congress.●

● Mr. PICKLE. Mr. Speaker, if you were asked to raise your hand and name five of the most outstanding Members to serve in the Congress in the last generation, BARBER CONABLE would be one of the first mentioned.

He has what it takes—insight, courage, and compassion. He can see through a problem quicker than a shaft of light penetrates the dark. And he can arrive at a conclusion and recommendation while most Members are still scratching their heads and asking, "What was that."

In Texas, we would say he is quick as a cat, sharp as a tack, and tough as a boot—and that's saying a lot for a New York Yankee.

Though he has been a member of the minority, he has worked to advance legislation in a bipartisan manner. And the legislation he has helped advance will have far-reaching effects on the people of this land.

BARBER CONABLE is a Congressman's Congressman—honest, dedicated, able, courageous, and totally dedicated to the public good.

From a personal standpoint, I have come to love this man and his caring and thoughtful wife Charlotte. They are a wonderful couple and they have enriched our lives. I will always remember with deep affection and pride Barber and Charlotte Conable.

We're tempted to mourn the departure of BARBER CONABLE from these halls because he has been one of the legislative giants of our time, but instead we ought to be grateful that a man of his integrity and depth has served the public for 20 years. Our Nation has benefited greatly from his service.●

● Mrs. ROUKEMA. Mr. Speaker, I am proud to join with my colleagues in paying tribute to a man who has long been the model of legislative effectiveness and dedication to his constituents. BARBER CONABLE has left a lasting impression on, not only the 30th District of upstate New York, but also, the whole of American society.

BARBER CONABLE has graced the House of Representatives for nearly 20 years, coming to Washington from years of service in the New York State Senate and civic and political affairs in upstate New York. He also served his Nation proudly, defending freedom as a U.S. Marine by participating in the invasion of Iwo Jima in World War II, and then returning to active duty during the Korean conflict.

In Washington, his service has been no less distinguished. He has answered his President's call to serve on two special commissions: the National Commission on Social Security Reform and the Task Force on Private Sector Initiatives. BARBER CONABLE has been a leader in the reorganization of congressional procedures and has chaired both the House Republican Research Committee and the House Republican Policy Committee.

Today, he serves his country and his party as ranking Republican on the Committee on Ways and Means and holds seats on the Ethics Committee and the Joint Committee on Taxation.

Mere words of mine can not enoble his already noble contributions, but in truth, BARBER CONABLE has no peer on tax policy. There have been few, if any, Members that have had such a complete mastery of the complex machinations of that body of knowledge know as the U.S. Tax Code.

To his great credit, BARBER has always been the Member his colleagues turn to for advice and counsel on tax-related issues because his is the voice of substance, experience, and reason. All of his colleagues acknowledge these facts.

His colleagues also acknowledge the catalytic role BARBER CONABLE played in last year's bipartisan social security reform process. His personal intervention and leadership spurred the legislative changes that have restored fiscal balance to the program so important to millions of Americans.

I, personally, owe a debt of gratitude to BARBER CONABLE for the essential role he played in the successful passage in this Congress of landmark child support enforcement and pension equity reform legislation. His leadership on the Committee on Ways and Means helped move these two pieces of vitally important legislation to the House floor, and subsequent enactment.

BARBER CONABLE played a key role in the enactment of these two significant reform packages and that is a testament, not only to his effectiveness as a legislator, but also to his compassion as a man. He recognized the glaring shortcomings of then-current child support and pension law and the tragedies those shortcomings were fostering and moved decisively to correct them.

That is the BARBER CONABLE the House of Representatives has known for these last 20 years. He is a man of

utter integrity and honor. He is a man of intellect and hard work. He is a man who provides a refreshing presence to all who have had the good fortune to be associated with him.

Robert Whittinton wrote in the early 16th century Sir Thomas More "is a man of angel's wit and singular learning; I know not of this fellow. For where is the man of that gentleness, lowliness and affability? And as time requireth, a man of marvelous mirth and partimes; and sometimes of as sad a gravity; a man for all seasons."

For this Member and all other Members whose lives he has touched, BARBER CONABLE is our "man for all seasons."●

● Mr. KEMP. Mr. Speaker, the House is losing one of its most distinguished spokesmen, America is losing one of its most respected leaders, and western New York is losing one of its most effective representatives when BARBER CONABLE leaves public life at the end of the 98th Congress. BARBER has won the well-deserved admiration and friendship of his colleagues for his brilliance, his understanding, and his untiring efforts not only for his constitutents, but for all Americans. Over the past 20 years, BARBER has shared with all of us the benefits of his extensive experience and knowledge, not only on the issues he has become a leader on as ranking member of the Ways and Means Committee, but on all the issues facing Congress. We all rely on his excellent judgment.

Over the past 2 years, I have had the privilege, thanks to redistricting, of representing some of BARBER's former constituents in Congress. Everywhere I travel in this part of my district I am impressed with the great depth of affection and admiration felt by people for BARBER CONABLE. He is one of them, and they celebrate his many accomplishments and will welcome him home to the town of Alexander when his public service is through. But I join my colleagues in the hope that BARBER's voice will continue to be heard and heeded wherever he goes.

America and western New York owe BARBER CONABLE a great debt of gratitude and I personally want to thank him for his friendship, leadership, and wise counsel over the years.●

● Mr. REGULA. Mr. Speaker, there is a paucity of adequate adjectives to describe our friend and colleague BARBER CONABLE.

Erudite, prescient, literate, sage, judicious are but a few that would be appropriate individually and collectively when one speaks of BARBER.

"Semper Fidelis" has been a code of conduct for him not only as a marine, but equally importantly as a Representative to the Congress.

Always faithful to principles, always faithful to the best interests of the Nation, always faithful to the highest standards of public service, and always faithful to a personal code of undisputed rectitude.

These qualities have made BARBER CONABLE an institution in this body. His standard of public service will stand as a shining example of good work.

The American public, usually without any knowledge of their good fortune, is blessed by dedicated legislators who beneficially shape a nation's destiny by the sheer force of their intellect. Such a legislator is BARBER CONABLE.

Ralph Waldo Emerson said:

The true test of civilization is, not the census, nor the size of cities, not the crops—no, but the kind of man the country turns out.

This Nation and this body can be proud to be measured by the kind of man and legislator embodied in BARBER CONABLE.

Any discussion of the qualities of BARBER would not be complete without mentioning the support he has received from Charlotte. She, in her own right, has contributed greatly to the acknowledged success of BARBER as a servant of the people.

Louis Brandeis said:

Our Government is the potent, the omipresent teacher. For good or for ill, it teaches the whole people by its example.

BARBER CONABLE will be greatly missed, but his exemplary service to this body will long be remembered.●

● Mr. OTTINGER. Mr. Speaker, many thanks to my colleague, FRANK HORTON, for arranging this special order in recognition of the retirement of my good friend and longtime colleague, BARBER CONABLE.

BARBER CONABLE first came to Congress the same year I did—1964—and he has been a colleague of mine during my eight terms in the House. From his first year, BARBER has shown himself to be among the most responsible, thoughtful, and knowledgeable legislators in this body.

BARBER is well known for his work on the House Ways and Means Committee where he has served ably as the ranking minority member since 1977. He is particularly noted for his work in the area of social security financing and played a major role on the National Commission on Social Security Reform which returned the social security system to firm financial ground thereby ensuring recipients of their benefits.

I am particularly appreciative to BARBER for interrupting one of his weekends to come to my district to explain to my constituents the many changes in the social security system which the Commission recommended. That was a gesture typically generous of him, and one greatly appreciated by me and my constituents.

Although we have parted company on many issues over the years, BARBER has always been a man of principle, possessed of a sharp analytical mind, and devoted to the causes he has advocated during his 20 years in the House.

BARBER is a man with the moral fiber to understand and even sympathize with contrasting viewpoints, and, where possible, fashion workable compromises.

BARBER CONABLE is among the most thoroughly decent and remarkable men I have had the pleasure to work with over the years. He will be deeply missed by his country, his constituents, his many friends in the House of Representatives, and myself. I wish him and his wife, Charlotte, many years of health and happiness.●

● Mr. GUARINI. Mr. Speaker, I am pleased to join in this tribute to BARBER CONABLE, who, in his 20 years on the Ways and Means Committee, has built a well-deserved reputation as a diligent scholar of the Tax Code. It has been my honor to serve with BARBER on the Ways and Means Committee since I joined the committee as a freshman in 1979. While we do not always agree philosophically, BARBER has always impressed me with the wide range of his knowledge, his sense of fair play, and his pragmatic nature.

In addition to these impressions from Ways and Means business, BARBER, our colleagues, and I have traveled together on overseas committee work. These opportunities have allowed me to become better acquainted with BARBER and his charming and gracious wife, Charlotte.

Although a prodigious worker on trade missions, and a great sense of strength to all his colleagues, he has lifted our spirits with his entertaining and infectious collection of songs—whether collegiate, classical, popular, or obscure. He and Charlotte have always been cheerful, thoughtful traveling companions, and "BARBER's Chorus" was quite a hit on these trips. His unique mastery of "sophisticated doodlings" has revealed him as a talented artist—quite a combination when you consider his technical expertise in the complex Tax Code.

The House of Representatives has benefited greatly from BARBER's many years of dedication and hard work. I know his absence will be felt as we tackle next year's tax-writing agenda. Yet, we know we can call on BARBER from time to time for his knowledge of the Tax Code and for his ability to advise and counsel his colleagues.

I join all my colleagues in wishing BARBER and Charlotte well in their new ventures. I will miss BARBER's presence, but I will always highly value our friendship. BARBER, I hope your new challenges are full of the successes you have had here in Washington, and that you will realize the greatest enjoyment and satisfaction in the many activities you were not able to pursue during your busy years in

Congress. There is much fulfillment yet to be had in the many exciting years ahead.

Good luck. Godspeed.●

● Mr. WOLF. Mr. Speaker, I am pleased to join with my colleagues in this special order to honor our fellow colleague, BARBER CONABLE, as he nears the end of his service in Congress after 10 terms as the representative from western New York State. I thank the gentleman from New York [Mr. HORTON] for organizing this special time.

It has been an honor to serve in this House with BARBER CONABLE. I do not believe there is a member of this body, from either side of the aisle, more respected than BARBER CONABLE. Members of this House come and go, and sometimes it is without notice. That will certainly not be the case with BARBER CONABLE, though. He has been a leader who has stood for years above the crowd—an erudite member whose eloquence has brought order when there was chaos, intelligence from the senseless, soundness from the irrational, and always, it has seemed, at just the right moment in debate on this floor.

BARBER CONABLE is a wise and learned man who has been a rarity in these Halls of Congress and this institution will be the loser when BARBER leaves this place at the end of the 98th Congress and returns to his native New York. He leaves an indelible mark on this House, on the Ways and Means Committee where he has served since 1977 as the ranking minority member, and on this Nation with his major legislative efforts for spending limitations, tax reform, revenue sharing, reduced Government regulation, social security reform, and financing of charities.

I salute BARBER CONABLE as a man of principle and integrity who has served the people of this Nation and the people of western New York so effectively for 20 years. He has been a valued colleague and an outstanding public servant and my best wishes go with him in his future endeavors.●

● Mr. MAZZOLI. Mr. Speaker, I would like to add my personal goodbye to BARBER CONABLE who is one of the most able and effective Members of Congress and a valued friend.

BARBER has served in the House with distinction as a legislator of uncommon ability. But, my most warm thoughts of BARBER are not of him as legislator, but of him as solid family man and as a person of high ethical standards.

BARBER has served the House and his constituency well. We will all miss him even as we wish him much health and happiness in the years ahead.●

● Mr. FORD of Michigan. Mr. Speaker, it gives me great pleasure to pay tribute to my distinguished colleague, BARBER CONABLE, whom I first met at the start of our congressional careers almost 20 years ago. Although we have served on different committees, our paths have crossed often. During these last 2 years I have enjoyed walking to and from the floor of Congress with BARBER whose office is adjacent to mine.

As ranking minority member of the House Ways and Means Committee, BARBER has directed major legislative efforts concerning tax reform, revenue sharing, and long-term care for the elderly. He has also played a very important role on the House Ethics Committee and the Joint Committee on Taxation and is considered a leading authority on tax policy and economic matters.

BARBER CONABLE has been a most effective and dedicated public servant for the duration of his 20 years as a Member of the U.S. House of Representatives. I am pleased to honor him and his outstanding record as representative from the 30th Congressional District of western New York. I will miss his logic, reasoning and good friendship. He is an individual who is easy to respect and admire.●

● Mr. LAFALCE. Mr. Speaker, I am both pleased and saddened to rise today to pay tribute to my fellow New Yorker, BARBER CONABLE: pleased because I can think of no one who better deserves the accolade of his colleagues; saddened because the occasion of it marks the end of his wise, thoughtful, courageous contribution to the work of this representative body.

BARBER CONABLE says he decided to retire because he promised his family he would not become a "professional politician" and after 20 years he considers his "amateur status" in doubt. Well, if being a professional politician means leaning with whatever way the political wind happens to be blowing, or serving special interests without regard for the common good, then BARBER CONABLE is no "pro." But neither is he an amateur, and I don't believe he ever was.

For 18 years he has served on the Ways and Means Committee, always in the minority, and the insight, conscientiousness, cooperation and great good humor he has brought to that sometimes thankless job are legendary. In addition to his contribution to tax legislation, the people of this country owe a special debt of gratitude to BARBER CONABLE for his early work on revenue sharing, for his role in helping to bring about reforms here in the congressional legislative process, and for his recent brilliant work as a member of the special Social Security Commission in helping devise the compromise to keep that program solvent.

While we serve on different sides of the aisle, and while I have not always agreed with BARBER on certain issues, my deep and abiding respect for his integrity remains unchallenged. His lifetime dedication to preserving and strengthening the underlying principles of our system of government make him a true democrat with a small "d," in the best sense of that word.

As a fellow New York Representative, and particularly since I now represent some of what was previously BARBER's district in Monroe County, I know, too, of the always excellent and conscientious service he has provided his constituents. We have worked together on a number of projects for the betterment of Rochester and its environs, and I shall miss the warmth and cooperation which have characterized those endeavors.

When next January rolls around we shall all miss this wise and gentle giant of a legislator. The country can ill afford to lose his leadership. Whatever different endeavor he pursues, I sincerely hope it will include something in the area of public service, for BARBER CONABLE has throughout his life exhibited a willingness and an ability to serve the public in a very special way.●

● Mr. RUDD. Mr. Speaker, it is with good wishes, but also feelings of sadness, that I join my colleagues today in paying tribute to my friend and colleague, BARBER CONABLE, one of the very distinguished Members of this House, as he looks to retirement.

BARBER has not only provided this House with an effective voice in support of meaningful tax reform as ranking member of the Ways and Means Committee, but as prime sponsor of the balanced budget amendment he has also recognized the need to curb excessive spending by this institution. This voice for fiscal responsibility will be sorely missed.

He has served his constituents in New York's 30th District with honor and distinction, and has been a true asset to all the people of his State, the Nation, and all of us in the House of Representatives.

BARBER has been a good friend, and I wish him well in the years ahead.●

● Mr. HAMMERSCHMIDT. Mr. Speaker, it is with a mixture of joy and sadness that I join my colleagues in paying tribute to my good friend, the Honorable BARBER CONABLE. BARBER has represented the 30th Congressional District of New York with dedication and success for 20 years, and his legislative skill and influence will be greatly missed when he retires from the House of Representatives at the end of this term.

For 18 of those 20 years, I have been privileged to serve with him. Upon my arrival in Washington, BARBER shared with me his philosophies and insights, and his trusted advice and friendship have been invaluable.

As the ranking member of the Ways and Means Committee, BARBER's legis-

lative accomplishments are so numerous that I cannot even begin to list them. However, I would be remiss if I did not mention his outstanding work as a key member of the President's National Commission on Social Security Reform. In that capacity, he was instrumental in hammering out the Social Security Act Amendments last year, which will keep the Old Age and Survivors Insurance Trust Fund solvent for future generations.

During his entire 18 years on the Ways and Means Committee BARBER has gained the well-deserved reputation as someone to be looked to for creative ideas and leadership in solving the Nation's problems surrounding tax reform, revenue sharing, long-term care for the elderly and reduced Government regulation. The complex issues he dealt with fostered one of BARBER's best-known assets—his ability to bring commonsense to an issue and to achieve compromise between individuals and groups with widely differing views. This spirit of cooperation has been very helpful in achieving accord on a number of controversial subjects.

BARBER's representation of his constituency and the Nation for 20 years has made a lasting mark on this House and on our society, and his fine work will not soon be forgotten. That special combination of ability, hard work and caring make it so abundantly clear to all that he is, and continues to be, a true statesman in all the best senses of the term. I wish BARBER and his family all the best in whatever the future holds.●

● Mr. SAM B. HALL, JR. Mr. Speaker, BARBER CONABLE has been a tremendous force in the House for 20 years, and when the 99th Congress convenes it won't take long for all of us to realize and appreciate how much his absence will be felt.

I have the greatest respect and admiration for BARBER CONABLE. He is both a student and teacher of the legislative process, and he has truly been in the forefront of critical debate affecting economic policy in this Nation for 20 years.

As we all know, when you mention the Ways and Means Committee it doesn't take long to realize that the discussion will eventually get around to BARBER CONABLE. He knows as much about the Internal Revenue Code as anyone who has ever served in this Chamber. He is always well-prepared and well-informed, and we always listen carefully to his very thoughtful and reasoned approach to taxation and other fiscal matters. In short, he is a polished academic with a unique ability to reduce complex issues to a form and substance that can be generally understood.

In addition to his impressive credentials as a legislator, BARBER CONABLE is a patriot of the first order. He is a combat veteran of both World War II and the Korean war. He epitomizes the magnificent motto of the Marine Corps, "Always Faithful," where he served in both an active and reserve capacity for 25 years. Because of men like BARBER CONABLE this Nation remains free and offers a beacon of hope to all people who yearn for freedom. I think the Nation owes him a debt of gratitude and thanks.

BARBER CONABLE is retiring from Congress, but people like him never retire from the arena of public service. Fortunately, both Congress and the Nation will continue to benefit from his dediction and strong influence on matters affecting good government and the legislative process. I welcome his continued counsel, and more important, his friendship in the years ahead.●

● Mr. SENSENBRENNER. Mr. Speaker, "Think like a man of action, and act like a man of thought." This Ambrose Bierce statement perfectly illustrates BARBER CONABLE's tenure as the Representative from New York's 30th Congressional District.

Without question, BARBER CONABLE is one of the most respected Members of Congress. People listen when he talks. He has commanded respect from Members of the Republican and Democratic Party alike for many years. Mr. CONABLE is a virtual "walking textbook," when it comes to the far-reaching complexities of the House Ways and Means Committee.

We all know of Mr. CONABLE's expertise in the Ways and Means Committee, but he has also been close to the House Republican leadership since his early years, when he worked on a series of proposals to change the seniority system. In 1970, GOP leader Gerald R. Ford named him to head a special Republican task force on seniority. One of CONABLE's suggestions was that the position of ranking Republican be voted on every 2 years by all Republicans, rather than going automatically to the senior person on the committee. CONABLE, who has also always been concerned with the integrity of the House, said: This would make ranking Members "leaders and not just survivors."

Although BARBER CONABLE is leaving this body after completing his 10th term as the Congressman from New York's 30th District, he will not be forgotten. Since many of his ideas have become incorporated into law, he has left an indelible mark on American society. No Member has represented both his constituents and his country as a whole better than BARBER CONABLE these past 20 years.●

● Mr. SHUMWAY. Mr. Speaker, I appreciate having this opportunity to pay tribute to BARBER CONABLE, and to say that I shall certainly miss him here in the House. For me, his absence will be felt not only because BARBER is a friend and a colleague, but because he is a man to whom I have looked for guidance and leadership during my own tenure in this body.

BARBER CONABLE has been a voice of reason and knowledge in the realm of revenue policy and economic practice. Few individuals in or out of public office have gained the respect accorded to BARBER for his expertise on economic matters. As the ranking minority member of the House Ways and Means Committee, BARBER has truly protected the best interests of all Americans. With his departure, the Congress is losing a distinguished authority in a very critical arena, as well as an outstanding leader and legislator.

Equally important to those of us who have had the privilege of knowing and working with BARBER CONABLE are his personal qualities. He is a caring man who possesses a keen sense of humor and a welcome understanding of the need to apply that wit. It has been a pleasure to work with BARBER, and to call him a friend.

I sincerely hope that the years to come will be prosperous and rewarding for BARBER, and that his return to private life will be an enjoyable experience. Few individuals have given as much of themselves in public life as has BARBER; it can truly be said that all of us owe him a debt of gratitude.●

● Mr. SCHULZE. Mr. Speaker, although I do not look forward to saying goodbye, it is a great pleasure to add to the admiration of my colleagues this moment of hail and farewell for my good friend, BARBER CONABLE.

Yesterday, BARBER CONABLE took the floor—requiring only about 3 minutes—to address one of the major issues facing our Nation: the matter of obtaining a balanced budget. Normally, BARBER is succinct and compelling and incisive. That is a given of his character. We have come to expect it. But yesterday he was lyrical.

I hope that all of my colleagues were listening carefully. He declaimed on the illusion of controlling a budget that is frighteningly easy to manipulate, to distort, to enlard, absent the essential restraint of a balanced budget amendment. He exploded the fiction that this body will ever be able to discipline spending in piecemeal fashion, and that whatever action we consider that would curb spending program-by-program is like "footprints in the sea"—that is, instantly to be erased by the pounding surf. We need a seawall: a balanced budget amendment. That is about as evocative and trenchant a formulation as I have ever heard.

Mr. Speaker, that metaphor, as is every utterance that issues from BARBER CONABLE, distinguishes his uncommon vision. In his 20 years in Congress, in the 10 years that I have

known him and worked with him on the Ways and Means Committee, he has set an example of diligence, wisdom, and tenacity in a way that the ancients used to write epics about.

"To be honest, to be kind," said Robert Louis Stevenson, "To earn a little, and to spend a little less, to make upon the whole a family happier for his presence, to keep a few friends, but those without capitulation, and above all, to keep friends with himself—here is a task for all that man has of fortitude and delicacy."

It is as if Stevenson wrote that expressly with BARBER CONABLE in mind.

One of the most striking things about our honored colleague is the duality of his character. One might think that such commodities as fortitude and sensitivity were mutually exclusive. But the spirit of BARBER CONABLE operates so as to reconcile them in a most engaging way. His reputation for being contemplative, I assure you, never gets in the way of his ability to project his values. I have literally seen him tear an argument—an issue, an amendment, or some preposterous parliamentary obstruction—limb from limb. There are few of us in this body, or on this planet, who "think on their feet" with the velocity and lucidity of BARBER CONABLE.

And let the record reflect this: BARBER CONABLE was already a great American long before he set foot in this Chamber. It is no mean coincidence that the gentleman happened to be present, in February 1944, on an obscure island in the Western Pacific known to history as "Iwo Jima." So long as this country endures, that final, decisive, and bloody battle will be remembered. The sacrifices made there—to which BARBER CONABLE contributed as one of the few, the proud, the Marines—set the blueprint for nothing less than the balance of the 20th century and all the blessings we have since enjoyed. That is saying enough, I believe, in terms of the proper scope of this Nation's gratitude.

He also returned to uniform during the Korean conflict, following law school at Cornell, where he served as editor-in-chief of his law review. He and his lovely wife Charlotte are parents of four children.

Any of these accomplishments alone would have marked him as a rare and special person. Taken together, his departure from this body is all the more bittersweet. The reality is that there is no one quite like BARBER CONABLE, and each of us who represent roughly 515,000 Americans will feel that very deeply in the 99th Congress, when his talents and energies will be attuned to some other pursuit—although I cannot imagine him not doing something equally demonstrable of his commitment to the American people.

Mr. Speaker, the people of Rochester, NY, have in front of them an uphill struggle in filling the shoes of their 30th District.

I wish Godspeed and all the fondest best wishes to my friend: the Honorable BARBER B. CONABLE, Jr.●

Mr. HORTON. So, Mr. Speaker, I yield back the balance of my time.

TRIBUTE TO THE HONORABLE JACK EDWARDS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. MICHEL], the minority leader, is recognized for 60 minutes.

Mr. MICHEL. Mr. Speaker, I have taken this special order as a backup, for whatever reason, and tonight as a matter of time-honored courtesy I should like to yield at the very outset to my dear friend, the senior member of the delegation, Mr. BILL DICKINSON from Alabama, who will honor the retiring of our other great colleague from Alabama, the Honorable JACK EDWARDS.

Mr. Speaker, I am happy to yield to my friend for that purpose.

Mr. DICKINSON. Mr. Speaker, I want to thank my distinguished leader [Mr. MICHEL] for agreeing to participate and to lead the way and to preserve this hour for us to pay our real and sincere respects to my good friend and colleague and good friend and colleague of all of us here, JACK EDWARDS.

Before I get into any prepared statements, as we were sitting here talking about BARBER CONABLE and on earlier occasions in a special order when we were talking about JOHN ERLENBORN, we all came here at the same time. We came in January 1965.

As we were talking about retirement, now after 20 years, I could not help but reflect and get somewhat nostalgic thinking of the many humorous things that have happened to us and the many serious, serious times that we have gone through.

□ 2330

I am sure that the distinguished minority leader, the Republican leader, will remember in January during the swearing-in ceremonies—we were having a lot of civil rights legislation, a lot of civil rights turmoil, trouble—there was a delegation of blacks from Mississippi who came up to contest the seating of the Mississippi delegation that had been elected the previous year. They objected to the seating of the Mississippi delegation, that had been certified by the Secretary of the State, by saying that they were not duly elected because it had not been a free and open election.

We were all sitting here, all us freshmen, wide-eyed and wondering what was going on because it was a very tense time. I was sitting here. I do not know where JACK and BARBER and the rest of them were sitting. But through that door right there burst this guy in a black face and a ridiculous costume, hollering, "I am the delegate from Mississippi."

I thought this is a very strange initiation for us Members. I did not know they did that sort of thing outside of college. About that time two burly policemen came sailing in the door, wrestled him to the floor and drug him off. So that was my initiation, and JACK's initiation, and BARBER's, and those of us who came in the 89th Congress to a very stormy and hectic 20 years in this body.

Following that we had a great deal of civil rights legislation, a great deal of real strong emotion on the floor, various legislative pieces that went through.

Then in 1968 came the assassination of Dr. Martin Luther King when this town was rocked in riot. When from my office in the Longworth Building, I could not see the flag on the Capitol dome above me for the smoke from the burning buildings downtown that drifted up. There were several hundred buildings burned.

Most people do not know it but we had troops bivouacked in the basement of this building for many days, out of sight, but bivouacked here in order to protect the dignity of this building and to protect the Members therein.

Then there was the period of Vietnam when so much acrimony, so much feeling, so much emotion was vented here on this floor. We all took varying parts in that. But it was all part of the fashioning of our congressional careers here. I am sure it had a great deal to do with the fashioning of JACK's career on the floor and as one of the leaders of this party.

When I first met JACK, a little over 20 years ago, we came before a screening committee, personnel committee, and was seeking candidates to run for Congress from Alabama on the Republican ticket. I got to know JACK then and we had a lot in common. We had both been very active in the Jaycees. We both had been recognized on a state-wide basis for our work in the Jaycees. We had both been lawyers. We both had been in law school at about the same time at the University of Alabama. We both had to quit our jobs with a very large railroad to become candidates for Congress on the Republican ticket, where there had not been a Republican elected from our State for 100 years or more. We were both willing to give up and with a cut in pay, I might add, to come up here to gamble all on running on that ticket.

As fate would have it, fate smiled on us and we both wound up here.

After Vietnam we had the impeachment of President Nixon. This is something that no one had ever seen before in the service of this Congress. It was very tumultuous. If you pardon the expression, a gutwrenching experience to go through, particularly sitting on this side of the aisle.

Then came, after the election of the leadership of the Republicans, Gerald Ford. He was tapped to be Vice President. He had become fast and good friends of JACK's and mine and all of us who had come in in that year because it was in that year, in 1965, that Gerald Ford was elected minority leader. By three votes, as I recall. JACK's and mine were two of those that helped put him over.

Then he, by becoming Vice President, subsequently became President of the United States. We felt like we were close to him and had a part in that by virtue of our service here.

Then we had the Carter years which were not too happy years for some of us on this side.

About that time JACK was elected to leadership in the House on the Republican side.

Then after the Carter years came the election of President Reagan. During all of this time JACK was climbing very rapidly in seniority on the Defense Appropriations Subcommittee to the point where he was then the senior or ranking member of the Defense Appropriations Subcommittee, a position which he enjoys to this day, and a position from which he has left his mark, an indelible stamp on the legislation that has come from this House and which has done so much to preserve us in our freedoms and the safety and security of this Nation.

There are many personal things that I could say about JACK, more than I have. Due to the lateness of the hour, which is going on 12 o'clock and the knowledge that there are others waiting to speak, I will thank my leader for making this hour possible for those of us who worked so long with JACK and have such a deep feeling of friendship, love.

Mr. Speaker, few Members of Congress can leave this body with the unmistakable respect that this man carries with him.

He earned that respect by always doing his homework on the issues of the day, especially in defense: by listening carefully to each side before casting his vote and by being a man of his word.

In this business of compromise, JACK EDWARDS has made friends on all sides, a remarkable feat unto itself.

Probably his biggest asset is his lovely wife, Jolane, but that's another story.

JACK EDWARDS joined this body in 1965, after carrying, as he says, BARRY GOLDWATER on his coattails in Alabama. Through study and diligence, he worked his way up through the committee structure of Congress and through the structure of the Grand Old Party.

When he retires this December from Congress, he will have served as ranking Republican on the Defense Appropriations Subcommittee for some 10 years, and vice chairman of the House Republican Conference for 8.

Succeeding Jerry Ford, Mel Laird, and John Rhodes in the defense seat, JACK studied the issues carefully and quickly earned the respect of the White House for several administrations, the Pentagon, the defense industry, and others as a man who wanted peace through strength in this world but he was not willing to give the Pentagon a blank check to do it with.

He insisted on the biggest bang for the buck. He pointed out the weaknesses in spare parts and maintenance of many of our weapons systems and any officer preparing to come before the House Defense Appropriations Subcommittee knew he would be questioned thoroughly about his budget requests by the gentleman from Alabama.

While succeeding in his committee assignment in Washington, JACK EDWARDS also won the hearts of his constituents by being a strong spokesman for fiscal sanity and other issues near and dear to the hearts of Alabamians. The First District of Alabama has been represented well by the gentleman from the Eastern Shore of Mobile Bay. The Tennessee-Tombigbee is near completion, there are untold numbers of interstate highways winding through Mobile and Baldwin Counties and under Mobile River. There is a new bridge over the Mobile River Delta, and connecting the mainland to Dauphin Island, and there are other bridges being replaced over the Mobile River Channel and the Alabama River at Monroeville, all living monuments to the man who has represented southeast Alabama for two decades in this body.

As JACK EDWARDS returns to the shores of Mobile Bay to bask in the Sun and reflect on his past, he can retire from this body knowing that the job he did was well done. Practicing law in Mobile will be his future career and I wish him well.

Special order for JACK EDWARDS, Alabama delegation: TOM BEVILL, BILL NICHOLS, RONNIE FLIPPO, BEN ERDREICH, and DICK SHELBY. JACK KEMP, New York; TRENT LOTT, Mississippi; EARL HUTTO, Florida; JOE ADDABBO, New York; BOB MICHEL, Illinois; SONNY MONTGOMERY, Mississippi; GEORGE O'BRIEN, Illinois; LARRY WINN, Kansas; HERB BATEMAN Virginia; BOB LIVINGSTON, Louisiana; BILL GREEN, New York; BOB LAGOMARSINO, California; JOSEPH MCDADE, Pennsylvania; ELDON RUDD, Arizona; and LARRY COUGHLIN, Pennsylvania.

Mr. ADDABBO. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from New York, the chairman of the Subcommittee on Defense Appropriations.

Mr. ADDABBO. I thank the gentleman for yielding.

Mr. Speaker, I object enormously to having to join my colleagues here today as we gather to pay tribute to Congressman JACK EDWARDS of Alabama.

I do not object to the ceremony or to the homage being paid my distinguished colleague. No, what I object to is that this is happening, that JACK EDWARDS is retiring from this body and that his wisdom, experience, and fellowship will be lost to those of us who stay behind.

Certainly, all of us acknowledge there are no indispensable Members of Congress. As one era gives way to another the quality of persons serving in this body has remained high, perhaps better overall today than a generation ago. But losing good people always hurts, often from both the personal and the national point of view.

And so I feel a distinct and almost physical sense of loss at the leaving of JACK EDWARDS. For more years than I care to remember, JACK and I have fought battle after battle on the Defense Appropriations Subcommittee, sometimes against each other, sometimes against common foes. I believe that the American people were well served by those mammoth battles involving billions and billions of dollars. What we sought to bring about was the evolution of a strong and viable national defense without bankrupting the Treasury. Most of the critical issues of the day over the last two decades bear the unmistakeable imprint of JACK EDWARDS.

But his public record does not need my summation; in fact, I am hopeful that his public career, despite his retirement from the Congress, may not yet be at an end. Any administration, regardless of party label, would benefit greatly from recruiting JACK's talents.

But the largest loss to the Members of this House will almost certainly be personal. JACK EDWARDS has been one of the most gentlemanly of men ever to grace us with his presence. If he has an enemy, I don't know of it. But if JACK does have an enemy, that person has at least two enemies, and probably more.

In all of the years we have battled, I do not recall a time when JACK EDWARDS was anything less than one classy act. I have often felt that his inate decency and unflagging politeness kept controversial issues from getting out of hand in committee and on the floor. Yet, JACK has proven to be a contentious and resilient battler

for the things he believes in, and he has been known to be a tough negotiator in conference with our Senate colleagues. He has survived challenges from the left and from the right over his two decades of service in the House and there is little doubt that had he chosen to do so, he could have continued to serve in this body until he could no longer function.

But JACK and Jolane have their own agenda for living, and it suits them perfectly. I, along with anyone else who has ever been lucky enough to spend time with these good people, can only wish them good health and godspeed.

This indeed is a sad and joyous occasion. Sad knowing JACK will not be serving with us in the next Congress, joyous knowing that JACK leaves us voluntarily to start a new career in the private sector and spend more time with his lovely wife Jolane, their children, and grandchildren.

Mr. Speaker, I would be less than honest with myself if I did not take this extra time to also pay tribute to my good friend and colleague, KEN ROBINSON, who is also leaving the Congress. It is sad that he leaves my subcommittee.

He has done yeoman service to his district, to our committee and to the Nation in his service on the committee and in this Congress.

□ 2340

Mr. MICHEL. I thank the distinguished chairman.

Mr. Speaker, I yield to one of JACK's very dear friends, the gentleman from Illinois [Mr. O'BRIEN].

Mr. O'BRIEN. I thank the gentleman for yielding.

Mr. Speaker, JACK EDWARDS has served so diligently, so forthrightly as a fellow member of the House Appropriations Committee that anything short of extraordinary praise would be inadequate. I ask my colleagues to join with me today in wishing him the best as he prepares to return to Mobile, AL, to practice law after 20 years of able lawmaking.

JACK EDWARDS has worked hard as the third ranking minority member of the Appropriations Committee, but perhaps he should best be remembered as the ranking minority member of the Defense Appropriations Subcommittee, where he has overseen the interests of those who want a better-spent defense dollar.

Indeed, to quote the current edition of Politics in America, EDWARDS "argues the case for military preparedness with a thoroughness and balance that even critics of the Pentagon find difficult to ignore."

He has served the interests of his southern Alabama district well. Among his accomplishments are his stewardship of the Tennessee-Tombigbee waterway, which when completed will make Mobile a trade port of the likes of New Orleans, and the funding for the now-complete Interstate 10 crossing of Mobile Bay. He not only helped obtain funds for the high-rise, mile-long Interstate 65 span across the Mobile River Delta, he had the foresight to see that future river traffic would not be impeded by a less-adequate design.

A quiet, disciplined former Marine whose byword is fiscal restraint and whose motto is fairness, JACK EDWARDS will be missed by many on both sides of the aisle.

Mr. Speaker, at this moment I cannot refrain from singling out in the Chamber the gallant Member from Virginia, also returning this year, our very dear friend J. KENNETH ROBINSON.

Mr. Speaker, it always seemed to me, sitting in full appropriations, that JACK EDWARDS and KEN ROBINSON were a remarkable team aiding in their effective, critical way Chairman JOE ADDABBO and the other members of Defense Appropriations grind out a tough bill.[1] I also remember vividly the brilliant debate between JACK and KEN dealing with the question of the conventional versus the nuclear powered aircraft carrier.

Mr. MICHEL. I thank the gentleman for his remarks.

Mr. HUTTO. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I am happy to yield to the gentleman from Florida [Mr. HUTTO].

Mr. HUTTO. I thank the gentleman for yielding.

Mr. Speaker, it is a pleasure tonight to participate in this special order for our colleague JACK EDWARDS. JACK is from Alabama. I am from Florida. Our districts join each other. The gentleman from Alabama for the last 20 years has been one of the most outstanding Members of the U.S. House of Representatives and is deserving of all the tributes being accorded him.

My first contact with our friend JACK EDWARDS came in 1975. At that time I was visiting here in Washington to find out what it is like to serve in this august body. Though I was in my second term in the Florida Legislature, I was thinking about running for Congress upon the retirement of the incumbent. Since I wanted to get the full feeling of congressional activity, my predecessor in this job took me with him to a committee meeting. It was a hearing of the Defense Appropriations Subcommittee. I was introduced to Congressman EDWARDS and, though I'm sure JACK will not remember this, we talked about our common Alabama background, among other things. I also mentioned a couple of our mutual friends in Pensacola who went to school with him back in Birmingham.

Though I did not know personally any of the winners, it is very vivid in my mind that Senator BARRY GOLDWATER's long coattails in 1964 carried some five Republicans from Alabama to seats in the U.S. House of Representatives. Though I was not especially enamored with this phenomenon, I will have to admit that in JACK EDWARDS' case, coattailing was a good thing. The people of Alabama's First District liked their young new Congressman. In fact, they have liked him so well they have kept him here for 20 years and would have kept him much longer if it had not been for his untimely—there would never be a good time for him to retire—decision not to seek reelection this year to an 11th term.

When I was first elected to Congress in 1978, I got a call from JACK asking me if I would participate with him and TRENT LOTT on a weekly television show which they had been recording with my predecessor, Congressman Bob Sikes, for presentation on WKRG-TV, channel 5, in Mobile. I had never seen the program, although I had heard of it. I did not exactly relish the idea of being on the airwaves with two Republicans, but, inasmuch as the station has a good viewing audience in the western part of my district, I reluctantly accepted. It was a good decision.

"Congressional Report" with EDWARDS, LOTT, and HUTTO has gone over well and, for the last 6 years, it has been most enjoyable for me to work with these fine gentlemen on the program. On this half-hour weekly show, we discuss what is going on in Congress. Though we may disagree on some of the issues from time to time, we do so in an agreeable way. Though the title of the program is "Congressional Report", TRENT and I refer to it facetiously as "the JACK EDWARDS show." Although we take turns rotating off the show to make room for guests, when all three of us are on it, at least once a month, JACK is the host. He always does a fine job. He keeps the show moving and channeled in the right direction. His timing is precise and the injection of just the right amount of levity makes it lighthearted enough, in the face of serious subjects, to keep the viewers tuned in. At least we hope so. We will greatly miss JACK on this program.

But JACK will be missed here in the Congress for many reasons. He is a very effective Congressman who has served America and his district with distinction. He stands up for what he believes. He is gracious in victory and in defeat. I well remember when, as a

[1] Some unknown but not inglorious phrase maker has said that if two members always agree, perhaps one is unnecessary.

freshman in my first year, I was able to win a big victory on a matter that greatly affected my district. JACK was on the other side of the issue, but, when asked by a reporter, he did not react in an antagonistic manner. He graciously said, "He beat our butts."

There are few Members of the House who command the respect that JACK EDWARDS enjoys. He is held in high regard by Members from both sides of the aisle. JACK is a Republican, but he is an American first and his partisanship is transcended by his desire to do what is right.

This year, because the defense appropriations bill was folded into the continuing resolution and was not debated fully, we did not get to see and hear JACK, the ranking minority member on the Defense Appropriations Subcommittee, and its chairman, JOE ADDABBO, guide this bill to passage. But it is a well-known fact that JACK developed a lot of expertise on defense during his years here. He believes in a strong defense to keep America free. We will miss his work in this field.

In conclusion, let me say that I am indeed sorry to see JACK leave the Congress. I am glad to count him as a close personal friend. He will be missed here because he is a pleasant person to be around, because he is a man of unquestioned integrity, and because he is a knowledgeable and effective Congressman.

But we rejoice with JACK because he has earned and richly deserves his retirement. I take this opportunity to join their many friends in wishing JACK and JOLANE and their family good health and happiness in their change from Washington to the good life of Mobile. May God richly bless you.

Mr. MICHEL. I thank the gentleman for his remarks.

Mr. Speaker, I am happy to yield to the distinguished Member from Virginia [Mr. ROBINSON], who, likewise, is retiring after so many years of distinguished service in this House.

Mr. ROBINSON. I thank the gentleman for yielding.

Mr. Speaker, I would be indeed remiss if at the outset I did not acknowledge with great gratification the kind things that the gentleman from New York [Mr. ADDABBO], my leader in the well [Mr. MICHEL], and the gentleman from Illinois [Mr. O'BRIEN] have had to say about me in terms of my own retirement.

Perhaps we are inclined to use the word "giant" in this Chamber a little too easily. But with respect to the two Members that we are paying tribute to tonight, it is certainly a word that is very proper in every respect. I join those who have used it in describing both BARBER CONABLE and JACK EDWARDS.

As I looked at the Chamber when we began to pay this tribute, I thought that this is terribly inappropriate, that we are paying tribute to these two very outstanding individuals to a practically vacant Chamber and at an hour of an evening when so few are not only not here but not listening in their offices, as might be true otherwise, on their monitors. But as I thought about it, it appears more and more that this is indeed a higher tribute, that people are willing to stay here in order to have the privilege of paying tribute to these two men who are leaving our ranks and who are going to what I am sure will be distinguished careers that will follow their service here to their country and to their districts in the House of Representatives.

The greatest privilege I have had in this House has been that of sitting next to JACK EDWARDS. Since he became ranking minority member of the Defense Subcommittee, I have been next in line. Since he became ranking minority member, I have been second ranking minority member on that subcommittee from the very beginning of his experience in that regard. No two people have worked more closely than we have with regard to the building of the national defense, the preservation of the national defense of this country, and no two people have become closer friends. He is indeed my closest friend in the Congress. And our wives are dear friends also, as witness the fact that they sit in the gallery tonight observing the proceedings that are going on here. To say that we will miss JACK and Jolane is to put it so mildly that it is not even representative of the motion that we feel. We have visited in their home; they have visited in ours. We have traveled extensively together in looking at the defenses of this country and the way that we are deployed in terms of our forces around the world. It has been a great, great experience.

A lot of words have been used here tonight to describe relationships with BARBER and with JACK. I am not going to try to exceed the eloquence that has been articulated, but I can tell you that no one feels it any more strongly than does this Member. In fact, so strongly that when I found that JACK was leaving, I decided that I just better leave also.

Mr. MICHEL. I thank the gentleman for his comments.

Mr. Speaker, I am happy to yield to another distinguished Member of the Committee on Appropriations, the gentleman from Ohio [Mr. MILLER].

Mr. MILLER of Ohio. I thank the gentleman for yielding.

Mr. Speaker, our good friend and able legislator, JACK EDWARDS of Alabama, has decided to return to Mobile, AL, at the end of the 98th Congress to practice law. For the past 20 years, JACK has well represented the First District of Alabama. He has distinguished himself by responding to the concerns and needs of his district while placing an equal priority on the needs of the Nation as a whole.

I have had the privilege to work closely with JACK as a member of the House Appropriations Committee and I can say without reservation that his service on that committee was highlighted by helping bring before the Appropriations Committee a defense appropriations measure that was consistently sound and responsive to the Nation's military requirements.

JACK wore several other hats while serving in Congress and he has my admiration and respect for fulfilling the responsibilities of each congressional task with diligence and pride.

This House will miss JACK EDWARDS, the example he set, and the leadership he provided.

I wish him well in his new endeavor and I trust that he and Jolane will return to visit with those friends and colleagues wherever the opportunity presents itself.

□ 2350

Mr. MICHEL. Mr. Speaker, I yield to the gentleman from New York [Mr. GREEN], also a member of the Appropriations Committee.

Mr. GREEN. I thank the distinguished minority leader for yielding to me. I am delighted to be here tonight to pay tribute to two colleagues whose departure I mourn. I wish they had elected to stay. I would have liked them to stay with us.

BARBER CONABLE has been an incredible mentor on tax legislation and he has been so important to this House that I think it goes without saying that his departure will be an eternal loss for us all. I know how many times I have turned to him when tax measures came up. I wanted to ask what is this going to mean to the country; what is this going to mean to the world; what is this going to mean to our part of the country, the Northeast?

BARBER has always been there; always been willing to teach junior Members of the House what the significance, from a tax point of view, various proposals were. Then, in 1981, I had the privilege of coming to the Appropriations Committee and of course we had to deal with very complicated issues of appropriations relating to the defense of our country. JACK and I have not always been on the same side of those issues, but one thing I always knew as I dealt with JACK, and as I turned to him for guidance, was that you could always count on him for honest advice. He was always prepared to tell you that this weapons system was one that was going to be very fruitful. Another one was the one that there were going to be a lot of problems. You knew that if you would go with it, even if it might ultimately be needed, you were taking

a risk because you went along, and you sometimes have to take those risks.

JACK was always willing to level with you, and it was his willingness to level with me that I found so critical as a member of the Appropriations Committee, and that is why I am here tonight at this late hour to say, JACK, I appreciate all you have done for us. Your willingness to educate all of us along the way, and God bless you.

Mr. MICHEL. Let us jump down to Louisiana with the gentleman from that State, BOB LIVINGSTON, who serves on the Appropriations Committee.

Mr. LIVINGSTON. I thank the distinguished minority leader very much for yielding to me and for taking out this special order for our good friend, JACK EDWARDS.

We have already said our congressional goodbyes to another great leader of this Congress, BARBER CONABLE. I want to take this opportunity to say that I concur with everything that has been said tonight about him, and say also that we are going to miss him greatly.

Now, it is fitting that we pay our deserving tribute to another distinguished gentleman. A scholar; a leader among our ranks. For me, a kindred spirit from the South as a Representative from the great city of Mobile, AL, JACK EDWARDS.

We hate to lose him, but JACK is leaving Congress in the style with which he has always served, as a winner. I have no doubt that he will use all of the grace and the charm he possesses along with the influence, the expertise, and the integrity for which we all admire him. He will parlay these attributes into a successful career back in Alabama.

The House should be aware of the tribute that was paid just a few days ago to JACK and our beloved colleague, KEN ROBINSON, who just spoke a few minutes ago, by their members of the Appropriations Committee just last Wednesday. It was then that all the members who knew them best stood up and gave both of them a rousing standing ovation for their dedicated service on that committee. The emotion of that moment was not conveyed lightly.

It was an outburst from Republicans and Democrats alike in sincere appreciation for a job well done. JACK EDWARDS has become the epitome of the proper statesman. His demeanor, his fairness, his friendly disposition all combined with his genuine for the people that he represents show him to have been the ideal legislator.

He has ably represented the Republican point of view with respect to legislative issues. He has eloquently represented the South on parochial issues, and he has forcefully represented America on defense issues.

He was among the first to expose and address the problem of combat readiness. He was among the most dedicated of those who favored fair value for every dollar spent in our Nation's defense budget. His foresight has led to the modernization of our armed services, including the development of such technical innovations as the surface effect naval fleet, like the LCAC, the Marines' new landing craft, air-cushioned vessel.

Production of that craft now is well underway, and it is the first new generation of landing craft since World War II that will land our marines and soldiers on 70 percent of the world's beaches much faster and much safer. Before this craft, our soldiers could only land on 30 percent of the world's beaches, and then without any significant degree of assurance of safety once there.

Without JACK EDWARDS' fostership over the years, the small but vital program would never have begun. I would also credit JACK with and Chairman TOM BEVILL as well, for being the fathers of the modern-day Mobile Port. Through the efforts of JACK EDWARDS, Mobile continues to experience tremendous economic growth and has become one of the major ports of the gulf coast and of the United States. JACK's leadership in this area should never go unnoticed.

At a time when we need more like him, instead of losing him, I regret that we are seeing our colleague, JACK EDWARDS move on. Hopefully, we will strive to follow his excellent example. We wish him well.

Mr. MICHEL. I thank the gentleman and now move back up to Pennsylvania, Mr. COUGHLIN.

Mr. COUGHLIN. I thank the gentleman for yielding to me.

Mr. Speaker, I want to say to our Republican leader that the fact that he is here at this hour of the night to pay tribute to one of the finest Members of Congress that I have ever known, is indeed an important tribute to him because I know the demands on his time and his energy and his resources.

Let me say that when I first came here in 1969, one of the first people that I got to know was JACK EDWARDS. I did that because my predecessor, who was Dick Schweiker, who was on the Armed Services Committee of the House and was very intimately acquainted with the Defense Appropriations Committee of the House. I got to know JACK and Jolane Edwards and became someone who relied on what JACK said to guide me in what was going on in terms of defense.

The Defense Appropriations bill has got to be the most complicated bill that I think comes before this body. For someone to look at that tremendously complicated piece of legislation and be able to advise us as Members as to what should be done and what should not be done, to me is a tremendous mark of intellect.

But it was more than intellect because it was also leadership. There was a tremendous amount of leadership there because you trusted JACK, trusted him in what he said and what he told you that he believed was the correct thing to do.

He would very often say I am going to do this, but you should think some other way. He would be willing to share his concerns and his questions with you on matters of defense that were indeed important.

Beyond that I think that as our leader knows, and I know very well, that JACK and Jolane Edwards were just good friends. Good people to be with. The kind of people that this Congress is blessed with.

□ 2400

They were fortunate to be blessed with them because it would not be a very nice place to spend 20 years in and you have spent more than I have, Mr. Leader, but without people who you enjoyed being with, living with, working with, playing with and just serving this country with.

And that is the kind of person that JACK was, and he and his wife Jolane have our great Godspeed and good will as they leave this body.

Mr. MICHEL. I thank the gentleman for his remarks.

Mr. Speaker, as we began this special order the gentleman from Alabama grew a little bit nostalgic in recalling that year in 1964 when there were some rather mixed results from that Goldwater campaign. This gentleman remembers it so vividly because he served as a cochairman with Senator Curtis on the truth squad traveling in 38 States and I recall then having been an 8-year veteran by that time, but welcoming that new Alabama delegation of some five Members which obviously included the two Members who have stuck it out those 20 years, BILL DICKINSON and JACK EDWARDS, and just wondering to myself what kind of men are these who would come from the Deep South, elected as Republicans on our side of the aisle.

Well, things took their toll and only two of the gentleman have survived for the 20 years, but they have certainly demonstrated to this House their worth and what they have meant to the strength of this country, particularly in its defense needs and its requirements.

The gentleman who we are honoring specially tonight, JACK EDWARDS, has been referred to so frequently as being one in whom people could trust and in whom they placed their trust and in his very important position as our ranking member of the defense appropriation bill, responsible for the ex-

penditure of billions and billions of dollars.

The retirement of JACK EDWARDS and KENNY ROBINSON with only four Members on our side serving on that very important subcommittee is going to leave us with a tremendous void. The tremendous knowledge and experience that they acquired over many years.

The long hours unheralded behind closed doors in committee hearings. I guess I have a little bit more feeling for what they have been going through because before I was elected leader, I, too, served on the Appropriations Committee and members on that committee do not get the publicity that is attendant with those who are managing bills on a day-to-day basis out here on the floor of the House because so much of the time from January through the month of May is occupied day after day after day listening to witnesses, listening to one witness after another; going out to see in the field. Checking all the arguments and all the things that have to be looked into before you ever get around to that point of finally determining and agreeing to what we will finally put in this thing called a defense appropriation bill.

We owe a great deal of gratitude to these gentlemen for those tireless hours that they have given to their country and KENNY ROBINSON, too, who has then doubled in practice, so to speak, by serving as our ranking member on Intelligence, that combination of serving in the very sensitive Defense Appropriations Subcommittee and also in the intelligence field.

KENNY, if it has not been done, and I still have some reserved time before this Congress adjourns, we are just going to have to have a special order devoted to your service here in the Congress similar to what we are doing tonight. I just cannot refrain from saying that there are no two more valuable persons who are not only on our side of the aisle but the entire Congress.

I am struck by the fact that BILL GREEN from New York earlier made mention of the fact that on occasion he had to differ with JACK EDWARDS and KENNY ROBINSON just from a point of personal philosophy on a weapons system here or there.

Nevertheless, whether one was just the strongest of hawks in this body or of more moderate persuasion thinking we could get by with less, all of our Members from one side of the spectrum to the other, all had a great deal of confidence in both JACK EDWARDS and KENNY ROBINSON, and the real key to that is when one takes the floor here or the well of the House, standing against all his peers and being armed with all those arguments could take on any one of those questions from the 434 others of us who sit in this body. That is the real test, and JACK EDWARDS has stood that test over these many years and that is why tonight, until this late hour, now after midnight, so many would rise to pay their respects and tribute to both JACK and to KENNY ROBINSON.

Mr. COUGHLIN. Will the gentleman yield?

Mr. MICHEL. I will be happy to yield to my friend from Pennsylvania.

Mr. COUGHLIN. I think the thing that has got to be a major tribute to KEN ROBINSON is that the committee on which he served as ranking member was one which you cannot really discuss what is going on here on the floor in any great detail; that does not get you any great plaudits back at home because you cannot really discuss it back at home, but it is one of the things that he had to live with himself and then determine how he would himself explain that to those Members here on the floor, in public matters that were very, very sensitive to our national security, and he did that with dignity and with knowledge and with aplomb that I think were tremendously important.

And as he and Kip look to the future, they have got to know that what he has done in the very silent ways that that has to be done, is a tremendous service to our Nation and one that we all owe a great deal of gratitude to because it was not headlines he sought, it was service to our country.

Mr. MICHEL. I thank the gentleman for his contribution.

Mr. Speaker, in summary, that great State of Alabama having the ranking member of the Armed Services Committee, BILL DICKINSON, and then also the ranking member on our Republican side on the Defense Appropriations Committee, what a team that State has had here in the Congress and what that has meant not only to that State, obviously, but to the rest of the country.

There is going to be a big void in half of that team being lost to this Congress, but we look for many years of continued service to BILL DICKINSON and then, too, I guess in wrapping up, want to extend our very best to JACK and Jolane, that they, too, might have a very enjoyable life of retirement.

Again, I would have to say, too, I cannot see JACK EDWARDS simply sitting on the sidelines in what would be considered to be retirement in that true sense of the word, but still living a very full life and being able to contribute so much out there in the private sector to what he has done here for these 20 years in the public sector.

● Mr. CONTE. Mr. Speaker, I want to join my colleagues in praising the service that JACK EDWARDS has given to this body. If it were in my power, I would try to persuade JACK to reconsider his retirement even at this late date. JACK EDWARDS will be sorely missed in Congress not only as a gracious gentleman who has been a calming voice in this body, but also as an expert in matters of defending the Nation. The loss of his skill and knowledge will be irreplaceable. No one is indispensable, but JACK comes very close to being so.

It would behoove all of us to reflect on the career of JACK EDWARDS. He has been a fervent supporter of the congressional district that he has served and loves so well. He has fought hard and long for those things that can be done to help his constituents. But JACK EDWARDS' service has been characterized by a deep dedication to an unbiased, nonparochial approach to developing our national security priorities. It is a source of pride to him and to his colleagues in the House.

I have served with JACK since he came to the Appropriations Committee. We have worked closely on many very important issues in other appropriations subcommittees such as the Transportation Subcommittee, before he became ranking member of the Defense Subcommittee. During his tenure in the ranking member position he has become recognized in the White House, throughout the Congress, and in the Pentagon as a Member who studies the requests diligently and makes sensible, workable suggestions on how to fund our defense needs.

I earnestly hope that JACK will eventually come back to serve in some capacity in our national defense effort. Any top-level position in the Defense Department would be well served by having JACK EDWARDS in that capacity.

I know that JACK yearns to be back in his beloved home in the Mobile area. He is the type of person who will savor this time to be with family and friends. I wish he and his lovely wife, Jolane, the very best luck and good wishes in the days ahead. We will miss him, but we will never forget how graciously and intelligently he has served this body, his constituents, and the Nation.●

● Mr. LOTT. Mr. Speaker, my only reluctance in seeing the 98th Congress adjourn is that its adjournment signals the end of two decades of service by one of this body's most effective Members. Over these 20 years, JACK EDWARDS has been my neighbor, my teacher, my partner, and my friend.

Many of the opportunities that have come my way have been possible because of his willingness to share his talent and experience with me. When I was elected to the House in 1972, it was my Alabama neighbor who took me under his wing and took charge of my orientation. Ours has always been a sharing relationship. I shared his airport in Mobile. As ranking Republi-

can on the Defense Subcommittee, JACK EDWARDS shared responsibility for Mississippi's defense installations.

I had him on our weekly local television program. He made certain my district's shipyard was always in the hearts and minds of our Appropriations Committee colleagues. My constituents on several occasions have welcomed him to our State because they know he is a Mississippian at heart who just happened to be born on the Alabama side of their border. I'll miss his amiable disposition up here. But I know his wife Jolane and his children and grandchildren in Mobile won't ever have to miss him coming home nightly from work.

Though JACK is giving up his seat, he isn't leaving the campaign trail this fall. He'll be working for the President and for his fellow Alabamians in his role as Reagan-Bush State chairman. JACK's successor will have his work cut out for him. JACK was No. 1 in Alabama's First Congressional District, and he will always be No. 1 in the hearts of south Mississippians.●

● Mr. ANNUNZIO. Mr. Speaker, I rise to join with my colleagues in paying tribute to the Honorable JACK EDWARDS, who has been a dedicated Member of the U.S. House of Representatives for the last 20 years.

JACK and I were both first elected to the 89th Congress, and through the years while working together as members of the NATO delegation and as members of the full House Banking Committee, I have come to know and respect JACK for his fairness, and for his legislative and leadership abilities. He has conscientiously represented his constituents from the First Congressional District of Alabama, and his accomplishments as a Member of Congress are most worthy of recognition.

Before coming to Congress, JACK EDWARDS served our country with distinction as a member of the U.S. Marine Corps from 1946 to 1948 and from 1950 to 1951, and received his law degree from the University of Alabama in 1954.

Elected to Congress in 1964, JACK EDWARDS has served in the House of Representatives during the last 20 years with diligence as a Member of the House Appropriations Committee and its Subcommittee on Transportation and its Subcommittee on Defense, where he is the ranking minority member. He also has compiled an outstanding record of achievement as vice chairman of the House Republican Conference.

Jack is a fine legislator, and a Congressman of compassion and courage, who has provided exemplary service to his constituents and to our Nation. He will be missed by those of us in the House of Representatives who have had the pleasure of working with him.

I extend to JACK EDWARDS my best wishes for continued success in devotion to the highest principles.●

● Mr. LOEFFLER. Mr. Speaker, JACK EDWARDS has devoted 20 years of outstanding public service to the people of Alabama and to our Nation. His knowledge and leadership will be sorely missed in the 99th Congress.

To those of us who have known him—who have sought his advice and counsel—who have had the privilege of working alongside him as I have on the Appropriations Committee, where I considered him not only a colleague but, most importantly, a true friend—there are feelings of deep respect and admiration.

JACK EDWARDS possesses qualities rare among men: Dedication to principles, dedication to friends, dedication to a vision of this country's future that could not be shaken by events or circumstances.

Under his leadership, as ranking Republican on the Defense Appropriations Subcommittee, JACK EDWARDS took the lead in focusing on the state of our Nation's military preparedness and in working to assure the important revitalization of our Nation's defenses in a manner consistent with our goals of responsible fiscal restraint.

As vice chairman of the House Republican Conference, JACK EDWARDS has provided strong leadership and support as we sought to bring fiscal responsibility to our Government, to reduce the tax burden, and to ease the Federal intrusion in our daily lives.

My wife Kathy joins me in wishing JACK and Jolane the very best in their future endeavors, and I offer him the heartfelt thanks of one who has been honored to call him friend.

We will miss you. Stay in close touch.●

● Mr. McDADE. Mr. Speaker, I want to take this opportunity to join Congressman BILL DICKINSON, and the other Members of this body to pay tribute to a very dear and close friend, Congressman JACK EDWARDS, who is retiring at the the end of this Congress. I join with all my colleagues in wishing JACK the best of luck and Godspeed as he returns to Alabama to practice law and to spend more time with his wife, Jolane, and the rest of his family.

JACK's leadership and ability have been an inspiration and he has provided highly valued counsel during the years that we have served together in the House. JACK made his mark on the Appropriations Committee, serving on the Transportation and Defense Subcommittees. He will be leaving the Congress with a long legacy of accomplishments for his 20 years. JACK's work on the Transportation Subcommittee has improved our waterways and other general transportation facilities. Over the years there are a number of projects that bear his imprint. Among others, the Theodore Channel in Mobile; Tennessee-Tombigbee Waterway; the Warrior-Tombigbee Waterway reconstruction, and the Alabama Coosa Waterway are part of his major accomplishments. The Bon Secour National Wildlife Refuge which is now virtually complete, depended on his handiwork. There are bridges and dredging sites, new airports and office buildings, and enhanced public rail transportation throughout this country thanks to his efforts.

Perhaps JACK's greatest accomplishment has been his work in the area of defense matters. Jack has been the ranking Republican on the Defense Subcommittee of the Appropriations Committee for the past 10 years. He is truly motivated by national concerns for a secure nation; not a desire to aggrandize his own district.

JACK has a great command of our national defense policy and he makes a case for military preparedness that is thorough and balanced. I have found that even critics of the Pentagon's programs and policies cannot ignore JACK's arguments. His work has been invaluable in the progress we have made to strengthening our national defenses.

JACK is truly, as observed by the former distinguished chairman of the Appropriations Committee, Congressman GEORGE MAHON, "a gentleman and a statesman." I cannot recall having served with a finer Member in this body.

JACK, I join my colleagues in saluting you as you move on to your new endeavors, we'll miss your wise counsel.

The greatest compliment that any Member of this body could ever receive is, "the Congress was bettered by your service." JACK EDWARDS has clearly enhanced the reputation, value, and skills of the congressional process by his presence.

Best wishes and Godspeed, my friend.●

● Mr. HAMMERSCHMIDT. Mr. Speaker, I would like to add my own thanks and best wishes to the others being offered to my good friend and colleague, JACK EDWARDS. JACK has served the people of Alabama's First District, his party, and this House with great distinction since his election to the 89th Congress. I have a great affection for JACK, who was my mentor when I arrived in Washington. JACK not only took the time to guide me through the intricacies of the legislative process, but became a true friend to a young Congressman.

A great deal of what JACK EDWARDS has accomplished during his tenure has stemmed from his 16 years of service on the House Appropriations Committee on which he is the third ranking Republican. On the Defense Subcommittee he has been the senior Re-

publican since 1975 and has served on the Transportation Subcommittee for 14 years. While being an advocate of a strong and ready national defense, JACK's actions have always been aimed toward a better-spent defense dollar. In addition to these assignments, JACK has also been an active member of the Banking, Finance and Urban Affairs Committee of the House.

In all of these capacities he has served his constituents well: From obtaining funding and seeing the completion of the Theodore Channel—a valuable asset to the Port of Mobile and to area industrial development—to most recently, bringing Amtrak service from Mobile to New Orleans.

In addition to working for his constituents, he has served in leadership roles within the Republican Party. He is currently the vice chairman of the House Republican Conference, having been elected unanimously to one of the eight elected leadership positions for House Republicans.

I have served in this House with JACK for 18 years, and he has been an extremely strong and effective legislator as well as a good friend. His advice and support are valued tremendously and will be missed by his colleagues who value true leadership and understanding. I wish him and his family the best in the days ahead.●

● Mr. FLIPPO. Mr. Speaker, I am having considerable trouble imagining what the Alabama delegation will be like without JACK EDWARDS.

I am one of many who has come to rely on your sound judgment and wise counsel, and the fact that you have always been an American first, an Alabamian second and a Republican somewhere down the line.

It is rare to find a Republican so well informed, especially in a body with a huge Democratic majority. On second thought, perhaps that is why your intellect has always stood out so much.

Your expertise on defense matters and your nonpartisan approach to doing what is right has made you one of the most effective Members of Congress. I can't count the number of times I have heard my colleagues, staff members and constituents say that.

Your leadership in many areas, such as Tenn-Tom, will be sorely missed. I hope the Alabama delegation, and I personally, will not be denied the benefit of your valuable experience and insight.

While you are certainly deserving and entitled to some rest and relaxation, there aren't many who don't know for certain that the real secret of your success is Jolane.

JACK, thank you for helping me on countless occasions, but most of all thank you for giving Alabama a good reputation and for being the kind of man that we are all so proud to know and claim as one of our own.●

● Mr. BATEMAN. Mr. Speaker, at the end of this Congress, the American people will be losing one of the most talented and dedicated Members of the Congress. JACK EDWARDS has been serving the residents of Alabama's First Congressional District since 1965. He served as an able member of the Committees on Merchant Marine and Fisheries and Government Operations early in his congressional career. Later, as a member of the Appropriations and Government Operations Committees, JACK EDWARDS' brilliance and dedication to public service became apparent. He is best known as the ranking member of the Defense Appropriations Subcommittee, where he gained nationwide recognition as one of the foremost authorities on defense and national security policy.

We in the Congress will be losing not only a dedicated colleague when JACK EDWARDS retires at the end of this year, but also a man who provided guidance to those of us who have entered the Congress in recent years. JACK EDWARDS' wisdom has been essential to many of us as we act on vitial defense and national security legislation. But most of all, we will losing a friend.

Mr. Speaker, we hate to lose JACK EDWARDS, and I am sure the residents of Alabama's First District are sorry to see him leave this distinguished body. We wish him the best as he continues his career in private legal practice.●

● Mr. DUNCAN. Mr. Speaker, the House of Representatives is losing a valuable judge of this Nation's military needs and policies because of the retirement of the Honorable JACK EDWARDS. JACK and I came to the House as freshmen in 1965. I have appreciated his counsel and goodwill over the last 20 years, and will miss his leadership in the House.

Through his work on the Defense Appropriations Subcommittee, he has been able to insure the military readiness of our Armed Forces. He has also played a role in preventing abuse of military spending by questioning the need for some of the sophisticated high-tech weapons which prove to be too complex for actual field use. JACK presents a balanced view of our need to maintain a strong defense, but not sacrifice the basic needs of the soldiers in the trenches.

This open-minded, and intelligent assessment of our military programs is the basis of JACK's character. He represents the commonsense view that we must have a strong defense, but need not overspend to get it.

I am sure the people of the First District in Alabama will also miss JACK's good sense and character. He has served them well for 20 years, and it will be difficult to find as capable a Representative. I wish JACK well as he leaves us, and thank him for his insight over the last two decades.●

● Mr. MAZZOLI. Mr. Speaker, those of us who have had the privilege of working with JACK EDWARDS know the House will lose one of its valuable Members when JACK returns to Alabama at the close of this session.

JACK is a real gentleman and a friend, and I have always known him to be courteous and friendly to others. He has been a very effective Member of the House and I know he has served his constituency well.

We will miss JACK for his legislative skills but also because of the kind of fellow he is. People like JACK don't come along often enough.

I wish JACK the best in his new endeavors.●

● Mr. BENNETT. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following:

Mr. Speaker, we are all going to tremendously miss JACK EDWARDS, the Representative from Mobile, AL, when he retires from Congress this year. He is a native of Alabama and a product of its schools and of the University of Alabama, where he was president of the Student Government. He might be termed a Congressman's Congressman because he is very helpful to all Congressmen on both sides of the aisle with his splendid personality and able intellect. We have been fortunate to have him in Congress and we will all miss him because of his tremendous ability in legislation and because of his warm personal friendship extended to everyone here.●

● Mr. SHUMWAY. Mr. Speaker, those of us who have been privileged to know and work with JACK EDWARDS will certainly miss his presence here in the House at the end of this session, and I know I speak for all of us in wishing him many rewarding and challenging years in the private sector.

JACK's constituents have every reason for great pride in the outstanding legislator they have sent to Washington since 1965. JACK has continually demonstrated his fine abilities as a legislator, a decisionmaker, and a man able to work in harmony and cooperation with his colleagues for the common good of the Nation.

Alabama is indeed fortunate to have had JACK EDWARDS in its congressional delegation for the past two decades. Moreover, I am certain that JACK will continue to leave a mark as he pursues serving his fellow man in private life. I am pleased to have this opportunity to say goodbye to a good friend and a fine leader, and to wish JACK and his family all the best in the years to come.●

● Mr. RUDD. Mr. Speaker, I join with my colleagues this afternoon to express my gratitude to my friend and colleague, JACK EDWARDS, for his fine

service to all the citizens of the United States.

JACK has been an outstanding member of the Appropriations Committee. As ranking member of the Defense Subcommittee, he has worked hard to ensure a strong national defense to counter the threat to peace and security from our adversaries abroad. He has worked to protect the rights and liberties of our citizens, and guarantee the continuation of our very way of life.

JACK's 20 years of service in this House have made it a better place. He will be sorely missed by his constituents in Alabama's First District and all of us.

It has been an honor and privilege to serve on the Appropriations Committee alongside JACK EDWARDS. Let me extend to JACK and his family my very best wishes for health and success in all the days ahead.●

● Mr. MONTGOMERY. Mr. Speaker, I come to the floor today with mixed emotions. Certainly I want to be counted as one who admires the gentleman from Alabama [JACK EDWARDS]. But I wish this tribute could be delayed for a few more terms, because JACK EDWARDS has been a tremendous leader in the House of Representatives. He will be greatly missed.

JACK came to Congress in 1965 and represents the First District of Alabama in Mobile. Our districts are very close to each other and our relationship has also been very close over the years here in the Congress.

We have worked together on so many issues over the years. He and I share the same philosophy on national defense and JACK has been such a great leader as ranking member of the House Defense Appropriations Subcommittee. We also have been together in our efforts to see the completion of the Tennessee-Tombigbee Waterway.

JACK EDWARDS has been a great friend and I will miss him in the 99th Congress. It has been an honor to serve with such a respected and distinguished American.

He is a wonderful man and we all wish him the best in his new ventures in life.●

● Mr. KEMP. Mr. Speaker, I want to add my voice in tribute to our colleague JACK EDWARDS of Alabama.

JACK has distinguished himself as one of the ablest Members of Congress in my memory, and one of the finest gentleman it has been my privilege to know.

For many years, I had the opportunity to work with him on the Defense Appropriations Subcommittee, where he has distinguished himself for his leadership on national security issues. Time and again, with a quiet and reserved manner, and a warm sense of humor, he has brought understanding and good sense to bear on difficult issues. With his departure, we will lose one of our most knowledgeable leaders on national defense. And he will be missed.

JACK EDWARDS has served best by serving his country first. I know that when he returns to Mobile, to resume the practice of law, his clients will find in him a man of honor, compassion, and sound judgment. These are the qualities that have marked his tenure in the House of Representatives. And for his years of service, he has won the admiration and respect of his colleagues, and the gratitude of his countrymen.

JACK EDWARDS believes, you serve your party best by serving America first—he has truly served America first and we all are the beneficiaries. So, JACK, thanks on behalf of my constituents for all you have done.●

● Mr. NICHOLS. Mr. Speaker, first, I want to thank my colleague, BILL DICKINSON, for arranging this special order to honor an outstanding Alabamian, and dedicated Member of this Congress.

Congressman EDWARDS was elected to Congress some 20 years ago in a Republican sweep in which there were four Republicans elected to the Congress from our State of Alabama. To my knowledge no Republican had ever been elected to the Congress from Alabama—certainly since reconstruction days, and there was considerable apprehension in our State as to how they would perform.

Twenty years later as a Alabama Democrat, I can tell you that Alabama and the Nation is the better for JACK EDWARDS' service in this body.

Congressman EDWARDS has so many accomplishments and so many achievements to his credit, that it would be difficult to single out any given area, for his achievements are legend in working for his constituency in Mobile and throughout south Alabama as well as the Nation as a whole.

JACK came to Congress about the time when Brookly Field was being deactivated and the economic picture in Mobile, through loss of Federal jobs was indeed bleak. Through his untiring leadership in working with city, State, and Federal officials the picture is quite different today with industry after industry taking up the slack.

Perhaps his crowning achievement, however, has been the important role in which he played in the development of the Tennessee-Tombigbee Waterway, which is scheduled to open for barge traffic early next year. I vividly recall President Nixon's visit to Mobile, attended by the entire Alabama delegation, when the President pledged the support of his administration in developing this connecting link between the port of Mobile and the Tennessee and Mississippi Rivers.

But JACK EDWARDS influence has reached much farther than just Alabama, for his sound judgment as a ranking member of the Appropriations Committee is valued by all who know him and who respect the sound economic principles on which this judgment is based.

As JACK leaves the Congress my feelings are mixed, for surely all of us know, this body will be the poorer because he will not be around for the next Congress. We will miss him, and that's for sure, but on the other hand I am consoled in the fact that JACK and Jolane are eagerly anticipating returning home to the gulf coast, which they both love so much. JACK will be practicing law with one of the most prestigious law firms in the city of Mobile, and I feel certain that his responsibilities in that field will bring him back to Washington in the immediate years ahead.

JACK, you leave with our best wishes and heartfelt thanks for the 20 years of dedicated service that you have rendered to your State and to your Nation.●

● Mr. REGULA. Mr. Speaker, the quality of life for each of us is made up of many components, family, home, health, job, and, very importantly, friends.

One of the pleasures of my service in Congress and as a member of Appropriations has been to be a colleague of JACK EDWARDS. I have great respect for his integrity and superior judgment as a legislator. I cherish the warmth of his personality and thoughtful concern for others as a friend.

The people of our Nation have been fortunate to have the dedicated service of JACK EDWARDS.

His standard of achievement in public service will be an inspiration and landmark to all who aspire to be the best.

The flaws of defense procurement policy are legion and well publicized. However, without the insightful and tough management of defense appropriations characteristic of JACK EDWARDS' service on this subcommittee, erosion of public confidence in our defense establishment would be far greater. We all owe a debt of gratitude to JACK for his continuing first-class oversight of defense budgets.

I regret the future loss of JACK EDWARDS' service in Congress but wish him every success in his new career.

Any discussion of what the service of JACK has meant to all of us must include his partner, Jolane. We all value her friendship and respect the importance of Jolane's contributions to the success of JACK's service to his constituents and the Nation.●

● Mr. ERDREICH. Mr. Speaker, as I think back on JACK EDWARDS' outstanding service to the people of Alabama during the past 20 years, I remember a moment when I first came to Washington as a newly elected Rep-

resentative from the Sixth District of Alabama.

Those first few days were, as always, busy for everyone. Congressman EDWARDS and his staff took the time to invite me, my wife, and my staff to his office for what turned out to be a surprise party welcoming us to Washington. His gesture of kindness was greatly appreciated, and since that time, I have never hestitated to call upon him for assistance, nor has he hesitated about giving it.

It is with regret that I join those who now say goodbye to JACK EDWARDS as a U.S. Representative. His 20 years of distinguished service on behalf of the people of Alabama and the First District of Alabama are without parallel.

His has been a "class act," making the path difficult for anyone who follows.

I will always value his friendship and guidance, and offer my best wishes for success and happiness in his future endeavors.●

● Mr. RUSSO. Mr. Speaker, as a city boy from Chicago I've learned after being here in Congress for a while that "way down South in Dixie," you do learn to take your stand. A fine Southern gentleman like Representative JACK EDWARDS has demonstrated to me that you can take that stand for what you believe in without sacrificing dignity, tact, and consideration. I want to pay tribute to him because I know the good job he's done here in Congress. But first I'd like to figure out how an Alabama boy talking crops and a Chicago guy talking suburban growth came to be such good friends.

I suppose it's the nature of the Congress that such friendships blossom and I am grateful for that. Representative EDWARDS' capacity for friendship has only been exceeded by his capacity for hard work and dedication. He has dealt with the complexities of defense and transportation appropriations and been an able voice for the Republican side of the aisle. For two decades he has been an effective legislator and has always remained conscientious and sensitive to the needs of his home district and the needs of the country as well.

It is a personal and professional loss to those of us who work with him to bid goodbye, but most assuredly it is the Nation's loss as well. I join with my colleagues in commending Representative JACK EDWARDS for the fine work he has accomplished and wish him all the best in the future. Actually, I've heard about "country lawyers" and I know JACK, so he's not going to need much luck. I just hope someone warns the other side. This is quite a gentleman.●

● Mr. BEVILL. Mr. Speaker, a man's talents and capabilities are best evidenced through the respect and honor given him by his friends and colleagues. Judging by the respect and honor accorded our good friend, JACK EDWARDS, his value to this country has been immense.

During the 97th Congress, when JACK announced that he planned to retire from the House of Representatives at the end of that term, an overwhelming protest was heard throughout the First District of Alabama. His constitutents sincerely pleaded for JACK to remain in office to continue providing them with the high caliber of service he had given them every day for nine terms. This tremendous support did not stop at the borders of JACK's district. Indeed, the requests for him to remain in Congress came from every corner of the country, including the Oval Office. JACK yielded to the pressure and agreed to stand for office for a 10th term and was reelected.

From his 1st term through his 10th, his dedication to the people of Alabama and America has not waivered. He has provided consistent service and unexcelled leadership. Additionally, JACK has become one of the recognized authorities on the Nation's defense program, through his work in the House Appropriations Defense Subcommittee.

I have personally enjoyed serving with JACK both on the House Appropriations Committee and as fellow Representatives from Alabama, as together, we have worked to build projects important to Alabama and the Nation. I especially appreciated his many significant contributions in our efforts to complete funding for the Tennessee-Tombigbee Waterway. He was especially effective in building and maintaining support for this important project on the minority side of the aisle in our body. And his leadership and active involvement in the improvements at Mobile Harbor have helped provide this Nation with a highly sophisticated port which today is playing a major role in expanding America's export capability.

As JACK prepares to leave the Congress after 20 years of distinguished service to his country, we are all deeply appreciative of the high level of personal integrity which has been evident in all his actions. His service has been a model for us all. JACK EDWARDS' service in Congress provides us with an example of the simple yet demanding qualities our Founding Fathers envisoned for a Member of the House of Representatives—a good and capable person, of unquestioned integrity, willing to sacrifice in service to our country.●

● Mr. DANIEL. Mr. Speaker, it is indeed with mixed feelings that we view the retirement of our good friend, Congressman JACK EDWARDS, who has been a valued Member of this body since 1965.

We are pleased that he is looking forward with such fond anticipation to returning to Alabama to practice law, but we shall miss his able contribution to the work of the Congress. It is a mark of distinction that JACK is one of the most respected Members of the House. He has worked hard—and ably—and the fruits of his labors have left their mark in legislation with which he has been intimately connected.

He has served his constituents well and has in Washington been a credit to his district, his State, and the Nation. His contribution to the work of the House Defense Appropriations Subcommittee will leave a lasting imprint on this most vital activity and likewise he has devoted a great deal of time and effort to the Transportation Appropriations Subcommittee.

As he leaves at the end of the year, we shall wish him well, shall miss his cheerful approach to not-always-cheerful problems, and trust that his new work will be both satisfying and rewarding.●

● Mrs. HOLT. Mr. Speaker, when JACK EDWARDS returns to Alabama to practice law, we know his law clients will be getting great value from his efforts, but we surely will miss his keen mind, his friendship, and the skill with which he advanced his strong convictions.

His warmth and amiability have won many friends in this House during his 20 years of service, but we also have respected his ability as a tough and resourceful advocate.

He has served our Nation and his constituency with great distinction, and I have appreciated his skills and cherished his friendship.

I wish him and Jolane well as he retires from the House to return to the practice of law.●

● Mr. ERLENBORN. Mr. Speaker, one of our most qualified colleagues will be leaving this House when JACK EDWARDS retires at the end of the 98th Congress. It is most fitting that we take the time today to honor him.

JACK, in my mind, epitomizes the southern gentleman who loves his native South, his family, and this great country of ours. There is no more stalwart defender of a strong and free America than he. The people of Alabama, Jolane Edwards, their children and grandchildren can be proud of JACK's service here, and I, for one, am proud to call him my colleague and my friend.

If I were continuing to serve here, JACK, I know I would miss your counsel on defense and transportation issues. Therefore, I am glad that, just as we entered this Chamber together for the first time back in 1965, we will be leaving together.

I know you will do well in your new career as a lawyer, and I wish you and your family much happiness.●

● Mr. YOUNG of Florida. Mr. Speaker, I commend my colleague from Alabama for requesting this special order to honor JACK EDWARDS, who through his 20 years of work and leadership has earned the deep respect of his colleagues in the Congress.

I have had the privilege to serve with JACK on the Defense Appropriations Subcommittee. As the ranking minority Member, he has been instrumental in restoring strength and respect to our Nation's defense. He has spent many long hours scrutinizing the thousands of programs that are a part of our national security and he has shown great leadership in making the many difficult budgetary decisions required when overseeing a $300 billion a year department.

The fact that our subcommittee reaches agreement each year on an appropriations bill is testament to JACK's ability to negotiate and compromise. Throughout the entire process, JACK always has placed the interests of our Nation above all else.

The people of the First Congressional District of Alabama will miss JACK's efforts in Congress on their behalf. Through his position on the Appropriations Committee, he has been responsible for the creation of a large number of new jobs in the Mobile shipyards and throughout his district and the State. He has represented Alabama well with his gentle, easy-going manner.

Just as his two decades of work will be missed by his friends and neighbors back home, his leadership and friendship will be missed by me and his colleagues here in the Congress. I join with all Americans in thanking JACK for his service on behalf of our Nation and in wishing him good luck as he returns to Mobile and his legal practice.

● Mr. WINN. Mr. Speaker, it is with pleasure that I join my colleagues today in honoring one of my dear friends, JACK EDWARDS. I have known JACK for the last 18 of his 20 years in Congress, and it has indeed been an honor to work with him during that time. As a legislator, he is both cautious and circumspect. As ranking Republican of the Defense Subcommittee of the House Appropriations Committee, JACK has always been highly regarded for his judgment and knowledge in the area of defense matters. In fact, it has been stated that he "argues the case for military preparedness with a thoroughness and balance that even critics of the Pentagon find difficult to ignore."

In serving his constituents, JACK EDWARDS has been very instrumental in helping to provide the First District of Alabama with a number of highway and water improvement projects. I am certain that he will be sorely missed both by his constituents as well as by those of us who have had the privilege of knowing him.

I know JACK is looking forward to returning to the private sector practicing law in Mobile. I wish both he and Jolane the very best in all of their endeavors.●

● Mr. FUQUA. Mr. Speaker, I appreciate this opportunity arranged by our colleague from Alabama [Mr. DICKINSON] to pay tribute to JACK EDWARDS. I first met JACK when he came to Congress in 1965, and I am proud to call him my friend.

JACK has served with great distinction on the House Appropriations Committee and is considered an expert on defense matters. When he rises to speak about military issues, everyone listens because we all respect his opinion and knowledge.

It is not far from Mobile to my congressional district, and JACK is more than a colleague, he is a neighbor. He is a good neighbor, and he will be missed. I wish him all the luck in the world as he retires to Mobile to practice his first love, the law.●

● Mr. DE LA GARZA. Mr. Speaker, we are gathered here today to pay tribute to JACK EDWARDS whom I began my first Congress with 20 years ago in 1965. It has been my privilege to serve with this gentleman for the past two decades—and his retirement means to all of us the loss of a colleague of great conviction and dedication.

Representing a district which knew him well and appreciates his talents, JACK could have and would have been returned to the House of Representatives for as many terms as he chose to serve. His decision not to do so is not only the loss of the First District of Alabama, but a loss for the country he has so well served.

JACK EDWARDS has been an able legislator who has distinguished himself because he has understood the problems of the people and at all times represented their interests. His record of legislative achievement is significant, and in my mind his most important contributions to this House are not contained solely in any one bill or act. The strength of his personality, the willingness to say what many felt and the conviction to do the tough things that had to be done—these are his qualities that will be forever gone from our Chamber.

It is always good and satisfying to leave any field of endeavor with the highest respect of your colleagues. JACK EDWARDS is certainly experiencing that feeling at this time and in the days that lie ahead.

I will miss JACK's great ability and his great dedication, but most of all I will miss JACK. He has rendered a great service to the whole Nation and our work will be less productive because of his absence.

On this occasion I extend my best wishes for good health and happiness in the years ahead.●

● Mr. PORTER. Mr. Speaker, the Congress is going to suffer an irreparable loss when we begin the next session without the leadership of our retiring colleague, JACK EDWARDS of Alabama.

JACK represents to me, and I suspect to all of us in the House, the kind of quiet effectiveness in Congress that really moves this body, as opposed to the mindless media persona that get most of the press attention.

I won't forget during my first meeting as a new member of the Appropriations Committee how members became quiet and listened when JACK EDWARDS got up to talk. And that first impression of the great respect in which JACK is held by his colleagues has remained constant, right up to our last meeting last week. The standing ovation given JACK by his colleagues was warm and genuine for the genuine affection felt by all of us for a quiet spoken Alabaman who always knows what he's talking about, does his homework thoroughly, has a finely honed sense of humor, and recognizes that there are two sides to every question.

JACK EDWARDS, an all too-rare Member of Congress who has made an indelible mark on this body and whose example will long be remembered by colleagues grateful that they had a chance to serve with a person of his intelligence and commitment.●

GENERAL LEAVE

Mr. MICHEL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include therein extraneous material on the subject of my special order tonight.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

CONFERENCE REPORT ON H.R. 6028

Mr. NATCHER submitted the following conference report and statement on the bill (H.R. 6028) making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1985, and for other purposes:

CONFERENCE REPORT (H. REPT. 98-1132)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 6028) "making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30,

1985, and for other purposes," having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 3, 4, 6, 7, 8, 13, 17, 19, 22, 23, 25, 29, 33, 60, 63, 65, 80, 84, 91, 92, 96, 97, 98, 100, 102, 103, 104, 105, 107, 108, 109, 131, 137, 143, 144, 145, 146, 147, 148, 149, 150, 151, 159, 161, 162, 164, 165, 166, 167, 168, 169, 175, 180, 183, 184, 186, 187, 188, 189, 195, and 196.

That the House recede from its disagreement to the amendments of the Senate numbered 5, 9, 12, 14, 15, 27, 67, 70, 71, 74, 75, 76, 77, 82, 93, 94, 122, 123, 125, 130, 132, 133, 134, 139, 153, 156, 158, 160, 163, 172, 177, 181, 185, 191, 192, 193, and 194, and agree to the same.

Amendment numbered 1:

That the House recede from its disagreement to the amendment of the Senate numbered 1, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$67,625,000*; and the Senate agree to the same.

Amendment numbered 16:

That the House recede from its disagreement to the amendment of the Senate numbered 16, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$2,387,065,000*; and the Senate agree to the same.

Amendment numbered 20:

That the House recede from its disagreement to the amendment of the Senate numbered 20, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$60,211,000*; and the Senate agree to the same.

Amendment numbered 24:

That the House recede from its disagreement to the amendment of the Senate numbered 24, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$152,860,000*; and the Senate agree to the same.

Amendment numbered 28:

That the House recede from its disagreement to the amendment of the Senate numbered 28, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$39,323,000*; and the Senate agree to the same.

Amendment numbered 58:

That the House recede from its disagreement to the amendment of the Senate numbered 58, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$11,728,000*; and the Senate agree to the same.

Amendment numbered 59:

That the House recede from its disagreement to the amendment of the Senate numbered 59, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$52,410,000*; and the Senate agree to the same.

Amendment numbered 61:

That the House recede from its disagreement to the amendment of the Senate numbered 61, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$38,304,000*; and the Senate agree to the same.

Amendment numbered 62:

That the House recede from its disagreement to the amendment of the Senate numbered 62, and agree to the same with an amendment, as follows:

In lieu of the sum named in said amendment insert *$10,000,000*; and the Senate agree to the same.

Amendment numbered 64:

That the House recede from its disagreement to the amendment of the Senate numbered 64, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$922,621,000*; and the Senate agree to the same.

Amendment numbered 69:

That the House recede from its disagreement to the amendment of the Senate numbered 69, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$98,147,000*; and the Senate agree to the same.

Amendment numbered 73:

That the House recede from its disagreement to the amendment of the Senate numbered 73, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$9,361,786,000*; and the Senate agree to the same.

Amendment Numbered 79:

That the House recede from its disagreement to the amendment of the Senate numbered 79, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$3,787,515,000*; and the Senate agree to the same.

Amendment Numbered 85:

That the House recede from its disagreement to the amendment of the Senate numbered 85, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$372,435,000*; and the Senate agree to the same.

Amendment Numbered 86:

That the House recede from its disagreement to the amendment of the Senate numbered 86, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$19,920,000*; and the Senate agree to the same.

Amendment Numbered 87:

That the House recede from its disagreement to the amendment of the Senate numbered 87, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$4,050,000*; and the Senate agree to the same.

Amendment Numbered 88:

That the House recede from its disagreement to the amendment of the Senate numbered 88, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$3,035,000*; and the Senate agree to the same.

Amendment Numbered 89:

That the House recede from its disagreement to the amendment of the Senate numbered 89, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$6,130,000*; and the Senate agree to the same.

Amendment Numbered 110:

That the House recede from its disagreement to the amendment of the Senate numbered 110, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$3,688,163,000*; and the Senate agree to the same.

Amendment Numbered 111:

That the House recede from its disagreement to the amendment of the Senate numbered 111, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$5,246,000*; and the Senate agree to the same.

Amendment Numbered 112:

That the House recede from its disagreement to the amendment of the Senate numbered 112, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$264,524,000*; and the Senate agree to the same.

Amendment Numbered 113:

That the House recede from its disagreement to the amendment of the Senate numbered 113, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$150,170,000*; and the Senate agree to the same.

Amendment numbered 114:

That the House recede from its disagreement to the amendment of the Senate numbered 114, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$35,607,000*; and the Senate agree to the same.

Amendment numbered 119:

That the House recede from its disagreement to the amendment of the Senate numbered 119, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$142,951,000*; and the Senate agree to the same.

Amendment numbered 124:

That the House recede from its disagreement to the amendment of the Senate numbered 124, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$29,000,000*; and the Senate agree to the same.

Amendment numbered 127:

That the House recede from its disagreement to the amendment of the Senate numbered 127, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$1,233,300,000*; and the Senate agree to the same.

Amendment numbered 128:

That the House recede from its disagreement to the amendment of the Senate numbered 128, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$1,098,707,247*; and the Senate agree to the same.

Amendment numbered 129:

That the House recede from its disagreement to the amendment of the Senate numbered 129, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$1,292,753*; and the Senate agree to the same.

Amendment numbered 152:

That the House recede from its disagreement to the amendment of the Senate numbered 152, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$59,978,000*; and the Senate agree to the same.

Amendment numbered 157:

That the House recede from its disagreement to the amendment of the Senate num-

bered 157, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following: *including continuing education activities, existing extension centers and the National Center for Law and the Deaf, $58,700,000*; and the Senate agree to the same.

Amendment numbered 174:

That the House recede from its disagreement to the amendment of the Senate numbered 174, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended to read as follows:

SEC. 309. No funds appropriated in any Act to the Department of Education for fiscal years 1984 and 1985 shall be withheld from distribution to grantees because of the provisions of the order entered by the United States District Court for Northern District of Illinois on June 30, 1983.

And the Senate agree to the same.

Amendment numbered 176:

That the House recede from its disagreement to the amendment of the Senate numbered 176, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$150,164,000*; and the Senate agree to the same.

Amendment numbered 190:

That the House recede from its disagreement to the amendment of the Senate numbered 190, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$32,952,000*; and the Senate agree to the same.

The committee of conference report in disagreement amendments numbered 2, 10, 11, 18 21, 26, 30, 31, 32, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 66, 68, 72, 78, 81, 83, 90, 95, 99, 101, 106, 115, 116, 117, 118, 120, 121, 126, 135, 136, 138, 140, 141, 142, 154, 155, 170, 171, 173, 178, 179, 182, and 197.

WILLIAM H. NATCHER,
NEAL SMITH,
DAVE OBEY,
EDWARD R. ROYBAL,
LOUIS STOKES,
JOSEPH D. EARLY,
BERNARD J. DWYER,
STENY H. HOYER,
JAMIE L. WHITTEN,
SILVIO O. CONTE,
GEORGE M. O'BRIEN,
CARL D. PURSELL,
JOHN EDWARD PORTER,
BILL YOUNG,
Managers on the Part of the House.

LOWELL P. WEICKER, Jr.,
MARK O. HATFIELD,
TED STEVENS,
MARK ANDREWS,
WARREN RUDMAN,
ARLEN SPECTER,
JAMES A. MCCLURE,
PETE V. DOMENICI,
JOHN C. STENNIS,
ERNEST F. HOLLINGS,
TOM EAGLETON,
(with reservations on amendment No. 101),
LAWTON CHILES,
QUENTIN BURDICK,
DANIEL K. INOUYE,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 6028) making appropriations for the Departments of Labor, Health and Human Services, and Education, and Related Agencies for the fiscal year ending September 30, 1985, and for other purposes, submit the following joint statement to the House and Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report.

TITLE I—DEPARTMENT OF LABOR

EMPLOYMENT AND TRAINING ADMINISTRATION

PROGRAM ADMINISTRATION

Amendment No. 1: Appropriates $67,625,000 instead of $69,619,000 as proposed by the House and $65,922,000 as proposed by the Senate. The conference agreement includes an increase of 62 positions over the number requested in the budget, including 30 positions for the Bureau of Apprenticeship and Training. The conference agreement includes no funding for staff of the Work Incentives Program (WIN); WIN staff are funded in a separate appropriation elsewhere in the bill.

TRAINING AND EMPLOYMENT SERVICES

Amendment No. 2: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the amendment of the Senate with an amendment appropriating $3,643,545,000, instead of $3,723,079,000 as proposed by the House and $3,650,519,000 as proposed by the Senate.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement includes the following amounts:

Summer youth employment (1986)	$724,549,000
Dislocated workers	222,500,000
Job Corps	617,000,000
National activities:	
Pilots and demonstrations	20,698,000
Rural concentrated employment programs	10,000,000
Veterans' employment	9,667,000

The conferees are concerned that the Department of Labor apparently does not plan to issue an "open bid" for the Hawaii Job Corps program, and further, that the Department has expressed its intention to shut down the program in Hilo, Hawaii. Accordingly, the conferees direct that the Hawaii project to be subject to "open bidding" and, further, that the present Hawaii sites not be modified until the Senate Appropriations Committee has a chance to review the specifics of the Department's proposal during the fiscal year 1986 hearing process.

Amendment Nos. 3 and 4: Restore language proposed by the House setting aside $10,000,000 for rural concentrated employment programs.

Amendment No. 5: Deletes language proposed by the House concerning the allocation of summer youth employment funds for the summer of 1986.

Amendment No. 6: Restores technical House language concerning summer youth employment and deletes legal citation proposed by the Senate.

Amendment No. 7: Restores language proposed by the House concerning the allocation of summer youth employment funds for the summer of 1985.

Amendment No. 8: Appropriates $26,000,000 for activities under the Trade Act as proposed by the House, instead of $29,700,000 as proposed by the Senate and deletes reference to administrative expenses.

COMMUNITY SERVICE EMPLOYMENT FOR OLDER AMERICANS

Amendment No. 9: Inserts heading as proposed by the Senate.

Amendment No. 10: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the Senate amendment, amended to read as follows:

In lieu of the matter proposed by said amendment, insert the following:

To carry out the activities for national grants or contracts with public agencies and public and private nonprofit organizations under paragraph (1)(A) of section 506(a) of title V of the Older Americans Act of 1965, as amended, $254,280,000.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 11: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the Senate amendment, amended to read as follows:

In lieu of the matter proposed by said amendment, insert the following:

To carry out the activities for grants to States under paragraph (3) of section 506(a) of title V of the Older Americans Act of 1965, as amended, $71,720,000.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

FEDERAL UNEMPLOYMENT BENEFITS AND ALLOWANCES

Amendment No. 12: Appropriates $75,000,000 as proposed by the Senate, instead of $56,000,000 as proposed by the House.

STATE UNEMPLOYMENT INSURANCE AND EMPLOYMENT SERVICE OPERATIONS

Amendment No. 13: Inserts Trade Act legal citation as proposed by the House and deletes citation proposed by the Senate.

Amendment No. 14: Inserts language proposed by the Senate to permit the use of Unemployment Trust fund moneys for administrative expenses of the Targeted Jobs Tax Credit and alien labor certification programs.

Amendment No. 15: Appropriates $23,500,000 as proposed by the Senate, instead of $71,400,000 as proposed by the House.

Amendment No. 16: Makes available $2,387,065,000 for the Unemployment Trust Fund, instead of $2,342,898,000 as proposed by the House and $2,426,365,000 as proposed by the Senate. The conference agreement includes $27,500,000 for administration of Targeted Jobs Tax Credit.

Amendment No. 17: Earmarks $777,398,000 for Employment Service State grants as proposed by the House, instead of $740,398,000 as proposed by the Senate.

Amendment No. 18: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the Senate amendment making available $3,767,000 for amortization payments to States which had independent retirement plans in their State Employment Service agencies prior to 1980.

Amendment No. 19: Earmarks $263,817,000 for the unemployment insurance contingency fund as proposed by the House, instead of $347,617,000 as proposed by the Senate.

LABOR-MANAGEMENT SERVICES ADMINISTRATION

SALARIES AND EXPENSES

Amendment No. 20: Appropriates $60,211,000, instead of $60,757,000 as proposed by the House and $59,666,000 as proposed by the Senate. The conference agreement includes five new positions for the Cooperative Labor-Management Program.

PENSION BENEFIT GUARANTY CORPORATION

Amendment No. 21: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the Senate amendment which establishes a limitation of $33,057,000 on the administrative expenses of the Corporation.

EMPLOYMENT STANDARDS ADMINISTRATION

SALARIES AND EXPENSES

Amendment No. 22: Appropriates $192,582,000 as proposed by the House, instead of $191,982,000 as proposed by the Senate.

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

SALARIES AND EXPENSES

Amendment No. 23: Appropriates $219,652,000 as proposed by the House, instead of $220,152,000 as proposed by the Senate.

The Department is directed to allocate $500,000 from lower-priority activities in this account to the Bureau of Labor Statistics for the purpose of conducting a study of the accuracy and quality of occupational safety and health statistics. Special attention should be paid to worksite recordkeeping. No funds are to be taken out of enforcement or safety and health standards.

BUREAU OF LABOR STATISTICS

SALARIES AND EXPENSES

Amendment No. 24: Appropriates $152,860,000, instead of $153,400,000 as proposed by the House and $148,010,000 as proposed by the Senate. The conference agreement includes $5,000,000 and 18 positions to implement a permanent mass layoff and plant closing report in all 50 States. There are not sufficient funds available at this time to implement a survey of unemployment insurance exhaustees; that survey can be reconsidered at a later time. Also included in the agreement are $1,000,000 and 20 positions for improvement of data collection related to the service sector of the economy.

Amendment No. 25: Deletes earmarking language proposed by the Senate for service sector activities.

Amendment No. 26: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the Senate amendment which provides that $4,823,000 for revision of the Consumer Price Index shall remain available until September 30, 1986.

DEPARTMENTAL MANAGEMENT

SALARIES AND EXPENSES

Amendment No. 27: Appropriates $102,330,000 as proposed by the Senate, instead of $100,730,000 as proposed by the House. The conference agreement includes an increase of 53 full-time equivalent staff for the Benefits Review Board over the number proposed in the budget request. None of these additional staff are for the Solicitor's Office. The agreement also provides for the expansion of the Board from three to nine members (five permanent and four temporary).

Amendment No. 28: Appropriates $39,323,000, instead of $39,465,000 as proposed by the House and $39,181,000 as proposed by the Senate.

The conference agreement includes an additional 3.5 full-time equivalent staff over the number proposed in the budget request.

GENERAL PROVISIONS

Amendment No. 29: Restores language proposed by the House concerning the Occupational Safety and Health Administration.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

HEALTH RESOURCES AND SERVICES ADMINISTRATION

HEALTH RESOURCES AND SERVICES

Amendment No. 30: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the Senate amendment with an amendment as follows:

In lieu of the matter inserted by said amendment insert the following:

HEALTH RESOURCES AND SERVICES

For carrying out titles III, IV, V, VII, VIII, X, and parts A and C of title XVI, and XIX of the Public Health Service Act, and 5 U.S.C. 7901, section 427(a) of the Federal Mine Health and Safety Act, and title V of the Social Security Act, $1,427,694,000, of which $2,500,000 shall be available only for payments to the State of Hawaii for care and treatment of persons afflicted with Hansen's disease and $2,500,000, to remain available until expended, shall be for demonstration grants under section 301: Provided further, That this appropriation shall be available for payment of the costs of medical care, related expenses, and burial expenses hereafter incurred by or on behalf of any person who has participated in the study of untreated syphilis initiated in Tuskegee, Alabama, in 1932, in such amounts and subject to such terms and conditions as prescribed by the Secretary of Health and Human Services and for payment, in such amounts and subject to such terms and conditions, of such costs and expenses hereafter incurred by or on behalf of such person's wife or offspring determined by the Secretary to have suffered injury or disease from syphilis contracted from such person: Provided further, That when the Department of Health and Human Services operates an employee health program for any Federal department or agency, payment for the full estimated cost may be made by way of reimbursement or in advances to this appropriation: Provided further, That during the fiscal year, and within the resources and authority available under section 338 of the Public Health Service Act, gross obligations for the principal amount of direct loans under section 335(c), 338C(e)(1), and 338E of that Act shall not exceed $1,000,000: Provided further, That none of the funds made available by this Act shall be used to provide special retention pay (bonuses) under paragraph (4) of 37 U.S.C. 302(a) to any regular or reserve officer of the Public Health Service for any period during which the officer is providing obligated service under section 338B (or under former sections 225(e) or 752) of the Public Health Service Act except that this proviso shall not apply to any period of service covered by an agreement entered into by an officer under 37 U.S.C. 302(c)(1) before the date of enactment of Public Law 97-377.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement appropriates $1,427,694,000 for Health Resources and Services activities instead of $1,455,289,000 as proposed by the Senate. The House bill deferred consideration of funding for this account due to a lack of authorizations for fiscal year 1985 at the time of House action. The conferees have agreed to the following changes to the amounts proposed by the Senate:

Home health demonstrations	−$2,000,000
National Health Service Corps	−15,000,000
Federal employee occupational health	+600,000
Payment to Hawaii	−500,000
Student Loans (new activity)	−5,000,000
Public health special projects	−6,000,000
Health professions data analysis	−1,000,000
Pacific Basin initiative	+2,500,000
Nurses training:	
Advanced nurse training.	−1,000,000
Special projects	−500,000
Traineeships	−500,000
Fellowships	−1,000,000
Anesthetists	−200,000
HRSA Program management	−495,000
Family planning	+2,500,000
Net change	−27,595,000

The bill language agreed to by the conferees maintains the traditional structure of this account. The agreement deletes new language proposed by the Senate as follows:

Language providing for a statutory set-aside of funds for a new geriatric training initiative. The conferees are agreed, however, that $5,000,000 of the total appropriation shall be for this new activity under Title VII.

Language earmarking $500,000 for a parent-child center at the Kamehameha/Bishop estate school. While the conferees have agreed to delete language proposed by the Senate which earmarks maternal and child health funds for a native Hawaiian parent-child care center, they are agreed that the needs of the native Hawaiian population for such services are especially acute. The conferees would, therefore, encourage both the State of Hawaii and the Department of Health and Human Services to consider the special needs of this population when allocating the fiscal year 1985 funds.

Language earmarking $5,000,000 for a health profession training project at the University of Hawaii. The conferees have agreed instead to modified language which provides $2,500,000 for a demonstration grant under section 301 of the Public Health Service Act. The conferees are agreed that these funds are for a multi-year project to train non-traditional health professionals to provide medical care in the severely underserved area of American Samoa and the trust territories of the Pacific Basin.

Language setting a limitation of $250,000,000 on the amount of HEAL loans which may be guaranteed by the federal government and which adjusts the insurance premium for these loans.

Language providing that any excess National Health Service Corps funds may be transferred to community health centers.

The conferees are agreed, however, that up to $15,000,000 may be reprogrammed to community health centers to cover the cost of new corps assignees without further action by the Congress. Should the Department wish to transfer more than $15,000,000 it should submit a formal reprogramming request to the Committees. The conferees have also deleted language proposed by the Senate to allow collections from NHSC scholarship obligors who are in default to be used for new scholarships.

The conference agreement includes $478,000,000 for the Maternal and Child Health Block Grant. This agreement provides for the full 15 percent which is authorized to be set aside for programs of regional or national significance. Because of the financial and health care benefits that have been achieved by the Hemophilia Comprehensive Demonstration and Treatment Centers, and because the need for this program has substantially increased due to the epidemic of acquired immune deficiency syndrome, the conferees reaffirm their support for the Hemophilia Centers Program and expect federal support for this program to be expanded under the set aside of the MCH block grant in fiscal year 1985.

Of the eight states with the highest infant mortality rates, seven are in the Southeast. High priority should be given to service provision projects in the region. An example of this kind of project would be the Low Birthweight Reduction Program undertaken by the State of South Carolina, utilizing its $1.6 million allocation from the Jobs Act. Under this program, the State was able to screen three times as many high risk mothers and newborns and to purchase access to care for more than twice as many mothers and almost twice as many newborns as in the previous year. Delivery of infants anticipated to weigh less than 1500 grams was restricted to Level 3 hospitals. It is believed that this program was largely responsible for the first statistically significant reduction in infant mortality rates in the State, a reduction from 16.1 per 1,000 live births in 1982 to 15.0 per 1,000 live births in 1983. In a state which had economic indicators worse than the national average in a period of recession, this improvement is particularly dramatic and demonstrates the effectiveness of intervention through the use of MCH dollars.

The conference agreement includes $600,000 for the Federal Employee Occupational Health program. In addition, the agreement modifies bill language to permit rather than require this program to bill federal agencies in advance for consultation services. It is the understanding of the conferees that the funding provided in fiscal year 1985 will provide for the transition of this program to a revolving fund activity with no additional direct appropriation required. It is expected, however, that this new financing procedure will not affect the level of activity of the FEOH program.

The conference agreement includes $18,000,000 for the Area Health Education Center program. Of the amount provided, the conferees direct the Department to allocate the full 10 percent permitted by law for Special Initiatives projects, and to consider as eligible to receive funds those AHECs made eligible for funding by the amendments to Title VII of the Public Health Service Act contained in both the House- and Senate-passed reauthorization bills, H.R. 5602, S. 2559, and S. 2574.

The conferees continue to be concerned with continuing shortages of Hispanic health professionals. In light of that situation, the Department should take steps to encourage through its health professionals activities, particularly the AHEC program, the recruitment and training of Hispanics in the health professions. Providing clinical opportunities for students in underserved urban areas under the guidance of an AHEC related medical school should be an integral part of this effort. The conferees request that the Department prepare a plan detailing the steps to be taken, for submission to the Committee prior to its hearings on the fiscal year 1986 budget.

The conferees have agreed to a funding level of $142,500,000 for the family planning program. By providing funding for Title X in the Health Resources and Services Administration, the conferees are agreed that the Department is expected to administer the Title X program within the Health Resources and Services Administration and to do so with competent health care professionals.

The Committee urges the Department to initiate a training and research project to examine the potential for cost reduction to the public, the ability to reach underserved areas, and the preventive health value of the independent practice of dental hygienists, conducted in accordance with applicable state law.

The conference agreement includes $5,000,000 for a new Center for Nursing Research. Legislation to create such a center is currently pending before the Congress. The conferees are agreed that the amount included in this appropriation should be made available for obligation only after authorizing legislation for such a center has cleared the Congress and has been signed into law by the President. The conferees are further agreed that the money may be transferred to another agency of the Public Health Service if the Secretary determines that the center should be located in another agency or if the authorizing legislation requires a relocation of the nursing research program.

The conferees intend that the funds approved for program management activities of the Health Resources and Services Administration should be used to maintain a staffing level for the Regional Office of Facilities Engineering and Compliance of not less than 127 Federal full-time equivalent positions.

Centers for Disease Control

DISEASE CONTROL

Amendment No. 31: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the Senate amendment which inserts revised legal citations.

Amendment No. 32: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the Senate amendment, amended to read as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following: *$410,530,000, of which $6,310,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement includes the following amounts:

AIDS research and surveillance	$18,700,000
Laboratory construction	4,500,000
Diabetes control	7,480,000
Preventive health block grant	89,500,000
Venereal diseases:	
Grants	45,510,000
Direct operations	9,477,000
Immunization:	
Grants	42,400,000
Direct operations	7,991,000
Vaccine stockpile	4,000,000
Tuberculosis grants	5,000,000

As the occupational injury control program becomes fully operational, it has become necessary to augment the existing staff to fully accomplish the program's objectives. Of the $1,500,000 increase in the NIOSH budget, $750,000 and 9 full-time equivalent positions are for occupational injury control and the remainder for longitudinal industry-wide studies.

Amendment No. 33: Deletes language proposed by the Senate which would have established an employment level of not less than 4,400 full-time equivalent positions. It is the intent of the conferees that the amounts provided for the Centers for Disease Control should be used to maintain staffing for the Centers at not less that 4,400 Federal full-time equivalent positions.

National Institutes of Health

NATIONAL CANCER INSTITUTE

Amendment No. 34: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the Senate amendment which inserts a legal citation.

Amendment No. 35: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the Senate amendment with an amendment which will appropriate $1,183,806,000 instead of $1,084,950,000 as proposed by the House and $1,187,693,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

NATIONAL HEART, LUNG AND BLOOD INSTITUTE

Amendment No. 36: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the Senate amendment which changes legal citations.

Amendment No. 37: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the Senate amendment with an amendment which will appropriate $805,269,000 instead of $764,135,000 as proposed by the House and $807,149,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

NATIONAL INSTITUTE OF DENTAL RESEARCH

Amendment No. 38: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the Senate amendment which inserts a legal citation.

Amendment No. 39: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the amendment of the Senate with an amendment which will appropriate $100,688,000 instead of $95,826,000 as proposed by the House and $98,451,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees are agreed that the appropriation includes $13,301,000 for dental research institutes and centers, as proposed by the House.

NATIONAL INSTITUTE OF ARTHRITIS, DIABETES, AND DIGESTIVE AND KIDNEY DISEASES

Amendment No. 40: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the Senate amendment which inserts a legal citation.

Amendment No. 41: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the Senate amendment with an amendment which will appropriate $543,576,000 instead of $515,516,000 as proposed by the House and $545,551,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

NATIONAL INSTITUTE OF NEUROLOGICAL AND COMMUNICATIVE DISORDERS AND STROKE

Amendment No. 42: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the Senate amendment which inserts a legal citation.

Amendment No. 43: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the Senate amendment with an amendment which will appropriate $396,885,000 instead of $379,520,000 as proposed by the House and $401,403,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

A 1983 report presented to the Senate Appropriations Committee entitled "Research Opportunities and Needs of the NINCDS in the Neurological and Communicative Sciences" highlighted the fact that research in the neurological sciences is on the threshold of major advances and breakthroughs in the understanding of the human nervous system. Accordingly, the conferees direct that five new Centers of Excellence, to be called the Jacob Javits Centers, be established in 1985. These centers should be dedicated to finding the cause, means of prevention, and cure for neurological diseases, and shall be designed so that multidisciplinary teams of the most capable scientists would address fundamental biological issues of nervous system structures and function.

NATIONAL INSTITUTE OF ALLERGY AND INFECTIOUS DISEASES

Amendment No. 44: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the Senate amendment which inserts a legal citation.

Amendment No. 45: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the Senate amendment with an amendment which will appropriate $370,965,000 instead of $355,728,000 as proposed by the House and $375,091,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

NATIONAL INSTITUTE OF GENERAL MEDICAL SCIENCES

Amendment No. 46: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the Senate amendment which inserts a legal citation.

Amendment No. 47: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the Senate amendment with an amendment which will appropriate $482,260,000 instead of $412,987,000 as proposed by the House and $495,150,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

NATIONAL INSTITUTE OF CHILD HEALTH AND HUMAN DEVELOPMENT

Amendment No. 48: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the Senate amendment which inserts a legal citation.

Amendment No. 49: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the Senate amendment with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment insert: *$313,295,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The House bill provided $296,929,000. The Senate bill provided $316,100,000 and earmarked $4,000,000 for Orphan Drug Research and Development Grants. The conference agreement provides a total of $313,295,000 and eliminates the earmarking language.

NATIONAL EYE INSTITUTE

Amendment No. 50: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the Senate amendment which inserts a legal citation.

Amendment No. 51: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the Senate amendment with an amendment which will appropriate $181,678,000 instead of $171,097,000 as proposed by the House and $187,181,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

NATIONAL INSTITUTE OF ENVIRONMENTAL HEALTH SCIENCES

Amendment No. 52: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the Senate amendment which change legal citations.

Amendment No. 53: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the Senate amendment with an amemdment which will appropriate $194,819,000 instead of $189,437,000 as proposed by the House and $191,908,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

NATIONAL INSTITUTE ON AGING

Amendment No. 54: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the Senate amendment which inserts a legal citation.

Amendment No. 55: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the Senate amendment with an amendment which will appropriate $144,521,000 instead of $140,102,000 as proposed by the House and $144,799,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

RESEARCH RESOURCES

Amendment No. 56: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the Senate amendment which inserts a legal citation.

Amendment No. 57: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the Senate amendment with an amendment which will appropriate $304,025,000 instead of $303,531,000 as proposed by the House and $303,498,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

JOHN E. FOGARTY INTERNATIONAL CENTER

Amendment No. 58: Appropriates $11,728,000 instead of $11,526,000 as proposed by the House and $11,929,000 as proposed by the Senate.

NATIONAL LIBRARY OF MEDICINE

Amendments Nos. 59 and 60: Appropriates $52,410,000 instead of $43,820,000 as proposed by the House and $53,500,000 as proposed by the Senate and deletes language proposed by the Senate which would have made available not to exceed $10,000,000 to be derived from the exchange or sale of services or materials authorized by section 382 of the Public Health Service Act. With respect to funding for a bioethics information and retrieval system, the Library is expected to provide the funds and follow the language specified in the Senate report (Senate Report 98-544).

OFFICE OF THE DIRECTOR

Amendment No. 61: Appropriates $38,304,000 instead of $47,509,000 as proposed by the House and $29,100,000 as proposed by the Senate.

Amendment No. 62: Provides that $10,000,000 of the foregoing amount shall remain available until September 30, 1986, instead of $20,000,000 as proposed by the House. The Senate bill contained no similar provision.

The conferees have agreed that with regard to minority research centers the Director of the National Institutes of Health should follow instructions contained in the report accompanying the House bill (House Report 98-911). Further, the conferees direct the Director of the National Institutes of Health to submit a plan for implementation to the Committees on Appropriations by December 1, 1984.

BUILDINGS AND FACILITIES

Amendment No. 63: Appropriates $21,730,000 as proposed by the House instead of $21,700,000 as proposed by the Senate. The conferees are agreed that the appropriation includes $500,000 to update the design of the building for the National Institute of Child Health and Human Development, as proposed by the House.

ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH ADMINISTRATION

ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH

Amendment No. 64: Appropriates $922,621,000 instead of $934,679,000 as proposed by the Senate and $405,318,000 as proposed by the House. The conference agreement includes $512,028,000 for activities not considered by the House due to a lack of authorizing legislation at the time of House action. The conference agreement includes the following changes from the amounts proposed by the Senate:

Mental health services demonstrations (CSP)	−$1,500,000
Mental health research	−634,000
Mental health research training	−3,228,000
Mental health clinical training	−3,000,000

Drug abuse research	−1,479,000
Drug abuse research training	−712,000
Alcohol research	−1,068,000
Alcohol research training	−437,000
Net change	−12,058,000

The conference agreement on mental health and drug abuse research includes funding for studies regarding Acquired Immune Deficiency Syndrome as requested by the Assistant Secretary for Health in his recommendations to the Secretary dated May 25, 1984.

The conference agreement includes $22,000,000 for mental health clinical training. The conferees reiterate their concern that all clinical training initiatives within the jurisdiction of the NIMH should be interdisciplinary in nature, wherever possible. The conferees are especially interested in ensuring that NIMH initiate a prevention clinical training program this year, given the growing importance of this area for the mental health field.

Amendment No. 65: Deletes language proposed by the Senate which would have provided for a specific employment level in the law. The conferees are agreed, however, that the amount agreed to is intended to fund a minimum of 1,664 full-time equivalent positions.

OFFICE OF ASSISTANT SECRETARY FOR HEALTH

PUBLIC HEALTH SERVICE MANAGEMENT

Amendment No. 66: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the amendment of the Senate, amended to read as follows:

In lieu of the matter proposed by said amendment, insert the following:

PUBLIC HEALTH SERVICE MANAGEMENT

For the expenses necessary for the Office of Assistant Secretary for Health and for carrying out titles III and XX of the Public Health Service Act, $101,803,000, of which $250,000 shall be available for design and facility planning under section 305(b)(3) of the Public Health Service Act, together with not to exceed $1,050,000 to be transferred and expended as authorized by section 201(g) of the Social Security Act, from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds referred to therein and, in addition, amounts collected by the National Center for Health Statistics from the sale of data tapes shall be credited to this appropriation and shall remain available until expended: Provided, That section 2008(g) does not apply to these programs.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement includes the Senate amount for each activity in this account.

HEALTH CARE FINANCING ADMINISTRATION

GRANTS TO STATES FOR MEDICAID

Amendment No. 67: Appropriates $16,293,491,000 as proposed by the Senate instead of $15,661,000,000 as proposed by the House.

PAYMENTS TO HEALTH CARE TRUST FUNDS

Amendment No. 68: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the amendment of the Senate amended to read as follows:

In lieu of the sum proposed by said amendment insert the following: *$18,750,000,000.*

The managers on the part of the Senate will offer a motion to concur in the amendment of the House to the amendment of the Senate.

PROGRAM MANAGEMENT

Amendment No. 69: Appropriates $98,147,000 instead of $98,781,000 as proposed by the Senate and $96,247,000 as proposed by the House.

The conference agreement includes $1,900,000 and 57 positions for increased monitoring of and technical assistance to the Intermediate Care Facilities for the Mentally Retarded, which the conferees believe will be sufficient for the initial year of intensified activity in this area. The conferees expect that the Department will move expeditiously to hire these additional health care and developmental disability specialist personnel, who will work with the institutions to assist in moving individuals inappropriately placed in institutions into community settings.

Amendment No. 70: Provides for a limitation of $1,084,779,000 on the amount of funds which can be spent from the Medicare trust funds for administrative costs as proposed by the Senate, instead of $1,084,488, as proposed by the House.

SOCIAL SECURITY ADMINISTRATION

SPECIAL BENEFITS FOR DISABLED COAL MINERS

Amendment No. 71: Includes citation proposed by the Senate which makes the indefinite appropriation included in both bills effective after July 31. The House bill provided for an effective date of September 1.

Amendment No. 72: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the Senate amendment which provides that advance appropriations for fiscal year 1986 remain available until expended.

SUPPLEMENTAL SECURITY INCOME PROGRAM

Amendment No. 73: Appropriates $9,361,786,000 instead of $9,328,076,000 as proposed by the House and $9,399,076,000 as proposed by the Senate.

Amendment No. 74: Includes citation proposed by the Senate which makes the indefinite appropriation included in both bills effective after July 31. The House bill provided an effective date of August 15.

ASSISTANCE PAYMENTS

Amendment No. 75: Appropriates $6,170,000,000 as proposed by the Senate instead of $4,871,025,000 as proposed by the House.

Amendment No. 76: Appropriates $2,095,000,000 as proposed by the Senate instead of $1,812,840,000 as proposed by the House.

CHILD SUPPORT ENFORCEMENT

Amendment No. 77: Appropriates $497,000,000 as proposed by the Senate instead of $425,411,000 as proposed by the House. The conferees are agreed that this amount includes $5,100,000 to support audit activities in the Office of Child Support Enforcement as required by Title IV of the Social Security Act.

LOW INCOME HOME ENERGY ASSISTANCE

Amendment No. 78: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the amendment of the Senate amended to read as follows:

In lieu of the matter inserted by said amendment insert the following:

LOW INCOME HOME ENERGY ASSISTANCE

For carrying out title XXVI of the Omnibus Budget Reconciliation Act of 1981, $2,100,000,000.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement includes $2,100,000,000 for the Low Income Home Energy Assistance program instead of $2,140,000,000 as proposed by the Senate. The House bill did not include an appropriation for this program due to a lack of authorizing legislation at the time of House action.

LIMITATION ON ADMINISTRATION EXPENSES

Amendment No. 79: Provides for a limitation of $3,787,515,000 on the amount of Social Security trust funds which may be expended for administrative purposes instead of $3,784,515,000 as proposed by the House and $3,790,515,000 as proposed by the Senate.

Amendment No. 80: Restores language stricken by the Senate which requires that Social Security cards be manufactured in the United States.

HUMAN DEVELOPMENT SERVICES

Amendment No. 81: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the amendment of the Senate with an amendment, as follows:

In lieu of the sum of $2,003,704,000 proposed by said amendment, insert the following: *$1,996,154,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement includes the following amounts:

Head Start	$1,075,059,000
Child Abuse:	
State grants	9,000,000
Discretionary	17,000,000
Runaway Youth	23,250,000
Programs for Aging:	
Support services	265,000,000
Congregate meals	336,000,000
Home-delivered meals	67,900,000
Grants to Indians	7,500,000
Research and training	25,000,000
Federal Council on Aging	200,000
Native American programs	29,000,000
Development Disabilities:	
State grants	50,250,000
Protection and advocacy	13,750,000
Special projects	2,700,000
University affiliated facilities	9,000,000
Program direction	65,545,000

The conferees direct the HHS Office of Human Development Services to continue funding at the present level of support through fiscal year 1985 those regional resource centers for children, youth and families that have not been able to locate alternative sources of funding.

With regard to Programs for the Aging, the conferees believe that supplemental action may likely be needed early next year in order to take into account recent Congressional reauthorizations contained in the Older Americans Act Amendments of 1984.

FAMILY SOCIAL SERVICES

Amendment No. 82: Revises legal citations as proposed by the Senate.

Amendment No. 83: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in

the Senate amendment which appropriates $690,902,000 instead of $651,902,000 as proposed by the House, and inserts legal citation for title II of Public Law 95-266 (adoption opportunities).

WORK INCENTIVES

Amendment No. 84: Appropriates $266,760,000 as proposed by the House, instead of $270,760,000 as proposed by the Senate.

OFFICE OF COMMUNITY SERVICES

COMMUNITY SERVICES BLOCK GRANT

Amendment No. 85: Appropriates $372,435,000, instead of $362,300,000 as proposed by the House and $382,572,000 as proposed by the Senate. The conference agreement includes $335,000,000 for grants to States.

Amendment No. 86: Earmarks $19,920,000 for community economic development instead of $19,360,000 as proposed by the House and $20,480,000 as proposed by the Senate.

Amendment No. 87: Earmarks $4,050,000 for rural housing, instead of $3,920,000 as proposed by the House and $4,175,000 as proposed by the Senate.

Amendment No. 88: Earmarks $3,035,000 for migrant and seasonal farmworkers, instead of $2,940,000 as proposed by the House and $3,130,000 as proposed by the Senate.

Amendment No. 89: Earmarks $6,130,000 for the National Youth Sports Program, instead of $6,000,000 as proposed by the House and $6,260,000 as proposed by the Senate.

Amendment No. 90: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the Senate amendment which provides for a waiver for certain States of the so-called "90 percent pass-through" requirement.

DEPARTMENTAL MANAGEMENT

OFFICE OF THE INSPECTOR GENERAL

Amendment No. 91: Appropriates $53,391,000 as proposed by the House instead of $58,491,000 as proposed by the Senate.

Amendment No. 92: Deletes earmarking of $5,100,000 as proposed by the Senate for carrying out audits under section 452(a)(4) of the Social Security Act.

OFFICE FOR CIVIL RIGHTS

Amendment No. 93: Appropriates $17,850,000 as proposed by the Senate instead of $18,945,000 as proposed by the House.

POLICY RESEARCH

Amendment No. 94: Appropriates $9,750,000 as proposed by the Senate instead of $8,500,000 as proposed by the House.

The conferees expect the Secretary to comply with the language pertaining to the Multi-Regional Policy Impact Simulation Model project contained in the House Report accompanying H.R. 6028.

Amendment No. 95: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the amendment of the Senate which earmarks $1,750,000 to continue research on poverty conducted by the Institute for Research on Poverty.

GENERAL PROVISIONS

Amendment No. 96: Restores language inserted by the House but deleted by the Senate relating to State employees.

Amendment No. 97: Restores language inserted by the House but deleted by the Senate requiring cost sharing by research grant recipients.

Amendment No. 98: Changes section number.

Amendment No. 99: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the Senate amendment which inserts language making appropriations available for carrying out section 472 of the Public Health Service Act. The House bill did not contain this provision.

Amendment No. 100: Changes section number.

Amendment No. 101: Reported in disagreement.

Amendments No. 102 through No. 105: Change section numbers.

Amendment No. 106: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the Senate amendment which provides that amounts received from employees of the Department in payment for room and board may be credited to various appropriation accounts of the Public Health Service.

Amendment No. 107: Changes section number.

Amendment No. 108: Deletes language proposed by the Senate which would have provided that "notwithstanding any provision of law, funds provided to the National Institutes of Health by this Act shall be used to maintain not less than 13,507 Federal full-time equivalent positions". The House bill contained no similar provision. It is the intent of the conferees that the amounts provided for the National Institutes of Health should be used to maintain staffing for the Institutes at not less than 13,507 Federal full-time equivalent positions.

Amendment No. 109: Deletes language proposed by the Senate which would have provided that "none of the funds provided in this or any other Act may be expended to bill persons receiving services from the National Institutes of Health Clinical Center in order to collect from third party payees, not to charge those persons who may have financial means to pay, unless and until such time as Congress has agreed upon a specific policy to do so, and has directed the Secretary of Health and Human Services to implement such a policy". The House bill contained no similar provision. Both the House and Senate conferees reiterate their opposition to any charges to patients for care at the National Institutes of Health Clinical Center.

TITLE III—DEPARTMENT OF EDUCATION

COMPENSATORY EDUCATION FOR THE DISADVANTAGED

Amendment No. 110: Appropriates $3,688,163,000 instead of $3,680,000,000 as proposed by the House and $3,696,620,000 as proposed by the Senate.

Amendment No. 111: Earmarks $5,246,000 for technical assistance and evaluation activities instead of $5,746,000 as proposed by the House and $4,746,000 as proposed by the Senate.

Amendment No. 112: Earmarks $264,524,000 for State agency migrant programs instead of $258,024,000 as proposed by the House and $271,024,000 as proposed by the Senate.

Amendment No. 113: Earmarks $150,170,000 for State agency programs for the handicapped instead of $146,520,000 as proposed by the House and $153,820,000 as proposed by the Senate.

Amendment No. 114: Earmarks $35,607,000 for State administration instead of $36,800,000 as proposed by the House and $34,414,000 as proposed by the Senate.

SPECIAL PROGRAMS

Amendment No. 115: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment insert the following:

1981, $531,909,000, of which $31,909,000 shall be for programs and projects authorized under subchapter D of said Act, including $10,700,000 for programs and projects authorized under subsection 583(a)(1) of said Act; $6,052,000 shall be used for awards, which, except for educational television programming, are not to exceed a cumulative amount of $1,000,000 to any recipient for national impact demonstration or research projects; $7,000,000 for activities authorized under subsection 583(b)(1) of said Act; $3,157,000 for progams authorized under subsection 583(b)(2) of said Act; $3,000,000 for programs authorized under subsection 583(b)(3) of said Act; and $2,000,000 for activities authorized under subsection 583(b)(4) of said Act: Provided, That $500,000,000 to carry out the State block grant program authorized under chapter 2 of said Act shall become available for obligation on July 1, 1985, and shall remain available under September 30, 1986: Provided further, That $31,909,000 for the purpose of subchapter D of said Act shall become available for obligation on October 1, 1984.

For grants to State education agencies and desegregation assistance centers authorized under section 403 of the Civil Rights Act of 1964, $24,000,000.

For carrying out activities authorized under title IX, part C of the Elementary and Secondary Education Act, $6,000,000.

For carrying out activities authorized under section 1524 of the Education Amendments of 1978, $2,700,000.

For carrying out activities authorized under section 1525 of the Education Amendments of 1978, $2,000,000.

For carrying out activities authorized under Public Law 92-506, as amended, $1,500,000: Provided, That said sum shall become available on July 1, 1985, and shall remain available until September 30, 1986.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees have agreed to $531,909,000 for Chapter 2, nearly $200 million below the President's request and about $150 million below the House level. The conferees are concerned that a disproportionate share of Federal education funds, and Chapter 2 funds in particular, are not being effectively used to improve education or accomplish the principal objectives of the law but instead end up supporting administrative personnel in State education agencies rather than classroom instruction.

Education in this country has traditionally been a State and local responsibility. The conferees are of the opinion that support of State education administrative personnel should be part of that responsibility.

However available information indicates that while Federal dollars make up only 8% of the funds going to American schools, 50% of the State education administrative staff costs are now paid by the Federal government. In a number of States 100% of the State share of Chapter 2 funds go for activi-

ties which appear to be purely administrative in nature according to data provided by the States themselves to the U.S. Department of Education.

The Conferees have elected not to include restrictive language in the bill for fiscal year 1985; but instead urge the authorizing committees to fully examine the problem, and the Department of Education and the States to report on (1) the extent to which Federal funds are being used for internal operations of State departments of education, (2) the steps which can be used to curtail the use of Federal funds for adminsitrative and State staffing purposes and (3) to develop legislative proposals which will insure that the resources available at the Federal level are more effectively targeted to national priorities including equal access to schools and improved excellence in education.

With the funds earmarked for each of the programs within the Secretary's Discretionary fund and the Special Programs outside the Chapter 2 block grant, the Department is directed to apply the funds first to the ongoing 1984 projects and activities that have not received the full amount of their funding commitments due to the freeze on fiscal year 1984 funds in effect as a result of ongoing litigation. Should the frozen 1984 funds subsequently be released, the conferees direct that those funds shall be used to repay the advances made form 1985 funds.

The conferees understand funding is available in the Secretary's Chapter 2 discretionary fund and expect the Secretary of Education to provide support to those secondary education demonstration projects in the Biomedical Sciences Program that were in operation. These projects assisted 1,100 low income students in pursuing careers in biomedical sciences through intensive and individualized instruction, counseling and guidance, and exposure to professionals in the biomedical sciences. Not to fulfill this expectation is to seriously restrict the students' opportunity for success and greatly diminish the three year investment made in this program.

The conferees expect the Secretary to continue funding for educational television programs, especially in the area of science and mathematics, and urge that not less than $3,000,000 be spent for such purposes within the Secretary's discretionary account under the Chapter 2 block grant.

Amendment No. 116: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum of $5,000,000 named in said amendment, insert: *$4,000,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees reaffirm their understanding that a local educational agency need meet only one of the three eligibility standards set out under section 702 of the Emergency Mathematics and Science and Education and Jobs Act in order to qualify for funding. The conferees also indicate their intent that the Department should make as great an effort to address the need for funding of smaller cities attempting to implement desegregation plans as to address the need of larger cities.

SCIENCE AND MATH EDUCATION

Amendment No. 117: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the amendment of the Senate with an amendment, as follows:

In lieu of the amount proposed by said amendment, insert the following: *$100,000,000*

The mangers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

EXCELLENCE IN EDUCATION PROGRAM

Amendment No. 118: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the amendment of the Senate with an amendment, as follows:

In lieu of the amount proposed by said amendment, insert the following: *$5,000,000*

The mangers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

BILINGUAL EDUCATION

Amendment No. 119: Appropriates $142,951,000 instead of $143,656,000 as proposed by the House and $142,245,000 as proposed by the Senate. The conference agreement includes $99,230,000 for grants to school districts; $28,500,000 for training grants; and, $11,535,000 for support services.

With regard to support services, the conferees intend that a portion of the funds will be made available for the start-up of evaluation assistance centers. Preference shall be given to institutions of higher education in the awarding of evaluation centers.

SCHOOL ASSISTANCE IN FEDERALLY AFFECTED AREAS

Amendment No. 120: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the Senate amendment with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following:

SCHOOL ASSISTANCE IN FEDERALLY AFFECTED AREAS

For carrying out title I of the Act of September 30, 1950, as amended (20 U.S.C. ch. 13), $675,000,000 of which $22,000,000 shall be entitlements under section 2 of said Act, $10,000,000, which shall remain available until expended, shall be for payments under section 7 of said Act and $643,000,000 shall be for entitlements under section 3 of said Act of which $513,000,000 shall be for entitlements under section 3(a) of said Act: Provided, That payment with respect to entitlements under section 3(a) to any local educational agency described in section 3(d)(1)(A) of said Act shall be at 100 per centum of entitlement except that payment to such agency attributable to children who reside on property which is described in section 403(1)(C) of said Act shall be limited to 15 per centum of entitlement: Provided further, That payment with respect to entitlements under section 3(a) to any local educational agency not described in section 3(d)(1)(A) shall be ratably reduced from 100 per centum of entitlement except that payment to such agency attributable to children who reside on property which is described in section 403(1)(C) shall be ratably reduced from 15 per centum of entitlement: Provided further, That payment with respect to entitlements under section 3(b) of said Act to any local educational agency in which 20 per centum or more of the total average daily attendance is made up of children determined eligible under section 3(b) shall be at 60 per centum of entitlement and payment with respect to entitlements under section 3(b) of said Act to any local educational agency in which less than 20 per centum of the total average daily attendance is made up of children determined eligible under section 3(b) shall be ratably reduced from 100 per centum of entitlement: Provided further, That the provisions of section 5(c) of said Act shall not apply to funds provided herein: Provided further, That section 305(b)(2) of the Education Amendments of 1974 shall not apply to funds provided herein: Provided further, That no payments shall be made under section 7 of said Act to any local educational agency whose need for assistance under that section fails to exceed the lesser of $10,000 or 5 per centum of the district's current operating expenditures during the fiscal year preceding the one in which the disaster occurred: Provided further, That in determining entitlements under section 3 of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), the local contribution rate for each local educational agency shall not be less than the local contribution rate for that agency for fiscal year 1984 increased by the percentage increase (if any) in the national average per pupil expenditure for fiscal year 1984 from fiscal year 1983: Provided further, That section 3(d)(2)(B) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), is amended by inserting at the end thereof the following new sentence: "In carrying out the provisions of this subparagraph, the Secretary shall not prorate the amounts computed under this subparagraph attributable to the number of children determined under subsection (a) or (b), or both.": Provided further, That the second sentence of section 3(d)(2)(B) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), is amended by striking out "The" and inserting in lieu thereof "Subject to the provisions of subsection (h) of this section, the", and section 3 of such Act is amended by adding at the end thereof the following new subsection:

"SPECIAL PROVISIONS

"(h) Any local educational agency for which the boundaries of the school district of such agency are coterminous with the boundaries of a military installation and which is not eligible to receive payments under subsection (d)(2)(B) shall receive 100 percent of the amounts to which such agency is entitled under subsection (a) of this section.".

For carrying out the Act of September 23, 1950, as amended (20 U.S.C. ch. 19), $20,000,000 which shall remain available until expended, shall be for providing school facilities as authorized by said Act, of which $8,500,000 shall be for awards under section 10 of said Act, $8,500,000 shall be for awards under sections 14(a) and 14(b) of said Act, and $3,000,000 shall be for awards under section 5 and 14(c) of said Act.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

EDUCATION FOR THE HANDICAPPED

Amendment No. 121: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the amount proposed by said amendment, insert: *$1,321,270,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement includes the following amounts:

State grants:	
State grant program	$1,135,145,000
Preschool incentive grants	29,000,000
Special purpose funds:	
Severely handicapped projects	4,300,000
Early childhood education	22,500,000
Secondary and transitional services	6,330,000
Postsecondary programs	5,300,000
Innovation and development	16,000,000
Media services and captioned films	16,500,000
Regional resource centers	6,000,000
Recruitment and information	1,025,000
Special education personnel development	61,000,000
Special studies	3,170,000

Amendment Nos. 122 and 123: Earmark $1,135,145,000 for section 611 of the Education of the Handicapped Act (State grant program) as proposed by the Senate instead of $1,125,000,000 as proposed by the House.

Amendment No. 124: Earmarks $29,000,000 for section 619 of the Education of the Handicapped Act (preschool incentive grants) instead of $29,330,000 as proposed by the House and $28,000,000 as proposed by the Senate.

Amendment No. 125: Earmarks $61,000,000 for Part D of the Education of the Handicapped Act (special education personnel development) as proposed by the Senate. The House bill does not include an earmark for this purpose.

Amendment No. 126: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the amendment of the Senate which earmarks $500,000 for the Theater of the Deaf. The house bill does not include an earmark for this purpose.

REHABILITATION SERVICES AND HANDICAPPED RESEARCH

Amendment No. 127: Appropriates $1,233,300,000 instead of $1,215,400,000 as proposed by the House and $1,253,265,000 as proposed by the Senate.

The conference agreement provides the following amounts:

Basic State grants	$1,100,000,000
Service projects:	
Projects with industry	14,400,000
Severely disabled	14,635,000
Client assistance	6,300,000
Recreation	2,100,000
Independent living	27,000,000
Training	22,000,000
National Institute of Handicapped Research	39,000,000

The conferees are agreed that the bill includes an amount to continue funding the existing programs for training interpreters to meet the needs of deaf individuals.

Amendment No. 128: Earmarks $1,098,707,247 for section 100(b)(1) of the Rehabilitation Act instead of $1,091,395,600 as proposed by the House and $1,116,477,953 as proposed by the Senate.

Amendment No. 129: Earmarks $1,292,753 for selection 110(b)(3) of the Rehabilitation Act instead of $1,404,400 as proposed by the House and $1,022,047 as proposed by the Senate.

Amendment No. 130: Earmarks $4,200,000 proposed by the Senate for continued operation of the Helen Keller National Center for Deaf-Blind Youths and Adults. The House bill does not earmark funds for this purpose.

Amendment No. 131: Deletes earmark of $500,000 proposed by the Senate. The conferees understand that the amount provided for the Rehabilitation Services and Handicapped Research appropriation account includes an amount to support the special olympics. The Secretary shall allocate these funds for the 1985 International Winter Special Olympic Games.

VOCATIONAL AND ADULT EDUCATION

Amendment Nos. 132, 133, and 134: Make technical changes as proposed by the Senate.

STUDENT FINANCIAL ASSISTANCE

Amendment No. 135: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following:

subparts 1, 2, and 3 of part A, and parts C and E of title IV of the Higher Education Act, $4,871,000,000 which shall remain available until September 30, 1986, of which $412,500,000 shall be available for carrying out subpart 2 of part A of title IV of the Higher Education Act, and $250,000,000 shall be available to pay deficiencies resulting from the payment schedules for Pell Grants published by the Secretary of Education for academic year 1983-84 and academic year 1984-85

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 136: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the amendment of the Senate waiving section 411(a)(2)(A)(i) and section 411(b)(5) of the Higher Education Act.

Amendment No. 137: Restores to $2,100 the maximum Pell grant a student may receive as proposed by the House instead of $2,000 as proposed by the Senate.

Amendment No. 138: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment insert the following:

: Provided further, That the cost of attendance criteria used for calculating eligibility for and the amount of the Pell Grants for academic year 1985-1986 shall be the same as the cost of attendance criteria used for academic year 1984-1985: Provided further, That notwithstanding section 413D(a), and subsections (a), (b), (c), and (e) of section 442 of the Higher Education Act, the Secretary shall apportion funds among the States so that each State's apportionment under the Supplemental Educational Opportunity Grant Program and Work-Study Program bears the same ratio to the total amount appropriated under each program as that State's apportionment in fiscal year 1981 for each program bears to the total amount appropriated for fiscal year 1981 for each program: Provided further, That notwithstanding section 413D(b)(1)(B)(ii) and section 446(a) of the Higher Education Act, from each jurisdiction's allotment of funds under each program, the Secretary shall allocate sums to institutions in that jurisdiction that did not receive an allocation in fiscal year 1979 (award year 1979-1980) under each program in a manner that will most effectively carry out the purposes of the Supplemental Educational Opportunity Grant Program and the Work-Study Program: Provided further, that notwithstanding section 413D(b)(1)(B)(ii)(II) of the Higher Education Act, the provisions of clause (I) of section 413D(b)(1)(B)(ii) of such Act shall apply to the amount made available for Supplemental Educational Opportunity Grants under this heading.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

GUARANTEED STUDENT LOANS

Amendment No. 139: Appropriates $3,079,477,000 as proposed by the Senate instead of $3,046,000,000 as proposed by the House.

HIGHER EDUCATION

Amendment No. 140: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment insert the following:

For carrying out title III of the Higher Education Act of 1965, as amended, $141,208,000

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees agree with the intent of Senate amendment and accompanying language in Senate Report 98-544 that title III funds under part A should reach developing institutions serving Virgin Island and Native American Pacific Island (including Native Hawaiian) students. Further, the conferees are aware that the unique nature of many of these postsecondary institutions has made it very difficult for them to meet all the requirements of the title III program.

The Secretary of Education has the authority under section 1204 of the Higher Education Act to modify any programs under that Act as necessary to adapt such programs to the needs of Guam, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands. The conferees, therefore, direct the Secretary to provide technical assistance to, and work jointly with, the governments of these territories to include the title III program in any memorandum of understanding governing the implementation of section 1204. The conferees further direct the Secretary to provide institutions in these territories and the University of Hawaii, including its community college system, with whatever technical assistance is necessary to ensure that sufficient funds are allocated to address the pressing educational needs of the Native American Peoples.

The Senate bill also intended that title III funds be allocated to institutions serving American Indians, Native Alaskans, and Hispanic populations. The conferees direct the Secretary, to the fullest extent possible, to use the waiver authority provided to him in section 342 of title III of the Higher Education Act, as well as any other means available under law and regulation, including technical assistance, to provide title III funds to eligible institutions which have an enrollment of at least 5 percent American Indians or Native Alaskans and to eligible institutions, located other than in Puerto Rico, which have an enrollment of at least 40 percent Hispanic students.

Amendment No. 141: Reported in technical disagreement. The managers on the part of the House will move to recede and concur

in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment insert the following:

For carrying out subpart 4 of part A of title IV; titles VI, VII, VIII, and X, parts B, C, D, and E of title IX; and sections 420, 734, and 1204(c) of the Higher Education Act of 1965, as amended; section 506 of the Education Amendments of 1972, as further amended by title XIII, part G, section 1361(a)) of the Education Amendments of 1980; title XIII, part H, subpart 1 of the Education Amendments of 1980; section 102(b)(6) of the Mutual Educational and Cultural Exchange Act of 1961; and the Minority Institutions Science Improvement Program under section 528(3) of the Onmibus Budget Reconciliation Act of 1981 as extended by section 414 of the General Education Provisions Act, $315,875,000: Provided, That $18,775,000 made available for interest subsidy grants under section 734 of the Higher Education Act and $28,000,000 made available for undergraduate and graduate facilities grants under part B of title VII of said Act shall remain available until expended: Provided further, That sections 922(b)(2) and 922(e)(2) and the funding limitations set forth in section 922(e) of the Higher Education Act shall not apply to funds in this Act.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement includes the following amounts:

Special programs for the disadvantaged	$174,940,000
Fund for the improvement of postsecondary education	12,710,000
Minority institutions science improvement	5,000,000
International education:	
Domestic programs	26,550,000
Overseas programs	5,500,000
Graduate and professional opportunity fellowships	11,750,000
National graduate fellows	2,500,000
Academic facilities grants	28,000,000
Robert A. Taft Institute	750,000
Land grant endowments to American Samoa & Micronesia	6,000,000
Assistance to Guam for postsecondary education.	500,000
Legal training for the disadvantaged	1,500,000

The conferees have allowed $2,000,000 within the total for the fund for the improvement of postsecondary education to be used to provide two year funding grants to a small number of geographically diverse schools of education which submit quality proposals for innovative reform of curriculum, student recruitment and degree requirements in graduate schools of education.

Amendment No. 142: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the amendment of the Senate, with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following:

For carrying out title III, sections 301, 302, 303, and 304 of H.R. 2878, "The Library Services and Construction Act Amendments of 1984", as contained in conference report No. 98-1075, $22,000,000.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

HIGHER EDUCATION FACILITIES LOANS AND INSURANCE

Amendments Nos. 143 through 145: Restore technical language proposed by the House and delete technical language proposed by the Senate.

COLLEGE HOUSING LOANS

Amendment Nos. 146 through 151: Restore technical language proposed by the House and delete technical language proposed by the Senate.

EDUCATIONAL RESEARCH AND STATISTICS

Amendment No. 152: Appropriates $59,978,000 instead of $62,978,000 as proposed by the House and $56,978,000 as proposed by the Senate.

The conferees agree to provide the National Institute of Education (NIE) with a $3,000,000 increase over the 1984 level. The conferees intend that these additional funds be used for a targeted program of grants for colleges and universities that will acquaint their faculties with recent advances in educational research. This program will enable these institutions to restructure their course offerings to take advantage of recent research findings relating to teacher behavior and student performance. The conferees intend that the program be a small-grant competition among schools, colleges, and departments of education located in institutions of higher education. Priority should be given to those proposals that include the involvement of NIE's regional laboratories and research centers.

LIBRARIES

Amendment No. 153: Inserts legal citation proposed by the Senate.

Amendment No. 154: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum proposed by said amendment insert: *$125,000,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement includes the following amounts:

Public library services	$75,000,000
Interlibrary cooperation	18,000,000
Library training and demonstrations	1,000,000

Amendment No. 155: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum named in said amendment insert: *$25,000,000.*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

SPECIAL INSTITUTIONS

AMERICAN PRINTING HOUSE FOR THE BLIND

Amendment No. 156: Inserts citation and language proposed by the Senate.

GALLAUDET COLLEGE

Amendment No. 157: Appropriates $58,700,000 as proposed by the House instead of $56,700,000 as proposed by the Senate, and inserts language proposed by the Senate specifying certain activities supported within the amount provided.

HOWARD UNIVERSITY

Amendment No. 158: Inserts legal citation proposed by the Senate.

Amendment No. 159: Restores language proposed by the House and deleted by the Senate relating to policies and procedures for an endowment matching grant.

Amendment No. 160: Deletes language proposed by the House relating to the availability of the General Services Administration for supervising construction activities.

DEPARTMENTAL MANAGEMENT

Salaries and Expenses

Amendment No. 161: Deletes language regarding Department staffing levels as proposed by the Senate.

It is the intent of the conferees that the amounts provided for salaries and expenses should be used to maintain staffing at not less than 3,864 Federal full time equivalent positions.

Amendment No. 162: Appropriates $241,075,000 as proposed by the House instead of $241,500,000 as proposed by the Senate.

OFFICE FOR CIVIL RIGHTS

Amendment No. 163: Appropriates $45,000,000 as proposed by the Senate instead of $42,633,000 as proposed by the House.

Amendment No. 164: Deletes language regarding Office for Civil Rights staffing levels as proposed by the Senate.

It is the intent of the conferees that the amounts provided for the Office for Civil Rights should be used to maintain staffing for the Office at not less than 970 Federal full time equivalent positions.

OFFICE OF THE INSPECTOR GENERAL

Amendment No. 165: Deletes language regarding the Office of the Inspector General staffing levels as proposed by the Senate.

It is the intent of the conferees that the amounts provided for the Office of the Inspector General should be used to maintain staffing for the Office at not less than 314 Federal full time equivalent positions.

GENERAL PROVISIONS

Amendment No. 166: Restores language inserted by the House but deleted by the Senate requiring cost sharing by research grant recipients.

Amendment Nos. 167-169: Change section numbers.

Amendment Nos. 170-171: Reported in disagreement.

Amendment No. 172: Deletes House language amending Section 402(c) of the Housing Act of 1950, as proposed by the Senate.

Amendment No. 173: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the Senate amendment with an amendment as follows:

In lieu of the matter proposed in said amendment insert the following:

SEC. 308. Section 402(c) of the Housing Act of 1950 is amended by striking out in clause (9) "October 1, 1984" and inserting in its place "October 1, 1985".

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 174: Restores a portion of House language deleted by the Senate relating to the withholding of funds appropriated to the Department of Education.

Amendment No. 175: Deletes language proposed by the Senate providing that "Notwithstanding any other provision of law, funds provided to the Department of Education by this Act shall be used to maintain not less than 5,189 Federal full-time equivalent positions". The House bill contained no similar provision. It is the intent of the conferees that funds provided for the

Department of Education should be used to maintain staffing at not less than 5,189 full-time equivalent positions.

TITLE IV—RELATED AGENCIES

ACTION

OPERATING EXPENSES

Amendment No. 176: Appropriates $150,164,000, instead of $147,722,000 as proposed by the House and $150,314,000 as proposed by the Senate. The conference agreement includes the following amounts:

VISTA	$17,000,000
Service-learning	1,757,000
Citizen participation	1,801,000
Foster Grandparents	56,100,000
Senior Companions	18,086,000
Retired Senior Volunteer Program	29,620,000
Program support	25,800,000

The amount agreed to by the conferees for the older American volunteer programs provides a 20 cent per hour stipend increase for the Foster Grandparents and the Senior Companion programs and includes funds to cover stipend increases for non-ACTION supported volunteers through a transition period so that all volunteers may receive this increase.

Of the $18,086,000 agreed upon for the Senior Companions program, $3,000,000 shall be for the start-up of the in-home health care program recently authorized under Public Law 98-288. This program provides for senior companion volunteer services designed to help homebound elderly remain in the community and enable institutionalized elderly to return to home-care settings.

Amendment No. 177: Earmarks $17,000,000 for the VISTA program as proposed by the Senate, instead of $17,200,000 as proposed by the House.

Amendment No. 178: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the Senate amendment, amended to read as follows:

In lieu of the matter proposed by said amendment, insert the following:

: Provided, That none of the funds appropriated under this heading may be used to close State or regional field offices

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

CORPORATION FOR PUBLIC BROADCASTING

PUBLIC BROADCASTING FUND

Amendment No. 179: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the Senate amendment with an amendment, as follows:

In lieu of the sum named in said amendment, insert the following: *$200,000,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The House deferred consideration of this account, and the Senate bill including $238,000,000.

FEDERAL MEDIATION AND CONCILIATION SERVICES

SALARIES AND EXPENSES

Amendment No. 180: Appropriates $23,611,000 as proposed by the House, instead of $23,651,000 as proposed by the Senate.

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

SALARIES AND EXPENSES

Amendment No. 181: Appropriates $720,000 as proposed by the Senate, instead of $690,000 as proposed by the House.

NATIONAL COUNCIL ON THE HANDICAPPED

SALARIES AND EXPENSES

Amendment No. 182: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the Senate amendment which appropriates $750,000 for the Council and earmarks $300,000 for the employment of seven persons. The House bill included $500,000 for the Council.

PROSPECTIVE PAYMENT ASSESSMENT COMMISSION

Amendment No. 183: Makes available $2,424,000 from the trust fund as proposed by the House, instead of $2,410,000 as proposed by the Senate.

Amendment No. 184: Deletes language proposed by the Senate which would have permitted funds to remain available until expended.

RAILROAD RETIREMENT BOARD

DUAL BENEFITS PAYMENTS ACCOUNT

Amendment No. 185: Deletes language proposed by the House related to the crediting of uncashed checks to this account.

LIMITATION ON ADMINISTRATION

Amendment No. 186: Makes available $55,422,000 from the railroad retirement trust fund as proposed by the House, instead of $55,962,000 proposed by the Senate.

Amendment No. 187: Deletes the words "not less than" proposed by the Senate in connection with the earmarking of funds for a computer facility.

LIMITATION ON RAILROAD UNEMPLOYMENT INSURANCE ADMINISTRATION FUND

Amendment No. 188: Requires the apportionment of $16,678,000 as proposed by the House, instead of $17,238,000 as proposed by the Senate.

Amendment No. 189: Deletes the words "not less than" proposed by the Senate in connection with the earmarking of funds for a computer facility.

SOLDIERS' AND AIRMEN'S HOME

OPERATION AND MAINTENANCE

Amendment No. 190: Makes available $32,952,000 from the permanent fund, instead of $32,352,000 as proposed by the House and $33,552,000 as proposed by the Senate. The conference agreement includes 30 new positions for the health care facility.

CAPITAL OUTLAY

Amendment No. 191: Makes available $9,400,000 from the permanent fund as proposed by the Senate, instead of $9,000,000 as proposed by the House.

GENERAL PROVISIONS

Amendment No. 192: Inserts Senate language which permits funds in the Act to be used to transport medical officers and other health personnel on out-patient medical service between their domiciles and places of employment. The House bill did not contain this provision.

Amendment No. 193: Deletes legal citation as proposed by the Senate.

Amendment No. 194: Inserts legal citation as proposed by the Senate.

Amendment No. 195: Deletes language proposed by the Senate which would have provided that "the number of full-time equivalent positions for which amounts are appropriated by this Act shall not be subject to any personnel ceiling or other restriction on permanent, temporary or intermittent employment unless such ceiling or restriction is explicitly established by statute. The House bill contained no similar provision.

It is the intent of the conferees that the number of full-time equivalent positions for which amounts are appropriated by this Act shall not be made subject to any OMB imposed personnel ceiling or other restriction on permanent, temporary, or intermittent employment unless such ceiling or restriction is explicitly established by statute. In several instances the conferees have included report language mandating full-time permanent staffing levels. It is the intention of the conferees that where positions are restored at the direction of the conference, there shall be no offsetting reductions elsewhere.

Amendment No. 196: Deletes language proposed by the Senator which would have provided that "no part of any appropriation contained in this Act for personnel compensation and benefits shall be available for other object classifications set forth in the budget estimates submitted for the appropriations without the approval of the Committees on Appropriations". The House bill contained no similar provision.

Amendment No. 197: Reported in technical disagreement. The managers of the part of the House will move to recede and concur in the Senate amendment, amended to read as follows:

SEC. 513. Notwithstanding any other provision of this Act, no funds appropriated by this Act may be used to execute or carry out any contract with a non-governmental entity to administer or manage a Civil Conservation center of the Jobs Corps which was not under such a contract as of September 1, 1984.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

It is not the intent of the bill language preventing the contracting of the Department of Labor's Job Corps Civilian Conservation Centers to prohibit studies of the most-effective manner of operating these centers. The Department is directed to inform the Appropriations Committees of the results of any such studies which are conducted involving the Job Corps.

CONFERENCE TOTAL—WITH COMPARISONS

The total new budget (obligational) authority for the fiscal year 1985 recommended by the Committee of Conference, with comparisons to the fiscal year 1984 amount, the 1985 budget estimates, and the House and Senate bills for 1985 follow:

New budget (obligational) authority, fiscal year 1984	$105,223,784,000
Budget estimates of new (obligational) authority, fiscal year 1985	96,939,237,000
House bill, fiscal year 1985	93,149,431,000
Senate bill, fiscal year 1985	102,737,354,000
Conference agreement, fiscal year 1985	101,436,624,000
Conference agreement compared with:	
New budget (obligational) authority, fiscal year 1984	−3,787,160,000
Budget estimate of new (obligational) authority, fiscal year 1985	+4,497,387,000

House bill, fiscal year 1985	8,287,193,000
Senate bill, fiscal year 1985	−1,300,730,000

WILLIAM H. NATCHER,
NEAL SMITH,
DAVE OBEY,
EDWARD R. ROYBAL,
LOUIS STOKES,
JOSEPH D. EARLY,
BERNARD J. DWYER,
STENY H. HOYER,
JAMIE L. WHITTEN,
SILVIO O. CONTE,
GEORGE M. O'BRIEN,
CARL D. PURSELL,
JOHN EDWARD PORTER,
BILL YOUNG,
Managers on the Part of the House.

LOWELL P. WEICKER, JR.,
MARK O. HATFIELD,
TED STEVENS,
MARK ANDREWS,
WARREN RUDMAN,
ARLEN SPECTER,
JAMES A. MCCLURE,
PETE V. DOMENICI,
JOHN C. STENNIS,
ERNEST F. HOLLINGS,
TOM EAGLETON,
(with reservations on amendment No. 101),
LAWTON CHILES,
QUENTIN BURDICK,
DANIEL K. INOUYE,
Mangers on the Part of the Senate.

CONFERENCE REPORT ON S. 1330

Mr. HOWARD submitted the following conference report and statement on the bill (S. 1330) to authorize the U.S. Army Corps of Engineers to provide grants to the several States to encourage and foster the construction of necessary public capital investment projects, and for other purposes:

TITLE I—NATIONAL COUNCIL ON PUBLIC WORKS IMPROVEMENT

SHORT TITLE

SEC. 101. This title may be cited as the "Public Works Improvement Act of 1984".

ESTABLISHMENT

SEC. 102. There is established a council to be known as the National Council on Public Works Improvement (hereinafter in this title referred to as the "Council").

DUTIES

SEC. 103. (a)(1) Not later than February 15, 1986, February 15, 1987, and February 15, 1988, the Council shall prepare and submit to the President and the Congress a report on the state of the Nation's infrastructure (hereinafter in this title referred to as the "Infrastructure Report"). Each Infrastructure Report shall include, but not be limited to, an analysis of each of the following:

(A) the age and condition of public works improvements and changes in their condition from preceding years;

(B) the methods used to finance the construction, acquisition, rehabilitation, and maintenance of public works improvements, including but not limited to general obligation and revenue bonds, user fees, excise taxes, direct governmental assistance, and private investment;

(C) any trends in methods used to finance such construction, acquisition, rehabilitation, and maintenance;

(D) the capacity of public works improvements to sustain current and anticipated economic development and to support a sustained and expanding economy;

(E) maintenance needs and projected expenditures for public works improvements.

(2) In addition, each Infrastructure Report—

(A) shall include a discussion of infrastructure program priorities (including alternative methods of meeting national infrastructure needs to effectuate balanced growth and economic development); and

(B) to the extent practicable, shall provide, for other public works facilities owned or operated by the Federal Government, any State or local government, or any public agency or authority organized pursuant to State or local law, an analysis similar to the analysis provided under paragraph (1) for public works improvements.

(b) Not later than September 30, 1985, the Council shall—

(1) analyze criteria and procedures used by Federal agencies, States, and units of local government in inventorying existing and needed public works improvements and assessing the condition of public works improvements and develop and publish uniform criteria and procedures which may be used for conducting such inventories and assessments; and

(2) develop and recommend to the President and the Congress proposed guidelines for the uniform reporting by Federal agencies of construction, acquisition, rehabilitation, and maintenance data with respect to public works improvements.

(c) The Council shall convene its first meeting no earlier than February 15, 1985, and no later than April 15, 1985.

(d) In carrying out its duties under this section, the Council shall use existing data and sampling techniques to the maximum extent feasible. When developing new data under this title, the Council shall make every effort to assure that such data is developed in consultation with the States so that uniform methods, categories, and analyses are used.

(e) Each Infrastructure Report, when submitted to the Congress, shall be referred to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate.

MEMBERSHIP

SEC. 104. (a) The Council shall be composed of five members—

(1) three of whom shall be appointed by the President;

(2) one of whom shall be appointed by the Speaker of the House of Representatives; and

(3) one of whom shall be appointed by the President pro tempore of the Senate;

from among persons knowledgeable and experienced in one or more of the following: public administration, planning, architecture, civil engineering, and public investment financing.

(b) A vacancy in the Council shall not affect its powers but shall be filled in the manner in which the original appointment was made.

(c) Four members of the Council shall constitute a quorum, but the Council may establish a lesser number as a quorum for the purpose of holding hearings, taking testimony, and receiving evidence.

(d) The Chairman of the Council shall be elected by the members of the Council.

(e) The Council shall meet at the call of the Chairman or a majority of its members.

(f) Members of the Council shall be appointed for the life of the Council.

(g) Members of the Council shall serve without pay, except that they shall receive per diem and travel expenses in accordance with section 5703 of title 5, United States Code.

DIRECTOR AND STAFF

SEC. 105. (a) The Council shall have a director who shall be appointed by the Council and shall be paid at a rate not to exceed the rate of basic pay payable to level V of the Executive Schedule.

(b) The Council may appoint and fix the pay of such additional personnel as the Council considers appropriate.

(c) The director and staff of the Council may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service and may be made without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates. Any Federal employee subject to the civil service laws and regulations who may be employed by the Council shall retain civil service status without interruption or loss of status or privilege. In no event shall any employee of the Council other than the staff director receive as compensation an amount in excess of the maximum rate of basic pay payable for GS-18 of the General Schedule.

POWERS OF THE COUNCIL

SEC. 106. (a) Upon request of the Council, the head of any Federal agency may detail, on a reimbursable basis, any of the personnel of such agency to the Council to assist the Council in carrying out its duties under this title.

(b) Upon request of the Council, the Secretary of the Army, acting through the Chief of Engineers, shall provide, on a reimbursable basis, such office space, supplies, equipment, and other support services to the Council and its staff as may be necessary for the Council to carry out its duties under this title.

(c) The Council may secure directly from any department or agency of the United States information necessary to enable it to carry out this title. Upon request of the Chairman of the Council, the head of such department or agency shall furnish such information to the Council.

(d) The Council or any member authorized by the Council may, for the purpose of carrying out this title, hold such hearings, sit and act at such time and places, take such testimony, have such printing and binding done, enter into such contracts and other arrangements (with or without consideration or bond, to such extent or in such amounts as are provided in appropriation Acts, and without regard to section 3709 of the Revised Statutes (41 U.S.C. 5)), make such expenditures, and take such other actions as the Council or such member may deem advisable to carry out this title. Any member of the Council may administer oaths or affirmations to witnesses appearing before the Council or before such member.

ADVISORY GROUP

SEC. 107. (a) There is established an advisory group to provide such assistance and advice as the Council may request. Such group shall be composed of 12 members as follows:

(1) the Secretary of the Army, who shall be the Chairman of such group;

(2) the Secretary of Agriculture;

(3) the Secretary of Housing and Urban Development;

(4) the Secretary of Transportation;
(5) the Administrator of the Environmental Protection Agency;
(6) the Secretary of Commerce;
(7) the Chairman of the National Governors Association;
(8) the President of the National Conference of State Legislatures;
(9) the President of the National Association of Counties;
(10) the President of the National Association of Regional Councils;
(11) the President of the National League of Cities; and
(12) the President of the United States Conference of Mayors.

(b) The members of the advisory group shall serve without pay.

(c) The advisory group shall cease to exist on April 15, 1988.

CONGRESSIONAL BUDGET OFFICE REVIEW

SEC. 108. Not later than 90 days after the date on which each Infrastructure Report is submitted to the Congress by the Council, the Congressional Budget Office shall review such report and shall submit a report on the results of such review to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate.

TERMINATION

SEC. 109. The Council shall cease to exist on April 15, 1988.

FUNDING

SEC. 110. (a) From funds otherwise appropriated to the Secretary of the Army for purposes of civil works, the Secretary shall transfer to the Council in the fiscal year ending September 30, 1985, such amounts as the Council may request but not to exceed $3,200,000.

(b) There is authorized to be appropriated to the Council to carry out the provisions of this title $3,500,000 per fiscal year for each of the fiscal years ending September 30, 1986, and September 30, 1987, and $2,000,000 for the fiscal year ending September 30, 1988.

DEFINITIONS

SEC. 111. For purposes of this title, the term—

(1) "acquisition" includes the addition of land, sites, equipment, structures, facilities, or rolling stock by purchase, lease-purchase, trade, or donation;

(2) "construction" includes the design, planning, and erection of new structures and facilities, the expansion of existing structures and facilities, the reconstruction of a project at an existing site or adjacent to an existing site, and the installation of initial and replacement equipment for such structures and facilities;

(3) "public works improvements" means the following publicly owned civilian facilities: highways; streets; bridges; mass transportation facilities and equipment; resource recovery facilities; airports; airway facilities; water supply and distribution systems; wastewater collection, treatment, and related facilities; dams; federally owned buildings; docks and ports; waterways; and such other public facilities as the Council determines are critical for national economic development;

(4) "maintenance" means regularly scheduled activities, including routine repairs, intended to keep a facility operating efficiently; and

(5) "rehabilitation" includes the alteration of or correction of deficiencies in an existing structure or facility so as to extend the useful life or improve the effectiveness of the structure or facility, the modernization or replacement of equipment at an existing structure or facility, and the modernization of, or replacement of parts for, rolling stock.

TITLE II—FEDERAL CAPITAL INVESTMENT PROGRAM

SHORT TITLE

SEC. 201. This title may be cited as the "Federal Capital Investment Program Information Act of 1984".

PURPOSES

SEC. 202. The purposes of this title are—

(1) to provide budget projections for major Federal capital investment programs;

(2) to provide a summary of the most recent needs assessment analyses for these programs;

(3) to provide information on the sensitivity of the needs estimates to major policy issues and technical and economic variables;

(4) to assist the planning capabilities of State and local governments on the assessment of major capital investment programs; and

(5) to improve legislative oversight over Federal capital investment programs.

FEDERAL CAPITAL INVESTMENT PROGRAM REPORT

SEC. 203. Section 1105 of title 31, United States Code, is amended by adding at the end thereof the following new subsection:

"(e)(1) The President shall submit with materials related to each budget transmitted under subsection (a) on or after January 1, 1985, an analysis for the ensuing fiscal year that shall identify requested appropriations or new obligational authority and outlays for each major program that may be classified as a public civilian capital investment program and for each major program that may be classified as a military capital investment program, and shall contain summaries of the total amount of such appropriations or new obligational authority and outlays for public civilian capital investment programs and summaries of the total amount of such appropriations or new obligational authority and outlays for military capital investment programs. In addition, the analysis under this paragraph shall contain—

"(A) an estimate of the current service levels of public civilian capital investment and of military capital investment and alternative high and low levels of such investments over a period of ten years in current dollars and over a period of five years in constant dollars;

"(B) the most recent assessment analysis and summary, in a standard format, of public civilian capital investment needs in each major program area over a period of ten years;

"(C) an identification and analysis of the principal policy issues that affect estimated public civilian capital investment needs for each major program; and

"(D) an identification and analysis of factors that affect estimated public civilian capital investment needs for each major program, including but not limited to the following factors:

"(i) economic assumptions;

"(ii) engineering standards;

"(iii) estimates of spending for operation and maintenance;

"(iv) estimates of expenditures for similar investments by State and local governments; and

"(v) estimates of demand for public services derived from such capital investments and estimates of the service capacity of such investments.

To the extent that any analysis required by this paragraph relates to any program for which Federal financial assistance is distributed under a formula prescribed by law, such analysis shall be organized by State and within each State by major metropolitan area if data are available.

"(2) For purposes of this subsection, any appropriation, new obligational authority, or outlay shall be classified as a public civilian capital investment to the extent that such appropriation, authority, or outlay will be used for the construction, acquisition, or rehabilitation of any physical asset that is capable of being used to produce services or other benefits for a number of years and is not classified as a military capital investment under paragraph (3). Such assets shall include (but not be limited to)—

"(A) roadways or bridges,

"(B) airports or airway facilities,

"(C) mass transportation systems,

"(D) wastewater treatment or related facilities,

"(E) water resources projects,

"(F) hospitals,

"(G) resource recovery facilities,

"(H) public buildings,

"(I) space or communications facilities,

"(J) railroads, and

"(K) federally assisted housing.

"(3) For purposes of this subsection, any appropriation, new obligational authority, or outlay shall be classified as a military capital investment to the extent that such appropriation, authority, or outlay will be used for the construction, acquisition, or rehabilitation of any physical asset that is capable of being used to produce services or other benefits for purposes of national defense and security for a number of years. Such assets shall include military bases, posts, installations, and facilities.

"(4) Criteria and guidelines for use in the identification of public civilian and military capital investments, for distinguishing between public civilian and military capital investments, and for distinguishing between major and nonmajor capital investment programs shall be issued by the Director of the Office of Management and Budget after consultation with the Comptroller General and the Congressional Budget Office. The analysis submitted under this subsection shall be accompanied by an explanation of such criteria and guidelines.

"(5) For purposes of this subsection—

"(A) the term 'construction' includes the design, planning, and erection of new structures and facilities, the expansion of existing structures and facilities, the reconstruction of a project at an existing site or adjacent to an existing site, and the installation of initial and replacement equipment for such structures and facilities;

"(B) the term 'acquisition' includes the addition of land, sites, equipment, structures, facilities, or rolling stock by purchase, lease-purchase, trade, or donation; and

"(C) the term 'rehabilitation' includes the alteration of or correction of deficiencies in an existing structure or facility so as to extend the useful life or improve the effectiveness of the structure or facility, the modernization or replacement of equipment at an existing structure or facility, and the modernization of, or replacement of parts for, rolling stock.".

And the House agree to the same.

That the Senate recede from its disagreement to the amendment of the House to the title of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment to the title of the bill insert the following: "An Act to establish a National Council on Public Works Improvement to prepare three annual reports on the state of the Nation's infrastructure, to amend the provisions of title 31, United States Code, relating to the President's budget to require it to separately identify and summarize the capital investment expenditures of the United States, and for other purposes.".

And the House agree to the same.

JAMES J. HOWARD,
JAMES L. OBERSTAR,
BOB EDGAR,
JACK BROOKS,
DON FUQUA,
ELLIOTT H. LEVITAS,
GENE SNYDER,
WILLIAM F. CLINGER,
FRANK HORTON,
JOHN N. ERLENBORN,
Managers on the Part of the House.

ROBERT T. STAFFORD,
PETE V. DOMENICI,
DAVID DURENBERGER,
JENNINGS RANDOLPH,
DANIEL P. MOYNIHAN,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1330) to authorize the United States Army Corps of Engineers to provide grants to the several States to encourage and foster the construction of necessary public capital investment projects, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment to the text of the bill struck out all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment which is a substitute for the Senate bill and the House amendment. The differences between the Senate bill, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

SHORT TITLE

SENATE BILL

The Senate bill provides that it may be cited as the "Public Works Improvement Act of 1984".

HOUSE AMENDMENT

The House amendment states that the Act may be cited as the "Federal Capital Investment Program Information Act of 1984".

CONFERENCE SUBSTITUTE

The conference substitute is divided into two titles. Title I pertaining to the National Council may be cited as the "Public Works Improvement Act of 1984", and title II pertaining to the Federal program may be cited as the "Federal Capital Investment Program Information Act of 1984".

NATIONAL COUNCIL ON PUBLIC WORKS IMPROVEMENT

SENATE BILL

The Senate bill establishes a National Council on Public Works Improvement to analyze the condition of existing public works facilities and recommend appropriate Federal Actions. The Council has 15 members.

The Council is to be composed of the five major agencies which administer Federal public works programs, the leaders of the major public interest associations representing other levels of government in the United States, and four individuals expert in areas of the infrastructure issue that the Council will examine.

The Secretary of the Army is designated as Chairman of the Council.

A quorum consists of ten members of the Council.

HOUSE AMENDMENT

No comparable provision.

The conference substitute establishes a National Council on Public Works Improvement to prepare 3 annual reports on the state of the Nation's infrastructure. The Council is composed of 5 members, 3 appointed by the President, 1 appointed by the Speaker of the House of Representatives, and 1 appointed by the President pro tempore of the Senate. Such appointments are to be made from among persons knowledgeable or experienced in one or more of the following: public administration, planning, architecture, civil engineering, and public investment financing. To the extent practicable, the appointees to the Council shall be experts who are currently active in the private practice of the various fields. The conferees anticipate that the professional qualifications of the candidates for appointment shall be a major consideration in their selection, and that there will be efforts to ensure a balanced representation of the various fields on the Council. The Chairman of the Council is elected by the Council members. A quorum consists of 4 members, except that the Council may establish a lesser number for certain administrative proceedings. The Members of the Council are to serve without pay but per diem and travel expenses are authorized.

In addition, a 12-member advisory group chaired by the Secretary of the Army is established to provide assistance and advice to the Council. Members of the advisory group are to serve without pay. Due to the importance of the functions of the Council and the advisory group, the conferees would expect the designated members of the advisory group to attend advisory group meetings in person, but in the event that any such member is unable to attend a meeting he or she may designate a person to attend in his or her place.

COUNCIL ADMINISTRATION

SENATE BILL

The Senate bill authorizes up to thirty full-time government employees to be detailed to the Council from various agencies.

The Senate bill directs the Chief of Engineers to assign a staff director for the council and to provide administrative support services to the Council. The staff director could be either a civilian or military employee of the Corps' civil works program. Administrative support services, which would be reimbursed to the Corps from the Council's appropriations, include but are not limited to office space, supplies, and equipment, contract procurement of supplies and services, data processing, and travel and meeting arrangements.

The Senate bill directs Federal agencies to cooperate with the Council and provide such information at the council may request.

The Senate bill directs the Council to hold its first meeting within two months of enactment of the bill, notwithstanding any vacanies in the four private members to be selected by the President.

The Senate bill provides the authority for administrative and investigative functions which the Council will need to complete its job.

The Senate bill authorizes a transfer to the Council of up to $500,000 within the Army-civil works budget for fiscal year 1984 in order to allow the Council to begin operations as quickly as possible. In the subsequent two year, the bill provides a separate authorization for the Council. No authorizations are provided beyond that time, as the Council's work is to be completed by the end of fiscal year 1986.

HOUSE AMENDMENT

No comparable provision.

CONFERENCE SUBSTITUTE

The conference substitute provides for detailing of Federal personnel to the Council on a reimbursable basis and directs the Chief of Engineers to provide administrative support on a reimbursable basis. Subject to the limitations of the Freedom of Information Act, Federal agencies are directed to provide necessary information to the Council. The conferees expect that the Council will receive full cooperation from all Federal agencies and that information requested by the Council will be provided on a timely basis. In addition, the Council shall consult with users of public facilities. The same administrative and investigative functions provided for in the Senate bill are provided for in the conference substitute.

The Council is authorized to appoint a staff director and staff. The director's salary is capped at the rate of pay payable to a level V of the Executive Schedule and the other staff salaries are capped at the maximum rate payable for a GS–18.

The Council is directed to hold its first meeting between February 15, 1985, and April 15, 1985, and is terminated on April 15, 1988.

The conference substitute directs the Secretary of the Army to transfer from the Army civil works budget to the Council in fiscal year 1985 an amount not to exceed $3,200,000 to carry out the conference substitute.

For fiscal years 1986 and 1987, $3,500,000 per fiscal year are authorized to be appropriated to the Council and for fiscal year 1988, $2,000,000 are authorized to be appropriated to the Council.

The respective authorizing Committees intend to evaluate the Council's work on an ongoing basis.

ASSESSMENT OF PUBLIC CAPITAL IMPROVEMENTS

SENATE BILL

The Senate bill requires the Council to prepare a report to be presented simultaneously to the President and the Congress by September 30, 1985. The report includes an assessment of public works improvements throughout the Nation. The assessment is to include an analysis of the average age and condition of various types of public works, facilities, a study of the various means used to finance construction, reha-

bilitation and maintenance of those facilities, and an estimate of the capacity of public works improvements to sustain economic activity throughout the Nation and in specific regions, states, and major metropolitan areas.

The Senate bill requires the Council to complete by September 30, 1985 the development of uniform critera and methodologies for conducting public works inventories.

HOUSE AMENDMENT

No comparable provision.

The conference substitute, like the Senate bill, requires the National Council to assess the condition of the Nation's public works improvements and to determine the Nation's needs with respect to such improvements. Annual reports are required not later than February 15, 1985, February 15, 1986, and February 15, 1987, and the annual reports are to include an analysis of maintenance needs and projects expenditures of public works improvements and a discussion of infrastructure program priorities.

The Council will evaluate both the impact that past practices of deferring maintenance has had on current infrastructure needs and on projected operating needs for currently planned public works improvements.

The primary function of the Council is to prepare the annual reports on the State of the Nation's infrastructure. Each report will focus on those "public works improvements" necessary to sustain current and anticipated economic development and to support a sustained and expanding economy. This would include highways; streets; bridges; mass transit facilities and equipment (including rolling stock); resource recovery facilities; airports; airway facilities; water supply and distribution systems; wastewater collection, treatment, and related facilities; dams; federally owned buildings; docks and ports; and waterways.

The conference substitute also requires the Council to analyze other public works facilities owned or operated by the Federal Government or any State or local government. This authority is extremely broad and would include, but not be limited to, space or communications facilities, rail transportation systems, hospitals, and federally-assisted housing. The Council should, to the extent practicable, provide for these facilities an analysis similar to the analysis provided for public works improvements. The conferees want to emphasize the importance of this provision. While the reports will focus on our Nation's basic infrastructure, it is extremely important that the reports also include as much information as possible on all of the Nation's capital assets. Only in this way will the Executive Branch and the Congress be able to develop a more complete understanding of the relationship between the capacity and condition of public works and the health of the Nation's economy and its commercial and residential population.

The definition of "maintenance" is from the Senate bill. The definitions of "acquisition", "construction", and "rehabilitation" are from the House amendment. The term "public works improvements" is defined broadly.

The Congressional Budget Office is directed to review each Infrastructure Report and submit the results of such review to the authorizing committees of Congress within 90 days after Congress receives such report.

CHANGES IN FEDERAL PROGRAMS

SENATE BILL

The Senate requires the Council to issue recommendations for changes in Federal laws, regulations, and policies and for alternatives in the allocation of responsibilities among Federal, State and local governments that would, both immediately and permanently, lead to improvements in the condition and capacity of the nation's public works improvements. The Council is required to issue the recommendations by the end of fiscal year 1986.

The Senate requires the Council to transmit a detailed report to Congress and the President on alterations in current programs and responsibilities that will improve the state of the nation's infrastructure.

The Council is directed to pay particular attention to opportunities to restrucutre Federal, State, and local programs to eliminate duplication. The Council is also to call attention to regulations or procedures that contribute to waste or to delays in carrying out public works programs.

HOUSE AMENDMENT

No comparable provision.

CONFERENCE SUBSTITUTE

The Council shall not make specific recommendations for changes in laws and regulations. However, the conferees expect that the Council will use the authority granted under section 103(a)(2)(A) of the conference substitute to discuss alternative infrastructure priorities and such other issues as may arise in the course of its work.

PURPOSES

SENATE BILL

No comparable provision.

HOUSE AMENDMENT

Purposes of Act are to provide budget projections for major Federal capital investment programs; provide a summary of most recent needs assessment for these programs; provide information of needs estimates to major policy issues and technical and economic variables; assist planning capabilities of State and local governments; and to improve legislative oversight.

CONFERENCE SUBSTITUTE

Same as the House amendment except the purposes are limited to the II of the Conference substitute pertaining to the Federal budget.

BUDGETARY INFORMATION ON PUBLIC CAPITAL INVESTMENTS

SENATE BILL

The Senate bill requires the President to include an analysis of public capital expenditures in his annual budget submission. The reporting requirements are effective for the budget transmitted after January 1, 1985, i.e. for fiscal year 1986.

The Senate bill contains the definition of public capital investment to be used by the President in his report and specifies some of the elements to be considered in that analysis.

The President is specifically required to submit a variety of spending projections in current dollars for the ensuing 10 year period and in constant dollars for a period of 5 years because consistent comparative information on future expenditures for capital investment programs is a necessary element in planning at the State and local level and in the budget deliberations of the Congress.

The Senate bill also requires that the President's budget submission include a summary on the most recent needs assessment for each major capital investment program and further requires that those summaries use a standard format and be based on similar assumptions.

The Senate bill also requires that the budget submission include a review of the major policy issues which might affect the needs assessments or future expenditures of the Federal Government in order to facilitate development of an integrated national infrastructure plan.

The information described above is to be organized on a State-by-State basis for federally assisted capital investment programs which use formulas to distribute the funds to State and local governments. Where possible a detailed summary of expenditures in each major metropolitian area is to be included.

HOUSE AMENDMENT

The House amendment amends section 1105 of title 31 of the U.S. Code to add new subsection (e). This subsection requires the President beginning in January of 1985, as part of his annual budget, to provide more detailed information on each major military and civilian public Federal capital investment program. In addition to an analysis of funding requested, it would also require the budget document to include an estimate of the current service levels of public capital investments and alternative high and low levels of such investments over a period of ten years in current dollars and over a period of five years in constant dollars. It would further require the provision of the most recent needs assessment covering the next ten years for each major civilian public program area and an identification and analysis of policy issues and other factors affecting capital investment needs for each major civilian public program.

This information is to be organized by State and major metropolitan area within each State whenever the data are available. Public civilian capital investments include any roadways or bridges, airports or airway facilities, mass transportation systems, wastewater treatment or related facilities, water resource projects, hospitals, resource recovery facilities, public buildings, space or communication facilities, or railroads. Military capital investments include military bases, posts, installations, or facilities and military weapons system platforms, excluding weapons or supplies carried on such platforms. This section also defines the terms "construction," "acquisition," and "rehabilitation."

CONFERENCE SUBSTITUTE

The conference substitute is substantially the same as the House amendment. The conferees have included the broad "generic" House definitions of the categories of spending on which the President is required to report. In one instance, namely "federally-assisted housing", where the Senate definition did not fall within a House classification, the specific provision was added. For the remaining categories, it is assumed that the specific Senate classifications fall within the generic provisions and that information will be made available for these categories.

The conferees limited the reporting requirement on military capital investments to those items which have traditionally been considered part of the military construction program, namely military bases, posts, installations, and facilities.

JAMES J. HOWARD,
JAMES L. OBERSTAR,

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JACK BROOKS,
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Managers on the Part of the House.

ROBERT T. STAFFORD,
PETE V. DOMENICI,
DAVID DURENBERGER,
JENNINGS RANDOLPH,
DANIEL P. MOYNIHAN,
Managers on the Part of the Senate.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. TAUKE (at the request of Mr. MICHEL), from 7 p.m. for the balance of the day, on account of a death in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. CHANDLER) to revise and extend their remarks and include extraneous material:)

Mr. ARCHER, for 60 minutes, October 4.

Mr. ARCHER, for 60 minutes, October 5.

Mr. GINGRICH, for 60 minutes, today.

Mr. WALKER, for 60 minutes, today.

Mr. MOLINARI, for 5 minutes, today.

Mr. SHAW, for 5 minutes, today.

Mr. DREIER of California, for 5 minutes, today.

(The following Members (at the request of Mr. BRYANT) to revise and extend their remarks and include extraneous material:)

Mr. RAY, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. GONZALEZ, for 60 minutes, today.

Mr. LEVIN of Michigan, for 5 minutes, October 4.

Mr. BOLAND, for 60 minutes, October 4.

Mr. DONNELLY, for 60 minutes, October 4.

Mr. FOLEY, for 60 minutes, October 4.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. LIVINGSTON, for 60 minutes, on October 4.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. COURTER, prior to the vote on H.R. 5377, today.

Mrs. LLOYD, prior to the vote on H.R. 5377, today.

Mr. PANETTA, prior to the vote on H.R. 5377, today.

Mr. FOLEY, immediately following the vote on H.R. 3795, Wine Equity Act.

Mr. LUJAN, immediately prior to the vote on H.R. 6926.

(The following Members (at the request of Mr. CHANDLER) and to include extraneous matter:)

Mr. TAUKE.
Mr. CLINGER.
Mr. LEWIS of California.
Mr. BROOMFIELD.
Mr. HUNTER in two instances.
Mr. KRAMER in two instances.
Mr. LOWERY of California.
Mr. SHUMWAY in two instances.
Mr. PETRI.
Mr. ERLENBORN.
Mrs. HOLT.
Mr. COUGHLIN.
Mr. EMERSON.
Mr. MCCAIN.
Mr. PORTER in three instances.
Mr. FRANKLIN.
Mr. MADIGAN.
Mr. ROTH in two instances.
Mr. GOODLING.

(The following Members (at the request of Mr. BRYANT) and to include extraneous matter:)

Mr. HOYER in two instances.
Mr. ROE in two instances.
Mrs. BOXER.
Mr. RANGEL.
Mr. MINETA.
Mr. COELHO.
Mr. BORSKI.
Mr. THOMAS of Georgia.
Mr. ROWLAND.
Mr. FEIGHAN in two instances.
Mrs. SCHROEDER.
Mr. HUBBARD.
Mr. LELAND.
Mrs. BURTON of California.
Mr. FASCELL in three instances.
Mr. SKELTON.
Mr. YATRON.
Ms. MIKULSKI.
Mr. OLIN.
Mr. BOLAND.
Mr. HAMILTON.
Mr. ANTHONY.
Mr. LANTOS in three instances.
Mr. DOWNEY of New York.
Mr. GARCIA.
Mr. PANETTA.
Mr. LONG of Maryland.
Mr. FRANK.
Mr. ACKERMAN in two instances.
Mr. FORD of Tennessee.
Mr. LUKEN.
Mr. RODINO.
Mr. FORD of Michigan.
Mrs. LLOYD in two instances.
Mr. RANGEL in three instances.
Mr. MORRISON of Connecticut.
Mr. ERDREICH.
Mr. DYSON.
Mr. OTTINGER.
Mr. COLEMAN of Texas in two instances.
Mr. LEVIN of Michigan.

SENATE BILLS, JOINT RESOLUTION, AND CONCURRENT RESOLUTION REFERRED

Bills, a joint resolution, and concurrent resolution of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 794. An act for the relief of Edwina Carol Baxter; to the Committee on the Judiciary.

S. 1688. An act to amend the act of October 18, 1972, to authorize additional authorization of appropriations for Sitka National Historical Park, AK; to the Committee on Interior and Insular Affairs.

S. 1946. An act for the relief of Catherine and Robert Fossez; to the Committee on the Judiciary.

S. 2663. An act pertaining to the inheritance of trust or restricted land on the Lake Traverse Indian Reservation, North Dakota and South Dakota, and for other purposes; to the Committee on Interior and Insular Affairs.

S.J. Res. 354. Joint resolution designating the week of January 7 through January 13, 1985, as "National Productivity Improvement Week"; to the Committee on Post Office and Civil Service.

S. Con. Res. 74. Concurrent resolution to encourage and support the people of Afghanistan in their struggle to be free from foreign domination; to the Committee on Foreign Affairs.

ADJOURNMENT

Mr. LIVINGSTON. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 12 o'clock and 10 minutes a.m.), the House adjourned until today, Thursday, October 4, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4104. A letter from the Director, Equal Employment Opportunity Commission, transmitting a report on employment of minorities, women and handicapped individuals in the Federal Government, fiscal year 1982; to the Committee on Education and Labor.

4105. A letter from the Acting Administrator, General Services Administration, transmitting the annual report on the records disposition activities of the Federal Government for fiscal year 1983, pursuant to 44 U.S.C. 3303a; to the Committee on Government Operations.

4106. A letter from the Assistant Secretary for Health, Public Health Service, Department of Health and Human Services, transmitting notification of a proposed al-

tered system of records, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

4107. A letter from the Assistant Secretary for Health, Department of Health and Human Services, transmitting notice of an altered records system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

4108. A letter from the Employee Benefits Administrator, Farm Credit Banks of Wichita, transmitting the statement of general information and the financial statement of the pension plans for the Farm Credit Banks of Wichita, pursuant to 31 U.S.C. 9503(a)(1)(B); to the Committee on Government Operations.

4109. A letter from the Acting Assistant Secretary of the Interior (Indian Affairs), transmitting a proposed plan for the use of funds previously awarded to the Saginaw Chippewa Indian Tribe of Michigan; to the Committee on Interior and Insular Affairs.

4110. A letter from the Acting Assistant Secretary of the Army (Civil Works), transmitting a report from the Chief of Engineers on the Metropolitan Washington area water supply study, along with a report on the review of the corps report by the National Academy of Science-National Academy of Engineering, pursuant to Public Law 93-251, section 85(b)(1) and 85(b)(3); to the Committee on Public Works and Transportation.

4111. A letter from the Secretary of Transportation, transmitting a report on the performance and needs of the Nation's public mass transportation systems, pursuant to Public Law 98-424, section 310; to the Committee on Public Works and Transportation.

4112. A letter from the Chairwoman, U.S. International Trade Commission, transmitting the Commission's 39th quarterly report on trade between the United States and the nonmarket economy countries, pursuant to 19 U.S.C. 2440; to the Committee on Ways and Means.

4113. A letter from the Assistant Secretary of Defense (Comptroller), transmitting notification of the transfers of funds, authorized and appropriated to the Department of Defense, pursuant to Public Law 97-377, section 732 and Public Law 97-252, section 1101; jointly, to the Committees on Armed Services and Appropriations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. DERRICK: Committee on Rules. House Resolution 600; Resolution, providing for a motion to take the bill (H.R. 5172) to authorize appropriations to the Secretary of Commerce for the programs of the National Bureau of Standards for fiscal years 1984 and 1985 and for related purposes, from the Speaker's table and to agree to the Senate amendment (Rept. No. 98-1130). Referred to the House Calendar.

Mr. WHEAT: Committee on Rules. House Resolution 601; Resolution waiving certain points of order against the conference reports on the bills (H.R. 4164) to amend the Vocational Education Act of 1963 to strengthen and expand the economic base of the Nation, develop human resources, reduce structural unemployment, increase productivity, and strengthen the Nation's defense capabilities by assisting the States to expand, improve, and update high-quality programs of vocational-technical education, and for other purposes, and (S. 2496) to amend the Adult Education Act in order to simplify requirements for States and other recipients participating in Federal adult education programs, and for other purposes, (Rept. No. 98-1131). Referred to the House Calendar.

Mr. NATCHER: Committee of conference. Conference report on H.R. 6028 (Rept. No. 98-1132). Ordered to be printed.

Mr. FLORIO: Committee of conference. Conference report on H.R. 2867 (Rept. No. 98-1133). Ordered to be printed.

Mr. HOWARD: Committee of conference. Conference report on S. 1330 (Rept. No. 98-1134). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. FORD of Tennessee:

H.R. 6376. A bill to amend the Internal Revenue Code of 1954 to replace the current Federal income tax imposed on small business corporations with an elective small business consumed income tax; to the Committee on Ways and Means.

By Mr. DORGAN:

H.R. 6377. A bill to promote the export of agricultural commodities owned or acquired by the Commodity Credit Corporation by facilitating the use of barter for materials produced in foreign countries, to develop markets for U.S. agricultural commodities, to protect the assets of the Commodity Credit Corporation, and for other purposes; jointly, to the Committees on Agriculture and Foreign Affairs.

By Mr. ERLENBORN:

H.R. 6378. A bill to amend the Occupational Safety and Health Act of 1970, and for other purposes; to the Committee on Education and Labor.

By Mr. FORD of Michigan:

H.R. 6379. A bill to establish an improved system for providing assistance to graduate students attending institutions of higher education, and for other purposes; to the Committee on Education and Labor.

By Mr. HEFTEL of Hawaii:

H.R. 6380. A bill to provide for compensation with respect to former members of the Armed Forces of the United States for each day spent avoiding capture by hostile forces or as underground fighters while unattached to any regular unit of the Armed Forces during World War II; to the Committee on the Judiciary.

By Mrs. HOLT:

H.R. 6381. A bill to amend chapter 5 of title 37, United States Code, to revise the special pay provisions for dental officers in the armed services; to the Committee on Armed Services.

By Mr. LEATH of Texas (for himself and Mr. SOLOMON):

H.R. 6382. A bill to provide that amounts received by any employer under the Emergency Veterans' Job Training Program Act of 1983 in connection with the employment of any veteran shall be excluded from gross income of the employer; to the Committee on Ways and Means.

By Mr. PETRI:

H.R. 6383. A bill to provide a program of health insurance for residents of the United States, and for other purposes; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. SCHULZE:

H.R. 6384. A bill to amend the Internal Revenue Code of 1954 to simplify the tax system by providing a low rate progressive schedule for individuals, and for other purposes; to the Committee on Ways and Means.

By Mr. VOLKMER:

H.R. 6385. A bill to amend the Food and Agriculture Act of 1977 to require that for purposes of making assistance available under the emergency feed program, the Secretary of Agriculture consider the nutritive value and suitability of feed available for particular types of livestock and poultry; to the Committee on Agriculture.

H.R. 6386. A bill to amend section 331A of the Consolidated Farm and Rural Development Act to authorize the Secretary of Agriculture to forego foreclosure of certain loans and to make an adjusted loan schedule available to the borrower providing for equitable repayment terms consistent with the borrower's prespective cash flow; to the Committee on Agriculture.

By Mr. YOUNG of Alaska:

H.R. 6387. A bill to authorize diversion of water used by Alaska Power Administration from Eklutna Lake, AK, for the public water supply of the city of Anchorage; to the Committee on Interior and Insular Affairs.

By Mr. DAUB (for himself, and Mr. CONABLE):

H.R. 6388. A bill to amend the Internal Revenue Code of 1954 to require tax exempt organizations subject to the unrelated business tax and private foundations subject to investment income tax to make estimated tax payments, and for other purposes; to the Committee on Ways and Means.

By Mr. DICKS (for himself, Mr. PRITCHARD, Mr. SWIFT, Mr. CHANDLER, Mr. FOLEY, and Mr. MORRISON of Washington):

H.R. 6389. A bill to repeal Revenue Ruling 84-132 which denies a charitable contribution deduction for certain contributions to athletic scholarship programs; to the Committee on Ways and Means.

By Mr. SHUMWAY:

H.R. 6390. A bill to prohibit gambling activities within Indian country unless such activities do not violate State law or are conducted by an Indian tribal government under tribal legislation approved by the Secretary of the Interior and are not in conflict with the public policy of the State within which such Indian country is located; jointly, to the Committees on the Judiciary and Interior and Insular Affairs.

By Mr. COLEMAN of Texas (for himself and Mr. WILSON):

H.R. 6391. A bill to provide for the restoration of Federal recognition to the Ysleta del Sur Pueblo and the Alabama and Coushatta Indian Tribes of Texas, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mrs. HALL of Indiana:

H.J. Res. 655. Joint resolution designating February 16, 1985, as Lithuanian Independ-

ence Day; to the Committee on Post Office and Civil Service.

By Mr. PRICE:

H. Con. Res. 369. Concurrent resolution to direct the Clerk of the House of Representatives to make technical corrections in the enrollment of the bill H.R. 5167; considered and agreed to.

By Mr. LEHMAN of Florida:

H. Res. 602. Resolution in support of high school exchange programs with the Soviet Union; to the Committee on Foreign Affairs.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

487. By the SPEAKER: Memorial of the Legislature of the State of California, relative to biological pest prevention programs; to the Committee on Agriculture.

488. Also, memorial of the Legislature of the State of California, relative to the proposed joint Federal/State sterile fly rearing center; to the Committee on Agriculture.

489. Also, memorial of the Legislature of the State of California, relative to Raoul Wallenberg; to the Committee on Foreign Affairs.

490. Also, memorial of the Legislature of the State of California, relative to fish and wildlife management; to the Committee on Interior and Insular Affairs.

491. Also, memorial of the Legislature of the State of California, relative to refugees; to the Committee on the Judiciary.

492. Also, memorial of the Legislature of the State of California, relative to the U.S. Olympic Team; to the Committee on Post Office and Civil Service.

493. Also, memorial of the Legislature of the State of California, relative to California's air transportation system; to the Committee on Public Works and Transportation.

494. Also, memorial of the Legislature of the State of California, relative to flood control in the Santa Ana River basin; to the Committee on Public Works and Transportation.

495. Also, memorial of the Legislature of the State of California, relative to supercomputer centers; to the Committee on Science and Technology.

496. Also, memorial of the Legislature of the State of California, relative to the National Weather Service; to the Committee on Science and Technology.

497. Also, memorial of the Legislature of the State of California, relative to veterans benefits; to the Committee on Veterans' Affairs.

498. Also, memorial of the Legislature of the State of California, relative to Federal income taxation; to the Committee on Ways and Means.

499. Also, memorial of the Legislature of the State of California, relative to the Social Security Act; to the Committee on Ways and Means.

500. Also, memorial of the Legislature of the State of California, relative to Federal income tax for certain military personnel; to the Committee on Ways and Means.

501. Also, memorial of the Legislature of the State of California, relative to the establishment of a National Academy of Peace and conflict resolution; jointly, to the Committees on Education and Labor and Foreign Affairs.

502. Also, memorial of the Legislature of the State of California, relative to local taxation of federally owned forestland; jointly, to the Committees on Interior and Insular Affairs and Agriculture.

503. Also, memorial of the Legislature of the State of California, relative to offshore energy exploration; jointly, to the Committees on Interior and Insular Affairs and Energy and Commerce.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 1674: Mr. DONNELLY.

H.R. 2090: Mr. BEDELL.

H.R. 2197: Mr. LUKEN.

H.R. 2198: Mr. LUKEN.

H.R. 2420: Mr. MCEWEN and Mr. WEAVER.

H.R. 3026: Mr. WON PAT, Mr. DENNY SMITH, Mr. SILJANDER, Mr. LAGOMARSINO, and Mr. BILIRAKIS.

H.R. 3058: Mr. PEASE and Ms. OAKAR.

H.R. 4173: Mr. ACKERMAN.

H.R. 4273: Mr. SCHEUER.

H.R. 4274: Mr. SCHEUER and Mr. VANDERGRIFF.

H.R. 4300: Mr. PACKARD.

H.R. 4351: Mr. BEDELL.

H.R. 4523: Mr. DEWINE, Mr. SKELTON, Mr. MARTINEZ, Mr. EMERSON, Mr. RINALDO, and Mr. IRELAND.

H.R. 4805: Mr. HAYES.

H.R. 4904: Mr. ACKERMAN.

H.R. 5136: Mr. EVANS of Illinois and Mrs. COLLINS.

H.R. 5143: Mr. LEVIN of Michigan.

H.R. 5239: Mr. MARTINEZ and Mr. SOLARZ.

H.R. 5299: Mr. MATSUI.

H.R. 5766: Mr. DE LUGO, Mr. ST GERMAIN, and Mr. FRANK.

H.R. 5842: Mr. EDWARDS of Oklahoma.

H.R. 5874: Mr. ACKERMAN.

H.R. 5943: Mr. EDWARDS of Oklahoma.

H.R. 5988: Mr. CHANDLER.

H.R. 5990: Mr. SEIBERLING, Mr. LENT, Mrs. KENNELLY, Mr. WOLPE, Mr. BONIOR of Michigan, and Mr. SCHUMER.

H.R. 6021: Mr. MILLER of California and Mr. WATKINS.

H.R. 6029: Mr. WAXMAN, Mr. WORTLEY, Mr. RODINO, Mr. ROE, Mr. HORTON, Mr. WOLF, Mr. FRANK, Mr. KILDEE, Mr. OTTINGER, Mr. MINETA, Mr. GARCIA, Mr. LELAND, Mr. BOEHLERT, Mr. WEISS, Mr. BARNES, Mr. HUGHES, Mr. CONYERS, Mr. COELHO, Mr. DAUB, Mr. FAZIO, Mr. DARDEN, Mr. GEJDENSON, Mr. CROCKETT, Mr. LEHMAN of Florida, Mr. FISH, Mr. SCHEUER, Mr. HAWKINS, Mr. DYMALLY, Mrs. BURTON of California, Mr. DE LUGO, Mr. SPRATT, Mr. JEFFORDS, Mr. YOUNG of Florida, and Mr. DOWDY of Mississippi.

H.R. 6043: Mr. BERMAN, Mr. BORSKI, Mr. CROCKETT, Mr. EDGAR, Mr. HAWKINS, Mr. HOWARD, Mr. LELAND, Mr. LEVIN of Michigan, Mr. MATSUI, Mr. MURTHA, Mr. PATTERSON, Mr. WALGREN, Mr. WILLIAMS of Montana, Mr. WISE, Mr. WHEAT, Mr. TOWNS, Mr. FOGLIETTA, Mr. STOKES, Mr. BATES, Mr. NOWAK, Mr. SMITH of Florida, Mr. ADDABBO, Mr. LUKEN, and Mr. APPLEGATE.

H.R. 6194: Mr. KINDNESS, Mr. BEVILL, Mr. RUDD, Mr. MCCAIN, and Mr. LEHMAN of California.

H.R. 6239: Mr. SIKORSKI, Mr. STOKES, Mrs. COLLINS, and Mr. ECKART.

H.R. 6326: Mr. VANDERGRIFF.

H.R. 6327: Mr. VANDERGRIFF.

H.J. Res. 71: Mr. FUQUA, Ms. SNOWE, Mr. FASCELL, Mr. MACKAY, Mr. YOUNG of Florida.

H.J. Res. 450: Mr. WYDEN, Mr. KILDEE, Mr. FORD of Michigan, Mr. TRAXLER, and Mr. SILJANDER.

H.J. Res. 460: Mr. ACKERMAN, Mr. ANDREWS of Texas, Mr. ANTHONY, Mr. BARNES, Mr. BATEMAN, Mr. BEDELL, Mr. BEVILL, Mr. BONER of Tennessee, Mr. BROOMFIELD, Mr. BROWN of Colorado, Mrs. BURTON of California, Mr. BLILEY, Mr. CHAPPIE, Mr. COELHO, Mr. CORRADA, Mr. COURTER, Mr. KRAMER, Mr. DANIEL, Mr. DASCHLE, Mr. DYSON, Mr. DOWDY of Mississippi, Mr. DELLUMS, Mr. EDGAR, Mr. ERDREICH, Mr. FEIGHAN, Mr. FLORIO, Mr. FOLEY, Mr. GEKAS, Mr. GINGRICH, Mr. GRAMM, Mr. GONZALEZ, Mr. HIGHTOWER, Mrs. HOLT, Mrs. HALL of Indiana, Mr. ADDABBO, Mr. ANDREWS of North Carolina, Mr. ANNUNZIO, Mr. ARCHER, Mr. BATES, Mr. BROYHILL, Mr. BERMAN, Mr. BURTON of Indiana, Mrs. BYRON, Mr. CARNEY, Mr. CLINGER, Mr. CONTE, Mr. COUGHLIN, Mr. COYNE, Mr. CROCKETT, Mr. DARDEN, Mr. DREIER of California, Mr. DYMALLY, Mr. EMERSON, Mr. EVANS of Iowa, Mr. FOGLIETTA, Mr. GUNDERSON, Mr. GRADISON, Mr. HAMILTON, Mr. HOWARD, Mr. HEFTEL of Hawaii, Mr. HALL of Ohio, Mr. RALPH M. HALL, Mr. HANSEN of Utah, Mr. HAYES, Mr. HATCHER, Mr. JONES of Tennessee, Mr. JACOBS, Mr. JEFFORDS, Mrs. KENNELLY, Ms. KAPTUR, Mr. KEMP, Mr. LAGOMARSINO, Mrs. LLOYD, Mr. LEVINE of California, Mr. LEHMAN of California, Mr. MCGRATH, Mr. MARTINEZ, Mr. MURPHY, Mr. MRAZEK, Mr. MILLER of California, Mr. NATCHER, Mr. O'BRIEN, Mr. OWENS, Mr. PATTERSON, Mr. PURSELL, Mr. ROBERTS, Mr. RUSSO, Mr. RUDD, Mr. RINALDO, Mr. STUDDS, Mr. SHELBY, Ms. SNOWE, Mr. SNYDER, Mr. STARK, Mr. SUNIA, Mr. HARRISON, Mr. HOYER, Mr. HILER, Mr. HARKIN, Mr. JONES of North Carolina, Mrs. JOHNSON, Mr. LATTA, Mr. KASICH, Mr. KILDEE, Mr. LENT, Mr. LIVINGSTON, Mr. LONG of Maryland, Mr. LUNDINE, Mr. LOWRY of Washington, Mr. MADIGAN, Mr. MAVROULES, Mr. MORRISON of Connecticut, Mr. MCNULTY, Mr. MCDADE, Mr. NEAL, Mr. ORTIZ, Mr. PASHAYAN, Mr. PANETTA, Mr. PEPPER, Mr. PRITCHARD, Mr. RODINO, Mr. ROWLAND, Mr. RAHALL, Mr. SAVAGE, Mr. ST GERMAIN, Mr. SHUMWAY, Mr. SYNAR, Mr. SAWYER, Mr. TOWNS, Mr. TAUKE, Mr. TORRICELLI, Mr. VOLKMER, Mr. WEISS, Mr. WILSON, Mr. WORTLEY, Mr. YOUNG of Alaska, Mr. YATRON, Mr. TRAXLER, Mr. THOMAS of Georgia, Mr. VANDER JAGT, Mr. VANDERGRIFF, Mr. WIRTH, Mr. WINN, Mr. WISE, and Mr. YOUNG of Missouri.

H.J. Res. 473: Mrs. BOXER, Mr. DANNEMEYER, and Mr. MATSUI.

H.J. Res. 528: Mr. WHEAT.

H.J. Res. 589: Mr. FOLEY, Mr. CHAPPELL, Mr. KOSTMAYER, and Mr. MCCOLLUM.

H.J. Res. 599: Mr. KRAMER, Mr. BLILEY, Mr. MCGRATH, and Mr. EVANS of Illinois.

H.J. Res. 625: Mr. BADHAM, Mr. ST GERMAIN, Mr. MARTINEZ, Mr. CARNEY, Mr. STARK, Mr. SHAW, Mr. ACKERMAN, Mr. MCCURDY, Mr. KEMP, Mr. OLIN, Mr. CROCKETT, Mr. BRITT, Mr. GREEN, Mr. EDWARDS of Alabama, Mr. PICKLE, Mr. CONYERS, Mr. REID, Mr. MCDADE, Mr. FORD of Michigan, and Mr. HARRISON.

H.J. Res. 630: Mr. PANETTA, Mr. FROST, and Mr. HOYER.

H.J. Res. 632: Mr. CHANDLER, Mr. CLAY, Mr. DAUB, Mr. EVANS of Iowa, Mr. MARTINEZ, Mr. MORRISON of Washington, and Mr. WOLPE.

H.J. Res. 633: Mr. YOUNG of Florida.

H. Con. Res. 237: Mr. PASHAYAN, Mr. GARCIA, Mr. YATES, Mr. LOWRY of Washington, Mr. BROOMFIELD, Mr. SHUMWAY, Mr. PACKARD, Mr. YOUNG of Florida, Mr. MOORHEAD, Mr. HUNTER, Mr. O'BRIEN, Mr. GILMAN, and Mr. LUNGREN.

H. Con. Res. 291: Mr. RICHARDSON, Mr. MRAZEK, Mr. BRYANT, Mr. ORTIZ, Mr. VANDERGRIFF, Mr. DREIER of California.

H. Con. Res. 306: Mr. MCEWEN.

H. Con Res. 311: Mr. EMERSON and Mr. TAYLOR.

H. Con. Res. 363: Mr. LEHMAN of California, Mr. PASHAYAN, Mr. VANDERGRIFF, Mr. LEATH of Texas, Mr. LOEFFLER, Mr. WILSON, Mr. FROST, Mr. ORTIZ, Mr. WORTLEY, Mr. PAUL, Mr. APPLEGATE, Mr. MCCAIN, Mr. HIGHTOWER, Mr. KINDNESS, Mr. GRAMM, Mr. BARNARD, and Mr. PATTERSON.

H. Res. 486: Mr. RICHARDSON, Mr. MRAZEK, Mr. BRYANT, Mr. ORTIZ, and Mr. VANDERGRIFF.

H. Res. 537: Mr. HORTON, Mrs. SCHNEIDER, Mr. PACKARD, Mr. MCKERNAN, Mr. BROOMFIELD, Mr. GEKAS, Mr. HARTNETT, Mr. ADDABBO, Mr. CHAPPELL, Mr. HANSEN of Idaho, Mr. KEMP, and Mr. DYSON.

H. Res. 549: Mr. BATES.

PETITIONS, ETC.

Under clause 1 of rule XXII.

415. The SPEAKER presented a petition of the FIVCO Area Development District, Catlettsburg, KY, relative to naming the project known as the Yatesville Reservoir as the Carl D. Perkins Reservoir; which was referred to the Committee on Public Works and Transportation.

EXTENSIONS OF REMARKS

IMPACT OF FUTURE DEFICIT REDUCTION ON THE AGED AND POOR

HON. EDWARD R. ROYBAL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1984

● Mr. ROYBAL. Mr. Speaker, as the political debate rages over the how to reduce future Federal budget deficits, I am gravely concerned that the potential impact on this Nation's elderly and poor has often been ignored. I am particularly concerned because, in the next 4 years, the debate over deficit reduction will turn to action on deficit reduction.

In my role as chairman of the House Select Committee on Aging, I have just completed a study of several of the existing plans for reducing deficits. The analysis showed that a plan to reduce deficits through spending cuts and without raising taxes and slowing defense spending growth would have catastrophic effects on the elderly and poor of this Nation.

Considering the challenges facing the next Congress, I ask that the study's background paper entitled "Future Deficit Reduction: Impact on the Aged and Poor" be reprinted into the RECORD as follows:

FUTURE DEFICIT REDUCTION: IMPACT ON AGED AND POOR

EXECUTIVE SUMMARY

Over the past four years, there have been many attempts to cut the programs for the elderly and poor as a means to reduce current federal budget deficits. While the threat of cutbacks still hangs over the elderly and poor, it is important to remember that the fiscal year 1985–89 total of budget deficits ($1,090 billion) are projected to be $2 billion less than the 1985–89 total of tax cuts and defense spending growth ($1,092 billion).

Future federal deficits facing this nation will exceed $200 billion by the second half of the 1980s.

The 1989 federal budget deficit will total $263 billion—more than $1,000 for each American.

The total deficits for fiscal years 1985 through 1989 will grow to 4.9 percent of the Gross National Product and total $1,090 billion primarily due to tax cuts and defense spending growth which total $1,092 billion—$2 billion more than the five year deficit.

Reducing deficits to the level of the 1970s (2 percent of GNP) will require that the deficit be reduced by $156 billion in 1989—approximately a 60 percent reduction.

With concern growing over the impact of these deficits on the economy, virtually everyone is in agreement that deficits must be reduced.

Seventy percent of the American public feel that these large deficits are very serious for the country.

However, the major area of disagreement is over how the deficit will be reduced. Here the choice is critical. Depending on which approach is chosen, the impact on the elderly and poor will be anywhere from minor to catastrophic. Two options being discussed currently are as follows:

Option A for reducing deficits raises revenues, slows defense spending growth, and contains health care costs. This option will avoid beneficiary cuts.

Option B for reducing deficits does not raise revenues and allows defense spending to grow. This option will require a 21 percent reduction in nondefense spending in 1989.

A 21 percent reduction in Social Security, Medicare and Medicaid translates into a cut of $65.2 billion in expenditures for the elderly—approximately $2,050 per elderly person.

A 21 percent cut in Social Security will average $1,315 for each elderly person—a 10 percent reduction in average income. This reduction will push approximately 1 million more elderly into poverty.

A 21 percent cut in Medicare and Medicaid will average $735 for each elderly person. If these are beneficiary cuts, this will greatly increase elderly out-of-pocket costs to nearly one-quarter of their income—60 percent more than before Medicare began and 100 percent more than in 1977.

The latter option for reducing deficits includes spending cuts in social programs as Social Security, Medicare and Medicaid. However, there are several reasons for not making cuts in these programs.

First, Social Security and Medicare are in relatively good shape financially.

Over the next two years, the deficit is not with Social Security and Medicare Trust Funds since revenues will exceed outlays by 8 percent and the Trust Funds will generate a surplus of $122.6 billion. (The government as a whole will run deficits totalling $1,090 billion for the same period.)

Revised figures project that the Medicare Hospital Trust Fund is likely to be solvent several years past the 1991 date projected by the Medicare Trustees.

Second, not only do we not have to cut these social programs, but we should not want to make additional cuts in programs serving the elderly and poor. Their burden is already large.

As compared to pre-Medicare days, the elderly are using increasing amounts of their income for health care. Currently, the elderly are using 15 percent of their income—more than before Medicare began. This percentage will continue to rise rapidly and will exceed 18 percent by 1989. During this period, the elderly's costs will increase twice as fast as their income.

Nearly 8 million elderly persons (over 30 percent of the elderly) have incomes below 150 percent of poverty. In the total population, the percentage of poor or near poor people is also high and has risen from 23.1 percent in 1980 to 25.6 percent (59.3 million people) in 1983.

By a ratio of nearly 2 to 1, the elderly and poor feel that neither they nor the country as a whole are better off than four years ago.

As for how to reduce deficits, the public not only believes that deficits must be reduced but that raising taxes will be part of deficit reduction.

Eighty-one percent of the public feel that federal taxes will be raised next year.

When the time comes to choose among the options for reducing deficits and making spending cuts, the general public and the elderly have already indicated their preferences.

Given the choice of where to make spending cuts, the public and the elderly favor cuts in defense over cuts in either Social Security, Medicare or Medicaid by a ratio of 3 to 1.

Based upon the analysis described in this background paper, future federal budget deficts could have been avoided by different actions in the past. More importantly, future deficits and should be reduced without cutting benefits for the elderly and poor. This Administration's policy of reducing deficits through major spending cuts should be rejected by the American people. Clearly, the elderly and poor have suffered enough and can not absorb any further cuts.

BACKGROUND PAPER

This background paper by the chairman of the House Select Committee on Aging examines the issue of federal budget deficits and the potential impact of deficit reduction on the elderly and poor of this nation. The magnitude of the deficit problem is described as well as the need for deficit reduction. Having laid that groundwork, several options are considered for dealing with deficits and analyzed for their potential impact on the programs which provide income and health security for the aged and poor. Option A is being proposed by policymakers and will do relatively little harm to the elderly and poor while Option B will result in massive cuts in programs such as Social Security, Medicare and Medicaid. The final conclusion is that while deficit reduction is critical, there is no need to make beneficiary cuts in Social Security, Medicare or Medicaid and there are strong arguments for not making any cuts beyond those already made these past four years.

FEDERAL BUDGET DEFICITS

Annual deficits grow to $263 billion by 1989.—Most experts agree that federal budget deficits will continue to grow for the foreseeable future unless some action is taken. While annual budget deficits were running about 1.9 percent of Gross National Product through the 1970s, the projected annual budget deficit will grow from 4.5 percent of GNP in 1985 to 4.9 percent in 1989. The Congressional Budget Office forecasts that the 1989 federal budget deficit alone will total $263 billion—more than $1,000 for every person in America. For the period 1985–89, five years worth of annual budget deficits will total $1.090 trillion.

Tax cuts and defense growth total more than deficits.—Though the past recession

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

had a substantial impact on past deficits, future deficits occur in a more optimistic future with at least moderate economic growth. Future deficits are heavily affected by two federal actions: the 1981 tax cuts and the growth in defense spending. The tax cuts proposed by the Administration and enacted as part of the Economic Recovery Tax Act of 1981 amounted to a $329 billion revenue reduction in 1989. Though adjustments have been made since 1981, the impact of what remains of the 1981 tax cuts will still amount to $217 billion for 1989. On the spending side, the continued real growth in defense spending will add $77 billion to the 1989 deficit. Based upon this analysis, the total effect of four years worth of tax changes and defense spending growth ($294 billion) more than equals the projected federal deficit ($263 billion) for 1989.

Over 70 percent of the American public feel large deficits are serious and the burden will fall on future generations. Most policymakers view these large federal deficits as growing threats to a healthy economy and agree that something must be done to bring annual deficits down to a more reasonable level. The general public agrees as expressed in a recent poll by Lou Harris. In that poll, 70 percent feel that large deficits are very serious for the country and 75 feel that most of the burden will fall on future generations.

DEFICIT REDUCTION TARGETS

Deficit reduction target of 2 Percent of GNP.—After arriving at substantial agreement that annual deficits should be reduced, the next task is to determine by how much. Some might argue, as the Congress has in the past, that a target of no more than 3 percent of GNP is appropriate. Others might argue for a balance budget with no annual deficits. This analysis uses a target which is between these two levels—a deficit target of 2 percent of GNP. Annual deficits of 2 percent of GNP are roughly equivalent to the average of 1.9 percent occurring in the 1970s.

Five-year deficit reduction target totals over $1 trillion.—This target is approximately a 60 percent reduction from current law and will reduce the 1989 deficit to $107 billion. In order to meet this target, the 1989 budget will have to be reduced by $156 billion. The total deficit reduction for fiscal years 1985–89 will total $630 billion.

OPTIONS FOR DEFICIT REDUCTION

Thought economic growth is a major factor in increasing revenues, and therefore reducing deficits, the above deficit projections already take into account moderate growth in the economy. The economy would have to far outperform the projection to make even a dent in the total of $630 billion needed to meet the 2 percent of GNP target.

Grace Commission proposals provide limited savings and go beyond administrative efficiency.—Another suggestion which has been advanced is to implement the recommendations of the Grace Commission. However, a 1984 analysis by the Congressional Budget Office and the General Accounting Office concluded that the savings will be much less than the Grace Commission estimates. CBO and GAO estimated savings of around $100 billion for the 1985–87 period. However, these savings are not just management proposals for greater efficiency. Approximately 60 percent of the savings result from changing policies or restructuring programs. Though implementing the management proposals might be helpful, they will make only a small dent in future deficits.

Even taking into account economic growth and improved efficiency, most experts agree that deficits will only be reduced through major federal legislation.[1] By analyzing several of the options currently being advanced, we have attempted to estimate the potential impact on the elderly and poor.

Raising revenues and limiting defense growth may avoid beneficiary cuts.—Option A includes a limited increase in taxes and contains spending generally. Defense spending will not be cut substantially, but it will probably grow at a rate of 2 percent rather than 5 percent. If other spending reductions will be needed, they will not be at the expense of the aged and poor. In the case of the Medicare and Medicaid cost problems, cost reductions will be obtained through systemwide cost containment coupled with protection for the aged and poor beneficiaries against declines in quality and increases in cost sharing.

Not raising revenues and not limiting defense growth results in 21 percent cut in nondefense spending.—Other proposals have been made which treat taxes and spending differently and thus result in a very different impact on the aged and poor. For example, Option B will reduce deficits but without raising taxes. According to Congressional Budget Office forecasts for 1989, this will require a reduction of approximately $156 billion or 13 percent for all noninterest spending (defense, Social Security, Medicare, Medicaid, other means tested benefits, other nonmeans tested benefits, nondefense discretionary spending). If we were to take this option a step further and allow defense spending to continue to grow at a rate of 5 percent above inflation, the reduction in the nondefense spending categories will be 21 percent—still $156 billion.

IMPACT OF DEFICIT REDUCTION ON AGED AND POOR

As outlined above, different approaches can have very different impacts on the aged and poor. Option A—an approach incorporating limited revenue increases, slower defense growth, and health care cost containment—will avoid beneficiary cuts.

Twenty-one percent cut will mean $2,050 reduction per elderly person in 1989.—Option B—an approach without revenue increases and with continued defense growth—will have to include major spending cuts. In order to achieve the deficit reduction of $156 billion in 1989, the remainder of the budget will have to be cut by 21 percent. The total spending cuts in the recently enacted deficit reduction bill only total $5 billion for 1989 of which Medicare accounted for the largest portion. Since programs serving the aged and poor make up the bulk of this portion of the budget, cuts will almost certainly be made in those programs serving the aged and poor. We estimate that if an across-the-board cut were made of 21 percent, this will result in 1989 cuts of $80.6 billion in Social Security, Medicare and Medicaid. The elderly's portion of these cuts is approximately $62.5 billion—$2,050 per elderly person.

Twenty-one percent cut will push one million elderly into poverty.—Under this option, we estimate that Social Security cuts will average $1,315 per elderly person and result in a 10 percent reduction in the elderly's average income. Given the large number of elderly living below or near poverty, this reduction will push approximately 1 million more elderly into poverty.

Twenty-one percent cut will force elderly to use one-quarter of income for health care.—As for the Medicare and Medicaid programs under this option, we estimate that a 21 percent cut will mean an average cut of $735 for the elderly. If these cuts were made through increases in premiums, deductibles or coinsurance or through other benefit cuts, the elderly will no longer be using 18 percent of their income for health care in 1989 but 24 percent. Spending nearly one-quarter of their income on health care is 60 percent more than before Medicare began in 1966 and 100 percent more than in 1977.

Thirty-one percent cut in medicare and medicaid will cut over $1,400 per elderly beneficiary in 1989.—If the decision were made that Social Security should be spared under Option B, we estimate that the remainder of the budget will have to be cut by 27 percent in 1987 and by 31 percent in 1989. An across-the-board cut of 31 percent in 1989 will translate into a $45.0 billion cut in Medicare and Medicaid—$1,400 per elderly beneficiary. Looking at estimated 1987 Medicare and Medicaid outlays for the elderly, 27 percent in cuts amount to $31.5 billion. Even if all the proposals made in 1984 had been enacted, we will still face cuts of an additional $26.3 billion in 1987. The impact of the cuts will be made worse because cuts in federal Medicaid payments will almost certainly be matched by cuts at the state level. Medicaid cuts will have the greatest impact on the poor in general and on the poor elderly in particular.

However, many experts argue that Option B need not be taken. The deficit can be reduced through Option A which deals with the deficit by raising revenues, holding down defense, and containing health care costs. This approach will result in no additional cuts in the programs serving the aged and poor.

ARGUMENTS AGAINST CUTTING BENEFITS FOR AGED AND POOR

Much is at stake as policymakers decide among the various approaches. It is critical that these decisions be made in the context of past federal actions, the status of the elderly and poor, and projections for the future.

Social Security and medicare running surpluses through 1989.—There is some question as to whether or not there is a need to make quick cuts in Social Security and Medicare. Current projections for the Social Security program show it being solvent for approximately 75 years. In the case of the Medicare program, major changes over the last four years argue for focusing on cost containment strategies and avoiding more beneficiary cuts. Recent analyses suggest that the Medicare Hospital Trust Fund is in better shape than was projected by the Medicare Board of Trustees earlier this year. Because of reductions in outlays, the insolvency of the Trust Fund is more likely to occur several years after 1991.

In fact, looking at both Social Security and Medicare over the next five years, we project that both will run surpluses—an average of 8 percent per year—at the same time that the total budget will run large deficits. Over the next five years, the com-

[1] A change which reduces the deficit also reduces future interest payments. However, the magnitude of interest payment reduction in any given year depends on when deficit reduction occurs. For example, spending cuts in 1989 will have virtually no effect on 1989 interest payments. In this paper, the impact on interest payments is not calculated since it is uncertain when deficit reduction actions might occur and, therefore, when interest payment reductions should be factored in.

bined Social Security and Medicare surplus totals $122.6 billion while the total budget deficit is $1,090 billion.

However, there is little doubt that there will be a need to develop further cost containment strategies for Medicare as well as health care in general. The key is that we have the time to develop health care cost containment that does not result in cuts in needed services and does not shift a greater financial burden onto the aged and poor.

Past cuts already severe.—Even if there were some pressure to reduce Social Security, Medicare and Medicaid cost, it is important to remember that the cuts over the past four years have already been severe. Though Medicaid is part of the growing deficit problem, it has been the most successful in slowing down increases in expenditures. Most experts agree that any cuts, beyond those already enacted, will come out of reductions in eligibility or benefits.

Large percentage are poor or near poor.—According to the Census Bureau, a third of the elderly—7.9 million elderly—had incomes below 150 percent of poverty in 1983. For the total population, over a quarter—59.3 million people—were below the 150 percent level. Though some progress has been made on the elderly, a substantially higher percentage are poor or near poor than the population as a whole. The poor and near poor in the total population is high and continuing to grow.

Elderly out-of-pocket costs rising to more than 18 percent of income.—The elderly and poor are hardest hit by health care costs. For example, the elderly are expected to continue paying for 36 percent of their health care out-of-pocket. While in 1977 the elderly were using 12 percent of their income for health care, we estimate that the elderly are now using more of their income—15 percent in 1984—for health care than before Medicare and Medicaid began.

Even without further cuts in Medicare and Medicaid, we project that this percentage will increase beyond 18 percent by 1989—more than a 50 percent increase over 1977. Furthermore, the next five years will see the elderly's health care cost increasing over twice as fast as their income—a trend that is likely to continue into the 1990s.

Medicaid cuts impact heavily on poor and near poor.—As indicated above, the 22 million poor covered by Medicaid have already experienced major cuts. Neither they or the States have any more ability to absorb additional federal cuts. However, many people have no insurance coverage. Approximately one-half of the poor are not eligible for Medicaid. As for the combined poor and near poor population, the total poor and near poor not covered by any insurance is now estimated to be between 20 and 30 million people. These poor and near poor have yet to receive Medicare or Medicaid benefits and almost certainly will not receive any relief if major cuts are made in Medicaid.

Elderly and poor feel worse off today.—The elderly and poor are much less likely to feel that they are better off today than in the past. An August poll by the New York Times and CBS News found that 69 percent of the elderly believe that they are not better off than four years ago and 57 percent believe the country as whole is not better off. By almost a 2 to 1 ratio, those with incomes below $12,500 also believe that they and the country are not better off. Similar results have been found in the polls conducted by Lou Harris. In these surveys, the elderly report, by a ratio of nearly 2 to 1, that they are not better off financially then they were in 1981. By almost the same 2 to 1 margin, the poor report that they are not better off.

General public and elderly expect tax increases and favor defense cuts over social program cuts.—The general public does not want cuts in programs such as Social Security, Medicare and Medicaid. A 1984 poll by Lou Harris asked that if they had to choose, would they prefer more cuts in social programs or cuts in the increased defense budget. Overwhelmingly, the public chose cuts in defense spending over cuts in Social Security, Medicare and Medicaid.

	Percent—	
	Total public	Over 65
Cut Social Security	+14.4	+9.4
Cut defense	+75.8	+75.1
Cut medicare	+18.1	+12.6
Cut defense	+71.6	+71.0
Cut medicaid	+19.3	+14.0
Cut defense	+69.6	+66.4

On the issue of tax increases, a recent Lou Harris poll found that 82 percent of the general public feel that federal taxes will be raised next year.

Finally, there is the question of fairness. Clearly, tax cuts and defense growth have been major contributors to the deficit problems we face in the near future. The total impact of four years worth of tax cuts will be $217 billion in 1989 alone. Real growth in defense spending will add another $77 billion to the federal budget in 1989. The total combined effect of tax cuts and defense spending growth in 1989 alone will total $294 billion—$31 billion more than the 1989 deficit.

CONCLUSION

Reducing future federal budget deficits by this Administration's current policies of not raising taxes and not slowing defense spending growth will require a 21 percent cut in nondefense spending in 1989. Assuming that these cuts are made across-the-board, the impact on the elderly and poor will be devastating:

Social Security, Medicare, and Medicaid cuts will amount to $2,050 per elderly person.

Social Security cuts will push one million more elderly into poverty.

Medicare and Medicaid cuts will force the elderly to use as much as a quarter of their income for health care—60 percent more than before Medicare and Medicaid began.

The Administration's deficit reduction plan must be rejected along with any other plans which impact negatively on the less advantaged. Instead, those options should be pursued which reduce the deficit just as effectively but protect the poor and elderly. The elderly and poor have already suffered major cuts in their benefits and can absorb no further cuts.●

W. JENNINGS RANDOLPH: SCIENCE POLICY PIONEER

HON. DON FUQUA

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1984

● Mr. FUQUA. Mr. Speaker, I rise today with a sense of respect and honor to pay tribute to one of my colleagues in the Congress, W. JENNINGS RANDOLPH of West Virginia, who is retiring at the end of this congressional session. As a Member first of the House of Representatives and since 1958 of the Senate, JENNINGS RANDOLPH served his country with dedication and foresight for more than 40 years.

While we in the Congress and many in the general public are aware of his contributions and influence in areas as diverse as environmental protection, aid to society's disadvantaged, aviation and international peace, few of us realize the early contributions he made in helping to enunciate what we now know as national science policy. As chairman of the House Committee on Science and Technology, I greatly admire his foresight and understanding in this realm.

We often think of science policy as having its origins in the 1945 report by Vannevar Bush entitled, "Science the Endless Frontier." And, indeed, this report led ultimately to the creation of the National Science Foundation, which has been the crown of our system of Federal support for basic and applied research since 1950.

In the field of science policy, however, JENNINGS RANDOLPH was a full decade ahead of his time. As a young Representative, he introduced a bill in 1936 to establish a program of Federal support for basic scientific research. This bill was modified several times and was introduced into the 75th Congress as H.R. 7939 in 1937. It was the centerpiece of hearings on "Engineering, Scientific, and Business Research" held before the Interstate and Foreign Commerce Committee in July of 1937.

Senator RANDOLPH's bill anticipated by nearly 15 years the establishment of NSF, by calling for the foundation of a Scientific Research Commission as an independent agency of the executive branch. This Commission would have been empowered to accept research proposals and to assign them for performance to Government laboratories, colleges, or nonprofit institutions. It could also operate its own laboratories if necessary to get promising research done, and could commission studies to determine the most promising fields of research to support.

In addition to envisioning the opportunities for Federal support of research in the furtherance of national economic goals, the bill also anticipated by some 35 years the creation of the congressional Office of Technology Assessment. It called for the establishment of Cabinet-level Scientific and Technological Advisory Committee to study continuously the social and economic aspects of scientific and technological development. Reflecting the concerns of a Nation then mired in the depths of the depression, the committee was directed to pay special at-

tention to how scientific and technological developments might result in unemployment or increased employment.

Unfortunately for the scientific community and the Nation, the Randolph bill did not become law. Like many new and pioneering ideas, the times were neither quite right nor ready for their implementation. It took the intensive and dramatic support of science during World War II to enlighten us to the reality that Government and science could work together for the good of the Nation, and to show the wisdom of the approach suggested by JENNINGS RANDOLPH a decade before.

We owe this esteemed gentleman from West Virginia our gratitude for the concern and care with which he has helped guide our Nation over his long years of public service, and we pay tribute to his clairvoyance as a science policy pioneer.●

OUR NATO ALLIES

HON. RICHARD RAY

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1984

● Mr. RAY. Mr. Speaker, while there is always an enormous amount of discussion which takes place in Congress regarding our foreign policy, right now one issue which is being emphasized is our role, and the role of NATO, in protecting Europe. There are some vital decisions which must be made soon regarding the role each member of NATO must play and the burden they must bear, if we are to achieve our goal of keeping Europe free.

I have been very interested in this discussion and, in my research on the question, I ran across an article which was written by Maj. Gen. T.A. Boam, a commander of the British forces. In his article, General Boam details the role which he believes the United Kingdom now plays as a member of the NATO forces. I found the article to be interesting and thought some of my colleagues might like to read what one of our allies has to say.

The article follows:

[From the Armed Forces Journal, October 1984]

DEFENDING WESTERN INTERESTS OUTSIDE NATO: THE UNITED KINGDOM'S CONTRIBUTION

(By Maj. Gen. T.A. Boam, CBE)

The May edition of Armed Forces Journal dealt in an admirable way with the military contribution made by the allies in NATO. The article dealt purely with contributions to the NATO and European theater. I've listened carefully, of course, to the recent criticisms of the efforts being made by the non-US allies in NATO. But, while none of us are perfect, I don't believe that the Journal or many Congressional leaders give the United Kingdom (or other of your NATO allies) proper credit for the extensive contributions we make "out of area" in the general defense of Western interests.

The UK's worldwide ties of language and culture and widespread commercial and military presence provide a valuable springboard for British "out of area" activities. Britain has commitments to the defense of its remaining dependent territories and we shall continue to devote the resources to meet those commitments for as long as they remain. These particular obligations apply in places as diverse as Hong Kong and the Falkland Islands. We also have garrisons as far afield as Belize in Central America, Cyprus in the Mediterranean, and Brunei in the Far East. Moreover, the security of trade routes is of vital importance to the UK's economy, which depends on the developing world for many raw materials. The UK therefore has a substantial practical interest in the stability of the countries with whom she trades. Then there are areas of particular strategic importance to the United Kingdom and to the West generally. The most obvious example is the Gulf. Events here could not only seriously affect the Western economies but could have profound implications for East/West relations. Drawing on our historic links in the region we do all we can to promote stability in the region.

DEFENSE ACTIVITIES

British defense activities outside the NATO area fall into four main categories:

defense aid to independent states which takes the form, for example, of making available our Service personnel on loan to the Armed Forces of friendly states and the provision of training and other advice;

periodic deployments of our own forces in strategically important areas for exercises, visits, and training;

an ability to deploy these forces in an emergency where circumstances make this necessary as a last resort;

peacekeeping.

The best way to guard against international disruption and instability is to ensure, as far as possible, that responsible sovereign states have the means to defend their legitimate interests. Whenever it is realistically possible, self-help should accompany self-determination. In short, we aim to help others to help themselves. Thus we provide many training places for foreign military personnel: in the year ending April 1983 nearly 3,200 students from over 65 non-NATO countries were trained at defense establishments in the United Kingdom. Our Service personnel on loan to foreign governments currently total more than 700 British, drawn from all three Services, in some 30 different countries. (Our practice of loaning serving military personnel to other countries is, incidentally, something which the United States is prevented by law from doing.)

This sort of help enables our friends to build up their own defense forces. The United Kingdom has about 400 servicemen in the Persian Gulf—and they are in every country except Iran and Iraq. A good example is Oman, where we have almost 200 people on loan with the aim of enhancing the capabilities of the Sultan's armed forces, but essentially within a framework of seeking to help the Omanis to provide increasingly for their own long-term security needs. In other instances our teams are much smaller but can be equally important to the states concerned, such as those in the Caribbean. This area not only has close historical links with the UK but is also, of course, of crucial interest to the United States. British interest in its stability is demonstrated by loan teams in Barbados and St. Vincent and a wide variety of advisory and training activities in the other island states. In Central America the presence of a sizable British garrison—a balanced force of roughly 1,800 men comprised of infantry, artillery, engineer, air defense units, Harriers, and support helicopters—guarantees the security of Belize, only 800 miles from Miami and one of the few peaceful democracies in the area. The UK is also training Belize's own forces so that they can play a greater role in their nation's defense.

PEACETIME DEPLOYMENTS

British forces are deployed periodically outside Europe in peacetime primarily to exercise the capability to dispatch forces far afield in support of British interests. Our overseas exercises are conducted on a worldwide basis. For example, in 1983 the British Army held battalion and lower level exercises in such countries as Brunei, Cyprus, Fiji, Kenya, Malaysia, Singapore, and the Sudan. Such exercises serve a double purpose: not only do they help the units involved to keep up their skills and experience needed for operations outside the European theater, and incidentally ease some of the pressure on our very restricted training areas, but they also contribute to the maintenance of close links with friendly armed forces in parts of the world which are often strategically important.

Between September '83 and April '84 a Royal Navy task group consisting of some 12 warships and support vessels, including HMS *Invincible,* visited a wide range of countries in South Asia, the Far East, and South Pacific staging a number of exercises with friendly navies en route. The deployment constituted a visible and successful demonstration of the UK's continued interest in and ability to deploy to very distant parts of the world. The Royal Navy also maintains two warships permanently in the northern Indian Ocean and one in the Caribbean as a visible demonstration of our commitment to our friends and our interests in the regions. Royal Navy mine countermeasure vessels have recently been involved, together with US and other European forces, in dealing with the mining threat in the Gulf of Suez.

In addition to the range of military assistance and peacetime deployment activities, the UK maintains a capability to resort ultimately to military intervention where it is judged to be necessary to defend crucial national or wider Western interests. Our basic aim is to ensure that some of the forces we maintain to support our primary NATO commitments possess the versatility to be deployed elsewhere should they be needed. Given the primacy of NATO in UK defense policy, we would not wish to create any substantial force dedicated specifically to operations outside NATO, but through a number of carefully planned improvements to existing forces we have been able to strengthen substantially our out-of-area capability. Thus, for example, 5 Infantry Brigade has been developed into 5 Airborne Brigade; its priority role will continue to be home defense of the UK base, but, in the light of our experience during the Falkland Islands campaign, it has been given an expanded capability for overseas operations. We have added an armored reconnaissance regiment, an artillery regiment, a light helicopter squadron, and additional logistic units, and increased the number of parachute-trained soldiers. In addition, we have

a nominated 2-star HQ and, if necessary, as in the Falklands, we have a 3 Commando Brigade, which has a full amphibious capability.

Airlift for 5 Airborne Brigade will be provided primarily by C-130 Hercules aircraft, and half the Royal Air Force's Hercules fleet is being modified to carry nearly 50% more paratroops, and station-keeping equipment is also fitted to a number of these "stretched" Hercules to assist the aircraft to carry out a coordinated drop of the parachute force in adverse weather. The range and speed of deployment of our forces has also been greatly increased by advances in air-to-air refueling, a technique in which the RAF now has unrivalled expertise as a result of the Falklands operation. The tanker fleet has been augmented by the introduction of Tristars and a newly converted squadron of VC-10s, which adds a new dimension to the United Kingdom's ability to deploy an airborne force worldwide. Air-to-air refuelling also greatly enhances the effectiveness of our fighter and airborne early warning aircraft in the European theater by extending the duration and range of their patrols.

In addition to our periodic exercises and other peacetime deployments, we made a significant contribution to the preservation of peace in a rather different but increasingly important way, through our contribution to peacekeeping forces. We have for many years provided the largest element (currently more than 800 men) of the UN peacekeeping force in Cyprus. We also provide logistic support from Cyprus to the UN peacekeeping force in southern Lebanon, UNIFIL. The multinational force in the Sinai (MFO), set up to monitor the peace treaty between Egypt and Israel, has a British element, and Britain, together with the United States, France and Italy contributed a contingent to the multinational force in Beirut which was withdrawn last February. In Korea we provide a detachment for the United Nations honor guard.

There is no doubt that the key threat to NATO is posed by the Soviet Union in Europe and the North Atlantic. But how about giving us credit for our real contributions there as well as the ones I've cited for out-of-area? The United Kingdom and our European allies have been making a steady real increase in our defense budgets over the last decade and a half. Indeed in real terms there has been about an average of 2% annual increase ever since 1970, compared with a decrease in the US budget over the same period which did not catch up with its 1970 figure until 1983. In fact the British defense budget in 1984/85 is over 20% higher in real terms than the defense budget in 1978/79 despite considerable economic difficulties.

Like the U.S., the European members of NATO devote the bulk of their defense effort to countering that threat. Indeed, the European allies provide some 90 percent of the Alliance's ground forces in Europe and 80 percent of the combat aircraft readily available to the Alliance in Europe. But Europe's defense resources are by no means exclusively devoted to NATO, and it is right that this should be the case. The Alliance itself has acknowledged, following the Soviet and Soviet-supported activities in Africa and direct Soviet military intervention in Afghanistan in the 1970s, that the growing Soviet military reach—and readiness to exploit unrest in all parts of the world—make it increasingly necessary for NATO members with the capacity to do so to look to Western security concerns over a wider field. In the UK's case, although 95 percent of our defense budget is devoted, directly or indirectly, to NATO tasks, the resources deployed in support of our NATO commitments are also capable of being used very effectively to counter threats to legitimate British and wider Western interests beyond the NATO boundaries—as the Falklands conflict showed only too dramatically.

This article has concentrated on describing Britain's military presence and capabilities outside the NATO area, but other European nations also maintain forces which could have a vital part to play in countering threats to Western interest beyond the Alliance's boundaries. For example, France has its Force d'Action Rapide, and France and the Netherlands have forces permanently stationed outside the NATO area. Furthermore, France, Italy, the Netherlands, Denmark, and Norway all contribute to United Nations or other peacekeeping forces. In the face of Soviet power projection, the West has a strong and continuing stake in the maintenance of stability around the world and the capability to protect its interest should the need arise. The European members of the Alliance recognize these demands and play an important and effective role in countering Soviet influence worldwide.

EXERCISE LIONHEART

Whilst this article has dealt with our out-of-area activities and contributions, I believe it is worth mentioning Exercise Lionheart, which took place in September in Germany. This was Britain's biggest exercise since World War II and was designed to simulate the conditions that would apply in the preparation and early stages of a war in Europe. In the words of Mr. Heseltine, the Secretary of State for Defense, "Lionheart will be our largest reinforcement exercise ever and will demonstrate our ability to reinforce our troops in Europe quickly and in strength, and thereby illustrate our commitment to NATO's forward defense and deterrent policy generally."

The exercise divided into three components: Exercise Full Flow, which ran from 3-20 September, was the major mobilization exercise in which 57,000 service personnel, including 35,000 members of the Territorial Army and, for the first time, 4,500 individual reservists, were carried to war positions on the continent; Exercise Spearpoint, 15-28 September, which was the major field training exercise; Exercise Cold Fire in which air forces of NATO's central front complemented the ground action with more than 4,000 sorties. The exercise had a truly international flavor as the aggressor force for part of the ground action consisted of a German divisional headquarters with under commands from Britain, FRG, Holland, and the US. In all about 135,000 personnel were involved including three of our four divisions in I(BR) Corps, with the fourth division providing the umpires and control organization.

The exercise took place over much of the northern part of West Germany, through towns, villages, and farmland and clogging the roads. No training areas were involved as all those in Europe are tiny compared to some of the huge ones in the USA.

I have no doubt the German population was considerably disturbed. This sort of hidden contribution is often ignored when considering the West German defense budget, because it does not appear as such and is indeed incalculable. I wonder whether the American or British communities would put up with such inconvenience.●

CONGRESSIONAL SALUTE TO THE POLISH PEOPLES HOME OF PASSAIC, NJ, UPON THE CELEBRATION OF ITS 75TH DIAMOND JUBILEE ANNIVERSARY

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1984

● Mr. ROE. Mr. Speaker, on Sunday, October 14, the residents of the city of Passaic, my congressional district and State of New Jersey, will join together in a testimonial to our Polish American community through the commemoration and observance of the 75th diamond jubilee anniversary of the Polish Peoples Home, Inc., of Passaic, NJ. This day will be set aside as a day to honor the founding fathers of this most prestigious Polish American organization and salute the outstanding contributions the Polish historical, educational, and cultural heritage has made to the American dream.

Mr. Speaker, at the outset let me commend to you the founders of the Polish Peoples Home whose sincerity of purpose throughout the years have helped to perpetuate its principles of incorporation as a home for all Polish societies in the city of Passaic and its environs to help preserve and enhance their Polish heritage and serve as a vital link to the people of Poland who immigrated to America in their struggle to fashion a new way of life in their adopted country of America. A roster of the founding fathers of the Polish Peoples Home is, as follows:

POLISH PEOPLES HOME—THE ORIGINAL 15 INCORPORATIONS

The Honorable: Alexander Greschick, Joseph Pojanowski, Adolph Chudzik, Ojciech Bogacz, Anton Krawel, John Sinski, Wladislaw Ziemkiewicz, Joseph Jaworski, Stanislaw Grzybowski, Walenty Lorkowski, Ignacy Pasieka, Maryan Chmielinski, Joseph Borowski, Joseph Sunday, and Albin Rowinski.

1922 BOARD OF DIRECTORS

The Honorable: M. Chmielewski, W. Lenartowicz, Henryk Zajac, Edmund Jezierski, Joseph Jaworski, Jan Kucinski, Stanislaw Karpinski, Michal Partyka, Antoni Japowicz, Stanislaw Jacukiewicz, and Michal Jarmulowicz.

1922 MORTGAGE GUARANTORS

The Honorable: Wladyslaw Lenartowicz, Franciszek Sennert, Stan Karpinski, Michael Polak, Jakob Sondey, Tomasz Maj, Jan Zurawski, Jan Jacukiewicz, Franciszek Rychlicki, Wojciech Stec, Szymon Galka, and Michael Siuta.

1932 BOARD OF DIRECTORS

The Honorable: Joseph Mankowski, S. Kucinski, H. Zajac, H. Chmielinski, F. Krzyzanowski, H. Janowska, N. Proppe, J. Blazowski, I. Pasieka, and J. Kupiszewski.

1932 BUILDING COMMITTEE

The Honorable: Andrew Palach, J. Bednarz, Jakob Bednarz, P. Szot, and F. Sennert.

1932 MAJOR INDIVIDUAL SHAREHOLDERS

The Honorable: K. Bezubik and M. Prebol.

Mr. Speaker, in observance of the 75th anniversary of its founding, the members of the Polish Peoples Home have been working with many of the leading citizens in our community in devising an outstanding program and seeking full citizens participation in their diamond jubilee celebration. I am proud and honored to have been selected to be a member of the honorary committee comprised of exemplary community leaders and highly reputable citizens of New Jersey, as follows:

POLISH PEOPLES HOME—DIAMOND JUBILEE BANQUET COMMITTEE

The Honorable: Stephen Stys, General Chairman; Mitchell Zak, Secretary; Nellie Kosko, Recording Secretary; Michael Bednarz, Treasurer; Stanley Kobylarz, Souvenir Journal Committee; John Zaunczkowski, Souvenir Journal Committee; Carole Canterbury, Reception Committee; Josephine Nizol, Reception Committee; Adele Wojtas Kempton, Program Committee; Michael Grochala, Entertainment Committee; Edward Zak, Entertainment Committee; John Kraska, Decoration Committee; Anthony Stelmach, Decoration Committee; John Budzinski, Publicity Committee; and Vincent Rendenna, Publicity Committee.

HONORARY COMMITTEE

The Honorable: Monsignor Ladislaus Flek, Pastor, St. Joseph's Church, Passaic; Very Reverend John A. Slysz, Pastor, St. Paul-Peter Church, Passaic; Monsignor Alexander Fronczak, Pastor Emeritus, Sacred Heart, Wallington; Reverend John Podgorny, Pastor, Holy Rosary Church, Passaic; Reverend Stanley Adamczyk, Paster, Most Sacred Heart, Wallington; Reverend John J. Kotula, Pastor, Church of Transfiguration, Wallington; Reverend John Trzybowski, Pastor, St. John Kanty Church, Clifton; Reverend John J. Kowalski, Pastor, St. Stanislaus Kostka, Garfield; Dr. Jerzy Kawecki, Physician; Dr. Thaddeus Gromada, Professor of History, Jersey City College; Joseph Hirkala, New Jersey State Senator; Donald P. Hetchka, Freeholder, Passaic County; Gregory Komeshok, Freeholder, Passaic County;

The Honorable: William J. Bate, Registrar of Deeds, Passaic County; Joseph Lipari, Mayor of Passaic; Gloria Kolodziej, Mayor of Clifton; Walter M. Slomienski, Jr., Mayor of Wallington; Thomas J. Duch, Mayor of Garfield; Louis J. Gill, Councilman, Passaic; Fred J. Curran, Councilman, Passaic; Irene Jarosz, Councilwoman, Garfield; Czeslaws Durska, Honorary President, ZPN; Peter Nowosielecki, President, Sons of Poland; Stefan Markowski, President, Polish American Congress, Bergen-Passaic Counties; Anthony Nieradka, Pharmacist; Jerry S. Wlodaiczyk, Restauranteur-Contractor, Edward J. Janiec, Director, Chopin Singing Society; and Edward Kosowicz, Radio-WPOW.

Mr. Speaker, with your permission I would like to insert at this point in our historical journal of Congress a brief history concerning the establishment of the Polish Peoples Home as related to me by the Honorable Michael M. Zak, secretary of the Polish Peoples Home, Inc., as follows:

POLISH PEOPLE HOME—BRIEF HISTORY

During the first decade of the Twentieth Century, the City of Passaic, New Jersey, like other industrial centers, had an inexhaustible demand for unskilled labor and had become a magnet to migration. The population of Passaic had swollen in 1900 to nearly 28,000 people, an increase of nearly 100% in ten years.

The Polish immigrants were one of the many immigrant groups who struggled to fashion a new way of life in their adopted country of America. They brought with them an array of customs and cultural traditions which they vowed to preserve and maintain as a vital link to their former way of life in Poland.

It was in this environment that on October 9, 1909, fifteen of our Polish forefathers formed a corporation called "Polish Peoples Home." The object of the corporation was to establish and maintain a home for all Polish societies in the City of Passaic and vicinity.

With their hard-earned money, they purchased land at 1-3 Monroe Street and a small building on First Street which they moved to the Monroe Street location in Passaic. This was the first Home.

The Polish Peoples Home flourished and in 1922 the newly elected Board of Directors decided that a larger building was vital to Polonia despite the financial hardships it would cause and the opposition of others who maintained that the small building was sufficient. A new building was built with a large ballroom and smaller rooms for classrooms and meeting rooms for the societies. It was dedicated on April 8, 1923.

Soon it was evident that the Home was too small. After a few years, a parcel of adjoining land 30' x 150' was purchased from the City of Passaic. The actual expansion of the building was delayed in order to rebuild the savings accounts.

In the late 1920's two large ballrooms were built in Passaic. Both larger than the Polish Home's and in direct competition. This had an adverse effect on the income.

In 1932 the reduction of revenues without a reduction in expense resulted in an unanimous vote by the Board of Directors to expand the building. There was a great interest and enthusiasm in the building plans. Many individuals and societies including St. Stanislaus Society purchased shares thereby increasing the capital.

In 1946, the mortgage was paid and the preferred sotck was retired. A parcel of land 50' x 125' was purchased for parking. In 1958 additional land for parking was purchased from the City of Passaic on Fourth Street.

In 1979, Chopin Singing Society purchased 1,000 shares from St. Stanislaus Society and began to take an active part in management and administration.

Today, let us all feel proud and confident that all of us have contributed at least a little of ourselves and that we need only to work in harmony to build, for discord will destroy our efforts.

Mr. Speaker, as a Nation comprised of all people of all nationalities and regions throughout the world, each singularly and rightfully so, proud of his or her individual heritage and united in common endeavor of freedom, justice, and a good life for all, we can most assuredly be proud of the exemplary achievements that the people of Polish heritage have contributed to America's greatness.

It was fitting indeed that prior to our nationwide celebration of Polish American Heritage Month in August 1984 we were successful in having enacted into Public Law 98-372 our legislation to grant a Federal charter to the Polish Legion of American Veterans, U.S.A. Our Polish American veterans have a long history of service to America, both in war and in peace, and this was a most noteworthy congressional recognition of this most prestigious organization of over 9,000 members, as well as 4,000 members of the ladies auxiliary, serving our Nation's veterans with Polish Legion of American Veterans posts in many cities throughout our Nation, including our great State of New Jersey.

Throughout the last two centuries Polish Americans have fought bravely to help preserve our independence and have made immeasurable lasting distributions in the arts, the sciences, and in industry and agriculture—all rebounding to help establish a strong and free United States of America.

Throughout the past three-quarters of a century the Polish Peoples Home, Inc., of Passaic, NJ, has served as a haven for Polish immigrants and our Polish American community combining their recreational, cultural, social, and educational endeavors in helping preserve the beauty and richness of their Polish heritage, providing immeasurable lasting contributions to the preeminence of America's society throughout the world. We do indeed salute the Polish Peoples Home upon the celebration of its diamond jubilee anniversary in service to people.●

A TRIBUTE TO MICHAEL PERTSCHUK

HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1984

● Mr. SCHEUER. Mr. Speaker, as Michael Pertschuk's term as Commissioner of the Federal Trade Commission is about to expire, I would like to pause for a moment to pay tribute to the accomplishments of a very dedicated public servant.

Mike Pertschuk is a creature of the Congress, having served for 15 years in a variety of senatorial staff positions, including chief counsel of the Senate Commerce Committee. He was appointed Chairman of the Federal Trade Commission by President Carter in 1977, a fitting post in light of the key role he had earlier played in securing passage of legislation which strengthened the FTC's hand to deal with widespread consumer fraud. When President Reagan assumed

office, Mike continued to serve the FTC as the voice of the loyal opposition. With dignity and vigor, Mike has spoken out over the administration's unprecedented departure from a bipartisan commitment to enforcement of our antitrust and consumer protection laws.

Mike Pertschuk believes firmly in the FTC as defender of free and fair competition, and he has served his agency with great distinction and unflagging devotion to the public interest.

First and foremost among Mike Pertschuk's achievements was his ability to raise issues of major importance that needed to be confronted. The impact of advertising directed at young children, for example, is a subject that troubles millions of parents in this Nation, and Mike Pertschuk was not afraid to raise that issue and explore it in dramatic fashion. For this he paid a heavy price, in opposition by industry members unwilling even to see this matter considered by the Federal Government, but throughout it all, Mike Pertschuk persevered.

Other problems on which Mike Pertschuk has raised public consciousness and contributed substantially to the debate include the impact of private and State restrictions upon competition in medicine, law, and other professions; the impact of increasing economic concentration through conglomerate mergers on our economy, especially on the survival of small, innovative businesses; and the inability of consumers to make a meaningful comparison among the costs of various life insurance policies.

In these and other cases Mike Pertschuk spoke out strongly. And in many of these cases his forthright exploration of tough issues elicited powerful opposition from interest groups that apparently believe it best that such questions not be discussed at all. When the power of these groups was felt on Capitol Hill, Mike Pertschuk became a regular visitor to our offices and committee hearing rooms, patiently and repeatedly explaining to us the activities of his agency, firm in his defense, but always recognizing the appropriate role of congressional oversight.

Under Mike Pertschuk's leadership, the FTC was a vigorous defender of consumer rights. In 1980, in fact, for the first time in the FTC's history, the amount of money obtained by the agency in refunds to consumers who had been victimized by deceptive practices exceeded the agency's entire budget. That is certainly a record of which any administration could be proud.

There are many specific FTC achievements during Mike Pertschuk's chairmanship—in terms of improved competition and real benefits to consumers—to which he can point with pride. He led the FTC's effort to bring down spiraling health care costs by attacking illegal barriers to competition such as price fixing, doctor boycotts, and bans on price advertising for medical services and products. He also fought for the consumers' right to critical information so they could save money by shopping around for products like home insulation and the right to free repair of unreasonable product defects. Mike Pertschuk's record in addition demonstrated his deep concern for special groups of consumers who are without privilege in the marketplace, such as elderly consumers, on whose behalf he supported FTC actions to force funeral directors to disclose their prices in advance and to curb abuses by hearing aid dealers.

Although the FTC under Mike Pertschuk was criticized for overregulation, in reality the Pertschuk Commission began less than 15 percent of the number of rulemakings initiated during the 4 years of his Republican predecessors. The FTC under Mike Pertschuk engaged in relentless scrutiny of rulemaking proposals in a way that balanced serious and responsible concern for the rights of consumers against the necessity to achieve those rights in a way that did not hamstring the legitimate operations of business.

Mike Pertschuk has achieved all of these things with a style, wit, and unpretentious manner that are as refreshing among high officials as they are uncommon. His disarming frankness, along with his willingness to confront the most hostile inquisitors in Congress, in business forums around the country, and most recently in his own agency, have earned him respect, and not a few converts.

Mike Pertschuk's energy, enthusiasm and commitment to the public interest evoke an image of a model public servant which has sadly all but disappeared from Government during the last 4 years.

We will miss Mike Pertschuk in public service. But we look forward to many years of continuing service as a forceful advocate of consumer rights.●

TRIBUTE TO DR. HARRIE CHAMBERLIN

HON. CHARLES McC. MATHIAS, JR.

OF MARYLAND

IN THE SENATE OF THE UNITED STATES

Wednesday, October 3, 1984

● Mr. MATHIAS. Mr. President, medical science and the ability to deliver health care are a source of pride for the United States. The remarkable progress of the medical profession in the last generation has resulted not only in a prolongation of life, but in an advance in the quality of life, particularly for those who began life with a physical or mental handicap.

The accomplishment of the health care professions has been in part the success of their partnership with the Federal Government in a remarkable program of research at every level. The joint efforts of the professionals and the Government were, of course, authorized by the Congress and have been carefully and closely watched by Members of the Congress who enjoy a personal as well as a professional satisfaction in these health science programs.

The success of the partnership of health science and government is not, however, merely a matter of finance or technology or statistics. It is eminently a matter of human commitment and human achievement in which people have been the essential ingredient.

Of few is this more true than of Dr. Harrie Chamberlin who was recognized on June 22, 1984, at the climax of his medical career at a banquet held at the University of North Carolina. What was said at that time about Dr. Chamberlin goes beyond an anecdotal account of his life. It is evidence of the way that the level of success the American people now enjoy was attained. It is biographical, personal, and informal, but it is no less important as a record of how Federal dollars were spent, Federal programs created, and Federal goals reached. It is even more important as a record of unusual imagination, concern, and perseverance in pursuit of excellence.

In an age when there is continuing talk of retrenchment in Federal health care institutions, it is useful to review this record. Mrs. Mathias and I join in the salute to Harrie Chamberlin and also in saluting all of those who participated in this tribute to him and who created this remarkable bit of oral history. In particular Calvin Khobeloch, who made this transcript available, has our thanks. I ask that an edited transcript of the remarks made at the banquet be printed in the RECORD at this point.

The material follows:

EXERPTS FROM REMARKS MADE AT BANQUET IN HONOR OF DR. HARRIE CHAMBERLIN, JUNE 22, 1984

MASTER OF CEREMONIES: MORRIS A. LIPTON, DIRECTOR, UNIVERSITY OF NORTH CAROLINA CENTER BIOLOGICAL SCIENCE RESEARCH

In a vignette and maybe a caricature of Harrie, let me give simply two very prominent attributes. The first is that he has never been self-serving. Instead he has been almost monomaniacally committed to improving the lot of children with developmental disabilities. His approach has been interdisciplinary and he has been remarkable in the success that he has generated people who have learned from each other in the interest of these kids. He served a very honorable cause, and in that cause he has been a lobbyist, a politician, sometimes a banker (though I think he might have done better at that), a humane advocate but most of all, a physician and a teacher of many students who have gone on to devote their

lives to preventing, diagnosing and treating developmental disabilities.

Invocation—Blan Minton.

Spirit of the universe whose abiding presence is felt from the awesome heights of Mt. Everest to the bedsides of children in pain and to the interpretives with parents whose hearts are saddened with news, bad news of a handicapped child, be present with us now in this celebration of our colleague who has done so much for the cause of your children, frequently from the far reaches of the world. Amen.

DONALD STEDMAN, ASSOCIATE VICE PRESIDENT FOR ACADEMIC AFFAIRS, UNIVERSITY OF NORTH CAROLINA

The history of the University Affiliated Programs probably goes back much longer than I can remember, or anybody in this room, but in terms of its relationship to the program here, it goes something like this: the last piece of legislation that Jack Kennedy signed was the comprehensive Mental Retardation and Mental Health bill, with set up funds from the federal level to establish programs around the country that would be models that would impress young people in the course of their professional training in pediatrics, in psychiatry and education, hearing and speech sciences, all the specialties that are necessary to deal with problems of mentally retarded and handicapped children and to help families. And a key part of that legislation was called the University Affiliated Programs. Harrie remembers well, because he helped to develop the concept. And it was a very simple concept and that is that everybody knew, and there are a lot of people in this room tonight who know and remember. People who are parent advocates remember, and professionals remember that if, in the late fifties, you were professional and you didn't want to get thrown out of the guild, you stayed away from the mentally retarded. You didn't get mixed up with the handicapped. It was not the thing to get involved with. And so one important element here was to establish in academic settings, in first rate medical centers and institutions of higher education throughout the country, model programs that would bring together various disciplines who would demonstrate to young people in the course of their professional training, that you could approach and successfully deal with mentally retarded children and work with their families and maybe then when they went out into their practices and into their professions, they would do that as a regular course of action. And a key to that was to be sure that we identified throughout the country, people who were prestigeful in their fields. People like Grover Powers had already been very instrumental in getting people interested in retarded and especially instrumental in the field of pediatrics along with Harrie Chamberlin, there were other people who were very active at the time * * * thousands of people paid attention then to the fact that there were first rate people in the various professions who were interested in mentally retarded children and their families. Harrie Chamberlin was one of the most frequently mentioned names when any discussion came up about where programs ought to go and what people could be attracted to be involved. He had already began programs in North Carolina and the activities here were well known. And when at the time I was with the Kennedy Foundation and it was my privilege to come to North Carolina to discuss the planning grant here for the University of North Carolina and little did I dream that I would have the privilege of being part of the University of North Carolina at a later time, and so a program was begun here and at nineteen other universities around the country. Twenty risk taking universities with first rate people in first rate medical centers bringing together a variety of people from major disciplines. And that has grown throughout the country and especially in North Carolina as a beacon of how professionals can come together to approach the problem of mental retardation and to work with families and to change attitudes and to become professional and lay advocates on behalf of retarded children and their families and Harrie Chamberlin has been at the forefront. He has made a profound difference and there are many parents in this room tonight, I see them, I remember them, some I haven't seen myself in twenty years, I think Harrie may have had the same experience. He has had a profound effect on the nation as well as the state and I think that we are all grateful and we appreciate the fine work that he is doing, that he has done, and that he will continue to do. He has brought prestige to the area. He has been a durable professional. He has continued in the field and regularly been with us, and he has insisted on quality. All of us, parent and professional alike, are deeply grateful. . . .

JAMES PAPAI, DIRECTOR MATERNAL AND CHILD HEALTH TRAINING, D.H.H.S.

When I was asked some weeks ago whether I would come and say a few words at this occasion * * * So I asked myself, well what do I know about Harrie and about what he represents? And among the things that I have mulled over was my recollection of my very first time of meeting Harrie, which I am sure I recall and he does not. And that was on the occasion of our first site visit down here and the first time I saw Harrie Chamberlin was through the viewing window of a, you know, a two-way mirror thing, and Harrie is down on the floor, playing with a little child, doing an assessment, and at that time I mean Harrie's reputation was already well known, and I thought, gee, you know, the man is still working with babies. That has stuck with me. I didn't really know at the time that that was going to be the first of a number of sort of surprises in my knowledge of what Harrie is. I guess the next one that really struck me was when somebody from the program here that I was talking with and I inquired about Harrie, and they casually said, well he was off climbing Mt. Everest or something, and my response was, sure, you know. So where is Harrie really? And indeed I find out that Harrie was climbing Mt. Everest or wherever it was. And I guess I began to understand something of the complex nature of the man we are honoring tonight. His safari-ing, his mountain climbing, his exploring, his many and obvious endeavors in the professional realm with handicapped children, and I don't think I have ever come to a complete assessment, Harrie, of what all you represent. * * * I came to realize that he is a very complex, and a very effective human being. Over the years I have found that he is humble, he is committed, he is strong, he is willful and all in a positive way. I think people who have a commitment have to be those things. I have dealt with Harrie and with others in the program, but with Harrie about the program here for many years. We have had our disagreements as is inevitable, but I can certainly say for me and I would hope that Harrie would say the same, that the disagreements have not been disagreeable. We have disagreed as matters of principle representing our various university or agency points of view, and always, at least from my standpoint, with the full knowledge and understanding that the disagreement was based on honest differences on a true commitment to what we mutually agreed was to be accomplished and the fact that we didn't always agree on how we got there, then and now becomes to me rather irrelevant, cause I knew we were aimed in the same direction.

DR. FLOYD DENNY, FORMER HEAD, UNIVERSITY OF NORTH CAROLINA DEPARTMENT OF PEDIATRICS

When I became chairman at UNC, it became clear to me that Harrie represented one of the most important subspecialties in pediatrics. As a matter of fact, developmental pediatrics is more than a subspecialty. It is an integral and important part of all of pediatrics, arguably the most important. Now Harrie Chamberlin has done a superb job in leading this department to the forefront in his discipline. Early in the 1960's he began a developmental evaluation clinic which was the forerunner of his present operation. He was very instrumental in the early 1960's in our obtaining the present child development institute, especially the Biological Sciences Research Center. His building of the (Disorders of Development and Disorders of) DDDL . . .has been one of the real remarkable accomplishments in our department over the past decade. This division is supreme in North Carolina and widely known as one of the best in the entire United States. In his work with the DDDL, he touched the lives of thousands of children and their families. It is generally recognized that Harrie is at his best when he is evaluating the development of a small child, and I was interested in the earlier description of Harrie being on the floor, because I was particularly impressed several years after I arrived, when that was described to me and one of our more iconoclastic residents told me that he had never seen anyone who could do a development evaluation of a child as well as Dr. Chamberlin.

CAROLYN ELFLAND, ONE OF DR. CHAMBERLIN'S FIRST—AND LONGEST LASTING—SECRETARIES

I first met Dr. Chamberlin in 1966 when I was hired to be his temporary secretary for two weeks, and except for a brief period when I returned to school to complete my bachelor's degree, that two weeks turned into sixteen years, during which time I witnessed many changes and improvements in the DDDL, and so I thought tonight that I would share with you some of the history of the program that Harrie built. Of course in 1966 the DDDL was the DEC and part of the Department of Pediatrics. Few people know that Dr. Chamberlin had the dubious distinction of having brought the first mobile home to this campus. Trailer #1, as it was called, was parked right outside of what then was the front entrance to the hospital which is now approximately where the hospital cafeteria building stands, and it was a nice little single wide trailer. We had heat, we had electricity. Unfortunately, it stopped there. We had no plumbing, which wasn't too good for either the staff or the parents and children who were being evaluated, but it was a start and we were all justly proud of it. Back in those days the interdisciplinary approach was rather new and untried and we did not have the easiest time in the world getting clients. In fact, the DDDL social worker who is also sitting in the audience tonight, used to prowl the Pe-

diatric Neurology Clinic for possible clients for the program. In fact, she and I were known, whenever Dr. Chamberlin would be out of town for a few days, or on an extended vacation, to prowl through his private patient referrals, looking for possibilities. And then we only saw one child a week. After a few years of State Board of Health funding, we got money from the old U.S. Children's Bureau, and that gave us enough money to buy a double wide trailer to go with our single wide trailer, and we moved across the street to the university trailer parking lot on Manning Drive. That's about where the FLOB building and the parking deck are now for those of you who were not here at that time.

Then in the late 60s, we got to be designated as a UAF, and I well remember the day when the Site visitors came and met with us in the old board room of North Carolina Memorial Hospital and they offered us so much money, it was absolutely just astronomical, probably for the first time, I know for the first time, probably for the only time, Harrie let loose on the purse strings a little bit, and we recruited and hired and bought more trailers and bought equipment and, in spite of our best efforts, we still turned back $70,000 that year. So, by this time we had four double wide trailers, all of them parked together, and we had a chicken wire and wooden porch affair with a covered tin roof. The parking lot was either a sea of mud or a moon scape of potholes. We even had one patient's mother twist her ankle, and file a court claim against the hospital.

We had to either walk or wheel or carry every patient across the street, into the hospital for their lab work and also for their medical evaluations, but we felt we had really arrived. Often during that time, one summer when Dr. Chamberlin was on one of his famous vacations other speakers have alluded to, the DDDL coffee pot decided to compete for notoriety with Mrs. O'Leary's cow, and we lost one complete trailer in the resulting fire, but we all joined together and put on our jeans and scrubbed smoke and grime off desks, file cabinets and books and there are more than one or two people in the audience tonight who have smoked up books still on their shelves as reminders of that experience. Luckily though, the BSRC building was completed and we moved in, in less than a year after the fire.

By this time we were seeing three new clients a week and five returns, and we had added a one-day model to the program, and shortly after we moved in, we added several other models, medical consultation, and pediatric neuropharmacology clinic and others and expanded our classroom programs, initiated a lot of treatment programs. . . . We were seeing clients which in the beginning could be no older than three all the way up to early adulthood, some thirty and forty year old range, so in summary the program that Harrie built grew in budget from less than $25,000 a year to over a million, from a handful of staff to over fifty, in models from one to over a dozen, and perhaps most importantly in clients served from less than 200 to over 1200 a year, and I just like to say Harrie, I wish you equal success in your retirement.

THOMAS BOAT, HEAD OF UNIVERSITY OF NORTH CAROLINA DEPARTMENT OF PEDIATRICS

There is no way I can fully recount what your presence has meant to the Department, but let me share a few thoughts along these lines. You have extended Pediatric Department contact to many areas of the University, as your multidisciplinary team has carried out its mission. You have brought national and international recognition to our Department with the outstanding developmental disabilities program that you have shepherded. You have been an effective voice, both in Raleigh and Washington, for children's issues. What you did at those levels reflected in a very positive way on our Department and certainly enhanced its image. You sent dozens of trainees out into the State and the nation. I can't begin to imagine how many pediatricians participate more confidently in the care of children with developmental disabilities because of your contact and influence. However, it may be the little things that we'll miss the most: Your cheerful enthusiasm, your willing participation in a wide range of activities and your supportive, encouraging style. Your gracious and highly effective style has provided our Department with—not a touch—but a whole lot of class.

STUART BONDURANT, DEAN, SCHOOL OF MEDICINE, UNIVERSITY OF NORTH CAROLINA

It is, of course, a signal pleasure for me personally and officially on behalf of the School of Medicine to join in this celebration and recognition of the pioneering contributions of Dr. Harrie Chamberlin in providing mankind the world over with insights, skills, trained personnel, and dedication to address effectively the problems of disorders of development and learning. Dr. Chamberlin's seminal contribution has been the recognition of the need for multidisciplinary insights and skills to be focused coherently in diagnosis and treatment through the linkage of service, teaching, and research. With Dr. Chamberlin, we can take great and just pride in the accomplishments of the past. Inspired by Harrie's example and pressed by his commitment, we can eagerly face the challenges of the future to bring on line in a humane and effective way the powerful advances which are in hand or in the offing. Harrie, we thank you for the great gifts of the past and most significantly, for the future, the great gifts of insight, and commitment to assure the perpetuation of your marvelous work.●

EDWIN B. FORSYTHE MEMORIALIZED AT REFUGE DEDICATION

HON. JOEL PRITCHARD

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1984

● Mr. PRITCHARD. Mr. Speaker, on September 22, 1984, I was honored and privileged to be a part of the dedication ceremonies in Oceanville, NJ, to redesignate the Brigantine and Barnegat Refuges as the Edwin B. Forsythe National Wildlife Refuge. We couldn't have asked for a more beautiful day or more appropriate way to honor our friend and colleague, the late Ed Forsythe.

In addition to his immediate family, and many past constituents, and friends from New Jersey, a number of individuals representing his friends and colleagues in Washington were present. On behalf of his colleagues in the House, I took the opportunity to thank the people of New Jersey, and specifically the 13th district, for sending Ed Forsythe to the U.S. Congress so that we, too, could benefit from knowing a man of his quality.

Of the two kinds of politicians in Washington, Ed was a "work horse" rather than a "show horse" in his efforts to quietly achieve a consensus on various issues falling under the jurisdiction of his leadership as ranking member on both the Subcommittee on Fisheries and Wildlife Conservation and the Environment and the Committee on Merchant Marine and Fisheries.

Ed Forsythe was a special friend who had many accomplishments. He set an example for all of us who are still involved in the legislative process and need so badly to carry out his approach to decisionmaking, because he got results which were in the best interest of the entire country. Renaming the refuge facility for him was so important and appropriate.

Mr. Speaker, I believe my colleagues might enjoy reading the words inscribed on the memorial plaque at the refuge, as well as some of the remarks which were made by Ed's friends that Saturday. These are in addition to those which I understand have already been submitted by the distinguished gentleman from New Jersey, BILL HUGHES.

[The material follows:]

MEMORIAL PLAQUE

IN MEMORIAM: EDWIN B. FORSYTHE NATIONAL WILDLIFE REFUGE

An outstanding conservationist, Congressman Edwin B. Forsythe had an abiding interest in the National Wildlife Refuge System and the refuges in New Jersey. From his election to Congress in 1970 to his untimely death in 1984, he was a tireless and effective champion of this Nation's natural resources. A leading member of the U.S. Congress, he was actively involved in passage of major conservation laws during his tenure.

Edwin B. Forsythe, 1916–1984, U.S. Department of the Interior, Fish and Wildlife Service, September 22, 1984.

STATEMENT OF HOWARD N. LARSEN, NORTHEAST REGIONAL DIRECTOR, U.S. FISH AND WILDLIFE SERVICE

Thank you, and good afternoon distinguished guests, and ladies and gentlemen. I'd like to introduce our platform guests, but first, it gives me great pleasure to introduce our special guests, the Forsythe family. Mrs. Forsythe, we are all very pleased you could be with us today. With Mrs. Forsythe is her daughter, Mrs. Susan Dyson and her husband Peter and children; Mr. Thomas Forsythe, brother of the Congressman; and two of his sisters and their husbands, Mr. and Mrs. Albert Hoffman and Mr. and Mrs. Richard Walter.

I'd also like to welcome the Congressman's "official" family, his staff from the 13th Congressional District Office and from the Washington Office.

And now, ladies and gentlemen, our distinguished platform guests. We are indeed honored that so many of Congressman Forsythe's friends and colleagues could join us

in paying tribute to a great conservationist and supporter of our Nation's precious natural resources. Unfortunately, Chairman Walter Jones of the U.S. House of Representatives Merchant Marine and Fisheries Committee was unable to be with us, but we are pleased to have Edmund Welsh, Chief Counsel to the Committee, to represent him. We are especially pleased to welcome the Honorable Joel Pritchard of the State of Washington, Ranking Minority Member of the same Committee; the Honorable William J. Hughes of New Jersey; Commodore Alan Breed, representing the Commandant of the U.S. Coast Guard; my own boss, Robert Jantzen, Director of the U.S. Fish and Wildlife Service; Russell Cookingham, Director of the New Jersey Division of Fish, Game, and Wildlife; Mr. James Ginty, Vice President for AT&T Communications; Lonnie Williamson of the Wildlife Management Institute; Lee Weddig of the National Fisheries Institute; and George Mannina, Jr., Minority Counsel to the House Merchant Marine and Fisheries Committee.

There is one other person who wanted very much to be here today, but who was unable to attend. The Honorable John Breaux of Louisiana, also a distinguished member of the House Merchant Marine and Fisheries Committee, has asked me to express his regrets.

STATEMENT OF ROBERT A. JANTZEN, DIRECTOR, U.S. FISH AND WILDLIFE SERVICE

Thank you, and welcome, members of the Forsythe family, distinguished guests, ladies and gentlemen, to the first official day of the Edwin B. Forsythe National Wildlife Refuge.

As you will hear later from his friends and colleagues, Congressman Forsythe was a special individual of great warmth and integrity who served his township, his State, and his Congressional District with distinction and dedication. He was also a great friend and supporter of the U.S. Fish and Wildlife Service and of the mission we hold: the wise conservation of this Nation's fish and wildlife resources and their habitats, for the continued benefit and enjoyment of the people.

Congressman Forsythe entered Congress in 1970 at the height of the environmental movement. He quietly but effectively moved to the forefront as an advocate for preserving the natural beauty and natural resources of our country. He understood and shared the need we all have to enjoy the quiet and contentment of open, green spaces . . . the flight of a bald eagle, or a bumblebee, for that matter. He shared the satisfaction we feel in the knowledge—although we may never see or experience it ourselves—that there will be wilderness for future generations to enjoy and that the manatee, the whooping crane, and the California condor are being protected and restored.

His name is associated with many of the most important and far-reaching conservation laws that this, or any other country, has ever enacted:

The Endangered Species Act. The Marine Mammal Protection Act. The Fishery Conservation and Management Act. The Fish and Wildlife Conservation Act, notable because it is for the benefit of critters such as the chipmunk and the cardinal.

He cared about striped bass and coastal barriers. About revenue sharing and the Alaska lands bill. He cared deeply about wetlands and wildlife habitat, as evidenced by two important actions he took shortly before his death. He was a sponsor of the Comprehensive Emergency Wetlands Resources Act, which was passed by the House on Thursday and is now awaiting action by the Senate.

The Emergency Wetlands bill could well be one of the most important pieces of conservation legislation in recent years. It is designed to help save some of the half-million acres of wetlands we are losing each year by greatly expanding the funding base for the wetlands acquisition program. The program is presently funded primarily through the sale of Duck Stamps, which sell for $7.50. It takes a lot of Duck Stamps to buy a Brigantine, or a Barnegat. Both were acquired with Duck Stamp dollars, as were nearly half of our refuges across the country. By the way, we are celebrating the 50th anniversary of the Duck Stamp this year, a program strongly supported by Congressman Forsythe. I invite you to look at the beautiful Duck Stamp, look around you to see the good it accomplishes, and consider buying one as a gift or a keepsake, or both. I know you join me in hoping the Senate shares Congressman Forsythe's concern for wetlands and will pass the Emergency Wetlands bill, a truly lasting memorial to the things Ed Forsythe stood for and worked for.

Whatever the outcome of the bill, Congressman Forsythe's interest in protecting and preserving the Internationally important wetlands of coastal New Jersey will be continued. The Service is actively acquiring wetlands at Oak Island, which he strongly supported. He was instrumental in gaining approval to use Duck Stamp funds to acquire this important area, which will become a unit of the Brigantine Division. We will undoubtedly be adding additional wetlands to Barnegat in the coming years and are acting to ensure the integrity of its boundaries.

He was always a great friend of the National Wildlife Refuge System, supporting the establishment of refuges across the country. His was a national perspective, given meaning and insight by his foundness and appreciation for the refuges on the New Jersey coast.

STATEMENT BY MR. LONNIE WILLIAMSON, SECRETARY, WILDLIFE MANAGEMENT INSTITUTE

Mrs. Forsythe and members of the Forsythe family, Congressmen Pritchard and Hughes, and ladies and gentlemen.

I first want to thank those who are responsible for inviting me to this very special occasion. The opportunity to honor Congressman Ed Forsythe, who was a friend, a gentleman and a legislator for whom I shall ever have the greatest respect, is indeed appreciated.

It would be most difficult for me to enhance the image of Mr. Forsythe. His deeds paint a much better portrait than I ever could. Yet there are thousands of wildlife conservationists in America who would like to stand here in my place today and pay tribute to one of our heroes. Thus I will presume to speak for them as well as for myself. And in deference to Mr. Forsythe's famous haircut, I will keep it short.

To my way of thinking, some of the most abiding accomplishments of Mr. Forsythe's career in Congress are frequently overlooked. One is the Fish and Wildlife Conservation Act of 1980. That landmark legislation is in place because of the efforts devoted by Mr. Forsythe and his staff. The reason no one knows much about it is because the program has not been funded or implemented. But it will be because that is the right thing to do.

Let me describe quickly the Forsythe-Chafee Program. It is for fish and wildlife that we call nongame, species that are not hunted or fished. These less romantic of God's creatures, such as chipmunks and songbirds, have not had the attention and financing afforded game animals through contributions from the nation's sportsmen. But with Mr. Forsythe's leadership, Congress authorized a future for the "ignored" species in the 1980 act. And some day, in the near future I hope, that unprecedented legislation will be activated so that our children and grandchildren may continue the delightful heritage of sharing this land with all desirable forms of wildlife.

Finally, I would mention a personal talent of Mr. Forsythe that I found unique, and a major reason why his support for fish and wildlife conservation bills was so important to their enactment. The gentleman from New Jersey was a strong advocate for business and industry, as well as for wildlife conservation. He recognized that wildlife is no longer a basic necessity for human existence in America as it once was. He seemed to view its availability as primarily an amenity that greatly enhances the quality of human life, and its conservation as a gauge of this nation's character and competence. He was ever remindful that practical needs for national economic growth greatly limit land allocations solely for wildlife, such as this refuge complex. His philosophy appeared to be that wildlife is served best by working with all land-use interests to "fit it in" wherever possible. Thus it is easier to understand how Mr. Forsythe constantly was able to forge compromises among wildlife, environmental, industry and business groups to achieve legislative objectives. And he achieved many which are of benefit to us all.

This refuge complex henceforth will have a difficult time living up to its name.

Thank you.

STATEMENT BY MR. LEE WEDDIG, EXECUTIVE VICE PRESIDENT, NATIONAL FISHERIES INSTITUTE

Dedicating the Brigantine and Barnegat Wildlife Refuge in honor of Congressman Edwin B. Forsythe is extremely appropriate and fitting, as the concept of a wildlife refuge epitomizes the character and contributions of Congressman Forsythe.

During his tenure as ranking minority member of the Subcommittee on Fisheries, Wildlife Conservation and the Environment, Congressman Forsythe was involved in every major legislative effort affecting the U.S. commerical fish industry.

The very diverse nature of that industry, and the competitive aspect of its segments, often led to controversies on the details of legislation. In these times, Congressman Forsythe very often provided the unique ability of arriving at necessary compromise positions. This ability resulted from his basic motivation toward conservation of the resources themselves. By helping lead the way to conservation of the fishery resources, he provided the means to assure long term utilization.

The Edwin B. Forsythe National Wildlife Refuge is at one time a working element in a system which conserves living resources as well as a reminder of the contributions of a respected legislator who did much to assure the continuation and expansion of that concept.

STATEMENT BY MR. GEORGE MANNINA, CHIEF MINORITY COUNSEL, MERCHANT MARINE AND FISHERIES COMMITTEE

Although I am honored to be here to celebrate the dedication of the Edwin B. Forsythe National Wildlife Refuge—this is a speech I never expected to give at this time and in this place.

The words do not come easy—but my affection for the man does.

Others have told you about Congressman Forsythe's legislative accomplishments. I would like to talk about the man—about what he stood for—and about his values.

Ed Forsythe cared deeply about the people he represented—and about the people around him. I can tell you from my ten years of personal experience as a member of the Congressman's staff, that Ed Forsythe stood with us through our joys and our sorrows—he stood with us with compassion and with concern because he cared. He shared in our sorrow upon a death in the family. He shared in our joy with the births of our children—and he celebrated in our marriages.

This was a man who inspired loyalty and friendship—for he gave both.

This was a man who earned respect—because he gave it. He respected each person's opinion and always sought to fashion a compromise which would bring people together on the issues so that all might benefit.

I think Ed Forsythe had two main goals as a Congressman. The first was to further the spirit of bipartisanship and cooperation that characterized the Committee on Merchant Marine and Fisheries on which he served. He often said that by working together we could accomplish far more than any of us could accomplish by working independently—and he did. His second major objective was to protect our environment so that present and future generations of Americans could enjoy our rich national heritage. If Ed Forsythe were here today, he would consider the renaming of this Refuge to be one of the highest honors ever bestowed on him.

When Ed Forsythe left us, the country lost a man of honor and integrity—the Merchant Marine and Fisheries Committee lost a man who understood the issues, and who was committed to environmental conservation—the people of New Jersey lost a dedicated public servant—and I lost a friend. Renaming this Refuge as the Edwin B. Forsythe National Wildlife Refuge is a fitting tribute to a good man.●

FINANCIAL AID FOR GRADUATE AND PROFESSIONAL STUDENTS

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1984

● Mr. FORD of Michigan. Mr. Speaker, today I am introducing the Graduate Assistance Program Act [GAPA] which will provide grant assistance to first- and second-year graduate and professional students. The adequacy of student financial aid to meet college costs has been declining in the last several years. Appropriations have simply not kept pace with increasing college costs, and they certainly have not made up for the phasing out of both the veterans' educational benefits and the $2 billion in Social Security student benefits. In constant dollars, Federal student assistance has declined by 32 percent since fiscal year 1980.

Graduate students have been particularly hard hit. Where there are broad need-based grants for undergraduate students, such as the Pell Grant Program and the Supplemental Educational Opportunity Grants Program, there is no Federal level grant program available for graduate students, and only 21 States make grants available to post-baccalaureate students, with an average annual award of only $719.

The reduction in assistance to graduate schools and graduate students is not a brandnew problem. Under the threat of the sputnik crisis of the late 1950's, Federal support for graduate and professional education increased rapidly. However, in a reversal of those policies, the Federal Government has drastically reduced its support since the late 1960's. In a report from the National Commission on Student Financial Assistance, titled "Signs of Trouble and Erosion: A Report on Graduate Education in America," the following statistics were cited:

Between 1967 and the mid-1970s, basic research support from the Department of Defense dropped nearly 50 percent in real dollars—from $1.15 billion to $600 million.

According to the Library of Congress, the combined civilian research and development expenditures of France, West Germany, Japan, and the United Kingdom equaled 125 percent of U.S. expenditures in 1978, compared to 47 percent in 1964.

Between 1969 and 1978, Federal expenditures for university-based foreign affairs research declined from $20.3 million annually to $8.5 million, and funds for facilities dropped from $126 million in 1965 to $32 million in 1979.

Of particular significance is that Federal support for fellowships and research assistantships has fallen. Fellowships that totaled nearly 51,000 in 1968 have today diminished to approximately 9,000, a decline of 82 percent.

Federal reductions in student support, especially for graduate students, have coincided with dramatic increases in tuition costs. Between 1969 and 1981, graduate tuition and fees increased at an average annual rate of approximately 12 percent. The combination of reductions in student aid and rapidly increasing costs has forced graduate students to rely on such measures as working, using savings, and borrowing. In many cases, the doors of graduate and professional education have been closed to students.

Data on the extent of student reliance on these income sources are scarce. The best estimates available indicate that the typical graduate applicant for financial assistance has already accumulated significant debts as an undergraduate. Half the graduate business school applicants, for example, have borrowed at least $4,100 as undergraduates; half the medical school applicants have borrowed at least $5,000.

This growing reliance upon loans has triggered a disturbing trend toward an imbalance among the student financial aid programs. Decreases in the purchasing power of grants together with an actual reduction in the number of grants available has led to a serious increase in the number of loans and the amount of indebtedness that students must assume to complete their educations. As a result, we run the risk of graduating a new debtor class whose choice of future careers and lifestyles is distorted by their need to earn enough to pay their educational debts and who may choose not to undertake graduate study in order to avoid heavy debt levels.

For graduate students, this burden is particular onerous. The vice president of the University of Chicago testified before the National Commission on Student Financial Assistance in 1983:

In our graduate division, Federal grant assistance to graduate students declined 37 percent between 1970 and 1980, from $3.8 million to $2.4 million. And our graduate students in the arts and sciences who borrowed $734,000 in 1970-71 are borrowing $3.2 million this year—even with strict need standards applied—for an increase of 331 percent. The grant-loan situation is even more one-sided, of course, in our professional schools: there Federal fellowship assistance has declined from $1.7 million in 1970 to $108,000 in 1982 (a 94 percent decrease), while student loans * * * have increased over the same period from $1.4 million to $8.7 million, an increase of 520 percent.

Or, to take another example, the 1982 student "Talented and Needy Graduate and Professional Students" found:

First-year graduate and professional students * * * were considerably less likely to receive forms of grant aid than were their college senior counterparts (45 percent versus about 66 percent), were about equally likely to receive job assistance, and were almost twice as likely as college seniors to rely on loans (83 percent versus 45 percent * * * perhaps the most striking difference is the increase in the use of loans. In 1970-80, 45, percent of the college seniors reported loan assistance averaging $1,590. During the same year, 83 percent of the first-year graduate and professional students in the study reported annual loan assistance averaging $4,596. Thus, the percent relying on loans nearly doubled while the average amount of the loan nearly tripled.

In short, we have replaced what was once a balanced system of loans and fellowship support for graduate education with an overdependence on loans alone.

The consequences of these trends are clear:

First, fewer of the very best students are choosing to attend graduate

school. For example, in 1966, 73 percent of Harvard's graduating seniors entered graduate schools and 14 percent went to work. In 1981, 34 percent went to graduate schools and 54 percent went to work. Similarly, at Occidental College, a high quality liberal arts college near Los Angeles, 71 percent of the graduating seniors went to graduate schools in 1968 while only 35 percent did so in 1981.

The combination of grim job prospects and inadequate financial aid threatens to erode the quality of scholarship and teaching in the arts and humanities.

Second, high demand by business and industry along with the lack of financial aid and the prospect of low academic salaries have drained the applicant pool for engineering and related scientific fields at the graduate level. A recent report of the National Science Foundation indicates that there are more than 16,000 unfilled engineering faculty positions. The shortage is most severe in computer engineering where 16 percent of faculty positions are unfilled.

Third, we are in danger of losing the gains of the last decades in opening graduate educational opportunities to those from low-income and minority backgrounds. In recent years, there has been a decline in the percentage of blacks enrolled in our medical and law schools. We may be making graduate education, particularly in the most costly professional programs, once again the preserve of the rich and the privileged.

The purpose of the Graduate Assistance Program Act is to reverse these trends and to reestablish the Federal priority of ensuring that talented graduate level students are not denied graduate study because they cannot afford the cost of a post-baccalaureate program. GAPA would provide up to $5,000 a year for first- and second-year students who showed financial need. Under the act, the Secretary of Education would make grants to institutions from which they could award moneys to eligible students. This allows institutions to set their own priorities in making awards but still preserves the Federal goal of need-based grants.

I am introducing this bill at this time to call attention to the serious problem of inadequate grant aid for graduate and professional students. I hope that this bill will stimulate discussions of this issue and that we can address it effectively when we reauthorize the Higher Education Act in the next Congress.●

THE EDWIN B. FORSYTHE NATIONAL WILDLIFE REFUGE

HON. WILLIAM J. HUGHES

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1984

● Mr. HUGHES. Mr. Speaker, on September 22, I had the privilege of attending the dedication of the Edwin B. Forsythe National Wildlife Refuge in Oceanville, NJ. The refuge, formerly known as the Barnegat and Brigantine National Wildlife Refuges, includes over 32,000 acres of coastal salt meadows, upland brush and woodlands, and open bays and channels along the New Jersey shore.

I believe that the dedication of this beautiful area in memory of our late colleague, the Honorable Edwin B. Forsythe, is a most fitting tribute to a gentleman who dedicated his life to protecting our natural resources and serving the citizens of New Jersey and the Nation.

I would like to share with my colleagues the remarks of some of those who participated in the refuge dedication ceremony, and in particular, the comments of Mr. Thomas Forsythe, Ed's brother, who offered a moving statement at the conclusion of the ceremonies.

The remarks follow:

ED WELCH, CHIEF COUNSEL, MERCHANT MARINE AND FISHERIES COMMITTEE

Welcome. Thank you for letting me share Congressman Walter Jones' feelings on this day of honor for his friend and colleague Ed Forsythe.

Much of the work of the House of Representatives occurs within its committees. By the time for debate on the floor of the House, most issues have been resolved, most compromises have been struck in committee. But a committee cannot fulfill its role without effective leadership from its most senior members from both parties.

Ed Forsythe provided that kind of leadership. For many years, when he was ranking Republican for the Subcommittee on Fisheries, Wildlife Conservation and the Environment, that panel's notable characteristic was its ability to take devisive controversies and hammer out strong compromises acceptable to all parties. This occurred time and time again with laws such as the Endangered Species Act and the Marine Mammal Protection Act. Without Congressman Forsythe's leadership, we would not have had the atmosphere of fairness and civility in which these accomplishments took place.

In 1983, Congressman Forsythe was appointed Ranking Minority Member for the House Committee on Merchant Marine and Fisheries. Working with its Chairman, Ed Forsythe assembled an extraordinarily able staff, and set about to establish a bi-partisan working relationship among the Committee members. The policy differences between Republicans and Democrats were never ignored, but they were not permitted to obstruct the essential workings of the Committee. Ed Forsythe's tenure as Ranking Republican was marked by a spirit of good will.

Ed Forsythe's contributions to our committee were immense. The more one worked with him the more one's friendship and respect grew.

In politics, the heat of debate sometimes causes opponents to say overly harsh things about one another. To guard against this, the House of Representatives has developed a tradition of parliamentary decorum. During debate, a member must refer to another member not by name, but instead by the somewhat archaic term "the gentleman." To Chairman Walter Jones, to the other Members of our Committee, and to its staff, Ed Forsythe was more than a colleague, a friend, or a leader. To us, he was truly "the Gentleman from New Jersey."

RUSSELL A. COOKINGHAM, DIRECTOR, NEW JERSEY DIVISION OF FISH, GAME AND WILDLIFE

I am here on behalf of Governor Thomas Kean of the State of New Jersey, the Commissioner of Environmental Protection, Bob Hughey, and on behalf of the Division of Fish, Game and Wildlife. We are indebted to and would like to congratulate the U.S. Fish and Wildlife Service for this action they have taken at the Brigantine and Barnegat National Wildlife Refuges, in renaming them the Edwin B. Forsythe National Wildlife Refuge.

Congressman Forsythe was a real friend to conservation. Those of us in the profession who worked with him over the years recognized him for his accomplishments in helping to enact key legislation. He will be remembered by all of us for the Endangered Species Act, Marine Mammal Protection Act, Fisheries Conservation Management Act (the so-called 200 Mile Act), and more recently the Nongame Act. The Congressman was a friend to all of us, not to only the constituents in his district, but to the citizens of New Jersey, and I am sure the whole nation. He or his staff would call most any time day or night to ask us our position on issues of importance. This was the type of person he was and it emphasized his interest and concern in all conservation issues.

Brigantine National Wildlife Refuge has a soft place in our hearts in New Jersey. The initial action taken by the Fish and Wildlife Service back in the 1940s and 1950s for acquisition and protection of wetlands like Brigantine, along with actions taken by the state about that same time to buy wetlands using fish and game funds, was the real start in our wetland protection program. Because of these early actions, more interest was initiated to understand the value of wetlands and the need for their protection. Following these initial actions, New Jersey instituted a Green Acres Program for acquisition, including wetlands, and in addition various acts were enacted in the late 1960's and 1970's to protect wetlands.

Although we feel that New Jersey is now doing an outstanding job in wetlands protection, it took the Brigantine Program to bring these issues to the attention of all to better understand the need to protect these valuable lands for all wildlife and vegetation associated with wetlands environments.

We hope to cooperate in every way we can with Director Jantzen and his staff and the Congress to make sure that this program expands. The Oak Island acquisition hopefully will go forth, and through the new Federal Wetlands Act which may pass this year, we can move ahead in other areas of wetland protection.

Mrs. Forsythe, again I would like to say personally how great your husband was and how he will be missed by all of us.

JAMES B. GINTY, VICE PRESIDENT, AT&T COMMUNICATIONS

I am here today on behalf of the more than 370,000 AT&T employees across the country, including my 53,000 colleagues who are employed by AT&T in the state of New Jersey.

I represent the many people in my company who, over the years, have labored to operate our business efficiently and productively, and with respect for the environment. The "new" AT&T will continue that tradition. And it was in the spirit of that tradition that AT&T, in February of this year, donated to the Federal government perpetual rights to 2,400 acres of land in the heart of this refuge we rededicate today. (Let me add that this is one divestiture we are pleased to play a part in.)

AT&T has used this site since 1938, for ship-to-shore communications and as a terminal for an undersea trans-Atlantic cable. We have conducted our operations harmoniously with the wildlife on this land for 46 years, and under this conservation easement, we will continue to do so. The permanent easement allows the Fish and Wildlife Service to expand its long-range plans for management of this refuge while the land remains in the tax base—to the benefit of the taxpayers of New Jersey.

As we approach the mid-point of the 1980's, I think we can observe more and more how technological advances can help us address our environmental concerns. Technological advances which, by the way, are taking place in this very state—a leader in technology—and in which AT&T's Bell Labs is pleased to play a part. Some examples of such advances are the transister, silicon chips, fiber optics and light-guide technology.

Enlightened use of these and other technologies—some yet to be conceived—have been and hold the promise of continuing to be part of the solution to our environmental concerns instead of part of the problem.

Essential, however, to meeting our environmental goals—more so than technology—is the spirit and dedication of men like Edwin B. Forsythe, whose far-sighted vision of the need to protect our resources has contributed to a higher quality of life for us all.

The rededication of this land as the Edwin B. Forsythe National Wildlife Refuge is a fitting and lasting tribute to a man who made a difference, and I am pleased that my company was able to play a small part in this homage.

HON. WILLIAM J. HUGHES OF NEW JERSEY

I am pleased to be here this afternoon as we dedicate the Brigantine and Barnegat Wildlife Refuges in honor of Ed Forsythe. I am particularly pleased that so many of Ed's family, friends and colleagues are here with us today for this very special occasion. I can't think of a more appropriate way in which to honor Ed Forsythe than to rename this refuge and dedicate it in his memory.

Ed Forsythe loved the pine forests and wetlands of South Jersey's coastal plain, so it's only natural that he dedicated his life to resource conservation and environmental protection. He played a key role in preseving the unique character and beauty of much of this area through our joint efforts to establish portions of the Pinelands as a national scenic area. He was also instrumental in the recent addition of 4,407 acres of prime wetlands to the Brigantine unit of the refuge and 254 acres for the Barnegat Refuge Unit.

It was only a year ago that Ed and I wrote to Bob Jantzen, as Director of the Fish and Wildlife Service, to request that he recommend to the Migratory Bird Commission that the Oak Island Marsh acreage be a priority acquisition for addition to Brigantine. We were both very concerned about the imminent threat to this refuge from land development impacts on the water quality, and the resultant impacts on our waterfowl and wildlife populations. Although Ed was very sick at the time, I know he was delighted when we received word in March that our efforts to protect and preserve this vital habitat for migrating and winter waterfowl were successful. The Migratory Bird Commission's approval to acquire the additional 4,661 acres is exemplary of Ed's unselfish service to the people of New Jersey and this country.

Indeed, Ed's efforts to protect wetlands nationwide are well known. Just this past Thursday, a major legislative initiative authored by Ed, was approved by the House of Representatives. This bill, known as the Emergency Wetlands Resource Act, will do much to protect and preserve our nation's wetlands.

Ed also had a special concern for the protection of the marine environment and the health of our fishery resources. Over the years, Ed worked to make sure that the major fishing and recreational industries of South Jersey were not threatened by ocean dumping in the state's coastal waters. Ed was instrumental in working with me to formulate a legislative program to address the longstanding problems associated with ocean dumping off our coast. Legislation we spent many months developing has now been approved by two Congressional Committees, and may soon come to the Foor of the House of Representatives.

Ed Forsythe was a man of great conviction and unparalleled commitment. He never hesitated to do what was right, no matter how popular or expedient a different position would have been. Ed came to Washington the long way, serving first as Mayor of Moorestown, President of the New Jersey Senate and Acting Governor. Through his broad experience, Ed brought to Washington a sense of what was important to the people of South Jersey. As the ranking minority member of the House Merchant Marine and Fisheries Committee, Ed Forsythe demonstrated a unique ability as both a leader and a problem solver capable of forging workable solutions to complex and controversial problems.

For me, Ed Forsythe was not only a colleague on the Merchant Marine and Fisheries Committee and in the New Jersey Delegation—he was also an adviser, a teacher and a friend. Together, we represented most of Southern New Jersey, a significant part of the state's land area. For the most part, our constituents shared a common set of problems and regional concerns. Ed's interest, though, spread well beyond New Jersey, as evidenced by his work to protect fishery resources, wildlife and wetlands throughout the country.

Ed Forsythe was a man of integrity and principle. He represented the very best that this nation has to offer, serving quietly but tirelessly and effectively for the people of his district. There was not an ounce of pomposity or pretension in Ed Forsythe.

Ed's unfortunate death has taken from us a great legislator and a fine individual. As today's dedication ceremonies show, however, Ed Forsythe will not be forgotten. I know I am not alone when I say that Ed will be greatly missed. We have all been enriched by his presence among us.

WORDS OF THOMAS FORSYTHE

We grew up on the other side of the Pine Barrens, where the pines and sand and deer give way to fields and fertile loam and cows and houses.

Our grandfather, Edwin Bell, came across the Pine Barrens and worked and built. I remember his making trips to Tuckerton to see how things were going with the water company there. He built summer homes at Shipbottom, and the family still enjoys one of those cottages. Visitors there admire the simple style and strong construction.

Our father slept well in the cottage, sometimes driving down to sleep by the ocean and returning with the dawn to milk the cows at the farm near Medford. The strident cries of seagulls mixed with the mooing of cows in the music of our lives.

In a life of love and service to her family, our mother, Emily Bell Forsythe, treasured the strawberries her father set out in our garden, her flowers bordering the yard, the trailing arbutus blooming near Camp Ockinickan, and the sunset over Barnegat Bay.

We grew up on sandy roads, aware of the ocean beyond the pines, the marshes, and the dunes.

We cannot live on this planet and leave the environment in a pristine state, unspoiled by human footprints. We humans are here to have no other air to breathe.

It is so easy to foul our own nest. It requires great resources to step carefully now on the carpet of life on which we live. It takes a lot of thought and work.

There seems at times to be a false ethic in our world which teaches contempt for those who "stupidly" overlook chances for personal wealth and give their lives to others for little or no money.

We know that that siren song has no real music. Because we are infinitely rich! Because here on this ground we as a people have this wealth beyond accounting: an unspoiled natural wild area and life according to God's original plan; in the midst of our complex, high-tech society—a prize we can possess by coming to this quiet place and allowing ourselves to be possessed by it.

Ed worked hard, but in love and joy. May we remember this always as we work to preserve and enrich our lives, our nation, our world society, and the natural world which makes us all possible.

May we rejoice always in the memory of our loving brother and friend.●

WRONG PLACE FOR A PRESIDENT

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1984

● Mr. FRANK. Mr. Speaker, the effort by President Reagan and some of his supporters to use religion in a most inappropriate manner for partisan purposes has brought forth a wide range of reasoned criticism.

For example, two very thoughtful analysts of public affairs—who often

disagree—recently published cogent explanations of why the President is wrong on this fundamental issue. Father Robert Drinan, my predecessor in Congress, is one of the most determined and skillful defenders of constitutional freedoms ever to serve in the House. His article in the Boston Globe is typical of his willingness to speak out forcefully and well against the threats to those freedoms. William Safire, a former high aide to a Republican President, has demonstrated in the New York Times his independence and his willingness to put commitment to basic principles ahead of any personal or partisan loyalties. His New York Times essay on the President's manipulation of religion is an excellent example of why people of all political and ideological views find his columns so valuable.

I ask that Father Drinan's Globe article and Mr. Safire's Times article be reprinted here in the interest of furthering national debate on a critical issue.

The articles follow:

WRONG PLACE FOR A PRESIDENT

(By Robert F. Drinan)

WASHINGTON.—Was there something wrong with what President Reagan did and said when he addressed 17,000 religious fundamentalists at a prayer breakfast in Dallas the morning after the Republican convention ended? I think there was.

Let us imagine that the Catholic bishops of America had planned to be present, along with the principal members of their staff at a morning Mass the day after the Republican convention. Let us assume that the entire Catholic leadership of America would be there—diocesan chancellors, superintendents of schools, editors of Catholic weeklies, heads of Catholic hospitals and similarly placed officials. This group would have no other purpose but to come together at a prayer event at which the President of the United States would speak.

Let us imagine furthermore that the representatives of the Catholic bishops were in touch with the President about their concerns and that the President agreed to devote a nationally televised address to making a commitment to carry out in his second term all of the major objectives of the Catholic leadership in America.

The setting in which the President would speak would be at least semireligious. He would not himself participate in the Mass, but it would be clear that the meeting of the Catholic officials would be a sacred and sacramental event.

Let us assume further that the President is carried away in his fervor for Catholic objectives and that he states that anyone who disagrees with the objectives of the Catholics is "intolerant of religion."

Such a situation cannot be imagined, since it is inconceivable that the Catholic bishops of America would ever allow it to happen. If it ever did happen, the media and probably just about everyone else would castigate the bishops, the President and everyone involved.

But such a situation did occur when the fundamentalists staged their prayer breakfast for President Reagan in Dallas. The President told the national leaders of the fundamentalist churches exactly what they wanted to hear. He alleged that in the 1960s "great steps toward secularizing our nation" occurred. He stated that he intended to reverse this tradition by returning what he insists on calling "voluntary prayers" to the public schools.

In language and illusions, composed in all probability by the fundamentalists themselves, the President rejected many of the positions of mainline Protestants and embraced the agenda of the religious right as the formula for restoring America to a state of spiritual health.

The President stated flatly that those who reject the agenda of the fundamentalists are "intolerant of religion." The President added: "They refuse to tolerate its [religion's] importance in our lives." Those who are opposed to a constitutional amendment to allow prayer in the schools "may not be tolerant at all." Even worse, the President contended that "religion needs defenders against those who care only for the interests of the state"; the defenders are presumably politicians.

If the Catholic bishops had arranged a scene like the one in Dallas orchestrated by the fundamentalists and if this event were attended by every important personage in the Catholic community, the cry certainly would be that the President and the Catholic church had entered into an alliance that violates all those admirable American traditions by which neither the churches nor the politicians exploit each other for their own selfish purposes.

The Dallas prayer breakfast was attended by religious fundamentalists who had gone to the Republican National Convention to insert their own objectives into the Republican platform. Their breakfast with the President was unprecedented in the annals of American politics. I must say that I found it as inappropriate and offensive as I would find any comparable meeting of the highest officials of the Catholic church with the President of the United States.

I become more angry and alarmed as I think of the implications and the consequences of the mutual exploitation in which the fundamentalist churches of America and the incumbent political party engaged in during and after the Republican convention. It is just plain un-American.

[From the New York Times, Aug. 27, 1984]

CHRISTIAN REPUBLICAN PARTY?

SHAME ON YOU, PAUL LAXALT

(By William Safire)

WASHINGTON.—"The Church's task," said Pope John Paul II last week on the issue of priestly political activism, "is to call all men and women to conversion and reconciliation, without opposing groups, without being against anyone."

Those words may have been directed to pro-revolution priests in Latin America, but apply with equal force to the Archbishop of New York, John J. O'Connor, who told Catholics recently that they could not "in good conscience" vote for candidates who refuse to impose anti-abortion doctrine on all Americans.

That political direction from the pulpit went beyond impropriety; had it been allowed to stand, the ground under St. Patrick's Catheral would have been rightly subject to real estate taxes paid by other political organizations. Gov. Mario Cuomo challenged the Archbishop's instrusion into the political system, and the Catholic prelate backed off a little.

No such sober second thoughts from Paul Laxalt, President Reagan's campaign chairman. "Shame on you Mario Cuomo!" he cried, trying to curry favor by siding with the Archbishop. The President and his political vicar then turned truth on its head by suggesting that those who are trying to preserve the separation of church and state are guilty of intolerance, and invoking the name of Al Smith, the first Catholic candidate for President.

Shame on them for forgetting that Al Smith was defeated by the "drys" who imposed their Prohibition views on the rest of the population, and by the fundamentalist Protestants who led the whispering campaign that a Catholic President would be a vassal of the Pope.

The successors to those evangelical antipapists of the 20's were the preachers at the Dallas convention. Today, fundamentalist intolerance is directed not at Catholics and Jews, but at the New Heathen: the unreligious and the privately religious who dare to disagree with their outlook on morality. Different targets, same spirit. In their zeal to put God in the classroom, too many preachers have taken the angel out of evangelism.

No President, not even born-again Jimmy Carter, has done more to marshal the political clout of these evangelicals than has Ronald Reagan—to his historic discredit. "Dear Christian Leader," wrote Senator Laxalt last month to Texas ministers, part of the party's "Christian Voter Program"; he urged them to "organize a voter registration drive in your church" to give them a voice "that will surely help secure the reelection of President Reagan and Vice President Bush."

That political proselytizing is surely so unethical as to be un-American. Since the Reverend Reagan has decreed that "politics and morality are inseparable," with religion the common denominator, such a pitch for pulpit politics is akin to constitutional sin.

This is more dangerous than in Al Smith's day. Then the Christian vote was split, and the Government was wary of establishing a national faithful consensus.

Today, however, Archbishop O'Connor—eager to enshrine his church's views on abortion as national law—is in strange bedfellowship with the Protestant evangelicals, who are more concerned with extending the reach of their ministries into the schoolrooms. Their bridge is Mr. Reagan, who fervently agrees with both and offers to turn religious belief into political action.

What about non-Christians? Some Jews have been beguiled by the fundamentalist support of Israel, and others, mainly Orthodox, are allied with Catholics supporting tuition tax credits for religious schools. Because today's religious political movement is un-Semitic rather than anti-Semitic, shortsighted Jews fail to see the danger to any minority religion from a "Christian Republican Party."

Where does this trend leave those libertarian conservatives who believe that government should get off people's backs, that personal freedom and individual privacy come before the dictates of any institution, and that morality should be preached and taught by family and clergy rather than legislated and enforced by politicians and police?

It leaves us without a political home. If Mr. Reagan campaigns for ending the welfare state at home and turning back to totalitarianism abroad, he will build a majority party; but if he sees the burning issues as abortion, school prayer and parochial school tuition subsidies, his second term will be a

failing struggle to impose a religious government on people who prefer to practice their religions freely.●

IMPACT OF FEDERAL POLICIES SINCE 1980 ON LOW-INCOME AMERICANS

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1984

● Mr. GARCIA. Mr. Speaker, a recent study conducted by the Center on Budget and Policy Priorities states, "Poverty is again a major issue in America." The Center, a nonprofit organization based in Washington, DC, released the study early this September in the aftermath of the debate over actual poverty levels. A multitude of analyses and reliable data are cited to support this statement, and from these the disturbing conclusion is drawn: "No matter how poverty is measured, the number of poor Americans (most of whom are children, elderly, or handicapped persons, or women with children where no fathers are present) grew by more than 9 million in just 4 years [the years from 1979–1983] * * * the largest increase since the poverty figures began being calculated in 1960."

Findings delineating the impact of the budget cuts on low income families are included below, and they reveal solid facts and figures indicating the worsening position of our Nation's poor; facts and figures which President Reagan was at a loss to acknowledge at a press conference in July. The message of the study is clear: the same conclusion has been reached many times; the Congress must now act to "secure a more just and equitable society for all Americans in the years ahead," a task to which I continue to devote my efforts. I agreed with the study's authors that one test of the moral fiber of a society is its treatment of those whom are less fortunate. We must act on this issue in the manner it demands, even as we are faced with enormous budget deficits. A failure to do so would indicate more about our moral character than about our ability to manage budgets.

The Impact of Budget Reductions on Low Income Families

The budget reductions of the 1980s have been concentrated heavily on programs for poor people.

Programs targeted on low income individuals and families comprise less than one-tenth of the federal budget. Yet as every authoritative, independent study has shown (from the studies of the nonpartisan Congressional Budget Office to the analyses of the Urban Institute, a highly respected, nonpartisan research organization), these programs are where the deepest cuts have been made. The definitive analysis on the dimensions of the cuts, an August 1983 study by the Congressional Budget Office (CBO), shows that programs targeted primarily at the poor were cut $57 billion over the four-year period from fiscal year 1982 through fiscal year 1985 (after adjustment for inflation and unemployment). The CBO data also show that low income programs were reduced *more than twice as deeply* (in proportionate terms) as social programs not concentrated on the poor. Overall, the low income programs bore nearly one-third of all cuts made anywhere in the federal government, even though they constitute less than one-tenth of the budget. No other part of the federal budget was cut so sharply.

The reductions in basic programs to provide food, shelter, health care and other necessities for low income families have included the following:

FOOD STAMPS

The food stamp program has been cut $2 billion a year below the amount needed to maintain pre-Reagan benefit levels.[1] Nearly one million food stamp recipients had their benefits terminated, while nearly all others have had benefits reduced (after adjusting for inflation) and suffered a loss in actual food purchasing power. Virtually all of the nation's 21 million food stamp recipients—half of whom are children—have been affected.

About two-thirds of the cuts were achieved by reducing benefits for families *below* the poverty line (currently $10,200 a year for a family of four), and the average food stamp benefit is now 47 cents per person per meal. Virtually every study on increases in demand at emergency food agencies has found that these agencies are flooded in the latter weeks of each month with food stamp families whose food has run out.

AID TO FAMILIES WITH DEPENDENT CHILDREN (AFDC)

Some of the most severe cuts came in the AFDC program, the nation's basic public assistance program for poor single-parent families with children. The US General Accounting Office has reported that 500,000 low income working families (nearly all of them female-headed) had their benefits terminated by the cuts in AFDC. In many states, Medicaid coverage for these women and children was automatically cut off when AFDC benefits were terminated, so that an estimated 700,000 children lost Medicaid coverage as well. Those families affected generally had quite low incomes: in 40 states a working mother and three children with earnings of just $5,750 a year—or a little over half of the poverty line—now lose all AFDC benefits after the mother's twelfth month on the job.[2] In addition, another 300,000 working families with even lower income levels remained on the program but had their benefits sharply reduced, losing an average of $150 to $200 a month (or about $2,000 over the course of a year). The budget cuts affected working families so harshly that, in a number of states, an AFDC mother who tries to work now ends up with less income, due to the benefits cuts, than a mother who does not work.

Other AFDC reductions were also enacted by Congress at the Administration's request. These included the denial of AFDC benefits (during the first five months of pregnancy) to a poor woman pregnant with her first child, despite medical knowledge that adequate prenatal care and nutrition during the earlier periods of pregnancy are essential to healthy births.

MEDICAID

Substantial reductions were also made in federal funding for Medicaid, the program providing basic health care coverage for low income families with children and for the elderly and disabled poor. These reductions (combined with budget pressures at the state level) led 40 states to make cuts in Medicaid in 1981 and 30 states to make further cuts in 1982. The specific nature of the cuts differed from state to state, but they included eliminating Medicaid coverage for some low income working families and elderly and disabled persons (generally, persons and families who are below the poverty line but not on AFDC or SSI) and reducing or eliminating coverage for services such as eyeglasses for poor children, dental care, and prescription drugs. The Children's Defense Fund reported in early 1984 that following the cuts, nearly three of every ten children living in poverty were left entirely outside the Medicaid program, a marked increase since the mid-1970s in the proportion of low income children without health care coverage. The Urban Institute also found a marked decline in the number of low income elderly and disabled persons covered. The loss or reduction in medical coverage for many poor families has meant that some families have forgone medical treatment while others have paid more out of their poverty-level incomes for medical services, further squeezing funds for other necessities such as food.

(In late June 1984, the Congress decided to restore federal Medicaid funding to its prior levels—and also to extend coverage to some additional poor pregnant women and young children—starting in the fall of 1984. It is not known whether states will now restore the substantial Medicaid cuts they have made over the past few years or will elect to keep the cuts in place and save money.)

LOW INCOME HOUSING

Rents have been raised for all four million low income families living in public or subsidized housing. Prior to the Administration's budget cuts, poor families in public or subsidized housing paid no more than 25 percent of their income for rent. Now, the rents are being raised every year and will reach 30 percent of income by 1986. This amounts to $2.5 billion in additional rental payments over a five-year period. For a family of four at the poverty line, the additional rent charge will exceed $500 a year by 1986.

The households who live in public or subsidized housing and who are affected by this cut are predominantly female-headed families with children and low income elderly individuals (the elderly make up over 40 percent of those in public or subsidized housing). The median income of these households is only $6,300 per year.

In addition to these rent increases, large reductions were also made in federal support for the construction and rehabilitation of low income housing units. Construction

[1] The figures used here for the amount or percentage each program has been cut are those of the Congressional Budget Office (CBO), the official, nonpartisan budget office of the US Congress. The CBO figures represent the extent to which spending on these programs has been reduced below the amounts needed to maintain pre-Reagan levels of benefits and services, as appropriately adjusted for inflation and changes in unemployment.

[2] These income limits apply to families without child care costs. Families with child care expenses can earn somewhat more before losing all benefits, but most working families on AFDC do not have child care expenses.

and rehabilitation of low-rent housing has long been thought necessary to help offset the loss of low income housing that occurs each year due to condominium conversion, rent increases, abandonment, and decay. Since 1981, however, federal support for these activities has been cut by two-thirds. The Urban Institute estimates that about 300,000 more families will be living in substandard housing by the end of 1985 as a result of the cutbacks in this area.

PUBLIC SERVICE EMPLOYMENT

Employment programs for low income, unskilled persons have been cut deeply. All public service jobs funded under the Comprehensive Employment and Training Act (CETA)—which formerly provided employment and training to 500,000 persons a year—were eliminated. Before termination of CETA, nearly all persons it employed were low income. In addition, half were from minority backgrounds, and half were women. Many had been unemployed for considerable periods of time before going to work in these jobs. A considerable number faced employment barriers such as lack of a high school education, lack of skills, and lack of job experience. Today, CETA public service employment is no longer available as a method by which chronically unemployed low-income persons may gain skills and job experience and enter the job market.

JOB TRAINING

Not only was public service employment ended, but federal job training programs were cut back as well. Funding for programs to train low income and unskilled persons has been reduced 41 percent, according to the Congressional Budget Office. The Work Incentive Program, the program that provides job training to AFDC mothers to get them off federal assistance and into the job market, was reduced 38 percent. These cuts have come at a time when unemployment is still rather high—and when the move to a more technologically advanced economy is leaving large numbers of low income workers without the skills to qualify for jobs in those parts of the economy that are growing.

LOW INCOME ENERGY ASSISTANCE

Funding for this program is only slightly above 1980 levels, despite steep increases in natural gas prices since that time. This is a particular problem for low income persons, because a majority of them heat with natural gas. A study released in April 1984 by the National Consumer Law Center found that because of limited funding, the energy assistance program now covers only one-third of the low income households eligible for it. Moreover, for those in the program, the average benefit covers less than one-fourth of a family's heating bill in most states. The study also found that in 35 states last winter, low income elderly persons living alone had less than $50 a week left from their Supplemental Security Income checks to cover expenses for rent, food, clothes, and all other needs after paying their heating bills.

LEGAL SERVICES

The legal services program, which provides legal aid for those who are poor and cannot afford private legal help, has been the target of a major Administration assault. While Administration efforts to abolish the program entirely have not succeeded, the program has been reduced substantially. Some 375 local legal services offices have closed, and the number of attorneys and paralegals providing services has dropped by 30 percent. The Washington Post has reported that numerous legal services offices across the country are turning away indigent clients with legal problems because they do not have the staff to take these cases.

COMPENSATORY EDUCATION FOR DISADVANTAGED CHILDREN

Despite the fact that the compensatory education program (often referred to as "Title I") has a proven track record in improving the reading and math skills of low income elementary school children, the program has been reduced 23 percent. By the 1982–1983 school year, the number of low income children receiving these compensatory education services had fallen 440,000 below the number aided just two years earlier.

REDUCTIONS IN HEALTH PROGRAMS

Sizable reductions were made in basic health services programs targeted at low income families. Funding for community health centers in "medically underserved" areas (primarily poor rural areas and some inner city areas in which there is a shortage of health services), was sliced 23 percent. Some 239 centers had to curtail operations, and an estimated 725,000 persons, nearly two-thirds of whom were low income children or women of child-bearing age, lost access to health services at these centers.

Maternal and child health programs—which are designed to reduce infant mortality and childhood disability, to provide rehabilitative services for blind and disabled children, to furnish treatment and care to crippled children, and to provide other prenatal and children's health services—were reduced 17 percent. After 1981, some 44 states made cuts in prenatal and delivery services to low income women a consequence. In addition, in 24 states for which data are available, it is estimate that 460,000 fewer children were screened for lead-based paint poisoning in 1983 than in 1981.

OTHER CUTS

A complete list of the low income programs whose funding has been reduced would be considerably longer. Some of the other cuts include:

A reduction of $1 billion, or nearly 30 percent, in federal support for the school lunch program and additional reductions of 20 percent in the school breakfast program (which is heavily concentrated in schools in low income areas). Three million fewer children are now participating in the lunch program, and 500,000 fewer children now receive school breakfasts each day.

The termination of all summer food programs for poor children not run by schools or local governments—with the result that about 500,000 low income children previously served by churches and religious institutions, YMCAs, or other non-profit private agencies have been cut off (the summer food program is designed to continue the school lunch program in low income areas during summer months).

A reduction of 20 percent in federal support for basic social services provided to low income individuals and families (such as day care services for children of low income working mothers, services for abused children, and services for homebound elderly and disabled persons). The Children's Defense Fund estimates that 150,000 low income families lost day care services as a result.

Reductions in student financial aid programs for low and moderate income students, which are particularly important to students from low income minority backgrounds. In 1981, before these cuts, 43 percent of black high school graduates went on to college. By 1982, after the cuts, official government figures show that the percentage of black graduates going on to college had fallen to 36 percent.

REDUCTIONS IN UNEMPLOYMENT INSURANCE

In addition to the cuts in various low income programs, major reductions were also made in unemployment insurance. The number of weeks for which unemployed workers can draw benefits was shortened significantly so that unemployed workers now exhaust their benefits far sooner than in the past. Prior the the budget cuts in this area, over half of all unemployed workers were receiving unemployment insurance benefits. By June 1984, the percentage of unemployed receiving benefits had fallen to 29 percent, the lowest percentage recorded in the history of the unemployment insurance program.[3] In fact, the number of persons who are jobless but who are not receiving any unemployment benefits, reached six million in both June and July 1984—more than when the recession hit bottom in late 1982. This benefit gap is one of the principle reasons that lines at soup kitchens and food pantries are not declining despite some economic recovery.

The sharp reductions in unemployment coverage present a particular problem for two-parent families. In many states, a two-parent unemployed family that has exhausted its unemployment benefits is simply ineligible for any form of cash assistance (or for Medicaid for most family members) no matter how destitute the family is. The erosion of unemployment insurance coverage has been an important factor behind the increase in the number of two-parent unemployment families who have fallen into the ranks of the "new poor."

SOCIAL SECURITY DISABILITY

Finally, in perhaps the most heavily publicized of all the budget cuts, several hundred thousand persons were removed from Social Security disability rolls on the grounds that they were no longer disabled and could now work. These cuts sparked major protests when it turned out that large numbers of truly disabled persons whose medical conditions had not improved were being terminated and that, in many cases, the terminations were put into effect without first allowing the affected persons to appear in person and present evidence about their condition. Ultimately, the Social Security Administation's own administrative law judges took the Reagan Administration to court over this issue, and 26 states refused to continue carrying out the terminations. In the meantime, many newspapers across the country criticized the terminations sharply (The New York Times, for example, called them "cruel" and "brutal") Congress is now expected to pass legislation in the summer of 1984 (over Reagan Administration opposition) to reform the disability review procedures and to prevent future terminations of those who are legitimately disabled.

[3] The percentage of unemployed receiving benefits edged up slightly, to 30.7 percent in July 1984, the last month before printing of this report. The July figure is the second lowest percentage ever recorded—second only to June.

THE EFFECTS OF THE CUTS: HARDSHIPS FOR POOR FAMILIES

Despite these statistics on the size and scope of the cuts, the Administration has contended that the budget reductions did not cause hardships for poor families. However, in April 1984 the highly regarded US General Accounting Office (GAO) unveiled the findings of a long-awaited study that should end the debate over the issue. The GAO tracked the effects of reductions in AFDC and food stamps on low income families in five cities in different parts of the country. The study's findings showed that the effects of the cuts were profound.

The GAO found that large numbers of families terminated from AFDC were pushed deeper and deeper into poverty as a result of the cuts. The average family terminated from AFDC had lost $1,400 to $2,700 a year in AFDC and food stamp benefits. Most families also lost Medicaid coverage when they were removed from AFDC. In most of the areas the GAO examined, 30 percent to 60 percent of these families had no health care coverage of any sort for themselves or their children after being dropped from AFDC. In addition, more than half had run out of food at least once and had no money to buy more, and more than one-fourth had a utility shut off due to inability to pay a bill.

Additional research by the Center for the Study of Social Policy in Washington, DC found that some of those families who had been terminated from AFDC and subsequently experienced these hardships had incomes as low as $3,600 a year.

These studies highlight a key fact concerning the budget reductions: many of the cuts in different programs have fallen on the same low income families. Many families who had their AFDC payments reduced also had their food stamp benefits cut, had to start paying more for some medical services due to Medicaid reductions, faced rent increases if they lived in subsidized housing, and had to pay higher fees for child care services if they worked (due to reductions in programs providing child care services to low income working mothers). Many also saw their heating bills rise swiftly, as well, with federal energy assistance failing to keep pace. It is difficult for a poor family to cope with simultaneous increases in food, rent, medical, and fuel bills—and even harder if its child care costs are raised or its AFDC grant reduced or terminated at the same time. While many of the budget cuts are harsh when considered individually, their combined impact on the same families has made them even more severe. ●

TRIBUTE TO JOHN RHODES

HON. JOHN McCAIN

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1984

● Mr. McCAIN. Mr. Speaker, as a Member who was privileged to replace John J. Rhodes as Representative from Arizona's First Congressional District, I am constantly aware of the high esteem in which he continues to be held by Members on both sides of the aisle. In his 30 exceptional years of service in Congress, John Rhodes proved to be one of those all too rare public men who place loyalty to country ahead of partisan gain and whose word was as sound as a U.S. Treasury bond.

Fortunately, for Arizona and the Nation, John Rhodes has chosen not to retire. He and his wife Betty continue to split their time between Mesa, AZ, and Washington. And John continues to be active on behalf of a range of important interests.

I know that many Members who share my respect and admiration for John Rhodes will find an article from the Arizona Republic of special interest. The article follows:

[From the Arizona Republic, Sept. 23, 1984]

JOHN RHODES MAINTAINS ACTIVE PACE HE DISPLAYED IN CONGRESS

(By Ben Cole)

WASHINGTON.—John J. Rhodes, citizen and retired lawmaker, has completed the transition from high-profile leader in Congress to the relative quiet of a Phoenix-Washington law practice.

If he has any regrets at having left behind him 30 years of service in the U.S. House of Representatives, they are utterly concealed in his relaxed mein and unhurried speech.

Rhodes breezed into Congress in 1953, a 36-year-old beneficiary of the great Eisenhower sweep that carried Republicans to control of both the House and Senate. Rhodes, a successful young lawyer-insurance executive, handily unseated John Murdock, a Democrat whose tenure had made him an institution and carried him to chairmanship of the House Interior Committee.

Within a short time, Rhodes adopted a crew cut and quietly set out on a low-key conquest of the Speaker's chair.

In the 30 years that followed, Rhodes all but reached the speakership to which he aspired. His Republican colleagues named him House minority leader in 1974 when fate in the mask of Watergate carried Gerald R. Ford into the Oval Office.

The Republican Party lost control of the House in 1954 and failed in the three decades of Rhodes' tenure in Congress to recapture it. Although Rhodes was denied the Speaker's chair, he won the respect of his colleagues on both sides of the aisle.

He announced in December 1980, that he would leave Congress at the end of 1982. He would, he announced, become a member of the law firm of Cummings & Lockwood, which has offices in Connecticut and Washington, D.C.

Two years into his new career, Rhodes spends a good part of his time doing some of the tasks he performed for Arizona during his tenure in the House.

One of his principal clients is the Central Arizona Water Conservation District, created by the state's legislature to operate the Central Arizona Project, sell CAP's water and pay off the federal loan which financed the gigantic project.

His continuing interest in CAP keeps him in continued close relationship with the Arizona delegation in Congress. During his days in the House, Rhodes was often the strategist for the continuing effort to push CAP to completion.

Recently, the ex-congressman has been cautioning his client against precipitously leaping into a cost-sharing program for completion of CAP. His views were spelled out recently in an article for Perspective.

He urged Gov. Bruce Babbitt and the leaders of the Arizona legislature to put off any further talk about cost-sharing until after the election.

"The temptation to get political about cost-sharing is too great," Rhodes observed during an interview in his Washington law office.

Arizona has achieved two "legislative miracles" in recent months, Rhodes said.

First was the Safety of Dams Act which will increase federal funding to provide for Arizona's needs in updating impoundment structures.

Second was the Hoover Dam Act which allows the three Hoover Dam states—Arizona, California and Nevada—to put up money for rewiring the power plant's generators so they will produce more power. The bill authorizes the Arizona Power Authority, which markets the state's share of Hoover power, to add an increment to its power sales which will help pay off the CAP debt.

Rhodes said the latter statute puts CAP funding in a much better condition and reduces the pressure for cost-sharing on the project.

CAP funding will be up to limit shortly, and Congress will be asked to reauthorize the nearly completed project. Arizona will confront many opponents in Congress. Rhodes said the respect commanded by Rep. Morris K. Udall, D-Ariz., chairman of the Interior Committee, and Sen. Barry M. Goldwater, R-Ariz., will be vital to that legislative struggle.

The bill, he said, will be introduced sometime in 1985 or 1986.

While CAP is a heavy concern, about 20 percent of his practice comes from Arizona clients with one-case-at-a-time problems involving government relations and corporate law.

His clients also include the Equitable Life Insurance Society, an industry with which he is intimately familiar because of his long association with the Farm and Home Insurance Co. in Phoenix.

He is also involved in the acid rain controversy now before Congress and the White House. He is representing the Clean Energy Association, a combination of interests including some power plants and Western low-sulfphur coal producers.

He is also the Washington lawyer for the First Boston Corp. in efforts now under way to build a new skyscraper in New York on the site of New York's Grand Central post office building.

When he moved from Congress to his law office, Rhodes took with him two of his prized assistants, both lawyers; Dennis Taylor, his legislative assistant in the minority leader's office; and Joe McCauley, administrative assistant to the minority leader.

"With them here, I always know my clients are going to be taken care of whether I'm here or not," Rhodes said.

In addition to his professional pursuits, Rhodes is occupied with a number of civic and personal pursuits. He is active with the Committee for a Responsible Federal Budget, organized by former Rep. Robert Gaimo, D-Conn., and former Sen. Henry Bellmon, R-Okla. The Washington-based organization is headed by Carol Cox, a former member of Bellmon's senatoral staff, who is president and executive director.

"They are doing a very good job of keeping (the government's) feet to the fire," Rhodes said of the committee.

He is also serving on the Committee for a Six Year Term, a group advocating a constitutional amendment which would limit the president to a single term of six years.

Rhodes is seriously concerned about limiting the presidential term. His experience in government, he said, led him to the conviction that the president's preoccupation with his re-election essentially cancels his efficiency for half his first term in office.

A president freed of his political preoccupation could accomplish more in six years than presidents can possibly achieve now under a two-term, eight-year arrangement, Rhodes said.

Presidential politics is an impediment to the nation's business in many ways, Rhodes said. He recalled when the late Sen. Henry M. Jackson, D-Wash., was contending for the Democratic presidential nomination in 1976.

Jackson was a senior member of the Senate and chairman of the Interior Committee where action was being deferred on measures important not only to Arizona but the whole nation.

Rhodes, despite his high regard for Jackson, called a press conference to emphasize the urgency of getting Interior Committee action on the bills, and told the reporters:

"I am seriously considering introducing an amendment to the Constitution that would make any member of Congress ineligible for the presidency during his incumbency and for five years afterward."

Constitutional amendments, however, are something to be undertaken with extreme care, Rhodes said.

He has accepted a place on the board of the Constitutional Study Committee, organized by former Secretary of the Treasury Douglas Dillon and Lloyd Cutler, a New York lawyer who served as President Jimmy Carter's White House counsel.

"Amending the Constitution is difficult and it can be dangerous," Rhodes said. "I would like to see a six-year term amendment, but most of the changes people recommend can be done through legislation," Rhodes concluded.

The former congressman said his main function on the Constitutional Study Committee is to point out better ways to make necessary changes in government.

"The last thing we need is a constitutional convention," Rhodes said, "but if one is ever convened, I'm going to be a candidate for delegate."

Rhodes said his legal work takes him frequently to his old haunts in the Capitol.

He joins his former colleagues occasionally for a meeting of SOS, of which he is a founding member. Rhodes is unsure how the club got its name; some members suggest it means "Society of Statesmen."

He also attends the regular Tuesday meetings of the Chowder and Marching Society, a group of former Republican congressmen that includes such luminaries as former President Ford and former Secretary of Defense Melvin R. Laird. The group invites speakers from the President's Cabinet, foreign ambassadors and other dignitaries.

Since leaving the House, the Arizonan has discovered the Former Members of Congress and is serving on its board of directors.

Rhodes attended the homecoming meeting of the group this spring in the chamber of the House of Representatives. Speaker Thomas P. "Tip" O'Neill, Jr., D-Mass, invited Rhodes to the podium and turned the gavel over to him. The Speaker jovially announced to the chamber that Rhodes for years had his eye on O'Neill's chair; now, he said, Rhodes could put another part of his anatomy there.

Despite their opposing roles as leaders of the majority and minority, O'Neill and Rhodes enjoyed an unbroken personal friendship. Rhodes refers to the big Irishman from Boston as "the most partisan man I've ever known." Nonetheless, they had sincere regard for one another and played the game of politics hard but fair.

One activity of the Former Members of Congress is sending past lawmakers onto college campuses for seminars, lectures and questions-and-answer periods on the function of Congress.

Rhodes is scheduled to go to Orono, Me., today to address students at the University of Maine.

Rhodes is also active in a new international group called Invest Indonesia. Its purpose is to promote cooperation between Indonesians and American firms seeking to do business there.

Rhodes said he investigated the organization when he was first invited to work with it and found it had the backing of both the U.S. Department of State and the Department of Commerce.

Indonesian law forbids foreign investment *per se*, but permits foreign principals to participate with Indonesian firms as investors and cooperators.

Rhodes expects to lead a party of American businessmen to Jakarta in February for meetings with Indonesian officials and businessmen. He has conferred here with the Indonesian ambassador and discussed Invest Indonesia with America's ambassador to Jakarta.

Rhodes said the U.S. government has provided the program with "no money but lots of cooperation."

No longer required to live most of the year in Washington—Rhodes says his work here requires about half his time—he and his wife, Betty, have sold their longtime home and have leased an apartment.

"It was just too big, with the four children grown and gone," Rhodes said.

They built a new home in Mesa before the end of his last term in Congress. It is their principal residence. Mrs. Rhodes spends about 80 percent of her time in Mesa.

Rhodes, whose 68th birthday is this month, retains all the vigor of his congressional days. He still has the sense of humor that sustained him through frustrations in the House leadership.

Physically, Rhodes is much the same as when he came to Congress in January 1953. The crew cut he adopted as a young congressman has given way to a conventional haircut. His still brown hair, lightly touched with gray, is parted on the side.

He still gets invitations to address various organizations and fills them as he can; but he no longer rides the red-eye specials around the country as he did in the hectic days when he was minority leader.

Rhodes has always managed his time with enviable skill. "I've always worked hard when there was a job to do," he says, but he always found time, as well, for other interests and his family.

Arizona State University is establishing a John J. Rhodes chair in its Department of Program Planning, and Rhodes expects to take part in a series of seminars there next year.

He takes pleasure that John J. Rhodes Junior High School in Mesa was named in his honor.

A native of Kansas and a graduate of Kansas State University and Harvard University law school, Rhodes went to Phoenix as an Air Corps judge advocate officer during World War II.

He stayed on after the war to make Phoenix his home and to start his law practice and establish his insurance company.

Rhodes got into Republican politics at the suggestion of Barry Goldwater when the movement began to make Arizona, long a Democratic stronghold, into a two-party state.

A 30-year-long career in Congress wasn't exactly what Rhodes had in mind back in 1952; but it turned out well for him, the Republican Party, Arizona and the nation.●

BARGE INDUSTRY VITAL TO NATION'S ECONOMY

HON. WEBB FRANKLIN

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1984

● Mr. FRANKLIN. Mr. Speaker, the following is part II of "The River," a three-part series from the Jackson, MI, Clarion-Ledger which discusses the state of the barge transportation industry:

EXCERPTS FROM "THE RIVER"

(By Alan Huffman)

As he piloted the Martha May and its $10-million tow up a rising Mississippi River, Bob Miller eyed the slow-moving towboat ahead of him guardedly, hoping the boat's pilot would move over and let him pass.

After following the boat for nearly an hour, Miller gave up.

"This one's treating us dirty," he said. "He's not going to give us the slackwater."

With that, Miller began to steer the Martha May out into the swifter currents, where it would take an hour and a half to overtake the slower boat. "I'll remember this," he said. "I'll meet him coming down the river sooner or later."

Miller said it's common courtesy for slower boats to help another boat to pass, since such "channel delays" can cost as much as 24 hours between New Orleans and Cairo, Ill., and can jeopardize future contracts.

But Miller said such discourtesy among pilots is not as uncommon as it used to be.

"The slowdown in business has put the companies under a lot of pressure, and a lot of them have passed that on to the crews of the boats," he said. "But not letting me pass was uncalled-for, and you do get to where you hold a grudge on the river."

Times are hard these days in the towing industry, and every dollar counts. After peaking in 1981, when nearly 450 million tons of cargo moved on the river, traffic began to decline for the first time in 30 years.

Steve Golding, owner of Vicksburg's Ole Man River Towing Co., said the towing industry felt the economic slump later than most businesses and has yet to show any real signs of recovery. "Business is sporadic; people seem hesitant to make long-term commitments," Golding said.

It's estimated that 35 percent of the nation's boats and barges are now idle. For Golding, that means two of his five boats.

The slowdown has caused industry-wide layoffs, as well as "cutthroat competition," which Golding said has made him hesitant to reveal the destination of his cargo over the radio for fear that other companies would try to undercut his contracts.

For the same reason, Golding wouldn't divulge his profits on the Martha May's 620-mile trip from New Orleans to Memphis to deliver about 4 million gallons of gasoline to Vicksburg and 2 million gallons to Memphis.

But the Martha May's expenses—an average of 4,000 gallons of fuel a day, salaries for the crew, and other operating costs—probably exceeded $35,000, and Golding said declining rates have made profit margins so tight that, "If we have a channel delay like fog and get slowed down, we're going to lose money on the trip."

And after returning to Vicksburg from the New Orleans-Memphis trip, the $3-million Martha May was idle at the dock for three weeks, producing no income while the crew was still on the payroll.

River transport has seen hard times before. From the 1830s to the advent of the railroads in the 1870s, the steamboat was the unrivaled leader in transportation, acting as a catalyst for economic development along the network of waterways that crisscrossed the country.

But with the proliferation of railroads—aided by massive government land grants—the steamboats began to die out, and by 1900 once-bustling river towns were dying with them.

While a few steamboat companies struggled into the 20th century, it took the intervention of the federal government in the 1930s to prevent the death of river transport. The government, in an attempt to spur competition with the railroads, assumed ownership of its own barge lines and undertook the massive task of improving navigation on the country's waterways.

With the development during World War II of diesel boats, which required smaller crews and could haul much larger tows, an independent towing boom began, and the government got out of the barge business. During the decade from the late '50s to the early '60s, the industry nearly doubled in size, hauling mostly petroleum products, chemicals, coal, grain, asphalt and gravel. That growth continued until 1981.

"Back in '80, '81, every time you looked up, they were breaking champagne on a new boat," Golding said, "and you had to get on a waiting list when you ordered a new barge."

But the decline that followed was brutal. Golding said most shipyards have to make do with repair work, since few new boats are being built, and "there've been a lot of bankruptcies in the last four years, some of them companies that had been in business a long time." Of the 28 towing companies in business in Greenville in 1977, Golding said, less than half are still in business.

"Things are tough, there's no doubt about it," Golding said, "but the greatest threat is coming from the government. The river is facing legislation in Congress now that could make boats and barges extinct species and put us all out of business," Golding said.

That legislation, Golding said, would raise barge-company user fees, first instituted in 1978 for maintenance and improvement of the nation's 25,000 miles of inland and intracoastal waterways, from 8 cents on every gallon of diesel consumed up to as much as 60 cents.

"And when you figure some of these boats burn as much as 10,000 gallons a day, you're talking about $6,000 a day in taxes for that boat alone." Such a boat, Golding said, pays about $500 a day in taxes now.

The idea of recovering costs for maintenance of the nation's waterways is in line with the Reagan administration's philosophy of letting the private sector pay its way, said Bill Morelli, director of government affairs for the Ohio River Co., which opposes legislation aimed at making the barge industry accountable for all river projects.

Morelli says the towing industry is not the only beneficiary of the U.S. Army Corps of Engineers' work on the nation's rivers; those works also provide flood control, hydroelectric, recreational and military benefits. And Herb Kassner, chief of public affairs for the Mississippi River Commission at Vicksburg, said, "The main reason the corps is in the navigation business is for military mobilization preparedness."

The corps spent almost $3 billion nationwide for navigation and flood control (which it says cannot be differentiated) last year, and expects to increase that figure this year. Legislation currently before Congress would require towing companies to pay 100 percent of the navigation maintenance and construction costs above $650 million.

The corps says it must have funding to replace old facilities and start new projects—current proposals are for 70 projects across the country costing $5.2 billion—but admits it has never assigned the responsibility for funding to project beneficiaries, and doesn't know exactly how.

That's what bothers Golding and others in the towing industry.

"We aren't against paying user fees," Golding said. "We just want to make sure we pay a fair share, and that we know what a fair share is. We want to make sure that all we're paying for is navigation."

The nation's 1,800 towing companies paid $35 million in taxes in 1983, according to the American Waterways Operators Association, and have paid $100 million in user fees to date, none of which has been spent.

Golding, 33, who took over as company president six years ago, said the legislation is backed by old adversaries—the railroads—and if passed, would result in the "complete demise" of the towing industry.

"The user fees they're talking about would simply make barge transportation economically unfeasible," Golding said, adding that he goes to Washington three times a year to lobby against the legislation.

Golding argues that neither the railroads nor the trucking industry pay full maintenance costs for their transportation systems, and that the railroad is subsidized through its pension fund to the tune of $10 billion over the next 10 years.

"And it's not just us that would be hurt by this," he said. "Everybody would pay for it." Golding said increased costs would be passed on to both farmers and consumers, and that "when prices got too high" the goods would be transferred to other transportation systems, and river transport would die.

"Towboats can handle more volume shipment and do it more cheaply than any other transportation system—now," Golding said.

But, he said, "We don't want to see history repeat itself. Right now the balance is real fragile, and a wrong move could eventually put the Federal Government back in the barge line business again."

Ole Man River, Golding said, is a "medium-sized, well established towing firm" in business 19 years, and due to conservative growth, is faring somewhat better than the average towing company. That's in spite of the fact that pipelines are making inroads into the petroleum-hauling business, which the company specializes in. Golding said he has hired his boats and crews out for commercials for Budweiser and Miller, for the television pilot show of "The Mississippi," and for a European documentary on the river for publicity, money, and "to break the monotony."

The company was started in 1968 by Golding's father, Thomas Golding, who hired his son to work during summers when he was 18. Thomas Golding handed Steve the reins in 1978, and assumed the position of chairman of the board. The company is owned by the two and stockholder David May.●

THE OBJECTIVE OF THE BALANCED BUDGET ACT

HON. JAMES R. "JIM" OLIN

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1984

● Mr. OLIN. Mr. Speaker, yesterday the House passed H.R. 6300, the Balanced Budget Act. I am proud to be a co-sponsor of that bill. Its objective is simple: it forces both the Congress and the President to come up with concrete proposals to balance the Federal budget. It forces us to stop talking in general terms only and to get down to the hard task of figuring out what specific dollar amounts we can spend for which specific programs and what specific amounts we have to cut in which specific programs to have a balanced budget. It makes us put our cards on the table.

The bill's provisions are clear. It says:

> The President shall transmit to the Congress * * * for fiscal year 1986, and for each fiscal year thereafter, a budget which would, if implemented, be in balance."
>
> If the President determines that a balanced budget is inappropriate for any fiscal year, he may also transmit alternate budget proposals which, if implemented, would result in a deficit surplus.

By allowing the President to submit an alternate budget the bill provides the President with the flexibility necessary to meet unforeseen Government needs, like responding to an international or defense crisis or development. Just as importantly, this flexibility allows the President to develop a budget proposal which shows how, over several years, the budget could be balanced if it does not make sense in any specific year.

But H.R. 6300 doesn't stop there. It requires comparable specific balanced budget proposals from the House and Senate Budget Committees. The bill says:

> The Committee on the Budget of each House of Congress shall be reported, by April 15, 1985, and by April 15 of each year thereafter, a budget that is in balance for the upcoming fiscal year * * *

Again, like the bill's provisions for the President, H.R. 6300 also requires that any alternate budget prepared by the Budget Committees must include a comprehensive plan to bring the budget into balance.

What does this all mean? It means we will have the chance for Congress and the administration to stop blaming each other for our enormous deficits. By having specific proposals for specific programs out on the table to work with, we have the opportunity to stop pointing fingers at each other, and to join hands instead to make the tough choices needed to balance the budget. This is going to take a bipartisan partnership to get it done. Having detailed proposals will be important in forging that partnership.

Some have proposed an amendment to the Constitution requiring a balanced Federal budget. There are three critical problems with the constitutional amendment which has been proposed. First, it would probably take the States 5 years to ratify the amendment to the Constitution. The proposal would not have the amendment take effect until 2 years after that. We simply cannot wait 7 years to begin balancing the budget. During this time, the deficit could continue to grow. With interest payments on the Federal debt growing at 20 percent each year, we would add another $140 billion to service the debt if we wait for a constitutional amendment. Maybe some people would like to wait 7 more years before facing some hard choices, but there is no question that things will only get worse in that time and the decisions more painful. We've got to take our heads out of the sand.

Second, the constitutional amendment proposal doesn't adequately define what the Federal budget actually is or what specifically must be balanced. This may sound strange, but it is important to remember that a significant portion of Federal budget activity occurs in what is known as "off-budget accounts." For example, the transactions of the Federal Financing Bank are all "off-budget"; that is, they do not show up in the budget as Federal outlays. Lending activities of some Federal agencies, such as the Farmers Home Administration, depend upon the Federal Financing Bank. Farmers Home sells most of its farm and housing loans to the Federal Financing Bank. The Federal Financing Bank obtains its money through the normal financial markets. Because the Federal Financing Bank purchases the loans made by the Farmers Home Administration, the real costs of Farmers Home's lending activities are not reflected in the "on-budget" budget of the Federal Government. Most discussions of balancing the Federal budget do not include outlays through the Federal Financing Bank. The constitutional amendment proposal suffers this same lack of precision in defining the Federal budget and what constitutes a balanced budget. This opens the entire budget process up to creative bookkeeping. It leaves the possibility that, on paper, the budget could be balanced, but in reality, it could be far from it.

Finally, a constitutional amendment does not balance the budget in and of itself. It does not make the tough choices necessary to cut spending. With or without a constitutional amendment, Congress is going to have to take specific actions on specific programs to balance the budget. These hard decisions are the only real prescription for balancing the budget.

Why is the Balanced Budget Act, H.R. 6300, better? First, we start work on specific proposals to balance the budget now, not 7 years from now. It puts detailed plans on the table for us to debate. And it puts these proposals before us in a comprehensive way that makes it clear that if we increase spending in one place, we have to find savings somewhere else specific.

Second, the Balanced Budget Act brings the President into the process by having a specific proposal from him on how we should balance the budget. It gives Congress his recommendations for specific dollar cuts to specific programs. The President can make a critical contribution in this effort. Each year, the President submits a detailed budget request to the Congress. This is the starting point in the entire budget process. His budget defines the lines of discussion.

Unless we can get past petty partisan bickering, we will never balance the budget. Making the President a partner in this task to balance the budget would go a long way to reaching the kind of bipartisan agreements that will be necessary. H.R. 6300 doesn't guarantee that a bipartisan partnership will finally be forged. But the odds of our beginning to work together are much worse if Congress and the administration don't have to debate specific actions to specific programs to achieve a common goal of a balanced budget. With or without a constitutional amendment, the President is going to have to be involved. In the final analysis, he's the one who must either sign spending bills into law or veto them.

Mr. Speaker, Virginia, like many other States, has a statutory requirement calling for balanced budgets. It operates on a pay-as-you-go basis. It's worked well and has made Virginia a national model for fiscal soundness. We need to do the same at the Federal level.

That's why I have cosponsored H.R. 6300. It is also why I have cosponsored the pay-as-you-go budget resolution. During the last recession, Virginia did not run up a deficit. Our Governor and legislature worked hard to find savings in the State budget, to make administrative changes, and when necessary, to cut programs. None of these choices were easy. In Virginia, this isn't in the State constitution—it's in the statutes. The State government has made a commitment to the people of Virginia that it would live within its means. The people of Virginia expect and demand that the budgets be balanced. The people across this country expect the same thing from the Federal Government. It is time this Government makes its commitment to the American people that we will balance the budget, that we will work together to make the hard choices, that we will not mortgage the future of our children to avoid facing up to the challenges of today.

H.R. 6300 is a clear and important first step to getting the job done. It puts concrete plans on the table to be discussed. The next step will be for Congress and the administration to put partisan politics behind us and come together to forge a partnership to make the tough choices. It's time for this Congress and this administration to make our commitment to the American people to balance the Federal budget and to keep it balanced. H.R. 6300 and pay-as-you-go represents the beginning of this contract with the American people. That's why I am proud to be a cosponsor of this bill and why I will continue to work to balance the budget and control Government spending.●

THE U.S.S.R. ASAT PROGRAM: HAVE WE MISSED THE POINT?

HON. MARILYN LLOYD

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1984

● Mrs. LLOYD. Mr. Speaker, a recent op-ed piece in the Washington Post "ASAT: What Are the Russians Up To?" provides a unique perspective on the current debate concerning antisatellite systems [ASAT]. Dr. Harold Agnew is a former Director of the Los Alamos National Laboratory, which is one of the major weapons laboratories of the Department of Energy that has also performed excellent research, development work for the Department of Defense. Dr. Agnew is now president of GA Technologies Inc., which is engaged in magnetic fusion energy research and work on advanced nuclear fission concepts, such as the high temperature gas-cooled reactor, and also undertakes defense-related programs.

Dr. Agnew points out that, given the U.S.S.R. already has an ASAT capability with either nuclear or conventional weapons, the Soviets have actually developed their rather awkward ASAT systems for entirely different purposes. I believe that it is difficult to dispute his contention that the Soviet ASAT "was developed not to destroy our satellites but to either destroy their own satellites or to destroy our space shuttle." Dr. Agnew also raises questions about the rationale for a

U.S. ASAT system which involves missiles launched from high-flying aircraft on the basis that "we now have more than 1,000 potential ASAT's in our ICBM force."

I recommend the following article to my colleagues and I would ask them to judge whether the current debate on ASAT "is misleading the American public" or not, based on Dr. Agnew's provocative hypothesis.

ASAT: WHAT ARE THE RUSSIANS UP TO?

(By Dr. Harold Agnew)

The current debate concerning anti-satellite systems is misleading the American public. Any nation clearly should do everything possible to preserve its surveillance capabilities. However, as long as any nation has an intercontinental ballistic missile, it will possess an ASAT capability—either with a nuclear or a conventional "kill" capability.

That is simply a fact. Any missile that can carry a ton or so of payload, travel several thousand miles, and land within a few hundred yards of a target can very readily be programmed to detonate at a point in space with the same accuracy. Nothing will change this fact.

So today's flurry of proposed treaties barring ASATs is really an unwarranted effort. Unfortunately the stated justification for the U.S. initiative has been the result of what we perceive to be a unique Soviet ASAT system. Instead of simply maintaining the capability of using several of our existing ICBMs in an ASAT mode, we are developing a very expensive (from an operational and maintenance standpoint) ASAT system that is based on the concept of a relatively small missile launched from a high-flying aircraft.

The advantage the system is presumed to have is that it can attack a satellite with minimum delay because of the mobility of the system and accuracy of the missile. In view of the fact that we now have more than 1,000 potential ASATs in our ICBM force, one questions whether the rationale isn't really to justify the existence of the carrier rather than the total system.

The question that has not been properly addressed is why the Soviets may have developed their rather awkward system, which takes so long to carry out its presumed task, when they have even more potential ASATs in their ICBM fields than we have. If one is serious about destroying a satellite, one should endeavor to do so in the shortest possible time so that evasive measures cannot be implemented by the nation whose system is being threatened.

I submit that the Soviet ASAT, which orbits several times before carrying out its mission, was developed not to destroy our satellites but to either destroy their own satellites or to destroy our space shuttle. In justifying our shuttle program, we repeatedly emphasized its capability to recover satellites, and recently this capability has been demonstrated.

I have a feeling that the Soviets, with their acute paranoia, perceived this as a direct threat to their satellites. Perhaps they had seen the James Bond movie in which a system gobbled up submarines and carried them off.

If they had such a concern, then a non-nuclear system that was not "time-urgent" would be a rational approach to pursue. If they believe we were about to capture a sensitive space system of theirs, they would have the option of destroying their own system so it would be of no use to us, or of destroying our shuttle before or after such an act of piracy. The ability to orbit would allow them to be on station without having to take immediate action as one would have to do if one employed a preprogrammed ICBM.

The Soviets also probably reasoned that if the shuttle were to grab one of their systems, it could be too late for them to do anything about it using an ICBM in an ASAT role. In addition, our action might take place in that portion of their satellite's orbit where they were precluded from taking any action.

The orbiting feature of their system covers this potential problem for them. Since their system takes an appreciable time, they could alert us as to their potential action and in effect cause us to change our mind. Since no nuclear warhead would be involved, their action would not necessarily be cause for any nuclear retaliation on our part.

In short, we and the Soviets—and any nation with an ICBM capability—have an ASAT capability with either a nuclear or non-nuclear warhead, so no additional systems are required, and no treaty against such a capability would be meaningful as long as ICBM systems exist. Our analysts should examine seriously the proposal that the much-touted orbiting Soviet ASAT was really developed to counter what they believed was our space shuttle's potential for capturing one of their unmanned space systems.

Independent of the outcome of such an analysis, the fact remains that the United States and the Soviet Union each possess more potential ASATs in their ICBM forces than either nation needs, and the United States certainly doesn't need a complicated system that would be very expensive to operate and to maintain in the years ahead.●

A PICTURE-PERFECT PRESIDENT

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1984

● Mr. ACKERMAN. Mr. Speaker, I would like to bring to the attention of my colleagues in the U.S. House of Representatives a humorous and telling article printed in the August 15 edition of the Sherman (CN) Sentinel.

The article, written by Vance Weaver, takes a poke at some of the Reagan campaign fundraising devices in the form of a spoof letter he sent as a response to the chairman of the 1984 Republican Presidential task force.

In addition to being entertaining, the "letter" raises important points about several holes in Mr. Reagan's Teflon armor. The task force has written Mr. Weaver, promising him a unique flag, a lapel pin, and other gifts in return for a $120 contribution. Mr. Weaver, however, is worred about the promised "uniqueness" of the flag, and what its design could entail. "What if it's something I don't like, or something that might prove embarrassing to me or my neighbors when I fly it, like the logo of the Continental Illinois Bank or a picture of a $300 Phillips screwdriver rampant?" Mr. Weaver wonders.

He is also concerned about his promised toll-free hotline to the President. "* * * How do I know that I will not pick a bad moment? He could be right in the middle of a photo opportunity with a new female appointee, or carrying his horse, or trying on a hard hat. And what if I call on the Washington hotline when he is actually in California? The odds are pretty good, you know."

Mr. Speaker, the article is meant to be humorous. But when you think about it, it's not particularly funny that the only message the incumbent Presidential candidate seeks to get across to the American public is framed in unsubstantial, slick-looking photo opportunities. Mr. Reagan may look like a rugged leader currying horses. The Marlboro man may look macho selling cigarettes. But Mr. Reagan has apparently missed an important point during his oncamera jaunts—that image manipulation doesn't put food in hungry children's mouths or give displaced workers needed training to reenter the work force. No, Mr. Reagan, polished, soothing campaign spots about this country's future that are paid for by $120 pledges like the one Mr. Weaver turned down don't counteract your assault on our civil rights. They don't cut the dangerous Federal deficit or give medical care to elderly citizens who are in desperate need. They don't help us or enable us to help ourselves. They just look good.

Mr. Speaker, the article follows:

Thank you for your invitation to join the RPTF. (Yes, I know your letter says that it's a personal invitation from President Reagan himself, but I really think that must be an administrative error of some kind: I am reasonably sure he doesn't know me, although I have seen a number of his movies.)

Your invitation tempts me, mostly because of all the wonderful things you want to give me if I accept: A golden Medal of Merit (your caps), a golden Lapel Pin, a full-size Ceremonial Flag, an Embossed Membership Card (all these are still your caps) "revealing may toll-free, members-only, Washington hotline number—my super-fast way to contact President Reagan . . . which brings me to the very doorstep of power in our nation's Capitol", and your promise to inscribe my name on the President's Honor Roll, which will be "kept forever with his permanent papers" and where "perhaps someday my grandchildren or great grandchildren will see my name linked historically with president Reagan himself."

That's a lot of stuff for only $120, payable in 12 monthly installments! I can hardly believe you are sending this offer to the right person, although you have spelled my name correctly on the gold-stamped Certificate of Acceptance, and you have the right address on your letter. (Very official looking stationery with another gold seal at the top and "Ronald Reagan, Founder" in the corner.)

There's a fancy four-color brochure, too, (that must have cost a pretty penny all by itself) with pictures of my Medal in its handsome case, my Lapel Pin, my Membership Card, my Flag, and my copy of "The New Force", which will "help me tell friends and neighbors the truth about major events." All this for only $120? I tremble to imagine what the real heavy-hitting contributors must be getting.

But I don't mean to carp. You have me pegged. Ten bucks a month is about my speed; maybe even a shade faster than my usual speed. I doubt if I could handle bigger gifts. My coffee table is pretty loaded already.

However, if you won't take offense, I do have a couple of questions before I sign that Certificate. Ever since 1952, when one of your illustrious predecessors in the Senate took pains to caution me against joining unknown organizations without checking them out, I have tried to be careful. One doesn't like to yield to rash impulses that could later turn out to be dangerous to one's livelihood.

You describe my Ceremonial Flag as "unique," Senator. Now the picture shows it folded, so of course I can't be sure, but it looks remarkably like the American flag. Some of the stars and some of the stripes are clearly visible. That would hardly qualify as "unique," since we are all familiar with it, and you might say it belongs to all of us. Perhaps this is a special version produced for the RPTF, and perhaps all of us who join will get different designs: maybe special picture inserts in the middle to make them unique? I can't quite see how you can justify the expense of so many different designs, but I am a little hesitant to accept mine without knowing what device you have chosen for me. What if it's something I don't like, or something that might prove embarrassing to me or my neighbors when I fly it, like the logo of the Continental Illinois Bank or a picture of a $300 Phillips screw driver rampant? I would feel more sure of myself if you could send me a list of choices.

Then there's the "golden" Medal of Merit. I can see where there's Merit in $120, and I trust this Administration to know the difference between real gold and something that merely looks like it, but even with the present depressed price of gold, I can't imagine that $120 leaves you a lot of leeway. I assume it's the color you are describing, not the material. But if it's really going to become a collector's item and a permanent symbol of the Reagan Administration, I want to be sure it's made of something lasting. I once bought my wife a "golden" wristwatch band by mail and it not only didn't last, it turned her wrist green. We wouldn't want that to happen to our symbol. Can you be more specific?

My main concern, though, is the Presidential Honor Roll, where my name will appear forever. Forever has a way of stretching out. In Egypt once, I was told about a fellow named Ramses who decided to inscribe his name so it would last forever. He carved it up all over the place in stone letters three feet high, but hardly more than 3000 years later his signatures were in terrible shape: Sand blew them blank, other pharaohs carved their names right over his, graffiti artists from all over the world (including some American tourists whose names later became embarrassingly well known) worked them over. How does the RPTF propose to do its inscribing, and on what? If my grandchildren and great grandchildren are going to be able to see my name "linked historically with President Reagan," you can't just bury some microfilm in a salt mine with a bunch of uranium buttons and expect them to go find it.

Any everyone on my side of the family for four generations has had weak eyes, Senator; we'll need large and legible letters. Can you tell me just what the plan is, please?

The more thought I give to this proposition, the more I am troubled by the notion that you just may be giving away too much. $120 today is a very nice thing to have, to be sure; but somewhere down the line you are going to have to pay for it.

What about that toll-free hotline to Washington—my "direct contact to President Reagan"? Aside from the possibly astronomical phone bills, think of the other problems. We both know that you can rely on my discretion. I will respect the man's need for privacy; after all, he needs some time to run the country. But what about other Members? And even the few times a month when it is absolutely necessary for me to make a call (not for anything personal, you understand, but on some matter of national policy where I feel I need to put my foot on the doorstep of power), how do we know that I will not pick a bad moment? He could be right in the middle of a photo opportunity with a new female appointee, or currying his horse, or trying on a hard hat.

And what if I am calling on the Washington hotline when his actually in California? The odds are pretty good, you know. Think of the confusion and expense while someone switches the call, someone else rides out on the ranch to find the President, and brings him back to the phone. I'm afraid it could cost you a lot more than my $120. You'd probably have to borrow the difference. And even if you could find someone to lend it to you, how would you pay it back?

Why, if we ran the country like that we could be in a peck of trouble. The national debt could run up into the trillions of dollars in no time at all. We certainly wouldn't want to see that, would we?

Maybe you should reconsider, Senator. I wouldn't be insulted personally if you withdrew the whole offer and tried again with something more modest. Maybe just a receipt that said, "Thank you for your tax deductible campaign contribution."

And you could save some postage by weeding out the Democrats on your mailing list, too.

Yours,

VANCE WEAVER.●

TRIBUTE TO LARRY WINN

HON. HERBERT H. BATEMAN

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 2, 1984

● Mr. BATEMAN. Mr. Speaker, as a freshman member of the Science and Technology Committee, I am pleased to take part in this special order to honor our departing ranking member, LARRY WINN.

Although I have only known him for these past 2 short years, I have come to respect him both for his strong support of the Nation's space program and Federal support for basic research, and his keen sense of the burdens borne by the American taxpayer. Under LARRY WINN's leadership, no bill involving civilian research and technology has gone through the congressional process without careful scrutiny of both the costs and proposed benefits of the legislation. Under LARRY WINN's leadership, responsible alternatives have been put forward, and compromises have been reached which have improved the legislation reported by the Science and Technology Committee. Because of LARRY WINN, federally supported science is stronger and better focused than it otherwise would have been.

When LARRY WINN began his service in Congress in 1967, he was assigned to the what was then known as the Science and Astronautics Committee. From that beginning, when America was in the midst of the Apollo Program to put a man on the Moon, to the present, LARRY WINN has been a visionary supporter of this Nation's space program. His effective efforts on the Manned Space Flight Subcommittee and the Space Science and Applications Subcommittee have contributed greatly to Apollo, skylab, the space shuttle, and most recently, the space station.

It goes without saying that LARRY WINN's presence will be missed on the Science and Technology Committee, and in the House as a whole. I join with all of my colleagues in wishing him a happy and healthy retirement.●

TRIBUTE TO LARRY WINN

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 2, 1984

● Mr. STOKES. Mr. Speaker, I would like to thank my distinguished colleague, the gentleman from Kansas [Mr. GLICKMAN] for taking this special order so that Members of the House can salute Congressman LARRY WINN. As most of my colleagues know, LARRY WINN will retire at the end of the 98th Congress. Members on both sides of the aisle will miss his friendship and dedication to the work of this great body and to the people of this great Nation.

For 18 years, Congressman WINN has served the people of the Third Congressional District of Kansas. During that time, he has amassed numerous legislative achievements. He also has served as the dean of the Kansas congressional delegation.

Mr. Speaker, the primary achievement in LARRY's tenure in Congress has been his efforts in making space exploration programs a priority. From the first American walking on the Moon to the recent Skylab Program, Congressman WINN has been a leading

supporter in the Congress on behalf of NASA and space programs.

He has used his position as the ranking minority member on the House Science and Technology Committee to aid NASA research projects. Mr. Speaker, LARRY WINN has made an indelible mark on every piece of authorizing legislation for space exploration in the last decade.

Additionally, Mr. Speaker, LARRY WINN has used his position on that committee to advocate research on alternative energy sources such as gasohol and solar power. He introduced a variety of initiatives to provide tax credits for energy efficiency and conservation.

During his tenure in the Congress, Representative WINN has become one of the ranking Republicans on the House Foreign Affairs Committee. He is a leading proponent of including more women in the Foreign Service programs and a primary supporter of the need to strengthen our Peace Corps Program.

Mr. Speaker, LARRY WINN, in his nine terms in the House of Representatives, has made a significant mark on this body. He has served his constituents well. He has served his Nation in an exemplary manner. At this time, I join my colleagues in saluting Representative LARRY WINN, dean of the Kansas congressional delegation.●

TRIBUTE TO CRAIG NOEL

HON. BILL LOWERY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1984

● Mr. LOWERY of California. Mr. Speaker, the Old Globe Theater in San Diego is world renowned for its annual Shakespeare Festival, and the creative genius of the Old Globe is Craig Noel, its permanent director since 1940. Mr. Noel will mark his 50th anniversary in an outstanding professional theater career on October 21, 1984. I wish to call the attention of my colleagues to this distinguished artist through a resolution I have written and which will be presented next week:

RESOLUTION

Whereas, Craig Noel began his stage career as a troll in a kindergarten play and grew to be a giant of the theatre; and,

Whereas, he began his professional career fifty years ago in a performance at San Diego's Savoy Theatre and, with only a few interruptions, has continued to share his life-long love and enthusiasm for theatre with all San Diegans; and,

Whereas, he has been associated with the Old Globe Theatre since its inception as a community theatre in 1937; and,

Whereas, he became the permanent director in 1940 and under his leadership the organization grew from modest beginnings to a fully professional, nationally acclaimed resident theatre; and,

Whereas, in 1949 he established the world renowned Shakespeare Festival at the Old Globe and as the creative genius and artistic leader has personally directed 200 productions and produced an additional 270 plays at the Old Globe Theatre; and,

Whereas, his guidance of the Old Globe Theatre to national prominence was recognized in 1984 by a Special Tony Award from the members of the American Theatre Critics Association; and,

Whereas, he has further enhanced the awareness and appreciation of the theatre arts with his Globe Educational Tour involving hundreds of thousands of young people; and,

Whereas, his cultural and civic contributions and honors are diverse, distinguished and richly deserved; and,

Whereas, Craig Noel is marking the fiftieth anniversary of his professional theatre career on October 21, 1984,

Now, therefore be it resolved, that his occasion be commemorated with entry of this document in the Congressional Record with our sincere thanks to a brilliant artist.●

TRIBUTE TO LARRY WINN, JR.

HON. ELDON RUDD

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 2, 1984

● Mr. RUDD. Mr. Speaker, I am pleased to join my colleagues today in this special order to pay tribute to our good friend and colleague, the Honorable LARRY WINN, as he looks to retirement at the end of the 98th Congress.

LARRY has a long and proud history of service to the people of Kansas and the Nation. He has served in leadership positions in such distinguished American institutions as the Red Cross, the Boy Scouts and Junior Achievement. He knows the private sector well having been a member of the homebuilding industry, and he has brought that knowledge to the House for the benefit of all Americans. He has been an outstanding member of the Foreign Affairs and Science and Technology Committees of the House.

It has been a privilege to serve beside LARRY over the years. He has been a true asset to the people of the Third District of Kansas, the State and the Nation, and he will be greatly missed by all of us in the House in the days and months ahead.

Let me take this opportunity to thank LARRY for his good service on behalf of the Nation, and offer him best wishes in all his future pursuits in the years to come.●

INDIAN GAMBLING REGULATION ACT

HON. NORMAN D. SHUMWAY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1984

● Mr. SHUMWAY. Mr. Speaker, as congressional representative of several Indian tribes located on reservations and rancherias in northern California, I have become sensitive to the problems which are created for non-Indians when gaming parlors are established on Indian lands. The scope of these problems is significant, and warrants greater Federal oversight of Indian gaming operations by legislating accountability under State law.

While I appreciate the Government's policy of allowing Indian nations as much sovereignty and independence as possible, Indian communities have taken unfair advantage of the unique jurisdictional status of their reservations by establishing large scale gaming operations. Indeed, in the Federal Government's attempt to foster Indian sovereignty, the Indians have often enjoyed unrestrained freedom at the expense of other, non-Indian citizens, and have ignored local and State law. The Indian nations' unique position in the Federal system—that is, they are located within State boundaries, but are subject to Federal authority—and the Congress' policy of encouraging sovereignty, have made the Indians a separate, unaccountable segment of society who claim many rights but deny accountability for commensurate responsibilities. Unchecked, this attitude will prove to be detrimental to both Indians and their nonIndian neighbors.

As a result of this federally inspired lack or accountability and in the absence of significant Federal regulation, serious problems such as the possible influence of organized crime, unfair competition with charity groups, and domination by dishonest non-Indian investors, are left unresolved. These difficulties pose additional threats to the safe, responsible operation of gaming parlors.

Thus, I am introducing today the Indian Country Gambling Regulation Act, legislation which would place oversight of gambling on Indian lands under the jurisdiction of the States in which they are located. In my view, this would place responsibility for regulation of gambling in the hands of those best qualified to regulate it: The State officials elected to represent the areas in which the gambling establishments are located.

I challenge my colleagues in this body to give serious thought to the present rights of Indians, and how utilization of those rights may affect those of the non-Indians. Inasmuch as rights can only be enjoyed and maintained when tied to responsibilities, I believe the ultimate solution to these problems lies in the achievement of a better balance and an accountability to those laws which govern the citizens in our respective 50 States, whether Indian or not. While such an approach my invade somewhat the policy of sovereignty, it seems to me

fully justified in light of the potential for abuse inherent in gambling activities. For these reasons, I urge immediate cosponsorship of this legislation.●

A TRIBUTE TO JOHN ERLENBORN

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 1, 1984

● Mr. PORTER. Mr. Speaker, it has been a source of great pleasure to me to have had the opportunity to serve in this body for 5 years with my colleague, JOHN ERLENBORN of Illinois.

I, of course, knew of, but did not know JOHN before deciding to run for Congress in 1977. In first meeting with JOHN in his Rayburn Building Office, I was surprised at how young he was since he had represented DuPage County in Washington for such a long time. I had expected an older man. He has remained young—a Member, perhaps, like no other, who exudes self-confidence and control of his life and surroundings.

Whether he planned it or not, JOHN leaves as one of the few Members with a highly marketable expertise gained in congressional service. Recognized throughout both bodies as an expert on pension laws, he has been a leader in this area—to the extent that when votes are to be taken the first question of Members on our side of the aisle is, "Where does JOHN ERLENBORN stand on this?"

On those questions and all others, you always know where JOHN stands. He has been forthright and thoughtful in his positions, generally right of center, not from a rigid philosophical approach, but always for substantial and well thought-out reasons.

I will remember always discussing with JOHN the irresponsible votes that we both noted on the House floor in response to special interest pressures and what JOHN's comment was. He said, "You know, voting was a lot more responsible around here when we didn't have all these recorded votes."

It's interesting how reforms sometimes backfire. During JOHN's tenure in Congress, we have opened the legislative process to make Members take positions on issues that are recorded and can be known by constituents. That sounds positive on its face, but in practice, it's only the special interests that track the votes intensely and who are thereby allowed to increase pressure on legislators who don't see things their way.

"With teller (unrecorded) votes", JOHN said, "the results, it seems to me, were more attuned to what was good for all the American people, not just some of them." It is something to ponder.

We will miss JOHN, a man of intelligence and perception, a man obviously sure of his future, and we wish him well in his third career, now about to begin.●

OCCUPATIONAL SAFETY AND HEALTH AMENDMENTS

HON. JOHN N. ERLENBORN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1984

● Mr. ERLENBORN. Mr. Speaker, today, I am introducing a bill to amend the Occupational Safety and Health Act of 1970.

This bill is not a major rewriting of the 1970 act. Instead, it merely writes into law what we have learned in the past 14 years. It is not uncommon that, as time goes on, situations arise that could not have been foreseen when a law is written. As a law is used and interpreted by employers, employees, and their representatives, the courts, and the Occupational Safety and Health Administration [OSHA] itself, questions are bound to arise concerning the original intention of Congress.

My intent is simply to answer some of those questions.

A section-by-section analysis of the bill follows:

Section 1 adds four new definitions, three of which are not currently defined in the statute, but track case law.

"Willful Violation" is defined as intentional disregard of or plain indifference to employee safety or health that would result in death, serious injury or impairment of health.

The phrase "intentional disregard of or plain indifference to" comes specifically from the case law.

Additional language requiring a substantial probability that an event or condition would occur is inclined to differentiate willful from serious violations.

"Significant risk" is defined as safety and health conditions that have been determined by a preponderance of available data and evidence to induce serious bodily harm or injury to employees directly exposed.

Significance of risk is an important issue resolved by the courts since the statue was enacted. Because this concept is critical to an understanding of the law, this definition (as seen by the courts) should be included in the law.

"Repeat violations" is defined as a second or subsequent violation of the same provision of the standard committed at the same work site within three years of the final correction or order. Specific provision is made for "non-fixed" and "longshoring" establishments.

Without a formal delineation of violation type and an explicit description of a "repeat violation," the courts and the Occupational Safety and Health Review Commission would continue to be confronted with "gray area" decisions and impractical results that a codification would hopefully limit. The inclusion of finer definitions in the Act would also help to prevent the arbitrary or inconsistent application of violation classification from inpector-to-inspector or Region-to-Region that are bound to occur.

"Serious violation" is redefined as noncompliance with an existing standard which results in a substantial probability that an event or condition would occur and cause or result in death, serious injury or impairment of health.

While the existing statute defines violations adequately, it does not classify them as specifically as has become the practice. The revised definition would upgrade the definition to require a likelihood of occurance as an element of the violation.

The word "could" in existing law is changed to "would" to eliminate the too frequent inclusion of technical violations within the category of "serious." The result would be that the likelihood that an injury could occur would be raised to equal importance with the nature of the injury which could be anticipated.

Section 2 amends Section 5(a)(1), the General Duty Clause, by limiting its applicability only when abatement is available through reasonable means and prohibiting citation under the General Duty Clause when a standard promulgated under Section 6 of the Act applies to the alleged hazards.

This section is similar to OSHA's administrative direction and is consistent with Congressional intent. It is simply a more specific definition as opposed to the very general description that is in the current statute.

In passing the Occupational Safety and Health Act, Congress indicated that ". . . the general duty clause in this bill would not be a general substitute for reliance on standards, but would simply enable the Secretary to insure the protection of employees who are working under special circumstances for which no standard has yet been adopted." (S. Rep. No. 91-1282, 91st Cong., 2d Sess. 10 (1970). It was also Congress' intent to use the general duty clause when the hazard is recognized, serious and capable of being corrected by feasible means.

Lastly, the amendment identifies the following four elements as those determined by the courts as necessary to establish a general duty violation: (a) the employer failed to keep the workplace free of a hazard to which his/her employees were exposed, (b) the hazard was recognized, (c) the hazard was causing or was likely to cause death or serious physical harm, and (d) there was a feasible and useful method to correct the hazard.

Section 3 amends Section 6(b)(5)—standards setting process—to require the Secretary when promulgating any standard; (1) to determine whether a significant risk to employee safety and health currently exists and if a such standard will substantially reduce such risk; (2) to base such standard on objective criteria and whenever practicable be performance-based and (3) to determine that such standard will not threaten competitive structure of each regulated industry. When requiring abatement through engineering controls the Secretary must determine that such controls are available and adaptable and that the compliance level established is achievable through such controls.

This amendment is a codification of an accumulation of case law affecting promulgation of health standards and assures applicability to the promulgation of safety standards.

Although this issue is late in the session and I am retiring from Congress, I urge all interested parties to work together in ad-

vancing this legislative initiative in the 99th Congress.●

BARTER PROMOTION ACT OF 1984

HON. BYRON L. DORGAN

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1984

● Mr. DORGAN. Mr. Speaker, I am introducing today the 1984 Barter Promotion Act. I believe that this bill removes the one major obstacle standing in the way of the development of a vigorous U.S. barter program. It resolves the narrow interagency turf battle over whose books are going to be debited when we take the sensible step of trading a perishable asset—our surplus grain to dairy products—for a stable mineral that can help make up the shortfall in our national defense stockpile or fill the stragetic petroleum reserve.

AN END TO BARTER ROADBLOCK

Congress has shown an increasing interest in encouraging barter. A congressional research study which I requested on the feasibility of Government-to-Government barter listed over 20 bills that were introduced in the first session of this Congress designed to encourage barter transactions. I believe that this congressional pressure led to the Reagan administration's formation of an interagency working group on barter in January of this year. While this is a step in the right direction, the group has assumed a passive role. Countries interested in barter trades with the United States must do all the work in arranging them. So far, not a single barter transaction has materialized under the working group.

I believe that USDA must be more directly encouraged to enter into barter trades. My bill authorizes $300 million for USDA to do just that. This barter fund would go into a separate account of the Commodity Credit Corporation. It would cover any cost of bartering excess agricultural commodities. And, it would serve as the basis of a revolving fund that would be replenished as the General Services Administration acquired the minerals from USDA for the national defense stockpile.

This pump priming money will help begin the barter process. The expenditure, beyond acquiring critical minerals for the national defense stockpile and oil for the strategic petroleum reserve, would reduce farm program costs in several significant ways.

FARM PROGRAM SAVINGS

One of the most significant is the savings in CCC storage costs. If we trade our excess agricultural commodities for minerals needed in our national defense stockpile, the savings in storage costs could approach the ratio of 90 to 1, according to a recently published congressional research paper on just this issue. The study notes that CCC storage and handling costs in the last 5 fiscal years have totaled over $1.5 billion—or $300 million per year. By way of contrast, storage costs for more stable minerals needed in our national defense stockpile have historically been less than 1 percent of their value.

In addition, the CRS study notes that barter of surplus agricultural products would also save losses attributed to commodity deterioration, a particular problem in storing dairy products, and to a lesser extent, grain. According to the executive director of the American Butter and National Cheese Institute, butter and cheese can be stored for only 1 to 2 years without any appreciable spoilage, and nonfat dry milk can be stored for 2 to 3 years.

There are other savings. By reducing surplus agricultural inventories, we enhance domestic commodity prices, since big stockpiles depress the market. With stronger prices, farmers forfeit less grain under our commodity loan programs. Stronger prices also reduce CCC direct payments to farmers in the form of deficiency payments, which otherwise increase as market prices fall.

FARM EXPORT GROWTH

Still another fiscal plus which would flow from an active barter program would be foreign market development, much as we have seen from our Food for Peace Program. Today 7 of our 10 best cash customers for agricultural commodities are countries which were former participants in Public Law 480 programs.

A barter program, like Public Law 480, could also put our abundant agricultural resources to work alleviating world hunger. In Africa alone, the people of 22 nations face wide-spread starvation, according to the Food and Agriculture Organization of the United Nations. Yet many of these cash-poor countries have strategic minerals they could trade for our agricultural products. Zaire has cobalt and needs wheat; Zambia has copper and needs corn; Guinea has bauxite and needs nonfat dry milk. Barter with these developing countries would generate trade that would otherwise not occur.

Critics may say that barter sounds too primitive for a developed country such as the United States to get involved in. The truth is, this country had a successful barter program from 1953 to 1970. It was similarly designed to trade our excess agricultural produce for strategic materials and services needed by U.S. agencies abroad. That program moved over $6.6 billion of surplus wheat, feed grains, and other CCC commodities through barter transactions. In return, this country received 60 different strategic materials from more than 50 countries.

At the same time, our previous barter program allowed the United States to follow the sound economic theory of developing our most efficient economic sector, agriculture, and using it to enhance our balance-of-trade picture. Today, with a $100 billion trade deficit, sending our strongest economic player into the foreign trade arena is more important than ever. Doesn't this make more sense that paying our economic all stars to sit on the bench, as they did under the PIK Program?

COMMON SENSE AND THE COMMON GOOD

There's no reason we can't conduct a successful barter program again. The opportunity is there—experts estimate that over 10 percent of world trade is now conducted through barter, and that share is expected to grow. With the tremendous agricultural resources at our disposal, and the critical problem of world hunger, it's a crime not to. Barter offers a commonsense way to strengthen our national defense at the same time we develop a needed export outlet for family farmers. I urge my colleagues to support the 1984 Barter Protection Act.●

THE FERES DOCTRINE

HON. JAMES F. McNULTY

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1984

● Mr. McNULTY. Mr. Speaker, the Feres doctrine is a judicial construction of a law passed by Congress. Though little understood, the Feres principle has raised serious question in a number of areas of our law about the degree to which our Nation is fully committed to the principle of a society under law. This is raised by the problem of sovereign immunity from suit, a problem Congress sought to cure in 1946 in passing the Federal Tort Claims Act. In 1950, the courts construed that statute so as to bar, except for acts not incidental to service, a law suit by one member of the Armed Forces against another member.

Mr. Speaker, since entering this body I have attempted to forward the principle that in medical malpractice circumstances, an individual member of the Armed Forces could sue medical officers who allegedly committed a malpractice. This would permit the victim or the family of a victim to overcome the Feres doctrine.

A shocking example of the Feres problem in another area of law is in the circumstances of what is becoming known as the Buckmiller problem. Former Army private Betty Buck-

miller was in custody in a military stockade when she was attacked by two male soldiers. This violent assault has been called a hazard incidental to military service and no further proceedings are possible under the Feres doctrine.

Mr. Speaker, rape is a crime and deserves to be treated with the full and unmistakable force of the law. The Seattle Post-Intelligencer has recently published a commendable editorial on this matter and I ask that it be inserted into the record at this point.

ARMY INCIDENT—RAPE SHOULDN'T BE RISK OF ANY JOB

The rape of former Army private Betty Buckmiller while in detention at Fort Ord, Calif., in November 1982 was not an accident. It was a conscious attack by two male soldiers. Yet, unbelievably, the Army and a federal-court judge persist in calling this violent assault a hazard "incidental to military service."

Buckmiller, who now lives in Seattle, has sued the Army for $164,000 in damages. Before she filed suit, she submitted an $80,000 claim to the Army. It was denied on the basis of a 1950 decision by the U.S. Supreme Court.

In the 1950 case the highest court ruled that soldiers cannot collect damages for injuries suffered while on active duty. U.S. District Court Judge Thelton Henderson, like the Army, has interpreted the doctrine to mean that the rape of Buckmiller was a risk of military service and therefore the Army is not liable.

Buckmiller's case is exceptional for at least two reasons. Her injury was not accidental, it was consciously inflicted. And since she was in custody (for being absent without leave for nine months) at the time of the attack, surely the Army had some responsibility for her safety and well-being.

Byron Holcomb, one of Buckmiller's attorneys, also argues that her right to sexual privacy should be secure, even in the Army.

Buckmiller is not trying to overturn the Feres Doctrine, but the fight to clarify its intent and to get justice for her will continue.

It is an important fight for all women in military service who are vulnerable to the abuse suffered by Buckmiller as a result of possible service negligence. Rape is a crime. It must never be regarded as incidental to any line of work.●

PATRIOTISM IN THE CLASSROOM

HON. CARROLL HUBBARD, JR.

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1984

● Mr. HUBBARD. Mr. Speaker, I recently received an excellent letter from my constituent, Peter B. Phelan of Murray, KY.

Mr. Phelan was astonished to learn that there was no American flag on display in his daughter's schoolroom, and that the children did not recite the Pledge of Allegiance. Mr. Phelan subsequently informed me that his daughter's class now recites the Pledge of Allegiance and sings "My Country 'Tis of Thee" at the beginning of each day.

Nevertheless, I certainly understand and share Mr. Phelan's views, and I would like to take this opportunity to share his sincere letter with my colleagues. I urge you to carefully read and reflect on Pete Phelan's letter, which follows:

MURRAY, KY,
September 26, 1984.

Congressman CARROLL HUBBARD, Jr.,
Rayburn House Office Building,
Washington, DC.

DEAR CONGRESSMAN HUBBARD: President Reagan, members of both houses and many other fine Americans are promoting the institution of prayer in the public school classroom.

The Commonwealth of Kentucky has supported the posting of the Judeo-Christian tenet of the Ten Commandments in the public schools.

My six year old daughter attends the first grade of our local public school. In a conversation with her about school, I learned there was no American flag on display in her room and that the children did not recite the Pledge of Allegiance nor sing any patriotic song.

I called the school superintendent's office and was referred to the principal who assured the matter would be investigated, but, informed me that flag display and recitation of any oath was the individual teacher's prerogative to practice or not.

Mr. Hubbard, religion belongs at home and in the church, mosque or temple. America, the flag and patriotism belongs in the public school. If our nation's political and religious leaders need a banner to rally around, let it be no other glory than Old Glory, for if Americans grow up without developing a sense of patriotism, who will defend the Constitution of the United States of America which insures us the right to debate the third article of the Bill of Rights?

Please help me by addressing this issue to your colleagues and if possible introduce legislation to encourage and/or require the display of our American flag and an oath of allegiance in our public schools.

Sincerely,

PETER B. PHELAN.●

LEYTE LANDING DAY

HON. NORMAN D. SHUMWAY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1984

● Mr. SHUMWAY. Mr. Speaker, October 20 will mark the 40th anniversary of the allied forces landing on Leyte Island in the Philippines, a courageous action which has been termed the turning point of the war in the Pacific in 1944. While much fanfare has been accorded to the observance of D-day on its 40th anniversary, very little tribute has been paid to the brave men who turned the tide in the Pacific theater.

Today, I ask that my colleagues join with me in recognizing the 165,000 men of the 6th Army and some 50,000 sailors and airmen who supported them as they hit Red Beach on Leyte. A debt of gratitude is surely owed to them for their courage and patriotism.

To those who served in the invasion force who are still living, to those who gave their lives on that historic day, and to those whose families remember their sacrifice, I extend the congratulations of a grateful nation, as well as the promise that their actions will never be forgotten.●

BANKING REFORM

HON. RICHARD J. DURBIN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1984

● Mr. DURBIN. Mr. Speaker, both the House and Senate Banking Committees have devoted considerable attention to the issue of banking reform. They have reached different conclusions regarding the long-range structure of the financial services industry, which makes final congressional agreement on comprehensive banking reform legislation this year unlikely.

We should not lose sight of the fact that there is one area where the House and the Senate agree; namely, the need to close the "nonbank" bank loophole.

Certain organizations have exploited a provision of the Bank Holding Act to circumvent the statute's technical definition of a "bank." The chartering of these institutions upsets the long-standing prohibitions on interstate banking and prohibitions on combinations between banks and securities or other commercial enterprises—the fundamental elements of our Nation's financial structure for over 25 years. I am concerned that our failure to address the "nonbank" bank issue before adjournment could aggravate this situation.

Earlier this year, the Comptroller of the Currency extended his moratorium on granting nonbank charters until the end of the 98th Congress. At that time, however, he made it clear that he feels bound to approve pending applications when the moratorium expires unless he receives a clear mandate from the Congress to the contrary.

There is still time before the end of the session to present the Comptroller with such a mandate. The Senate-passed banking reform bill (S. 2851) and the House Banking Committee bill (H.R. 5916) both would close the "nonbank" bank loophole by including all FDIC-insured institutions in the definition of bank for regulatory purposes.

However, if the press of legislative business does not allow Congress to close this loophole before adjournment, I urge the Comptroller to take the initiative by extending the current

moratorium until the 99th Congress has an opportunity to act on the issue. Presently the Comptroller has more than 300 applications to establish "nonbank" banks pending on his desk. The threat of a flood of "nonbank" banks engulfing the financial industry is too compelling to justify any other course.●

VITAL LEGISLATION INTRODUCED TO SERVE THE INTERESTS OF NATIVE AMERICANS

HON. RONALD D. COLEMAN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1984

● Mr. COLEMAN of Texas. Mr. Speaker, today my esteemed colleague, Congressman CHARLES WILSON, and I are introducing legislation that is vital to the interests of the two tribes of Native Americans residing within the State of Texas—the Tigua Tribe of El Paso and the Alabama-Coushatta Tribe of Livingston.

The Tigua Indian Tribes of El Paso—Pueblo De La Ysleta Del Sur—first settled in its present location in 1680. The right of that tribe to reside on that land was recognized by a succession of governments and included those of Spain, Mexico, the State of Texas and, by virtue of Texas becoming part of the United States of America, the Federal Government.

In 1967, the Texas State Legislature enacted legislation which authorized the State to accept a transfer of Federal trust responsibilities to the Tigua Indian Tribe. In 1968, the U.S. Congress approved the transfer of any and all Federal trust responsibility to the State of Texas.

Pursuant to these acts, the State of Texas administers the Tigua Tribe's affairs. The State holds the 100-acre reservation in trust for the tribe and, through the Texas Indian Commission, provides a superintendent, as well as administrative and economic development funding for the tribe.

The Alabama-Coushatta Tribe originally settled in what is the Big Thicket Area of east Texas in the late 1700's, fleeing the English following the French and Indian War. Because of the assistance that the Alabama-Coushatta Tribe provided to Gen. Sam Houston in Texas' War of Independence from Mexico, the State of Texas purchased certain lands to serve as a permanent home for the tribe since 1854 and the State has served as trustee to the Alabama-Coushatta Tribe from that time.

The U.S. Government entered into a Federal trust relationship with the tribe in 1928, and from that year on both the State and the Federal Governments have served as cotrustees. Since 1954, when the Federal Government transferred all responsibilities to the State, Texas has assumed the sole trusteeship much in the same manner as it provides for the Tigua Tribe.

It now appears, however, that the State of Texas may renounce its historic relationship with both tribes, as well as the duties it assured Congress it would accept in 1954, 1967, and 1968. The Texas attorney general has issued a formal opinion in which he disputes the existence of a special relationship between the tribes and the State and finds that the maintenance of such a relationship would run counter to the equal rights amendment of the Texas Constitution.

As a consequence of that opinion, which is being relief upon by the State comptroller, both the Tigua and Alabama-Coushatta Tribes now find that their lands are without the protection provided by State law. Thus, the restricted status of their reservations, as well as continued State funding for tribal government and management of their reservations, are seriously threatened.

The legislation introduced today seeks to reestablish and restore the Federal trust relationship with both tribes and thereby secure permanent protection for the reservation lands and ensure the survival of their respective tribal governments.

While it is regrettable that the actions of the State attorney general's office has necessitated the introduction of this legislation, and despite the fact that that formal opinion may be overruled on appeal, it seems a wise alternative that both tribes now seek a restoration of the Federal trust which would guarantee a degree of continuity to their very existence.

Although this legislation is introduced at this late hour in the 98th session, there is no doubt that this measure is needed desperately. Both Congressman WILSON and myself plan to work on lining up support for this bill in the following months and will reintroduce this package when the 99th Congress convenes in January 1985.●

TRIBUTE TO COL. E. BROOKE LEE

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1984

● Mr. HOYER. Mr. Speaker, just a few days ago, a former public servant and elder member of one of Maryland's finest families died. I rise today to pay tribute to Col. E. Brooke Lee who, at the age of 91, passed away, leaving behind a lifetime of achievements which have become legendary to those of us in Maryland.

It was my privilege and honor to have had the opportunity to work closely with Blair Lee III, the colonel's son, during my tenure in the State senate when Blair was the Lieutenant Governor and later the Acting Governor. We ran as Democratic teammates during the gubernatorial race of 1978. It was through our close association that I became aware of the rich history of the Lee family and the considerable accomplishments of Colonel Lee.

E. Brooke Lee's ancestral roots are embedded in the very beginning of this Nation. Great American names dot his family tree—Richard Henry Lee, signer of the Declaration of Independence, and Robert E. Lee, to name just two. The Blair and Lee families were united by marriage in 1848, thus joining together two prominent and politically important families. In fact, the colonel was born just down the avenue here in Washington, DC, across from the White House in a family owned townhouse whose name you may recognize—Blair House.

Colonel Lee was predestined, it would seem, to become one of Maryland's leading politicians. After returning from World War I as a highly decorated hero, having received the Distinguished Service Cross for valor and the French Croix de Guerre, he began his political career in 1920 when he was elected State comptroller. Later he was secretary of state under Gov. Albert C. Ritchie and in 1926 was elected speaker of the Maryland General Assembly. He was, by all accounts, a tough, influential, iron-fisted visionary who was concerned about the future of his home county, Montgomery. He served on the planning board, the Maryland National Capital Park and Planning Commission, where he shaped what had been rolling farmland into what is now one of the Nation's most affluent suburbs.

Mr. Speaker, Col. E. Brooke Lee is gone and an era has passed. He has left us with many remembrances of his accomplishments, and his imprint on our community remains with us today. He has given us, too, new generations of Lees who have been instilled with the colonel's leadership qualities and who now continue to serve the public good in government service.

I know my colleagues here today give tribute to E. Brooke Lee and join me in offering sincere condolences to the entire Lee family in this most trying of times.●

A CONGRESSIONAL TRIBUTE TO DONALD P. MEREDITH

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1984

● Mr. ANDERSON. Mr. Speaker, the Long Beach Naval Shipyard currently

employs about 7,300 employees. This shipyard is a repair yard, and is responsible for performing much of the scheduled maintenance and overhauls, as well as emergency repairs, on the ships assigned to the U.S. Pacific Fleet. Most notable of late has been the yard's reactivation of the battleship U.S.S. *New Jersey*, and the work they are currently doing on her sister ship, the U.S.S. *Missouri*.

The various unions and worker organizations in the shipyard have banded together for their common good in the Long Beach Naval Shipyard Employees Association. This association, in a very effective and articulate manner, expresses the concerns of the employees of the shipyard, and represents them both in Washington and in discussions with the uniformed officers in charge of the shipyard. The president of this association since January 1980 has been Mr. Donald Meredith, who has performed his functions in a truly outstanding manner. Don Meredith has a total of 30 years of Federal service, including 14 years with the U.S. Marine Corp. He is a machinist in shop 31 at the shipyard, in addition to performing the very demanding and time consuming duties as president of the association.

Don Meredith's talents have been recognized outside the confines of the shipyard. In 1982, he was appointed to the Armed Services Commission of the city of Long Beach. The Armed Services Commission maintains liaison between the city of Long Beach and military units in the area, with the objective of trying to eliminate points of friction before they start, of informing each other of activities, and in general fostering a spirit of cooperation and comradeship between the citizens of Long Beach and military personnel who are stationed there.

He has also served for 6 years as a member of the Military Affairs Council of the Long Beach Chamber of Commerce, which performs functions for the Long Beach Chamber somewhat similar to those of the Armed Services Commission. Don is a past president of the Long Beach Naval Shipyard Chapter of the International Association of Machinists, and is currently Chief Steward of shop 31 of the Metal Trades Council at the shipyard.

His activities off the base include being an active member of the Military Order of the Purple Heart; the Disabled American Veterans; the Fleet Reserve Associations Branch 43; the American Legion; the Knights of Columbus; and the Catholic Navy League. As an active participant in these various organizations, Don has made a very significant contribution in many areas of our local community of Long Beach.

During his tenure as president of the Long Beach Naval Shipyard Association, Don Meredith has worked very hard and effectively for the well-being of the employees working in the shipyard, as well as promoting harmonious relations with management and by trying to enhance the efficiency and capability of the shipyard. My wife Lee joins me in wishing Don Meredith, his wife Christine, and their two children, daughter Michaeline and son Kevin, continued success and all the best in their future endeavors.●

HADASSAH TO HONOR MRS. GAIL ZARITSKY

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1984

● Mr. LEWIS of California. Mr. Speaker, women of Hadassah have played a remarkable role in the rebirth and survival of the State of Israel. Their concerns found expression in a vast network of medical programs, child rescue efforts and significant educational projects. The combined energies and talents of many caring people made this all happen.

Gail Zaritsky is one of these caring people. She has been a loyal, devoted member of Hadassah for 30 years. She has been the guiding force of the Arrowhead Chapter's success, serving as president and in other numerous positions of leadership whenever and wherever needed. Her devotion and talents have certainly helped to keep the chapter together.

Gail has made valuable contributions to her community as well. In addition to teaching at the Congregation Emanu-El Sunday School, she acted as secretary-treasurer and held various chairmanships in the Rialto Junior Womens' Club. Gail served for two years as the chairman of the Bloomington Chapter of the American Cancer Society and as a board member of the Riverside Art Center. During this time, Mrs. Zaritsky returned to college, attending San Bernardino Valley College.

Currently, this outstanding achiever is completing her interior design degree at the University of California-Riverside. Gail and her husband, Joe, reside in San Bernardino and are raising four lovely children.

In appreciation of her valued service and dedication to her family and her career, the Arrowhead Chapter of Hadassah is paying tribute to Gail Zaritsky on October 31, 1984, at its annual Supply Shower Luncheon. The funds raised at the luncheon will be used to purchase a much needed piece of medical equipment which will be donated to the Hadassah Medical Center in Jerusalem in Gail's name. Mr. Speaker, I ask the Congress to join me, along with the members of the Hadassah, in expressing our profound gratitude and deep admiration to Mrs. Gail Zaritsky.●

THE 73D ANNIVERSARY OF THE REPUBLIC OF CHINA

HON. KEN KRAMER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1984

● Mr. KRAMER. Mr. Speaker, on October 10, the Republic of China will celebrate its 73d anniversary as the first democratic republic in Asia. I would urge my colleagues to join me in congratulating the Republic of China's Government and people for promoting a country of freedom, democracy and economic prosperity.

When Dr. Sun Yat-sen, founding father of the Republic of China, first dedicated himself to the revolutionary cause, he made "overthrowing the Manchus and Founding a Republic" his mission in life. During the 17 years from 1895 to 1911, he led 10 uprisings and suffered 10 defeats—the 10th being the famous Huanghuakang Campaign. However, Dr. Sun and his revolutionary comrades were fully convinced that failure was the mother of success. One after another, many of them made the ultimate sacrifice and eventually overthrew the Manchu Dynasty in the Wuchang Uprising on October 10, 1911, ending the 4,000-year monarchial rule in China and founding the first democratic republic in Asia—the Republic of China.

With this spirit as its backbone, Taiwan has transformed itself into a strong nation with an annual economic growth rate of 7.5 percent per year, a 99.7 percent literacy rate and a growing industrial economy that has become a major exporter around the world.

Over the past three decades, Taiwan has changed from an agricultural to an industrialized economy. Foreign investment—mostly from overseas Chinese, the United States, Japan and Western Europe—helped introduce modern, labor-intensive technology to the island in 1960's. Now the emphasis is changing from production of light industry to consumer goods for export to more sophisticated heavy industry and technology intensive industry.

I would note that we are Taiwan's largest trading partner. Taiwan, in fact has excelled in foreign trade, and this has been a major factor in its rapid growth over the past 30 years. The value of trade roughly tripled in each 5-year period since 1955 and increased nearly fourfold between 1975 and 1980. As a result of Taiwan's economic development, the island enjoys one of the highest per capita incomes in Asia and one of the narrowest gaps between rich and poor of any non-Communist country in the world.

As Americans, we are proud of Taiwan's accomplishments and the contributions America has made to this important ally. On this most respected and important anniversary we not only want to congratulate the Republic of China and its people, but also to assure them of our continued friendship and support.●

DANIEL H. RIDDER TO BE HONORED AS THE 1984 LONG BEACH AREA COUNCIL, BOY SCOUTS OF AMERICA, "CITIZEN OF THE YEAR"

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1984

● Mr. ANDERSON. Mr. Speaker, on November 1, Mr. Daniel H. Ridder, president and publisher of the Long Beach Press-Telegram, will be honored by the Long Beach Area Council of the Boy Scouts of America for his selection as 1984 "Citizen of the Year."

A native of New York and a graduate of Princeton University, Dan has been a resident of southern California since 1958 when he became copublisher of the Long Beach Press-Telegram. In 1969 he became publisher.

I guess you can say that Dan's career in the newspaper business actually began about 75 years ago when his grandfather, father, uncles, brothers, and cousins started a German language newspaper in New York City. From this first business evolved one of this country's most respected and successful communications empires. Today, this company—Knight-Ridder Newspapers, Inc.—controls 31 newspapers in 25 markets, 4 television stations, cable operations, and recycling mills.

"I was brought up believing one's first area of concern should be one's own local community," said Dan. This dedication to the community is clearly evident through Dan's involvement with numerous civic and charitable organizations. These include: Long Beach Art Museum (trustee); St. Mary's Medical Center (director); Long Beach Symphony Association; Forward Long Beach; Rotary Club of Long Beach; President's Associates/CSULB; Chancellor's Associates; American Cancer Society Men's Committee (cochair); United Way (campaign chairman of region III); Greater Los Angeles Visitors and Convention Bureau (director); California Community Foundation; Congressional Awards Council; Southern California Tennis Association; and, the United States Golf Association. Additionally, he has been associated with the California Museum Foundation of the Museum of Science and Industry; California State University and Colleges; and the Los Angeles County Museum of Art.

It's also important to note that Dan somehow also found the time to continue his active involvement with the Associated Press; Newspaper Advertising Bureau; California Newspaper Publishers Association; and, the American Newspaper Publishers Association.

Frankly, Mr. Speaker, I do not think that the Boy Scouts could have made a finer choice for this year's award. Dan is one of those very special people we are lucky enough to have in our community of Long Beach that help make it a better place to live and work. Dan is a real asset to Long Beach and you can be sure that his generosity and spirit of voluntarism does not go unnoticed.

My wife, Lee, joins me in congratulating Dan on this special occasion. We wish him and his wife, Frani, and their children, Dan, Jr., Randi, Rick, Ellen Jay, Robin, and Brad, continued success in all their future endeavors.●

CHRIST UNITED METHODIST CHURCH OF INKSTER, MI

HON. SANDER M. LEVIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1984

● Mr. LEVIN of Michigan. Mr. Speaker, on October 28, 1984, Christ United Methodist Church of Inkster, MI, will be celebrating 125 years of service to the citizens of southeastern Michigan.

Church records indicate that Methodists were congregating in Inkster as early as 1830, but on July 20, 1859, the church was officially organized and a board of trustees was appointed. That original group of nine: David S. Hicks, J.W. Rounds, Aaron Hicks, William Harrison, Charles Harrison, Martin Harrison, William Downing, Levi Harrison, and William Walker, set a tradition of service and worship which is still observed by their descendants, many of whom are members of the present day congregation. The congregation's first building was completed in June 1862, and was located at the corner of Inkster and Michigan Ave. That building was destroyed by fire in 1925. The present church is located approximately one-half mile north of the original site.

From its inception, Christ United Methodist Church, like so many churches in small towns and cities throughout our Nation, has served as a social, cultural, and educational resource to the citizens of its community. Today, under the pastorship of the Reverend William P. Sanders, there are 105 members. It is significant to note the breadth and scope of the efforts of this small congregation on behalf of the residents of Inkster. The church is a site for respite care of children at risk of abuse under the auspices of the Michigan Maximization project. The church is a distribution site for the surplus commodities food program and services over 200 families each month. In connection with Focus Hope of Detroit, the congregation distributes food to over 100 needy senior citizens each month. In addition, the church sponsors Boy Scout, Girl Scout, Brownie, and Cub Scout troops.

I am proud to represent the members of Christ United Methodist Church and look forward to celebrating their 125 anniversary. Indeed this church is a superb example of the importance of strong social and family values to this Nation.●

ADELANTE MUJER HISPANA CONFERENCE

HON. RONALD D. COLEMAN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1984

● Mr. COLEMAN of Texas. Mr. Speaker, I recently had the opportunity to attend the Adelante Mujer Hispana—Onward Hispanic Women—Conference in my district. On May 19, 1984, the second Adelante Mujer Hispana Conference was held in El Paso, TX, attracting approximately 400 participants, predominately women, from all socioeconomic and educational levels. The goal of the conference was to provide workshops and information in the areas of education, training, and employment, with related topics such as legal rights, health, child care, and networking.

The objectives developed in keeping with the theme of this year's conference were:

First, to mobilize strategies for skills development in the areas of risk taking, decisionmaking, and self-awareness;

Second, to explore issues and trends affecting women in employment and education in terms of the job market, educational preparation, and skill building;

Third, to clarify effective roles and functions of women in the workforce with a view toward achievement;

Fourth, to privide skill-building sessions on effectively managing family, career, stress, and finances;

Fifth, to create a network of Hispanas, along with expanding community resources;

Sixth, to provide a forum by which to emphasize issues affecting the advancement of Hispanic women;

Seventh, to relate the importance of the marketability of bilingual-bicultural skills in the work world; and

Eighth, to support the concept of Hispanic women as role models and mentors.

The first El Paso conference, held in June 1983, was developed after the Adelante Mujer Hispana model founded by Dr. Alicia Cuaron. The need for such a conference is based on the fact that Hispanic women in the workforce have had less opportunity to receive equal educational and employment opportunities, working to a large extent in subordinate or lower level positions. According to census data, Hispanics will comprise the second largest ethnic group in the Nation by the end of the 1980's. In El Paso alone, approximately 68 percent of the population is Hispanic, the majority of Mexican birth or lineage, making this a prime city for a women's conference of this nature.

Historically, Hispanic women have had a lower labor force participation rate than other groups of women. Their rate of labor participation is now at 50 percent, the lowest among women in the United States, and that participation is largely clustered around blue collar and service occupations. In 1981, black and Hispanic families maintained by women with children under 18 had a 68-percent rate of poverty, compared to 43 percent for similar Anglo families. In addition, the earnings gap seems to remain fairly constant or widens; it has also been significantly lower than that of Anglo men and women.

Another important factor is that Hispanic women are generally younger than women of other population segments. According to the 1980 census figures, the median age of Hispanic women was 23.8 compared with 31.3 for all women. Hispanic women aged 50 or over compromised 15.1 percent, compared with 28.2 percent of all women in the U.S. population.

Statistics from the Texas Employment Commission also support the need for this type of conference in the El Paso area, indicating that unemployment among Hispanics numbers 12.9 percent: unemployment among female Hispanics is at 11.9 percent, while Hispanic males count 13.6 percent unemployed.

The need for such a conference is further substantiated by the fact that Hispanic women face greater problems and increased obstacles in dealing with today's changes and challenges. Besides being faced with higher unemployment rates, the Hispana also faces cultural obstacles, and in many cases, English-language deficiencies. Furthermore, many times she encounters alienation and/or lack of support from family members in her determination for self-improvement.

The Adelante Mujer Hispana concept is only a beginning in what has been termed a "feminist movement" for Hispanas. It is a positive movement that advocates the advancement of Hispanic women in those areas so vital to human development and self-awareness.

While many Hispanic women serve in the traditional roles as mothers and housewives, they are also creating new horizons for themselves in the work force. This type of conference tries to create a common endeavor that is likely to improve the quality of life for Hispanic women while providing the incentives necessary to fulfill the aspirations of those women who want to go forward and at the same time maintain their own sense of values.●

STATEMENT OF MESSRS. PANETTA, GLICKMAN, BRYANT, AND MOODY ON MISSION TO CENTRAL AMERICA

HON. LEON E. PANETTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1984

● Mr. PANETTA. Mr. Speaker, during the recent district work period we took part in a fact-finding mission to El Salvador and Nicaragua. The 11-day tour, sponsored by the Unitarian Universalist Service Committee, afforded us the opportunity to see beyond the oft-conflicting images presented in media and State Department reporting.

In both countries we were greeted with respect and honored with lengthy meetings, marked by frank and open discussion, with Government and U.S. Embassy officials. We also met with labor and campesino leaders as well as church officials.

Each of us, to be sure, approached Central America with certain basic assumptions about the nature of conflict in the region and how this country can best promote the goals of stability and democratic reform. While those differences remain, we reached a common conclusion with respect to the ineffectiveness of military action in solving the region's problems.

The continuing climate of turmoil in Central America and the instability it has spawned present serious foreign policy challenges for the United States. By emphasizing military might over diplomatic intelligence, the Reagan administration has pursued a policy which runs counter to the stated U.S. goals of regional stability and reform.

New initiatives need be explored, and our purpose in rising at this time is to share with our colleagues an outline of what we believe could be a starting point for a new direction in relations, based on the findings of our mission to Central America.

The statement follows:

STATEMENT OF CONGRESSIONAL FACTFINDING DELEGATION TO EL SALVADOR AND NICARAGUA

(Joint statement of Representatives Dan Glickman, Leon Panetta, Jim Moody, and John Bryant)

On August 15 we embarked on an 11-day fact-finding mission to Central America. For all of us it was our first trip to the region. Our goal was to see first-hand the countries that are now crucial for U.S. foreign policy in the region; to see all parties to the conflicts of the region in person and not through the filters of media or Administration reports; and to decide how Congress can best assist the prospects for peace and development in Central America.

The trip was organized and paid for by the Unitarian Universalist Service Committee. The Committee's expertise and contacts enabled us to hear from the powerful and the powerless, from the Church and the military, from academics, campesinos, and businessmen. Each of us spent one day in Mexico City, three days in El Salvador, and three days in Nicaragua.

We arrived at common conclusions: (1) To promote to goals of peace, stability, and social and economic progress, diplomatic initiatives followed by U.S. assistance are needed, including greater cooperation with the Contadora countries; and (2) military action cannot solve the problems of Central America. The civil war in El Salvador is stalemated, and the U.S. support of counter-revolutionaries in Nicaragua has been counterproductive to stated U.S. objectives. Our specific findings on El Salvador and Nicaragua are outlined below:

I. EL SALVADOR

In El Salvador, we saw reasons for hope amid evidence of the imposing obstacles still to be overcome in the country's search for peace.

President Jose Napoleon Duarte, with whom we met for two hours, struck us as genuinely committed to gaining control of the country's military and to opening the country's democratic process. He has begun to act forcefully on several human rights cases and, despite the political risks, has set up a commission to investigate death squads.

Archbishop Arturo Rivera y Damas of San Salvador told us that a strong majority of Salvadorans recognize the legitimacy of the Duarte government. He also stated that the current high command of the Salvadoran armed forces is the best El Salvador has had in four years. Very significantly, he is prepared to mediate between the guerrilla opposition and the Duarte government to end the war.

But the war continues, and although U.S. assistance is essential to ensure that the forces of moderation have a chance to exert their influence, current violence will be ended only through dialogue between the opposing forces. The Administration, through our ambassador, should actively promote this dialogue.

The adamant opposition to dialogue or any peace negotiations of the extreme right must also be overcome. The distribution of the sacrifices required of most Salvadorans must be made more equitable, with the wealthy bearing their fair share of military conscription and tax burdens. Both would raise the stakes of wealthy Salvadorans in the outcome of the war and lead to a more open attitude toward dialogue.

The most important thing we as members of Congress can do to help achieve the goal of peace in El Salvador is to push for a

series of reforms in El Salvador. We recommend making future U.S. aid contingent on certification to the Congress by the President of the United States of these five points:

Full civilian control of the military;

Judicial reform, including speedy resolution of human rights violations and better access to justice for all Salvadorans;

Measurable progress in human rights, starting with the five specific cases in which President Duarte has initiated investigations and continuing vigorously on any future such atrocities;

Progress toward a series of economic and social goals, such as land reform, employment, education, and health services; and

Sharp reductions in, and ultimate elimination of, the death squad activity.

Our past experience with presidential certification on Central America leads us to recommend that it be subject to approval by the Congress.

II. NICARAGUA

In Nicaragua we saw both real accomplishments since the fall of Somoza and ominous signs of press censorship and political indoctrination as well as popular discontent.

Instead of having a constructive foreign policy designed to resolve U.S. strategic differences between Nicaragua and its neighbors, the Reagan Administration insists upon funding counter-revolutionary groups, the "contras," whose admitted ultimate objective is to overthrow the Sandinista government.

We are convinced that this effort is counterproductive to the administration's stated goals of regional stability and democratic reform. In fact, these policies are used by the Nicaraguan government to justify the very actions that most concern us: (1) their growing alliance with Cuba and Soviet bloc countries; and (2) delays in implementing promised democratic reforms.

We were encouraged by Nicaragua's promising efforts in the face of extreme poverty and economic disruption to meet some of the human needs of its people in health care, nutrition, and literacy.

We applaud the Reagan administration's initiative that led to ongoing Manzanillo talks, which generally fall within the Contadora process. But we believe that both sides should show greater flexibility so that a political, not a military, solution can be achieved.

The administration should: (1) recognize as fact the likely continued existence of the Sandinista government; and (2) seriously take up the offer the Nicaraguan government told us it has made to (a) prevent future aid from flowing to Salvadoran guerrillas from Nicaragua, and (b) guarantee against any Cuban or Soviet bases in Nicaragua.

The Nicaraguan government must: (1) recognize it cannot effectively defy or ignore U.S. and regional political and security concerns about its government and society; and (2) fulfill its own promises made early in its revolution to provide open elections, protection of individual freedoms and human rights, and free press. It should also cease ideological indoctrination in the schools. To encourage this process, the United States should signal its willingness to resume the provision of humanitarian assistance to the people of Nicaragua.

The goal of the U.S. government should be to normalize U.S.-Nicaraguan relations, not take actions that inevitably lead Nicaragua toward closer ties with Cuba and the Soviet bloc.

In conclusion, we realize that no one trip can provide all the understanding or resolve all the policy issues involved in the long and often tragic history of this area. But we believe that the intensive fact-finding trip provided by the Service Committee and its outstanding staff has given each of us a greater knowledge of and sensitivity to the challenges that must be addressed and the opportunities for real progress. Regardless of our individual perspectives, our views and our votes will be greatly influenced by this mission to Central America.●

TRIBUTE TO THE HONORABLE JOHN N. ERLENBORN

HON. RICHARD T. SCHULZE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 1, 1984

● Mr. SCHULZE. Mr. Speaker, it is a great pleasure to add to the admiration of my colleagues this moment of hail and farewell for my friend, JOHN ERLENBORN.

It is stunning to reflect on the changes this country has experienced since the gentleman first came to Congress 20 years ago. Nikita Khrushchev was ousted just 1 month before the U.S. elections of 1964, replaced by a deputy named Brezhnev. Our Government was on the threshold of a headlong leap into turmoil, discord, and self-doubt. Had any of us the premonition of what was to become "the long night of the American spirit," it certainly would have been the path of least resistance to sidestep public service.

But JOHN ERLENBORN came to Congress, representing suburban Chicago, and has consistently been a voice of courage and decency, a man who instinctively leads by example.

It must be enormously gratifying to close out one's congressional service with the certain knowledge that America is back on track, that it is no longer spoiled by an excess of self-indulgence and casual virtue, that the American people have repudiated sloth and indolence, and are more ready to be summoned to a supreme effort for the common good.

This new readaptation of the national conditions indispensable to the preservation of freedom reflects the perseverance and vision of our honored colleague.

As the ranking minority member on the House Education and Labor Committee, JOHN ERLENBORN has projected the essence of our cultural verities in his work on that committee. Especially in the context of provisioning the minds of future generations through education, our colleague has sought to craft the agenda of enlightenment in a way that tells the truth about man, about his duties, his dignity, his responsibility, that must be preserved if there are to be any free people in the world. Sound, creative, responsible people do not grow like weeds. They are reared and instilled with such attitudes as they are exposed to.

In the years to come, when our colleague looks back on these late two decades, his will be a sterling recollection of durable progress, of challenges met, and values upheld. The chronicler of ancient Rome, Pliny the Elder, once described the elephant—the symbol of our modern party—as creatures that "understood the language of their native country, they remember the duties they have been taught, they find pleasure in love and in glory, nay, more, they possess virtues which are rare even among men—probity, prudence, and a sense of justice."

That, and a wry wit, and enduring optimism, and deep allegiance to his people, and more besides, barely captures the character of our colleague as we have known him in this Chamber. I know that the 99th and future Congresses will greatly miss his presence. A grateful Nation acknowledges today its debt to our colleague, and my friend, JOHN ERLENBORN of Illinois.●

THE 75TH ANNIVERSARY OF ST. ROSE DE LIMA

HON. EDWARD P. BOLAND

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1984

● Mr. BOLAND. Mr. Speaker, I want to take this opportunity to bring to the attention of the House an important celebration now taking place in one of the communities I represent, the city of Chicopee, MA.

Last December, the people of St. Rose de Lima parish in Chicopee began a yearlong commemoration of their parish's 75th anniversary. On October 14, the jubilee will be culminated by a concelebrated Pontifical Mass featuring the Roman Catholic Bishop of Springfield, the Most Reverend Joseph F. Maguire. That beautiful and solemn occasion will be a fitting tribute to this remarkable parish and its fine people.

St. Rose de Lima is located in the Aldenville section of Chicopee and its history closely tracks the development of that area. The parish's first structure was a chapel constructed in 1898 on land donated by Edward Alden, one of the first settlers of the section of Chicopee that would later bear his name. Until 1909, the chapel was a mission of the established Nativity parish, but in December of that year St. Rose de Lima welcomed its first pastor, the Reverend Joseph Fredette. Through Father Fredette's foresight and leadership, the parish established the St. Joan of Arc School where, under the direction of the Sisters of the Presentation of Mary, the educational needs of its children were met.

A larger school followed in 1927 and a new church in 1953 to accommodate the needs of a large and active parish. Today, the Reverend John P. Richard guides a parish of 1,500 families. St. Joan of Arc School is the largest parochial school in Chicopee and with almost 5,000 parishioners, St. Rose de Lima is the largest Franco-American parish in the Diocese of Springfield.

Mr. Speaker, while the physical properties of St. Rose de Lima have changed over the last 75 years, the parish remains rooted in the timeless values on which it was founded. It is a community of faith whose members are sustained by the spirit and love which have characterized it from its inception. The people of St. Rose de Lima have every reason to be proud of their parish's past and every reason to be confident of its future. I want to congratulate all of them, and their pastor, Father Richard, for all they have accomplished and extend my best wishes for continued success in the years to come.●

PAUL ANDERSON YOUTH HOME

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1984

● Mr. WOLF. Mr. Speaker, Joe Gibbs, head coach of the Washington Redskins, is heading a drive to establish the Paul Anderson youth home in the Washington, DC, area. Shortly after Coach Gibbs came to Washington in 1981, he began to work with a group of kids from the city. Having been involved with troubled teenagers in other cities where he had served as an assistant pro football coach, he had a real concern for young people who were having problems simply because they had no direction and guidance.

After the Redskins' Super Bowl victory in 1983, Coach Gibbs decided that it was time to initiate some help for these young people, and along with several area businessmen arranged for the Paul Anderson Youth Home, Inc., to come to the D.C. area.

The organization was founded in 1961 in Vidalia, GA, by Paul Anderson, the 1956 Olympic weightlifting gold medalist. The Paul Anderson concept is a proven and unique system. The juvenile is relatively isolated from his past lifestyle and is introduced to a strong educational and family-oriented environment. The Paul Anderson Youth Home's philosophy includes development and improvement of a strong sense of self-image. Each boy is encouraged to accept responsibility for his actions, to appreciate the value of education, and to respect those who are in positions of authority. The educational program is grounded on firm religious principles.

In today's fast moving society, a young man aged 15 to 18 who has been identified as a delinquent by the law or the court system is generally consigned to the correctional system. The Paul Anderson Youth Home is an alternative to the institutions where these young men are usually sent. All those considered for the youth home are carefully screened before they are accepted. Each young man must be physically and mentally sound, have a normal IQ, must have no background of violent crime or heavy drug involvement, and most important, the young man must want to come to the home. A strong emphasis is placed on the fact that the Paul Anderson Youth Home is a home, not an institution.

Coach Gibbs and his organization have purchased 137 acres of land located in Prince William County, VA, where they will construct the home. The Paul Anderson Youth Home will eventually accommodate 72 young men in 3 residences, 24 boys each. An educational and physical fitness facility will also be built. The school will operate year round with a strong back-to-basics curriculum. Ground will be broken for construction of the home in the spring of 1985.

Coach Gibbs and the men and women involved with the home are presently working to raise funds for the building and reporting costs of the home. All funds raised for the home come from private donations and grants, as Paul Anderson Youth Home accepts absolutely no Government funds. The members of the Paul Anderson Youth Home, Washington, DC, area are working hard to make this much-needed home a reality for the young people of the D.C. area. Anyone desiring more information on this important project can call 703-356-3100.●

A SALUTE TO THE CHIEF JUSTICE

HON. WILLIAM F. CLINGER, JR.

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1984

● Mr. CLINGER. Mr. Speaker, Chief Justice Warren E. Burger was recently honored at the 45th biennial convention of the Phi Alpha Delta Law Fraternity, International. Phi Alpha Delta is the largest legal organization of its kind in the world, having grown to a size of more than 100,000 living members in the law. It is currently chartered in 168 law schools, with 80 metropolitan area alumni chapters and 30 prelaw clubs located in 30 undergraduate schools across the Nation.

Chief Justice Burger was honored in appreciation for his many achievements in the field of community and legal services. A native of St. Paul, MN, Burger graduated magna cum laude from the St. Paul College of Law, now William Mitchell College of Law, and was admitted to the Minnesota Bar. He became an associate and later partner of Boyesen, Otis & Faricy, and successor firm Faricy, Burger, Moore & Costello. In 1953, he was appointed by President Eisenhower as the Assistant Attorney General of the United States in charge of the Civil Division of the Justice Department, and was later appointed to the U.S. Court of Appeals for the District of Columbia Circuit. The climax of his career came about in 1969, when he was appointed by President Nixon and sworn in as the Chief Justice of the United States. As Chief Justice, Burger made many landmark rulings, especially in the area of civil rights. He also contributed greatly to the reorganization and modernization of the entire judicial system.

Along with his outstanding governmental career, Chief Justice Burger has been very active in regard to community and legal services. He presently serves as the chairman of several fine organizations, including Chairman of the Judicial Conference of the United States, Chairman of the Federal Judicial Center, and Chancellor of the Smithsonian Institution. Past activities include serving as the first American president of the Bentham Club of the University College of London, cosponsor of the National Conference on Corrections and National Conference on the Judiciary, trustee and trustee emeritus of the Mayo Foundation, vice chairman of the Minnesota Governor's Interracial Commission, and Founder of the St. Paul Council on Human Relations.

Chief Justice Burger's achievements and contributions have certainly not gone unnoticed. Along with receiving special recognition from Phi Alpha Delta on August 4, 1984, Burger has been the past recipient of many distinguished awards. These awards include the Fordham-Stein Award of Fordham University in 1978; the Marshall-Wythe Medallion from the College of William and Mary in 1979; the George Washington Award from the Freedoms Foundation in 1983; and the Edward J. Devitt Distinguished Service Award in 1984. These awards are symbolic of the deep respect and admiration shown toward Burger by members of the legal profession as well as by the Nation that he serves.

On behalf of the brothers of Phi Alpha Delta, I would like to extend my deep appreciation and sincere congratulations to Chief Justice Warren E. Burger for a truly outstanding career. No other man in the history of the United States has had such a positive effect on our system of justice. In the words of President Ronald Reagan, Chief Justice Burger should

be commended for continually demonstrating deep concern for the health and vitality of our system of law and justice. Burger's career certainly epitomizes exceptional achievement in all areas of community and legal services.●

THE 10TH ANNIVERSARY OF JACKSON HEIGHTS-ELMHURST KEHILLAH

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1984

● Mr. ACKERMAN. Mr. Speaker, I would like to ask my colleagues in the U.S. House of Representatives to join me in congratulating the Jackson Heights-Elmhurst Kehillah on its 10th anniversary, celebrated on October 28, 1984.

Mr. Speaker, the Kehillah was founded to stabilize and revitalize the Jackson Heights community, then a rapidly changing neighborhood. The feelings of Kehillah members about their community were strong; their vision for the area was ambitious, and their purpose determined.

But vision and purpose alone do not infuse an area with new life and vigor; they don't change people's lives. So Kehillah organizers translated their dreams for the neighborhood into action—and the results have been astounding.

Over the span of 10 years, a revolution has been waged in Jackson Heights. And the victors are every parent, child, student, worker, consumer, business owner, and manufacturer in northwest Queens.

The Kehillah has brought new vitality and strong bonds of community fellowship to the area through many endeavors. The organization, with funding from the city and State, provides translation, information, and referral services to the elderly. There are more than 1,000 Russian Jewish households in Jackson Heights, and the Kehillah has been a lifeline of help and hope to many of them, especially to elderly immigrants. Through creative advertising, promotion drives and lectures and programs, Kehillah leaders have encouraged people to make their homes in Jackson Heights, put down their roots, join hands with their neighbors and become a part of a burgeoning, energized community.

Mr. Speaker, the Jackson Heights-Elmhurst Kehillah has many successes to celebrate on its 10th anniverary. The organization's new president, city planning commissioner, Martin Gallent, and its past and now honorary president, New York State Assemblyman Ivan Lafayette, will be honored at an October 28 gala in Jackson Heights. Assemblyman Lafayette, Commissioner Gallent, and Executive Director Fred Kasner deserve our warmest praise for their unflagging determination and service, and our best wishes on the organization's 10th anniversary. I would like to ask each member of the U.S. House of Representatives to take this moment to recognize the Jackson Heights-Elmhurst Kehillah for its shining success in leading a struggling community forward to new vitality, growing opportunities and a bright hope for the future.●

A TRIBUTE TO WARREN M. BLOOMBERG

HON. CLARENCE D. LONG

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1984

● Mr. LONG of Maryland. Mr. Speaker, as an individual examines his years of dedicated service to his profession, he hopes that he has made a valuable contribution, while receiving the respect and admiration of his coworkers. Today, I take great pride in enumerating the many accomplishments of a man who can look back on his career and take pride in the many contributions he has made to his profession and his community as well as in the love and esteem he has gained from his colleagues and friends. The man that I speak of is Warren M. Bloomberg, who has dedicated 53 years of distinguished service to the U.S. Postal Service.

Warren began his career in humble surroundings as a part-time clerk in an independent post office in Halethorpe, MD. Shortly thereafter, he was transferred to the Baltimore Post Office, where he gained experience in many areas of operation. He was then promoted to clerk in charge of the postal inspection service in 1946, later becoming an inspector responsible for conducting specialized and confidential investigations for over 11 years.

In 1966, Warren was appointed Postmaster of Baltimore because of his varied experience and the respect that he had earned from his fellow workers. In 1971 he became district manager of the Chesapeake district, eastern region. On November 8, 1975, he was promoted to sectional center manager while retaining the duties he previously held. Since 1975, Warren held the tremendous responsibility of managing not only the Baltimore Post Office, but 187 associate offices as well. He was in charge of a delivery area which is greater than 6,500 square miles, employing more than 7,000 people, and serving more than 3 million postal customers.

In this position of leadership, Warren earned the respect of employee organizations for his innovations and involvement in the field of labor relations. Having worked his way through the Postal Service, he understood the problems of his fellow workers and devised plans to improve training programs and working conditions. In fact, he originated two programs, which the Post Office Department selected for national use: the Departmental Safety Program and the Junior Postman Program.

In addition to being as exemplary civil servant, Warren is also a model citizen. He has earned numerous awards for his work, both with mentally and physically handicapped people. Recently he became the first postmaster in the eastern region to receive the Handicapped Appreciation Award for his "continuous outstanding contributions to the Handicapped Program." He has also chaired the U.S. Blood Recruitment Committee since 1974.

It is not surprising, therefore, to know that Warren has received more than 75 awards during his lengthy career. He was personally commended by the President of the United States in a letter that praised his professionalism and dedication for over one-half century of Federal service. The Postmaster General has bestowed several awards on Warren Bloomberg including the "Special Achievement" and "Partnership for Progress" awards. He also was awarded a certificate of Distinguished Citizenship by Maryland Gov. Harry Hughes in recognition of his service to the people of Baltimore.

It is a pleasure for me to join with Warren's wife Lillian, his friends and colleagues, and all the citizens of Maryland in expressing our heartfelt thanks for a job well done and best wishes for an enjoyable retirement.●

THE 75TH ANNIVERSARY OF THE NATIONAL MENTAL HEALTH ASSOCIATION

HON. J.J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1984

● Mr. PICKLE. Mr. Speaker, 75 years ago, a young man named Clifford Beers founded a national mass movement, now known as the National Mental Health Association, to protect the rights of people with a mental illness, to educate the public about mental illness, and to promote research into the causes, treatment, and cure of mental illness.

The genesis of this movement was Beers' own experience. Seven years before he created a national organization, Beers had been beaten, kicked, starved, choked, and spat on at the Connecticut Hospital for the insane. He was stripped of his outergarments, confined to a small cold room—with no bed and no ventilation—for weeks. He was not allowed to bathe and seldom

had enough food to eat or water to drink. It was out of this nightmare that his dream was born: To tell the world and to ensure that no person suffering from a mental illness anywhere would ever be subjected to such atrocities again.

The great battle in which Beers engaged has not yet been won. Although substantial reforms and progress have been achieved, we all must redouble our efforts to bring to fruition the great goals that Clifford Beers envisioned. From Beers' vision, the National Mental Health Association has emerged as a collective voice of more than 1 million volunteers organized into 650 affiliates in 40 States and the District of Columbia to carry on his fight.

Mental Health Association volunteers include patients, former patients, family members, mental health professionals, and interested citizens who, working together through their local chapters, their State divisions, and the national organization, have influenced and contributed significantly to the Nation's mental health activities.

Mental health associations have set and achieved many new goals in addition to the ones set by Beers: Designing programs and activities to assist mentally ill people and their families; working constantly to maintain and increase Federal, State, and local funding for mental health programs; recognizing and rewarding significant contributions to the mental health field through national awards programs; and enlisting the aid of actors, politicians, and other prominent figures like Rosalynn Carter, Cliff Robertson, and Buzz Aldrin to focus more attention on the mission of the association.

The Mental Health Association has been primarily responsible for maintaining over the years the focus of Federal, State, and local officials on the need for community-based services and a full range of services.

In this year of the association's diamond jubilee, I am especially aware of the efforts of the Mental Health Association in obtaining overwhelming bipartisan support in Congress for legislation protecting Social Security disability benefits for mentally disabled beneficiaries. As chairman of that subcommittee, I can attest to the helpfulness and effectiveness of this organization.

Today I ask my colleagues to join in a salute to this exceptional grassroots organization and to send to all concerned our best wishes for another 75 years of effective action and advocacy. For though much has been accomplished, there is still much to be done.●

THE 10TH ANNIVERSARY OF SAN FRANCISCO EDUCATIONAL SERVICES

HON. SALA BURTON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1984

● Mrs. BURTON of California. Mr. Speaker, I would like to bring to our colleagues' attention an exceptional organization in my district, San Francisco Educational Services, which will be celebrating its 10th anniversary on October 12.

In almost every school district there is an unfortunately large number of students who have fallen out of the system or who are in danger of doing so. These are children with emotional problems, children in trouble with the law, truants, or dropouts. We all know the difficulties involved in reaching these children. The simply and tragic truth about them is that they are not learning, and this damages their chances for a secure future.

It is our city's great fortune that San Francisco Educational Services has, for 10 years, recognized this need and implemented a successful program to address it. The effectiveness of their approach provides a model that every community may profit by, particularly those in urban areas where this problem is so severe.

The key to their success is their involvement in the community and the community's involvement in their program. Dedicated, credentialed teachers reach out to these children whenever and wherever they can—in his or her home, in a classroom after hours, at a neighborhood Y, library, or health center.

Children who are not learning are the responsibility of the community and the most effective way to find at-risk children is to work with the organizations already formed to identify and receive them. SFES works with many public agencies including the San Francisco Unified School District, Youth Guidance Center and the Mayor's Criminal Justice Council. SFES also works with private community agencies, such as the Chinatown Youth Center and Legal Services for Children.

Mr. Speaker, San Francisco Educational Services was founded by a small group of individuals and is now an indispensable tool in our community. They have developed a unique place in children's services in San Francisco for their original, humane, and effective approach to the diseducated child.

I would like to extend my congratulations to SFES on their 10th anniversary and to express my most sincere gratitude for all they have done for our community and our children.●

SOVIET JEWRY

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1984

● Mr. BROWN of California. Mr. Speaker, I would like to set aside a moment to reflect once again on the plight of Soviet Jews. Early last week, my colleagues appropriately highlighted the condition of the Jews in the Soviet Union who wish to practice their religious beliefs and to exercise the freedom to emigrate. These "refuseniks" have suffered from harassment, loss of jobs, and in some cases imprisonment and exile to Siberia.

I would like to emphasize that, while this issue deserved special attention in light of the celebration of Rosh Hashana and the visit of Soviet Foreign Minister Andrei Gromyko, we must recognize that the persecution of Soviet Jews is a continuing concern.

The recent arrests of four Hebrew teachers, Aleksandr Kholmiansky, Yuli Edelshtein, Yakov Goroetsky and Yakov Levin indicate an intensification of the Soviet campaign against the Jewish culture. The downward trend in the number of Jews that have been allowed to emigrate has continued—the number has dwindled from 1,066 for 1983 to 652 for the first 8 months of this year.

The importance of the plight of Soviet Jews must be stressed to the leaders of the Soviet Union. The American people and the leaders of this country cannot ignore the persecution of the Soviet Jews and other minorities who are penalized for their religious beliefs.

Soon we will be returning to our congressional districts. However, I encourage my colleagues to keep the plight of these "refuseniks" in mind and join me in continuing to urge the Soviet leaders to free the arrested Hebrew teachers and to allow Soviet Jews the rights to practice their religion and to emigrate.●

A TRIBUTE TO TOM HARKIN

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1984

● Mr. DOWNEY of New York. Mr. Speaker, I would like to take this time to offer a tribute to one of our colleagues, Congressman TOM HARKIN of Iowa, who will be leaving this House at the end of this Congress. We entered the House together in 1975 and it has been my pleasure to have fought side by side with TOM on arms control and foreign policy issues.

TOM HARKIN will always be remembered as a master of procedure in the House. He used the floor amendment effectively to protect the interests of the farmers of southwestern Iowa, who were his constituents, and to protect the rights of poor people, farmers, and workers throughout the world who are struggling to make a better life for themselves and their children. At first, this might seem like an unusual combination of concerns, but I believe it reflects the populist tradition of midwestern farmers, who have always understood the fact that their interests were related intimately to the progress of democratic institutions throughout the world.

TOM HARKIN's passionate defense of human rights was translated into effective policy through the adoption of the Harkin amendment to the foreign assistance bill, which prohibits U.S. foreign assistance to countries engaging in consistent patterns of human rights violations. Although we have never had the opportunity to see this policy fully implemented, the passage of the Harkin amendment marked a high water mark in U.S. human rights policy.

Our colleague's presence will be sorely missed. He has left us a legacy which will guide all of us who share his concerns. I hope that shortly we will have the opportunity to work with TOM in a new capacity in the other body.●

THE PLIGHT OF SOVIET JEWRY

HON. MARJORIE S. HOLT

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1984

● Mrs. HOLT. Mr. Speaker, in the persecution of nationalities and religions in the Soviet Union, we behold the operations of a system committed to extinguished diversity and forcing conformity. It is engaged in total suffocation of individual liberty.

There has lately been an increase in anti-Semitic campaigns. Defamatory statements about Jews have appeared in official publications; enrollment of Jews in universities has been restricted; Jewish activists have been arrested for teaching Hebrew classes and promoting celebration of Jewish holy days.

What we are witnessing is a campaign to stamp out Jewish culture in the Soviet Union, and Jews are trying to leave by the thousands. It is estimated that 300,000 Jews have expressed interest in leaving the Soviet Union, but only 1,315 were allowed to emigrate last year. Jews who apply to emigrate lose their jobs, but they are not permitted to leave.

Americans have trouble understanding all of this. We have difficulty comprehending why any government would sanction persecution of minority groups within its population. We cannot imagine life in a totalitarian society determined to crush the individual into ideological conformity.

We must not look the other way while others are persecuted for practicing their religious beliefs or their distinctive cultures. In our relations with the Soviet Union, we must be forthright in expressing our disapproval of Soviet oppression of fundamental human rights.

In the Helsinki accords of 1975, the Soviet Union agreed to respect the rights of religious and national minorities. We should be raising the subject of the Helsinki provisions with the Soviet rulers on every possible occasion.

No person should wonder about the cause of East-West tensions. The free world is committed to the cause of individual liberty. The Soviet Union is committed to the oppression of the individual in a regimented society.

I am honored to participate in the 1984 Congressional Call to Conscience Vigil for Soviet Jews.●

SOVIET PERSECUTION OF YURI TARNOPOLSKY

HON. THOMAS A. LUKEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1984

● Mr. LUKEN. Mr. Speaker, on behalf of the Cincinnati Council for Soviet Jews and the Congressional Call to Conscience Vigil, I would like to speak on behalf of Yuri Tarnopolsky, a Soviet Jewish Refusenik who is currently serving a 3-year sentence in a labor camp for "defaming the Soviet state." Before his arrest in 1983, Tarnopolsky was one of the leading Jewish activists in Kharkov.

Tarnopolsky is one of many Jewish citizens in the U.S.S.R. who are being robbed of their cultural identity and religious freedom. The Hebrew language is suppressed, Jewish cultural celebrations are prohibited, and, most importantly, Soviet-Jewish emigration is virtually paralyzed.

While approximately 350,000 Soviet Jews have applied for exit visas from the U.S.S.R. barely 1,000 will leave this year. Many families have been tragically separated, and the Soviet Government refuses to let them be reunited in spite of numerous pleas from family members.

Finally, numerous Refusenik activists have suffered through interrogations, searches, and imprisonment in their quest for religious freedom. Yuri Tarnopolsky is one of these.

On June 20, 1984, 55 of my House colleagues cosigned a letter I sent to Soviet General Secretary, Konstantin Chernenko concerning the grave situation facing the Tarnopolsky family.

Tarnopolsky first applied to emigrate from the U.S.S.R. in December 1976, with his wife, Olga, and daughter, Irina. They were refused in September 1979, and reapplied in June of the same year. Three months later he was again refused on the grounds that his invitation to Israel had been from "insufficiently close" relatives. In the meantime, as a result of his emigration application, Tarnopolsky had been forced out of his job and was after that prevented from obtaining all but menial employment.

Tarnopolsky taught chemistry at the Jewish University established in 1981 by Jewish community leader Alexander Paritsky for children of Refuseniks barred from other Soviet schools. He was also a member of a Kharkov activist group which organized a kindergarten and primary school for Refusenik children. In 1980 Tarnopolski joined a group of Refuseniks in a protest hunger strike at the time of the opening of the Madrid Conference; his telephone was immediately disconnected thereafter.

In August 1981, Tarnopolsky's home was raided by police and many of his books and papers were confiscated. On the same day, Alexander Paritsky was arrested. In October 1982, Yuri Tarnopolsky went on a 40-day hunger strike to protest his denial of permission to emigrate. In May of the same year, he signed a Refusenik protest letter and later composed an article describing the ordeal he and other Refuseniks had endured.

On March 15, 1983, Tarnopolsky was arrested and sentenced to 3 years in a labor camp. Since that time, Tarnopolsky has been on two hunger strikes during which his health has deteriorated seriously, and has been "subjected to an even more cruel treatment which could not be qualified as anything but torture."

Mr. Speaker, I urge you and my colleagues to join me in protest of these crimes by the Soviet Government and to support Yuri Tarnopolsky and all other Refuseniks in their courageous fight for freedom.●

UNITED COMMUNITY CORP. MARKS 20 YEARS

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1984

● Mr. RODINO. Mr. Speaker, it was 20 years ago that the Economic Opportunity Act was signed into law and the war on poverty was launched. One of the most important weapons in that war was the establishment of community action agencies. All over this country, community action agencies

set about realizing the goal of equal opportunity, and worked to provide the necessary skills and motivation for low-income people to achieve that goal.

In my home city of Newark, the United Community Corp. has served that function, and has been a great success. On October 27, the agency will mark 20 years of service to the community by holding an anniversary dinner and fashion show.

Volunteers from all over will be honored at this event, and we look back on two decades of progress in community action. Of course, we have seen some difficult times as well, but the commitment and dedication of the volunteers involved with the United Community Corp. has remained unshakable. This event will be an excellent opportunity for us all to remember the goals we set 20 years ago, and to redouble our efforts to achieve them.

The guest speaker at the fashion show will be Dr. Gwendolyn Goldsby Grant, and it will feature volunteers from the UCC mini-centers who are interested in the world of fashion. The cochairs of the dinner are Ella Edwards and Floyd Melvin, and the honorary chairpersons are Mayor Kenneth Gibson and State Senator Wynona Lipman. I am very proud to salute all the members of the board of the United Community Corp. for their continued service to our city: Rev. Willie A. Simmons, president; Kennedy Wilson, Jr., first vice president; Miguel Rodriguez, second vice president; Grant Wilder, third vice president; Ella Edwards, secretary; Thomas Edwards, Sr., treasurer; and Councilman Donald Tucker, Robert Alamo, Benjamin H. Arnos, George Briscoe, Julius Gayle, H. Simone Jacobs, Floyd Melvin, Trish Morris, Flora Patterson, Claude Peters, Keith O. Reid, Luz Hernandez de Sanchez, Rev. Earnest F. Short, Thurman Smith, and Mildred A. Williams.●

TRIBUTE TO HON. ELLSWORTH BUNKER

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1984

● Mr. FASCELL. Mr. Speaker, at the end of last week, the United States lost a dedicated patriot and a distinguished statesman, the Honorable Ellsworth Bunker; it is indeed fitting that we take a few moments from our current deliberations to recall and honor the many achievements of this great American during almost 30 years of outstanding public service.

Ambassador Bunker served his country and six Presidents in an impressive variety of difficult assignments—many undertaken after his first attempt to retire to his Vermont farm in 1967. In that year, at President Johnson's request, he became Ambassador to South Vietnam—a position he held for 6 years, longer than any other American Ambassador in the history of that troubled land. When he left Saigon on his 79th birthday, in 1973, a cease-fire had been achieved and direct American involvement in military operations had ended. Although both the war—and the public controversy over the U.S. role throughout Southeast Asia—continued, few doubted that Mr. Bunker had done his duty to the very best of his considerable ability.

Many of the Ambassador's most impressive accomplishments, however, were brought about through quiet diplomacy—away from the glare of national publicity: he served as Ambassador to Argentina, Italy, and India during crucial periods in U.S. relations with those countries and as a special negotiator or troubleshooter in Indonesia, the Dominican Republic, the Middle East, and Panama. When he finally retired, permanently, in 1978, the Senate, after 38 days of debate, ratified two treaties for which Mr. Bunker had served as the principal negotiator.

Mr. Speaker, a detailed and eloquent account of the remarkable life and career of Ellsworth Bunker appeared in the September 29 edition of the New York Times, and I commend it to the attention of every Member of this body. The article was inserted in the RECORD by the distinguished Senator from New York [Mr. MOYNIHAN] on September 29, page 27841, so I will merely call it to our colleagues' attention at this time.

To the Ambassador's widow, the Honorable Carol C. Laise—also a distinguished Envoy in her own right—and to all members of Mr. Bunker's family, I extend my deepest sympathy and the appreciation of a grateful nation.●

ELECTRONICS INDUSTRY IN OREGON

HON. LES AuCOIN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1984

● Mr. AuCOIN. Mr. Speaker, we in Oregon learned about economic diversification the hard way. The crippling recession of the past 3 years was a lesson Oregonians took to heart as we moved in innovative ways to attract new businesses to the State. Our efforts are beginning to pay off.

Today Washington County, the heart of my Congressional district, is the hub of the burgeoning electronic industry in Oregon. In fact, Washington County's Sunset Corridor is one of the fastest growing high technology centers in the United States. According to a recent study commissioned by the Office of Technology Assessment, Oregon's Sunset Corridor is one of the six most desirable places in the Nation to locate new-growth industries.

Our enviable position is no accident: It's the result of hard work, long hours, and a creative partnership between industry, government, and education—the Washington County Business-Education Compact. Formed to open doors of cooperation between businesses and schools, the compact has been working aggressively to improve and market our educational resources: A community college system that is one of the most extensive in the United States, five area colleges and universities, and a public school system that has achieved national recognition for excellence.

The private firms involved in the compact have been generous with their time and support, adopting schools and providing educational equipment and personnel to improve electronics and computer science programs.

The most exciting achievement of the compact to date is the opening, this month, of a new High Technology Institute offering continuing education classes and degree course work in electrical engineering, computer engineering, business administration, and computer science. The Institute will be located on an existing community college campus; classes will be offered with personnel donated or hired by five local colleges and universities.

Creation of the Institute is a tribute to the work of local businesses and particularly to Dr. John Anthony, president of Portland Community College, who has been a leader in improving education in Oregon.

The strong local support for the Institute shows through in the following editorial which appeared in the Portland Oregonian earlier this week:

The high-technology education center at Rock Creek has yet to open its doors; nonetheless, the signals are that prospective students should not hold back to see how this innovative program develops.

President John Anthony of Portland Community College, whose Rock Creek campus houses the experiment in interinstitutional cooperation, initially announced that the endeavor would be launched this fall with 12 courses. That by itself seemed a notable achievement on short order, especially with the differences among the various institutions to contend with.

But two weeks later, with still a week to go before classes begin, there were 19 courses provided by the five colleges and universities participating in the first phase. As the other seven schools join the effort, expanding opportunities will become available. By the winter term, Anthony estimates the offerings will be between 24 and 300 courses.

The message is clear: If the right course wasn't scheduled the other day, look again.

It may be now. If not, check again next term.

The goal is to use the combined resources of the individual institutions to offer technical education leading to two year associate's degrees, four-year baccalaureate degrees, master's degrees, and eventually even doctorates. Realizing the full objective will take the time for the center to grow, but the vigorous beginning suggests that this educational infant will reach maturity faster than anyone today may think possible.

Mr. Speaker, Oregonians realize that by improving their educational system they improve the chances for an economic recovery that will last. This lesson shouldn't be lost on Congress.●

TRIBUTE TO MERCY VOCATIONAL HIGH SCHOOL

HON. ROBERT A. BORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1984

● Mr. BORSKI. Mr. Speaker, I rise to pay tribute to Mercy Vocational High School, in Philadelphia, for being recognized by the Exemplary Private School Recognition project.

The project, sponsored by the Council for American Private Education through a grant from the U.S. Department of Education, is an outgrowth of the National Commission on Excellence in Education, and seeks to identify schools that exemplify overall good educational practices.

Mercy Vocational was 1 of only 60 private schools nationally to be selected for this honor, from among the over 6,000 private schools across the country which were eligible to compete. Together, these exemplary schools represent a national profile of private schools. They are denominational and secular; coeducational and single sex; large and small; as well as urban, suburban, and rural.

Although many factors were considered, the Council sought to recognize those schools which are successful at helping students do their best intellectually, creatively, developmentally, and artistically. An effort was also made to identify those schools which are vitally interested in and attentive to their students as growing human beings.

Mr. Speaker, perhaps what makes Mercy Vocational's selection all the more special, is that this school emphasizes vocational training for students, some of whom had little success in other educational settings. In fact, this outstanding Philadelphia institution was the only vocational school so honored. While I am pleased to learn the accomplishments of Mercy Vocational were recognized by the Council, I am certainly not surprised.

Rich in tradition and founded in 1950 to provide an education within a Catholic atmosphere for students whose abilities and interests lay in vocational skills rather than in the pursuit of a purely academic roster, Mercy Vocational has an outstanding record of educational achievement. The school's program is rooted in Christian principles, which touch not only the academic curriculum but also other curricular and extracurricular activities. Its philosophy is to give students an appreciation of the dignity of work, and through personal interest, patience, independence and individual fulfillment.

Because I recognize that a good education is such a critical factor in the development of our young, it especially pleases me to congratulate the faculty and student body of Mercy Vocational for achieving this prestigious recognition they so richly deserve. Through its standards of excellence, Mercy Vocational offers students not only the opportunity for the best possible education, but also the best possible chance for success in life.

Again, Mr. Speaker, I salute Mercy Vocational High School, and wish this exemplary learning facility continued success in the pursuit of its commitment to education.●

THE 20TH ANNIVERSARY OF SCORE (SERVICE CORPS OF RETIRED EXECUTIVES)

HON. EDWARD F. FEIGHAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1984

● Mr. FEIGHAN. Mr. Speaker, 1984 marks the 20th anniversary of the Service Corps of Retired Executives [SCORE], a volunteer organization of retired business men and women who freely give of their time and experience to counsel beginning and enterprising businesses. This year more than 12,000 SCORE volunteers operating in more than 400 chapters located in every State plus the District of Columbia, Puerto Rico, Guam, and the Virgin Islands celebrate this 20th anniversary as volunteer small business counselors by reporting that more than 1,200,000 small business clients have received free management counseling since its inception in 1964.

SCORE first began in Boston early in the 1960's when a few dedicated retirees decided to offer the benefit of their experience to aid struggling young businesses. The idea soon spread to other areas, and the Small Business Administration in 1964 took steps to utilize SCORE as a small business management assistance resource.

In 1969 Ace [Active Corps of Executives] was established by SBA to supplement SCORE counseling services by utilizing the talents of volunteers not yet retired but still actively employed. In 1982, Ace was merged with SCORE into a single organization. Today, Ace members account for about one-fourth of the membership of SCORE.

Mr. Speaker, SCORE members are dedicated to their program of offering free counseling to small business persons. SCORE members often donate 20 or more hours of their time each week guiding a small businessman or woman through the intricacies of basic accounting principles, or teaching basic management fundamentals, personnel policies, and how to make major business judgments.

SCORE has its greatest effect on clients in one-on-one counseling, which is ordinarily the most costly form of management assistance. It is not unusual for a SCORE counselor to spend 40 hours a week on a specific case, guiding the small business around pitfalls such as inventory obsolescence, top-heavy personnel costs, failure to take into account tax consequences and the selection of an unprofitable location for the business.

SCORE counselors also conduct prebusiness workshops and seminars which help small business men and women to understand the problems of ownership and management. These workshops provide a wealth of experience in sales, advertising, financial control, and purchasing to teach the beginning or struggling businessperson the basic principles of management.

The Small Business Administration, which sponsors the SCORE program, affirms the country's debt to these men and women who selflessly contribute of their wisdom, experience and time to this very important activity.

It is most appropriate, Mr. Speaker, as the volunteers of SCORE mark their 20th anniversary that we commend them for their remarkable dedication and service to the Nation's small businesses.●

THE 20TH ANNIVERSARY OF SCORE (SERVICE CORPS OF RETIRED EXECUTIVES)

HON. THOMAS J. TAUKE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1984

● Mr. TAUKE. Mr. Speaker, the Service Corps of Retired Executive [SCORE] is marking its 20th anniversary this year. SCORE is a volunteer organization of retired businessmen and women who freely give of their time and experience to counsel beginning and enterprising businesses. I believe it is important to recognize and applaud their achievements as they celebrate their 20th anniversary.

This year more than 12,000 SCORE volunteers are operating in more than 400 chapters located in every State plus the District of Columbia, Puerto

Rico, Guam, and the Virgin Islands. Volunteer small business counselors have provided free management counseling to more than 1,200,000 small business clients since SCORE's inception in 1964.

SCORE originated in Boston in the early 1960's when a few dedicated retirees decided to offer the benefit of their experience to aid struggling young businesses. The idea soon spread to other areas, and the Small Business Administration in 1964 took steps to utilize SCORE as a small business management assistance resource.

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SCORE members are dedicated to their program of offering free counseling to small business persons. SCORE members often donate 20 or more hours of their time each week guiding a small businessman or woman through the intricacies of basic accounting principles, or teaching management fundamentals, personnel policies and how to make major business judgments. Their advice and counsel is often invaluable to these beginning businesses.

SCORE is perhaps most effective in one-on-one counseling, which is ordinarily the most costly form of management assistance. It is not unusual for a SCORE counselor to spend 40 hours a week with a single client, which may be the assistance he or she needs to ensure success.

SCORE counselors also conduct prebusiness workshops and seminars to assist small businessmen and women to understand the problems of ownership and management. These workshops provide a wealth of experience in sales, advertising, financial control, and purchasing to teach the beginning or struggling businessperson the basic principles of management.

The Small Business Administration, which sponsors the SCORE program, has affirmed the country's debt to these men and women who selflessly contribute their wisdom, experience and time to this very important activity.

It is most appropriate, Mr. Speaker, as the volunteers of SCORE mark their 20th anniversary, that we commend and congratulate them for their remarkable dedication and service to the Nation's small businesses and wish them continued success in their next 20 years and beyond.●

TRIBUTE TO DR. JACQUELINE HODGE, EDUCATION BRAINTRUST AWARD RECIPIENT

HON. TONY COELHO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1984

● Mr. COELHO. Mr. Speaker, I rise today to offer congratulations to my good friend and constituent, Dr. Jacqueline Hodge, who was honored last week by the Congressional Black Caucus and awarded their first annual Education Braintrust Award for her contribution to education.

Dr. Hodge has distinguished herself in every facet of her life. She has served her community through her work with and for countless organizations; she has established herself as a respected writer and educator, having taught in the West Fresno public schools for 30 years; and she has raised five children and instilled in them the same values and strength of character that has been the driving force in her life.

Dr. Hodge is one of only 24 black women school superintendents in the entire country. It is truly an honor for me to acknowledge the work of this outstanding individual for her contribution to excellence in education.●

TRIBUTE TO ROBERT STANLEY WILKERSON

HON. ROBERT LINDSAY THOMAS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1984

● Mr. THOMAS of Georgia. Mr. Speaker, all too often during the work of the Congress we tend to focus on the problems that face our Nation without taking the time to acknowledge our strengths.

Without any question, the greatest strength of this country is our people, and the bright promise of our future is our youth. The young people of America have the intelligence, the energy and the commitment to take on any challenge.

One of the ways the accomplishments of our young people are being recognized is through the selection of the "All American High School Band," a project organized by the McDonald's Co., through which two outstanding musicians from each State are selected to participate. As band members, they will tour the country and perform with what is certainly one of the finest musical organizations of its kind in the world.

I am delighted to note that Robert Stanley Wilkerson, a senior at Savannah High School in Savannah, GA, in my congressional district, has been selected for this band. Robert, who plays trombone, is the first high school musician from Savannah to be selected for the band since its inception in 1967.

Among the events at which Robert will be performing will be the Macy's Thanksgiving Day Parade in New York, the Fiesta Bowl Parade in Phoenix, and the Tournament of Roses Parade in Pasadena.

On behalf of all of the people of the First District of Georgia, I would like to salute Robert for his accomplishments and wish him and his fellow band members the very best in the activities this year.●

TEMPLE BETH ISRAEL OF MACON, GA, CELEBRATING ITS 125TH ANNIVERSARY

HON. J. ROY ROWLAND

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1984

● Mr. ROWLAND. Mr. Speaker, among the earliest residents of Georgia were Jewish settlers who came from Europe because of the economic and religious freedom that flourished in the new colony. They joined the small wilderness colony not long after it had been established, and history shows their professional and educational contributions played a crucial role in the community's early survival and growth.

The Jewish faith, Mr. Speaker, has been an integral part of Georgia's heritage from the very beginning.

For the past few months, Temple Beth Israel of Macon, GA, has been celebrating its 125th anniversary. This is a momentous milestone for both the congregation and for Macon, and it is being appropriately observed with a series of events that will culminate with a gala banquet in Macon on November 17.

The roots of Temple Beth Israel can be traced back to just 26 years after the landing of James Edward Oglethorpe and Georgia's first 114 settlers. Jewish families made their way inland and settled in Macon, and it was their ancestors and those who followed them to middle Georgia who founded Temple Beth Israel in 1859.

Since then, members of the congregation have contributed to Macon's commercial and civic progress, to the arts and academics, to charitable and humanitarian endeavors.

Mr. Speaker, I congratulate Temple Beth Israel on all that its members have achieved and offer best wishes for another successful 125 years.●

TRIBUTE TO CARRIE TERESA LOUK

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1984

● Mr. SKELTON. Mr. Speaker, I am proud to announce, today, an outstanding example of a socially concerned young person. Carrie Teresa Louk, a 16-year-old senior at Osceola High School in Missouri, has been awarded third place in the Future Farmers of America National Achievement in Volunteerism Program. A member of Future Farmers of America, Carrie organized her chapter's operation of six bloodmobiles which led to her high school receiving the "First in State Award" in the American Red Cross Program. Her enthusiasm, dedication, sensitivity, and integrity have spread to other FFA members and members of the community. Guided by constructive and thorough coaching by Mr. Gary Noakes, Carrie Louk is an excellent example to anyone doubting the ambition and intelligence of our Nation's youth.●

TRIBUTE TO MR. VERNON TERRY, HARFORD COUNTY'S REALTOR OF THE YEAR

HON. ROY DYSON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1984

● Mr. DYSON. Mr. Speaker, Maryland's First Congressional District is a rural district of small towns built on a foundation of community cooperation and individual responsibility. It is a region where private business has to play a leading role in addressing social problems. I am proud to be the Representative of this district because there is no shortage of business men and women willing to take their part in the community. Every now and again, however, individuals of distinguished merit are selected by their peers for special honors. Such is the case with Mr. Vernon Terry who was recently chosen as Harford County Realtor of the Year. I rise today to congratulate Vernon on this unique honor.

Mr. Terry, an active leader in Harford County's business community has brought to his career as a realtor a deep commitment to civic improvement. Elected to the board of directors of the Harford Board of Realtors in 1975, he became the board's first black president in 1983. As treasurer of the county voter's council, he has worked to expand minority participation in State and local political affairs. As a member of the Maryland State Board of Realtors, Vernon has served on the State's equal opportunity committee, as a member of the executive committee and as central district vice president. He has brought to these positions a strong awareness of the needs for expanding economic opportunities for minority residents of the upper shore and remained constantly alert to every chance for improving his community.

He has worked to expand housing opportunities for moderate income families, the elderly and handicapped. In Aberdeen, MD, he saw acres of delapidated tarpaper shacks where there was a shortage of decent housing. Without the aid of Government grants or loans, he financed the purchase of this property. He demolished the shacks, cleared the land and built in their place low rent, four bedroom homes for local families. He has worked closely with Federal housing and urban development officials to refurbish the Burton Manor Apartments and provide handicapped and elderly tenants housing that is safe and accessible. In Perryville, he worked with the Maryland Modern Rehabilitation Program to rebuild a block of apartments that had burned beyond repair.

He is an unselfish man, generous with his time and his business. He personifies the type of business person that makes me proud to represent Maryland's First Congressional District. He is the sort of civic minded business man who gets things done, and I am pleased to have this opportunity to extend my best wishes on his being named Harford County's Realtor of the Year.●

PERSONAL EXPLANATION

HON. BRUCE A. MORRISON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1984

● Mr. MORRISON of Connecticut. Mr. Speaker, because of longstanding commitments, I was unable to cast several rollcall votes on October 2 and October 3, 1984. I would like to list those rollcall votes by number and state how I would have voted had I been present.

Rollcall No. 424, "yea."
Rollcall No. 425, "nay."
Rollcall No. 426, "yea."
Rollcall No. 427, "aye."
Rollcall No. 429, "yea."
Rollcall No. 430, "yea."
Rollcall No. 431, "nay."
Rollcall No. 432, "yea."
Rollcall No. 433, "yea."
Rollcall No. 434, "yea."
Rollcall No. 435, "yea."●

INTRODUCTION OF THE STATE MINIMUM RETURN ACT, H.R. 6239

HON. RICHARD J. DURBIN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1984

● Mr. DURBIN. Mr. Speaker, I think many of us are aware of the inequity in distribution of Federal grants and contracts to States. Although the citizens of Illinois traditionally have paid large amounts of Federal taxes, in 1983 Illinois received 75 cents in spending for each tax dollar it sent to Washington. In the same year, 12 States received more than $1.20 in Federal spending for each one of their tax dollars.

This inequity is not unique to Illinois, but applies to 22 other States, principally in the Northeast and Midwest. This pattern of funding has been detrimental to those States which are facing industrial decline, high unemployment, and decaying infrastructure.

Because Federal outlays currently comprise nearly one-quarter of the gross national product, their distribution has wide-ranging and substantial effects. Federal spending helps create jobs, alleviate poverty, and ease fiscal burdens of local and State governments.

To assure that these 23 States get back at least 90 cents for every tax dollar, I am introducing the State Minimum Return Act of 1984. This bill does not require any increases in spending. The purpose is to reallocate funds for contracts and grants to States so that no State receives less than 90 cents for every dollar it sends to the Federal Treasury.

This legislation will adjust outlays to States for Government contracts and grant programs, which comprise $250 billion of the Federal budget. A Federal agency will be required to give priority to a firm in one of the deprive States if the bid is equal to or less than those made by other contenders. Each State will receive an increase of 10 percent in its percentage share of total contract dollars, based on an average of its percentage shares over the past 3 fiscal years. Each of these States will also receive 110 percent of its average share of grants for the 3 previous fiscal years.

Rather than creating new Government spending programs, this bill provides for the reallocation of Federal funds. This will ensure that the 23 States which currently do not get back their fair share of Federal dollars will finally be treated equitably. I urge my colleagues to join me in support of the State Minimum Return Act.●

NOVEMBER IS DESIGNATED "NATIONAL OPTICIANS MONTH"

HON. CLARENCE D. LONG

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1984

● Mr. LONG of Maryland. Mr. Speaker, it is my pleasure to announce an upcoming event of interest to my colleagues in the Congress and our Nation. November is being observed as the second annual National Opticians Month under the auspices of the Opticians Association of America, currently headed by one of my esteemed constituents, Mrs. Lillie C. Augenstein of Baltimore, MD, the first woman president of this highly respected national association.

Dispensing opticians and contact lens fitters provide Americans with accurate and affordable spectacles, contact lenses, low vision aids and a variety of other eyewear products and services. Opticians create competition in the eye care marketplace for the benefit of the consumer needing vision correction. They not only compete among themselves, they compete with dispensing optometrists and ophthalmologists. Opticians work with the eye doctors, however, in promoting such educational projects as the need for periodic examinations. They are participating with ophthalmologists in their ambitious program to refer our aging population to affordable sources of medical eye care and prescription eyewear. The best interests of the consumer thus are assured by this balance of competition and cooperation among opticians, ophthalmologists and optometrists.

Today, Mr. Speaker, I am told that some 25,000 or so dispensing opticians representing every State will be observing this November as National Opticians Month. This is the appropriate time, therefore, to commend them both for their important technological contributions in areas as diverse as contact lenses and protective sports eyewear and for their success, in cooperation with ophthalmologists in safeguarding and supporting good vision for all our citizens.●

IN HONOR OF OUR JAZZ PIONEERS

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1984

● Mr. RANGEL. Mr. Speaker, Broadcast Music, Inc., the largest music licensing organization in the world, will pay tribute on October 16 to some 219 jazz pioneers, gifted men and women of every race and creed who have been composer affiliates of BMI for at least 20 years. Such recognition of these great men and women is long overdue.

Jazz is internationally recognized as one of America's unique and creative contributions to the 20th century. It is both great art and great entertainment, admired and enjoyed around the world. It is the essence of freedom and creativity, two values highly prized by our Nation. Yet the remarkable men and women who make this music that touches people everywhere are often more recognized in other lands than here at home.

It is our hope that the BMI Jazz Pioneer Awards will be one step toward getting these marvelous writers the attention and honor they have earned. The list of those being honored is too lengthy to cite here, but it includes many talented individuals, living and deceased, and known the world over. I am proud to say that many are or have been residents of my Harlem community, including the great Lionel Hampton, who is still going strong.

I believe that the Congress and the entire Nation should join in tribute to these extraordinary men and women. The BMI Jazz Pioneer Awards may help to remind us all of the valuable contributions made by the jazz community to the music of our Nation. We should never forget those who gave and continue to give us such moments of delight and pleasure. They deserve our attention and our support.●

A TRIBUTE TO HOLMES JUNIOR HIGH SCHOOL

HON. KEN KRAMER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1984

● Mr. KRAMER. Mr. Speaker, it is indeed a pleasure for me to rise and pay tribute to the outstanding faculty, cooperative parents and dedicated, hard-working students of Holmes Junior High School in Colorado Springs, CO. This school has been selected out of hundreds nationwide by Education Secretary T.H. Bell as an outstanding school in America.

Holmes Junior High School has all 14 qualities most often associated with a successful school, perhaps most important of which are student achievement on standardized tests, low dropout rates, and clear academic and behavioral goals.

At a time when our educational system is under close scrutiny and being held accountable for a high quality of both teaching and learning, Holmes is an example of a school meeting the challenge of excellence.

The success of this 16-year-old junior high school is the result of a well-thoughtout plan. The combination of determination and effort on the part of administrators and educators, along with the much needed support of the community and parents, is evident in the school's environment and programs. Through challenge and enrichment, the school has demonstrated that excellence is within the reach of those who never stop trying.

It is with pride and pleasure that I, along with Secretary Bell, applaud the success and achievement of Holmes Junior High School and wish it continued success in the future.●

SALUTE TO IMPERIAL, CA

HON. DUNCAN HUNTER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1984

● Mr. HUNTER. Mr. Speaker, I am here today to honor the city of Imperial, CA, which celebrates its 80th anniversary this year. The city and the people of Imperial are to be congratulated and commended on this very special occasion.

Incorporated on July 12, 1904, Imperial is the oldest city in the Imperial Valley. As the home of many pioneers in the area, Imperial is rich in tradition.

During its 80 years as a city, it has built its community upon the total involvement of its citizenry. Imperial provides its residents with an excellent school system which is fully accredited for a broad vocational and preuniversity curriculum. The city of Imperial is also served by the Imperial Valley College, just 3 miles east of the city.

Located in the center of the agriculturally rich Imperial Valley, Imperial is the ideal location for industry and business. The largest irrigation district in the Western Hemisphere, the Imperial irrigation district, is located in the city. In addition, the California midwinter fair is held annually in Imperial.

Mr. Speaker, I am glad to have this opportunity to pay tribute to Imperial and all of its citizens on this, its 80th annivesary. I know we can look forward to continued growth and prosperity for this fine city.●

THE 250TH BIRTHDAY OF DANIEL BOONE

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1984

● Mr. YATRON. Mr. Speaker, this year marks the 250th birthday of Daniel Boone. Born in Exeter Township, Berks County, PA, on November 2, 1734, Daniel Boone represents an important part of our Nation's history. On the anniversary of his birth, November 2, 1984, a huge birthday party

in Reading, PA, sponsored by the Daniel Boone National Foundation, will start year-long activities in honor of this famous explorer, frontiersman and Revoluntionary War soldier. The Daniel Boone Homestead, located in Berks County is administered by the Pennsylvania Historical and Museum Commission.

The members of the Daniel Boone National Foundation have dedicated themselves through the years to proclaiming the historical significance of this outstanding American. Mr. Elwood R. Angstadt, president of the Daniel Boone National Foundation, the board of directors of this organization and the entire membership are certainly to be congratulated for their abiding commitment to the preservation of the memory of Daniel Boone and the American values for which he stood. I know that my colleagues will join me in wishing the members of this organization many more years of continued success. It is my privilege to bring their accomplishments to the attention of my colleagues in the U.S. Congress.●

DISCRIMINATION AGAINST ADOPTED CHILDREN

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1984

● Mr. SIMON. Mr. Speaker, yesterday I introduced a bill which eliminates a situation of discrimination against adopted children. Under current law, an adopted child is not entitled to benefits payable to a dependent of a disabled worker if the child was not adopted prior to 1 year before disability occurred. A natural child is automatically entitled, regardless of timing of its birth. This unjust practice distinguishes between the rights of an adopted child and those of a naturally conceived child.

The logic behind the current law is well intended but innately flawed. The notion of adopting a child solely to receive benefits is a harsh one. While the theoretical possibility seems to exist of such abuse, in practice, those who would be motivated solely to obtain benefits do not generally seek to adopt. The average cost of adoption is $7,000 to $10,000 with reports of some adoptions reaching highs of $30,000. Adoption involves a thorough scrutiny of one's finances, stability, and home environment.

As Mary Lindley, of Marion, IL, states:

> • • • we certainly would not have spent approximately $7,000 in medical expenses and attorney fees (not knowing at the time if David would be eligible or not and not really even considering any potential benefits) in order to receive $300 to $400 a month in benefits for David.

An adopted child is special. Much time and expense goes into finding a child. The adopted child is chosen: he or she is as wanted, if not more so, than a natural child. In a society which prides itself on equality and which strives for the erasure of discrimination, this type of distinction must be eliminated. The system must appropriately provide for prevention of abuse. We also bear the honor and responsibility to treat all citizens equally.●

MILES COLLEGE HONORS FRANK "DEAN" PEARSON

HON. BEN ERDREICH

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1984

● Mr. ERDREICH. Mr. Speaker, on Saturday, October 6, 1984, Miles College in Birmingham, AL will honor a man at its Homecoming 1984 celebration who has dedicated the last 35 years of his life to making Miles College a quality provider of education, an institution that prepares its students to pursue careers and lives that are challenging, rewarding, and satisfying.

Frank "Dean" Pearson, who attended the Birmingham public school system, has been a firm and strong supporter of Miles College ever since he received his A.B. degree in social science from Miles in 1948.

He has worn many hats at Miles College: History instructor, academic dean, dean of students, director of development, and since 1976, director of alumni affairs.

Alumnus, by one definition in Webster's Dictionary, means to "nourish." Frank "Dean" Pearson has worked tirelessly to instill in the graduates of Miles College the importance of supporting one's alma mater to assure that those who follow continue to receive the educational nourishment they will need to grow and prosper.

Frank "Dean" Pearson knows the importance of seeing that Miles College, which has been a part of the city of Birmingham since 1905, continues to thrive.

His dedication to the school and the students he has served for 35 years is worthy of our highest commendation, and I would like to join those who honor him today as the backbone and pride of all Mileans.●

THE PLIGHT OF SOVIET JEWRY

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1984

● Mr. KILDEE. Mr. Speaker, I rise to express my deep concern over the situation in the Soviet Union regarding the treatment of Soviet Jews.

It has been 9 years since the United States and the Soviet Union signed the Final Act of the Helsinki accords in which the Soviet Union pledged to respect human rights and allow freer movement of people across its borders. Sadly, however, the intervening years have seen the flow of dissidents who wish to emigrate from the Soviet Union dwindle to a mere trickle.

Today, the situation for Soviet Jews wishing to emigrate from the Soviet Union is a tragic one. This year, less than 700 Jews have been permitted to leave, compared with more than 51,000 in 1979.

Let us remember the plight of those who are unable to experience the liberties we enjoy. I think it only befitting that I once again call attention to my adopted Soviet refusenik, Issak Shkolnik.

In 1972, Issak Shkolnik was denied permission to emigrate to Israel. He was subsequently charged with anti-Soviet agitation and treason and sent to a labor camp for 7 years. His wife and daugther were allowed to emigrate to Israel in 1973. Since his release from the labor camp in 1979, Shkolnik has attempted, unsuccessfully, to obtain permission to join his family in Israel. Last February, more than 100 Members of Congress joined with me in writing to the Soviet Government on Shkolnik's behalf. Seven months later, the Soviet Government has yet to even acknowledge our plea.

Soviet Jews constitute the most visible target of Soviet internal repression. They are often denied basic human rights of which the right to emigrate is only one. Recent reports also indicate an increased campaign by Soviet officials to stamp out Jewish culture, religion, and education in the Soviet Union.

The Helsinki accord has served as a tremendous source of encouragement and inspiration to the refuseniks. Although the pleadings of these brave people have not been met, their appeals will not be silenced. Today, and every day, Mr. Speaker, I join in solidarity with their cause.●

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and

purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Thursday, October 4, 1984, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

OCTOBER 5

9:30 a.m.
Joint Economic
To hold hearings on the employment/unemployment situation for September.
SD-106

NOVEMBER 29

9:30 a.m.
Temporary Select Committee to Study the Committee System
Business meeting, to further consider recommendations to reform the Senate committee system.
SR-301

CANCELLATIONS

OCTOBER 4

10:00 a.m.
Joint Economic
Economic Goals and Intergovernmental Policy Subcommittee
To hold hearings on the national economic outlook.
2203 Rayburn Building

SENATE—*Thursday, October 4, 1984*

(Legislative day of Monday, September 24, 1984)

The Senate met at 2 p.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray.

Almighty God, who knows and understands and cares, let Your healing, reviving love, touch the hearts of exhausted Senators and staffs for whom unrelenting work remains. Strengthen their bodies, renew their minds, quicken their spirits, that they may accomplish, efficiently and effectively, all that is required of them in these closing hours. Bless their spouses and children who also suffer at times like these, not only for their own sacrifices, but in their concern, sometimes fear, for the one they love who is under such great pressure.

Father in heaven, when weariness overwhelms it is easy to assume that God does not care or that He is far away and irrelevant. In spite of our weak faith or no faith, prove Your nearness, Your wisdom, Your power in each life through the extreme stress of these final hours. We ask this in His name Who invited, *"Come unto me all you who labor and are heavy laden and I will give you rest."*—Matthew 11:28. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The acting majority leader is recognized.

THE MARATHON SESSION

Mr. STEVENS. Mr. President, I am informed that the marathon session of the Senate lasted 21 hours and 32 minutes yesterday and into the early hours of today. But our work is not done.

When the Senate recessed earlier this morning, it did so for the purpose of allowing Members and staff to finish drafting compromise language on the section of the continuing resolution relating to the crime package.

We are hopeful that we will be able to act upon that issue and complete consideration of the continuing resolution early today so that we may go to conference with the House of Representatives on that important funding resolution.

We are also hopeful that while that conference is being conducted the Senate will be able to consider the debt limit extension and that we can avoid having extraneous and nongermane issues added to that debt limit bill so that we may achieve the goal that was announced earlier in the year to complete this session this week.

I am told that a wise man once said Congress generally spends so much time on things that are urgent that they have none left over to spend on those that are important.

The important issues that are still before us we would like to address. But if we are to be able to do that and observe the religious and mandated Federal holidays that are ahead of us and keep the commitments that we made to one another that we would be able to adjourn in time to commence the campaign period we must finish both the continuing resolution and the debt limit bill before tomorrow night at 6 p.m.

We are in a curious parliamentary situation. We will have now a period, of course, for the two leaders and then there will be a special order for my good friend the distinguished Senator from West Virginia [Mr. BYRD]. We

NOTICE

The last issue of the daily Congressional Record for the Ninety-eighth Congress, will be published not later than Wednesday, November 7, 1984. Interim issues of the Record may be printed at the direction of the Joint Committee on Printing.

None of the material printed in the Congressional Record after adjournment may contain subject matter, or relate to any event, which occurred after the date Congress officially adjourned.

No provision herein shall be construed to supersede the two-page limitation rule.

All material must be signed by the Member and delivered to the respective Office of the Official Reporters of Debates, Room H-134 or S-220 of the Capitol, Monday through Friday, between the hours of 9:00 a.m. and 3:00 p.m., through Wednesday, November 7.

Members of Congress desiring to purchase reprints of material submitted for Record printing during the adjournment may do so through the Congressional Printing Management Division located at the Government Printing Office. That office may be reached by telephoning 275-2226 between the hours of 8:00 a.m. and 4:30 p.m. daily.

By order of the Joint Committee on Printing.

FRANK ANNUNZIO, *Chairman.*

will still have a pending amendment to the continuing resolution, No. 7032, that was offered by the Senator from Pennsylvania [Mr. HEINZ], but the curious situation I mention is the one that really we are waiting for the compromise language on the section concerning the crime package that the distinguished occupant of the chair is so much a spirit in. Until we can determine whether that crime package will be acceptable to the Senate as a whole, I do not think we can predict how long it will be before we can complete the continuing resolution.

So, Mr. President, as I said earlier, as one who, was scheduled to be in Valdez, which is the terminus, incidentally, of the Alaskan oil pipeline, on Saturday morning. I am hopeful that we will, in fact, be able to complete our work in the Senate tomorrow evening by 6 p.m.

DR. JOHN BYRNE— ADMINISTRATOR OF NOAA

Mr. STEVENS. Mr. President, I note with sadness that the National Oceanic and Atmospheric Administration is losing the services of a dedicated administrator and scientist. My friend, Dr. John Byrne, will soon be leaving his post as administrator of NOAA to assume the presidency of Oregon State University. That was the first university to which I went preceding the war.

As NOAA Administrator, John faced the challenge of maintaining the integrity of existing agency programs during a time of budgetary constraint. Under his capable leadership, NOAA has effectively carried out its basic mission, conducting research and gathering data about the oceans and atmospheres, and a number of new programs have been initiated. With the implementation of John's Ocean Service Center Program, oceanic and atmospheric data are now readily available to a wide variety of user groups. New information about the oceans and atmospheres is being applied to products and services that benefit all Americans. The U.S. fishing fleet has grown rapidly during John's tenure, and the National Marine Fisheries Service is playing a vital role in assisting the fishing industry to develop new markets, harvest formerly underutilized species, and apply new technologies. NOAA's environmental and marine resource data has been made accessible to all Americans, for the first time on John Byrne's watch.

Under John's guidance, the National Weather Service has made great strides forward in the prediction of weather patterns. Reliable information on long- and short-term weather phenomena is available throughout our country. NOAA's warnings of severe storms and tornadoes now permit countless Americans to avoid risks of injury and property damage. John has stressed the importance of maintaining an effective early warning system for dangerous weather, and we are all grateful.

While serving as an innovative administrator of NOAA, John Byrne has assumed a role of leadership in the international ocean community. As the head of the International Whaling Commission and adviser to the Eskimo Whaling Commission, John has implemented programs to protect endangered marine mammals populations. He has done much to heighten America's public awareness of the importance of marine resources. John's concern for the wise management of our marine resources can be seen by his recent involvement in the celebration of a National Year of the Ocean. As chairman of the board of directors of the Year of the Ocean Foundation, John has stated:

> The time is right to initiate new activities and reawaken the American public to the tremendous potential of this great resource.

John Byrne has done much to initiate new ocean science programs and to educate America. He will be greatly missed at NOAA, but I am certain that he will continue to serve as a leader and adviser in the ocean community. I believe him to be one of the true leaders of the country in this field, and I wish him great success in his new and challenging position.

I reserve the remainder of our time.

RECOGNITION OF THE MINORITY LEADER

The PRESIDENT pro tempore. The distinguished minority leader is recognized.

Mr. BYRD. I thank the Chair.

SENATOR HOWARD BAKER

Mr. BYRD. Mr. President, a sage has written, "The South starts where the children begin answering their elders with, 'Yes, sir,' and, 'No, ma'am.'" That is a picturesque way of paying tribute to perhaps our Nation's most romantic, curious, and chivalrous region.

And, observing the bearing and the breeding of many Senators from the South over the years, I have concluded that that is an accurate tribute, particularly as represented by the distinguished majority leader, Senator HOWARD BAKER, from the State of Tennessee.

Senator BAKER was first elected to the Senate in 1966. For nearly 18 years he and I have been colleagues, and for roughly the past 8 years I have been privileged to work with Senator BAKER in our mutual capacities as Senate leaders of our respective parties.

Speaking both as Senator BAKER's friend and colleague, I can say that I have been fortunate to serve with one who is so considerate, warm, courteous, and capable.

At the close of this Congress, Senator BAKER's tenure as Senate majority leader and as a Senator from Tennessee will be coming to an end. By his own choice Senator BAKER will be retiring from this body and pursuing other dimensions of his many-faceted talents and interests.

Senators from both sides of the aisles and millions of people across America will miss Senator BAKER's presence among us.

In Senator BAKER's departure, one of America's finest public servants is stepping from the Senate stage. In assessing Senator BAKER's career on Capitol Hill, observers might highlight several salient qualities and contributions that he has made as a Senator and as a citizen. But I would like to lift up one statement that Senator BAKER offered more than a decade ago, which perhaps well captures and illustrates Senator BAKER's spirit and attitude.

In May 1973, our country was gripped by the chain of traumatic revelations we now subsume under the Watergate label. For all thoughtful Americans, those were painful, rending days. People were disturbed. Dangers of misjudgment and temptations to demagoguery lay on every hand.

In that crisis, Senator BAKER was named a member of the Senate Select Committee on Presidential Campaign Activities. On May 17 of that year, Senator BAKER, in his opening remarks, delivered a characteristically sound, reasonable, understated, and judicious statement. In those heated, tragic days, sensing the gravity of the country's dilemma, Senator BAKER said:

> There have been the most serious charges and allegations made against individuals and against institutions. The very integrity of our political process has been called into question. We do not sit to pass judgment on the guilt or innocence of anyone. The greatest service that this committee can perform for the Senate, for the Congress, and for the people of this Nation is to achieve a full discovery of all of the facts that bear on the subject of this inquiry.

So between the lines of those sentences uttered more than 10 years ago are revealed several principals that have helped to make HOWARD BAKER the outstanding Senator and majority leader that he has been and is. Patriotism, reason, justice, objectivity, fairness, duty, intelligence, and depth. Those are but a fraction of the qualities he has shared with us here in the Senate as our friend and coworker over many years.

As the majority leader, Senator BAKER has responsibility to his colleagues in the majority for bringing before the Senate a program reflecting the majority party's interests and commitments. As the Senate's central officer, Senator BAKER has had the

duty of guiding this body's day-to-day operations, and he has fulfilled that duty efficiently, effectively, and fairly. In both those roles, as the leader of his party in the Senate as the primary leader of the Senate, Senator BAKER has performed well.

Speaking for all of our colleagues, I am sure, I offer Senator BAKER our profound thanks for long hours of labor, and the assurances of our deepest admiration for him as a man, as a friend, and as a colleague.

In the hours rapidly approaching, the mandate of the 98th Congress will end, and with that end, the work of the Senate in this term will come to a close. When the Senate reassembles, Senator HOWARD BAKER will no longer be with us, but he will always be one of us. But wherever he is in January or 10 years from now, I hope he will recall the respect, the admiration, and the affection in which he is held by those who have served with him here. In this body of highest honor, while Presidents come and go, the men and the women of this great institution serve on and on.

Standing beside HOWARD BAKER has been a genuine privilege for me, and we all wish him the utmost fulfillment and rewards in whatever path he may walk. We hope that Senator BAKER will go with God and God with him, and in the knowledge of the great gratitude that he has earned from the U.S. Senate, from his colleagues in the U.S. Senate, and for the people of America.

Mr. MATHIAS. Will the minority leader yield?

Mr. BYRD. I am glad to yield.

Mr. MATHIAS. Mr. President, it is certainly not my role to acknowledge or express appreciation for the remarks that the minority leader has just made about the majority leader. But as one who has heard those words, I really feel forced to say how moved I am by them, because the minority leader, of all people in the world, is in the position in which he might have had conflict with the majority leader, in which he might have felt an abrasive competition. But the affection and the respect, which is so evident in the remarks he has just made, indicate that rather than conflict and competition, there has been a sense of cooperation and coordination which can only have been good for the U.S. Senate and the people of the United States.

Mr. BYRD. Mr. President, I thank my friend. There are few people, relatively speaking, who are as insightful as is my delightful friend from Maryland, Mr. MATHIAS. I thank him for his statement. I am sure that our colleague, Senator BAKER, will also be appreciative.

Mr. PROXMIRE. Mr. President, will the Senator yield?

Mr. BYRD. I yield to the distinguished Senator from Wisconsin.

Mr. PROXMIRE. I want to join with my good friend from Maryland in congratulating the minority leader on the statement he has just made.

I have been in this Senate now for 27 years, and I have been here while there have been a number of majority leaders and minority leaders, Republican and Democratic leaders. I cannot recall a time when there has been a more constructive, positive cooperation between the two leaders than there has been between HOWARD BAKER and ROBERT BYRD.

I think it has been most helpful to all those who have served in the Senate, and certainly it has been a great thing for the United States to have this kind of cooperation. It sets an example I am sure other leaders should follow in the future.

Mr. BYRD. Mr. President, I thank the distinguished Senator from Wisconsin who has responded to more Senate rollcalls than has any other person, so far as I have been able to research the history of the Senate is concerned. The fact that he can take pride in the knowledge that he has answered more rollcalls in the Senate—I am not talking about the Senate and the House, because the distinguished Senator did not have previous service in the House—but the fact that he has answered more Senate rollcalls than has any other Senator in the history of this body, I think would in itself be observing of the fact that he has been on the floor, and has had the opportunity to observe other Senators and other leaders. I am most appreciative of the kind words that he has spoken in behalf of our distinguished majority leader.

Mr. President, how much remaining time do I have?

The PRESIDING OFFICER. The minority leader has 5 more minutes.

Mr. BYRD. Mr. President, I yield to the distinguished Senator from Florida [Mrs. HAWKINS]. I ask unanimous consent that her statement which is not related to the subject that is being discussed here appear at another place in the RECORD, and that I not lose the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mrs. HAWKINS at this point are printed under Resolutions Submitted later in the RECORD.)

Mrs. HAWKINS. Mr. President, I thank the distinguished minority leader, and also I would like to give my admiration and respect to you as a great leader in your own right, and for the great statement which you gave for a great American, our leader, HOWARD BAKER.

Mr. BYRD. I thank the gentlelady for her kind words.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. There are 3 minutes remaining to the minority leader.

Mr. BYRD. Under the standing order or included in both?

The PRESIDING OFFICER. That was included in both the standing order and the leadership time.

Mr. BYRD. I thank the Chair.

Mr. President, I ask unanimous consent that I may reserve 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, I want to take this opportunity to congratulate the distinguished minority leader for the tribute he just paid to the majority leader, HOWARD BAKER.

I have served with the distinguished minority leader ever since he came to the Senate. I was first impressed with him when he was chairman of the District Committee. I recall he would come in and recite statistics that ordinarily would take an accountant, I think, to keep charge of, to keep up with. He has an analytical mind. He is a man of foresight and credibility. Not only that, he is a man of great compassion. Although he fights hard when he is in a battle, he fights fairly. And he loves humanity. I have been impressed as to how close our majority leader is with the minority leader.

I want to pay the minority leader a tribute this morning to that effect and to express appreciation on this side of the aisle for the outstanding tribute that he has rendered to our distinguished majority leader, HOWARD BAKER.

Mr. BYRD. Mr. President, will the distinguished President pro tempore yield just for a brief word?

Mr. THURMOND. Mr. President, I am pleased to yield.

Mr. BYRD. Mr. President, the distinguished Senator from South Carolina, the President pro tempore of the Senate, has just indicated that he has served with me for 26 years in the Senate. I am grateful for the opportunity that I have had to serve with the distinguished Senator. I have found him to be a very tough adversary, but a very gracious one, one who is fair, and one who is understanding. I thank him very, very much for his kind words with respect to me and I shall listen now with great interest to what he has to say about the distinguished majority leader, HOWARD BAKER.

Mr. THURMOND. Mr. President, I wish to thank the able minority leader for his kind remarks.

THE RETIREMENT OF SENATE MAJORITY LEADER, HOWARD H. BAKER, JR.

Mr. THURMOND. Mr. President, today I rise with an unusual sense of mixed emotions to honor my very good friend, Senate Majority Leader HOWARD H. BAKER, JR., who is bringing to a close an illustrious career in the U.S. Senate. On one hand, I deeply regret that such a remarkable individual is leaving the Senate, particularly at a time when his expertise and sound judgment are most needed. Yet, I am also enthusiastic about the bright future that lies ahead for this great American and dedicated patriot. Indeed, his leadership will continue to render an important service to our Nation for many years to come.

For HOWARD BAKER, leadership is an innate ability which, over the years, has been perfected through his numerous and diverse experiences. He is a craftsman of leadership, whose skills have built a monument of achievements of which any public servant would be proud to boast.

This tradition of leadership was built upon a solid foundation laid by HOWARD'S father and stepmother, who both served in the U.S. House of Representatives. Obviously, their influence had a profound impact on HOWARD, for he developed his abilities early in life. In addition to his parents, Senator BAKER had the privilege of studying under another distinguished statesman, his father-in-law, the late Senator Everett McKinley Dirksen of Illinois. Perhaps Senator Dirksen's greatest gift to HOWARD was his lovely and charming daughter, Joy. Without question, we will miss seeing Joy Baker, whose kindness, friendship and devotion are a valuable asset to our majority leader. I know that much of HOWARD'S success was inspired by Joy's constant support and love.

After receiving his law degree from the University of Tennessee, where he served as student body president in 1949, HOWARD BAKER quickly established an outstanding reputation for his effectiveness as an attorney and businessman in Huntsville and Knoxville, TN.

By definition, becoming a leader usually means being first, and HOWARD BAKER is no exception to this rule. In 1966, he became the first Republican ever popularly elected to the Senate from Tennessee, a feat that speaks high of HOWARD'S broad appeal. The people of the Volunteer State affirmed their pride and trust in HOWARD BAKER'S leadership by reelecting him to the U.S. Senate in 1972 and 1978.

Once in the Senate, HOWARD BAKER wasted no time in proving his natural instinct for achievement. In 1973, he earned national recognition as vice chairman of the famed Senate Watergate Committee, where he exemplified the wisdom and discernment of a seasoned veteran of Capitol Hill politics.

Natural instinct alone, however, did not catapult HOWARD BAKER to the position of prominence he enjoys today. He is a diligent, hard-working gentleman who always gives 100 percent in every task he undertakes. His ceaseless determination and strong, unwavering zeal for justice and fairness elevated him as a premier representative of this body.

From 1977 to 1981, HOWARD ably served as the Senate minority leader, where he won considerable respect for his fair and impartial dealings with both parties, as well as his vast knowledge and command of legislative matters. Again, HOWARD BAKER achieved yet another first by becoming the first Republican to be elected to the post of Senate majority leader in more than 25 years.

Mr. President, I can honestly say that HOWARD BAKER is one of the greatest Senate majority leaders in our Nation's history. HOWARD is a master of diplomacy, and possesses a tremendous ability to bring together diverse elements from both parties and resolve those differences in a satisfactory manner. A scholar of parliamentary procedures, HOWARD maintains an intense interest in carrying out the duties of his office with maximum efficiency and effectiveness, and I believe my colleagues from both sides of the aisle would agree that he has been a fair and accommodating majority leader.

As president pro tempore, I have witnessed firsthand HOWARD BAKER'S delicate handling of vital issues of national and international importance, and he truly exhibits grace under pressure. Much can be said about this man who never abused or monopolized his office for partisan reasons. HOWARD BAKER is a reasonable majority leader who truly looks beyond party lines to serve the best interest of all Americans.

Mr. President, the accomplishments and contributions of HOWARD BAKER are well known throughout the Nation. As a Presidential candidate in 1980, HOWARD enjoyed a fine reputation for his progressive and realistic grasp of national issues. He is recognized as an articulate communicator, which he well illustrated as keynote speaker of the 1976 Republican National Convention, and in numerous other national addresses. His advice and wise counsel are sought and respected at the White House, where he and President Reagan have an outstanding working relationship.

In addition, as an avid photographer for over 40 years, HOWARD'S photographs have brought much pleasure to those who have seen his fine work. He has captured on film the beauty and majesty of our Nation's Capitol, for which the publication of his photographs has won nationwide acclaim.

I predict that HOWARD BAKER will continue to perpetuate and perfect his leadership abilities in ways that will greatly benefit America. He would make an outstanding U.S. President, Supreme Court Justice, Cabinet member, or ambassador, since he has already achieved worldwide recognition.

Although HOWARD BAKER is in the forefront of national and international affairs, he never forgets the State he loves, nor the special citizens of Tennessee whom he serves so well. It is extraordinary how our majority leader has stayed in touch with the needs of his State while juggling demands in other arenas. Yet, such is the mark of a leader.

Mr. President, it has been said that:

> The final test of a leader is that he leaves behind him in other men the conviction and the will to carry on. * * * The genius of a good leader is to leave behind a situation which common sense, without the grace of genius, can deal with successfully.

HOWARD BAKER, a gentleman with common sense who can be extremely proud of his successes, leaves behind in this body men and women who share the will and conviction to carry on the noble task of serving the public in the most productive and effective way possible.

HOWARD BAKER will be greatly missed by his colleagues in the Senate and by a large circle of friends who hold him in high esteem. We will miss his realistic and pragmatic leadership, yet I am confident that his future as a leader will be as bright as his glorious past.

Mr. President, HOWARD BAKER can take pride in knowing that he leaves behind an incredible record of achievement for which he deserves the gratitude of his colleagues in the Senate, and indeed, of all Americans. God bless you, HOWARD, as you enter a new era of leadership destined to greatly serve this Nation which you love so dearly.

THE MAJORITY LEADER

Mr. MOYNIHAN. Mr. President, much will be said about our love for the majority leader as he leaves this body in the next few days. I would like to propose that something be done.

Mr. President, some 4 years ago I had the signal honor of being asked by him to write the introduction to his important book, "No Margin for Error."

In speaking of this man, I refer to the comments of G.K. Chesterton, that the essential things in men are the things that they hold in common, not the things they hold separately.

No one has so wonderfully embodied that principle and put it into practice in this Chamber than HOWARD BAKER.

Mr. President, it seems that this achievement ought not to be passed, the longest tenure of a Republican majority leader in a half century. It happens that soon we are going to erect in the courtyard of the Hart Office Building in the interior space the last great sculpture of that most American of all artists, Alexander Calder. It is a combination of his famous mobile of art form which he created, and the stabile which follows from it.

The stabile will rise from the floor of the Hart Building. The mobile, as clouds, will hang from the ceiling and surround it.

Mr. President, the funds for this project, which is the last this great sculptor did, have been raised privately under the leadership of our former colleague, Senator Brady of New Jersey.

The building is named after a much beloved Democratic Senator. It seems to me it would be altogether appropriate that the sculpture might be put in place and dedicated to the service in this body of the majority leader, in whose tenure the office building opened.

With the exception of possibly only David Smith, no American sculptor has ever achieved a reputation the equal of Alexander Calder. Everywhere in the world when you see a Calder sculpture, you know it is an American.

I will offer a resolution, Mr. President, to this effect later, but I commend to the body the thought that this would be an altogether fitting tribute and memorial to our majority leader.

I thank the Chair.

The text of the proposed resolution follows:

Resolved, That, whereas Senator HOWARD H. BAKER, JR., has served with distinction as Majority Leader of the Senate from 1981 to the present with consummate skill, patience and diplomacy, and in a spirit of fairness to all Senators; and

Whereas he has served as Majority Leader for a longer period than any other Senator of his party in a half-century; and

Whereas he has accordingly brought honor to the U.S. Senate, himself, his home State of Tennessee, and the United States of America; and

Whereas there is to be placed in the atrium of the Philip A. Hart Senate Office Building a monumental sculpture titled "Mountains and Clouds" by the American artist Alexander Calder;

Now therefore be it resolved that the Senate of the United States dedicates said sculpture in honor of Senator HOWARD H. BAKER, JR.

SEC. 2. The Architect of the Capitol is directed to place plaques in appropriate locations to commemorate the dedication of the sculpture to Senator BAKER.

SENATOR HOWARD H. BAKER, JR.

Mr. GOLDWATER. Mr. President, when I get on the subject of HOWARD BAKER, emotion runs through my heart, not necessarily for HOWARD, but for the whole family he represents. Joy, his wonderful wife, is a lady I have known for over 35 years. Her wonderful father, Everett Dirksen, really was the man who, on a cold winter's night atop a hotel in Arizona, talked my wife into letting me run for the Senate and was, forever after, one of my most cherished and valued friends. Also, I grew to look up on Joy's mother almost as a sister.

While I never knew HOWARD BAKER's father, I have a strong feeling that I would have had the same emotional attraction from him as I have had from the Dirksen side of his family—a man so dedicated to the service of his country that he formed definite rules with which I agree, as to how that service should be conducted.

As to HOWARD, himself, whom I have known since he was a relatively young man, I have watched him with great pleasure and not a little joy as he climbed the ladder of political success in this body and in our country. I must say that, to have to say goodby to him at the end of this Congress, is not something I look forward to with any pleasure.

About the only pleasant thing connected with his retirement and his return to the hills of Tennessee, I would guess, is the comforting and pleasant thought that he has earned the best in life, and the best in life will be his from here on out.

His leadership of the U.S. Senate during the years the Republicans have controlled this body has served us all well. And, while we have had our moments of disagreement, they have never been serious, because, 9 times out of 10, he always has been right.

So, HOWARD, as you leave this wonderful city and the institution in which you have had such an important hand, I know that you go with the eternal thanks not only of this Senator but, also, and more important, of the citizens of our country. You have earned your retirement and you deserve it. Now, enjoy it.

TRIBUTE TO SENATOR HOWARD BAKER, JR.

Mr. QUAYLE. Mr. President, I have often wondered about the statesmen of 1776, our Founding Fathers, as we call them, and their courage and wisdom in pledging their "lives, fortunes, and sacred honor" for the sake of liberty. I have wondered if today's times would produce such statesmen as in those days. Mr. President, I think HOWARD BAKER meets the high standards set by our Founding Fathers.

HOWARD BAKER comes from a distinguished family, accomplished in the political realm, and he married into one as well. His father served ably as the representative of Tennessee's Second Congressional District from 1951 until his death in January 1964. His stepmother fulfilled the unexpired term. The penchant for debate must have been instilled at an early age when HOWARD won first place in a public speaking contest at the age of 11.

HOWARD BAKER failed in his first attempt to become a Senator in a special 1964 election, but, in the process, he nevertheless accumulated a larger vote total than any Republican in the State's history. Not undaunted by the experience, and perhaps educated by it, he was successful in his second bid in 1966, when he became Tennessee's first popularly elected Republican Senator.

SENATOR BAKER's leadership qualities were quickly apparent, sometimes even in challenges to the Republican leader, his own father-in-law, Everett Dirksen. He was appointed cochairman of the Select Committee on Presidential Campaign Activities, the Watergate investigation committee, which catapulted him into American living rooms and made his name a houeshold word. One of the most famous quotes to come from the Watergate hearing was uttered by Senator BAKER: "What did the President know, and when did he know it?"

In 1977, after organizing a successful coalition, Senator BAKER took the reigns of the minority party, succeeding Hugh Scott as Republican leader. In 1980, I was pleased to do my part to place Republican control of the Senate—and to give HOWARD BAKER the opportunity to become majority leader.

The role of majority leader is not an easy one, although Senator BAKER carries out his duties so adeptly, he makes it look easy. The leader must form a cohesive block of votes to move the majority's program, grouping and regrouping from bill to bill and sometimes from amendment to amendment. While the 1980 election put us Republicans in numerical charge in the Senate, it has been the leadership of HOWARD BAKER that has forged us into a convincing, forceful, and effective governing force. He has been accommodating, considerate, fair, eloquent, and effective in his dealings with not only the members of his own party, but those on the other side of the aisle, as well. Above all, he recognizes the responsibility of the Senate to conduct the Government's business and the uniqueness of the Senate as a legislative institution. His calm authority and gentle cajoling of Senators will be sorely missed next year.

The senior Senator from Tennessee has spent 18 years of his life in the Senate. As chairman of the Temporary Select Committee to Study the Committee System, I was pleased when Senator BAKER agreed to appear before the committee to give us the benefit of the great wisdom and unique perspective he has developed during that tenure. I agree with Senator BAKER on a number of things: Senators probably do not spend enough time with their constituents; we have buried ourselves in trivia so that we do not make effective use of our time; and Senate debates need to be televised.

With the end of this Congress, Senator BAKER will be free to turn to other pursuits, although he is not divulging his plans. Some say he might be running for President in 1988; some say he wants to get reacquainted with his roots; others say he just wants time to play with his grandchildren.

No matter what, my bet is that he will be spending a lot more time than the Senate's schedule has permitted pursuing his cherished hobby, photography, at which he is already most accomplished. No matter what he does next, Senator BAKER will be greatly missed here in the Senate, by Republicans and Democrats alike. I wish HOWARD BAKER and his wife, Joy, the best that life has to bring in the years ahead.

And, HOWARD, from time to time, do not forget to send us some photos.

ORDER OF BUSINESS

Mr. PROXMIRE. Mr. President, will the minority leader yield me 1 minute?

Mr. BYRD. Mr. President, how much time have I remaining?

The PRESIDING OFFICER (Mr. SIMPSON). Three minutes.

Mr. BYRD. I yield 3 minutes to the Senator from Wisconsin.

WHAT'S WRONG WITH THE REAGAN NUCLEAR ARMS CONTROL RECORD

Mr. PROXMIRE. Mr. President, on Sunday Secretary of State Schultz on national television once again made that same old transparently false claim that the Reagan administration favors arms control. Let us start with the fact that President Reagan has opposed every arms control treaty ever negotiated by this Government with the Soviet Union by Republican or Democratic Presidents. What was wrong with those treaties according to the President's Secretary of State? The Secretary complained that the treaties did not reduce the arsenals of nuclear weapons. The treaties just provided a limitation on future buildups. This Senator among many others who wanted stronger arms control agreements, made exactly the same point at the same time the treaties were before the Senate. But we made it for precisely the opposite reason that President Reagan has offered. Those of us who favored arms control criticized the treaties for not going far enough. The President denounced the treaties root and branch for going too far. And of course the prime difference is that those of us who favor arms control accept the treaties—limited as they are—while the President opposes the treaties. The President is even in the process of repudiating the antiballistic missile treaty which passed the Senate by a crushing 88 to 2.

Mr. President, anyone who will fall for the administration line voiced by Secretary of State Schultz that the administration favors a stronger posture on arms control—a posture of the sharp reduction of nuclear weapons with the ultimate objective of eliminating them entirely—anyone who believes that will believe anything. This administration has proposed and secured the biggest research and development buildup of nuclear weapons research in our history by far. What is the purpose of that buildup in nuclear weapons research? Everyone knows that research and development spending is just the beginning. Then what follows? What follows is the sure and certain increase in the production and deployment of military weapons whether they are conventional or nuclear. Does anyone really believe that the administration's request for tens of billions of dollars of additional funds for nuclear weapons research is for the purpose of truly reducing nuclear arsenals? How can the administration expect the American public to buy such a line? Here is how: The fact is that the nature of nuclear weapons development has permitted this country to build more accurate, more reliable, and more devastating weapons. Those weapons are much surer to hit and take out Russian targets. They have less throw-weight than the weapons they replace. They have less megatonnage. They even have fewer nuclear warheads. In the past 20 years we have reduced our nuclear stockpile in each of those traditional measures of nuclear power. But do we have a weaker nuclear deterrent because we have less megatonnage and fewer missiles and less throw-weight? No, no, and no. Is the capacity of our arsenal to strike and demolish Russian targets less because we are scrapping our biggest missile for example—the Titan? Again the answer is an emphatic "No."

For the past 20 years, we have steadily built the capability of our nuclear arsenal to find and devastate Russian targets. We can deliver far, far, far more destructive power on our adversary's targets than we could 5 years ago or 10 years ago. We have built this far more devastating nuclear arsenal while reducing the number and size and weight of our missiles. We have done this at immense cost. In fact we have spent hundreds of billions of dollars to build up this smaller but far more effective nuclear weapons capability. And, Mr. President, this is just the beginning. The research and development program now in being and coming on in the next several years will magnify this nuclear weapons power. I challenge the administration to prove this is not the case and in the process to justify the spending of $45 to $50 billion that Congress has appropriated every year at the President's request to improve the power of our nuclear arsenal. And, of course, the Reagan administration has consistently asked the Congress to increase that amount sharply.

What is the administration's answer to all this? They tell us they would like to negotiate an arms control treaty with the Soviet Union which—one way or another—would reduce land-based intercontinental ballistic missiles on both sides down to the zero option. Does that not sound like a worthy arms control objective? It sure does. I love it. From an American standpoint it would be great. And why not? Suppose the Russians agreed to the elimination of land-based missiles on both sides. What would be the effect? The Soviets would give up three-quarters of their deterrent. The United States would give up one-quarter of its deterrent. That would leave the United States with an overwhelming nuclear dominance. That is the kind of arms control the Reagan administration proposes. Every informed American—including this Senator—of course approves it if we could persuade the Soviets to accept it. But we know we cannot. It will go nowhere.

So what kind of arms control agreement does make sense from the standpoint of the United States and might be acceptable to the Russians? The answer—the final completion of the comprehensive nuclear test ban treaty. We and the Soviets pledged in that treaty to negotiate for a total end to nuclear testing. By failing to meet to try to negotiate a complete end to the testing of nuclear weapons both the United States and the Soviet Union are in flat violation of that treaty. President Reagan has often stated that he has no intention of negotiating such an end to nuclear weapons testing. Until this country and the Soviet Union do negotiate, the nuclear arms race will continue. Weapons may be smaller or larger. They may have greater or lesser megatonnage and more or less war heads. But of one thing we can be absolutely sure. The weapons we produce will be more lethal, more devastating, and the world will careen along in an arms

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control race that can only lead to our destruction.

THE CONFLICT ANALYSIS CENTER REPORT ON THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, as we prepare for the Senate debate on the Genocide Convention, I know that many Senators have been receiving inquiries regarding the treaty, its provisions, and its merits.

Over the course of 35 years since the Genocide Convention was first submitted to the Senate by President Truman, the Foreign Relations Committee has conducted an exhaustive inquiry into the Convention and its merits compiling a hearing record that stretches nearly 1,500 pages.

That is why I am indebted to the Conflict Analysis Center, a nonprofit, nonpartisan research institute here in Washington, for reviewing that tremendous volume of testimony and arguments and compiling a pamphlet which addresses the major issues in question-and-answer format. The text was compiled by Charles D. Smith, Esq., a veteran public policy analyst in Washington who is now a senior associate at the center and the associate editor of Interpreter Releases, with the assistance of Neil Kritz, a student at the American University School of Law.

This publication will help to explain clearly and factually why the arguments against the Genocide Convention have not withstood the test of time and why this Convention deserves our overwhelming endorsement.

Mr. President, I ask unanimous consent that the question-and-answer section on this important pamphlet be reprinted in the RECORD so that it will be more readily available to Senators, their staff, and our constituents.

There being no objection, the excerpts were ordered to be printed in the RECORD, as follows:

QUESTIONS AND ANSWERS

Q. By what process does the United States become a party to an international treaty?

Treaty ratification in the United States has three steps. It begins when the President transmits a treaty to the Senate for its consideration. Unlike legislation that originates in the Congress, the treaty remains in the Senate for its consideration until the Senate has acted, irrespective of the convening of a new Congress or the election of a new President. By a two-thirds majority, the Senate grants its advice and consent to ratification. The Senate returns the treaty to the President, and ratification occurs when he signs it.

A contracting party may attach conditions to its acceptance of a treaty. The Senate may, when giving its advice and consent to ratification, attach one of three kinds of conditions: a declaration simply states a fact related to the ratification process; and understanding clarifies the meaning of language in the treaty and tells other nations how the country intends to interpret the treaty; and a reservation rejects or alters certain provisions of the treaty. Should a nation attach a reservation which undermines the principal goals, of a treaty, ratification would not be valid.

Finally, in the United States process, there are two kinds of treaties. Self-executing treaties become effective when they are ratified. No additional legislative action is necessary. Treaties that are not self-executing, however, cannot be enforced until implementing legislation is approved by both houses of Congress and signed by the President. The Genocide Convention is not a self-executing treaty. Once it is ratified, therefore, both houses of Congress must consider implementing legislation to make genocide a crime under the statutes of the United States.

Q. Did the United States influence the content of the Genocide Convention?

Yes. John Maktos, United States Delegate to the United Nations, chaired the committee that drafted the Genocide Convention. Principles of Western, particularly American, jurisprudence are strongly prominent throughout the treaty. For example, because of United States, insistence, the treaty includes a *"mess rea"* element requiring that *intent* to commit genocide must be part of the laws passed by other nations to implement the Genocide Convention. Conviction of the crime of genocide, therefore, must meet the American legal norm for guilt.

In addition to having the central role in drafting the treaty, the American delegation led the General Assembly campaign which concluded with unanimous adoption of the Convention. Under international law, signature of a treaty signifies intent to ratify the agreement. The intent of the United States was underscored when it became one of the first nations to sign the Convention. The failure of the United States to ratify the treaty, particularly after it has become a standard, accepted part of international law, makes the United States' position awkward and places in doubt the good faith obligation implied by signature.

Q. Would ratification of the Genocide Convention in any way violate or affect the United States Constitution?

No. The Constitution is the supreme law of the land, and it cannot be overridden by any external agreement. It provides for the making of treaties and, in the event of a conflict between a treaty and any provision of the Constitution, the Supreme Court, in its own words, "has regularly and uniformly recognized the supremacy of the Constitution over a treaty." *Reid v. Covert*, 354 U.S. 1, 17 (1957). In testimony on the Genocide Convention, then Assistant Attorney General William F. Rehnquist affirmed that "there are no constitution obstacles to U.S. ratification of the treaty." The rights of American citizens, he stated, would be fully protected under the Convention "because the Constitution is superior to a treaty no matter how interpreted." Furthermore, the Genocide Convention itself guards against a conflict between the treaty and the Constitution. In article V, the Convention provides that the implementing legislation shall be enacted by the contracting parties "in accordance with their respective Constitutions."

Q. Is ratification of the Genocide Convention an appropriate exercise of the constitutional power to enter into treaties?

Yes. For almost a century, the Supreme Court has held that, "the treaty power of the United States extends to all proper subjects of negotiation between the government and the governments of other nations. . . ." *Geofroy v. Riggs*, 133 U.S. 258, 267 (1890). Genocide clearly is a proper subject for treaty negotiation. In addition to common sense, this is apparent from the history of World War II as well as a comparison with the subject matter of international treaties the United States has already ratified, which range from the prohibition of slavery to the protection of whales and migratory birds. Morris B. Abram, current Co-Chairman of the United States Commission on Civil Rights, testified in 1976 in favor of "immediate ratification of the Genocide Treaty. [If] this country can ratify treaties with respect to birds," he declared, "it can ratify treaties with respect to [human] beings." Addressing the question of whether the murderous extinction of entire ethnic, national, racial, or religious groups is a proper subject for negotiation between nations, then Assistant Attorney General William F. Rehnquist stated that, "under the treatymaking power, the United States has complete authority to enter into the Genocide treaty."

Q. Would ratification of the Genocide convention shift the balance of authority between the federal and state levels of government by transferring a subject of criminal law from state to federal jurisdiction?

No. Ratification of the Convention gives no new powers to the federal government and takes none from the states. In article I, section 8, clause 10, the Constitution gives Congress authority to "define and punish . . . offenses against the law of nations." No offense is more repugnant than genocide and none touches the community of nations more deeply. Specific evidence that genocide is a crime against the law of nations arises from the Nuremberg trials and the accession to the Genocide Convention by 93 nations.

Federal authority is clear, but to emphasize federal concern for state authority, the implementing legislation proposed by the Senate Foreign Relations Committee stipulates that the federal government does not claim exclusive jurisdiction over the subject and does not intend to preempt the area from state action. Ratification of the Genocide Convention would no more remove this extreme form of homicide from state jurisdiction than United States ratification of the 1970 Hague Convention for the Suppression of Unlawful Seizure of Aircraft removed the crime of theft from state authority.

Q. Might the treaty's article II definition of genocide as the perpetration of certain acts intended to destroy "a national, ethnical, racial or religious group in whole or in part" permit a prosecution for genocide for the murder of one or two people?

No. The "in whole or in part" language is important to make the treaty workable and the offense definable. If destruction of the whole group were required, perpetrators of genocide could go free if even one member of the group survived. Jews, Armenians, and Cambodians, for example, each survived genocidal acts, but their oppressors nonetheless had committed the crime of genocide. The Senate Foreign Relations Committee has proposed that an understanding be attached to the ratification instrument stating that, "the U.S. Government understands and construes the words 'intent to destroy, in whole or in part, a national, ethnical, racial, or religious group as such' appearing in article II, to mean the intent to destroy a national, ethnical, racial, or religious group by the acts specified in article II in such

manner as to affect a substantial part of the group concerned."

Q. Does the Convention's ban in article II on "causing serious. . . mental harm" to a people, or its criminalization in article III of "incitement to commit genocide," violate the Constitution's First Amendment guarantee of freedom of expression?

No. The Genocide Convention is in complete accord with the Constitution. The drafting history of the Convention shows that the "mental harm" clause was intended to apply only to physical injury to the brain, particularly through the forced use of mind-altering drugs, with the intention of destroying an ethnic, national, racial, or religious group. To reiterate this intended interpretation, the Senate Foreign Relations Committe has proposed that the following understanding be attached to the United States instrument of ratification: "the United States Government understands and construes the words 'mental harm' appearing in article II(b) of this Convention to mean permanent impairment of mental faculties."

It is no accident that the "incitement" clause is constitutional. An early draft of article III prohibited all forms of public propaganda encouraging genocide. At American insistence, this was revised into the present language specifically to accommodate the free speech protections of the United States Constitution. The First Amendment of the Constitution does not, of course, protect incitement to commit a crime. As Justice Brandeis warned in *Whitney v. California*, 274 U.S. 357, 375-376 (1927), "the wide divergence between advocacy and incitement. . . must be borne in mind." Advocacy is protected even if it expresses prejudice and hate; incitement to a crime is not. In *Brandenburg v. Ohio*, 395 U.S. 444, 447 (1969), the Supreme Court reaffirmed this rule when it held that the constitutional guarantee of free speech covers "advocacy. . . of law violation," but does not protect "advocacy [which] is directed to inciting. . . lawless action." Testifying in 1970 for the Department of Justice, then Assistant Attorney General William F. Rehnquist reported that freedom of speech as protected by the Constitution "could not be and. . . would not be" affected in any way by the terms of the Genocide Convention.

Q. Should the United States ratify the Genocide Convention even though it does not include political groups within its protection?

Yes. Article II lists national, ethnic, racial, and religious groups as protected under the convention. The history of the treaty's negotiation reveals that the Soviet Union dropped its objection to including national groups in exchange for United States agreement that political groups would not be included. Thirty-six years after the treaty's negotiation, it is clear that achieving international agreement over the meaning of "political" is far more difficult than defining national, ethnic, racial, or religious. Determining the historical or ideological point that divides one political group from another is hard in scholarship and close to impossible in politics. And unlike national, ethnic, racial, or religious groups, there is only minimal objective or tangible evidence to circumscribe a political group.

The treaty might be stronger if it also extended protection to political groups, but fortunately, the plain prohibitions in the treaty cover most potential genocidal settings. National, ethnic, racial, and religious groups need the international recognition of a treaty devoted to their continued life, and the omission of political groups is not an adequate reason for the United States to refuse to extend this treaty's protection to the groups that are included. Their protection by the United States should not be blocked because Soviet intransigence barred this provision. Indeed, failure to ratify this treaty because of the omission of political groups would be a victory for Soviet obduracy, The United States, as a moral beacon for the world, should acknowledge the need to protect national, ethnic, racial and religious groups and should ratify the Genocide Convention. Once done, the United States as a party to the treaty could, under article XVI of the Convention, request that the treaty be revised to include genocide against political groups.

Q. When the treaty is ratified, will its provisions thereupon become the law of the United States?

No. As plainly set forth in article V of the Genocide Convention, this treaty is not a self-executing agreement. The Convention has no domestic legal effect on the contracting parties until they "enact, in accordance with their respective Constitutions, the necessary legislation to give effect to the provisions of the present Convention." Furthermore, the Senate Foreign Relations Committee has proposed in the following declaration that passage of implementing legislation be part of the United States ratification process: "the U.S. Government declares that it will not deposit its instrument of ratification until after the implementing legislation referred to in article V has been enacted." This treaty, therefore, will not become binding in the United States until appropriate amendments to the United States Code are considered by the Judiciary Committees of each House, passed by the Senate and the House of Representative, and signed by the President.

This procedure fully complies with the longstanding American principle that a treaty cannot legislate criminal law within the United States, because the criminal jurisdiction of the federal courts must be mandated expressly by the Congress and the President though the legislative and not the treaty process. William F. Buckley has emphasized the importance of this process: "Article V . . . means that only Congress can pass laws that would give teeth to the Genocide Convention: and Congress is in our hands, not those of [a foreign nation] . . . We should identify ourselves as approving the proposition that genocide is a violation of international law."

Q. Will the Genocide Convention give the International Court of Justice or any other international tribunal any new or radical form of jurisdiction over the United States government, federal officials, or United States citizens?

No. Like some fifty treaties already ratified by the United States, dispute settlement under the Genocide Convention falls within the compulsory jurisdiction of the International Court of Justice. The International Court of Justice has no jurisdiction over individuals, regardless of whether they are government officials or just citizens, and it has no penal authority. Article IX of the Genocide Convention designates a restricted role for the International Court of Justice: it may only address questions of interpretation, application, or fulfillment of the treaty's provisions by any contracting party.

In addition, the Senate Foreign Relations Committee had recommended that an understanding to be attached to the instrument of ratification to underscore the correct interpretation of the provision in article VI concerning trials of United States citizens accused of genocide committed outside the borders of the United States. It states that, "the U.S. Government understands and construes article VI of the Convention in accordance with the agreed language of the Legal Committee of the United Nations General Assembly that nothing in article VI shall affect the right of any state to bring to trial before its own tribunals any of its nationals for acts committed outside the state."

Q. Is the Genocide Convention's extradition requirement consistent with United States extradition law?

Yes. Extradition is not a common or simple process. Extradition is based on treaties that the United States has negotiated with great care to ensure United States agreement with the specific laws covered by the treaty and the criminal trial procedures of the foreign country. No person subject to United States jurisdiction, whether an American citizen or not, can be legally taken from the United States to a foreign country to stand trial for a crime except under the terms of an extradition treaty. Article VII of the Genocide Convention calls for extradition by the contracting parties only "in accordance with their laws and treaties in force." The Genocide Convention itself is not an extradition treaty. There are no United States extradition treaties currently in force which include the crime of genocide. It would be the prerogative of the United States to seek to amend existing treaties or to negotiate new treaties to include genocide as an extraditable offense. Each treaty or amendment would be subject to the ratification process, thereby allowing the Senate and the President to determine those countries to which we would permit a person to be extradited and tried for genocide.

Q. Could ratification of the Genocide Convention lead to spurious charges of genocide against the United States, its officials, or its citizens?

No. Ratification, to the contrary, would deter and refute such charges. The term "genocide" is embedded with emotion and often is used loosely and inappropriately. By setting forth the elements of the crime, the Convention defines genocide precisely and narrowly and adds objectively to the issue. The treaty in its own terms rebuffs ill-formed or illegitimate claims of genocide. Rather than inviting charges, ratification will add credibility to government and private responses to such allegations, while enabling more effective actions against actual genocide as recently occurred in Cambodia.

Q. Would ratification of the Genocide Convention enhance American effectiveness in presenting our views and defending our principles in international forums?

Yes. Our unwillingness to ratify such a fundamental statement of human morality, particularly after we played a leading role in drafting the treaty and advocating its adoption, has made us a ready target for those who would disparage American commitment and credibility in the area of human rights. As stated by many United States representatives to the United Nations and reiterated most recently by Max M. Kampelman, United States Ambassador to the thirty-five nation follow-up conference on the Helsinki Accords held during 1983 in Madrid:

"It would be extremely helpful to the United States internationally were we to

ratify the Genocide Convention. It is ludicrous to provide the Soviet Union with a club with which to attack us, particularly since we abide by the Convention's provisions even without ratification, while the Soviets, who have ratified it, come close to violating its provisions."

Q. Is the act of genocide presently a violation of international law? Is such a prohibition already binding upon the United States.

Yes. The Genocide Convention is one of the most widely accepted treaties in the world. The countries that have ratified the Convention comprise seventy-six percent of the world's population. A majority of the remaining population would fall under the protection of the treaty if it were ratified by the United States, Bangladesh, Indonesia, and Nigeria.

As a result of this near universal condemnation, genocide now is considered a crime under the customary law of nations, which is binding upon the United States regardless of ratification. The Restatement of the Foreign Relations Law of the United States (American Law Institute, 1982) states that it is a violation of customary international law if a state "practices or encourages genocide fails to make genocide a crime or to punish persons guilty of it, or otherwise condones genocide." The Restatement reports that the definition of genocide found in the Genocide Convention is generally accepted for purposes of such customary international law.

The United States Congress already has recognized that genocide is a violation of international law. In legislation enacted in 1978, Congress stated that, "the United States should take steps to disassociate itself from any foreign government which engages in the international crime of genocide," 22 U.S.C. § 2151.

United States ratification of the Genocide Convention would acknowledge existing international legal obligations, and ratification would strengthen United States leadership of the free world.

APPOINTMENTS BY THE VICE PRESIDENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, and in accordance with 22 U.S.C. 1928a-1928d, as amended, appoints as members of the Senate delegation to the North Atlantic Assembly fall meeting to be held in Brussels, Belgium, November 11-16, 1984: The Senator from South Carolina [Mr. HOLLINGS], the Senator from Georgia [Mr. NUNN] and the Senator from Pennsylvania [Mr. SPECTER].

CONTINUING APPROPRIATIONS, 1985

Mr. HATFIELD. Mr. President. I call up the pending business.

The PRESIDING OFFICER. The clerk will state the pending business.

The legislative clerk read as follows:

A House joint resolution (H.J. Res. 648) making continuing appropriations for the fiscal year 1985, and for other purposes.

The Senate resumed consideration of the joint resolution.

AMENDMENT NO. 7032

Mr. HATFIELD. Mr. President, I believe the Heinz amendment is the pending amendment.

The PRESIDING OFFICER. That is the pending amendment.

Mr. HATFIELD. I ask unanimous consent to temporarily set aside the Heinz amendment in order that we may take up other amendments that Senators may wish to offer.

The PRESIDING OFFICER. Is there objection? Hearing none, it is so ordered.

Mr. HATFIELD. Mr. President, the continuing resolution is open to amendment.

I yield the floor to the Senator from Louisiana for the purpose of offering some amendments.

AMENDMENT NO. 7039

Mr. JOHNSTON. Mr. President, I have an amendment I send to the desk on behalf of Senator HUDDLESTON and Senator FORD and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Louisiana [Mr. JOHNSTON], for Mr. HUDDLESTON and Mr. FORD, proposes an amendment numbered 7039.

Insert at the appropriate place: Notwithstanding any other provision of this joint resolution, there is hereby appropriated an additional amount for the Department of Defense—Civil—Department of the Army, Corps of Engineers—"Construction—General," $740,000 to remain available until expended to complete plan of development and conservation of Falls of the Ohio National Wildlife Conservation Area in accordance with approved plan by the Chief of Engineers.

Mr. HUDDLESTON. Mr. President, Congress has previously seen the need to establish the Falls of the Ohio National Wildlife Conservation Area in order to protect a priceless natural fossil museum that dates back some 300 million years.

It is, in fact, a worthy project that not only will protect a fossilized coral reef, but will protect wildlife, conserve a diverse population of fish, provide for necessary water quality, and provide a unique opportunity for continuing scientific and environmental research.

The Corps of Engineers has developed a management plan that accomplishes all of these goals, as well as providing for limited recreational use of the area without compromising its ecological protection.

Congress now has an opportunity to support the plan developed by the corps.

Mr. President, implementation of this plan requires an increase in the congressional funding. The benefits of this increase in the funding far outweigh the relatively small amount involved.

I am introducing on behalf of myself and my colleague, Senator FORD, an amendment that would accomplish that goal, and I ask for its passage.

Mr. HATFIELD. Mr. President, the amendment has been cleared on this side of the aisle.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 7039) was agreed to.

Mr. JOHNSTON. I move to reconsider the vote by which the amendment was agreed to.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATFIELD. Mr. President, I yield to the Senator from Massachusetts for the purpose of his offering an amendment.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, I should like, with the permission of the Chair, to suggest the absence of a quorum for 1 minute.

The PRESIDING OFFICER. Will the Senator withhold for a moment?

Mr. KENNEDY. Yes, Mr. President.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington is recognized.

AMENDMENT NO. 6128

Mr. GORTON. Mr. President, I call up amendment No. 6128 and ask for its consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Washington [Mr. GORTON], for himself and Mr. EVANS, proposes an amendment numbered 6128.

Mr. GORTON. I ask unanimous consent that further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill add the following:

"In addition to funds appropriated in PL 98-360 for Energy Supply, Research and Development Activities of the Department of Energy, there is hereby appropriated $6.2 million which shall be allocated by the Secretary of Energy to the Hanford Engineering Development Laboratory to allow for the orderly completion of the Secure Automated Fabrication Line and the Core Demonstration Experiment and for operation of the Fast Flux Test Facility."

Mr. GORTON. Mr. President, when the fiscal year 1985 energy and water development appropriations bill passed the Senate in June, I supported it even though the programs at the Hanford Engineering Development Laboratory in Washington State were cut significantly and 200 people would lose their jobs. I supported the bill in good faith because I realized that the breeder-reactor activities of DOE were

being cut back at all the national labs and it was only fair that the Hanford Lab accept its fair share of the cuts.

In May, just before the fiscal year 1985 bill passed the Senate, DOE announced the preliminary guidance budget figures for the national labs during fiscal year 1985. The Hanford Lab was targeted to get $92.3 million for its operating budget, a $3.7 million cut from its fiscal year 1984 operating budget. But 2 weeks ago when DOE announced the final fiscal year 1985 operating budgets for the national labs, Hanford was told it would receive $86.1 million, a $6.2 million decrease from its May preliminary guidance budget figure.

Our amendment simply restores $6.2 million to the Hanford Lab, the preliminary funding figure set by DOE in its proposed allocation in May on which our DOE appropriation was based. Without this restoration of funds—and I want to emphasize that this is not additional money, it simply restores the May funding figure—140 additional jobs will be lost at Hanford and the long-term operation of the fast flux test facility will be seriously jeopardized.

The Hanford Engineering Development Laboratory is a facility dedicated to the breeder-reactor program. The crown jewel of the U.S. breeder program is FFTF—the fast flux test facility—the world's largest breeder test reactor.

Today the program is providing operating experience which surpasses the fuel burnup and reactor availability of any other breeder reactor facility in the world. It has proven the liquid-metal-reactor concept to be highly reliable by setting a world record of over 100 days of continuous full power operations. During its last operating cycle, it functioned at over 99-percent-capacity factor.

The project is providing extremely helpful data on fuel-cycle technology, innovative safety features, artificial intelligence development, and advanced core materials.

This facility, with its remarkable operating experience has the capacity to be a key part of our international cooperative effort. The better our machine functions the more interest will be generated in the international community.

The present funding cycle, however, reduces our ability to keep the equipment operating at these high-capacity factors. It delays high burnup fuel experiment for 1 to 2 years, reducing our lead in the fuels area. It also cuts development programs in the high-technology areas of fuel performance, artificial intelligence, and safeguards. These delays impact our ability to influence and participate in the world nuclear development programs.

We have already reduced the HEDL program by over 1,000 jobs since 1981. The adoption of this amendment will mean we will be able to maintain our high-operating-capacity factor for 1985 and save 140 jobs. We will be able to maintain our base technology program for 1985 so that we can move forward with international agreements. Hopefully, this knowledge and our leadership role will permit us to influence world nonproliferation discussions as well.

I urge our colleagues support for this amendment to restore this program to a minimum funding level—the May preliminary budget—consistent with continuing to provide data and operational experience for this important project. This in not a new start, but rather an opportunity to build upon existing technology which is being developed throughout the world.

Mr. President, I have checked this with the distinguished chairman of the Committee on Appropriations. I believe it has also been cleared with the distinguished minority floor manager.

Mr. HATFIELD. Mr. President, I believed the Senator did include in his amendment within available funds.

Mr. GORTON. The amendment as it appears at the desk does not include that.

Mr. HATFIELD. I wonder if the Senator from Washington would modify his amendment to indicate that?

Mr. GORTON. The Senator from Washington would be happy to so modify his amendment.

Mr. HATFIELD. Mr. President, with that modification, there is no objection on this side.

The PRESIDING OFFICER. The amendment is so modified.

The amendment as modified is as follows:

At the appropriate place in the bill add the following:

In addition to funds appropriated in PL 98-360 for Energy Supply, Research and Development Activities of the Department of Energy, there is hereby allocated $6.2 million out of available funds which shall be allocated by the Secretary of Energy to the Hanford Engineering Development Laboratory to allow for the orderly completion of the Secure Automated Fabrication Line and the Core Demonstration Experiment and for operation of the Fast Flux Test Facility.

Mr. JOHNSTON. Mr. President, the minority has no objection to the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment as modified.

The amendment (No. 6128), as modified, was agreed to.

Mr. HATFIELD. I move to reconsider the vote by which the amendment was agreed to.

Mr. JOHNSTON. I move to lay that on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 7040

(Purpose: To improve navigation in the area of Nantucket Island, Massachusetts, and for other purposes)

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Massachusetts [Mr. KENNEDY] proposes an amendment numbered 7040.

Mr. KENNEDY. Mr. President, I ask unanimous consent that further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate point in the bill add the following:

SEC. . For an additional amount for "Coast Guard Acquisition, Construction and Improvements" $2,000,000 to reconstruct in its original form the Great Point Lighthouse on Nantucket Island, Massachusetts at the site designated by the United States Coast Guard.

GREAT POINT LIGHT ON NANTUCKET ISLAND

Mr. KENNEDY. Mr. President, on March 29, 1984, the Great Point Light on Nantucket Island, which had guided two centuries of mariners across the treacherous shoals at the tip of Nantucket, was destroyed in the violent storm that swept up the Atlantic coast and hit Massachusetts with full force.

The Great Point Light has long been one of the most famous and respected lighthouses in all America. Its beam has lit the path to safety for thousands of vessels since it was first erected in 1784 at the end of Sandy Point on Nantucket Island. It had watched protectively over the whalers of Nantucket and New Bedford—over the fishermen, the clipper ships, and the merchant steamers of Massachusetts, New England, and the world.

In 1816, the original wooden structure was completely destroyed by fire in suspicious circumstances. But on March 3, 1817, as part of the continuing resolution enacted in the final hours of its session and in one of the final bills signed into law by President James Madison, the 14th Congress came to the rescue of Great Point Light—and appropriated $7,500 to rebuild the lighthouse and construct the majestic brick and rubblestone tower which stood watch down through the years until last spring.

Now, 84 Congresses and 167 years later, in the final hours of this session, I hope that the 98th Congress will respond as our predecessors did and come to the rescue of Great Point Light—by providing funds to restore the beacon light for future seafarers,

to rebuild the lighthouse as it was, and to preserve for all Americans this vital part of New England maritime history.

Mr. President, so that Members of the Congress may see how our ancestors in the House and Senate in the early 19th century dealt with their continuing resolution, I ask unanimous consent that the text of the Act of March 3, 1817, "An Act making appropriations for the support of government for the year one thousand eight hundred and seventeen," be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ACT OF MARCH 3, 1817

An Act making appropriations for the support of government for the year one thousand eight hundred and seventeen.

Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, That the following sums be, and the same are hereby, respectively appropriated, that is to say:

For compensation granted by law to the members of the Senate and House of Representatives, their officers, and attendants, four hundred and twenty-one thousand eight hundred and fifty dollars.

For the expenses of firewood, stationery, printing, and all other contingent expenses of the two Houses of Congress, forty-two thousand dollars.

For the expenses of the library of Congress, including the librarian's allowance for the year one thousand eight hundred and seventeen, one thousand three hundred and fifty dollars.

For compensation to the President of the United States, twenty-five thousand dollars.

For compensation to the Vice President of the United States, five thousand dollars.

For compensation to the Secretary of State, five thousand dollars.

For compensation to the clerks employed in the Department of State, thirteen thousand seven hundred and fifty dollars.

For compensation to the messenger in said department, and for the patent office, six hundred and sixty dollars.

For the incidental and contingent expenses of the said department, including the expenses of printing and distributing copies of the laws of the second session of the fourteenth Congress, and printing the laws in newspapers, twenty-three thousand seven hundred and two dollars.

For compensation to the Secretary of the Treasury, five thousand dollars.

For compensation to the clerks employed in the office of the Secretary of the Treasury, ten thousand four hundred and thirty-three dollars.

For compensation to the messenger and assistant messenger in the office of the Secretary of the Treasury, seven hundred and ten dollars.

For expense of translating foreign languages, allowed to the person employed in transmitting passports and sea letters, and for stationery and printing in the office of the Secretary of the Treasury, one thousand one hundred dollars.

For compensation to the comptroller of the treasury, three thousand five hundred dollars.

For compensation to the clerks employed in the office of the said comptroller, fifteen thousand five hundred and sixteen dollars.

For compensation to the messenger in said office, four hundred and ten dollars.

For expense of stationery, printing and contingent expenses in the comptroller's office, eight hundred dollars.

For compensation to the auditor of the treasury, three thousand dollars.

For compensation to the clerks employed in the auditor's office, sixteen thousand six hundred and thirty-two dollars.

For compensation to the messenger in said office, four hundred and ten dollars.

For expense of stationery, printing and contingent expenses in said office, six hundred dollars.

For compensation to the treasurer of the United States, three thousand dollars.

For compensation to the clerks employed in the office of the treasurer, five thousand four hundred and forty dollars.

For compensation to the messenger of said office, four hundred and ten dollars.

For expense of stationery, printing and contingent expenses in said office, eight hundred dollars.

For compensation to the commissioner of the general land office, three thousand dollars.

For compensation to the clerks employed in the office of said commissioner, eleven thousand nine hundred and fifty dollars.

For compensation to the messenger in said office, four hundred and ten dollars.

For expense of stationery, printing and contingent expenses of said office, including vellum for land patents, five thousand dollars.

For compensation to the commissioner of the revenue, three thousand dollars.

For compensation to the clerks employed in the office of said commissioner, nine thousand dollars.

For compensation to the messenger of said office, four hundred and ten dollars.

For stationery, printing, and contingent expenses, including the paper, printing, and stamping of licenses, in said office, three thousand two hundred dollars.

For compensation to the register of the treasury, three thousand dollars.

For an additional sum which was allowed him for the service of the year one thousand eight hundred and sixteen, six hundred dollars.

For compensation to the clerks employed in the office of the said register, seventeen thousand and twenty-eight dollars.

For compensation to the messenger of said office, four hundred and ten dollars.

For expense of stationery, including books for the public stocks, printing the public accounts, and other contingent expenses of the register's office, three thousand six hundred dollars.

For fuel and other contingent expenses of the Treasury Department, five thousand dollars.

To make good the deficiency in the sum appropriated last year for the general expenses of the several offices of the Treasury Department, and which, from a re-occupancy of the public buildings, required an expenditure for repairs, furniture, and other contingent expenses thereunto incidental, six thousand nine hundred and twenty-five dollars.

For compensation to a superintendent and two watchmen, employed for the security of the treasury buildings; and for the expenses of rebuilding two fire engine houses; for repairs of two engines and hose; and for an additional number of buckets, and to keep the same in repair, one thousand seven hundred dollars.

For compensation to the secretary of the commissioners of the sinking fund, two hundred and fifty dollars.

For compensation to the Secretary of War, four thousand five hundred dollars.

For compensation to the clerks employed in the office of the Secretary of War, fifteen thousand two hundred and thirty dollars.

For compensation to the messenger and his assistants in said office, seven hundred and ten dollars.

For expense of fuel, stationery, printing, and other contingent expenses in the office of the Secretary of War, four thousand dollars.

For compensation to the accountant of the War Department, two thousand dollars.

For compensation to the clerks employed in the office of said accountant, sixteen thousand seven hundred and seventy-five dollars.

For compensation to the messenger in said office, four hundred and ten dollars.

For expense of fuel, stationery, printing, and other contingent expenses in said office, one thousand five hundred dollars.

For compensation to the additional accountant of the War Department, two thousand dollars.

For compensation to the clerks employed in the office of said additional accountant, seventeen thousand six hundred dollars.

For compensation to the messenger in said office, four hundred and ten dollars.

For expense of fuel, stationery, printing, and other contingent expenses in the office of said additional accountant, including a sum of seven hundred dollars for which no appropriation was made for contingent expenses of last year, one thousand seven hundred dollars.

For compensation to the paymaster general of the army, two thousand five hundred dollars.

For an additional compensation allowed him for the year one thousand eight hundred and sixteen, three hundred and forty-six dollars.

For compensation to the clerks employed in the office of the paymaster general of the army, ten thousand dollars.

For compensation to the messenger in said office, four hundred and ten dollars.

For expense of fuel, stationery, printing, and other contingent expenses in said office, two thousand dollars.

For compensation to the superintendent general of military supplies, three thousand dollars.

For compensation to the clerks employed in the office of said superintendent, seven thousand dollars.

For compensation to the messenger in said office, four hundred and ten dollars.

For expense of fuel, stationery, printing, and other contingent expenses in said office, including a deficiency of two hundred dollars for the contingent expenses of the last year, one thousand two hundred dollars.

For compensation to the commissary general of purchases, three thousand dollars.

For compensation to the clerks employed in the office of the commissary general of purchases, two thousand eight hundred dollars.

For compensation to the messenger in said office, three hundred and sixty dollars.

For contingent expenses in the office of said commissary, nine hundred and thirty dollars.

For compensation to the clerks employed in the office of the adjutant and inspector

general, one thousand eight hundred dollars.

For compensation to the clerks employed in the ordnance office, one thousand dollars.

For compensation to the Secretary of the Navy, four thousand five hundred dollars.

For compensation to the clerks employed in the office of the said secretary, seven thousand two hundred and thirty-five dollars.

For compensation to the messenger in said office, four hundred and ten dollars.

For expense, of fuel, stationery, printing and other contingent expenses in said office, two thousand five hundred dollars.

For compensation to the accountant of the Navy Department, two thousand dollars.

For compensation to the clerks employed in the office of the accountant of the Navy Department, fourteen thousand seven hundred dollars.

For compensation to the messenger in said office, four hundred and ten dollars.

For expense of fuel, stationery, and other contingent expenses in said office, one thousand two hundred and fifty dollars.

For compensation to the commissioners of the navy board, ten thousand five hundred dollars.

For compensation to the secretary of the navy board, two thousand dollars.

For compensation to the clerks employed in the office of the navy board, three thousand three hundred dollars.

For compensation to the messenger in said office, four hundred and ten dollars.

For the contingent expenses of the navy board, two thousand dollars.

For compensation to the Postmaster General, three thousand dollars.

For compensation to the assistant postmaster general, one thousand seven hundred dollars.

For compensation to the second assistant postmaster general, one thousand six hundred dollars.

For compensation to the clerks employed in the general post office, nineteen thousand three hundred and five dollars.

For compensation to the messenger and his assistants in said office, six hundred and sixty dollars.

For contingent expenses in said office, three thousand six hundred dollars.

For compensation to the several commissioners of loans, and allowance to certain commissioners of loans, in lieu of clerk hire, fourteen thousand five hundred and fifty dollars.

For compensation to the clerks of sundry commissioners of loans, and to defray the authorized expenses of the several loan offices, thirteen thousand seven hundred dollars.

For the salary of the late commissioner of loans of South Carolina, from the first of April to the twenty-fourth of July, one thousand eight hundred and eleven, being the amount carried to the surplus fund on the thirty-first of December, one thousand eight hundred and thirteen, three hundred and fifteen dollars and twenty-two cents.

For compensation to the surveyor general and his clerks, four thousand one hundred dollars.

For compensation to the surveyor of lands south of Tennessee, and for the contingent expenses of his office, three thousand seven hundred dollars.

For compensation to the commissioner of the public buildings in Washington, two thousand dollars.

For compensation to the officers and clerks of the mint, nine thousand six hundred dollars.

For wages to persons employed in the different operations of the mint, including the sum of six hundred dollars allowed to an assistant engraver, five thousand dollars.

For repairs, cost of iron and machinery, rents, and other contingent expenses of the mint, three thousand dollars.

For allowance for wastage in the gold and silver coinage, one thousand five hundred dollars.

For the purchase of copper to coin into cents, fifteen thousand dollars.

For compensation to the governor, judges and secretary of the Mississippi territory, nine thousand dollars.

For stationery, office rent, and other contingent expenses of said territory, three hundred and fifty dollars.

For compensation to the governor, judges and secretary of the Illinois territory, six thousand six hundred dollars.

For stationery, office rent, and other contingent expenses of said territory, three hundred and fifty dollars.

For compensation to the governor, judges and secretary of the Missouri territory, seven thousand eight hundred dollars.

For stationery, office rent, and other contingent expenses of said territory, three hundred and fifty dollars.

For compensation to the governor, judges and secretary of the Michigan territory, six thousand six hundred dollars.

For stationery, office rent, and other contingent expenses of said territory, three hundred and fifty dollars.

For the discharge of such demands against the United States, on account of the civil department, not otherwise provided for, as shall have been admitted in due course of settlement at the treasury, two thousand dollars.

For compensation granted by law to the chief justice, the associate judges and district judges of the United States, including the chief justice and associate judges of the District of Columbia, sixty-one thousand dollars.

For compensation to the attorney general of the United States, three thousand dollars.

For compensation of sundry district attorneys and marshals, as granted by law, including those in the several territories, seven thousand eight hundred and fifty dollars.

For defraying the expenses of the supreme, circuit and district courts of the United States, including the District of Columbia, and of jurors and witnesses, in aid of the funds arising from fines, penalties and forfeitures, and for defraying the expenses of prosecutions for offenses against the United States, and for the safe keeping of prisoners, forty thousand dollars.

For the payment of sundry pensions granted by the late government, eight hundred and sixty dollars.

For the payment of the annual allowance to the pensioners of the United States, two hundred thousand dollars.

For the maintenance and support of lighthouses, beacons, buoys, and public piers, stakeages of channels, bars, and shoals, including the purchase and transportation of oil, keepers' salaries, repairs and improvements, and contingent expenses, seventy-three thousand four hundred and ninety-three dollars and thirty-three cents.

For an appropriation in addition to the appropriation for building a lighthouse at the mouth of the Mississippi, and for repairing the block-house at the Balize for a temporary light-house, twenty-five thousand dollars.

For rebuilding the Bald Head light-house, in North Carolina, in addition to the sum heretofore appropriated for that purpose, one thousand dollars.

For rebuilding the light-house at Nantucket, recently destroyed by fire, seven thousand five hundred dollars; beacon-lights on Sandy Hook, one thousand two hundred dollars; erection of a beacon and placing buoys at the entrance of the harbour of Bristol, in Rhode Island, one thousand dollars.

For a light on the beacon on Tybee, and for erecting six beacons, and placing four buoys on such sites, and at such points, as the commissioners of pilotage, residing at Savannah, shall fix on, one thousand two hundred dollars.

For an additional appropriation for building a light-house at Tarpaulin cove, three thousand seven hundred and forty-six dollars.

For the following objects, being the balances of former appropriations, carried to the surplus fund, viz:

For erecting light-houses at the mouth of the Mississippi river, and at or near the pitch of cape Lookout, in North Carolina, twenty thousand dollars.

For building a light-house on the south point of Cumberland island, in Georgia, ten thousand dollars.

For erecting a light-house on the south point of Sapelo Island, in Georgia, fourteen thousand four hundred and ninety-five dollars.

For placing buoys and beacons at or near the entrance of the harbour of Beverly, in Massachusetts, three hundred and fifty dollars.

For placing buoys, as deemed necessary, at the entrance of the harbour of Edgartown, in Massachusetts, one thousand four hundred and forty-three dollars and forty-three cents.

For erecting two light-houses on Lake Erie, viz: On or near Bird Island, and on or near Presque Isle, seventeen thousand dollars.

For building a light-house on Petite Manan, six thousand dollars.

For fitting up light-houses heretofore authorized to be erected, with the apparatus for lighting the same, five thousand dollars.

For fitting up the light-houses with Winslow Lewis's improvements, agreeably to his contract of the 26th day of March, 1812, in addition to the sums heretofore appropriated for that purpose, six thousand dollars.

For erecting a beacon on a point of land near New Inlet, in North Carolina, one thousand eight hundred dollars.

For compensation to the commissioner for settling claims for property lost, two thousand dollars.

For compensation to the clerk in said commissioner's office, one thousand dollars.

For defraying the expense of publishing certain notices by the commissioner, two thousand five hundred dollars.

For defraying the expense of printing various forms for the said commissioner, two hundred and forty-nine dollars and twenty-five cents.

For office furniture, stationery, wood, and other contingencies, seven hundred and twenty dollars.

For the hire of an additional clerk, from the eighteenth of September, one thousand eight hundred and sixteen, to the first of

February, one thousand eight hundred and seventeen, at nine hundred dollars per annum, three hundred and thirty dollars.

For the hire of a messenger, from the first of July to the first of February following, one hundred and twenty dollars.

For defraying the expenses of printing certificates of registry and other documents for vessels, five thousand dollars.

To provide for the payment of the sums directed to be paid by an act of the last session, entitled, "An act for settling the compensation of the commissioner, clerk and translator of the board for land claims in the eastern and western district of the territory of Orleans, now state of Louisiana," forty thousand three hundred and seventy-eight dollars and thirty-two cents.

For defraying the expense of surveying the public lands within the several states and territories of the United States, one hundred and eighty thousand and eighty-eight dollars.

For bringing the votes for President and Vice President of the United States to the seat of government, two thousand four hundred dollars.

For the salaries, allowances, and contingent expenses of ministers to foreign nations, and of secretaries of legation, eighty-seven thousand dollars.

For the contingent expenses of intercourse between the United States and foreign nations, seventy thousand dollars.

For the expenses of intercourse with the Barbary powers, forty-seven thousand dollars.

For the expenses necessary during the present year for carrying into effect the fourth, sixth, and seventh articles of the treaty of peace, concluded with his Britannic majesty on the twenty-fourth day of December, one thousand eight hundred and fourteen, including the compensation of the commissioners appointed under those articles, thirty-four thousand three hundred and thirty-three dollars and thirty-two cents.

For the salaries of the agents for claims on account of spoliations, and for seamen at London, Paris, Copenhagen, and the Hague, eight thousand dollars.

For the relief of distressed American seamen, for the present year, and to make a good deficiency in the preceding year, fifty thousand dollars.

On account of the paintings authorized by the resolution of Congress, eight thousand dollars.

For purchasing or erecting, for the use of the United States, suitable buildings for custom-houses and public warehouses, in such principal district in each state where the Secretary of the Treasury shall deem it necessary for the safe and convenient collection of the revenue of the United States, fifty thousand dollars.

SEC. 2. *And be it further enacted*, That the several appropriations herein before made, shall be paid and discharged out of the fund of six hundred thousand dollars, reserved by the act "making provision for the debt of the United States," and out of any moneys not otherwise appropriated.

APPROVED, MARCH 3, 1817, by James Madison, President of the United States.

Mr. KENNEDY. Mr. President, I have not had an opportunity to talk to the chairman of the subcommittee or the ranking minority member of the subcommittee, as well as the chairman of the full committee about this matter. This is an amendment to reconstruct in its original form the Great Point Lighthouse on Nantucket Island, MA, which was destroyed last spring in a storm. It is 166 years old, and is perhaps the most important navigational beacon in all of the Northeast. It is on Federal property. Without this amendment, that particular navigational beacon will not be able to be restored. I ask that the committee accept this amendment.

Mr. HATFIELD. Mr. President, the amendment offered by the Senator from Massachusetts is agreeable.

Mr. JOHNSTON. Mr. President, the amendment has been cleared on the minority side.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 7040) was agreed to.

Mr. KENNEDY. Mr. President, I move to reconsider the vote.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GARN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 7041

(Purpose: To provide the Veterans' Administration with additional funds for their Loan Guaranty Revolving Fund)

Mr. GARN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Utah [Mr. GARN] proposes an amendment numbered 7041.

Mr. GARN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, add the following new section:

"SEC. . For expenses necessary to carry out loan guaranty and insurance operations, as authorized by law (38 U.S.C. Chapter 37, except administrative expenses, as authorized by section 1824 of such title), $306,600,000 is hereby appropriated for "Loan guaranty revolving fund, Veterans' Administration", to remain available until expended."

Mr. GARN. Mr. President, on September 27, 1984, the Congress received a request from the President for a supplemental appropriation of $306,600,000 for fiscal year 1985 for the Veterans' Administration. This supplemental request would provide funds to enable the Veterans' Administration Insurance and Loan Guarantee Program to continue operations. These funds are necessary for the program to continue. It would have been included in the committee action but the supplemental request from the President did not come to us in time to have it included. Therefore, I ask for its consideration at this time. It has, as far as I know, been cleared on both sides.

Mr. JOHNSTON. Mr. President, will the Senator yield for a question?

Mr. GARN. I will be happy to yield for a question.

Mr. JOHNSTON. This has been cleared with the committee's ranking minority member?

Mr. GARN. That is correct.

Mr. JOHNSTON. Mr. President, the minority will have no objection to this amendment.

Mr. HATFIELD. It is approved by the majority.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 7041) was agreed to.

Mr. GARN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MATHIAS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 7042

Mr. MATHIAS. Mr. President, I have a noncontroversial amendment on behalf of the Rules Committee which I send to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Maryland [Mr. MATHIAS] proposes an amendment numbered 7042:

At the appropriate place in the Continuing Resolution, insert the following new section:

SEC. . (a) The provisions of the third paragraph under the heading "Clerical assistance to Senators" of the first section of the Legislative Branch Appropriation Act for the fiscal year ending June 30, 1928 (2 U.S.C. 92a) shall not be applicable to any employee of the Senate.

(b) The following provisions of law are hereby repealed: (1) the last pargraph under the heading "Clerical assistance to Senators" of the first section of the Legislative Branch Appropriation Act, 1944 (2 U.S.C.

92e), (2) the last paragraph under the heading "Clerical assistance to Senators" of the first section of the Legislative Branch Appropriation Act, 1945 (2 U.S.C. 92e), (3) the next-to-last paragraph under the heading "Clerical assistance to Senators" of the first section of the Legislative Branch Appropriation Act, 1946 (2 U.S.C. 92e), and (4) the next-to-last paragraph under the heading "Clerical assistance to Senators" of the first section of the Legislative Branch Appropriation Act, 1947 (2 U.S.C. 92e).

(c) The second proviso of the paragraph of section 101 of the Legislative Branch Appropriation Act, 1974, which appears under the heading "Committee Employees" (2 U.S.C. 68-1) is amended by striking out "the committee Auditor and the committee Assistant Auditor" and inserting in lieu thereof "any employee or employees of such Committee".

Mr. MATHIAS. Mr. President, this amendment is a measure complementary to an original resolution reported by the Rules Committee establishing administrative guidelines to be followed in the event of the death or resignation of a Senator. To state it in the simplest possible terms, the amendment will make inapplicable to the Senate a 1928 law which retains the staff of deceased Members of Congress on the payroll of the respective Houses for a period of not to exceed 1 month.

The distinguished chairman of the committee, being the historian that he is, will recall that in 1928 Members of Congress had but one room and one clerk and 1 month was enough to close down business. That is not any longer the case. So this amendment will make that inapplicable.

The amendment also repeals statutory language enacted by the Legislative Branch Appropriations Acts for the years 1944 through 1947 which authorizes the staff of deceased Senators to be retained on the Senate payroll, notwithstanding the 1928 act, for a period of up to 60 days. The resolution reported by the Rules Committee would authorize the retention of the staff of a deceased or resigned Senator for a period not to exceed 60 days or the expiration of the Senator's term of office, whichever comes first. However, with the removal of the statutory restrictions previously mentioned, the Committee on Rules and Administration would be authorized to retain staff beyond 60 days if circumstances should warrant such an extension. These are the kinds of circumstances which we encountered just about 1 year ago after the unhappy death of our colleague, the late Senator Henry Jackson. Because of the volume of files and records amassed over 30 years of Senate service, the 60-day period provided by law was simply not sufficient for the retained staff to complete the various tasks required for closing the office. In fact, I think it should be noted with appreciation that some of the staff worked well beyond the date that they were dropped from the Senate payroll in order to see that the job was properly done.

This amendment also includes language which amends the current law allowing the chairman of the Committee on Rules and Administration to designate two employees to approve voucher payments from the contingent fund of the Senate. Because the increasing volume of vouchers processed annually by the Rules Committee auditors created the need to hire a third auditor last year, this amendment will allow the chairman to designate such employees as may be necessary to approve vouchers on his behalf. It is anticipated that this provision will ultimately result in a decreased turnaround time for voucher payments.

So, Mr. President, I urge the adoption of this amendment.

Mr. HATFIELD. Mr. President, this amendment has been reported by the Rules Committee, as I believe the Senator stated, and it is acceptable to the majority side of the aisle.

Mr. JOHNSTON. Mr. President, the minority has cleared this amendment since it has passed the Rules Committee.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. METZENBAUM. Mr. President, I rise to commend the chairman of the Rules Committee for moving in this direction. I have heard so many horror stories about widows of deceased Senators. In the case of our beloved colleague, Scoop Jackson, I think arrangements were made because of his tremendous prestige, but I remember the problems that the widow of Senator Metcalf had when he passed away. That the Rules Committee has seen fit to move in this direction is commendable.

Having said that, let me inquire of the chairman of the Rules Committee as to what, if any, arrangements are made so that the deceased Senator's widow and family are not totally moved out of the office and have no place from which to operate? In the case of Senator Jackson, I think those arrangements were made, but are there any special arrangements that the Rules Committee contemplates?

Mr. MATHIAS. The Rules Committee, of course, allows as much time as possible in the Senator's office, but there may be, because of the fact that a successor comes in within a short time, these circumstances in which some of that office space would have to be assigned for the use of the successor. But in any case, I can assure the Senator that it is the standard practice of the Rules Committee to guarantee to the widow or to the family the necessary space to close down the office in an orderly way, and that clearly is part of our program.

I might say to the Senator that, at the urging of the Senator from Hawaii [Mr. INOUYE], there has been a new guideline published which will outline all of these facts and will be readily available to all Senators.

Mr. METZENBAUM. I thank the chairman of the Rules Committee. I think this is a problem that has really caused great unhappiness and maybe grief of families of some who have left this body. I am glad that he is moving forward in this direction.

Mr. MATHIAS. I thank the Senator.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 7042) was agreed to.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. MATHIAS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 7043

Mr. THURMOND. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from South Carolina [Mr. THURMOND] for himself and other Senators, proposes an amendment numbered 7043.

Mr. THURMOND. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(The text of the amendment is printed at page S13520 of today's RECORD under amendments submitted.)

The cosponsors of the amendment are, Mr. THURMOND, for himself and Mr. BAUCUS, Mr. NUNN, Mr. RIEGLE, Mr. SYMMS, Mr. WARNER, Mr. LEAHY, Mr. KASTEN, Mr. ABDNOR, Mr. ANDREWS, Mr. BOREN, Mr. BRADLEY, Mr. BUMPERS, Mr. D'AMATO, Mr. LUGAR, Mr. BURDICK, Mr. DECONCINI, Mr. DANFORTH, Mr. LEVIN, Mr. CHILES, Mr. COCHRAN, Mr. MOYNIHAN, Mr. MURKOWSKI, Mr. DOLE, Mr. DOMENICI, Mr. DODD, Mr. DENTON, Mr. EAST, Mr. DIXON, Mr. HEFLIN, and Mr. HUDDLESTON.

Mr. THURMOND. Mr. President, I am honored today to offer on behalf of myself, the ranking minority member of the Senate Judiciary Committee [Mr. BIDEN], Senator HATCH, Senator LAXALT, Senator KENNEDY, Senator MATHIAS, Senator METZENBAUM, Senator SPECTER, and many other Senators, these amendments to the continuing appropriations resolution creating a bipartisan crime package with nearly universal support.

As I mentioned in my remarks earlier this morning, the crime problem is a high priority for the American people and, thus, should receive prompt and effective attention on the part of their elective representatives. The crime package which we are offering today is a result of many years of hard work and dedication on the part of Members of Congress and individuals in the executive branch. Let me emphasize to my colleagues on both sides of the Capitol dome—this is a bipartisan effort that cuts across liberal and conservative lines.

The provisions in this package are identical in many respects to those which we passed in February. When these amendments are adopted, this package will include much needed bail and sentencing reform, forfeiture of drug assets, improvements in the insanity defense, increased drug penalties, surplus Federal property improvements, and labor racketeering provisions. In addition, we have included some new changes.

First, the justice assistance provisions reflect legislation passed in August, with a structural amendment offered by Senator BIDEN. In addition, there are improved provisions relating to prison construction assistance. Finally, we have accommodated the concerns of Senator GLENN, which he expressed this morning.

I am very pleased that we are including urgently needed provisions relating to the national tragedy of missing children. This bill will authorize the establishment of a national focal point on missing children, including a toll-free hotline. Hopefully, our efforts will assist in the recovery of missing children and the lessening of parents' broken hearts.

Finally, I am pleased to offer provisions addressing other urgent crime problems. We have included the "Drug Czar" provisions fashioned by Senator BIDEN and myself in February. We will provide for the first time Federal assistance to State Crime Victim Compensation Programs, funded by criminal penalties. The heinous problems of trademark counterfeiting, credit card fraud, armed career criminals and terrorism are also addressed.

Mr. President, so many parties have devoted their strenuous efforts to this endeavor that I could spend hours thanking them all. I want to commend in particular the distinguished ranking minority member on the committee, Senator BIDEN for his diplomatic and effective negotiations. I also want to thank Senators LAXALT, HATCH, DOLE, GRASSLEY, MATHIAS, and DENTON. Finally, let me remind my colleagues that many of the provisions we consider today had considerable input from Senator KENNEDY. In addition, Senators NUNN and CHILES have consistently pressed for and supported this important measure.

Mr. President, I also want to thank various members of the staff. Vinton DeVane Lide and Deborah Owen, chief counsel and general counsel for the Committee on the Judiciary, respectively, have been particularly helpful to me. Paul Summitt, special counsel for criminal law on the committees, has worked on these measures for many years and deserves credit for this accomplishment. Special recognition should also be given to John Nash and Bill Miller who have labored as chief counsel and counsel, respectively, to the Subcommittee on Criminal Law chaired by Senator LAXALT, on major parts of this crime legislation. Similar thanks must go to minority chief counsel, Mark Gitenstein, his able assistant counsel, Scott Green and Carolyn Osolinik, counsel for Senator KENNEDY. This has really been a team effort. Others on the Judiciary Committee staff who have contributed significantly to the successful conclusion of passage of this monumental legislation are Dick Dargan, Mike Wootten, Melinda Koutsoumpas, Nancy Scott, Phil Shipman, Steve Metalitz, and Beverly McKittrick.

Mr. THURMOND. Mr. President, I urge my colleagues to vote in favor of these important amendments, so that we can pass this crime bill promptly.

Mr. BIDEN. Mr. President, I should like to associate myself with the remarks of the Senator from South Carolina and to emphasize one aspect.

The new title and the amendments we have put forward today are better than the crime package that was contained in the continuing resolution. We have taken a number of very good provisions of the House bill, not the least of which, in my opinion, is the drug czar, and we have incorporated that with the Senate-passed version which had been tacked onto the continuing resolution.

Mr. President, this is a long, long, hard road. When Senator KENNEDY decided to take the ranking position on another committee, putting me in this position, he warned me that it might be a long road on this. Frankly, 95 percent of what we are doing is old ground he had trod with other members of the committee before I became deeply involved in it. I did not believe it could be this long a road. As a consequence of my view that we are at the end of that road, I am not going to indulge myself and talk more about it, because I would like very much to close down the road very quickly, before anybody changes their mind about anything.

Mr. President, I wish to personally thank Senator MATHIAS. He had grave reservations about a whole series of portions of this bill. Quite frankly, had Senator MATHIAS decided that he would not work with us to accommodate this, it would have been very easy for him last night to see this entire effort of well over a decade go down the tube.

I do not want to turn this into a mutual admiration society, but the Senator from South Carolina is a legislator. He may have a different philosophic base from mine on other questions, but in the years I have been on the committee and since I have been the ranking minority member, he has never, on a single occasion, failed to cooperate to get legislation passed. I admire him for that, and I thank him for the degree to which he has always cooperated.

Finally, I do not believe we would be here at this moment, about to pass this, were it not for some very good staff people on Senator THURMOND's staff, on Senator KENNEDY's staff, on Senator MATHIAS' staff, on Senator NUNN's staff, and—I humbly say—on my staff. Without that, we would not be where we are.

Again, I thank my colleagues for their indulgence last night.

Mr. President, I support the chairman of the Judiciary Committee and ask my colleagues to support this amendment. In the 98th Congress, the chairman and I have worked again in a bipartisan manner to move a criminal law reform package that many thought impossible. Earlier in this session the Senate passed by a vote of 91 to 1 the Comprehensive Crime Control Act of 1984, comprising substantial and important changes in current law in the areas of forfeiture, sentencing, bail and drug enforcement. The overwhelming vote by which this measure passed in the Senate was an indication of our commitment to moving this bill closer to enactment into law. This commitment has long been a bipartisan commitment and reflects the thought, initiative and hard work put into this legislation by a number of distinguished Senators from both sides of the aisle. That dedication, I believe, was persuasive in convincing the Reagan administration to support legislation that was vetoed in the 97th Congress.

The House Judiciary Committee, under its distinguished chairman, has demonstrated a willingness to devote long hours to reach agreement on the major elements of this crime package. On September 25, as an amendment to the continuing resolution, the House passed the entire crime package included in S. 1762, passed by the Senate by a vote of 91 to 1. We are now in a position to send this most important crime bill to the President for enactment.

Time is running short in this session, I am convinced that the Senate recognizes that this crime vote could be our last chance to voice our strong support for the President to enact the most important crime legislation we have considered in the last 10 years.

The enactment of this crime legislation should not be a partisan issue. Crime is not a Democratic issue or a Republican issue. The control of violent crime and drug trafficking is one of the most crucial problems we face as Americans. Additionally, I hope, and I fully expect, to work with my colleagues here in the Senate and in the House on passage of several other crime measures like the Juvenile Justice and Missing Children's Authorization and the Victim's Assistance Act before adjournment. The American people are owed nothing less than our commitment to move this legislation.

I ask my colleagues to support the inclusion of our crime package in the continuing resolutions.

JUSTICE ASSISTANCE, MISSING CHILDREN AND JUVENILE JUSTICE ACT OF 1984

Mr. President, I am delighted that we are finally on the floor to act on three major elements of our crime legislative agenda. The Justice Assistance, Missing Children and Juvenile Justice Act of 1984 will provide assistance to State and local agencies which really carry out the bulk of the fight against crime.

There are three elements to this bill which address assistance funds to State and local law enforcement, continuation of the juvenile justice program and the establishment of a program to address the national tragedy of missing children.

At this time I should like to address each of these parts of the bill.

JUSTICE ASSISTANCE

This provision is a good step at the Federal level to again provide Federal assistance to State and local agencies for programs that have proven to be successful.

The justice assistance provision has been developed with the fullest intention that law enforcement and the operation of criminal justice systems are primarily a State and local responsibility. Ninety-four percent of all violent crime occurs within the local or State criminal law jurisdiction and the Federal Government should avoid possible infringement on the State and local law enforcement responsibilities. Sheer economic limitations preclude the Federal Government from offering assistance funds that would be used to subsidize local or State criminal justice programs.

Too often in the past, under the old LEAA program, assistance money was used to purchase equipment or pay salaries without requiring the States to pay their fair share in matching funds. Also, the former program resembled a scattershot approach with dollars being spread so thin that achievement of success was difficult to measure.

Instead this bill would take into account the lessons learned from the old LEAA Program. Using a modest annual investment, this program would enable State and local governments to make criminal justice improvements by implementing effective program approaches in criminal justice operations.

In addition, my amendment to the justice assistance provision will ensure that objective research, evaluation and statistics collection will be carried out so that we all will be advised as to what really does work in fighting crime.

It seems very important that the agencies responsible for conducting research into new crime fighting techniques be separate in terms of funding and grantmaking authority so that objective research and evaluation is carried out on those projects and programs funded by the Federal Government.

It is also very important that accurate and objectively collected crime statistics be made available separate and apart from the potential influence and/or direct control of those responsible for administering programs funded to reduce crime.

If we are to know the actual extent of the national crime problem or what really works in fighting crime, we must insure the independence of the National Institute of Justice and Bureau of Justice Statistics.

JUVENILE JUSTICE

Over the last 4 years I have worked in both the Budget and Judiciary Committees to see that this program is continued and am glad to see the administration is prepared to now change their position of opposition and support the program. It is my feeling that dollars spent in working to prevent juvenile delinquencey will pay the best dividends in trying to reduce crime. This program has been in a constant fight for its survival under the Reagan administration and I will be glad when the bill passes, to insure its reauthorization through 1988.

MISSING CHILDREN

Any mother or father who has known the anxiety of a child who is a few minutes late in coming home from school, who has stayed for lunch at a friend's house without permission or who has lingered after dark on the playground, can imagine the feelings of the parents of the nearly 2 million American youngsters who disappear from their homes each year.

The magnitude of that national tragedy is mind-boggling. For example, more children 5 years old and younger are kidnaped and murdered each year than are killed in automobile accidents. Yet until now no single U.S. agency has concerned itself exclusively with this widespread problem.

The missing children assistance provision will be a step toward solving this problem on a national scale. Under the Office of Juvenile Justice and Delinquency Prevention—it establishes a National Center for Missing and Exploited Children as a clearing house for information on children who have disappeared anywhere in the country. It sets up a national toll-free telephone service for the reporting of missing children, and it authorizes the funding of programs to prevent the disappearance of young children and to recover those who are missing.

Mr. President, I want to again thank Chairman THURMOND, Senators SPECTER, KENNEDY, HEFLIN, and HAWKINS for working with me in moving another very important piece of crime legislation through the Senate.

DRUG CZAR

Mr. President, this amendment has been debated and passed by the Senate on three previous occasions. In our most recent consideration of this legislation it was unanimously agreed to by the Senate. This amendment is referred to as the drug czar bill. I assure my colleagues this is not the same version that was vetoed by the President 2 years ago, but a compromise bill worked out by Senator THURMOND and myself and passed by unanimous consent on the Senate floor in February 1984. This bill does the following:

First, creates a Board that includes: The Attorney General; Secretary of the Treasury; Secretary of Defense; Secretary of Transportation; Secretary of State; Secretary of Health and Human Services; Director of the Office of Management and Budget and the Director of Control Intelligence, with the Attorney General serving as the Chairman of the Board.

Second, requires that the Board develop a single drug strategy and plan, and develop a single budget proposal relating to drug enforcement and interdiction efforts.

Third, requires that the Attorney General as the Chairman would: Be the primary adviser to the President and Congress on drug issues; provide leadership for agencies to comply with the drug strategy; review and approve reprogramming of budget funds to carry out the drug strategy; direct, with the concurrence of the various agency heads, assignment of personnel with drug enforcement responsibility; and have powers similar to those of the Director of Central Intelligence in coordinating the activities of the intelligence community.

Although the versions of this bill have been passed in the Senate on previous occasions it has still not become law. The first time it passed, the President buckled to the various bureaucratic pressures of the agencies involved in our Federal drug enforcement effort, and vetoed the bill.

In February of this year, compromise legislation was offered by myself and the able chairman of the Judiciary Committee, STROM THURMOND and was passed unanimously. I might add,

that this same version is again being offered today and has been supported by the Justice Department. It should not be a threat for veto.

The press has referred to this bill as a watered-down version compared to the bill vetoed by President Reagan last Congress.

That is not my perception at all. The bill calls for a Board of all interested Cabinet officers who will initially sign-off on a centralized drug strategy and budget. However, once the strategy is agreed to, it will be the Attorney General's responsibility for carrying it out. He will be the primary adviser to the President and Congress on national and international drug law enforcement programs and policies and the person we will look to on all aspects of this problem.

Therefore, it is only fair that he have sufficient authority to see that the strategy is carried out. That authority rests in the section e(3)b and e(3)c, which reads:

Provide guidance in the implementation and maintenance of policy, strategy and resources developed under subsection (A) . . .

And also:

Review and approve the reprogramming of funds relating to budgeting priorities developed under subsection (A) . . .

That means that once the Board has voted approval of the central strategy and budget, the Chairman has authority to see that it is carried out.

The authority of the Chairman to reprogram funds relates to the budget priorities developed under the overall narcotics plan and is intended to prevent agencies from reducing or deleting entirely their commitment to the narcotics effort. The language is not intended to permit the Chairman to consider or approve reprogramming requests of agencies, other than the agencies he is responsible for in his duties as Attorney General, that concern matters outside the policy, strategy and budget priorities under subsection E(1)A.

Full understanding of the intent of act requires focusing on the importance seen by the Congress in having a single, high-ranking official who represents the views of the Board on drug issues and can speak definitively about each part of the Governmentwide program and the efforts of each of the individual agencies. It would seem that Congress is the best judge in this regard. Certainly, Congress has long and extensive experience with hearing separately from all the agency heads. The experience has not instilled confidence that there really is a Governmentwide program or that the efforts of individual agencies are as well coordinated as possible. In a budget era when additional resources are more difficult than ever before to acquire, coordination of effort is paramount.

The Congress is seeking to strengthen central direction of the antidrug effort. The Chairman's responsibility in the act is to the drug law enforcement community what the Director of Central Intelligence [DCI] is to the intelligence community.

Neither the Chairman nor the Director of Central Intelligence has command authority with respect to agencies in other departments. Accordingly, it can be accurately stated that powers of the Secretary of Defense and the Directors of the National Security Agency and the Defense Intelligence Agency are not diminished by those of the DCI. The latter's power to coordinate the efforts of the various agencies of the intelligence community and to provide central integration, and cohesion of their programs merely means that fully autonomous agencies must follow policy guidance from a central official, which in terms of the narcotics program is based on the agreed upon policy and strategy of the Board.

As an example, the Board may conclude that forfeiture of drug trafficker's assets will be a crucial element of the Federal antidrug strategy. The strategy will define how the various agencies will contribute to improving the number and level of forfeiture cases. However, the Chairman will not be telling individual agencies specific cases it must work on nor direct the level of personnel necessary to work on particular cases. Instead the Chairman will, through coordination, attempt to see that the prioritized goal of increasing forfeiture of drug trafficker's assets remains a priority and the goal is reached.

In seeing that the agencies and departments are coordinating and committing their resources in unison with the overall national and international drug law enforcement strategy, the Chairman will exercise authority similar to that which the Director of Central Intelligence has in coordinating Federal intelligence responsibilities. This does not mean the Chairman will involve himself with day-to-day command decisions or interfere with individual agency tasks.

Mr. President, concern has also been expressed that the authorities granted the National Drug Enforcement Policy Board, or its Chairman, by this amendment could adversely affect intelligence activities. My amendment explains the scope of the authorities we are creating for the Chairman. My amendment would require that any action undertaken under the statute must be consistent with the authorities and responsibilities of the Director of Central Intelligence under the provisions of the National Security Act of 1947 or Executive order 12333. These are the provisions that form the basis for the DCI's authorities to coordinate intelligence. My amendment would ensure that the actions taken by the Board, or the Chairman, would not be inconsistent with the decisions of the DCI.

Mr. President, at least 15 Federal agencies play a role in the regulation of commerce in dangerous drugs or in the enforcement of other restrictions designed to reduce the abuse of such drugs. These agencies are located in six different departments. Under such circumstances, it is inevitable that divergencies as to priorities will arise and that there will be conflicting interpretations of national policy. Indeed, national policy in such an area as drug law enforcement must be continually reevaluated and reformulated; a one-time annual review and the publication of a broadly worded strategy document does not suffice.

I am afraid that efforts by the present administration to curb the drug problem will fail. They will fail like the long list of casualties under previous administrations because of the lack of central direction and management.

Until somebody can say, this is the plan and these are the agencies needed to work these aspects of the problem it will be business as usual: competition, duplication and inefficiency.

I ask my colleagues to again support my effort to get this amendment enacted into law.

DRUG DIVERSIONS

Section 1201 of this bill authorizes the Attorney General to make grants to State and local governments for specific activities that will enable States to better control diversion. These activities include collecting and analyzing data on diversion, conducting investigations and prosecutions, approving regulatory controls against diversion, preventing and detecting forged prescriptions, training personnel and other programs to control diversion. The type of program these grants are designed to promote would be something akin to the Prescription Abuse Data Synthesis [PADS] model which incorporates the use of ARCOS, DAWN [Drug Abuse Warning Network] and other State and Federal informational systems. PADS was designed by a team of experts from State abuse and enforcement agencies in collaboration with the DEA and the AMA. It has been successfully implemented in five States during a year-long field test. Simply stated, PADS is designed to help State officials identify potential sources of drug diversion through a rapid, economical, nonintrusive and equitable process of data integration and analysis. In sum, PADS is a worthwhile program that should be considered by the States in their effort to curb drug diversion.

Mr. THURMOND. Mr. President, I ask unanimous consent that Senators have until 6 p.m. today to have their names added as original cosponsors of

the amendment to title II of Senate Joint Resolution 648.

The PRESIDING OFFICER (Mr. D'AMATO). Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, will the Senator yield?

Mr. THURMOND. I am pleased to yield to the distinguished Senator.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that my name be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, I now yield to the able Senator from Maryland [Mr. MATHIAS].

Mr. MATHIAS. Mr. President, I thank the distinguished Senator from South Carolina, the chairman of the committee. I thank him for yielding and for his cooperation as we have gone through this night of negotiations.

The Senator from Delaware is very generous in his comments. I think he was accurate when he praised the staff and all the members of the Judiciary Committee who contributed to this effort. But, with his customary modesty, he omitted any reference to his own efforts here, which were absolutely critical to the achievement of some compromise which has brought us to this point.

CRIMINAL BILLS ON CONTINUING RESOLUTION

Mr. President, when this continuing resolution was pending in the House of Representatives, the other body adopted as an amendment the entire text of the Comprehensive Crime Control Act of 1984, which passed the Senate early this year. As the resolution leaves the Senate today on its way to conference with the House, a crime package remains an amendment; its sheer bulk dwarfing the vehicle that carries it. I shall vote for this amendment with some reluctance, both because of my continuing reservations about many aspects of the Comprehensive Crime Control Act, and because of my opposition to the use of continuing resolutions as a foundation for huge structures of permanent legislation. However, my disappointment is tempered somewhat by the fact that the Senate is agreeing to make some important and helpful changes in the text of one of the major components of the crime package, the sentencing reform amendment contained in chapter II of title II of the measure before us. I am also pleased that the Senate amendment adds to the continuing resolution some other necessary bills in the criminal justice area. Though I would have preferred to see the Senate act on these measures in another context, I think they are worthy of enactment.

This amendment modifies the sentencing bill in four respects. The most important of these is the direction to the newly established Sentencing Commission to design sentencing guidelines with the goal of minimizing overcrowding in our Federal prisons. In my view, this amendment captures the essential thrust of an amendment that I offered to S. 1762, both in committee and on the Senate floor, that would have encouraged the Commission to avoid overall increases in prison population or overall average terms of imprisonment. I am pleased that the sponsors of the sentencing bill, notably Senators THURMOND, BIDEN, and KENNEDY, have recognized the need to build into the sentencing guidelines system stronger safeguards against a Federal prison population explosion. A similar goal, adopted by the Minnesota Sentencing Guidelines Commission, has been identified by many experts as a key ingredient in the relative success that that State's sentencing reform has enjoyed. This change in the Federal sentencing bill is a commendable step forward, for which the architects of the bill deserve to be applauded.

Among the additional, House-passed bills that are being added to the criminal law package, two deserve particular mention. One is the Trademark Counterfeiting Act, and the other is the amendment to the Criminal Justice Act.

Mr. President, I am pleased that the Senate will now have the opportunity to approve the Senate-House compromise draft of the Trademark Counterfeiting Act of 1984. As Senators will recall, the Senate originally approved the Senate version of this legislation, S. 875, on June 28, 1984. The House of Representatives followed suit in early September, passing a similar bill, H.R. 6071.

The text before us today is a sound and fair compromise of the differences between the Senate and House bills. This bill is the product of more than 2 years of work on this subject, since I introduced a predecessor bill in the 97th Congress. I am confident that the final product is a powerful new tool in the battle against counterfeiting. Indeed, I take heart from the fact that the Subcommittee on Patents, Copyrights, and Trademarks has recently gotten several anonymous phone calls from admitted counterfeiters, deeply concerned about the possibility that the Trademark Counterfeiting Act might become law.

The legislation before us, like S. 875, makes three much-needed changes in law. First, it recognizes trademark counterfeiting for what it is—a crime—and it provides for penalties of up to 5 years in prison, as well as fines, for knowing counterfeiters. Second, it entitles trademark owners to collect treble damages in civil counterfeiting suits, absent extraordinary circumstances. Finally, it provides a vitally needed tool for dealing with bad faith counterfeiters—the so-called ex parte seizure. These three changes add up to a powerful anticounterfeiting package.

I want to mention one of the few areas in which the Senate and House bills were not in agreement. The House bill contained a provision exempting overruns—that is, trademarked goods that are manufactured without permission by a licensee of a trademark owner. The Senate sponsors agreed only reluctantly to accept the overrun provision, and only after several modifications to narrow its scope. I am not certain of the wisdom of insulating insiders from criminal liability when they violate clear duties to persons who have placed trust in them—a philosophy that the law does not follow, for example, when insiders embezzle bank funds or violate the securities laws. On a more practical level, overruns pose to a lesser extent the same risks for consumers as goods made by unauthorized outsiders, since the quality control procedures that are critical both to a manufacturer's reputation and to consumer satisfaction may well be foregone when overruns are made furtively and in a haste.

Because the exemption has been narrowed, and on the understanding that nothing in this legislation will alter or affect existing Lanhan Act remedies for overruns, the Senate sponsors have agreed to this provision. Its effects in future litigation will bear close study, and the Senate sponsors believe that revisions should be considered if this provision proves to act as a significant loophole in the enforcement of this legislation. I urge Senators to support this important legislation.

I ask unanimous consent that a statement explaining the compromise bill be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See Exhibit 1.)

Mr. MATHIAS. Mr. President, the amendment before us also contains a provision that doubles the fees that may be paid under the Criminal Justice Act to private attorneys appointed to represent indigent defendants in Federal criminal cases. These attorneys, who play an important role in carrying out our constitutional obligations under the sixth amendment to provide effective assistance of counsel in criminal cases, have not had a raise in nearly a decade and a half. The outdated compensation rates have made it increasingly difficult for U.S. district courts to attract qualified, experienced, and conscientious attorneys to discharge this necessary task. Although the provisions contained in the amendment lack the additional reforms to the Criminal Justice Act that are contained in my bill, S. 2420, and that have already gained overwhelming approval in the other body, I am

pleased that the Senate is agreeing to take the necessary steps to revitalize our commitment to the Bill of Rights by updating CFA rates.

EXHIBIT 1

EXPLANATORY STATEMENT CONCERNING COMPROMISE DRAFT OF TRADEMARK COUNTERFEITING LEGISLATION

On June 28, 1984, the Senate approved S. 875, the Trademark Counterfeiting Act of 1984, whose principal sponsor was Senator Charles McC. Mathias, Jr., Chairman of the Subcommittee on Patents, Copyrights, and Trademarks of the Senate Judiciary Committee. That bill was also sponsored by Judiciary Committee Chairman Strom Thurmond, Senator Howell Heflin, Senator John Warner, Senator Christopher Dodd, Senator Alan Simpson, Senator Lowell Weicker, Senator Pete Wilson, Senator Claiborne Pell, Senator Jesse Helms, Senator Frank Lautenberg, Senator John Chafee, Senator Chic Hecht, Senator Charles Percy, Senator Joseph Biden, Senator James Abdnor, and Senator Patrick Leahy.

On September 12, 1984, the House of Representatives approved a similar measure, H.R. 6071, also titled the Trademark Counterfeiting Act 1984. That bill was sponsored by Representative William Hughes, Chairman of the Subcommittee on Crime of the House Judiciary Committee, Representative Peter Rodino, Chairman of the Judiciary Committee, Representative Harold Sawyer, ranking Republican member of the Subcommittee on Crime, Representative Bruce Morrison, Representative Larry Smith, Representative Edward Feighan, Representative Charles Schumer, Representative E. Clay Shaw, Jr., Representative F. James Sensenbrenner, Jr., and Representative Nancy Johnson.

The Senate and House bills both aimed at accomplishing three primary changes in law: (1) creation of criminal penalties for intentionally dealing in materials that one knows to be counterfeit; (2) authorization for mandatory or virtually mandatory awards of treble damages and attorney's fees in civil counterfeiting cases; and (3) authorization for ex parte court orders for the seizure of counterfeit materials when it can be shown that the defendant would be likely to attempt to conceal or transfer the materials.

The principal sponsors of S. 875 and of H.R. 6071 have worked together to draft a compromise bill that incorporates the best features of those two bills. This substitute amendment is the product of those negotiations. It retains the three central features of the House and Senate bills, while harmonizing the technical differences between those bills as passed. The present Statement explains the provisions of the compromise bill, although, of course, the Reports filed by the Senate and House Judiciary Committees with respect to S. 875 and H.R. 6071 should be consulted as to those matters not discussed in this Statement.

As is explained more fully below, this Act is intended to apply to counterfeits both of registered trademarks and of Olympic designations that are protected under section 110 of the Olympic Charter Act, 36 U.S.C. 380. Unless otherwise indicated, any use of the term "mark" or "trademark" is intended to include Olympic designations. The scope of this Act is narrower than current law, in that it creates enhanced penalties for certain types of egregious conduct prohibited by existing law. The bill does not affect current statutory or common law governing other conduct proscribed by the Lanham Act, or other Federal, State, or local laws relating to trademarks. The same reservation applies to conduct covered by section 110 of the Olympic Charter Act.

The amendments to title 18 of the United States Code that are contained in this bill rely to a great extent on concepts and definitions in the Lanham Act, the basic Federal statute governing trademarks. Unless it does so explicitly, this Act does not in any way modify the Lanham Act or judicial interpretations of it.

TITLE 18 AMENDMENT

Both the Senate and House bills called for Federal criminal penalties for persons who intentionally deal in goods or services, or the marks thereon, that they know to be counterfeit. The compromise bill reflects the agreement between the two bills on this point. As did both the House and Senate bills, Section 2 of the compromise bill amends chapter 113 of title 18 of the United States Code by adding a new section 2320. Section 2320 provides for criminal penalties for anyone who "intentionally traffics or attempts to traffic in goods or services and knowingly uses a counterfeit mark on or in connection with such goods or services."

This key criminal provision represents a compromise between the Senate and House bills. The Senate bill was drafted to prohibit 'trafficking in counterfeit goods or services," while the House bill barred "use of a counterfeit mark" in connection with goods or services. Both the House and Senate sponsors recognize that a mark can be "counterfeit" only if it is used in connection with certain types of goods or services. However, the existing Lanham Act is drafted in terms of "marks" rather than "goods or services," and the sponsors feared that it might create confusion to adopt the terminology of "counterfeit goods or services" in a piecemeal fashion. However, close consideration should be given in the future to the possibility of a comprehensive revision of the Lanham Act and of section 2320 (should it be enacted) to incorporate the "goods or services" terminology.

Like both the House and Senate bills, the compromise bill contains two distinct mental state requirements. The defendant must be shown, first, to have "intentionally" trafficked in particular goods or services, and second, to have "knowingly" used a counterfeit mark in connection with those goods or services. The requirement that the defendant's trafficking be "intentional" means that the government must show that the defendant trafficked in the goods or services in question deliberately, or "on purpose."

Whether the defendant "knew" that the mark was counterfeit depends on whether he or she had an awareness or a firm belief to that effect. See H. Rept. 96-1396, 96th Cong., 2d Sess. 33 (1980); S. Rept. 97-307, 97th Cong., 1st Sess. 67-68 (1981). Of course, if the prosecution proves that the defendant was "willfully blind" to the counterfeit nature of the mark, it will have met its burden of showing "knowledge." See *United States* v. *Jewell*, 532 F.2d 697 (9th Cir.), cert. denied, 426 U.S. 951 (1976); H. Rept. 96-1396, supra, at 36; S. Rept. 97-307, supra, at 68. The government need not prove that it was the defendant's "purpose" or "objective" to use counterfeit marks, but merely that he or she knew that he or she was doing so.

The sponsors are aware that discount retail outlets sometimes obtain their merchandise from distributors who are not authorized by the trademark owner to provide those goods to the discount outlets. The sponsors are also aware of the existence of "parallel imports" or "gray market" goods, which are discussed more fully below. Neither of these types of goods are counterfeit within the meaning of this legislation. Because of the existence of these alternative distribution channels for non-counterfeit goods, a trademark owner will not ordinarily be able to establish that a defendant knew that goods bore counterfeit marks solely because the trademark owner informed the defendant that the trademark owner's authorized dealers had not sold the goods to the defendant.

If a person has an honest, good faith belief that the mark in question is not counterfeit, he or she will not be liable under this bill. Thus, a manufacturer who believes in good faith that he or she has a prior right to use a particular mark, or that a mark does not infringe a registered mark, could not be said to "know" that the mark is counterfeit.

The definition of "counterfeit mark," which is discussed in more detail below, includes the fact that the infringed mark must be registered on the principal register in the United States Patent and Trademark Office. This factor was included in the definition of "counterfeit mark" in order to make this Act easier to administer by limiting its scope to a clearly defined class of marks. In a criminal prosecution for counterfeiting, however, or in the civil proceedings that are affected by this Act, it is irrelevant whether the defendant knew that the mark in question is registered on the principal register in the Patent and Trademark Office. For that reason, the definition of "counterfeit mark" makes clear that it need not be shown that the defendant was aware of a mark's status at the Patent and Trademark Office.

With one exception, the penalties provided by the Senate and House bills are identical. Both bills provided that an individual may be imprisoned for up to five years and fined up to $250,000, or both. Both bills also provided that a person other than an individual, such as a corporation, may be fined up to $1,000,000. (The term "person" is defined in 1 U.S.C. 1.) The compromise bill includes an additional provision from the House bill, setting forth increased penalties for second offenders. However, these enhanced penalties may be imposed only when the second violation occurs after the defendant has been convicted of a prior violation. Thus, a defendant who violates section 2320 on two separate instances, but who is not convicted of the first violation until after the second violation, is not subject to the enhanced penalties.

Proposed section 2320 also provides for punishment of a person who attempts to engage in the proscribed conduct. An attempt is punishable at the same level as a completed offense. Through 18 U.S.C. 371, conspiracies to commit an offense under proposed section 2320 are also prohibited.

The sponsors wish to emphasize that the prison terms and fines specified in subsection (a) are maximum penalties, which they do not expect to be routinely imposed. In a case in which a defendant has trafficked in counterfeits that pose a grave danger to the public health and safety, these maximum penalties may be fully warranted. However, the sponsors also recognize that many instances of trademark counterfeiting do not pose these same risks, and in those cases imposition of the maximum penalties may not

be warranted. The courts should exercise their discretion in imposing penalties that are appropriate under the circumstances. The sponsors believe, however, that a combination of appropriate prison terms and substantial fines will create a needed deterrent to trademark counterfeiting.

The compromise draft does not include proposed subsection 2320(b) from the House bill, which stated that documents seized in the course of a trademark counterfeiting prosecution are exempt from disclosure under the Freedom of Information Act, 5 U.S.C. 552. That provision has been omitted as unnecessary, because the public interest is adequately protected by the existing exemption in that Act relating to disclosure of "investigatory records compiled for law enforcement purposes."5 U.S.C. 552(b)(7).

Proposed subsection 2320(b)

This provision authorizes the Unitd States obtain an order seeking the destruction of any counterfeit articles acquired by the Government in the course of a counterfeiting prosecution. Before such an order may be granted, the Government must prove by a preponderance of the evidence that the articles actually bear counterfeit marks. Even if the defendant is ultimately acquitted of the criminal charge, there is no valid public policy reason to allow the defendant to retain materials that are in fact counterfeit.

This provision gives the court the same options it has in ordering destructions under 15 U.S.C. 1118. In practice, the courts have often ordered that counterfeit articles be given to chariable institutions or to the Federal Government. If goods are of value, and pose no threat to health or safety, they should be preserved whenever possible, so long as any counterfeit marks are removed.

The Senate bill contained a formal "safe harbor" provision. See proposed subsection 2330(c) of S. 875. This provision was intended to offer a potentially useful option to a manufacturer or merchant who is in doubt about whether a mark that he or she plans to use will infringe the trademark rights of a current registrant. Under the Senate provision, such a person could have taken two steps to ensure that he or she would not be liable for counterfieting: first, notifying the trademark owner of his or her plans 30 days before implementing them, and second, labelling the goods or materials in question so as to disclaim any connection with the trademark owner. This provision was intended to address the concern of the Department of Justice that some manufacturers might be deterred from legitimate marketing techniques because of fear of potential liability under this Act.

The compromise draft does not include this provision, in view of the concern of the House sponsors that the value of this provision had not been clearly shown and that it might offer a loophole to actual counterfeiters. However, a party is free to take, on an informal basis, the same sorts of precautions comtemplated by the Senate safe habor provision. Thus, a party planning to use a particular mark could provide ample advance written notice to the owner of an existing mark about the party's plans to use a similar mark. The party could also conspicuously label its goods and related materials so as to alert the public to the fact that the goods or services are not offered by the owner of the registered trademark.

If a party takes these steps in good faith, it would be virtually impossible to establish, in either a civil or a criminal case, that he or she "knowingly" used a counterfeit mark. Such a painstaking effort to provide advance notice to the trademark owner and to prevent consumer deception would ordinarily preclude any liability under this act. Of course, if a party were to attempt to take these steps in bad faith, as part of an effort to immunize its trafficking in marks it knew to be counterfeit, these procedures would not prevent that party from being found liable under this Act.

A party's failure to use this informal notice and labelling procedure is not evidence that he or she dealt in particular marks knowing that they were counterfeit. Indeed, if one believes in good faith that one has a right to use a particular mark, one will not have acted with "knowledge" that the mark was counterfeit, and will not incur any liability under this act.

A person's use of the informal notice and labelling procedures here described does not exempt that person from liability under the Lanham Act or other Federal, State or local laws. The courts must make an independent assessment of whether a party has violated such laws, and the notice and labelling procedures here described do not provide a generalized immunity from liability under those laws.

DEFENSES

In a civil proceeding under the Lanham Act, a number of defenses, affirmative defenses, and limitations on remedies are applicable. See, e.g., 15 U.S.C. 1114(2); 15 U.S.C. 1115(b). Subsection 2320(c) provides that any defense, affirmative defense, or limitation on remedies that would be applicable in an action under the Lanham Act shall be applicable in a prosecution under this section.

"Defense" means any issue as to which the plaintiff has the burden of proof in a Lanham Act case, and "affirmative defense" refers to matters as to which the defendant bears that burden. Under this subsection, allocations of burdens of proof will be identical to those in a comparable Lanham Act case. Thus, any affirmative defense under the Lanham Act will remain an affirmative defense under this Act, which a defendant must prove by a preponderance of the evidence. Should there be any serious doubt about the allocation of the burden of proof on a particular issue under the Lanham Act, the burden should be placed on the Government as to that issue. In addition, should any issue appear to be both an element of the offense and part of an affirmative defense, the conflict should be resolved by placing the burden upon the prosecutor.

Among the matters on which the defendant appears to have the burden of proof under the Lanham Act are laches, see *Valmor Products Co.* v. *Standard Products Corp.*, 464 F.2d 200, 204 (1st Cir. 1972), and the "antitrust" defense, see *Coca-Cola Co.* v. *Overland, Inc.*, 692 F.2d 1250, 1256 (9th Cir. 1982); *Union Carbide* v. *Ever-Ready Inc.*, 531 F.2d 366, 389 (7th Cir. 1976) ("the burden of . . . proof is a heavy one on the [defendant]" to establish an antitrust defense).

By "limitation on relief," this Act incorporates the protections for innocent printers and publishers that are contained in 15 U.S.C. 1114(2), and any other limitations on relief that may be applicable under the Lanham Act. Of course, as is the case under the Lanham Act, only those defenses, affirmative defenses, and limitations on relief that are relevant under the circumstances will be applicable in a prosecution under this section.

DEFINITION OF "TRAFFICKING"

Subsection 2320(d) provides a definition of the term "trafficking." This definition is derived from a related, recently enacted statute, the Piracy and Counterfeiting Amendments Act of 1982, now codified at 18 U.S.C. 2318(b). Under this definition, the scope of the Act is limited to commercial activities. Thus, it is not a crime under this Act for an individual knowingly to purchase goods bearing counterfeit marks, if the purchase is for the individual's personal use.

The "for value" clause in the definition of trafficking means that transfers without consideration of goods or materials bearing counterfeit marks are not covered by this section. Of course, consideration can take many forms, and the courts should analyze transactions based on their substance and not on their form.

The definitions of "Lanham Act" and of "Olympic Charter Act" in subsection 2320(d) are self-explanatory.

DEFINITION OF "COUNTERFEIT MARK"

The proposed Act defines "counterfeit mark" in two places—in the criminal code amendment, proposed 18 U.S.C. 2320(d), and in the Lanham Act amendment, proposed 15 U.S.C. 1116(d)(1)(B). This definition is important for three reasons. First, it helps to define the conduct for which the criminal penalties of this Act may be imposed. See proposed 18 U.S.C. 2320(a). Second, it identifies the cases in which ex parte seizures are authorized by this Act. See proposed 15 U.S.C. 1116(d)(1)(A). Finally, it helps to define the circumstances in which treble damages or profits and attorney's fees are to be awarded in Lanham Act cases, absent extenuating circumstances. See proposed 15 U.S.C. 1117(b).

For technical reasons, the two definitions of "counterfeit mark" differ slightly in their terms, but they are identical in substance. The Lanham Act already contains a definition of the term "counterfeit": a "spurious mark which is identical with, or substantially indistinguishable from, a registered mark." 15 U.S.C. 1127. Because it is part of the Lanham Act, the definition of "counterfeit mark" contained in proposed subsection 1116(1)(B) incorporates the section 1127 definition. By contrast, existing Federal Criminal laws contains no definition of "counterfeit" with respect to trademarks, and the amendment to title 18 therefore spells out the elements that are included in the section 1127 definition of "counterfeit." (As the Senate bill indicated, "spurious" means "not genuine or authentic.")

Under this Act, there are two types of "counterfeit marks." The first are counterfeits of marks that are registered on the principal register of the Patent and Trademark Office and in use, and that are used by the defendant in connection with the same goods or services for which the mark is registered. See proposed 18 U.S.C. 2320(d)(1)(A); proposed 15 U.S.C. 1116(d)(1)(B)(i). The second are spurious designations that are substantially indistinguishable from Olympic designations protected under 36 U.S.C. 380. See proposed 18 U.S.C. 2320(d)(1)(B); proposed 15 U.S.C. 1116(d)(1)(B)(ii). Under this Act, Olympic symbols will receive the same protection as will federally registered trademarks, subject to the limitations specified in 36 U.S.C. 380 concerning the protections afforded those symbols.

Proposed subsection 18 U.S.C. 2320 (d)(1)(A)(iii) states that a "counterfeit mark" must be one the use of which is likely

"to cause confusion, to cause mistake, or to deceive." This is the key phrase in the remedial section of the Lanham Act, 15 U.S.C. 1114, and its inclusion here is intended to ensure that no conduct will be criminalized by this Act that does not constitute trademark infringement under the Lanham Act. As a practical matter, however, this element should be easily satisfied if the other elements of a "counterfeit mark" have been proven—since a counterfeit mark is the most egregious example of a mark that is "likely to cause confusion."

Under both the criminal and civil definitions, the term "counterfeit mark" refers to a mark or designation that is "identical with or substantially indistinguishable from" a genuine mark or designation. The definition of "substantially indistinguishable" will need to be elaborated on a case-by-case basis by the courts. See, e.g., *Montres Rolex S.A.* v. *Snyder,* 718 F.2d 524, 530-32 (2d Cir. 1983), cert. denied, 104 S. Ct. 1594 (1984). Obviously, a mark need not be absolutely identical to a genuine mark in order to be considered "counterfeit." Such an interpretation would allow counterfeiters to escape liability by modifying the registered trademarks of their honest competitors in trivial ways. However, the sponsors do not intend to threat as counterfeiting what would formerly have been arguable, but not clear-cut, causes of trademark infringement.

For example, a manufacturer may adopt a mark for its goods that is reminiscent of, although certainly not "substantially indistinguishable from," a trademark used by the "name-brand" manufacturer of the product. Thus, "Prastimol" might be used as the mark for a medication that is the functional equivalent of a product sold under the trademark "Mostimol." Whether or not this sort of imitation violates the Lanham Act or other provisions of law, it does not constitute use of a "counterfeit mark" for purposes of this bill.

The definition of "counterfeit mark" in this Act (other than in cases involving protected Olympic symbols) reaches only instances in which the mark is used in connection with goods or services for which the mark is registered on the principal register in the U.S. Patent and Trademark Office and in use. Thus, this Act has no impact on cases in which the allegedly infringed mark is unregistered. In addition, because this Act is intended to reach only the most egregious forms of trademark infringement, it does not affect cases in which the defendant uses a registered mark in connection with goods or services for which the mark is not registered. Under the Lanham Act, a plaintiff can sometimes obtain relief against a defendant who uses a mark in connection with goods or services that are "related" to those for which the mark is registered. For example, a plaintiff with a federal registration for use of the mark "Hopscotch" on typewriters might have a Lanham Act remedy against a defendant who used that mark to identify typing paper, even though the plaintiff had not registered that mark for use in connection with typing paper. Under the present Act, however, the use of the mark "Hopscotch" on typing paper would not count as the use of a "counterfeit mark."

The term "counterfeit mark" in this bill also excludes the marks on so-called "parallel imports" or "gray market" goods—that is, trademarked goods legitimately manufactured and sold overseas and then imported into the United States outside the trademark owner's desired distribution channels. See generally *Bell & Howell: Mamiya Co.* v. *Masel Supply Co.,* 719 F.2d 42 (2d Cir. 1983). Current Treasury Department regulations permit the importation for goods when the foreign and domestic owners of the trademark are under common ownership and control. See 19 CFR 133.31(c). These regulations are now being challenged in the courts. See, e.g., *Vivitar Corp.* v. *United States,* No. 84-1-00067 (U.S. Court of International Trade, slip. op., Aug. 20, 1984); *Osawa & Co.* v. *B&H Photo,* No. 83-6874 (S.D.N.Y., slip op. May 24, 1984); *Coalition to Preserve the Integrity of Amerian Trademarks* v. *United States,* No. 84-0390 (D.D.C., filed Feb. 5, 1984). Regardless of the status of "independent imports" or "gray market" goods under the Treasury regulations, however, the sponsors do not consider such goods to bear "counterfeit marks" for purposes of this legislation, since the marks on these goods are placed there with the consent of the trademark owner or of a person affiliated with the trademark owner.

The bill also does not extend to imitations of "trade dress," i.e. the color, shape, or design of a product or of its packaging, unless those features have been registered as trademarks. For example, generic drugs may be manufactured in pills or capsules that resemble the chemically equivalent brand-name product. This practice has generated litigation under the existing provisions of the Lanham Act. See, e.g., *Inwood Laboratories* v. *Ives Laboratories,* 456 U.S. 844 (1982). Provided that such goods are not sold through use of a counterfiet of a registered trademark, they will not be affected by this legislation. The sponsors do not intend, however, to exempt generic drugs entirely from the scope of this bill. If such a drug to be marketed through use of a counterfeit mark, this Act would make available the same remedies that would exist in any other counterfeiting case.

Third, the definition of "counterfeit mark" follows the House bill in explicitly excluding marks that are used in connection with so-called "overrun" goods—that is, certain goods produced without authorization by a current licensee of a trademark owner. (In this Statement, the term "licensee" will be used to describe a person who has been authorized by a trademark owner to use a particular mark in connection with certain goods or services, whether or not the agreeemnt between the trademark owner and the authorized party is formally titled a "licensee.") The exclusion would cover a case, for example, in which a licensee was authorized to make 500,000 umbrellas bearing a trademark owner's mark, and the licensee without authorization manufactured an additional 500,000 umbrellas bearing that mark during the course of the license. The exemption is not limited to "manufacturing," but extends to any type of production of goods or services, including, for example, agricultural production.

The House Report explained the reasoning behind the "overrun" provision in H.R. 6071 as follows:

"The trademark owner has 'put the wheels in motion' for the manufacturer to make the overruns, and has the means to protect himself or herself. For example, the trademark owner can specify in the contract that the making of overruns shall constitute a breach of contract, and that the manufacturer shall be liable for liquidated damages if overruns are made. The contract might also specify that the trademark owner has the right to inspect the manufacturer's facilities to ensure that overruns are not being made. The contractual and other civil remedies already existing make it inappropriate to criminalize such practices." H. Rep. 98-997, 98th Cong., 2d sess, 13 (1984).

The overrun provision contained in the compromise draft has been revised from the provision in the House bill. First, the compromise bill does not create a "grace period" for persons dealing with former licensees—that is, licensees whose right to manufacture goods bearing a particular mark has been terminated at the time of manufacture. Correspondingly, the language of the House bill concerning the knowledge of the user about the "termination of the relationship" between the trademark owner and the licensee has been omitted. Finally, the phrase "contractual or other relationship" has been replaced by the phrase "authorized by." This last change in wording is simply intended to clarify the precise nature of the relationship between the trademark owner and the licensee that was described in the House bill.

If a licensee manufactures overruns during the course of a valid license, the marks on those goods will remain non-"counterfeit" for purposes of this Act, whatever changes may later occur in the relationship between the trademark owner and the licensee. Thus, if goods are manufactured during the course of a valid license, and sold after the termination of the license, the marks on those goods remain non-counterfeit. In addition, if one purchases goods or services produced by a former licensee in the good faith belief that the licensee is then authorized to produce that type of goods, one will not "know" that the mark in question is counterfeit and will thus not be liable under proposed 18 U.S.C. 2320(a) or 15 U.S.C. 1117(b).

As the House report made clear, the burden will be on the defendant to prove that the goods or services in question fall within the overrun exclusion, under both the criminal and civil provisions. (This allocation of the burden of proof is indicated in both the House bill and the compromise draft by the phrase introducing the overrun exemption: "but such term does not include.* * *.") The compromise bill also follows the House bill in that the overrun exemption does not apply if a licensee produces a type of goods in connection with which he or she was not authorized to use the trademark in question. Thus, if a licensee is authorized to produce "Zephyr" trenchcoats, but without permission manufacturers "Zephyr" wallets, the overrun exception would not apply.

The overrun exclusion in this legislation does not in any way alter or affect any remedy that may now exist under the Lanham Act or other provisions of law for the manufacture or sale of overrun goods. The exclusion is intended simply to exempt those goods. The exclusion is intended simply to exempt those goods from the special penalties available under this bill.

At the suggestion of the Justice Department, neither the Senate nor the House bill included an explicit "effect on interstate commerce" element. The Department argued that the explicit inclusion of this element was unnecessary, since a Federal nexus exists because the marks protected are Federally registered trademarks or Olympic symbols protected by a Federal statute. However, the bill is intended to reach all trafficking in counterfeits that affects interstate commerce, including trafficking that is discovered in its incipiency,

such as before counterfeit merchandise has left the factory.

LANHAM ACT AMENDMENT

The amendment to the Lanham Act accomplishes two primary goals: (1) it provides statutory authorization for the seizure of counterfeit goods on an ex parte basis under certain circumstances in civil trademark cases, and (2) it mandates the award of treble damages or profits and attorney's fees in civil cases in which the defendant has been shown to have intentionally used a mark knowing that it is counterfeit, unless the defendant can show the existence of extenuating circumstances.

Both the House and Senate bills contained provisions similar to those included in the compromise draft. The draft follows the structure of the House bill, which the sponsors believe will best harmonize with existing civil trademark remedies.

EX PARTE SEIZURES

The proposed draft amends 15 U.S.C. 1116 by adding a new subsection (d), which explicitly authorizes the federal courts in counterfeiting cases to grant seizures in certain circumstances of goods and related materials on an ex parte basis. Subsection (d) represents a compromise between the House and Senate provisions on this question.

The purpose of the ex parte seizure provision is to provide victims of trademark counterfeiting with a means of ensuring that the courts are able to exercise their jurisdiction effectively in counterfeiting cases. Testimony before both the House and the Senate Judiciary Committees established that many of those who deal in counterfeits make it a practice to destroy or transfer counterfeit merchandise when a day in court is on the horizon. The ex parte seizure procedure is intended to thwart this bad faith tactic, while ensuring ample procedural protections for persons against whom such orders are issued. In essence, both the Senate and House bills permitted issuance of an ex parte seizure order if the applicant could show that the defendant would not comply with a lesser court order, such as a temporary restraining order, and that there was no means of protecting the court's authority other than to seize the property in question on an ex parte basis.

As proposed subsection (d)(1) makes clear, this provision is directed solely at the seizure of goods in trademark counterfeiting cases—that is, in cases involving the use of a counterfeit mark in connection with the "sale, offering for sale, or distribution" of goods or services. Neither the House nor the Senate has studied the use of ex parte seizures in trademark infringement cases involving violations less egregious than counterfeiting, or in other civil cases, such as lawsuits involving copyright infringement or patent infringement. The compromise bill therefore does not address the issue of ex parte seizures in other civil cases, such as trademark cases not involving counterfeits. The sponsors believe, however, that in any ex parte seizure, the courts should bear in mind the policy concerns that lie behind the provisions of this bill and the need to provide procedural protection to persons against whom such seizures are ordered.

The procedures detailed in this section are largely derived from the existing requirements of Rule 65 of the Federal Rules of Civil Procedure. Those requirements have been modified in certain respects to conform them to the circumstances peculiar to seizures on an ex parte basis. Except where the provisions of Rule 65 are inconsistent with the requirements of this Act, however, they will continue to apply, as will traditional principles of equity.

Proposed subsection (d)(1)(A) lists the items that may be confiscated during an ex parte seizure: "goods and counterfeit marks" involved in the described violation, "the means of making such marks," such as plates or molds, and "records documenting the manufacturer, sale, or receipt of things involved in such violation." This list is derived from similar provisions in the Senate and House bills.

Proposed subsection 1116(d)(2)

This subsection is based on comparable provisions in both S. 875 and H.R. 6071. It provides that an applicant for an ex parte seizure in a counterfeiting case must first provide such notice as is reasonable under the circumstances to the United States Attorney for the district in which the order is sought. The compromise provision follows the House draft, with two changes. First, the phrase "timely notice" has been replaced with the phrase "such notice as is reasonable under the circumstances." This amendment is intended to emphasize that the amount and type of notice provided to the U.S. Attorney will need to be determined according to the particular circumstances of each case.

The second change from the House bill is that the compromise provision specifically provides that the court may deny an application for an ex parte seizure order if the U.S. Attorney shows that the public interest in a potential prosecution so requires. This addition is intended to make explicit the clear intent of both S. 875 and H.R. 6071. The sponsors intend that whenever practicable, the views of the U.S. Attorney should be sought by the court.

Proposed subsection 1116(d)(3)

This subsection lays out the technical requirements for issuance of an ex parte seizure order under this bill. Under this provision, an applicant will need to supply the court with an affidavit or verified complaint containng information supporting the issuance of an ex parte seizure order, and other information specified in proposed subsection (d)(5).

In an ex parte proceeding, the court will have no choice but to rely on the representations of the applicant. For that reason, the court should rely, whenever possible, on statements of fact based on the personal knowledge of the affiant. For example, if an individual employee of a company has personal knowledge of relevant facts, the company should submit an affidavit from that individual, rather than relying on the "information and belief" of the company's counsel.

Of course, in some instances the court may consider allegations based on hearsay. For example, if an attorney has obtained information from a confidential source whose identity cannot be revealed publicly, the court may accept hearsay in an affidavit or verified complaint. See generally C. Wright & A. Miller, Federal Practice and Procedure (Civil) section 2952, at 514-16 (1973).

Proposed subsection (d)(4)

This subsection is the heart of the ex parte seizure provisions. It lays out the two basic requirements for issuance of an ex parte seizure order: (1) provision by the applicant of a bond to ensure that the defendant will be made whole if the seizure should prove to have been wrongful; (2) an adequate showing of the facts that justify issuance of such an order. These provisions will ensure that the rights of defendants under the due process clause are fully respected in ex parte seizures under this Act.

Proposed subsection (d)(4)(A)

The provision of a bond is one of the critical procedural protections designed to ensure that the defendant's rights are adequately protected during the course of an ex parte seizure. In setting the amount of security, courts should err or the side of caution—that is, towards larger bonds—in light of the need to protect the unrepresented defendant, and to ensure that the defendant will have an effective remedy if he or she is the victim of a wrongful seizure.

Proposed subsection (d)(4)(B)

This provision details the findings that a court must make in order to issue an ex parte seizure order under this section. The compromise version draws upon both proposed subsection (d)(4) of the House bill and proposed subsection (f)(4) of the Senate bill.

Under this subsection, the court must find that it "clearly appears from specific facts" that the listed circumstances exist. The quoted language is taken from Rule 65 of the Federal Rules of Civil Procedure, and the sponsors intend the same standard of proof applicable under that Rule to be applicable in connection with this subsection.

Proposed subsection 1116(d)(4)(B)(i)

The first required finding is taken from both the Senate and House bills: the applicant must show that an order less drastic than an ex parte seizure would be inadequate. Thus, the applicant must establish that a temporary restraining order on notice to the defendant, or an ex parte temporary restraining order, would not be adequate to achieve the purposes of the Lanham Act. This provision simply codifies the traditional equitable principle that the court should use the least intrusive remedy that will be effective under the circumstances.

Proposed subsection 1116(d)(4)(B)(ii)

The second required finding is that the applicant not have publicized the requested seizure. The reason for this provision is that when a private applicant obtains an order directing law enforcement officials to seize materials from an unrepresented defendant, the applicant should not be permitted to take advantage of the "surprise" character of the seizure to unfairly injure the reputation of the defendant. For example, it would be highly unfair to a defendant who has been given no advance notice of a seizure if the applicant were to alert the press to the upcoming seizure in an effort to create damaging publicity about the defendant. This provision therefore requires a party seeking an ex parte seizure to certify to the court that it has not publicized the requested seizure. Of course, the sponsors appreciate the First Amendment principles that are implicated by this provision, and it should be interpreted consistently with those principles.

Proposed subsection (d)(4)(B)(iii)

The third required finding is that the applicant is likely to succeed in showing that the defendant used a counterfeit mark in connection with the sale, offering for sale, or distribution of goods or services. This provision does not require any showing about the defendant's state of mind; it simply requires the applicant to make an adequate showing that the marks in which the defendant is dealing are counterfeit.

Proposed subsection (d)(4)(B)(iv)

The fourth required finding, derived from both the Senate and House bills, is that an "immediate and irreparable injury" will occur if a seizure is not ordered. This will not ordinarily be a difficult showing in a counterfeiting case. If the mark in question is likely to be found to be counterfeit, then the applicant will ordinarily be able to show irreparable harm if he or she can establish that the goods are likely to be distributed if the seizure is not ordered. The courts have repeatedly held that the distribution of infringing goods constitutes irreparable injury sufficient to order preliminary relief. See, e.g., In Re Vuitton et Fils S.A., 606 F.2d 1, 4 (2d Cir. 1979); *Helene Curtis Industries, Inc.* v. *Church & Dwight Co.*, 560 F.2d 1325, 1332-33 (7th Cir. 1977), cert. denied, 434 U.S. 1070 (1978); *Omega Importing* v. *Petri-Kine Camera Co.*, 451 F.2d 1190, 1195 (2d Cir. 1971). Since the marks at issue here are not merely infringing but counterfeit marks, this conclusion will be still more easily reached.

Proposed subsection (d)(4)(B)(v)

The fifth required finding is that the matter to be seized will be located at the place identified in the application. This provision, too, is derived from similar provisions in both the House and Senate bills. As the House Report made clear, it may be difficult for the applicant to identify precisely where the goods or materials in question are located. The courts should thus be flexible in applying this requirement, but should require as great a degree of specificity as is possible under the circumstances, and should not grant orders, for example, permitting seizure to take place "anywhere in downtown Washington, D.C."

Proposed subsection (d)(4)(B)(vi)

The sixth required finding is that "the harm to the applicant of denying the application outweighs the harm to the legitimate interests of the person against whom such seizure would be ordered of granting the application." In cases in which the other listed requirements are satisfied, the sponsors do not anticipate that this showing will be a difficult one. The hardship to a plaintiff caused by the distribution of goods bearing counterfeit marks will usually be great; a defendant's legitimate interest in retaining counterfeits, which he or she would hide or destroy if notified of the suit, will normally be minimal. CF, *Atari, Inc.* v. *North American Philips Corp.*, 672 F.2d 607, 620 (7th Cir.), cert. denied, 103 S. Ct. 176 (1982); *Corning Glass Works* v. *Jeannette Glass Co.*, 308 F. Supp. 1321, 1328 (S.D.N.Y. 1970), aff'd, 432 F.2d 784 (2d Cir. 1970).

Proposed subsection (d)(4)(B)(vii)

This provision is the key to obtaining an ex parte seizure order under this Act. Its language is adapted from the comparable Senate and House provisions. Both of those provisions required, in essence, that the applicant show that if he or she were to proceed on notice to the defendant, the defendant or persons associated with the defendant would destroy, transfer, or hide the materials in question, or otherwise make them inaccessible to the court's jurisdiction. (The proof relevant to this finding will, of course, often overlap with that for the first finding above.)

The compromise draft requires that the court find that "the person against whom the seizure would be ordered, or persons acting in concert with such person, would destroy, move, hide, or otherwise make such matter inaccessible to the court, if the applicant were to proceed on notice to such person." The most compelling proof on this point would be evidence that the defendant had acted in bad faith towards the judicial process in the past. A court may, however, consider any other evidence relevant to this determination. As used in this provision, the term "persons acting in concert" with the defendant means persons acting under the direction of, or at the request of, the defendant.

The sponsors wish to emphasize that ex parte seizures are to be ordered only as a last resort. It would not be appropriate to order such a seizure against a reputable merchant, absent unusual circumstances—such as when the applicant can make a particularized showing that the merchant would be likely to defy a court order to maintain the status quo. A reputable businessperson would not be likely to conceal or destroy evidence when notified of a pending lawsuit, and the issuance of an ex parte seizure order against such a person would therefore be wholly inappropriate, absent the unusual circumstances just mentioned. Rather, the sponsors believe that ex parte seizures are a necessary tool to thwart the bad faith efforts of "fly by night" defendants to evade the jurisdiction of the court.

The sponsors note that three provisions of H.R. 6071 concerning ex parte seizures have been omitted in the compromise draft. The first is the provision in proposed section (d)(1)(A) of H.R. 6071 that an ex parte seizure order may be issued only if the defendant "knew or should have known" that the items in question were counterfeit. The compromise draft follows the Senate bill on this point, see section (f)(4) of S. 875, for two reasons. The first is set forth in the Senate Report. See S. Rept. 98-526, supra, at 17. The second is that the sponsors believe that the "should have known" standard was in essence a negligence standard, and thus was inconcistent with the intention to authorize ex parte seizures only when the defendant will act in bad faith to avoid the court's jurisdiction.

The second significant omission from the House bill is the requirement that the applicant for an ex parte seizure show that "the public interest would not be seriously adversely affected by granting the application." If the other requirements for an ex parte seizure have been met, the U.S. Attorney has been duly notified of the pending seizure, and the court has considered whether the public interest in a potential prosecution requires denial of the application, the sponsors believe that the issue of the public interest will already have been resolved.

The third major change from the House bill is that the provisions concerning post-seizure document discovery have been considerably simplified. The sponsors believe that the courts will be able to devise appropriate discovery procedures under the circumstances of each case, consistent with the statutory guidance provided by proposed section (d)(7) of this Act, and its explanation herein.

Proposed subsection (d)(5)

This subsection sets out the information that must be included in an ex parte seizure order. Subsection (d)(5)(B) requires the applicant to provide a "particular description of the matter to be seized." Here, too, the courts should require the greatest specificity that is possible under the circumstances, but should recognize that circumstances may often make it impossible to list in detail every item that is to be seized.

Under proposed subsection (d)(5)(C), the court must indicate the period during which the seizure order is to be carried out—a period that may not be longer than seven days. Under proposed subsection (d)(5)(E), the court should set a date for a post-seizure hearing, at a time to be calculated in accordance with proposed subsection (d)(10). Service of the order on the defendant just before execution of the seizure, pursuant to subsection (d)(9), will constitute notice to the defendant of the upcoming hearing.

Proposed subsection (d)(6)

This provision directs the court to take appropriate action to protect the defendant from publicity generated by the plaintiff about the seizure of the defendant's goods. Because "unfair surprise" is the rationale for limiting the plaintiff's efforts to publicize the seizure, the need for protection will primarily exist before and during the seizure. The use of the term "appropriate" is designed to ensure that any action taken by the court will be consistent with the First Amendment.

Proposed subsection (d)(7)

This provision requires all materials seized in an ex parte seizure order under this section to be placed in the custody of the court. Under proposed subsection (d)(1), the materials seized may include business records. The sponsors recognize that the seizure of such records poses particularly difficult issues, since such documents may contain sensitive business information. If any records have been seized, therefore, the court should enter an appropriate protective order with respect to discovery of the records. In seeking to protect any privileged information that may be contained in the seized records, the courts should employ whatever procedures are appropriate under the circumstances of the case at hand. The sponsors believe that three procedural devices in particular are worthy of special consideration in this regard.

The first is the use of a third party, chosen by the court or by agreement of all concerned, who can examine the records in question and extract the needed information without revealing privileged matter. See e.g., *Battle Creek Equipment Co.* v. *Roberts Manufacturing Co.*, 90 F.R.D. 85 (W.D., Mich. 1981); *Triangle Manufacturing Co.* v. *Paramount Bag Manufacturing Co.*, 35 F.R.D. 540 (S.D.N.Y. 1964); F.R. Civ. P. 53 (appointment of special masters). The second is in camera inspection of the key documents. See *Altech Industries, Inc.* v. *Al Tech Specialty Steel Corps., 528 F. Supp. 521 (D. Del. 1981).* Should the court find that these procedures are inappropriate or not fully satisfactory, a protective order may issue permitting counsel, but not the litigants, to have access to certain information. See, e.g., *Federal Open Market Committee* v. *Merrill*, 443 U.S. 340, 362 n.24 (1979); *Federal Trade Commission* v. *Exxon Corp.*, 636 F.2d 1336, 1349-51 (D.C. Cir. 1980); *Chesa International Ltd.* v. *Fashion Associates*, 425 F. Supp. 234 (S.D.N.Y.), aff'd, 573 F.2d 1288 (2d Cir. 1977). (In some instances, it may be appropriate to limit disclosure of certain documents to a party's outside counsel. See, e.g., *Federal Trade Commission* v. *Exxon, supra.*) Needless to say, a solution to the problem of protecting privileged business information from improper disclosure will need to be tailored to the circumstances of each case.

Proposed subsection (d)(8)

Like both the Senate and House bills, the compromise version provides that ex parte seizure orders under this section shall be sealed until the defendant has had an opportunity to contest the order. It also provides that once the seizure has taken place, the defendant should, of course, be given an opportunity to see the seizure order and supporting materials.

Proposed subsection (d)(9)

As did both S. 875 and H.R. 6071, the compromise draft provides that a United States Marshal or other law enforcement official shall carry out ex parte seizure orders under this Act. When possible, a U.S. Marshal should carry out the seizures, but other law enforcement officials may perform seizures under this section if the U.S. Marshal is unable to do so in an expeditious manner.

The compromise bill also provides that the court should issue appropriate orders to ensure that trade secrets or other confidential data are not improperly disclosed during the course of the seizure. In particular, the provision authorizes the court, when appropriate, to restrict the access of the applicant or its agents or employees to such information during the course of the seizure.

In preparing such an order, the court should keep in mind two competing considerations. The first is that the law enforcement official who carries out the order may not be sufficiently familiar with the goods or services in question to be able to determine what materials or documents should be seized. For this reason, it may be desirable for the court to permit a representative of the applicant, such as its counsel, to accompany the U.S. Marshal to assist in making these determinations. On the other hand, the purpose of the ex parte seizure is to protect materials from destruction or concealment; it is not to permit the plantiff to bypass the normal discovery process. If an applicant is permitted unlimited access to the defendant's documents during a seizure, later protective orders issued during the discovery process may be of little value.

The sponsors believe that the courts can reconcile these two goals by issuing appropriate orders, based on all the circumstances of the case, that will provide the law enforcement officials with sufficient information to carry out the seizure while not jeopardizing the operation of the normal discovery process or the confidentiality of privileged business records. The Act leaves to the sound discretion of the court the determination of how best to achieve these goals. One preferred method would be for the court to ask the applicant's counsel, whether or not he or she accompanies the law enforcement officials who execute the seizure, to provide the officials with a "checklist" of matters to be seized, and with other needed information.

The compromise draft does not include the provision in proposed subsection (d)(10) of the House bill calling for application of certain procedures under the Federal Rules of Criminal Procedure. The sponsors determined that the application of these complex rules might needlessly complicate ex parte seizures under this Act. However, the courts are free to employ appropriate procedures to accomplish the general purposes of the omitted House provision.

Proposed subsection (d)(10)

This provision requires the court to hold a noticed hearing on the propriety of the seizure order. The defendant will have received notice of the hearing by service of the seizure order. The hearing may be waived, if all parties agree.

The hearing must be held no sooner than 10 days after issuance of the seizure order, unless the parties agree to hold it sooner, and no later than 15 days after the issuance of the order. The flexibility of the hearing date is intended to accommodate the seven day period after issuance of the order during which the seizure may be executed.

Of course, either party may request a delay in the hearing. The plaintiff must show good cause for a continuance, since at this point in the proceedings the hardship is upon the defendant whose goods have been seized. For the same reason, it is not necessary for the defendant to show cause for a continuance.

At the hearing, the plaintiff will have the burden of showing that the seizure order was justified and that it continues to be justifiable to hold the defendant's goods or other materials. In many instances, there may be no significant new evidence on this issue, and the plaintiff's proof may simply consist of the same evidence presented at the ex parte hearing, along with proof that those facts have not changed. If the plaintiff is unable to show that continuation of the seizure order is justified, however, the seizure order should be dissolved or modified appropriately.

Of course, the court has the power to retain goods that are proven to be counterfeit. If the defendant does not contest this issue, the court should deal with the goods pursuant to 15 U.S.C. 1118.

Paragraph (B) of this subsection permits the courts to modify normal discovery time limits, if necessary, to accommodate the expedited hearing schedule. This provision follows similar language in both the Senate and House bills.

Proposed subsection (d)(11)

The sponsors recognize that ex parte seizure orders are an extraordinary remedy, and that a person who is subject to a wrongful ex parte seizure should be fully compensated by the party who obtained the seizure order. A court should award such a victim all appropriate damages, including compensation for lost goods or materials, damage to the defendant's good will, and all other elements of actual damage. For example, if a merchant were to obtain a seizure order in order to harass a legitimate competitor and to accrue additional business for itself, the court should award damages based on the applicant's unjust enrichment. Indeed, whenever a seizure order is obtained in bad faith, the applicant should be required to pay all appropriate damages, including such punitive damages as the trier of fact finds appropriate. In addition, unless the court finds extenuating circumstances, a victim of a wrongful seizure should be awarded a reasonable attorney's fee.

The term "wrongful seizure" was intentionally left undefined in both the Senate and House bills, in the belief that the courts will best be able to interpret this phrase under the circumstances of each individual case, and in light of precedents under Rule 65 of the Federal Rules of Civil Procedure. However, a few rules of thumb can be outlined. The first is that the mere fact that a few legitimate items may have been seized does not make the seizure as a whole wrongful; otherwise, a counterfeiter could ensure that any seizure of its counterfeit merchandise would be "wrongful" simply by mingling a few genuine items with his or her inventory of fakes. The second is that a seizure will be considered wrongful if the applicant acted in bad faith in seeking it. For example, it would obviously constitute bad faith for an applicant to seek a seizure order in an effort to prevent the sale of legitimate merchandise at discount prices. Similarly, it would constitute bad faith for an applicant deliberately to defy a court order limiting its access to confidential documents seized from the defendant.

Third, a seizure must be considered "wrongful" if the matter seized is legitimate, non-infringing merchandise. In such a case, even if the plaintiff acted in good faith, the defendant should be compensated for his or her losses caused by the plaintiff's use of an ex parte process. Beyond these principles, the Act leaves the definition of "wrongful seizure" to case-by-case interpretation in light of Rule 65 and other precedents.

The compromise bill adopts the provision of the Senate bill with respect to awards of prejudgment interest on damages for wrongful seizures. See proposed section 2320(d)(2) of S. 875. The purpose of this provision, and of the comparable provision in proposed 15 U.S.C. 1117(b), is to ensure that an injured party is made whole by the relief that he or she is granted, and to discourage dilatory tactics in litigation under this Act.

TREBLE DAMAGES AND ATTORNEY'S FEES

The Senate bill called for an automatic award of treble damages and attorney's fees to plaintiffs upon a showing that the defendant had "intentionally trafficked in goods or services" knowing them to be counterfeit. The House bill contained essentially the same provision, except that the court was given discretion to reduce the award against the defendant in the event of "extenuating circumstances." (In this Statement, the phrase "treble damages" will be used as shorthand for "treble damages or profits." See 15 U.S.C. 1117.)

The Senate sponsors have agreed to the House language concerning "extenuating circumstances," on the understanding that it will be a rare case in which a defendant who has trafficked in goods or services using a mark that he or she knows to be counterfeit can show that he or she should not be assessed treble damages. By definition, many possible "extenuating circumstances"—such as ignorance of the fact that one was dealing in counterfeits—will have been eliminated if one is shown to have satisfied the statutory test for treble damages. In highly unusual instances, however, the court may be warranted in reducing the treble damages and attorney's fees to which the plaintiff would otherwise be entitled. For example, it may not be appropriate to impose treble damages and attorney's fees when the defendant is an unsophisticated individual, operating on a small scale, whose conduct posed no risk to the public's health or safety, and for whom the imposition of treble damages would mean that he or she would be unable to support his or her family.

The Act amends 15 U.S.C. 1117, the Lanham Act provision that governs recoveries in trademark cases. For purposes of clarity, the Act creates a new subsection 1117(b) relating exclusively to recovery in counterfeiting cases. The provisions of subsection (a) remain applicable in counterfeiting cases except insofar as they are inconsistent with subsection (b). Thus, the sentence of section 1117 that reads "Such sum . . . shall constitute compensation and not a penalty" is inapplicable in counterfeiting cases, since one of the purposes of treble damage awards for

intentional dealing in known counterfeits is to provide an adequate penalty for such conduct. See S. Rept. 98-526, supra, at 6.

Both the Senate and the House bill provided for a two-part mental state requirement: that the defendant be shown to have acted "intentionally" in dealing in the goods or materials in question, and to have "known" that the items were counterfeit. The compromise bill retains that two-part test. The comments above concerning the mental state provision of the criminal code amendment are equally applicable here, except that, of course, the standard of proof in a civil case will be "by a preponderance of the evidence" rather than "beyond a reasonable doubt."

The Senate bill called for a mandatory award of reasonable investigator's fees to successful plaintiffs in counterfeiting cases. This provision has been omitted from the compromise bill, because of the concern of the House sponsors that such a provision might set an undesirable precedent. To the extent that an investigator acts under the direction of an attorney, however, his or her fees may be recovered by a prevailing plaintiff as part of an award of attorney's fees.

Here too, the compromise bill adopts the comparable Senate provision concerning prejudgment interest on awards. See subsection 2320(d)(2) of S. 875.

The sponsors wish to discourage frivolous allegations of counterfeiting in trademark infringement suits, and to prevent a demand for "counterfeiting treble damages" from becoming a "boilerplate" request in ordinary trademark infringement suits. Should a plaintiff seek treble damages for "intentional use" of a "known counterfeit" in a case in which the mark in question is clearly not counterfeit, it would be appropriate to require the plaintiff to pay the defendant's attorney's fees with respect to that portion of the lawsuit. See 15 U.S.C. 1117 ("The court in exceptional cases may award reasonable attorney's fees to the prevailing party.") For purposes of this Act, if the court determines that an allegation of counterfeiting was frivolous, the defendant shall be considered a "prevailing party" with respect to that allegation for purposes of section 1117.

Of course, this provision is not intended to reverse the usual principles of the Federal Rules of Civil Procedure with respect to "notice pleading." In particular, it may be difficult for a plaintiff to be certain, at the time of filing a complaint, whether the defendant knew that particular goods bore counterfeit marks. It may be easier to determine at the outset of a lawsuit whether, for example, a mark could plausibly be considered "substantially identical" to a registered mark. The court should take these and other relevant factors into account in determining whether to award attorney's fees to a prevailing defendant on the basis that an allegation of counterfeiting was frivolous.

Proposed 15 U.S.C. 1118

This provision amends 15 U.S.C. 1118 to require a party seeking the destruction of articles seized under the ex parte procedures of this Act to give ten days' notice to the U.S. Attorney before doing so, unless the party can show good cause for giving lesser notice. The destruction of the offending articles will rarely be an emergency matter, and the sponsors therefore expect that the full ten-day notice should ordinarily be given.

Mr. COCHRAN. Mr. President, I support the amendment offered by my distinguished colleague, Senator THURMOND, and commend him for his diligent efforts to ensure the enactment of this vital package of criminal-justice reforms before the 98th Congress adjourns. The Judiciary Committee, under his leadership, has acted responsibly and deliberately in fashioning this bipartisan legislation that will enhance the administration of justice in our Nation.

Crime, combined with drugs, is the No. 1 issue of concern to Americans, according to a recent Roper poll. It is more important than any economic issue. Our citizens are demanding that Congress restore strength and fairness to our criminal justice system. This legislation will renew public confidence in our legal system and in the Congress' ability to set politics aside and enact comprehensive reform legislation.

This amendment contains primarily the provisions of S. 1762, the Comprehensive Crime Control Act, including important reforms in forfeiture procedures, the insanity defense, drug penalties, and bail. The amendment includes the Justice Assistance Act which will provide Federal assistance for crime-fighting programs for State and local law enforcement agencies.

One of the most important provisions is the Victims of Crime Assistance Act which authorizes Federal assistance for the victims of crime. I cosponsored the crime package, this victims compensation measure, and many of the other measures that comprise this package, and I support their enactment by this Congress.

Mr. President, I am particularly pleased that this amendment includes specific statutory authorization for the Federal Witness Security Program, including the very important reforms I suggested to improve the program's operations and provide safeguards for the public.

I wish to thank and commend Senator THURMOND and Senator LAXALT, the outstanding chairman of the Subcommittee on Criminal Law, for their cooperation and assistance and for working to secure the Senate's approval of this reform legislation. I have worked closely with them on this compromise which contains the Senate- and House-passed recommendations. Additionally, we have been able to work out with officials of the Department of Justice and the members of the House Judiciary Committee a very important provision to resolve child custody and visitation problems that arise when one of the parents is admitted into and relocated under the program. Congressman KASTENMEIER and the members of the House Judiciary Committee are to be commended for their diligence in seeking reform of the Federal Witness Security Program.

We have recommended some modifications in the original Senate language to accommodate problems anticipated by the Justice Department, the Marshals Service, and the FBI in complying with the bill's requirements to provide information to State and local law enforcement. While it is recognized that the organization of the fingerprint request and NCIC systems may present problems of compliance for these agencies, it is the intent of Congress that State and local law-enforcement officials have access without undue delay to the vital criminal background information they need to investigate a felony or crime of violence. Steps should be taken by the agencies to ensure that this intent is carried out.

The procedures established for resolving child custody and visitation problems recognize the importance of maintaining child-parent relationships and places responsibility on the Attorney General and the Department of Justice to consider potential custody and visitation problems when admitting a witness, to provide an arbitration procedure for mediating custody arrangements between the parents, to seek modification of court orders, and to compel compliance of all court orders by the witness or protected person.

Additionally, this legislation includes the very important provision requiring the Attorney General to make a specific assessment of the possible risk of danger that a witness may pose to the public and to determine that the need for his testimony outweighs the risk of danger to the public. It establishes procedures by which plaintiffs may pursue civil claims against protected persons, and it requires the Department to establish procedures for the independent review and resolution of complaints and grievances by protected persons against the Department.

Mr. President, this amendment also includes, as part of the Victims of Crime Assistance Act, my proposal to provide compensation to the victims of crimes committed by federally protected persons, including death cases occurring prior to the date of enactment.

The Federal Witness Security Program is an important tool in our fight against organized crime. This legislation will give full statutory authorization to the program and establish the parameters for its operation that include important considerations and safeguards for the public.

I urge my colleagues to approve the passage of this vital legislation.

Mr. DECONCINI. Mr. President, I strongly support the adoption of this amendment establishing a National Drug Enforcement Policy Board. It is my hope that the Policy Board will provide the United States, for the first

time, a comprehensive, coordinated strategy for waging an all-out war on intercepting drugs as they come across our borders.

I believe the Policy Board will allow congressional, administration, and private-sector experts in the fields of interdiction, law enforcement, drug-abuse prevention, and rehabilitation and counseling to come together and develop a workable plan for ridding our great Nation of this terrible and utterly unnecessary problem. The Policy Board will then see to it that this comprehensive plan is carried out in a coordinated and efficient manner.

This morning, Vice President Mondale announced his four-point plan for fighting drug smuggling. I heartily approve the Mondale plan because it focuses on just the kind of coordination and comprehensive planning that I have been recommending for years. The Mondale plan would establish a high-level drug coordinator; would focus on intensive international cooperation including incentives, penalties, and financial assistance; would step up American interdiction efforts, especially increasing the use of military resources; and would increase aid to, and coordination with, State and local law-enforcement agencies.

In March of last year, the administration announced the creation of a National Narcotics Border Interdiction System [NNBIS], a program designed to mobilize resources to attack the drug-smuggling problem around all of the U.S. borders. I have repeatedly applauded the President's efforts to focus the power and resources of the Federal Government on this sinister drug problem and I will continue to support his program. However, despite the good intentions of the President, the Vice President, the Attorney General, and our individual drug-interdiction agencies, there is still the critical lack of a coordinated, comprehensive strategy for attacking the drug-smuggling problem. The Government needs to prepare for a war on drugs in the same way it prepares for war against an enemy of the United States. We need a national and international game plan for developing drug-interdiction warfare, including bolstering our international intelligence-gathering systems; providing existing military aircraft, radar, and other equipment to our civilian law-enforcement agencies for drug-interdiction purposes; establishing tough, international drug-eradication programs in source and transshipment countries; and developing a coordinated system for allocating Federal drug enforcement resources to the agencies and locations where the drug-smuggling threat is most acute.

We do not have such a war plan, but we desperately need one. The Vice President cannot do it alone. The individual law-enforcement agencies cannot do it on their own. The military cannot do it alone. The Vice President and other key players in the Federal drug-interdiction effort need a national strategy to put into effect. I am confident that the National Drug Enforcement Policy Board will give the country the blueprint for a successful war on drugs—a war that we can ultimately win.

Mr. President, the idea of a centralized office or board for directing our national drug effort is certainly not a new idea in this Chamber. The so-called drug czar was a key part of the crime bill that President Reagan vetoed last year, but more importantly it is a concept that has been recognized as essential to our war on drugs in both Houses of Congress. The amendment we are considering today was approved yesterday by the House. The language of this amendment is identical to that offered by the distinguished chairman of the Senate Judiciary Committee, STROM THURMOND, and approved by the Senate on February 7, 1984.

Mr. President, I will not burden my colleagues with the numerous reports and studies that show the seriousness of the drug problem in this country. Suffice it to say that the drug threat to this country is staggering and getting worse. The cost of drug abuse to the economy has been estimated at $25.8 billion a year; the drug-trafficking industry is an $80 billion a year empire; and as much as 70 percent of all violent crime in the United States is directly related to drugs. To attack this violent problem in our country, we need tough, new measures; we need someone in charge full time who can cut through the bureaucratic and turf snarls that have plagued our drug effort to date; and we need a board to map out a national war plan for attacking the drug problem from all fronts. This bill will get the ball rolling in this direction.

Mr. DENTON. Mr. President, I support the amendment offered by the distinguished chairman and ranking member of the Judiciary Committee. Specifically, I voice my strong support for the provision dealing with terrorism. The provision, as passed by the House, contains substantially the same provisions of two antiterrorism bills that my distinguished colleague, Senator THURMOND, and I introduced in the Senate on May 2, 1984, on behalf of President Reagan.

The provision of it is essentially the same as S. 2624, a bill to implement the International Convention Against the Taking of Hostages. The enabling legislation for the Hostage-Taking Treaty is essential. The United States has been a party to the Hostage-Taking Treaty for over 3 years. The treaty was adopted by the United Nations in 1979, and President Reagan signed the instrument ratifying the treaty in September 1981. When the President signed the instrument of ratification, the Congress was informed that the instrument would not be deposited with the United Nations until enabling legislation had been enacted.

And in the 3 years since we ratified the treaty, the enabling legislation necessary to implement it has languished. One might say that Congress has been derelict in passing the necessary legislation. We must demonstrate now to other governments and international fora that the United States is serious about its efforts to deal with international terrorism.

An even more egregious situation exists with regard to enabling legislation for the Montreal Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation. That treaty was ratified by the U.S. Senate 12 years ago, in 1972. Our failure to pass enabling legislation for the Montreal Treaty means that certain criminal acts related to aircraft sabotage or hijacking are not adequately covered by U.S. law. This gap in the law sends a false signal to terrorists, and it also indicates to other governments that we may not be as serious as we should be, and as in fact we are, in our efforts to combat international terrorism.

The provision also closes that gap. It contains substantially the same provisions as S. 2623, a bill Senator THURMOND and I introduced last May to implement the Montreal Treaty, and which was unanimously approved by the Senate Judiciary Committee.

Passage of the provision would implement both the Montreal Treaty and the Hostage-Taking Treaty. Because their implementation is long overdue and so vital to our national interest, I urge my colleagues to support adoption of the amendment.

Mr. President, I strongly support the amendment offered by the distinguished chairman and ranking member of the Judiciary Committee. Specifically, I voice my strong support for the provision entitled "The Victims of Crime Act." The legislation will go a long way toward balancing the scales of justice. Far too often, criminals profit from their illegal acts while innocent victims must struggle to replace stolen property or to rebuild their lives. Even after incarceration, criminals know they may continue to profit through media exploitation of their crimes.

Mr. President, it is high time that we stop protecting criminals from due justice and offer more assistance to those victims whose once innocent lives are suddenly thrown into chaos through no fault of their own. Present Federal mandates seem to be more interested in guaranteeing the constitutional rights of the felon than the rights of

his victim. The Victims of Crime Act is a major step designed to reverse this trend.

The provision is based on a recommendation from the President's Task Force on Victims of Crime and was first published in late 1982. Under the proposed legislation the U.S. Treasury Department would create a fund to provide modest Federal financial assistance for certain State, local, public, and private compensation programs that assist crime victims. The fund would also fund services for victims of Federal crimes. The legislation would not, however, impose any additional burden on the taxpayer. The financing would come from (1) fines collected by the Federal Government (2) a new penalty assessment, authorized by the provision, levied upon convicted Federal defendants, (3) forfeited bail bonds and collateral in Federal criminal cases, and (4) certain profits made by criminals from publishing their misdeeds in literary, visual, and audio productions.

Under the proposal, half of these funds would be distributed to existing State victim compensation programs based on payments made to victims in the previous year and up to 5 percent of the fund will be used to finance Federal services to victims. The remaining funds will be distributed to the States to help finance public and private, nonprofit crime victim assistance programs.

Between $45 and $75 million a year would be raised for the program from fines paid by criminals convicted of Federal offenses. I would point out that the fund would receive even greater revenue once S. 1762, the President's Comprehensive Crime Control Act, which authorizes higher fines for Federal crimes, becomes law.

In addition to providing financial assistance to victims of crimes, the proposed legislation would permit the victims to make a statement at a U.S. Parole Commission hearing about the way their lives were physically, psychologically, and financially affected by the crime. Such information is currently available to the judge in the presentencing report and should be available to the Parole Commission before it grants parole, and therefore a shorter sentence to the criminal.

Mr. President, as you already know, many crimes go unreported in the United States because victims are often fearful that simple performance of their civic duties may cause more pain and aggravation than the original criminal act. I am proud of this truly bipartisan effort to assist the innocent members of our society who suffer at the hands of criminals. I hope my colleagues return "fairness" to the American justice system by supporting the provision.

Mr. President, I support the amendment offered by the distinguished chairman and ranking member of the Judiciary Committee. Specifically, I voice my strong support for the provision entitled, "The Juvenile Justice, Runaway Youth and Missing Children's Act Amendments of 1984." The provision represents a compromise of bills passed by both Houses of Congress (that is H.R. 4197 and the Senate substitute to H.R. 2175); a compromise which is the culmination of months of intense negotiation.

Contained within the provision is a comprehensive response to a tragedy which plagues our Nation. As suggested by the provision, it has three primary components—all addressing the needs of our Nation's youth and their troubled families. First, the provision reauthorizes the Juvenile Justice and Delinquency Prevention Act of 1974. Second, it extends the Runaway and Homeless Youth Act. Third, the provision creates a new Federal response to the problem of missing and abused or sexually exploited children.

Let me briefly summarize the three components.

As I noted, the first component extends the life of the Office of Juvenile Justice and Delinquency Prevention [OJJDP] under its current structure, and reauthorizes the Juvenile Justice and Delinquency Prevention Act through 1988. The extension indicates a continued commitment on the part of the Federal Government to juvenile justice.

With a strong Federal commitment, significant progress has been achieved in meeting the principal mandates of the Juvenile Justice and Delinquency Prevention Act of 1974 of (1) deinstitutionalization of status offenders and nonoffenders and (2) removal of juveniles from adult jails and lockups.

However, despite this progress, thousands of children are inappropriately incarcerated each year. According to the OJJDP funded study based on 1978 figures, entitled, "Juvenile Suicides in Adult Secure Detention Facilities," an estimated 479,000 juveniles continue to be held in adult jails and lockups each year. Of these, approximately 20 percent are accused of status offenses. Statistics supplied at a Subcommittee on Juvenile Justice hearing by Alfred S. Regnery, Administrator of OJJDP, indicate that the number of youth held in regular contact with adults has been reduced to 27,552. This total does not include data from the four nonparticipating States. The number held in adult jails and lockups generally is much higher.

Other estimates of the number of status offenders held in secure facilities annually range from 35,000 to 50,000. Recent statistics supplied by Mr. Regnery indicate that in the 53 participating jurisdictions, 22,833 status offenders are annually held in secure detention.

With the authorization of OJJDP and a recommitment by the Federal Government, the progress in meeting the mandates of the act will become more and more significant.

The juvenile justice component of the provision does incorporate some new features into the Juvenile Justice and Delinquency Prevention Act.

First, the act will now require that the Administrator of OJJDP have prior experience in the field of juvenile justice. I believe this requirement will provide for the necessary insight into juvenile justice matters that an administrator must have in order to administer the act properly.

Second, the act will now require the Administrator to report to the Attorney General through the Assistant Attorney General who heads the Office of Justice Programs. The requirement would not affect the independent structure of OJJDP, but would provide for a certain degree of monitoring of its activities. I believe this requirement will enhance the effectiveness of the office.

Third, the act will now provide additional clarification and flexibility in complying with the original mandate of removing juveniles from adult jails and lockups. The Administrator may now promulgate regulations excepting rural areas (that is areas outside a standard metropolitan statistical area where no existing acceptable alternative placement is available) from compliance with the jail removal mandate. Additionally, the deadline for a State's compliance with the mandate is extended to 1988.

I believe this provision will assist States, particularly those with large rural areas, in complying with the act. The additional extension should also encourage those States which are in substantial compliance with the mandate to achieve 100 percent compliance by 1988. I believe this requirement will enhance the effectiveness of the act.

Fourth, by setting forth two tiers of special emphasis, the act will provide the Adminstrator with guidance as to the priority in awarding grants, contracts, and cooperative agreements. The first tier emphasizes (1) community-based alternatives to traditional forms of institutionalization of juvenile offenders, (2) diverting juveniles from the traditional juvenile justice and correctional system, (3) advocacy activities aimed at improving services to youth impacted by the juvenile justice system, (4) programs relating to juveniles who commit serious crime, (5) a coordinated national law-related education program of delinquency prevention, and (6) programs to strengthen and maintain the family unit. The second tier lists an additional seven areas of emphasis. I believe that tiering of the special emphasis will allow

the Office to address better the problem of delinquency and its prevention.

Fifth, the act will now provide for a competitive award system. I believe that this requirement will ensure the American taxpayers that they are receiving the best and most effective product for the most economical price, by (1) promoting administrative accountability, (2) allowing the Office to become more aware of a wider range of talents and expertise, and (3) encouraging cost-effective allocation of resources. The act does provide for an exception to the competitive process where the proposed program is of such outstanding merit, as determined through peer review, that the award of a grant, contract or cooperation agreement without competition is justified. I note that all proposals for funding, whether awarded competitively or noncompetitively, are subject to a peer review process to be established by the Administrator in consultation with the Directors and other appropriate officials of the National Science Foundation and the National Institute of Mental Health.

I believe the safeguards engendered by the required competition and peer review will prevent the awarding of grants which in the past have raised questions.

Sixth, the act will prohibit the funding of any biomedical or behavior control experimentation on individuals or any research involving such experimentation. The prohibition does involve programs having no risk of physical or psychological harm to an individual, such as drug and alcohol dependency treatment, psychological counseling, parent training, behavior contracting, survival skills training, restitution, or community service. I believe this is an appropriate prohibition since decisions regarding Federal support of behavioral and biomedical research should rest with health and mental health agencies that have the expertise and established procedures to protect human research subjects.

Finally, I note with satisfaction that the act will not include Senate-passed language allowing for the placement of certain status offenders in secure detention facilities for up to 5 days. While the status offender provision was intended to protect the juvenile, I feared that it would actually do that juvenile more harm by placing him or her in a detention facility where he or she is likely to come into contact with delinquent youth. Therefore, I was pleased when my Senate colleagues yielded to my insistence that the provision be deleted.

The second component of the provision extends the Runaway and Homeless Youth Act through 1988. Such act provides funds for community-based programs that primarily serve the immediate needs of runaway youth and their families. The act authorizes grants for such services as temporary shelter, counseling, and aftercare in settings outside the law enforcement and juvenile justice systems. The program is handled by the administration for children, youth, and families, within the Office of Human Development Services of the U.S. Department of Health and Human Services.

In fiscal year 1983, federally funded runaway and homeless youth centers provided ongoing crisis intervention and shelter care services to approximately 50,000 youth. Another 150,000 youth received one-time counseling or referral services on a "drop-in" basis.

Approximately 50 percent of the youth who received ongoing services were reunited with their families. Twenty-five percent were placed in other positive living arrangements such as with friends, relatives or in group or foster homes; and 17 percent were placed in other stable living situations such as boarding school. Only an estimated 8 percent returned to the streets.

The runaway and homeless youth component of the provision incorporates some changes into the act.

First, the act will no longer restrict participation in programs and activities to public or nonprofit private agencies or organizations, but will permit participation in these programs by for-profit entities as well. The inclusion of for-profit entities is consistent with other operations by the Department of Health and Human Services and should enhance the level of participation under the act.

Second, the act will now encourage the Secretary of the Department of Health and Human Services to use surplus Federal facilities in assisting runaway and homeless youth centers. This new authority would enable the Secretary to permit existing or potential centers to take advantage of surplus Federal facilities which might be available in the community.

Finally, I take pride in the fact that throughout the provision, certain language, sponsored by Congressman THOMAS E. PETRI and myself, emphasizing a strong family involvement in delinquency and runaway problems, has been incorporated. This family involvement language stresses the important role that parents, grandparents, and other adults in the household play in the lives of their children.

It is my belief that when dealing with juvenile delinquency problems, the family, including grandparents, can often be the source of either the problem or the solution. By supporting projects which emphasize family involvement, this legislation might help rebuild broken families. I must note that the incorporation of this language was influenced by the testimony before the Senate Subcommittee on Juvenile Justice of Mr. Edward E. Earnest, Executive Director of the Community Intensive Treatment for Youth [CITY] Program in Etowah County, AL, who noted that he observed a direct correlation between an enhanced family involvement and a decrease in juvenile delinquency.

The third and final component of the provision deals with missing children.

Mr. President, missing children represent a growing national tragedy. The Department of Health and Human Services has estimated that each year approximately 1.8 million children are missing from their homes for varying periods of time. Approximately 90 percent run away for a few days and return home, but at least 100,000 children are abducted by one of their parents, and as many as 50,000 young Americans are reported as having been abducted by strangers.

Thousands of children and thousands of parents are victimized every year. The children disappear into the unknown. The parents live in an agony of searching for their children with little hope of success. There is no possible way that we, as outsiders, can even begin to understand the devastating grief that is present and so real in families who must deal with the trauma of a missing child. We may not be able to understand the grief, but we can certainly act to help deal with it. I firmly believe that the Federal Government must play a more active role in the process of finding missing children and returning them to their homes.

In 1982, Congress passed the Missing Children Act. The act extended the FBI's authority to collect and record data about missing children. It requires the FBI to list missing children in a national computer accessible to most police departments across the country.

The Missing Children Act of 1982 was only the first phase in the protection of our youth. The next phase, complementing the first, is the missing children component of the bill before us today. The purpose of that component is to obtain a greater national commitment and a nationwide effort in solving the disappearance of so many of our children every year.

The component guarantees coordinated and comprehensive programs at the Federal level to assist local and State authorities in the search for missing children. It provides for the establishment and maintenance of a toll-free telephone line for the reporting of information about the location of missing children, as well as the establishment of a national resource center and clearinghouse to provide technical assistance to law enforcement officials. I consider that provision to be an effective weapon in the battle against criminals whose targets are our young Americans.

I strongly believe that the missing children component of this bill will do much to aid parents and relatives of children by creating a nationwide source of data for investigations of missing children cases.

Mr. President, I commend the members of this body, particularly the distinguished chairman of the Judiciary Committee, Mr. THURMOND, the distinguished ranking member of the Judiciary Committee, Mr. BIDEN, the distinguished chairman of the Subcommittee on Juvenile Justice, Mr. SPECTER, and my colleague from Florida, Mrs. HAWKINS, who serves as the leading Senate advocate of missing children, all who have worked unyieldingly to formulate a bill which rightfully reflects a strong Federal commitment to the problems of our Nation's youth. I applaud our efforts to this point and I urge my colleagues to vote in favor of the amendment.

MISSING CHILDREN'S ASSISTANCE ACT

Mrs. HAWKINS. Mr. President, I rise in support of this crime package amendment to House Joint Resolution 648. In particular I would like to comment on the provisions of this amendment that provide for a Missing Children and Juvenile Justice Program. These provisions reflect the agreement between members of the House Education and Labor Committee, the Senate Judiciary Committee, and the principal sponsors of the Missing Children's Assistance Act. The agreement covers the details of reauthorization of the Juvenile Justice and Delinquency Prevention Act, the Runaway Youth and Homeless Youth Act, and the creation of a new program to address the national tragedy of missing children.

The missing children provisions of this amendment provide for the establishment of a national toll-free telephone hotline. This telephone hotline will receive information from individuals who have made sightings of missing children. Parents of missing children will be able to call the toll-free number for information on just how to go about locating a missing child as well as receive emergency instructions on what to do when a child is missing.

The substitute amendment also provides for the permanent establishment of a national resource center to coordinate public and private efforts to locate missing children and to prevent the sexual exploitation of children. The existing resource center, the National Center for Missing and Exploited Children, was established by President Reagan in response to the overwhelming support of this measure in Congress. Fortunately, its existence has paved the way for swift implementation of this missing children program once it is enacted.

Finally, Mr. President, the Administrator of the Office of Juvenile Justice and Delinquency Prevention will administer a new grant program. This program is designed to help create a nationwide network of law enforcement and local agencies working to locate missing children.

Mr. President, I believe the intent of this legislation is clear. During the early years of this program, the Office of Juvenile Justice and Delinquency Prevention will concentrate its efforts on developing an effective network of organizations around the country. These organizations will assist the National Center for Missing and Exploited Children in locating missing children. To carry out this purpose the substitute amendment establishes a first priority for grants to eligible applicants that have demonstrated or can demonstrate an ability to locate missing children and reunite them with their families. This provision is included in the substitute to guarantee that the limited funds available—only $4 million has been appropriated for fiscal year 1985—go to assist private organizations who have expertise in locating missing children. These funds can also be made available to local law enforcement agencies that have previously made a commitment of manpower and resources to locating missing children.

When we began this fight over 3 years ago, our original purpose was to create a mechanism by which parents of missing children could locate their child in a speedy manner and bring them home again. To create this mechanism, we knew we had to foster cooperation among local, State, and Federal law enforcement officials. We had to break down barriers between parents of missing children and law enforcement agencies. In addition, we had to open lines of communication between law enforcement agencies around the country, parents of missing children, and the many private citizen action groups that encourage, support, and provide advice to parents on how to locate their missing children. These groups carry out these activities in many ways, including advising parents on legal technicalities, distributing flyers, working with local police and prosecutors, and encouraging local media attention. This is still our primary purpose.

Over the years, however, we have learned from our investigations and from testimony before the Senate Subcommittee on Juvenile Justice chaired by my good friend and colleague, the junior Senator from Pennsylvania, that a dangerous fate awaits our Nation's missing children. Mr. President, we believe that the great majority, almost 90 percent, of our missing children are runaway or throwaway children. Most of the runaways, 90 percent we think, return home after only a few hours or days. Mr. President, a substantial number—we do not know how many, perhaps as many as 350,000—of our missing children are the victims of parental abduction. These children, and their custodial parents, need help and advice and the provisions of this amendment ensure that they will receive this help.

But, Mr. President, there are a significant number of children whose whereabouts are unknown that are victims of sexual exploitation. Some of these children are abused by their noncustodial parent. The runaways, however, often fall into the hands of pimps, pornographers, and other criminals who exploit these children for profit. This substitute amendment also provides for the coordination of law enforcement efforts in the area of sexual exploitation and abuse. It allows the National Center for Missing and Exploited Children to work with law enforcement, and other public and private agencies, in the prevention, investigation, and prosecution of missing and exploited children cases. These children must be protected from risk. The National Center's efforts in this area will help reduce this risk. But, Mr. President, let us never forget, that the best means of reducing the risk faced by these missing children is to quickly and safely bring them home where they belong, to their custodial parent or legal guardian. It is in this area where we must continue our efforts.

This substitute amendment also provides for the reauthorization of the Juvenile Justice and Delinquency Prevention Act and the Runaway and Homeless Youth Act. The negotiations on these portions of the substitute were long and tough, but fruitful. I believe we have reached a good compromise on the issues addressed by both the House and Senate. We have extended both of these acts for 4 additional years. We have protected the independence of the Office of Juvenile Justice and Delinquency Prevention. The Administrator of that Office will be appointed by the President with the advice and consent of the Senate. He will retain authority to make the rules and regulations pursuant to this act, and he will have final authority to make grants and contracts entered into by his Office.

On more substantial issues, I believe we have reached a good understanding of the importance of a competitive process in administering the Federal Juvenile Justice Grant Program. We have taken steps to ensure that the system will not be abused and that Federal funds will not be used for biomedical experimentation. Finally we have provided our most rural areas with a minor exemption from the jail removal requirement for juvenile delinquents. In a limited way, we have allowed for a juvenile offender to be temporarily detained during the period before he can be brought before the court. There is nothing in

this amendment, however, to diminish the spirit and intent of the Juvenile Justice and Delinquency Prevention Act.

The States will still be provided with an incentive to remove juvenile delinquents from adult jails, separate juvenile offenders from adult offenders, and status offenses remain decriminalized.

On the whole, Mr. President, I believe this is an excellent measure. I believe that it will be readily approved by the House of Representatives and I feel certain that President Reagan is eager to sign this measure into law. I urge my colleagues to support the substitute amendment on juvenile justice, missing children, and runaway youth.

In closing, Mr. President, I would like to associate myself with the explanatory remarks of the House and Senate managers of this legislation with the clear understanding that the law sets a clear priority on grants under the missing children provisions of this measure. That priority directs the Administration of OJJPP to use his limited funds in this area to support programs that emphasize the location of missing children and the reunification of these children with their legal guardians.

Mr. HATCH. Mr. President, I have carefully reviewed the proposed amendments to the sentencing provisions of the crime package. I have discussed them with several other members of the Judiciary Committee, including its chairman—Senator THURMOND—and I have discussed them with other colleagues and administration officials. After considerable review and discussion, I find that there appears to be a general understanding among these persons that the amendments are fully in accord with the existing purposes of the sentencing provisions previously passed by the Senate.

The language stating that a court "shall impose a sentence sufficient, but no greater than necessary, to comply with the purposes" of sentencing, is simply of a clarifying nature. It does not change in any way the policy already contained in the Senate-passed bill. Sentences must be designed so that they fully meet the various purposes of sentencing. Those purposes cannot be met by sentences that are plainly "excessive" or by sentences that are plainly insufficient. Obviously, no Member fo this body intends that "excessive" or insufficient sentences be authorized by this bill.

The language changing the "goodtime" credit—credit against a sentence to imprisonment that a prisoner may earn by complying with prison disciplinary regulations—provides for credit of 15 percent of time served rather than 10 percent. The question has arisen whether the term actually to be served by a prisoner would thereby be reduced from the term of imprisonment under present language found to be warranted by the Sentencing Commission and the sentencing judge. It would not. The fact that "goodtime" constitutes 15 percent of the total term rather than 10 percent is one that could appropriately be considered both by the Sentencing Commission in establishing guidelines and by individudal judges in meting out sanctions to individuals convicted of criminal offenses. Guidelines and terms of individual sentences could be modified or adjusted to respond to the length of "goodtime" provided. What constitutes an appropriate term of imprisonment for the defendant actually to serve would not necessarily be affected here. What would change under the amendment is the amount of time that would be available as an inducement to good behavior by a prisoner.

The amendment adding an additional Federal judge to the Sentencing Commission is self-explanatory. The membership of the Commission will still be able to reflect the views of those with other kinds of criminal justice backgrounds.

The final amendment provides an additional explication of provisions already in the Senate-passed bill—provisions that encourage the Sentencing Commission to help avoid reasonably preventable overburdening of the Federal prison system and the Federal probation system. The principal means of accomplishing this is to provide the Congress with fair warning of the anticipated effects of new guidelines. The amendment would emphasize the need to minimize the likelihood of overcrowding prisons. It calls, as indicated, for minimizing the likelihood—not preventing. Preventing overcrowding is not the Commission's function. It is the function of the Commission simply to assure the imposition of sentences that will achieve the purposes of sentencing period. It is the function of the executive branch and the Congress to avoid unnecessary overcrowding of the prison system. Therefore, while the Sentencing Commission is not empowered to promulgate guidelines that will, on the ground of overcrowding or any other ground, withhold the imposition of appropriate sentences called for by the stated purposes of sentencing—and that has been emphasized strongly and repeatedly in the course of the development and passage of the sentencing bill,—it is empowered to encourage sentencing judges to recommend that the term of imprisonment be served at particular, underutilized Federal facilities or at contract facilities, if the facility that ordinarily would receive the district's sentenced prisoners has already exceeded its capacity.

Mr. LAXALT. Mr. President, I am delighted to rise in support of this important piece of legislation. I have long supported the goals of the Justice Assistance Act of 1984 and I am proud to be associated with it. The bill provides important assistance to State and local governments in their efforts to deal with the problems of crime. It also authorizes important new initiatives to deal with the growing problem of missing children and continues the programs of the Juvenile Justice and Delinquency Prevention Act of 1974.

I want to comment in particular on the sections of this legislation which amend the Juvenile Justice and Delinquency Prevention Act of 1974, commonly known as the Juvenile Justice Act. First, in addition to providing authorization for a broad range of assistance to State and local governments and private agencies to help them deal with the problems of juvenile justice and delinquency prevention, the act contains a number of substantive provisions directing how these funds can be used.

For example, the act requires States to take affirmative action leading to the eventual passage of laws preventing juveniles from being detained or incarcerated in adult jails or local law—and who can, under appropriate circumstances, be detained or incarcerated—must be placed in secure facilities that hold only juvenile offenders. The amendments do, however, contain appropriate exceptions and commensurate protection for placement of juveniles who are arrested in rural areas.

In addition, the bill before us reaffirms the valid court order amendment to the Juvenile Justice Act. This amendment was originally passed by Congress in 1980. It originated in the House of Representatives at the urging of Congressman JOHN ASHBROOK and others. The valid court order amendment allows States to receive funding under the Juvenile Justice Act even though State laws authorize juvenile court judges to detain or incarcerate juveniles who violate court orders.

The bill before us does not change the valid court order amendment. It maintains the status quo. Therefore, States with laws authorizing the detention or incarceration of juveniles who violate valid court orders continue to be eligible for funding under the provisions of the act.

Specifically, the Juvenile Justice Act recognizes that there are two general circumstances where the valid court order amendment is applicable. The first situation is where a juvenile is brought before the court and made subject to a valid court released subject to the conditions in the valid court order. If the juvenile is subsequently arrested or otherwise brought before the court for an alleged violation of that court order, the juvenile can be detained pursuant to State law pending a full due process hearing on whether the juvenile has in fact vio-

lated the court order and should be subject to more stringent sanctions. The second situation occurs when the court finds that the juvenile did, in fact, violate a valid court order and a judge orders the juvenile to be incarcerated or held in a secure facility for violation of the court order.

The bill before us today does include a definition of a valid court order. It is defined as an order given by a juvenile court judge to a juvenile who has been brought before the court and made subject to the court order. The court order is valid only when it is issued pursuant to a hearing in which the juvenile received constitutional due process rights. This definition mirrors the valid court order regulations that the Office of Juvenile Justice and Delinquency Prevention issued after extensive hearings a few years ago. These regulations are consistent with the new definition of valid court order contained in this bill in that both require appropriate due process rights to be granted before a juvenile is detained for violation of a valid court order.

The other provision of this legislation on which I wish to comment is an amendment to section 225 of the Juvenile Justice Act. This amendment requires that after the effective date of this bill, grants or contracts awarded under section 224 or part C of the Juvenile Justice Act should be selected through a competitive process. This amendment represents a congressional effort to assure that all qualified organizations or individuals have an opportunity to compete for Government funding and is consistent with other efforts such as the Competition in Contracting Act of 1984.

Like the Competition in Contracting Act, our amendments recognize that there are certain exceptions where award on a noncompetitive basis is fully justified. For example, one provision authorizes the Administrator of the Office of Juvenile Justice and Delinquency Prevention to award a grant or contract to an applicant that the Administrator has determined to be uniquely qualified to provide training services. This exemption recognizes that there are certain organizations such as the Nevada-based National Council of Juvenile and Family Court Judges which have unique capabilities and facilities for providing training services. For several years the National Council, a nonprofit organization whose members include many of the Nation's juvenile and family court judges, has been providing training services to judges and others in related fields. The funding is provided by the Office of Juvenile Justice and Delinquency Prevention. The training is provided by experienced juvenile and family court judges and professionals from juvenile service agencies who volunteer their services. Facilities for the training are located in Reno, NV, on the campus of the University of Nevada and are made available at no cost to the Government. The facility, known as the College Inn, was originally acquired with private foundation funding; the maintenance costs are paid by the University of Nevada at Reno.

There is no other organization that has the capability or facilities to provide similar training services. The competition amendment to the Juvenile Justice Act and, in particular, the exceptions in that amendment, would authorize the awarding of grants and contracts to the National Council on the basis of their unique qualifications. Such training contracts and grants could be awarded to the National Council pursuant to the authority in new subsection 225(d)(1)(B).

Mr. President, I might also point out that a limited number of other organizations, particularly membership organizations such as the National District Attorneys Association, have training colleges for their members. Such organizations might also qualify to receive funding under the authority of subsection 225(d)(1)(B).

Mr. President, let me reiterate the importance of this legislation. Its various provisions have been debated and negotiated for most of this Congress. What has emerged is an excellent bill, and I commend those whose tireless efforts have made its passage possible.

Mr. President, the battle to enact the comprehensive crime bill has been long and hard. The Senate passed this measure last February by an overwhelming vote of 91 to 1.

Finally, the House of Representatives responded to our citizens' demand for criminal law reform by attaching the legislation to the continuing resolution. Now the Senate has followed suit, and this package will finally become law.

The reforms made by this legislation are well-considered responses to a serious crime problem in our Nation. When this package is signed into law, criminals who are found to be dangerous will no longer be free on bail to walk the streets and commit other crimes. Convicted criminals will not be released on parole. Sentences will be more uniform. Forfeiture of property used in drug smuggling will be more easily obtained.

This list could go on, but suffice it to say that all of the reforms are essential to reshape our Federal criminal justice system. These changes will go a long way toward making this system one which is truly just.

I believe that passage of this legislation is a tremendous accomplishment. I commend those both in Government and outside who have worked so tirelessly to achieve this monumental victory.

Mr. THURMOND. Mr. President, I yield to the distinguished Senator from Massachusetts.

Mr. KENNEDY. Mr. President, today the U.S. Senate is doing more than just talk tough about crime. The Comprehensive Crime Control Act of 1984 is the most far-reaching anticrime and law enforcement reform legislation in our history.

The overwhelming bipartisan support for this legislation marks the culmination of more than a decade of effort in Congress to deal across the board with the manifest flaws in our archaic criminal justice system. This anticrime package is a giant and long overdue step forward in the struggle to roll back the ever-rising tide of crime in our society.

I, too, want to join and say a very special word of commendation to the chairman of the Judiciary Committee, Senator THURMOND, and to the ranking minority member, the Senator from Delaware [Mr. BIDEN], for their extraordinary efforts in the 98th Congress in pursuing the meaningful anticrime measures.

This has been a long pilgrimage that basically started in our committee a number of years, in fact, over a decade ago. And today, it is hoped, we are walking the final steps toward doing something that will have some impact on violence in our society.

So I commend Senator THURMOND and Senator BIDEN for their perseverance on this issue and for their continual commitment to take some meaningful steps on this issue.

To a very significant degree the place where we are this afternoon is as a result of both of those gentlemen as well as my colleague from Nevada, Senator LAXALT, who is the chairman of the Criminal Laws Subcommittee, Senator MATHIAS, who has been a longstanding member of the Judiciary Committee and has taken such a deep and continuing interest in ensuring that we are not only going to deal effectively with the perpetrators of the crimes but we are also going to be sensitive to the rights and liberties of all of our citizens.

There is a good deal of talk about being tough on crime. This body has not in the past been nearly as effective as it should in actually getting tough. But this legislation I believe is a responsible, sensible, far-reaching, formidable piece of legislation that can hopefully mean that our communities will be safer, our streets will be safer, our elderly citizens will have greater security, and there will be a greater sense of justice in the whole sentencing process.

I am especially pleased with the sentencing reform provisions, which are essentially the same as those which I originally introduced. Our existing

Federal sentencing structure is a nonsystem and a national disgrace.

Under current procedures, Federal judges are free to mete out an unjustifiably wide range of sentences to offenders convicted of similar crimes. One defendant may receive probation, while another—convicted of the same crime and having a comparable criminal background—may be sentenced to a lengthy term in prison.

In a leading study conducted in 1974, 50 Federal District court judges in the second circuit were given 20 identical files based on actual cases; they were asked what sentence they would impose on each defendant. The disparities were astonishing. In one extortion case, for example, the range in sentences varied from 20 years imprisonment and a $65,000 fine, to 3 years imprisonment and no fine at all.

By enactment of this measure, the Senate proves that the reforms needed to achieve a workable, rational sentencing system are neither too complicated to legislate, nor too difficult to implement.

With this legislation, we enact a comprehensive overhaul of our present chaotic sentencing laws. The key reform is the creation of an independent sentencing commission to develop binding guidelines to achieve fairer and more uniform sentencing for those convicted of Federal crimes. We provide appellate review for sentences outside the guidelines. And by abolishing parole, we guarantee that those who are sentenced to prison will actually serve the time prescribed by law.

The bail reforms in the act are just as historic, just as far reaching, and just as urgently needed. The most important provision is the change that at last permits judges to take into account the potential dangerousness of defendants in deciding whether they should be released on bail. No longer will judges be faced with the Hobson's choice of granting bail to a demonstrably dangerous defendant, or subverting the law with a baseless finding that the defendant is likely to flee. No longer will any judge feel compelled by a foolish law to release a dangerous defendant into a community to rape, or rob, or mug, or kill again.

There are also important companion changes in the existing law on money bail. The act prohibits the use of money bail as a means to assure a defendant's appearance at trial, and limits the amount of bail to the defendant's ability to pay. No longer will rich defendants be released because they can afford to post their bail, while the poor remain in jail.

The act also contains several other worthwhile reforms, including more effective weapons against drug trafficking and organized crime, the creation of a new Federal drug czar to coordinate the Government-wide effort against narcotics, and stiffer penalties for such offenses.

Many other significant provisions are enacted in this measure. Taken together, they constitute an unusual legislative achievement for which many in present and past Congresses—and in present and past administrations—deserve great credit. We have succeeded admirably together in meeting the all-important goal of enacting effective anticrime legislation, without jeopardizing the constitutional rights or the civil liberties of any citizen.

In sum, this legislation embodies a unique national consensus that more can be done and must be done to combat crime in our society. The bill we offer today is a giant step forward for the safety of our communities, for the preservation of our freedoms, and for every law enforcement officer, every criminal justice official, and every citizen in America.

Finally, let me say that I reject the attempt by some to claim this achievement for partisan or political purposes in this election season. This bill is as much a victory for the Senate as for the House, for the Democratic Party as for the Republican Party, for this Congress as for prior Congresses all the way back to 1967, for Attorneys General from Robert Kennedy and Ramsey Clark to Griffin Bell and William French Smith, and for Presidents from Lyndon Johnson to Ronald Reagan. We could not have done it without each other—and it will not succeed without our continuing partnership in the years to come.

Mr. THURMOND. Mr. President, I thank the Senator for his fine cooperation.

I yield to the distinguished Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I join in the Senator's statement and support this very important crime package. I join in the commendation of the distinguished chairman of the Judiciary Committee, Senator THURMOND, and the ranking minority member, Senator BIDEN, and I note the great contribution made by Senator MATHIAS, Senator KENNEDY, and others.

This amendment is the product of a very long period of time of arduous work, and I think it is a very significant step forward in the fight against crime.

There are a couple of very significant provisions to which I wish to make specific reference. These include the Justice Assistance Act, and the provisions affecting the Office of Juvenile Justice and Delinquency Prevention, missing children, and runaways. With respect to missing children I commend the work of the distinguished Senator from Florida [Mrs. HAWKINS].

The bill further contains very important provisions on insanity which we have been working on since the assassination attempt against President Reagan, and provisions on victims of crime.

A brief word about the inclusion of the armed career criminal bill, which I think is a very significant step forward in terms of the war against career criminals. I thank Congressman HUGHES for his assistance in bringing this specific provision through the House of Representatives. It does have really enormous potential in the fight against career criminals, by requiring that anyone who is found armed, in possession of a revolver, who has previously been convicted of three or more robberies or burglaries, is to be sentenced to a minimum of 15 years imprisonment—which under the Federal system is generally comparable to a life sentence under State law. This deterrent effect of this provision will enable the use of the armed career criminal bill and the 15-year sentence to do a great deal for State criminal prosecutions and clear up the dockets.

JUVENILE JUSTICE, RUNAWAY YOUTH, AND MISSING CHILDREN

More specifically, Mr. President, I would refer my colleagues to title VI of the amendment, containing the Juvenile Justice, Runaway Youth, and Missing Children's Act of 1984.

These provisions are derived from a bill, S. 2014, which I introduced, with numerous Senate cosponsors, on October 27, 1983. The substance of S. 2014, as reported by the Judiciary Committee, was passed by the Senate on August 10, 1984, as an amendment to H.R. 2175. Comparable legislation was passed in the House, H.R. 4971, on June 4, 1984. The provisions which are before the Senate today represent a compromise agreement which has been worked out between House and Senate negotiators in a series of meetings over the last month, and which was passed by the House earlier this week as a part of their omnibus crime package, H.R. 5690. I believe that it represents an excellent and very fair compromise. A joint explanatory statement on the compromise agreement has been prepared, and I would ask unanimous consent that it be printed at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPECTER. Mr. President, of particular importance in the Juvenile Justice Act provisions is language establishing a new process of competition and peer review for discretionary grants. Hearings conducted before the Juvenile Justice Subcommittee on August 1 of this year clearly demonstrated the need not only for a competitive process, as provided for in the House bill, but also for certain legitimate narrow exceptions to that process, and for a peer review process comparable to that process, and for a peer review process comparable to that uti-

lized in virtually every other major Federal grant program. I am pleased that the competition and peer review provisions which I have proposed have been accepted in the final compromise product.

On the issue of secure detention of juveniles, I note that House-Senate negotiations had centered upon a proposal which I had offered regarding the concept of staff secure detention—that is, where detention is made secure by the presence of staff supervision rather than by locks and bars—under certain limited circumstances. This provision was ultimately not accepted, but it is my intention to begin to explore the viability of this concept, by requesting GAO to conduct a broad survey of existing staff secure facilities and their effectiveness with respect to juveniles who might be at some significant risk of harm if such facilities were not available for some brief period.

On the Missing Children's Act, I would refer my colleagues to the joint explanatory statement for general elucidation of its significant provisions. This legislation will provide vital Federal assistance to address a nationwide problem of tragic proportions. It should be of significant value not only with regard to missing children but also with regard to the many overlapping issues relating to abused and sexually exploited children—an area which has been of particular concern to me in my capacity as chairman of the Juvenile Justice Subcommittee, throughout the numerous hearings and legislative activities conducted by the subcommittee on these issues in the past 4 years.

JUSTICE ASSISTANCE

As the principal Senate sponsor of the Justice Assistance Act in both the 97th and 98th Congresses, I am especially gratified that the administration and the leadership have endorsed this legislation, and applaud its inclusion in the crime amendment offered today.

Mr. President, as I noted when I introduced the Justice Assistance Act of 1983, S. 53, crime is a national problem that gravely threatens this country's welfare. The justice assistance provisions of the present legislation would redesign and reauthorize Federal criminal justice assistance to aid State and local law enforcement efforts and programs of proven effectiveness in combating crime.

PRISONS

Part G of the Justice Assistance Act portion of the present amendment would establish a new program of Federal assistance for State and local prison and jail construction. Grants would be made to help cover the cost of construction of a facility which constitutes a prototype of new and innovative designs and methods which are examples of technology for avoiding delay and reducing cost in correctional facility construction. Funds would be available for up to 20 percent of the cost of construction, and only for one project in any State in any single year.

There would also be established a clearinghouse for prison construction, to collect and disseminate up-to-date information on the state of the art in prison construction, and to advise States and localities with regard to the development and implementation of broad prison construction plans. I would note that although the amendment permits use of the Federal funds only for construction of the approved project, it would be my expectation that the Federal assistance, together with the clearinghouse role on prison planning, would facilitate and encourage such planning at the State level. Indeed, such planning is an indispensible component of any major initiative to reduce prison overcrowding.

Part G was originally introduced by Senator DOLE and myself in the Judiciary Committee more than a year ago. As in the original part G, appropriations would be authorized in the amount of $25 million per year for 4 years.

CAREER CRIMINALS

Let me conclude by expanding upon my earlier comments on the Armed Career Criminal Act of 1984. A similar measure, S. 52, was passed unanimously by this body on February 23, 1984.

This vitally important measure would provide for a mandatory 15-year minimum prison sentence for any individual who has three previous felony convictions for robbery or burglary, whether in Federal or State court, and who is subsequently convicted of a Federal gun possession offense under section 1201(a) of the Omnibus Crime Control and Safe Streets Act of 1968. There would be no possibility of parole, probation, or suspension of sentence.

This bill would create no new Federal crime. Under present section 1202(a), possession of a firearm by a convicted felon is already a Federal crime, with a maximum prison sentence of 2 years. This title would simply provide for a stiffer sentence for career criminals. It would not permit the Federal prosecution of any individual who could not be prosecuted under current Federal law, and would not trespass upon any State prosecutions or require Federal courts to apply State law.

This title arises from legislation which I first introduced in the 97th Congress, on October 1, 1981. That bill, S. 1688, was passed by the Senate, by a vote of 93 to 1, as one part of a seven-part crime package. The package was then passed by the House, but was vetoed by the President principally on the basis, as he said, of his opposition to the "drug czar" provisions contained in it. I then reintroduced the bill at the start of the 98th Congress, as S. 52, which passed the Senate with an amendment on February 23 of this year.

During the course of some 14 years in law enforcement, 8 years of which were served as district attorney of Philadelphia, and during the course of extensive hearings before the Criminal Law Subcommittee and the Juvenile Justice Subcommittee on the Committee on the Judiciary, I have found extensive evidence supporting the conclusion that career criminals constitute the major threat to public safety, law, order, and justice in the United States today.

The record is replete with studies showing that career burglars commit a burglary or more a night and career robbers commit a robbery or more every day or two, so that 10 percent of the criminals in this country commit approximately 70 percent of the crimes.

Law enforcement's highest priority, in my judgment, ought to be efforts to stop the career criminal from these repeated robberies and burglaries.

When I was district attorney of Philadelphia, at any one time I had approximately 500 career criminals on the docket, and it was an extraordinarily difficult matter to bring those defendants to trial because, with their serious records and their serious charges, defendants had great motivation to use a variety of techniques which are available to seek continuances and delays. They also had great motivation for judge shopping, a defense tactic which seeks to place the case before a lenient judge. As a result, it was extraordinarily difficult to bring these 500 serious cases to trial.

With the availability of the Armed Career Criminal Act of 1984, it would be possible to obtain Federal prosecution, with the mandatory 15-year sentences, on three or four of these cases. The example thus set would cause a tremendous leveraging or rippling effect, so that many of the defendants whose cases were pending in the State court would enter guilty pleas and stop judge shopping or seeking continuances.

Had the career criminal bill been in effect while I was district attorney of Philadelphia, I am confident that with the prosecution of a few of these individuals at the Federal level, there would have been many, many guilty pleas from the other defendants on the docket. Even though they might not have received sentences of 15 years to life as is provided under the Career Criminal Act, there would have been a substantially increased likelihood of their receiving sentences of 5 to 10 years or 7 to 14 years, due to the leveraging effect of the Federal prosecution.

Mr. President, the career criminal measure that is before us today represents, I believe, a fair accommodation of the complex countervailing considerations which have been so thoroughly aired in the course of consideration of this legislation in the committees and on the floor of both Houses. Issues involving constitutionality, as well as the proper allocation of prosecutorial duties between Federal and local authorities, have been fully addressed.

Mr. President, I strongly urge the adoption of the amendment.

JUVENILE JUSTICE, RUNAWAY YOUTH AND MISSING CHILDREN'S ACT

This joint explanatory statement expresses the views of the House and Senate managers with regard to provisions contained in the Juvenile Justice, Runaway Youth and Missing Children's Act Amendments of 1984. The provisions contained in the compromise agreement on this legislation encompass provisions of H.R. 4971 (the "House bill"), which was passed by the House on June 4, 1984, and the Senate amendments to H.R. 2175 (the "Senate bill"), as passed by the Senate on August 10, 1984.

RESEARCH ON HUMAN SUBJECTS

The House bill would prohibit any biomedical or behavior modification research or experimentation. The Senate bill contains no comparable provision.

The compromise agreement, in new subsection (d) of section 261 of the Juvenile Justice and Delinquency Prevention Act of 1974, as proposed to be added by section 230 of the compromise agreement, would modify this prohibition by allowing certain forms of behavior modification not posing a substantial risk to the subject, provided that safeguards are established for the informed consent of subjects. It is the intent of the managers that research on any human subject performed by a grantee of the Office of Juvenile Justice and Delinquency Prevention be consistent with all guidelines and regulations established by the Department of Health and Human Services for research on human subjects conducted under its auspices.

COMPETITIVE GRANTS

The House bill, but not the Senate bill, contains provisions requiring all discretionary grants through the Office of Juvenile Justice and Delinquency Prevention or the National Institute for Juvenile Justice and Delinquency Prevention to be awarded through a competitive process.

The compromise agreement, in section 225(d) of the Juvenile Justice and Delinquency Prevention Act of 1974, as proposed to be amended by section 218(c)(2) of the compromise agreement, contains a provision requiring a competitive process, with two exceptions, and requiring the establishment of a peer review process for all discretionary grants. The first of these two exceptions applies where a proposed program is not within the scope of any program announcement issued by the Administrator and is of outstanding merit as determined through peer review. The term "outstanding merit" is intended to correspond to the highest rating possible under the peer review system utilized—comparable, for example, to a rating of "excellent" under the five-level rating system currently in effect for proposals before the National Science Foundation—and to involve a determination with respect to the qualifications of the applicant and the primary investigator, as well as to the merits of the proposal itself.

MISSING CHILDREN—DEFINITION OF MISSING CHILD

Both the House and Senate bills would generally define the term "missing child" to include any missing child who may have been abducted. The definition contained in the Senate bill would also include any missing child with respect to whom credible evidence indicates a likelihood of abuse or sexual exploitation, and all missing children under the age of 14.

The definition contained in the compromise agreement, in section 403(1) of the proposed Missing Children's Assistance Act, would include any child under 18 years of age whose whereabouts are unknown to the child's legal custodian if one of two additional criteria are met: First, circumstances indicate that the child may possibly have been abducted, or second, the circumstances of the case strongly indicate that the child is likely to be abused or sexually exploited.

The managers intend that the term "circumstances of the case" be a fluid one, encompassing a balancing of all such circumstances, including particularly the age of the child.

It is intended that, in general, the need for actual evidence of a likelihood of abuse or exploitation should increase in proportion to the age of the child involved. Thus, for example, where credible evidence provides a strong indication that a 15-year-old is engaged in prostitution, the child would be considered a missing child, but no flat presumption that the child is at risk solely by virtue of being a 15-year-old runaway would be in order. Conversely, it would be appropriate to presume that a 7-year-old runaway is at risk, unless credible evidence indicates to the contrary.

TOLL-FREE TELEPHONE LINE

Both the House and Senate bills would establish a national toll-free telephone line where individuals could report information on the location of any missing child. The House bill would also permit individuals to receive information regarding the disappearance as well as the location of a missing child.

The compromise agreement, in section 404(b)(1) of the proposed Missing Children's Assistance Act, would follow the Senate provision, with an amendment making the toll-free telephone line applicable to all children 13 years of age or younger, without a requirement for a showing of abduction, abuse, or exploitation. In addition, this telephone line would be open to individuals to request information concerning procedures to reunite a missing child with the child's family or legal guardian. When practicable, such information could be imparted over the toll-free line, or other telephone lines. In addition, the national resource center is encouraged to supplement this information through the mail with written information packets. Nothing in this act is intended to limit the resource center in the prompt referral of callers to other agencies which are better able to assist on matters not covered in the act—for instance, in cases involving juvenile delinquency or runaway youth.

NATIONAL RESOURCE CENTER

Both the House and Senate bills would establish a national resource center to provide technical assistance, coordinate public and private programs and disseminate information.

The compromise agreement, in section 404(b)(2) of the proposed Missing Children's Assistance Act, contains such a provision. The managers intend that the primary purpose of this national resource center shall be to assist parents and appropriate law enforcement agencies in the location of missing children and safe return of these children to their families. It is expected that some of the services provided by the center will be focused on the issue of missing children, many of whom are exploited, and that some services will be focused on the issue of exploited children, many of whom are missing.

GRANTS

Both the House and Senate bills would authorize the Administrator of the Office of Juvenile Justice and Delinquency Prevention to make grants for research, projects, or programs in areas related to missing children cases.

The compromise agreement, in section 406 of the proposed Missing Children's Assistance Act, contains such a provision. The grant program would set a clear focus on programs or projects that assist in the location of missing children or the reuniting of these children with their legal guardians. It is within the intent and spirit of this act that grants or contracts may for this purpose be directed either at the issue of abducted children or at the issue of abused or exploited children, or at both.

For example, a grant designed to improve the techniques employed to address the child victim in the criminal justice system would benefit the abducted as well as the exploited child. Also, education and prevention programs designed to instruct children and families on safety and protection plans would be eligible and would of course, be directed at abduction as well as exploitation.

Mr. MATHIAS. Mr. President, I support the provisions of this amendment which include the Juvenile Justice, Runaway Youth, and Missing Children's Amendments of 1984. I commend the efforts of Senators SPECTER and HAWKINS who have worked so hard on this important legislation. Their efforts and those of other Members have done much to shape this bill. The distinguished chairman of the Judiciary Committee, Mr. THURMOND, also deserves commendation for his untiring efforts to work out a compromise with the other body. The fact that this legislation is today on the verge of enactment is in large part due to his dedication.

The bill as amended attempts to target the limited resources of the Federal Government in order to provide the maximum assistance possible. I believe it succeeds in this effort.

Title IV of the bill, the Missing Children's Assistance Act, addresses a serious and growing problem. The tragedy of missing and abducted children warrants Federal intervention. All too often these abductions involve interstate transportation of the child. Local efforts alone, while essential, cannot meet the needs of the children and parents caught up in such a crisis. Only an interstate network and inter-

state cooperation can provide the tools to reunite families.

With reference to title IV, I would like to ask the distinguished chief sponsor of the Missing Children's Assistance Act and chairman of the Subcommittee on Juvenile Justice, Senator SPECTER, to clarify the effect of some changes made by the House amendments to the original Senate-passed bill. The Senate version included a presumption that any child 13 years of age or younger who was missing from the home of the legal guardian would be considered a "missing child" for the purposes of the act. The House bill did not include a similar provision and the compromise legislation now before us does not include such children in the definition of "missing child." The House did add a provision making children under 13 years of age whose whereabouts are unknown eligible to be served by the national hotline established by the bill. Could the Senator from Pennsylvania explain the effect of these changes on the treatment of such children and their parents under the act?

Mr. SPECTER. The Senator is correct that, under the House amendments, these children and their parents would be included within the scope of the hotline, just as under the original Senate version. That is, for purposes of the hotline, a child 13 years old or younger whose whereabouts are unknown to his parents would simply be presumed to be at great risk of being abused or sexually exploited, and there would be no requirement of an affirmative showing that the child may have been abducted or is actually in danger of abuse or exploitation. Furthermore, the bill would require that information derived from hotline tips regarding such children age 13 or younger be furnished to appropriate law enforcement entities, to the same extent as would be required with respect to older children in actual danger. Under this provision, the term "appropriate law enforcement entities" would be broad enough to encompass any Federal, State, or local entity with a legitimate law enforcement interest either in the specific child involved or in some related criminal matter.

Finally, I would stress that the definition of "missing child" has been drafted so as permit a presumption—not geared to any specific age cutoff, such as 13 years—that very young children whose whereabouts are unknown to their parents or legal custodian, are at risk of abuse or sexual exploitation. The definition requires simply that the "circumstances of the case" indicate a likelihood of abuse or exploitation, and it would certainly be appropriate to consider the age of the child as one such circumstance. Clearly, the younger a child is, the more vulnerable he or she would be to predatory adults—and while a particular 14-year-old might be capable of taking care of himself, a 10-year-old would be much less so, and 7-year-old would have to be flatly presumed to be incapable.

Mr. MATHIAS. I thank the Senator for that thorough explanation. Is it correct that programs would be eligible for grant assistance under the act notwithstanding the fact that their efforts were directed in whole or in part to abduction prevention activities aimed at children under 13? Would not educational programs to impress on young children the dangers of running away and the possibilities of abduction and exploitation be eligible for grant assistance under the act?

Mr. SPECTER. As I have suggested, we must recognize that while very young children may be the victims of abduction, they are also seriously at risk of exploitation or abuse even if they voluntarily leave home. Under section 406(a)(1) of the act, grants and contracts would be specifically authorized for programs to educate any children regarding ways to prevent both abduction and sexual exploitation, without regard to the age of the children. Thus, the fact that a grant proposal deals not only with missing children but also with very young children who would not come within the act's definition of "missing child" would not remove it from eligibility for grant assistance under the act.

Mr. MATHIAS. I thank the distinguished Senator for clarifying these issues for me. I know he is more aware than most of us of the intricacies of this legislation. Again, I commend him for his efforts on this bill, and for the hearings he has held in his Subcommittee on Juvenile Justice which have underscored the need for this important program.

LABOR-MANAGEMENT RACKETEERING AMENDMENTS

Mr. NUNN. Mr. President, I rise in support of both the labor-management racketeering amendments contained in House Joint Resolution 648, as well as the additional amendments to that legislation now offered. Senators HATCH, CHILES, NICKLES, RUDMAN, ROTH, and KENNEDY join me in making this endorsement both of the original bill and the amendments now offered. In revising our current labor laws to more effectively combat the problem of labor corruption, this legislation will increase the criminal penalties for violations of the Taft-Hartley Act, prohibit immediately upon conviction of certain crimes persons from holding certain positions in unions or employee benefit plans, and clarify the Department of Labor's responsiblilities to investigate and refer allegations of criminal activity.

As worded, the labor racketeering bill contained in House Joint Resolution 648 is identical to the Labor-Management Racketeering Act, which was passed with overwhelming support in the Senate on four separate occasions during the last two Congresses. In addition, that bill passed the House last week as part of the crime package included in the 1985 continuing appropriations resolution, House Joint Resolution 648. Originally introduced by myself and Senator RUDMAN on May 12, 1981 in the 97th Congress, the bill has generated widespread and enthusiastic support from a surprisingly broad range of interests outside the Congress. It has been publicly endorsed by the Department of Labor, the Department of Justice, Lane Kirkland of the AFL-CIO as well as George Lehr, executive director of the Teamsters Central States Pension Fund. Portions of the bill were adopted upon agreement of the Labor Department and the Central States Pension Fund in the court-approved consent decree which now monitors the operation of that fund.

Of particular note was Lane Kirkland's endorsement of the bill in his testimony before the Permanent Subcommittee on Investigations in October 1981. He reiterated that support in his statement submitted during a hearing of the House Labor-Management Relations Subcommittee, held December 13, 1982. We have worked very closely with Mr. Kirkland and the AFL-CIO in ironing out possible difficulties with the bill. The additional amendments now offered make minor changes in the original bill. Those changes, however, were made in response to specific concerns of the AFL-CIO and reflect, I believe, a desire by all parties concerned to offer a well reasoned, fair, and effective approach to the problem of labor corruption. The final legislation is a product of the support and cooperation which we have received from the AFL-CIO.

The bill attempts to remedy serious problems concerning the infiltration of some unions and some employee benefit plans by corrupt officials who have no real concern for the well-being of the honest rank-and-file union members they pretend to represent. Those problems were graphically illustrated in public hearings on waterfront corruption before the Permanent Subcommittee on Investigations in February 1981. The legislation, which is now before us, is a direct result of those hearings. As ranking minority member and former chairman of the subcommittee, I had the opportunity to direct an extensive staff investigation of criminal activity within both the International Longshoremen's Association [ILA] and the American shipping industry.

This set of hearings followed a very extensive investigation of the waterfront and the corruption on the waterfront by the U.S. Department of Jus-

tice and the FBI. They did a superb job.

In 1975, the Justice Department launched a nationwide investigation of racketeering on our waterfronts. This sweeping inquiry culminated in the criminal convictions of more than 100 high-level ILA officials and shipping company executives.

These persons were charged with a variety of offenses ranging from violating the Taft-Hartley Act to extortion, payoffs, kickbacks, threats, intimidation, obstruction of justice, and income tax evasion.

Spurred by the success of the Department of Justice's UNIRAC investigation, the subcommittee staff interviewed numerous witnesses and reviewed countless other items of evidence in order to convey to the American public an accurate portrait of the American waterfront in the 1980's. That portrait, as presented in 2 weeks of hearings in February 1981, is, unfortunately, a dismal one. Witness after witness described the struggle for economic survival in some ports which are riddled with a pervasive pattern of kickbacks and illegal payoffs to union officials.

My colleagues and I heard of payoffs to insure the award of work contracts, payoffs to maintain contracts already awarded, payoffs to insure labor peace, payoffs to allow management circumvention of labor strikes, payoffs to prevent the filing of fraudulent workmen's compensation claims, payoffs to expand business activity into new ports, and payoffs to accord certain companies the freedom to circumvent ILA contract requirements with impunity.

Especially disturbing is the fact that the evidence clearly suggested that, through that system of payoffs, recognized leaders of the traditional organized crime families influence and effectively dominate the International Longshoremen's Association and large segments of the American shipping industry. Again last year our subcommittee, in public hearings on the Hotel Employees and Restaurant Employees International Union, received evidence of the corrupt influence of organized crime in labor-management relations in other industries. It is a sobering event, indeed, to learn that substantial portions of our national economy have fallen prey to the influence of organized crime.

I might add that their investigation and the revelations that came from that, with the cooperation we had from the Justice Department and the FBI, were absolutely essential in both the hearings and in the framing of this legislation.

In the case of the waterfront industries, we were told that a payoff is commonly treated as a mere cost of doing business which can be, and is, routinely passed on as an added cost to the consumer. Our traditional and cherished notions of free enterprise have become nearly nonexistent in some ports of this country.

These payoffs, though illegal under current law, are punishable only as a misdemeanor.

The bill makes any such violation involving an amount of money greater than $1,000 a felony, punishable by up to 5 years imprisonment or a fine of up to $15,000, or both.

Our proposal also attempts to rid labor organizations and employee benefit plans of the influence of persons convicted of criminal offenses. Current disbarment provisions—29 U.S.C. 504 and 29 U.S.C. 1111—are expanded in several signficant ways: enlarging the categories of persons affected by the disbarment provisions; increasing the maximum time barred from office or position from 3 to a possible 13 years; and providing for disbarment immediately upon conviction rather than after appeal.

I point out that it is within the judge's discretion to set the exact term of disbarment, from a minimum of 3 years to a maximum of 13. In explaining the bill's original provision on this point, the Labor Commitee report notes the following:

* * * The question of the proper disqualification period between these extremes is entrusted to the trial judge's informed discretion. The requirement that the convicted individual raise this issue is not intended to tilt the balance in one direction or the other, but to preclude any contention that the ten [thirteen in the amendment now offered] year period does not apply in situations in which the convicted individual does not raise the question of what the appropriate debarment period should be in his case.

The bill does provide that any salary otherwise payable shall be placed in escrow pending final disposition of any appeal.

Finally, our hearings examined more than the ways and means of criminal corruption itself. We also explored the adequacy of law enforcement's response to this corruption. As for the waterfront, several things quickly became obvious: first, that the Department of Justice, through a massive assignment of resources and manpower in UNIRAC, had had great success in the short run; second, that, if we are to eliminate such corruption on a permanent basis, continuous monitoring and enforcement efforts are required; and third, that the Department of Labor had generally failed to participate in criminal law enforcement efforts in this area. To correct this problem and to maximize available law enforcement resources in this area, the bill clearly delineates the responsibility and authority of the Department of Labor to actively and effectively investigate and refer for prosecution criminal activities on the waterfront.

On the need for disbarment of convicted officials immediately upon conviction, I point out that our hearings in February 1981 emphasized the need for such a provision. The testimony established case after case where convicted officials remained in office years after conviction while the appeal process dragged on, controlling union funds despite their convictions. We heard of instances where management representatives who had served as Government witnesses were actually required to conduct bargaining negotiations with the very individuals who had been convicted as a result of their testimony, long after the trials had finished.

Recognizing the significance of disbarment immediately upon conviction, the bill expressly makes that provision retroactive. As such, convicted officials whose appeals are now still pending will be immediately barred upon enactment of this legislation. The bill's enactment would end immediately open control of union funds and activities by those individuals.

Some have suggested that this bill discriminates against organized labor, while leaving untouched management representatives. In my view, that argument misreads not only the clear intent of this bill but also its specific statutory provisions. The purpose of the bill is to protect rank-and-file union members from the influence and control of corrupt officials, be they union or management representatives.

In providing for the immediate debarment of certain convicted officials from office, the bill includes representatives from both labor and management. Convicted management personnel would be barred from any position—

First, as a labor relations consultant or advisor (sec. 4(a));

Second, as an officer, director, agent, or employee of any group or association of employers dealing with labor organizations (sec. 4(a));

Third, in a corporation or association in an industry affecting commerce which has collective bargaining authority or labor management relations responsibility (sec. 4(a));

Fourth, in or representative of any employee benefit plan or as a consultant or advisor to any employee benefit plan (sec. 3(a)).

Given the coverage of management by those provisions, I believe the bill fairly and nondiscriminately protects the rank and file from corruption whether it is generated by union or corporate officials. The intent of the bill is to protect the integrity of the collective bargaining process itself. In protecting that interest, the bill treats management and union officials alike. I believe the fairness of the bill is most clearly attested to by the strong public endorsement of the bill by Lane Kirkland, president of the AFL-CIO.

In sum, I want to stress again that the provisions of this bill are designed to protect the best interests of labor and management, as well as the American consumers. Our hearings strongly indicated that corruption within the leadership of the ILA, as documented by the convictions of numerous ILA officers, is depriving the average longshoreman of the full benefits of his union membership. Not only did the ILA itself fail to act to remove those officials and prevent further corruption, but ILA President Teddy Gleason himself testified, with apparent lack of concern, that the ILA "will have to * * * run a rehabilitation center." By contrast, the provisions of this bill will protect the union member where corrupt officials have failed to do so.

Mr. President, the record is clear that the vast majority of union officers, employee benefit plan officials and rank-and-file union members are honest, hard-working, law-abiding citizens. Our Nation can and should be justifiably proud of the enormous contribution our unions have made to the economic and social strength of the United States. But our hearings have shown that a small group of parasites have fastened themselves onto the body of the labor movement. These parasites are perverting the true interests of the union members they claim to represent through a pattern of payoffs and extortion. The unions have labored to shed themselves of these people, but in many cases they have been unable to do so alone. I believe that the unions need our help here in Congress. I believe that this legislation is a major step forward in providing the extra assistance needed for the unions to finally rid themselves of those corrupt officials who are motivated not by the welfare of the American worker but by their own greed.

Mr. THURMOND. Mr. President, I now yield to the able and distinguished ranking minority member of the Judiciary Committee, Senator BIDEN.

Mr. BIDEN. Mr. President, I failed to mention the names of the individual staff members. I will not take the time now.

But I ask unanimous consent that the names of the members be printed in the RECORD.

Mr. THURMOND. Mr. President, I now yield to the able Senator from Kansas [Mr. DOLE].

There being no objection, the names were ordered to be printed in the RECORD, as follows:

Mark Giterstein, Scott Green, Carolyn Osolinck, Nick Allard, Ellenor Hill, Mike Foisee, Vinton DeLide, Deborah Owen, Paul Summitt, and Steve Metalitz.

Mr. DOLE. Mr. President, the Senator from Kansas wishes to take this opportunity to provide some background and detail on his various legislative efforts to strengthen the Federal role in helping the States and local jurisdictions deal with the potentially explosive prison problems facing our Nation. These efforts are now included in Senator THURMOND's amendment No. — to House Joint Resolution 648. The five primary areas in which this Senator has actively been involved are: One, criminal justice facilities improvement, two, reestablishing a national clearinghouse to provide a variety of technical assistance to State and local governments, three, prison industry enhancement, four, making surplus Federal property available to State and local jurisdictions, and five, Federal identification systems.

An impressive cross-section of the Nation's top political and law enforcement leadership have testified at length before Senate judiciary subcommittees on the need for a strong, continuing, and redirected Federal commitment to justice assistance. The Federal Government must review its resolve to aid the States in attacking the Nation's most serious problems—such as violent repeat offenders—and the crisis of our Nation's dangerously overcrowded and deteriorating prisons and jails. The amendment that the distinguished Senator from South Carolina has introduced is aimed at addressing these and other critical crime problems threatening our Nation's safety and welfare.

This Senator is well aware that the war on crime is being waged behind a battle line of dangerously overcrowded and antiquated prisons and jails. In 1982, the National Governor's Association called for the Federal Government to make its No. 1 criminal justice priority more assistance for the construction of new prisons. The Attorney General's Task Force on Violent Crime recommended that Congress appropriate $2 billion over 4 years to help the States and build prisons. Governor James Thompson, cochair of that task force, urged that most of the recommendations to combat violent crime would be to no avail for a nation left with no place to put violent offenders because of a lack of safe and humane prison facilities.

Our Nation's prisons and jails are teeming with inmates sleeping in tents, sheds, trailers, and military stockades. Some States are operating prison systems at as much as 30 percent over capacity. As of January 28, 1983, there were 38 States and the District of Columbia either under court order to remedy prison conditions, especially overcrowding, or with legislation on these issues pending. The condition of our Nation's corrections infrastructure of more than 650 prisons, 3,500 jails, and numerous halfway houses, detention centers, and other correctional facilities, is the critically weak area in the Nation's battle against crime. The problem of prison and jail overcrowding is clearly illustrated by the current conditions in the Los Angeles County jail system. The combined holding capacity of the system is 9,500. However, during the month of January 1984, an average of 13,500 were actually incarcerated daily. Furthermore, prisoners sometimes have to sleep on the roofs of the facilities to alleviate overcrowding.

The table below from the Bureau of Justice statistics, shows that in the 10 years since 1974, the prison population has risen by almost 100 percent. As of June 30, 1983, there were 431,829 persons in our prisons and jails, up from 229,721 in 1974. In my home State of Kansas, the prison population has increased by 10.4 percent in the last year alone.

CHANGE IN TOTAL PRISON POPULATION, 1974-MIDYEAR 1983

Year	Number	Percent change
1974	229,721	
1975	253,816	10.5
1976	278,000	9.5
1977 (custody)	291,687	4.9
1977 (jurisdiction)	300,024	[1] NA
1978	307,276	2.4
1979	314,457	2.3
1980	329,821	4.9
1981	369,388	12.0
1982	414,362	12.2
1983 midyear	431,829	[2] 4.2

[1] NA Not applicable.
[2] 6 months.

Note: Before 1977, NPS reports were based on the custody population. Beginning in 1977, they were based on the jurisdiction population. Both figures are shown for 1977 to facilitate year-to-year comparison.

State and local jurisdictions must ultimately bear the lions share of the extremely heavy costs associated with the construction, renovation, and operation of correctional facilities sufficient to adequately house the burgeoning prison population. Toward this end, it was estimated in July of this year that nearly $2 billion in prison building projects were currently underway in some 38 States. However, the Federal Government can no longer fail to address in a significant manner the crisis presented by our Nation's crumbling prison and jail infrastructure. The Federal Government should be prepared to dedicate the kind of energies and resources toward aiding the States in renovating our failing prison and jail infrastructure as have traditionally been reserved for sewer, airport, highway, and other public works.

In an effort to strengthen the Federal Government's assistance to State governments trying to improve their facilities, Senator SPECTER and I proposed the prison assistance amendment to the Justice Assistance Act, (S. 53). This amendment has since been incorporated into the amendment that Senator THURMOND has offered. Testimony before the Senate Judiciary Criminal Law Subcommittee on my bill, S. 186, the predecessor of S. 53, during the 97th Congress, amply demonstrated that massive construction

resources are necessary to salvage our Nation's decaying prisons and jails. Considering that the States are spending nearly $2 billion a year for corrections facilities, the modest funding contemplated by these proposals should primarily serve to encourage a careful review of statewide corrections problems and policies in a construction and nonconstruction context, and stimulate innovative systemwide facility planning to resolve those problems. The newly created Bureau of Justice Program is given a new mission in aiding States to improve the Nation's prison and jail infrastructure. The Bureau would provide a structure with which significant assistance for prison and jail facilities could be provided as increased revenues become available. While there is no simple linear Federal equation that can be applied by all the States in solving their diverse correctional facility needs, the establishment of the Bureau does provide a means for the Federal Government to use its immense resources to aid the States in developing programs for improving their facilities which are appropriate for their individual needs.

Federal assistance should emphasize aiding State and local governments that are striving to bring their correctional facilities into compliance with Federal constitutional and other legal mandates. A State corrections master plan, would be one of the best resources a State could develop to overcome substandard and crowded prisons and meet constitutional and legal mandates. The application process alone encourages States to begin managing their prison problems in a proactive rather than a reactive manner. No elaborate overlay of statutory or regulatory requirements is provided or intended to require such planning efforts. Application requirements are intended primarily to insure a modicum of fiscal accountability and encourage coordinated systemwide planning efforts. State plans concisely setting out correctional facility needs and describing legislative, executive, and judicial solutions being pursued in a nonconstruction, as well as construction, context will satisfy the purpose intended for such plans.

Nonconstruction initiatives include developing corrections standards, seeking accreditation of institutions and personnel, sentencing reform, emergency overcrowding contingency plans, innovative classification plans, community corrections, enhanced prison education, industry and work release programs, and other strategies utilized by a number of States. Such initiatives enhance or supplement construction efforts to improve prison conditions and reduce overcrowding. As such, they, along with construction efforts, would be encouraged by the proposed assistance program directed by the Bureau of Criminal Justice facilities. Assistance is based not only on need but also on demonstrated efforts and action plans utilizing programs such as I just mentioned. States using such programs will be given priority in allocating assistance over those States which have been least interested in trying to improve their prisons. The diversity of efforts sought to be encouraged by this proposal is an indication of this Senator's strong support for innovative corrections efforts in addition to traditional incarceration.

NATIONAL CLEARINGHOUSE

Another major feature of the amendment is the creation of a clearinghouse on the construction and upgrading of criminal justice facilities. This activity, built on the national clearinghouse concept funded by the Law Enforcement Assistance Administration [LEAA], will collect and distribute information to the public concerning construction and renovation of prisons, jails, police facilities, courthouses, and other similar projects.

LEAA's National Clearinghouse for Criminal Justice Planning and Architecture, under the direction of Frederick Moyer, professor of architecture at the University of Illinois, proved to be a successful aggregation of professional talent that provided practical and technical assistance to criminal justice planners, builders, architects, and practitioners throughout the country.

The clearinghouse provided technical assistance to more than 2,500 criminal justice projects ranging from remodeling of halfway houses to State correctional master plans. While many of the clearinghouse perspectives were controversial—such as single-cell occupancy—the clearinghouse was the most influential focus in correctional design and planning in the past decade and perhaps in the entire history of corrections. There is a crying need to reestablish this function.

The clearinghouse's materials and publications, although in need of updating, are still widely read as authoritative. Efforts such as these are vital to the corrections professional or manager and must be continued in order to provide current information to assist States in their efforts to effectively combat crime.

PRISON INDUSTRY ENHANCEMENT

The beneficial effects of productive, well-managed prison industry operations on prison stability have been well documented. In order to encourage the States to improve their prison industry operations, certain provisions of the amendment follow the lead of the distinguished Senator from Illinois, Senator PERCY and his amendment to the Justice Assistance Act of 1979, by authorizing the director of the Bureau of Criminal Justice facilities to certify one qualifying prison industry program per State as eligible for a waiver of Federal restrictions on the interstate transportation and sale of prison industry goods. Many States have expressed a strong interest in such an exemption. Roughly 10 percent of the prison population in America are working in prison industries today. The other 90 percent are generally idle, breeding unrest and violence. When these unskilled ex-cons end up back on the streets, they are even more likely to take up crime again.

The amendment introduced would not only remove restrictions on the transportation and sale of prison-made goods for approved projects but also provide seed money for the establishment of advanced prison industries.

Last year, Mr. President, the ABC national network news show, "Nightline," featured the free venture prison industries programs authorized by the 1979 legislation which the Thurmond amendment builds upon and expands. Although these reform efforts are not without controversy, Nightline focused on the constructive nature of these activities and the success stories associated with them.

DONATION OF FEDERAL PROPERTY

Several States have recently had Federal properties transferred on a nondonation basis for prison use. However, present law does not permit outright donation of such surplus property. The Senator from South Carolina's amendment would authorize the Bureau of Criminal Justice facilities to recommend the donation of appropriate surplus Federal properties to the State for use as correctional facilities.

In the 97th Congress, Senator GRASSLEY introduced S. 1422, a bill which also would make surplus facilities and equipment available to the States for correctional use. This bill was favorably approved by the Senate, but regrettably, the other body took no action on the measure. The bill was reintroduced in this Congress as S. 329 and is currently pending in the Senate Governmental Affairs Committee. The Senator from Iowa is to be commended for his continuing leadership and commitment to this legislation.

Mr. President, one other thought on assistance to corrections, with the limited funds now available for the Bureau of Criminal Justice facilities, the most effective channeling of funds would be directed toward conducting the agency's clearinghouse function and encouraging a State to develop State plans. Funds for bond interest subsidies will also help in bringing a number of significant State or local renovation or construction projects off the drawing boards and into reality at a relatively low Federal cost.

If we do not provide even this small amount of aid soon, our failure to act could well be measured in new outbreaks of violence, thousands of lawsuits, and a criminal justice system which no longer retains any credible deterrent effect as arrests and pros-

ecutions are rendered meaningless by judges' ability to find space in overcrowded prisons. I urge my colleagues to join me in support of what I consider to be a comprehensive vehicle for addressing the critical needs that must be met in any meaningful Federal justice assistance efforts.

FEDERAL IDENTIFICATION SYSTEMS

One of the significant sections of this amendment incorporates the features of S. 1706, a bill introduced by the Senator from Kansas. This section would amend the Federal Criminal Code to move toward positive identification of persons holding identification documents. The amendment is intended to serve as a vehicle to focus executive and congressional attention on the confusion, conflict, and redundancy which now exists in the various Federal identification systems. The intent is to explore the dimensions of the problem and develop possible solutions.

The May 12, 1983, Report of the Senate Permanent Subcommittee on Investigations dealing with Federal identification fraud underscores the tremendous need for reforms. The report shows that this fraud is costing the taxpayers, through various Federal, State and local agencies, excess of $24 billion annually. Illegal aliens have easy access to identification documents such as Social Security cards, birth certificates, and drivers' licenses. At present, more than 7,000 agencies using more than 1,000 different formats issue original or duplicate birth certificates. These certificates are then used to obtain drivers' licenses, passports, Social Security cards, food stamp identification cards, and innumerable additional documents. These documents then enable fraud artists to collect unemployment benefits, food stamps, tax refunds, student loans, and other Government benefits. The problem is serious and its magnitude expands with each passing year.

Certain provisions of the amendment offered would amend the False Identification Crime Control Act of 1982 (P.L. 97-398). This act added new penalties to the Federal Criminal Code for certain false identification-related crimes. The amendment would add new provisions to the law with the following features: Agencies maintaining identification systems would be encouraged to use common descriptive terms for personal identification information; a Federal policy would be established to reduce redundancy and duplication in these identification systems; the systems would be redesigned to encourage positive identification of holders of identification documents; and, within 3 years, the President would report to Congress and make recommendations for comprehensive legislation in the area. Among other things, the recommendations must give due consideration to the protection of privacy and the development of appropriate sanctions for misuse of identification information.

In the 97th Congress, legislation was enacted in three diverse areas which suggest the scope of the problem: First, drunk driving legislation in 1982 authorized the establishment in four States of pilot programs to develop an automated national drivers registry. This will be a system within the Department of Transportation which will contain information contributed from several States on bad drivers. Included would be information concerning persons whose licenses have been revoked for drunk driving convictions. The drivers license system has been subject to abuse by those whose licenses have been revoked due to the lack of such coordination. These drivers can simply apply for another license under an assumed name or in another State where their previous record is unknown. In short, lack of positive identification of bad drivers and their records makes wide-scale fraud and abuse likely.

Second, the Congress passed the Missing Children Act (P.L. 97-272). This legislation authorized expansions of the FBI's National Crime Information Center, to include information contributed from either State or local criminal justice agencies or concerned parents of missing children. Very few children have been fingerprinted. While it is true that in many jurisdictions a baby's footprint is taken at the time the birth certificate is issued, these prints are seldom used subsequently for identification purposes. This lack of documentation makes it difficult if not impossible to establish the positive identity of a child when a missing report is filed with law enforcement officials.

Third, in the 1982 amendments to the food stamp legislation, Congress authorized the development of automated systems for the dispensing of food stamps. Currently, over $12 billion of this Federal assistance is received by approximately 22 million people. In his State of the Union Address, President Reagan estimated that over $1 billion of this assistance was wasted through fraud, ineligibility, or other misuse of the system. At the center of the problem is the fact that current methods of dispensing food stamps do not require positive identification of recipients, thus opening the door for abuse of the system.

In this Congress, the Senate passed S. 529, a comprehensive revision of our immigration laws. Included in this amendment is a provision which directs the President to develop a secure system within a 3-year period for the identification of those persons lawfully admitted to and entitled to work in the United States as well as those citizens of the United States who would be employed by companies having four or more employees. Criminal sanctions would be imposed on employers who knowingly hire persons not lawfully able to work in the United States.

The recent legislation and pending proposals have a common thread: They involve forms of Federal identification that already extend to tens of millions of our citizens. To say the least, concerted action needs to be taken to reduce duplication and redundancy, to protect the privacy of persons who are subjects of these files, to develop sanctions for unauthorized use of disclosure of the information contained in them, and to provide for coordination of interested Federal, State, and local agencies and authorities who have legitimate uses for this information.

The problem lies in the inability to establish positive identification in the current system. Agencies such as the Social Security Administration, the Internal Revenue Service, the Immigration and Naturalization Service and the State Department as well as State and local agencies need to develop programs to uncover fraud. The Subcommittee on Investigations in its report listed several projects in which agencies cooperated and were successful in tracking down fraud schemes. However, these projects were limited in scope. If we are to stop this unnecessary waste and criminal activity, it must become a nationwide cooperative effort.

These remarks are intended only to give the briefest description of the problems of Federal identification systems. I have not even mentioned the passport system or various military identification systems. If the truth be known, there are undoubtedly hundreds of these systems serving a multitude of Federal identification needs. And, there are other important factors to be considered, not the least of which are the concerns for the protection of privacy as well as safeguarding identification systems from abuse by unauthorized Government personnel. At the present time, identification systems are rushing headlong into the computer age with inadequate coordination and controls.

S. 1706 was the subject of 3 days of hearings by the courts subcommittee. More than 20 witnesses testified, including representatives of several Federal departments and agencies operating major identification systems. Although the administration did not formally take a position on S. 1706, the hearing record is replete with examples of the need to improve, reform, and better coordinate these activities. There must be better coordination and exchange of identification information. A consistent, coherent, policy and program must be developed for the operation and interface of these systems.

Mr. President, the need for reform and consistency is long overdue. It is

my expectation that this provision will provide the authority and incentive to take a hard look at where we are going and where we ought to be going. This Senator does not profess to have the answers to this complex set of difficult questions and policy options. But we must act now to prevent further abuses. The criminal justice system, in the context of criminal identification activities of the several Federal, State, and local governments, have demonstrated that the computer age can be brought to bear to modernize and upgrade identification systems without sacrificing threshold considerations of privacy and security. The Senator from Kansas wishes to express his thanks to Senator THURMOND for his support of these provisions.

RESEARCH AND STATISTICS

Mr. President, 5 years ago we created independent crime statistics and research units within the Department of Justice. The Department then supported this effort. Now, the Department wants to abandon an independent approach and restructure BJS and the National Institute of Justice to make them fully integrated parts of the Department. The Department's reason for proposing this restructuring is that it will promote agency efficiency. This Senator is certainly sensitive to the Department's concern and under normal circumstances I would be most inclined to accede to their wishes concerning an intra-agency organizational issue.

However, we cannot overlook the reasons why Congress made BJS and NIJ independent. Our purpose then was to emphasize the importance of crime statistics and research.

Mr. President, I recall well the issues and arguments considered in 1979 on the question of the structure of BJS, and the way in which the Senate, and ultimately the Congress, resolved the question. The Senate position is summed up in the following statement from the Committee on the Judiciary:

In order to protect the Bureau of Justice Statistics from the pressures which could affect the credibility and validity of its statistics, the bill gives the BJS sign-off authority for grants and contracts, makes the director of BJS a Presidential appointee, by and with the consent of the Senate, and establishes an advisory board to offer policy guidance with respect to the operations of the BJS.

The same considerations may well be applicable today as in 1979.

The Senate Committee report on S. 1762 is sensitive to this issue when it states:

The Committee feels that by placing the National Institute of Justice and the Bureau of Justice Statistics within the new structure of the Office of Justice Assistance, the overall coordination and resulting productivity of that branch of the Department of Justice will be enhanced. While the Committee recognizes the great value of research and statistics in this area and their productive results, current economic limitations on available resources and past experiences with bureaucratic complexity dictate the need for a more efficient and focused approach.

The Committee therefore concluded that while the day-to-day operations, research, and statistical responsibilities would remain with the individual bureau directors, the Assistant Attorney General could better coordinate the efforts of these branches of the Office. Because the directors will have practical experience in their fields and the bill clearly defines the duties and responsibilities of the various bureaus within the Office, the National Institute of Justice and the Bureau of Justice Statistics will be free to pursue their academic and statistical endeavors unfettered by any bureaucratic or political constraints. It is the Committee's belief that this new structure will reduce red tape and increase the overall productivity of the Office of Justice Assistance, without reducing the scientific integrity or autonomy of the Bureaus involved.

Mr. President, I believe it is important that the goal of assuring objective crime statistics and crime research not be abandoned.

I commend the distinguished chairman of the committee and others for being able to put this together in the last few hours.

VICTIMS COMPENSATION

Mr. HEINZ. Mr. President, this is a day long awaited by victims of crime in this country. I am pleased to state that, today, the Congress will enact legislation which I have long championed to aid and assist crime victims for the losses and injury that they have suffered. Today, we have provided in greater measure what victims have so long deserved—simple justice.

Mr. President, the rate of violent crime in this country is staggering. Last year alone, 37 million Americans were victims of a serious crime. One out of every six Americans can expect to be a crime victim in the next 12 months. Behind these mammoth numbers lie the pain and suffering of each human being who has been victimized.

In hearings held before the Special Committee on Aging in 1983, which focused on the subject of the fear of crime and the impact of crime, we documented their disproportionate impact on the elderly. Older persons realize better than anyone their vulnerability to physical attack. And the consequences of a crime against an elderly person are especially severe. They are more likely to be injured, take longer to recover, and incur greater proportional losses to income. The hearings made clear another distressing fact: victims are twice victimized—first by the crime itself and then by the treatment they suffer through our criminal justice system. For all elderly victims of crime, as well as all other victims, the physical, emotional, and financial impact of crime can be devastating.

While most States now have victim compensation and assistance programs to help meet the emotional and financial needs of victims, too often these programs have experienced funding problems which adversely affect the interest of victims.

This legislation will provide Federal funds so desperately needed by States for their victim compensation programs. It will also provide funding for victim assistance programs run by local governments and nonprofit organizations and money for Federal agencies to train their employees in counseling and other assistance to victims.

The passage of this legislation is a major milestone in our responsibility to restore justice to the criminal justice system and to the victims of grievous crime. I am particularly pleased about its passage, since it implements recommendations of the President's Task Force on Victims of Crime which recommended enactment of legislation that would provide funds to States to assist them to compensate and provide services to victims and is based on legislation which I introduced in 1983. It is also a critical continuing step to extend the purpose we embraced in enacting legislation which I introduced in 1982—the Victim and Witness Protection Act.

With the passage of this legislation, we can truly say that innocent victims of crime have not been overlooked, their pleas for justice have not gone unheeded, and their wounds—personal, emotional, and financial—have not gone unattended.

CONCERNING REVISIONS TO CRIMINAL CODE

Mr. METZENBAUM. Mr. President, I wish to commend the Senators who worked diligently to fashion this legislation revising our criminal laws. These revisions to our criminal code reflect a bipartisan effort to deal responsibly with Federal criminal law enforcement. Neither party has a monopoly on concern about crime in this country, and the passage of this legislation is the clearest indication of that fact.

The amendments to the bill passed earlier by the Senate address the problem of overcrowded prisons and revise sentencing procedures to improve the courts' ability to ensure sentences are fairer and more consistent. I commend the Senator from Maryland for his efforts in this regard.

Finally, Mr. President, I commend the sponsors of the juvenile justice amendments that have been passed along with the criminal code provisions. This legislation reauthorizes Federal law which ensures that juveniles are not jailed with adults, that youthful offenders who have committed serious offenses are held in appropriate facilities rather than under conventional prison conditions and that shelter is available for runaways.

Another significant provision we have enacted today as part of the juve-

nile justice reauthorization is to provide for grants to States to establish programs to locate missing children. One of the most painful experiences any parent can endure is to be unable to locate one's own child.

Tragically, local law enforcement agencies often are unable to mount effective national searches despite the best efforts of local officials who are short on funds and personnel. This legislation will help locate children who have been moved long distances across the country and who, without some means of exchanging information on a national basis, might be lost forever.

Mr. CHILES. Mr. President, the action we are taking today to finally pass this major crime package is the culmination of much effort by many Members of both the Senate and the House of Representatives. For some 4 years I have personally made this my priority legislative goal—to get on the statute books the strong measures we need to successfully combat criminal violence and illegal drug trafficking. This crime measure is the product of efforts not only by Members of Congress but by many interested citizens and groups. This was certainly the case with Floridians and in particular a group known as the Miami Citizens Against Crime.

With the onslaught of illicit narcotics from Latin America and the related crime and violence it spawned, Miami found itself on the front lines in the war against crime. And, we were losing the fight. Miami was a community besieged. Long known as the Sun and fun capital, it was now featured on the cover of Time as the murder capital. I am proud to say that this besieged community was also a community determined to come to its own self-defense. All elements of the community came together and organized an effort to protect their city. They worked to improve local law enforcement. They sought new resources at the local level and from State government to help strengthen the hands of police and the criminal justice system.

But, we recognized that this was a problem that went far beyond Miami or Florida. It was national and international in scope. By reason of its geography, south Florida was the entry point for the tide of narcotics coming into the United States. With that came organized crime, warring drug gangs, slayings in the streets, and citizens afraid to leave their homes. The Miami Citizens Against Crime recognized that a national problem needed a national response. And since they were on the cutting edge of that national problem, they decided to be in the forefront of seeking an effective national response.

The Miami Citizens Against Crime began examining the adequacy of our drug enforcement effort; the problems in our criminal justice system; whether our sentencing and bail procedures worked to protect the community; and why drug operations continued to flourish even after arrests were made. They looked at what was not working and started seeking solutions. The outcome was a series of recommendations to the Congress for legislation that was essential to an effective anticrime program. This was followed up by a concentrated effort to stimulate support throughout the country for these legislative recommendations. They mobilized other anticrime groups in Florida and other States and served as a clearinghouse for citizen involvement to support crime legislation.

Mr. President, this was no one-shot deal. These citizens fully realized that the enormity of the crime problem would require a full-fledged commitment. That's what they gave and today they can all take pride in the passage of this package.

If you look at the provisions adopted today and the measures we have already enacted into law, the Miami Citizens Against Crime are batting close to a thousand.

MCAC recommended legislation to amend the Tax Reform Act to allow the IRS to cooperate with the Justice Department in the criminal law enforcement. This is now law.

MCAC supported revision of the posse comitatus statute to permit military assistance in identifying, tracking and apprehending international drug traffickers. This is now law.

MCAC sought reform of the bail statutes to authorize a judge to take into consideration the danger a criminal defendant poses to the community. This passed the House and the Senate.

MCAC sought tougher sentencing particularly for persons trafficking in drugs. This has passed the House and the Senate.

MCAC supported criminal forfeiture of proceeds acquired directly or indirectly from illegal enterprise or from continuing narcotics enterprises. This has passed the Congress.

Other elements of the crime package adopted were also part of the legislative recommendations of the Miami Citizens Against Crime.

Mr. President, if we are successful, as I sincerely hope we will be, in finally seeing this vital legislation signed into law by the President, no small measure of credit goes to this united band of citizens who decided that the criminal element was not going to take over their city. My hat is off to the Miami Citizens Against Crime and my congratulations for a job well done.

Mr. D'AMATO. Mr. President, as an original cosponsor of this legislation, I want to commend all those who have worked so long and so hard for this truly historic action of the Congress. Until recently, there was some doubt that we would act decisively to restore domestic tranquility and reform a criminal justice system that has favored violent criminals and those trafficking in narcotics for far too long.

Despite the recent drop of 7 percent in the crime rate, more than 2 million deaths or injuries still result from violent crime every year. One out of three American families are victimized by crime every year. A 1981 Temple University study of 237 heroin addicts has revealed that they committed more than 500,000 crimes in an 11-year period. That is an average of 192 crimes per addict per year.

Today we are agreeing to permit the denial of bail to violent criminals whose release poses a serious and clear threat to community safety. There is so much money being made from drug deals today that almost no amount of bail is adequate to keep some dealers in jail.

This bill also eliminates bail, pending appeal, for convicted criminals. This will prevent drug dealers from skipping out on bail and swelling the number of fugitives now at liberty. There are today more Federal drug law fugitives—about 3,000—than there are Drug Enforcement Administration agents—about 2,000—tracking them down.

Another welcome reform to relieve the seige our citizens are now under is the sentencing and parole reform part of this package. A new sentencing commission will enact stricter, saner, and more uniform sentencing guidelines. Courts will have to explain in writing any departure from these guidelines, and any such departures will be appealable by the prosecution.

Fixed sentences will eliminate parole for convicted Federal offenders. The murder of New York City police officer Thomas Ruotolo by a vicious killer out on parole is only one example among thousands I could cite to explain the need for this legislation.

We are eliminating the wide disparity in sentences from jurisdiction to jurisdiction and from judge to judge for almost identical offenses. We are acting to do away with the current disgrace and fraud on the public whereby major drug dealers get away with serving only one-third of their sentences or less.

Never again in the Federal system will a major heroin trafficker like Benjamin Ramos be released from prison after serving less then one-third of a stated 20-year sentence because he officiated at volleyball games and took courses in stress management and constitutional law. Let us hope that State legislatures around this country take their cue from our action today. The revolving door must stop.

I am very happy to have had a hand in drafting parts of this legislation, particularly in the criminal-forfeiture section. Present laws to seize the

assets of drug profiteers have proven to be cumbersome and inadequate. The 1981 GAO report states the problem very well. Only $2 million was forfeited under the Rico statute between 1970 and 1980. At the same time, drug trafficking was growing into a $100 billion a year industry.

Today's action will result not only in the doubling of criminal sentences, but, just as important, a serious attack on the economic base of the drug kingpins. We are making it a Federal crime to reinvest the profits of even a single drug transaction. We are telling the courts to take the broadest possible view of what property is subject to confiscation as proceeds of drug trafficking. We will also eliminate the most serious cause of the backlog in forfeiture cases, the requirement that a separate civil action be brought in each district where property is found. Henceforth, we will be able to seize the estates, ranches, boats, planes, cars, bank accounts, and even the legitimate businesses that have been acquired with drug money, and we will be able to do that in one legal proceeding. Increased criminal penalties for those who launder drug money will give our law-enforcement agencies additional weapons to combat the surreptitious export of $40 billion a year in criminal profits.

The goal of our legislation and of my amendments is nothing less than stripping the drug kingpins of their drug-profit empires.

Other reforms limit the insanity defense to those unable to appreciate the nature or wrongfulness of their acts. It removes the irresistible impulse element from the defense and imposes on the defendant the burden of proving insanity. Never again should a John Hinckley escape punishment for his crime.

An increased role for the Federal Government in providing assistance to local law-enforcement agencies and in providing urgently needed prison and jail facilities takes our war on crime to the local level, where crime is now almost totally out of control.

This bill sends a message of hope to those victimized by crime. It states in the clearest possible way that the Federal Government is going to wage the war on crime with more than rhetoric. The sooner we get this bill on the President's desk, the sooner we will be able to say, honestly, that we in the Congress have done more than talk about winning the war on drugs and crime.

Thank you, Mr. President.

Mr. LEAHY. Mr. President, I am often asked when I travel back to Vermont why it is so difficult to write laws to combat crime. Since no one favors crime, a questioner will point out, why can't men and women of good faith and reasonable skill find the words to outlaw society's most persistent evil?

In my experience, every Member of Congress—100 percent of them—wants the same thing as that incredulous Vermonter. But the words have never come easily, and there are good reasons. The best reason is that the quality of our criminal justice and the quality of our freedom are very closely related. We have always wanted to convict the guilty and let the innocent go free, but the magic formula has always been just beyond our grasp.

What I commend in the crime package we are adopting today is that it clearly benefits from the kinds of dialog I have had with Vermonters for a decade and a half, and the dialogs my colleagues have had—just as intensively—around the country.

We are learning from experience, and this legislation shows it, in bail reform, sentencing, the insanity defense, drug enforcement, and addressing a host of violent crimes.

Our bail laws, both Federal and State, have failed to give adequate consideration to how much danger is posed to the community by particular bail conditions. This bill allows a judge to evaluate danger to the community. It is a change that is long overdue.

But the strengthening of our Federal bail law implies a strong duty to ensure a speedy trial. I supported an amendment to the Senate bail bill earlier in this session that would have tightened the requirement for a speedy trial where the bill's restrictive provisions were applied.

While this amendment was not adopted, the underlying obligation of the judicial system to preserve the constitutional rights of the accused does not depend on mere statutes. Judges should embrace the bail standards in this bill, but should use their considerable powers to see to it that those who are denied bail because of danger to the society are promptly tried.

The bail provision also provides for revocation of release and increased penalties for crimes committed while on release. This is not a change lightly undertaken. Curbs on bail are curbs on the personal liberty of the accused. The need for bail is deeply rooted in the presumption of innocence.

What we are now saying, based on sound observations, is that bail provisions in the past have not looked hard enough at the needs of society, and we believe the current bill strikes a sound balance.

The sentencing reform provision of the bill achieves what I have long advocated—a determinate sentencing system with no parole and limited "good time" credits.

Deterrence is based on the certainty of punishment in a person contemplating the commission of a crime. The current sentencing system is sentencing roulette. The same offenses result in radically different sentences, and the sentence announced in the courtroom bears little resemblance to the sentence served in the great majority of cases.

We have provided for the promulgation of clear and uniform sentencing guidelines. The courts have to explain any deviation from these guidelines. Defendants can appeal sentences harsher than the guidelines provide, and the Government may appeal sentences more lenient than the guidelines provide.

We have narrowed and clarified the insanity defense and have strengthened the Federal penalties applicable to narcotics offenses. We have established Federal jurisdiction over murder for hire and over solicitation to commit a crime of violence.

We have also acted to assist the victims of crime—those whom society has forgotten all too often in the past. Through fear, crime makes victims of us all, but we have a special obligation to those who are the direct targets of criminals. Our assistance cannot undo what has happened, but it can make some amends, and it can be a concrete expression of our will to stand with them against an evil that threatens all or our lives.

Included in the crime package are two important bills relating to international terrorism. A third bill was also passed separately.

By passing these measures the Senate is declaring to the world that, yes; we can do something about international terrorism. The bills we have passed do not make grandiose statements. They do not announce the end of terrorism forever. But they do create useful and practical tools to begin fighting terrorists on their own terms.

The Aircraft Sabotage Act implements an international convention which this Nation ratified in 1972. It creates Federal offenses for a variety of activities related to aircraft, including tampering with civilian aircraft or aircraft facilities, to communicating false information which endangers the safety of aircraft in flight.

Our failure to pass this legislation years ago was an opportunity missed to say that our Nation would never allow terror to dominate our skies. Enactment today tells the world's terrorists that their heinous acts are at the top of our criminal enforcement agenda.

The second of the terrorism bills in the crime package to combat international terrorism is designed to stem an evil that has ranked near the top of any list of crimes against a peaceable society—hostage taking.

This bill implements the International Convention Against the Taking of Hostages, which was ratified by the

Senate in September 1981 and signed by the President.

In keeping with the requirements of the convention, the bill amends the Federal kidnap law and extends Federal jurisdiction to certain hostage-taking offenses. In my view, the original draft of this bill fulfilled convention requirements at the expense of possibly infringing on the delicate line between State and Federal criminal law jurisdiction.

As a Senator, and earlier as a county prosecutor, I have been a strong believer in the importance of local law enforcement. Though the encroachments of the original version of this bill might have seemed minor, even the possibility that an essentially local kidnaping would invoke Federal criminal jurisdiction was unacceptable.

Legal traditions are very important on Capitol Hill and in the Nation, and once we begin to blur the line between Federal and State criminal jurisdiction, we invite obliteration of the line in later years.

Senator DENTON and I worked hard to preserve the essence of what the convention requires, while respecting the traditional scope of local jurisdiction.

I am thankful for the helpful comments of the National Association of Districts Attorney in this effort, and I am pleased to say that the association endorses the compromise Senator DENTON and I worked out on preserving local jurisdiction, which is preserved in the bill finally adopted, even though the Senate adopted the House text.

We will need to continue our fight against international terrorism, both within our law enforcement agencies and in our statute books.

But I can say with confidence today that we have made a good start.

The bill we adopted separately, the Act for Rewards of Information Concerning Terrorist Acts, fills a need so obvious that for years we neglected to see it: the need to reward those who are willing to impart information about international terrorism.

I have in mind the dilemma we face in places like the Middle East, where it is nearly true that information is life. One thing that could have made a difference in Lebanon—whoever was our President—over the last 3 years would have been additional information, at least some of which we could have obtained through an offer of rewards.

Too often in the past we have assumed that ideological terrorism has no price, that zealots will not betray their belief, that Western nations cannot possibly penetrate terrorism rooted in a different culture.

All of those assumptions are, in part, true, but only in part. Useful information can be obtained from beyond the zealots' circle. Sometimes the most reliable information comes from those relatively far from the center of a conspiracy, and the offer of a reward can make a real difference in many cases.

I feel confident that adding this important option to the arsenal of anti-terrorism weapons will prove a sizable investment in our most important commodities—peace and security.

These are some of the most important provisions in the crime package. There are many others, all carefully considered, and all necessary if we are to bring the Federal criminal laws into the 20th century.

We have learned that it is possible to write laws that are constitutionally sound and fair to society, as well as the accused. We have no single formula that will end crime in the United States. But today we have answered those constituents of mine in Vermont who wonder why it is so hard to find the words to fight crime.

Our answer is that, with persistence and insight, it isn't so hard. We've shown we can do it. But what we've done is only a beginning. Let history judge our effort and measure our hopes against experience. Only through constant improvement can we look to a time when the words we write in our statute books will actually make life richer and more peaceful in the streets of America.

Mr. GRASSLEY. Mr. President, I am proud to cosponsor this comprehensive criminal code package. I am proud to be a part of the Committee on the Judiciary that deliberated for hours, for days, for years, on the provisions of this legislation.

This legislation revitalizes our commitment to protect our citizenry. It is a strong statement that this body of Congress, the Senate of the United States, is ready to make substantial changes in criminal laws that have failed to work.

At this juncture I will note provisions that I have personally introduced and cosponsored. First, I acknowledge title 7 of the bill dealing with the donation of surplus property to any State for the construction and modernization of criminal justice facilities.

Prison overcrowding is a problem which we can no longer overlook. It is a problem which goes beyond corrections. Potentially, it leads to a circumvention of the overall public and criminal justice system. Probation is mated our instead of incareration because judges are aware that there is no available prison space. At a time when we are leaning toward harsher, longer prison sentences, available prison space is indispensable.

It is no secret that States are currently faced with the question of how to eliminate overcrowding in prisons so as to fashion programs that rise to constitutionally acceptable levels of legality and humanity. Society cannot permit crime to go unpunished for want of prison space, and for the present, prison is the only sanction available for violent crime. A revolutionary breakthrough in the range of available rehabilitative sanctions is not on the horizon.

I introducted this legislation in 1980 in response to a recommendation contained in the report of the Attorney General's Task Force on Violent Crime. As a direct result of the findings of the Task Force on Violent Crime the Attorney General directed the Bureau of Prisons to form a clearinghouse for correctional facilities. The clearinghouse as it now operates, can provide information to concerned parties as well as serve as liaison with GSA and the Department of Defense regarding potential correctional facilities, such as former military bases.

This provision passed the Senate independently in May 1982. It also passed the Senate in the original crime package last year. It is a long coming but welcome measure that I believe will take some pressure off our States' increasingly crowded prison situation.

Mr. President, I share the belief of many of my colleagues that our Nation's crime problem is a matter of prime importance. Our society is increasingly plagued by a small group of career criminals who use our Nation's criminal laws and the Bill of Rights as another weapon in their arsenal against innocent Americans. Because of this concern I welcome the inclusion of title 18, the armed career criminal provision.

I have the privilege of being the author of another section of the amendment, the Public Safety Officer's Protection Act.

This provision makes clear the intent of the Congress that the enhanced penalty sections of the Federal arson laws apply whenever a fireman or police officer are injured while fighting a fire set by an arsonist. Already Federal law doubles the maximum penalty from 10 to 20 years whenever a person is injured by a fire set by an arsonist. That law allows the court to impose any penalty, including the death penalty if someone is killed in the blaze. It may amaze my colleagues that at least one Federal court has held that this enhanced penalty section of 18 U.S.C. 844 did not apply when the dead and injured were firemen performing their duties.

As a result, the arsonists were convicted and sentenced as though all that they had done was destroy a place of business. No mention was made of the fact that two courageous firefighters in Sioux City, IA, lost their lives as a result of the arsonists' conduct, and that six others were injured.

Mr. President, I believe that Congress intended public safety officers as

well as the public at large to be protected by the enhanced penalty provisions. Apparently, however, we did not make our intent clear enough and that is the purpose of this legislation. I urge my colleagues to adopt it without modification.

Two provisions that I have taken an active interest in, affect the reauthorization of the Juvenile Justice and Delinquency Prevention Act as well as provisions related to missing children's assistance.

I believe that we can acknowledge some accomplishments that have resulted from congressional deliberations on child abuse. Aside from a heightened public awareness that our deliberations bring about, we have witnessed legislative achievements in the areas of child abuse, medical treatment, missing children, and child pornography.

Our action today emphasizes that we believe that programs devoted solely to the national epidemic of missing children and juvenile delinquency are justified and desirable. This is an acknowledgement of the work of local and State agencies and the numerous individuals and citizen action groups throughout this country who have dedicated themselves to protecting our Nation's children. It simply is not possible to replace the effort that groups like Covenant House, Child Find, Find-Me, Inc., and Childkeepers contribute to the location and safe return of children.

I want to also acknowledge a provision relating to the continuation and nationwide development of a successful and promising delinquency prevention program known as law-related education. I know from Dean Calkins of Drake Law School in Des Moines how successful such a law-related education program has been in Iowa.

On August 10, 1984, the Senate passed the Juvenile Justice Act containing language relating to the law-related education amendment. Contained in the record is a colloquy between Chairman THURMOND, Senator DENTON, Senator MATHIAS, and myself that describes in detail our sense of how important it is that we not lose the momentum gained in this delinquency prevention program.

I mention only a few of the measures that I have supported that are included in the amendment. I have additionally supported provisions of this amendment related to the bail, sentencing's insanity defense, justice assistance, labor racketeering, victims of crime and credit card fraud. For many of us this legislation is one of the most important measures we will pass in this Congress.

All of us are aware that this amendment marks only the beginning of heightened efforts to strengthen our criminal laws. The time test of its effectiveness remains in the hands of our Federal prosecutors. Let us hope that through this legislation we have armed them adequately.

Mr. THURMOND. Mr. President, I ask unanimous consent that Senator GOLDWATER and Senator COCHRAN be added as cosponsors of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, I ask unanimous consent that the able Senator from Louisiana [Mr. Johnston] be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, I first take this opportunity, before yielding to the distinguished Senator from New York, to express my deep appreciation—and I am sure I speak for every Member of this Senate—to the able chairman of this committee [Senator HATFIELD] and one of the managers of the bill, and the able Senator from Louisiana, the other manager of this bill, for their fine cooperation on this matter.

It is something I think they can always be proud of, the work they did here. We want to deeply express our appreciation to them both.

I now yield to the distinguished Senator from New York.

Mr. MOYNIHAN. Mr. President, I first ask unanimous consent that I be included as an original cosponsor of the Comprehensive Crime Control Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 7044

(Purpose: To amend Chapter 44, title 8, United States Code to regulate the manufacture and importation of armor piercing ammunition)

Mr. MOYNIHAN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from New York [Mr. MOYNIHAN] proposes an amendment numbered 7044.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following:

SEC. . (a) Section 921(a)(17) of title 18 of the United States Code is redesignated as section 921(a)(17)(A), and a new subparagraph (B) is added to section 921(a)(1) to read as follows:

"(B) The term 'armor piercing ammunition' means solid projectiles or projectile cores constructed from tungsten alloys, steel, iron, brass, bronze, beryllium copper, or depleted uranium. The term shall not include shotgun shot required by Federal or State environmental or game regulations for hunting purposes, frangible projectiles designed for target shooting or any projectile which the Secretary of the Treasury finds is primarily intended to be used for sporting purposes. The term 'solid' in the first sentence of this subparagraph means made entirely from one or more of the substances specified therein, but may include the presence of trace elements of other substances.".

(b) Section 922(a) of title 18 of the United States Code is amended—

(1) by striking out "and" at the end of paragraph (5);

(2) by striking out the period at the end of paragraph (6) and inserting in lieu thereof "and"; and

(3) by adding after paragraph (6) the following:

"(7) for any person to manufacture or import armor piercing ammunition, except that this paragraph shall not apply to (A) the manufacture or importation of armor piercing ammunition for the use of the United States or any department or agency thereof or any State or any department, agency, or political subdivision thereof, or (B) the manufacture of armor piercing ammunition for the sole purpose of exportation.".

SEC. . (c). Subparagraph (A) of section 923(a)(1) of title 18 of the United States Code is amended to read as follows:

"(A) of destructive devices, ammunition for destructive devices or armor piercing ammunition, a fee of $1,000 per year;".

SEC. . (d). Subparagraph (C) of section 923(a)(1) of title 18 of the United States Code is amended to read as follows:

"(C) of ammunition for firearms, other than ammunition for destructive devices or armor piercing ammunition, a fee of $10 per year.".

SEC. . (e). Subparagraphs (A) and (B) of section 923(a)(2) of title 18 of the United States Code are amended to read as follows:

"(A) of destructive devices, ammunition for destructive devices or armor piercing ammunition, a fee of $1,000 per year; or

"(B) of firearms other than destructive devices or ammunition for firearms other than destructive devices, or ammunition other than armor piercing ammunition, a fee of $50 per year.".

SEC. . (f). Section 924(c) of title 18 of the United States Code is amended (a) by striking the period at the end of paragraph (2) and adding in lieu thereof a comma and the word "or" and (b) by adding a new paragraph (3) to read as follows:

"(3) during and in relation to the commission of a violent felony uses or carries a firearm and is in possession of armor piercing ammunition capable of being fired in that firearm shall, in addition to the punishment provided for the commission of such felony, be sentenced to a term of imprisonment for not less than five years. Notwithstanding any other provision of law, the court shall not suspend the sentence of any person convicted of a violation of this subsection, nor place him on probation, nor shall the term of imprisonment run concurrently with any other term of imprisonment, including that imposed for the felony in which the armor piercing ammunition was used or carried. No person sentenced under this subsection shall be eligible for parole during the term of imprisonment imposed herein. For the purpose of this paragraph, the term violent felony means (A) a felony (which may be prosecuted in a court of the United States) that has as an element, the use, attempted use, or threatened use of physical force

against the person or property of another, or (B) any other felony (which may be prosecuted in a court of the United States) that, by its nature involves a substantial risk that physical force against the person or property of another may be used in the course of its commission.".

(g). The amendment shall take effect 30 days after the date of enactment of this section, except that subsections (c), (d), and (e) shall take effect on the first day of the first calendar month which begins more than ninety days after the date of the enactment of this section. And that subsection (f) of this section shall take effect notwithstanding any other provision of law, and notwithstanding any other provision of law contianed herein after or herein before in this joint resolution.

Mr. MOYNIHAN. Mr. President, this amendment would ban the importation and manufacture of armor-piercing bullets. President Reagan asked for precisely such a bill, when he told the convention of the National Sheriffs' Association last June:

I expect to sign a cop-killer bullet bill before this Congress adjourns.

Mr. METZENBAUM. Mr. President, will the Senator yield?

Mr. MOYNIHAN. I yield.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that I be permitted to put a statement in the RECORD before the close of the day, and further that Senator BAUCUS be added as a cosponsor, and Senator CHILES, as well.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. METZENBAUM. I thank the Senator from New York for his courtesy.

Mr. MOYNIHAN. Mr. President, this measure has 96 cosponsors in this body, 96 cosponsors. It would ban the importation and manufacture of bullets which have only one purpose—to pierce the body armor of police officers. About half the police officers in this country now routinely wear such armor, but the protection it provides suddenly has been stripped away by the availability of armor-piercing bullets. To end that threat to our Nation's police officers, 96 Senators cosponsor or sponsor this measure.

Mr. President, the National Rifle Association endorses the bill, S. 2766, on which this amendment is based. I ask unanimous consent that there be printed in the RECORD at this point, a letter to me from Mr. Wayne LaPierre, the Director of Governmental Affairs of the National Rifle Association.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

NATIONAL RIFLE ASSOCIATION OF AMERICA, INSTITUTE FOR LEGISLATIVE ACTION,
Washington, DC, June 29, 1984.

Hon. DANIEL MOYNIHAN,
U.S. Senate,
Washington, DC.

DEAR SENATOR MOYNIHAN: On behalf of the National Rifle Association I would like to thank you for your support of S. 2766, the Law Enforcement Officers Protection Act of 1984, introduced by Senators Thurmond and Biden.

Your support is an essential part of a broad bipartisan effort to devise a viable legislative vehicle which responds to the wishes of our nation's law enforcement officers, without adversely affecting conventional ammunition used by law-abiding gun owners and hunters.

Again, your support of this legislation is appreciated.

Sincerely,

WAYNE LAPIERRE,
Director, Governmental Affairs.

Mr. MOYNIHAN. Mr. President, the issue is well-understood, and I am prepared to proceed at this point.

Mr. McCLURE. Mr President, in fairness——

Mr. MOYNIHAN. Mr. President, may we have order.

Mr. THURMOND. Mr. President, I think this is a very important amendment. We passed it through the Judiciary Committee. It has been on the calendar for a long time. I understand we would probably have a filibuster here today. In view of that, I wonder if the Senator would withdraw it. I want to assure him we will introduce it again next Congress and bring it back to the Senate. I hope we can get it passed as an independent bill.

Mr. MOYNIHAN. May I say to the President pro tempore, the distinguished chairman, that I of course yield to his judgment on this matter. The Senator from Idaho was going to say something to that effect, if I could just hear his statement.

Mr. McCLURE. Mr. President, I did have the opportunity to discuss this with the distinguished Senator from New York before he offered the amendment. I advised him of one determination that I would have and then a prediction that I would make. I have always said that as a part of the comprehensive legislation dealing with reform of the 1968 Gun Control Act, I would have no objection to the passage of this bill.

But we have already gone through this once on this bill. And I would make the prediction that irrespective of my position there are others who would raise the same kind of objection that was raised when this matter was before us at an earlier time with respect to the continuing resolution.

But I, at the minimum, would be compelled to try to get adopted as part of a package not just the bill that the Senator has referred to, but also the McClure-Volkmer bill as reported from the Judiciary Committee and, I think in fairness, with one slight modification.

So I think we would be into a larger and longer debate.

Mr. MOYNIHAN. Mr. President, I know that my distinguished colleague in the chair is a cosponsor of this amendment and is very much interested in it, but cannot speak in favor of it because of his position. I will speak for him.

First, may I thank the Senator from Idaho for his candid assessment. He is nothing if not straight in these matters—a straight shooter, as they say in Idaho.

May I also thank the chairman of the Judiciary Committee. I take his word, which is coinage in this Chamber, that the measure will again be reported out of the Judiciary Committee as it was this year. And I am sure we will again have 96 cosponsors next year.

Mr. President, given the hour, in a session that began some days ago, as well as the necessity of bringing this continuing resolution to conference, I withdraw the amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. THURMOND. Mr. President, I want to thank the able Senator from New York for pursuing the course he did on this matter so it would facilitate the passage of this amendment. We had thought about asking for a rollcall on the amendment, but since 97 Senators voted to consider the crime package today, we think we will save time not to do so. I now ask for adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from South Carolina [Mr. THURMOND].

The amendment (No. 7043) was agreed to.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 7045

(Purpose: To deauthorize the uncompleted portion of the Federal navigation project in Milwaukee harbor)

Mr. KASTEN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Wisconsin [Mr. KASTEN] proposes an amendment numbered 7045.

Mr. KASTEN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment reads as follows:

At an appropriate place, insert the following new section:

SEC. . (a) The portion described in subsection (b) of the uncompleted portion of the Federal navigation project in the Milwaukee north outer harbor, authorized in the River and Harbor Act of 1935, is hereby deauthorized.

(b)(1) The portion of such project deauthorized is the parcel of submerged land in Lake Michigan, lying within the lakebed grant from the State of Wisconsin to the city of Milwaukee, as defined in chapter 76 of the laws of 1973, such parcel also being in the southwest ¼ of section 28 and in the northwest ¼ of section 33, all in T 7 N, R 22 E, city of Milwaukee, Milwaukee County, Wisconsin, more particularly described as follows: commencing at the ¼ corner between such sections 28 and 33; thence east 88.29 feet to the centerline of the rubble mound; thence along such centerline S 08° 41'37" W, 819.58 feet; thence S 00°45'01" E 1165.24 feet to a point in the line of the United States monuments 305 and 307, being a point on the north pier of the inner harbor entrance; thence along such United States monument line, N 87°16'39" E 249.11 feet to United States monument 307; thence along such United States monument line extended, N 87°16'39" E 465.02 feet to the southwest corner of such lakebed grant; thence continuing along such United States monument line extended, N 87°16'39" E 50.03 feet to the west line of the existing Federal navigation channel; thence along such west line, N 00°45'01" w 850.51 feet to the point of beginning; thence continuing along such west line N 00°45'01" W 308.88 feet; thence continuing along such west line N 08°41'37" E 1746.82 feet; thence S 26°40'00" E 844.98 feet; thence S 08°41'37" W 720.00 feet; thence S 43°00'00" W 777.70 feet to the point of beginning, such parcel containing 15.753 acres.

(2) Bearings for the description in paragraph (1) are based on local grid bearings as used by city of Milwaukee, Board of Harbor Commissioners for the North Harbor Tract.

Mr. KASTEN. Mr. President, I have a noncontroversial amendment which I would like to offer at this time. I believe the chairman will appreciate that this is to deauthorize a water project. It has already been cleared on both sides.

A portion of Milwaukee Harbor was authorized for improvements in the River and Harbor Act of 1935. That work has never been conducted. Today, the city of Milwaukee would like to construct an island on this sight. The island will be used for public recreation.

This project has been approved by the Corps of Engineers. However, the City can not move forward with its work until the harbor work is deauthorized.

This amendment is at no cost to the Federal Government.

I ask for its adoption.

I believe that it has been cleared on both sides.

Mr. HATFIELD. Mr. President, the amendment of the Senator from Wisconsin has been cleared on the majority side.

Mr. JOHNSTON. Mr. President, the amendment has been cleared on this side.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Wisconsin [Mr. KASTEN].

The amendment (No. 7045) was agreed to.

Mr. KASTEN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 7046

(Purpose: To provide financing of Treasury borrowing to continue HUD housing programs)

Mr. GARN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Utah [Mr. GARN] proposes an amendment numbered 7046.

Mr. GARN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment reads as follows:

At the appropriate place in the joint resolution, add the following new section:

"SEC. . Notwithstanding any other provision of this joint resolution, there is appropriated to the Treasury $300,000,000, to be made available to cover the additional interest expenses incurred on borrowings by the Secretary of Housing and Urban Development from the Treasury that are necessary to extend direct loans to local public housing agencies as authorized under section 4(a) of the United States Housing Act of 1937, for the purposes of financing public housing projects as authorized under section 5(c) of the United States Housing Act of 1937: *Provided*, That the foregoing appropriation shall be available only in connection with additional interest expenses incurred on Treasury borrowings having maturities not in excess of seven months from the date that such borrowings occur: *Provided further*, That no such Treasury borrowings in connection with the foregoing appropriation shall take place after April 3rd: *Provided further*, That the foregoing $300,000,000 shall be available until expended on interest incurred pursuant to the Treasury borrowings. *Provided further*, That direct loan proceeds shall be made available for continuation of public housing development, modernization and Indian housing, including new loan commitments."

Mr. GARN. Mr. President, the amendment I am offering today is needed to continue the Federal housing program in the manner and to the extent that Congress provided for in previously enacted appropriation acts.

The amendment is necessary because of questions raised over the tax status of obligations issued by public housing agencies to finance development and modernization projects. The questions result from the enactment of the Tax Reform Act of 1984, which attempted to prevent arbitrage abuse of federally guaranteed tax-exempt bond proceeds.

Unfortunately, that act threw into question all public housing notes and bonds even though such abuse rarely occurs with such instruments. I believe the Tax Code amendment ultimately will be interpreted to permit public housing authorities to continue issuance of tax-exempt obligations. However, pending this clarification, the Tax Reform Act of 1984 is preventing the regular sales of these instruments.

To meet the capital requirements of maturing obligations, HUD had to draw down against its current limitation on borrowing from Treasury. The department also has suspended new loan authority reservations and contract executions for public housing development, modernization, and Indian housing.

I have urged that chairman of the Finance Committee to pass legislation to delay the effective date of the Tax Reform Act provision. It does not appear, however, that such a provision will pass the congress in the remaining days of this session. Failure to correct the tax problem forces us to examine other financing options if these Federal housing programs are to continue in the manner provided for in appropriations acts.

While HUD has assured us that existing borrowing authority is sufficient to meet current capital requirements, questions remain on the impact of higher interest rates on current funding limits and commitments for individual projects. For this reason I am proposing this amendment, not only to permit HUD borrowing to a level sufficient to address new and ongoing capital requirements, but also to appropriate $300 million to maintain the effective interest rates for public housing notes at the tax-exempt rate.

Again, Mr. President, this is merely a temporary stopgap approach to hold harmless HUD housing programs until the impact of the Tax Reform Act of 1984 can be fully assessed and alternative instruments and procedures can be implemented to conform to that law.

Mr. President, I am concerned that some Members may not fully understand why the amendment that I am proposing contains an appropriation of $300 million. This sum is needed to offset the higher interest rate charged under direct Treasury borrowing as compared to the tax-exempt rate that has prevailed for these public housing securities for the past 40 years.

I want to make clear that the funding contained in this amendment will be offset by increased tax collections. What is involved here is simply a shift from off-budget tax expenditure assistance for low-income housing, to on-budget direct Federal assistance. This shift will not add to the deficit, and should be viewed as a type of accounting change.

Mr. President, I would also like to add that the Office of Management and Budget has requested this appropriation to address this interest differ-

ential. I believe that it is only prudent that we adopt this amendment today. This will permit us to confer further with the administration prior to conference and to then pursue alterations to the amendment, if necessary, when we are in conference. If we fail to adopt this amendment, we may foreclose this issue prematurely and thereby leave Federal housing programs in jeopardy until next year.

Mr. President, this amendment has been cleared on both sides. It is to correct an error in the Tax Reform Act of 1984 which caused some difficult problems for our public housing authorities in financing the public housing.

The amendment has been cleared by the administration. I ask for its immediate consideration.

Mr. HATFIELD. Mr. President, the Senator is correct, the amendment is cleared on this side.

Mr. METZENBAUM. Mr. President, I have seen the amendment and I have no objection to it. But I just want to be certain I read it rather rapidly.

The Senator mentioned it as a problem that came about by reason of the Tax Reform Act of 1984. I just want to be certain that in perusing it there are no tax changes that are provided in this amendment but it merely has to do with a $300 million supplemental appropriation.

Mr. GARN. This only applies to Treasury borrowing for public housing authorities through the Department of Housing and Urban Development.

Mr. METZENBAUM. Am I correct that it does not have anything to do with the tax laws of this country, as such?

Mr. GARN. It does not change the tax laws as enacted in that bill. It does correct an error in that bill that put in jeopardy Treasury borrowing through the Department of HUD to finance public housing authorities.

Mr. METZENBAUM. I have no objections.

Mr. JOHNSTON. Mr. President, the amendment has been cleared on the minority side.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Utah (Mr. GARN).

The amendment (No. 7046) was agreed to.

Mr. GARN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GOLDWATER. Mr. President, I have been here for several days anticipating two amendments to be offered. Neither one of them has been offered.

COMMENTS ON WITHDRAWAL OF SASSER AMENDMENT TO AWAIT RESULTS OF ONGOING FCC REVIEW

The FCC is in the process of developing a balanced solution to these complex telephone pricing issues. Piecemeal legislation at this time could severely impair the Commission's ability to devise a workable solution. Considerable work has already been done, and a new plan is promised by December. Mark Fowler, Chairman of the FCC, in a letter to me yesterday confirmed that there will be ample time for the Congress to review these issues, if that is necessary, next year, before any proposed new order can go into effect.

Now, I am sure we all expect and hope the FCC will provide us with a plan that will care for the needs of all Americans, whether urban or rural, small businessman or consumer. I have confidence that the Commission will.

Mr. President, I ask unanimous consent that Mr. Fowler's letter and another letter I received yesterday from Continental Telephone opposing the Sasser amendment on behalf of rural customers be included in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FEDERAL COMMUNICATIONS COMMISSION,
Washington, DC, October 2, 1984.

Hon. BARRY GOLDWATER,
U.S. Senate,
Washington, DC.

DEAR SENATOR GOLDWATER: This is in response to your request for the Commission's views on certain amendments concerning telecommunications issues proposed by Senator Sasser. While we are very much aware of the Congressional interest in the access charge and high cost issues as well as the question of lifeline assistance for low income households, we believe that legislative consideration of these issues is premature. In fact, the issues dealt with in the amendment proposed by Senator Sasser are already being studied by the Joint Board and the Commission. I am concerned that legislative action at this time would preempt our efforts to achieve a balanced resolution of these issues that would best serve the public interest and be acceptable to federal and state regulators, all segments of the telecommunications industry, residential and business users, as well as the Congress.

As you know, the Commission voted last January not to impose subscriber line charges on residential and single line business customers until we had completed a number of further proceedings. Last spring, the Commission requested additional comments on: (1) subscriber line charges for residential and single line business users as a means of recovering non-traffic sensitive (NTS) costs; (2) a transition mechanism for implementing such charges; (3) additional assistance for small telephone companies; and (4) assistance for low income households. At the same time, the Commission asked the existing separations Joint Board, composed of four State Commissioners and three FCC Commissioners, to prepare recommendations concerning these issues. Numerous parties filed comments in response to this request and all of the Joint Board Commissioners and the staff are analyzing these filings to develop a balanced resolution of the issues before the Commission. The Joint Board is scheduled to complete its recommendations by the end of November. Commission action on the Joint Board recommendation is scheduled for the latter half of December. Under the normal process for tariff filings (which requires time for carrier preparation of tariff revisions and a 90 day period of public notice before tariffs become effective), we expect that tariffs implementing the Commission's December decision would become effective approximately June 1, 1985.

In conclusion, let me emphasize my commitment to achieving a balanced resolution of these issues that will accomplish some interstate rate reductions with a gradual transition to allow subscribers to adjust to these new cost recovery mechanisms and provide sufficient protection to ensure that subscribers in high cost areas and low income households will continue to be able to afford telephone service. The Federal Communications Commission has been taking all possible steps to ensure the best resolution of these telephone pricing issues in the newly restructured environment. We respectfully suggest that Congress should not preempt our work on these issues at this critical point.

Sincerely,

MARK S. FOWLER,
Chairman.

CONTINENTAL TELECOM INC.,
Washington, DC, October 1, 1984.

Hon. BARRY GOLDWATER,
Chairman, Senate Subcommittee on Communications, Washington, DC.

DEAR CHAIRMAN GOLDWATER: First, thank you for your personal note on the rural telephone situation, and your offer to help bring some common sense to this highly charged issue. I did not think I would be back to you so soon.

I feel compelled to again point out that my company has a larger rural constituency than that of the whole National Telephone Cooperative Association combined, and we are deeply disturbed at the prospect of Senator Sasser's amendment being incorporated into the continuing budget resolution. If the trade press reports are accurate regarding Senator Pressler's input on such matters as access charges, returns on equity, surcharges, and the eligibility criteria and reimbursement level for the Universal Service Fund, the post-divestiture transition of the entire telephone industry will be marred by serious and prolonged disruption, with no clear benefit to the public it serves. To allow such a result to be arrived at by a hurried and wholly unexamined midnight amendment, would be simply unconscionable.

Moreover, these matters are—and have been—the subject of intense and formal consideration by the FCC and the entire industry, pursuant to the specific request of 32 Senators, in a letter to Chairman Fowler last January.

We understand that you are in opposition to these amendments. We unequivocally oppose any amendment at this stage, and will do our best to mobilize our constituents against any premature and dangerous actions.

Sincerely,

WILLIAM FREIDMAN,
Vice President,
Governmental Relations.

OBJECTIONS TO PELL AMENDMENT

Mr. GOLDWATER. Mr. President, first, I want to discuss the concern I have with the amendment. I believe this is a dangerous time for the Senate to be taking any action which might be viewed as upsetting our relationship with free China. Although the amendment could be interpreted in many different ways, there is an underlying implication that the U.S. Senate would be calling for the replacement of the legitimate national government on Taiwan—a government which is still recognized by over 20 nations as the Republic of China—by a small band of violent dissidents who call themselves the Taiwan Independence Movement.

Now, Mr. President, I must ask, is it really in the interest of the United States to meddle in the internal affairs of the people and government on Taiwan? Surely it will not benefit the security of the United States to see a weak, neutralist regime set up on Taiwan that is incapable of resisting influence and pressures from the Soviet Union.

There has been a massive increase in Soviet power in the Asia-Pacific region since the withdrawal of American forces from Vietnam. Today the Pacific has half of Russia's aircraft carrier strength and the Soviets also reportedly have 91 attack submarines in the Pacific, over twice the number of U.S. attack subs covering the same waters.

Recently a force of at least 400 Soviet naval infantry, equivalent to U.S. marines, were deployed to Cam Ranh Bay in Vietnam. Ten TU-16 Badger bombers have been transferred by the Soviets to air bases both at Da Nang and Cam Ranh Bay. These bombers can strike U.S. bases as far away as the Philippines.

Because of this development, it is more important than ever to the United States that a strong and secure free government continue to exist on Taiwan that is friendly to the United States. Taiwan lies on the most direct routes for military vessels traveling from Soviet bases north of Japan with military cargo destined for the new Russian bases in Cam Ranh Bay and Da Nang. Also, Taiwan is situated at a critical position between the main sea lanes of communication which connect the Indian and Pacific Oceans and through which flows free world trade with Japan and South Korea.

Instead of passing an ambiguous sense of the Senate declaration that may confuse U.S. policy toward free China, I believe we should be looking at ways that the United States can improve the defense capabilities of the Government of Taiwan.

Finally, we should not do anything to encourage a small band of violent revolutionaries who wish to tear down the legal government on Taiwan. I believe the vast majority of people in the Republic of China, including native Taiwanese, support the government headed by President Chiang Ching Quo. Economic and political developments in the Republic of China are running strongly in the direction of greater freedom and expanded rights and we should not do anything to discourage these positive trends.

AMENDMENT NO. 7047

(Purpose: To direct the Director of the Office of Management and Budget to redesignate the St. Louis region as a Metropolitan Statistical Area)

Mr. HATFIELD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Oregon [Mr. HATFIELD], on behalf of Mr. DANFORTH and Mr. EAGLETON, proposes an amendment numbered 7047.

Mr. HATFIELD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment reads as follows:

At the end of the bill add the following new section:

ST. LOUIS METROPOLITAN STATISTICAL AREA

SEC. . (a) For purposes of any provision of Federal law, the Director of the Office of Management and Budget shall rescind the designation of the St. Louis primary metropolitan statistical area, the designation of the Alton-Granite City, Illinois, primary metropolitan statistical area, and the designation of the East St. Louis-Belleville, Illinois, primary metropolitan statistical area, and shall not take any action to designate such three primary metropolitan statistical areas as a consolidated metropolitan statistical area.

(b) The Director of the Office of Management and Budget shall designate a single metropolitan statistical area which includes the following:

(1) The city of St. Louis, Missouri.

(2) The counties of St. Louis, Franklin, Jefferson, and St. Charles in Missouri.

(3) The counties of Monroe, Madison, Jersey, Clinton, and St. Clair in Illinois.

The metropolitan statistical area designation pursuant to this subsection shall be known as the "St. Louis Metropolitan Statistical Area".

Mr. HATFIELD. Mr. President, I offer this amendment on behalf of the Senators from Missouri, Senator DANFORTH and Senator EAGLETON. This amendment modifies the way OMB reports statistical data relating to the St. Louis metropolitan areas in order to reflect more accurately the true size of the region. The amendment has no budgetary impact.

Mr. DANFORTH. Mr. President, last year the Office of Management and Budget revised its metropolitan statistical area designations in ways that, perhaps as a result of misinterpretation by other agencies, have adversely affected the St. Louis region by reducing its ranking with respect to other metropolitan areas. This amendment, which has the support of my fellow Senator from Missouri, Mr. EAGLETON, and my distinguished colleagues from Illinois, Senators PERCY and DIXON, will direct the Office of Management and Budget to change its designation of the St. Louis area in order to correct this misinterpretation.

OMB's revision eliminated the term "Standard Metropolitan Statistical Area" [SMSA]. Instead, most metro areas were termed "Metropolitan Statistical Areas" [MSA] and certain of the larger metro areas were termed "Consolidated Metropolitan Statistical Areas" [CMSA]; these CMSA's are divided into two or more "Primary Metropolitan Statistical Areas" [PMSA].

The St. Louis metropolitan area, which includes portions of both Missouri and Illinois, was made into a 10-county CMSA, with three component PMSA's. The problem with the revised designations is that organizations, public and private, are choosing to list the three PMSA's in the St. Louis CMSA as if they were separate and unrelated metro areas. These organizations are arbitrarily comparing these smaller units to large metro areas which have not been divided into separate PMSA's, giving an unfair and inaccurate reflection of St. Louis' population and economy. For example, one influential trade publication, widely used by marketers, site locators and other investors, ranks the three parts separately as the 20th, 136th, and 156th largest metro areas, instead of ranking the entire 10-county region correctly as the 14th largest metro area.

The St. Louis region is a unified community made up of many smaller municipalities. Many Illinois residents work in Missouri, and vice versa. Several regional agencies span both States, and local leaders have worked hard to strengthen the economic, cultural, and political ties that bind the region together. The area is in every sense a single, integrated economic unit, and my amendment would acknowledge this fact by removing St. Louis from the CMSA list and adding it to the MSA list.

Earlier this year, we faced an identical situation in Kansas City. After OMB proved reluctant to take administrative action to fix the problem, the Congress passed a provision similar to the one I have offered today. Mr. President, this amendment has no budget impact and will not affect the award of Federal grants or other money. It will simply guarantee that OMB's designation of the St. Louis metropolitan area will be consistent with the region's population and economy, and I urge its adoption.

Mr. EAGLETON. I am pleased to cosponsor this amendment which will

assure that the population of the St. Louis region is accurately represented in the statistical designations assigned by the Office of Management and Budget. As a result of OMB's revised designations in 1983, St. Louis' rank went from 12th largest in the country down to 20th. This decline will undoubtedly affect marketing and investment decisions by corporations and other organizations including the Federal Government.

The problem began when OMB dropped the term "Standard Metropolitan Statistical Area" [SMSA]. Instead, most metro areas became "Metropolitan Statistical Areas" [MSA] and certain of the larger metro areas were termed "Consolidated Metropolitan Statistical Areas" [CMSA]. The CMSA's were then further divided into two or more "Primary Metropolitan Statistical Areas" [PMSA].

St. Louis was made into a 10-county CMSA; it was then divided into three smaller PMSA's. The problem occurred when public and private organizations started using the St. Louis PMSA's to compare to other jurisdications CMSA's.

It is doubtful that many cities understood what the affect of OBM's redesignation would be as we had the identical situation with Kansas City. In practice it has simply worked out that the users of these statistical ratings have not interpreted the data as it was intended. This amendment will return the St. Louis region to its rightful place as the Nation's 14th largest metropolitan area.

Mr. HATFIELD. Mr. President, this matter has been cleared on the majority side.

Mr. JOHNSTON. Mr. President, we have cleared this St. Louis statistical amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 7047) was agreed to.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 7048

(Purpose: To authorize land acquisition and relocation for Centralia, Pennsylvania without any requirement for matching funds)

Mr. SPECTER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Pennsylvania [Mr. SPECTER] proposes an amendment numbered 7048.

Mr. SPECTER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment reads as follows:

At the end of the joint resolution, add the following:

Sec. . The land acquisition and relocation for Centrallia, Pennsylvania, authorized in the Abandoned Mine Reclamation Fund under chapter IV of Public Law 98-191 shall not require any matching share of funding from Pennsylvania under section 407(e) of the Surface Mining Control and Reclamation Act of 1977.

Mr. SPECTER. Mr. President, I offer this amendment to clarify legislation which was passed last year in the fiscal year 1984 Supplemental Appropriations bill, Public Law 98-181.

In that bill, Congress appropriated an additional $42 million for the "Abandoned Mine Reclamation Fund", to remain available until expended, to be derived from receipts of the Abandoned Mine Reclamation Fund to provide for the acquisition of private homes, and businesses, and nonprofit buildings occupied or utilized continuously since September 1, 1983, and the lands on which they are located, excluding all mineral interests, and the relocation of families and individuals residing in the borough of Centralia and the village of Byrnesville and on outlying properties who are threatened by the progressive movement of the mine fire currently burning in and around the borough of Centralia.

However, the Department of Interior is now saying that Section 407(e) requires that grants, made by the Secretary of the Interior to States for land acquisition, be limited to no more than 90 per centum of the acquisition cost. The remainder would be funded by the States.

However, since this appropriation was directly funded by the Congress and not the Secretary, to deal with this unique environmental disaster, it is my sense that the provision of section 407(e) on matching shares does not and should not apply to this appropriation.

This view is reinforced by the history of Federal involvement in previous Centralia mine fire abatement efforts and the continuing necessity for Federal involvement and funding in the control and abatement of the fire. In addition, it was always the intent of Congress and the understanding of the Commonwealth of Pennsylvania that the full $42 million would be coming from the Abandoned Mine Reclamation Fund. This amendment will once and for all clarify the intent of Congress.

It should also be noted that Public Law 98-181, states that the funds made available for Centralia "shall be accounted against the total Federal and State share funding which is eventually allocated to the Commonwealth." Therefore, the 10 per centum will be coming from the Commonwealth of Pennsylvania's funds no matter which way you look at it.

I urge my colleagues to accept this amendment which is simply a matter of bookkeeping and entails no extra cost to the Federal Government.

Mr. President, this is an amendment which has been cleared with both sides.

Mr. HATFIELD. Mr. President, I am sorry. We do not have a copy of this amendment. We are not aware of the amendment.

Mr. SPECTER. This is one of the items I have talked about which has been cleared with Senator MCCLURE.

Mr. HATFIELD. Has it been cleared with Senator BYRD?

Mr. SPECTER. It is my understanding it has been.

Mr. HATFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, I yield to the chairman of the Subcommittee on Interior of the Appropriations Committee, whose jurisdiction this amendment falls under in order that he may make a statement of clarification.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. MCCLURE. Mr. President, the money that we last year appropriated for the treatment of Centralia mine fire, and subsistence associated with it, was appropriated from the Mined Area Reclamation Act funding, and was appropriated from the State's share of the division of the moneys in that fund.

The legislation last year was silent as to whether or not it was a part of the Mined Area Reclamation Program. The Department of Interior has construed since the money was taken out of that fund it was a part of that activity, and, therefore, subject to the 10-percent matching requirement that is otherwise required for mined area reclamation. The record of last year was totally silent as to whether it was a part of that activity or whether it was not.

I am quite willing that this amendment—which clarifies that issue—be adopted. I think we should go further to say that the Centralia mine fire is a very unique situation. It is in no way a normal mined area reclamation project, or program. In my judgment, it should not be subject to the 10-percent matching requirement. I am, therefore, very happy to support the

amendment of the Senator from Pennsylvania.

Mr. HATFIELD. Mr. President, with that explanation and clarification, the majority is willing to accept the amendment offered by the Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I thank the distinguished chairman of the subcommittee, Senator McCLURE.

I move adoption of the amendment.

Mr. JOHNSTON. Mr. President, the minority has no objection.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Pennsylvania [Mr. SPECTER].

The amendment (No. 7048) was agreed to.

Mr. SPECTER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HATFIELD. I move to lay that motion on the table. The motion to lay on the table was agreed to.

AMENDMENT NO. 7049

Mr. SPECTER. Mr. President, I send an amendment to the desk, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Pennsylvania [Mr. SPECTER] proposes an amendment numbered 7049.

Mr. SPECTER. Mr. President, I ask unanimous consent that futher reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place at the end of the Resolution, insert the following new section: "Of the funds provided in this resolution under the head "Land Acquisition, Forest Service", $2,000,000 shall be available for the acquisition of oil, gas, and other mineral interests in the Allegheny National Forest: *Provided*, That such funds shall be available for obligation only to the extent that the Secretary of Agriculture deems necessary to carry out the purposes of the Pennsylvania Wilderness Act of 1984.".

Mr. SPECTER. Mr. President, this is an amendment which has been cleared, as I understand it, on both sides providing for appropriations of $2 million for the purpose of mineral rights under the Pennsylvania Wilderness Act. This is in addition to acceptance and certification by the Secretary of Agriculture. Again, this has been approved by Senator McCLURE in his capacity as chairman of the subcommittee.

Mr. President, I offer this amendment to add $2 million to Senate Joint Resolution 356, the continuing resolution for the purchase of the subsurface oil, gas, and mineral rights under 7,275 acres of Hickory Creek in Warren County, PA.

The Pennsylvania Wilderness Act of 1984, S. 2551, introduced by Senator HEINZ and me on April 10, 1984, authorizes the purchase of these subsurface rights. The House companion bill, H.R. 5076, passed the full House on May 1, 1984, was marked-up by the Senate Agriculture Committee on August 13, 1984, and was passed by the full Senate on October 2, 1984, without objection. The Agriculture Committee did not challenge the $2 million authorization for subsurface rights in the wilderness area nor has any other distinguished Senator. In addition, the House-passed Interior appropriations bill for fiscal year 1985 includes the $2 million for Hickory Creek subsurface rights.

Mr. President, this appropriation is essential at this time. The Western Pennsylvania Conservancy—headed by Mr. John Oliver—holds an option to purchase these subsurface rights which it bought for $10,000 in August 1983 and renewed for an additional $70,000 in April 1984. This option will expire in October 1984; at that point, the conservancy will have one last opportunity to extend the option for 60 days at a cost of $550,000, which is one-fourth of the total cost of the rights. If the rights are not purchased and drilling and other development occur, Pennsylvania's wilderness area will be partially ruined. There is a real and imminent threat of development in this proposed wilderness area. Therefore, the purchase of these subsurface rights must be done at this time.

Mr. President, I urge the adoption of this amendment.

SPECTER AMENDMENT TO ADD $2 MILLION FOR PENNSYLVANIA WILDERNESS

Mr. HEINZ. Mr. President, I strongly support the amendment offered by my distinguished colleague from Pennsylvania. The Pennsylvania wilderness legislation, which the Senate adopted on October 2, 1982, represents the culmination of years of negotiation and compromise.

It is absolutely essential that this amendment be adopted. The Pennsylvania wilderness bill establishes a wilderness area in the Allegheny National Forest of about 9,700 acres. Privately owned subsurface rights underlie the entire area and, of course, the exercise of those rights would be entirely inconsistent with a wilderness designation. The Forest Service has testified, in hearings before the Senate Agriculture Committee, that it supports the acquisition of those rights as failure to do so will render meaningless the wilderness designation.

I want to add, Mr. President, that $2 million is a bargain basement price. At the present time, the Western Pennsylvania Conservancy holds an option on the subsurface rights underlying the wilderness area established by the Pennsylvania Wilderness Act, which entitles the conservancy to obtain those rights for approximately $150 per acre. A recent appraisal has valued those rights at closer to $300 per acre. The conservancy's option expires in October and thus, the Government stands to save money if we act now to acquire the subsurface rights.

Finally, Mr. President, I want to stress the importance of providing the funds necessary to establish a wilderness area in the Allegheny National Forest. Pennsylvania has no wilderness areas within its borders at the present time, and the Allegheny National Forest is within a day's drive of 40 percent of the American population. I have visited the area which would be protected by the Pennsylvania Wilderness Act and by the funds which this amendment would appropriate, and I can testify to its extraordinary natural beauty and to its environmental significance.

Mr. President, I urge adoption of the amendment.

Mr. HATFIELD. Mr. President, the majority side has cleared this amendment.

Mr. JOHNSTON. Mr. President, the minority has no objection.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Pennsylvania [Mr. SPECTER].

The amendment (No. 7049) was agreed to.

Mr. SPECTER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATFIELD. Mr. President, I am not aware of any other amendments. But we have temporarily laid aside the Heinz amendment in order to complete the rest of these amendments. I understand that amendment would be pending. Final action on that amendment would be pending upon the receipt of a statement from the Department of Agriculture.

Mr. METZENBAUM. Mr. President, will the Senator yield for a moment?

Mr. HATFIELD. I yield.

Mr. METZENBAUM. Mr. President, the manager of the bill has stated correctly the situation. I indicated to Senator HEINZ that if there were a letter wholly encompassing the issue, I would not stand in the way. I also said to members of the Judiciary Committee that I think this matter properly belongs before the Judiciary Committee, and I have received some assurance that the matter would be expedited when we return in January.

So, Mr. Chairman, I do not think we should hold up any further at this point.

Mr. HATFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, I think we have waited a reasonable time for the last number of days to handle all amendments. I hear rumors about other amendments.

Mr. RANDOLPH. Mr. President, a point of order. The Senate is not in order.

The PRESIDING OFFICER. The Senate will be in order. Will Senators take their conversations to the Cloakrooms?

Mr. HATFIELD. Mr. President, I move adoption of the continuing resolution.

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, we have waited a reasonable time, I believe, to comply with the request of Senator HEINZ. I therefore take the action of moving to table the Heinz amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Oregon.

The motion was agreed to.

● Mr. ARMSTRONG. Mr. President, I would like to begin by thanking the chairman of the Senate Appropriations Committee, Senator HATFIELD, and the committee members for their support and understanding of the unique problems facing the States of Colorado and New Mexico with regard to continuing construction of the Upper Colorado River Basin project—the Animas-La Plata.

The seven States of the Colorado River Basin, divided into the four States of the Upper Basin and the three States of the Lower Basin have cooperated over the last several decades on the basis of compromises forged after many, many years of struggle. An essential element of that compromise was to have Upper and Lower Basin water projects move forward in tandem * * * providing both Upper and Lower Basin States with the capability to store and use precious water resources.

However, Upper and Lower Basin projects have not and are not now moving forward in tandem. Moreover, over the last 10 years, Bureau of Reclamation funding has been divided 62.5 percent for projects in the Lower Basin States and 37.5 percent for projects in the Upper Basin States. Clearly, the basic compromise has been stretched to the breaking point. That is why I think that the committee's action today is very important.

The Colorado River Basin Project Act of 1968—Basin Act—which authorized construction of the Animas-La Plata project, represents a basinwide approach to the development of the Colorado River. Rather than subjecting the several States to devisive controversies, Congress enacted a plan for basinwide development of the Colorado River with provisions for supply of additional water to meet a growing demand.

The various components of this plan under the Basin Act included the Central Arizona project to permit Arizona's use of its share of the river; the Lower Colorado River Basin Development Fund to assist funding the Central Arizona project and previously authorized Utah projects; an Upper Colorado Basin Program to permit Colorado's and New Mexico's use of its share of the river through construction of projects such as the Animas-La Plata, Dolores, and Dallas Creek, as participating projects of the Colorado River Storage project; a program of water augmentation to satisfy international obligations; and mainstem reservoir operating criteria designed to ensure efficient and reasonable reservoir water use.

The Upper Colorado Basin Program included five Colorado projects, each of which were found to be a necessary part of the act's overall development plan for the Colorado River Basin. The projects were found to be economically and physically feasible under the provisions of both the Basin Act and the Colorado River Storage Project Act of 1956. They also met all standards and criteria of the Congress for authorization.

When approving the Basin Act, the Congress intended that the Central Arizona project and the Upper Basin projects proceed concurrently. The bill—H.R. 3300 or S. 1004—characterized by Senator Magnuson as ". . . a dramatic blow for comprehensive planning of resource use in the United States" (114 C.R. at 26672, 90th Cong., 2d Sess.), contained express provisions to ensure that basinwide development of the Colorado River did not proceed piecemeal. Congress expressly tied construction of the Central Arizona project to the completion of the Colorado projects in section 501(b) of the Basin Act (43 U.S.C. sec. 620a-1). That section states:

> The Secretary is directed to proceed as nearly as practicable with the construction of the Animas-La Plata, Dolores, Dallas Creek, West Divide, and San Miguel participating Federal reclamation projects concurrently with the construction of the Central Arizona Project, to the end that such projects shall be completed not later than the date of the first delivery of water from said Central Arizona Project: *Provided*, That an appropriate repayment contract for each of said participating projects shall have been executed as provided in section 620c of this title before construction shall start on that particular project.

The conference report on this section of the Basin Act explains:

> . . . The intention of the language is to require the Secretary, in construction of the five upper basin projects, to plan and accomplish preconstruction and construction activities in such a manner that each of the five projects will be capable of operation not later than the date of first delivery of Colorado River water to water users under the central Arizona project, assuming that appropriate repayment contracts have been executed in accordance with the terms of section 4 of the Colorado River Storage Project Act (70 Stat. 107) before construction begins. Not all of the projects will require the same length of time for construction. Therefore, in order to carry out the intent of the language it will be necessary for the Secretary to adjust the dates of initiation in order that the five upper basin projects will become operational within the period required for construction and initiation of operation of the central Arizona project. The attainment of this objective can resolve one of the major facets of the ages-old conflict over use of Colorado River water. Thus, by providing for concurrent construction of these projects, the committee is also expressing its desire that they be adequately funded through support of the executive branch and appropriations of moneys by Congress.
>
> U.S. Code, Congressional and Administrative News, 90th Cong., 2nd Sess. Vol. 3 at 3781.

The first delivery of water to the Central Arizona project is scheduled for 1985. Yet only two Colorado projects—the Dolores and the Dallas Creek—are now under construction.

The legislative history is quite clear that the Upper Colorado River projects are complementary components of an integrated, overall approach to the problems facing the Colorado River Basin States. Construction of the Animas-La Plata project is but one further step in the continuum of construction activities on that basinwide plan which were initiated 15 years ago.

Moreover, this particular project has historically had earnest and active local support, including two Indian tribes, the Southwestern Water Conservancy Board, local State senators and representatives, the inhabitants of three cities and six other water conservancy districts. Simply put, the project is of great importance to both Colorado and New Mexico.

The major project features are the Ridges Dam, Reservoir and Irrigation System and the Southern Ute Dam, Reservoir, and Irrigation System. It is a multipurpose project which would satisfy Indian water rights, provide

228,000 acre-feet of water annually for municipal and industrial use of five cities, including Durango, CO, and Farmington, NM, and provide 103,000 acre-feet annually of new irrigation water for 59,000 acres of farmland.

From a benefit-cost standpoint, the Animas-La Plata project is very favorable—1.6 to 1—even under the strict Federal formulas that only consider direct and demonstrable benefits. In fact, the Bureau of Reclamation estimates that average benefits derived from the project will be in the vicinity of $30 million annually.

In addition to all these very sound reasons for building this project—including water storage, irrigation, municipal water supplies, and equity between the Upper and Lower Basin States—the serious matter of Indian water rights calls for immediate action.

Over the years, the Indian and non-Indian communities alike have supported the Animas-La Plata project as a cooperative approach to meet many competing water needs. In its absense, the alternative would be a long and costly litigation to settle Indian Reserved right claims. Clearly neither the Indian nor the non-Indian community would "win" in such a situation, but repeated delays in constructing the Animas-La Plata project have pushed this situation on a collision course.

Today's action will avert such a confrontation and start us on a path to meet the many critical water needs for both the Indian and non-Indian people. Again I thank the committee chairman, committee members, Senator DOMENICI, and committee staff for their assistance in implementing the authorization under the Basin Act.●

SUPERFUND REAUTHORIZATION AMENDMENT

● Mr. HUMPHREY. Mr. President, last night I was pleased to join in support of the amendment offered by Senators BRADLEY and LAUTENBERG to provide an essential and important extension of the Nation's hazardous waste cleanup program, Superfund. This amendment to the continuing resolution enjoyed bipartisan support because there are many of us who believe it is absolutely necessary to reauthorize Superfund this year. This amendment was very similar to S. 2892. The Superfund bill which the Environment and Public Works Committee approved 2 weeks ago by a 17-1 vote. Unfortunately, the Senate last night, by a vote of 38-59, ruled that the amendment was not germane to the continuing resolution and therefore could not be further considered or debated. This was a disappointment for many of us, but it does not mark the end of efforts to seek a reauthorization of Superfund this year.

As offered, the amendment would have reauthorized Superfund for 5 years at $6 billion. I hasten to add, Mr. President, that I consider $6 billion to be the absolute minimum necessary to finance the Superfund Program over the next 5 years. Indeed, I had earlier cosponsored an amendment that it had been expected would be offered to this bill by Senators STAFFORD and RANDOLPH to extend the Superfund program for another 5 years at a total cost of $7.5 billion. This is the figure that the Environment and Public Works Committee, after long and thorough study, concluded was necessary to provide adequate funding for an improved and accelerated program.

And why is it going to cost so much? In short, because there's a huge problem out there that we've only begun to tackle. When Congress enacted the Comprehensive Environmental Response, Compensation and Liability Act [CERCLA] in 1980, we did not have many good, firm estimates of the total extent of the problem or the number of hazardous waste sites that might require cleanup. Today, as a result of extensive surveys in every State, the EPA can say with assurance that there are at least 18,000 potentially hazardous waste sites in this country, and of these, some 1,400 to 2,000 are expected to be included on the Superfund national priority list. So far, there are 786 sites on the list, and particularly within the last 2 years, EPA has been making steady progress in addressing them. In order to maintain this momentum, and provide the States and EPA assurance of continued strong support for the program, it is important that we move this year to endow the Superfund with additional and sufficient resources.

In reauthorizing the law, certain other improvements are also called for, and both the bill reported by the Environment and Public Works Committee and the Bradley/Lautenberg amendment offered last night include many such advances in the Superfund program. Most significantly, the law must be amended to substantially expand the health-related authorities of Superfund.

These provisions are ones which I authored and which were unanimously adopted by the Environment and Public Works Committee as amendments to S. 2892. I stress these provisions because protection of human health is the highest and ultimate goal of the Nation's environmental laws. Health effects data and information underlie all response actions taken Superfund, as well as most actions taken under other environmental laws. One part of this section requires that health assessments be conducted at every Superfund site, followed by more complete studies where that is appropriate. Conducting health assessments and studies of populations exposed to releases of hazardous substances from sites and facilities will not only enhance response to immediate health concerns, but will also build a comprehensive body of data that will define the threat that toxic chemicals pose to human health.

In addition, a laboratory testing program is established for those hazardous substances which present the most significant potential threat to human health either due to their common presence at sites or due to the potential toxicity of the compound. Where existing data are inadequate, toxicologic testing of these substances will be conducted. Without such information, the EPA experiences great difficulty in setting drinking water standards for these contaminants. The general dearth of health effects data on these chemicals is hindering the EPA's efforts to grapple with priority setting and cleanup standards in the Superfund program.

The committee's bill and the Bradley/Lautenberg amendment would also assure the opportunity for public participation in the selection of cleanup actions at Superfund sites. Allowing the public to comment on, and participate in the selection of, responses to Superfund sites will engender public confidence and ultimately save both time and resources.

Other important provisions in these efforts include an expansion of the current Federal-State cooperative efforts by allowing multisite cooperative agreements, establishment of a standard for determining to what extent a Superfund site should be cleaned up, and creation of a new cost-sharing formula for operation and maintenance of long-term ground water cleanups at Superfund sites.

Mr. President, in short, I believe we have made a good effort, a strong effort, and a responsible effort to both improve the Superfund law and to endow it with the necessary resources to get on with the vital task of ridding America of the scourge of abandoned hazardous waste sites.

Now, Mr. President, some may argue that we should wait until next year to reauthorize Superfund, but to them I must respond by pointing out that by waiting until next year, we will not get a better bill. The Environment and Public Works Committee has already heard extensive testimony, reviewed volumes of material, and carefully considered all proposed legislative changes. The resulting bill, S. 2892, was reported by the committee on a 17-1 vote, and incorporates realistic and necessary changes in current law. As a member of the committee, I was pleased to vote to report the bill, and I was also pleased to support this effort to offer similar legislation as an amendment to the continuing resolution.

In conclusion, Mr. President, while I was gratified by the 38 votes that we garnered in support of considering this

Superfund reauthorization effort as an amendment to the continuing resolution, I am at the same time disappointed that we did not prevail. Despite this initial setback, I sincerely hope that efforts to enact a Superfund reauthorization this year will not expire. While it is true that time is running out, this is such an important matter that we should persever and continue our negotiation to achieve an agreement that will both provide the necessary funding and also make essential improvements that will allow us to get on with the business at hand—cleaning up dangerous hazardous waste sites and protecting the public health.●

CHILD ABUSE PREVENTION FUNDS

● Mr. MOYNIHAN. Mr. President, I rise today to speak to an amendment offered by my distinguished colleagues, Senator DECONCINI and Senator LEVIN, and myself, an amendment now part of the continuing resolution that will provide an additional $25 million to establish child abuse prevention training programs under the social service block grant. With these funds, the States will have the much-needed resources to train men and women as registered child care workers, and to educate and train parents in how best to prevent child abuse in child care facilities.

Under this legislation, no State could receive more than one-half of its share of these funds unless it establishes firm procedures to screen and investigate all the staff and operators in licensed or registered child care facilities. These procedures are an essential part of the effort, a most critical one, to prevent known child abusers from working with our children in child care facilities.

We must be frank about this desperately serious matter. Our amendment will just begin to deal with the source of sexual abuse of our children. These funds represent a response to an emergency situation in this Nation, but still a limited one. I caution my colleagues from viewing this measure as anything more than a just and limited response to a situation which has reached crisis proportions.

The alarming reports of sexual abuse of children in day care facilities and child care settings represents the convergence of two serious and complex problems in our Nation: The abuse of our children; and the lack of safe, affordable, and quality child care services. Both demand congressional action, above and beyond the scope of our amendment.

While our awareness of sexual abuse of children, and of young children in particular, has been heightened in recent months, this situation is neither new nor limited to child care facilities. I must remind my colleagues that although we have heard of late of sexual abuse by child care workers in day care facilities, the most sexual abuse occurs closer to home. The shocking reality of this aberrant behavior is that it is often committed by relatives, neighbors, or close family friends.

Our amendment calls for immediate action, directing States to enact legislation to require child care facilities to check the background and criminal records of all prospective child care workers. Only 15 States currently require such screening procedures. It is my hope that these background checks will prevent any known child molester from working in a child care facility. Yet, we know that most child molesters—80 percent—do not have prior criminal records. Clearly, our efforts to protect our children from child abusers must go much further.

Our amendment will provide funds for training child care personnel in licensed or regulated facilities. We know that by training child care workers, we will improve the quality of care provided to our children. Yet, we have been reluctant—in fact, unwilling—to acknowledge the importance of training those who care for our children. But 3 years ago, we replaced the Title XX Social Services Program—the major source of Federal funding for day care—with the Title XX Social Service Block Grant, then Congress cut its funding 21 percent. In so doing, we abolished the separate title XX training program, a $75 million program.

At that time, I warned that eliminating the training program would reduce the basic quality of child care supported by title XX. Unhappily, this has proven correct. The consequences are apparent today: Between 1981 and 1983, 24 States reduced their support for training in order to offset cuts to direct services. To date, only two States have taken action to make up the difference. Just last year, six States further reduced their 1983 funding for training.

Mr. President, the horrifying reports of sexual abuse have brought to light the second problem, the dearth of safe, licensed child care facilities. More than 10 million children under age 6 are in some form of child care—63 percent more than in 1977. Moreover, the latest demographic projections suggest the need for critical child care services will increase even more in the future: From 1960 to 1980, the number of working women increased from 23 million to 43 million. By 1990, that figure will rise to more than 60 million. This extraordinary increase in the numbers of working women will mean large increases in the numbers of children needing day care.

Yet, the availability and the basic quality of day care services varies immensely, from facility to facility and State to State. Nearly 70 percent of all children in child care receive this care in either their own home or the home of another person. Only 19 percent of all children in child care are cared for in group day care centers. The remaining 12 percent are cared for either in tandem-parenting arrangements—where a group of working parents rotate caring for the children, or accompany one of their parents to work.

Day care in the child's own home is almost never regulated. Day care in the home of another person is regulated to varying degrees: Only 21 States require that such homes be equipped with fire extinguishers or smoke detectors; only 28 States require that first aid supplies be available. In all, only 29 States require any basic regulation of family day care, and only 13 States require registration of these facilities. Yet, fully 44 percent of the children in child care arrangements in this country are cared for in family facilities.

The administration's budget cuts of the past 3 years have further diminished the basic quality and availability of day care services. In the last year alone, 10 States reduced their child care expenditures. Indeed, 25 States spend less today for child care than in 1981, and 27 States are serving fewer children.

As day care services decline, while demand for these services increases, we will face a real child care crisis in this country, one which will require—demand—a national child care policy. Can we not try to avert this crisis, and can we not begin to formulate such a policy? Before we face the crisis?

One last observation. This amendment does not represent a complete response to either the problem of sexual abuse of children, or the inadequacy of child care in this country. When the 99th Congress convenes next January, we will need to examine both problems carefully and completely, so we can formulate guidelines and standards for child care. We must not wait passively until we are next shocked to action.

Thank you, Mr. President.●

FALLS OF THE OHIO NATIONAL WILDLIFE PRESERVATION AREA

● Mr. FORD. Mr. President, late last evening, Senator HUDDLESTON and I offered an amendment which would serve to enhance the National Wildlife Area known as the Falls of the Ohio. The Senate adopted this amendment to the continuing resolution (H.J. Res. 648).

The wildlife area is located on the Ohio River, with the banks of both Kentucky and Indiana on either side. Public Law 97-137 created this wildlife conservation area, with an appropriation of $300,000 for the initial study and development stages. The Army Corps of Engineers, since the enactment of this law, has completed a study which estimates that $1,040,000 will be needed to not only adequately

protect this precious natural wetland area, but to provide safe access for the public enjoyment as well. The amendment as adopted would appropriate up to $1,040,000 for land acquisition and construction of the necessary facilities.

Mr. President, the Falls of the Ohio contains a 375-million-year-old fossil bed which is believed to be the world's largest exposed coral reef. The wildlife area is a home for rare birds and unique fish species which, if properly developed, will be a one of a kind learning center for school children, naturalists and tourists for generations to come. The preservation of the Falls of the Ohio is further made critical by the fact that the fossil bed area is a nesting ground for the American Bald Eagle, the symbol of American spirit and drive, which disheartens me to say, has become an endangered species.

Mr. President, the authorization for this project has been accepted by the House in H.R. 3082, and I am pleased that the Senate has now approved funding; we owe the American public the means by which to preserve this unique form of natural history.●

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS

Mr. PERCY. Mr. President, I am tremendously pleased that the Senate is today adding the Interior Appropriations bill to the continuing resolution. There are a number of items of interest to Illinois within this bill and I would like to just briefly touch on some of them.

DES PLAINES RIVER WETLANDS DEMONSTRATION PROJECT

Since first learning of this fine environmental project in 1983, I have been a strong supporter. The wetlands project is a unique experiment that seeks to solve the problem of our Nation's disappearing wetland environments. Under the project, 2½ miles along the Des Plaines River in Lake County would be completely re-engineered to restore it to its original state as a prairie wetland river. Native and original fish and plant species would be reintroduced to this environment, and extensive efforts would be made to open up the area for aesthetic and recreational enjoyment by area residents.

I am deeply appreciative of the efforts of the distinguished chairman of the Interior Appropriations Subcommittee, Senator MCCLURE, for all the time that he has spent in reviewing this project. It represents a unique partnership between State, local, and Federal Government and private industry.

The $536,000 that is contained as part of the committee amendments will allow the Fish and Wildlife Service along with Wetlands Research, Inc., a nonprofit Chicago-based corporation which will manage the project, to start preliminary monitoring and engineering for the Des Plaines Wetlands. The Lake County Forest Preserve District has donated the land for the project, and companies such as Exxon and Atlantic Richfield have made tens of thousands of dollars available to Wetlands Research to help with this praiseworthy initiative. This is truly a case study in what across-the-board partnership can accomplish in helping our environment, and I am proud to be involved with it.

When completed in 1990, the Des Plaines River wetlands project may well serve as the model for restoring prairie rivers and their wetland environments across the Midwest.

I would like to take a moment to thank my distinguished colleague from Idaho, Senator MCCLURE, for his help and understanding on this matter. It is true that we had a mixup on the wetlands item, but we were able to work out a compromise, and it is very, very satisfactory to me, Senator DIXON and the various involved parties in Illinois. I also wish to thank the fine staff on the Interior Appropriations Subcommittee for all the time and consideration they have invested in this matter. I believe that their efforts will pay off in very tangible benefits for our environment.

KILNGAS PROJECT—EAST ALTON, IL

Under the Department of Energy appropriation, in the systems engineering category, is a committee recommendation to provide $7.5 million annually over 2 years on a matching basis to assist in the continued operation of this important facility in East Alton, IL.

Mr. President, the KILnGAS plant is designed to forge ahead in a new technology: turning Illinois coal into gaseous fuel. In 1979, Allis-Chalmers Corp., a consortium of 12 utilities and the State of Illinois, agreed to build and test the KILnGAS facility. Since then, the project sponsors have sought assistance from the Synthetic Fuels Corporation [SFC]. Because of the controversy surrounding SFC operation, I requested the committee to make these funds available and an amendment to this effect was adopted during committee markup in August.

These funds will allow the KILnGAS project to keep going over the next 2 years. To date, more than $138 million has been invested in this project by the private sector.

When fully operational, the KILnGAS facility is designed to process 600 tons a day of Illinois No. 6 coal, producing approximately 400 million BTUs per hour of gaseous fuel which will be burned in the Illinois Power Co.'s Wood River #3 unit to generate electricity. This is a fine project, and I believe it will bring us one step closer to energy self-sufficiency, while at the same time providing needed jobs in the Illinois coal industry.

CRAB ORCHARD LAKE PCB CONTAMINATION

Mr. President, I was in Williamson County, IL, on June 18, 1984, to look into a shocking matter. Recently, it had been discovered that Crab Orchard Lake, in the middle of beautiful Crab Orchard National Wildlife Refuge, has been contaminated with large quantities of polychlorinated biphenyls (PCB's), an extremely hazardous chemcial. Worse, the city of Marion relies on Crab Orchard Lake as a backup supply source for its municipal water system.

For these reasons, the Illinois Environmental Protection Agency served an enforcement notice on the Department of the Interior. I then wrote a letter to Senator MCCLURE, requesting that funds be made available in the fiscal year 1985 Interior Appropriations bill to determine the extent of the problem at Crab Orchard and start cleaning it up.

Mr. President, I ask unanimous consent that a copy of my June 28, 1984, letter to Senator MCCLURE printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, June 28, 1984.

Hon. JAMES MCCLURE,
U.S. Senate,
Washington, DC.

DEAR JIM: I am writing to you about a matter of grave concern to the residents of Williamson County, Illinois.

Crab Orchard Lake, located on the grounds of the Crab Orchard national Wildlife Refuge, has been found to contain large concentrations of polychlorinated biphenyls (PCBs). The city of Marion, in Williamson County, relies on water from Crab Orchard Lake as a back-up for its municipal water system. However, the recent discovery of severe PCB contamination in the lake imperils this source as well as having all the obvious effects on fish and wildlife in the refuge.

Crab Lake Orchard National Wildlife Refuge is administered by the Fish and Wildlife Service, Department of the Interior. The U.S. Government had previously leased a waste dump site on the refuge to Sangamo Electric, and it is from this site that PCB contamination is suspected to be leaking. There are at present 17 suspected locations of PCB contamination on the refuge.

For this reason, on May 16, the Illinois Environmental Protection Agency served an enforcement notice on the Department of Interior, ordering the Department to submit a Remedial Investigation Feasibility Study (RIFS) as soon as possible. A copy of the IEPA letter is enclosed.

Last week, I held an informational hearing in Marion and toured the Sangamon dump site with state, local and federal officials. There is a problem and we have to determine immediately exactly how severe it is. The RIFS will enable us to do so. I have been in tough with the Department of the Interior, and officials there have informed me that an appropriation from your subcommittee is needed to conduct the RIFS. Since the Department must comply with the Illinois EPA enforcement order, these

funds must be put on line as soon as possible. I would therefore request that you include an appropriation for the Department of Interior in the Supplemental Appropriations Bill for Fiscal Year 1984, sufficient to meet the clean-up needs at Crab Orchard Lake.

I have also written to Bill Ruckelshaus about the problem. A copy of his response is enclosed for your information as is a copy of the response from the Fish and Wildlife Service to the Illinois EPA.

Thank you for all your help on this extremely worrisome matter. I know I can count on your assistance in the supplemental appropriations process. If you or your staff have any questions, please contact me.

Warm personal regards,

CHARLES H. PERCY,
U.S. Senator.

Enclosures.

Senator MCCLURE quickly took action on my request, and in the committee report is language that directs the Fish and Wildlife Service to "immediately proceed" on the Crab Orchard problem. In addition, the committee report, in its prioritizing of resource problems on National Wildlife Refuges, designated Crab Orchard as the No. 2 priority site out of 219 sites. I believe that these actions by the committee will virtually ensure that we will move ahead on resolving the Crab Orchard problem beginning October 1, the beginning of fiscal year 1985.

Again, Mr. President, I want to express my deep appreciation to Chairman MCCLURE for all his help on these matters of great importance to my State.

CIVIL RIGHTS AND NEW FEDERALISM OCTOBER 3, 1984

Mr. DURENBERGER. Mr. President, the debate in the last week over the so-called Grove City amendment to the continuing resolution has left many Members of this body exhausted and disappointed. More importantly, it has left much of the public confused over whether the U.S. Senate, and in fact, this Government, remains committed to our responsibility to secure for all Americans the rights and liberties guaranteed in the Constitution.

Many Americans are asking the questions that deserve answers: Will the U.S. Government tolerate a little discrimination if it is done in a certain way, or does it find discrimination intolerable on any basis? Is it right to ask one class of people to wait for justice because we only have so much time, or is the protection of civil rights so basic an issue that we must make time? Are the civil rights gains of the last two decades sufficient to now look to State and local governments, our private institutions, and individuals to carry on the battle, or is the role of the National Government so vital in this area that it must never be diminished?

Mr. President, it is not just the Grove City amendment that brings these questions to mind. There seems to be a subtle move afoot by some to abandon the issues of civil rights, to assume that fairness and justice have been achieved and that every American has been afforded total equality. I don't believe this move is inherently malicious; I believe it is ill informed.

It is often rooted in the mistaken sentiment that States have reached economic and legal parity. In this veiw, policies and programs affecting the rights and liberties of Americans can be made and implemented without regard to national mandates.

We are moving rapidly toward achievement of this goal. But we are not yet there and until we are the role of the National Government must be clear.

Grove City is dead in this Congress. In the end, it was killed not be a lack of commitment by its supporters. It was tabled because, as Senator PACKWOOD said, in the long run the procedural integrity of the Senate is a far more important guarantee of civil rights than any single piece of legislation.

The Grove City legislation will pass, I hope in the 99th Congress. In the meantime, all of us must recommit ourselves to the cause of civil rights. On September 30, last Sunday, I spoke to the Central States Conference of the American Public Welfare Association. In my speech, I suggested 10 principles designed to define and redefine the role of the National Government. I want to share with you my first principle:

The National Government has the responsibility to secure the rights and liberties guaranteed by the Constitution to all Americans. "Secure" is a stronger word than "guarantee." It implies positive intervention by the National Government to assure that the result, as well as the intent, is equal opportunity for all Americans.

That principle is tested by a proposal detailed in the September 30, 1984, New York Times, and I ask unanimous consent that the article be printed in the RECORD following my remarks.

According to this article, under agreements drafted by the Department of Health and Human Services, State agencies would investigate civil rights complaints lodged against a recipient of Federal money that had been channeled through the State government.

The director of the block grant task force at the Office for Civil Rights has assured me that there is no plan to assign actual contract enforcement. There is in its formulative stages a move to assign contract responsibility for investigation of alleged discrimination in programs financed with block grant funds.

At best, even the assignment of these investigatory powers should proceed cautiously. At a minimum we should be assured that States have both the means and the commitment to take on this vital task.

Mr. President, the trends we are seeing trouble me deeply, and affirm more than ever the need for my first principle which guides any redistribution of civil rights responsibility between levels of government in this country.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Sept. 30, 1984]

UNITED STATES WOULD LET STATES ENFORCE RIGHTS, IN PART

(By Robert Pear)

WASHINGTON, Sept. 29.—The Reagan Administration plans to delegate some of the responsibility for enforcing Federal civil rights laws to officials of selected states.

Under agreements drafted by the Department of Health and Human Services, state agencies would investigate complaints that a recipient of Federal money that had been channeled through the state government had violated Federal laws prohibiting discrimination on the basis of race, color, national origin, handicap, age, sex or religion.

NEW FEDERALISM CITES

Administration officials said the transfer of such an enforcement role was consistent with President Reagan's "new federalism" approach, which seeks to reduce Federal regulation and to strengthen the role of state governments.

But some lawyers in the department have raised questions about the policy change, and civil rights advocates outside the Government have suggested that it would be illegal for Federal officials to delegate the responsibility for enforcing civil rights.

Federal agencies now investigate discrimination complaints even if the money is channeled through the state.

The new policy, which would begin as a pilot program involving several states would apply to complaints of discrimination in the use of Federal money distributed to state governments in lump sums to finance a broad area of social assistance.

In the current fiscal year, the Department of Health and Human Services has distributed $6.5 billion in these block grants for such purposes as maternal and child health care, preventive health services, drug abuse treatment and energy assistance to low-income families.

The states have broad discretion in spending this money, whose ultimate recipients range from local government bodies and public health clinics to day-care centers and other private agencies that carry out social welfare programs under contract.

In other Federal programs, grants go to such recipients directly, rather than through the state government. These would not be affected by the new civil rights policy.

Marcella Haynes, an official at the department's Office for Civil Rights, said the new Federal-state agreements were "entirely consistent with the philosophy of block grants, the return of programmatic controls to the states." She said the settlements negotiated by a state agency would be "subject to final approval" by the Department of Health and Human Services.

Last year, she said, the office received more than 1,800 complaints, of which 118 alleged discrimination in programs financed with block grants.

Albert T. Hamlin, the department's assistant general counsel for civil rights, said, "The department's ability to delegate enforcement responsibility may be limited by its own regulations." "Those rules," he said, "suggest that only the department or other Federal officials are authorized to investigate complaints and conduct compliance reviews."

QUESTION OF AUTHORIZATION

Civil rights groups that have learned of the plan contend the Federal Government is abdicating its responsibility to enforce the law. "This delegation of civil rights authority to the states is being done without legislative authorization and clearly contradicts Federal civil rights policies and procedures," said Raul Yzaguirre, president of the La Raza, a Hispanic organization.

"I very much doubt that certain states have the capacity or inclination to enforce Federal civil rights laws," Mr. Yzaguirre said. "There may be a clear conflict of interest when a state, accused of practicing discrimination, is asked to investigate itself."

A White House official said that state agencies, being closer to the site of alleged violations, could usually do a more vigorous and competent investigation than the Federal Government.

Officials at the Department of Health and Human Services said the civil rights agreements would be extended to other states if the test worked well. Among the states already selected are Connecticut, Florida, Illinois, Texas and Colorado. The Government is negotiating similar agreements with Puerto Rico and the Virgin Islands.

THESE HELD NOT TYPICAL

Critics of the plan said they feared the results in these states would be improperly used as justification for delegating authority to other states. They said these states were not typical because they had generally shown a stronger commitment and devoted more resources to civil rights enforcement than many other states.

Arthur L. Green, executive director of the Connecticut Commission on Human Rights and Opportunities, said: "I am a strong advocate of a cooperative relationship between the Federal and state governments in enforcement of civil rights. Federal agencies would never delegate authority to any jurisdiction that could not handle the work and did not have a law providing citizens with the full relief they could get under Federal law."

While Connecticut meets those standards, he said, some states do not. Thus, he said, "The Federal Government has a constitutional responsibility to retain control to make sure that the civil rights of persons in this country are uniformly protected."

The Federal-state contract says, "The purpose of this agreement is to establish procedures under which state agencies would perform investigatory activities for the Department of Health and Human Services."

LIMITED PLANS IN OTHER AREAS

Under the agreement, the state agency would "investigate all complaints against block-grant recipients within its state whenever requested to do so" by the Federal Government. The state would analyze the evidence, compile an "investigative report," assess compliance and recommend "corrective action" if any was needed.

The Federal Equal Employment Opportunity Commission and the Department of Housing and Urban Development share work with some state agencies. Those arrangements were explicitly authorized by the Civil Rights Act of 1964, which created the commission, and by Fair Housing Act of 1968, which prohibited discrimination in the sale or rental of housing.

Mr. Hamlin, the lawyer at the Department of Health and Human Services, said there were no comparable provisions in the civil rights laws that his agency enforced.

The housing statute says the Federal Government may cooperate with a state agency if the state's fair housing law provides rights and remedies "substantially equivalent" to those guaranteed by Federal law. The Federal housing agency and the employment commission pay states for their services, but officials at the Department of Health and Human Services said they had no plans for such reimbursement.

Mr. MATSUNAGA. Mr. President, I wish at this time to call to the attention of the senior Senator from Connecticut, Mr. WEICKER, a matter of extreme importance to the people of my home State of Hawaii and of deep concern to me. As the distinguished chairman of the Subcommittee on Education knows, Hawaii Loa College is a private liberal arts institution located in Hawaii. When the college first opened its doors in 1966, it enrolled 32 students. Today, it serves 400 students from multicultural backgrounds representing 32 States and 16 foreign nations.

Mr. President, I am very pleased to report to the chairman that since its founding, the college has rapidly gained recognition throughout the United States, Asia, and the Pacific Basin as a valuable international, intercultural educational institution. As such, I believe it fulfills an important educational and cultural function in and for our society.

In 1967, Hawaii Loa College applied for and received a Federal loan under title III of the Higher Education Facilities Loan Act of 1963. Again, in 1972, Hawaii Loa applied for and received a Federal loan under the College Housing Loan Program.

Since that time, due to financial difficulties confronting the college's development, particularly during the early 1970's, Hawaii Loa College fell behind on its Federal loan payments beginning in 1975. In 1980, the college entered into two supplemental payment agreements with the Department of Education. Then, in 1982, Hawaii Loa received approval from the Department to remain in arrears on its Federal loan payments until April 30, 1983. The college has, however, remained in arrears on its Federal loan payments.

Since that time the college has mounted significant fund drives to improve its financial status. The college has tripled its support from private institutions, expanded its marketing efforts, increased grant-seeking activity, and expanded current programs.

Let me assure the chairman that Hawaii Loa College very much wants to meet its Federal loan obligations and fully appreciates the Department of Education's past willingness to be flexible with the college's loan agreements. In fact, by letter dated August 14, 1984, the college submitted a very detailed payment plan proposal which would allow it to fully meet all its outstanding and future loan obligations. This letter, I believe, demonstrates beyond question that the college is making a good faith effort to work with the Deparment to fully satisfy its obligations.

To date, however, the college has yet to receive any official written response from the Department to its proposed repayment plan. The college is, as you can appreciate, understandably anxious to have some assurance that the Department will continue to work with the college's representatives and will not take any action to foreclose on the college.

It is for this reason that I am bringing this matter to the attention of the distinguished chairman of the Appropriations Subcommittee on Education. I would deeply appreciate the committee's consideration of this matter and its support for efforts to ensure that the college and the Department agree to a mutually satisfactory repayment arrangement.

I make this request in full confidence that if Hawaii Loa College is given the opportunity to work out its obligations with the Department, it will be a financially viable institution in the future.

May I have the comments of the distinguished chairman of the appropriations Subcommittee on Education for the RECORD?

Mr. WEICKER. I appreciate the distinguished Senator from Hawaii bringing this matter to may attention. During our recent subcommittee hearings in Hawaii it became quite clear to me how important Hawaii's educational institutions are to the citizens of Hawaii.

I can assure the Senator from Hawaii that I shall direct my committee staff to work closely with the appropriate officials within the U.S. Department of Education to ensure that a timely and hopefully mutually satisfactory solution will evolve. It is my expectation that the Deparment will make every effort to ensure that Hawaii Loa College is given every opportunity to fulfill its obligation in a reasonable manner.

Mr. Matsunaga. I thank the distinguished Senator from Connecticut.

ANIMAS-LA PLATA PROJECT

Mr. BINGAMAN. Mr. President, today I join with my colleagues from Colorado and New Mexico in support of continued funding of the Animas-La Plata water project, which was authorized by the Colorado River Basin Project Act of 1968. The continuing resolution appropriates an additional $1 million for the Bureau of Reclama-

tion within the Department of the Interior to continue construction of the Animas-La Plata project as part of the Colorado River Basin project.

Mr. President, completion of Animas-La Plata is long overdue. In the 1968 act, Congress expressly stated that, "The Secretary is directed to proceed as nearly as practicable with the construction of the Animas-La Plata, Dolores, Dallas Creek, West Divide, and San Miguel participating Federal reclamation projects concurrently with the construction of the Central Arizona Project * * *." Construction of the Central Arizona Project [CAP] has begun as well as the Dallas Creek and Dolores projects. Also, delivery of water from the CAP is scheduled for 1985.

However, in light of all this construction activity for the other named projects, Animas-La Plata has yet to be funded for construction. Such inactivity is contrary to the established legislative history that Congress intended in the 1968 act as a basinwide, comprehensive development of the Colorado River, not a piecemeal protracted development. Clearly, the legal and historic basis exists for us to act today to appropriate $1 million to implement the authorizing legislation passed 16 years ago.

Animas-La Plata is especially important to New Mexico because it would help meet the growing demands for water in the semiarid northwestern portion of the State. Water from the project would be supplied to four New Mexico communities: Farmington, Aztec, Bloomfield, and Shiprock for residential, municipal, and industrial use; 53,500 acre feet of water would be supplied, representing New Mexico's 11.25 percent allocation of water under the Upper Colorado River Basin Compact.

The State engineer for New Mexico, Steve Reynolds, who is also secretary of the New Mexico Interstate Stream Commission, is in agreement with construction of the project. Mr. Reynolds, in his testimony before the Energy and Water Development Subcommittee of the U.S. Senate Budget Committee explained the importance of the project to New Mexico.

The President's FY 1985 budget does not include funds for the Animas-La Plata Project, a two-state project in Colorado and New Mexico which was authorized in 1968 by PL 90-537. The Bureau of Reclamation has, in consultation with the States of Colorado and New Mexico and the local entities who would be the immediate beneficiaries of the project, selected a plan to regulate and deliver water to the areas of use; all the work on the final environmental impact statement and the definite plan report has been completed. In FY 1982 the Bureau initiated discussions with the local entities on the terms and provisions of repayment contracts under which the local entities would repay their allocated share of the construction costs and annual operation and maintenance costs. Those entities have indicated their intent to enter appropriate contracts. The project is in all respects ready for construction and there is a great need for the additional water supply which will be made available by the projects in this area of the states where oil, gas, uranium and coal development for energy is underway. I urge that at least $1.35 million be appropriate in FY 1985 to initiate construction.

I applaud the hard work of my distinguished colleagues, Senators DOMENICI, ARMSTRONG, and HART, who have worked extensively on this matter. I urge favorable action on this important section of the continuing resolution that will allow much-needed water to New Mexico.

● Mr. DODD. Mr. President, I had previously filed an amendment to this continuing resolution, reauthorizing the Head Start and Community Services Block Grant Programs. Senators CRANSTON, KENNEDY, RIEGLE, RANDOLPH, HOLLINGS, SASSER, MATSUNAGA, and MOYNIHAN joined me as cosponsors of amendment 4044.

Mr. President, the Committee of Labor and Human Resources on which I serve reauthorized the Head Start, Community Services Block Grant, and low-income energy assistance programs on S. 2565, which was reported out unanimously on May 24. That bill, which has been on the Senate Calendar, has not moved to date because of controversy surrounding the low-income energy formula provisions. My cosponsors and I, therefore, had no recourse but to file an amendment extending the programs on which there was agreement: Namely, Head Start and the Community Services Block Grant.

It is now my understanding that the controversy surrounding the low-income energy provisions has been resolved and that S. 2565 will be considered on the Senate floor tomorrow morning. I am delighted to have this assurance.

Head Start has a 20-year proven track record of improving the lives and future opportunities of hundreds of thousands of disadvantaged children and their families. To ignore Head Start's proven prevention measures would be to jeopardize the future of coming generations of Americans. And, the Community Services Block Grant Program plays a critical role in helping hard-pressed communities assist their neediest residents.

I look forward to passage of reauthorizations for these critically important programs tomorrow.●

MOUNT ST. HELENS—AMENDMENT NO. 7009

Mr. GORTON. I would like to commend the distinguished chairman for his work on the Interior appropriations bill and thank him for the thoughtful and gracious courtesies he has extended to me on matters of importance to my State that have come before his subcommittee.

I would like to bring one matter to the attention of my good friend and colleague. One of my highest legislative priorities this year was to get funding for the development of the Mount St. Helens National Volcanic Monument so that the tremendous visitor potential of the monument can be fully realized. The development of monument facilities will provide badly needed economic benefits for southwest Washington which was so heavily impacted by the eruption of Mount St. Helens, as well as providing access to our visitors from throughout the Nation and the world.

The chairman was very generous in providing $7.4 million for the construction of the visitors center, other recreation facilities, and for improvements to roads and bridges that were washed out by eruption. These funds will go a long way toward the development of the Mount St. Helens National Volcanic Monument. I would like to point out to the distinguished chairman that the House also included $450,000 for the construction of trails to provide visitor access, in accordance with the comprehensive management plan, and an additional $500,000 for the construction of the visitors center. I ask that you give careful consideration to these items and, if possible, that the Senate retain the House figures in conference.

Mr. McCLURE. I understand the concerns of the Senator from Washington and the importance of the development of the Mount St. Helens National Volcanic Monument to his State. I also understand that the number of tourists visiting Mount St. Helens from our country and from around the world has steadily increased each year. I assure my colleague from Washington that I will give sympathetic consideration to these items in conference. I also want to assure you that if the $4.5 million estimate that was given to me to construct the visitors center comes in higher once construction begins, I will make every effort to get additional funding for the project on the next available vehicle.

Mr. STEVENS. If I could have the attention of the acting chairman of the Appropriations Subcommittee on Commerce, Justice, and State, the Judiciary, and related agencies, I'd like to discuss efforts to promote women's business development.

Mr. RUDMAN. I would be happy to discuss that issue with the distinguished assistant majority leader.

Mr. STEVENS. As the Senator from New Hampshire is aware, I've been involved for a number of years in efforts to expand business opportunities for women. As a member of the subcommittee, I've been pleased with the efforts of the Commerce Department and the Small Business Administration to provide support for women's business development. Since 1976, the

Commerce Department has provided grants to the American Woman's Economic Development Corporation to assist women to participate in the American free enterprise system on an equal basis with men. Of over 850 women who have been through the 18-month management training and technical assistance program since May 1977, only five have declared bankruptcy.

At the request of the Economic Development Administration, an independent evaluation of the AWED program was made by Arthur D. Little, Inc., in 1980. The evaluation concluded that this program was a viable approach to assisting women entrepreneurs nationally. In an effort to make this program truly available on a national basis I recommend that EDA, MBDA, HUD, HHS, SBA, the Departments of Education, Labor, Agriculture, and Transportation, and other related agencies give strong consideration to making the necessary funds available over the next 3 years.

Mr. RUDMAN. I completely agree with my friend from Alaska that we should do everything we can within reason to help expand the opportunities for women in the business world. I'm proud to say that the current Assistant Secretary for Economic Development, J. Bonnie Newman, is both a native of New Hampshire and a woman, and I know she as well as responsible officials in other Federal agencies, will be sympathetic to any reasonable proposal for funding programs such as that proposed by the American Woman's Development Corporation.

Mr. STEVENS. I thank the Senator for his interest and support.

Mr. GORTON. Mr. President, I would be remiss if I did not take an opportunity before the Senate completes action on this crucial measure, to explain to my constituents my actions with respect to the major controversy which has surrounded this resolution.

To a great extent, the only force that maintains the order of the Senate is the collective will of its Members. The compulsion which motivates us to adhere to a set of rules and precedents is the understanding that, if we do not, we will be helpless to act. Thus, we rountinely enter into unanimous-consent agreements with the understanding that, once entered into, those agreements will be honored. As a matter of the rules, of course, the agreement could be overridden. Similarly, if we choose to we can alter facts. That is, we can hold by agreement that an amendment dealing with the Internal Revenue Code is germane to a bill making appropriations for the State Department when it is clearly not germane. But, Mr. President, for the most part we honor our agreements and we do not ignore the facts. If we were to act otherwise, we would remove all certainty from this process and this body would truly become a house of chaos.

Notwithstanding our usual restraint however, Mr. President, last Saturday the Senate came perilously close to redefining reality and entering a legislative twilight zone from which, I fear, there would be no return.

The first vote before us during Saturday's session was on the question of whether it was the sense of the Senate that debate on amendment No. 5508, the Civil Rights Act of 1984, should be brought to a close.

The underlying bill before us is the continuing resolution. We have an obligation to pass that resolution in a timely fashion. Although I voted earlier in the week that that amendment was not germane because I did not want to open the amendment floodgates, in my view, once that amendment was deemed germane, it was our duty to dispose of it and get on to final passage of the continuing resolution. Therefore, I voted in favor of bringing debate on the amendment to a close.

Cloture was invoked on the civil rights amendment, Mr. President, thereby limiting debate on the amendment, and amendments thereto, to 100 hours, and rendering all nongermane amendments to the civil rights amendment, out of order.

Senator HATCH had previously proposed certain amendments with respect to the civil rights amendment which dealt with three extremely controversial and potentially explosive issues: School busing, gun control reform, and tuition tax credits. Now, Mr. President, these are subjects the mention of which sends Senators running for cover. They are so sensitive that many of my colleagues were willing to put reality to one side and declare them germane to an appropriations bill despite the fact that they are not even remotely germane to the bill. Thus, paradoxically, the very Senators who wanted to vote on the civil rights amendment would be forced to vote first on amendments dealing with school busing, gun control, and tuition tax credits, which they might otherwise chose to filibuster.

The Chair by its own motion ruled that amendment No. 5728, the busing amendment, was nongermane. Therefore, the next question presented to us was, in essence, whether we supported the Chair in that ruling.

Mr. President, the Chair was correct in its ruling. As much as I support reasonable controls on the imposition of busing as a remedy, I could not pretend that a nongermane amendment was germane. The question before us was "is the amendment germane?", not "as long as you will vote on a civil rights amendment would you like to vote on a busing amendment too?" Mr. President, I oppose the forced busing of students beyond their neighborhood school. I have introduced my own bill on the subject. I have spent days debating the issue on the floor of the Senate. And I would vote for the busing amendment if it were before us in a proper procedural setting. But this was not the time to vote on a busing bill. Moreover, even if the amendment had been deemed germane, because it was an amendment to the language which would be stricken if the civil rights amendment was accepted, it would have fallen in any case.

Mr. President, I was pleased that a majority of the Senate agreed with me on the issue of the germaneness of the busing amendment. We were next asked the same question with respect to amendment No. 5527, the gun control amendment. Again, I voted that the clearly nongermane amendment was nongermane. I did so for the same reasons I voted to support the Chair on the busing amendment. Unlike the busing amendment, however, I would not support this particular amendment if it were to be offered as a free-standing amendment, because although if was touted by its sponsors as the compromise measure which received the overwhelming support of the Judiciary Committee, it was not that measure. I support the committee compromise and if that compromise had been offered in another context, I would have supported it.

Mr. President, these questions were again before the Senate by way of motions to reconsider on Monday. The Senate, at that time, indicated its intention to find both clearly nongermane amendments to be germane. By that action the Senate put itself in danger forfeiting the necessary protections afforded by our rules to the minority. For if we are willing, by a simple majority, to allow only limited debate on amendments with respect to which cloture has not been invoked, it is unlikely that any Senator will be willing to invoke cloture on any measure again. For in so doing, he or she may unwittingly forfeit the right to debate extendedly some amendment they might find overly offensive.

Unfortunately, with the future procedural integrity in jeopardy, someone had to make a difficult choice. The person who chose to make that choice was Senator PACKWOOD. I am sure that Senator PACKWOOD cannot remember a decision in his tenure in this body which was any harder for him to make. But with so much at stake for the Senate and given the dire need to complete action on the continuing resolution to ensure continuity in the delivery of services to the public, he moved to table his own amendment. That was a courageous act.

For the very reasons Senator PACKWOOD made that decision, I supported him in it. That too, was not an easy

choice. But I am confident that we will restore the civil rights protections at issue here to their pre-Grove City statute early in the next Congress. I will give my strong support to that effort and I look forward to working with the Senator from Oregon to that end.

At the same time, Mr. President, it is imperative that the Senate review its rules and consider changes thereto so that we can truly work the will of the majority of the Senate while not trampling on the rights of those who do not share the view of the majority. Such was not the case in this instance. Mr. President, the public deserves better from us than we have given them this week and this institution requires more.

JURY VERDICTS IN PENDING CASES

● Mr. CRANSTON. I would like to direct an inquiry to the Senator from Missouri, who, I understand, was involved in drafting the amendment concerning the legislation's application to pending cases. The amendment states that where a jury verdict has been rendered in a pending case, that fact constitutes prima facie evidence that section (b) will not apply. My question, however, goes to cases where the trial has not yet begun, and no verdict has been rendered. Am I correct that the court would be expected to consider all of the circumstances of a particular case in deciding whether the legislation should apply?

● Mr. EAGLETON. The Senator is correct when there has been no jury verdict.

● Mr. CRANSTON. For example, in looking to the availability of alternative relief under the Clayton Act, the court would assess whether a plaintiff could recover damages from a private party and whether an injunction would be sufficient to halt continuing injury caused by an ongoing antitrust violation. And the presence of these factors would argue in favor of the bill's application to a particular pending case?

● Mr. EAGLETON. The Senator is correct that these would be viewed as important but by no means conclusive considerations, where there has not yet been a jury verdict. However, I wish to make it clear that the intent of the prima facie language referring to jury verdicts is to place a much higher burden on defendant to apply this new law to a pending case in that situation. Where a jury verdict has been entered prior to the effective date of this bill it is our intent that this law would be applied only in the unusual situation where a defendant demonstrates the most compelling and extraordinary circumstances to support its claim that an award of monetary damages would be inequitable. There is a strong presumption against retroactive application when there has been a jury verdict.

● Mr. CRANSTON. I thank the Senator for his clarification.

FORT VANCOUVER AMENDMENT

● Mr. GORTON. The amendment I am offering is particularly important to the southwest part of Washington State. I propose to add $170,000 for the reconstruction of the fur store at the Fort Vancouver National Historic Site in Vancouver, WA. The fiscal year 1985 House Interior Appropriations bill contains funds for this purpose.

I would like to explain some of the history of this historic site. The Fort Vancouver National Historic Site in Vancouver was the most important outpost during the exploration and settlement of the Pacific Northwest. Operated by the Hudson's Bay Co., the fort became the staging point for shipment of fur pelts to the East and Europe because of its prime location on the Columbia River.

Fort Vancouver represents a monument to the pioneer spirit which led to America's westward expansion. In 1948, the site was declared a national monument by the Congress. The fort was redesignated in 1961 as a national historic site, managed by the National Park Service. Following archeological explorations to determine exact locations of the structures, reconstruction began in 1964.

Tremendous progress has been made on the reconstruction of the site. Visitors regularly enjoy slide shows and craft demonstrations by costumed artisians. The site contains reconstruction of the blacksmith shop, bakery, Indian trade store, the stockade and several other buildings. The next step in the master plan of the Park Service is the reconstruction of the fur store, clearly the most important interpretive structure to the site.

My amendment would provide $170,000 for the planning and development of this building, which will also be used as a storage center for archeological artifacts. Construction will begin in fiscal year 1986.

This amendment is important to my State and I urge my colleagues to support it.

● Mr. McCLURE. I understand that the Fort Vancouver recontruction project is a special project of Julia Butler Hansen, the former Chairwoman of the House Interior Appropriations Subcommittee. I would be pleased to recede to the House position during conference.●

TELEPHONE ISSUES

Mr. SASSER. Mr. President, I wish to briefly discuss an amendment dealing with several telephone issues of pressing importance. My amendment would provide small business with a degree of protection from the present system of access charges by broadening the definition of small business phone users relied upon by the Federal Communications Commission. In addition, the amendment would address the issues of life-line service and phone service to high-cost areas.

I was prepared to offer this amendment to House Joint Resolution 648. But I will not do so at this time.

My amendment would meet two worthy objectives: One, it would offer small business reasonable protection from the economic burdens associated with access charges; two, it would go far in ensuring one of the basic tenets of our national telecommunications policy, universal service at an affordable cost.

Mr. President, small businesses are suffering an added economic burden due to access charges. The national average access charge is presently $4.89 per line per month. For a small business with four telephone lines, this works out to an additional $20 a month in expenses. That adds up to about $325 per year.

Some contend that access charges are only costing small business 16 cents a day. Yet, this figure is a best case scenario: It assumes a one line business user paying $4.89 a month over 12 months. The 16 cents figure fails to take into account that access charges are likely to go up for business users in the near future. It is no secret that the move to so-called cost based pricing contemplates increased access charges for all phone users. If the cap on business access charges is increased to $7 next year, a four-line business user would then be faced with $336 in increased annual expenses. This cost works out to almost a dollar a day.

My colleagues on the Small Business committee know that this is a burden for many small firms. The burden imposed by access charges is compounded by the rapid increases in telecommunication costs which small firms have had to absorb in a very short period. In 1 short year, the amount a small business must pay for flat rate business service has increased 22 percent in South Carolina, 71 percent in Vermont, 41 percent in Virginia, and 67 percent in Wyoming. Along with these rate increases, small businesses have been hit with increased installation costs, increased directory assistance charges and increased rates for advertising in the yellow pages.

Taken together, there is clear evidence that small business is suffering due to increased telecommunciation costs. The membership of the National Federation of Independent Business rated increased telephone expenses as a top priority.

Mr. President, small business is also not benefiting from the reductions in long-distance rates associated with access charges. While American Telephone & Telegraph recently announced a 6.1-percent reduction in long-distance rates, they also indicated that a phone user would have to have

$80 in long-distance calls to come out a net winner under this rate reduction.

American Telephone & Telegraph's own figures show that 86 percent of its business users spend less than $50 per month on long-distance calls, far below the break-even point. Nearly two-thirds of those surveyed by the National Federation of Independent Business pay less than half of their monthly phone bills in long-distance charges.

Studies recently released which show otherwise are based on some far-fetched assumptions. A Bell study showing a net savings to small business assumes a 15-percent long-distance rate reduction. We have only seen a 6-percent reduction. The study further assumes that access charges on residential users and single line business users will eventually be imposed. I daresay there are many members of this body who will dispute that assumption during the next session of Congress. Finally, this study assumes that any and all savings generated by access charges will translate into rate reductions which benefit all. Again, this is an arguable assumption.

The lack of information surrounding small business and telephone usage among the phone companies and American Telephone & Telegraph is another reason for this type of amendment. The Federal Communications Commission had no information on the impact of access charges on small business when the access charge plan was announced. Indeed, it was 2 months after access charges were implemented that the Federal Communications Commission decided to issue a public notice requesting information pertaining to small business telephone use.

My amendment would also deal with establishing a universal service fund which would maintain essential phone service to the elderly and to those living in rural areas. The preservation of universal service at affordable rates is a basic tenent of our national telecommunications policy. However, if we wish to maintain universal service at affordable rates, then we must honestly admit that a mechanism must be found to offset the high costs of residential service. We can put a phone into virtually every house in this country. The question is: Will anybody be able to afford to pick it up?

It is quite likely that we will be back to discuss the issues covered in my amendment early in the 99th Congress. Studies are now being undertaken by the Federal Communications Commission, American Telephone & Telegraph and the House Small Business Committee on the issues raised in my amendment.

I will closely monitor the results of these studies. If they indicate that remedial legislation is necessary to protect small business phone users, I will be prepared to offer legislation on this point. Should the question of establishing a universal service fund adequate to maintain service to low-income, elderly and rural phone users remain unresolved, I will be prepared to offer and support remedial legislation on this matter as well.

I am hopeful the Federal Communications Commission will act on its own to address these concerns in a satisfactory manner. If the FCC does not resolve these issues in an equitable fashion, I am confident that remedial action along the lines of my amendment will be forthcoming.

I yield the floor.

COMMITTEE AMENDMENT NO. 21

Mr. BOREN. Mr. President, I realize that this amendment is likely to be approved as thus far few, if any, of the committee proposals have been changed. However, in conference I urge my colleagues to yield to the House on this issue and retain funding for the Sardis Lake Road project in Oklahoma. This road will open an isolated area to economic development. The area in question suffers from high chronic unemployment, usually above 16 percent. Per capita incomes in the county impacted are only slightly above $4,000 per year. These factors merit special consideration.

NOT BAD, BUT NOT A GI BILL

Mr. COHEN. Mr. President, the House-Senate conference report on the fiscal year 1985 defense authorization bill contains a provision for a 3-year test program of educational benefits. Called the All-Volunteer Force Educational Assistance Program, it is a significant improvement over the Veterans' Educational Assistance Program [VEAP], one of the worst and least effective programs ever enacted.

The new program is not, however, a new GI bill. While the contribution level is lower and the benefit level higher, the new program continues to embody the contributory feature which has made VEAP so unpopular with young service personnel.

Still, it is a good first step, and it is far better than the onerous program approved by the Senate during its consideration of the defense bill. In fact, considering the strong resistance which GI educational benefits encountered on the Senate floor and in the conference, it is a tribute to Representative SONNY MONTGOMERY that we succeeded in winning approval of any educational assistance program, let alone one with the enhanced benefits included in the test effort.

Under the new program, service members would have to contribute $100 a month for their first 12 months in the service. In return, they would receive $300 a month for 36 months if they serve 3 years and $250 a month for 36 months if they serve a 2-year enlistment. There is provision for kickers and supplemental benefits, and those signing up for 6 years in the reserve forces would be entitled to a benefit of $140 a month for up to 36 months.

The program will take effect July 1, 1985 and run for 3 years. The transferability provision in the House bill has been eliminated, but the Defense Department is directed to report to Congress on the feasibility of such a program.

The good news is that new service members will be able to take advantage of this program beginning next July. But there is bad news as well.

The opponents of improved educational assistance for military personnel refused to permit VEAP to be terminated, despite the understanding which SONNY MONTGOMERY and I had when the compromise was reached that this was to be the case. Instead, VEAP is merely suspended for the period of the test, leaving the spectre that it could once again be put in place despite its proven record of failure.

More fortunate is that the very individuals whose pay Congress has capped for the past 2 years, our most junior service personnel, are being asked to contribute nearly 20 percent of their monthly pay if they wish to participate in the program. As one who has warned in each of the past 2 years that the freeze on recruit pay could hamper the ability of our recruiters to attract high quality individuals into the service, I can only say that we must make it a high priority next year to provide pay equity for those who are making the decision to serve in their nation's armed forces.

I remain disappointed that Congress is apparently unwilling to provide adequately for military personnel. At a time when we are increasing the level of defense spending, it is, I am sure, bitterly ironic to the brave men and women serving on their Nation's behalf to find Congress opposing efforts such as the Kennedy-Cohen pay amendment and the Armstrong-Cohen-Cranston-Matsunaga-Hollings GI bill amendment which the Senate narrowly defeated a few months ago.

Only a few, short years ago, Congress acknowledged that it had short-changed military personnel during the middle and late 1970's, and it took belated steps to provide adequate compensation for them. Unfortunately, having done that, Congress has again allowed military benefits to decline. Despite unambiguous warning signs that the caps on military pay, the freeze on recruit pay and the refusal to return to a true GI bill are beginning to hurt both recruiting and retention, we are told, wait until next year. Well, next year will be here soon enough, and it is incumbent upon us to take positive action on behalf of those who are serving.

The improved educational benefits program is, as I said earlier, a first step in this direction. But it is not enough. I intend to propose improvements in the test program, and I intend to propose improvements in military compensation. The courageous men and women serving in our armed forces deserve no less.

Before I close, let me give special recognition and thanks to Representative SONNY MONTGOMERY for having done what many thought impossible, succeeding in winning approval of a new, improved education program. He and his staff, I think particularly of Mack Fleming, Jill Cochran, Frank Stover, and Richard Shultz, deserve special praise.

I also want to single out my distinguished colleague, BILL ARMSTRONG, for all he did to make this a reality. It has been an honor and a pleasure to work with BILL ARMSTRONG, ALAN CRANSTON, SPARK MATSUNAGA, and FRITZ HOLLINGS in this important effort. We could not have achieved what we did without their unflagging efforts and the strong efforts of their staffs. I want to give special credit to Jon Steinberg, minority staff director of the Senate Veterans' Affairs Committee, for his essential contribution as conference members and staff worked out the compromise proposal.

Finally, I would like to express my deep appreciation to the many organizations representing military personnel and educational institutions who helped to make this possible. In particular, it has been my pleasure to work with the Non-Commissioned Officers Association over the past several years in the effort to reinstitute GI bill education benefits. Mack McKinney and Dick Johnson have made an invaluable contribution, and they deserve recognition for the role they have played in bringing this about.

What we must do now is build on this beginning. The enhanced educational benefits should help our military services over the next few years. I will not be satisfied, though, until we have a true GI bill and until we have provided fair, equitable pay for our men and women in uniform.

Mr. CHILES. Mr. President, this past April, Senator JOHNSTON and I traveled to Central America. On our trip we met and held discussions with President Duarte of El Salvador, and other leaders in El Salvador, Panama, Honduras and Nicaragua. From those discussions, I came to believe it is vitally important that the United States do all it can to demonstrate an ongoing and long-term commitment to the democratic countries and institutions of Central America.

I believe a multiyear authorization would serve as an important symbol of the kind of commitment that Central Americans need to have the confidence to make the hard choices necessary to rebuild that region and move it along on the road to democracy. Thus, I remain committed to seeking a multiyear authorization of aid to the region.

While I believe in the symbolic importance of a multiyear authorization it seems to me $8 billion proposed for economic aid over the next 5 years is too much and may, in fact, do more harm than good.

It's not that I believe that Central America is not worth $8 billion.

My concern is that I don't see how we can usefully spend $8 billion over the next 5 years.

At a time of burgeoning Federal deficits, we must balance our international commitments against the limitations of our domestic economy. A more restrained level of funding than the $8 billion requested by the administration is therefore appropriate.

I have been increasingly concerned that up here on Capitol Hill, and down in the executive branch, attention has been focused only on the appropriation of money. I get the feeling that this administration believes that when Congress appropriates the money the job is done.

Well—the job is not done when we appropriate the money—the job only begins.

I believe there have been critical problems in implementing our aid program to Central America. Over the past year, reports of waste and mismanagement in the Central American aid effort have caught our attention—but not compelled us to take action.

If any of the Members have any doubt that significant management problems exist in our Central American aid programs, let me refer you to any one of a number of press reports and GAO studies.

I'd like to enter into the RECORD at this point a February 15, 1984 article from the Wall Street Journal, entitled: "Can Central America Absorb More U.S. Aid? Many Experts Say No—Bureaucratic Tangle Delay Many Projects Already; Corruption May Increase."

I would also like to enter into the RECORD at this point a February 19, 1984 New York Times article entitled: "Abuses Disclosed in Aid Programs in Latin Nations—U.S. Audits in Central America Find Mismanagement and Corruption Extensive."

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CAN CENTRAL AMERICA ABSORB MORE U.S. AID? MANY EXPERTS SAY NO

BUREAUCRATIC TANGLES DELAY MANY PROJECTS ALREADY; CORRUPTION MAY INCREASE

(By Art Pine)

EL PORVENIR, HONDURAS.—In this poor cluster of adobe houses along a dirt road, a new, orange-brick school symbolizes hope. But inside the building, the hope dims.

The three classrooms stand empty—no books, no desks. For the past eight months, 85 elementary-school pupils have sat on a concrete floor for their lessons. A wall plaque announces that the school was built by the Honduran government "with financial assistance from the people of the United States." So, Jose Hernandez, the father of a first grader, greets an American visitor with a hopeful question: "Are you the people who are going to approve the furniture?"

Mr. Hernandez may be forgiven his impatience. In 1980, the U.S. Agency for International Development set out to build 2,100 classrooms in Honduras. So far, only about 300 have been built, and they lack books and furniture. Of the $15.3 million that AID allocated to the project, just $2.1 million has been spent.

BUREAUCRATIC ILLS

The delay reflects the inefficiency of a local bureaucracy rife with politics—and with procrastination, confusion and corruption. The Honduran government took two years just to approve simple school-desk designs. Then, work on the school project stopped for a while after a political reshuffling discombobulated the Education Ministry. Moreover, all government contracts—even for an order of cement—must be signed by the Honduran president, a process that often takes months.

As a result of such problems, the ability of Honduras—and of other Central American Nations—to absorb American aid is limited. And now that the Reagan administration is advocating a vast expansion of aid to fight poverty, promote democracy and defeat communism in the region, even Central American officials, while wanting more help, admit that the U.S. may deluge them with too much money too soon.

"These are very large amounts of money we're talking about—far beyond what we've received before," says Frederico Vargas, the finance minister in Costa Rica, the most economically advanced nation in the region. "Questions of how much can be used fruitfully frequently creep into our minds. If this is true in Costa Rica, it's even more true in other countries."

Arturo Corleto, the Honduran finance minister, also worries about the effects of a huge increase in aid. "If there is a big inflow from the U.S. or other countries, it seems reasonable there will be more room for corruption," he warns. "We have to be practical and pragmatic. We don't have enough people to double our investment every year."

Beginning in 1979, the year of the Marxist revolution in Nicaragua, American aid to the region increased sharply. In fiscal 1979, U.S. economic aid to seven Central American countries totaled $141.2 million, and military aid $3.7 million. By fiscal year 1983, ended last Sept. 30, economic aid had grown to $628 million and military assistance to $126.7 million.

Last month, a bipartisan commission headed by former Secretary of State Henry Kissinger recommended an additional $400 million in economic aid, on top of the $430 million approved earlier, for the current fiscal year. And over the next five years, the panel advocated $8 billion of assistance—double the current annual level. The Reagan administration has embraced the Kissinger proposals, and hearings on them are scheduled to begin today in Congress—where they already have run into criticism.

In Honduras, U.S. aid is already arriving too fast to be spent quickly. Last year, Washington provided $101 million in nonmilitary aid to the Tegucigalpa government for projects ranging from plumbing to balance-of-payments support. But $100 million in unspent U.S. money already is backlogged in AID's Honduras pipeline, some of it going back to projects begun in 1979.

In the six other Central American countries, the logjam of unused aid money totals $379.1 million, and the problems are similar. El Salvador's government is better equipped than Honduras' to handle more aid, but the war there is hobbling development; projects are often destroyed by guerrillas soon after they are built. Aid to Nicaragua has been cut off and that to Guatemala has been sharply reduced for political reasons, and U.S. officials concede that even if it was restored, both countries would have difficulty absorbing it. Belize is in even worse shape than Honduras, while Panama is slightly better off. Costa Rica shows the most promise.

Moreover, the problems are frequently aggravated by the U.S. government. Under current American law, countries receiving U.S. aid must put up one-fourth of each project's cost in "counterpart" funds. Honduras can't meet this requirement. Even now, Washington is allowing Honduras to divert money from U.S. balance-of-payments assistance to come up with its required share of the regular aid program. Other Central American countries have similar problems.

In addition, the U.S. government imposes an intricate system of vouchers and countercheckes—far more stringent than that of other donor countries—in an attempt to hold down waste and theft. But some Hondurans complain that AID's rigid procedures hobble development. "AID is extremely bureaucratic," says Benjamin Villanueva, a former finance minister and now a Tegucigalpa business leader. "It's tough to negotiate with them, and tough to get them to disburse the money."

The snafus in the Honduran school-construction program are just a small sample of those confronting American aid efforts in Honduras and all over Central America.

There isn't any career civil service in Honduras; instead, government jobs—right down to the lowest janitor—are rotated several times in each administration as a way of rewarding party loyalists. The important National Agrarian Institute, for example, has changed its entire technical staff three times in the past two years. A huge agricultural project at Baja Aguan has run through 15 chiefs in the past decade; the last—the only one to make the venture profitable—was sacked in December. Recently, the minister of public works was dismissed because he was from the "wrong" wing of the president's own party.

Corruption keeps siphoning off materials and equipment. A few months ago, a shipment of 200 tons of milk donated by the European Common Market for school-nutrition programs vanished mysteriously. The National Corporation for Investment, another state agency, went bankrupt under a cloud of corruption. The Honduran government is still investigating the disappearance last year of more than 700 tires, some of which may have been bought with U.S. funds.

Honduran government procedures themselves frequently block progress. Last year, a requisition for four-wheel-drive vehicles for a U.S.-sponsored aid program was snagged nine months while Honduran officials procrastinated over a simple bill of lading. In other cases, internal regulations can slow things down: An order for plastic pipe for a critical aqueduct project was delayed for half the year because of Honduran import regulations.

Once a project is built, Hondurans often can't afford to maintain it. Roads and hospitals are built and then routinely allowed to decay. Guillermo Bueso, a Tegucigalpa banker and former chairman of the Honduran cental bank, warns: "If you give $1 million to build a hospital and it costs $5 million a year to operate and maintain it, you're not helping."

And Honduras has a hard time generating that foreign exchange needed to finance imports and repay its growing debt. Its main exports are timber, meat and "dessert" (the three big cash crops; coffee, sugar and bananas), and they are still drawing rock-bottom prices on the world markets. And much of the hard currency that the country does earn quickly leaves. Reliable estimates indicate that Honduras hoarded about $1 billion in U.S. bank accounts in 1980 and 1981, and many Hondurans fly regularly to the U.S. to shop. [The capital-flight estimate for all of Central America is several billion dollars a year—some of which may come out of U.S. balance-of-payments aid to the countries.)

Despite all the problems with the aid programs, no one denies that Honduras—and most other Central American countries—needs help desperately. In Honduras, per-capita income is under $100 a year, the lowest in the region, and the birthrate is 3.6%, the highest. Rural areas harbor poverty that seems stark even by Third World standards. There is plenty to spend money on: Much of the once-rich forestland in the south has been denuded, the fertile Sula Valley cries out for flood control, and the Comayagua coastal region needs agricultural aid.

In attacking this bewildering array of problems, the U.S. is trying hard to see that aid money is well spent, experts say; most of the projects are well thought out. The U.S. presence here is pervasive. American grants and loans account for almost 30% of the $350 million in annual development aid that Honduras receives; the other sources are the World Bank and a dozen other institutions and countries. American aid goes primarily for food and "human needs" programs, such as nutrition, education and housing, and for helping Honduras pay for needed imports. Most U.S. aid money is spent in rural areas, where 80% of the population lives, so the projects tend to be relatively small-scale and undramatic by American standards.

For example, a $2.5 million rural housing project is giving peasant farmers their first opportunity to borrow money to upgrade their existing homes rather than buy new ones away from their land. Near mountain ringed Morazan Yoro Yoro, Manuel Ramos has just paid off a $100 loan that he took out last year to buy weatherproof cement coating for his 1½-room adobe house. "I don't know where I could have gotten the money otherwise," Mr. Ramos says. Now, he is considering a second loan to recover the roof and finish the inside.

A $12.5 million, five-year program is helping farmers secure legal title to their property in hopes that they will be able to obtain credit to buy fertilizer and some modern equipment. Part of the country's agrarian reform program, the effort has brought deed to 4,700 squatters; officials hope to help 70,000 within five years.

An AID-financed health program is buying medical care and litrosol, a salt-and-sugar mixture, to combat dehydration in infants who get dysentery during Honduras's germ-plagued rainy season. Before, Zoila Godoy's clinic in remote La Paz used to count a dozen or more such deaths a year, but now mortality has been cut to zero. "It's fantastic," the doctor exults.

Unexpectedly, one of the most spectacular U.S. aid successes has been installation of easy-to-flush outside toilets to replace the infested pit-latrines of most Honduran villages. Demand for the new toilets is so strong that AID officials have doubled the first phase of the program to 24,000 toilets.

Among other programs under way: $45 million for housing; $21.5 million for improving farm-to-market roads; $20 million for rural water, irrigation and sanitation projects; $11.5 million for electricity in the Aguan Valley; $9.6 million to help 60,000 small coffee growers control coffee-fungus; and $1.8 million to repair electrical substations damaged by terrorists in Tegucigalpa in 1982.

SOME SUGGESTIONS

Despite the successes, some Hondurans contend that the U.S. aid money could be better spent. Efrain Diaz, an economist who serves in parliament, believes that aid should be aimed more at producing immediate jobs than at laying the ground work for future growth.

In addition, Finance Minister Corleto complains that the U.S. hasn't done enough to help Honduras bear the economic costs, such as higher oil-import bills, of its military buildup in the face of Nicaragua's threats. International officials say the Tegucigalpa government has begun transferring health and education money to cover the spiraling defense costs.

And Guatama Fonseca, a former labor minister, says he thinks "that to maneuver the aid through the government is counterproductive," as "U.S. aid problems are related to the capacity of bureaucrats here." Some officials say additional aid can be handled through various "supplemental" efforts: bringing in more foreign managers or corporations to run the programs or using the country's own private sector. And even though the private sector isn't very very efficient, either, AID is looking for ways to use it and bypass the central government.

Both the Kissinger commission and outside experts urge that the new aid be tied to requirements that the Central American countries make their economies more efficient, by trimming government, broadening tax bases, ending food subsidies, readjusting overvalued currencies, cutting tariffs and transferring state-run companies to private hands.

Some Honduran officials think that their government may take some such steps, but Mario Belot, a wealthy businessman from San Pedro Sula, hints at the domestic pressures that could result. Broadening the tax base is fine, he says, "but not with too much democracy."

And Costa Rica's Finance Minister Vargas sees "a danger that if the U.S. comes in here and says, 'We will give you this if you do this and that,' it could be viewed as an invasion by the U.S. of our affairs."

ABUSES DISCLOSED IN AID PROGRAMS IN LATIN NATIONS

U.S. AUDITS IN CENTRAL AMERICA FIND MISMANAGEMENT AND CORRUPTION IS EXTENSIVE

(By Philip Taubman)

WASHINGTON.—United States economic assistance programs in Central America suffer from extensive mismanagement and corruption, according to State Department audits and a Congressional study.

At a time when the Reagan Administration has proposed major increases in economic aid to the region, these reports show, many of the institutions responsible for distributing American assistance have had difficulty handling the present level of financing.

Abuses cited in the reports included the illegal diversion of funds for private gain, fraudulent accounting procedures and spending that never reached the people it was intended to help.

BIG INCREASE IN AID SOUGHT

There are no exact figures for the amount of money wasted or misused, but both Administration officials and Congressional investigators estimated that the total runs into millions of dollars annually.

Most of the criticism of the aid programs was made in State Department audits that have not been publicized in a classified report by the General Accounting Office that has been described to members of Congress but not yet submitted in written form. Several State Department audits reporting on similar problems have been the subject of news reports in the last several weeks.

WIDESPREAD ABUSES DENIED

The effectiveness of American assistance is expected to become a major issue when Congress reconvenes this week after the winter recess. The legislators will begin consideration of the Administration's request to nearly double economic aid to Central America in the current fiscal year, adding $400 million to the $430 million already approved, and to spend $6 billion in direct economic aid and $2 billion in trade credits there over the next five years.

"They haven't shown they know how to spend the money they have," Representative Clarence D. Long, a Democrat from Maryland and the chairman of a key House appropriations subcommittee, said on Friday. Representative Michael D. Barnes, a Maryland Democrat who is chairman of the House Foreign Affairs subcommittee on Latin America, said, "The effectiveness of the A.I.D. programs will be a major consideration in the minds of many members."

The classified study recently completed by the General Accounting Office, the Congressional auditing agency, concluded that the State Department lacked adequate financial controls over foreign aid and could not fully account for millions of dollars in economic assistance to Central America, according to members of Congress familiar with the study.

While acknowledging that some mismanagement and corruption exists, State Department officials denied there were widespread abuses.

"I can't say there is no corruption or opportunity for management improvement," Jay F. Morris, the deputy administrator of the Agency for International Development, said, "but I can't say there is massive or rampant corruption either. We're working hard in the region to improve management practices."

In recent years, Congressional concern about Administration policy in Central America has tenderd to focus on military aid, and there appears to be substantial resistance to the White House proposal to triple security assistance to the region in the current fiscal year to $373 million. But Mr. Long, Mr. Barnes and other Democratic leaders said that because of the substantial increases requested in economic aid, Congress will also take a hard look at those programs.

Some of the aid problems, according to the government studies, were caused by the chaotic conditions in the region, including the civil war in El Salvador, and the lack of local groups trained to manage the distribution of economic aid. Internal State Department audits found numerous examples of tangled bookkeeping and bureaucratic disarray in Central American government agencies involved in the aid programs.

U.S. ORGANIZATIONS CRITICIZED

Administration officials, taking their lead from recommendations made last month by President Reagan's commission on Central America, which was headed by Henry A. Kissinger, have said that a major infusion of economic and military aid in the region is both advisable and feasible.

M. Peter McPherson, the administrator of A.I.D., recently outlined goals he said could be achieved with increased economic aid. "This region can absorb and effectively use a very substantial program," he said.

Specifically, Mr. McPherson said that in the process of trying to stablize the shaky economies in Central America, United States aid could help achieve a real growth rate in the region of 6 percent per year within six years, eventually generating 250,000 new jobs annually.

In addition, he said, in five years primary school enrollment, which stood at 84 percent in 1981, would be above 95 percent, the infant mortality rate would be cut by 15 percent from the current level of 65 per thousand, and sewer and water coverage would be increased by 25 percent with improved housing for 100,000 families.

AGRICULTURAL GROWTH PREDICTED

The Administration has also predicted that agricultural production can be increased by 4 percent a year by 1989, generating 80,000 jobs every year.

To get this growth started, the Administration has asked Congress to increase economic assistance to El Salvador by $134 million this year, bringing the total for 1984 to $332 million. The White House has requested $341 million in 1985. The supplemental request for Honduras, $84.5 million, would bring the total for the year to $160 million, with $139 million scheduled for 1985.

Under the Administration's request, Costa Rica would receive an additional $75 million this year, bringing its total to $180 million, in 1985, Costa Rica would get $208 million. Guatemala would receive $34 million this year, $20 million more than originally approved by Congress, with an additional $96 million next year. Economic aid to Panama would more than triple this year to $46 million. The total in 1985 would be $40 million.

The Administration proposes to funnel the money to Central America in several ways, including direct support for development projects such as the construction of school buildings and in direct aid, including balance-of-payments support, to shore up the economies.

Both kinds of assistance have produced problems in the past, according to the audits and studies. State Department officials and members of Congress said that abuses identified in specific programs reflected widespread problems among A.I.D. operations in Central America.

A public sector employment program in El Salvador, for example, has been troubled by serious management failures, according to an Internal State Department audits. The project, which was initiated in 1980, was intended to stimulate economic activity by financing labor-intensive public works, including street improvements and the construction of water and sewer lines. The United States agreed to contribute $60.4 million and the Salvadoran Government pledged $19.8 million.

The State Department audit, conducted in 1982 by the inspector general at A.I.D., concluded that while the project had produced substantial employment. It was having "very serious implementation and administrative problems."

Specifically, the report said: "Labor and material resources were, in some extent, being wasted, diverted to unauthorized purposes and inefficiently used. Some internal controls over the payroll system were weak and some funds may not be reaching the intended recipients. The administrative affairs of the coordinating committee were in disarray."

When inspectors visited construction sites in El Salvador, they found it was "a common practice" for Salvadoran authorities to borrow laborers for other purposes while charging their costs to the employment project. At one site, 18 percent of the laborers listed on attendance sheets were working elsewhere on unauthorized activities, the report said.

Defending the quality of this and other programs, A.I.D. officials said that while the audit reports are often highly critical, they are part of the process of improving and refining programs and are usually done at the request of agency officers.

An A.I.D. audit completed last month and publicized this month warned that the land redistribution program in El Salvador that is supported with American funds was in trouble because most of the farm cooperatives created under the first phase of the program "are not financially viable."

The report concluded that many of the cooperatives "had massive capital debt, no working capital, large tracts of land that were nonproductive, substantially larger labor forces than needed and weak management."

In Honduras, according to an internal State Department memorandum written late last year, a number of economic development projects "are experiencing serious implementation problems or lengthy delays." Several of the projects mentioned in the memorandum, which reported general progress on the economic assistance front in Honduras were sharply criticized in audits earlier in the year.

One audit, completed in September, examined the performance of a municipal development bank that began receiving United States aid in 1974. The assistance to the bank, which was set at $5 million, was supposed to contribute to increased bank financing of construction projects.

State Department auditors, however, concluded that the bank "has some very serious problems." Their report said the bank "had not achieved—and will not achieve for some time—the status of a financially viable organization." The bank's problems included a large portfolio of delinquent loans on which interest and principal were overdue and were not being collected.

When the auditors reviewed the bank's finances, they found that instead of a $200,000 operating profit reported by the bank in 1982, it had acutally lost $400,000. The State Department suspended payments to the bank for three months early in 1983 but resumed the assistance in July after determining that reforms had been instituted.

Another program in Honduras, an agricultural assistance project, has experienced problems beginning with its original design by the State Department, according to a department audit. The $95 million project, which was supposed to receive $25 million in American aid, was intended to improve agricultural productivity by helping government farm agencies better support small farmers.

A 1982 report by the inspector general at A.I.D. concluded: "The program design was very ambitious, complex and fraught with flaws and erroneous assumptions. As a result, most activities show little progress and the program had many serious implementation, operational and administrative problems."

Like many economic assistance projects in Central America, according to A.I.D. officials, this effort was hampered by a shortage of trained workers and bureaucratic rivalries in the recipient nation.

The division of the Ministry of Natural Resources in Honduras that was responsible for administering the agricultural program had, according to the audit report, "a series of very complex problems."

THREE EMPLOYEES SLAIN

"It was not a legal entity," the report said. "It had no authority. It did not have the needed personnel. It was not performing its reporting responsibilities. It was not providing budget information in a timely manner. And its administrative aspects were in disarray."

A school construction program in Honduras has also had problems, according to State Department reports. The $27 million program, supported by $15 million in American assistance, floundered when completed construction did not incur stringent inspection requirements and, as a result, the Ministry of Education in Honduras could not pay for the work with programs funds. Only $2 million of the $15 million has been spent and fewer than 300 classrooms have been built instead of the 2,100 originally planned.

Assistance programs in Guatemala which has received only limited amounts of American aid in recent years, have had different problems. In one bilingual education project designed to aid Guatemalan Indians, three Guatemalan employees have been killed. In at least one of the cases, State Department officials said, there is evidence linking the Guatemalan Army to the killing.

The Reagan Administration has complained that it is difficult to carry out assistance programs in Guatemala when the Government appears to condone attacks on citizens associated with the projects.

Because of the problems in El Salvador, Honduras and Guatemala associated with direct aid for development projects, the Administration plans to emphasize balance-of-payments support in the region to help countries finance the import of essential commodities and, by extension, strengthen their economies.

Under this system, American dollars are distributed by the central bank of the recipient nation to businessmen who need the dollars to buy imports from the United States.

In El Salvador, however, the management of this system by the Central Bank has been criticized by State Department, Congressional and private auditors. A confidential study prepared for the Central Bank of El Salvador by Arthur Young & Company, a private consulting company, found that the bank lacked an effective mechanism for preventing Salvadoran businesses from drawing more dollars than they are entitled to through the use of inflated receipts.

Mr. Morris, the deputy administrator of A.I.D., said the problems had been exaggerated in press reports earlier this week. He said that while steps have been taken by the Central Bank to improve the auditing of purchase transactions, the imposition of comprehensive controls would slow the "injection of needed liquidity" into the Salvadoran economy.

Mr. CHILES. These articles raise serious questions about whether U.S. aid is already arriving too fast to be quickly spent.

I don't see how the existing State, defense and aid bureaucracies can handle a program growing as fast as this one is. Over the past 4 years, we have approved a 465-percent increase in economic aid alone. The proposed $8 billlion is almost four times the total economic aid provided to the region between 1962 and 1979.

I do not believe that there is any Member of the Senate that does not believe that we need to do something for Central America. However, our debates always seen to focus on whether or not to continue aid—and under what conditions we will cut off aid.

What we need to do is shift the debate away from: "How much and under what conditions," to: "How are we spending our aid dollars"—and: "Is our aid doing the things we want it to do." If our aid isn't doing the things we want it to do, then how do we improve it.

We cannot continue to let our Central American aid efforts be managed the way that they have been over the past 4 years. I believe it is critical that we pull together our Central American aid programs under a more centralized form of management. We need something that will integrate all of our economic and military activities in the region—and bring more Central Americans into the process as well.

What I am suggesting is that we need an organization that can focus all of its attention on Central America—like the economic cooperation administration did for our European aid program under the Marshall Plan.

I believe this was the true intention of the National Bipartisan Commission on Central America.

I had originally hoped the Senate would be able to take up the issue of management reform in this year's debate on a foreign assistance bill this year. Unfortunately, such a debate is increasingly unlikely.

Delay, however, may serve us well. My good friend, the chairman of the Budget Committee, and I, with help from members and staff from the Kissinger Commision, have been working on legislation in this area. Our work is not completed. But I would like to insert into the RECORD at the end of my remarks a draft which outlines some of our initial thoughts on the matter. Let me briefly describe it.

(See exhibit 1.)

Our proposal calls for the development of a new mechanism to implement the Central American aid effort following the same management principles used for the Marshall plan. And, I'll remind the Members, that I can't think of another regional aid program as successful as the Marshall plan. Specifically, this proposal would include:

First, a 5-year authorization. As I said earlier, the magnitude of the effort required and the importance for the United States to demonstrate its resolve and commitment to aiding the nations of Central America, clearly calls for a multiyear response.

Second, apply clear conditions to the availability of these funds, along the lines suggested by Senator MATHIAS.

Third, authorize $6 billion in financial and economic aid and guarantees and for the period between 1985 and 1989. This would be in keeping with the National Bipartisan Commission's recommendations, but at somewhat reduced levels. I understand that some members of the Commission believe that properly managed, a $6 billion program—some $2 billion less than the President's request—would be adequate to support the region's needs. I believe that this level would greatly reduce the likelihood of providing resource levels in excess of what can be effectively managed or usefully absorbed by the local economies. It would also reflect our need for restraint in Federal spending.

Fourth, create a new organization, in the Executive Office or possibly as an independent office, which would be charged with overseeing and carrying out our Central American Aid Program. This office would not duplicate existing aid mechanisms. Instead, it would integrate their efforts by providing a central focal point for all government activities in the region. The Director of this office would be a Presidential appointee, subject to confirmation by this body. This individual would be responsible for overseeing the development, justification, and execution of the Central American Aid Program. The director of this new Central American Development Office would have the clout to effectively manage all our activities in the region and also serve as a much needed spokesperson before Congress on our activities in the region. The confirmation process would allow continued congressional oversight and accountability for the success or failure of the program.

This new organization would be supported by an advisory board made up and chaired by Central Americans and other donor countries. The role of this board would be similar to the role envisioned by the Kissinger Commission; it would advise the director of our aid program and issue public reports. It would not, however, have direct control of U.S. aid dollars.

This office would not become a permanent fixture. Our proposal calls for the office to dissolve in 1989. This would help energize the organization and give a clear sense of timeliness to our aid efforts in the region. This again was the formula used so successfully under the Marshall plan.

Now, I've mentioned the Marshall plan several times—and I would like to say that the approach Senator DOMENICI and I are thinking about would hopefully repeat the success of the Marshall plan.

Indeed, there are similarities in the two approaches.

The nature of the response, the intensity of commitment and the management mechanism we would propose, all parallel that of the Marshall plan.

Nonetheless, the challenges in Central America are quite different. The Marshall plan was a temporary effort to fill gaps caused by the wartime disruption of an already industrial economy. In Central America, our aid effort will require U.S. support for political and social change as well.

Let me conclude by saying that much work remains to be done. We are likely to appropriate over $1 billion in aid to Central America for fiscal year 1985. But unless swift action is taken to improve the management of this program, I fear this money will do little to change the nature of the conflict in the region.

Over the coming year, I hope the Senate will address this issue. Foreign aid is one of the fastest growing areas of the Federal budget. We have a responsibility to ensure it is money well spent.

EXHIBIT 1

DRAFT CHILES AMENDMENT ON CENTRAL AMERICA

To establish a long-term framework to build democracy restore peace, and improve living conditions in Central America, to authorize assistance for the fiscal years 1984 through 1989, and for other purposes.

Be it enactment by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Central America Development Act of 1984".

TITLE I—FINDINGS AND DECLARATION OF POLICY

SEC. 101. (a) Recognizing that the restoration of peace, the improvement of living conditions, and the building of democracy in Central America are important to the general welfare and national interest of the United States, the Congress finds that the interrelated issues of economic growth, political reform, and regional security must be effectively dealt with to assure a democratic and economically and politically secure Central America. The restoration or maintenance in Central America countries of secure Central America. The restoration or maintenance in Central America countries of principles of individual liberty, free institutions, and genuine independence rests largely upon the establishment of sound economic conditions, stable international relationships, and the achievement by the countries of Central America of a healthy economy independent of extraordinary outside assistance. The accomplishment of these objectives calls for a plan of Central America development, open to all such nations which cooperate in such plan, based upon formulation and implementation by the countries of Central America of appropriate, growth-oriented economic policies that promote increased production, investment, trade, and regional cooperation; encourage increased participation by the private sector in development; create and improve private and public sector institutions to expand the access of the people of the region to the knowledge and tools for the development; and, recognize that the problems of hunger and malnutrition, health deficiencies, infant and child mortality, population growth, illiteracy and skill deficiencies, underemployment and unemployment, and financial stability are each related to the other, and each must be addressed if equitable growth is to occur. It is further declared to be the policy of the United States to sustain and strengthen principles of individual liberty, free institutions, and genuine independence in Central America through assistance to the countries in Central America which participate in a joint development program based upon self-help and mutual cooperation. It is further declared to be the policy of the United States that continuity of assistance provided by the United States should, at all times, be dependent upon continuity of cooperation among countries participating in the program.

(b) It is the purpose of this Act to implement the policy set forth in subsection (a) of this section by furnishing material, financial, educational, and technical assistance to the participating countries in such a manner as to most effectively aid them, through their own individual and concerted efforts, to become independent of extraordinary outside economic assistance within the period of operations under this Act, by—

(1) Promoting employment through expanded industrial and agricultural production in the participating countries;

(2) Furthering the restoration of sound Central American budgets and financial structures;

(3) Facilitating and stimulating the growth of international trade of participating countries with one another and with other countries; and

(4) Establishing an efficient, and temporary, mechanism within the United States Government to carry out the intentions of this Act.

TITLE II—ECONOMIC AND HUMANITARIAN ASSISTANCE

SEC. 201. (a) In order to further the purpose of this act through the furnishing of economic and humanitarian assistance to the people of Central America, there is hereby authorized to be appropriated to the President, for eventual transfer and obligation under the management provisions contained in Title IV of this Act, for the fiscal year 1985, not to exceed $800,000,000.

(b) There is hereby authorized to be appropriated to the President, for the purpose of furnishing economic and humanitarian assistance for Central American countries for eventual transfer and obligation solely under the management provisions contained in Title IV of this Act, $825,000,000 for each of the fiscal years 1986 through 1989.

(c) In addition to amounts otherwise authorized for such purposes, $450,00,000 of loan principal are authorized to be guaranteed or insured for Central American countries for the fiscal year 1985; provided that availability of such loan principal remain separated from any other loan guarantee program and commitment of this loan principal shall be exercised solely through the management mechanisms authorized in Title IV of this Act.

(d) In addition to amounts otherwise authorized for such purposes, $350,000,000 of loan principal are authorized to be guaranteed or insured for Central American countries for each of the fiscal years 1986 through 1989; provided that availability of such loan principal remain separate from any other loan guarantee program and commitment of this loan principal shall be exercised solely through the management mechanisms authorized in Title IV of this Act.

(e) Commitments to guarantee loans are authorized for any fiscal year only to such extent or in such amounts as are provided in advance in appropriations Acts.

(f) The President is authorized to transfer funds authorized by this section only in accordance with Title IV and Title V of this Act. Such funds shall remain separate from any other funds appropriated to the President and may only be used for economic and humanitarian assistance to Central America.

(g) Amounts appropriated pursuant to this section are authorized to remain available until September 30, 1989.

TITLE III—MILITARY ASSISTANCE, SALES AND RELATED PROGRAMS

FINDINGS

SEC. 301. (a) The Congress finds that the restoration of peace in Central America is essential to economic and humanitarian progress in that region. The Congress believes that restoring peace and stability will require a combination of social and political reforms, economic advances, diplomatic efforts and measures to enhance security, based upon the following principals:

(1) Military measures are needed to shield economic and social programs and are an essential adjunct to a diplomatic solution to conflict in the region;

(2) Military measures will only aid in restoring peace if they complement political, economic, and social programs and reforms;

(3) Assistance for military purposes should be furnished predictably, in amounts and over a period of time adequate to carry out restrained but effective anti-guerrilla strategy;

(4) Assistance for military purposes should be employed actively to foster human rights objectives, particularly the goals of free elections, freedom of association, the establishment of the rule of law and an effective judicial system, and vigorous action against those guilty of crimes and the prosecution of past offenders.

MILITARY ASSISTANCE

SEC. 302. (a) In order to further the purposes of this Act, there is hereby authorized

to be appropriated to the President, for eventual transfer and obligation under the management provisions contained in Title IV of this Act, for the fiscal year 1985, not to exceed $255,900,000 for miltary aid to Central American countries.

(b) Amounts appropriated pursuant to this section may only be obligated and expended by the Department of Defense in conjunction with the management provisions contained in Title IV of this Act.

(c) Amounts appropriated pursuant to this section are authorized to remain available until September 30, 1989.

TITLE IV—ORGANIZATION AND GENERAL PROVISIONS

UNIFIED PROGRAM DIRECTION

SEC. 401. (a) In order that the program of military, economic, and technical assistance authorized in this Act may be administered as parts of a unified program in accordance with the intent of Congress and to fix responsibility for the coordination and supervision of these programs in a single person, the President is authorized to appoint in the Executive Office of the President a Director for Central American Development, hereinafter referred to as the Director. The Director, on behalf of the President and subject to his direction, shall have primary responsibility for—

(1) Continuous supervision and general direction of the assistance programs under this Act to the end that such programs shall be—

(A) Effectively integrated both at home and abroad; and

(B) Administered so as to ensure that the nations of Central America shall be developed as quickly as possible on the basis of continuous and effective self-help and mutual aid;

(2) Annual presentation to the Congress of such justification materials supporting foreign economic, humanitarian, military, and technical assistance programs to Central America as may be requested by the President;

(3) Preparation for the President of the reports to the Congress as required by Title V of this Act.

(b) Except as otherwise provided by this Act, the Director shall not hold any other office or employment under the United States and shall not have any responsibilities except those directly related to the coordination, supervision, and direction, of the programs covered by this Act.

(c) The Director shall be appointed by the President, by and with the advice and consent of the Senate, and shall receive compensation at the rate of Executive Level I.

CENTRAL AMERICAN DEVELOPMENT OFFICE

SEC. 402 (a) To assist in carrying out the purposes of this Act—

(1) There is hereby established, with its principal office at the seat of government, a Central American Development Office, hereinafter referred to as the Office, which shall be headed by the Director for Central American Development; and,

(2) For the purpose of carrying out the provisions of this Act, the President is authorized to create in the Executive Office such positions, not to exceed one hundred, as may be necessary to carry out the provisions and purposes of this title, and funds available pursuant to section 201 of this Act shall be available for personal and administrative services. Of such personnel, not more than twenty may be compensated without regard to the Classification Act of 1923; provided that no person employed pursuant to this Act may be paid in excess of the rate of Executive Level I. No person may serve in any such position created under this title while at the same time actively serving as an officer or employee of any other department or agency of the Government.

GENERAL FUNCTIONS OF THE DIRECTOR

SEC. 403. (a) Not withstanding any other provision of law, the Director, with approval of the President, is hereby authorized and empowered to promulgate such rules and regulations and develop and implement such programs as the Director may deem necessary and proper for the accomplishment of the purposes of this Act consistent with the conditions established in Title V of this Act, and the Director may delegate authority to perform any of such functions to subordinates, acting under the rules and regulations promulgated by the Director.

(b) The Director, under the control of the President, shall in addition to all other functions vested by this Act—

(1) Review and appraise the requirements of participating countries for assistance under the terms of this Act;

(2) Formulate programs of United States assistance under this Act, including approval of specific projects which have been submitted by the participating countries or other agencies of the United States Government;

(3) Provide for the efficient execution of any such programs as may be placed in operation; and

(4) Suspend provision of assistance or take other remedial action as necessary in keeping with the intentions and provisions of Title V of this Act.

(c) The Director is empowered to negotiate and enter into contracts with United States and foreign private sector elements and, when necessary, with agencies and elements of foreign governments as may be necessary to carry out the provisions of this Act.

(d) In order to strengthen and make more effective the conduct of the foreign relations of the United States—

(1) The Director and the Secretary of State shall keep each other fully and currently informed on matters, including prospective action, arising within the scope of their respective duties which are pertient to the duties of the other;

(2) Whenever the Secretary of State believes that any action, proposed action, or failure to act on the part of the Director is inconsistent with the foreign policy objectives of the United States, he shall consult with the Director, and if differences of view are not adjusted by consultation, the matter shall be referred to the President for final decision;

(3) Whenever the Director believes that any action, proposed action, or failure to act on the part of the Secretary of State in performing functions under this Act is inconsistent with the purposes and provisions of the Act, he shall consult with the Secretary of State and, if differences of view are not adjusted by consultation, the matter shall be referred to the President for final decision.

THE SECRETARY OF STATE

SEC. 404. Nothing contained in this Act shall be construed to infringe on the powers or functions of the Secretary of State.

THE SECRETARY OF DEFENSE

SEC. 405. Nothing contained in this Act shall be construed to infringe on the powers or functions of the Secretary of Defense.

OVERSEAS COORDINATION

SEC. 406. The President shall prescribe, as needed, appropriate procedures to assure coordination between personnel of this Office serving overseas and other representatives of the United States Government in each country, under the leadership of the Chief of the United States Diplomatic Mission.

PROGRAM JUSTIFICATION

SEC. 407 (a) No later than February 15 of each year following enactment of this Act, the Director of the Central American Development Office authorized in Title IV of this Act shall report in writing to the Congress justifying the prospective uses and purposes of the funds for Central American countries provided under section 201 and section 302 of this Act.

(b) No later than four months following the end of each fiscal year, beginning with fiscal year 1985, the Director of the Central American Development Office shall report in writing to the Congress on the uses and purposes of the funds obligated to expended during the preceding fiscal year under section 201 and section 302 of this Act. Such report shall include information concerning the amounts and kinds of cash grant transfers, the amounts and kinds of budgetary and balance of payments support provided, the amounts and kinds of funds made available for assistance projects developed to pursue the policy directions of section 101 of this Act, and the relationship of United States assistance programs in Central America to the activities in the region of multilateral organizations and other donors.

CENTRAL AMERICAN ADVISORY BOARD

SEC. 408. (a) The Congress finds that participation by Central American countries in an effective forum for dialog on, and the continuous review and advancement of, Central America's politial, economic and social development would foster cooperation between the United States and Central American countries in futhering the purposes of this Act.

(b) It is the sense of Congress that—

(1) The President enter into negotiations with Central American countries in order to establish a Central American Advisory Board, hereinafter referred to as the Board, to act in an advisory capacity to the Director of the Central American Development Office, and to issue such public reports as it may deem necessary.

(2) the establishment of the Central American Advisory Board be based upon the following principles:

(A) Participation in the Board be open to the United States, other donors (including the Contadora group of nations), and those Central American countries that commit themselves to, among other things, progress on human rights, building democracy, and encouraging equitable economic growth.

(B) The Board be structured to include representatives from both the public and private sectors, including representatives from the labor and business communities.

(C) The Board meet periodically to carry out the functions described in subparagraphs D and E of this paragraph and be administratively supported by a professional secretariat not to exceed five personnel.

(D) The Board make recommendations to the Director and reports to the public concerning Central American Countries on such matters as—

(i) Political, economic, and social development objectives, including the strengthen-

ing of democratic pluralism and the safeguarding of human rights;

(ii) Mobilization of resources and external assistance needs; and

(iii) Reform of economic policies and structures.

(E) The Board have the capacity for monitoring country performance on the recommendations issued in accordance with subparagraph D of this paragraph and for evaluating progress toward meeting such country objectives.

(F) The chairman be elected by the Board members at the first meeting of the Board, and not serve for a period exceeding two years.

(G) The chairman of the Board not be a citizen of the United States.

(c) The President is authorized to participate in the Central American Advisory Board.

ADMINISTRATIVE EXPENSES

SEC. 409. No more than five per centum of the funds made available for carrying out the provisions of the Act may be used for the administration of the Office and the support of the Board, upon certification of the Director and with the approval of the Director of the Office of Management and Budget that such funds are necessary to establish and carry out the purposes of this Act.

EFFECTIVE DATE

SEC. 410. The President is authorized, pending the appointment and qualification of the first Director for Central American Development appointed herein, to provide, until March 1, 1985, for the performance of the functions of the Director under this Act through such departments, agencies, or establishments of the United States Government as he may direct.

TERMINATION PROVISIONS

SEC. 411. (a) After September 30, 1989, or after the date of passage of a concurrent resolution by the two Houses of Congress before such date, which declares that the powers conferred on the Director by or pursuant to this Act are no longer necessary for the accomplishment of the purposes of this Act, whichever shall occur first, none of the functions authorized under such provisions may be exercised; except that during the twelve months following such date, authorized procurement for, shipment to, or delivery in a participating country, may be transferred to such country, and funds appropriated under authority of this Act may be obligated during such twelve-month period for the necessary expenses of procurement, shipment, delivery, and other activities essential to such transfer, and shall remain available during such period for the necessary expenses of liquidating operations under this Act.

(b) At such time as the President shall find appropriate after such date, and prior to the expiration of the twelve month following such date, the President shall submit a plan to transfer the powers, duties, and authority of the Director under this Act to other departments, agencies, or establishments of the Government as the President shall specify, and the relevant funds, records, and personnel of the Office may be transferred to the departments, agencies, or establishments to which the related functions are transferred.

(c) Personnel serving in the Office at the date of termination shall be guaranteed employment rights at the departments, agencies or establishments to which the related functions are transferred, or to such departments, agencies, or establishments as directed by the President.

Title V—CONDITIONALITY OF ASSISTANCE TO COUNTRIES OF CENTRAL AMERICA

FINDINGS AND OBJECTIVES

Section 501. (a) The Congress finds that the people of the United States are willing to sustain and expand a program of assistance in Central America only if the recipient countries effectively demonstrate a commitment to—

(1) The purposes set forth in Section 101, including the elimination of the violent abuse of human rights, free elections, freedom of the press and freedom of association (including enforcement of measures against intimidation of the press and labor and peasant union members and leaders), the rule of law and an effective judicial system, the termination of extremist violence by both the left and the right as well as vigorous action to prosecute those guilty of politically-motivated crimes and the prosecution to the extent possible of past offenders;

(2) Meaningful economic and social reform, including land reform measures where relevant;

(3) The return of local capital deposited abroad and the effective use of foreign assistance;

(4) A political process open to all members of society, including dialogue with internal opposition to include them in the process;

(5) A viable program for economic stabilization and fiscal responsibility.

(b) The Congress further finds, with respect to El Salvador, that the objectives set out in subsection (a) must include during the period preceding October 1, 1985, demonstrated progress toward and a commitment to—

(1) The elimination of the so-called death squads;

(2) The bringing to timely justice of those charged with crime and in particular, those responsible for the murder of citizens of the United States;

(3) Full implementation of the land reform program, including the taking of necessary measures against illegal evictions and the furnishing of clear titles, necessary credits, administrative support, technical assistance, and services to beneficiaries;

REPORTS

SEC. 502. (a) Not more than six months after the date of enactment of this Act, and at intervals of six months thereafter until September 30, 1988, the President shall prepare and transmit to the Committee on Foreign Affairs and the Committee on Armed Services of the House of Representatives and the Committee on Foreign Relations and the Committee on Armed Services of the Senate a report which—

(1) Describes in detail the progress toward and commitment to the objectives set forth in section 501 as applicable to each Central American country, and includes the President's assessment of whether assistance should be furnished to each such country; and

(2) Assesses the security situation in Central America and describes the military activities of the United States in Central America.

(b) The first and second reports required under paragraph (3) of subsection (a) with respect to El Salvador, shall include:

(1) An assessment of the performance of the armed forces of El Salvador;

(2) A list of the number and type of United States military personnel in El Salvador, including military training teams, and a description of the activities of each such type of personnel;

(3) The type and disposition of defense articles purchased or otherwise acquired with military assistance furnished by the United States;

(4) The anticipated needs of the armed forces of El Salvador during the next six-month period of defense articles described in paragraph (3); and

(5) The type and the approximate amount of defense articles and other defense services furnished by all sources to the insurgent forces in El Salvador.

(c) Not more than six months after the date of enactment of this Act, the President shall report in writing to the Congress on the results of efforts to encourage and advance peace in the region, including the advancement of the Contadora process toward the completion of verifiable and enforceable agreement based on the September 1983 Document of Objectives.

(d) Any information which is required to be provided by this section and which is classified shall be transmitted as a classified addendum to the required report.

(e) Notwithstanding any other provision of law, no funds may be obligated in any fiscal year for assistance to any Central American country with respect to which a report has not been submitted as required by this section unless and until a report is submitted which meets the requirements of this section.

CONDITIONS ON FURNISHING ASSISTANCE

SEC. 503. (a) The President shall ensure that assistance authorized by this Act is furnished in a manner which fosters demonstrated progress towards and commitment to the objectives set forth in section 501. To this end, the President in every appropriate instance shall impose conditions on the furnishing of such assistance.

(b)(1) Except as provided in subsections (c) and (d), funds shall be deemed to be authorized by this Act for assistance for Central American countries for a fiscal year beginning after September 30, 1985, only if the Congress, having assessed the reports submitted pursuant to this Act, the conditions in Central American countries of commitment to and progress toward the objectives of section 501, has enacted a bill or joint resolution which makes effective the authorization of such funds for that fiscal year for Central American countries.

(2) The text of the provision making effective the authorization of funds under this subsection must state that the authorization of funds contained in the Central America Development Act of 1984 shall be effective for a given fiscal year with respect to all Central American countries for which assistance is to be authorized.

(c) In the event that Congress has not completed action on a bill or joint resolution under this section by the start of any fiscal year, and pending the completion of such action, not more than 25 percent of the funds specified in Titles II and III of this Act which are allocated for assistance for any Central American country may be deemed authorized on an interim basis for a period not to exceed ninety days, notwithstanding subsection (b).

CONGRESSIONAL PRIORITY PROCEDURES

SEC. 504. (a)(1) A bill or joint resolution under section 503(b) shall be considered to in the Senate in accordance with the provisons of section 601(b) of the International

Security Assistance and Arms Export Control Act of 1976.

(2) (A) For the purpose of expediting the consideration and adoption of bills or joint resolution under section 503(b), motions in the House of Representatives to proceed to the consideration of such a resolution after it has been reported by the appropriate committee shall be treated as highly privileged.

(B) If the Committee on Foreign Affairs has not reported a bill or joint resolution to make effective the authorization of funds for Central American countries within ten days after such bill or joint resolution is referred to that Committee (excluding days on which either House is not in session because of an adjournment of more than three days to a day certain), it shall be in order to move to discharge that Committee from further consideration of that bill or joint resolution, except that no motion to discharge shall be in order after the Committee has reported a resolution pursuant to section 503(b). A motion to discharge under this subparagraph is highly privileged.

(b) (1) Any bill or joint resolution introduced to terminate United States assistance for a Central American country for the fiscal year 1985 or any joint resolution or bill introduced to amend or repeal a law described by section 503(b) shall be referred to the Committee on Foreign Affairs of the House of Representatives or the Committee on Foreign Relations of the Senate, as the case may be. Such joint resolution or bill shall be considered by such committee within fifteen calendar days and may be reported out, together with its recommendations, unless such House shall otherwise determine pursuant to its rule.

(2) Any joint resolution or bill as reported shall become the pending business of the House in question (in the case of the Senate the time for debate shall be equally divided between the proponents and the opponents) and shall be voted on within three calendar days thereafter, unless such House shall otherwise determine by the yeas and nays.

(c) A joint resolution or bill under this section passed by one House shall be referred to the committee of the other House named in subsection (a) and shall be reported out by such committee together with its recommendations within fifteen calendar days, unless such House shall otherwise determine by the yeas and nays.

(d) In the case of any disagreement between the two Houses of Congress with respect to a joint resolution or bill passed by both Houses conferees shall be promptly appointed and the committee of conference shall make a file a report with respect to such joint resolution within six calendar days after the legislation is referred to the committee of conference. Notwithstanding any rule in either House concerning the printing of conference reports in the Record or concerning any delay in the consideration of such reports, such report shall be acted on by both Houses not later than six calendar days after the conference report is filed. In the event the conferees are unable to agree within forty-eight hours, they shall report back to their respective Houses in disagreement.

(e) A provision making effective the authorization of funds under section 503 shall be in order, notwithstanding any other provision of law, this Act, or the rules of either House.

TITLE VI—MISCELLANEOUS PROVISIONS

DEFINITIONS

SEC. 601. For the purposes of this Act, the term "Central American countries" shall be deemed to include Belize, Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua, Panama, and regional programs which benefit such countries.

ECONOMIC AND HUMANITARIAN AID TO CENTRAL AMERICA

Mr. DOMENICI. Mr. President, this continuing resolution provides the second installment of the multi-year economic aid package that was recommended by the National Bipartisan Commission on Central America; 6 weeks ago Congress provided $400 million in fiscal year 1984 supplemental. This bill brings the total for Central America economic and humanitarian aid to $1.5 billion. That's a good and generous beginning, but there is a lot to be done by us and by the Central Americans themselves before they can pull themselves back to the standard of living they enjoyed 10 years ago.

As my good friend and fellow student of the crisis in Central America, [Mr. CHILES] has just stated, we need to move on from a focus on the questions about how much aid to provide under what conditions to a focus on what aid to Central America is accomplishing. If the aid isn't doing what we want it to do and what the Central Americans want it to do, not much has been accomplished.

I frankly don't know whether the $8 billion in appropriated funds and guarantees that was recommended for Central America by the Bipartisan Commission and the President is the right amount. Perhaps, I am more optimistic than my colleague from Florida, but my service on the Bipartisan Commission last Winter left me with the impression that it may be too little. Like him, I will be watching very carefully to see how the Agency for International Development and other Government agencies make use of the large amount of money we have provided over the past 6 weeks.

Generally, the administration has been on the right track in its focus on the economic and humanitarian problems that underlie the security and political crisis in Central America. I would remind the officials who will administer this money that there were a large number of imaginative suggestions regarding uses of these funds included in the report of the Bipartisan Commission. Along with others. I will be monitoring the mangement and use of this money. In the end, only the results, the impact on the poor majority, will make any difference.

THE CHILES/DOMENICI PROPOSAL

Mr. LEAHY. Mr. President, in the midst of this hurried consideration of the continuing resolution, the Senate is approving a great increase in foreign aid, especially for Central America. I am concerned that so little debate, so few hearings, and so much confusion surrounds the so-called Kissinger aid package.

I have read the proposal suggested by Senators CHILES and DOMENICI and I think it provides a interesting new approach to better management of our foreign aid effort. The questions that my colleague from Florida raises are right on target. Instead of taking a hard look at just how aid works, the Senate seems to be reverting to the old habit of simply pouring more money into foreign aid. I hope that next year we will have the opportunity in committee to study this proposal and to give careful oversight into the effectiveness and long-term usefulness of our current aid programs.

I congratulate both Senators CHILES and DOMENICI for breaking ground in this area. It is clear to me that it is high time for new thinking and new ideas for the management of foreign aid.

STATEMENT REGARDING THE BIDEN AMENDMENT NO. 7018

Mr. DECONCINI. Mr. President, William J. Casey, Director of the Central Intelligence Agency, wrote the following words on March 8, 1984, to my colleague, Senator MOYNIHAN:

> All of us know that the increase in the personnel and budgetary strength of the Agency began in 1979, that it was planned and proposed earlier, and that it cannot be completed without strong bi-partisan support. . . . The protection of our national security . . . is too important a mission to subject to the vagaries of the political process or the partisan purposes of either party.

I ask my colleagues to compare Mr. Casey's statement with a statement made by President Reagan in a campaign appearance on September 26. Referring to the latest attack against our Embassy in Lebanon, President Reagan said, "We're feeling the effects today of the near-destruction of our intelligence capability in recent years before we came here." A White House aide later indicated that President Reagan was referring to the administration of President Carter.

A comparison of these two statements reveals three things. First, once again, the President has his facts wrong. The truth is that the intelligence budget declined each year during the early 1970's. The decline stopped during fiscal year 1978, the first full budget year of the Carter administration, and rose during each of the four Carter administration budget years.

Second, the President is clearly and unscrupulously using the CIA and the disastrous loss of life in Lebanon for partisan political purposes.

Third, the President's attempts at shifting the blame to the intelligence agencies and to the Carter administration just won't work. If there have been any shortcomings in the intelligence agencies, the President has had

4 years to correct them. The fact of the matter is that the administration knew full well the risks posed to our facilities in Lebanon. The fact is that the administration knew full well the risks which would result from moving our personnel into a building that was not fully protected. But the Reagan administration made a calculated decision to take those risks. The President cannot get around these facts. I hope for the sake of our military and foreign personnel around the world that the President begins to face up to the realities caused by his own policies rather than scapegoating those who are not to blame.

CYPRUS

Mr. TSONGAS. Mr. President, I am sure my colleagues are well aware that last month the Republic of Cyprus marked the sad occasion of the 10th year of its occupation by Turkish troops. Today, 10 years after Turkey's illegal and immoral invasion, 20,000 Turkish troops remain on the island and 200,000 Greek Cypriots continue to be refugees in their own homeland.

While the 10-year mark of occupation is a tragedy, this body must now mark a sad anniversary of its own. This past Wednesday marks exactly 6 years since we lifted the Turkish arms embargo. We took this measure with the understanding that Turkey would reciprocate by removing their troops from Cyprus. In the last 6 years, Turkey has steadfastly refused to remove those troops. The language in the bill lifting the embargo cited the expectation of progress on the peaceful resolution of the Cyprus crisis and the improved relations between Greece and Turkey as the basis for such a conciliatory move. I submit there has been anything but progress toward peace on Cyprus. In the last 10 months alone, Mr. Denktash, with the support of Ankara, invoked a unilateral declaration of independence, exchanged Ambassadors with Turkey, announced a general referendum for purposes of drafting a constitution, and called for a November general election. I further submit that relations between Greece and Turkey have not improved and that our security in that region will continue to be threatened until the Cyprus crisis is resolved. The southeastern flank of NATO has not been operational since the first days of the invasion. While Turkey continues to cite its need for more military assistance from the West, it continues to commit vast resources to its illegal occupation of Cyprus as well as what it perceives is a real possibility of invasion by its NATO ally, Greece. Clearly, the progress we expected, indeed were promised, upon the lifting of the embargo has not occurred. Since that date 6 years ago, we have been consistently disappointed by the lack of progress on this issue. Clearly, the time has come for us to do something about it.

This week, the Senate Appropriations Committee agreed to Senator INOUYE's amendment to the continuing resolution which places conditions on $215 million in military assistance to Turkey. While I am not completely satisfied that the conditions would be effective in their present form, I am grateful that the Senator from Hawaii and the rest of the Appropriations Committee have agreed to the concept of conditioning as a means by which to effectuate some positive movement in the Cyprus dispute. In the past, similar tactics have been effective tools when negotiating with Turkey. In 1974, the U.S. threat to limit arms sales persuaded Turkey to virtually eliminate the illicit poppy production that supplied heroin to this country. Conditioning aid to Turkey on definite progress on the Cyprus issue will send a clear message to Ankara that its continued intransigence can no longer be tolerated. We must always remember our experience with the lifting of the arms embargo. Failure on our part to take the steps necessary to achieve progress on this issue will not only be irresponsible, it will be a refusal by this body to recognize our past failures and, more importantly, to learn from them.

VIETNAM VETERANS OUTREACH PROGRAM

● Mr. LEAHY. Mr. President, President Reagan recently signed Public Law 98-371, which will, among other things, provide an additional 220 full-time employees for the Vietnam Veterans Outreach Program throughout the country. I am glad to have worked with Senator DOMENICI and Senator GARN to get his much-needed expansion into the HUD-independent agencies appropriations bill for fiscal year 1985.

The two vet centers in Vermont, with their four full-time counselors and one team leader, are responsible for providing services throughout the State and to the four western counties of New Hampshire. Within their domain are between 25,000 and 30,000 Vietnam-era veterans. Over the last 6 months, these centers have had an average of 430 veteran visits per month, and have attracted roughly 50 new veterans each month over the same period. The very success of the Vermont Vet Center program has placed an overwhelming burden on the counselors providing services for needy veterans.

It was with this severe staffing problem in mind that Senator STAFFORD—my colleague and member of the Veterans' Affairs Committee—and I sent a letter to Administrator Walters asking that at least 1 of the new 220 full-time employees be assigned to Vermont to rectify this situation. Given that the program is expanding by almost 40 percent, we think this is a reasonable request.

Although we still have not received a response to our letter of August 2, I understand that our request has not been approved. Senator STAFFORD and I hope that with the assistance of the Senator from Utah we can direct the VA to assign at least one new counselor to the Vermont Vet Centers during fiscal year 1985.●

● Mr. GARN. Mr. President, Senator LEAHY AND Senator STAFFORD have presented your perception of a critical understaffing problem in the Vermont Vet Centers in this fiscal year. I understand from my staff that the VA employees in Vermont are doing an exemplary job. I plan to follow up with the VA to ensure that their basis for the distribution of the new employees within the vet center program will be an equitable one, and that they are aware of the problems in Vermont you describe.●

TRANSPORTATION APPROPRIATIONS

Mr. SPECTER. Mr. President, I commend the chairman of the Appropriations Subcommittee on Transportation and Related Agencies [Mr. ANDREWS] for his leadership in preparing for Senate action on transportation appropriations for fiscal year 1985. Through his efforts, the Senate Committee on Appropriations reported S. 2852 to the Senate on June 29, 1984, with the accompanying Senate report 98-561, thereby allowing us to prepare for prompt consideration once the House acted.

I take this opportunity to comment briefly on a Senate provision included by the committee at my behest, an amendment that will serve to remedy a problem in the administration of the small community air service program by restoring essential air service to Hazleton, PA.

When the Congress passed the Airline Deregulation Act of 1978, we guaranteed that certain small communities around the country would continue to receive air service. Congress established the small community air service program in order to protect against potentially harmful effects of deregulation and to provide Federal assistance to guarantee at least a minimum of essential air service until 1988 for small communities that met certain statutory criteria. Hazleton, PA, is one of the communities that qualifies under the statute as a community entitled to the benefit of the essential air-transportation program.

In 1979, the Civil Aeronautics Board, in its initial consideration of Hazleton under the statute, recognized that Hazleton was to be guaranteed service at the statutorily prescribed minimum of two round trip flights, 5 days a week. In its order 79-10-159, the CAB found:

In 1977, Pocono provided three and one-half daily round trips to Newark * * * and

one daily round trip to Williamsport. * * * Because this exceeds the minimum specified by section 419(f), we will guarantee Hazleton two round trips five days a week.

Almost before the ink had dried on its recognition of its responsibility to Hazleton, the CAB began a series of actions and reconsiderations that has rendered Hazleton and its citizens without essential air service for almost 4½ years of the 6 years during which they were to have been guaranteed such service.

It was not until February 1981 that the CAB finally completed its selection of a carrier to provide essential air transportation to Hazleton. In its order the CAB simultaneously served notice of its intention to terminate the service subsidy in August. In August 1981, Hazleton's guaranteed essential air service was terminated when the Board redefined the community's guaranteed level of service at zero.

Rather than the 10 years of guaranteed service that Congress intended, Hazleton was afforded only an agency-initiated test superimposed onto the statutory scheme. The community was denied the service to which it was entitled by a tortured, and I submit, improper application of the statute. In its order 81-8-34, the CAB relied on the lack of air service at Hazleton for a portion of 1977, ignored its own prior findings, ignored the air service Hazleton received for over half of 1977, ignored the schedule in effect for the year, and terminated the statutorily guaranteed service. The redesignation of Hazleton's guaranteed essential air-service level at zero is not consistent with the congressional intent underlying the act and is an improper application of its provisions to Hazleton. Zero is not a level of service, it is the absence of guaranteed service.

Since the termination of service, Hazletonians have been petitioning the CAB for reconsideration and the restoration of essential air service to their community. I have met with citizens of Hazleton both in Washington and in their northeastern Pennsylvania community about this problem. I have written the Chairman of the CAB, interested Senate colleagues and Secretary Dole on their behalf.

When the CAB denied their petition to reconsider their most recent petition to restore essential air service, it became necessary for the Congress to set the matter right by clarifying the proper application of the small community air service program to guaranteed points such as Hazleton. I am gratified that this provision is included in the Senate Appropriations Committee amendments.

I have worked with leaders of the Hazleton community to develop a plan that will not only restore essential air service to Hazleton, but will do so in a way that maximizes the community's chance to sustain air service after 1988 and minimizes the subsidy cost to the Federal Government. As the committee report notes, the Hazleton community has expressed an interest in sharing the costs of the necessary subsidy. It had proposed an unprecedented cost-sharing arrangment to allow the Federal contribution to be half of the necessary subsidy.

Several business and community leaders have expressed a strong interest in creating a locally owned, locally based commuter airline to provide the service. It is their view, which I share, that local support is essential if the program is to realize its maximum fulfillment and provide a period of transaction in which self-sustaining air service can be built. In this way, we hope to transform the subsidy program into a development program that will truly serve over its remaining 4 years as a component in the economic revitalization of the region. It is not simply commuter air service, but business growth, industrial development, and even the birth of a local airline that can be faciliated by this remedial legislation.

In order for this restoration of essential air service at Hazleton to reach its greatest potential for success several steps must yet be taken. The fully and unreserved cooperation of the CAB and the Secretary of Transportation are critical. I ask the program administrator not to be distracted by the difficulties and differences of the past, but to join with me and the people of Hazleton in making this restoration of air service a meaningful opportunity to develop self sustaining service for an important Pennsylvania community.

In working out the report language accompanying the amendment, the committee has acceded to the CAB's request that some passenger levels be included as benchmarks by which to measure Hazleton's progress. I feel such levels are unnecessary for several reasons. First, because Hazleton is not a community whose eligibility for guaranteed essential air service rests on discretionary factors. It is an eligible point whose service is to be guaranteed. Second, because good-faith efforts by citizens and businesses in Hazleton to provide safe and efficient service should be given every opportunity to success in a cooperative atmosphere in which Government at the Federal, State, and local levels join with private enterprise in a mutually supportive effort. Third, because the statutory language already provides a limit of the Federal contribution to the necessary subsidy.

It is my hope that the new air service will not only neet but exceed the high passenger levels suggested in the report. Strong community support for the carrier will be necessary. The CAB should give great weight to the community's views as they go about the task of effectuating the restoration of air service at Hazleton. Indeed, the community's contribution and support will inevitably hinge on the acceptability of the manner in which the CAB and Department of Transportation proceed. Everyone residing in Hazleton has an important stake in this venture and interest in its success. Their views with respect to airports destinations in the Philadelphia or New York areas, their views as to carrier selection, and their views as to other aspects of the essential air-transportation program should be respected, as the statute suggests. With community support and Federal agency cooperation, the level of five passengers per day, 5 days a week, boarding at authorized spots in and out of Hazleton is achievable in the last month of the first year of restored service.

We must recall, however, that Hazleton has been without any service for the past several years and has had ineffective service over the last decade and one-half. It is in recognition of the need for a period to reestablish ridership patterns that the initial passenger measurement will not be made until the last month of the first year of restored service. It is my understanding, and I am sure of the committee, that this final month average is to be evaluated in context.

The commitment of the CAB to the success of this restoration of air service at Hazleton is essential. Any lack of complete cooperation at the Federal agency administrating this program will be critical. Thus, for example, the Board and the Department of Transportation should commence the carrier-selection process in the winter and time the resumption of air service to begin in the spring so that winter weather will not adversely impact on passenger levels in the last month of the first and second year of restored service.

Through community support and agency cooperation, this small Pennsylvania community can be restored to rightful participation in the essential air service program. I speak for the citizens of Hazleton, PA, when I ask that they be accorded the Federal support they need to develop air service for their community and in thanking my colleagues for making their renewed participation in the essential air-service program a reality.

VA CONSTRUCTION

Mr. SIMPSON. Mr. President, I wish to take a moment to express my views on the VA's construction program and to share my concerns with my fine friend and colleague, JAKE GARN who, as chairman of the Appropriations Subcommittee on Housing and Urban Development and Independent Agencies, has participated in this continuing saga which has consisted of our persistent attempts to have the VA ex-

plain the need and justification for their construction request.

I believe that it is important to pause and reflect on the events of this past year with respect to the VA's major construction requests for fiscal year 1985, and to reaffirm our mutual commitment to require the VA to plan more realistically for future construction projects.

Our problems in reaching this goal are compounded by the existing statutory language found in section 610(a), title 38, United States Code, which states that:

> The Administrator, within the limits of Veterans' Administration facilities, may furnish hospital care or nursing home care which the Administrator determines is needed to. . . .

And then, it goes on to list, without prioritization, all categories of veterans eligible for care. Each section of title 38, United States Code which pertains to VA health-care eligibility contains the phrase "the Administrator may, within the limits of Veterans' Administration facilities* * *". Statutory language governing planning of new hospital construction, modernization and replacement does not use this discretionary, limiting language or a reference to it. Here, perhaps, is where the confusion lies. How does one translate "within existing VA facilities" when a new VA hospital or nursing home is being planned and built?

The VA's Report entitled "Caring for the Older Veterans," states that the agency's future plans are to deliver services to meet "real needs." That seems to mean full access and availability of VA health care to all veterans. This approach would require an increase in VA hospital beds by at least 27 percent and more than 50 percent funding increase by the year 2000, and between 50 percent increase for 1990, and 70 percent increase for 2000 in full-time personnel.

This Nation has a strong and unending commitment to its veterans and will continue to ensure a comprehensive health-care system to provide quality care and treatment for all veterans with service-connected disabilities. The balance of eligible veterans will be provided care as space allows, especially for needy and aging veterans. I believe that we, in the Congress, may need to address in greater depth the needs of and priorities for those veterans who actually served in combat and combat zones whether or not they were disabled during service. These veterans who have actually borne the battle deserve the country's highest and special gratitude.

I think that in order to maintain and improve the present quality of health care to our Nation's veterans, we need to plan realistically and to make decisions now that will affect the kind and quality of health care in the future. Buildings can and, in fact do, often lead to and establish the type of care delivered in a hospital. If new hospitals and replacements are constructed based just on past experience and occupancy rates—which the VA says they are—then no room for new ideas, new innovations, and new concepts is allowed. It is absurd—while claiming to be a leader in modern health care, we are building these facilities based on tradition without taking into consideration current trends in health care—especially increased use of ambulatory care. By using multiples of current and past levels of care, and planning for total access for all possible veteran patients, the VA makes assumptions that are truly unrealistic about the VA being able to care for all of our Nation's veterans and the Federal Government being able to fund such an effort. However, in spite of a need to plan realistically, it is true that the system is growing; it is true that it should grow and expand appropriately to a certain degree; and it is true that we endorse special efforts and attention for service connected, needy wartime, and aging veterans.

I have worked long with the Senator on this issue and I believe that we agree on the basic premise I have addressed. We had a colloquy earlier this year on this very same subject, and as he knows, my two concerns were that the appropriation for the VA medical construction budget should be thoroughly justified and that the size and location of the projects proposed for fiscal year 1985 would include service connection as a weighted planning factor—along with an explanation of certain other factors.

I am well aware that the Appropriations Committee's actions on the VA's resubmitted list of construction priorities include the intent to appropriate funds for every single project on the VA's resubmitted list. In spite of the fact that it does not follow the downsizing and limiting instructions made by the Veterans' Affairs Committee and which you endorsed. I want to ask the Senator first about his continuing support of my request that the VA determine the need of service-connected veterans for medical treatment in their planning for future medical facility construction and second, what actions he might expect the VA to take since their list will be approved without a revised sizing effort of any kind. I do note in the CR report language that the Senator directs the VA to give "due consideration" to the bed-sizing recommendations of the authorizing committee, which I chair. However, I wish to have an additional indication from the Senator of his intent to follow through with further action if the VA does not proceed in good faith with the recommendations of our committees.

Mr. GARN. Mr. President, I certainly do appreciate the concerns the Senator is expressing now and I continue to experience many frustrations over the VA's reluctance to be responsive to our directives. In approving the VA's list, I wish to emphasize that I do not step back 1 inch from my commitment to the Senator in supporting the concept the authorizing committee has taken with respect to bed sizing and emphasis on service connection in constructing planning. I believe that the Senator would agree with me that a plan to resize these six replacement and modernization projects would not have to follow the exact formula the authorizing committee recommended, as long as it would be weighted to include the needs of service-connected veterans, and an indication that these projects are not meant to accommodate every single eligible veteran, but a realistic proportion of veterans, with service-connected veterans, being the No. 1 priority. The Senator can be assured that I will continue to work with him in the next Congress to assure that some change will occur on our efforts to encourage the VA to be more responsive to our concerns.

Mr. SIMPSON. I agree completely and I find it difficult to imagine that anyone could argue our desire to plan first for the needs of the highest priority category—our Nation's service-connected veterans. Once we know what their needs are, we can better balance the system with other veterans who are needy and who require health care as space and resources allow.

Mr. GARN. I expect to hear back from the VA as soon as possible with a solid indication as to how they have begun to revise plans along the lines of our recommendations for the six major construction replacement and the modernization projects for which funds were appropriated. If the VA is unable to meet the timetable, then we should meet with them immediately on this important issue to understand that joint steps must be taken to work together toward the implementation of the goals.

Mr. SIMPSON. I am most pleased to hear what the Senator has stated and it helps somewhat to allay my concerns in this area. I have been going over in my mind whether or not to offer an amendment which would provide a statutory remedy to this very basic concern of mine. However, since the Senator has assured me of his commitment in this regard, I will refrain from offering legislation at this time which would provide a direct statutory mandate that the Administrator plan more in accordance with current law and the intent of the authorizing and Appropriations Committees. Early in the next Congress, I intend to explore this issue in much greater detail. Perhaps legislation will flow from that. It certainly intrigues me and I

think I shall do it. Particularly if the VA, once again, acts without regard to the every strong concerns expressed by both of us.

I thank the Senator for his continued support and interest in this construction issue. I know that it is always tough to rock the boat in the veterans' arena, but times change as do health planning needs to reflect the new focus on ambulatory care and a greater need for intermediate and long-term beds. We wish to come at this issue in a way that will result in the best health care for veterans now and in the future. We need to build with those needs and availability of resources in mind. Our country has thrived on the efforts of people who think ahead and forge on with new initiatives. I truly believe that our Nation's commitment to veterans is strong and true and that attempts to observe more closely the needs of those veterans for the future and to plan for their needs in a very thoughtful and rational manner is the very best way to proceed for the good of the country as a whole—and certainly for its most deserving veterans.

HANDFORD AMENDMENT

Mr. GORTON. Mr. President, when the fiscal year 1985 energy and water development appropriations bill passed the Senate in June, I supported it even though the programs at the Hanford Engineering Development Laboratory in Washington State were cut significantly and 200 people would lose their jobs. I supported the bill in good faith because I realized that the breeder reactor activities of DOE were being cut back at all the national labs and it was only fair that the Hanford lab accept its fair share of the cuts.

In May, just before the fiscal year 1985 bill passed the Senate, DOE announced the preliminary guidance budget figures for the national labs during fiscal year 1985. The Hanford lab was targeted to get $92.3 million for its operating budget, a $3.7 million cut from its fiscal year 1984 operating budget. But 2 weeks ago when DOE announced the final fiscal year 1985 operating budgets for the national labs, Hanford was told it would receive $86.1 million, a $6.2 million decrease from its May preliminary guidance budget figure.

My amendment simply restores $6.2 million to the Hanford lab, the preliminary funding figure set by DOE in its proposed allocation in May on which our DOE appropriation was based. Without this restoration of funds—and I want to emphasize that this is not additional money, it simply restores the May funding figure—140 additional jobs will be lost at Hanford and the long-term operation of the Fast Flux Test Facility will be seriously jeopardized.

The Hanford Engineering Development Laboratory is a facility dedicated to the breeder reactor program. The crown jewel of the U.S. breeder program is FFTF— the Fast Flux Test Facility—the world's largest breeder test reactor.

Today the program is providing operating experience which surpasses the fuel burnup and reactor availability of any other breeder reactor facility in the world. It has proven the liquid metal reactor concept to be highly reliable by setting a world record of over 100 days of continuous full power operations. During its last operating cycle, it functioned at over 99 percent capacity factor.

The project is providing extremely helpful data on fuel cycle technology, innovative safety features, artificial intelligence development and advanced core materials.

This facility, with its remarkable operating experience has the capacity to be a key part of our international cooperative effort. The better our machine functions the more interest will be generated in the international community.

The present funding cycle, however, reduces our ability to keep the equipment operating at these high capacity factors. It delays high burnup fuel experiments for 1 or 2 years, reducing our lead in the fuels area. It also cuts development programs in the high technology areas of fuel performance, artificial intelligence and safeguards. These delays impact our ability to influence and participate in the world nuclear development programs.

We have already reduced the HEDL program by over 1,000 jobs since 1981. The adoption of this amendment will mean we will be able to maintain our high operating capacity factor for 1985 and save 140 jobs. We will be able to maintain our base technology program for 1985 so that we can move forward with international agreements. Hopefully, this knowledge and our leadership role will permit us to influence world nonproliferation discussions as well.

I urge your support for this amendment to restore this program to a minimum funding level—the May preliminary budget—consistent with continuing to provide data and operational experience for this important project. This is not a new start, but rather an opportunity to build upon existing technology which is being developed throughout the world.

Mr. PELL. Mr. President, I oppose passage of the continuing appropriations resolution. I am doing so because, in my view, the resolution provides for continued excessive levels of spending for military and defense programs.

Nonessential spending at any time is unfair to the Nation's taxpayers, but at a time when the Federal deficit is huge and growing, this excessive pending is both unfair and a serious threat to our economy.

During the past 4 years, drastic changes have been made in Federal Government, budget and financial operations. The Federal Government budget deficit has grown from less than $60 billion to more than $170 billion with even larger deficits projected for the coming years.

The runaway growth in defense spending has contributed significantly to these large increases in the Federal deficit. During the past 4 years, Federal Government spending for nondefense discretionary programs has been effectively restrained. There has been almost no growth in spending overall for these programs, while spending for defense has nearly doubled.

What has happened can be seen very clearly when we compare the total funds appropriated for nonentitlement programs for fiscal year 1981 and the funds now being provided for fiscal year 1985. With passage of this legislation, total appropriations for 1985 will be about $556 billion. That is about $130 billion more than was appropriated for the same purposes 4 years ago. And, of that increase of $130 billion, $116 billion has been for defense spending and foreign military aid. Ninety percent of the increase in appropriated funds over the past 4 years has been for defense spending. It is because that increase has been excessive, and at the cost of funds for high priority nondefense programs that I oppose this omnibus appropriations bill.

I do, of course, support many of the provisions of this legislation. I am particularly pleased, for example that this measure does include some modest and badly needed increases in funding for education including the Pell Grant Program and the program of educational assistance for disadvantaged children. These increases do not fully offset the losses these programs have suffered through inflation and inadequate funding in past years, but they do represent a significant step in the right direction.

But the overriding fact is that this omnibus spending bill continues the rapid and unjustified escalation in defense spending, at a time when neither our budget nor the American taxpayers can afford it.

AEROSTAT BALLOON

Mr. COCHRAN. Mr. President, I am pleased that report language I requested directing the Coast Guard to lease an additional aerostat radar balloon and begin procurement for three radar balloon systems is included in the committee report on House Joint Resolution 648, the continuing resolution.

The Subcommittee on Transportation had approved my original request directing the Coast Guard to continue the lease of one aerostat system pend-

ing completion of the Coast Guard's evaluation of the system.

The Coast Guard has now issued its final report which indicates that use of the system in the Caribbean choke points could increase the rate of interdiction of drugs being smuggled into the United States to 90 percent, compared to the current interdiction rate of only 20 percent. This is an extremely significant enhancement of the Coast Guard's interdiction capability. It is important that these systems be fully employed as soon as possible.

I thank Senator ANDREWS for his assistance and commend him for his support of this important drug enforcement initiative.

LOCKS AND DAMS NO. 7 AND 8

Mr. SPECTER. Mr. President, I would like to take this opportunity to engage in a colloquy with the distinguished chairman of the Appropriations Committee.

Last year, when the Senate Appropriations Committee considered H.R. 3958, the Water Resource Development Appropriations bill, I had planned to offer an amendment to include Grays Landing (lock 7) and Point Marion (lock 8) on the Monongahela River in Pennsylvania in the Senate version. The House had already included these projects in its bill, but the Senate Energy and Water Subcommittee deleted them in its recommendations.

The distinguished chairman of the subcommittee, Senator HATFIELD, urged me to withdraw the amendment in order to get the bill to the floor.

I did so in order to assist the chairman in achieving his goal, but with the understanding from the chairman that he would look favorably at these projects in conference.

The situation of locks and dams 7 and 8 is a source of great frustration. On May 5, 1972, the Secretary of the Army recommended replacement of the existing lock and dam 7 and lock and dam 8 with new and larger structures. The Secretary authorized and recommended work on October 13, 1973, under the 1909 River and Harbor Act authority and the Corps started postauthorized studies. Unfortunately, these studies were later suspended in view of the Secretary's position taken as a result of the lock and dam 26 controversy. Thus, Pennsylvania and West Virginia have suffered the consequences of this policy.

If replacement of Nos. 7 and 8 is not appropriated now, it will result in the waterway being closed to all traffic by 1999. It is projected that this would cause disruption in transporting an estimated 9.5 million tons of coal each year—with a market value of $300 million—as well as the loss of over 17,000 jobs in the area which can ill afford to lose more employment opportunities. I cannot stress to you enough the importance of these locks and dams to the economies of Pennsylvania and West Virginia.

I would like to ask the distinguished chairman if I am correct that his commitment to look at these two locks and dams favorably would still hold in the conference on House Joint Resolution 648 since the House version includes locks and dams Nos. 7 and 8?

Mr. HATFIELD. The Senator is correct.

Mr. SPECTER. I thank the chairman for his assistance in this important matter.

DEFENSE AND MILITARY CONSTRUCTION APPROPRIATIONS IN THE CONTINUING RESOLUTION

Mr. COCHRAN. Mr. President, I am pleased to rise in support of the provisions of this continuing resolution which will provide funding for defense and military construction programs for fiscal year 1985.

I commend Chairman HATFIELD, Senator STEVENS, and my colleagues on the Defense Appropriations Subcommittee who have worked long and hard to put together a defense appropriations bill under very difficult circumstances. I believe the level of defense spending provided under this resolution meets most of our concerns with the budget deficit without endangering the many programs that are vital to this Nation's national security.

I am especially pleased that we were able to provide funding to continue our ongoing program to rebuild U.S. naval forces to meet a growing Soviet naval presence and capability. Our fiscal year 1985 shipbuilding program will be funded at a sufficient level to procure three *Aegis* cruisers, begin reactivation of a third *Iowa* class battleship, and begin procurement of the first of the DDG-51 *Arleigh Burke* class guided missile destroyers.

The fiscal year 1985 level of defense spending in this bill also provides a substantial increase over fiscal year 1984 for our National Guard and Reserve components. Funding is provided for badly needed equipment and training. I am pleased with the recommendation of the committee that 10 C-130 aircraft be procured for our Reserve components.

The committee has also approved report language I requested which increases military support for the interdiction of illegal drugs.

The sum of $9.5 million has been approved for the Navy to modify three P-3A aircraft with F-1 radar systems to be provided by the Air Force. These aircraft are to be completed and transferred to the U.S. Customs Service by the end of fiscal year 1985.

These P-3A aircraft are a crucial component in the U.S. Customs Service's Air Interdiction Program. Already the prototype aircraft has been completed, and, following operational testing, will be stationed in New Orleans for surveillance missions over the Gulf of Mexico.

The threat from the airborne smuggler is enormous. The Drug Enforcement Administration has reported that 61 percent of the cocaine and 25 percent of the marijuana entering the United States comes in by general aviation aircraft. Detection and interdiction of these airborne smugglers are extremely difficult because they can fly directly from the source country and attempt to enter our borders flying at low-level altitudes at night without lights.

To counter these tactics, our Federal law enforcement agencies must have the capability to detect, track, and interdict these aircraft. The P-3A aircraft, equipped with the sophisticated F-15 radar, will enhance significantly the Custom Service's air surveillance capability.

The U.S. Coast Guard is another of our frontline drug enforcement agencies and is responsible for marine detection and interdiction. I am pleased that within the Transportation Appropriations section of the continuing resolution, the committee has also approved the lease of two aerostat radar balloons and the procurement for three radar balloon systems in fiscal year 1985 that will improve their marine interdiction capability. The Coast Guard has completed its testing and evaluation of these systems in the Caribbean choke points and can increase the rate of interdiction of illegal drugs to 90 percent, compared to the current interdiction rate of only 20 percent.

Just recently, on September 13, the Coast Guard seized, in the Gulf of Mexico and towed into Gulfport, MS, the vessel, *Queen Anne,* containing 150 to 200 60-pound bales of marijuana. This ship was spotted and tracked by a C-130 aircraft, then seized by the cutter *Acushnet.* With radar balloons deployed in the strategic choke points, the Coast Guard will be able to spot, track, and seize 70 percent more of the ships en route from South America through the Windward and Yucatan passages.

I want to commend the U.S. Customs Service and the U.S. Coast Guard for their vital work in the interdiction of illegal drugs, and I want to thank Senators STEVENS, ANDREWS, and HATFIELD for their assistance and support for these important drug enforcement initiatives.

In regard to the military construction appropriations bill reported from the committee and included in the continuing resolution, I want to commend Senator MATTINGLY for the work of his subcommittee. His bill will fund the many need projects that are so critical to the quality of life for those who serve in the Armed Forces, their families and the day-to-day operation of our U.S. bases at home and overseas. These projects are most impor-

tant to maintaining morale and insuring that our troops, whether active, National Guard, or Reserve, are provided the facilities that will insure their readiness.

The military construction appropriations provided in this resolution will fund a number of important projects in Mississippi totaling $68,369,000. Projects funded include $16.5 million for Keesler Air Force Base in Biloxi, $9 million for Army National Guard facilities at Camp Shelby near Hattiesburg, $2.87 million for the Naval Air Station at Meridian, $5 million at Columbus Air Force Base, $11.1 million for Air National Guard Projects at Gulfport and Jackson, $21.8 million for the Naval Construction Battalion Center at Gulfport, and almost $2 million for the Naval Oceanographic facilities in Bay St. Louis.

Mr. HELMS. Mr. President, I commend the chairmen of the full committee [Mr. HATFIELD] and the subcommittee [Mr. COCHRAN] for the excellent job they have done in arriving at a resolution of the agriculture appropriations figures for fiscal year 1985.

It is certainly reasonable to include in this continuing resolution the levels contained in the agriculture appropriations conference report (H.R. 5743).

I particularly commend them for insisting on full year appropriations for a number of programs within the Food and Nutrition Service, programs which the House had proposed to fund for only part of the year. As I noted during the Senate's earlier consideration of the fiscal year 1985 agriculture appropriations bill, on August 9, these budgetary ploys do a disservice to the budget process and endanger its continued viability.

In the conference report, part of the appropriations for some of these programs is contingent on the receipt of a subsequent budget request from the administration. This will permit the administration to evaluate whether additional funds will be needed as the fiscal year proceeds, and to make a request to release some or all of the balance of these funds, if the administration deems that necessary or desirable.

I reiterate my support for the bill's provision making part of the food stamp appropriation contingent on the Secretary of Agriculture taking "the regulatory and administrative methods available to him under the law to curtail fraud, waste and abuse in the program". As best I can determine, this contingency funding provision originated in the fiscal year 1968 agriculture appropriations bill. Representative JAMIE WHITTEN, then and now chairman of the House Agriculture Appropriations Subcommittee, outlined the necessity for this provision on May 1 of that year as he described findings from the committee's surveys and investigations staff with regard to the Food Stamp Program:

First. Inadequate interviews by caseworkers, submission of incomplete applications, and failure to include income for all members of households.

Second. Inadquate identification of participants. . . .

The third category reported by Mr. WHITTEN was that of inadequate criminal prosecution of retail food stores that violated the Food Stamp Program.

Mr. President, I regret to report that while there have been some improvements in program administration and safeguards, two out of three of these fundamental areas continue to be those that plague the Food Stamp Program. We simply must improve these verification procedures and insist that every available means be used to improve them. As Chairman WHITTEN said in 1968, "These conditions need to be corrected to preserve the integrity of the program and to assure maximum operating economy. The funds placed in reserve should not be used until such corrections have been made."

Now, as then, the Secretary is obligated to do everything that he possibly can to ensure that the current regulations and administrative policies do not directly, or indirectly, lead to fraud, waste, or abuse in this enormously costly program.

I outlined my concerns in this regard during previous consideration of the fiscal year 1985 agriculture appropriations bill on August 9, as well as noting liberties which had been taken in the Appropriations Committee report accompanying that bill which made suggestions clearly not contained in the bill itself. I would underscore those concerns now.

Mr. President, I also commend the chairmen for their assistance in resolving the child nutrition funding issues in a way which is consistent with the authorizing legislation, S. 2722, which was reported on May 25 from the Committee on Agriculure, Nutrition, and Forestry. That bill would reauthorize five expiring child nutrition programs at levels sufficient to continue current services levels, as determined by the Congressional Budget Office, for 2 years, fiscal years 1985-86.

As I had feared when the bill was reported in May, however, the bill's consideration in the Senate has been impeded because of the desires expressed by some Senators to use the bill as a vehicle for adding provisions to increase spending on other child nutrition programs, primarily the School Lunch Program, that do not expire this year.

Obviously, I am concerned to protect the prerogatives of the authorizing committee in establishing the authorized program levels. Inasmuch as both the appropriations bill when considered in the Senate and now the continuing resolution are compatible with our committee's action, I do not object to the inclusion of appropriations for these five progams.

Essentially, this continuing resolution "kills two birds with one stone," as the saying goes, providing both the appropriation and, effectively, the authorization for fiscal year 1985. In this regard, we owe a debt of gratitude to the chairmen for their cooperation and assistance in continuing these programs. This action effectively breaks the impasse which has precluded earlier consideration of the authorizing legislation.

Mr. President, because of these developments, I shall not continue to press for the consideration of the Agriculture Committee's bill, S. 2722. With the adoption of the agriculture appropriations within the continuing resolution, a very satisfactory resolution to the issue will have been achieved. I thank the majority leader for his efforts to proceed with the expeditious consideration of the committee's bill. He has been more than cooperative and helpful, as always. The Senator from North Carolina certainly recognizes that remaining time in this session is short and highly valuable, and I would not want to impose on the majority leader or other Senators in insisting on floor consideration for that bill when the situation has been amicably resolved as described.

An additional complicating factor, Mr. President, is that I have been given to understand that the House is not inclined to accept the Senate committee's reported bill, even if we were to pass it in the closing hours of this Congress.

The Committee on Agriculture, Nutrition, and Forestry will have a full agenda next year with reauthorization consideration for fiscal year 1986 and beyond on expiring farm programs, the Food Stamp Program, and now the addition of these five child nutrition programs as well as the possible review and modification of certain programs that do not expire. I do not expect that the lack of Senate action on reauthorization legislation will become the rule, but rather the exception. We will turn to the reauthorization authority for all of these programs early in the 99th Congress.

1 PERCENT THRIFT FOOD PLAN AMENDMENT ON FOOD STAMPS

It is indeed interesting that the one legislative food stamp provision proposed to be included in this continuing resolution is one which increases spending by $137 million.

To the extent that it is portrayed that this amendment represents part of the recommendations of the President's Task Force on Food Assistance, it should be noted that the primary

recommendation of the task force has been omitted. That recommendation was to permit the establishment of autonomous nutrition assistance programs, block grants if you will, at the option of each State. Also omitted is the primary cost saving provision recommended by the task force to tighten the error rate sanction system by requiring States to reimburse the Federal Government for all over issuance errors above 5 percent.

Instead of even a semblance of balance, what we have before us now is a proposal to increase spending by $137 million in fiscal year 1985. No offsetting reductions or improvements, just one large increase. Apparently the House is willing to load up a bill that the administration has already indicated is overloaded.

We have heard so much concern expressed this year about budget deficits and how onerous they are. I certainly think they are. Certainly everyone should recognize that there is a connection between Federal spending and these deficits. That connection includes increases in welfare spending such as that proposed for the Food Stamp Program in this House amendment. The Congress cannot keep talking about concern with the deficit while simultaneously adding to it—in this case by $137 million.

Proponents insist that this increase was recommended by the President's task force. I know that; I accept that. What I don't accept is the fact that proponents have taken, totally out of context, one of perhaps two dozen proposals made by the task force to ram through on this appropriation bill. They do not wish to deal with the total recommendations of the President's task force, only that one provision that most increases spending. They wish to ignore other recommendations to tighten this and other programs.

Frankly, Mr. President, the omission of any offsetting provision further loads down this continuing resolution and makes it more subject to a justified Presidential veto.

SENATE SODBUSTER PROVISION

Mr. President, I commend the subcommittee chairman for the strong position he took in the agriculture appropriations conference supporting the sodbuster amendment previously adopted by the Senate. I understand that, with the chairman's insistence, the sodbuster amendment came down to one of the very last items in disagreement in the conference. I am very disappointed that the House Members could not see their way clear to accept this provision, and it now appears we will have to deal with this problem in the farm bill next year.

WATER RESOURCES DEVELOPMENT AMENDMENT

Mr. PRESSLER. Mr. President, I rise in support of the amendment offered by my colleague [Mr. ABDNOR]. The amendment would initiate a new era in water development in the United States. This action is essential if we are to have an effective water resource development program in the future.

It has been over 8 years since a comprehensive water development bill has been passed. During that time, many new good projects have been developed and many old projects need rehabilitation work. If this work is to be done, we not only need to authorize these projects, but we must develop some type of cost-sharing program to finance these programs. The Federal Government can no longer carry the full burden of paying for water development. The beneficiaries and the State and local governments must play a larger role in paying for water projects. This amendment would provide for a new financing program which would lessen the burden of the Federal Government.

It is important that we act on this authorization this year. Many necessary water projects need to be authorized so that work can begin. For example, in my home State of South Dakota, the Gregory County Pumped Storage project is waiting to be authorized. This project would provide low-cost hydroelectric power to thousands of electric consumers throughout the Midwest. Projects such as this should not be held up any longer.

Mr. President, I urge my colleagues to join me in support of this amendment.

Mr. HATFIELD. Mr. President, third reading.

The PRESIDING OFFICER. The joint resolution is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendments and third reading of the joint resolution.

The amendments were ordered to be engrossed and the joint resolution to be read a third time.

The joint resolution (H.J. Res. 648) was read the third time and passed.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. JOHNSTON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATFIELD. Mr. President, I move that the Senate insist upon its amendments and request a conference with the House, and that the Presiding Officer be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. HATFIELD, Mr. STEVENS, Mr. WEICKER, Mr. MCCLURE, Mr. GARN, Mr. COCHRAN, Mr. ANDREWS, Mr. ABDNOR, Mr. KASTEN, Mr. D'AMATO, Mr. MATTINGLY, Mr. RUDMAN, Mr. SPECTER, Mr. DOMENICI, Mr. STENNIS, Mr. BYRD, Mr. INOUYE, Mr. HOLLINGS, Mr. EAGLETON, Mr. CHILES, Mr. JOHNSTON, Mr. HUDDLESTON, Mr. BURDICK, Mr. LEAHY, Mr. DECONCINI, and Mr. BUMPERS conferees on the part of the Senate.

Mr. BAKER. Mr. President, this is really a monumental achievement. I wish to express my admiration as well as my appreciation for and to the distinguished chairman of the Appropriations Committee, Senator HATFIELD, to the distinguished ranking minority member, and to the acting ranking minority member, Senator JOHNSTON, for doing an extremely difficult job. We have been in for two nights in a row. We were in until 3 o'clock the night before last, but that seems like a lifetime ago. I still have not figured out what time of day it is.

Anyway, I want to express my gratitude and appreciation to the two managers, the minority leader, and to all Senators who participated in this matter, and offer my congratulations to the Senate for doing a difficult thing in a good way.

Mr. BYRD. Will the distinguished majority leader yield?

Mr. BAKER. I yield.

Mr. BYRD. Joshua commanded the Sun to stand still for a long day. I think we have gone through a week of long days. Today seems like 2 days.

I take this opportunity to express my thanks to a number of Senators for their efforts on this continuing resolution. First, of course, the managers of the bill, Senators HATFIELD and STENNIS and Senator JOHNSTON and the subcommittee chairmen and ranking members deserve all of our thanks for their remarkable ability, perseverence, and good temper in managing this bill. Consideration of the continuing resolution consumed more hours than many may have wished over the past 7 days. At times, the debate sorely tested the patience of the managers. But throughout the ordeal, they were accommodating, gracious, and resourceful. I also want to thank them on behalf of the citizens of my State for their cooperation in addressing some of the vital needs of the people of West Virginia.

My good friend the majority leader was, as always, a constant source of reason and good judgment. While we may have differed on some things, the consideration of this bill was greatly facilitated by his legislative skill, his personal integrity, and his extraordinary stamina.

Finally, I would be remiss if I did not mention the contribute of the committee staff, on both sides of the aisle. Bills such as this are the supreme test of a staff and I am happy to say that the Appropriations Committee staff's well-deserved reputation for dedication and ability has only been further

enhanced by their service to Senators during this bill.

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, as I indicated to the minority leader and stated previously on the floor, it is the intention of the leadership on this side now to ask the Senate to turn to the consideration of the highway bill. While I make arrangements to have the managers on tap, I suggest the absence of a quorum.

Mr. BYRD. Mr. President, will the Senator withhold that?

Mr. BAKER. I withhold the request.

Mr. BYRD. Mr. President, would the majority leader at this time be able to indicate what the schedule is for the rest of the day?

The PRESIDING OFFICER. The Senate will be in order.

Mr. BYRD. I thank the Chair.

Mr. President, I am seeking the opportunity to have the majority leader, if he wishes to at this time, tell the Senate what he expects for the rest of the day and how long we may be in today, what the program will be for tomorrow, and, as well as he can do so under the circumstances, to indicate what may be the situation next week in the event that the extension of the debt limit and the continuing resolution are not fully finished but are on the way to the President, with any indication from the President as to what we may expect.

Mr. BAKER. Mr. President, I thank the minority leader.

Could we have order, Mr. President?

The PRESIDING OFFICER. The Senate will be in order. Will Senators conducting conversations please do so in the cloakroom?

The majority leader.

Mr. BAKER. Mr. President, let me do one thing in the nature of a housekeeping matter first.

I am now reminded that at this point, the Interior appropriations bill will recur as the pending business. We already have the CR, and the chairman of the Appropriations Committee indicates he is agreeable to putting that measure back on the calendar.

DEPARTMENT OF THE INTERIOR APPROPRIATIONS, 1985

BILL PLACED ON CALENDAR

Mr. BAKER. Mr. President, I ask unanimous consent that the Interior appropriations bill be returned to the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE—GOOD NEWS AND BAD NEWS

Mr. BAKER. Mr. President, now let me answer the minority leader. I ask Senators to listen because what I am about to say is good news and bad news, but it is also filled with contingencies and uncertainties.

To begin with, Mr. President, it is still the hope and desire and the fervent wish of the leadership on this side that we can finish and be out of here tomorrow by 6 o'clock. I see the distinguished occupant of the Chair nodding his head in the affirmative and doing so energetically. I am sure that represents the sentiment of every Senator.

Now the bad news, Mr. President: I do not know how in the world we are going to do that. The CR has been completed. I understand from the chairman of the Appropriations Committee that he is prepared to go to conference with our House counterparts at 6 o'clock today. I do not know how fast that will go, but knowing how CR conferences have gone in the past, it is unlikely, I think, that they will finish that conference, the House will act on it and have it back to us in time to act on today.

So the first thing is, I think we will not have the continuing resolution conference report to work on today.

Mr. HATFIELD. Will the Senator yield at that point?

Mr. BAKER. Yes, Mr. President.

Mr. HATFIELD. I would like to spell out the possible schedule. We will not be able to have a document before us in order to go to conference with, meaning probably until late tonight. Therefore, we are calling a conference at 6 o'clock for some preliminaries, hoping to have a document by 8, 9, or 10 o'clock. Then, as far as the conference itself, they will have to break up into committee conferences and it will not be before tomorrow that we can finish the conference. Hopefully, at that point, we can finish, say, around noon. And the House will have to act before we do and I do not think we will have it before us, at the very most optimistic guess, before noon tomorrow and probably not then.

Mr. BAKER. I think it is extremely unlikely that we can have this bill before us and act on it and have it on the President's desk for signature before 6 o'clock on Friday. Maybe there is one chance out of 10 or 1 out of 100, but it is not very big.

That means, Mr. President, that even on the matter of the continuing resolution, we are probably going to have to complete action either on Saturday night or the first of next week—Saturday night after 6 o'clock.

Mr. President, I am going to come back to that in a second. I see a look of chagrin on the faces of some Senators, so let me come back and deal with that in a second.

What I would like to do now, Mr. President, is go to the highway bill. We simply have to pass a highway bill, in my opinion. It is my plan to ask the Senate to turn to consideration of the highway bill recently reported by the Environment and Public Works Committee which is essentially the same highway bill with certain changes but free of the amendments that were offered to the previous highway bill when it was pending.

I would like to finish that bill tonight, Mr. President, today if possible, tonight if necessary. It may or may not be possible to get a time agreement on the highway bill, but with or without a time agreement, it is the intention of the leadership to ask the Senate to go to the highway bill shortly.

Mr. President, after the highway bill, it will be the intention of the leadership on this side to ask the Senate to turn to the debt-limit bill. The debt-limit bill is on the calendar. The House measure was left on our calendar but with a similar Senate bill, so it went immediately on the calendar and it is up to the leadership to get to that bill after we do the highway bill. That may be tonight but it is more likely to be tomorrow.

Mr. President, I do not know how much trouble we are going to have with the debt-limit bills. We have had a lot of trouble in the past with the debt limit. I cannot pass up this opportunity to say to Senators that we need to pass a debt-limit bill promptly and we need to pass it clean.

Having said that, I am not willing to make any predictions, but that is what I think we need to do if we are going to get out of here in any reasonable time.

While the continuing resolution conference report is being acted on, while the highway bill conference report is being acted upon, and while the debt limit conference report may be acted upon on Friday, it would be my hope, then, that we could go to the Outer Continental Shelf revenue sharing conference report. That is here, it is available. That would be my hope.

In addition to that, postdebt limit and before we go out, it is the intention of the leadership on this side to ask the Senate as well to go to the Genocide Convention.

Mr. President, exactly how that will sequence in remains to be seen. But in short form, what it amounts to is OCS revenue sharing conference report and Genocide are the two things we will try to do while we are waiting for Congress to complete action and the President to complete his consideration of the continuing resolution and the debt limit.

Now Mr. President, back to the question of schedule. I have discussed this with the Speaker and I do not think I am speaking out of turn when I say that he is of the opinion that if we cannot finish by 6 o'clock on Friday, it would be the preference of the House that we go over until Tuesday.

Monday is a legal holiday. It is not the intention of the House, I understand, to be in on Saturday, in any event. So if we get hung and cannot finish our work by Friday at sundown—Friday, say, at 6 o'clock—it appears likely at this time that the Senate will be asked to go out and come back at some hour on Tuesday.

That is bad news, Mr. President, but at least that is the most honest appraisal I can make of the situation.

Mr. BYRD. Mr. President, with reference to the extension of the debt limit, I wish to ask the distinguished majority leader whether or not the President of the United States has requested an extension of the debt limit and, if so, what the request is?

Mr. BAKER. Mr. President, I thank the minority leader. Let me say facetiously first, but it is the truth, today is the first time I can recall that I ever stood up a President. What I mean by that is that there was a meeting at the White House today at noon. We were occupied doing other things and I asked the President if I could be excused from attending that meeting today and I did not attend.

It was at that meeting that we were supposed to talk about the debt limit. So the answer I must give my friend, the minority leader, is that I have not yet talked to the President about that. I intend to do that in the next little bit. I shall try to report to him immediately on the results of that conversation.

Mr. BYRD. I thank the distinguished majority leader.

Mr. BAKER. I thank the minority leader.

Now, Mr. President, while I get my papers in order and get other things ready, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is to ordered.

Mr. BAKER. Mr. President, while we wait for the principals and managers on the highway bill to take their place and proceed, there is a fair amount of material that can be done routinely, such things as the Head Start bill, the RICRA conference report, and a number of others. I am going to try to get in the place and do that in 5 or 10 minutes, and in the meantime I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. QUAYLE). Without objection, it is so ordered.

FEDERAL AID HIGHWAY ACT

Mr. BAKER. Mr. President, I thought we would be in shape to do a long list of routine items that appear to be cleared on both sides, but it will take a little longer to get them in shape, and I do not think we should waste time.

We have to go to the highway bill now, and I have consulted with the minority leader on this.

Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. 3024.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 3024) to approve the Interstate and Interstate Substitute Cost Estimates, to amend title 23 of the United States Code, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. BAKER. Mr. President, I see the two managers of the bill in the Chamber, Senator SYMMS and Senator BENTSEN, and I yield the floor.

Mr. SYMMS. Mr. President, we have worked long and hard to get this highway bill before the Senate, and I am delighted that we finally have made it once again. As Senators know, it has been before the Senate on several occasions, and for various reasons it has been set aside.

I do not recall whether Senators remember the last time the bill S. 2725 now S. 3024, was on the floor, when Senator BENTSEN, Senator STAFFORD, Senator RANDOLPH, other Senators and I discussed this bill.

After the differences and with Senators on the Civil Rights we had with the two distinguished Senators from Illinois regarding 85 percent minimum, the bill was set aside and we went to the continuing resolution.

The Environment and Public Works Committee had another meeting added some changes to the S. 2725 and reported a new bill, S. 3024. That bill is on the floor now. I should like to report briefly to my colleagues on the difference between the old and new bill. I will try to explain the scenario as I see it, so that Senators may plan their afternoon.

S. 3024 is exactly the same bill that was before the Senate 2 weeks ago, with these additions. There are five additional demonstration projects.

I might say, to remind my colleagues, that the demonstration projects that are in the Senate bill are all funded at 50-percent—50-50 Federal/State match, with a maximum contribution by the Federal Government of $12.5 million. That is a cap we felt we must have to maintain some solvency with respect to the highway trust fund, and to keep most of the money that goes into the Federal Highway Program, based on the categorical system and the formulas, flowing to the respective States.

Mr. President, our committee met. It was our determination, by Members on both sides of the aisle, that the amendments we have approved we were going to accept on the floor. We had to go back to committee to report a new vehicle which would be strictly a highway bill, without the civil rights amendment attached, because of the controversy this provision added. Therefore, we agreed to accept those new projects in committee.

We accepted demonstration projects in Nevada, Georgia, Iowa, Hawaii, and Arizona, for a total cost of $59.6 million.

I know of no other demonstration projects except one, which has been approved on both sides of the aisle. It deals with the two distinguished Senators from South Carolina [Mr. THURMOND and MR. HOLLINGS], on the Isle of Palms bridge project. We anticipate that that amendment will be offered and accepted.

We added $59.6 million to S. 3204, and there will be another $12.5 million if the South Carolina project is accepted. This brings us to a total of $180 million in demonstration projects.

There was an amendment dealing with Hampton Roads offered by Senator TRIBLE and Senator WARNER, which the committee accepted. There was the Wilson-Cranston amendment with respect to 139–A and 139–B route designation.

We have an amendment from Senators DIXON and PERCY dealing with the 85 percent floor, which the committee has adopted, and which would protect the State of Illinois in this category.

Those of us on the committee often resist floor amendments which change the basic highway formulas that have been worked out carefully over the years. We have found that there is a negative effect on 14 States, including Colorado. Since that happened, we have had the committee staff work out colloquy which lessens any detrimental impact this amendment might have on Colorado and the 13 other States.

We think we have a colloquy approved by both sides of the aisle, takes into consideration the problems the two Senators from Illinois brought forth.

We have an amendment that Mr. SARBANES and Mr. MATHIAS offered on the Baltimore-Washington Parkway that was approved. An amendment that I have on a study for prison industries.

Senator DURENBERGER had a high bridge exemption and in Minnesota the Uniform Reallocation Act which has passed the Senate twice.

Those amendments are the additions to S. 2527.

Now, this afternoon, the Senator from Pennsylvania is planning to offer a 4–R formula change amendment which the committee must most vigorously oppose.

I call attention to the Senators of a "Dear Colleague" letter signed by the distinguished Senators: JENNINGS RANDOLPH, LLOYD BENTSEN, ROBERT STAFFORD, and myself, that is on Senator's desk which explains the committee's position on the Specter amendment.

I say to my colleagues that I think we can move through this legislation rather quickly.

I have the highest respect for the Senator from Pennsylvania and his concern for how his State is being treated. He has made many proposals to the committee. He has offered a change in the 4–R formula, and a new $250 million 4–R discretionary fund program. I have not had a chance to discuss this with the distinguished ranking minority member of the committee, but I would find it difficult to accept any amendments in this area.

It would be my suggestion that we hear the statements from the distinguished chairman of the Public Works Committee, Chairman STAFFORD, Senator RANDOLPH, and Senator BENTSEN, and then move forward to these amendments.

I think we have one amendment the committee could offer that would be noncontroversial dealing with South Carolina. In addition, with the colloquy for Senator ARMSTRONG that will help 14 States in regard to the 85 percent minimum project language. Then we should address Senator SPECTER's amendment.

If the Specter amendment should carry, I think it would put the Transportation Committee in a very difficult situation in dealing with the House of Representatives with respect to the 4–R formula.

There will be 25 States, if you look at the 4–R chart, that will lose money; 25 States that would gain money. But, I would only appeal to my colleagues that the Specter amendment will cause the committee difficulties. I will discuss in more detail when he offers his original amendment, why it should be defeated. If he offers the substitute amendment, that allows $250 million for 4–R discretionary, then the committee is prepared to table that motion. This amendment will reduce the amount of money that would be allocated to all the other States in the 4–R formula categorical.

So, I would hope we could, for the most part, keep this bill intact; pass it, and the committee could go to conference with the House of Representatives. I would only say to my colleagues we will have a very difficult conference, because there are some very large differences in the House and Senate versions of the bill.

I yield the floor.

Mr. STAFFORD. Mr. President, first, I wish to be associated with the remarks of the able manager of the bill for this side, Senator SYMMS, and state that I am pleased that we have finally again been able to bring forward highway legislation this year, S. 3024, which Senator SYMMS has described as the latest product of our committee quite accurately.

Mr. President, we have reached the end of the road literally. Congress is about to adjourn. For many States this year's construction season is all but over. October 1 has come and gone and an interstate cost estimate [ICE] and interstate substitute cost estimate [ISCE] still are not approved.

That means that half of all of the money which should have gone out last year for interstate construction, the 6 months from last spring until September 30 of this year, has not been distributed, nor are we in a position to distribute all of the money which would be going out to the States this year for interstate construction and interstate substitute construction because we have not passed the ICE and the ISCE which are a prerequisite to the distribution of these funds. So we have to sort of make a choice here today.

Do we want the 50 States of the Nation to have their pro rata shares under existing law of about $7 billion for keeping up the capital investment we have in our Interstate Highway System, or do we want more time to run without achieving the distribution of these funds?

In 1982, we went to excruciating lengths to pass a nickel a gallon gas tax increase and increase the Federal-aid Highway Program by more than 50 percent in the Surface Transportation Assistance Act of 1982. We are watching many of the needed benefits of that action disappear because Congress has been unable for over 1 year to pass a much needed 2-year approval of these cost estimates.

And this, I say to my colleagues, is our last opportunity to do it in this Congress.

This approval would benefit all 50 States and I said earlier release almost $7 billion of interstate construction and substitution funds to the States immediately. The release of these funds will help the economy, maintain jobs, and provide safer roads and bridges.

In other words, preserve and keep the enormus investment we have made in the interstate system of this Nation.

The Senate Environment and Public Works Committee reported a 2-year ICE and ISCE approval on September 29, 1983, over 1 year ago, shortly after that the full Senate approved this legislation. Because of a number of controversial items subsequently added by the House, no resolution was reached. A compromise 6-months' bill was finally agreed to in March of this year, which released half of interstate construction and substitution funds available in fiscal year 1984.

The committee began holding hearings on highway legislation on February 1 of this year. S. 2527 was reported by the committee on June 6. The primary purpose of this legislation was to approve an 18-month ICE and ISCE and to provide a mechanism whereby these funds could be released administratively in the future because we cannot continue to hold these highway funds hostage.

For some reason the ICE approval, which used to be a routine matter, has become a magnet for all kinds of amendments, some of which are related to the highway program and some of which are not. This procedure is jeopardizing what has been a very effective Federal program. We cannot let that happen again. We must approve an ICE and ISCE so the States can get on with fixing the Nation's roads.

And as any Members may consider the temptation to offer further amendments to the bill, I remind them they may be jeopardizing their States reception of their States pro rata share of $7 billion. So I hope that we can achieve the main objective of our committee and I think the main objective of the Senate itself.

Mr. President, S. 2527, the Federal-Aid Highway Act of 1984, is now in a considerable parliamentary tangle.

In order to extricate ourselves from a very difficult situation, the Committee on Environment and Public Works reported another bill, S. 3024, the "Surface Transportation Amendments of 1984".

Approval of the Interstate Cost Estimate [ISCE] and Interstate Substitute Cost Estimate [ISCE] before the Senate adjourns in a few days is imperative if the States are going to receive the $7 billion in highway funds which are due them. S. 3024 is yet another attempt to accomplish that goal.

S. 3024 contains all the provisions which were contained in S. 2527 and a few additional noncontroversial items that the floor managers were prepared to accept as floor amendments.

S. 3024 was reported by the Committee on Environment and Public Works on September 26 and the text of the bill was printed in the CONGRESSIONAL RECORD of that day on page 27079 so that everyone would have immediate access to the contents of this bill. The committee did not file a report with this bill in order to expedite its possible consideration by the Senate. How-

ever, it is the committee's intent that the report accompanying S. 2527, Senate Report 98-524, be considered legislative history for S. 3024.

Mr. President, the Surface Transportation Assistance Act of 1982 [STAA of 1982] provided authorizations for the Federal-aid highway program through fiscal year 1986. This legislation was a major undertaking. It included significant policy changes and increased the program's level of authorization from $8 billion in fiscal year 1982 to over $12 billion in fiscal year 1983. The STAA of 1982 set an obligation ceiling of $13.550 billion for fiscal year 1985.

In addition, the STAA of 1982 for the first time provided a secure source of funding for the mass transit program by establishing the mass transit trust fund. The revenue produced by 1 cent of the gasoline tax accrues to this fund for mass transit projects.

The purpose of the STAA of 1982 was to provide a secure, long-term source of funding so the States could efficiently begin to address the massive rehabilitation and reconstruction needs of the deteriorating highways and bridges throughout the country, and so they could continue to make substantial progress on completing the Interstate Highway System.

However, this second objective has not been met. The STAA of 1982 continued to require congressional approval of an interstate cost estimate [ICE] every 2 years before interstate construction funds could be apportioned to the States. It also included a new requirement for congressional approval of an interstate substitute cost estimate [ISCE] every 2 years before the interstate substitute funds could be released to the States.

The committee was concerned that these funds be released in a timely manner and reported H.R. 3103 in September of last year. This bill contained a 2-year ICE and ISCE approval and was subsequently approved by the Senate. Because of controversial issues attached to this legislation on the House side, no agreement was reached on H.R. 3103. Finally on March 9, 1984 a compromise bill was passed which made available one-half of the interstate construction and substitute funds to the States.

While $2.6 billion has been released, an additional $2.1 billion which should have been apportioned October 1, 1983, still has not been released. In addition, S. 3024 provides for the release of approximately $4.9 billion on October 1, 1984. It is extremely important that these funds are released as soon as possible and that there are no further disruptions in this program.

The Senate Committee on Environment and Public Works reported S. 2527 on June 6. This bill contains an 18-month ICE and ISCE approval. Even more importantly, it provides for the administrative release of these funds in the future if Congress does not act in a timely fashion. This will ensure that the interstate program will not experience the delay and disruption that has occurred during the past year.

The Secretary of Transportation is directed to apportion interstate construction and substitute funds on October 1. If Congress has not yet approved an ICE and ISCE, the Secretary will make appropriate adjustments and administratively apportion these funds. This does no preclude Congress from acting at any time and it does not diminish Congress' oversight responsibility for this program.

The process will continue to work as it has in the past. The States will be required to submit an updated ICE and ISCE every 2 years to the Secretary. The Secretary must submit them to Congress by January 1. Congress has from January 1 to October 1 to review the ICE and ISCE and make any changes it desires. Congress could also choose to act after October 1 after the funds had been apportioned if it so desired. This process will ensure the completion of the Interstate System and end the holding hostage of these funds which has threatened that completion for the past year.

The committee has received many requests for new authorizations that would fund specific highway projects. The STAA of 1982 increased highway user fees significantly and enabled us to increase the funding level of the Federal-aid highway program dramatically. However, the increased revenues coming into the highway trust fund cannot sustain the level the program is authorized to reach by fiscal 1986. Large new authorizations at this time will jeopardize the solvency of the highway trust fund. They will hasten the day when either user fees will have to be increased again or the regular Federal-aid categories will have to be reduced. Finally, it creates an expectation that the Federal Government will fund projects beyond the regular Federal-aid program if they do not have a high enough priority within the State to be funded under a State's regular transportation plan.

After a lengthy debate, the committee reached a compromise on demonstration projects by requiring that the Federal share of such projects be limited to 50 percent of total project cost or $12.5 million, whichever is less. While all these projects have merit and are urgently needed in their specific localities, the Federal-aid highway program has worked at its best when priorities were determined by the State in consultation with local officials.

S. 3024 includes several provisions that will make scarce Federal and State resources go further. The bill contains a provision which requires a system match for emergency relief funds. Initial emergency work done within 30 days of a disaster declaration would be funded 100 percent by Federal funds. Long-term repair and replacement would require a State match. This match rquirement will apply to all disasters which occur after the date of enactment of this bill. This approach is consistent with the administration of disaster funds available through FEMA.

Second, the bill includes an incentive for States to institute or expand their State funded bridge repair and replacement program for off-system bridges. State funds expended on such bridges can be used as a credit toward a State's match for the Federal Bridge Replacement and Rehabilitation Program as long as several criteria are met.

Finally, S. 3024 contains a provision which encourages participation by the private sector. Currently, when land is donated for right-of-way by a landowner, the value of the land is credited to the highway project according to the system match. For example, for a primary system project 75 percent would be credited to the Federal share and 25 percent to the State share. Section 115 allows the State to credit the value of donated right-of-way 100 percent toward the State share of a Federal-aid highway project.

The Bridge Replacement and Rehabilitation Program has contributed significantly to the improvement of the condition of bridges in this country. The Department of Transportation recently submitted the fifth annual bridge report to Congress. While many structurally deficient and obsolete bridges have been replaced and rehabilitated by this program, the report states that there are approximately 237,000 bridges that need replacement or rehabilitation at a cost of $45.4 billion. Even though the Congress has greatly increased the bridge program during the last few years, it would require over 20 years of funding to address these needs.

Section 117 requires the Federal Highway Administration to examine a number of aspects of the bridge program to determine how effective it has been and what changes can be made to protect citizens from unsafe bridges.

During the past few years increased attention has been focused on historic bridges. Greater emphasis is being placed on preserving our heritage and bridges have made a large contribution to the transportation history of our country. Many areas have also found them to be important to economic development. The bridge study directs FHWA to examine ways to further enhance the contribution historic bridges can make.

Finally, Mr. President, Federal-aid highway funds are distributed to the States by formulas. These formulas have been the object of many studies and much debate. These apportionment formulas were the subject of intense debate during consideration of the STAA of 1982. After long negotiations, an agreement was finally reached which balanced the needs of all the States across all the Federal-aid highway categories and the transit program.

This agreement put in place a 4-year stable source of funding for these programs. This is not the time to make changes in apportionment formulas. I believe any attempt to do so will jeopardize the release of the interstate construction and substitution funds.

Secretary Dole has indicated the administration's position in a letter to me on May 8, 1984. She states that "Enactment of any legislation that adds to the cost of the interstate system, revises existing programs, creates new authorizations or earmarks existing authorizations would not be in accord with the program of the President. Consequently, the President's senior advisors and I would recommend that he veto the bill should it be adopted in this form."

Mr. President, I urge my colleagues to support S. 3024 and to remember that the purpose of this legislation is to approve an interstate cost estimate and interstate substitute cost estimate so that almost $7 billion can be released to all the States. I would urge my colleagues to exercise as much restraint as possible in adding additional items to this bill.

Mr. President, I want to thank my very able and distinguished colleague from West Virginia, the ranking member of the Environment and Pubic Works Committee [Mr. RANDOLPH] who has served the committee so faithfully. I also want to thank the distinguished chairman of the Subcommittee on Transportation [Senator SYMMS] and the ranking member of the subcommittee [Senator BENTSEN] who have carried most of the responsibility for this legislation.

Mr. President, I yield the floor.

Mr. BENTSEN. Mr. President, this Nation's Interstate System is one of the most significant things that has been done in our country in the last 30 years. There is no public world project in the world that rivals it. The closest thing to it is probably the Great Wall of China.

The man who I think had most to do with it is seated over here on my left, the former chairman of this committee and now the ranking Democratic member of that committee, the Senator from West Virginia [Mr. RANDOLPH]. He conceptualized this program long before it finally became legislation. He was a major contributor to what it did, to bringing it to fruition, to bringing together this Congress and the States to build a truly integrated highway system.

Just stop and think today where we would be if we did not have the Interstate System and the great vision of this public servant and the lead that he took in that regard. He is finishing this week, insofar as public service, a most honorable and fruitful and great career. He is a man much beloved by his colleagues and his constituency. And he is here working once more for this particular piece of legislation.

We have had a tough time on this bill this year, because you had several special interest projects that delayed us as we discussed the merits of those relative projects. Finally, we had to go to a 6-months ICE to try to move ahead.

Now we are talking about here today the passage of a highway bill that will not release the money just for this year and next year, but provides for the administrative release of future interstate money by the Federal Highway Administration. That does not mean that we have given up the responsibility of oversight and review and the ability to change it or veto it. That is ours. But what it does say is that it will not be held hostage to the degree it has in the recent past and that we try to move it along to give an uninterrupted flow of the funds that are necessary.

The Environment and Public Works Committee recognizes that special needs arise which require financial assistance over and above what is normally available. In these situations it is appropriate that the States show their commitment to the need and value of the project by contributing a fair share of the cost. This legislation proposes that the Federal share may not exceed 50 percent of the total cost of the project or $12.5 million, whichever is less. It also limits the total cost of the program to $25 million. These guidelines provide for the meeting of State needs while placing some limitation on expenditures from the Highway Trust Fund.

A key provision of this bill modifies the formula used to determine the 85 percent minimum allocation for so-called donor States. Since the inception of the fund in 1956, some States have contributed much more than they received back. One of the reasons you could go along with that situation for a number of years is that you had some States with minimum population, vast territories, but you did want them to be sure that they had the appropriate funds to make an integrated system so you could drive through, to, and across those States with the transportation system.

Much of that construction has now been accomplished. So now we are putting a floor, a minimum, of 85 percent of the money that is sent to Washington, comes back to each donor State. Sometimes I wish we could do that on every program. But it does give you a further degree of equity and justice. We tried to do it in 1982 and then found out we left out some portions. We left out demonstration projects. We left out discretionary funds that should have been included. This piece of legislation takes care of that.

At this point, I should stress that this proposed formula change does not reduce the regular apportionment of any State. It merely accomplishes the intent of Congress to assure some degree of equity for donor States when it passed the Surface Transportation Assistance Act of 1982. I don't believe it is unreasonable to guarantee donor States an accurate minimum return of 85 percent. I cannot accept legislation that does not include this change.

We have another provision in the bill regarding the donation of rights-of-way. A provision now included in the bill specifically states that private individuals may make those right-of-way donations at any time during the development of a highway project. It does not affect the requirement for the environmental review of the decision with respect to the alignment.

If during the alignment study and environmental analysis the route for which the land was donated is determined not to be feasible, the donation of right-of-way would be canceled and the land revested in the grantor or his successors in interest. This provision will result in significant cost savings to the highway program as land worth millions of dollars could be donated. It could also reduce the time required to construct a roadway by 2 to 3 years.

We have another one. It does not take a lot of money, but it has an interesting aesthetic effect, and that is one on wildflowers. What it does, it carries out something that was demonstrated in Texas by the Texas Highway Department. You had a number of counties where, with the State highway department's blessings and funding and direction, they put out wildflower seed along the highway. An interesting result: when you can get one that adds to the beauty of the countryside and save the taxpayers' money at the same time, you really have yourself a winner. And that is what this one does.

It takes a modicum of money for the planting of these wildflowers and what it results in is a substantial reduction in the mowing. It cuts the cost. Then it has the side benefit that most people did not anticipate.

I drive through that beautiful State of Virginia of yours, I say to the Senator, and I see the highways and the lack of litter. You have really done quite a job on that. But we are trying to do some more of it in Texas. And

what happens is people drive by and see those flowers and they have a second thought about throwing that can out or that litter. And the studies show there is much less of that taking place and a substantial reduction in the cost of trying to remove it. So here is a piece of legislation that is in this bill and hopefully will contribute some to the beautification of our highway system.

Mr. President, I hope that we can move along on this piece of legislation. I know my distinguished friend from Pennsylvania has some very strong views on the 4-R account. What we have done on the 4-R account is, in 1982 we provided the current formula of a 55-percent and 45-percent allocation based on vehicular miles traveled and the number of miles of road, respectively.

Now when the question came up on the equity of this formula, we then sent it to the Department of Transportation and asked them to do a study to decide if that was a fair and equitable distribution, because everyone has his own idea and wants to be an author as to how that allocation is to be made. You have the factor of temperatures, you have the problem of rain, you have the problem of mountainous territory, all those other things can effect rehabilitation costs. The Department of Transportation came back and said this was a good and fair allocation for the maintenance of the Interstate Federal System. I frankly think we ought to stand on that provision. I hope that this Senate will do that.

But now, Mr. President, I would like to yield to a grand gentlemen, a great Senator, a friend of all the Members of this institution, my good friend, the Senator from West Virginia.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. RANDOLPH. Mr. President, before I speak on the substance of the pending measure, I want Members now in this Chamber to know of the cooperative spirit which permeates the Senate Committee on Environment and Public Works.

First of all, I was privileged to become a member of this committee when it was known as the Public Works Committee of the Senate. That was in 1958. And for these 26 years, as they draw to a close, I have been an active member of the committee which has jurisdiction over Federal aid to highway construction. The functioning of the highways and the bridges provided by this program form a tremendous network, which is really the lifeblood of this country's industry and commerce, agriculture and many other aspects of our economy. Distance is less of a problem because of what the highways do as that basic carrier for the trucks, for the various types of vehicles which flow back and forth, north and south, east and west, bringing America closer together.

I have often thought that in a sense these roads are the vital factor in a constant strengthening of the body politic.

As we consider this legislation I hope we will give careful consideration to any amendment, because we would want to be very thorough in our discussion, and we would not want to close our eyes or our thoughts on that which might benefit the legislation. Your committee—and it is your committee—on Environment and Public Works is composed of 18 members. There are 10 members who are now of the majority party. The constructive chairman of our committee is certainly the very capable Member of the Senate, BOB STAFFORD, whose career in this legislative body has been one that others could emulate.

Never do we allow our differences to become divisive in that Committee on Environment and Public Works. Certainly, we have heated debate on a wide variance of subject matter. All of that we have had. Senator SYMMS, the knowledgeable chairman of our Transportation Subcommittee, and Senator BENTSEN, the experienced and innovative ranking minority member, have participated and they have been constructive.

I think we have had some of the best hearings ever held on Capitol Hill by any committee, because people are conscious of the need to keep America constantly a better land, and a better environment for this Nation. And, remember, the subject of the legislation that we consider again tonight is interstate and defense highways. We added the word "defense" because these highways and bridges certainly are a part of the defense structure of our country, not only in moving manpower and the products that are necessary in the use against those who might oppose us in war, but we also think in terms of the peacetime productivity of the road system of this country.

We remember the week of September 20, I say to the Senator from Texas [Mr. BENTSEN] who has been overly generous to me. We were trying in that week to do something that we hoped we could do then, but we were unable to do it because of certain feelings of Senators, understandable feelings that their State, one State in particular, was perhaps given a formula that was different from other States. We have never done that. And from our committee, was brought legislation which is fair to all the States.

It was a critically needed measure at the time we considered it in the week of September 20. And now on this date, it is hoped that we can bring this bill to passage.

I think of our own State of West Virginia. Senator BYRD and I join in the representation of that State in this body. He is constant and steady in support of programs valuable to our State. And we have four Members of the House of Representatives. We are conscious, all of us, of that road which is a good road, which is the road that the miner travels 50 miles in one direction to his job, and then 50 miles back to his home.

I remember also some 70 years ago when I was the waterboy as the streets of my hometown of Salem, WV, were paved not with concrete, but with bricks.

So it is a mode of transportation for the workers of this country that we are talking about tonight. It is the mode of transportation that helps senior citizens. I watched those huge buses roll into West Virginia before a hotel where they will be that night, and then they will see the wonders of our State, those beautiful parks that we have, a State called the State that is the mother of rivers. There are our lakes and there are the fishing spots. There are the golf courses. There are the places of history, the land that Washington loved. The man, Washington, was in our highlands and there he, as a young man, was a surveyor. And he said of West Virginia, "Give me but a banner to place upon the hills of West Augusta"—that was a term for West Virginia to be—"and I will gather around me those men that will set this bleeding nation free."

Tonight I speak in that vein because there is a West Virginia of historical strength and value, just as the old Virginia ever new. I see the Senator from Virginia here tonight. He would not be upset if I said that the late father of the present Governor of the Commonwealth of Virginia was born in my hometown in West Virginia. He would not be upset if I said that I remember serving here with the senior Senator Byrd, and as his seatmate also was the other Senator, A. Willis Robertson. And both of these able Senators had a long period of tenure here. We remember them not only for the work they did here but for the fact that their birthplaces were in the State of West Virginia.

Now, let us be very practical about the matter which is before us. There are dollars involved here. There are large sums of money involved here. We do know that there will be moving into every State of the Union—the 50 States—$7 billion. Those billions of dollars will not only construct new roads, improve roads, but also will take care of the roads that in a sense, Senator BENTSEN—I use your name directly—have been in the process of, let us say, usage which has lessened them from roads they were on the first day they were opened to the public.

During a 20-year period these roads need to be kept in shape. We have in the State of West Virginia several

thousand persons that are directly employed in our State Highway Commission. Yes; augment that across this country, and you have hundreds of thousands of persons who are really dependent upon what we do from time to time, especially tonight as we think in terms of moving those large sums of money into our respective States; of course, not only those thousands and thousands, but literally hundreds of thousands of men and women who are employed in this country in the construction and contracting business.

So we have an industry on top of an industry and we have the building of a better America. That is just not a phrase that I speak of lightly. The building of a better America.

It is on trial often in one way or another in this body, by types of legislation which are considered. But when we pass this legislation, which I hope we will without undue delay we will understand that these highways are here for the benefit of the people. Everything we do in this Chamber, everything that we do in the committee structure of this body, all relates, in the final analysis, back and forth between people.

It is people, always people, that we represent. We do not represent industry, as important as industry is. We do not represent factories, as important as they are. We do not represent a farm, the hillside or a farm on the broad acres of Texas or some other State. We represent people, and there is not a product that comes from this Congress, this Senate, this House of Representatives, that, frankly, is directly beneficial to people, to grandparents, to fathers and mothers, to children than what we do about keeping very strong, and ever making strong, the interstate defense system of this country.

The ranking minority member of our Subcommittee on Transportation, Mr. BENTSEN, has spoken of my work in this area I hope it is not improper of me to say that it was 19 years before we brought into being the Interstate System, 19 years before that that I introduced the initial legislation. I called it the Transcontinental Highway System.

At that time, in the structure of the House we had the Committee on Roads. It does not exist any more. We had hearings. Tom McDonald, who was the chief of the Bureau of Public Roads at that time, a very fine Scotsman—he was never willing to spend much money—was against this program. As I sat there and listened to him, I wondered how long will it be until from this first hearing on a Transcontinental Highway System will come that feeling by those who are in Government, in private industry, and just the heart of America, that will knit us more closely in understanding, peace, and strength.

So it was 19 years later, and what we have done during all of this time is to make mistakes, of course. But basically we are thinking in terms tonight, as we have on many, many prior occasions, of our individual responsibilities. Here, again, we are not just a body. We are individuals, we are persons, we are men and women in this body. It all comes back to people.

So let us do, and I know we will, a task, hopefully well done, for the well-being of the men and women of this Republic.

Mr. President, this legislation is vital to the transportation system of America. The Committee on Environment and Public Works is bringing before the Senate S. 3024, the Federal-Aid Highway Act of 1984, which provides the appropriate approval for the release of interstate construction funds authorized by the Surface Transportation Assistance Act of 1982.

The interstate construction program, first authorized in 1956, is now winding to an end. But over the last 10 months, a major stumbling block to its orderly completion has arisen dealing with eligibility for a controversial urban segment. Earlier this year the Congress did approve the release of approximately half of the fiscal year 1984 funds.

The States have now used up this authority and need more to continue construction on vital projects. Under the terms of this legislation, approval is provided for the remaining 1984 funds and all of those due to become available on October 1, 1984, for fiscal year 1985.

Approximately $5 billion in construction funds would be released for interstate construction and construction of interstate substitute highway projects. While the States have been able to carry out a highway program in fiscal year 1984 very near the obligation ceiling provided, this will not be the case next fiscal year unless the funds made available for apportionment by this legislation are there to be spent.

Mr. President, I can think of no more important program in this country that our interstate construction effort. With the 42,500-mile system nearly 98 percent complete, we must get on with the completion of this system so that resources no longer needed on this system can be used on other worthwhile and required projects. Delays such as those imposed over the last 10 months are totally unreasonable and contrary to our long-standing effort for completion of this most important national network of highways.

Mr. President, perhaps the most important change made in S 3024 regards the future approval of cost estimates releasing authorized interstate construction funds. The bill directs the Secretary of Transportation to release such funds if the Congress has not acted by October 1 with respect to an ICE submitted under the authority of title 23, United States Code. The States would continue to update the interstate cost estimate and submit it to the Secretary for transmission to Congress, which could make changes if it found such to be necessary. I believe that action of this type is in the best interest of our ongoing Federal-Aid Highway Program and recommend it to my colleagues.

This legislation also addresses another major problem with respect to the overall Federal-aid highway system. For a number of years, the Congress has been asked to approve demonstration projects to resolve pressing transportation problems of a local nature. While I believe demonstration projects serve a useful purpose, the action in the House of Representatives this year to authorize nearly 60 projects of this type at 100-percent Federal funding is counterproductive. The legislation before us today, while approving several demonstration projects, limits the scope of those projects to work which can be accomplished for $25 million and requires that 50 percent of the funds be provided by the State in which the project is to be located. Adoption of this provision by the Senate will be useful as we continue to meet our transportation needs in a fiscally responsible manner. This action will assure that a project is a priority and not divert needed highway trust fund moneys away from the categories of assistance provided under our Federal-aid Highway Program.

Mr. President, the Federal-Aid Highway Act of 1984 also addresses several small problems which have occurred with respect to highway transportation. Each of these additional provisions contained in the legislation are important, and I commend them to my colleagues. However, it cannot be overstated that the primary need for this legislation is to release the interstate construction and interstate substitution highway construction funds. The Senate must pass this legislation so that a conference may occur with the House of Representatives on this important matter.

As always I appreciate and acknowledge the valuable assistance and contributions to this bill by members of the committee staff. On behalf of the minority members, I express thanks to Richard M. Harris, John W. Yago, Lee Fuller, Martha Pope, Michael Brown, Mary J. Vrem, and Helen Kalbaugh.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, it is always a great pleasure for us in the Senate to listen to our great colleague from West Virginia. When he speaks

of the people, he speaks from the heart. His actions speak louder than his words. We shall miss him dearly, although his presence will always be in this Chamber.

Mr. President, at this time I would like to discuss an amendment which I am contemplating offering to this bill. My colleagues from Maryland and my colleague from Virginia are now studying this proposition. Our colleagues in the House from the Greater Metropolitan Washington area are studying how we can legislatively undo a piece of legislation that was passed and signed into law by the President last week, which apparently will have an effect that no one intended.

I will offer an amendment to prevent the Congress from unintentionally allowing persons to obtain double benefits from the Washington Metropolitan Area Transit Authority [WMATA], which could fatally undermine the very basis of the federally financed Metro construction project.

Among the many amendments effectuated by the Longshoremen's and Harbor Workers' Compensation Act of 1984 [1984 Amendments], one may unintentionally expose WMATA to several billion dollars in civil liability for claims brought by employees who have already received workers' compensation benefits that were paid by WMATA.

The U.S. Supreme Court had held that WMATA, a general contractor, was immune from liability in civil damage suits brought by its subcontractors' employees who had already obtained workers' compensation benefits from WMATA. *WMATA* v. *Johnson*, 104 S. Ct. 2827 (1984).

The 1984 amendments overruled the Johnson decision retroactively, in apparent unawareness that several hundred cases against WMATA have been stayed in the U.S. District Court for the District of Columbia pending the Supreme Court's decision and could thus be revived by this retroactive amendment.

The amendment was intended to prevent the application of the Johnson decision to persons or entities which were not in the unique circumstances of WMATA, which had paid, at public expense, $125 million in compensation benefits to its subcontractors' employees in a program that has provided complete coverage for every employee and enhanced WMATA's ability to meet its other governmental goals, such as increased participation of minority contractors.

The cases, which appear to be revived by the retroactive amendment, include claims of up to $3.5 billion.

The reserves to cover such claims and the moneys to fund any awards must be provided by the Federal Government and the State and local governments of the multijurisdictional region that fund WMATA.

The amendment I am offering today would avoid the potentially catastrophic effect on WMATA and its supporting governments that would follow from the revival of these claims by the retroactive amendment.

The amendment that I am proposing applies strictly to WMATA and it is not intended to apply to any other person or entity.

This amendment provides that the application of section 4 of the Longshoremen's and Harbor Workers' Compensation Act of 1984, with regard to WMATA, shall apply only to injuries that arise after the date of its enactment.

I strongly urge my colleagues to adopt this amendment and to avoid the unintentional and possible crippling impact on WMATA of the double claims by literally thousands of persons who have already received full workers' compensation benefits.

This amendment is designed to ensure the following:

First, that subway construction will continue in the jurisdictions of Maryland and Virginia;

Second, that the protection of every worker on the system will continue by keeping in place the Metro wrap-up insurance program;

Third, that no loss of jobs will occur because any reallocation of funds for litigation at this time, would of necessity, result in a constriction of the Metro construction budget and thus result in a loss of jobs to workers;

Fourth, that the participation of minority and small businesses in which construction of the Metro system, which the wrap-up program was designed to encourage, is continued; and

Fifth, that the citizens' tax dollars are protected by preventing people who have already received $125 million in compensation payments from obtaining a double recovery at taxpayers expense.

Mr. METZENBAUM. Mr. President, will the Senator from Virginia yield for a question without losing his right to the floor?

Mr. WARNER. Yes.

Mr. METZENBAUM. Mr. President, the Senator has indicated that he is considering offering this amendment. I am aware of the fact that there are several Members on this side who would like to be able to participate in a discussion with the Senator when he presents his amendment, if he does. Would the Senator be good enough to advise us whether he will offer the amendment of if he is just seeing fit to discuss it and does not intend to offer it?

Mr. WARNER. Mr. President, in reply, I shall indeed accommodate Members who indicate a desire to participate in the debate on this amendment. I shall try to establish a convenient time for the offering of the amendment. It is my intention to offer it. It has come up very quickly and I felt my colleagues, the two Senators from Maryland, one of whom I have spoken with, and my junior colleague from Virginia should have the opportunity to study the proposed amendment and my opening remarks. I shall at some point during the consideration of this bill, after I have heard from my three colleagues who are most directly affected, establish at time and then take the amendment up.

Mr. SYMMS. Mr. President, will the Senator yield?

Mr. WARNER. Yes, I yield.

Mr. SYMMS. I thank the Senator for yielding. I think I speak for most of the members of the committee when I say that the committee hopes that, in view of the fact that the Senator's proposed amendment is a labor issue and our committee does not have that jurisdiction, it will not be attached to this bill.

I appreciate the dialog here and I think it is an important matter for all Senators, but we will certainly be opening the parameters of this bill if this amendment is adopted today.

I think there might be a better vehicle at a later time. We would have to get the Senators on the Labor Committee involved in that.

Mr. WARNER. Senators HATCH and NICKLES are among those who would be interested in this amendment.

I certainly appreciate the concern of the managers of this bill. I should like to go on.

Mr. METZENBAUM. Mr. President, I did not mean to interrupt the Senator. I just ask that, based upon what the manager of the bill has just stated, I think it would be the intention later of the Senator from Virginia to offer the amendment. If he does see fit to do so, some of us on this side would appreciate it if advance notice can be given to those who speak for the minority in the well.

Mr. WARNER. Mr. President, I assure the Senator from Ohio that I shall personally inform him of the time at which the amendment will be offered and hopefully provide him with an adequate period within which to prepare his position on this.

Mr. METZENBAUM. The Senator from Virgina is always cooperative and I thank him.

Mr. WARNER. Mr. President, I wonder if I may send him now a copy of my remark and a copy of the amendment for his preliminary study.

Mr. METZENBAUM. I thank the Senator.

Mr. WARNER. Mr. President, I do not wish to take up too much time here, but I should like to read an editorial from the Washington Post of today October 4, 1984, entitled "Will They Let Metro Go Broke?"

WILL THEY LET METRO GO BROKE?

Call it profiles in no courage: Greater Washington's representatives in the House and Senate seem to be looking the other way instead of moving quickly this week to rescue the entire Metro transit system from what could be $3.5 billion or more in lawsuits. That is the awful possibility for taxpayers in Virginia, Maryland and the District if no one in the Virginia or Maryland delegations takes a lead to clarify Metro's liability in workers' compensation cases. Otherwise, a bill about to be enacted will leave Metro wide open in thousands of cases thought to have been settled already—and heaven knows how many new suits.

What would your local senator or representative need to do? All that's needed is a little leadership in seeking congressional agreement on a provision protecting Metro's past workers' compensation record from any new retroactive lawsuits and other jeopardy. Without this protection, the liability of Metro will be wide open because of ambiguous language in a "Longshoremen's and Harbor Workers' Compensation Act" (which used to cover Metro workers) that is on its way to enactment.

From what we can gather, local legislators aren't opposed to a move that would protect Metro—but no one seems willing to take the lead. It's not even a question of tinkering with the longshoremen's bill; separate language clarifying Metro's past status would take care of it, since Metro is no longer under the longshoremen's act.

So if some day we wake up to find Metro up to its station-tops in lawsuits and damage awards to workers who either have been compensated before or who suddenly turn up with lawyers in court to sue for something in the past, remember your local representatives on Capitol Hill who took a walk in late '84. Won't someone up there stand up for his constituents' financial interests?

Mr. President, this Senator is now standing up for the constituents of the greater metropolitan area and I hope I shall be joined in this effort by my colleagues.

I thank the Senators for listening.

Mr. STAFFORD. Mr. President, in view of the jurisdictional issues involved here, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. GORTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 7050

(Purpose: To authorize the sale or lease of the Fairley Building, King County, Washington)

Mr. GORTON. Mr. President, I call up amendment No. 7050.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Washington [Mr. GORTON] proposes an amendment numbered 7050.

At the appropriate place in the bill, insert the following:

Upon the request of the Pike Place Market Preservation and Development Authority, Seattle, Washington, the Secretary of Commerce shall authorize the sale or lease to any person of the Fairley Group Building (project numbers 07-01-01890, as modified by 07-01-01890.01, and 07-11-02606) located in the Pike Place Market, King County, Washington, without affecting the federal assistance provided under the Public Works and Economic Development Act of 1965, if the transfer documents provide for the continued use of the Fairley Group Building as a public market during the expected useful life of the building.

Mr. GORTON. Mr. President, I ask unanimous consent that Senator EVANS may be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GORTON. Mr. President, the Fairley Building is one of 12 properties owned and operated by a public authority as part of Seattle's Pike Place Farmer's Market. In 1977, the Economic Development Administration of the Department of Commerce [EDA] awarded the public authority a $1.75 million grant to restore and preserve the Fairley Building. The restoration was completed in 1978, and is considered one of EDA's more successful job creation projects.

In December 1983, the public authority entered into lease/leaseback transactions for nine of its properties, including the Fairley Building, to raise badly needed maintenance funds. A lease/leaseback is a means of transferring Federal tax deductions and credits from public to private entities. The public authority retained ownership and control of its properties and continues to operate them as a public farmer's market.

EDA officials have notified the public authority that the lease violates EDA regulations, which require EDA's consent before property covered by a grant is transferred. EDA believes it must seek compensation from the authority, of an amount up to the original grant of $1.75 million.

The proposed amendment requires EDA to consent to the Fairley Building lease. It would relieve EDA of the need to seek repayment of the grant.

The amendment should be supported because:

It would be unfair for EDA to receive compensation. EDA regulations require it to record a property management agreement on a building's title when it restricts a grantee's power to transfer property, with limited exceptions. EDA decided the Fairley Building fit an exception and did not record its interest. Agency officials concede that it would have been wise to record in this case, because of the interest in sale/leaseback and lease/leaseback arrangements by municipalities.

The public authority conducted a title search and received permission from all parties, including HUD, which it knew had an interest in the property. The authority acted in good faith, and did not try to circumvent EDA rules.

There has been no change in the use of the Fairley Building as a farmer's market. The purpose of EDA property management rules are to insure that EDA-assisted property continues to be used for the purpose for which the grant was made. The Fairley Building will be used as a public market under public control at all times. No harm has been done by the market's technical violation of EDA rules.

If EDA withdraws its $1.75 million, it will cripple the market and jeopardize past Federal investment. EDA's actions, rather than the market's, are inconsistent with the purposes for which the original grant was made.

EDA believes legislation is the only solution to the problem.

EDA does not want to recall its grant, but it does not believe it is able to forgo compensation for violation of its rules. My staff has discussed this legislation with EDA and Commerce Department officials, and they believe it is a reasonable solution to this problem.

Congress has authorized sale/leaseback and lease/leaseback transactions for EDA-assisted property several times in the last 2 years. (Pantages Theatre, Public Law 97-377 (1982), Shea's Buffalo Theatre, Public Law 98-8 (1983), George P. Scotlan Memorial Convention Center. Public Law 98-63 (1983). The Deficit Reduction Act of 1984 removed the Federal tax incentives for these transactions. The Fairley Building transaction occurred before the effective date of the act and is the last of its kind.

EDA granted funds for the Fairley Building to provide jobs and assist restoration of one of the Nation's unique public institutions, Seattle's Pike Place Market. If EDA requires compensation for a technical violation of its regulations, it risks bankrupting the market and destroying this outlet for small farmers, fishermen, craftsmen, and other small businesses. I urge you to support this amendment to avoid this tragic result.

Mr. President, I have checked this with the chairman, the distinguished Senator from Vermont; with the manager, the distinguished Senator from Idaho; and with the distinguished Senator from Texas. I believe there is no objection.

Mr. STAFFORD. Mr. President, this being a matter in the jurisdiction of our committee, we have discussed it with the Senator from Washington and we are prepared to accept the amendment on this side. I believe that the manager on the other side, the able Senator from Texas, is prepared to accept the amendment, also. Am I correct?

Mr. BENTSEN. Mr. President, we have examined the amendment also and it is acceptable.

Mr. GORTON. Mr. President, I thank the Senators for their gracious understanding in this matter.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 7050) was agreed to.

Mr. GORTON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. STAFFORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SYMMS. Mr. President, I believe at this point, as I have mentioned, we have two matters that I want to get settled here—the Specter amendments and other possible amendments that are less germane to the bill.

At this time I see the distinguished President pro tempore is on the floor. He has been working with both the majority and minority on the committee for the last week on the Isle of Palms, matter and I yield to Senator THURMOND for his amendment.

ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, will the Senator let me interrupt for a moment? If the President pro tempore will permit me to impose on his time, and the two managers, there is one measure that is cleared on both sides for routine action that is pressing. I would like to do that. If there is no objection, I ask unanimous consent that I may proceed as in morning business for not to exceed 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXTENSION OF PROGRAMS UNDER THE HEAD START ACT

Mr. BAKER. Mr. President, the minority leader is here, and I have been informed this matter is cleared. I will put the request now for the consideration of the minority leader and other Senators.

I ask unanimous consent the Chair lay before the Senate S. 2565.

The PRESIDING OFFICER. The bill will be stated by title.

The bill clerk read as follows:

A bill (S. 2565) to extend the programs under the Head Start Act, and for other purposes.

The PRESIDING OFFICER. Is there objection to consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Labor and Human Resources with an amendment to strike all after the enacting clause and insert:

That this Act may be cited as the "Human Services Reauthorization Act".

TITLE I—HEAD START

AUTHORIZATION OF APPROPRIATIONS

SEC. 101. Section 639 of the Head Start is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 639. There are authorized to be appropriated for carrying out the provisions of this subchapter $1,075,059,000 for fiscal year 1985, $1,142,000,000 for fiscal year 1986, and $1,213,000,000 for fiscal year 1987.".

RESERVATION OF FUNDS FOR TRAINING AND TECHNICAL ASSISTANCE

SEC. 102. (a) Section 640(a)(2)(C) of the Head Start Act is amended by inserting before the semicolon the following: "described in section 648 of this subchapter, in an amount for each fiscal year which is not less than the amount expended for training and technical assistance activities under this clause for fiscal year 1982".

(b) Section 640(a)(2) of the Head Start Act is amended by adding at the end thereof the following new flush sentence: "The minimum reservation contained in clause (C) of this paragraph shall not apply in any fiscal year in which the appropriation for the program authorized by this subchapter is less than the amount appropriated for fiscal year 1984.".

DESIGNATION OF HEAD START AGENCIES

SEC. 103. (a) Section 641(a) of the Head Start Act is amended by inserting after "agency" the second time it appears "within a community".

(b) Section 641(c) of the Head Start Act is amended—

(1) by striking out ", except that" in the matter preceding clause (1) and inserting in lieu thereof "unless";

(2) by striking out "shall, before giving such priority, determine" in clause (1) and inserting in lieu thereof "makes a finding";

(3) by striking out "meets" in clause (1) and inserting in lieu thereof "fails to meet"; and

(4) by inserting "except that" before "if" in clause (2).

(c) Section 641 of the Head Start Act is amended by redesignating subsection (d) as subsection (f) and by inserting after subsection (c) the following new subsections:

"(d) If there is no Head Start agency or successor agency described in clauses (1) and (2) of subsection (c), and no other existing Head Start program serving a community, then the Secretary may designate a Head Start agency from among qualified applicants in the community. Any such designation shall be governed by the same program and fiscal requirements, criteria, and standards as are applicable to existing Head Start programs.

"(e) The provisions of subsections (c) and (d) shall be applied by the Secretary in the distribution of any additional appropriations made available under this subchapter during any fiscal year as well as to initial designations of Head Start agencies.".

PARTICIPATION IN HEAD START PROGRAMS

SEC. 104. Section 645 of the Head Start Act is amended by adding at the end thereof the following new subsection:

"(c) Each Head Start program operated in a community may provide more than one year of Head Start services to children from age 3 to the age of compulsory school attendance in the State in which the Head Start program is located.".

TECHNICAL ASSISTANCE AND TRAINING

SEC. 105. Section 648 of the Head Start Act is amended—

(1) by striking out "may" and inserting in lieu thereof "shall"; and

(2) by inserting before the period at the end thereof a comma and the following: "including a centralized child development training and national assessment program which may be administered at the regional level leading to recognized credentials for such personnel; and resource access projects for personnel of handicapped children".

EVALUATION

SEC. 106. The second sentence of section 651(b) of the Head Start Act is amended to read as follows: "Any revisions in such standards shall not result in the elimination of nor any reduction in the scope or types of health, education, parental involvement, social or other services required to be provided under the standards in effect on November 2, 1978.".

TITLE II—COMMUNITY SERVICES BLOCK GRANT

AUTHORIZATION OF APPROPRIATIONS

SEC. 201. Section 672(b) of the Community Services Block Grant Act (hereinafter in this title referred to as the "Act") is amended by adding at the end thereof the following new sentence: "There is authorized to be appropriated $400,000,000 for the fiscal year 1987, to carry out the provisions of this subtitle.".

POVERTY LINE

SEC. 202. Section 673(2) of the Act is amended by inserting at the end thereof the following new sentence: "Whenever the State determines that it serves the objectives of the block grant established by this subtitle the State may revise the poverty line to not to exceed 125 percent of the official poverty line otherwise applicable under this paragraph.".

DISCRETIONARY PROGRAM

SEC. 203. (a) The matter preceding clause (1) of section 681(a) of the Act is amended by striking out "public and other organizations and agencies" and inserting in lieu thereof "public agencies and private nonprofit organizations" both times it appears.

(b) Section 681(a) of the Act is amended by adding at the end thereof the following new flush sentence: "In addition, grants, loans, and guarantees made pursuant to this subsection may be made to a private nonprofit organization applying jointly with a business concern.".

TITLE III—LOW-INCOME HOME ENERGY ASSISTANCE

AUTHORIZATION OF APPROPRIATIONS

SEC. 301. Section 2602(b) of the Low-Income Home Energy Assistance Act of 1981 (hereinafter in this title referred to as the "Act") is amended to read as follows:

"(b) There is authorized to be appropriated to carry out the provisions of this title $2,200,000,000 for the fiscal year 1985, $2,350,000,000 for the fiscal year 1986, and $2,575,000,000 for the fiscal year 1987.".

DEFINITION

SEC. 302. Section 2603(1) of the Act is amended by inserting before the period "and other household energy related emergencies".

ENERGY CRISIS INTERVENTION

SEC. 303. Section 2604(c) of the Act is amended—

(1) by inserting after "reserved" the following: "until March 15 of each program year"; and

(2) by adding at the end thereof the following new sentence: "The program for which funds are reserved by this subsection may be administered by public or nonprofit entities which have experience in administering energy crisis programs under the Low-Income Energy Assistance Act of 1980, or under this Act, experience in assisting low-income individuals in the area to be served, and the capacity to undertake a timely and effective energy crisis intervention program.".

APPLICATIONS AND REQUIREMENTS

SEC. 304. (a) Section 2605(b)(2)(B)(i) of the Act is amended to read as follows:

"(i) an amount, as determined by the State, which is equal to a percentage which is not less than 100 percent nor more than 150 percent of the poverty level for such State for the fiscal year 1985, and an amount, as determined by the State, which is equal to a percentage which is not less than 110 percent nor more than 150 percent of the poverty level for such State for the fiscal year 1986 and thereafter; or".

(b) Section 2605(b)(8) of the Act is amended by inserting after "that" the following: "(A) the State will not exclude households described in clause (2)(B) of this subsection and (B)".

(c) Section 2605(b) of the Act is amended—

(1) by striking out "and" at the end of clause (12);

(2) by striking out the period at the end of clause (13) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new clauses:

"(14) describe the procedures by which households in the State are identified as eligible to participate under this title and the manner in which the State determines benefit levels; and

"(15) describe the amount that the State will reserve in accordance with section 2604(c) in each fiscal year for energy crisis intervention activities together with the administrative procedures (A) for designating an emergency, (B) for determining the assistance to be provided in any such emergency, and (C) for the use of funds reserved under such section for the purposes under this title in the event any portion of the amount so reserved is not expended for emergencies.".

(d)(1) Section 2605(f) of the Act is amended by inserting before the comma the first time it appears the following: "unless enacted in express limitation of this paragraph".

(2) Section 2605(f) of the Act is further amended by inserting "(1)" after the subsection designation and by adding at the end thereof the following new paragraph:

"(2) Notwithstanding any other provision of law unless enacted in express limitation of this paragraph, the amount of any home energy assistance payments or allowances provided to a household by a private nonprofit organization, or an entity whose revenues are primarily derived on a rate-of-return basis regulated by a State or Federal governmental body, if the appropriate State agency has certified that such assistance was based on need as determined by such organization or entity, shall not be considered income or resources of such household (or any member thereof) for any purpose under any Federal or State law, including any law relating to taxation, food stamps, public assistance, or welfare programs.".

PAYMENTS TO STATES

SEC. 305. (a) The first sentence of section 2607(b)(2)(B) of the Act is amended—

(1) by striking out "25 percent" and inserting in lieu thereof "20 percent"; and

(2) by inserting before the period a comma and the following: "and in the case a State makes a transfer under section 2604(f) in the fiscal year in which the State makes a request under subparagraph (A) no amount may be held available for that State from a prior fiscal year to the extent such amount exceeds 15 percent of the amount so allotted".

(b) Section 2607(b)(2) of the Act is amended by adding at the end thereof the following new subparagraph:

"(c) The Secretary shall reallot amounts made available under this paragraph for the fiscal year following the fiscal year of the original allotment in accordance with paragraph (1) of this subsection.".

AMENDMENT NO. 7051

Mr. BAKER. Mr. President, I send to the desk an amendment to the committee substitute on behalf of Senator HATCH. I ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Tennessee [Mr. BAKER], for Mr. HATCH, proposes an amendment numbered 7051.

Mr. BAKER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2, beginning with line 3, strike out through line 15 on page 10 and insert in lieu thereof the following: That this Act may be cited as the "Human Services Reauthorization Act".

TITLE I—HEAD START

TECHNICAL AMENDMENT

SEC. 101. Section 637(2) of the Head Start Act is amended by inserting "the Commonwealth of" before "the Northern Mariana Islands".

AUTHORIZATION OF APPROPRIATIONS

SEC. 102. Section 639 of the Head Start Act is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 639. There are authorized to be appropriated for carrying out the provisions of this subchapter $1,093,030,000 for fiscal year 1985, and $1,221,000,000 for fiscal year 1986.".

RESERVATION OF FUNDS FOR TRAINING AND TECHNICAL ASSISTANCE

SEC. 103. (a) Section 640(a)(2)(C) of the Head Start Act is amended by inserting before the semicolon the following: "as described in section 648 of this subchapter, in an amount for each fiscal year which is not less than the amount expended for training and technical assistance activities under this clause for fiscal year 1982".

(b) Section 640(a)(2) of the Head Start Act is amended by adding at the end thereof the following new flush sentences: "The minimum reservation contained in clause (C) of this paragraph shall not apply in any fiscal year in which the appropriation for the program authorized by this subchapter is less than the amount appropriated for fiscal year 1984. No funds reserved under this paragraph may be combined with funds appropriated under any other Act if the purpose of combining funds is to make a single discretionary grant or a single discretionary payment, unless such funds appropriated under this subchapter are separately identified in such grant or payment and are used for the purposes of this subchapter.".

DESIGNATION OF HEAD START AGENCIES

SEC. 104. (a) Section 641(a) of the Head Start Act is amended by inserting after "agency" the second time it appears ", within a community,".

(b) Section 641(c) of the Head Start Act is amended—

(1) by striking out ", except that" in the matter preceding clause (1) and inserting in lieu thereof "unless";

(2) by striking out "shall, before giving such priority, determine" in clause (1) and inserting in lieu thereof "makes a finding";

(3) by striking out "meets" in clause (1) and inserting in lieu thereof "fails to meet"; and

(4) by inserting "except that" before "if" in clause (2).

(c) Section 641 of the Head Start Act is amended by redesignating subsection (d) as subsection (f) and by inserting after subsection (c) the following new subsections:

"(d) If there is no Head Start agency as described in subsection (c)(2), and no existing Head Start program serving a community, then the Secretary may designate a Head Start agency from among qualified applicants in such community. Any such designation shall be governed by the program and fiscal requirements, criteria, and standards applicable on September 1, 1983, to then existing Head Start agencies.

"(e) The provisions of subsections (c) and (d) shall be applied by the Secretary in the distribution of any additional appropriations made available under this subchapter during any fiscal year as well as to initial designations of Head Start agencies.".

PARTICIPATION IN HEAD START PROGRAMS

SEC. 105. (a) Section 645(a) of the Head Start Act is amended by adding at the end thereof the following: "During the period beginning on the date of the enactment of the Human Services Reauthorization Act and ending on October 1, 1986, and unless specifically authorized in any statute of the United States enacted after such date of enactment, the Secretary may not make any change in the method, as in effect on April 25, 1984, of calculating income used to prescribe eligibility for the participation of persons in the Head Start programs assisted under this subchapter if such change would result in any reduction in, or exclusion from, participation of persons in any of such programs.".

(b) Section 645 of the Head Start Act is amended by adding at the end thereof the following new subsection:

"(c) Each Head Start program operated in a community may provide more than one year of Head Start services to children from age 3 to the age of compulsory school attendance in the State in which the Head Start program is located.".

TECHNICAL ASSISTANCE AND TRAINING

SEC. 106. Section 648 of the Head Start Act is amended—

(1) by striking out "may" and inserting in lieu thereof "shall"; and

(2) by inserting before the period at the end thereof a comma and the following: "including a centralized child development training and national assessment program which may be administered at the State or local level leading to recognized credentials for such personnel, and resource access projects for personnel of handicapped children".

RESEARCH, DEMONSTRATION, AND PILOT PROJECTS

SEC. 107. Section 649 of the Head Start Act is amended by adding at the end thereof the following new subsection:

"(c) No funds appropriated under this subchapter may be combined with funds appropriated under any other Act if the purpose of combining funds is to make a single discretionary grant or a single discretionary payment, unless such funds appropriated under this subchapter are separately identified in such grant or payment and are used for the purposes of this title.".

EVALUATION

SEC. 108. The second sentence of section 651(b) of the Head Start Act is amended to read as follows: "Any revisions in such standards shall not result in the elimination of any reduction in the scope of types of health, education, parental involvement, social or other services required to be provided under the standards in effect on November 2, 1978.".

STATE GRANTS FOR DEPENDENT CARE PLANNING AND DEVELOPMENT

SEC. 109. Chapter 8 of title VI of the Omnibus Budget Reconciliation Act of 1981 relating to community services programs, is amended by inserting at the end thereof the following new subchapter:

"SUBCHAPTER D—GRANTS TO STATES FOR PLANNING AND DEVELOPMENT OF DEPENDENT CARE PROGRAMS AND FOR OTHER PURPOSES

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 670A. For the purpose of allotments to States to carry out the activities described in section 670D, there are authorized to be appropriated $20,000,000 for each of the fiscal years 1985 and 1986.

"ALLOTMENTS

"Sec. 670B. (a) From the amounts appropriated under section 670A for each fiscal year, the Secretary shall allot to each State an amount which bears the same ratio to the total amount appropriated under such section for such fiscal year as the population of the State bears to the population of all States, except that no State may receive less than $50,000 in each fiscal year.

(b) For the purpose of the exception contained in subsection (a) the term "State" does not include Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands.

"PAYMENTS UNDER ALLOTMENTS TO STATES

"Sec. 670C. The Secretary shall make payments, as provided by section 6503(a) of title 31, United States Code, to each State from its allotments under section 670B from amounts appropriated under section 670A.

"USE OF ALLOTMENTS

"Sec. 670D. (a) Subject to the provisions of subsections (c) and (d), amount paid to a State under section 670C from its allotment under section 670B for fiscal year 1985 and fiscal year 1986 may be used for the planning, development, establishment, expansion, or improvement by the States, directly or by grant or contract with public or private entities, of State and local resource and referral systems to provide information concerning the availability, types, costs, and locations of dependent care services. The information provided by any such system shall include—

"(1) the types of dependent care services available, including services provided by individual homes, religious organizations, community organizations, employers, private industry, and public and private institutions;

"(2) the costs of available dependent care services;

"(3) the locations in which dependent care services are provided;

"(4) the forms of transportation available to such locations;

"(5) the hours during which such dependent care services are available;

"(6) the dependents eligible to enroll for such dependent care services; and

"(7) any resource and referral system planned, developed, established, expanded, or improved with amounts paid to a State under this subchapter.

In carrying out clause (7) of the previous sentence, no information shall be included with respect to any dependent care services which are not provided in compliance with the laws of the State and localities in which such services are provided.

"(b)(1) Subject to the provisions of subsections (c) and (d), amounts paid to a State under section 670C from its allotment under section 670B for fiscal year 1985 and fiscal year 1986 may be used for the planning, development, establishment, expansion, or improvement by the States, directly, or by grant or contract, with public agencies or private nonprofit organizations of programs to furnish school-age child care services before and after school in public or private school facilities or in community centers in communities where school facilities are not available.

" (2) The State, with respect to the uses of funds described in paragraph (1) of this subsection shall—

"(A) provide assurances, in the case of an applicant that is not a State or local educational agency, that the applicant has or will enter into an agreement with the State or local educational agency, institution of higher education or community center containing provisions for—

"(i) the use of facilities for the provision of before or after school child care services (including such use during holidays and vacation periods),

"(ii) the restrictions, if any on the use of such space, and

"(iii) the times when the space will be available for the use of the applicant;

"(B) provide an estimate of the costs of the establishment of the child care service program in the facilities;

"(C) provide assurances that the parents of school-age children will be involved in the development and implementation of the program for which assistance it sought under this Act;

"(D) provide assurances that the applicant is able and willing to seek to enroll racially, ethnically, and economically diverse as well as handicapped school-age children in the child care service program for which assistance is sought under this Act;

"(E) provide assurances that the child care program is in compliance with State and local licensing laws and regulations governing day care services for school-age children to the extent that such regulations are appropriate to the age group served; and

"(F) provide such other assurances as the Governor may reasonably require to carry out the provisions of this Act.

"(c) of the allotment to each State in each fiscal year—

"(1) 40 percent shall be available for the activities described in subsection (a);

"(2) 60 percent shall be available for the activities described in subsection (b).

"(d) A State may not use amounts paid to it under this subchapter to—

"(1) pay the costs of operation of any resource and referral system or before or after school child care program established, expanded, or improved under subsection (a);

"(2) make cash payments to intended recipients of dependent care services including child care services;

"(3) subsidize the direct provision of dependent care services including child care services;

"(4) pay for construction or renovation; or

"(5) satisfy any requirement for the expenditure of non-Federal funds as a condition for the receipt of Federal funds.

"(e) (1) The Federal share of any project supported under this subchapter shall be not more than 75 percent.

"(2) Not more than 10 percent of the allotment of each State under this subchapter may be available for the cost of administration.

"(f) Projects supported under this section to plan, develop, establish, expand, or improve a State or local resource and referral system or before or after school child care program shall not duplicate any services, which prior to the date of enactment of this subchapter, are provided by the State or locality which will be served by such system.

"(g) The Secretary may provide technical assistance to States in planning and operating activities to be carried out under this subchapter.

APPLICATION AND DESCRIPTION OF ACTIVITIES; REQUIREMENTS

"Sec. 670E. (a) (1) In order to receive an allotment under section 670B, each State shall submit an application to the Secretary. Each such application shall be in such form and submitted by such date as the Secretary shall require.

"(2) Each application required under paragraph (1) for an allotment under section 670B shall contain assurances that the State will meet the requirements of subsection (b).

"(b) As part of the annual application required by subsection (a), the chief executive officer of each State shall—

"(1) certify that the State agrees to use the funds allotted to it under section 670B in accordance with requirements of this subchapter; and

"(2) certify that the State agrees that Federal funds made available under section 670C for any period will be so used as to supplement and increase the level of State, local, and other non-Federal funds that would in the absence of such Federal funds be made available for the programs and activities for which funds are provided under that section and will in no event supplant such State, local, and other non-Federal funds.

The Secretary may not prescribe for a State the manner of compliance with the requirements of this subsection.

"(c) The chief executive officer of a State shall, as part of the application required by subsection (a), also prepare and furnish the Secretary (in accordance with such form as the Secretary shall provide) with a descrip-

tion of the intended use of the payments the State will receive under section 670C, including information on the programs and activities to be supported. The description shall be made public within the State in such manner as to facilitate comment from any person (including any Federal or other public agency) during development of the description and after its transmittal. the description shall be revised (consistent with this section) until September 30, 1987, as may be necessary to reflect substantial changers in the programs and activities assisted by the State under this subchapter, and any revision shall be subject to the requirements of the preceding sentence.

"(d) Except where inconsistent with the provisions of this subchapter, the provisions of section 1903 (b), paragraphs (1) through (5) of section 1906(a), and sections 1906(b), 1907, 1908, and 1909 of the Public Health Service Act shall apply to this subchapter in the same manner as such provisions apply to part A of title XIX of such Act.

"REPORT

"SEC. 670F. Within three years after the date of enactment of this subchapter, the Secretary shall prepare and transmit to the Senate Committee of Labor and Human Resources and the House Committee on Education and Labor a report concerning the activities conducted by the States with amounts provided under this subchapter.

"DEFINITIONS

"SEC. 670G. For purposes of this subchapter—

"(1) the term 'community center' means facilities operated by nonprofit community-based orginizations for the provision of recreational, social, or educational services to the general public;

"(2) the term 'dependent' means—

"(A) an individual who has not attained the age of 17 years;

"(B) an individual who has attained the age of 55 years; or

"(C) a person with a developmental disability;

"(3) the term 'developmental disability' has the same meaning as in section 102 (7) of the Developmental Disabilities Assistance and Bill of Rights Act;

"(4) the term 'equipment' has the same meaning given that term by section 198 (a)(8) of the Elementary and Secondary Education act of 1965;

"(5) the term 'institution of higher education' has the same meaning given that term under section 1201(a) of the Higher Education Act of 1965;

"(6) the term 'local educational agency' has the same meaning given that term under section 198(a)(10) of the Elementary and Secondary Education Act of 1965;

"(7) the term 'school-age children' means children aged five through thirteen;

"(8) the term 'school facilities' means classrooms and related facilities used for the provision of education;

"(9) the term 'Secretary' means the Secretary of Health and Human Services;

"(10) the term 'State' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands; and

"(11) the term 'State educational agency' has the meaning given that term under section 198(a)(17) of the Elementary and Secondary Education Act of 1965.".

TITLE II—COMMUNITY SERVICES BLOCK GRANT

AUTHORIZATION OF APPROPRIATIONS

SEC. 201. Section 672(b) of the Community Services Block Grant Act (hereinafter in this title referred to as the "Act") is amended by adding at the end thereof the following new sentence: "There is authorized to be appropriated $400,000,000 for the fiscal year 1985, and $415,000,000 for the fiscal year 1986, to carry out the provisions of this subtitle.".

DEFINITIONS

SEC. 202. (a)(1) The second sentence of section 673(1) of the act is amended to read as follows: "The term 'eligible entity' also includes any limited purpose agency designated under title II of the Economic Opportunity Act of 1964 for fiscal year 1981 which served the general purposes of a community action agency under title II of such Act, unless such designated agency lost its designation under title II of such Act as a result of a failure to comply with the provisions of such Act, any grantee which received financial assistance under section 222(a)(4) of the Economic Opportunity Act of 1964 in fiscal year 1981, and any organization to which a State which applied for and received a waiver from the Secretary under Public Law 98-139 made a grant under this Act in fiscal year 1984.".

(2) Section 673(1) of the Act is amended by addingat the end thereof the following two sentences: "In any geographic area of a State not presently served by an eligible entity, the Governor of the State may decide to serve such a new area by—

"(A) requesting an existing eligible entity which is located and provides services in an area contiguous to the new area to serve the new area;

"(B) if no existing eligible entity is located and provides services in an area contiguous to the new area, requesting the eligible entity located closest to the area to be served or an existing eligible entity serving an area within reasonable proximity of the new area to provide services in the new area; or

"(C) where no existing eligible entity requested to serve the new area decided to do so, designating any existing eligible entity, any organization which has a board meeting the requirements of section 675(c)(3) or any political subdivision of the State to serve the new area. The Governor's designation of an organization which has a board meeting the requirements of section 675(c)(3) or a political subdivision of the State to serve the new area shall qualify such organization as an eligible entity under this Act.".

(b) Section 673(2) of the Act is amended by inserting at the end thereof the following new sentence: "Whenever the State determines that it serves the objectives of the block grant established by this subtitle the State may revise the poverty line to not to exceed 125 percent of the official poverty line otherwise applicable under this paragraph.".

APPLICATIONS AND REQUIREMENTS

SEC. 203 (a)(1) Section 675(c)(2)(A)(i) of the Act is amended by striking "1982 only" and inserting in lieu thereof "1985 and for each subsequent fiscal year".

(2) Section 675(c)(2)(A)(i) of the Act is amended by inserting before the semicolon a comma and the following: "except that no more than 7 percent of the funds available for this subclause shall be granted to organizations which were not eligible entities during the previous fiscal year".

(3) Section 675(c)(2)(A) of the Act is amended—

(A) by striking out "(i)"; and

(B) by striking out division (ii).

(4) Section 675(c)(2)(B) of the Act is amended by inserting after "than" the following: "the greater of $55,000 or".

(5) Section 675(c)(5) of the Act is amended—

(A) by striking out "or the energy" and inserting in lieu thereof "the energy", and

(B) by inserting ", or the Temporary Emergency Food Assistance Act of 1983" before the semicolon.

(b) Section 675 of the Act is amended—

(1) by striking out "and" at the end of clause (9);

(2) by striking out the period at the end of clause (10) and inserting in lieu thereof a semicolon and the word "and"; and

(3) by adding at the end thereof the following new clause:

"(11) provide assurances that any community action agency or migrant and seasonal farmworker organization which received funding in the previous fiscal year under this Act will not have its present or future funding terminated under this Act unless after notice, and opportunity for hearing on the record, the State determines that cause existed for such termination subject to review by the Secretary as provided in section 676A.".

(c) Section 675 is amended by adding at the end thereof the following new subsection:

"(i)(1) For purposes of determining compliance with this subchapter the Secretary shall conduct, in several States in each fiscal year, evaluations of the uses made of funds received under this subchapter by such States.

"(2) The results of such evaluations shall be submitted annually to the chairman of the Committee on Education and Labor of the House of Representatives and the chairman of the Committee on Labor and Human Resources of the Senate.".

(d) The Act is amended by inserting after section 676 the following new section:

"TERMINATION OF FUNDING REVIEW

"SEC. 676A. The Secretary shall upon request review any termination of funding to a community action agency or migrant and seasonal farmworker organization protected by a State's assurance under section 675(c)(11). Such review shall be conducted promptly and shall be based upon the record and no determination shall become effective until a finding by the Secretary confirming the State's finding of cause.".

DISCRETIONARY PROGRAM

SEC. 204. (a)(1) The matter preceding clause (1) of section 682(a) of the Act is amended by striking out "public and other organizations and agencies" both times it appears and inserting in lieu thereof "public agencies and private nonprofit organizations".

(2) Section 681(a) of the Act is amended—

(A) by striking out "and" at the end of clause (1);

(B) by striking out the period at the end of clause (2) and inserting in lieu thereof a semicolon and the word "and"; and

(C) by adding at the end thereof the following new clause:

"(3) training and technical assistance to aid States in carrying out their responsibilities under this subchapter.".

(b) Section 681(a) of the Act is amended by adding at the end thereof the following new flush sentence: "In addition, grants,

loans, and guarantees made pursuant to this subsection may be made to a private nonprofit organization applying jointly with a business concern.".

WITHHOLDING

SEC. 205. (a) Section 679(b) of the Act is amended—

(1) in paragraph (2) by striking out "he" and inserting in lieu thereof "the Secretary", and

(2) in paragraph (3) by striking out "may" and inserting in lieu thereof "shall"

(b) Section 679 of the Act is amended by striking out subsection (d).

COMMUNITY FOOD AND NUTRITION PROGRAM

SEC. 206. The Act is amended by inserting after section 681 the following new section:

"COMMUNITY FOOD AND NUTRITION

"SEC. 681A. (a) The Secretary may through grants to public and private nonprofit agencies, provide for community-based, local, and statewide programs—

"(1) to coordinate existing private and public food assistance resources, whenever such coordination is determined to be inadequate, to better serve low-income populations;

"(2) to assist low-income communities to identify potential sponsors of child nutrition programs and to initiate new programs in underserved or unserved areas; and

"(3) to develop innovative approaches at the State and local level to meet the nutrition needs of low-income people.

"(b) There is authorized to be appropriated $2,500,000 for each of the fiscal years 1985 and 1986 to carry out the provisions of this section.".

CONSTRUCTION

SEC. 207. Notwithstanding any other provision of law the provisions of section 675(c)(2) of the Act made by the amendments contained in paragraphs (1), (2) and (3) of section 203 of this Act shall apply to the funds appropriated for the Act for fiscal year 1985.

TITLE III—FOLLOW THROUGH

AUTHORIZATION OF APPROPRIATIONS

SEC. 301. Section 663(a)(1) of the Follow Through Act is amended to read as follows:

"(1) There is authorized to be appropriated for carrying out the purposes of this subchapter $10,000,000 for the fiscal year 1985 and $7,500,000 for the fiscal year 1986.".

REPEALER

SEC. 302. Section 670 of the Follow Through Act is amended by striking out "1984" and inserting in lieu thereof "1986".

TITLE IV—WEATHERIZATION PROGRAM

STATE ELECTION OF LIHEAP INCOME ELIGIBILITY LEVEL

SEC. 401. Section 412(7) of the Energy Conservation in Existing Buildings Act of 1976 (42 U.S.C. 6862(7)) is amended by striking out "or" before the beginning of clause (B), by striking out the period at the end of the paragraph "or (C) if a State elects, is the basis for eligibility for assistance under the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621), provided that such basis is at least 125 percent of the poverty level determined in accordance with criteria established by the Director of the Office of Management and Budget.".

NEW TECHNOLOGY AND ELIMINATION OF A RULEMAKING REQUIREMENT

SEC. 402. Section 412(9) of the Energy Conservation in Existing Buildings Act of 1976 (42 U.S.C. 6862(9)) is amended by—

(1) amending paragraph (B) to read as follows:

"(B) furnace efficiency modifications, including, but not limited to—

"(i) replacement burners, furnaces, or boilers or any combination thereof;

"(ii) devices for minimizing energy loss through heating system, chimney, or venting devices; and

"(iii) electrical or mechanical furnace ignition systems which replace standing gas pilot lights;"; and

(2) striking out "by rule" in paragraph (G).

MAXIMUM EXPENSES

SEC. 403. Section 415 of the Energy Conservation in Existing Buildings Act of 1976 (42 U.S.C. 6865) is amended—

(b) by striking out the first sentence in subsection (a) and inserting in lieu thereof: "An average of at least forty percent of the funds provided in a State under this part for weatherization materials, labor, and related matters described in subsection (c) shall be spent for weatherization materials."; and

(2) by amending subsection (c) to read as follows:

"(c)(1) The expenditure of financial assistance provided under this part for labor, weatherization materials, and related matters shall not exceed an average of $1,600 per dwelling unit weatherized in that State. Labor, weatherization materials, and related matters includes, but is not limited to—

"(A) the appropriate portion of the cost of tools and equipment used to install weatherization materials for a dwelling unit;

"(B) the cost of transporting labor, tools, and materials to a dwelling unit;

"(C) the cost of having onsite supervisory personnel; and

"(D) the cost of making incidental repairs to a dwelling unit if such repairs are necessary to make the installation of weatherization materials effective.

"(2) Dwelling units partially weatherized under this part or under other Federal programs during the period September 30, 1975, through September 30, 1979, may receive further financial assistance for weatherization under this part.".

PERFORMANCE FUND

SEC. 404. Section 415 of the Energy Conservation in Existing Buildings Act of 1976 (42 U.S.C. 6862) is amended by adding at the end thereof the following new subsection:

"(d) Beginning in fiscal year 1986, not less than 5 percent and no more than 15 percent of the amount appropriated under this part for each fiscal year shall be allotted by the Secretary to a performance fund, which shall be available only to provide financial assistance under this part to those States which the Secretary determines to have demonstrated the best performance during the previous fiscal year in providing weatherization assistance. The Secretary shall make such determination on the basis of such information as may be available to the Secretary, to include, but not be limited to, the percentage of eligible dwelling units within the State which have been weatherized using low-income weatherization assistance program funds during the relevant reporting period. In assessing the quality of the weatherization assistance provided, the Secretary shall consider comparable energy savings data supplied by the State.".

TITLE V—HIGHER EDUCATION AND RESEARCH PROJECT

CENTER FOR EXCELLENCE IN EDUCATION AUTHORIZED

SEC. 501. (a) The Secretary of Education (hereinafter in this section referred to as the "Secretary") is authorized in accordance with the provisions of this title, to provide financial assistance to Indiana University located in Bloomington, Indiana, to pay the Federal share of the cost of the construction, and related costs, including renovation costs, for the Center for Excellence in Education facility at Indiana University, to be used as a national research and training resource for individuals who intend to become exemplary elementary and secondary school teachers and administrators.

(b)(1) No financial assistance may be made under this title unless an application is made at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

(2) For the purpose of this section, the Federal share of the cost of the Center for Excellence in Education facility at the Indiana University should not exceed 50 percent.

(c) There are authorized to be appropriated such sums, not to exceed $6,000,000, as may be necessary to carry out the provisions of this title. Funds appropriated pursuant to this title shall remain available until September 30, 1987.

RESEARCH CENTERS

SEC. 502. (a)(1) The Secretary of Health and Human Services (hereinafter in this section referred to as the "Secretary") is authorized, in accordance with the provisions of this section, to provide financial assistance to the University of Utah located in Salt Lake City, Utah, to pay the Federal share of the cost of the establishment and operation (including construction, and related costs, including renovation costs) of a center for research on the health effects of nuclear energy and other new energy technologies.

(2)(A) No financial assistance may be made under this subsection unless an application is made at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

(B) For the purpose of this subsection, the Federal share of the cost of the center shall not exceed 50 percent.

(3) There are authorized to be appropriated such sums, not to exceed $4,000,000, as may be necessary to carry out the provisions of this subsection. Funds appropriated pursuant to this subsection shall remain available until September 30, 1987.

(b)(1) The Secretary shall, through the National Cancer Institute, establish or support at least one clinic or health facility for cancer screening and research in St. George, Utah. Such clinic shall be affiliated with a health science center capable of providing clinical, research, and interdisciplinary technical assistance to such clinic or facility, and shall make its services accessible to the preponderance of the residents of the areas that have received the greatest fallout from the Nevada nuclear tests.

(2) There are authorized to be appropriated such sums, not to exceed $6,000,000, as may be necessary to carry out the provisions of this subsection. Funds appropriated pursuant to this subsection shall remain available until September 30, 1987.

TITLE VI—LOW-INCOME HOME ENERGY ASSISTANCE

AUTHORIZATION OF APPROPRIATIONS

SEC. 601. Section 2602(b) of the Low-Income Home Energy Assistance Act of 1981 (hereinafter in this title referred to as the "Act") is amended to read as follows:

"(b) There is authorized to be appropriated to carry out the provisions of this title $2,140,000,000 for the fiscal year 1985, and $2,275,000,000 for the fiscal year 1986.".

DEFINITION

SEC. 602. (a) Section 2603(1) of the Act is amended—

(1) by striking out "intervention"; and

(2) by inserting before the period "and other household energy-related emergencies".

(b) Section 2603(4) of the Act is amended to read as follows:

"(4) The term 'poverty level' means, with respect to a household in any State, the income poverty line as prescribed and revised at least annually pursuant to section 673(2) of the Community Services Block Grant Act, as applicable to such State.".

ENERGY CRISIS INTERVENTION

SEC. 603. (a) Section 2604(c) of the Act is amended—

(1) by inserting after "reserved" the following: "until March 15 of each program year"; and

(2) by adding at the end thereof the following new sentence: "The program for which funds are reserved by this subsection shall be administered by public or nonprofit entities which have experience in administering energy crisis programs under the Low-Income Energy Assistance Act of 1980, or under this Act, experience in assisting low-income individuals in the area to be served, and the capacity to undertake a timely and effective energy crisis intervention program.".

(b) Section 2604(d)(1) of the Act is amended by striking out "otherwise be paid" and inserting in lieu thereof "otherwise be payable".

(c) Section 2604(e) of the Act is repealed.

(d) Section 2604(f) of the Act is amended by striking out "its allotment" and inserting in lieu thereof "the funds payable to it".

STATE ALLOTMENTS

SEC. 604. (a) Section 2604(a)(2) is amended to read as follows:

"(2) For purposes of paragraph (1), for fiscal year 1985 and thereafter, a State's allotment percentage is the percentage which expenditures for home energy by low-income households in that State bears to such expenditures in all States, except that States which thereby receive the greatest proportional increase in allotments by reason of the application of this paragraph from the amount they received pursuant to Public Law 98-139 shall have their allotments reduced to the extent necessary to ensure that—

"(A)(i) no State for fiscal year 1985 shall receive less than the amount of funds the State received in fiscal year 1984; and

"(ii) no State for fiscal year 1986 and thereafter shall receive less than the amount of funds the State would have received in fiscal year 1984 if the appropriations for this title for fiscal year 1984 had been $1,975,000,000, and

"(B) any State whose allotment percentage out of funds available to States from a total appropriation of $2,250,000,000 would be less than 1 percent, shall not, in any year when total appropriations equal or exceed $2,250,000,000, have its allotment percentage reduced from the percentage it would receive from a total appropriation of $2,140,000,000.".

(b) Section 2604(a) is amended by adding at the end thereof the following new paragraph:

"(4) For the purpose of this section, the Secretary shall determine the expenditure for home energy by low-income households on the basis of the most recent satisfactory data available to the Secretary."

APPLICATIONS AND REQUIREMENTS

SEC. 605. (a)(1) Section 2605(b)(1) of the Act is amended by striking out "subsection" and inserting in lieu thereof "section".

(2) Subclause (B) of section 2605(b)(2) of the Act is amended by inserting after the semicolon and flush to the margin of subclause (B) the following: "except that no household may be excluded from eligibility under this subclause for payments under this title for fiscal year 1986 and thereafter if the household has an income which is less than 110 percent of the poverty level for such State for such fiscal year".

(3) Section 2605(b)(5) is amended by inserting before the semicolon a comma and the following: "except that the State may not differentiate in implementing this section between the households described in clauses (2)(A) and (2)(B) of this subsection".

(4) Section 2605(b)(7)(C) is amended by striking out "any differently" and inserting in lieu thereof "adversely".

(5) Section 2605(b)(8) of the Act is amended by inserting after "that" the following: "(A) the State will not exclude households described in clause (2)(B) of this subsection from receiving home energy assistance benefits under clause (2), and (B)".

(6) Section 2605(b)(9)(A) of the Act is amended to read as follows:

"(A) the State may use for planning and administering the use of funds under this title an amount not to exceed 10 percent of the funds payable to such State under this title for a fiscal year and not transferred pursuant to section 2604(f) for use under another block grant; and".

(7) Section 2605(b)(10) of the Act is amended by striking out "every year" and inserting in lieu thereof "every two years".

(8) Section 2605(b) of the Act is amended—

(A) by striking out "and" at the end of clause (12);

(B) by striking out the period at the end of clause (13) and inserting in lieu thereof a semicolon; and

(C) by adding at the end thereof the following new clauses:

"(14) describe the procedures by which households in the State are identified as eligible to participate under this title and the manner in which the State determines benefit levels;

"(15) describe the amount that the State will reserve in accordance with section 2604(c) in each fiscal year for energy crisis intervention activities together with the administrative procedures (A) for designating an emergency, (B) for determining the assistance to be provided in any such emergency, and (C) for the use of funds reserved under such section for the purposes under this title in the event any portion of the amount so reserved is not expended for emergencies.

"(16) describe energy usage and the average cost of home energy in the State, identified by type of fuel and by region of the State; and

"(17) cooperate with the Secretary with respect to data collecting and reporting under section 2610.".

(9) Section 2605(b) is amended by adding at the end thereof the following new sentence: "The Secretary shall issue regulations to prevent waste, fraud, and abuse in the programs assisted by this title.".

(b) (1) Section 2605 (c) (1) of the Act is amended to read as follows:

"(c) (1) As part of the annual application required in subsection (a), the chief executive officer of each State shall prepare and furnish to the Secretary, in such format as the Secretary may require, a plan which—

"(A) describes how the State will carry out the assurances required under subsection (b);

"(B) contains estimates of the amount of funds the State will use for each of the programs under such plan;

"(C) describes the eligibility requirements to be used by the state for each type of assistance to be provided under this title;

"(D) describes weatherization and other energy-related home repair the State will provide under subsection (k); and

"(E) contains any other information determined by the Secretary to be appropriate for purposes of this title.

The chief executive officer may revise any plan prepared under this paragraph and shall furnish the revised plan to the Secretary.".

(2) Section 2605 (c) (2) of the Act is amended—

(A) by inserting "and each substantial revision thereof" after "Each plan prepared under paragraph (1)", and

(B) by striking out the period at the end thereof and inserting in lieu thereof "or substantial revision.".

(c) Section 2605 (d) of the Act is amended to read as follows:

"(d) The State shall expend funds in accordance with the State plan under this title or in accordance with revisions applicable to such plan.".

(d) Section 2605 (e) of the Act is amended to read as follows:

"(e) Each State shall, in carrying out the requirements of subsection (b) (10), obtain financial and compliance audits of any funds which the State receives under this title. Such audits shall be made public within the State on a timely basis. The audits shall be conducted at least every two years by an organization or person independent of any agency administering activities under this title. The audits shall be conducted in accordance with the Comptroller General's standards for audit of governmental organizations, programs, activities, and functions. Within 30 days after completion of each audit, the chief executive officer of the State shall submit a copy of the audit to the legislature of the State and to the Secretary.".

(e) Section 2605 (f) of the Act is amended by inserting before the comma the first time it appears the following: "unless enacted in express limitation of this paragraph".

(f) Section 2605 (h) of the Act is amended by inserting "(but not less frequently than every three years)" after "time" the second place it appears.

PAYMENTS TO STATES

SEC. 606. (a) (1) The second sentence of section 2607 (b)(2)(A) of the Act is amended by inserting "or the amount payable to" after "of".

(2) Section 2607 (b)(2)(A) of the Act is amended by inserting after the first sen-

tence thereof the following: "Such request shall include a statement of the reasons that the amount allotted to such State for a fiscal year will not be used by such State during such fiscal year and a description of the types of assistance to be provided with the amount held available for the following fiscal year.".

(b)(1)(A) The first sentence of section 2607(b)(2)(B) of the Act is amended by striking out "25 percent" and inserting in lieu thereof "15 percent".

(B) The first sentence of section 2607(b)(2)(B) of the Act is further amended by striking out "allotted to such state for such prior fiscal year" and inserting in lieu thereof "payable to such State for such prior fiscal year and not transferred pursuant to section 2604(f)".

(2) The second sentence of section 607(b)(2)(B) of the Act is amended by striking out "allotted to a State" and inserting in lieu thereof "payable to a State but not transferred by the State".

(c) Section 2607(b)(2) of the Act is amended by adding at the end thereof the following new subparagraph:

"(C) The Secretary shall reallot amounts made available under this paragraph for the fiscal year following the fiscal year of the original allotment in accordance with paragraph (1) of this subsection.".

STUDIES

SEC. 607. (a) Section 2610(a)(2) of the Act is amended—

(1) by inserting "amount," before "cost"; and

(2) by adding at the end thereof the following: "for households eligible for assistance under this title".

(b) Section 2610(a) of the Act is amended by—

(1) striking out "and" at the end of clause (4);

(2) redesignating clause (5) as clause (6); and

(3) inserting after clause (4) the following new clause:

"(5) the number of households which received such assistance and include one or more individuals who are 60 years or older or handicapped; and".

(c) Section 2610(a) of the Act is amended by adding at the end thereof the following new flush sentence: "Nothing in this subsection may be construed to require the Secretary to collect data which has been collected and made available to the Secretary by any other agency of the Federal Government.

(d) Section 2610(b) of the Act is amended to read as follows:

"(b) The Secretary shall, no later than June 30 of each fiscal year, submit a report to the Congress containing a detailed compilation of the data under subsection (a) with respect to the prior fiscal year.".

TECHNICAL AMENDMENT

SEC. 608. Section 2608(b)(2) of the Act is amended by striking out "he" and inserting in lieu thereof "the Secretary".

EFFECTIVE DATES

SEC. 609. (a) Except as provided in subsections (b), (c), and (d), the amendments made by this title shall take effect on the date of enactment of this Act.

(b) The amendments made by section 605 shall take effect on the first day of the first fiscal year beginning after the date of the enactment of this Act.

(c) The amendments made by section 606 shall apply to amounts held available for fiscal years beginning after September 30, 1985.

(d) The amendment made by section 607 shall apply to data collected and compiled after the date of the enactment of this Act. Section 2610 of the Act as in effect before the date of the enactment of this Act shall apply with respect to the report submitted under such section 2610 for fiscal year 1984.

TITLE VII—POSTSECONDARY EDUCATION SCHOLARSHIP PROGRAM

AMENDMENT TO TITLE V OF THE HIGHER EDUCATION ACT OF 1965

SEC. 701. Title V of the Higher Education Act of 1965 is amended by inserting after part D the following new parts E and F:

PART E—CARL D. PERKINS SCHOLARSHIP PROGRAM

"DECLARATION OF PURPOSE; AUTHORIZATION OF APPROPRIATIONS

"SEC. 561. (a) It is the purpose of this part to make available, through grants to the States, scholarships during fiscal years 1986 through 1990 to a maximum of ten thousand individuals who are outstanding high school graduates and who demonstrate an interest in teaching, in order to enable and encourage those individuals to pursue teaching careers in education at the elementary or secondary level. Such scholarships shall be referred to as 'Carl D. Perkins Scholarships'.

"(b) There are authorized to be appropriated $20,000,000 for fiscal year 1986, $21,000,000 for fiscal year 1987, $22,000,000 for fiscal year 1988, and $23,000,000 for fiscal year 1989, for Carl D. Perkins Scholarships to eligible students under this part.

"ALLOCATION AMONG STATES

"SEC. 562. (a) From the sums appropriated pursuant to section 561 for any fiscal year, the Secretary shall allocate to any State an amount which bears as nearly as possible the same ratio to such sums as the number of persons in that State bears to the number of persons in all States.

"(b) For the purpose of this section, the number of persons in a State and in all States shall be determined by the most recently available data from the United States Census Bureau.

"GRANT APPLICATIONS

"SEC. 563. (a) The Secretary is authorized to make grants to States in accordance with the provisions of this part. In order to receive a grant under this part, a State shall submit an application at such time or times, in such manner, and containing such information as the Secretary may prescribe by regulation. Such application shall set forth a program of activities for carrying out the purposes set forth in section 561(a) in such detail as will enable the Secretary to determine the degree to which such program will accomplish such purposes and such other policies, procedures, and assurances as the Secretary may require by regulation.

"(b) The Secretary shall approve an application only if the application—

"(1) describes the selection criteria and procedures to be used by the State in the selection of scholarships under this part which satisfy the provisions of this part;

"(2) designates the State agency which administers the program under subpart 3 of part A of title IV, relating to State student incentive grants, or the State agency with which the Secretary has an agreement under section 428(b);

"(3) describes the outreach effort the State agency intends to use to publicize the availability of Carl D. Perkins Scholarships to high school students in the State;

"(4) provides assurances that each recipient eligible under section 565(b) of this part who receives a Carl D. Perkins Scholarship shall enter into an agreement with the State agency under which the recipient shall—

"(A) within the ten-year period after completing the postsecondary education for which the Carl D. Perkins Scholarship was awarded, teach, for a period of not less than two years for each year for which assistance was received, in a public elementary or secondary school in any State, in a public education program in any State, or in a private nonprofit school located and serving students in a district eligible for assistance pursuant to chapter 1 of the Education Consolidation and Improvement Act of 1981, or, on a full-time basis, handicapped children or children with limited English proficiency in a private nonprofit school, except that, in the case of individuals who teach in a school serving large numbers or high concentrations of economically disadvantaged students, or who teach children with limited English proficiency or handicapped children, the requirements of this subparagraph shall be reduced by one-half;

"(B) provide the State agency evidence of compliance with section 566 of this part as required by the State agency; and

"(C) repay all or part of a Carl D. Perkins Scholarship received under section 564 of this part plus interest and, if applicable, reasonable collection fees, in compliance with regulations issued by the Secretary under section 567 of this part, in the event that the conditions of clause (A) are not complied with, except as provided for in section 568 of this part.

"(5) provide that the agreement entered into with recipients shall fully disclose the terms and conditions under which assistance under this part is provided and under which repayment may be required. Such disclosure shall include—

"(A) a description of the procedures required to be established under paragraph (6); and

"(B) a description of the appeals procedures required to be established under paragraph (7) under which a recipient may appeal a determination of noncompliance with any provision under this part;

"(6) provides for procedures under which a recipient of assistance received under this part who teaches for less than the period required under paragraph (4)(A) will have the repayment requirements reduced or eliminated consistent with the provisions of sections 567 and 568 of this part;

"(7) provides for appeals procedures under which a recipient may appeal any determination of noncompliance with any provision under this part;

"(8) provides assurances that the State agency shall make particular efforts to attract students from low-income backgrounds or who express a willingness or desire to teach in schools having less than average academic results or serving large numbers of economically disadvantaged students; and

"(9) provides assurances that Carl D. Perkins Scholarships will be awarded without regard to sex, race, handicapping condition, creed, or economic background.

"(C) The selection criteria and procedures to be used by the State shall reflect the present and projected teacher needs of the State, including the demand for and supply of elementary teachers in the State, the demand for and supply of secondary teachers in the State, and the demand for teach-

ers with training in specific academic disciplines in the State.

"(d) In developing the selection criteria and procedures to be used by the State, the State shall solicit the views of State and local educational agencies, private educational institutions, and other interested parties. Such views—

"(1) shall be solicited by means of (A) written comments; and (B) publication of proposed selection criteria and procedures in final form for implementation; and

"(2) may be solicited by means of (A) public hearings on the teaching needs of elementary and secondary schools in the State (including the number of new teachers needed, the expected supply of new teachers with training in specific academic disciplines); or (B) such other methods as the State may determine to be appropriate to gather information on such needs.

"AMOUNT AND DURATION OF AND RELATION TO OTHER ASSISTANCE

"SEC. 564. (a) Subject to subsection (c), each Carl D. Perkins Scholar shall receive a $5,000 scholarship for each academic year of postsecondary education for study in preparation to become an elementary or secondary teacher. No individual shall receive scholarship assistance for more than four years of postsecondary education, as determined by the State agency.

"(b) Notwithstanding the provisions of title IV of this Act, scholarship funds awarded pursuant to this part shall be considered in determining eligibility for student assistance under title IV of this Act.

"(c) Carl D. Perkins Scholarship assistance awarded by the statewide panel established pursuant to section 565 to any individual in any given year, when added to assistance received under title IV of this Act, shall not exceed the cost of attendance, as defined under section 482 (d), at the institution the individual is attending. If the amount of the Carl D. Perkins Scholarship assistance and assistance received under title IV of this Act, exceeds the cost of attendance, the Carl D. Perkins Scholarship shall be reduced by an amount equal to the amount by which the combined awards exceed the cost of attendance.

"(d) No individual shall receive an award under the Carl D. Perkins Scholarship established under this part, in any academic year, which shall exceed the cost of attendance, as defined under section 482(d), at the institution the individual is attending.

"SELECTION OF CARL D. PERKINS SCHOLARS

"Sec. 565. (a) Carl D. Perkins Scholars shall be selected by a seven-member statewide panel appointed by the chief State elected official, acting in consultation with the State educational agency, or by an existing grant agency, or panel designated by the chief State elected official and approved by the Secretary of Education. The statewide panel shall be representative of school administrators, teachers and parents.

"(b) Selections of Carl D. Perkins Scholars shall be made from students who have graduated or who are graduating from high school and who ran in the top 10 percent of their graduating class. The State educational agency shall make applications available to high schools in the State and in other locations convenient to applicants, parents and others. The statewide panel shall develop criteria and procedures for the selection of Carl D. Perkins Scholars. Such criteria may include the applicant's high school grade point average, involvement in extracurricular activities, financial need, and expression of interest in teaching as expressed in an essay written by the applicant. The panel may also require the applicant to furnish letters of recommendation from teachers and others.

"SCHOLARSHIP CONDITIONS

"SEC. 566. Recipients of scholarship assistance under this part shall continue to receive such scholarship payments only during such periods that the State agency finds that the recipient is (A) enrolled as a full-time student in an accredited postsecondary institution; (B) pursuing a course of study leading to teacher certification; and (C) maintaining satisfactory progress as determined by the postsecondary institution the recipient is attending.

"SCHOLARSHIP REPAYMENT PROVISIONS

SEC. 567. Recipients found by the State agency to be in noncompliance with the government entered into under section 563(b)(3) of this part shall be required to repay a pro rata amount of the scholarship awards received, plus interest and, where applicable, reasonable collection fees, on a schedule and at a rate of interest to be prescribed by the Secretary by regulations issued pursuant to this part.

"EXCEPTIONS TO REPAYMENT PROVISIONS

"SEC. 568. (a) A recipient shall not be considered in violation of the agreement entered into pursuant to section 563(b)(4)(C) if the recipient (1) returns to a full-time course of study related to the field of teaching at an eligible institution; (2) is serving, not in excess of three years, as a member of the armed services of the United States; (3) is temporarily totally disabled for a period of time not to exceed three years as established by sworn affidavit of a qualified physician; (4) is unable to secure employment for a period of not to exceed twelve months by reason of the care required by a spouse who is disabled; (5) is seeking and unable to find full-time employment for a single period not to exceed twelve months; (6) is seeking and unable to find full-time employment as a teacher in a public elementary or secondary school or a public education program; or (7) satisfies the provisions of additional repayment exceptions that may be prescribed by the Secretary in regulations issued pursuant to this part.

"(b) A recipient shall be excused from repayment of any scholarship assistance received under this part if the recipient became permanently totally disabled as established by sworn affidavit of a qualified physician.

"FEDERAL ADMINISTRATION OF STATE PROGRAMS; JUDICIAL REVIEW

"SEC. 569. (a) The Secretary shall not finally disapprove any application for a State program submitted under section 563, or any modification thereof, without first affording the State agency submitting the program reasonable notice and opportunity for a hearing.

"(b) Whenever the Secretary, after reasonable notice and opportunity for hearing to the State agency administering a State program approved under this part, finds—

"(1) that the State program has been so changed that it no longer complies with the provisions of this part, or

"(2) that in the administration of the program there is a failure to comply substantially with any such provisions,

the Secretary shall notify such State agency that the State will not be regarded as eligible to participate in the program under this part until the Secretary is satisfied that there is no longer any such failure to comply.

"(c)(1) If any State is dissatisfied with the Secretary's final action under subsection (b)(1) or (2), such State may appeal to the United States court of appeals for the circuit in which such State is located. The summons and notice of appeal may be served at any place in the United States. The Secretary shall forthwith certify and file in the court the transcript of the proceedings and the record on which the action was based.

"(2) The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of fact and may modify any previous action, and shall certify to the court the transcript and record of further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

"(3) The court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

"PART F—NATIONAL TALENTED TEACHER FELLOWSHIP PROGRAM

"DECLARATION OF PURPOSE

"SEC. 571. It is the purpose of this part to establish a national fellowship program for outstanding teachers.

"AUTHORIZATION OF APPROPRIATIONS; ALLOCATION AMONG STATES

"SEC. 572. There are authorized to be appropriated $1,000,000 for fiscal year 1986, $2,000,000 for fiscal year 1987, $3,000,000 for fiscal year 1988, and $4,000,000 for fiscal year 1989, for fellowships to outstanding teachers under this part. Not more than 2½ per centum of these funds shall be used for purposes of administering this part.

"TALENTED TEACHER FELLOWSHIPS

"SEC. 573. (a)(1) Except as provided under paragraph (3), sums available for the purpose of this part shall be used to award one national teacher fellowship to a public or private school teacher teaching in each congressional district of each State, and in the District of Columbia, and the Commonwealth of Puerto Rico; and one such fellowship in Guam, the Virgin Islands, American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

"(2) Fellowship awards may not exceed the average national salary of public school teachers in the most recent year for which satisfactory data are available, as determined by the Secretary. Talented teacher fellows may not receive an award for two consecutive years. Subject to the repayment provisions of section 576, talented teacher fellows shall be required to return to a teaching position in their current school district or private school system for at least two years following the fellowship award.

"(3) If the appropriation under section 572 is not sufficient to provide the number of fellowships required by paragraph (1) at the level required under paragraph (2), the Secretary shall determine and publish an alternative distribution of fellowships which will permit fellowship awards at that level and which is geographically equitable. The Secretary shall send a notice of such deter-

mination to each of the statewide panels established under section 574.

"(b) Talented teacher fellows may use such awards for such projects for improving public education as the Secretary may approve, including (1) sabbaticals for study or research directly associated with the objectives of this part, or academic improvement; (2) consultation with or assistance to other school districts or private school systems; (3) development of special innovative programs; or (4) model teacher programs and staff development.

"SELECTION OF TALENTED TEACHER FELLOWSHIPS

"SEC. 574. Recipients of talented teacher fellowship in each State shall be selected (in accordance with section 575) by a seven-member statewide panel appointed by the chief State elected official, acting in consultation with the State educational agency, or by an existing panel designated by the chief State elected official and approved by the Secretary of Education. The statewide panel shall be representative of school administrators, teachers, parents, and institutions of higher education.

"EVALUATION OF APPLICATIONS

"SEC. 575. (a) An applicant for talented teacher fellowship assistance shall submit proposals for projects under section 573 (b), and shall indicate the extent to which the applicant wishes to continue current teaching duties. The applicant shall submit such proposals to the local education agency for comment prior to submission to the statewide panel (appointed under section 574) for the State within which the project is to be conducted. In evaluating proposals, such statewide panel shall consult with the local education agency, requesting two recommendations from teaching peers; a recommendation from the principal; and a recommendation of the superintendent on the quality of the proposal and its benefit to the local education agency; and any other criteria for awarding fellowships as is considered appropriate by such statewide panel. Selection of fellows shall be made in accordance with regulations prescribed by the Secretary of Education.

"(b) Announcement of awards shall be made in a public ceremony.

"FELLOWSHIP REPAYMENT PROVISIONS

"SEC. 576. Repayment of the award shall be made to the Federal Government in the case of fraud or gross noncompliance."

MATH SCIENCE TECHNICAL AMENDMENT

"SEC. 702. Section 711 of the Education for Economic Security Act is amended by striking out "(a)" and by striking out subsection (b) of such section.

TITLE VIII—FEDERAL MERIT SCHOLARSHIPS

AMENDMENT TO THE HIGHER EDUCATION ACT OF 1965

"SEC. 801. (a) Part A of title IV of the Higher Education Act of 1965 (hereafter in this title referred to as "the Act") is amended by redesignating subpart 6 as subpart 7 and by inserting after subpart 5 the following new subpart:

"Subpart 6—Federal Merit Scholarships

"STATEMENT OF PURPOSE

"SEC. 419A. It is the purpose of this subpart to establish a Federal Merit Scholarship Program to promote student excellence and achievement and to recognize exceptionally able students who show promise of continued excellence.

"DEFINITION

"SEC. 419B. For the purpose of this subpart—

"(1) the term 'secondary school' has the same meaning given that term under section 198 (a) (7) of the Elementary and Secondary Education Act of 1965; and

"(2) the term 'state' means each of the several States, the District of Columbia, and the Commonwealth of Puerto Rico.

"SCHOLARSHIPS AUTHORIZED

"SEC. 419C. (a) The Secretary is authorized, in accordance with the provisions of this subpart, to make grants to States to enable the States to award scholarships to individuals who have demonstrated outstanding academic achievement and who show promise of continued academic achievement.

"(b) Scholarships under this section shall be awarded for a period of one academic year for the first year of study at an institution of higher education.

"(c) A student awarded a scholarship under this subpart may attend any institution of higher education.

"ALLOCATION AMONG STATES

"SEC. 419D. From the sums appropriated pursuant to section 419K for any fiscal year, the Secretary shall allocate to each State having an agreement under section 419E—

"(1) $1,500 multiplied by the number of individuals in the State eligible for merit scholarships pursuant to section 419G (b), plus

"(2) $10,000, plus 5 percent of the amount to which a State is eligible under clause (1) of this section.

"AGREEMENTS

"SEC. 419E. The Secretary shall enter into an agreement with each State desiring to participate in the merit scholarship program authorized by this subpart. Each such agreement shall include provisions designed to assure that—

"(1) the State educational agency will administer the merit scholarship program authorized by this subpart in the State;

"(2) the State educational agency will comply with the eligibility and selection provisions of this subpart;

"(3) the State educational agency will conduct outreach activities to publicize the availability of Federal merit scholarships to all eligible students in the State, with particular emphasis on activities designed to assure that students from low-income and moderate-income families have access to the information on the opportunity for full participation in the merit scholarship program authorized by this subpart;

"(4) the State educational agency will pay to each individual in the State who is awarded a merit scholarship under this subpart $1,500 at an awards ceremony in accordance with section 419I; and

"(5) the State educational agency will use the amount of the allocation described in clause (2) of section 419D for administrative expenses, including the conduct of the awards ceremony required by section 419I.

"ELIGIBILITY OF MERIT SCHOLARS

"SEC. 419F. (a) Each student awarded a scholarship under this subpart shall be a graduate of a public or private secondary school or have the equivalent of a certificate of graduation as recognized by the State in which the student resides and must have been admitted for enrollment at an institution of higher education.

"(b) Each student awarded a scholarship under this subpart must demonstrate outstanding academic achievement and show promise of continued academic achievement.

"SELECTION OF MERIT SCHOLARS

"SEC. 419G. (a) The State educational agency is authorized to establish the criteria for the selection of merit scholars under this subpart.

"(b) The State educational agency shall adopt selection procedures which are designed to assure that ten individuals will be selected from among residents of each congressional district in a State (and in the case of the District of Columbia and the Commonwealth of Puerto Rico not to exceed ten individuals will be selected in such district or Commonwealth).

"(c) In carrying out its responsibilities under subsections (a) and (b), the State educational agency shall consult with school administrators, school boards, teachers, counselors, and parents.

"STIPENDS AND SCHOLARSHIP CONDITIONS

"SEC. 419H. (a) Each student awarded a merit scholarship under this subpart shall receive a stipend of $1,500 for the academic year of study for which the scholarship is awarded.

"(b) The State educational agency shall establish procedures to assure that a merit scholar awarded a scholarship under this subpart pursues a course of study at an institution of higher education.

"AWARDS CEREMONY

"SEC. 419I. (a) The State educational agency shall make arrangements to award merit scholarships under this subpart at a place in each State which is convenient to the individuals selected to receive such scholarships. To the extent possible, the award shall be made by Members of the Senate and Members of the House of Representatives (by the Delegate in the case of the District of Columbia and the Resident Commissioner in the case of the Commonwealth of Puerto Rico) who represent the State, Commonwealth, or District, as the case may be, from which the individuals come.

"(b) The selection process shall be completed, and the awards made prior to the end of each secondary academic year.

"CONSTRUCTION OF NEEDS PROVISIONS

"SEC. 419J. Nothing in this subpart, or any other Act, shall be construed to permit the receipt of a merit scholarship under this subpart to be counted for any needs test in connection with the awarding of any grant or the making of any loan under this Act or any other provision of Federal law relating to educational assistance.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 419K. There are authorized to be appropriated $8,000,000 for each of fiscal years 1986, 1987, and 1988 to carry out the provisions of this subpart.".

(b)(1) Section 419 of the Act is redesignated as section 420.

(2) Section 420 of the Act is redesignated as section 420A.

TITLE IX—LEADERSHIP IN EDUCATIONAL ADMINISTRATION

SHORT TITLE; PURPOSE

SEC. 901. (a) This title may be cited as the "Leadership in Educational Administration Development Act of 1984".

(b) It is the purpose of this title to improve the level of student achievement in elementary and secondary schools through the enhancement of the leadership skills of

school administrators by establishing technical assistance centers for each State to promote the development of the leadership skills of elementary and secondary school administrators with particular emphasis upon increasing access for minorities and women to administrative positions.

(c) It is the intention of Congress that contractors seeking to establish technical assistance and training centers should design programs which upgrade the skills of elementary and secondary school administrators in—

(1) enhancing the schoolwide learning environment by assessing the school climate, setting clear goals for improvement, and devising strategies for completing manageable projects with measurable objectives;

(2) evaluating the school curriculum in order to assess its effectiveness in meeting academic goals;

(3) developing skills in instructional analysis to improve the quality of teaching through classroom observation and supervision;

(4) mastering and implementing objective techniques for evaluating teacher performance; and

(5) improving communication, problem-solving, student discipline, time-management, and budgetary skills.

AUTHORIZATION OF APPROPRIATIONS

SEC. 902. (a) There are authorized to be appropriated to carry out this title for fiscal year 1985 and each succeeding fiscal year ending prior to October 1, 1990, such sums as may be necessary but not to exceed $20,000,000 in any fiscal year.

(b) Of the amount appropriated pursuant to subsection (a) for any fiscal year, the Secretary shall make available such amount, not less than $150,000 for each State, as may be necessary for establishing and operating a technical assistance center in each State.

TECHNICAL ASSISTANCE CENTERS

SEC. 903. (a) The Secretary shall, subject to the availability of funds pursuant to section 902, enter into contracts with local educational agencies, intermediate school districts, State educational agencies, institutions of higher education, private management organizations, or nonprofit organizations (or consortium of such entities) for the establishment and operation of training centers in each State in accordance with the requirements of this section and section 904.

(b) Each contract entered into under subsection (a) shall require the contractor—

(1) to make the services of the technical assistance center available to school administrators from any of the local educational agencies located within the State served by that contractor;

(2) to collect information on school leadership skills;

(3) to assess the leadership skills of individual participants based on established effective leadership criteria;

(4) to conduct training programs on leadership skills for new school administrators and to conduct training seminars on leadership skills for practicing school administrators, with particular emphasis on women and minority administrators;

(5) to operate consulting programs to provide within school districts advice and guidance on leadership skills;

(6) to maintain training curricula and materials on leadership skills drawing on expertise in business, academia, civilian and military governmental agencies, and existing effective schools;

(7) to conduct programs which—

(A) make available executives from business, scholars from various institutions of higher education, and practicing school administrators; and

(B) offer internships in business, industry, and effective school districts to school administrators,

for the purpose of promoting improved leadership skills of such administrators;

(8) to disseminate information on leadership skills associated with effective schools; and

(9) to establish model administrator projects.

(c) In making a selection among applicants for any contract under this section, the Secretary shall take into account whether the applicant, if selected, would be able to operate its programs in a manner which would emphasize development of leadership skills identified by graduate schools of management and graduate schools of education.

GENERAL CRITERIA FOR CONTRACTS

SEC. 904. (a) The following criteria shall apply to each contract:

(1) The contract shall assure the involvement of private sector managers and executives in the conduct of such programs.

(2) The contract shall contain assurances of an ongoing organizational commitment to carrying out the purposes of this title through (A) obtaining matching funds for such programs in cash or in kind at least equal in amount to the amount of funds provided under this title, (B) making inkind contributions to such programs, (C) demonstrating a commitment to continue to operate such programs after expiration of funding under this title, and (D) organizing a policy advisory committee including (but not limited to) representatives from business, private foundations, and local and State educational agencies.

(3) The contract shall demonstrate the level of development of human relations skills which its programs will instill by (A) identifying the credentials of the staff responsible for such development; (B) describing the manner in which such skills will be developed; and (C) describing the manner in which the program deals with human relations issues facing education administrators.

(4) The contract shall establish a system for the evaluation of the programs conducted.

(b) Each contract shall be for a term of three years. Such contract shall not be renewable, except that a single three-year extension may be granted if the contractor agrees to maintain the programs with assistance under this title reduced by one-half.

REGULATIONS

SEC. 905. The Secretary is authorized to prescribe such regulations as may be necessary to carry out this title.

DEFINITIONS

SEC. 906. For the purposes of this title—

(1) the term "Secretary" means the Secretary of Education;

(2) the term "institution of higher education" has the meaning provided by section 1201 of the Higher Education Act of 1965;

(3) the term "school administrator" means a principal, assistant principal, district superintendent, and other local school administrators;

(4) the term "local educational agency" has the meaning provided by section 595 of the Education Consolidation and Improvement Act of 1981; and

(5) the term "leadership skills" includes, but is not limited to, managerial, administrative, evaluative, communication and disciplinary skills and related techniques.

TITLE X—NATIVE AMERICAN PROGRAMS

SHORT TITLE

SEC. 1001. This title may be cited as the "Native American Programs Act Amendments of 1984".

DISTRIBUTION OF FINANCIAL ASSISTANCE

SEC. 1002. (a) Section 80(a) of the Native American Programs Act of 1974 is amended by adding at the end thereof the following: "Every determiniation made with respect to a request for financial assistance under this section shall be made without regard to whether the agency making such request serves, for the project to be assisted is for the benefit of, Indians who are not members of a federally recognized tribe. To the greatest extent practicable, the Secretary shall ensure that each project to be assisted under this title is consistent with the priorities established by the agency which receives such assistance.".

(b) section 803(c) of the Native American Programs Act of 1974 is amended—

(1) by inserting "(1)" after "c", and

(2) by adding at the end thereof the following new paragraph:

"(2) No project may be disapproved for assistance under this title solely because the agency requesting such assistance is an Indian organization in a nonreservation area or serves Indians in a nonreservation area.".

ADMINISTRATION OF PROGRAMS

SEC. 1003. Section 812 of the Native American Programs Act of 1974 is amended to read as follows:

"ADMINISTRATION; DELEGATION OF AUTHORITY

"SEC. 812. (a)(1) The general administration of the programs authorized by this Act shall remain within the Department of Health and Human Services and, notwithstanding any authority under any other law, may not be transferred outside of such Department.

"(2) The Secretary shall continue to administer grants under section 803 through the Administration for Native Americans. The Commissioner of such Administration may not delegate outside of the Administration the functions, powers, and duties of the Commissioner to carry out such section.

"(b)(1) Except as provided in subsection (a)(2), the Secretary may delegate only to the heads of agencies within the Department of Health and Human Services any of the functions, powers, and duties of the Secretary under this title and may authorize the redelegation only within such Department of such functions, powers, and duties by the heads of such agencies.

"(2) Funds appropriated to carry out this title, other than section 803, may be transferred between such agencies if such funds are used for the purposes for which they are authorized and appropriated.

"(c) Nothing in this section shall be construed to prohibit interagency funding agreements made between the Administration for Native Americans and other agencies of the Federal Government for the development and implementation of specific grants or projects.".

DEFINITIONS

SEC. 1004. Section 813 of the Native American Programs Act of 1974 is amended—

"(1) in paragraph (3) by striking out the period and inserting in lieu thereof "; and", and

(2) by adding at the end thereof the following new paragarph:

"(4) 'Secretary' means the Secretary of Health and Human Services.".

EXPENDITURE OF AVAILABLE FUNDS

SEC. 1005. Section 814 of the Native American Programs Act of 1974 is amended—

(1) by striking out "1981" and inserting in lieu thereof "1986",

(2) by inserting "(a)" after "Sec. 814.", and

(3) by adding at the end thereof the following new subsection:

"(b) Not less than 90 per centum of the funds made available to carry out the provisions of this title for a fiscal year shall be expanded to carry out section 803(a) for such fiscal year.".

Mr. HATCH. Mr. President, I am pleased to present for final consideration S. 2565, the Human Services Reauthorization Act. As reported from the Labor and Human Resources Committee with a committee substitute, S. 2565 amends and reauthorizes three important Federal programs: Head Start, the Low Income Home Energy Assistance Block Grant Program, and the Community Services Block Grant. All three programs would be continued through fiscal year 1986. Subsequent to its reporting by committee, S. 2565 has continued to be reviewed and improved. We have incorporated these improvements into a revised version of the bill which we will be offering as a substitute committee amendment to the committee substitute. In the process, we have added several worthy initiatives enjoying broad bipartisan support.

HEAD START

This amended committee substitute, to which I will hereafter refer simply as the committee substitute, reauthorizes and strengthens the vital Head Start Program which has earned my support as well as the support of my colleagues on the Senate Committee on Labor and Human Resources. Through the years, Head Start has become more effective because of its continued investment in improving the quality of educational and support services provided to our Nation's youth. We in this legislative body have the opportunity to reaffirm our commitment to what I believe are fundamental principles on which a Head Start Program must be based.

Those principles include an emphasis on parental involvement, strong community support and a deep commitment to helping families meet their educational and other supportive needs.

My feedback has come from Utah constituents who have informed me of the benefits of the Utah Head Start Program. Utah Head Start parents, according to the organization "Utah Issues," are not only satisfied with the existing Head Start Program, but they generally view Head Start as a lifeline to a better future for themselves and their children. In hearings before the Family and Human Services Subcommittee on May 3, 1984, Dr. Dean Belnap, a Utah pediatrician and former chairman of the Utah Board of Education, praised the improvement within the Head Start Program since its beginning. He also praised the beneficial results it has achieved in the lives of children and their families. For example, although the program originally had little parental involvement, its focus today is the parent-child relationship facilitated through parent volunteers. Today, there are over 500,000 citizens who volunteer their time and talents to local Head Start centers. As Dr. Belnap noted in his testimony, Head Start's initial poor showing as to long-term benefits can be attributed to this initial failure of the programs to involve parents. I agree with Dr. Belnap that Head Start is now a "model and a lighthouse" for other American educational programs.

There are a few changes from the existing Head Start law in the committee substitute. They are:

Reauthorization of the program for 3 years at $1.093 billion for fiscal year 1985 and $1.221 billion for fiscal year 1986.

A requirement that funding for training and technical assistance activities be maintained at least the fiscal year 1982 level provided that appropriation levels do not go below the 1984 level.

Reinforcement of provisions requiring priority funding of existing Head Start agencies.

Explicit authority for Head Start Programs to provide more than 1 year of Head Start services to children from age 3 to school admission age.

Continuation of National Child Development Personnel Training and Assessment Programs.

A requirement that current program performance standards not be revised in such a manner as would result in the elimination or reduction in services.

As you can see from the funding authorization levels the Federal Government has committed to this educational program, we anticipate substantial benefits to underprivileged children. We are investing in the future of individuals as well as the future of this Nation.

COMMUNITY SERVICES BLOCK GRANT

The Community Services Block Grant is currently authorized a $389,375 through fiscal year 1986. The committee substitute would authorize the program at $400 million for fiscal year 1985, and $415 million for fiscal year 1986. S. 2565 would also clarify that States may provide services to people whose incomes do not exceed 125 percent of the Federal poverty level, and also would clarify the types of entitles that may be funded through the block grant's discretionary component. Most importantly, it would bring some order to the long-standing uncertainty over the so-called passthrough provision channeling most of the States' funds to 1981 grantees. The committee substitute adopts as a compromise a reduced version of the passthrough containing a rolling grandfather class and specific authority for designating grant recipients in unserved areas. Together with existing authority, this compromise gives the States much greater flexibility than they have had under the appropriations overrides of recent years. This compromise is strongly endorsed by the National Governor's Association.

LOW-INCOME HOME ENERGY ASSISTANCE PROGRAM

The bill extends the authorization for the Low Income Home Energy Assistance Program at $2,140,000,000 for fiscal year 1985 and $2,275,000,000 for fiscal year 1986. It requires States to reserve funds to operate their energy crisis programs through the spring; it sets a floor on States' discretion to establish income eligibility criteria for families; and it requires that States not categorically exclude from eligibility those income-eligible households not receiving other Federal program assistance, such as AFDC or SSI. It limits the amount States can transfer to other block grants, ensuring that more of the money will be used for heating, cooling, and weatherization assistance.

Further, the current statute would be amended to clarify weatherization activities, which fall within the purposes for which States are authorized to expend their moneys under the program. Also, the law would be amended to specify that the 10-percent State administrative allowance would be figured only on the portion of the States' moneys which is the combined net allocation, net transfers to other block grants, carryovers, and direct payments to Indian tribes. This provision is appropriate since the administration of these funds places no burden on the State program.

There are other program improvements contained in the substitute which we have agreed upon, but undoubtedly the most important change for the program as a whole is the revision of the State allocation formula. The current formula is hopelessly complex and does not take current data into effect in determining how much each State will receive under the program. In joint House/Senate negotiations we have reached a compromise which will greatly simplify the formula—basing it mainly on the State's share of low income heating and cooling costs—but which will cushion the impact of the shift the first year by holding States harmless for

fiscal year 1985 at basically their 1984 levels. The second year the shift will begin to take effect, transferring some funds from chiefly Northern and Midwestern States to Southern and Western States, though I note that my own State of Utah will also take a decrease. Nonetheless, the States taking decreases recognize that some change must be made and feel that the method proposed here is the best that can be devised at this time. This is the position the Utah program has taken. I want to congratulate the congressioal representatives of these States for their willingness to work out a compromise in the best interest of the program as a whole.

Mr. President, as part of the Human Services reauthorization amendments, I have included a provision which represents the combined efforts of many of my colleagues. This provision is aimed at the local problems of inadequate availability of information on dependent care programs. At the onset of our various discussions, there were as many opinions as there were people involved. Now, I present to you the product of much rethought and compromise. State Grants for Planning and Developing Dependent Care Programs is a vital initiative which authorizes funding for the development of State and locally administered programs and demonstration projects. It is the intent of my colleagues that this legislation provide funding for local programs aimed at disseminating information to individuals and families regarding dependent care services within their own communities. Furthermore, it is intended that funding under this authorization will be used to assist States and localities in establishing after and before school child care facilities.

Despite the social and economic forces within our society that foster change in our contemporary family structure, a recent national survey revealed that a good family life remains the primary goal of the majority of individuals polled.

Of those factors effecting change, one of the most dramatic is the unprecedented numbers of women entering the labor force. Obviously there are several factors contributing to the current trend of working mothers. Again, surveys provide us with information on motivation. Some women are motivated by a personal need for fulfillment that they perceive can be achieved in the workplace, but the majority of women who enter the work force do so because of economic pressures; 10 million American families are maintained solely by women, and countless others are partially supported by women.

In 1947, only 19 percent of women with children worked. Today 53 percent of women with children work. These statistics lead us to another conclusion—many of those children with working mothers are in need of adult supervision.

The need for day care of all types, available for children of all ages who need it, is indeed an issue which we should be concerned about. The development of child care resources is a nationwide responsibility—but that does not always mean the action should be here in Washington. It should mean a call for State and local governments, local community organizations, private business—every sector of our community—to act. This legislation provides incentives to these entitles to develop such programs. Programs that will meet local needs because they are designed by the parents and communities who will utilize the services.

The need for care, though, is not limited to young children. Due to extended lifespans and improved medical procedures, there are many elderly also in need of supervison. Many American families are faced with difficult choices when older family members become ill or incapacitated. Respite and adult day care are two services often mentioned by these families as among those that would be the most helpful in allowing them to continue working and maintaining as normal a life as possible while caring for older or disabled family members.

Often families with dependent care needs are unable to discover the resources available in their communities. They are not aware of the options available, options that range from in-home care to other-home care to institutional care. They seek information on the types of care, the availability of care, the costs of care and the transportation to and from facilities. It is the intent of this legislation to assist States in developing programs to provide this information and direction.

The Federal Government should not be in the business of providing day care or even assuring that it is available. That job is best left to the private sector and local and community governments. But the organizational process of gathering information and making it available to parents is a function that the Federal Government can justifiably assume through the funding of local programs. This legislation should prove to be a valuable asset to those families in need of dependent care.

Mr. President, before we go to final vote, I would like to make a couple of general comments. The principal three programs reauthorized here are very important. There is little doubt that they have provided and are providing tangible benefits to poor children, needy families, and to those sometimes untouched by traditional governmental information and assistance programs. They enjoy a broad range of support among my colleagues in the Senate. The particular amendments made by the committee substitute were, in fact, worked out through negotiations among a number of members of the Labor and Human Resources Committee and members of the House Energy and Commerce, and Education and Labor Committees. I would particularly like to commend Chairman DENTON, Senators STAFFORD, WEICKER, KENNEDY, EAGLETON, and DODD for their commitment and spirit of compromise in developing this bill in committee and in the House negotiations. While all of us would probably like to see significant changes in different portions of the bill, it is nonetheless a fair compromise, one which we can all live with and which serves its beneficiaries well.

Mr. President, I am also pleased to support the Carl D. Perkins Talented Teacher Act which is a part of the committee substitute. This bill has been carefully crafted on a bipartisan basis by a number of Members of the House of Representatives, and subscribed to by both Republicans and Democrats on the Senate Committee on Labor and Human Resources.

With the full cooperation of the sponsors of this bill in the House, we have made a few perfecting amendments to the original bill which is laudably designed to provide financial incentives to talented high school graduates to enter the teaching profession by means of forgivable scholarships. augmented by other forms of student financial assistance available under title IV of the Higher Education Act of 1980.

Mr. President, this bill is rightly named in honor of our late colleague, and friend, the Honorable Carl D. Perkins, chairman of the House Committee on Education and Labor.

Numerous commendatory statements have been made on the floor of both the Senate and the House calling the Nation's attention to the outstanding contributions of this great leader to education, and particularly to the modernization of vocational education by his writing of the Vocational Education Act of 1963. He was a champion of the working person, and that legislation is a testimonial to him.

Carl Perkins recognized that if teachers are always working at the edge of their competence, the quality of instruction is diminished. Moreover, there will be constant turnover of teachers, and concomitantly, little continuity in subject-matter content. He sought initiatives which would encourage the best and most able student to enter the teaching profession and remain in it. Because Carl Perkins wanted excellence in all things, it only follows that he would support legislation designed to help bring the most gifted and talented of our high school students into teaching and to keep them there.

The Carl D. Perkins Talented Teacher Act is crafted to do precisely that.

It is my conviction this Talented Teacher Act amendment will demonstrate that with very little Federal intervention, new patterns will be developed for the recruitment of able students into the teaching profession.

The version I offer today as part of the committee substitute will ensure that teachers in both public and nonpublic schools will be able to compete for the fellowships authorized by part F of the act. Moreover, the Senate changes—to which concur the sponsors to the bill in the House—will more crisply define the activities that may be undertaken at public expense by those teachers who are awarded fellowships.

Mr. President, I am pleased and proud to support this effort to improve the quality of instruction in the schools of this great Nation.

Mr. DENTON. Mr. President, the committee substitute to S. 2565 now before us addresses several important programs. It reauthorizes the Head Start Program and the Low-Income Home Energy Assistance Program for 2 years, and makes modifications in the Community Services Block Grant for the 2 years remaining in its authorization. The bill also includes authorizations for the Follow-Through Program and grants to States for the Dependent Care Referral and Information Programs.

The substitute is the result of intensive negotiations and represents a compromise in every sense of the word. I am not happy with every provision in the substitute, but I believe that it should be passed.

Mr. President, there are few programs that have the broad, bipartisan support enjoyed by Head Start. I am proud that I introduced the 1982 reauthorization bill for Head Start, and that I was able to work with other members of the Committee on Labor and Human Resources to move that legislation through Congress. My colleagues know that Head Start children do better academically in later years than non-Head Start children, and that the program also focuses on each child's health and nutritional needs. I am especially pleased that Head Start makes a great effort to involve the families of the children in every program activity. That provides an opportunity for the benefits of Head Start to continue in the home as the child grows older.

The bill before us increases the authorization levels for the Head Start Program for the next 2 years to $1,093,030,000 and $1,221,000,000. The appropriation level for fiscal year 1984 is $996 million.

S. 2565 makes few substantive changes to the Head Start Act. It clarifies language in current law requiring the Secretary of Health and Human Services to give priority in the awarding of Head Start grants to agencies currently delivering Head Start services. Under the bill, the Secretary may still award an expansion grant to a new grantee in an area already served by an existing grantee, but only after the Secretary has first given priority to the existing grantee.

The authorization ceilings in the bill for the Low-Income Home Energy Assistance Program are $2.14 billion for fiscal year 1985 and $2.275 billion for fiscal year 1986. The bill makes several changes in current law, but the States will retain the flexibility to tailor their Low-Income Home Energy Assistance Programs to meet their unique heating and cooling needs, and to target energy assistance to those most in need, including the elderly and the handicapped.

The bill also contains a change in the allocation formula under which Low-Income Home Energy Assistance funds are distributed to the States. The new formula is much simpler to explain, and distributes the funds more equitably. It is based on each State's share of home energy expenditures, and contains protections so that no State's allocation can be reduced drastically in either fiscal year. I am pleased that Alabama's percentage of the total appropriation in each subsequent fiscal year will increase under the updated formula.

Mr. President, the bill also makes several changes to the Community Services Block Grant Act for the next 2 fiscal years. My colleagues may already be aware that the authorization for the program does not expire until 1986.

The principal change involves the so-called "passthrough" to Community Action Agencies in existence during fiscal year 1981. The Omnibus Budget Reconciliation Act mandated that, for the first year of the block grant in fiscal year 1982, 90 percent of a State's allotment was restricted to existing agencies. After 1982, States were to have had the flexibility to designate which agencies to fund to meet their unique needs. For the past 3 years, however, the 90 percent passthrough has been retained by the Appropriations Committee.

Officials from several States, including my own, Mr. President, have indicated that they could use significantly more flexibility in administering block grant funds than is provided under the 90 percent passthrough. I would prefer to eliminate the pass-through altogether, and allow this program to function as a real block grant, but it is apparent that that is impossible. Although I am pleased that the bill reduces the pass-through from 90 percent to 83 percent, I still believe that the percentage is too high.

Mr. President, I must also confess that I have reservations about authorizing $2.5 million for new community food and nutrition programs. I can assure my colleagues that I will closely monitor those initiatives if they are funded.

Mr. President, S. 2565 also authorizes appropriations for the Follow Through Program at a level of $10 million for fiscal year 1985 and $7.5 million for fiscal year 1986, a reduction from the current appropriations level of $14.7 million.

Mr. President, under the Omnibus Budget Reconciliation Act of 1981, Federal support for the Follow Through Program was to be phaseout during the period 1981 through 1984. States were to be free to fund Follow Through Programs after fiscal year 1984 through their Education Consolidation and Improvement Act block grant allotments. I supported that approach and still do. Some of my colleagues, however, believe that it is appropriate to ease the phaseout by continuing a separate authorization for another 2 years at reduced funding levels. I assure my colleagues that I will work to ensure that this is the last time that we reauthorize Follow Through as a categorical program.

Finally, Mr. President, the substitute offered by my distinguished colleague from Utah [Mr. HATCH] authorized $20 million in each of the 2 fiscal years for block grants to States for the development of State and local resource and referral systems to provide information about the availability, types, costs, and locations of dependent care services.

I will be anxious to study and evaluate the impact of those provisions on the efforts of the States to provide dependent care services.

Mr. President, I believe that the Senate should adopt the compromise and send it on to the House for what I hope will be prompt passage.

Mr. STAFFORD. Mr. President, I rise in support of S. 2565, the Human Services Reauthorization Act of 1984. This bill will reauthorize the Low-Income Home Energy Assistance Program, the Community Services Block Grant Program, and the Head Start Program for fiscal years 1985 and 1986.

Title I of the bill reauthorizes the Head Start Program at $1.093 billion in fiscal year 1985; $1.221 billion in fiscal year 1986. Congress has currently appropriated approximately $1 billion for the Head Start Program.

The bill would continue the important training and technical assistance activities, strengthen designations of existing Head Start agencies and maintains current program performance standards.

Title II of the bill reauthorizes the Community Services Block Grant Pro-

gram at $400 million for fiscal year 1985 and $415 million in fiscal year 1986. Currently $386 million is appropriated for the Community Services Block Grant Program.

Title II provides the States authority to increase eligibility for services to 125 percent of the OMB poverty guideline.

Title VI of the bill reauthorizes the Low-Income Home Energy Assistance Program at $2.14 billion in fiscal year 1985; $2.275 billion in fiscal year 1986. The fiscal year 1984 appropriation for the Low-Income Home Energy Assistance Program was $2.075 billion.

Also, the bill will tighten up State program administration and provide flexible eligibility standards for the program.

Mr. President, I bring to the attention of my colleagues a significant amendment contained in the committee package to this bill.

This amendment would change the formula by which funds are allocated to the States under the Low-Income Home Energy Assistance Program.

The new formula will provide for the distribution of funds based on the expenditure of low-income individuals for their home energy needs. The statute defines home energy as sources of heating and cooling in residential dwellings. The Secretary would determine this using the latest data available which she considers satisfactory. In the case of data that is not available in exactly the form needed, she would derive the necessary data by appropriate analysis. For example, I understand that to determine the cost of heating data or cooling data on a State-by-State basis, it is necessary to extrapolate from regional data. This is entirely appropriate under this amendment.

In general, appropriations will be allotted among the States on the basis of each States share of total home energy expenditures by low-income households in all the States. However, a hold harmless provision is included, under which a States allotment will be adjusted in order to avoid reducing fiscal year 1985 funding below what it would have received for fiscal year 1984. In fiscal year 1986 the hold harmless will decline to $1.975 billion. In order to afford this hold harmless protection, the allotments of those States receiving the greatest proportional increases over the amount they received from the fiscal year 1984 appropriation would be reduced.

A second hold harmless provision applies for States which would receive less than 1 percent of the funds available to States. In the event that funding reaches or exceeds $2.250 billion, the allotment percentage of these States would not be reduced below the percentage of funds they would receive if the appropriation were $2.140 billion. This second provision would allow a few small States affected by the first hold harmless to benefit from an increase when the funding level reaches or exceeds $2.250 billion.

Mr. President, I will ask unanimous consent that the tables reflecting this formula be printed in the RECORD.

Mr. President, in addition to the formula changes in the Low Income Home Energy Program, I would like to explain several of the other changes we have made in the law.

The committee substitute amends section 2605(b) of the act in two places.

This section is amended to assure that relative need for assistance is the standard applied to all households participating in the program and that the States consider the same factors in determining the assistance needs of all households.

This section requires States to include program recipients not receiving other categorical benefits in the regular heating assistance program. They may not be served by a limited crisis assistance program alone, but must have access to the general aid program. However, the discretion of the States to set benefit levels and target payments under other provisions of this act is retained.

The committee amendments also amend the crisis intervention section of the law requiring a State to set aside a reasonable amount of funds for the crisis intervention program until March 15 of each year. I direct attention to page 17 of the Senate committee report.

In addition, while the act leaves complete flexibility to States as to the size and nature of a crisis assistance program, it is the committee's intention that States provide emergency help for households facing loss of energy supply. It would not be considered reasonable if no such life-sustaining aid were available to vulnerable households facing a shutoff or loss of heating and cooling.

In addition to the crisis setaside, the committee has required that crisis assistance be provided through community-based public or nonprofit entities because of the evidence received by the Congress that those crisis programs which are run exclusively through Departments of Public Welfare may not meet emergency needs of the most vulnerable households, especially the elderly. It is intended that a broader network of agencies accessible throughout the community, such as CAA's or Area Agencies on Aging, be used to increase the availability of crisis assistance.

The committee amendment amends the Secretary's authority on promulgating regulation to control waste, fraud and abuse. While Senator HATCH and I have addressed this in a colloquy, I would like to further address this issue as to committee intention.

Each compliance evaluation performed under subsection 2608(b)(1), of existing law shall contain a detailed review of the manner in which a States program meets that States standards for compliance with this act. In the event instances of noncompliance are found, the evaluation will set forth alternatives for assuring compliance and a schedule for adoption of such changes.

Compliance evaluations will be made available to Congress by September 30 of the fiscal year in which the evaluation is performed.

The Department will perform in each fiscal year a sufficient number of evaluations to evaluate a number of State programs to cover one half the total amount of allotments to all States in that fiscal year.

Mr. President, in addition to addressing the changes in the Low-Income Home Energy Program, I would like to explain the intent of two of the many changes in the community services block grant title of this bill.

New paragraph (11) under section 675(c) ensures that community action agencies and migrant and seasonal farmworker programs will not have their present or future State funding completely terminated or reduced without an opportunity for a hearing on the record in which the State must demonstrate that cause existed for the complete termination or reduction. Since paragraph (11) is concerned with complete terminations or reductions for cause, a States determination made solely to accommodate a reduction in available funding—such as when funding is reduced pro rata to all previous recipients—would not be subject to a hearing.

New section 684 provides for the Secretary's review of any complete termination or reduction of funding by a State to a community action agency or migrant and seasonal farmworker program when the complete termination or reduction was made the subject of a State hearing under section 675(c)(11) and where the community action agency or migrant or seasonal farmworkers program in question requests the Secretary's review. Such a review must be made promptly and limited to the record of the State hearing and the record made before the Secretary. Until and unless the Secretary's finding that the State had cause for the complete termination or reduction is made, a State may not take action to implement the complete termination or reduction.

Mr. President, section 206 of this act provides for the establishment of the Community Food and Nutrition Program [CFNP]. The purpose of CFNP is to support local community efforts to improve the delivery of direct nutritional assistance to low income persons. This assistance includes tapping

the resources of private industry to initiate and support emergency food assistance projects as well as working with the private sector, public agencies and governmental units to initiate and support school breakfast, summer lunch and child care food programs in underserved and unserved areas. The section will encourage innovative approaches to assisting low-income persons with their nutrition needs.

Mr. President, because there will be no conference report on this bill, the committee report of S. 2565 and the statements made by members who are participating, should serve as guidance to those interpreting congressional intent.

Mr. President, this bill will keep our commitment to those low-income Americans who desperately need the assistance that these programs provide. These are proven programs which the Congress reauthorized in 1981 as part of the Omnibus Reconciliation Act.

There is no question about the need for these programs. The recent release of the Census Bureau report again brings to light the hard facts that life for low-income Americans is not getting better. I will ask unanimous consent that two articles, one from the New York Times of February 24, 1984, and one from the Washington Post of February 24, 1984, and the press release from the Bureau of the Census of September 26, 1984, be printed in the RECORD. The only question before the Congress is how best to provide these needed services.

The human services reauthorization bill continues the same format as in 1981 reauthorizations for these programs, while taking into account what we have learned since the 1981 law was enacted. The changes that we are proposing will help these programs run better and more effectively provide their limited resources to those most in need.

These are proven programs which are important to those low-income Americans struggling to break the cycle of poverty. They provide that additional help needed by many Americans to move up out of poverty.

Mr. President, the Census Bureau statistics on the increase in poverty for American families have shown these programs are even more desperately needed now. We as a society should not tolerate an increase in the number of families living at—or below—the poverty level as long as we have the means to help.

Mr. President, I recommend this legislation to my colleagues and ask for their support.

I ask unanimous consent that the tables and two articles I referred to be printed in the RECORD.

There being no objection, the information was ordered to be printed in the RECORD, as follows:

FISCAL YEAR 1986—FUNDING ASSUMPTION—$2.275 BILLIONS

[Floor at fiscal year 1984 shares of $1.975 billion and at $2.14 billion percentages for smallest States]

State	Percent	Dollars
Alabama	0.011155	25,318,347
Alaska	.005871	13,326,905
Arizona	.005394	12,244,254
Arkansas	.008511	19,319,096
California	.047218	107,173,540
Colorado	.013964	31,695,369
Connecticut	.018947	43,005,352
Delaware	.003204	7,271,297
District of Columbia	.004227	9,594,592
Florida	.017650	40,061,185
Georgia	.013955	31,674,509
Hawaii	.001051	2,385,539
Idaho	.006084	13,809,345
Illinois	.059707	135,521,676
Indiana	.026432	59,994,433
Iowa	.016179	36,723,220
Kansas	.008721	19,794,268
Kentucky	.015060	34,182,055
Louisiana	.011404	25,884,124
Maine	.011801	26,786,736
Maryland	.020841	47,304,444
Massachusetts	.036439	82,709,146
Michigan	.052303	118,717,229
Minnesota	.034487	78,279,021
Mississippi	.009563	21,706,550
Missouri	.020671	46,918,644
Montana	.007136	16,197,155
Nebraska	.008938	20,287,299
Nevada	.002534	5,750,762
New Hampshire	.007704	17,486,390
New Jersey	.042182	95,744,277
New Mexico	.005049	11,460,123
New York	.110454	250,706,756
North Carolina	.024595	55,826,389
North Dakota	.007752	17,595,340
Ohio	.055935	126,960,795
Oklahoma	.010253	23,272,761
Oregon	.010823	24,565,251
Pennsylvania	.059330	134,666,503
Rhode Island	.006700	15,207,530
South Carolina	.008859	20,107,927
South Dakota	.006296	14,290,539
Tennessee	.017114	38,845,672
Texas	.029363	66,648,445
Utah	.007248	16,451,370
Vermont	.005775	13,107,983
Virginia	.023737	53,878,602
Washington	.017802	40,406,453
West Virginia	.009634	21,866,188
Wisconsin	.031044	70,462 360
Wyoming	.002902	6,586,903
Total	1.00000	2,269,780,650

Excludes $2,139,000 for Federal administration and 0.001354 percent for the territories.

FISCAL YEAR 1985—FUNDING ASSUMPTION—$2.1 BILLIONS

[Floor at fiscal year 1984 shares of $2.075 billions]

State	Percent	Dollars
Alabama	0.008735	18,300,720
Alaska	.005576	11,681,759
Arizona	.004225	8,850,446
Arkansas	.006665	13,964,315
California	.046863	98,178,032
Colorado	.015896	33,301,910
Connecticut	.020737	43,443,517
Delaware	.002829	5,927,272
District of Columbia	.003310	6,935,206
Florida	.013822	28,957,203
Georgia	.010928	22,895,109
Hawaii	.001071	2,243,043
Idaho	.006200	12,989,964
Illinois	.058998	123,601,084
Indiana	.026712	55,963,099
Iowa	.018417	38,584,608
Kansas	.008694	18,214,477
Kentucky	.013901	29,123,008
Louisiana	.008931	18,709,677
Maine	.013434	28,144,474
Maryland	.016321	34,192,808
Massachusetts	.041480	86,901,420
Michigan	.054492	114,161,285
Minnesota	.039258	82,246,747
Mississippi	.007489	15,690,025
Missouri	.022926	48,030,210
Montana	.007273	15,236,402
Nebraska	.009108	19,081,569
Nevada	.001984	4,156,791
New Hampshire	.007851	16,448,666
New Jersey	.039583	82,926,691
New Mexico	.005145	10,779,214
New York	.125734	263,414,319
North Carolina	.019261	40,352,678
North Dakota	.007900	16,551,343

FISCAL YEAR 1985—FUNDING ASSUMPTION—$2.1 BILLIONS—Continued

[Floor at fiscal year 1984 shares of $2.075 billions]

State	Percent	Dollars
Ohio	.052192	109,343,632
Oklahoma	.008030	16,822,120
Oregon	.012320	25,810,388
Pennsylvania	.067538	141,492,338
Rhode Island	.006828	14,304,470
South Carolina	.006938	14,534,501
South Dakota	.006416	13,442,589
Tennessee	.014081	29,500,983
Texas	.022995	48,175,124
Utah	.007387	15,475,477
Vermont	.005885	12,328,861
Virginia	.019881	41,650,663
Washington	.020265	42,454,533
West Virginia	.009199	19,272,905
Wisconsin	.035338	74,033,882
Wyoming	.002958	6,196,041
Total	1.00000	2,095,017,600

Excludes $2,139,000 for Federal administration and 0.001354 percent for the territories.

[From The New York Times, Feb. 24, 1984]

RISE IN POVERTY FROM '79 TO '82 IS FOUND IN U.S.

(By Robert Pear)

WASHINGTON, February 23.—The Census Bureau said today that there had been a rapid increase in poverty from 1979 to 1982, even if the value of food stamps, public housing, Medicare and Medicaid benefits was counted as income.

The Government does not include noncash benefits when it calculates the number of people whose income falls below the poverty level. Reagan Administration officials, including David A. Stockman, director of the Office of Management and Budget, have often asserted that the practice of not including the benefits inflated official poverty figures. Congress asked the bureau to compare poverty figures using both methods of calculation.

SHARPER INCREASE FOUND

Counting only cash income, there were 26.1 million poor people in 1979 and 34.4 million in 1982. But if the full market value of noncash benefits had been counted as income, there would have been 15.1 million poor people in 1979 and 22.9 million in 1982, the bureau said.

The official poverty rate, counting only cash income, rose by 28.2 percent from 11.7 percent in 1979 to 15 percent in 1982, the bureau said. But if the Government had expanded the definition of income to include the market value of noncash benefits, the poverty rate would have risen 47.1 percent, from 6.8 percent in 1979 to 10 percent in 1982, it said.

AMERICA'S RISING POVERTY RATE

The poor as a percentage of the total population in each category. Official poverty definition counts only cash income. Alternative definition counts cash income and the market value of noncash benefits such as food stamps, school lunches, public housing, Medicaid and Medicare. Figures for married couples and families headed by women count individuals rather than family units.

[In percent]

	1979		1982	
	Official poverty definition	Alternative definition	Official poverty definition	Alternative definition
Total	11.7	6.8	15.0	10.0
White	9.0	5.6	12.0	8.3
Black	31.0	14.9	35.6	21.5
Hispanic	21.8	12.0	29.9	20.5
Children under 6	18.2	11.3	23.8	17.2
Elderly	15.2	4.3	14.6	3.5
Married couples	6.1	3.9	8.9	6.4
Families headed by women	34.9	16.6	40.6	24.8

Source: Census Bureau.

Census officials said the increases were the result of general economic trends, such as the recession and inflation, rather than the cutbacks in social welfare programs made by Congress at President Reagan's request.

Democrats have been predicting the cutbacks in social programs, which took full effect in 1982, would cause an increase in poverty. In a quick reaction to the report, they introduced antipoverty legislation in the House today that would increase benefits for some of the poor people who qualify for them under such programs as Aid to Families with Dependent Children, Medicaid and Supplemental Security Income. Democratic Congressmen, who had been working on the bill since October, estimated it would cost $10 billion the first year.

A family of four was classified as poor if it had cash income of less than $9,862 in 1982, or less than $7,386 in 1979. The official poverty level is adjusted each year to reflect changes in the Consumer Price Index.

Gordon W. Green Jr., assistant chief of the Census Bureau's population division, said the poverty rate showed "a more rapid increase when you bring the noncash benefits into the calculation." Moreover, he said, that "you get an upward trend in poverty over the period" from 1979 to 1982 regardless of whether noncash benefits are counted as income.

SENATE DIRECTED RESEARCH

The Government's official poverty statistics, issued last August, showed the extent of poverty in 1982, but they counted only cash income. Last April the bureau issued a report on noncash benefits received by poor people in 1979. Today's report was the first to show the extent of poverty after counting the value to noncash benefits over those years. The Senate in 1980 directed the bureau to start collecting and publishing data on noncash benefits.

Census officials presented the data on poverty at a news conference. Mr. Green agreed with a reporter's suggestion that the Government's noncash benefit programs appeared to be less effective in reducing poverty in 1982 than in 1979.

The bureau said that the average market value of noncash benefits received by poor families declined by 10.4 percent, from $3,715 in 1979 to $3,330 in 1982, after adjustment for inflation. In the same four-year period, noncash benefits increased but not enough to keep pace with inflation. There was a 33 percent increase in the Consumer Price Index.

The new report shows that if the market value of noncash benefits was counted as income in 1982, there would have been only 912,000 poor people 65 years old and older, as against the 3.8 million elderly classified as poor under the official definition. Counting noncash benefits as income, the Census Bureau said the incidence of poverty among the elderly declined from 1979 to 1982, mainly because they received large amounts of assistance under Medicare, the medical insurance program for the elderly, and Medicaid, the medical program for poor people, which also pays for large amounts of nursing home care.

OTHER GROUPS HAD INCREASES

However, there were substantial increases in the poverty rate for other groups. Under the official definition, the poverty rate for black people rose 15 percent from 1979 to 1982, but it would have risen 44 percent if noncash benefits were counted as income, the bureau said. The poverty rate for two-parent families rose 46 percent under the official definition of poverty, but 64 percent under the alternative definition, counting noncash benefits. This was more than the increase in the poverty rate for families headed by women. For them, the rate rose 16 percent under the official definition of poverty and 49 percent under the alternative definition.

[From the Washington Post, Feb. 24, 1984]

NUMBER LIVING AT POVERTY LEVEL RISING SHARPLY

(By Spencer Rich)

The share of the U.S. population living below the official poverty line has risen sharply over the last several years even when in-kind benefits like Medicaid and food stamps are counted as income and added to cash, the Census Bureau reported yesterday.

The bureau has traditionally used only cash income in computing the poverty rate.

Conservatives including a number of key officials in the Reagan administration have argued that this is misleading because it leaves out the in-kind programs which have been among the fastest growing in the federal budget in recent decades.

The new study shows that the rates are substantially lower when in-kind programs are counted but the trend has been the same; reckoned either way, poverty rose about a third or more from 1979 to 1982.

The Census confirms that in-kind benefits have increased dramatically, from $5.7 billion in 1982 dollars in 1965 to $99 billion in 1982. But in recent years this has been more than offset by a combination of high unemployment, inflation and budget cuts.

The official poverty line for a family of four in 1982 was $9,862. The line is higher for larger families and lower for smaller ones. The government raises it each year to account for inflation.

For an individual it is about half that for a family of four.

Counting cash only, the number of people living in poverty rose from 26.1 million people (11.7 percent of the population) in 1979 to 34.4 million (15 percent) in 1982.

If all in-kind benefits including Medicare and Medicaid are counted at market value, there were 15.1 million people in poverty in 1979 (6.8 percent of the population) and 22.9 million in 1982 (10 percent).

If in-kind benefits are counted but measured in a somewhat different way preferred by many economists, the number in poverty was 20.2 million (9 percent) in 1979 and 29.1 million (12.7 percent) in 1982.

From 1981 to 1983, largely at President Reagan's behest, Congress made cuts in a number of social welfare programs. The Census study shows that from 1981 to 1982, even though unemployment was rising, spending for both cash welfare programs dropped $1 billion in constant dollars, and spending for in-kind programs the same.

However, Census officials said budget cuts appeared to be a smaller factor than recession and inflation in boosting poverty figures.

The report said that while the cash-only method remains the government's official measure of poverty, on which eligibility for many programs is based, the Census Bureau and Office of Management and Budget are convening a panel to work out ways to consider in-kind benefits as well.

On Capitol Hill, Reps. Charles B. Rangel (D-N.Y.), Harold E. Ford (D-Tenn.) and Henry A. Waxman (D-Calif.) responded to the report by introducing a bill to reverse some recent budget cuts and set minimum benefits for welfare, enlarge eligibility for many of the benefit programs, mandate health insurance for the unemployed and boost job programs. They estimated the annual cost at $10 billion.

The Census study showed that because they get Medicare, which constitutes half of the $99 billion in-kind total, the elderly show the greatest variation in poverty rates from the cash-only calculus to cash-plus-in-kind. Counting cash only, the poverty rate for people 65 and over in 1982 was 14.6 percent, but if in-kind medical benefits are included at market value, the rate drops to 3.5 percent; using the cash-equivalent method, it drops to 9.3 percent.

Some experts believe that medical benefits should not be counted as income because if they are, the sicker a person the richer he seems. Census officials said the medical benefits were included at their insurance value to help reduce this problem.

NEW CENSUS BUREAU SURVEY SHOWS ONE-THIRD OF U.S. POPULATION PARTICIPATING IN GOVERNMENT PROGRAMS

About 30 percent of the 224.3 million people living in nonfarm households participate in government programs ranging from Social Security to assistance programs such as Medicaid and food stamps.

This is among the first results from a new survey conducted by the Commerce Department's Census Bureau. It is the first bureau survey to collect monthly information on income, labor force experience, and participation in major government assistance programs. It reflects average monthly data from the third quarter of 1983.

A report from the survey says that 19 percent of the nonfarm population lived in households where one or more persons received benefits from means-tested programs (those in which recipients must demonstrate some level of need). The two largest such programs were food stamps, covering 18.7 million persons; and Medicaid, covering 17.5 million persons.

The nation's two largest programs, Social Security and Medicare, are not means-tested. Social Security benefits went to 31.7 million persons and Medicare coverage extended to 26.7 million

Median monthly cash income for all U.S. households was $1,670 before taxes and other deductions during the third quarter of 1983. This would be about $20,040 on an annual basis.

About 10 percent of the nation's 60.4 million family households consisted of women with children and no husband present. Their median monthly cash income was about $800 per month during the quarter reported, and in addition 54 percent received

non-cash, means-tested benefits. In contrast, married couple families had a median income of $2,160 and only 9 percent received noncash benefits.

Households with a householder aged 65 years or older had a median monthly income of $950 for the quarter—about 57 percent of the overall household median.

About 15 percent of all households participated in one or more means-tested noncash programs during the third quarter of 1983. Of these, 8 percent participated in one program only, 4 percent participated in two programs, and 3 percent participated in three or more programs.

Households receiving means-tested noncash benefits had monthly median cash incomes well below the $1,670 for all nonfarm households. The 8 percent receiving food stamps had a median of $420. The 9 percent covered by Medicaid had a median of $530. Households living in public or other subsidized rental housing accounted for about 4 percent of nonfarm households and had a monthly median of $490.

The average monthly income of households with at least one earner and no members looking for work or on layoff was $2,680. About 9 percent of these households participated in means-tested programs. Households with one or more members looking for work had an average monthly income of $1,650, and average income was $1,000 per month for households in which no member had labor force activity. The participation rates in means-tested programs were about 30 percent for the latter two groups of households.

The Survey of Income and Program Participation is a continuing survey of households in the United States. The initial sample of about 20,000 households was chosen to be nationally representative. It will be enlarged to about 36,000 households in 1985. The sample size is not sufficient to provide data for states or metropolitan areas.

Households selected for the survey are inteviewed at four-month intervals over a 2½ year period. The survey will provide new information on the changing economic situation of households and persons in the United States. The data will be used to study national issues such as health insurance and pension coverage, tax reform, Social Security program costs, and the effectiveness of government assistance programs.

This is the first of a series of quarterly reports. Data from the survey also will provide the basis for other types of reports as information from each individual interview is accumulated. Some reports will cover the calendar year, summarizing the economic situation for that period. Longitudinal reports will trace month by month changes in household composition, income, program participation, and labor force activity. Special analytical reports will focus on topics such as new entrants in government assistance programs, marital disruption, the causes and effects of migration, and job change. A series of reports also will provide data on household wealth, health insurance coverage, taxes paid, marital and work history, disability, and many other subjects addressed by the survey questionnaires.

The Census Bureau cautions that estimates in this report are preliminary and may be revised following refinement of estimation procedures.

As in all surveys, the data are subject to sampling variability and errors of response, including underreporting and nonreporting of income. Explanations of sampling variability and underreporting problems appear in the report.

Copies of the new report, *Economic Characteristics of Households in the United States: Third Quarter 1983,* Series P-70, No. 1, are available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

Mr. WEICKER. Mr. President, it is an unfortunate fact that winter's cold threatens most those people who are least able to afford the high cost of energy. Few of us can imagine what a difficult choice it must be to choose between heat and food, but that is a decision faced each winter by millions of poor, elderly and handicapped Americans. The Weatherization Assistance Program offers some relief to these individuals and families by providing them assistance in weatherizing their homes and thereby reducing energy costs.

On June 14, 1984, as chairman of the Subcommittee on Energy Conservation and Supply, I and several colleagues held hearings on the Weatherization Assistance Program. We received testimony indicating continued broad support for the program, and although no major changes were recommended, suggestions were made for minor improvements and increased State and local flexibility in program administration. We would like to ask your support in enacting these improvements into law. Accordingly, I would like to offer the content of the Weatherization Program Administration Reform Act of 1984 as an amendment to S. 2565, the Head Start, Community Services Block Grant; and Low Income Home Energy Assistance Reauthorization.

Specifically, the Weatherization Program Administration Reform Act of 1984 contains several provisions which will enhance State and local administrative flexibility and increase program effectiveness without additional cost. For example, some individuals and families which receive energy assistance under the Low Income Energy Assistance Program [LIEAP] are not eligible for the Weatherization Program. If these families were eligible, however, then weatherizing their homes would reduce their energy costs and allow LIEAP funds to go farther. Section 2 of the Weatherization Program Administration Reform Act of 1984 would correct this inconsistency. In addition, there is currently a $150 limit on the repairs which can be made during a home weatherization, even when repairs are the most cost effective means of increasing energy efficiency.

Sections 3 and 4 of this act would not only repeal this $150 repair limit but would also repeal the costly and time-consuming rulemaking process which currently must be followed when introducing new energy saving measures to the list of measures eligible for the Weatherization Assistance Program. In addition, section 4 will allow an average statewide maximum expenditure of $1,600 per house. This improvement omits the time-consuming waiver process which currently must be followed in order to provide for the $1,600 maximum expenditure. This section also increases State administrator flexibility by allowing them to calculate material and labor expenditures as statewide averages instead of using the current per dwelling method. I think that all will agree that it is the local administrators who are best able to make the final judgment on how program funds will be spent, so long as they remain within the program's overall guidelines.

Finally, this act allows the program to "revisit" homes which were partially weatherized under other Federal programs—Community Services Administration—prior to 1979. These homes would be allowed to receive further assistance to meet the new program guidelines.

The enactment of this amendment as part of the Committee Substitute to S. 2565 will improve the effectiveness of the Weatherization Assistance Program and improve the benefits which it provides to the less fortunate in America, and I urge its adoption.

I am very pleased to have a number of my distinguished colleagues from both sides as cosponsors to this amendment. Senators HEINZ, BRADLEY, and STAFFORD have been important contributors and we have been joined by Senators COHEN, WARNER, HATFIELD, KENNEDY, STEVENS, PELL, ANDREWS, TSONGAS, MITCHELL, PERCY, and GLENN in offering this measure.

Mr. HEINZ. Mr. President, I am pleased to cosponsor today, along with several distinguished colleagues a package of amendments that make certain technical changes and improvements in the existing Federal Low Income Weatherization Program.

In recent years, Congress has seen decontrol of oil and gas prices as a means to let the market provide the incentives for energy conservation. At the same time, we must fulfill our obligation to people living on low incomes—particularly the low-income elderly. I emphasize that this problem is of the utmost concern to the elderly. As chairman of the Special Committee on Aging, I have recognized that older persons are among the most vulnerable to astronomical increases in fuel costs since their incomes often cannot keep pace with rapid rises in home energy costs. They are the people now paying nearly 25 to 30 percent of their incomes on energy as opposed to 4 to 5 percent for the average household. And they are the people who are least able to adjust their consumption patterns since they are less physically

able to cope with temperature changes than other individuals.

When Congress grappled with the problem of energy shortages, dependence on foreign oil, and issues of decontrol, we all acknowledged the overriding responsibility that the elderly and poor not pay the price of our national energy problem. We enacted legislation like the Low-Income Energy Assistance and Weatherization Programs, proclaiming that those who suffered from energy inflation would be assisted. There is no doubt that these programs have contributed much to the needy, but, clearly, more can be accomplished.

Mr. President, last October, I introduced legislation—S. 1953—that would have amended the Energy Conservation in Existing Building Act of 1976 to reauthorize and improve the Weatherization Assistance Program. That bill made several changes in the existing program that were designed to increase the benefits to low-income individuals for each dollar spent and improve the overall cost effectiveness of the program. I am pleased that the amendments offered today will incorporate several of the major provisions of that bill.

When the Weatherization Program was established, the conventional wisdom was that the installation of storm windows, attic insulation, caulking and weatherstripping was the most cost effective way to reduce heating costs. The conventional wisdom was wrong. Studies conducted by the Alliance to Save Energy and the National Bureau of Standards have demonstrated that retrofitting the central heating system is much more effective than those traditional weatherization measures. For example, average annual energy savings of 22 to 26 percent can be realized with oil furnace retrofits which cost about $500. In real dollar terms, this translates to an average annual fuel savings of about $314—a payback in energy savings of less than 2 years. Equally cost-effective retrofit equipment is now available for gas heated homes. The benefits that accrue from this program are substantial. On the basis of a one-time investment, improved energy efficiencies and greater comfort can be realized. In addition, reduced consumption provides the added benefit in reducing the demand for Federal Low Income Energy Assistance funds.

Since S. 1953 was introduced, two hearings have been held in the Senate which have produced testimony in support of a continued and improved Weatherization Program. Community Action Agencies, conservation groups, and associations representing utility companies have come out in support of these proposals. Additionally, a similar measure has already been approved by the House of Representatives. All have spoken to the benefits of the program, and many have endorsed the amendments offered today.

Clearly, it would be shortsighted in the extreme to continue pouring out money for energy bills of the poor and elderly, yet deny them the means to reduce their energy consumption. By contrast, the amendments under consideration here, taken together with a sound energy assistance program, will provide relief to those low-income citizens who literally cannot afford to adjust to market incentives as others can.

Mr. COHEN. Mr. President, I am most gratified that the Senate is taking up consideration of amendments to the Low Income Weatherization Act, and I urge my colleagues to support passage of this legislation.

The weatherization of older, drafty, and poorly insulated homes is crucial to the ability of low income, elderly, and unemployed individuals who, out of economic necessity, want to reduce their home energy costs. In addition, weatherizing millions of homes across the Nation is one of the most cost-effective ways of reducing our national and regional dependence on costly imported oil.

The Weatherization Act reform amendments we are offering today are intended to enhance State and local administrative flexibility and increase the program's effectiveness without additional costs. By allowing for greater repair costs per household, these amendments will enhance the program's cost efficiency. When new energy efficiency technology is introduced to the program, under our reforms the process by which these measures are incorporated into the Weatherization Assistance Program will be streamlined, resulting in less cost and less wasted time. Better coordination between the Weatherization Program and the Low Income Energy Assistance Program will allow a greater number of poor and elderly to receive these valuable services and also result in more energy efficient households.

Together, these changes reflect the concerns of State and local program administrators and will allow the Weatherization Assistance Program to better serve our needy population. I believe these amendments will result in a strengthened Federal Weatherization Program and a more cost-effective way of seeing it implemented.

The Federal Weatherization Assistance Program has already achieved the weatherization of 1 million homes since the program's inception in 1977, contributing to energy savings of 15 to 30 percent for enrolled households. Much work remains to be done if we are to achieve the twin goals of reduced dependence on imported sources of energy and increased energy savings for those who can least afford the costs of heating or cooling a home.

It is with concern for such affected individuals and families that I support the Weatherization Act amendments under consideration today. During the winter months, low-income families and the elderly are often forced to come to terms with a difficult set of questions. Where will the money come from for the next purchase of heating oil? What can I skimp on so I might have enough money on hand tomorrow to pay for heating oil? Can I do without the medicine I require? Can I skimp on the food I need to eat?

We should not be in the business of making the answers to these questions more painful. By making even the smallest improvement to the Federal Weatherization Program, we are increasing the ability of the less fortunate to become energy efficient.

Mr. President, as a cosponsor of these amendments, I want to express my thanks to the Senator from Connecticut [Mr. WEICKER], for his persistence in shepherding them to the floor, and I urge the Senate to approve their passage.

Mr. QUAYLE. Mr. President, I rise to make a statement on the Indiana University Center for Excellence in Education authorization contained in this bill. First, I'd like to thank my colleagues, the Senator from Utah, Mr. HATCH, and the Senator from Vermont, Mr. STAFFORD, for all their hard work in helping to get this bill to the floor and for their support of this authorization for the center for excellence in education. They are both extremely dedicated to improving education in our Nation, and I commend them for all they have done to improve our children's education.

Mr. President, the center to be established at Indiana University in Bloomington, IN, will focus on three essential aspects of schooling: the structure and organization of elementary and secondary schools; school curriculums, and the personnel who work in the schools—teachers and administrators.

Indiana University, a major State university with outstanding academic departments and nationally ranked professional schools, including the school of education, has developed a plan for drawing upon the expertise of many different departments, including science, the humanities, business, and public affairs. This interdisciplinary center will use all resources available to find the most effective ways to teach teachers, including a simulation lab to afford teachers-in-training with lifelike classroom experiences; to find the most effective ways to teach difficult subjects such as math to young students; to develop school management systems aimed at improving decisionmaking and increasing productivity, ultimately saving more time for teaching; and to test alternative forms

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of partnerships between the private sector and public schools. What is learned at the center will be shared nationally, to all who are interested, and it is expected this center will develop into one of the most prominent educational centers in the country.

The center has several principal emphases. One of them is the use of technology in education. Technology is one solution to some of the problems confronting education. Technology provides a way to deliver instruction directly to homes and to supplement school instruction, and can provide relief from a critical shortage of teachers for certain subjects. For example, television cassettes, cable television, and computer software are but three ways that advanced math courses might become available to high schools experiencing difficulty in hiring and retaining skilled math instructors. Technology can also contribute to more effective school management practices. The development of efficient data management systems can reduce costs, allow more time for instruction, and provide the basis for better policymaking.

Another of the center's priorities will be the demonstration of various kinds of partnerships aimed at strengthening education. One partnership arrangement will be cooperation with other education organizations. The center will be linked closely to the schools, colleges and universities, professional associations, and relevant government agencies of the State and region. Indiana University will demonstrate improved forms of instruction and work closely with a wide variety of groups to identify trouble spots requiring correction. For example, Indiana and many other States have recently increased the math and science requirements for high school graduation. Not only does this lead to a demand for more math and science teachers; it also has curricular implications. The students most affected by the new rules will be those who do not intend to go to college but expect to find jobs upon high school graduation. The type of math and science curriculums they require is different from that needed by entering college freshmen. The center will play a role in designing new curriculums for such students and will provide a resource for other States in the same situation.

The center will also work on cooperation with the private sector. An enormous amount of instruction occurs in settings other than schools, colleges, universities, and technical institutes. For example, corporations are now spending $3 billion a year and employing 250,000 teachers to teach their employees. Only infrequent and fairly casual efforts have been made heretofore to provide systematic training and support for those who teach in situations not normally classified as educational but where training occurs. The center will seek close ties with such groups and organizations with the goal of improving instruction in all areas where training occurs.

The center also plans to help devise more cost-effective, efficient ways for local education agencies to upgrade regularly and systematically the qualifications of existing teachers and administrators. Current approaches are nearly totally dependent upon the initiative of individual teachers.

The center is also interested in helping local education agencies find ways to deal with some of the other problems facing schools and teachers everywhere. For instance, Indiana University's Center for Innovation in Teaching the Handicapped, which is nationally respected, will be involved in the center's activities and will benefit from much of the research learned in other areas.

The center will also be responsive to demands put on States by the public's and schools response to the excellence in education issue. For instance, in Indiana, the State determined that smaller classes and more individual attention for kindergarten through third grade students was essential in order to give those students a better learning base. The center will be able to provide research on similar issues, such as the importance of classroom size on all grades of students, or other proven effective teaching methodologies for younger classes.

The provision in this bill will authorize a one-time $6 million expenditure of Federal funds for renovation and construction for the center. These funds must be matched by non-Federal funds. One reason a centralized and new location is needed for the center is to house the computer and other technical equipment that Indiana University will be receiving from large computer corporations. The location of this state-of-the-art educational technology at Indiana University will provide a major national resource, and I am pleased that the private sector has decided to support this program also.

The result will be a model facility—one of a kind in the Nation—engaged in research, development, practice, and demonstration of improved instruction for all levels of schooling and in both formal and informal educational settings. The center will serve a State and regional audience and be a national and international resource. It will demonstrate ways to improve instruction wherever instruction may occur and contribute to the enhancement of the knowledge and skill of American citizens.

We must take steps to ensure the excellence of our educational system, and this authorization for the Indiana University Center for Excellence in Education is an appropriate step.

Mr. HATCH. It is with some reluctance that I have agreed to include in the bill certain of the changes we are making today, and I would like the legislative history—in the absence of the manager's conference report—to reflect clear guidance on these points. Therefore, I would like to engage in a colloquy with my esteemed colleague, Senator STAFFORD, concerning the Community Services block grant and low income home energy assistance compromise, in which he has played a pivotal role. Senator STAFFORD, S. 2565 as amended by the committee amendment contains a so-called passthrough provision which channels most of the State allotments under the program to existing grantees with a provision for the expansion of the group to include certain new grantees. In areas not now served by eligible organizations, the amendment sets forth a procedure whereby the Governor "may decide to serve such a new area by: first, requesting an existing eligible entity" meeting certain qualifications to serve the new area. It is my understanding that under this procedure the Governor has discretion in the requests he makes. For example, he need not make a request to an agency which because of the level of its performance would be unsuitable for expansion into the new service area. Is this also the Senator's understanding?

Mr. STAFFORD. Yes; that is correct.

Mr. HATCH. Further, the Governor possesses great latitude under the statute in designating service areas. He could, for example, restrict the service area of an existing eligible entity, declare the newly vacated area to be unserved, and designate a new grantee as provided in the statute, which would then become an eligible entity itself the following year, if it were not already an eligible entity and met other qualifications.

Mr. STAFFORD. Yes; this is an example of the flexibility we have tried to build into the passthrough provision.

Mr. HATCH. The amendment also repeals section 675(c)(2)(A)(ii) of the Community Services Block Grant Act. This section ennumerates different types of agencies which would have been eligible for grants under the former statutory system. It is my understanding that this repeal results from the fact that this paragraph will no longer be relevant to the new passthrough arrangement, and that no inference should arise from its repeal that we intend any restriction on the types of organizations to which Governors may make grants with the funds not subject to the passthrough. Do you agree with this conclusion?

Mr. STAFFORD. Yes; I believe the Senator has correctly stated the intent of the amendment.

Mr. HATCH. I have a further point of clarification. The amendment extends protection from termination of funding to eligible entities. Funding can only be terminated for cause, with hearing, notice and appeal safeguards. Is it the Senator's understanding that the provisions of this portion of the amendment are only triggered by a termination of funding, and not by a reduction in funding?

Mr. STAFFORD. Yes; that is correct. The intent is to retain the State's flexibility to adjust funding levels of individual grantees up or down, and the termination protection applies only to terminations.

Mr. HATCH. Under the Low Income Home Energy Assistance Program, we slightly modify the provision forbidding the Secretary to prescribe the manner in which States must comply with the assurances contained in the statute. The amendment states that the Secretary shall issue regulations to prevent waste, fraud and abuse of the program. It is my understanding that this does not infringe on the States' broad discretion as to how they will comply in good faith, it simply mandates the Secretary to require them to comply with the statute. It does not permit the Secretary to second-guess their plans or to differ over legitimate program judgments. It rather allows the Secretary to prohibit practices abusive of congressional intent. Does the Senator agree?

Mr. STAFFORD. Yes; that is my interpretation.

Mr. HATCH. The amendment substitutes for the requirement that suppliers not treat assisted households any differently the requirement that suppliers not treat such households adversely compared to nonassisted households. What is the effect of this change?

Mr. STAFFORD. The problem is that under the present "equal treatment" requirement, suppliers cannot deal more compassionately with assisted households than nonassisted households. This amendment would allow, while not requiring, suppliers to make accommodations for assisted households.

Mr. HATCH. This is my understanding also.

Finally, let me observe that the amendment alters the language adopted by the committee to assure that under section 2605(b)(5) relative need for assistance is the standard applied to all households participating in the program and that the States consider the same factors in determining the assistance needs of all households. Further, section 2605(b)(8) is modified to require States not to exclude sec. 2605(b)(2)(B) households from receiving home energy assistance benefits. This amendment requires States to include program recipients not receiving other categorical benefits in the regular home energy assistance programs. They may not be served only by a limited crisis program, but must have access to the general aid program. However, the discretion of the States to set benefit levels and target payments under this and other provisions of the act is retained. Have I correctly stated the effect of these changes?

Mr. STAFFORD. Yes; this reflects my understanding, also.

Mr. HATCH. I thank the Senator for joining me in this colloquy, and for his crucial role in bringing together different interests in developing this compromise.

Mr. DENTON. Mr. President, I would like to engage my distinguished Chairman in a colloquy on one provision in the bill.

Section 605 of the bill amends section 2605(d) to read:

> The State shall expend funds in accordance with the State plan under this title or in accordance with revisions applicable to such plan.

Is it the understanding of the Senator from Utah that this provision in no way affects the right of a State to make modifications in its plan during the course of a fiscal year if it becomes necessary to do so? And is it his understanding that this provision does not require prior submission to the Secretary before funds are expended under the provisions of the modification?

Mr. HATCH. That is my understanding of the language.

Mr. DENTON. I thank the distinguished Chairman.

Mr. HATCH. Section 104 of S. 2565 modifies the requirement for selection of Head Start grantees to require the Secretary to make a finding that an existing grantee fails to meet programmatic and fiscal requirements before a priority for designation can be denied. It is my understanding, based on the Senate committee report on this bill, that it is not the purpose of the amendments made by this section to bar the Department of Health and Human Services from awarding an expansion grant to a new grantee in an area already served by an existing grantee. Rather, the purpose of the amendments is only to require that such an expansion grant not be made to a new grantee until after the Department has first given priority to the existing grantee. Is this understanding correct?

Mr. DENTON. That is correct.

Mr. President, I wish to engage Senator HATCH in a further colloquy on section 609 of the measure before us. Section 609 reads:

> The amendments made by section 606 shall apply to amounts held available for fiscal years beginning after September 30, 1985.

Section 606 reduces the maximum amount a State may carry over into the next fiscal year from 25 percent to 15 percent. Is it the chairman's understanding that this language is meant to apply to funds appropriated in fiscal year 1985 and carried over for use in fiscal year 1986?

Mr. HATCH. That is my understanding of the provision.

Mr. CHAFEE. Mr. President, I am most pleased that my bill, the leadership in Educational Administration Act, has been included in the pending measure, S. 2565, as title IX. It is my opinion, and that this title will expand career opportunities for elementary and secondary school administrators. The LEAD bill is among several school improvement initiatives recently recommended in the report of the Senate Republican Conference Task Force on Education. Senators HATFIELD, CHILES, HOLLINGS, COCHRAN, and MOYNIHAN, who joined me in introducing the LEAD bill as S. 2512, have every reason to be pleased that this well-considered measure will shortly become law.

Although studies on American education do not identify any single ingredient for success in improving schools, they do indicate that our most effective schools are those characterized by strong leadership by the school principal. The principal sets a school's instructional objectives, strengthens the commitment of teachers, evaluates school achievements and takes corrective action when they fall short.

The leadership skills of principals and other school administrators are being tested now as never before. We took to school administrators to ensure that the drive for educational improvement will not falter. My legislation establishes a program to help equip administrators for this challenge by enhancing their managerial, evaluation, communication, budgetary and human relations skills.

The importance of well-trained school administrators is too often overlooked. Earlier this year the National Institute of Education released a study of the role of the school principal.

According to NIE:

> One of the key players in the field of education is the principal—the man or women in the middle, the one responsible for seeing to it that his or her school is an effective one . . . Yet these players are chosen in a process that is ridden with chance . . . A principal is often chosen because of his or her image rather than educational leadership qualities.

Local school districts must improve their methods of selecting school principals. But more must be done to increase career development opportunities for school administrators. Many of our school principals often lack sufficient preparation for their jobs, and find limited opportunities for inservice training.

My proposal will enable the Secretary of Education to award contracts for the establishment of training cen-

ters for elementary and secondary school administrators. Up to $20 million per year will be available for the establishment of training centers throughout the Nation. In order to assure that every State receives some assistance in this endeavor, the legislation stipulates that at least $150,000 will be set aside for each State.

These training centers will conduct workshops emphasizing the unique combination of educational and managerial skills which are required for effective school administration. The programs will train administrators to:

First, set educational goals and strategies to attain them;

Second, master objective techniques for evaluating teacher performance;

Third, assess the effectiveness of the school curriculum;

Fourth, improve the quality of instruction through analysis and classroom observation;

Fifth, improve the administrative abilities necessary for effective school leadership—communications, consensus-building, time-management, budgetary, disciplinary and other skills.

Administrators already at work, as well as those entering this challenging field, will be served by the centers. This legislation recognizes that effective school administration skills cannot simply be learned from a book. The programs will feature instructors from both the business and academic communities and will offer training by practicing administrators with proven records in effective school districts. The centers will collect and disseminate information about leadership skills associated with successful schools, and offer internships in business, industry and established effective schools.

This measure will be an extremely worthwhile addition to the school improvement legislation which has begun to emerge from the 98th Congress. I hope it can soon be considered by the Senate.

Mr. KENNEDY. Mr. President, I rise in strong support of S. 2565 which reauthorizes programs that provide critical services to the most vulnerable citizens in our Nation, the poor. It is imperative that we extend these programs today. We have all seen the recent census bureau statistics which indicate that the number of poor people in this country is increasing, not decreasing.

It is vital to thousands of preschool-children that we act on reauthorizing the Head Start Program. Mr. President, this program has proven to be one of the most successful and cost-effective Federal programs for children. The educational, nutritional, and social services provided to economically disadvantaged children and their parents through this program result in benefits that are realized many times over in the achievements of these preschoolers now and throughout their lives.

These children are vulnerable. Almost two-thirds of head Start children are minority and/or handicapped. Over 90 percent of Head Start families live below the poverty line. Mr. President, these are our children. They are our future and we have a responsibility to provide them with the necessary resources while they are young to help them make their future and the future of our Nation more prosperous and more humane. The Head Start Program gives these children that hope and that chance. And most importantly, Head Start has been proven to make significant changes in children's lives.

A recent study has reaffirmed what we already know about this program. The Perry preschool study found that economically disadvantaged children who participated in Head Start and similar preschool programs showed improved academic performance in elementary and secondary school and showed an increased commitment to school. The study concluded that preschool education lowers the rates of adolescent delinquency, increases the number of high school graduates, and lowers the rate of teenage pregnancy. These are important statistics which verify the success of Head Start.

This bill extends the Head Start Program for 2 years and provides authorization levels of $1.093 billion in 1985, and $1.221 billion in 1986. As well, training and technical assistance and performance standards are strengthened.

Mr. President, I believe these are very modest authorizations given the recent census bureau figures which tell us that one out of every four of our country's children are now living in poverty. At the very least this reauthorization will continue to provide Head Start services to the 430,000 children who are now receiving them. There are still 82 percent of our disadvantaged children who are not receiving these critical services but who are eligible.

The Follow-Through Program is also extended for 2 years at $10 million for 1985 and $7.5 million for 1986. Follow-Through ensures that the benefits provided by Head Start to low-income children continue in the elementary grades.

The Low-Income Energy Assistance Program provides block grants to States to assist low-income households to meet the costs of heating and cooling. Authorization levels for this program are increased to $2.14 billion for 1985 and $2.275 billion for 1986. Along with increased authorization levels, this bill emphasizes the needs of the nonwelfare poor under this program. It is the intent of the committee that these individuals who are equally in need of these services will receive equal treatment. It is also important that States provide reasonable funds for crisis assistance programs. I am especially pleased that we have resolved the issue of the allocation formula for this program. We have worked hard for many months to reach a fair solution to this complex problem. The Low-Income Energy Assistance Program is extremely important to the residents of my home State of Massachusetts and the reauthorization of this program is an important achievement.

This bill also provides increases for the Community Services Block Grant Program at $400 million in 1985 and $415 million in 1986.

As well, this section ensures that those local agencies who are providing these services will continue to do so and encourages increased cooperation between each State and their local agencies. Another important provision under CSBG provides $2.5 million for grants to public and private nonprofit agencies to develop innovative approaches to meet the nutrition needs of low-income individuals.

Mr. President, this program, under a different version, was the centerpiece of the war on poverty of the 1960's and continues to provide communities with vitally needed resources to assist the increasing number of people in this country who are poor.

Services provided by the community services block grant include assisting poor Americans to secure and retain meaningful employment; attain an adequate education; make better use of available income; obtain and maintain adequate housing; and achieve greater participation in community affairs. Another critical service provided by CSBG is emergency assistance for food, shelter, and health needs.

I would like to remind my colleagues that successful programs such as Head Start and Low-Income Energy Assistance were developed and implemented through CSBG and its predecessor, the Office of Economic Opportunity.

In 1983 alone, this program provided help to over 24 million of this country's citizens who were in need. And today, according to the Census Bureau, almost 1 million more Americans are poor and in need of these services.

A 2-year reauthorization is also provided for Administration of Native American Programs. Under these programs, grants are provided to Indian tribes for locally determined priority projects that will promote social and economic self-sufficiency.

New authority is provided under this bill to establish programs for pre- and after-school care of school-age children and for referral systems to provide parents with information concerning the availability and quality of child care services in each community.

In starting up programs for child care information and referral systems and for after-school care, it is important that personnel be recruited and trained and that staff develop comprehensive resource files for these services.

Mr. President, these are important new services for as many as 6 million school-age children across our Nation and for their working parents. This title represents a scaled-down version of the original school facilities child care bill and the information and referral bill. I believe that these programs deserve much more than what we are providing today, however, this is an extremely modest beginning to assuring that our children are cared for.

In summary, these programs provide the over 35.3 million Americans who are presently living in poverty with the help they need to survive. We cannot turn our backs on these citizens who are still bearing the unfair burden of the recent recession. We must not endorse this administration's proven insensitivity to this country's children and adults who are sinking further into poverty.

Some may say that the economy is improving. But I say, Mr. President, that those who utter these words are not living below the poverty line.

I call on my colleagues to protect those human beings who are less fortunate than themselves by taking swift action on this critical legislation.

Mr. DODD. Mr. President, this legislation reauthorizes the Head Start, community services block grant, and low-income energy assistance programs. It is the result of extensive negotiations and discussions. I am pleased to be a principal sponsor of S. 2565 and wish to commend my colleagues on the Labor and Human Resources Committee for their fine efforts in bringing this to the floor. I especially wish to commend Senators STAFFORD, EAGLETON and WEICKER whom I joined as an original sponsor of this package. Their efforts and those of their staff have been expert and untiring. I would also like to commend Chairman HATCH, Senator KENNEDY, and Senator DENTON for the their leadership in negotiating a final package.

The programs reauthorized by S. 2565 are so well known that I do not believe I have to remind my colleagues of their critical importance.

Studies across the country have shown that disadvantaged children who attend quality preschool programs—like the Head Start programs—are more likely to succeed. Such children are less likely to drop out of school, less likely to become juvenile offenders, less likely to become teenage parents, and less likely to end up unemployed and dependent upon welfare. If we ignore Head Start's proven prevention measures, we jeopardize the future of hundreds of thousands of younger Americans.

Community action agencies administer 60 percent of all Head Start programs and thus serve low-income children from my State of Connecticut to California. They also serve low-income adults with emergency food, shelter, and fuel assistance as well as many other services.

The low-income energy assistant program provides millions of poor families with essential relief from the elements. In my State of Connecticut where cold winters force many residents to pay half or more of their income on fuel costs, such help can spell survival itself.

Mr. President, I urge my colleagues to support this important reauthorization of the Head Start, community services block grant, and low-income energy assistance programs.

HEAD START

Mr. President, let me take just a few minutes to spell out some of the important provisions pertaining to head start in this amendment. It reauthorizes the Head Start Program for 2 years at a level of $1.093 billion for fiscal year 1985 and $1.221 billion for fiscal year 1986. Let me say here that even at these authorization levels, only 18 percent of all American children who are eligible will receive Head Start services.

In recent years, a number of administrative changes have been proposed that would change the way Head Start operates. The committee thought it important to address our concerns about the administration of Head Start. Thus, this legislation contains training and technical assistance funds vital to Head Start, a program which relies heavily on volunteers and parental participation. For every 15 children enrolled in Head Start, 10 parents volunteer their services. Many parents also become staff: in 1982 alone, close to 30 percent of Head Start staffers were parents.

S. 2565 also contains funds for the child development associate program which assesses workers in Head Start programs and provides them with professional credentials in child care. The only professional child care credential we have in this country is the child development associate credential. Given all the recent concern nationwide about poorly trained child care workers, it is essential to keep the one credentialing program we do have in place.

This legislation also allows Head Start programs to provide 2 years of services. This is important because many children, especially handicapped children, require 2 years of Head Start to really benefit. Moreover, priority under S. 2565 would be given to funding existing Head Start grantees. These grantees have an excellent track record in running Head Start programs and should be encouraged to continue to do so.

Finally, this legislation would strengthen the requirements which each local Head Start program must meet. As a result, the various health, education, social, and parental involvement standards put into place in 1978 can neither be eliminated nor reduced inscope. These standards have helped make Head Start programs the success they are today and therefore must be kept intact.

In summary, Mr. President, Head Start has a 20-year proven track record of improving the lives and future opportunities of hundreds of thousands of disadvantaged children and their families. Today, some 430,000 children are enrolled in Head Start. More than 12 percent of these children are handicapped. Over 90 percent of all Head Start children live below the poverty level. With the latest census figures for 1983 showing that one out of every four children under the age of 6 is living in poverty in this country, we cannot afford to allow such a valuable program as Head Start to fall by the wayside.

Follow Through, a program which continues the valuable work of Head Start after the preschool years, is also reauthorized by this package. S. 2565 provides $10 million for Follow Through in fiscal year 1985 and $7.5 million in fiscal year 1986.

CHILD CARE PROVISIONS

Mr. President, I am pleased that S. 2565 also contains provisions pertaining to child care. As cochairman of the Children's Caucus, I can attest to the critical need for after-school care for children whose parents must work, and information and referral services for working parents seeking child care. Last June, the Children's Caucus heard first hand about the risks latchkey children face, from abuse and injury to acting out an alienation. There may be anywhere from 6 to 15 million latchkey children in this country today.

This legislation authorizes $40 million over the next 2 fiscal years in block grants to States, 60 percent to be used for before- and after-school programs and 40 percent to be used for child care information and referral services.

As an original cosponsor of S. 1531 and S. 1360, I would have preferred stronger and more extensive child care provisions. However, I commend Chairman HATCH for his initiative and cooperation in arriving at the child care provisions of S. 2565.

For the record, I wish to clarify the provisions relating to the development of child care resources and referral systems and before- and after-school programs. Such development is clearly not just limited to the purchase of

equipment or rental of facilities. Rather, it includes a broad range of activities from recruiting and training providers to having staff develop resource files.

COMMUNITY SERVICES BLOCK GRANT PROGRAM

The community services block grant program is of great importance. S. 2565 would reauthorize this program for 2 years at $400 million for fiscal year 1985 and $415 million for fiscal year 1986, modest increases over current funding levels.

The community services block grant program served more than 24 million poor Americans last year. Close to 10 million of these Americans received food assistance, staving off hunger and malnutrition. More than 7 million received employment, housing, and transportation assistance. And more than 5 million received educational assistance, from job training for dislocated workers to courses on how better to manage limited family incomes.

In addition to allowing community action agencies to continue to help hard-pressed communities assist their neediest residents, S. 2565 authorizes $5 million over the next 2 fiscal years for the community food and nutrition program. In past years, this program has been very successful in my State of Connecticut in assisting low-income communities with child nutrition projects. I anticipate its reauthorization will lead to innovative approaches at the State and local level to meeting the nutrition needs of low-income children and adults.

LOW-INCOME ENERGY ASSISTANCE PROGRAM

Last but not least, S. 2565 reauthorizes the low-income energy assistance program, providing for funding levels of $2.14 billion in fiscal year 1985 and $2.275 billion in fiscal year 1986. As a result of this reauthorization, many residents in my State of Connecticut will not be faced with deciding whether to pay fuel bills to keep from freezing or to pay for food.

In summary, Mr. President, we know that millions of Americans have joined the ranks of the poor in recent years. Since 1979, some 4 million children and their families have fallen into poverty: The sharpest increase since such records have been kept. In my State of Connecticut, every other child in the cities of Hartford and New Haven now lives in poverty. The legislative package we consider today will help provide many of these children and their families with vital services, from Head Start, to community services, to energy assistance. I urge my colleagues to support this legislation as one important means of giving these children and their families a fair chance.

LEADERSHIP IN EDUCATIONAL ADMINISTRATION DEVELOPMENT

Mr. CHILES. Mr. President, I am pleased that Senator CHAFEE's bill to authorize the leadership in Educational Administration Development Act is incorporated in the bill as title IX.

When I first joined in sponsoring S. 2512, the "lead bill," I was impressed with the way it addressed important recommendations of last year's studies and commissions on education. We know that one of the weak links in our education system, and one of the key elements in achieving excellence in the schools, is the initial and ongoing training school administrators receive. While the bill is not a total answer, it certainly is a step on the road to meeting these critical needs.

The "lead bill," and this amendment, would authorize up to $20 million to establish technical assistance centers in each State. Local and State education agencies, higher education institutions, regional school districts, and private nonprofit or management corporations could compete for the contracts to run the centers. The bill encourages such agencies to form consortia to run the centers.

The centers would help train school administrators, such as principals and superintendents, in the proven techniques that improve school management and operation. Specifically, they would aid the school administrator on the front lines in setting clear goals, assessing curricula and teacher performance, analyzing instruction, and performing overall time-management, problem-solving, disciplinary, and budgetary tasks. These are the factors that the "good schools" research has shown can make all the difference at the school and classroom level in teacher and student motivation and performance. Criteria are established in the bill for selecting the participants who could best benefit and apply the skills.

I commend Senator CHAFEE for his personal leadership in developing this legislation. He has made important refinements since we first sponsored the concept as S. 2275. I think the amendment will be an excellent complement to what we are trying to achieve in the talented teacher legislation, as well as in our whole thrust on excellence.

Mr. JOHNSTON. Mr. President, one of the more important poverty assistance programs of the Federal Government is the Low-Income Home Energy Assistance Program which provides annually about $2 billion to the poor to help them pay fuel bills and weatherize their homes. After careful review, I concluded that the current formula under which this money is allocated to States is in need of substantial revision. To put it bluntly, the current formula for allocating these funds is incomprehensible, outdated, and perverse. Just finding the formula itself is a formidable task as it requires cross-referencing at least two statutes and a conference report from a third statute. To use the formula, a computer is essential. If there be any Member of Congress who could explain on the floor what the formula is, I doubt that anyone who listened would understand it.

The formula is so complex that Congress has been understandably loathe to revisit it, and so we have retained a formula that now is based on data about poverty, population, and energy prices which are 5, and in some cases, 7 years old. Energy prices and demographic shifts have long since made this data obsolete. Efforts in the House to update the data used in the formula employed the expediency—to the detriment of several States, including my own—of truncating those terms which were too complex to update with current data.

Finally, the perversity of this formula is indicated by the fact that if the funds were allocated to the States based simply on what the poor in each State pay for heat, the South would receive approximately $80 million more than they would under the current formula. No one is to be blamed for the deficiencies in the current formula. There is no excuse now, however, for perpetuating these errors.

The Human Services Reauthorization Act, S. 2565, as reported by the Committee on Labor and Human Resources, contains an authorization for the LIHEAP Program which would retain the current allocation formula for 3 more years. The committee substitute which is offered here today would reject the current formula and instead base the allocation on what the poor in each State actually pay for heating and for cooling.

Available data indicates that in fact the poor do not pay very much for cooling—about one-tenth what they spend for heating—but the elderly, particularly those with cardiac conditions, are susceptible to excessive heat. Dr. G.E. Burch, M.D., of Tulane University, interviewed recently on Cable News Network, has shown that "a hot and humid environment can increase cardiac work as much as strenuous physical exercise."

The mortality tables from the National Center for Health Statistics show that excessive heat was a much bigger killer than excessive cold until the late 1950's and early 1960's when air-conditioning became prevalent. For the poor who cannot afford to use their air-conditioner or fans, the threat from excessive heat is still very real.

Moreover, we should remember that it is hypothermia, not freezing, which is the big cause of mortality in winter, especially among the elderly. Hypothermia can occur at very mild temperatures—50-65 degrees. The experts say that older people in the Nation's Sun Belt are "no less vulnerable than their northern cousins."

My own view is that the allocation formula for this program should be based exclusively on what the poor in each State pay for home heating and cooling, but if that were the case there would be very substantial shifts in the funding from other areas of the country toward the South. Instead of receiving 19 percent of the LIHEAP funds as they do under current law, the South would receive 30 percent of the total funds.

I was prepared to offer an amendment of S. 2565 that would substitute an allocation formula based simply on what the poor pay for heating and cooling, but given the floor situation in recent weeks there was no opportunity to offer such an amendment.

Walter Lippman once said, "A rational man acting in the real world may be defined as one who decides where he will strike a balance between what he desires and what can be done." I agreed not to object to the consideration of S. 2565 after extensive negotiations with Senators STAFFORD, HATCH, KENNEDY, and other members of the Senate Labor and Human Resources Committee, the House Committee on Education and Labor, and the House Committee on Energy and Commerce. This committee substitute is the result of that extensive negotiation. It contains a provision which is certainly not all that I wanted, but it does substitute for the current allocation formula an allocation formula based on what the poor actually pay for heating and cooling.

To obtain agreement on all sides it was necessary to include two hold harmless provisions to mitigate the effects of the new formula on some States. I can't say I am happy with the result but it is a clear step forward for the South toward equity under this program. If this program is to survive, to say nothing of growing, as the Congress faces the enormous deficit situation in future years, it is essential that the South, and by that I mean 16 States and the District of Columbia, feels that it has a fair share of the funding.

I am fully aware of the concerns of some northern Members of Congress about potential losses to their States under the new formula. In particular, the Speaker of the House and Mr. CONTE of Massachusetts, who have spearheaded this program for many years, presented their case with great force. In deference to them in particular I agreed to a major concession on my part in the committee substitute so that in fiscal year 1985 every State would receive no less funding than they received in fiscal year 1984.

My understanding of how the provision in the committee substitute would work is the following:

The Department of Health and Human Services would determine the percentage share allotment for each State based on what the low-income households in each State pay for home heating and home cooling. Under current law the term "home energy" is defined to mean home heating and home cooling. The Secretary would determine this using the latest data available which she considers satisfactory. In the case of data that is not available in exactly the form needed, she would derive the necessary data by appropriate analysis. For example, I understand that to determine the cost of heating data or cooling data on a State-by-State basis, it is necessary to extrapolate from regional data. This is entirely appropriate under this amendment.

Then, the Secretary would determine which States are the biggest gainers under the home energy formula looking at their percentage increases as compared to what each State received from appropriations in Public Law 98-139. Then the Secretary would reduce the percentage increase of the biggest gainers as necessary to accomplish two hold harmless objectives, which pull the losers up to acceptable levels.

The first objective, a money hold harmless, is to ensure that no State would receive less money than the amount of funds they would have received under the old formula, in the case of fiscal year 1985 assuming an appropriation of $2.075 billion, and in the case of fiscal year 1986 and thereafter an appropriation of $1.975 billion.

Then the second objective, the small States' hold harmless, would apply only in the case that the actual appropriation equals or exceeds $2.25 billion. In that event, any State whose percentage allotment under the home energy formula—including the money hold harmless—is less than 1 percent, would be assigned the percentage allotment that State would have qualified for under the home energy formula—including the money hold harmless—assuming a total appropriation of $2.14 billion. That State would receive this same assigned percentage allotment for any appropriation equal to or more than $2.25 billion, thus freezing the small State's percentage allotment.

The purpose of this second hold harmless, this small State's hold harmless, is simply to give small States a benefit in any increased funding for this program. Without this second hold harmless, States which fall under the first hold harmless may receive a constant amount of funds regardless of the level of appropriations, and their percentage share would necessarily decline as the appropriation increases. These States would obtain no benefit from any increased appropriations for this program. If a small State's percentage share is frozen, the State can look forward to receiving more funds as the appropriation increases.

I am including some tables which show how much each State would receive under this formula and what their percentage share would be at different hypothetical levels of future appropriations for fiscal years 1985 and for 1986. I'm told that the dollar figures listed for each State may change by negligible amounts depending on rounding errors.

I should note that under this provision if the actual appropriation for fiscal year 1985 or beyond is below $2.25 billion, then the small State's hold harmless does not apply at all. Furthermore, if the appropriation falls below $1.975 billion in fiscal year 1986 or thereafter then this provision coupled with current law would mean that every State's share of the total appropriation would be ratably reduced from their percentage shares at an appropriation of $1.975 billion. These percentage shares would be identical to what they were in fiscal year 1984 under the old formula.

I want to express my appreciation to Senator STAFFORD and Senator HATCH for their cooperation in working out this provision. I'm sure none of us are entirely satisfied with the result, but we all realize that compromise was essential if this important authorization bill was to move in a situation requiring unanimous consent.

Is that the Senator's understanding as to how this provision works?

Senator STAFFORD. Yes, it is.

FEDERAL MERIT SCHOLARSHIP PROGRAM

Mr. CHILES. Mr. President, I am honored to join Senator BYRD in sponsoring the Federal merit scholarship amendment. The distinguished minority leader has crafted a fine piece in legislation in S. 2915, the provisions of which are contained in this amendment.

The amendment embodies Senator BYRD's personal commitment to building incentives for bright and talented youngsters from all backgrounds to challenge themselves academically and aspire to higher education. He and his staff have done extensive work with educators in West Virginia and national associations to design a merit program that will not diminish in any way the Federal commitment to access, while taking the first step in a national recognition of merit. Access and achievement are not, and should never be construed to be, mutually exclusive national priorities in education. In fact, they are dual national goals. Senator BYRD has contributed a modest and well-planned program for merit that complements our access programs.

The bill contains provisions for bringing merit scholars the kind of public recognition that is rewarding and challenging to them and others. It

provides for the States, in a collaborative process, to develop the selection criteria. Though the total cost would be only $8 million per year, it is the kind of targeted injection of funds that is effective. And last year's reports and finding on education certainly showed that our Nation does not recognize academic achievement and scholarship enough.

Mr. PELL. Mr. President, I rise today in support of S. 2565, a bill which will continue to fund the Head Start Program.

I have long been both a supporter and admirer of the Head Start Program. I am especially impressed by the comprehensive emphasis that the program personnel place on delivery of services to economically disadvantaged preschoolers. This unique approach to child development through parental involvement and strong community support has made the program come to be recognized as one to the Federal Government's most cost effective and successful programs. The benefits of Head Start truly outweigh the costs. Lifetime earnings are projected to increase for Head Start children; these students show lasting gains in school performance and have proven to be less likely to require special education than non-Head Start children. The research regarding the long term benefits of Head Start are consistently concluding that this program is working and working well.

I hope that all of my colleagues will join with the sponsors of this bill and vote to continue funding in this vital area.

Mr. President, on June 23, 1983, I introduced with Senator RIEGLE the School Facilities Child Care Act. As the coauthor of this legislation, I am very pleased to support passage of the Head Start Act which contains as an amendment, the provisions of the School Facilities Child Care Act.

The provisions of this amendment will provide financial assistance to public agencies and private nonprofit organizations that will utilize unused public school facilities, private schools, or community centers to provide before and after school child care for school age children whose parents must work.

Mr. President, during the last three decades, families have had to endure a number of economic difficulties and changes. Many more families now have both parents in the work force leaving a growing number of children alone, taking care of themselves either before or after the school day. These working mothers and fathers are unable to return home in the middle of their workday to be with their child and because child care options are either too costly, available on a limited basis, or both, children of these working parents are left alone for several hours every school day.

These changing times have also produced a growing number of single parent households and female headed households. Additionally, the number of women, primarily those women who head households, entering into the labor force has increased dramatically in the last three decades. As a result of these demographic changes more children are left unattended at home either before or after the school day.

Mr. President, these children are left alone not, as some may suggest, as a result of irresponsibility or neglect, but as a result of the serious economic difficulties forcing mothers and fathers into the labor force on a full-time basis. For many, the luxury of at least one parent remaining at home to care for the children on a full-time basis has been eliminated by a changing economic world.

The number of children left unattended during the hours before school begins and following the end of the school day range from 3 million to 15 million. These children, left alone for several hours each day, are subject to both psychological and physical dangers. Children left unattended, according to numerous reports, experience fear, loneliness, and boredom at a much higher rate than children who are left in the care of an adult. In addition to these damaging psychological effects, reports indicate that physical dangers such as fires and injuries are more frequent among children who are alone; 6,000 children, ages 5 through 14, die in accidents every year, including 1,000 fires; in nearly all of these situations, the children were left alone.

Through this amendment, we have an opportunity to respond to the needs of these children and their parents. The School Facilities Child Care Act will provide initial operating costs or startup capital for public agencies and private nonprofit organizations to provide before- and after-school child care. Moreover, this amendment not only will respond to the desire of all working mothers and fathers to obtain adequate child care, but also will respond to the needs of nonworking parents who, if they could obtain available and affordable child care, would enter the work force to meet the families other needs. Thus, this amendment is one step toward alleviating the devastating effects experienced by these children as well as the psychological and economic burdens experienced by their parents.

In my own State of Rhode Island, a very successful program has existed for 3 years in the town of South Kingstown. The Women's Club of South County, in 1980, became concerned with and interested in the problems confronting children whose parents needed to work but, for a variety of reasons, were left alone the end of the school day. After obtaining the school board's approval, the Women's Club conducted a survey of parents of elementary school children. When 50 percent of the parents responded that some type of child care was needed, the Women's Club established a child care program with the Wakefield Elementary School.

Recently, the city of Warwick, RI, has expressed its interest in developing four child care facilities for the estimated 10,000 school-age children whose families need affordable and accessible child care. Mayor Joseph W. Walsh has outlined the city's plan to establish onsite child care services and integrate this new program into the city's very successful cultural arts program, Arts in the Parks. In this way the child care program will be a creative exploration of the arts as well as an emotionally secure and physically safe environment for school-age children whose parents must work. It is for programs like this one proposed in Warwick, that the Federal Government should provide financial assistance and support.

Other successful child care programs exist throughout the United States. However, Federal leadership and direction is needed in this area. The School Facilities Child Care Act not only provides the needed Federal leadership in this area but also provides an inexpensive and efficient method of initiating child care for school-age children who would be left alone in their homes for several hours each day. Finally, this amendment will, by its enactment, promote public awareness of the need to provide adult supervision of school-age children whose parents are working during the schoolday.

Mr. President, our society is changing and the Federal Government can help respond to those changes to ensure that individuals, especially these children, do not become the victims of that change. The passage of this amendment is, at this time, the best mechanism for resolving these issues and for that reason, I enthusiastically support its passage.

Finally, Mr. President, I would like to thank Mr. HATCH for his cooperation in the joint effort of Mr. RIEGLE and myself, to see the school facilities child care amendment passed.

THE HUMAN SERVICES REAUTHORIZATION ACT

Mr. RIEGLE. Mr. President, I am pleased that a compromise was reached and the Senate will finally adopt the Human Services Reauthorization Act. This legislation provides for the authorization and reauthorization of many vital human services programs, including Head Start and Follow Through, Community Services Block Grant, the Low Income Energy Assistance Program, to mention only a few of the important programs included in the amendment we are adopting today. I am particularly pleased that

this legislation also includes new authorization to deal with the problem of children who return home after school without adult supervision for long periods of each work day. I am pleased that we were able to develop an approach to deal with this critical problem of "latchkey" children. While the compromise contained in this amendment fails to adequately address the growing needs of children in self-care, it is nonetheless an important first step drawing attention and greater public awareness for the plight of our Nation's "latchkey" children.

SCHOOL-AGE CHILD CARE

Although estimates vary, it is generally accepted that as many as 7 million or more children in the United States return home alone after school and remain unsupervised for long periods of time until their parent or parents return home from work later in the evening. Evidence presented to Congress indicates that children in self-care run greater physical and psychological risks than children who are cared for by an adult. For example, it is estimated that as many as 6,000 children, age 5 to 14, die each year in the United States as a result of accidents, and nearly all these cases no adult is present.

The subchapter of this amendment authorizing appropriations for before and afterschool day care, provides a 2-year authorization that also includes grants for information and referral centers for all types of dependent care services including those for children, the elderly, and handicapped persons. The school-age child care program will provide grants to the States to develop and establish child care programs in public and private schools, and in community centers.

The approach to after school child care adopted in this amendment differs from the program that was advocated by myself and 29 of my Senate colleagues who have cosponsored the School Facilities Child Care Act, S. 1531, which Senator PELL and I introduced in June 1983. However, what we are doing today is an important first step toward addressing the larger problem of the unmet need for child care services in our Nation today. I am glad we were able to accomplish this initial effort during the waning hours of the 98th Congress.

HEAD START

This amendment also provides for a 2-year reauthorization of Head Start. This program provides comprehensive child development services to low-income and handicapped children and is designed to lessen the discrepancies in early childhood experiences between economically disadvantaged children and their more affluent peers. Head Start began in 1965 as a pilot program to address the health, nutritional, educational, and intellectual need of poor children. Since its inception, parent involvement in the development and operation of programs has been a critical component of Head Start.

Head Start has grown considerably since 1965. At that time, 240 counties sponsored Head Start Programs and in 1984, 430,149 children were served in over 2,000 communities. Approximately 12 percent of current Head Start children are handicapped, and 67 percent are minority children. Head Start employs over 80,000 persons, 29 percent of whom are parent of current or former Head Start children.

The effectiveness of Head Start is well-documented. As presented in the Ypsilanti Perry preschool project, which focused on the lifetime impact of preschool education, the benefits of Head Start are numerous. When compared with peers who did not attend Head Start, former Head Start children scored higher on standardized tests, and had greater achievement in school. Head Start children were less likely to fail or drop out of school, and less likely to need special education classes. Head Start has shown itself to be an important program to help prepare economically disadvantaged children to be successful in school.

The Head Start provisions in this amendment provide necessary safeguards to guarantee the continuation of high quality Head Start Programs. These provisions require that the funds spent on training and technical assistance cannot be less than what was spent in fiscal year 1982, and the bill also provides for a centralized training program leading to credentialing for Head Start personnel. Under this amendment, Head Start agencies must be located in the communities where Head Start Programs exist, and the programs are permitted to provide more than 1 year of services to eligible children. This amendment mandates that any changes in Head Start performance standards cannot lead to reduction or elimination of services.

The Senate, through passage of this amendment, demonstrates support for enriching the lives of economically disadvantaged and handicapped children. The reauthorization of Head Start and follow through signifies an important step toward helping these children to be healthy, productive, and competent individuals.

COMMUNITY SERVICES BLOCK GRANT

Title II of the Human Services Reauthorization Act, provides for the extension of the Community Services Block Grant through fiscal year 1986. This program is of particular importance to low-income individuals and their families since it is the only Federal program that has, as its primary objective, the prevention and alleviation of poverty. The Community Services Block Grant was enacted as part of the Omnibus Budget Reconciliation Act of 1981, but its roots date back to 1964 with the Economic Opportunity Act and the War on Poverty. Under the CSBG, States are allocated funds for services and activities that are designed to have a measurable and potentially major impact on the cause of poverty. States determine which services are funded under the CSBG. In the past CSBG funds have supported in-home and protective services for adults and children including assistance to meet the health, food, housing, and employment needs of low-income persons. In addition, the CSBG authorizes the use of discretionary funds, administered through the Office of Community Services, to support programs of regional or national significance. CSBG discretionary funds have provided aid for the National Youth Sports Program, economic development and rural housing, and assistance to migrant farmworkers.

LOW-INCOME ENERGY ASSISTANCE

The amendment reauthorizes the Low Income Energy Assistance Program [LIEAP] for 2 additional years. The measure makes some changes in the program including first, expanding the definition of "energy crisis intervention" to include other household energy related emergencies; second, requires States to reserve funds for energy crisis intervention until March 15 each year; third, permits private nonprofit or public agencies, that have experience in either administering energy assistance programs or assisting low-income individuals to administer funds reserved for energy crisis intervention, provided the agency can do so in a timely and effective manner; fourth, reduces the percentage of a State's allotment that may be carried over from one year to the next from 25 percent to 20 percent; and fifth, limits the percentage of a State's allotment that may be carried over to 15 percent in the event that the State has exercised its option to transfer energy assistance funds into other programs

The amendment authorizes appropriations of $2.14 billion in 1985 and $2.275 billion in 1986. The amendment also would ensure that no State would receive less money in fiscal years 1985 than they did in 1984. For year 1986 and beyond no State would receive less than they would have received in 1984 if the appropriation for 1984 had been $1.975 billion. The reauthorization of the Energy Assistance Program is particularily imperative in light of the current administration's attacks on this program. Undoubtedly, without this reauthorization, this program will become even more vulnerable in continued efforts to reduce the Federal budget deficits. For that reason, and knowing full well that the new funding formula contained in this bill may well mean a slight decrease in funding for my own State of Michigan, despite

rising fuel prices for heating Michigan homes, I support passage of this legislation.

TALENTED TEACHERS

This portion of the amendment we are considering today would address two of the major issues facing the teaching profession; how to recruit the best and the brightest of our young people for the teaching profession and then how to keep them there. The merit pay task force last year reported that:

> Students are not being encouraged to become teachers. Far too often the ablest young people feel challenged by opportunities in law, medicine, and engineering rather than teaching. Academic scores for education majors, measured by college entrance examinations and grade point averages, show a marked decline over the last decade * * * Too often we are not attracting the finest students to teaching, and too often we are not keeping the finest teachers.

Under the amendment we are considering today which was spearheaded by the efforts of Congressman WYDEN of Oregon, two programs would be established. The first would provide scholarships to 10,000 outstanding high school students of $5,000 per year to pursue a degree in teaching. Recipients would agree to teach for 1 year for each year they receive a scholarship. The second portion of the bill would establish a national fellowship program for outstanding teachers. Teachers would submit proposals which, if approved by a national panel, would provide for up to 1 year's sabbatical to pursue a program of professional growth.

I commend my colleague from Oregon for his work on this effort and am pleased to be able to support this measure.

In closing, Mr. President, I would like to reaffirm my support for this important legislation and express my gratitude to those whose extra efforts were vital to ensuring passage of the Human Services Reauthorization Act.

Mr. SASSER. Mr. President, I rise today in support of S. 2565, the Human Services Reauthorization Act. As an original cosponsor of the bills precursor, S. 2374, I am hopeful that this important legislation will be passed by the Senate today. I commend my distinguished colleagues who have spent numerous hours on the final drafting of this legislation.

S. 2565 reauthorizes and improves three vitally important programs that serve our Nation's low-income communities: the Community Services Block Grant; the Head Start; and the Low-Income Energy Assistance Programs. Each of these assistance programs has succeeded in providing necessary services to underprivileged citizens so that they may be better equipped to lead productive lives.

Mr. President, in Tennessee, the Community Services block grant funds approximately 22 community action agencies that serve 200,000 households annually. The 115 neighborhood service centers operated by these community action agencies manage a wide variety of skills-training and informational programs, and mobilize 562,000 volunteer man-hours each year. These numbers show the importance, success, and efficiency of the community services block grant in Tennessee.

Head Start is an equally important program, intended to improve the health and educational and social development of low-income preschool children. Head Start gives young children the chance to develop fundamental skills, and to gain the confidence which allows them to begin their lives with hopeful futures. These are children at high risk of falling into the poverty trap; Head Start often prevents this and breaks the cycle of poverty for thousands of children.

Numerous studies have concluded that enormous psychological, educational, and economic benefits are derived from Head Start. I will ask unaminous consent that the text of an article appearing in the New York Times which addresses the achievements of the program be included in the RECORD at the conclusion of my remarks.

Mr. President, I also want to indicate my strong support for the reauthorization of the Low-Income Energy Assistance and Weatherization Programs. High energy prices have worked a shameful inequity upon the poor, the elderly, and the handicapped citizens of this Nation. It is high time that the Federal Government make unequivocable its commitment to supporting adequate energy and fuel assistance.

Low-income energy assistance is not a luxury. On the contrary, it is the hard and cruel product of callous, runaway energy prices. It is our responsibility to bring equity and sanity to energy prices in this country. We can begin this process by reauthorizing the Low-Income Energy Assistance Program.

Mr. President, I strongly urge my distinguished colleagues to join me in supporting passage of S. 2565.

I ask for unanimous consent that this New York Times article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

CAN IT BE? A PATH OUT OF POVERTY?

There's startling news from a long, rigorous research project in Michigan. Yes, after all the years of experiment and disappointment American society does know one sure way to lead poor children out of a life of poverty

It has different names—Project Headstart, developmental day care, nursery school—but the idea is the same: high-quality preschool education. And it works.

Why do poverty's children do so badly in school and life? People have long treated that as a mystery. There have been positive results, like those of Project Headstart, the mass preschool program of Lyndon Johnson's Great Society. But even then, people seemed determined to flyspeck the findings and hide behind the mystery of failed research.

Now, it will be harder to hide. For 20 years, a landmark study has followed the lives of 123 black children from the depth of deprivation, many from single-parent homes. Half of them were given high-quality preschool education beginning at age 3. The others followed the traditional path of schooling. Now, the participants are almost 20 years old and the contrasts are remarkable.

The report on the privately funded study is entitled "Changed Lives" and rightly so. Nearly twice as many in the preschool group have gone to work or gone on to college or post-high school vocational training. Some 20 percent fewer had dropped out of school or had brushes with the law. The High/Scope Educational Research Foundation in Ypsilanti, Mich., which conducted the study, estimates that because of the reductions in crime, society has saved about $3,100 on each person in the preschool group.

And that's just the most easily quantifiable saving, trivial compared with the long-term gains. For example, the preschool group required far less remediation in elementary and high school, and as a result gained the self-confidence essential to success in school and life.

Too much can be read into the "Changed Lives" results. The graveyard of American education experiments is filled with cut-rate imitations of successful pilot projects. The Michigan experiment worked because the preschool education it provided was of high quality.

Nor can the results be taken as a cure-all for poverty and deprivation. Early childhood education has improved the youngsters' prospects considerably—but not enough. It has only reduced the negative effects of a miserable environment. Not even the highest quality preschool education can substitute for reforms that reach beyond education.

But so what if this is not The Perfect Answer? For many youngsters, an early, caring start means an opportunity to escape from the cycle of poverty. It means defeatists are wrong when they lament that nothing works and that "research shows" compensatory education has failed. A 20-year study in the laboratory of life now shows there is good to be done. If society is willing to do it.

Mr. HART. Mr. President, today the Senate will reauthorize one of our greatest success stories, Head Start. In Head Start Programs all across America, young people are learning to listen and think. They're being stimulated to grow and to keep on growing. Study after study comes to the same conclusion: Head Start children are healthier, they do better in school, and they do better beyond school. Fortunately, the program is being reauthorized.

Included in this measure is a Federal initiative on child care information and referral services. While I am pleased the Senate is acting on this child care issue based on my bill S. 1360, introduced May 25, 1983, I would

have preferred a more comprehensive package.

Child care demand is increasing, but it is also diversifying. New employment patterns—more work on split shifts, more employees on flextime—are creating a demand for nontraditional dependent care provisions. Locating compatible child care facilities for families with these unusual needs can be a difficult task. In order to do this parents must have sufficient information regarding alternatives in child care services to enable them to make reasonable choices and to shift from one alternative to another as their needs and preferences change.

My bill addresses these parental needs by establishing a "seed money" assistance program to create child care information and referral services clearinghouses throughout the country. These clearinghouses will work with families and providers to make the most efficient use of available resources by matching supply with demand.

Specifically, S. 1360 authorizes $8 million a year for the program, an amount that would fund a minimum of 100 programs at the ceiling level of $75,000. There is a State, local, or business match requirement; 25 percent in the first 2 years; 50 percent in the third year; and 65 percent in the fourth and fifth years. Federal funds are phased out after 5 years with the hope that communities will then be able to continue the I&R on their own.

The measure before the Senate today is unfortunately only a 2-year program. States, localities, or businesses must meet a 75 percent match requirement which is prohibitive to poorer communities.

From a policy perspective child care information and referral is an innovative and creative tool. The Senate should be applauded for acknowledging this tool. I only wish our accomplishment were more significant.

Mrs. HAWKINS. Mr. President, I rise in support of the Human Services Reauthorization Act. This legislation which reauthorizes important programs such as Head Start, Follow Through, and Low-Income Home Energy Assistance Act also provides authorization for an important new child care program. During the 98th Congress I was a principal cosponsor of both S. 1531, Senator RIEGLE's School Facilities Child Care Act and S. 2978, Senator HATCH's Dependent Care Resources and Referral Act. I feel that enactment of both these programs is essential if we are to improve the access and availability of childcare services to working parents.

Former President Gerald Ford wrote an excellent article for Parade magazine in which he stated that: "For the sake of this country, its women, and most of all, the children, I hope that more men will recognize that child care in the decades ahead is for them too." I would like to quote from the Parade article.

> Right now there are not nearly enough quality facilities available throughout this country. We can no longer accept the argument that providing child care or day care, we are enticing women out of their homes and away from their primary care responsibilities. Women are already outside the home and searching for quality care for their children. Nor can we continue to look at child care as being only for the needy. Today any working parent needs to be able to find good care at a reasonable cost.

I believe that the child care provisions contained in this legislation will assist parents in finding child care services for their children. The act authorized $20 million a year for the next 2 years for Federal grants for startup costs associated in the establishmend of a dependent care resource and referral system or a "latchkey" program for school-aged children.

The need for these services is growing as more mothers enter the work force. Recently, a lot of attention has been focused on cases of abuse occuring in child care centers. This is a tragedy that points out the deficiencies in our regulation of child care centers and our lack of protections for child abuse victims. But what is not publicized is the risk of abuse and neglect that is suffered by the unsupervised latchkey child. Nationally, over one-quarter of all child abuse and neglect cases fall under the "lack of supervision" of children label. Many of these children are considered neglected because they are locked in their homes with no supervision until their parent returns from work. This lack of supervision places the child in a very vulnerable situation. One in six calls received by a New Jersey fire department involved a child or children left alone in the household. Poison control centers and police departments report a similar high percentage of accidents from children left unsupervised because both parents are at work. Studies regarding sexual victimization of children cite many examples involving unsupervised children.

Federal support to encourage the development of latchkey programs are essential. Because of the lack of financial support, fewer than 100 of the Nation's 15,000 school districts operate a latchkey program. But in those few communities, the parents, children, school administrators, community leaders, and child care providers report tremendous success with their programs. One of our most successful latchkey programs, Latchkey Services for Children, Pinellas County, Inc., reports so many requests for information and assistance that they are sponsoring the First National Latchkey Institute for School-Aged Child Care. The 2-day technical institute will be held February 27 to March 1, 1985, in St. Petersburg, FL.

Their actions are commendable, but the lack of funding has limited the ability to assist school administrations, city and county governments and social service agencies with information about this cost-effective preventive services.

A similar situation faces dependent care resources and referral centers. Communities who have experimented with this program of compiling and categorizing the types and kinds of dependent care services available in the community have found that the program has been very beneficial to working parents in choosing the type of dependent care which best serves their needs. But they too, have found their growth stymied by the lack of financial support for the initial startup costs of establishing dependent care resource and referral centers. This legislation, by providing grants to assist in the establishment of these two types of child care services will improve a working parents' ability to obtain a child care service which meets their families' needs.

Mr. President, I am delighted that we were able to arrive at a compromise bill which authorizes both of these excellent child care programs. Credit for the development of this legislation should go to Senators HATCH, KENNEDY, PELL, and RIEGLE, but special credit should also go to our loyal and hard-working staff; namely, Nancy Taylor, Kitty Higgins, David Evans, David Krawitz, and Polly Gault. Without their efforts late into the night, we would not be considering this legislation today. I urge the rapid enactment of this bill.

THE FEDERAL MERIT SCHOLARSHIP PROGRAM

Mr. BYRD. Mr. President, the bill before us today contains legislation providing for a Federal Merit Scholarship Program, which I introduced in August and which is sponsored by Senators PELL, CHILES, and KENNEDY.

There is a crisis today at all levels of American education—in elementary, secondary, and higher education. This crisis is one of excellence. American Education is simply not as good as it must be for the future of our country. Our once unchallenged preeminence in commerce, industry, science, and technological innovation is being overtaken by competitors throughout the world. This crisis threatens American prosperity and security. For 2 years, prestigious report after report has chronicled this crisis and made recommendations for dealing with it. These reports all also tell us that there is a role for all levels of government to play in addressing this crisis, and that the Federal role is and should be significant.

Most Federal education programs are aimed at assuring access to and the

promotion of a quality education, a very important Federal role and one which I wholeheartedly support. But there are few Federal programs aimed solely at promotion excellence in education, and, specifically, the nurturing and recognition of gifted and talented students. What programs there are in this area tend to be post-graduate higher education programs.

This Federal Merit Scholarship Program is a direct response to the recognition that the Federal Government must do more to encourage excellence in our educational system.

The amendment would provide an authorization of $8 million each for fiscal years 1986, 1987, and 1988, for the creation of a Federal Merit Scholarship Program to be administered by the Secretary of Education.

The scholarships would be open to students who, at the end of the academic year, will have successfully completed their secondary level studies, and who have been admitted for enrollment at an institution of higher education. The scholarships would be based entirely on merit—they would go to students who have demonstrated outstanding academic achievement and who show promise of continued academic achievement. The scholarships would be awarded for a period of 1 academic year for the first year of study in an institution of higher education. The amendment stipulates that 10 scholarships, at a stipend level of $1,500 each, are to be awarded in each congressional district, Puerto Rico, and the District of Columbia.

The Secretary of Education will administer the program. But the responsibility for the development of criteria for the awards selection, and the awards selection itself, will rest at the State level, in the State education agencies. In developing the awards criteria and making the awards selections, the State educational agencies will consult with school administrators, school boards, teachers, counselors and parents.

Mr. President, this proposal is clearly a departure from our traditional Federal approach of needs-based student assistance programs. And that, of course, goes to the heart of the matter before us today in this amendment. I believe, as do many of my colleagues, that there is a legitimate Federal role in encouraging and rewarding execellence in education at all levels. This proposal does that.

It would create a limited number of awards for students who have achieved a high degree of excellence in secondary level studies. Students will compete for these awards in their own area of their State, with their peers. There will be no statewide or national "creaming" of the awards. Thus, it is my hope that the potential of receiving these awards will spur students in each corner of a State, in every town and city, to do better, to strive to excell.

In closing, I would like to underscore that it is our intention, in proposing this amendment, that this program remain small and discrete from our important efforts to provide access to educational opportunity found in needs-based programs.

Mr. President, In 1969, I established the Robert C. Byrd Scholastic Recognition Award Program for West Virginia students. Originally established with my own funds, I award each and every valedictorian from every graduating class of every secondary school—public, private, and parochial—in the State of West Virginia a $50 U.S. savings bond in recognition of his or her achievements. My own program is a very modest recognition of the achievements of gifted, talented, hard-working students in West Virginia. But as modest as it is, my experience with this merit program in West Virginia has convinced me that there is a legitimate role for Government in rewarding and encouraging excellence in education.

The amendment in this bill today is somewhat more substantial.

During the past 25 years we have achieved a great deal with Federal education programs. We have opened up many doors in America—and in America's school rooms. Now minorities and handicapped children have a chance to go to quality public schools. Many young men and women from poor and modest income families have had a chance to go to college for the first time. We have done much good through our programs, and we must protect those programs from those who would slash the Federal education effort to the bone. But we must also redouble our efforts to achieve quality and excellence in American education.

I ask all my colleagues on both sides of the aisle to join in creating what I believe is a needed and appropriate Federal effort to recognize and nurture America's gifted and talented students.

S. 2565: HUMAN SERVICES REAUTHORIZATION ACT

Mr. CRANSTON. Mr. President, I am delighted that the Senate is finally able to consider and act on S. 2565, the proposed "Human Services Reauthorization Act." As an original cosponsor of this legislation when it was first introduced many months ago, and as a long-time supporter of the various programs included in this bill, I strongly urge passage of this important measure with the substitute amendment.

The substitute contains provisions extending the authorization of appropriations for the Head Start Program and the low-income energy assistance program, provisions relating to the community services block grant program, and authorization for a new block grant program relating to child care services for school-age children and child-care information and referral programs. Unfortunately, for many months, the Senate has not taken action on this measure. The delay has been a matter of great concern to both the supporters of these programs and those who are served by them.

HEAD START REAUTHORIZATION

Mr. President, the prospect of Congress allowing the authorization of appropriations for the Head Start Program to expire was of particular concern to me; 1 week ago, I made a statement on the Senate floor that it would be unconscionable for this body to fail to reauthorize the appropriations for Head Start. I thereafter joined the distinguished Senator from Connecticut [Mr. DODD] and the distinguished Senator from Massachusetts [Mr. KENNEDY] in introducing an amendment to be proposed to the continuing resolution which would have added to that measure the provisions of S. 2565 relating to the Head Start Program and the Community Services Block Grant Program in the event we were unable to move forward with S. 2565. Fortunately, that was not necessary.

There is little debate that Head Start is one of the most popular, successful programs supported by the Federal Government. What began 20 years ago as a modest 6 to 8 week summer demonstration project has become a universally acknowledged and outstanding, comprehensive preschool program which has made a real difference in the lives of millions of low-income children and their families.

Head Start's profound impact on the physical, social, and cognitive development of participants has been documented by numerous independent evaluations. The impact of this program has been shown to last long after the preschool days, and the impact upon the parents of the children who participate in Head Start has been remarkable as well, perhaps even more remarkable.

Over the years that I have worked on legislation dealing with Head Start, I have come to know many of these parents and have seen how Head Start has revolutionized their lives.

Despite its tremendous record, Head Start has not been immune. In 1981, it was revealed that President Reagan's Director of OMB, David Stockman, had proposed that Head Start be folded into a block grant program and that its funds be slashed. Congressional and public outrage succeeded in blocking that proposal. Nevertheless, the current administration has repeatedly demonstrated an interest in "tinkering" with Head Start.

Mr. President, we know that Head Start works and works exceedingly well. It doesn't need any reforms; it

just needs more funding so that more children can be served! It has never been able to serve more than 20 percent of the eligible children. This reauthorization would permit modest increases in appropriations and would help ensure that the program continues in its present form—as a strong, vital program that opens the doorway to opportunity for millions of low-income children.

LOW-INCOME ENERGY ASSISTANCE AND COMMUNITY SERVICES BLOCK GRANT

Mr. President, the substitute also would extend the authorization of appropriations for the low-income energy assistance program, while providing a more satisfactory formula for distribution of funds between the States, and includes important provisions relating to the Community Services Block Grant Program which is the principal source of Federal assistance for the local community action agencies which provide vital services to low-income individuals and families throughout this country.

These two programs, as is Head Start, are designed to extend a helping hand and assistance to low-income Americans. They are very important programs and deserve our continued support.

NEW CHILD CARE GRANT PROGRAM

Mr. President, the measure before us also contains provisions authorizing a new child care grant program which will provide funding to local programs dealing with the needs of school age children and programs which help provide child care information and resources.

For a number of years, I have advocated enactment of legislation to help working parents dealing with the pressing needs of child care services. For the past several Congresses, I have introduced legislation, S. 4, the proposed "Child Care Assistance Act," which would provide such assistance in a variety of ways. I am thus particularly delighted to see these provisions relating to child care included in this legislation.

Mr. President, the provisions relating to child care services for school-age children grew out of the legislation which has been so strongly championed by the Senator from Michigan [Mr. RIEGLE] and the Senator from Rhode Island [Mr. PELL]. I was proud to be an original cosponsor of that bill, S. 1531, and I congratulate its principal sponsors for their hard work and success in getting these provisions included in the pending measure.

I am also particularly delighted to see inclusion in the substitute of provision for support for child care information and resource programs. I have long been a strong proponent of these programs which are of immense assistance in helping families and child care providers. My bills, S. 4, in the 96th Congress and this Congress, have included major proposals for information and resources programs. In many ways, the child care information and resource program effort began in California. The California programs have served as a model for the establishment of similar programs throughout the country and have been very successful.

The establishment of a child care information and resource program is a very staff-intensive matter, requiring the development of resources, recruitment and training of providers where needed, and the development of comprehensive resource and materials. Many of these programs, operating on very limited funds, will be able to expand and improve their services with the funds to be made available under this new grant program. I would have preferred to see a more extensive provision relating to these programs, but I recognize the necessity of starting with a more limited approach in this measure.

CONCLUSION

Mr. President, I congratulate all of the Senators and staff who have been involved in the negotiations which have led to the successful Senate passage of this measure. I am pleased to support this measure and believe that it will do much to assist many individuals and families.

REAUTHORIZATION OF HEAD START COMMUNITY SERVICES BLOCK GRANTS AND LOW-INCOME HOME ENERGY ASSISTANCE

Mr. MOYNIHAN. Mr. President, I rise today in support of S. 2565, legislation to reauthorize Project Head Start, the Community Services Block Grant, and the Low-Income Home Energy Assistance Program. I am pleased that this important measure will be considered before the Senate adjourns.

Some 17 years ago, in an essay entitled "The Education of the Urban Poor," I offered an observation about the forces that help shape the attitudes of many black, urban, poor Americans. At that time, I wrote:

> I believe that these and other questions being raised in other fields are all heading us in the same direction: toward concern with the fundamental issues of social class and family welfare, and in particular to a realization that education is the product of the total environment of the child, of which the school as such is only one, and probably not the most powerful, of multiple factors.

Many of the programs Congress created, seemed, at least to me, to reflect similar concerns. In 1965, Congress enacted title I of the Elementary and Secondary Education Act, to provide remedial and compensatory instruction in reading and mathematics for educationally disadvantaged children in low-income areas. Later, Congress enacted the National School Breakfast and School Lunch Programs, on the premise that only a healthy and well-nourished child can fully benefit from school.

Among the most innovative of the education programs of the 1960's was Project Head Start. Project Head Start was designed to help poor preschoolers, based on a view of the constituents of their physical, social, and intellectual development and the needs and well-being of their families. This program, one that does recognize that a child's education is a product of his or her total environment, emphasizes the direct involvement of parents, strong community support, and a deep commitment to helping families meet their needs by directing them, if need be, to other community services.

The results of this approach have been, well, simply outstanding. Head Start children score better on standardized tests. They achieve more in school and are less likely to fail a grade, drop out, or require special educaton classes. They are more likely to receive adequate medical care and grow to normal heights and weights, with fewer absenses due to illness and better performances on physical tests. The program does benefit most, those children most in need.

Just 3 weeks ago, the lasting value of preschool education was documented once again, in a landmark research project entitled "Changed Lives" in Ypsilanti, MI. This study, financed by the Carnegie Corp., of New York, followed the progress of children in a high quality preschool education program at Perry Elementary School. The results affirmed the view, the hope, that children who participate in a high quality preschool education program have less trouble with the law, and are less likely to find themselves teenage parents. The test groups was found more likely to graduate from high school, and more likely to gain employment.

I am pleased that this legislation also would reauthorize the Community Services block grant. This important program provides the States funds to develop programs and services designed to help impoverished Americans achieve a measure of financial independence. The demand for these services is all the more pressing today, as the poverty rate increases. I am certain my colleagues were as distressed as was I to learn, this past August, that the poverty rate in 1983 had reached 15.2 percent—its highest level since 1966. Between 1982 and 1983, 900,000 more Americans fell into poverty, bringing the total number of impoverished Americans to more than 35 million. I would also note, if I might, that the current administration has targeted the CSBG, formerly a categorical program, for termination.

This legislation would also reauthorize the Low-Income Home Energy Assistance Program [LIHEAP]. Since

1977, we have provided assistance to low-income families to mitigate the effects of rising energy costs. This measure would reauthorize LIHEAP for fiscal year 1985 at $2.075 billion and for fiscal year 1986 at $2.24 billion.

I would note that this measure changes the allocation formula for this program, incorporating a hold-harmless provision whereby a State would not experience a reduction in LIHEAP allotments between 1984 and 1985. In 1986, this hold-harmless provision is to be modified somewhat to apply to approximately 90 percent of the total LIHEAP allocation.

As a result, some States will receive less LIHEAP funds in 1986 than they had in 1985, and others will receive more. New York is one of 15 States receiving less LIHEAP funds. In 1986 New York will receive approximately $13 million less in LIHEAP funds than the $263 million we can expect to receive in 1985, for a total allotment of $250 million in energy assistance. This unfortunate situation is the result of this change in the allocation formula.

I would ask the Senate's indulgence for a moment more, for another brief passage from that essay of 17 years ago:

At the outset of this decade we began to make promises such as have never been made, and to raise expectations to a level that might never have been envisioned. Part—just part—of the reason we did this was that we genuinely believed it to be in our power to do fairly directly what it is we said needed to be done. Now, however, we begin to see that it will not be that easy. We cannot buy our way out of that commitment. But—and this is the point—neither can we go back on the commitment.

The point remains the same: we must recognize and affirm a real commitment to help educate American children and help the economically disadvantaged to achieve financial independence.

I strongly urge my colleagues to join me in suppporting these fine programs.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 7051) was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the committee substitute, as amended.

The committee substitute, as amended, was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 2565

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Human Services Reauthorization Act".

TITLE I—HEAD START

TECHNICAL AMENDMENT

SEC. 101. Section 637 (2) of the Head Start Act is amended by inserting "the Commonwealth of" before "the Northern Mariana Islands".

AUTHORIZATION OF APPROPRIATIONS

SEC. 102. Section 639 of the Head Start Act is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 639. There are authorized to be appropriated for carrying out the provisions of this subchapter $1,093,030,000 for fiscal year 1985, and $1,221,000,000 for fiscal year 1986.".

RESERVATION OF FUNDS FOR TRAINING AND TECHNICAL ASSISTANCE

SEC. 103. (a) Section 640(a)(2)(C) of the Head Start Act is amended by inserting before the semicolon the following: "as described in section 648 of this subchapter, in an amount for each fiscal year which is not less than the amount expended for training and technical assistance activities under this clause for fiscal year 1982".

(b) Section 640(a)(2) of the Head Start Act is amended by adding at the end thereof the following new flush sentences: "The minimum reservation contained in clause (C) of this paragraph shall not apply in any fiscal year in which the appropriation for the program authorized by this subchapter is less than the amount appropriated for fiscal year 1984. No funds reserved under this paragraph may be combined with funds appropriated under any other Act if the purpose of combining funds is to make a single discretionary grant or a single discretionary payment, unless such funds appropriated under this subchapter are separately identified in such grant or payment and are used for the purposes of this subchapter.".

DESIGNATION OF HEAD START AGENCIES

SEC. 104. (a) Section 641(a) of the Head Start Act is amended by inserting after "agency" the second time it appears ", within a community,".

(b) Section 641(c) of the Head Start Act is amended—

(1) by striking out ", except that" in the matter preceding clause (1) and inserting in lieu thereof "unless";

(2) by striking out "shall, before giving such priority, determine" in clause (1) and inserting in lieu thereof "makes a finding";

(3) by striking out "meets" in clause (1) and inserting in lieu thereof "fails to meet"; and

(4) by inserting "except that" before "if" in clause (2).

(c) Section 641 of the Head Start Act is amended by redesignating subsection (d) as subsection (f) and by inserting after subsection (c) the following new subsections:

"(d) If there is no Head Start agency as described in subsection (c)(2), and no existing Head Start program serving a community, then the Secretary may designate a Head Start agency from among qualified applicants in such community. Any such designation shall be governed by the program and fiscal requirements, criteria, and standards applicable on September 1, 1983, to then existing Head Start agencies.

"(e) The provisions of subsections (c) and (d) shall be applied by the Secretary in the distribution of any additional appropriations made available under this subchapter during any fiscal year as well as to initial designations of Head Start agencies.".

PARTICIPATION IN HEAD START PROGRAMS

SEC. 105. (a) Section 645(a) of the Head Start Act is amended by adding at the end thereof the following: "During the period beginning on the date of the enactment of the Human Services Reauthorization Act and ending on October 1, 1986, and unless specifically authorized in any statute of the United States enacted after such date of enactment, the Secretary may not make any change in the method, as in effect on April 25, 1984, of calculating income used to prescribe eligibility for the participation of persons in the Head Start programs assisted under this subchapter if such change would result in any reduction in, or exclusion from, participation of persons in any of such programs.".

(b) Section 645 of the Head Start Act is amended by adding at the end thereof the following new subsection:

"(c) Head Start program operated in a community may provide more than one year of Head Start services to children from age 3 to the age of compulsory school attendance in the State in which the Head Start program is located.".

TECHNICAL ASSISTANCE AND TRAINING

SEC. 106. Section 648 of the Head Start Act is amended—

(1) by striking out "may" and inserting in lieu thereof "shall"; and

(2) by inserting before the period at the end thereof a comma and the following: "including a centralized child development training and national assessment program which may be administered at the State or local level leading to recognized credentials for such personnel, and resource access projects for personnel of handicapped children".

RESEARCH, DEMONSTRATION, AND PILOT PROJECTS

SEC. 107. Section 649 of the Head Start Act is amended by adding at the end thereof the following new subsection:

"(c) No funds appropriated under this subchapter may be combined with funds appropriated under any other Act if the purpose of combining funds is to make a single discretionary grant or a single discretionary payment, unless such funds appropriated under this subchapter are separately identified in such grant or payment and are used for the purposes of this title.".

EVALUATION

SEC. 108. The second sentence of section 651(b) of the Head Start Act is amended to read as follows: "Any revisions in such standards shall not result in the elimination of nor any reduction in the scope or types of health, education, parental involvement, social or other services required to be provided under the standards in effect on November 2, 1978.".

STATE GRANTS FOR DEPENDENT CARE PLANNING AND DEVELOPMENT

SEC. 109. Chapter 8 of title VI of the Omnibus Budget Reconciliation Act of 1981, relating to community services programs, is amended by inserting at the end thereof the following new subchapter:

"SUBCHAPTER D—GRANTS TO STATES FOR PLANNING AND DEVELOPMENT OF DEPENDENT CARE PROGRAMS AND FOR OTHER PURPOSES

"AUTHORIZATION OF APPROPRIATIONS

SEC. 670A. For the purpose of allotments to States to carry out the activities de-

scribed in section 670D, there are authorized to be appropriated $20,000,000 for each of the fiscal years 1985 and 1986.

"ALLOTMENTS

"SEC. 670B. (a) From the amounts appropriated under section 670A for each fiscal year, the Secretary shall allot to each State an amount which bears the same ratio to the total amount appropriated under such section for such fiscal year as the population of the State bears to the population of all States, except that no State may receive less than $50,000 in each fiscal year.

"(b) For the purpose of the exception contained in subsection (a), the term 'State' does not include Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands.

"PAYMENTS UNDER ALLOTMENTS TO STATES

"SEC. 670C. The Secretary shall make payments, as provided by section 6503(a) of title 31, United States Code, to each State from its allotments under section 670B from amounts appropriated under section 670A.

"USE OF ALLOTMENTS

"SEC. 670D. (a) Subject to the provisions of subsections (c) and (d), amounts paid to a State under section 670C from its allotment under section 670B for fiscal year 1985 and fiscal year 1986 may be used for the planning, development, establishment, expansion, or improvement by the States, directly or by grant or contract with public or private entities, of State and local resource and referral systems to provide information concerning the availability, types, costs, and locations of dependent care services. The information provided by any such system shall include—

"(1) the types of dependent care services available, including services provided by individual homes, religious organizations, community organizations, employers, private industry, and public and private institutions;

"(2) the costs of available dependent care services;

"(3) the locations in which dependent care services are provided;

"(4) the forms of transportation available to such locations;

"(5) the hours during which such dependent care services are available;

"(6) the dependents eligible to enroll for such dependent care services; and

"(7) any resource and referral system planned, developed, established, expanded, or improved with amounts paid to a State under this subchapter.

In carrying out clause (7) of the previous sentence, no information shall be included with respect to any dependent care services which are not provided in compliance with the laws of the State and localities in which such services are provided.

"(b)(1) Subject to the provisions of subsections (c) and (d), amounts paid to a State under section 670C from its allotment under section 670B for fiscal year 1985 and fiscal year 1986 may be used for the planning, development, establishment, expansion, or improvement by the States, directly, or by grant or contract, with public agencies or private nonprofit organizations of programs to furnish school-age child care services before and after school in public or private school facilities or in community centers in communities where school facilities are not available.

"(2) The State, with respect to the uses of funds described in paragraph (1) of this subsection shall—

"(A) provide assurances, in the case of an applicant that is not a State or local educational agency, that the applicant has or will enter into an agreement with the State or local educational agency, institution of higher education or community center containing provisions for—

"(i) the use of facilities for the provision of before or after school child care services (including such use during holidays and vacation periods),

"(ii) the restrictions, if any, on the use of such space, and

"(iii) the times when the space will be available for the use of the applicant;

"(B) provide an estimate of the costs of the establishment of the child care service program in the facilities;

"(C) provide assurances that the parents of school-age children will be involved in the development and implementation of the program for which assistance is sought under this Act;

"(D) provide assurances that the applicant is able and willing to seek to enroll racially, ethnically, and economically diverse as well as handicapped school-age children in the child care service program for which assistance is sought under this Act;

"(E) provide assurances that the child care program is in compliance with state and local licensing laws and regulations governing day care services for school-age children to the extent that such regulations are appropriate to the age group served; and

"(F) provide such other assurances as the Governor may reasonably require to carry out the provisions of this Act.

"(c) Of the allotment to each State in each fiscal year—

"(1) 40 percent shall be available for the activities described in subsection (a);

"(2) 60 percent shall be available for the activities described in subsection (b).

"(d) A State may not use amounts paid to it under this subchapter to—

"(1) pay the costs of operation of any resource and referral system or before or after school child care program established, expanded, or improved under subsection (a);

"(2) make cash payments to intended recipients of dependent care services including child care services;

"(3) subsidize the direct provision of dependent care services including child care services;

"(4) pay for construction or renovation; or

"(5) satisfy any requirement for the expenditure of non-Federal funds as a condition for the receipt of Federal funds.

"(e)(1) The Federal share of any project supported under this subchapter shall be not more than 75 percent.

"(2) Not more than 10 percent of the allotment of each State under this subchapter may be available for the cost of administration.

"(f) Projects supported under this section to plan, develop, establish, expand, or improve a State or local resource and referral system or before or after school child care program shall not duplicate any services, which prior to the date of enactment of this subchapter, are provided by the State or locality which will be served by such system.

"(g) The Secretary may provide technical assistance to States in planning and operating activities to be carried out under this subchapter.

"APPLICATION AND DESCRIPTION OF ACTIVITIES; REQUIREMENTS

"SEC. 670E. (a)(1) In order to receive an allotment under section 670B, each State shall submit an application to the Secretary. Each such application shall be in such form and submitted by such date as the Secretary shall require.

"(2) Each application required under paragraph (1) for an allotment under section 670B shall contain assurances that the State will meet the requirements of subsection (b).

"(b) As part of the annual application required by subsection (a), the chief executive officer of each State shall—

"(1) certify that the State agrees to use the funds allotted to it under section 670B in accordance with the requirements of this subchapter; and

"(2) certify that the State agrees that Federal funds made available under section 670C for any period will be so used as to supplement and increase the level of State, local, and other non-Federal funds that would in the absence of such Federal funds be made available for the programs and activities for which funds are provided under that section and will in no event supplant such State, local, and other non-Federal funds.

The Secretary may not prescribe for a State the manner of compliance with the requirements of this subsection.

"(c) The chief executive officer of a State shall, as part of the application required by subsection (a), also prepare and furnish the Secretary (in accordance with such form as the Secretary shall provide) with a description of the intended use of the payments the State will receive under section 670C, including information on the programs and activities to be supported. The description shall be made public within the State in such manner as to facilitate comment from any person (including any Federal or other public agency) during development of the description and after its transmittal. The description shall be revised (consistent with this section) until September 30, 1987, as may be necessary to reflect substantial changes in the programs and activities assisted by the State under this subchapter, and any revision shall be subject to the requirements of the preceding sentence.

"(d) Except where inconsistent with the provisions of this subchapter, the provisions of section 1903(b), paragraphs (1) through (5) of section 1906(a), and sections 1906(b), 1907, 1908, and 1909 of the Public Health Service Act shall apply to this subchapter in the same manner as such provisions apply to part A of title XIX of such Act.

"REPORT

"SEC. 670F. Within three years after the date of enactment of this subchapter, the Secretary shall prepare and transmit to the Senate Committee on Labor and Human Resources and the House Committee on Education and Labor a report concerning the activities conducted by the States with amounts provided under this subchapter.

"DEFINITIONS

"SEC. 670G. For purposes of this subchapter—

"(1) the term 'community center' means facilities operated by nonprofit community-based organizations for the provision of recreational, social, or educational services to the general public;

"(2) the term 'dependent' means—

"(A) an individual who has not attained the age of 17 years;

"(B) an individual who has attained the age of 55 years; or

"(C) a person with a developmental disability;

"(3) the term 'developmental disability' has the same meaning as in section 102(7) of the Developmental Disability Assistance and Bill of Rights Act;

"(4) the term 'equipment' has the same meaning given that term by section 198(a)(8) of the Elementary and Secondary Education Act of 1965;

"(5) the term 'institution of higher education' has the same meaning given that term under section 1201(a) of the Higher Education Act of 1965;

"(6) the term 'local educational agency' has the same meaning given that term under section 198(a)(10) of the Elementary and Secondary Education Act of 1965;

"(7) the term 'school-age children' means children aged five through thirteen;

"(8) the term 'school facilities' means classrooms and related facilities used for the provision of education;

"(9) the term 'Secretary' means the Secretary of Health and Human Services;

"(10) the term 'State' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands; and

"(11) the term 'State educational agency' has the meaning given that term under section 198(a)(17) of the Elementary and Secondary Education Act of 1965.".

TITLE II—COMMUNITY SERVICES BLOCK GRANT

AUTHORIZATION OF APPROPRIATIONS

SEC. 201. Section 672(b) of the Community Services Block Grant Act (hereinafter in this title referred to as the "Act") is amended by adding at the end thereof the following new sentence: "There is authorized to be appropriated $400,000,000 for the fiscal year 1985, and $415,000,000 for the fiscal year 1986, to carry out the provisions of this subtitle."

DEFINITIONS

SEC. 202. (a)(1) The second sentence of section 673(1) of the Act is amended to read as follows: "The term 'eligible entity' also includes any limited purpose agency designated under title II of the Economic Opportunity Act of 1964 for fiscal year 1981 which served the general purposes of a community action agency under title II of such Act, unless such designated agency list its designation under title II of such Act as a result of a failure to comply with the provisions of such Act, any grantee which received financial assistance under section 222(a)(4) of the Economic Oppourtunity Act of 1964 in fiscal year 1981, and any organization to which a State which applied for and received a waiver from the Secretary under Public Law 98-139 made a grant under this Act in fiscal year 1984."

(2) Section 673(1) of the Act is amended by adding at the end thereof the following two sentences: "In any geographic area of a State not presently served by an eligible entity, the Governor of the State may decide to serve such a new area by—

"(A) requesting an existing eligible entity which is located and provides services in an area contiguous to the new area to serve the new area;

"(B) if no existing eligible entity is located and provides services in an area contiguous to the new area, requesting the eligible entity located closest to the area to be served or an existing eligible entity serving an area within reasonable proximity of the new area to provide services in the new area; or

"(C) where no existing eligible entity requested to serve the new area decides to do so, designating any existing eligible entity, any organization which has a board meeting the requirements of section 675(c)(3) or any political subdivision of the State to serve the new area. The Governor's designation of an organization which has a board meeting the requirements of section 675(c)(3) or a political subdivision of the State to serve the new area shall qualify such organization as an eligible entity under this Act.".

(b) Section 673(2) of the Act is amended by inserting at the end thereof the following new sentence: "Whenever the State determines that it serves the objectives of the block grant established by this subtitle the State may revise the poverty line to not to exceed 125 percent of the official poverty line otherwise applicable under this paragraph."

APPLICATIONS AND REQUIREMENTS

SEC. 203. (a)(1) Section 675(c)(2)(A)(i) of the Act is amended by striking "1982 only" and inserting in lieu thereof "1985 and for each subsequent fiscal year".

(2) Section 675(c)(2)(A)(i) of the Act is amended by inserting before the semicolon a comma and the following: "Except that no more than 7 percent of the funds available for this subclause shall be granted to organizations which were not eligible entities during the previous fiscal year".

(3) Section 675(c)(2)(A) of the Act is amended—

(A) by striking out "(i)"; and

(B) by striking out division (ii).

(4) Section 675(c)(2)(B) of the Act is amended by inserting after "than" the following: "the greater of $55,000 or".

(5) Section 675(c)(5) of the Act is amended—

(A) by striking out "or the energy" and inserting in lieu thereof "the energy", and

(B) by inserting ", or the Temporary Emergency Food Assistance Act of 1983" before the semicolon.

(b) Section 675 of the Act is amended—

(1) by striking out "and" at the end of clause (9);

(2) by striking out the period at the end of clause (10) and inserting in lieu thereof a semicolon and the word "and"; and

(3) by adding at the end thereof the following new clause:

"(11) provides assurances that any community action agency or migrant and seasonal farmworker organization which received funding in the previous fiscal year under this Act will not have its present or future funding terminated under this Act unless after notice, and opportunity for hearing on the record, the State determines that cause existed for such termination subject to review by the Secretary as provided in section 676A.".

(c) Section 675 is amended by adding at the end thereof the following new subsection:

"(i)(1) For purposes of determining compliance with this subchapter the Secretary shall conduct, in several States in each fiscal year, evaluations of the uses made of funds received under this subchapter by such States.

"(2) The results of such evaluations shall be submitted annually to the Chairman of the Committee on Education and Labor of the House of Representatives and the chairman of the Committee on Labor and Human Resources of the Senate.".

(d) The Act is amended by inserting after section 676 the following new section:

"TERMINATION OF FUNDING REVIEW

"SEC. 676A. The Secretary shall upon request review any termination of funding to a community action agency or migrant and seasonal farmworker organization protected by a State's assurance under section 675(c)(11). Such review shall be conducted promptly and shall be based upon the record and no determination shall become effective until a finding by the Secretary confirming the State's finding of cause.".

DISCRETIONARY PROGRAM

SEC. 204. (a)(1) The matter preceding clause (1) of section 681(a) of the Act is amended by striking out "public and other organizations and agencies" both times it appears and inserting in lieu thereof "public agencies and private nonprofit organizations".

(2) Section 681(a) of the Act is amended—

(A) by striking out "and" at the end of clause (1);

(B) by striking out the period at the end of clause (2) and inserting in lieu thereof a semicolon and the word "and"; and

(C) by adding at the end thereof the following new clause:

"(3) training and technical assistance to aid States in carrying out their responsibilities under this subchapter.".

(b) Section 681(a) of the Act is amended by adding at the end thereof the following new flush sentence: "In addition, grants, loans, and guarantees made pursuant to this subsection may be made to a private nonprofit organization applying jointly with a business concern.".

WITHHOLDING

SEC. 205. (a) Section 679(b) of the Act is amended—

(1) in paragraph (2) by striking out "he" and inserting in lieu thereof "the Secretary", and

(2) in paragraph (3) by striking out "may" and inserting in lieu thereof "shall".

(b) Section 679 of the Act is amended by striking out subsection (d).

COMMUNITY FOOD AND NUTRITION PROGRAM

SEC. 206. The Act is amended by inserting after section 681 the following new section:

"COMMUNITY FOOD AND NUTRITION

"SEC. 681A. (a) The Secretary may through grants to public and private nonprofit agencies, provide for community-based, local, and statewide programs—

"(1) to coordinate existing private and public food assistance resources, whenever such coordination is determined to be inadequate, to better serve low-income populations;

"(2) to assist low-income communities to identify potential sponsors of child nutrition programs and to initiate new programs in underserved or unserved areas; and

"(3) to develop innovative approaches at the State and local level to meet the nutrition needs of low-income people.

"(b) There is authorized to be appropriated $2,500,000 for each of the fiscal years 1985 and 1986 to carry out the provisions of this section.".

CONSTRUCTION

SEC. 207. Notwithstanding any other provision of law the provisions of section 675(c)(2) of the Act made by the amendments contained in paragraphs (1), (2), and (3) of section 203 of this Act shall apply to the funds appropriated for the Act for fiscal year 1985.

TITLE III—FOLLOW THROUGH

AUTHORIZATION OF APPROPRIATIONS

SEC. 301. Section 663(a)(1) of the Follow Through Act is amended to read as follows:

"(1) There is authorized to be appropriated for carrying out the purposes of this subchapter $10,000,000 for the fiscal year 1985 and $7,500,000 for the fiscal year 1986.".

REPEALER

SEC. 302. Section 670 of the Follow Through Act is amended by striking out "1984" and inserting in lieu thereof "1986".

TITLE IV—WEATHERIZATION PROGRAM

STATE ELECTION OF LIHEAP INCOME ELIGIBILITY LEVEL

SEC. 401. Section 412(7) of the Energy Conservation in Existing Buildings Act of 1976 (42 U.S.C. 6862(7)) is amended by striking out "or" before the beginning of clause (B), by striking out the period at the end of the paragraph and inserting in lieu thereof a comma, and by adding at the end of the paragraph "or (C) if a State elects, is the basis for eligibility for assistance under the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621), provided that such basis is at least 125 percent of the poverty level determined in accordance with criteria established by the Director of the Office of Management and Budget.".

NEW TECHNOLOGY AND ELIMINATION OF A RULEMAKING REQUIREMENT

SEC. 402. Section 412(9) of the Energy Conservation in Existing Buildings Act of 1976 (42 U.S.C. 6862(9)) is amended by—

(1) amending paragraph (B) to read as follows:

"(B) furnace efficiency modifications, including, but not limited to—

"(i) replacement burners, furnaces, or boilers or any combination thereof;

"(ii) devices for minimizing energy loss through heating system, chimney, or venting devices; and

"(iii) electrical or mechanical furnance ignition systems which replace standing gas pilot lights;"; and

(2) striking out "by rule" in paragraph (G).

MAXIMUM EXPENSES

SEC. 403. Section 415 of the Energy Conservation in Existing Buildings Act of 1976 (42 U.S.C. 6865) is amended—

(1) by striking out the first sentence in subsection (a) and inserting in lieu thereof: "An average of at least forty percent of the funds provided in a State under this part for weatherization materials, labor, and related matters described in subsection (c) shall be spent for weatherization materials."; and

(2) by amending subsection (c) to read as follows:

"(c)(1) The expenditure of financial assistance provided under this part for labor, weatherization materials, and related matters shall not exceed an average of $1,600 per dwelling unit weatherized in that State. Labor, weatherization materials, and related matter includes, but is not limited to—

"(A) the appropriate portion of the cost of tools and equipment used to install weatherization materials for a dwelling unit;

"(B) the cost of transporting labor, tools, and materials to a dwelling unit;

"(C) the cost of having onsite supervisory personnel; and

"(D) the cost of making incidental repairs to a dwelling unit if such repairs are necessary to make the installation of weatherization materials effective.

"(2) Dwelling units partially weatherized under this part or under other Federal programs during the period September 30, 1975, through September 30, 1979, may receive further financial assistance for weatherization under this part.".

PERFORMANCE FUND

SEC. 404. Section 415 of the Energy Conservation in Existing Buildings Act of 1976 (42 U.S.C. 6862) is amended by adding at the end thereof the following new subsection:

"(d) Beginning in fiscal year 1986, not less than 5 percent and no more than 15 percent of the amount appropriated under this part for each fiscal year shall be allotted by the Secretary to a performance fund, which shall be available only to provide financial assistance under this part to those States which the Secretary determines to have demonstrated the best performance during the previous fiscal year in providing weatherization assistance. The Secretary shall make such determination on the basis of such information as may be available to the Secretary, to include, but not be limited to, the percentage of eligible dwelling units within the State which have been weatherized using low-income weatherization assistance program funds during the relevant reporting period. In assessing the quality of the weatherization assistance provided, the Secretary shall consider comparable energy savings data supplied by the States.".

TITLE V—HIGHER EDUCATION AND RESEARCH PROJECT

CENTER FOR EXCELLENCE IN EDUCATION AUTHORIZED

SEC. 501. (a) The Secretary of Education (hereinafter in this section referred to as the "Secretary") is authorized in accordance with the provisions of this title, to provide financial assistance to Indiana University located in Bloomington, Indiana, to pay the Federal share of the cost of the construction, and related costs, including renovation costs, for the Center for Excellence in Education facility at Indiana University, to be used as a national research and training resource for individuals who intend to become exemplary elementary and secondary school teachers and administrators.

(b)(1) No financial assistance may be made under this title unless an application is made at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

(2) For the purpose of this section, the Federal share of the cost of the Center for Excellence in Education facility at the Indiana University should not exceed 50 percent.

(c) There are authorized to be appropriated such sums, not to exceed $6,000,000, as may be necessary to carry out the provisions of this title. Funds appropriated pursuant to this title shall remain available until September 30, 1987.

RESEARCH CENTERS

Sec. 502. (a)(1) The Secretary of Health and Human Services (hereinafter in this section referred to as the "Secretary") is authorized, in accordance with the provisions of this section, to provide financial assistance to the University of Utah located in Salt Lake City, Utah, to pay the Federal share of the cost of the establishment and operation (including construction, and related costs, including renovation costs) of a center for research on the health effects of nuclear energy and other new energy technologies.

(2)(A) No financial assistance may be made under this subsection unless an application is made at such time, in such manner, and containing or acompanied by such information as the secretary may reasonably require.

(B) For the purpose of this subsection, the Federal share of the cost of the center shall not exceed 50 percent.

(3) There are authorized to be appropriated such sums, not to exceed $4,000,000, as may be necessary to carry out the provisions of this subsection. Funds appropriated pursuant to this subsection shall remain available until September 30, 1987.

(b)(1) The Secretary shall, through the National Cancer Institute, establish or support at least one clinic or health facility for cancer screening and research in St. George, Utah. Such clinic shall be affiliated with a health science center capable of providing clinical, research, and interdisciplinary technical assistance to such clinic or facility, and shall make its services accessible to the preponderance of the residents of the areas that have received the greatest fallout from the Nevada nuclear tests.

(2) There are authorized to be appropriated such sums, not to exceed $6,000,000, as may be necessary to carry out the provisions of this subsection. Funds appropriated pursuant to this subsection shall remain available until September 30, 1987.

TITLE IV—LOW INCOME HOME ENERGY ASSISTANCE

AUTHORIZATION OF APPROPRIATIONS

SEC. 601. Section 2602(b) of the Low-Income Home Energy Assistance Act of 1981 (hereinafter in this title referred to as the "Act") is amended to read as follows:

(b) There is authorized to be appropriated to carry out the provisions of this title $2,140,000,000 for the fiscal year 1985, and $2,275,000,000 for the fiscal year 1986.".

DEFINITION

SEC. 602. (a) Section 2603(1) of the Act is amended by—

(1) by striking out "intervention"; and

(2) by inserting before the period "and other household energy-related emergencies".

(b) Section 2603(4) of the Act is amended to read as follows:

"(4) The term 'poverty level' means, with respect to a household in any State, the income poverty line as prescribed and revised at least annually pursuant to section 673(2) of the Community Services Block Grant Act, as applicable to such State.".

ENERGY CRISIS INTERVENTION

SEC. 603. (a) Section 2604(c) of the Act is amended—

(1) by inserting after "reserved" the following: "until March 15 of each program year"; and

(2) by adding at the end thereof the following new sentence: "The program for which funds are reserved by this subsection shall be administered by public or nonprofit entities which have experience in administering energy crisis programs under the Low-Income Energy Assistance Act of 1980, or under this Act, experience in assisting low-income individuals in the area to be served, and the capacity to undertake a timely and effective energy crisis intervention program.".

(b) Section 2604(d)(1) of the Act is amended by striking out "otherwise be paid" and inserting in lieu thereof "otherwise be payable".

(c) Section 2604(e) of the Act is repealed.

(d) Section 2604(f) of the Act is amended by striking out "its allotment" and inserting in lieu thereof "the funds payable to it".

STATE ALLOTMENTS

SEC. 604. (a) Section 2604(a)(2) is amended to read as follows:

"(2) For purposes of paragraph (1), for fiscal year 1985 and thereafter, a State's allotment percentage is the percentage which expenditures for home energy by low-income households in that State bears to such expenditures in all States, except that States which thereby receive the greatest proportional increase in allotments by reason of the application of this paragraph from the amount they received pursuant to Public Law 98-139 shall have their allotments reduced to the extent necessary to ensure that—

"(A)(i) no State for fiscal year 1985 shall receive less than the amount of funds the State received in fiscal year 1984; and

"(ii) no State for fiscal year 1986 and thereafter shall receive less than the amount of funds the State would have received in fiscal year 1984 if the appropriations for this title for fiscal year 1984 had been $1,975,000,000, and

"(B) any State whose allotment percentage out of funds available to States from a total appropriation of $2,250,000,000 would be less than 1 percent, shall not, in any year when total appropriations equal or exceed $2,250,000,000, have its allotment percentage reduced from the percentage it would receive from a total appropriation of $2,140,000,000.".

(b) Section 2604(a) is amended by adding at the end thereof the following new paragraph:

"(4) For the purpose of this section, the Secretary shall determine the expenditure for home energy by low-income households on the basis of the most recent satisfactory data available to the Secretary.".

APPLICATIONS AND REQUIREMENTS

SEC. 605. (a)(1) Section 2605(b)(1) of the Act is amended by striking out "subsection" and inserting in lieu thereof "section".

(2) Subclause (B) of section 2605(b)(2) of the Act is amended by inserting after the semicolon and flush to the margin of subclause (B) the following: "except that no household may be excluded from eligibility undr this subclause for payments under this title for fiscal year 1986 and thereafter if the household has an income which is less than 110 percent of the poverty level for such State for such fiscal year".

(3) Section 2605(b)(5) is amended by inserting before the semicolon a comma and the following: "except that the State may not differentiate in implementing this section between the households described in clause (2)(A) and (2)(B) of this subsection".

(4) Section 2605(b)(7)(C) is amended by striking out "any differently" and inserting in lieu thereof "adversely".

(5) Section 2605(b)(8) of the Act is amended by inserting after "that" the following: "(A) the State will not exclude households described in clause (2)(B) of this subsection from receiving home energy assistance benefits under clause (2), and (B)".

(6) Section 2605(b)(9)(A) of the Act is amended to read as folows:

"(A) the State may use for planning and administering the use of funds under this title an amount not to exceed 10 percent of the funds payable to such State under this title for a fiscal year and not transferred pursuant to section 2604(f) for use under another block grant; and".

(7) Section 2605(b)(10) of the Act is amended by striking out "every year" and inserting in lieu thereof "every two years".

(8) Section 2605(b) of the Act is amended—

(A) by striking out "and" at the end of clause (12);

(B) by striking out the period at the end of clause (13) and inserting in lieu thereof a semicolon; and

(C) by adding at the end thereof the following new clauses:

"(14) describe the procedures by which households in the State are identified as eligible to participate under this title and the manner in which the State determines benefit levels;

"(15) describe the amount that the State will reserve in accordance with section 2604(c) in each fiscal year for energy crisis intervention activities together with the administrative procedures (A) for designating an emergency, (B) for determining the assistance to be provided in any such emergency, and (C) for the use of funds reserved under such section for the purposes under this title in the event any portion of the amount so reserved is not expended for emergencies.

"(16) describe energy usage and the average cost of home energy in the State, identified by type of fuel and by region of the State; and

"(17) cooperate with the Secretary with respect to data collecting and reporting under section 2610.".

(9) Section 2605(b) is amended by adding at the end thereof the following new sentence: "The Secretary shall issue regulations to prevent waste, fraud, and abuse in the programs assisted by this title.".

(b)(1) Section 2605(c)(1) of the Act is amended to read as follows:

"(c)(1) As part of the annual application required in subsection (a), the chief executive officer of each State shall prepare and furnish to the Secretary, in such format as the Secretary may require, a plan which—

"(A) describes how the State will carry out the assurances required under subsection (b);

"(B) contains estimates of the amount of funds the State will use for each of the programs under such plan;

"(C) describes the eligibility requirements to be used by the State for each type of assistance to be provided under this title;

"(D) describes weatherization and other energy-related home repair the State will provide under subsection (k); and

"(E) contains any other information determined by the Secretary to be appropriate for purposes of this title.

The chief executive officer may revise any plan prepared under this paragraph and shall furnish the revised plan to the Secretary.".

(2) Section 2605(c)(2) of the Act is amended—

(A) by inserting "and each substantial revision thereof" after "Each plan prepared under paragraph (1)", and

(B) by striking out the period at the end thereof and inserting in lieu thereof "or substantial revision.".

(c) Section 2605(d) of the Act is amended to read as follows:

"(d) The State shall expend funds in accordance with the State plan under this title or in accordance with revisions applicable to such plan.".

(d) Section 2605(e) of the Act is amended to read as follows:

"(e) Each State shall, in carrying out the requirements of subsection (b)(10), obtain financial and compliance audits of any funds which the State receives under this title. Such audits shall be made public within the State on a timely basis. The audits shall be conducted at least every two years by an organization or person independent of any agency administering activities under this title. The audits shall be conducted in accordance with the Comptroller General's standards for audit of governmental organizations, programs, activities, and functions. Within 30 days after completion of each audit, the chief executive officer of the State shall submit a copy of the audit to the legislature of the State and to the Secretary.".

(e) Section 2605(f) of the Act is amended by inserting before the comma the first time it appears the following: "unless enacted in express limitation of this paragraph".

(f) Section 2605(h) of the Act is amended by inserting "(but not less frequently than every three years)" after "time" the second place it appears.

PAYMENTS TO STATES

SEC. 606. (a)(1) The second sentence of section 2607(b)(2)(A) of the Act is amended by inserting "or the amount payable to" after "of".

(2) Section 2607(b)(2)(A) of the Act is amended by inserting after the first sentence thereof the following: "Such request shall include a statement of the reasons that the amount allotted to such State for a fiscal year will not be used by such State during such fiscal year and a description of the types of assistance to be provided with the amount held available for the following fiscal year.".

(b)(1)(A) The first sentence of section 2607(b)(2)(B) of the Act is amended by striking out "25 percent" and inserting in lieu thereof "15 percent".

(B) The first sentence of section 2607(b)(2)(B) of the Act is further amended by striking out "allotted to such State for such prior fiscal year" and inserting in lieu thereof "payable to such State for such prior fiscal year and not transferred pursuant to section 2604(f)".

(2) The second sentence of section 2607(b)(2)(B) of the Act is amended by striking out "allotted to a State" and inserting in lieu thereof "payable to a State but not transferred by the State".

(c) Section 2607(b)(2) of the Act is amended by adding at the end thereof the following new subparagraph:

"(C) The Secretary shall reallot amounts made available under this paragraph for the fiscal year following the fiscal year of the original allotment in accordance with paragraph (1) of this subsection.".

STUDIES

SEC. 607. (a) Section 2610(a)(2) of the Act is amended—

(1) by inserting "amount," before "cost"; and

(2) by adding at the end thereof the following: "for households eligible for assistance under this title".

(b) Section 2610(a) of the Act is amended by—

(1) striking out "and" at the end of clause (4);

(2) redesignating clause (5) as clause (6); and

(3) inserting after clause (4) the following new clause:

"(5) the number of households which received such assistance and include one or

more individuals who are 60 years or older or handicapped; and ".

(c) Section 2610(a) of the Act is amended by adding at the end thereof the following new flush sentence: "Nothing in this subsection may be construed to require the Secretary to collect data which has been collected and made available to the Secretary by any other agency of the Federal Government.

(d) Section 2610(b) of the Act is amended to read as follows:

"(b) The Secretary shall, no later than June 30 of each fiscal year, submit a report to the Congress containing a detailed compilation of the data under subsection (a) with respect to the prior fiscal year.".

TECHNICAL AMENDMENT

SEC. 608. Section 2608(b)(2) of the Act is amended by striking out "he" and inserting in lieu thereof "the Secretary".

EFFECTIVE DATES

SEC. 609. (a) Except as provided in subsections (b), (c), and (d), the amendments made by this title shall take effect on the date of enactment of this Act.

(b) The amendments made by section 605 shall take effect on the first day of the first fiscal year beginning after the date of the enactment of this Act.

(c) The amendments made by section 606 shall apply to amounts held available for fiscal years beginning after September 30, 1985.

(d) The amendment made by section 607 shall apply to data collected an compiled after the date of the enactment of this Act. Section 2610 of the Act as in effect before the date of the enactment of this Act shall apply with respect to the report submitted under such section 2610 for fiscal year 1984.

TITLE VII—POSTSECONDARY EDUCATION SCHOLARSHIP PROGRAM

AMENDMENT TO TITLE V OF THE HIGHER EDUCATION ACT OF 1965

SEC. 701. Title V of the Higher Education Act of 1965 is amended by inserting after part D the following new parts E and F:

"PART E—CARL D. PERKINS SCHOLARSHIP PROGRAM

"DECLARATION OF PURPOSE; AUTHORIZATION OF APPROPRIATIONS

"SEC. 561. (a) It is the purpose of this part to make available, through grants to the States, scholarships during fiscal years 1986 through 1990 to a maximum of ten thousand individuals who are outstanding high school graduates and who demonstrate an interest in teaching, in order to enable and encourage those individuals to pursue teaching careers in education at the elementary or secondary level. Such scholarships shall be referred to as 'Carl D. Perkins Scholarships'.

"(b) There are authorized to be appropriated $20,000,000 for fiscal year 1986, $21,000,000 for fiscal year 1987, $22,000,000 for fiscal year 1988, and $23,000,000 for fiscal year 1989, for Carl D. Perkins Scholarships to eligible students under this part.

"ALLOCATION AMONG STATES

"SEC. 562. (a) From the sums appropriated pursuant to section 561 for any fiscal year, the Secretary shall allocate to any State an amount which bears as nearly as possible the same ratio to such sums as the number of persons in that State bears to the number of persons in all States.

"(b) For the purpose of this section, the number of persons in a State and in all States shall be determined by the most recently available data from the United States Census Bureau.

"GRANT APPLICATIONS

"SEC. 563. (a) The Secretary is authorized to make grants to States in accordance with the provisions of this part. In order to receive a grant under this part, a State shall submit an application at such time or times, in such manner, and containing such information as the Secretary may prescribe by regulation. Such application shall set forth a program of activities for carrying out the purposes set forth in section 561(a) in such detail as will enable the Secretary to determine the degree to which such program will accomplish such purposes and such other policies, procedures, and assurances as the Secretary may require by regulation.

"(b) The Secretary shall approve an application only if the application—

"(1) describes the selection criteria and procedures to be used by the State in the selection of scholarships under this part which satisfy the provisions of this part;

"(2) designates the State agency which administers the program under subpart 3 of part A of title IV, relating to State student incentive grants, or the State agency with which the Secretary has an agreement under section 428(b);

"(3) describes the outreach effort the State agency intends to use to publicize the availability of Carl D. Perkins Scholarships to high school students in the State;

"(4) provides assurances that each recipient eligible under section 565(b) of this part who receives a Carl D. Perkins Scholarship shall enter into an agreement with the State agency under which the recipient shall—

"(A) within the ten-year period after completing the postsecondary education for which the Carl D. Perkins Scholarship was awarded, teach, for a period of not less than two years for each year for which assistance was received, in a public elementary or secondary school in any State, in a public education program in any State, or in a private nonprofit school located and serving students in a district eligible for assistance pursuant to chapter 1 of the Education Consolidation and Improvement Act of 1981, or, on a full-time basis, handicapped children or children with limited English proficiency in a private nonprofit school, except that, in the case of individuals who teach in a school serving large numbers or high concentrations of economically disadvantaged students, or who teach children with limited English proficiency or handicapped children, the requirements of this subparagraph shall be reduced by one-half;

"(B) provide the State agency evidence of compliance with section 566 of this part as required by the State agency; and

"(C) repay all or part of a Carl D. Perkins Scholarship received under section 564 of this part plus interest and, if applicable, reasonable collection fees, in compliance with regulations issued by the Secretary under section 567 of this part, in the event that the conditions of clause (A) are not complied with, except as provided for in section 568 of this part;

"(5) provides that the agreement entered into with recipients shall fully disclose the terms and conditions under which assistance under this part is provided and under which repayment may be required. Such disclosure shall include—

"(A) a description of the procedures required to be established under paragraph (6); and

"(B) a description of the appeals procedures required to be established under paragraph (7) under which a recipient may appeal a determination of noncompliance with any provision under this part;

"(6) provides for procedures under which a recipient of assistance received under this part who teaches for less than the period required under paragraph (4)(A) will have the repayment requirements reduced or eliminated consistent with the provisions of sections 567 and 568 of this part;

"(7) provides for appeals procedures under which a recipient may appeal any determination of noncompliance with any provision under this part;

"(8) provides assurances that the State agency shall make particular efforts to attract students from low-income backgrounds or who express a willingness or desire to teach in schools having less than average academic results or serving large numbers of economically disadvantaged students; and

"(9) provides assurances that Carl D. Perkins Scholarships will be awarded without regard to sex, race, handicapping condition, creed, or economic background.

"(c) The selection criteria and procedures to be used by the State shall reflect the present and projected teacher needs of the State, including the demand for and supply of elementary teachers in the State, the demand for and supply of secondary teachers in the State, and the demand for teachers with training in specific academic disciplines in the State.

"(d) In developing the selection criteria and procedures to be used by the State, the State shall solicit the views of State and local educational agencies, private educational institutions, and other interested parties. Such views—

"(1) shall be solicited by means of (A) written comments; and (B) publication of proposed selection criteria and procedures in final form for implementation; and

"(2) may be solicited by means of (A) public hearings on the teaching needs of elementary and secondary schools in the State (including the number of new teachers needed, the expected supply of new teachers, and the shortages in the State of teachers with training in specific academic disciplines); or (B) such other methods as the State may determine to be appropriate to gather information on such needs.

"AMOUNT AND DURATION OF AND RELATION TO OTHER ASSISTANCE

"SEC. 564. (a) Subject to subsection (c), each Carl D. Perkins Scholar shall receive a $5,000 scholarship for each academic year of postsecondary education for study in preparation to become an elementary or secondary teacher. No individual shall receive scholarship assistance for more than four years of postsecondary education, as determined by the State agency.

"(b) Notwithstanding the provisions of title IV of this Act, scholarship funds awarded pursuant to this part shall be considered in determining eligibility for student assistance under title IV of this Act.

"(c) Carl D. Perkins Scholarship assistance awarded by the statewide panel established pursuant to section 565 to any individual in any given year, when added to assistance received under title IV of this Act, shall not exceed the cost of attendance, as defined under section 482(d), at the institution the individual is attending. If the amount of the Carl D. Perkins Scholarship assistance and assistance received under title IV of this Act, exceeds the cost of attendance, the Carl D. Perkins Scholarship shall be reduced by an amount equal to the

amount by which the combined awards exceed the cost of attendance.

"(d) No individual shall receive an award under the Carl D. Perkins Scholarship established under this part, in any academic year, which shall exceed the cost of attendance, as defined under section 482(d), at the institution the individual is attending.

"SELECTION OF CARL D. PERKINS SCHOLARS

"SEC. 565. (a) Carl D. Perkins Scholars shall be selected by a seven-member statewide panel appointed by this chief State elected official, acting in consultation with the State educational agency, or by an existing grant agency or panel designated by the chief State elected official and approved by the Secretary of Education. The statewide panel shall be representative of school administrators, teachers and parents.

"(b) Selections of Carl D. Perkins Scholars shall be made from students who have graduated or who are graduating from high school and who rank in the top 10 per centum of their graduating class. The State educational agency shall make applications available to high schools in the State and other locations convenient to applicants, parents and others. The statewide panel shall develop criteria and procedures for the selection of Carl D. Perkins Scholars. Such criteria may include the applicant's high school grade point average, involvement in extracurricular activities, financial need, and expression of interest in teaching as expressed in an essay written by the applicant. The panel may also require the applicant to furnish letters of recommendation from teachers and others.

"SCHOLARSHIP CONDITIONS

"SEC. 566. Recipients of scholarship assistance under this part shall continue to receive such scholarship payments only during such periods that the State agency finds that the recipient is (A) enrolled as a full-time student in an accredited postsecondary institution; (B) pursuing a course of study leading to teacher certification; and (C) maintaining satisfactory progress as determined by the postsecondary institution the recipient is attending.

"SCHOLARSHIP REPAYMENT PROVISIONS

"SEC. 567. Recipients found by the State agency to be in noncompliance with the agreement entered into under section 563(b)(3) of this part shall be required to repay a pro rata amount of the scholarship awards received, plus interest and, where applicable, reasonable collection fees, on a schedule and at a rate of interest to be prescribed by the Secretary by regulations issued pursuant to this part.

"EXCEPTIONS TO REPAYMENT PROVISIONS

"SEC. 567. (a) A recipient shall not be considered in violation of the agreement entered into pursuant to section 563(b)(4)(C) if the recipient (1) returns to a full-time course of study related to the field of teaching at an eligible institution; (2) is serving, not in excess of three years, as a member of the armed services of the United States; (3) is temporarily totally disabled for a period of time not to exceed three years as established by sworn affidavit of a qualified physician; (4) is unable to secure employment for a period not to exceed twelve months by reason of the care required by a spouse who is disabled; (5) is seeking and unable to find full-time employment for a single period not to exceed twelve months; (6) is seeking and unable to find full-time employment as a teacher in a public elementary or secondary school or a public education program; or (7) satisfies the provisions of additional repayment exceptions that may be prescribed by the Secretary in regulations issued pursuant to this part.

"(b) A recipient shall be excused from repayment of any scholarship assistance received under this part if the recipient becomes permanently totally disabled as established by sworn affidavit of a qualified physician.

"FEDERAL ADMINISTRATION OF STATE PROGRAMS; JUDICIAL REVIEW

"SEC. 569. (a) The Secretary shall not finally disapprove any application for a State program submitted under section 563, or any modification thereof, without first affording the State agency submitting the program reasonable notice and opportunity for a hearing.

"(b) Whenever the Secretary, after reasonable notice and opportunity for hearing to the State agency administering a State program approved under this part, finds—

"(1) that the State program has been so changed that it no longer complies with the provisions of this part, or

"(2) that in the administration of the program there is a failure to comply substantially with any such provisions,

the Secretary shall notify such State agency that the State will not be regarded as eligible to participate in the program under this part until the Secretary is satisfied that there is no longer any such failure to comply.

"(c)(1) If any State is dissatisfied with the Secretary's final action under subsection (b) (1) or (2), such State may appeal to the United States court of appeals for the circuit in which such State is located. The summons and notice of appeal may be served at any place in the United States. The Secretary shall forthwith certify and file in the court the transcript of the proceedings and the record on which the action was based.

"(2) The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of fact and may modify any previous action, and shall certify to the court the transcript and record of further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

"(3) The court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

"PART F—NATIONAL TALENTED TEACHER FELLOWSHP PROGRAM

"DECLARATION OF PURPOSE

"SEC. 571. It is the purpose of this part to establish a national fellowship program for outstanding teachers.

"AUTHORIZATION OF APPROPRIATIONS; ALLOCATION AMONG STATES

"SEC. 572. There are authorized to be appropriated $1,000,000 for fiscal year 1986, $2,000,000 for fiscal year 1987, $3,000,000 for fiscal year 1988, and $4,000,000 for fiscal year 1989, for fellowships to outstanding teachers under this part. Not more than 2½ per centum of these funds shall be used for purposes of administering this part.

"TALENTED TEACHER FELLOWSHIPS

"SEC. 573. (a)(1) except as provided under paragraph (3), sums available for the purpose of this part shall be used to award one national teacher fellowship to a public or private school teacher teaching in each congressional district of each State, and in the District of Columbia, and the Commonwealth of Puerto Rico; and one such fellowship in Guam, the Virgin Islands. American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

"(2) Fellowship awards may not exceed the average national salary of public school teachers in the most recent year for which satisfactory data are available, as determined by the Secretary. Talented teacher fellows may not receive and award for two consecutive years. Subject to the repayment provisions of section 576, talented teacher fellows shall be required to return to a teaching position in their current school district or private school system for at least two years following the fellowship award.

"(3) If the appropriation under section 572 is not sufficient to provide the number of fellowships required by paragraph (1) at the level required under paragraph (2), the Secretary shall determine and publish an alternative distribution of fellowships which will permit fellowship awards at the level and which is geographically equitable. The Secretary shall send a notice of such determination to each of the statewide panels established under section 574.

"(b) Talented teacher fellows may use such awards for such projects for improveing public education as the Secretary may approve, including (1) sabbaticals for study or research directly associated with the objectives of this part, or academic improvement; (2) consultation with or assistance to other school districts or private school systems; (3) development of special innovative programs; or (4) model teacher programs and staff development.

"SELECTION OF TALENTED TEACHER FELLOWSHIPS

"SEC. 574. Recipients of talented teacher fellowship in each State shall be selected (in accordance with section 575) by a seven-member statewide panel appointed by the chief State elected official, acting in consultation with the state educational agency, or by an existing panel designated by the chief State elected official and approved by the Secretary of Education. The statewide panel shall be representative of school administrators, teachers, parents, and institutions of higher education.

"EVALUATION OF APPLICATIONS

"SEC. 575. (a) An applicant for talented teacher fellowship assistance shall submit proposals for projects under section 573(b), and shall indicate the extent to which the applicant wishes to continue current teaching duties. The applicant shall submit such proposal to the local education agency for comment prior to submission to the statewide panel (appointed under section 574) for the State within which the project is to be conducted. In evaluating proposals, such statewide panel shall consult with the local education agency, requesting two recommendations from teaching peers; a recommendation from the principal; and a recommendation of the superintendent on the quality of the proposal and its benefit to the local education agency; and any other criteria for awarding fellowships as is considered appropriate by such statewide panel. Selection of fellows shall be made in accordance

with regulations prescribed by the Secretary of Education.

"(b) Announcement of awards shall be made in a public ceremony.

"FELLOWSHIP REPAYMENT PROVISIONS

"SEC. 576. Repayment of the award shall be made to the Federal Government in the case of fraud or gross noncompliance.".

MATH SCIENCE TECHNICAL AMENDMENT

SEC. 702. Section 711 of the Education for Economic Security Act is amended by striking out "(a)" and by striking out subsection (b) of such section.

TITLE VIII—FEDERAL MERIT SCHOLARSHIPS

AMENDMENT TO THE HIGHER EDUCATION ACT OF 1965

SEC. 801. (a) Part A of title IV of the Higher Education Act of 1965 (hereafter in this title referred to as "the Act") is amended by redesignating subpart 6 as subpart 7 and by inserting after subpart 5 the following new subpart:

"Subpart 6—Federal Merit Scholarships

"STATEMENT OF PURPOSE

"SEC. 419A. It is the purpose of this subpart to establish a Federal Merit Scholarship Program to promote student excellence and achievement and to recognize exceptionally able students who show promise of continued excellence.

"DEFINITION

"SEC. 419B. For the purpose of this subpart—

"(1) the term 'secondary school' has the same meaning given that term under section 198(a)(7) of the Elementary and Secondary Education Act of 1965; and

"(2) the term 'State' means each of the several States, the District of Columbia, and the Commonwealth of Puerto Rico.

"SCHOLARSHIPS AUTHORIZED

"SEC. 419C. (a) The Secretary is authorized, in accordance with the provisions of this subpart, to make grants to States to enable the States to award scholarships to individuals who have demonstrated outstanding academic achievement and who show promise of continued academic achievement.

"(b) Scholarships under this section shall be awarded for a period of one academic year for the first year of study at an institution of higher education.

"(c) A student awarded a scholarship under this subpart may attend any institution of higher education.

"ALLOCATION AMONG STATES

"SEC. 419D. From the sums appropriated pursuant to section 419K for any fiscal year, the Secretary shall allocate to each State having an agreement under section 419E—

"(1) $1,500 multiplied by the number of individuals in the State eligible for merit scholarships pursuant to section 419G(b), plus

"(2) $10,000, plus 5 percent of the amount to which a State is eligible under clause (1) of this section.

"AGREEMENTS

"SEC. 419E. The Secretary shall enter into an agreement with each State desiring to participate in the merit scholarship program authorized by this subpart. Each such agreement shall include provisions designed to assure that—

"(1) the State educational agency will administer the merit scholarship program authorized by this subpart in the State;

"(2) the State educational agency will comply with the eligibility and selection provisions of this subpart;

"(3) the State educational agency will conduct outreach activities to publicize the availability of Federal merit scholarships to all eligible students in the State, with particular emphasis on activities designed to assure that students from low-income and moderate-income families have access to the information on the opportunity for full participation in the merit scholarship program authorized by this subpart;

"(4) the State educational agency will pay to each individual in the State who is awarded a merit scholarship under this subpart $1,500 at an awards ceremony in accordance with section 419I; and

"(5) the State educational agency will use the amount of the allocation described in clause (2) of section 419D for administrative expenses, including the conduct of the awards ceremony required by section 419I.

"ELIGIBILITY OF MERIT SCHOLARS

"SEC. 419F. (a) Each student awarded a scholarship under this subpart shall be a graduate of a public or private secondary school or have the equivalent of a certificate of graduation as recognized by the State in which the student resides and must have been admitted for enrollment at an institution of higher education.

"(b) Each student awarded a scholarship under this subpart must demonstrate outstanding academic achievement and show promise of continued acadmic achievement.

"SELECTION OF MERIT SCHOLARS

"SEC. 419G. (a) The State educational agency is authorized to establish the criteria for the selection of merit scholars under this subpart.

"(b) The State educational agency shall adopt selection procedures which are designed to assure that ten individuals will be selected from among residents of each congressional district in a State (and in the case of the District of Columbia and the Commonwealth of Puerto Rico not to exceed ten individuals will be selected in such district or Commonwealth).

"(c) In carrying out its responsibilities under subsections (a) and (b), the State educational agency shall consult with school administrators, school boards, teachers, counselors, and parents.

"STIPENDS AND SCHOLARSHIP CONDITIONS

"SEC. 419H. (a) Each student awarded a merit scholarship under this subpart shall receive a stipend of $1,500 for the academic year of study for which the scholarship is awarded.

"(b) The State educational agency shall establish procedures to assure that a merit scholar awarded a scholarship under this subpart pursues a course of study at an institution of higher education.

"AWARDS CEREMONY

"SEC. 419I. (a) The State educational agency shall make arrangements to award merit scholarships under this subpart at a place in each State which is convenient to the individuals selected to receive such scholarships. To the extent possible, the award shall be made by Members of the Senate and Members of the House of Representatives (by the Delegate in the case of the District of Columbia and the Resident Commissioner in the case of the Commonwealth of Puerto Rico) who represent the State, Commonwealth, or District, as the case may be, from which the individuals come.

"(b) The selection process shall be completed, and the awards made prior to the end of each secondary academic year.

"CONSTRUCTION OF NEEDS PROVISIONS

"SEC. 419J. Nothing in this subpart, or any other Act, shall be construed to permit the receipt of a merit scholarship under this subpart to be counted for any needs test in connection with the awarding of any grant or the making of any loan under this Act or any other provision of Federal law relating to educational assistance.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 419K. There are authorized to be appropriated $8,000,000 for each of fiscal years 1986, 1987, and 1988 to carry out the provisions of this subpart.".

(b)(1) Section 419 of the Act is redesignated as section 420.

(2) Section 420 of the Act is redesignated as section 420A.

TITLE IX—LEADERSHIP IN EDUCATIONAL ADMINISTRATION

SHORT TITLE: PURPOSE

SEC. 901. (a) This title may be cited as the "Leadership in Educational Administration Development Act of 1984".

(b) It is the purpose of this title to improve the level of student achievement in elementary and secondary schools through the enhancement of the leadership skills of school administrators by establishing technical assistance centers for each State to promote the development of the leadership skills of elementary and secondary school administrators with particular emphasis upon increasing access for minorities and women to administrative positions.

(c) It is the intention of Congress that contractors seeking to establish technical assistance and training centers should design programs which upgrade the skills of elementary and secondary school administrators in—

(1) enhancing the schoolwide learning environment by assessing the school climate, setting clear goals for improvement, and devising strategies for completing manageable projects with measurable objectives;

(2) evaluating the school curriculum in order to assess its effectiveness in meeting academic goals;

(3) developing skills in instructional analysis to improve the quality of teaching through classroom observation and supervision;

(4) mastering and implementing objective techniques for evaluating teacher performance; and

(5) improving communication, problem-solving, student discipline, time-management, and budgetary skills.

AUTHORIZATION OF APPROPRIATIONS

SEC. 902. (a) There are authorized to be appropriated to carry out this title for fiscal year 1985 and each succeeding fiscal year ending prior to October 1, 1990, such sums as may be necessary but not to exceed $20,000,000 in any fiscal year.

(b) Of the amount appropriated pursuant to subsection (a) for any fiscal year, the Secretary shall make available such amount, not less than $150,000 for each State, as may be necessary for establishing and operating a technical assistance center in each State.

TECHNICAL ASSISTANCE CENTERS

SEC. 903. (a) The Secretary shall, subject to the availability of funds pursuant to section 902, enter into contracts with local educational agencies, intermediate school dis-

tricts, State educational agencies, institutions of higher education, private management organizations, or nonprofit organizations (or consortium of such entities) for the establishment and operation of training centers in each State in accordance with the requirements of this section and section 904.

(b) Each contract entered into under subsection (a) shall require the contractor—

(1) to make the services of the technical assistance center available to school administrators from any of the local educational agencies located within the State served by that contractor;

(2) to collect information on school leadership skills;

(3) to assess the leadership skills of individual participant based on established effective leadership criteria;

(4) to conduct training programs on leadership skills for new school administrators and to conduct training seminars on leadership skills for practicing school administrators, with particular emphasis on women and minority administrators;

(5) to operate consulting programs to provide within school districts advice and guidance on leadership skills;

(6) to maintain training curricula and materials on leadership skills drawing on expertise in business, academia, civilian and military governmental agencies, and existing effective schools;

(7) to conduct programs which—

(A) make available executives from business, scholars from various institutions of higher education, and practicing school administrators; and

(B) offer internships in business, industry, and effective school districts to school administrators,

for the purpose of promoting improved leadership skills of such administrators;

(8) to disseminate information on leadership skills associated with effective schools, and

(9) to establish model administrator projects.

(c) In making a selection among applicants for any contract under this section, the Secretary shall take into account whether the applicant, if selected, would be able to operate its programs in a manner which would emphasize development of leadership skills identified by graduate schools of management and graduate schools of education.

GENERAL CRITERIA FOR CONTRACTS

SEC. 904. (a) The following criteria shall apply to each contract:

(1) The contract shall assure the involvement of private sector managers and executives in the conduct of such programs.

(2) The contract shall contain assurances of an ongoing organizational commitment to carrying out the purposes of this title through (A) obtaining matching funds for such programs in cash or in kind at least equal in amount to the amount of funds provided under this title, (B) making inkind contributions to such programs, (C) demonstrating a commitment to continue to operate such programs after expiration of funding under this title, and (D) organizing a policy advisory committee including (but not limited to) representatives from business, private foundations, and local and State educational agencies.

(3) The contract shall demonstrate the level of development of human relations skills which its programs will instill by (A) identifying the credentials of the staff responsible for such development; (B) describing the manner in which such skills will be developed; and (C) describing the manner in which the program deals with human relations issues facing education administrators.

(4) The contract shall establish a system for the evaluation of the programs conducted.

(b) Each contract shall be for a term of three years. Such contract shall not be renewable, except that a single three-year extension may be granted if the contractor agrees to maintain the programs with assistance under this title reduced by one-half.

REGULATIONS

SEC. 905. The Secretary is authorized to prescribe such regulations as may be necessary to carry out this title.

DEFINITIONS

SEC. 906. For the purposes of this title—

(1) the term "Secretary" means the Secretary of Education;

(2) the term "institution of higher education" has the meaning provided by section 1201 of the Higher Education Act of 1965;

(3) the term "school administrator" means a principal, assistant principal, district superintendent, and other local administrators;

(4) the term "local educational agency" has the meaning provided by section 595 of the Education Consolidation and Improvement Act of 1981; and

(5) the term "leadership skills" includes, but is not limited to, managerial, administrative, evaluative, communication and disciplinary skills and related techniques.

TITLE X—NATIVE AMERICAN PROGRAMS

SHORT TITLE

SEC. 1001. This title may be cited as the "Native American Programs Act Amendments of 1984".

DISTRIBUTION OF FINANCIAL ASSISTANCE

SEC. 1002. (a) Section 803(a) of the Native American Program Act of 1974 is amended by adding at the end thereof the following: "Every determination made with respect to a request for financial assistance under this section shall be made without regard to whether the agency making such request serves, or the project to be assisted is for the benefit of, Indians who are not members of a federally recognized tribe. To the greatest extent practicable, the Secretary shall ensure that each project to be assisted under this title is consistent with the priorities established by the agency which receives such assistance.".

(b) Section 803(c) of the Native American Programs Act of 1974 is amended—

(1) by inserting "(1)" after "(c)", and

(2) by adding at the end thereof the following new paragraph:

"(2) No project may be disapproved for assistance under this title solely because the agency requesting such assistance is an Indian organization in a nonreservation area or serves Indians in a nonreservation area.".

ADMINISTRATION OF PROGRAMS

SEC. 1003. Section 812 of the Native American Programs Act of 1974 is amended to read as follows:

"ADMINISTRATION; DELEGATION OF AUTHORITY

"SEC. 812. (a)(1) The general administration of the programs authorized by this Act shall remain within the Department of Health and Human Services and, notwithstanding any authority under any other law, may not be transferred outside of such Department.

"(2) The Secretary shall continue to administer grants under section 803 through the Administration for Native Americans. The Commissioner of such Administration may not delegate outside of the Administration the functions, powers, and duties of the Commissioner to carry out such section.

"(b)(1) Except as provided in subsection (a)(2), the Secretary may delegate only to the heads of agencies within the Department of Health and Human Services any of the functions, powers, and duties of the Secretary under this title and may authorize the redelegation only within such Department of such functions, powers, and duties by the heads of such agencies.

"(2) Funds appropriated to carry out this title, other than section 803, may be transferred between such agencies if such funds are used for the purposes for which they are authorized and appropriated.

"(c) Nothing in this section shall be construed to prohibit interagency funding agreements made between the Administration for Native Americans and other agencies of the Federal Government for the development and implementation of specific grants or projects.".

DEFINITIONS

SEC. 1004. Section 813 of the Native American Programs Act of 1974 is amended—

(1) in paragraph (3) by striking out the period and inserting in lieu thereof "; and", and

(2) by adding at the end thereof the following new paragraph:

"(4) 'Secretary' means the Secretary of Health and Human Services.".

EXPENDITURE OF AVAILABLE FUNDS

SEC. 1005. Section 814 of the Native American Programs Act of 1974 is amended—

(1) by striking out "1981" and inserting in lieu thereof "1986",

(2) by inserting "(a)" after "SEC. 814.", and

(3) by adding at the end thereof the following new subsection:

"(b) Not less than 90 per centum of the funds made available to carry out the provisions of this title for a fiscal year shall be expended to carry out section 803(a) for such fiscal year.".

Mr. BAKER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. HATCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, I thank the managers and I yield back any time remaining.

FEDERAL AID HIGHWAY ACT

The Senate continued consideration of the bill.

AMENDMENT NO. 7052

(Purpose: To authorize the Secretary of Transportation to carry out a demonstration project connecting the Isle of Palms, South Carolina, to the mainland)

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. THURMOND. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from South Carolina [Mr. THURMOND] proposes an amendment numbered 7052.

Mr. THURMOND. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of Sec. 125, subsection (b) of Title 1, insert the following:

"(14)(A) The Secretary of Transportation is authorized to carry out a highway and bridge construction demonstration project connecting the Isle of Palms, South Carolina, to the mainland for the purpose of demonstrating the reduction in congestion, improved emergency preparedness, and increased accessibility to a sea island obtainable by construction of a high-level, fixed span bridge over a high-volume intracoastal waterway segment.

(B) There is authorized to be appropriated to carry out this paragraph, out of the Highway Trust Fund (other than the Mass Transit Account) not to exceed $12,500,000 for the fiscal year ending September 30, 1985.

(C) Funds authorized by this paragraph shall be available for obligation in the same manner and to the same extent as if such funds were apportioned under chapter 1 of title 23, United States Code. Such funds shall remain available until expended, and shall not be subject to any obligational limitation.

(D) In carrying out this paragraph, the Secretary of Transportation shall consult with the Secretary of the Army and the Commandant of the Coast Guard concerning permit procedures; which will expedite completion of this project."

(E) Notwithstanding any other provision of law (including but not limited to the provisions of section 129 of chapter 1 of title 23, United States Code, and section 301 of chapter 3 of title 23, United States Code), the non-Federal share required for this project may be satisfied directly or indirectly, in whole or in part, by operation of the bridge as a toll facility. Provided that once the state share has been paid, the toll would be removed.

Mr. THURMOND. Mr. President, this amendment would allow the State of South Carolina to obtain partial Federal funding for an important, high priority highway and bridge project to connect the Isle of Palms, SC, to the mainland.

Mr. President, under the provisions of this amendment the Federal share payable on this important project would be limited to 50 percent of the cost of completing the project, and would also be limited to no more than $12,500,000. This is consistent with the other demonstration projects included in the bill. In addition, the amendment would allow for the operation of the Isle of Palms highway and bridge connection project as a toll facility until such time as the non-Federal funds expended on construction of the project are recovered.

This provision does not require operation of the project as a toll facility, but merely provides State and local officials with that option, should they deem it appropriate or necessary as a means of financing the non-Federal portion of the cost of the project.

Mr. President, I would like to thank the distinguished managers of the bill, Senator SYMMS and Senator BENTSEN, for their assistance in this important matter.

Mr. President, I have talked to the managers of the bill about this amendment. It is to provide a bridge from the mainland to the Isle of Palms It is a very worthy project. It will be carried on as a demonstration project, with 50 percent funding by the Federal Government and 50 percent by local sponsors.

I appreciate the consideration the managers have given to it, and I believe it meets the committee criteria.

Mr. SYMMS. If the distinguished President pro tem will yield, we have looked at this amendment. It complies with the language in our bill insofar as it will be cost-shared on a 50-50 basis with the State of South Carolina and the Federal Government, and it will not exceed the cap that we put on all committee amendments, we find it to be a meritorious amendment, and the majority is happy to accept the amendment.

Mr. BENTSEN. Mr. President, the manager of the minority has examined the amendment of the distinguished Senator from South Carolina and is very pleased to state that there is no objection.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from South Carolina.

The amendment (No. 7052) was agreed to.

Mr. THURMOND. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. SYMMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. THURMOND. Mr. President, I take this opportunity to express my deep appreciation to the able chairman [Mr. SYMMS] and the able manager on the Democratic side [Mr. BENTSEN] for their cooperation in this matter, which we deeply appreciate.

AMENDMENT NO. 7053

(Purpose: To amend S. 3024 to provide state and local governments greater flexibility and self-determination in addressing how specific highway needs can be met)

Mr. THURMOND. Mr. President, I now send to the desk another amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from South Carolina [Mr. THURMOND] proposes an amendment numbered 7053.

Mr. THURMOND. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill insert the following:

FUNDING FLEXIBILITY

SEC. . (a) Section 104 of title 23, United States Code, is amended by repealing subsections (c) and (d) and inserting a new subsection (c) as follows:

"(c)(1) Sums apportioned under paragraphs (b)(1), (b)(2), (b)(5)(B) and (b)(6) of this section shall be available for expenditure for projects on the primary, secondary, Interstate, or Urban Federal-aid systems without limitation as to the amount of any class of funds, primary, secondary, Interstate resurfacing, or urban, apportioned for projects on any system provided that beginning with fiscal year 1984 not less than 40 per centum of primary, secondary and urban funds shall be expended on the Federal-aid system for which they were apportioned for projects for resurfacing, restoring, rehabilitating, and reconstructing existing highways except where the State certifies to the Secretary that such percentage of funds is in excess of the resurfacing, restoring, rehabilitating, and reconstructing needs of existing highways in the State and the Secretary accepts such certification and provided that the preceding requirement shall apply only to that portion of a State's apportionment not used for reimbursing such State for bond retirement under section 122 of this title or for advance construction under section 115 of this title and provided that the provisions of section 150 of this title concerning the allocation of urban systems funds shall remain in the full force and effect.

(2) The Federal share payable of any project on the Federal-aid primary, secondary, and urban systems shall be that set forth in section 120(a) of this title and of any project on the Federal-aid Interstate system shall be that set forth in section 120(c) of this title."

(b) Section 105(d) of the Surface Transportation Assistance Act of 1982 is repealed.

Mr. THURMOND. Mr. President, on June 7, 1984, Senator HOLLINGS and I introduced S. 2738, to provide States and local governments greater flexibility and self-determination in addressing specific highway needs. The amendment Senators HOLLINGS and ANDREWS join me in offering today would add the language of S. 2738 to the legislation presently under consideration, the Surface Transportation Amendments of 1984.

Mr. President, under current law, funds authorized to be expended on the Federal-aid primary, secondary, and urban highway systems, and the so-called interstate 4R work—Interstate resurfacing, restoration, rehabilitation, and reconstruction—are apportioned among the States according to statutory formulas contained in 23 U.S.C. section 104. While this same

section does allow for some flexibility in transferring funds from one system or category to another, such transfers are very limited.

Presently, funds apportioned to the Federal-aid primary system may be transferred for use on the Federal-aid secondary system. Likewise, funds apportioned to the Federal-aid secondary system may be transferred for use on the Federal-aid primary system. However, Mr. President, the amount transferred may not increase the original apportionment of the system receiving transferred funds by more than 50 percent; nor may the amount transferred decrease the original apportionment of the system the funds are being transferred from by more than 50 percent. In effect, this limits the amounts that may be transferred between the Federal-aid primary system and the Federal-aid secondary system to 50 percent of the smaller of the two apportionments. The same restrictions apply with regard to transferring apportioned funds between the Federal-aid primary and urban systems.

Mr. President, no provision allows for transfer to apportioned funds between the Federal-aid urban and secondary systems. In addition, with the exception of the limited flexibility allowed under section 8 of Public Law 98-229, regarding the use of 4-R funds for work on highways designated as part of the interstate system under 23 U.S.C. section 139, no provision allows for transfers between funds apportioned for 4-R work and the other categories.

Mr. President, the amendment I am offering today, on behalf of myself, Senator HOLLINGS, and Senator ANDREWS would provide all States greater flexibility and self-determination regarding obligation of Federal-aid highway funds. The current situation in my home State of South Carolina clearly demonstrates the need for the changes I have proposed. In South Carolina, well over half of the estimated Federal-aid apportionments through fiscal year 1986 will be earmarked for interstate construction and 4-R work. Funding expected for just the 4-R work on South Carolina's 772 miles of interstate highways is more than the combined total expected for both construction and 4-R work on the 6,737 miles of Federal-aid primary and urban systems. On a per mile basis, the expected interstate 4-R funding is about nine times the expected total for both construction and 4-R work on the primary urban systems.

The limited flexibility allowed under current law, Mr. President, does not recognize nor address the fact that a substantial portion of the most pressing highway needs of South Carolina and other States are on the Federal-aid primary and urban systems. In many instances, the upgrading of Federal-aid primary and urban highways is more urgently needed than some 4R work on the Interstate System.

This amendment recognizes the reality that the Federal-aid highway apportionments for primary, secondary, and urban systems, and 4-R work do not always address the specific highway needs of each individual State. Under the amendment, each State's apportionment for the Federal-aid primary, secondary, and urban systems, as well as for 4-R work, would continue to be calculated according to the statutory formulas of 23 U.S.C. section 104. The requirement of section 105(d) of the Surface Transportation Assistance Act of 1982 (P.L. 97-424), that at least forty percent of a State's apportionment for Federal-aid primary, secondary, and urban systems be used for 4R work on these systems would, however, be preserved, as would the requirement of 23 U.S.C. section 150 relating to urban system funds attributable to urbanized areas of 200,000 or more in population. Other than these two restrictions, States would be able to freely transfer funds apportioned for Federal-aid primary, secondary, and urban systems, and for 4-R work among any one or all of these four categories as their individual needs require.

Mr. President, it has long been my belief that State and local officials are in a better position to know the needs of their citizens on matters of this nature than either the Congress or Federal bureaucrats in Washington. Whenever practicable, I believe it is best that the Federal Government defer to the judgment and decisions of State and local officials in allocating scarce financial resources among competing program needs within their jurisdiction.

Adoption of this amendment would be a step in that direction. It would give State and local govenments greater flexibility and self-determination in addressing how their specific highway needs can best be met.

Mr. President, I hope that the committee will see fit to adopt this amendment. I ask the managers if they would care to express themselves on this amendment.

Mr. SYMMS. Mr. President, I thank the distinguished President pro tempore for his interest in the Federal Aid Highway Program. He has had a long experience in this matter.

I say to the distinguished Senator from South Carolina that what he is proposing today is a major change to S. 3024. I am sure the Senator is aware that when we pass the highway bill in 1981, we cut out many separate categories and concentrated most of the funds into six major categories, and expanded the flexibility greatly for the States. In fact, States, in most instances, have more flexibility than they are using right now.

We intend, as a committee, to hold hearings on this issue in 1985, address the issue in fiscal year 1986. We will certainly look at his amendment at that time. It is moving in a direction this committee has already gone. Again, say to the distinguished Senator from South Carolina that what he is proposing is a major change. We already have problems with respect to the conference with the other body, and I do not believe the committee can accept this major categorical changes at this time, even though I support the Senator's general concept forward increased federalism. The amendment has merit, but I hope we either vote down the amendment, or the Senator might consider withdrawing the amendment I give assurances we will address this issue on behalf of him and Senator HOLLINGS next year.

Mr. BENTSEN. Mr. President, I understand the concern of the distinguished Senator from South Carolina, but the problem we are facing is that the Interstate System, insofar as its maintenance is concerned, is in trouble. In many cases, it is 25 years old. With inflation coming along, those costs continue to escalate.

Although it seems that we have a lot of money in the 4-R account, it is not a sufficient amount in the present situation. I recognize the need and the objective that the Senator is seeking, but I urge very strongly that we not cut back on the money already allocated for the 4-R account. In turn, I would be pleased to participate in hearings next year and listen to the Senator's request.

Mr. THURMOND. Mr. President, I thank the managers. I can certainly understand and appreciate their position on this matter.

It is regrettable that we cannot take action now. Most of the States are in the same position as my State in this matter.

Sooner or later, I believe that the essence of this amendment and the theory of it will be adopted. However, I can understand the position of the managers at the present time.

In view of the fact that the committee will hold hearings and will go into it further and give it consideration in the future, and because of the urgent need for prompt adoption of this highway bill, I withdraw the amendment at this time.

The PRESIDING OFFICER [Mr. EVANS]. The amendment is withdrawn.

Mr. THURMOND. I thank the managers for their consideration, and I hope they will hold hearings on this subject during the next session.

Mr. QUAYLE. Mr. President, We are now down to the wire in consideration of legislation to approve an Interstate

Cost Estimate [ICE] and Interstate Substitute Cost Estimate [ISCE]. I do not need to remind my colleagues that this action is now 1 year overdue, nor do I need to emphasize its importance to every State in the Union. The ICE bill we are considering today will make available funds for the second half of fiscal year 1984 and all of fiscal year 1985—a sum of approximately $7 billion.

I would venture to say that every Member of this body has been advised by his constituents of the severe consequences imposed in each of our States because of our inaction on this vital legislation. We have not only lost valuable construction time, but our infrastructure has deteriorated for many more months, all the while increasing repair or replacement costs and jeopardizing public safety.

The National Governors' Association [NGA] emphasized this dire predicament earlier this summer in their passage of a strongly worded resolution urging Congress to take immediate action on the ICE bill. Indiana Governor Bob Orr chairs the NGA's Committee on Transportation and I have worked closely with him in urging prompt consideration and passage of a realistic, workable bill.

In my own State of Indiana, not only has the remaining 6 months' allocation from fiscal year 1984 been held up, a sum of $47 million, but the State's matching funds of $13 million was forced to be held in reserve. In other words, $60 million for Indiana's State Highway Program was not spent on time. This problem is echoed nationwide: at the end of August, the Federal Highway Administration estimated that 32 States had less than $15 million in interstate highway funds.

As chairman of the Subcommittee on Employment and Productivity, I must also illustrate the effect of congressional delay in passage of an ICE bill on the number of jobs which have been affected. It is estimated that a $1 billion expenditure for highways creates about 32,300 highway-related jobs, plus an additional 30,000 induced jobs from the spending of wages and profits. The failure to release $7 billion in Federal highway funds has potentially impacted up to 436,100 jobs nationally. As we strive to keep existing jobs and maintain an economic recovery, Congress can ill-afford to create unemployment by our own inaction.

One segment of our labor force which can least bear this impact is our minority business enterprises [MBE's]—firms which are mandated by the Surface Transportation Assistance Act of 1982 to receive a 10-percent minimum of highway contracts, where feasible.

In Indiana, this goal has been exceeded: in the first 11 months of fiscal year 1984, MBE firms were awarded contracts amounting to almost $23 million, representing 11.7 percent of the value of total contracts let. Indiana has approximately 130 MBE contractors of which 40 have been active during fiscal year 1984. Many of the MBE owners and managers have expressed their deep concerns about the impact of congressional failure to enact an ICE bill. I would like to take a moment to share some of these comments with my Senate colleagues:

Mr. Cleveland Agee, owner of the Agee Concrete, Inc., of Gary, IN, said, "It will be rough without an ICE." It is tougher now than it has been in the past because of completition; "Unless more funding is forthcoming, MBE's will be pushed out the door."

Mr. Richard Mendez, Mendez Construction Co., of Indianapolis, said it is an understatement to say that it would be tough without an ICE. Even though this year has been a reasonably good one, it follows about 3 bad years. He said, "Construction companies are still very much on the edge. A bad year will put them out of business." If we don't support adequate and certain highway funding, we will end up, "whittling contractors out of business and thereby increasing prices." There are a lot of companies right on the edge. Highway construction contractors need tremendous capital investments and, therefore, tremendous work is needed.

Mr. Eugene Allen, Jr., Highway Safety Contractors, Inc., of Indianapolis, said, "Uncertainty adds to the burden." He went on to state that it's tough to be competitive, and therefore tough to get a foot in the door. "Any time there is uncertainty, we get the brunt of it." He was also concerned about the long lagtime for payment; and "being an infant company just creates another challenge."

As these comments illustrate, passage of an ICE bill is vital to out Nation's infrastructure and business community. Release of these crucial funds can be another milestone added to the accomplishments of the 98th Congress. I urge my colleagues to favorably consider this ICE legislation without further delay.

Mr. President, I congratulate the chairman of the committee and the two managers of this bill for bringing this matter to the floor. It is the most important item in my State and to the entire Nation.

There was a time of uncertainty. Personally, I have been harassed every time I have gone back to my State, not only by my constituents but also by the No. 1 constituent in my State, the Governor. I want to get him on the phone and tell him that it appears that we are going to transact business. He is the chairman of the National Governors' Association's Committee on Transportation, and I will be glad to provide him with a good case, for a change.

Mr. SYMMS. Mr. President, I thank the distinguished Senator from Indiana.

Our committee has met with his distinguished Governor, and we know that he is very interested, as are all the Governors, in the passage of this legislation with minimal changes.

Mr. President, with reference to the colloque I mentioned earlier regarding Senator PERRY, and Senator DIXON I think this matter can be straightened out. There is a problem, and the committee has pledged to Senator ARMSTRONG and others that we had no intention, in accepting this, the Percy/Dixon amendment, that it would have a detrimental effect on any States.

A colloquy is being circulated which will take care of this matter, and the Department of Transportation lawyers are looking at it to see if the technical amendment is necessary.

The committee is ready, to proceed to further amendments.

There are other Senators, with other nongermane amendments, lurking in the aisles, and I would like to get the highway bill completed.

I appeal to Senators who may have amendments to get to the floor and call up their amendments, debate them, and the Senate dispose of them in one way or the other.

Mr. President, I yield to the distinguished Senator from West Virginia [Mr. RANDOLPH]. It has been a privilege for me to work with him in my 4 years in the Senate.

I have the highest respect, love, and admiration for Senator Randolph, and I join in the praise given to him by Senator BENTSEN.

I say to the Senator from West Virginia that we cannot say enough thanks to you, from all of us in this country, for your continued efforts. Even though you will be working in another field next year, we know that you will be helping us when we need to get this highway program continued for the country.

Mr. President, I yield the floor.

Mr. RANDOLPH. Mr. President, I am grateful, of course, for the comment by the majority manager of the bill. I might be accused sometimes of extravagant language, but when I say his constructive career in connection especially with the committee on which we serve, the 18 of us, is something that the members of our committee are not only knowledgeable about but we appreciate very much.

AMENDMENT NO. 7054

Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from West Virginia [Mr. RANDOLPH] proposes an amendment numbered 7054.

At the end of the bill, add the following new section:

"SEC. . Subsection (b) of section 142 of the Surface Transportation Assistance Act of 1982 is amended by striking 'September 30, 1985,' and inserting in lieu thereof 'September 30, 1986,'."

Mr. RANDOLPH. Mr. President, this is not, let us say, an earth-shaking amendment, but it does have value.

It would extend the availability of preferential treatment for projects that use innovative technologies, and this amendment which I offer with knowledge of others who believe in it as do I costs not a single penny and yet it does extend the authority to do this through fiscal year 1986.

I hope the amendment will receive the approval of those who are in the Senate at this time.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment of the Senator from West Virginia.

The amendment (No. 7054) was agreed to.

Mr. SYMMS. Mr. President, I thank the distinguished Senator from West Virginia.

The PRESIDING OFFICER. Is there further amendment to be proposed?

Mr. SYMMS. Mr. President, if there is no further amendment or no further debate, the manager of this bill is going to move it to third reading.

So I announce to all Senators if they have an amendment or debate please come to the Chamber, or we are going to go to third reading.

Mr. MATTINGLY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. SYMMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURENBERGER. Mr. President, when this measure was marked up by the Environment and Public Works Committee, it had been my intention to offer an amendment similar to section 112(e) of the House-passed bill, H.R. 5504. After such discussion and debate, it became clear to all concerned that the only way the Senate would be able to approve the urgently needed ICE and ISCE would be if the committee refused to accept any amendments to the Senate bill which would authorize projects contained in the House bill. I notice the distinguished Senator from Idaho, Senator SYMMS, and the distinguished chairman of the Environment and Public Works Committee, Senator STAFFORD, are on the floor. I wonder if they could comment on the amendment I referred to.

Mr. STAFFORD. Mr. President, I would be delighted to respond to the senior Senator from Minnesota, Senator DURENBERGER. Let me first state my appreciation to the good Senator for withholding the offering of his amendment in committee. As he knows so well, the Senate will have a very difficult time conferencing this bill with the House. While the cost of the Senator's amendment pales in comparison with many of those contained in the House bill, it is the principle of keeping House projects out of the Senate bill that we are trying to protect. When the Senate meets with the House conferees to resolve the differences between S. 2527 and H.R. 5504, I will remember the accommodation shown by both Senator DURENBERGER and Senator BOSCHWITZ on the floor today, and seek to reach an amicable solution to their problem.

Mr. SYMMS. Mr. President, let me add my support to the statement of Chairman STAFFORD. As Senator DURENBERGER pointed out in his prior conversations with me, this is not the first time the Senate has gone to conference with the House on a highway bill in which the House bill contained the Moorhead project and the Senate bill did not. While it is virtually impossible to give ironclad assurances that the Senate will recede to the House position on section 112(e) I promise to do my best to see that the Senator's concerns are taken care of.

Mr. DURENBERGER. Mr. President, I thank both of my colleagues. As the good Senator from Idaho pointed out, I have discussed this matter with him in the past only to be let down when the conference reports came back to the Senate for a final vote. Among other things, section 112(e) authorizes the Secretary to carry out a railroad-highway grade crossing separation demonstration project in Moorhead, MN. This same provision has been made a part of every highway bill sent to this body by the House for the past 6 years, but seems to fall through the cracks in conference every time. Quite frankly, my constituents in Moorhead are becoming a little upset with the Senate's intransigence on this issue.

Let me briefly describe Moorhead's unique situation. In 1976, Congress requested the Department of Transportation to study the impact unit-coal trains were having on rural communities. In its final report, the Department highlighted the particularly severe impact the trains were having on a handful of communities. Moorhead was one of the those communities. The city is trisected by two Burlington Northern mainlines, which have the effect of separating the residential section of town from the school and the business district. The emergency services of the town—fire station and hospital—are in turn cut off from the business and residential districts. It is not uncommon to have an ambulance waiting 10 to 30 minutes for some of the longest unit coal trains to pass. Fortunately, no lives have been lost to the delays.

Mr. BOSCHWITZ. Mr. President, I congratulate the senior Senator from Minnesota for his summation of the Moorhead project, and want to add my support to what he says. I would also like to discuss another project that was in the House bill.

Mr. President, Senator DURENBERGER and I had planned to offer an amendment to the Highway Authorization bill now under discussion in order to fund the Pine City, MN, interchange project. This project would provide a second interchange off Interstate 35 at the juncture of County State Aid Highway No. 11, allowing better access to their industrial park and relieving the traffic congestion problems associated with the summer influx of tourists.

Mr. President, the Governor of Minnesota and our department of transportation support the project and have approved funds to build a new bridge and rest stop. The House of Representatives has included an authorization for the $2.6 million demonstration project in its version of this bill.

It is my understanding, Mr. President, that in return for not offering our amendment, because I realize the managers of the bill do not want it to become a Christmas tree, that Senator STAFFORD and Senator SYMMS are willing to commit to doing everything possible to see that the Pine City project authorization is retained during conference.

Mr. STAFFORD. Mr. President, I believe that is a fair description of our discussion.

Mr. SYMMS. I, too, agree but also note that the Senate version of the bill funds these demonstration projects using a 50-50 Federal-State share rather than the House version which includes 100 percent Federal funding. We intend to push for the 50-50 match on all projects that remain in the final bill.

Mr. BOSCHWITZ. Mr. President, I thank my colleagues for their assistance and appreciate my friend from Idaho's clarification of the Senate and House position.

Mr. DURENBERGER. Mr. President, I, too, thank my colleagues for their willingness to work with us to resolve this issue. While it had been my hope to add this to the bill when the measure was considered in the committee, I understand the difficult posi-

tion the distinguished chairman of both the full committee and subcommittee find themselves in as they prepare to go to conference with the House, and will forgo offering an amendment at this time.

Mr. SYMMS. Mr. President, the manager of this bill plans to move the bill in the next few minutes.

I ask unanimous consent that at this point in the RECORD a colloquy among Senators BENTSEN, PERCY, SYMMS, STAFFORD, and DIXON appear as stated.

THE PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SYMMS. I yield the floor.

AMENDMENT NO. 7055

Mr. CHILES. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

THE PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Florida [Mr. CHILES] proposes amendment numbered 7055.

Mr. CHILES. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

THE PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

For S. 3024 page 40 after line 24 add:

(e) The limitations established by subsection (a) of this section shall not apply to an amount of funds apportioned under section 104(b)(5)(A) of title 23, United States Code during the fiscal year ending September 30, 1985 to a State equal to that amount which such State returned in unused obligation authority in August 1984 which would not have been returned if all of the Interstate construction funds authorized for apportionment during the fiscal year ending September 30, 1984 had been apportioned in the fiscal year ending September 30, 1984.

Mr. CHILES. Mr. President, The amendment which I am offering is designed to correct a problem caused because the Congress has failed to approve the interstate cost estimate which expired on March 31, 1984.

As members of this body are aware, unused obligational authority for Federal-aid highways is taken from States unable to use all of their obligational authority and reallocated to other States. This occurs under present law on August 1 of each fiscal year. A State must have an apportionment of Federal-aid funds before its allocation of obligational authority can be used. However, interstate construction funds cannot be apportioned until the interstate cost estimate is approved by the Congress.

For the last fiscal year the Congress only approved a 6-month interstate cost estimate covering the period October 1, 1983–March 31, 1984, thus denying States of a significant portion of their interstate apportionment. That meant that some States, including Florida, lost a significant amount of obligation authority through reallocation even though they had interstate construction projects ready to go to contract on August 1. In the case of Florida and six other States, the direct cause was failure to approve the interstate cost estimate so that the States could get an apportionment of interstate construction funds to use already available obligational authority on ready to go projects.

The amendment which I am proposing would exempt from the obligation ceiling for fiscal year 1985 the amount of obligational authority lost by a State in the reallocation process on August 1 because the House and Senate failed to approve the interstate cost estimate in a timely manner. It would not cause any State to suffer a loss of any apportionment of Federal-aid funds, and it would not cause any State to lose any obligational authority which they received through the regular allocation or reallocation process.

The purpose of the amendment is to compensate those States which suffered an inadvertent loss of obligational authority on August 1 through no fault of their own. By compensating for that loss States will be made whole, and the Interstate Construction Program can be advanced toward its intended completion date in accordance with well-established national goals.

This matter has been cleared by majority and minority staff of Environment and Public Works and I understand Senators RANDOLPH and STAFFORD do not object to the amendment.

Mr. President, I ask unanimous consent to have printed in the RECORD a list of the States that released obligation authority that would be corrected by this amendment.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

States that released obligation authority for redistribution in August 1984 due to lack of interstate apportionment

Alabama	$6,300,000
Connecticut	6,000,000
Florida	58,386,451
New Jersey	17,708,000
Oklahoma	16,795,645
Utah	7,000,000
West Virginia	7,588,433

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Florida [Mr. CHILES].

The amendment (No. 7055) was agreed to.

Mr. SYMMS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. CHILES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 7056

(Purpose: To provide that each item of any general or special appropriation bill and any bill or joint resolution making supplemental, deficiency, or continuing appropriations that is agreed to by both Houses of the Congress in the same form shall be enrolled as a separate bill or joint resolution for presentation to the President)

Mr. MATTINGLY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Georgia [Mr. MATTINGLY], for himself and Mr. Evans, proposes an amendment numbered 7056.

Mr. MATTINGLY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment reads as follows:

At the appropriate place in the bill, insert the following new section:

SEPARATE ENROLLMENT OF ITEMS OF CERTAIN BILLS AND JOINT RESOLUTIONS MAKING APPROPRIATIONS

SEC. . (a)(1) Notwithstanding any other provision of law, when any general or special appropriation bill or any bill or joint resolution making supplemental, deficiency, or continuing appropriations passes both Houses of the Congress in the same form, the Secretary of the Senate (in the case of a bill or joint resolution originating in the Senate) or the Clerk of the House of Representatives (in the case of a bill or joint resolution originating in the House of Representatives) shall cause the enrolling clerk of such House to enroll each item of such bill or joint resolution as a separate bill or joint resolution, as the case may be.

(2) A bill or joint resolution that is required to be enrolled pursuant to paragraph (1)—

(A) shall be enrolled without substantive revision,

(B) shall conform in style and form to the applicable provisions of chapter 2 of title 1, United States Code (as such provisions are in effect on the date of the enactment of this section), and

(C) shall bear the designation of the measure of which it was an item prior to such enrollment, together with such other designation as may be necessary to distinguish such bill or joint resolution from other bills or joint resolutions enrolled pursuant to paragraph (1) with respect to the same measure.

(b) A bill or joint resolution enrolled pursuant to paragraph (1) of subsection (a) with respect to an item shall be deemed to be a bill under clauses 2 and 3 of Section 7 of Article 1 of the Constitution of the United States and shall be signed by the presiding officers of both Houses and presented to the President for approval or disapproval (and otherwise treated for all purposes) in the manner provided for bills and joint resolutions generally.

(c) For purposes of this section, the term "item" means any numbered section and any unnumbered paragraph of—

(1) any general or special appropriation bill, and

(2) any bill or joint resolution making supplemental, deficiency, or continuing appropriations.

(d) The provisions of this section shall apply to bills and joint resolutions agreed to by the Congress during the two-calendar-year period beginning with the date of the enactment of this section.

Mr. STAFFORD. Mr. President, will the able Senator yield for a question?

Mr. MATTINGLY. Yes.

Mr. STAFFORD. Could the able Senator tell us how long he and his colleagues might propose to discuss this matter?

Mr. MATTINGLY. I would say no longer than 20 minutes.

Mr. STAFFORD. I thank the Senator. We would not object to going ahead on that basis.

(Mr. STAFFORD assumed the chair.)

Mr. MATTINGLY. Mr. President, the amendment that I offer with Senator EVANS provides line item veto authority to the President of the United States. Our amendment applies this authority to appropriation bills. I might add, the amendment is supported by the administration. I emphasize that the amendment, not just the concept, is endorsed by the President. In a letter to me dated September 21, 1984, the Director of the Office of Management and Budget, David Stockman, states that "the administration considers your proposal a significant step forward in the control of Federal spending and strongly supports its enactment into law."

Mr. President, I ask unanimous consent that the letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

OFFICE OF MANAGEMENT AND BUDGET,
Washington, DC, September 21, 1984.

Hon. MACK MATTINGLY,
U.S. Senate,
Washington, DC.

DEAR MACK: I am writing to express strong Administration support for your proposal, co-sponsored by Dan Evans, to give the President two year statutory veto authority by providing that each item in an appropriations measure would be enrolled as a separate bill for purposes of presentment to the President.

The Administration believes that establishment of an effective statutory item veto authority would be very much in the public interest. Your proposal would create an important tool by which the President could eliminate ill-advised and wasteful appropriations from the budget. This mechanism could play a measurable role in efforts to reduce unnecessary federal spending.

As you will also appreciate from your prior efforts in this area, it is important that Congress continue to work on permanent confirmation of this power through passage of an Item Veto Amendment. Several versions of an Item Veto Amendment have been introduced by you and Senator Dixon and by Representatives Kemp, Hyde and Bereuter, among others. The Administration hopes that Congress will consider these proposals expeditiously, so that the item veto authority can be permanently established in our system of government, and will not lapse or become subject to dilution or elimination by subsequent legislation.

Subject to certain technical modifications of the original draft bill, and elimination of a section raising problems under the Supreme Court's decision in *INS* v. *Chadha*, which our staffs have fully resolved, the Administration considers your proposal a significant step forward in the control of federal spending, and strongly supports its enactment into law.

Sincerely,

DAVID A. STOCKMAN,
Director.

Mr. MATTINGLY. Mr. President, I also would like my colleagues to be aware of the fact that a letter drafted by me and Senator EVANS to the distinguished majority leader in which he was urged to schedule time for a debate and vote on this proposition was signed by 51 Senators. This demonstration of bipartisan support for a vote on this issue is indicative, Mr. President, of what I believe is the increased interest of most Americans to see their Congress adopt some new initiatives in an effort to stop the growth of Federal spending.

The concept of a line item veto received further support this summer when the U.S. Conference of Mayors endorsed the idea in a resolution adopted at their 52d annual conference.

The line item veto is now used by 43 States and, more importantly, no State that has ever adopted that fiscal tool has ever repealed it.

Our amendment, Mr. President, provides line item veto authority by revising the procedures now followed by the enrolling clerks of the House and the Senate. The amendments directs the enrolling clerks, as agents of the Secretary of the Senate and the Clerk of the House of Representatives, to enroll, or in other words, to prepare for transmittal to the President, each item in an appropriation bill or resolution as a separate bill or resolution. This administrative mechanism will thus provide the President with an opportunity to examine most of the major provisions of appropriation legislation as separate entities when he is faced with the decision of whether to sign or veto. The Senate and the House, clearly have the authority to make such internal administrative adjustments.

The term "item" as used in the amendment is defined as any numbered section and any unnumbered paragraph. The number of items, thus defined, will vary from bill to bill. Any item vetoed by the President will be returned to the Congress with his veto message and a two-thirds vote of each House, as provided in the Constitution, will be required to overturn the veto.

The amendment contains a provision that, in essence, establishes a test period of 2 years for this idea. For unless the Congress votes to extend its use, the item veto will sunset after a 2-year period.

The amendment, Mr. President, represents a step, I emphasize a step, toward achieving some sort of fiscal balance. It is not intended to be a cure-all for the budget and deficit problems that beset us. But it is one important element that can be used to regain control of a budget process that is not working.

Passage of this amendment would be a concrete demonstration to the American people that the Congress is serious about fiscal control and that we intend to take the steps that are necessary in order to eliminate the stifling economic effects of excessive Federal spending.

As I said, it would take a two-thirds vote by both Houses of Congress to overturn a Presidential line item veto; in other words the same override standards that are outlined in the constitution apply under this proposal. This is a significant difference from the provision contained in an earlier draft of a line item veto amendment that was considered and narrowly defeated by the Senate in May of this year. One can always raise theoretical questions about the constitutionality of almost any piece of legislation that we pass, but the answer to such questions lies with the courts. In my view there is no provision in this amendment that is unconstitutional. While there have been debates on whether line item veto can be statutorily authorized, there can be no debate over the fact that in article 1, section 5, of the Constitution, each House of Congress is given the authority to govern its own internal affairs and procedures. That is what this amendment does.

Furthermore, I remind my colleagues that in the 1921 Budget and Accounting Act, the Congress gave the President, through legislation, what amounted to unilateral and absolute impoundment power—he could refuse to spend appropriations without any explanation to Congress. This authority was subsequently removed, legislatively, by the 1974 Budget Act.

The amendment does not unbalance the delicate equilibrium that exists between the branches of government. I contend, Mr. President, that through such mechanisms as catch-all appropriation bills, the continuing resolutions, the use of nongermane amendments, riders, and other legislative techniques, the Congress has in essence removed from the President much of his ability to exercise his constitutional right to veto legislation. If anything, passage of the line item veto will restore the balance of power that the framers of the Constitution envisioned when they granted veto power to the President.

To quote Senator Arthur Vandenberg—and I might add, the desk I have he once had:

The line item veto does not give the President one single, additional, affirmative power. He cannot start anything a a result. He can only stop something long enough to focus the attention of the country on it and long enough to force (two-thirds) of the House and the Senate to agree to it in spite of him and his reasons, if they should persist in their adverse judgments. Its only harm, If any, would lie in the temporary delay while Congress and the country stop, look, and listen. I have never known any lives to be lost by obedience to this familiar injunction.

Mr. President, at times during the line item debate, one might think that we are contemplating giving a new or unique power to the President. Please let us remember that our Chief Executive already holds the veto power. This authority was conferred by the framers of the Constitution only after much thought and deliberation and by men who were all too familiar with the propensity of the British monarch to unilaterally veto or, more accurately, ignore those laws passed by the Colonies that, in the words of the Declaration of Independence were, . . . "most wholesome and necessary for the public good."

So it was with no little deliberation that the President was given the veto power. According to Alexander Hamilton, writing in Federalist Paper No. 73, it was necessary to give the President this authority in order that he might be able to protect himself from the ". . . propensity of the legislative department to intrude upon the rights, and to absorb the powers, of the other departments."

Hamilton noted that the veto ". . . not only serves as a shield to the executive, but it furnishes an additional security against the enaction of improper laws." Hamilton said that ". . . the love of power may sometimes betray (the legislature) into a disposition to encroach upon the rights of other members of the Government; that a spirit of faction may sometimes pervert its deliberations . . . " Hamilton spoke of ". . . those missteps which proceed from the contagion of some common passion or interest."

Mr. President, I ask unanimous consent that a copy of the Federalist Paper No. 73 authored by Alexander Hamilton be printed in the RECORD at this point.

There being no objection, the Federalist Papers No. 73 was ordered to be printed in the RECORD, as follows:

No. 73: HAMILTON

The third ingredient towards constituing the vigor of the executive authority is an adequate provision for its support. It is evident that without proper attention to this article, the separation of the executive from the legislative department would be merely nominal and nugatory. The legislature, with a discretionary power over the salary and emoluments of the Chief Magistrate, could render him as obsequious to their will as they might think proper to make him. They might, in most cases, either reduce him by famine, or tempt him by largesses, to surrender at discretion his judgment to their inclinations. These expressions, taken in all the latitude of the terms, would not doubt convey more than is intended. There are men who could neither be distressed nor won into a sacrifice of their duty; but this stern virtue is the growth of few soils; and in the main it will be found that a power over a man's support is a power over his will. If it were necessary to confirm so plain a truth by facts, examples would not be wanting, even in this country, of the intimidation or seduction of the executive by the terrors or allurements of the pecuniary arrangements of the legislative body.

It is not easy, therefore, to commend too highly the judicious attention which has been paid to this subject in the proposed Constitution. It is there provided that "The President of the United States shall, at stated times, receive for his services a compensation *which shall neither be increased nor diminished during the period for which he shall have been elected;* and he *shall not receive within that period any other emolument* from the United States, or any of them." It is impossible to imagine any provision which would have been more eligible than this. The legislature, on the appointment of a President, is once for all to declare what shall be the compensation for his services during the time for which he shall have been elected. This done, they will have no power to after it, either by increase or diminution, till a new period of service by a new election commences. They can neither weaken his fortitude by operating on his necessities, nor corrupt his integrity by appealing to his avarice. Neither the Union, nor any of its members, will be at liberty to give, nor will he be at liberty to receive, any other emolument than that which may have been determined by the first act. He can, of course, have no pecuniary inducement to renounce or desert the independence intended for him by the Constitution.

The last of the requisites to energy which have been enumerated are competent powers. Let us proceed to consider those which are proposed to be vested in the President of the United States.

The first thing that offers itself to our observation is the qualified negative of the President upon the acts or resolutions of the two houses of the legislature; or, in other words, his power of returning all bills with objections to have the effect of preventing their becoming laws, unless they should afterwards be ratified by two thirds of each of the component members of the legislative body.

The propensity of the legislative department to intrude upon the rights, and to absorb the powers, of the other departments has been already more than once suggested. The insufficiency of a mere parchment delineation of the boundaries of each has also been remarked upon; and the necessity of furnishing each with constitutional arms for its own defense has been inferred and proved. From these clear and indubitable principles results the propriety of a negative, either absolute or qualified, in the executive upon the acts of the legislative branches. Without the one or the other, the former would be absolutely unable to defend himself against the depredations of the latter. He might gradually be stripped of his authorities by successive resolutions or annihilated by a single vote. And in the one mode or the other, the legislative and executive powers might speedily come to be blended in the same hands. If even no propensity had ever discovered itself in the legislative body to invade the rights of the executive, the rules of just reasoning and theoretic propriety would of themselves teach us that the one ought not to be left to the mercy of the other but ought to possess a constitutional and effectual power of self-defense.

But the power in question has a further use. It not only serves as a shield to the executive, but it furnishes an additional security against the enaction of improper laws. It establishes a salutary check upon the legislative body, calculated to guard the community against the effects of faction, precipitancy, or of any impulse unfriendly to the public good, which may happen to influence a majority of that body.

The propriety of a negative has, upon some occasions been combated by an observation that it was not to be presumed a single man would possess more virtue and wisdom than a number of men; and that unless this presumption should be entertained, it would be improper to give the executive magistrate any species of control over the legislative body.

But this observation, when examined, will appear rather specious than solid. The propriety of the thing does not turn upon the supposition of superior wisdom or virtue in the executive, but upon the supposition that the legislature will not be infallible; that the love of power may sometimes betray it into a disposition to encroach upon the rights of other members of the government; that a spirit of faction may sometimes pervert its deliberations; that impressions of the moment may sometimes hurry it into measures which itself, on maturer reflection, would condemn. The primary inducement to conferring the power in question upon the executive is to enable him to defend himself; the secondary one is to increase the chances in favor of the community against the passing of bad laws, through haste, inadvertence, or design. The oftener the measure is brought under examination, the greater the diversity in the situations of those who are to examine it, the less must be the danger of those errors which flow from want of due deliberation, or of those missteps which proceed from the contagion of some common passion or interest. It is far less probable that culpable views of any kind should infect all the parts of the government as the same moment and in relation to the same object than that they should by turns govern and mislead every one of them.

It may perhaps be said that the power of preventing bad laws includes that of preventing good ones; and may be used to the one purpose as well as to the other. But this objection will have little weight with those who can properly estimate the mischiefs of that inconstancy and mutability in the laws, which form the greatest blemish in the character and genius of our governments. They will consider every institution calculated to restrain the excess of lawmaking, and to keep things in the same state in which they happen to be at any given period as much more likely to do good than harm; because it is favorable to greater stability in the system of legislation. The injury which may possibly be done by defeating a few good laws will be amply compensated by the advantage of preventing a number of bad ones.

Nor is this all. The superior weight and influence of the legislative body in a free government and the hazard to the executive in a trial of strength with that body afford a satisfactory security that the negative would generally be employed with great caution; and that there would oftener be room for a charge of timidity than of rashness in the exercise of it. A king of Great Britain, with all his train of sovereign attributes, and with all the influence he draws from a thousand sources, would, at this day, hesitate to put a negative upon the joint resolutions of the two houses of Parliament. He would not fail to exert the utmost resources of that influence to strangle a measure disagreeable to him, in its progress to the throne, to avoid being reduced to the dilemma of permitting it to take effect, or of risking the displeasure of the nation by an opposition to the sense of the legislative body. Nor is it probable that he would ultimately venture to exert his prerogative, but in a case of manifest propriety, or extreme necessity. All well-informed men in that kingdom will accede to the justness of this remark. A very considerable period has elapsed since the negative of the crown has been exercised.

If a magistrate so powerful and so well fortified as a British monarch would have scruples about the exercise of the power under consideration, how much greater caution may be reasonably expected in a President of the United States, clothed for the short period of four years with the executive authority of a government wholly and purely republican?

It is evident that there would be greater danger of his not using his power when necessary, than of his using it too often, or too much. An argument, indeed, against its expediency, has been drawn from this very source. It has been represented, on this account, as a power odious in appearance, useless in practice. But it will not follow, that because it might be rarely exercised, it would never be exercised. In the case for which it is chiefly designed, that of an immediate attack upon the constitutional rights of the executive, or in a case in which the public good was evidently and palpably sacrificed, a man of tolerable firmness would avail himself of his constitutional means of defense, and would listen to the admonitions of duty and responsibility. In the former supposition, his fortitude would be stimulated by his immediate interest in the power of his office; in the latter, by the probability of the sanction of his constituents who, though they would naturally incline to the legislative body in a doubtful case, would hardly suffer their partiality to delude them in a very plain case. I speak now with an eye to a magistrate possessing only a common share of firmness. There are men who, under any circumstances, will have the courage to do their duty at every hazard.

But the convention have pursued a mean in this business, which will both facilitate the exercise of the power vested in this respect in the executive magistrate, and make its efficacy to depend on the sense of a considerable part of the legislative body. Instead of an absolute negative, it is proposed to give the executive the qualified negative already described. This is a power which would be much more readily exercised than the other. A man who might be afraid to defeat a law by his single veto might not scruple to return it for reconsideration, subject to being finally rejected only in the event of more than one third of each house concurring in the sufficiency of his objections. He would be encouraged by the reflection that if his opposition should prevail, it would embark in it a very respectable proportion of the legislative body whose influence would be united with his in supporting the propriety of his conduct in the public opinion. A direct and categorical negative has something in the appearance of it more harsh, and more apt to irritate, than the mere suggestion of argumentative objections to be approved or disapproved by those to whom they are addressed. In proportion as it would be less apt to offend, it would be more apt to be exercised; and for this very reason it may in practice be found more effectual. It is to be hoped that it will not often happen that improper views will govern so large a proportion as two thirds of both branches of the legislature at the same time; and this, too, in definance of the counterpoising weight of the executive. It is at any rate far less probable that this should be the case than that such views should taint the resolutions and conduct of a bare majority. A power of this nature in the executive will often have a silent and unperceived, though forcible, operation. When men, engaged in unjustifiable pursuits, are aware that obstructions may come from a quarter which they cannot control, they will often be restrained by the bare apprehension of opposition from doing what they would with eagerness rush into if no such external impediments were to be feared.

This qualified negative, as has been elsewhere remarked, is in this State vested in a council, consisting of the governor, with the chancellor and judges of the Supreme Court, or any two of them. It has been freely employed upon a variety of occasions, and frequently with success. And its utility has become so apparent, that persons who, in compiling the Constitution, were violent opposers of it, have from experience become its declared admirers.*

I have in another place remarked that the convention, in the formation of this part of their plan, had departed from the model of the constitution of this State in favor of that of Massachusetts. Two strong reasons may be imagined for this preference. One is that the judges, who are to be the interpreters of the law, might receive an improper bias from having given a previous opinion in their revisionary capacities; the other is that by being often associated with the executive, they might be induced to embark too far in the political views of that magistrate, and thus a dangerous combination might by degrees be cemented between the executive and judiciary departments. It is impossible to keep the judges too distinct from every other avocation than that of expounding the laws. It is peculiarly dangerous to place them in a situation to be either corrupted or influenced by the executive.

Mr. MATTINGLY. I believe that we will not be conferring broad new powers on the Executive. We will merely be providing a mechanism for him to exercise one of those powers that the framers gave him more than 200 years ago and that has been slowly removed by, again, quoting Hamilton, "* * * the superior weight and influence of the legislative body in a free government * * *"

*Mr. Abraham Yates, a warm opponent of the plan of the convention, is of this number.

Mr. President, I submit two editorials in support of the line-item veto and ask unanimous consent that they be printed in the RECORD.

There being no objection, the editorials ordered to be printed in the RECORD, as follows:

[From the Washington Times, Oct. 3, 1984]

THE LINE ITEM VETO AND ITS CRITICS

The words "line item veto" are bouncing around the Senate as a result of a letter signed by 51 senators asking the leadership to bring the matter up before adjournment late this week. The line item veto, which would allow the president to pick and choose among individual expenditures without vetoing the entire appropriations bill, obviously would help the chief executive trim the deficit.

But opposition has come not only from Democrats, but also from Rep. Mickey Edwards, a member of the House appropriations committee and chairman of the American Conservative Union. He opposes the line item veto because of the new power it would place in the hands of the president—any president, not just Mr. Reagan. "The essence of Republican philosophy," Mr. Edwards says, "is opposition to centralization of government power." His concern is well-intentioned, but misplaced.

The power struggle involved in the line item veto is between Congress and the presidency—both federal institutions. Whether to centralize power is not the issue. The power of setting the federal budget is already centralized. The only question is whether it should remain, as it has become, almost exclusively a congressional power. Would it not be better to divide that power more evenly between the legislature and the executive?

The governors of 43 states have the line item veto, and it is not reported that any of them has deployed the storm troopers.

Before Congress began mixing pork-barrel expenditures with vital ones in "omnibus" appropriations bills, presidents had no need for the line item veto. Now that Congress does this routinely the situation is different. The line item veto would restore a lost presidential prerogative, not create a new one.

[From the Atlanta Journal-Constitution, Sept. 30, 1984]

CONGRESS NEEDS ITEM-VETO TO SAVE IT FROM ITSELF

Both houses of Congress during the week approved budget resolutions, just a few short days before Monday and the start of the new fiscal year. The budget resolution, setting spending targets and estimating the deficit, was done after most major spending decisions were made.

Congress has once again proved the Budget Reform Act of 1974 is useless. The situation worsens each year. But the situation last week is the classic example of cart placed before horse. It's as if a businessman toted up all of his accounts, plowed in what new spending was needed and then published that total—without a target or an eye to his revenues.

The new fiscal year will begin Monday with the government operating by continuing resolution. Instead of a budget, Congress is giving the president a catch-all bill. At week's end, only four of 13 appropriations bills had been passed. Differences remained between Senate and House versions.

There were other problems this week. A long-needed crime control package was attached to the spending resolution. It should have gone to the president on its own. Also attached in the House was $18 billion in pork-barrel water project authorizations on top of $119 billion in start-ups for 53 others. The Senate version is smaller.

The Reagan administration wanted but 13 of those projects. But now it must keep the government running and it dearly wants the crime-control package for which the president has campaigned since 1980.

What's needed here is order. The only good news from Congress this week was that Sen. Mack Mattingly (R-Ga.) reintroduced his bill for a line-item veto for the president. He has bipartisan support, including that of Sen. Sam Nunn (D-Ga.)

The antics in Congress this week clearly prove the need for it, if only to save Congress from itself. For starters, under Mattingly's plan, the 13 appropriations bills, now so large as to be veto-proof, would be divided into smaller categories. The president could veto any item, with Congress able to override his veto by two-thirds vote.

A president claiming to want a balanced budget would be hard put to find excuses. He also could eliminate the election-year pork-barrel projects. So many of them pile into a bill because congressmen close their eyes to the waste of others so they can obtain their fair share without criticism.

Under the current system, President Reagan likely will sign this week's massive spending resolution, if for no other reason than to see his crime package become law. That's no way to run a nation.

Congress has proved individual members can avoid accountability for deficits because of the complexity of its budget system and the sheer mass of it. The president is faced with serious dilemmas each year.

It is time for the line-item veto, so that both president and Congress can face the budget deficits without safe haven.

Mr. MATTINGLY. Mr. President, I yield to my colleague, Senator EVANS, from the State of Washington.

Mr. METZENBAUM addressed the Chair.

Mr. EVANS addressed the Chair.

The PRESIDING OFFICER [Mr. MATHIAS]. For what purpose does the Senator rise?

Mr. METZENBAUM. For the purpose of recognition since the rules do not permit one Senator to yield to another.

Mr. MATTINGLY. Mr. President, then I shall retain the floor.

Mr. METZENBAUM. The Senator cannot do that without having a unanimous consent. The rules of the Senate require that those Senators who are first on their feet be accorded recognition.

Mr. MATTINGLY. Mr. President, who has the floor?

Mr. METZENBAUM. Mr. President, I was on my feet.

Mr. MATTINGLY. Mr. President, who has the floor?

The PRESIDING OFFICER. The Senator from Georgia had the floor. He yielded to the Senator from Washington which is proper only in case of a question. If the Senator from Washington has a question, he may ask it.

Mr. METZENBAUM addressed the Chair.

Mr. MATTINGLY. Mr. President, does the Senator have a question?

Mr. METZENBAUM. Mr. President, the Senator from Washington wants to be recognized. I have no objection. But I do not approve of the procedure of one Senator yielding to another. Go ahead.

Mr. EVANS. Mr. President, I appreciate the kindness of the Senator from Ohio, his admonition of the Senate, and his willingness to recognize me.

Mr. EVANS addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mr. EVANS. Mr. President, I am pleased to join the Senator from Georgia in presenting this line-item veto legislation for the Senate's consideration. I am further encouraged by the enormous support we have received from a majority of this body.

The support generated for this proposal has resulted from a growing frustration over this Government's inability to immediately control deficits, an inability which is regularly reported in our newspapers; and a confidence that we can through this tool help retain future budget control. These concerns are addressed through provisions of the proposal: First, expedient constitutionally acceptable statutory change; second, it is only one additional budgetary tool for use by the President; and, third, it has, as my colleague from Georgia pointed out, an expiration clause if Congress ultimately determines a line-item veto authority unwise.

Last May, we considered a proposal to statutorily provide Presidential line item veto authority. This proposal was narrowly defeated, with questions raised as to its constitutionality. Since that time, we have been working toward this proposal which we are considering today, that is acceptable under the Constitution and that can be accomplished through statute.

Mr. President, with the question of constitutionality resolved through the use of the precedents established by the Gephardt rule; with the support and endorsement of the President and the Office of Management and Budget; with the endorsement of the U.S. Conference of Mayors; and with a growing number of supportive Members in this body—we can step over the question of constitutionality and get on with discussions that examine the merits of a line-item veto.

This proposal can be characterized as a low-risk/high-reward proposition. As a low-risk proposition, the legislation includes a 2-year expiration clause. If it does not work it will die on its own. If we try it and it does work, the potential reward is great by allowing a President the priviledge and the opportunity of using this one tool, in conjunction with others, to bring our budget deficits under control. If it has the effect even of a small spending control tool, then I suspect Congress might well continue such a proposal, perhaps on a 2-year basis, so Congress would always retain control to continue it or let it die.

It should be emphasized that this line item veto authority is one important tool in the budget process; a tool to help curb our growing Federal deficit and control Government spending. The President has a more restricted veto authority than almost any other Chief Executive in the United States. Virtually every Governor has broader veto authority than the President in terms of items or sections of particular pieces of legislation, particularly the Appropriation Acts. I do not see this proposal as increasing the authority of the President as some of my Senate colleagues suggest, but as an even-handed budget control authority that gives the President an opportunity to initiate action, with the opportunity for Congress to deny it.

In response to suggestions that line item veto would grant the President too much authority and create an imbalance of the constitutional checks and balances, let us look at recent practice. Since the beginning of the Truman administration, 14,081 public bills have passed, with only 355 vetoed—a veto rate of 2.5 percent. Only 10.1 percent of these vetoes were overriden. Twenty-three appropriation bills were vetoed during this same period, but the rate of success for the Congress in overriding appropriations vetoes is 30.4 percent, far greater—triple—than the normal rate for all public bills. I suggest this can be interpreted to indicate that Congress has maintained and perhaps increased its influence over the ultimate passage of appropriation bills, while restraining the Presidential use of veto authority.

Mr. President allow me like my colleague, to digress a bit further into our history to examine what has happened to Presidential veto authority. In the Federalist Papers, both James Madison and Alexander Hamilton argued against an absolute veto and for a qualified veto on the grounds that a qualified veto will be used more frequently. Let me emphasize that. A qualified veto will be used more frequently. Hamilton stated the general opinion that the absolute veto is: "A power odious in appearance, useless in practice." Hamiltion concluded that: "There would be greater danger of the President not using his power when necessary, than of his using it too often or too much."

In recent years, Congress has developed practices that often convert the qualified veto into something closely akin to the absolute veto, a device too rigorous to be used as a security

against bad laws. Congress has adopted the practice of adding riders to bills and in particular legislative riders and pork-barrel appropriations to vital bills that cannot stand on their own merit. This practice has impaired and diminished the qualified veto significantly. Current legislative practice presents the President with the choice of take all of what is offered or nothing. Such proposals have no other purpose than to intimidate the President, to emasculate the veto power, to foreclose the opportunity for reconsideration.

Perhaps one the of finest examples of recent years has been the most recent bill passed by the Senate. The continuing' resolution represents, of course, a failure in our appropriations process. If we had done what we set out to do, and passed all 13 appropriations acts, there would be no continuing resolution.

But this one contains $500 billion of spending, 9 of the 13 appropriations acts, unauthorized and some authorized water projects. It has delayed us to the extent that 500,000 governmental workers are now furloughed. Next year, will we further intimidate a President by putting all 13 appropriations bills into a continuing resolution? Will we add to it, as we attempted to this year, Superfund, Grove City, busing, tuition tax credit, gun control, comparable worth, and whatever else we might think valuable, wrap it into one package and present it to the President, saying, "Take it or leave it?"

The veto was designed not only to provide the benefits of reconsideration but also those of anticipation, the foresight that brings self-control. As Hamilton pointed out, it is not just an actual veto but the anticipation of a veto that will provide check and balance. Congress has invented techniques that give it less reason to anticipate a veto, thus less reason to be restrained and responsible.

Current legislative practice subverts the veto power provided in the Constitution by providing Congress with an alternative to self-discipline. The alternative is a form of blackmail, extortion of the executive's approval through threat, and a process to add trainloads of unworthy projects that could not stand on their merit. Congress has turned the tables on the President making the veto work for legislative license instead of against it.

The qualified veto is a part of the internal balance of the Constitution. It is a counterforce that offsets potential abuse of power by the legislature. Since the founding, Congress has encroached on the veto power. This proposal that we are considering today, will address this concern—return the balance to the relationship between the President and Congress.

Mr. President, as a three-term Governor of the State of Washington, I valued the line-item veto more than any other budget tool. Benefits were not only derived from the ability to remove waste from the budget, but also served as a check for germaneness. I seldom was presented a bill that was not clear and consistent within the framework of the title under which it passed. Admittedly, there is a difference between this Congress and State legislatures and between a President and a Governor. But what I find most disturbing is the fact that we, here in this present-day Congress, lay on the President's desk huge trainloads of pork attached to vital pieces of legislation. We make it almost impossible for the President to veto what is absolutely necessary to carry on the operations of Government. When he signs such legislation, he also must accept a whole series of expenditures which could not stand on their own merits.

Some suggest that only a small portion of the Federal budget will be subject to the provisions of this proposal. Admittedly, to curb deficits we must look at mandatory spending control and reform—but as to the remainder of the budget, nothing should or can be sacred. I personally would suggest that at some future point in time we should look seriously at including tax expenditures authorization measures. For the present, however, we should start with appropriations and stop second-guessing the President as to where he, or future Presidents may use this authority—we must provide the opportunity.

Mr. President, regardless of the portion of the budget effected by its veto authority, perhaps we should examine the impact of a small budget reductions over time. If the item veto is adopted for fiscal year 1985 and we assume a 1-percent cut of all spending per year, the total savings over the next 5 years could amount to $174 billion, with a reduction in the fiscal year 1984 deficit of $65 billion. If we assume a 2 percent cut in discretionary spending per year, the total 5-year savings would still be $99 billion and the fiscal year 1989 spending reduction would be $37 billion.

I suggest that while some may ridicule the line-item veto authority as being insignificant, even these small reductions amount to something that cannot be concluded to be insignificant.

I cannot overstate the importance of this worthwhile experiment to determine if added Presidential flexibility and involvement in the budget process can help lead to controlled budgets and reduced deficits. It is time for us to test the value of the line-item veto—not just for the president, not just for this Congress, not as a miracle cure to our out-of-control Federal budget, but for an important first step toward this Nation's future credibility and lasting economic prosperity.

Mr. President, I have a letter of endorsement by the President of the United States, and I ask unanimous consent that his letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,
Washington, September, 21, 1984.

Hon. DANIEL J. EVANS,
U.S. Senate,
Washington, DC.

DEAR DAN: As you know, I have again and again called for line item veto authority, which I believe would work as a powerful tool against wasteful or extravagant Federal Government spending.

Forty-three of our fifty states grant their governors the right to veto individual items in appropriations bills without having to veto an entire bill. It only makes sense that this reform in our budget process would go a long way toward assisting our efforts to provide sound fiscal management at the Federal level.

I want to take this opportunity to applaud your leadership and efforts to achieve this important reform.

Thank you for your resolve and support,

Sincerely,

RONALD REAGAN.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER (Mr. HECHT). The Senator from Ohio.

Mr. METZENBAUM. Mr. President, before I indicate my opposition, which is strong indeed, to this line item veto, I really think the question before us in discussing a matter of this kind is whether or not we are going to recognize the three arms of government or whether we are going to say there is one man who is President and he can determine the policy for all of the Government; he is going to decide what should be spent and what should not be spent.

As a matter of fact, he has pretty good opportunity to set the guidelines on that now, but he has consistently during the last 3½ years failed to meet that responsibility.

This President talks about balancing budgets and adding line item vetoes, but fails to do anything about meeting his responsibility to balance the budget.

He participates in all sorts of giveaway programs and then just changes the facts as to where the responsibility belongs for the fact that we now have $200 billion a year deficits.

This is an amazing President, I might say parenthetically. Somebody just brought to my attention the fact

that the President today, standing among political allies, blamed the Democrats for shutting down the Government.

You can lay this right on the majority party in the House of Representatives, he said. Just once it would be great to have a budget on time.

Just once it would be great to have the President of the United States tell the American people the truth.

This body has had the continuing resolution for 9 days. The House did not delay it. We in the Senate delayed it. The leadership in this body is composed of people from his own party.

Reagan blamed Democrats for more than the bureaucratic mess that ensued Thursday.

I am tired of the President changing the facts to suit his own convenience. I am tired of the President saying that Democrats are the ones who are not wanting to balance the budget.

It was the distinguished minority member of the Budget Committee, Senator LAWTON CHILES, who stood on this floor day after day and time after time to say that we needed to have a budget resolution.

Who was standing in the way of that matter being resolved and having a budget resolution? It was the President of the United States who would somehow like to blame TIP O'NEILL and the Democrats in the House for everything that occurred.

But the fact is that the Senate of the United States is led by Republicans. For him to speak out as he did today and to blame Democrats is just to change reality and fact.

I say all of this parenthetically because it relates in part to the phoniness of this issue with respect to the line item veto.

The line-item veto is somewhat similar to the balanced budget constitutional amendment. Neither one of them will solve the problem. It will merely provide some scapegoat, some means of blaming somebody else. Any person who has any brains at all knows that the balanced budget constitutional amendment could not become law for 6, 8, or 10 years, and even if it were to become law, when all was said and done, the buck would stop with the President of the United States and the Congress of the United States.

The line-item veto is a mirage. It is gamesmanship. It is trying to fool the American people.

MICKEY EDWARDS, conservative Republican Congressman from Oklahoma, stated it well when he wrote in the Washington Post on February 8, 1984:

The latest such scheme for concentrating power in the hands of a single chief executive—offered, remarkably, by conservatives—is a plan to give the president a heretofore unprecedented power to veto individual items within congressional appropriations bills. Ronald Reagan, the nation's principal spokesman against big government, has asked for such power.

Mr. President, may we have order in the Senate and break up the caucuses in the corner?

The PRESIDING OFFICER. The Senate will be in order.

Mr. METZENBAUM. He continues:

House Republicans, on a test vote offered by conservative Rep. Phil Gramm, voted overwhelmingly to give it to him.

But conservatives have overlooked what the result could be. Under such a transfer of power, if a Jimmy Carter—or a Walter Mondale—chose to veto an appropriation of funds for construction of the B1 bomber, a weapons system repeatedly supported by majorities in both the House and Senate, a small band of liberals, a mere one-third of the House and Senate, could kill the program by refusing to override the veto. While a Carter, even a Mondale, would not be likely to veto an entire defense appropriations bill, and would thus be somewhat bound by congressional determination to proceed with systems such as the B1, the power to accept most of the appropriation but single out specific items for veto could (and, if Mondale were to become president, probably would) eliminate defense items crucial to the national security.

I ask unanimous consent that this entire article be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Feb. 8, 1984]

A CONSERVATIVE'S CASE AGAINST THE LINE ITEM VETO

(By Mickey Edwards)

Frustration is the emotion with which conservatives are most familiar, and in that frustration, desperate for progress in their war to change national priorities, conservatives are sometimes tempted to toss away the cornerstones of their political value system in exchange for small and temporary victories.

Political conservatism, at its root, is a philosophy of diffusion. It is a philosophy that has as its thesis the distribution of political power among local agencies; it has as its antithesis the concentration of power in a single place, and the most feared of such repositories is the central government.

Unfortunately, conservatives who ought to know better, including some of the leading political thinkers of the right (Lew Lehrman and Jack Kemp come to mind) have, in their frustration, embraced concepts that would concentrate substantial new powers in that most concentrated of power bases, the presidency.

The latest such scheme for concentrating power in the hands of a single chief executive—offered, remarkably, by conservatives—is a plan to give the president a heretofore unprecedented power to veto individual items within congressional appropriations bills. Ronald Reagan, the nation's principle spokesman against big government, has asked for such power. House Republicans, on a test vote offered by conservative Rep. Phil Gramm, voted overwhelmingly to give it to him.

But conservatives have overlooked what the result could be. Under such a transfer of power, if a Jimmy Carter—or a Walter Mondale—chose to veto an appropriation of funds for construction of the B1 bomber, a weapons system repeatedly supported by majorities in both the House and Senate, a small band of liberals, a mere one-third of the House and Senate, could kill the program by refusing to override the veto. While a Carter, even a Mondale, would not be likely to veto an entire defense appropriations bill, and would thus be somewhat bound by congressional determination to proceed with systems such as the B1, the power to accept most of the appropriation but single out specific items for veto could (and, if Mondale were to become president, probably would) eliminate defense items crucial to the national security.

The problem with propositions such as the line item veto is the certainty of change. Powers delegated to the presidency to be dispensed according to the wisdom and conscience of a Ronald Reagan will remain in place for the time, certain to come, when a Democrat again ascends to that increasingly lofty presidential throne.

Congress is that branch of government most compatible with the basis philosophical bent of the political conservative. In it, power is fragmented among a large number of men and women, sensitive in varying degrees to the sentiments of home folks. The frequency of House elections increases the role of local constituencies and diminishes the central power. That diffusion of power is an essential to the conservative concept of government.

If the concentration of power in the federal government is the single philosophical element on which all conservatives unite (to be generally opposed to the concentration of power in Washington is the root of American political conservatism), then, by extension, the focusing of that power in a single individual should likewise arouse fear.

Unfortunately, the frustration of having a conservative president who is somewhat hampered by the need to co-exist with a Demoratic Congress causes one to chafe under the restraints of the system. There is a frustration at how hard it is to get things done; how difficult it is to bring about change. In their frustration, these impatient conservatives forget that difficulty in bringing about change is again a cardinal virtue of a Jeffersonian conservative government. The harder it is to write and rewrite laws, the greater the protection for the people.

Unfortunately, the philosophical roots of what we are about are sometimes forgotten in the pragmatic rush to achieve immediate ends. Conservatives, who ought to be champions of the congressional veto—increasing the power of the elected representatives of the people to block regulations imposed by the federal bureaucracy—find themselves opposng congressional interference with bureaucrats appointed by "our guys." They do so oblivious to the enduring nature of laws and precedents (meaning that what we do to them they will later be able to do to us).

This acquiescence to the imperial presidency for the immediate short-term gain threatens the foundation of our form of government—a system carefully designed to balance powers and limit central authority. To set constitutional protections aside for short-term expediency is to win temporary advantage at a very high long-term cost.

The frustration of conservative leaders is understandable, but the temptation to place more powers in the hands of an already powerful chief executive is a temptation that should be resisted.

Mr. MATTINGLY and Mr. WILSON addressed the Chair.

Mr. METZENBAUM. Mr. President, I have the floor. I have not yielded the floor.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I also wish to point out a September 18, 1984, New York Times item, which is headed, "The Line-Item Veto is a Fake."

I am not sure why the New York Times was inclined to sugar-coat it in that soft language, but that is pretty strong language.

They state in the editorial:

Interest on the national debt can't be item-vetoed. Nor can entitlement programs, because they have no lines to veto. Anyone who qualifies for Social Security, Medicare, farm subsidies and the like gets them, automatically. As for military spending, Mr. Reagan has proposed more budget lines than Congress has passed. There are also hundreds of billions more in tax benefits that are expenditures in all but name and contribute to deficits just as much as direct outlays. They wouldn't be affected at all by a line-item veto.

That leaves less than 15 percent of the budget, about $160 billion this year, not much of which can be touched if the Government is to function. That's the amount left to pay for things like weather forecasting, Federal highways and the census. So much for the urgency of the matter.

The Washington Post, under date of September 29, 1984, said:

Of course, the line-item veto wouldn't actually do much to cut the deficit. The biggest sources of current deficits are defense, tax giveaways and entitlements—things which the president either wouldn't or couldn't restrain with a line-item veto. And you might also wonder whether the president would really want to have such fine control over discretionary spending—Mr. Reagan would now be having a much harder time courting farmers, old people, city dwellers and so on if Congress hadn't been able to do him the favor of rejecting many ill-advised program cuts he earlier proposed.

No, the line-item/enrolling clerk law has really nothing to do with balancing the budget. It is simply a cheap election-year gimmick put forward by a group of senators who are willing to risk upsetting the constitutional balance of powers in order to look much more serious about fiscal responsibility than they have the courage to be.

Mr. President, I ask unanimous consent that the New York Times editorial as well as the Washington Post editorial be printed in the RECORD.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

POWER PLAY

If 51 senators have their way, the nation's capital would have two new centers of power. They would reside in the offices of the enrolling clerks of the House and Senate. There, final decisions would be made as to what programs, projects and legislative restrictions would be offered up for individual veto by the president.

Enrolling clerks are not people accustomed to such discretion. Their usual concerns are with the form—punctuation, format and style—rather than the content of what becomes the law of the land. But a majority of senators have come up with the idea that, by investing new powers in the clerks, they can give the president a "line-item vote"—something he says he needs so that he can finally start balancing the budget.

The line-item veto would let a president vote individual items in an appropriation measure without having to reject the whole thing. Legislation giving the president this power outright could be immediately blocked by a member pointing out that this power shift violated both the Constitution and the Budget Act. But, reasoned the 51 senators, there is nothing to keep Congress from changing its own procedure. Why not pass a little measure telling the enrolling clerk to take each appropriation measure passed by Congress and write up the individual "items" as separate bills? Then the president could sign those he liked and veto the rest.

You will immediately see that a great deal would ride on what the enrolling clerk decided an "item" was. The bill instructs him that "any numbered section and any unnumbered paragraph" should be an item. But we've seen some mighty long—and mighty short—paragraphs and numbered sections in our time. If the clerk's preferences ran to short items in all or part of an appropriation, the president would acquire formidable new powers.

He could, for example, punish (or intimidate) recalcitrant congressmen by eliminating (or threatening to eliminate) public works or military projects targeted for their districts. He could cut benefits for weak constituencies, such as poor families, without having to reject other parts of an appropriation earmarked for powerful lobbies such as doctors or real estate brokers. Or he could strike inconvenient prohibitions such as language preventing use of funds to upend other country's governments or undermine federal laws.

Of course, the lime-item veto wouldn't actually do much to cut the deficit. The biggest sources of current deficits are defense, tax giveaways and entitlements—things which the president either wouldn't or couldn't restrain with a line-item veto. And you might also wonder whether the president would really want to have such fine control over discretionary spending—Mr. Reagan would now be having a much harder time courting farmers, old people, city dwellers and so on if Congress hadn't been able to do him the favor of rejecting many ill-advised program cuts he earlier proposed.

No, the line-item/enrolling clerk law has really nothing to do with balancing the budget. It is simply a cheap election-year gimmick put forward by a group of senators who are willing to risk upsetting the constitutional balance of powers in order to look much more serious about fiscal responsibility than they have the courage to be.

THE LINE-ITEM VETO IS A FAKE

President Reagan asserts at every opportunity that something called the line-item veto would enable him to conquer the runaway spenders on Capitol Hill. It sounds reasonable, but it's a fake.

Every President has chafed at the practical impossibility of rejecting individual programs in otherwise acceptable appropriations bills. To get at one such item requires vetoing an agency's whole budget.

Presidents since Ulysses S. Grant have asked for the line-item veto, to let them pick and choose. Every Congress, including the present one, has refused. Mr. Reagan now seems to prefer gaining the authority through a constitutional amendment—along with the balanced-budget amendment that's got more steam behind it.

The main thing wrong with Mr. Reagan's pitch is that a line-item veto would not be relevant to the overwhelming majority of Government outlays

Interest on the national debt can't be item-vetoed. Nor can entitlement programs, because they have no lines to veto. Anyone who qualifies for Social Security, Medicare, farm subsidies and the like gets them, automatically. As for military spending, Mr. Reagan has proposed more budget lines than Congress has passed. There are also hundreds of billions more in tax benefits that are expenditures in all but name and contribute to deficits just as much as direct outlays. They wouldn't be affected at all by a line-item veto.

That leaves less than 15 percent of the budget, about $160 billion this year, not much of which can be touched if the Government is to function. That's the amount left to pay for things like weather forecasting, Federal highways and the census. So much for the urgency of the matter.

A further argument turns on the balance of executive and legislative powers. The President says Congress has proved incapable of controlling the budget so he needs this tool to do it himself. He had line-item power as governor of California and, as he tells it, thus saved that state from all manner of profligacy. Defenders of Congress' turf respond that a Federal shift of power would shake the foundations of the Constitution.

Both sides exaggerate. It's wrong to blame Congress for most budget deficits; most Congresses pass largely what a President requests. But the log-rollers who stuff appropriation bills with each other's pet projects are also wrong to contend that a line-item veto would wreck the Republic.

The governors of 43 states have such a line veto, for the historical reason that American governors are more the boss than is the President—but the boss of much less. And state fiscal policies, in any case, have nothing like the Federal Government's responsibility for the total economy.

But there's no point worrying about an issue about which President Reagan cares only casually. He asked for a line-item veto in last January's State of the Union Message but never even submitted a specific proposal. Even now the Administration has no precise formula in mind. The line-item veto is a campaign slogan to divert attention from the horrendous deficits piled up in the Reagan years.

Mr. CHILES. Mr. President, will the Senator yield?

Mr. METZENBAUM. Mr. President, I think I have stated enough. I ask unanimous consent that I be permitted to yield the floor to the Senator from Florida.

The PRESIDING OFFICER. Is there objection?

Mr. MATTINGLY. I was on my feet seeking recognition, Mr. President.

Mr. SYMMS. Reserving the right to object, I shall not object, Mr. President.

Mr. CHILES. I thought there was some yielding over there a minute ago.

Mr. SYMMS. I shall not object, Mr. President. I believe the Senator from Florida wants to make a brief statement on this. I believe it is the intention of the Senator from Georgia to move to withdraw the amendment. If we can wrap this up, we have two Senators on the floor prepared to offer amendments on the highway bill. I shall not object to the Senator's yielding to the Senator from Florida.

Mr. CHILES. Mr. President, we have discussed at length the merits of the line-item veto during earlier debates and the Senator from Ohio has spoken eloquently to the merits in his remarks. Tonight, however, I hope the Senate will focus its attention on the novel, line-item veto device the Senator from Georgia and others have prepared.

It is a way of getting around the Constitution. It is very clever, I have to say. But I think it is also very dangerous for the Senate.

This, in effect, would have the Senate adopt the Gephardt provision and persuade it to endorse positions in which we never actually vote. Remember, under the Gephardt procedure, the House uses the Budget Act to trigger the debt ceiling bill, bringing it to the Senate without the House ever voting independently to raise the debt ceiling.

Under the pending item-veto amendment, the enrolling clerk would commit legislative surgery on bills originally passed by Congress. He would take them apart, paragraph by paragraph, and divide one large bill into a blizzard of midget measures. He would then send them to the White House so the President can look at every line and every comma between those lines and decide, "I will excise that, I will delete that, I will allow this to go."

The danger of that, Mr. President, is enormous. What it means is that anytime we pass prohibitory language in an appropriations bill, the President can take the money but strike the language. Now, you just think about what that could mean.

We had debate on the MX that lasted for months. We had all kinds of confrontations. Finally, we settled the matter by putting in some limiting language. We have appropriated $2.5 billion for MX, but we fenced it so that only $1 billion can be spent this year before a separate vote. But under this item-veto provision, the President could get the whole $2.5 billion. Out goes the fence.

All the work we have done could be undone by a clerk—a distinguished clerk—the enrollment clerk. He would suddenly have more authority than any Senator in this body. We would start calling him "the distinguished senior Enrolling Clerk," I tell you that. We would all have to bow to that gentleman because how he packaged particular proposals would be crucial to the fate and future of everything we do.

I am telling my colleagues, this is the most dangerous device we could possibly have. With another President, in another time, we could have some action prohibiting the expenditures of funds for abortion. That President could decide, "I don't want to have a prohibition on funds. I would just like for anyone in the country to have an abortion any time, so I shall strike that portion. The restrictions Congress wanted are out. The money I wanted is in."

My goodness, I do not know why there would be any reason for having a Senate and a House any more. If you want to do this, the Federal Government would consist of the distinguished enrolling clerk, the imperial enrolling clerk, and the President. That is about all we would need, because everything else would become inconsequential.

I am against the line-item veto, but that is a constitutional question. It is a question that maybe someday will be submitted to the States—God forbid. I am against it. But let's not try to sneak it into the Constitution on the heels of the pending amendment. We would just be surrendering the Senate.

Mr. President, as long as I have served in the Senate, I have always done my best to see the other person's point of view. But I'm afraid that after looking over the line-item veto amendment now before us, I am just about flabbergasted.

Mr. President, this is a gimmick grafted onto a bad idea. Instead of giving the President the power to veto separate provisions of a few spending bills, we would be giving the President hundreds—perhaps thousands of separate bills to veto.

It seems to me this proposal is the height of legislative inflation. It would be like spending months in Congress putting together a giant jigsaw puzzle, only to dump the pieces out and directing the staff to put each one in an individual box.

This amendment would put on the shoulders of the enrolling clerks and responsibility for dismantling months of work, then sending it over to the President in tablet form so he can review it piece by piece.

If you want to give the enrolling clerk that kind of authority, it raises some interesting questions.

As a member of the Senate Appropriations Committee I think the amendment is a little fascinating. Periodically over the years, disagreements flare up over whether the Senate has the power to originate appropriations bills. According to the way this amendment is written, it would settle that question once and for all. It specifically refers to appropriations bills "originating in the Senate."

I am sure our friends over on the House side will be very interested in that provision. The Constitution does not say the House originates appropriations bills, but that has become something of a closely guarded custom. Sometimes it's said the Senate Appropriations Committee serves as a kind of court of appeals. This would certify us with the capacity to originate appropriations bills, and if my friends in the House don't know about it, I am sure they will be intrigued by the time I finish explaining it to them.

But perhaps the sponsors of this amendment will say, no, the amendment does not give the Senate the power to originate appropriations bills. Things will stay pretty much as they are now. If that is the case, then it raises another issue I think the Senate ought to consider.

What we could be doing here is to establish the House enrolling clerk as the grand arbiter of the legislative process. I don't know Robert Allen personally. He's the House enrolling clerk. I am sure he is a fine, honorable man. But I really wonder if the Senate wants to hand over to him the power to unravel any approriations bill we pass and cut it up into separate bills.

He would have the power to decide the shape of hundreds of separate bills sliced off the original appropriations bills we send over to the House. If you have a particular project you're interested in, you will not have to worry about how close you are to the Speaker, or how well you get along with the floor leaders, or whether you are a friend of the chairman of the Appropriations Committee.

No, sir. You just go over to the House and introduce yourself to Mr. Allen, because he is the man who will decide what to do with the part of the appropriations bill that has your project in it. He will just be sitting there writing up a whole stack of new bills and putting a new number on so the President can decide to veto it.

Mr. President, what this line item veto amendment would do is give every Member the chance to play hide and seek with the appropriations process. You might have a pretty good idea of what you intended to do, but if you really want to be sure you will have to follow a tangled path. You will have to keep track of an awful lot of individual bills once they leave this institution for the White House.

Mr. President, the key issue in the line-item veto debate is responsibility. And it doesn't make a great deal of difference whether you hand over the

real decisionmaking power to a staff member at the Office of Management and Budget or to a staff member in the House of Representatives, or to the President of the United States. You would still be taking it out of the hands of the people's elected representatives.

The Constitution puts the responsibility for revenue and spending decisions in the Congress. If teachers have an idea or a complaint, if the elderly, or the home builders, or the truck drivers, or nurses have something to say, they can come right through the committee room doors to say it. They can tell us what they think before we start making decisions. We can hear them and they can hear us, and together, we can work out solutions to problems.

If we give the line-item veto power to the President, those same constituents can still come to see us, but it really will not mean anything. The reason is we will not be making the decisions anymore. Somebody with a green eye shade and an arm band in the bowels of OMB will make the decisions. And if we pass this amendment, that guy in the basement of OMB will not even be making his recommendations based on what Congress did.

What you will have is an executive bureaucrat, second-guessing a House clerk on policy to be made—or unmade—by the President without reference to the intentions of the Congress of the United States.

The Congress has never been accused of being efficient. But I am afraid this provision would simply make us look ridiculous.

I don't know how many of my colleagues have ever had a chance to look at the big red book called, "Principals of Federal Appropriations Law." But the book has in it much of the technical procedure, rulings, and history of the appropriations process. For those of you who haven't seen it, I would like to read you just one short passage from chapter 12. It has to do with how the Government pays judgments against the United States.

Here's the excerpt:

In the early 1950's, GAO recommended the enactment of a permanent judgment appropriations. The recommendation was designed to expedite the payment of judgments by eliminating the need for specific congressional appropriations, and to save the Government money by eliminating the largely ministerial appropriations and by reducing costs.

Mr. President, if we were to accept the line-item veto proposal now before the Senate we would be going backwards into the 1950's. We would be doing exactly the kind of thing described in the judgment situation. We would have our clerks multiply the level of ministerial work. We would be ordering them to convert the work of the Congress into a blizzard of bills to be dumped on the President's desk stripped of the glue of compromise that held together the original legislation.

What incentive would Members have to resolve their differences if they knew any concession they had made in the legislative process would be made meaningless by breaking them up into pieces of the whole?

I regret the term "compromise" has been given such a bad name. Without it we would not have had a budget this year. Without it, Government can come to a standstill. In fact, this proposal is an invitation to all members to simply abandon restraint altogether. We could establish an attitude in the Congress where each of us could say:

Just put my piece in the bill. Never mind what it does or how much it will cost. What have I got to lose? It will end up as a separate bill anyway.

Do you know what would happen under those circumstances? We would end up putting congressional responsibility on the endangered species list, while at the same time setting up the President as the Nation's imperial policy maker. All the decisions, all the last words, would be the President's whether he or she was a Republican or a Democrat.

I do not think the Founding Fathers ever intended Members of Congress to become clerks for the White House. I think the Constitution expected and demanded more of the Congress. They wanted Congress to be a hammer and anvil, creating legislation but giving the President a chance to review it. The Founding Fathers did not want to give the edict power to the President, and neither should we.

Imagine the legislative process if the Congress broke up appropriations bills into small pieces.

Let us say we passed a bill with money in it for the MX missile, but included language that required that certain votes take place before the money could be spent.

Under the pending amendment, it is conceivable that the President could knock out the language, leave in the money, and the missile could be built at once regardless of congressional intent.

Where are the savings in a situation like that? Is that not the aim behind the line item veto? The example I have just given illustrates how the veto could just as easily be used to spend more money rather than less, and reduce rather than maintain the policymaking role of the Nation's elected representatives.

Mr. President, this line-item veto amendment runs against the spirit of congressional reform that seems to be blooming again in the Congress. Here in the Senate with our computers and modern methods I thought we were about to finally enter the 20th century. But this proposal smacks of quill pens and parchment. It would make all of us into the old fashioned bricklayers who used to build our city streets. Only in this case, we would be doing the job twice. First we would build the legislative street stone by stone, then take it apart and ship it over to the President so he could decorate it with potholes of his own choosing.

The line-item veto is not a good idea, Mr. President. The White House could use it as a political weapon to punish Members of Congress for not cooperating with the President.

Members of Congress could use the line-item veto as a place to hide from their constituents. They could arrange to get a particular project in an appropriations bill knowing in advance that it will either have a red fine put around it by a House clerk, or a check mark put next to it by a bureaucrat somewhere on Pennsylvania Avenue. But the Member of Congress can still turn around and say, "I did my best. Don't blame me. We passed it. The President killed it." It seems to me that's hypocritical.

There are lots of ways to criticize the item veto, but I shall only give one more. According to a House report, the item veto would reach only about $86 billion of nondefense discretionary spending. This President won't cut defense spending. Even this President wouldn't cut the entire $86 billion out of nondefense discretionary spending.

So it seems to me the item veto gives everything away and returns nothing. You won't get the giant savings some predict. You could end up with a political minefield, instead.

I oppose this amendment, and I hope the Senate will reject it.

Mr. President, I ask unanimous consent to have printed in the RECORD a series or examples showing how the President could rewrite legislation under this proposal by selecting individual paragraphs, or by keeping the money and dropping the restriction. I also ask unanimous consent to have printed in the RECORD a recent editorial on the amendment now pending.

There being no objection, the material was ordered to be printed in the RECORD, as follow:

CASE EXAMPLE: FISCAL YEAR 1984 APPROPRIATIONS FOR LABOR/HHS

H.R. 3913, conference report agreed to in the Senate on 10/20/83.

P.L. 98-139, signed into law on 10/31/83.

ABORTION RESTRICTIONS—SUBJECT TO VETO

Section 204 of the Act: "None of the funds contained in this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term."

An identical or similar abortion restriction has been a part of Labor/HHS appropriations bills since fiscal year 1977. A restriction on the use of funds appropriated to Medicaid. The Medicaid law itself does not contain any such restriction. A President could veto this provision easily without af-

fecting the Medicaid appropriations in the same bill.

SCHOOL PRAYER PROTECTION—SUBJECT TO VETO

Section 307 of the Act: "No funds appropriated under this Act may be used to prevent the implementation of programs of voluntary prayer and meditation in the public schools."

This section prohibits the use of federal funds received from the Department of Education by elementary and secondary schools to prevent voluntary prayer in the school. This language has been contained in every Labor-HHS-Education appropriations bill and Continuing Resolution since fiscal year 1980, but could easily be vetoed by a President opposed to school prayer without affecting Department of Education funding.

PROHIBITIONS AGAINST FORCED BUSING—SUBJECT TO VETO

Sections 304, 305 and 306 of the Act forbid the use of any funds to force any school or school district to bus students over the protest of parents or as a condition of obtaining Federal funds otherwise available; to transport students or teachers in order to overcome racial imbalance; or to require the transportation of any student to a school other than the school which is nearest the student's home.

Language forbidding the use of federal funds received from the Department of Education by elementary and secondary schools to support busing activities has also been a long/standing section of appropriations bills. Its purpose, in part, was to prohibit schools from using funds received for other desegregation activities—such as curriculum improvement—under the old Emergency School Assistance Act or the new Magnet School Assistance Program for busing. A veto of this section would eliminate the prohibition, without affecting the level of funding received by schools.

PROHIBITION AGAINST LOBBYING ACTIVITIES—SUBJECT TO VETO

Section 509 of the act forbids the use of any funds for publicity or propaganda development and distribution designed to support or defeat legislation pending before Congress, or for salary or expenses of any grant or contract recipient related to any such activity.

This is a general provision in several appropriations bills, which could be easily vetoed without affecting actual funding for any of the programs covered in the Labor/HHS appropriations bill—including job training, the National Institutes of Health and all universities conducting NIH-supported health research, welfare rights organizations which might receive support from the Community Services block grant or from social services and welfare programs receiving funds under the bill, senior citizen groups which might receive support from monies appropriated under the Older Americans Act, and education groups receiving funds through the Department of Education. If a President chose to veto this section, in this or any other appropriations bill, he would be able to get rid of a decades-old policy in one full swoop. Similar prohibitions have been part of various appropriations measure since at least the early 1940s.

RESTRICTIONS ON OSHA'S ABILITY TO ASSESS PENALTIES FOR WORKPLACE STANDARD VIOLATIONS—SUBJECT TO VETO

The 1984 appropriations bill contained nine separate items prohibiting the use of any funds from the Occupational Safety and Health Administration's appropriation for assessing penalties for certain rule infractions, for promulgating new rules affecting small farmers and hunters and fishermen, and for harassing small employers in general.

An enrolling clerk would have to decide which of these separate restrictions on the use of the OSHA appropriation should be separated from the actual appropriated amount into discrete "items." Once that is done, any one or all of the spending restrictions could be vetoed without affecting the actual monies going to OSHA. The agency could issue whatever rules and levy whatever civil penalties it wanted to as long as Congress did not take separate action to permanently amend the OSHA authorizing legislation.

SET-ASIDE FUNDING FOR BLACK COLLEGES AND UNIVERSITIES—SUBJECT TO VETO

Appropriations pursuant to Title III of the Higher Education Act set aside a specified amount of funds "available only to historically black colleges and universities."

We have "set-asides" in a lot of appropriations bills. This is one example. If this specific set-aside was considered a separate item, as it well could be, Congress would no longer have any control over how the funds it appropriated under the Higher Education Act are to be allocated. The Department of Education could distribute the money any way they wanted—unless we put a new formulation into the law itself. And if we had to do that we would lose all the flexibility we have by looking at these set-aside issues on a year-by-year basis in the appropriations bills.

Continuing Appropriations for FY 1983.

H.J. Res. 599, Conference Report agreed to in Senate 10/1/82.

P.L. 97-276, signed 10/2/82.

MORATORIUM ON NEW NURSING HOME REGULATIONS—SUBJECT TO VETO

Sec. 146: "Notwithstanding any other provision of law or this joint resolution, no change in the regulations subject to the moratorium required by Section 135 of Public Law 97-248 shall be promulgated in final form until one hundred and twenty days after the expiration of the moratorium, during which period the Department of Health and Human Services shall seek public review and comment on any such proposed regulations and consult with the appropriate Committees of Congress."

The Secretary had proposed major changes in Medicare and Medicaid nursing home regulations which would have, among other things, turned over the responsibility for certification for Federal payment to nursing homes to members of the nursing home industry. Inspections to ensure quality care would also have been greatly reduced. There was a great outcry in Congress—and we had hearings in the House and in the Senate. The outcome was to forbid issuing these final regulations until a much more careful approach to steamlining nursing home regulations could be devised. As a result, the prestigious Institute of Medicine is now working with nursing home groups and representatives of nursing home residents to complete this evaluation. The forcing of this reasoned process could have been vetoed, and we would be living with the original regulations today.

LEGAL SERVICES CORPORATION IN 1983

Sec. 101 of the Continuing Appropriations bill for 1983 (now Public Law 97-276) continues funding for 1983 appropriations bills at 1982 enacted levels, unless specifically designated in the bill. Under this continuing resolution, the Legal Services Corporation received $241 million in 1983, the same appropriation it had received in 1982 (under the Commerce, State, Justice appropriations bill).

Sec. 122 of P.L. 97-276 lays out specific restrictions to be placed on federal funds allocated to the Legal Services Corporation. Also included in this section are strict guidelines which pertain to class action suits brought against the federal government by the Corporation as well as restrictions made on legal assistance to be rendered to certain aliens residing in the US. In all, Sec. 122 is made up of eight parts which could be given separate bill numbers under the provisions of Senator Mattingly's item veto amendment.

The funding guidelines placed on the Corporation were reached in part to achieve a compromise between those members of Congress who wanted to ensure the continued existence of the Corporation and those members who wanted to abolish it outright. Had Senator Mattingly's item veto amendment been in effect in 1982, a President could have erased the compromise through a veto of Sec. 122. The President could have also vetoed the funds for the Corporation and effectively ended the program altogether two years ago.

COMMISSION ON CIVIL RIGHTS AND EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

The Commerce, State, Justice appropriations measure for 1985 (now Public Law 98-411) provides funds for the Commission on Civil Rights and the Equal Employment Opportunity Commission in two individual sections.

If Senator Mattingly's item veto amendment had been in effect when this bill passed the Congress, these sections of the appropriations measure would have been assigned individual bill numbers. The Commission on Civil Rights has come under fire in recent months with the general sentiment in Congress that the President is pushing the Commission toward an increasingly conservative line. In light of this controversy, it is possible a President could veto either of these sections, thus ending funding and thereby terminating either the Commission on Civil Rights or the Equal Employment Opportunity Commission or both.

JUSTICE ASSISTANCE

A separate section of the Commerce, State, Justice appropriations measure for 1985 (now Public law 98-411) provides funds for justice assistance. Included in this section are $4 million to carry out the missing children's assistance program as well as $5 million to reimburse States for expenses pertaining to the incarceration of Mariel-Cubans in State facilities. The section also includes language which combines unobligated funds for the Office of Justice Assistance, Research and Statistics (OJARS) and the Law Enforcement Assistance and Research and Statistics programs into one appropriation and one office—the Office of Justice Assistance.

Had Senator Mattingly's item veto amendment been in effect before this appropriations bill was signed into law, the justice assistance section would have been assigned an individual bill number. A President could then have vetoed funds for the entire criminal justice assistance section, terminating justice assistance, the missing children's program and the Mariel-Cuban State reimbursement program in one veto action.

SENATE STAFF SALARIES

Title I of the Legislative Branch appropriations measure for 1985 (now Public law 98-367) includes a separate section providing nearly $99 million for salaries of Senate administrative, clerical and legislative assistance employees. Under the provisions of Senator Mattingly's item veto amendment, this section would be assigned a bill number, as would the other separate sections which appropriate specific amounts for the salaries of other officers and employees of the Senate. With item veto power, a President would have as much ability to veto funds for salaries of Senate staff, as he would have to veto objectionable or controversial programs contained in any other appropriations bill. While perhaps speeding the work of the Senate, vetoing staff salaries would leave the Congress at the mercy of the Executive Branch to obtain facts, figures and analyses. In the event that a President was unhappy with deficit projections made by the Congressional Budget Office (CBO) for the administration's annual budget plan, funding for the Office could be vetoed (since it is a separate section of the Legislative Branch appropriations bill), thus shutting down Congress' independent budget office. By the same token, if a President was dissatisfied with a Congressional Research Service analysis of his foreign relations policies, a President could veto funds for the Service, thereby ensuring that Congress could turn only to the administration and the private sector for all future foreign policy studies.

LEGAL SERVICES CORPORATION

(Payment to the Legal Services Corporation.)

This section of the Commerce, State, Justice Appropriations measure (now Public Law 98-411) provides $305 million for the Legal Services Corporation in 1985. The section also contains specific language relating to legal assistance provided to the elderly as well as language restricting the Corporation from promulgating or enforcing any regulations before consulting the Congress.

Under Senator Mattingly's item veto amendment, a bill number would be assigned to this section of the appropriations measure. If the enrolling clerk decided to write the various provisions as separate paragraphs, a President could veto the set-aside for the elderly or the limitation on paperwork, and still maintain the basic funding for the Corporation. A President could also veto the entire section of the Commerce, State, Justice measure thus ending all funding—and effectively terminating—the Legal Services Corporation in 1985.

Line-Item Veto—Function 250—350, 950 Policy Issues.

H.R. 5653, ENERGY—WATER, 1985

1. Title II.—Department of the Interior, Bureau of Reclamation line 11, p. 12—page 14 of Report No. 98-502, Calendar No. 945 ". . . $752,397,000 . . .

Provided further, That the design, construction and operation of the Garrison Diversion Unit are to be accomplished so as to meet the United States' obligation under the Boundary Waters Treaty of 1909 and that no appropriation, fund, or authority under this heading shall be used for construction of features of the Garrison Diversion Unit in North Dakota affecting waters flowing into Canada . . ."

This is a big issue in North Dakota, and between the U.S. and Canada. The President could divert $ to this construction project.

2. Title II.—Department of the Interior, Bureau of Reclamation; Operation and Maintenance:

". . . For operation and maintenance of reclamation projects . . . $149,689,000"

President could line-item veto $149 million of Bureau Reclamation, O&M.

3. Title III.—Department of Energy Uranium Supply and Enrichment Activities (p. 22):

"For expenses of the Department of Energy in connection with operating expenses, the purchase, construction, and acquisition of plant and equipment and other expenses incidental thereto necessary for uranium supply and enrichment activities . . . $1,675,300,000 . . . *Provided,* That revenues received by the Department for the enrichment of uranium and estimated to total $1,657,300,000 in fiscal year 1985, shall be retained and used for the specific purpose of offsetting costs incurred by the Department in providing uranium enrichment service activities as authorized by sec. 201 of P.L. 95-238 . . .: *Provided further,* That the sum herein appropriated shall be reduced as uranium enrichment revenues are received during fiscal year 1985 so as to result in a final fiscal year 1985 appropriation estimated at no more than $0."

Presidential line-item veto could allow President to take $ out of the uranium enrichment revolving fund account and spend these huge sums for other pruposes than for uranium enrichment. Furthermore, an item veto could prevent the appropriations for uranium enrichment from being offset by receipts to the Fund from the sale of enriched uranium.

H.R. 6040, SUPPLEMENTAL, 1984

1. Strategic Petroleum Reserve:

"For an additional amount for 'Strategic Petroleum Reserve,' $447,190,000 to remain available until expended."

Veto could allow President to eliminate these funds, thus slowing down the SPR fill rate far below the Congress' desired minimum fill rate. The law says that the President should fill the SPR at 300,000 barrels per day, that he can fill it at 220,000 bbl/day, but that if he wishes to fill it at a lower rate, that it would require Congress's approval through the budget process.

2. Environmental Protection Agency Abatement, Control, and Compliance:

(a) "For an additional amount for 'Abatement, control, and compliance': $50,000,000 to remain available until expended: *Provided,* That this amount shall be available for the purposes of the Asbestos School Hazards Abatement Act of 1984."

Would allow President to veto these two programs.

(b) Hazardous Substance Response Trust Fund (Superfund).

"For an additional amount to carry out the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, $50,000,000 to be derived from the Hazardous Substance Response Trust Fund, to remain available until expended: *Provided,* That the limitation on administrative expenses of the Hazardous Substance Response Trust Fund is increased to $66,989,000."

Line-item veto would allow the President to either strike the entire paragraph, or to strike the provision limiting administrative expenses to $66,989,000.

3. NASA—Research and Development:

"Of the funds appropriated under this heading in the Department of Housing and Urban Development-Independent Agencies Appropriation Act, 1983 (Public Law 97-272), $20,000,000 shall remain available for obligation for the fiscal year ending September 30, 1985, and shall be used only for the Advanced Communications Technology Satellite (ACTS) flight test development program."

Veto would allow President either to veto the entire $20 million for ACTS, or to strike the clause which restricts its use to ACTS.

H.R. 5712, COMMERCE, JUSTICE, STATE, JUDICIARY, 1985

1. National Oceanographic and Atmospheric Administration-Operations, Research, and Facilities:

"For necessary expenses of activities authorized by law for the National Oceanographic and Atmospheric Administration . . . $1,123,686,000 . . ."

Presidential line-item veto could allow him to eliminate the Operations, Research, and Facilities (ORF) program of NOAA.

HOUSE JOINT RESOLUTION 492, URGENT SUPPLEMENTAL, AGRICULTURE, 1984

1. (26) Sec. 105(a) Study—"The recent proliferation of mergers involving oil companies in this country:

(b) It is the sense of the Senate that in lieu of taking any action at this time to complete moratorium on oil mergers, the Senate defers consideration of the issue until full hearing have been completed by the Committee on Energy and Natural Resources, Finance and the Judiciary . . . and a study of the impact of such mergers . . . has been completed and reported to the Senate no later than July 1, 1984 . . ."

The President could veto oil mergers study, and thus thwart the will of Congress.

2. (27) Commodity Credit Corporation Export Credit Guarantee:

SEC. 106(a) "For the fiscal year ending September 30, 1985, the Secretary of Agriculture shall make available under the Export Credit Guarantee Program (GSM-102) . . . $5,000,000,000 in short-term credit extended to finance export sales of United States agricultural commodities."

The line-item veto could allow the President to veto this provision providing for $5 billion in short-term credit to finance export sales of U.S. agricultural products.

H.R. 5713, HUD, 1985

Title II.—Independent Agencies: Environmental Protection Agency.

1. Salaries and Expenses:

"For necessary expenses . . . $656,275,000: *Provided,* That none of these funds may be expended for purposes of Resource Panels established under . . . RCRA."

Presidential veto could allow some or all of the $656 million to be spent under RCRA, rather than to clean up Superfund sites.

2. Hazardous Substance Response Trust Fund:

"For necessary expenses necessary to carry out the Comprehensive Environmental Response, Compensation, and Liability Act of 1989, . . . *Provided,* That not to exceed $87,573,000 shall be available for administrative expenses . . ."

Presidential veto could allow Administration to thwart Congress's intent by spending more than $87 million on administrative expenses, and not an actual on-site clean-up work.

Line-item Veto

H.R. 5743: Making appropriations for Agriculture, Rural Development and Related Agencies Programs for the fiscal year ending September 30, 1985. Reported by Mr. Cochran July 20, 1984

Feeding Program for Women, Infants and Children (WIC)

Provided That funds provided herein shall remain available until September 30, 1986 Effect of Veto: This sentence allows states flexibility by not forcing them to try to rush expenditures before a deadline at the end of the fiscal year. If the President vetoed this provision, states might not be able to use all of the funds appropriated to them for FY 85. The President would therefore be able to cut funding for the program, without vetoing any of the funds provided in the program's basic line-item.

P.L. 98-45: Making appropriations for the Department of Housing and Urban Development and sundry independent agencies, boards and commissions, corporations, and offices for the fiscal year ending September, 30, 1984, and for other purposes.

Provided further: That the first $1,926,400,000 of budget authority recaptured and becoming available for obligations in fiscal year 1984 shall only be made available for assistance to projects developed for the elderly or handicapped under Section 202 of the Housing Act of 1959, as amended (12 U.S.C. 1701q)

Effect of veto: would allow the President to target the first $1.9 billion of recaptured funds to housing programs other than housing projects for the elderly and handicapped, a program he has tried to cut in each of his last three budgets.

[From the Washington Post, Sept. 29, 1984]

POWER PLAY

If 51 Senators have their way, the nation's capital would have two new centers of power. They would reside in the offices of the enrolling clerks of the House and Senate. There, final decisions would be made as to what programs, projects and legislative restrictions would be offered up for individual veto by the president.

Enrolling clerks are not people accustomed to such discretion. Their usual concerns are with the form—punctuation, format and style—rather than the content of what becomes the law of the land. But a majority of senators have come up with the idea that, by investing new powers in the clerks, they can give the president a "line-item veto"—something he says he needs so that he can finally start balancing the budget.

The line-item veto would let a president veto individual items in an appropriation measure without having to reject the whole thing. Legislation giving the president this power outright could be immediately blocked by a member pointing out that this power shift violated both the Constitution and the Budget Act. But, reasoned the 51 Senators, there is nothing to keep Congress from changing its own procedures. Why not pass a little measure telling the enrolling clerk to take each appropriation measure passed by Congress and write up the individual "items" as separate bills? Then the president could sign those he liked and veto the rest.

You will immediately see that a great deal would ride on what the enrolling clerk decided an "item" was. The bill instructs him that "any numbered section and any unnumbered paragraph" should be an item. But we've seen some mighty long—and mighty short—paragraphs and numbered sections in our time. If the clerk's preferences ran to short items in all or part of an appropriation, the president would acquire formidable new powers.

He could, for example, punish (or intimidate) recalcitrant congressmen by eliminating (or threatening to eliminate) public works or military projects targeted for their districts. He could cut benefits for weak constituencies, such as poor families, without having to reject other parts of an appropriation earmarked for powerful lobbies such as doctors or real estate brokers. Or he could strike inconvenient prohibitions such as language preventing use of funds to upend other country's governments or undermine federal laws.

Of course, the line-item veto wouldn't actually do much to cut the deficit. The biggest sources of current deficits are defense, tax giveaways and entitlements—things which the president either wouldn't or couldn't restrain with a line-item veto. And you might also wonder whether the president would really want to have such fine control over discretionary spending—Mr. Reagan would not be having a much harder time courting farmers, old people, city dwellers and so on if Congress hadn't been able to do him the favor of rejecting many ill-advised program cuts he earlier proposed.

No, the line-item/enrolling clerk law has really nothing to do with balancing the budget. It is simply a cheap election-year gimmick put forward by a group of senators who are willing to risk upsetting the constitutional balance of powers in order to look much more serious about fiscal responsibility than they have the courage to be.

Mr. HATFIELD. Mr. President, the Mattingly amendment would attempt to grant the President a new authority to item veto appropriation bills. Since I have repeatedly spoken out against these notions, my views are hardly new to my colleagues. I therefore will be brief, and merely highlight what I believe to be the most fundamental reasons to reject these proposals.

First, it should be made clear in any discussion of the line-item veto that it is not a mechanism to achieve meaningful reductions in the Federal deficit. Proponents of this scheme play on a misperception of the composition of the Federal budget. The line-item veto as proposed here cannot be applied against some of the largest and fastest growing portions of the budget, such as permanently funded entitlement spending—$300 billion—and other mandatory costs such as interest on the Federal debt—$140 billion. Nor can this veto be used to reduce entitlements funded in annual appropriations acts—$100 billion. These items consume about 55 percent of the budget. Of the remaining 45 percent, two-thirds is defense spending. What is left, with less than 15 percent of the budget, is nondefense discretionary programs.

This small fraction of the budget has always borne the brunt of spending reductions, and it is obvious that it will be the target of any line-item vetos. These activities include education assistance, community and regional development, law enforcement, environmental protection, health and safety research, securities and economic regulation, energy development and a host of other vital Federal responsibilities. They could all be eliminated and you still would have a substantial deficit.

As a means to balance the Federal budget, the line-item veto is all but meaningless—but this is not to say that it has no significance at all. In fact, it will make a substantial shift in the balance of power between the executive and legislative branches of Government. Currently, the President very effectively uses his veto power to enforce his aggregate budgetary plan on congressional spending bills. The line-item veto, however, will empower the President to go beyond simple control on overall spending, and allow him to virtually dictate spending priorities over individual programs and activities. With this power the President can frustrate a decision of the Congress on any individual program, be it for political or ideological reasons—or simply because of personal bias.

Much has been made of the fact that 43 States currently grant their Governors some form of line-item veto authority. The argument here is that what works for States ought to work for the Federal Government. Without getting into the question of how well this authority works in the States, this rationale ignores the major differences between Federal and State responsibilities. The most obvious difference is simply the size and power of the Federal Government. The greater the scope and reach of the power, the more critical it is that such power be held in check, balanced between the three, coequal branches of Government.

Furthermore, unlike States, the Federal Government bears the responsibility for national defense, foreign policy, and broad based social welfare entitlement activities like Social Security. These costs drastically alter the structure of the Federal budget from that of the States, so while a line-item veto in the hands of the Governor could be used as an effective tool to make large budget reductions, such application at the Federal level is impossible.

Little concrete data is available on the actual effect that the line-item veto has had in State budgeting. But what we do know is instructive. President Reagan, for example, reduced the California State budget by an average of less than 2 percent per year when he was Governor. If this rate of reduction were applied against the amount in the Federal Budget for all nondefense discretionary programs, the projected Federal deficit would be reduced by 1 percent. We also know that the legislatures in States which have the line-item veto routinely "pad" their budgets with projects which they expect or even want their Governors to veto. This is certainly not a practice

which we would like to see in Congress, but if we abdicate our budget responsibilities to the President, shouldn't he also take the blame as well?

Ten years have elapsed since the Congressional Budget Act was passed. That measure's principal goal was to make Congress more effective in its discharge of its constitutional role to control the purse strings of the Treasury. It is indeed ironic that 10 years later, when confronting the largest and most challenging budgetary problems ever, we find proponents of a scheme to diminish the responsibility of Congress over the budget. They would have us pass open ended shopping lists of spending items, to be culled through and selectively implemented by the President.

Finally, Mr. President, a word needs to be said about the method employed to implement this latest scheme for abdicating congressional responsibility.

The amendment proposes that the enrolling clerks would be empowered to prepare as a separate bill each numbered section or unnumbered paragraph of general appropriations bills or resolutions. This would create hundreds of separate items as bills presented to the President. He would be swamped with paper, we would have a difficult time keeping track of things, and enrolling clerks would become the most powerful staff people anywhere. Since the House enrolling clerk customarily enrolls appropriations bills, Senate action would be subject to House staff judgment, and we might find certain provisional language integral to an appropriation isolated as a separate item and vetoed by the President. Congressional conditions on the MX, for example, could be vetoed and expenditure proceed unfettered.

Mr. President, I am not arguing that the budget process we now employ in Congress is the best or the most effective in terms of assuring responsible spending decisions. Our difficulty in grappling with the current deficit is evidence enough of its shortcomings. But I am equally certain that the answer to our problems is not to delegate further responsibility to the executive branch. Our representative Democracy should not and cannot risk such a concentration of power in one man.

As a colleague has said, the line-item veto constitutes "More power than a good man would want, and more than a bad man should have." The prolonged and tortuous debate over the Federal budget reflects the enormous significance this issue has for our Nation. Let us get on with that debate, and put aside these notions of finding simple solutions to our budget problems.

Mr. ABDNOR. Mr. President, the taxpayers of this country are in desperate need of help. For too long they have had to pay the bill for all of the pork-barreling that gets done here in Congress. Of course, it's understandable that Members of Congress want to "bring home the bacon" to their districts—why not when you're making the rest of the country pay for it?

A line-item veto authority would give the President the power to put a stop to this irresponsible way of business. No longer would the President be faced with the prospect of shutting down massive portions of the Government and denying the very means of existence to hungry and sick Americans if he attempts to curb Congress' spending binge with a veto. Instead, he could veto a specific provision without the less fortunate of our society being held hostage. Maybe if the President had this power, we could get a bill through Congress without having numerous irrelevant amendments attached like so many ornaments on a Christmas tree.

The line-item veto is written into the law of 43 States. Not one of these States had ever repealed this grant of power to its Governor. That's a pretty good track record. All that is proposed here is to try it at the national level for 2 years. If it doesn't work, we simply let it expire. Of course, Congress will still retain its authority to override any veto by a two-thirds vote in both the House and Senate.

The line-item veto is by no means a cure-all for our very serious budget problem. I'm well aware that it will have no effect on the rapid growth still occurring in the so-called "entitlements" which are not funded through appropriation bills. But, we must start to get a grip on runaway spending and I hope we will vote to give the line-item veto a try.

Mr. President, I have introduced my own legislation which would grant the President the power to keep Congress from busting the budget. While my bill is a more comprehensive approach to the deficit problem, it does contain this provision similar to the line-item veto. The truth is, we need a comprehensive approach to resolve our budget crisis. Nevertheless, enactment of a line-item veto would be a step in the direction of putting America's interests ahead of special interests.

Mr. NICKLES. Mr. President, giving the President line-item veto power on appropriation bills is not a new issue in the Senate. In October last year I coauthored an amendment to the debt limit increase expressing the sense of the Senate that a line-item veto authority should be given to the President. That was the last time this matter was considered before the full Senate. The amendment now before us would give the President statutory authority for a 2-year period to exercise item veto on appropriation bills. This is urgently needed.

As drafted, the proposal for an item veto addresses many of the concerns that have been raised in the past. It establishes by statute a line-item veto on the basis of a precedent already used by the House of Representatives, known as the Gephardt rule. It specifically defines what an item of appropriation constitutes. Under this procedure, the enrollment of the appropriation bills would, in effect, allow each item of appropriation to be enrolled separately, thereby avoiding the constitutional controversy. Furthermore, it would retain the constitutional two-thirds veto override by both Houses of Congress and would sunset after 2 years. Also, according to the Senate Parliamentarian, it would not be subject to a constitutional point-of-order on the Senate floor.

My State of Oklahoma has given this power to its Governor along with 42 other States. It has been shown on the State level to be an effective tool for cost control. This can be seen in the annual deficits and surpluses that States have experienced compared to their Federal counterpart. Recently, it was shown that all but two States showed surpluses for 1983. This is in stark contrast to the Federal deficits. If it works for the States, why not for the Federal Government?

We can experience similar results on the Federal level if only we would give the President such authority. In fiscal year 1983, the President sent to the Congress requests for appropriations of $497.9 billion, the Congress approved $510.8 billion, an increase of $12.9 billion. If the President had the power to reject portions of these appropriation bills that we sent him, we may have seen the fiscal year 1983 deficit reduced.

When an appropriation comes before the President, he has two options—either sign it or veto the entire bill. He has very little input or ability to be able to make some constructive changes or reductions in the budget through the appropriations process.

Congress is the one that passes these bills. Congress is the one that is really the guilty culprit as far as ever-escalating Federal spending is concerned.

I ask, why not provide additional accountability to our system and strengthen Congress' ability to control Federal spending by giving the President this important budgetary tool? I urge adoption of this amendment.

Mr. D'AMATO. Mr. President, I rise today to cosponsor and to lend my firm support to S. 1921, legislation introduced by my distinguished colleague from Georgia, to provide a Presidential line-item veto.

As the President pointed out in the State of the Union Address, America is healthy and well on the road to prosperity. However, continued economic progress is threatened by overly large

Federal budget deficits. The President stated, quite correctly, that how deficits are reduced is as important as the actual reduction. There is little difference between financing increased Government spending through the issuance of new debt or by the imposition of higher taxes. Both methods are equally damaging to the continued vibrance of the economy. Deficit financing and increased taxes both redirect private funds to the Federal Government. The result of either action is that the pool of investment capital is depleted and industrial expansion is stifled.

The root cause of mammoth Federal budget deficits is runaway Government spending. Since fiscal year 1965, Federal spending has increased at an annual average rate of 11.2 pecent. Since that time, the deficit has grown from $1.2 billion to $194.5 billion. Continued efforts to reduce the deficit through higher taxes have failed.

The Federal budget is a disaster in need of drastic action. Giving the President line-item veto authority would be an important first step toward getting control of Government spending. This would allow the President to reject specific appropriations without vetoing an entire piece of legislation as we must now do. Under S. 1921, however, Congress would still have the power to overrule any veto by two-thirds vote.

Currently, Congress adds pork barrel programs to important legislation with virtually impunity. The President often hesitates to veto an entire bill which includes wasteful programs for fear of destroying the vital underlying legislation. The line-item veto, therefore, would allow the Chief Executive to eliminate waste without destroying critical policy initiatives.

At this time, 43 Governors have line item veto authority over State budgets. Many of these States are required by statute to annually balance their books. I can think of no greater tool we can give the President to control wasteful Government spending than the line item veto. It has proven effective at the State and local level and now should be implemented by the Federal Government.

Mr. President, I urge my colleagues on both sides of the aisle to lend their support to S. 1921. Thank you, Mr. President.

THE ITEM VETO

Mr. DOLE. Mr. President, the distinguished Senator from Georgia, Senator MATTINGLY, has done us a considerable service by laying before the Congress a proposal to grant the President an item veto power. This is an issue that I believe must be addressed. In fact, I have frequently advocated action to give the President of the United States the authority to veto line items in appropriations bills. The Mattingly proposal is similar to a constitutional amendment I proposed in 1977, along with Senator LUGAR and the then-Senator from Nebraska, the Honorable Carl Curtis. This is a matter that deserves very serious consideration.

Like my amendment, the Mattingly proposal would allow the President to veto part of an appropriations bill and sign the remainder of the bill. This change would restore some of the original significance of the veto power under the Constitution, should help control Federal spending, and would reduce the incentive to attach riders to appropriations bills: a practice that has become all too common and which has caused severe problems over the past several years. The frequent impasses over supplemental appropriations and continuing resolutions likely could be avoided with a line-item veto in effect.

RESTRICTIONS ON THE EXECUTIVE

Under present law the President can only sign or return an entire bill. In the case of appropriations bills, which cover a wide range of subject matter—especially in the case of continuing resolutions, which seem to have become standard operating procedure—the President lacks the ability to make important choices. Under this proposal the President could veto part of an appropriations bill or reduce an item, while approving the rest. This kind of power would be much more effective without infringing on the prerogatives of Congress. Congress still could override this specific veto just as it may override vetoes of entire bills.

The much-expanded scope and impact of appropriations bills under present procedures, including the use of riders that have an impact on substantive legislation, have radically changed the scope of the veto power compared with what the framers of the constitution were familiar with. By mixing items the Congress can facilitate the passage of questionable items that may lack broad support by linking them with other items the President may favor and decline to veto. This expansion of the appropriations process has eroded the veto power as drafted into the constitution, and I believe it would be desirable to halt that erosion.

GOVERNMENT ECONOMIES

Mr. President, there is also reason to believe that an item veto would result in significant economies to the Government. Measures that lack broad support would be more likely to fall by the wayside in the item veto process. Less pork barrel legislation, and less congressional time spent on it, would be in everyone's interest. No one criticizes Members for offering special interest provisions, because a basic part of our duty here is to guard the interests of our constituents. But if we could agree to endorse a constitutional change that would limit such provisions, we might better serve the general interest as well. It is not just budget savings I am talking about, although they are important: we also ought to concentrate on policy decisions and issues that have a broader impact.

OBJECTIONS TO AN ITEM VETO

There are serious and well-considered objections to an item veto. There is the concern that such a power in the President would just shift the process toward a new form of "Log-Rolling" involving the White House as well as Congress. There is also the concern that too strong a power in the Executive could undermine our ability to meet critical needs. We do have to be sensitive to these concerns, and they deserve a close examination. But I do believe that on balance an item veto would improve and streamline our procedures: That Congress would retain ample authority to guard against any Executive abuses; and that a shift away from the tendency to clutter up bills with special interest provisions would be good for the country. That is why I hope the Congress will give serious consideration to this proposal in the near future.

BROAD SUPPORT

Mr. President, most of the States, including Kansas, have provided their executives with an item veto. As of 1977, 43 States had such a provision. In this area I believe we have a clear demonstration that the States can function well as laboratories for experimenting with new concepts. On the question of the item veto, as in many other matters, the States are showing us the way. They have proved that an item veto works.

In addition, there is widespread public support for giving the President stronger power over Government spending by allowing him to veto line items. In October 1981, the Gallup poll reported that 64 percent of those interviewed favored giving the President such a power, while only 25 percent actively opposed the idea. President Reagan and other members of the administration, particularly Secretary Regan, has made it clear that we would welcome such authority. I believe the President would use the power effectively and judiciously. But even if we had a different Chief Executive, I believe we would be well advised to adopt this proposal. It is a procedural reform, and Congress would retain more than adequate authority to safeguard against possible abuse.

IMPORTANT LIMITATIONS

Mr. President, I would add that both my earlier amendment and the present proposal are limited in scope. They would only apply to appropriations bills, not substantive legislation. In addition, they would not apply to any bill appropriating funds for the legislative or judicial branches, in

accord with the constitutional separation of powers among the three branches of government. Senator MATTINGLY has, I think wisely, chosen to propose legislation to institute an item veto as well as a constitutional amendment, to give Congress an early opportunity to try out the idea if it seeks fit to do so. I look forward to working with the Senator on this matter.

I understand and agree with the sentiment that this is not the best time or the best vehicle for raising this issue. But the Congress should give early consideration to an item veto provision, and I am sure we will be doing so next year. It would enhance the likelihood that other proposals, such as the fiscal responsibility amendment the Senate passed in 1982, lead to an early balanced budget. Most proposals to enhance fiscal restraint do nothing to involve the executive branch more directly, and we may find that such additional authority to the President would make our own job easier. I know this concept generates considerable controversy in Congress. Nevertheless I think an item veto would mesh well with other reforms in the area of fiscal responsibility, and I hope that the House and Senate will give this option careful consideration.

I commend the Senator from Georgia, and I would be pleased to hear comments from other Members regarding this concept.

Mr. MATTINGLY. Mr. President, I would like to yield to my distinguished friend the Senator from Delaware.

Mr. BIDEN. Mr. President, I am very pleased to be able to join Senator MATTINGLY in offering a statutory line-item veto proposal. I support this proposal because if differs from the version offered earlier this year by Senator MATTINGLY which was, in my opinion, an unconstitutional proposal, in that it attempted to amend the Constitution by legislation.

This revised proposal takes care of the constitutional concerns by making two changes: First, it has been modified to retain the constitutionally mandated two-thirds veto override by both Houses of Congress; and second, this proposal would change the rules of the House and the Senate so that each paragraph and section within a piece of legislation will stand as a separate bill when sent to the President, thereby complying with the constitutional provision allowing the President to veto a bill.

Mr. President, I also support this proposal for another fundamental reason—it sunsets after 2 years. No one can be absolutely certain whether line-item veto will work in the way we hope it will work. But if it doesn't work, we will not have to renew it.

Mr. President, I wonder if Senators realize that, in budgets adopted for the next 2 fiscal years, when this line-item veto could be in effect, deficits will rise from $181 billion to $208 billion, an increase of $27 billion? Do they realize that Federal spending will increase by $157 billion from $932 billion to $1,089 billion? That the national debt will increase from $1.8 trillion to $2.4 trillion during those years?

And that the interest on the debt, which is the fastest growing item in the budget, will grow by $34 billion, a wholly nonproductive expenditure of the taxpayers money.

Those figures illustrate, Mr. President, why I believe we must try everything we can to bring those deficits under control. We must try every tool we have, every technique we know, to keep some of those budget estimates from becoming reality.

It is clear to me that there is not one cure-all answer to the problem of the Federal deficit. Getting the deficit under control will require taking a new look at the way we run the Federal Government:

It will require some way of getting a grip on Government spending, such as a constitutional amendment to limit the growth of Federal spending;

It will require some way of periodically reviewing the efficiency and necessity of Government programs, such as sunset legislation;

It will at times require an across-the-board lid on spending, such as the Kassebaum-Biden budget freeze;

And it will require bringing the President into play in a more active way in the battle to keep spending under control, such as the line-item veto proposal which I now urge the Congress to adopt.

One essential element in dealing with our budget problems is to identify the joint responsibility of the President and Congress for dealing with the fiscal affairs of the country. We must establish a system of accountability which will pinpoint that responsibility and make it harder to pass the buck.

As the system works today, the President proposes a budget, and then he bows out, accepting none of the responsibility for what happens. The line-item veto will change that. President Reagan has suggested that deficits are caused, at least in part, by the failure of Congress to adopt his program. I doubt the validity of that charge, but the fact is that he can make it because he has no role in the process. Congress also hides its responsibility by packaging almost all appropriations in one, or at best a few appropriations bills, thus obscuring issues and presenting the President with a package that it is hard not to accept.

I believe the line-item veto will highlight responsibility. Each appropriation bill will be broken down into its basic elements. The President will have to sign or veto each. And in the case of vetoes, Congress will have to act on those vetoes, item by item. Neither Congress nor the President can hide behind the excuse that a bill contains important items that must become law, because each bill will contain only one item.

I have been asked whether this will not make it possible for a President to veto programs that I support. Clearly that is so. Obviously I do not support the item veto because I want to see programs I support vetoed. But I believe that the most serious threat today to Federal activities, from defense to education and from deficits we face. That threat is greater than any threat of veto. This is the same argument that I had with many of my friends when I began pushing for sunset legislation in 1975. They asked me, was I not concerned to be terminating programs I supported, and requiring that they be reauthorized? I said then that I believed that worthwhile activities would receive the support necessary to continue them. And that I believed that wasteful and unnecessary spending was a greater danger to programs I supported than was sunset.

We did not get sunset, despite my efforts, along with my good friend, Senator Muskie. And look where we are today. We have experienced cuts in spending in the last 4 years that my friends could never have dreamed of under sunset. And our rapidly escalating deficits threaten far greater cuts yet to come.

I believe that it never hurts to pinpoint responsibility. And in the long run it does not hurt to make all Federal activities undergo close scrutiny. That is what the line-item veto will do. That is why it will benefit activities that I support, just as sunset would have done, had it been adopted in the 1970's; 43 of our 50 States now give their Governors the line-item veto, and the reports from the States are that it works—not that it is a miracle cure, but that experience shows that it has had a downward effect on wasteful Government spending.

I am not making the simplistic argument that if it works on the State level, it has to work on the Federal level. There are important differences. But I think the experience of the States requires that we use our best efforts to see if we can make it work on the Federal level.

The statutory proposal that Senator MATTINGLY and I are proposing today will sunset after 2 years, so in a sense it is an experiment. Rather than go through the long and difficult process of making it a part of our Constitution, which would undoubtedly take years, let's try it right now. Let's give the line-item veto an introductory period of 2 years.

If the line-item veto serves to tie the Government in knots, as some have

argued, or if it allows a President to cut necessary spending, then the Nation will agree that we should allow it to automatically expire. But if it works to cut pork-barrel spending, as I think it will, then after 2 years we can renew it. I urge my colleagues to support what I think is a very sensible approach to the line-item veto.

Mr. MATTINGLY. Mr. President, the Senator from Florida almost convinced me not to withdraw the amendment here and instead debate it at length and vote. However, my intent was to offer it and than take it down today so that we can set the stage for next year. That is still my intent.

I have enormous respect for the opinions of my colleagues not only because they are men and women of noble character but also, and most importantly because to a real degree, they represent the collective opinions of all Americans. And the public, as noted by the defeated candidate in Canada's recent national election, "is never wrong."

But while I respect the opinions of all my colleagues who have spoken during this debate, I do respectfully disagree with those who are not willing to give this proposal a chance. To give it a try. To see how it works.

Quite frankly, Mr. President, some of the opposition to the proposal reminds me of the refusal by some members of the ruling bodies in the 17th century to accept the invitation to peer through Galileo's telescope. They didn't want to see anything new, Mr President. They feared seeing something that would upset the common wisdom; something that would force a rethinking of comfortable, familiar concepts and notions. It is of some comfort to note which side finally prevailed in that particular dispute.

And while I do not claim that we are debating today anything quite so fundamental as a theory of the universe, I do believe that we are discussing a matter of great importance to our Nation and to our Nation's future.

We should seize this opportunity, Mr. President, to try a new approach, to reach out and confidently take what could prove to be a decisive step toward fiscal responsibility. However Mr. President, I am aware of the responsibilities faced by this body, at this time during the twilight hours of the 98th Congress. I feel strongly about the need for the line-item veto but I know that all my colleagues have measures in which they are interested and on which they would like to vote before we adjourn.

I and Senator EVANS have decided not to push this issue to an extensive debate and vote at this time. We are keenly aware of the need for the Senate to conclude its business and turn its immediate attention to those most pressing matters.

However, it will be our intention during the early days of the 99th Congress to secure a vote on the proposal. I have already secured commitments from candidates for majority leader—I trust that one of those individuals will, in fact, still be majority leader, Mr. President—to consider and vote on this proposal within the first 90 days of the new Congress.

Mr. President, I withdraw the amendment and ask unanimous consent to proceed for 1 minute, as if in morning business for the purpose of introducing a concurrent resolution on the line-item veto and ask that it be referred to the appropriate committee.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. MATTINGLY. I thank the Chair and my distinguished colleagues who have spoken to this matter, and I look forward to continuing the debate next year.

FURTHER CONTINUING APPROPRIATIONS, 1985

Mr. BAKER. Mr. President, if my colleagues will permit just for a moment, we have now from the House another short continuing resolution making appropriations until 6 o'clock tomorrow night. Our conferees met with the House conferees a little less than 30 minutes ago to work on the continuing resolution that we just passed, but obviously they are not going to finish tonight.

Mr. President, if the minority leader is prepared to do so, I am prepared to ask the Chair to lay before the Senate House Joint Resolution 656.

Mr. BYRD. Mr. President, I certainly will not object, but I do wish to reserve—has the distinguished majority leader made the request yet?

Mr. BAKER. Yes.

Mr. BYRD. Either way, Mr. President, I certainly will not object. I welcome the opportunity to take up the short continuing resolution.

I read on the wires that "the President has blamed the Democrats for the shutdown," meaning Federal offices, I suppose, "which sent 500,000 Federal workers from their jobs."

You can lay this right on the majority party in the House of Representatives," he said. "Just once it would be great to have a budget on time." Reagan blamed the Democrats for more than the bureaucratic mess that ensued Thursday.

Mr. President, the President either knows that is an untruth or somebody is taking advantage of him in advising him.

The short continuing resolution is here in the Senate. The House passed it and sent it over, according to this calendar—now, that may be too large to appear on a small que card, a 3 by 5 card, but for all Senators to see, the continuing resolution passed the House on September 25 and was sent to the Senate on September 26, reported and placed on the calendar of the Senate on September 26.

Now, Mr. President, the President in saying this either has been misadvised or wrongly advised. If he is, he ought to get some different advisers. I am confident that he knows what the status of this continuing resolution is. It is absolutely shameless for the President of the United States to blame the Democrats for the shutdown and for his saying, "You can lay this right on the majority party in the House of Representatives. Just once, it would be great to have the budget on time."

Well, it would be great for once to have the President send up a balanced budget. And as to the debt limit extension, I do not know to this moment whether or not the President has ever indicated his position with respect to the extension of the debt limit, whether he wants an extension and, if he does or does not want an extension, what his recommendations are. He leaves the whole burden on his leadership in the Senate and the House. He chooses not to come out and be frank, and fair, and truthful with the American people.

It is absolutely a disgrace that he would attempt to mislead the American people and leave them believe that the continuing resolution has been held up in the House of Representatives and by the Democrats. He is shameless in this distortion of the facts.

Mr. President, I have no objection to going to the continuing resolution. I hope that we will pass it quickly. I believe we can.

I say to the majority leader that I have no objection.

Mr. BAKER. I thank the Senator.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. BAKER. I have a request pending, Mr. President.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The joint resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (H.J. Res. 656) making further continuing appropriations for fiscal year 1985.

The PRESIDING OFFICER. Is there objection to the present consideration of the joint resolution?

There being no objection, the joint resolution (H.J. Res. 656) was considered, ordered to a third reading, read the third time, and passed.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

APPOINTMENT OF AN ADDITIONAL CONFEREE

Mr. BAKER. Mr. President, I will not take but just a moment, and then I think the Senator from Virginia wishes to be recognized. I hope that we will then get back on the highway bill. Mr. President, I have a request that is cleared by the minority leader.

I ask unanimous consent the Senator from Tennessee [Mr. SASSER] be named as an additional conferee on House Joint Resolution 648.

The PRESIDING OFFICER. Without objection, it is so ordered.

FEDERAL-AID HIGHWAY ACT

The Senate continued consideration of the bill.

Mr. BAKER. Mr. President, I should like to inquire before I yield the floor whether or not the two managers think we can finish this highway bill tonight. The leadership on this side is prepared to ask the Senate to stay a reasonable length of time to do so, if we can finish. But we have been in, for all practical purposes, all night for 2 nights, and I think the burden of fatigue is so greater that we should not do that again. But if we can finish this bill in a reasonable length of time, it is infinitely better to do it tonight than it would be to go over to tomorrow. So if either of the managers can advise me on that, I would be grateful.

Mr. SYMMS. Will the majority leader yield?

Mr. BAKER. Yes.

Mr. SYMMS. I say to the majority leader at this point that we have one amendment from the Senator from California which I believe both sides have accepted. We have an amendment from the distinguished Senator from Pennsylvania that the committee has not accepted, but I think it can be disposed of in a reasonable length of time. And when I say "reasonable," I mean the distinguished Senator from Pennsylvania worked long and hard on this, so it may take an hour or two of time to make his case. He will have to speak to that. The committee would probably respond and I think we can then dispose of it one way or the other. Those are the only amendments of which I know.

Mr. BENTSEN. I might add, if the Senator will yield for just a moment, I believe from the minority side we only have the one amendment to be offered by the distinguished Senator from Arkansas, possibly more, but it should not take much time.

Mr. BUMPERS. The whole thing should not take over 2 minutes.

Mr. WARNER. Mr. President, the Senator from Virginia also has an amendment which I discussed earlier, and it is my intention to bring it up, and I will take a minimum amount of time. I will present the case as I think it is necessary for my colleagues to understand it.

Mr. BAKER. Mr. President, based on this information, it is my impression that we could finish this highway bill by 8:30.

Let me first yield to the Senator from Pennsylvania. He may change my thinking.

Mr. SPECTER. I do not seek to change the thinking of the majority leader.

Mr. BAKER. I thank the Senator.

Mr. President, based on that impression, I am willing to ask the Senate to remain a while. I estimate now that we will be out by aboiut 8:30. I encourage Senators to try to finish this bill as fast as possible. If we can do that, I would not propose to go to the debt limit until the morning.

Mr. BYRD. Mr. President, I say to the distinguished majority leader that I believe it would be agreeable on this side, once we pass the pending business, to go to the debt limit and work on that measure for a while.

Mr. BAKER. Mr. President, I do not have any objection to that. I should like to talk to the chairman of the Finance Committee first.

Once again, I am concerned for the state of health of our Members. I happen to know, by the way, that one of our colleagues on the House side was taken to the hospital today. I believe for exhaustion. We are lucky that we have not had that on this side of the Capitol as well.

So I will consult with the minority leader further on that point as well as with the chairman of the Finance Committee. We certainly can do that if we can get the highway bill out of the way; but if it runs much past 8:30, I will not ask the Senate to stay much later.

ORDER FOR RECESS UNTIL 9 A.M. TOMORROW

Mr. BAKER. Mr. President, we have to stop voting at 6 o'clock tomorrow, so I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

LOSS OF PAY BY FEDERAL EMPLOYEES

Mr. WARNER. Mr. President, while the leadership is on the floor, I should like to address a question with respect to the possible loss of pay to Federal employees occasioned by disruptions in the loss of service today.

We discussed what is known as the ratification of funds hiatus. Perhaps I can have the opportunity to discuss this with the leadership, to incorporate such a provision in the larger continuing resolution, which would take care of this hiatus.

Mr. BAKER. Mr. President, if the Senator will yield, I do not know how that would be done in the continuing resolution which is in conference. I suppose conferees could do that, although it is in neither bill. That would be difficult. I never underestimate the ability of the House, however, to do things they want to do.

I assure the Senator from Virginia that I will try to help him get that done before the Senate goes out.

Mr. WARNER. I thank the majority leader and the minority leader.

FEDERAL-AID HIGHWAY ACT

The Senate continued with the consideration of S. 3024.

AMENDMENT NO. 7057

(Purpose: Donation of Lands)

Mr. WILSON. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from California [Mr. WILSON], for himself and Mr. CRANSTON, proposes an amendment numbered 7057.

Mr. WILSON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Insert in the appropriate place:

Notwithstanding any other provision of law, the fair market value of any lands which have been or in the future are donated or dedicated to the State of California necessary for the right-of-way for relocation and construction of California State Route 73 in Orange County, CA, from its interchange with Interstate Route I-405 to its interchange with Interstate route I-5 shall be included as a part of the cost of such relocation and construction project and shall be credited first toward payment of the non-Federal share of the cost of such relocation and construction project. If the fair market value of such lands exceeds the non-Federal share of such relocation and construction project, then the excess amount, upon the request of the State of California, shall be credited toward the non-Federal share of the cost of any other project on the Federal-aid system in the state of California. To further the purposes of this section and section 323 of title 23, United States Code, any recorded irrevocable offer of dedication or donation of property within the right-of-way shall be considered as part of the State right-of-way acquisition for purposes of this section if such offer is irrevocable and effective no later than such time as the State of California requests final reimbursement for the Federal share. In no case shall the amount of Federal-aid reimbursement to the State of California on account of such relocation and construction project exceed the actual cost to the State for such project.

Mr. WILSON. Mr. President, this amendment has been cleared with both sides. It is an amendment to section 115 of the bill. It is proposed by my colleague, Senator CRANSTON, and myself.

This amendment simply provides that the fair market value of any lands which have been or in the future are donated or dedicated to the State of California necessary for the right-of-way for relocation and construction of California State Route 73 in Orange County, CA, from its interchange with Interstate Route I-405 to its interchange with Interstate Route I-5, shall be included as a part of the cost of such relocation and construction project and shall be credited first toward payment of the non-Federal share of the cost of such relocation and construction project. If the fair market value of such lands exceeds the non-Federal share of such relocation and construction project, then the excess amount, upon the request of the State of California, shall be credited toward the non-Federal share of the cost of any other project on the Federal-aid system in the State of California.

Mr. SYMMS. Mr. President, we have examined the amendment. We accept it on this side of the aisle.

Mr. BENTSEN. Mr. President, the minority encourages these kinds of situations which save money for the taxpayers, and we accept the amendment.

Mr. WILSON. I thank the distinguished managers.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 7057) was agreed to.

Mr. SYMMS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. WILSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 7058

(Purpose: *To amend section 144 of title 23, United States Code, to give States the discretion of using a portion of their bridge replacement funds to replace ferryboat operations)*

Mr. BUMPERS. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Arkansas [Mr. BUMPERS] proposes an amendment numbered 7058.

Mr. BUMPERS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill add the following new section:

SEC. . (a) Subsection (g) of Section 144 of title 23, United States Code, is amended by adding at the end thereof the following new paragraph:

"(3) Notwithstanding any other provision of Section 144 of title 23, United States Code, and any other provision of law, any State or States may, at their option, utilize any of the funds provided them to carry out this section for the construction of bridges to replace ferries, which ferries were in existence on January 1, 1984. The Federal share payable on account of any such highway bridge construction pursuant to this subsection shall be the same as provided for highway bridge replacement or rehabilitation."

This paragraph shall be applicable with respect to funds apportioned each State for the fiscal year ending September 30, 1985, and for subsequent years.

Mr. BUMPERS. Mr. President, this amendment would give States the option of utilizing part of their Federal bridge replacement funds to replace ferryboat operations. The Surface Transportation Assistance Act of 1982 greatly increased Federal funding for bridge replacement and rehabilitation, and my State of Arkansas is taking full advantage of the program by replacing its hazardous and obsolete bridges. In addition to these unsafe bridges, Arkansas still operates four ferries which need to be replaced with bridges. Unhappily, under present interpretation of section 144 of title 23, Federal bridge replacement funds cannot be used to build a bridge to replace ferryboat service.

Continuing ferry operations in many parts of the country is truly undesirable. Ferries are often inconvenient, slow, subject to inclement weather, closed because of high or low water, and routine maintenance. Motorists are subjected to detours when ferries are inoperative, and moreover, ferries pose significant safety risks.

In many ways, a ferryboat operation is often more inefficient and unsafe than an obsolete or deficient bridge. I will remind my colleagues that we created the Bridge Replacement Program to replace or rehabilitate unsafe bridges that cause inefficient travel patterns either because of detours or bottleneck conditions. Specifically, section 144 of title 23 United States Code, states that the program was created to "replace or rehabilitate highway bridges [that are] unsafe because of structural deficiencies, physical deterioration, or functional obsolescence." The four ferry operations in Arkansas meet the criteria of structural deficiencies and functional obsolescence. Only expensive continual maintenance, including 5-year overhauls, prevents the physical deterioration criteria from being met. The cost of operating and maintaining the four Arkansas ferries is approximately $3 million per year. The cost of replacing the ferries with bridges range from $2 million for one of the river ferries to $29 million to replace a ferry that serves a lake.

I have a table which uses statistics on the four Arkansas ferries to illustrate the unreliability of ferries and the resulting inefficient travel that is required when they are not in operation. I ask unanimous consent that the table be printed at this point in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

Name of ferry	Vehicle capacity [1]	Size of barge	Load limit (ton)	Hours of operation	Round trip (minutes)	Accidents (1978–82)	Days closed (1978–82	Indirection (miles)
Guion	6	60′×18′	15	6:30 am to 6:30 pm	15	0	473	36
Moro Bay	6	60′×20′	32	5:00 am to 10:00 pm	15	12	210	15–24
Peel	6	(2)60′×20′	25	Daylight hours, Non-oper./high winds	45	3	39	15–56
Spring Bank	6	60′×20′	36	5:30 am to 9:30 pm	15	4	151	53–69

[1] Autos only; trucks carrying flammable cargo, or other hazardous materials must be ferried individually while other vehicles wait.

Mr. BUMPERS. Mr. President, a ferry boat is similar to a structurally deficient bridge in that it has a limited load capacity. Regulations also require that trucks hauling flammable or other hazardous cargo be transported individually while other vehicles wait. Round trip times on the Arkansas ferries range from 15 minutes to 45 minutes, so I think my colleagues can visualize the terrible traffic tieups as cars wait in line to board the ferries.

A ferry boat is similar to a functionally obsolete bridge because it has an extremely limited vehicle-per-hour capacity due to the barge size and the slowness of the round trip. At most, each Arkansas barge can carry six automobiles per trip. It takes 15 minutes to make a round trip in ideal weather and water conditions, except for the Peel ferry which requires 45 minutes for a round trip. Further evidence of the functional obsolescence is the fact that the many ferries do not operate continuously. None of the Arkansas ferries operate 24 hours a day, and water conditions, either high or low, forced the three river ferries to be closed an average of 30 to 90 days a

year over the past 5 years. Peel ferry on Bull Shoals Lake, operates only during daylight hours, and it has been closed an average of 8 days a year due to high winds and waves on the large lake which lies on the Missouri-Arkansas border. When these ferries are closed, the individual detour length varies from 15 to 70 miles.

Ferries are inherently unsafe due to the loading and unloading operation, which in the case of Arkansas' three river ferries, must take place in moving water. Because of the "V" created by the approach ramp and loading ramp, vehicles are prone to scrape or drag bumpers or trailers. One notable accident involved a trailer which became jammed at this "V"; the barge moved and the trailer was destroyed. Subsequently, longer trailers are not allowed on ferries. With the longer and heavier trailers allowed by the Surface Transportation Assistance Act, State highways with ferry operations have become even more functionally obsolete.

Over the past 5 years, there have been at least 19 accidents reported on the four Arkansas ferries. Including the Arkansas ferries that have been replaced recently, there have been several fatalities. Over the years, there were caused mainly due to motorists being unaware of the abrupt change from a State highway to open water.

Mr. President, my colleagues should understand that the purpose of this amendment is consistent with Congress' intent when it increased funding for bridge replacement and rehabilitation. This amendment is not creating a new category of funding. It is simply recognizing the fact that certain bridges and certain ferry boat operations meet the criteria established by Congress to qualify for section 144 funds. I urge my colleagues to support this amendment.

Mr. SYMMS. Mr. President, we have examined the amendment. The Senator makes a very good point. The majority accepts the amendment.

Mr. BENTSEN. Mr. President, the manager for the minority has examined the amendment of the distinguished Senator from Arkansas. I think it is a substantial contribution and a good amendment. We have no objection.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 7058) was agreed to.

Mr. BENTSEN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. SYMMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 7059

(Purpose: To authorize appropriations for a highway demonstration project in the vicinity of Fort Smith, Arkansas. The project would widen a segment of the Federal aid urban system, and would improve signalization on such segment)

Mr. BUMPERS. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Arkansas [Mr. BUMPERS] proposes an amendment numbered 7059.

Mr. BUMPERS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill add the following new section:

Sec. . (a) Notwithstanding any other provision in this bill, the Secretary of Transportation is authorized to carry out a highway project to demonstrate the economic growth and development benefits of widening a segment of the federal-aid urban system connecting a community college and a large commercial center in the vicinity of Fort Smith, Arkansas, and of improving traffic signalization on such segment.

(b) There are hereby authorized to be appropriated to carry out this section, out of the Highway Trust Fund (other than the Mass Transit Account), not to exceed $8,500,000 for the fiscal year ending September 30, 1985.

(c) Funds authorized by this section shall be available for obligation in the same manner and to the same extent as if such funds were apportioned under chapter 1 of title 23, United States Code, and such funds shall remain available until expended.

(d) Notwithstanding any other provisions of law, the project authorized by this section shall not be subject to any obligation limitation.

(c) Notwithstanding the provision of section 120(m) of title 23, United States Code, the Federal share payable for the project authorized by this section shall be 100 per centum of the total cost of the project.

Mr. BUMPERS. Mr. President, this deals with an amendment to remedy and alleviate an intersection problem in Fort Smith, AR, which has the highest traffic count of any intersection in the entire State. It is a situation which the city and the State are absolutely incapable of dealing with.

This amendment would provide Federal funds for 2.3 miles of widening that intersection on one side.

To give you some idea of what I am talking about, we have a community college there that is being served at this intersection which has had a 30-percent growth rate in the last 7 or 8 years. We have the traffic camp there because it serves one of the biggest, if not the biggest, central mall shopping centers in the entire State. We have an average of—I forgot exactly how many accidents a year there, but just damage to the automobiles that are involved in accidents in that intersection run over $300,000 a year. I could belabor this point much further.

I simply want to say that this is one of the most colossal traffic problems in our State, that we do not have the ability to deal with right now and are not going to any time in the foreseeable future.

Mr. President, this problem involves monumental traffic tie-ups in Fort Smith, AR; the State's second largest city. Traffic through Fort Smith's busiest commercial section moves at a crawl; accidents are frequent; property damage is heavy; and economic growth in the area is adversely affected. Authorization of funding for a highway demonstration project in this area is imperative, and I think if my colleagues will listen to an explanation of this proposed project, they will agree that it is extremely deserving of our consideration. Some of my colleagues may already be somewhat familiar with what has come to be known as the "Waldron Road project" because this is not the first time that I have discussed it in this body.

Last March when the Senate debated H.R. 4957, the 6-month interstate cost estimate approval I withheld an amendment that would have authorized $8.5 million in funding for widening and improving signalization of Waldron Road in Fort Smith, AR. The Senate needed to pass H.R. 4857 in a timely fashion, and it was feared that even one amendment would be a break in the dam that would open the measure to countless other amendments from Senators who wished to authorize important projects in their States. I withheld my amendment with the understanding that in the near future the Environment and Public Works Committee would report a bill to the floor that would be subject to amendment. My good friend, the distinguished senior Senator from West Virginia, assured me that such a bill would be forthcoming, and he invited me to testify in support of the Waldren Road project when the Environment and Public Works Committee was writing this bill.

I testified before the transportation subcommittee on March 20 and made the case for Federal assistance to the Waldron Road project. This crucial project would improve the major north-south route in Fort Smith, AR. Specifically, the project would involve acquiring an 80-foot right-of-way along two major arterial roads—Waldron Road and Grand Avenue; relocating families and businesses which are affected by the acquisition; relocating necessary utilities; widening Waldron Road and Grand Avenue to four, and in some places five, lanes; and installing necessary signalization. The total length of the improvements is some

2.03 miles. The cost to complete the project is $8.5 million.

Unhappily the Environment and Public Works Committee did not include Waldron Road in its list of projects to be authorized. Instead, only 14 projects were authorized—now we can stand up here and debate whether the Federal Government should be in the business of building roads in local communities, but the truth is that the Federal Government has been in that business for some time and continues under the terms of the legislation before us to assist certain States and local governments to finance highway projects. I am here today to convince my colleagues that Waldron Road is just as deserving of our assistance, if not more so, than any of the other projects for which the committee has chosen to authorize funding.

First, Waldron Road serves the area with the highest concentration of commercial development in Fort Smith. I am sure that my colleagues are familiar with the typical pattern of suburban development when stores and offices from a city's old downtown move to outlying areas.

That is what has happened in Fort Smith, and the result is an area so congested with automobile traffic that it is nearly impossible to enter Waldron Road from either the community college or the businesses and shopping centers that line the route. Two more shopping centers are under construction in the area, which will add to the congestion. Waldron Road also intersects Grand Avenue, which is connected to Interstate 540 by an interchange. Traffic entering and exiting Interstate 540 at Grand Avenue causes additional traffic problems in the area. The intersection of Waldron Road and Rogers Avenue, also known as Arkansas State Highway 22, is the most congested intersection in Fort Smith, and probably the most congested in the State of Arkansas.

Another factor contributing to the traffic congestion around Waldron Road is Westark Community College. From 1975 to 1983, enrollment in the community services program increased from 500 to 12,000, or a phenomenal 2,300 percent. During the past 5 to 10 years, very few improvements to Waldron Road have been made for lack of city funds. I think you can see why Waldron Road is so congested. With the proposed improvements, it is fully anticipated that the traffic problem will be alleviated to a great extent.

I can personally attest to the serious nature of the traffic problems in the Waldron Road corridor. My home is only a few miles outside Fort Smith, and the Waldron Road area is where we must go to do our shopping. The congestion is worse than anything I have ever experienced in the Washington area.

In the Waldron Road corridor between 1981 and June 1984 there were 249 traffic accidents resulting in 62 personal injuries and $270,340 in property damage. I ask unanimous consent that the city of Fort Smith official traffic and accident records be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SUMMARY

	Number of accidents	Personal injuries	Property damage
Waldron Road (Euper Lane to Grand Avenue)	214	58	$241,740
Grand Avenue (Waldron Road to I-540)	35	4	$28,600
Total	249	62	$270,340

Traffic count on Friday, July 27, 1984 at Waldron, north of Euper Lane, both north and south bound.

Time	*Count*
0100	177
0200	127
0300	81
0400	38
0500	23
0600	17
0700	42
0800	85
0900	123
1000	105
1100	190
1200	464
1300	1,153
1400	1,102
1500	886
1600	1,133
1700	1,254
1800	1,257
1900	1,049
2000	1,080
2100	1,084
2200	670
2300	397
2400	270
Total	12,807

Mr. BUMPERS. Mr. President, I am sure that other Senators know of deserving projects in their States too, but there is something unique about Waldron Road that I hope my colleagues will consider. The city of Fort Smith is simply not eligible for sufficient funds under existing Department of Transportation programs to undertake the necessary improvements to Waldron Road. The project represents 20 to 30 percent of the entire city budget—an amount that the city cannot be expected to commit to a single project. Fort Smith would be forced to use every penny of its urban high density funds for a period of 5 years to complete this project, and other important needs would go unmet. Nevertheless, the project is vital to the safety and economic well-being of the city and surrounding areas.

The House of Representatives recognized the urgency of the problem when it authorized $8.5 million for the Waldron Road project in H.R. 5504, the House version of the legislation we are considering. Last year, the House also voted to authorize the project when it passed H.R. 3103, the Surface Transportation Technical Amendments Act.

Mr. President, if any project is deserving of this body's special consideration, it is the Waldron Road project. I urge my colleagues to support this amendment.

Mr. STAFFORD. Mr. President, I have conferred earlier with the most able Senator from Arkansas with respect to this particular amendment.

The amendment which he has offered covers material which is in the House bill on which we are going to go to conference with the House of Representatives if we can get this bill out of here.

I can assure the Senator if he would not press that amendment here, it will receive the most serious consideration on the part of the Senate conferees when we get to conference and we are well aware of the necessity of getting this matter taken care of.

Mr. BUMPERS. I thank the Senator from Vermont. I take him at his word. He is a man of immense integrity. I know he will do everything he can.

With that understanding, and I know the constraints this committee is under, and I do not want to unduly burden the Senator or this bill, I appreciate his statement. I honor it.

Based on that, Mr. President, I withdraw my amendment.

Mr. STAFFORD. I appreciate the courtesy and cooperation of the very able Senator from Arkansas.

Mr. RANDOLPH. Mr. President, before the Senator withdraws the amendment, he has discussed that not just tonight but on prior occasions.

Mr. BUMPERS. I have testified before the Senator's committee on that.

Mr. RANDOLPH. That is right, and we remember the equities that he expressed.

I am sure in conference hopefully we can accommodate his approach.

Mr. BUMPERS. I thank the Senator from West Virginia.

Mr. BENTSEN. Mr. President, I wish to add to the comments of the Senator from West Virginia that we will go into that conference and I think he made a powerful argument as for the necessity and need, and we shall do whatever we possibly can in our dealings with the House of Representatives.

Mr. BUMPERS. I thank the Senator very much, and I withdraw the amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

AMENDMENT NO. 7060

(Purpose: To authorize appropriations for a highway demonstration project on U.S. Highway 71 between Alma, Arkansas and Bella Vista, Arkansas. The project would increase the number of lanes on this segment of the route from two to four)

Mr. BUMPERS. Mr. President, I send one final amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Arkansas [Mr. BUMPERS] proposes an amendment numbered 7060.

Mr. BUMPERS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill add the following new section:

(a.) Notwithstanding any other provisions in this bill, the Secretary of Transportation is authorized to carry out a highway project in the State of Arkansas on a segment of a north-south highway on the Federal-aid primary system from the vicinity of the junction of Interstate routes I-40 and I-540 to the boundary between the States of Arkansas and Missouri in the vicinity of Bella Vista, Arkansas, for the purpose of demonstrating methods of improving highway safety and accelerating highway construction. Such project shall increase the number of lanes on such segment from two to four.

(b.) There are hereby authorized to be appropriated to carry out this section out of the Highway Trust Fund (other than the Mass Transit Account), not to exceed $10,000,000 for the fiscal year ending September 30, 1985, and $15,000,000 for the fiscal year ending September 30, 1986.

(c.) Funds authorized by this section shall be available for obligation in the same manner and to the same extent as if such funds were apportioned under Chapter 1 of title 23, United States Code, and such funds shall remain available until expended.

(d.) Notwithstanding any other provision of law, the project authorized by this section shall not be subject to any obligation limitation.

(e) Notwithstanding the provision of section 120(m) of title 23, United States Code, the Federal share payable for the projet authorized by this section shall be 100 per centum of the total cost of the project.

Mr. BUMPERS. Mr. President, this is another amendment in the same vicinity.

I have an interest in both of these amendments not only because they are very important but because they are very near my hometown. I have a personal keen appreciation for what we are talking about here on both the amendment I just withdrew and this one.

But I wish to point out that Highway 71—which the Senator from Texas has probably traversed a few times when the University of Texas came to Fayetteville to play the Razorbacks—it is absolutely a deathtrap, especially on football weekends, but it is a deathtrap anytime.

We undertook, in our limited way with limited means, to do something about this in the State of Arkansas, but again we will never be able to handle this project alone.

This amendment would provide funds for a new Highway 71.

Incidentally, our State highway department rates the level of service in Highway 71. They rate the level of service on all roads between A and F, A being the best and F being the worst. Highway 71, one of the most heavily traveled roads in our State, has a D rating. It is just one steep grade after another for 90 miles. The average speed on those grades is 10 to 20 miles per hour, and it serves an average of 11,000 vehicles a day.

When you get behind a car on that road, you are just trapped. You can imagine, as I said, just on football weekends alone, what this is like. Mr. President, incidentally, I wish to point out one other thing. Fatal accidents on this highway are five times greater than the statewide average for 100 million vehicle-miles traveled.

I hope the members of the committee will bear that in mind. The fatality rate is five times greater than all the other highways in the State put together.

Mr. President, my State desperately needs Federal assistance to widen the major north-south highway through the Ozark Mountains. U.S. Highway 71 is the most important Federal-aid primary road in northwest Arkansas. It provides to a mushrooming population in the Ozark resort region of Arkansas and Missouri the primary access to Interstate I-40, which bisects Arkansas between Fort Smith in the west and Memphis, TN, in the east. Arkansas' capital, Little Rock, is roughly in the center of the State at the intersection of Interstates I-40 and I-30.

The Ozark region is the fastest growing area in Arkansas and one of the fastest growing regions in the country. Between 1970 and 1980, the permanent population of the four counties in which Highway 71 is located increased from 232,800 to 310,780. The projected population in 1990 is 382,231. By the year 2004, it is estimated that these four counties alone will have 551,900 inhabitants. Visitors to the region combined with residents of adjacent counties account for many times those numbers. The University of Arkansas' main campus at Fayetteville is also served by Highway 71. As a parent, I can tell my colleagues that I have worried every time my children have traveled that route.

Highway 71 serves a very mountainous area, making travel difficult at best in good weather and very hazardous in rain, fog, and ice. The Arkansas Highway and Transportation Department rates the level of service on Highway 71 "D," on a scale of "A" to "F"—"A" being the best and "F" the worst. The highway is one steep grade after another for approximately 90 miles. The average speed on those grades is 10 to 20 miles per hour. Highway 71 serves an average of 11,000 vehicles per day. The average number of vehicles served on a comparable U.S. highway in Arkansas is 3,600; 21 percent of the vehicles using Highway 71 on a given day are heavy trucks. This last statistic helps account for the hair-raising accident figures on the road.

Fatal accidents on Highway 71 are five times the statewide average of 1.9 per 100 million vehicle miles traveled. Between 1980 and 1982 there were 8 fatal accidents causing 16 deaths.

The Arkansas Highway and Transportation Department proposes to widen Highway 71 from two to four lanes. Highway 71 is already eligible for interstate 4-R funds, as a result of our passage of H.R. 4957 last year. With the combination of Interstate 4-R funds, regular Federal-aid highway funds, State moneys and the assistance provided by this amendment, the State of Arkansas will be able to carry out the needed improvements to Highway 71. This amendment will provide funds for preliminary engineering, design, right-of-way acquisition, and relocation activities in connection with the project.

The House of Representatives recognized the importance of this project when it authorized $10 million in fiscal year 1985 and $15 million in fiscal year 1986 for Highway 71 in H.R. 5504, the House-passed version of the legislation we're considering. Mr. President, if any project is deserving of this body's special consideration, it is the Highway 71 project. I urge my colleagues to support this amendment.

Mr. PRYOR. Mr. President, I support the amendment of my colleague [Mr. BUMPERS] regarding Highway 71 and I support S. 2527, the Federal-Aid Highway Act of 1984. This legislation is critical to the States, which are in danger of seeing badly needed highway funds withheld, and the completion of the Interstate System by the year 1990 is in jeopardy without it. The Congress must approve an interstate cost estimate before any of the anticipated $5 billion in the highway trust fund can be released to the States. This is money we are all paying into the fund everytime we fill our cars with gasoline.

The House version of this legislation contains language that would authorize the State of Arkansas to utilize funds apportioned to it under section 104(b)(5)(A) to title 23, U.S.C., the planning and design of U.S. Route 71 between Interstate 40 and the Arkansas-Missouri border. In simple lan-

guage, Mr. President, this would allow Interstate 71 to be redesigned to meet interstate standards using interstate 4-R funds. This is appropriate in view of the fact that the State of Arkansas has essentially completed its interstate construction, and stands to pay more in gasoline taxes than it receives from the trust fund for construction.

Highway 71 is one of the most heavily traveled and most dangerous routes in Arkansas. The approximately 45-mile route from Alma to Fayetteville and Springdale is a corridor of commercial traffic and university students and faculty that is extremely mountainous and crooked. This northwest corner of Arkansas is one of the fastest growing regions of our country, and it needs modern advances in transportation to continue this growth. The cities of Fort Smith, Van Buren, Alma, Fayetteville, Springdale, Rogers, and Bentonville would be served by this project, as well as areas of Missouri that need a safer, more expeditious route.

This project has been a priority shared by Congressman JOHN PAUL HAMMERSCHMIDT, and I have been pleased to work with my distinguished House colleague on this very important matter. As the second most senior minority member of the House Public Works and Transportation Committee, I am sure that he will join me in calling the conference committee's attention to this subject and continuing our efforts to see this project become a reality.

Mr. President, I wholeheartedly and enthusiastically support this provision of the bill, and I ask for the support of all of the Senate conferees on this legislation.

Mr. STAFFORD. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. STAFFORD. Mr. President, has the able Senator offered an amendment?

The PRESIDING OFFICER. There is an amendment pending.

Mr. STAFFORD. I thank the Chair.

Might I ask the distinguished Senator from Arkansas is this item also part of the House bill?

Mr. BUMPERS. The Senator is correct. It is in the House bill.

Mr. STAFFORD. We would make the same assurances, as far as I can make assurances for the committee.

Mr. RANDOLPH. Mr. President, we make the assurance also on both sides of the aisle.

Mr. BUMPERS. Mr. President, I appreciate the assurances and both floor managers are honorable men of great integrity. I accept that, and I know they will make a good-faith effort to try to keep these amendments.

I cannot overemphasize the importance of those amendments to my State, from the death standpoint, from the commerce standpoint, from an economic standpoint.

I accept those assurances, and with those assurances, Mr. President, I withdraw my amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

AMENDMENT NO. 7061

(Purpose: To amend title 23, United States Code, to modify the apportionment formula for resurfacing, restoring, rehabilitating, and reconstructing the Interstate System)

Mr. SPECTER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Pennsylvania [Mr. SPECTER] for himself and Mr. HEINZ, Mr. DODD, Mr. D'AMATO, and Mr. BRADLEY proposes an amendment numbered 7061.

Mr. SPECTER. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

After section 139, insert the following new sections:

INTERSTATE RESURFACING FORMULA

SEC. . (a) Subparagraph (B) of section 104(b)(5) of title 23, United States Code, is amended to read as follows:

"(B)(i) Subject to the provisions of clause (iii), for resurfacing, restoring, rehabilitating, and reconstructing the Interstate System.

"One-third in the ratio that diesel fuel used by motor vehicles on highways in each State bears to the total of diesel fuel used by motor vehicles on highways in all States; one-third in the ratio that lane miles on the Interstate routes designated under sections 103 and 139(c) of this title (other than those on toll roads not subject to a Secretarial agreement provided for in section 105 of the Federal-Aid Highway Act of 1978) in each State bears to the total of all such lane miles in all States; and one-third in the ratio (not to exceed 10 per centum) that the total cost to improve deficient bridges on the Interstate System in each State bears to the total cost to improve deficient bridges on the Interstate System in all States. Notwithstanding the preceding sentence, no State shall receive less than 1 per centum of the total apportionment made by this subparagraph for any fiscal year.

"(ii) For purposes of clause (i), the total cost to improve deficient bridges shall be determined by the square footage of bridges on the Interstate System, including bridges on toll Interstate highways, eligible for replacement and rehabilitation multiplied by the respective unit price on a State-by-State basis, as determined by the Secretary under section 144 of this title.

"(iii) Any State which will have amounts allocated pursuant to the 85 per centum minimum allocation provision of section 157(a) as a result of clause (1) shall have its apportionment for purposes of this subparagraph based upon the provisions of clause (i) or (iv), whichever is greater.

"(iv) Pursuant to clause (iii) of this subparagraph, if applicable, for resurfacing, restoring, rehabilitating, and reconstructing the Interstate System:

"55 per centum in the ratio that lane miles or the Interstate routes designated under sections 103 and 139(c) of this title (other than those on toll roads not subject to a Secretarial agreement provided for in section 105 of the Federal-Aid Highway Act of 1978) in each State bears to the total of all such lane miles in all States; and 45 per centum in the ratio that vehicle miles traveled on lanes on the Interstate routes designated under sections 103 and 139(c) of this title (other than those on toll roads not subject to a Secretrial agreement provided for in section 105 of the Federal-Aid Highway Act of 1978) in each State bears to the total of all such vehicle miles in all States. Notwithstanding the preceding sentence, no State excluding any State that has no interstate lane miles shall receive less than one-half of 1 per centum of the total apportionment made by this subparagraph for any fiscal year."

(b) The amendments made by subsection (a) shall apply to fiscal years beginning on or after October 1, 1984.

Mr. SPECTER. Mr. President, I sent this amendment to the desk on behalf of Senators HEINZ, DODD, D'AMATO, BRADLEY, and myself, and it is an identical amendment to the bill which was introduced as S. 1498 cosponsored by Senators HEINZ, DODD, BRADLEY, myself, KENNEDY, LAUTENBERG, COHEN, SASSER, and D'AMATO.

Mr. President, at the outset, I think it important to note my continuous availability since the continuing resolution was concluded in the latter stages of the session of the Senate, and I believe it is important that all of us be prepared to proceed promptly with our amendments. I really believe that it is necessary all the time to dispatch the business of the Senate, but for the record I wish to state that I have been available to proceed with this amendment since the last 3 hours, since the continuing resolution was concluded.

Now, on to the merits of the amendment which we are proposing here. This amendment would change the committee formula for allocation of funds under the interstate reconstruction, rehabilitation, restoration, and resurfacing approach known as the 4-R. That is, reconstruction, rehabilitation, restoration, and resurfacing.

The purpose of this program as set forth by the Department of Transportation is to facilitate interstate commerce, to maintain the system, and to provide for military movement during a period of national defense.

The formula which has been established, Mr. President, takes into account only two factors, lane miles and vehicles. And as such, in my judgment, it is totally deficient in coming to grips with the realities of what a formula should consider.

At an absolute minimum, a formula should consider truck traffic and weather. It should consider truck traffic because one truck, one 40-ton

truck, which is the common occurrence on the highway system in the United States, does as much damage to roads as 9,600 cars. There is a great disparity in truck traffic in the United States; yet, when one truck does as much damage as 9,600 cars, this formula treats that truck the same as any car, which is an egregious inequity and leads to a major distortion in the allocation of funds to the detriment of some States and obviously to the corollary benefit of other States.

The formula proposed in this amendment seeks to correct that gross inequity by taking into realistic account the damage done to trucks. That computation is based upon diesel fuel. Diesel fuel consumption is an accurate indicator for the measurement of truck traffic.

The extent of the vehicle miles traveled can be determined by the consumption of diesel fuel, and that factor is specified during the course of this amendment.

The other factor which is admitted is the factor of weather, and it is obvious that in States which are plagued by heavy snows, causing substantial salting, that there will be a tremendous difference in wear and tear to the highway system.

Bridge needs are an accurate indicator as to the weather factor. With the bridges being measured in terms of wear and tear by Federal testing systems, the bridge inspection program, which is carried out on a 2-year basis, measures the wear and tear to bridges. This is an accurate indicator of the impact of the weather. Here again the weather factor is totally omitted in the formula set forth in the bill which is on the floor today. An the weather factor creates another enormous and gross distortion leading to inequities in the allocation of funds under the higher bill.

There are certain hold harmless provisions which are set forth in this bill in order to provide greater equity across the board as it impacts specifically on eight States. The hold harmless provision ensures that no State with 85 percent minimum status will receive less in the interstate 4–R category as a result of this formula change than under current law. Because of changes in the Federal Highway Program implemented in the Surface Transportation Assistance Act of 1981, States which receive less than they contribute to the highway trust fund are guaranteed a supplemental allocation to ensure that they receive at least 85 percent of their contribution.

This amendment would thereby protect eight States from losing any funding in the interstate repair category, those States being California, Michigan, Missouri, Ohio, Oklahoma, Oregon, South Carolina, and Texas.

As a matter of completeness, let me say that this provision will require an additional outlay of approximately $273 million in fiscal year 1985 and $308 million in fiscal year 1986 from the highway trust fund. Nevertheless, the Congressional Budget Office's recently completed analysis of the financial condition of the trust fund shows a balance of $10.2 billion at the end of this year and $8.6 billion at the close of fiscal year 1986, so that the total cost of this hold harmless provision, while not inconsequential, is well within the range of appropriateness for the use of these available funds.

Mr. President, the formula which is being suggested here today by this amendment will benefit some 25 States, Puerto Rico, and the District of Columbia, will provide a lesser receipt for some 17 States and 8 States will be held harmless, for a total of 52 entities considered under this allocation formula.

Mr. President, I ask unanimous consent that two tables be printed in the RECORD which specify the consequences on the 50 States, the territory and the District for the years 1986, fiscal year 1986 and fiscal year 1987.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

COMPARISON OF CURRENT SENATE FORMULA FISCAL YEAR 1986 I–4R APPORTIONMENT WITH ESTIMATED APPORTIONMENT OF $2.8 BILLION UNDER S. 1498 BASED ON ⅓ DIESEL FUEL, ⅓ LANE-MILES, AND ⅓ INTERSTATE BRIDGE P&R COSTS AND 1 PERCENT MINIMUM

[In thousands of dollars]

State	Fiscal year 1986		Gain/loss	Hold harmless	New total S. 1498
	I–4R table S. 1985	I–4R S. 1498			
Alabama	48,111	34,922	−13,189		
Alaska	23,543	27,581	4,038		
Arizona	58,863	33,916	−24,947		
Arkansas	31,600	46,040	14,440		
California	261,292	139,037	−122,875	122,875	261,912
Colorado	53,398	32,395	−21,003		
Connecticut	35,636	98,686	63,050		
Delaware	13,791	27,581	13,790		
District of Columbia	13,791	27,581	13,790		
Florida	93,662	97,419	3,757		
Georgia	95,365	63,660	−31,705		
Hawaii	13,791	27,581	13,790		
Idaho	25,896	27,581	1,685		
Illinois	100,986	105,675	4,689		
Indiana	62,711	72,423	9,712		
Iowa	38,392	36,254	−2,138		
Kansas	32,448	50,506	18,058		
Kentucky	51,591	34,026	−17,565		
Louisiana	48,328	42,849	−5,479		
Maine	13,791	27,581	13,790		
Maryland	41,222	38,095	−3,127		
Massachusetts	34,981	39,783	4,802		
Michigan	91,200	52,367	−38,833	38,833	91,200
Minnesota	52,003	44,280	−7,723		
Mississippi	35,548	27,885	−7,663		
Missouri	77,221	55,609	−21,612	21,612	77,221
Montana	44.025	36,709	−7,316		
Nebraska	24,619	27,581	2,962		
Nevada	24,738	27,581	2,843		
New Hampshire	13,791	27,581	13,790		
New Jersey	35,030	113,859	78,829		
New Mexico	45,340	31,430	−13,910		
New York	99,324	135,396	36,072		
North Carolina	47,010	122,541	75,531		
North Dakota	23,190	27,581	4,391		
Ohio	114,261	88,981	−25,280	25,280	114,261
Oklahoma	41,499	39,179	−2,320	2,320	41,499
Oregon	42,192	30,617	−11,575	11,575	42,192
Pennsylvania	77,544	119,520	41,976		
Rhode Island	13,791	27,581	13,790		
South Carolina	43,292	30,870	−12,422	12,422	43,292
South Dakota	27,694	27,581	−113		
Tennessee	73,290	89,831	16,541		
Texas	213,331	174,914	−38,417	38,417	213,331

COMPARISON OF CURRENT SENATE FORMULA FISCAL YEAR 1986 I–4R APPORTIONMENT WITH ESTIMATED APPORTIONMENT OF $2.8 BILLION UNDER S. 1498 BASED ON ⅓ DIESEL FUEL, ⅓ LANE-MILES, AND ⅓ INTERSTATE BRIDGE P&R COSTS AND 1 PERCENT MINIMUM—Continued

[In thousands of dollars]

State	Fiscal year 1986		Gain/loss	Hold harmless	New total S. 1498
	I–4R table S. 1985	I–4R S. 1498			
Utah	42,132	27,581	−14,551		
Vermont	14,228	27,581	13,353		
Virginia	74,229	45,126	−29,103		
Washington	61,975	44,241	−17,734		
West Virginia	20,946	27,581	6,635		
Wisconsin	39,839	40,214	375		
Wyoming	37,259	27,581	−9,678		
Puerto Rico	13,791	27,581	13,790		
Total	2,758,141	(1)		273,334	

[1] Total illegible on copy.

Note.—27 win, 17 lose, and hold harmless.

COMPARISON OF CURRENT SENATE FORMULA FISCAL YEAR 1987 I–4R APPORTIONMENT WITH ESTIMATED APPORTIONMENT OF $3.15 BILLION UNDER S. 1498 BASED ON ⅓ DIESEL FUEL, ⅓ LANE-MILES, AND ⅓ INTERSTATE BRIDGE P&R COSTS AND 1 PERCENT MINIMUM

[In thousands of dollars]

State	Fiscal year 1987		Gain/loss	Hold harmless	New total, S. 1498
	I–4R, table S. 1986	I–4R, S. 1498			
Alabama	54,125	39,287	−14,838		
Alaska	26,486	31,029	4,543		
Arizona	66,221	38,155	−28,066		
Arkansas	35,550	51,795	16,245		
California	294,651	156,417	−138,234	138,234	294,651
Colorado	60,073	36,444	−23,629		
Connecticut	40,091	111,021	70,930		
Delaware	15,515	31,029	15,514		
District of Columbia	15,515	31,029	15,514		
Florida	105,370	109,597	4,227		
Georgia	107,285	71,617	−35,668		
Hawaii	15,515	31,029	15,514		
Idaho	29,133	31,029	1,896		
Illinois	113,610	118,884	5,274		
Indiana	70,549	81,476	10,927		
Iowa	43,191	40,786	−2,405		
Kansas	36,504	56,819	20,315		
Kentucky	58,040	38,279	−19,761		
Louisiana	54,369	48,205	−6,164		
Maine	15,515	31,029	−15,514		
Maryland	46,375	42,857	−3,518		
Massachusetts	39,354	44,756	5,402		
Michigan	102,600	58,913	−43,687	43,687	102,600
Minnesota	58,504	49,815	−8,689		
Mississippi	39,992	31,371	−8,621		
Missouri	86,874	62,560	−24,314	24,314	86,874
Montana	49,528	41,298	−8,230		
Nebraska	27,696	31,029	3,333		
Nevada	27,830	31,029	3,199		
New Hampshire	15,515	31,029	15,514		
New Jersey	39,409	128,091	88,682		
New Mexico	51,008	35,359	−15,649		
New York	111,740	152,320	40,580		
North Carolina	52,887	137,859	84,972		
North Dakota	26,089	31,029	4,940		
Ohio	128,544	100,103	−28,441	28,441	128,544
Oklahoma	46,687	44,077	−2,610	2,610	46,687
Oregon	47,466	34,444	−13,022	13,022	47,466
Pennsylvania	87,236	134,460	47,224		
Rhode Island	15,515	31,029	15,515		
South Carolina	48,704	34,729	−13,975	13,975	48,704
South Dakota	31,156	31,029	−127		
Tennessee	82,451	101,060	18,609		
Texas	239,997	196,779	−43,218	43,218	239,997
Utah	47,399	31,029	−16,370		
Vermont	16,007	31,029	15,022		
Virginia	83,507	50,767	−32,740		
Washington	69,722	49,771	−19,951		
West Virginia	23,564	31,029	7,465		
Wisconsin	44,819	45,241	422		
Wyoming	41,916	31,029	−10,887		
Puerto Rico	15,515	31,029	15,514		
Total	3,102,914	3,102,905		307,501	

Note.—27 win, 17 lose, and 8 hold harmless.

Mr. SPECTER. Mr. President, this formula has been very carefully analyzed in conjunction with standards which have been established by the American Association of State Highway officials and represents an effort to come to grips with the problems of repair of our national highway system in a more fair and equitable manner.

Mr. President, at this time I yield the floor to hear what considerations may be advanced by others and may well offer some rebuttal or supplemental arguments on this amendment.

I yield the floor.

Mr. SYMMS. Mr. President, I appreciate the sincerity, the hard work and the effort that the Senator from Pennsylvania has put into his amendment. He has testified before our committee and we have looked at his amendment. I just have to say that as much as I admire my colleague from Pennsylvania there is no way that we in this committee are able to accept the amendment.

I would like to give you a little background of how we got where we are.

The Interstate 4-R formula has received a considerable amount of attention over the last few years as it has become a major Federal-aid category. Originally the formula was based on 75 percent lane miles and 25 percent vehicle-miles traveled [VMT]. The formula was reviewed in 1981 and changes were made to reflect to a greater extent the use of the Interstate System. Beginning with fiscal year 1983, the Interstate 4-R funds were apportioned on the basis of 55 percent lane-miles and 45 percent VMT.

In 1982, the Subcommittee on Transportation conducted a lengthy review of the Federal-Aid Highway Program and all the apportionment formulas. The committee did not recommend any changes to this formula. The House did include a formula change based on one-third VMT, one-third gasoline used and one-third diesel fuel used with no minimum apportionment. This formula did not recognize the needs of large, sparsely populated or smaller rural States at all. This change was rejected during the conference on the STAA of 1982.

I might just say that there was a great deal of agreement by many Senators that, in their voting for the additional nickel a gallon gas tax, we were going to have a formula that would basically sustain us through this next 4 years while this additional fuel use tax is being paid.

The STAA of 1982 did ask the Department of Transportation to study alternative apportionment formulas for the Interstate 4-R System and other factors which might be used in the formula. The Secretary submitted this report to Congress on December 20, 1983. The study concluded that no compelling case can be made for changing the Interstate 4-R formula at this time. No other formula which has been proposed, including the one proposed by my distinguished colleague from Pennsylvania [Mr. SPECTER], correlates as highly with good formula criterion as the current formula. The appropriate time to again review this formula is in 1986 when the entire Federal-Aid Highway Program must be reauthorized.

The House bill, H.R. 5504, does contain a major change to the 4-R formula. This formula is based on one-third VMT, one-third gasoline usage and one-third diesel usage with no minimum apportionment. This formula would result in 29 States losing 4-R funds. For some States, it would mean cutting the funds they now receive in half. This is totally unacceptable and would make it impossible for many States to adequately maintain their Interstate System.

As a matter of fact, I think the State of Montana has the most amount of miles of interstate and the least amount of people. It would be entirely impossible for them to maintain the interstate and defense system if, in fact, this proposed formula were put into effect.

Mr. President, the formula change offered today by the Senator from Pennsylvania concerns me greatly. In its current form, this formula even benefits slightly my own State of Idaho. However, I think all Senators should note that the only reason it does so is because it contains the 1 percent minimum.

Now, My colleagues, like Senator RANDOLPH, Senator BENTSEN, Senator STAFFORD, and others, who have been on these conferences longer than this Senator, can tell you if the Senate went to conference with the other body, we would find it virtually impossible to come back with a 1-percent minimum allocation. We have done very well to have a half-percent minimum allocation. So all those who may think your State is getting more from Specter, after conference you will probably not be doing so well.

There has been a long tradition of minimum allocations to ensure that each State has a viable highway program, and I do support that concept. But I think it is unrealistic to believe that a 1-percent minimum can be maintained for the 4-R formula when the House has no minimum, and current law is one-half of 1 percent. With either a one-half-percent minimum or no minimum, the formula that Senator SPECTER has offered us today would benefit from this formula only because the minimum is increased from one-half percent to 1 percent. For those Senators who are interested, the ones who would increase with this bait that is being offered on this amendment of 1-percent minimum allocation, which would be very difficult to hold in a conference, would be Alaska, Delaware, Hawaii, Idaho, Maine, Nebraska, Neveda, New Hampshire, North Dakota, South Dakota, and Vermont.

I think it is important that we examine the factors that are in the formula. The Specter formula would be based on a one-third interstate lane-miles, one-third statewide diesel fuel consumption, one-third bridge needs on the Interstate System. This formula does recognize the importance of an area by including lane-miles. However, the two factors that should be of concern from all Senators who come from large States with large geographical areas and smaller populations, first, is diesel consumption statewide may have very little to do with the usage of the Interstae system. Data is now available on a State-by-State basis, however, according to the 4-R study. The Federal Highway Administration has reservations about the reliability of this data that has been provided by the States. States tax diesel fuel at the retail rather than at the distributor level. This leaves more room for incorrect information. The reporting systems vary among the States and there is no guarantee that the diesel fuel claimed by one State is actually used in that State. Second, the formula would be based on one-third on the bridge needs. While some States do have major bridge repair replacement needs, I do not think it is a good policy to reward the States for maintaining the bridges and to penalize those States who have not made an effort to keep their bridges in good repair. The stated purpose of using bridge needs is to reflect weather damage, and the Federal Highway Administration has found that there is no correlation between bridge need and weather.

Mr. President, our primary objective must be to approve the entire State cost estimate and the entire State substitute cost estimate. So the $7 billion can be apportioned to every State in the country. Any formula changes at this time will delay and jeopardize the release of these funds. I am sorry that I am not able to accommodate my good friend from Pennsylvania. I am sorry if he feels that we have not given him every consideration. I have the highest respect for the Senator. He has worked very hard and has worked with this committee. We will give it every consideration in 1986, but that is the proper time to address this.

I yield the floor.

Mr. SPECTER. Will the Senator yield for a question?

Mr. SYMMS. Yes. I would be happy to yield to my friend.

Mr. SPECTER. Is it not a fair consideration in evaluating the financial need for resurfacing, or restoring, or rehabilitating, or reconstructing the highways to differentiate whether

there is a motor vehicle, automobile, or a 40-ton truck which has the impact of 9,600 automobiles? I will take a straight yes or no, Senator SYMMS and then an explanation.

Mr. SYMMS. I will say to my distinguished colleague, we have the fairest formula we can work out. We cannot come in here at the last hour, change the formula, and expect all States to come out with any sense of equity. Those are the things in 1986 for which we will go through the hearing process, we will look at all of these considerations, and we will then be in a position to address the problem that my friend from Pennsylvania has.

I would like to yield the floor, without losing my right to the floor, to the distinguished Senator from West Virginia who wanted to make some comments.

Mr. SPECTER. Would the distinguished Senator from Idaho hear the balance of the questions to which I thought he had yielded?

Mr. SYMMS. I say to my colleague, how many questions do we have? The majority leader is anxious to move forward with this legislation.

Mr. SPECTER. I understand the majority leader is anxious to move forward with legislation. The Senator from Pennsylvania is not delaying this legislation. We are coming down to the critical aspect of the merits of this bill. That really turns on the questions which the Senator from Idaho has raised. The Senator from Idaho says this is the last minute. Is it not the truth that we had hearings months ago and brought to the Senator's attention the weight of trucks?

Mr. SYMMS. It is very true, Senator. The fact is that in order to have a fair program to all 50 States, it was the committee's judgment that the committee formula that was worked out in the Surface Transportation Act of 1982 was the most fair formula. In order to accommodate the Senator from Pennsylvania, we could not accommodate other States. There has to be a compromise to have a national highway system.

Mr. SPECTER. How can any formula be considered remotely fair if it puts on the same level a 40-ton truck with a motor vehicle when you are talking about rehabilitation and repair of a highway? How, under the most rudimentary principles of justice, can that be said to be fair?

Mr. SYMMS. How does the Senator's formula do it?

Mr. SPECTER. My formula takes into account that a 40-ton truck does more damage to a highway and therefore States which have 40-ton trucks deserve more money on the formula. I fail to see how the current allocation can be justified under any standard whatsoever.

Mr. DOMENICI. Will the Senator yield for a response?

Mr. SYMMS. I yield.

Mr. SPECTER. I object.

Mr. SYMMS. We have a formula based on 55 percent lane-miles, and 45 percent on vehicle-miles traveled. We think it is fair. We cannot accommodate the Senator any further. So we are just dragging our feet here.

I now, without losing my right to the floor, yield to the Senator from West Virginia.

Mr. SPECTER. Will the Senator hear my question?

The PRESIDING OFFICER. Is there objection?

Mr. SPECTER. Would the Senator hear the final question?

Mr. SYMMS. I yield to the Senator.

Mr. SPECTER. Another factor on which I question the Senator from Idaho is the factor of weather. Is it not, as a matter of basic fairness, true that where you have highways which have heavy snowfalls—10, 20, 30 inches requiring extensive salt to be able to pass on those highways—for the weather factor to be considered in deciding what you need by way of funds to resurface, restore, rehabilitate, or reconstruct?

Mr. SYMMS. Senator, the answer is that you have certain kinds of weather conditions in Pennsylvania. It rains more there than say in Montana. But you can go to places in Montana or Wyoming where the temperature variance each day changes. I suppose the Senator from Arizona here on the floor could tell us of cases in Arizona where it goes from 100 degees back down to very cold temperatures at night. It gets extremely hot during the summertime and extremely cold during the wintertime. They have other considerations, the distance between population centers is great and road maintenance is very costly to low numbers of population. There is just no way you can make this formula perfect when you are trying to make a law for all States.

I yield the floor.

Mr. RANDOLPH addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. RANDOLPH. Thank you, Mr. President.

Mr. President, I have, of course, a very personal feeling toward the able Senator from Pennsylvania. Many times we have been joined together on legislation, especially dealing with the coal and steel industries. I do rise in opposition—and I do it because I believe the equity is with the bill as reported from our committee, the 18 members of our committee.

I know this is a matter on which the Senator is informed, and a matter on which the Senator has an understandable dedication. The Congress, however, on numerous occasions in our recent highway legislation has attempted to address—we have not skirted the problems—the problem with respect to formulas, and most particularly to the formula for distribution of the interstate 4-R funds. In 1981, the Congress adopted this existing formula, which is 55 percent lane-miles, and 45 percent vehicle-miles that are traveled in the Surface Transportation Act of 1982. We have addressed this matter by requiring the Federal Highway Administration to certainly give very careful study to the appropriate factors for inclusion in a formula to distribute interstate rehabilitation funds.

The Congress also, in December 1983, received that mandated study. The study concluded that any formulas developed should be based on needs and directly related to the goal of the preservation of the Interstate System.

The study further concluded that the current 4-R formula coordinates strongly, I say to my friend, of need, national benefit, and national defense.

It found also that there was no compelling argument for a change in this well-established, understood, appreciated, and fair formula.

I recognize, certainly, the goals which the Senator from Pennsylvania is desirous of achieving here today. But an older system of interstate with heavy traffic cannot be the sole justification, let us say—I will use that word—for the distribution of the interstate 4-R funds.

While under the formula presented by our friend from Pennsylvania, my State, West Virginia, would benefit by $6 or $7 million with a 1 percent minimum, I still cannot support such a formula, even though it would be helpful to West Virginia. I must take an overall look at the Interstate System as it serves our 50 States.

No program within our overall federally assisted highway program has such a minimum. I do not believe that it could be retained in a conference with the House of Representatives.

We are only kidding ourselves if we believe that a formula could be adjusted by the use of a minimum to simply obtain votes when in reality it does not benefit the overall programs or our goals.

Mr. President, I cannot support this amendment. I have respect for my colleague from the Commonwealth of Pennsylvania and those, who I hope are few, who will follow his lead. I ask the Senate, our colleagues, to defeat the proposed amendment.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER (Mr. WARNER). The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I will not take long because most of what I was going to say has been said

by the distinguished Senator from West Virginia.

I, too, want to say to my friend from Pennsylvania, the sponsor of this amendment, that I understand why he is here, and I greatly appreciate his tenacity and his efforts. But I have just a little different version of why we should not change this formula.

I was a conferee in 1982 when we added the 5-cent gasoline tax and decided in that lameduck session that we ought to do something for the transportation system of our country.

I can remember being here on the floor one afternoon when $1 billion of that new money was at issue for mass transit.

I can remember that that mass transit formula, a new $1 billion, was a formula that the House favored that went to the States on a completely different formula than we had ever had, so that the States of New York, Pennsylvania, and Illinois got far more money under that formula from that $1 billion than we were used to distributing under the mass transportation formula.

I can remember a Senator got up and moved to amend it to distribute it under some fair-share approach, saying, "Let us let these other States, the Western States, get more mass transit money by the use of some minimum."

Seven of us on this side of the aisle in the waning moments when we were about to defeat the House measure for the new $1 billion mass transit changed our votes. We said we were going to be part of the new program that emphasizes mass transit needs, and we did. We never changed that in conference and they are now getting this $1 billion distributed in a completely different manner from the new money. Then we got on to the proposition of what do we do with the other formula, the primary and the 4-R.

I can remember vividly what we did. With that new money the House had a brand new formula for the primary money, giving emphasis on facts that had never been emphasized before. We did ours the way we had historically done it.

As to the 4-R, we said, "Why not let somebody study it in detail?" We ordered that study done, and they reported back, as the distinguished Senator from West Virginia has just said, saying the current 4-R formula is fair and there is no compelling reason to change it.

In addition, when we went to conference, we struck a new deal with the House on the primary money. All can remember that. We used the notion of general revenue-sharing and said, "OK, we will take your new formula with more money to certain States and ours with more to certain States, and we will use the idea that whichever is highest prevails," and then we took 10 percent off each of those and came in within the limits.

To tell you the truth, when I went to conference, when I voted for that $1 billion a year under a new formula for mass transit, I considered that we had a package. I thought when we told that Federal Highway Administrator, "Study 4-R and tell us whether it is fair," if they would recommend that it is fair we would not be here today with the House on an extension of the authority to spend the money, changing one of the basic formulas. I thought they would send us the ICE bill and we would go ahead and spend the $7.2 billion that we need for our highways, and we would live by our agreements, live by our mass transit, which they are getting more money under, most of those in the House who want to change the formula.

Actually, I was really taken back when I saw that the first opportunity that they had, they take the major formula and they change it.

I can tell the Senate right now, when we go to conference on this and if we change the formula on 4-R to what the House wants, we will not get a conference report passed. I have never said that in 12 years in the Senate. I really think this is serious business when you put a package together like we did. We have not changed the mass transit formula in this bill.

Maybe we ought to. Maybe before we leave, we ought to change mass transit and take that $1 billion out and spread it out in a different way and go to conference with it. I advise against it, but if some Senator wants to, it might send a nice message.

In any event, the package is well rounded. We have the report on 4-R that we all asked for, the House and Senate. They said, "There is no compelling reason to change anything." They looked at it and studied it. I do not find anybody disagreeing with it.

If you take the criteria we have used and that we want to continue to use, they find it is right.

I do not say any of these things that I have said tonight about the background and the history and the total package that we struck by way of saying that the good Senator from Pennsylvania should not be here making his point. I think he should be. But I think the Senate ought to know that we clearly have set these formulas in place and we decided that they were going to be there unless the Highway Administration said in their detailed study that one of them was in a compelling way wrong. To change that on a simple little bill when you are authorizing the expenditure of money seems to me to be completely out of line.

I hope the Senate does not do it. I hope the conferees go to conference and keep it as clean a bill as possible and consistent with what we did just 2 years ago.

It is not as if we have been 10 years waiting around. It is 2 years. At the first opportunity, one of the major formulas was changed by the House in a dramatic manner.

I want to take 1 minute for personal remarks.

This is the last night that we will have the distinguished senior Senator from West Virginia on the floor handling a bill. He just left his seat that he used to occupy when he was chairman here for 8 of my 12 years. I saw him there frequently, on EPA, the Clean Air Act, clean water, on and on.

We are going to miss you. I do not know whether it was fate that, on the last night of this session, you are here to handle your last bill. Every one of these is important to you. I hope that we do not do anything but give you a good farewell by passing as clean a highway bill as we can, as we each say thank you to you for your many years of service and leadership and eminent fairness when you were chairman of the committee. I say thank you with all my heart.

Mr. RANDOLPH. Will the Senator yield?

Mr. DOMENICI. Yes, Mr. President.

Mr. RANDOLPH. Mr. President, I am very grateful to my distinguished colleague, but I want the record to show that I am a cooperator—not a conspirator but a cooperator with those on the majority and minority side who are here working on this bill. I do hope that it can be passed in a few minutes and that there will come another day when our friend from Pennsylvania can make another fight. But let us vote tonight and pass this bill.

Mr. DOMENICI. I yield the floor, Mr. President.

Mr. D'AMATO. Mr. President, I was listening when my good friend and distinguished colleague from New Mexico mentioned the agreement that was reached regarding the formula for distribution of gas tax funds for mass transit. I remember the Senator from New Mexico and a number of other Senators who could have benefited from a different formula and a different mix of the revenues that came from that one-penny sales tax. They voted against the parochial interests of their constituents but in a far broader sense, voted for the best interests, I believe, of the entire highway system and mass transit system. They did not ask, "Is my State going to receive an extra $2 million, $3 million, or $5 million?" Rather, they strived to put together a comprehensive package dedicating four pennies to highway programs and one penny to mass transit programs.

Let us not kid ourselves. There have been those who have from time to

time thought of the reallocation of that one penny and I have counseled and urged them not to do so. Such an action would violate the agreement, incorporated in the Surface Transportation Assistance Act of 1982, which I believe should not be tampered with. If there are inequities with respect to the distribution of the transit penny to the States, we should not attempt to correct them by diverting funds from mass transportation purposes and applying them to nontransit purposes. We must examine the utilization of that penny and the revenues produced therefrom for mass transit and, certainly, if there is an inequity we should seek solutions with respect to formula and criteria for receiving these funds. That is the case with respect to the unspent revenues that are currently accruing from the one penny of gas tax dedicated to mass transit purposes.

My colleague from Pennsylvania undeniably has a valid point in indicating that which both he and I perceive to be serious failures with respect to the distribution formula applied to highway 4-R funds.

It seems apparent to me that no one has satisfactorily justified the failure of the current 4-R formula to address the fact that a 40-ton truck creates as much road damage or stress on the highway system as do approximately 9,600 passenger vehicles. Certainly, we should attempt to address it. I am not going to suggest that the formula advanced by my colleague from Pennsylvania [Mr. SPECTER] is the quintessential answer to this problem, but I do suggest to my colleagues and to the committee that at least there should be an acknowledgment that an inequity exists.

I am not looking to break faith with our agreements. I am not looking to take highway funds from one State and give them to another State or to my State, but I do feel that we have to make a real attempt to address the obvious injustice inherent in this formula which no one has adequately explained. I do not want to get into parochialism, attempting to take from one at the expense of the other. That is easier said than done and I am not suggesting that we should do it here.

I suggest that there should be some response to the legitimate inquiries made here, and to the legitimate concerns expressed by my colleague from Pennsylvania. I hope at the very least there could be an indication of what the committee chairman would be willing to undertake: An acknowledgment of the need for an extensive review and not just some empty words like, "Oh, all right, we will look at this, we'll give you another hearing," What is required is an in-depth analysis so that this problem may be addressed.

Mr. STAFFORD. Mr. President, as I understand, the Senator from New York had yielded the floor. I was going to say that since the current attempt on our part is to get an ICE and an ISCE for fiscal 1984, which is already half over with but which we have not funded yet, and for the present year, which we are already in, this is a very limited time period and we are going to have to do this entire matter in our committee next year.

I am not sure what the fates hold in store for us, but I think Senator BENTSEN and I can assure the Senator that we are going to have to readdress this entire problem within the next few months after the first of January. That is one of the reasons we tried so hard to get this ICE and ISCE handled now so $7 billion could get off to the States right now.

Mr. D'AMATO. Mr. President, if my distinguished colleague, the chairman [Mr. STAFFORD], would not mind, I would like to ask whether the Senator acknowledges that there are legitimate concerns with respect to factors not addressed fully in the 4-R formula? Again, I am not saying we should attempt to deal with the problem right here and now, but factors such as the debilitating effects of heavy truck use are, I believe, bona fide issues to pursue.

Mr. STAFFORD. All the current chairman can say is if he is still chairman next year, and he expects to be, we shall be prepared next year to take a hard look at this problem and the others rather than doing it now.

Mr. BRADLEY and Mr. BENTSEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. BENTSEN. Mr. President, there is no question that we will be looking at it again next year. This committee is in continuous review of these formulas. We have done it time and time again. In 1981, we revised the formula on interstate construction funds. Again in 1981 and 1982, we addressed the 4-R formula. Finally, we arrived at a consensus agreement, after studying all kinds of criteria, whether talking about heavy trucks, or subsoils, or excessive rain, or building in the mountains, or talking about freeze-and-thaw cycles—all of those have been a part of it.

It is exceedingly difficult to come up with something that is equitable to the entire country, but that it what we have tried to accomplish. By no means is it perfect. We understand that. And we will be going through continuous review as the years go by and we will be doing that in this forthcoming Congress. We will be pleased to do that again.

But after finally looking at this, we turned to the Department of Transportation and said, "Find us a better one, if you can tell us how you can do this more equitably."

And finally they came back and said, "After considering all the many alternatives, we think this one is about as fair as you can get."

Mr. BRADLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

Mr. BRADLEY. Mr. President, I am personally very pleased to hear what the distinguished chairman and ranking member of the committee stated with regard to a review of the formula.

The reason I am proud to cosponsor the amendment of the Senator from Pennsylvania is because I think it does have the proper formula. The fact is the current formula takes into consideration only two things, lane miles and vehicle miles traveled. As such, I do not think it does take adequate account of other factors that contribute significantly to the deterioration of the Interstate Highway System. The most important of these in this amendment obviously are weather and truck traffic, which are reflected in bridge fees on the Interstate System and diesel fuel consumption.

Mr. President, about 10 days ago I was driving on the New Jersey portion of the Interstate System, and 15 trucks passed me going 70 miles an hour before 1 car passed.

Mr. President, to argue that the density of truck traffic is unrelated to the deterioration of the highways I think flies in the face of common sense. The New Jersey portion of the Interstate Highway System in terms of trucks and cars is the most traveled portion of any in this entire country. So you can understand my concern about a formula that does not take into account truck traffic in the deterioration of our highway system.

As to the issue of weather, obviously in States in the Northeast and Upper Midwest when it snows, you throw sand on the road, you throw salt on the road, and you take out your plows. You create problems with the deterioration of the highway system.

So, Mr. President, I hope that the committee chairman and the committee as a whole will have the chance to review this formula and, indeed, take into consideration these very real factors in the deterioration of the highway system in the Northeast—big semitrucks, snowstorms that have to be cleaned up. To say, "Well, the only thing that is important is lane miles and vehicle miles traveled," seems to say to States that have great density of population and heavily traveled roads, "Well, you will have to take your lumps."

I understand this has certain regional implications, but I believe the formula proposed in the amendment by the Senator from Pennsylvania—which, by the way, is in the House bill; the House passed this—is fair to all

States. I also believe that it will further the important public goal of assuring that the existing highway system is kept in good repair and thereby facilitate not only interstate commerce but provide for military movements during a defense emergency.

I strongly support the amendment of the Senator from Pennsylvania and commend him for raising the issue and offering the amendment if for no other reason than to gain the attention of the distinguished committee chairman and the ranking member and extract from them the commitment which I have heard them make here this evening than next year they will carefully review this and be sensitive to the needs of our part of the country where we have heavy truck traffic and bad weather.

Mr. President, I strongly support the amendment offered by the Senator from Pennsylvania. However, I, too, before relinquishing the floor should like to pay tribute to the distinguished senior Senator from West Virginia, whose record of accomplishment and steadfastness in this body over the decades is one that a younger Senator such as I can try to emulate, even though with probably full recognition that I would never be able to achieve the record of the distinguished Senator from West Virginia.

I might also say that it is not only for his substantive record of accomplishment and his steadfastness in the defense of everything from synfuels to the highway system—and I have encountered not only a steadfastness but his ability to defeat anyone who would challenge either of those two programs—it is also his demeanor and his sense of fair play and, above all, his respect for this institution that we all love, the U.S. Senate, that I salute him at this moment in the last day he will be on the floor managing this bill.

Mr. RANDOLPH. Mr. President, I am very appreciative for the gracious words of the Senator from New Jersey [Mr. BRADLEY].

Mr. LAUTENBERG. Mr. President, I rise in support of the amendment offered by the Senator from Pennsylvania to change the formula by which interstate 4-R funds are appropriated to the States. The changes embodied in the Specter amendment will make the 4-R program more sensitive to the needs of the most heavily traveled States in our Nation.

The report accompanying S. 2527 contains language discouraging any change in the 4-R formula. I and Senator MOYNIHAN dissented from those views. The Senator from New York and I feel that the Congress should not give up on the idea of targeting our scarce Federal resources to the problems and the areas which need the help the most.

New Jersey is the most densely populated State in the Nation. We have an impressive highway system which connects major population centers and points of commerce. Our roads are in great need of repair and maintenance. It is for that reason that New Jersey Gov. Thomas Kean joined other Governors throughout the Northeast urging that Congress adopt the Specter amendment.

The amendment before us reduces the weight given the size of a State's Interstate System alone. Instead, the amendment grants greater weight to the usage of a State's system by employing proxy variables; namely, diesel fuel use and bridge needs. It is in those States where truck traffic is most concentrated that these factors come into play and where the wear and tear on our roads is most pronounced.

The Specter amendment attempts to limit the distributional effects of these changes by using a 1-percent minimum allocation and holding harmless those States which would be most adversely affected.

The amendment is important to apportion funds most effectively. I urge its adoption.

The amendment proposed by the Senator from Pennsylvania does respond to equity and reasonableness by having the funds go to the areas that have the heaviest use. New Jersey, the Garden State of the country, has one of the most heavily used corridors north and south for truck, commercial as well as private vehicle traffic. I think it is obvious that the wear and tear on our highways and our bridges calls for continuing reinvestment in these facilities which go to serve the commerce of the region and the country.

New Jersey is about 45th or 46th in receipt of Federal dollars compared to its contribution to the Federal Treasury, and this is, in my view, a just and fair formula to make certain that we are able in this most densely populated State of ours to maintain the essential investment in our system, a good, up-to-date highway system.

We make our own investments ostensibly, and we call in this formula help to permit us to maintain the kind of facilities that aid all of our neighboring States and that very important commercial region of our country.

I commend the Senator from Pennsylvania for development of this formula and I urge my colleagues, perhaps to their surprise, to support this amendment.

Mr. BAUCUS. Mr. President, I strongly oppose the amendment of my colleague from Pennsylvania [Mr. SPECTER]. There is nothing new about this amendment. The House of Representatives changes the Interstate 4-R allocation formula every time a highway bill comes up.

Why? Because a majority of House Members represent urban areas with large populations. Of course they would fare better under an allocation formula based entirely on population.

But let us look at the facts. The construction costs of our Nation's Interstate Highway System depends in large part on the number of miles of highway to be constructed.

The original Interstate 4-R allocation formula reflected this; 90 percent of the formula was based on lane miles within a State; 10 percent was based on lane traffic or population.

The formula was then adjusted, in favor of the more populous States; 75 percent was based on highway miles and 25 percent of population.

In 1980, the 4-R program was expanded to include reconstruction. The allocation formula was again changed. This time to the present level of 55 percent on highway miles and 45 percent based on population.

Now we are faced with an amendment that reduces the percentage of highway miles in the formula still further. This drastic action should not be taken without full consideration of the impact it will have on all the States.

There is another reason why we should not take this drastic action. Because there are continually debates over the structure of the highway allocation formulas the Department of Transportation conducted a study of the fairness of the present formulas.

The December 1983 study concluded:

> The principle finding is that dramatic improvement over the current formula is not likely to be achieved.
>
> In short, no compelling case could be made for endorsing any specific change in the current formula at this time.

The study goes on to point out the flaws in using diesel fuel consumption as one of the factors in the allocation formula. There is great difficulty in accurately determining State consumption statistics on diesel fuel use. And, statewide fuel consumption does not necessarily reflect interstate use.

The pending amendment uses "bridge repair needs" as one-third of the formula determining State allocations. "Bridge repair needs" has been included as a surrogate measure of climate and geography.

Mr. President, let me tell you that the Department of Transportation did not even include this factor as part of their analysis. The study states:

> Because no compelling evidence on the relative effects of multiple environments exists at this time, climate and geography will not be used as a criterion in this study.

So the Department of Transportation study concludes that the present formula strikes a balance. It represents a fair determination of the interstate highway needs of all States.

Mr. President, let me tell you what this amendment means for Montana.

Currently, Montana is scheduled to receive $44 million in 4-R apportionment for fiscal year 1986. If this amendment passes, Montana would receive just over $37 million. That's over $6 million less per year than under the current formula.

But my concern goes deeper than that. The House bill does not contain a minimum allocation as does this amendment. This means that Montana would lose $29 million of its 4-R apportionment. That leaves less than $15 million for the entire fiscal year for all of our interstate needs.

Montana does not stand alone. Under the House bill there are 30 States that would lose apportionments when compared with the present formula. Under Senator SPECTER's bill, there are 25 States that lose.

Mr. President, the only essential action that we must take on the highway bill is the approval of the interstate cost estimate. No Federal funds will go to any State if we do not approve the ICE.

There is no reason that any Senator should oppose the ICE. I strongly support it. But if this amendment is adopted, I will have no choice but to oppose the entire bill—including the ICE.

I urge my colleagues to consider the drastic consequences this amendment will have on the highway allocations to rural States.

I also remind my colleagues that, if this amendment is adopted, a bad highway bill will only get worse when we send it over to the House.

Mr. President, I urge my colleagues to defeat this amendment.

I know we want to vote on this amendment. Associate myself with the remarks of the Senator from Texas and others opposing this amendment.

I have two points to make. The first is that the formula has been changed very often in the past several years. It started 90-10. It is now down to 55-45, a massive movement toward populous States. So not only has there been current changes, not only has the Senate with great frequency examined the formula, the changes since enactment of the program have moved very much in favor of the populous States. They are taken care of, no problem.

No. 2, this is a national program. It is the Interstate Highway System. It has to stay national. If we move toward the Specter amendment, there will no longer be a national Interstate Highway System. It will be a regional program. Do we want a national Interstate System or do we not? It is a basic question.

Finally, if you want to add a temperature factor, Mr. President, I will be the first one to add a temperature provision for the State of Montana. We have the coldest recorded temperature in the lower 48 in history. What do you think it is, 10° below zero—I am not talking about chill factor, forget the chill factor—20°F below zero, 30, 40, 50, 60, 70; 70 degrees below zero. That raises havoc with highways.

So I suggest that for every temperature below zero, we get an extra billion dollars. [Laughter.]

That is a fair formula.

Obviously, it is not fair. Obviously, everyone has his own point of view. We have a formula, and let us stick with it.

Mr. STAFFORD. Mr. President, I rise to oppose the amendment offered by the distinguished Senator from Pennsylvania, Senator SPECTER. I find myself in the difficult position of opposing an amendment which would appear to benefit my own State of Vermont.

The Environment and Public Works Committee donated considerable time to a discussion and review of all the Federal-aid highway formulas—including the interstate 4-R formula—during consideration of the Surface Transportation Assistance Act of 1982. After lengthy negotiations during the lame-duck session, an agreement was finally reached based on what States would receive from all the Federal-aid highway categories and from transit categories.

In the STAA of 1982, Congress directed the Department of Transportation to do a study of the interstate 4-R formula including: First, the need for including weather-related factors in apportionment formulas and second, alternative apportionment factors and formulas for devising an equitable and efficient distribution of interstate 4-R funds.

Secretary Dole transmitted this study to Congress on December 20, 1983. The study concluded that no compelling case can be made for changing the formula at this time.

Three criteria are applied to the evaluation of an apportionment formula. They are need, national benefit, and national defense. The current formula, 55 percent lane miles and 45 percent vehicle miles traveled, has a higher correlation to these factors than either the formula in the House bill or the proposed Specter formula.

According to the Specter formula my own State of Vermont would get twice as much as it currently does. This is certainly a great temptation. However, this increase is due entirely to the change from the current formula's one-half of 1 percent minimum to a 1-percent minimum. Because of my long association with the Federal-Aid Highway Program and the tremendous effort it has taken to maintain one-half of 1 percent minimums for this program, I know that 1 percent is wishful thinking. The interstate 4-R formula in the House bill has no minimum at all. I assure my colleagues that I will do everything I can to maintain the current one-half of 1 percent minimum. If that is not possible, I believe transportation legislation this year is very doubtful. I urge my colleagues who represent one-half of 1 percent States not to vote for this formula, however, on the basis of unrealistic increases.

The factors used in both the House formula and the one being proposed by the distinguished Senator from Pennsylvania also greatly concern me. The formulas for most of the other highway categories are based on a combination of population and area factors. The other two programs—interstate construction and bridge—have formulas based on cost to complete and need. In my opinion, these formulas have not resulted in the most cost-effective programs.

The House interstate 4-R formula consists totally of population factors. It does not include any area or mileage factors. Large, sparsely populated States will be severely penalized even though they have many miles of interstate to maintain.

The formula being proposed by Senator SPECTOR is based on one-third diesel fuel used on all highways, one-third lane miles, and one-third bridge needs on the Interstate System. While this formula recognizes the need for a lane mile or area factor, I am greatly concerned by the bridge-needs factor. This factor has an extremely low correlation with the three criteria that formulas must be measured against. Even more importantly, I believe it is not good policy to reward those who have not kept their bridges in good repair. Further, I believe this provides a disincentive to States to repair deficient bridges because that will reduce their 4-R apportionment.

I am also concerned about the diesel-fuel-use factor. This data is now available on a State-by-State basis but the Federal Highway Administration has stated that it has reservations about the reliability of this data. The FHWA also states that reporting systems are not uniform among the States. Further, they state that the data may be more a measure of where diesel fuel is purchased rather than where it is used.

Wyoming collects no State tax on diesel fuel. My own State of Vermont only recently put in place a diesel fuel tax. Consumption has been reported based on patterns in neighboring States.

Finally, while diesel fuel consumption may reflect truck traffic, it does not necessarily reflect truck travel on the Interstate System.

Mr. President, the highway formulas were extensively debated previous to the STAA of 1982. The program must be reauthorized in 1986 which is approaching quickly. I believe that is the appropriate time to review this formula along with the entire Federal-Aid

Highway Program. I am afraid that any attempt to make those changes now will only futher delay and jeopardize the release of almost $7 billion in interstate construction and substitution funds. I urge my colleagues to oppose this amendment.

Mr. President, I point out to Members that if we are to have a highway bill this year—and I think the States definitely need one—we will have to act now, and we will have to act responsibly with the bill which our committee has unanimously produced.

Mr. ABDNOR. Mr. President, an attempt is being made to alter the current interstate 4-R formula. I would like to register my strong opposition to any attempt to change the current 4-R formula and would like to point out that any modification could be devastating to many States.

The 4-R formula is used to determine the amount of funds that States will receive for resurfacing, restoring, rehabilitating, and reconstructing the Interstate Highway System. The current formula is based 55 percent on the amount of interstate in each State—the number of lane-miles—and 45 percent on the relative use of interstate—number of vehicle-miles traveled.

In December of 1983, the Federal Highway Administration [FHWA] completed a study of the interstate 4-R formula and found that no change in the 4-R formula is warranted. FHWA concluded, "no compelling case can be made for changing the formula at this time."

Despite this fact, the House of Representatives drastically has altered the existing 4-R formula, an action which is devastating to my home State of South Dakota as well as many others. Under the House change, a total of 28 States as well as the District of Columbia and Puerto Rico would have their interstate funds slashed.

In fiscal year 1985, South Dakota's 4-R apportionment would be cut by over $16 million—or well over half of my State's current apportionment. That number should speak for itself, but let me point out a few others. Alaska would lose over $16 million and Arizona over $19 million. Colorado would see its funds cut by over $11 million, while Idaho would watch almost $13 million disappear. Montana would say goodbye to almost $30 million, while Wyoming would say so long to over $23 million. The list goes on and on with similar horrible results.

But it is not just the House which is attempting to modify the 4-R formula. My colleague from Pennsylvania, Senator SPECTER, has introduced legislation which would alter the formula. Mr. SPECTER, however, is a little more clever than Members of the House and has included a provision in his bill which would stipulate that no State shall receive less than 1 percent of the total 4-R funds.

The 1-percent minimum clause is tempting to many, but let me point out that it is extremely unlikely that the 1-percent minimum would be maintained in a conference committee with the House. We all have been around long enough to know that if the Senate attempts to bargain with the House and has only a minimum figure to defend, the results usually are not pretty. Most likely, some monstrous "hybrid" 4-R formula would be negotiated, a hybrid which would prove disastrous for the majority of States.

I urge my colleagues to wholeheartedly reject any attempt to modify the current 4-R formula. As a member of the Environment and Public Works Transportation Subcommittee, I already have put my fellow subcommittee members on notice that I will fight any change in the 4-R formula. We have included language in the report accompanying S. 2527, stating that we oppose any change in the formula. We have expressed in the strongest terms that any change is unwarranted and unacceptable.

Once again, Mr. President, I urge my colleagues to resist adamantly any attempt to modify the current 4-R formula.

INTERSTATE REPAIR 4-R FORMULA

Mr. CRANSTON. Mr. President, I rise in opposition to the amendment to change the interstate repair 4-R formula proposed by my distinguished colleague from Pennsylvania [Mr. SPECTER]. Although I am told the proposal has been adjusted to accommodate States like California so that they will not lose funds in fiscal year 1986 and 1987, we should not, in my judgment, enact a formula change at this time without the benefit of hearings and careful committee consideration. This is too important a program to be casually approached.

Once the Interstate System is completed—hopefully by 1990—interstate repair will be the most important federally funded highway program. The Nation's greatest highway repair needs, in terms of costs and commercial importance, will be funded by this program. Therefore, it is critical that funding for the interstate repair program be equitably and appropriately allocated. Senator SPECTER's proposed formula does not do this. It bases a third of the funding on the costs needed to repair and replace deficient bridges, even though this is already a federally funded program especially created to assist States in meeting these needs, the Highway Bridge Replacement and Rehabilitation Program. While funding levels for the bridge program may need to be increased, transferring these costs to a totally separate program is not justified, particularly when we cannot yet accommodate even the existing and legitimate highway repair needs of the interstate 4-R Program. Such a procedure doubly rewards those who have not maintained their bridges. Furthermore, Mr. President, the Senator's proposal would also permit deficient toll bridges, never before eligible for Federal funds, to be included in the allocation formula.

Mr. President, these are serious issues that must be seriously and carefully considered by the committees with jurisdiction over the highway program. The highway needs of the entire Nation need to be considered carefully before a formula change of this magnitude is proposed. Furthermore, Mr. President, the Federal Highway Administration, charged with implementing the Federal highway policies Congress enacts, does not support Senator SPECTER's 4-R formula change. In a December 1983 study of the interstate repair formula, the U.S. Department of Transportation concluded, "* * * In short, no compelling case could be made for endorsing any specific change in the current formula at this time."

Thank you, Mr. President.

Mr. BINGAMAN. Mr. President, I rise in strong opposition to the amendment offered to the Federal-Aid Highway Act which proposes to change the 4-R allocation formula. There have been recurring efforts over the past few years to change this formula and in 1982, the Congress directed the Secretary of Transportation to study alternative procedures to determine the most equitable and efficient method of apportioning 4-R funds.

That study was submitted to Congress last December and it concluded that "no compelling case can be made for changing the formula at this time". In fact, the study found that the current formula correlates strongly with the three criteria for road repair: need; national benefit; and national defense.

The Committee on Environment and Public Works adopted this conclusion and specifically States in its report that it would be "inappropriate at this time to change the formula." The current 4-R formula apportions funds on the basis of 55 percent of interstate miles within a State and 45 percent on use of those interstate miles. The amendment before us would reduce the interstate miles base to 33 percent and 33 percent each on diesel fuel use and bridge repair needs. It also guarantees a minimum allocation to each State of 1 percent of total program funds which would help some States.

The House has already passed a bill which changes the formula. It bases apportionment solely on usage—50 percent on interstate miles traveled; 25 percent diesel fuel use; and 25 percent gasoline use. Both this amendment

and the House bill cast aside the recommendations that there be no change at this time and ignore committee report language that "any amendment which modifies the existing formula could delay the timely release of interstate construction and interstate substitute funds."

Construction funds for the second half of fiscal year 1984 have already been delayed for almost 1 full year. We must not permit the same thing to happen to fiscal year 1985 funds which are scheduled for apportionment. Further delay will be catastrophic to the construction programs of State highway agencies, highway industries and the construction labor force. Our inaction will seriously jeopardize completion of the Interstate System by 1990.

The "bridge repair needs" factor contained in the proposed amendment is necessarily based upon climate and geography. The transportation study did not include this as a factor "because no compelling evidence on the relative effects of multiple environments exist at this time". Similarly, the fuel use factor would not accurately determine use statistics. One example of this is that diesel fuel purchased in one State is invariably used by trucks traveling on interstate through another State.

Mr. President, I recently had the honor of participating in the dedication of the completion of the Interstate Highway System in my home State of New Mexico. We became the fifth State to achieve this and New Mexico now has just under 1,000 interstate miles. It took 28 years and cost more than $1 billion to build the system which links us to the rest of the country and, as in all States, is the lifeline for transporting products and people.

Although the Interstate System in New Mexico is now complete in a certain sense, there are still outstanding projects in connection with the system. And, more importantly, the system must be maintained. The proposed change ignores the fact that vast stretches of highways in the West—while less traveled—require repair and reconstruction as a matter of general maintenance. The Federal Highway Administration estimates that in fiscal year 1986, New Mexico would lose about $14 million in 4-R funds under the amendment being considered.

I submit, Mr. President, we must not change the current formula. I hope that my colleagues will join me in voting against this amendment and by doing so agree that in maintaining our national Interstate System, we promote commerce, travel, and national defense for the entire Nation.

Mr. HUMPHREY. Mr. President, I rise today to state my opposition to the amendment offered by the Senator from Pennsylvania [Mr. SPECTER]. This amendment would drastically rewrite the formula used to distribute interstate 4-R funds, the funds intended for restoration, reconstruction, rehabilitation and resurfacing of our Nation's Interstate Highways.

On its face, Mr. President, this amendment would appear to benefit my State of New Hampshire. But closer examination reveals that New Hampshire fares better under this proposal only because each State is assured a minimum of 1 percent of the total.

However, the simple truth is that this 1-percent minimum will not stand up in conference with the House of Representatives. Indeed, if the Senate does adopt this amendment and goes to conference on it, 25 States stand to lose, and some may be hurt very badly.

Earlier this year, the House attached to its version of the highway bill a rewrite of the 4-R formula that would cut my State's current $13.8 million share of repair funds to $8.2 million in fiscal year 1985, a reduction of $5.6 million. That, Mr. President, is a major reduction, and I will do everything I can to assure that New Hampshire does not incur this loss.

In my view, the best way to do that is to be sure that the Senate does not modify the 4-R formula this year. The current formula is based 55 percent on lane-miles and 45 percent on vehicle-miles traveled. This is a good formula, a fair formula, and we should leave it be. We should not go to conference with two new, complex formulas to replace the current formula.

The primary purpose of this bill is to approve an interstate cost estimate [ICE] and an interstate substitute cost estimate [ISCE]. Without these approvals, construction of our Interstate System will grind to a halt. We should not threaten this vital legislation by the addition of a controversial rewrite of the 4-R formula. Accordingly, I urge my colleagues to join with the leadership of the Environment and Public Works Committee in voting to defeat the amendment offered by the Senator from Pennsylvania.

Mr. HEINZ. Mr. President, the amendment offered by my distinguished colleague from Pennsylvania would change the 4-R Program of interstate highway maintenance to more accurately reflect the needs of States for highway maintenance and repair funds.

This country's Interstate Highway System is both a modern engineering wonder and an indispensible network for all forms of commerce and travel. Over a period of little more than 25 years, we have constructed an investment which would cost trillions of dollars to duplicate today.

Congress recognized the need to preserve this investment by enacting, in 1976, the Interstate 3-R Program, providing for resurfacing, restoring, and rehabilitating of these vital highways. In 1981, this program was expanded to allow for the reconstruction of segments of this interstate highway network.

The 4-R Program, while directed at the important needs of physical restoration and rehabilitation of the interstate highways, fails to address major factors which led to the deterioration of those highways. The amendment offered by my colleague from Pennsylvania addresses the inequities of the current allocation formula.

Most importantly, this amendment provides for greater Federal funding to States based on the volume of truck traffic through a funding provision based on the diesel fuel taxes collected in that State. Large trucks, while essential to our interstate commerce, can cause the same damage and wear to a road surface as 9,600 cars. The current formula makes no allowance for this disparity in wear and tear between trucks and cars. For the Commonwealth of Pennsylvania, the Keystone State for interstate truck shipments between the Midwest and the Northeast, as well as the South, the result is nothing short of disastrous. Interstate 80 alone requires nearly $90 million in repairs each year, yet Pennsylvania's entire 4-R apportionment is only $85 million.

This amendment also incorporates an adjustment to the interstate 4-R formula to allow for the effects of harsh weather, road salt, and bridge repairs. Again, the purpose of this legislation is to do no more than accurately and fairly reflect the costs to the States of maintaining our invaluable interstate highway network.

The end result, Mr. President, is to accurately and equitably apportion interstate highway maintenance funds. Pennsylvania currently receives less than 3 percent of funds allocated under the Federal 4-R Program, yet in all other Federal highway programs the Commonwealth is an acknowledged 5 percent State. Since the State has roughly 5 percent of the Nation's population, and contributes slightly more than 5 percent of highway trust fund revenues, it should receive a proportionate share of highway funding—as should all similarly situated States.

The Specter formula would provide assurances for adequate funding for maintenance and repair of the Interstate Highway System. Mr. President, I urge adoption of the amendment.

Mr. BAKER. Mr. President, I suppose this is the last highway bill JENNINGS RANDOLPH will be involved with, although one is never sure about Senator RANDOLPH. He may do another one. But I want to pay tribute to a man whom I fondly refer to as "my chairman."

JENNINGS RANDOLPH was chairman of the Public Works Committee, as we

called it then, when I was assigned to that committee when I first came to the Senate 18 years ago. I did not know what to expect. I was a young lawyer then. I have since gotten over part of that.

What I have learned about the Senate—its spirit and traditions and the essence of service that makes this body so great, unique, and distinctive—flows in large measures from the experience I had with Senator -RANDOLPH on that committee and my colleagues on that committee and my early service in this body.

I want to pay my respects and special tribute to my friend and my chairman, JENNINGS RANDOLPH, who has served so well for so long, and who is about to leave this body.

Mr. President, he knows more about highways than anybody else, and he certainly knows more than I do, and what little I know, I learned from him.

I am on his side, and therefore, I intend to move to table the amendment of the Senator from Pennsylvania.

Mr. RANDOLPH. Mr. President, I shall never forget my cherished friend—the majority leader [Mr. BAKER]. I served also with his able father in the House. I was sworn in as a Member of the 73d Congress on March 9, 1933, as was his brilliant father-in-law, Everett Dirksen.

Yes; I am most indebted to HOWARD BAKER, who will leave the Senate, as I will, on January 2, 1985.

Mr. SPECTER. Mr. President, will the majority leader withhold the tabling motion for a few minutes?

Mr. BAKER. Of course.

The PRESIDING OFFICER (Mr. -RUDMAN). The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, by the way of a brief reply, this amendment has heightened the awareness of the Senate on this issue, and I have no illusions, at this late hour, about focusing sufficient attention on this issue to defeat the committee bill. But I do believe that the debate has produced some stark facts which have not been answered because they cannot be answered.

A stark fact is that a 40-ton truck does more wear and tear than an automobile; and a highway which is subject to heavy snow and salting needs more by way of repair than even a highway subject to the temperature variations in the State of Arizona.

I will not offer the second amendment which I have discussed with the committee chairman about the $250 million discretionary amount, in the interest of moving ahead at this time. But I think it appropriate to note that that had been an offer which this Senator made to the committee chairman and the subcommittee chairman as a way of eliminating any debate and providing $250 million in discretionary funds, so that the Secretary of Transportation should take some account of the discrepancies or differences in States having trucks and bad weather.

One comment, in conclusion, on mass transit: In setting aside the 1 percent for mass transit, there is more to that issue than simply accommodating some of the big cities. That represents a national policy to move away from oil consumption and gasoline consumption, which have a very long term and serious impact on the entire Nation, our national defense, and our future security. So it is something more than simply a tradeoff on the highway bill.

Going to Albuquerque, as I did recently, they, too, in that expanding city, have need for mass transit, as do all cities—in Idaho and Arizona, as well—so the penny for mass transit is addressing a national problem.

I believe that there are very material matters that have to be addressed further. Nonetheless, we have taken a significant step forward.

In conclusion, I join in the tributes paid to Senator JENNINGS RANDOLPH, with whom I have been allied on most matters, inasmuch as we come from neighboring States, with oil, coal, and steel. I do have great deference for his wisdom on this subject, and I, too, shall miss him very much.

Mr. BAKER. Mr. President, I move to table the amendment.

Mr. President, I ask for the yeas and nays on the motion to table.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BAKER. Mr. President, I ask unanimous consent to preceed for 1 minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I should have said, and did not say in my haste, that I have listened carefully to the presentation of the Senator from Pennsylvania and the Senator from New York and the Senator from New Jersey.

I do not really disagree with many of the points they make. I think they are substantial points, and they are important issues.

I was very pleased to hear the chairman and the ranking minority member of the committee, as well as the chairman and ranking minority member of the subcommittee, indicate that they understood the intensity of the feeling on this issue and the importance of further consideration. I commend them for that, and I join them in urging that this matter be examined further in detail and equitably in the next Congress.

Mr. President, I yield back any time I have remaining.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the amendment. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Arizona [Mr. GOLDWATER], the Senator from Nevada [Mr. LAXALT], and the Senator from Illinois [Mr. PERCY] are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Oklahoma [Mr. BOREN] is necessarily absent.

The PRESIDING OFFICER (Mr. GORTON). Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 75, nays 21, as follows:

[Rollcall Vote No. 282 Leg.]

YEAS—75

Abdnor	Glenn	Murkowski
Andrews	Gorton	Nickles
Armstrong	Grassley	Nunn
Baker	Hart	Packwood
Baucus	Hatch	Pell
Bentsen	Hatfield	Pressler
Bingaman	Hecht	Proxmire
Boschwitz	Heflin	Quayle
Burdick	Hollings	Randolph
Chafee	Huddleston	Riegle
Chiles	Humphrey	Roth
Cochran	Inouye	Rudman
Cranston	Jepsen	Sarbanes
Danforth	Johnston	Simpson
DeConcini	Kassebaum	Stafford
Denton	Kasten	Stennis
Dixon	Leahy	Stevens
Dole	Levin	Symms
Domenici	Long	Thurmond
Durenberger	Mathias	Tower
Eagleton	Matsunaga	Trible
Evans	Mattingly	Wallop
Exon	McClure	Warner
Ford	Melcher	Wilson
Garn	Metzenbaum	Zorinsky

NAYS—21

Biden	East	Mitchell
Bradley	Hawkins	Moynihan
Bumpers	Heinz	Pryor
Byrd	Helms	Sasser
Cohen	Kennedy	Specter
D'Amato	Lautenberg	Tsongas
Dodd	Lugar	Weicker

NOT VOTING—4

Boren	Laxalt
Goldwater	Percy

So the motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. STAFFORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HECHT. Mr. President, for many years now the city of Sparks, NV, has realized that an efficient, safe, and up-to-date transportation system is vital to the future of what is known as the Truckee Meadows. Economic expansion and diversification have been keys to the phenomenal growth of the entire region and while this expansion is welcome, the resultant traffic congestion, air quality degradation, and severe strains placed on the highway network are not so welcome. While many ideas have been considered, the city of Sparks and its people believe the construction of a

new interchange at Interstate 80 and Sparks Boulevard is the only viable solution to the problem.

In 1980, an engineering study, commissioned by Sparks, indicated that an additional penetration of Interstate 80 was essential to alleviating the traffic problems in and around the city. While construction of a new interchange is a major undertaking, Sparks began the process and made formal application to the Nevada Department of Transportation and Federal Highway Administration to have the proposed Sparks interchange included in the Interstate Highway System. Approval was granted and the city next asked its citizens for additional support, receiving overwhelming approval of a general obligation bond issue of $5 million to be used in construction of the interchange.

As you can see, Mr. President, the Sparks interchange is one of the most important items on the city's agenda. It has become a key element in the Washoe County master plan of streets and highways and upon completion, will serve as a key north-south regional link. Most important, the new Sparks Boulevard interchange will achieve the overriding goal of improved traffic safety, reduced congestion, and upgraded air quality for the entire area.

The Sparks interchange project has strong State and local support and I think it is additionally significant that local industries such as General Motors Warehousing & Distribution and Southern Pacific Transportation Co. all have indicated their support for construction of Sparks interchange.

Mr. President, orderly growth and development in the city of Sparks is dependent on a highway system that will accommodate ever-increasing levels of tourist and interstate commercial traffic. The growing pains of a progressive community must be dealt with sufficiently and the addition of Sparks interchange will help achieve that goal.

HOLD-HARMLESS INFLATION ADJUSTMENT AMENDMENT

Mr. DIXON. Mr. President, I am pleased to see that S. 3024 contains two provisions authored by my senior colleague from Illinois, Senator PERCY, and me. These provisions have two basic objectives: First, to allow States to use either current law or the Bentsen amendment contained in S. 3024, whichever is more favorable, in calculating the 85-percent minimum allocations for fiscal 1985, and second, to direct the Secretary of Transportation to provide priority consideration for Illinois under the Interstate Transfer-Highway Program, in order to make up for the losses Illinois sustained under that program.

Let me say at the outset that I am a strong supporter of the concept behind the 85-percent minimum allocation concept. I think it makes sense for States to get an allocation in Federal spending that is related to the tax dollars they send to Washington. I feel so strongly about this issue that I introduced S. 2892, the State Minimum Return Act, to ensure that by 1989 all States receive at least 90 cents in Federal spending for each Federal tax dollar they contribute.

I introduced S. 2892 because I believe the tax/spending ratio issue must be addressed in an overall fashion. Attempting to address it by looking at only certain programs in isolation can lead to results that might appear equitable when viewed only in the context of that particular program, but which in fact add to the inequities when viewed more comprehensively.

The effect of the proposed change in the 85-percent minimum allocation on Illinois is a case in point. Last year, Illinois received only 75 cents for each tax dollar it sent to Washington. Of course, the State did not do uniformly poorly under every Federal program. In fact, transportation programs, and in particular, the highway program, are among the few bright spots for the State. The leadership of the Senate Environment and Public Works Committee has recognized Illinois' position as the transportation hub of the Nation and its transportation needs, and has been extremely willing to help the State meet those needs.

The change in the calculation of the 85-percent minimum will benefit 10 States, as I understand it, and will cost about $212 million in fiscal 1985. However the net cost is only $181 million because two States would lose money. Illinois is one of the two States, and the adverse impact involved is not small. It will cost my State at least $30 million in fiscal year 1985 and another $27 million in fiscal year 1986.

I want to help the States that aren't getting a fair return for the taxes they pay into the Highway Trust Fund. I supported the 85-percent minimum when it was included in the Surface Transportation Assistance Act of 1982. However, I cannot favor a provision that costs my State an additional almost $60 million over the next 2 years, at a time when it already ranks 48th among the States in overall per capita spending.

The change now included in S. 3024 reduces the adverse impact on Illinois and other States that could potentially be adversely affected while remaining consistent with the objectives of the 85-percent minimum allocation provisions. It simply lets a State, in fiscal year 1985, choose either current law or the provision in S. 3024 for purposes of calculating the 85-percent minimum, whichever is more favorable.

It is identical in concept to the compromise on the primary program formula contained in the Surface Transportation Assistance Act of 1982. It will help ensure that no State is unduly adversely affected without hurting the States that S. 3024 seeks to help. The provisions does not go as far as I would like. It leaves open the question of whether this hold-harmless provision will be used in fiscal year 1986. It is, however a not unreasonable compromise.

Mr. President, the second provision directs the Secretary of Transportation to give priority consideration to applications for Interstate Transfer-Highway Program discretionary funds to States like Illinois that suffered a loss of funds under this program that amounts to more than 45 percent from fiscal year 1983 to fiscal year 1984.

In 1983, Illinois received a total of $274 million in interstate transfer highway funds. In 1984, it is estimated that Illinois will receive only $137.6 million, a cut of roughly 50 percent. Cuts of that magnitude make it impossible to quickly complete the entire program of substitute interstate transfer projects.

Northeastern Illinois decided not to build the Crosstown Expressway and to instead use the money for a variety of substitute highway and transit projects in reliance on the approval of the Department of Transportation of the substitute program and with the expectation that the necessary funds would be provided over a reasonable time period. Unfortunately, for a variety of reasons, the area has rarely received interstate transfer funds and quickly or in amounts as large as needed. The amendment we are offering today will help remedy that situation.

Mr. President, I think these are good additions to S. 3024. Their absence from the earlier version of the highway bill, S. 2327, forced me to strongly oppose that measure. They are not all that I would have wanted, but they do represent a reasonably acceptable solution to the 85 percent problem and they do restore needed equity to Illinois under the Interstate Transfer Program. Before I conclude, I want to thank the leadership of the Environment and Public Works Committee—the distinguished chairman, Senator STAFFORD, the distinguished ranking minority member, my good friend, JENNINGS RANDOLPH, the distinguished chairman of the Transportation Subcommittee, Senator SYMMS, and most particularly, my friend and colleague from Texas, Senator BENTSEN. I truly appreciate their consideration of Illinois' Transportation needs and their willingness to work with Senator PERCY and me in resolving the matters of concern to my State.

● Mr. PERCY. Mr. President, I am extremely pleased that the Senate is taking action to consider and pass the

highway bill. This bill, containing the reauthorization of the interstate cost estimate and the interstate substitute cost estimate, is one of the most important pieces of legislation that will be considered during these hectic days of the end of the 98th Congress.

For Illinois, this bill is vital. As I related back in March of this year when the Senate passed an interim ICE authorization, the passage of the ICE means more to my State than just getting our interstate and interstate transfer projects built; it means that all the Illinois machinery companies that make so much of the highway construction machinery for the U.S. highway system will not have their business hurt. It means that Illinois roadbuilders and roadworkers will not have their employment and sales opportunities diminished. And it means that Illinois limestone and gravel companies will be able to maintain the sales of the raw materials that they produce and which go into so many miles of this Nation's Interstate System.

Mr. President, we were held up on this bill at the end of last month because of a provision in the previous version of the highway bill that would have severely and unfairly penalized Illinois. I am talking of the change in the formula in the 85-percent minimum allocation provision. As Senator DIXON and I related at length to my colleagues on last Thursday, two States would have been hurt by this change in Federal law: California and Illinois. These two States would have lost a total of $31 million in fiscal year 1985 alone. And Illinois would have lost $30 million of that amount. In addition, Illinois would have lost another $27 million under the revised 85-percent formula in fiscal year 1986.

Well, Mr. President, for my colleagues Senator DIXON and I, this result was—and remains—totally unacceptable. As my respected partner from Illinois related to us last month, Illinois gets a terrible return on its Federal tax dollar. That return is getting better, but it is still too low. We certainly could not afford a further loss in the highway program of the State.

I am terrifically pleased, therefore, Mr. President, that we were able to work out a compromise with the members of the Committee on Environment and Public Works on the 85-percent minimum allocation formula. Under the compromise, which was marked up in the committee as part of S. 3024, States will be able to choose which minimum allocation formula is better for them: the old formula that is in place now, or the new formula proposed initially by the committee. This freedom of choice on the minimum allocation formula will run only for fiscal year 1985. In fiscal year 1986 the bill leaves the door open for the Congress to make a decision on how best to proceed.

Thus, Illinois will still be able to use the old formula for minimum allocation during the next fiscal year and the State will not lose $30 million in interstate highway funds during the year. This is a fair compromise and I believe it reflects the desire of all Members of this body that no State should be unfairly treated in any Federal program as important as the Federal highway program.

In addition, a new section was added at Senator DIXON's urging and my own that will help Illinois with a major problem that the State has run into in the area of interstate transfer funding. As a result of the trade-in of the Crosstown Expressway in Chicago, IL, presently has the largest unfunded transfer balance in the United States. But, as a result of new withdrawals from the transfer fund by other States coming into the program later, Illinois' share of available funding out of this fund dropped dramatically between fiscal year 1983 and fiscal year 1984. Illinois lost over $100 million in highway funds that the Illinois Department of Transportation was planning to spend on needed projects.

Therefore, Senator DIXON and I proposed language in this bill that simply directs the U.S. Secretary of Transportation to recognize this disastrous loss of highway funding, and give States, like Illinois that have experienced such a loss, priority consideration in the distribution of unearmarked and otherwise unallocated interstate substitute funds.

Mr. President, I would finally like to thank the distinguished chairman of the Committee on Environment and Public Works, Senator BOB STAFFORD and the distinguished ranking member of the committee, Senator JENNINGS RANDOLPH, for all their help and understanding and advice on this complicated matter. They have been absolutely fair and reasonable in their treatment of our concerns in Illinois. I also wish to recognize the fine work of my respected colleague, Senator SYMMS, chairman of the Subcommittee on Transportation. And I want to specifically thank the distinguished Senator from Texas, Senator BENTSEN, for all his help and consideration. His staff on the minority—and the staff on the majority side of the committee—have done a typically first-rate job in helping us to iron out our problems on this bill.

Our efforts on this matter, Mr. President, represent a compromise in the finest tradition of the Senate. I know that Senator DIXON—who has served the people of Illinois so well in this as well as every other matter—and myself want nothing more now than to expeditiously pass this very important piece of legislation, the highway bill.●

Mr. LEVIN. Mr. President, the House version of the highway bill, H.R. 5504, authorizes funding for a number of demonstration projects in the State of Michigan and includes an exemption from section 111 of title 23 of the United States Code so that a duty-free liquor store on the Blue Water Bridge Plaza in Port Huron, MI, can continue to operate. Because my State has historically been a donor State, the additional revenue these demonstration projects will bring into the State places Michigan on more equitable footing.

When the Senate considered legislation to increase by 5 cents the tax on gasoline in 1982, I had serious reservations about the bill, even though I recognized that an increase in the tax was needed in order to save the Nation's rapidly deteriorating bridges and highways. Between 1956 and 1980, the State of Michigan paid over $848 million more into the Highway Trust Fund than it received back. In December 1982, when the Senate considered the gas tax bill, my State was experiencing an unemployment rate exceeding 17 percent.

Today, the State of Michigan's unemployment rate is still much higher than the Nation as a whole—10.9 percent. While Michigan's return on moneys contributed to the Highway Trust Fund had improved, I am still concerned about guaranteeing Michigan citizens a more equitable distribution of highway funds. As a result, I an anxious to obtain some assurance that the Michigan projects included in the House bill, H.R. 5504, will be retained in conference. Specifically, H.R. 5504 authorizes funding for: first, the widening and resurfacing of Ecorse and Northline Roads in Wayne County, MI; second, an automobile overpass project in Kalamazoo, MI; third, grade separation and road-widening projects in Pontiac and East Lansing, MI; and fourth, the widening and upgrading of a priority primary route in Osceolo County, MI. Finally, section 116 of the bill authorizes the continued operation of a duty-free liquor store owned by the Can-Am Warehouse Co. The exemption from section 111 for the duty-free store is important because the Can-Am Co. employs a considerable number of people in the Port Huron area and generates tax revenues for the city.

Would the Senator from West Virginia, the ranking minority on the Senate Committee on Environment and Public Works and the Senator from Texas, the ranking minority on the Subcommittee on Transportation, be able to support these projects and the exemption for the duty-free store during the conference on the pending highway bill?

Mr. RANDOLPH. Mr. President, the Senator from Michigan makes a per-

suasive argument that the State of Michigan has historically been a donor State and would therefore greatly benefit from the increased highway dollars which these demonstration projects would bring into the State. I want to assure the Senator that I will give serious consideration in conference to supporting the provisions he has identified.

Mr. BENTSEN. Mr. President, I am certainly sympathetic to the financial challenges of donor States and join with the Senator from West Virginia in committing to give serious consideration to the identified provisions in conference.

HUDDLESTON AMENDMENT TO HIGHWAY BILL

Mr. HUDDLESTON. Mr. President, as the chairman and ranking minority member of the Senate Committee on Environment and Public Works are aware, Senator FORD and I have been working with the committee for some weeks now to have a demonstration-type project in our State incorporated into the highway bill.

This project would be located on a segment of a Federal aid primary system which connects Interstate Route 75 in the vicinity of Mount Vernon, KY, with Kentucky State Route 80 in the vicinity of Shopville, KY. The amendment we were to offer provides for $12.5 million from the Highway Trust Fund to be used as the 50-percent Federal share of the project. The remaining 50 percent will be funded by the State of Kentucky.

It is my understanding that this 50-percent Federal-50-percent State matching agreement complies with the conditions of other similar amendments to this legislation. In that this project would increase highway traffic safety and improve access to the rapidly developing Big South Fork National River and Recreational Area, we are extremely anxious, as is the State of Kentucky, to see this project move forward.

Mr. STAFFORD. As my distinguished colleague from Kentucky is aware, the leadership of the Senate Committee on Environment and Public Works has over the past few months experienced great difficulty in working with our courterparts on the House side to assure that the interstate cost estimate contained in this legislation will be approved at the earliest possible date. Thus far, we have been unable to achieve a mutually agreeable compromise and, therefore, still have much discussion to undertake with our colleagues on the House side.

Mr. RANDOLPH. I would like to echo the comments of the distinguished chairman of the committee regarding the situation we face with the House. Any leeway we can have in bargaining with the House would be most helpful in the upcoming conference.

Mr. FORD. Mr. President, I strongly endorse my colleague's effort to secure funding for Highway 461 and would like to emphasize the need for this modest project. The road lies in a chronically depressed area of Kentucky—in fact, the fifth district is the fourth poorest district in the country. The one prospect for economic development the region has is tourism. The Federal Government is already spending millions of dollars to develop the Big South Fork River and Recreation Area. It would be unfortunate indeed if plans for this recreational area were completed and public access was severely limited by the current inadequate road system. No only will precious tax dollars have been wasted, but an important opportunity to help southeastern Kentucky help itself will have been missed.

Mr. HUDDLESTON. As my colleagues know, an amendment with 100-percent funding has been adopted in the House version of the bill. Could I receive the assurances of the distinguished chairman of the committee and the distinguished ranking minority member that they will, in conference, closely examine the House version of this amendment now before us, keeping in mind a willingness on the part of all concerned to comply with the 50-percent Federal-50-percent State matching scheme called for by your committee?

Seventy-five accidents took place on the stretch of road in question between 1980 and 1982 and, as Big South Fork is developed, these numbers will certainly increase. It is estimated that close to half of all future visitors to Big South Fork will be traveling this route. In addition, the project will remove a major transportation obstacle between I-75 and the entire south-central Kentucky region. This improved access will mean improved access for business and tourist traffic in the entire region.

Mr. STAFFORD. We certainly understand the concern of the Senators from Kentucky regarding this particular project and would thus be willing to take a strong look at this situation when we get to conference with the House.

Mr. RANDOLPH. Again, I concur with the chairman's views on this matter and we will examine this issue closely when we do get to conference.

Mr. JOHNSTON. Mr. President, I understand the many difficulties the managers of this bill have encountered in attempting to negotiate approval of the interstate cost estimate and I am relieved that we are now taking action that will allow States with high priority interstate projects to receive the Federal assistance that is necessary for construction to continue.

At the same time, Mr. President, I believe there is an urgent need to address other highway concerns that will improve our Nation's infrastructure. In this regard, earlier this year I testified before the Committee on Environment and Public Works. The purpose of my testimony was to call to the attention of the Committee a serious flaw in the design of I-49 in Louisiana and to request the necessary authorization to cure this deficiency. Mr. President, I would like to briefly describe the situation in Louisiana.

In the early 1970's, Congress authorized construction of I-49 in Louisiana. I-49 is 206 miles long and it is the only major north-south highway in the State. It begins at an intersection with I-10 in Lafayette and extends in a northerly direction to its termination with I-20 in Shreveport. Shreveport is my hometown and it is located in the northwest corner of the State.

The problem, Mr. President, is that when we authorized I-49, we connected I-10 in south central Louisiana with I-20 in north Louisiana. However, both of these termination points empty the traffic from the interstate into the middle of a major city. By extending I-49 approximately 3 miles in each direction, we can alleviate this problem and vastly improve our National Defense Highway System.

As I mentioned, Mr. President, without these extensions the traffic from I-49 will empty into the middle of busy cities. For example, if we do not extend the northern terminal of I-49 from I-20 to I-220, the I-49 traffic will have to use city streets to reach the next controlled access route. Most likely, motorists will use Allen and Western, two small roads near the present terminal of I-49 in Shreveport. I am very familiar with both of these roads.

Current plans call for making Allen a one-way road going south and Western a one-way road going north. Presently, the traffic flow is about 3,400 vehicles per day on Allen and about 6,300 vehicles per day on Western. Upon completion of I-49 in the Shreveport area, traffic is expected to increase to approximately 13,083 vehicles per day on Allen and to 17,667 vehicles per day on Western. That means that when I-49 is completed, three times as many vehicles will be dumped into downtown Shreveport. Mr. President, Allen and Western are your typical city streets. They are very small, modest streets and the projected increase in traffic on them will create an impossible traffic situation.

Alternatively, to reach I-220 a motorist could take I-20 to Market Street. However, if he went down Market Street, he would have to travel through 12 traffic lights in the heart of downtown Shreveport. Consequently, the present design of I-49 defeats the whole reason for having an interstate road because you will be dump-

ing the traffic into the middle of a city.

Mr. President, the situation in Lafayette is equally as difficult as the situation in Shreveport, presently, I-49 terminates at an intersection with I-10 in Lafayette, a 3 mile stretch of road, known as the Evangeline Thruway, then connects I-49 with U.S. 90, the major East-West highway in southern Louisiana.

The Evangeline Thruway sounds like a substantial road and it was a good road when it was built. However, the thruway is currently handling 1.49 times the traffic it was designed to handle and it is terribly congested. Mr President, the Evangeline Thruway is presently servicing 45,000 vehicles per day. Once I-49 is completed, it is expected to service from 60,000 to 65,000 vehicles per day.

Moreover, Mr. President, the Evangeline Thruway intersects with 27 different roads. None of these intersections are major intersections, with traffic at these intersections being controlled by stop lights. At the remaining 18 intersections traffic entering the Evangeline Thruway is controlled by stop signs.

Mr. President, I do not know of any noncontrolled access road in this country that can service traffic of this magnitude. It is virtually impossible to cross a road that is servicing 60,000 to 65,000 vehicles per day. The situation is a mess now and if we do not do something about it we are going to have a gridlock.

Mr. President, Lafayette has grown very quickly from a small sleepy country town to the capital of the oil industry in Louisiana. In fact, a recent New York Times article states that Lafayette is one the the Nation's fastest growing metropolitan areas, having grown 19 percent since 1980. Because of the fast pace at which this town has grown, the roads were not designed for easy access or for heavy concentrations of traffic. Consequently, today, Lafayette is a mess in terms of traffic control and this situation will deteriorate further unless we do something about it.

Mr. President, the House has recognized the seriousness of this situation and it has authorized $40 million so that we can begin the preliminary engineering and design work that is needed to alleviate this problem. I understand that the managers of the Senate bill would like to go to conference with the cleanest bill possible. While I can appreciate their position, I cannot overemphasize how important it is to correct this problem. Consequently, I would like to ask the managers of the bill if it will be possible for the Senate conferees to retain the House language that addresss the I-49 design problems?

Mr. RANDOLPH. I fully understand the importance of these projects to the Senators from Louisiana and I will be pleased to work with the House conferees in reaching an acceptable compromise on demonstration projects which can be a basis for a solution to this transportation problem.

Mr. BENSTEN. Coming from an energy-producing State myself, I understand the importance of having an adequate Interstate System to facilitate the movement of our domestic energy supplies. Consequently, I will be pleased to work with the House conferees as the bill relates to the position of the Senators from Louisiana.

Mr. STAFFORD. I recognize how important these projects are to the State of Louisiana and I will work with my colleagues in the House in seeing that this problem is adequately addressed in conference.

Mr. SYMMS. I think the request of the Senators from Louisiana is a worthwhile project. There is little question about it. Furthermore, I appreciate their cooperation in not offering their amendment on the floor. Consequently, I am willing to see that their concern is addressed in the conference report.

Mr. BURDICK. I want to assure the Senators from Louisiana that I understand the sense of urgency you have on these projects. I agree with you that the projects at Shreveport and Lafayette are meritorious, and I will support your position in conference.

Mr. JOHNSTON. Mr. President, I appreciate having these assurances from the distinguished Senators and I thank them for their attention and support.

Mr. LONG. Mr. President, I would like to reaffirm statements made by my distinguished colleague from Louisiana, Senator JOHNSTON, regarding the importance and necessity of extending I-49, 6.7 miles—3.7 miles of the proposed entension would be to the north terminal of the Interstate, thus connecting I-49 with I-220 in Shreveport-Bossier City. The remaining 3 miles would be in the Lafayette area.

I want my colleagues to know that I wholeheartedly endorse this extension and urge their favorable consideration on the merits of the project.

I-49 was authorized by Congress in the early 1970's and is 206 miles in length. I-49 begins at an intersection of I-10 in Lafayette and extends to its termination point of I-20 in Shreveport. I-49 is the only major North-South highway in the State of Louisiana.

Currently, I-49 terminates in two major cities which have tremendous traffic problems. The modest extension proposed will alleviate traffic congestion in Shreveport and Lafayette, thereby creating a controlled access road from New Orleans to Shreveport.

Lafayette, LA, is one of the fastest growing cities in the Nation. Since 1980, the population has increased by 19 percent. This dramatic increase in population has caused a tremendous burden on city streets, and has created unsafe conditions.

Lafayette was once a small country town. It is now the capital of the oil industry in Lousiana. The streets of Lafayette were not designed for easy access or heavy concentration of traffic. The major connection street for I-49 in Lafayette, Evangeline Thruway, handles more than 45,000 vehicles a day. Once I-49 is completed, it is expected to service from 60,000 to 65,000 vehicles a day.

Many of the problems experienced by Lafayette also exist in Shreveport, to which my good friend and colleague, Senator JOHNSTON, can attest.

Shreveport is the home of Barksdale Air Force Base, which is where the 8th U.S. Air Force is headquartered. Barksdale is the home of the B-52 and the KC-135 tankers which deploy with the B-52's.

Employment at Barksdale is well over 6,000 and it is anticipated expansions will occur in the near future. With increased employment at the base, there will be greater demand for easy access to other military facilities in the area. Extending I-49 North will make Barksdale more accessible to other facilities.

The House has already passed a highway bill which includes an authorization of $40 million for preliminary engineering and design work on the I-49 project. Mr. President, I would like to urge my colleagues to consider retaining the House authorizing language for the I-49 demonstration project when this bill goes to conference.

Mr. SASSER. Mr. President, I rise in support of S. 3024, the Federal-Aid Highway Act of 1984.

The approval of an 18 month interstate cost estimate bill will be a welcome sign to the various States that depend mightily on this funding. Last March, the Senate belatedly passed legislation releasing interstate construction funds. As a result, many State projects were halted, while still others were not even begun, pending resolution of the congressional stalemate.

I commend my colleagues on the Environment and Public Works Committee for seeking to put an end to the delays and uncertainties which have heretofore plagued the timely release of these critical highway apportionments. Passage of this 18 months ICE bill will ensure, at least through 1986, $5.3 billion in interstate construction funds.

In a related matter, action is long overdue with respect to our Nation's increasing bridge repair problems. I am pleased that the Committee on Environment and Public Works has

adopted provisions in the pending legislation which are identical to those which I introduced last year and again this year requiring a study of the problem.

For far too long now, our Nation's bridges have been deteriorating at an alarming rate. Today, over 263,000 of our Nation's 500,000 bridges are either structurally deficient or functionally obsolete.

Since 1970, we have authorized some $12,085 billion for the bridge repair and replacement program. Yet, year after year, our Nation's bridge repair bills continue to mount. Today, it is estimated that some $50 billion in additional funds are necessary to repair and replace our Nation's faltering bridge network.

We can neither continue to support this ever increasing bridge repair bill, nor can we satisfy ourselves with mere patchwork solutions.

I believe that the time has come to recognize the core problems which confront the Nation's crumbling infrastructure. We must take stock of our deteriorating bridges before, not after, they collapse. We cannot continue to subject the millions of American motorists to the risks attendant to functionally obsolete bridges.

Poorly aligned, narrowly constructed bridges account for the majority of deaths on the Federal highway system. Each year, between 1,800 and 3,000 deaths occur, not from bridges collapsing, but rather from functionally obsolete bridges unable to serve modern day traffic demands.

The situation is far worse on the off system. The Federal Highway Administration has estimated that "73,000 of the Nation's 303,000 off system bridges are load posted, and 52,000 others should be." It is estimated that "29 of 50 States should replace or rehabilitate at least half of their off system bridges."

We must act affirmatively to reverse this depressing trend toward increased bridge disrepair. Bridge safety is the essence of what I advocated in my legislation, S. 1575.

I do not believe that a complete bridge inventory, sound bridge inspections, qualified inspectors, or the prudent allocation of replacement and rehabilitation funds is too much to ask.

I would also like to express my support for Senator DURENBERGER's amendment modifying the Uniform Relocation Act of 1970.

This language has been thoroughly studied by the governmental affairs committee and is similar to the legislation I sponsored in the 96th Congress.

Senator DURENBERGER is to be complimented on his work in shaping this amendment. This amendment ensures uniformity in Federal regulations issued pursuant to the act. The courts, the General Accounting Office, and the Federal agencies have all pointed out inequities in the Uniform Relocation Act that can only be resolved by congressional action. Today, we have the opportunity to take that action after some 6 years of review spanning three Congresses.

Mr. President, I urge my colleagues to support and adopt S. 3024.

CAUSEWAY TO FORD ISLAND AMENDMENT TO HIGHWAY BILL S. 3024

Mr. INOUYE. Mr. President I rise in support of S. 3024, the compromise version of the Federal-Aid Highway Act of 1984. This bill includes a provision directing the Secretary of Transportation to conduct a highway project, in cooperation with the State of Hawaii, to demonstrate the economic and social benefits of constructing a causeway connecting Ford Island in Pearl Harbor with the highway system of Honolulu.

The benefits that accrue to this project are significant. Currently, Ford Island is a vastly underutilized Navy resource. It sits in a strategic location in the middle of Pearl Harbor and would be ideal for the development of needed shore and waterfront facilities. This development, however, has been impeded by the lack of ground transportation between Ford Island and the Oahu mainland. The only means of access to Ford Island now available is via a ferry or small boat.

Ford Island consists of 453 acres of land and approximately 4 miles of shoreline. A causeway linking the island to the Honolulu highway system would facilitate the development of approximately 350 acres of this land and 7,000 feet of shoreline. Indeed, a developer has been found who is interested in undertaking this development if the causeway is built. The only other location available to the Navy for the construction of shore and waterfront facilities is in the Pearl Harbor complex, where land is expensive and open land almost nonexistent.

The benefits of this project for the Navy and the State of Hawaii are great. The development of Ford Island would permit the consolidation of the functions of the Pearl Harbor Naval Base, which are now duplicated on Oahu and Ford Island. Pearl Harbor's capacity for servicing and stationing Navy ships and personnel would also be enhanced, and this in turn would greatly benefit Hawaii's economy. The development of Ford Island would also reduce the Navy's land crunch which affects the communities within and surrounding Hawaii's naval bases.

Additionally, the annual $3 million cost of maintenance on the ferry currently servicing Ford Island would be avoided, as would the $6 million cost of replacing the ferry—which otherwise must be done by 1987.

Mr. President, S. 3024 includes $12.5 million to be appropriated from the highway trust fund for this project, to be matched at least equally by other sources of funding. I feel this amount would be well spent on this valuable project which is strongly advocated by the Commander in Chief of the Pacific Fleet, Adm. S.R. Foley, Jr., as beneficial to the Navy's operations in Hawaii.

I urge my colleagues to support adoption of this bill.

TALMADGE BRIDGE

Mr. NUNN. Mr. President, I rise to express my sincere appreciation to the distinguished managers of this bill, Senators SYMMS and BENTSEN, and to the chairman and ranking members of the Senate Environment and Public Works Committee, Senators STAFFORD and JENNINGS RANDOLPH for their cooperation in accepting a demonstration project which is of tremendous significance not only to the economy of my State of Georgia but also the entire Southeast United States. The amendment which my colleague Senator MATTINGLY and I have offered to this highway measure would authorize the expenditure of $12.5 million for replacement of the Eugene Talmadge Memorial Bridge which spans the Savannah River linking Georgia with South Carolina. This authorization would be within the funding limits established by the Environment and Public Works Committee for projects of this type.

The role of Savannah as an international transportation center is an established and growing one. As the leading foreign commerce port on the U.S. South Atlantic, Savannah generates over 30,000 port service and user jobs in the State of Georgia alone, with thousands more throughout the entire Southeast. The benefits in terms of tax revenues and economic impact are immense.

Mr. President, at 136 feet at mean high water, the vertical clearance of the Talmadge Bridge poses a serious constraint to trade. Studies by the Georgia Ports Authority indicate that over 30 percent of all container and roll-on/roll-off vessels are prevented or constrained from passing under the Talmadge Bridge. Given current naval architecture trends, by the turn of the century the percentage will have increased significantly.

In addition, a recent study performed by a consultant firm provides projections as to cargo increases which would accrue from replacement of the Talmadge Bridge. The number rises from nearly 300,000 tons for the year 1984, to 700,000 by 1988, to 1,740,000 tons in the year 2010. The cumulative impact from 1988 through 2010 would be over 33 million tons of additional cargo beyond what would be handled if the bridge is not replaced. This translates to $800 million in economic impact in the 27 States which the port of Savannah serves.

Studies undertaken by the University of Georgia demonstrate that in the period from now until the year 2010, the existing Talmadge Bridge restraint will cost the State an estimated $2.5 billion in lost personal income, $1.3 billion in lost retail sales, and $149 million in lost State and local tax revenues. Further, the number of lost jobs range from 105 in 1981 to 1,625 in the year 2010.

The vertical clearance of the bridge also poses a clear and present danger to navigation of the larger classes of vessels seeking to access the inner reaches of the Savannah Harbor. An incident involving the vessel *Admiral William M. Callaghan* graphically displays this safety problem. In the summer of 1983, in an attempt to expedite the loading of military equipment during an Army rapid deployment exercise, the *Callaghan* collided with the Talmadge Bridge, tearing out the understructure and rendering the bridge useless for 90 days. The scenario could have been far worse. State highway officials remarked that had the point in impact been as little as 12 feet closer to the center of the span, the bridge would have collapsed completely. This becomes particularly significant in view of the fact that 7 to 10 vehicles crossed the bridge after the collision before traffic could be stopped. One of these was a fully loaded bus which caused the bridge to sag visibly as it crossed.

In view of the problems experienced by the *Callaghan*, the rapid deployment implications for the forces stationed at nearby Fort Stewart are obvious. A recent study by the Military Traffic Management Command identified six different classes of military vessels which would be constrained by the height limitation posed by the Talmadge Bridge. Each time they must be deployed through another more distant port, the price tag for the exercise increases.

Mr. President, the $12.5 million total provided for in this amendment constitutes only a fraction of the amount necessary to replace the Talmadge Bridge. We are hopeful that, in subsequent legislation, additional funds will be forthcoming. The chairman of the House Public Works and Transportation Committee, JAMES HOWARD, has pledged his support for this project, and we are optimistic of receiving full funding in the 99th Congress. The cost of replacing the Talmadge Bridge is $90 million. The State of Georgia has developed a financing plan in which it proposes to pay 40 percent of this total. This exceeds the 80 percent/20 percent Federal/State matching formula established in the regular Federal bridge replacement formula.

The 1982 Surface Transportation Assistance Act includes language designating the Talmadge Bridge as a priority bridge project worthy of Federal funding. So, Mr. President, congressional intent is clear. I believe that replacement of the Talmadge Bridge is of extreme importance to the continued growth of the Southeast.

Again, Mr. President, I appreciate the willingness of the distinguished managers of this legislation to accommodate us in this matter.

Mr. MATTINGLY. Mr. President, I am pleased that the Committee on Environment and Public Works has included in its highway bill a demonstration project for the Talmadge Bridge in Savannah, GA.

The Talmadge Bridge, a two-lane structure built in 1954, spans the Savannah River at the Port of Savannah, GA. The bridge is part of the Federal-aid primary highway system and carries alternate U.S. Route 17 from Savannah to South Carolina.

The problem with the Talmadge Bridge is threefold. First and foremost, there is an extreme safety hazard. In fact, at 6:15 a.m. on July 23, 1983, a vessel participating in the military exercise "operation bright Star" struck and severely damaged the bridge. A forward boom of the vessel *Admiral William N. Callaghan* ripped through the lower main structural support beams of the bridge. Fortunately, the vehicles on the span—including a passenger bus—did not plunge into the water below. But, the damage was severe enough for the bridge to be closed for many days. An accident such as this could occur again and this time may not be so fortunate—lives could be lost.

The second problem with the Talmadge Bridge negatively impacts the national defense capabilities of our country. The U.S. Army 24th Infantry Division is based at Hunter Army Airfield in Savannah and nearby Fort Stewart in Hinesville, GA. Timely movement of this element of our Rapid Deployment Force is seriously constrained by the height of the Talmadge Bridge.

Finally, the Port of Savannah is a vital link in the foreign trade network of the United States. It is the leading port for foreign trade among the 10 mainland South Atlantic ports. The continuing presence of the Talmadge Bridge, with a height constraint, will choke the foreign trade at this port and will be detrimental to the trade of the entire South Atlantic, the east coast, and the 25-State trade hinterland.

All of the problems facing the Talmadge Bridge are serious ones. In all, the solution to the problem lies in the replacement of the bridge.

The sufficiency rating for the Talmadge Bridge is 52.7. It, therefore, would normally qualify for rehabilitation under the Federal HBRR program. However, this structure is a steel truss and it is not physically possible to widen it to meet the proper functional design for present traffic volumes, which should be 44 feet for 2 lane traffic. The only prudent method to improve this structure is replacement. While the sufficient rating is quite low, it would become even lower if the rating system could reflect the grade of the approach and the immediate 15 degree curve, the clearance problems on the waterway, and the defense critical nature of the Savannah Port. Replacement with realignment of the bridge approaches and roadway are the appropriate improvement to this hazardous, physically, and functionally inadequate problem bridge.

The senior Senator from Georgia, Senator NUNN, and I have been working very closely with the local officals and business leaders in Savannah as well as Governor Joe Frank Harris, State Department of Transportation Commissioner Tom Moreland, and State house and Senate leaders on finding a solution to the problem of replacement of the Talmadge Bridge. As always seems the case, the problem is money. How do we fund the replacement? The demonstration project moneys provided in this bill, $12.5 million, will be matched by the State of Georgia. Additionally, cooperatively, Senator NUNN and I will continue our work with the State as well as Federal agencies and Members of Congress to secure the remaining funding needed to replace this bridge. It is absolutely necessary.

Mr. PRYOR. Mr. President, I want to bring to the committee's attention a need that exists in my State for a demonstration project to solve a most serious traffic flow problem around one of the most visited national parks in our Nation. I am speaking of the Hot Springs National Park at Hot Springs, AR. As visitation to the lakes, racetrack, and national park continues to rise, the lack of an improved facility to serve traffic needs will continue to tax the already overburdened arterial system. This will have the effect of discouraging those visitors who wish to utilize the park.

The Arkansas Highway and Transportation Department and local authorities have long planned a freeway to serve U.S. Highway 70 traffic and have more recently proposed a bypass to remove traffic from the park areas. This demonstration project should be established in the interest of serving those park visitors and should be monitored to determine the effects on travel and ease of access to the park.

I would ask that committee members look into this need in the future and confer with Federal highway officials to determine the most appropriate methods to address it.

Mr. DENTON. Mr. President, I wish to bring to the attention of the distinguished chairman of the Environment and Public Works Subcommittee on

Transportation [Mr. SYMMS] that the bill (H.R. 5504) includes funding for a project that is important to the citizens of northwest Alabama.

For many years, the citizens of the Muscles Shoals area, including the cities of Florence, Sheffield, and Tuscumbia, have had to rely on two inadequate roadways to travel across the Tennessee River. Both facilities, the O'Neal Bridge and the Wilson Dam Highway, are deficient from a functional standpoint according to a feasibility study prepared for the Alabama Highway Department and the Federal Highway Administration.

The feasibility study has determined that a new bridge built in the Patton Island corridor across the Tennessee River would be the best alternative.

Currently, traffic volumes on both the O'Neal Bridge and the Wilson Dam Highway approach or exceed the capacities of those roadways. As traffic demand in the area continues to increase at an estimated 2.26 percent annually, operating conditions on the existing facilities will worsen. In addition, the rate of automobile accidents is anticipated to increase in the coming years as the rate of traffic continues.

As you know, the Tennessee-Tombigbee Waterway is scheduled to open in 1985. Adequate transportation across the Tennessee River in the northwest corner of Alabama will be essential to the economic well-being and safety of the citizens of the area.

The proposal is supported by the Muscle Shoals area Metropolitan Planning Office, the Northwest Alabama Council of Local Governments, and the Alabama Highway Department. In fact, Mr. Ray Bass, director of the Alabama Highway Department, stated, in response to my letter seeking his position on the project, that it would be of the highest priority.

H.R. 5504 authorizes $10 million to carry out a demonstration project to begin engineering and construction of the Patton Island Bridge project in the Muscle Shoals area. The total cost of the project is estimated to be $50 million. The $10 million would, therefore, allow for completion of an environmental impact statement, preliminary design and engineering, and possibly acquisition of the right-of-way. It would, in other words, allow for only the initial work on the project. Does the Senator from Idaho's understanding of the matter correspond with this description?

Mr. SYMMS. The Senator is correct.

The Senator from Alabama and I have discussed the matter and I am well aware of his interest in seeing that funds are provided to construct the Patton Island Bridge.

As you know, I am concerned that if the Congress authorizes funds for new projects that will severely strain the highway trust fund, it will not have sufficient funds to sustain the level authorized. The major purpose of S. 3024 is to approve the interstate cost estimate so that funds can be released to the States.

Mr. DENTON. I understand the concern of my friend from Idaho. I believe that it is important to note that the State of Alabama and the local authorities are also well aware of the fiscal restraints that currently face the Congress. They have been willing to seek a multiyear authorization to provide funds as they are needed to complete the various stages of the project rather than seeking the total authorization amount in the bill.

Mr. SYMMS. I commend them for their understanding of the problem and I believe that their attitude will enhance the success of the project.

Mr. DENTON. Mr. President, I had considered offering an amendment to the bill to authorize the same amount included in H.R. 5504. After my discussion with the distinguished Senator from Idaho, however, I have decided that, rather than offering an amendment, I will seek his support to retain the House-passed authorization in conference.

As I have stated, I believe that the Patton Island Bridge project is vital to northwest Alabama.

Can the Senator tell me what his attitude may be to retaining the provision in conference?

Mr. SYMMS. Because of your interest in the matter and the fact that officials in Alabama are willing to seek a multiyear authorization, I will do what I can with respect to those funds.

Mr. DENTON. I thank the Senator for his attention to this matter.

Mr. KASTEN. Mr. President, I rise today in support of immediate action on S. 3024, commonly known as the highway bill. The progress of crucial highway projects in the State of Wisconsin, as well as the Nation, depends upon immediate action on this vital legislation.

The failure of Congress to approve an interstate cost estimate [ICE] has caused the withholding of more than $2 billion nationally in funds for interstate construction and substitution projects, as well as 85-percent minimum allocation guarantee.

The State of Wisconsin has already experienced a shortage of roughly $34 million in expected interstate construction and minimum allocation funds in 1984, which has forced schedule delays and necessitated interim stop-gap funding from the State Department of Transportation.

Further delays in congressional action on this legislation would result in the withholding of $5 billion in Federal highway funds, which includes more than $48 million in additional funding for Wisconsin. This cannot be allowed to happen.

Mr. President, a main point of contention in Congress has been demonstration projects. The original intent of funding demonstration projects was to encourage new and innovative proposals. Over the years, however, these projects have become less innovative and more dependent upon their popularity in the Member's home district. There were a total of 3 demonstration projects in 1973–74, 6 in 1978, and 12 in 1982. The highway proposal passed by the House this year includes 40. This is ridiculous. It is a waste of Federal funds and it has served to hold hostage the matter of true importance, which is the interstate cost estimate.

This is the point that I want to make today. I'm tired of delays in passing highway legislation. The people of Wisconsin are tired of these delays. There is no reasonable, logical explanation for these delays. I ask my colleagues here today for a favor. Let us not grab from 50 different directions for our own piece of the pie. Let's work to get this bill passed, and to get it passed now in a clean form, free of crippling demonstration projects or other proposals that endanger our Interstate Highway System.

Mr. HUMPHREY. Mr. President. I am pleased that the Senate is today turning to consideration of S. 3024, the Federal-Aid Highway Act of 1984. As a member of the Senate Committee on Environment and Public Works, I fully support this bill and am determined to work for its enactment.

Mr. President, at this time I would like to engage the chairman of the committee, Mr. STAFFORD, and the chairman of the subcommittee, Mr. SYMMS, in a colloquy regarding the effect that this legislation will have on efforts to replace the Notre Dame Bridge in Manchester, NH.

Mr. STAFFORD. I would be pleased to engage in a colloquy on this subject with the Senator from New Hampshire.

Mr. SYMMS. I would be happy to also participate in this colloquy.

Mr. HUMPHREY. It is my understanding that the effect of this legislation on the Notre Dame Bridge is to authorize its replacement with a dual span at a cost share of 50 percent Federal funds, 50 percent State and local funds, with total Federal funds for the project not to exceed $12 million. It is also my understanding that this cost-sharing arrangement is the same as that applied to all other demonstration projects authorized by the committee in S. 2527.

The Notre Dame Bridge has for some time been included by the Federal Highway Administration, at the request of the State of New Hampshire, on the list of bridges eligible for funding from the Federal discretionary

bridge program. The rating factor for the bridge is currently 4.93, which is very near rock bottom of a rating scale that runs from 1 to 100. However, because of a substantial backlog of other bridges also eligible for, and in some cases already partially funded with, discretionary bridge program funds, and given the current funding level of $200 million per year for this program, it is estimated by the Federal Highway Administration that the earliest time at which funds can be made available for replacement of the Notre Dame Bridge is approximately 4 to 5 years from now.

Because the badly deteriorated condition of the bridge poses a risk to the continued safety of motorists, including those passing under the bridge on Interstate 293, because the city 10 years ago spent $1 million for badly needed temporary repairs on the bridge with the understanding that the Federal-Aid Highway Program would assist the city and State with a permanent solution as funds became available, and because the city of Manchester, with local funds, has a major downtown revitalization project underway immediately adjacent to the Notre Dame Bridge, the committee has authorized as a demonstration project the replacement of the bridge.

However, the inclusion of this authorization in S. 2527 is not intended to remove any flexibility currently available to the city of Manchester and the State of New Hampshire in determining how to finance this project. If the city and State choose not to begin the project under the cost-sharing arrangement included in S. 2527, that is their prerogative, and such a decision would not in any way affect the bridge's eligibility for funding from the discretionary or other bridge replacement programs. Furthermore, if the city and State should choose to commence the project under the authorization included in this legislation, such action would not disqualify the Notre Dame Bridge from further eligibility for discretionary bridge funds. Indeed, the authorization included in this bill could be used to initiate the project, and at such time as discretionary or other bridge replacement program funds become available, they could be used to fund any uncompleted phases or segments of the project. Whether the city of Manchester and the State of New Hampshire do in fact avail themselves of this demonstration project authorization for replacing the Notre Dame Bridge is their decision to make, in consultation with the Federal Highway Administration, on the basis of the need to proceed quickly with the project, the availability of adequate State and local matching funds, and other related considerations.

I ask the chairman of the Committee on Environment and Public Works, Mr. STAFFORD, and the chairman of the Transportation Subcommittee, Mr. SYMMS, whether my statement of this situation is correct.

Mr. STAFFORD. Yes; the gentleman's understanding is correct.

Mr. SYMMS. Yes; the Senator from New Hampshire has accurately and correctly described the situation.

Mr. HUMPHREY. I thank the Senators for their assistance.

Mr. WILSON. Mr. President, I rise in support of S. 3024, the Federal-Aid Highway Act of 1984, and to commend the subcommittee chairman, my distinguished colleague from Idaho. As usual, the committee and its staff have done an outstanding job.

Mr. President, I would like to engage the chairman, Mr. SYMMS, in a colloquy with regard to two highway situations of major concern to California. The first, Mr. President, is a situation at the Ontario International Airport [OIA] in southern California. Airport use at OIA is growing by an incredible 20 percent per year. In 1984, 3 million annual passengers are expected to use OIA with a projected 12 million annual passengers by 2000.

The California Department of Transportation [Caltrans] granted OIA an amended permit to expand service to accommodate 12 million annual passengers. However, Caltrans further stipulated that before the passenger terminals may be expanded, that more specific plans be developed to mitigate additional surface traffic.

OIA and its vicinity are growing too rapidly to depend solely on traditional funding sources for ground access at Ontario. To meet the gap between the need and existing funding, I am urging consideration of a demonstration project at OIA to illustrate methods of improving highway access to an airport which is projected to incur substantial increases in air service. This project is included in the House version of the bill.

The Federal share of $38 million, as provided in H.R. 5504, is only about 50 percent of the total cost of the project. The rest of the money will come from State, local, and private funds.

Second, Mr. President, is a situation of grave concern in Riverside County. Highway 86, the only north-south servicing the fertile Mexicali, Imperial, and Coachella Valleys into the Los Angeles Basin, experiences fatalities at four times the rate of similar highways. This is an extremely hazardous highway that needs vital safety improvements in a timely manner.

Mr. President, several factors combine to make Highway 86 so dangerous. First, the shoulders slope at severe angles to the narrow roadway, so the slightest misjudgment can be fatal. Second, as the main north-south artery, there are an inordinate number of slow-moving heavy agricultural and commercial trucks and daily schoolbus traffic.

The House companion to S. 3024 will initiate vital safety improvements to Highway 86 in Riverside. I am supporting this project because the county is caught between the conflicting demands of Federal and State law. Federal law requires the State to spend money on Riverside County improvement to Interstate 15, while State law caps the amount of funds available to a particular county. Thus, despite the critical needs and tragic implications of Highway 86, the State of California has not given Highway 86 an immediate funding priority.

Mr. SYMMS. Let me assure my good friend, the Senator from California, that I am very familiar with the situation regarding Ontario Airport. I recognize that ground access at Ontario is not only of regional, but also, national and international importance. Additionally, the fatality rate on Highway 86 warrants a timely resolution.

As my distinguished colleague knows, I am opposing any amendments for demonstration projects to this bill. However, I will certainly give the Senator's concerns about both of these projects full consideration when they are addressed in conference.

Mr. WILSON. I thank the distinguished chairman for his remarks and for his continuing attention to the transportation needs in my State. I very much appreciate his interest in these projects and consideration during conference.

Mr. COCHRAN. Mr. President, I want to express my appreciation to the managers of S. 3024, the Federal-Aid Highway Act, and to the leadership of the Senate for bringing this legislation to the floor before adjournment.

This legislation contains congressional approval for the interstate cost estimate, which, as we all know, is about 1 year overdue.

Each of us has certainly heard from our State about the hardship that this delay has caused. The holdup adversely affects not only our State highway departments and the employers and employees of industry involved in infrastructure, but also the citizens who pay for and use the Federal-aid highway system.

The interstate cost estimate was supposed to be a 2-year authorization for the expenditure of highway trust fund moneys. The purpose of a multiyear authorization for the Federal-aid highway system is to assure stable, reliable, long-term funding so States can more accurately plan for large and costly highway projects. The delay in releasing these funds has had a detrimental effect on the highway program and on the safety of our national infrastructure and all those dependent on it.

We have seen this administration put a new emphasis on highway safety. When those in charge of implementing the plans of action to improve highway safety at the local level are hampered by political concerns in Congress, the system must be corrected. In my view, approval of ICE, even at a late date, illustrates our efforts in Congress to correct this problem. I am especially pleased with the provision in S. 3024 which allows for the Secretary of Transportation to apportion ICE funds administratively for fiscal years 1986 through 1990 if Congress again fails to act in a timely fashion.

The people of my State of Mississippi, along with other States, accepted in good faith the burden of increased fuel taxes as passed in 1982. They assumed that these additional assets would improve the status and safety of our Federal-aid highway system. I am very pleased that we in Congress are acting on ICE to show our good faith in return.

CHOPTANK RIVER BRIDGE

Mr. SARBANES. Mr. President, I would like to engage the managers of this legislation in a brief colloquy regarding the Discretionary Bridge Program.

Mr. STAFFORD. We would be happy to respond to the Senator's questions.

Mr. SARBANES. When passing the Surface Transportation Assistance Act of 1982, the Congress adopted a provision in section 161 which required the Secretary of Transportation to develop criteria for the selection of bridges to be funded under section 44 of title 23. On November 17, 1983, the Federal Highway Administration issued regulations which included a rating factor for use in selecting bridges to be funded under the Discretionary Bridge Program. This rating factor is based on a formula which includes various components such as average daily traffic, average truck traffic, Defense Highway System status, and total project cost to name a few. Under these regulations, the Discretionary Bridge Program will only consider those bridges with a rating factor of 100 or less, based on a scale of zero to infinity. It is my understanding that the lower the rating factor, the higher priority for selection and funding.

Mr. RANDOLPH. The Senator is correct.

Mr. SARBANES. In its report this year, the Committee on Environment and Public Works reiterated its position that the Federal Highway Administration should rely upon the criteria established by the Secretary under section 161 when deciding which branches are to receive discretionary funds.

Mr. RANDOLPH. The Senator is correct.

Mr. SARBANES. In my home State of Maryland, the Choptank River Bridge has a rating factor of only 10.12, which is well below the 100 point threshold. The Choptank River Bridge is situated on U.S. Route 50, which is a defense highway linking the Baltimore-Washington metropolitan areas with the population, recreation, and employment centers of Ocean City, Salisbury, Cambridge, and Easton on Maryland's Eastern Shore. The bridge, built in 1933, is a two-lane structure connecting segments of a modern four-lane highway. The entire bridge deck and some of the supporting members require extensive maintenance on a regular basis.

In addition to being in poor structural condition, the bridge is a natural bottleneck for traffic moving between points on Route 50. The bottlenecks become especially serious and even dangerous during the summer when traffic to and from the beaches near Ocean City is especially heavy. It is not unusual during peak periods to have delays of more than 2 hours and queues of 5 or 6 miles on both sides of the bridge. This situation, besides being a considerable inconvenience to travelers, also effectively precludes the use of the bridge for large periods of the day by local residents for normal and emergency vehicle traffic.

Later this year, the State of Maryland is preparing to start construction of a new bridge over the Choptank River. The State is requesting that the Department of Transportation use discretionary funds to cover only 50 percent of the $60 million cost. The State of Maryland has agreed to pay the other 50 percent along with all costs related to engineering and building the short right-of-way approach sections to the new bridge. This commitment of scarce State funds demonstrates the critical importance that Maryland places on the project. The entire project can not be funded within the confines of the normally apportioned bridge money.

In my view, the Choptank River Bridge is exactly the type of project the discretionary bridge fund was designed to help finance.

Mr. RANDOLPH. The Choptank River Bridge certainly fits the criteria established by the Federal Highway Administration. Secretary of Transportation Dole should give it a high priority when allocating the discretionary bridge funds.

Mr. STAFFORD. I agree with my colleague from West Virginia. Secretary Dole should give the Choptank River Bridge careful consideration when allocating the discretionary bridge funds.

Mr. SARBANES. I thank my good friends for yielding to me for this discussion.

MIAMI TUNNEL AMENDMENT

Mrs. HAWKINS. Mr. President, as the chairman knows I had intended to offer an amendment to the bill to provide funds for engineering and design work for a tunnel connecting the Port of Miami to Interstate 395. However, out of respect to your desire not to add projects already approved by the House to this bill, I will not do so.

The Port of Miami is the largest cruise ship passenger port in the world. Additionally, Miami Harbor has grown spectacularly to become an important facilitator of U.S. trade with Latin America and the Caribbean nations. The port serves a region of the world in which the United States despite an overall foreign trade deficit, has accumulated trade surpluses. Goods and commodities moving through the Port of Miami account for over $6 billion in value of which 65 percent is exported while 35 percent is imported, creating a very favorable balance of trade.

Future projections indicate a continuation of the phenomenal growth patterns of recent years, in both passenger and cargo traffic. By the next decade, cruise passengers at the port are expected to increase from the present level of 1 million per year to 4 million. Cargo is expected to increase eightfold from the present 1.9 million tons per year to 15.6 million tons by the year 2000, an increase of 10 percent per year.

The Port of Miami is located on a 675-acre island in Biscayne Bay, adjacent to the heart of downtown Miami. Obviously the port's lifeline is its link to the mainland. Presently, the island has only one access link to the mainland, a two-lane bascule bridge which opens twice each hour for pleasure vessels using the Intracoastal Waterway. All passenger and cargo traffic destined to and from the port must use this bridge as well as traverse a six-block stretch of congested downtown streets to reach the interstate expressway. On any one day, as many as 15,000 to 20,000 vehicles cross over this bridge.

A new high-span bridge will be built to replace this inadequate structure and leave the port less vulnerable to the disruption that frequently occurs causing the link to be severed. However, growth projections for the port are such that within a very few years the downtown streets simply will not be able to handle cargo and passenger traffic destined to the Interstate System.

The proposed solution is a 1-mile stretch of tunnel to connect the port directly with the Interstate System. County and city officials have determined that between 8 and 10 years would be needed to complete tunnel construction, once the first funding becomes available, and stress the urgency in beginning the engineering and design phase as soon as possible.

Due to the rather lengthly period of time required for fruition of the

project, it is important for the planning stage to begin as soon as possible.

The amendment would provide authorization for contract authority in order to begin the engineering and design work.

Mr. President, we are proud that the Port of Miami is now the largest cruise ship passenger port in the world. Additionally, I know you would concur that fostering trade through the Port of Miami is in the national interest. The port is now responsible for $2 billion of annual economic impact and 20,000 direct jobs. Since the port was founded at the turn of the century, it has never stopped growing. To accommodate its phenomenal growth projections, the port is presently engaged in a multimillion-dollar expansion program with plans to double the port's land area and add 19 to 28 new berths for containerized cargo shipments. Increased port activity will be accompanied by a projected increase in truck, bus, and passenger car traffic volumes. Additional crossings providing efficient and uninterrupted vehicular access to and from the port are an essential element of the ongoing expansion program.

I cannot overestimate the importance of the Port of Miami to international trade and commerce development, and the obvious benefits this project would bring to Miami and the entire State of Florida.

I therefore appreciate the chairman's understanding of the need for these funds, and your willingness to give favorable consideration to the matter in conference with the House. The local sponsors have given me commitments that they will be willing to pay 50 percent of the costs, in line with the approach to funding you and the committee have taken on all projects. I fully understand the need to limit the Federal costs at this time of massive deficits, and I concur in your approach.

Mr. STAFFORD. I thank the Senator from Florida for her willingness to forego offering her amendment. I have discussed this project with her several times, and I fully appreciate its importance. Let me assure the Senator from Florida that I will do all that I can, within the limitations under which we are operating, to seek approval of the project in our conference with the House.

WILLIAMS VIADUCT

Mr. WARNER. Mr. President, I would like to bring to the attention of the Senate a problem in Lynchburg, VA, that is very important.

The Williams Viaduct carries Route 29, a major highway through central Virginia, over the James River.

I have crossed this bridge on many occasions and have witnessed its deterioriation over the years.

I was not surprised in 1970 when a nationwide bridge inspection found the Williams Viaduct to be desperately in need of repair. In a subsequent survey in 1979, it was determined that the bridge could no longer be repaired—but that total reconstruction is necessary.

Mr. TRIBLE. Mr. President, I would like to associate myself with the remarks of my senior colleague.

Because of the rapidly deteriorating condition of the Williams Viaduct, the Virginia Department of Highways and Transportation has made it the third highest priority in the Commonwealth of Virginia.

The first and second priorities, the Robert E. Lee Bridge in Richmond and the Campostella Bridge in Norfolk, are, of course, in similar—if not worse—condition. So, there are three bridges in Virginia that must receive immediate attention. According to the highway commission's schedule, all three of those bridge repairs should be completed by 1988, the last year that the engineers who have studied the Williams Viaduct have estimated that the bridge will be even marginally safe to travel.

Mr. WARNER. I thank my colleague. Of course, the schedule mentioned by Senator TRIBLE is dependent of adequate funding assistance from the Federal Government.

The committee report accompanying the House version of the highway bill mentions the Williams Viaduct as one of the Nation's bridges that should be considered for bridge discretionary funds.

I hope that my Senate colleagues will recognize that there are critical safety considerations with respect to several bridges in Virginia and that sufficient funds will be made available so that Virginia can complete what I consider to be a realistic bridge repair program.

This was one of the major reasons that I supported the increased gasoline and truck tax provisions of the Surface Transportation Assistance Act of 1982. I have spoken on several occasions with Federal Highway Administrator Barnhart and expressed my hope that money from the bridge discretionary fund will be made available to Virginia. I hope that the Senate will agree that our deteriorating bridges need immediate attention.

Mr. STAFFORD. As the Senator from Virginia has mentioned, the Williams Viaduct does appear on the list of bridges to be considered for discretionary funds in the House report accompanying H.R. 5504.

I assure both Senators from Virginia that I agree with their assessments of the condition of the Williams Viaduct. It does meet the criteria in place for discretionary funds and I believe the Federal Highway Administration should give it serious consideration when these funds are allocated.

Mr. WARNER. I thank the chairman for his assurances.

Mr. TRIBLE. I would also like to thank the chairman for his assistance on this matter.

HIGHWAY DEMONSTRATION PROJECTS

Mr. DANFORTH. Mr. President, in considering the counterpart to this legislation (H.R. 5504), the other body authorized the Secretary of Transportation to carry out a highway project on U.S. 71 in southwest Missouri for the purpose of demonstrating methods of improving highway safety and accelerating highway construction. The funding level for this project, which would widen the highway from two lanes to four, was set at $13 million for the 1985 fiscal year and $12 million for 1986, with the funds to be spent for preliminary engineering and design, utility relocation, and land acquisition and initial construction in connection with the project.

The traffic count on this highway is considerably above the volume of 5,000 vehicles per day that indicates the need for a four-lane road, and the accident rate on one stretch—from Anderson to Neosho—is 40 percent above the State average.

In considering S. 2527, the Committee on Environment and Public Works struck a number of highway demonstration projects from the House bill, including this one. Nonetheless, the project is a worthy one. While I do not intend to press the matter at this point, I would ask the distinguished manager of the bill to give the project his most careful consideration when the bill goes to conference.

Mr. SYMMS. Mr. President, the Senator from Missouri has that assurance. I can appreciate his concern about the safety of this section of highway, and we will give every possible consideration to the project.

CHOPTANK RIVER BRIDGE

Mr. MATHIAS. Mr. President, many Senators are already aware of an important project within the State of Maryland which deserves to be recognized as a priority project under the Discretionary Bridge Program. I am referring to the Choptank River Bridge, located on the Eastern Shore of Maryland, along the route to the lower shore and the ocean beaches.

Many of you who have occasion to travel to the Eastern Shore on weekends are probably familiar with the bridge because it is located on U.S. Primary Route 50, a major link between the Baltimore-Washington metropolitan area and the Maryland beaches. As you will surely have noticed, the bridge is in dire need of repair. The bridge is almost 50 years old and is functionally outdated. It has two very narrow lanes with no shoulders and often causes backups and delays during the hot and humid summer months. Under the Federal Highway Administration's criteria, any bridge with a rating under 100 qualifies for

the Discretionary Bridge Program. The Choptank's condition is so bad that it is rated 10.12.

Because of the perilous condition of the bridge and the enormous inconvenience it causes, the House included language in its report accompanying the Surface Transportation Act of 1984 which recognizes it as a high-priority project.

Mr. SYMMS. I am familiar with the bridge and I understand that the structure requires rather extensive maintenance. There is an urgent need to move forward with construction of a new bridge and it is certainly clear the the project is deserving of discretionary funds. I am aware that you are requesting only half of the needed funding to complete the project.

Mr. MATHIAS. That is correct. This unusually costly project is a tremendous one for a small State like Maryland to undertake by itself. We estimate that the bridge will cost $60 million and that does not include the short sections of approach road that will be necessary to connect the new bridge. It would be exceedingly helpful it we could have Federal assistance in this very important project.

Mr. SYMMS. I appreciate the State's efforts to keep the Federal share down. When the conferees meet, I will give this project all the consideration I can.

Mr. JEPSEN. I join my colleague from Iowa, Senator GRASSLEY, regarding the replacement of the functionally and structurally obsolete U.S. 52 bridge over the Mississippi River between Sabula, IA, and Savanna, IL.

The Department of Transportation currently has an application pending for $12,050,000 in discretionary bridge funds for the replacement of the existing bridge which was constructed in 1933 and, due to its deteriorated condition is severely restricted in the amount of weight allowed to pass over the span. It is substandard both functionally and structurally, and meets every qualification for discretionary funding including a rating factor of less than 20.

The competition for funding for qualified bridges under the discretionary bridge program is keen. I wanted to bring this bridge to my colleague's attention because it is in urgent need of replacement and immediate funding is needed. I would hope that the Senator from Idaho would support our request that approval and funds for this pending application be forthcoming as soon as possible.

Mr. GRASSLEY. I would like to join my colleague, Senator JEPSEN, in his request and point out that, among other reasons for this urgently needed replacement, the road network linked by this crossing provides primary service to the important regional crossing of this major geographic barrier, serves the U.S. Corps of Engineers in the management of the river and is projected to become an important line in the road network designated in accordance with the 1982 Surface Transportation Act to serve wider and longer commercial vehicles.

This bridge is a relatively low-cost replacement that will yield both immediate and extended economic and social benefits to both Iowa and Illinois. I, therefore, join with Senator JEPSEN, in urging that priority be given to the pending application for discretionary bridge funds.

Mr. SYMMS. I commend the gentlemen for bringing this project to the committee's attention. I know the bridge is a major problem for the area and it clearly meets the criteria that the committee set forth for the discretionary bridge program. The committee calls on the Federal Highway Administration to give this project high-priority consideration.

● Mr. DIXON. Mr. Chairman, I would like to clear up some apparent misunderstanding as to the intent of a provision included in S. 3024 which gives the State of Illinois priority for 5 years for interstate substitute highway discretionary funds. This provision was part of a compromise reached with the committee to offset another provision in the bill which alters the way in which the 85-percent minimum funds are calculated and which will cost the State of Illinois at least $27 million beginning in fiscal year 1986 and an incalculable amount thereafter.

This loss is totally unacceptable to a State which only gets 75 cents back for every dollar sent to Washington. In addition, Illinois' interstate transfer highway funding dropped from $274 million in fiscal year 1983 to $138 million in fiscal year 1984—the only State to sustain over a $100 million loss in funds in the program.

To offset this loss and the loss generated by the Bentsen provision in S. 3024, I and my fellow Senator from Illinois, Senator PERCY, attained acceptance of the language which gives the State of Illinois preference under this program. Unfortunately, there has been some misunderstanding as to the scope of this provision.

It should be noted that the language is a statement of policy and does not contain an operative mechanism. It was not intended to usurp the role of any other legislative action nor to deny to the executive branch its appropriate responsibilities. What we are saying here is that it is the intent of Congress that in making distribution of these funds, it be kept in mind how much Illinois has been reduced. Thus, if the Appropriations Committee in its wisdom, decides to allocate then it should do so with this expression in mind, or that if there is no such action by the Appropriations Committee, when the Secretary of Transportation uses discretion in allocating the funds, that this expression be kept in mind.

We would certainly hope that at the point in which a reallocation of funds is made because one State or another was unable to obligate its funds, that special consideration be given to Illinois in the reallocation of such funds.

● Mr. PERCY. I would like to join my colleague in his explanatory remarks on this priority provision and add that the Illinois provision duly respects the congressional earmarking procedures under this program and in no way displaces that procedure.

This language, and the other compromise on the Bentsen provision in S. 3024, became necessary to offset recent, devastating losses to Illinois under the interstate substitute highway program. We simply could not let legislation pass the Senate which stood to cost the State of Illinois another $57 million over the next 2 years on top of the $136 million loss from fiscal year 1983 to fiscal year 1984 in the interstate substitute highway program.

Does the chairman concur with myself and Senator DIXON on the scope of this provision, that is, the provision is an expression of the State's desire for priority consideration of any funds left unallocated.●

● Mr. SYMMS. I concur with the explanations of my colleagues from Illinois and hope that this clears up any misunderstandings of the intent of the provision.

● Mr. BENTSEN. I concur. The language is intended only to cover excess of discretionary funds not otherwise allocated.

DEMONSTRATION PROJECT IN PASSAIC, NJ

Mr. LAUTENBERG. Mr. President, I would like to engage the managers of the bill in a discussion regarding the need to complete a segment of Route 21 in Passaic, NJ, which will connect the communities of Newark and Paterson. A demonstration project which will expedite the completion of this road is contained in the House bill, H.R. 5504.

I discussed this project with the Senator from Texas prior to the markup of S. 3024 by the Environment and Public Works Committee. As the managers know, no project included in the House bill are contained in the bill before us. As I told the Senator from Texas prior to committee markup, I have strong interest in this project and would certainly hope it can be retained in conference with the House on this bill.

I know that Senators from other States have an interest in other projects included in the House bill. Like them, I would ask the managers of this legislation for their careful consideration of this very important project when it is considered in conference.

Route 21 and its completion are central to the efforts of the business community in Passaic, NJ, to revive that older industrial city by linking Passaic with major points of commerce in New Jersey and the Nation. Were this project not so vital to Passaic's economic well-being, I would not be pursuing it so vigorously.

Mr. BENTSEN. In response to the Senator from New Jersey, Mr. President, let me say that the demonstration project for Route 21 will be given careful consideration when we get to conference. The Senator from New Jersey has indicated his interest in this. I appreciate his cooperation with the committee leadership in not pushing an amendment to authorize it at this time.

As the Senator well knows, we will face a number of difficult issues in conference, not the least of which is the scope of the demonstration projects contained in the House bill. The demonstration project for Route 21 will be a subject of that conference. I can assure the Senator that it will get a full and careful hearing.

Mr. SYMMS. As the Senator from New Jersey knows, I am concerned about the number and size of demonstration projects in both the Senate and the House bills. Nevertheless, the Senate bill will contain projects. The Senator's patience in not pursuing this project on this bill at this time is appreciated. I can assure him that his support for the Route 21 project is noted and that every consideration will be given to its authorization in conference.

HURON BYPASS

Mr. METZENBAUM. Mr. President, I would like to bring to the Senator from Idaho's attention a demonstration project which was included in the highway bill passed by the House.

It is a project that would demonstrate methods by which a highway bypass project will provide access to recreation areas, and enhance highway safety and economic development in Erie County, OH, an area of high unemployment.

Mr. President, with the exception of 6 miles through the city of Huron, OH, U.S. Route 2 is a four-lane limited access highway connecting Cleveland with Port Clinton, OH, 85 miles to the west. The road is a major trunk route and continues west from Port Clinton all the way to Toledo.

The road skims the southern shore of Lake Erie, and is the major route used by weekend vacationers headed to and from the beaches and resorts along Lake Erie, including northern Ohio's famous amusement park, Cedar Point.

As a result, the 6-mile bottleneck is the cause of unbelievable traffic jams every weekend. Usually the line of cars stretches for about 3 to 5 miles on either side of Huron beginning early in the afternoon and continuing throughout the evening. While the traffic jams are an inconvenience and an irritant for travelers, they are an unbearable fact of life for the citizens of Huron. The heavy traffic presents a clear threat to life and property in the city.

The demonstration project would relieve this congestion problem, and I urge the Senator to support it in conference.

Mr. SYMMS. I appreciate the Senator informing me of his support for the Huron project. In view of the fact that it appears to be a very worthy project, I will consider carefully the views on the Senator from Ohio when the conferees meet to discuss the House and Senate highway bills.

TREMONT

Mr. METZENBAUM. Mr. President, I would like to bring to the Senator from Idaho's attention a demonstration project which was included in the highway bill passed by the House.

It is a project that would demonstrate how a cost-effective investment in transportation infrastructure can help to revitalize a neighborhood that has been particularly disadvantaged by Federal highway programs. The neighborhood in question is the Tremont area, one of the oldest neighborhoods in Cleveland. It is perched on a bluff near the downtown area where the industrial valley meets the neighborhoods. It is a place filled with turn of the century houses and old, picturesque churches. The Academy Award-winning film, "The Deer Hunter," was filmed in Tremont, so if the Senator has seen the film he can picture the neighborhood.

The problem in Tremont is access. A maze of deteriorating bridges, roads, and arcane access routes are making it tougher for people and goods to get to Tremont, choking the life from both the neighborhood and the adjacent industries in the valley.

The real problem began with the construction of Interstate 71, which eliminated half of Tremont, and the highway now serves as a wall cutting off the rest of the neighborhood from direct access to the western part of the city. In 1978, the neighborhood was further cut off when the Clark Avenue Bridge was declared unsafe and closed down after 62 years of use. That left Tremont without a major east-west connecter over the Cuyahoga River Valley. Then 2 years ago, the neighborhood was further isolated when the Abbey Avenue Bridge to the north was closed down.

In short, there are now very few ways to get to Tremont. The story is one of growing isolation begun by construction of an interstate highway and continued by the inevitable aging of transportation structures in the neighborhood.

The demonstration project is a cost-effective way of dealing with this problem. It does not propose the building of new bridges or even expensive bridge rehabilitation work. It simply proposes construction of a $3.5 million connecter ramp from West 11th Street to Quigley Road. The project would go a long way toward relieving the isolation of Tremont's 10,000 residents, and I urge the Senator to support it in the conference.

Mr. SYMMS. I appreciate the Senator informing me of his support for the Tremont project. In view of the fact that it appears to be a very worthy project, I will consider carefully the views of the Senator from Ohio when the conferees meet to discuss the House and Senate highyay bills.

THE ALLENTOWN UNDERPASS

Mr. SPECTER. Mr. President, I had intended to offer an amendment today that would have provided $6 million to construct a four-lane underpass to go under a railroad crossing on Basin Street in Allentown, PA. Traffic tieups where Basin Street crosses the Conrail tracks in East Allentown, PA, have plagued the Lehigh Valley for more than a decade.

This crossing has restricted the traffic flow in East Allentown significantly as well as hampered economic development in the area for many years. Unemployment remains unacceptably high in Allentown at 9.7 percent.

The average daily traffic on Basin Street at this point is 19,400 vehicles. The gates at the crossing are closed 27 times each day for an average of 6 minutes; delays range from 1 to 26 minutes. The average delay per vehicle is 5.6 minutes. When one considers the traffic at the intersection, the average delay per closure is 302 minutes or more than 5 hours. This is unacceptable.

My amendment would have sought to mitigate this problem. It would have authorized the Department of Transportation to carry out a highway project at the Basin Street intersection to demonstrate methods of accelerating construction of a bridge or underpass to eliminate this major rail crossing.

Carrying out this demonstration would have required $1 million this year, $2 million next fiscal year, and an additional $3 million for the fiscal year ending September 30, 1987. This represents a total of $6 million over fiscal years 1985 through 1987.

Mr. STAFFORD. The distinguished Senator from Pennsylvania informed the Environment and Public Works Committee on April 18, 1984, of his concern and asked that the Basin Street project in Allentown, PA, be included in S. 3024. The House did include a similar provision in H.R. 5504. Until now, no demonstration project has been included in both the House

and Senate bills; I am reluctant to give such consideration to the Basin Street project.

Mr. SPECTER. The distinguished chairman of the Environment and Public Works Committee is indeed correct that this project is authorized in the House bill. Congressman DON RITTER of Pennsylvania is responsible for that provision and I have worked with him on this matter for nearly 6 months. This problem, however, has plagued the Lehigh Valley for more than 10 years and I am quite concerned that this action be taken to alleviate it as soon as possible. I would hope the chairman and conferees would see what could be done to ensure that this project survives the conference deliberations.

Mr. STAFFORD. I recognize the importance of completing this underpass to the Senator from Pennsylvania and will do my best to have the final version of the Federal Highway Act reflect this urgent need.

Mr. SPECTER. I acknowledge the difficult task that confronts the chairman and am most appreciative of his efforts on behalf of my State. I yield the floor.

Mr. MATHIAS. Mr. President, the other day I filed an amendment to the Federal-aid highway bill that would limit the State of Illinois' priority status in competition for interstate substitute discretionary funds to 1 year. That special treatment was written into the bill last Wednesday and guarantees Illinois a priority over all other States in the allocation of discretionary highway funds.

Today, I will withdraw my amendment because of the vital importance of reaching agreement on the highway bill as quickly as possible. I remain, however, sternly opposed to this privilege.

I oppose the privilege because it is unfair. It is unfair for one State to be granted the unique right to march into the U.S. Department of Transportation, dangling before them a Federal statute, and to demand special treatment in the distribution of scarce discretionary funds, leaving the rest of the States to scramble for the funds left over.

Not only is this privilege unfair, it is unclear. It gives Illinois priority treatment for 5 years, but is unclear about what priority treatment includes. Will Illinois be allowed to skim off half of the discretionary funds before the rest of the States are let in to compete for the remaining funds? Will Illinois be allowed to go home with all of the funds before the others can make their cases?

This provision subverts the purpose of a law that was established to allow every State to compete fairly for funds based on the merits of their individual projects. Instead, it gives one State a virtual blank check over all others. That is wrong, that is unfair, and I oppose it.

Mr. SARBANES. Will the Senator yield?

Mr. MATHIAS. I would be happy to yield to my colleague.

Mr. SARBANES. I agree fully with the reasons the Senator has laid out illustrating the fundamental inequity upon which this provision is built. This provision suggests that the special highway projects of States all over this country are somehow less important or less pressing than those in Illinois. I would like to assure my colleagues that this is not the case. There are projects in my own State of Maryland that are desperately needed and which will rely on the discretionary funds for their completion. It would be manifestly unfair to ask my State and many others to step aside and allow Illinois to move to the front of the line and receive whatever funds it needs before considering the merits of the others.

The Congress has already established a fair system through which States may obtain the funds they need for their highway projects. The first is through above-board competition for discretionary funds before the Department of Transportation. The second is through earmarking in the annual appropriations process, which allows the Congress to consider on a case-by-case basis, with all merits observed, very special needs of some States not met through the discretionary funds. This equitable, deliberate process allows all States equal access to funds. It is founded upon the principle of fairness, a principle entirely absent in the adoption of the Illinois privilege.

Mr. MATHIAS. I urge my colleagues to reject this onerous provision in conference.

Mr. STAFFORD. My colleagues from Maryland have certainly made a strong case against this provision. Because the provision of which they have spoken has not been included in the House bill, I am sure that it will be an issue the conferees will want to consider most carefully.

PENNSYLVANIA ROUTE 219

Mr. SPECTER. Mr. President, Pennsylvania Route 219 is a major commercial and commuter route from north to south in the midwest part of the Commonwealth, to points in New York and Maryland. According to the Surface Transportation Assistance Act of 1982, Route 219 is designated as a primary access road and eligible for 90–10 percent, Federal-local funding ratio.

Route 219 needs to be improved. The Pennsylvania Department of Transportation is currently planning new construction only on Route 219 south of Du Bois to Bradford, PA, leaving much of this primary access road without the attention it deserves. This amendment covers a stretch of road from Du Bois to Bradford, PA, which was originally constructed in the 1920's and has not been substantially upgraded since the late 1950's and early 1960's.

There is strong local support for upgrading Route 219 along this section of road covered by this amendment, yet there is a difference of opinion as to what is the best approach. One school of thought proposes a new parallel route with four lanes and limited access, which could possibly be a toll road. The second school of thought calls for upgrading the existing two-lane highway to four lanes in order to minimize environmental damage from a new highway.

An advanced engineering design and survey study of the two approaches is needed to determine: First, cost effectiveness of carrying out such a project; second, feasibility of financing through toll revenues; third, how to avoid environmental damage; and last, a determination of alignment of the route, and which of the two approaches would be the more prudent.

It had been my intention to introduce an amendment to S. 3024 that would provide a cost-effectiveness study of the several alternatives to upgrade Route 219 in Pennsylvania.

Such a comprehensive cost-effectiveness study would be undertaken by the Department of Transporations, not to exceed $1 million appropriated out of the highway trust fund, and would be completed within 1 year's time. This amendment would provide for the study to be 100 percent federally funded.

Mr. STAFFORD. A similar provision was included in the bill passed by the House of Representatives, H.R. 5504 and is contained in section 125(a). You apprised the Senate Committee on Environment and Public Works in a letter on September 14, 1984, of your desire to have this provision included in the Senate bill. However, no demonstration project is now included in both the House and Senate version of the Federal Aid Highway Act. At this point I am reluctant to alter this status.

Mr. SPECTER. The distinguished chairman is correct that a similar provision is contained in the House bill. Representative CLINGER of Pennsylvania sponsored this amendment to the House bill and I have been working with him on securing this cost-effectiveness study. I understand the Senator's hesitation, but I would ask that he recognize the importance as well as logic of carrying out such a study and in the conference committee look favorably upon including it in the final version of this authorization bill.

Mr. STAFFORD. I do acknowledge the necessity of conducting such a study of the alternatives to upgrade Route 219 in Pennsylvania. I assure the distinguished Senator from Penn-

sylvania that I will do my best to see that his concern is addressed in the conference committee.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I want to thank the managers of this bill for their indulgence. Earlier I addressed a question of a possible amendment relating to Metro. I was joined by my colleague, Senator NICKLES, who is the chairman of the subcommittee that has jurisdiction over this subject, and by Senator METZENBAUM, Senator RIEGLE, Senator MATHIAS, and Senator TRIBLE.

We have all had extensive meetings. Officials from WATA have been here, and counsel from WATA has been here.

At this time, it is the collective judgment that we shall not press the amendment.

I thank the Chair.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. METZENBAUM. Mr. President, I rise to object to the so-called buy American provision contained in S. 3024, the Surface Transportation Amendments of 1984. This provision will undermine the effectiveness of current buy American requirements for the steel used in Federal highway projects by exempting all projects under $500,000. This provision will result in the loss of more American jobs.

Current law requires the use of domestic steel in highway projects unless their inclusion increases the cost of the project by more than 25 percent. The language contained in S. 3024, however, would restore a 1978 exemption for all contracts under $500,000. According to the Federal Highway Administration, more than 60 percent of all highway projects are less than $500,000.

That would certainly take the strength out of the current statute.

Such a statutory exemption would be a serious mistake. Its impact on steel could result in the loss of upward of 3,700 jobs and over $100 million in tax revenues over the next 3 years.

The exemption is particularly ill timed. It sends the wrong message to our trading partners. At the same time the President is about to embark on negotiations to reduce steel imports, do we want to tell foreign governments that we don't care whether U.S. highways are constructed with domestic steel?

Mr. President, the Department of Transportation tried to apply an administrative exemption to the buy American statute last year. Of the 600 comments DOT received on this matter, only 2 favored such an exemption.

DOT had the good sense to strike the exemption from its final rule implementing the buy American statute. Congress should follow suit. I would hope that the House and Senate conferees on the highway bill will see fit to drop this ill-advised provision from the bill.

Mr. President, I do not intend to offer an amendment to delete the provision at this point, because I think the hour is late. The Senate has indicated its position on this matter several times on previous occasions.

I feel very strongly that including this exemption for those projects under $500,000 does not make sense. We are talking about 60 percent of the highway projects in this country.

Mr. GARN addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. GARN. Mr. President, the Senate has not adopted any mass transit matters with this bill. I oppose any changes in the transit programs. They are authorized under the jurisdiction of the Senate Banking Committee through fiscal year 1986 with some very hard fought policy agreements made in the gas tax bill, including a reduction in operating subsidies combined with the 30-percent increase in funding.

I will oppose any changes regarding mass transit that comes from the conference. I know this bill has to pass. The chairman has been very cooperative with me.

Will Senator STAFFORD agree that the Senate in conference will resist any mass transit amendments by the House?

Mr. STAFFORD. Will the Senator from Utah yield?

Mr. GARN. I will be happy to.

Mr. STAFFORD. Mr. President, I can assure the Senator that since the jurisdiction of the Environment and Public Works Committee, of which I have the honor of chairing, has no jurisdiction over mass transit matters, and that we will not attempt in the course of the conference with the House to invade the jurisdiction of the able Senator of the committee. We will confine ourselves insofar as I can speak for the committee, and its conferees who will be named, solely to those matters within our jurisdiction; that is, matters affecting the highways.

Mr. GARN. I thank the Senator.

I also say that I do have a letter to Senator BAKER from the Secretary of Transportation indicating that she and her senior officials would recommend that the President veto the bill if mass transit items are added to it.

Mr. STAFFORD. Mr. President, I have a letter from Secretary of Transportation, Elizabeth Dole, and I ask unanimous consent that following the colloquy between myself and Senator GARN it be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF TRANSPORTATION,
Washington, DC, October 4, 1984.

Hon. ROBERT T. STAFFORD,
Chairman, Committee on Environment and Public Works, U.S. Senate, Washington, DC.

DEAR BOB: There are three bills pending in the Senate that concern surface transportation issues which may be brought to the Senate floor prior to adjournment. I would like to describe the Administration's position on each of these bills.

The first bill, H.R. 5504, deals with highway and transit programs. This bill would increase the cost of completing the Interstate system by about $2 billion, would fund over $600 million of narrow, special interest provisions, and would place the solvency of the Highway Trust Fund in jeopardy. It also would increase transit spending by $1.2 billion over current levels and make basic and unnecessary changes to the transit program. For these reasons, the President's senior advisors and I would recommend that he veto this bill.

The second bill, S. 3024 (formerly S. 2527), is much more modest than the House bill but the Administration must oppose it for two reasons. First, the bill authorizes over $160 million in Federal funds for special interest projects. Second, this bill is likely to become a vehicle for increasing the cost of the Interstate system, adding additional special interest provisions, and increasing transit spending. In particular, S. 2554 which could be added by amendment, would increase transit authorizations and make undesirable program changes. Enactment of any legislation that adds to the cost of the Interstate system, revises existing programs, creates new spending authorizations or earmarks existing ones would not be in accord with the program of the President.

The third bill, S.J. Res. 312, allows the existing Interstate highway program to continue, but does not contain the controversial provisions that encumber the other two bills. The Administration strongly supports enactment of S.J. Res. 312 in its current form. Enactment of this bill would permit the speedy apportionment of about $7 billion of highway and transit funds to every state in the country.

Authorizations for the highway and transit programs currently expire in fiscal year 1986. The Administration intends to submit comprehensive legislation next year to reauthorize these programs. I hope that you will agree with me that next year's legislation offers a more appropriate forum to address the fundamental issues raised by H.R. 5504 and S. 3024 and that delaying the release of the Interstate construction and substitution program funds benefits no one.

Sincerely,

ELIZABETH HANFORD DOLE.

Mr. SYMMS. Mr. President, I announce to my colleagues that there was discussion about an amendment dealing with mass transit funds. That amendment will not be offered on this bill in view of the past vote on Specter amendment and the current unity here in the Senate. However, I do want to take a few minutes to explain my fair share proposal.

ONE-HALF PERCENT MINIMUM ALLOCATION

Mr. President, briefly, this language insures that each State will receive a small portion of the proceeds of the mass transit account of the highway trust fund.

The transit proponents would like to have Congress believe that the money supporting the transit account is a transit penny. But in fact, it is a highway penny collected from all highway users. It is part of the 9-cent-per-gallon Federal motor fuel tax which subsidizes transit capital investments. The money is collected from every State.

By the way, on your desk is a recent dear colleague letter which explains the sector in more detail. Also included is a table which examines the one-half percent fair share proposal—the amount contributed by each State to the transit account, the current allocation, and the proposed allocation under this section.

However, due to the discretionary nature of the transit program, available funds have been concentrated in just a few States. Since 1964, over half of the States have received less than the one-half percent minimum the committee is proposing; 50 percent of the funds have been concentrated in California, New York, Pennsylvania, and Illinois. Again, see the accompanying table.

I believe every State should receive some direct benefit from these taxes. This fair share amendment will accomplish this task. I ask unanimous consent that a September 20 "Dear Colleague" and table be printed in the RECORD at the end of my remarks.

Mr. President, I have reluctantly decided not to offer my amendment in order to facilitate a quick passage of S.3024. This is not an easy decision, but in the interest of the interstate cost estimate and all those involved in the highway construction industry, I will move this important legislation forward without the Symms fair share amendment.

There being no objection, the "Dear Colleague" letter and the table were ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, Sepetember 20, 1984.

VOTE WITH US TO RESTORE EQUITY

DEAR COLLEAGUE: It is time to set the record straight on the "Fair Share" amendment to S. 3024—the Federal Aid Highway Act of 1984.

Will accusations that our intention is to "raid the transit account" are simply not true. Here are the facts:

1. The purpose of the "Fair Share" amendment is equity. The revenue now supporting America's capital mass transit investment program—Section 3—comes from one-cent of the nickel-a-gallon gas tax increase passed in 1982. Highway users in every State pay it. Yet, the discretionary nature of the program allows the funds to be concentrated in only a few states, a clear inequity.

2. Equity is achieved by guaranteeing each State a minimum level of participation in this program. Everyone who pays the tax would benefit under this proposal. Each state would receive a minimum annual allocation of one-half percent of Section 3 authorizations. If, in any given year, a state contributes less than the half-percent, that State would receive no more than was contributed.

3. These funds will be used for transit purposes. The difference is, every State will be guaranteed at least minimal assistance in meeting the mass transit purposes of its citizens.

4. During a particular year, a State may find that its transit programs are already adequately funded. Under these unusual circumstances, the Governor may request that the Secretary of Transportation allow use of these funds for safety-related transportation projects eligible for funding under title 23. Our opponents' claim that this will lead to "automatic diversion" is unfounded. Sufficient safeguards are present.

5. According to estimates done by the Urban Mass Transportation Administration this week, 32 States will benefit immediately (see attached).

Support for the "Fair Share" amendment is growing. The measure currently has 14 cosponsors and a wide body of public support including: American Automobile Association, Automotive Service Industry Association, National Tire Dealers & Retreaders Association, Inc., National Grange, National Milk Producers Federation, Private Truck Council of America, Recreation Vehicle Industry Association, Rubber Manufacturers Association, Salt Institute, Truck Trailer Manufacturers Association, United Fresh Fruit and Vegetable Association, and the American Farm Bureau.

A copy of the amendment is attached. I urge you to have your staff carefully review the proposal. It is not the onerous proposal being portrayed by its opponents. It restores balance and fairness in the distribution of much-needed Trainsit Funding to the States.

Your State will benefit. Your constituents deserve a fair share.

Sincerely,

STEVE SYMMS,
U.S. Senator.

IMPACT OF "FAIR SHARE" AMENDMENT, FISCAL YEAR 1984 ESTIMATES

[In million of dollars]

State	Transit account contribution	Current allocation	Proposed allocation
Alabama	21.1	1.0	5.5
Alaska	1.8	0.2	1.8
Arizona	15.3	1.0	5.5
Arkansas	13.5	0.5	5.5
California	118.2	253.0	247.5
Colorado	16.1	41.1	35.6
Connecticut	13.8	20.8	15.3
Delaware	3.3	0.2	3.3
District of Columbia	1.8	8.3	1.8
Florida	52.5	53.9	48.4
Georgia	33.1	92.7	87.2
Hawaii	3.2	3.2	3.2
Idaho	5.1	0.3	5.1
Illinois	49.7	66.0	60.5
Indiana	31.3	19.8	14.3
Iowa	14.3	1.3	5.5
Kansas	14.2	0.5	5.5
Kentucky	19.9	0.8	5.5
Louisiana	23.9	1.2	5.5
Maine	5.5	0.3	5.5
Maryland	20.9	16.8	11.3
Massachusetts	24.2	92.8	47.3
Michigan	41.9	51.8	46.3
Minnesota	21.2	1.2	5.5

IMPACT OF "FAIR SHARE" AMENDMENT, FISCAL YEAR 1984 ESTIMATES—Continued

[In million of dollars]

State	Transit account contribution	Current allocation	Proposed allocation
Mississippi	14.2	0.6	5.5
Missouri	28.1	4.0	5.5
Montana	5.4	0.3	5.4
Nebraska	8.6	0.4	5.5
Nevada	5.6	0.3	5.5
New Hampshire	4.3	0.3	4.3
New Jersey	34.5	59.3	53.8
New Mexico	8.7	0.3	5.5
New York	57.1	186.3	180.8
North Carolina	31.9	1.1	5.5
North Dakota	4.3	0.3	4.3
Ohio	53.8	9.9	5.5
Oklahoma	20.7	0.7	5.5
Oregon	14.7	57.0	51.5
Pennsylvania	51.1	144.7	139.2
Rhode Island	3.8	0.5	3.8
South Carolina	17.4	0.7	5.5
South Dakota	4.1	0.2	4.1
Tennessee	27.3	1.1	5.5
Texas	93.0	35.0	29.5
Utah	7.7	0.4	5.5
Vermont	2.6	0.2	2.6
Virginia	28.9	1.1	5.5
Washington	20.2	1.2	5.5
West Virginia	9.1	0.5	5.5
Wisconsin	23.0	17.5	12.0
Wyoming	4.6	0.2	4.6

Source: Urban Mass Transportation Administration, Sept. 19, 1984.

FAIR SHARE IS FAIR

Mr. MCCLURE. Mr. President, I rise today to support my good friend Senator SYMMS in his effort to approve the interstate cost estimate.

In 1982, when Congress passed the Surface Transportation Act, a commitment was made to the American taxpayer to protect their massive investment in our nationwide transportation system. That commitment has fallen by the wayside because of our continued inability to pass a simple interstate cost estimate [ICE].

Congress must approve ICE before the Department of Transportation can approve the release of $1.6 billion for the current fiscal year, and the nearly $5.2 billion for next fiscal year in necessary highway funds. States have been waiting with increasing irritation for these funds since October 1983. With some resistance, part of these funds were released when Congress approved an extension in March of this year. However, that is only part of the job that needs to be done. I urge my colleagues to join me in passing this important highway bill.

During the debate on this pressing piece of legislation, my good friend and colleague, STEVE SYMMS, will offer a very important amendment which I strongly support.

Called the "fair share amendment," is designed to create a more equitable distribution system for each State's mass transit contribution. All highway users are forced to support mass transit. To a varying degree, States participate in these benefits. However, the majority of the money goes to only 4 States, while 29 States receive less than one-half of 1 percent.

The current discretionary nature of the mass transit program allows the Transportation Secretary to concentrate these funds in just a few States. As I stated above, historically only four States, California, New York, Illinois, and Pennsylvania, receive most of these funds while the majority of the States receive less than the one-half percent minimum that is being proposed.

A good example of this problem is the State of Idaho. Idaho contributes $5.1 million into the mass transit account and receives only $300,000 in benefits.

I know as well as everyone that it is impossible to draft a formula that is fair to all. However, it is very clear to me that the current situation is so unfair that it should be revised. Senator SYMMS' fair share amendment guarantees each State a minimum annual allocation of one-half of 1 percent of mass transit funds.

The fair share amendment was an extremely important part of the nickel gas tax bill in 1982. However, in the spirit of compromise, this provision was dropped in an effort to quickly pass the bill. At that time, supporters of the amendment stressed that they would be back to debate the issue again.

It is not my intent to take necessary transit money away from States. However, I feel strongly that all States deserve a fair share of the contributions they are making. The fair share amendment accomplishes this goal. By assuring each State one-half of 1 percent of mass transit funds, 32 States will receive an increase in their allocation. This will bring most States' allocation more in line with their contribution.

I urge my colleagues to join with my colleague in making the distribution of highway funds equitable by supporting the fair share amendment.

Mr. ABDNOR. Mr. President, I would like to clear the air of the smoke being generated by opponents of the fair share amendment offered by my colleague from Idaho, Senator SYMMS.

First, the fair share amendment is not, as its opponents would have believe, a "thinly disguised attempt by highway interests to raid the transit penny." Quite to the contrary, it simply allows States to receive and use their fair share of transit account funds so that they can better serve their citizens.

Every highway user contributes to the mass transit fund. In 1982 when Congress passed the Surface Transportation Assistance Act, Congress designated that one penny of the nickel-a-gallon gas tax increase would be put into the mass transit account. An integral part of that agreement was that no State would receive less than one-half of 1 percent of the account's total allocation. In the final moments of congressional debate, however, the minimum allocation provision was dropped in the spirit of compromise needed to pass the bill.

Now it is time to guarantee that each State receives its fair share of the transit account funds. Taxpayers in my home State of South Dakota devote a penny of the gas taxes they pay for transit purposes, but they do not receive the benefits. In fact, 50 percent of the funds have been concentrated in just four States. The majority of the States in this great Nation receive less than one-half of 1 percent of the funds. Surely, this is not fair.

Second, the fair share amendment does not, as its opponents would have us believe, automatically grant a State the opportunity to use the extra funds it would receive for non-transit-related purposes. In most cases, just the opposite would be true. The additional funds a State would receive under the fair share amendment could be used to purchase buses, build bus facilities, develop innovative strategies for car and van pooling, plus many, many more transit purposes. In many cases these transit activities are not being conducted in States because these States simply do not have the funds to do so.

Why do they not have the funds? Because the majority of States do not receive their fair share of transit funds. Because the majority of States do not receive even one-half of 1 percent of total transit funds. Because 50 percent of transit funds have been spent in just four States. And, unfortunately, because Congress reneged on its earlier commitment to share transit funds fairly with all States which contributed to the fund.

We now have the opportunity to correct this imbalance and restore a measure of equity to the distribution of transit funds. I would urge my colleagues to support the fair share amendment.

Mr. SYMMS. Mr. President, I am pleased that we haved continued consideration today of the Federal-Aid Highway Act of 1984, S. 3024. The major purpose of this legislation is to approve an interstate cost estimate [ICE] and an interstate substitute cost estimate [ISCE] for an 18-month period. In addition, S. 3024 contains a provision that would permit the Department of Transportation to administratively release these interstate funds in the future.

At stake right now is a total of nearly $7.2 billion in interstate construction funds and close to $800 million for interstate substitute highway projects. Until Congress acts, over $6 billion is effectively tied up in Washington, while the States—which should have had this money months ago—suffer. Motorists are also penalized as their highway-user tax moneys languish in the highway trust fund instead of being put to work constructing and repairing our Nation's roads.

Let me quickly say that despite the very serious ICE-ISCE problem, there is enormous progress being made in the improvement, rehabilitation, and construction of highway and bridge projects across the country. Thanks to the nickel-a-gallon Federal gasoline-tax increase authorized in the landmark Surface Transportation Assistance Act of 1982 [STAA], States have been able to obligate a record $12.8 billion in Federal-aid highway funds during fiscal year 1983. According to Secretary of Transportation Elizabeth Hanford Dole, during calendar year 1983, the level of highway construction activities jumped more than 73 percent and the number of bridge projects increased by 56 percent.

Secretary Dole recently said:

> The signing of the STAA into law by President Reagan on January 6, 1983, underscores this Administration's commitment to reverse the decline and decay of much of our nation's infrastructure over the past decade. The increased levels in federal funding through fiscal year 1986 permitted by the STAA provide a firm financial foundation to support one of the largest rehabilitative public works programs in U.S. history.

I want to also note the beneficial employment effects of the STAA. Estimates show that every $1 billion of Federal assistance for highways results in about 32,300 on-site and off-site jobs, plus about 30,000 jobs from spending of wages and profits. Approximately 300,000 additional jobs were created in 1983 alone as a result of the STAA.

Earlier this year, Congress agreed on compromise legislation, H.R. 4957, which contained a 6-month ICE and ISCE approval and which was signed into law—Public Law 98-229—on March 9, 1984. States are still waiting for approval of the remaining 18-months' worth of interstate construction and interstate transfer funds. To win passage of just the 6-month bill involved a difficult, laborious process, and I anticipate that considerable effort will be required if S. 3024 is to pass. Our primary responsibility, however, is to approve an ICE and ISCE for 18 months. Controversial policy changes, large new authorizations, and other contentious issues will slow our progress in releasing the interstate moneys which all the States need so badly, particularly now in the peak summer construction season.

The committee has had many requests for the funding of demonstration projects. H.R. 5504, the transportation legislation passed by the House, has between 40 and 50 special demonstration projects at an immediate cost of over one-half billion dollars, and if all these projects are ultimately completed with Federal funds, the potential Federal liability will be several bil-

lion dollars. This will bankrupt the highway trust fund in the near future.

Several months ago I introduced S. 2718 to try to illustrate the point that the large number of requests will result in either: First, the bankruptcy of the highway trust fund; second, tax increases; or third, a substantial cut in the regular categorical program. If full funding would be provided for all the requests made by both House and Senate Members, the gasoline tax would have to be increased by at least 4 cents per gallon. I don't believe a majority of the Congress is prepared to vote for such an increase anytime soon.

The Federal-aid highway program has worked best when projects are selected according to priorities set by State and local officials. I do not believe it would benefit the highway program if the large Federal-aid categories—including interstate construction and 4-R, primary, bridge, urban, and rural—were substantially reduced or eliminated in order to accommodate more demonstration projects chosen by Congress.

After lengthy discussions the committee agreed to a compromise which provides that the Federal contribution to any special projects will be limited to $12.5 million or 50 percent of the project cost, whichever is less. This will help to ensure that such projects have high priority in the State, and will also help limit the drain on the highway trust fund.

The Secretary of Transportation has also expressed concern on behalf of the administration that a number of provisions including any new authorizations could result in a Presidential veto of this legislation. I ask unanimous consent that a copy of this letter be included in the -RECORD at this point.

Secretary Dole has warned that projects and other changes being proposed to the Federal-aid highway and transit programs already exceed $4 billion in new authorizations. Even with a 50-percent increase in highway-user fees coming into the highway trust fund under the 1982 act, there is no way the trust fund can provide an additional $4 billion without jeopardizing the trust fund's solvency and integrity. It is futile for Congress to pass legislation which undermines the trust fund, enlarges the national budget deficit, and forces a Presidential veto.

On June 6, the Environment and Public Works Committee reported S. 2527, which I believe takes a responsible approach in addressing vital national transportation needs and a limited number of specific concerns. At the same time, Senate Joint Resolution 312 was reported by the committee; it contains only the 18-month ICE-ISCE approval and the provision permitting the Secretary of Transportation to administratively proceed to apportion the funds each October 1. There is a commitment among committee members to moving S. 3024, but if irreconcilable differences develop, the clean bill will be available for consideration.

These two provisions are absolutely essential if progress is to continue on completing the Interstate System. If there continues to be a delay in releasing the interstate construction funds and the ICE approval continues to be held hostage, support for completing the Interstate System as currently envisioned may erode substantially. Therefore, I believe the provision for the administrative release of these funds in the future is particularly important. The Senate carried out its responsibility by passing a 2-year ICE and ISCE last fall when the interstate funds should have been released to the States.

Federal-aid highway funds are limited in spite of the large increase in user fees in 1982. Highway construction and rehabilitation needs still far outstrip Federal resources. The committee has continued to look for ways to stretch scarce Federal dollars. Not only must State and local governments continue their participation as partners in the highway program, but the private sector must also be encouraged to invest in transportation facilities which will enhance economic development.

Several sections in S. 3024 accomplish that goal. First, States will be asked to contribute a match for certain emergency-relief projects. Initial emergency work done within 30 days of the disaster declaration will be funded with 100-percent Federal funds. Long-term repair and replacement of facilities will require a State match. This State-match requirement will apply only to disasters which occur after the date of enactment of this legislation.

A large percentage of deficient bridges are off the Federal-aid system. Tennessee has carried out a demonstration project over the past 2 years that has proven to be an effective approach to repairing deficient off-system bridges. Tennessee was able to replace or repair 700 small off-system bridges in 1983 and is in the process of doing 500 more this year. This program has been effective in leveraging additional State and local funds for bridge repair. Because of the program's success, S. 3024 has expanded its availability to any State who wishes to participate.

Section 112 removes Federal regulation and review of toll increases on certain toll bridges. Currently there is no consistency in determining which bridges are federally regulated. These bridges were all constructed without Federal-aid funds. Section 112 will result in savings in time and administrative costs for both toll authorities and the Federal Government while at the same time protecting the public from unreasonable toll increases.

Section 115 provides an incentive to the private sector to invest in transportation facilities. Under current law, if right-of-way for a highway facility is donated by a landowner the value is credited according to the matching share of the project. For example, if it is a primary system project, 75 percent would be credited to the Federal share and 25 percent to the State share. Section 115 permits 100 percent of the donated land value to be credited to the State share. I believe this will encourage further private-sector investment in transportation facilities.

Mr. President, the STAA of 1982 directed the Federal Highway Administration to develop a new formula for the allocation of forest highway funds. This new formula was to look more closely at the actual transportation use of these highways and their construction and rehabilitation needs. FHWA was required to gather a substantial amount of new data in order to implement such a formula and has not yet completed the required rulemaking process. Because neither the Congress nor the affected States have had an opportunity to review or comment on the new data and proposed formula, section 130 direct FHWA to allocate fiscal year 1985 and 1986 forest highway funds partially on the old formula and partially on the proposed formula. I believe this is a reasonable compromise for all affected States until the rulemaking process can be completed.

Finally, during committee consideration of S. 3024 a number of Senators expressed concern over any changes in the Interstate 4-R formula. Federal-aid highway formulas were the subject of lengthy debates during the consideration of the STAA of 1982. A compromise agreement was reached at that time which preserved a viable highway program for all States. I believe those formulas should remain in place during the authorization period of that act. The Department of Transportation has completed a study on the Interstate 4-R formula which concludes that the existing 4-R formula strongly correlates with the criteria of need, national benefit, and national defense and no argument can be made for a change at this time. I believe any changes at this time could jeopardize the timely release of the interstate funds.

Mr. President, I want to express my appreciation to the distinguished Senator from Vermont [Mr. STAFFORD], the chairman of the committee; the distinguished Senator from West Virginia [Senator RANDOLPH], ranking minority member of the committee; and the distinguished Senator from Texas [Senator BENTSEN], the very able rank-

ing minority member on the Transportation Subcommittee, for their large contributions and support in bringing S. 3024 to the floor.

Let me reemphasize that a conference will be very difficult. I will attempt to protect the Senate position.

The House version contains 52 projects at a cost of $2.5 billion; however, the ultimate cost will be closer to $4.5 billion. The President will most definitely veto a bill of this magnitude.

It appears that in order to reach a compromise and report a conference agreement with the House some resolution must come to the issue of depressing Boston Central Artery and Third Harbor Tunnel, let me state to my colleagues at this point that the House language is unacceptable to me in regard to the Boston project. But, I will do all I can to report an acceptable conference agreement.

Mr. SYMMS. Mr. President, once again, I would like to thank all Senators and the staff of the Public Works Committee, who worked on this bill, and for the cooperation of all Senators for restraining themselves in offering more amendments this afternoon.

Mr. BENTSEN. Mr. President, I wish to commend the chairman of the subcommittee, Mr. SYMMS and the committee chairman, Mr. STAFFORD for their assistance with my provisions in this bill. This overall measure continues our important interstate construction effort and provides equity for the States which contribute more than they receive from the highway trust fund.

I also want to thank the staff for their assistance. The work of Lynn Lundick, Lee Fuller, and Richard Harris for the minority and Jean Lauver, Nadine Hamilton, and Rusty Jesser was invaluable.

Mr. BOREN. Mr. President, I hope that when the conference takes place on the highway bill that the Senate conferees will have sympathetic consideration to a provision inserted by the House. This provision would redesignate a portion of Oklahoma State Highway 99 as "U.S. Highway 377." Since Oklahoma State Highway 99 is already a part of the Federal aid primary system, this change in designation would not increase the number of highway miles eligible for Federal assistance.

This same highway in Texas is already designated as U.S. Highway 377 and the difference in numbering at the State line and beyond has caused confusion for several years. This proposed change in the Oklahoma portion of the highway would put an end to much of the confusion that the different designations have caused.

There are several major communities along this portion of State Highway 99 that would benefit from this redesignation as U.S. Highway 377.

As I stated earlier, this provision would not result in the addition of any highway miles eligible for Federal assistance since State Highway 99 is already a part of the Federal aid primary system. This change of designation is only to bring an end to years of confusion and to benefit several Oklahoma communities with the designation of a U.S. highway.

Mr. LAUTENBERG. Mr. President, I rise in support of S. 3024, the Federal-Aid Highway Act of 1984 which contains the approval of the interstate cost estimate for our Nation's Highway Program.

The ICE approval is necessary if highway funds are to be distributed to the States. There is an urgent need to release these funds if we are to avoid the disruptions in the highway program which resulted from the stalemate on highway legislation last year. Congress has rightly touted the benefits which have accrued from the landmark Surface Transportation Assistance Act of 1982, which raised additional revenue for improvements in our highway, bridge and mass transit program. Those benefits are delayed and frustrated when the Congress fails to approve the interstate cost estimate in a timely fashion.

The bill before us, Mr. President, contains several provisions of specific interest to New Jersey beyond the State's overriding concern for the approval of the ICE and interstate substitute cost estimate.

The southern portion of New Jersey is the fastest growing part of my State. With a burgeoning tourism industry in Atlantic City and all along the Jersey shore, the traffic on the Atlantic City Expressway and other roads, such as Route 40, is extraordinarily heavy. S. 3024 authorizes support for a feasibility study of an alternative route to Route 40 in southern New Jersey, connecting the Delaware Memorial Bridge with the Jersey shore in the vicinity of Atlantic City. The State of New Jersey would be required to provide half the funding for the study.

As a result of an amendment I sponsored in the Environment and Public Works Committee, with Senator MOYNIHAN, the Port Authority of New York and New Jersey and the Delaware River Port Authority will gain more latitude in the use of toll revenues. While the bill insures that the repair and maintenance of bridges have first call on such revenues, it provides the port authorities with flexibility in carrying out their responsibilities.

Unfortunately, Mr. President, this bill does not include an authorization for a demonstration program to facilitate the construction of a badly needed segment of Route 21 in Passaic, NJ. In our markup, the committee included no projects in the bill already adopted by the House Public Works and Transportation Committee in their companion legislation. I am committed to seeking approval of this project in the conference with the House on this legislation. Passaic is one of the most depressed cities in New Jersey, but is undertaking a major revitalization effort. The completion of Route 21 is central to that effort.

Mr. President, this bill is urgently needed and I urge its adoption.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 3024

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Surface Transportation Amendments of 1984".

INTERSTATE COST ESTIMATE APPROVAL

SEC. 102. The Secretary of Transportation shall apportion for the fiscal years ending September 30, 1985 and September 30, 1986 the remaining sums to be apportioned for such years under section 104(b)(5)(A) of title 23, United States Code, and shall adjust and reapportion for the fiscal year ending September 30, 1985 the apportionment made on March 9, 1984 under section 104(b)(5)(A) of title 23, United States Code, using the apportionment factors in table 5 of the committee print numbered 98-202 of the Committee on Environment and Public Works of the Senate.

INTERSTATE SUBSTITUTE COST ESTIMATE APPROVAL

SEC. 103. The Secretary of Transportation shall apportion for the fiscal years ending September 30, 1984 and September 30, 1985, the remaining sums to be apportioned for such years under section 103(e)(4) of title 23, United States Code, and shall adjust and reapportion for the fiscal year ending September 30, 1984 the apportionment made on March 9, 1984 under section 103(e)(4) of title 23, United States Code, using the apportionment factors contained in the committee print numbered 98-203 of the Committee on Environment and Public Works and the Committee on Banking, Housing, and Urban Affairs of the Senate.

85 PER CENTUM MINIMUM ALLOCATION

SEC. 104. The Secretary of Transportation shall adjust and reallocate the allocation made on March 9, 1984 under section 157 of title 23, United States Code, to reflect the full apportionment of Interstate funds for the fiscal year ending September 30, 1985 and the full apportionment of Interstate highway substitute funds for the fiscal year ending September 30, 1984 made as a result of this Act.

RELEASE OF INTERSTATE CONSTRUCTION FUNDS

SEC. 105. Section 104(b)(5)(A) of title 23, United States Code, is amended by striking the five sentences that follow "January 2, 1983." and inserting in lieu thereof: "Upon the approval by Congress, the Secretary shall use the Federal share of such approved estimates in making apportionments for the fiscal year ending September 30, 1985. The Secretary shall make revised estimates of the cost of completing the then designated Interstate System after taking into account all previous apportionments made under this section in the same manner as stated above and transmit the same to the Senate and the House of Representatives within ten days subsequent to January 2, 1985 and January 2, 1987. In September of each year, the Secretary shall adjust the last estimate submitted to reflect (1) all previous apportionments and lapses of previous apportionments, (2) previous withdrawals of Interstate segments under section 103(e)(4) of this title, (3) previous allocations of Interstate discretionary funds under section 118(b)(2) of this title, and (4) Interstate transfers of funds under section 119(d) of this title. The Secretary shall use the Federal share of such adjusted and submitted estimates in making apportionments for the fiscal years ending September 30, 1986, September 30, 1987, September 30, 1988, September 30, 1989 and September 30, 1990.".

RELEASE OF INTERSTATE SUBSTITUTE FUNDS

SEC. 106. (a) The eighth sentence of section 103(e)(4) of title 23, United States Code, is amended by striking out the word "approved".

(b) Section 103(e)(4) of title 23, United States Code, is further amended by striking the sixteenth sentence and inserting in lieu thereof the following: "The Secretary shall make an estimate of the cost of completing substitute highway projects under this paragraph and transmit the same to the Senate and the House of Representatives within ten days subsequent to January 2, 1984. The Secretary shall adjust such cost estimate in September of 1984 and 1985 to reflect (1) changes in the amounts available to the Secretary under this paragraph, (2) changes in State estimates of the division of funds between substitute highway and transit projects, (3) approvals of substitute projects, and (4) the allocation and apportionment of substitute highway funds in prior fiscal years and shall use the Federal share of such adjusted and submitted estimate in making apportionments for substitute highway projects for the fiscal years ending September 30, 1985 and September 30, 1986.".

(c) Section 103(e)(4) of title 23, United States Code, is further amended by striking the existing twenty-second sentence and inserting in lieu thereof the following: "The Secretary shall make an estimate of the cost of completing substitute transit projects under this paragraph and transmit the same to the Senate and the House of Representatives within ten days subsequent to January 2, 1984. The Secretary shall adjust such cost estimate in September of 1984 and 1985 to reflect (1) changes in the amounts available to the Secretary under this paragraph, (2) changes in State estimates of the division of funds between substitute highway and transit projects, (3) approvals of substitute projects, and (4) the allocation and apportionment of substitute transit funds in prior fiscal years and shall use the Federal share of such adjusted and submitted estimate in making apportionments for substitute transit projects for the fiscal years ending September 30, 1985 and September 30, 1986.".

EMERGENCY RELIEF STATE MATCH

SEC. 107. (a) Subsection (f) of section 120 of title 23, United States Code, is amended by striking "shall not exceed 100 per centum of the cost thereof: *Provided*" and inserting in lieu thereof "on account of any project on a Federal-aid highway system, including the Interstate System, shall not exceed the Federal share payable of a project on a system as provided in subsections (a) and (c) of this section: *Provided*, That the Federal share payable for eligible emergency repairs to minimize damage, protect facilities or restore essential traffic accomplished within thirty days after the actual occurrence may amount to 100 per centum of the cost thereof: *And provided further*".

(b) Section 120(f) of title 23, United States Code, as amended by this section is effective for all natural disasters or catastrophic failures which occur subsequent to enactment of this Act.

PRIORITY FOR INTERSTATE DISCRETIONARY FUNDS

SEC. 108. Section 118(b)(2) of title 23, United States Code, is amended by inserting after "which is not open to traffic" the following: "and high cost projects which are eligible for Federal assistance with funds apportioned under section 104(b)(5)(A) of this title and are on an Interstate segment which is on a common alignment of more than 7.9 miles with any other Interstate segment and on which actual construction with funds apportioned under such section is under-way on the date of enactment of this Act;".

HIGHWAY PLANNING AND RESEARCH

SEC. 109. Section 307(c)(1) of title 23, United States Code, is amended by inserting after "section 104 of this title", the following: "and for highway projects, section 103(e)(4) of this title.".

OFF-SYSTEM BRIDGE PROGRAM

SEC. 110. Section 144, title 23, United States Code, is amended by adding a new subsection as follows:

"(n) Notwithstanding any other provision of law, with respect to any project not on a Federal-aid highway system for the replacement of a bridge or rehabilitation of a bridge which is wholly funded from State and local sources, is eligible for Federal funds under section 144 of title 23, United States Code, is noncontroversial, is certified by the State to have been carried out in accordance with all standards applicable to such projects under such section 144, and is determined by the Secretary upon completion to be no longer a deficient bridge, any amount expended after the effective date of this section, from such State and local sources for such project in excess of 20 per centum of the cost of construction thereof may be credited to the non-Federal share of the cost of other projects in such State which are eligible for Federal funds under section 144, in accordance with procedures established by the Secretary.".

WOMEN BUSINESS ENTERPRISES

SEC. 111. Section 105(f) of the Surface Transportation Assistance Act of 1982 is amended as follows:

(1) after "small business concerns" insert ". Such small business concerns may be either".

(2) strike the period after "thereto" and insert "or owned and controlled by women.".

TOLL FACILITY DEREGULATION

SEC. 112. (a) Section 4 of the General Bridge Act of 1906 (34 Stat. 85, 33 U.S.C. 494), as amended, is amended by deleting the last sentence thereof.

(b) Section 17 of the Act of June 10, 1930 (46 Stat. 552, 33 U.S.C. 498a), as amended, is repealed.

(c) Section 1 of the Act of June 27, 1930 (46 Stat. 821, 33 U.S.C. 498b), as amended, is repealed.

(d) Sections 1-5 of the Act of August 21, 1935 (49 Stat. 670, 33 U.S.C. 503-507), as amended, are repealed.

(e) Sections 530 and 506 of the General Bridge Act of 1946 (60 Stat. 847, 848, 33 U.S.C. 52, 529), as amended, are repealed.

(f) Section 133 of Public Law 93-87 (87 Stat. 267, 33 U.S.C. 526a) is repealed.

(g) Section 6 of the International Bridge Act of 1972 (86 Stat. 732, 33 U.S.C. 535(d)) is repealed.

(h) Section 6(g)(4) of the Department of Transportation Act (80 Stat. 937, 49 U.S.C. 1655(g)(4)) is repealed.

(i) Tolls for passage or transit over any bridge constructed under the authority of the Bridge Act of 1906, as amended, the General Bridge Act of 1946, as amended, and the International Bridge Act of 1972, shall be just and reasonable.

RAIL-HIGHWAY CROSSINGS

SEC. 113. Notwithstanding any other provision of law, no report, list, schedule or survey compiled by or for a State for the purposes of complying with any requirement of title 23, United States Code, or the Highway Safety Act of 1973 concerning the evaluation of hazardous roadway conditions or rail-highway crossings in order to plan and prioritize projects to enhance safety, shall be required to be admitted into evidence or used for any other purpose in any suit or action in any Federal or State court.

TOLL REVENUES

SEC. 114. Section 129 of title 23, United States Code, is amended by adding the following new subsection:

"(i)(1) Each operator of toll roads, toll tunnels, toll ferries, and toll bridges, other than an international toll facility or toll facility subject to an agreement under this section or section 105 of the Surface Transportation Assistance Act of 1978 on a Federal-aid system in a State shall biennially certify to the Governor of the State that such facilities are adequately maintained and that the operator of such toll facility has the ability to fund the replacement or repair of any such facilities that are not adequately maintained without using Federal-aid highway funds. Failure to certify shall preclude Federal funding out of the Highway Trust Fund of any facilities owned or operated by the operator of such toll facility.

"(2) The Governor shall report biennially to the Secretary the toll facilities subject to paragraph (1) of this subsection, that have so certified and those which have not certified in accordance with paragraph (1) of this subsection. If funds from the Highway Trust Fund are used to repair or replace such toll facilities, the States' apportionments for the following fiscal year under section 104 of this title shall be reduced by the amount of Highway Trust Fund moneys expended: *Provided*, That such reduction shall not be made if the State has executed an agreement covering such toll facilities under this section or section 105 of the Sur-

face Transportation Assistance Act of 1978.".

RIGHT-OF-WAY DONATION

SEC. 115. (a) Notwithstanding any other provision of this title, the State matching share for a project under this title may be credited by the fair market value of land incorporated into the project and lawfully donated to the State after the effective date of this subsection. For purposes of this subsection the fair market value of donated land shall be established after the date the donation becomes effective or when equitable title to the land vests in the State, whichever is earlier. This subsection shall not apply to donations made by an agency of a Federal, State, or local government. The credit received by a State pursuant to this subsection may not exceed the State's matching share for the project to which the donation is applied.

(b) Section 323 of title 23, United States Code, is amended by—

(1) inserting after "Donations." an "(a)"; and

(2) inserting the following new subsection:

"(b)(1) A gift or donation in accordance with subsection (a) may be made at any time during the development of a project: *Provided*, That any document executed as part of such donation clearly indicates that—

"(i) all alternatives to a proposed alignment will be studied and considered pursuant to the National Environmental Policy Act;

"(ii) acquisition of property under this subsection shall not influence the environmental assessment of a project including the decision relative to the need to construct the project or the selection of a specific location; and

"(iii) any property acquired by gift or donation shall be revested in its grantor or his successors in interest if such property is not required for the alignment chosen after public hearings and completion of the environmental document.".

(c) Section 4651 of title 42, United States Code, is amended as follows:

(1) insert after "programs" in the first sentence the following "to promote joint projects between States and landowners and other entities in order to maximize Federal and State dollars";

(2) insert new paragraph (10) as follows:

"(10) Promotion of joint projects wherein private citizens and other governmental entities participate in the cost through land donations and/or financial contributions is consistent with Federal policy and should be encouraged by all Federal agencies. To this end donations of right-of-way and/or financial contributions by a State or other political subdivision, or any person is permissible.".

RIGHT-OF-WAY PAYBACK

SEC. 116. Section 103(e)(4) of title 23, United States Code, is amended by adding at the end thereof the following sentences: "Of sums made available to the Secretary under this paragraph for a State, an amount equal to the amount expended in Federal funds to purchase right-of-way for the withdrawn route or portion thereof in every case where right-of-way has not been disposed of by the State as of the date of enactment of this sentence shall not be available for release by the Secretary until the right-of-way disposition decision has been made in accordance with 103(e) (5)(B), (6)(B), or (e)(7) of this title. The amount apportioned to each eligible State pursuant to the thirteenth and nineteenth sentences of this paragraph shall be based on the full remaining value of the sums made available under this paragraph as determined by the Secretary but the total of such apportionments shall not exceed the remaining value of such sums less the amount unavailable for release by the Secretary. Sums retained by the Secretary shall be made available for apportionment upon partial or full repayment of funds in accordance with section 103(e)(7) of this title or upon determination by the Secretary that, under section 103(e)(5)(B) or (6)(B), repayment is not required.".

BRIDGE STUDY

SEC. 117. (a) The Secretary of Transportation shall conduct a study of the Bridge Replacement and Rehabilitation Program. This study shall include, but is not limited to—

(1) an analysis of the progress made toward replacing and rehabilitating inadequate bridges both on the Federal-aid system and off the system; a projection of future needs of the bridge program; and an evaluation of the States' prioritization in addressing bridge repair and replacement;

(2) a review of the bridge inspection program including the adequacy of the AASHTO "Manual for Maintenance Inspection of Bridges 1983"; the adequacy of qualification requirements for bridge inspectors; the status of the bridge inventory; and the adequacy of State bridge inspections;

(3) an analysis of the effectiveness of the bridge discretionary program;

(4) a review of the bridge program's effect on the rehabilitation of historic bridges including the development of specific standards which would apply only to the rehabilitation of historic bridges, and an analysis of any other factors which would serve to enhance the rehabilitation of historic bridges.

(b) The Secretary of Transportation shall report to the Congress the results of the study under subsection (a) not later than one year after the date of enactment of this Act.

(c)(1) The Secretary of Transportation shall make appropriate arrangements with the Transportation Research Board of the National Research Council to carry out a study of the bridge formula as it affects the configuration and gross vehicle weight of large vehicles; the effect of certain large vehicles on the average life of a bridge; and the current status of and effect of grandfather rights applicable to this formula. The study shall be done in consultation with the Federal Highway Administration and the American Association of State Highway and Transportation Officials.

(2) The Transportation Research Board shall report to the Congress the results of this study not later than eighteen months after the appropriate arrangements have been made.

TECHNICAL AMENDMENTS

SEC. 118. (a)(1) Section 103(e)(4) of title 23, United States Code, is further amended by striking out the sixth, seventh, and eighth sentences and inserting in lieu thereof the following: "The sums apportioned and the sums allocated under this paragraph for public mass transit projects shall remain available for the fiscal year for which apportioned or allocated, as the case may be, and for the succeeding fiscal year. The sums apportioned and the sums allocated under this paragraph for projects under any highway assistance program shall remain available for the fiscal year for which apportioned or allocated, as the case may be, and for succeeding fiscal year. Any sums which are apportioned or allocated to a State for a fiscal year and are unobligated (other than an amount which, by itself, is insufficient to pay the Federal share of the cost of a substitute project which has been submitted by the State to the Secretary for approval) at the end of such fiscal year shall be apportioned or allocated, as the case may be, among those States which have obligated all sums (other than such an amount) apportioned or allocated, as the case may be, to them for such fiscal year. Such reapportionments shall be in accordance with the latest approved estimate of the cost of completing substitute projects, and such reallocations shall be at the discretion of the Secretary.".

(2) The last sentence of section 103(e)(4) of title 23, United States Code, is amended by striking out "designed" and inserting in lieu thereof "designated".

(b)(1) The second section 126 of the Surface Transportation Assistance Act of 1982, relating to bicycle transportation, is amended by striking out "SEC. 126." and inserting in lieu thereof "SEC. 126A.".

(2) Section 133 of such Act is amended by striking out "(a)" the first place it appears.

(3) Section 163 of such Act is amended by striking out "appropriated" and inserting in lieu thereof "apportioned".

(4) Section 415 of such Act is hereby repealed.

(5) The third sentence of section 108(d) of such Act is amended by striking "this title," and inserting in lieu thereof "title 23, United States Code,".

(c)(1) The analysis of chapter 1 of title 23, United States Code, is amended (1) in the item relating to section 127 by striking out "and width", and (2) by striking out the item relating to section 146 and inserting in lieu thereof:

"146. Carpool and vanpool projects.".

(2) Section 120 of such title is amended by redesignating the second subsection "(i)", and subsections "(j)" and "(k)" as subsections "(j)", "(k)", and "(l)", respectively.

(3) The first sentence of section 122 of such title is amended by inserting "or for substitute highway projects approved under section 103(e)(4) of this title" before "and the retirement".

(4)(A) Subsection (b) of section 125 of such title is amended by striking out "the Interstate System, the Primary System, and on any routes functionally classified as arterials or major collectors," each place it appears and inserting in lieu thereof "the Federal-aid highway systems, including the Interstate System".

(B) Subsection (c) of such section is amended by striking out "routes functionally classified as arterials or major collectors" and inserting in lieu thereof "on any of the Federal-aid highway systems".

(5) Subsection (e) of section 144 of title 23, United States Code, is amended by adding at the end thereof the following: "Funds apportioned under this section shall be available for expenditure for the same period as funds apportioned for projects on the Federal-aid primary system under this title. Any funds not obligated at the expiration of such period shall be reapportioned by the Secretary to the other States in accordance with this subsection.".

(6) The second sentence of section 204(b) of such title is amended by inserting "the Secretary or" before "the Secretary of the Interior".

(7) The last sentence of section 402(j) of such title is amended by striking out "chapter" and inserting in lieu thereof "section".

(d) Section 111 of title 23, United States Code, is amended by inserting "(a)" before "All agreements" and by adding at the end thereof the following new subsection:

"(b) Notwithstanding subsection (a), any State may permit the placement of vending machines in rest and recreation areas, and in safety rest areas constructed or located on rights-of-way of the Interstate System in such State. Such vending machines may only dispense such food, drink, and other articles as the State highway department determines are appropriate and desirable. Such vending machines may only be operated by the State. In permitting the placement of vending machines, the State shall give priority to vending machines which are operated through the State licensing agency designated pursuant to section 2(a)(5) of the Act of June 20, 1936, commonly known as the 'Randolph-Sheppard Act' (20 U.S.C. 107a(a)(5)). The costs of installation, operation, and maintenance of vending machines shall not be eligible for Federal assistance under this title.".

(e)(1) Section 145(c) of the Surface Transportation Assistance Act of 1982 is amended to read as follows:

"(c) The total amount which may be obligated for qualifying projects in any State under subsection (a) for each of the fiscal years 1983 and 1984 shall not be greater than the excess of—

"(1) the sum of the amount of obligation authority distributed to such State for such fiscal year under section 104(b) of this Act, plus the amounts, if any available to such State for such fiscal year under section 157 of title 23, United States Code, pertaining to minimum allocation, over

"(2) the amount of obligational authority distributed to such State for fiscal year 1982 under section 3(b) of the Federal-Aid Highway Act of 1981.".

(2) Section 145(e) of such Act is amended by inserting "section 108 of this Act and" after "such State under", and by striking out "104(b)(1) of title 23, United States Code," and inserting in lieu thereof "108 of this Act".

(f) Section 154(e) of title 23, United States Code, is amended—

(1) by striking out "criteria which takes" and inserting in lieu thereof "criteria which take";

(2) by inserting after "posted" the following: "on January 1, 1983,"; and

(3) by inserting before "in accordance with" the following: ", and on highways built after such date with speed limits posted as fifty-five miles per hour,".

HISTORIC BRIDGES

SEC. 119. (a) Section 144, title 23, United States Code, is amended by adding a new subsection as follows:

"(o) Notwithstanding any other provision of law:

"(1) any reasonable costs incurred due to actions taken to mitigate harm to bridges listed on or eligible for listing on the National Register of Historic Places as a result of Federal-aid projects funded under this section, shall be eligible for funds under this section.

"(2) Any State which is eligible to receive demolition funds for a replacement project under this section may receive amounts for preservation of an historic bridge not to exceed the estimated cost of demolition: *Provided*, That the State, locality or private entity enters into an agreement to assume all future legal and financial responsibility for the bridge which shall no longer be eligible for funds under this section.".

(b) Section 144(c)(2) is amended by striking "may, at the request of a State," and inserting in lieu thereof "shall require each State to".

WILDFLOWERS

SEC. 120. Section 319 of title 23, United States Code is amended by inserting an "(a)" after section 319 and inserting the following new subsection.

"(b) The Secretary shall approve the planting of native wildflower seeds and/or seedlings as part of any landscaping contract under this title. Not to exceed one-quarter of one per centum of the funds expended for landscaping shall be used for such plantings. The requirements of this subsection may be waived by the Secretary if the State certifies that such native wildflowers or seedlings cannot be grown satisfactorily or planting areas are limited.".

ELIGIBILITY FOR EMERGENCY RELIEF

SEC. 121. A project to repair or reconstruct any portion of a Federal-aid primary route in the vicinity of Horseshoe Bend, Idaho, which has experienced slide damage as a result of excessive snow and rainfall shall be eligible for assistance under section 125 of title 23, United States Code.

MINIMUM ALLOCATION

SEC. 122. (a) Section 157(a) of title 23, United States Code, is amended to read as follows:

"(a) In the fiscal year ending September 30, 1983, as soon as practicable after the date of enactment of Federal-Aid Highway Act of 1984, and in each of the fiscal years ending September 30 thereafter, on October 1, the Secretary of Transportation shall allocate among the States, as defined in section 101 of this title, amounts sufficient to insure that a State's percentage of the total apportionments in each such fiscal year and allocation for the prior fiscal year of authorized Federal-aid highway programs and Federal-aid highway projects, except allocations for Forest highways, Indian reservation roads, and parkways and park highways in accordance with section 202 of this title, highway related safety grants authorized by section 402 of this title, non-construction safety grants authorized by sections 402, 408, 406, and 206 of this title, and Bureau of Motor Carrier Safety Grants authorized by section 404 of the Surface Transportation Assistance Act of 1982, shall not be less than 85 per centum of the percentage of estimated tax payments attributable to highway users in that State paid into the Highway Trust Fund, other than the Mass Transit Account, in the latest fiscal year for which data is available.".

(b) The amendment made by subsection (a) shall become effective on October 1, 1984.

(c) Notwithstanding the provisions of subsections (a) and (b) of this section, in the fiscal year ending September 30, 1985 the Secretary of Transportation shall allocate to each State, as defined in section 101 of this title, the larger of:

"(1) The amount sufficient to insure that the State's percentage of the total apportionments in such fiscal year and allocation for the prior fiscal year of authorized Federal-aid highway programs and Federal-aid highway projects, except allocations for Forest highways, Indian reservation roads, and parkways and park highways in accordance with section 202 of this title, highway related safety grants authorized by section 402 of this title, nonconstruction safety grants authorized by sections 402, 408, 406, and 206 of this title, and Bureau of Motor Carrier Safety Grants authorized by section 404 of the Surface Transportation Assistance Act of 1982, shall not be less than 85 per centum of the percentage of estimated tax payments attributable to highway users in that State paid into the Highway Trust Fund, other than the Mass Transit Account, in the latest fiscal year for which data is available.

"(2) The amount sufficient to insure that the State's percentage of the total apportionments in such fiscal year of Interstate highway substitute, primary, secondary, Interstate, urban, bridge replacement and rehabilitation, hazard elimination, and rail-highway crossings funds under sections 103(e)(4), 104(b), 144, and 152 of this title and section 203 of the Highway Safety Act of 1973, as amended, shall not be less than 85 per centum of the percentage of estimated tax payments attributable to highway users in that State paid into the Highway Trust Fund, other than the Mass Transit Account, in the latest fiscal year for which data is available.".

(d) For the fiscal year ending September 30, 1986, the Secretary of Transportation shall, notwithstanding the provisions of subsection (a) and (b) of this section, not preclude any State from receiving any additional funds as authorized by subsection (c) if the Congress approves such extension by law.

MARYLAND TRANSFER

SEC. 123. (a) The first sentence of section 7 of Public Law 98-229 is amended by inserting "amounts requested by the State of Maryland not to exceed" after the phrase "the Secretary shall transfer".

(b) The second sentence of section 7 of Public Law 98-229 is amended by striking out "$100,000,000" and inserting in lieu thereof "such amounts transferred".

(c) The third sentence of section 7 of Public Law 98-229 is amended by striking out "$100,000,000" and inserting in lieu thereof "an amount equal to the amount transferred from section 103(e)(4)"; and add at the end of the third sentence "in Baltimore, Maryland".

I-395 DEMONSTRATION CORRECTION

SEC. 124. Public Law 98-205 is amended by striking section 3 and inserting in lieu thereof the following:

"SEC. 3. Notwithstanding any other provision of law, the Secretary of Transportation shall assist the Commonwealth of Virginia and the District of Columbia, in carrying out a demonstration project on Interstate Highways 95 and 395 in Virginia and the District of Columbia for a period of not less than twelve months commencing within thirty days after the District of Columbia completes reconstruction of George Mason Bridge. The use of the express lanes on such highways shall be restricted under the experiment to buses, emergency vehicles, and other vehicles carrying four or more persons during the hours of 6 a.m. to 9:30 a.m. on Monday through Friday, exclusive of holidays, on northbound lanes and during the hours of 3:30 p.m. to 6 p.m. on Monday through Friday, exclusive of holidays, on southbound lanes during the demonstration period provided, that the Commonwealth of Virginia and the District of Columbia in consultation with the Secretary of Transportation may adjust such hours and refine the demonstration to enhance safety, minimize congestion, and maximize the use of

the facility. During the demonstration period, the Commonwealth of Virginia and the District of Columbia in consultation with the Secretary of Transportation shall carry out an environmental assessment of the effects of the high occupancy vehicle restrictions including, but not limited to, capacity of the facility, congestion on the facility and its approaches, modal choice in the corridor and air quality, and shall, upon completion of such assessment, report to the Congress the results of the assessment and the demonstration project.".

DEMONSTRATION PROJECTS

SEC. 125. (a) Section 120 of title 23, United States Code, is amended by adding the following new subsection:

"(m) Notwithstanding any other provision of this section, the Federal share payable for any individual project which is authorized by statute after September 30, 1983, for construction at a particular location and for which authorizations are provided out of the Highway Trust Fund, shall not exceed 50 per centum of the total cost of such project or $12,500,000, whichever is less".

(b)(1)(A) The Secretary of Transportation is authorized to provide funding for a demonstration project in Cattaraugus County, New York, for the purpose of demonstrating the extent to which the economy of an Indian reservation can be improved by completion of key elements of a modern, grade-separated access controlled highway which serves the reservation.

(B) There is authorized to be appropriated to carry out this paragraph, out of the Highway Trust Fund (other than the Mass Transit Account), not to exceed $12,500,000 for fiscal year ending September 30, 1986.

(C) Funds authorized by this paragraph shall be available for obligation in the same manner and to the same extent as if such funds were apportioned in accordance with section 104(b)(1) of title 23, United States Code.

(2)(A) The Secretary of Transportation is authorized to carry out a demonstration project in the vicinity of Buckhannon, West Virginia, for the purpose of demonstrating the efficient movement of traffic around an area of active coal mining and light industrial development.

(B) There are hereby authorized to be appropriated to carry out this paragraph, out of the Highway Trust Fund (other than the Mass Transit Account), not to exceed $12,500,000 for the fiscal year ending September 30, 1985.

(C) Funds authorized by this paragraph shall be available for obligation in the same manner and to the same extent as if such funds were apportioned under chapter 1 of title 23, United States Code, and such funds shall remain available until expended.

(D) The Secretary of Transportation shall submit to the Congress a report on the results of such project within one hundred and eighty days after completion.

(3)(A) The Secretary of Transportation is authorized to provide funding for 69.2 miles of reconstruction work in the State of Montana to demonstrate the improved serviceability of rural roads when provided with overlap and other such reconstruction.

(B) There is authorized to be appropriated to carry out this paragraph, out of the Highway Trust Fund, (other than the Mass Transit Account), not to exceed $10,000,000 for the fiscal year ending September 30, 1984 and shall remain available until expended.

(C) Sums authorized by this paragraph shall be available to the same extent and in the same manner as if such funds were apportioned in accordance with chapter 1 of title 23, United States Code.

(4)(A) The Secretary of Transportation is authorized to carry out a demonstration project in the vicinity of Cleveland, Texas, for the purpose of demonstrating the reduction in congestion by providing a four-lane divided highway with interchanges in an area with at-grade crossings.

(B) There are hereby authorized to be appropriated, out of the Highway Trust Fund (other than the Mass Transit Account), not to exceed $12,500,000 for the fiscal year ending September 30, 1984, to carry out the project authorized by paragraph (4)(A).

(C) Funds authorized by this paragraph shall be available for obligation in the same manner and to the same extent as if such funds were apportioned under chapter 1 of title 23, United States Code, and such funds shall remain available until expended.

(D) The Secretary of Transportation shall submit to the Congress a report on the results of such project within 180 days after completion.

(5)(A) The Secretary of Transportation shall carry out a high-technology developmental highway project to demonstrate the economic and social benefits of providing adequate transportation facilities for promoting the use and development of existing human, natural, and educational resources of an area for high-technology industry and to demonstrate new approaches to State and national economic development goals. In addition to the above benefits, the construction will demonstrate the use of latest technology in addressing sensitive environmental concerns in a mixed rural and urban environment. The highway will be located and designed to link existing air, water, rail, and transportation facilities with educational and research facilities in a manner that will make accessible land areas suitable for high-technology industrial development. The project shall be carried out in the vicinity of Knoxville, Tennessee in cooperation with the State. The project shall demonstrate the contribution adequate transportation can make in improving the quality of life in a region when the other human and natural resources for high-technology development are present. The Secretary shall provide the necessary technical assistance to the Department of Transportation in the planning, design, and construction of the project and upon completion, the project shall be added to the Federal-Aid Primary System.

(B) Not later than one year, six years, and eleven years after the completion of the high-technology development highway demonstration project, the Secretary of Transportation shall submit reports to the Congress, including but not limited to the social, economic, and other environmental impacts of such project, with recommendations relative to applying the developmental concept to highway projects in other areas of the Nation.

(C) There is authorized to be appropriated to carry out the demonstration project out of the Highway Trust Fund (other than the Mass Transit Account), not to exceed $12,500,000 for the fiscal year ending September 30, 1985. Such funds shall be available until expended, shall be available for obligation in the same manner and to the same extent as if apportioned under chapter 1 of title 23, United States Code, and shall not be subject to any obligation limitation.

(6)(A) The Secretary of Transportation, in cooperation with the State of Idaho, shall conduct a demonstration project within a transportation corridor to determine the economic and social impact of controlled-access highway services—including conversion of railroad rights-of-way to highway and other transportation uses—on a redeveloping central business district of a metropolitan area of two hundred and fifty thousand population.

(B) There is authorized to be appropriated, out of the Highway Trust Fund (other than the Mass Transit Account), to carry out this paragraph not to exceed $7,500,000.

(C) Funds authorized by this paragraph shall be available for obligation in the same manner and to the same extent as if such funds were apportioned under chapter 1 of title 23, United States Code, and such funds shall remain available until expended.

(D) The Secretary of Transportation shall submit to Congress a report on the results of the demonstration project not later than one year after completion of the project.

(7)(A) The Secretary of Transportation shall carry out a project to demonstrate the feasibility of replacing a functionally obsolete and structurally deficient bridge in Manchester, New Hampshire, located in part in a historic district, with a modern structure while preserving the integrity of the district.

(B) There is authorized to be appropriated to carry out this paragraph, out of the Highway Trust Fund (other than the Mass Transit Account), $12,500,000 for the fiscal year ending September 30, 1985.

(C) Such funds shall be available until expended, shall be available for obligation in the same manner and to the same extent as if apportioned under chapter 1 of title 23, United States Code.

(8)(A) The Secretary of Transportation, in cooperation with the State of Washington, shall conduct a demonstration project within a transportation corridor to determine the economic and social impact of utilizing the air space above a controlled-access highway to mitigate the impact on a major urban area of construction of the highway and for other transportation uses.

(B) There is authorized to be appropriated, out of the Highway Trust Fund (other than the Mass Transit Account), to carry out this paragraph not to exceed $12,500,000.

(C) Funds authorized by this paragraph shall be available for obligation in the same manner and to the same extent as if such funds were apportioned under chapter 1 of title 23, United States Code, and such funds shall remain available until expended.

(D) The Secretary of Transportation shall submit to Congress a report on the results of the demonstration project not later than one year after completion of the project.

(9)(A) The Secretary of Transportation is authorized to carry out a highway project to demonstrate the benefits of a causeway to Ford Island in Pearl Harbor, connecting with the highway system of Honolulu; the anticipated benefits to include the development of this underused federal property on Ford Island and a substantial savings in ferry and small boat operating and maintenance costs.

(B) There is authorized to be appropriated to carry out this paragraph, out of the Highway Trust Fund (other than the Mass Transit Account, not to exceed $12,500,000 for fiscal year ending September 30, 1985, and shall remain available until expended.

(C) Sums authorized by this paragraph shall be available to the same extent and in the same manner as if such funds were ap-

portioned in accordance with chapter 1 of title 23, United States Code.

(D) The Secretary of Transportation shall submit to Congress a report on the results of demonstration project not later than one year after completion of the project.

(10)(A) The Secretary of Transportation, in cooperation with the State of Georgia, shall carry out a project to demonstrate the best method for replacing an existing functionally obsolete bridge across the Savannah River in Savannah, Georgia with a modern, high-level structure in order to improve safety and the free flow of both vehicular and water-borne traffic including that related to national defense.

(B) There is authorized to be appropriated to carry out this paragraph, out of the Highway Trust Fund (other than the Mass Transit Account), $12,500,000 for the fiscal year ending September 30, 1985.

(C) Such funds shall be available until expended and shall be available for obligation in the same manner and to the same extent as if appropriated under Chapter I title 23, United States Code.

(D) The Secretary of Transportation shall submit to Congress a report on the results of the demonstration project not later than one year after completion of the project.

(11)(A) The Secretary of Transportation, in consultation with the Secretary of the Interior, is authorized to carry out a project on the Turquoise Trail to demonstrate transportation efficiencies gained by upgrading the highway connecting two Indian reservations.

(B) To carry out this paragraph, there is authorized to be appropriated, out of the Highway Trust Fund (other than the Mass Transit Account), not to exceed $12,500,000. Funds authorized by this section shall be available for obligation in the same manner and to the same extent as if such funds were appropriated under chapter 1 of title 23, United States Code. Such sums shall remain available until expended and shall not be subject to any obligational limitation.

(12)(A) The Secretary of Transportation is authorized to carry out a demonstration project in and around Dubuque, Iowa, to demonstrate the benefits of constructing a section of the Federal-Aid Primary System connecting to the Interstate Highway System an organized area with no multilane highway connection to the Interstate Highway System and with a high proportion of unemployment.

(B) There are hereby authorized to be appropriated to carry out this paragraph, out of the Highway Trust Fund (other than the Mass Transit Account), not to exceed $12,000,000 for fiscal year ending September 30, 1985.

(C) Funds authorized by this paragraph shall be available for obligation in the same manner and to the same extent as if such funds were apportioned under chapter 1 of title 23, United States Code, and such funds shall remain available until expended.

(D) The Secretary of Transportation shall submit to the Congress a report on the results of such project within one hundred and eighty days after completion.

(13)(A) The Secretary of Transportation, in cooperation with the State of Nevada, shall carry out a demonstration project to construct Sparks Boulevard in Sparks, Nevada, from Greg Street to Lincoln Way and an interchange with Interstate 80 to demonstrate the economic and social impact of such construction.

(B) There is authorized to be appropriated, out of the Highway Trust Fund (other than the Mass Transit Account), to carry out this subsection not to exceed $10,100,000.

(C) Funds authorized by this paragraph shall be available for obligation in the same manner and to the same extent as if such funds were apportioned under chapter 1 of title 23, United States Code, and such funds shall remain available until expended.

(D) The Secretary of Transportation shall submit to Congress a report on the results of the demonstration project not later than one year after completion of the project.

(14)(A) The Secretary of Transportation is authorized to carry out a highway and bridge construction demonstration project connecting the Isle of Palms, South Carolina, to the mainland for the purpose of demonstrating the reduction in congestion, improved emergency preparedness, and increased accessibility to a sea island obtainable by construction of a high-level, fixed span bridge over a high-volume intracoastal waterway segment.

(B) There is authorized to be appropriated to carry out this paragraph, out of the Highway Trust Fund (other than the Mass Transit Account), not to exceed $12,500,000 for the fiscal year ending September 30, 1985.

(C) Funds authorized by this paragraph shall be available for obligation in the same manner and to the same extent as if such funds were apportioned under chapter 1 of title 23, United States Code. Such funds shall remain available until expended, and shall not be subject to any obligational limitation.

(D) In carrying out this paragraph, the Secretary of Transportation shall consult with the Secretary of the Army and the Commandant of the Coast Guard concerning permit procedures which will expedite completion of this project."

(E) Notwithstanding any other provision of law (including but not limited to the provisions of section 129 of chapter 1 of title 23, United States Code, and section 301 of chapter 3 of title 23, United States Code), the non-Federal share required for this project may be satisfied directly or indirectly, in whole or in part, by operation of the bridge as a toll facility: *Provided*, That once the State share has been paid, the toll would be removed.

(c) Notwithstanding any other provision of law, the projects authorized by subsection (b) shall not be subject to any obligation limitation.

(d)(1) The Secretary of Transportation is authorized to carry out a demonstration project in the Brunswick-Topsham area, Maine, for the purpose of demonstrating increased access to defense related facilities by the construction of a limited access highway connecting a major interstate highway corridor with a naval air station and a shipyard engaged in defense production activities.

(2) There is authorized to be appropriated, out of the Highway Trust Fund (other than the Mass Transit Account), not to exceed $12,500,000 for the fiscal year ending September 30, 1984. Sums authorized by this subsection shall be available to the same extent and in the same manner as if such funds were apportioned in accordance with chapter 1 of title 23, United States Code, shall remain available until expended, and shall not be subject to any obligation limitation.

(3) Notwithstanding the provision of section 120(m) of title 23, United States Code, the non-Federal share required for this project shall be satisfied by provision of 25 per centum of such share from State funds and 25 per centum from funds which are apportioned to the State under section 104(b)(1) and (2) of title 23, United States Code, and which would not otherwise be obligated. Funds provided from such apportionments shall not be subject to any obligation limitation.

(4) In carrying out this subsection, the Secretary shall consult with the Secretary of the Navy concerning defense activities related to the project.

(5) The Secretary shall report to Congress, upon completion of this project, the result of this demonstration project together with any recommendations the Secretary deems necessary.

(e)(1) In addition to funds authorized by section 131(g)(3) of the Surface Transportation Act of 1982, not to exceed $1,500,000 is authorized to be appropriated, out of the Highway Trust Fund (other than the Mass Transit Account), for continued work on the demonstration project in and around Devils Lake, North Dakota.

(2) Sums authorized by this subsection shall be available to the same extent and in the same manner as if such funds were apportioned in accordance with chapter 1 of title 23, United States Code, except that the Federal share shall be 100 per centum, shall remain available until expended, and shall not be subject to any obligation limitation.

BUY AMERICA

SEC. 126. Section 165(a) of the Surface Transportation Assistance Act of 1982 is amended to read as follows:

"Notwithstanding any other provision of law, the Secretary of Transportation shall not obligate any funds authorized to be appropriated by this Act or by any Act amended by this Act or, after the date of enactment of this Act, any funds authorized to be appropriated to carry out this Act, title 23, United States Code, the Urban Mass Transportation Act of 1964, or the Surface Transportation Assistance Act of 1978 and administered by the Department of Transportation, whose total cost exceeds $500,000, unless steel and manufactured products used in such project are produced in the United States.".

WASTE ISOLATION PILOT PROJECT

SEC. 127. For the fiscal year ending September 30, 1985, and thereafter, there is authorized to be appropriated $58,000,000 for the upgrading of certain highways in the State of New Mexico for the transportation of nuclear waste generated during defense-related activities.

OBLIGATION LIMITATION

SEC. 128. (a) Notwithstanding any other provisions of law, the total of all obligations for Federal-aid highways and highway safety construction programs shall not exceed $13,550,000,000 for fiscal year 1985. These limitations shall apply to obligations for emergency relief under section 125 of title 23, United States Code, or projects covered under section 147 of the Surface Transportation Assistance Act of 1978, or section 9 of the Federal-Aid Highway Act of 1981, or section 118 of the National Visitor Center Facilities Act of 1968. No obligation constraints shall be placed upon any ongoing emergency project carried out under section 125 of title 23, United States Code, or section 147 of the Surface Transportation Assistance Act of 1978.

(b) For the fiscal year 1985, the Secretary of Transportation shall distribute the limi-

tation imposed by subsection (a) by allocation in the ratio which sums authorized to be appropriated for Federal-aid highways and highway safety construction which are apportioned or allocated to each State for such fiscal year bears to the total of the sums authorized to be appropriated for Federal-aid highways and highway safety construction which are apportioned or allocated to all the States for such fiscal year.

(c) During the period October 1 through December 31, 1984, no State shall obligate more than 35 per centum of the amount distributed to such State under subsection (b) for fiscal year 1985, and the total of all State obligations during such period shall not exceed 25 per centum of the total amount distributed to all States under such subsection for such fiscal year.

(d) Notwithstanding subsections (b) and (c), the Secretary shall—

(1) provide all States with authority sufficient to prevent lapses of sums authorized to be appropriated for Federal-aid highways and highway safety construction which have been apportioned or allocated to a State, except in those instances in which a State indicates its intention to lapse sums apportioned under section 104(b)(5)(A) of title 23, United States Code;

(2) after August 1, 1985, revise a distribution of the funds made available under subsection (b) for such fiscal year if a State will not obligate the amount distributed during such fiscal year and redistribute sufficient amounts to those States able to obligate amounts in addition to those previously distributed during such fiscal year giving priority to those States having large unobligated balances of funds apportioned under section 104 of title 23, United States Code, and giving priority to those States which, because of statutory changes made by this Act and the Federal-Aid Highway Act of 1981, have experienced substantial proportional reductions in their apportionments and allocations; and

(3) not distribute amounts authorized for administrative expenses and Federal lands highways.

(e) The limitations established by subsection (a) of this section shall not apply to an amount of funds apportioned under section 104(b)(5)(A) of title 23, United States Code, during the fiscal year ending September 30, 1985 to a State equal to that amount which such State returned in unused obligation authority in August 1984 which would not have been returned if all of the Interstate construction funds authorized for apportionment during the fiscal year ending September 30, 1984 had been apportioned in the fiscal year ending September 30, 1984.

RICHMOND-PETERSBURG TURNPIKE TOLL PAYMENT

SEC. 129. (a) Upon the repayment by the Commonwealth of Virginia to the Treasurer of the United States of an amount equal to all Federal-aid highway funds heretofore paid on account of the immediate connectors and approaches to the Richmond-Petersburg Turnpike, said turnpike shall be free of all restrictions with respect to the imposition and collection of tolls or other charges on or for the use thereof which are contained in title 23, United States Code, or section 1 of the Federal Highway Act, or any regulation or agreement thereunder.

(b) The amount to be repaid shall be deposited to the credit of the appropriations for the Federal-Aid Highway Trust Fund. Such a repayment shall be credited to the unprogrammed balance of the Federal-Aid interstate funds last apportioned to the Commonwealth of Virginia. The amount so credited shall be in addition to all other funds then apportioned to said State and shall be available for expenditure in accordance with the provisions of title 23, United States Code.

FOREST HIGHWAYS

SEC. 130. (a) Notwithstanding section 202(a) of title 23, United States Code, the Secretary of Transportation shall, after making the transfer provided by section 204(g) of title 23, United States Code, on October 1, 1984, allocate $33,000,000 from the authorization for forest highways provided for the fiscal year ending September 30, 1985, by section 105(a)(6) of the Surface Transportation Act of 1982 and, on October 1, 1985, allocate $33,000,000 from the authorization for forest highways provided for the fiscal year ending September 30, 1986, by section 105(a)(6) of the Surface Transportation Assistance Act of 1982, in the same percentage as the amounts apportioned for expenditure in each State and the Commonwealth of Puerto Rico from funds authorized for forest highways for the fiscal year ending June 30, 1958, adjusted to (1) eliminate the 0.003,243,547 per centum for the State of Iowa, because of the conveyance of all national forest lands in Iowa to the State by deed executed May 26, 1964, and (2) redistribute the above percentage formerly apportioned to the State of Iowa for the other participating States on a proportional basis. The remaining funds authorized to be appropriated for forest highways for the fiscal years ending September 30, 1985, and September 30, 1986, shall be allocated pursuant to section 202(a) of title 23, United States Code.

(b) Not later than January 1, 1985, the Secretary shall report to the Congress on the criteria developed for the allocation of forest highway funds.

BICYCLE PROJECTS ELIGIBILITY

SEC. 131. The second sentence of section 217(b)(1) of title 23, United States Code, is amended by inserting "and sums apportioned or allocated for highway substitute projects in accordance with paragraph (e)(4) of section 103 of this title" after the word "title".

INTERSTATE TRANSFER CONCEPT PLAN

SEC. 132. The third sentence of section 103(e)(4) of title 23, United States Code, is amended by striking the period at the end and inserting in lieu thereof *"Provided*, That the States may adjust their Interstate substitution programs which were approved in concept by the Secretary on or before September 30, 1983, to drop and add projects until September 30, 1985, without altering the existing entitlement.".

FEASIBILITY STUDY

SEC. 133. (a) The Secretary of Transportation shall carry out a project to study the feasibility of constructing a new East-West Highway linking the Delaware Memorial Bridge with the Atlantic City Expressway and other north-south arteries in southern New Jersey.

(b) There is authorized to be appropriated, out of the Highway Trust Fund (other than the Mass Transit Account), to carry out this subsection not to exceed $100,000 for the fiscal year ending September 30, 1985. The Federal share payable shall not exceed 50 per centum of such project cost.

139 (a) AND (b) ROUTE DESIGNATION

Sec. 134. (a) The last sentence of section 139(a) and the fourth sentence of section 139(b) of title 23, United States Code, are each amended by striking out "this sentence" and inserting in lieu thereof "the Surface Transportation Amendments of 1984."

(b) Subsection (a) of section 119 of title 23, United States Code, is amended by striking out "this sentence" and inserting in lieu thereof "the Surface Transportation Amendments of 1984."

RELEASE OF CONDITION RELATING TO CONVEYANCE OF CERTAIN HIGHWAY

SEC. 135. Notwithstanding paragraph (1) of subsection (b) of section 146 of the Federal-Aid Highway Act of 1970 (84 Stat. 1739) and any agreement entered into under such subsection, no conveyance of any road or portion thereof shall be required to be made under such paragraph or agreement to the State of Maryland and the State of Maryland shall not be required to accept conveyance of any such road or portion. Funds authorized by such section may be obligated and expended without regard to any requirement of such paragraph or agreement that such conveyance be made.

HAMPTON ROADS

SEC. 136. The project for navigation, Newport News Creek, Virginia, authorized by the River and Harbor Act of 1946, is hereby modified to authorize the relocation and reconstruction by the State of Virginia of the project upon approval of plans for such relocation and reconstruction by the Secretary of the Army.

PRISON INDUSTRY IMPACT STUDY

SEC. 137. Within nine months after the date of enactment of this section, the Secretary of Transportation after consultation with the transportation officials and governors of the 50 States and the District of Columbia, shall submit to Congress a comprehensive study of the involvement of State prison industries which furnish convict-produced materials for use on Federal-aid highways and the impact on private industries which produce products similar to those of prison industries. The study shall also examine the socio-economic effects of prison industry programs in the rehabilitation and job training of convicts participating in such programs.

DISCRETIONARY PRIORITY

SEC. 138. (a) The Secretary of Transportation in allocating discretionary Interstate Substitute Highway funds shall give priority consideration to any State which has its overall allocation of such funds, including both formula and discretionary, reduced by an amount in excess of 45 per centum from the fiscal year ending September 30, 1983 to the fiscal year ending September 30, 1984, and where such reduction exceeded $100,000,000.00.

(b) The amendment made by subsection (a) shall terminate on September 30, 1989.

ALTERNATE DESIGN EXEMPTIONS

SEC. 139. The Secretary shall waive the alternate design requirements, specified in "Alternate Design for Bridges Policy Statement" (48-FR93 #21409), allowing construction of a steel deck tied arch option only, (including approach spans) for the Smith Avenue High Bridge, St. Paul, Minnesota.

TITLE II—UNIFORM RELOCATION ACT AMENDMENTS

PART A—GENERAL PROVISIONS

DEFINITIONS

SEC. 201. (a) Section 101(1) (42 U.S.C. 4601(1)) of the Uniform Relocation Assistance and Real Property Acquisition Policies

Act of 1970 (hereafter in this title referred to as the "Uniform Act") is amended by striking out "(except the National Capital Housing Authority)" and "(except the District of Columbia Redevelopment Land Agency)".

(b) Section 101(3) of the Uniform Act (42 U.S.C. 4601(3)) is amended to read as follows:

"(3) The term 'State agency' means any entity which has eminent domain authority under State law.".

(c) Section 101(4) of the Uniform Act (42 U.S.C. 4601(4)) is amended by inserting "or mortgage interest subsidy to a person" after "insurance".

(d) Section 101(6) of the Uniform Act (42 U.S.C. 4601(6)) is amended to read as follows:

"(6) The term 'displaced person' means—

"(A) except as provided under subparagraph (E) (with respect to a utility on real property under the control or ownership of a State or local agency), any person who moves from real property, moves personal property, or moves a business or farm operation, as a direct result of a written notice of intent to acquire or the acquisition of such real property in whole or in part for a program or project undertaken by a Federal agency or with Federal financial assistance;

"(B) solely for the purpose of subsections (a) and (b) of section 202 and section 205, any person who moves from real property or moves personal property from real property—

"(i) as a direct result of the written notice of intent to acquire or the acquisition of other real property, on which such person conducts a business or farm operation, for a program or project undertaken by a Federal agency or with Federal financial assistance; and

"(ii) as a direct result of rehabilitation or demolition for a program or project undertaken by a Federal agency or with Federal financial assistance, where the person is a residential tenant, farm operation, or a small business and where the head of the displacing agency determines that such displacement is permanent;

"(C) solely for the purpose of subsections (a) and (b) of section 202 and of any assistance which under this Act the head of the displacing agency may prescribe, any other person who is a residential tenant, farm operation, or small business and who the head of the displacing agency determines will be permanently displaced as a direct result of a program or project undertaken by a Federal agency or with Federal financial assistance;

"(D) any person who is eligible for relocation assistance under subparagraphs (A), (B), or (C) of this paragraph, unless such person has been determined, according to criteria established by the head of the lead agency, to be either in unlawful occupancy of the displacement dwelling or to have occupied such dwelling for the purpose of obtaining assistance under this Act; or

"(E) solely for the purpose of subsections (d) and (e) of section 202, any utility company which moves its facilities from real property under the ownership or control of a State or local agency.".

(e) Section 101 of the Uniform Act (42 U.S.C. 4601) is amended by adding at the end thereof the following new paragraphs:

"(10) The term 'suitable replacement dwelling' means any dwelling that is (A) decent, safe, and sanitary; (B) adequate in size to accommodate the occupants; (C) within the financial means of the displaced person; (D) functionally similar; (E) in an area not subject to unreasonable adverse environmental conditions; and (F) in a location generally not less desirable than the location of the displaced person's dwelling with respect to public utilities, facilities, services and the displaced person's place of employment.

"(11) The term 'displacing agency' means any Federal agency, State or State agency utilizing Federal financial assistance or, for the purposes of subparagraphs (B) and (C) of paragraph (6), any person furnished Federal financial assistance which causes a person to be a displaced person.

"(12) The term 'lead agency' means the Federal department, agency, or other entity designated by the President under section 213 to coordinate implementation of this Act.

"(13) The term 'appraisal' means a written statement independently and impartially prepared by a qualified appraiser setting forth an opinion of defined value of an adequately described property as of a specific date, supported by the presentation and analysis of relevant market information.".

PART B—UNIFORM RELOCATION ASSISTANCE

FINDINGS AND POLICY

SEC. 211. Section 201 of the Uniform Act (42 U.S.C. 4621) is amended to read as follows:

"DECLARATION OF FINDINGS AND POLICY

"SEC. 201. (a) The Congress finds and declares that—

"(1) displacement as a direct result of programs or projects undertaken by a Federal agency or with Federal financial assistance is caused by a number of activities, including rehabilitation, demolition, code enforcement, and acquisition;

"(2) displacement occurs in a variety of social, economic, geographic, and legal circumstances;

"(3) relocation assistance policies must provide for sufficient flexibility to assure fair, uniform, and equitable treatment of all affected persons;

"(4) the displacement of businesses often results in their closure; and

"(5) minimizing the adverse impact of displacement of businesses is essential to maintaining the economic and social well-being of communities.

"(b) This title establishes a uniform policy for the fair and equitable treatment of persons displaced as a direct result of programs or projects undertaken by a Federal agency or with Federal financial assistance, in order that such persons shall not suffer disproportionate injuries as a result of programs designed for the benefit of the public as a whole.

"(c) It is the intent of Congress that—

"(1) the primary purpose of this title is to minimize the hardship of displacement of persons displaced as a direct result of programs or projects undertaken by a Federal agency or with Federal financial assistance;

"(2) Federal agencies shall carry out this Act in a manner which minimizes waste, fraud, and mismanagement;

"(3) the administration of this Act shall, to the maximum extent feasible, minimize unnecessary administrative and program costs borne by States and State agencies through the promulgation of economical regulatory requirements and the delegation of substantial administrative discretion to State and local governments;

"(4) uniform procedures for the administration of relocation assistance shall, to the maximum extent feasible, assure that the unique circumstances of any displaced person are taken into account and that persons in essentially similar circumstances are accorded equal treatment under this Act; and

"(5) the improvement of housing conditions of economically disadvantaged persons under this title shall be undertaken, to the maximum extent feasible, in coordination with existing Federal, State, and local governmental programs for accomplishing such goals.".

MOVING AND RELATED EXPENSES

SEC. 212. (a) Section 202(a) of the Uniform Act (42 U.S.C. 4622(a)) is amended—

(1) by striking out the matter preceding paragraph (1) and inserting in lieu thereof the following:

"(a) Whenever a program or project to be undertaken by a displacing agency will result in the displacement of any person, the head of the displacing agency shall provide for the payment to the displaced person of—";

(2) by striking out "and" at the end of paragraph (2);

(3) by striking out the period at the end of paragraph (3) and inserting in lieu thereof "; and"; and

(4) by adding at the end thereof the following:

"(4) actual reasonable expenses necessary to reestablish a displaced nonprofit organization or small business at its new site, but not to exceed $10,000.".

(b) Section 202(b) of the Uniform Act (42 U.S.C. 4622(b)) is amended by striking out all that follows "may receive" and inserting in lieu thereof "an expense and dislocation allowance, which shall be determined according to a schedule established by the head of the lead agency.".

(c) Section 202(c) of the Uniform Act (42 U.S.C. 4622(c)) is amended to read as follows:

"(c) Any displaced person eligible for payments under subsection (a) of this section who is displaced from the person's place of business or farm operation and who is eligible under criteria established by the head of the lead agency may elect to accept the payment authorized by this subsection in lieu of the payment authorized by subsection (a) of this section. Such payment shall consist of a fixed payment in an amount to be determined according to criteria established by the head of the lead agency, except that such payment shall not be less than $1,000 and not more than $20,000. A person whose sole business at a displacement dwelling is renting displacement property to others shall not qualify for payment under this subsection.".

(d) Section 202 of the Uniform Act (42 U.S.C. 4622) is amended by adding at the end thereof the following new subsections:

"(d)(1) For the purposes of this section and section 101(6)—

"(A) The term 'cost of relocation' shall include the entire amount paid by the utility company properly attributable to a relocation after deducting any betterment in the relocated utility and any salvage from the old utility.

"(B) the term 'utility' means any electric, gas, water, steam power or materials transmission or distribution system, any transportation system, or any communications system (including cable television), and any fixtures, equipment, or other property appropriate to the operation, maintenance, or repair of the foregoing. A utility may be publicly, privately, or cooperatively owned.

"(2) Except when provided otherwise by Federal law, whenever a federally assisted program or project undertaken by a displacing agency other than a Federal agency will result in the displacement of a utility from property under the ownership or control of a State or local agency, the head of the displacing agency shall provide a payment to the utility company pursuant to State of local law or a written contract, if any, between the utility company and the State or local agency, but in no event shall such payment exceed the actual reasonable cost of relocation of such utility.

"(3) Nothing in this subsection shall supercede a State or local law or a written contract between a utility company and a State or local government, or require a payment to be made where none is required under State or local law or a written contract.

"(4) Nothing in this subsection shall deprive a utility company of its rights under State or local law.

"(5) Nothing in this subsection shall require a Federal agency to increase its payment if the increased payment is attributable to a contract or contract amendment that is made in anticipation of the Federal payment.

"(6) Nothing in this subsection shall require a Federal payment in excess of the payment that a State or local agency would pay if no Federal funds were involved.

"(7) Nothing in this subsection confers jurisdiction on a court of the United States (as defined in section 451 of title 28, United States Code) to review any action of a displacing agency in carrying out this subsection or to review the right of a utility company to be compensated under State or local law.

"(e) Whenever a program or project directly undertaken by a Federal agency will result in the displacement of a utility as the result of Federal acquisition of real property under the ownership or control of a State or local agency, the head of the Federal agency shall either relocate the utility with the utility company's consent, or provide a payment to the utility equal to the actual reasonable cost of relocation of such utility. Such relocation or such payment shall not be required when it is provided otherwise by a Federal law, or a Federal regulation promulgated prior to March 17, 1983, or a contract or agreement with a Federal agency.".

REPLACEMENT HOUSING FOR HOMEOWNER

SEC. 213. Section 203(a) of the Uniform Act (42 U.S.C. 4623(a)) is amended—

(1) by striking out "Federal" in paragraph (1) and inserting in lieu thereof "displacing";

(2) by striking out "$15,000" in such paragraph and inserting in lieu thereof "$22,500";

(3) by striking out "acquired by" and all that follows through "market" in subparagraph (A) of such paragraph and inserting in lieu thereof "acquired by the displacing agency, equals the reasonable cost of a suitable replacement dwelling";

(4) by striking out subparagraph (B) of such paragraph and inserting in lieu thereof the following:

"(B) The amount, if any, which will compensate such person for any increased interest costs and other debt service costs which such person is required to pay for financing the acquisition of any such suitable replacement dwelling. Such amount shall be paid only if the dwelling acquired by the displacing agency was encumbered by a bona fide mortgage which was a valid lien on such dwelling for not less than one hundred and eighty days immediately prior to the initiation of negotiations for the acquisition of such dwelling."; and

(5) by striking out paragraph (2) and inserting in lieu thereof the following:

"(2) The additional payment authorized by this section shall be made only to a displaced person who purchases and occupies a decent, safe, and sanitary replacement dwelling within one year after the date on which such person receives final payment from the displacing agency for the acquired dwelling or the date on which the displacing agency's obligation under section 205(c)(3) of this Act is met, whichever is later, except that the displacing agency may extend such period for good cause. If such period is extended, the payment under this section shall be based on the costs of relocating the person to a suitable replacement dwelling within one year of such date.".

REPLACEMENT HOUSING FOR TENANTS AND CERTAIN OTHERS

SEC. 214. Section 204 of the Uniform Act (42 U.S.C. 4624) is amended to read as follows:

"REPLACEMENT HOUSING FOR TENANTS AND CERTAIN OTHERS

"SEC. 204. (a) In addition to amounts otherwise authorized by this title, the head of a displacing agency shall make a payment to or for any displaced person displaced from any dwelling unit not eligible to receive a payment under section 203 which was actually and lawfully occupied by such displaced person for not less than ninety days immediately prior to the initiation of negotiations for acquisition of such dwelling, or, where displacement is not caused by acquisition, any other event which the head of the lead agency may prescribe. Such payment shall consist of the amount necessary to enable such person to lease or rent for a period not to exceed three years, a suitable replacement dwelling. For a person whose income exceeds 50 per centum of the median income of the area, as determined by the Secretary of Housing and Urban Development, the amount referred to shall equal the lesser of (i) $4,500 or (ii) 36 times the amount obtained by subtracting the monthly housing costs for the displacement dwelling from the monthly housing costs for a suitable replacement dwelling. At the discretion of the head of the displacing agency, a payment under this subsection may be made in periodic installments.

"(b) Any displaced person eligible for payments under subsection (a) of this section may elect to receive in lieu thereof either Federal low income housing assistance or similar State or local governmental assistance if such assistance is available at the time of displacement and such person is otherwise eligible for such assistance. The failure of any such person to make such an election shall be considered when evaluating the eligibility of such person for any Federal or federally assisted low income housing assistance program during the three years following the date on which such person received the payment authorized under subsection (a) of this section.

"(c) Any person eligible for a payment under subsection (a) of this section may elect to apply such payment to a downpayment on, and other incidental expenses pursuant to, the purchase of a decent, safe, and sanitary replacement dwelling. A displaced homeowner who has occupied the displacement dwelling for at least ninety days but not more than one hundred and eighty days immediately prior to the initiation of negotiations for the acquisition of such dwelling may, at the discretion of the head of the displacing agency, be eligible for the maximum payment allowed under subsection (a): *Provided*, That such payment shall not exceed the payment such person would otherwise have received under section 203(a) of this Act had the person occupied the displacement dwelling for one hundred and eighty days immediately prior to the initiation of such negotiations.".

RELOCATION ASSISTANCE COORDINATION AND ADVISORY SERVICES

SEC. 215. Section 205 of the Uniform Act (42 U.S.C. 4625) is amended to read as follows:

"RELOCATION ASSISTANCE COORDINATION AND ADVISORY SERVICES

"SEC. 205. (a) The head of any displacing agency shall assure that the relocation assistance advisory services described in subsection (c) of this section are made available to all persons displaced by such agency. If such agency head determines that any person occupying property immediately adjacent to the property where the displacing activity occurs is caused substantial economic injury as a result thereof, the agency head may make available to such person such advisory services.

"(b) The Secretary of Housing and Urban Development shall assign a high priority for assistance under the programs referred to in sections 204(b) and 206(b) of this Act to persons eligible under such sections. To the extent practicable, the Secretary shall require that federally assisted State and local governmental low income housing assistance programs assign priority for assistance to such persons. To the extent practicable, the Administrator of the Small Business Administration and the heads of other Federal agencies administering programs which may be of assistance to displaced persons shall make available technical assistance under subsection (c)(5) of this section and expedite the applications for such assistance by such persons.

"(c) Each relocation assistance advisory program required by subsection (a) of this section shall include such measures, facilities, or services as may be necessary or appropriate in order to—

"(1) determine, and make timely recommendations on, the needs and preferences, if any, of displaced persons for relocation assistance;

"(2) provide current and continuing information about sales prices and rental charges on suitable replacement dwellings for displaced homeowners and tenants and suitable locations for businesses and farm operations;

"(3) assure that a person shall not be required to move from a dwelling unless the person has had a reasonable opportunity to relocate to a suitable replacement dwelling;

"(4) assist a person displaced from a business or farm operation in obtaining and becoming established in a suitable replacement location;

"(5) supply information concerning other Federal programs which may be of assistance to displaced persons, and technical assistance to such persons in applying for assistance under such programs;

"(6) provide other advisory services to displaced persons in order to minimize hardships to such persons in adjusting to relocation; and

"(7) assure that a one hundred and eighty day homeowner-occupant is given a reasona-

ble opportunity to remain in such occupancy status.

"(d) The head of a displacing agency shall coordinate the relocation activities performed by such agency with other Federal, State, or local governmental actions in the community which could affect the efficient and effective delivery of relocation assistance and related services.

"(e) Whenever two or more Federal agencies provide financial assistance to a displacing agency other than a Federal agency, to implement functionally or geographically related activities which will result in the displacement of a person, the heads of such Federal agencies may by agreement designate one such agency as the cognizant Federal agency whose procedures shall be utilized to implement the activities. If such agreement cannot be reached, then the head of the lead agency shall designate one such agency as the cognizant agency. Such related activities constitute a single program or project for purposes of this Act.".

HOUSING REPLACEMENT BY FEDERAL AGENCY AS LAST RESORT

SEC. 216. Section 206 of the Uniform Act (42 U.S.C. 4626) is amended to read as follows:

"HOUSING REPLACEMENT BY FEDERAL AGENCY AS LAST RESORT

"SEC. 206. (a) If a program or project undertaken by a Federal agency or with Federal financial assistance cannot proceed on a timely basis because suitable replacement dwellings are not available, and the need of the displacing agency determines that such dwellings cannot otherwise be made available, the head of the displacing agency may take such action as is necessary or appropriate to provide such dwellings by use of funds authorized for such project. The head of the lead agency shall require that this section may be used to exceed the payment ceilings established in sections 203 and 204 only on a case-by-case basis, for good cause.

"(b) Whenever housing replacement as a last resort will result in the provision of housing for persons who are otherwise eligible for low income housing assistance, the requirement that the displacing agency provide suitable replacement housing may be met through such assistance as the provision of a certificate of family participation under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f).".

CERTIFICATION

SEC. 217. (a) Section 210 of the Uniform Act (42 U.S.C. 4630) is amended to read as follows:

"AGENCY CERTIFICATION OF STATE PROGRAMS

"SEC. 210. (a) Except as provided in subsection (b) of this section, the head of a Federal agency shall not approve any grant to or contract or agreement with a displacing agency which is not a Federal agency, under which Federal financial assistance will be available to pay all or part of the cost of any program or project which will result in the displacement of any person on or after the effective date of title II of the Federal-Aid Highway Act of 1984 unless such Federal agency head receives satisfactory assurances from such displacing agency that—

"(1) fair and reasonable relocation payments and assistance shall be provided to or for displaced persons, as are required to be provided by a displacing agency under sections 202, 203, and 204 of this title;

"(2) relocation assistance programs offering the services described in section 205 of this title shall be provided to such displaced person; and

"(3) within a reasonable period of time prior to a displacement, suitable replacement dwellings will be available to displaced persons in accordance with section 205(c)(3) of this title.

"(b)(1) In lieu of the provisions of subsection (a) of this section, the head of a displacing agency may discharge his responsibilities under this title and title I of this Act, with the exception of sections 208 and 211 of this Act by accepting a certification from a State agency that it will implement State law in a manner which will accomplish the policies and objectives contained in this title and title I, except that such agency head may not accept such a certification unless the head of the lead agency has determined that such State law will accomplish the same purpose and effect as this title and title I, particularly with respect to the definition of a displaced person, the categories of assistance required, and the levels of assistance provided to such persons in such categories.

"(2) The head of the lead agency, in coordination with other Federal agencies, shall monitor from time to time, and report biennially to the Congress on, State agency implementation of such certification, and a State agency shall make available any information required for such purpose. The head of a Federal agency, after consultation with the head of the lead agency, may withdraw his acceptance of the certification for good cause: *Provided,* That the State government is given due notice prior to taking any such action and is given a reasonable opportunity to demonstrate why such action should not be taken.

"(c) Prior to making a determination regarding State law under subsection (b) of this section, the head of the lead agency shall provide interested parties with an opportunity for public review and comment. In particular, the head of the lead agency shall consult with interested local general purpose governments within such States on the impacts of such State laws on the ability of local governments to carry out their responsibilities under the Act.

"(d) The head of a Federal agency may withhold his approval of any grant, contract, or cooperative agreement with any displacing agency which is not a Federal agency found to have intentionally circumvented a State law adopted under subsection (b) of this section.".

FEDERAL SHARE OF COSTS

SEC. 218. (a) Section 211(a) of the Uniform Act (42 U.S.C. 4631(a)) is amended to read as follows:

"(a) The cost to a displacing agency of providing payments and assistance pursuant to titles II and III shall be included as part of the cost of a program or project undertaken by a Federal agency or with Federal financial assistance. A displacing agency other than a Federal agency shall be eligible for Federal financial assistance with respect to such payments and assistance in the same manner and to the same extent as other program costs.".

(b) Section 210(b) of the Uniform Act (42 U.S.C. 4631(b)) is amended by striking out and all that follows "required by" and inserting in lieu thereof "State law which is determined by the head of the lead agency to have substantially the same purpose and effect of such payment under this section.".

REGULATION

SEC. 219. Section 213 of the Uniform Act (42 U.S.C. 4633) is amended to read as follows:

"REGULATION

"SEC. 213. (a) The President shall designate a lead agency.

"(b) The head of the lead agency shall—

"(1) develop, publish, and promulgate, with the active participation of other Federal agencies responsible for funding relocation and acquisition actions, and in full coordination with State and local governments, such rules as may be necessary to carry out this Act;

"(2) assure that relocation assistance activities under this Act are coordinated with low-income housing assistance programs or projects by a Federal agency, or a State or State agency with Federal financial assistance;

"(3) monitor, in coordination with other Federal agencies, the implementation and enforcement of this Act and report to the Congress, as appropriate, on any major issues or problems with respect to any policy or other provision of this Act; and

"(4) perform other duties as may be provided by law as relate to the purposes of this Act.

"(c) The rules promulgated pursuant to subsection (b) shall apply to the Tennessee Valley Authority only with respect to relocation assistance under this title and title I.".

TRANSFER OF SURPLUS PROPERTY

SEC. 220. Section 218 of the Uniform Act (42 U.S.C. 4638) is amended by inserting "net" after "all" in the second sentence.

REPEALS

SEC. 221. Sections 214, 215, 217, and 219 of the Uniform Act (42 U.S.C. 4634, 4635, 4637, and 4639) are repealed.

PART C—UNIFORM REAL PROPERTY ACQUISITION POLICY

UNIFORM POLICY ON REAL PROPERTY ACQUISITION PRACTICES

SEC. 231. (a) Section 301(2) of the Uniform Act (42 U.S.C. 4651(2)) is amended by inserting the following before the period at the end thereof: ", except that the head of the lead agency may prescribe a procedure which forgoes the appraisal".

(b) Section 301(9) of the Uniform Act (42 U.S.C. 4651(9)) is amended to read as follows:

"(9) If the acquisition of only a portion of a property would leave the owner with an uneconomic remnant, the head of the acquiring agency shall offer to acquire that remnant. For the purposes of this Act, an uneconomic remnant is a parcel of real property in which the owner is left with an interest after the partial acquisition of the owner's property and which the head of the acquiring agency has determined has little or no value or utility to the owner.".

(c) Section 301 of the Uniform Act (42 U.S.C. 4651) is amended by adding at the end thereof the following new paragraph:

"(10) A person whose real property is being acquired in connection with a project under this title may, after the person has been fully informed of his right to receive just compensation of such property, donate such property, any part thereof, any interest therein, or any compensation paid therefor to an acquiring agency, as said person shall determine.".

CERTIFICATION

SEC. 232. Section 305 of the Uniform Act (42 U.S.C. 4655) is amended to read as follows:

"AGENCY CERTIFICATION OF STATE PROGRAMS

"SEC. 305. (a) Except as provided in subsection (b) of this section, the head of a Federal agency shall not approve any program or project or any grant to, or contract or agreement with, an acquiring agency under which Federal financial assistance will be available to pay all or part of the cost of any program or project which will result in the acquisition of real property on or after the effective date of this title, unless he receives satisfactory assurances that—

"(1) in acquiring real property it will be guided, to the greatest extent practicable under State law, by the land acquisition policies under section 301 of this title and the provisions of section 302 of this title; and

"(2) property owners will be paid or reimbursed for necessary expenses as specified in sections 303 and 304 of this title.

"(b)(1) In lieu of the provisions of subsection (a) of this section, the head of a Federal agency may discharge his responsibilities under this title by accepting a certification from a State agency that it will implement State law in a manner which will accomplish the policies and objectives contained in this title, except that such agency head may not accept such a certification unless the head of the lead agency has determined that such State law will accomplish the same purpose and effect as this title.

"(2) The head of the lead agency, in coordination with other Federal agencies, shall from time to time monitor State agency implementation of such certification and the State agency shall make available any information required for such purpose. The head of the lead agency shall by regulation develop criteria for withdrawal of acceptance of a certification.

"(c) Prior to making a determination regarding State law under subsection (b) of this section, the head of the lead agency shall consult with interested local general purpose governments within such States on the impacts of such State laws on the ability of local governments to carry out their responsibilities under this Act.".

FAIRLEY GROUP BUILDING

SEC. 233. Upon the request of the Pike Place Market Preservation and Development Authority, Seattle, Washington, the Secretary of Commerce shall authorize the sale or lease to any person of the Fairley Group Building (project numbers 07-01-01890, as modified by 07-01-01890.01, and 07-11-02606) located in the Pike Place Market, King County, Washington, without affecting the Federal assistance provided under the Public Works and Economic Development Act of 1965, if the transfer documents provide for the continued use of the Fairley Group Building as a public market during the expected useful life of the building.

EXTENSION OF AUTHORIZATION

SEC. 234. Subsection (b) of section 142 of the Surface Transportation Assistance Act of 1982 is amended by striking "September 30, 1985," and inserting in lieu thereof "September 30, 1986,".

CALIFORNIA STATE ROUTE 73 IN ORANGE COUNTY, CALIFORNIA

SEC. 235. Notwithstanding any other provision of law, the fair market value of any lands which have been or in the future are donated or dedicated to the State of California necessary for the right-of-way for relocation and construction of California State Route 73 in Orange County, California, from its interchange with Interstate route I-405 to its interchange with Interstate route I-5 shall be included as a part of the cost of such relocation and construction project and shall be credited first toward payment of the non-Federal share of the cost of such relocation and construction project. If the fair market value of such lands exceeds the non-Federal share of such relocation and construction project, then the excess amount, upon the request of the State of California, shall be credited toward the non-Federal share of the cost of any other project on the Federal-aid system in the State of California. To further the purposes of this section and section 323 of title 23, United States Code, any recorded irrevocable offer of dedication or donation of property within the right-of-way shall be considered as part of the State right-of-way acquisition for purposes of this section if such offer is irrevocable and effective no later than such time as the State of California requests final reimbursement for the Federal share. In no case shall the amount of Federal-aid reimbursement to the State of California on account of such relocation and construction project exceed the actual cost to the State for such project.

BRIDGE REPLACEMENT FUNDS

SEC. 236. Subsection (g) of section 144 of title 23, United States Code, is amended by adding at the end thereof the following new paragraph:

"(3) Notwithstanding any other provision of section 144 of title 23, United States Code, and any other provision of law, any State or States may, at their option, utilize any of the funds provided them to carry out this section for the construction of bridges to replace ferries, which ferries were in existence on January 1, 1984. The Federal share payable on account of any such highway bridge construction pursuant to this subsection shall be the same as provided for highway bridge replacement or rehabilitation.".

This paragraph shall be applicable with respect to funds apportioned each State for the fiscal year ending September 30, 1985, and for subsequent years.

PART D—EFFECTIVE DATE

SEC. 241. (a) Except as provided in subsection (b), this title and the amendments made by this title shall take effect either twenty-four months after the date of enactment of this Act or on the date on which a State agency makes the provisions of the Uniform Act, as amended by this Act, applicable under State laws, whichever is earlier.

(b) The amendment made by section 219 of this Act shall take effect on the date of enactment of this Act.

Mr. STAFFORD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BENTSEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. BAKER. Mr. President, there is a small, little matter that I should have taken care of before we went to this bill. There are two budget waivers that were reported by the Budget Committee in connection with a bill which we have just passed.

To complete the RECORD, one of them is a 303 waiver and the other is a 402 waiver. I do not know why they were reported separately. But they were.

Mr. President, I ask unanimous consent that the Senate now consider, and adopt en bloc, Calendar Orders 1259 and 1260; and, that that action be deemed to have occurred prior to the laying down and consideration of the highway bill.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BAKER. Mr. President, I thank the Chair. I thank all Members of the Senate.

BUDGET ACT WAIVER

A resolution (S. Res. 452) waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 3024, was considered, and agreed to, as follows:

S. RES. 452

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 3024, a bill to approve the interstate and interstate substitute cost estimates, to amend title 23 of the United States Code, and for other purposes.

Such waiver is necessary because section 402(a) of the Congressional Budget Act of 1972 provides that it shall not be in order in either the House of Representatives or the Senate to consider any bill or resolution which, directly or indirectly, authorizes the enactment of new budget authority for fiscal year, unless that bill or resolution is reported in the House or Senate, as the case may be, on or before May 15 preceding the beginning of such fiscal year.

The Committee on Environmental and Public Works met and made a good faith effort to report S. 3024 prior to the May 25, 1984, reporting deadline for fiscal year 1985 authorizations. However, due to circumstances beyond their control, the committee was unable to report this bill prior to May 25, 1984.

Pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to S. 3024 as reported by the Committee on Environmental and Public Works.

BUDGET ACT WAIVER

A resolution (S. Res. 453) waiving section 303(a) of the Congressional Budget Act of 1974 for considerations of S. 3024, was considered, and agreed to, as follows:

S. RES. 453

Resolved, That section 303(a) of the Congressional Budget Act of 1974 is hereby waived with respect to the consideration of S. 3024, the Surface Transportation Amendments of 1984.

SEC. 2. This waiver is necessary so that multiyear highway legislation may be considered by the Senate. Highway authorizations are contract authority which when enacted create new spending authority. To consider this multiyear highway bill such a waiver is required by section 303(a).

PROGRAM

Mr. BAKER. Mr. President, I announced earlier that I was going to ask the Senate to turn to the consideration of the debt limit resolution as soon as we finished the highway bill. And I thank the managers for their excellent work in this regard, and my congratulations to them and their staffs. Mr. President, it is the intention of the leadership on this side to lay down the debt limit resolution, if the Senate will agree, and then to go off that resolution, take up routine matters that may be available and cleared on both sides, and to resume consideration of the debt limit resolution tomorrow shortly after we convene.

The reason for that, Mr. President, is I think obvious. For all practical purposes the Senate has been in session all night two nights in a row—or almost all night.

I think there is such an accumulation of fatigue that it would not well serve the Senate, and its Members, to get far into the debt limit tonight.

PUBLIC DEBT LIMIT INCREASE

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of H.J. Res. 654.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 654) increasing the statutory limit on the public debt.

The Senate proceeded to the consideration of the joint resolution.

Mr. DOLE. Mr. President, as I understand the pending business is debt ceiling. I have been discussing this matter with a number of Senators. I would like to make it clear at this point that we hope there are no amendments that are adopted on the debt ceiling.

Someone said there was an indication that I might accept some amendments on the debt ceiling. That is absolutely inaccurate. It is my hope that we can keep the debt ceiling clean for a number of reasons. I have discussed this with the majority leader. I think that is his hope.

Mr. BAKER. Mr. President, that is, indeed, my hope. And I have specifically requested the distinguished chairman of the Finance Committee to try to keep this debt limit resolution clean. I have no intention of offering any amendments, and I hope no amendments will be offered by Members on this side of the aisle.

Mr. DOLE. Mr. President, I also understand that we might start tomorrow morning with the amendment of the distinguished Senator from Massachusetts, Senator KENNEDY, who has indicated to me that he would accept a 1-hour time agreement. It is a nuclear freeze, which he will offer to the debt ceiling.

If we do, and if there is no objection, I assume most Members would like to complete action on this by 4 o'clock tomorrow afternoon. That will be very helpful.

Mr. BYRD. Will the distinguished Senator yield? Will the distinguished Senator state to the Senate whether or not the President has requested any extension of debt limit and, if so, what figure does the President have in mind?

Mr. DOLE. The President has, through the Secretary of the Treasury. I do not have it with me, but I will have that available.

Mr. BYRD. But he has made a request?

Mr. DOLE. Yes; sometime ago.

Mr. BYRD. Can that be placed into the RECORD?

Mr. DOLE. I will put that into the RECORD.

Mr. BAKER. Mr. President, I indicated earlier that as soon as this was laid down I would ask the Senate to go off this resolution and go into morning business. If we can clear the unanimous-consent agreement that the distinguished chairman of the Finance Committee has spoken of with Senator KENNEDY, we can do that while we have the period for the transaction of routine morning business.

Mr. BYRD. Mr President, may I respond to the distinguished majority leader?

Mr. BAKER. Yes.

Mr. BYRD. We have not cleared that request on this side.

Mr. BAKER. I thank the minority leader.

Mr. President, there will be no further rollcall votes today.

Mr. BYRD. Mr. President, the Senate is in morning business.

Mr. LAUTENBERG. Mr. President, will the majority leader yield for a question?

Mr. BAKER. Let me first yield to the minority leader, if I may.

Mr. BYRD. Mr. President, the Senate has moved to the debt limit. I ask the distinguished Senator from Kansas, on the letter he will put into the RECORD, is that letter from the President or from Mr. Regan, the Secretary of the Treasury?

Mr. DOLE. That letter will be addressed to Senator BAKER. I received a similar letter from the Secretary of the Treasury.

Mr. BYRD. What I would like to know is whether or not the President himself is asking for a debt limit extension, and, if so, how much does he want?

Mr. BAKER. I assume we can have that letter. Normally, it is the responsibility of the Secretary of the Treasury to make that request. He appeared before the committee, rather than the President, and indicated we need an extension.

Mr. BYRD. Well, the President is saying a good bit out in the hustings, which I can understand, of course. But I think we would like to know what the President wants.

Mr. BAKER. I assume we can get that letter in the morning.

Mr. President, if the Senator will let me speak, I do not have any question about that. I have worked with this President and other Presidents for a long time. I have less trouble getting this President to say what he means than any President I ever saw. Sometimes he says more than I am prepared to hear. But I will tell the minority leader I will make an effort to get such a representation from the President at the time we are back on the bill tomorrow.

Mr. BYRD. I thank the distinguished majority leader.

Mr. BAKER. Mr. President, I will yield to the distinguished Senator from New Jersey.

Mr. LAUTENBERG. I wanted to know if it is clear what time we would proceed on the debt ceiling tomorrow, after morning business, in the interest of concluding our business as early as possible tomorrow night. I wonder if it is possible for us to start fairly early in the day.

Mr. BAKER. Mr. President, I thank the Senator from New Jersey. Let me propound unanimous consent requests which will answer his question in part.

ROUTINE MORNING BUSINESS

Mr. BAKER. Mr President, I ask unanimous consent there now be a period for the transaction of routine morning business to extend not past the hour of 9 p.m. in which Senators may speak for not more than 5 minutes each except for the two leaders, against whom no time limitation shall apply.

The PRESIDING OFFICER. Without objection, it is so ordered.

H.R. 999, THE AMERICAN CONSERVATION CORPS

Mr. LAUTENBERG. Mr. President, I rise in support of H.R. 999, the American Conservation Corps. At long last, the Senate will turn to this issue. I joined the Senator from New York, Senator MOYNIHAN, by cosponsoring this legislation when he introduced it in 1983. I am very pleased we will have a chance to pass this bill and send it to

the President before adjourning for the year.

The idea embodied in this bill to put our young people to work on projects for public improvements is not new. In the 1930's, President Roosevelt created programs to employ our young people to construct public works and make other improvements. H.R. 999 will likewise give our young people vital work experience while improving our natural resources. It will provide assistance for unemployed youth to work on soil conservation, urban revitalization and flood control projects.

Unemployment among young people in our cities is still tragically high. Estimates are that fully one-half of black teenagers cannot find work. H.R. 999 promises to provide not only work, but an educational experience for participants.

All over the Nation we see the lasting value of the civilian conservation corps of the 1930's. Rare is the area not touched by a CCC project. The projects undertaken by the American conservation corps promise similar benefits.

Mr. President, alumni of the old CCC have been some of the most vocal supporters of this legislation. This bill was brought to my attention by New Jersey Assemblyman George Otlowski, who introduced legislation to establish a State conservation corps in New Jersey. Mr. President, I urge adoption of the bill.

OCEAN AND COASTAL RESOURCES MANAGEMENT AND DEVELOPMENT BLOCK GRANT ACT

Mr. WEICKER. Mr. President, I am pleased to have this opportunity to give my support for S. 2463, the Ocean and Coastal Resources Management and Development Block Grant Act. In 1982, the Weicker-Tsongas bill was one of the original pieces of legislation addressing the concept of Outer Continental Shelf revenue sharing, and contained many of the key principles that are part of the present bill. Both attempt to deal with the balance between OCS energy development and coastal zone management.

The bill before you today includes measures that are necessary and appropriate for the consistent conservation, management, and research of the entire coastal zone. In the face of continued administration proposals to curtail funding for coastal zone programs while simultaneously accelerating the OCS leasing process, the coastal States need the assurance of a continued, consistently run program to meet the inevitable demands placed on them. While the Coastal Zone Management Act of 1972 and its amendments contribute to the resolution of serious conflicts among competing values and uses in the coastal zone, funding inconsistencies through the years have hindered some States abilities to adequately address mitigation of development activities. And since all of the coastal States and territories assume most of the environmental and economic risks that are associated with offshore development, all of them should benefit from some of the funds that are generated by the Federal Government through the leasing of OCS tracts for oil and gas activities. I believe very firmly in the need for this country to become more energy independent. But I also believe that this must not occur at the expense of preserving the integrity of this country's other natural resources that may be adversely affected by this development. It is in the national interest to have effective management, beneficial use, production, and development of the Nation's coastal zones.

S. 2463 contains three basic provisions for OCS revenue sharing: It establishes an ocean and coastal resources management and development fund in the Treasury in which is to be deposited 4 percent of the average amount of all Federal OCS receipts during the 3 previous years. This will assure States a reasonable level of funding on an annual basis. The amounts deposited in the fund in fiscal year 1985 are restricted to no more than $300 million, but in subsequent years these amounts will be less than 105 percent of the moneys deposited in the prior fiscal year. By relying on a 3-year average, the effects of annual fluctuations in the level of receipts collected under the Federal OCS program will be buffered. All money withdrawn from the fund is provided for in advance by appropriation acts.

Second, the moneys in the fund are to be provided to States in the form of block grants. The amount of each block grant is determined by a formula composed of five equally weighted criteria: actual leasing and the volume of oil and gas produced on a site, proposed OCS oil and gas lease sales, the coastal-related energy facilities located in each State, the shoreline mileage, and the coastal population. It is important to note that these criteria are intimately tied to a State's involvement in the Federal Coastal Zone Management Program. States must have federally approved CZM programs, or be making satisfactory progress toward such approval, in order to receive credit for shoreline mileage or coastal population. Minimum and maximum grant levels are specified by the legislation. Moneys are to be spent on activities authorized by the Coastal Zone Management Act, including the enhancement and management of ocean and coastal resources and the amelioration of adverse impacts from coastal-related energy facilities.

Finally, it establishes a National Coastal Resources Research and Development Institute which will be affiliated with the Oregon State Marine Sciences Center. The Institute, with up to 1.5 percent of the total appropriated funds, is chartered to conduct research and educational and demonstration projects focusing on the Nation's academic expertise toward solutions to the unique problems of coastal States.

Congress has declared time and again that it is in the national interest to balance developmental and conservational aspects of our coastal zone resources. By doing so, we will be meeting our demands for energy, food, minerals, national defense, recreation, waste disposal, and transportation. This legislation is based on the need for us to intelligently utilize and protect our marine resources which are so important to our national economy. In closing, I must reiterate that it is imperative that Congress provide continued and reliable assistance and guidance to the coastal States and territories for the management of their marine resources by the implementation of S. 2463.

THE CONNECTICUT COASTAL NATIONAL WILDLIFE REFUGE

Mr. WEICKER. Mr. President, I am proud to note the passage of H.R. 5271, the Wetlands Loan Act, which under title II provides an authorization for the establishment of the Connecticut Coastal National Wildlife Refuge. Mr. President, the importance of this legislation cannot be understated. The four sites designated for protection in this bill: Chimon Island, Sheffield Island, Faulkners Island and Milford Point represent some of the last remnants of undisturbed land along Connecticut's densely populated coastline. Each of the four properties included in this refuge are integral parts of the Atlantic flyway and are listed as critical areas in the Connecticut natural diversity data base, the State's computer-assisted inventory of rare and endangered species and vanishing natural communities.

Mr. President, the Connecticut Coastal National Wildlife Refuge will be a major natural area resource in a heavily urbanized region. It will provide for wildlife oriented activities including nature observation, photography, interpretive education programs and other forms of outdoor recreation.

As was noted by representatives of the Nature Conservancy during hearings in the House on this bill, "by preserving biology we may be preserving, as well, future medicine, future antedotes to infestation that attack our crops, and future drugs that may help insure the quality of life for all our successors on this planet. As a by-

product, we shall be retaining some splendid scenery too."

I would like to commend the Members of this body for their prompt consideration and passage of H.R. 5271. This wise decision will ensure the protection and preservation of the threatened wildlife and habitat at this refuge for the benefit of present and future generations.

LONGSHOREMEN'S AND HARBOR WORKERS' COMPENSATION ACT OF 1984

Mr. TRIBLE. Mr. President, one principle which generally guides this body is that legislation should be prospective. However, the provision in the Longshoremen's and Harbor Workers' Compensation Act [LHWCA] Amendments of 1984 was drafted so that it applied retroactively. It creates a legal remedy where there was none when the harm occurred.

Reasonable people can differ about whether general contractors, such as WMATA, should be liable in tort to subcontractors' employees even if they help to provide workers' compensation for them. But there can be no doubt that this tort remedy did not exist prior to passage of the LHWCA Amendments of 1984.

The Supreme Court has clearly stated that the Longshoremen's and Harbor Workers' Compensation Act of 1927, as amended in 1972, "grant(s) a general contractor immunity from tort suits brought by subcontractor employees unless the contractor has neglected to secure workers' compensation coverage after the subcontractor failed to do so." (WMATA against Johnson, U.S., slip opinion No. 83-747 at page 12).

If this body determines that this ruling is inequitable and that current and former workers of the WMATA system should recover damages over and above their workers' compensation payments, then we should pass a special appropriation to benefit these 400 claimants.

We should not simply expect WMATA, which has already cut back on its construction program due to insufficient funding, to foot this legal bill which could add up to tens of million of dollars.

The irony in this situation is that Justice Marshall, writing for the Court in WMATA against Johnson, praised WMATA for doing more than the law required to compensate workers. "WMATA acted above and beyond its statutory obligations. In order to prevent subcontractor employees from going uninsured, WMATA went to the considerable effort and expense of purchasing wrap-up insurance on behalf of all of its subcontractors. Rather than waiting to secure its own compensation until subcontractors failed to secure, WMATA guaranteed that every metro subcontractor would satisfy and keep satisfied its primary statutory obligation to obtain worker's compensation coverage." (Id at page 14)

I urge the approval of this reasonably amendment, which preserves the intent of Congress to overturn legislatively the holding in WMATA against Johnson while also protecting the financial integrity of the WMATA system.

TRIBUTE TO SENATOR TSONGAS

Mr. PELL. Mr. President, as the current session ends, it brings to a close the Senate career of our colleague from Massachusetts, Senator PAUL TSONGAS.

In his single term as a U.S. Senator, PAUL TSONGAS has had a leading role on an impressive array of issues. Senator TSONGAS has been in the forefront of those seeking to protect our natural and human environment. His role as the author of the Tsongas amendments to the Alaska Lands Act of 1980 was decisive in the passage of that legislation. The Alaska Lands Act protected more land than any previous legislation and has been correctly hailed as the Conservation Act of the Century. Similarly, Senator TSONGAS has fought effectively for civil rights, economic opportunity, and social justice.

Senator TSONGAS has also found time, while in the Senate, to write a book, "The Road From Here." It is a thoughtful analysis of the shortcomings of traditional liberalism and provides some alternative routes to the shared goal of liberals, that is, a more just and humane world.

It is through his work on the Foreign Relations Committee, on which Senator TSONGAS has served for the last 4½ years, that I have come to know him best and admire him the most. During his tenure on the committee, Senator TSONGAS has made his mark in the areas of arms control, human rights, Afghanistan, and support of racial justice in South Africa. To each of these issues Senator TSONGAS has brought a command of the details and an ability to frame the key questions. Most important, however, Senator TSONGAS has brought to these issues a sense of decency, a strong sense of justice, and a feeling of compassion. He has been, in many ways, the conscience of our committee.

Throughout is his tenure on the committee, Senator TSONGAS has argued that promotion of human rights must be at the core of our foreign policy. He took a leading role in the fight to ensure that the State Department's Bureau of Human Rights would not abandon America's historic role as an advocate for democracy and human rights abroad. Over the last 4 years, Congress' commitment to human rights has not diminished, and in many ways has been enhanced, and the credit for this is due in no small part to our colleague from Massachusetts.

On South Africa, Senator TSONGAS has brought a personal sense of outrage over the treatment of the country's nonwhite majority. His conviction and his tenacity has made him the Senate's foremost critic of apartheid and of the policy of "constructive engagement." His compassion and ingenuity is perhaps best exemplified by his decision to send Winnie Mandela, wife of imprisoned South African leader Nelson Mandela, a quilt—encompassing the American red, white and blue and the African National Congress' green, yellow, and black and signed by 17 U.S. Senators—to replace a quilt seized by the South African police.

Senator TSONGAS has recognized that nuclear war would be the ultimate human rights violation. He has been a advocate of strong, effective arms control. He has never been content to wait for arms control to come about through some miracle, but has pressed steadily for concrete steps which would stop the arms race and curb the threat of nuclear war.

Senator TSONGAS has been in the forefront of those trying to prevent an arms race in space. The Tsongas amendment to the Defense authorization bill last year served notice that there should be a good-faith effort to negotiate before we and the Soviet Union move ahead with the testing of new antisatellite weapons. That view was reaffirmed by the Congress this year. He has led the effort endorsed strongly by the Committee on Foreign Relations to restrict space-directed weapons and to ban space-based weapons. There is no doubt in my mind that the next few years will prove Senator TSONGAS was absolutely right in his concern. I hope the Senate will have the wisdom and courage to continue on the course toward space arms control which the Senator has charted so clearly and so well.

Senator TSONGAS' principled approach to foreign policy questions has also made him the Congress' most prominent activist on Afghanistan. For the past 4 years, he has pushed not only for words of sympathy for the Afghan people but also for concrete action in the form of material assistance to the Afghan Freedom Fighters. His resolution, on which he personally secured the cosponsorship of 98 Senators, calling for effective aid to the freedom fighters was passed unanimously by the Senate on October 3. It is a testament to Senator TSONGAS' pragmatic vision of a more just world that his actions on Afghanistan have drawn praise from conservative organizations, much as his work

on South Africa has been praised by liberals.

Senator TSONGAS has accomplished much in his time in the U.S. Senate. His voice will be missed by all of us who shared his concerns about our natural and human environment, about human and civil rights, and about arms control and the survival of the human race. All of us will miss his intelligence, his humor, his idealism and his sense of commitment.

I am sure all of my colleagues join me in wishing Senator PAUL TSONGAS, his wife Nicky, and his daughters Ashley, Katina, and Molly, "Godspeed" as they embark on a new life back in Massachusetts.

DOMESTIC FOOD ASSISTANCE ACT

Mr. LEAHY. Mr. President, I am pleased today to join three of my colleagues on the Agriculture, Nutrition and Forestry Committee and several other Senators in cosponsoring S. 3017, the Domestic Food Assistance Act of 1984. This bill is the outcome of growing bipartisan recognition that food stamp program benefits are inadequate and require adjustment. This emerging consensus for food stamp program reform is also demonstrated in the overwhelming vote, 364 to 39, by which the House of Representatives passed the Hunger Relief Act of 1984, H.R. 5151, on August 1. Further, many provisions of S. 3017 are drawn from the recommendations of President Reagan's own Task Force on Food Assistance.

S. 3017 provides for modest yet important food stamp benefit restorations. Increase in the earned income deduction, adjustments in asset limitations to partially account for inflation, and restoration of the full 100 percent of the thrifty food plan are especially worthy provisions of this bill.

However, there are several program adjustments which are not in S. 3017. I would like to comment briefly upon these program adjustments as well as provide several observations concerning the implications of provisions which appear in S. 3017. These remarks will provide some framework from which to consider the food stamp reauthorization next year.

First, we will need to carefully consider both separation and increase in dependent care and shelter deductions. Deduction levels will be designed to more realistically reflect economic changes due to inflation and changes in consumer purchasing power. Detailed and timely attention to actual costs will help guide our deliberations.

A maximum combined shelter and dependent care deduction with an unrealistic cap can leave many recipients faced each month with a heat or eat dilemma. The cap was frozen between 1981 and 1983. It has clearly not kept pace with rising rents and utility costs. Moreover, the inflexible deduction level creates special problems in areas of the country such as Vermont where heating costs are consistently higher than national averages.

The combined deduction also makes it impossible for many recipients to claim both deductions, although they incur excess expenses in both categories. CBO has found that fully 75 percent of all child care costs incurred by recipients cannot be deducted under the current combined formula. The lack of an effective dependent care deduction is especially burdensome for female-headed households with children. Vermont families with children can pay as much as $120 a week for child care. An insufficient dependent care deduction serves as a distinct work disincentive for single parent households.

Second, in our deliberations this coming spring, we will also need to examine changing the threshold for the medical deduction for elderly and disabled recipients from a flat $35 to 5 percent of monthly gross income.

The $35 threshold is so out of line that only 150,000—7 percent—of the 1.5 million participating households with elderly members can claim a medical deduction. This is according to the most recent USDA data. Only 10,000 of the 500,000 disabled households did so. The flat $35 threshold is regressive; it requires households with lower incomes to spend a greater percentage of their income on medical expenses before allowing a deduction than households with higher incomes.

H.R. 5151 has addressed the regressive nature of these criteria by proposing a threshold based on $35, or 5 percent of adjusted gross income, whichever is less. In our work on these thresholds, when appropriate, we will seek consistency with other program criteria, thereby promoting ease of administrative response and cutting redtape. In this case, for example, we note that the 5 percent of adjusted gross income figure is also consistent with U.S. Tax Code and is used in establishing a threshold for medical deductions for all American households. In seeking to establish criteria which have parallels among a variety of programs, we must carefully avoid introducing new rigidities and inequalities to the provision of food assistance to needy Americans.

Third. we will want to examine the provision of State option on monthly reporting and retrospective budgeting [MRRB].

MRRB has not proved to be a cost saving measure. In fact, USDA's own data from the State of Illinois has shown that the system actually costs more money. Equally troubling, the same study shows that over 90 percent of terminated recipients were eligible for program benefits. A majority of States have appealed to Congress to provide relief from the mandatory implementation of MRRB. And, in response, we note that after careful exploration and full debate concerning MRRB, our colleagues in the House of Representatives voted 293 to 120 to make MRRB optional with the States.

Fourth, and finally the thrifty food plan itself warrants more careful examination. Such an examination should include attention to the nutritional requirements of the elderly and others needing special diets, such as diabetics and the hypertensive, the cost of food as it varies from urban to rural areas, access to the competitively priced foods of supermarket chains may indeed be a suburban phenomenon, excluding the ghetto bound or isolated ruralite, and the varying impact of State sales tax upon the purchasing power of potential recipients.

H.R. 5151 the Hunger Relief Act of 1984 and the Food Assistance Act of 1984, S. 2067, contain variants of the provisions discussed above. The modest program adjustments discussed here as well as the worthy provisions of S. 3017, the Domestic Food Assistance Act of 1984, merit our continuing attention and support.

EL SALVADOR

Mr. METZENBAUM. Mr. President the administration's opposition to S. 2131 is just another example of President Reagan applying his double standard. Since the civil war in El Salvador broke out in 1980, 300,000 to 500,000 Salvadorans have fled to the United States. Only 2 percent of these refugees have been granted political asylum—a status granted to an individual who has "a well-founded fear of being prosecuted for reasons of race, religion, nationality, membership in a particular social group or political opinion." Extended voluntary departure serves another purpose. This status is granted to citizens of countries which are experiencing dangerous and oppressive conditions and allows them to remain in the United States until hostilities subside and it is safe to return to their homelands. Extended voluntary departure has, in the past, been granted to citizens of Poland, Uganda, Lebanon, Nicaragua, and Ethiopia. However, the Reagan administration has had difficulty in distinguishing the two completely different solutions and continues to read "EVD" as meaning that each Salvadoran must demonstrate that he or she has been singled out for hostile treatment. Consequently, an estimated 15,000 Salvadoran refugees have been deported since 1981 and approximately 400 per month are currently being deported under increased efforts by

the Immigration and Naturalization Service.

The Reagan administration has refused each request to grant extended voluntary departure to these victims of war because of the embarrassment of acknowledging that the U.S. supported and militarily financed regime in El Salvador is repressive, President Reagan uses the excuse that Salvadorans are drawn to the United States primarily for economic gain and that granting extended voluntary departure status would cause a mass exodus. This is a flagrant denial of the existing reality in El Salvador.

Because of the lack of compassion and understanding on the part of the White House, Senator DECONCINI introduced, with bipartisan support and the backing of various religious and human rights organizations, S. 2131, a bill which would temporarily suspend deportation of Salvadoran refugees residing in the United States. This bill does not grant citizenship. It does not grant permanent resident status. It is simply a temporary measure. Now, because of the lateness of the hour, it is unlikely that this important bill will receive the attention it has deserved from the beginning. A commitment must be made to introduce this legislation at the beginning of the new session. There is no question this bill should be passed. That Congress has to solve a problem that the administration should solve on its own is a disgrace to our human rights record.

PAUL TSONGAS

Mr. INOUYE. Mr. President, in the relatively short time he has served in the Senate, PAUL TSONGAS has earned the lasting admiration and respect of his colleagues. I speak as one who deeply admires PAUL TSONGAS as an inspirational leader of courage and vision.

During his single term in the Senate, preceded by two terms in the House, Senator TSONGAS has proven himself to be a legislator of the highest ability and brightest promise. His eloquent advocacy of a "new liberalism" combines enduring values of compassion and fairness with sensible economic and international policies. It is an approach that is deserving of serious consideration by all concerned with the future course of our society.

The remarkable impression PAUL TSONGAS has made as a shining light of Congress further intensifies in me the deep loss we will suffer with his departure from the Senate.

PAUL TSONGAS has strengthened us all as lawmakers through his clear articulation of the problems facing our Nation. He challenges us to confront the issues of today with the vision of yesterday's Founding Fathers, as a standard by which we will be measured by the historians of tomorrow.

Whatever the road from here holds for PAUL TSONGAS, I wish to assure him and his family of my heartfelt hopes for their good fortune and happiness. The glow of his leadership will burn brightly for many years to come.

CHILDREN WHO CONQUER

Mr. HATCH. Mr. President, I wish to share the article about "Special Olympics" with my colleagues in Congress. The story appeared in the September 30, 1984 issue of Parade magazine. It provides an excellent description of this special sports program and the positive effects it has had upon the lives of handicapped youth and their families.

I ask unanimous consent to have printed in the RECORD this article entitled Children who Conquer by Dotson Rader.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

A STORY OF WINNERS—CHILDREN WHO CONQUER

(By Dotson Rader)

Five years ago, Jon Franklin, 9, could neither talk nor eat, could barely walk and was, quite literally, starving to death. He was born with Down's syndrome, a form of mental retardation. When his natural parents were told that their son was handicapped, they refused to take him home from the hospital. He was institutionalized for a time, and then passed from one foster family to another, for four years nobody's baby but God's. He was never taught how to talk or potty trained or any of the other skills a child needs to survive decently. He knew how to cry and to make a gruff animal sound, a hoarse growl of distress, but nothing more. By the time Jon was almost 4, he could not keep food down anymore; after a bite or two, he threw it up. Doctors dismissed his vomiting as a psychological quirk, explaining that he simply refused to learn how to eat, as if this unhappy little boy had been spoiled by life. He was slowly dying of starvation, and no one wanted him.

But this story has a happy ending. Jon Franklin prevailed.

I visited Jon this summer in Alexandria, Va., where he lived with his adoptive family in a modest Cape Cod style house on the edge of a woods. It was early afternoon, and Jon had just come home from school, dressed in shorts, sneakers and a blue T-shirt on which was printed: I am a Child of God. He is an active, sturdy boy now, although quite small for his age, Blond, given to laughter, immensely playful. His blue eyes express an innocence and trust that is remarkable given the cruelty and pain he has borne. He has trouble speaking—his enunciation is not always exact. Yet it is a miracle that he speaks at all.

In the living room, his adoptive mother, Wanda Franklin, 36, brought him over to meet me. I squatted to be nearer his height. He studied me a moment, grinned and yelled. "Hi" falling against me in a hug.

He asked me if I would play basketball with him. I said sure. But first, his mother said, he had to nap for an hour. Jon made a face and walked to his room.

"We'll play later?" he asked. Yes, I said, we'll play later. He smiled big.

Jon was to compete the next day in the regional Special Olympics at a high school in Alexandria; 550 other mentally handicapped children and adults would also participate. Founded by Eunice Kennedy Shriver and supported by the Joseph P. Kennedy Jr. Foundation and public gifts, Special Olympics has become the fastest-growing sports program in the world. Last summer, it held more than 20,000 separate sports events for a million handicapped athletes in every state and 50 foreign countries.

Before Special Olympics began, the mentally handicapped were considered incapable of competitive sports. It was argued that they might hurt themselves or become confused or frustrated, that such competition would only reinforce their feelings of inadequacy and abnormality. Special Olympics proved the falseness of those arguments and has given millions of handicapped children the thrill of physically striving and winning. Jon Franklin is one of the kids whose life has been changed by Special Olympics.

"It's always the biggest day of his life," said Britt Franklin, 39, Jon's adoptive father. "He gets to be king for the day. He lives for it and cherishes it. Special Olympics is Jon's chance to be normal. To be praised. No matter whether he placed first or last, everybody gets a standing ovation, a ribbon, to be the center of attention. It's absolutely astonishing the difference it makes. You want to cry when you see the look of triumph on their faces, these kids who have so little chance to triumph."

While Jon napped. I sat with Wanda and Britt in the living room, and we talked about their little boy. What I heard was the story of a defenseless child's long and lonely battle to live—a portrait in courage.

"We couldn't have children of our own," Wanda said, "but we badly wanted to." A very pretty woman with brunette hair and dark eyes, she spoke in a high, somewhat unsteady voice, shyly. "Every few years, I had medical tests to see if I might be able to become pregnant. I had some surgery, and the doctors thought I might. I was in my mid-30s and there is a chance of having a Down's syndrome baby as you age. We had been taking in foster children, so I called social services and asked if I could take in a retarded child. Two weeks later, Jon came to us."

He came to them a very sick little boy of nearly 4. He was dying. Fragile and weak, when he tried to walk, he would take two or three steps, then sit down and cry. He was suffering from starvation caused by his inability to swallow food. Wanda took him almost daily to see doctors. She was told repeatedly that Jon's vomiting was psychological, as if he was doing it to get attention or out of stubbornness. The doctors, Wanda said, didn't seem to care; their attitude seemed to be that he would be better off dead.

"Then, one day, Jon was at the table," she continued. "He ate a little bit, spit up, then went to his bed and lay down. It broke my heart to see him lying there, so tiny and weak. I knew he was going to die, that he couldn't go on anymore."

She took him to the hospital and insisted that they admit him. If they refused, she told them, she would sit and hold him in the waiting room and he would die there. They admitted him.

"I sat in the waiting room for hours." Wanda recalled. "Nobody came to tell me how he was doing. Finally, I saw a doctor. He said Jon had come out of surgery hours ago. Somebody, he said, had poured lye

down Jon's throat! I was shocked. I couldn't believe that anybody would make a baby drink lye." Tears came to her eyes. "They found he had a hiatal hernia. Acid from his stomach was getting into his esophagus, and he had a 2-inch ball of food choked up in there and cutting off his throat. That's why he couldn't swallow," she said angrily.

The surgeon reconstructed part of Jon's esophagus so he could eat again, and they removed the hernia in his stomach. That was June 1979. It was six months before he could eat solid food, three years before he could speak.

When Britt went to visit Jon in the hospital, he found the boy in bed with a fever of 104. The doctors didn't know what was causing it and, Britt said, they didn't seem to care much. Finally, they checked the incision across Jon's stomach, 6 inches in length. It was heavily infected. They tore out the stitches, and Jon screamed in pain. The doctor took a swab and started cleaning out the wound with peroxide. When Britt demanded that the doctor give the boy a pain killer, the doctor ignored him.

"I mean, his belly was open and they were swabbing it out, and the kid was in horrible pain." Britt recalled. "They did nothing to ease the pain. I had to sit there and hold this little kid while the guy cleaned him out. I've been in Vietnam, and I have never seen such agony as that boy went through.

"But within seconds after it was over, he was fine. I was so deeply impressed—his strength, Jon never quit. For weeks on end, I had to clean out his wound while Wanda held him down. He was uncomplaining. He's really special. The joy of being around someone with that kind of courage is indescribable. I could not bring myself to give him back. We adopted him because I knew Jon was home. He is where he belongs. He is ours."

I went into the bedroom to get Jon. When I turned on the light, I saw him lying on the bed grinning up at me. He hadn't slept a wink. He stood up on the bed. "See my ribbons? he said. On the wall were pinned ribbons he had won in Special Olympics. Blues and reds. "Basketball throw." He pointed at a ribbon. "Fifty-meter dash. Softball throw." He smiled with pride.

Late that afternoon. Jon spent the remaining hours of light practicing on a blacktop basketball court in a clearing in the woods near his home. For hours, he raised the heavy ball, eyed his target, gritted his teeth against fatigue and with a burst of effort threw it into the air, trying to make the basket, never giving up. He would shout with delight when the ball merely banged off the backboard. At last he made it in. I marveled at his determination. I have met many brave people, but Jon Franklin, this little boy, was their match.

When it was time to go, I lifted him in my arms and carried him through the darkening woods toward home. "Didn't I do good? I made a basket!" he exclaimed.

The following afternoon at Special Olympics, he won two second-place ribbons, in the standing long jump and the 50-meter dash. He came home, clutching his ribbons, in triumph.

Another Special Olympian is Jeff Gregory, II, who until recently lived in Fowler, Colo., a small farming community where his father was school principal. Jeff, like Jon Franklin, is a Down's syndrome child, one of more than a million who compete in Special Olympics each year.

I arrived in Fowler in time to go to the regional Special Olympics in Lajunta (15 miles away), where Jeff would participate with 250 other handicapped kids and adults. He is a handsome child, blond and blue-eyed like Jon Franklin and, like Jon, small for his age. Jeff is a very competitive boy and, like many handicapped kids, unusually affectionate. He is without a sense of hate.

It was a warn, sunny day. The high school stadium was crowded with volunteers, members of the Olympians' families, friends, teachers, and "huggers," volunteers whose sole task is to hug and praise the athletes. Every child, regardless of how he does, receives lots of praise and a ribbon simply because he had the courage to enter an event.

I sat in the bleachers with Jeff's parents. Mike and Pam Gregory, both 36, watching the athletes warm up. Jeff was stretching and doing jumps, looking earnest, getting ready for the 50-meter dash.

The entire event, played out on a dusty field in a small town, was a pageant of human courage.

It began with the lighting of the Olympic flame and the saying of the oath. One of the first events was a wheelchair race, six boys and girls with physical and mental disabilities pushing themselves in wheelchairs up a 100-yard track, their faces filled with determination and, for some, pain. They would not give up. As each in turn crossed the finish line, each was cheered and applauded and embraced by huggers.

Five children in wheelchairs crossed the line. The sixth, far back in the distance, was a boy of about 13, with dark hair and beautiful eyes that were focused with fierce intensity on the paper ribbon that marked the finish line. He was shoving his chair backward, the only way he could make it move, looking over his shoulder at his goal. I didn't think he could make it—he had only partial use of one leg. His thin body contorted and hunched grotesquely in the chair, he kicked with his foot at the dusty track, moving his chair inch by inch toward the finish line. It took him a very long time, but his eyes never left the ribbon, his foot continually digging into the earth like a protest against his infirmity. We cheered him on, this crippled, disfigured, heroic child who refused to give up the race.

At last his wheelchair lurched over the line. He came in last, yet he had won the hardest race of all. I will never forget seeing him line up in center field with the other racers to receive his ribbon. We cheered him again as he sat in that awful chair, tears filling his eyes, his beaming face declaring, more strongly than words, his pride.

Then it was Jeff Gregory's turn to run the 50-meter dash. He stood in place with five other retarded children, each nervously eyeing the others. The gun fired, and they went running down the track, some moving awkwardly, others, like Jeff, running like normal children, all of them determined to complete the race. They all did, and we ran to the finish line and hugged them all "I won! I won!" Jeff shouted, jumping up and down. He had come in third, but in a larger sense he had indeed won.

I looked at his parents. They were unabashedly proud. Later his father said to me, "Jeffs very sensitive. Everytime he does something new, we cheer, because it's a miracle. The least little thing he does is exciting. If he tries to use a big word—he tried to use 'obnoxious' last night—or when he added seven and eight and finally got it right, that's exciting. He loves sports, but he wouldn't be able to compete if it weren't for Special Olympics. It's the biggest thing in his life. The school districts provide for athletics, but not for Jeff.

"He loves basketball, but he'll never know what it feels like to play it. This year, even when it snowed, he went out and shot baskets. He's gotten really good. But he'll never be part of it, and there's a sadness there. Three years ago, we first took him to Special Olympics, and his ribbons made him King Tut! Was he excited! What it said to him was, 'I can be somebody.' He could strut his stuff, and nobody could put him down. He performs the best he can. He knows that, and that's all that matters to him."

Until the Gregorys moved to Cedar Edge, Colo., not long ago, Jeff was the only retarded child in his school. Today, in another school, he's in a class with other retarded kids. But because he lives in a normal world where he will never do as well as the majority of other children, where he will fail and fail again. Special Olympics are the only occasions where he will win and know that he has. In time, as he gets older, he may grow isolated and removed, as do many such children as they age. But he will always have the memory of these games, the ribbons he won, the praise he received.

When the meet was over, dusk settling over the stadium, I sat in the bleachers and watched the children scattered like petals at random on the grass, their shadows long across the field. I remembered other children, also retarded, whom I had seen in state hospitals—children whose parents cannot or will not care for them and are dumped like so much refuse in prisonlike institutions, holding pens for many of the weakest, most defenseless among our people. I have seen them housed there, unable to appeal, often physically and sexually abused. I have seen them sitting by the hundreds in dim, bare rooms, sitting in their own urine and feces, little children naked and unwanted, their arms cradling their bodies, rocking endlessly in rooms with concrete floors. If nothing else. Special Olympics teaches us that the Jeffs and Jons of this world, and the boys who make their triumph in wheelchairs down dirt tracks, deserve better than to be locked away. Their singular courage adorns the earth.

JOHN LASZLO, CONGRESSIONAL FELLOW

Mr. HECHT. Mr. President, I want to take a few minutes to commend John Laszlo, a congressional fellow sponsored by the American Society of Mechanical Engineers, for his fine work as a member of my staff over the past year.

John's professional expertise is in the design of geothermal powerplants and emission control equipment. As such, his hands-on experience with this complex technology has proven invaluable to me during the past year's legislative efforts in the alternative energy area.

Certainly the most concrete accomplishment of John's fellowship has been the Senate's passage yesterday of a geothermal leasing amendment to the continuing resolution. Congress has been struggling for over 5 years to revise and update the 1971 Geothermal Steam Act. This has been a very contentious issue, and I am pleased to acknowledge John's very significant role in securing the Senate's enact-

ment of a 2-year extension of currently expiring geothermal leases so that Congress has time to resolve this issue once and for all in the 99th Congress.

In connection with this legislative effort, John was instrumental in setting up a very successful field hearing of the Senate Energy Committee in Reno, NV, this past April. The topic was geothermal development in Nevada's great basin, and as all of my colleagues know, organizing an informative field hearing is no small feat. It was the real world input from witnesses at this hearing that shaped the final language of yeterday's geothermal amendment.

Finally, I want to thank John for the truly yeoman's work he has performed in the day-to-day handling of constituent requests. We all know how important constituent service is, but it takes a special kind of person to really get the job done, making that extra phone call or doing that extra bit of research. John made sure the job was done right.

In all these duties, John will be a very hard man to replace. I wish him well in the resumption of his engineering career, and I know that his experience in Washington will serve him well in the years ahead.

U.S. MARSHAL CLINTON THOMAS PEOPLES

Mr. TOWER. Mr. President, I would like to take this opportunity to pay tribute to U.S. Marshal Clinton Thomas Peoples, a man who has devoted his life to protecting the citizens of Texas as a law enforcement officer.

In fact, Marshal Peoples has the distinction of holding more separate titles than anyone else in the field of law enforcement and of being the longest tenured law enforcement officer in the Nation, For more than 50 years, Clinton Peoples has exemplified the qualities we most value in a public servant. He has been dedicated to upholding the laws of our State and our Nation, and at the same time he has demonstrated compassion for his fellow citizens.

Marshal Peoples was born in Bridgeport, TX, in 1910. He began his distinguished career in 1930 as a Deputy Sheriff in Montgomery County. In 1946 he joined the Texas Rangers, a law enforcement agency that is actually older than the State of Texas itself and is the oldest State law enforcement agency with statewide jurisdiction on the North American continent. At the time of his retirement from that organization in 1973, he was the senior captain, a position having central authority over all Texas Rangers, and he was only the second person ever to hold that position, the first being 111 years earlier. He also was instrumental in establishing the Texas Ranger Hall of Fame in Waco, TX.

But his retirement from the Texas Rangers was only one milestone in his continuing law enforcement career, because in 1973 he became U.S. Marshal for northern district of Texas. I was pleased to recommend his appointment for that first term and for his reappointment to successive terms since then. In fact, when I first called Clinton about the appointment to Federal Marshal, he told me, "Look, Senator, I want you to know something. I'm a registered Democrat and I have been one all my life." I told him that my recommendation would be made on ability, not politics, and that if it had not been for the Democrats in Texas, I would not be in Washington.

Marshal Peoples also has served his profession with active service in numerous law enforcement associations, including the Texas Sheriffs' Association and the International Chiefs of Police Association. In addition, he has served his community with extensive participation in community and civil affairs. The list of awards which have been presented to Marshal Peoples during his career acknowledging his exceptional contributions are simply too numerous to mention.

Marshall Clinton Peoples has left an imprint on Texas which will be a model for law enforcement officers and good citizens to emulate in the years to come. His professional ethics and personal integrity are unquestioned, and the respect with which he is held among both his professional associates and fellow community members is unsurpassed. The people of Texas are fortunate to have had a man of his caliber in its service for so long. Marshal Peoples is indeed a legend in his own time; but more than that, the results of his efforts to insure a safer society will continue for years to come.

It has been my privilege and honor to have known Marshal Peoples for these last 10 years, and I am glad to be able to call him my friend.

We all owe an immeasurable debt to Clinton Peoples, and I am pleased to bring his work to the attention of my colleagues.

REMARKS OF VERNE ORR, SECRETARY OF THE AIR FORCE

Mr. WARNER. Mr. President, I was much impressed by the remarks made by the Honorable Verne Orr, Secretary of the Air Force, to the National Convention of the Air Force Association here in Washington last month.

As has been his consistent practice throughout his 3½ years' service as Secretary of the Air Force, Verne Orr clearly identified the major issues facing his service.

I was particularly struck by his remarks with regard to our MIA's and the expansion of opportunities for women in the Air Force.

He also provided a clear counterpoint to the reports we have recently seen concerning abuse in the procurement of spare parts.

All Americans who are concerned for the state of our national defenses can read Secretary Orr's report with great interest.

I ask unanimous consent that it be printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

REMARKS OF HON. VERNE ORR

Ladies and gentlemen, this is the fourth time I have had the pleasure of coming before you. Talking to you today is especially significant since exactly thirty-seven years ago on this day at approximately this hour, the United States Air Force became an independent Service, when Stuart Symington was sworn in as the first Secretary of the Air Force.

I have called these previous reports, as I call this one, "reports to the stockholders" because in the final analysis the United States Air Force is responsible to and responsive to the citizens of this country, and you are their representatives here today. I have entitled this particular talk "Let's Set the Record Straight" because for at least the last year you and I have been subjected to a steady stream of stories denigrating the ability of your military; drumbeating on its faults; leading one to believe that it was less capable, less ready, less efficient than it was; causing many to doubt our effectiveness and some to doubt even our integrity.

Let's spend a few minutes looking at the historical record of our Air Force, then consider where we are, and offer a few thoughts about where we are going.

WHERE WE'VE BEEN

Historical perspective

First, a little historical perspective. It was 75 years ago that the Wright brothers sold their first airplane to the United States Army by flying it ten miles in 15 minutes, thereby earning themselves a $5,000 additional award for exceeding the prescribed speed. Today, the SR-71 flies that distance in 16 seconds!

Fifty-two years ago, Amelia Earhart became the first woman to fly across the Atlantic. Last year, an all-female crew flew a C-141 across the Altantic and even more important, today we have, either on active duty or in training, 450 women pilots and navigators.

Twenty-five years ago, the Air Force Academy graduated its first class of 207. This year's class was 1,021, and we now have a total of 17,000 graduates from that distinguished institution.

Five years ago, 63 Americans were held captive and America was held up to ridicule throughout the world for lack of strength and lack of resolve. Last year, at the request of nearby nations, we rescued, on 48-hour notice, Americans in Grenada and served notice to the world we have the ability and determination to protect American lives wherever and whenever they are threatened.

Women

Last year I talked about the magnificent work women were doing in the Air Force and how proud I was that today 11.3 percent of our force is women, a higher percentage than any of the military services.

There are currently some 60,000 jobs out of a total of 596,000 in the Air Force from which military women are barred. Forty percent of those 60,000 jobs are in the security police. We already have women serving in law enforcement but, up to this time, they have not been able to enter the security police. Today, I am proud to announce that effective January 1st, 1985, women will be admitted to the security police of the United States Air Force and over 26,000 of the 60,000 jobs from which they are now barred will be opened to them. Most of the remaining jobs in which women cannot participate are those that involve potential offensive combat. Most of that disbarment is prompted by the combat exclusion of the law.

How many women will go into security police? I haven't the faintest notion, nor do I care. The important thing is that if one woman finds that an effective and a satisfying career, that woman, the Air Force, and this nation are stronger because of it. We are not interested in a numbers game; we are interested in opening doors and breaking down barriers.

Advertising

Last year I pointed out that most corporations devoted a great percentage—if not all—of their advertising to talking about how plane A was better than plane B or missile C over missile D. And I stated that none of this advertising is particularly effective if the people of the United States are not convinced that they need any planes or missiles. I suggested that firms might consider devoting a portion of their advertising to explaining to the United States people the needs of defense. I am very pleased to acknowledge that in this past year, two major corporations have undertaken substantial advertising campaigns to point out the need for stronger defense consensus. I would encourage our corporate representatives here to discuss in their board rooms enlarging that number so that we can continue to build in the public minds the value and need for a strong defense.

WHERE WE ARE

Readiness

A few weeks ago, we had a report from a congressional committee that implied readiness had decreased. That report came from ironically, the committee that has done more to cut appropriations for military readiness and sustainability than any other committee in the Congress. Now, by any common sense approach, let me assure you that the Air Force today is far more ready than it was four years ago. We are phasing out 160s; we are putting F-15's and 16's into the active force. We have five squadrons of F-16's in the Guard and Reserve and F-15's will start going in within the next few months. We have added nearly 50 percent to flying hours.

Spare parts take about two years lead time and so the money that the Congress voted for us in 1981 and 1982 is now being translated into the spare parts that are reaching the bins today.

Best of all—and most important of all—the moral of the Air Force is, I believe, at an all-time high. And I'd like to pause to tell you that I think a tremendous amount of that high morals is due to the Chief of Staff, General Charles A. Gabriel. He is not only a capable Chief of Staff, but he is one of the most cooperative persons a Secretary could ever hope to work with. Sometimes late in the evening, General Gabriel comes into my office and we sit discussing Air Force issues and problems, with our wives wondering when we'll be coming home. In two and a half years of those conversations, never once has there arisen a comment like "Well, that's really a blue-suit problem," or "That's really in the area of the Secretariat." General Gabriel and I look on the leadership of the Air Force as a partnership. And I like to think that in the most remote base or outpost, our people know that there is neither dissention nor divergence in the views at the top of this Air Force.

Defense budget

I would ask that you keep in mind that really this is not a large defense budget. Despite all the comments you see or hear in the press or on the radio and television, if we get the money we seek, we still will be under 7 percent of our Gross National Product spent for defense. That compares with 8 to 9 percent under President Kennedy, 10 to 11 percent under President Eisenhower—and you never heard a word in those days that we had a back-breaking budget, that it was too much for us to bear, or that it was causing inflation and deficits. A recent survey indicated that only 10 percent of the people knew the real proportion or close to it that we spend on national defense. Ninety percent were higher—some even thought we were spending more than fifty percent of our Gross National Product on national defense. The fascinating point is that, of all those people with that misconception, 71 percent wanted to hold the line or spend more on national defense!

B-1B

Two years ago, at this a Convention, I told you that the B-1B was "on budget or under budget and it will roll out in October 1984" five months early. Well, I was wrong! it rolled out in September, six months ahead of schedule! At that rollout, I expressed the view that we do not build bombers to win wars; we build bombers to prevent wars. And I said then, and I repeat now, that the fondest hope I have for the B-1B is that the plane may never fly in anger.

Peace Academy

Ernest people on the Hill, in both Houses, have gotten behind a bill to create a "peace" academy. In my opinion, they are too late. Exactly 182 years too late. We established the first peace academy in America on the banks of the Hudson at West Point, New York in 1802, and we call it the United States Military Academy. It and the other academies all have just one purpose—peace.

If we're going to raise a generation of negotiators and appeasers, a generation of Neville Chamberlains who think they can acquire peace through capitulation and without strength, I hope they will remember the words of Konrad Adenauer who said that an infallible way of appeasing a tiger "is to allow oneself to be devoured."

Major civic buildings usually have plaques. I hope the Academy of Peace, if there is one, places at one side of the entrance a plaque bearing the words of Lenin:

"It is inconceivable for the Soviet republic to exist alongside of the imperalist states for any length of time. One or other must triumph in the end. And before that end comes, there will have to be a series of frightful collisions between the Soviet republic and the bourgeois states."

On the other side of the entrance, why not a plaque with Kruschev's words, "We will bury you"? At least going in to class they'll know where we stand; God knows what they'll know coming out!

MIA's

All of us are interested in the heartbreak, the tragedy, and the drama of our POW's and our MIA's. I read a story in the paper recently that said that of Indochina as a result of the Vietnam War, only one still remained who had not been declared "killed in action," and the Pentagon had offered no explanation. So today, I'll give you that explanation.

When I first became the Secretary of the Air Force, I did a great deal of study on the POW/MIA issue, and one fact stood out clearly: the loved ones of those missing who had visited the communist governments of Southeast Asia stated that they were laughted at—they were told their own government had written off the Vietnam War and were ridiculed for this continued interest. For the families of our missing men it seemed as if they were the only ones who cared. But in the past few years this issue has gained new importance and the resolution of the POW/MIA issue is now a matter of the highest national priority. This priority has been transmitted throughout the entire executive branch of the U.S. Government and our efforts enjoy broad bipartisan support in the Congress. We have not forgotten these brave Americans or their families.

Of greatest concern to us is the possibility that Americans might still be held captive in Indochina. We thoroughly investigate each live sighting report we receive through interviews and, if required and agreed to by the sources, lie detector examinations. Although we have not, thus far, been able to confirm these reports or by other means determine that Americans are still detained against their will, the information available does not let us rule out that possibility. Investigation of live sighting reports now receive, and they will continue to receive, every necessary priority and resource based on the assumption that some Americans are still held captive in Indochina. The President has pledged that decisive action will be taken an any live sighting report which can be confirmed.

As a result of rulings based on U.S. law, the status of all but one of those unaccounted-for men, Captain—now Colonel—Charles Shelton, has been changed to "killed in action." Let me emphasize that these presumptive findings of death are legal administrative rulings, based upon the public law, and they have nothing to do with our efforts to resolve the fates of our men. As a pledge to the families of our men, let me state that as long as I am Secretary, and I speak for this Administration, the status of Colonel Shelton—the remaining American listed as a POW—will remain unchanged unless I receive new information. Until the communist governments of Southeast Asia account for each and every one of our missing—within the limits of human ability and recognizing that some now have perished in remote spots under jungle canopy, their location unknown to any living individual—until we get a satisfactory final accounting, we will say that we have not heard of the fate of Colonel Charles Shelton and of his fellow missing Americans, and until we hear, the door is not closed, the last chapter has not been written.

Spares

While we are talking on that subject, I think it was Goebbels in the Hitler regime who talked about the big lie: "If you tell a lie often enough people begin to believe it." Well many people today believe that the

United States Air Force paid $9,600 or more for a 12-cent Allen wrench. Let me set the record straight. We did not! Our system found that ludicrous price, and our system refused to pay it. But today, because of disinformation, literally tens of thousands of people probably actually believe we paid such a price for a wrench.

In almost every instance I have seen of excess prices, they have come to the public's attention for one reason only: our system is working. It has been Air Force people who have discovered those prices and enabled corrections to be made.

In the process, we have heard a lot of media comments about so-called "whistleblowers"—I don't like the term, because of the connotation that it's wrong to highlight potential problems or errors to us. Our approach is quite the opposite and the Assistant Secretaries and I have been to every Logistics Center giving out awards and recognition to Air Force people for bringing excess prices to our attention. We intend to keep on doing that. Our people who bring in ideas that save us money, or bring to our attention items we can purchase for less, will continue to be rewarded.

More than that, we have rewritten job standards. Most of them used to be written around how much volume that person could generate. Now they are judged on how much competition they generate.

In our efforts to buy products at the lowest price with the greatest benefit to the taxpayer we've instituted 550 different actions. One of them I'd like to mention is called Pacer Price. It involves putting six or seven experts around a table, and every disputed price—eventually every part we buy—will go before the board. And they will look and see if that's a reasonable price. If it is not, we'll go back to the manufacturer and negotiate a better price, or we'll find another buyer, or as a last resort, we can make it ourselves in our shops.

WHERE WE'RE GOING

Shared responsibility

Now I'd like to suggest to the corporate persons here that "it takes two to tango." For every time we look at a part that was overcharged, somebody had to charge us too much. The old days of caveat emptor, "let the buyer beware," may make for short-term profits. They may look great at the bottom of this year's balance sheet, but they're going to look disastrous in the long run. I would suggest to you that you set up your own Pacer Price board. Why not set up a small group of engineers within each company to look at each part and its price? The keynote ought to be, "could the president of your company justify that price publicly before the American taxpayer?" The few dollars you lose are infinitely less costly than the columns of print, the editorials, and the minutes of television coverage linking your name to unfair pricing.

It is no excuse to say, "Well, we abided by the rules, we followed instructions." If we're that dumb—and at times we have been—the public is going to say that the military is dumb or incompetent. But they are not going to excuse the producer, the manufacturer; they are going to say you are crooks. Working together, we can keep a strong defense consensus. But if we work separately, that willingness of the public to sacrifice a substantial part of their taxes to keep America strong will be destroyed.

CONCLUSION

Today we are in the middle of the quadrennial process where we look at ourselves to see whether much of our government should continue down the path we've been following, or whether it should change. There is no one in this room who would change that type of American activity, even though it occasionally leads to excessive statements and emotionalism. It is important to remember that national defense is not the prerogative of one party or the other. We have had excellent budgets during the past three and a half years. They have come about not only because of a strong Executive branch but because of the willingness of a bipartisan Congress to fund us. We will continue to have good defense budgets only as long as both parties continue to support defense.

And in the vein of bipartisanship, I would like to close with the words of one of the younger and certainly one of the most idolized presidents, John F. Kennedy: "Only when our arms are sufficient beyond doubt, can we be certain they will never be employed."

Thank you.

MESSAGES FROM THE HOUSE

At 3:59 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following joint resolution, in which it requests the concurrence of the Senate:

H.J. Res. 656. Joint resolution making further continuing appropriations for fiscal year.

At 6:31 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House has agreed to the amendments of the Senate to the following bills:

H.R. 5223. An act to exempt restaurant central kitchens from Federal inspection requirements; and

H.R. 5818. An act to amend the Federal Hazardous Substances Act to apply the notice and repair, replacement, and refund provisions of that Act to defective toys and other articles intended for use by children.

The message also announced that the House has agreed to the amendments of the Senate to the following bill, with amendments, in which it requests the concurrence of the Senate:

H.R. 1961. An act to amend title 38, United States Code, to provide disability and death allowances to veterans and the survivors of veterans who served in Southeast Asia during the Vietnam era and suffered from diseases that may be attributable to exposure to the herbicide known as "Agent Orange" and to veterans and the survivors of veterans who participated in atomic tests or the occupation of Hiroshima and Nagasaki and suffered from diseases that may be attributable to ionized radiation.

The message also announced that the House agrees to the amendment of the Senate to the following bill, with an amendment, in which it requests the concurrence of the Senate:

H.R. 5946. An act to reform the Residential Conservation Service and to repeal the Commercial and Apartment Conservation Service.

The message further announced that the House has agreed to the amendment of the Senate to the text of the bill (H.R. 3398) to change the tariff treatment with respect to certain articles, and for other purposes, with an amendment; it insists upon its amendment, asks a conference with the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. -ROSTENKOWSKI, Mr. GIBBONS, Mr. JONES of Oklahoma, Mr. JENKINS, Mr. DOWNEY of New York, Mr. PEASE, Mr. HANCE, Mr. CONABLE, Mr. VANDER JAGT, Mr. ARCHER, and Mr. FRENZEL as managers of the conference on the part of the House; and solely for the consideration of title XI of the House amendment and sections 255, 302, 304(b)(2), 306(b), and 402, and title IX of the Senate amendment: Mr. DINGELL, Mr. FLORIO, Mr. BROYHILL, Mr. BONKER, Mr. MICA, and Mr. -ROTH.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1097) to consolidate and authorize certain atmospheric and satellite programs and functions of the National Oceanic and Atmospheric Administration under the Department of Commerce.

The message further announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2048) to provide for the establishment of a Task Force on Organ Procurement and Transplantation and an Organ Procurement and Transplantation Registry, and for other purposes.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2867) to amend the Solid Waste Disposal Act to authorize appropriations for the fiscal years 1984 through 1986, and for other purposes.

The message further announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5603) to amend the Public Health Service Act to revise and extend the authorities of that act for assistance for alcohol and drug abuse and mental health services and to revise and extend the Developmental Disabilities Assistance and Bill of Rights Act.

The message also announced that the House insists upon its amendment to the bill (S. 2574) to revise and extend title VIII of the Public Health Service Act, relating to nurse education, disagreed to by the Senate; agrees to the conference asked by the

Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. DINGELL, Mr. WAXMAN, Mr. SCHEUER, Mr. LUKEN, Mr. BROYHILL, and Mr. MADIGAN as managers of the conference on the part of the House.

The message further announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 2848. An act to establish a service industries development program, and for other purposes;

H.R. 3795. An act to expand markets for United States wine through the harmonization, reduction, or elimination or barriers to international trade in such wine, to promote exports of United States wine to foreign markets, and for other purposes;

H.R. 5252. An act to redesignate the Veterans' Administration Medical Center located in Poplar Bluff, Missouri, as the "John J. Pershing Veterans' Administration Medical Center";

H.R. 5377. An act authorizing the President to enter into, and to proclaim modifications necessary to implement a trade agreement with Israel providing for duty-free treatment for, and the elimination of import restrictions on the products of Israel;

H.R. 6023. An act to amend the Trade Act of 1974 to renew the authority for the operation of the Generalized System of Preferences, and for other purposes;

H.R. 6296. An act entitled the "San Juan Basin Wilderness Protection Act of 1984";

H.R. 6301. An act to provide authority for enforcing arrangements restricting the importation of carbon and alloy steel products into the United States that are entered into for purposes of implementing the President's national policy for the steel industry, and for other purposes; and

H.R. 6303. An act to make certain technical corrections in various Acts relating to the Osage Tribe of Indians of Oklahoma.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 369. Concurrent resolution to direct the Clerk of the House of Representatives to make technical corrections in the enrollment of the bill H.R. 5167.

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

The message further announced that the Speaker has signed the following enrolled bills and joint resolutions:

S. 1967. An act to compensate the Gros Ventre and Assinboine Tribes of the Fort Belknap Indian Community for irrigation construction expenditures;

S. 2819. An act to make technical and conforming amendments in certain laws relating to housing and community development;

S.J. Res. 201. Joint resolution to provide for the designation of the week of November 25 through December 1, 1984, as "National Epidermolysis Bullosa Awareness Week";

S.J. Res. 237. Joint resolution to designate the week of November 25, 1984, through December 1, 1984, as "National Home Care Week";

S.J. Res. 260. Joint resolution designating the week beginning on November 11, 1984, as "National Blood Pressure Awareness Week";

S.J. Res. 322. Joint resolution designating the week beginning on October 7, 1984, as "Mental Illness Awareness Week";

S.J. Res. 324. Joint resolution designating the month of November 1984, as "National Christmas Seal Month"; and

S.J. Res. 332. Joint resolution to proclaim October 16, 1984, as "World Food Day".

The enrolled bills and joint resolutions were subsequently signed by the President pro tempore [Mr. THURMOND].

ENROLLED JOINT RESOLUTION SIGNED

At 9:24 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker has signed the following enrolled joint resolution:

H.J. Res. 656. Joint resolution making further continuing appropriations for the fiscal year 1985.

The enrolled joint resolution was subsequently signed by the President pro tempore [Mr. THURMOND].

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 2848. An act to establish a service industries development program, and for other purposes; to the Committee on Finance.

H.R. 3795. An act to expand markets for U.S. wine through the harmonization, reduction, or elimination of barriers to international trade in such wine, to promote exports of U.S. wines to foreign markets, and for other purposes; to the Committee on Finance.

H.R. 5252. An act to redesignate the Veterans' Administration Medical Center located in Poplar Bluff, Missouri, as the "John J. Pershing Veterans' Administration Medical Center"; to the Committee on Veterans' Affairs.

H.R. 5377. An act authorizing the President to enter into, and to proclaim modifications necessary to implement a trade agreement with Israel providing for duty-free treatment for, and the elimination of import restrictions on the products of Israel; to the Committee on Finance.

H.R. 6023. An act to amend the Trade Act of 1974 to renew the authority for the operation of the Generalized System of Preferences, and for other purposes; to the Committee on Finance.

H.R. 6301. An act to provide authority for enforcing arrangements restricting the importation of carbon and alloy steel products into the United States that are entered into for purposes of implementing the President's national policy for the steel industry, and for other purposes; to the Committee on Finance.

MEASURES HELD AT THE DESK

The following bills were ordered held at the desk by unanimous consent:

H.R. 6296. An act entitled "The San Juan Basin Wilderness Protection Act of 1984";

H.R. 6303. An act to make certain technical corrections in various acts relating to the Osage Tribe of Indians of Oklahoma;

H.R. 5832. An act to authorize two additional Assistant Secretaries for the Department of the Treasury;

H.R. 6101. An act to amend the Panama Canal Act of 1979 to authorize quarters allowances for certain employees of the Department of Defense serving in the area formerly known as the Canal Zone;

H.R. 6224. An act to provide for the assumption of selected functions, programs, and resources of Saint Elizabeths Hospital by the District of Columbia, to provide for the establishment of a comprehensive mental health care system in the District of Columbia, and for other purposes;

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-790. A joint resolution adopted by the Legislature of the State of California; to the Committee on Agriculture, Nutrition, and Forestry.

"ASSEMBLY JOINT RESOLUTION No. 105

"Whereas, The Environmental Protection Agency (EPA) recently recommended tolerance levels and announced a phase out of ethylene dibromide which, in addition to its use as a soil fumigant, grain fumigant, and grain milling machinery fumigant has been used extensively as a fumigant to control the introduction of certain fruit flies in agricultural products shipped into this state from Texas and Florida; and

"Whereas, The EPA decision to phase out the use of ethylene dibromide has weakened California's effective pest quarantine program; and

"Whereas, There are no practical alternatives to the use of ethylene dibromide in the foreseeable future, thus causing this state to risk additional pest introductions; and

"Whereas, Eradication efforts in terms of cost to the taxpayers are enormous so that the Mediterranean fruitfly outbreak in California a few years ago cost the taxpayers of this state over $100 million; and

"Whereas, With the increasing trend to eliminate the use of certain chemicals vital to agriculture, it is very important that biologically sound pest prevention programs be adopted by governmental and private agencies involved in agriculture; now, therefore, be it

"Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the Congress of the United Sates to provide sufficient funding for biologically sound pest prevention programs in order to ensure that the states do not suffer from outbreaks of agricultural pests caused by the decreasing number of available methods of pest control; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the Speaker of the House of Representatives, to the President pro Tempore of the United States Senate, and to each Senator and Representative from California in the Congress of the United States."

POM-791. A joint resolution adopted by the Legislature of the State of California; to the Committee on Finance.

"SENATE JOINT RESOLUTION No. 43

"Whereas, An estimated 2.5 million Americans are currently afflicted with Alzhei-

mer's disease, a chronic, progressive illness which eventually results in the complete mental and physical disability of the victims in its final stages; and

"Whereas, The incidence of Alzheimer's disease increases with age; and

"Whereas, The growing elderly population means that there is every reason to expect the numbers of Alzheimer's victims to increase; and

"Whereas, There is presently no prevention, no cure, and no treatment, and individuals ultimately require constant care; and

"Whereas, The psychological stress associated with providing prolonged custodial care, and the financial burden resulting from custodial care at home and in institutions can disable whole families, as well as the victims; and

"Whereas, Caregivers often prolong custodial care at home due to financial considerations and threaten their own emotional, physical and mental well-being, as well as the safety of the victim; and

"Whereas, To the extent that caregivers suffer emotional, financial and physical impoverishment, public costs are increased when the result is two recipients of aid and services instead of only one; and

"Whereas, The costs of custodial care in California alone are estimated at $20,000 to $40,000 per year, per patient, and are not covered by private health insurance policies; and

"Whereas, The cost of custodial care are not reimbursed under Medicare; and

"Whereas, Medicaid coverage is only available when the family has been impoverished and meets strict eligibility requirements; now, therefore, be it

"Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and Congress of the United States to support and enact legislation to amend Title XVIII of the Social Security Act, as amended, regarding health insurance for the aged and the disabled, to allow reimbursement under Medicare for care provided persons with chronic brain disorders; and be it further

"Resolved, That legislation be enacted to amend Title XVIII of the Social Security Act, as amended, to allow for reimbursement under Medicare for custodial care at home and in institutions for persons suffering from chronic brain disorders; and be it further

"Resolved, That legislation to amend Title XVI of the Social Security Act, as amended, Supplemental Security Income for the Aged, Blind and Disabled, be enacted to eliminate the requirement of a "spend down" of assets in order to be eligible for income maintenance programs such as SSI/SSP, when a spouse becomes permanently and severely brain damaged; and be it further

"Resolved, That legislation to commit federal funding and resources in the study of causes, treatment and cure of chronic brain disorders, such as Alzheimer's disease be enacted; and be it further

"Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

POM-792. A joint resolution adopted by the Legislature of the State of California; to the Committee on Energy and Natural Resources.

"SENATE JOINT RESOLUTION No. 36

"Whereas, The Pony Express Trail fast mail relay system constituted a crucial turning point for western expansion and development; and

"Whereas, The Pony Express Trail ran for a distance of 2,000 miles from Saint Joseph, Missouri, the western terminus of the railroads in 1860, to Sacramento, California; and

"Whereas, The Pony Express, operated by the freight and stageline firm of Russell, Majors & Waddel, provided an improved communications link between the widely separated eastern United States and the western frontier, enabling important correspondence to be delivered in 8 to 12 days; and

"Whereas, The fearless riders of the Pony Express carried mail along the route day and night, each man riding about 75 miles at full speed, stopping only to transfer to fresh ponies at manned relay stations at intervals of 10 to 15 miles; and

"Whereas, The Pony Express is a cultural record that embodies the finest American qualities of private enterprise, fortitude, courage, teamwork, and commitment to excellence; now, therefore, be it

"Resolved by the Senate, and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and Congress of the United States to enact legislation authorizing for study the Pony Express Trail as a national historic trail; and be it further

"Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-793. A joint resolution adopted by the Legislature of the State of California; to the Committee on Environment and Public Works.

"SENATE RESOLUTION No. 45

"Whereas, In July of 1984 the Commission on California State Government Organization and Economy completed a major evaluation of California's program for cleaning up toxic dump sites; and

"Whereas, The commission found that after three years of attempting to clean up toxic dump sites the state had lost more ground than it had gained; and

"Whereas, The commission concluded that the federal Superfund program (the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. Section 6901 et seq.) is severely underfunded and that there have been many procedural obstacles and delays in obtaining the federal funds needed to clean up hazardous waste sites in California; and

"Whereas, The $100 million Hazardous Substance Cleanup Bond Act of 1984, which will appear on the November ballot, will increase the resources available to match federal funds but will not be adequate to finance cleanup activities estimated to be between $820 million and $2.9 billion; and

"Whereas, The $1.6 billion Comprehensive Environmental Response, Compensation, and Liability Act of 1980 will expire in 1985; now, therefore, be it

"Resolved by the Senate of the State of California, That the State of California respectfully memorializes the President and the Congress of the United States to immediately enact legislation reauthorizing the Comprehensive Environmental Response, Compensation, and Liability Act of 1980; and be it further

"Resolved, That in enacting this legislation, the President and the Congress are urged to do all of the following:

"(1) Extend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 for at least five years.

"(2) Increase the amount of the Superfund from $1.6 billion to at least $9 billion in order to provide adequate resources to clean up the nation's most dangerous hazardous substance release sites.

"(3) Authorize the Environmental Protection Agency to make annual block grants to individual states for cleanup activities at sites listed on the National Priority List.

"(4) Increase funds for states to identify and thoroughly evaluate sites which may be contaminated with hazardous substances; and be it further

"Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-794. A joint resolution adopted by the Legislature of the State of California; to the Committee on Finance.

"ASSEMBLY JOINT RESOLUTION No. 101

"Whereas, The computer software and high technology industries constitute significant assets of the economy of the State of California, providing employment to hundreds of thousands of its citizens; and

"Whereas, These industries have previously flourished, in part, as the result of a sensible federal tax policy which has permitted them to deduct the costs of developing software in the same manner as research and experimental expenditures that fall within the purview of Section 174 of the Internal Revenue Code of 1954; and

"Whereas, This previous tax policy, as enunciated by the Internal Revenue Service in Revenue Procedure 69-21, will be reversed by the Internal Revenue Service's promulgation on January 21, 1983, of proposed amendments to Regulation 1.174-2, which would generally deny to computer software development costs the federal tax treatment accorded to research and development expenditures; and

"Whereas, Those proposed regulatory changes will have the direct effect of singling out the software and high technology industries for increased federal tax liability; and

"Whereas, Those proposed regulatory changes will have a significant deleterious impact upon those industries, which are already burdened by a heavy dependence on borrowed capital; and

"Whereas, Those regulatory changes will inevitably force those industries to reduce their research and development expenditures, expenditures which represent a significant factor in permitting them to effectively compete in an ever-changing world market; and

"Whereas, The reduction of those expenditures will most assuredly threaten or eliminate the present technological lead that those industries operating within the United States concurrently enjoy in the world market; and

"Whereas, The foregoing results would quite likely force the software and high technology industries to relocate their oper-

ations outside the United States, with the consequential loss of thousands of jobs of citizens of this state and nation; and

"Whereas, The provisions of Section 174 of the Internal Revenue Code of 1954 indicate a federal tax policy in favor of encouraging research and development activity by businesses generally, including the software and high technology industries; now, therefore, be it

"Resolved by the Assembly and the Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the Internal Revenue Service to rescind its proposed amendments to Regulation 1.174-2 in favor of the adoption of regulations or guidelines which would permit the deduction of computer software development costs for federal income tax purposes in the same manner as permitted for other research and experimental expenditures; and be it further

Resolved, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States, in the event that the Internal Revenue Service does not rescind those proposed regulatory amendments, to immediately enact and implement tax legislation which would clearly enunciate that computer software development costs are to be treated as research and experimental expenditures for federal income tax purposes; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-795. A joint resolution adopted by the Legislature of the State of California; to the Committee on Finance.

"ASSEMBLY JOINT RESOLUTION No. 113
SOCIAL SECURITY ACT

"Whereas, More than 4 million Californians are over the age of 60, and more than 2.5 million Californians are over the age of 65; and

"Whereas, More than 3.1 million Californians who are aged or disabled, or who are survivors or dependents of persons eligible for Social Security benefits, depend for their survival on the Social Security System; and

"Whereas, The National Commission on Social Security Reform will present a report and recommendations to the President and Congress on or before the end of this year; and

"Whereas, The solution to the problem of containing costs should not be future cuts in benefits provided by the Social Security System; now, therefore, be it

"Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature respectfully memorializes the President and the leadership of the Congress of the United States to assure the senior citizens of this state and this country that no efforts will be made to enact major changes in the benefit or financing structure of the Social Security System in this session of Congress, and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-796. A joint resolution adopted by the Legislature of the State of California; to the Committee on Foreign Relations:

"SENATE JOINT RESOLUTION No. 58

"Whereas, Since 1948, approximately 89 nations have become parties to the Genocide Convention, including three of the permanent members of the United Nations Security Council (France, the United Kingdom, and the Soviet Union); and

"Whereas, The United States actively participated in drafting the term of the convention and in securing its adoption by the United Nations General Assembly, and although the Genocide Convention was signed for the United States by President Truman on December 11, 1948, the convention has, nonetheless, never been ratified by the United States Congress; and

"Whereas, President Kennedy in 1963 and President Johnson in 1965 made statements in support of ratification; the late Chief Justice of the United States Supreme Court, Earl Warren, advocated ratification in 1968; President Nixon in 1970, joined by the Attorney General and Secretary of State, urged ratification; the Foreign Relations Committee reported the Genocide Convention to the Senate in 1970 with a recommendation that it be ratified subject to three understandings and a declaration, and this recommendation was repeated to the Senate in 1971, 1973, and 1976, the House of Delegates of the American Bar Association voted in 1976 to support the Genocide Convention; and in 1977 President Carter advised ratification; and

"Whereas, Provisions of United States law specially support human rights, for example, subdivision (a) of Section 2151 of Title 22 of the United States Code which reads, in part, "The Congress declares that the individual liberties, economic prosperity and security of the people of the United States are best sustained and enhanced in a community of nations which respect individual civil and economic rights and freedoms . . ."; and

"Whereas, Federal courts have referred to the usage and practice of the United States in determining whether certain acts are in violation of international law and, for example, in the 1980 case of Filartiga v. Pena-Irala, a torture suit, the Second Circuit referred to a Department of State report which said "There now exists an international consensus that recognizes basic human rights and obligations owed by all governments to their citizens. . ."; and

"Whereas, In spite of all this, the United States has failed to fulfill the obligation owed to its own citizens by ratification of the Genocide Convention even though the various issues raised in Senate debate since 1949 have been adequately resolved or satisfactorily addressed, and it is now time for the United States to join with the world community in officially recognizing that genocide is a heinous proscription of universal human rights; now, therefore, be it

"Resolved, by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and Congress of the United States to support and ratify the Genocide Convention; and be if further

"Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-797. Joint resolution adopted by the legislature of the State of California; to the Committee on Foreign Relations:

"SENATE JOINT RESOLUTION No. 54

"Whereas, The citizens of the State of California are concerned about the suppression of political and religious freedoms; and

"Whereas, These same citizens are committed to the preservation of diverse languages and cultures, in addition to our nation's primary language; and

"Whereas, In the Soviet Union the Hebrew language is the only language prohibited by that government; and

"Whereas, Dr. Yosef Begun, a Jew in the Soviet Union, was born, raised and educated in Moscow; and

"Whereas, In 1971, upon applying for emigration to the State of Israel, Dr. Yosef Begun lost his job and was denied emigration on grounds of "regime considerations"; and

"Whereas, After numerous odd jobs, Dr. Yosef Begun began work as a private Hebrew teacher until he was arrested and exiled to Siberia in an attempt by authorities of the Soviet Union to rid him of his "parasitism"; and

"Whereas, In November 1982, Dr. Yosef Begun was again arrested and scheduled to await trial for the third time; and

"Whereas, Since 1971, Dr. Yosef Begun served five years in exile in Siberia, has been denied return to Moscow and has fought passionately for the right to teach Hebrew and preserve the valuable Jewish culture; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California hereby respectfully memorializes the President and Congress of the United States to take action to secure the release of Dr. Yosef Begun, and to persuade the government of the Soviet Union to permit Dr. Yosef Begun to emigrate to Israel; and be it further

"Resolved, That the Secretary of the Senate transmit suitably prepared copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-798. A joint resolution adopted by the Legislature of the State of California; to the Committee on Foreign Relations:

"SENATE JOINT RESOLUTION No. 38

"Whereas, The New River, which originates in Mexico and flows northward across the International Boundary into California's Imperial Valley, is the most contaminated stream in the United States relative to its flow, a gross public health hazard, and an aesthetically repulsive spectacle to over 40,000 United States residents of communities along the river's course, as well as to visitors from the nearby metropolitan centers; and

"Whereas, Contaminated waters of the New River discharge into the Salton Sea, a condition incompatible with the ecology and the varied public uses of that body of water in one of southern California's most important recreational areas; and

"Whereas, Contamination of the New River is caused by uncontrolled discharges of raw and inadequately treated sewage, highly toxic industrial chemical wastes, solid wastes, geothermal wastes, leaching from a major garbage dump, slaughterhouse

wastes, and other wastes discharged by the municipal government and industries within or near the City of Mexicali in Mexico; and

"Whereas, Contaminating discharges from the vicinity of Mexicali Mexico, have continued for a recorded period of over 40 years, during which time the city's population has increased to approximately 750,000, while the area has developed into a major industrial center; and

"Whereas, The magnitude of the resulting waste discharge is comparable to that from a city the size of San Francisco, if that city's sewage and industrial waste could be imagined as flowing untreated in an open channel through urban and rural areas; and

"Whereas, Mexicali's sewer system, which covers only a portion of the city and which includes two pumping stations and treatment lagoons, has not been expanded and improved sufficiently to keep pace with the very rapid growth of Mexicali and its increasing industrial developments, and Mexican authorities have not adequately maintained the facilities so that there are frequent breakdowns; and

"Whereas, In order to elevate New River water quality to standards required for comparable streams in the United States, numerous problems must be addressed, and an explanation of the entire array of problems to be addressed can only be determined following studies by the Environmental Protection Agency in coordination with California state agencies and in cooperation with authorities of the United Mexican States; and

"Whereas, A preliminary indication of the problems to be addressed are as follows:

"(a) Elimination of all point-source discharges of raw sewage into the New River, particularly the eight major sources presently identified.

"(b) Relocation and sewering of unsewered residences situated along the banks of the New River and its tributaries.

"(c) Enforced prohibition against septic tank pumpers discharging their tank contents into the New River system.

"(d) Upgrading and effective operation of pumping plants No. 1 and No. 2 of Mexicali's sewer collection system, so that no raw sewage, under any circumstances, is bypassed into the New River system.

"(e) Replacement of deteriorating sewer pipelines along Mexicali's north and south collectors to eliminate breaks that result in raw sewage discharges into the New River system.

"(f) Upgrading of Mexicali's sewage treatment lagoons to provide a secondary level of treatment.

"(g) Segregation and separate treatment of domestic wastes from toxic industrial wastes presently being discharged to Mexicali's sewer system.

"(h) Prevention of all untreated or inadequately treated industrial wastes from spillage into the New River and its tributaries.

"(i) Prevention, by any means necessary, of the discharge of wastes from slaughterhouses, hog farms, and dairies into the New River and its tributaries.

"(j) Relocation of Mexicali's landfill garbage dump away from the New River and its tributaries.

"(k) Rerouting of geothermal wastewater away from the New River system; and

"Whereas, The quickest and least costly procedures to correct current pollution problems are source-controls within Mexicali, but history confirms that Mexico's federal, state, and municipal governments have been incapable of effectively imposing these controls; and

"Whereas, The President of the United States and the President of the United Mexican States signed an agreement on August 14, 1983, titled "Agreement Between the United States of America and the United Mexican States on Cooperation for the Protection and Improvement of the Environment in the Border Area," Article 8 of which designates the Environmental Protection Agency as the national coordinator for the United States; and

"Whereas, It is the obligation of the United States Government, on behalf of the residents of Imperial Valley, to obtain adequate correction of the gross pollution and contaminaton of the New River from discharges within the United Mexican States; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to appropriately recognize and declare that a clear and present threat to public health and safety exists in the Imperial Valley of California as a direct consequence of continuing toxic contamination and organic pollution of the New River, originating within Baja California, Mexico, requiring immediate and comprehensive mitigation through cooperative international initiatives; and be it further

"Resolved, That the President is respectfully requested to immediately direct the Secretary of State and the Administrator of the Environmental Protection Agency, in cooperation with authorities of the State of California, the California Regional Water Quality Control Board (Colorado River Basin Region), and the County of Imperial, to expedite the development of alternative propoals and a recommended plan for halting the flow of contaminants and pollutants in the New River from both Baja California and California sources; and be it further

"Resolved, That the Congress is respectfully requested to appropriate, and the President is respectfully urged to allocate and direct, sufficient federal funding, staffing, and technical resources for the implementation and completion of an effective water quality control system within the New River watershed, with the active cooperation of the government of the United Mexican States; and be it further

"Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-799. A joint resolution adopted by the Legislature of the State of California; to the Committee on Foreign Relations:

"SENATE JOINT RESOLUTION No. 32

"Whereas, Whales are an integral part of the world's natural heritage and play a vital role in maintaining the productivity of the marine ecosystem; and

"Whereas, Californians and their visitors continue to show their increasing interest in and awe of these amazing marine mammals by undertaking whale-watching trips, which have become an increasingly important part of California's coastal recreation and tourism industry; and

"Whereas, The populations of the great whales have been devastated systematically by commerical whaling, and limited time remains to protect these cetaceans; and

"Whereas, Millions of citizens of the United States and millions of citizens worldwide have demanded an end to the slaughter of whales by commercial whalers; and

"Whereas, The President and Congress of the United States have articulated the deep concern of the American people for the plight of these mammals since 1971 through the passage of protective legislation and by calling repeatedly for a worldwide moratorium on commercial whaling; and

"Whereas, The epochal decision of the International Whaling Commission in July 1982 to halt commercial whaling beginning in 1986 was threatened by the governments of Japan, Norway, Peru, and the Soviet Union, which filed objections to the decision during 1982; and

"Whereas, The Pelly amendment (1971) to the Fishermen's Protective Act of 1967 authorizes the government of the United States to embargo imports of fish products from nations certified by the Secretary of State or the Secretary of Commerce as having taken action that "diminished the effectiveness" of international fisheries conservation programs such as International Whaling Commission rulings; and

"Whereas, The Packwood-Magnuson amendment (1979) to the Magnuson Fisheries Conservation and Management Act of 1976 authorizes the government of the United States to cut fishing rights of nations certified by the Secretary of State or the Secretary of Commerce as violating international whaling agreements by 50 percent or more within the 200-nautical-mile Fisheries Conservation Zone of the United States; and

"Whereas, The Pelly and Packwood-Magnuson amendments cannot be implemented until 1986 when the government of the United States can certify that nations are whaling in violation of the International Whaling Commission action; and

"Whereas, Sixty-six United States Senators joined in a letter to the Secretary of Commerce in August 1982, calling for the use of the Pelly and Packwood-Magnuson amendments and "other means available to the United States" to obtain worldwide compliance with the International Whaling Commission decision, and Members of the United States House of Representatives have expressed a similar view; and

"Whereas, The government of Peru withdrew its objection to the commercial whaling moratorium at the July 1983 meeting of the International Whaling Commission, and this action was due, in part, to the intense concern expressed by citizens throughout the world; and

"Whereas, The United States Senate in July 1983 unanimously reaffirmed its commitment to the use of sanctions in order to ensure that the moratorium is implemented effectively; now, therefore, be it

"Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California joins the United States Senate in respectfully memorializing the Secretary of State and the Secretary of Commerce to use appropriate diplomatic and legal means to achieve worldwide compliance with the International Whaling Commission moratoruim decision; and be it further

"Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-800. A joint resolution adopted by the Legislature of the State of California; to the Committee on Foreign Relations:

"ASSEMBLY JOINT RESOLUTION No. 76

"Whereas, Nuclear war is the greatest threat facing humankind; and

"Whereas, Nuclear war would devastate and quite possibly end civilization as we know it; and

"Whereas, The increased growth of nuclear weaponry accelerates the possibility of nuclear holocaust; and

"Whereas, The United States of America and the Soviet Union now both possess sufficient nuclear weapons to destroy each other's country several times over; and

"Whereas, Both the United States of America and the Soviet Union each possess first strike nuclear weapons; and

"Whereas, There is an increasing possibility of accidental nuclear weapon launches; and

"Whereas, A freeze, reduction, and ultimate elimination of nuclear weaponry by all the countries of the world who possess them would vastly improve the possibility for conversion to a peacetime economy thereby creating jobs, rebuilding the United States of America, and shifting revenues into the domestic area; and

"Whereas, The people of the State of California approved a bilateral nuclear weapons freeze initiative in November of 1982; and

"Whereas, The United States House of Representatives demonstrated responsible judgment and acknowledged the will of the people in voting overwhelmingly in favor of a verifiable bilateral nuclear freeze known as HJR 13 on May 4, 1983; and

"Whereas, A verifiable, bilateral nuclear weapon freeze followed by a verifiable reduction in the number of nuclear weapons held by the countries of the world would eliminate the threat of holocaust, because there is no such thing as limited nuclear war; now, therefore, be it

"Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the Senate of the United States to approve a Senate Joint Resolution which would bring about an arms control objective which would encompass:

"(1) Immediate bilateral cessation to the implementation and deployment of nuclear weapons.

"(2) Development by the United States and the Soviet Union of a plan which would verify a freeze of nuclear weaponry.

"(3) Special regard to weapons which could undermine the stability of a freeze of nuclear weaponry.

"(4) Implementation of a freeze of nuclear weapons, upon which the United States of America and the Soviet Union would work toward a reduction in all nuclear weapons including, but not limited to: missiles, warheads, and delivery systems; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives and to each Senator and Representative from California in the Congress of the United States."

POW-801. Joint resolution adopted by the Legislature of the State of California; to the Committee on Foreign Relations.

"ASSEMBLY JOINT RESOLUTION No. 74

"Whereas, Since 1945, the major objective of the United States National Security policy has been averting nuclear war; and

"Whereas, To achieve this end, the United States' policy has stressed deterrence with the threat and capability of massive nuclear retaliation; and

"Whereas, A broad spectrum of people, including some arms control experts, elected officials, religious leaders, physicians, teachers, and lawyers, among others, now question whether deterrence-based peace can be maintained; and

"Whereas, By the end of this decade, as many as 20 nations will possess the industrial and technical capability to produce nuclear weapons, thereby significantly increasing the probability that a nuclear crisis will occur, either by design or by accident; and

"Whereas, The possibillty exist for a third party detonation of a nuclear weapons which could trigger an all-out nuclear war between the superpowers; and

"Whereas, With each new weapons system, there is less time to make decisions whether to deploy or abort such devices during a crisis situation; and

"Whereas, Currently the United States nuclear debate focuses on a bilateral freeze, arms reduction and weapons equality between the superpowers; and

"Whereas, The nuclear debate does not focus on potential causes or sources of nuclear war, tensions, global trouble spots, nuclear proliferation, or future terrorist activity; and

"Whereas, The SALT process has concentrated on limiting each country's weapons stockpile rather than on developing crisis stability; and

"Whereas, Controlling the use of these weapons in a ciris is far more critical than numbers, costs, or technological superiority; and

"Whereas, In June of 1982, President Reagan stated that the United States intends to make specific proposals to the Soviet Union for reducing "the risk of nuclear war arising from uncertainty and miscalculations"; and

"Whereas, There is now an emerging awareness that the greatest threat to peace lies not in the United Staes and Soviet Union military capabilities, but in their capability for crisis decisionmaking; and

"Whereas, The decreased possibity of launching nuclear weapons is generally supported by government leaders regardless of political party or ideology; and

"Whereas, No existing international framework or mechanism exists for rapidly and accurately determining the origin of nuclear explosion or controlling the uncertainties in a world of multiple nuclear powers; and

"Whereas, In the event of an actual nuclear weapon crisis situation, an established forum for the United States and the Soviet Union to reduce risks and immediately begin negotiations will greatly secure the safety of the future of peoples of the world; and

"Whereas, United States Senators John Warner, Republican of Virginia; Sam Nunn, Democrat of Georgia; Ernest Hollings, Democrat of South Carolina; and the late Henry Jackson, Democrat of Washington, have introduced a Senate Resolution to establish Mutual Nuclear Risk Reduction Centers in Washington and Moscow; now, therefore, be it

"Resolved by the Assembly and Senate of the State of California, jointly, That the President and Congress are respectfully memorialized to propose establishment by the United States and Soviet governments of Mutual Nuclear Risk Reduction Centers to reduce the possibility of nuclear confrontation, whose functions would be as follows:

"(1) To discuss and outline the procedures to be followed in the event of possible incidents involving the use of nuclear weapons.

"(2) To maintain close contact during incidents precipitated by nuclear terrorists, thus facilitating cooperative actions to defuse the incident, and specifically, to avoid the danger that the explosion of a nuclear device by a terrorist group might lead to a nuclear confrontation between the great powers.

"(3) To exchange information on a voluntary basis concerning events that might lead to nuclear proliferation or to the acquisition of nuclear weapons, or the materials and equipment necessary to build weapons, by subnational groups.

"(4) To exchange information about military activities which might be misunderstood by the other party during periods of mounting tensions.

"(5) To establish a dialogue about nuclear doctrines, forces, and activities; and be it further

"Resolved, That following a period of successful operation of these Mutual Nuclear Risk Reduction Centers, the President and Congress are further respectfully memorialized to either merge into, or establish additionally, a United States-Soviet Union Joint Crisis Management Center dedicated to increasing the decisionmaking ability of governments during a crisis in which nuclear war is threatened and as an ongoing organization which will research the potential causes of war, with the participation and cooperation of all nations possessing nuclear capabilities, and develop means of negotiation which both the United States and the Soviet Union can utilize when crises do arise, and whose activities will include:

"(1) Enhancement of crisis management which is the ability the United States, Soviet Union, and all other nations with nuclear capabilities possess to avoid or limit the potential use of nuclear weapons during a crisis.

"(2) Reduction of the risk of nuclear war due to miscalculation or uncertainty.

"(3) Training of leaders to apply conflict resolution techniques in crisis management.

"(4) Development of a standard operating procedure, standard messages, and specific decisionmaking procedures to be used in a crisis situation.

"(5) Development of accurate detection devices for nuclear detonation anywhere in the world.

"(6) Employment of confidence-building measures between the United States, Soviet Union, and all other nations possessing nuclear capabilities to develop greater trust, including: (a) increasing the warning time in the event of a weapon launch; (b) reducing vulnerability of command, control, and communication ability; (c) upgrading the hotline communication system; and (d) sharing information on weapons that could be used by terrorists.

"(7) Staffing such a center with political and military experts from the United States and Soviet Union, as well as representatives of all other nations possessing nuclear capabilities.

"(8) Working to reduce the possibility of nuclear war and surprise attack through improvement of negotiation skills.

"(9) Better understanding of the reasons of war and the nature of crisis; and be it further

"*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-802. Joint resolution adopted by the Legislature of the State of California; to the Committee on Foreign Relations.

"ASSEMBLY JOINT RESOLUTION NO. 75

"Whereas, One of the most critical challenges facing the United States and the Soviet Union is the establishment of peaceful ties and the prevention of hostilities; and

"Whereas, Ties of culture and friendship between our two countries need to be expanded; and

"Whereas, The great threat to peace between our two nations is the absence of close ties and mutual trust; and

"Whereas, Young people are a nation's greatest resource and its most treasured asset; and

"Whereas, The arms race between the Soviet Union and the United States is a wasteful and counterproductive process which may some day lead to global catastrophe; and

"Whereas, Creative strategies will be necessary if the spiraling production of weapons of war is to be brought under control; and

"Whereas, Congressman Morris Udall has introduced in the United States House of Representatives a resolution requesting the creation of a United States-Soviet Union student exchange for peace program; and

"Whereas, If there were 2,000 Americans in the Soviet Union and if there were 2,000 Soviets in the United States, a nuclear attack between the Soviet Union and the United States would be much less likely; and

"Whereas, If annual exchanges of 2,000 people from each country—part of a massive exchange program paid for by the various governments and private contributions—became an instrument of the foreign policies of the United States and the Soviet Union, a positive cultural force for peace would begin to grow among the participating countries; and

"Whereas, Participants in this program would include children of civic, political, cultural, and other government leaders—men and women representative of the many diverse ethnic, religious, and socioeconomic groups of the United States and the Soviet Union; and

"Whereas, Participants in the program could be housed with private families or in dormitories around the host country for one year, and this program would create an ever-expanding network of personal relationships helping to promote mutual understanding among citizens of the United States and the Soviet Union; and

"Whereas, As the years pass, and with the growth, in participating countries, of the numbers of people whose lives would have been touched by the program, barriers of distrust would break down, making a negotiated resolution of the arms race more feasible; now, therefore, be it

"Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully urges the United States Senate and House of Representatives to support and approve legislation which would effectuate a student exchange program between the United States and the Soviet Union; and be it further

"Resolved That the Legislature of the State of California respectfully memorializes the President of the United States to commence negotiations with the Soviet Union which would effectuate an agreement establishing an exchange program; and be it further

"Resolved, That the Legislature of the State of California respectfully memorializes the United States Senate to ratify a treaty with the Soviet Union which may be necessary to bring an exchange program into existence; and be it further

"Resolved, That the Legislature of the State of California respectfully memorializes the Congress of the United States to authorize expenditures necessary to administer such a program should an agreement be reached with the Soviet Union and given the consent of the Senate; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-803. Resolution adopted by the General Assembly of the State of Maryland; to the Committee on Governmental Affairs.

"CHAPTER 668

"An Act concerning Susquehanna River Basin Commission revenue bonds.

"For the purpose of amending the Susquehanna River Basin Compact to eliminate a 6 percent ceiling on the interest which may be charged on revenue bonds issued by the Susquehanna River Basin Commission; [authorizing the Commission to set an interest rate at the time of issuance of its bonds] *allowing the Commission to determine the rate of interest of certain bonds; generally relating to the elimination of provisions of the Compact concerning a 6 percent ceiling on the interest of certain bonds;* and requiring certain actions prior to this Act taking effect.

"By repealing and reenacting, with amendments,

Article—Natural Resources, Section 8-301 Article 13 Section 13.9 *and 13.13,* Annotated Code of Maryland (1983 Replacement Volume and 1983 Supplement).

SECTION 1. *Be it enacted by the General Assembly of Maryland,* That the Laws of Maryland read as follows:

"ARTICLE—NATURAL RESOURCES

"Bonds shall bear interest at [a] *such* rate of not to exceed six percent per annum, *as the commission determines* payable annually or semiannually [per annum to be determined by the commission at the time of issuance of its bonds or other obligations.]

13.13

"The commission may fix terms and conditions for the sale or other disposition of any authorized issue of bonds [The commission and may sell its bonds at less than their par or face value], but no issue of bonds may be sold at an aggregate price below the par or face value thereof if such sale would result in a net interest cost to the commission calculated upon the entire issue so sold of more than six percent per annum payable semiannually, according to standard tables of bond values. All bonds issued and sold for cash pursuant to this compact shall be sold on sealed proposals to the highest bidder. Prior to such sale, the commission shall advertise for bids by publication of a notice of sale not less than ten days prior to the date of sale, at least once in a newspaper of general circulation printed and published in New York City carrying municipal bonds notices and devoted primarily to financial news. The commission may reject any and all bids submitted and may thereafter sell the bonds so advertised for sale at private sale to any financially responsible bidder under such terms and conditions as it deems most advantageous to the public interest, but the bonds shall not be sold at a net interest cost calculated upon the entire issue so advertised, greater than the lowest bid which was rejected. In the event the commission desires to issue its bonds in exchange for an existing facility or portion thereof, or in exchange for bonds secured by the revenues of an existing facility, it may exchange such bonds for the existing facility or portion thereof or for the bonds so secured, plus an additional amount of cash, without advertising such bonds for sale.

"SEC. 2. *And be it further enacted,* That this Act may not take effect until after June 1, 1984 and until a similar Act is passed by the signatory parties to the Susquehanna River Basin Compact; that the federal government, the State of New York and the Commonwealth of Pennsylvania are requested to concur in this Act of the General Assembly of Maryland by the passage of a similar Act; and that upon that event the Governor of the State of Maryland shall issue a proclamation declaring this Act valid and effective."

POM-804. Petition from a citizen of Concord, New Hampshire relating to the "Equal Rights Amendment;" to the Committee on the Judiciary.

POM-805. Joint resolution adopted by the Legislature of the State of California; to the Committee on the Judiciary.

"ASSEMBLY JOINT RESOLUTION NO. 144

"Whereas, Raoul Wallenberg, who saved the lives of thousands of Hungarian Jews during the Holocaust, is unquestionably one of the great heroes in the history of the 20th century; and

"Whereas, Born in 1912, Raoul Wallenberg was a member of a wealthy and prominent Swedish family; in 1944, he volunteered to leave neutral Sweden to travel to Nazi-occupied Hungary as Secretary of the Swedish Legation with the rescue of the Jews there as his mission; and

"Whereas, For six months in Budapest, he issued Swedish passports, thus granting immunity to the Jews who possessed them, met with the local authorities in an effort to save as many lives as possible and to delay the course of the "Final Solution" in Hungary for as long as he could, provided housing for many of the people he rescued, and, in the final analysis, was able to save thousands of lives; and

"Whereas, The Soviet Union, in violation of his Swedish diplomatic immunity and of international law, seized him on January 17, 1945, with no explanation ever given for his detention and subsequent imprisonment; and

"Whereas, The fate of Raoul Wallenberg remains unclear, with some unconfirmed reports, as recent as 1980, of his being alive in Soviet prison camps and other recent research which indicates that he may have died in the mid-sixties, after approximately 20 years of imprisonment in the Soviet Union; and

"Whereas, On October 5, 1981, President Reagan signed into law a Joint Resolution proclaiming Raoul Wallenberg to be an honorary citizen of the United States; and

"Whereas, Sponsored in part by Representative Tom Lantos who was a young Hungarian Jew whose life was saved by Wallenberg's heroic efforts, the resolution represents only the second time the United States has granted honorary citizenship; the first was to Sir Winston Churchill; and

"Whereas, The resolution also requested the President to ascertain from the Soviet Union the whereabouts of Raoul Wallenberg and to secure his return to freedom; now, therefore, be it

"Resolved by the Assembly and the Senate of the State of California, jointly, That the Legislature of the State of California joins with the United States government in honoring the memory of Raoul Wallenberg in California by naming October 5 of each year as "Raoul Wallenberg Day" and that the Legislature of the State of California respectfully memorializes the President and Vice President of the United States and the Secretary of State and Congress to take whatever actions are necessary to ascertain from the Soviet Union an accounting to the world of the fate of this great humanitarian; and, be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Secretary of State, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-806. Joint resolution adopted by the Legislature of the State of California; to the Committee on Labor and Human Resources.

"SENATE JOINT RESOLUTION No. 49

"Whereas, California has an estimated 300,000 refugees, approximately 40 percent of all refugees admitted into the United States since 1975; and

"Whereas, The refugees who come to the United States have unique needs, such as cultural orientation, an understanding of the Western work habit, and the need for English speaking ability that must be addressed before they can become competitive in the job market; and

"Whereas, The Legislature has both a humanitarian and fiscal interest in seeing refugees become economically self-sufficient as soon as possible; and

"Whereas, The traditional public assistance programs are not designed to take into account, or provide programs to meet, the unique needs of refugees; and

"Whereas, The United States House of Representatives in reauthorizing the Refugee Act of 1980 through the Refugee Assistance Extension Act of 1983 has recognized that alternate programs outside of the current welfare system must be developed to provide cash and medical assistance to needy refugees while their general orientation to America is accomplished; and

"Whereas, The Federal Office of Refugee Resettlement is exploring such program alternatives to be tested in some states and their reauthorization of the Refugee Act of 1980; now, therefore, be it

"Resolved, That the Legislature hereby memorializes the Senate and President of the United States to join with the House of Representatives in order to enact the Refugee Assistance Extension Act of 1983; and be it further

"Resolved, That the Legislature hereby memorializes the Congress and President of the United States to enact provisions allowing for a pilot program in which a state may participate for refugee resettlement of those refugees who would otherwise be eligible for the Aid to Families with Dependent Children program, as well as local general assistance programs. This program should include all of the following:

"(1) A requirement that refugees would obtain federally funded cash assistance and medical benefits from this program, rather than from the state's Aid to Families with Dependent Children program or from county general assistance programs, and that any refugee qualifying for this program would be eligible up to three years from the date of arrival in the United States.

"(2) A requirement that a participating state use the same needs test, sanctions, and appeal procedure for this program that it would use for its Aid to Families with Dependent Children program.

"(3) A requirement that refugees participating in this program shall receive training in English language skills and a familiarization in American life and the Western work habit, if an assessment of the refugee's employability deems these services necessary to make the refugee competitive in the job market.

"(4) A provision permitting the transfer of funds used by a state pursuant to Title IV (a) and Title XIX of the federal Social Security Act (42 U.S.C. Sec. 601 et seq., Sec. 1396 et seq.), in order to defray the costs of providing cash assistance and medical benefits to refugees otherwise eligible for the state's Aid to Families with Dependent Children or Medicaid programs.

"(5) A provision permitting expenditure of federal discretionary funds appropriated to the federal Office of Refugee Resettlement, if funds utilized pursuant to subdivision (4) are not sufficient to fund this demonstration project.

"(6) A requirement that periodic evaluations are conducted regarding the efficacy of the pilot project approach; and be it further

"Resolved, That the Secretary of the Senate shall transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative in the California delegation."

POM-807. A petition from a citizen of Concord, New Hampshire relating to the "Gay Bill of Rights;" to the Committee on Labor and Human Resources:

POM-808. A joint resolution adopted by the Legislature of the State of California; to the Committee on Labor and Human Resources:

"SENATE JOINT RESOLUTION No. 40

"Whereas, Twenty states, including California, have adopted some form of state senior citizen legislative body; and

"Whereas, Older residents of California and other states have been afforded an opportunity to express their concerns and to promote appropriate interests; and

"Whereas, State government leaders, including the California State Legislature, have found these special legislatures to be in the best interests of older and younger residents, alike; and

"Whereas, The California State Legislature has found the California Senior Legislature to be an invaluable asset in identifying and meeting the needs of older adults; and

"Whereas, State Senior Legislatures have dealt with primarily state-based concerns and have relied upon primarily state-based concerns and have relied upon nationally oriented institutions to promote the national concerns of elders; and

"Whereas, The genesis of a national silver-haired congress may provide an important, new dimension for the promotion of elder rights in a legislative mode; and

"Whereas, The purposes of a national silver-haired congress would effectively parallel those purposes which are now promoted on an individual state level; and

"Whereas, A national congress for older adult concerns would serve as a complement to many organizations now operating on behalf of older Americans; and

"Whereas, A national silver-haired congress would serve as a grass roots, nonpartisan, national forum for all older adult concerns, without regard to race, creed, color, national origin or social status; and

"Whereas, A national silver-haired congress would provide a nationally visible forum for responsible involvement by older adults in the legislative process resulting in a focal point for the concerns of older Americans; therefore, be it

"Resolved, by the Senate and Assembly of the State of California, jointly, That the Legislature respectfully memorializes the President and the Congress to support and enact legislation which would authorize a national silver-haired congress and offer the use of the national legislative chambers for their convention and deliberations, and be it further

"Resolved, That in the event a National Silver-Haired Congress is established, all efforts will be made to obtain funding from the private sector for support of the activities of that senior legislative body, and be it further

"Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-809. A joint resolution adopted by the Legislature of the State of California; to the Committee on Labor and Human Resources:

"ASSEMBLY JOINT RESOLUTION No. 73

"Whereas, Our society today is challenged to recognize that war is obsolete and that we must learn to manage conflict without resorting to violence, because regardless of the origin of the conflict, we risk full-scale nuclear war amongst the independent nations; and

"Whereas, The federal government has four military academies and at least five war colleges whose curricula encompass formal preparations for war, but has not established a single parallel institution to promote peace through nonaggressive means; and

"Whereas, We must learn more about the roots of conflict, the stages of development of conflict, and design specific types and innovative methods of intervention before we can effectively manage conflict to assure our survival; and

"Whereas, We have an emerging field of knowledge of conflict management which can prevent a total disaster if responsibility for developing and teaching conflict mange-

ment skills can be centralized, focused, and stimulated; and

"Whereas, The Commission on Proposals for the National Academy of Peace and Conflict Resolution has recommended that the National Academy of Peace and Conflict Resolution be established to increase our nation's capability of responding to national and international conflicts and to protect and preserve the life of the citizens of this nation and the world; and

"Whereas, The United States Peace Academy would be a federally chartered, nongovernmental interdisciplinary institution dedicated to researching and developing realistic plans towards alleviating global conflict; and

"Whereas, The United States Peace Academy, introduced in the United States House of Representatives as H.R. 1249 and in the United States Senate as S. 564, is a bold and crucial step towards effective conflict resolution and ultimately a peaceful environment; and

"Whereas, A United States Peace Academy would not weaken the country's defenses, but rather complement existing arms control negotiations and peacekeeping methods; and

"Whereas, Participation in the academy's programs will strengthen peace efforts at all levels of society, at both public and private institutions, including specialized schools of diplomacy and military training where traditional departmental alignments often impede cross-disciplinary peace education and innovative training in peacemaking skills; and

"Whereas, The resolution of conflicts, whether personal, local, national, or international, can best be accomplished by the use of trained personnel, and the systematic use of these skilled peacemakers could save this nation and others countless billions of dollars and untold human suffering; and

"Whereas, The Peace Academy's immediate impact would demonstrate that the world's most powerful nation does have a genuine interest in, and commitment to peace; and

"Whereas, Far beyond the immediate impact will be the long-range effect of the Peace Academy as it attracts students from diverse backgrounds, skills, sectors and nations, trains them in the rapidly developing social science of conflict resolution, and sends them back to the growing worldwide pool of expert peacemakers, who can identify and alleviate potential explosion points before eruption; and

"Whereas, In this way the closed circle of unresolved conflict which breeds more conflict, can be broken, and the spiral directed in a downward course reducing global tension; and

"Whereas, One of the United States', as well as the world's, most important issues is the subject of peace; now, therefore, be it

"Resolved, by the Assembly and Senate of the State of California, jointly, That the President and Congress are respectfully memorialized to support and implement a National Academy of Peace and Conflict Resolution dedicated to training persons in peaceful conflict resolution techniques; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-810. Joint resolution adopted by the Legislature of the State of California; to the Committee on Veterans Affairs:

"ASSEMBLY JOINT RESOLUTION No. 100

"Whereas, The government of the United States, in the interest of international security, has deemed it necessary to place members of its armed forces in Lebanon and on the island of Grenada; and

"Whereas, The armed forces serving on these foreign shores have engaged in combat with hostile forces; and

"Whereas, These engagements have resulted in members of the armed forces being wounded or killed in action; and

"Whereas, The recently enacted Omnibus Tax Reform Act (P.L. 98-369) restricts the eligibility for state-administered veteran home loans such as the Veterans' Farm and Home Purchase Act of 1974, the "Cal-Vet" program, to veterans with active service before January 1, 1977; and

"Whereas, It has been the policy of the United States government since 1944 to provide members of the armed forces who have served during times of armed conflict with special services and assistance; now, therefore, be it

"Resolved by the Assembly and Senate of the State of California, jointly, That the President and Congress is hereby respectfully memorialized to reinstate the Veterans' Readjustment Benefits Act of 1966, with cost-of-living adjustments, for veterans who have served in the Lebanon and Grenada theaters of operation on or after August 25, 1982, until hostilities cease and the United States armed forces are withdrawn; and be it further

"Resolved, That the Omnibus Tax Reform Act be amended to permit veterans who have been awarded the Lebanon Expeditionary Medal or the Grenada Expeditionary Medal to be eligible for veteran home loans such as provided under the Cal-Vet program; and be it further

"Resolved, That veteran outreach centers and other federally funded counseling services be made immediately available to veterans who have served in the Lebanon or Grenada theaters of operation and to their families; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-811. A petition from a citizen of Concord, New Hampshire relating to the Paris Peace Agreement; to the Committee on Veterans Affairs.

POM-812. A joint resolution adopted by the Legislature of the State of California; to the Committee on Agriculture, Nutrition, and Forestry:

"SENATE JOINT RESOLUTION No. 51

"Whereas, The Mexican fruit fly is a voracious pest whose principal hosts are apples, apricots, avocados, grapefruit, nectarines, oranges, peaches, pears, and plums; and

"Whereas, A statewide infestation in these crops could annually cost as much as $87 million in crop losses and an additional $20 million in spray costs per year; and

"Whereas, An infestation of this pest would be detrimental to the state, causing in addition to serious commercial crop damage, the destruction of gardens and parks; and

"Whereas, The Mexican fruit fly is a constant threat to California having caused an infestation in 1954 which was eradicated in southern San Diego and Imperial Counties; and

"Whereas, An infestation of this fly has been found in Los Angeles County in 1983, which eradication costs are expected to be between $2 million and $3 million through the summer of 1984; and

"Whereas, If the Mexican fruit fly were established in California, an additional 2 million pounds of pesticides would be put into the environment annually to control it; and

"Whereas, The use of sterile fruit flies is a proven integrated pest management tool which can possibly eradicate small populations of Mexican fruit flies; and

"Whereas, Sterile Mexican fruit flies were not available for the Los Angeles area infestation because insufficient rearing facilities exist; and

"Whereas, The United States Department of Agriculture's (U.S.D.A.) sterile Mexican fruit fly production center in Monterey, Mexico does not have the capacity to produce sufficient numbers of sterile flies for California's potential future needs; and

"Whereas, The U.S.D.A. is planning to construct a permanent sterile fly rearing facility by July, 1985, at its Mission, Texas site for the purposes of eradicating or suppressing a Mexican fruit fly infestation in the Rio Grande Valley or eventually creating a buffer zone across the Mexican border; and

"Whereas, Since Americans are a highly mobile society and since the Mexican fruit fly heavily infests the northern portions of Mexico along our border, it is reasonable to assume that California will again experience Mexican fruit fly outbreaks; and

"Whereas, Significant numbers of residents in densely populated areas have expressed concern about possible health effects associated with the aerial spraying of pesticides to eradicate the Mexican fruit fly; and

"Whereas, The California Department of Food and Agriculture is contracting with the United States Department of Agriculture to provide funding to maintain the interim Mexican fruit fly rearing facility, to investigate mass rearing techniques, and to provide sterile flies to California in case of another outbreak; now, therefore, be it

"Resolved by the Senate and Assembly of the State of California, jointly, That California's contribution to this proposed joint federal and state sterile fly rearing center would be its share of the costs to maintain the facility with the understanding that California would receive top priority on sterile fly production during any eradication effort within California; and be it further

"Resolved, That the Secretary of the Senate transmit copies of this resolution to the United States Secretary of Agriculture and to each Senator and Representative from California in the Congress of the United States."

POM-813. A joint resolution adopted by the Legislature of the State of California; to the Committee on Agriculture, Nutrition, and Forestry:

"SENATE JOINT RESOLUTION No. 50

"Whereas, The United States Department of Agriculture has announced its intention to initiate a federal legislative proposal which would materially change the way certain timber-related revenues are distributed among counties of states containing federal forestlands; and

"Whereas, Under current law, when timber is harvested from federal land by private entities, the public revenues derived from that harvesting are allocated between the federal government and an individual state government on a 75–25 percentage basis, with the 25 percent state share being apportioned to the counties of the state containing federal forestlands; and

"Whereas, The Department of Agriculture's proposal would alter this existing system by permitting individual counties to assess and tax the federal government on its timber holdings as if it were a private sector entity, thereby causing some counties to realize increased revenues while at the same time causing other counties to suffer a significant reduction in revenues; and

"Whereas, This potential disparity in county revenue expectations would result from the fact that the proposed system would penalize those counties in which the federal forestland activities conducted are principally the harvesting of timber and would benefit those counties in which the activities conducted are principally those not associated with harvesting, such as recreational activities; and

"Whereas, Most of the countries of northern and central California contain substantial federal forestland acreage which is heavily harvested, thus presently producing a significant source of income for those counties; and

"Whereas, The enactment of legislation of the type proposed by the Department of Agriculture would have a disastrous effect upon that income, thereby creating a severe fiscal crisis for those affected California counties; now, therefore, be it

"Resolved by the Senate and Assembly of the State of California, jointly, That the legislature of the State of California respectfully memorializes the President and Secretary of the United States Department of Agriculture not to proceed with that legislation proposed by the department which would provide for the local taxation of federally-owned forestland; and be it further

"Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, the Secretary of Agriculture, and to the Chief of the Forest Service."

POM–814. A joint resolution adopted by the Legislature of the State of California; to the Committee on Agriculture, Nutrition, and Forestry:

"ASSEMBLY JOINT RESOLUTION No. 132

"Whereas, Agriculture is California's most important industry, with economic impact on the entire state; and

"Whereas, California is the nation's leading agricultural state producing more than 250 different food and fiber commodities; and

"Whereas, Many past federal farm programs have not been successful in meeting marketplace realities and in solving problems of surplus production; and

"Whereas, There is a need to fashion a federal farm bill that addresses regional needs and focuses on a strong comprehensive national agricultural policy that benefits both the consumer and the farmer; and

"Whereas, California's unique array of specialty crops presents this state with a different set of domestic and international problems than the rest of the nation; and

"Whereas, These factors result in California agriculture having specific problems and circumstances that should be adequately addressed in the federal farm bill; and

"Whereas, The Chairman of the Committee on Agriculture of the United States House of Representatives held a field hearing in California and received testimony from this state's residents on the unique problems facing California agriculture that should be addressed in the 1985 federal farm bill; and

"Whereas, A new federal farm act will be drafted and adopted in 1985; now, therefore, be it

"Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the Congress of the United States to recognize this state's needs in the 1985 federal farm bill; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the Chairman of the Committee on Agriculture of the United States House of Representatives and to each Senator and Representative from California in the Congress of the United States."

POM–815. A joint resolution adopted by the Legislature of the State of California; to the Committee on Commerce, Science, and Transportation:

"SENATE JOINT RESOLUTION No. 37

"Whereas, On June 23, 1894, the International Olympic Committee was established by Baron Pierre de Coubertin to encourage the organization and development of sport and international sports competition; and

"Whereas, The Olympic spirit has continued since then to promote and strengthen friendship among sportsmen and women of all nations; and

"Whereas, It remains the aim of the international Olympic community to ensure the regular celebration of the Games, and to make the Games ever more worthy of their proud history and high ideals; and

"Whereas, In these times of increased international tensions, we need, more than ever, the spirit of Olympic friendship and people-to-people diplomacy; and

"Whereas, The goals of the Olympic movement have been brilliantly realized by the Games of the XXIIIrd Olympiad; and

"Whereas, The people of California and the host city of Los Angeles have warmly welcomed Olympic teams from 140 nations; and

"Whereas, The Los Angeles Olympic Organizing Committee (LAOOC) has enjoyed the excellent leadership of its President, Peter V. Ueberroth; its Chairman, Paul Ziffren; and its Executive Vice-President, Harry L. Usher; and

"Whereas, The LAOOC has painstakingly administered a budget of $500 million, all of it derived from private sources, and has skillfully coordinated the activities of approximately 50,000 volunteers; and

"Whereas, The excellent performance of the 597-member U.S. Olympic Team has done much to rekindle American pride, and the spectacular staging of the games has done credit to the tradition of the Olympic Games as a celebration of sport and an effort to unite the youth of the world in peace; now, therefore, be it

"Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California salutes the athletes of the Games of the XXIIIrd Olympiad, the Los Angeles Olympic Organizing Committee, the spectators who came from all parts of the globe, and the people of California for the parts all of them have played in making the 1984 Summer Olympic Games an outstanding success; and be it further

"Resolved, That the Legislature urges the President and Congress of the United States to reaffirm our nation's appreciation of the Games of the XXIIIrd Olympiad by appropriately recognizing the achievements of the United States Olympic Team and the Los Angeles Olympic Organizing Committee; and be it further

"Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, and to the Los Angeles Olympic Organizing Committee."

POM–816. A joint resolution adopted by the Legislature of the State of California; to the Committee on Commerce, Science, and Transportation:

"ASSEMBLY JOINT RESOLUTION No. 114

"Whereas, One of the most significant issues facing California air transportation in the coming decade will be the decay of the state's public use airport system and the need to secure adequate, long-term funding to preserve and enhance the existing airport system; and

"Whereas, Thirty-eight percent of California's airports will reach or exceed their original design life within 10 years; and

"Whereas, This figure will increase to 80 percent in 15 years; and

"Whereas, Current state and federal airport aid programs may be able to maintain or rehabilitate only 20 percent of the affected air facilities; and

"Whereas, Without adequate funding, 170 California public use airports will deteriorate to unacceptable levels; and

"Whereas, Funding shortfalls for both air carrier and general aviation airports for the 1984–88 period are projected to be nearly $1.3 billion; and

"Whereas, California accounts for 18 percent of the nation's total air carrier passenger activity, generating in excess of $360,000,000 annually into the Federal Aviation Trust Fund; and

"Whereas, The return to California of federal airport trust funds averages approximately $40,000,000 per year; now, therefore, be it

"Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President, the Congress, and the Secretary of Transportation to recognize the pending crisis facing California's air transportation system and to take all appropriate action to increase the amount of California aviation tax dollars returned to the state to assist in preserving and enhancing that system; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Secretary of Transportation, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM–817. A joint resolution adopted by the Legislature of the State of California; to the Committee on Commerce, Science, and Transportation:

"ASSEMBLY JOINT RESOLUTION No. 140

"Whereas, It has come to the attention of the Members of the Legislature of the State of California that the President and his administration are considering elimination or reduction of certain portions of the National Weather Service; and

"Whereas, Certain functions, such as national defense, law enforcement, protection of our borders, and weather analysis and forecasting are the responsibility of the federal government; and

"Whereas, Fire weather forecasting is as important to California as the hurricane and tornado watch is to the midwest and southern states; and

"Whereas, Fire agencies and agriculture in California and throughout the United States depend upon reliable weather information for public safety and commerce, which has resulted in a significant reduction in violent fire and weather deaths and in savings of an estimated $850 million per year in production costs for farmers and in fire suppression costs for fire control agencies; and

"Whereas, Agriculture is the number one industry in California in terms of cash value and productivity, representing 14 billion dollars in gross production; and

"Whereas, Weather monitoring, data analysis, and forecasting require a well coordinated organization and the facilities to support that organization; now, therefore, be it

"Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to reconsider elimination or reduction in any part of the National Weather Service; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-818. A joint resolution adopted by the Legislature of the State of California; to the Committee on Environment and Public Works;

"SENATE CONCURRENT RESOLUTION No. 60

"Whereas, The federal Outer Continental Shelf Lands Act requires the Department of the Interior to adopt regulations to ensure that offshore energy exploration and development operations do not adversely affect onshore air quality; and

"Whereas, The State Air Resources Board has issued a report finding that offshore energy exploration and development operations are causing serious onshore air pollution and that emission reductions are needed using pollution control technology and emission offsets; and

"Whereas, The State of California has filed a lawsuit against the Department of the Interior charging that federal offshore air quality regulations do not adequately protect California's air quality; and

"Whereas, The Department of the Interior's failure to adopt regulations to adequately control offshore air emissions caused by oil companies threatens public health, increases the likelihood of Environmental Protection Agency sanctions against the state for failure to achieve federal Clean Air Act standards, and will force the state to impose additional, costly air pollution controls on onshore industries; and

"Whereas, The California Secretary of Environmental Affairs, on behalf of the Governor, has entered into a Memorandum of Agreement with the Department of the Interior regarding Outer Continental Shelf Lease Sale 73, off the shore of central California, which includes a stipulation for the protection of the state's air quality; and

"Whereas, The California Legislature is seriously concerned that any state agreement with the Department of the Interior regarding the control of offshore air emissions stipulates that state air quality standards will be fully met, and that monitoring and enforcement measures ensure that result; now, therefore, be it

"Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Governor, the Secretary of Environmental Affairs, the State Air Resources Board, and the Attorney General of California are requested to take all actions necessary to (1) implement the Outer Continental Shelf Lease Sale 73 stipulation for the protection of air quality in a manner that makes certain that state air quality standards will be fully met, (2) require the use of the best available emission control technologies that are technically feasible and cost-effective, as well as offset techniques, to ensure that state air quality standards are fully met, (3) require the oil industry and the Department of the Interior to carry the burden of proving compliance with state standards, (4) actively monitor and enforce offshore air pollution control requirements in cooperation with locally affected air pollution control districts, (5) seek to impose state air quality requirements on offshore operations authorized by previous OCS lease sales and future sales through continued litigation or other means and (6) report back to the Legislature periodically on the status of efforts to ensure that offshore energy exploration and development operations do not adversely affect onshore air quality; and be it further

"Resolved, That the Secretary of the Senate transmit copies of this resolution to the Governor, the Secretary of Environmental Affairs, the State Air Resources Board, the Attorney General of California, the Secretary of the Interior, the Director of the Minerals Management Service, the Administrator of the Environmental Protection Agency, and to each Senator and Representative from California in the Congress of the United States."

POM-819. A joint resolution adopted by the Legislature of the State of California; to the Committee on Environment and Public Works:

"ASSEMBLY JOINT RESOLUTION No. 142

"Whereas, The construction of the Trinity River division of the Central Valley project in California, which was authorized by the Congressional Act of August 12, 1955 (69 State. 719), has substantially reduced the streamflow in the Trinity River Basin and badly damaged pools, spawning gravels, and rearing areas and has caused a drastic reduction in the anadramous fish populations and a decline in the scenic and recreational qualities of the river system; and

"Whereas, The loss of land areas inundated by two reservoirs constructed in connection with the project has caused substantial reductions in the populations of deer and other wildlife historically found in the Trinity River Basin; and

"Whereas, A fish and wildlife management program has been developed by an existing interagency advisory group, called the Trinity River Basin Fish and Wildlife Task Force; and

"Whereas, The Secretary of the Interior of the United States requires additional authority to implement a basinwide fish and wildlife management program in order to achieve the long-term goal of restoring fish and wildlife populations in the Trinity River Basin at the level existing immediately before the start of the construction of the Trinity River division; now, therefore, be it

"Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the Congress of the United States of America to pass House Resolution 1438 of the 1st Session of the 98th Congress, which was introduced February 15, 1983 by Representatives Chappie, Bosco, and Shumway, which calls on the Secretary of the Interior to formulate and implement a fish and wildlife management program for the Trinity River Basin designed to restore the fish and wildlife populations in the basin to the levels existing immediately prior to the start of the construction, and to maintain those levels, and calling on the establishment of the Trinity River Basin Fish and Wildlife Task Force, with fourteen members as set forth, including representation selected by the Humboldt County Board of Supervisors, the Trinity County Board of Supervisors and the Hoopa Tribe of the Hoopa Valley Indian Reservation, California, for the purpose of monitoring the implementation of this resolution, and calling for a federal appropriation of $33,000,000 to remain available thereafter until expended, and for the sum of $2,200,000 annually for a ten-year period for the cost of operations, maintenance, and monitoring authorized by this resolution; and be it further

"Resolved, That the Legislature of the State of California respectfully memorializes the President of the United States to sign H.R. 1438 after Congressional passage; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and each Senator and Representative from California in the Congress of the United States."

POM-820. Joint resolution adopted by the Legislature of the State of California; to the Committee on Environment and Public Works:

"SENATE JOINT RESOLUTION No. 47

"Whereas, One of the greatest flooding threats in the United States lies within the overflow path of the Santa Ana River within Orange County; and

"Whereas, In this century, there have been 14 medium to severe winter floods in the Santa Ana River basin, including one in 1938 which devastated central Orange County and killed 45 persons; and

"Whereas, Congress acted quickly after the 1938 flood and authorized construction of Prado Dam near Corona, which was completed in 1941; and

"Whereas, Subsequent study by the United States Army Corps of Engineers has estimated that a flood like the one which occurred in 1862, a flood not included in the design of Prado Dam, would fill the reservoir beyond its capacity, with the uncontrolled flow over the spillway harming more than one million people and causing damage

and economic loss of more than nine billion dollars, and would cover 100,000 acres of central Orange County to an average depth of three feet; and

"Whereas, The Boards of Supervisors of Orange, Riverside, and San Bernardino Counties have requested the Corps of Engineers to remedy this great flood hazard, but construction has not yet been authorized by Congress; and

"Whereas, If authorized in 1984, the earliest anticipated completion would be not sooner than about 1999; now, therefore, be it

"Resolved by the Senate and Assembly of the Senate of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to authorize funding for flood control improvements in the Santa Ana River basin; and be it further

"Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to each Senator and Representative from California in the Congress of the United States, and to the Chief of the United States Army Corps of Engineers."

POM-821: A joint resolution adopted by the Legislature of the State of California; to the Committee on Finance:

"ASSEMBLY JOINT RESOLUTION No. 138

"Whereas, Strategic Air Command (hereafter referred to as SAC) aircraft and intercontinental ballistic missile crews, Tactical Air Command (hereafter referred to as TAC) aircrews, Coast Guard and Navy crews are required to be on "Alert Duty" for periods of 24 hours or more to assure the security of the United States; and

"Whereas, These Air Force aircraft and missile crews, Coast Guard and Navy crews, on "Alert Duty" are away from their "tax home" for extended periods of time on a restricted basis and cannot leave the "alert" facilities for any reason; and

"Whereas, These SAC aircraft and missile crews, TAC aircrews, Coast Guard and Navy crews, do not receive any tax benefits for such "Alert Duty" expenses with respect to the definition of "tax home" as set forth in Section 162(a) of the Internal Revenue Code; and

"Whereas, These SAC aircraft and missile crews, TAC aircrews, Coast Guard and Navy crews on "Alert Duty" do not receive the same tax advantages under regulations promulgated by the Internal Revenue Service which are provided for firemen and railroad personnel with respect to that "tax home" definition; now, therefore, be it

"Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to support and enact legislation recognizing the dedication to duty of Strategic Air Command aircraft and missile crews, Tactical Air Command aircrews, Coast Guard and Navy crews involved in "Alert Duty" assignments and to amend appropriately the definition of "tax home" under Section 162 of the Internal Revenue Code to provide that:

"For members of the Strategic Air Command, Tactical Air Command, United States Air Force, the air base alert facilities, and intercontinental ballistic missile sites; and for members of the United States Navy, and alert vessel or shore-based facilities, or any such Air Force, Coast Guard or Navy base, site, vessel, station, or portions thereof, on which such alert facility is located and which is accessible to such members while assigned to 'Alert Duty' for a period of time of 24 hours or more, shall not be considered as the "tax home" of such member for any period of such duty;" and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each California Senator and Representative, to the Senate Armed Services Committee, to the Senate Rules and Administration Committee, to the House Armed Services Committee and to the House Rules Committee."

POM-822. A resolution adopted by the Los Angeles County Board of Supervisors; to the Committee on Foreign Relations:

"RESOLUTION

"Whereas, President Reagan has declared September 23-29, 1984, as National Peace through Strength Week; and

"Whereas, although the world has seen U.S. peace initiatives exploited amid ever-increasing bold acts of aggression by Communist and Satellite nations, it is imperative that all Americans continue to support the search for peace; and

"Whereas, as the leaders of the World meet at the United Nations in search of peace, we must never lose sight of the frustrations that have come with broken promises, international atrocities such as the Korean jet incident and the invasion of Afghanistan, the Soviet arms buildup, and the continuing denial of basic human rights within Communist borders; and

"Whereas, today, America once again stands tall as its defense posture has been restored to the kind of international respect that has brought the Soviet Union back to the bargaining table; and

"Whereas, this new opportunity to lessen international tensions is the direct result of America's new resolve to remain militarily strong: Now, therefore, be it

"Resolved, That the people of Los Angeles County join the President in the observance of Peace through Strength Week; and be it further

"Resolved, That a copy of this resolution be sent to President Reagan, Vice-President Bush, Secretary of State Schultz, United Nations Ambassador Kirkpatrick, the California Delegation, Soviet President Chernenko and Soviet Foreign Minister Gromyko.

"The foregoing resolution was, on the twenty-fifth day of September, 1984, adopted by the Board of Supervisors of the County of Los Angeles, an ex-officio the governing body of all other special assessment and taxing districts, agencies and authorities for which said Board so acts."

POM-823. A joint resolution adopted by the Legislature of the State of California; to the Committee on Governmental Affairs:

"ASSEMBLY JOINT RESOLUTION No. 150

"Whereas, The business community in the state of California has long been affected by the way in which the United States Bureau of the Census collects and reports trade statistics. This method relies on the flow of goods through customs districts without regard to the point of origin of exports or the destination of imports, resulting in a highly distorted picture of actual trade patterns; and

"Whereas, Exports are attributed to the customs district from which they leave the country. Since a great percentage of those products are sent overseas by air, they are likely to leave from Los Angeles International Airport for Asia or from eastern international air terminals for Europe, for example. Goods sent overland to Canada are reported as exports at points along the border. Similarly, the San Diego customs district reports goods moving through the county to Mexico as if they were all San Diego products, and as if they accounted for 90 percent of the area's total export sales; and

"Whereas, The consequences of the present methodology for cities like San Diego are significant. Government services to communities are often based on this statistical evidence of trade. Banking institutions and other business service organizations may rely on the data to determine their level of community presence. The United States government itself lacks an accurate description of America's trade relationships; and

"Whereas, Current reporting practice is based on the flow of goods through customs districts without regard for the origin of outgoing shipments or the destination of inbound goods; and

"Whereas, A strong possibility exists that the Bureau of the Census will conduct a pilot study to determine the feasibility of collecting and reporting trade data by three-digit zip codes. This would have the effect of more accurately detailing the origin of exports and the destination of imports. The results of a procedure based on three-digit zip codes would be greatly beneficial for the trade promotion efforts not only of the state of California but also of the nation. For the first time the United States would have accurate data on which to base the allocation of resources for trade assistance programs such as marketing, licensing, and export finance; now, therefore, be it

"Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully urges the United States Bureau of the Census to conduct a pilot project to improve the reporting of United States trade statistics, using a three-digit zip code reporting system and using the appropriate cities in California as the subjects of this study; and be it futher

"Resolved, That the United States Congress is respectfully urged to appropriate any necessary funds required by the Bureau of the Census to successfully complete this project; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the Director of the United States Bureau of the Census, to the President and Vice President of the United States, and to each Senator and Representative from California in the Congress of the United States."

POM-824. A joint resolution adopted by the Legislature of the State of California; to the Committee on the Judiciary:

"ASSEMBLY JOINT RESOLUTION No. 117

"Whereas, During World War II, approximately 175,000 citizens of the Philippine Islands served with the armed forces of the Unites States with assurances of United States citizenship in return for this wartime service; and

"Whereas, Many of the Filipino veterans are unable to provide definitive proof of service in the United States armed forces and of their application for United States

citizenship during the required application period due to the long lapse of time; and

"Whereas, As a result of this situation, over 1,600 of these Filipino veterans of the United States armed forces are now being threatened with deportation because of the unyielding pursuit of these cases by the United States Immigration and Naturalization Service on grounds of inadequate documentation and other technicalities; and

"Whereas, Most of these persons are now at retirement age or beyond, and the threat of deportation represents a great personal hardship; and

"Whereas, This pursuit of deportation proceedings against these veterans who served in the defense of this country amounts to a great injustice; now, therefore, be it

"Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and Congress of the United States to direct that the actions of the United States Immigration and Naturalization Service against these Filipino veterans of the United States armed forces who served during World War II be discontinued forthwith and that appropriate action be taken to grant United States citizenship to these persons; and be it further

"Resolved, That copies of this resolution be transmitted to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, and to the United States Immigration and Naturalization Service."

POM-825. A joint resolution adopted by the Legislature of the State of California; to the Committee on the Judiciary:

"ASSEMBLY JOINT RESOLUTION No. 136

"Whereas, California has become the home for almost 50 percent of all refugees resettled in the United States, more refugees than at least the next eight most heavily impacted states combined; and

"Whereas, The human services programs of this state, its counties, and municipalities have been severely impacted as a result of this large concentration of refugees; and

"Whereas, The goal of economic self-sufficiency is not the total responsibility of state and local governments; and

"Whereas, Targeted assistance funds have been provided by Congress to alleviate the fiscal and social impact on state and local governments; and

"Whereas, House Resolution 3759 instructs the Office of Refugee Resettlement in the United States Department of Health and Human Services to allocate targeted assistance on the basis of a county's total refugee population, not just those refugees who have been in the United States for three years or less; and

"Whereas, The Office of Refugee Resettlement has ignored this directive and published an allocation formula for the 1984 fiscal year which utilizes targeted assistance moneys to supplement other refugee programs; and

"Whereas, The Office of Refugee Resettlement has proposed limiting the use of targeted assistance solely for the support of employment and employment-related services; and

"Whereas, There are other important services which strengthen the foundations of this population which have fiscal and social impacts on programs such as mental health, health care, criminal justice, and educational systems; now, therefore, be it

"Resolved by the Assembly and the Senate of the State of California, jointly, That the Legislature memorializes the President and Congress of the United States and the Secretary of the United States Department of Health and Human Services to take whatever action is necessary in order to withdraw the proposal to utilize targeted assistance funds for refugees in the 1984 fiscal year to supplement other refugee programs; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States and to the Secretary of the United States Department of Health and Human Services."

POM-826. A joint resolution adopted by the Legislature of the State of California; to the Committee on Veterans Affairs:

"ASSEMBLY JOINT RESOLUTION No. 137

"Whereas, 44,000 California veterans and eligible dependents receive education and training under Veterans' Administration educational programs, which totalled more than $161,000,000 in monetary benefits in 1983; and

"Whereas, The Veterans' Administration's current educational enrollment certification procedure required to be performed by California schools allow veteran students to be certified for complete school years; and

"Whereas, This procedure has proven to be between 93 and 95 percent effective in preventing overpayments while providing consistent, timely payment of benefits; and

"Whereas, The Veterans' Administration intends to alter this successful system in the fall of 1984 to require term-by-term recertification no sooner than the first day of each school semester, trimester, or quarter; and

"Whereas, The two-, three-, or four-fold increase in workload, which, in disregard of the Paperwork Reduction Act of 1980, will create severe hardships for veterans attending college in California through backlogs and long delays in educational benefits payments which the majority of veteran students depend upon to pay for school fees and related expenses; and

"Whereas, Colleges and universities nationwide have protested to the Veterans' Administration that this new system will multiply their paperwork requirements; now, therefore, be it

"Resolved by the Assembly and Senate of the State of California, jointly, That the President and Congress of the United States are respectfully memorialized to direct the Veterans' Administration to reverse its announced policy of requiring term-by-term recertification of veteran students and to reinstitute its current education enrollment certification procedure by which eligible veteran students are certified for complete school years; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, and to the Veterans' Administration."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. PACKWOOD, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute:

H.R. 89: A bill to permit the transportation of passengers between Puerto Rico and other United States ports on foreign-flag vessels when United States flag service for such transportation is not available (Rept. No. 98-658).

EXECUTIVE REPORTS OF COMMITTEES

By Mr. PERCY, from the Committee on Foreign Relations:

Tom C. Korologos, of Virginia, to be a Member of the U.S. Advisory Commission on Public Diplomacy for a term expiring July 1, 1987.

(The above nomination from the Committee on Foreign Relations was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. TOWER, from the Committee on Armed Services:

Mr. TOWER. Mr. President, from the Committee on Armed Services, I report favorably the following nominations:

In the Air Force there are five promotions to the grade of colonel and below (list begins with Clark B. Dorsey), in the Air Force Reserve there are appointments to the grade of colonel and below (list begins with Gerald N. Bart), in the Army there is one promotion to the grade of major (Lee E. Reeves, Jr.), in the Army there are two promotions to the grade of major (list begins with Milton M. Despain), in the Army there are six appointments to the grade of lieutenant colonel and below (list begins with Patrick B. McAndrew), in the Army there are 10 promotions to the grade of colonel and below (list begins with Nestor G. Pinomarina), in the Army Reserve there are 201 promotions to the grade of colonel and below (list begins with Robert M. Bragg), in the Army Reserve there are 705 promotions to the grade of colonel and below (list begins with Pinkie L. Bolden), in the Army there are 2,516 promotions to the grade of lieutenant colonel (list begins with David B. Aaronson), and in the Marine Corps there are 449 appointments to the grade of second lieutenant (list begins with David W. Bady). Since these names have already appeared in the CONGRESSIONAL RECORD and to save the expense of printing again, I ask unanimous consent that they be ordered to lie on the Secretary's desk for the information of any Senator.

(The lists ordered to lie on the Secretary's desk where printed in the RECORD of October 3, 1984, at the end of the Senate proceedings.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. HATCH:

S. 3064. A bill to designate the building known as the Federal Building in Ogden, Utah, as the "William H. King Federal Building"; to the Committee on Environment and Public Works.

S. 3065. A bill to designate the building known as the Federal Building in Salt Lake City, Utah, as the "Wallace F. Bennett Federal Building"; to the Committee on Environment and Public Works.

By Mr. CHAFEE:

S. 3066. A bill to amend the Internal Revenue Code of 1954 to provide for temporary across-the-board reductions in tax expenditures; to the Committee on Finance.

By Mr. DECONCINI:

S. 3067. A bill to amend title 18 of the United States Code to provide for Federal assistance to state registration of habitual sex offenders, and for other purposes; to the Committee on the Judiciary.

By Mr. TRIBLE:

S. 3068. A bill to establish the Cape Charles National Wildlife Refuge and the Cape Charles National Fish and Wildlife Service Training Center in Northampton County, Virginia; to the Committee on Environment and Public Works.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. MOYNIHAN (for himself and Mr. MATHIAS):

S. Res. 474. A resolution to dedicate the Alexander Calder sculpture in the Philip A. Hart Building to Howard H. Baker, Jr.; to the Committee on Rules and Administration.

By Mr. BAKER (for himself and Mr. BYRD):

S. Res. 475. A resolution to authorize the Senate Legal Council to represent the Judiciary Subcommittee on Administrative Practice and Procedure; considered and agreed to.

By Mrs. HAWKINS:

S. Con. Res. 152. A concurrent resolution to express the sense of the Congress regarding the failure of the government of Bolivia to eradicate its illegal narcotics industry; to the Committee on Foreign Relations.

By Mr. MATTINGLY (for himself and Mr. EVANS):

S. Con. Res. 153. A concurrent resolution to provide that each item of any general or special appropriation bill and any bill or joint resolution making supplemental, deficiency, or continuing appropriations that is agreed to by both Houses of the Congress in the same form shall be enrolled as a separate bill or joint resolution for presentation to the president; to the Committee on Rules and Administration.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTION

By Mr. HATCH:

S. 3064. A bill to designate the building known as the Federal Building in Ogden, UT, as the "William H. King Federal Building"; to the Committee on Environment and Public Works.

WILLIAM H. KING FEDERAL BUILDING

Mr. HATCH. Mr. President, I am pleased to introduce a bill designating the Federal Building at 325 25th Street, Ogden, UT, as the "William H. King Federal Building."

Senator King, a U.S. Representative and a U.S. Senator from the State of Utah, had a long and distinguished public career. As Senator Arthur V. Watkins stated:

Few public servants have been able to retain the confidence of the people as long as he did in the years he served the territory of Utah. He was a loyal supporter of the American free enterprise system. He established a great record and his name will live long in memory for patriotic service to his state and nation.

Senator King served in the Senate for 24 years, from 1916 to 1940. As a Senator, he was famed for his extemporaneous speaking ability and for his interest in foreign affairs during his career in public life which covered a period of more than half a century.

As a young man, he earned a law degree from the University of Michigan. Upon returning to Utah, he spearheaded the formation of a new political party in Utah, calling it "sagebrush democracy." Ultimately, it became the Democratic Party of Utah. Mr. King, a three-term member of Utah's Territorial Legislation—once serving as its president—had been the Utah County attorney and Provo city attorney. By his 30th birthday, King was president of the Utah Legislative Council; at 32, he was an associate justice of the Utah Supreme Court; and at 34, he went to Congress with a 21,000-vote majority. Between 1897 and 1941, he served five full terms and one short term to fill a vacancy as a Member of the U.S. House of Representatives.

When he took his seat as a Senator, King was immediately selected as secretary of the Democratic Caucus and won assignments to the Judiciary and Navy Committees. In addition, he served as a member of the Finance, Immigration, Mines, Judiciary, and Insular Affairs Committees.

As a Senator, Mr. King was frequently in the limelight because of his aggressive advocacy, of, or opposition to, certain policies. He was a distinguished statesman and had a long and brilliant career as a politician and lawmaker. For a quarter of a century he was regularly named by the Democratic Party as a delegate to the Presidential nominating conventions.

One of Mr. King's noteworthy qualities as a political campaigner was an extraordinary ability to remember names, faces, and family connections. As former Utah Gov. Herbert B. Maw put it: "King was a great public official who contributed a great deal to the welfare of the people of Utah and the Nation as a whole. He was courageous, a man of strong convictions, a great orator and completely dependable." A comment by William D. Foster, then administrative assistant in charge of the lands division of the U.S. attorney's office for the district of Utah stated that "Senator King was the best extemporaneous speaker that the State of Utah (had) produced." Senator King was not only a great statesman for the State of Utah but for the Nation as a whole. For these and many other reasons, it is fitting that the Federal building in Ogden, UT, be named in his honor. I ask my colleagues in the Senate and the House to join me in supporting this measure.

By Mr. HATCH:

S. 3065. A bill to designate the building known as the Federal Building in Salt Lake City, Utah, as the "Wallace F. Bennett Federal Building"; to the Committee on Environment and Public Works.

WALLACE F. BENNETT FEDERAL BUILDING

Mr. HATCH. Mr. President, I am pleased to introduce a bill designating the Federal building at 125 South State Street, Salt Lake City, UT, as the "Wallace F. Bennett Federal Building."

During his 24 years as a U.S. Senator, Wallace Bennett served the people of his State and our entire Nation with distinction and fidelity. He serve with a reputation for absolute integrity, human decency, and unusual ability as a legislator. He was first elected to the Senate in 1959, which, incidentially, was the only elective public office he ever sought or held. Because of his service and patriotism, the people of Utah reelected him three times; and he served during the administrations of six U.S. Presidents.

Mr. Bennett has also been a successful businessman. In fact, he served a term as president of the National Association of Manufacturers.

Mr. Bennett was the ranking member of the Senate Finace Committee, and senior Republican on the Senate Banking, Housing, and Urban Affairs Committee. He served as secretary of the Senate Republican Conference, vice chairman of the Senate Ethics Committee, and a member of the Joint Committees on Atomic Energy, Defense Production, and Internal Revenue Taxation. In addition, he was the second ranking minority member of the Banking, Housing, and Urban Affairs Committee. He also worked diligently as a member of the

Senate Select Committee on Standards and Conduct.

Senator Bennett worked on legislation that created the Colorado River storage project, credit union insurance, and various professional standards review organizations. One of Mr. Bennett's colleagues, Paul J. Fannin, stated "No man better represents these people and this heritage than the senior Senator from Utah, Wallace Bennett."

Another colleague, Senator EDWARD KENNEDY, stated that Bennett had outstanding abilities, "especially in his mastery of the details of the complex tax and economic legislation that he so often handled so well on the Senate floor." Mr. Bennett has clearly had a lasting impact on the tax and financial policies of this country.

Mr. Bennett is the father of the PSRO [Professional Standards Review Organization], a concept of peer review of medical care which was enacted in 1972 and which is now operational in many parts of the country.

His 24-year term of service is the second longest in the history of Utah, and he is the first popularly elected Utah Senator to retire from office voluntarily. His staff were witnesses to his concern for our country, "A concern which exceeds his concern for himself."

His life is a chronology of achievement and service to his State, Nation, church, and fellow men. Of course, much of his personal success could not have been accomplished without the help of his wife, Frances Grant Bennett. Because of Bennett's devotion and service to his State and Nation, it is singularly appropriate that this Federal building in Salt Lake City be named in his honor. Funds for this Federal building were appropriated by the Congress during the term when Wallace Bennett was serving as our Senator. He worked hard to get this building built; and, as a fitting tribute to his service, naming this building in his honor seems entirely proper. I ask my colleagues in the Senate and House to join me in supporting this measure.

By Mr. CHAFEE:

S. 3066. A bill to amend the Internal Revenue Code of 1954 to provide for temporary across-the-board reductions in tax expenditures; to the Committee on Finance.

BASE-BROADENING TAX ACT

● Mr. CHAFEE. Mr. President, I am today introducing legislation that will be an alternative to the surtax that has been proposed by some as a means for raising revenue next year. I think that it is no secret that the next Congress is going to be faced with some very difficult choices as it attempts to reduce the growing Federal deficit. Spending cuts alone will not suffice, and revenue increases will in all likelihood be necessary.

It is my hope that any revenue raising next year would be done in the context of tax reform. By "tax reform" I mean revising the current Tax Code to disperse more equitably the burden of taxation. We are all awaiting the recommendations of the Treasury Department study of alternative systems of taxation which is due in December. There have already been a number of major tax reform measures introduced, such as the Bradley-Gephardt and Kemp-Kasten proposal, which I hope the Congress will continue to debate and consider seriously next year. All these proposals should be examined carefully.

Unfortunately, I fear that the debate on tax reform may take quite a while and the pressure to raise revenue may push the Congress into considering a surtax as an immediate solution to the problem. The proposal I am introducing today is an alternative to that sort of quick fix. It is what some have called a reverse surtax.

A surtax would increase the taxes of those who are already paying taxes. A surtax simply exacerbates the inequities and disparities in the levels of taxation in the current system. Those who are taking advantage of the many deductions, credits, and exemptions in the Tax Code to reduce their taxes will continue to enjoy lower taxes. Those who are paying the maximum will pay even more. Before we raise the rates again to over 50 percent of any taxpayer's income, I think we should call upon those who are paying less tax, as a result of all those deductions, credits, and exemptions, to make a contribution.

The bill I am introducing today will take a little—10 percent—off of all the so-called tax preferences. It is a "haircut." It is not designed to scalp anyone. I just want to shave a little off of all these breaks, not gouge any one industry. It will be an across-the-board cutback of 10 percent on most tax expenditures.

This proposal should not be confused with tax reform. I have not evaluated each and every one of these deductions, credits, and exemptions and attempted to decide on the merits which should stay, which should go, and which should be modified. That would be tax reform.

This legislation is another method for a tax increase. It raises the taxes of those who are taking the most advantage of all the special tax breaks which we have put in the code. It raises the taxes of the 40 percent of all taxpayers who itemize, but it does not affect the 60 percent who file the so-called short form.

Many of the tax preferences, or tax expenditures in the code are working very well. For example, the deductions for mortgage interest and charitable contributions have succeeded in encouraging home ownership and charitable giving much more efficiently and less intrusively than any Federal direct spending program could ever have done. However, there are undoubtedly some of these tax breaks which may need to be revisited and examined to see whether they are working as originally intended. That process of examination will be the tax reform we will undertake next year.

In the meantime, this legislation simply proposes a 10-percent cutback on all of them. For example, an individual filling out his or her income tax returns will calculate all the deductions on schedules A and B as usual, but instead of deducting 100 percent of all those items, the individual will simply deduct 90 percent of the total. Everyone should still have 90 percent of the tax breaks he or she had before. This sort of belt-tightening may pinch our personal or business budgets but it shouldn't kill anyone.

This bill is very similar to a bill introduced in the House by Congressman STARK, H.R. 6308, and like Mr. STARK, I am introducing it as a discussion draft. I welcome the comments and suggestions of my colleagues and of the public. For example, I think there is still a question as to whether the cutback on credits and deductions should be the same. Perhaps the cutback on tax credits should be less in order to have the same economic effect. In addition, this legislation has not proposed cutbacks in some business deductions, such as the deduction for salaries paid employees or the cost of goods sold, on the basis that these deductions are not tax incentives or preferences, but rather are the basic deductions necessary for calculating the actual profit of the business.

This legislation is not an alternative to tax reform. It is simply a more equitable measure for raising revenue temporarily if we need to while we are debating thorough-going reform.

I intend to work separately on tax reform measures, but in the meantime I will continue to refine this legislation, so that it can be used as an alternative to any surtax proposals.●

By Mr. DECONCINI:

S. 3067. A bill to amend title 18 of the United States Code to provide for Federal assistance to State registration of habitual sex offenders, and for other purposes; to the Committee on the Judiciary.

CHILD MOLESTER REGISTRATION ACT

● Mr. DECONCINI. Mr. President, I am introducing today the Child Molester Registration Act of 1984, a bill to provide Federal assistance to State registration of habitual sex offenders. I want to congratulate Representative JIM MCNULTY from Arizona for his initiative and originality in introducing

this bill in the House of Representatives. I am hopeful that we will be able to get prompt action on this measure next year.

Mr. President, violent sex crime is a particularly loathsome crime. It is committed almost exclusively against women and children. It has created such an atmosphere of fear in some areas of the United States that women and children will not or are not allowed to go out at night. Women are afraid to go out unaccompanied. Women feel it necessary to buy guns and learn to use them or to take self-defense courses. Children are taught to walk away from strangers, to report anyone who approaches them, and to not walk around or play alone. Parents feel compelled to drop by their children's day care centers at irregular hours to check on their children.

It is time to strike back at the indivuals who have caused this atmosphere of fear and isolation. Society must establish a mechanism to keep track of these individuals. We must insure that people who have a propensity to commit violent sex offenses are not placed in positions of trust or supervision.

The bill that I am introducing today will create a mechanism whereby States could create a new parole status of special parole. Special parole would be a parole status that, if it was imposed, the individual so paroled would be required to report his or her presence in a jurisdiction with local authorities. If an individual subject to special parole fails to register as required by State law within 24 hours of such requirement and travels in interstate or foreign commerce, he or she shall be subject to a fine of not more than $5,000 and imprisonment of up to 2 years.

I believe that this legislation will provide a useful tool to State and local authorities in their efforts to protect their citizenry. These authorities will be on notice that a convicted sex offender is in their midst and can provide warning to potential employers such as day care centers, apartment buildings, or schools.

I would like once again to thank Representative MCNULTY for his diligence and leadership in introducing this legislation.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3067

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, this Act may be cited as the "Child Molester Registration Act of 1984". Sec. 2. Chapter 49 of title 18, United States Code, is amended by adding at the end the following:

"§ 1074 Interstate travel in violation of special parole

(a) Whoever, being subject to special parole having traveled in interstate or foreign commerce, fails to register as required by State law with the local authority within 24 hours of the such requirement, shall be fined not more than $5,000 and imprisoned not more than two years.

(b) For the purposes of this section the terms—

(i) "special parole" means the condition of sentence imposed by a court of a State upon a person convicted of an offense involving sexually motivated violence that such person register his or her presence in a jurisdiction with the local authority;

(ii) "offense involving sexual motivated violence" means rape, sexual assault, production or trafficking in child pornography, indecent exposure, or any crime of violence that is found by the sentencing court to have been sexually motivated, but does not include spousal abuse;

(iii) "local authority" means any department or agency designated under state law to accept registration of persons serving a sentence of special parole."

SEC. 3. The table of sections for chapter 49 of title 18, United States Code, is amended by adding at the end the following new item:

"§ 1074. Interstate travel in violation of special parole".

SEC. 4. In section 534(a)(1) of title 28, United States Code, strike out ";" and insert in lieu thereof:

", including records of persons sentenced to special parole by court for an offense involving sexually motivated violence;".●

By Mr. TRIBLE:

S. 3068. A bill to establish the Cape Charles National Wildlife Refuge and the Cape Charles National Fish and Wildlife Service Training Center in Northampton County, VA; to the Committee on Environment and Public Works.

CAPE CHARLES NATIONAL WILDLIFE REFUGE

● Mr. TRIBLE. Mr. President, I'm pleased to introduce today an important measure which will establish the Cape Charles National Wildlife Refuge and National Fish and Wildlife Training Center in Northampton County on Virginia's Eastern Shore.

This refuge will be a unique facility. First, it will protect irreplaceable migratory wildfowl habitat. Second, it will utilize the abandoned Cape Charles Air Force Base to provide a training facility for Fish and Wildlife Service personnel.

The nucleus of the new refuge is the former air base, which was a radar tracking station until its deactivation about 5 years ago. The U.S. Fish and Wildlife Service has been working on acquisition of the base for about 3 years, as they recognized immediately its value as a refuge for various species of migratory birds.

The Cape Charles area is among the most important habitat on the east coast for migratory waterfowl, raptors, and songbirds, and is home to endangered and threatened species such as the peregrine falcon, bald eagle, brown pelican, and five species of marine turtle. In addition, the Delmarva Peninsula is a primary flight corridor during the annual Southern migration. The peninsula narrows in the South, creating a funneling effect on the birds which culminates at Cape Charles. Because of the variety of marsh and upland habitat, the area provides excellent cover and forage for the large variety and high concentration of migratory species.

I commend the U.S. Fish and Wildlife Service for moving promptly to protect this irreplaceable area, as the development pressure is building in Tidewater Virginia and on the Eastern Shore.

In addition to the natural attributes of the area, the former airbase has a variety of buildings in relatively good condition. These will be converted to refuge use.

The Fish and Wildlife Service is examining the possibility of establishing a national training center for Service personnel and a refuge law enforcement refresher course training center utilizing some of the existing buildings at the former base. Various colleges and universities have indicated interest in using the facilities for environmental studies under contract or cooperative use agreements with the Service. The bill I am introducing today will establish this center in law and facilitate its development.

The Cape Charles National Wildlife Refuge represents an important link in the ongoing establishment of protected wildlife habitat along the east coast's barrier island chain. It will provide shelter and forage for migratory birds, unique opportunities for training and environmental studies, and economic benefits for the citizens of the Commonwealth of Virginia. I'm pleased to be able today to assist in the establishment of the refuge, and I welcome my colleagues' support on the measure.●

ADDITIONAL COSPONSORS

S. 2082

At the request of Mr. MOYNIHAN, the name of the Senator from Michigan [Mr. LEVIN] was added as a cosponsor of S. 2082, a bill to identify, commemorate, and preserve the legacy of historic landscapes of Frederick Law Olmsted, and for other purposes.

S. 2859

At the request of Mr. WEICKER, the names of the Senator from Minnesota [Mr. BOSCHWITZ], the Senator from North Dakota [Mr. BURDICK], the Senator from Rhode Island [Mr. PELL], and the Senator from Michigan [Mr. RIEGLE] were added as cosponsors of S. 2859, a bill to amend the Education of the Handicapped Act to authorize the award of reasonable attorneys' fees to certain prevailing parties, and to clarify the effect of the Education of the Handicapped Act on rights, procedures, and remedies under other laws relating to the prohibition of discrimination.

S. 2869

At the request of Mr. LEAHY, the name of the Senator from Maine [Mr. MITCHELL] was added as a cosponsor of S. 2869, a bill to amend the Internal Revenue Code of 1954 to provide an income tax credit for expenses incurred by an individual taxpayer for the purchase of television subtitle equipment to be used by a hearing-impaired individual.

S. 2956

At the request of Mr. WARNER, the names of the Senator from Rhode Island [Mr. PELL], the Senator from South Carolina [Mr. HOLLINGS], the Senator from California [Mr. WILSON], the Senator from Virginia [Mr. TRIBLE], the Senator from Mississippi [Mr. COCHRAN], the Senator from North Carolina [Mr. EAST], the Senator from Nevada [Mr. LAXALT], the Senator from New Hampshire [Mr. HUMPHREY], the Senator from Minnesota [Mr. BOSCHWITZ], the Senator from Maine [Mr. COHEN], the Senator from Mississippi [Mr. STENNIS], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Utah [Mr. HATCH], the Senator from Florida [Mrs. HAWKINS], the Senator from Hawaii [Mr. INOUYE], the Senator from West Virginia [Mr. -RANDOLPH], the Senator from Nebraska [Mr. EXON], the Senator from Kentucky [Mr. FORD], the Senator from New York [Mr. MOYNIHAN], the Senator from New Mexico [Mr. DOMENICI], the Senator from Louisiana [Mr. JOHNSTON], the Senator from Idaho [Mr. MCCLURE], the Senator from Michigan [Mr. LEVIN], the Senator from Tennessee [Mr. SASSER], the Senator from Illinois [Mr. PERCY], the Senator from Kentucky [Mr. HUDDLESTON], the Senator from North Dakota [Mr. ANDREWS], the Senator from New York [Mr. D'AMATO], the Senator from Ohio [Mr. GLENN], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Georgia [Mr. NUNN], the Senator from Wisconsin [Mr. KASTEN], the Senator from Oklahoma [Mr. BOREN], the Senator from Nevada [Mr. HECHT], the Senator from Indiana [Mr. LUGAR], the Senator from Iowa [Mr. JEPSEN], the Senator from Texas [Mr. TOWER], the Senator from New Jersey [Mr. BRADLEY], the Senator from North Dakota [Mr. BURDICK], the Senator from Arizona [Mr. DECONCINI], the Senator from Oregon [Mr. HATFIELD], and the Senator from Massachusetts [Mr. KENNEDY] were added as cosponsors of S. 2956, a bill to recognize the organization known as the Navy Wives Clubs of America.

S. 3018

At the request of Mr. SPECTER, the names of the Senator from Oklahoma [Mr. NICKLES], and the Senator from North Carolina [Mr. EAST] were added as cosponsors of S. 3018, a bill to amend title 18, United States Code, to authorize prosecution of terrorists and others who attack U.S. Government employees abroad, and for other purposes.

SENATE JOINT RESOLUTION 97

At the request of Mr. BOSCHWITZ, the name of the Senator from Pennsylvania [Mr. SPECTER], was added as a cosponsor of Senate Joint Resolution 97, a joint resolution to authorize the erection of a memorial on public grounds in the District of Columbia, or its environs, in honor and commemoration of members of the Armed Forces of the United States and the allied forces who served in the Korean war.

SENATE JOINT RESOLUTION 344

At the request of Mr. BRADLEY, the names of the Senator from Oregon [Mr. HATFIELD], the Senator from Ohio [Mr. METZENBAUM], and the Senator from New Jersey [Mr. LAUTENBERG] were added as cosponsors of Senate Joint Resolution 344, a joint resolution to designate the month of November 1984 as "National Make-A-Wish Month."

SENATE JOINT RESOLUTION 351

At the request of Mr. SASSER, the names of the Senator from New York [Mr. MOYNIHAN], the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Arkansas [Mr. PRYOR], the Senator from Mississippi [Mr. STENNIS], the Senator from Michigan [Mr. -RIEGLE], the Senator from Louisiana [Mr. JOHNSTON], the Senator from Connecticut [Mr. DODD], the Senator from Florida [Mr. CHILES], the Senator from Missouri [Mr. EAGLETON], the Senator from North Carolina [Mr. HELMS], the Senator from New Hampshire [Mr. HUMPHREY], the Senator from Washington [Mr. GORTON], the Senator from Pennsylvania [Mr. HEINZ], the Senator from Alaska [Mr. MURKOWSKI], the Senator from California [Mr. WILSON], the Senator from North Dakota [Mr. ANDREWS], the Senator from Alabama [Mr. DENTON], the Senator from Nevada [Mr. HECHT], the Senator from Minnesota [Mr. DURENBERGER], and the Senator from Iowa [Mr. JEPSEN] were added as cosponsors of Senate Joint Resolution 351, a joint resolution designating the week beginning February 17, 1985, as a time to recognize volunteers who give their time to become Big Brothers and Big Sisters to youth in need of adult companionship.

SENATE JOINT RESOLUTION 352

At the request of Mr. DANFORTH, the names of the Senator from Michigan [Mr. -RIEGLE], the Senator from California [Mr. WILSON], the Senator from Louisiana [Mr. JOHNSTON], and the Senator from Vermont [Mr. STAFFORD] were added as cosponsors of Senate Joint Resolution 352, a joint resolution designating October 1984 as "National Head Injury Awareness Month."

SENATE RESOLUTION 386

At the request of Mr. LEVIN, the name of the Senator from Arkansas [Mr. BUMPERS] was added as a cosponsor of Senate Resolution 386, a resolution entitled the "Mandela Freedom Resolution".

SENATE RESOLUTION 431

At the request of Mr. DIXON, the name of the Senator from Pennsylvania [Mr. SPECTER] was added as a cosponsor of Senate Resolution 431, a resolution relating to Canadian pork imports.

SENATE RESOLUTION 436

At the request of Mr. PELL, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of Senate Resolution 436, a resolution to commemorate the 100th anniversary of the Naval War College in Newsport, RI.

SENATE RESOLUTION 467

At the request of Mr. -ROTH, the name of the Senator from Utah [Mr. HATCH], and the Senator from Colorado [Mr. ARMSTRONG] were added as cosponsors of Senate Resolution 467, a resolution expressing the appreciation of the Senate to members of the entertainment industry, especially the Entertainment Industries Council, for their concern over the drug problem in America, and urging the industry to undertake a comprehensive program to communicate to the citizens of the United States the dangers of drug abuse.

SENATE CONCURRENT RESOLUTION 152—EXPRESSING THE SENSE OF THE SENATE WITH RESPECT TO BOLIVIAN NARCOTICS

Mrs. HAWKINS submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations.

S. CON. RES. 152

Mrs. HAWKINS. Mr. President, there is a very troubled nation in our hemisphere.

The South American nation of Bolivia is presently faced not only with disastrous rates of inflation, but also with escalating drug abuse by a majority of its population. And despite continued direct and indirect assistance from the United States, Bolivia is doing nothing to extricate itself from this situation.

Bolivia currently produces, and markets, almost 50 percent of the coca which is consumed in the United States. The 1983 estimates on coca cultivation range from 35,000 to 40,000 hectares—55,000 to 60,000 metric tons—whereas only 16,000 metric tons are needed to meet traditional and other licit use. Though numerous American officials have contacted Bolivian authorities to demand action in

halting coca production and trafficking, the Government of Bolivia has done nothing.

This inaction on the part of this South American nation is resulting not only in the continued destruction of our youth through drug abuse, but also of an increasing number of Bolivian citizens; 50 percent of the population of Bolivia is under 19 years of age, and drug abuse now poses a severe threat to the future existence of this nation. A primary reason for the present inflation rate of 1,000 percent in Bolivia is the false economic atmosphere created by their illegal narcotics industry.

There has been no sign of Bolivian military or police action to crack down on drug producers and traffickers, and there has been no sign of Bolivian Government inclination to involve these necessary authorities in any such efforts. Indeed, it seemed to observers of the present situation in Bolivia that major drug traffickers are considered untouchable due to corruption within the present regime. Vast regions of this nation are outside the control of the Bolivian Government; the Chapare and Beni regions are virtually under the control of major narco-terrorists involved in coca cultivation, processing and trafficking.

Mr. President, for the sake of our young people, and for the sake of Bolivian citizens as well, this situation must be addressed. The United States, through measures like the Diplomacy Against Drugs Amendment, must force the Bolivian Government to take steps like enabling the Bolivian military to participate in coca eradication, and in providing support for the national police; and like encouraging the Bolivian private sector, business and media, to become involved in promoting government action against coca cultivation and abuse.

I am today introducing a resolution establishing the sense of the Congress to make Bolivia aware that we as Americans will no longer tolerate this tacit encouragement of illegal narcotics production and trafficking, and I would hope that my colleagues will join me in this effort to try and stop illicit drugs at the source.

S. CON. RES. 152

Whereas (1) cocaine has had a severe negative impact on productivity, public health, education, and the quality of life in the United States and on the national security interests of the United States;

Whereas (2) Bolivia is the source of 50 percent of the cocaine used in the United States, and Bolivian production of cocaine continues to rise;

Whereas (3) 50 percent of the population of Bolivia is under 19 years of age, and cocaine production has had a severe, negative impact on the youth of Bolivia;

Whereas (4) the production of, and trafficking in, cocaine by Bolivia has contributed significantly to Bolivia's 1,000 percent rate of inflation; and

Whereas (5) during the fiscal years 1980, 1981, and 1982, the United States Government furnished to Bolivia more than $35,000,000 in direct assistance and more than $195,000,000 in assistance through the multilateral development banks, and yet during that same period coca cultivation continued to increase: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress hereby expresses its deep concern at the failure of the Government of Bolivia to eradicate its illegal narcotics industry and expresses its intention to take into account as a major factor in its consideration of future direct and indirect assistance to Bolivia any continued failure by the Goverment of Bolivia to eradicate such industry.

SENATE CONCURRENT RESOLUTION 153—WITH RESPECT TO LINE-ITEM VETO

Mr. MATTINGLY (for himself and Mr. EVANS) submitted the following concurrent resolution; which was referred to the Committee on Rules and Administration.

S. CON. RES. 153

Resolved by the Senate (the House of Representatives concurring),

SEC. . (a)(1) Notwithstanding any other provision of law, when any general or special appropriation bill or any bill or joint resolution making supplemental, deficiency, or continuing appropriations passes both Houses of the Congress in the same form, the Secretary of the Senate (in the case of a bill or joint resolution originating in the Senate) or the Clerk of the House of Representatives (in the case of a bill or joint resolution originating in the House of Representatives) shall cause the enrolling clerk of such House to enroll each item of such bill or joint resolution as a separate bill or joint resolution, as the case may be.

(2) A bill or joint resolution that is required to be enrolled pursuant to paragraph (1)—

(A) shall be enrolled without substantive revision,

(B) shall conform in style and form to the applicable provisions of chapter 2 of title 1, United States Code (as such provisions are in effect on the date of the enactment of this section), and

(C) shall bear the designation of the measure of which it was an item prior to such enrollment, together with such other designation as may be necessary to distinguish such bill or joint resolution from other bills or joint resolutions enrolled pursuant to paragraph (1) with respect to the same measure.

(b) A bill or joint resolution enrolled pursuant to paragraph (1) of subsection (a) with respect to an item shall be deemed to be a bill under clauses 2 and 3 of Section 7 of article 1 of the Constitution of the United States and shall be signed by the presiding officers of both Houses and presented to the President for approval or disapproval (and otherwise treated for all purposes) in the manner provided for bills and joint resolutions generally.

(c) For purposes of this section, the term "item" means any numbered section and any unnumbered paragraph of—

(1) any general or special appropriation bill, and

(2) any bill or joint resolution making supplemental, deficiency, or continuing appropriations.

(d) The provisions of this section shall apply to bills and joint resolutions agreed to by the Congress during the two-calendar-year period beginning with the date of the enactment of this section.

SENATE RESOLUTION 474—DEDICATION TO SENATOR HOWARD BAKER

Mr. MOYNIHAN (for himself and Mr. MATHIAS) submitted the following resolution; which was referred to the Committee on Rules and Administration.

S. RES. 474

Whereas Senator Howard H. Baker, Jr., has served with distinction as Majority Leader of the Senate from 1981 to the present with consummate skill, patience and diplomacy, and in a spirit of fairness to all Senators; and

Whereas he has served as Majority Leader for a longer period than any other Senator of his party in a half-century; and

Whereas he has accordingly brought honor to the U.S. Senate, himself, his home State of Tennessee, and the United States of America; and

Whereas there is to be placed in the atrium of the Philip A. Hart Senate Office Building a monumental sculpture titled "Mountains and Clouds" by the American artist Alexander Calder: Now therefore be it

Resoved, That the Senate of the United States dedicates said sculpture in honor of Senator Howard H. Baker, Jr.

SEC. 2. The Architect of the Capitol is directed to place plaques in appropriate locations to commemorate the dedication of the sculpture to Senator Baker.

AMENDMENTS SUBMITTED

CONTINUING APPROPRIATIONS, 1985

HUDDLESTON (AND FORD) AMENDMENT NO. 7039

Mr. JOHNSTON (for Mr. HUDDLESTON, for himself and Mr. FORD) proposed an amendment to the joint resolution (H.J. Res. 648) making continuing appropriations for the fiscal year 1985, and for other purposes; as follows:

Notwithstanding any other provision of this joint resolution, there is hereby appropriated an additional amount for the Department of Defense—Civil—Department of the Army, Corps of Engineers—"Construction—General," $740,000 to remain available until expended to complete plan of development and conservation of Falls of the Ohio National Wildlife Conservation Area in accordance with approved plan by the Chief of Engineers.

KENNEDY AMENDMENT NO. 7040

Mr. KENNEDY proposed an amendment to the joint resolution (H.J. Res. 648), supra; as follows:

At the appropriate point in the bill add the following:

SEC. . For an additional amount for "Coast Guard Acquisition, Construction and Improvements," $2,000,000 to reconstruct in its original form the Great Point Lighthouse on Nantucket Island, Massachusetts at the site designated by the United States Coast Guard.

GARN AMENDMENT NO. 7041

Mr. GARN proposed an amendment to the joint resolution (H.J. Res. 648), supra; as follows:

At the appropriate place in the bill, add the following new section:

"SEC. . For expenses necessary to carry out loan guaranty and insurance operations, as authorized by law (38 U.S.C. Chapter 37, except administrative expenses, as authorized by section 1824 of such title), $306,600,000 is hereby appropriated for "Loan guaranty revolving fund, Veterans' Administration", to remain available until expended."

MATHIAS AMENDMENT NO. 7042

Mr. MATHIAS proposed an amendment to the joint resolution (H.J. Res. 648), supra; as follows:

At the appropriate place in the Continuing Resolution, insert the following new section:

"SEC. . (a) The provisions of the third paragraph under the heading "Clerical assistance to Senators" of the first section of the Legislative Branch Appropriation Act for the fiscal year ending June 30, 1928 (2 U.S.C. 92a) shall not be applicable to any employee of the Senate.

(b) The following provisions of law are hereby repealed:

(1) the last paragraph under the heading "Clerical assistance to Senators" of the first section of the Legislative Branch Appropriation Act, 1944 (2 U.S.C. 92e),

(2) the last paragraph under the heading "Clerical assistance to Senators" of the first section of the Legislative Branch Appropriation Act, 1945 (2 U.S.C. 92e),

(3) the next-to-last paragraph under the heading "Clerical assistance to Senators" of the first section of the Legislative Branch Appropriation Act, 1946 (2 U.S.C. 92e), and

(4) the next-to-last paragraph under the heading "Clerical assistance to Senators" of the first section of the Legislative Branch Appropriation Act, 1947 (2 U.S.C. 92e).

(c) The second proviso of the paragraph of section 101 of the Legislative Branch Appropriation Act, 1974, which appears under the heading "Committee Employees" (2 U.S.C. 68-1) is amended by striking out "the committee Auditor and the committee Assistant Auditor" and inserting in lieu thereof "any employee or employees of such Committee".

THURMOND (AND OTHERS) AMENDMENT NO. 7043

Mr. THURMOND (for himself, Mr. BIDEN, Mr. KENNEDY, Mr. HATCH, Mr. DECONCINI, Mr. LAXALT, Mr. DOLE, Mr. GRASSLEY, Mr. HEFLIN, Mr. DENTON, Mr. EAST, Mr. SIMPSON, Mr. SPECTER, Mrs. HAWKINS, Mr. JEPSEN, Mr. CHILES, Mr. METZENBAUM, Mr. LEAHY, Mr. GARN, Mr. BAUCUS, Mr. NUNN, Mr. RIEGLE, Mr. SYMMS, Mr. WARNER, Mr. KASTEN, Mr. ABDNOR, Mr. ANDREWS, Mr. BOREN, Mr. BRADLEY, Mr. BUMPERS, Mr. D'AMATO, Mr. LUGAR, Mr. BURDICK, Mr. DANFORTH, Mr. LEVIN, Mr. COCHRAN, Mr. MOYNIHAN, Mr. MURKOWSKI, Mr. DOMENICI, Mr. DODD, Mr. DIXON, and Mr. HUDDLESTON) proposed an amendment to the joint resolution, supra; as follows:

In Chapter II, make the following changes:

A. On page 96, line 14, insert after "SENTENCE":

"The court shall impose a sentence sufficient, but not greater than necessary, to comply with the purposes set forth in paragraph (2) of this subsection."

B. On page 143, line 10, strike "thirty-six" and insert "fifty-four."

C. On page 165, line 7, strike "two" and insert "three."

D. On page 173, at the end of line 24, add: "The sentencing guidelines prescribed under this chapter shall be formulated to minimize the likelihood that the Federal prison population will exceed the capacity of the Federal prisons, as determined by the Commission."

Strike out Sections 506 through 529 of Part B of Chapter I, and insert the following:

TITLE XII—DANGEROUS DRUG DIVERSION CONTROL

SEC. 1201. (a) This title may be cited as the "Dangerous Drug Diversion Control Act of 1984".

(b) Whenever in sections 1202 through 1214 an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the controlled Substances Act, and whenever in sections 1215 through 1221 an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Controlled Substances Import and Export Act.

SEC. 1202. (a) Section 102 (21 U.S.C. 802) is amended by redesignating paragraphs (14) through (29) as paragraphs (15) through (30), respectively, and by adding after paragraph (13) the following:

"(14) The term 'isomer' means the optical isomer, except as used in schedule I(c) and schedule II(a)(4). As used in schedule I9c), the term 'isomer' means the optical, positional, or geometric isomer. As used in schedule II(a)(4), the term 'isomer' means the optical or geometric isomer.".

(b) Paragraph (17) (as so redesignated) of section 102 is amended to read as follows:

"(17) The term 'narcotic drug' means any of the following whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

"(A) Opium, opiates, derivatives of opium and opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, ethers, whenever the existence of such isomers, esters, ethers, and salts is possible within the specific chemical designation. Such term does not include the isoquinoline alkaloids of opium.

"(B) Poppy straw and concentrate of poppy straw.

"(C) Coca leaves, except coca leaves and extracts of cocoa leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed.

"(D) Cocaine, its salts, optical and geometric isomers, and salts of isomers.

"(E) Ecgonine, its derivatives, their salts, isomers, and salts of isomers.

"(F) Any compound, mixture, or preparation which contains any quantity of any of the substances referred to in subparagraphs (A) through (E).".

(c) Paragraph (a)(4) of schedule II is amended by inserting after "coca leaves" the first time it appears the following: "(including cocaine and ecgonine and their salts, isomers, derivatives, and salts of isomers and derivatives)".

SEC. 1203. Section 201 (21 U.S.C. 811) is amended by adding a new subsection (h) as follows:

"(h)(1) If the Attorney General finds that the scheduling of a substance in schedule I on a temporary basis is necessary to avoid an imminent hazard to the public safety, he may, by order and without regard to the requirements of subsection (b) relating to the Secretary of Health and Human Services, schedule such substance in schedule I if the substance is not listed in any other schedule in section 202 or if no exemption or approval is in effect for the substance under section 505 of the Federal Food, Drug, and Cosmetic Act. Such an order may not be issued before the expiration of 30 days from—

"(A) the date of the publication by the Attorney General of a notice in the Federal Register of the intention to issue such order and the grounds upon which such order is to be issued, and

"(B) the date the Attorney General has transmitted the notice required by paragraph (4).

"(2) The scheduling of a substance under this subsection shall expire at the end of one year from the date of the issuance of the order scheduling such substance, except that the Attorney General may, during the pendency of proceedings under subsection (a)(1) with respect to the substance, extend the temporary scheduling for up to six months.

"(3) When issuing an order under paragraph (1), the Attorney General shall be required to consider, with respect to the finding of an imminent hazard to the public safety, only those factors set forth in paragraphs (4), (5), and (6) of subsection (c), including actual abuse, diversion from legitimate channels, and clandestine importation, manufacture, or distribution.

"(4) The Attorney General shall transmit notice of an order proposed to be issued under paragraph (1) to the Secretary of Health and Human Services. In issuing an order under paragraph (1), the Attorney General shall take into consideration any comments submitted by the Secretary in response to a notice transmitted pursuant to this paragraph.

"(5) An order issued under paragraph (1) with respect to a substance shall be vacated upon the conclusion of a subsequent rulemaking proceeding initiated under subsection (a) with respect to such substance.

"(6) An order issued under paragraph (1) is not subject to judicial review.".

SEC. 1204. (a) Section 201(g) (21 U.S.C. 811(g)) is amended by adding at the end the following:

"(3) The Attorney General may, by regulation, exempt any compound, mixture, or preparation containing a controlled substance from the application of all or any part of this title if he finds such compound, mixture, or preparation meets the requirements of one of the following categories:

"(A) A mixture, or preparation containing a nonnarcotic controlled substance, which mixture or preparation is approved for pre-

scription use, and which contains one or more other active ingredients which are not listed in any schedule and which are included therein in such combinations, quantity, proportion, or concentration as to vitiate the potential for abuse.

"(B) A compound, mixture, or preparation which contains any controlled substance, which is not for administration to a human being or animal, and which is packaged in such form or concentration, or with adulterants or denaturants, so that as packaged it does not present any significant potential for abuse.".

(b) Section 202(d) (21 U.S.C. 812(d)) is repealed.

SEC. 1205. Section 302(a) (21 U.S.C. 822(a)) is amended to read as follows:

"(a)(1) Every person who manufactures or distributes any controlled substance, or who proposes to engage in the manufacture or distribution of any controlled substance, shall obtain annually a registration issued by the Attorney General in accordance with the rules and regulations promulgated by him.

"(2) Every person who dispenses, or who proposes to dispense, any controlled substance, shall obtain from the Attorney General a registration issued in accordance with the rules and regulations promulgated by him. The Attorney General shall, by regulation, determine the period of such registrations. In no event, however, shall such registrations be issued for less than one year nor for more than three years.".

SEC. 1206. Section 303(f) (21 U.S.C. 823(f)) is amended to read as follows:

"(f) The Attorney General shall register practitioners (including pharmacies, as distinguished from pharmacists) to dispense, or conduct research with, controlled substances in schedules II, III, IV, or V, if the applicant is authorized to dispense, or conduct research with respect to, controlled substances under the laws of the State in which he practices. The Attorney General may deny an application for such registration if he determines that the issuance of such registration would be inconsistent with the public interest. In determining the public interest, the following factors shall be considered:

"(1) The recommendation of the appropriate State licensing board or professional disciplinary authority.

"(2) The applicant's experience in dispensing, or conducting research with respect to controlled substances.

"(3) The applicant's conviction record under Federal or State laws relating to the manufacture, distribution, or dispensing of controlled substances.

"(4) Compliance with applicable State, Federal, or local laws relating to controlled substances.

"(5) Such other conduct which may threaten the public health and safety.

Separate registration under this part for practitioners engaging in research with controlled substances in schedules II, III, IV, or V, who are already registered under this part in another capacity, shall not be required. Registration applications by practitioners wishing to conduct research with controlled substances in schedule I shall be referred to the Secretary, who shall determine the qualifications and competency of each practitioner requesting registration, as well as the merits of the research protocol. The Secretary, in determining the merits of each research protocol, shall consult with the Attorney General as to effective procedures to adequately safeguard against diversion of such controlled substances from legitimate medical or scientific use. Registration for the purpose of bona fide research with controlled substances in schedule I by a practitioner deemed qualified by the Secretary may be denied by the Attorney General only on a ground specified in section 304(a). Article 7 of the Convention of Psychotropic Substances shall not be construed to prohibit, or impose additional restrictions upon, research involving drugs or other substances scheduled under the convention which is conducted in conformity with this subsection and other applicable provisions of this title.".

SEC. 1207. Section 304(a) (21 U.S.C. 824(a)) is amended—

(1) by inserting before the period in paragraph (3) the following: "or has had the suspension, revocation, or denial of his registration recommended by competent State authority"; and

(2) by striking out "or" at the end of paragraph (2), by striking out the period at the end of paragraph (3) and inserting in lieu thereof "; or", and by adding after paragraph (3) the following:

"(4) has committed such act as would render his registration under section 303 inconsistent with the public interest as determined under such section.".

SEC. 1208. Section 304 (21 U.S.C. 824) is amended by adding at the end the following:

"(g) the Attorney General may, in his discretion, seize or place under seal any controlled substances owned or possessed by a registrant whose registation has expired or who has ceased to practice or do business in the manner contemplated by his registration. Such controlled substances shall be held for the benefit of the registrant, or his successor in interest. The Attorney General shall notify a registrant, or his successor in interest, who has any controlled substance seized or placed under seal of the procedures to be followed to secure the return of the controlled substance and the conditions under which it will be returned. The Attorney General may not dispose of any controlled substance seized or placed under seal under this subsection until the expiration of one hundred and eighty days from the date such substance was seized or placed under seal.".

SEC. 1209. (a) Section 307(c)(1)(A) (21 U.S.C. 827(c)(1)(A)) is amended to read as follows:

"(A) to the prescribing of controlled substances in schedule II, III, IV, or V by practitioners acting in the lawful course of their professional practice unless such substance is prescribed in the course of maintenance or detoxification treatment of an individual; or".

(b) Section 307(c)(1)(B) (21 U.S.C. 827(c)(1)(B)) is amended to read as follows:

"(B) to the administering of a controlled substance in schedule II, III, IV, or V unless the practitioner regularly engages in the dispensing or administering of controlled substances and charges his patients, either separately or together with charges for other professional services, for substances so dispensed or administered or unless such substance is administered in the course of maintenance treatment or detoxification treatment of an individual;".

SEC. 1210. Section 307 (21 U.S.C. 827) is further amended by adding at the end a new subsection (g) as follows:

"(g) Every registrant under this title shall be required to report any change of professional or business address in such manner as the Attorney General shall by regulation require.".

SEC. 1211. (a) The first sentence of section 401(b)(1)(A) (21 U.S.C. 841(b)(1)(A)) is amended by striking out "controlled substance in schedule I or II which is a narcotic drug" and inserting in lieu thereof "controlled substance in schedule I which is a narcotic drug or a controlled substance in schedule II".

(b) The first sentence of section 401(b)(1)(B) is amended by striking out "or II".

(c) Paragraph (5) of section 401(b) is repealed and paragraph (6) of such section, as amended by section 404(f) of this Act, is redesignated as paragraph (5).

SEC. 517. Section 403(a)(2) (21 U.S.C. 843(a)(2)) is amended to read as follows:

"(2) to use in the course of the manufacture, distribution, or dispensing of a controlled substance, or to use for the purpose of acquiring or obtaining a controlled substance, a registration number which is fictitious, revoked, suspended, expired, or issued to another person.".

SEC. 1213. (a) Section 503(a) (21 U.S.C. 873(a)) is amended by striking out "and" at the end of paragraph (4), by striking out the period at the end of paragraph (5) and inserting in lieu thereof "; and" and by adding at the end the following:

"(6) assist State and local governments in suppressing the diversion of controlled substances from legitimate medical, scientific, and commercial channels by—

"(A) making periodic assessments of the capabilities of State and local governments to adequately control the diversion of controlled substances;

"(B) providing advice and counsel to State and local governments on the methods by which such governments may strengthen their controls against diversion; and

"(C) establishing cooperative investigative efforts to control diversion."

(b) Section 503 is amended by adding at the end the following:

"(d)(1) The Attorney General may make grants, in accordance with paragraph (2), to State and local governments to assist in meeting the costs of—

"(A) collecting and analyzing data on the diversion of controlled substances,

"(B) conducting investigations and prosecutions of such diversions,

"(C) improving regulatory controls and other authorities to control such diversions,

"(D) programs to prevent such diversions,

"(E) preventing and detecting forged prescriptions, and

"(F) training law enforcement and regulatory personnel to improve the control of such diversions.

"(2) No grant may be made under paragraph (1) unless an application therefor is submitted to the Attorney General in such form and manner as the Attorney General may prescribe. No grant may exceed 80 per centum of the costs for which the grant is made, and no grants may be made unless the recipient of the grant provides assurances satisfactory to the Attorney General that it will obligate funds to meet the remaining 20 per centum of such costs. The Attorney General shall review the activities carried out with grants under paragraph (1) and shall report annually to Congress on such activities.

"(3) To carry out this subsection there is authorized to be appropriated $6,000,000 for fiscal year 1985 and $6,000,000 for fiscal year 1986.".

SEC. 1214. Section 511(a) (21 U.S.C. 881(a)), as amended by section 404(a) of this Act, is further amended by inserting after paragraph (7) the following new paragraph:

"(8) All controlled substances which have been possessed in violation of this title.".

SEC. 1215. Section 1002(a)(1) (21 U.S.C. 952(a)(1)) is amended to read as follows:

"(1) such amounts of crude opium, poppy straw, concentrate of poppy straw, and coca leaves as the Attorney General finds to be necessary to provide for medical, scientific, or other legitimate purposes, and".

SEC. 1216. Section 1002(a)(2) (21 U.S.C. 952(a)(2)) is amended by striking out "or" at the end of subparagraph (A), by adding "or" at the end of subparagraph (B), and by adding the following after subparagraph (B):

"(C) in any case in which the Attorney General finds that such controlled substance is in limited quantities exclusively for scientific, analytical, or research uses,".

SEC. 1217. Section 1002(b)(2) (21 U.S.C. 952(b)(2)) is amended to read as follows:

"(2) is imported pursuant to such notification, or declaration, or in the case of any nonnarcotic controlled substance in schedule III, such import permit, notification, or declaration, as the Attorney General may by regulation prescribe, except that if a nonnarcotic controlled substance in schedule IV or V is also listed in schedule I or II of the convention on Psychotropic Substances it shall be imported pursuant to such import permit requirements, prescribed by regulation of the Attorney General, as are required by the Convention.".

SEC. 1218. Section 1003(e) (21 U.S.C. 953(e)) is amended to read as follows:

"(e) It shall be unlawful to export from the United States to any other country any nonnarcotic controlled substance in schedule III or IV or any controlled substances in schedule V unless—

"(1) there is furnished (before export) to the Attorney General documentary proof that importation is not contrary to the laws or regulations of the country of destination for consumption for medical, scientific, or other legitimate purposes;

"(2) it is exported pursuant to such notification or declaration, or in the case of any nonnarcotic controlled substance in schedule III, such export permit, notification, or declaration as the Attorney General may by regulation prescribe; and

"(3) in the case of a nonnarcotic controlled substance in schedule IV or V which is also listed in schedule I or II of the Convention on Psychotropic Substances, it is exported pursuant to such export permit requirements, prescribed by regulation of the Attorney General, as are required by the Convention.".

SEC. 1219. Section 1007(a)(2) (21 U.S.C. 957(a)(2)) is amended to read as follows:

"(2) export from the United States any controlled substance in schedule I, II, III, IV, or V,".

SEC. 1220. Section 1008(b) (21 U.S.C. 958(b)) is amended to read as follows:

"(b) Registration granted under this section shall not entitle a registrant to import or export controlled substances other than specified in the registration.".

SEC. 1221. Section 1008 (21 U.S.C. 958) is further amended by redesignating subsections (d), (e), (f), (g), and (h) as subsections (e), (f), (g), (h), and (i), respectively, and—

(1) by inserting after subsection (c) the following new subsection (d):

"(d)(1) The Attorney General may deny an application for registration under subsection (a) if he is unable to determine that such registration is consistent with the public interest (as defined in subsection (a)) and with the United States obligations under international treaties, conventions, or protocols in effect on the effective date of this part.

"(2) The Attorney General may deny an application for registration under subsection (c), or revoke or suspend a registration under subsection (a) or (c), if he determines that such registration is inconsistent with the public interest (as defined in subsection (a) or (c)) or with the United States obligations under international treaties, conventions, or protocols in effect on the effective date of this part.

"(3) The Attorney General may limit the revocation or suspension of a registration to the particular controlled substance, or substances, with respect to which grounds for revocation or suspension exist.

"(4) Before taking action pursuant to this subsection, the Attorney General shall serve upon the applicant or registrant an order to show cause as to why the registration should not be denied, revoked, or suspended. The order to show cause shall contain a statement of the basis thereof and shall call upon the applicant or registrant to appear before the Attorney General, or his designee, at a time and place stated in the order, but in no event less than thirty days after the date of receipt of the order. Proceedings to deny, revoke, or suspend shall be conducted pursuant to this subsection in accordance with subchapter II of chapter 5 of title 5 of the United States Code. Such proceedings shall be independent of, and not in lieu of, criminal prosecutions or other proceedings under this title or any other law of the United States.

"(5) The Attorney General may, in his discretion, suspend any registration simultaneously with the institution of proceedings under this subsection, in cases where he finds that there is an imminent danger to the public health and safety. Such suspension shall continue in effect until the conclusion of such proceedings, including judicial review thereof, unless sooner withdrawn by the Attorney General or dissolved by a court of competent jurisdiction.

"(6) In the event that the Attorney General suspends or revokes a registration granted under this section, all controlled substances owned or possessed by the registrant pursuant to such registration at the time of suspension or the effective date of the revocation order, as the case may be, may, in the discretion of the Attorney General, be seized or placed under seal. No disposition may be made of any controlled substances under seal until the time for taking an appeal has elapsed or until all appeals have been concluded, except that a court, upon application therefor, may at any time order the sale of perishable controlled substances. Any such order shall require the deposit of the proceeds of the sale with the court. Upon a revocation order becoming final, all such controlled substances (or proceeds of the sale thereof which have been deposited with the court) shall be forfeited to the United States; and the Attorney General shall dispose of such controlled substances in accordance with section 511(e) of the Controlled Substances Act."; and

(2) by striking out "304," in the second sentence of redesignated subsection (e).

Strike out chapter VI and insert the following:

TITLE I—AMENDMENTS TO OMNIBUS CRIME CONTROL AND SAFE STREETS ACT OF 1968

SHORT TITLE

SEC. 101. This Act may be cited as the "Justice Assistance, Missing Children and Juvenile Justice Act of 1984".

SEC. 102. (a) Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3701-2799) is amended to read as follows—

"PART A—OFFICE OF JUSTICE ASSISTANCE

"ESTABLISHMENT OF OFFICE OF JUSTICE ASSISTANCE

"SEC. 101. There is hereby established an Office of Justice Assistance within the Department of Justice under the general authority of the Attorney General. The Office of Justice Assistance (hereinafter referred to in this title as the 'Office') shall be headed by an Assistant Attorney General appointed by the President, by and with the consent of the Senate. The Assistant Attorney General shall have authority to award grants, cooperative agreements, and contracts authorized under parts B, E, and F of this title.

"DUTIES AND FUNCTIONS OF ASSISTANT ATTORNEY GENERAL

"SEC. 102. (a) The Assistant Attorney General shall—

"(1) publish and disseminate information on the conditions and progress of the criminal justice systems;

"(2) maintain liaison with the executive and judicial branches of the Federal and State governments in matters relating to criminal justice;

"(3) provide information to the President, the Congress, the judiciary, State and local governments, and the general public relating to criminal justice;

"(4) maintain liaison with public and private educational and research institutions, State and local governments, and governments of other nations relating to criminal justice;

"(5) provide staff support to coordinate the activities of the Office and the Bureau of Justice Programs, the National Institute of Justice, the Bureau of Justice Statistics, and the Office of Juvenile Justice and Delinquency Prevention;

"(6) exercise the powers and functions set out in part H; and

"(7) exercise such other powers and functions as may be vested in the Assistant Attorney General pursuant to this title or by delegation of the Attorney General.

"(b) The Attorney General shall submit an annual report to the President and to the Congress not later than March 31 of each year. Each annual report shall describe the activities carried out under the provisions of this title and shall contain such findings and recommendations as the Attorney General considers necessary or appropriate after consultation with the Assistant Attorney General and the Directors of the National Institute of Justice and the Bureau of Justice Statistics, and the Advisory Board.

"ADVISORY BOARD

"SEC. 103. (a) There is hereby established a Justice Assistance Board (hereinafter referred to as the 'Board'). The Board shall consist of not more than twenty-one members who shall be appointed by the President. The members shall include representatives of the public, various components of the criminal justice system at all levels of

government, persons experienced in the criminal justice system, including the design, operation and management of programs at the State and local level, and persons who have knowledge and experience concerning the prevention and treatment of juvenile delinquency or the administration of juvenile justice, including such matters as the problems of the family, youth unemployment, school violence and vandalism, and learning disabilities. The President shall designate from among its members a Chairman and Vice Chairman. The Vice Chairman is authorized to sit and act in the place of the Chairman in the absence of the Chairman. The Assistant Attorney General shall be a nonvoting member of the Board and shall not serve as Chairman or Vice Chairman. Vacancies in the membership of the Board shall not affect the power of the remaining members to execute the functions of the Board and shall be filled in the same manner as in the case of an original appointment.

"(b) The Board may make such rules respecting organization and procedures as it deems necessary, except that no recommendation shall be reported from the Board unless a majority of the full Board assents.

"(c) The members of the Board shall serve at the pleasure of the President and shall have no fixed term. The members of the Board shall receive compensation for each day engaged in the actual performance of duties vested in the Board at rates of pay not in excess of the daily equivalent of the highest rate of basic pay then payable in the General Schedule of section 5332(a) of title 5, United States Code, and in addition shall be reimbursed for travel, subsistence, and other necessary expenses.

"(d) The Board shall—

"(1) advise and make recommendations to the Assistant Attorney General on the policies and priorities of the Bureau of Justice Programs, the National Institute of Justice, the Bureau of Justice Statistics, and the Office of Juvenile Justice and Delinquency Prevention in research, statistics and program priorities;

"(2) review demonstration programs funded under part B, and evaluations thereof, and advise the Assistant Attorney General of the results of such review and evaluations; and

"(3) undertake such additional related tasks as the Board may deem necessary.

"(e) In addition to the powers and duties set forth elsewhere in this title, the Assistant Attorney General shall exercise such powers and duties of the Board as may be delegated to the Assistant Attorney General by the Board.

"(f) The Assistant Attorney General shall provide staff support to assist the Board in carrying out its activities.

"PART B—BUREAU OF JUSTICE PROGRAMS

"ESTABLISHMENT OF BUREAU OF JUSTICE PROGRAMS

"SEC. 201. (a) There is established within the Office of Justice Assistance a Bureau of Justice Programs (hereinafter referred to in this part as the 'Bureau').

"(b) The Bureau shall be headed by a Director who shall be appointed by the Attorney General. The Director shall not engage in any employment other than that of serving as the Director, nor shall the Director hold any office in, or act in any capacity for, any organization, agency, or institution with which the Bureau makes any contract or other arrangement under this title. The Director shall have such authority as delegated by the Assistant Attorney General to make grants and enter into contracts to carry out the purposes of Parts B, E and F.

"DUTIES AND FUNCTIONS OF DIRECTOR

"SEC. 202. The Director shall—

"(1) provide funds to eligible States, units of local government and private nonprofit organizations pursuant to part E and part F;

"(2) establish priorities for programs in accordance with part E and, following public announcement of such priorities, award and allocate funds and technical assistance in accordance with the criteria of part F and on terms and conditions determined by the Director to be consistent with part F;

"(3) cooperate with and provide technical assistance to States, units of local government, and other public and private organizations or international agencies involved in criminal justice activities;

"(4) provide for the development of technical assistance and training programs for State and local criminal justice agencies and foster local participation in such activities;

"(5) encourage the targeting of State and local resources on efforts to reduce the incidence of violent crime and on programs relating to the apprehension and prosecution of repeat offenders;

"(6) advise and make recommendations to the Assistant Attorney General on the policies and priorities of the Office relating to the Bureau; and

"(7) exercise such other powers and functions as may be vested in the Director pursuant to this title.

"PART C—NATIONAL INSTITUTE OF JUSTICE

"NATIONAL INSTITUTE OF JUSTICE

"SEC. 301. (a) It is the purpose of this part to establish a National Institute of Justice, which shall provide for and encourage research and demonstration efforts for the purpose of—

"(1) improving Federal, State and local criminal justice systems and related aspects of the civil justice system;

"(2) preventing and reducing crimes;

"(3) ensuring citizen access to appropriate dispute-resolution forums;

"(4) improving efforts to detect, investigate, prosecute, and otherwise combat and prevent white-collar crime and public corruption;

"(5) addressing the unique problem of crime committed against the elderly;

"(6) identifying programs of proven and demonstrated success or programs which are likely to be successful; and

"(7) developing improved strategies for rural areas to better utilize their dispersed resources in combating crime, with particular emphasis on violent crime, juvenile delinquency, and crime prevention.

"(b) The Institute shall have authority to engage in and encourage research and development to improve and strengthen the criminal justice system and related aspects of the civil justice system and to disseminate the results of such efforts to units of Federal, State, and local governments, to develop alternatives to judicial resolution of disputes, to evaluate the effectiveness of programs funded under this title, to develop and demonstrate new or improved approaches and techniques, to improve and strengthen the administration of justice, and to identify programs or projects carried out under this title which have demonstrated success in improving the quality of justice systems and which offer the likelihood of success if continued or repeated. In carrying out the provisions of this part the Institute shall give primary emphasis to the problems of State and local justice systems and ensure that there is a balance between basic and applied research.

"ESTABLISHMENT, DUTIES, AND FUNCTIONS

"SEC. 302. (a) There is established within the Department of Justice under the general authority of the Attorney General, a National Institute of Justice (hereinafter referred to in this title as the 'Institute').

"(b) The Institute shall be headed by a Director appointed by the President, by and with the advice and consent of the Senate. The Director shall have experience in justice research. The Director shall have authority to make grants, cooperative agreements, and contracts awarded by the Institute. The Director shall report to the Attorney General through the Assistant Attorney General who heads the Office. The Institute shall be administered by the Director under the general authority of the Attorney General in accordance with the administrative provisions of part H of this title. The Director shall not engage in any other employment than that of serving as Director; nor shall the Director hold any office in, or act in any capacity for, any organization, agency, or institution with which the Institute makes any contract or other arrangements under this title.

"(c) The Institute is authorized to—

"(1) make grants to, or enter into cooperative agreements or contracts with, States, units of local government or combinations thereof, public agencies, institutions of higher education, private organizations, or individuals to conduct research, demonstration or special projects pertaining to the purposes described in this part, and provide technical assistance and training in support of tests, demonstrations, and special projects;

"(2) conduct or authorize multiyear and short-term research and development concerning the criminal and civil justice systems in an effort—

"(A) to identify alternative programs for achieving system goals;

"(B) to provide more accurate information on the causes and correlates of crime;

"(C) to analyze the correlates of crime and juvenile delinquency and provide more accurate information on the causes and correlates of crime and juvenile delinquency;

"(D) to improve the functioning of the criminal justice system;

"(E) to develop new methods for the prevention and reduction of crime, including but not limited to the development of programs to facilitate cooperation among the States and units of local government, the detection and apprehension of criminals, the expeditious, efficient, and fair disposition of criminal and juvenile delinquency cases, the improvement of police and minority relations, the conduct of research into the problems of victims and witnesses of crime, the feasibility and consequences of allowing victims to participate in criminal justice decisionmaking, the feasibility and desirability of adopting procedures and programs which increase the victim's participation in the criminal justice process, the reduction in the need to seek court resolution of civil disputes, and the development of adequate corrections facilities and effective programs of correction; and

"(F) to develop programs and projects to improve and expand the capacity of States and units of local government and combinations of such units, to detect, investigate, prosecute, and otherwise combat and prevent white-collar crime and public corrup-

tion, to improve and expand cooperation among the Federal Government, States, and units of local government in order to enhance the overall criminal justice system response to white-collar crime and public corruption, and to foster the creation and implementation of a comprehensive national strategy to prevent and combat white-collar crime and public corruption.

In carrying out the provisions of this subsection, the Institute may request the assistance of both public and private research agencies;

"(3) evaluate the effectiveness of projects or programs carried out under this title;

"(4) make recommendations for action which can be taken by units of Federal, State, and local governments and by private persons and organizations to improve and strengthen criminal and civil justice systems;

"(5) provide research fellowships and clinical internships and carry out programs of training and special workshops for the presentation and dissemination of information resulting from research, demonstrations, and special projects including those authorized by this part;

"(6) collect and disseminate information obtained by the Institute or other Federal agencies, public agencies, institutions of higher education, and private organizations relating to the purposes of this part;

"(7) serve as a national and international clearinghouse for the exchange of information with respect to the purposes of this part;

"(8) encourage, assist, and serve in a consulting capacity to Federal, State, and local justice system agencies in the development, maintenance, and coordination of criminal and civil justice programs and services; and

"(9) exercise the powers and functions set out in part H.

"(d) To ensure that all criminal and civil justice research is carried out in a coordinated manner, the Institute is authorized to—

"(1) utilize, with their consent, the services, equipment, personnel, information, and facilities of other Federal, State, local, and private agencies and instrumentalities with or without reimbursement therefore;

"(2) confer with and avail itself of the cooperation, services, records, and facilities of State or of municipal or other local agencies;

"(3) request such information, data, and reports from any Federal agency as may be required to carry out the purposes of this section, and the agencies shall provide such information to the Institute as required to carry out the purposes of this part;

"(4) seek the cooperation of the judicial branches of Federal and State governments in coordinating civil and criminal justice research and development.

"AUTHORITY FOR 100 PER CENTUM GRANTS

"SEC. 303. A grant authorized under this part may be up to 100 per centum of the total cost of each project for which such grant is made. The Institute shall require, whenever feasible, as a condition of approval of a grant under this part, that the recipient contribute money, facilities, or services to carry out the purposes for which the grant is sought.

"PART D—BUREAU OF JUSTICE STATISTICS

"BUREAU OF JUSTICE STATISTICS

"SEC. 401. It is the purpose of this part to provide for and encourage the collection and analysis of statistical information concerning crime, juvenile delinquency, and the operation of the criminal justice system and related aspects of the civil justice system and to encourage the development of information and statistical systems at the Federal, State, and local levels to improve the efforts of these levels of government to measure and understand the levels of crime, juvenile delinquency, and the operation of the criminal justice system and related aspects of the civil justice system. The Bureau shall give primary emphasis to the needs of State and local justice systems, both individually and as a whole.

"ESTABLISHMENT, DUTIES, AND FUNCTIONS

"SEC. 402. (a) There is established within the Department of Justice, under the general authority of the Attorney General a Bureau of Justice Statistics (hereinafter referred to in this part as the 'Bureau').

"(b) The Bureau shall be headed by a Director appointed by the President by and with the advice and consent of the Senate. The Director shall have had experience in statistical programs. The Director shall have authority to make grants, cooperative agreements, and contracts awarded by the Bureau. The Director shall report to the Attorney General through the Assistant Attorney General who heads the Office. The Bureau shall be administered by the Director under the general authority of the Attorney General in accordance with the administrative provisions of part H of this title. The Director shall not engage in any other employment than that of serving as Director; nor shall the Director hold any office in, or act in any capacity for, any organization, agency, or institution with which the Bureau makes any contract or other arrangement under this Act.

"(c) The Bureau is authorized to—

"(1) make grants to, or enter into cooperative agreements or contracts with public agencies, institutions of higher education, private organizations, or private individuals for purposes related to this part; grants shall be made subject to continuing compliance with standards for gathering justice statistics set forth in rules and regulations promulgated by the Director;

"(2) collect and analyze information concerning criminal victimization, including crimes against the elderly, and civil disputes;

"(3) collect and analyze data that will serve as a continuous and comparable national social indication of the prevalence, incidence, rates, extent, distribution, and attributes of crime, juvenile delinquency, civil disputes, and other statistical factors related to crime, civil disputes, and juvenile delinquency, in support of National, State, and local justice policy and decisionmaking;

"(4) collect and analyze statistical information concerning the operations of the criminal justice system at the Federal, State, and local levels;

"(5) collect and analyze statistical information concerning the prevalence, incidence, rates, extent, distribution, and attributes of crime, and juvenile delinquency, at the Federal, State, and local levels.

"(6) analyze the correlates of crime, civil disputes and juvenile delinquency, by the use of statistical information, about criminal and civil justice systems at the Federal, State, and local levels, and about the extent, distribution and attributes of crime, and juvenile delinquency, in the Nation and at the Federal, State, and local levels;

"(7) compile, collate, analyze, publish, and disseminate uniform national statistics concerning all aspects of criminal justice and related aspects of civil justice, crime, including crimes against the elderly, juvenile delinquency, criminal offenders, juvenile delinquents, and civil disputes in the various States;

"(8) recommend national standards for justice statistics and for ensuring the reliability and validity of justice statistics supplied pursuant to this title;

"(9) establish or assist in the establishment of a system to provide State and local governments with access to Federal informational resources useful in the planning, implementation, and evaluation of programs under this Act;

"(10) conduct or support research relating to methods of gathering or analyzing justice statistics;

"(11) provide for the development of justice information systems programs and assistance to the States and units of local government relating to collection, analysis, or dissemination of justice statistics;

"(12) develop and maintain a data processing capability to support the collection, aggregation, analysis and dissemination of information on the incidence of crime and the operation of the criminal justice system;

"(13) collect, analyze and disseminate comprehensive Federal justice transaction statistics (including statistics on issues of Federal justice interest such as public fraud and high technology crime) and to provide assistance to and work jointly with other Federal agencies to improve the availability and quality of Federal justice data;

"(14) ensure conformance with security and privacy requirement of section 810 and identify, analyze and participate in the development and implementation of privacy, security and information policies which impact on Federal and State criminal justice operations and related statistical activities;

"(15) provide information to the President, Congress, Judiciary, State and local governments and the general public on justice statistics;

"(16) maintain liaison with State and local governments and with judicial branches of Federal and State governments in matters relating to justice statistics;

"(17) exercise the powers and functions set out in part H; and

"(18) cooperate in and participate with national and international organizations in the development of uniform justice statistics.

"(d) To ensure that all justice statistical collection, analysis, and dissemination is carried out in a coordinated manner, the Bureau is authorized to—

"(1) utilize, with their consent, the services, equipment, records, personnel, information, and facilities of other Federal, State, local and private agencies and instrumentalities with or without reimbursement therefore, and to enter into agreements with the aforementioned agencies and instrumentalities for purposes of data collection and analysis;

"(2) confer and cooperate with State, municipal, and other local agencies;

"(3) request such information, data, and reports from any Federal agency as may be required to carry out the purposes of this title;

"(4) seek the cooperation of the judicial branch of the Federal Government in gathering data from criminal justice records; and

"(5) encourage replication, coordination and sharing among justice agencies regarding information systems, information policy, and data.

"(e) Federal agencies requested to furnish information, data, or reports pursuant to subsection (d)(3) shall provide such infor-

mation to the Bureau as is required to carry out the purposes of this section.

"(f) in recommending standards for gathering justice statistics under this section, the Bureau shall consult with representatives of State and local government, including, where appropriate, representatives of the judiciary.

"AUTHORITY FOR 100 PER CENTUM GRANTS

"SEC. 403. A grant authorized under this part may be up to 100 per centum of the total cost of each project for which such grant is made. The Bureau shall require, whenever feasible as a condition of approval of a grant under this part, that the recipient contribute money, facilities, or services to carry out the purposes for which the grant is sought.

"USE OF DATA

"SEC. 404. Data collected by the Bureau shall be used only for statistical or research purposes, and shall be gathered in a manner that precludes their use for law enforcement or any purpose relating to a particular individual other than statistical or research purposes.

"PART E—STATE/LOCAL ALLOCATIONS

"DESCRIPTION OF PROGRAM

"SEC. 501. (a) It is the purpose of this part to assist States and units of local government in carrying out specific programs of proven effectiveness or which offer a high probability of improving the functions of the criminal justice systems and which focus primarily on violent crime and serious offenders. The Bureau of Justice Programs (hereinafter referred to in this part as the 'Bureau') is authorized, to make grants under this part to States for the purpose of—

"(1) providing community and neighborhood programs that enable citizens and police to undertake initiatives to prevent and control neighborhood crime;

"(2) disrupting illicit commerce in stolen goods and property;

"(3) combating arson;

"(4) effectively investigating and bringing to trial white-collar crime, organized crime, public corruption crimes, and fraud against the Government;

"(5) identifying and processing within the criminal justice system persons (including juvenile offenders) with a history of serious criminal conduct;

"(6) developing and implementing programs which provide assistance to jurors and witnesses, and assistance (other than compensation) to victims of crimes;

"(7) providing alternatives to pretrial detention, jail, and prison for persons who pose no danger to the community;

"(8) providing programs which identify and meet the needs of drug-dependent offenders;

"(9) providing programs which alleviate prison and jail overcrowding and programs which identify existing State and Federal buildings suitable for prison use;

"(10) improve workload management systems for prosecutors and expedite felony case processing by the courts;

"(11) providing prison industry projects designed to place inmates in a realistic working and training environment in which they will be enabled to acquire marketable skills and to make financial payments for restitution to their victims, for support of their own families, and for support of themselves in the institution;

"(12) with respect to cases involving career criminals and violent crime, expedite the disposition of criminal cases, reform sentencing practices and procedures, and improve court system management;

"(13) provide training, technical assistance, and programs to assist State and local law enforcement authorities in rural areas in combating crime, with particular emphasis on violent crime, juvenile delinquency, and crime prevention;

"(14) address the unique problem of crime committed against the elderly;

"(15) providing for operational information systems which improve the effectiveness of criminal justice agencies;

"(16) implement programs that address critical problems of crime, such as drug trafficking, which have been certified by the Director, after consultation with the Directors of the National Institute of Justice, Bureau of Justice Statistics and the Office of Juvenile Justice and Delinquency Prevention, as having proved successful or which are innovative and have been deemed by the Director as likely to prove successful;

"(17) providing programs which address the problem of serious offenses committed by juveniles; and

"(18) improve the operational effectiveness of law enforcement by integrating and maximizing the effectiveness of police field operations and the use of crime analysis techniques.

"(b)(1) For any fiscal year ending after September 30, 1984, the Federal portion of any grant made under this part shall be 50 per centum of the cost of programs and projects specified in the application for such grant, except that in the case of funds distributed to an Indian tribe which performs law enforcement functions (as determined by the Secretary of the Interior) for any program or project described in subsection (a), the Federal portion may be up to 100 per centum of such cost.

"(2) The non-Federal portion of the cost of such program or project shall be in cash.

"(c) No funds may be given under this title to a grant recipient for a program or project for which funds have been given under this title for four years (in the aggregate), including any period occurring before the effective date of this subsection.

"ELIGIBILITY

"SEC. 502. The Bureau is authorized to make financial assistance under this part available to a State to enable it to carry out all or a substantial part of a program or project submitted and approved in accordance with the provisions of this part.

"APPLICATIONS

"SEC. 503. (a) No grant may be made by the Bureau to a State, or by a State to an eligible recipient pursuant to part E, unless the application sets forth criminal justice programs covering a two-year period which meet the objectives of section 501, designates which objective specified in section 501(a) each such program is intended to achieve, and identifies the State agency or unit of local government which will implement each such program. This application must be amended annually if new programs are to be added to the application or if the programs contained in the original application are not implemented. The application must include—

"(1) an assurance that following the first fiscal year covered by an application and each fiscal year thereafter, the applicant shall submit to the Bureau, where the applicant is a State—

"(A) a performance report concerning the activities carried out pursuant to this title; and

"(B) an assessment by the applicant of the impact of those activities on the objectives of this title and the needs and objectives identified in the applicant's statement;

"(2) a certification that Federal funds made available under this title will not be used to supplant State or local funds, but will be used to increase the amounts of such funds that would, in the absence of Federal funds, be made available for criminal justice activities;

"(3) fund accounting, auditing, monitoring, and such evaluation proceedures as may be necessary to keep such records as the Bureau shall prescribe will be provided to assure fiscal control, proper management, and efficient disbursement of funds received under this title;

"(4) an assurance that the State will maintain such data and information and submit such reports in such form, at such times and containing such data and information as the Bureau may reasonably require to administer other provisions of this title;

"(5) a certification that its programs meet all the requirements of this section, that all the information contained in the application is correct, that there has been appropriate coordination with affected agencies, and that the applicant will comply with all provisions of this title and all other applicable Federal laws. Such certification shall be made in a form acceptable to the Bureau and shall be executed by the chief executive or other officer of the applicant qualified under regulations promulgated by the Bureau;

"(6) satisfactory assurances that equipment, whose purchase was previously made in connection with a program or project in such State assisted under this title and whose cost in the aggregate was $100,000 or more, has been put into use not later than one year after the date set at the time of purchase for the commencement of such use and has continued in use during its useful life;

"(7) an assurance that the State will take into account the needs and requests of units of general local government in the State and encourage local initiative in the development of programs which meet the objective of section 501.

"REVIEW OF APPLICATIONS

"SEC. 504. (a) The Bureau shall provide financial assistance to each State applicant under this part to carry out the programs or projects submitted by such applicant upon determining that the application or amendment thereof is consistent with requirements of this title and with the priorities and criteria established by the Bureau under section 501. Each application or amendment made and submitted for approval to the Bureau pursuant to section 503 of this title shall be deemed approved, in whole or in part, by the Bureau within sixty days after first received unless the Bureau informs the applicant of specific reasons for disapproval.

"(b) The Bureau shall suspend funding for an approved application in whole or in part if such application contains a program or project which has failed to conform to the requirements or statutory objectives of this Act. The Bureau may make appropriate adjustments in the amounts of grants in accordance with its findings pursuant to this subsection.

"(c) Grant funds awarded under this part and part F shall not be used for—

"(1) the purchase of equipment or hardware, or the payment of personnel costs,

unless the cost of such purchases and payments is incurred as an incidental and necessary part of a program under section 501(a);

"(2) programs which have as their primary purpose general salary payments for employees or classes of employees within an eligible jurisdiction, except for the compensation of personnel for time engaged in conducting or undergoing training programs or the compensation of personnel engaged in research, development, demonstration, or short-term programs;

"(3) land acquisition, construction projects; or

"(4) programs or projects which, based upon evaluations by the Bureau, the National Institute of Justice, Bureau of Justice Statistics, State or local agencies, and other public or private organizations, have been demonstrated to offer a low probability of improving the functioning of the criminal justice system. Such programs must be formally identified by a notice in the Federal Register after opportunity for comment.

"(d) The Bureau shall not finally disapprove any application submitted to the Director under this part, or any amendments thereof, without first affording the applicant reasonable notice and opportunity for reconsideration.

"ALLOCATION AND DISTRIBUTION OF FUNDS

"SEC. 505. (a) Of the total amount appropriated for this part and part F in any fiscal year, 80 per centum shall be set aside for this part and 20 per centum shall be set aside for part F. Funds set aside for this part shall be allocated to States as follows:

"(1) $250,000 shall be allocated to each of the participating States.

"(2) Of the total funds remaining for this part after the allocation under paragraph (1) there shall be allocated to each State an amount which bears the same ratio to the amount of remaining funds described in this subparagraph as the population of such State bears to the population of all the States.

"(b)(1) Each State which receives funds under this part in a fiscal year shall distribute among units of local government, or combinations of units of local government, in such State for the purposes specified in section 501(a) not less than that portion of such funds which bears the same ratio to the aggregate amount of such funds as the amount of funds expended by all units of local government for criminal justice in the preceding fiscal year bears to the aggregate amount of funds expended by the State and all units of local government in such State for criminal justice in such preceding fiscal year.

"(2) In distributing funds received under this part among urban, rural and suburban units of loal government and combinations thereof, the State shall give priority to those jurisdictions with the greatest need pursuant to the provisions of this part.

"(3) Any funds not distributed to units of local government under paragraph (1) shall be available for expenditure by the State involved.

"(4) For purposes of determining the distribution of funds under paragraph (1), the most accurate and complete data available for the fiscal year involved shall be used. If data for such fiscal year are not available, then the most accurate and complete data available for the most recent fiscal year preceding such fiscal year shall be used.

"(5) In distributing funds received under this part the State shall make every effort to distribute to units of local government and combinations thereof, the maximum amount of such available funds.

"(c) No funds allocated to a State under subsections (a) or (b) or section (c) may be distributed by the Director or by the State involved for any program other than a program contained in an approved application.

"(d) If the Bureau determines, on the basis of information available to it during any fiscal year, that a portion of the funds allocated to a State for that fiscal year will not be required or that a State will be unable to qualify or receive funds under this part, or that a State chooses not to participate in the program established by this part, then such portion shall be awarded by the Director to urban, rural and suburban units of local government or combinations thereof within such State giving priority to those jurisdictions with greatest need.

"(e) Any funds not distributed under subsections (c) and (d) shall be available for obligation under part F.

"STATE OFFICE

"SEC. 506. (a) The chief executive of each participating State shall designate a State office for purposes of—

"(1) preparing an application to obtain funds under this part; and

"(2) administering funds received from the Bureau of Justice Programs, including receipt, review, processing, monitoring, progress and financial report review, technical assistance, grant adjustments, accounting, auditing, and fund disbursements.

"(b) An office or agency performing other functions within the executive branch of a State may be designated to carry out the functions specified in subsection (a).

"PART F—DISCRETIONARY GRANTS

"PURPOSE

"SEC. 601. (a) The purpose of this part is to provide additional Federal financial assistance to States, units of local government, combinations of such units, and private nonprofit organizations for purposes of—

"(1) educational and training programs for criminal justice personnel;

"(2) providing technical assistance to States and local units of governments;

"(3) projects which are national or multi-State in scope and which address the purposes specified in section 501; and

"(4) providing financial assistance to States, units of local government and private nonprofit organizations for demonstration programs which, in view of previous research or experience, are likely to be a success in more than one jurisdiction and are not likely to be funded with moneys from other sources.

"(b) In carrying out this part, the Bureau is authorized to make grants, enter into cooperative agreements, and contracts with, States, units of local governments or combinations thereof, public agencies, institutions of higher education or private organizations.

"PERCENTAGE OF APPROPRIATION FOR DISCRETIONARY GRANT PROGRAM

"SEC. 602. Of the total amount appropriated for part E and this part in any fiscal year, 20 per centum shall be reserved and set aside for this part in a special discretionary fund for use by the Office in carrying out the purposes specified in section 501. Grants under this part may be made for amounts up to 100 per centum of the costs of the programs or projects contained in the approved application.

"PROCEDURE FOR ESTABLISHING DISCRETIONARY PROGRAMS

"SEC. 603. (a) The Director of the Bureau of Justice Programs shall periodically establish discretionary programs and projects for financial assistance under this part. Such programs and projects shall be considered priorities for a period of time not to exceed three years from the time of such determination.

"(b) Such Director shall annually request the National Institute of Justice, the Bureau of Justice Statistics, the Office of Juvenile Justice and Delinquency Prevention, the Office of Justice Assistance, State and local governments, and other appropriate public and private agencies to suggest discretionary programs and projects. Such Director shall then, pursuant to regulations, annually publish the proposed priorities pursuant to this part and invite and encourage public comment concerning such priorities. Priorities shall not be established or modified until such Director has provided at least sixty days advance notice for such public comment and such Director shall encourage and invite recommendations and opinion concerning such priorities from appropriate agencies and officials of State and units of local government. After considering any comments submitted during such period of time and after consultation with appropriate agencies and officials of State and units of local government, such Director shall determine whether existing established priorities should be modified. Such Director shall publish in the Federal Register the priorities established pursuant to this part, as amended by the Justice Assistance Act of 1984, for fiscal year 1984 and each fiscal year thereafter for which appropriations will be available to carry out the program.

"CRITERIA FOR AWARD

"SEC. 604. (a) No grant may be made pursuant to this part unless an application has been submitted to the Bureau in which the applicant—

"(1) sets forth a program or project which is eligible for funding pursuant to this part;

"(2) describes the services to be provided, performance goals and the manner in which the program is to be carried out;

"(3) describes the method to be used to evaluate the program or project in order to determine its impact and effectiveness in achieving the stated goals and agrees to conduct such evaluation according to the procedures and terms established by the Bureau of Justice Statistics or the National Institute of Justice;

"(4) indicates, if it is a private nonprofit organization, that it has consulted with appropriate agencies and officials of the State and units of local government to be affected by the program or project.

"(b) Each applicant for funds under this part shall certify that its program or project meets all the requirements of this section, that all the information contained in the application is correct, and that the applicant will comply with all the provisions of this title and all other applicable Federal laws. Such certification shall be made in a form acceptable to the Bureau.

"PERIOD FOR AWARD

"SEC. 605. The Bureau may provide financial aid and assistance to programs or projects under this part for a period not to exceed three years. Grants made pursuant to this part may be extended or renewed by

the Bureau for an additional period of up to two years if—

"(1) an evaluation of the program or project indicates that it has been effective in achieving the stated goals or offers the potential for improving the functioning of the criminal justice system; and

"(2) the State, unit of local government, or combination thereof and private nonprofit organizations within which the program or project has been conducted agrees to provide at least one-half of the total cost of such program or project from part E funds or from any other source of funds, including other Federal grants, available to the eligible jurisdiction. Funding for the management and the administration of national nonprofit organizations under section 601(c) of this part is not subject to the funding limitations of this section.

"PART G—CRIMINAL JUSTICE FACILITY CONSTRUCTION: PILOT PROGRAM

AUTHORITY FOR PAYMENTS

"SEC. 701. In order to relieve emergency overcrowding conditions at State and local correctional facilities, the Director of the Bureau of Justice Programs (hereinafter in this part referred to as the Director") is authorized to make grants to a State or political subdivision thereof, in the amount of 20 percent of the cost of construction of a correctional facility project approved under this part.

"DEFINITIONS

"SEC. 702. For the purposes of this part—

"(1) the term 'correctional facility project' means a project for the construction, replacement, alteration or expansion of a prison, jail, or juvenile detention facility, for the purpose of significantly expanding inmate capacity and relieving overcrowding; and

"(2) the term 'cost of construction' means all expenses found necessary by the Director for the construction of the project, including architect and engineering fees, but excluding land acquisition costs.

"ELIGIBILITY

"SEC. 703. (a) A State or political subdivision thereof shall be eligible for assistance under this part in connection with a correctional facility project only—

"(1) where the Director has made a determination that such project substantially constitutes a prototype of new and innovative methods and designs that will stand as examples of technology for avoiding delay and reducing costs in correctional facility design and improvement; and

"(2) for one such project in any State in any fiscal year.

"APPLICATION; APPROVAL; PAYMENT

"SEC. 704. (a) A State or political subdivision thereof desiring to receive assistance under this part for a correctional facility project shall submit to the Director an application which shall include—

"(1) a detailed description of the correctional facility to be constructed, altered or expanded, including a description of the site of such facility;

"(2) an estimate of the total cost of the construction of such project, including the amount of assistance requested for such project;

"(3) reasonable assurance that title to such site is or will be vested soley in the applicant, or another agency or instrumentality of the applicant; and

"(4) reasonable assurance that adequate financial support will be available for the construction of the project and for its maintenance and operation when complete.

"(b)(1) The Director may approve any such application if the Director finds that—

"(A) there are sufficient funds available to provide the assistance requested;

"(B) such assistance does not exceed 20 percent of the estimated total cost of construction;

"(C) the application contains such reasonable assurances as may be required under subsection (a); and

"(D) the eligibility criteria of section 703 are met.

"(2) In approving applications under this subsection, the Director shall—

"(A) give primary consideration to the needs of States which have made satisfactory assurances that they have implemented, or are in the process of implementing, significant measures to reduce overcrowding and improve conditions of confinement in State and local correctional facilities, through legislative, executive, or judicial initiatives;

"(B) consider the extent of the applicant's compliance, or likelihood of future compliance based upon receipt of satisfactory assurances from the applicant, with the standards and recommendations of the clearinghouse on the construction and modernization of correctional facilities established under section 706;

"(C) consider the extent to which population levels or conditions of confinement in State or local correctional facilities have been determined, by adjudication, consent decree, or any other determination made on the record after opportunity for an agency hearing, to be in violation of the Federal Constitution, or State statutes, codes, or standards;

"(D) consider the numbers and general characteristics of the inmate population (to include factors such as offender ages, offenses, average term of incarceration, and custody status); and

"(E) endeavor to achieve equitable distribution of funds available for purposes of carrying out this part among the several States based upon consideration of the relative needs of each State.

"(c) Upon approving an application under this section, the Director shall award the amount of assistance so approved, but in no event an amount greater than 20 percent of the cost of construction of the approved correctional facility project, and shall provide for payment to the applicant or, if designated by the applicant, any agency or instrumentality of the applicant. Such amount shall be paid, in advance or by way of reimbursement, and in such installments consistent with the progress old construction as the Director may determine. Funds paid under this subsection for the construction of an approved project shall be used solely for carrying out such project as so approved.

"(d) Any amendment of any application, whether or not approved, shall be subject to approval in the same manner as an original application.

"RECAPTURE PROVISIONS

"SEC. 705. If, within twenty years after completion of any correctional facility project with respect to which assistance has been provided under this section, such facilities cease to be operated as a correctional facility, the United States may recover from the State, or from the then owner of such facility, any amount up to 20 percent of the then value of such project (but in no event an amount greater than the amount of assistance provided under this part for such project), as determined by agreement of the parties or by action brought in the district court of the United States for the district in which such facility is situated.

"CLEARINGHOUSE ON THE CONSTRUCTION AND MODERNIZATION OF CRIMINAL JUSTICE FACILITIES

"SEC. 706. (a) The Director shall provide for the operation of a clearinghouse on the construction and modernization of correctional facilities, which shall collect, prepare, and disseminate to the public and to interested State and local entities information, including recommendations, pertaining to the construction and modernization of correctional facilities, including but not limited to—

"(1) information regarding new and innovative methods and designs that will stand as examples of technology for avoiding delay and reducing costs in correctional facility design and improvement;

"(2) information concerning ways in which construction planning program may be used to improve the administration of the criminal justice system within each State;

"(3) recommended minimum standards concerning construction materials and methods, to be updated from time to time to reflect technological advances;

"(4) the cost-effectiveness of available construction materials, methods and design technologies;

"(5) the training of correctional facility personnel; and

"(6) health and safety considerations in construction planning.

(b) The Director is authorized to enter into grants or contracts with private organizations, and interagency agreements with the National Institute of Corrections, the National Institute of Justice, the Bureau of Justice Statistics or other appropriate public entity, to operate the clearinghouse required under this section.

"PART H—ADMINISTRATIVE PROVISIONS

"ESTABLISHMENT OF RULES AND DELEGATION OF FUNCTIONS

"SEC. 801. (a) The Office of Justice Assistance, the National Institute of Justice, and the Bureau of Justice Statistics are authorized, after appropriate consultation with representatives of States and units of local government, to establish such rules, regulations, and procedures as are necessary to the exercise of the functions of the Office, the Bureau of Justice Programs, the Institute, and the Bureau of Justice Statistics, and as are consistent with the stated purpose of this title.

"(b) The Office of Justice Assistance shall, after consultation with the Bureau of Justice Programs, the National Institute of Justice, the Bureau of Justice Statistics, the Office of Juvenile Justice and Delinquency Prevention, State and local governments, and the appropriate public and private agencies, establish such rules and regulations as are necessary to assure the continuing evaluation or monitoring of selected programs or projects conducted pursuant to parts E and F, in order to determine—

"(1) whether such programs or projects have achieved the performance goals stated in the original application, are of proven effectiveness, have a record of proven success, or offer a high probability of improving the criminal justice system;

"(2) whether such programs or projects have contributed or are likely to contribute

to the improvement of the criminal justice system and the reduction and prevention of crime;

"(3) their cost in relation to their effectiveness in achieving stated goals;

"(4) their impact on communities and participants; and

"(5) their implication for related programs.

In conducting evaluations described in this subsection, the Institute shall, when practical, compare the effectiveness of programs conducted by similar applicants and different applicants. The Office of Justice Assistance shall also require applicants under part E to submit an annual performance report concerning activities carried out pursuant to part E together with an assessment by the applicant of the effectiveness of those activities in achieving the objectives of section 501 of this title and the relationships of those activities to the needs and objectives specified by the applicant in the application submitted pursuant to section 503 of this title. The Office shall suspend funding for an approved application under part E if an applicant fails to submit such an annual performance report.

"(c) The procedures established to implement the provisions of this title shall minimize paperwork and prevent needless duplication and unnecessary delays in award and expenditure of funds at all levels of government.

"NOTICE AND HEARING ON DENIAL OR TERMINATION OF GRANT

"SEC. 802. (a) Whenever, after reasonable notice and opportunity for a hearing on the record in accordance with section 554 of title 5, United States Code, the Office, the Institute, and the Bureau of Justice Statistics find that a recipient of assistance under this title has failed to comply substantially with—

"(1) any provisions of this title;

"(2) any regulations or guidelines promulgated under this title; or

"(3) any application submitted in accordance with the provisions of this title, or the provisions of any other applicable Federal Act;

they, until satisfied that there is no longer any such failure to comply, shall terminate payments to the recipient under this title, reduce payments to the recipient under this title by an amount equal to the amount of such payments which were not expended in accordance with this title, or limit the availability of payments under this title to programs, projects, or activities not affected by such failure to comply.

"(b) If any grant under this title has been terminated, the Bureau of Justice Programs, the National Institute of Justice or the Bureau of Justice Statistics, as appropriate, shall notify the grantee of its action and set forth the reason for the action taken. Whenever such a grantee requests a hearing, the Office, the Institute, or the Bureau of Justice Statistics, or any authorized officer thereof, is authorized and directed to hold such hearings or investigations, including hearings on the record in accordance with section 554 of title 5, United States Code, at such times and places as necessary, following appropriate and adequate notice to such grantee; and the findings of fact and determinations made with respect thereto shall be final and conclusive, except as otherwise provided herein. The Office, the Institute, or the Bureau of Justice Statistics is authorized to take final action without a hearing if after an administrative review of the termination it is determined that the basis for the appeal, if substantiated, would not establish a basis for continuation of the grant. Under such circumstances, a more detailed statement of reasons for the agency action should be made available, upon request, to the grantee.

"(c) If such recipient is dissatisfied with the findings and determinations of the Office, the Institute, or the Bureau of Justice Statistics following notice and hearing provided for in subsection (a) of this section, a request may be made for rehearing, under such regulations and procedure as the Office, the Institute, or the Bureau of Justice Statistics may establish, and such recipient shall be afforded an opportunity to present such additional information as may be deemed appropriate and pertinent to the matter involved.

"FINALITY OF DETERMINATIONS

"SEC. 803. In carrying out the functions vested by this title in the Office, the Institute, or the Bureau of Justice Statistics its determinations, findings, and conclusions shall, after reasonable notice and opportunity for a hearing, be final and conclusive upon all grants.

"SUBPOENA POWER; AUTHORITY TO HOLD HEARINGS

"SEC. 804. The Office, the Institute, or the Bureau of Justice Statistics may appoint such hearing examiners or administrative law judges or request the use of such administrative law judges selected by the Office of Personnel Management pursuant to section 3344 of title 5, United States Code, as shall be necessary to carry out the powers and duties under this title. The Office, the Institute, or the Bureau of Justice Statistics or upon authorization, any member thereof or any hearing examiner or administrative law judge assigned to or employed thereby shall have the power to hold hearings and issue subpoenas, administer oaths, examine witnesses, and receive evidence at any place in the United States it may designate.

"PERSONNEL AND ADMINISTRATIVE AUTHORITY

"SEC. 805. (a) The Office is authorized to select, appoint, employ and fix compensation of such officers and employees as shall be necessary to carry out the powers and duties of the Office, the Bureau of Justice Programs, the Institute, and the Bureau of Justice Statistics under this title.

"(b) The Office, the Bureau of Justice Programs, the Institute, and the Bureau of Justice Statistics are authorized, on a reimbursable basis when appropriate, to use the available services, equipment, personnel, and facilities of Federal, State, and local agencies to the extent deemed appropriate after giving due consideration to the effectiveness of such existing services, equipment, personnel, and facilities.

"(c) The Office may arrange with and reimburse the heads of other Federal departments and agencies for the performance of any of the functions under this title.

"(d) The Office, the Bureau of Justice Programs, the Institute, and the Bureau of Justice Statistics in carrying out their respective functions may use grants, contracts, or cooperative agreements in accordance with the standards established in the Federal Grant and Cooperative Agreement Act of 1977 (41 U.S.C. 501 et seq.).

"(e) The Office may procure the services of experts and consultants in accordance with section 3109 of title 5, United States Code, relating to appointments in the Federal service, at rates of compensation for individuals not to exceed the daily equivalent of the rate authorized for GS-18 by section 5332 of title 5, United States Code.

"(f) The Office is authorized to appoint pursuant to the Advisory Committee Management Act, but without regard to the remaining provisions of title 5, United States Code, technical or other advisory committees to advise it with respect to the administration of this title as it deems necessary. Members of those committees not otherwise in the employ of the United States, while engaged in advising or attending meetings of the committees, shall be compensated at rates to be fixed by the Office but not exceed the daily equivalent of the rate authorized for GS-18 by section 5332 of title 5 of the United States Code, and while away from home or regular place of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of such title 5 for persons in the Government service employed intermittently.

"(g) Payments under this title may be made in installments, and in advance or by way of reimbursement, as may be determined by the Office, and may be used to pay the transportation and subsistence expenses of persons attending conferences or other assemblages notwithstanding the provisions of the joint resolution entitled 'Joint resolution to prohibit expenditure of any moneys for housing, feeding, or transporting conventions or meetings', approved February 2, 1935 (31 U.S.C. 551).

"(h) The Office is authorized to accept and employ, in carrying out the provisions of this title, voluntary and uncompensated services notwithstanding the provisions of section 3679(b) of the Revised Statutes (31 U.S.C. 665(b)). Such individuals shall not be considered Federal employees except for purposes of chapter 81 of title 5, United States Code, with respect to job-incurred disability and title 28, United States Code, with respect to tort claims.

"TITLE TO PERSONAL PROPERTY

"SEC. 806. Notwithstanding any other provision of law, title to all expendable and nonexpendable personal property purchased with funds made available under this title, including such property purchased with funds made available under this title as in effect before the date of the enactment of this Act, shall vest in the criminal justice agency or nonprofit organization that purchased the property if it certifies to the State office described in section 506 that it will use the property for criminal justice purposes. If such certification is not made, title to the property shall vest in the State office, which shall seek to have the property used for criminal justice purposes elsewhere in the State prior to using it or disposing of it in any other manner.

"PROHIBITION OF FEDERAL CONTROL OVER STATE AND LOCAL CRIMINAL JUSTICE AGENCIES

"SEC. 807. Nothing in this title or any other Act shall be construed to authorize any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over any police force or any other criminal justice agency of any State or any political subdivision thereof.

"NONDISCRIMINATION

"SEC. 808. (a) No person in any State shall on the ground of race, color, religion, national origin, or sex be excluded from participation in, be denied the benefits of or be subjected to discrimination under or denied

employment in connection with any programs or activity funded in whole or in part with funds made available under this title.

"(b) Notwithstanding any other provision of law, nothing contained in this title shall be construed to authorize the Office of Justice Assistance—

"(1) to require, or condition the availability or amount of a grant upon the adoption by an applicant or grantee under this title of a percentage ratio, quota system, or other program to achieve racial balance in any criminal justice agency; or

"(2) to deny or discontinue a grant because of the refusal of an applicant or grantee under this title to adopt such a ratio, system or other program.

"(c) Whenever the Attorney General has reason to believe that a State government or unit of local government has engaged in or is engaging in a pattern or practice in violation of the provisions of this section, the Attorney General may bring a civil action in an appropriate United States district court. Such a court may grant as relief any temporary restraining order, preliminary or permanent injunction, or other order, as necessary or appropriate to insure the full enjoyment of the rights described in this section, including the suspension, termination, or repayment of such funds made available under this title as the court may deem appropriate, or placing any further such funds in escrow pending the outcome of the litigation.

"(d) Whenever the Attorney General files a civil action alleging a pattern or practice of discriminatory conduct on the basis of race, color, religion, national origin, or sex in any program or activity of State government or unit of local government which State government or unit of local government receives funds made available under this title, and the conduct allegedly violates the provisions of this section and neither party within forty-five days after such filing has been granted such preliminary relief with regard to the suspension or repayment of funds as may be otherwise available by law, the Office of Justice Assistance shall cause to have suspended further payment of any funds under this title to that specific program or activity alleged by the Attorney General to be in violation of the provisions of this subsection until such time as the court orders resumption of payment.

"RECORDKEEPING REQUIREMENT

"SEC. 809. (a) Each recipient of funds under this title shall keep such records as the Office shall prescribe, including records which fully disclose the amount and disposition by such recipient of the funds, the total cost of the project or undertaking for which such funds are used, and the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

"(b) The Office or any of its duly authorized representatives, shall have access for purpose of audit and examination of any books, documents, papers, and records of the recipients of funds under this title which in the opinion of the Office may be related or pertinent to the grants, contracts, subcontracts, subgrants, or other arrangements referred to under this title.

"(c) The Comptroller General of the United States or any of his duly authorized representatives, shall, until the expiration of three years after the completion of the program or project with which the assistance is used, have access for the purpose of audit and examination to any books, documents, papers, and records of recipients of Federal funds under this title which in the opinion of the Comptroller General may be related or pertinent to the grants, contracts, subcontract, subgrants, or other arrangements referred to under this title.

"(d) The provisions of this section shall apply to all recipients of assistance under this title, whether by direct grant, cooperative agreement, or contract under this title or by subgrant or subcontract from primary grantees or contractors under this title.

"CONFIDENTIALITY OF INFORMATION

"SEC. 810. (a) Except as provided by Federal law other than this title, no officer or employee of the Federal Government, and no recipient of assistance under the provisions of this title shall use or reveal any research or statistical information furnished under this title by any person and identifiable to any specific private person for any purpose other than the purpose for which it was obtained in accordance with this title. Such information and copies thereof shall be immune from legal process, and shall not, without the consent of the person furnishing such information, be admitted as evidence or used for any purpose in any action, suit, or other judicial, legislative, or administrative proceedings.

"(b) All criminal history information collected, stored, or disseminated through support under this title shall contain, to the maximum extent feasible, disposition as well as arrest data where arrest data is included therein. The collection, storage, and dissemination of such information shall take place under procedures reasonably designed to insure that all such information is kept current therein; the Office shall assure that the security and privacy of all information is adequately provided for and that information shall only be used for law enforcement and criminal justice and other lawful purposes. In addition, an individual who believes that criminal history information concerning him contained in an automated system is inaccurate, incomplete, or maintained in violation of this title, shall, upon satisfactory verification of his identity, be entitled to review such information and to obtain a copy of it for the purpose of challenge or correction.

"(c) All criminal intelligence systems operating through support under this title shall collect, maintain, and disseminate criminal intelligence information in conformance with policy standards which are prescribed by the Office and which are written to assure that the funding and operation of these systems furthers the purpose of this title and to assure that such systems are not utilized in violation of the privacy and constitutional rights of individuals.

"(d) Any person violating the provisions of this section, or of any rule, regulation, or order issued thereunder, shall be fined not to exceed $10,000, in addition to any other penalty imposed by law.

"PART I—DEFINITIONS

"SEC. 901. As used in this title—

"(1) 'criminal justice' means activities pertaining to crime prevention, control, or reduction, or the enforcement of the criminal law, including, but not limited to, police efforts to prevent, control, or reduce crime or to apprehend criminals, including juveniles, activities of courts having criminal jurisdiction, and related agencies (including but not limited to prosecutorial and defender services, juvenile delinquency agencies and pretrial service or release agencies), activities of corrections, probation, or parole authorities and related agencies assisting in the rehabilitation, supervision, and care of criminal offenders, and programs relating to the prevention, control, or reduction of narcotic addiction and juvenile delinquency;

"(2) 'State' means any State of the United States, the District of Columbia, the United States Virgin Islands, and the Commonwealth of Puerto Rico;

"(3) 'unit of local government' means any city, county, township, town, borough, parish, village, or other general purpose political subdivision of a State, an Indian tribe which performs law enforcement functions as determined by the Secretary of the Interior, any agency of the District of Columbia government or the United States performing law enforcement functions in and for the District of Columbia, and Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands;

"(4) 'public agency' means any State, unit of local government, combination of such States or units, or any department, agency, or instrumentality of any of the foregoing;

"(5) 'criminal history information' includes records and related data, contained in an automated or manual criminal justice information system, compiled by law enforcement agencies for the purpose of identifying criminal offenders and alleged offenders and maintaining as to such persons records of arrests, the nature and disposition of criminal charges, sentencing, confinement, rehabilitation, and release;

"(6) 'evaluation' means the administration and conduct of studies or analyses of data to determine the impact and value of a project or program in accomplishing the statutory objectives of this title;

"(7) 'Attorney General' means the Attorney General of the United States or his designee;

"(8) 'Assistant Attorney General' means the Assistant Attorney General for Justice Assistance.

"PART J—FUNDING

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 1001. (a) There is authorized to be appropriated to carry out the functions of the Bureau of Justice Statistics such sums as are necessary for the fiscal years ending September 30, 1984, September 30, 1985, September 30, 1986, September 30, 1987, and September 30, 1988. There is authorized to be appropriated to carry out the functions of the National Institute of Justice such sums as are necessary for the fiscal years ending September 30, 1985, September 30, 1986, September 30, 1987, and September 30, 1988. There is authorized to be appropriated for parts A, B, E, F, and H, and for the purposes of carrying out the remaining function of the Office of Justice Assistance other than parts K and M, such sums as are necessary for the fiscal years ending September 30, 1984, September 30, 1985, September 30, 1986, September 30, 1987, and September 30, 1988. There are authorized to be appropriated amounts not to exceed in total $25,000,000 for each of the fiscal years ending September 30, 1985, September 30, 1986, September 30, 1987, and September 30, 1988, for the purposes of carrying out the functions and activities of the Bureau of Justice Programs as set forth in part G. Funds appropriated for any fiscal year may remain available for obligation until expended. There is authorized to be appropriated in each fiscal year such sums as may be necessary to carry out the purposes of part K and part M.

"(b) Notwithstanding any other provision of law, no funds appropriated under this section for parts D and E of this title may be transferred or reprogrammed for carrying out any activity which is not authorized under such parts.

"PART K—PUBLIC SAFETY OFFICERS' DEATH BENEFITS

"PAYMENTS

"SEC. 1101. (a) In any case in which the Office determines, under regulations issued pursuant to this part, that a public safety officer has died as the direct and proximate result of a personal injury sustained in the line of duty, the Office shall pay a benefit of $50,000 as follows:

"(1) if there is no surviving child of such officer, to the surviving spouse of such officer;

"(2) if there is a surviving child or children and a surviving spouse, one-half to the surviving child or children of such officer in equal shares and one-half to the surviving spouse;

"(3) if there is no surviving spouse, to the child or children of such officer in equal shares; or

"(4) if none of the above, to the dependent parent or parents of such officer in equal shares.

"(b) Whenever the Office determines upon showing of need and prior to final action that the death of a public safety officer is one with respect to which a benefit will probably be paid, the Office may make an interim benefit payment not exceeding $3,000 to the person entitled to receive a benefit under subsection (a) of this section.

"(c) The amount of an interim payment under subsection (b) shall be deducted from the amount of any final benefit paid to such person.

"(d) Where there is no final benefit paid, the recipient of any interim payment under subsection (b) shall be liable for repayment of such amount. The Office may waive all or part of such repayment, considering for this purpose the hardship which would result from such repayment.

"(e) The benefit payable under this part shall be in addition to any other benefit that may be due from any other source, except—

"(1) payments authorized by section 12(k) of the Act of September 1, 1916, as amended (D.C. Code, sec. 4-531(1)); or

"(2) benefits authorized by section 8191 of title 5, United States Code; such beneficiaries shall only receive benefits under that section that are in excess of the benefits received under this part.

"(f) No benefit paid under this part shall be subject to execution or attachment.

"LIMITATIONS

"SEC. 1102. No benefit shall be paid under this part—

"(1) if the death was caused by the intentional misconduct of the public safety officer or by such officer's intention to bring about his death;

"(2) if the public safety officer was voluntarily intoxicated at the time of his death;

"(3) if the public safety officer was perfoming his duties in a grossly negligent manner at the time of his death; or

"(4) to any person who would otherwise be entitled to a benefit under this person's actions were a substantial contributing factor to the death of the public safety officer.

"(5) to any individual employed in a capacity other than a civilian capacity.

"DEFINITIONS

"SEC. 1103. As used in this part—

"(1) 'child' means any natural, illegitimate, adopted, or posthumous child or stepchild of a deceased public safety officer who, at the time of the public safety officer's death, is—

"(i) eighteen years of age or under;

"(ii) over eighteen years of age and a student as defined in section 8101 of title 5, United States Code; or

"(iii) over eighteen years of age and incapable of self-support because of physical or mental disability;

"(2) 'dependent' means a person who was substantially reliant for support upon the income of the deceased public safety officer;

"(3) 'firefighter' includes a person serving as an officially recognized or designated member of a legally organized volunteer fire department and an officially recognized or designated public employee member of a rescue squad or ambulance crew who was responding to a fire or police emergency;

"(4) 'intoxication' means a disturbance of mental or physical faculties resulting from the introduction of alcohol into the body as evidenced by—

"(i) a post-mortem blood alcohol level of .20 per centum or greater;

"(ii) a post-mortem blood alcohol level of at least .10 per centum but less than .20 per centum, unless the Office receives convincing evidence that the public safety officer was not acting in an intoxicated manner immediately prior to his death;

or resulting from drugs or other substances in the body;

"(5) 'law enforcement officer' means a person involved in crime and juvenile delinquency control or reduction, or enforcement of the laws, including, but not limited to, police, corrections, probation, parole, and judicial officers;

"(6) 'public agency' means the United States, any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, the Commonwealth of the Northern Mariana Islands, and any territory or possession of the United States, or any unit of local government, department, agency, or instrumentality of any of the foregoing; and

"(7) 'public safety officer' means a person serving a public agency in an official capacity, with or without compensation, as a law enforcement officer or a firefigher.

"ADMINISTRATIVE PROVISIONS

"SEC. 1104. (a) The Office is authorized to establish such rules, regulations, and procedures as may be necessary to carry out the purposes of this part. Such rules, regulations, and procedures will be determinative of conflict of laws issues arising under this part. Rules, regulations, and procedures issued under this part may include regulations governing the recognition of agents or other persons representing claimants under this part before the Office. The Office may prescribe the maximum fees which may be charged for services performed in connection with any claim under this part before the Office, and any agreement in violation of such rules and regulations shall be void.

"(b) In making determinations under section 1101, the Office may utilize such administrative and investigative assistance as may be available from State and local agencies. Responsibility for making final determinations shall rest with the Office.

"(c) The provisions of Part K as contained in this Act shall take effect with respect to injuries sustained on or after October 1, 1984.

"JUDICIAL REVIEW

"SEC. 1105. The United States Claims Court shall have exclusive jurisdiction over all actions seeking review of the final decisions of the Office under this part.

"PART L—FBI TRAINING OF STATE AND LOCAL CRIMINAL JUSTICE PERSONNEL

"SEC. 1201. (a) The Director of the Federal Bureau of Investigation is authorized to—

"(1) establish and conduct training programs at the Federal Bureau of Investigation National Academy at Quantico, Virginia, to provide, at the request of a State or unit of local government, training for State and local criminal justice personnel;

"(2) develop new or improved approaches, techniques, systems, equipment, and devices to improve and strengthen criminal justice; and

"(3) assist in conducting, at the request of a State or unit of local government, local and regional training programs for the training of State and local criminal justice personnel engaged in the investigation of crime and the apprehension of criminals. Training for rural criminal justice personnel shall include, where appropriate, effective use of regional resources and methods to improve coordination among criminal justice personnel in different areas and in different levels of government. Such training shall be provided only for persons actually employed as State police or highway patrol, police of a unit of local government, sheriffs, and their deputies, and other persons as the State or unit may nominate for police training while such persons are actually employed as officers of such State or unit.

"(b) In the exercise of the functions, powers, and duties established under this section the Director of the Federal Bureau of Investigation shall be under the general authority of the Attorney General.

"(c) Notwithstanding the provisions of subsection (a), the Secretary of the Treasury is authorized to fund and continue to develop, establish and conduct training programs at the Federal Law Enforcement Training Center at Glynco, Georgia, to provide, at the request of a State or unit of local government, training for State and local criminal justice personnel so long as that training does not interfere with the Center's mission to train Federal law enforcement personnel.

"PART M—EMERGENCY FEDERAL LAW ENFORCEMENT ASSISTANCE

"APPLICATION REQUIREMENTS

"SEC. 1301. (a) The Attorney General is authorized to receive from the chief executive of any State a request for designation of a State or local jurisdiction as a law enforcement emergency jurisdiction. Such application shall be submitted in such manner and containing or accompanied by such information as the Attorney General may prescribe. Such application for designation as a law enforcement emergency jurisdiction shall be evaluated by the Attorney General according to such criteria, and on such terms and conditions as he shall establish and shall publish in the Federal Register prior to the beginning of fiscal year 1985 and each fiscal year thereafter for which appropriations will be available to carry out the program.

"(b) The Attorney General shall, in accordance with the criteria established, approve or disapprove such application not later than ten days after receiving such application.

"ASSISTANCE PROVIDED

"SEC. 1302. (a) Upon a finding by the Attorney General that a law enforcement emergency exists in accordance with the provisions of section 1301 of this title, the Federal law enforcement community is authorized to provide emergency assistance for the duration of the emergency. The cost of such assistance may be paid by the Office of Justice Assistance from funds appropriated under this part, in accordance with procedures established by the Office and the heads of the participating Federal law enforcement agencies and with the approval of the Attorney General.

"(b) Upon such finding by the Attorney General, the Office of Justice Assistance may provide technical assistance, funds for the lease or rental of specialized equipment and other forms of emergency assistance to the jurisdiction, except that no funds may be used to pay the salaries of local criminal justice personnel or otherwise supplant State or local funds that would in the absence of such Federal funds be made available for law enforcement. The cost of assistance provided under this section shall be paid by the Office of Justice Assistance from funds appropriated under this part. The Federal share of such assistance may be up to 100 per centum of project costs.

"DEFINITIONS

"SEC. 1303. For the purposes of this part—

"(1) the term 'Federal law enforcement assistance' means equipment, training, intelligence information, and technical expertise;

"(2) the term 'Federal law enforcement community' means the heads of the following departments or agencies:

"(A) the Department of Justice,

"(B) the Internal Revenue Service,

"(C) the Customs Service,

"(D) The National Park Service,

"(E) The Secret Service,

"(F) the Coast Guard,

"(G) the Bureau of Alcohol, Tobacco and Firearms,

"(H) other Federal agencies with specific statutory authority to investigate violations of Federal criminal laws;

"(3) the term 'State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands.

"(4) the term 'law enforcement emergency' means an uncommon situation in which state and local resources are inadequate to protect the lives and property of citizens or enforce the criminal law.

"ADMINISTRATIVE REQUIREMENT

"SEC. 1304. The recordkeeping and administrative requirements of sections 808, 809 and 810 shall apply to funds provided under this part.

"LIMITATION OF AUTHORITY

"SEC. 1305. (a) Nothing is this part authorizes the use of Federal law enforcement personnel to investigate violations of criminal law other than violations with respect to which investigation is authorized by other provisions of law.

"(b) Nothing in this part shall be construed to authorize the Attorney General or the Federal law enforcement community to exercise any direction, supervision, or control over any police force or other criminal justice agency of an applicant for Federal law enforcement assistance.

"(c) Nothing in this part shall be construed to authorize the Attorney General or the Federal law enforcement community—

"(1) to condition the availability or amount of Federal law enforcement assistance upon the adoption by an applicant for such assistance of, or

"(2) to deny or discontinue such assistance upon the failure of such applicant to adopt, a percentage ratio, quota system or other program to achieve racial balance in any criminal justice agency of such applicant.

"(d) No funds provided under this part may be used to supplant State or local funds that would otherwise be made available for such purposes.

"(e) Nothing in this part shall be construed to limit any authority to provide emergency assistance otherwise provided by law.

"REPAYMENT

"SEC. 1306. (a) If Federal law enforcement assistance provided under this part is used by the recipient of such assistance for any purpose other than the purpose for which it is provided, then such recipient shall promptly repay to the Attorney General an amount equal to the value of such assistance.

"(b) The Attorney General may bring a civil action in an appropriate United States district court to recover any amount required to be repaid under subsection (a).

"PART N—TRANSITION

"CONTINUATION OF RULES, AUTHORITIES, AND PROCEEDINGS

"SEC. 1401. (a) All orders, determinations, rules, regulations, and instructions of the Office of Justice Assistance, Research, and Statistics which are in effect on the date of the enactment of this Act shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked by the President or the Attorney General, or his designee, or by operation of law.

"(b) The amendments made to this title by the Justice Assistance, Missing Children and Juvenile Justice Act of 1984 shall not affect any suit, action, or other proceeding commenced by or against the Government before the date of the enactment of such Act.

"(c) Nothing in this title prevents the utilization of funds appropriated for purposes of this title for all activities necessary or appropriate for the review, audit, investigation, and judicial or administrative resolution of audit matters for those grants or contracts that were awarded under this title. The final disposition and dissemination of program and project accomplishments with respect to programs and projects approved in accordance with this title, as in effect before the date of the enactment of Act, may be carried out with funds appropriated for purposes of this title.

"(d) The Assistant Attorney General may award new grants, enter into new contracts or cooperative agreements and otherwise obligate unused or reversionary funds previously appropriated for the purposes of parts D, E, and F of this title as in effect on the day before the date of enactment of the Justice Assistance Act of 1984, or for purposes consistent with this title.

"(e) Notwithstanding any other provisions of law, the Assistant Attorney General shall have all the authority previously vested in the Director of the Office of Justice Assistance, Research, and Statistics and the Administrator of the Law Enforcement Assistance Administration necessary to terminate the activities of the Law Enforcement Assistance Administration and the Office of Justice Assistance, Research, and Statistics, and all provisions of this title, as in effect on the day before the enactment of this Act, which are necessary for this purpose remain in effect for the sole purpose of carrying out the termination of these activities.".

REFERENCES IN OTHER LAWS

SEC. 103. Any reference to the Office of Justice Assistance, Research, and Statistics or the Law Enforcement Assistance Administration in any law other than this Act and the Omnibus Crime Control and Safe Streets Act of 1968, applicable to activities, functions, powers, and duties that after the date of the enactment of this Act are carried out by the Office of Justice Assistance shall be deemed to be a reference to the Office of Justice Assistance or to the Assistant Attorney General, Office of Justice Assistance, as the case may be.

COMPENSATION OF FEDERAL OFFICERS

SEC. 104. (a) Section 5314 of title 5, United States Code is amended by striking out "Director, Office of Justice Assistance, Research, and Statistics.".

(b) Section 5315 of title 5, United States Code is amended by striking out "Administrator of Law Enforcement Assistance." "Director of the National Institute of Justice", and "Director of the Bureau of Justice Statistics.".

(c) Section 5316 of title 5, United States Code is amended by adding "Director of the National Institute of Justice, Director of the Bureau of Justice Statistics, Administrator of the Office of Juvenile Justice and Delinquency Prevention.".

(d) Notwithstanding any other provision of law, the new position of Assistant Attorney General, Office of Justice Assistance, and the positions of Directors of the National Institute of Justice and the Bureau of Justice Statistics shall initially be filled by the incumbent Assistant Attorney General for Justice Assistance and the incumbent Directors, without the necessity for reconfirmation by the Senate as would otherwise be required under this title.

PRISON INDUSTRY ENHANCEMENT

SEC. 105. (a) Section 1761, subsection (c), of title 18, United States Code, is amended to read as follows:

"(c) In addition to the exceptions set forth in subsection (b) of this section, this chapter shall also not apply to goods, wares, services or merchandise manufactured, produced, provided or mined by convicts or prisoners participating in a program of not more than twenty projects designated by the Assistant Attorney General, Office of Justice Assistance, who—

"(1) have, in connection with such work, received wages at a rate which is not less than that paid for work of a similar nature in the locality in which the work was performed, except that such wages may be subject to deductions which shall not, in the aggregate, exceed 80 per centum of gross wages, and shall be limited as follows:

"(A) taxes (Federal, State, local);

"(B) reasonable charges for room and board as determined by regulations which shall be issued by the chief correctional officer of the jurisdiction;

"(C) allocations for support of family pursuant to State statute, court order, or agreement by the offender;

"(D) contributions to any fund established by law to compensate the victims of crime

of not more than 20 per centum but not less than 5 per centum of gross wages:

"(2) are entitled to compensation for injury sustained in the course of participation in these projects;

"(3) have participated in such employment voluntarily and have agreed in advance to the specific deductions made from gross wages pursuant to this section, and all other financial arrangements as a result of participation in such employment.".

(b)(1) Section 1761 of title 18, United States Code, is amended by adding thereto a new subsection (d) as follows:

"(d) The provisions of subsection (c) shall not apply unless—

"(1) representatives of local union central bodies or similar labor union organizations have been consulted prior to the initiation of any project otherwise qualifying for any exception created by subsection (c); and

"(2) such paid inmate employment will not result in the displacement of employed workers, or be applied in skills, crafts, or trades in which there is a surplus of available gainful labor in the locality, or impair existing contracts for services.".

(2) The second sentence of section 11507 of title 49, United States Code, is amended by adding after the "use" the following: ", or to commodities produced by a project designated by the Assistant Attorney General, Office of Justice Assistance under section 1761(c) of title 18, United States Code".

(c) The first section of the Act entitled "An Act to provide conditions for the purchase of supplies and the making of contracts by the United States, and for other purposes", approved June 30, 1936 (49 Stat. 2036; 41 U.S.C. 35), commonly known as the Walsh-Healey Act, is amended by adding to the end of subsection (d) thereof, before"; and", the following: "except that this section, or any other law or Executive order containing similar prohibitions against purchase of goods by the Federal Government, shall not apply to convict labor which satisfies the conditions of section 1761(c) and 1761(d) of title 18, United States Code".

SEC. 106. (a)(1) To the maximum extent feasible, personal descriptors or identifiers utilized in identification documents, as defined in this section, shall utilize common descriptive terms and formats designed to—

(A) reduce the redundancy and duplication of identification systems by providing information which can be utilized by the maximum number of authorities; and

(B) facilitate positive identification of bona fide holders of identification documents.

(2) For the purposes of this section, the term "identification documents" shall have the same meaning as it has in section 1028 of title 18 of the United States Code.

(b) The President shall, no later than three years after the date of enactment of this Act, and after consultation with Federal, State, local, and international issuing authorities, and concerned groups make recommendations to the Congress for the enactment of comprehensive legislation on Federal indentification systems. Such legislation shall—

(1) give due consideration to protecting the privacy of persons who are the subject of any identification system;

(2) recommend appropriate civil and criminal sanctions for the misuse or unauthorized disclosure of personal identification information; and

(3) make recommendations providing for the exchange of personal identification information as authorized by Federal or State law or Executive order of the President or the chief executive officer of any of the several States.

TITLE II—AMENDMENTS TO THE JUVENILE JUSTICE AND DELINQUENCY PREVENTION ACT OF 1974

Subtitle A—General Provisions

SHORT TITLE

SEC. 201. This title may be cited as the "Juvenile Justice, Runaway Youth, and Missing Children's Act Amendments of 1984".

FINDINGS

SEC. 202. Section 101(a) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5601(a)) is amended—

(1) in paragraph (1)—

(A) by striking out "account" and inserting in lieu thereof "accounted", and

(B) by striking out "today" and inserting in lieu thereof "in 1974 and for less than one-third of such arrests in 1983",

(2) in paragraph (2) by inserting "and inadequately trained staff in such courts, services, and facilities" after "facilities",

(3) in paragraph (3) by striking out "the countless, abandoned, and dependent", and

(4) in paragraph (5) by striking out "prevented" and inserting in lieu thereof "reduced".

PURPOSE

SEC. 203. Section 102(a) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5602(a)) is amended—

(1) in paragraph (1) striking out "prompt" and inserting in lieu thereof "ongoing",

(2) in paragraph (4) by striking out "an information clearinghouse to disseminate" and inserting in lieu thereof "the dissemination of", and

(3) in paragraph (7) by inserting "and homeless" after "runaway".

DEFINITIONS

SEC. 204. Section 103 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5603) is amended—

(1) in paragraph (3)—

(A) by striking out "for neglected, abandoned or dependent youth and other youth", and

(B) by inserting "juvenile" after "prevent",

(2) in paragraph (4) by amending subparagraphs (A) and (B) to read as follows:

"(A) the term 'Bureau of Justice Programs' means the bureau established by section 401 of the Omnibus Crime Control and Safe Streets Act of 1968;

"(B) the term 'Office of Justice Assistance' means the office established by section 101 of the Omnibus Crime Control and Safe Streets Act of 1968;",

(3) in paragraph (6) by striking out "services," and inserting in lieu thereof "services),",

(4) in paragraph (14)—

(A) by inserting "or other sex offenses punishable as a felony" after "rape", and

(B) by striking out "and" at the end thereof,

(5) in paragraph (15) by striking out the period at the end thereof and inserting in lieu thereof "; and", and

(6) by adding at the end thereof the following new paragraph:

"(16) the term 'valid court order' means a court order given by a juvenile court judge to a juvenile who has been brought before the court and made subject to a court order. The use of the word 'valid' permits the incarceration of juveniles for violation of a valid court order only if they received their full due process rights, as guaranteed by the Constitution of the United States.".

Subtitle B—Juvenile Justice and Delinquency Prevention

OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION

SEC. 210. Section 201 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5611) is amended to read:

"ESTABLISHMENT OF OFFICE

"SEC. 201. (a) There is hereby established an Office of Juvenile Justice and Delinquency Prevention (hereinafter in this title referred to as the 'Office') within the Department of Justice under the general authority of the Attorney General.

"(b) The Office shall be headed by an Administrator (hereinafter in this title referred to as the 'Administrator') appointed by the President, by and with the advice and consent of the Senate, from among individuals who have had experience in juvenile justice programs. The Administrator is authorized to prescribe regulations consistent with this Act to award, administer, modify, extend, terminate, monitor, evaluate, reject, or deny all grants and contracts from, and applications for, funds made available under this title. The Administrator shall report to the Attorney General through the Assistance Attorney General who heads the Office of Justice Assistance under part A of title I of the Omnibus Crime Control and Safe Streets Act of 1968.

"(c) There shall be in the Office a Deputy Administrator who shall be appointed by the Attorney General and whose function shall be to supervise and direct the National Institute for Juvenile Justice and Delinquency Prevention established by section 241 of this Act. The Deputy Administrator shall also perform such functions as the Administrator may from time to time assign or delegate and shall act as the Administrator during the absence or disability of the Administrator.".

TECHNICAL AMENDMENTS

SEC. 211. (a) Section 202(a) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5612 (a)) is amended by striking out "him" and inserting in lieu thereof "the Administrator".

(b) Section 202(c) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5612(c)) is amended—

(1) by striking out "him" and inserting in lieu thereof "the Administrator", and

(2) by striking out "his functions" and inserting in lieu thereof "the functions of the Administrator".

CONCENTRATION OF FEDERAL EFFORTS

SEC. 212. (a) Section 204(a) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5614(a)) is amended by striking out "his functions" and inserting in lieu thereof "the functions of the Administrator".

(b) Section 204(b) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5614(b)) is amended—

(1) in paragraph (2) by striking out "he" and inserting in lieu thereof "the Administrator",

(2) in paragraph (4) by striking out "he" and inserting in lieu thereof "the Administrator",

(3) in paragraph (5) by striking out "and",

(4) in paragraph (6) by striking out the period and inserting in lieu thereof "; and", and

(5) by inserting after paragraph (6) the following new paragraph:

"(7) provide for the auditing of monitoring systems required under section 223(a)(15) to review the adequacy of such systems.".

(c) Section 204(e) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5614(e)) is amended by striking out "subsection ('l')" and inserting in lieu thereof "subsection (1)".

(d) Section 204(f) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5614(f)) is amended—

(1) by striking out "him" and inserting in lieu thereof "the Administrator", and

(2) by striking out "he" and inserting in lieu thereof "the Administrator".

(e) Section 204(g) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5614(g)) is amended by striking out "his functions" and inserting in lieu thereof "the functions of the Administrator".

(f) Section 204(i) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5614(i)) is amended—

(1) by striking out "title" and inserting in lieu thereof "section", and

(2) by striking out "he" and inserting in lieu thereof "the Administrator".

(g) Section 204(1) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5614(1)) is amended—

(1) in paragraph (1)—

(A) by striking out "section 204(d)(1)" and inserting in lieu thereof "subsection (d)(1)", and

(B) by striking out "section 204(f)" and inserting in lieu thereof "subsection (f)",

(2) in paragraph (2)—

(A) by striking out "subsection ('l')" and inserting in lieu thereof "paragraph (1)", and

(B) by striking out "section 204(e)" each place it appears and inserting in lieu thereof "subsection (e)", and

(3) in paragraph (3)—

(A) by striking out "him" and inserting in lieu thereof "the Administrator", and

(B) by striking out "subsection ('1')" and inserting in lieu thereof "paragraph (1)".

COORDINATING COUNCIL ON JUVENILE JUSTICE AND DELINQUENCY PREVENTION

SEC. 213. (a) Section 206(a)(1) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5616(a)(1)) is amended—

(1) by striking out "Community Services Administration" and inserting in lieu thereof "Office of Community Services",

(2) by striking out "Director of the Office of Justice Assistance, Research, and Statistics," and inserting in lieu thereof "Assistant Attorney General who heads the Office of Justice Assistance,", and

(3) by striking out "Administrator of the Law Enforcement Assistance Administration" and inserting in lieu thereof "Director of the Bureau of Justice Programs".

(b) Section 206(c) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5616(c)) is amended by striking out "delinquency programs" and inserting in lieu thereof "delinquency programs and, in consultation with the Advisory Board on Missing Children, all Federal programs relating to missing and exploited children".

(c) Section 206(e) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5616(e)) is amended by striking out "he" and inserting in lieu thereof "the Administrator".

(d) Section 206(g) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5616(g)) is amended by striking out "$500.000" and insert in lieu thereof "$200.000".

NATIONAL ADVISORY COMMITTEE FOR JUVENILE JUSTICE AND DELINQUENCY PREVENTION

SEC. 214. Section 207 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5617 (a)) is repealed.

TECHNICAL AMENDMENTS

SEC. 215. (a) The Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5601 et seq.) is amended by inserting after the heading for subpart I of part B of title II the following new heading for section 221:

"AUTHORITY TO MAKE GRANTS"

(b) Section 222 (b) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5632 (b)) is amended—

(1) by striking out "and the Trust Territory" and inserting in lieu thereof "the Trust Territory", and (2) by inserting ", and the Commonwealth of the Northern Mariana Islands" after "Pacific Islands".

STATE PLANS

SEC. 216. (a) Section 223 (a) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5633 (a)) is amended—

(1) by amending paragraph (1) to read as follows:

"(1) designate the State agency described in section 261(c)(1) as the sole agency for supervising the preparation and administration of the plan;",

(2) in paragraph (2) by striking out "(hereafter referred to in this part as the 'State criminal justice council')",

(3) in paragraph (3)—

(A) by amending subparagraph (C) to read as follows: "(C) which shall include (i) representatives of private organizations, including those with a special focus on maintaining and strengthening the family unit, those representing parents or parent groups, those concerned with delinquency prevention and treatment and with neglected or dependent children, and those concerned when the quality of juvenile justice, education, or social services for children; (ii) representatives of organizations which utilize volunteers to work with delinquents or potential delinquents; (iii) representatives of community based delinquency prevention or treatment programs; (iv) representatives of business groups or businesses enploying youth; (v) youth workers involved with alternative youth programs; and (vi) persons with special experience and competence in addressing the problems of the family, school violence and vandalism, and learning disabilities,",

(B) in subparagraph (F)—

(i) by striking out "State criminal justice council" each place it appears and inserting in lieu thereof "State agency designated under paragraph (1)",

(ii) in clause (ii) by striking out "paragraph (12)(A) and paragraph (13)" and inserting in lieu thereof "paragraphs (12), (13), and (14)", and

(iii) in clause (iv)—

(I) by striking out "paragraph (12)(A) and paragraph (13)" and inserting in lieu thereof "paragraphs (12), (13), and (14)",

(II) by striking out "in advising on the State's maintenance of effort under section 1002 of the Omnibus Crime Control and Safe Streets act of 1968, as amended,",

(4) in paragraph (9) by inserting "special education," after "education,",

(5) In paragraph (10)—

(A) in the matter preceding subparagraph (A)—

(i) by striking out "programs for juveniles" and inserting in lieu thereof "programs for juveniles, including those processed in the criminal justice system,", and

(ii) by striking out "and provide for effective rehabilitation" and inserting in lieu thereof "provide for effective rehabilitation, and facilitate the coordination of services between the juvenile justice and criminal justice systems",

(B) in subparagraph (E) by inserting ", including programs to counsel delinquent youth and other youth regarding the opportunities which education provides" before the semicolon at the end thereof,

(C) in subparagraph (F) by inserting "and their families" before the semicolon at the end thereof,

(D) in subparagraph (H)—

(i) by amending clause (iii) to read as follows:

"(iii) establish and adopt, based on the recommendations of the National Advisory Committee for Juvenile Justice and Delinquency Prevention made before the date of the enactment of the Juvenile Justice, Runaway Youth, and Missing Children's Act Amendments of 1984, standards for the improvement of juvenile justice within the State;",

(ii) in clause (iv) by inserting "or" at the end thereof, and

(iii) by adding at the end thereof the following new clause:

(v) involve parents and other family members in addressing the delinquency-related problems of juveniles;",

(E) in subparagraph (I) by striking out "and" at the end thereof.

(F) in subparagraph (J) by striking out "juvenile gangs and their members" and inserting in lieu thereof "gangs whose membership is substantially composed of juveniles", and

(G) by adding at the end thereof the following new subparagraphs:

"(K) programs and projects designed to provide for the treatment of juveniles' dependence on or abuse of alcohol or other addictive or nonaddictive drugs; and

"(L) law-related education programs and projects designed to prevent juvenile delinquency;",

(6) by amending paragraph (14) to read as follows:

"(14) provide that, beginning after the five-year period following December 8, 1980, no juvenile shall be detained or confined in any jail or lockup for adults, except that the Administrator shall, through 1989, promulgate regulations which make exceptions with regard to the detention of juveniles accused of nonstatus offenses who are awaiting an initial court appearance pursuant to an enforceable State law requiring such appearances within 24 hours after being taken into custody (excluding weekends and holidays) provided that such exceptions are limited to areas which—

"(i) are outside a Standard Metropolitan Statistical Area,

"(ii) have no existing acceptable alternative placement available, and

"(iii) are in compliance with the provisions of paragraph (13).",

(7) in paragraph (18)—

(A) by striking out "arrangements are made" and inserting in lieu thereof "arrangements shall be made",

(B) by striking out "Act. Such" and inserting in lieu thereof "Act and shall provide for the terms and conditions of such protective arrangements established pursuant to this section, and such",

(C) in subparagraph (D) by inserting "and" at the end thereof,

(D) in subparagraph (E) by striking out the period at the end thereof and inserting in lieu thereof a semicolon, and

(E) by striking out the last sentence of such paragraph,

(8) in paragraph (21) by striking out "State criminal justice council" and inserting in lieu thereof "State agency designated under paragraph (1)",

(9) in the matter following paragraph (22) by striking out the first sentence,

(10) by striking out the last sentence thereof,

(11) by redesignating paragraphs (17), (18), (19), (20), (21), and (22) as paragraphs (18), (19), (20), (21), (22), and (23), respectively, and

(12) by inserting after paragraph (16) the following new paragraph:

"(17) provide assurance that consideration will be given to and that assistance will be available for approaches designed to strengthen and maintain the family units of delinquent and qther youth to prevent juvenile delinquency. Such approaches should include the involvement of grandparents or other extended family members when possible and appropriate;".

(b) Section 223(b) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5633(b)) is amended—

(1) by striking out "State criminal justice council designated pursuant to section 223(a)" and inserting in lieu thereof "State agency designated under subsection (a)(1)", and

(2) by striking out "section 223(a)" and inserting in lieu thereof "subsection (a)".

(c) The last sentence of section 223(c) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5633(c)) is amended by striking out "not to exceed 2 additional years" and inserting in lieu thereof "not to exceed 3 additional years".

(d) Section 223(d) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5633(d)) is amended by striking out "sections 803, 804, and 805" and inserting in lieu thereof "sections 802, 803, and 804".

GRANTS AND CONTRACTS

SEC. 217. Section 224 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5634) is amended to read as follows:

"AUTHORITY TO MAKE GRANTS AND CONTRACTS

"SEC. 224. (a) From not less than 15 percent, but not more than 25 percent, of the funds appropriated for a fiscal year to carry out this part, the Administrator shall, by making grants to and entering into contracts with public and private nonprofit agencies, organizations, institutions, or individuals provide for each of the following during each fiscal year:

"(1) developing and maintaining community-based alternatives to traditional forms of institutionalization of juvenile offenders;

"(2) developing and implementing effective means of diverting juveniles from the traditional juvenile justice and correctional system, including restitution and reconciliation projects which test and validate selected arbitration models, such as neighborhood courts or panels, and increase victim satisfaction while providing alternatives to incarceration for detained or adjudicated delinquents;

"(3) developing and supporting programs stressing advocacy activities aimed at improving services to youth impacted by the juvenile justice system, including services which encourage the improvement of due process available to juveniles in the juvenile justice system;

"(4) developing model programs to strengthen and maintain the family unit in order to prevent or treat juvenile delinquency;

"(5) developing and implementing special emphasis prevention and treatment programs relating to juveniles who commit serious crimes (including such crimes committed in schools), including programs designed to deter involvement in illegal activities or to promote involvement in lawful activities on the part of gangs whose membership is substantially composed of juveniles; and

"(6) developing and implementing further a coordinated, national law-related education program of delinquency prevention, including training programs for persons responsible for the implementation of law-related education programs in elementary and secondary schools.

"(b) From any special emphasis funds remaining available after grants and contracts are made under subsection (a), but not to exceed 10 percent of the funds appropriated for a fiscal year to carry out this part, the Administrator is authorized, by making grants to and entering into contracts with public and private nonprofit agencies, organizations, institutions, or individuals, to develop and implement new approaches, techniques, and methods designed to—

"(1) improve the capability of public and private agencies and organizations to provide services for delinquents and other youth to help prevent juvenile delinquency;

"(2) develop and implement, in coordination with the Secretary of Education, model programs and methods to keep students in elementary and secondary schools, to prevent unwarranted and arbitrary suspensions and expulsions, and to encourage new approaches and techniques with respect to the prevention of school violence and vandalism;

"(3) develop, implement, and support, in conjunction with the Secretary of Labor, other public and private agencies and organizations and business and industry programs for youth employment;

"(4) develop and support programs designed to encourage and enable State legislatures to consider and further the purposes of this title, both by amending State laws if necessary, and devoting greater resources to those purposes;

"(5) develop and implement programs relating to juvenile delinquency and learning disabilities, including on-the-job training programs to assist law enforcement personnel and juvenile justice personnel to more effectively recognize and provide for learning disabled and other handicapped juveniles;

"(6) develop statewide programs through the use of subsidies or other financial incentives designed to—

"(A) remove juveniles from jails and lockups for adults;

"(B) replicate juvenile programs designated as exemplary by the National Institute of Justice; or

"(C) establish and adopt, based upon the recommendations of the National Advisory Committee for Juvenile Justice and Delinquency Prevention made before the date of the enactment of the Juvenile Justice, Runaway Youth, and Missing Children's Act Amendments of 1984, standards for the improvement of juvenile justice within each State involved;

"(7) develop and implement model programs, relating to the special education needs of delinquent and other youth, which develop locally coordinated policies and programs among education, juvenile justice, and social service agencies.

"(c) Not less than 30 percent of the funds available for grants and contracts under this section shall be available for grants to and contracts with private nonprofit agencies, organizations, or institutions which have had experience in dealing with youth.

"(d) Assistance provided under this section shall be available on an equitable basis to deal with female, minority, and disadvantaged youth, including mentally, emotionally, or physicially handicapped youth.

"(e) Not less than 5 percent of the funds available for grants and contracts under this section shall be available for grants and contracts designed to address the special needs and problems of juvenile delinquency in the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands.".

APPROVAL OF APPLICATIONS

SEC. 218. (a) Section 225(b) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5635 (b)) is amended—

(1) in paragraph (2) by inserting "(such purpose or purposes shall be specifically identified in such application)" before the semicolon,

(2) in paragraph (5) by striking out ", when appropriate," and inserting in lieu thereof "(if such State or local agency exists)",

(3) in paragraph (6) by striking out ", when appropriate", and

(4) in paragraph (8) by striking out "indicate" and inserting in lieu thereof "attach a copy of".

(b) Section 225 (c) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5635 (c)) is amended—

(1) by inserting "and for contracts" after "for grants",

(2) in paragraph (4) by striking out "delinquents and other youth to help prevent delinquency" and inserting in lieu thereof "address juvenile delinquency and juvenile delinquency prevention",

(3) in paragraph (5) by inserting "and" at the end thereof,

(4) by striking out paragraph (6), and

(5) by redesignating paragraph (7) as paragraph (6).

(c) Section 225 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5635) is amended—

(1) by redesignating subsection (d) as subsection (e), and

(2) inserting after subsection (c) the following new subsection:

"(d)(1)(A) Except as provided in subparagraph (B) new programs selected after the effective date of the Juvenile Justice, Runaway Youth, and Missing Children's Act Amendments of 1984 for assistance through grants or contracts under section 224 or part C of this title shall be selected through a competitive process to be established by rule by the Administrator. As part of such process, the Administrator shall announce in the Federal Register the availability of funds for such assistance, the general criteria applicable to the selection of applicants to receive such assistance, and a description of the procedures applicable to submitting and reviewing applications for such assistance.

"(B) The competitive process described in subparagraph (A) shall not be required if—

"(i) the Administrator has made a written determination that the proposed program is

not within the scope of any program announcement or any announcement expected to be issued, but can otherwise be supported by a grant or contract in accordance with section 224 or part C of this title, and if the proposed program is of such outstanding merit, as determined through peer review conducted under paragraph (2), that the award of a grant or contract without competition is justified; or

"(ii) the Adminstrator makes a written determination, which shall include the factual and other bases thereof, that the applicant is uniquely qualified to provide proposed training services as provided in section 244, and other qualified sources are not capable of carrying out the proposed program.

"(C) In each case where a program is selected for assistance without competition pursuant to the exception provided in subparagraph (B), the Administrator shall promptly so notify the chairman of the Committee on Education and Labor of the House of Representaties and the chairman of the Committee on the Judiciary of the Senate. Such notification shall include copies of the Administrator's determination under clause (i) or clause (ii) of such subparagraph and the peer review deterimination required under paragraph (2).

"(2) New programs selected after the effective date of the Juvenile Justice, Runaway Youth, and Missing Children's Act Amendments of 1984 for assistance through grants or contracts under section 224 shall be reviewed before selection and thereafter as appropriate through a formal peer review process utilizing experts (other than officers and employees of the Department of Justice) in fields related to the subject matter of the proposed program. Such process shall be established by the Administrator in consultation with the Directors and other appropriate officials of the National Science Foundation and the National Institute of Mental Health. Before implementation, the Administrator shall submit such process to such Directors, each of whom shall prepare and furnish to the chairman of the Committee on Edcuation and Labor of the House of Representatives and the chairman of the Committee on the Judiciary of the Senate a final report containing their comments on such process as proposed to be established.

"(3) The Administrator, in establishing the processes required under paragraphs (1) and (2), shall provide for emergency expedited consideration of program proposals when necessary to avoid any delay which would preclude carrying out the program.".

(d) Section 225 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5035) is amended by adding at the end thereof the following new subsection:

"(f) Notification of grants and contracts made under section 224 (and the applications submitted for such grants and contracts) shall, upon being made, be transmitted by the Administrator, to the chairman of the Committee on Education and Labor of the House of Representatives and the chairman of the Committee on the Judiciary of the Senate.".

USE OF FUNDS

SEC. 219. Section 227(c) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5637(c)) is amended by striking out "section 224(a)(7)" each place it appears and inserting in lieu thereof "section 224(a)(3)".

PAYMENTS

SEC. 220. (a) Section 228(a) of the Juvenile Justice and Delinquency Prevention Act 1974 (42 U.S.C. 5638(a)) is amended by striking out "he" and inserting in lieu thereof "the Administrator".

(b) Section 228(d) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5638(d)) is amended by striking out "he" and inserting in lieu thereof "the Administrator".

(c) Section 228(e) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5638(e)) is amended—

(1) by striking out "him" and inserting in lieu thereof "the Administrator".

(2) * * *.

"ESTABLISHMENT OF NATIONAL INSTITUTE FOR JUVENILE JUSTICE AND DELINQUENCY PREVENTION"

(b) Section 241(b) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5651(b)) is amended by striking out "section 201(f)" and inserting in lieu thereof "section 201(c)".

(c) Section 241(d) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5651(d)) is amended to read as follows:

"(d) It shall be the purpose of the Institute to provide—

"(1) a coordinating center for the collection, preparation, and dissemination of useful date regarding the prevention, treatment, and control of juvenile delinquency; and

"(2) appropriate training (including training designed to strengthen and maintain the family unit) for representatives of Federal, State, local law enforcement officers, teachers and special education personnel, family counselors child welfare workers, juvenile judges and judicial personnel, probation personnel, correctional personnel (including volunteer lay personnel), persons associated with law-related education, youth workers, and representatives of the private agencies and organizations with specific experience in the prevention, treatment, and control of juvenile delinquency.".

(d) Section 241 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5651) is amended—

(1) by redesignating subsection (f) as subsection (g),

(2) by inserting after subsection (e) the following new subsection:

"(f) The Administrator, acting through the Institute, shall provide, not less frequently than once every 2 years, for a national conference of member representatives from State advisory groups for the purposes of—

"(1) disseminating information, data, standards, advanced techniques, and program models developed through the institute and through programs funded under section 224;

"(2) reviewing Federal policies regarding juvenile justice and delinquency prevention;

"(3) advising the Administrator with respect to particular functions or aspects of the work of the office; and

"(4) advising the President and Congress with regard to State perspectives on the operation of the Office and Federal legislation pertaining to juvenile justice and delinquency prevention.", and

(3) by adding at the end thereof the following new subsection:

"(h) The authorities of the Institute under this part shall be subject to the terms and conditions of section 225(d).".

RESEARCH, DEMONSTRATION, AND EVALUATION FUNCTIONS

SEC. 222. Section 243 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5653) is amended—

(1) in paragraph (1) by inserting "which seek to strengthen and maintain the family unit or" after "methods",

(2) in paragraph (4) by striking "Associate" and inserting in lieu thereof "Deputy",

(3) by amending paragraph (5) to read as follows:

"(5) prepare, in cooperation with educational institutions, with Federal, State, and local agencies, and with appropriate individuals and private agencies, such studies as it considers to be necessary with respect to the prevention and treatment of juvenile delinquency and related matters, including—

"(A) recommendations designed to promote effective prevention and treatment, particularly by strengthening and maintaining the family unit; and

"(B) assessments regarding the role of family violence, sexual abuse or exploitation, media violence, the improper handling of youth placed in one State by another State, the possible ameliorating roles of familial relationships, special education, remedial education, and recreation, and the extent to which youth in the juvenile system are treated differently on the basis of sex, race, or family income and the ramifications of such treatment;

"(C) examinations of the treatment of juveniles processed in the criminal justice system; and

"(D) recommendations as to effective means for detering involvement in illegal activities or promoting involvement in lawful activities on the part of gangs whose membership is substantially composed of juveniles.", and

(4) in paragraph (7) by striking out "(including a periodic journal)".

TRAINING FUNCTIONS

SEC. 223. Section 244 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5654) is amended—

(1) in paragraph (1)—

(A) by striking out "or who are" and inserting in lieu thereof "working with or", and

(B) by striking out "and juvenile offenders" and inserting in lieu thereof ", juvenile offenders, and their families",

(2) in paragraph (2) by striking out "workshop" and inserting in lieu thereof "workshops", and

(3) in paragraph (3) by striking out "teachers" and all that follows through the end thereof and inserting in lieu thereof the following: "teachers and special education personnel, family counselors, child welfare workers, juvenile judges and judicial personnel, probation personnel (including volunteer lay personnel), persons associated with law-related education, youth workers, and organizations with specific experience in the prevention and treatment of juvenile delinquency; and".

REPEALER

SEC. 224. Section 245 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5655) is repealed.

ANNUAL REPORT

SEC. 225. Section 246 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5656) is amended by striking out "Sec. 246." and inserting in lieu thereof "Sec. 245.".

DEVELOPMENT OF STANDARDS FOR JUVENILE JUSTICE

SEC. 226. Section 247 of the Juvenile Justice and Delinquency Act of 1974 (42 U.S.C. 5657) is amended to read as follows:

"ADDITIONAL FUNCTIONS OF THE INSTITUTE

"SEC. 246. (a) The National Institute for Juvenile Justice and Delinquency Prevention shall review existing reports, data, and standards, relating to the juvenile justice system in the United States.

"(b) The National Institute for Juvenile Justice and Delinquency Prevention is authorized to develop and support model State legislation consistent with the mandates of this title and the standards developed by National Advisory Committee for Juvenile Justice and Delinquency Prevention before the date of the enactment of the Juvenile Justice, Runaway Youth, and Missing Children's Act Amendments of 1984.".

ESTABLISHMENT OF TRAINING PROGRAM

SEC. 227. (a) Section 248(b) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5659 (b)) is amended to read as follows:

"(b) Enrollees in the training program established under this section shall be drawn from law enforcement and correctional personnel (including volunteer lay personnel), teachers and special education personnel, family counselors, child welfare workers, juvenile judges and judicial personnel, persons associated with law-related education, youth workers, and representatives of private agencies and organizations with specific experience in the prevention and treatment of juvenile delinquency.".

(b) Section 248 of the Juvenile Justice and Delinquency Act of 1974 (42 U.S.C. 5659) is amended by striking out "Sec. 248." and inserting in lieu thereof "Sec. 247.".

TECHNICAL AMENDMENT

SEC. 228. Section 249 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5660) is amended by striking out "Sec. 249." and inserting in lieu thereof "Sec. 248.".

TRAINING PROGRAM

SEC. 229. (a) The heading for section 250 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5661) is amended to read as follows:

"PARTICIPATION IN TRAINING PROGRAM AND STATE ADVISORY GROUP CONFERENCES"

(b) Section 250(c) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5661(c)) is amended to read as follows:

"(c) While participating as a trainee in the program established under section 246 or while participating in any conference held under section 241(f), and while traveling in connection with such participation, each person so participating shall be allowed travel expenses, including a per diem allowance in lieu of subsistence, in the same manner as persons employed intermittently in Government service are allowed travel expenses under section 5703 of title 5, United States Code. No consultation fee may be paid to such person for such participation.".

(c) Section 250 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5661) is amended by striking out "Sec. 250." and inserting in lieu thereof "Sec. 249.".

AUTHORIZATION OF APPROPRIATIONS

SEC. 230. (a) Section 261 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5671) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 261. (a) To carry out the purposes of this title there is authorized to be appropriated such sums as may be necessary for fiscal years 1985, 1986, 1987, and 1988. Funds appropriated for any fiscal year may remain available for obligation until expended.

"(b) Of such sums as are appropriated to carry out the purposes of this title—

"(1) not to exceed 7.5 percent shall be available to carry out part A;

"(2) not to exceed 81.5 percent shall be available to carry out part B; and

"(3) 11 percent shall be available to carry out part C.

"(c) Notwithstanding any other provision of law, the Administrator shall—

"(1) establish appropriate administrative and supervisory board membership requirements for a State agency responsible for supervising the preparation and administration of the State plan submitted under section 223 and permit the State advisory group appointed under section 223(a)(3) to operate as the supervisory board for such agency, at the discretion of the Governor; and

"(2) approve any appropriate State agency designated by the Governor of the State involved in accordance with paragraph (1).".

"(d) No funds appropriated to carry out the purposes of this title may be used for any bio-medical or behavior control experimentation on individuals or any research involving such experimentation. For the purpose of this subsection, the term 'behavior control' refers to experimentation or research employing methods which involve a substantial risk of physical or psychological harm to the individual subject and which are intended to modify or alter criminal and other anti-social behavior, including aversive conditioning therapy, drug therapy or chemotherapy (except as part of routine clinical care), physical therapy of mental disorders, electroconvulsive therapy, or physical punishment. The term does not apply to a limited class of programs generally recognized as involving no such risk, including methadone maintenance and certain alcohol treatment programs, psychological counselling, parent training, behavior contracting, survival skills training, restitution, or community service, if safeguards are established for the informed consent of subjects (including parents or guardians of minors).".

APPLICATION OF OTHER ADMINISTRATIVE AUTHORITY

SEC. 231. Section 262 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5672) is amended to read as follows:

"ADMINISTRATIVE AUTHORITY

"SEC. 262. (a) The Office shall be administered by the Administrator under the general authority of the Attorney General.

"(b) Sections 809(c), 811(a), 811(b), 811(c), 812(a), 812(b), and 812(d) of the Omnibus Crime Control and Safe Streets Act of 1968, as so designated by the operation of the amendments made by the Justice Assistance Act of 1984, shall apply with respect to the administration of and compliance with this Act, except that for purposes of this Act—

"(1) any reference to the Office of Justice Assistance in such sections shall be deemed to be a reference to the Assistant Attorney General who heads the Office of Justice Assistance; and

"(2) the term 'this title' as it appears in such sections shall be deemed to be reference to this Act.

"(c) Sections 801(a), 801(c), and 806 of the Omnibus Crime Control and Safe Streets Act of 1968, as so designated by the operation of the amendments made by the Justice Assistance Act of 1984, shall apply with respect to the administration of and compliance with this Act, except that for purposes of this Act—

"(1) any reference to the Attorney General, the Assistant Attorney General who heads the Office of Justice Assistance, the Director of the National Institute of Justice, the Director of the Bureau of Justice Statistics, or the Director of the Bureau of Justice Programs shall be deemed to be a preference to the Administrator;

"(2) any reference to the Office of Justice Assistance, the Bureau of Justice Programs, the National Institute of Justice, or the Bureau of Justice Statistics shall be deemed to be reference to the Office of Juvenile Justice and Delinquency Prevention; and

"(3) the term 'this title' as it appears in such sections shall be deemed to be a reference to this Act.

"(d) The Administrator is authorized, after appropriate consultation with representatives of States and units of local government, to establish such rules, regulations, and procedures as are necessary for the exercise of the functions of the office and as are consistent with the purpose of this Act.".

Subtitle C—Runaway and Homeless Youth

RULES

SEC. 250. Section 303 of the Runaway and Homeless Youth Act (42 U.S.C. 5702) is amended to read as follows:

"RULES

"SEC. 303. The Secretary of Health and Human Services (hereinafter in this title referred to as the 'Secretary') may issue such rules as the Secretary considers necessary or appropriate to carry out the purposes of this title.".

PURPOSES OF GRANT PROGRAM

SEC. 251. (a) The first sentence of section 311(a) of the Runaway and Homeless Youth Act (42 U.S.C. 5711(a)) is amended—

(1) by inserting "and assistance to their families" before the period at the end thereof, and

(2) by striking, in the first sentence, "nonprofit private agencies and coordinated networks of such agencies" and inserting in lieu thereof "private entities and coordinated networks of such entities".

(b) Section 311(b) of the Runaway and Homeless Youth Act (42 U.S.C. 5711(b)) is amended by inserting "and to the families of such juveniles" before the period at the end thereof.

ELIGIBILITY

SEC. 252. Section 312(b) of the Runaway and Homeless Youth Act (42 U.S.C. 5712) is amended—

(1) in paragraph (2) by striking out "portion" and inserting in lieu thereof "proportion",

(2) in paragraph (3) by striking out "(if such action is required by State law)",

(3) in paragraph (4) by inserting "school system personnel," after "social service personnel,",

(4) in paragraph (5) by striking out "parents" and inserting in lieu thereof "families", and

(5) in paragraph (6) by striking out "parents" and inserting in lieu therof "family members".

APPROVAL BY SECRETARY

SEC. 253. The first sentence section 313 of the Runaway and Homeless Youth Act (42 U.S.C. 5713) is amended by striking out "nonprofit private agency" and inserting in lieu thereof "private entity".

GRANTS TO PRIVATE AGENCIES, STAFFING

SEC. 254. Section 314 of the Runaway and Homeless Youth Act (42 U.S.C. 5714) is amended—

(1) by amending the heading to read as follows:

"GRANTS TO PRIVATE ENTITIES; STAFFING"

and

(2) in the first sentence—

(A) by striking out "nonprofit private agencies" and inserting in lieu thereof "private entities", and

(B) by striking out "house" and inserting in lieu thereof "center".

ADDITIONAL ASSISTANCE

SEC. 255. The Runaway and Homeless Youth Act (42 U.S.C. 5701 et seq.) is amended—

(1) by redesignating sections 315 and 316 as sections 317 and 318, respectively, and

(2) by inserting after section 314 the following new sections:

"ASSISTANCE TO POTENTIAL GRANTEES

"SEC. 315. The Secretary shall provide informational assistance to potential garantees interested in establishing runaway and homeless youth centers. Such assistance shall consist of information on—

"(1) steps necessary to establish a runaway and homeless youth center, including information on securing space for such center, obtaining insurance, staffing, and establishing operating procedures;

"(2) securing local private or public financial support for the operation of such center, including information on procedures utilized by grantees under this title; and

"(3) the need for the establishment of additional runaway youth centers in the geographical area identified by the potential grantee involved.

"LEASE OF SURPLUS FEDERAL FACILITIES FOR USE AS RUNAWAY AND HOMELESS YOUTH CENTERS

"SEC. 316. (a) The Secretary may enter into cooperative lease arrangements with States, localities, and nonprofit private agencies to provide for the use of appropriate surplus Federal facilities transferred by the General Services Administration to the Department of Health and Human Services for use as runaway and homeless youth centers if the Secretary determines that—

"(1) the applicant involved has suitable financial support necessary to operate a runaway and homeless youth center;

"(2) the applicant is able to demonstrate the program expertise required to operate such center in compliance with this title, whether or not the applicant is receiving a grant under this part; and

"(3) the applicant has consulted with and obtained the approval of the chief executive officer of the unit of general local government in which the facility is located.

"(b)(1) Each facility made available under this section shall be made available for a period of not less than 2 years, and no rent or fee shall be charged to the applicant in connection with use of such facility.

"(2) Any structural modifications or additions to facilities made available under this section shall become the property of the United States. All such modifications or additions may be made only after receiving the prior written consent of the Secretary or other appropriate officer of the Department of Health and Human Services.".

REORGANIZATION

SEC. 256. Part C of the Runaway and Homeless Youth Act (42 U.S.C. 5741) is repealed.

AUTHORIZATION OF APPROPRIATIONS

SEC. 257. (a) The Runaway and Homeless Youth Act (42 U.S.C. 5701 et seq.) is amended by inserting after the heading for part D the following new heading for section 341:

"AUTHORIZATION OF APPROPRIATIONS"

(b) Section 341(a) is amended by striking out "for each of the fiscal years" and all that follows through the period at the end thereof and inserting in lieu thereof "such sums as may be necessary for fiscal years 1985, 1986, 1987, and 1988.".

(c) Section 341(b) of the Runaway and Homeless Youth Act (42 U.S.C. 5751(b)) is amended by striking out "Associate".

(d) Section 341 of the Runaway and Homeless Youth Act (42 U.S.C. 5751) is amended by adding at the end thereof the following new subsection:

"(c) No funds appropriated to carry out the purposes of this title—

"(1) may be used for any program or activity which is not specifically authorized by this title; or

"(2) may be combined with funds appropriated under any other Act if the purpose of combining such funds is to make a single discretionary grant or a single discretionary payment unless such funds are separately identified in all grants and contracts and are used for the purposes specified in this title.".

(e) Part D of the Runaway and Homeless Youth Act (42 U.S.C. 5751) is redesignated as part C.

(f) Section 341 of the Runaway and Homeless Youth Act (42 U.S.C. 5757) is redesignated as section 331.

Subtitle D—Missing Children's Assistance

ASSISTANCE RELATING TO MISSING CHILDREN

SEC. 270. The Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5601 et seq.) is amended by adding at the end thereof the following new title:

"TITLE IV—MISSING CHILDREN

"SHORT TITLE

"SEC. 401. This title may be cited as the Missing Children's Assistance Act.

"FINDINGS

"SEC. 402. The Congress hereby finds that—

"(1) each year thousands of children are abducted or removed from the control of a parent having legal custody without such parent's consent, under circumstances which immediately place them in grave danger;

"(2) many of these children are never reunited with their families;

"(3) often there are no clues to the whereabouts of these children;

"(4) many missing children are at great risk of both physical harm and sexual exploitation;

"(5) in many cases, parents and local law enforcement officials have neither the resources nor the expertise to mount expanded search efforts;

"(6) abducted children are frequently moved from one locality to another, requiring the cooperation and coordination of local, State, and Federal law enforcement efforts;

"(7) on frequent occasions, law enforcement authorities quickly exhaust all leads in missing children cases, and require assistance from distant communities where the child may be located; and

"(8) Federal assistance is urgently needed to coordinate and assist in this interstate problem.

"DEFINITIONS

"SEC. 403. For the purpose of this title—

"(1) the term 'missing child' means any individual less than 18 years of age whose whereabouts are unknown to such individual's legal custodian if—

"(A) the circumstances surrounding such individual's disappearance indicate that such individual may possibly have been removed by another from the control of such individual's legal custodian without such custodian's consent; or

"(B) the circumstances of the case strongly indicate that such individual is likely to be abused or sexually exploited; and

"(2) the term 'Administrator' means the Administrator of the Office of Juvenile Justice and Delinquency Prevention.

"DUTIES AND FUNCTIONS OF THE ADMINISTRATOR

"SEC. 404. (a) The Administator shall—

"(1) issue such rules as the Administrator considers necessary or appropriate to carry out this title;

"(2) make such arrangements as may be necessary and appropriate to facilitate effective coordination among all federally funded programs relating to missing children (including the preparation of an annual comprehensive plan for facilitating such coordination);

"(3) provide for the furnishing of information derived from the national toll-free telephone line, established under subsection (b)(1), to appropriate law enforcement entities)

"(4) provide adequate staff and agency resources which are necessary to properly carry out the responsibilities pursuant to this title;

"(5) analyze, compile, publish, and disseminate an annual summary of recently completed research, research being conducted, and Federal, State, and local demonstration projects relating to missing children with particular emphasis on—

"(A) effective models of local, State, and Federal coordination and cooperation in locating missing children;

"(B) effective programs designed to promote community awareness of the problem of missing children;

"(C) effective programs to prevent the abduction and sexual exploitation of children (including parent, child, and community education); and

"(D) effective program models which provide treatment, counseling, or other aid to parents of missing children or to children who have been the victims of abduction or sexual exploitation; and

"(6) prepare, in conjunction with and with the final approval of the Advisory Board on Missing Children, an annual comprehensive plan for facilitating cooperation and coordination among all agencies and organizations with responsibilities related to missing children.

"(b) The Administrator, either by making grants to or entering into contracts with public agencies or nonprofit private agencies, shall—

"(1) establish and operate a national toll-free telephone line by which individuals may report information regarding the location of any missing child, or other child 13 years of age or younger whose whereabouts are unknown to such child's legal custodian, and request information pertaining to procedures necessary to reunite such child with such child's legal custodian;

"(2) establish and operate a national resource center and clearinghouse designed—

"(A) to provide technical assistance to local and State governments, public and private nonprofit agencies, and individuals in locating and recovering missing children;

"(B) to coordinate public and private programs which locate, recover, or reunite missing children with their legal custodians;

"(C) to disseminate nationally information about innovative and model missing childrens' programs, services, and legislation; and

"(D) to provide technical assistance to law enforcement agencies, State and local governments, elements of the criminal justice system, public and private nonprofit agencies, and individuals in the prevention, investigation, prosecution, and treatment of the missing and exploited child case; and

"(3) periodically conduct national incidence studies to determine for a given year the actual number of children reported missing each year, the number of children who are victims of abduction by strangers, the number of children who are the victims of parental kidnappings, and the number of children who are recovered each year.

"(C) Nothing contained in this title shall be construed to grant to the Administrator any law enforcement responsibility or supervisory authority over any other Federal agency.

"ADVISORY BOARD

"SEC. 405. (a) There is hereby established the Advisory Board on Missing Children (hereinafter in this title referred to as the 'Advisory Board') which shall be composed of 9 members as follows:

"(1) a law enforcement officer;

"(2) an individual whose official duty is to prosecute violations of the criminal law of a State;

"(3) the chief executive officer of a unit of local government within a State;

"(4) a statewide elected officer of a State;

"(5) the Director of the Federal Bureau of Investigation or the Director's designee from within the Federal Bureau of Investigation; and

"(6) 4 members of the public who have experience or expertise relating to missing children (including members representing parent groups).

"(b) The Attorney General shall make the initial appointments to the Advisory Board not later than 90 days after the effective date of this title. The Advisory Board shall meet periodically and at the call of the Attorney General, but not less frequently than annually. The Chairman of the Advisory Board shall be designated by the Attorney General.

"(c) The Advisory Board shall—

"(1) advise the Administrator and the Attorney General in coordinating programs and activities relating to missing children which are planned, administered, or assisted by any Federal program;

"(2) advise the Administrator with regard to the establishment of priorities for making grants or contracts under section 406; and

"(3) approve the annual comprehensive plan for facilitating cooperation and coordination among all agencies and organizations with responsibilities relating to missing children and submit the first such annual plan to the President and the Congress not later than 18 months after the effective date of this title.

"(d) Members of the Advisory Board, while serving away from their places of residence or regular places of business, shall be entitled to reimbursement for travel expenses, including per diem in lieu of subsistence, in the same manner as is authorized by section 5703 of title 5, United States Code, for persons employed intermittently in the Government service.

"GRANTS

"SEC. 406. (a) The Administrator is authorized to make grants to and enter into contracts with public agenices or nonprofit private organizations or combinations thereof, for research, demonstration projects, or service programs designed—

"(1) to educate parents, children, and community agencies and organizations in ways to prevent the abduction and sexual exploitation of children;

"(2) to provide information to assist in the locating and return of missing children;

"(3) to aid communities in the collection of materials which would be useful to parents in assisting others in the identification of missing children;

"(4) to increase knowledge of and develop effective treatment pertaining to the psychological consequences, on both parents and children, of—

"(A) the abduction of a child, both during the period of disappearance and after the child is recovered; and

"(B) the sexual exploitation of a missing child;

"(5) to collect detailed data from selected States or localities on the actual investigative practices utilized by law enforcement agencies in missing children's cases; and

"(6) to address the particular needs of missing children by minimizing the negative impact of judicial and law enforcement procedures on children who are victims of abuse or sexual exploitation and by promoting the active participation of children and their families in cases involving abuse or sexual exploitation of children.

"(b) In considering grant applications under this title, the Administrator shall give priority to applicants who—

"(1) have demonstrated or demonstrate ability in—

"(A) locating missing children or locating and reuniting missing children with their legal custodians;

"(B) providing other services to missing children or their families; or

"(C) conducting research relating to missing children; and

"(2) with respect to subparagraphs (A) and (B) of paragraph (1), substantially utilize volunteer assistance.

The Administrator shall give first priority to applicants qualifying under subparagraphs (A) and (B) of paragraph (1).

"(c) In order to receive assistance under this title for a fiscal year, applicants shall give assurance that they will expend, to the greatest extent practicable, for such fiscal year an amount of funds (without regard to any funds received under any Federal law) that is not less than the amount of funds they received in the preceding fiscal year from State, local, and private sources.

"CRITERIA FOR GRANTS

"SEC. 407. The Administrator, in consultation with the Advisory Board, shall establish annual research, demonstration, and service program priorities for making grants and contracts pursuant to section 406 and, not less than 60 days before establishing such priorities, shall publish in the Federal Register for public comment a statement of such proposed priorities.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 408. To carry out the provisions of this title, there are authorized to be appropriated $10,000,000 for fiscal year 1985, and such sums as may be necessary for fiscal years 1986, 1987, and 1988.".

Subtitle E—Effective Dates

EFFECTIVE DATES

SEC. 280. (a) Except as provided in subsection (b), this title and the amendments made by this title shall take effect on the date of the enactment of this Act or October 1, 1984, whichever occurs later.

(b) Paragraph (2) of section 341 (c) of the Runaway and Homeless Youth Act, as added by section 257(e) of this Act, shall not apply with respect to any grant or payment made before the effective date of this Act.

Make the following changes in chapter VIII:

On page 397, beginning on line 13, strike all through the end of line 12 on page 398.

On page 398, line 18, after the word "misuse", strike all through line 22 and insert in lieu thereof: "of such person's position or employment in a labor organization or employee benefit plan to seek or obtain an illegal gain at the expense of the members of the labor organization or the beneficiaries of the employee benefit plan, or conspiracy to commit any such crimes or attempt to commit any such crimes, or a crime in which any of the foregoing crimes is an element, shall serve or be permitted to serve—"

On page 399, line 9, strike the word "ten" and insert in lieu thereof the word "thirteen", and on line 12 strike the word "five" and insert in lieu thereof the word "three".

On page 402, line 7, after the word "misuse", strike all through line 10 and insert in lieu thereof: "of such person's position or employment in a labor organization or employee benefit plan to seek or obtain an illegal gain at the expense of the members of the labor organization or the beneficiaries of the employee benefit plan, or conspiracy to commit any such crimes or attempt to commit any such crimes, or a crime in which any of the foregoing crimes is an element, shall serve or be permitted to serve—"

On page 403, line 11, strike the word "ten" and insert in lieu thereof the word "thirteen", and on line 14 strike the word "five" and insert in lieu thereof the word "three".

In chapter X, strike out part N.

In chapter XI, strike out part A make the following changes in part D:

On page 441, lines 2 and 3, delete "and Forging of Endorsements or Signatures on United States Securities"; on line 7, delete "510" and substitute "511".

On page 443, insert close quotes and period at the end of line 16 and delete line 17 through line 22 on page 444.

Insert a close quote and period at the end of the last item on page 444 and delete the line item at the top of page 445 and lines 1 and 2.

In chapter XII, strike out part F and insert the following:

PART F—WITNESS PROTECTION

Subpart A

SEC. 801. This subtitle may be cited as the "Witness Security Reform Act of 1984".

AUTHORITIES OF ATTORNEY GENERAL

SEC. 802. Part II of title 18, United States Code, is amended by inserting after chapter 223 the following new chapter:

"CHAPTER 224—PROTECTION OF WITNESSES

"Sec.
"3521. Witness relocation and protection.
"3522. Probationers and parolees.
"3523. Civil judgments.
"3524. Child custody arrangements.
"3525. Victims Compensation Fund.
"3526. Cooperation of other Federal agencies and State governments.
"3527. Additional authority of Attorney General.
"3528. Definition.

"§ 3521. Witness relocation and protection

"(a)(1) The Attorney General may provide for the relocation and other protection of a witness or a potential witness for the Federal Government or for a State government in an official proceeding concerning an organized criminal activity or other serious offense, if the Attorney General determines that an offense involving a crime of violence directed at the witness with respect to that proceeding, an offense set forth in chapter 73 of this title directed at the witness, or a State offense that is similar in nature to either such offense, is likely to be committed. The Attorney General may also provide for the relocation and other protection of the immediate family of, or a person otherwise closely associated with, such witness or potential witness if the family or person may also be endangered on account of the participation of the witness in the judicial proceeding.

"(2) The Attorney General shall issue guidelines defining the types of cases for which the exercise of the authority of the Attorney General contained in paragraph (1) would be appropriate.

"(3) The United States and its officers and employees shall not be subject to any civil liability on account of any decision to provide or not to provide protection under this chapter.

"(b)(1) In connection with the protection under this chapter of a witness, a potential witness, or an immediate family member or close associate of a witness or potential witness, the Attorney General shall take such action as the Attorney General determines to be necessary to protect the person involved from bodily injury and otherwise to assure the health, safety, and welfare of that person, including the psychological well-being and social adjustment of that person, for as long as, in the judgment of the Attorney General, the danger to that person exists. The Attorney General may, by regulation—

"(A) provide suitable documents to enable the person to establish a new identity or otherwise protect the person;

"(B) provide housing for the person;

"(C) provide for the transportation of household furniture and other personal property to a new residence of the person;

"(D) provide to the person a payment to meet basic living expenses, in a sum established in accordance with regulations issued by the Attorney General, for such times as the Attorney General determines to be warranted;

"(E) assist the person in obtaining employment;

"(F) provide other services necessary to assist the person in becoming self-sustaining;

"(G) disclose or refuse to disclose the identity or location of the person relocated or protected, or any other matter concerning the person or the program after weighing the danger such a disclosure would pose to the person, the detriment it would cause to the general effectiveness of the program, and the benefit it would afford to the public or to the person seeking the disclosure, except that the Attorney General shall, upon the request of State or local law enforcement officials or pursuant to a court order, without undue delay, disclose to such officials the identity, location, criminal records, and fingerprints relating to the person relocated or protected when the Attorney General knows or the request indicates that the person is under investigation for or has been arrested for or charged with an offense that is punishable by more than one year in prison or that is a crime of violence; and

"(H) exempt procurement for services, materials, and supplies, and the renovation and construction of safe sites within existing buildings from other provisions of law as may be required to maintain the security of protective witnesses and the integrity of the Witness Security Program.

The Attorney General shall establish an accurate, efficient, and effective system of records concerning the criminal history of persons provided protection under this chapter in order to provide the information described in subparagraph (G) of this paragraph.

"(2) Deductions shall be made from any payment made to a person pursuant to paragraph (1)(D) to satisfy obligations of that person for family support payments pursuant to a State court order.

"(3) Any person who, without the authorization of the Attorney General, knowingly discloses any information received from the Attorney General under paragraph (1)((G) shall be fined $5,000 or imprisoned five years, or both.

"(C) Before providing protection to any person under this chapter, the Attorney General shall, to the extent practicable, obtain information relating to the suitability of the person for inclusion in the program, including the criminal history, if any, and a psychological evaluation of, the person. The Attorney General shall also make a written assessment in each case of the seriousness of the investigation or case in which the person's information or testimony has been or will be provided and the possible risk of danger to other persons and property in the community where the person is to be relocated and shall determine whether the need for that person's testimony outweighs the risk of danger to the public. In assessing whether a person should be provided protection under this chapter, the Attorney General shall consider the person's criminal record, alternatives to providing protection under this chapter, the possibility of securing similar testimony from other sources, the need for protecting the person, the relative importance of the person's testimony, results of psychological examinations, whether providing such protection will substantially infringe upon the relationship between a child who would be relocated in connection with such protection and that child's parent who would not be so relocated, and such other factors as the Attorney General considers appropriate. The Attorney General shall not provide protection to any person under this chapter if the risk of danger to the public, including the potential harm to innocent victims, outweighs the need for that person's testimony. This subsection shall not be construed to authorize the disclosure of the written assessment made pursuant to this subsection.

"(d)(1) Before providing protection to any person under this chapter, the Attorney General shall enter into a memorandum of understanding with that person. Each such memorandum of understanding shall set forth the responsibilities of that person, including—

"(A) the agreement of the person, if a witness or potential witness, to testify in and provide information to all appropriate law enforcement officials concerning all appropriate proceedings;

"(B) the agreement of the person not to commit any crime;

"(C) the agreement of the person to take all necessary steps to avoid detection by others of the facts concerning the protection provided to that person under this chapter;

"(D) the agreement of the person to comply with legal obligations and civil judgments against that person;

"(E) the agreement of the person to cooperate with all reasonable requests of officers and employees of the Government who are providing protection under this chapter;

"(F) the agreement of the person to designate another person to act as agent for the service of process;

"(G) the agreement of the person to make a sworn statement of all outstanding legal obligations, including obligations concerning child custody and visitation;

"(H) the agreement of the person to disclose any probation or parole responsibilities, and if the person is on probation or parole under State law, to consent to Federal supervision in accordance with section 3522 of this title; and

"(I) the agreement of the person to regularly inform the appropriate program official of the activities and current address of such person.

Each such memorandum of understanding shall also set forth the protection which the Attorney General has determined will be provided to the person under this chapter, and the procedures to be followed in the case of a breach of the memorandum of understanding, as such procedures are established by the Attorney General. Such procedures shall include a procedure for filing and resolution of grievances of persons provided protection under this chapter regarding the administration of the program. This procedure shall include the opportunity for resolution of a grievance by a person who was not involved in the case.

"(2) The Attorney General shall enter into a separate memorandum of understanding pursuant to this subsection with each person protected under this chapter who is eighteen years of age or older. The memorandum of understanding shall be signed by the Attorney General and the person protected.

"(3) The Attorney General may delegate the responsibility initially to authorize protection under this chapter only to the Deputy Attorney General, to the Associate Attorney General, to the Assistant Attorney General in charge of the Criminal Division of the Department of Justice, to the Assistant Attorney General in charge of Civil Rights Division of the Department of Justice (insofar as the delegation relates to a

criminal civil rights case), and to one other officer or employee of the Department of Justice.

"(e) If the Attorney General determines that harm to a person for whom protection may be provided under section 3521 of this title is imminent or that failure to provide immediate protection would otherwise seriously jeopardize an ongoing investigation, the Attorney General may provide temporary protection to such person under this chapter before making the written assessment and determination required by subsection (c) of this section or entering into the memorandum of understanding required by subsection (d) of this section. In such a case the Attorney General shall make such assessment and determination and enter into such memorandum of understanding without undue delay after the protection is initiated.

"(f) The Attorney General may terminate the protection provided under this chapter to any person who substantially breaches the memorandum of understanding entered into between the Attorney General and that person pursuant to subsection (d), or who provides false information concerning the memorandum of understanding or the circumstances pursuant to which the person was provided protection under this chapter, including information with respect to the nature and circumstances concerning child custody and visitation. Before terminating such protection, the Attorney General shall send notice to the person involved of the termination of the protection provided under this chapter and the reasons for the termination. The decision of the Attorney General to terminate such protection shall not be subject to judicial review.

"§ 3522. Probationers and parolees

"(a) A probation officer may, upon the request of the Attorney General, supervise any person provided protection under this chapter who is on probation or parole under State law, if the State involved consents to such supervision. Any person so supervised shall be under Federal jurisdiction during the period of supervision and shall, during that period be subject to all laws of the United States which pertain to parolees.

"(b) The failure by any person provided protection under this chapter who is supervised under subsection (a) to comply with the memorandum of understanding entered into by that person pursuant to section 3521(d) of this title shall be grounds for the revocation of probation or parole, as the case may be.

"(c) The United States Parole Commission and the Chairman of the Commission shall have the same powers and duties with respect to a probationer or parolee transferred from State supervision pursuant to this section as they have with respect to an offender convicted in a court of the United States and paroled under chapter 311 of this title. The provisions of sections 4201 through 4204, 4205 (d), (e), and (h), 4206 through 4216, and 4218 of this title shall apply following a revocation of probation or parole under this section.

"(d) If a person provided protection under this chapter who is on probation or parole and is supervised under subsection (a) of this section has been ordered by the State court which imposed sentence on the person to pay a sum of money to the victim of the offense involved for damage caused by the offense, that penalty or award of damages may be enforced as though it were a civil judgment rendered by a United States district court. Proceedings to collect the moneys ordered to be paid may be instituted by the Attorney General in any United States district court. Moneys recovered pursuant to such procedings shall be distributed to the victim.

"§ 3523. Civil judgments

"(a) If a person provided protection under this chapter is named as a defendant in a civil cause of action arising prior to or during the period in which the protection is provided, process in the civil proceeding may be served upon that person or an agent designated by that person for that purpose. The Attorney General shall make reasonable efforts to serve a copy of the process upon the person protected at the person's last known address. The Attorney General shall notify the plaintiff in the action whether such process has been served. If a judgment in such action is entered against that person the Attorney General shall determine whether the person has made reasonable efforts to comply with the judgment. The Attorney General shall take appropriate steps to urge the person to comply with the judgment. If the Attorney General determines that the person has not made reasonable efforts to comply with the judgment, the Attorney General may, after considering the danger to the person and upon the request of the person holding the judgment disclose the identity and location of the person to the plaintiff entitled to recovery pursuant to the judgment. Any such disclosure of the identity and location of the person shall be made upon the express condition that further disclosure by the plaintiff of such identity or location may be made only if essential to the plaintiff's efforts to recover under the judgment, and only to such additional persons as is necessary to effect the recovery. Any such disclosure or nondisclosure by the Attorney General shall not subject the United States and its officers or employees to any civil liability.

"(b)(1) Any person who holds a judgment entered by a Federal or State court in his or her favor against a person provided protection under this chapter may, upon a decision by the Attorney General to deny disclosure of the current identity and location of such protected person, bring an action against the protected person in the United States district court in the district where the person holding the judgment (hereinafter in this subsection referred to as the 'petitioner') resides. Such action shall be brought within one hundred and twenty days after the petitioner requested the Attorney General to disclose the identity and location of the protected person. The complaint in such action shall contain statements that the petitioner holds a valid judgment of a Federal or State court against a person provided protection under this chapter and that the petitioner sought to enforce the judgment by requesting the Attorney General to disclose the identity and location of the protected person.

"(2) The petitioner in an action described in paragraph (1) shall notify the Attorney General of the action at the same time the action is brought. The Attorney General shall appear in the action and shall affirm or deny the statements in the complaint that the person against whom the judgment is allegedly held is provided protection under this chapter and that the petitioner requested the Attorney General to disclose the identity and location of the protected person for the purpose of enforcing the judgment.

"(3) Upon the determination (A) that the petitioner holds a judgment entered by a Federal or State court and (B) that the Attorney General has declined to disclose to the petitioner the current identity and location of the protected person against whom the judgment was entered, the court shall appoint a guardian to act on behalf of the petitioner to enforce the judgment. The clerk of the court shall forthwith furnish the guardian with a copy of the order of appointment. The Attorney General shall disclose to the guardian the current identity and location of the protected person and any other information necessary to enable the guardian to carry out his or her duties under this subsection.

"(4) It is the duty of the guardian to proceed with all reasonable diligence and dispatch to enforce the rights of the petitioner under the judgment. The guardian shall, however, endeavor to carry out such enforcement duties in a manner that maximizes, to the extent practicable, the safety and security of the protected person. In no event shall the guardian disclose the new identity or location of the protected person without the permission of the Attorney General, except that such disclosure may be made to a Federal or State court in order to enforce the judgment. Any good faith disclosure made by the guardian in the performance of his or her duties under this subsection shall not create any civil liability against the United States or any of its officers or employees.

"(5) Upon appointment, the guardian shall have the power to perform any act with respect to the judgment which the petitioner could perform, including the initiation of judical enforcement actions in any Federal or State court or the assignment of such enforcement actions to a third party under applicable Federal or State law. The Federal Rules of Civil Procedure shall apply in any action brought under this subsection to enforce a Federal or State court judgment.

"(6) The costs of any action brought under this subsection with respect to a judgment, including any enforcement action described in paragraph (5), and the compensation to be allowed to a guardian appointed in any such action shall be fixed by the court and shall be apportioned among the parties as follows: the petitioner shall be assessed in the amount the petitioner would have paid to collect on the judgment in an action not arising under the provisions of this subsection; the protected person shall be assessed the costs which are normally charged to debtors in similar actions and any other costs which are incurred as a result of an action brought under this subsection. In the event that the costs and compensation to the guardian are not met by the petitioner or by the protected person, the court may, in its discretion, enter judgment against the United States for costs and fees reasonably incurred as a result of the action brought under this subsection.

"(7) No officer or employee of the Department of Justice shall in any way impede the efforts of a guardian appointed under this subsection to enforce the judgment with respect to which the guardian was appointed.

"(c) The provisions of this section shall not apply to a court order to which section 3524 of this title applies.

"§ 3524. Child custody arrangements

"(a) The Attorney General may not relocate any child in connection with protection provided to a person under this chapter if it

appears that a person other than that protected person has legal custody of that child.

"(b) Before protection is provided under this chapter to any person (1) who is a parent of a child of whom that person has custody, and (2) who has obligations to another parent of that child with respect to custody or visitation of that child under a court order, the Attorney General shall obtain and examine a copy of such order for the purpose of assuring that compliance with the order can be achieved. If compliance with a visitation order cannot be achieved, the Attorney General may provide protection under this chapter to the person only if the parent being relocated initiates legal action to modify the existing court order under subsection (e)(1) of this section. The parent being relocated must agree in writing before being provided protection to abide by any ensuing court orders issued as a result of an action to modify.

"(c) With respect to any person provided protection under this chapter (1) who is the parent of a child who is relocated in connection with such protection and (2) who has obligations to another parent of that child with respect to custody or visitation of that child under a State court order, the Attorney General shall, as soon as practicable after the person and child are so relocated, notify in writing the child's parent who is not so relocated that the child has been provided protection under this chapter. The notification shall also include statements that the rights of the parent not so relocated to visitation or custody, or both, under the court order shall not be infringed by the relocation of the child and the Department of Justice responsibility with respect thereto. The Department of Justice will pay all reasonable costs of transportation and security incurred in insuring that visitation can occur at a secure location as designated by the United States Marshals Service, but in no event shall it be obligated to pay such costs for visitation in excess of thirty days a year, or twelve in number a year. Additional visitation may be paid for, in the discretion of the Attorney General, by the Department of Justice in extraordinary circumstances. In the event that the unrelocated parent pays visitation costs, the Department of Justice may, in the discretion of the Attorney General, extend security arrangements associated with such visitation.

"(d)(1) With respect to any person provided protection under this chapter (A) who is the parent of a child who is relocated in connection with such protection and (B) who has obligations to another parent of that child with respect to custody or visitation of that child under a court order, an action to modify that court order may be brought by any party to the court order in the District Court for the District of Columbia or in the district court for the district in which the child's parent resides who has not been relocated in connection with such protection.

"(2) With respect to actions brought under paragraph (1), the district courts shall establish a procedure to provide a reasonable opportunity for the parties to the court order to mediate their dispute with respect to the order. The court shall provide a mediator for this purpose. If the dispute is mediated, the court shall issue an order in accordance with the resolution of the dispute.

"(3) If, within sixty days after an action is brought under paragraph (1) to modify a court order, the dispute has not been mediated, any party to the court order may request arbitration of the dispute. In the case of such a request, the court shall appoint a master to act as arbitrator, who shall be experienced in domestic relations matters. Rule 53 of the Federal Rules of Civil Procedure shall apply to masters appointed under this paragraph. The court and the master shall, in determining the dispute, give substantial deference to the need for maintaining parent-child relationships, and any order issued by the court shall be in the best interests of the child. In actions to modify a court order brought under this subsection, the court and the master shall apply the law of the State in which the court order was issued or, in the case of the modification of a court order issued by a district court under this section, the law of the State in which the parent resides who was not relocated in connection with the protection provided under this chapter. The costs to the Government of carrying out a court order may be considered in an action brought under this subsection to modify that court order but shall not outweigh the relative interests of the parties themselves and the child.

"(4) Until a court order is modified under this subsection, all parties to that court order shall comply with their obligations under that court order subject to the limitations set forth in subsection (c) of this section.

"(5) With respect to any person provided protection under this chapter who is the parent of a child who is relocated in connection with such protection, the parent not relocated in connection with such protection may bring an action, in the District Court for the District of Columbia or in the district court for the district in which that parent resides, for violation by that protected person of a court order with respect to custody or visitation of that child. It the court finds that such a violation has occurred, the court may hold in contempt the protected person. Once held in contempt, the protected person shall have a maximum of sixty days, in the discretion of the Attorney General, to comply with the court order. If the protected person fails to comply with the order within the time specified by the Attorney General, the Attorney General shall disclose the new identity and address of the protected person to the other parent and terminate any financial assistance to the protected person unless otherwise directed by the court.

"(6) The United States shall be required by the court to pay litigation costs, including reasonable attorneys' fees, incurred by a parent who prevails in enforcing a custody or visitation order; but shall retain the right to receive such costs from the protected person.

"(e)(1) In any case in which the Attorney General determines that, as a result of the relocation of a person and a child of whom that person is a parent in connection with protection provided under this chapter, the implementation of a court order with respect to custody or visitation of that child would be substantially impossible, the Attorney General may bring, on behalf of the person provided protection under this chapter, an action to modify the court order. Such action may be brought in the district court for the district in which the parent resides who would not be or was not relocated in connection with the protection provided under this chapter. In an action brought under this paragraph, if the Attorney General establishes, by clear and convincing evidence, that implementation of the court order involved would be substantially impossible, the court may modify the court order but shall, subject to appropriate security considerations, provide an alternative as substantially equivalent to the original rights of the nonrelocating parent as feasible under the circumstances.

"(2) With respect to any State court order in effect to which this section applies, and with respect to any district court order in effect which is issued under this section, if the parent who is not relocated in connection with protection provided under this chapter intentionally violates a reasonable security requirement imposed by the Attorney General with respect to the implementation of that court order, the Attorney General may bring an action in the district court for the district in which that parent resides to modify the court order. The court may modify the court order if the court finds such an intentional violation.

"(3) The procedures for mediation and arbitration provided under subsection (d) of this section shall not apply to actions for modification brought under this subsection.

"(f) In any case in which a person provided protection under this chapter is the parent of a child of whom that person has custody and has obligations to another parent of that child concerning custody and visitation of that child which are not imposed by court order, that person, or the parent not relocated in connection with such protection, may bring an action in the district court of the district in which that parent not relocated resides to obtain an order providing for custody or visitation, or both, of that child. In any such action, all the provisions of subsection (d) of this section shall apply.

"(g) In any case in which an action under this section involves court orders from different States with respect to custody or visitation of the same child, the court shall resolve any conflicts by applying the rules of conflict of laws of the State in which the court is sitting.

"(h)(1) Subject to paragraph (2), the costs of any action described in subsection (d), (e), or (f) of this section shall be paid by the United States.

"(2) The Attorney General shall insure that any State court order in effect to which this section applies and any district court order in effect which is issued under this section are carried out. The Department of Justice shall pay all costs and fees described in subsections (c) and (d) of this section.

"(i) As used in this section, the term 'parent' includes any person who stands in the place of a parent by law.

"§ 3525. Victims Compensation Fund

"(a) The Attorney General may pay restitution to, or in the case of death, compensation for the death of any victim of a crime that causes or threatens death or serious bodily injury and that is committed by any person during a period in which that person is provided protection under this chapter.

"(b) Not later than four months after the end of each fiscal year, the Attorney General shall transmit to the Congress a detailed report on payments made under this section for such year.

"(c) There are authorized to be appropriated for the fiscal year 1985 and for each fiscal year thereafter, $1,000,000 for payments under this section.

"(d) The Attorney General shall establish guidelines and procedures for making pay-

ments under this section. The payments to victims under this section shall be made for the types of expenses provided for in section 3579(b) of this title, except that in the case of the death of the victim, an amount not to exceed $50,000 may be paid to the victim's estate. No payment be made under this section to a victim uless the victim has sought restitution and compensation provided under Federal or State law or by civil action. Such payments may be made only to the extent the victim, or the victim's estate, has not otherwise received restitution and compensation, including insurance payments, for the crime involved. Payments may be made under this section to victims of crimes occurring on or after the date of the enactment of this chapter. In the case of a crime occurring before the date of the enactment of this chapter, a payment may be made under this section only in the case of the death of the victim, and then only in an amount not exceeding $25,000, and such payment may be made notwithstanding the requirements of the third sentence of this subsection.

"(e) Nothing in this section shall be construed to create a cause of action against the United States.

"§ 3526. Cooperation of other Federal agencies and State governments; reimbursement of expenses

"(a) Each Federal agency shall cooperate with the Attorney General in carrying out the provisions of this chapter and may provide, on a reimbursable basis, such personnel and services as the Attorney General may request in carrying those provisions.

"(b) In any case in which a State government requests the Attorney General to provide protection to any person under this chapter—

"(1) the Attorney General may enter into agreement with that State government in which that government agrees to reimburse the United States for expenses incurred in providing protection to that person under this chapter; and

"(2) the Attorney General shall enter into an agreement with that state government in which that government agrees to cooperate with the Attorney General in carrying out the provisions of this chapter with respect to all persons.

"§ 3527. Additional authority of Attorney General

"The Attorney General may enter into such contracts or other agreements as may be necessary to carry out this chapter. Any such contract or agreement which would result in the United States being obligated to make outlays may be entered into only to the extent and in such amount as may be provided in advance in an appropriation Act.

"§ 3528. Definition

"For purposes of this chapter, the term 'State' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.".

SEC. 803. (a) The table of chapters for part II of title 18, United States Code, is amended by inserting after the item relating to chapter 223 the following new item:

"224. Protection of witnesses..... 3521".

(b) Title V of the Organized Crime Control Act of 1970 (84 Stat. 933) is repealed.

SEC. 804. This subtitle and the amendments made by this subtitle shall take effect on October 1, 1984.

Subpart B

SEC. 851. (a) Chapter 37 of title 28, United States Code, is amended by adding at the end the following new section: "§ 576. Reemployment rights.

"(a) A United States marshal for a judicial district who was appointed from a position in the competitive service (as defined in section 2102 of title 5) in the United States Marshals Service and who, for reasons other than misconduct, neglect of duty, or malfeasance, is removed from such office, is entitled to be reemployed in any vacant position in the competitive service in the United States Marshals Service at the same grade or pay level, or lower, as the individual's former position if—

"(1) the individual is qualified for the vacant position; and

"(2) the individual has made application for the position not later than ninety days after being removed from office as a United States marshal.

Such individual shall be so reemployed within thirty days after making such application or after being removed from office, whichever is later. An individual denied reemployment under this section in a position because the individual is not qualified for that position may appeal that denial to the Merit Systems Protection Board under section 7701 of title 5.

(b) Any United States marshal serving on the effective date of this section shall continue to serve for the remainder of the term for which such marshal was appointed, unless sooner removed by the President.".

(c) The table of sections for chapter 37 of title 28, United States Code, is amended by adding at the end the following new item:

"576. Reemployment rights.".

SEC. 852. The amendments made by this subtitle shall take effect on October 1, 1984.

Strike out part G; strike out part L and insert the following:

SEC. 1213. (a) Chapter 223 of title 18, United States Code, is amended by adding at the end the following new sections:

"§ 3505. Foreign records of regularly conducted activity

"(a)(1) In a criminal proceeding in a court of the United States, a foreign record of regularly conducted activity, or a copy of such record, shall not be excluded as evidence by the hearsay rule if a foreign certification attests that—

"(A) such record was made, at or near the time of the occurrence of the matters set forth, by (or from information transmitted by) a person with knowledge of those matters;

"(B) such record was kept in the course of a regularly conducted business activity;

"(C) the business activity made such a record as a regular practice; and

"(D) if such record is not the orginal, such record is a duplicate of the original;

unless the source of information or the method or circumstances of preparation indicate lack of trustworthiness.

"(2) A foreign certification under this section shall authenticate such record or duplicate.

"(b) At the arraignment or as soon after the arraignment as practicable, a party intending to offer in evidence under this section a foreign record of regularly conducted activity shall provide written notice of that intention to each other party. A motion opposing admission in evidence of such record shall be made by the opposing party and determined by the court before trial. Failure by a party to file such motion before trial shall constitute a waiver of objection to such record or duplicate, but the court for cause shown may grant relief from the waiver.

"(c) As used in this section, the term—

"(1) 'foreign record of regularly conducted activity' means a memorandum, report, record, or data compilation, in any form, of acts, events, conditions, opinions, or diagnoses, maintained in a foreign country;

"(2) 'foreign certification' means a written declaration made and signed in a foreign country by the custodian of a foreign record of regularly conducted activity or another qualified person that, if falsely made, would subject the maker to criminal penalty under the laws of that country; and

"(3) 'business' includes business, institution, association, profession, occupation, and calling of every kind, whether or not conducted for profit.

"§ 3506. Service of papers filed in opposition to official request by United States to foreign government for criminal evidence

"(a) 'Except as provided in subsection (b) of this section, any national or resident of the United States who submits, or causes to be submitted, a pleading or other document to a court or other authority in a foreign country in opposition to an official request for evidence of an offense shall serve such pleading or other document on the Attorney General at the time such pleading or other document is submitted.

"(b) 'Any person who is a party to a criminal proceeding in a court of the United States who submits, or causes to be submitted, a plea or other document to a court or other authority in a foreign country in opposition to an official request for evidence of an offense that is a subject of such proceeding shall serve such pleading or other document on the appropriate attorney for the Government, pursuant to the Federal Rules of Criminal Procedure, at the time such pleading or other document is submitted.

"(c) As used in this section, the term 'official request' means a letter rogatory, a request under a treaty or convention, or any other request for evidence made by a court of the United States or an authority of the United States having criminal law enforcement responsibility, to a court or other authority of a foreign country.

"§ 3507. Special master at foreign deposition

"Upon application of a party to a criminal case, a United States district court before which the case is pending may, to the extent permitted by a foreign country, appoint a special master to carry out at a deposition taken in that country such duties as the court may direct, including presiding at the deposition or serving as an advisor on questions of United States law. Notwithstanding any other provision of law, a special master appointed under this section shall not decide questions of privilege under foreign law. The refusal of a court to appoint a special master under this section, or of the foreign country to permit a special master appointed under this section to carry out a duty at a deposition in that country, shall not affect the admissibility in evidence of a deposition taken under the provisions of the Federal Rules of Criminal Procedure.".

(b) The table of sections for chapter 223 of title 18, United States Code, is amended by adding at the end the following new items:

"3505. Foreign records of regularly conducted activity.

"3506. Service of papers filed in opposition to official request by United States to foreign government for criminal evidence.

"3507. Special master at foreign deposition.".

SEC. 1214. (a) Chapter 213 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 3292. Suspension of limitations to permit United States to obtain foreign evidence

"(a)(1) Upon application of the United States, filed before return of an indictment, indicating that evidence of an offense is in a foreign country, the district court before which a grand jury is impaneled to investigate the offense shall suspend the running of the statute of limitations for the offense if the court finds by a preponderance of the evidence that an official request has been made for such evidence and that it reasonably appears, or reasonably appeared at the time the request was made, that such evidence is, or was, in such foreign country.

"(2) The court shall rule upon such application not later than thirty days after the filing of the application.

"(b) Except as provided in subsection (c) of this section, a period of suspension under this section shall begin on the date on which the official request is made and end on the date on which the foreign court on authority takes final action on the request.

"(c) The total of all periods of suspension under this section with respect to an offense.

"(1) shall not exceed three years; and

"(2) shall not extend a period within which a criminal case must be initiated for more than six months if all foreign authorities take final action before such period would expire without regard to this section.

"(d) As used in this section, the term 'official request' means a letter rogatory, a request under a treaty or convention, or any other request for evidence made by a court of the United States or an authority of the United States having criminal law enforcement responsibility, to a court or other authority of a foreign country.".

(b) The table of sections for chapter 213 of title 18, United States Code, is amended by adding after the item relating to section 3291 the following new item:

"3292. Suspension of limitations to permit United States to obtain foreign evidence.".

SEC. 1215. Subsection (h) of section 3161 of title 18, United States Code, is amended—

(1) in paragraph (8)(C), by striking out "paragraph (8)(A) of this subsection" and inserting in lieu thereof "subparagraph (A) of this paragraph"; and

(2) by adding at the end the following new paragraph:

"(9) Any period of delay, not to exceed one year, ordered by a district court upon an application of a party and a finding by a preponderance of the evidence that an official request, as defined in section 3292 of this title, has been made for evidence of any such offense and that it reasonably appears, or reasonably appeared at the time the request was made, that such evidence is, or was, in such foreign country.".

SEC. 1216. This part and the amendments made by this part shall take effect thirty days after the date of the enactment of this Act.

Insert the following new chapters at the end of title II:

TITLE IV—NATIONAL NARCOTICS ACT

SEC. 401. This title may be cited as the "National Narcotics Act of 1984".

SEC. 402. (a) The Congress hereby makes the following findings:

(1) The flow of illegal naroctics into the United States is a major and growing problem.

(2) The problem of illegal drug activity falls across the entire spectrum of Federal activities both nationally and internationally.

(3) Illegal drug trafficking is estimated by the General Accounting Office to be an $80,000,000,000 per annum industry in the United States.

(4) The annual consumption of drugs has reached epidemic proportions.

(5) Despite the efforts of the United States Government and other nations, the mechanisms for smuggling opium and other hard drugs into the United States remain virtually intact and United States agencies estimate that they are able to interdict no more than 5 to 15 percent of all hard drugs flowing into the country.

(6) Such significant indicators of the drug problem as drug-related deaths, emergency room visits, hospital admissions due to drug-related incidents, and addiction rates are soaring.

(7) Increased drug trafficking is strongly linked to violent, addiction-related crime and recent studies have shown that over 90 percent of heroin users rely upon criminal activity as a means of income.

(8) Much of the drug trafficking is handled by syndicates, a situation which results in increased violence and criminal activity because of the competitive struggle for control of the domestic drug market.

(9) Controlling the supply of illicit drugs is a key to reducing the crime epidemic confronting every region of the country.

(10) The magnitude and scope of the problem requires the establishment of a National Drug Enforcement Policy Board, chaired by the Attorney General, to facilitate coordination of all Federal efforts by relevant agencies.

(11) Such a Board must have responsibility for coordinating the operations of Federal agencies involved in attacking this problem through the development of policy and resources, so that a unified and efficient effort can be undertaken.

(b) It is the purpose of this Act to insure—

(1) the maintenance of a national and international effort against illegal drugs;

(2) that the activities of the Federal agencies involved are fully coordinated; and

(3) that a single, competent, and responsible high-level Board of the United States Government, chaired by the Attorney General, will be charged with this responsibility of coordinating United States policy with respect to national and international drug law enforcement.

SEC. 403. There is established in the executive branch of the Government a Board to be known as the "National Drug Enforcement Policy Board" (hereinafter in this Act referred to as the "Board"). There shall be at the head of the Board a Chairman who shall be the Attorney General (hereinafter in this Act referred to as the "Chairman"). In addition to the Chairman, the Board shall be comprised of the Secretaries of State, Treasury, Defense, Transportation, Health and Human Services, the Director of the Office of Management and Budget, and the Director of Central Intelligence and such other officials as may be appointed by the President. Decisions made by the Board pursuant to section 4(a) of this Act shall be acknowledged by each member thereof in writing.

SEC. 404. (a) The Board shall facilitate coordination of United States operations and policy on illegal drug law enforcement. In the furtherance of that responsibility, the Board shall have the responsibility, and is authorized to—

(1) review, evaluate and develop United States Government policy, strategy and resources with respect to illegal drug law enforcement efforts, including budgetary priorities and a National and International Drug Law Enforcement Strategy;

(2) facilitate coordination of all United States Government efforts to halt national and international trafficking in illegal drugs; and

(3) coordinate the collection and evaluation of information necessary to implement United States policy with respect to illegal drug law enforcement.

(b) For the purpose of coordinating the activities of the several departments and agencies with responsibility for drug law enforcement and implementing the determinations of the Board, it shall be the duty of the Chairman—

(1) to advise the Board in matters concerning drug law enforcement;

(2) to make recommendations to the Board for the coordination of drug enforcement activities

(3) to correlate and evaluate intelligence and other information on drug law enforcement to support the activities of the Board;

(4) to act as primary adviser to the President and Congress on national and international illegal drug law enforcement programs and policies developed by the Board under subsection (a) of this section and the implementation thereof; and

(5) to perform such other duties as the President may direct.

(c) In carrying out responsibilities under this section, the Chairman, on behalf of the Board, is authorized to—

(1) direct, with the concurrence of the head of the agency employing such personnel, the assignment of Government personnel within the United States Government in order to implement United States policy with respect to illegal drug law enforcement;

(2) provide guidance in the implementation and maintenance of policy, strategy, and resources developed under subsection (a) of this section;

(3) review and approve the reprograming of funds relating to budgetary priorities developed under subsection (a) of this section;

(4) procure temporary and intermittent services under section 3109(b) of title 5 of the United States Code, but at rates for individuals not to exceed the daily equivalent of the maximum annual rate of basic pay payable for the grade of GS-18 of the General Schedule;

(5) accept and use donations of property from all Government agencies; and

(6) use the mails in the same manner as any other department or agency of the executive branch.

(d) Notwithstanding the authority granted in subsection (a) of this section, the Board and the Chairman shall not interfere with routine law enforcement or intelligence decisions of any agency and shall undertake no activity inconsistent with the authorities and responsibilities of the Director of Central Intelligence under the provisions of the National Security Act of 1947, as amended, or Executive Order 12333.

(e) The Administrator of the General Services Administration shall provide to the Board on a reimbursable basis such administrative support services as the Chairman may request.

SEC. 405. The Chairman shall submit to the Congress, within nine months after enactment of this Act, and biannually thereafter, a full and complete report reflecting United States policy with respect to illegal drug law enforcement, plans proposed for the implementation of such policy, and, commencing with the submission of the second report, a full and complete report reflecting accomplishments with respect to the United States policy and plans theretofore submitted to the Congress.

SEC. 406. Title II of the Drug Abuse Prevention, Treatment and Rehabilitation Act (21 U.S.C. 1112) is amended by adding at the end of section 201 (21 U.S.C. 1111) a new subsection (d) as follows:

"(d) Support to National Drug Enforcement Policy Board. One of the duties of the White House Office of Drug Abuse Policy shall be to insure coordination between the National Drug Enforcement Policy Board and the health issues associated with drug abuse.".

SEC. 407. This title and the amendments made by this title shall take effect January 20, 1985.

TITLE I—VICTIM COMPENSATION AND ASSISTANCE

SEC. 101. This title may be cited as the "Victims of Crime Act of 1984".

CRIME VICTIMS FUND

SEC. 102. (a) There is created in the Treasury a separate account to be known as the Crime Victims Fund (hereinafter in this title referred to as the "Fund").

(b) Except as limited by subsection (c), there shall be deposited in the Fund—

(1) all fines that are collected from persons convicted of offenses against the United States except—

(A) fines available for use by the Secretary of the Treasury pursuant to—

(i) section 11(d) of the Endangered Species Act (16 U.S.C. 1540(d)); and

(ii) section 6(d) of the Lacey Act Amendments of 1981 (16 U.S.C. 3375(d)); and

(B) fines to be paid into—

(i) the railroad unemployment insurance account pursuant to the Railroad Unemployment Insurance Act (45 U.S.C. 351 et seq.);

(ii) the Postal Service Fund pursuant to sections 2601(a)(2) and 2003 of title 39 of the United States Code and for the purposes set forth in section 404(a)(8) of such title 39;

(iii) the navigable waters revolving fund pursuant to section 311 of the Federal Water Pollution Control Act (33 U.S.C. 1321); and

(iv) county public school funds pursuant to section 3613 of title 18 of the United States Code;

(2) penalty assessments collected under section 3013 of title 18 of the United States Code;

(3) the proceeds of forfeited appearance bonds, bail bonds, and collateral collected under section 3146 of title 18 of the United States Code; and

(4) any money ordered to be paid into the Fund under section 3671(c)(2) of title 18 of the United States Code.

(c)(1) If the total deposited in the Fund during a particular fiscal year reaches the sum of $100 million, the excess over that sum shall be deposited in the general fund of the Treasury and shall not be a part of the Fund.

(2) No deposits shall be made in the Fund after September 39, 1988.

(d)(1) Sums deposited in the Fund shall remain in the Fund and be available for expenditure under this subsection for grants under this title without fiscal year limitation.

(2) Fifty percent of the total deposited in the Fund during a particular fiscal year shall be available for grants under section 1003 and fifty percent shall be available for grants under section 1004.

(e) Any sums awarded as part of a grant under this title that remain unspent at the end of a fiscal year in which such grant is made may be expended for the purpose for which such grant is made at any time during the next succeeding fiscal year, at the end of which year any remaining unobligated sums shall be returned to the general fund of the Treasury.

(f) As used in this section, the term "offenses against the United States" does not include—

(1) a criminal violation of the Uniform Code of Military Justice (10 U.S.C. 801 et seq.);

(2) an offense against the laws of the District of Columbia; and

(3) an offense triable by an Indian tribal court or Court of Indian Offenses.

CRIME VICTIM COMPENSATION

SEC. 103. (a)(1) Except as provided in paragraph (2), the Attorney General shall make an annual grant from the Fund to an eligible crime victim compensation program of 35 percent of the amounts awarded during the preceding fiscal year, other than amounts awarded for property damage. A grant under this section shall be used by such program only for awards of compensation.

(2) If the sums available in the Fund for grants under this section are insufficient to provide grants of 35 percent as provided in paragraph (1), the Attorney General shall make, from the sums available, a grant to each eligible crime victim compensation program so that all such programs receive the same percentage of the amounts awarded by such program during the preceding fiscal year, other than amounts awarded for property damage.

(b) A crime victim compensation program is an eligible crime victim compensation program for the purposes of this section if—

(1) such program is operated by a State and offers compensation to victims of crime and survivors of victims of crime for—

(A) medical expenses attributable to a physical injury resulting from compensable crime, including expenses for mental health counseling and care;

(B) loss of wages attributable to a physical injury resulting from a compensable crime; and

(C) funeral expenses attributable to a death resulting from a compensable crime;

(2) such program promotes victim cooperation with the reasonable requests of law enforcement authorities;

(3) such State certifies that grants received under this section will not be used to supplant State funds otherwise available to provide crime victim compensation;

(4) such program, as to compensable crimes occurring within the State, makes compensation awards to victims who are nonresidents of the State on the basis of the same criteria used to make awards to victims who are residents of such State;

(5) such program provides compensation to victims of crimes occuring within such State that would be compensable crimes, but for the fact that such crimes are subject to Federal jurisdiction, on the same basis that such program provides compensation to victims of compensable crimes; and

(6) such program provides such other information and assurances related to the purposes of this section as the Attorney General may reasonably require.

(c) A State crime victim compensation program in effect on the date grants may first be made under this section shall be deemed an eligible crime victim compensation program for the purposes of this section until the day after the close of the first regular session of the legislature of that State that begins after such date.

(d) As used in this section—

(1) the term "property damage" does not include damage to prosthetic devices or dental devices;

(2) the term "medical expenses" includes, to the extent provided under the eligible crime victim compensation program, expenses for dental services and devices and prosthetic devices and for services rendered in accordance with a method of healing recognized by the law of the State;

(3) the term "compensable crime" means a crime the victims of which are eligible for compensation under the eligible crime victim compensation program; and

(4) the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, and any other possession or territory of the United States.

CRIME VICTIM ASSISTANCE

"SEC. 104. (a)(1) Subject to the availability of money in the Fund, the Attorney General shall make an annual grant from any portion of the Fund not used for grants under section 1003 with respect to a particular fiscal year, and after any deduction under subsection (c) to the chief executive of each State for the financial support of eligible crime victim assistance programs.

(2) such chief executive shall—

(A) certify that priority shall be given to eligible crime victim assistance programs providing assistance to victims of sexual assault, spousal abuse, or child abuse;

(B) certify that funds awarded to eligible crime victim assistance programs will not be used to supplant State and local funds otherwise available for crime victim assistance; and

(C) provide such other information and assurances related to the purposes of this section as the Attorney General may reasonably require.

(3) The amounts of grants under under paragraph (1) shall be—

(A) $100,000 to each State; and

(B) that portion of the then remaining available money to each State that results from a distribution among the States or the basis of each State's population in relation to the population of all States.

(4) If the amount available for grants under paragraph (1) is insufficient to provide $100,000 to each State, the funds available shall be distributed equally among the States.

(b)(1) A victim assistance program is an eligible crime victim assistance program for the purposes of this section if such program—

(A) is operated by a public agency or a nonprofit organization, or a combination of such agencies or organizations or of both

such agencies and organizations, and provides services to victims of crime;

(B) demonstrates—

(i) a record of providing effective services to victims of crime and financial support from sources other than the Fund; or

(ii) substantial financial support from sources other than the Fund;

(C) utilizes volunteers in providing such services, unless and to the extent the chief executive determines that compelling reasons exist to waive this requirement;

(D) promotes within the community served coordinated public and private efforts to aid crime victims; and

(E) assists potential recipients in seeking crime victim compensation benefits.

(2) An eligible crime victim assistance program shall expend sums received under subsection (a) only for providing services to victims of crime.

(c)(1) The Attorney General may in any fiscal year deduct from amounts available under section 1004 an amount not to exceed 5 percent of the amount in the Fund, and may expend the amount so deducted to provide services to victims of Federal crimes by the Department of Justice, or reimburse other instrumentalities of the Federal Government otherwise authorized to provide such services.

(2) The Attorney General shall appoint or designate an official of the Department of Justice to be the Federal Crime Victim Assistance Administrator (hereinafter in this title referred to as the "Federal Administrator") to exercise the responsibilities of the Attorney General under this subsection.

(3) The Federal Administrator shall—

(A) be responsible for monitoring compliance with guidelines for fair treatment of crime victims and witnesses issued under section 6 of the Victim and Witness Protection Act of 1982 (Public Law 97-291);

(B) consult with the heads of Federal law enforcement agencies that have responsibilities affecting victims of Federal crimes;

(C) coordinate victim services provided by the Federal Government with victim services offered by other public agencies and nonprofit organizations; and

(D) perform such other functions related to the purposes of this title as the Attorney General may assign.

(4) The Attorney General may reimburse other instrumentalities of the Federal Government and contract for the performance of functions authorized under this subsection.

(d) As used in this section—

(1) the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, and, except for the purposes of paragraphs (3)(A) and (4) of subsection (a) of this section, any other territory or possession of the United States; and

(2) the term "services to victims of crime" includes—

(A) crisis intervention services;

(B) providing, in an emergency, transportation to court, short-term child care services, and temporary housing and security measures;

(C) assistance in participating in criminal justice proceedings; and

(D) payment of all reasonable costs for a forensic medical examination of a crime victim, to the extent that such costs are otherwise not reimbursed or paid;

(3) the term "services to victims of Federal crime" means services to victims of crime with respect to Federal crime, and includes—

(A) training of law enforcement personnel in the delivery of services to victims of Federal crime;

(B) preparation, publication, and distribution of informational materials—

(i) setting forth services offered to victims of crime; and

(ii) concerning services to victims of Federal crime for use by Federal law enforcement personnel; and

(C) salaries of personnel who provide services to victims of crime, to the extent that such personnel provide such services;

(4) the term "crisis intervention services" means counseling to provide emotional support in crises arising from the occurrence of crime; and

(5) the term "chief executive" includes a person designated by a chief executive to perform the functions of the chief executive under this section.

PENALTY ASSESSMENT

SEC. 106. (a) Chapter 201 of title 18 of the United States Code is amended by adding at the end the following:

"§ 3013. Special assessment on convicted persons

"(a) The court shall assess on any person convicted of an offense against the United States—

"(1) in the case of a misdemeanor—

"(A) the amount of $25 if the defendant is an individual; and

"(B) the amount of $100 if the defendant is a person other than an individual; and

"(2) in the case of a felony—

"(A) the amount of $50 if the defendant is an individual; and

"(B) the amount of $200 if the defendant is a person other than an individual.

"(b) Such amount so assessed shall be collected in the manner that fines are collected in criminal cases.".

(b) The table of sections for chapter 201 of title 18 of the United States Code is amended by adding at the end the following:

"3013. Special assessment on convicted persons.".

SPECIAL FORFEITURE OF COLLATERAL PROFITS OF CRIME

SEC. 106. (a) Title 18 of the United States Code is amended by adding after chapter 231 the following:

"CHAPTER 232—SPECIAL FORFEITURE OF COLLATERAL PROFITS OF CRIME

"Sec.

"§ 3671. Order of special forfeiture.

"§ 3672. Notice to victims of order of special forfeiture.

"§ 3671. Order of special forfeiture

"(a) Upon the motion of the United States attorney made at any time after conviction of a defendant for an offense against the United States resulting in physical harm to an individual, and after notice to any interested party, the court shall, if the court determines that the interest of justice or an order of restitution under chapter 227 or 231 of this title so requires, order such defendant to forfeit all or any part of proceeds received or to be received by the defendant, or a transferee of that defendant, from a contract relating to a depiction of such crime in a movie, book, newspaper, magazine, radio or television production, or live entertainment of any kind, or an expression of that defendant's thoughts, opinions, or emotions regarding such crime.

"(b) An order issued under subsection (a) of this section shall require that the person with whom the defendant contracts pay to the Attorney General any proceeds due the defendant under such contract.

"(c)(1) Proceeds paid to the Attorney General under this section shall be retained in escrow in the Crime Victims Fund in the Treasury by the Attorney General for five years after the date of an order under this section, but during that five year period may—

"(A) be levided upon to satisfy—

"(i) a money judgment rendered by a United States district court in favor of a victim of an offense for which such defendant has been convicted, or a legal representative of such victim; and

"(ii) a fine imposed by a court of the United States; and

"(B) if ordered by the court in the interest of justice, be used to—

"(i) satisfy a money judgment rendered in any court in favor of a victim of any offense for which such defendant has been convicted, or a legal representative of such victim; and

"(ii) pay for legal representation of the defendant in matters arising from the offense for which such defendant has been convicted, but no more than 20 percent of the total proceeds may be so used.

"(2) The court shall direct the disposition of all such proceeds in the possession of the Attorney General at the end of such five years and may require that all or any part of such proceeds be released from escrow and paid into the Crime Victims Fund in the Treasury.

"(d) As used in this section, the term 'interested party' includes the defendant and any transferee of proceeds due the defendant under the contract, the person with whom the defendant has contracted, and any person physically harmed as a result of the offense for which the defendant has been convicted.

"§ 3672. Notice to victims of order of special forfeiture

"The United States attorney shall, within 30 days after the imposition of an order under this chapter and at such other times as the Attorney General may require, publish in a newspaper of general circulation in the district in which the offense for which a defendant was convicted occurred, a notice that states—

"(1) the name of, and other identifying information about, the defendant;

"(2) the offense for which the defendant was convicted; and

"(3) that the court has ordered a special forfeiture of certain proceeds that may be used to satsify a judgement obtained against the defendant by a victim of an offense for which the defendant has been convicted.".

(b) The table of chapters for part II of title 18 of the United States Code is amended by adding after the item for chapter 231 the following:

"232. Special forfeiture of collateral profits of crime.".

ADMINISTRATIVE PROVISIONS

SEC. 107. (a) The Attorney General may establish such rules, regulations, guidelines, and procedures as are necessary to carry out any function of the Attorney General under this title and may delegate to any officer or employee of the Department of Justice any such function as the Attorney General deems appropriate.

(b) Each recipient of sums under this title shall keep such records as the Attorney General shall prescribe, including records that fully disclose the amount and disposi-

tion by such recipient of such sums, the total cost of the undertaking for which such sums are used, and that portion of the cost of the undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(c) The Attorney General or any duly authorized representative of the Attorney General shall have access, for purpose of audit and examination, to any books, documents, papers, and records of the recipient of sums under this title that, in the opinion of the Attorney General or any duly authorized representative of the Attorney General, may be related to the expediture of funds received under this title.

(d) Except as otherwise provided by Federal law, no officer or employee of the Federal Government, and no recipient of sums under this title, shall use or reveal any research or statistical information furnished under this title by any person and identifiable to any specific private person for any purpose other than the purpose for which such information was obtained in accordance with this title. Such information, and any copy of such information, shall be immune from legal process and shall not, without the consent of the person furnishing such information, be admitted as evidence or used for any purpose in any action, suit, or other judicial, legislative, or administrative proceeding.

(f) No person shall on the ground of race, color, religion, national origin, handicap, or sex be excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in connection with, any undertaking funded in whole or in part with sums made available under this title.

(g) If, after reasonable notice and opportunity for a hearing on the record, the Attorney General finds that a State has failed to comply substantially with any provision of this title or a rule, regulation, guideline, or procedure issued under this title, or an application submitted in accordance with this title or the provisions of any other applicable law, the Attorney General shall—

(1) terminate payments to such State;

(2) suspend payments to such State until the Attorney General is satisfied that such noncompliance has ended; or

(3) take such other action as the Attorney General deems appropriate.

(h) The Attorney General shall, no later than December 31, 1987, report to the President and to the Congress on the revenue derived from each source described in section 1002 and on the effectiveness of the activities supported under this title. The Attorney General may include in such report recommendations for legislation to improve this title.

PAROLE PROCEEDING AMENDMENTS

SEC. 108. (a) Section 4207 of title 18 of the United States Code is amended—

(1) by striking out "and" at the end of paragraph (4); and

(2) by inserting after paragraph (4) the following new paragraph:

"(5) a statement, which may be presented orally or otherwise, by any victim of the offense for which the prisoner is imprisoned about the financial, social, pyschological, and emotional harm done to, or loss suffered by such victim; and".

(b) Section 6(a) of the Victim and Witness Protection Act of 1982 is amended—

(1) in the catchline of paragraph (4), by striking out "Major";

(2) in paragraph (4), by striking out "if possible, of judicial proceedings relating to their case, including—" and inserting in lieu thereof "if possible, of—"; and

(3) in subparagraph (D) of paragraph (4)—

(A) by inserting "and punishment" after "prosecution"; and

(B) by inserting "a hearing to determine a parole release date and" after "imposed,".

(c) Section 4215 of title 18 of the United States Code is amended—

(1) so that the heading of such section reads as follows:

"§ 4215. Appeal";

(2) in subsection (a)—

(A) in the first sentence—

(i) by striking out "have the decision reconsidered" and inserting in lieu thereof "appeal such decision"; and

(ii) by striking out "regional commissioner" and inserting in lieu thereof "National Appeal Board"; and

(B) by striking out the second sentence; and

(3) in subsection (b), by striking out the first sentence.

(d) The table of sections at the beginning of chapter 311 of title 18 of the United States Code is amended so that the item relating to section 4215 reads as follows:

"4215. Appeal.".

EFFECTIVE DATES

SEC. 109. (a) Except as provided in subsection (b), this title and the amendments made by this title shall take effect 30 days after the date of enactment of this Act.

(b) Sections 1002, 1003, 1004, and 1007 of this title shall take effect on October 1, 1984.

CONFORMING AMENDMENT

SEC. 110. Section 3150(a) of title 18 U.S.C. is amended by striking out "the general fund of".

TITLE II—TRADEMARK COUNTERFEITING

SEC. 201. This title may be cited as the "Trademark Counterfeiting Act of 1984".

TITLE 18 AMENDMENT

SEC. 202. (a) Chapter 113 of title 18 of the United States Code is amended by adding at the end the following:

"§ 2320. Trafficking in counterfeit goods or services

"(a) Whoever intentionally traffics or attempts to traffic in goods or services and knowingly uses a counterfeit mark on or in connection wth such goods or services shall, if an individual, be fined not more than $250,000 or imprisoned not more than five years, or both, and, if a person other than an individual, be fined not more than $1,000,000. In the case of an offense by a person under this section that occurs after that person is convicted of another offense under this section, the person conviced, if an individual, shall be fined not more than $1,000,000 or imprisoned not more than fifteen years, or both, and if other than an individual, shall be fined not more than $5,000,000.

"(b) Upon a determination by a preponderance of the evidence that any articles in the possession of a defendant in a prosecution under this section bear counterfeit marks, the United States may obtain an order for the destruction of such articles.

"(c) All defenses, affirmative defenses, and limitations on remedies that would be applicable in an action under the Lanham Act shall be applicable in a prosecution under this section. In a prosecution under this section, the defendant shall have the burden of proof, by a preponderance of the evidence, of any such affirmative defense.

"(d) For the purposes of this section—

"(1) the term 'counterfeit mark' means—

"(A) a spurious mark—

"(i) that is used in connection with trafficking in goods or services;

"(ii) that is identical with, or substantially indistinguishable from, a mark registered for those goods or services on the principal register in the United States Patent and Trademark Office and in use, whether or not the defendant knew such mark was so registered; and

"(iii) the use of which is likely to cause confusion, to cause mistake, or to deceive; or

"(B) a spurious designation that is identical with, or substantially indistinguishable from, a designation as to which the remedies of the Lanham Act are made available by reason of section 110 of the Olympic Charter Act;

but such term does not include any mark or designation used in connection with goods or services of which the manufacturer or producer was, at the time of the manufacture or production in question, authorized to use the mark or designation for the type of goods or services so manufactured or produced, by the holder of the right to use such mark or designation;

"(2) the term 'traffic' means transport, transfer, or otherwise dispose of, to another, as consideration for anything of value, or make or obtain control of with intent so to transport, transfer, or dispose of;

"(3) the term 'Lanham Act' means the Act entitled 'An Act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes', approved July 5, 1946 (15 U.S.C. 1051 et seq.); and

"(4) the term 'Olympic Charter Act' means the act entitled 'An Act to incorporate the United States Olympic Association', approved September 21, 1950 (36 U.S.C. 371 et seq.).".

(b) The table of sections at the beginning of chapter 113 of title 18 of the United States Code is amended by adding at the end the following new item:

"2320. Trafficking in counterfeit goods or services.".

LANHAM ACT AMENDMENT

SEC. 203. The Act entitled "An Act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes", approved July 5, 1946 (15 U.S.C. 1051 et seq.) is amended—

(1) in section 34 (15 U.S.C. 1116)—

(A) by designating the first paragraph as subsection (a);

(B) by designating the second paragraph as subsection (b);

(C) by designating the third paragraph as subsection (c); and

(D) by adding at the end the following:

"(d)(1)(A) In the case of a civil action arising under section 32(1)(a) of this Act (15 U.S.C. 1114) or section 110 of the Act entitled 'An Act to incorporate the United States Olympic Association', approved September 21, 1950 (36 U.S.C 380) with respect to a violation that consists of using a counterfeit mark in connection with the sale, offering for sale, or distribution of goods or services, the court may, upon ex parte application, grant an order under subsection (a) of this section pursuant to this subsection providing for the seizure of goods and coun-

terfeit marks involved in such violation and the means of making such marks, and records documenting the manufacture, sale or receipt of things involved in such violation.

"(B) As used in this subsection the term 'counterfeit mark' means—

"(i) a counterfeit of a mark that is registered on the principal register in the United States Patent and Trademark Office for such goods or services sold, offered for sale, or distributed and that is in use, whether or not the person against whom relief is sought knew such mark was so registered; or

"(ii) a spurious designation that is identical with, or substantially indistinguishable from, a designation as to which the remedies of this Act are made available by reason of section 110 of the Act entitled 'An Act to incorporate the United States Olympic Association', approved September 21, 1950 (36 U.S.C. 380);

but such term does not include any mark or designation used in connection with goods or services of which the manufacturer or producer was, at the time of the manufacture or production in question authorized to use the mark or designation for the type of goods or services so manufactured or produced, by the holder of the right to use such mark or designation.

"(2) The court shall not receive an application under this subsection unless the applicant has given such notice of the application as is reasonable under the circumstances to the United States attorney for the judicial district in which such order is sought. Such attorney may participate in the proceedings arising under such application if such proceedings may affect evidence of an offense against the United States. The court may deny such application if the court determines that the public interest in a potential prosecution so requires.

"(3) The application for an order under this subsection shall—

"(A) be based on an affidavit or the verified complaint establishing facts sufficient to support the findings of fact and conclusions of law required for such order; and

"(B) contain the additional information required by paragraph (5) of this subsection to be set forth in such order.

"(4) The court shall not grant such an application unless—

"(A) the person obtaining an order under this subsection provides the security determined adequate by the court for the payment of such damages as any person may be entitled to recovery as a result of a wrongful seizure or wrongful attempted seizure under this subsection; and

"(B) the court finds that it clearly appears from specific facts that—

"(i) an order other than an ex parte seizure order is not adequate to achieve the purposes of section 32 of this Act (15 U.S.C. 1114);

"(ii) the applicant has not publicized the requested seizure;

"(iii) the applicant is likely to succeed in showing that the person against whom seizure would be ordered used a counterfeit mark in connection with the sale, offering for sale, or distribution of goods or services;

"(iv) an immediate and irreparable injury will occur if such seizure is not ordered;

"(v) the matter to be seized will be located at the place identified in the application;

"(vi) the harm to the applicant of denying the application outweighs the harm to the legitimate interests of the person against whom seizure would be ordered of granting the application; and

"(vii) the person against whom seizure would be ordered, or persons acting in concert with such person, would destroy, move, hide, or otherwise make such matter inaccessible to the court, if the applicant were to proceed on notice to such person.

"(5) An order under this subsection shall set forth—

"(A) the findings of fact and conclusions of law required for the order;

"(B) a particular description of the matter to be seized, and a description of each place at which such matter is to be seized;

"(C) the time period, which shall end not later than seven days after the date on which such order is issued, during which the seizure is to be made;

"(D) the amount of security required to be provided under this subsection; and

"(E) a date for the hearing required under paragraph (10) of this subsection.

"(6) The court shall take appropriate action to protect the person against whom an order under this subsection is directed from publicity, by or at the behest of the plaintiff, about such order and any seizure under such order.

"(7) Any materials seized under this subsection shall be taken into the custody of the court. The court shall enter an appropriate protective order with respect to discovery by the applicant of any records that have been seized. The protective order shall provide for appropriate procedures to assure that confidential information contained in such records is not improperly disclosed to the applicant.

"(8) An order under this subsection, together with the supporting documents, shall be sealed until the person against whom the order is directed has an opportunity to contest such order, except that any person against whom such order is issued shall have access to such order an supporting documents after the seizure has been carried out.

"(9) The court shall order that a United States marshal or other law enforcement officer is to serve a copy of the order under this subsection and then is to carry out the seizure under such order. The court shall issue orders, when appropriate, to protect the defendant from undue damage from the disclosure of trade secrets or other confidential information during the course of the seizure, including, when appropriate, orders restricing the access of the applicant (or any agent or employee of the applicant) to such secrets or information.

"(10)(A) The court shall hold a hearing, unless waived by all the parties, on the date set by the court in the order of seizure. That date shall not be sooner than ten days after the order is issued and not later than fifteen days after the order is issued, unless the applicant for the order shows good cause for another date or unless the party against whom such order is directed consents to another date for such hearing. At such hearing the party obtaining the order shall have the burden to prove that the facts supporting findings of fact and conclusions of law necessary to support such order are still in effect. If that party fails to meet that burden, the seizure order shall be dissolved or modified appropriately.

"(B) In connection with a hearing under this paragraph, the court may make such orders modifying the time limits for discovery under the Rules of Civil Procedure as may be necessary to prevent the frustration of the purposes of such hearing.

"(11) A person who suffers damage by reason of a wrongful seizure under this subsection has a cause of action against the applicant for the order under which such seizure was made, and shall be entitled to recover such relief as may be appropriate, including damages for lost profits, cost of materials, loss of good will, and punitive damages in instances where the seizure was sought in bad faith, and, unless the court finds extenuating circumstances, to recover a reasonable attorney's fee. The court in its discretion may award prejudgment interest on relief recovered under this paragraph, at an annual interest rate established under section 6621 of the Internal Revenue Code of 1954, commencing on the date of service of the claimant's pleading setting forth the claim under this paragraph and ending on the date such recovery is granted, or for such shorter time as the court deems approriate.";

(2) in section 35 (15 U.S.C. 1117)—

(A) by inserting "(a)" before "When"; and

(B) by adding at the end the following new subsection:

"(b) In assessing damages under subsection (a), the court shall, unless the court finds extenuating circumstances, enter judgment for three times such profits or damages, whichever is greater, together with a reasonable attorney's fee, in the case of any violation of section 31(1)(a) of this Act (15 U.S.C. 1114(1)(a)) or section 110 of the Act entitled 'An Act to incorporate the United States Olympic Association', approved September 21, a 1950 (36 U.S.C. 380) that consists of internationally using a mark or designation, knowing such mark or designation is a counterfeit mark (as defined in section 34(d) of this Act (15 U.S.C. 1116(d))), in connection with the sale, offering for sale, or distribution of goods or services. In such cases, the court may in its discretion award prejudgment interest on such amount at an annual interest rate established under section 6621 of the Internal Revenue Code of 1954, commencing on the date of the service of the claimant's pleadings setting forth the claim for such entry and ending on the date such entry is made, or for such shorter time as the court deems appropriate."; and

(3) in section 36 (15 U.S.C. 1118), by adding at the end of such section "The party seeking an order under this section for destruction of articles seized under section 34(d) (15 U.S.C. 1116(d)) shall give ten days' notice to the United States attorney for the judicial district in which such order is sought (unless good cause is shown for lesser notice) and such United States attorney may, if such destruction may affect evidence of an offense against the United States, seek a hearing on such destruction or participate in any hearing otherwise to be held with respect to such destruction.".

TITLE III—CREDIT CARD FRAUD

SEC. 301. This title may be cited as the "Credit Card Fraud Act of 1984."

SEC. 302. (2) Chapter 47 of title 18 of the United States Code is amended by adding at the end thereof the following:

"§ 1029. Fraud and related activity in connection with access devices

"(a) Whoever—

"(1) knowingly and with intent to defraud produces uses, or traffics in one or more counterfeit access devices;

"(2) knowingly and with intent to defraud traffics in or uses one or more unauthorized access devices during any one-year period, and by such conduct obtains anything of value aggregating $1,000 or more during that period;

"(3) knowingly and with intent to defraud possesses fifteen or more devices which are counterfeit or unauthorized access devices; or

"(4) knowingly, and with intent to defraud, produces, traffics in, has control or custody of, or possesses device-making equipment;

shall, if the offense affects interstate or foreign commerce, be punished as provided in subsection (c) of this section.

"(b)(1) whoever attempts to commit an offense under subsection (a) of this section shall be punished as provided in subsection (c) of this section.

"(2) Whoever is a party to a conspiracy of two or more persons to commit an offense under subsection (a) of this section, if any of the parties engages in any conduct in furtherance of such offense, shall be fined an amount not greater than the amount provided as the maximum fine for such offense under subsection (c) of this section or imprisoned not longer than one-half the period provided as the maximum imprisonment for such offense under subsection (c) of this section, or both.

"(c) The punishment for an offense under subsection (a) or (b)(1) of this section is—

"(1) a fine of not more than the greater of $10,000 or twice the value obtained by the offense or imprisonment for not more than ten years, of both, in the case of an offense under subsection (a)(2) or (a)(3) of this section which does not occur after a conviction for another offense under either such subsection, or an attempt to commit an offense punishable under this paragraph;

"(2) a fine of not more than the greater of $50,000 or twice the value obtained by the offense or imprisonment for not more than fifteen years, or both, in the case of an offense under subsection (a)(1) or (a)(4) of this section which does not occur after a conviction for another offense under either such subsection, or an attempt to commit an offense punishable under this paragraph; and

"(3) a fine of not more than the greater of $100,000 or twice the value obtained by the offense or imprisonment for not more than twenty years, or both, in the case of an offense under subsection (a) of this section which occurs after a conviction for another offense under such subsection, or an attempt to commit an offense punishable under this paragraph.

"(i) The United States Secret Service shall, in addition to any other agency having such authority, have the authority to investigate offenses under this section. Such authority of the United States Secret Service shall be exercised in accordance with an agreement which shall be entered into by the Secretary of the Treasury and the Attorney General.

"(e) As used in this section—

"(1) The term 'access device' means any card, plate, code, account number, or other means of account access that can be used, alone or in conjunction with another access device, to obtain money, goods, services, or any other thing of value, or that can be used to initiate a transfer of funds (other than a transfer originated solely by paper instrument);

"(2) the term 'counterfeit access device' means any access device that is counterfeit, fictitious, altered, or forged, or an identifiable component of an access device or a counterfeit access device;

"(3) the term 'unauthorized access device' means any access device that is lost, stolen, expired, revoked, canceled, or obtained with intent to defraud;

"(4) the term 'produce' includes design, alter, authenticate, duplicate, or assemble;

"(5) the term 'traffic' means transfer, or otherwise dispose of, to another, or obtain control of with intent to transfer or dispose of; and

"(6) the term 'device-making equipment' means any equipment, mechanism, or impression designed or primarily used for making an access device or a counterfeit access device.

"(f) This section does not prohibit any lawfully authorized investigative, protective, or intelligence activity of a law enforcement agency of the United States, a State, or a political subdivision of a State, or of an intelligence agency of the United States, or any activity authorized under title V of the Organized Crime Control Act of 1970 (18 U.S.C. note prec. 3481).".

(b) The table of sections at the beginning of chapter 47 of title 18 of the United States Code is amended by adding at the end the following new items:

"1029. Fraud and related activity in connection with access devices.".

SEC. 303. The Attorney General shall report to the Congress annually, during the first three years following the date of the enactment of this Act, concerning prosecutions under the section of title 18 of the United States Code added by this title.

TITLE V—SALARIES OF THE UNITED STATES ATTORNEYS

SEC. 901. (a) Section 548 of title 28, United States Code, is amended to read as follows:

"§ 548. Salaries

"Subject to sections 5315 through 5317 of title 5, the Attorney General shall fix the annual salaries of United States attorneys, assistant United States attorneys, and attorneys appointed under section 543 of this title at rates of compensation not in excess of the rate of basic compensation provided for Executive Level IV of the Executive Schedule set forth in section 5315 of title 5, United States Code.".

(b) Section 5315 of title 5, United States Code, is amended by striking out the items relating to the United States Attorney for the Southern District of New York, the United States Attorney for the District of Columbia, the United States Attorney for the Northern District of Illinois, and the United States Attorney for the Central District of California.

TITLE XV—ARMED CAREER CRIMINAL

SEC. 1501. This title may be cited as the "Armed Career Criminal Act of 1984".

SEC. 1502. Section 1202(a) of title VII of the Omnibus Crime Control and Safe Streets Act of 1968 (18 U.S.C. App. 1202(a)) is amended by adding at the end "In the case of a person who receives, possesses, or transports in commerce or affecting commerce any firearm and who has three previous convictions by any court referred to in paragraph (1) of this subsection for robbery or burglary, or both, such person shall be fined not more than $25,000 and imprisoned not less than fifteen years, and notwithstanding any other provision of law, the court shall not suspend the sentence of, or grant a probationary sentence to, such person with respect to the conviction under this subsection, and such person shall not be eligible for parole with respect to the sentence imposed under this subsection.".

SEC. 1503. Section 1202(c) of title VII of the Omnibus Crime Control and Safe Streets Act of 1968 (18 U.S.C. App. 1202(c)) is amended—

(1) by striking out the period at the end of paragraph (7) and inserting a semicolon in lieu thereof; and

(2) by adding at the end the following:

"(8) 'robbery' means any felony consisting of the taking of the property of another from the person or presence of another by force or violence, or by threatening or placing another person in fear that any person will imminently by subjected to bodily injury; and

"(9) 'burglary' means any felony consisting of entering or remaining surreptitiously within a building that is property of another with intent to engage in conduct constituting a Federal or State offense.".

TITLE XXIII—CRIMINAL JUSTICE ACT REVISION

SEC. 2381. This title may be cited as the "Criminal Justice Act Revision of 1984".

Subsection (d) of section 3006A of title 18, United States Code, is amended—

(1) by striking out "$30" in paragraph (1) and inserting in lieu thereof "$60";

(2) by striking out "$20" in paragraph (1) and inserting in lieu thereof "$40";

(3) by striking out the words ", or such other hourly rate, fixed by the Judicial Council of the Circuit, not to exceed the minimum hourly scale established by a bar association for similar services rendered in the district" in paragraph (1);

(4) by striking out "1,000" each place it appears in paragraph (2) and inserting in lieu thereof "2,000";

(5) by striking out "$400" in paragraph (2) and inserting in lieu thereof "$800";

(6) by striking out "$250" in paragraph (2) and inserting in lieu thereof "$500".

TITLE XIV—TERRORISM

Subtitle A—Hostage Taking

SEC. 1401. This subtitle may be cited as the "Act for the Prevention and Punishment of the Crime of Hostage-Taking".

SEC. 1402. (a) Chapter 55 of title 18 of the United States Code is amended by adding at the end the following new section:

"§ 1203. Hostage taking

"(a) Except as provided in subsection (b) of this section, whoever, whether inside or outside the United States, seizes or detains and threatens to kill, to injure, or to continue to detain another person in order to compel a third person or a governmental organization to do or abstain from doing any act as an explicit or implicit condition for the release the person detained, or attempts to do so, shall be punished by imprisonment for any term of years or for life.

"(b)(1) It is not an offense under this section if the conduct required for the offense occurred outside the United States unless—

"(A) the offender or the person seized or detained is a national of the United States;

"(B) the offender is found in the United States; or

"(C) the governmental organization sought to be compelled is the Government of the United States.

"(2) It is not an offense under this section if the conduct required for the offense occurred inside the United States, each alleged offender and each person seized or detained are nationals of the United States, and each alleged offender is found in the United States, unless the governmental organization sought to be compelled is the Government of the United States.

"(c) As used in this section, the term 'national of the United States' has the meaning

given such term in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).".

(b) The table of sections at the beginning of chapter 55 of title 18 of the United States Code is amended by adding at the end the following new item:

"1203. Hostage taking.".

SEC. 1403. This subtitle and the amendments made by this subtitle shall take effect on the later of—

(1) the date of the enactment of this Act; or

(2) the date the International Convention Against the Taking of Hostages has come into force and the United States has become a party to that convention.

Subtitle B—Aircraft Sabotage

SHORT TITLE

SEC. 1411. This subtitle may be cited as the "Aircraft Sabotage Act".

STATEMENT OF FINDINGS AND PURPOSE

SEC. 1412. The Congress hereby finds that—

(1) the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation (ratified by the United States on November 1, 1972) requires each contracting State to establish its jurisdiction over certain offenses affecting the safety of civil aviation;

(2) such offenses place innocent lives in jeopardy, endanger national security, affect domestic tranquility, gravely affect interstate and foreign commerce, and are offenses against the law of nations; and

(3) the purpose of this subtitle is to implement fully the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation and to expand the protection accorded to aircraft and related facilities.

SEC. 1413. (a) Section 31 of title 18, United States Code, is amended—

(1) in the first paragraph by—

(A) striking out "and" before the term "spare part" and inserting "and 'special aircraft jurisdiction of the United States'" after the term "spare part"; and

(B) striking out "Civil Aeronautics Act of 1938" and inserting in lieu thereof "Federal Aviation Act of 1958";

(2) by striking out "and" at the end of the third undesignated paragraph thereof;

(3) by striking the period at the end thereof and inserting in lieu thereof ";" ; and

(4) by adding at the end thereof the following new paragraphs:

"'In flight' means any time from the moment all the external doors of an aircraft are closed following embarkation until the moment when any such door is opened for disembarkation. In the case of a forced landing the flight shall be deemed to continue until competent authorities take over the responsibility for the aircraft and the persons and property on board; and

"'In service' means any time from the beginning of preflight preparation of the aircraft by ground personnel or by the crew for a specific flight until twenty-four hours after any landing; the period of service shall, in any event, extend for the entire period during which the aircraft is in flight.".

(b) Section 32 of title 18, United States Code, is amended to read as follows:

"§ 32. Destruction of aircraft or aircraft facilities

"(a) Whoever willfully—

"(1) sets fire to, damages, destroys, disables, or wrecks any aircraft in the special aircraft jurisdiction of the United States or any civil aircraft used, operated, or employed in interstate, overseas, or foreign air commerce;

"(2) places or causes to be placed a destructive device or substance in, upon, or in proximity to, or otherwise makes or causes to be made unworkable or unusable or hazardous to work or use, any such aircraft, or any part or other materials used or intended to be used in connection with the operation of such aircraft, if such placing or causing to be placed or such making or causing to be made is likely to endanger the safety of any such aircraft;

"(3) sets fire to, damages, destroys, or disables any air navigation facility, or interferes by force or violence with the operation of such facility, if such fire, damaging, destroying, disabling, or interfering is likely to endanger the safety of any such aircraft in flight;

"(4) with the intent to damage, destroy, or disable any such aircraft, sets fire to, damages, destroys, or disables or places a destructive device or substance in, upon, or in proximity to, any appliance or structure, ramp, landing area, property, machine, or apparatus, or any facility or other material used, or intended to be used, in connection with the operation, maintenance, loading, unloading or storage of any such aircraft or any cargo carried or intended to be carried on any such aircraft;

"(5) performs an act of violence against or incapacitates any individual on any such aircraft, if such act of violence or incapacitation is likely to endanger the safety of such aircraft;

"(6) communicates information, knowing the information to be false and under circumstances in which such information may reasonably be believed, thereby endangering the safety of any such aircraft in flight; or

"(7) attempts to do anything prohibited under paragraphs (1) through (6) of this subsection;

shall be fined not more than $100,000 or imprisoned not more than twenty years or both.

"(b) Whoever willfully—

"(1) performs an act of violence against any individual on board any civil aircraft registered in a country other than the United States while such aircraft is in flight, if such act is likely to endanger the safety of that aircraft;

"(2) destroys a civil aircraft registered in a country other than the United States while such aircraft is in service or causes damage to such an aircraft which renders that aircraft incapable of flight or which is likely to endanger that aircraft's safety in flight;

"(3) places or causes to be placed on a civil aircraft registered in a country other than the United States while such aircraft is in service, a device or substance which is likely to destroy that aircraft, or to cause damage to that aircraft which renders that aircraft incapable of flight or which is likely to endanger that aircraft's safety in flight; or

"(4) attempts to commit an offense described in paragraphs (1) through (3) of this subsection;

shall, if the offender is later found in the United States, be fined not more than $100,000 or imprisoned not more than twenty years, or both.

"(c) Whoever willfully imparts or conveys any threat to do an act which would violate any of paragraphs (1) through (5) of subsection (a) or any of paragraphs (1) through (3) of subsection (b) of this section, with an apparent determination and will to carry the threat into execution shall be fined not more than $25,000 or imprisoned not more than five years, or both.".

(c) Section 101(38)(d) of the Federal Aviation Act of 1958 (49 U.S.C 1301(38)(d)), relating to the definition of the term "special aircraft jurisdiction of the United States", is amended—

(1) in clause (i), by striking out "; or" and inserting in lieu thereof a semicolon;

(2) at the end of clause (ii), by striking out "and" and inserting in lieu thereof "or;" and

(3) by adding at the end thereof the following new clause:

"(iii) regarding which an offense as defined in subsection (d) or (e) of article I, section I of the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (Montreal, September 23, 1971) is committed if the aircraft lands in the United States with an alleged offender still on board; and".

SEC. 1414. (a)(1) Section 901 of the Federal Aviation Act of 1958 (49 U.S.C. 1471) is amended by adding at the end thereof the following new subsections:

"(c) Whoever imparts or conveys or causes to be imparted or conveyed false information, knowing the information to be false and under circumstances in which such information may reasonably be believed, concerning an attempt or alleged attempt being made or to be made, to do any act which would be a crime prohibited by subsection (i), (j), (k), or (l) of section 902 of this Act, shall be subject to a civil penalty of not more than $10,000 which shall be recoverable in a civil action brought in the name of the United States.

"(d) Except for law enforcement officers of any municipal or State government or officers or employees of the Federal Government, who are authorized or required within their official capacities to carry arms, or other persons who may be so authorized under regulations issued by the Administrator, whoever while aboard, or while attempting to board, any aircraft in, or intended for operation in, air transportation or intrastate air transportation, has on or about his person or his property a concealed deadly or dangerous weapon, which is, or would be, accessible to such person in flight shall be subject to a civil penalty of not more than $10,000 which shall be recoverable in a civil action brought in the name of the United States.".

(2) That portion of the table of contents contained in the first section of the Federal Aviation Act of 1958 which appears under the side heading

"Sec. 901. Civil penalties."

is amended by inserting at the end thereof:

"(c) Conveying false information.

"(d) Concealed weapons.".

(b) Section 901(a)(2) of the Federal Aviation Act of 1958 (49 U.S.C. 1471(a)(2)) is amended by inserting "penalties provided for in subsections (c) and (d) of this section or" after "Secretary of Transportation in the case of".

(c)(1) Section 902(l)(1) of the Federal Aviation Act of 1958 (49 U.S.C. 1472(l)(1)) is amended by striking out "$1,000" and inserting in lieu thereof "$10,000".

(2) Section 902(l)(2) of the Federal Aviation Act of 1958 (49 U.S.C. 1472(l)(2)) is amended by striking out "$5,000" and inserting in lieu thereof "$25,000".

(d)(1) Section 902(m) of the Federal Aviation Act of 1958 (49 U.S.C. 1472(m)) is amended to read as follows:

"FALSE INFORMATION AND THREATS

"(m)(1) Whoever willfully and maliciously, or with reckless disregard for the safety of human life, imparts or conveys or causes to be imparted or conveyed false information, knowing the information to be false and under circumstances in which such information may reasonably be believed, concerning an attempt or alleged attempt being made or to be made, to do any act which would be a felony prohibited by subsection (i), (j), (k), or (l) of this section, shall be fined not more than $25,000 or imprisoned not more than five years, or both.

"(2) Whoever imparts or conveys or causes to be imparted or conveyed any threat to do an act which would be a felony prohibited by subsection (i), (j), (k), or (l) of this section with an apparent determination and will to carry the threat into execution shall be fined not more than $25,000 or imprisoned not more than five years, or both.".

(2) That portion of the table of contents contained in the first section of the Federal Aviation Act of 1958 which appears under the side heading

"Sec. 902. Criminal penalties."

is amended by striking out

"(m) False information."

and inserting in lieu thereof

"(m) False information and threats.".

SEC. 1415. This subtitle shall become effective on the date of the enactment of this Act.

MOYNIHAN (AND OTHERS) AMENDMENT NO. 7044

Mr. MOYNIHAN (for himself, Mr. BAUCUS, and Mr. CHILES) proposed an amendment to amendment No. 7043 to the joint resolution (H.J. Res. 648), supra, as follows:

At the appropriate place insert the following:

SEC. . (a) Section 921(a)(17) of title 18 of the United States Code is redesignated as section 921(a)(17)(A), and a new subparagraph (B) is added to section 921(a)(17) to read as follows:

"(B) The term 'armor piercing ammunition' means solid projectiles or projectile cores constructed from tungsten alloys, steel, iron, brass, bronze, beryllium copper, or depleted uranium. The term shall not include shotgun shot required by Federal or State environmental or game regulations for hunting purposes, frangible projectiles designed for target shooting or any projectile which the Secretary of the Treasury finds is primarily intended to be used for sporting purposes. The term 'solid' in the first sentence of this subparagraph means made entirely from one or more of the substances specified therein, but may include the presence of trace elements of other substances.".

(b) Section 922(a) of title 18 of the United States Code is amended—

(1) by striking out "and" at the end of paragraph (5);

(2) by striking out the period at the end of paragraph (6) and inserting in lieu thereof "and"; and

(3) by adding after paragraph (6) the following:

"(7) for any person to manufacture or import armor piercing ammunition, except that this paragraph shall not apply to (A) the manufacture or importation of armor piercing ammunition for the use of the United States or any department or agency thereof or any State or any department, agency, or political subdivision thereof, or (B) the manufacture of armor piercing ammunition for the sole purpose of exportation.".

(c) Subparagraph (A) of section 923(a)(1) of title 18 of the United States Code is amended to read as follows:

"(A) of destructive devices, ammunition for destructive devices or armor piercing ammunition, a fee of $1,000 per year;".

(d) Subparagraph (C) of section 923(a)(1) of title 18 of the United States Code is amended to read as follows:

"(C) of ammunition for firearms, other than ammunition for destructive devices or armor piercing ammunition, a fee of $10 per year.".

(e) Subparagraphs (A) and (B) of section 923(a)(2) of title 18 of the United States Code are amended to read as follows:

"(A) of destructive devices, ammunition for destructive devices or armor piercing ammunition, a fee of $1,000 per year; or

"(B) of firearms other than destructive devices or ammunition for firearms other than destructive devices, or ammunition other than armor piercing ammunition, a fee of $50 per year.".

(f) Section 924(c) of title 18 of the United States Code is amended (a) by striking the period at the end of paragraph (2) and adding in lieu thereof a comma and the word "or" and (b) by adding a new paragraph (3) to read as follows:

"(3) during and in relation to the commission of a violent felony uses or carries a firearm and is in possession of armor piercing ammunition capable of being fired in that firearm shall, in addition to the punishment provided for the commission of such felony, be sentenced to a term of imprisonment for not less than five years. Notwithstanding any other provision of law, the court shall not suspend the sentence of any person convicted of a violation of this subsection, nor place him on probation, nor shall the term of imprisonment run concurrently with any other term of imprisonment, including that imposed for the felony in which the armor piercing ammunition was used or carried. No person sentenced under this subsection shall be eligible for parole during the term of imprisonment imposed herein. For the purpose of this paragraph, the term violent felony means (A) a felony (which may be prosecuted in a court of the United States) that has as an element, the use, attempted use, or threatened use of physical force against the person or property of another, or (B) any other felony (which may be prosecuted in a court of the United States) that, by its nature involves a substantial risk that physical force against the person or property of another may be used in the course of its commission.".

(g) The amendment shall take effect 30 days after the date of enactment of this section, except that subsections (c), (d), and (e) shall take effect on the first day of the first calendar month which begins more than ninety days after the date of the enactment of this section. And that subsection (f) of this section shall take effect notwithstanding any other provision of law, and notwithstanding any other provision of law contained hereinafter or hereinbefore in this joint resolution.

KASTEN AMENDMENT NO. 7045

Mr. KASTEN proposed an amendment to the joint resolution (H.J. Res. 648), supra, as follows:

At an appropriate place, insert the following new section:

SEC. —. (a) The portion described in subsection (b) of the uncompleted portion of the Federal navigation project in the Milwaukee north outer harbor, authorized in the River and Harbor Act of 1935, is hereby deauthorized.

(b)(1) The portion of such project deauthorized is the parcel of submerged land in Lake Michigan, lying within the lakebed grant from the State of Wisconsin to the city of Milwaukee, as defined in chapter 76 of the laws of 1973, such parcel also being in the southwest ¼ of section 28 and in the northwest ¼ of section 33, all in T 7 N, R 22 E, city of Milwaukee, Milwaukee County, Wisconsin, more particularly described as follows: commencing at the ¼ corner between such sections 28 and 33; thence east 88.29 feet to the centerline of the rubble mound; thence along such centerline S 08°41'37" W, 819.58 feet; thence S 00°45'01" E 1165.24 feet to a point in the line of the United States monuments 305 and 307, being a point on the north pier of the inner harbor entrance; thence along such United States monument line, N 87°16'39" E 249.11 feet to United States monument 307; thence along such United States monument line extended, N 87°16'39" E 249.11 feet to United States monument 307; thence along such United States monument 307; thence along such United States monument line extended, N 87°16'39" E 465.02 feet to the southwest corner of such lakebed grant; thence continuing along such United States monument line extended, N 87°16'39" E 50.03 feet to the west line of the existing Federal navigation channel; thence along such west line, N 00°45'01" W 850.51 feet to the point of beginning; thence continuing along such west line, N 00°45'01" W 308.88 feet; thence continuing along such west line N 08°41'37" E 1746.82 feet; thence S 26°40'00" E 844.98 feet; thence S 08°41'37" W 720.00 feet; thence S 43°00'00" W 777.70 feet to the point of beginning, such parcel containing 15.753 acres.

(2) Bearings for the description in paragraph (1) are based on local grid bearings as used by city of Milwaukee, Board of Harbor Commissioners for the North Harbor Tract.

GARN AMENDMENT NO. 7046

Mr. GARN proposed an amendment to the joint resolution (H.J. Res. 648), supra, as follows:

At the appropriate place in the joint resolution, add the following new section:

SEC. . Notwithstanding any other provision of this joint resolution, there is appropriated to the Treasury $300,000,000, to be made available to cover the additional interest expenses incurred on borrowings by the Secretary of Housing and Urban Development from the Treasury that are necessary to extend direct loans to local public housing agencies as authorized under section 4(a) of the United States Housing Act of 1937, for the purposes of financing public housing projects as authorized under section 5(c) of the United States Housing Act of 1937: *Provided*, That the foregoing appropriation shall be available only in connection with additional interest expenses incurred on Treasury borrowings having maturities not in excess of seven months from the date that such borrowings occur: *Provided further*, That no such Treasury borrowings in connection with the foregoing appropriation shall take place after April

3rd: *Provided further,* That the foregoing $300,000,000 shall be available until expended on interest incurred pursuant to the Treasury borrowings: *Provided further,* That direct loan proceeds shall be made available for continuation of public housing development, modernization and Indian housing, including new loan commitments.

DANFORTH (AND EAGLETON) AMENDMENT NO. 7047

Mr. HATFIELD (for Mr. DANFORTH, for himself, and Mr. EAGLETON) proposed an amendment to the joint resolution (H.J. Res. 648), supra, as follows:

At the end of the bill, add the following new section:

ST. LOUIS METROPOLITAN STATISTICAL AREA

SEC. . (a) For purposes of any provision of Federal law, the Director of the Office of Management and Budget shall rescind the designation of the St. Louis primary metropolitan statistical area, the designation of the Alton-Granite City, Illinois, primary metropolitan statistical area, and the designation of the East St. Louis-Belleville, Illinois, primary metropolitan statistical area, and shall not take any action to designate such three primary metropolitan statistical areas as a consolidated metropolitan statistical area.

(b) The Director of the Office of Management and Budget shall designate a single metropolitan statistical area which includes the following:

(1) The city of St. Louis, Missouri.

(2) The counties of St. Louis, Franklin, Jefferson, and St. Charles in Missouri.

(3) The counties of Monroe, Madison, Jersey, Clinton, and St. Clair in Illinois.

The metropolitan statistical area designation pursuant to this subsection shall be known as the "St. Louis Metropolitan Statistical Area".

SPECTER AMENDMENT NO. 7048

Mr. SPECTER proposed an amendment to the joint resolution (H.J. Res. 648), supra, as follows:

At the end of the joint resolution, add the following:

SEC. . The land acquisition and relocation for Centralia, Pennsylvania, authorized in the Abandoned Mine Reclamation Fund under chapter IV of Public Law 98-191 shall not require any matching share of funding from Pennsylvania under section 407(e) of the Surface Mining Control and Reclamation Act of 1977.

SPECTER AMENDMENT NO. 7049

Mr. SPECTER proposed an amendment to the joint resolution (H.J. Res. 648), supra, as follows:

At the appropriate place at the end of the resolution, insert the following new section:

"Of the funds provided in this resolution under the head 'Land Acquisition, Forest Service', $2,000,000 shall be available for the acquisition of oil, gas, and other mineral interests in the Allegheny National Forest: *Provided,* That such funds shall be available for obligation only to the extent that the Secretary of Agriculture deems necessary to carry out the purposes of the Pennsylvania Wilderness Act of 1984.".

FEDERAL-AID HIGHWAY ACT

GORTON (AND EVANS) AMENDMENT NO. 7050

Mr. GORTON (for himself and Mr. EVANS) proposed an amendment to the bill (S. 3024) to approve the Interstate and Interstate Substitute Cost Estimates, to amend title 23 of the United States Code, and for other purposes, as follows:

At the appropriate place in the bill, insert the following:

Upon the request of the Pike Place Market Preservation and Development Authority, Seattle, Washington, the Secretary of Commerce shall authorize the sale or lease to any person of the Fairley Group Building (project numbers 07-01-01890, as modified by 07-01-01890.01, and 07-11-02606) located in the Pike Place Market, King County, Washington, without affecting the federal assistance provided under the Public Works and Economic Development Act of 1965, if the transfer documents provide for the continued use of the Fairley Group Building as a public market during the expected useful life of the building.

EXTENSION OF HEAD START PROGRAMS

HATCH (AND OTHERS) AMENDMENT NO. 7051

Mr. HATCH (for himself, Mr. DENTON, Mr. KENNEDY, Mr. STAFFORD, Mr. WEICKER, Mr. PELL, Mr. DODD, Mrs. HAWKINS, Mr. RANDOLPH, and Mr. RIEGLE) proposed an amendment to the bill (S. 2565) to extend programs under the Head Start Act, and for other purposes; as follows:

On page 2, beginning with line 3, strike out through line 15 on page 10 and insert in lieu thereof the following: That this Act may be cited as the "Human Services Reauthorization Act".

TITLE I—HEAD START

TECHNICAL AMENDMENT

SEC. 101. Section 637(2) of the Head Start Act is amended by inserting "the Commonwealth of" before "the Northern Mariana Islands".

AUTHORIZATION OF APPROPRIATIONS

SEC. 102. Section 639 of the Head Start Act is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

SEC. 639. There are authorized to be appropriated for carrying out the provisons of this subchapter $1,093,030,000 for fiscal year 1985, and $1,221,000,000 for fiscal year 1986.".

RESERVATION OF FUNDS FOR TRAINING AND TECHNICAL ASSISTANCE

SEC. 103. (a) Section 640(a)(2)(C) of the Head Start Act is amended by inserting before the semicolon the following: "as amended in section 648 of this subchapter, in an amount for each fiscal year which is not less than the amount expended for training and technical assistance activities under this clause for fiscal year 1982".

(b) Section 640(a)(2) of the Head Start Act is amended by adding at the end thereof the following new flush sentences: "The minimum reservation contained in clause (C) of this paragraph shall not apply in any fiscal year in which the appropriation for the program authorized by this subchapter is less than the amount appropriated for fiscal year 1984. No funds reserved under this paragraph may be combined with funds appropriated under any other Act if the purpose of combining funds is to make a single discretionary grant or a single discretionary payment, unless such funds appropriated under this subchapter are separately identified in such grant or payment and are used for the purposes of this subchapter.".

DESIGNATION OF HEAD START AGENCIES

SEC. 104. (a) Section 641(a) of the Head Start Act is amended by inserting after "agency" the second time it appears ", within a community.".

(b) Section 641(c) of the Head Start Act is amended—

(1) by striking out ", except that" in the matter preceding clause (1) and inserting in lieu thereof "unless";

(2) by striking out "shall, before giving such priority, determine" in clause (1) and inserting in lieu therof "makes a finding";

(3) by striking out "meets" in clause (1) and inserting in lieu thereof "fails to meet"; and

(4) by inserting "except that" before "if" in clause (2).

(c) Section 641 of the Head Start Act is amended by redesignating subsection (d) as subsection (f) and by inserting after subsection (c) the following new subsections:

"(d) If there is no Head Start agency as described in subsection (c)(2), and no existing Head Start program serving a community, then the Secretary may designate a Head Start agency from among qualified applicants in such community. Any such designation shall be governed by the program and fiscal requirements, criteria, and standards applicable on September 1, 1983, to then existing Head Start agencies.

"(e) The provisions of subsections (c) and (d) shall be applied by the Secretary in the distribution of any additional appropriations made available under this subchapter during any fiscal year as well as to initial designations of Head Start agencies.".

PARTICIPATION IN HEAD START PROGRAMS

SEC. 105. (a) Section 645(a) of the Head Start Act is amended by adding at the end thereof the following: "During the period beginning on the date of the enactment of the Human Services Reauthorization Act and ending on October 1, 1986, and unless specifically authorized in any statute of the United States enacted after such date of enactment, the Secretary may not make any change in the method, as in effect on April 25, 1984, of calculating income used to prescribe eligibility for the participation of persons in the Head Start programs assisted under this subchapter if such change would result in any reduction in, or exclusion from, participation of persons in any of such programs.".

(b) Section 645 of the Head Start Act is amended by adding at the end thereof the following new subsection:

"(c) Each Head Start program operated in a community may provide more than one year of Head Start services to children from age 3 to the age of compulsory school attendance in the State in which the Head Start program is located.".

TECHNICAL ASSISTANCE AND TRAINING

SEC. 106. Section 648 of the Head Start Act is amended—

(1) by striking out "may" and inserting in lieu thereof "shall"; and

(2) by inserting before the period at the end thereof a comma and the following: "including a centralized child development training and national assessment program which may be administered at the State or local level leading to recognized credentials for such personnel, and resource access projects for personnel of handicapped children".

RESEARCH, DEMONSTRATION, AND PILOT PROJECTS

SEC. 107. Section 649 of the Head Start Act is amended by adding at the end thereof the following new subsection:

"(c) No funds appropriated under this subchapter may be combined with funds appropriated under any other Act if the purpose of combining funds is to make a single discretionary grant or a single discretionary payment, unless such funds appropriated under this subchapter are separately identified in such grant or payment and are used for the purposes of this title.".

EVALUATION

SEC. 108. The second sentence of section 651(b) of the Head Start Act is amended to read as follows: "Any revisions in such standards shall not result in the elimination of any reduction in the scope or types of health, education, parental involvement, social or other services required to be provided under the standards in effect on November 2, 1978.".

STATE GRANTS FOR DEPENDENT CARE PLANNING AND DEVELOPMENT

SEC. 109. Chapter 8 of title VI of the Omnibus Budget Reconciliation Act of 1981, relating to community services programs, is amended by inserting at the end thereof the following new subchapter:

"SUBCHAPTER D—GRANTS TO STATES FOR PLANNING AND DEVELOPMENT OF DEPENDENT CARE PROGRAMS AND FOR OTHER PURPOSES

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 670A. For the purpose of allotments to States to carry out the activities described in section 670D, there are authorized to be appropriated $20,000,000 for each of the fiscal years 1985 and 1986.

ALLOTMENTS

"SEC. 670B. (a) From the amounts appropriated under section 670A for each fiscal year, the Secretary shall allot to each State an amount which bears the same ratio to the total amount appropriated under such section for such fiscal year as the population of the State bears to the population of all States, except that no State may receive less than $50,000 in each fiscal year.

(b) For the purpose of the exception contained in subsection (a), the term "State" does not include Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands.

"PAYMENTS UNDER ALLOTMENTS TO STATES

"SEC. 670c. The Secretary shall make payments, as provided by section 6503 (a) of title 31, United States Code, to each State from its allotments under section 670B from amounts appropriated under section 670A.

"USE OF ALLOTMENTS

"SEC. 670D. (a) Subject to the provisions of subsections (c) and (d), amounts paid to a State under section 670c from its allotment under section 670B for fiscal year 1985 and fiscal year 1986 may be used for the planning, development, establishment, expansion, or improvement by the States, directly or by grant or contract with public or private entities, of State and local resource and referral systems to provide information concerning the availability, types, costs, and locations of dependent care services. The information provided by any such system shall include—

"(1) the types of dependent care services available, including services provided by individual homes, religious organizations, community organizations, employers, private industry, and public and private institutions;

"(2) the costs of available dependent care services;

"(3) the locations in which dependent care services are provided;

"(4) the forms of transportation available to such locations;

"(5) the hours during which such dependent care services are available;

"(6) the dependents eligible to enroll for such dependent care services; and

"(7) any resource and referral system planned, developed, established, expanded, or improved with amounts paid to a State under this subchapter.

In carrying out clause (7) of the previous sentence, no information shall be included with respect to any dependent care services which are not provided in compliance with the laws of the State and localities in which such services are provided.

"(b)(1) Subject to the provisions of subsections (c) and (d), amounts paid to a State under section 670c from its allotment under section 670B for fiscal year 1985 and fiscal year 1986 may be used for the planning, development, establishment, expansion, or improvement by the States, directly, or by grant or contract, with public agenices or private nonprofit organizations of programs to furnish school-age child care services before and after school in public or private school facilities or in community centers in communities where school facilities are not available.

"(2) The State, with respect to the uses of funds described in paragraph (1) of this subsection shall—

"(A) provide assurances, in the case of an applicant that is not a State or local educational agency, that the applicant has or will enter into an agreement with the State or local educational agency, institution of higher education or community center containing provisions for—

"(i) the use of facilities for the provision of before or after school child care services (including such use during holidays and vacation periods),

"(ii) the restrictions, if any, on the use of such space, and

"(iii) the times when the space will be available for the use of the applicant;

"(B) provide an estimate of the costs of the establishment of the child care service program in the facilities;

"(C) provide assurances that the parents of school-age children will be involved in the development and implementation of the program for which assistance is sought under this Act;

"(D) provide assurances that the applicant is able and willing to seek to enroll racially, ethnically, and economically diverse as well as handicapped school-age children in the child care service program for which assistance is sought under this Act;

"(E) provide assurances that the child care program is in compliance with State and local licensing laws and regulations governing day care services for school-age children to the extent that such regulations are appropriate to the age group served; and

"(F) provide such other assurances as the Governor may reasonably require to carry out the provisions of this Act.

"(c) Of the allotment to each State in each fiscal year—

"(1) 40 percent shall be available for the activities described in subsection (a);

"(2) 60 percent shall be available for the activities described in subsection (b).

"(d) A State may not use amounts paid to it under this subchapter to—

"(1) pay the costs of operation of any resource and referral system or before or after school child care program established, expanded, or improved under subsection (a);

"(2) make cash payments to intended recipients of dependent care services including child care services;

"(3) subsidize the direct provision of dependent care services including child care services;

"(4) pay for construction or renovation; or

"(5) satisfy any requirement for the expenditure of non-Federal funds as a condition for the receipt of Federal funds.

"(e)(1) The Federal share of any project supported under this subchapter shall be not more than 75 percent.

"(2) Not more than 10 percent of the allotment of each State under this subchapter may be available for the cost of administration.

"(f) Projects supported under this section to plan, develop, establish, expand, or improve a State or local resource and referral system or before or after school child care program shall not duplicate any services, which prior to the date of enactment of this subchapter, are provided by the State or locality which will be served by such system.

"(g) The Secretary may provide technical assistance to States in planning and operating activities to be carried out under this subchapter.

"APPLICATION AND DESCRIPTION OF ACTIVITIES; REQUIREMENTS

"SEC. 670E. (a)(1) In order to receive an allotment under section 670B, each State shall submit an application to the Secretary. Each such application shall be in such form and submitted by such date as the Secretary shall require.

"(2) Each application required under paragraph (1) for an allotment under section 670B shall contain assurances that the State will meet the requirements of subsection (b).

"(b) As part of the annual application required by subsection (a), the chief executive officer of each State shall—

"(1) certify that the State agrees to use the funds allotted to it under section 670B in accordance with the requirements of this subchapter; and

"(2) certify that the State agrees that Federal funds made available under section 670C for any period will be so used as to supplemnent and increase the level of State, local, and other non-Federal funds that would in the absence of such Federal funds be made available for the programs and activities for which funds are provided under that section and will in no event supplant such State, local, and other non-Federal funds.

The Secretary may not prescribe for a State the manner of compliance with the requirements of this subsection.

"(c) The chief executive officer of a State shall, as part of the application required by subsection (a), also prepare and furnish the Secretary (in accordance with such form as the Secretary shall provide) with a description of the intended use of the payments the State will receive under section 670C, including information on the programs and activities to be supported. The description shall be made public within the State in such manner as to facilitate comment from any person (including any Federal or other public agency) during development of the description and after its transmittal. The description shall be revised (consistent with this section) until September 30, 1987, as may be necessary to reflect substantial changes in the programs and activities assisted by the State under this subchapter, and any revision shall be subject to the requirements of the preceding sentence.

"(d) Except where inconsistent with the provisions of this subchapter, the provisions of section 1903(b), paragraphs (1) through (5) of section 1906(a), and sections 1906(b), 1907, 1908, and 1909 of the Public Health Service Act shall apply to this subchapter in the same manner as such provisions apply to part A of title XIX of such Act.

"REPORT

"SEC. 670F. Within three years after the date of enactment of this subchapter, the Secretary shall prepare and transmit to the Senate Committee on Labor and Human Resources and the House Committee on Education and Labor a report concerning the activities conducted by the States with amounts provided under this subchapter.

"DEFINITIONS

"SEC. 670G. For purpose of this subchapter—

"(1) the term 'community center' means facilities operated by nonprofit community-based organizations for the provision of recreational, social, or educational services to the general public;

"(2) the term 'dependent' means—

"(A) an individual who has not attained the age of 17 years;

"(B) an individual who has attained the age of 55 years; or

"(C) a person with a developmental disability;

"(3) the term 'developmental disability' has the same meaning as in section 102(7) of the Developmental Disabilities Assistance and Bill of Rights Act;

"(4) the term 'equipment' has the same meaning given that term by section 198(a)(8) of the Elementary and Secondary Education Act of 1965;

"(5) the term 'institution of higher education' has the same meaning given that term under section 1201(a) of the Higher Education Act of 1965;

"(6) the term 'local educational agency' has the same meaning given that term under section 198(a)(10) of the Elementary and Secondary Education Act of 1965;

"(7) the term 'school-age children' means children aged five through thirteen;

"(8) the term 'school facilities' means classrooms and related facilities used for the provision of education;

"(9) the term 'Secretary' means the Secretary of Health and Human Services;

"(10) the term 'State' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands; and

"(11) the term 'State educational agency' has the meaning given that term under section 198(a)(17) of the Elementary and Secondary Education Act of 1965.".

TITLE II—COMMUNITY SERVICES BLOCK GRANT

AUTHORIZATION OF APPROPRIATIONS

SEC. 201. Section 672(a) of the Community Services Block Grant Act (hereinafter in this title referred to as the "Act") is amended by adding at the end thereof the following new sentence: "There is authorized to be appropriated $400,000,000 for the fiscal year 1985, and $415,000,000 for the fiscal year 1986, to carry out the provisions of this subtitle.".

DEFINITIONS

SEC. 202. (a)(1) The second sentence of section 673(1) of the Act is amended to read as follows: "The term 'eligible entity' also includes any limited purpose agency designated under title II of the Economic Opportunity Act of 1964 for fiscal year 1981 which served the general purposes of a community action agency under title II of such Act, unless such designated agency lost its designation under title II of such Act as a result of a failure to comply with the provisions of such Act, any grantee which received financial assistance under section 222(a)(4) of the Economic Opportunity Act of 1964 in fiscal year 1981, and any organization to which a State which applied for and received a waiver from the Secretary under Public Law 98-139 made a grant under this Act in fiscal year 1984.".

(2) Section 673(1) of the Act is amended by adding at the end thereof the following two sentences: "In any geographic area of a State not presently served by an eligible entity, the Governor of the State may decide to serve such a new area by—

"(A) requesting an existing eligible entity which is located and provides services in an area contiguous to the new area to serve the new area;

"(B) if no existing eligible entity is located and provides services in an area contiguous to the new area, requesting the eligible entity located closest to the area to be served or an existing eligible entity serving an area within reasonable proximity of the new area to provide services in the new area; or

"(C) where no existing eligible entity requested to serve the new area decides to do so, designating any existing eligible entity, any organization which has a board meeting the requirements of section 675(c)(3) or any political subdivision of the State to serve the new area. The Governor's designation of an organization which has a board meeting the requirements of section 675(c)(3) or a political subdivision of the State to serve the new area shall qualify such organization as an eligible entity under this Act.".

(b) Section 673(2) of the Act is amended by inserting at the end thereof the following new sentence: "Whenever the State determines that it serves the objectives of the block grant established by this subtitle the State may revise the poverty line to not to exceed 125 percent of the official poverty line otherwise applicable under this paragraph.".

APPLICATIONS AND REQUIREMENTS

SEC. 203. (a)(1) Section 675(c)(2)(A) of the Act is amended by striking "1982 only" and inserting in lieu thereof "1985 and for each subsequent fiscal year".

(2) Section 675(c)(2)(A)(i) of the Act is amended by inserting before the semicolon a comma and the following: "except that no more than 7 percent of the funds available for this subclause shall be granted to organizations which were not eligible entities during the previous fiscal year".

(3) Section 675(c)(2)(A) of the Act is amended—

(A) by striking out "(i)"; and

(B) by striking out division (ii).

(4) Section 675(c)(2)(B) of the Act is amended by inserting after "than" the following: "the greater of $55,000 or".

(5) Section 675(c)(5) of the Act is amended—

(A) by striking out "or the energy" and inserting in lieu thereof "the energy", and

(B) by inserting ", or the Temporary Emergency Food Assistance Act of 1983" before the semicolon.

(b) Section 675 of the Act is amended—

(1) by striking out "and" at the end of clause (9);

(2) by striking out the period at the end of clause (10) and inserting in lieu thereof a semicolon and the word "and"; and

(3) by adding at the end thereof the following new clause:

"(11) provide assurances that any community action agency or migrant and seasonal farmworkers organization which received funding in the previous fiscal year under this Act will not have its present or future funding terminated under this Act unless after notice, and opportunity for hearing on the record, the State determines that cause existed for such termination subject to reiew by the Secretary as provided in section 676A.".

(c) Section 675 is amended by adding at the end thereof the following new subsection:

"(i)(1) For purposes of determining compliance with this subchapter the Secretary shall conduct, in several States in each fiscal year, evaluations of the uses made of funds received under this subchapter by such States.

"(2) The results of such evaluations shall be submitted annually to the chairman of the Committee on Education and Labor of the House of Representatives and the chairman of the Committee on Labor and Human Resources of the Senate.".

(d) The Act is amended by inserting after section 676 the following new section:

"TERMINATION OF FUNDING REVIEW

"SEC. 676A. The Secretary shall upon request review any termination of funding to a community action agency or migrant and seasonal farmworker organization protected by a State's assurance under section 675(c)(11). Such review shall be conducted promptly and shall be based upon the record and no determination shall become effective until a finding by the Secretary confirming the State's finding of cause.".

DISCRETIONARY PROGRAM

SEC. 204. (a)(1) The matter preceding clause (1) of section 681(a) of the Act is amended by striking out "public and other organizations and agencies" both times it appears and inserting in lieu thereof "public agencies and private nonprofit organizations".

(2) Section 681(a) of the Act is amended—

(A) by striking out "and" at the end of clause (1);

(B) by striking out the period at the end of clause (2) and inserting in lieu thereof a semicolon and the word "and"; and

(C) by adding at the end thereof the following new clause:

"(3) training and technical assistance to aid States in carrying out their responsibilities under this subchapter.".

(b) Section 681(a) of the Act is amended by adding at the end thereof the following new flush sentence: "In addition, grants, loans, and guarantees made pursuant to this subsection may be made to a private nonprofit organization applying jointly with a business concern.".

WITHHOLDING

SEC. 205. (a) Section 679(b) of the Act is amended—

(1) in paragraph (2) by striking out "he" and inserting in lieu thereof "the Secretary", and

(2) in paragraph (3) by striking out "may" and inserting in lieu thereof "shall".

(b) Section 679 of the Act is amended by striking out subsection (d).

COMMUNITY FOOD AND NUTRITION PROGRAM

SEC. 206. The Act is amended by inserting after section 681 the following new section:

"COMMUNITY FOOD AND NUTRITION

"SEC. 681A. (a) The Secretary may through grants to public and private nonprofit agencies, provide for community based, local, and statewide programs—

"(1) to coordinate existing private and public food assistance resources, whenever such coordination is determined to be inadequate, to better serve low-income populations;

"(2) to assist low-income communities to identify potential sponsors of child nutrition programs and to initiate new programs in underserved or unserved areas; and

"(3) to develop innovative approaches at the State and local level to meet the nutrition needs of low-income people.

"(b) There is authorized to be appropriated $2,500,000 for each of the fiscal years 1985 and 1986 to carry out the provisions of this section.".

CONSTRUCTION

SEC. 207. Notwithstanding any other provision of law the provisions of section 675(c)(2) of the Act made by the amendments contained in paragraphs (1), (2) and (3) of section 203 of this Act shall apply to the funds appropriated for the Act for fiscal year 1985.

TITLE III—FOLLOW THROUGH

AUTHORIZATION OF APPROPRIATIONS

SEC. 301. Section 663(a)(1) of the Follow Through Act is amended to read as follows:

"(1) There is authorized to be appropriated for carrying out the purposes of this subchapter $10,000,000 for the fiscal year 1985 and $7,500,000 for the fiscal year 1986.".

REPEALER

SEC. 302. Section 670 of the Follow Through Act is amended by striking out "1984" and inserting in lieu thereof "1986".

TITLE IV—WEATHERIZATION PROGRAM

STATE ELECTION OF LIHEAP INCOME ELIGIBILITY LEVEL

SEC. 401. Section 412(7) of the Energy Conservation in Existing Buildings Act of 1976 (42 U.S.C. 6862(7)) is amended by striking out "or" before the beginning of clause (B), by striking out the period at the end of the paragraph and inserting in lieu thereof a comma, and by adding at the end of the paragraph "or (C) if a State elects, is the basis for eligibility for assistance under the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621), provided that such basis is at least 125 percent of the poverty level determined in accordance with criteria established by the Director of the Office of Management and Budget.".

NEW TECHNOLOGY AND ELIMINATION OF A RULEMAKING REQUIREMENT

SEC. 402. Section 412(9) of the Energy Conservation in Existing Buildings Act of 1976 (42 U.S.C. 6862(9)) is amended by—

(1) amending paragraph (B) to read as follows:

"(B) furnace efficiency modifications, including, but not limited to—

"(i) replacement burners, furnaces, or boilers or any combination thereof;

"(ii) devises for minimizing energy loss through heating system, chimney, or venting devices; and

"(iii) electrical or mechanical furnace ignition systems which replace standing gas pilot lights"; and

(2) striking out "by rule" in paragraph (G).

MAXIMUM EXPENSES

SEC. 403. Section 415 of the Energy Conservation in Existing Buildings Act of 1976 (42 U.S.C. 6865) is amended—

(1) by striking out the first sentence in subsection (a) and inserting in lieu thereof: "An average of at least forty percent of the funds provided in a State under this part for weatherization materials, labor, and related matters described in subsection (c) shall be spent on weatherization materials;"; and

(2) by amending subsection (c) to read as follows:

"(c)(1) The expenditure of financial assistance provided under this part for labor, weatherization materials, and related matters shall not exceed an average of $1,600 per dwelling unit weatherized in that State. Labor, weatherization materials, and related matter includes, but is not limited to—

"(A) the appropriate portion of the cost of tools and equipment used to install weatherization materials for a dwelling unit;

"(B) the cost of transporting labor, tools, and materials to a dwelling unit;

"(C) the cost of having onsite supervisory personnel; and

"(D) the cost of making incidental repairs to a dwelling unit if such repairs are necessary to make the installation of weatherization materials effective.

"(2) Dwelling units partially weatherized under this part or under other Federal programs during the period September 30, 1975, through September 30, 1979, may receive further financial assistance for weatherization under this part.".

PERFORMANCE FUND

SEC. 404. Section 145 of the Energy Conservation in Existing Buildings Act of 1976 (42 U.S.C. 6862) is amended by adding at the end thereof the following new subsection:

"(d) Beginning in fiscal year 1986, not less than 5 percent and no more than 15 percent of the amount appropriated under this part for each fiscal year shall be allotted by the Secretary to a performance fund, which shall be available only to provide financial assistance under this part to those States which the Secretary determines to have demonstrated the best performance during the previous fiscal year in providing weatherization assistance. The Secretary shall make such determination on the basis of such information as may be available to the Secretary, to include, but not be limited to, the percentage of eligible dwelling units within the State which have been weatherized using low-income weatherization assistance program funds during the relevant reporting period. In assessing the quality of the weatherization assistance provided, the Secretary shall consider comparable energy savings data supplied by the States.".

TITLE V—HIGHER EDUCATION AND RESEARCH PROJECT

CENTER FOR EXCELLENCE IN EDUCATION AUTHORIZED

SEC. 501. (a) The Secretary of Education (hereinafter in this section referred to as the "Secretary") is authorized in accordance with the provisions of this title, to provide financial assistance to Indiana University located in Bloomington, Indiana, to pay the Federal share of the cost of the construction, and related costs, including renovation costs, for the Center for Excellence in Education facility at Indiana University, to be used as a national research and training resource for individuals who intend to become exemplary elementary and secondary school teachers and administrators.

(b)(1) No financial assistance may be made under this title unless an application is made at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

(2) For the purpose of this section, the Federal share of the cost of the Center for Excellence in Education facility at the Indiana University should not exceed 50 percent.

(c) There are authorized to be appripriated such sums, not to exceed $6,000,000, as may be necessary to carry out the provisions of this title. Funds appropriated pursuant to this title shall remain available until September 30, 1987.

RESEARCH CENTERS

SEC. 502. (a)(1) The Secretary of Health and Human Services (hereinafter in this section referred to as the "Secretary") is authorized, in accordance with the provisions of this section, to provide financial assistance to the University of Utah located in Salt Lake City, Utah, to pay the Federal share of the cost of the establishment and operation (including construction, and related costs, including renovation costs) of a center for research on the health effects of nuclear energy and other new energy technologies.

(2)(A) No financial assistance may be made under this subsection unless an application is made at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

(B) For the purpose of this subsection, the Federal share of the costs of the center shall not exceed 50 percent.

(3) There are authorized to be appropriated such sums, not to exceed $4,000,000, as may be necessary to carry out the provisions of this subsection. Funds appropriated pursuant to this subsection shall remain available until September 30, 1987.

(b) (1) The Secretary shall, through the National Cancer Institute, establish or support at least one clinic or health facility for cancer screening and research in St. George, Utah. such clinic shall be affiliated with a health science center capable of providing clinical, research, and interdisciplinary technical assistance to such clinic or facility, and shall make its services accessible to the preponderance of the residents of the areas that have received the greatest fallout from the Nevada nuclear tests.

(2) There are authorized to be appropriated such sums, not to exceed $6,000,000, as

may be necessary to carry out the provisions of this subsection. Funds appropriated pursuant to this subsection shall remain available until September 30, 1987.

TITLE VI—LOW-INCOME HOME ENERGY ASSISTANCE

AUTHORIZATION OF APPROPRIATIONS

SEC. 601. Section 2602(b) of the Low-Income Home Energy Assistance Act of 1981 (hereinafter in this title referred to as the "Act") is amended to read as follows:

"(b) There is authorized to be appropriated to carry out the provisions of this title $2,140,000,000 for the fiscal year 1985, and $2,275,000,000 for the fiscal year 1986.".

DEFINITION

SEC. 602. (a) Section 2601(1) of the Act is amended—

(1) by striking out "intervention"; and

(2) by inserting before the period "and other household energy-related emergencies".

(b) Section 2603(4) of the Act is amended to read as follows:

"(4) The term 'poverty level' means, with respect to a household in any State, the income poverty line as prescribed and revised at least annually pursuant to section 673(2) of the Community Services Block Grant Act, as applicable to such State.".

ENERGY CRISIS INTERVENTION

SEC. 603. (a) Section 2604(c) of the Act is amended—

(1) by inserting after "reserved" the following: "until March 15 of each program year"; and

(2) by adding at the end thereof the following new sentence: "The program for which funds are reserved by this subsection shall be administered by public or nonprofit entities which have experience in administering energy crisis programs under the Low-Income Energy Assistance Act of 1980, or under this Act, experience in assisting low-income individuals in the area to be served, and the capacity to undertake a timely and effective energy crisis intervention program.".

(b) Section 2604(d)(1) of the Act is amended by striking out "otherwise be paid" and inserting in lieu thereof "otherwise be payable".

(c) Section 2604(e) of the Act is repealed.

(d) Section 2604(f) of the Act is amended by striking out "Its allotment" and inserting in lieu thereof "the funds payable to it".

STATE ALLOTMENTS

SEC. 604. (a) Section 2604(a)(2) is amended to read as follows:

"(2) For purposes of paragraph (1), for fiscal year 1985 and thereafter, a State's allotment percentage is the percentage which expenditures for home energy by low-income households in that State bears to such expenditures in all States, except that States which thereby receive the greatest proportional increase in allotments by reason of the application of this paragraph from the amount they received pursuant to Public Law 98-139 shall have their allotments reduced to the extent necessary to ensure that—

"(A)(i) no State for fiscal year 1985 shall receive less than the amount of funds the State received in fiscal year 1984; and

"(ii) no State for fiscal year 1986 and thereafter shall receive less than the amount of funds the State would have received in fiscal year 1984 if the appropriations for this title for fiscal year 1984 had been $1,975,000,000, and

"(B) any State whose allotment percentage out of funds available to States from a total appropriation of $2,250,000,000 would be less than 1 percent, shall not, in any year when total appropriations equal or exceed $2,250,000,000, have its allotment percentage reduced from the percentage it would receive from a total appropriation of $2,140,000,000.".

(b) Section 2604(a) is amended by adding at the end thereof the following new paragraph:

"(4) For the purpose of this section, the Secretary shall determine the expenditure for home energy by low-income households on the basis of the most recent satisfactory data available to the Secretary."

APPLICATIONS AND REQUIREMENTS

SEC. 605. (a)(1) Section 2605(b)(1) of the Act is amended by striking out "subsection" and inserting in lieu thereof "section".

(2) Subclause (B) of section 2605(b)(2) of the Act is amended by inserting after the semicolon and flush to the margin of subclause (B) the following: "except that no household may be excluded from eligibility under this subclause for payments under this title for fiscal year 1986 and thereafter if the household has an income which is less than 110 percent of the poverty level for such State for such fiscal year".

(3) Section 2605(b)(5) is amended by inserting before the semicolon a comma and the following: "except that the State may not differentiate in implementing this section between the households described in clause (2)(A) and (2)(B) of this subsection".

(4) Section 2605(b)(7)(C) is amended by striking out "any differently" and inserting in lieu thereof "adversely".

(5) Section 2605(b)(8) of the Act is amended by inserting after "that" the following: "(A) the State will not exclude households described in clause (2)(B) of this subsection from receiving home energy assistance benefits under clause (2), and (B)".

(6) Section 2605(b)(9)(A) of the Act is amended to read as follows:

"(A) the State may use for planning and administering the use of funds under this title an amount not to exceed 10 percent of the funds payable to such State under this title for a fiscal year and not transferred pursuant to section 2604(f) for use under another block grant; and".

(7) Section 2605(b)(10) of the Act is amended by striking out "every year" and inserting in lieu thereof "every two years".

(8) Section 2605(b) of the Act is amended—

(A) by striking out "and" at the end of clause (12);

(B) by striking out the period at the end of clause (13) and inserting in lieu thereof a semicolon; and

(C) by adding at the end thereof the following new clauses:

"(14) describe the procedures by which households in the State are identified as eligible to participate under this title and the manner in which the State determines benefit levels;

"(15) describe the amount that the State will reserve in accordance with section 2604(c) in each fiscal year for energy crisis intervention activities together with the administrative procedures (A) for designating an emergency, (B) for determining the assistance to be provided in any such emergency, and (C) for the use of funds reserved under such section for the purposes under this title in the event any portion of the amount so reserved is not expended for emergencies;

"(16) describe energy usage and the average cost of home energy in the State, identified by type of fuel and by region of the State; and

"(17) cooperate with the Secretary with respect to data collecting and reporting under section 2610.".

(9) Section 2605(b) is amended by adding at the end thereof the following new sentence: "The Secretary shall issue regulations to prevent waste, fraud, and abuse in the programs assisted by this title.".

"(b)(1) Section 2605(c)(1) of the Act is amended to read as follows:

'(c)(1) As part of the annual application required in subsection (a), the chief executive officer of each State shall' prepare and furnish to the Secretary, in such format as the Secretary may require, a plan which—

"(A) describes how the State will carry out the assurances required under subsection (b);

"(B) contains estimates of the amount of funds the State will use for each of the programs under such plan;

"(C) describes the eligibility requirements to be used by the State for each type of assistance to be provided under this title;

"(D) describes weatherization and other energy-related home repairs the State will provide under subsection (k); and

"(E) contains any other information determined by the Secretary to be appropriate for purposes of this title.

The chief executive officer may revise any plan prepared under this paragraph and shall furnish the revised plan to the Secretary.".

(2) Section 2605(c)(2) of the Act is amended—

(A) by inserting "and each substantial revision thereof" after "Each plan prepared under paragraph (1)", and

(B) by striking out the period at the end thereof and inserting in lieu thereof "or substantial revision.".

(c) Section 2605(d) of the Act is amended to read as follows:

"(d) The State shall expend funds in accordance with the State plan under this title or in accordance with revisions applicable to such plan.".

(d) Section 2605(e) of the Act is amended to read as follows:

"(e) Each State shall, in carrying out the requirements of subsection (b)(10), obtain financial and compliance audits of any funds which the State receives under this title. Such audits shall be made public within the State on a timely basis. The audits shall be conducted at least every two years by an organization or person independent of any agency administering activities under this title. The audits shall be conducted in accordance with the Comptroller General's standards for audit of governmental organizations, programs, activities, and functions. Within 30 days after completion of each audit, the chief executive officer of the State shall submit a copy of the audit to the legislature of the State and to the Secretary.".

(e) Section 2605(f) of the Act is amended by inserting before the comma the first time it appears the following: "unless enacted in express limitation of this paragraph".

(f) Section 2605(h) of the Act is amended by inserting "(but not less frequently than every three years)" after "time" the second place it appears.

PAYMENTS TO STATES

"SEC. 606. (a)(1) The second sentence of section 2607(b)(2)(A) of the Act is amended

by inserting "or the amount payable to" after "of".

"(2) Section 2607(b)(2)(A) of the Act is amended by inserting after the first sentence thereof the following: "Such request shall include a statement of the reasons that the amount allotted to such State for a fiscal year will not be used by such State during such fiscal year and a description of the types of assistance to be provided with the amount held available for the following fiscal year.".

(b)(1)(A) The first sentence of section 2607(b)(2)(B) of the Act is amended by striking out "25 percent" and inserting in lieu thereof "15 percent".

(B) The first sentence of section 2607(b)(2)(B) of the Act is further amended by striking out "allotted to such State for such prior fiscal year" and inserting in lieu thereof "payable to such State for such prior fiscal year and not transferred pursuant to section 2604(f)".

(2) The second sentence of section 2607(b)(2)(B) of the Act is amended by striking out "allotted to a State" and inserting in lieu thereof "payable to a State but not transferred by the State".

(c) Section 2607(b)(2) of the Act is amended by adding at the end thereof the following new subparagraph:

"(C) The Secretary shall reallot amounts made available under this paragraph for the fiscal year following the fiscal year of the original allotment in accordance with paragraph (1) of this subsection.".

STUDIES

SEC. 607. (a) Section 2610(a)(2) of the Act is amended—

(1) by inserting "amount," before "cost"; and

(2) by adding at the end thereof the following: "for households eligible for assistance under this title".

(b) Section 2610(a) of the Act is amended by—

(1) striking out "and" at the end of clause (4);

(2) redesignating clause (5) as clause (6); and

(3) inserting after clause (4) the following new clause:

"(5) the number of households which received such assistance and include one or more individuals who are 60 years or older or handicapped; and".

(c) Section 2610(a) of the Act is amended by adding at the end thereof the following new flush sentence "Nothing in this subsection may be construed to require the Secretary to collect data which has been collected and made available to the Secretary by any other agency of the Federal Government.

(d) Section 2610(b) of the Act is amended to read as follows:

"(b) The Secretary shall, no later than June 30 of each fiscal year, submit a report to the Congress containing a detailed compilation of the data under subsection (a) with respect to the prior fiscal year.".

TECHNICAL AMENDMENT

SEC. 608. Section 2608(b)(2) of the Act is amended by striking out "he" and inserting in lieu thereof "the Secretary".

EFFECTIVE DATES

SEC. 609. (a) Except as provided in subsections (b), (c), and (d), the amendments made by this title shall take effect on the date of enactment of this Act.

(b) The amendments made by section 605 shall take effect on the first day of the first fiscal year beginning after the date of the enactment of this Act.

(c) The amendments made by section 606 shall apply to amounts held available for fiscal years beginning after September 30, 1985.

(d) The amendment made by section 607 shall apply to data collected and compiled after the date of the enactment of this Act. Section 261 of the Act as in effect before the date of the enactment of this Act shall apply with respect to the report submitted under such section 2610 for fiscal year 1984.

TITLE VII—POSTSECONDARY EDUCATION SCHOLARSHIP PROGRAM

AMENDMENT TO TITLE V OF THE HIGHER EDUCATION ACT OF 1965

SEC. 701. Title V of the Higher Education Act of 1965 is amended by inserting after part D the following new parts E and F:

"PART E—CARL D. PERKINS SCHOLARSHIP PROGRAM

"DECLARATION OF PURPOSE; AUTHORIZATION OF APPROPRIATIONS

"SEC. 561. (a) It is the purpose of this part to make available, through grants to the States, scholarships during fiscal year 1986 through 1990 to a maximum of ten thousand individuals who are outstanding high school graduates and who demonstrate an interest in teaching, in order to enable and encourage those individuals to pursue teaching careers in education at the elementary or secondary level. Such scholarships shall be referred to as 'Carl D. Perkins Scholarships'.

"(b) There are authorized to be appropriated $20,000,000 for fiscal year 1986, $21,000,000 for fiscal year 1987, $22,000,000 for fiscal year 1988, and $23,000,000 for fiscal year 1989, for Carl D. Perkins Scholarships to eligible students under this part.

"ALLOCATION AMONG STATES

"SEC. 562. (a) From the sums appropriated pursuant to section 561 for any fiscal year, the Secretary shall allocate to any State an amount which bears as nearly as possible the same ratio to such sums as the number of persons in that State bears to the number of persons in all States.

"(b) For the purpose of this section, the number of persons in a State and in all States shall be determined by the most recently available data from the United States Census Bureau.

"GRANT APPLICATIONS

"SEC. 563. (a) The Secretary is authorized to make grants to States in accordance with the provisions of this part. In order to receive a grant under this part, a State shall submit an application at such time or times, in such manner, and containing such information as the Secretary may prescribe by regulation. Such application shall set forth a program of activities for carrying out the purposes set forth in section 561(a) in such detail as will enable the Secretary to determine the degree to which such program will accomplish such purposes and such other policies, procedures, and assurances as the Secretary may require by regulation.

"(b) The Secretary shall approve an application only if the application—

"(1) describes the selection criteria and procedures to be used by the State in the selection of scholarships under this part which satisfy the provisions of this part;

"(2) designates the State agency which administers the program under subpart 3 of part A of title IV, relating to State student incentive grants, or the State agency with which the Secretary has an agreement under section 428(b);

"(3) describes the outreach effort the State agency intends to use to publicize the availability of Carl D. Perkins Scholarships to high school students in the State;

"(4) provides assurances that each recipient eligible under section 565(b) of this part who receives a Carl D. Perkins Scholarship shall enter into an agreement with the State agency under which the recipient shall—

"(A) Within the ten-year period after completing the postsecondary education for which the Carl D. Perkins Scholarship was awarded, teach, for a period of not less than two years for each year for which assistance was received, in a public elementary or secondary school in any State, in a public education program in any State, or in a private nonprofit school located and serving students in a district eligible for assistance pursuant to chapter 1 of the Education Consolidation and Improvement Act of 1981, or, on a full-time basis, handicapped children or children with limited English proficiency in a private nonprofit school, except that, in the case of individuals who teach in a school serving large numbers or high concentrations of economically disadvantaged students, or who teach children with limited English proficiency or handicapped children, the requirements of this subparagraph shall be reduced by one-half;

"(B) provide the State agency evidence of compliance with section 566 of this part as required by the State agency; and

"(C) repay all or part of a Carl D. Perkins Scholarship received under section 564 of this part plus interest and, if applicable, reasonable collection fees, in compliance with regulations issued by the Secretary under section 567 of this part, in the event that the conditions of clause (A) are not complied with, except as provided for in section 568 of this part;

"(5) provides that the agreement entered into with recipients shall fully disclose the terms and conditions under which assistance under this part is provided and under which repayment may be required. Such disclosure shall include—

"(A) a description of the procedures required to be established under paragraph (6); and

"(B) a description of the appeals procedures required to be established under paragraph (7) under which a recipient may appeal a determination of noncompliance with any provision under this part;

"(6) provides for procedures under which a recipient of assistance received under this part who teaches for less than the period required under paragraph (4)(A) will have the repayment requirements reduced or eliminated consistent with the provisions of section 567 and 568 of this part;

"(7) provides for appeals procedures under which a recipient may appeal any determination of noncompliance with any provision under this part;

"(8) provides assurances that the State agency shall make particular efforts to attract students from low-income backgrounds or who express a willingness or desire to teach in schools having less than average academic results or serving large numbers of economically disadvantaged students; and

"(9) provides assurances that Carl D. Perkins Scholarships will be awarded without regard to sex, race, handicapping condition, creed, or economic background.

"(c) The selection criteria and procedures to be used by the State shall reflect the present and projected teacher needs of the State, including the demand for and supply

of elementary teachers in the State, the demand for and supply of secondary teachers in the State, and the demand for teachers with training in specific academic disciplines in the States.

"(d) In developing the selection criteria and procedures to be used by the State, the State shall solicit the views of State and local educational agencies, private educational institutions, and other interested parties. Such views—

"(1) shall be solicited by means of (A) written comments; and (B) publication of proposed selection criteria and procedures in final form for implementation; and

"(2) may be solicited by means of (A) public hearings on the teaching needs of elementary and secondary schools in the State (including the number of new teachers needed, the expected supply of new teachers, and the shortages in the State of teachers with training in specific academic disciplines); or (B) such other methods as the State may determine to be appropriate to gather information on such needs.

"AMOUNT AND DURATION OF AND RELATION TO OTHER ASSISTANCE

"SEC. 564. (a) Subject to subsection (c), each Carl D. Perkins Scholar shall receive a $5,000 scholarship for each academic year of postsecondary education for study in preparation to become an elementry or secondary teacher. No individual shall receive scholarship assistance for more than four years of postsecondary education, as determined by the State agency.

"(b) Notwithstanding the provisions of title IV of this Act, scholarship funds awarded pursuant to this part shall be considered in determining eligibility for student assistance under title IV of this Act.

"(c) Carl D. Perkins Scholarship assistance awarded by the statewide panel established pursuant to section 565 to any individual in any given year, when added to assistance received under title IV of this Act, shall not exceed the cost of attendance, as defined under section 482(d), at the institution the individual is attending. If the amount of the Carl D. Perkins Scholarship assistance and assistance received under title IV of this Act, exceeds the cost of attendance, the Carl D. Perkins Scholarship shall be reduced by an amount equal to the amount by which the combined awards exceed the cost of attendance.

"(d) No individual shall receive an award under the Carl D. Perkins Scholarship established under this part, in any academic year, which shall exceed the cost of attendance, as defined under section 482(d), at the institution the individual is attending.

"SELECTION OF CARL D. PERKINS SCHOLARS

"SEC. 565. (a) Carl D. Perkins Scholars shall be selected by a seven-member statewide panel appointed by the chief State elected official, acting in consultation with the State educational agency, or by an existing grant agency, or panel designated by the chief State elected official and approved by the Secretary of Education. The statewide panel shall be representative of school administrators, teachers and parents.

"(b) Selections of Carl D. Perkins Scholars shall be made from students who have graduated or who are graduating from high school and who ran in the top 10 per centum of their graduating class. The State educational agency shall make applications available to high schools in the State and in other locations convenient to applicants, parents and others. The statewide panel shall develop criteria and procedures for the selection of Carl D. Perkins Scholars. Such criteria may include the applicant's high school grade point average, involvement in extracurricular activities, financial need, and expression of interest in teaching as expressed in an essay written by the applicant. The panel may also require the applicant to furnish letters of recommendation from teachers and others.

"SCHOLARSHIP CONDITIONS

"SEC. 566. Recipients of scholarship assistance under this part shall continue to receive such scholarship payments only during such periods that the State agency finds that the recipient is (A) enrolled as a full-time student in an accredited postsecondary institution; (B) pursuing a course of study leading to teacher certification; and (C) maintaining satisfactory progress as determined by the postsecondary institution the recipient is attending.

"SCHOLARSHIP REPAYMENT PROVISIONS

"SEC. 567. Recipients found by the State agency to be in nocompliance with the agreement entered into under section 563(b)(3) of this part shall be required to repay a pro rata amount of the scholarship awards received, plus interest and, where applicable, reasonable collection fees, on a schedule and at a rate of interest to be prescribed by the Secretary by regulations issued pursuant to this part.

"EXCEPTIONS TO REPAYMENT PROVISIONS

"SEC. 568. (a) A recipient shall not be considered in violation of the agreement entered into pursuant to section 563(b)(4)(C) if the recipient (1) returns to a full-time course of study related to the field of teaching at an eligible institution; (2) is serving, not in excess of three years, as a member of the armed services of the United States; (3) is temporarily totally disabled for a period of time not to exceed three years as established by sworn affidavit of a qualified physician; (4) is unable to secure employment for a period not to exceed twelve months by reason of the care required by a spouse who is disabled; (5) is seeking and unable to find full-time employment for a single period not to exceed twelve months; (6) is seeking and unable to find full-time employment as a teacher in a public elementary or secondary school or a public education program; or (7) satisfies the provisions of additional repayment exceptions that may be prescribed by the Secretary in regulations issued pursuant to this part.

"(b) A recipient shall be excused from repayment of any scholarship assistance received under this part if the recipient becomes permanently totally disabled as established by sworn affidavit of a qualified physician.

"FEDERAL ADMINISTRATION OF STATE PROGRAMS; JUDICIAL REVIEW

"SEC. 569. (a) The Secretary shall not finally disapprove any application for a State program submitted under section 563, or any modification thereof, without first affording the State agency submitting the program reasonable notice and opportunity for a hearing.

"(b) Whenever the Secretary, after reasonable notice and opportunity for hearing to the State agency administering a State program approved under this part, finds—

"(1) that the State program has been so changed that it no longer complies with the provisions of this part, or

"(2) that in the administration of the program there is a failure to comply substantially with any such provisions,

the Secretary shall notify such State agency that the State will not be regarded as eligible to participate in the program under this part until the Secretary is satisfied that there is no longer any such failure to comply.

"(c)(1) If any State is dissatisfied with the Secretary's final action under subsection (b) (1) or (2), such State may appeal to the United States Court of Appeals for the circuit in which such State is located. The summons and notice of appeal may be served at any place in the United States. The Secretary shall forthwith certify and file in the court the transcript of the proceedings and the record on which the action was based.

"(2) The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of fact and may modify any previous action, and shall certify to the court the transcript and record of further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

"(3) The court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1250 of title 28, United States Code.

"PART F—NATIONAL TALENTED TEACHER FELLOWSHIP PROGRAM

"DECLARATION OF PURPOSE

"SEC. 571. It is the purpose of this part to establish a national fellowship program for outstanding teachers.

"AUTHORIZATION OF APPROPRIATIONS; ALLOCATION AMONG STATES

"SEC. 572. There are authorized to be appropriated $1,000,000 for fiscal year 1986, $2,000,000 for fiscal year 1987, $3,000,000 for fiscal year 1988, and $4,000,000 for fiscal year 1989, for fellowships to outstanding teachers under this part. Not more than 2½ per centum of these funds shall be used for purposes of administering this part.

"TALENTED TEACHER FELLOWSHIPS

"SEC. 573. (a)(1) Except as provided under paragraph (3), sums available for the purpose of this part shall be used to award one national teacher fellowship to a public or private school teacher teaching in each congressional district of each State, and in the District of Columbia, and the Commonwealth of Puerto Rico; and one such fellowship in Guam, the Virgin Islands, American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

"(2) Fellowship awards may not exceed the average national salary of public school teachers in the most recent year for which satisfactory data are available, as determined by the Secretary. Talented teacher fellows may not receive an award for two consecutive years. Subject to the repayment provisions of section 576, talented teacher fellows shall be required to return to a teaching position in their current school district or private school system for at least two years following the fellowship award.

"(3) If the appropriation under section 572 is not sufficient to provide the number of fellowships required by paragraph (1) at the level required under paragraph (2), the Secretary shall determine and publish an al-

ternative distribution of fellowships which will permit fellowship awards at that level and which is geographically equitable. The Secretary shall send a notice of such determination to each of the statewide panels established under section 574.

"(b) Talented teacher fellows may use such awards for such projects for improving public education as the Secretary may approve, including (1) sabbaticals for study or research directly associated with the objectives of this part, or academic improvement; (2) consultation with or assistance to other school districts or private school systems; (3) development of special innovative programs; or (4) model teacher programs and staff development.

"SELECTION OF TALENTED TEACHER FELLOWSHIPS

"SEC. 574. Recipients of talented teacher fellowship in each State shall be selected (in accordance with section 575) by a seven-member statewide panel appointed by the chief State elected official, acting in consultation with the State educational agency, or by an existing panel designated by the chief State elected official and approved by the Secretary of Education. The statewide panel shall be representative of school administrators, teachers, parents, and institutions of higher education.

"EVALUATION OF APPLICATIONS

"SEC. 575. (a) An applicant for talented teacher fellowship assistance shall submit proposals for projects under section 573 (b), and shall indicate the extent to which the applicant wishes to continue current teaching duties. The applicant shall submit such proposals to the local education agency for comment prior to submission to the statewide panel (appointed under section 574) for the State within which the project is to be conducted. In evaluating proposals, such statewide panel shall consult with the local education agency, requesting two recommendations from teaching peers; a recommendation from the principal; and a recommendation of the superintendent on the quality of the proposal and its benefit to the local education agency; and any other criteria for awarding fellowships as is considered appropriate by such statewide panel. Selection of fellows shall be made in accordance with regulations prescribed by the Secretary of Education.

"(b) Announcement of awards shall be made in a public ceremony.

"FELLOWSHIP REPAYMENT PROVISIONS

"SEC. 576. Repayment of the award shall be made to the Federal Government in the case of fraud or gross noncompliance.".

MATH SCIENCE TECHNICAL AMENDMENT

SEC. 702. Section 711 of the Education for Economic Security Act is amended by striking out "(a)" and by striking out subsection (b) of such section.

TITLE VIII—FEDERAL MERIT SCHOLARSHIPS

AMENDMENT TO THE HIGHER EDUCATION ACT OF 1965

SEC. 801. (a) Part A of title IV of the Higher Education Act of 1965 (hereafter in this title referred to as "the Act") is amended by redesignating subpart 6 as subpart 7 and by inserting after subpart 5 the following new subpart:

"Subpart 6—Federal Merit Scholarships

"STATEMENT OF PURPOSE

"SEC. 419A. It is the purpose of this subpart to establish a Federal Merit Scholarship Program to promote student excellence and achievement and to recognize exceptionally able students who show promise of continued excellence.

"DEFINITION

"SEC. 419B. For the purpose of this subpart—

"(1) the term 'secondary school' has the same meaning given that term under section 198 (a) (7) of the Elementary and Secondary Education Act of 1965; and

"(2) the term 'State' means each of the several States, the District of Columbia, and the Commonwealth of Puerto Rico.

"SCHOLARSHIPS AUTHORIZED

"SEC. 419C. (a) The Secretary is authorized, in accordance with the provisions of this subpart, to make grants to States to enable the States to award scholarships to individuals who have demonstrated outstanding academic achievement and who show promise of continued academic achievement.

"(b) Scholarships under this section shall be awarded for a period of one academic year for the first year of study at an institution of higher education.

"(c) A student awarded a scholarship under this subpart may attend any institution of higher education.

"ALLOCATION AMONG STATES

"SEC. 419D. From the sums appropriated pursuant to section 419K for any fiscal year, the Secretary shall allocate to each State having an agreement under section 419E—

"(1) $1,500 multiplied by the number of individuals in the State eligible for merit scholarships pursuant to section 419G (b), plus

"(2) $10,000, plus 5 percent of the amount to which a State is eligible under clause (1) of this section.

AGREEMENTS

"SEC. 419E. The Secretary shall enter into an agreement with each State desiring to participate in the merit scholarship program authorized by this subpart. Each such agreement shall include provisions designed to assure that—

"(1) the State educational agency will administer the merit scholarship program authorized by this subpart in the State;

"(2) the State educational agency will comply with the eligibility and selection provisions of this subpart;

"(3) the State educational agency will conduct outreach activities to publicize the availability of Federal merit scholarships to all eligible students in the State, with particular emphasis on activities designed to assure that students from low-income and moderate-income families have access to the information on the opportunity for full participation in the merit scholarship program authorized by this subpart;

"(4) the State educational agency will pay to each individual in the State who is awarded a merit scholarship under this subpart $1,500 at an awards ceremony in accordance with section 419I; and

"(5) the State educational agency will use the amount of the allocation described in clause (2) of section 419D for administrative expenses, including the conduct of the awards ceremony required by section 419I.

"ELIGIBILITY OF MERIT SCHOLARS

"SEC. 419F. (a) Each student awarded a scholarship under this subpart shall be a graduate of a public or private secondary school or have the equivalent of a certificate of graduation as recognized by the State in which the student resides and must have been admitted for enrollment at an institution of higher education.

"(b) Each student awarded a scholarship under this subpart must demonstrate outstanding academic achievement and show promise of continued academic achievement.

"SELECTION OF MERIT SCHOLARS

"SEC. 419G. (a) The State educational agency is authorized to establish the criteria for the selection of merit scholars under this subpart.

"(b) The State educational agency shall adopt selection procedures which are designed to assure that ten individuals will be selected from among residents of each congressional district in a State (and in the case of the District of Columbia and the Commonwealth of Puerto Rico not to exceed ten individuals will be selected in such district or Commonwealth).

"(c) In carrying out its responsibilities under subsections (a) and (b), the State educational agency shall consult with school administrators, school boards, teachers, counselors, and parents.

"STIPENDS AND SCHOLARSHIP CONDITIONS

"SEC. 419H. (a) Each student awarded a merit scholarship under this subpart shall receive a stipend of $1,500 for the academic year of study for which the scholarship is awarded.

"(b) The State educational agency shall establish procedures to assure that a merit scholar awarded a scholarship under this subpart pursues a course of study at an institution of higher education.

"AWARDS CEREMONY

"SEC. 419I. (a) The State educational agency shall make arrangements to award merit scholarships under this subpart at a place in each State which is convenient to the individuals selected to receive such scholarships. To the extent possible, the award shall be made by Members of the Senate and Members of the House of Representatives (by the Delegate in the case of the District of Columbia and the Resident Commissioner in the case of the Commonwealth of Puerto Rico) who represent the State, Commonwealth, or District, as the case may be, from which the individuals come.

"(b) The selection process shall be completed, and the awards made prior to the end of each secondary academic year.

"CONSTRUCTION OF NEEDS PROVISIONS

"SEC. 419J. Nothing in this subpart, or any other Act, shall be construed to permit the receipt of a merit scholarship under this subpart to be counted for any needs test in connection with the awarding of any grant or the making of any loan under this Act or any other provision of Federal law relating to educational assistance.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 419K. There are authorized to be appropriated $8,000,000 for each of fiscal years 1986, 1987, and 1988 to carry out the provisions of this subpart.".

(b)(1) Section 419 of the Act is redesignated as section 420.

(2) Section 420 of the Act is redesignated as section 420A.

TITLE IX—LEADERSHIP IN EDUCATIONAL ADMINISTRATION

SHORT TITLE; PURPOSE

SEC. 901. (a) This title may be cited as the "Leadership in Educational Administration Development Act of 1984".

(b) It is the purpose of this title to improve the level of student achievement in elementary and secondary schools through the enhancement of the leadership skills of school administrators by establishing technical assistance centers for each State to promote the development of the leadership skills of elementary and secondary school administrators with particular emphasis upon increasing access for minorities and women to administrative positions.

(c) It is the intention of Congress that contractors seeking to establish technical assistance and training centers should design programs which upgrade the skills of elementary and secondary school administrators in—

(1) enhancing the schoolwide learning environment by assessing the school climate, setting clear goals for improvement, and devising strategies for completing manageable projects with measurable objectives;

(2) evaluating the school curriculum in order to assess its effectiveness in meeting academic goals;

(3) developing skills in instructional analysis to improve the quality of teaching through classroom observation and supervision;

(4) mastering and implementing objective techniques for evaluating teacher performance; and

(5) improving communication, problem-solving, student discipline, time-management, and budgetary skills.

AUTHORIZATION OF APPROPRIATIONS

SEC. 902. (a) There are authorized to be appropriated to carry out this title for fiscal year 1985 and each succeeding fiscal year ending prior to October 1, 1990, such sums as may be necessary but not to exceed $20,000,000 in any fiscal year.

(b) of the amount appropriated pursuant to subsection (a) for any fiscal year, the Secretary shall make available such amount, not less than $150,000 for each State, as may be necessary for establishing and operating a technical assistance center in each State.

TECHNICAL ASSISTANCE CENTERS

SEC. 903. (a) The Secretary shall, subject to the availability of funds pursuant to section 902, enter into contracts with local educational agencies, intermediate school districts, State educational agencies, institutions of higher education, private management organizations, or nonprofit organizations (or consortium of such entities) for the establishment and operation of training centers in each State in accordance with the requirements of this section and section 904.

(b) Each contract entered into under subsection (a) shall require the contractor—

(1) to make the services of the technical assistance center available to school administrators from any of the local educational agencies located within the State served by that contractor;

(2) to collect information on school leadership skills;

(3) to assess the leadership skills of individual participants based on established effective leadership criteria;

(4) to conduct training programs on leadership skills for new school administrators and to conduct training seminars on leadership skills for practicing school administrators, with particular emphasis on women and minority administrators;

(5) to operate consulting programs to provide within school districts advice and guidance on leadership skills;

(6) to maintain training curricula and materials on leadership skills drawing on expertise in business, academia, civilian and military governmental agencies, and existing effective schools;

(7) to conduct programs which—

(A) make available executives from business, scholars from various institutions of higher education, and practicing school administrators; and

(B) offer internships in business, industry, and effective school districts to school administrators, for the purpose of promoting improved leadership skills of such administrators;

(8) to disseminate information on leadership skills associated with effective schools; and

(9) to establish model administrator projects.

(c) In making a selection among applicants for any contract under this section, the Secretary shall take into account whether the applicant, if selected, would be able to operate its programs in a manner which would emphasize development of leadership skills identified by graduate schools of management and graduate schools of education.

GENERAL CRITERIA FOR CONTRACTS

SEC. 904. (a) The following criteria shall apply to each contract:

(1) The contract shall assure the involvement of private sector managers and executives in the conduct of such programs.

(2) The contract shall contain assurances of an ongoing organizational commitment to carrying out the purposes of this title through (A) obtaining matching funds for such programs in cash or in kind at least equal in amount to the amount of funds provided under this title, (B) making inkind contributions to such programs, (C) demonstrating a commitment to continue to operate such programs after expiration of funding under this title, and (D) organizing a policy advisory committee including (but not limited to) representatives from business, private foundations, and local and State educational agencies.

(3) The contract shall demonstrate the level of development of human relations skills which its programs will instill by (A) identifying the credentials of the staff responsible for such development; (B) describing the manner in which such skills will be developed; and (C) describing the manner in which the program deals with human relations issues facing education administrators.

(4) The contract shall establish a system for the evaluation of the programs conducted.

(b) Each contract shall be for a term of three years. Such contract shall not be renewable, except that a single three-year extension may be granted if the contractor agrees to maintain the programs with assistance under this title reduced by one-half.

REGULATIONS

SEC. 905. The Secretary is authorized to prescribe such regulations as may be necessary to carry out this title.

DEFINITIONS

SEC. 906. For the purposes of this title—

(1) the term "Secretary" means the Secretary of Education;

(2) the term "institution of higher education" has the meaning provided by section 1201 of the Higher Education Act of 1965;

(3) the term "school administrator" means a principal, assistant principal, district superintendent, and other local school administrators;

(4) the term "local educational agency" has the meaning provided by section 595 of the Education Consolidation and Improvement Act of 1981; and

(5) the term "leadership skills" includes, but is not limited to, managerial, administrative, evaluative, communication and disciplinary skills and related techniques.

TITLE X—NATIVE AMERICAN PROGRAMS

SHORT TITLE

SEC. 1001. This title may be cited as the "Native American Programs Act Amendments of 1984".

DISTRIBUTION OF FINANCIAL ASSISTANCE

SEC. 1002. (a) Section 803 (a) of the Native American Programs Act of 1974 is amended by adding at the end thereof the following: "Every determination made with respect to a request for financial assistance under this section shall be made without regard to whether the agency making such request serves, or the project to be assisted is for the benefit of, Indians who are not members of a federally recognized tribe. To the greatest extent practicable, the Secretary shall ensure that each project to be assisted under this title is consistent with the priorities established by the agency which recieves such assistance.".

(b) Section 803(c) of the Native American Programs Act of 1974 is amended—

(1) by inserting "(1)" after "(c)", and

(2) by adding at the end thereof the following new paragraph:

"(2) No project may be disapproved for assistance under this title solely because the agency requesting such assistance is an Indian organization in a nonreservation area or serves Indians in a nonreservation area.".

ADMINISTRATION OF PROGRAMS

SEC. 1003. Section 812 of the Native American Programs Act of 1974 is amended to read as follows:

"ADMINISTRATION; DELEGATION OF AUTHORITY

"SEC. 812. (a)(1) The general administration of the programs authorized by this Act shall remain within the Department of Health and Human Services and, notwithstanding any authority under any other law, may not be transferred outside of such Department.

"(2) The Secretary shall continue to administer grants under section 803 through the Administration for Native Americans. The Commissioner of such Administration may not delegate outside of the Administration the functions, powers, and duties of the Commissioner to carry out such section.

"(b)(1) Except as provided in subsection (a)(2), the Secretary may delegate only to the heads of agencies within the Department of Health and Human Services any of the functions, powers, and duties of the Secretary under this title and may authorize the redelegation only within such Department of such functions, powers, and duties by the heads of such agencies.

"(2) Funds appropriated to carry out this title, other than section 803, may be transferred between such agencies if such funds are used for the purposes for which they are authorized and appropriated.

"(c) Nothing in this section shall be construed to prohibit interagency funding agreements made between the Administration for Native Americans and other agencies of the Federal Government for the development and implementation of specific grants or projects.".

DEFINITIONS

SEC. 1004. Section 813 of the Native American Programs Act of 1974 is amended—

(1) in paragraph (3) by striking out the period and inserting in lieu thereof "; and", and

(2) by adding at the end thereof the following new paragraph:

"(4) 'Secretary' means the Secretary of Health and Human Services.".

EXPENDITURE OF AVAILABLE FUNDS

SEC. 1005. Section 814 of the Native American Programs Act of 1974 is amended—

(1) by striking out "1981" and inserting in lieu thereof "1986",

(2) by inserting "(a)" after "SEC. 814.", and

(3) by adding at the end thereof the following new subsection:

"(b) Not less than 90 per centum of the funds made available to carry out the provisions of this title for a fiscal year shall be expended to carry out section 803(a) for such fiscal year.".

FEDERAL-AID HIGHWAY ACT

THURMOND AMENDMENT NO. 7052

Mr. THURMOND proposed an amendment to the bill S. 3024, supra; as follows:

At the end of Sec. 125, subsection (b) of Title 1, insert the following:

"(14)(A) The Secretary of Transportation is authorized to carry out a highway and bridge construction demonstration project connecting the Isle of Palms, South Carolina, to the mainland for the purpose of demonstrating the reduction in congestion, improved emergency preparedness, and increased accessibility to a sea island obtainable by construction of a high-level, fixed span bridge over a high-volume intracoastal waterway segment.

(B) There is authorized to be appropriated to carry out this paragraph, out of the Highway Trust Fund (other than the Mass Transit Account), not to exceed $12,500,000 for the fiscal year ending September 30, 1985.

(C) Funds authorized by this paragraph shall be available for obligation in the same manner and to the same extent as if such funds were apportioned under chapter 1 of title 23, United States Code. Such funds shall remain available until expended, and shall not be subject to any obligational limitation.

(D) In carrying out this paragraph, the Secretary of Transportation shall consult with the Secretary of the Army and the Commandant of the Coast Guard concerning permit procedures which will expedite completion of this project."

(E) Notwithstanding any other provision of law (including but not limited to the provisions of section 129 of chapter 1 of title 23, United States Code, and section 301 of Chapter 3 of title 23, United States Code), the non-Federal share required for this project may be satisfied directly or indirectly, in whole or in part, by operation of the bridge as a toll facility provided that once the State share has been paid, the toll would be removed.

THURMOND (AND OTHERS) AMENDMENT NO. 7053

Mr. THURMOND (for himself, Mr. HOLLINGS, and Mr. ANDREWS) proposed an amendment to the bill S. 3024, supra; as follows:

At the appropriate place in the bill insert the following:

FUNDING FLEXIBILITY

SEC. . (a) Section 104 of title 23, United States Code, is amended by repealing subsections (c) and (d) and inserting a new subsection (c) as follows:

"(c)(1) Sums apportioned under paragraphs (b)(1), (b)(2), (b)(5)(B) and (b)(6) of this section shall be available for expenditure for projects on the primary, secondary, Interstate, or Urban Federal-aid systems without limitation as to the amount of any class of funds, primary, secondary, Interstate resurfacing, or urban, apportioned for projects on any system provided that beginning with fiscal year 1984 not less than 40 per centum of primary, secondary and urban funds shall be expended on the Federal-aid system for which they were apportioned for projects for resurfacing, restoring, rehabilitating, and reconstructing existing highways except where the State certifies to the Secretary that such percentage of funds is in excess of the resurfacing, restoring, rehabilitating, and reconstructing needs of existing highways in the State and the Secretary accepts such certification and provided that the preceding requirement shall apply only to that portion of a State's apportionment not used for reimbursing such State for bond retirement under section 122 of this title or for advance construction under section 115 of this title and provided that the provisions of section 150 of this title concerning the allocation of urban systems funds shall remain in full force and effect.

(2) The Federal share payable of any project on the Federal-aid primary, secondary, and urban systems shall be that set forth in section 120(a) of this title and of any project on the Federal-aid Interstate system shall be that set forth in section 120(c) of this title."

(b) Section 105(d) of the Surface Transportation Assistance Act of 1982 is repealed.

RANDOLPH AMENDMENT NO. 7054

Mr. RANDOLPH proposed an amendment to the bill S. 3024, supra; as follows:

At the end of the bill, add the following new section:

"SEC. . Subsection (b) of section 142 of the Surface Transportation Assistance Act of 1982 is amended by striking 'September 30, 1985,' and inserting in lieu thereof 'September 30, 1986,'."

CHILES AMENDMENT NO. 7055

Mr. CHILES proposed an amendment to the bill S. 3024, supra; as follows:

For S. 3024 page 40 after line 24 add:

(e) The limitations established by subsection (a) of this section shall not apply to an amount of funds appropriated under section 104(b)(5)(A) of title 23, United States Code during the fiscal year ending September 30, 1985 to a State equal to that amount which such State returned in unused obligation authority in August 1984 which would not have been returned if all of the Interstate construction funds authorized for apportionment during the fiscal year ending September 30, 1984 has been apportioned in the fiscal year ending September 30, 1984.

MATTINGLY-EVANS AMENDMENT NO. 7056

Mr. MATTINGLY (for himself and Mr. EVANS) proposed an amendment to the bill S. 3024, supra; as follows:

At the appropriate place in the bill, insert the following new section:

SEPARATE ENROLLMENT OF ITEMS OF CERTAIN BILLS AND JOINT RESOLUTIONS MAKING APPROPRIATIONS

SEC. . (a)(1) Notwithstanding any other provision of law, when any general or special appropriation bill or any bill or joint resolution making supplemental, deficiency, or continuing appropriations passes both Houses of the Congress in the same form, the Secretary of the Senate (in the case of a bill or joint resolution originating in the Senate) or the Clerk of the House of Representatives (in a case of a bill or joint resolution originating in the House of Representatives) shall cause the enrolling clerk of such House to enroll each item of such bill or joint resolution as a separate bill or joint resolution, as the case may be.

(2) A bill or joint resolution that is required to be enrolled pursuant to paragraph (1)—

(A) shall be enrolled without substantive revision,

(B) shall conform in style and form to the applicable provisions of chapter 2 of title 1, United States Code (as such provisions are in effect on the date of the enactment of this section), and

(C) shall bear the designation of the measure of which it was an item prior to such enrollment, together with such other designation as may be necessary to distinguish such bill or joint resolution from other bills or joint resolutions enrolled pursuant to paragraph

(1) with respect to the same measure.

(b) A bill or joint resolution enrolled pursuant to paragraph (1) of subsection (a) with respect to an item shall be deemed to be a bill under Clauses 2 and 3 of Section 7 of Article 1 of the Constitution of the United States and shall be signed by the presiding officers of both Houses and presented to the President for approval or disapproval (and otherwise treated for all purposes) in the manner provided for bills and joint resolutions generally.

(c) For purposes of this section, the term "item" means any numbered section and any unnumbered paragraph of—

(1) any general or special appropriation bill, and

(2) any bill or joint resolution making supplemental, deficiency, or continuing appropriations.

(d) The provisions of this section shall apply to bills and joint resolutions agreed to by the Congress during the two-calendar-year period beginning with the date of the enactment of this section.

WILSON-CRANSTON AMENDMENT NO. 7057

Mr. WILSON (for himself and Mr. CRANSTON) proposed an amendment to the bill S. 3024, supra; as follows:

Notwithstanding any other provision of law, the fair market value of any lands which have been or in the future are donated or dedicated to the State of California necessary for the right-of-way for relocation and construction of California State Route 73 in Orange County, California, from its interchange with Interstate route I-405 to its interchange with Interstate route I-5 shall be included as a part of the cost of such relocation and construction project and shall be credited first toward payment of the non-Federal share of the cost of such relocation and construction project. If the fair market value of such lands exceeds the non-Federal share of such relocation and construction project, then the excess amount, upon the request of the State of California, shall be credited toward the non-Federal share of the cost of any other project on the Federal-aid system in the state of California. To further the purposes of this section and section 323 of title 23, United States Code, any recorded irrevocable offer of dedication or donation of property within the right-of-way shall be considered as part of the State right-of-way acquisition for purposes of this section if such offer is irrevocable and effective no later than such time as the State of California requests final reimbursement for the Federal share. In no case shall the amount of Federal-aid reimbursement to the State of California on account of such relocation and construction project exceed the actual cost to the State for such project.

BUMPERS AMENDMENT NO. 7058

Mr. BUMPERS proposed an amendment to the bill S. 3024, supra; as follows:

At the appropriate place in the bill add the following new section:

SEC. . (a) Subsection (g) of Section 144 of title 23, United States Code, is amended by adding at the end thereof the following new paragraph:

"(3) Notwithstanding any other provision of Section 144 of title 23, United States Code, and any other provision of law, any State or States may, at their option, utilize any of the funds provided them to carry out this section for the construction of bridges to replace ferries, which ferries were in existence on Janury 1, 1984. The Federal share payable on account of any such highway bridge construction pursuant to this subsection shall be the same as provided for highway bridge replacement or rehabilitation."

This paragraph shall be applicable with respect to funds apportioned each State for the fiscal year ending September 30, 1985, and for subsequent years.

BUMPERS AMENDMENT NO. 7059

Mr. BUMPERS proposed an amendment to the bill S. 3024, supra; as follows:

At the appropriate place in the bill add the following new section:

SEC. . (a) Notwithstanding any other provision in this bill, the Secretary of Transportation is authorized to carry out a highway project to demonstrate the economic growth and development benefits of widening a segment of the federal-aid urban system connecting a community college and a large commercial center in the vicinity of Fort Smith, Arkansas, and of improving traffic signalization on such segment.

(b) There are hereby authorized to be appropriated to carry out this section, out of the Highway Trust Fund (other than the Mass Transit Account), not to exceed $8,500,000 for the fiscal year ending September 30, 1985.

(c) Funds authorized by this section shall be available for obligation in the same manner and to the same extent as if such funds were apportioned under chapter 1 of title 23, United States Code, and such funds shall remain available until expended.

(d) Notwithstanding any other provision of law, the project authorized by this section shall not be subject to any obligation limitation.

(e) Notwithstanding the provision of section 120(m) of title 23, United States Code, the Federal share payable for the project authorized by this section shall be 100 per centum of the total cost of the project.

BUMPERS AMENDMENT NO. 7060

Mr. BUMPERS proposed an amendment to the bill S. 3024, supra; as follows:

At the appropriate place in the bill add the following new section:

SEC. . (a) Notwithstanding any other provision in this bill, the Secretary of Transportation is authorized to carry out a highway project in the State of Arkansas on a segment of a north-south highway on the Federal-aid primary system from the vicinity of the junction of Interstate routes I-40 and I-540 to the boundary between the States of Arkansas and Missouri in the vicinity of Bella Vista, Arkansas, for the purpose of demonstrating methods of improving highway safety and of accelerating highway construction. Such project shall increase the number of lanes on such segment from two to four.

(b) There are hereby authorized to be appropriated to carry out this section out of the Highway Trust Fund (other than the Mass Transit Account), not to exceed $10,000,000 for the fiscal year ending September 30, 1985, and $15,000,000 for the fiscal year ending September 30, 1986.

(c) Funds authorized by this section shall be available for obligation in the same manner and to the same extent as if such funds were apportioned under Chapter 1 of title 23, United States Code, and such funds shall remain available until expended.

(d) Notwithstanding any other provision of law, the project authorized by this section shall not be subject to any obligation limitation.

(c) Notwithstanding the provision of section 120(m) of title 23, United States Code, the Federal share payable for the project authorized by this section shall be 100 per centum of the total cost of the project.

SPECTER AMENDMENT NO. 7061

Mr. SPECTER proposed an amendment to the bill S. 3024, supra; as follows:

After section 139, insert the following new section:

INTERSTATE RESURFACING FORMULA

SEC. . (a) Subparagraph (B) of section 104(b)(5) of title 23, United States Code, is amended to read as follows:

"(B)(i) Subject to the provisions of clause (iii), for resurfacing, restoring, rehabilitating, and reconstructing the Interstate System:

"One-third in the ration that diesel fuel used by motor vehicles on highways in each State bears to the total of diesel fuel used by motor vehicles on highways in all States; one-third in the ratio that lane miles on the Interstate routes designated under sections 103 and 139(c) of this title (other than those on toll roads not subject to a Secretarial agreement provided for in section 105 of the Federal-Aid Highway Act of 1978) in each State bears to the total of all such lane miles in all States; and one-third in the ratio (not to exceed 10 per centum) that the total cost to improve deficient bridges on the Interstate System in each State bears to the total cost to improve deficient bridges on the Interstate System in all States. Notwithstanding the preceding sentence, no State shall receive less than 1 per centum of the total apportionment made by this subparagraph for any fiscal year.

"(ii) For purposes of clause (i), the total cost to improve deficient bridges shall be determined by the square footage of bridges on the Interstate System, including bridges on toll Interstate highways, eligible for replacement and rehabilitation multiplied by the respective unit price on a State-by-State basis, as determined by the Secretary under section 144 of this title.

"(iii) Any State which will have amounts allocated pursuant to the 85 per centum minimum allocation provision of section 157(a) as a result of clause (i) shall have its apportionment for purposes of this subparagraph based upon the provisions of clause (i) or (iv), whichever is greater.

"(iv) Pursuant to clause (iii) of this subparagrpah, if applicable, for resurfacing, restoring, rehabilitating, and reconstructing the Interstate System:

"55 per centum in the ratio that lane miles or the Interstate routes designated under sections 103 and 139(c) of this title (other than those on toll roads not subject to a Secretarial agreement provided for in section 105 of the Federal-Aid Highway Act of 1978) in each State bears to the total of all such lane miles in all States; and 45 per centum in the ratio that vehicle miles traveled on lanes on the Interstate routes designated under sections 103 and 139(c) of this title (other than those on toll roads not subject to a Secretarial agreement provided for in section 105 of the Federal-Air Highway Act of 1978) in each State bears to the total of all such vehicle miles in all States. Notwithstanding the preceding sentence, no State excluding any State that has no interstate lane miles shall receive less than one-half of 1 per centum of the total apportionment made by this subparagraph for any fiscal year.".

(b) The amendments made by subsection (a) shall apply to fiscal years beginning on or after October 1, 1984.

LOCAL GOVERNMENT ANTITRUST ACT

THURMOND AMENDMENT NO. 7062

Mr. BAKER (for Mr. THURMOND) proposed an amendment to the bill (H.R. 6027) to clarify the application of the Federal antitrust laws to the official conduct of local government; as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

That this Act may be cited as the "Local Government Antitrust Act of 1984".

SEC. 2. (a) Sections 4, 4A, and 4C of the Clayton Act (15 U.S.C. 15, 15a, and 15c) shall not apply to any law or other action of or official action directed by, a city, village, town, township, county, or other general function unit of local government in the exercise of its regulatory powers, including but not limited to zoning, franchising, licensing, and the establishing or provisions of public services on an exclusive or nonexclusive basis in a manner designated to ensure public access or otherwise to protect the public health, safety, or welfare, but excluding the purchase or sale of goods or services on a commercial basis by the unit of local government in competition with private persons, where such law or action is valid under State law, except that this subsection shall only apply to cases filed after the date of enactment of this Act.

(b)(1) No damages, interest on damages, costs, or attorney's fees may be recovered under section 4, 4A, or 4C of the Clayton Act (15 U.S.C. 15, 15a, and 15c) from any unit of local government or official thereof acting in his official capacity.

(2) This subsection shall not apply to cases pending on the date of enactment of this Act unless the defendant establishes and the court determines, in light of all the circumstances, including the stage of the litigation and the availability of alternative relief under the Clayton Act, that it would be inequitable not to apply this subsection to a pending case. In consideration of this subsection, existence of a jury verdict shall be deemed to be prima facie evidence that this subsection shall not apply.

SEC. 3. Section 510 of Public Law 98-411 is hereby repealed.

RESOLUTION DISAPPROVING THE RECOMMENDATION TO ABOLISH THE SENATE COMMITTEE ON VETERANS' AFFAIRS

ZORINSKY AMENDMENT NO. 7063

Mr. ZORINSKY proposed an amendment to the resolution (S. Res. 139) disapproving the recommedation of the Study Group on Senate Practices and Procedures to abolish the Senate Committee on Veterans' Affairs; as follows:

Strike the entire resolve clause, lines one through nine on page 2, and substitute in place thereof:

Resolved, That it is the sense of the Senate that the Committee on Veterans' Affairs of the Senate shall continue to be a separate standing committee of the Senate.

WOMEN'S ARMY CORPS VETERANS' ASSOCIATION

HAWKINS AMENDMENT NO. 7064

Mr. BAKER (for Mrs. HAWKINS) proposed an amendment to the bill (H.R. 4966) to recognize the organization known as the Women's Army Corps Veterans' Association; as follows:

On page 2, line 6, strike out the colon and insert in lieu thereof "a continuing commitment, on a national basis, to—".

On page 2, line 7, strike out "promoting" and insert in lieu thereof "promote".

On page 2, line 11, strike out "recognizing" and insert in lieu thereof "recognize".

On page 2, line 13, strike out "providing" and insert in lieu thereof "provide".

On page 5, line 7, strike out "(60)" and insert in lieu thereof "64".

On page 5, line 6, after the period insert the following: "If the corporation fails to maintain such status, the charter granted by this Act shall expire.".

COCOPAH INDIAN TRIBE LANDS TRUST

DECONCINI AMENDMENT NO. 7065

Mr. BYRD (for Mr. DECONCINI) proposed an amendment to the bill (H.R. 5760) to declare that the United States holds in trust for the Cocopah Indian Tribe of Arizona certain land in Yuma County, AZ; as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

TITLE I—COCOPAH INDIAN TRIBE OF ARIZONA

SEC. 101. Subject to all valid existing rights, all right, title, and interest of the United States in the following described tracts of land shall be held by the United States in trust for the Cocopah Indian Tribe of Arizona and shall be part of the reservation of such tribe:

(1) As part of the West Cocopah Reservation, containing 2,096 acres, more or less:

Gila and Salt River Base and Meridian, Arizona

Township 9 south, range 24 west

Section 18, lot 17;

Section 19, lots 24 and 25; and

Section 30, lots 19 and 27.

Township 9 south, range 25 west

Section 24, lots 1, 3, 4, 5, 6, 7, 8, 9, 10, 11, and 12;

Section 34, lots 1 and 2; and

Section 35, all within the United States.

Township 10 south, range 25 west

Section 2, lots 12, 13, 14, 15, 16, 17, 19, 20, 21, 22, 23, 24, 25, 26, and 27;

Section 10, lots 1 and 2;

Section 11, lots 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, and 16;

Section 14, lots 8 and 9; and

Section 15, lots 5, 6, and 7, and northeast quarter northeast quarter.

(2) As part of the East Cocopah Reservation, containing 1,548.87 acres, more or less:

Gila and Salt River Base and Meridian, Arizona

Township 9 south, range 23 west

Section 30, southeast quarter southwest quarter and

Section 31, north half, north half south half, southwest quarter southwest quarter, and southwest quarter southeast quarter.

Township 10 south, range 24 west

Section 1, lots 1, 2, 5, and 8, and south half northeast quarter and east half southeast quarter

Section 12, northeast quarter and east half southeast quarter; and

Section 13, lots 7 and 9, and east half northeast quarter, northeast quarter southeast quarter, south half southeast quarter, and south half southeast quarter.

(3) As the North Cocopah Reservation, containing 614.18 acres, more or less:

San Bernardino Base and Meridian, Arizona

Township 16 south, range 21 east

Section 25, lots 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, and 17; and

Section 24, lot 1.

Township 16 south, range 22 east

Section 19, lot 10, and

Section 30, lots 11, 12, 13, 19, 20, and 22, and south half southwest quarter.

SEC. 102. (a) Nothing in this Act shall deprive any person or entity of any legal existing right-of-way, legal mining claim, legal grazing permit, legal water right, accretion claim, or other legal right or interest which such person or entity may have in lands described in section 101 of this Act.

(b) That portion of the lands described in paragraph 2 of section 101 which are the subject of a dedication for a garbage disposal recorded at book 167, page 464 of the Yuma County Recorder's office shall remain subject to such dedication for as long as such lands are used for land fill or related purposes.

SEC. 103. Notwithstanding any other provision of this title, Executive Order Numbered 11988 of May 24, 1977, 42 Federal Register 26951, as amended, shall apply to lands described in section 101 of this Act.

SEC. 104. (a) There are reserved to the United States the following rights-of-way upon, over, and across the lands described in section 101 of this Act:

(1) A right-of-way of sixty feet from the margin of the Colorado River on the international boundary with the Republic of Mexico, as described in Public Land Reservation of May 27, 1907;

(2) Rights-of-way for existing facilities of the Yuma Reclamation Project, the Colorado River Front Work and Levee System, and the Yuma Mesa Conduit;

(3) A right-of-way of fifty feet on each side of center line of the Pesch Header, as shown on the United States Bureau of Reclamation, Yuma Project drawing numbered 35-303-634;

(4) A right-of-way for power and transmission facilities within the north seventeen feet of the south fifty feet of the southeast quarter southwest quarter, section 30, township 9 south, range 23 west, Gila and Salt River Base and Meridian;

(5) A right-of-way of two hundred feet measured horizontally landward from the high water mark of the Colorado River bankline for channel rectification, bankline maintenance, and preservation of the floodway, as well as a right, at all proper times and places, to free ingress to, passage over, and egress from the lands described in section 101 of this Act, for the purpose of exercising, enforcing, and protecting the rights reserved in this right-of-way; and

(6) A right-of-way for sludge disposal for the Yuma Desalting Plant on Sections 24, 25 (excluding lots 5 and 6), township 16 south, range 21 east, San Bernardino base and Meridian, Arizona and sections 19, 30, township 16 south, range 22 east, San Bernardino Base and Meridian, Arizona. This right-of-way shall terminate on the earlier of the date that is 5 years after the date of the enactment of this Act, or the date on which the Secretary of the Interior determines that such right-of-way is not needed for such purpose. Any determination by the Secretary of the Interior under this subsection shall be published in the Federal Register;

Provided, That should any of the rights-of-ways reserved by this section be abandoned, as determined by the Secretary of the Interior, such rights shall revert to the Cocopah Tribe.

SEC. 105. In the event that title to any private lands located within section 1 or 2, township 10 south, range 25 West, Gila and Salt River Base and Meridian, which are contiguous to the West Cocopah Reservation, is subsequently acquired by the Cocopah Tribe, such lands shall thereupon become part of, and shall be within, the exterior boundary of the West Reservation of the Cocopah Tribe.

TITLE II—CLAIMS OF THE NAVAJO INDIAN TRIBE

SEC. 201. Notwithstanding sections 2401 and 2501 of title 28, United States Code, or section 12 of the Act of August 13, 1946 (60 Stat. 1052; 25 U.S.C. 70k), or any other provision of law, jurisdiction is hereby conferred upon the United States Claims Court to hear, determine, and render judgment on the claims of the Navajo Indian Tribe against the United States which (1) arose before August 13, 1946, (2) were timely presented under section 2 of the Act of August 13, 1946 (60 Stat. 1050; 25 U.S.C. 70a), (3) were withdrawn without approval by the Tribe and the Secretary of the Interior, and (4) were held by the Court of Claims in Navajo Tribe of Indians against United States, Docket Numbered 69, on June 13, 1979, to have been voluntarily dismissed by the Tribe before being considered or decided on their merits, and which are no longer pending before the United States Claims Court and have not been previously determined on the merits by the United States Court of Claims. Such claims must be filed within six months after the date of enactment of this Act.

SEC. 202. This title shall not affect the finality of the judgments entered in Indian Claims Commission Docket Numbers 229 and 353 or alter the effect, if any, of those judgments on other litigation brought by the Navajo Indian Tribe against the United States as third parties in other judicial proceedings.

Amend the title so as to read: "An Act to declare that the United States holds certain lands in trust for the Cocopah Indian Tribe of Arizona, and for other purposes.".

NOTICES OF HEARINGS

Mr. D'AMATO. Mr. President, I would like to announce for the information of the Senate and the public the scheduling of a public hearing before the Joint Economic Committee of Congress to consider the privitization of State and local prison, jail, and detention center construction and rehabilitation. This hearing will be held on December 3, 1984, in Albany, NY.

For further information regarding this hearing you may contact Mr. Robert Salomon in my office at 224-6542.

ADDITIONAL STATEMENTS

BANKING LEGISLATION

● Mr. GARN. Mr. President, in a joint statement today, Congressman ST GERMAIN, chairman of the House Banking Committee, Senator PROXMIRE, ranking minority member of the Senate Banking Committee, and I stated that since there will be no finalization this year of legislation that addresses pressing financial structure and regulatory issues, the first priority next year will be consideration and enactment of such legislation. In addition, we reaffirmed our intentions to retain the July 1, 1983, grandfather date for nonbank banks. I ask that our joint statement and that of Congressman WYLIE, ranking minority member of the House Banking Committee, on the same subject, be printed in full in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. GARN. Mr. President, events during the past few weeks regarding banking legislation have provided both exhilaration and frustration for me and many of my colleagues on the Banking Committee. And I know these feelings have been shared by others in the Senate.

After almost 2 years of Banking Committee hearings on several bills and a very thorough committee markup session this past June 27, a bill, S. 2851, was reported by the Banking Committee. The Senate began its consideration of S. 2851 on September 5 and on September 13 passed the legislation by a vote of 89 to 5. That was an especially satisfying experience because of all of the effort that had been put into the legislation by Banking Committee members and by our other Senate colleagues.

The frustration is that S. 2851 will not be finalized this year. As I have said previously, I am disappointed and I know my colleagues share this sentiment. It was a relief for us all to pass S. 2851.

But I am not here to announce that this is the end of such legislation. The financial services system has changed and we must ensure that an appropriate public policy response is adopted. Next year, the Banking Committee and the Senate will be considering these same issues. Both Senator PROXMIRE and I have committed to this, as well as Chairman ST GERMAIN and ranking member CHALMERS WYLIE in the House.

Another source of frustration has been the way in which S. 2851 has been miscast and misunderstood. Some opponents of the bill continue to refer to S. 2851 as a broad bank powers bill, and it has even been implied that it is suicidal. Unfortunately, this belies the fact that S. 2851 provides only modest additional powers to banking organizations in three specific areas, underwriting and dealing in municipal revenue bonds, commercial paper, and mortgage backed securities. Banks are already involved under existing law in the first activity, they are involved in litigation regarding the second, and the third is a newly developed and increasingly significant source of housing credit. These are hardly the undoing of the Glass-Steagall Act.

Approximately 95 percent of S. 2851 deals with other matters, such as closing the nonbank bank loophole, affirming regional interstate banking agreements, closing the South Dakota State bank insurance loophole, establishing specific penalties for credit card fraud, and mandating disclosure on check holding policies.

Is S. 2851 a comprehensive package? Certainly. Is it a broad bank powers bill? No. It is merely an effort to reconcile existing Federal statutes with some of the changes which have been taking place in the financial marketplace.

The supporters of S. 2851 have included many trade associations, including those representing banks—small and large, the Governors of the 50 States, insurance companies and agents, municipal finance officers, the Nation's mayors, thrift institutions, homebuilders, realtors, and mortgage bankers. The principal opponents have been securities firms and two major banking organizations, Citicorp and Chase Manhattan. If this legislation is so tilted toward banks why does it not satisfy two of the world's largest?

Before closing, I draw my colleagues' attention to an editorial in the Minneapolis Star and Tribune which states that the modest approach taken by S. 2851 should be adopted by Congress this year. The editorial indicates that Congress should encourage competition in financial services but that it also should dictate the terms and set the standards. The Star and Tribune has clearly taken the time to analyze the issues and the pending legislation, and I am certainly appreciative of their comments on the work of the Senate. I ask that the editorial be printed in full in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. GARN. Mr. President, I believe that S. 2851 is the correct policy response, and I am disappointed that our efforts will not result in its enactment. But I remain committed to continuing my efforts toward that goal and, with the cooperation of my colleagues here and of the distinguished chairman of the House Banking Committee, Mr. ST GERMAIN and ranking member CHALMERS WYLIE, believe that we will have legislation to address the significant issues facing our financial system early in the 99th Congress.

EXHIBIT 1

JOINT STATEMENT

(Jake Garn, Chairman, Senate Committee on Banking, Housing and Urban Affairs; Fernand St Germain, Chairman, House Committee on Banking, Finance and Urban Affairs; William Proxmire, Ranking Minority Member, Senate Committee on Banking, Housing and Urban Affairs)

In view of the fact that no banking legislation will be finalized by Congress this week, we emphasize that legislation addressing the competitive and regulatory framework of the financial system will be the first priority of the Banking Committees of the House and Senate as soon as the 99th Congress convenes in 1985. Both of us agree on a need for a final resolution of all the issues early in the next Congress.

As regards the specific issue of the so-called "nonbank bank" loophole, it is our intention that the grandfather date of July 1, 1983, become law. Those who invest funds now assuming this grandfather date will be extended will, in our opinion, end up having to divest, no matter what the cost.

WYLIE CALLS FOR EARLY 1985 HEARINGS, ACTION ON BANKING BILL

Rep. Chalmers Wylie (R-Ohio), ranking Republican on the House Banking Committee, today called on panel Chairman Fernand St Germain (D-R.I.) to "make hearings and action on a wide-ranging banking bill an immediate priority as soon as Congress convenes in 1985."

Wylie issued the call during an opening statement as a Banking Subcommittee continued hearings on the Federal bailout of Continental Illinois National Bank.

Citing the Continental Illinois rescue, Wylie said: "What this Committee must realize is that if we want the Regulators to have more choices than they had here, if we want large and small banks treated alike, and if we want no more unseemly bailouts of field managers, it is up to us to make those options possible. . . ."

The Congressman said any broad banking bill "must reform the deposit insurance system and improve supervision of financial institutions, along with closing loopholes and dealing with asset deregulation."

Wylie and a majority of the Committee's GOP Members had written St Germain last week urging him to press forward to get a broad banking bill through the House before Congress adjourned, citing the likelihood that the Comptroller of the Currency might have little choice but to approve some 300-plus "non bank bank" applications that are pending without new law.

St Germain had earlier contended House action was impossible because of the limited time left in the Congressional session.

The senior GOP panel Member pledged the Chairman "my full assistance and that of my staff to get on with early hearings and action as soon as we return next year."

EXHIBIT 2

THE SENATE'S BANKING COMPROMISE

Alarmed by bank failure and de facto deregulation, the Senate has studied the banking industry and properly concluded that bankers should get some limited new powers. A bill approved last week would close a loophole in federal law that allowed backdoor bank deregulation; instead, the Senate bill would provide a front door through which banks could offer some new financial services. A reasonable compromise based on two years of deliberation, the bill deserves to pass—even as the House prepares to slam the door on any bank deregulation.

The loophole led to the "nonbank bank." Banks got around interstate banking prohibitions by creating limited-service consumer banks in other states. Other financial services companies, such as insurance firms, used the same device to get into banking. The Senate bill would simultaneously close the nonbank loophole and authorize regional interstate banking agreements. It also would allow bank holding companies to set up subsidiaries to underwrite mortgage-backed securities, municipal revenue bonds and commercial paper. Banks would not be allowed into other securities underwriting or to engage in insurance or real estate investment.

Postponing floor action on its own bank bill, the House Banking Committee this week is scrutinizing the near collapse of Continental Illinois Bank and the role federal regulators played in stopping the fall. Committee members should learn what has since become evident. Continental failed in traditional banking—its managers authorized too many risky loans—not because it wandered into new financial fields. The committee also may learn that restrictive branch-banking laws in Illinois blocked Continental from building a stronger depositor base, so that to grow it concentrated on volatile energy and foreign investments.

House members should apply lessons learned from Continental's mistakes in examining the effectiveness of the federal deposit insurance system and bank regulators; improvements are needed. But they should not use Continental to try to make a case for tighter restraints on banks.

From now until the scheduled Oct. 4 adjournment, bank legislation will be on a political brink. The House may hold off action until the last days of the session, hoping to force the Senate into agreeing to close the nonbank loophole without allowing new bank powers.

But that approach is faulty. The loophole opened because of competition in the financial services industry; plugging it would only cause competitors to seek new ways of circumventing outdated federal restrictions—many of which were enacted before the existence of modern investment tools, including electronic banking. Congress should encourage competition, but dictate the terms and set the standards for orderly change. The Senate compromise provides that leadership.●

● Mr. MATTINGLY. Mr. President, nearly a year ago I introduced S. 2113, legislation designed to clarify Federal banking law permitting States such as Georgia and Utah the right to enact regionally reciprocal banking statutes. This clarification is extended to banks acting under regionally reciprocal State statutes as well. Currently, several of these banks are being sued by the Nation's largest bank holding company for acting under such properly enacted State laws. The concept embodied in S. 2113 was incorporated as title X in Chairman GARN's S. 2181, and was overwhelmingly supported in the Senate Banking Committee's markup of S. 2181.

During the Banking Committee's hearings on S. 2181, favorable testimony was heard on title X from the Comptroller of the Currency, the Chairman of the Federal Deposit Insurance Corporation, the Conference of State Bank Supervisors and the Coalition for Regional Banking & Economic Development. Later, both the National Governors Association and the Southern Governors Association strongly urged congressional passage of this provision.

In the Senate, after rigorous debate, two cloture votes, and a vote on the bill itself, we overwhelmingly approved S. 2851. Debate on what is now title IX of the bill was intense, yet during the entire Senate legislative process, from the consideration by the Senate Banking Committee to full Senate action, no more than a few Senators ever opposed this popular measure. This underlines the fact that there is a broad consensus in the Senate that title IX should become law.

This sanctioning is of keen importance to not only the 9 States which have regional banking statutes, but to the 31 other States which are known to be considering such laws as well. The threat of ongoing lawsuits in multiple jurisdictions continues to loom, making the enactment of title IX extremely time-sensitive.

With vast economic resources at their command, a few New York money center banks intend to undermine each State's right to enact regionally reciprocal statutes by costly, time-consuming litigation. Thus, the court challenges continue although it is clear that under current Federal banking law—the Douglas amendment to the Bank Holding Company Act of 1956, the enactment of these statutes is permissible. For example, four bank mergers based on States regionally reciprocal statutes and approved by the Federal Reserve Board have been upheld by the U.S. Second Circuit Court of Appeals as constitutional. But in the face of this overwhelming approval by Federal authorities, Citicorp continues to challenge these mergers by appeal to the Supreme Court. Therefore, it is important for the Congress to end quickly this unnecessary litigation once and for all by enacting title IX at a very early date in the 99th Congress.

It is my understanding that the Senate Committee on Banking, Housing and Urban Affairs will consider the enactment of title IX at the earliest possible date in the new Congress in order to overcome the continuous court challenges to each State's right to enact regionally reciprocal statutes.

Mr. GARN. I wish to commend Senator MATTINGLY for his efforts on this very important legislation. The Senator's understanding is correct. As he knows, I included title X in S. 2181 and have worked for its adoption. I support this concept as a proper expression of each State's right to deter-

mine the nature and scope of bank expansion permitted within and across its borders. The time-sensitive nature of this matter makes this legislation a top priority for Banking Committee action next year.●

TRIDENT II: UNDERMINING AMERICA'S POLICY OF NUCLEAR SUFFICIENCY

● Mr. PELL. Mr. President, I wish to draw to the attention of my colleagues a very thoughtful and provocative article by our colleague in the House, Representative BARNEY FRANK of Massachusetts.

In an article in the September 28, 1984, issue of the Providence Journal and the Evening Bulletin, Representative FRANK argues that, to replace the C-4 missile being deployed in Trident submarines with new, more-accurate D-5 missiles, "would represent a radical and dangerous repudiation of the principles that have guided U.S. strategic weapons policy for more than 20 years."

Congressman FRANK maintains that to threaten Soviet ICBM's and strategic bombers with the hard-target D-5 would create an incentive for Moscow to launch its weapons first in a crisis and would force the Soviets to adopt a launch-on-warning policy.

Mr. President, I share with many fellow Senators the concern that, with MX, Midgetman, and the D-5, or Trident II, missiles, we are creating a whole new generation of highly provocative hard-target weapons which, together with major new Soviet missiles programs, put us all in still greater nuclear peril.

I hope this article will help us realize that we are at a critical point in the arms race. We must find arms control solutions that can put a halt to the arms race and curb the terrible threat of nuclear war.

Mr. President, I ask that the full text of Congressman FRANK's article be printed in the RECORD.

The article follows:

TRIDENT II: UNDERMINING AMERICA'S POLICY OF NUCLEAR SUFFICIENCY

(By Barney Frank)

By the decade's end, the Navy hopes to replace the submarine-launched ballistic missile, Trident IC-4, now carried by U.S. nuclear submarines, with a new model, the Trident IID-5. According to the Reagan administration, this plan is designed merely to "modernize" the sea-based leg of the United States' strategic triad.

In reality, to replace the C-4 with the D-5 would represent a radical and dangerous repudiation of the principles that have guided U.S. strategic weapons policy for more than 20 years.

Until this administration took office, the object of U.S. strategic planning had been nuclear sufficiency, not superiority. "Mutually assured destruction" (MAD), the strategic doctrine formulated by Robert McNamara, who was then secretary of defense in the early 1960s, held that the most rational way to deter a first strike is to maintain a massive and unimpeachable retaliatory capability. Moscow's participation in arms-control negotiations, moreover, suggested that Soviet leaders had based their weapons policy on the same premise.

The C-4 conforms ideally to the dictates of mutually assured destruction. Based at sea, it is virtually invulnerable to a Soviet attack. In addition, a single Trident submarine, armed with 24 C-4 missiles, possesses enough warheads to destroy 192 Soviet industrial and population centers: a retaliatory blow from which the Soviet Union could never recover. And, most critical of all, because of its limited accuracy the C-4 cannot be used in a first strike against Soviet military targets; hence, it is stabilizing in a crisis.

However, there is no place for the C-4 in President Reagan's "counterforce" strategy, the doctrine with which the administration intends to replace MAD. Rejecting the conclusions of all its predecessors, the Reagan administration insists that U.S. security requires not that we be able to strike second in a nuclear conflict, but that we be able to strike first. As the President's Commission on Strategic Force explains: "We must be able to put at risk those types of Soviet targets—including hardened ones such as military command bunkers and facilities, missile silos, nuclear weapons and other storage, and the rest—which the Soviet leaders have given every indication by their actions they value most."

The D-5 is a "counterforce" weapon Deployment of the proposed force of 900 multiple-warhead, surgically accurate D-5s would allow the United States to destroy the vast majority of Soviet intercontinental ballistic missiles in their silos. Launched from close range, the D-5 could reach its destination in as little as 10 minutes, permitting the United States to target the Soviet strategic bomber force, which is a capability that even the MX cannot provide.

Indeed, it is the very potency of the D-5 and other "counterforce" weapons that makes their deployment so dangerous. Land-based forces comprise more than 75 percent of the Soviet Union's nuclear arsenal. Thus, to threaten Soviet ICBM and strategic bombers with missiles such as the D-5 only creates incentive for Moscow to launch its nuclear weapons first in a crisis. Further, the D-5's lightning-quick flight time would force the Soviets to adopt a launch-on-warning policy, increasing the probability of accidental nuclear war.

In short, the point that the Reagan administration refuses to comprehend is that an enhanced offensive nuclear capability, far from promoting U.S. security, actually undermines it.

The final argument that the administration makes in favor of the D-5 is that it has a greater range than the C-4, and therefore would allow the United States to disperse its submarines over a wider area, making them less vulnerable to a Soviet attack.

That contention is simply a ruse. Our present submarine force, armed with the C-4, does not have a vulnerability problem. Also, the official projections of the respective ranges of the C-4 and the D-5 are identical.

The only way, ultimately, to guarantee the invulnerability of the sea-based leg of our strategic triad is to negotiate a ban on antisubmarine weapons, a goal for which Reagan has expressed little support.

To preserve the effectiveness of this leg of our strategic triad, we should retain the C-4. It is an ideal second-strike weapon, and it does not destabilize the nuclear balance of power as does the D-5. Moreover, to arm the Trident submarines currently under construction with C-4s rather than with D-5s would save $20 billion while creating the same number of jobs—considerations the government cannot ignore in time of massive deficits.

In a narrow context, the debate in Congress concerning these weapons will focus on choosing one or the other for the Trident. More fundamentally, the debate will resolve whether we believe that our strategic weapons policy should be designed to deter a nuclear war or to fight one.

(Rep. Barney Frank, D-Mass, is a member of the congressional arms-control and foreign-policy caucus and president of Americans for Democratic action.)●

EASTPORT, ME

● Mr. COHEN. Mr. President, when the morning Sun begins to rise it shines first on the city of Eastport, ME. Located at the easternmost point of the United States, Eastport and its residents have long enjoyed their day in the Sun. Largely dependent on the ocean for prosperity, at one time over 15 sardine canneries flourished in Eastport and the city earned the nickname "Sardine Capital of the World."

By 1982, however, even though the city continued to bask in the first rays of early morning Sun, its economic fortunes had taken a turn for the worse. There was only one sardine factory still in operation, and it provided only seasonal employment. Over a 10-year period, double-digit unemployment levels plagued the area's labor market, and when one of the largest processing plants closed its doors, terminating more than 200 jobs, the unemployment figure in the city rose perilously close to 20 percent.

At this crucial juncture, rather than succumb to desperate straits, Eastport embraced a well-coordinated plan for economic revitalization and development and received a much-needed boost in spirit.

The group which provided the impetus for this change is the Eastern Maine Development Corp., which pulled together the support of Federal, State, local and private entities for a project dedicated to the revival of Eastport's great fishing heritage.

The EMDC garnered a commitment from Ocean Products, Inc., a fish marketing company looking to expand, that it would participate in the area's redevelopment plan by locating its new plant in Eastport. Money provided by EMDC triggered a Small Business Administration loan, and a Maine bank helped fund the company's purchase of an abandoned processing plant. The Department of Housing and Urban Development then awarded the city an urban development action grant, and the State provided assistance through its Community Development Block Grant Program. Finally,

the Maine State Legislature joined in the effort by approving the "loan" of 100,000 smolt for the plant's initial fish stock.

The Eastport project has gotten off to a fine start, with 35 new jobs already created, and an additional 70 plant-related positions anticipated. The spinoff effects of the project are significant as well, with a demand for raw fish from the local fishing community, the creation of various piecework jobs related to the fishery, and increased tax revenues for the city.

On June 18, 1984, HUD announced that the Eastport project had been 1 of 10 projects nationwide selected to receive the 1984 Award for National Excellence in HUD's National Recognition Program for Community Development Partnerships. In citing the Eastport project for this award, HUD paid tribute to the unique idea of infusing a needy area with a new industry and a revitalized spirit. The investment by private, local, State, and Federal entities ensures long-term interest in and support for the Eastport salmon fishery project and sends the community a message of hope for the future.

I applaud HUD for giving special recognition to Eastport, and I join in saluting all the project's participants: City officials and residents, the State of Maine, area banks, the SBA, HUD, and most important, EMDC for coordinating this delicate financing scheme and pursuing it to completion. The experiment has worked, jobs have been created, and investment in an important part of Maine's heritage has been revived. The public-private partnership that exists through this project is most certainly worthy of vote.

I am hopeful that this project represents the trend of the future for the Eastport area, so that its residents can come to expect economic prosperity, much as they know the Sun will shine first on their city each morning.●

ED WOOD—COMPETENCY IN STATE GOVERNMENT

● Mr. PELL. Mr. President, last week one of the outstanding figures in Rhode Island State government announced his intention to return to the private sector. During his tenure first as director of the department of environmental management and more recently as director of the department of transportation Ed Wood has provided strong leadership and innovative solutions to difficult problems. His departure from State government is truly a loss for the entire State of Rhode Island. With his quietly efficient and effective manner, Ed has developed a reputation as a leader who can move into a troubled State agency, attract top people to work with him, and quickly produce reforms in administration. His eye for the most efficient use of the taxpayer's dollar earned him the accolade of "State Employee of the Year" from the Rhode Island Public Expenditure Council.

Shortly after Ed Wood announced his resignation as director of transportation, the Providence Journal-Bulletin commented on his departure in an editorial entitled, "Ed Wood: Competency in State Government." Mr. President, I ask that the text of this editorial, which was published on September 28, be printed in the RECORD.

The editorial follows:

ED WOOD: COMPETENCY IN STATE GOVERNMENT

If the state government has had a Mr. Fixit in recent years, it's been W. Edward Wood. He has headed two major departments, Environmental Management and Transportation, and cleaned up messy operations in both. In advance of a change of governors next January, Mr. Wood now has decided to return to private life. His departure Oct. 20 as transportation director represents a distinct loss to Rhode Island's public service.

When he took over at the DOT in mid-1982, that agency was in trouble: top officials at its registry of motor vehicles were under investigation, registry inefficiency and indifference plagued the office's dealings with the public and the department's roadbuilding work was helter-skelter and under suspicion for too cozy a relationship with contractors. Mr. Wood revamped registry operations and set a crisp construction agenda that has enabled the DOT to move smoothly into a vastly expanded highway and bridge-building program.

His leadership there and previously at DEM when it was formed to replace the scandal-ridden Natural Resources Department brought Mr. Wood an unusual accolade. The Rhode Island Public Expenditure council named him state employee of the year in 1982, an honor normally reserved for a career worker. Earlier in a decade of state service, Mr. Wood was deputy administrator of the Public Utilities Division. In all of his positions, he set a standard for state officials that deserves the applause of every Rhode Islander.●

THE RETIREMENT OF PHON HUDKINS

● Mr. WEICKER. Mr. President, I rise today to recognize the dedication and work of Mr. Phon Hudkins, U.S. Department of Labor, who is retiring after 25 years of public service.

Phon Hudkins has served the U.S. Senate in an outstanding way for the past 10 years as congressional liaison to the budget and appropriations committees.

Following his graduation from Indiana University where he received a degree in business and economics, he joined the Indiana Employment Security Division as a labor economist. While working for the State he earned a doctor of jurisprudence degree. In 1964, he joined the U.S. Department of Labor where he has served with distinction for the past 20 years. During that time he received numerous performance awards from the Labor Department for his work and his publication, Budget News-Information.

Mr. President, on behalf of all the members of the Labor-HHS-Education appropriations staff, past and present, who have enjoyed their association with Phon, I want to express my personal thanks to him for his work. He has shown both dedication and integrity in his service to the Congress of the United States.●

THE VOICE OF RHODE ISLAND SPORTS

● Mr. PELL. Mr. President, next month special recognition will be given to one of Rhode Island's leading broadcasters, Chris Clark. Chris is truly the voice of Rhode Island sports, and in fact is one of the legendary figures in sports broadcasting in the United States.

For over 25 years Chris has been the "Voice of the Friars" with his outstanding play by play coverage of the Providence College basketball team, long a power in eastern college athletics. Chris is a familiar figure in all Rhode Island homes by virtue of his presence on the nightly newscasts of WJAR-TV. Currently retired from his position as sports director at WJAR, Chris is continuing his tradition of broadcasting Providence College basketball on WEAN-radio.

Honored an unprecedented 17 times as "Rhode Island Sportscaster of the Year" by the National Association of Sports Writers & Sportscasters, Chris was inducted into the Rhode Island Heritage Hall of Fame in 1982. Like his longtime friend and colleague, Salty Brine, Chris Clark is one of a handful of broadcasters who, over 30 years on the airwaves, have become trusted and beloved "members of the family" for all Rhode Islanders.

Next month Chris will be honored at a special testimonial dinner. I would like to join all Rhode Islanders in saluting this fine gentleman and wishing him many, many more years as the "Voice of Sports" in Rhode Island. Mr. President, I ask that the text of an article which appeared recently in the Pawtuxet Valley Times be printed in the RECORD.

The article follows:

CHRIS CLARK WILL BE HONORED NOVEMBER 12

(By Pete Fontaine)

Back in 1958 Chris Clark had an idea, one that eventually led to one of the most celebrated careers in New England broadcasting history.

Clark had a feeling that Providence College basketball was about to become the hottest sports item around. Thus, he went to his then-bosses at WRPO radio with the concept of broadcasting the Friars' home and away games.

After obviously long discussion, he got the "Okay" to do play-by-play and from that historic broadcast at the outset of the 1958-

59 season, Clark practically single-handedly made the Friars an instant success.

A lot has transpired since then, but Clark is still known as "Voice of the Friars" and is about to embark on yet another year of broadcasting Providence College basketball.

"Anyone who can last nearly three decades in this business is remarkable," said Ken Bell, WLNE-TV (Channel 6) sports director who used to work under Clark at WJAR-TV (Channel 10). "I don't think anyone will ever equal Chris' tenure."

Given that, Bell and a host of the sports media members have band together and formed a committee that will present Clark with a unique and gala testimonial dinner on Monday night, Nov. 12 at the newly-refurbished 1025 Club in Johnston.

"We're saluting three decades of broadcasting," Bell explained of the reasoning behind the upcoming bash. "Chris (Clark) is an institution . . . he deserves a testimonial dinner and more."

Which is what the outstanding television and radio sportscaster will receive Nov. 12.

Bell today announced that Salty Brine, WRPO's longtime morning man and a Rhode Island legend who Clark began his career with at WRPO radio, will be toastmaster for the evening.

"I guess it's fair to say we're going to turn this into a Who's Who in Rhode Island Sports," Bell noted. "We want to make this the biggest and most important night of Chris' career."

Included among the select group of confirmed speakers for the evening are Joe Mullaney, Sr., head basketball coach at Providence College; former Brown head football coach John Anderson; and Jim Norman, immediate past president of Words Unlimited and the University of Rhode Island's sports information director.

Also, television anchormen Walter Cryan (WPRI); Doug White (WJAR); Dave Layman (WLNE) and WLNE meterologist John Ghiorse.

Clark began his career in 1958 broadcasting Friar games and continued to do the play-by-play accounts throughout PC's heyday as a national basketball power. Known to generations of Friar fans as the "Voice", Clark moved to WPRO (now WPRI-TV Channel 12) and later WJAR where he continued the tradition.

Named Rhode Island's Sportscaster of the Year an unprecedented 17 times by the National Association of Sports Writers and Sportscasters, Clark was inducted into the Rhode Island Heritage Hall of Fame in 1982.

Currently the radio "Voice of the Friars" on WEAN (790 AM), Clark had been with Channel 10 for more than 13 years doing both nightly newscasts for much of that time.

A committee, which consists of virtually every prominent sports figure in the state and headed by Bell and Times Sports Editor Pete Fontaine, has been formed.

Ben Mondor, popular and highly-successful Pawtucket Red Sox owner who will also speak at the testimonial, will serve as co-ticket chairman with PawSox General Manager Mike Tamburro.

Tickets for the evening are $15 each and available at the PawSox ticket offices; sports information offices at Providence College, URI and Brown; as well as the 1025 Club in Johnston.

They may also be purchased by mail through the Pawtucket Red Sox office, P.O. Box 2365, Pawtucket, R.I. 02861. Checks or money orders should be made payable to Chris Clark Tribute.●

AMERICAN ENERGY AWARENESS WEEK—"PARTNERS FOR AN ENERGY EFFICIENT TOMORROW"

● Mr. HEINZ. Mr. President, as winter approaches and the heating season begins, it is particularly appropriate we focus on the importance of energy conservation to the consumer and the country. October 21-27 is American Energy Awareness Week, designed to make us aware of the importance of all our energy resources. This year the theme of the week is "Partners for an Energy Efficient Tomorrow." It is targeted to reestablish energy efficiency and productivity as important national priorities.

Why is there a need to focus on energy conservation and efficiency? After all, since the Arab oil embargo of 11 years ago and the cutoff of Iranian exports, our Nation has made significant gains in reducing energy consumption while maintaining the quality of products and services.

While our oil imports are currently below their historically high levels, we must remember we still spent almost $60 billion for imported energy resources in 1983. Allocating a portion of this money for energy efficiency improvements in our economy will increase productivity and international competiveness, improve our balance of trade, and enhance our national security. In addition, our Nation's vulnerability to an oil shortfall is likely to increase over the long term according to a recent report by the Office of Technology Assessment. OTA also reported, however, that we could significantly reduce the economic consequences of a large oil curtailment. One of the measures they recommend, in which I strongly concur, is accelerating the rate of investment in energy efficiency. The opportunities to do so are enormous.

Many people believe we have done all we can to conserve. We have, however, barely begun to tap the potential of economic investment in conservation. Research conducted by the Alliance to Save Energy, the Congressional Research Service, and the Office of Technology Assessment provides dramatic evidence of how far we have to go before conservation can be removed from our Nation's list of priorities.

I am proud to chair the alliance, with my distinguished colleagues CHUCK PERCY and BENNETT JOHNSTON serving as cochairmen. The alliance is a nonprofit bipartisan coalition of Government, business, labor and consumer leaders dedicated to increasing the efficiency of energy use. Through our research, demonstration projects, and public education programs, we seek to ensure conservation does remain a national priority and energy users learn about opportunities to invest in energy efficiency and new means of financing these investments.

One recent alliance study found that commercial and industrial firms in the service territory of a major utility had invested in only one of seven of the cost-effective opportunities to save electricity. A second alliance study of energy-intensive industries showed that many firms have already identified conservation projects that could further reduce their energy consumption by 10 to 20 percent. As new technologies, such as microcomputer-based control systems, are adapted to energy applications, opportunities for cost effective energy conservation continually expand. The companies examined can invest in energy efficiency and conserve the energy equivalent of a barrel of oil for a cost of less than $10. With oil selling for $25 to $30 a barrel, saving oil is clearly the lower cost option. Company investment in these conservation opportunities can yield returns on investment of up to 30 percent.

Opportunities for the homeowner also abound. The alliance has used new technology such as flame retention burners, power gas burners, and secondary condensing heat exchangers to achieve savings of up to 25 percent from the modifications to a home's existing oil and gas furnace. The Congressional Research Service found in a recent study that homeowners could improve their energy efficiency by 28 to 38 percent by investing in cost effective conservation measures and energy efficient appliances.

These findings show that energy efficiency should remain a priority issue for our Nation. Energy efficiency can be a leverage point in efforts to ensure that American industry remains cost competitive with foreign producers. It can help homeowners relieve the burden of high energy costs. The productivity and security of our Nation depend on our ability to become energy efficient.

"Partners for an Energy Efficient tomorrow," the campaign being coordinated by the Alliance to Save Energy, is significant because it brings together energy users in all sectors to promote increased energy efficiency investment. It will include seminars to educate businesses about the available opportunities to reduce energy consumption and financing options that enable them to undertake conservation projects. Secondary mortgage lenders, bankers, and realtors will work together to inform homeowners and prospective homebuyers about the benefits of investing in energy efficient homes and new means of financing improvements to inefficient homes. Heating equipment contractors will donate energy efficient furnace equipment to nonprofit organizations. Utilities, factories, and municipalities will conduct tours of their facilities to

enable consumers to learn more about energy conservation investments.

Opportunities abound for saving energy and money in all sectors, and now is the time to encourage this type of investment—not when we're facing another energy crisis. With the theme of "Partners for an Energy Efficient Tomorrow," American Energy Awareness Week is the perfect occasion for our Nation to reassess our progress in conservation and to commit to making energy efficiency a central element of our economic strategy.

We must commit ourselves to investing in energy efficiency in all sectors of the economy today. During the week of October 21-27, I call on candidates and public officials nationwide to assert their commitment to increasing energy efficiency at the State, local, and national level. As Members of Congress, let us lead the way in encouraging energy efficiency investment. Through our example, we can encourage all of America's energy users to became partners for a more productive, secure, and energy efficient tomorrow.●

U.S. POLICY IN EASTERN EUROPE

● Mr. PELL. Mr. President, Newsday recently featured a most provocative article on the counterproductive nature of the administration's policies toward Eastern Europe, written by Arnold Saltzman. Mr. Saltzman, who served as Ambassador during the Kennedy and Johnson administrations, argues that the pressure exerted by the administration on Eastern European countries to liberalize and decentralize their economies has only served to force countries such as Poland and Czechoslovakia deeper into the Soviet camp.

He further argues that the greatest weapon we have is the failure of the Communist economic system which must be shored up through the use of market forces and individual profit incentives. Without U.S. pressure, Mr. Saltzman says, Eastern European governments will be forced to liberalize and in so doing will weaken the doctrinaire state controlled system; but U.S. pressure provides the Commnist regimes with a pretext to resist needed change.

As legislators and representatives of the American people, we must be aware of such thoughtful critiques of prevailing foreign policy as Mr. Saltzman's, and I commend it highly to my colleagues. Mr. President, I ask that the full text of Mr. Saltzman's article be printed in the RECORD.

The article follows:

U.S. POLICIES BACKFIRE IN EUROPE

(By Arnold A. Saltzman)

President Ronald Reagan's recent effort to appear to seek constructive dialogue with the Soviet Union—a sudden and radical departure from his recent policy—is too close to the election to mask its political purpose.

It is precisely because of his political objectives that the Soviets are not cooperative, since they want to do nothing that might help him politically.

They are, however, willing to talk now, or any time, about areas where they are sufficiently disadvantaged, as in the case of trying to avoid a space weapons buildup by the United States. But the conversations—if held—will not relate to the fundamental issues that are causing the deterioration of U.S.-Soviet relations.

It is not our military buildup per se that has spooked the Soviets. It is rather this administration's efforts to turn back communism's clock, particularly in parts of Eastern Europe, that have made the increased military spending seem especially threatening to the Warsaw Pact nations.

These countries point to Reagan's recent statements that we ought not to abandon our efforts to free the people of Eastern Europe from Communist control and should not recognize the geographical boundaries established by the Yalta agreements at the end of World War II—disturbing remarks from the president who suggested that communism would be extinguished ("found on the ash heap of history").

I have met recently in Poland, Czechoslovakia and Hungary with officials of the ministries of foreign affairs, finance, commerce and central planning. They say the recent burst of antagonism and fear by the Warsaw Pact is not only a product of the U.S. military build-up and the placement of cruise and Pershing II missiles in Germany, Italy and Britain.

They perceive a fundamental change in U.S. policy that is directed toward pressuring these Communist countries to distance themselves from the Soviet Union, to liberalize and decentralize their economies and provide greater freedom of expression for their people.

Our State Department has told the governments of Czechoslovakia and Poland that they must improve on human rights and liberalize their economies if they want to get most-favored-nation status as our trading partners, so that no higher tariffs would be imposed on their goods than on those of any other country.

These countries find our position on human rights hypocritical because Romania, which does not always support the Soviet Union's strategies, has been accorded most-favored-nation status despite brutal repression of its people. Communist officials believe that how they handle dissenters or run their economies should not be subject to U.S. economic and political pressures.

In the case of Czechoslovakia, our policy of reducing trade to a trickle has kept Czechoslovakia a firm ally of the Soviet Union. Czech officials recall that the West abandoned their country to Hitler in 1937, when Russia was their only friend.

Poland has just signed a long-term pact with the Soviet Union covering trade, technology, scientific investigation, and so on. This agreement will bring Poland more firmly into the Soviet orbit, precisely what our policy was intended to avoid.

Though many of the Poles' economic problems result from their own inefficiencies, U.S. economic strictures have reduced Polish-American trade to one-third of what it was, have prevented Poles from getting spare parts to run their factories, and have cost the Polish economy $10 billion. Polish officials claim U.S. pressures were designed to foment internal trouble, to keep Solidarity alive and help destabilize the Communist system.

Hungary, which has most-favored-nation status, is liberalizing its economy, permitting economic decisions by the market place instead of centralized authority, and allowing individual incentives. Hungarian officials believe Poland was headed in the same direction and U.S. policies were a mistake.

The United States will not succeed in forcing any of these countries to weaken its adherence to the Warsaw Pact. The bellicose language used by this administration is counterproductive. The more pressure we use, the easier it is for Communist governments to propagandize their people, picturing the United States as a militaristic bully.

The greatest weapon we have is the failure of the Communist economic systems, which is not working, and which they need to shore up through the use of market forces and individual profit incentives. Without U.S. pressures they will be forced to liberalize and in so doing will weaken the doctrinaire state controlled system.

We should talk and trade. We should not threaten, pressure, nor should we provide unusual help. We should take moral positions without imposing sanctions regarding human rights. The Soviet Union and other Communist countries have been more flexible on human rights during periods of reasonably normal relations with the West than in periods of economic pressures or the threat of them. We should certainly keep transmitting Voice of America and Radio Free Europe broadcasts. We should seek accords on arms control. In summary we should walk softly while carrying an adequately big stick.●

THE FIRST LADY'S VISIT TO HARSHMAN JUNIOR HIGH SCHOOL IN INDIANA

● Mr. QUAYLE. Mr. President, I would like to share with my colleagues, and have included in the RECORD, a brief article describing a visit the First Lady paid to Harshman Junior High School in Indiana. I would like to commend and encourage Mrs. Reagan's efforts to convince young people to apply peer pressure against drug use.

The article follows:

[From the Indianapolis Star, Sept. 23, 1984]

KIDS AGAINST DRUGS

Bad news about drug abuse keeps bombarding America—twisted lives, dependency, psychotic reactions, turning to crime to feed the habit, physical and mental breakdowns, suicides, murders.

But on millions of young people being lured down the drug path, most of the bad news makes barely a dent.

The bad news comes from the adult world and, worse yet, from a "do as I say" segment of the adult world that is easy to ignore because it has been strewing the lives of the young with "don'ts" of one kind or another as far back as they can remember.

That is why the crusade of First Lady Nancy Reagan offers hope.

At Harshman Junior High School, 1501 East 10th Street, Tuesday morning, she called drug abuse "the most pressing of the problems facing us today". She said it crosses all lines, social, economic, color, political, and geographic, and is eating away at

the student generation, infecting ever younger victims—even second and third graders.

Mrs. Reagan introduced Robin Page, a gifted 15 year-old black girl from Cincinnati, who told how, hungering for popularity at a new school, she "did pot, alcohol and speed for two years", watched her grades plunge and began forging her report cards.

Robin said she began hoping for death. In time she joined STRAIGHT, a Cincinnati drug rehabilitation program, where Mrs. Reagan met her.

Mrs. Reagan, who spoke to the students for about five minutes, told them that "Life is full of problems and always will be. . ." and "If you don't learn how to cope with them now, and solve them without a crutch of any kind, you're going to be in for some very, very rough sledding."

The First Lady sees hope in the growing trend among young people to apply peer pressure against drug use. It certainly seems to be a trend worth encouraging.●

JAMIE WHITTEN DELTA STATES RESEARCH CENTER

● Mr. HUDDLESTON. Mr. President, I am pleased that the Senate has passed H.R. 5513. This bill will designate the Department of Agriculture's Delta States Research Center at Stoneville, MS, as the "Jamie Whitten Delta States Research Center." The designation is intended to honor the contributions made to agriculture and the Nation by the Honorable JAMIE L. WHITTEN, chairman of the House Committee on Appropriations and dean of the House of Representatives.

Throughout his 43 years of service in Congress, JAMIE WHITTEN has worked hard to maintain and strengthen U.S. Agriculture and ensure the preservation of our Nation's natural resources. The designation of one of the Nation's outstanding agricultural research centers as the Jamie Whitten Delta States Research Center is a fitting way to honor his enduring achievements in this area. It is an honor well-deserved.●

GENOCIDE OF ARMENIAN PEOPLE

● Mr. LEVIN. Mr. President, the Foreign Relations Committee approved without objection September 12 a sense-of-the-Senate resolution, introduced by myself, Senator WILSON, and 30 of our Democratic and Republican colleagues, which calls on the United States to "take account of the genocide of the Armenian people" when setting foreign policy.

Approval of Senate Resolution 241 marked a tremendous victory for Armenians all over the world. The Senate Foreign Relations Committee reaffirmed what the world already knows—that a horrendous crime was perpetrated against the Armenian people by the Ottoman Turkish government between 1915 and 1923. Whoever denies this must not be allowed to succeed in rewriting history.

This resolution is necessary because of recent State Department actions that have been inconsistent with U.S. policy regarding the Armenian genocide—the first genocide of the 20th century—a genocide which resulted in the murder of 1.5 million innocent victims. This event, which is recorded by eyewitness accounts in historical archives throughout the world, documents the crime that was conceived by the young turk regime and carried out by Ottoman Turkish Government from 1915–23, prior to the establishment of the Republic of Turkey.

If the Armenians of 1915 had been remembered, if the perpetrators of their genocide were punished by a world tribunal, and if international laws had been enacted preventing the heinous crime of genocide, 6 million Jews and millions of others might not have perished at the hands of the Nazis. The world did not learn a lesson from the Armenian genocide. By ensuring that U.S. foreign policy take account of the genocide of the Armenian people, we can help prevent the occurrence of genocide in the future.

Mr. President, I know there are those who have constitutional questions with respect to the Genocide Convention. But I doubt that there are many of us who question the notion that by acknowledging and remembering these innocent victims of man's inhumanity to man, we can help prevent these tragedies from happening in the future.

While U.S. policy with regard to the Armenian genocide seems muddled, the White House seems clear on its view. President Reagan, in Proclamation No. 4838 on April 22, 1981, stated, in part, "like the genocide of the Armenians before it, and the genocide of the Cambodians which followed it—and like too many other persecutions of too many other peoples—the lessons of the Holocaust must never be forgotten."

Unfortunately, this and previous policy statements relative to the Armenian genocide have been ignored by the State Department through continued and unacceptable blunders. For example, the State Department's official magazine, the Bulletin, stated in its August 1982, issue:

> Because the historical record of the 1915 events in Asia minor is ambiguous, the Department of State does not endorse allegations that the Turkish Government committed a genocide against the Armenian people.

That was an unbelievable and outrageous denial of decades of U.S. policy which infuriated me and others in Congress, as it did the Armenian community and those students of history who know the difference between fact and fiction. The State Department, 8 long months later, finally retracted the statement by writing:

> The article * * * which appeared in the August 1982 issue of the Bulletin * * * (was) not intended as statements of policy of the United States. Nor did they represent any change in U.S. policy.

That clarification, of course, should not have been necessary in the first place. But yet another State Department blunder reinforces why this resolution is necessary.

On April 11, House Joint Resolution 247, a measure which would have created a "National Day of Remembrance of Man's Inhumanity to Man" by designating April 24 of this year as a day to honor all victims of genocide, especially those 1.5 million Armenian genocide victims of the Turkish Ottoman Empire, was brought to the House floor for consideration.

But it was objected to by one Member and set aside, as required under the rule of unanimous consent. Congressman TONY COELHO of California, the main sponsor of the resolution which had 228 cosponsors, spoke as follows in the House the next day:

> One lone voice opposed this measure. But I wanted to let it be known that there was a stronger voice which opposed this resolution—the State Department. * * * Mr. Lewis Murray of the European Affairs Desk at the State Department phoned my office to express the State Department's dissatisfaction with the resolution. He not only expressed the State Department's dissatisfaction, but he went as far as to say that the resolution was irresponsible and that it would have a negative impact if passed. He alleged that, if passed, this resolution would:
>
> First, encourage terrorism, and second, muck up relations with the Turkish Government. But perhaps his greatest effort in his argument to dissuade me from having the resolution brought to the floor was adding that the Armenian genocide has never been documented.

These charges were made by a State Department official who is seemingly oblivious to the historical record and previous policy statements of the United States.

The struggle which has manifested itself in the American political process is a struggle which must be fought solely in the political arena. The role of the Ottoman Empire in the Armenian genocide, as the New York Times has written:

> In no way justifies a minuscule group of Armenian terrorists, who in a decade have killed 26 Turkish diplomats. But it surely justifies using the memorial day, as less vengeful Armenians ask with increasing urgency, to call for an accounting of a dark and unpunished crime.

As for "mucking up relations with the Turkish Government," it is time for us to insist that Turkey acknowledge the fundamental freedoms of people and we should link our foreign assistance to an improved Turkish record on human rights.

And, as far as the lack of documentation relative to the Armenian genocide, I ask for unanimous consent that Senate Resolution 241 be reprinted in the RECORD following the conclusion

of my remarks, as approved by the Senate Foreign Relations Committee—a resolution which, indeed, documents the facts of the Armenian genocide.

Mr. President, the House spoke earlier this month by approving a measure reintroduced by Congressman COELHO which will designate April 24, 1985, as the "National Day of Remembrance of Man's Inhumanity to Man," in memory of the 1.5 million victims of the Armenian genocide.

Because the last-minute crush of the session prevented Senate consideration of Senate Resolution 241, I considered offering an amendment to the continuing resolution that was similar to Senate Resolution 241. However, I decided not to offer the amendment to the continuing resolution due to procedural questions relative to germaneness.

During the consideration, my office received three phone calls from two State Department officials, urging me not to introduce the amendment so as to not further complicate U.S. relations with Turkey; that the amendment would be counter to America's national interest; that the Turkish foreign minister raised doubts with the Secretary to State as to whether congressional action relative to recognizing the Armenian genocide was an indication of America's willingness to come to Turkey's defense; that Turkey perceives these congressional resolutions as rewarding terrorists, since one of the stated goals of terrorist attacks on Turkish diplomats is to focus attention on the Armenian genocide.

Mr. President, these are astonishing and completely unfounded assertions. I was further alarmed at the State Department's characterization that this resolution or others like it could endanger the Armenian community in Turkey, or that American diplomats could be at risk if Turkish popular sentiment is further enraged.

It is apparent that the State Department's approach is designed to discourage the Senate from any further consideration of Senate Resolution 241 or any other resolution about the Armenian genocide. This approach parallels Turkey's unbelievable demand that the United States concur with its claim that the Armenian genocide never occurred.

It is ironic that, while this body is being urged by the State Department to ratify the Genocide Convention, we are also being urged by the same State Department to not acknowledge that the first genocide of the 20th century ever happened.

Senate Resolution 241 affirms statements on the Armenian genocide made previously by, among others, President Reagan, former President Carter, the Senate and the House of Representatives, and U.S. Ambassador to the Ottoman Empire, Henry Morgenthau. Neither the Republic of Turkey nor the State Department should be allowed to deny the facts of the Armenian genocide or the role of the United States in attempting to stop it.

The resolution follows:

S. RES. 241

Whereas the Armenian Genocide was conceived by the Young Turk Regime and carried out by Ottoman Turkish governments from 1915 to 1923 prior to the establishment of the Republic of Turkey, resulting in the massacre of one and one-half million, five-hundred-thousand survivors and the elimination of a two-thousand-five-hundred year Armenian presence in its historic homeland;

Whereas the Armenian genocide is amply documented in the Archives of the United States, as well as of Austria, France, Germany, and Great Britain;

Whereas the Honorable Henry Morgenthau, United States Ambassador to the Ottoman Turkish Empire from 1913 to 1916, organized and led protests by officials of many nations, among them the allies of the Ottoman Turkish Empire, over the Armenian Genocide;

Whereas an organization known as Near East Relief, chartered by an Act of Congress, contributed some $113,000,000 from 1915 to 1930 to aid the Armenian genocide survivors and, whereas, one hundred and thirty-two thousand orphans became foster children of the American people;

Whereas Senate Resolution 359, dated May 13, 1920, stated in part, "the testimony adduced at the hearings conducted by the subcommittee of the Senate Committee on Foreign Relations have clearly established the truth of the reported massacres and other atrocities from which the Armenian people have suffered";

Whereas House Resolution 148 which stated in part, "that April 24, 1975, is hereby designated as 'National Day of Remembrance of Man's Inhumanity to Man', and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day as a day of remembrance for all victims of genocide, especially those of Armenian ancestry who succumbed to the genocide perpetrated in 1915, and in whose memory this date is commemorated by all Armenians and their friends throughout the world";

Whereas former President Jimmy Carter in a May 16, 1978, speech at the White House stated in part, "It's generally not known in the world that in the years preceding 1916, there was a concerted effort made to eliminate all the Armenian people, probably one of the greatest tragedies that ever befell any group . . . Well, I feel very deeply that I, as President, ought to make sure that this is never forgotten";

Whereas the United States, during the March 14 and 16, 1979, sessions of the United Nations Commission on Human Rights, voted in support of paragraph 30 in a report entitled, "Study of the Questions of the Prevention and Punishment of the Crime of Genocide" which stated, "Passing to the modern era, one may note the existence of relatively full documentation dealing with the massacres of Armenians.";

Whereas the United States Holocaust Memorial Council, an independent Federal agency, unanimously resolved on April 30, 1981, that the Holocaust Museum Memorial should commemorate the Armenian genocide;

Whereas President Reagan in Proclamation numbered 4838, dated April 22, 1981, stated in part, "like the genocide of the Armenians before it, and the genocide of the Cambodians which followed it—and like too many other persecutions of too many other peoples—the lessons of the holocaust must never be forgotten"; and

Whereas it has been the policy of the United States to acknowledge these historical events: Now, therefore, be it

Resolved, That it is the sense of the Senate that the President and the Secretary of State should, in formulating and carrying out the foreign policy of the United States, recognize and take into account the genocide of the Armenian people, with the objective of preventing any future genocide anywhere in the world.

SEC. 2. It is further the sense of the Senate that the President should direct his representatives, including the Permanent Representative of the United States to the United Nations, to communicate at all appropriate times in international forums the abhorrence of the United States Government to any and all genocide, including that of the Armenian people.

SEC. 3. The Secretary of the Senate shall transmit a copy of this resolution to the President and the Secretary of State.●

BATTALIONS FOR THE BALLOT

● Mr. RANDOLPH. Mr. President, with the approach of the national election, it is important to call attention to the prime duty of citizenship in our Republic, that of voting. I continue to be gravely concerned about the decline in the number of our citizens who exercise this basic right.

Our country can remain strong and free only if its people go to the polls and participate in the selection of their Representatives to manage government at all levels.

My views on this subject are discussed in an article in the current edition of USAir magazine. So that more people can be reminded to the need to participate in our democracy, I ask that the article be printed in the RECORD.

The article follows:

BATTALIONS FOR THE BALLOT

(By Senator Jennings Randolph)

The ballot, in our democratic form of government, is provided to assure our participation. Our right to vote is an inviolate legacy of our founding fathers. Set forth in Article I, Section 2 of the Constitution, it has been subsequently protected, affirmed, and expanded by the 15th, 17th, 19th, 24th, and 26th amendments to that document, as well as by numerous judicial decisions.

The last amendment, the 26th, guarantees the right to vote to all persons 18 years of age or older. First introduced in the House of Representatives in 1942, by this writer, it finally received the necessary two-thirds majority of both houses of the Congress in 1971. Ratification by the necessary 38 states took only 90 days.

The right to vote carries with it the fundamental duty to cast the ballot. I emphasize the word right. Our founding fathers did not make the vote a privilege, but a right—with the concomitant responsibility that it be exercised.

Voter participation is critically important to sustain a democracy. Our form of govern-

ment, by definition, is a participatory process, and its continuing integrity is dependent on the wisdom and active involvement of its members. This is as true for the entire American electorate as it is for our country's institutions and organizations—including the U.S. Supreme Court, the Senate, the House of Representatives, city councils, and corporate boards and stockholders. Our democratic system—in which a consensus for the common good is drawn from the often polarized views of individuals or groups—will continue to serve us well so long as apathy does not result in rule by a fews.

But, sadly, apathy seems to be rampant, and a huge number of Americans do not exercise their responsibility to vote. In fact, voter turnout on election day is going from bad to worse. For example, in 1960, approximately 64 percent of the eligible electorate cast their ballots for president of the United States. Twenty years later, in the last presidential election, the turnout had dropped to less than 54 percent. It is a shocking fact that Mr. Reagan was put in office by less than 28 percent of our citizenry. Just think: Fewer than three of every ten eligible voters chose the current president of the United States!

The record for voter turnout in the off-year congressional elections is even worse: In 1962, for example, only 46 percent of eligible voters turned out at the polls, but in 1982 the figure was even more dismal—just 41 percent.

In a recent survey of 27 democracies around the world, the United States came in next to last in voting percentage. Only Colombia, in South America, has a worse rate.

Clearly, majority rule no longer exists in this country. Today, only a majority of the minority are electing our leaders and setting the course for the country. I submit that, as a republic, we are courting disaster if we are not able to reverse this trend. If not exercised, the right to vote will deteriorate, and eventually cease to exist.

The trend must be assailed. But I don't believe that success will result from a Federal program, or from proclamations from Washington. Only the rebirth of individual responsibility will reverse the tragic trend.

Each citizen, I believe, must make a personal commitment to participate in our government and its processes. It is my hope that concerned citizens will unite in a joint effort to arouse all Americans to heed democracy's call to the ballot box. Each of us should ask friends and associates the key question: "Are you registered to vote?" If the answer is no, then offer to help.

Battalions for the ballot! This must be the rallying call in this critical year of our precious heritage.●

JUDICIAL NOMINATION OF JOSEPH RODRIGUEZ

● Mr. LAUTENBERG. Mr. President, the Senate today approved several nominations to the Federal, Judiciary. I want to express my deep disappointment that not included among the judicial nominees submitted for the Senate's advice and consent was Joseph H. Rodriguez. Mr. Rodriguez was nominated by President Reagan to assume a seat on the Federal district court for the district of New Jersey. His nomination has been tangled up in preelection politics. I think it is a shame. And I think it is a loss for the people of New Jersey.

Mr. Rodriguez is one of the worthier nominees to be sent up by this President. He is an experienced and skilled trial lawyer. He has won the high marks of the bar. He would bring to the bench an impressive record of service to the law in the State of New Jersey, and to the public at large.

Mr. Rodriguez has served in high posts in State government under both parties. He chaired the State commission of investigation—charged with rooting out organized crime. He was chairman of the State board of higher education. He now serves as public advocate of New Jersey. As such, he serves as the State's public defender and a sort of omsbudsman, charged with representing the mentally ill, the disabled, the consumer, and the general public interest.

It is just one measure of the esteem in which he is held that Joe Rodriguez was selected by his peers to lead the State bar association. He has taught law. He has received awards from a broad range of groups. From the ACLU, to the Girl Scouts of America, from the Hispanic bar association, to the American Legion.

Mr. President, Mr. Rodriguez would be the first Hispanic on the Federal bench in New Jersey. His high achievement serves as a model for others. By increasing the diversity of the bench, I think he would enhance the respect it commands from the public it must judge.

Mr. President, I cannot help but observe that this administration has sent up precious few nominees of the caliber of Joe Rodriguez, certainly few qualified nominees who would expand the diversity of the bench, to include women, blacks, Hispanics and others. Mr. President, I deeply regret that the nomination of Joseph Rodriguez is not before this body. If it were, I am confident that it would win overwhelmining approval.●

EQUAL ACCESS TO JUSTICE BILL (S. 919)

● Mr. DECONCINI. I take this opportunity to state my strong support for the equal access to justice bill. It is the product of 3 years of experience under the original version of the bill drafted by Senator DOMENICI and myself, as well as numerous hearings held this Congress on how to continue to perfect its provisions to insure equal access to our system of justice by all parties aggrieved by actions of the Government. The 3-year experiment has proven a success and the modifications offered to the original law have made if even broader and better. I want to especially thank Senators DOMENICI and GRASSLEY for their sustained efforts to make the original 3-year experiment a part of our permanent law. I have had the privilege of testifying before the Grassley subcommittee in support of the bill and in working with Senators GRASSLEY and DOLE in working out suitable compromises on various provisions in the bill. I want to express my appreciation to these Members for their cooperation and willingness to accept suggestions.

I hope that as we send this bill to the House it will receive a favorable reception. Congressman KASTENMEIER has performed yeoman duty on his side, but I understand that some opposition may still remain from the Ways and Means Committee. I hope these differences can be resolved without endangering passage of the bill. Again, my congratulations to the distinguished authors of this bill and my thanks for their permitting me to play some small role in its passage.●

S. DILLON RIPLEY—A MAN FOR THE AGES

● Mr. SASSER. Mr. President, our former colleague, Senator Henry "Scoop" Jackson, served more than 10 years as a member of the board of regents of the Smithsonian Institution. It has been my privilege to succeed him on that body and to participate in the activities of that venerable institution during one of the most significant years of its existence.

On September 17, Robert McCormick Adams became the ninth Secretary in the 138-year history of the Smithsonian. Former provost of the University of Chicago and a distinguished anthropologist, Dr. Adams succeeds one of the most extraordinary people in the cultural life of this Nation, S. Dillon Ripley. In his 20 and more years of leadership at the Smithsonian, Dillon Ripley changed the face of Washington, extended the institution far beyond the city's boundaries, developed significant staff and financial resources, and welcomed new and larger audiences to the museums on the mall with diverse and lively activites for their education and enjoyment.

One of his major achievements is Smithsonian magazine, a handsome and bountiful monthly publication which now reaches nearly 2 million homes. The September issue contains the last of Dr. Ripley's commentaries, "A View From the Castle," as well as a delightful summing up of the Ripley years.

I salute S. Dillon Ripley for his many years of public service and ask that several articles and editorials from the Los Angeles Times and the Fort Worth Star Telegram be printed at this point in the RECORD.

The material follows:

[From the Smithsonian, September 1984]

SECRETARY S. DILLON RIPLEY RETIRES AFTER 20 YEARS OF INNOVATION

(By Edwards Park)

Mark Twain, a man who had a way with words, once referred to the Smithsonian Institution as a "poor, mildewed old fossil." Well, I have been perambulating around this place for quite a few years now, and I can remember a day when I heard music coming from four different sources along the Mall. I can remember puppet shows and an organ-grinder with a monkey. Walking between museums, I've dodged boomerangs, Frisbees and joggers. Not long ago, I stopped to watch some kids in front of the Arts and Industries Building; they were break dancing. I hate to argue with Mr. Twain, but that doesn't sound fossilized to me, and I know one reason why.

On the 17th of this month the eighth Secretary of the Smithsonian, S. Dillon Ripley, leaves the office in the castle that he has inhabited for the past 20 years. The two decades of his tenure have seen this venerable Institution pop out of the attic and onto the national scene. Eight new museums and seven new research or backup facilities have opened their doors, the number of visitors has more than doubled, major research and acquisition efforts have been launched, and outreach programs—including this magazine—have been inaugurated. The Mall has been enlivened with everything from a visiting glacier (at least a chunk of one) to a life-size fiberglass dinosaur, Uncle Beazley.

Certainly timing had something to do with these changes, but the eighth Secretary fitted the times, and his background had prepared him for the task. Broadly educated and widely traveled, as a young ornithologist he explored the backcountry of New Guinea and Sumatra. During World War II he served with the OSS, coordinating American and British intelligence efforts under the Southeast Asia Command. Ripley is both politician and urbane, but he's not a man who minds getting his hands dirty; one story from those years is revealing. As the war neared its end he was airlifted into a jungle strip in Thailand; anticipating a meeting with the King's regent—perhaps after an encounter with Japanese troops—he leaped from the plane with a tommy gun in his hands and a set of full-dress attire in his pack. It was in Asia that he got to know his wife-to-be, Mary Livingston, who was also serving in the OSS. Back in the States Ripley taught at Yale, and was director of the Peabody Museum of Natural History there when the Regents tapped him to come to the Smithsonian.

As soon as he arrived in Washington, he made it clear that he had some new ideas about museums. They should not be places that you visited "on Sunday afternoon after a big lunch," he said. Instead he thought of them as "points of contact" with the people, all people. One example: a few years after he took over, the Poor People's Campaign came to Washington. Mostly black, and for the moment homeless, the poverty marchers pitched tents at one end of the Mall. The Smithsonian's top staff met to make plans for safeguarding the nation's treasures from what seemed to them a potentially threatening situation. As some worried officials discussed methods to keep the campaigners out of the museums, Ripley walked in.

According to Assistant Secretary Ralph Rinzler, "He sat down very slowly, put his hands together almost as if he were taking the measure of the vibrations in the room, and spoke up." What he said, very carefully, was that these people were fellow citizens of the United States, and were, of course, welcome in the Smithsonian. In fact, the museums' bathrooms should be stocked up with soap and paper towels.

Dillon Ripley—he never uses his first name, Sidney—is nearly six-feet-four and has the presence of someone to the manner born. He is generally affable and relaxed, a man who can make people feel comfortable very quickly. But there is steel beneath the courteous tone and mild demeanor. Once I heard him deal with some project organizers whose results displeased him. He started by asking if the project could be changed in such a way. The project authorities produced arguments to refute the need for change. Ripley argued back, amiably. The opposition still disagreed.

Ripley's voice became even gentler and the well-bred drawl more pronounced. The effect was that the room stilled and his words came across with unmistakable clarity. "Please understand that this is to be changed in the ways I have explained. If it is not, the project will be ended."

When Ripley arrived in 1964, most of the Institution's museums were strung along Washington's Mall, which, divided by roadways, was heavily used by automobiles but little trod by foot. That was going to change. Not long after taking office, Ripley had Joseph Henry's statue jacked up and turned around to face outward toward the Mall rather than back toward the castle. The move could be interpreted as a symbol of what was going to happen. "We must have a carousel," said Ripley, who, looking back on his own childhood experiences with museums, wanted to recreate the pleasant, colorful enjoyments of the Tuileries Gardens, just outside the Louvre. And, of course, a carousel soon sprouted in front of the Arts and Industries Building, filling the air with Sousa and Strauss. (I remember seeing Ripley join a group of children in riding that carousel, his legs so long that even when the horse rose, his feet stayed on the floor.)

A NATIONAL FRONT LAWN

Not long afterward, plans were laid for the first Folklife Festival. Some people were aghast. Was this how the Smithsonian intended to treat the sacred sward? A few congressmen grumbled that their esplanade had been turned into a midway. But the Folklife Festival was a noisy, jostling success, enlivened with the sounds of music and enriched by the smells of ethnic cooking.

Soon people began to use the Mall as a kind of a national front lawn. Balloons soared, kites flew, boomerangs made spectacular returns. And that sense of life and participation spilled over in the museums themselves. The painting on the following pages suggests the look of the Smithsonian at the end of the Ripley years. But the changes Ripley wrought in the Institution were more than skin-deep. He wanted the Smithsonian to be a "company of scholars," a center for ideas, a place modeled more after a university than a museum. Never one to miss an opportunity for symbolism, for the 200th anniversary celebration in 1965 of James Smithson's birth, he joined an academic procession across the Mall—noted scholars marching in their caps and colorful robes. "It gave us," he said, "a sense of academic entity."

Ripley is known for his deft touch with the great and well-known. Eager to get a first-class modern art museum to Washington, he wooed Joseph Hirshhorn for his famous collection, enlisted the support of President and Mrs. Johnson, and overcame the objections of a number of congressmen. The design of the new building caused a stir—"a giant bagel," some called it—but the success of the Hirshhorn Museum and Sculpture Garden outlasted the caviling.

In New York he finessed a lease for the old Carnegie Mansion on Fifth Avenue so that it could house the Cooper-Hewitt Museum—the only Smithsonian museum outside Washington. Looking over the great old house, he discovered a brass banister. To the delight of the New Yorkers he was leading around, he proceeded to slide down it. "We must keep that polished," he admonished when he reached the bottom.

Although he's always had a streak of the showman in him—as a Yale undergraduate, he once considered a career in the theater—Ripley has also remained serious about his research and about conservation. Along with a number of books and scholarly papers, in his spare time he has finished the monumental ten-volume *Handbook of the Birds of India and Pakistan* which he wrote with his old friend Sálim Ali of the Bombay Natural History Society. In pursuing his research, he and Mary, his constant companion in the field, have become old hands in some of the remotest parts of India, Bhutan, Nepal and Tibet.

As a conservationist he has, with the help of Britain's Peter Scott of the Wildfowl Trust, saved the nene goose of Hawaii from extinction, and promoted programs to help rescue the white-winged wood duck of Southeast Asia from the same fate. He has bred rare and endangered species of waterfowl on a system of ponds at the family home in Litchfield, Connecticut. He helped preserve the unique environment of the atoll of Aldabra in the Seychelles, and took a direct hand in developing the Smithsonian's efforts to save the Bengal tiger. In 1980, he met with Chinese scientists and also with Cubans, establishing a rapport that led to a program of scholarly exchange. Mary Ripley, meanwhile, has been a driving force in establishing the National Orchid Collection at the Smithsonian.

The Ripley years have seen the opening of the National Portrait Gallery and the National Collection of Fine Arts (now the National Museum of American Art), the building of the Hirshhorn and the National Air and Space Museum, and the creation of the Renwick Gallery. The Cooper-Hewitt Museum and the Museum of African Art came under the Smithsonian's wing and one of Ripley's proudest endeavors, the Anacostia Neighborhood Museum, opened in a storefront to bring the museum concept to a predominantly underprivileged community.

Near Tucson, the Multiple Mirror Telescope, built in conjunction with the University of Arizona, scans the sky from the peak of Mt. Hopkins. At Front Royal, Virginia, a 3,150-acre center is studying and breeding rare and endangered species. The Smithsonian Tropical Research Institute in Panama has expanded, and new research centers have been created on the Chesapeake Bay and in Florida. The Museum Support Center, a vast storage and conservation facility, and NASM's Paul E. Garber Preservation, Restoration and Storage Facility have opened in Suitland, Maryland.

Ripley's latest achievement has been the establishment of the new Center for African, Near Eastern and Asian Cultures, due to be completed in 1986. Ever the persuader, in a whirlwind of fund-raising to match federal grants, he obtained the financial sup-

port of foreign countries, corporations and foundations as well as substantial contributions from Smithsonian Associates. As a centerpiece for the new museums, he obtained a collection of superb Asian art objects from benefactor Arthur M. Sackler.

What S. Dillon Ripley is beginning this month sounds suspiciously unlike retirement as most of us know it. "I shall work on birds in my lab over at Natural History. I shall enjoy my freedom from the tyranny of the In and Out boxes. I shall travel with Mary, but only when we want. There are many more things to learn."

THE VIEW FROM THE CASTLE

(By S. Dillon Ripley)

This is my 174th *View from the castle,* and it seems perhaps an auspicious moment to quantify some of the feelings and reactions I have had in more than 20 years as director of the Smithsonian. The job of being Secretary of this Institution is one of the most complex and pleasurable in the world. To me the Smithsonian has a hypnotic fascination. What is it and why? We shall probably never be certain of the true meaning of its noble founder's words, "for the increase and diffusion of knowledge among men," and more than we can keep totally abreast of the task of interpreting history, art and science in all their manifold forms every day—past, present and future.

I can only say that the job has been a joyous one. It is a fascinating collection of responsibilities which seems to bring one new facets of information every day—an encylopedic exercise.

A particular and never-ending satisfaction is that in the process of creating the Associates and introducing you to the Smithsonian in all its ramifications, I feel that I have contributed to your pleasure and your enlightenment. You have become a part of the Smithsonian (which perhaps you did not realize belonged to you), an Institution that our government had pledged to support on your behalf in 1846.

Another aspect of all this is that Congress and the government are immensely proud of the Smithsonian, just as the public is. It seems to shed a glow over the Mall that is both stimulating and reassuring. There is electricity, and surprise, and sometimes shock. This excitement pervades the place; it is a reason for the pride we take in it. Those of us here find that excitement all-consuming.

In 14 years, Smithsonian, our magazine for the Associates, has achieved much of what we set out to do. Like the rings of the Olympic symbol, our goals were interlocking: to explore the things that the Smithsonian *is* interested in, *Might* be interested in, or *ought* to be interested in.

As with the seasons, the ends foreshadow the beginnings. What we know provides a measure of what we do not know. What we do not know presages what indeed we may know in the future. At the Smithsonian we have believed that life itself is an endless opening up of more opportunities for learning.

My esteemed successor and friend, Robert McCormick Adams, comes to the castle this month. Steeped in the values of history as seen through the eyes of an ecologically-minded archaeologist, he will, I know, exemplify those qualities enumerated in a resolution presented to the Board of Regents in December 1846 by one of its members, Robert Dale Owen (a Representative from Indiana who had played a crucial role in the acceptance by Congress of the Smithson bequest): ". . . that the Secretary of the Smithsonian Institution be a man possessing weight of character and a high grade of talent . . . eminent scientific and general acquirements . . . a man capable of advancing science and promoting letters by original research and effort . . . a man worthy to represent, before the world of science and of letters, the Institution over which this Board presides."

Amen!—and may the job be a joy and filled with fun.

[From the Fort Worth [TX] State Telegram, Sept. 7, 1984]

SMITHSONIAN ERA TAUGHT US THE FUN OF THINKING

(By Katie Sherrod)

The latest issue of *Smithsonian* had two things that particularly interested me.

One was a story on the retirement of the eighth Secretary of the Smithsonian, S. Dillon Ripley, after 20 years as head of the institution.

I found that interesting because it is under Ripley's guidance that the Smithsonian has moved from being a more-than-slightly stuffy attic for the nation to what may be the most accessible group of museums in the world. The Mall has come alive with a wonderful carousel that plays Sousa marches, a lifesize Fiberglass dinosaur named Uncle Beazley, Folklife Festivals, kite flyers, joggers, and just plain folk enjoying the Mall as if it were, as Edward Parks writes, a national front lawn.

The Smithsonian's physical setting has become a corporal metaphor for the nation whose history it safeguards.

One story nicely illustrates Ripley's attitude toward the place. A few years after he took over, Parks writes, the Poor People's Campaign came to Washington. "Mostly black, and for the moment, homeless, the poverty marchers pitched tents at one end of the Mall. The Smthsonian's top staff met to make plans for safeguarding the nation's treasures from what seemed to them a potentially threatening situation. As some worried officials discussed methods to keep the campaigners out of the museums, Ripley walked in.

"According to Assistant Secretary Ralph Rinzler, 'He sat down very slowly, put his hands together almost as if he were taking the measure of the vibrations in the room, and spoke up.' What he said, very carefully, was that these people were fellow citizens of the United States, and were, of course, welcome in the Smithsonian. In fact, the museum bathrooms should be stocked with soap and paper towels."

While Ripley's greatest accomplishment may be in making the Smithsonian accessible to its owners, the people of the United States, he has done much more than infuse life into the musty old place.

Under his leadership, the Smithsonian has seen unprecedented growth with the opening of the National Portrait Gallery and the National Collection of Fine Arts (now the National Museum of American Arts), the building of the Hirshhorn Museum and Sculpture Garden and the National Air and Space Museum, and the creation of the Renwick Gallery. The Cooper-Hewitt Museum, the only Smithsonian museum outside Washington, and the Museum of African Art came under the Smithsonian's wing, and one of his proudest endeavors, the Anacostia Neighborhood Museum, opened in a storefront to bring the museum concept to a predominately underprivileged community.

And that's only a partial list of the accomplishments of Ripley's 20 years. He looks forward, he says, to a retirement of doing what he likes most—thinking and having fun.

I wish him the best, for I think he has, through the Smithsonian, helped us all better understand that knowing things is more fun than not knowing things.

Thinking is fun.

It's more fun to figure things out, ruminate over them, take concepts apart and put them back together than it is to just blindly accept them. It's more fun living in a world that is full of new things to think about than it is to live in a world filled with mystery and obscurity.

That's why I love the Ripley-era Smithsonian. It teaches people about things in a fun way. It offers you things to think about, to chew over, to question or remember when you return to the "real world."

Which brings me to the other thing that interested me in this month's *Smithsonian.* Like its namesake, this magazine gives you things to think about.

This month it had an article about probabilities. In our pursuit of happiness, we always want to know what the odds are of us winning in any given situation. This article deals with how to figure that out.

Here are some examples:

It is even odds that your next child will be a boy, that if there are 23 people in a room, two will have the same birthday, that a coin will come up heads, and a bridge hand (13 cards) will contain one ace.

It is 10-to-1 that you will be involved in a traffic accident this year.

Odds are 100-to-1 that you will be audited by the IRS, your next childbirth will result in twins, and a coin will come up heads seven times in a row.

Odds are 1,000-to-1 that your next childbirth will result in triplets and a bridge hand will contain four aces.

Odds are a million-to-1 that your next childbirth will result in quintuplets and you will get hit by lightning. (Listen, people who have quintuplets *have* been hit by lightning).

And it is a billion-to-1 that you will be killed in an airline accident.

There. I just wanted to be sure you all had something to think about this weekend, in honor of Ripley.

[From the Los Angeles Times, Sept. 19, 1984]

A CHANGE OF LEADERSHIP

To this day, no one is quite certain why James Smithson, an Englishman who never visited this country, decided to will his estate to the United States of America. The only instruction from Smithson was that the money was to be used "to found at Washington, under the name of Smithsonian Institution, an establishment for the increase and diffusion of knowledge among men."

The estate amounted to $515,169, and it took Congress years to decide what to do with it. Some thought the funds should build a library. Others suggested a national university. But finally, in 1846, Congress decided on the beginnings of the institution as we know it now, and President James K. Polk signed the bill into law.

What a legacy!

Today, the Smithsonian's many branches house an estimated 100 million artifacts and specimens of every description. Many of them are on display in a wonderland of mu-

seums and galleries in Washington, D.C. Other items are stored for preservation, restoration, research and potential exhibition. The museums are open to the public, admission free, every day of the year but Christmas.

First-time visitors to the capital often will ask where they can find *the* Smithsonian museum. Their eyes roll when you name just a few of the Smithsonian's facilities: National Air and Space Museum, Museum of Natural History, the National Museum of American Art, the National Museum of American History, the National Portrait Gallery and the National Zoo.

The Smithsonian annually sponsors a broad array of educational, scientific and cultural exhibits and programs, including the immensely popular Festival of American Folklife. It publishes *Smithsonian* magazine; operates the Tropical Research Institute in Panama, and conducts important research and academic programs that the public never hears about.

All of this is done at a cost to the taxpayer of less than $1 per person a year. More than half of the institution's operating funds in the last fiscal year came from gifts, grants, endowment income and the Smithsonian's revenue-producing programs.

The occasion for thinking of the Smithsonian this week is a rare turnover in the institution's leadership. Anthropologist Robert McCormick Adams of the University of Chicago was installed Monday as the Smithsonian's ninth secretary since 1846. He succeeds S. Dillon Ripley, an ornithologist who held the post for 20 years. Ripley's tenure was not without controversy. At times, he was questioned about his extensive worldwide wanderings in pursuit of rare species of birds.

Such possible eccentricities can be forgiven, however, in view of Ripley's contributions over the last two decades. He is to be thanked for bringing the Smithsonian's programs closer to the people and expending its horizons with projects like the magazine, the Air and Space Museum, the National Museum of African Art and the Center for African, Near Eastern and Asian Cultures, now under construction.

Well done, Mr. Ripley. Welcome, Secretary Adams.●

DR. WALTER WALKER AND LE MOYNE-OWEN COLLEGE: AN EXCELLENT PARTNERSHIP

● Mr. SASSER. Mr. President, today I rise to call attention to the scholarship of Dr. Walter Walker, president of Le Moyne-Owen College in Memphis, TN, and to the college's ability to progress rapidly toward financial independence.

Dr. Walker was awarded a doctorate degree in 1969 after completing his studies at the Florence Heller Graduate School for Advanced Studies in Social Welfare at Brandeis University. I have had the pleasure of reading Dr. Walker's dissertation entitled "The War on Poverty and the Poor: A Study of Race, Poverty, and a Program." Completed in 1969, the study reveals interesting data regarding events which led to the "War on Poverty" agenda, as well as unexpected statistics about the composition and attitudes of the urban poor, at whom the War on Poverty Programs were aimed.

Dr. Walker's study concludes not only that the poor are alienated from the mainstream of American society, but also that programs designed to assist the poor should not be targeted at only one homogenous population. Rather, the poor in the 1950's and 1960's were comprised of both white and black citizens, both urban and rural dwellers. Dr. Walker states in his report that the War on Poverty Programs may not have been designed to meet the very different and independent needs of these various groups of indigent citizens.

Dr. Walker's study has particular relevance for current Federal assistance programs designed to break the cycle of poverty felt by far too many of our citizens. Just as the poor American communities of the 1960's were composed of both black and white persons, urban and rural dwellers, today's poor are also of diverse backgrounds. We have seen a substantial immigration of a variety of ethnic groups into this country over the past 20 years. In addition, we have recently witnessed how severe recessions have impoverished the average working man or woman.

These societal changes present us with new challenges to modify our assistance programs to meet the needs of the urban and rural poor. As we seek to ensure that all Americans, regardless of race, or creed, or ethnic origin, have the opportunity to break the cycle of poverty, we must make efforts to upgrade our Federal assistance programs to address the distinct needs of the various low-income populations in society.

Dr. Walter Walker's study is indicative of his attitude toward helping underprivileged communities in our Nation. He does not seek to place blame for the phenomena of the continuing cycle of poverty, but rather he seeks new alternatives that might help break the cycle of poverty. As Dr. Walker states, it is vital that we continue to research the attitudes and composition of our poor communities. Only with continued research will our Federal, State, and local assistance programs be fully equipped to help our indigent citizens break the cycle of poverty.

Mr. President, since the completion of his graduate work, Dr. Walker has become the president of Le Moyne-Owen College in Memphis, TN. As president of this primarily minority college, Dr. Walker has sought to improve both its curriculum and its financial status. After visiting the school earlier this year, I am pleased to report that Le Moyne-Owen continues to offer excellent academic and exciting jobs training programs based on its cooperative education program.

Le Moyne-Owen College has a unique and rich history. The school originated in 1862 when the American Missionary Association opened an elementary school for newly freed slaves at Camp Shiloh. In 1871, after Dr. Francis Julius Le Moyne awarded the school with a significant grant, it was named Le Moyne-Norman and Commercial School and had as its mission, the education of black teachers and high school students. In 1914, the school was moved to its present site, and graduated its first 4-year class in 1932.

After merging with Owen College in 1968, Le Moyne-Owen College stated its goal, which continues today, as—

"The development of men and women to accept full responsibility in the democratic society. This mission is shaped by the conviction that the verities of the Judeo-Christian heritage, combined with a viable cooperative education program and a relevant curriculum will enhance and fortify students for meaningful participation in life.

As a college serving primarily minority students, Le Moyne-Owen has participated in the title III program since 1966. As my distinguished colleagues know, the title III program is designed to assist developing institutions improve their academic programs, and achieve financial and managerial stability.

Mr. President, Le Moyne-Owen views this Federal assistance not as a handout, but as an opportunity to establish a solid financial basis. The title III funding has given the school and opportunity to improve its own fundraising capacity so that it may achieve financial independence, and Le Moyne-Owen has used this opportunity to the best of its ability.

Under the fine stewardship of Dr. Walker, Le Moyne-Owen has significantly decreased its dependence on Federal assistance over the past several years. For example, the school received its largest Federal grant in 1979, when it was awarded $524,000 under title III. For the 1984-85 academic year, Le Moyne-Owen received only $63,962 under title III.

Mr. President, the academic program offered by Le Moyne-Owen has not decreased in quality due to the decrease in funds. Rather, the school has embarked upon an excellent management and communications program so that its alumni and the Memphis community understands the importance of the institution. That is why the school has succeeded in raising the necessary funds so that it can continue to improve and expand its academic program without continuing its dependence on Federal assistance.

I believe that Le Moyne-Owen College deserves to be recognized for its achievements in this regard. Its fine president, Dr. Walker, predicts that the current academic year will be the last year that the school needs title III

funds. I commend Dr. Walker for his excellent career as a recognized scholar in the social sciences, and, I commend him for his ability to lead Le Moyne-Owen College down the path toward financial independence.●

ORDERS FOR FRIDAY

ORDER TO CONVENE AT 9:30 A.M. TOMORROW

Mr. BAKER. Mr. President, there was a previous order for the Senate to convene at 9 a.m. I modified that for a variety of reasons to have it at 9:30 when we convene.

ORDER FOR THE RECOGNITION OF SENATOR BYRD ON TOMORROW

I further ask unanimous consent that after the recognition of the two leaders under the standing order, that the distinguished minority leader, Senator BYRD, be recognized on a special order of not to exceed 15 minutes.

PERIOD FOR TRANSACTION OF ROUTINE MORNING BUSINESS AND RESUMING CONSIDERATION OF HOUSE JOINT RESOLUTION 654

I add a unanimous consent that after the execution of the special order there be 1 minute for the transaction of routine morning business, at the end of which, the Senate will proceed to the consideration of House Joint Resolution 654.

The PRESIDING OFFICER. Without objection, it is so ordered.

SENATE SCHEDULE

Mr. BAKER. Mr. President, I do not know how long it will take tomorrow to do the debt limit. I do not know whether we will finish the debt limit tomorrow or not. It is my fervent hope we can have as few amendments offered to that as possible, pass it as clean as possible, and get it out of here tomorrow well before 6 o'clock, which is the time the Senate will no longer be asked to have rollcall votes on Friday.

But when that occurs really depends on the amount of progress and the timing of that program that we are able to make tomorrow.

I cannot assure the Senators that we will stop voting at 4 o'clock or stop working at 5 o'clock. I can assure the Senator we will stop voting at 6 o'clock, and we will do so earlier if we can make progress that justifies that result.

Mr. LAUTENBERG. I thank the majority leader. I recognize that such an estimate is virtually impossible to make. I thank the majority leader.

Mr. BAKER. Now, Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THANKS TO THE MAJORITY LEADER

Mr. FORD. Mr. President, many fine words of praise and admiration have been offered recently in this Chamber for the distinguished majority leader, HOWARD BAKER of Tennessee. All of us who have served with him over the years will certainly miss his patience and graciousness after his retirement from this body.

But, Mr. President, I have but a simple tribute: heartfelt words of thanks.

I thank HOWARD BAKER—as a lawmaker, colleague, and friend. In our years of service together, it would be impossible for me to count the courtesies he has been generous enough to offer.

In the deepest sense of the word, I thank the majority leader.

Mr. BAKER. Mr. President, will the Senator yield?

Mr. FORD. I am glad to yield.

Mr. BAKER. Mr. President, I will not try at this time to reply to the generous remarks offered by the Senator from Kentucky, but I do assure him I appreciate his remarks, and I will try to express my appreciation more fully when I have the opportunity to do so in writing.

Mr. FORD. I thank the majority leader.

RETIREMENT OF THE MAJORITY LEADER

Mr. EXON. Mr. President, before the distinguished majority leader leaves the floor, I have no prepared statement at all, but I listened well to my friend from Kentucky. I wish to associate myself with his remarks.

As you go through life there are a lot of things that come your way. One of the great things that has come my way is public service. During my years in public service, I have moved from one body to another and met new friends.

Of all the friends I have met I have none that I have more respect and admiration for than the distinguished majority leader.

Those of us who hope to come back here next year hope that the distinguished majority leader will be back with us from time to time.

He is not a member of my party, but I have always found him thoughtful and considerate, and what more can you ask of a Republican?

Mr. HOLLINGS. That is all you can ask.

Mr. EXON. I simply say, Mr. President, I, for one, am going to miss the distinguished Senator from Tennessee and I wish him well in the future.

Mr. BAKER. Mr. President, I thank the Senator and I am tempted to say all sorts of irreverent and disrespectful things, especially in light of the sidebar remarks of the distinguished Senator from South Carolina [Mr. HOLLINGS]. He is one of my great friends and dear neighbors and he has a derisive attitude toward Republicans. I am going to ruin his reputation right now and tell our friends and colleagues that FRITZ HOLLINGS was once president of the South Carolina Young Republicans.

Mr. HOLLINGS. Mr. President, the distinguished Presiding Officer flew off the field of Donaldson Air Base in Greenville. When my majority leader refers to my Republican days, it was when I was in college in 1940. Right to the point, cutting it short here this evening, I was with the delegation from South Carolina, with an uncle who represented the Republican group that went to the Philadelphia convention. Incidentally, I stayed at the Bellevue-Stratford, in a room right next to Herbert Hoover. We were for Robert Taft, but you know how Republican politics are. They unseated Taft, gave it to Dewey and so, being a young college kid, they gave me the badges. I stayed at the side door of the auditorium and we gave the badges to our crowd. We went up in the gallery hollering, "We want Willkie, we want Willkie." That was 44 years ago.

You know who was there next to me? A young Michigan student named Gerald Ford. He was hollering he wanted Willkie, too. That is why we have had a long friendship over the years.

World War II was a sobering influence, Mr. President, and I got back my common sense; upon return, I got into the Democratic Party.

One of the delightful aberrations was coming to the U.S. Senate in 1966, in the same class as, as we call him, Howard Henry.

The distinguished majority leader and I served on the Commerce Committee together. We had hearings together. That was the class, if I can relate back, of Ed Brooke, Will Spong, Cliff Hansen, CHUCK PERCY, the rest of us, MARK HATFIELD—we had a group of Governors that were in that class. We immediately spotted the attributes, the talent, the leadership quality of our distinguished majority leader. We were not a bit surprised, none of us, relating back, that our colleagues on the other side of the aisle had selected him.

It was not only a break for the Republican Party, it was a break for this country. There is a wrangle going on over there, Howard Henry, on who is going to replace you. They cannot do it. They cannot find anyone of the even temper, judgment, the consideration, the sensitivity, and the high

level of dedication to what is good for the country. I think that is what we are all worried about here tonight.

Senator BAKER has done an outstanding, magnificent job as majority leader. I thought the best I had ever seen, of course, in my day was Mike Mansfield of Montana. You have equalled that record and in many, many eyes, Mr. Majority Leader, you have surpassed it, because you have had stormier times.

I think there was a discipline, I say to the Senator from Ohio, in the Mansfield days. They came in with a little bit more humility. But I said after my defeat in New Hamphire, I had had a lesson in humility, but in 2 days, I had recovered.

We have a recovered group here as Members of the U.S. Senate. Senator BAKER, with slightly different kind of leadership in the executive branch, together with the effervescence of restless young leadership on both sides of the aisle, has congealed them together into a consensus that we see working here tonight.

I will get my remarks in this RECORD, Mr. President. I do not want it ever to relate to the Republican Party because—well, I will not mess up my laudatory remarks about HOWARD BAKER.

He is one of the best I have ever seen in all public service. He is one who inspires people to serve in public office. What bothers me is we have too little of it today. When we can get a business success as HOWARD METZENBAUM sitting in front of me, who says, "I have made my fortune but I want to give something back," and ED ZORINSKY of Nebraska, who says, "I have done well but I have seen the problems as a great city mayor from Omaha." They come here with Governor Exon and our distinguished majority leader and what have you—and all jell together into a national consensus—it happens as a national consensus because of our distinguished majority leader. I take my hat off to him.

Mr. BAKER. Mr. President, I thank the Senator. Before he goes any further, let me say a man ought not to have to listen to his own funeral. Therefore, I thank earnestly all those who have spoken. I intend to take my leave and I hope I will be in shape to return tomorrow.

Mr. President, I thank the Senate.

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LEVIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

SENATOR HOWARD BAKER

Mr. LEVIN. Mr. President, I know that the majority leader has had his ears burned a little bit tonight and is blushing back in the Republican cloakroom now, but I want to add to the RECORD my own feelings about him. I have known no person of greater honor or integrity or principle or decency than our majority leader. He is unflappable. He is invariably kind and invariably understanding, particularly to the newer Members of the Senate.

Mr. President, as the majority leader's last day comes, we are all going to very much miss him in the Senate. We all carry memories from places when we have to leave. Some of my fondest memories will be of the majority leader and the way in which he led this body in the years he was majority leader.

Mr. President, I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. RIEGLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

SENATOR HOWARD BAKER

Mr. RIEGLE. Mr. President, I join in the comments of my colleague from Michigan in the tribute he expressed a moment ago to our majority leader, Senator BAKER.

In the years I have served in Congress—and this is now my 18th year—I have found no one on the other side of the aisle with whom I have served who has been more generous or thoughtful in terms of his daily relationships than the Senator from Tennessee. His deft touch is almost legendary in this institution. The respect with which he is held by all 99 of his colleagues is remarkable. It is a tribute to him that he is able to maintain the good humor and energy under the most trying of circumstances, but that is his trademark and his nature. He has certainly served the Senate in an outstanding fashion. I for one will miss his presence in this Chamber once he has retired and left, but the mark he has made and the fond memories that he leaves behind are enduring things to all of us. I extend to him also my good wishes as he goes out into other lines of endeavor, to wish him not only success in those efforts but good health and safe travels in all that he might undertake.

Again, I thank him for his tremendous contribution to this body and for the warm personal relationships that he has had with all of us.

Mr. RUDMAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, let me say to the distinguished Senator from Michigan [Mr. RIEGLE] that I did not leave the floor because I could not stand to hear the kind remarks he was making, but because I had an "emergency phone call"—and they never are.

I apologize to him for leaving the floor. I thank him for the generosity of his remarks, and I will express my appreciation more fully at a later time.

CLARIFICATION OF THE APPLICATIONS OF THE CLAYTON ACT TO LOCAL GOVERNMENTS

Mr. BAKER. Mr. President, I have a number of items that appear to be cleared for action by unanimous consent. The first is one that has been cleared on both sides.

I ask unanimous consent that the Senate proceed to the consideration of H.R. 6027, Calendar No. 1142, if the minority leader does not object.

Mr. BYRD. No objection.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 6027) to clarify the application of the Clayton Act to the official conduct of local governments, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 7062

(Purpose: To clarify the application of the Federal antitrust laws to local governments)

Mr. BAKER. Mr. President, on behalf of the distinguished President pro tempore, the Senator from South Carolina [Mr. THURMOND], I send an amendment to the desk in the nature of a substitute.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Tennessee [Mr. BAKER] for Mr. THURMOND, proposes an amendment numbered 7062.

Mr. BAKER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

That this Act may be cited as the "Local Government Antitrust Act of 1984".

SEC. 2. (a) Sections 4, 4A, and 4C of the Clayton Act (15 U.S.C. 15, 15a, and 15c) shall not apply to any law or other action of or official action directed by, a city, village, town, township, county, or other general function unit of local government in the exercise of its regulatory powers, including but not limited to zoning, franchising, licensing, and the establishment or provision of public services on an exclusive or nonexclusive basis in a manner designed to ensure public access or otherwise to protect the public health, safety, or welfare, but excluding the purchase or sale of goods or services on a commercial basis by the unit of local government in competition with private persons, where such law or action is valid under State law, except that this subsection shall only apply to cases filed after the date of enactment of this Act.

(b)(1) No damages, interest on damages, costs, or attorney's fees may be recovered under section 4, 4A, or 4C, of the Clayton Act (15 U.S.C. 15, 15a, and 15c) from any unit of local government or official thereof acting in his official capacity.

(2) This subsection shall not apply to cases pending on the date of enactment of this Act unless the defendant establishes and the court determines, in light of all the circumstances, including the stage of the litigation and the availability of alternative relief under the Clayton Act, that it would be inequitable not to apply this subsection to a pending case. In consideration of this subsection, existence of a jury verdict shall be deemed to be prima facie evidence that this subsection shall not apply.

SEC. 3. Section 510 of Public Law 98-411 is hereby repealed.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 7062) was agreed to.

Mr. EAGLETON. Am I not correct that the junior Senator from New Hampshire is the author of the provision limiting application to pending cases of the proposed restriction on awards of monetary damages against local governments for violations of antitrust laws?

Mr. RUDMAN. That is correct.

Mr. EAGLETON. Is it not correct that the first sentence of this provision would, in a pending case, place the burden of proof on the local government defendant to establish that an award of monetary damages for an antitrust violation would be inequitable?

Mr. RUDMAN. That is correct; the burden of proof is on the defendant.

Mr. EAGLETON. Am I to understand further that this provision singles out pending cases in which a plaintiff has already received a favorable jury verdict, because after a jury has reached a verdict, it would be appropriate to apply the change of law only in the most extraordinary circumstances?

Mr. RUDMAN. That is correct. Pending cases in which a jury has already acted deserve special attention, because they present the most compelling case for no retroactive application of the new provision limiting monetary damage awards.

Mr. EAGLETON. So by the phrase "prima facie evidence," you intend to create a very strong presumption in favor of a plaintiff who has already achieved a favorable jury verdict.

Mr. RUDMAN. That is correct. That phrase is meant to indicate that the defendant's burden of proving that application of the existing law would be inequitable is much higher than it would be in other pending cases.

Mr. EAGLETON. I thank the Senator from New Hampshire for this clarification.

Mr. HOLLINGS. Mr. President, with respect to the interests of the cities of America, on this score I accede to this particular initiative.

Having served in the legislative branch for many years at every level, I am the first to acknowledge that we must have some discipline with respect to the formalities of procedure, and the ultimate goal in this context is the interest of good, sound local government.

The cities have been stretched. They have more or less operated within their own chambers and confines relative to all matters, particularly regulating the economies. They have led the way.

The Boulder court decision changed all the ground rules, and now they find themselves, on the one hand, defending against treble damages and, on the other hand, against the injunction of the Federal bureaucracy.

We debated that at approximately 4 o'clock this morning. I am not willing to accede to that particular expression of the will of the U.S. Senate. It was a close vote—about 50 to 50.

The whole idea here, as a conferee on the continuing resolution, is that we do not stand on our own vanity and rights and positions in this particular matter. I would yield them in a second to make sure that the cities were saved from any kind of treble damage suit and saved from any kind of Federal Trade Commission injunctive procedures.

On that basis, I have represented for the past several months that if the Judiciary Committee, which has the primary jurisdiction over treble damages—and I am a cosponsor of Senator THURMOND's bill, S. 1578—could take H.R. 6027 and move forward with it and get a conference, I would go along with their results. Whatever has been the holdup for the last 2 months, I know not. I know that it was ascribed to me over 1 month ago. As a result, I had to put in the public record that it was not I. I had not said that I opposed absolutely the bill coming up. All I wanted to do was to be present at the time, and I would not demand a time agreement; and at this time I do not demand a rollcall vote.

I am voting against it because I want to register my objection to the Federal Trade Commission being reinstituted as a bureau upon local governments in America. But that is the personal view of the junior Senator from South Carolina.

I think it is in the interests of all that we see if the House and the Senate Judiciary Committees can agree to a conference, and a conference results. Then, as I have stated publicly, if they do, we would withdraw from having it included on the continuing resolution.

The acting chairman in the House, Representative NEAL SMITH, and the distinguished Senator from New Hampshire [Mr. RUDMAN], representing the Senate, have agreed to withhold. We are not stretching the continuing resolution. We are holding it there, and we are also holding hope that the two Judiciary Committees can get together, in the best interests of good, strong local self-government.

If they do that, then we would recede on the Senate side on the continuing bill.

It is in that context of making sure that the vanities and the formalities and the personalities all involved do not get in the way of what is in the best interest of the cities and counties of America.

On the basis, I am agreeable to not having a rollcall, I say to the majority leader, just if we have a voice vote. I will say no. Other than that, we can go ahead and get it to the Judiciary Committee.

Mr. BAKER. Mr. President, I thank the Senator from South Carolina and I especially thank him for his willingness to proceed in this manner.

Mr. President, has the Thurmond substitute been agreed to?

The PRESIDING OFFICER. The substitute has been agreed to.

The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, shall it pass?

So the bill (H.R. 6027) was passed.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. HOLLINGS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, I move that the Senate insist on its amendments and request the conference with the House of Representatives on the disagreeing votes of the two Houses and that the Chair be authorized to

appoint conferees on the part of the Senate.

The motion was agreed to, and the Presiding Officer [Mr. GORTON] appointed Mr. THURMOND, Mr. HATCH, and Mr. METZENBAUM conferees on the part of the Senate.

CALENDAR

Mr. BAKER. Mr. President, the time is late, and ordinarily I would ask the consent of the minority leader in advance of asking that each item be presented, but if the minority leader will permit, I will simply ask the Chair to lay the matter before the Senate and if the minority leader objects to it, he will of course say so.

Mr. BYRD. Mr. President, I have no objection to that procedure, and I compliment the majority leader. I think we would all like to expedite the action this evening, and leave and get some rest.

Mr. BAKER. I am grateful.

DISAPPROVING RECOMMENDATION TO ABOLISH THE SENATE COMMITTEE ON VETERANS' AFFAIRS

Mr. BAKER. Mr. President, I ask that the Chair lay before the Senate Calendar Order No. 1317, Senate Resolution 139.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 139) disapproving the recommendation of the study group on Senate practices and procedures to abolish the Senate Committee on Veterans' Affairs.

Mr. BAKER. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of the resolution.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Tennessee?

There being no objection, the Senate proceeded to consider the resolution.

AMENDMENT NO. 7063

(Purpose: To amend the resolve clause of S. Res. 139)

Mr. ZORINSKY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Nebraska [Mr. ZORINSKY] proposes an amendment numbered 7063.

Mr. ZORINSKY. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike the entire Resolve clause, lines one through nine on page 2, and substitute in place thereof:

Resolved, That it is the sense of the Senate that the Committee on Veterans' Affairs of the Senate shall continue to be a separate standing committee of the Senate.

Mr. ZORINSKY. Mr. President, this simply adopts the amendment to the result clause as agreed upon with Senator MATHIAS, as chairman of the authoritative committee, on this subject.

I ask for its passage and immediate consideration.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Nebraska.

The amendment (No. 7063) was agreed to.

Mr. ZORINSKY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ZORINSKY. Mr. President, today I am pleased to address the Senate regarding Senate Resolution 139, a resolution to reject the Senate Study Group proposal to abolish the Senate Committee on Veterans' Affairs as a separate standing committeee by merging it with the Committee on Armed Services, and to affirm that the Committee on Veterans' Affairs should continue to function in its present capacity as a separate standing committee.

Last year, the Study Group on Senate Practices and Procedures (henceforth, the Senate Study Group) made its report to the Senate after conducting an examination of the operation of the Senate pursuant to Senate Resolution 392, agreed to on March 11, 1982. Its goal was:

To make full and complete study of the practices and procedures of the United States Senate with a view to recommending to the Senate such revisions thereof as may be necesary or appropriate to preserve and enhance the traditions, customs, functions, forms, and spirit of the United States while enabling the Senate to conduct debate which is focused on major issues of national policy.

Mr. President, the aspect of the report prompting my resolution is recommendation 15 that proposes, among other things, that the Veterans' Affairs Committee cease to exist as a separate committee and merge its functions with the Armed Services Committee.

Let me begin by expressing my deep respect and admiration for the two former Members of the Senate who comprise the Senate Study Group, Senator Pearson and Senator Ribicoff. Thanks to their investigation, drawing on their experience as esteemed Members of this body, these distinguished gentlemen have done a great service to the Senate and to the citizens of the Nation in recommending a number of changes to streamline the processes of the Senate. A number of the study group's proposals seem very promising, and I look forward to further consideration of various aspects of the report. However, when its comes to eliminating the Veterans' Affairs Committee as the group has proposed, I am afraid my revered colleagues and I must part ways.

Mr. President, I will not take up space on this record recounting the history of the various vehicles by which the Senate has addressed the legislative concerns of our country's military veterans in the past before consolidating these functions with the Veterans' Affairs Committee pursuant to Public Law 91-510, the Legislative Reorganization Act of 1970. I think the fine record of the committee in the service of the Senate is self-evident. The important point is that, since its inception, the Veterans' Affairs Committee has contributed the outstanding effort that is required to properly address the needs of the former members of our military. It is this concentration of resources, expertise, and unity of purpose that has allowed the Veterans' Affairs Committee to discharge the Senate's responsibilities for the unique and varied needs of veterans so well.

Mr. President, I have always strongly advocated increased efficiency in Government and Government spending, so I genuinely appreciate the reasoning behind the group's merger proposal. But in making decisions to streamline the Senate, we must not lose sight of the fact that we have certain jobs to do, certain duties that must be done, and one of those duties is to adequately provide for the needs of those who have served their country's national defense. I do not believe that this duty will be discharged any more efficiently, or even as well, by eliminating the Veterans' Affairs Committee and dumping its functions on the Armed Services Committee. This is in no way meant to denigrate the abilities of my distinguished colleagues on the Armed Services Committee, of course. Quite to the contrary, I am sure we all agree that the Senators and staff of Armed Services discharge their important duties with exemplary diligence and dispatch. That is part of my point: Armed Services should be allowed to continue performing the monumental task of overseeing the national defense without taking on the additional duties currently discharged by Veterans' Affairs. To merge committees as is proposed would eliminate one committee that is functioning quite well while diluting the time, resources, and concentration of another committee that is also functioning well under its current structure. I think that any gains to be made by a merger would be more than offset by

the problems inherent is such a move. I call to mind the sage advice, if it ain't broke, don't fix it.

I know that Senators MATHIAS and FORD, as well as the other distinguished members of the Rules and Administration Committee, have put in long hours considering the reorganization of the Senate. Also, Senator QUAYLE and his colleagues on the Temporary Select Committee To Study the Senate Committee System have been working on this and related matters. The efforts of the Rules Committee and the Temporary Select Committee will continue as they assess proposals to improve the committee structure. However, I have received numerous letters from veterans groups and individuals who are truly concerned that the priority of veterans' problems in the Senate is being reduced, that the resources devoted to their needs are on the verge of being "watered down." I am sure my colleagues are well aware of the alarm expressed by veterans across the Nation when the study group proposal was released. This is particularly unfortunate because I do not believe this Senate wants to eliminate the Veterans' Affairs Committee. I am very confident of that statement, due to the fact that Senate Resolution 139 currently has 61 cosponsors on record opposing such a move, 61 cosponsors who say that we need a separate standing Veterans' Affairs Committee. And I suspect that this cosponsor total will grow somewhat in the next several minutes as we discuss the resolution.

With that in mind, I feel that the time has come to bring this resolution to the floor for a vote. I have spoken with Senators MATHIAS and FORD, and they have graciously agreed that now would be an appropriate time to bring this matter forward and let the American public know where the Senate stands on the issue of maintaining a separate standing Veterans' Affairs Committee. I would like to thank my colleagues for their good cooperation in expediting consideration of Senate Resolution 139 on the floor.

Mr. President, I appreciate this opportunity to address the Senate on this matter, and I hope that we may proceed to allay the fears of veterans across the country by passing Senate Resolution 139 by a decisive vote.

Mr. SIMPSON. Mr. President, I wish to express my strong support for Senate Resolution 139, Senator ZORINSKY's resolution expressing the sense of the Senate that the Senate Veterans' Affairs Committee remain as a standing committee.

I would point out to my good colleagues that the Senate Veterans' Affair Committee was created in 1970 solely because it was determined at that time that the needs of such a large constitutency would be more fully and expeditiously met if handled through a unified, cohesive congressional policy under the jurisdiction of a separate committee. In 1976, a recommendation to abolish the Veterans' Affairs Committee was made. Again, it was determined that to relinquish jurisdiction of all veterans' matters to a subcommittee would be a serious mistake.

Mr. President, the committee serves an important function in our Nation's Government. The existence of the committee as it now operates assures that adequate attention is given to overseeing an agency which will operate with a budget in excess of $27 billion in fiscal year 1985. The Veterans' Administration has 240,000 employees, exceeded only by the Department of Defense. It serves a vast constituency of veterans, their dependents and survivors who now constitute nearly 40 percent of this Nation's population. The complexity of the various veterans' benefits programs created over the years, encompassing the largest health care delivery system in this country, an extraordinary benefits system for those suffering from service-connected and nonservice-connected disabilities, various education programs such as GI bill, and much, much more, has resulted in an agency surpassed in the size of its budget by only the Department of Defense and the Department of Health and Human Services.

Mr. President, I could cite additional statistics and examples of why this vast agency requires a standing committee in order to meet its legislative and oversight responsibilities. But I have plowed all of this ground before. In my opinion, the people of this country—veterans and nonveterans alike—would not be well served if we were to abolish the Senate Veterans' Affairs Committee. I do not say that in order to preserve my status as chairman of the committee. Others could perform that task quite well. But I am convinced that the commitee serves an important role in ensuring that the debt this country owes its veterans is responsibly discharged.

Mr. THURMOND. Mr. President, I rise in strong support of Senate Resolution 139, a resolution expressing the sense of the Senate that the Senate Veterans' Affairs Committee continue as a separate standing committee.

In recognition of the contributions to freedom and liberty made by our service men and women, our Government has placed a high priority on the welfare of its veterans. It is the highest obligation of U.S. citizenship to defend the Nation in time of need, and this obligation creates an equal responsibility on the part of our Nation to care for the men and women who have worn the uniform. In partial discharge of this responsibility, the Senate Committee on Veterans' Affairs performs the necessary function of overseeing the complex operations of the Veterans' Administration, the principal Federal agency responsible for providing benefits and services to veterans and their survivors.

Mr. President, many factors warrant the continued existence of the Senate Committee on Veterans' Affairs as an independent, standing committee. Significantly, the unique nature of veterans benefits must be taken into account and distinguished from the many other social programs provided to others. Veterans benefits are not handouts; they have been earned through great pain and sacrifices and oftentimes by the loss of lives.

Also, the size and importance of the Veterans' Administration in our system of government requires the attention and scrutiny of an independent, standing committee. The Veterans' Administration is the largest independent agency in the Federal Government. Its budget of $25 billion for fiscal year 1984 ranks among the largest of the Federal departments and agencies. Furthermore, the 220,000 employees of the Veterans' Administration outnumber the employees in any other Federal department or agency except the Department of Defense.

Mr. President, it is important to emphasize that today there are nearly 29 million veterans and about 66 million dependents or survivors of veterans in the United States. The programs administered by the Veterans' Administration touch practically every facet of life in nearly every family in America. The Veterans' Administration operates the largest, centrally managed health care system in the world and administers the largest direct insurance program in the United States. In fiscal year 1983, the Veterans' Administration distributed over $13 billion in compensation and pension benefits, and approximately $1.7 billion in education, training, and rehabilitation assistance payments.

Moreover, the VA Home Loan Guaranty Program has provided millions of veterans with an opportunity for home ownership. Currently, over 4 million home loans in the United States are guaranteed by the Veterans' Administration. Also, the Veterans' Administration operates 108 national cemeteries and provides burial assistance to nearly 350,000 deceased veterans annually.

Mr. President, as a member of the Senate Committee on Veterans' Affairs since the inception of the committee, I can attest to the complexities which exist in overseeing the various programs of the Veterans' Administration. Consolidating the Senate Committee on Veterans' Affairs with the Senate Armed Services Committee or any other committee would clearly not be in the best interests of our Nation's

veterans. Recommendations to abolish the Veterans' Affairs Committee have been considered in the past, but those recommendations were rejected then and should be rejected today.

Mr. President, in light of the commitment of our Nation to care for our deserving veterans, not to mention the size and importance of the Veterans' Administration in our Government, I firmly believe that a standing committee is needed to perform the great task of overseeing the many programs and benefits serving our veterans. I, therefore, strongly support this resolution and urge the support of my colleagues.

Mr. CRANSTON. Mr. President, I am very pleased to support the amended version of the resolution sponsored by the distinguished Senator from Nebraska [Mr. ZORINSKY] expressing the sense of the Senate that the Committee on Veterans' Affairs should be maintained as a separate standing committee of the Senate. S. Res. 139, which I joined 53 others in cosponsoring, was introduced by Senator ZORINSKY on May 11, 1983, to disapprove the proposal made last year by the Pearson-Ribicoff study group report that the Veterans' Affairs Committee be abolished and its functions transferred to a new subcommittee of the Committee on Armed Services, which would have no staff. Although no action was taken on that proposal, as my colleagues are aware, the issue regarding the status of the Veterans' Affairs Committee reemerged in connection with the establishment of the Temporary Select Committee to Study the Senate Committee System.

On June 28, 1984, the chairman of the select committee, Mr. QUAYLE, announced, in a statement that appeared in the RECORD beginning on page 19473, that the select committee planned to conduct hearings on August 1 and 2. At the conclusion of his remarks, he inserted in the RECORD a Congressional Research Service compilation of selected proposals for revising the committee system, including the proposal to abolish the Committee on Veterans' Affairs, that the select committee would be considering. In light of these developments, I submitted a statement for the August 2 hearing and in it expressed my strong opposition to any proposal to eliminate the Veterans' Affairs Committee and reassign its responsibilities.

Mr. President, for the information of my colleagues and the public, I ask unanimous consent that a copy of my testimony be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. CRANSTON. Mr. President, favorable Senate action on this resolution as amended would be a most appropriate step at this time to reassure the Nation's veterans, their families, and others concerned with keeping our commitments to them that the Senate intends to preserve the committee and thus will not be downgrading the effort and attention it currently devotes to veterans' issues and programs. I congratulate the Senator from Nebraska for his fine work and persistence regarding this matter, and I urge all of my colleagues to support the resolution as amended.

EXHIBIT 1

STATEMENT BY SENATOR ALAN CRANSTON

Mr. Chairman, as the former Chairman and now ranking minority member of the Committee on Veterans' Affairs, I am very pleased to have this opportunity to express my views as to what recommendations your Select Committee should make with respect to the Committee on Veterans' Affairs.

Although I strongly support the effort to develop a consensus for streamlining the committee structure, I want to state my strong opposition to any proposal to eliminate the Committee on Veterans' Affairs and reassign its responsibilities to one or more other committees or subcommittees. In my view, such a downgrading of Congress' legislative responsibilities with respect to veterans' benefits and services and of Congressional oversight of the management and operation of the Veterans' Administration and other agencies with responsibility for veterans' programs would be most unwise.

The jurisdiction of the Committee on Veterans' Affairs includes a wide range of large, complex, and important programs carried out by the Veterans' Administration, which is the largest independent agency in the government, and various other agencies. The VA alone employs more than 240,000 persons and has a fiscal year 1985 budget of $27 billion.

The VA will distribute over $15 billion in benefit payments this year—primarily $8 billion in disability compensation to service-connected-disabled veterans, $1.8 billion in dependency and indemnity compensation to the survivors of those who died from service-connected causes, $1.4 billion in Vietnam-era GI Bill educational assistance and in rehabilitation programs for service-disabled veterans, and $3.9 billion in non-service-connected disability and death pension to needy wartime veterans and survivors.

The VA spends over $8 billion annually for veterans' health care and operates the largest centrally managed health-care system in the United States. The system provides care through 172 hospitals, 277 outpatient clinics, 103 nursing homes, 16 domiciliary facilities, and 135 readjustment counseling centers. These VA facilities are projected to provide approximately 1.3 million episodes of inpatient care as well as more than 17.2 million outpatient visits during FY 1985.

The VA operates a home loan guaranty program, with 4.2 million loans currently guaranteed, and 108 national cemeteries; it provides burial assistance for nearly 350,000 deceased veterans annually.

Actual and potential VA beneficiaries include the approximately 28.2 million veterans currently living, their 51.7 million spouses and dependents, and 2.4 million survivors of deceased veterans. This total of 82.3 million persons represents nearly 35 percent of the Nation's population.

An agency and programs of this size and diversity exercising responsibility toward a potential beneficiary population of this magnitude clearly requires extensive oversight scrutiny to ensure that the legislative intent of Congress is carried out and that the agency's implementation of its programs is fair and compassionate, as well as efficient.

In my view, the Veterans' Affairs Committee is best able to carry out the responsibilities I noted above in a manner that is in the interest of both veterans and the general population. The Committee was established in 1971, and it has been my privilege to serve on it from its inception. The Committee has no subcommittee, and its budget is the smallest of any standing committee of the Senate. This structure and level of effort represents the bare minimum that the Senate should devote to veterans' programs.

In this connection, I note that in the Select Committee Chairman's June 28, 1984, floor statement regarding these hearings, the Chairman made reference to a Congressional Research Service compilation of selected proposals for revising the committee system. (The compilation was inserted in the Congressional Record, at the conclusion of these remarks, on pages S. 8534-36.) Among those noted in that compilation was the proposal put forward last year in the Pearson-Ribicoff Study Group Report that the Veterans' Affairs Committee be abolished and its functions transferred to a new subcommittee of the Committee on Armed Services, which would have no staff.

I believe this would not be a constructive move. Without a staff experienced in veterans' matters to assist Senators in their responsibilities to monitor, and advise them with respect to, VA and other veterans' programs, the Senate would be unable effectively to discharge its legislative and oversight responsibilities regarding this vast array of programs.

For example, without a committee having specific responsibility for veterans' issues and adequate staffing, the Senate will be unable to deal effectively with the extremely complex and difficult issues presented by the environmental hazards to which our service personnel have been exposed—such as radiation from nuclear detonations and dioxin in the herbicides used in Vietnam. The same is true with respect to the serious psychological difficulties, such as post-traumatic stress disorder, for which combat veterans and former prisoners of war are at risk and about which psychiatry and psychology are providing us with new information regarding causes and effects.

In this time of enormous federal deficits and of corresponding urgent need to exercise great fiscal restraint, the Senate must be able to identify all reasonable and fair economies, efficiencies, and cost-savings that can be achieved in veterans' programs. I believe that the Veterans' Affairs Committee fulfills this role with a high degree of responsibility. On each occasion on which reconciliation instructions have been given to any committees in the Senate over the past five years, the Veterans' Affairs Committee has been among those to which instructions have been given, and it has fully satisfied all such instructions directed to it. Moreover, the Committee has identified and reported other substantial cost-savings outside the reconciliation process. Only Senators, and professionals advising them, with expertise in the full range of veterans' programs can satisfactorily determine where savings are possible without infringing on the Nation's

basic commitments and obligations to its veterans and their survivors.

It was for reasons such as these that I joined 53 other Senators in cosponsoring S. Res. 139, a resolution introduced by Senator Zorinsky to disapprove the Ribicoff-Pearson proposal to abolish the Veterans' Affairs Committee. In this regard, I would also note that, on the last occasion that the Senate addressed the issue whether to retain the Veterans' Affairs Committee as a standing committee of the Senate—during Senate consideration of the so-called "Stevenson-Brock Committee" recommendations in 1976-77—it decided to do so. I believe that a very strong majority of Senators would decide the issue in the same way if it were raised again.

Thus, I urge that the Select Committee reject any proposal to abolish, weaken, or in any way downgrade the Committee on Veterans' Affairs. (I would like to add in this regard that I believe the Committee should continue to be a so-called "B" committee—one on which a Senator is permitted to serve in addition to serving on two "A" committees. Making the Veterans' Affairs Committee an "A" committee would have the very undesirable effect of producing a committee composed almost entirely of very junior Senators, thereby depriving veterans' issues of the participation, stature, and experience provided by more senior members and also thereby narrowing substantially the options for service available to new Senators.) The importance and scope of the responsibilities carried out by the Veterans' Affairs Committee are far too great to make any such changes wise or productive.

The PRESIDING OFFICER. The question is on agreeing to the resolution, as amended.

The resolution, as amended, was agreed to.

The preamble was amended and agreed to.

The resolution, as amended, with its preamble, as amended, is as follows:

S. RES. 139

Whereas the Committee on Veterans' Affairs was established, with the enactment of the Legislative Reorganization Act of 1970, as a standing committee on the United States Senate, for the purpose of providing a focus for systematic legislative action in addressing the needs of veterans of service in the Armed Forces of the United States of America;

Whereas the Committee on Veterans' Affairs of the Senate performs this vital function in the Senate by providing the appropriate legislative effort and expertise that is necessary for meeting the needs of our Nation's veterans;

Whereas either disestablishment of this Committee, or a merger of the Senate Veterans' Affairs Committee with the Armed Services Committee or any other standing committee of the Senate, coupled with the abolition of staffed or legislative subcommittees, is unlikely to result in equal or improved legislative service to the Senate or to our nation's veterans: Now, therefore, be it

Resolved, That it is the sense of the Senate that the Committee on Veterans' Affairs of the Senate shall continue to be a separate standing committee of the Senate.

The title was amended so as to read:

A resolution expressing the sense of the Senate's disagreement with the recommendation of the Study Group on Senate Practices and Procedures to consolidate the Senate Committee on Veterans' Affairs with the Senate Committee on Armed Services.

Mr. ZORINSKY. Thank you, Mr. President.

Mr. BAKER. Mr. President, I thank the Senator from Nebraska.

Mr. ZORINSKY. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ARMED CAREER CRIMINAL ACT

Mr. BAKER. Mr. President, I ask the Chair to lay before the Senate Calendar Order No. 1314, H.R. 6248.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 6248) to amend title VII of the Omnibus Crime Control and Safe Streets Act of 1968 to provide enhanced penalties for certain persons possessing firearms after three previous convictions for burglaries or robberies, and for other purposes.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Tennessee?

There being no objection, the Senate proceeded to consider the bill.

The PRESIDING OFFICER. The bill is open to amendment. If there be no amendment to be proposed, the question is on the third reading of the bill.

The bill (H.R. 6248) was read the third time, and passed.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

HONEY RESEARCH, PROMOTION, AND CONSUMER INFORMATION ACT

Mr. BAKER. Mr. President, I ask the Chair to lay before the Senate Calendar Order No. 1271, H.R. 5358.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 5358) to enable honey producers and handlers to finance a nationally coordinated research, promotion, and consumer information program designed to expand their markets for honey.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Tennessee?

There being no objection, the Senate proceeded to consider the bill.

Mr. HELMS. Mr. President, most of us are aware of the problems facing America's beekeeping industry. Chief among these problems is the ballooning costs of the Honey Price Support Program.

Under current law, the Secretary of Agriculture is required to support the price of honey at between 60 and 90 percent of parity. For a number of years now, the support level has been held at 60 percent. For the 1983 crop year, this translated to 62.2 cents per pound.

In recent years, the Department has been left with increasing forfeitures of honey placed under loan. For the 1983 crop, acquisitions are estimated to run 115 million pounds; or about $80 million when various costs are included, such as storage and transportation.

One of the reasons why Government purchases of honey have been increasing can be traced to the rise in cheap imports of honey. Domestic U.S. production of honey typically ranges around 200 million pounds. This is somewhat less than domestic consumption, which last year exceeded 250 million pounds. The problem is that cheap, and sometimes subsidized imports have been adding as much as 110 million pounds to our domestic supply.

Interestingly enough, one of the prime importers of honey into this country is Communist China. Since the late 1970's U.S. imports of their honey have increased dramatically. In 1978, China shipped only 664,000 pounds of honey to the United States. Only 4 years later, the Red Chinese were sending 17.6 million pounds of honey into our country annually. This represents an increase of 2,650 percent.

I do not think anyone believes that the bill before us now will solve the problems of the beekeeping industry. However, what this proposal does show is that beekeepers are willing to take positive steps to try to solve these problems.

Specifically, this legislation would enable honey producers and handlers to finance a nationally coordinated research, promotion, and consumer information program designed to expand their markets for honey. To become effective, the program must be approved by two-thirds of the producers and importers voting in referendum or by a majority of producers and importers voting if such majority produced and imported not less than two-thirds of the honey produced and imported during the representative period determined by the Secretary. The program would be financed through assessments paid by producers and importers.

Under the supervision of the Secretary, the program would be administered by a Honey Board comprised of 13 members who would be appointed by the Secretary from nominations submitted by the National Honey Nominations Committee. Termination of the order could be effected by a majority of producers voting in referen-

dum, or by the Secretary if it is deemed that the order obstructs or does not tend to effectuate the declared policy of the act. Provision is also made for the Secretary to conduct a referendum 5 years from the date of issuance of the order, and every 5 years thereafter, to determine if honey producers favor the continuation, termination, or suspension of the order.

Assessments under the program would be at the rate of 1 cent per pound for the first year the order is in effect. Thereafter, the rate of assessment may be increased by one-half cent per pound per year, with a maximum rate of assessment of 4 cents per pound. Producers and importers assessed under the program would be entitled to a refund of assessments upon request. An exemption from the assessment is provided for any producer or producer packer who produces or handles less than 6,000 pounds of honey per year or an importer who imports less than 6,000 pounds of honey per year.

The 1983 domestic production of honey was about 205 million pounds and imports were about 110 million pounds. Application of a 1 cent per pound assessment rate to these quantities would result in revenue of about $3.2 million. The proposed 6,000-pound exemption for individual producers and importers would, however, result in some reduction from this level.

Mr. President, there is much precedent for this legislation. Similar authority has been provided in law, starting in 1966, for such commodities as cotton, eggs, potatoes, wheat, beef, and floral products. Further, a promotion program for milk and dairy products was a key provision in the Dairy and Tobacco Adjustment Act of 1984 (Public Law 98-180).

It is important to remember that this legislation will not automatically put into place a honey research and promotion program. Rather, it will simply permit beekeepers to decide for themselves as to whether they want such a program.

Solving the problems currently facing the beekeeping industry will be no easy matter. However, this proposal promises to be a step in the right direction. The industry has put a lot of work into this proposal, and is to be commended for taking the initiative, and doing such a good job in providing us with complete and noncontroversial legislation.

Mr. President, I ask unanimous consent that a section-by-section analysis of the legislation be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SECTION-BY-SECTION ANALYSIS

SHORT TITLE

Section 1 provides that this bill may be cited as the "Honey Research, Promotion, and Consumer Information Act".

FINDINGS AND DECLARATION OF POLICY

Section 2, subsection (a) contains findings by the Congress declaration that—

Honey is produced by many small- and medium-sized producers in every State and honey and honey products move in large part in channels of interstate and foreign commerce and honey which does not so move directly burdens or affects interstate commerce; in recent years, large quantities of low-cost imported honey have replaced domestic honey in normal trade channels, and the maintenance and expansion of markets for honey and honey products are vital to the welfare of honey producers, processors, and users, as well as those engaged in general agricultural endeavors requiring bees for pollinating purposes;

The development and implementation of coordinated programs of research, promotion, and consumer education which are necessary to maintain existing markets and to develop new markets has been inadequate; and

Without cooperative action to provide for and finance such programs; honey producers, handlers, wholesalers, and retailers are unable to implement the research, promotion, and consumer education programs necessary to maintain and improve markets for honey and honey products.

Subsection (b)(1) states that the purpose of the Act is to authorize the establishment of an orderly procedure for the development and financing, through an adequate assessment, of an effective and coordinated program of research, promotion, and consumer education designed to maintain, develop, and expand markets for honey and honey products.

Subsection (b)(2) states that this Act does not dictate quality standards for honey, provided for control of honey production or limit the right of individual honey producers to produce honey; also, that it treats foreign producers equitably, and that nothing in the Act may be construed as a trade barrier to honey produced in foreign countries.

DEFINITIONS

Section 3 defines terms used in the Act as follows:

(1) The term "honey" means the nectar and saccharine exudations of plants that are gathered, modified, and stored in the comb of honey bees.

(2) The term "honey products" means products produced, in whole or part, from honey.

(3) The term "Secretary" means the Secretary of Agriculture.

(4) The term "person" means any individual, group of individuals, partnership, corporation, association, cooperative, or any other entity.

(5) The term "producer" means any person who produces honey in the United States for sale in commerce.

(6) The term "handler" means any person who handles honey.

(7) The term "handle" means to sell, package, or process honey.

(8) The term "importer" means any person who imports honey or honey products into the United States or who acts as an agent, broker, or consignee for any person or nation that produces honey outside of the United States for sale in the United States.

(9) The term "producer-packer" means any person who is both a producer and handler of honey.

(10) The term "promotion" means any action, including paid advertising, pursuant to this Act, designed to present a favorable image for honey or honey products to the public with the express intent of improving the competitive position and stimulating sales of honey or honey products.

(11) The term "research" means any type of research designed to advance the image, desirability, usage, marketability, production, or quality of honey or honey products.

(12) The term "consumer education" means any action to provide information on the usage and care of honey or honey products.

(13) The term "marketing" means the sale or other disposition in commerce of honey or honey products.

(14) The term "Committee" means the National Honey Nominations Committee provided for under section 7(b) of this Act.

(15) The term "Honey Board" means the board provided for under section 7(c) of this Act.

(16) The term "State association" means that organization of beekeepers in a State that is generally recognized as representing the beekeepers of that State.

(17) The term "State" means any of the several States, the District of Columbia, and the Commonwealth of Puerto Rico.

HONEY RESEARCH, PROMOTION AND CONSUMER INFORMATION ORDER

Section 4 requires the Secretary of Agriculture to issue and amend orders applicable to persons engaged in the production, sale, handling, or importation of honey or honey products to effectuate the declared policy of this Act.

NOTICE AND HEARING

Section 5 requires the Secretary to provide notice of and opportunity for a hearing upon any order proposed for issuance whenever the Secretary has reason to believe that the issuance of an order will assist in carrying out the purposes of the Act. Any organization or interested person affected by the provisions of this Act may request such a hearing and submit a proposal for an order.

FINDINGS AND ISSUANCE OF AN ORDER

Section 6 requires that, after the hearing provided in accordance with section 5, the Secretary must issue an order if the Secretary finds, based upon the evidence introduced in the hearing, that the terms and conditions of the order will assist in carrying out the purpose of this Act.

REQUIRED TERMS OF AN ORDER

Subsection (a) of section 7 limits the terms and conditions of any order issued under this Act to those required under section 7 and those permitted under section 8.

Subsection (b)(1) provides for the establishment of a National Honey Nominations Committee composed of not more than one member from each State from nominations submitted by each State association. If a State association does not submit a nomination, the Secretary may provide a different manner of nomination, except that if the State is not one of the top 20 honey-producing States, that State would not be represented on the Committee.

Subsection (b)(2) provides that members of the Committee serve for three-year terms, with no member serving more than two consecutive three-year terms; and that

the initial appointments be staggered for one-, two-, and three-year terms.

Subsection (b)(3) provides that the Committee select its Chairman by a majority vote.

Subsection (b)(4) provides that members of the Committee serve without compensation, but that they would be reimbursed for their reasonable expenses incurred in the performance of their duties as Committee members.

Subsection (b)(5) provides that the Committee nominate the members and alternates of the Honey Board at its annual meeting and submit such nominations to the Secretary, except that after the first meeting, the Committee may conduct its business by mail ballot in lieu of an annual meeting. In order to nominate members to the Honey Board, at least 50 percent of the members from the twenty leading honey producing States must vote. A quorum for voting at the annual meeting of the Committee is a simple majority, and in the case of a mail ballot, votes must be received from a majority of the Committee.

Subsection (c)(1) provides for the establishment of a Honey Board appointed by the Secretary.

Subsection (c)(2) provides that the membership of the Honey Board shall consist of thirteen members from the following categories:

(A) seven members who are honey producers appointed from nominations submitted by the Committee, one for each of seven regions, as established by the Secretary, on the basis of the production of honey;

(B) two members who are handlers of honey, appointed from nominations submitted by the Committee from recommendations made by the industry organizations representing handler interests;

(C) two members who are importers, appointed from nominations by the Committee from recommendations made by the industry organizations representing importer interests;

(D) one member who is an officer or employee of a honey marketing cooperative, appointed from nominations submitted by the Committee; and

(E) one member selected by the Secretary from the general public.

The subsection also requires the Secretary to appoint one alternate member for each of the members of the Board. Each alternate would be appointed in the same manner as members and would serve only when the member is absent from a meeting or is disqualified.

Subsection (c)(3) provides that members of the Honey Board will serve for three-year terms, with no member serving more than two consecutive three-year terms, and further that initial terms be staggered with an equal number of members appointed, to the maximum extent possible, to one-, two-, and three-year terms.

Subsection (c)(4) provides that when a Honey Board member ceases to represent the category from which he was appointed, he shall automatically be replaced by an alternate.

Section (c)(5) provides that Honey Board members serve without compensation, but that they will be reimbursed for their reasonable expenses incurred in the performances of their duties as Board members.

Subsection (c)(6) defines the powers and duties of the Honey Board to be:

(A) administering orders issued by the Secretary to carry out the provisions of this Act;

(B) prescribing rules and regulations to effectuate such orders;

(C) receiving, investigating, and reporting to the Secretary any accounts of order violations;

(D) making recommendations to the Secretary with respect to amendments to the order; and

(E) employing a manager and staff.

Subsection (d) requires the Honey Board to prepare and submit to the Secretary, for the Secretary's approval, for each fiscal period, a budget of anticipated expenses and disbursements in the administration of the order, including probable costs of research, promotion, and consumer information.

Subsection (e)(1) requires the Honey Board to administer collection of an assessment of at least one cent per pound from producers, producer-packers, or importers with a volume of 6,000 or more pounds of honey per year, and that said monies shall be for funding the activities described in subsections (d) and (f) of this section. After the first year, the Board may request the Secretary to increase the assessment rate by not more than one-half cent each year up to a maximum assessment rate of four cents per pound of honey.

Subsection (e)(2) provides an exemption for those who produce, handle or import less than 6,000 pounds of honey per year and requires that a claim for such an exemption be timely filed.

Subsection (f) provides that the funds collected under subsection (e) will be used for financing research, promotion, consumer education, administration of the order, other expenses for the administration, maintenance, and functioning of the Honey Board as may be authorized by the Secretary, any reserve fund established under section 8(5), and administrative costs incurred by the Department of Agriculture pursuant to this Act, including any expenses incurred for the conduct of referenda.

Subsection (g) prohibits the use of assessment funds in any promotion which makes false or unwarranted claims on behalf of honey or its products or with respect to the attributes or use of any competing product.

Subsection (h) prohibits the use of assessment funds for the purpose of influencing governmental policy or action, except for making recommendations to the Secretary as provided in this Act.

Subsection (i) requires the Board to develop, and submit to the Secretary, for approval, plans for research, promotion, and consumer information. All plans or projects must be approved by the Secretary before becoming effective. After approval by the Secretary, the Board may enter into contracts or agreements for the conduct of research, promotion, and consumer education with the cost thereof paid with assessment funds.

Subsection (j) requires the Honey Board to maintain records of receipts and disbursements and to submit such reports as the Secretary may require, including a complete financial audit report at the end of each fiscal year.

PERMISSIVE TERMS AND PROVISIONS

Section 8 describes certain permissive terms and provisions which may, on the recommendation of the Honey Board and with the approval of the Secretary, be contained in an order issued under the authority of this Act, as follows:

(1) exempting from the provisions of the order honey used for exporting and providing safeguards against improper use of such exemption;

(2) providing that State assessments paid on honey subject to a State marketing order, the objectives of which are comparable to the program established under this Act, shall be credited against the national assessment;

(3) providing for the designation of different handler payment and reporting schedules in recognition of differences in marketing practices and procedures;

(4) providing for the convening by the Board of working groups of producers, handlers, importers, marketers, or members of the public to assist in the development of research and marketing programs for honey;

(5) providing for authority to accumulate reserve funds from assessments collected to be used to permit an effective and continuous coordinated program of research, promotion, and consumer information in years in which the assessment is reduced, but the total reserve fund may not exceed the amount budgeted for one year's operation;

(6) providing authority to use funds, with the Secretary's approval, for the development and expansion of honey and honey product sales in foreign markets;

(7) providing for terms and conditions not inconsistent with the terms and conditions specified in this Act that are necessary to effectuate the other provisions of such an order.

COLLECTION OF ASSESSMENTS; REFUNDS

Section 9 contains provisions applicable to the collection and refunding of assessments.

Subsection (a) designated the first handler of honey as the party responsible for collection of the assessment from the producer unless the honey is imported, placed under price support loan with the Commodity Credit Corporation, or packed by the producer.

Subsection (b) requires the first handler to maintain a separate record on each producer's honey, including the handler's own honey.

Subsection (c) requires importers of honey to pay the assessment at the time the honey enters the United States. The assessment shall be remitted to the Honey Board.

Subsection (d) requires the Secretary of Agriculture to deduct the assessment from the proceeds of the loan on honey stored under the Honey Price Support Program and make payment of these funds to the Honey Board. When the loan is redeemed, the Secretary must provide the producer with proof of payment of the assessment.

Subsection (e) requires producer-packers to pay directly to the Honey Board the assessment on the honey they produce.

Subsection (f) requires handlers, importers, and producer-packers responsible for payment of assessments to file such reports and to maintain and make available for inspection by the Secretary such books and records as are required by the order, so that information and data appropriate for the administration or enforcement of the Act of any order or regulation issued pursuant to the Act will be made available to the Honey Board and to the Secretary.

Subsection (g) requires that the information obtained under the requirements of subsection (f) be kept confidential. The Secretary is authorized, however, to disclose such information as the Secretary deems is relevant in law suits or administrative hearings brought at the Secretary's request or to which the Secretary or any officer of the United States is a party. Nothing in this subsection prohibits the Secretary from (1)

issuing general statements based upon the reports of handlers subject to the order, if the statements do not identify the information furnished by a single person, firm, or organization and (2) publishing the name of any person violating an order, together with a statement of the provisions of the order that were violated.

Subsection (h) allows any producer or importer to request a refund of their assessment if the demand is made within the prescribed time and manner. Refunds made to importers during any year, as a percentage of the total assessments collected from importers, may not exceed the amount of refunds made to domestic producers, as a percentage of total assessments collected from domestic producers. Refunds will be made by the Honey Board in June and December of each year.

PETITION AND REVIEW

Section 10 establishes procedures for petition and review of an order issued pursuant to this Act.

Subsection (a) allows persons subject to an order to petition the Secretary of Agriculture for modification of an order or exemption from an order. Petitioners will be given opportunity for a hearing after which the Secretary shall rule on the petition. This ruling shall be final, if in accordance with law.

Subsection (b) vests jurisdiction with the district courts of the United States to review the Secretary's rulings, upon timely filing of a complaint. If the court determines that the Secretary's ruling is not in accordance with law, it shall remand such proceedings to the Secretary with directions to (1) make such ruling as the court determines to be in accordance with law or (2) to take such further proceedings as the law requires. The pendency of proceedings instituted under this section may not impede, hinder, or delay relief sought under section 11 of this Act.

ENFORCEMENT

Section 11 provides for enforcement of the plans and regulations issued under this Act.

Subsection (a) authorizes the Secretary to refer facts relating to any civil action to the Attorney General for prosecution in the district courts of the United States for the purpose of enforcing any plan or regulation issued under this Act, but does not require such action if the Secretary believes that the plan or regulation would be adequately enforced by administrative action.

Subsection (b)(1) allows the Secretary to assess a civil penalty of not less than $500 or more than $5,000 against any person who violates any provision of any plan or regulation issued under this Act or who fails or refuses to pay, collect, or remit any assessment or fee required of such person. Each violation is a separate offense. The Secretary may issue a cease and desist order in addition to or in lieu of the civil penalty. Civil penalties and cease and desist orders may not be issued until the affected person is given notice of and opportunity for a hearing before the Secretary.

Subsection (b)(2) provides that persons who are found in violation and against whom a civil penalty or order is issued may request judicial review in the appropriate court of appeals of the United States. The Secretary's findings may be set aside only if found to be unsupported by substantial evidence.

Subsection (b)(3) provides that persons who fail to obey a final cease and desist order will be assessed, after opportunity for a hearing and for judicial review, a civil penalty of not more than $500 for each offense and each day during which the failure continues will be deemed a separate offense.

Subsection (b)(4) provides that when a person fails to pay an assessment of a civil penalty after it has become a final and unappealable order, the Secretary shall refer the matter to the Attorney General for recovery, in any appropriate district court, of the amount assessed. The validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

REQUIREMENTS OF REFERENDUM

Section 12 provides that, for the purpose of ascertaining whether issuance of an order is approved or favored by producers and importers, the Secretary is required to conduct a referendum among persons who produced or imported more than 6,000 pounds of honey during a representative period. No order issued under this Act shall be effective unless the Secretary determines that issuance of the order is approved by not less than two-thirds of the producers and importers voting or by a majority of those voting if that majority produced and imported not less than two-thirds of the honey produced and imported during the representative period. The vote of any producer or importer will be confidential and will not be disclosed.

SUSPENSION OR TERMINATION

Section 13 establishes procedures for the continuation, suspension, or termination of an order issued pursuant to this Act.

Subsection (a) requires the Secretary to terminate or suspend operation of an order or any provision of the order upon a finding that the order or provision obstructs or does not effectuate the declared purpose of this Act.

Subsection (b) requires the Secretary to conduct a referendum every five years, beginning on the date on which the Secretary issues the order authorizing the collection of assessments on honey, to determine if producers and importers favor the continuation, termination or suspension of the order.

Subsection (c) requires the Secretary to conduct a referendum to determine if producers and importers favor termination or suspension of the order, if requested to do so by the Honey Board or when petitioned by 10 percent or more of the producers and importers.

Subsection (d) requires the Secretary to terminate or suspend the order at the end of the marketing year whenever such termination or suspension is favored by a majority of producers and importers voting in a referendum and this majority produces and imports more than 50 percent of the volume of honey produced and imported by those voting.

Mr. ANDREWS. Mr. President, today we are called upon to consider H.R. 5358, the Honey Research, Promotion, and Consumer Information Act. Mr. President, this legislation is very important to the honey producers in this country. Over the past few years, they have witnessed an ever increasing influx of imported honey into the American marketplace. Unable to compete with the price of the imported honey, domestic producers have been forced to rely on Government loan programs as a marketing vehicle for their production.

This bill represents an attempt by the honey industry to solve their own problems, and reduce their dependence on the Federal Government. This legislation will give the honey industry the necessary tools and impetus to launch a national program for market research, and to develop consumer awareness for the nutritional quality and versatility of honey. This program will be financed by the honey industry at no cost to the Federal Government.

In summary, Mr. President, this bill is badly needed by the honey industry. Let us join together in passing this legislation which will give the industry a chance to work themselves out of their current difficulties. I urge my colleagues to join myself and Senators ZORINSKY, BAUCUS, MCCLURE, BOSCHWITZ, HECHT, ARMSTRONG, NUNN, and BENTSEN in support of this measure.

Mr. HUDDLESTON. Mr. President, I am pleased that the Senate is considering the Honey Research, Promotion, and Consumer Information Act.

The honey producers in the United States are facing economic hardship. Like producers of many other commodities, honey producers face strong and sometimes unfair competition from foreign suppliers. Honey imports since 1982 have been near 100 million pounds annually; and consumption is down, with per capita sales of honey in the United States well behind sales in other western countries.

Members of the Subcommittee on Agricultural Research and General Legislation heard testimony on September 18, 1984, that indicates the honey industry believes increasing consumer demand will help honey producers cope with these problems.

The bill is designed to aid in increasing consumer demand for honey. It authorizes the establishment of an orderly procedure for the development and financing of a coordinated program of research, promotion, and consumer education related to honey. The program will be used to strengthen the honey industry and maintain, develop, and expand markets for honey and honey products.

The bill provides for the establishment of a Honey Board to manage the research, promotion, and education program. The Honey Board would be authorized to collect an assessment to finance research, promotion and consumer information, and other expenses related to increasing sales of honey. The assessment rate would be no more than 1 cent per pound for the first year the order under which honey research, promotion, and education program will operate is in effect.

The assessment would be applied to all honey produced in the United States by honey producers with an annual production of 6,000 pounds or

more. The assessment would also be collected on imported honey and honey products. A producer or producer-packer who produces or handles less than 6,000 pounds of honey per year or an importer who imports less than 6,000 pounds of honey per year would be exempt from the assessment.

Further, any producer or importer could obtain a refund of the assessment by making a request within the time and in the manner to be prescribed by the Honey Board and approved by the Secretary of Agriculture. However, during any year, the amount of refunds made to honey importers, as a percentage of total assessments collected from importers, cannot exceed the amount of refunds made to domestic producers of honey, as a percentage of total assessments collected from such producers.

After the first year of operations, the Honey Board could submit to the Secretary a request for an increase in the assessment rate not to exceed one-half cent per year. However, at no time could the total assessment rate exceed 4 cents per pound.

Before the assessment could be imposed, it must be approved by two-thirds of the producers and importers voting in a referendum, or by a majority of producers and importers voting if that majority produced and imported two-thirds or more of the honey produced and imported during a representative time period, as determined by the Secretary of Agriculture.

Mr. President, I urge my colleagues to support the bill.

The PRESIDING OFFICER. The bill is open to amendment. If there be no amendment to be proposed, the question is on the third reading of the bill.

The bill (H.R. 5358) was read the third time, and passed.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MOTOR VEHICLE THEFT LAW ENFORCEMENT ACT

Mr. BAKER. Mr. President, I ask the Chair to lay before the Senate Calendar Order No. 1301, H.R. 6257.

The PRESIDENT pro tempore. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 6257) to amend the Motor Vehicle and Information Cost Savings Act to impede those motor vehicle thefts which occur for purposes of dismantling the vehicles and reselling the major parts by requiring passenger vehicles and major replacement parts to have identifying numbers or symbols, and for other purposes.

The PRESIDENT pro tempore. Is there objection to the request of the Senator from Tennessee?

There being no objection, the Senate proceeded to consider the bill.

Mr. DANFORTH. Mr. President, the legislation before us today for consideration addresses a serious national problem—that of motor vehicle theft. Testimony presented last year to the Surface Transportation Subcommittee demonstrated the magnitude of this problem. Motor vehicle theft is currently a very profitable crime. According to the International Association of Chiefs of Police, a vehicle can be stolen in less than 1 minute, with tools costing less than $50. In less than 40 minutes, a vehicle can be totally dismantled and chopped into parts for sale at a "chop shop." The high cost of individual vehicle parts, in turn, makes it very profitable to operate these chop shops. The attorney general of the State of Missouri testified that buying all of the replacement parts for a totally demolished 1982 subcompact car would cost nearly $27,000; this is roughly 3.8 times the original sticker price of that car.

Motor vehicle theft imposes significant costs on society. A 1983 Consumer Federation of America study found that for the year 1981, auto theft cost the American consumers approximately $3.3 billion. This figure reflects such costs as theft-related insurance premiums, replacement costs for the contents of stolen cars, theft prevention devices, and expenses related to the criminal justice system, such as for the courts and police.

Mr. President, earlier this year, the Senate Commerce Committee reported favorably S. 1400 which was sponsored by my distinguished colleague, Senator PERCY. This bill would take major steps to combat motor vehicle theft in this country. Briefly, S. 1400 would do the following:

Require the Department of Transportation to promulgate an initial motor vehicle theft prevention standard under the Motor Vehicle Information and Cost Savings Act. This standard would apply to 14 parts and components of high theft car lines; the Secretary of Transportation would be responsible for determining which parts and components will be numbered. The standard would also apply to all new replacement parts for the parts and components labeled and installed by the manufacturer during the vehicle assembly process. It is important to note that the bill also provides that this initial motor vehicle theft prevention standard may not impose additional costs upon motor vehicle manufacturers in excess of $15 per motor vehicle or, in the case of replacement parts and components, a reasonable lesser amount per part. These additional allowable costs would be indexed to the Consumer Price Index, beginning in 1985.

Provide a civil penalty for manufacturers who fail to meet the theft prevention standard requirements.

Require the Secretary of Transportation and the Attorney General to submit a report to Congress on the fourth anniversary of the effective date of the theft prevention standard. This report would consider the effectiveness of the initial theft prevention standard and contain recommendations as to whether the initial theft prevention standard should be continued in force, modified to include parts and components of fewer or more motor vehicles, or rescinded.

Provide penalties for tampering with any motor vehicle identification number and for trafficking in motor vehicles with parts and components that have altered identification numbers.

Provide penalties for any person who imports, exports, or attempts to import or export stolen vehicles or vehicles whose identification numbers have been removed or otherwise tampered with.

Require the Secretary of Transportation to establish a task force to study problems related to motor vehicle titling and controls over motor vehicle salvage.

Require the Attorney General, in consultation with the Secretaries of Transportation and Treasury to submit an annual report to the Congress on the implementation and development of the provisions of this act.

Mr. President, the provisions of the motor vehicle theft legislation which is before us today, H.R. 6257, are comparable to those contained in S. 1400. One major difference, however, is the House's inclusion of language in section 612 which would require the insurance industry to provide annually certain information to the Secretary of Transportation. Mr. President, I want to emphasize that the purpose of this section is only to prevent and discourage auto theft. It is not intended to create a system of Federal regulation over insurance companies; in fact, this section does not envision any new Federal regulation. Rather, this section is aimed at collecting and analyzing available information, such as that currently provided by the insurance industry to State regulatory authorities or the National Automotive Theft Bureau.

Mr. President, this is important legislation that will make a major contribution toward thwarting motor vehicle theft. I commend my colleague Senator PERCY, for his leadership in this area, and I urge my colleagues to join me in supporting the "Motor Vehicle Theft Law Enforcement Act of 1984."

● Mr. PERCY. Mr. President, it gives me great pleasure to speak on behalf of a bill that Senator BIDEN and I first introduced in 1978, the Motor Vehicle Theft Prevention Act. The legislation now before the Senate has been thoroughly considered.

I would have preferred that we vote on S. 1400, the Senate bill that I introduced in 1983. However, I agree with the decision to hold H.R. 6257 at the Senate desk for Senate consideration.

Given the lateness of the hour, passage of H.R. 6257 by the Senate will avoid the need for a conference with the House to reconcile certain minor differences between the two bills.

Without the long effort here in the Senate, it would have been impossible to have the vote on H.R. 6257. I congratulate Representative S. WILLIAM GREEN for his persistance in securing House passage of this bill. His Manhattan constituents should see almost immediate benefits from passage of this legislation.

Additionally, Representative TIM WIRTH, as chairman of an important House subcommittee, together with Representative GREEN, guided this effort through the House process. We must also thank Representative JOHN D. DINGELL, chairman of the Energy and Commerce Committee, for his support.

Auto theft remains a serious problem. Both the Senate and the House deserve credit for acting today to place Federal limits on this problem.

On the Senate side, I have been particularly impressed by the leadership and ability of the distinguished chairman of the Commerce Committee's Subcommittee on Surface Transportation, JACK DANFORTH, who has given this bill his personal attention and support, and I thank him deeply for all his efforts. My colleague from the State of Illinois, Senator DIXON has also been an ardent supporter of this bill, and has worked for its passage since I first introduced it in 1978, when he was Illinois Secretary of State. Since I first introduced this bill on September 27, 1978, the auto theft epidemic has spread like wildfire—6 million vehicles have been stolen. According to the National Auto Theft Bureau, the total loss to society has been $26 billion. The increase in the cost of the theft portion of automobile insurance has exceeded the increase in the Consumer Price Index.

In some high-crime areas, it can run to over $400. For instance, on the south and west sides of Chicago, motorists pay $322 annually for theft coverage on a standard-sized 1984 car. Even in outlying Cook County, motorists pay $105 annually for the same car, or three times the national average.

Increases have not been as dramatic in rural areas, but reports of auto theft in those areas are increasing in frequency, so the cost of comprehensive coverage can be expected to rise there also.

Mr. President, here are some examples provided by the insurance industry for the theft coverage on a standard 1984 vehicle such as a Chevrolet Celebrity two-door coupe, Ford Tempo GL two-door and four-door sedan; Dodge Aries two-door and four-door sedan; and AMC Eagle four-door sedan. The rates are for adult drivers. The current rate is compared with the rate for same vehicle in 1978.

City	Sept. 1978	July 1984	Change (percent)
New York (Brooklyn south)	$400	$552	+38
Chicago (Central area)	260	429	+61
Los Angeles (downtown)	179	298	+66
Philadelphia	229	345	+51
Cleveland	192	318	+66
Honolulu	90	140	+55
San Francisco (East Side)	180	274	+51
Houston	136	180	+32
St. Louis	308	326	+6

Mr. President, these are typical of the exorbitant costs American motorists are paying for the activities of professional thieves.

Auto theft used to be a crime of juvenile joyriders. This has now changed. It is increasingly the crime of a new breed of underworld professionals. This change is reflected in the much lower recovery rates we have seen in recent years. In 1967, 86 percent of stolen vehicles were recovered, usually with a block or two of their original location, and there was a 24.2 percent arrest rate. In 1983, there is a 12.3 percent arrest rate. And the recovery rate for stolen vehicles has declined to 52.6 percent from more than 86 percent 16 years ago.

The driving force behind this crime is the high profit and low risk in motor vehicle theft and the increasing involvement of the professional thiefs. There are two major components to the current crime wave. First is the proliferation of the so-called chop shops, spurred by the spiralling cost of replacement parts for automobiles damaged in accidents. Some experts estimate that it would cost $30,000 to replace completely, part-by-part, an automobile that cost $7,000 new. The economics of car parts have made it enormously profitable to operate such chop shops, which disassemble stolen vehicles into replacement parts for sale to repair shops. Once a part has been separated from an automobile, it cannot be identified as having come from a stolen vehicle.

The only exceptions are the engine and the transmission, which are stamped with a vehicle identification number. These numbers are required by the States of Georgia and Tennessee, which 15 years ago recognized the value of such identifying numbers. It has been the experience of those in the field that these two parts are almost never sold in the criminal market, and are usually discarded despite their value because of the higher risk of dealing with identifiable parts.

Because of the impossibility of tracing most auto parts, law enforcement officials are unable to prove that parts in the possession of suspected thieves have, in fact, been stolen. As a result, fewer than 15 percent of auto thefts end in arrest, and only a tiny fraction of those result in a conviction.

The second major problem is the unchecked export of the stolen cars overseas. Currently, a thief need only drive to the docks and pay to have the car shipped, or drive across the border to Mexico or Canada. There is no verification of whether the car is legally in his possession.

As Paul W. Gillirand, the able president of the National Automobile Theft Bureau, said in his 1983 report:

Never before has the influence of organized crime operated more directly or with such a variety of facile instruments or with such overwhelming force. Vehicle, theft, once a small cloud on the horizon, has now resolved itself into a storm of conflict. It has become a highly sophisticated, well-structured criminal enterprise costing the American public over $5 billion a year.

President Gilliland has pointed to a new, alarming link between auto theft and narcotics trafficking. As he stated:

There is an interrelationship between auto theft, fraud, and narcotics crimes. Often the profits from commercial vehicle theft rings, chop shop operations, and illicit salvage operations are a major source of financing, secured to initiate a criminal narcotics enterprise. Additionally, once the narcotics enterprise is established, users addicted to drugs engage in auto theft and fraud activities in order to finance their narcotics habit, thus perpetuating the enterprise.

The auto theft problem has drawn the attention of the press in many parts of the country. The Chicago Sun-Times editorialized in favor of my auto theft bill on July 22, 1983.

This legislation would give the law enforcement community the tools it needs to combat the auto theft crimewave. The Motor Vehicle Theft Law Enforcement Act would require that motor vehicle manufacturers place the vehicle identification number on a limited number of major component parts of the automobile, at a maximum cost of $15 per vehicle, if found cost effective. The bill would increase Federal criminal penalties for trafficking in stolen motor vehicles and their parts. It would require motor vehicle shippers to record vehicle identification numbers and to file export declarations with Customs. In addition, the bill would make it a Federal offense to import or export stolen self-propelled vehicles, or their parts, with knowledge that the vehicle or part was stolen. The bill would also prohibit the importation or exportation of vehicles or parts whose identification numbers the importer or exporter knows to

have been removed, obliterated, tampered with, or altered.

Title III is intended to give the U.S. Customs Service the necessary authority it needs to help curb the importation and exportation of stolen motor vehicles and off-highway mobile equipment. It is anticipated that the Customs Service will coordinate its criminal investigation activity under the new 18 U.S.C. 553 with the Federal Bureau of Investigation which has concurrent investigative authority over the transportation in foreign commerce of stolen motor vehicles under the existing provisions of 18 U.S.C. 2312 and 2313.

At present the Department of Transportation has issued regulation relating to only a vehicle identification number [VIN]. This is Federal Motor Vehicle Safety Standard No. 115 whose original effective date was January 1, 1969. Under title I of this act, the Secretary of Transportation is given regulatory authority to require identification numbers for the major parts of motor vehicles. Consequently, after the enactment of this act, section 511 of title 18, United States Code, will make it a Federal crime to remove or alter any VIN that was required by Federal regulation on any existing motor vehicle, including trucks, vans, motorcycles, and so forth, that was manufactured after January 1, 1969, as well as any future motor vehicle since the VIN is already required by Department of Transportation regulations. On the other hand, the removal or alteration of the identification number for a major part would only become a Federal crime under title 18 United States Code 511 when such removal or alteration occurred after the establishment of Department of Transportation regulations requiring or permitting an identification number of such part.

Mr. President, this bill has the solid support of the International Association of Chiefs of Police and the International Association of Auto Theft Investigators. This measure has also received support from a broad spectrum of concerned groups and individuals, who united to form the Coalition to Halt Automotive Theft. Among the members of the coalition are representatives from the insurance and automotive repair industries, automotive dismantlers and recyclers, law enforcement associations, and consumers. The chairman of the coalition is Ronald Sostowski, director of the division of State and provincial police for the International Association of Chiefs of Police. The vice chairman is Rick Siemack, corporate staff, Automobile Club of Michigan. Bill Sudow, counsel to the coalition; David Jewell, external relations director; and Ted Johnson, the former executive director, have played key roles in the coalition.

But there are many who have joined our efforts to enact this crime-fighting package into law. I am almost afraid to name them, for fear that I might leave someone out. But I believe special mention should go to several groups and individuals:

Allstate Insurance Co., Chuck Bruse, Washington representative;

Alliance of American Insurers; Sally Kirkpatrick;

American Insurance Association; Jeanne McGowan;

The Automotive Dismantlers & Recyclers of America, Russ McKinnon, president.

State Farm Insurance; Herman Brandau, associate counsel.

William E. Sudow, attorney with Wyman, Bautzer, Rothman, Kuchel & Silbert;

Ronald C. Van Raalte, former president of the International Association of Auto Theft Investigators and now Great Lakes zone security manager in Chicago for Avis Rent A Car System;

Thomas Bowman, Michigan Auto Club;

The National Automobile Theft Bureau in Palos Hills, IL, Paul W. Gilliland, president; and Tim Kett, public relations director;

International Association of Chiefs of Police, Glen R. Murphy, and Ronald H. Sostkowski, and Robin Mayer;

Kentucky State Police, Lt. Richard D. McQuown, commander auto theft section;

Office of the Illinois Secretary of State, Lt. Vladamir Ivkovich.

There are many others who deserve credit—some of whom wish to remain anonymous, such as former car thieves who came forward to provide appropriate Senate committees with valuable information about the nature of chop shop operations. Some are Federal employees, who have labored behind the scenes to promote this bill, but who do not want public recognition.

Finally, I would like to congratulate the domestic motor vehicles manufacturers. After many years of opposing this bill, in a true and genuine spirit of public citizenship came forward earlier this year to hammer out the compromise we have voted on today. I congratulate them.

Mr. President, auto theft in the United States now represents a $5 billion a year criminal activity. It has imposed costs on the criminal justice system of well over $1 billion per year. These costs are not borne just by those who are the unfortunate victims of professional auto thieves but by everyone of us, and by everyone of our constituents who pays higher insurance premiums because of it. It is time to shut down the chop shops, and to put an end to this crime wave. This legislation will provide the necessary tools to do just that.

Most importantly, it will drain the profit out of auto theft. We are going to hit these underworld characters where it hurts—in the pocketbook. And that is what we must do, if we are going to end motor vehicle theft in this country.

I urge my colleagues to support this bill. It is a good bill. It has been carefully considered. It will ultimately result in very tangible savings on the insurance bill of every one of your constituents who pays for theft coverage on a motor vehicle.

And it is long, long overdue.●

Mr. PACKWOOD. Mr. President, motor vehicle theft is a serious crime in the United States. According to FBI statistics, more than 1 million vehicles were stolen during 1982. This resulted in a $4.5 billion loss to the American public and more than $3 billion in other related consumer costs.

In my home State of Oregon, for example, there were more than 6,800 vehicles stolen during the first 9 months of 1981, according to the Oregon AAA. These thefts represented more than $19 million in economic loss. Only about 4,400 of these vehicles were ever recovered. During the same time period, Portland saw a 27-percent increase in motor vehicle theft compared to the previous year; over 1,800 vehicles were stolen, representing an economic loss of nearly $5.3 million. Roughly, 1,100 of these stolen vehicles were recovered.

Mr. President, motor vehicle theft is a growing problem nationwide. H.R. 6257 takes steps to combat this type of crime by requiring manufacturers to either label certain automobile parts and components with identification numbers or install an appropriate antitheft device in cars. Further, the bill also strengthens law enforcement capabilities by increasing the criminal penalties applicable to trafficking in stolen motor vehicles and their parts and components and takes steps to curtail the export of stolen motor vehicles.

Mr. President, H.R. 6257 is important legislation which will help to curb the motor vehicle theft problem in this country. I urge my colleagues to join me in supporting this legislation.

● Mr. PERCY. I would like to ask my distinguished colleague about the scope and intent of section 612, entitled "Insurance Reports and Information." It is my understanding that this section of the House-passed bill, H.R. 6257, would require the insurance industry to provide annually certain information to the Secretary of Transportation. Can you explain the purpose of this language which is not included in the Senate version, S. 1400, a bill I authored?

● Mr. DANFORTH. I thank my distinguished colleague for his question about this House language. The intent

of section 612 is to permit the Secretary of Transportation to collect and assess data from the automobile insurance industry in furtherance of the purpose of this legislation—to prevent or discourage auto theft and the nationwide distribution of major crash parts removed from stolen vehicles.

My reading of this language, section 612, is that only information absolutely essential for the administration of this bill could be required by the Secretary.

It is my understanding that section 612 was added to H.R. just prior to the House Commerce Committee markup on this legislation. No testimony was presented to support inclusion of this language. Specifically, the law enforcement community, including the Department of Justice, has never suggested that Federal insurance reporting requirements were necessary to meet the goals of auto theft legislation. The insurance industry, additionally, regards section 612 of the House-passed bill as unwarranted and ill-conceived. It opposes this language as a violation of the strong and long standing principle regarding State regulation of insurance.

● Mr. PERCY. I thank my colleague for that explanation. Let me mention that the Senate bill, S. 1400, anticipates that insurers would provide the Secretary all appropriate information voluntarily, an approach which the industry strongly favors.

The insurance industry is to be commended for its efforts to combat auto theft. This legislation will be a significant first step in achieving a meaningful decrease in auto theft. The insurance industry has been very helpful and constructive in bringing this legislation through the various stages of negotiation to achieve this current compromise.

I would heartily agree with my insurance friends that this bill may not be perfect, but it is a good first step in combating a serious national problem. If further legislation is required to improve or clarify any particular provisions of this bill, including section 612, I intend to introduce and seek enactment of additional legislation in the 99th Congress.

I would ask my distinguished colleague if his understanding of section 612 tracks with mine: That no new data collection requirements are to be imposed on the insurance industry by this legislation; and that this section merely asks insurance companies to report comulative or summary information either directly or through a designated agent such as the NATB, that is already a part of their own statistical record systems.

● Mr. DANFORTH. The Senator is correct. In fact, section 612 does not envision any new Federal regulation. Rather, this section is designed to collect and analyze only available information, such as that currently provided by insurers to the National Auto Theft Bureau or State regulatory authorities.

Specifically, no alteration in existing statistical or data collection practices is being sought by this reporting provision. The Secretary of Transportation will be requesting only information that is absolutely essential for law enforcement purposes. In addition, any information sought about rating rules and plans is to be limited to comprehensive insurance coverage and designed to identify vehicle—rather than driver—characteristics. We expect most insurers to comply with this requirement by furnishing the Secretary, either directly or through a designated agent, with a copy of their make and model rating programs or other plans of a similar nature.

● Mr. PERCY. I thank my colleague for his response to my questions and I wish to associate myself with his analysis of this portion of the bill.●

● Mr. D'AMATO. Mr. President, I commend the Senator from Illinois for his leadership in connection with the Motor Vehicle Theft Law Enforcement Act of 1984. The theft of automobiles is a growing problem across the country and, in particular, in my State of New York. Motor vehicle theft has become a crime of the professional criminal. Vehicles which are stolen are chopped into component parts which are frequently sold through legitimate and generally unsuspecting parts dealers. The Motor Vehicle Theft Law Enforcement Act strikes at the heart of this problem by requiring that vehicle identification numbers be placed on the major component parts of high-theft automobiles. Such a numbering program will enable law enforcement authorities to link parts which may be recovered to vehicles which have been reported as stolen and thereby provide a basis for successfully prosecuting professional car thieves.

Mr. President, I am firmly convinced that numbering of component parts will substantially reduce motor vehicle thefts. During the last several years while this legislation was under consideration in Congress, I understand that several companies developed identification systems which would permit numbers to be permanently etched onto vehicle components. One such system with which I am familiar, Auto I.D., permits a worker to permanently affix a vehicle identification number on all glass and vehicle component parts in less than 15 minutes. To ensure that all new automobiles be numbered, the company proposed to sell their product through automobile dealers who would apply the numbers at the time each new vehicle was sold.

Mr. President, I am familiar with this system and believe it could contribute significantly to the effort to deter auto theft. I would like to ask the sponsor of S. 1400, Senator PERCY, if such a system could be incorporated in the standard mandated under the Motor Vehicle Theft Law Enforcement Act now before us, H.R. 6257.

● Mr. PERCY. Mr. President, I thank the Senator from New York for his support for this legislation and his recognition of the importance of component numbering as a way of deterring motor vehicle theft. For the first time, this legislation mandates that vehicle identification numbers be applied on all high-theft automobiles which are introduced into commerce in the United States.

Under the bill, motor vehicle manufacturers would be required to apply these numbers before each vehicle leaves the factory. Further, each manufacturer would be required to provide a certification of such applications. The bill makes it a crime to be in possession of an automobile component, the vehicle identification number of which has been altered or removed. This is critical to the effectiveness of the standard because a professional thief could not remove a component Identification from a stolen part and argue that the part had never been numbered. It is absolutely essential, therefore, that the standard promulgated under this legislation provide certainty that the parts requried to be numbered have, in fact, been numbered. The Motor Vehicle Theft Law Enforcement Act addresses this problem by requiring that the numbers be applied by the manufacturer of the vehicle and by requiring that the manufacturer certify such application.

Mr. President, I am sympathetic to the concerns expressed by the Senator from New York. First, as the Senator knows, the standard promulgated under the legislation affects only high-theft automobiles. Thus, the system described by the Senator from New York could be utilized in connection with trucks, vans, and multipurpose vehicles, as well as those automobiles not subject to the standard. And, of course, millions of new automobiles, both high and low theft, will be sold from now until the date the rule is effective. Second, I am impressed with the numbering technique developed by Auto I.D. I urge the Secretary of Transportation, in connection with the promulgation of the theft prevention standard, to consider a rule which would permit utilization of this technique by the automobile manufacturers, provided it conforms with the requirements of the standard. And, I urge the automobile manufacturers to examine carefully this technique as they begin to implement the standard.

● Mr. D'AMATO. I thank the Senator. I would also like to join with him at this time in urging the Secretary of Transportation to promulgate a rule

permitting utilization of the Auto I.D. technique by automobile manufacturers. I also recommend that the manufacturers consider this technique. I think its benefits are exceptional.●

A GIANT STEP TOWARD AUTO THEFT PREVENTION

Mr. DIXON. Mr. President, as one who has long been interested in auto theft prevention, I wish to applaud the action of the Senate in adopting the auto theft bill.

This represents a giant step toward effective auto theft prevention. The bill provides law enforcement officers with new tools through vehicle identification numbers that should help us reduce auto theft.

Law enforcement will be assisted tremendously with the affixing of identification numbers to major parts of vehicles. Fewer thefts and increased recoveries of stolen vehicles will result from this legislation.

I hasten to add, Mr. President, that this is not only a law enforcement bill. It is also a consumer bill. Consumers will benefit through reductions in insurance premiums which, in urban areas particularly, are presently astronomical.

I have been supportive of the Senate version of this bill as a cosponsor. As a matter of fact, I have been interested in the bill since my days as Illinois Secretary of State, when my office was very active in auto theft investigation and prevention.

Senator PERCY, who authored the Senate bill, and I are proud of the fact that Illinois has been in the forefront in the effort to control and reduce auto theft. What has come to be known as the "Illinois Plan" for auto theft prevention put a real dent in the chop shop racket. A combination of legislative initiatives and administrative enforcement by the secretary of State's office led to the closing down of scores of illegal chop shop operations.

Now we should see similar results as a consequence of the Senate's action today. With component identification as embodied in this legislation, it will be harder for organized crime to cut up stolen cars and sell the parts in the legitimate market. A legitimate operator will not buy parts that could be confiscated if they proved to be stolen.

Other States, as Illinois has already done, will find it easier to put the auto thieves and organized crime on the run following congressional adoption of this bill. Auto theft prevention will become even more meaningful, Mr. President, as a result of this significant legislative initiative.

Mr. RIEGLE. Mr. President, the legislation that is before the Senate is the product of many hours of negotiation on both sides of the Hill, and is a bona fide compromise among many different views. The bill is a positive step toward a national effort to curb auto theft. It will give the law enforcement community the means to establish a paper trail which will accompany all high-theft auto parts. This trail, which is essential to the construction of a legal case, should result in more effective prosecution of so-called chop shop operations.

The legislation has been targeted to the highest theft vehicles, and 70 percent of all auto thefts last year would have been covered by marking provisions of this legislation. In addition, the bill creates a positive incentive for manufacturers to develop and perfect antitheft devices which may, in the long run, be more effective and less expensive methods of theft prevention.

The legislation has the concurrence of the automobile industry, as well as insurance companies. There are, however, legitimate concerns that marking will not be an effective antitheft measure. This concern is based upon the inconclusive evidence that has emerged following the voluntary marking programs that several manufacturers have conducted. To meet this concern, the bill has a sunset provision with procedures for renewing the program if the body of evidence supports the extension.

Mr. President, this legislation has followed a difficult course since its introduction, but I am confident that the product that is before the Senate today, and which passed the House unanimously is an acceptable compromise to all interests and I commend it to my colleagues.

In closing, I would like to thank Congressman DINGELL, Congressman WIRTH, Senator DANFORTH and all those who were involved in the development of this legislation. It is an example of what is possible and what can be achieved once opposing positions reach a consensus and produce legislation that all can accept.

The PRESIDENT pro tempore. The bill is open to amendment. If there be no amendment to be proposed, the question is on the third reading of the bill.

The bill (H.R. 6257) was read the third time, and passed.

WOMEN'S ARMY CORPS VETERANS ASSOCIATION

Mr. BAKER. Mr. President, I ask the Chair to lay before the Senate H.R. 4966.

The PRESIDENT pro tempore. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 4966) to recognize the organization known as the Women's Army Corps Veterans Association.

The PRESIDENT pro tempore. Is there objection to the request of the Senator from Tennessee?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 7064

(Purpose: To make certain technical and conforming amendments)

Mr. BAKER. Mr. President, on behalf of the distinguished Senator from Florida [Mrs. HAWKINS], I send an amendment to the desk and ask for its immediate consideration.

The President pro tempore. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Tennessee [Mr. BAKER], on behalf of Mrs. HAWKINS, proposes an amendment numbered 7064.

Mr. BAKER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment reads as follows:

On page 2, line 6, stike out the colon and insert in lieu thereof "a continuing commitment, on a national basis, to—".

On page 2, line 7, strike out "promoting" and insert in lieu thereof "promote".

On page 2, line 11, strike out "recognizing" and insert in lieu thereof "recognize".

On page 2, line 13, strike out "providing" and insert in lieu thereof "provide".

On page 5, line 7, strike out "(60)" and insert in lieu thereof "(64)".

On page 6, line 6, after the period insert the following: "If the corporation fails to maintain such status, the charter granted by this Act shall expire.".

The PRESIDENT pro tempore. The question is on agreeing to the amendment.

The amendment (No. 7064) was agreed to.

Mrs. HAWKINS. Mr. President, I am pleased to be the sponsor of S. 2720, a bill which grants a Federal charter to the Women's Army Corps Veterans Association; 47 Senators have joined me in cosponsoring S. 2720. I now rise in support of H.R. 4966, the House companion bill.

Today there are about 1,200,000 women veterans, a number that is questionable because of the past lack of emphasis on women veterans and their needs. Women veterans have served our Nation with valor and a dedication that has rivaled that of their male counterparts. The recognition given to the women who have worn the uniform in the defense of our Nation has in the past often been lacking. Women veterans have had little representation among veterans groups and no organization to effectively champion their concerns nationally.

In 1946, veterans and active members of Women's Army Corps met in Chicago, IL, to organize a Women's Army Corps Veterans Association. The Chicago-WAC Veterans Association has chartered on July 26, 1946, as a general nonprofit corporation in the State of Illinois.

Members were recruited in other cities, and by August 1947, 150 members met to establish the national organization. On May 14, 1951, with a membership of 600, the National Certificate of Inc., was received for the record in the office of the recorder of deeds in the District of Columbia. The organization has continued to grow after it was incorporated. Since 1982 the growth has been more rapid as a result of women veterans' awareness and also a publicity effort on the part of the organization. The bylaws were changed in 1983 to allow the women of the Army Reserve and the Army National Guard to become voting members. The recruiting base was thus increased, providing for an even greater rate of growth.

As stated in its certificate of incorporation:

The object of this Corporation is to promote the general welfare of all veterans, especially the personnel of the Women's Army Corps, its veterans and veterans of the Women's Army Auxiliary Corps in hospitals or wherever they may be; to provide publications pertaining to the members; and to further general education and civic betterment programs for the general welfare of the community.

As early as 1948, members of this association particpated in volunteer work at veterans' administration hospitals. Today, volunteers serve in 30 VA hospitals and nursing homes. In the past 5 years alone, members have donated over 85,000 hours of volunteer services; made donations totaling well over $10,000, and donated an immeasurable amount of time, effort and personal expense in providing gifts to the patients.

At the national level, the association contributes to various activities. It supports the Cathedral of the Pines at Ringe, NH. In 1965, the association established an Edith Norse Scholarship which is awarded annually to a political science student and a dependent of a veteran at Boston University. In 1976, a Redwood Grove memorial fund was established. The top female ROTC student in each of the four ROTC districts is annually awarded a Pallas Athene Award.

At the chapter level, the association contributes to a great number of activities. The Wheelchair Olympics, restoration of the Statute of Liberty, donations to battered women, donations to USO, scholarships to high school and college students and transportation for senior citizens are but a few of the activities supported by local chapters.

In 1983, Congress established a Women's Advisory Committee to the Veterans' Administration to look into medical care for women veterans. Of the 17 members selected, 4 are from this organization.

Federal recognition in the form of a charter is vitally important to the growing membership of the Women's Army Corps Veterans Association. Without a charter the association is unable to obtain voting membership in unified veterans groups and associations. The association cannot participate as a voting member on VA hospital committees, either locally or on a national level. The membership has much to contribute to these activities, but without a charter, members can merely observe.

It is time we provide recognition to the Women's Army Corps Veterans Association specifically and in so doing recognize women veterans generally. This, the largest association of women veterans, has clearly earned a Federal charter through humanitarian concern, projects and untiring service. Women veterans have earned our gratitude through their selfless dedication and their many contributions to the defense of our great Nation.

I call on each of you to join me in providing this Federal charter to this outstanding veterans organization.

The PRESIDENT pro tempore. Are there further amendments? If not, the question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill (H.R. 4966) was read the third time, and passed.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

TRANSFER OF CERTAIN LANDS TO CRAIG COUNTY, VA

Mr. BAKER. Mr. President, I ask the Chair to lay before the Senate Calendar Order No. 1216, H.R. 5183.

The PRESIDENT pro tempore. The clerk will state the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 5183) to direct the Secretary of Agriculture to convey certain National Forest System lands to Craig County, Virginia.

The Senate proceeded to consider the bill.

Mr. HUDDLESTON. Mr. President, H.R. 5183 would require the Secretary of Agriculture to transfer a 52-acre tract of National Forest System land to Craig County, VA, upon payment by the county of the fair market value of the property.

The land to be conveyed is part of the Jefferson National Forest and was acquired by the United States in 1936. The county has been using 10.5 acres of this land for a sanitary landfill under a license granted by the Forest Service in 1973. The county desires to obtain title to this tract for possible use as a disposal site for sludge from a sewage treatment plant that it intends to construct with a grant from the Environmental Protection Agency.

Alternative sites in the area are difficult to locate, in part because a large percentage of the land in the county is owned by the United States. Further, this particular tract is isolated from other National Forest System land. Because of this and because of its relatively small size, this land is not a key tract for national forest management purposes. The Department of Agriculture does not object to this transfer.

This bill will help the local county government meet its responsibility of providing its citizens with an adequate sewage treatment system. Therefore, I urge my colleagues to vote for its passage.

Mr. HELMS. Mr. President, H.R. 5183 directs the Secretary of Agriculture to convey 52 acres of National Forest System land to Craig County, VA. Craig County will pay the Secretary the fair market value of the 52-acre tract in return for this conveyance.

The land that would be conveyed under the bill is part of the Jefferson National Forest and was acquired by purchase from private parties in 1936. Since 1973, the county has used 10.5 acres of the tract as a sanitary landfill under a special use permit from the Forest Service. There has been no charge for this use. The county now seeks to acquire the 52 acres to expand the sanitary landfill for possible use as a disposal site for sludge from a sewage treatment plant the county plans to construct with a grant from the Environmental Protection Agency. Alternative sites in the area are difficult to locate, in part because most of the land in the county is owned by the United States.

Mr. President, the United States will be paid the fair market value of this land. The 52-acre tract is isolated from other National Forest System lands and is not a key tract for national forest management. The Committee on Agriculture, Nutrition, and Forestry has examined this bill and has reported it with the recommendation that it pass.

Mr. President, in light of the foregoing, I urge my colleagues to support passage of H.R. 5183.

The PRESIDENT pro tempore. The bill is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the bill.

The bill (H.R. 5183) was ordered to a third reading, was read the third time, and passed.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

VETERANS' DIOXIN AND RADIATION EXPOSURE COMPENSATION STANDARDS ACT

Mr. BAKER. Mr. President, I ask that the Chair lay before the Senate a message for the House of Representatives on H.R. 1961.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendments of the Senate to the bill (H.R. 1961) entitled "An Act to amend title 38, United States Code, to provide disability and death allowances to veterans and the survivors of veterans who served in Southeast Asia during the Vietnam era and suffered from diseases that may be attributable to exposure to the herbicide known as 'Agent Orange' and to veterans and the survivors of veterans who participated in atomic tests or the occupation of Hiroshima and Nagasaki and suffered from diseases that may be attributable to ionizing radiation," with the following amendments:

In lieu of the matter inserted by said amendment to the text of the bill, insert:

SHORT TITLE

SECTION 1. This Act may be cited as the "Veterans' Dioxin and Radiation Exposure Compensation Standards Act".

FINDINGS

SEC. 2. The Congress makes the following findings:

(1) Veterans who served in the Republic of Vietnam during the Vietnam era and veterans who participated in atmospheric nuclear tests or the American occupation of Hiroshima or Nagasaki, Japan, are deeply concerned about possible long-term health effects of exposure to herbicides containing dioxin or to ionizing radiation.

(2) There is scientific and medical uncertainty regarding such long-term adverse health effects.

(3) In section 102 of Public Law 97-22, the Congress responded to that uncertainty by authorizing priority medical care at Veterans' Administration facilities for any disability of a veteran who may have been so exposed (even though there is insufficient medical evidence linking such disability with such exposure) unless the disability is found to have resulted from a cause other than the exposure.

(4) The Congress has further responded to that medical and scientific uncertainty by requiring, in section 307 of Public Law 96-151 and section 601 of Public Law 98-160, the conduct of thorough epidemiological studies of the health effects experienced by veterans in connection with exposure both to herbicides containing dioxin and (if not determined to be scientifically infeasible) to radiation, and by requiring in Public Law 97-414, the development of radioepidemiological tables setting forth the probabilities of causation between various cancers and exposure to radiation.

(5) There is some evidence that chloracne, porphyria cutanea tarda, and soft tissue sarcoma are associated with exposure to certain levels of dioxin as found in some herbicides and that most types of leukemia, malignancies of the thyroid, female breast, lung, bone, liver, and skin, and polycythemia vera are associated with exposure to certain levels of ionizing radiation.

(6) As of the date of the enactment of this Act, there are 66 federally sponsored research projects being conducted relating to herbicides containing dioxin, at a cost to the Federal Government in excess of $130,000,000 and, as of 1981, federally sponsored research projects relating to ionizing radiation were costing the Federal Government more than $115,000,000.

(7) The initial results of one project—an epidemiological study, conducted by the United States Air Force School of Aerospace Medicine, of the health status of the "Ranch Hand" veterans who carried out the loading and aerial spraying of herbicides containing dioxin in Vietnam and in the process came into direct skin contact with such herbicides in their most concentrated liquid form—were released on February 24, 1984, and contained the conclusion "that there is insufficient evidence to support a cause and effect relationship between herbicide exposure and adverse health in the Ranch Hand group at this time".

(8) The "film badges" which were originally issued to members of the Armed Forces in connection with the atmospheric nuclear test program have previously constituted a primary source of dose information for veterans (and survivors of veterans) filing claims for Veterans' Administration disability compensation or dependency and indemnity compensation in connection with exposure to radiation.

(9) These film badges often provide an incomplete measure of radiation exposure, since they were not capable of recording inhaled, ingested, or neutron doses (although the Defense Nuclear Agency currently has the capability to reconstruct individual estimates of such doses), were not issued to most of the participants in nuclear tests, often provided questionable readings because they were shielded during the detonation, and were worn for only limited periods during and after each nuclear detonation.

(10) Standards governing the reporting of dose estimates in connection with radiation-related claims for Veterans' Adminstration disability compensation vary among the several branches of the Armed Forces, and no uniform minimum standards exist.

(11) The Veterans' Administration has not promulgated permanent regulations setting forth specific guidelines, standards, and criteria for the adjudication of claims for Veterans' Administration disability compensation based on exposure to herbicides containing dioxin or to ionizing radiation.

(12) Such claims (especially those involving health effects with long latency periods) present adjudicatory issues which are significantly different from issues generally presented in claims based upon the usual types of injuries incurred in military service.

(13) It has always been the policy of the Veterans' Administration and is the policy of the United States, with respect to individual claims for service connection of diseases and disabilities, that when, after consideration of all evidence and material of record, there is an approximate balance of positive and negative evidence regarding the merits of an issue material to the determination of a claim, the benefit of the doubt in resolving each such issue shall be given to the claimant.

PURPOSE

SEC. 3. The purpose of this Act is to ensure that Veterans' Administration disability compensation is provided to veterans who were exposed during service in the Armed Forces in the Republic of Vietnam to a herbicide containing dioxin or to ionizing radiation in connection with atmospheric nuclear tests or in connection with the American occupation of Hiroshima or Nagasaki, Japan, for all disabilities arising after that service that are connected, based on sound scientific and medical evidence, to such service (and that Veterans' Administration dependency and indemnity compensation is provided to survivors of those veterans for all deaths resulting from such disabilities).

REQUIREMENT IN TITLE 38, UNITED STATES CODE, RELATING TO REGULATIONS

SEC. 4. Section 354(a) of title 38, United States Code, is amended—

(1) by striking out the comma after "disabilities" and inserting in lieu thereof "(1)"; and

(2) by inserting before the period a comma and "and (2) the provisions required by section 5 of the Veterans' Dioxin and Radiation Exposure Compensation Standards Act".

REQUIREMENT FOR AND CONTENT OF REGULATIONS

SEC. 5. (a) In carrying out the responsibilities of the Administrator of Veterans' Affairs under section 354(a)(2) of title 38, United States Code, and in order to promote consistency in claims processing and decisions, the Administrator shall prescribe regulations to—

(1) establish guidelines and (where appropriate) standards and criteria for the resolution of claims for benefits under laws administered by the Veterans' Administration where the criteria for eligibility for a benefit include a requirement that a death or disability be service connected and the claim of service connection is based on a veteran's exposure during service—

(A) in the Republic of Vietnam during the Vietnam era to a herbicide containing dioxin, or

(B) in connection with such veteran's participation in atmospheric nuclear tests or with the American occupation of Hiroshima or Hagasaki, Japan, prior to July 1, 1946, to ionizing radiation from the detonation of a nuclear device; and

(2) ensure that, with respect to those claims, the policy of the United States described in section 2 (13) is carried out.

(b)(1)(A) The guidelines required to be established in regulations prescribed under this section shall include guidelines governing the evaluation of the findings of scientific studies relating to the possible increased risk of adverse health effects of exposure to herbicides containing dioxin or of exposure to ionizing radiation. Those guidelines shall require that, in the evaluation of those studies, the Administrator shall take into account whether the results are statistically significant, are capable of replication, and withstand peer review.

(B) The evaluations described in subparagraph (A) shall be made by the Administrator of Veterans' Affairs after receiving the advice of the appropriate panel of the Scientific Council of the Veterans' Advisory Committee on Environmental Hazards (established under section 6). Those evaluations shall be published in the notice section of the Federal Register.

(C) The standards and criteria required to be established in regulations prescribed under this section shall include provisions governing the use in the adjudication of in-

dividual claims of the Administrator's evaluations made under subparagraph (B).

(2)(A)(i) In prescribing regulations under this section, the Administrator (after receiving the advice of the Advisory Committee and of the appropriate panel of the Scientific Council of the Veterans' Advisory Committee on Environmental Hazards regarding the diseases described in subparagraph (B)) shall make determinations, based on sound medical and scientific evidence, with respect to each disease described in subparagraph (B) as to whether service connection shall, subject to division (ii) of this subparagraph, be granted in the adjudication of individual cases. In making determinations regarding such diseases, the Administrator shall give due regard to the need to maintain the policy of the United States with respect to the resolution of contested issues as set forth in section 2(13). The Administrator shall set forth in such regulations such determinations, with any specification (relating to exposure or other relevant matter) of limitations on the circumstances under which service connection shall be granted, and shall implement such determinations in accordance with such regulations.

(ii) If the Administrator makes a determination, pursuant to this subparagraph, that service connection shall be granted in the case of a disease described in subparagraph (B), the Administrator shall specify in such regulations that, in the adjudication of individual cases, service connection shall not be granted where there is sufficient affirmative evidence to the contrary or evidence to establish that an intercurrent injury or disease which is a recognized cause of the described disease has been suffered between the date of separation from service and the onset of such disease or that the disability is due to the veteran's own willful misconduct.

(iii) With regard to each disease described in subparagraph (B), the Administrator shall include in the regulations prescribed under this section provisions specifying the factors to be considered in adjudicating issues relating to whether or not service connection should be granted in individual cases and the circumstances governing the granting of service connection for such disease.

(B) The diseases referred to in subparagraph (A) are those specified in section 2(5) and any other disease with respect to which the Administrator finds (after receiving and considering the advice of the appropriate panel of the Scientific Council established under section 6(d)(2)) that there is sound scientific or medical evidence indicating—

(i) a connection to exposure to a herbicide containing dioxin, in the case of a veteran who was exposed to that herbicide during such veteran's service in the Republic of Vietnam during the Vietnam era, or

(ii) a connection to exposure to ionizing radiation, in the case of a veteran who was exposed to ionizing radiation in connection with such veteran's participation in an atmospheric nuclear test or with the American occupation of Hiroshima or Nagasaki, Japan, before July 1, 1946.

(3) The regulations prescribed under this section shall include—

(A) specification of the maximum period of time after exposure to such herbicide or ionizing radiation for the development of those diseases; and

(B) a requirement that a claimant filing a claim based upon a veteran's exposure to a herbicide containing dioxin or to ionizing radiation from the detonation of a nuclear device may not be required to produce evidence substantiating the veteran's exposure during active military, naval, or air service if the information in the veteran's service records and other records of the Department of Defense is not inconsistent with the claim that the veteran was present where and when the claimed exposure occurred.

(c)(1) The Administrator of Veterans' Affairs shall develop the regulations required by this section (and any amendment to those regulations) through a public review and comment process in accordance with the provisions of section 553 of title 5, United States Code. That process may include consideration by the Administrator of the recommendations of the Veterans' Advisory Committee on Environmental Hazards and the Scientific Council thereof (established under section 6) with respect to the proposed regulations, and that process shall include consideration by the Administrator of the recommendations of the Committee and the Council with respect to the final regulations and proposed and final amendments to such regulations. The period for public review and comment shall be completed not later than 90 days after the proposed regulations or proposed amendments are published in the Federal Register.

(2)(A) Not later than 180 days after the date of the enactment of this Act, the Administrator shall develop and publish in the Federal Register a proposed version of the regulations required to be prescribed by this section.

(B) Not later than thn 300 days after the date of the enactment of this Act, the Administrator shall publish in the Federal Register the final regulations (together with explanations of the bases for the guidelines, standards, and criteria contained therein) required to be prescribed by this section.

ADVISORY COMMITTEE ON ENVIRONMENTAL HAZARDS

SEC. 6. (a) The advisory committee referred to in subsections (b) and (c) of section 5, to be known as the Veterans' Advisory Committee on Environmental Hazards (hereinafter in this section referred to as the "Committee") shall consist of fifteen members appointed by the Administrator of Veterans' Affairs after requesting and considering recommendations from veteran organizations, including—

(1) eleven individuals (of whom none may be members of the Armed Forces on active duty or employees of the Veterans' Administration or the Department of Defense and not more than three may be employees of other Federal departments or agencies), appointed, after requesting and considering the recommendations of the heads of Federal entities with particular expertise in biomedical and environmental science, including—

(A) three individuals who are recognized medical or scientific authorities in fields pertinent to understanding the health effects of exposure to dioxin;

(B) three individuals who are recognized medical or scientific authorities in fields pertinent to understanding the health effects of exposure to ionizing radiation; and

(C) five individuals who are recognized medical or scientific authorities in fields, such as epidemiology and other scientific disciplines, pertinent to determining and assessing the health effects of exposure to dioxin or ionizing radiation in exposed populations; and

(2) four individuals from the general public, including at least one disabled veteran, having a demonstrated interest in and experience relating to veterans' concerns regarding exposure to dioxin or ionizing radiation.

(b) The Committee shall include, as ex officio, nonvoting members, the Chief Medical Director and the Chief Benefits Director of the Veterans' Administration, or their designees.

(c) The Committee shall submit to the Administrator any recommendations it considers appropriate for administrative or legislative action.

(d)(1) The eleven members of the Committee described in subsection (a)(1) shall, in addition to serving as members of the Committee, constitute a Scientific Council of the Committee (hereinafter in this section referred to as the "Council").

(2) The Council shall be divided into (A) an eight-member panel with responsibility for evaluating scientific studies relating to possible adverse health effects of exposure to dioxin, and (B) an eight-member panel with responsibility for evaluating scientific studies relating to possible adverse health effects of exposure to ionizing radiation.

(3) The Council shall make findings and evaluations regarding pertinent scientific studies and shall submit to the Committee and the Administrator directly periodic reports on such findings and evaluations.

(e) The Administrator shall designate one of the members to chair the Committee and another member to chair the Council.

(f) The Administrator shall determine the terms of service and pay and allowances of members of the Committee, except that a term of service of any member may not exceed three years. The Administrator may reappoint any member for additional terms of service.

(g) The Administrator shall provide administrative support services and fiscal support for the Committee.

NUCLEAR RADIATION MATTERS INVOLVING OTHER AGENCIES

SEC. 7. (a) In connection with the duties of the Director of the Defense Nuclear Agency, as Department of Defense Executive Agent for the Nuclear Test Personnel Review Program, relating to the preparation of radiation dose estimates with regard to claims for Veterans' Administration disability compensation and dependency and indemnity compensation under chapters 11 and 13, respectively, of title 38, United States Code—

(1) the Secretary of Defense shall prescribe guidelines (and any amendment to those guidelines) through a public review and comment process in accordance with the provisions of section 553 of title 5, United States Code—

(A) specifying the minimum standards governing the preparation of radiation dose estimates in connection with claims for such compensation,

(B) making such standards uniformly applicable to the several branches of the Armed Forces, and

(C) requiring that each such estimate furnished to the Veterans' Administration and to any veteran or survivor include information regarding all material aspects of the radiation environment to which the veteran was exposed and which form the basis of the claim, including inhaled, ingested, and neutron doses; and

(2) the Secretary of Health and Human Services, through the Director of the National Institutes of Health, shall—

(A) conduct a review of the reliability and accuracy of scientific and technical devices

and techniques (such as "whole body counters") which may be useful in determining previous radiation exposure;

(B) submit to the Administrator of Veterans' Affairs and the Committees on Veterans' Affairs of the House of Representatives and the Senate, not later than July 1, 1985, a report regarding the results of such review, including information concerning the availability of such devices and techniques, the categories of exposed individuals as to whom use of such devices and techniques may be appropriate, and the reliability and accuracy of dose estimates which may be derived from such devices and techniques; and

(C) enter into an interagency agreement with the Administrator of Veterans' Affairs for the purpose of assisting the Administrator in identifying agencies or other entities capable of furnishing services involving the use of such devices and techniques.

(b) The Administrator of Veterans' Affairs, in resolving material differences between a radiation dose estimate, from a credible source, submitted by a veteran or survivor and a radiation dose estimate prepared and transmitted by the Director of the Defense Nuclear Agency, shall provide for the preparation of a radiation dose estimate by an independent expert, who shall be selected by the Director of the National Institutes of Health and who shall not be affiliated with the Defense Nuclear Agency, and the Administrator shall provide for the consideration of such independent estimate in connection with the adjudication of the claim for Veterans' Administration compensation.

AMENDMENTS TO REGULATIONS

SEC. 8. (a) Paragraph (3) of section 307(b) of the Veterans' Health Programs Extension and Improvement Act of 1979 (39 U.S.C. 219 note) is amended to read as follows:

"(3) Immediately after the submission of each report under paragraph (2), the Administrator, based on the results described in such report and the comments and recommendations included therein and any other available pertinent information, shall evaluate the need for any amendments to regulations, prescribed pursuant to section 5 of the Veterans' Dioxin and Radiation Exposure Compensation Standards Act, for the resolution of claims for service connection based on the exposure specified in subsection (a)(1)(A) of such section. To the extent that the Administrator determines that any amendments to such regulations are needed, the Administrator, not later than 90 days after such submission, shall develop and publish in the Federal Register, for public review and comment, proposed amendments to such regulations.".

(b) Paragraph (5) of section 601(a) of the Veterans' Health Care Amendments of 1983 (Public Law 98-160; 97 Stat. 1007) is amended by redesignating subparagraph (B) as subparagraph (C) and inserting after subparagraph (A) the following new subparagraph (B):

"(B) Immediately after the submission of each report under subparagraph (A), the Administrator, based on the results described in such report and the comments and recommendations included therein and any other available pertinent information, shall evaluate the need for any amendments to regulations, prescribed pursuant to section 5 of the Veterans' Dioxin and Radiation Exposure Compensation Standards Act, for the resolution of claims for service connection based on the exposure specified in subsection (a)(1)(B) of such section. To the extent that the Administrator determines that any amendments to such regulations are needed, the Administrator, not later than 90 days after such submission, shall develop and publish in the Federal Register, for public review and comment, proposed amendments to such regulations.".

INTERIM BENEFITS FOR DISABILITY OR DEATH IN CERTAIN CASES

SEC. 9. (a)(1) In the case of a veteran—

(A) who served in the active military, naval, or air service in the Republic of Vietnam during the Vietnam era; and

(B) who has a disease described in subsection (b) that became manifest within one year after the date of the veteran's most recent departure from the Republic of Vietnam during that service,

the Administrator shall (except as provided in subsection (c)) pay a monthly disability benefit to the veteran in accordance with this section.

(2) If a veteran described in paragraph (1) dies from the disease, the Administrator shall pay a monthly death benefit to the survivors of the veteran in accordance with this section.

(b) The diseases referred to in subsection (a) are chloracne and prophyria cutanea tarda.

(c) Benefits may not be paid under this section with respect to a disease occurring in a veteran—

(1) where there is affirmative evidence that the disease was not incurred by the veteran during service in the Republic of Vietnam during the Vietnam era;

(2) where there is affirmative evidence to establish that an intercurrent injury or disease which is a recognized cause of the disease was suffered by the veteran between the date of the veteran's most recent departure from the Republic of Vietnam during active military, naval, or air service and the onset of the disease; or

(3) if the Administrator determines, based on evidence in the veteran's service records and other records of the Department of Defense, that the Veteran was not exposed to dioxin during active military, naval, or air service, in the Republic of Vietnam during the Vietnam era.

(d)(1) A disability benefit payable to a veteran under this section for a disease described in subsection (b) shall be paid at the rate at which compensation would be payable under chapter 11 of title 38, United States Code, to that veteran for the disability resulting from that disease if the disability were determined to be service-connected.

(2) A death benefit payable under this section to the survivors of a veteran shall be paid to such survivors based upon the eligibility requirements (other than the requirement that death be the result of a service-connected or compensable disability) and at the rates that are applicable to dependency and indemnity compensation under chapter 13 of that title.

(e) A benefit may not be paid under this section with respect to a disease or the death of a veteran for any month for which compensation is payable to that veteran for that disease under chapter 11 of title 38, United States Code, or for which dependency and indemnity compensation is payable for that death under chapter 13 of such title.

(f) A disease establishing eligibility for a disability or death benefit under this section shall be treated for purposes of all other laws of the United States (other than chapters 11 and 13 of title 38, United States Code) as if such disease were service connected. The receipt of a disability benefit under this section shall be treated for purposes of all other laws of the United States as if such benefit were compensation under chapter 11 of such title, and the receipt of a death benefit under this section shall be treated for purposes of all other laws of the United States as if such benefit were dependency and indemnity compensation under chapter 13 of title 38, United States Code.

(g) For the purposes of this section:

(1) The term "Administrator" means the Administrator of Veterans' Affairs.

(2) The term "Vietnam era" means the period beginning on August 5, 1964, and ending on May 7, 1975.

(3) The term "veteran" has the meaning given that term in paragraph (2) of section 101 of title 38, United States Code, and includes a person who died in the active military, naval, or air service.

(4) The terms "service-connected" and "active military, naval, or air service" have the meanings given those terms in paragraphs (16) and (24), respectively, of section 101 of title 38, United States Code.

(h)(1) This section takes effect as of October 1, 1984. No benefit may be paid under this section for a period before that date.

(2) No benefit may be paid under this section for a period after September 30, 1986.

In lieu of the matter inserted by the amendment of the Senate to the title of the bill, insert: "An Act to require the Administrator of Veterans' Affairs to prescribe regulations regarding the determination of service connection of certain disabilities of veterans who were exposed to dioxin in the Republic of Vietnam while performing active military, naval, or air service or to radiation from nuclear detonations while performing such service, to provide interim benefits for certain disabilities and deaths, and for other purposes.".

Mr. SIMPSON. Mr. President, I rise in strong support of H.R. 1961, the proposed Veterans' Dioxin and Radiation Exposure Compensation Standards Act, and urge my colleagues to join with me in supporting its final passage today. The legislation before the Senate would provide for a number of major substantial and procedual improvements in the disposition of veterans' claims for disability compensation based upon exposure either to agent orange while serving in the Republic of Vietnam during the Vietnam era, or to ionizing radiation from an atmospheric nuclear test, or the American occupation of Hiroshima or Nagasaki. The act is designed to ensure that disability compensation is provided to such veterans for all disabilities which may arise after that service which are connected, based on sound scientific and medical evidence, to such exposure. This measure is now before the Senate as a privileged matter in lieu of a formal conference report. The compromise agreement is derived primarily from the provisions contained in the substitute amendment which I offered along with my friend and distinguished colleague from California, Senator ALAN CRANSTON, to S. 1651 on May 22, 1984, and

from the provisions of H.R. 1961 as passed by the House on January 30, 1984.

This measure is a result of extensive and painstaking negotiations with the House Veterans' Affairs Committee and the administration and represents, in my view, a most thoughtful and reasonable compromise to a very emotional, controversial, and complex issue. As usual with all matters relating to veterans' affairs, it was worked out in a spirit of bipartisan cooperation among the members and staffs of both the Senate and House Veterans' Affairs Committees. I urge my colleagues to join me in support of the amendment of the House and send this measure on to the President for his signature.

Mr. President, I recognize that there are many expectations with respect to this act. Just as many veterans believe their present health problems today are the result of exposure to agent orange or radiation, there are many veterans who also believe that this act is expected to be a definitive solution to their concerns. But it is not, nor is it intended to be. No magic formulas exist. This legislation is designed to be a reasoned reponse to veterans very serious concerns about their health while also taking into consideration the need to maintain the integrity of the Veterans' Administration's Service-Connected Disability Compensation Program. Efforts to undermine the principle of service connection—the underpinning of the compensation program—must not be countenanced. It is not intended that this legislation lay the predicate for tarnishing that vital principle.

Unfortunately, the difficulty today is that the question of what constitutes a service-connected injury or illness is less clear than it once was. A bullet wound or bayonet cut is one thing. Quite different are the hazards of the modern, high-technology battlefield. Not only does it hold more vaired dangers, but in many cases the symptoms or injuries do not appear for years or even decades after the individual is out of uniform. This creates a number of dilemmas for officials attempting to determine whether the latent illness is related to military service.

America has always recognized a special responsibility to care for those whose injuries or illnesses are a consequence of military service. An extraordinary varied network of veterans programs and benefits is proof of our regard for the sacrifices rendered by men and women in uniform—past and present. The compensation program fulfills the Nation's promise to veterans disabled in the line of duty. The rules and regulations for this program are designed to make certain no veteran's reasonable claim of disability resulting from military service is overlooked or ignored.

Currently, the decision as to whether a veteran's disability is service connected is committed to the sound judgment of the VA's adjudication officers. This is done on an individualized, case-by-case basis, which the act would not change in any way. Some veterans claims will be denied. This has always been the case and it will continue to be the case under this legislation. The act would simply provide that guidelines and, where appropriate, standards and criteria—rules to guide the exercise of adjudicators sound judgment—be issued and implemented for the adjudication of exposure claims. These guidelines, standards, and criteria would be structured to allow the Administrator to receive the advice and conclusions of a Scientific Council composed of medical and scientific authorities who have been specifically charged with the duty of advising the Administrator of Veterans' Affairs on the state of the evidence regarding such exposure's possible harmful effects. The Administrator would review the findings of the Council and prescribe regulations regarding the evaluation of the findings of scientific studies relating to the possible adverse health effects of exposure to agent orange or radiation, and also, whether service connection should be granted in the adjudication of individual cases for certain diseases in which there is sound medical and scientific evidence of a relationship between exposure and the disease.

In this manner, the compromise agreement would respond to the veterans legitimate expectations—to have their exposure claims adjudicated under uniform and consistent regulations that incorporate rational scientific judgments and to have the assurance that no reasonable compensation claim would be summarily rejected. The necessity for "sound medical and scientific evidence" to support the VA's decisions on exposure claims would be highlighted by the creation of the Scientific Council, as would the continued application of the "reasonable doubt" principle at the local adjudicatory level to assure that difficult issues and the close decisions are made in the individual veteran's favor.

Mr. President, the compromise agreement before the Senate today does not contain the provision which would have expressly provided that the agency's final regulations and revisions thereto subject to judicial review. This measure was an important part of the Senate to judicial review. This measure was an important part of the Senate-pass bill.

Section 211(a)'s "no-review" clause of agency decisions in individual claims for benefits considerable debate in both Houses of Congress. On three occasions the Senate has adopted legislation to remove the bar to judicial review in Federal courts. However, the House has never agreed to accept this legislation. I have discussed this matter rather thoroughly with my colleague and ranking minority member, Senator ALAN CRANSTON, and fully concur with his comments that the noninclusion of this judicial review provision in this compromise agreement is not intended to change the relevant case law or to suggest that Federal court review of these VA regulations should be precluded.

Mr. President, two to the congressional findings in the act need a bit further explanation. Section 2(2) states there is scientific and medical uncertainty regarding the long-term health effects of agent orange and radiation exposures. Section 2(5) states there is some evidence of specific adverse effects for certain levels or exposure. Yes, there is considerable uncertainty, and yes, there is some evidence.

It may be redundant to draw attention to the fact that scientists and doctors cannot specify the long-term consequences of such exposures. Certainly if there were such knowledge, this act would not be necessary.

While we must candidly acknowledge that uncertainty, we must recognize also that evidence of harm to human beings is not found to be wholly lacking. There is, in fact, some evidence with respect to each of the diseases named in section 2(5). The strength of the evidence varies considerably and, in some cases, there is indeed contradictory evidence.

In the case of chloracne, the evidence of a connection is quite persuasive if the dioxin exposure took place not more than a few weeks or months before the symptoms first appeared. This conclusion is derived from studies of victims of industrial accidents. In the case of porphyria cutanea tarda [PCT], industrial accident data seemed at one time to indicate that dioxin exposure could precipitate PCT. However, more recent studies contradict this conclusion and indicate that another chemical is more likely to be the precipitating cause. The soft-tissue sarcoma evidence is very controversial. Some cancers in the soft-tissue sarcoma group are known to be associated with exposure to certain chemicals such as asbestos. The causes of other cancers in this group are not known. Based on studies of sarcoma victims conducted in Sweden, there appears to be an association between occupational exposure to herbicides and certain sarcomas. A number of study results from other countries do not bear out the conclusion suggested by the Swedish studies. A 1982 study conducted in New Zealand found no excess of soft-tissue sarcomas among agricultural and forestry workers manufacturing dioxin.

The U.S. Air Force studied the Ranch Hand operation of Air Force

personnel who flew spraying missions in Vietnam. The findings of the Ranch Hand agent orange study indicated that this group of servicemen—who were most certainly directly and heavily exposed to agent orange—has no greater rates of disease or death than the general population. No cases of chloracne, PCT or soft-tissue sarcoma were found in the group.

I also wish to emphasize that since this congressional consideration of the issue the Centers for Disease Control released the results of its 3-year study designed to determine if men who served in Vietnam have been at increased risk of fathering babies with severe congenital malformations. The most important conclusion to be drawn from this study is that the data collected contained no evidence to support the contention that Vietnam veterans have had any greater risk than other men of fathering babies with all types of serious structural birth defects considered and combined. It was determined that, for most birth defect groups, Vietnam veterans' risks were neither higher nor lower than those of other fathers.

In the case of diseases possibly linked to exposure to ionizing radiation, there is conclusive evidence that exposure at very high doses is related to specific adverse health effects in humans, including certain types of leukemia and other forms of cancer. However, the overwhelming majority of veterans covered by this act were exposed to very low, if not negligible, doses of ionizing radiation as a result of their military service. There is little empirical data regarding the long-term impact on human health of exposure to such low doses. All of us concerned with veterans' affairs await the data from a study of mortality among some 50,000 veterans who participated in the atmospheric atomic weapons tests. The epidemiological study was conducted by the National Academy of Sciences, and results are expected to be reported as early as this month.

Taken together, then, these two findings of some evidence but also "scientific uncertainty" represent a considered attempt to sum up the present state of scientific and medical thinking about the consequences of exposure.

In the proposed compromise, the Advisory Committee on Environmental Hazards and its Scientific Council would be charged with the ongoing responsibility to make evaluations regarding pertient scientific studies relating to the health effects of exposure to dioxin and ionizing radiation, such as the recent CDC study on birth defects and the Ranch Hand morbidity study, and to make recommendations to the Administrator regarding any administrative or legislative action it considers appropriate. The conferees recognize that it would be impossible for the Advisory Committee and its Scientific Council to review or consider all of the thousands of studies which have been conducted on the subjects of dioxin and ionizing radiation. It is, therefore, within the sole discretion of the committee and council to review only those studies the members consider necessary to discharge their responsibilities under this act.

The House-passed measure adopted a significantly different approach to the issue of determining service connection than that of the Senate. Under the House bill, temporary payment of benefits would have been made for certain disabilities related to exposure to agent orange and ionizing radiation notwithstanding the fact that credible scientific evidence might be lacking to link those disabilities to exposure to agent orange or ionizing radiation. Payments under the House approach would have been made until the completion of the CDC agent orange epidemiological study.

I could not countenance this approach because I firmly believe that to do so for the broad range of disabilities contained in the 9(a) House bill would have severely tarnished the important concept underlying the disability compensation program—that a disease or disability must have been contracted in or aggravated by service to be considered service connected. In an effort to resolve the difference between the distinct philosophies represented in the Senate-passed and House-passed versions, I agree to a very limited—in time and scope—free-standing provision of law which would provide temporary disability payments for the two disabilities which have been most closely associated with exposure to agent orange—chloracne and PCT. This 2-year period of benefits for veterans in whom either PCT or chloracne became manifest within a year of departure from Vietnam while on active duty, would provide the scientific council sufficient time to review the various studies relating to these diseases and to make appropriate recommendations, if any, to the Administrator.

Mr. President, under this legislation the VA would be required to publish in the Federal Register its proposed rules for notice and comment, within 180 days of enactment. If possible, the advisory committee should be consulted as these proposed rules are developed. Of course, the committees expect the VA to move promptly with respect to setting up the Advisory Committee; 180—6 months—is somewhat longer than the time allotted in the Senate-passed version, which the VA had ratified, therefore I would expect the VA to be able to comply with this deadline. Certainly, the veterans who have so patiently awaited our deliberations would be best served by the agency's promptness. These rules would, presumably, amend the adjudication chapter of title 38, Code of Federal Regulations. Because the health effects, if any, of exposure to agent orange may be different from those of exposure to radiation, I would not expect the rules pertaining to different types of exposure claims to be identical.

One would anticipate, however, a general framework for the adjudication of exposure claims that explains how exposure can be established and the types of disabilities that are considered to be the after effects of exposure, together with the type of information the claimant would be expected to provide concerning the intervening period between the date of the exposure and the onset of disability. The role of military records should be covered also; if a claimant's military health record supports service connection for the disability, it would be administratively uneconomical to develop the claim as an exposure claim. On the other hand, the silence of military records alone should not bar the granting of a claim.

Once the proposed rules have been published, it will be necessary for the VA to develop and publish the final version, and this must be accomplished within the 30-day period that follows a 90-day comment period. For this step, the VA must consult with the advisory committee and set forth in the final regulations any and all determinations with respect to specific diseases that have been made as of the date of final publication. Should determinations necessitating regulatory change be made after that date, I would contemplate prompt action by the agency.

Mr. President, I am pleased and gratified that as the 98th Congress comes to a close that we are able to conclude our deliberations on this most significant and landmark piece of legislation. It has been a very long and often time difficult road that we have had to follow to arrive at this juncture; 24 hearings have been conducted by Senate and House committees on the effects of agency orange exposure on Vietnam veterans. Six such hearings held in 1983 alone. Countless hours and days have been devoted by the staff to briefings, discussions and writings on this subject. Two major pieces of legislation have been enacted. Public Law 96-151 required a major epidemiological study of Vietnam veterans in order to determine what, if any, adverse health effects resulted from agent orange exposure. Public Law 97-72 authorized the Veterans' Administration to provide free priority health care to Vietnam veterans who are concerned about the possible health effects of agent orange in their own lives. Our country has com-

mitted over $130 million of its resources to more than 60 agent orange research projects. Numerous Federal agencies, agent orange commissions at the State level, scientific peer review bodies, and a Cabinet-level White House agent orange working group are all dedicated to determining thoughtfully what, if any, problems exist.

Congressional hearings on the possible effects of ionizing radiation on our Nation's veterans date back to 1979. More than 80,000 scientific studies have been published. Public Law 97-72 established free priority health care for these veterans. And Public Law 98-160 required the Veterans' Administration to conduct, if feasible, a major epidemiological study of veterans exposed to ionizing radiation. It should be clear to all Americans—veterans and nonveterans alike—of this Government's vital concern and its realistic actions to try diligently to find answers to these very troubling and difficult questions.

Mr. President, in devising the resolution that ultimately resulted in the Senate-passed bill, I drew attention to the fact that I indeed have been aided in my efforts by the administration. I venture to say, Mr. President, that the administration's cooperation in a measure of this type has been indispensable. Those charged with developing the rules and guidelines mandated by this legislation comprise the superlative body of expertise regarding the intimate and intricate details of claims adjudication. This expertise has proved and will continue to prove invaluable. I wish to express my sincerest thanks to the many people in the administration who have worked tirelessly with my staff to formulate a very thoughtful and excellent compromise. This is indeed an example of the legislative process at its very best. A very special thanks to John Murphy, general counsel of the Veterans' Administration, Jack Thompson and Mary Sears of his staff for all of their support and counsel during the past few years. My appreciation to Robert Brattigan, general counsel of the Defense Nuclear Agency, for his invaluable assistance on provisions relating to radiation. I indeed render thanks to Michael Horowitz, general counsel of the Office of Management and Budget, and to Robert Wilmore of his staff for their insightful recommendations and cooperation throughout the entire process. I wish to clearly note the fine and thoughtful support of all the major veterans organizations for their extensive help and contributions to the compromise. I shall always be particularly appreciative of the support I received for Senate resolution, Senate Resolution 372, from Jack Powell of the Paralyzed Veterans' of America and Morgan Ruph of Amvets.

In closing, Mr. President, I wish to express my thanks to the House and Senate Members and staff—to my delightful and respected friend, Congressman SONNY MONTGOMERY, chairman of the House Veterans' Affairs Committee; the able and sincere friend, JOHN PAUL HAMMERSCHMIDT, his esteemed ranking minority member; the cooperative BOB APPLEGATE, chairman of the Subcommittee on Compensation, Pension and Insurance; and the very dedicated and deeply concerned Congressman from South Dakota, TOM DASCHLE, for their efforts and cooperation to work with us and reach this most signficant compromise. A special thanks to Mack Fleming, the able and savvy chief counsel and staff director of the House Veterans' Affairs Committee and his entire staff—a most capable group—for their extraordinary efforts to resolve the differences in the respective bills. And to Russ Wilson who toiled so diligently. My thanks also go out to my fine and steady friend from California, ALAN CRANSTON, distinguished ranking minority member and to his fine staff headed up by the creative Jon Steinberg.

And finally, Mr. President, my deepest thanks to Tony Principi, my strong right hand and enthusiastic negotiator "par excellence" chief counsel and staff director; Julie Susman, my most capable, vigorous, and thoughtful deputy staff director/legislative director/deputy chief counsel; and the professional members of a very alert, hard driving, and hard working majority staff, Cindy Alpert, Cathy McTighe, Brent Goo, Al Phinney, Tim Smith, and Vic Raymond, and Scott Wallace, formerly of my staff, for his fine work in drafting the original Senate resolution; as well as the efficient staff assistants, Becky Hucks, Jody Sanders, Brenda Myers, Kay Eckhardt, and our committee printer, Jim MacRae. I owe them so much as we complete this historic piece of work.

I thank my Senate colleagues and urge adoption of the compromise agreement.

Mr. President, I submit the House/Senate explanatory statement which has been prepared in lieu of the joint statement which would accompany a formal conference report and ask unanimous consent that it appear in the RECORD at the conclusion of my remarks.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

EXPLANATORY STATEMENT OF HOUSE BILL, SENATE AMENDMENT (S. 1651), AND COMPROMISE AGREEMENT ON H.R. 1961, THE VETERANS' DIOXIN AND RADIATION EXPOSURE COMPENSATION ACT

This document explains the provisions of H.R. 1961 as passed by the House of Representatives, the provisions of the bill as passed by the Senate with an amendment incorporating the provisions of S. 1651 as reported, and the provisions of a compromise agreed to by the Veterans' Affairs Committees of the House and Senate. The differences between the House bill, the Senate amendment, and the compromise agreement are noted below, except for clerical corrections, conforming changes made necessary by agreements reached between the committees, and minor drafting, technical, and clarifying changes.

GENERAL

Both the House bill and the Senate amendment address, in different ways, the issue of how the Federal Government should respond to the serious concerns and numerous questions about compensation that have been raised by veterans who were exposed during their service in Vietnam to dioxin as found in various herbicides, such as agent orange, or who were exposed to ionizing radiation from nuclear detonations during atmospheric weapons tests or in connection with the American occupation of Hiroshima or Nagasaki, Japan.

HOUSE BILL

The House bill would establish a new chapter 14, entitled "Disability and Death Allowances for Certain Veterans and Survivors," in title 38, United States Code, pursuant to which the Administrator of Veterans' Affairs would temporarily pay disability allowances to veterans—or allowances to the survivors of a veteran in case of the death of a veteran—who served in Southeast Asia during the Vietnam era and who have certain diseases or to veterans who participated in the testing of an atomic bomb, or device, or served in the occupation of Hiroshima or Nagasaki and who have certain diseases. Payment of benefits under this chapter would not be made where there is affirmative evidence that the disease was not incurred during the veteran's service or that intercurrent injury or disease which is a recognized cause of the disease in question has been suffered after the end of the veterans' service but before the onset of the disease which is the subject of the claim. Payments under this chapter would terminate 1 year after the Administrator submits the first report of the epidemiological study of Vietnam veterans that was mandated by Public Law 96-151. That first report is required to be submitted not later than February 14, 1986.

Under the House bill, for a veteran who served in Southeast Asia during the Vietnam era, the diseases that would qualify for these temporary allowances would be soft-tissue sarcoma becoming manifest within 20 years from the date of the veteran's departure from Southeast Asia; porphyria cutanea tarda becoming manifest within 1 year from that date; and chloracne becoming manifest within 1 year from that date. For a veteran

who participated in the testing of an atomic bomb or device or in the occupation of Hiroshima or Nagasaki, the diseases that would qualify would be leukemia, polycythemia vera, and carcinoma of the thyroid, all or which would have to become manifest within 20 years from the date of the veteran's participation in the test or occupation.

The rates at which disability or death allowances would be paid under this new chapter 14 would be the rates that would be paid under chapter 11, relating to disability compensation, or chapter 13, relating to dependency and indemnity compensation [DIC], repectively, of title 38 if the disability or death were service-connected.

A disease establishing eligibility for a disability or death allowance under new chapter 14 would be treated for purposes of all other laws of the United States as if the disease were service-connected and receipt of such an allowance would be treated for such purposes as receipt of disability compensation or DIC under chapter 11 or 13.

SENATE AMENDMENT

The Senate amendment would require the VA, through a rulemaking process allowing for public participation and expressly subject to judicial review, to develop regulations setting forth guidelines and, when appropriate, standards and criteria for the adjudication of claims for VA benefits on the basis of a veteran's exposure to dioxin in Vietnam or ionizing radiation from nuclear detonations. In developing the mandated regulations, the Administrator would be required to determine specifically—based on sound scientific and medical evidence and the advice of an Advisory Committee on Environmental Hazards—which would be established pursuant to provisions in the Senate amendment—and being highly cognizant of the need to maintain the policy of the United States as set forth in section 2(12)—relating to giving VA claimants the benefit of the doubt in resolving issues material to the determination of a claim—with respect to the resolution of contested issues.

In the case of veterans exposed to dioxin, the disease specified in the Senate amendment are soft tissue sarcoma becoming manifest to a degree of disability of 10 percent within 30 years after the date of the veteran's last departure from Vietnam during service, and porphyria cutanea tarda and chloracne becoming so manifest within one year after that date. In the case of veterans exposed to radiation, the diseases, all of which would have to become manifest to a degree of disability of 10 percent, are leukemia, malignancies of the thyroid, female breast, lung, bone, liver, and skin polycythemia vera, hypothyroidism, or a thyroid nodule. In addition to these diseases, the Administrator would be required to make specific determinations as to service connection in the case of any other disease as to which the scientific council of the Advisory Committee finds there is sound scientific or medical evidence indicating a connection to exposure to dioxin or radiation.

The timetable in the Senate amendment for the development of these regulations would be as follows: Proposed regulations would be developed and published in the Federal Register within 120 days after the date of enactment; then a period of not less than 90 days after the proposed regulations are published for public review and comment; and, finally, publication of final regulations not later than 300 days after the date of enactment.

The compromise agreement, as discussed in more detail below, melds the approaches of the above-described provisions and others in the House bill and the Senate amendment. Thus, the compromise agreement would establish, for a limited period of time, a program of temporary benefits for disability or death in cases involving certain specified diseases in the case of Vietnam-era veterans exposed to dioxin in Vietnam, and by mandating the Administrator to develop, through a public rulemaking process, regulations relating to the adjudication of claims based on exposure to dioxin in Vietnam or radiation from nuclear detonations.

FINDINGS

The Senate amendment—section 2, but not the House bill, would express congressional findings relating to the issues of veterans' exposure to dioxin or to radiation. These include findings noting the concerns of veterans about such exposures, the scientific and medical uncertainty about the long-term adverse health effects of such exposure, the Federal Government's response to these concerns, various matters related to exposure to ionizing radiation during the atmospheric nuclear tests, and other related matters.

The compromise agreement—section 2—follows the Senate amendment with modifications, first, to delete a reference to the date of completion of the radioepidemiological tables mandated by Public Law 97-414; second, to add a finding—in section 2(5)—noting that there is some evidence that certain diseases—chloracne, porphyria cutanea tarda, and soft tissue sarcoma—are associated with exposure to certain levels of dioxin and that certain other diseases—most types of leukemia, malignancies of the thyroid, female breast, lung, bone, liver, and skin, and polycythemia vera—are associated with exposure to certain levels of ionizing radiation; and, third, to delete a reference, in a finding relating to the difficulties involved in adjudicating claims based on exposure to dioxin or radiation, to the difficulty of determining a connection between such exposure and increased risk of adverse health effects.

PURPOSE

The House bill—section 2—would state the purpose of the legislation as being to provide certain benefits to certain veterans and survivors in connection with certain diseases that may be attributable to exposure to agent orange or ionizing radiation, notwithstanding that there is insufficient medical evidence to conclude that such diseases are service connected. The Senate amendment—section 3—would state the purpose of being to ensure that VA compensation is provided to veterans who were exposed to dioxin during service in Vietnam or to ionizing radiation from a nuclear detonation for all disabilities arising after service that are connected, based on sound scientific and medical evidence, to such exposure and that DIC is paid to the survivors of those veterans who die from such disabilities.

The compromise agreement—section 3—follows the Senate amendment.

REQUIREMENT IN TITLE 38, UNITED STATES CODE, RELATING TO REGULATIONS

The Senate amendment—section 4, but not the House bill, would amend present section 354(a) of title 38, United States Code, relating to regulations issued by the Administrator pertaining to service-connection of disabilities, to include a cross-reference to the new requirement to be established by section 5 of the Senate amendment that the Administrator issue regulations pertaining to the disposition of claims based on exposure to dioxin or radiation.

The compromise agreement—section 4—includes this provision.

The committees note their intent that, by including this cross-reference in title 38, to the provisions—section 5—of the compromise agreement requiring the issuance of regulations, all title 38 definitions will be applicable to terms related to the regulations that the Administrator is required to issue pursuant to section 5 of the compromise agreement.

REQUIREMENT FOR AND CONTENT OF REGULATIONS

The Senate amendment—section 5, but not the House bill, would, as previously described under the heading "General," require the Administrator, through a public participatory process in accordance with the provisions of section 553 of title 5, United States Code, relating to rulemaking, to prescribe regulations relating to resolution of claims for VA benefits based on certain veterans' in-service exposure to dioxin or ionizing radiation.

The compromise agreement—section 5—follows the Senate amendment with modifications as described below.

The Senate amendment—section 5(a)—would require the Administrator

to prescribe regulations for the resolution of certain claims for benefits where eligibility for such benefits is based on a connection between a veterans's military service and his or her disability or death. The regulations would be required to establish guidelines to resolve a veteran's or survivor's claim for benefits based on a veteran's exposure to dioxin in the Republic of Vietman prior to May 8, 1975, or to ionizing radiation as a result of the American occupation of Hiroshima, or Nagasaki, or in connection with participation in atmospheric nuclear tests.

The compromise agreement—section 5(a)—follows the Senate amendment but, with respect to claims based on exposure to dioxin in the Republic of Vietnam, limits—in section 5(a)(1)(A)—the scope of the regulations to exposures that occurred during the Vietnam era defined, for title 38 purposes, as beginning on August 5, 1964, and ending on May 8, 1975.

The Senate amendment—section 5(b)—would set forth factors and principles which the mandated regulations would be required to encompass. Specifically, the Senate amendment would require—in section 5(b)(1)(A)—the regulations to include guidelines governing the evaluation of scientific studies relating to the possible increased risk of adverse health effects of exposure to herbicides containing dioxin or to ionizing radiation; require—in section 5(b)(1)(B)—the Administrator to make such evaluations after receiving the advice of the scientific council of the Advisory Committee—which would be established under section 5(d) of the Senate amendment—and to publish such evaluations in the Federal Register; and require—in section 5(b)(1)(C)—that the regulations include guidelines relating to the use of such evaluations in the adjudication of individual claims.

The Senate amendment would further require—in section 5(b)(2)(A)(i)—the Administrator, in prescribing the required regulations, to make determinations—to be published in the regulations, based on sound medical and scientific evidence, as to whether service connection shall be granted in the adjudication of individual cases involving certain diseases, and in making such determinations to be highly cognizant of the need to maintain the policy of the United States of giving claimants before the VA the benefit of reasonable doubt on each issue as to which, after consideration of all evidence and material of record, there is an approximate balance of positive and negative evidence regarding the merits thereof; and would require—in section 5(b)(2)(A)(ii)—the Administrator to specify in the required regulations that, in the adjudication of individual claims for benefits, service connection would not be granted where there is sufficient affirmative evidence to the contrary or evidence to establish that there is an intercurrent injury or disease.

The compromise agreement—section 5(b)—follows the Senate amendment except that the Administrator, in making determinations regarding whether service connection should be granted for certain diseases, would be required—in section 5(b)(2)(A)(i)—to give due regard to the need to maintain the policy of the United States described above as set forth in section 2(13) of the compromise agreement.

The Senate amendment—section 5(b)(2)(A)(iii)—would require the Administrator, in the event such a determination of service connection for any of the diseases identified in the legislation is not made, to specify in the regulations factors to be considered in adjudicating claims involving such diseases.

The compromise agreement—section 5(b)(2)(A)(iii)—would require the Administrator to specify in the regulations the factors to be considered in the adjudication of individual claims involving any of the diseases described in the compromise agreement and the circumstances—such as exposure levels, where appropriate—governing granting of service connection for those diseases.

The Senate amendment—section 5(b)(2)(B)—would specify the diseases as to which determinations regarding service connection would be made by regulation; would provide maximum post-exposure periods within which certain of the specified diseases would have to become manifest; and would provide for the appropriate panel of the scientific council of the Advisory Committee—which would be established under section 5(d) of the Senate amendment, on the basis of sound scientific or medical evidence indicating a correlation between exposure and specific diseases, to add diseases and associated maximum postexposure periods as to which determinations would be made by the Administrator.

The compromise agreement—section 5(b)(2)(B)—would provide that the diseases as to which the Administrator would be required to make determinations by regulation regarding service connection would be those specified in section 2(5) of the compromise agreement—discussed above under the heading "Findings"—and any other disease with respect to which the Administrator finds, after receiving and considering the advice of the appropriate panel of the scientific council, that there is sound scientific or medical evidence indicating a connection between either type of exposure and such disease. The compromise agreement would establish no maximum periods during which such diseases would have to become manifest—leaving that to the Administrator to consider establishing.

The Senate amendment—section 5(b)(3)—would specify that the regulations required to be prescribed by the Administrator would include a provision specifying that a claimant filing a claim based on exposure to dioxin or radiation shall not be required to produce evidence substantiating the exposure when the claim of exposure is not inconsistent with information in the veteran's service records and other records of the service concerned.

The compromise agreement—section 5(b)(3)—would require the regulations to include (1) specification of the maximum period of time after exposure to dioxin or ionizing radiation for the development of all diseases addressed in the regulations prescribed under the compromise agreement, and (2) a provision specifying that a claimant filing a claim based on exposure to dioxin or radiation shall not be required to produce evidence substantiating the claimed exposure when information in the veteran's service record or other records of the Department of Defense is not inconsistent with the claim that the veteran was present where and when that exposure occurred.

The Senate amendment—section 5(b)(2)(A)(iv)—would require the Administrator, in adjudicating claims based on exposure to ionizing radiation in Hiroshima or Nagasaki, Japan, following World War II and involving diseases not specified in the Senate amendment, to ensure that careful and deliberate consideration is given to the contention that a connection between the disease and such exposure exists.

The compromise agreement does not contain this provision.

Proposed: In not including this provision, the committees note that it is their intention that such consideration would be given to these and all other such claims.

The Senate amendment—section 5(c)—set forth specifications pertaining to the mandated development of regulations. These included—in section 5(c)(1)(A)—a requirement that a proposed version of the regulations be developed and published in the Federal Register not later than 120 days after the date of enactment and—in section 5(c)(3)—a provison specifying that, notwithstanding section 211(a) of title 38, relating to the preclusion of judicial review of VA decisions in cases involving individual claims for benefits, the Administrator's compliance with the requirements of section 5 of the Senate amendment, and any regulations prescribed pursuant to that section, would be subject to judicial review—in accordance with the provisions of the Administrative Procedure Act—after publication of the final regulations.

The compromise agreement—section 5(c)—would modify the period within which a proposed version of the regulations must be developed and published in the Federal Register to require such development and publication not later than 180 days after the date of enactment and does not contain the provision regarding judicial review.

The committees note that, because the Advisory Committee on Environmental Hazards and the Scientific Council thereof—described below—might not be established in time to review the proposed regulations prior to the publication deadline, the compromise agreement provides for, but does not require, the Administration to obtain the recommendations of either the committee or the council prior to publishing proposed regulations. Nevertheless, the committees believe that the committee's and council's recommendations would be very valuable to the final outcome of the mandated regulations and, for that reason, extend the period for the publication of the proposed regulations by 60 days. In light of the potential value of those recommendations, the committees urge the Administrator to begin at once, prior to enactment of this legislation, the process of seeking out a broad spectrum of advice regarding possible advisory committee members so that as soon as the compromise agreement is enacted the Administrator will be ready to establish the advisory committee quickly and solicit its advice prior to the publication of the proposed regualtions.

VETERANS' ADVISORY COMMITTEE ON ENVIRONMENTAL HAZARDS

The Senate amendment—section 5(d)—would establish an Advisory Committee on Environmental Hazards and a Scientific Council thereof—further subdivided into two panels, one with particular responsibility for dioxin-related matters, the other for radiation-related matters, specify the membership of the advisory committee and scientific council, and set forth other matters relating to the functioning of the committee and council.

The compromise agreement—section 6—follows the Senate amendment with modifications to add "Veterans" as the first word in the name of the committee, and to require the administrator, in selecting the medical and scientific authorities to serve on the advisory committee, to request and consider the recommendations for the heads of Federal entities with particular expertise in biomedical and environmental science, rather than only the Director of the National Institutes of Health.

The committees note that the inclusion in the compromise agreement of a prohibition against active duty Armed Forces members and certain Federal employees serving on the Advisory Committee on Environmental Hazards is not intended to reflect upon the objectivity or integrity of any such individuals. Rather, this provision stems from the committees' strong belief that the perception among veterans and the general public of the objectivity of the members of the advisory committee must be ensured. In this regard, although the compromise agreement would not preclude the appointment to the advisory committee of recent military or Federal retirees, the committees are confident that the Administrator, before making any such appointments, would weigh very carefully the ramifications of such an appointment in terms of the perceived objectivity of the advisory committee.

NUCLEAR RADIATION MATTERS INVOLVING OTHER AGENCIES

The Senate amendment—(section 6), but not the House bill, contains numerous provisions relating to nuclear radiation matters involving agencies other than the VA. These provisions, which relate to matter involving the Department of Defense and the Defense Nuclear Agency—relating to the issuance of guidelines pertaining to the preparation of radiation dose estimates in connection with VA claims, and the Department of Health and Human Services and the National Institutes of Health—relating to a review of techniques for determining prior radiation exposure and the selection of independent experts to provide dose estimates, are designed to improve the Federal Government's overall response to issues relating to radiation exposure and, ultimately, the way in which the VA responds to claims for benefits based on a veteran's exposure to ionizing radiation.

The compromise agreement—section 7—contains these provisions.

AMENDMENTS TO REGULATIONS

The Senate amendment—section 7—but not the House bill, would amend provisions relating to epidemiologial studies of veterans exposed to dioxin or radiation in two public laws—Public Law 96-151, as amended by Public Law 97-72 and Public Law 98-160—to require the Administrator, as information becomes available from the two studies, to evaluate the need for any amendments to the regulations issued under this measure and, to the extent that the Administrator determines that any amendments to such regulations are required, the Administrator would be required to follow the process specified elsewhere in the legislation to develop such amendments.

The compromise agreement—section 8—contains these provisions.

INTERIM BENEFITS FOR DISABILITY OR DEATH IN CERTAIN CASES

The House bill—section 4—but not the Senate amendment, would, as described above—under the heading "General"—amend title 38, United States Code, to establish a temporary program pursuant to which disability and death allowances would be paid to certain veterans exposed to dioxin or radiation who have certain specified diseases.

The compromise agreement—section 9—follows the House bill with the following modifications. Under the compromise agreement, the Administrator, pursuant to a freestanding provison of law rather than an amendment to title 38, would pay a monthly disability benefit only to certain veterans who served in the Republic of Vietnam, who have either chloracne or porphyria cutanea tarda which became manifest within 1 year after the date of the veterans' last departure from Vietnam while in the service. In the event that a veteran dies from either such disease, the Administrator would pay a monthy death benefit to the veteran's survivors. Under the compromise agreement, benefits would not be paid in cases involving affirmative evidence that the disease was not incurred during service or that an intercurrent injury or disease was involved—as described above under the heading "General"—and also in cases in which the Administrator determines, based on evidence in the veteran's service record and records provided by the Secretary of Defense, that the veteran was not exposed to dioxin during the veteran's service. In addition, benefits would not be paid for any period before October 1, 1984, nor after September 30, 1986.

Mr. CRANSTON. Mr. President, as the ranking minority member of the Committee on Veterans' Affairs, I am delighted to join with my good friend, the committee chairman [Mr. SIMPSON], in urging the Senate to concur in the House amendments to the Senate amendments to H.R. 1961, the proposed Veterans' Dioxin and Radiation Exposure Compensation Standards Act. The House amendment to the text of the bill reflects a compromise agreed to between the two Veterans' Affairs Committees after extensive discussions and negotiations over the past 4 months. This is a most important and timely measure that will make possible certain very significant strides in the Federal Government's efforts to respond to the very serious, very real concerns of veterans who were exposed in service either to dioxin, as found in herbicides such as agent orange, in Vietnam, or to ionizing radiation in connection with their participation in the nuclear test program, or the U.S. occupation of Hiroshima or Nagasaki, Japan, following World War II.

BACKGROUND

Mr. President, H.R. 1961 was first passed by the House on January 30, 1984. On May 22, 1984, the Senate took up my bill, S. 1651, and, after amending that bill with an amend-

ment that I developed with Senator SIMPSON, adopted the provisions of S. 1651 as so amended as a substitute amendment for the text of H.R. 1961 as passed by the House and then passed H.R. 1961 returning it to the House. Wednesday night, the House of Representatives amended the Senate amendment with a substitute which, as I just noted, represents a compromise agreement reached by the Veterans' Affairs Committees. Thus, this legislation as it is before the Senate today is in the nature, although not the form technically, of a conference report.

Mr. President, I feel a genuine sense of satisfaction and accomplishment in bringing this measure—which I will refer to as the compromise agreement—before the Senate today. This compromise agreement is the culmination of an extended process that began early last year. On April 6, 1983, I introduced legislation—S. 991—to address the issue of compensation for veterans exposed to dioxin during their service in Vietnam or to radiation from nuclear detonations. Following hearings on S. 991, I joined with my colleagues on the Veterans' Affairs Committee, Senators SPECTER and MITCHELL, on July 20, 1983, in introducing S. 1651, which was derived from S. 991, Senator SPECTER's bill, S. 374, and Senator PRESSLER's bill, S. 786. Both S. 991 and S. 1651 would have required the Administrator to prescribe regulations.

Finally, as I noted a moment ago, pursuant to a unanimous consent agreement entered into upon my insistence on November 18, 1983, S. 1651 came before the Senate on May 22 of this year. At that time it was amended by a substitute that I developed with Senator SIMPSON. Throughout this long process, I have maintained that it was time—and eventually, as the process was stretched out from 1983 into 1984, past time—for the Federal Government to address the longstanding concerns of the veterans, their families, and others regarding the issue of compensation for diseases or disabilities that may be related to the veteran's exposure. I am very gratified that the Congress will now, finally, go on record in response to those concerns and do so in a manner that vindicates the basic legislative approach that I have been advocating for the last 1½ years.

Mr. President, although the pending measure deals only with the compensation issue, I do not want my colleagues or others to have the impression that the other concerns of veterans exposed to dioxin or radiation are not being addressed. I see those concerns as falling into three general categories—the compensation issue, questions about the actual effects of exposure to dioxin or radiation and access to health care for current problems that might be related to the exposure. I am satisfied that the Congress has addressed the latter two issues in appropriate ways.

With reference to the questions about the actual effects of exposure, laws cannot speed the scientific process of developing the needed information. Rather, it must be painstakingly gathered and developed by the medical and scientific community. Congress has passed two measures I authored directing that such studies be carried out with reference to dioxin and radiation exposure. The study relating to dioxin, a major epidemiological study of veterans exposed to dioxin, which is being carried out by the Centers for Disease Control, was mandated by Public Law 96-151. That law was amended by Public Law 97-72 to provide for expansion, which CDC has accomplished, of the study to include a focus on the impact of the overall Vietnam experience. In the area of exposure to radiation, Public Law 98-160 mandated similar study, if not found scientifically infeasible, of veterans exposed to radiation. A protocol for that study is being reviewed by various peer review entities at this time.

With reference to the issue of access to health care for current problems, section 102 of Public Law 97-72, which is based on a provision I authored, provided the VA with authority to provide health care to veterans exposed to dioxin or ionizing radiation for any conditions not clearly caused by something other than their exposure. I remain deeply committed to seeing that this provision is properly implemented and, to the extent that there are specific instances where that is not the case, I have asked all veterans' organizations to let me know about them so that proper follow-up action can be taken to have the situation corrected.

Mr. President, I refer my colleagues and others with an interest in the background and development of this legislation to my remarks at the time of the introduction of S. 991, which begin on page 7663 of the RECORD for April 6, 1983; my remarks at the time of the introduction of S. 1651, which begin on page 19968 of the RECORD for July 20, 1983; my separate views on an amendment derived from S. 1651 that I had proposed to a veterans' compensation bill, which begin on page 110 of Senate Report No. 98-249; my remarks during Senate consideration of S. 1388 regarding my efforts to gain Senate consideration of an amendment derived from S. 1651, which begin on page S16910 of the RECORD for November 18, 1983; and finally my remarks during Senate consideration of S. 1651, which begin on page 13147 of the RECORD for May 22, 1984.

Mr. President, I am very grateful to our committee chairman [Mr. SIMPSON] and the chairman [Mr. MONTGOMERY], the ranking minority member [Mr. HAMMERSCHMIDT], and the principal author of H.R. 1961 [Mr. DASCHLE] on our counterpart committee in the House for their cooperation and assistance in and their many contributions to the development of the compromise agreement.

Mr. President, each of the provisions of the compromise agreement is described authoritatively in the "Explanatory Statement" developed by the two Committees on Veterans' Affairs that the chairman of the Senate committee has inserted in the RECORD as part of his remarks and which was inserted in identical form by the chairman of the House committee when this measure was considered in the other body yesterday. I wish to highlight in my remarks today certain elements of the compromise agreement.

BASIC PROVISIONS OF COMPROMISE AGREEMENT

Mr. President, the compromise agreement represents a melding of H.R. 1961 as passed by the House on January 30, 1984, and the provisions of S. 1651 as amended and passed by the Senate on May 22, 1984, as an amendment to the House bill. The basic provisions of the Senate amendment save one are retained intact. Essentially, the compromise agreement would require the Administrator to develop, through a public rulemaking process, regulations for the agency's adjudication of individual claims based on veterans' exposure to dioxin in Vietnam or to radiation from nuclear detonations and would establish, for a limited period of time, a program of temporary benefits for disability or death resulting from two diseases—chloracne and prophyria cutanea tarda—in the case of veterans exposed to dioxin during their service in Vietnam. The regulations would be required to be published in final form not later than 300 days after enactment of the legislation.

From the outset of my efforts on these compensation issues, as I noted in the debate on S. 1651 and prior to that time, I have insisted that it was not appropriate for the Congress to make decisions to include or not include in a list of presumptively service-connected disabilities for purposes of VA compensation various disabilities as to which there are fundamental differences of opinion among informed scientists as to whether the exposures that veterans experienced were likely to have caused various disabilities. I continue to hold to this position and, despite the inclusion in the compromise agreement of provisions for interim benefit payments for two rare conditions, I believe that the compromise generally vindicates this viewpoint. I agreed to interim benefits for these two conditions with great reluctance and only because of my strong interest in reaching agreement with the House

so that the Congress could finally enact this legislation this year and because of the temporary duration of the payment of these benefits—payments would not be made for periods before October 1, 1984, nor after September 30, 1986.

Mr. President, the other provisions in the compromise agreement are derived from the Senate-passed version of H.R. 1961 which were, in turn, derived in major part from S. 991 and S. 1651 which I designed to remedy the lack of consistency of results and criteria in the VA's claim adjudication process as it relates to dioxin and radiation claims. The mandated rulemaking process in the compromise agreement includes elements that should contribute substantially to achieving greater uniformity and more even-handed case decisions in these areas. Those elements include specific timetables for the development, publication, and approval of regulations; consultation by the Administrator with an advisory committee consisting of medical and scientific experts, and lay members with a demonstrated interest in the issue; and the requirement that the Administrator, in making aggregate service-connection determinations about diseases described in the compromise agreement, do so with due regard to the need to maintain the policy of the United States of giving veterans the benefit of the doubt in resolving contested issues.

These are the basic elements of the legislation now before the Senate.

SCIENTIFIC QUESTIONS

Mr. President, I want to stress that throughout the rulemaking process, the Administrator will be receiving advice from the members of a 15-member Veterans' Advisory Committee on Environmental Hazards. These 15 members will be selected by the Administrator after receiving recommendations from veterans organizations. Eleven of the members will be selected by the Administrator after soliciting recommendations from the heads of Federal science agencies, such as the Administrator of the Environmental Protection Agency and the directors of the National Institutes of Health, the National Science Foundation, and the Centers for Disease Control. These members will be medical or scientific experts in fields pertinent to the issues that the Administrator will be addressing—three members in fields pertinent to understanding the health effects of exposure to dioxin, three in fields pertinent to understanding the health effects of exposure to ionizing radiation, and five in fields such as epidemiology and other scientific disciplines pertinent to determining and assessing the health effects of exposure to dioxin or ionizing radiation in the exposed population. The other four members will be from the general public, including at least one disabled veteran, and must have clear experience relating to veterans' concerns regarding dioxin or ionizing radiation exposure.

This advisory committee and its scientific council will be charged with analyzing and evaluating pertinent scientific studies and advising the Administrator regarding the meaning of such studies. I view this scientific and medical resource, taken from the Senate amendment, as of great potential value to the Administrator in resolving these difficult issues in a fair and objective manner and as one of the key elements of the compromise agreement.

Mr. President, on May 22, 1984, during Senate debate on S. 1651, I included information in the RECORD pertaining to the VA's disposition of dioxin and radiation claims which showed in a graphic fashion the VA's disappointing track record in this area. I have some updates on that information which I would like to share with my colleagues at this time.

In the radiation area, the Defense Nuclear Agency now estimates that 200,000, rather than 250,000, veterans were present at detonations during the test program and that 110,000, rather than 130,000, veterans may have been exposed during the American occupation of Hiroshima or Nagasaki; the VA now indicates that 2,566, rather than 1,646, claims relating to exposure to radiation have been filed; that the number of such claims filed involving malignancies has increased from 945 to 985; and that there has been no change in the number of claims allowed.

In the dioxin area, the VA now indicates that 21,693 claims have been filed, up from 20,000 as of May of this year, and that 25 such claims have been granted, up from 15 as of May. With reference to the three specific conditions that I discussed in my May 22 statement—chloracne, porphyria cutanea tarda, and soft tissue sarcoma—the VA now indicates that 22 cases thought to involve chloracne have been granted although major questions remain as to how many of these cases truly involve a confirmed, properly diagnosed diagnosis of chloracne; of the 22 PCT cases filed, only 2 have been granted; and of the 2 cases of soft tissue sarcoma, 1 has been granted.

Mr. President, the provisions in the compromise agreement that will open for public participation and accountability the VA's approach to the handling of these claims should go a long way toward improving this record.

AVAILABILITY OF JUDICIAL REVIEW

Mr. President, in the Senate-passed measure, the required rulemaking process and the regulations themselves, and any revisions of the regulations or decisions at certain points not to revise them, would have been made expressly subject to review in Federal court, although this access to court review would not be available until after final publication of the initial set of regulations. This limitation was included so as to preclude any challenges during the development state, since they could have the effect of stalling the entire process.

As I noted during Senate debate on S. 1651, it is my belief that veterans and the public have a right to insist that the administrator, in issuing the mandated regulations, not be free to act in any arbitrary and capricious manner or without a substantial evidentiary basis—in the unlikely event that, through gross misjudgment or design, a VA administrator would want to do so. To protect against any such abuse, I viewed it as particularly important to provide an express reference in the legislation to access to court review—such as I had included in S. 991 and S. 1651.

I took this position despite my firm belief that under existing case law—as I will discuss shortly—court review of VA action in issuing regulations is available. My reasons for doing so were basically threefold: First, to make clear beyond purview to all concerned that such review was available and that the provision in current law, section 211(a) of title 38, relating to court review of VA decisions in cases involving individual claims for benefits has no relevance to the availability of review of VA actions relating to regulations; second, to preclude the Government, even when it is clear that there is no basis for asserting the section 211(a) bar in cases involving challenges to regulations, from raising that assertion; and, third and most importantly, to seek to save courts and litigants the time and expense of having needlessly to address the threshold issue of jurisdiction in suits involving challenges to VA regulations.

Thus, Mr. President, I am very disappointed that, despite my best efforts, our colleagues on the House committee were intransigent in their unwillingness to include in the compromise agreement such an express provision relating to judicial review regarding the regulations. Of course, the noninclusion of such an express reference in the legislation in no way changes the relevant case law, under which I believe it is clear that court review will be available for challenges either to the VA's compliance with the regulation-issuing process mandated by the compromise agreement or to the content of the regulations. Unfortunately, what is less clear is whether the Federal Government will alter its historic practice of raising the section 211(a) bar as a defense to any such challenges and, in so doing, cause un-

necessary expense and delay for veterans involved and the Federal judiciary.

Mr. President, as I just noted, under section 211(a), there is an express preclusion of judicial review of individual VA decisions on claims for benefits. Putting to one side my view that this preclusion is unjustifiable—legislation I have sponsored to remove the bar has been passed by the Senate in each of the last three Congresses—it is important, in understanding the issue of the availability of judicial review for challenges to agency regulations, to note that, according to established judicial precedents, that provision pertains only to individual claims for VA benefits. The judicial review provision in the Senate-passed measure, on the other hand, would have dealt exclusively with review of the Administrator's actions in issuing regulations and the regulations themselves.

Mr. President, when this legislation was originally before the Senate, with a specific provision relating to—and indeed, in part actually limiting—court review, the administration expressed its unqualified support for Senate passage. In addition, as I will discuss in more detail in a few moments, VA officials have expressed the agency's view that court review of VA regulations would and should be available. In light of these expressions of administration support and in light of the fundamental difference between what is precluded by section 211(a) and the mandated regulation-development process involved in the compromise agreement, I regret that the provision that would have expressly ensured access to court review is not included in the compromise agreement. However, the provision's absence in no way represents or suggests any decision that court review of these VA regulations be precluded. Indeed, it is difficult to understand what public policy goal would be served by directing the Administrator to address in regulations the issue of compensation for cases involving exposure to dioxin or radiation but allowing the Administrator to act in a completely arbitrary and capricious fashion in complying with that mandate.

Let me be clear, Mr. President—I am not suggesting that the current Administrator, Harry Walters, would carry out this responsibility in such a fashion. But we do not make legislative decisions on the basis of the personality or style of the current head of an agency. Also, the Administrator will not be acting alone in carrying out the mandate of this legislation. The VA is a large and complex agency, and recommendations for policy decisions on the subject matter of this legislation will be coming from many elements in the agency. Mistakes can and may be made, and there are several instances where arbitrary agency action on regulations has occurred in the recent past. Recent examples were the agency's nonimplementation for 17 months of the Public Law 97-72 provisions relating to health care for veterans exposed to radiation, and the excessively narrow regulations issued to implement the GI bill targeted delimiting date extension enacted in that same law.

Neither I nor anyone else can guarantee that the VA won't make further serious mistakes as it fulfills the mandate of this legislation. Review by an objective third party, a Federal court—indeed just the availability of such review—is the check that is established under our system of Government to detect and correct such major frustrations of congressional intent. Why would Congress want to immunize the VA, alone out of all major Federal departments and agencies, from such a check on broad-range executive branch policy making? I've never heard a satisfactory answer.

As our negotiations with the House committee on this legislation progressed over the last several months, I become concerned that permanently holding firm to my position on including an express reference to access to court review might prevent our ever reaching an overall compromise. However, I would have pursued this issue to and throughout a formal conference had I not concluded, as I will discuss below, that including such express reference to access to court review in the legislation, as the Senate had done, was not necessary to there being access to court to test the Administrator's compliance with the mandated rulemaking process and the content of the regulations issued pursuant to that process.

Mr. President, as the author of the statutory provision in the compromise agreement which will require the Administrator to issue regulations in accordance with the rulemaking provisions of the Administrative Procedure Act, section 553 of title 5, United States Code, it has been my unequivocal intent that such court review would be available and, as I noted, I am satisfied that the case law supports that result.

This body of case law on access to court review to challenge VA regulations is outlined in a memorandum prepared at my request by the American Law Division of the Congressional Research Service, Library of Congress. I ask unanimous consent, Mr. President, that this memorandum be printed at this point in the RECORD.

There being no objection, the memorandum was ordered to be printed in the RECORD, as follows:

STATUTORY PRECLUSION OF VETERANS' CLAIMS FROM JUDICIAL REVIEW UNDER 38 U.S.C. 211(a)

The availability of judicial review of Veterans' Administration (V.A.) action with respect to veterans' benefit claims has been a topic of considerable ongoing debate both in the courts and among scholarly commentators.[1] A principal focus of that debate has been the "no-review" clause which has, in one form or another, been included in the Veterans' Administration statutes since 1933.[2] As last amended in 1970, 38 U.S.C. 211(a) mandates that: "The decisions of the Administrator on any question of law or fact under any law administered by the Veterans' Administration providing benefits for veterans and their dependents or survivors shall be final and conclusive and no other official or any court of the United States shall have power or jurisdiction to review any such decision by an action in the nature of mandamus or otherwise."

The apparent congressional intention behind this provision was twofold: "(1) to insure that veterans' benefits claims [would] not burden the courts and the Veterans' Administration with expensive and time-consuming litigation, and (2) to insure that the technical and complex determinations and application of Veterans' Administration policy connected with veterans' benefits decisions will be adequately and uniformly made."[3]

The V.A. no-review clause has repeatedly been upheld against constitutional challenge, either on the rationale that veterans' benefits were a mere "gratuity" that did not rise to the level of a constitutionally protected right, or that Congress' power to subject the Sovereign to veterans' claims carried with it authority to limit the veteran to administrative remedies.[4] In so doing, however, the courts have generally been reluctant to accord the preclusion language the full breadth its terms might imply, and have instead engrafted limiting interpretations.[5]

The 1974 ruling of the Supreme Court in *Johnson* v. *Robison*[6] was a major development in this regard. The claimant there was a conscientious objector who appealed his denial of V.A. educational assistance. Under the veterans statute, an individual who served alternative service rather than active duty could not receive educational benefits. The claimant sought a declaratory judgment that those provisions violated the First Amendment guarantee of religious freedom and the Fifth Amendment guarantee of equal protection. The Court denied the claim on the merits after an extensive discussion of whether the district court had jurisdiction to review the veteran's claim.

Justice Brennan wrote for the majority that a construction of the no-review clause which prohibited the courts from considering the constitutionality of veterans' benefits legislation would raise serious questions concerning the clause's constitutionality. Therefore, he sought to interpret the statute in a manner that would avoid these difficulties. Justice Brennan reasoned that prohibitions against review only concern decisions that arise in the administration of a statute providing veterans' benefits. The claimant here was not challenging a decision of law or fact under the statute in which the Administrator applied a particular provision to a particular set of facts. Instead the claim here was addressed to the constitutionality of the statute itself. "The question of law presented in these proceedings arise under the Constitution, not under the statute whose validity is challenged."[7] This construction was found to accord with the legislative history of the no-review clause because, in the Court's view, allowing judicial review of constitutional questions

Footnotes at end of article.

did not conflict with the congressional purposes of avoiding overburdening the courts and keeping complex, technical decisions within the purview of the V.A.

Following *Johnson* the Courts of Appeals of at least four Circuits, as well as assorted district courts, appear to have expanded even further the reach of judicial review of V.A. regulatory actions. In several cases, the courts have held permissible the constitutional review of V.A. regulations. In *Devine* v. *Cleland*,[8] for example, student veterans who had either had their educational benefits suspended or reduced without notice or opportunity for hearing challenged the lack of procedural safeguards in the statute and regulations as a violation of due process. Because the case did not involve the substantive merits of the V.A. decision to terminate educational benefits in the individual cases, but only whether due process required advance procedural protection, the court found the case to fall within the *Robison* exception to the preclusion rule.[9] Similarly, the D.C. Circuit in *American Federation of Government Employees, AFL-CIO* v. *Nimmo*,[10] while requiring claimants to first exhaust their administrative remedies, found no § 211(a) bar to a due process challenge to the retroactive application of V.A. regulations requiring medical cost reimbursement by certain ineligible veterans. "Although decisions of the Board of Veteran's Appeals are not subject to judicial review, courts are not precluded from considering V.A.'s statutory authority for promulgating regulations and the constitutionality of its actions."[11]

Beyond this, some courts have agreed to consider nonconstitutional challenges to V.A. regulations. Thus, the Fourth,[12] Eighth,[13] and Ninth Circuit[14] seem to have followed the lead of the Sixth Circuit Court of Appeals in *Wayne State University* v. *Cleland*[15] in holding regulatory interpretations by the V.A. reviewable for consistency with authorities granted by its governing statutes even in the absence of alleged constitutional violations. In *Wayne State*, the Sixth Circuit considered a claim that the Administrator lacked statutory authority to promulgate a regulation defining full-time study for purposes of determining veterans' educational benefits. The court held that the rationale of *Johnson* indicated that regulations were indeed reviewable by the courts for consistency with the statute, since such review would neither "involve the federal courts in the day-to-day operations of the V.A." nor "spawn suits requesting federal courts to second guess the Administrator on the merits of particular claims for benefits or the termination of such benefits."[16] Such suits, instead, "seek a determination whether regulations have been promulgated pursuant to congressional grant of authority."[17] The same issue involving the same regulation was decided in identical fashion by the Eighth Circuit in *Merged Area X (Education)* v. *Cleland*, and by the Ninth in *Evergreen State College* v. *Cleland*. The fourth Circuit adopted the same rational to sustain review of a V.A. circular regarding disbursement of V.A. in-service educational service benefit checks in *University of Maryland* v. *Cleland*.

The Fifth Circuit reached a seemingly contrary result in *Anderson* v. *Veterans Administration*[18] which held that § 211(a) bars even a constitutional challenge to V.A. hearing procedures in some instances. In *Anderson*, the plaintiff asserted, *interalia*, that the use of a defamatory report in his files as the basis for a denial of his claim for benefits deriving from a service-related injury violated due process. Significantly, however, the court in *Anderson* relied heavily on pre-*Johnson* cases in support of its holding, and rather than a challenge to the constitutionality of a congressional act or regulation, the action could as readily be conceived as an attack upon an isolated decision of the V.A. Administrator in a particular case. As such, it may be largely reconcilable with the prevailing weight of authority that § 211(a) bars review of individual claims for benefits or the termination of existing benefits.[19]

In summary, considerable litigation has arisen over the availability of judicial review of V.A. administrative determinations in view of the § 211(a) no-review clause. Besides concerns for the constitutional role of the judiciary, the cases most often adverted to factors distilled by the *Johnson* Court from the legislative history of that section. Accordingly, most recent decisions have allowed review when the validity of a procedure or regulation promulgated by the V.A., rather than the merits of an individual claim, is the primary issue. In these instances, cost or workload concerns have been found not to bar review, because to the extent that such review does not involve the courts in individual benefit determinations, but simply enables them to pass upon the lawfulness of procedures and regulations, it places only minimal burdens on judicial and administrative resources. Similarly, where the claim is that the regulation or procedure violates the constitution or authorizing status, it is peculiarly within the competence of the Judiciary and the grant of review has generally been found not to intrude upon the expert functions performed by the agency. Conversely, the courts have almost universally denied review where the challenge involved only the application of eligibility standards to an individual claim for benefits. Here, both the specter of burdensome litigation and the V.A.'s arguably superior expertise in applying a substantive statutory or regulatory standard to an individual set of facts are often cited to justify preclusion of judicial review.

CHARLES V. DALE,
Legislative Attorney, American Law Division, October 1, 1984.

FOOTNOTES

[1] See, Morris, "Judicial Review of Non-Reviewable Administrative Action: Veterans Administration Benefits Claims," 29 Ad. L. Rev. 65 (1977); Rabin, "Preclusion of Judicial Review in the Processing of Claims for Veterans' Benefits: A Preliminary Analysis," 27 Stan. Rev. 905 (1975); Note, "Congressional Preclusion of Judicial Review of Federal Benefit Disbursement: Reasserting Separation of Powers," 97 Harv. L. Rev. 778, 790 (1984) and cases cited therein.

[2] Act of March 20, 1933, ch. 3, § 5, 48 Stat. 9.

[3] See, *Johnson* v. *Robison*, 415 U.S. 361, 370 (1974), and congressional reports cited therein.

[4] See, e.g., *Strong* v. *United States*, 155 F. Supp. 468 (D. Mass. 1957), *appeal dismissed*, 356 U.S. 226 (1958); *Milliken* v. *Gleason*, 332 F. 2d 122 (1st Cir. 1964), *cert. denied*, 379 U.S. 1002 (1965); *De Rodulfa* v. *United States*, 461 F. 2d 1240 (D.C. Cir. 1972), *cert. denied*, 409 U.S. 949 (1972). *Cf.*, *Lynch* v. *United States*, 292 U.S. 571, 577 (1934).

[5] In 1970 Congress amended § 211(a) to its present form by striking the qualifier "concerning a claim for benefits or payment" which had been construed very narrowly by the D.C. Circuit Court of Appeals. That court had held that § 211(a) only barred review of claims for benefits and not suits challenging the propriety of the termination of benefits. See, *Tracy* v. *Gleason*, 379 F. 2d 469 (D.C. Cir. 1967); *Thompson* v. *Gleason*, 317 F. 2d 901 (D.C. Cir. 1962); *Wellman* v. Whittier, 259 F. 2d 163 (D.C. Cir. 1958). Congress amended § 211(a) to specifically overrule this construction. See H.R. Rep. No. 91-1166, 91 Cong., 2d Sess., reprinted in 1970 U.S. Code Cong. & Admin. News, pp. 3732, 3729.

[6] 415 U.S. 361 (1974).

[7] 415 U.S. 367.

[8] 616 F. 2d 1080 (9th Cir. 1980).

[9] In so doing, the court stressed the consistency of this result with congressional concerns in enacting the no-review clause: "Reviewing the V.A.'s practices regarding suspension and termination of benefits will not frustrate either of Congress' primary purposes in enacting section 211(a). First, determination of the single Due Process question posed here will not spawn 'an inevitable increase in litigation with consequent burdens upon the courts and the Veterans' Administration.' [Citing *Johnson*, v. *Robison*]. The present procedures will be judged either sufficient or inadequate: in either event, the matter will be settled in one lawsuit for more than 400 members of the affected class and our ruling on the appropriateness of the district court's order will settle most of the constitutional questions pertaining to V.A.'s existing procedures. [citation omitted]. Second, review of the questioned procedures does not 'involve the courts in day-to-day determination and interpretation of Veterans' Administration policy.' [citation omitted]."

616 F.2d at 1085. *Cf.*, *Moore* v. *Johnson*, 582 F.2d 1228 (9th Cir. 1978) (due process challenge to the V.A.'s failure to provide a hearing prior to relocation veterans receiving domiciliary care in V.A. facilities).

[10] 711 F.2d 28 (4th Cir. 1983).

[11] Two other D.C. Circuit Court opinions, however, suggest a possibly narrower approach to the preclusion question, reserving judgment on whether § 211 would preclude review of nonconstitutional challenges to V.A. regulations in any or all cases, *Kirkhuff* v. *Nimmo*, 683 F. 2d 544, 548 (D.C. Cir. 1982), and refusing review in situations involving "nonbinding interpretative guidelines," such as standards set forth in V.A.'s Veterans' Benefits Manual. *Carter* v. *Cleland*, 643 F. 2d 1, 5 (D.C. Cir. 1980).

[12] *University of Maryland* v. *Cleland*, 621 2d 98 (4th Cir. 1980).

[13] *Merged Area X (Education)* v. *Cleland*, 604 F. 2d 1075 (8th Cir. 1979).

[14] *Evergreen State College* v. *Cleland*, 621 F. 2d 1002 (9th Cir. 1980).

[15] 590 F. 2d 627 (6th Cir. 1978).

[16] Id. at 631-32.

[17] Id. at 632.

[18] 559 F. 2d 935 (5th Cir. 1977).

[19] See, e.g., *Ross* v. *United States*, 462 F. 2d 618 (9th Cir.), *cert. denied*, 409 U.S. 984 (1972); *DeRodulfa* v. *United States*, 461 F. 2d 1240 (D.C. Cir.), *cert. denied*, 409 U.S. 949 (1972); *Wickline* v. *Brooks*, 446 F. 2d 1391 (4th Cir. 1971), *cert. denied*, 404 U.S. 1061 (1972); *Holley* v. *United States*, 352 F. Supp. 175 (S.D. Ohio 1972), *aff'd without opinion*, 477 F. 2d 600 (6th Cir. 1973).

Mr. CRANSTON. Mr. President, this memorandum's review and analysis of the case law strongly supports the position that court review is available to challenge VA regulations. This point was best summarized in the conclusion of the CRS memo where the author, Charles Dale, legislative attorney, noted:

Accordingly, most recent decisions [by the courts of appeals in the Fourth, Sixth, Eighth, and Ninth Circuits] have allowed review when the validity for a procedure or regulation promulgated by the VA, rather than the merits of an individual claim, is the primary issue. In these instances, cost or workload concerns have been found not to bar review, because to the extent that such review does not involve the courts in individual benefit determinations, but simply enables them to pass upon the lawfulness of procedures and regulations, it places only minimal burdens on judicial and administrative resources. Similarly, where the claim is that the regulation or procedure violates the constitution or authorizing statute, it is peculiarly within the competence of the judiciary and the grant of review has generally been found not to intrude upon the

expert functions performed by the agency. Conversely, the courts have almost universally denied review where the challenge involved only the application of eligibility standards to an individual claim for benefits. Here, both the spectre of burdensome litigation and the VA's arguably superior expertise in applying a substantive statutory or regulatory standard to an individual set of facts are often cited to justify preclusion of judicial review.

The first of the courts of appeals to find explicitly that section 211(a) does not bar court review of VA regulations, the Court of Appeals for the Sixth Circuit in *Wayne State University* v. *Cleland*, 590 F.2d 627 (1978), analyzed the issue, at pages 631-32, as follows:

As a general proposition administrative decisions are subject to judicial review under the Administrative Procedure Act, except to the extent statutes otherwise provide. The issue in the present case is whether § 211(a) provides an exception to the reviewability of administrative decisions.

* * * * *

We agree with the district court that § 211(a) does not preclude a challenge to the Administrator's authority to promulgate regulations.

The Supreme Court held in *Johnson v. Robison* that § 211(a) did not bar judicial review of constitutional challenges to provisions of veteran benefits legislation. The Court reasoned that application of § 211(a) to such constitutional challenges would not serve the two primary purposes of the statute. The first purpose is to insure veterans' benefits claims will not burden the courts and the V.A. with expensive and time consuming litigation. The second purpose is to insure that the technical and complex determinations and applications of V.A. policy connected with veterans' benefits claims will be "adequately and uniformly" made. The court also stated in *Johnson* that a construction of § 211(a) barring judicial review of constitutional challenges would call into question the constitutionality of the statute itself, which construction should be avoided if the statute can otherwise be construed to obviate deciding the constitutional question.

The *Johnson* rationale is particularly appropriate in the present case. Suits challenging the authority to promulgate regulations will not involve the federal courts in the day to day operations of the V.A. Neither will our construction of § 211(a) spawn suits requesting federal courts to second guess the Administrator on the merits of particular claims for benefits or the termination of such benefits. Suits challenging the statutory authority of the Administrator will not involve the courts in the complex and technical niceties of V.A. policy, but rather will seek a determination whether regulations have been promulgated pursuant to a congressional grant of authority. If we construe § 211(a) to bar judicial review of the present case, we would be finding a congressional intent to insulate from judicial review the limits of the Administrator's authority. This construction is not supported by the legislative history of § 211(a).

Such a construction would also raise serious doubts about the statute's constitutionality. We refuse to place such a construction on § 211(a) for neither its text nor its scant legislative history provides the "clear and convincing" evidence of congressional intent required by the Supreme Court before a statute will be construed to restrict access to judicial review.

Mr. President, in addition to this very clear case law, it appears that, although the VA is opposed to removing the section 211(a) bar to court review of individual benefit decisions—a change from the agency's position under the Carter administration when, for the first time, the VA did not object to permitting court review of such decisions—it is the VA's position under the current administration that court review of VA regulations is available. This position was first articulated by Administrator Walters in an answer to a question I posed in connection with his confirmation hearing. At that time, in December 1983, he stated:

Should the VA promulgate regulations in excess of lawful authority Federal court action is certainly available to the adversely affected veterans.

Administrator Walters repeated this position in an April 10, 1984, letter which provided the agency's views on S. 1651. He then took note of:

The body of case law permitting judicial review of constitutional challenges to agency regulations and procedures and allegations that the agency exceeded statutory authority in the promulgation of regulations.

Mr. President, based on the analysis I have set forth, I agree with the agency's position that court review of the VA regulations is available under existing law, and there is nothing in or about the compromise agreement that would change that for the regulations mandated by the legislation.

Inasmuch as it is clear that the Administrator, pursuant to the provisions in the compromise agreement, will be required to issue regulations, I am satisfied that individual aggrieved veterans as well as organizations representing aggrieved veterans, among others, will be successful in gaining access to court to challenge the Administrator's compliance with the statutory mandate as well as the content of the regulations. It would be foolhardy for the VA to carry out its responsibilities under the regulation writing and issuing process with any assumption that court review would not be available.

AGGREGATE DETERMINATIONS REGARDING SERVICE-CONNECTION

Mr. President, on a related matter, I wish to comment on the standard against which the Administrator's action in making determinations, by regulation, of which diseases should be adjudged service connected. As I noted earlier, under the compromise agreement, the Administrator, in making determinations in the rulemaking process as to which diseases will be granted service connection in the adjudication of individual cases, will be required to give due regard to the need to maintain the policy of the United States of giving claimants before the VA the benefit of reasonable doubt.

As I noted during Senate consideration of this legislation on May 22, under S. 1651 as introduced aggregate determinations as to service connection for specific diseases would have to have been made in each instance after giving the benefit of the doubt to veterans on close questions. As I explained then, this is a critical point. In the VA claims adjudication process, pursuant to VA regulations—38 CFR § 3.102—on each issue involved in a particular claim, the veteran—or survivor—gets the benefit of reasonable doubt where the issue is a close call. This is considered by the VA, the veterans service organizations, and many others, including myself, to be an absolutely fundamental precept of the entire VA claims adjudication process. One Federal District Court, in a case, *Clark* v. *United States*, 379 F. Supp. 1399 (N.D. Iowa 1974) which involved proceeds from a VA insurance policy—as to which judicial review is expressly available by statute—took specific note of this VA policy in its evaluation of the case and relied on the policy in finding in favor of the veteran's survivor after evaluating the agency's performance in terms of that policy. Also, the VA consistently stresses the importance of this policy in testimony before our committee, noting how beneficient it is to veterans in the adjudication process.

With respect to the question of service connection to be determined in the rulemaking process as to the named diseases, what is involved is an aggregate determination on each of the science issues involved in reaching an overall determination as to whether, and if so, in what circumstances, service connection should be granted. Those determinations will then resolve those science questions for a large number of individual claims involving a particular disease. The only effective way to preserve the application of the reasonable-doubt standard on the question of science is for the Administrator to be guided by that standard in the rulemaking process in making the aggregate determination for each disease. Unless this is done, there is a significant chance that individual veterans who might prevail on their particular claims where the evidence on the science is relatively evenly balanced and the reasonable doubt standard tips the balance in the claimant's favor, would be worse off after the rulemaking if the Administrator's determination in the case of their particular diseases was not affirmative in the service-connection issue. This possibility is quite real in the radiation area where some 30 claimants have prevailed in radiation claims, most at the appellate level before the Board of Veterans' Appeals. If the Administra-

tor does not take that reasonable-doubt standard fully into account in making those aggregate determinations, such a veteran claimant will have lost the benefit of that standard on a critical—probably dispositive—issue in his or her case.

The Senate amendment vindicated this principle while using a modified frame of reference; it required the Administrator, in making the aggregate service-connection determinations on the basis of sound scientific and medical evidence, "to be highly cognizant" of the need to maintain the VA's historic reasonable doubt standard—which the Senate amendment recognized, as does the compromise agreement, also to be "the policy of the United States"—in resolving that issue.

However, I was concerned that the "highly cognizant" standard was too subjective and might not give the Administrator a clear enough directive, nor give a court reviewing the Administrator's action a clear enough standard against which to evaluate a decision regarding service connection in the case of a particular disease. Therefore, I proposed, and my colleagues agreed, to modify the reference to the reasonable doubt standard in the compromise agreement so that the Administrator will now be required to give "due regard to the need to maintain" this policy of the United States in making these aggregate determinations. The "regard" that would be "due," under the compromise agreement, to the need to maintain this policy would be such adherence as would ensure that individual claimants would not fall into the situation just described of losing the benefit of the reasonable-doubt standard on the issue of service connection in their individual claims because the Administrator's aggregate disease determination was not to grant service connection. This more objective standard of "due regard" should thus better enable a reviewing court to determine whether the Administrator has complied with the mandated rulemaking process and particularly whether the VA Administrator truly did give the benefit of the doubt to veterans in resolving each material issue in making the decisions regarding service connection for the specific diseases. The Clark case, which I mentioned earlier and in which the court found in favor of the veteran's survivor after noting that the agency's action in that case was not consistent with the "obligation to resolve any reasonable doubts in favor of service connection," demonstrates that courts have no difficulty analyzing the VA's compliance with the reasonable-doubt standard.

CENTERS FOR DISEASE CONTROL BIRTH DEFECTS STUDY

Mr. President, in connection with the review of scientific studies by the Scientific Council which I discussed earlier, I would like also to make special reference to one recent study on the issue of the possible adverse health effects of exposure to dioxin, namely the study by the Centers for Disease Control—CDC—of Vietnam veterans' risks for fathering babies with birth defects. The results of that study were released by CDC on August 17, 1984.

The general finding of the study, which utilized a comprehensive registry of birth defects in the Atlanta, GA, area, was that "Vietnam veterans in general are not at increased risk" of fathering a child with a serious birth defect. Although this finding was generally reassuring, the authors of the study also reported finding that the "estimated risks for fathering babies" with spina bifida, cleft lip—with or without cleft palate—and certain benign and malignant tumors were "higher for Vietnam veterans with the higher" likelihoods of exposure to agent orange.

Based on the information available at the time the study was released, including preliminary consultation with representatives of the Office of Technology Assessment [OTA] and the VA's former, just-retired Chief Medical Director, Dr. Donald Custis, I indicated at that time my intention to prepare legislation that would have directed the VA to develop and evaluate various approaches to providing health care and other benefits to any veteran's child with birth defects related to the child's natural parent's exposure to some hazard during service.

In addition, I called for further scrutiny of the CDC study and for suggestions on what additional research might be appropriate. Specifically, I asked OTA, the science panel of the interagency Agent Orange Working Group, and the VA's Advisory Committee on Health-Related Effects of Herbicides to review the study and provide me their views on it and their suggestions for followup.

Mr. President, I am pleased to report that this additional scrutiny of the CDC birth defects study has gone forward and that the emerging consensus is that, although the findings relating to the specific defects were, in the words of the study's authors, "statistically significant," it does not appear that they should be a cause for serious concern among Vietnam veterans.

In this regard, Health and Human Services Assistant Secretary Dr. Brandt, the Chair pro tempore of the Agent Orange Working Group, in his September 28, 1984, response to my request for the interagency working group's views, stated that "current evidence does not indicate that Vietnam veterans are at greater risk of fathering children with birth defects." Dr. John Gibbons, the Director of OTA, in his September 24, 1984, response to my request for OTA's views stated that "[t]his study, consistent with information from other studies, provides some assurance that there is no overall increase in the occurrence of birth defects in children of Vietnam veterans or those exposed to agent orange, compared with other veterans." Addressing specifically the individual defects as to which some association had been found with exposure to agent orange, Dr. Gibbons stated that "[t]he statistically significant associations that were found between agent orange exposure and individual defects are of small magnitude and may be due to chance. Nevertheless, they are of some continuing concern." OTA, however, no longer stands by this last sentence.

On Wednesday, in testimony before the Subcommittee on Hospitals and Health Care of the House Committee on Veterans' Affairs, OTA representatives raised very significant questions about the validity of the indices of agent orange exposure used by CDC and, as a result of their concerns in this regard, stated that "the likely misclassification [of veterans as to degree of exposure to agent orange] prevents any conclusions based on the Agent Orange Exposure Opportunity Indices." What this means is that, in OTA's opinion, the only findings of the CDC birth defects study that should be credited are those pertaining to Vietnam veterans in general as to whom no indication whatsoever was found of an increased incidence of children with serious birth defects.

I must note that if OTA is correct on this point regarding the exposure indices used—and I certainly intend to request the views of CDC and others on this point—it is unfortunate that for purposes of conducting this study a better index could not have been devised regarding agent orange exposure.

In light of these new interpretations of the CDC study, I do not intend to pursue at this time the type of legislation that I outlined tentatively on August 17. I continue to believe, however, that the CDC study and any subsequent studies relating to possible birth defects or other reproductive outcomes in the natural children of veterans exposed either to dioxin or ionizing radiation must be very carefully analyzed and evaluated. In this regard, I note, as the chairman of the committee has already noted in his remarks, that the Advisory Committee on Environmental Hazards and its scientific council are charged with the ongoing responsibility to make evaluations regarding pertinent scientific studies relating to the health effects of exposure to dioxin and ionizing radiation, such as the recent CDC study on birth defects and the Ranch Hand Morbidity Study, and to make recommendations to the Administrator re-

garding any administrative or legislative action it considers appropriate.

I have every expectation that the committee and its council will carry out this responsibility fully and fairly.

Mr. President, I ask unanimous consent that my letters of August 15, 1984, to Dr. John Gibbons, Director of OTA, Dr. Brandt, Chair pro tempore of the interagency Agent Orange Working Group, and Dr. Barclay Shepard, Chairman of the VA Advisory Committee on Health-Related Effects of Herbicides, requesting their views on the CDC study, Dr. Gibbon's September 24, 1984, reply and enclosure, Dr. Brandt's September 28, 1984, reply, the October 1, 1984, reply of Dr. John Gronvall, the VA's Acting Chief Medical Director, and OTA's October 3, 1984, testimony before the Subcommittee on Hospitals and Health Care of the House Committee on Veterans' Affairs be printed at the conclusion of my remarks.

CONCLUSION

In closing, I express my very great appreciation to the chairman [Mr. SIMPSON] for his splendid cooperation as we worked so long and hard on this issue together, to the other members of the committee for their cooperation and assistance, especially the Senator from Maine [Mr. MITCHELL], and the Senator from Pennsylvania [Mr. SPECTER] who joined with me as the principal sponsors of S. 1651, and to the Senator from South Dakota [Mr. PRESSLER] who joined with us in sponsoring and supporting S. 1651 during Senate floor consideration. I also again thank my good friends on the House committee, the chairman of the full committee, Mr. MONTGOMERY, the ranking minority member of the full committee, Mr. HAMMERSCHMIDT, and the principal author of H.R. 1961, Mr. DASCHLE. They, as well as the other members of the House committee, have demonstrated their usual fine spirit of accommodation and reasonableness.

Mr. President, my warmest gratitude also to the staff members of the House committee who played such key roles in the development of the compromise agreement, Arnold Moon, Pat Ryan, Jack McDonell, Charlie Peckarsky, Rufus Wilson, and chief counsel and staff director Mack Fleming. To the members of our committee's majority staff, Julie Susman and Anthony Principi, my thanks for their effective work and cooperation on this measure. As always, I am deeply indebted to our minority staff, especially Bill Brew, who has lived with this issue night and day for so long, and to Ed Scott, Katy Burdick, Jenny McCarthy, Charlotte Hughes, Ingrid Post, and Jon Steinberg, for their invaluable assistance on this measure.

Mr. President, as I noted at the outset, this is a most important and timely measure that will make possible certain very important strides in the Federal Government's efforts to respond to the very serious, very real concerns of veterans who were exposed to dioxin or radiation. I urge the Senate to give this compromise a unanimous vote of approval.

Mr. President, I ask unanimous consent to have printed in the RECORD the following items: a letter to OTA; a letter to HHS; a letter to VA; a letter from OTA; a letter from HHS; a letter from VA; and OTA testimony.

There being no objection, the correspondence was ordered to be printed in the RECORD, as follows:

COMMITTEE ON VETERANS' AFFAIRS,
Washington, DC, August 15, 1984.

Dr. JOHN H. GIBBONS,
Director, Office of Technology Assessment, U.S. Congress, Washington, DC.

DEAR JACK: As you know, the Centers for Disease Control has completed its study entitled "Vietnam Veterans' Risks for Fathering Babies Born with Birth Defects".

As the Ranking Minority Member of the Senate Veterans' Affairs Committee, I am writing to request that the OTA review and comment on this report. In particular, I would appreciate your evaluation of the statistical power of the study, both with reference to the study's overall conclusions as well as with reference to specific findings which relate to Vietnam veterans most likely to have been exposed to Agent Orange having a higher risk of fathering babies with certain birth defects. In addition, I would appreciate your evaluation of each finding which shows any statistically significant association to Vietnam service or likelihood of exposure and of the data relating to an association between a veteran having contracted malaria in Vietnam and fathering a baby with a sex organ birth defect.

In addition to your comments on the study itself, I would very much appreciate receiving your views regarding the need for further research on the issue of birth defects related to exposure to dioxin and also on what steps the Federal Government might take, either now or during the pendency of further research, to assist Vietnam veterans who have children with birth defects or who are concerned about the possibility of conceiving a child with birth defects.

As you know, I highly value OTA's views, especially your reviews of studies and surveys related to the health effects of exposure to phenoxy herbicides. I look forward to your opinion and perspective on the CDC study.

Finally, I want to express my deep appreciation for the assistance that Dr. Michael Gough and Hellen Gelband of your staff have already provided to the Veterans' Affairs Committee staff on this matter and so many others.

With warm regards,
Cordially,

ALAN CRANSTON,
Ranking Minority Member.

COMMITTEE ON VETERANS' AFFAIRS,
Washington, DC, August 15, 1984.

Dr. EDWARD N. BRANDT, Jr.,
Assistant Secretary for Health, Department of Health and Human Services, Washington, DC.

DEAR DR. BRANDT: As you know, the Centers for Disease Control has completed its study entitled "Vietnam Veterans' Risks for Fathering Babies Born with Birth Defects".

As the Ranking Minority Member of the Senate Veterans' Affairs Committee, I am writing to request that the Science Panel of the Agent Orange Working Group review and comment on this report. In particular, I would appreciate the Panel's evaluation of the statistical power of the study, both with reference to the study's overall conclusions as well as with reference to specific findings which relate to Vietnam veterans most likely to have been exposed to Agent Orange having a higher risk of fathering babies with certain birth defects. In addition, I would appreciate your evaluation of each finding which shows any statistically significant association to Vietnam service or likelihood of exposure and of the data relating to an association between a veteran having contracted malaria in Vietnam and fathering a baby with a sex organ birth defect.

In addition to commenting on the study itself, I would very much appreciate receiving the Panel's views regarding the need for further research on the issue of birth defects related to exposure to dioxin. In this regard, I understand that a proposal may be coming forward from CDC to carry out a study of birth outcomes among the production workers listed in the NIOSH registry. I would appreciate hearing more about that study, its prospects for funding, and the timetable for its completion. In view of the CDC study findings with respect to certain findings of increased risks associated with Agent Orange exposure, I urge that every effort be made to expedite this NIOSH-registry study.

Also, I would appreciate receiving the views of the full Working Group on what steps the Federal Government might take, either now or during the pendency of further research, to assist Vietnam veterans who have children with birth defects or who are concerned about the possibility of conceiving a child with birth defects.

As you know, I highly value the Working Group and Science Panel's views, especially the Panel's reviews of studies and surveys related to the health effects of exposure to phenoxy herbicides. I look forward to their opinion and perspective on the CDC study.

With best wishes,
Sincerely,

ALAN CRANSTON,
Ranking Minority Member.

COMMITTEE ON VETERANS' AFFAIRS,
Washington, DC, August 15, 1984.

Dr. BARCLAY SHEPARD,
Chairman, VA Advisory Committee on Health-Related Effects of Herbicides, Veterans' Administration, Washington, DC.

DEAR BARCLAY: As you know, the Centers for Disease Control has completed its study entitled "Vietnam Veterans' Risks for Fathering Babies Born with Birth Defects".

As the Ranking Minority Member of the Senate Veterans' Affairs Committee, I am writing to request that the Veterans' Administration's Advisory Committee on Health-Related Effects of Herbicides review and comment on this report. In particular, I would appreciate the Committee's evaluation of the statistical power of the study, both with reference to the study's overall conclusions as well as with reference to specific findings which relate to Vietnam veterans most likely to have been exposed to Agent Orange having a higher risk of fathering babies with certain birth defects. In

addition, I would appreciate your evaluation of each finding which shows any statistically significant association to Vietnam service or likelihood of exposure and of the data relating to an association between a veteran having contracted malaria in Vietnam and fathering a baby with a sex organ birth defect.

In addition to commenting on the study itself, I would very much appreciate receiving the Committee's views regarding the need for further research on the issue of birth defects related to exposure to dioxin and also on what steps the Federal Government, especially through the VA, might take, either now or during the pendency of further research, to assist Vietnam veterans who have children with birth defects or who are concerned about the possibility of conceiving a child with birth defects.

I look forward to receiving and reviewing your opinion and perspective on the CDC study.

With warm regards,
Cordially,

ALAN CRANSTON,
Ranking Minority Member.

CONGRESS OF THE UNITED STATES,
OFFICE OF TECHNOLOGY ASSESSMENT,
Washington, DC, September 24, 1984.

Hon. ALAN CRANSTON,
Ranking Minority Member, Committee on Veterans' Affairs, U.S. Senate, Washington, DC.

DEAR ALAN: Enclosed is OTA's review of the Centers for Disease Control (CDC) study, "Vietnam Veterans' Risks for Fathering Babies with Birth Defects." We find that CDC has conducted the study according to good scientific practice, and has thoroughly analyzed and honestly presented the results. This study, consistent with information from other studies, provides some assurance that there is no overall increase in the occurrence of birth defects in children of Vietnam veterans or those exposed to Agent Orange, compared with other veterans and with non-veterans. The statistically significant associations that were found between Agent Orange exposure and individual defects are of small magnitude and may be due to chance. Nevertheless, they are of some continuing concern.

The Vietnam Experience and Agent Orange studies, now under way at CDC, will provide additional information about birth defects and other aspects of reproductive health. A study planned by NIOSH will examine the reproductive health of workers in two plants at which chemicals contaminated with dioxin were produced, and the Air Force is continuing to gather information about reproductive health in the Ranch Hand population. These efforts are exploiting the most promising sources of data about birth defects and other aspects of reproductive health and their possible relationship to Vietnam service and Agent Orange exposure. At this time we are unaware of any other promising research opportunities that would contribute substantially to the knowledge base.

If you have any questions about the OTA review or related matters, please call on me, or Michael Gough or Hellen Gelband of the OTA Health Program at 6-2070.

Sincerely,

JOHN H. GIBBONS.

VIETNAM VETERANS' RISKS FOR FATHERING BABIES WITH BIRTH DEFECTS

PURPOSE OF THE STUDY

The Centers for Disease Control (CDC) undertook this study to find out whether babies born to male Vietnam veterans are more likely to have major structural birth defects than are babies born to men who did not serve in Vietnam. When planning began for the study, in 1980, there was no method available for assessing exposure to Agent Orange through military records. During the course of planning, however, such a method was developed, and CDC added an "Agent Orange hypothesis" that addressed the question: Is the occurrence of major structural birth defects associated with the father's level of exposure to Agent Orange in Vietnam?

This study was designed and carried out with extensive advice and review by members of the scientific community. Knowledge of that review process and OTA's own reading of the report convince us that the methods used were appropriate, and that there were no major flaws in data analysis. An article describing the study and the major findings was published in the *Journal of the American Medical Association* (August 17, 1984; Vol. 252, No. 7, pages 903-912), and a detailed report of the entire study was made available to OTA by CDC. Both the report and the article underwent review by many scientists. An editorial, prepared by a representative of the American Medical Association, accompanied the article.

This OTA review, based on both the journal article and the full report, concentrates on the interpretation of findings, how they fit with findings from other studies, and their implications for future research.

FINDINGS

The study examined the possibility that the frequency of all major structural birth defects had been increased by Vietnam service of Agent Orange exposure, and the possibility that one or more of 95 specific birth defects or related classes of defects had been increased in frequency. Vietnam veterans did not have an increased risk for fathering babies with all birth defects combined compared with other veterans who did not go to Vietnam, or compared with non-Veterans. No associations were detected among the group of men who said they had been exposed to Agent Orange. There also was no significant trend of increasing risk with increasing Agent Orange exposure as measured in either of two Agent Orange Exposure Opportunity Indices. Among individual defects or categories of defects three important statistically significant associations were found. The associations were all with increasing exposure to Agent Orange as measured in one or both Agent Orange Exposure Indices. That type of association is equivalent to a "dose-response" relationship, meaning that the outcome is systematically more or less common with increasing doses.

There was a tendency for increased risk of spina bifida with higher values on both Agent Orange Exposure Opportunity Indices. Cleft lip with or without cleft palate was positively associated with one of the indices, but not the other. Cleft lip was also associated with fathers who are veterans but did *not* serve in Vietnam. The class "other neoplasms," which includes all the serious congenital tumors, was associated with increasing values on one Agent Orange Exposure Opportunity Index.

Each of the three effects is "statistically significant." However, a few "false positive findings" would be expected to arise by chance. Whether these three effects are true or false postives cannot be known. This issue is discussed in CDC's report, and in this review in the "Discussion" section. The *magnitude* of each association is relatively small, in epidemiologic terms. The associations themselves account for a relatively small number of cases of defects, if indeed they are not chance associations.

MEANING OF THE RESULTS

This study is the most powerful investigation of birth defects in relation to Vietnam service and Agent Orange to date, and probably the most powerful possible of this type in the United States. The value of this study, as has been the case with the Ranch Hand Morbidity Study and the Australian birth defects study, is to set some upper limits on the risks associated with Vietnam service and Agent Orange exposure. The evidence from this study and the Australian study is consistent, finding no generalized increase in the rate of birth defects associated with Vietnam service or with Agent Orange exposure. The Ranch Hand study, which depended on parental recollections and considered minior birth defects that were not included by CDC, found a statistically significant increase in total birth defects in the Ranch Hand group. The Air Force is currently obtaining medical and birth records to fully evaluate questions of birth outcomes in their population.

There is no way to detect very small increases overall or even moderate increases in most individual defects, however, through epidemiologic studies. Nevertheless, the studies show that there is no increased overall risk of serious birth defects and provides reassurance that if there are any increases in particular defects, the increases are small.

STUDY DESIGN

CDC used a "case-control" study design, a commonly-used epidemiologic approach to questions such as those addressed in this study. The study began by assembling a "case group," babies born with birth defects, and a "control group," babies born without such defects during the period 1968-1980. The Metropolitan Atlanta Congenital Defects Program, through which the children with birth defects were identified, is the only such registry in the country that was in operation during the period that most Vietnam veterans were having children. It is essentially impossible to retrospectively create such a registry.

Mothers and fathers of case and control babies were then interviewed and the fathers categorized as to their military experience: they were either (1) non-veterans; (2) veterans who had not served in Vietnam; or (3) Vietnam veterans.

Agent Orange status was determined in three different ways. First, fathers were asked whether they thought they had been exposed. Second, the Army Agent Orange Task Force (AAOTF), by extracting information from each father's military records and using the information about where and when Agent Orange was used, made a judgment about each man's exposure, on a scale of 1-5, with 1 being minimal or no opportunity for exposure and 5 being many opportunities for exposure or opportunities for heavy exposure. Third, the fathers were questioned about where they had been and what they had done in Vietnam, and that information was provided to the AAOTF.

Based on that information and the data about Agent Orange use, the AAOTF again rated each man on a scale of 1-5. The two AAOTF ratings were independent, and the individuals who made the ratings did not know the identities of the men or their status as fathers of cases or controls when evaluating exposures.

The analysis of data from case-control studies is conceptually simple: the frequency of suspected "risk factors" in the case group is compared with the frequency in the control group. A higher (or lower) frequency in the case group indicates that the outcome under study, in this case birth defects, is "associated with" the risk factor, in this case either (1) serving in Vietnam, or (2) being exposed to agent orange. The actual analysis was a good deal more sophisticated than simply comparing percentages. For example, because birth defects are known to occur with different frequencies in different race and socioeconomic groups, and because there are trends in the occurrence of birth defects over time, it is usual to take these factors into account when designing a study and analyzing the results. CDC carried out three levels of analysis, "stratifying" the data to greater degrees in the second and third analyses to look for effects of larger and larger numbers of potential associations.

An association does not necessarily connote a causal relationship between the risk factor and the outcome. The analysis is based on the probability of events occurring by chance. As results become more and more different from those predicted by chance, it becomes more likely that some other factor or factors explain the pattern of occurrence. Even extreme results, however, can be expected to occur by chance once in a while.

Aside from the question of probability, associations that show up in the analysis may actually be due to some other, unidentified factor that is associated with both the "risk factor" and the outcome. In the area of birth defects where so little is known about causes, this possibility deserves careful consideration when assessing the results of the study.

HYPOTHESES TESTED

For each of the 96 defects or groups of defects, four hypotheses were investigated:

1. Whether the risk of veterans (excluding Vietnam veterans) for fathering babies with defects differs from that of non-veterans. The reason for investigating this question is because veterans tend to be healthier than other men, and it was thought that this might extend to reproductive health as well.

2. Whether the risk of Vietnam veterans fathering children with birth defects differs from that of other men (both other veterans and non-veterans).

3. Whether men who said they had been exposed to Agent Orange had increased risks of fathering children with birth defects than did men who were in Vietnam but did not think they had been exposed.

4. Whether the risk of fathering a child with a birth defect was related to scores (ranging from 1 to 5 with increasing exposure) on two "Agent Orange Exposure Opportunity Indices."

Case Babies. Case group babies were a subset of all babies registered in the Metropolitan Atlanta Congenital Defects Program (MACDP), who were born between 1968 and 1980, inclusive. All liveborn or stillborn babies with serious or major defects were considered eligible. The guidelines used by CDC to select serious and major defects were:

". . . those [defects] that affect survival, require substantial medical care, result in marked physical or psychological handicaps, or interfere with a baby's prospects for a productive and fulfilling life."

It is certainly these types of defects that concern parents and society.

The MACDP, a unique resource in the country, attempts to register *all* babies born to mothers living in the Atlanta area. The registry began in 1967, sponsored by Emory University School of Medicine, the Georgia Mental Health Institute, and CDC. CDC is responsible for running the program. The feature that distinguishes this registry is that it attempts to make a complete accounting of all birth defects in a defined population. To the extent that registration is complete, incidence rates for birth defects can be calculated, and there should be no biases in the data. Bias may occur in registries that count babies born only in specific hospitals, for instance, if the hospitals draw patients of certain socioeconomic or racial groups.

Out of about 13,000 babies registered during the study period, 7,133 were eligible for the study, based on the defects or combinations of defects considered major or serious.

Control Babies. Control group babies were chosen from among the 323,421 liveborn babies born to mothers in the metropolitan Atlanta area from 1968 to 1980, the same time period during which case babies were born. Initially, 6,677 controls were selected through a "stratified random sample." The "strata" on which controls were frequency matched with cases were: race, year, quarter of birth, and hospital of birth. This means that within the cases and controls, there were the same proportions of whites and other races; the same proportions from each time period; and the same proportions born in each of the 10 hospitals in the area.

LOCATING PARENTS OF BABIES

Locating and securing the cooperation of individuals chosen for this type of study is the most difficult and in many ways most unpredictable part of the task.

Initially, information about each baby's parents was abstracted from birth certificates for controls, or from the MACDP case record forms for cases. The baby's date of birth, and the mother's name and address at the time of the birth were available for all babies. The mother's maiden name, the father's name, mother's and father's birth dates, father's occupation, and mother's social security number (beginning with 1974, when the MACDP began recording the Social Security Number) were abstracted, but coverage of those items was not complete. In particular, the father's name was more often available on birth certificates than on MACDP forms. Because of that difference, birth certificates were sought for all case babies as well as control babies to eliminate a possible bias in finding parents.

CDC used a variety of sources for locating parents starting with the information available from birth certificates and MACDP records. Sources of current addresses included: the Internal Revenue Service for those mothers whose Social Security Numbers were known; telephone company alphabetic and geographic directories; the postal service; the Georgia Department of Public Safety (for driver's licenses) and other motor vehicle bureaus; credit bureaus; relatives and former neighbors; marriage licenses; the public housing authority in Atlanta; and the Georgia Human Resources Department. Tracing people, especially from addresses as old as 14 or 15 years, is much like detective work. Leads are followed until a person thought to be the parent is located. If the match between parent and child is confirmed the trail ends; if it is a mismatch the search continues.

PARTICIPATION

Based on the pilot study, CDC predicted that about 70 percent of eligible case and control parents would participate in the study. The 30 percent losses include both parents not locatable and those who would choose not to participate. For white case parents, that prediction was reasonably accurate. For the "other race" subgroup, however, participation was much lower. About 60 percent of other race mothers, and just over 30 percent of other race fathers completed interviews. The study results, as CDC points out, may be less generalizable to the other race population than are the results for whites to the white population.

Participation by a small percentage of those initially selected raises concern that participants may differ from non-participants. The fact of being difficult to locate in itself reveals that those people are in some way "different" from those who were located. If those differences are systematically associated with exposures, in this case Vietnam service or exposure to Agent Orange, the results of the study may be influenced. Most of the non-participants in this study were the ones never located. A smaller number declined to take part.

Two types of effects of non-participation are important. First, having fewer cases and controls than planned decreases the power of the study to detect associations even if they exist. The likelihood of "false negative" results is increased. Second, the results might be quite different, changing in either direction, if the exposure characteristics of the non-participants were known. Unfortunately, the possible biases introduced in this way are unknowable, and the analysis is rightly based on the information that is available.

ANALYSIS

The data were analyzed at three levels of detail, each incorporating larger numbers of variables. The analytic method used is "conditional logistic regression," a method which allows consideration of more than one factor simultaneously. In other words, the differences in outcomes seen between cases and controls that are explainable by the "adjustment factors" can be filtered out, exposing the amount of the difference associated with other factors, importantly, one hopes, the factors being studied. Adjustment factors are such things as the amount of education that a mother has had. Although there is no biological effect associated with amount of education, it is well known that more poorly educated mothers tend to have poorer birth outcomes than mothers with more education. The possible mechanisms through which the effect might be manifest are several. Education could lead to better nutrition, better medical care, less smoking, or other lifestyle differences. If, for some reason, mothers of case babies were consistently more poorly educated than were mothers of control babies, and this were not factored into the analysis, the possible association with Vietnam service or Agent Orange exposure might appear to be obscured or strengthened.

CDC's *basic analyses* consider no potential confounding variables except the three stratifying factors—period of birth, race, and hospital of birth. The next level, the *primary analysis*, adjusted for four additional adjustment factors, each of which is known to be associated with, not necessarily causally, the risk of birth defects: maternal age, maternal education, maternal alcohol consumption, and the occurrence of birth defects in first-degree relatives of the index babies. In the third level of analysis, the *secondary analysis*, 108 covariables were considered, such as health conditions of the parents; drugs, vitamins, and medical procedures; smoking and drinking habits of parents; and occupation of parents. In general, there were no important differences among the results of the three sets of analyses. The data presented in the JAMA article are from the basic analysis.

DISCUSSION

OTA finds that the CDC birth defects study represents, from a practical perspective, the best effort possible toward investigating the potential excess risks of Vietnam veterans fathering babies with birth defects. If also has addressed as thoroughly as possible in this type of study the question of exposure to Ageny Orange and its potential attendant risks for birth defects. The data firmly support the conclusions drawn about the lack of an overall major increase in risk, and those concerning specific defects.

The one concern about the information produced by the study is the low participation rate among other race parents. CDC acknowledges this weakness, and places the appropriate caveats around the findings in other race participants. On the positive side of this, however, there is no biological reason to suppose that the effect of Vietnam service or Agent Orange exposure would be different among whites and nonwhites in the risk of fathering children with birth defects.

POSITIVE FINDINGS

The positive findings of the study deserve careful scrutiny. The important question is whether those positive associations represent causative associations. The answer to that question involves more than a simple finding of statistical significance. Other aspects to consider include: the magnitude of the excess risk, which indicates the size of the excess; the biological plausibility of the association; and consistency of the association with findings from other studies.

An initial dichotomy of possible explanations for positive findings is: (1) that there is a true association, causal or not causal, between the risk factor and the outcome; or (2) that the positive finding is a chance event, explainable within the limits of probability, and there is in fact no association. Under the first explanation, the association could be either causal or secondary. A secondary association means that *both* the exposure and the outcome are independently associated with some third, unidentified factor. An example is an association of heavy drinking with lung cancer. While drinking does not cause lung cancer, both heavy drinking and lung cancer are associated with cigarette smoking. If one does not take into account smoking habits in studies of lung cancer, an association with drinking would appear. If the true causative factor is unknown, however, it cannot be accounted for in the analysis, and the association will not be explainable by other factors.

A causal association should make biologic sense and should show consistency among studies. An important point even about causal associations is that, particularly in an area such as birth defects, a single cause will only in very rare instances be the cause of *all* cases of a specific defect (a well-known example is the teratogenic effect that thalidomide had on developing fetuses, causing focomelia, a defect almost never encountered in the general population). To illustrate, an odds ratio (or relative risk) of 2.0 means that the defect is twice as frequent in those with the risk factor being investigated compared with those who do not have the risk factor. If a given defect occurs at a rate of 1 per 1,000 in those without the risk factor, it would occur at a rate of 2 per 1,000 in those with the risk factor. The *excess* would be 1 case, since 1 case would be expected even without the risk factor. In that hypothetical example, 50 percent of the defects among those with the risk factor could be attributed to the risk factor. The remainder presumably are due to other causal factors.

Although there are no objective criteria for judging the important of odds ratios, in general an odds ratio of less than 2.0 is considered relatively unimportant. This judgement, of course, must be tempered by the seriousness of the defect and the magnitude of the incidence rate in the general population, or in the population without the risk factor. For something that occurs at a very high rate, a two-fold increase would contribute a large excess, in absolute numbers.

The odds ratios for the positive results in this study are relatively low. The positive results all occur in categories of fairly low incidence, as well, so the absolute number of the excess is small. The defects, however, particularly spina bifida and other neoplasms, are serious. Though there is no plausible biological explanation for them involving the father, in general their causes are unknown. However, because alternate explanations are not evident, they must be considered at least as possible causal associations.

The possibility that the associations are simply due to chance must also be considered, but there is no way to knowing this based on a single study. The generally accepted level of significance in epidemiology, to which this study adhered, is 0.05, meaning that the probability of the apparent association being due to chance is no more than 5 percent. At this level, if in fact there were no difference, there is still a 5 percent chance of an association appearing. In other words, in 5 out of 100 analyses, one would expect "false positive" results. In this study, with at least two and in most cases three analyses of 96 defects or groups of defects, one would expect some statistically significant findings to occur simply by chance.

FUTURE RESEARCH

OTA is aware of three major studies either ongoing or in planning that will contribute information about the possible effects of Agent Orange on the reproductive health of U.S. veterans. These are the Ranch Hand morbidity study follow-up, the mandated studies of the Vietnam experience and Agent Orange now underway at CDC, and a study well along in planning by the National Institute of Occupational Safety and Health (NIOSH) of workers in their "dioxin registry." Besides looking at birth defects, these studies also are addressing other aspects of reproductive health.

The Ranch Hand morbidity study results that were published in February 1984 reported a statistically significant difference in the total rate of birth defects. The major contributor to the excess reported by Ranch Hands was "skin anomalies," including birth marks. When those defects were removed from consideration, the significant association between being a Ranch Hand and excess birth defects was diminished to a suggestive, but not significant, association. Because the CDC study did not include minor birth defects, this study brings no information to bear on the question of a possible association between them and Vietnam service. The Ranchy Hand morbidity study also found suggestive differences in rates of learning disabilities and neonatal deaths. These results were based on reports of parents, and not on medical or vital records. The Air Force is currently obtaining medical and vital records to verify diagnoses, and expects to produce a detailed analysis by the end of 1984.

The Vietnman Experience and Agent Orange studies mandated in Public Law 96-151, being carried out by CDC, will collect information about birth defects and other aspects of reproductive health, e.g. infertility, stillbirths, and miscarriages. The information will come only from interviews of men, however, and there are no plans to obtain birth certificates or medical records. That is the most reasonable approach for that study, which is designed to look broadly at the health of Vietnam veterans and those exposed to Agent Orange.

NIOSH has developed a protocol to study the reproductive health of workers at two plants where chemicals contaminated with dioxin were produced. The objective of the study is to "determine if occupational exposure to dioxin . . . is associated with decreased fertility, spontaneous abortions, stillbirths, or congenital malformations in the offspring of male workers." NIOSH states that up to 447 employees will be questioned, a fairly small number. Information will be collected from workers and their spouses, and birth, fetal death, and infant death certificates will be collected for verification of reproductive outcomes. The study will not have sufficient power to find any but extremely large increases in overall birth defect rates, but it should be sensitive enough to detect moderate increases in rates of spontaneous abortions.

None of these studies will be as powerful as the CDC birth defects study. The Australian study, because of the small number of veteran fathers, also had less power than does this study to detect the effects of Vietnam service. The NIOSH effort has the advantage of studying men known with greater certainty to have been exposed to dioxin than do any of the studies of Vietnam veterans.

There are no other registries in the United States comparable to the MACDP. The type of study done by CDC cannot be replicated using another data base, and the MACDP data base has been exhausted. It appears that there are no attractive opportunities for epidemiologic studies of Vietnam veterans reproductive health that are not already being pursued.

If the NIOSH study produces suggestive findings, the potential exists to study more workers in the registry. NIOSH has sought to include all people in the registry who worked in chemical production plants where dioxin was present. The resource is just beginning to be used for studies, and there is scope for further study of those individuals.

OTA does not find justification for initiating more studies at this time, given the limited populations appropriate for such investigations, and the fact that none of the

studies to date has produced alarming findings. The findings have been suggestive, and to the extent they can be pursued, that is being done.

It might be desirable to solicit ideas from the research community about possible additional studies. Ideas should be critically evaluated by comparing possible outcomes with the studies already completed and those ongoing. Considering the baselines already established, only those which would add significantly to the information base should be undertaken.

DEPARTMENT OF HEALTH AND HUMAN SERVICES,
Washington, DC, September 28, 1984.

Hon. ALAN CRANSTON,
Committee on Veterans' Affairs, U.S. Senate, Washington, DC.

DEAR SENATOR CRANSTON: This is in further reply to your letter of August 15 regarding several issues relating to dioxin and birth defects.

One of your specific requests was that the Science Panel of the Agent Orange Working Group (AOWG) review and comment on the Centers for Disease Control's (CDC) study entitled "Vietnam Veterans' Risks for Fathering Babies Born with Birth Defects."

This study has been reviewed extensively by several groups of prominent experts. In accordance with the AOWG review procedures, the CDC Birth Defects Study was reviewed by the AOWG Science Panel for adequacy of design before the study was undertaken. After the study was completed, the results were reviewed by the Advisory Committee on Special Studies Relating to the Possible Long-Term Effects of Phenoxy Herbicides and Contaminants. In addition, independent reviews of the completed study were performed by the Journal of the American Medical Association (JAMA) before a summary article about the study was accepted for publication. These reviews were thorough and rigorous. Copies of reviews by the Advisory Committee and by JAMA reviewers, along with CDC's replies, are enclosed. For your information, a copy of the comprehensive study report is also enclosed.

Because of the extensive reviews already performed, the AOWG, at its meeting on September 20, 1984, determined that further review by its Science Panel was neither warranted nor necessary.

The CDC study of birth defects is the largest case-control of its type ever conducted. As you know, the study revealed that Vietnam veterans were not at an increased risk of fathering babies with serious structural birth defects. An editorial note in the Mortality and Morbidity Weekly Report of August 17, 1984, commented on the study:

"The most important conclusion to be drawn from this study is that the data collected contain no evidence to indicate that Vietnam veterans have had a greater risk than other men for fathering babies with defects when all types of serious structural birth defects are combined. This study cannot prove that some factor associated with service in Vietnam was or was not associated with the occurrence of rare types of defects, defects in the babies of selected individuals, or defects in the babies of small groups of veterans. The conclusion, however, that Vietnam veterans in general have not fathered, at higher rates than other men, babies with defects when all types of birth defects are combined is based on relatively strong evidence . . ."

You do raise an important question about whether there is a need for further research on the relationship between dioxin and birth defects. I have directed the Science Panel of the AOWG to give rigorous consideration to this question. The Science Panel's Subcommittee on Research Agenda has already begun to examine this issue. We will keep you informed of their findings.

An assessment by the Subcommittee on Research Agenda will consider the other sources of data, from which research on serious birth defects could be performed, beyond CDC's Atlanta registry—the basis for the Birth Defects Study; however, pilot studies would be required to determine the feasibility of using these sources. If found feasible, a study based on one or more of these data sets might require substantial time and resources to complete.

The potential for further studies presently rests with CDC's Agent Orange Projects Group which is conducting the epidemiologic studies mandated by Public Law 96-151. Veterans who participate in these studies, the Agent Orange Exposure Study and the Vietnam Experience Study, will be questioned about the occurrence of birth defects in their children. CDC will pay special attention to those defects which were found to be significant in the Birth Defects Study. Even so, it would be nearly impossible to study serious birth defects in a manner as detailed as the just-completed Birth Defects Study. The Agent Orange and the Vietnam Experience Studies have good potential for studying other adverse reproductive outcomes, such as infertility and miscarriages.

In your letter, you specifically asked about a proposed study at the National Institute for Occupational Safety and Health (NIOSH) addressing the issue of dioxin exposure and the production of birth defects. NIOSH has submitted for review to the AOWG Science Panel a proposed study of morbidity among workers in two plants that are listed in the NIOSH Dioxin Registry. This morbidity study has a reproductive component; however, the study is not a definitive examination of dioxin and birth defects. In the reproductive component, there is sufficient power to detect differences in fertility and miscarriages between individuals at these two plants and controls.

In addition to this proposed study, the investigators at NIOSH are attempting to determine whether the entire Registry contains adequate information to conduct a more rigorous study of birth defects among this dioxin-exposed worker population. Nevertheless, it is likely that if a study of the entire Dioxin Registry were to take place, it might have lower senstivity to detect serious birth defects than the recently completed CDC Birth Defects Study. Following a preliminary assessment, NIOSH will be reporting back to the AOWG on the feasibility of a registry-wide study of reproductive effects. We will keep you informed of the progress of this assessment.

A final question in your letter addressed the views of the AOWG on what steps the Federal Government might take to assist Vietnam veterans who have children with birth Defects or who are concerned about producing children with birth defects. Many steps have already been taken to respond to veterans' concerns. For example, the investigators from the CDC Birth Defects Study met with leaders of veterans' organizations, the news media, and many others to communicate the results of the Birth Defects Study. The study results also will be highlighted in videotape programs planned by the Veterans Administration (VA).

Though current evidence does not indicate that Vietnam veterans are at greater risk of fathering children with birth defects, birth defects in children of veterans and non-veterans alike are relatively common events. The VA has informed me that it has taken a number of steps to assist its environmental physicians, who conduct the Agent Orange Registry examinations nationwide, in responding to concerns raised by Vietnam veterans about birth defects.

While the VA does not have the authority to treat or examine the children of veterans except under certain rare circumstances, the VA can refer concerned veterans for genetic counseling. The VA has provided its environmental physicians with publications from the March of Dimes Birth Defects Foundation to assist in such referrals. The VA is also in the process of publishing a monograph on birth defects and genetic counseling. In the meantime, the VA has distributed to its medical centers a book, Clinical Genetics and Genetic Counseling, by Dr. Thaddeus E. Kelly. The VA published literature reviews also contain information about the relationship between Agent Orange exposure and birth defects.

Should you wish further information, I am ready to provide it.

Sincerely yours,

EDWARD N. BRANDT, Jr., M.D.,
Chair pro tempore, Cabinet Council Agent Orange Working Group.

VETERANS' ADMINISTRATION,
Washington, DC, October 1, 1984.

Hon. ALAN CRANSTON,
Ranking Minority Member, Committee on Veterans' Affairs, U.S. Senate, Washington, DC.

DEAR SENATOR CRANSTON: This is a follow-up to our response to your letter of August 15, 1984, regarding the birth defects study recently released by the Centers for Disease Control.

As we anticipated in our letter of September 7, 1984, the Veterans Administration's Advisory Committee on Health-Related Effects of Herbicides met on September 12, 1984. The committee received a presentation from Joseph Mulinare, M.D., one of the principal investigators in the Centers for Disease Control's study entitled, "Vietnam Veterans' Risks for Fathering Babies Born With Birth Defects." Dr. Mulinare also is a member of the Advisory Committee.

While committee members were sent advance copies of the article on the study that appeared in the Journal of American Medical Association on August 17, 1984, the full report of the study was not available to committee members prior to the meeting. Therefore, they were unable to respond to the points raised in your letter of August 15. We hope to receive sufficient supplies of the report soon and will then make distribution to the committee.

As soon as a consensus statement on the study can be developed among committee members it will be provided to you and other interested parties.

We regret the circumstances surrounding the delay in our response to your concerns and assure you that we will provide the requested information as soon as possible.

Sincerely,

JOHN A. GRONVALL, M.D.
Acting Chief Medical Director.

TESTIMONY OF MICHAEL GOUGH AND HELLEN GELBAND

PURPOSE OF THE STUDY

The Centers for Disease Control (CDC) undertook this study to find out whether

babies fathered by male Vietnam veterans are more likely to have major structural birth defects than are babies fathered by men who did not serve in Vietnam. When planning began for the study, in 1980, there was no method available for assessing exposure to Agent Orange through military records. During the course of planning, however, such a method was developed, and CDC added an "Agent Orange hypothesis" that addressed the question: Is the occurrence of major structural birth defects associated with the father's level of exposure to Agent Orange in Vietnam?

The CDC study was designed and carried out with extensive advice and review by members of the scientific community. Knowledge of that review process and OTA's own reading of the report convince us that the basic design and statistical methods used were appropriate, and that there were no major flaws in data analysis. We fully accept the results of the analyses relating to Vietnam service, but are less certain of the meaning of the results as they relate to Agent Orange. Our reservations stem mainly from uncertainty about the reliability of the Agent Orange exposures indices.

MEANING OF THE RESULTS

OTA finds that the CDC birth defects study represents, from a practical perspective, the best effort possible toward investigating the potential excess risks of Vietnam veterans fathering babies with birth defects. It also has addressed the question of exposure to Agent Orange and its potential attendant risks for birth defects. The data firmly support the conclusions drawn about the lack of an overall major increase in risk associated with Vietnam service.

The CDC study is the most powerful investigation of birth defects in relation to Vietnam service to date, and probably the most powerful such study possible in the United States. The value of this study, as has been the case with the Air Force's Ranch Hand Morbidity Study (an investigation of the men who participated in the fixed wing aircraft herbicide spray program) and the Australian birth defects study (a case-control study that investigated Vietnam service as a risk factor for fathering a baby with a birth defect) is to set some upper limits on the risks associated with Vietnam service and possibly Agent Orange exposure. The evidence from this study and the Australian birth defects study is consistent, finding no generalized increase in the rate of birth defects associated with Vietnam service.

The Ranch Hand study, which depended on parental recollections and took into account minor birth defects that were not addressed by CDC, found a statistically significant increase in total birth defects in the Ranch Hand group. The Air Force is currently obtaining medical and birth records to fully evaluate questions of birth outcomes in Ranch Handers and a control group. The Ranch Hand Study is investigating the effects of Agent Orange, based on the assumption that Ranch Hand personnel were, in fact, exposed. The "Vietnam Experience" is not part of that study, since the comparison group is made up of Vietnam veterans who are similar to Ranch Handers *except* for their lack of Agent Orange exposure. The Air Force expects to have detailed information about the Ranch Hand birth outcomes in December 1984.

POSITIVE FINDINGS

The positive findings of the CDC study deserve careful scrutiny. First, there were no positive associations of major birth defects of offspring with service in Vietnam, or with self-reported (yes/no) Agent Orange exposure. The three major positive associations—with "spina bifida," "cleft lip with or without cleft palate," and "other neoplasms"—were found only with the Agent Orange exposure opportunity indices. Assuming for the moment that the exposure indices are valid, the meaning of positive findings still require interpretation.

The important question is whether those positive associations represent causal associations. The answer to that question involves more than a simple finding of statistical significance. Other aspects to consider include: the magnitude of the excess risk, represented by the "odds ratio;" the biological plausibility of the association; and the consistency of the association with findings from other studies.

Although there are no objective criteria for judging the importance of odds ratios, in general an odds ratio of less than 2.0 is considered relatively small. An odds ratio of 2.0 means that the defect occurs twice as frequently in the case group than in the control group. If a defect usually occurs at a rate of 1 in 1,000, at an odds ratio of 2.0, it would occur at the rate of 2 in 1,000. One of the two could be attributed to the factors at work in the general population, and the one excess case to the factor responsible for the increased risk. The judgement of what is important, of course, must be tempered by the seriousness of the defect and the magnitude of the incidence rate in the general population, or in the population without the risk factor. For something that occurs at a very high rate, a two-fold increase would contribute a large excess, in absolute numbers.

The odds ratios for the categories of birth defects showing increased occurrence in this study all are relatively low, and they occur in categories of fairly low incidence in the general population. The defects, however, particularly spina bifida and other neoplasms, are serious. There is no plausible biological explanation implicating a father's exposure to Agent Orange in producing these defects in children, but we are dealing with an area where few causes *are* known.

The possibility that the associations are simply due to chance must also be considered, but there is no way to know this based on a single study. The generally accepted level of significance in epidemiology, to which this study adhered, is 0.05, meaning that the probability of the apparent association being due to chance is no more than 5 percent. At this level, if in fact there were no difference, there is still a 5 percent chance of an association appearing. In other words, in 5 out of 100 analyses, one would expect "false positive" results. In this study, with at least two and in most cases three analyses of 96 defects or groups of defects, one would expect some statistically significant findings to occur by chance.

If a study finding represents a *true* association, the association still may not be causal but can secondary. In a secondary association, both the exposure and the outcome are independently associated with some other, unidentified factor(s). An example is an association of heavy drinking with lung cancer. While drinking does not cause lung cancer, both heavy drinking and lung cancer are associated with cigarette smoking. If one does not take into account smoking habits in studies of lung cancer, an association with drinking would appear. If the true causative factor is unknown, however, it cannot be accounted for in the analysis, and the association will not be explainable by other factors.

A causal association should make biologic sense and should show consistency among studies. In this case, there are no strong biologic hypotheses linking birth defects with a father's previous exposure to Agent Orange. A possible association of Agent Orange exposure and birth defects was worthy of investigation in part because there are few other compelling hypotheses to test.

PARTICIPATION

OTA has two concerns about the information produced by the CDC birth defects study. First is the low participation rate among "other race" parents. CDC acknowledges this weakness, and places the appropriate caveats around the findings in other race participants. Our concern about this point is lessened somewhat by the fact that there is no known biological reason to suppose that the effect of Vietnam service or Agent Orange exposure would be different among whites and non-whites in the risk of fathering children with birth defects.

Based on the pilot study, CDC predicted that about 70 percent of eligible case and control parents would participate in the study. The projected 30 percent who would not participate included both parents who could not be located and those who would choose not to participate. For white case parents, that prediction was reasonably accurate. For the "other race" subgroup, however, participation was much lower. About 60 percent of other race mothers, and just over 30 percent of other race fathers completed interviews. The study results, as CDC points out, may be less generalizable to the other race population than are the results for whites to the white population.

Participation by a small percentage of those initially selected raises concern that participants may differ from non-participants. The fact of being difficult to locate in itself may indicate that those people are in some way "different" from those who were located. If those differences are systematically associated with exposures, in this case Vietnam service or exposure to Agent Orange, the results of the study may be influenced. Most of the non-participants in this study were the ones never located. A smaller number declined to take part.

Two types of effects of non-participation are important. First, having fewer cases and controls than planned decreases the power of the study to detect associations even if they exist. The likelihood of "false negative" results is increased. Second, the results might be quite different if the exposure characteristics of the non-participants were know. Unfortunately, the possible biases introduced in this way are unknowable, and the analysis is rightly based on the information that is available.

AGENT ORANGE EXPOSURE OPPORTUNITY INDICES

Our second and more serious concern is doubt about whether the Agent Orange Exposure Opportunity Indices faithfully reproduce the different exposure histories of veterans. We emphasize that this concern has no bearing on the most significant finding of the CDC study that Vietnam service is not associated with an increased risk of birth defects, but it is key to the interpretation of defects associated with Agent Orange.

Since we prepared our review of the CDC study (sent to Senator Cranston, Senate Veterans' Affairs Committee on September 21, 1984) we have learned more about the

assignment of ratings in the "Agent Orange Exposure Opportunity Indices" that were used in that study. Part of our information was obtained in our role as observers to the Agent Orange Working Group (AOWG), and that must be held in confidence. However, without compromising confidentiality, we can provide you the basis for our concern that the exposue opportunity indices may not provide an approximation of relative exposure to Agent Orange. In our opinion, the likely misclassification prevents any conclusions based on the Agent Orange Exposure Opportunity Indices.

A method to estimate the likelihood of a veterans' having been exposed to Agent Orange was developed by the Army Agent Orange Task Force. The Task Force outlined their proposed method in a memorandum to the Science Panel of the Agent Orange Working Group (AOWG) in April 1982. In essence, that memo said that the Army could identify the units that a veteran served with in Vietnam. The locations of the units could be determined and plotted on maps against recorded uses of Agent Orange. Men whose units were closer to locations where Agent Orange was known to have been used would be accorded a higher likelihood of having been exposed to the herbicide.

Last week we received, as observers to the AOWG, more details of the Army's methods for assigning a veteran a position in the exposure opportunity index. The methods were presented in a draft to the AOWG, but they are, we understand, essentially what was used in the birth defects study. They provide more detail than the April 1982 memorandum, and they include some subjective judgments of the likelihood of a veteran's being exposed based on the type of unit in which he served.

Inspection of Table 5 of the full report of CDC's Birth Defects Study (copy attached) illuminates our concerns. The table presents examples of military units that were classified on a scale of 1 to 5, with 1 being "minimum opportunities for exposure" and 5 being "most numerous opportunities for exposure." Although the table contains only examples and not a full reporting of classifications, it is noteworthy that "infantry/combat arms" appear only in the high groups 4 and 5 and "noninfantry" appear primarily in groups 2 and 3.

Given men who were in the same proximity to spraying, men in combat units were assigned higher exposure opportunity index scores than were men in non-combat units. With the same objective exposure rating (time and place), a combat soldier and a non-combat soldier could be assigned ratings as much as 3 categories apart, in most cases actually 2 categories apart.

In large measure, then, the indices represent service in combat units at least as much as they do exposure to Agent Orange, and because combat plays such an important role in exposure ratings, the true relative Agent Orange exposures may be entirely obscured. If this is the case, and we believe it very possibly is, associations with the indices would have no meaning. What makes this such a vexing problem is that there does not exist, nor is there in prospect, a way to validate any exposure index such as the ones used in this study.

The fact that the two Agent Orange Exposure Indices reported in the CDC study agree with each other reasonably well in their classification of veterans' exposure opportunities is not evidence that they are valid. It only provides assurance of consistency in assigning ratings given the objective information. In one index, military records were use to determine the veteran's units and the locations of the units; in the other index, the veteran's recall was the source of information the units he served with and their locations. In either case, information such as "infantry" or "non-infantry" would almost certainly be the same. If both answers were infantry, the subjective decisions would place the veteran in categories 4 or 5. If the answers were non-infantry, he would be placed in categories 3 or lower. In our opinion, the subjective decisions swamp the other information.

It may be that combat units were more exposed, given identical objective exposure information, but the arguments are far from convincing. We think that there is probably no way to develop a reliable exposure index, and we do not attribute this situation to failure on the part of any individuals or institutions. The best people have tried, with the best information they could develop, without a satisfactory outcome.

The validity or lack of validity of the Agent Orange Exposure Opportunity Indices does not in any way affect the conclusions about associations of birth defects with Vietnam service. If the indices are invalid, however, the Agent Orange analyses provide no reliable information either to rule out associations with Agent Orange or to confirm them.

Mr. SPECTER. Mr. President, I urge my colleagues to join me in strongly supporting this painstakingly negotiated compromise agreement on H.R. 1961, the Veterans Dioxin and Radiation Exposure Compensation Standards Act. Passage of this legislation represents the culmination of years of effort on my part and on the part of numerous other interested Members of Congress, on behalf of Vietnam veterans and their families who are justifiably deeply concerned about the possible adverse health effects of exposure to agent orange and ionizing radiation, and who nevertheless remain hanging in a limbo of medical uncertainty about what those effects might be, pending completion of the massive CDC epidemiological studies now under way.

Mr. President, agent orange legislation was first introduced in this Congress by myself, on February 2, 1983, in the form of S. 374. Other significant measures have been introduced in the Senate since then: S. 991 and S. 1651 by Senator CRANSTON, and Senate Resolution 372, by the distinguished chairman of the Veterans' Affairs Committee, Senator SIMPSON. Thorough hearings have been conducted, and a comparable level of activity has been maintained in the House. The compromise product that is before us today represents a masterful blending of many vital elements of the various legislative efforts in both Houses.

My central concern in offering S. 374 was that present VA adjudication policies and practices impose an impossible burden of proof on Vietnam veterans seeking service-connected disability compensation for injuries possibly resulting from exposure to agent orange. The present legislation shares this focus, in requiring a comprehensive series of regulations containing guidelines, standards, and criteria specifically tailored to meet the problems and difficulties which can arise in making a VA claim based not only on agent orange exposure, but also based on exposure to ionizing radiation resulting from an atmospheric muclear test or the occupation of Hiroshima or Nagasaki.

I am especially gratified that the compromise agreement reflects one of the key elements of S. 374: That is, that no veteran may be required to produce evidence substantiating the veteran's exposure to agent orange or ionizing radiation beyond the information contained in the veteran's service records. As long as there is nothing in the veteran's service records inconsistent with the particulars of the veteran's claim, the burden is on the VA Administrator to uncover evidence that the veteran was not exposed, rather than on the veteran to show that he or she was.

A second key element of S. 374 was a provision allowing judicial review of the claims adjudication rules that the VA Administrator would be required to promulgate. I am disappointed that the House negotiators were determined not to accept the judicial review provision contained in the Senate bill and accepted even by the administration in spite of the VA's general opposition to judicial review of individual claims determinations.

It is nevertheless my view—and it appears also to be the view of the VA—that court review of VA regulations is in any event already permitted under current case law, beginning with the Sixth Circuit case of *Wayne State University* v. *Cleland*, 590 F.2d 627 (1978), construing the scope and applicability of section 211(a) of title 38. In this respect, I wish to associate myself fully with the remarks of the distinguished ranking member of the Committee on Veteran's Affairs, Senator CRANSTON.

This legislation is vitally important in helping Vietnam veterans deal with the procedural difficulties which accompany agent orange claims, and which inevitably flow from the nature of the diseases involved, the nature of the exposure, and the uncertainty of the medical evidence involved. In this regard, I am pleased to note the approval of the $180 million settlement in the In re Agent Orange case. I do note also Judge Weinstein's remarks in the context of the attorneys' fees petitions, to the effect that he regarded the plaintiffs' likelihood of success in the area of establishing medical causation to be rather slim. This legislation should significantly assist veterans in meeting such obstacles if not before the courts, then at least before the VA.

Mr. President, I urge the approval of this legislation.

Mr. MATSUNAGA. Mr. President, as a member of the Senate Veterans' Affairs Committee, I rise in strong support of the compromise agreement arrived at between the House and Senate Veterans' Affairs Committees on H.R. 1961, the proposed Veterans' Dioxin and Radiation Exposure Compensation Standards Act.

At the outset, Mr. President, I would first like to commend the chairman of the Veterans' Affairs Committee, Senator ALAN SIMPSON, and the ranking minority member, Senator ALAN CRANSTON, for their hard work and valiant efforts which led first, to committee approval and Senate passage of legislation dealing with the agent orange and radiation exposure issue, and now to a House-Senate agreement on a compromise measure. The Senators from Wyoming and California, along with their House Veterans' Affairs Committee counterparts, certainly deserve and will, indeed, receive the gratitude and thanks of all of our colleagues and the veterans of this Nation, particularly those who have been exposed to dioxin or radiation, for this important achievement.

Mr. President, the enactment of the Veterans' Dioxin and Radiation Compensation Standards Act will represent the culmination of years of effort by thousands of veterans and veterans leaders and organizations all across the country who have brought to the attention of Congress and the Veterans' Administration the myriad health problems which they believe may be related to exposure to dioxin or radiation. Many veterans, particularly those who served in Vietnam and were exposed to agent orange, have been frustrated by our Government's lack of will in addressing the problems experienced by exposed veterans and their families. I have shared their frustration, as have many other members of the Veterans' Affairs Committee and Members throughout Congress, and I am pleased that over the past several years we have been able to reverse a decade of foot-dragging by our Government and have placed ourselves on track in dealing with this serious and, in many cases tragic, problem.

Mr. President, we took the first major step to address the agent orange exposure question during the 96th Congress when the Veterans' Affairs Committee proposed, and the full Congress approved, the conduct of a major epidemiological study of veterans exposed to dioxin. That critical study of the long-term health effects of exposure to dioxin is currently being carried out by the Center for Disease Control. Last year, the Congress mandated a similar study of the health effects of radiation exposure on veterans. Both of these studies are absolutely critical to our Government's effort to determine the actual effects of exposure on veteran populations, on which future compensation can be considered.

During the last Congress, the Congress took another step forward in this area by authorizing the Veterans' Administration to provide priority health care to veterans exposed to dioxin or radiation for any condition not clearly caused by something other than exposure. In my judgment, the extension of priority medical care to exposed veterans was a long overdue step—one which represented a long-delayed acknowledgement on the part of our Government that veterans are, indeed, experiencing health difficulties which could be attributable to dioxin or radiation exposure and that we have a responsibility to care for them while studies are undertaken to determine the actual health effects of such exposure.

Finally, Mr. President, Congress now has before it legislation which would establish a framework within which our Government can adjudicate the claims of veterans exposed to dioxin and radiation. I strongly supported this legislation which was originally introduced in the Senate by the distinguished Senator from California [Mr. CRANSTON] and approved by the Senate Veterans' Affairs Committee and the full Senate.

As the Senator from California has indicated in his statement, it was the decision of our committee not to address the issue of VA compensation for exposure to dioxin and radiation by designating specific diseases or disabilities as being presumptively service connected for the purposes of VA compensation. Instead, we believed that by establishing a sensible, straightforward, and fair VA adjudicatory process, we could facilitate VA action on claims of exposed veterans. Although the House of Representatives followed a different approach in its legislation, which seeks to set up presumptions of service connection for certain diseases thought to be caused by chemical or radiation exposure, negotiations between the leaders of the House and Senate Veterans' Affairs Committees resulted in a compromise agreement which is based primarily on the Senate/passed legislation requiring the VA to develop regulations for the agency's adjudicatory process.

Mr. President, I would like to point out that one major provision in the Senate bill was dropped in the compromise agreement—express access to court review to challenge the VA Administrator's compliance with the rulemaking process or the content of VA regulations. I regret that the House Veterans' Affairs Committee was unwilling to accept this important provision which would preserve the right of veterans and the public to challenge the Administrator in the event that the mandates enumerated under the Veterans' Dixon and Radiation Exposure Compensation Standards Act or regulations issues thereunder are not carried out fully. I believe this is an important right which should be accorded to veterans and veterans' service organizations.

I have listened, however, to the remarks of the ranking minority member of the committee, Senator CRANSTON, who is the author of the express access provision, and concur completely with the views he expressed regarding the availability of court review for such challenges. The absence of the express provision in the compromise agreement in no way affects the case law, which clearly provides for court review of VA regulations. I share the Senator from California's confidence that veterans and representatives of veterans who may seek to challenge any VA action under provisions of the compromise agreement will have no difficulty getting into court.

Mr. President, I would like to make one final comment on the compromise agreement we are considering today. Throughout the consideration of this legislation, many of us on the Veterans' Affairs Committee have spent a disproportionate amount of time designing provisions which would mandate, direct, and otherwise order the VA to take specific steps with respect to dealing with agent orange and radiation claims of veterans. Our concern, shared by thousand of exposed veterans who have waited years for some action by our Government, has been that the VA is just not willing or prepared to extend itself as we would like in caring for exposed veterans. I would hope that the enactment of this important and landmark legislation would send a signal to the VA and the administration that Congress is deeply concerned about the many veterans who have been exposed to dioxin and radiation and expect the VA to consider their care and their claims priority items.

It is the intent of this legislation that the VA should move expeditiously to establish a regulatory framework for dealing fairly and efficiently with exposure claims. I think I can speak for all Members of the Senate in saying that I hope the VA will carry our the mandates in this measure with the enthusiasm, dedication, and, most important, the compassion that I know its people have and can bring to bear. Only through the continued commitment of Congress, the administration, the VA, the veterans organizations, and the Nation's veterans community can we resolve this serious problem and compensate fairly those who have suffered from exposure.

Mr. President, I urge my colleagues to support the compromise agreement between the House and Senate Veterans' Affairs Committees.

Mr. PRESSLER. Mr. President, today the Senate is about to approve historic legislation. This agent orange conference report combines two very different approaches to this problem. I am proud to have actively participated in the Senate's work on this issue earlier this year.

The compromise agreement favors provisions in the Senate bill. This is certainly a most responsible approach, considering the lack of concrete medical evidence available at this time in the areas of agent orange and ionizing radiation. Though much more remains to be done, this legislation is a good start toward addressing the concerns of many veterans across the country.

As a Vietnam veteran, I have long supported compensation for those whose health has sufferd because of exposure to agent orange. However, for years, my efforts, as well as those of my congressional colleagues, have been hampered by inconclusive medical evidence. We are still uncertain as to the harm caused by agent orange to those Vietnam Veterans exposed. More studies are in progress, but it will still be a number of years before we can make any definite determinations. The compromise before us addresses this situation. No permanent compensation is established. However, we are finally moving to aid those veterans who seem most certainly affected.

Under this approach, the diseases of chloracne and porphyrial cutanea tarda [PCT] are to be compensated for beginning October 1, 1984. Affected Vietnam veterans will be eligible for disability compensation under a temporary program until September 30, 1986. To qualify, a veteran must have been afflicted within 1 year of his/her departure from Southeast Asia. At the end of this period, additional medical evidence should establish whether these diseases will be included in a compensation program.

Soft tissue sarcomas and the atomic radiation-related diseases of leukemia; malignancies of the thyroid, female breast, lung, bone, liver, and skin; and polycythemia vera are all singled out for further study. An amendment I offered earlier this year established a special committee to work on this subject. This committee, the Veterans Advisory Committee on Environmental Hazards which is staffed by a panel of experts on agent orange and ionizing radiation, will assist the VA Administrator in determining compensation proposals for these diseases. The committee will also advise the Administrator as to any other compensable diseases that have been caused by agent orange or ionizing radiation.

The VA Administrator will be responsible for developing regulations governing this compensation process. Regulations concerning this matter will be published in the Federal Register within not more than 180 days from the date of enactment, with a period for public comment to follow, and finally the publication of final regulations.

I am very encouraged by this compromise. We have started a process whereby the needs of those veterans affected by agent orange and ionizing radiation can be adequately met. We are finally recognizing that problems exist and we have implemented a method of addressing them. I commend my colleagues in the Senate and the House for their support of this necessary legislation.

Mr. MITCHELL. Mr. President, the pending compromise agreement is a major step toward resolving the compensation issues surrounding exposure to both agent orange as a result of service in Southeast Asia during the Vietnam conflict or to ionizing radiation as a result of service during the American occupation of Hiroshima or Nagasaki or this country's program of atmospheric nuclear testing following World War II.

It does so in a manner which I feel is reasoned, responsible, and equitable, supported by the present state of scientific research and consistent with present Veterans' Administration adjudication standards and practices.

This legislation, which closely follows the version passed by the Senate last May, would require the Administrator of the VA to develop regulations that would relate to agent orange and radiation claims. The Administrator, in consultation with a Veterans' Advisory Committee on Environmental Hazards would be required to develop rules to establish guidelines, standards, and criteria for resolving claims based on exposure to agent orange or radiation.

In developing those rules, the Administrator would be required to address whether any presumptions as to service connection should be applied in the case of specific diseases. The specific diseases listed for either type of exposure are included on the basis of the scientific literature related to the effects of exposure, and reflect testimony presented last year during lengthy hearings by the Veterans' Affairs Committee.

In addition to the diseases listed, the Administrator may add service-connected presumptions for additional diseases for either type of exposure, based on advances in medical and scientific research.

The rulemaking process required under this legislation would culminate in 300 days with the publication of final rules in the Federal Register, along with explanations of the bases for the guidelines, standards, and criteria contained within it.

There is one issue that was included in S. 1651 and in the legislation passed by the Senate in May that is not in the compromise agreement, namely an express access to court review to challenge the Administrator's compliance with the rulemaking process of the content of the regulations. I regret that our colleagues in the House were unwilling to accept it in the final compromise. Nevertheless, I have no doubt that veterans and representatives of veterans aggrieved by VA actions carrying out the provision of the compromise agreement will have no difficulty gaining access to court.

I have listened to the remarks of the committee's ranking minority member relating to the rulemaking process. I concur completely with his views regarding the availability of court review for challenges to VA regulations. Certainly the absence of an express provision in the compromise agreement does not affect the case law on this point which clearly establishes that court review of VA regulations is available.

I think it is important that this record makes perfectly clear that it is not the intention of Congress, in dropping the provision in the Senate bill regarding access to court review, to exempt the regulations developed by the VA under this legislation from the judicial review to which they clearly are subject under the precedents established under existing case law.

I was an original cosponsor of S. 1651, the Veterans' Dioxin and Radiation Exposure Compensation Standards Act, and I believe that the compromise agreement as it is before the Senate today fairly vindicates the proposals in that bill as improved by the Senate in May. I am delighted to have had the opportunity to help bring this legislation before the Senate today.

Our Nation's record of caring for its veterans and compensating them for injuries suffered in service began with the founding of our Republic. One of the most important promises made to our service men and women is that, if they incur injury or damage to their health in the service of their Nation, their Government will provide for the treatment and compensation of their injuries or disabilities.

That commitment by this Nation to those whom it asks to risk their lives is permanent. That commitment and the way in which it is honored is among the ties that bind our diverse people into a cohesive Nation. That commitment faces its sternest test in many years on the issue of compensation for diseases based on exposure to agent orange or ionizing radiation. For many veterans, their families and their survivors, that commitment hangs in the balance.

It has been 10 years since this country ended its involvement in Vietnam. It has been 38 years since this country detonated its first atomic devices. Still the veterans who served then wait for a resolution to the controversy involving agent orange and radiation.

It is time for this country to fulfill its commitment to thousands of Vietnam and "atomic" veterans. This legislation is one way to do so, and I am delighted that we are moving toward enactment today.

This is a good and important bill, and I urge my colleagues to support the compromise agreement, the Veterans' Dioxin and Radiation Exposure Compensation Stardards Act.

Mr. BAKER. Mr. President, I move that the Senate concur in the House amendments.

The motion was agreed to.

EXCHANGE OF CERTAIN LANDS IN SOUTH CAROLINA

Mr. BAKER. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representative on S. 648.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 648) entitled "An Act to facilitate the exchange of certain lands in South Carolina", do pass with the following amendment:

Strike out all after the enacting clause, and insert:

SECTION 1. The Federal Energy Regulatory Commission shall waive the charges required to be paid under section 10(e) of the Federal Power Act (16 U.S.C. 803(e)) for the use of any interest of the United States in lands lying within the boundary of the South Carolina Public Service Authority's Santee-Cooper hydroelectric project (Federal Energy Regulatory Commission licensed project numbered 199) if, after the date of the enactment of this Act, the Commission determines (pursuant to section 24 of the Federal Power Act (16 U.S.C. 818)) that—

Mr. THURMOND. Mr. President, I am pleased that the Senate is today taking final action on S. 648, a bill to facilitate an exchange between the U.S. Forest Service and the South Carolina Public Service Authority of certain lands located in South Carolina.

Mr. President, the South Carolina Public Service Authority operates the Santee-Cooper Hydroelectric and Navigation Project, which is located in my home State of South Carolina, under a license issued by the Federal Energy Regulatory Commission. The project has a long and interesting history, and has contributed substantially to the economic growth and well-being of our State.

Mr. President, concurrence in the amendment of the House to this legislation, which I introduced on March 2, 1983, would make possible a land exchange that will benefit both the U.S. Forest Service and the South Carolina Public Service Authority. The Forest Service and the authority have for some time agreed upon an exchange, whereby the authority would convey to the Forest Service 210 acres of productive forest land located directly across from the Forest Service headquarters in the Francis Marion National Forest, in return for approximately 1,276 acres of inundated land located within the Santee-Cooper project boundaries—land that is of no value to the Forest Service.

Although this proposed exchange received approval by the Federal Energy Regulatory Commission, the Commission has advised the Forest Service that it lacks authority to vacate the power withdrawal which has attached to the inundated land under section 24 of the Federal Power Act (16 U.S.C. section 818). Therefore, the authority would have to continue paying the annual charge, even if it acquired fee title to the inundated lands. Not surprisingly, the authority is unwilling to exchange any lands with the Forest Service if it would have to continue paying rent for the land received in the exchange.

The legislation being cleared for the President by the Senate today would relieve the authority of the obligation to pay rent to the Federal Government on the land which would be conveyed to the authority, and thereby make possible the proposed exchange, which all concerned recognize as beneficial.

Mr. HOLLINGS. Mr. President, I rise to urge the support of my colleagues of the version of S. 648 which the House has returned to the Senate. As amended by the House, this measure is basically the same that passed the Senate on August 9, 1984.

As you will recall, S. 648 introduced by Senator THURMOND, allows the exchange of certain lands between the U.S. Forest Service and the South Carolina Public Service Authority [SCPSA]. Specifically, the Forest Service and the SCPSA have agreed to an exchange whereby SCPSA would convey to the Forest Service 210 acres of productive land located directly across from the Forest Service headquarters in the Francis Marion National Forest in return for the 1,276 acres of inundated lands which are of no value to the Forest Service. While the Federal Energy Regulatory Commission has approved the exchange, it lacks the authority to waive the power withdrawal and therefore SCPSA would have to continue paying the annual fee or rent even if SCPSA obtains fee title to the inundated land.

This measure merely permits an even exchange of land between the Federal Government and the South Carolina Public Service Authority. The only change is the House included language to ensure the exchange of land will cost the Government nothing.

Mr. President, this bill as amended has the complete support of the South Carolina delegation and I hope my colleagues will join us in passing important yet noncontroversial legislation.

Mr. BAKER. Mr. President, I move that the Senate concur in the House amendments.

The PRESIDENT pro tempore. The question is on agreeing to the motion.

The motion was agreed to.

PRESERVATION OF ART BARN AND PIERCE MILL IN THE DISTRICT OF COLUMBIA

Mr. BAKER. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 1790.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 1790) entitled "An Act to authorize the Secretary of the Interior to enter into a contract or cooperative agreement with the Art Barn Association to assist in the preservation and interpretation of the Art Barn and Pierce Mill located in Rock Creek Park within the District of Columbia", do pass with the following amendments:

Strike out all after the enacting clause, and insert:

That in order to preserve the Art Barn, located in Rock Creek Park in the District of Columbia, for the benefit and inspiration of the people of the United States, the Secretary of the Interior is authorized to enter into contracts or cooperative agreements with the Art Barn Association (a nonprofit corporation organized under the laws of the District of Columbia), or a successor organization, to assist in the preservation and interpretation of the Art Barn.

(b) Pursuant to contracts or cooperative agreements under subsection (a) and subject to such terms and conditions as the Secretary of the Interior may establish, funds available to the Secretary for operation and maintenance of the Art Barn may be made available to the Art Barn Association.

(c) The authority of the Secretary of the Interior to enter into contracts and cooperative agreements under subsection (a) shall expire on the date 5 years after the enactment of this Act.

(d) For purposes of complying with section 401 of the Congressional Budget Act of 1974, the authorization provided under this Act is subject to the availability of appropriations.

Amend the title so as to read as follows: "An Act to authorize the Secretary of the Interior to enter into contracts or cooperative agreements with the Art Barn Association to assist in the preservation and interpretation of the Art Barn in Rock Creek Park in the District of Columbia, and for other purposes.".

Mr. BAKER. Mr. President, I move the Senate concur in the House amendments.

The PRESIDENT pro tempore. The question is on agreeing to the motion.

The motion was agreed to.

SMALL BUSINESS AND FEDERAL PROCUREMENT COMPETITION ENHANCEMENT ACT

Mr. BAKER. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 4209.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendments of the Senate to the bill (H.R. 4209) entitled "An Act to amend section 15 of the Small Business Act", with the following amendments:

In lieu of the matter inserted by the amendment to the text of the bill, insert:

SHORT TITLE; TABLE OF CONTENTS

SECTION 1. This Act, together with the following table of contents, may be cited as the "Small Business and Federal Procurement Competition Enhancement Act of 1984".

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TITLE I—PURPOSES AND DEFINITIONS
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Sec. 501. Regulations on overhead.
Sec. 502. Personnel evaluations.
Sec. 503. Report on prime contractors qualifying additional sources.
Sec. 504. Technical amendments to Competition in Contracting Act of 1984.
Sec. 505. Repeal.

PURPOSES

SEC. 101. The purposes of this Act are to—

(1) eliminate procurement procedures and practices that unnecessarily inhibit full and open competition for contracts;

(2) promote the use of contracting opportunities as a means to expand the industrial base of the United States in order to ensure adequate responsive capability of the economy to the increased demands of the Government in times of national emergency; and

(3) foster opportunities for the increased participation in the competitive procurement process of small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals.

DEFINITIONS

SEC. 102. Section 4 of the Office of Federal Policy Procurement Act is amended—

(1) by striking out "and" at the end of paragraph (7);

(2) by striking out the period at the end of paragraph (8) and inserting in lieu thereof a semicolon; and

(3) by adding at the end thereof the following new paragraphs:

"(9) the term 'technical data' means recorded information (regardless of the form or method of the recording) of a scientific or technical nature (including computer software documentation) relating to supplies procured by an agency. Such term does not include computer software or financial, administrative, cost or pricing, or management data or other information incidental to contract administration;

"(10)(A) the term 'major system' means a combination of elements that will function together to produce the capabilities required to fulfill a mission need, which elements may include hardware, equipment, software or any combination thereof, but excludes construction or other improvements to real property; and

"(B) a system shall be considered a major system if (i) the Department of Defense is responsible for the system and the total expenditures for research, development, test and evaluation for the system are estimated to be more than $75,000,000 (based on fiscal year 1980 constant dollars) or the eventual total expenditure for procurement of more than $300,000,000 (based on fiscal year 1980 constant dollars); (ii) a civilian agency is responsible for the system and total expenditures for the system are estimated to exceed $750,000 (based on fiscal year 1980 constant dollars) or the dollar threshold for a 'major system' established by the agency pursuant to Office of Management and Budget (OMB) Circular A-109, entitled 'Major Systems Acquisitions', whichever is greater; or (iii) the system is designated a 'major system' by the head of the agency responsible for the system; and

"(11) the term 'item', 'item of supply', or 'supplies' means any individual part, component, subassembly, assembly, or subsystem integral to a major system, and other property which may be replaced during the service life of the system, and includes spare parts and replenishment spare parts, but does not include packaging or labeling associated with shipment or identification of an 'item'.".

TITLE II—AMENDMENTS TO THE FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES ACT OF 1949

PLANNING FOR FUTURE COMPETITION

SEC. 201. (a) Section 303B of the Federal Property and Administrative Services Act of 1949 (hereafter in this title referred to as "the Act") is amended by adding at the end thereof the following new subsection:

"(f)(1)(A) In preparing a solicitation for the award of a development contract for a major system, the head of an agency shall consider requiring in the solicitation that an offeror include in its offer proposals described in subparagraph (B). In determining whether to require such proposals, the head of the agency shall give due consideration to the purposes for which the system is being procured and the technology necessary to meet the system's required capabilities. If such proposals are required, the head of the agency shall consider them in evaluating the offeror's price.

"(B) The proposals that the head of an agency is to consider requiring in a solicitation or the award of a development contract are the following:

"(i) Proposals to incorporate in the design of the major system items which are currently available within the supply system of the Federal agency responsible for the major system, available elsewhere in the national supply system, or commercially available from more than one source.

"(ii) With respect to items that are likely to be required in substantial quantities during the system's service life, proposals to incorporate in the design of the major system items which the United States will be able to acquire competitively in the future.

"(2)(A) In preparing a solicitation for the award of a production contract for a major system, the head of an agency shall consider requiring in the solicitation that an offeror include in its offer proposals described in subparagraph (B). In determining whether to require such proposals, the head of the agency shall give due consideration to the purpose for which the system is being procured and the technology necessary to meet the system's required capabilities. If such proposals are required, the head of the agancy shall consider them in evaluating the offeror's price.

"(B) The proposals that the head of an agency is to consider requiring in a solicitation for the award of a production contract are proposals identifying opportunities to ensure that the United States will be able to obtain on a competitive basis items procured in connection with the system that are likely to be reprocured in substantial quantities during the service life of the system. Proposals submitted in response to such requirement may include the following:

"(i) Proposals to provide to the United States the right to use technical data to be provided under the contract for competitive reprocurement of the item, together with the cost to the United States, if any, of acquiring such technical data and the right to use such data.

"(ii) Proposals for the qualification or development of multiple sources of supply for the item.

"(3) If the head of an agency is making a noncompetitive award of a development contract or a production contract for a major system, the factors specified in paragraphs (1) and (2) to be considered in evaluating an offer for a contract may be considered as objectives in negotiating the contract to be awarded.".

(b) The amendment made by subsection (a) shall apply with respect to any solicitation issued more than 180 days after the date of the enactment of this Act.

ENCOURAGING NEW COMPETITORS

SEC. 202. (a) Title III of the Act is amended by inserting after section 303C the following new section:

"ECOURAGEMENT OF NEW COMPETITION

"SEC. 303D. (a) In this section, 'qualification requirement' means a requirement for testing or other quality assurance demonstration that must be completed by an offeror before award of a contract.

"(b) Except as provided in subsection (c), the head of the agency shall, before enforcing any qualification requirement—

"(1) prepare a written justification stating the necessity for establishing the qualification requirement and specify why the qualification requirement must be demonstrated before contract award;

"(2) specify in writing and make available to a potential offeror upon request all requirements which a prospective offeror, or its product, must satisfy in order to become qualified, such requirements to be limited to those least restrictive to meet the puposes necessitating the establishment of the qualification requirement;

"(3) specify an estimate of the costs of testing and evaluation likely to be incurred by a potential offeror in order to become qualified;

"(4) ensure that a potential offeror is provided, upon request, a prompt opportunity to demonstrate at its own expense (except as provided in subsection (d)) its ability to meet the standards specified for qualification using qualified personnel and facilities of the agency concerned or of another agency obtained through interagency agreement, or under contract, or other methods approved by the agency (including use of approved testing and evaluation services not provided under contract to the agency);

"(5) if testing and evaluation services ar provided under contract to the agency for the purposes of clause (4), provide to the extent possible that such services be provided by a contractor who is not expected to benefit from an absence of additional qualified sources and who shall be required in such contract to adhere to any restriction on technical data asserted by the potential offeror seeking qualification; and

"(6) ensure that a potential offeror seeking qualification is promptly informed as to whether qualification is attained and, in the event qualification is not attained, is promptly furnished specific information why qualification was not attained.

"(c)(1) Subsection (b) of this section does not apply with respect to a qualification requirement established by statute prior to the date of enactment of this section.

"(2) Except as provided in paragraph (3), if it is unreasonable to specify the standards for qualification which a prospective offeror or its product must satisfy, a determination to that effect shall be submitted to the advocate for competition of the procuring activity responsible for the purchase of the item subject to the qualification requirement. After considering any comments of the advocate for competition reviewing such determination, the head of the procuring activity may waive the requirements of paragraphs (2) through (5) of subsection (b) for up to two years with respect to the item subject to the qualification requirement.

"(3) The waiver authority contained in paragraph (2) shall not apply with respect to any qualified products list.

"(4) A potential offeror may not be denied the opportunity to submit and have considered an offer for a contract solely because the potential offeror has not been identified as meeting a qualification requirement, if the potential offeror can demonstrate to the satisfaction of the contracting officer that the potential offeror or its product meets the standards established for qualification or can meet such standards before the date specified for award of the contract.

"(5) Nothing contained in this subsection requires the referral of an offer to the Small Business Administration pursuant to section 8(b)(7) of the Small Business Act if the basis for the referral is a challenge by the offeror to either the validity of the qualification requirement or the offeror's compliance with such requirement.

"(6) The head of an agency need not delay a proposed procurement in order to comply with subsection (b) or in order to provide a potential offeror with an opportunity to demonstrate its ability to meet the standards specified for qualification.

"(d)(1) If the number of qualified sources or qualified products available to compete actively for an anticipated future requirement is fewer than two actual manufacturers or the products of two actual manufacturers, respectively, the head of the agency concerned shall—

"(A) periodically publish notice in the Commerce Business Daily soliciting additional sources or products to seek qualification, unless the contracting officer determines that such publication would compromise national security; and

"(B) bear the cost of conducting the specified testing and evaluation (excluding the costs associated with producing the item or establishing the production, quality control, or other system to be tested and evaluated) for a small business concern or a product manufactured by a small business concern which has met the standards specified for qualification and which could reasonably be expected to compete for a contract for that requirement, but such costs may be borne only if the head of the agency determines that such additional qualified sources or products are likely to result in cost savings from increased competition for future requirements sufficient to offset (within a reasonable period of time considering the duration and dollar value of anticipated future requirements) the costs incurred by the agency.

"(2) The head of an ageny shall require a prospective contractor requesting the United States to bear testing and evaluation costs under paragraph (1)(B) to certify as to its status as a small business concern under section 3 of the Small Business Act.

"(e) Within seven years after the establishment of a qualification requirement, the need for such qualification requirement shall be examined and the standards of such requirement revalidated in accordance with the requirements of subsection (b). The preceding sentence does not apply in the case of a qualification requirement for which a waiver is in effect under subsection (c)(2).

"(f) Except in an emergency as determined by the head of the agency, whenever the head of the agency determines not to enforce a qualification requirement for a solicitation, the agency may not thereafter enforce that qualification requirement unless the agency complies with the requirements of subsection (b).".

(d) The amendment made by subsection (a) shall apply with respect to solicitations issued more than 180 days after the date of enactment of this Act.

VALIDATION OF PROPRIETARY DATA RESTRICTIONS

SEC. 203. (a) Title III of the Act is amended by inserting after section 303D (as added by section 202 of this Act) the following new section:

"VALIDATION OF PROPRIETARY DATA RESTRICTIONS

"SEC. 303E. (a) A contract for property or services entered into by an executive agency which provides for the delivery of technical data, shall provide that—

"(1) a contractor or subcontractor at any tier shall be prepared to furnish to the contracting officer a written justification for any restriction asserted by the contractor or subcontractor on the right of the United States to use such technical data; and

"(2) the contracting officer may review the validity of any restriction asserted by the contractor or by a subcontractor under the contract on the right of the United States under the contract if the contracting officer determines that reasonable grounds exist to question the current validity of the asserted restriction and that the continued adherence to the asserted restriction by the United States would make it impracticable to procure the item competitively at a later time.

"(b) If after such review the contracting officer determines that a challenge to the asserted restriction is warranted, the contracting officer shall provide written notice to the contractor or subcontractor asserting the restriction. Such notice shall state—

"(1) the grounds for challenging the asserted restriction; and

"(2) the requirement for a response within 60 days justifying the current validity of the asserted restriction.

"(c) If a contractor or subcontractor asserting a restriction subject to this section submits to the contracting officer a written request, showing the need for additional time to comply with the requirement to justify the current validity of the asserted restriction, additional time to adequately permit the submission of such justification shall be provided by the contracting officer as appropriate. If a party asserting a restriction receives notices of challenges to restrictions on technical data from more than one contracting officer, and notifies each contracting officer of the existence of more than one challenge, the contracting officer initiating the first in time challenge, after consultation with the party asserting the restriction and the other contracting officers, shall formulate a schedule of responses to each of the challenges that will afford the party asserting the restriction with an equitable opportunity to respond to each such challenge.

"(d)(1) Upon a failure by the contractor or subcontractor to submit any response under subsection (b), the contracting officer shall issue a decision pertaining to the validity of the asserted restriction.

"(2) If a justification is submitted in response to the notice provided pursuant to subsection (b), a contracting officer shall within 60 days of receipt of any justification submitted, issue a decision or notify the party asserting the restriction of the time within which a decision will be issued.

"(e) If a claim pertaining to the validity of the asserted restriction is submitted in writing to a contracting officer by a contractor or subcontractor at any tier, such claim shall be considered a claim within the meaning of the Contract Disputes Act of 1978 (41 U.S.C. 601 et seq.).

"(f)(1) If, upon final disposition, the contracting officer's challenge to the restriction on the right of the United States to use such technical data is sustained—

"(A) the restriction on the right of the United States to use the technical data shall be cancelled; and

"(B) if the asserted restriction is found not to be substantially justified, the contractor or subcontractor, as appropriate, shall be liable to the United States for payment of the cost to the United States of reviewing the asserted restriction and the fees and other expenses (as defined in section 2412(d)(2)(A) of title 28) incurred by the United States in challenging the asserted restriction, unless special circumstances would make such payment unjust.

"(2) If, upon final disposition, the contracting officer's challenge to the restriction

on the right of the United States to use such technical data is not sustained—

"(A) the United States shall continue to be bound by the restriction; and

"(B) the United States shall be liable for payment to the party asserting the restriction for fees and other expenses (as defined in section 2412(d)(2)(A) of title 28) incurred by the party asserting the restriction in defending the asserted restriction if the challenge by the United States is found not to be made in good faith.".

(b) The amendment made by subsection (a) shall apply with respect to solicitations issued more than 60 days after the date of the enactment of this Act.

COMMERCIAL PRICING FOR SUPPLIES

SEC. 204. (a) Title III of the Act is further amended by inserting after section 303E (as added by section 203 of this Act) the following new section:

"COMMERCIAL PRICING FOR SUPPLIES

"SEC. 303F. (a) Except in the case of an offer submitted with a written statement under subsection (b)(2) and except as provided in subsection (c), a contract entered into using other than competitive procedures by an executive agency for the purchase of items that are offered for sale to the public may not result in a price to the United States that exceeds the lowest price at which such items are sold by the contractor to the public.

"(b) A person who submits an offer to an executive agency for the supply of items that it offers for sale to the public (1) shall certify in the offer that the price offered is not more than its lowest commercial price for the items, or (2) shall submit with the offer a written statement specifying the amount of the difference between its lowest commercial price for the items and the price offered, and providing a justification for that difference.

"(c) Subsections (a) and (b) do not apply to a contract if the contracting officer determines that the use of the price otherwise required by subsection (a) for such contract is not appropriate because of—

"(1) national security considerations; or

"(2) differences in quantities, quality, delivery, or other terms and conditions of the contract from commercial contract terms.".

(b) The amendment made by subsection (a) shall take effect at the end of the 180-day period beginning on the date of the enactment of this Act.

ECONOMIC ORDER QUANTITIES

SEC. 205. (a) Title III of the Act is further amended by inserting after section 303F (as added by section 204 of this Act) the following new section:

"ECONOMIC ORDER QUANTITIES

"SEC. 303G. (a) Each executive agency shall procure supplies in such quantity as (A) will result in the total cost and unit cost most advantageous to the United States, where practicable, and (B) does not exceed the quantity reasonably expected to be required by the agency.

"(b) Each solicitation for a contract for supplies shall, if practicable, include a provision inviting each offeror responding to the solicitation to state an opinion on whether the quantity of the supplies proposed to be procured is economically advantageous to the United States and, if applicable, to recommend a quantity or quantities which would be more economically advantageous to the United States. Each such recommendation shall include a quotation of the total price and the unit price for supplies procured in each recommended quantity.".

(b) The amendment made by subsection (a) shall take effect at the end of the 180-day period beginning on the date of the enactment of this Act.

PROHIBITION OF CONTRACTORS LIMITING SUBCONTRACTOR SALES DIRECTLY TO THE UNITED STATES

SEC. 206. (a) Title III of the Act is further amended by inserting after section 303G (as added by section 205 of this Act) the following new section:

"PROHIBITION OF CONTRACTORS LIMITING SUBCONTRACTOR SALES DIRECTLY TO THE UNITED STATES

"SEC. 303H. (a) Each contract for the purchase of property or services made by an executive agency shall provide that the contractor will not—

"(1) enter into any agreement with a subcontractor under the contract that has the effect of unreasonably restricting sales by the subcontractor directly to the United States of any item or process (including computer software) made or furnished by the subcontractor under the contract (or any follow-on production contract); or

"(2) otherwise act to restrict unreasonably the ability of a subcontractor to make sales to the United State described in clause (1).

"(b) This section does not probhibit a contractor from asserting rights it otherwise has under law.".

(b) The amendment made by subsection (a) shall apply with respect to solicitations made more than 180 days after the date of the enactment of this Act.

CLERICAL AMENDMENT

SEC. 207. The table of contents of the act is amended by inserting after the item relating to section 303C the following new items:

"Sec. 303D. Encouragement of new competition.
"Sec. 303E. Validation of proprietary data restrictions.
"Sec. 303F. Commercial pricing for supplies.
"Sec. 303G. Economic order quantities.
"Sec. 303H. Prohibition of contractors limiting subcontractor sales dirctly to the United States.".

TITLE III—AMENDMENTS TO THE OFFICE OF FEDERAL PROCUREMENT POLICY ACT

TECHNICAL DATA MANAGEMENT

SEC. 301. (a) The office of Federal Procurement Policy Act (hereafter in this title referred to as "the Act") is amended by redesignating section 21 as section 23 and by inserting after section 20 the following new section:

"RIGHTS IN TECHNICAL DATA

"SEC. 21. (a) The legitimate proprietary interest of the United States and of a contractor in technical or other data shall be defined in regulations proscribed as part of the single system of Government-wide procurement regulations as defined in section 4(4) of this Act. Such regulations may not impair any right of the United States or of any contractor with respect to patents or copyrights or any other right in technical data otherwise established by law. Such regulations shall provide, with respect to executive agencies that are subject to the provisions of title III of the Federal Property and administrative Services act of 1949, that the United States may not require persons who have developed products or processes offered or to be offered for sale to the public as a condition for the procurement of such products or processes by the United States, to provide to the United States technical data relating to the design, development, or manufacture of such products or processes (except for such data as may be necessary for the United States to operate and maintain the product or use the process if obtained by the United States as an element of performance under the contract).

"(b)(1) Except as otherwise expressly provided by Federal statute, the regulations prescribed pursuant to subsection (a) shall provide, with respect to executive agencies that are subject to the provisions of title III of the Federal Property and Administrative Services Act of 1949, that the United States shall have unlimited rights in technical data developed exclusively with Federal funds if delivery of such data—

"(A) was required as an element of performance under a contract; and

"(B) is needed to ensure the competitive acquisition of supplies or services that will be required in substantial quantities in the future.

"(2) Except as otherwise expressly provided by Federal statute, the regulations prescribed pursuant to subsection (a) shall provide, with respect to executive agencies that are subject to the provisions of title III of the Federal Property and Administrative Services Act of 1949, that the United States (and each agency thereof) shall have an unrestricted, royalty-free right to use, or to have its contractors use, for governmental purposes (excluding publication outside the Government) technical data developed exclusively with Federal funds.

"(3) The requirements of paragraph (1) and (2) shall be in addition to and not in lieu of any other rights that the United States may have pursuant to law.

"(c) The following factors shall be considered in prescribing regulations pursuant to subsection (a):

"(1) Whether the technical data was developed—

"(A) exclusively with Federal funds;

"(B) exclusively at private expense; or

"(C) in part with Federal funds and in part at private expense.

"(2) The statement of congressional policy and objectives in section 200 of title 35, the statement of purposes in section 2(b) of the Small Business Innovation Development Act of 1982 (Public Law 97-219; 15 U.S.C. 638 note), and the declaration of policy in section 2 of the Small Business Act (15 U.S.C. 631).

"(3) The interest of the United States in increasing competition and lowering costs by developing and locating alternative sources of supply and manufacture.

"(d) Regulations prescribed under subsection (a) shall require that a contract for property or services entered into by an executive agency contain appropriate provisions relating to technical data, including provisions—

"(1) defining the respective rights of the United States and the contractor or subcontractor (at any tier) regarding any technical data to be delivered under the contract;

"(2) specifying the technical data, if any, to be delivered under the contract and delivery schedules for such delivery;

"(3) establishing or referencing procedures for determining the acceptability of technical data to be delivered under the contract;

"(4) establishing separate contract line items for the technical data, if any, to be delivered under the contract;

"(5) to the maximum practicable extent, identifying, in advance of delivery, technical data which is to be delivered with restric-

tions on the right of the United States to use such data;

"(6) requiring the contractor to revise any technical data delivered under the contract to reflect engineering design changes made during the performance of the contract and affecting the form, fit, and function of the items specified in the contract and to deliver such revised technical data to an agency within a time specified in the contract;

"(7) requiring the contractor to furnish written assurance at the time the technical data is delivered or is made available that the technical data is complete and accurate and satisfies the requirements of the contract concerning technical data;

"(8) establishing remedies to be available to the United States when technical data required to be delivered or made available under the contract is found to be incomplete or inadequate or to not satisfy the requirements of the contract concerning technical data; and

"(9) authorizing the head of the agency to withhold payments under the contract (or exercise such other remedies as the head of the agency considers appropriate) during any period if the contractor does not meet the requirements of the contract pertaining to the delivery of technical data.".

(b) Section 2320(a) of title 10, United States Code, is amended by striking out "in regulations prescribed as part" and inserting in lieu thereof "in regulations of the Department of Defense described as part".

(c) The amendment made by subsection (a) shall take effect on the date of enactment of this Act. The regulations required by such amendment shall be issued not later than July 1, 1985.

(d) Within 60 days after the date the regulations required by the amendment made by subsection (a) are prescribed, the Secretary of Defense, the Administrator of General Services, and the Administrator of the National Aeronautics and Space Administration shall submit to Congress a joint report describing in detail how those regulations give consideration to the factors specified for consideration in that section.

PUBLICATION OF PROPOSED REGULATIONS

SEC. 302. (a) The Act is further amended by inserting after section 21 (as added by section 301 of this Act) the following new section:

"PUBLICATION OF PROPOSED REGULATIONS

"SEC. 22. (a) Except as provided in subsection (d), no procurement policy, regulation, procedure, or form (including amendments or modifications thereto) relating to the expenditure of appropriated funds that has (1) a significant effect beyond the internal operating procedures of the agency issuing the procurement policy, regulation, procedure or form, or (2) a significant cost or administrative impact on contractors or offerors, may take effect until 30 days after the procurement policy, regulation, procedure, or form is published for public comment in the Federal Register pursuant to subsection (b).

"(b) Subject to subsection (c), the head of the agency shall cause to be published in the Federal Register a notice of the proposed procurement policy, regulation, procedure, or form and provide for a public comment period for receiving and considering the views of all interested parties on such proposal. The length of such comment period may not be less than 30 days.

"(c) Any notice of a proposed procurement policy, regulation, procedure, or form prepared for publication in the Federal Register shall include—

"(1) the text of the proposal or, if it is impracticable to publish the full text of the proposal, a summary of the proposal and a statement specifying the name, address, and telephone number of the officer or employee of the executive agency from whom the full text may be obtained; and

"(2) a request for interested parties to submit comments on the proposal and shall include the name and address of the officer or employee of the Government designated to receive such comments.

"(d)(1) The requirements of subsections (a) and (b) may be waived by the officer authorized to issue a procurement policy, regulation, procedure, or form if urgent and compelling circumstances make compliance with such requirements impracticable.

"(2) A procurement policy, regulation, procedure, or form with respect to which the requirements of subsections (a) and (b) are waived under paragraph (1) shall be effective on a temporary basis if—

"(A) a notice of such procurement policy, regulation, procedure, or form is published in the Federal Register and includes a statement that the procurement policy, regulation, procedure, or form is temporary; and

"(B) provision is made for a public comment period of 30 days beginning on the date on which the notice is published.

After considering the comments received, the head of the agency waiving the requirements of subsections (a) and (b) under paragraph (1) may issue the final procurement policy, regulation, procedure, or form.".

(b) The procedures required by the amendment made by subsection (a) shall apply with respect to procurement policies, regulations, procedures, or forms that an agency issues in final form on or after the date which is 30 days after the date of enactment of this Act.

(c)(1) Section 2303a of title 10, United States Code, is repealed.

(2) The table of sections of chapter 137 of such title is amended by striking out the item pertaining to section 2303a.

PROCUREMENT NOTICES

SEC. 303. (a) Section 18 of the Office of Federal Procurement Policy Act is amended to read as follows:

"PROCUREMENT NOTICES

"SEC. 18. (a)(1) Except as provided in subsection (c)—

"(A) an exective agency intending to—

"(i) solicit bids or proposals for a contract for property or services for a price expected to exceed $10,000; or

"(ii) place an order, expected to exceed $10,000, under a basic agreement, basic ordering agreement, or similar arrangement,

shall furnish for publication by the Secretary of Commerce a notice described in subsection (b); and

"(B) an executive agency awarding a contract for property or services for a price exceeding $25,000, or placing an order referred to in clause (a)(ii) exceeding $25,000, shall furnish for publication by the Secretary of commerce a notice announcing the award or order if there is likely to be any subcontract under such contract or order.

"(2) The Secretary of Commerce shall publish promptly in the Commerce Business Daily each notice required by paragraph (1).

"(3) Whenever an executive agency is required by paragraph (1)(A) to furnish a notice to the Secretary of Commerce, such executive agency may not—

"(A) issue the solicitation earlier than 15 days after the date on which the notice is published by the Secretary of Commerce; or

"(B) establish a deadline for the submission of all bids or proposals in response to the notice required by paragraph (1)(A) that—

"(i) in the case of an order under a basic agreement, basic ordering agreement, or similar arrangement, is earlier than the date 30 days after the date the notice required by paragraph (1)(A)(ii) is published;

"(ii) in the case of a solicitation for research and development, is earlier than the date 45 days after the date the notice required by paragraph (1)(A)(i) is published; or

"(iii) in any other case, is earlier than the date 30 days after the date the solicitation is issued.

"(b) Each notice of solicitation required by subsection (a)(1)(A) shall include—

"(1) an accurate description of the property or services to be contracted for, which description (A) shall not be unnecessarily restrictive of competition; and (B) shall include, as appropriate, the agency nomenclature, National Stock Number or other part number, and a brief description of the item's form, fit, or function, physical dimensions, predominant material of manufacture, or similar information that will assist a prospective contractor to make an informed business judgment as to whether a copy of the solicitation should be requested;

"(2) provisions that—

"(A) state whether the technical data required to respond to the solicitation will not be furnished as part of such solicitation, and identify the source in the Government, if any, from which the technical data may be obtained; and

"(B) state whether an offeror, its product, or service must meet a qualification requirement in order to be eligible for award, and, if so, identify the office from which the qualification requirement may be obtained;

"(3) the name, business address, and telephone number of the contracting officer;

"(4) a statement that all responsible sources may submit a bid, proposal, or quotation (as appropriate) which shall be considered by the agency; and

"(5) in the case of a procurement using procedures other than competitive procedures, a statement of the reason justifying the use of such procedures and the identity of the intended source.

"(c)(1) A notice is not required under subsection (a)(1) if—

"(A) the notice would disclose the executive agency's needs and the disclosure of such needs would compromise the national security;

"(B) the proposed procurement would result from acceptance of—

"(i) any unsolicited proposal that demonstrates a unique and innovative research concept and the publication of any notice of such unsolicited research proposal would disclose the originality of thought or innovativeness of the proposal or would disclose proprietary information associated with the proposal; or

"(ii) a proposal submitted under section 9 of the Small Business Act;

"(C) the procurement is made against an order placed under a requirements contract;

"(D) the procurement is made for perishable subsistance supplies; or

"(E) the procurement is for utility services, other than telecommunication services, and only one source is available.

"(2) The requirements of subsection (a)(1)(A) do not apply to any procurement under conditions described in paragraph (2), (3), (4), (5), or (7) of section 303(c) of the

Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(c)) or paragraph (2), (3), (4), (5), or (7) of section 2304(c) of title 10, United States Code.

"(3) The requirements of subsection (a)(1)(A) shall not apply in the case of any procurement for which the head of the executive agency makes a determination in writing, after consultation with the Administrator for Federal Procurement Policy and the Administrator of the Small Business Administration, that it is not appropriate or reasonable to publish a notice before issuing a solicitation.

"(d) An executive agency shall make available to any business concern, or the authorized representative of such concern, the complete solicitation package for any ongoing procurement announced pursuant to a notice under subsection (e). An executive agency may require the payment of a fee, not exceeding the actual cost of duplication, for a copy of such package.".

(b) The amendment made by subsection (a) shall take effect with respect to any solicitation issued after March 31, 1985.

(c) The provisions of the amendment made by subsection (a) of this section shall apply to the Tennessee Valley Authority only with respect to procurements to be paid from appropriated funds.

TITLE IV—AMENDMENTS TO THE SMALL BUSINESS ACT

CERTIFICATE OF COMPETENCY

SEC. 401. Section 8(b)(7)(C) of the Small Business Act (15 U.S.C. 637(b)(7)(C) is amended by adding at the end thereof the following: "Notwithstanding the first sentence of this subparagraph, the Administration may not establish an exemption from referral or notification or refuse to accept a referral or notification from a Government procurement officer made pursuant to subparagraph (A) or (B) of this paragraph, but nothing in this paragraph shall require the processing of an application for certification if the small business concern to which the referral pertains declines to have the application processed.".

SMALL BUSINESS SUBCONTRACTING POLICY STATEMENTS

SEC. 402. (a) Section 8(d)(1) of the Small Business Act (15 U.S.C. 637(d)(1)) is amended by striking out the period at the end therof and inserting in lieu thereof the following: ", including contracts and subcontracts for subsystems, assemblies, components, and related services for major systems. It is further the policy of the United States that its prime contractors establish procedures to ensure the timely payment of amouts due pursuant to the terms of their subcontracts with small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals.".

(b) Section 8(d)(3)(A) of the Small Business Act (15 U.S.C. 637(d)(3)(A)) is amended by striking out the period at the end thereof and inserting in lieu thereof the following: ", including contracts and subcontracts for subsystems, assemblies, components, and related services for major systems. It is further the policy of the United States that its prime contractors establish procedures to ensure the timely payment of amounts due pursuant to the terms of their subcontracts with small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals.".

BREAKOUT PROCUREMENT CENTER REPRESENTATIVES

SEC. 403. (a) Section 15 of the Small Business Act (15 U.S.C. 644) is amended—

(1) by redesignating subsection (l) as subsection (m); and

(2) by inserting after subsection (k) the following new subsection:

"(l)(1) The Administration shall assign to each major procurement center a breakout procurement center representative with such assistance as may be appropriate. The breakout procurement center representative shall carry out the activities described in paragraph (2), and shall be an advocate for the breakout of items for procurement through full and open competition, whenever appropriate, while maintaining the integrity of the system in which such items are used, and an advocate for the use of full and open competition, whenever appropriate, for the procurement of supplies and services by such center. Any breakout procurement center representative assigned under this subsection shall be in addition to the representative referred to in subsection (k)(6).

"(2) In addition to carrying out the responsibilities assigned by the Administration, a breakout procurement center representative is authorized to—

"(A) attend any provisioning conference or similar evaluation session during which determinations are made as to whether requirements are to be procured through other than full and open competition and make recommendations with respect to such requirements to the members of such conference or session;

"(B) review, at any time, restrictions on competition previously imposed on items through acquisition method coding or similar procedures, and recommend to personnel of the appropriate activity the prompt reevaluation of such limitations;

"(C) review restrictions on competition arising out of restrictions on the rights of the United States in technical data, and when appropriate, recommend that personnel of the appropriate activity initiate a review of the validity of such an asserted restriction;

"(D) obtain from any governmental source, and make available to personnel of the appropriate activity, unrestricted technical data necessary for the preparation of a competitive solicitation package for any item of supply or service previously procured noncompetitively due to the unavailability of such unrestricted technical data;

"(E) have access to the unclassified procurement records and other data of the procurement center;

"(F) receive unsolicited engineering proposals and, when appropriate (i) conduct a value anaylsis of such proposal to determine whether such proposal, if adopted, will result in lower costs to the United States without substantially impeding legitimate acquisition objectives and forward to personnel of the appropriate activity recommendations with respect to such proposal, or (ii) forward such proposals without analysis to personnel of the activity responsible for reviewing such proposals and who shall furnish the breakout procurement center representative with information regarding the disposition of any such proposal; and

"(G) review the systems that account for the acquisition and management of technical data within the procurement center to assure that such systems provide the maximum availability and access to data needed for the preparation of offers to sell to the United States those supplies to which data pertain which potential offerors are entitled to receive.

"(3) A breakout procurement center representative is authorized to appeal a failure to act favorably on any recommendation made pursuant to paragraph (2). Such appeal shall be in writing, specifically reciting both the circumstances of the appeal and the basis of the recommendation. The appeal shall be decided by a person within the employ of the appropriate activity who is at least one supervisory level above the person who initially failed to act favorably on the recommendation. Such appeal shall be decided within 30 calendar days of its receipt.

"(4) The Administration shall assign and co-locate at least two small business technical advisers to each major procurement center in addition to such other advisers as may be authorized from time to time. The sole duties of such advisers shall be to assist the breakout procurement center representative for the center to which such advisers are assigned in carrying out the functions described in paragraph (2) and the representatives referred to in subsection (k)(6).

"(5)(A) The breakout procurement center representatives and technical advisers assigned pursuant to this subsection shall be—

"(i) full time employees of the Administration; and

"(ii) fully qualified, technically trained, and familiar with the supplies and services procured by the major procurement center to which they are assigned.

"(B) In addition to the requirements of subparagraph (A), each breakout procurement center representative, and at least one technical adviser assigned to such representative, shall be an accredited engineer.

"(C) The Administration shall establish personnel positions for breakout procurement representatives and advisers assigned pursuant to this subsection, which are classified at a grade level of the General Schedule sufficient to attract and retain highly qualified personnel.

"(6) For purposes of this subsection, the term 'major procurement center' means a procurement center of the Department of Defense that awarded contracts for items other than commercial items totaling at least $150,000,000 in the preceding fiscal year, and such other procurememt centers as designated by the Administrator.".

"(b)(1) The Administrator of the Small Business Administration and the Comptroller General of the United States shall jointly establish standards for measuring cost savings achieved through the efforts of breakout procurement center representatives and for measuring the extent to which competition has been increased as a result of such efforts. Thereafter, the Administrator shall annually prepare and submit to the Congress a report setting forth—

(A) the cost savings achieved during the year covered by such report through the efforts of breakout procurement center representatives;

(B) an evaluation of the extent to which competition has been increased as a result of such efforts; and

(C) such other information as the Administrator may deem appropriate.

(2) Within 180 days following the submission of the second annual report to Congress by the Administrator, the Comptroller General shall report to the Congress an evaluation of the Administration's adherence to the standards jointly established and the accuracy of the information the Administration has submitted to the Congress.

PROCUREMENT NOTICES

SEC. 404. (a) Section 8 of the Small Business Act (15 U.S.C. 637) is amended by striking out subsection (e) and inserting in lieu thereof the following new subsections:

"(e)(1) Except as provided in subsection (g)—

"(A) an executive agency intending to—

"(i) solicit bids or proposals for a contract for property or services for a price expected to exceed $10,000; or

"(ii) place an order, expected to exceed $10,000, under a basic agreement, basic ordering agreement, or similar arrangement,

shall furnish for publication by the Secretary of Commerce a notice described in subsection (b); and

"(B) an executive agency awarding a contract for property or services for a price exceeding $25,000, or placing an order referred to in clause (A)(ii) exceeding $25,000, shall furnish for publication by the Secretary of Commerce a notice announcing the award or order if there is likely to be any subcontract under such contract or order.

"(2) The Secretary of Commerce shall publish promptly in the Commerce Business Daily each notice required by paragraph (1).

"(3) Whenever an executive agency is required by paragraph (1)(A) to furnish a notice to the Secretary of Commerce, such executive agency may not—

"(A) issue the solicitation earlier than 15 days after the date on which the notice is published by the Secretary of Commerce; or

"(B) establish a deadline for the submission of all bids or proposals in response to the notice required by paragraph (1)(A) that—

"(i) in the case of an order under a basic agreement, basic ordering agreement, or similar arrangement, is earlier than the date 30 days after the date the notice required by paragraph (1)(A)(ii) is published;

"(ii) in the case of a solicitation for research and development, is earlier than the date 45 days after the date the notice required by paragraph (1)(A)(i) is published; or

"(iii) in any other case, is earlier than the date 30 days after the date the solicitation is issued.

"(f) Each notice of solicitation required by subsection (e)(1)(A) shall include—

"(1) an accurate description of the property or services to be contracted for, which description (A) shall not be unnecessarily restrictive of competition, and (B) shall include, as appropriate, the agency nomenclature, National Stock Number or other part number, and a brief description of the item's form, fit, or function, physical dimensions, predominant material of manufacture, or similar information that will assist a prospective contractor to make an informed business judgment as to whether a copy of the solicitation should be requested;

"(2) provisions that—

"(A) state whether the technical data required to respond to the solicitation will not be furnished as part of such solicitation, and identify the source in the Government, if any, from which the technical data may be obtained; and

"(B) state whether an offeror, its product, or service must meet a qualification requirement in order to be eligible for award, and, if so, identify the office from which a qualification requirement may be obtained;

"(3) the name, business address, and telephone number of the contracting officer;

"(4) a statement that all responsible sources may submit a bid, proposal, or quotation (as appropriate) which shall be considered by the agency; and

"(5) in the case of a procurement using procedures other than competitive procedures, a statement of the reason justifying the use of such procedures and the identity of the intended source.

"(g)(1) A notice is not required under subsection (a)(1) if—

"(A) the notice would disclose the executive agency's needs and the disclosure of such needs would compromise the national security;

"(B) the proposed procurement would result from acceptance of—

"(i) any unsolicited proposal that demonstrates a unique and innovative research concept and the publication of any notice of such unsolicited research proposal would disclose the originality of thought or innovativeness of the proposal or would disclose proprietary information associated with the proposal; or

"(ii) a proposal submitted under section 9 of this Act;

"(C) the procurement is made against an order placed under a requirements contract;

"(D) the procurement is made for perishable subsistence supplies; or

"(E) the procurement is for utility services, other than telecommunication services, and only one source is available.

"(2) The requirements of subsection (a)(1)(A) do not apply to any procurement under conditions described in paragraph (2), (3), (4), (5), or (7) of section 303(c) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(c)) or paragraph (2), (3), (4), (5), or (7) of section 2304(c) of title 10, United States Code.

"(3) The requirements of subsection (a)(1)(A) shall not apply in the case of any procurement for which the head of the executive agency makes a determination in writing, after consultation with the Administrator for Federal Procurement Policy and the Administrator of the Small Business Administration, that it is not appropriate or reasonable to publish a notice before issuing a solicitation.

"(h)(1) An executive agency may not award a contract using procedures other than competitive procedures unless—

"(A) except as provided in paragraph (2), a written justification for the use of such procedures has been approved—

"(i) in the case of a contract for an amount exceeding $100,000 (but equal to or less than $1,000,000), by the advocate for competition for the procuring activity (without further delegation);

"(ii) in the case of a contract for an amount exceeding $1,000,000 (but equal to or less than $10,000,000), by the head of the procuring activity or a delegate who, if a member of the Armed Forces, is a general or flag officer, or, if a civilian, is serving in a position in grade GS-16 or above under the General Schedule (or in a comparable or higher position under another schedule); or

"(iii) in the case of a contract for an amount exceeding $10,000,000, by the senior procurement executive of the agency designated pursuant to section 16(3) of the Office of Federal Procurement Policy Act (41 U.S.C. 414(3)) (without further delegation); and

"(B) all other requirements applicable to the use of such procedures under title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.) or chapter 137 of title 10, United States Code, as appropriate, have been satisfied.

"(2) The same exceptions as are provided in section 303(f)(2) of the Federal Property and Administration Services Act of 1949 (41 U.S.C. 253(f)(2)) or section 2304(f)(2) of title 10, United States Code, shall apply with respect to the requirements of paragraph (1)(A) of this subsection in the same manner as such exceptions apply to the requirements of section 303(f)(1) of such Act or section 2304(f)(1) of such title as appropriate.

"(i) An executive agency shall make available to any business concern, or the authorized representative of such concern, the complete solicitation package for any ongoing procurement announced pursuant to a notice under subsection (e). An executive agency may require the payment of a fee, not exceeding the actual cost of duplication, for a copy of such package.

"(j) For purposes of this section, the term, 'executive agency' has the meaning provided such term in section 4(1) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(1)).".

(b) The amendment made by subsection (a) shall take effect with respect to any solicitation for bids or proposals issued after March 31, 1985.

(c) The provisions of the amendment made by subsection (a) of this section shall apply to the Tennessee Valley Authority only with respect to procurements to be paid from appropriated funds.

TITLE V—OTHER PROCUREMENT PROVISIONS

REGULATIONS ON OVERHEAD

SEC. 501. Not later than 180 days after the date of enactment of this Act the single system of Government-wide procurement regulations (as defined in section 4(4)) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(4)) shall be revised to include or amend, as appropriate, provisions relating to the manner in which each executive agency (as defined in section 4(1) of such Act (41 U.S.C. 403(1)) may negotiate prices for supplies to be obtained through the use of other than competitive procedures, as defined in section 4(b) of such Act (41 U.S.C. 403(b)). Such revision shall specify the incurred overhead a contractor may appropriately allocate to such supplies, and shall require the contractor to identify those supplies which it did not manufacture or to which it did not contribute significant value. Nothing in this subsection shall require the submission of cost or pricing data not otherwise required by law.

PERSONNEL EVALUATIONS

SEC. 502. The head of each executive agency that is subject to the provisions of title III of the Federal Property and Administrative Services of 1949 shall ensure, with respect to the employees of that agency whose primary duties and responsibilities pertain to the award of contracts subject to the provisions of this Act, that the performance appraisal system applicable to such employees affords appropriate recognition to, among other factors, efforts—

(1) to increase competition and achieve cost savings through the elimination of procedures that unnecessarily inhibit full and open competition;

(2) to further the purposes of the Small Business and Federal Procurement Competition Enhancement Act of 1984 and the Defense Procurement Reform Act of 1984; and

(3) to further such other objectives and purposes of the Federal acquisition system as may be authorized by law.

REPORT ON PRIME CONTRACTORS QUALIFYING ADDITIONAL SOURCES

SEC. 503. Not later than July 1, 1985, the Administrator of the Office of Federal Procurement Policy shall submit to the Congress a report on the desirability and feasibility of various methods that may be usd to qualify competitive sources for subsystems, assemblies, and components acquired as part of a major system established by an agency pursuant to Office of Management and Budget (OMB) Circular A-109 entitled "Major Systems Acquisitions" and likely to be reprocured in substantial quantities during the system's service life. Such report shall discuss the desirability and feasibility of a contractural requirement that, in those situations where a prime contractor qualifies its subcontractors and suppliers, the prime contractor be required to—

(1) qualify at least two sources for each major subsystem, assembly, or component during the term of the contract; or

(2) furnish to the United States as a deliverable item under the contract, the qualification standards and processes employed by the prime contractor, so as to permit the United States to qualify additional sources for future competitive procurements.

TECHNICAL AMENDMENTS TO COMPETITION IN CONTRACTING ACT OF 1984

SEC. 504. (a)(1) Section 303(b) of the Federal Property and Administration Services Act of 1949 (41 U.S.C. 253) is amended by striking out paragraph (2) and inserting in lieu thereof the following:

"(2) An executive agency may provide for the procurement of property or services covered by this section using competitive procedures, but excluding other than small business concerns in furtherance of sections 9 and 15 of the Small Business Act (15 U.S.C. 639; 644).

"(3) A contract awarded pursuant to the competitive procedures referred to in paragraphs (1) and (2) shall not be subject to the justification and approval required by subsection (f)(1).".

(2) Section 303(f) of such Act is amended by striking out the last sentence of paragraph (2) and by inserting in lieu thereof the following: "The justification and approval required by paragraph (1) is not required in the case of a procurement permitted by subsection (c)(7) or in the case of a procurement conducted under—

"(A) the Act of June 25, 1938 (41 U.S.C. 46 et seq.), popularly referred to as the Wagner-O'Day Act; or

"(B) the authority of section 8(a) of the Small Business Act (15 U.S.C. 637).".

(3) Section 309(b) of such Act is amended—

(A) by striking out the period at the end of paragraph (3) and by inserting in lieu thereof a semicolon; and

(B) by adding at the end thereof the following new paragraphs:

"(4) procurements conducted in furtherance of section 15 of the Small Business Act (15 U.S.C. 644) as long as all responsible business concerns that are entitled to submit offers for such procurements are permitted to compete; and

"(5) a competitive selection of research proposals resulting from a general solicitation and peer review or scientific review (as appropriate) solicited pursuant to section 9 of the Small Business Act (15 U.S.C. 638).".

(4) Section 309(c) of such Act is amended by striking out "and 'responsible source' have" and inserting in lieu thereof ", 'responsible source', 'technical data', 'major system', 'item', 'item of supply', and 'supplies' have".

(b)(1) Section 2304(b) of title 10, United States Code, is amended by striking out paragraph (2) and inserting in lieu thereof the following:

"(2) An executive agency may provide for the procurement of property or services covered by this section using competitive procedures, but excluding other than small business concerns in furtherance of sections 9 and 15 of the Small Business Act (15 U.S.C. 639; 644).

"(3) A contract awarded pursuant to the competitive procedures referred to in paragraphs (1) and (2) shall not be subject to the justification and approval required by subsection (f)(1).".

(2) Section 2304(f) of such title is amended by striking out the last sentence of paragraph (2) and by inserting in lieu thereof the following: "The justification and approval required by paragraph (1) is not required in the case of a procurement permitted by subsection (c)(7) or in the case of a procurement conducted under—

"(A) the Act of June 25, 1938 (41 U.S.C. 46 et seq.), popularly referred to as the Wagner-O'Day Act; or

"(B) the authority of section 8(a) of the Small Business Act (15 U.S.C. 637).".

(3) Section 2302(2) of such title is amended—

(A) by striking out "and" at the end of subparagraph (B);

(B) by striking out the period at the end of paragraph (C) and by inserting in lieu thereof a semicolon; and

(C) by adding at the end thereof the following new subparagraphs:

"(D) procurements conducted in furtherance of section 15 of the Small Business Act (15 U.S.C. 644) as long as all responsible business concerns that are entitled to submit offers for such procurements are permitted to compete; and

"(E) a competitive selection of research proposals resulting from a general solicitation and peer review or scientific review (as appropriate) solicited pursuant to section 9 of the Small Business Act (15 U.S.C. 638).".

REPEAL

SEC. 505. Section 2311 of title 10, United States Code (as amended by section 1214 of the Defense Procurement Reform Act of 1984), is amended—

(1) by striking out "(a)" at the beginning of subsection (a); and

(2) by striking out subsection (b).

In lieu of the matter inserted by the amendment of the Senate to the title of the bill, insert: "An Act to amend the Small Business Act, the Federal Property and Administrative Services Act of 1949, and the Office of Federal Procurement Policy Act to enhance competition in Government procurement, and for other purposes.".

Mr. WEICKER. Mr. President, I urge the Senate to adopt the House amendment to H.R. 4209, the small Business and Federal Procurement Enhancement Act of 1984. This amendment passed the House on October 2, 1984, by a rollcall vote of 416 to 0. As chairman of the small Business Committee, I am especially pleased that the Senate will clear this measure for the President's signature before adjournment, for it is the culmination of major congressional effort at Federal procurement reform that has spanned nearly a year.

H.R. 4209, in its current form, still reflects the basic outlines of S. 2489, the Small Business Competition Enhancement Act of 1984, which Senator DIXON and I introduced on March 29 along with 22 of our colleagues on both sides of the aisle. After careful consideration by the Small Business Committee, including 2 days of legislative hearings, S. 2489 was unanimously reported on May 11 and sequentially referred to the Committee on Armed Services, which unanimously reported it on June 11. During the Armed Servcies Committee's consideration of the bill, which included a legislative hearing by the committee's new Task Force on Defense Procurement Matters, many provisions of S. 2489 were incorporated into the fiscal year 1985 DOD authorization bill and passed by the Senate on June 21 as H.R. 5167. Subsequently, on August 7, the Senate considered S. 2489, and substituted its text as amended for the provisions of H.R. 4209, a related House-passed measure, and passed it unanimously on a rollcall vote of 94 to 0.

The House amendment to H.R. 4209 as passed by the Senate, which is now before this body for action, is the agreement among representatives of the Senate Small Business, Armed Services, and Governmental Affairs Committees and the House Small Business, Armed Services, and Governmental Affairs Committees, during a series of meetings that considered not only the provisions of H.R. 4209 but the corresponding provisions in H.R. 5167, the fiscal year 1985 DOD authorization bill. With the House and Senate acceptance of the conference report on H.R. 5167, the text of H.R. 4209 was modified to reflect the fact that many of the proposed reforms had already been adopted to the Department of Defense, the Coast Guard, and the National Aeronautics and Space Administration through the provisions of H.R. 5167. Therefore, the application of those provisions of H.R. 4209 which were duplicative of provisions already in the DOD authorization bill were restricted in their application to the civilian agencies, that is those agencies subject to title III of the Federal Property and Administrative Services Act of 1949.

At this point, Mr. President, I ask unanimous consent to insert in the RECORD a summary of the provisions of H.R. 4209.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

SUMMARY OF H.R. 4209, SMALL BUSINESS AND FEDERAL PROCUREMENT COMPETITION ENHANCEMENT ACT OF 1984

1. In order to remove obstacles that limit competition and the participation of small business in the federal procurement market

and to increase agencies' use of competitive contracting practices in the future, the bill:

Reforms the use of prequalification requirements, standards that a prospective contractor must meet before being able to bid for a federal contract, by mandating that the agency:

Justify the use of such requirements whenever one is employed;

Clearly specify and make available all of the standards that must be met by the competing contractor;

Estimate the cost likely to be incurred by the prospective contractor in meeting those standards so that an informed business decision on whether or not to seek qualification can be made;

Allow the contractor a reasonable opportunity to demonstrate its ability to qualify;

Provide the contractor with results of qualification tests and, if the qualification has not been attained, an explanation of the denial;

Reimburse the costs incurred by a small business competitor that demonstrates its ability to meet the government standards, if an agency has only one approved supplier—in effect, provide a financial reward for achieving new, cost-effective competition; and

Prohibit an agency from refusing to consider a prospective contractor's bid solely because that contractor is not on a list of qualified vendors, if the contractor can demonstrate qualification prior to the awarding of the contract.

Requires that agencies plan for the future competitive procurement of the spare parts, support equipment and support services necessary to maintain their major systems—so-called "downstream operations—when they award contracts for the design and production of such major systems, by encouraging that the system design make maximum use of components that are already in the government supply system or that are commercially available, without sacrificing technological capability, thus both increasing the likelihood of competitive future purchases and slowing the growth of parts inventories; seeking in the production contracts options to technical data that are legitimately restricted, thus permitting futrue competition for these components; and having the contractor qualify during production multiple sources of supply for components that need extensive testing, thus assuring competition for future requirements.

2. In order to be certain that the business community, particularly the community of small firms, receives notice of contracting opportunities which is adequate to permit a prospective contractor to make an informed business judgment as to whether to enter the competition and which provides adequate time to prepare a bid, the bill:

Prescribes consistent, government-wide standards for procurement notices that appear in the Commerce Business Daily (CBD), a Department of Commerce publication containing notices of contracting opportunities and contract wards that provide subcontracting opportunities (which are especially important to small businesses); and

Enhances the quality of the CBD notices by: specifying additional detail about the contracting opportunity; requiring that the notice identify any prequalification requirement and where the prequalification standards can be obtained; and requiring that the notice specify if the agency's bid package will contain all necessary specifications and, if necessary, the locations from which they can be obtained.

3. In order to ensure that the business community, again particularly small business, has an opportunity to review and comment on proposed procurement policies, regulations, procedures and forms, which are currently exempt from the publication requirements of the Administrative Procedure Act, the bill:

Establishes for the first time a government-wide requirement that a notice of a proposed procurement regulation be published in the Federal Register and that the public be given at least 30 days to comment; and

Renders void any procurement regulation that has not complied with the bill's notice and comment requirements.

4. In order to significantly reduce the number of non-competitive, or "sole source," procurements, particularly for Department of Defense spare parts, a pilot program of the Small Business Administration (SBA) which placed in fiscal year 1983 Breakout Procurement Center Representatives (BPCRs) in four Air Force purchasing centers (and resulted in the "breaking out" to competition of over 1,600 spare parts and an estimated savings of $35 million in fiscal year 1983 alone) is expanded, thus the bill:

Authorizes the assignment of a BPCR to every Defense procurement center spending $150 million or more on spare parts and other such procurement centers (civilian as well as military) selected by the SBA; and

Specifies the authorities of the BPCRs to enable them to to effectively "breakout" the item to complete competition or least to enable agencies to purchase components from the actual manufacturer, thus enabling the government to avoid the "pass-through changes" that are added by the prime contractor and subcontractors.

5. In order to be certain that the government is offered the lowest possible price for the items its buys and to encourage agency contracting personnel to foster competitive procurements, the bill:

Requires the issuance of government-wide regulations on the allowability of overhead costs which a contractor may allocate to prices charged the government, one of the principal causes of the exorbitant prices for spare parts being quoted to the Department of Defense;

Prohibits the government from negotiating a contract price that "exceeds the lowest price at which such items are sold by the contractor to the public," unless such differences have been justified in writing in accordance with enumerated standards;

Requires agencies to calculate the size of their buys so as to get the most economic responses from industry (economic order quantities), and allows a bidder to offer a lower price on an alternative quantity (its most economic order quantity);

Prohibits a prime contractor from restricting sales by its subcontractors directly to the government; and

Requires that the performance appraisal system for contracting personnel give recognition to their efforts to achieve contract cost savings and to use competitive procurement practices whenever appropriate.

6. In order to be able to compete for spare parts for major systems, and most other items that agencies purchase, it is essential that the government agency have current, complete, and unrestricted technical data, thus the bill:

Requires the issuance of regulations defining the legitimate proprietary interest of the government and of a contractor in technical data;

Provides legislative guidance, recognizing the rights of the government in technical data developed exclusively with federal funds; the rights of a contractor to such data for items developed at private expense, giving special recognition to privately developed commercial products; and special programs to encourage technological innovation, especially by small business concerns.

Requires that government contracts contain provisions clearly specifying the contractor's responsibilities concerning the delivery of technical data, including lists of data that is to be delivered; clear criteria for determining the acceptability of technical data delivered; identification of data to be furnished with restrictions on the government's use of the data, so as to permit challenges to questionable restrictions; a written warranty from the contractor stating that the technical data delivered meets the contract requirements; contractor obligation to revise data to reflect engineering design changes, thus ensuring that the agency's data will remain current; and authority to withhold contract payments and impose other penalties if the contractor fails to meet contract requirements pertaining to technical data.

Requires the Department of Defense, General Services Administration and National Aeronautics and Space Administration (NASA) to submit a joint report to Congress on the development of regulations mandated by this bill.

7. In order to be certain that the government is giving recognition only to legitimate claims of proprietary data rights by its contractor (which generally locks the agency into a "sole source" contract with that firm), the bill:

Establishes an obligation on the contractor to justify its proprietary data claim, upon 60 days notice;

Creates a procedure for the systematic challenge of questionable proprietary rights asserted by a contractor;

Establishes the right of the government to ignore a proprietary data restriction found to be unwarranted by a court or board of contract appeals; and

Requires the contractor to pay the government's cost of challenging the contractor's proprietary data claim, if it is not found to be "substantially justified" and requires the government to pay the contractor's costs if the government's challenge is found not to have been made "on good faith."

Mr. WEICKER. Mr. President, H.R. 4209 deserves favorable consideration by the Senate for several reasons. First, it addresses real problems in the Federal procurement process with workable solutions that have been thoughtfully shaped. The measure before us today can trace its origins to S. 1730, the "Small Business Competition in Contracting Act of 1983," introduced by Senator ALAN DIXON in August of 1983. His effort helped to clearly define the problems and to shape our joint "second generation" bill, S. 2489, the "Small Business Competition Enhancement Act of 1984." Senator DIXON deserves our commendation for his leadership.

As a member of the Armed Services Committee, he and Senator CARL LEVIN, another cosponsor of S. 2489, guided it skillfully through its careful

consideration by the Armed Services Committee. It was they who urged that key reform provisions of S. 2489 be incorporated into the Senate's version of the fiscal year 1985 DOD authorization bill, H.R. 5167, their voices sustained some of the delicate balances between the rights of the Government and the rights of business, large and small, that sell to Government, which garnered broad support for S. 2489.

Mr. President, the bill before us also reflects an important contribution by my colleague from Minnesota, Senator BOSCHWITZ, who is an especially active member of the Small Business Committee. It was Senator BOSCHWITZ who introduced S. 2434, the Senate companion to the original version of H.R. 4209, introduced by Representative BARBARA BOXER, which provide for the placement of Small Business Administration breakout procurement center representatives [BPCR's] in each major procurement center within the Department of Defense and specifies their authorities to act as advocates for competition on the acquisition of the space parts managed by these centers. The provisions of S. 2434 were incorporated into S. 2489. The BPCR provisions of all three bills are based upon a highly successful pilot program established by SBA in 1979, in which a breakout procurement center representative was placed in four of the five air logistics centers operated by Air Force Logistics Command. A 1982 GAO report found that these four BPCR's had been able to breakout to competition 294 items during an 18-month period, with a resulting savings of almost $7.4 million over the last sole source award prices. During fiscal year 1983, these same four BPCR's were able to breakout 1,634 items, resulting in savings estimated at almost $36 million. Given these results, and the fact that most DOD spare parts dollars, $18 billion in fiscal year 1984 are expanded noncompetitively, the potential for substantial savings from a Government-wide application of the SBA BPCR Program seems almost certain. Senator BOSCHWITZ is to be commended for his leadership in initiating Senate consideration of this proposal. I am certain that taxpayers in his State and throughout America will be most thoughtful as the savings from this program roll in.

Mr. President, at this point, I would like to pay a special tribute to Senator DAN QUAYLE, chairman of the Senate Armed Services Committee's recently created task force on defense procurement matters.

S. 2489 was the first major piece of procurement legislation referred to the task force. Senator QUAYLE approached the bill's provisions with a fresh perspective, and gave each provision careful and thorough consideration. The Armed Services Committee incorporated many beneficial amendments to the bill and subsequently many of S. 2489's provisions were included into what became the defense procurement reform title of the fiscal year 1985 DOD authorization bill. I am certain that the cooperative spirit between our two committees was founded upon our common goal: To enact workable solutions to real problems. But Senator QUAYLE's willingness to press forward with legislation to institutionalize DOD's own reform efforts and go beyond, despite departmental opposition, helped bring us to where we are today: On the verge of enacting a significant procurement reform bill to compliment the defense procurement reform title of the DOD authorization bill. I thank him for his support and what it means for the many small businesses that will have access to additional contracting opportunities with the Department of Defense.

Mr. President, the provisions of S. 2489, and its successor the version of H.R. 4209 we are considering today, also owe a substantial debt to those who worked so hard to develop the extensive hearing record in both Houses, the reports from the General Accounting Office and the DOD Inspector General's Office, and the analyses conducted by the military services, the Office of the Secretary of Defense, and the Office of Federal Procurement Policy. It is that record upon which we shaped S. 2489 and upon which it has subsequently been refined. In particular, I would be remiss in not recognizing the valuable services of field hearings on the obstacles faced by small business in Federal procurement conducted for the committee by Senators SASSER, KASTEN, DIXON, and NICKLES.

Mr. President, the bill we are about to consider has also had the benefit of extensive analysis by the business community and the associations that represent them. Many frank discussions were held with the National Security Industrial Association, the Aerospace Industry Association, and the Computer & Business Equipment Manufacturers Association, as well as with the National Federation of Independent Business, Small Business United, and the National Tooling & Machining Association. Strong support was provided by each of these small business groups as well as the National Small Business Association and the Small Business Legislative Council. The Chamber of Commerce of the United States approached the bill initially from the divergent starting points of its Small Business Council and its Government Procurement Policy Committee, but concluded as a strong supporter.

Business executives for National Security provided their unique analysis and strong support throughout. The American Bar Association's section of public contract law, whose members include the leading practitioners of the public contracts bar, provided many useful suggestions and support the bill before us today.

Mr. President, the bill before us today can fairly be described as a consensus bill. But in seeking consensus, it has nonetheless retailed the provisions to attain one of the purposes for which Senator DIXON and I introduced it: To expand the opportunities for small business concerns to participate in the Federal procurement process. Because we have remained faithful to this goal, we have retained the strong support of the small business community and the strong support of those Members of Congress who are dedicated to fostering America's small businesses.

Mr. President, in reviewing the legislative history of H.R. 4209 and those who contributed to it, I would be highly remiss if I did not mention two key members of the Small Business Committee: DALE BUMPERS, the current ranking minority member, and Senator SAM NUNN, who held that position until becoming the ranking minority member of the Armed Services Committee. Senator BUMPERS, an original cosponsor of S. 2489, lent his strong support throughout the process. Senator NUNN, also an original cosponsor of S. 2489, was especially helpful during S. 2489's referral to the Armed Services Committee and during the fiscal year 1985 DOD authorization bill conference.

Mr. President, we would not be considering H.R. 4209 today without the leadership of the chairman of the House Small Business Committee, PARREN MITCHELL, the cooperation and contributions of Representative JACK BROOKS, chairman of the House Government Operations Committee, and Representative BILL NICHOLS on behalf of the House Armed Services Committee.

Mr. President, I am confident that our Nation's small business concerns have the capability to provide the Government with the quality products required, when they are required, and at competitive prices, if they are but given an unfettered chance to compete. This bill will go a long way to eliminate obstacles to small business participation, foster greater competition in the procurement process generally, and make the Government a more prudent buyer.

Mr. President, I urge my colleagues to accept the House amendment to the Senate amendment to H.R. 4209, the "Small Business and Federal Procurement Enhancement Act of 1984."

Mr. COHEN. Mr. President, I rise in support of H.R. 4209, the Small Business and Federal Procurement Competition Enhancement Act of 1984.

Without a doubt, this has been a banner session for procurement reform. This time last year, we successfully reauthorized the Office of Federal Procurement Policy, which is responsible for spearheading Governmentwide procurement reform.

In June of this year, we enacted the Competition in Contracting Act, which made fundamental changes in the defense and civilian procurement statutes to increase the use of competition in Government contracting and to impose more stringent restrictions on the awarding of noncompetitive—sole source—contracts.

And finally, today we send to the President yet another procurement reform bill, the Small Business and Federal Procurement Competition Enhancement Act, which represents the joint efforts of the Small Business, Governmental Affairs, and Armed Services Committees of both houses to remedy the spare parts overpricing problem.

I would like to commend Senator WEICKER, chairman of the Small Business Committee, for his leadership on H.R. 4209, and defer to his statement for an explanation of the bill's general provisions. I would, however, like to focus my statement on one specific provision which, in my judgment, is integral to the procurement reform process.

Section 302 of H.R. 4209 requires executive agencies to publish proposed procurement policies, regulations, procedures, and forms for public comment. The objective of this section, which largely incorporates language from legislation (S. 2675) which Senator WEICKER and I introduced earlier this year, is to open procurement policymaking to public consideration without, however, unduly burdening the process.

I feel it is important that the public be kept informed of, and be given an opportunity to comment on, proposed procurement policies, regulations, procedures, and forms which affect the procedures for doing business with the Government.

According to the Commission on Government Procurement, which was created by Congress in 1969 to study the Federal procurement process, providing contractors and other interested parties the opportunity to comment on proposed procurement policies and regulations is essential to ensure consideration of all available alternatives and information, provide better understanding and relationships between Government and industry, and enhance the acceptability of these policies and regulations when eventually adopted.

The problem, however, is that contractors and other interested parties frequently are not afforded this opportunity because procurement regulations are exempt from the rulemaking provisions of the Administrative Procedure Act [APA].

The APA generally requires public notice and opportunity for comment for proposed regulations in nonprocurement areas. The rationale for exempting procurement regulations is that matters relating to contracts involve the proprietary interests of the Government, while general regulatory matters affect primarily the interests of private parties. Moreover, subjecting procurement regulations to APA procedures has the potential for blocking procurement actions through litigation over whether an agency has complied with the rulemaking requirements.

As a matter of practice, agency procedures for soliciting comments on proposed procurement regulations are extremely varied. Some procuring agencies have voluntarily adopted APA rulemaking procedures, while other agencies never solicit comments. Still other agencies, such as the Department of Defense [DOD], solicit comments on a selective basis. Often, then, the first time the public sees a "proposed" procurement regulation is when it is issued in final form.

The Procurement Commission stated in its 1972 report to Congress that "the varied practices of agencies in soliciting comments on proposed regulations in some cases and not in others do not meet the minimum standards for promoting fair dealing and equitable relationships among the parties in Government contracting." While the Commission did not feel it was fair to unduly burden the procurement process with APA/type rulemaking procedures, it did recommend that "criteria and procedures should be established for an effective method of soliciting the viewpoints of interested parties in the development of procurement regulations."

In May 1983, the Administrator of the Office of Federal Procurement Policy [OFPP] implemented the Commission's recommendation by issuing policy directive 83-2, which requires all agencies to publish in the Federal Register notice of significant proposed procurement policies, regulations, procedures, and forms and to allow interested parties 30 to 60 days in which to submit comments on the proposal.

Compliance with OFPP's policy directive, however, has been a problem. Perhaps the best example of noncompliance involves the issuance of the Federal acquisition regulation itself, which became effective April 1 of this year. The FAR system consolidates all defense and civilian procurement regulations into a Governmentwide regulation, applicable to all procuring agencies, with supplemental regulations essential to meet agency-specific needs. While the FAR was published in the Federal Register for public comment on a piecemeal basis as parts of it were developed, extensive changes were subsequently made during an executive agency review period. The revised FAR was then issued in final—without the benefit of any further public comment.

There have also been some problems with compliance among the agencies in the development and issuance of their supplements to the FAR. Most of the large procuring agencies, including the National Aeronautics and Space Administration, the General Services Administration, and the Department of Energy, published their FAR supplements in the Federal Register for public comment. However, the Defense Department, the largest of the procuring agencies, issued its FAR supplement with only a notice concerning ordering procedures. The DOD subsequently published its supplement in the Federal Register in final and requested comments—less than 1 week before the FAR and its supplements became effective.

Section 302 of H.R. 4209 would simply codify OFPP's policy directive for the expressed purpose of enhancing compliance. The one substantive difference worth noting between this section and the OFPP policy directive involves application. The OFPP policy directive, as I mentioned, applies to all significant procurement policies, regulations, procedures, or forms that have any effect beyond the internal operating procedures of the issuing agencies or any effect on the costs or contract administration activities of contractors. This language was originally incorporated into S. 2675.

In the spirit of compromise, this language was modified when included in H.R. 4209 to apply to all procurement policies, regulations, procedures, or forms that have a significant effect beyond the internal operating procedures of the issuing agency or a significant cost or administrative impact on contractors or offerors. This language obviously provides the procuring agencies some discretion to determine what is a "significant effect." Considering the compliance problems with OFPP's policy directive, my concern is that the agencies will interpret the term "significant effect" narrowly to exclude procurement policies, regulations, procedures, and forms which should be published for public comment.

I would like to confirm with the chairman of the Small Business Committee, Mr. WEICKER, the principal sponsor of this legislation, that the intent of section 302 is to apply to all proposed procurement policies, regulations, procedures, or forms except those which clearly do not have an effect beyond the internal operating procedures of the issuing agencies, or clearly do not have an effect on the cost or administrative activities of contractors or offerors.

Mr. WEICKER. That is correct.

Mr. COHEN. I also would like to clarify that section 302 would not only apply to proposed changes or additions to the Governmentwide Federal acquisition regulation, but also to agency supplements to the FAR as well as subagency supplements on down to the lowest level. In other words, for example, not only would proposed FAR regulations have to be published under section 302, but so would proposed DOD supplemental regulations to the FAR, Air Force supplemental regulations to the DOD supplement, and Air Force Logistics Command supplemental regulations to the Air Force supplements.

Mr. WEICKER. That is also correct.

Mr. COHEN. I thank the senior Senator from Connecticut for that clarification. In my judgment, dialog between the procuring agencies and their vendors can only improve the procurement process. Section 302 is designed to facilitate this dialog.

On another matter, Mr. President, I would like to reiterate the point made in the conference report on the Competition in Contracting Act that unless the Office of Federal Procurement Policy is accorded a greater role in managing the FAR system the continuing lack of leadership will perpetuate the untimely implementation of FAR changes and, even worse, will result in the proliferation of duplicative supplemental regulations which would undermine the FAR system and set us back to square one.

To date, the OFPP has been relegated to the sidelines—partly by choice, I might add. The OFPP's original policy directive 80-5, which established the FAR system, envisioned a FAR Council with oversight responsibility for the development of the FAR and for operation of the FAR system. This single council would be chaired by the OFPP administrator and consist of officials from the primary defense and civilian procuring agencies. This single council concept, with OFPP at the helm, eventually gave way to a cumbersome system in which FAR maintenance and operation is vested in two procurement regulatory councils, with no role for OFPP.

The OFPP's proposed revision to policy directive 80-5 abandons the notion of a single FAR Council and essentially ratifies the two-council system, again with no role for OFPP. This runs contrary to our intent in reauthorizing the Office of Federal Procurement Policy this past year, which was to have an office in the executive branch—with a Governmentwide perspective—to provide overall direction of procurement policy. I would hope that the OFPP Administrator would rethink the proposed revision to policy directive 80-5 and reassert the concept of a FAR Council with OFPP at the lead.

Finally, Mr. President, I stated at the outset that this has been a banner session for procurement reform. Much of the credit belongs to Senator CHILES who, for years, fought the battles for procurement reform and laid the groundwork for the rest of us. One procurement expert likened procurement reform to Sisyphus rolling the rock uphill, never able to reach the top. Had it not been for Senator CHILES' efforts, I am not sure that we would have made as much progress up the hill.

Mr. GORTON. Mr. President, Last month I was appointed to a conference committee which was to meet to resolve the differences between the various spare parts procurement bills which had passed either the House or the Senate. Fortunately, a very sound new piece of legislation has been introduced that removes the necessity for a conference on this issue. H.R. 4209 pools the best portions of each of the previous spare parts proposals and presents an effective remedy for many of our spare parts procurement problems.

This final package is the result of weeks of negotiation between the six Senate and House committees that produced relevant legislation during this session. The commendable result of these negotiations is a bill that goes a long way toward assuring that the taxpayers get fair value for their procurement dollar, and will reduce the abuses that result in horror stories about $2,000 wrenches and $500 bolts.

The bill includes provisions that will help more businesses, especially small businesses, qualify for Federal contract opportunities. It expands the Government's procurement notices in the Commerce Business Daily—giving small firms a better handle on their competitiveness on a potential bid. For the first time all changes in procurement regulations will be published in the Federal Register and open for public comment—giving businesses input in the process and allowing them to flag inequitable policies before they are in force. Both are basic changes that small businesses have been requesting for years.

The bill also makes major revisions in the prequalification standards that Federal contractors must meet before bidding on a contract. These requirements, which frequently frustrate small business attempts to compete on replacement parts contracts, will be made more specific, allowing small businesses to make better business judgments before seeking a costly qualification. Agencies will also be required to consider their future spare parts needs, and the replacement flexibility of original components, when negotiating contracts. The legislation also takes steps to assure that after these competitive reforms open the process to more businesses, the agencies make the effort to find the lowest price possible for spare parts. It discourages any continuation of the practice of buying spares from the original contractor at exorbitant prices.

These cost-saving, procompetitive measures have long been acknowledged as essential to streamlining Federal spare parts procurement. But many of us feared that another popular provision in some of the reform bills—limits on the technical data rights of contractors—would actually reduce competitiveness by discouraging businesses from competing on Government contracts. Excessive restrictions on these data rights in many cases would have threatened product rights in commercial markets. However, H.R. 4209 successfully defends the proprietary data rights of contractors, while installing mechanisms to assure that Government contractors will not unjustly retain data rights that often guarantee later sole source spare parts contracts. It achieves the proper balance for both parties.

I am pleased that the Small Business, Governmental Affairs and Armed Services Committees in the House and Senate were able to hammer out such an effective compromise. I believe that H.R. 4209 is a strong piece of legislation that will save the Government millions of dollars. It is legislation that I wholeheartedly support.

Mr. BUMPERS. Mr. President, as the ranking Democratic member of the Senate Small Business Committee, I rise in support of the House amendment to the Senate amendment to H.R. 4209. The House amendment reflects the compromise agreement that has been reached by the six committees in both the Senate and House with some Federal procurement policy jurisdiction—the Small Business, Armed Services and Governmental Affairs Committees. The bill is designed to foster competition generally and increase competitive contracting opportunities for small business for the $170 billion in procurement dollars spent by the Federal Government.

This bill is primarily applicable to the civilian agencies, although there are a number of significant changes to both the Office of Federal Procurement Policy Act and to the Small Business Act that will apply Governmentwide. Many identical provisions have been applied to the appropriate procurement responsibilities of the Department of Defense and included as part of the conference report on H.R. 5167, the Fiscal Year 1985 Department of Defense Authorization Act, which the Senate adopted last week.

Together, these two bills represent another major effort by Congress to reform the Federal procurement system. These two bills were written to

help prevent the outrageous overpricing of military spare parts that we have heard so much about during the past year. These two bills will help reduce the use of sole-source contracts by both the Department of Defense and the civilian agencies. These two bills also represent another significant legislative step forward in removing obstacles to competition for Federal procurement by providing a balance between the needs of the Government for quality performance and rights in data needed for reprocurement purposes with the needs of the business community to compete, yet protect, proprietary data and maintain commercial markets.

Before I turn to some of the major provisions of the bill before us, I do want to commend a number of Members who provided significant contributions to this legislation. First of all, the Senator from Illinois, Senator DIXON, took a lead on this matter within the Senate Small Business Committee well over 18 months ago. His bill, S. 1730, was the opening salvo in the war on waste in Federal procurement, and provided the outlines for many of the reforms that are contained in the final draft, particularly those that will prove to be of significant direct benefit to small business. Senator DIXON's efforts on this legislation carried through from his work in the Senate Small Business Committee to his work in the Senate Armed Services Committee, and, finally, to guiding the procurement provisions of both the Armed Services Committees' conference on the Defense authorization bill and the joint committee efforts to reach agreement on this bill.

The Senator from Michigan, Senator LEVIN, is already well known for his years of hard work on many facets of Federal procurement reform. He has a unique assignment as a member of all three of the committees that were involved in this year's comprehensive effort to further reform the Federal procurement process, and used his position and expertise to ensure that a coordinated and workable system would be designed. Many of the specific provisions in this bill result from the compromises that the Senator from Michigan helped forge.

The chairman of the Senate Small Business Committee, Senator WEICKER, also deserves a great deal of credit for this legislation. In large part because of his leadership and his willingness to gently but steadily push the members and staffs of the three committees, it was possible to reach an agreement on major procurement provisions that will be applicable to both the Defense and civilian agencies.

Finally, my colleagues should recognize the enormous amount of work by Senators QUAYLE and NUNN from the Armed Services Committee. Senator QUAYLE, the chairman of that committee's ad hoc task force on procurement, quickly seized the difficult and complicated issues of defense procurement. His willingness to cooperate and to use his substantial influence with the Department of Defense and his conferees on the Defense authorization bill on behalf of meaningful procurement reform ensured that we were able to bring necessary changes to the single largest source of Federal procurement spending in the Government. Senator NUNN, the ranking member on the Senate Armed Services Committee and my predecessor as the ranking member on the Small Business Administration, also quietly but effectively added his mark to the final shape of both the Defense and civilian agency procurement packages.

Mr. President, H.R. 4209, pending before us, has some significant provisions that deserve to be highlighted. First of all, this bill will amend the Office of Federal Procurement Policy act to provide that all significant procurement regulations, procedures and forms must be subject to public notice and an opportunity for comment. The procurement process even with the efforts to have a single system of Governmentwide procurement regulations, is so complex and time consuming that the process itself often acts as a barrier to competition. I feel very strongly that the contracting community should be directly included in agency rulemaking for procurement. I recognize the concerns some agencies have expressed about being brought under the full scope of the Administrative Procurements Act, although many agencies have voluntarily agreed to be covered by its provisions. Nevertheless, the legal arguments about coverage are very different from the policy of requiring some statutory form for notice and comment. This public participation provision is similar to legislation introduced in the Senate (S. 2675), which I cosponsored, and is similar to the administrative action taken by the Office of Federal Procurement Policy in its policy letter on public participation. It is a concept that is long overdue, and I am pleased that it has been made applicable Governmentwide by an amendment to the OFPP statute. Furthermore, this provision will trigger the requirement for agencies to comply with the Regulatory Flexibility Act (Public Law 96-354) and assess the impact of proposed regulatory action on small businesses in particular.

This bill, and related provisions in the Defense authorization legislation, address the use of agency qualification requirements. In many instances, these qualification requirements prevent potential offerors from even bidding on Government contracts, regardless of the firm's capability. Under this bill, agencies that seek to use qualification standards as a quality assurance technique must specify in advance the requirements for qualification. Agencies must also provide interested parties with copies of these standards and an opportunity to meet the standards specified for qualification. To expand the number of competitors for an agency's procurement requirements, the bill provides a series of steps that any agency must take, including an option for the reimbursement of small business concerns if there are fewer than two actual manufacturers currently qualified to meet an agency's need. As importantly, the bill provides that an agency may not use a qualification requirement to deny an interested party the right to submit and have considered an offer in response to a solicitation. However, a contracting officer is given considerable latitude to determine whether an offeror who has not previously demonstrated compliance with the qualification standards can prove the capability to meet those standards prior to contract award.

Another of the major sections of the bill deals with the range of issues referred to as technical data. In this legislation and in the Defense authorization legislation, we have asked the executive branch to once and for all define by regulations the legitimate rights of the United States, and of contractors and subcontractors, in technical data. Many procurement commentators have said that a solution to access to technical data will do the most for opening up competition among potential Government contractors. In addition, this bill provides a series of clear policy statements that are to be taken into account in the development of these regulations, including the right of the United States to unrestricted data for items developed exclusively with Federal funds, and the exclusive right of contractors to technical data for commercial products—except that needed by the Government to operate and maintain a system. Finally, this bill will provide a clear and balanced system for the Government to challenge, and a contractor or subcontractor to defend, proprietary data restrictions.

In the amendments to the Small Business Act, we have clarified the application of the SBA Certificate of Competency Program, overturning an SBA regulation that imposed an arbitrary minimum threshold on accepting referrals from other Federal agencies. We have statutorily expanded the agency's pilot breakout procurement center representative program, and developed a set of functional responsibilities and authorities for these officials. In the fiscal year 1985 appropriations law for the Small Business Administration, Congress has already approved funding for 15 breakout procurement center representatives. This

legislation will clearly define their assignments, and the relationships between them and the procuring agencies that they will work with. In addition, I believe the Congress has taken steps to clarify some confusion that may have been created because of the July enactment of the Competition in Contracting Act of 1984, particularly as that law relates to small business procurement programs administered by the agencies and as it relates to publication of procurement notices in the Commerce Business Daily.

Mr. President, I could go on at greater length to list the significant provisions in this legislation. At this hour in the congressional session, however, I believe it best just to reiterate the outstanding work done by the three committees in both the House and Senate to ensure that significant and substantial procurement reform legislation is enacted this year. The taxpayer will benefit by the adoption of this legislation through the price reductions that will be sure to occur from the increased competition. The small business community will benefit by the adoption of this legislation through a more open and accessible procurement process and access to the critical procurement information needed to provide quality goods and services at reasonable prices. The Federal agencies will benefit from a clearer set of procurement laws, rules and procedures, from the additional tools needed to enhance the procurement process, and in the cost savings that will result from competition.

Mr. President, I urge my colleagues to concur in the House amendment to the Senate amendment to H.R. 4209, and clear this measure for the President.

Mr. DIXON. Mr. President, I rise today to urge the Senate to accept the House amendment to H.R. 4209, which the Senate passed in August.

My good friend, Senator LOWELL WEICKER, and I, along with our colleagues on the Senate Small Business Committee, have worked assiduously for well over a year to develop legislation designed to significantly reform Federal procurement procedures and practices which currently inhibit free and open competition in the procurement process. The small business community, in particular, has been harmed by present procurement practices.

Congress has already passed sections of H.R. 4209 in the fiscal year 1985 Department of Defense authorization bill.

Obviously, it is not feasible for Congress to monitor the daily procurement responsibilities of all the Federal agencies. However, with the passage of this legislation, Federal agencies will be required to eliminate some of the most serious procedural impediments to competition in contracting. By increasing the use of competitive procurement practices, H.R. 4209 will slash the monetary costs of Federal contracting. The active participation of small businesses in the Federal procurement process will allow Federal dollars to be more equitably disbursed. As a result, the Nation's industrial base will be greatly strengthened.

Passage of this legislation by the Senate will mark a new era characterized by prosperity for both the small business community and the country. Therefore, I ask for the support of my colleagues for this important measure.

Mr. President, the House amendment to H.R. 4209 is similar in many respects to the provisions of legislation that I introduced 14 months ago, known as S. 1730. The bill was reviewed thoroughly during four hearings held by the Senate Small Business Committee, numerous hearings and studies by military and civilian agencies, congressional committee, and the private sector. This intensive analysis involved in indepth study of the Defense Spare Parts Procurement Program, with particular emphasis on the existing obstacles to greater small business participation in Federal procurement.

Following these hearings, I joined with Senate Small Business Committee Chairman LOWELL WEICKER, and numerous other colleagues in introducing an improved version of S. 1730. This new legislative product, S. 2489, was favorably reported by both the Senate Small Business Committee and the Senate Armed Services Committee. In each case, strengthening amendments were adopted by the committees. The Senate approved the text of S. 2489, offered as an amendment to the earlier approved House bill (H.R. 4209), by a rollcall vote of 94 to 0. During the Senate Armed Services Committee's consideration of the Department of Defense authorization bill, that Committee incorporated into the DOD bill (H.R. 5167) most of the appropriate provisions from S. 2489.

During the past several weeks, we have worked with committees from both the House and Senate to reach an agreement on a uniform set of legislative provisions that would address the concerns and the problems in both the defense and civilian agencies.

As has already been noted, conferees on the DOD bill reached an agreement on the inclusion of appropriate procurement provisions applicable primarily to the Department of Defense. But that still left the entire civilian procurement structure, as well as changes in the Small Business Act and the Competition in Contracting Act, to be enacted. Those matters are covered in the bill which I am discussing here.

Mr. President, I would like to point out some of the major provisions of this compromise. Taken together, in my view, they represent a comprehensive structure for enhancing competition and small business participation in Federal procurement.

One major provision deals with technical data. From the outset of the Senate's consideration of technical data provisions, we have felt strongly that a contractor is entitled to retain rights to data that was "developed at private expense." At hearing after hearing, I expressed my view that it is inappropriate for the Government to expropriate rights in data develop by a private contractor. The almost unanimous conclusion at the hearings was that contractors must be protected and that the Government cannot, and should not, take that data. I am pleased to say that this compromise provides an explicit statement to that effect. The uniform regulations to be developed for civilian agencies, in relation to technical data, will ensure that Government does not obtain rights to technical data for commerical products—other than data needed to operate or maintain a commercial product—or for products developed solely at private expense. By the same token, of course, the compromise also spells out certain limited circumstances under which the Government may obtain unrestricted rights to technical data.

The compromise establishes a clear and balanced procedure to be used by the Government in challenging a contractor's claim to proprietary data. Under the current system, this determination rests with the contracting officer. Under this legislation, the contracting officer must give notice to the contractor or subcontractor who is asserting the limitation on the right of the Government to use data, and provide that contractor with a specific time—but not less than 60 days—within which to respond. A failure to respond by the contractor could result in the cancellation of the restriction.

However, a response by a contractor providing a justification of the current validity of the data requires the contracting officer to evaluate the justification. The contracting officer must also tell the contractor when a determination will be made. After a decision is made by the contracting officer, any remaining dispute relating to technical data would be subject to the Contract Disputes Act.

We have also included in this bill a provision that provides mutual remedies for both the contractors and the Government to apply in a challenge to data rights. This provision will limit the Government's inclination to routinely, or unjustifiably, challenge a contractor's data. On the other hand, the potential liability against a contractor will also deter any contractor from baselessly asserting a limitation on data because there is the risk of having that restriction challenged.

One of the key elements in any successful procurement system is the requirement for advance planning. When agencies are rushed into procurement decisions, there is no time for fostering competition and no time for careful price analysis. Even when planning, agencies should be thinking about their subsequent reprocurement needs.

Under this legislation, and under the DOD provisions as well, agencies are required to specifically plan for the future competitive replenishment of spare parts. Agencies must also include, in solicitations for both development and producton contracts, evaluation factors that are to be taken into account in reviewing the prices submitted by contractors in response to those solicitations. This planning requirement must likewise include consideration of the rights, if any, to data that a contractor will offer to the Government. Planning must also take into account the efforts that a contractor will make to include in the design or production of a system, parts which are already in the Government's inventory. With these provisions, the Government should be in a better position to know in advance of contracting whether it will be locked into some source of supply, or have rights in technical data that will be available for reprocurement purposes.

Among the most important long-term improvements in this bill is the requirement that all agencies must provide notice, as well as an opportunity for comment, when substantial procurement regulations, procedures and forms are being developed. I was pleased to join with Senators COHEN, CHILES, WEICKER, BUMPERS, and others in introducing S. 2675, a bill that had this same provision. I am pleased that this requirement is in this bill.

With respect to the provisions affecting the Small Business Administration, several are particularly noteworthy. Throughout our extensive hearings, a consistent pattern of praise emerged relative to the work of the four breakout procurement center representatives [BO-PCR] assigned by the Small Business Administration to four Air Force Air Logistics Centers on a pilot basis. Under the legislation, these BO-PCR's, who will be employees of the Small Business Administration, will have the responsibility for reviewing the efforts to "break-out" major system acquisitions into smaller, and hopefully, more competitive solicitation packages. According to a recent survey by the General Accounting Office, these BO-PCR's have already saved the Government over $35 million. Hundreds of millions more could be saved, with a relatively small investment in additional personnel.

This bill includes a provision prohibiting the SBA from arbitrarily imposing a minimum dollar threshold on referrals under the Certificate of Competency Program. This has been a particular concern of mine. As has been clearly and emphatically stated in the Senate Small Business Committee's report accompanying S. 2489 (Senate Report 98-523, June 14, 1984), the legislative history of the law is clear that there is no minimum dollar threshold.

General Accounting Office opinions over the past several years have confirmed that there is no basis for either a procuring agency or for SBA to unilaterally establish a regulatory threshold for these referrals. I am pleased that the final compromise retains this important provision. In many cases, the certificate of competency review is the only chance small businesses are given for an opportunity to participate in Federal contracting.

Mr. President, the measure we have before us is a good bill. It reflects the hard work of many Members of the Senate and House, and the cooperative spirit of six congressional committees. In my judgment, the bill will provide meaningful and significant procurement reforms for the entire Federal procurement system.

When coupled with the reforms already adopted by the Congress in the Department of Defense Authorization Act, it will be clear from this day forward, that the Congress expects that active competition for Federal procurement will be the rule, not the exception. When this legislation is adopted, it will be clear that Congress fully expects the executive branch to increase the opportunities for small businesses to aggressively participate im the Federal procurement system. More importantly, it will be clear to the taxpayers of this country that Congress is serious about reversing the existing, and all too prevalent, abuses in the contracting process.

Mr. President, on Tuesday, the House approved this compromise by a rollcall vote of 416-0. I urge my colleagues to concur in the House amendment, and, thus, clear this important measure for the President's signature.

Mr. BAKER. Mr. President, I move that the Senate concur in the House amendments.

The PRESIDENT pro tempore. The question is on agreeing to the motion of the Senator from Tennessee.

The motion was agreed to.

CIGARETTE SAFETY ACT

Mr. BAKER. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 1880.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendment of the Senate to the bill (H.R. 1880) entitled "An Act to establish an interagency committee and a technical study group on cigarette safety", with the following amendment:

In lieu of the matter proposed to be inserted by said amendment, insert:

That this Act may be cited as the "Cigarette Safety Act of 1984".

SEC. 2. (a) There is established the Interagency Committee on Cigarette and Little Cigar Fire Safety (hereinafter in this Act referred to as the "Interagency Committee") which shall consist of—

(1) the Chairman of the Consumer Product Safety Commission, who shall be the Chairman of the Interagency Committee;

(2) the United States Fire Administrator in the Federal Emergency Management Agency, who shall be the Vice Chairman of the Interagency Committee; and

(3) the Assistant Secretary of Health in the Department of Health and Human Services.

(b) The Interagency Committee shall direct, oversee, and review the work of the Technical Study Group on Cigarette and Little Cigar Fire Safety (established under section 3) conducted under section 4 and shall make such policy recommendations to the Congress as it deems appropriate. The Interagency Committee may retain and contract with such consultants as it deems necessary to assist the Study Group in carrying out its functions under section 4. The Interagency Committee may request the head of any Federal department or agency to detail any of the personnel of the department or agency to assist the Interagency Committee or the Study Group in carrying out its responsibilities. The authority of the Interagency Committee to enter into contracts shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance by appropriation Acts.

(c) For the purpose of carrying out section 4, the Interagency Committee or the Study Group, with the advice and consent of the Interagency Committee, may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Interagency Committee or the Study Group considers appropriate.

SEC. 3. (a) There is established the Technical Study Group on Cigarette and Little Cigar Fire Safety (hereinafter in this Act referred to as the "Study Group") which shall consist of—

(1) one scientific or technical representative each from the Consumer Product Safety Commission, the Center for Fire Research of the National Bureau of Standards, the National Cancer Institute, the Federal Trade Commission, and the Federal Emergency Management Agency, the appointment of whom shall be made by the heads of those agencies;

(2) four scientific or technical representatives appointed by the Chairman of the Interagency Committee, by and with the advice and consent of the Interagency Committee, from a list of individuals submitted by the Tobacco Institute;

(3) two scientific or technical representatives appointed by the Chairman of the Interagency Committee, by and with the advice and consent of the Interagency Committee, who are selected from lists of individuals submitted by the following organizations: the American Burn Association, the American Public Health Association, and the American Medical Association;

(4) two scientific or technical representatives appointed by the Chairman of the

Interagency Committee, by and with the advice and consent of the Interagency Committee, who are selected from lists of individuals submitted by the following organizations: the National Fire Protection Association, the International Association of Fire Chiefs, the International Association of Fire Fighters, the International Society of Fire Service Instructors, and the National Volunteer Fire Council; and

(5) one scientific or technical representative appointed by the Chairman of the Interagency Committee, by and with the advice and consent of the Interagency Committee, from lists of individuals submitted by the Business and Institutional Furniture Manufacturers Association and one scientific or technical representative appointed by the Chairman, by and with the advice and consent of the Interagency Committee, from lists of individuals submitted by the American Furniture Manufacturers Association.

(b) The persons appointed to serve on the Study Group may designate, with the advice and consent of the Interagency Committee, from among their number such persons to serve as team leaders, coordinators, or chairpersons as they deem necessary or appropriate to carry out the Study Group's functions under section 4.

SEC. 4. The Study Group shall undertake, subject to oversight and review by the Interagency Committee, such studies and other activities as it considers necessary and appropriate to determine the technical and commercial feasibility, economic impact, and other consequences of developing cigarettes and little cigars that will have a minimum propensity to ignite upholstered furniture or mattresses. Such activities include identification of the different physical characteristics of cigarettes and little cigars which have an impact on the ignition of upholstered furniture and mattresses, an analysis of the feasibility of altering any pertinent characteristics to reduce ignition propensity, and an analysis of the possible costs and benefits, both to the industry and the public, associated with any such product modification.

SEC. 5. The Interagency Committee shall submit one year after the date of enactment of this Act a status report to the Senate and the House of Representatives describing the activities undertaken under section 4 during the preceding year. The Interagency Committee shall submit a final technical report, prepared by the Study Group, to the Senate and the House of Representatives not later than thirty months after the date of enactment of this Act. The Interagency Committee shall provide to the Congress, within sixty days after the submission of the final technical report, any policy recommendations the Interagency Committee deems appropriate. The Interagency Committee and the Study Group shall terminate one month after submission of the policy recommendations prescribed by this section.

SEC. 6. (a) Any information provided to the Interagency Committee or to the Study Group under section 4 which is designated as trade secret or confidential information shall be treated as trade secret or confidential information subject to section 552(b)(4) of title 5, United States Code, and section 1905 of title 18, United States Code, and shall not be revealed, except as provided under subsection (b). No member of the Study Group or Interagency Committee, and no person assigned to or consulting with the Study Group, shall disclose any such information to any person who is not a member of, assigned to, or consulting with, the Study Group or Interagency Committee unless the person submitting such information specifically and in writing authorizes such disclosure.

(b) Subsection (a) does not authorize the withholding of any information from any duly authorized subcommittee or committee of the Congress, except that if a subcommittee or committee of the Congress requests the Interagency Committee to provide such information, the Chairman of the Interagency Committee shall notify the person who provided the information of such a request in writing.

(c) The Interagency Committee shall, on the vote of a majority of its members, adopt reasonable procedures to protect the confidentiality of trade secret and confidential information, as defined in this section.

SEC. 7. As used in this Act, the terms "cigarettes" and "little cigars" have the meanings given such terms by section 3 of the Federal Cigarette Labeling and Advertising Act.

Mr. BAKER. Mr. President, I move that the Senate concur in the House amendment to the Senate amendment.

The PRESIDENT pro tempore. The question is on agreeing to the motion of the Senator from Tennessee.

The motion was agreed to.

ORGAN PROCUREMENT AND TRANSPLANTATION ACT—CONFERENCE REPORT

Mr. BAKER. Mr. President, I submit a report of the committee of conference on S. 2048 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The assisted legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2048) to provide for the establishment of a Task Force Organ Procurement and Transplantation and an Organ Procurement and Transplantation Registry, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report will be printed in the House proceedings of the RECORD.)

THE NATIONAL ORGAN TRANSPLANT ACT

Mr. HATCH. Mr. President, I urge my colleagues to expeditiously approve the conference report on S. 2048, the National Organ Transplant Act. This is vitally important legislation to thousands of Americans who suffer from end-stage organ failure and are in need of organ transplant surgery to save their lives and restore health. This might be a young child suffering from congenital liver disease, someone with kidney failure resulting from high blood pressure, or a person with chronic heart disease.

The issue of human organ transplantation is one of the most widely discussed and publicized health issues of our time. There are several reasons for this prominence, but one of the most important factors is increasing media attention paid to the plight of individuals whose lives are in jeopardy because of difficulties and delays in obtaining an organ transplant. Other factors in the growing interest of organ transplantation have been remarkable improvements in morbidity and mortality of patients undergoing organ transplantation, due to improved techniques and the development of immunosuppressive medications which reduce the incidence of rejection of the transplanted organs. As surgical and medical techniques improve, rendering transplantation safer and more effective, the gap between available resources and demand will increasingly widen. Therefore, it is timely and essential that we develop a national policy regarding the appropriate Federal and private sector roles in organ transplantation. An equitable policy and system is necessary so that individuals throughout our country have access to organ transplantation when appropriate and necessary. Individual pleas through television and newspaper articles, while commendable in bringing to public attention the urgent circumstance of one person's need, may be counterproductive to the needs of many others requiring organ transplantation. We need something better.

S. 2048 will help us provide what has been lacking—a national, equitable policy related to transplantation. However, we must proceed with caution. The task force established by this legislation is essential to look at complex and challenging questions, such as who should pay for these expensive operations, and consider ethical, social, and cultural issues. There is great concern among the public and private sector that developing technologies in organ transplantation will become increasingly more costly and impose large financial burdens on already strained national health resources. However, I am certain that with careful analysis, recommendations can be made to develop policies ensuring fair access to transplant surgery for individuals who without such surgery would be at risk of losing their lives; and a means of public and private insurance to pay for such procedures.

We should not wait, however, to provide assistance in matching those needing surgery with the lifesaving donor organs. This legislation will provide Federal funds to complete, and complement, a national organ procurement and transplantation computer

registry, operated by the private sector. This alone will likely save hundreds of lives each year.

Let me review for my colleagues the key provisions of this legislation.

The National Organ Transplant Act, S. 2048, amends the Public Health Service Act [PHSA] and makes additional provisions, as follows:

First, provides for the establishment by the Secretary of Health and Human Services of a task force on organ transplantation. Sets forth the duties of the task force in assessing the Nation's organ procurement system and in developing a plan for further coordinated efforts in organ procurement. Describes the membership of the task force; directs the task force to submit a report on immunosuppressive drugs within 7 months; a final report on all other issues within 12 months.

Second, provides that the Secretary shall assure the establishment and operation in the private sector of an organ procurement and transplantation registry, and authorizes $2 million per year for grants and contracts. Provides that the registry shall include potential organ recipients, potential organ donors who have volunteered to be listed, and a matching system to link available organs with potential recipients. Sets forth other duties of the registry in facilitating coordinating organ procurement activities.

Third, provides that the Secretary may make grants to organ procurement organizations and defines, solely for the purpose of receiving assistance under this section, an organ procurement organization. Authorizes for these grants $5 million for fiscal year 1985, $8 million for fiscal year 1986, and $12 million for fiscal year 1987.

Fourth, requires that the Secretary publish an annual report on the scientific and clinical status of organ transplantation.

Fifth, prohibits the interstate buying and selling, for valuable consideration, of human organs for transplantation.

In conclusion, I urge all my colleagues to vote for this necessary and timely legislation.

Mr. QUAYLE. Mr. President, I rise in support of the conference report to accompany S. 2048, The National Organ Transplant Act.

I believe the conference agreement represents a thoughtful response to a politically difficult and emotional issue. While organ transplantation offers new hope to thousands in terms of both improved quality of life and a more prolonged life, it also brings new problems—many of which surfaced during the debate over this legislation. Organ transplants was one of the most widely discussed and publicized health issues during the past 2 years. Endless time and energy has been spent on this subject in the Halls of Congress by families of transplant patients, patients in need of donor organs, physicians, advocacy groups, Members of Congress, their staffs, and State and Federal agencies. Days of hearings were held and at least 17 bills were introduced to addressed these issues.

Despite this enormous expenditure of effort, I realize that the final bill does not provide all the answers to the problems of organ donation, procurement and cost; it does not because these answers are not clear and they are not easy. However, I am confident that the bill lays the necessary groundwork for these problems to be addressed by:

Establishing a task force on organ procurement and transplantation, which will advise the Congress and the Secretary of the Department of Health and Human Services on the complex medical, legal, economic, social, and ethical issues related to organ transplantation.

Requiring the task force to report within 7 months on issues related to immunosuppressive drugs, including an assessment of the safety, effectiveness, and cost of these drugs. The task force will also be required to analyze different means to assure that individuals in need of such medications can obtain them.

Permitting the Secretary to make grants for the planning, establishment, initial operation, and expansion of qualified organ procurement organizations.

Establishing an organ procurement transplantation network.

Mandating the Secretary to develop and maintain a scientific registry of the recipients of organ transplants in order to conduct an ongoing evaluation of the scientific and clinical status of organ transplantation.

Requiring the Secretary to designate an administrative unit in the Public Health Service to oversee and coordinate the Department's activities related to organ transplants and to conduct a public information program to inform the public of the need for organ donation.

Prohibiting the sale of organs.

I believe that the conference agreement is a responsible and well-considered step toward closing the gap between rapid advances in medical technology and this Nation's public health care policies. I would like to thank my fellow Senators, particularly Senator HATCH, my colleagues on the House side, and their staffs for all their hard work on this sensitive and important subject.

The issue of organ transplantation provides an excellent example of the decisions we will have to make with regard to future health care technology. The questions raised by transplantation are likely to reappear in a number of contexts in the upcoming years.

Walter Lippman said:

> A rational man acting in the real world may be defined as one who decides where he will strike a balance between what he desires and what can be done. It is only in imaginary worlds that we can do whatever we wish.

This statement exemplifies the problems facing Federal health policymakers today. While we desire to provide everyone with the best health care possible, we cannot imagine away the fact that we have limited resources and must make hard choices. We must strike a balance. The Federal Government must have a rationale policy of what it will pay for and what it will not pay for. This policy must answer many questions. Who should pay? Who will decide who does and who does not get the available organs as the gap between transplant technology and the number of donor organs widens? At what point is the cost of life too high? Does our society recognize such a point? Is the political arena the best place to make these decisions?

Essentially, we must deal with the dilemma that while we do not want to ration services, we may not be able to afford the cost of providing everyone with the best available technology. We must confront this problem now and that is what the conferees on the organ transplant bill have worked toward. I do not view this bill as the end, but as a beginning of our effort to realistically address the concerns raised by rapidly advancing medical technology.

Mr. KENNEDY. Mr. President, I am delighted to support passage of S. 2048, the Organ Transplant and Procurement Act.

This act represents an important attempt on the part of the Senate to address an issue of concern to all of us.

Over the past year, the tragic situation of many children in need of liver transplants filled our media and stimulated the compassion and concern of the American public. As the stories of the children who required liver transplants unfolded, it became obvious that the transplant issue was quite complex. There were many children needing transplants whose cases did not stimulate major public responses. There were adults who needed organs, but who had to wait in dread. Hundreds, perhaps thousands of lives could be saved each year by improving our system of matching donors and patients, and finding the means to pay for these costly procedures and the medications necessary to ensure their success.

In my own State of Massachusetts, Charles and Marilyn Fiske discovered almost a year and a half ago that when their then 10-month-old daughter needed a liver transplant, there was no donor to be found. Finally,

Charlie Fiske made a dramatic and unprecedented appeal before a session of the American Academy of Pediatrics which resulted in major television network coverage; fortunately, a liver from a 10-month-old Salt Lake City auto accident victim was offered for transplantation. However, for every fortunate case, there are cases involving those who are not so fortunate, and the price of waiting for a critically needed organ is high; time takes its toll. Something must be done.

As a result of these concerns and the obvious need for information by the American people, I and Senator ANDREWS introduced S. 1728 in August of last year, legislation to create a national task force on organ procurement and transplant reimbursement. This bill was referred to the Committee on Labor and Human Resources, which held hearings on the subject of organ transplantation, at my request, on October 20, 1983. As a result of the hearings held by the committee, Senator ORRIN HATCH introduced S. 2048, the Organ Procurement and Transplantation Act. Since S. 2048 included the task force provisions required in my bill and other provisions thought to be critical to the transplant issue, S. 2048, was acted upon and reported out of the Committee on Labor and Human Resources with amendments favorably.

Since that time, Senator HATCH and I have worked closely together along with Congressmen WAXMAN and GORE and members of the conference committee to develop viable legislation that will bring help and hope to the many thousands of children and adults in desperate need of organ transplants if they are to survive.

The bill before the Senate takes three important steps toward the development of an effective national organ transplant policy.

First, it establishes a national task force on organ transplantation to report and recommend on the many important issues surrounding organ transplantation, including the best ways to increase the supply of organs, the most equitable and effective way of distributing organs, and the best methods of financing the cost of organ procurement and transplantation.

Second, it establishes a grant program for organ procurement organizations so that the efforts to improve the supply of organs can begin immediately.

Finally, it establishes an organ matching network so that there can be prompt and equitable matching on a national basis of those needing transplants with available organs.

This bill is a small but very important step toward assisting children and adults dying tragically and unnecessarily because of the lack of needed organs. I am hopeful that the report of the task force will provide a basis for further steps to address this problem, particularly in the curcial area of helping to assure that ability to pay for care does not determine who shall live and who shall die.

The PRESIDENT pro tempore. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

DEVELOPMENTAL DISABILITIES ACT

Mr. BAKER. Mr. President, I submit a report of the committee of conference on H.R. 5603 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5603) to amend the Public Health Service Act to revise and extend the authorities of that Act for assistance for alcohol and drug abuse and metal health services and to revise and extend the Developmental Disabilities Assistance and Bill of Rights Act, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of September 25, 1984.)

Mr. STAFFORD. Mr. President, I rise in support of the conference report on H.R. 5603, the Developmental Disabilities Act of 1984. The enactment of this legislation will serve to strengthen the Federal mandate to provide lifelong services to our Nation's 3.9 million developmentally disabled citizens of all ages.

This legislation adds the new priority of employment related activities to the others which States may choose from. The employment related activities priority will give State DD Councils the opportunity to provide supported work services to developmentally disabled adults. The increased availability of these services will allow developmentally disabled citizens a greater sense of independence and community acceptance.

In order to provide Developmental Disability Councils with the ability to adequately plan programs, the authorization levels for this act have been increased. This is of particular interest in my own State of Vermont where 1 in 8 residents have been identified as having a disability. The authorization of these additional funds will assist the Vermont DD Council in augmenting services to developmentally disabled persons.

The initiatives contained in this legislation complement the new provisions in the Education of the Handicapped Act Amendments and the Rehabilitation Act Amendments of 1984. Together they bring us closer to achieving our goal of full integration of handicapped individuals into the mainstream of American life.

Mr. President, I want to commend my colleagues: Senators WEICHER, HATCH, RANDOLPH, and KENNEDY, as well as those members of the House Subcommittee on Health and Environment, for their conscientious efforts to arrive at a final resolution on this legislation. I urge my colleagues to join in passage of this conference report.

Mr. WEICKER. Mr. President, I rise today in support of the conference report on S. 2573 and H.R. 5603. This conference report details agreements made by the conferees on the reauthorization bills of the Developmental Disabilities Act of 1984. This conference agreement will improve the Developmental Disabilities Act and extend it for 3 years, thus ensuring the continuation of vital programs for our Nation's 3.9 million severely handicapped citizens.

I extend my thanks to all my colleagues without whose assistance this agreement would not have been possible, most particularly Senator RANDOLPH, the distinguished ranking member of the Subcommittee on the Handicapped.

With passage of this conference report, developmentally disabled people will be afforded additional protections of their rights and additional needed opportunities to become integrated in the working mainstream of America's society.

Mr. HATCH. Mr. President, I am pleased to have participated as a conferee to resolve the differences between the House and Senate versions of H.R. 5603, a bill to reauthorize and improve the Developmental Disabilities Act. Since its original passage, the Developmental Disabilities Act has coordinated the provision of service for the more severely handicapped of our Nation. The law has served as a vehicle to help eliminate gaps in services with emphasis upon providing these services to rural and underserved regions.

The Developmental Disabilities Act of 1984 will assure the continuation of

this program, which has provided essential services for developmentally disabled persons and amend current law by increasing the independence, productivity, and community integration of our Nation's 3.9 million developmentally disabled persons, 27,500 of whom are residents of my own State. The new bill contains several provisions which more adequately reflect the needs of developmentally disabled individuals and their families. Specifically, it adds employment related activities as a priority service. Although all States would be required to implement this employment provision by fiscal year 1987 if total State grant appropriations reach at least $50.25 million, no minimum allocation of funds would be required nor would any State be expected to reduce the amount of money spent on current priority services. States would still be able to select case management, child development or community living alternatives as other priority service areas which would be funded.

Another provision of this act would revise the university affiliated facilities [UAF] and satellite program component of current law. Grants would be authorized for studies to determine the feasibility for establishing new UAF's and satellites. In addition, satellites would now be able to engage in the same activities as their host UAF. Minimum allotments for UAF's also have been increased from $150,000 to $175,000. Finally, UAF's should extend their research training and service efforts to include adult and elderly developmentally disabled persons who are increasing in number but now have unmet needs.

Most importantly, the Developmental Disabilities Act of 1984 would increase authorization levels for all of its four components, which include State grants, protection and advocacy, university affiliated facilities, and special projects. For fiscal year 1985, total authorization would increase from $62.1 million to $75.7 million while authorization levels for fiscal year 1986 would increase 6.3 percent and 5.8 for fiscal year 1987. By increasing funding levels, the DD program will more adequately be able to meet its new objectives of increasing the independence, productivity, and community integration of our Nation's developmental disabled population. Consequently, there will be less need for reliance upon other more costly social service entitlement programs.

Many Members of Congress have contributed to the process and eventual compromise that has brought the legislation to this final stage. Specifically, Senators WEICKER and STAFFORD plus Congressmen WAXMAN, MADIGAN, and BROYHILL should be recognized for their leadership in bringing these issues to the forefront of Congress. I want to also personally thank the other conferees, Senators KENNEDY and RANDOLPH, Congressman DINGELL and SCHEUER for their dedication and efforts to resolve differences in this bill.

I urge my colleagues to immediately adopt this important conference report.

Mr. RANDOLPH. Mr. President, this is probably the last time that I will work with developmental disabilities legislation at the Federal level. This legislation was first enacted in the early 1970's to provide assistance to persons with developmental disabilities.

The Developmental Disabilities Act was enacted because individuals whose disabilities interfere with the developmental processes are uniquely disabled. These are people who not only suffer from a disability but who suffer the loss of normal development and the normal acquisition of skills and knowledge. Because of this, they require special attention, special programs, and special consideration by the Congress.

The Developmental Disabilities Act provided for Protection and Advocacy Agencies in each State to look after the interests of these people, and State planning councils were established to assist in the development of comprehensive State plans. The law provided funds which the State could use for innovative and experimental programs and to start programs which take full advantage of existing knowledge. Finally, the Developmental Disabilities Act provided funds for the administration and operation of university affiliated facilities concerned with developmentally disabled children and adults.

I believe this was sound legislation and that it has done well for people who are developmentally disabled but it could have been better. The funding level has never been adequate to permit the States to accelerate their efforts in new and exciting ways. The research and development efforts, managed at the Federal level, have been limited by inadequate funds and the lack of imaginative leadership. The focus on State councils has, in many States created division and hostility between State councils and State agencies which inhibited rather than facilitated effective planning at the State level. I was disappointed when I heard that many State councils focussed so intensely on making grants that they never had time to review and comment on the various State plans or to work effectively with State agencies.

The history of the act illustrates the problems we have faced in developing services for this population. In 1978, I introduced Senate bill 2600 which unfortunately did not get through the full committee. Had this bill been accepted by the full committee and both Houses of Congress, and become law at that time, programs for the developmentally disabled persons would have been 6 years ahead of where they are today. I was struggling to develop employment programs for developmentally disabled adults but the rest of our society was preoccupied with education of handicapped children.

In Senate bill 2600 I tried to authorize "the establishment and operation of training centers to create and utilize the best methods of appraising and developing the employment potential of severely handicapped individuals." The bill would have authorized, among others, the development of "model training programs to teach skills to severely handicapped individuals which will lead to appropriate employment" and "new approaches and techniques for the placement and followup of severely handicapped individuals in employment."

We knew, as long ago as 1978, that moderately and severely retarded adults could be employed in competitive jobs and earn enough to escape the welfare trap. We knew this and tried to enact legislation to further develop this knowledge and expand programs beyond the few centers which had developed the knowledge. I pointed out at the time that applied research at the University of Washington in Seattle had demonstrated without a doubt that moderately and severely retarded individuals can be trained for jobs and placed successfully in such jobs. Unfortunately, my efforts at that time were unsuccessful and I was not able to get that legislation through. Today, 6 years later, I am delighted that we have amended the Developmental Disabilities Act to incorporate some of these ideas and that we will now have a law which contains a hope for an employment priority for developmentally disabled persons. Even this bill does not yet require that States focus their resources on employment for people we know are employable but it does show promise for the future. The revised legislation does require that States include a priority on employment in fiscal year 1987.

The Department of Education has recently recognized the importance of employment for seriously disabled adults. The Special Education Program now has a priority on transition from school to work for severely disable young adults as well as a priority on employment for adults. The Department of Health and Human Services had also expressed an interest in employment and has recently begun to invest in this area.

I find it difficult to understand why it has been so hard to draw the attention of public agencies to employment for this population. I cannot understand why employment is so important

to everyone else but so easily ignored for people who are mentally retarded. I can't understand why we are content to keep moderately and severely retarded people in day activity centers at public expense when so many of them could easily be employed with a relatively short period of training.

Most of all, I am concerned that we have so consistently underestimated the capabilities of disabled people; that we have been too eager to take care of handicapped individuals rather than to teach them to take care of themselves.

I have been a close observer of programs as they have developed over the years, particularly in the area of employment and transition. I have seen the employment transition program at the secondary school for the deaf work so successfully for that population; I have seen the program at the Human Resources Center in Long Island work effectively with physically disabled persons; I have seen the programs at our own Research and Training Center in Morgantown, WV, as they work to improve the lives of a wide variety of handicapped individuals. I'm pleased to note that officials of the Department of Education have been visiting some of these more effective programs. I would hope that they, and the officials of Health and Human Services, would do more of this and send their program staff as well to visit the new and exciting programs which they are supporting across this great country. The opportunity to visit and learn from these programs first hand is the only antidote to the isolation and limited vision of life in Federal office buildings.

As I pause between the past and the future, I cannot help but marvel at how far we have come and how far we have yet to go. There was once a time when I would have worried about leaving the Senate, not knowing who, if anyone, would have taken up the gauntlet and carry on the commitment to handicapped that has guided my life for so long. Today, I can step down satisfied, knowing that others have already come forward to pick up the challenge. My good friend, Senator LOWELL WEICKER, chairman of the Subcommittee on the Handicapped, has a commitment equal to my own as do my friends, Senators BOB STAFFORD, TED KENNEDY, ORRIN HATCH and BOB DOLE. These experienced Senators have stepped into the arena to continue the struggle in a bipartisan way to improve the lives of disabled persons.

I am pleased that we have been somewhat effective in promoting employment opportunities for developmentally disabled persons but I hope we have not forgotten that work is only a part of what we call quality of life. I am concerned lest we forget that work is a means to an end and not an end in itself and that our goal is not to get disabled people off welfare, but to help them achieve a quality of life commensurate with that of nondisabled persons in this great country of hope and opportunity.

I would like to comment briefly on the Senate Subcommittee on the Handicapped. In 1970 I asked our well respected chairman, Ralph Yarborough of Texas to establish a Special Subcommittee on Handicapped Workers. In 1972, we expanded this to become a standing Subcommittee on the Handicapped. This committee has provided a focal point for the discussion of issues related to all the handicapped in America. This has been a remarkably effective subcommittee as the wealth of Federal programs over the past 14 years so clearly demonstrates. Nothing has been more rewarding for me than my service on this subcommittee. I shall continue to maintain a deep interest in its activities.

The PRESIDENT pro tempore. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. BAKER. I move to reconsider the vote by which the conference report was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

REPRESENTATION OF JUDICIARY SUBCOMMITTEE BY SENATE LEGAL COUNSEL

Mr. BAKER. Mr. President, I send to the desk a resolution for myself and the distinguished minority leader in respect to Senate Legal Counsel. I ask for its immediate consideration.

The PRESIDENT pro tempore. Without objection, it is so ordered. The clerk will state the resolution by title.

The assistant legislative clerk read as follows:

A Senate resolution (S. Res. 475) to authorize the Senate Legal Counsel to represent the Judiciary Subcommittee on Administrative Practice and Procedure.

The PRESIDENT pro tempore. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. BAKER. Mr. President, the Subcommittee on Administrative Practice and Procedure of the Committee on the Judiciary and the Subcommittee on International Trade, Finance, and Security Economics of the Joint Economic Committee have been examining the Department of Justice's management of several investigations of alleged false claims against the Navy.

Two of these investigations—relating to the Newport News Drydock & Shipbuilding Co. and the Electric Boat Division of General Dynamics—were the subject of extensive grand jury proceedings. The Newport News investigation was closed in 1983. Rule 6(e) of the Federal Rules of Criminal Procedure, with limited exceptions, prohibits the disclosure by attorneys for the Government of "matters occurring before the grand jury." In order to determine whether materials in the Department's Newport News files are within the proscription of rule 6(e), the Assistant Attorney General in charge of the Criminal Division has informed the subcommittee that the Department proposes to file a motion for supervision and guidance in the appropriate Federal district court. This procedure was used to adjudicate access by another Judiciary subcommittee, the Subcommittee on Improvements in Judicial Management, to records of the Department's investigation of Robert L. Vesco.

The General Dynamics case presents a different immediate problem. It was closed in 1981 but it has been reopened since. Accordingly, the Department is objecting to the disclosure of documents in pending matters. The Assistant Attorney General states that the Department is willing to file a motion for supervision and guidance to determine the applicability of rule 6(e) to records of the General Dynamics case when its present investigation is concluded.

The enclosed resolution would authorize the Senate Legal Counsel to intervene in the name of the Subcommittee on Administrative Practice and Procedure in any proceeding commenced by the Department of Justice to determine the subcommittee's access to documents requested or subpoenaed by the subcommittee. The resolution is applicable to the Newport News and General Dynamics cases, and to a third matter, relating to the Lockheed Corp., in the event issues of access also arise in that case.

The PRESIDENT pro tempore. The question is on agreeing to the resolution.

The resolution (S. Res. 475) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 475

Whereas, the Subcommittee on Administrative Practice and Procedure of the Committee on the Judiciary is conducting an inquiry into the Department of Justice's management of investigations of alleged false shipbuilding claims against the Navy by the Lockheed Corporation, the Electric Boat Division of General Dynamics Corporation, and the Newport News Drydock and Shipbuilding Company, a subsidiary of Tenneco;

Whereas, the Subcommittee first requested and then subpoenaed the Department of Justice to produce certain documents required for this inquiry;

Whereas, the Department of Justice has indicated to the Subcommittee that it may apply to the appropriate United States dis-

trict courts for guidance with respect to the applicability of Rule 6(e) of the Federal Rules of Criminal Procedure to some of these documents;

Whereas, pursuant to sections 703(c), 706(a), and 713(a) of the Ethics in Government Act of 1978, 2 U.S.C. §§ 288b(c), 288e(a), and 2881(a) (1982), the Senate may direct its Counsel to intervene in the name of a subcommittee of the Senate in any legal proceeding in which the powers and responsibilities of Congress under the Constitution of the United States are placed in issue;

Whereas, the opportunity of the Subcommittee to obtain the information it deems necessary for the performance of its legislative and oversight functions places in issue the powers and responsibilities of the Congress under the Constitution: Now, therefore, be it

Resolved, That the Senate Legal Counsel is authorized to intervene in the name of the Subcommittee on Administrative Practice and Procedure in any legal proceeding commenced by the Department of Justice for the purpose of determining the Subcommittee's access to documents relating to the Department of Justice's investigations of alleged false shipbuilding claims against the Navy by the Lockheed Corporation, The Electric Boat Division of General Dynamics Corporation, and the Newport News Drydock and Shipbuilding Company.

Mr. BAKER. I move to reconsider the vote by which the resolution was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

BILL HELD AT DESK—H.R. 6161

Mr. BAKER. Mr. President, I ask unanimous consent that once the Senate receives from the House H.R. 6101, a bill to amend the Panama Canal Act of 1979 to authorize quarters allowances for certain employees of the Department of Defense serving in the area formerly known as the Canal Zone, it be held at the desk pending further disposition.

The PRESIDENT pro tempore. Without objection, it is so ordered.

BILL HELD AT THE DESK—H.R. 6224

Mr. BAKER. Mr. President, I ask unanimous consent that once the Senate receives from the House H.R. 6224, St. Elizabeth's Hospital and District of Columbia Mental Health Services Act, it be held at the desk pending further disposition.

The PRESIDENT pro tempore. Without objection, it is so ordered.

RATIFICATION OF ALL REORGANIZATION PLANS

Mr. BAKER. I ask unanimous consent that the Senate proceed to the consideration of H.R. 6225.

The PRESIDENT pro tempore. Without objection, it is so ordered. The clerk will state it.

The assistant legislative clerk read as follows:

A bill (H.R. 6225) to prevent disruption of the structure and functioning of the Government by ratifying all reorganization plans as a matter of law.

Mr. BAKER. Mr. President, I ask unanimous consent that the bill be considered as having been read the first and second times and that the Senate proceed to its immediate consideration.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The bill was considered, ordered to be read a third time, was read the third time, and passed.

Mr. BAKER. I move to reconsider the vote.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

BILL HELD AT DESK—H.R. 5492

Mr. BAKER. Mr. President, I ask unanimous consent that once the Senate receives from the House H.R. 5492, Atlantic Striped Bass Conservation Act, it be held at the desk pending further disposition.

The PRESIDENT pro tempore. Without objection, it is so ordered.

BILL PLACED ON CALENDAR—S. 2449

Mr. BAKER. Mr. President, I ask unanimous consent that the Labor Committee be discharged from further consideration of S. 2449, a bill for the relief of the Sisters of Mercy of the Union, Province of St. Louis, MO, and it be placed on the Calendar.

The PRESIDENT pro tempore. Without objection, it is so ordered.

PRINTING OF ADDITIONAL COPIES—STAFF REPORT

Mr. BAKER. Mr. President, I ask unanimous consent that 500 additional copies of the staff report entitled "War in the Gulf," prepared for the Committee on Foreign Relations, be printed.

The PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER VITIATING PREVIOUS ACTION

(Later the following occurred:)

Mr. BAKER. Mr. President, I am told that there was an error in one of the requests that I put.

I ask unanimous consent that the request for additional printing of the report entitled "War In The Gulf" be vitiated.

The PRESIDENT pro tempore. Without objection, it is so ordered.

SMOKEY BEAR WEEK

Mr. BAKER. Mr. President, I ask that the Chair lay before the Senate a mesage from the House of Represenatives on Senate Joint Resolution 273.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the resolution from the Senate (S.J. Res. 273) entitled "Joint resolution to designate the week of August 5, 1984, through August 11, 1984, as 'Smokey Bear Week' ", do pass with the following amendments. Page 2, line 3, strike out "August 5, 1984, through August 11, 1984,", and insert "October 7, 1984, through October 13, 1984,".

Amend the title so as to read: "Joint resolution to designate the week of October 7, 1984, through October 13, 1984, as 'Smokey Bear Week'.".

Mr. BAKER. Mr. President, I move that the Senate concur in the House amendment.

The PRESIDENT pro tempore. The question is on agreeing to the motion.

The motion was agreed to.

AMENDMENTS TO THE BANKRUPTCY AMENDMENTS AND FEDERAL JUDGESHIP ACT OF 1984

Mr. BAKER. Mr. President, I ask the Chair lay before the Senate H.R. 6216 which is at the desk.

The PRESIDENT pro tempore. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 6216) to amend the bankruptcy amendments and the Federal Judgeship Act of 1984 to make technical corrections, and so forth.

The PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. THURMOND. Mr. President, this bill, H.R. 6216, would amend the Bankruptcy Amendments and Federal Judgeship Act of 1984—Public Law 98-353—to alter the requirements with which bankruptcy judges must comply in order to receive the improved retirement benefits provided for them in the 1984 act. As my colleagues will recall, this act significantly increased the retirement benefits available to bankruptcy judges by providing for such benefits to be calculated on a formula similar to that for Members of Congress. Thus, bankruptcy judges, under the new law, will receive retirement pay at a rate equal to 2.5 percent of their average pay times years of service.

The 1984 act also provided that bankruptcy judges would receive 2.5 percent for all years of service as either a bankruptcy judge or referee. Current law requires that, in order to qualify for these improved retirement benefits, a bankruptcy judge must have been serving on the date of enactment of the 1984 act—July 10, 1984—and must serve until a successor is appointed or October 1, 1986, whichever is earlier. H.R. 6216 would simply require that the bankruptcy judge to

have been serving on March 31, 1984, the original end of the transition period under the Bankruptcy Reform Act of 1978, in order to qualify for improved benefits.

Pursuant to section 552 of the 1984 act, an eligibility date of March 31, 1984, was utilized for judges in Oregon and in the central district of California because of certain circumstances brought to the attention of the Senate by Senator HATFIELD. Section 552 was offered as a floor amendment by Senator HATFIELD and was accepted by the floor managers—myself and Senator HEFLIN. A number of bankruptcy judges have subsequently argued that applying a different eligibility date for those two judges constitutes unfair treatment of the other judges and that a uniform date should be applied to all. Passage of H.R. 6216 would accomplish that goal.

The PRESIDENT pro tempore. The bill is open to amendment. If there be no amendment to be proposed, the question is on the third reading of the bill.

The bill was ordered to a third reading, read the third time, and passed.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

BILL HELD AT DESK—H.R. 5832

Mr. BAKER. Mr. President, I ask unanimous consent that once the Senate receives from the House H.R. 5832, it be held at the desk pending further disposition.

The PRESIDENT pro tempore. Without objection, it is so ordered.

COCOPAH INDIAN TRUST LAND

Mr. BAKER. Mr. President, I now ask the Chair lay before the Senate H.R. 5760 which is being held at the desk.

The PRESIDENT pro tempore. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 5760) to declare that the United States hold in trust for the Cocopah Indian Tribe of Arizona certain land in Yuma County, AZ.

The PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 7065

(Purpose: To reserve certain rights-of-way for the United States in lands transferred to the Cocopah Tribe and to confer jurisdiction on the United States Claims Court with respect to certain claims of the Navajo Indian Tribe)

Mr. BYRD. Mr. President, on behalf of Senator DECONCINI, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDENT pro tempore. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD], for Mr. DECONCINI, proposes an amendment numbered 7065.

Mr. BYRD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

TITLE I—COCOPAH INDIAN TRIBE OF ARIZONA

SEC. 101. Subject to all valid existing rights, all right, title, and interest of the United States in the following described tracts of land shall be held by the United States in trust for the Cocopah Indian Tribe of Arizona and shall be part of the reservation of such tribe:

(1) As part of the West Cocopah Reservation, containing 2,096 acres, more or less:

Gila and Salt River Base and Meridian, Arizona

Township 9 south, range 24 west

Section 18, lot 17;

Section 19, lots 24 and 25; and

Section 30, lots 19 and 27.

Township 9 south, range 25 west

Section 24, lots 1, 3, 4, 5, 6, 7, 8, 9, 10, 11 and 12;

Section 34, lots 1 and 2; and

Section 35, all within the United States.

Township 10 south, range 25 west

Section 2, lots 12, 13, 14, 15, 16, 17, 19, 20, 21, 22, 23, 24, 25, 26, and 27;

Section 10, lots 1 and 2;

Section 11, lots 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, and 16;

Section 14, lots 8 and 9; and

Section 15, lots 5, 6, and 7, and northeast quarter northeast quarter.

(2) As part of the East Cocopah Reservation, containing 1,548.87 acres, more or less:

Gila and Salt River Base and Meridian, Arizona

Township 9 south, range 23 west

Section 30, southeast quarter southwest quarter and

Section 31, north half, north half south half, southwest quarter southwest, and southwest quarter southeast quarter.

Section 31, north half, north half south half, southwest quarter southwest quarter, and southwest southeast quarter.

Township 10 south, range 24 west

Section 1, lots 1, 2, 5, and 8, and south half northeast quarter and east half southeast quarter

Section 12, northeast quarter and east half southeast quarter; and

Section 13, lots 7 and 9, and east half northeast quarter, northeast quarter southeast quarter, south half southeast quarter, and south half southwest quarter.

(3) As the North Cocopah Reservation, containing 614.18 acres, more or less:

San Bernardino Base and Meridian Arizona

Township 16 south, range 21 east

Section 25, lots 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, and 17; and

Section 24, lot 1.

Township 16 south, range 22 east

Section 19, lot 10, and

Section 30, lots 11, 12, 13, 19, 20, and 22, and south half southwest quarter.

SEC. 102. (a) Nothing in this Act shall deprive any person or entity of any legal existing right-of-way, legal mining claim, legal grazing permit, legal water right, accretion claim, or other legal right or interest which such person or entity may have in lands describe in section 101 of this Act.

(b) That portion of the lands described in paragraph 2 of section 101 which are the subject of a dedication for a garbage disposal recorded at book 167, page 464 of the Yuma County Recorder's office shall remain subject to such dedication for as long as such lands are set for land fill or related purposes.

SEC. 103. Notwithstanding any other provision of this title, Executive Order Numbered 11988 of May 24, 1977, 42 Federal Register 26951, as amended, shall apply to lands described in section 101 of this Act.

SEC. 104. (a) There are reserved to the United States the following rights-of-way upon, over, and across the lands described in section 101 of this Act:

(1) A right-of-way of sixty feet from the margin of the Colorado River on the international boundary with the Republic of Mexico, as described in Public Land Reservation of May 27, 1907;

(2) Rights-of-way for existing facilities of the Yuma Reclamation Project, the Colorado River Front Work and Levee System, and the Yuma Mesa Conduit;

(3) A right-of-way of fifty feet on each side of the center line of the Pesch Header, as shown on the United States Bureau of Reclamation, Yuma Project drawing numbered 35-303-634;

(4) A right-of-way for power and transmission facilities within the north seventeen feet of the south fifty feet of the southeast quarter southwest quarter, section 30, township 9 south, range 23 west, Gila and Salt River Base and Meridian;

(5) A right-of-way of two hundred feet measured horizontally landward from the high water mark of the Colorado River bankline for channel rectification, bankline maintenance, and preservation of the floodway, as well as a right, at all proper times and places, to free ingress to, passage over, and egress from the lands described in section 101 of this Act, for the purpose of exercising, enforcing, and protecting the rights reserved in this right-of-way; and

(6) A right-of-way for sludge disposal for the Yuma Desalting Plant on Sections 24, 25 (excluding lots 5 and 6), township 16 south, range 21 east, San Bernardino Base and Meridian, Arizona and sections 19, 30, township 16 south, range 22 east, San Bernardino Base and Meridian, Arizona. This right-of-way shall terminate on the earlier of the date that is 5 years after the date of the enactment of this Act, or the date on which the Secretary of the Interior determines that such right-of-way is not needed for such purposes. Any determination by the Secretary of the Interior under this subsection shall be published in the Federal Register; *Provided*, That should any of the rights-of-way reserved by this section be

abandoned, as determined by the Secretary of the Interior, such rights shall revert to the Cocopah Tribe.

SEC. 105. In the event that title to any private lands located within section 1 or 2, township 10 south, range 25 West, Gila and Salt River Base and Meridian, which are contiguous to the West Cocopah Reservation, is subsequently acquired by the Cocopah Tribe, such lands shall thereupon become part of, and shall be within, the exterior boundary of the West Reservation of the Cocopah Tribe.

TITLE II—CLAIMS OF THE NAVAJO INDIAN TRIBE

SEC. 201. Notwithstanding sections 2401 and 2501 of title 28, United States Code, or section 12 of the Act of August 13, 1946 (60 Stat. 1052; 25 U.S.C. 70k), or any other provision of law, jurisdiction is hereby conferred upon the United States Claims Court to hear, determine, and render judgment on the claims of the Navajo Indian Tribe against the United States which (1) arose before August 13, 1946, (2) were timely presented under section 2 of the Act of August 13, 1946 (60 Stat. 1050; 25 U.S.C. 70a), (3) were withdrawn without approval by the Tribe and the Secretary of the Interior, and (4) were held by the Court of Claims in Navajo Tribe of Indians against United States, Docket Numbered 69, on June 13, 1979, to have been voluntarily dismissed by the Tribe before being considered or decided on their merits, and which are no longer pending before the United States Claims Court and have not been previously determined on the merits by the United States Court of Claims. Such claims must be filed within six months after the date of enactment of this Act.

SEC. 202. This title shall not affect the finality of the judgments entered in Indian Claims Commission Docket Numbers 229 and 353 or alter the effect, if any, of those judgments on other litigation brought by the Navajo Indian Tribe against the United States as third parties in other judicial procedings.

Amend the title so as to read: "An Act to declare that the United States holds certain lands in trust for the Cocopah Indian Tribe of Arizona, and for other purposes.".

Mr. DECONCINI. Mr. President, my amendment in the nature of a substitute to the text of H.R. 5760, which as passed by the House of Representatives, provides that approximately 4,200 acres of public lands administered by the Bureau of Land Management shall be held in trust for the Cocopah Tribe of Arizona. My amendment makes three changes in the House-passed bill. First, it ensures that any accretion claim held by third parties to the land being transferred is protected. Second, it provides one additional right-of-way needed by the Bureau of Reclamation. Finally, my amendment adds the text of S. 1196, as approved by the Senate, as title II of H.R. 5760.

The first two changes address concerns expressed during the hearings held by the Senate Select Committee on Indian Affairs on the companion measure, S. 2862. The Cocopah Tribe worked very closely with the Bureau and other interested parties to arrive at these changes. With these two changes, I urge Senate approval of the transfer of the additional land required by the Cocopah Indians. As a small and poor tribe, the Cocopahs need this land to meet tribal demands for housing and to broaden the economic base of their reservation. The addition of the text of S. 1196, the Navajo claim bill, to this bill will merely make sure that the House has the opportunity to approve a bill which has already been passed by unanimous consent in the Senate.

I urge unanimous consent on the passage of this very important measure.

The PRESIDENT pro tempore. The question is on agreeing to the amendment.

The amendment (No. 7065) was agreed to.

The PRESIDENT pro tempore. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill (H.R. 5760), as amended, was read the third time and passed.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THE CALENDAR

Mr. BAKER. Mr. President, may I say to the minority leader that I have list of items now that appear on the printed calendar which are cleared for action on this side by unanimous consent. If the minority leader would consider it, I would propose to address these matters en bloc. They are Calendar Nos. 1258, 1291, 1292, 1293, 1295, 1297, 1298, 1309, 1253, and 1254.

Mr. BYRD. Mr. President, there is no objection to proceeding en bloc.

Mr. BAKER. I thank the Senator.

KAHLIL GIBRAN MEMORIAL

The Senate proceeded to consider the joint resolution (H.J. Res. 580) authorizing the Kahlil Gibran Centennial Foundation to establish a memorial in the District of Columbia or its environs.

Mr. MITCHELL. This resolution (S.J. Res. 301; H.J. Res. 580), which was introduced by me on May 24, 1984, authorizes the Kahlil Gibran Centennial Foundation, a nonprofit corporation to erect a memorial in the District of Columbia or its environs.

The resolution is sponsored by 25 Members; one-quarter of the Senate. Sponsors are Senators ABDNOR, PERCY, PELL, BOSCHWITZ, KENNEDY, INOUYE, RIEGLE, DOLE, BENTSEN, SARBANES, LEVIN, HEINZ, NUNN, DOMENICI, QUAYLE, DIXON, HAWKINS, PRESSLER, MATSUNAGA, DODD, LAXALT, HATCH, RUDMAN, and RANDOLPH.

The House resolution, introduced in that body by Representative ABRAHAM KAZEN of Texas, passed on Monday, September 24. Two days later, on Wednesday, September 26, the resolution was considered by the Senate Committee on Rules and Administration which ordered it reported on September 27.

The action authorized by this resolution carries no cost to the Federal Government. Under its provisions, the Secretary of the Interior must determine that the donor organization possesses sufficient amounts for completion of the memorial in accordance with an approved design and plan. In addition, the resolution specifically requires that "the United States shall not pay any expense of the establishment of the memorial."

It is altogether appropriate that we take action this year to honor Kahlil Gibran.

1983 was the centennial of the birth of this famous Lebanese-born American poet and artist. His literary accomplishments including his memorable work "The Prophet"—7 million copies; 50 different languages—emphasize the need to achieve nonpartisan, nonsectarian brotherhood, encourage compassion, and promote justice. Gibran's message has been the source of hope and vision to a countless number of Americans.

In 1983, the Kahlil Gibran Centennial Foundation was established to commemorate this man's message and artistic contributions. In addition to sponsoring a traveling exhibition of his works, gathering support for a privately funded repository in the United States for his artistic and literary works, and publishing an exhibition catalog of his essays and art, the foundation wants to place a freestanding sculpture or sculptured panel memorial to Gibran here in Washington. The foundation's proposal has been presented to, and favorably received by, the National Capital Memorial Advisory Committee at a hearing on July 31, 1984. Further progress on this project cannot occur without congressional approval in the form of a joint resolution.

I urge my colleagues to support House Joint Resolution 580.

The joint resolution was considered, ordered to a third reading, read the third time, and passed.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CLOSING OF THE OFFICE OF A SENATOR WHO DIES OR RESIGNS

The resolution (S. Res. 458) to provide for the closing of the office of a Senator who dies or resigns, and for other purposes, was considered, and agreed to.

Resolved,

SECTION 1. (a) In the case of the death or resignation of a Senator during his term of office, the employees in the office of such Senator who are on the Senate payroll on the date of such death or resignation shall be continued on such payroll at their respective salaries for a period of not to exceed sixty days, or such greater number of days as may, in any particular case, be established by the Senate Committee on Rules and Administration as being required to complete the closing of the office of such Senator. Such employees so continued on the payroll of the Senate shall, while so continued, perform their duties under the direction of the Secretary of the Senate, and such Secretary shall remove from such payroll any such employees who are not attending to the duties for which their services are continued.

(b) In the case of the death or resignation of a Senator while holding the Office of President pro tempore, Deputy President pro tempore, Majority Leader, Minority Leader, Majority Whip, Minority Whip, Secretary of the Conference of the Majority, or Secretary of the Conference of the Minority, of the Senate, the employees of such office who are on the payroll of the Senate on the date of such death or resignation shall be continued on the Senate payroll in like manner and under the same conditions as are employees in the office of such Senator under subsection (a) of this section.

(c) No employee of the Senate who is continued on the payroll of the Senate under the preceding provisions of this section on account of the death or resignation of a Senator shall be continued on such payroll after the date of the expiration of the term of office of such Senator as a Senator, or, such later date as may, in any particular case, be established by the Senate Committee on Rules and Administration as being required to complete the closing of the office of such Senator.

(d) Payment of salaries of employees who are continued on the Senate payroll under authority of this section, and payment of agency contributions with respect to such salaries, shall be made from the account for Miscellaneous Items within the contingent fund of the Senate.

(e) During any period for which the employees of the office of a Senator, who has died or resigned, are continued on the Senate payroll under the first section of this resolution, official office expenses which are necessary in closing such Senator's office (or offices in case of a Senator who dies or resigns while holding an office referred to in subsection (b) of this section) shall be made from the account for Miscellaneous Items within the contingent fund of the Senate upon vouchers approved by the Secretary of the Senate; except that the aggregate of such expenses shall not exceed an amount equal to one-tenth of such Senator's official office expense account for the year in which he died or resigned.

(f) Duties to be performed by the Secretary of the Senate under this section and under section 2 of this resolution shall be performed under the direction of the Senate Committee on Rules and Administration.

SEC. 2. In the case of the death of any Senator, the Secretary of the Senate may, with respect to any item of expense for which payment had been authorized to be made from such Senator's official office expense account, certify for such deceased Senator for any sum already obligated but not certified to at the time of such Senator's death for payment to the person or persons designated as entitled to such payment by such Secretary.

SEC. 3. (a) The Sergeant at Arms and Doorkeeper of the Senate shall make such arrangements as may be necessary, in accordance with such regulations as the Senate Committee on Rules and Administration may prescribe, for:

(1) the funeral of a deceased Senator; and

(2) any committee appointed to attend the funeral of a deceased Senator.

(b) Expenses incurred in carrying out the provisions of subsection (a) of this section shall be paid from the account for Miscellaneous Items within the contingent fund of the Senate, on vouchers approved by the Sergeant at Arms and Doorkeeper of the Senate.

SEC. 4. The following Senate resolutions are repealed: S. Res. 5, 82d Congress (agreed to April 11, 1951), and S. Res. 354, 95th Congress (agreed to January 20, 1978).

SEC. 5. (a) Except as provided in subsection (b) of this section, the provisions of this resolution shall take effect upon the date it is agreed to by the Senate.

(b) The first section of this resolution shall take effect on the date that there is hereafter enacted a provision of law which (1) makes inapplicable to any employee of the Senate the provisions of the third paragraph under the heading "Clerical assistance to Senators" of the first section of the Legislative Appropriation Act for the fiscal year ending June 30, 1923 (2 U.S.C. 92a), and (2) repeals (A) the last paragraph under the heading "Clerical assistance to Senators" of the first section of the Legislative Branch Appropriation Act, 1944 (2 U.S.C. 92e), (B) the last paragraph under the heading "Clerical assistance to Senators" of the first section of the Legislative Branch Appropriation Act, 1945 (2 U.S.C. 92e), (C) the next-to-last paragraph under the heading "Clerical assistance to Senators" of the first section of the Legislative Branch Appropriation Act, 1946 (2 U.S.C. 92e), and (D) the next-to-last paragraph under the heading "Clerical assistance to Senators" of the first section of the Legislative Branch Appropriation Act, 1947 (2 U.S.C. 92e).

(c) After the date this resolution is agreed to, the Chairman of the Senate Committee on Rules and Administration shall make no further certifications under authority of section 506(g) of the Supplemental Appropriations Act, 1973 (2 U.S.C. 58(g)).

Mr. BAKER. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

APPOINTMENT OF ANNE LEGENDRE ARMSTRONG

The joint resolution (H.J. Res. 551) to provide for the reappointment of Anne Legendre Armstrong as a citizen regent of the Board of Regents of the Smithsonian Institution, was considered, ordered to a third reading, read the third time, and passed.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

APPOINTMENT OF A. LEON HIGGINBOTHAM

The joint resolution (H.J. Res. 552) to provide for the reappointment of A. Leon Higginbotham, JR., as a citizen regent of the Board of Regents of the Smithsonian Institution, was considered, ordered to a third reading, read the thrid time, and passed.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

RESTORATION OF FISH AND WILDLIFE IN THE TRINITY RIVER BASIN, CA

The bill (H.R. 1438) to provide for the restoration of the fish and wildlife in the Trinity River Basin, CA, and for other purposes, was considered, ordered to a third reading, read the third time, and passed.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ARMISTEAD I. SELDEN LOCK AND DAM

The bill (S. 2947) to designate the lock and dam on the Warrior River in Hale County, AL, as the "Armistead I. Selden Lock and Dam," was considered, ordered to be engrossed for a third reading, read the third time, and passed; as follows:

S. 2947

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the lock and dam on the Warrior River in Hale County, Alabama, commonly known as the Warrior Lock and Dam, shall hereafter be known and designated as the "Armistead I. Selden Lock and Dam". Any reference in a law, map regulation, document, or paper of the United States to such lock and dam shall be held to be a reference to the "Armistead I. Selden Lock and Dam".

Mr. BAKER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

JENNINGS RANDOLPH FEDERAL CENTER

The bill (S. 3021) to name the Federal Building in Elkins, WV, the "Jennings Randolph Federal Center," was considered, ordered to be engrossed for a third reading, read the third time, and passed; as follows:

S. 3021

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the United States Post Office and Federal Building located at the Corner of Randolph Avenue and Third Street, Elkins, West Virginia, shall hereafter be known and designated as the "Jennings Randolph Federal Center". Any reference in a law, map, regulation, document, record, or other paper of the United States to such building shall be held to be a reference to the "Jennings Randolph Federal Center".

SEC. 2. The effective date of this Act shall be January 5, 1985.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PRINTING OF "HANDBOOK FOR SMALL BUSINESS" AS A SENATE DOCUMENT

The concurrent resolution (S. Con. Res. 140) authorizing the printing of a revised edition of the "Handbook for Small Business," as a Senate document, was considered, and agreed to; as follows:

S. CON. RES. 140

Resolved by the Senate (the House of Representatives concurring), That a revised edition of Senate Document Numbered 96-44, entitled "Handbook for Small Business", explaining programs of Federal departments, agencies, offices, and commissions of benefit to small business and operating pursuant to various statutes enacted by the Congress, shall be printed with illustrations as a Senate document; and that there shall be printed six thousand additional copies for the use of the Senate Committee on Small Business, and three thousand additional copies for the use of the Committee on Small Business of the House of Representatives.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AUTHORIZING THE PRINTING OF A SENATE REPORT

The resolution (S. Res. 429) authorizing the printing of the report entitled "Highway Bridge Replacement and Rehabilitation Program, Fifth Annual Report to Congress," as a Senate document, was considered, and agreed to; as follows:

S. RES. 429

Resolved, That the annual report of the Secretary of Transportation to the Congress of the United States in compliance with section 144(i) of title 23, United States Code entitled "Highway Bridge Replacement and Rehabilitation Program, Fifth Annual Report to Congress" be printed as a Senate document.

SEC. 2. There shall be printed three hundred additional copies for the use of the Committee on Environment and Public Works.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PRINTING OF A REPORT ENTITLED "MAJORITY AND MINORITY WHIPS OF THE SENATE"

The resolution (S. Res. 454) authorizing the printing of a revised edition of Senate document numbered 96-23, 96th Congress, 1st session, entitled 'Majority and Minority Whips of the Senate," as a Senate document, was considered, and agreed to.

The preamble was agreed to.

The resolution, and the preamble, are as follows:

S. RES. 454

Resolved, That a revised edition of Senate document numbered 96-23, Ninety-sixth Congress, first session, entitled "Majority and Minority Whips of the Senate", be printed as a Senate document, and in addition to the usual number that there be printed five thousand additional copies for the use of the United States Senate.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

My BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER FOR H.R. 6296 TO BE HELD AT THE DESK

Mr. BAKER. Mr. President, I believe this request has been cleared.

I ask unanimous consent that once the Senate receives H.R. 6296, a bill entitled "The San Juan Basin Wilderness Protection Act of 1984," be held at the desk pending further disposition.

Mr. BYRD. Mr. President, there is no objection.

The PRESIDENT pro tempore. Without objection, it is so ordered.

PUBLIC HEALTH SERVICE ACT AMENDMENTS

Mr. BAKER. Mr. President, I submit a report of the committee of conference on S. 2574 and ask for its immediate consideration.

The PRESIDENT pro tempore. The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the Amendments of the House to the bill (S. 2574) to revise and extend title VIII of the Public Health Service Act, relating to revise education having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDENT pro tempore. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report will be printed in the House proceedings.)

Mr. HATCH. Mr. President, I am pleased to report to you and my Senate colleagues the completion of the Senate/House conference on S. 2574, a compilation of bills dealing with vital health training and service issues. The conferees have addressed the differences of opinion that always exist on any health issues and have produced a workable, productive piece of legislation. Now, it is the responsibility of this body to review the provisions and expeditiously forward this necessary legislation to the White House for the President's signature. Final passage during this session is essential to continue several federally funded programs which provide financial assistance to students, primary care training, and encourage minority students to become health professionals.

The public is aware and appreciative of the quality of health care that is available in this great Nation of ours. They are also well aware of the burden imposed by the high costs for such excellent health services. But only those individuals who embark on a course of study to prepare themselves to become a health professional are faced with the reality of financing the necessary education.

Title I of this legislation reauthorizes the Health Professions Training Assistance—title VII of the Public Health Service Act—recognizing themagnitude of the financial burden assumed by many students and is intended to provide some assistance for those seeking professional training. Without these programs only those willing to assume life-long indebtedness or those fortunate enough to have access to private funds will be able to become physicians. Obviously, intelligence, desire and ability are not limited to the independently wealthy. Therefore, excluding capable students from the study of medicine and other health professions would be a great loss to

the American public. This legislation continues authorization for guaranteed health education assistance loans, provides limited funds for federally financed loans to be administered by health professions schools (with a requirement that 50 percent be given to disadvantaged students), and scholarships for exceptionally financially needy students. These programs will keep the doors open for many qualified students, representing the full spectrum of our society, to become health professionals. Support for training programs in primary care are also continued—family medicine, general internal medicine and general pediatrics. Although there is a well documented abundance of some medical specialists, there will be an ongoing need for more primary care specialists through this decade.

Another bill incorporated into the legislation and considered in conference is the Nurse Education Amendments of 1984. The objectives are similar to those of the Health Professions Training Assistance Amendments but specifically address issues pertinent only to the nursing profession.

Medical advancements and the growing concern over rising medical costs applied increasing pressure on nursing schools to educate nurses with advanced degrees in the general areas of administration, teaching and long-term care, and the specific clinical areas of geriatric, pediatric and community-health nursing.

The provisions of this legislation address these needs by: First, creating a fellowship program that allows nursing faculty to apply for funds to continue their teaching responsibilities while pursuing research and other related activities; second, provides a new demonstration authority—under the special projects section—to improve access to nursing services through support of nurse practice arrangements in communities, encourage nurse graduates to practices in areas with shortages of nurse personnel, and to provide effective means for facilitating the transition of students in schools of nursing to nursing practice; third, provides authorizations for appropriations at $69.75 million for fiscal year 1985, $75.4 million for fiscal year 1986, and $81.05 million for fiscal year 1987.

Title III of the conference agreement will revise and extend provisions of the Public Health Service Act relating to the National Health Service Corps [NHSC]. The growth of the corps has justifiably leveled off since 1981. The number of corps members is now in harmony with evidence that a surplus of physicians is having a significant effect on the geographic distribution of health professionals. I know that there are parts of our country that will not be able to attract sufficient health care practitioners without the NHSC, even in the face of a doctor "glut." The conference agreement continues a modest NHSC scholarship program, and also encourage health professions to volunteer to serve in health manpower shortage areas.

More detailed information regarding these bills, and their legislative history during the Congress can be obtained from the following bill reports:

First, Health Professions Training Assistance Amendments of 1984, Report 98-491.

Second, Nurse Education Amendments of 1984, Report 98-492.

Third, National Health Service Corps Amendments of 1984, Report 98-392.

Fourth, Health Maintenance Organization Amendments of 1984, Report 98-401.

Fifth, Primary Health Care Amendments of 1984, Report 98-490.

Title V of the conference agreement reauthorizes two major primary health care programs and creates a new primary health care block grant. The Community Health Center Program is reauthorized at the following levels: $375 million for fiscal year 1985, $405 million for fiscal year 1986, $437 million for fiscal year 1987 and $472 million for fiscal year 1988.

The conference agreement authorized the Secretary to enter into memoranda of agreement with States to permit them, where appropriate, to: First, analyze the need for primary health services for medically underserved populations within the State; second, assist in the planning and development of new CHC's; third, review and comment on annual program plans and budget of CHC's including comments on allocations of health care resources in the State; fourth, assist CHC's in the development of clinical practices and fiscal and administrative systems through a technical assistance plan which is responsive to the requests of CHC's; and fifth, share information and data relative to the operation of new and existing CHC's.

The conference agreement also establishes a new program of block grants to States for primary care research, demonstrations and services. The conferees specifically reference Senate Report 98-490 with regard to the State grant program and other primary care programs in the conference agreement.

I believe that these improvements in federally funded primary care programs will assist CHC's in cooperation with State and local governments to provide better primary care services to our medically underserved populations and rural areas.

I urge immediate adoption of this vital health legislation.

Mr. QUAYLE. Mr. President, I rise in support of the conference report accompanying S. 2574, the Public Health Service Act Amendments of 1984.

I would like to commend the distinguished chairman, Mr. HATCH, for forging this compromise with the House, which reauthorizes a number of important health programs affecting health manpower, nurse training, and health maintenance organizations.

In particular, I would like to request the support of my colleagues for title V of the bill, entitled "Consumer Information." I introduced legislation on this subject last spring in the form of S. 2503, the Health Care Consumer Information Act, which required the Secretary of Health and Human Services to conduct a study of current efforts underway to provide hospital price data to third party payors and consumers of health care services and to develop methodologies for providing third party payors and consumers with price data with respect to ambulatory health care services and information concerning the quality of health care services.

I am pleased that the language of title V incorporates these elements and I would like to thank my distinguished colleague, Mr. HATCH, for his cooperation in our discussions with the House. I would also like to compliment Mr. WYDEN for his leadership in this important area on the House side and for his hard work in formulating the final language of title V.

Title V requires the Secretary to undertake a series of studies on:

Criteria and methodologies for collecting and disseminating to third party payors and consumers health care price and utilization data.

Programs under which such information is collected and disseminated.

Methods to assist in collecting and disseminating such information for consumers.

The effects of efforts currently underway to provide price and quality data to third party payors and consumers.

Criteria and methodologies for providing consumers with information with respect to quality of health care services.

Finally, the Secretary is required to report to the Congress on the results of those studies together with recommendations for Federal, State, and local governmental activities to collect and disseminate consumer information and for providing technical assistance to those undertaking these activities.

I am hopeful that the results of these studies will put us on the road to providing greater incentives toward competitive behavior in the health care market. Part of the reason there has been insufficient competition in the health care arena has been the lack of price and quality of care information. For health care to become more competitive, consumers will need access to easily understandable, relevant price and quality data. I regard

title V as a reasonable and responsible first step in that direction. Only after we have examined the information resulting from this study can we evaluate the best means for achieving the goals we are all seeking in the health care delivery area, this is, the promotion of cost consciousness and restraint through competition.

The PRESIDENT pro tempore. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EXTENSION OF TIME FOR ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent that the time for the transaction of routine morning business be extended to not later than 9:30 p.m., under the same terms and conditions.

The PRESIDENT pro tempore. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. BAKER. Mr. President, there are certain items that are cleared for action on this side by unanimous consent on the Executive Calendar. I have just conferred with the minority leader to try to match up the two calendars, and in order to save time, I will put a unanimous-consent request now for his consideration and that of the Senate.

Mr. President, I ask unanimous consent that the Senate now go into executive session for the purpose of considering the following nominations: On page 8, calendar No. 1021, 1022, 1023, 1025, 1026, and 1027. On page 9, Calendar No. 1032. All the nominations on page 10, on page 11, on page 12, and those on page 13, being nominations placed on the Secretary's desk in the Air Force, Army, Navy, and Air Force.

Mr. BYRD. Mr. President, there is no objection.

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate go into executive session for the purpose of considering the nominations just referred to.

There being no objection, the Senate proceeded to the consideration of executive business.

Mr. BAKER. Mr. President, I ask unanimous consent that the nominations referred to be considered and confirmed en bloc.

The PRESIDENT pro tempore. Without objection, the nominations are considered en bloc and confirmed en bloc.

The nominations considered and confirmed en bloc are as follows:

DEPARTMENT OF JUSTICE

John C. Lawn, of Virginia, to be Deputy Administrator of Drug Enforcement.

DEPARTMENT OF STATE

Jon R. Thomas, of Tennessee, to be an Assistant Secretary of State for International Narcotics Matters.

Francis Stephen Ruddy, of Texas, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Equatorial Guinea.

INTERNATIONAL MONETARY FUND

Charles H. Dallara, of Virginia, to be U.S. Executive Director of the International Monetary Fund for a term of 2 years.

U.S. INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Mark L. Edelman, of Missouri, to be an Assistant Administrator of the Agency for International Development.

Cathryn C. Semerad, of Maryland, to ban Assistant Administrator of the Agency for International Development.

IN THE ARMY

The following-named officers for appointment in the Regular Army of the United States to the grade indicated under the provisions of title 10, United States Code, sections 611(a) and 624:

To be brigadier general

Col. Marvin G. O'Connell, [redacted], U.S. Army.
Col. George M. Baxter, [redacted], U.S. Army.
Col. James W. Ray, [redacted], U.S. Army.
Col. Ward M. LeHardy, [redacted], U.S. Army.
Col. James W. Wurman, [redacted], U.S. Army.
Col. William J. Fiorentino, [redacted], U.S. Army.
Col. George H. Akin, [redacted], U.S. Army.
Col. Paul C. Hurley, [redacted], U.S. Army.
Col. Arnold Schlossberg, Jr., [redacted], U.S. Army.
Col. George J. Walker, [redacted], U.S. Army.
Col. Michael J. Pepe, [redacted], U.S. Army.
Col. Stanley H. Hyman, [redacted], U.S. Army.
Col. Richard L. Reynard, [redacted], U.S. Army.
Col. William A. Fitzgerald, Jr., [redacted], U.S. Army.
Col. Harold T. Fields, Jr., [redacted], U.S. Army.
Col. Ross W. Crossley, [redacted], U.S. Army.
Col. Billy J. Stalcup, [redacted], U.S. Army.
Col. Thomas C. Foley, [redacted], U.S. Army.
Col. Thomas H. Harvey, Jr., [redacted], U.S. Army.
Col. Donald R. Williamson, [redacted], U.S. Army.
Col. Louis J. DelRosso, [redacted], U.S. Army.
Col. Rodney D. Wolfe, [redacted], U.S. Army.
Col. Marvin D. Brailsford, [redacted], U.S. Army.
Col. Harry G. Karegeannes, [redacted], U.S. Army.
Col. John D. Wakelin, [redacted], U.S. Army.
Col. William F. Streeter, [redacted], U.S. Army.
Col. John S. Drosdeck, Jr., [redacted], U.S. Army.
Col. David H. Stem, [redacted], U.S. Army.
Col. John P. Dreska, [redacted], U.S. Army.
Col. Wallace C. Arnold, [redacted], U.S. Army.
Col. Robert D. Chelberg, [redacted], U.S. Army.
Col. Travis N. Dyer, [redacted], U.S. Army.
Col. Herbert M. Wassom, [redacted], U.S. Army.
Col. Edmond S. Solymosy, [redacted], U.S. Army.
Col. Charles A. Hines, [redacted], U.S. Army.
Col. Charles E. Dominy, [redacted], U.S. Army.
Col. John A. Renner, [redacted], U.S. Army.
Col. Howard C. Eggleston, [redacted], U.S. Army.
Col. Lawrence J. Schumann, [redacted], U.S. Army.
Col. William E. Harmon, [redacted], U.S. Army.
Col. Sherian G. Cadoria, [redacted], U.S. Army.
Col. Merle Freitag, [redacted], U.S. Army.
Col. Fred A. Gorden, [redacted], U.S. Army.
Col. Wayne A. Downing, [redacted], U.S. Army.
Col. Craig H. Boice, [redacted], U.S. Army.
Col. Thomas P. Carney, [redacted], U.S. Army.
Col. Richard B. Griffitts, [redacted], U.S. Army.
Col. Thomas G. Rhame, [redacted], U.S. Army.
Col. Patrick H. Brady, [redacted], U.S. Army.
Col. Leon E. Salomon, [redacted], U.S. Army.
Col. Horace G. Taylor, [redacted], U.S. Army.
Col. Daniel R. Schroeder, [redacted], U.S. Army.
Col. Peter A. Kind, [redacted], U.S. Army.
Col. Richard D. Beltson, [redacted], U.S. Army.
Col. Leo J. Pigaty, [redacted], U.S. Army.
Col. Joe W. Rigby, [redacted], U.S. Army.
Col. Paul G. Cerjan, [redacted], U.S. Army.
Col. Alonzo E. Short, Jr., [redacted], U.S. Army.
Col. Roger K. Bean, [redacted], U.S. Army.
Col. Jerry C. Harrison, [redacted], U.S. Army.
Col. Rudolph Ostovich, III, [redacted], U.S. Army.
Col. Charles R. Henry, [redacted], U.S. Army.
Col. Henry M. Hagwood, [redacted], U.S. Army.
Col. Ronald E. Brooks, [redacted], U.S. Army.

NOMINATIONS PLACED ON THE SECRETARY'S DESK IN THE AIR FORCE, ARMY, NAVY, NAVY AND AIR FORCE

Air Force nomination of Hiram B. Curry, which was received by the Senate and appeared in the CONGRESSIONAL RECORD of September 17, 1984.

Air Force nominations beginning Maj. Fred M. Bastion, Jr., and ending Maj. Peter J. Eidenberg, III, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of September 17, 1984.

Air Force nominations beginning Robert D. Adams, and ending John C. Trittschuh, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of Septemer 17, 1984.

Army nominations beginning Margarette D. Dibenedetto, and ending Marc S. Willey, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of September 17, 1984.

Navy nominations beginning James David Acoba, and ending William Cleve Woodward, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of September 17, 1984.

Navy and Air Force nominations beginning Comdr. Michael L. Coats, and ending Lt. Col. Richard M. Mullane, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of September 17, 1984.

Mr. BAKER. Mr. President, I move to reconsider the votes by which the nominations were confirmed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, I ask unanimous consent that the President be immediately notified that the Senate has given its consent to these nominations.

The PRESIDENT pro tempore. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate return to legislative session.

The PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER FOR STAR PRINT—REPORT NO. 98-643 TO ACCOMPANY SENATE RESOLUTION 458

Mr. BAKER. Mr. President, I ask unanimous consent that Report No. 98-643 to accompany Senate Resolution 458 be star printed to reflect the changes which I now send to the desk on behalf of the Senator from Maryland [Mr. MATHIAS].

The PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, I believe that completes our work tonight.

I thank the minority leader. I thank all Senators, and I thank the distinguished occupant of the Chair who has been very patient with us as we worked through a heavy volume of necessary labor.

RECESS UNTIL 9:30 A.M. TOMORROW

Mr. BAKER. Mr. President, I now move, in accordance with the order previously entered, that the Senate stand in recess until 9:30 a.m. tomorrow.

The motion was agreed to; and the Senate, at 9:25 p.m., recessed until tomorrow, Friday, October 5, 1984, at 9:30 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate October 4, 1984:

DEPARTMENT OF STATE

Jon R. Thomas, of Tennessee, to be an Assistant Secretary of State for International Narcotics Matters.

INTERNATIONAL MONETARY FUND

Charles H. Dallara, of Virginia, to be U.S. Executive Director of the International Monetary Fund for a term of 2 years.

DEPARTMENT OF STATE

Francis Stephen Ruddy, of Texas, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Equatorial Guinea.

U.S. INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Mark L. Edelman, of Missouri, to be an Assistant Administrator of the Agency for International Development.

Cathryn C. Semerad, of Maryland, to be an Assistant Administrator of the Agency for International Development.

The above nominations were approved subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

THE JUDICIARY

Juan R. Torruella del Valle, of Puerto Rico, to be U.S. circuit judge for the first circuit.

Emory M. Sneeden, of South Carolina, to be U.S. circuit judge for the fourth circuit.

Cynthia Holcomb Hall, of California, to be U.S. circuit judge for the ninth circuit.

Charles E. Wiggins, of Virginia, to be U.S. circuit judge for the ninth circuit.

H. Ted Milburn, of Tennessee, to be U.S. circuit judge for the sixth circuit.

Richard F. Suhrheinrich, of Michigan, to be U.S. circuit judge for the eastern district of Michigan.

Thomas A. Higgins, of Tennessee, to be U.S. district judge for the middle district of Tennessee.

Charles R. Norgle, Sr., of Illinois, to be U.S. district judge for the northern district of Illinois.

William D. Keller, of California, to be U.S. district judge for the central district of California.

Walter S. Smith, Jr., of Texas, to be U.S. district judge for the western district of Texas.

Howard D. McKibben, of Nevada, to be U.S. district judge for the district of Nevada.

DEPARTMENT OF JUSTICE

John C. Lawn, of Virginia, to be Deputy Administrator of Drug Enforcement.

IN THE ARMY

The following-named officers for appointment in the Regular Army of the United States to the grade indicated under the provisions of title 10, United States Code, sections 611(a) and 624:

To be brigadier general

Col. Marvin G. O'Connell, [redacted], U.S. Army.

Col. George M. Baxter, [redacted], U.S. Army.

Col. James W. Ray, [redacted], U.S. Army.

Col. Ward M. LeHardy, [redacted], U.S. Army.

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Col. George H. Akin, [redacted], U.S. Army.

Col. Paul C. Hurley, [redacted], U.S. Army.

Col. Arnold Schlossberg, Jr., [redacted], U.S. Army.

Col. George J. Walker, [redacted], U.S. Army.

Col. Michael J. Pepe, [redacted], U.S. Army.

Col. Stanley H. Hyman, [redacted], U.S. Army.

Col. Richard L. Reynard, [redacted], U.S. Army.

Col. William A. Fitzgerald, Jr., [redacted], U.S. Army.

Col. Harold T. Fields, Jr., [redacted], U.S. Army.

Col. Ross W. Crossley, [redacted], U.S. Army.

Col. Billy J. Stalcup, [redacted], U.S. Army.

Col. Thomas C. Foley, [redacted], U.S. Army.

Col. Thomas H. Harvey, Jr. [redacted], U.S. Army.

Col. Donald R. Williamson, [redacted], U.S. Army.

Col. Louis J. DelRosso, [redacted], U.S. Army.

Col. Rodney D. Wolfe, [redacted], U.S. Army.

Col. Marvin D. Brailsford, [redacted], U.S. Army.

Col. Harry G. Karegeannes, [redacted], U.S. Army.

Col. John D. Wakelin, [redacted], U.S. Army.

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Col. David H. Stem, [redacted], U.S. Army.

Col. John P. Dreska, [redacted], U.S. Army.

Col. Wallace C. Arnold, [redacted], U.S. Army.

Col. Robert D. Chelberg, [redacted], U.S. Army.

Col. Travis N. Dyer, [redacted] U.S. Army.

Col. Herbert M. Wassom, [redacted], U.S. Army.

Col. Edmond S. Solymosy, [redacted], U.S. Army.

Col. Charles A. Hines, [redacted], U.S. Army.

Col. Charles E. Dominy, [redacted], U.S. Army.

Col. John A. Renner, [redacted], U.S. Army.

Col. Howard C. Eggleston, [redacted], U.S. Army.

Col. Lawrence J. Schumann, [redacted], U.S. Army.

Col. William E. Harmon, [redacted], U.S. Army.

Col. Sherian G. Cadoria, [redacted], U.S. Army.
Col. Merle Freitag, [redacted], U.S. Army.
Col. Fred A. Gorden, [redacted], U.S. Army.
Col. Wayne A. Downing, [redacted], U.S. Army.
Col. Craig H. Boice, [redacted], U.S. Army.
Col. Thomas P. Carney, [redacted], U.S. Army.
Col. Richard B. Griffitts, [redacted], U.S. Army.
Col. Thomas G. Rhame, [redacted], U.S. Army.
Col. Patrick H. Brady, [redacted], U.S. Army.
Col. Leon E. Salomon, [redacted], U.S. Army.
Col. Horace G. Taylor, [redacted], U.S. Army.
Col. Daniel R. Schroeder, [redacted], U.S. Army.
Col. Peter A. Kind, [redacted], U.S. Army.
Col. Richard D. Beitson, [redacted], U.S. Army.
Col. Leo J. Pigaty, [redacted], U.S. Army.
Col. Joe W. Rigby, [redacted], U.S. Army.
Col. Paul G. Cerjan, [redacted], U.S. Army.
Col. Alonzo E. Short, Jr., [redacted], U.S. Army.
Col. Roger K. Bean, [redacted], U.S. Army.
Col. Jerry C. Harrison, [redacted], U.S. Army.
Col. Rudolph Ostovich, III, [redacted], U.S. Army.
Col. Charles R. Henry, [redacted], U.S. Army.
Col. Henry M. Hagwood, [redacted], U.S. Army.
Col. Ronald E. Brooks, [redacted], U.S. Army.

IN THE AIR FORCE

Air Force nomination Hiram B. Curry, which was received by the Senate and appeared in the CONGRESSIONAL RECORD of September 17, 1984.

Air Force nominations beginning Maj. Fred M. Bastion, Jr., and ending Maj. Peter J. Eidenbery, III, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of September 17, 1984.

Air Force nominations beginning Robert D. Adams, and ending John C. Trittschuh, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of September 17, 1984.

IN THE ARMY

Army nominations beginning Margarette D. Dibenedetto, and ending Marc S. Willey, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of September 17, 1984.

IN THE NAVY

Navy nominations beginning James David Acoba, and ending William Cleve Woodward, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of September 17, 1984.

IN THE NAVY AND AIR FORCE

Navy and Air Force nominations beginning Cdr. Michael L. Coats, and ending Lt. Col. Richard M. Muliane, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of September 17, 1984.

HOUSE OF REPRESENTATIVES—*Thursday, October 4, 1984*

The House met at 10 a.m.

The Reverend Dr. Mark S. Anschutz, D.D., rector, Christ Church, Alexandria, VA, offered the following prayer:

Almighty God, bless this bright land that Thou hast lifted between the seas: Her lonely wilds, her rich earth beneath our feet, her pulsing rivers, her splendid heights, the teeming cities and quiet villages of her landscape.

Bless Lord God this body of persons assembled. Give them minds and hearts this day and always which will allow them to wisely apply the fairness of the freedom we proclaim in this land. Let the laws they will create this day enshrine and reflect Your laws and be a mark of Your love on every citizen of this land. Inspire with vision every Member of this council that in seeking Your truth they may be purified, this Republic may be strengthened and Thy glory done.

Inspire us with respect for the dignity of every citizen of this land and especially those whom it would be easy to forget, the poor, the homeless and destitute, the old and the sick, and all who have none to care for them. Set us not on selfish paths Lord God, but on Your high purposes, that we may heal all those who are broken in body or spirit and turn their sorrow into joy.

And finally, Lord God, lest we forget, look down and visit the families of those elected to this body—the spouses and children and grandchildren of this assemblage. Be Thou their guide and their strength this day and evermore, for it is into Thy care that we entrust them and we pray that Thy love would encompass them and guide them. And this we pray as well for the staffs of these Thy servants assembled. All of this and so much more we say in the name of our Creator God. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. DAUB. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. DAUB. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 333, nays 28, answered "present" 4, not voting 67, as follows:

[Roll No. 441]

YEAS—333

Ackerman	Daub	Hillis
Addabbo	de la Garza	Holt
Akaka	Dellums	Hopkins
Albosta	Derrick	Horton
Alexander	DeWine	Hoyer
Anderson	Dicks	Hubbard
Andrews (NC)	Dingell	Huckaby
Andrews (TX)	Donnelly	Hughes
Annunzio	Dorgan	Hunter
Archer	Dowdy	Hutto
AuCoin	Downey	Hyde
Badham	Dreier	Ireland
Barnard	Duncan	Jenkins
Bartlett	Dwyer	Johnson
Bateman	Dyson	Jones (OK)
Bates	Early	Jones (TN)
Bedell	Eckart	Kaptur
Beilenson	Edwards (AL)	Kasich
Bennett	Edwards (CA)	Kastenmeier
Bereuter	Edwards (OK)	Kazen
Berman	English	Kemp
Bethune	Erdreich	Kennelly
Bevill	Evans (IL)	Kildee
Bilirakis	Fazio	Kindness
Bliley	Fiedler	Kleczka
Boehlert	Fields	Kogovsek
Boland	Fish	Kolter
Boner	Flippo	Kostmayer
Bonior	Florio	Kramer
Bonker	Foglietta	Lagomarsino
Borski	Foley	Lantos
Bosco	Ford (TN)	Latta
Boucher	Frank	Leach
Boxer	Franklin	Leath
Breaux	Frenzel	Lehman (CA)
Britt	Frost	Lehman (FL)
Brown (CA)	Fuqua	Leland
Broyhill	Garcia	Lent
Bryant	Gekas	Levin
Burton (CA)	Gephardt	Levine
Burton (IN)	Gibbons	Levitas
Byron	Gilman	Lewis (CA)
Campbell	Glickman	Lewis (FL)
Carney	Gonzalez	Lipinski
Carper	Gore	Livingston
Carr	Gradison	Lloyd
Chandler	Gramm	Loeffler
Chappell	Gray	Long (LA)
Clarke	Green	Lott
Clinger	Gregg	Lowry (WA)
Coats	Guarini	Luken
Coleman (MO)	Gunderson	Lundine
Coleman (TX)	Hall (OH)	Lungren
Conable	Hall, Ralph	MacKay
Conte	Hall, Sam	Marlenee
Conyers	Hamilton	Martin (IL)
Cooper	Hammerschmidt	Martin (NY)
Corcoran	Hance	Martinez
Courter	Hansen (ID)	Matsui
Coyne	Hansen (UT)	Mazzoli
Craig	Hartnett	McCain
Crane, Daniel	Hatcher	McCloskey
Crane, Philip	Hayes	McCollum
D'Amours	Hefner	McCurdy
Daniel	Hertel	McDade
Darden	Hightower	McEwen
Daschle	Hiler	McHugh
McKernan	Rangel	Spence
McNulty	Ratchford	Spratt
Mica	Ray	Staggers
Michel	Regula	Stokes
Mineta	Reid	Stratton
Minish	Richardson	Studds
Moakley	Ritter	Stump
Molinari	Robinson	Sundquist
Mollohan	Rodino	Swift
Montgomery	Roe	Synar
Moody	Rogers	Tallon
Moore	Rostenkowski	Tauzin
Moorhead	Roth	Taylor
Morrison (CT)	Roukema	Thomas (CA)
Morrison (WA)	Rowland	Thomas (GA)
Mrazek	Roybal	Torres
Murphy	Russo	Torricelli
Murtha	Savage	Towns
Myers	Sawyer	Valentine
Natcher	Schaefer	Vander Jagt
Nelson	Scheuer	Vento
Nichols	Schneider	Volkmer
Nielson	Schulze	Watkins
Nowak	Schumer	Waxman
Oakar	Seiberling	Weaver
Obey	Sensenbrenner	Weber
Olin	Sharp	Weiss
Ortiz	Shaw	Whitehurst
Owens	Shelby	Whitley
Oxley	Shumway	Whitten
Packard	Shuster	Williams (OH)
Panetta	Siljander	Winn
Parris	Sisisky	Wirth
Patterson	Skeen	Wise
Paul	Skelton	Wolf
Pease	Slattery	Wolpe
Petri	Smith (FL)	Wortley
Pickle	Smith (IA)	Wright
Porter	Smith (NE)	Wyden
Price	Smith (NJ)	Wylie
Pritchard	Smith, Robert	Yates
Pursell	Snowe	Yatron
Quillen	Snyder	Young (MO)
Rahall	Solarz	Zschau

NAYS—28

Broomfield	Goodling	Roemer
Brown (CO)	Harkin	Sabo
Chappie	Hawkins	Schroeder
Clay	Jacobs	Sikorski
Coughlin	Jeffords	Smith, Denny
Dannemeyer	Mack	Solomon
Durbin	Markey	Stenholm
Emerson	Penny	Walker
Evans (IA)	Ridge	
Gejdenson	Roberts	

ANSWERED "PRESENT"—4

Dymally	McCandless
Jones (NC)	St Germain

NOT VOTING—67

Anthony	Hall (IN)	Patman
Applegate	Harrison	Pepper
Aspin	Heftel	Rinaldo
Barnes	Howard	Rose
Biaggi	LaFalce	Rudd
Boggs	Long (MD)	Shannon
Brooks	Lowery (CA)	Simon
Cheney	Lujan	Stangeland
Coelho	Madigan	Stark
Collins	Marriott	Tauke
Crockett	Martin (NC)	Traxler
Davis	Mavroules	Udall
Dickinson	McGrath	Vandergriff
Dixon	McKinney	Vucanovich
Edgar	Mikulski	Walgren
Erlenborn	Miller (CA)	Wheat
Fascell	Miller (OH)	Whittaker
Feighan	Mitchell	Williams (MT)
Ferraro	Neal	Wilson
Ford (MI)	O'Brien	Young (AK)
Fowler	Oberstar	Young (FL)
Gaydos	Ottinger	
Gingrich	Pashayan	

□ 1020

So the Journal was approved.

The result of the vote was announced as above recorded.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate has passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 5121. An act to designate certain national forest system lands in the State of Virginia as wilderness, and for other purposes;

H.R. 5271. An act to extend the Wetlands Loan Act; and

H.R. 5479. An act to amend section 504 of title 5, United States Code, and section 2412 of title 28, United States Code, with respect to awards of expenses of certain agency and court proceedings, and for other purposes.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2303) entitled "An act to revise and extend the Alcohol and Drug Abuse and Mental Health Services block grant."

The message also announced that the Senate agrees to the amendment of the House to the bill (S. 543) entitled "An act to designate certain national forest system lands in the State of Wyoming for inclusion in the National Wilderness Preservation System, to release other forest lands for multiple use management, to withdraw designated wilderness areas in Wyoming from minerals activity, and for other purposes."

The message also announced that the Senate agrees to the amendments of the House to the bill (S. 1711) entitled "An act to extend Patent Numbered 3,376,198, and for other purposes."

The message also announced that the Senate agrees to the amendment of the House to the bill (S. 2125) entitled "An act to designate certain national forest system lands in the State of Arkansas for inclusion in the National Wilderness Preservation System, and for other purposes."

The message also announced that the Senate had passed bills and concurrent resolutions of the following titles, in which the concurrence of the House is requested:

S. 864. An act to amend the Volunteers in the Parks Act of 1969, and for other purposes;

S. 1510. An act to establish uniform single audit requirements for State and local governments who receive Federal assistance and for recipients of Federal assistance from such governments, and for other purposes;

S. Con. Res. 149. Concurrent resolution directing the Secretary of the Senate to make corrections in the enrollment of S. 543;

S. Con. Res. 150. Concurrent resolution directing the Secretary of the Senate to make corrections in the enrollment of S. 2303; and

S. Con. Res. 151. Concurrent resolution to correct technical errors in the enrollment of the bill H.R. 4164.

ONE OF WEST VIRGINIA'S OWN: JON McBRIDE

(Mr. RAHALL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RAHALL. Mr. Speaker, it is with great pride that I rise today to extend our best wishes to the crew of the space shuttle *Challenger* which is scheduled to lift off tomorrow morning at 7 a.m. from Cape Canaveral, FL. I will be, along with Chairman FUQUA, attending the lift-off to bid a bon voyage to the pilot of *Challenger*, U.S. Navy Comdr. Jon McBride, from my hometown of Beckley, WV.

Commander McBride will pilot the space shuttle carrying its largest crew ever, including two women, as well as a Canadian astronaut. We in West Virginia are proud and excited that one of our own was chosen to lead this historic mission. His distinguished naval career brought him three air medals including the National Defense Medal and we have always admired his dedication to the service. Now, Jon McBride will be traveling into space and taking a piece of the Mountaineer State with him.

Jon's colleagues at NASA have spoken very highly of him and praised his leadership abilities, qualities we have admired in Jon for a long time. West Virginians are proud that NASA has placed their trust in one of our own and we are confident that Jon will lead the U.S.A. and West Virginia to greater heights.

ODE TO A HUNDRED NEROS

(Mr. CONTE asked and was given permission to address the House for 1 minute.)

Mr. CONTE. Mr. Speaker—

Last night I had the strangest dream as I lay in my bed
I saw a lovely chamber decked in gold, blue, white and red.
Ninety-nine men and women sat and played their violins,
But instead of a conductor stood a man in stripes and pins.
"It's only a billion bucks!" he cried and pleaded for their votes.
The orchestra found harmony and put it in their notes.
Each player took a turn with an amendment as baton,
Each movement ever louder, as the piece dragged on and on.
Then suddenly the drapes caught fire and flames shot up the wall,
And soon the room was full of smoke and busts began to fall.
The pillars cracked—the orchestra responded right on key,
Ignoring all around them, not resisting any spree.
What happened next, I do not know. God saved me, I awoke,
But one half of the Capitol was left in dust and smoke.
The symphony composed last night would put Mozart to shame—
But the orchestra's a laughingstock, and gluttony's to blame.

MAKING IN ORDER CONSIDERATION TODAY OF JOINT RESOLUTION MAKING FURTHER CONTINUING APPROPRIATIONS FOR 1985

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that it shall be in order today to consider in the House, any rule of the House to the contrary notwithstanding, a joint resolution making further continuing appropriations for the fiscal year 1985 to be introduced by myself, and that debate be limited to 1 hour, the time to be equally divided between myself and the gentleman from Massachusetts [Mr. CONTE], and that the previous question shall be considered as ordered on the resolution to final passage without intervening motion.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

Mr. WALKER. Mr. Speaker, reserving the right to object, I reserve the right to object simply to inquire what the nature of the continuing resolution that we are contemplating bringing up here would be.

I yield to the gentleman for his response.

Mr. WHITTEN. I thank the gentleman for his inquiry.

The resolution extends the authority for governmental programs which do not have appropriation bills enacted into law until 6 o'clock tomorrow afternoon. Involved in this, as the gentleman knows, are the delays that are being caused on the other side of the Capitol. I realize that it might not be completely satisfactory to the other body, but I think it is not our fault that we are in this situation, and so, by providing this extension it leaves the House where we are keeping Government programs in operation. The other body will have the opportunity to amend the time and if they do we will see what their feeling is about how much time is needed for an extension. But I thought that we, and I recommended this to the Speaker, I thought that we in the House should limit the time extension to a short period since it is not our fault, and let the other body determine how many days they say it will have to be.

Mr. WALKER. Further reserving the right to object, then I understand what we are doing is extending the present continuing for another 2 days?

Mr. WHITTEN. That is right.

Mr. WALKER. Is that an absolutely clean continuing that we are extending for 2 days?

Mr. WHITTEN. It merely extends the current rate until 6 p.m. tomorrow.

Mr. WALKER. That includes the $30 million program that was in it that was over and above the clean continuing previously?

Mr. WHITTEN. It includes all programs conducted in fiscal year 1984.

Mr. WALKER. That is a shame.

I would say to the gentleman, further reserving the right to object, that we do not want to do too much fixing of blame around here. I think the gentleman will admit had we passed a clean continuing here several days ago when we had an opportunity to do so, we might not be faced with this situation either.

So I think there might be a little bit of blame that transpires to this body as well.

I yield to the gentleman.

Mr. WHITTEN. That is a matter of opinion, and of course I cannot differ with the gentleman's opinion; I have my own. May I say with regard to the $30 million, my recollection is that while there was no individual authorization bill for it, it was authorized by virtue of being contained in the continuing resolution which has the full force and effect as though it had been a separate action. So it is authorized but not in the way it is usually done.

Mr. WALKER. Mr. Speaker, further reserving the right to object, of course that is one of the problems we have got around here. We have been doing a lot of authorizing in appropriations bills, too, which is something we ought not be doing. I think that is one reason why we find ourselves in the problem of massive continuing resolutions.

I yield to the gentleman.

Mr. WHITTEN. It is not of our choice, as the gentleman knows; now the legislative committees in certain instances are asking us to include provision for certain items.

Mr. WALKER. Further reserving the right to object, in the case of this program, I do not think the authorizing committees are making a great demand; I think we have one Member making a great demand on that one. We have gone ahead and authorized and appropriated on behest of one Member. It is not a problem with authorizing committees on the program that we are talking about in this particular continuing resolution.

□ 1030

Mr. WHITTEN. Well, may I say that there are just lots of things that we dislike about what we are having to do but insofar as I know, this is the only procedure that is available to keep the Government in business.

Mr. WALKER. Well, I would simply say to the gentleman that as we find ourselves caught in a box somewhat of our own making we ought not be too hasty in fixing blame. That is not to absolve the other body of their participation in the present crisis, but we also share a little bit of the problem.

Mr. Speaker, I withdraw my reservation of objection.

Mr. CONTE. Mr. Speaker, reserving the right to object, I have a question. The continuing resolution that you are propounding now goes to what time Friday night?

Mr. WHITTEN. It goes to 6 o'clock tomorrow afternoon.

Mr. CONTE. To 6 o'clock.

Mr. WHITTEN. I understand that the religious holiday begins at 6 o'clock and that is the reason for the 6 o'clock time.

Mr. CONTE. The chairman asked if I would go along with this. I said yes, but I would prefer to bring this matter to a crisis here and shut the Government down. I think that is the only way you are going to move that other body over there.

Mr. Speaker, I withdraw my reservation of objection.

Mr. SMITH of Florida. Mr. Speaker, reserving the right to object, I just would like to get a clarification from the gentleman from Mississippi [Mr. WHITTEN]. If I am not mistaken, the remarks made by the gentleman from Pennsylvania [Mr. WALKER] with regard to his possible reservations were that somebody did some legislating on an appropriations bill which has created this somewhat of a morass, if I am not mistaken; is that correct?

Mr. WHITTEN. Well, I think that is what he has said, but the fact is that a continuing resolution is a hybrid. It is not a general appropriation bill. It may both authorize and appropriate.

Mr. SMITH of Florida. Is not that the crime package that was just put legislatively on the appropriations bill by the gentleman on the other side?

Mr. WHITTEN. That was added in the House on the motion to recommit offered by the minority.

Mr. SMITH of Florida. Is not that the package that the President wants stripped off now before he will allow the continuing resolution?

Mr. WHITTEN. I do not know the President's current position on that.

Mr. SMITH of Florida. I withdraw my reservation of objection.

Mr. CONTE. Reserving the right to object, Mr. Speaker, I am not going to let the gentleman from Florida get away with that without an argument.

The whole thing started here 2 weeks ago. I do not know how you voted, but I was on that floor begging that you would accept the rule. The Rules Committee was responsible. They passed out a clean rule and you turned it down. The majority over there turned it down.

It went back to the Rules Committee and that is where it got loaded down. After that, the crime bill was put on. Well, why not? The rule made in order three authorizations, and two were included by the House.

Mr. SMITH of Florida. Would the gentleman yield?

Mr. CONTE. I will be glad to yield to the gentleman.

Mr. SMITH of Florida. I thank the gentleman for yielding.

Mr. Speaker, if I am not mistaken, what I was referring to was that single piece of legislation that was added on the basis of the motion to recommit. Not on the basis of the rule, Mr. CONTE.

I appreciate what you are saying. You are a gentleman of your word and that is the point I made.

Mr. CONTE. Further reserving the right to object, Mr. Speaker, the gentleman is missing the point. The point is that when we had the bill here the first time, I said accept this rule. This rule provides for only one amendment. If you do not accept the rule, I said we are going to have a monumental mess.

That is exactly what has happened. The authorizations and the crime bill were added here, and the thing is falling apart.

Mr. SMITH of Florida. Will the gentleman yield?

Mr. CONTE. Sure.

Mr. SMITH of Florida. Mr. Speaker, I have a great amount of respect and admiration for the gentleman, but am I not mistaken that even the rule which was turned down provided for a motion to recommit? Is that not so?

Is not the crime package which we are now discussing, which is still on that CR, was added on the motion to recommit and not on any change that was made in the rule? Am I not correct?

Mr. CONTE. I am pleased that the gentleman from Florida asked that question, because had that rule that I fought for been adopted, the motion to recommit to add the crime bill would have not been germane. That is what I was arguing about.

Mr. SMITH of Florida. I thank the gentleman.

Mr. CONTE. I yield to the gentleman from Mississippi.

Mr. WHITTEN. I thank the gentleman for yielding to me. May I say that we face a very serious situation here and I hate to see us get into the kind of acrimonious debate that we see on the other side of the Capitol. I urge everyone to refrain from anything that stirs this matter up and go ahead and pass this continuing resolution extension.

Mr. CONTE. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

FURTHER CONTINUING APPROPRIATIONS, FISCAL YEAR 1985

Mr. WHITTEN. Mr. Speaker, pursuant to the order of the House today, I ask unanimous consent that the Committee on Appropriations be discharged from further consideration of the joint resolution (H.J. Res. 656) making further continuing appropriations for fiscal year 1985, and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 656

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That section 102(c) of the joint resolution enacted by Congress on October 1, 1984 (H.J. Res. 653), is hereby amended by striking out "October 3, 1984" and inserting in lieu thereof "six o'clock post meridiem, eastern daylight time, October 5, 1984".

The SPEAKER. Pursuant to the order of the House of today, the gentleman from Mississippi [Mr. WHITTEN] will be recognized for 30 minutes and the gentleman from Massachusetts [Mr. CONTE] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Mississippi [Mr. WHITTEN].

Mr. WHITTEN. I yield myself such time as I may consume.

Mr. Speaker, I do not think I need to discuss this further except to say that the leadership on the Senate side has asked our cooperation in trying to bring this to solution. We are trying to cooperate. We are doing our very best to bring this matter to a final conclusion with the least possible disruption. As I said earlier, I have introduced a resolution that provides continuing authority for the Government until 6 o'clock tomorrow afternoon, and the reason for the 6 o'clock time is that we have a religious holiday which starts then which we always respect and honor.

So for that reason, without further ado, let us move ahead because we made it quite plain that we cooperated with the other body. They may add some days to it, but let us go ahead and do it and without further ado, I think we need to act.

Mr. CONTE. Mr. Speaker, I have no requests for time.

Mr. WHITTEN. Mr. Speaker, I reserve the balance of my time.

Mr. HOYER. Mr. Speaker, will the chairman yield?

The SPEAKER. The gentleman from Massachusetts [Mr. CONTE] has time.

Mr. CONTE. I yield to the gentleman from Maryland.

Mr. HOYER. I thank the gentleman for yielding and I am rising in support of the resolution introduced by the chairman.

Mr. Speaker, I, too, have a resolution to put in and I am going to put it in, which runs us until the 9th. I realize everybody does not want to be here. I tend to agree with the remarks the gentleman from Massachusetts [Mr. CONTE]. I am also supportive of the leadership of the chairman of the Committee on Appropriations [Mr. WHITTEN], who is trying to insure the passage of legislation to fund our Government for the coming year. But, I would bring to the attention of the House, as the chairman knows and the ranking minority member knows, the last time we shut down the Government it cost us $88 million for 1 day on November 23, 1981.

It is critical that we pass this resolution, but Mr. Speaker and Mr. Chairman and Mr. CONTE, I am putting in a resolution which will hopefully be there if we are not successful in passing a long-term continuing resolution by Friday at 6 p.m. If that does not happen, my resolution will be before us and ready to move an additional extension until the 9th of this month. If we cannot move in a timely fashion, it will be costing us $88 million a day.

We have already disrupted the services of this Government and there is enough shame to go around for all of us and I thank the ranking minority member for yielding and I thank the chairman for his leadership.

I urge the immediate adoption of the resolution offered by Chairman WHITTEN.

Mr. CONTE. Mr. Speaker, I reserve the balance of my time.

The SPEAKER. Pursuant to the order of the House, the previous question is considered as ordered on the joint resolution.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and a motion to reconsider was laid on the table.

KENNEDY CENTER

(Mr. MOLINARI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MOLINARI. Mr. Speaker, the Department of the Treasury has been outdoing itself as the protector of the American taxpayer. Kennedy Center borrowed $20.4 million in 1969 to finance its parking garage. Since then, the Center hasn't paid 1 cent of interest—and the interest alone on the debt today is over $33 million. Treasury said enough is enough and told the Kennedy Center that the interest could not be deferred any longer—come January 1, 1985, we must act and protect the taxpayer. They came up with an ingenious solution: Drafting a bill together with OMB and the Kennedy Center representatives which would grant total forgiveness of the $33 million of accrued interest.

Perceiving, however, that the rights of the taxpayer would have to be protected in the future as well, Treasury agreed to forgive all future interest as it accrues for the next 33-plus years. Over a period of almost 50 years, not one penny of interest would be owed by the Center. Now we can all sit back and relax. As the legislation is enacted, Treasury has avoided the default of the Kennedy Center and has come to the aid of the taxpayer—aided and abetted by OMB, the Kennedy Center, and some very influential Members of Congress as well.

Treasury may have stumbled on a new solution to the Nation's budget deficit problem—simply waive the debt and in one bold stroke the problem we thought so difficult will be solved.

□ 1040

DO NOT SHUT DOWN GOVERNMENT

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks and include extraneous matter.)

Mrs. SCHROEDER. Mr. Speaker, I just want to pick up on what the gentleman from Maryland was talking about earlier, as we continue with this discussion of the continuing resolution.

As of midnight last night, huge segments of the Government have no money with which to operate. Under Justice Department opinions and OMB circulars, agencies whose appropriations have lapsed must begin an orderly termination of their operations. This includes sending nonessential employees home.

This leads to a huge waste of taxpayer's money. The big shutdown in November 1981 cost the taxpayer at least $82 million. The largest portion of this cost is the amount we pay civil servants who are sent home. In a study of the November 1981 shutdown, the Subcommittee on Civil Service found that all 670,000 employees sent home were paid for the day.

If the administration forces a shutdown today, a similar waste will occur. I am putting in the RECORD an analysis which shows that the cost of closing down the Government today is more than $65 million. Each subsequent day of shutdown will cost another $60 million.

At a time of $180 billion deficits, I cannot understand how we can pay people for not working.

So, I have a suggestion for the President. Under the Attorney General's opinion, employees essential for the protection of property can be kept on duty. Well, I consider $65 million of taxpayer's money to be a big piece of property. I, therefore, believe that, to protect this asset, the President ought to declare all workers essential and avoid the waste of $65 million.

The taxpayer should not end up having to cough up $65 million because we can't get our act together.

Mr. Speaker, for the information of my colleagues I am including in the RECORD some statistics on the cost of shutting down the Government.

Cost of shutting down the Federal Government October 4, 1984

Total number of Federal employees: (OPM Figures, May 31, 1984)	2,871,575
Employees whose salaries do not come from annual appropriations (such as Postal Service, TVA, and Federal Reserve Board)	730,219
Employees whose salaries are covered by appropriations measures already passed (Energy, Water; Commerce, State; HUD, Independent Agencies; Legislative)	435,820
Employees in agencies which have been declared essential (Defense Department)	1,061,034
Federal employees in agencies subject to shutdown on October 4, 1984	644,502
Employees declared essential in agencies subject to shutdown (Based on 10 percent average found in shutdown report [1])	64,450
Total number of Federal employees to be sent home due to shutdown	580,052
Total pay of employees sent home due to shutdown (Based on average daily pay of $102.17)	$59,263,912
Agency administrative costs (Based on average of $9.08 per employee sent home from shutdown report [1])	$5,277,872
Central agency costs (including cost to GSA of securing Federal buildings)	$1,000,000
Total cost of Government shutdown	$65,530,785

[1] Shutdown report is the staff report of the Subcommittee on Civil Service of the Committee on Post Office and Civil Service, U.S. House of Representatives, March 25, 1982, entitled "Cost of Shutting Down Federal Government on November 23, 1981" (Committee Print 97-6).

KENNEDY CENTER BAILOUT

(Mr. SOLOMON asked and was given permission to address the House for 1 minute.)

Mr. SOLMON. Mr. Speaker, I was horrified to learn this morning of a moonlight raid on the Federal Treasury by bandits wearing black ties and ball gowns.

I am speaking of the last minute maneuver by the other House to attach to the continuing resolution, funds for the taxpayer bailout of the Kennedy Center.

I testified against this sweetheart deal before the Public Works Committee and at that time, members of the committee acted responsibly and came up with a fair compromise which would forgive the unpaid interest, but also put the Kennedy Center on a reasonable repayment schedule.

It seems obvious now, however, that some Kennedy Center supporters merely considered this compromise as a delaying tactic to stall any real action in the House, until their friends in the other House could tack on their bailout scheme in the waning hours of the session.

If this bailout goes through, we will be forcing the taxpayers of New York, of Ohio, of all the States, to purchase what would amount to the most expensive and the silliest night at the opera since the Marx brothers.

I urge my colleagues who will sit on the conference committee for the continuing resolution to remove this sweetheart deal from the final version of the bill.

BREACH OF FAITH ON KENNEDY CENTER

(Mr. DAUB asked and was given permission to address the House for 1 minute.)

Mr. DAUB. Mr. Speaker, I join my colleagues who have questioned the Kennedy Center bailout scheme. A good-faith effort was made by the members of the Public Works and Transportation Subcommittee on Public Buildings and Grounds to settle the problem. The settlement was most generous. It waived all past interest, over $30 million. In 1987, when the payment scheme would come into play, the Kennedy Center would not be expected to pay the $3 million annual compounded interest, nor would it even have to pay the $1.2 million in simple interest. In fact, it would only be expected to pay interest of $150,000.

The compromise was negotiated over a 2-month period and was accepted by the Kennedy Center. An amendment was unanimously approved by the Public Buildings and Grounds Subcommittee during markup. It really wasn't a good deal for the American taxpayer, but the best the subcommittee could forge knowing the powerful friends the Center has in the Congress.

The Center is guilty of a serious breach of faith by not proceeding to seek passage of the compromise after it was accepted. They made a serious mistake.

PRAISE FOR DAN LUNGREN AND BARNEY FRANK

(Mr. GARCIA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GARCIA. Mr. Speaker, today's Wall Street Journal—and it is quite unusual for someone like me to be quoting from the Wall Street Journal—but today there was an article in the political section with which I must concur with. It was written about two of our colleagues, the gentleman from California, DAN LUNGREN, a Republican and somewhat of a conservative, and BARNEY FRANK, a Democrat and a liberal. It talked about these two gentlemen and their role in the Immigration Reform Act of this year.

Mr. Speaker, I must say that I agree wholeheartedly with the article. I think these two gentlemen deserve our praise. They stuck to their word. I guess the question of immigration reform for the year 1984 is finished, but I would say to both my colleagues DAN LUNGREN and BARNEY FRANK that those of us who understand politics know that people, regardless of their philosophy, can join heads together for the good of this country. That is what politics is all about.

WHERE IS MY GOLF TROPHY?

(Mr. BURTON. of Indiana asked and was given permission to address the House for 1 minute.)

Mr. BURTON of Indiana. Mr. Speaker, throughout this year I have been appalled at how the majority has stretched the rules of this House. I have continually tried to be quiet on this issue and have pledged to not attack any Member on this issue, but now, Mr. Speaker, you and the majority have gone too far. Even the sacred rules of golf have been violated.

For 5 long years you have had as the individual golf champion of Congress a member of your party, one MARTY RUSSO of Illinois. Now, when we, the Republicans, finally get a champion, me, who defeated your 5-year paragon of virtue, Mr. RUSSO, he will not abide by the rules and give me the winner's cup.

Even the rules of this sacred tournament have been violated. When, oh when, Mr. Speaker, will you make the members of your party abide by the sacred rules of this tournament?

I await with eager anticipation my trophy.

MANDATORY CONVICTION: USE OF FIREARMS

(Mr. REID asked and was given permission to address the House for 1 minute and to revise and extend his remarks.

Mr. REID. Mr. Speaker, statistics alone do not measure the impact that the commission of a crime can have on even one victim. And though some studies indicate that the occurrence of violent crimes—murders, forcible rapes, robberies, and aggravated assaults—is down, most people's fears about those crimes being inflicted upon them or someone they love remain very high.

Compounding this concern is the public doubt that the courts have the ability to convict and sentence criminals, especially those who use firearms.

That is why I'm cosponsoring H.R. 2193, legislation to establish a mandatory, minimun 5-year sentence for persons convicted of using a firearm during the commission of a Federal felony.

This bill would put an end to practices under current law that allow considerable discretion in determining the length of a jail term to be served by a convicted felon.

Under this legislation, first offenders using a firearm would receive a prison sentence of not less than 5 years. Second and subsequent offenses would draw 10 years or more.

There is no doubt that we need tougher crime controls, and this is just one important way to show our Nation that we are prepared to legislate both a practical and necessary approach to help resolve this terrible problem.

A BALANCED BUDGET AND LOWER INTEREST RATES

(Mr. CRAIG asked and was given permission to address the House for 1 minute.)

Mr. CRAIG. Mr. Speaker, for some months many of us have stood on the floor talking about the significance of this House's action to move on a constitutional amendment to balance the Federal budget.

Oppenheimer Capital Corp. of New York is now completing a most interesting survey of a variety of their investors in which they handle a $250 billion portfolio. This study now reveals that these investors believe, to the tune of 97 percent, that if Congress approved of an amendment to the Constitution to balance the budget, that long-term interest rates would drop dramatically; 55 percent believe that they would drop within 6 months.

This same group also believes that short-term interest rates would drop significantly; 65 percent of that group believe that they would drop significantly within 6 months.

Is it not interesting, Mr. Speaker? Is it not interesting that we stand in the way of the American people once again?

□ 1045

MYTHS ABOUT THE BUDGET

(Mr. ROEMER asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. ROEMER. Mr. Speaker, headed home, I bet I know what the main topic of your first speech to the homefolk will be—the budget and the budget deficit. I wonder how many of the following budget myths you will use in that first speech:

Myth No. 1: Deficits don't matter. Deficits this big do. With the deficit we have now, we suffer the highest real interest rates in American history. With the deficits we have now, interest on the national debt is the third largest item in the budget. Deficits matter.

Myth No. 2: Growth alone will balance the budget. Growth is important, crucial in fact, but unless we see unemployment at 3½ percent and real GNP growth at 8½ percent per annum for a decade, you must see that the deficit problem will not grow away.

Myth No. 3: Spending cuts alone will balance the books. Wrong. Spending is too high, and we need to cut from foreign aid, to the military, to entitlements. But we cannot cut $200 billion a year.

And finally, myth No. 4: All we have to do is raise taxes and eliminate the budget. We have been raising taxes for 3 years, and the deficit grows. We have increased Social Security taxes, users fees, excise taxes, and gasoline taxes, and the deficit grows.

Do America a favor, will you? When you go home, leave the myths in Washington.

THE KENNEDY CENTER BAILOUT

(Mr. SHAW asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. SHAW. Mr. Speaker, I think all of us were at one time or another—and I certainly was—taught at a very early age that a man's contract is his word and his word is his bond. Evidently these values do not apply to the Kennedy Center.

The Kennedy Center entered into a contract with the Federal Government in the form of a bond that it signed years ago in which it borrowed $20 million from the Federal Government and promised to repay that obligation, together with the accrued interest. Over $30 million of interest has now accrued on that obligation, and they have yet to pay 1 cent back to the Federal Government, at a time when they continue to pay large fees to a parking franchise company and on an additional debt that they have incurred. Then the same group came to the Subcommittee on Public Buildings and Grounds of the Committee on Public Works and Transportation, of which I am the ranking member, and tried to work out a situation for a compromise so that this indebtedness could be reduced to a manageable form. We on the subcommittee worked with them, and they agreed to a solution. Now, after forum shopping, they have made a better deal in the other body.

Mr. Speaker, I hope that our conferees will hold firm and reject this particular addition to the continuing resolution and reject the Kennedy Center bailout.

KENNEDY CENTER'S SELF-INTERESTS SERVED BY BAILOUT

(Mrs. JOHNSON asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. JOHNSON. Mr. Speaker, the other body in our preadjournment legislative free-for-all has included a provision in the continuing resolution to bail out the Kennedy Center.

This is not a new proposal but one that, because it could not make it through in the normal legislative process, is now being forced upon us.

Early this year this proposal was reviewed in great depth by one of our subcommittees and, quite frankly, this subcommittee concluded the Federal Government could do better.

The Center has the financial capability to pay more than what is being proposed here and there are ways of increasing revenues from the parking garage so they can pay off their debt.

The Center has already demonstrated this.

They have paid off more than $6 million in loans and interest to the private sector but for some reason they do not have 1 cent to pay to the taxpayers.

If we were to raise the parking fee at the garage, which is now only $3, by only $1, we could raise an additional $600,000 annually.

A surcharge on parking, earmarked specifically for repayment of the Center's debt, is another way of raising additional revenues.

Mr. Speaker, the House did propose a substitute to the proposal of the other body; a substitute our friends at the Kennedy Center agreed to.

For some reason, as has been pointed out already, the Center failed to mention this to anyone preferring instead to manipulate this Congress into protecting the Center's own self-interests.

I would urge the conferees to delete this provision in the continuing resolution so that we can come up with a solution which benefits the Center, but not at the total expense of the American taxpayer.

GOVERNMENT STALLED, FEDERAL WORKERS TOLD TO GO HOME

(Mr. PARRIS asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. PARRIS. Mr. Speaker, the failure of this Congress to enact a budget and pass the various appropriation bills has created an annual event where we are faced with shutting down the Federal Government and sending the Federal work force home. A spokesman for the Office of Personnel Management has just reported on local radio that the Office of Management and Budget has directed every Federal worker in this town to be sent home. Several hundred thousand people have just been released from their workplace. Every Federal employee will lose his or her day's pay for the privilege of watching this Congress ignore its responsibilities. How can anyone defend this situation as anything except the worst of all personnel-management practices.

It costs millions of dollars for this charade, and the loss in productivity is enormous. The system has been reduced to chaos and is simply not working.

Mr. Speaker, when will the majority in this House come to its senses and do something about the legislation that has been pending for 4 years to correct this problem? It is absolutely absurd that this kind of situation can continue to persist. To continue to ignore it is indefensible. I would hope the Committee on Post Office and Civil Service would report that bill immediately.

FEMA STRIKE FORCE

(Mr. ANDREWS of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ANDREWS of Texas. Mr. Speaker, last year, when Hurricane Alicia left the Houston area with 11 dead and $1.7 billion in property damage, we were relatively lucky. For Alicia was only a 3 on the National Weather Service's 1-to-5 hurricane scale. Experts are unanimous in their prediction, however, that it is only a matter of time before we face the devastation of a full-force hurricane. It is only a matter of time before our ability to effectively respond is truly tested.

During hearings last year in my district following Alicia, I learned a great deal about issues associated with hurricane preparedness. I was appalled to find that after Alicia struck on August 18, 1983, the first FEMA emergency center did not open until 5 days later. That lagtime is both dangerous and unnecessary.

For this reason, I have introduced legislation to amend current law to allow FEMA to come into an area when a disaster appears imminent. In this way, disaster-relief specialists with their expertise can "get the lay of the land" before disaster strikes, quickly determine the best locations for service centers, and meet with local officials to inform, coordinate, and facilitate the delivery of these vital services.

I urge sponsorship of this worthwhile bill.

LOOKING AHEAD TO THE 1985 FARM BILL

(Mr. ROTH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROTH. Mr. Speaker, before this Congress adjourns, I would like to address an issue which will await the 99th Congress, and that is our 1985 farm bill.

In the past 18 months we have made some improvements in our farm programs. We have seen extended credits, we have increased promotion of dairy products, and we have increased awareness of the importance of exports. These programs must continue next year. Milk-price supports must remain constant to ensure that our dairy farmers remain solvent and that our milk inventory remains manageable.

Mr. Speaker, in the next session I intend to press forward with my four-point export proposal and to guarantee that our exports of our farm products become an even greater priority so that our exports will become a major component of our 1985 farm bill.

INTRODUCTION OF LEGISLATION AFFECTING LIABILITY OF WMATA IN COMPENSATION CASES

(Mr. WOLF asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. WOLF. Mr. Speaker, today I have introduced legislation to change the effective date on which the Washington Metropolitan Area Transit Authority may be held liable in workers' compensation cases. This legislation is absolutely necessary in order to protect the Metro system from any retroactive lawsuits which could cause the Metro Area Transit Authority millions of dollars and thousands of suits thought to have already been settled.

Mr. Speaker, this is not right. "Jeopardy" may have been an entertaining game during the 1960's and the 1970's when much of the Metro rail system was under construction, but it is now 1984 and the Washington Metropolitan Area Transit Authority should not be held accountable for damage awards to workers who have already been compensated. I want to make clear to all the Members that $125 million has already been collected by Metro workers in these already-settled compensation cases.

Do we want to leave Metro open for millions more in liability cases? I think the answer is no. We are hopeful, with Senator WARNER and others working in the Senate, that somehow we can get this House to agree to do this. I know that organized labor does not necessarily want this to be done, but if they look at it, I think they will see it has merit and is to the benefit of everybody.

THE "GHOST WRITERS" AND THE KENNEDY CENTER

(Mr. BROWN of Colorado asked and was given permission to address the House for 1 minute.)

Mr. BROWN of Colorado. Mr. Speaker, the movies have "ghost busters," and we have "ghost writers." The ghost writers struck early in the morning yesterday to bail out the Kennedy Center, and what a bailout they wrote.

The Center was originally not supposed to cost the taxpayers a single penny, but now we have spent over $70 million for construction, maintenance, repairs, and operations. And it is not over yet. The bailout being proposed by our industrious colleagues will cost us up front over $40 million and, in the long run, perhaps as much as $800 million more.

I would ask the Members of this House, how many homeowners or farmers do you have in your districts who would like a deal where the interest on their mortgage was forgiven and the money they borrowed could be repaid for a little more than 25 cents on the dollar? If the folks down at the Kennedy Center can pull it off, we have only ourselves to blame.

Mr. Speaker, I urge the conferees to delete this provision from the bill.

□ 1100

GROWING EVIDENCES OF DEMOCRACY IN ARGENTINA AND THE PHILIPPINES

(Mr. PORTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PORTER. Mr. Speaker, I would like to commend the independent investigating commissions of both the Philippines and Argentina for their very brave and honest work. I hope that the administration is doing all it can to support their efforts.

In the Philippines, the independent commission investigating the assassination of Benino Aquino has boldly pointed its finger at the military. Any reprisals against the commissioners

should have the gravest repercussions on United States-Philippine relations.

In Argentina the Presidential commission investigating their dirty war of 1976–82 against their own people has identified 1,200 military and police personnel responsible for almost 9,000 disappearances.

As painful as these investigations must be, they are essential to the establishment of free societies. In contrast to totalitarian countries, where such investigations are unheard of, the work of these commissions is the clearest evidence of progress and hope toward true democracy and human rights.

HOW MUCH IS $157 PER MONTH?

(Mr. WALKER asked and was given permission to address the House for 1 minute.)

Mr. WALKER. Mr. Speaker, how much is $157 per month? That is a good chunk of the average family's mortgage payment or rent payment; $157 per month. That is a sizable portion of what it costs the average family to purchase something like a new car; $157 per month. That is more than enough to buy most major appliances for the average family's home; $157 per month. That is money most families need to pay for their children's education or to put food on the family's table; $157 per month. That is more than most families can afford to save each month; $157 per month. That is how much the Secretary of the Treasury tells us that Walter Mondale wants to take away from the average family in additional taxes.

LEGISLATIVE QUICK-FIX FOR KENNEDY CENTER

(Mr. HILER asked and was given permission to address the House for 1 minute.)

Mr. HILER. Mr. Speaker, the legislative quick-fix being proposed for the Kennedy Center is wrong and it is regrettable that we must resort to these 1-minute statements and special orders to debate this issue.

Amending the continuing resolution with this bailout provision, for which the House has gone on record opposing, and, in fact, has offered an alternative substitute, is perhaps one of the ugliest examples of how this institution operates in its closing days.

It is certainly below the dignity of this prestigious cultural center.

The very fact that we must consider this proposal, in this manner, is indicative that things have gone awry at the Center; beyond just the Center's ability to repay its debt on the parking garage.

In 1983, of the five productions presented in the Eisenhower Theater only one yielded a profit; the other four ran up a deficit of nearly half a million dollars.

The meetings of the board of directors are closed to the public prohibiting open access to what is going on.

The Center has yet to pay its proportionate share of the operation and maintenance costs it shares with the National Bank Service.

These are but a few of the very serious questions that have been raised regarding the Center's operations and questions I intend to pursue next year.

The Center may win the battle, but I can assure you that by forcing a legislative bailout using these end of the year tactics, they will lose the war.

I would urge my colleagues on the conference committee to delete this provision in the continuing resolution so that this issue might be considered fairly and openly in the House and in the proper legislative fashion.

THE BAILOUT OF THE KENNEDY CENTER

(Mr. GREGG asked and was given permission to address the House for 1 minute.)

Mr. GREGG. Mr. Speaker, there have been a number of speakers who have risen today to address this issue of the bailout of the Kennedy Center.

The problem is not that we do not support the arts or that we do not believe that the Kennedy Center has a great cultural tradition or is a resource for this Nation. The problem is the manner in which this is proceeding. The problem is that we are not being able to debate in the open and have a vote on the question of whether or not the Kennedy Center should be bailed out. The Kennedy Center is one single institution in this country of art and of theater. There are throughout the country millions, hundreds, anyway, thousands of institutions which deliver art in theater to the populace.

You have to wonder what would happen if we tried to bail out the State Street Theater in Ashland, NH. Clearly, it would not be allowed, and yet we are going forward with the Kennedy Center here in Washington.

I happen to enjoy theater, but I do not enjoy the theater of the absurd, and what we are doing here is clearly the theater of the absurd.

ATLANTIC STRIPED BASS CONSERVATION ACT

Mr. BEILENSON. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 591 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 591

Resolved, That at any time after the adoption of this resoluton the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 5492) to provide for the conservation and management of Atlantic striped bass, and for other purposes, and the first reading of the bill shall be dispensed with. All points of order against the consideration of the bill for failure to comply with the provisions of section 402(a) of the Congressional Budget Act of 1974 (Public Law 93-344) are hereby waived. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Merchant Marine and Fisheries, the bill shall be considered for amendment under the five-minute rule, and each section shall be considered as having been read. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as orderd on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER pro tempore. The gentleman from California [Mr. BEILENSON] is recognized for 1 hour.

Mr. BEILENSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Tennessee [Mr. QUILLEN], pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 591 is the rule providing for the consideration of H.R. 5492, the Atlantic Striped Bass Conservation Act. The rule is an open one which would permit all Members to offer germane amendments, and provides for 1 hour of general debate, the debate time being equally divided between the chairman and the ranking minority member of the Committee on Merchant Marine and Fisheries. The rule waives section 402(a) of the Congressional Budget act which requires that any legislation authorizing the enactment of new budget authority for a fiscal year be reported to the House prior to May 15 proceeding the fiscal year for which the authorization would be applicable. The rule also makes in order one motion to recommit.

The waiver of section 402(a) of the Budget Act is necessary because H.R. 5492 would authorize the appropriation of $700,000 in fiscal year 1985. Since the bill was not reported to the House until September 17, it would be subject to a point of order under that provision when it is brought up for consideration. In view of the relatively small amount authorized in this bill for fiscal year 1985, the Rules Committee felt justified in granting a waiver so that this urgently needed legislation may be brought up for consideration by the House. The Budget Committee does not object to this waiver.

During the 1970's evidence surfaced which demonstrated that the coastal populations of Atlantic striped bass, also known as rockfish, were undergoing steep declines. Striped bass generally confine their movements within the coastal waters that lie in the jurisdiction of Atlantic States and they migrate widely between those States. Federal efforts to encourage the States to take positive action to conserve the striped bass by establishing commissions and ordering studies have proven to be ineffective in attaining the elusive goal of reversing the decline of the fish.

The bill made in order by the rule before the House would require that States implement the recommendations of the Atlantic States Marine Fisheries Commission and its striped bass management board. Those recommendations include a suggestion that actions be taken to bring about a 55 percent reduction in the annual striped bass harvest. Under the provisions of H.R. 5492, the failure of any State to implement the Commission's recommendations or to faithfully enforce their implementation would result in a declaration by the Secretary of Commerce that no striped bass may be landed that is caught in the coastal waters of the negligent State. The moratorium would remain in place until such time as the State takes remedial action to comply with the act's requirements.

Mr. Speaker, the remedies contained in H.R. 5492 represent a stern but needed response to a problem with drastic implications for our coastal economies and recreational resources. While total striped bass populations have declined precipitously in the last 10 years, the situation is further complicated by the fact that the classes of striped bass which carry the most hope for replenishment—those that are most capable of reproduction—are practically nonexistent in a number of areas. If this legislation is not swiftly enacted and the harvest of rockfish not reduced, it is only a matter of time until it will be impossible for commercial and sport fishermen to find striped bass to catch.

□ 1110

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may use.

Mr. Speaker, the rule has been ably explained.

Mr. Speaker, the Atlantic Striped Bass Conservation Act is a matter that the House should act on. My experience in the State legislature and in this Congress has been that when you bring up a fish bill or a bill dealing with any kind of coon dog, you have some opposition.

Under this rule any opposition on this measure may be expressed on the floor of the House.

Mr. Speaker, I yield 5 minutes to the gentleman from Kansas [Mr. WINN].

(By unanimous consent Mr. WINN was allowed to speak out of order.)

VALUE ENGINEERING COUNCIL ACT OF 1984

Mr. WINN. Mr. Speaker, today I have introduced the Value Engineering Council Act of 1984. This bill is designed to create a self-financing council which will promote the use of value engineering, a time-tested method of increasing efficiency and productivity in private and public procurement. The profession is also expanding its applicability to include service industries and utilities.

To receive the fill benefit which this profession has to offer, the GAO has recognized four needs: First, VE must be provided with a high level of support and visibility; second, the value of VE must be recognized by each agency which has a procurement program; third, private contractor awareness must be raised, and fourth, existing governmental VE programs must receive better management. These are the tasks to be assigned to the Value Engineering Council.

A basic principle of value engineering is that, while anything less than the full capability contracted for is unacceptable, anything more is wasteful and should be eliminated. VE is the scientific method of analyzing products and services so that their functions can be achieved at the lowest possible price. These products and services can be examined for use of different materials, applying new production technology, use of different deliver processes or eliminating unnecessary components and combining production steps. Simply stated, it is the art of bringing technical people together so the right hand knows what the left hand is doing, and so that both may benefit from the latest and most appropriate development in their fields.

Value engineering can be applied during any phase of a project from inception to completion. The biggest saving usually result when the process is incorporated at inception. When applied to a service or product firmly established, it is an excellent production auditing technique. In either situation, the result is a bigger bang for the buck.

My involvement in value engineering goes back some 15 years. During that time the foundation for systematic use of this engineering discipline has been laid. There have been nine GAO reports on the subject. The Senate Public Works Committee held oversight hearings in 1967 and 1973. And I have sponsored a series of congressional receptions designed to give Members and their staff the opportunity to become acquainted with VE.

Coming from my own private construction company into Government service, it was easy to recognize the potential savings available in my industry alone. VE is now part of the EPA's construction grants program and at least 21 States use VE in their highway construction programs. My good friend and Kansas colleague Senator KASSEBAUM has asked the GAO to examine the potential application of VE to all 26 Federal construction departments and agencies.

During these years I have worked with value engineering professionals in the Society of American Value Engineers [SAVE], and VE personnel in major contracting firms and Government procurement offices. They all state that VE must overcome the inherent difficulty of convincing someone to change their mind and accept the engineers better idea. Recognizing this uphill battle, the Council has been assigned to work at the focal point of the purse strings. They will operate out of the Office of Management and Budget.

This elevated level of attention is necessary as the history of value engineering demonstrates. This methodology is largely a byproduct of material shortages during World War II. These shortages led to the creation of innovative material and design alternatives and it was often found that the alternatives functioned as well as or better, and cost less. Since 1954, at least 14 Federal agencies, including the U.S. Army Corps of Engineers, the Environmental Protection Agency, the General Services Administration, and the Department of Defense have used this cost reduction tool. Yet, because the program has received varying levels of management attention and support, the Department of Defense has reported savings of less than one-third of its own goal. During the last GAO investigation, 28 of 46 major weapons programs lacked an active value engineering program and DOD has not established a method of including VE in those programs which we have subsequently authorized.

Most appealing of all, the Council will be financially self-supporting. A persistent problem has been to provide sufficient incentive for Government contracting personnel to promote and process value engineering change proposals. This Council will be assigned the task of removing that barrier. From the additional savings generated by the Council, a small percent of the savings—and I mean in the area of ½10th of 1-percent—will be set-aside to fund the Council which in turn can promote further savings.

Value engineering is not a partisan issue, but simple commonsense. VE will lead greater public confidence in Government programs and will help us face one of our biggest challenges, a balanced budget. VE's contribution is significant. The GAO estimates it to

be $875 million net gain per year in military procurement alone.

The basic challenge of value engineering is the basic challenge we all have in serving our constituents. That is the simple challenge of doing well whatever it is we propose to do. It is anticipated that this bill will receive a full hearing in the next Congress and I urge your serious and careful consideration of how this discipline can be applied. This profession is ready to serve us and our country. Let us put them to work.

Mr. QUILLEN. Mr. Speaker, I hope this is not the last appearance the gentleman from Kansas [Mr. WINN] will make on the floor of the House. We all know that the gentleman is retiring, and I would like to pay a special tribute to him for his fine service in this House to his constituents and to the Nation. He certainly is a valuable Member and will remain in our hearts in the years to come. I know he will continue to make a great contribution.

We appreciate you, Larry.

Mr. BEILENSON. Mr. Speaker, we have no requests for time on this side, and if the gentleman from Tennessee [Mr. QUILLEN] has no requests for time, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. Pursuant to House Resolution 591 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 5492.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 5492, to provide for the conservation and management of Atlantic striped bass, and for other purposes, with Mr. ROEMER in the chair.

The Clerk read this title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from Louisiana [Mr. BREAUX] will be recognized for 30 minutes, and the gentleman from Washington [Mr. PRICHARD], will be recognized for 30 minutes.

The Chair recognizes the gentleman from Louisiana [Mr. BREAUX].

Mr. BREAUX. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, to explain the bill as briefly as I can I would say that this is an effort on the part of this Congress to address a very serious problem that has not been adequately and sufficiently addressed by the States. The bill addresses a very serious decline of a very important species of fish that are known to both commercial and sport fishermen and are very important to their recreation and to their commercial livelihoods.

The striped bass, according to the best scientific information that we can assimilate, has declined to about one-tenth of the condition that it was previously; in other words, when it was a healthy stock the population now is only approximate one-tenth of what it was then.

That tells us that something should be done. Now Congress, you and I and the Members of this body, are I am sure not certain about what should be done. But we have a recommendation.

The Atlantic States Marine Fisheries Commission, which is an organization representing the scientists and the managers, the fish biologists for all of the States from the State of Maine all the way down the Atlantic Coast, all the way to the State of North Carolina, have developed a management plan to say that we think this is the best means to save the very existence of the striped bass.

□ 1120

This plan now recommends a 55-percent reduction in the catch of striped bass. The problem is that the States which belong to this Commission, for whatever reason, have not been able to implement the plan that their own Commission has developed. They have not been able to implement that plan partly because of political reasons, partly because of legitimate pressures that they have received from recreational fishermen and from commercial fishermen who feel that this plan does too much or does not do enough.

Some have recommended that there be a 100-percent moratorium on the taking of striped bass. In fact, one State just recently through their State legislature and pronouncements of the Governor of the State have looked at the problem and said "Yes; it is so serious, it so serious that we are going to terminate all catching of striped bass."

You can all imagine what an uproar that has caused. I can see the political pressure on both the legislature, local State legislatures, Senators and Representatives who say, "We don't want to take that extreme course of action."

The truth, the simple truth is that unless something is done those who enjoy catching striped bass today will have nothing left to catch at all in the future.

How much better it is to accept the plan of the Atlantic States Marine Commission that says "Let's try to reduce it to about 55 percent of what we were normally taking so that we won't have to later completely terminate all catching of striped bass."

So this is basically what this legislation does. It says to the States that belong to the Commission that:

We would like for you to draft your plan that accepts the Commission's recommendations, whatever they are.

I do not know whether we should have 50 percent reduction or whether we should have 60 percent reduction, but I do know that the best scientists who have looked at this, the best fishery managers who have looked at this, the best fishing biologists who have looked at this, have come up with a figure of 55 percent reduction.

Who am I to say it should be 40; who am I to say it should be 60 or whatever number?

I say this bill takes the proper approach to the extent that it should, it says to the States: "We want you to accept the recommendations of the Commission to which you belong and we give you 9 months to accept it," plenty enough time for every legislature to meet in order to adopt the plan.

If they do not adopt the plan then this bill takes precedence and will reduce the catch of striped bass to zero.

So this is an incentive for the States to do it. We have tried to get the States to do it on their own. I think they need this assistance.

It is interesting to note that the State of Maryland had not done anything until about 2 days after this bill was brought to the House out of our committee. Do you know what? Two or three days later they imposed a moratorium.

Now is that a coincidence? I do not know, but the timing is pretty interesting from my perspective.

I think this bill would never have to impose a 100-percent moratorium because the States will take the action necessary.

We have some amendments to the bill. The gentleman from Virginia I think wants to say, "Well, let's only implement the plan to 90 percent of its effectiveness." Does that make sense?

I say no. Who are we to say that the number that the Commission has accepted is not appropriate? Who are we to say that, "90 percent of their plan is good," or "80 percent of their plan is good"?

I do not think there is a single Member of this body who has the technical background and the training and information available to him or to her to say that we should have a plan but we should only implement 90 percent of it.

So this is good legislation.

The gentleman from Massachusetts [Mr. STUDDS], the gentlewoman from Rhode Island [Mrs. SCHNEIDER] have worked very, very diligently on this legislation. We have disagreed at times but we have a product now that I think the vast majority of our committee has supported. I think it is one

that I recommend wholeheartedly to the Members of this body.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. The gentleman from Louisiana [Mr. BREAUX] has consumed 6 minutes.

Mr. PRITCHARD. Mr. Chairman, I yield 5 minutes to the gentleman from Virginia.

Mr. BATEMAN. I thank the gentleman from Washington for yielding to me.

Mr. Chairman, there is certainly no dispute among anyone who knows anything about the subject matter of this bill that there is a problem with reference to the stock of striped bass to be caught in the waters of the Atlantic and Atlantic Coastal States.

All agree on the problem. There are some who would address that problem by measures even more stringent than that which is on the floor by declaring through act of Congress an almost immediate moratorium on any further catching of striped bass.

You, of course, have this bill as it comes to the floor which authorizes and, under certain conditions, directs a moratorium to be imposed by the Secretary of Commerce.

I recognize the problem. My State, the Commonwealth of Virginia, recognizes this problem and has taken very effective action with respect to the problem, not by virtue of any committee hearings or action in the committee on this bill, but prior thereto. The fisheries management agency of the Commonwealth of Virginia imposed fishing restrictions on the catching of striped bass as early as March 1, or increased those restrictions as early as March 1, of this year.

Those regulations are anticipated to exceed the requirements of the presently proposed or discussed plan of the Atlantic Fisheries Management Council.

So, Mr. Chairman, I am not speaking to this bill in the context of my State, the Commonwealth of Virginia, being unaware or insensitive to the problem. In fact it has proven that it is aware.

But I am loath as a Member of this Congress, representing the Commonwealth of Virginia and the district that principally touches the Chesapeake Bay and its tributaries, to support this bill that requires a moratorium in the face of evidence or testimony from the scientists at the Virginia Institute of Marine Science that a moratorium is not going to solve the problem; it is only going to create a problem for the commercial fishermen of the Commonwealth of Virginia.

Mr. Chairman, I am willing to support this bill with the amendments which will be offered at the appropriate time which would make the moratorium discretionary and which would provide further that if a State is in substantial compliance with the fisheries management plan now in effect or as hereafter amended, that no moratorium would be required.

I think that is a reasoned way to go on this, especially in light of the fact that the States along the Atlantic coast are already taking action to comply with a recommended plan of the regional council. It is said that 90 percent of what is declared by scientists to be necessary is an inappropriate remedy.

Let me point out, as I will at the point when the amendment is offered, that we are not talking about something that lends itself to exact and precise measurement. Fisheries management experts can say that 55 percent reduction in the catch or 60 percent reduction in mortality is what is necessary and I do not quibble with the authority and the propriety of someone at the Council-level making that determination. But reasonable men may differ as to what are the practical effects of given, specific restrictions imposed by a particular State and where reasonable people do differ as to whether or not regulatory actions, ABC, will translate into 60 or 50 percent compliance is not something that is arbitrarily or scientifically subject to absolute determination.

If there is reasonable agreement or disagreement as to whether the actions taken by a State result in 55 percent compliance, as opposed to some saying it is only 52.5 percent compliance I think there ought to be some flexibility in a draconian measure which would destroy the livelihood of constituents that I represent. This should not be an immediate and automatic consequence, without any flexibility.

□ 1130

We do need to take action in this Congress to encourage the States, but not to dragoon the States into doing things which their experts do not believe to be necessary or to do more than they believe is necessary. And most certainly, we should not leave them in a position where someone arbitrarily says, "What you have done is not quite enough, even though it doesn't lend itself to exact scientific measure."

Mr. BREAUX. Mr. Chairman, I yield 5 minutes to the gentleman from Massachusetts [Mr. STUDDS].

Mr. STUDDS. Mr. Chairman, I rise in strong support of H.R. 5492, the Atlantic Striped Bass Conservation Act. This magnificent fish, once among the leading sports and commercial fish species on the east coast, is imperiled today due both to serious environmental problems, and to continued exploitation by fishermen. We have begun the long process of environmental restoration in the major spawning grounds of the striper; this legislation will guarantee that effective action to reduce fishing occurs as well.

Over the past 20 years, striped bass catch has declined by 90 percent; recent annual landings are the lowest on record. Reproduction rates in the Chesapeake Bay have fallen far below that needed to sustain current levels of population and the Delaware Bay has been lost completely as a potential spawning ground. The problem, then, is clear; the need for action obvious, but the process of developing the proper Federal response has been both controversial and complex.

The purpose of the legislation we are considering today is to be both equitable and effective in the effort to conserve the striped bass. We have borne in mind the fact that any proposed solution will have an impact on the livelihood of thousands of commercial fishermen and charter boat operators, most of whom have already suffered losses due to the decline in the striped bass population. But we do no favors for the fishermen by allowing striped bass stocks to decline further.

The striped bass has for centuries exercised a power over the spirit, as well as the appetites, of American fishermen. It is a beautiful fish, but intelligent, as well, for it has had the good sense for the most part to avoid Federal waters. The management of the species, therefore, has been and should remain primarily a State prerogative. But management by the States is complicated, as well, because of the striper's habit of crossing State borders on its trek from the Chesapeake to other points on the coast stretching from Maine to North Carolina. It is for this reason that management responsibility rests of necessity at the regional level.

In response to the precipitous decline of the striper, the Atlantic States Marine Fisheries Commission [ASMFC], a regional group with representation from all the Atlantic Coastal States, developed a plan in 1981 to help save the species. In December 1983, the Commission modified the plan, recommending that each State reduce its fishing effort by 55 percent on Chesapeake Bay stocks. Unfortunately, the Commission has no enforcement authority and the response from States, although encouraging, has not been sufficient to guarantee conservation of the species. Our bill, H.R. 5492, was developed to make certain that the States will take those actions that their own regional commission has determined to be necessary to save the striper.

The approach taken by H.R. 5492 is, I believe, as simple, as effective, and as fair an approach as it is possible to devise. It will encourage State governments to adopt the recommendations that have been put forward by the

ASMFC. If a State fails to comply with this regionally approved proposal, it will, as of June 1, 1985, be subject to a federally enforced moratorium on fishing for striped bass. The final decision as to whether such a moratorium should be imposed rests with the Secretary of Commerce. Under this arrangement, protection for the species is guaranteed, but the Federal role is secondary to management recommendations developed by the states.

Concerns have been raised about the adequacy of the 55-percent reduction called for in the Commission plan. That plan reflected the best available scientific information at the time. If the information should indicate more serious reductions are required, the regional commission will likely amend its plan accordingly, and the provisions of H.R. 5492 will mandate compliance with that stricter plan.

This legislation is a logical successor to earlier actions taken by the Federal Government to protect the striped bass. Two years ago, Congress ordered that additional fisheries research funds be made available to State governments willing to cooperate in reducing striped bass fishing in their waters. Five years ago, Congress mandated a study to identify the source of the decline in striper populations. The most recent report of that study recommended that the imposition of a substantial reduction in fishing mortality be imposed. At our subcommittee hearing, both scientists who worked on the study indicated that if each member State adopted the commission's recommendations, then the problem would have been responsibly addressed. This new bill responds to the evidence produced by that study and takes one step further the notion that the Federal Government has an obligation to assist the States in taking effective action in this area.

I wish to acknowledge the contribution made by Mr. BREAUX, chairman of the Fisheries and Wildlife Subcommittee, and Chairman JONES of the Merchant Marine and Fisheries Committee in getting this bill to the floor today. In addition, all of us concerned with the fate of the striper owe a debt of gratitude to the gentlelady from Rhode Island [Mrs. SCHNEIDER] for her role in focusing national attention on the problem to which we are seeking to respond today.

While there have been disagreements among Members as to what constituted the proper response, we have all been guided by a desire to help the striped bass. I hope that all of us who share this goal can support the bill before us today.

H.R. 5492 has been endorsed by the National Wildlife Federation, the National Audubon Society, the Environmental Policy Institute, the American Fisheries Society, the Sport Fishing Institute, the American Fisheries Society, and the International Association of Fish & Wildlife Agencies. In addition, the adminsitration has indicated that it would not object to passage of H.R. 5492.

The striped bass is a unique creature which inspires in those fortunate enough to catch one—a club I have yet to join—a sense of awe and admiration we humans do not generally ascribe to any other species, let alone a fish. It must be saved and I believe this bill is the best vehicle we have to do so. I hope that it will be passed overwhelmingly by the House.

Mr. PRITCHARD. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Rhode Island [Mrs. SCHNEIDER]

Mrs. SCHNEIDER. Mr. Chairman, as many of the Members in the Chamber know, I have been active in the protection of the striped bass and have been working to save the species from destruction for some time now. Last year, in my own State of Rhode Island I learned from fishermen of the precipitous decline of striped bass. While I am pleased that the problem is being addressed today, I do not believe this measure goes far enough to prevent this decline. Although the States have had ample time to take action, they have neglected to do so. I am afraid that we will be back here next year and every year thereafter until we accept the responsibility to manage the striped bass fishery properly. In the meantime we risk destruction of a national resource.

For the benefit of my colleagues, let me briefly put this issue in perspective.

Commercial landings of Chesapeake striped bass have declined over 90 percent in the last 10 years. The last 4 out of 5 years have been near, if not below, what experts call reproductive failure.

The Atlantic States Marine Fisheries Commission has been attempting to halt the decline of this fishery without success since 1977.

As an emergency measure to save the striped bass in December 1983, the commission recommended that all 12 of its member States cut their catches by an additional 55 percent beyond what was called for in the commission's 1981 fishery management plan to save the bass.

The commission now contends that all but two of the States have come into compliance with the 55 percent reduction. However, a Department of the Interior fish and wildlife analysis concludes that the States, in total, have achieved only a 25- to 35-percent reduction.

According to commission biologists, 55 percent is the bare minimum reduction necessary to save the fishery. At a 25- to 35-percent reduction, we can say goodbye to the striped bass.

Mr. Chairman, there are many ways to approach a fisheries management plan. Under the proposed legislation, the States, through the Atlantic States Marine Fisheries Commission, are allowed to take their own individual routes to achieve the same end. Migratory fish require uniform interstate regulation. The last 5 years demonstrate that the commission's approach is both cumbersome and ineffective.

For example, earlier this year my own State of Rhode Island took the initiative to declare a moratorium on striped bass fishing. Realizing the severity of the bass problem they hoped that their action would provide the impetus for other States to follow. Not one State followed their lead. Not wanting to shoulder the entire economic burden of a fishing moratorium, Rhode Island was forced to lift its moratorium early this summer.

Just 3 weeks ago the State of Maryland proposed a moratorium on striped bass fishing effective January 1, 1985. I applaud the efforts of Governor Hughes in taking this action. Last week, at the hearing before the other body on striped bass legislation, the Governor stated, and I quote:

> Obviously, factors in the environment and in the fish are at work to counteract the benefits expected under the 55 percent plan . . . . Therefore, because it would take three to four years to measure the success or failure of any action, we could not risk the possibility that the 55 percent reduction action would fail.

I must emphasize, Mr. Chairman, that this is a proposed moratorium. Similar to Rhode Island's experience, if other States do not follow Maryland's lead in enacting a moratorium on striped bass fishing, I am certain that Maryland's action will not last. No individual State wants to shoulder such an economic burden alone.

This week, the Atlantic States Marine Fisheries Commission is holding its annual meeting in Savannah, GA. On Tuesday, the executive committee of the commission voted to have their scientific and statistics committee review the commission's striped bass plan in November. At that time they will discuss whether additional measures beyond the 55-percent plan are necessary and then make recommendations to the commission's striped bass board in late December. Only after the striped bass board has made its recommendations, will the executive committee consider whether to review further or submit the board's recommendations to the full commission for a vote. The States will not even begin to contemplate action until this entire process is completed.

Mr. Chairman, this commission is in a continual state of inertia. After one or several States take action for the plight of the bass, by the time the commission reviews the action, the sit-

uation affecting the fish has changed so drastically that the commission actions are too little, too late. What we have here is a vicious circle of review and inaction.

At a striped bass hearing before the other body last week, William Gordon, Assistant Administrator for Fisheries under NOAA, stated, and I quote:

> There is no clear evidence that the coastal states along the Atlantic coast have been able to reverse the serious decline in the striped bass population or improve production from the Chesapeake Bay stocks. In fact, strong evidence suggests that the decline in spawning populations . . . is probably at the lowest point in recent memory.

Finally, Mr. Chairman, I want to mention a study presented to the Atlantic States Marine Fisheries Commission meeting yesterday in Savannah. This study was conducted by the two chief scientists from the Federal emergency striped bass study, a study undertaken jointly by NOAA and Interior's Department of Fish and Wildlife. Drs. Borman and Goodyear presented a model of egg deposition of the Maryland-based striped bass spawning stock. They presented three options:

First, with a full coastwide moratorium for only 3 years we would begin to see as high a level of egg deposition we have ever seen—equal to 1975 year—and this high level would continue to increase.

Second, with a Chesapeake Bay moratorium we would reach the high level by 1991.

Third, with the current Atlantic States Marine Fisheries Commission 55-percent reduction plan, this high level of egg deposition would not reached by 1992, and probably not until 1995.

The handwriting is on the wall for the Atlantic States Marine Fisheries Commission. I hold out the greatest hope that through Mr. STUDDS' bill we will see both the commission and the States take the necessary and immediate action to save this fishery from destruction and from the endangered species list. Otherwise, I have no doubt that we will be back here on this same issue next year.

Mr. BREAUX. Mr. Chairman, I yield such time as he may consume to the gentleman from North Carolina [Mr. JONES], the chairman of the committee.

□ 1140

Mr. JONES of North Carolina. Mr. Chairman, I rise in support of H.R. 5492, a bill to provide for the conservation and management of striped bass. This bill is an effort to bring about a recovery of the striped bass populations along the Atlantic coast. It would do so by encouraging the Atlantic coast States from North Carolina through Maine to implement an interstate fishery management plan for striped bass which was formulated and unanimously adopted by all of the member States of the Atlantic States Marine Fishery Commission—an interstate compact.

This measure would require the Atlantic States Marine Fishery Commission in June 1985, to notify the Secretary of Commerce if any member States have not implemented the commission's plan or are not enforcing this plan. In turn, the Secretary would have 30 days to consider the views of the commission and any affected States. If, after considering the facts, the Secretary concurs with the commission that a State is not in compliance, he is directed to impose a striped bass fishing moratorium in that State's waters until such time as the commission has notified the Secretary that the State has taken remedial action. This action, of course, would encourage the States to comply with the commission's plan.

H.R. 5492 is needed for several reasons. There has been an alarming decline in the populations of striped bass. The current harvest is only 10 percent of what it was 10 years ago. It has been estimated that the decline in commercial and recreational catches of striped bass since 1974 has cost the Atlantic coast over 7,000 jobs and $220 million in economic activity. Congress recognized this decline in 1979 when it directed the U.S. Fish and Wildlife Service and the National Marine Fisheries Service to undertake a joint study to determine the causes of the striped bass decline. This study, the emergency striped bass study, has revealed that chemical contamination and habitat degradation have impaired the ability of the Chesapeake Bay to produce striped bass. It has been estimated that the Chesapeake may have produced up to 90 percent of all the striped bass harvested on the Atlantic coast. This is not the case today. In fact, the National Marine Fisheries Service recently rejected by a narrow margin a petition to list the Chesapeake Bay stock as threatened or endangered under the Endangered Species Act. This petition was rejected in part because National Marine Fisheries Service anticipated that the States would implement the commission's plan. In addition, the State of Maryland recently announced that it will ban the harvest of striped bass, as of January 1985, for approximately 4 years. Unfortunately, and this brings us to the last reason for this legislation, several States have yet to adopt all of the basic provisions of the commission's plan.

H.R. 5492, in addition to dealing with the immediate management problem of the striped bass, would also provide for the conservation of and management of striped bass in other ways. First, it reauthorizes the emergency striped bass study for 2 additional years. Second, it authorizes the Secretary of the Interior and the Secretary of Commerce to conduct comprehensive annual surveys of the striped bass fisheries. Finally, the bill authorizes a small amount of funds for existing striped bass hatcheries in Maryland and Virginia; however, the Secretary of Commerce would be authorized to disburse these funds only if the State matches its share of these moneys with an equal sum and it is in compliance with the commission's plan.

I know that several members, including myself, are somewhat nervous over the involvement of the Federal Government in what has historically been a State matter. I do, however, want to point out that this bill attempts to retain the authority of the States. Again I should emphasize that the plan we are talking about was formulated by the States and unanimously adopted by the States. In any case, the fact is that the Atlantic striped bass populations are in need of effective and rational management and this bill would help to achieve just that.

I urge my fellow members to support this badly needed measure to conserve and manage the Atlantic coast striped bass.

Mr. PRITCHARD. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the bill before us today, the Atlantic Striped Bass Conservation Act, is intended to provide an incentive for the development, implementation, and enforcement of interstate policy regarding the conservation and management of Atlantic striped bass. The bill also authorizes the Secretary of Commerce and the Secretary of the Interior to conduct annual surveys of Atlantic striped bass fisheries and authorizes the Secretary of Commerce to provide funds to the States of Maryland and Virginia to enhance existing Atlantic striped bass hatchery production in those States.

The genesis for this legislation is the steep decline in Atlantic striped bass populations. Congress took note of this decline when it authorized an emergency striped bass study in 1979 under section 7 of the Anadromous Fish Conservation Act. This legislation called for the U.S. Fish and Wildlife Service and the National Marine Fisheries Service to jointly examine the causes of the striped bass decline and to recommend appropriate action. The Atlantic States Marine Fishery Commission later adopted a striped bass management plan for the internal waters of the States and the territorial sea off the coast of those States. The commission subsequently recommended that the plan be amended to include a 55-percent reduction in fishing effort on striped bass.

H.R. 5492 retains with the States the essential ability to take appropriate action to protect the important striped

bass resource. Only where the Secretary of Commerce is notified by the commission that a State has not taken the necessary or appropriate action to implement the plan in its coastal waters is the Secretary in a position to impose a moratorium on the taking of striped bass in that State's waters. There is no question that the striped bass is suffering a severe decline, and while I have some concerns about Federal intervention in the management of fisheries in State waters, I am not unsympathetic to the views of those who are determined to preserve the striped bass resource and believe that this measure is a rational means of doing so.

Mr. Chairman, I reserve the balance of my time.

Mr. BREAUX. Mr. Chairman, I yield 2 minutes to the gentleman from Delaware [Mr. CARPER].

Mr. CARPER. I thank the gentleman for yielding time.

Mr. Chairman, I rise as a strong supporter of H.R. 5492, a bill to ensure that effective steps are taken to preserve the Atlantic striped bass.

It is clear that this valuable fishery resource is in deep trouble. The striped bass catch has dropped by 90 percent over the past two decades, and low reproductive rates assure serious problems in future years. The time for strong and coordinated action has come.

Unfortunately, the Atlantic States in whose waters the striped bass are located have been unable to rise to the challenge of saving this species. Understandably, internal dissension and bickering have prevented these Coastal States from mounting a sound and workable attack on the striped bass decline. That is why this legislation is critical, and must be passed before we reach the point of no return.

This bill provides an incentive, in the form of a Federal moratorium on striped bass fishing, for States to adopt plans for reducing their catch. This legislation leaves the initiative for managing this fishery in State hands, where it belongs. But, out of respect for this valuable resource which is shared by many States, the bill provides for Federal intervention where States refuse to shoulder their fair share of the necessary sacrifice.

The decline of striped bass populations has already created a great deal of hardship for Atlantic fishermen. Recently, the State of Maryland felt compelled to clamp a moratorium on striped bass fishing in its waters. That is tough medicine, but unless we act now on responsible legislation such as the bill before us today, all the Atlantic States will remember the striped bass as the one that got away.

Mr. BREAUX. Mr. Chairman, I yield 3 minutes to the gentleman from Maryland [Mr. DYSON].

Mr. DYSON. Mr. Chairman, I rise in opposition to the bill.

I am the Representative of Maryland's Chesapeake Bay region. I come from an area where 90 percent of the Atlantic striped bass spawn, and I believe this bill is premature and I believe it is unnecessary. No one would dispute that the striped bass or the rockfish is a species that has declined steadily over the last 10 years. All you have to do is listen to all my colleagues here. But H.R. 5492 advances a theory that because the Atlantic Coast States have done such a poor job of coordinating their management of this fishery, Federal intervention is needed to manage it. Unfortunately, this concept is based on what I believe is a number of faulty assumptions.

First, the bill assumes that an increase in fishing pressure is in and of itself the single most important reason why the rockfish have declined. I would suggest, however, that the real problem is the water quality of the estuary where these fish spawn, and that is the Chesapeake Bay.

As most of my colleagues know, I and many other members of the Maryland, Virginia, and Pennsylvania delegations have made the restoration of the Chesapeake Bay one of our highest priorities. In June, the House passed an amendment to the Clean Water Act which would provide up to $52 million over the next 4 years to begin a comprehensive cleanup of the Chesapeake Bay. In addition, Congress appropriated $10 million in fiscal year 1985 for this purpose as a downpayment on a plan provided for in the clean water bill which, as we all know, is awaiting action in the other body. This effort to restore the marine habitat where the striped bass spawn demonstrates there is a clear and widespread commitment to bring back this species.

I believe the Federal Government should not be involved in fisheries management. I think if there were another species in a similar situation like the rockfish, such as salmon, crayfish, menhaden, I do not think we would be discussing Federal intervention to manage it.

The House should go on notice that its decision to pass this bill opens a Pandora's box with respect to Federal participation in fisheries management. It sets a precedent with potentially serious consequences for any State with a significant sport or commercial fishery. I am a firm believer that State government should manage fish and not fishermen, and the Federal Government has no business doing either. Unfortunately, H.R. 5492 politicizes the striped bass question and fails to deal with the real role that the Federal Government should be playing in bringing this species back to life, and that role is cleaning up the Chesapeake Bay.

Later on I will speak in favor of the Bateman amendment. I will urge my colleagues to support that. Without that, this bill should not pass.

Mr. BREAUX. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would just try and conclude the debate, as we move into the amendments, by saying the following: We are not trying to do by this legislation anything to the States that their own organization that the Members from Maine down to North Carolina, that their own organization has not already recommended. The Atlantic States Marine Fisheries Commission is composed of State fishing managers and State fishery biologists. The Atlantic States Marine Commission is basically, as the title implies, a State organization. That State organization, after looking at the problem for many years, has developed a plan, and that plan happens to recommend that we reduce the mortality or the take of the bass by 55 percent. These are the States that have made that recommendation through their organization. It is in the national interest to see that that plan is implemented.

This bill would have no effect—I repeat, no effect—on the gentleman from Maryland [Mr. DYSON] because his State has gone even further than that plan. They have recommended zero take of striped bass, and we commend them for taking that action. This bill only takes effect 9 months from now, in March 1985, if the States by that time have not taken action to implement the very plan that their State organization has recommended.

States, for whatever reason—mostly political—have not been able to take that action. This bill would say: Please take it before March 1985, and then if you have not, well, then and only then would this bill go into effect and implement a zero take of striped bass.

We are not doing anything, I would say, to the States that their own State organizations have not recommended. The Atlantic Marine Commission could change their recommendation, it may adopt the suggestion of Mr. BATEMAN, it may impose a 100-percent moratorium. That is their business. The only thing we are doing in this legislation is saying that the States should adopt the recommendation of their own commission to which they are a member.

□ 1150

Mr. BATEMAN. Mr. Chairman, will the gentleman yield?

Mr. BREAUX. I yield to the gentleman.

Mr. BATEMAN. I thank the gentleman for yielding.

Mr. Chairman, the gentleman from Louisiana makes reference to the State's own organization or agency. Is it not correct that the Atlantic Fisher-

ies Management Council is a creature of Federal inaction?

Mr. BREAUX. The council and the commission are two entirely different entities. The council is a creature, but we are not talking about the council; we are talking about the Atlantic States Marine Commission. That is a separate entity; the States voluntarily join it. They can voluntarily get out of it.

Not a single State, including the gentleman's State of Virginia, or the gentleman from Maryland have decided that they do not wish to belong to that organization or have any problems with the recommendations.

I yield to the gentleman.

Mr. BATEMAN. The gentleman is suggesting that if a State chose to withdraw from the commission, that it would nonetheless, having withdrawn, be subject to, through this act of Congress, that which the commission had done even when it was no longer a participant in the deliberations?

Mr. BREAUX. The bill would say to the State that they would have to comply with the plan developed by the commission when they were a member of that commission, and when they participated in the development of that commission's plan.

We would not be saying to the States anything that would say we are imposing a plan on you, that you did not participate in the development of.

Mr. BATEMAN. Mr. Speaker, I wonder if the gentleman would now yield for purposes of a colloquy in order that I might have on the record a proper understanding of the bill as it comes to the floor?

Mr. BREAUX. I yield to the gentleman.

Mr. BATEMAN. I thank the gentleman for yielding for that purpose.

Mr. Chairman, the bill before us requires that the Atlantic States Marine Fisheries Commission report to the Secretary of Commerce when a Coastal State has failed to take or to enforce actions necessary to meet the goals of the commission's interstate management plan for striped bass.

After the commission notifies the Secretary, he then has 30 days to make a determination of whether the State is in compliance. Within these 30 days, the Secretary is charged with consulting with the State in question and with the commission. Since the commission will have already made a negative determination prior to the beginning of the consultation period, I would like to know if it is the intent of the committee that the Secretary can, notwithstanding the determination of the commission, find that the State is in fact in compliance.

Mr. BREAUX. I would say to the gentleman from Virginia that it is the intent of this legislation that the Secretary will, in consultation with the State, analyze the plan that the State has submitted; whatever plan that they come up with. We will look to see if that plan constitutes the essence of the Atlantic States Marines Fisheries Commission recommendation. He has the discretion to say, yes; it does meet the requirements, or no; it does not, depending on the parameters that the plan encompasses. The discretion is left to the Secretary to make the determination based on the submission of the plan by the State.

Mr. BATEMAN. I thank the gentleman for his response.

Mr. WEISS. Mr. Chairman, I rise in support of the Atlantic Striped Bass Conservation Act (H.R. 5492).

Never has it been so clear that we must act—and act swiftly—to prevent the loss of a species. The striped bass, falling victim to overfishing, pollution and the loss of its habitat, has declined in number so rapidly during the past decade that abundance has turned into scarcity. In the waters of Maryland and Virginia, striped bass catches have dropped 90 percent since 1973.

The striped bass is a fish we cannot afford to lose. A prized commercial and sport fish capable of growing to 50 pounds or more, the striped bass is responsible for a $90 million industry supporting 5,600 jobs and creating $200 million in related economic activity. The preliminary findings of an emergency striped bass study commissioned by Congress reveal that the species' decline may have cost the Northeast 7,000 jobs and more than $200 million in economic activity as of 1980.

As an early supporter of legislation introduced by my colleague from Rhode Island, CLAUDINE SCHNEIDER, to mandate a 3-year moratorium on striped bass fishing, I believe such forceful action is required if we are to halt the drastic decline in striped bass stocks. Yet, I also recognize that the bill before us represents a carefully crafted compromise that takes into account the short term impact of a moratorium on the fishing industry.

H.R. 5492 does nothing more than put teeth into a plan developed by the Atlantic States Marine Fisheries Commission [ASMFC] and unanimously adopted by its 12 member States. The plan calls for the States to reduce by 55 percent the striped bass catch within their territorial waters. For varying reasons, however, the States have been slow to act.

H.R. 5492 would require the Atlantic Coast States to implement the ASMFC plan. If a State fails to do so, the measure directs the Secretary of Commerce to declare a moratorium on all striped bass fishing within that State's waters.

Some may feel this to be a strong antidote, but I view it as a responsible and necessary effort to save an irreplaceable resource.

I have a special interest in this bill because my district in New York City is bordered by the Hudson River, referred to by one marine scientist recently as "the last stronghold for striped bass on the east coast."

Because the bass population in the Chesapeake Bay has rapidly declined, the Hudson, by one estimate, now accounts for about half the Atlantic stock. The river along Manhattan's West Side, with its warm, nutrient-rich water and many piers, provides an especially popular winter habitat for the bass.

Unfortunately, this vital environment would be endangered if a major 4-mile highway project proposed for the West Side, known as Westway, is ever built. Westway's plans call for filling in 242 acres of the river—and the prime fish habitat—through which the highway would be tunneled.

There are many good reasons to oppose building Westway. With a $2 billion to $4 billion pricetag, it is a financial boondoggle by anyone's standard. And a more modest, quite suitable substitute road could be built without filling in a major portion of the Hudson River. But high among these reasons is the expected loss of bass habitat.

In passing H.R. 5492, the House will be communicating to the Westway's advocates the great importance it places on the preservation of the striped bass.

I urge my colleagues to act today to begin restoration of this species to its former numbers along the Atlantic coast.

● Mr. CONTE. Mr. Chairman, I rise in reluctant support of H.R. 5492, legislation to provide for the conservation and management of Atlantic striped bass. As a cosponsor of Mrs. SCHNEIDER's bill imposing a 3-year moratorium on the taking and possession of the Atlantic striped bass, I think that H.R. 5492 may be a step in the right direction, but is is not far enough.

Mr. Chairman, this legislation generally incorporates, and encourages the Atlantic Coast States to enforce, the provisions of the interstate fisheries management plan. It directs the Department of Commerce to impose a moratorium on fishing for Atlantic striped bass in those areas that do not cooperate with the management plan. That plan sets a minimum size of 24 inches for striped bass caught in the Atlantic and 14 inches for bass caught in the internal waters of the member States. Additionally, it recommends a 55-percent reduction in fishing for striped bass.

My own State of Massachusetts has developed a plan for conservation of striped bass, shortening the fishing season and limiting the catch for sports fishermen to one fish per day. But that important and commendable

first step does not, I believe, adequately solve the problem: the declining population of Atlantic striped bass.

A few facts tell the story of this declining population, Mr. Speaker. In 1973, the commercial catch of striped bass totaled 15 million pounds. Last year, the catch was only 1.6 million pounds. Total bass landings on the Atlantic coast—from South Carolina north to Maine—is down 90 percent from 1973. The annual survey of reproductive success in the Chesapeake Bay has reached an all time low. Essentially, all that remains of this once-booming fishery are the very young and the very old.

Mr. Chairman, as an avid fisherman myself, it is with great reluctance that I support a moratorium on fishing for striped bass. But I believe that it is the only way to return this great fish to abundance. At the turn of the century when this fish became endangered, a moratorium was imposed. Finally, during the mid-1930's, the striped bass began to return in abundance.

Therefore, it is with great reluctance that I support this legislation. And I would urge the Merchant Marine and Fisheries Committee to continue to monitor this issue in the coming months and years.●

Mr. BREAUX. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. PRITCHARD. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. Pursuant to the rule, each section is considered as having been read for amendment under the 5-minute rule.

The Clerk will designate section 1.

Mr. BREAUX. Mr. Chairman, I ask unanimous consent that the bill be printed in the RECORD and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

The text of the bill is as follows:

H.R. 5492

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Atlantic Striped Bass Conservation Act".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds and declares the following:

(1) Atlantic striped bass are of historic commercial and recreational importance and economic benefit to the Atlantic coastal States and to the Nation.

(2) As a consequence of increased fishing pressure, environmental pollution, the loss and alteration of habitat, and the inadequacy of fishery conservation and mangement practices and controls, certain stocks of Atlantic striped bass have been severely reduced in number.

(3) Because no single government entity has full management authority throughout the range of the Atlantic striped bass, the harvesting and conservation of these fish have been subject to diverse, inconsistent, and intermittent State regulation that has been detrimental to the long-term maintenance of stocks of the species and to the interests of fishermen and the Nation as a whole.

(4) It is in the national interest to implement effective procedures and measures to provide for effective interjurisdictional conservation and management of this species.

(b) PURPOSE.—It is therefore declared to be the purpose of the Congress in this Act to support and encourage the development, implementation, and enforcement of effective interstate action regarding the conservation and management of the Atlantic striped bass.

SEC. 3. DEFINITIONS.

As used in this Act—

(1) The term "Act of 1976" means the Act entitled "An Act to provide for the conservation and management of the fisheries, and for other purposes", approved April 13, 1976 (16 U.S.C. 1801 et seq.).

(2) The term "Atlantic striped bass" means members of the species Morone saxatilis.

(3) The term "coastal waters" means—

(A) all waters, whether salt or fresh, of a coastal State shoreward of the baseline from which the territorial sea of that State is measured; and

(B) the waters of a coastal State seaward from the baseline referred to in subparagraph (A) to the inner boundary of the exclusive economic zone.

(4) The term "coastal State" means Pennsylvania and each State of the United States bordering on the Atlantic Ocean north of the State of South Carolina.

(5) The term "Commission" means the Atlantic States Marine Fisheries Commission established under the interstate compact consented to and approved by the Congress in Public Laws 77-539 and 81-721.

(6) The term "fishing" means—

(A) the catching, taking, or harvesting of Atlantic striped bass;

(B) the attempted catching, taking, or harvesting of Atlantic striped bass; and

(C) any operation at sea in support of, or in preparation for, any activity described in subparagraph (A) or (B).

The term does not include any scientific research authorized by the Federal Government or by any State government.

(7) The term "Plan" means the Interstate Fisheries Management Plan for Striped Bass, dated October 1, 1981, prepared by the Commission, and all amendments thereto including interim restoration measures for Chesapeake Bay striped bass stocks as developed by the Atlantic States Marine Fisheries Commission Striped Bass Management Board in December 1983, whether or not such language is formally adopted as an amendment to the Plan of October 1, 1981.

(8) The term "Secretary" means the Secretary of Commerce.

SEC. 4. COMMISSION FUNCTIONS.

(a) COASTAL STATE ABILITY TO ENFORCE PLAN.—The Commission shall decide during December 1984 whether each coastal State has taken the actions that are necessary or appropriate to enforce within its coastal waters all regulatory measures necessary to implement fully the guidelines set forth in the Plan. The Commission shall immediately notify the Secretary of each negative determination made by it under the preceding sentence.

(b) MONITORING OF ENFORCEMENT.—Commencing on January 1, 1985, the Commission shall monitor on a biannual basis the enforcement of the Plan by each coastal State for purposes of deciding if that enforcement is satisfactory. Enforcement by a coastal State may not be considered satisfactory by the Commission if, in its view, the enforcement is being carried out in such a manner that the implementation of the Plan within its coastal waters is being, or will likely be, substantially and adversely affected.

(c) NOTIFICATION TO SECRETARY OF RESULTS OF ENFORCEMENT MONITORING.—On June 30, 1985, and on the closing date of each biannual period thereafter, the Commission shall notify the Secretary of the results of the monitoring under subsection (b) of each coastal State.

(d) SECRETARIAL ACTION AFTER NOTIFICATION.—Immediately upon receiving notice from the Commission—

(1) under subsection (a) that a coastal State has not taken the actions described in that subsection; or

(2) under subsection (c) that the enforcement of the Plan by a coastal State is not satisfactory;

the Secretary shall declare a moratorium on fishing for Atlantic striped bass within the coastal waters of that coastal State.

SEC. 5. MORATORIUM.

(a) DEFINITIONS.—For purposes of this section—

(1) The term "moratorium area" means the coastal waters with respect to which a declaration under section 4(d) applies.

(2) The term "moratorium period" means the period beginning on the day on which moratorium is declared under section 4(d) regarding a coastal State and ending on the day on which the Commission notifies the Secretary that that State has taken appropriate remedial action with respect to those matters that were the cause of the moratorium being declared.

(b) PROHIBITED ACTS DURING MORATORIUM.—During a moratorium period, it is unlawful for any person—

(1) to engage in fishing within the moratorium area;

(2) to land, or attempt to land, Atlantic striped bass that are caught, taken, or harvested in violation of paragraph (1); or

(3) to land lawfully harvested Atlantic striped bass within the boundaries of a coastal State when a moratorium declared under section 4(d) applies to that State.

(c) PENALTIES AND FORFEITURES.—(1) Any person who is found by the Secretary, after notice and an opportunity for a hearing in accordance with section 554 of title 5, United States Code, to have committed an act that is unlawful under subsection (b), shall be liable to the United States for a civil penalty. The amount of the civil penalty shall not exceed $1,000 for each violation. Each day of continuing violation shall constitute a separate offense. The amount of such civil penalty shall be assessed by the Secretary by written notice. In determining the amount of such penalty, the Secretary shall take into account the nature, circumstances, extent, and gravity of the prohibited act committed and, with respect to the violator, the degree of culpability, any history of prior violations, ability to pay, and such other matters as justice may require.

(2) Subsections (b) through (e) of section 308 of the Act of 1976 (16 U.S.C. 1858(b)-(e); relating to review of civil penalties, action upon failure to pay assessment, compromise, and subpenas) shall apply to penalties assessed under paragraph (1) to the same

extent and in the same manner as if those penalties were assessed under subsection (a) of such section 308.

(d) CIVIL FORFEITURES.—(1) Any vessel (including its gear, equipment, appurtenances, stores, and cargo) used, and any fish (or the fair market value thereof) taken or retained, in any manner, in connection with, or the result of, the commission of any act that is unlawful under subsection (b), shall be subject to forfeiture to the United States. All or part of the vessel may, and all such fish (or the fair market value thereof) shall, be forfeited to the United States under a civil proceeding described in paragraph (2). The district courts of the United States have jurisdiction over proceedings under this subsection.

(2) Subsections (c) through (e) of section 310 of the Act of 1976 (16 U.S.C. 1860(c)–(e); relating to judgment, procedure, and rebuttable presumptions) apply with respect to proceedings for forfeiture commenced under this subsection to the same extent and in the same manner as if the proceeding were commenced under subsection (a) of such section 310.

(e) ENFORCEMENT.—The Secretary shall enforce a moratorium declared under section 4(d). The Secretary may, by agreement, on a reimbursable basis or otherwise, utilize the personnel, services, equipment (including aircraft and vessels), and facilities of any other Federal department or agency and of any agency of a coastal State in carrying out that enforcement.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary or appropriate to carry out the provisions of this Act.

SEC. 7. EFFECTIVE PERIOD.

This Act shall take effect October 1, 1984, and shall cease to have force and effect on the third anniversary of that date.

COMMITTEE AMENDMENTS

The CHAIRMAN. The clerk will report the first committee amendment.

Mr. BREAUX. Mr. Chairman, I ask unanimous consent that the committee amendments be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

The Clerk proceeded to read the committee amendments.

Mr. BREAUX (during the reading). Mr. Chairman, I ask unanimous consent that the committee amendments be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

The committee amendments are as follows:

Committee amendments: Page 3, strike out lines 14 and 15, and insert the following:

(2) The term "Atlantic striped bass" means members of stocks or populations of the species *Morone saxatilis*, which ordinarily migrate seaward of the waters described in paragraph (3)(A).

Page 3, line 23, strike out "that State" and insert in lieu thereof "the United States".

Page 4, line 14, insert ", except when incidental to harvesting that occurs in the course of commercial or recreational fish catching activities directed at a species other than Atlantic striped bass" immediately after "bass".

Page 5, on line 4, insert "related to fishing" immediately after the word "thereto".

Page 5, strike out lines 14 through 21, and insert the following:

(a) COASTAL STATE REGULATORY MEASURES.—The Commission shall decide during June 1985 whether each coastal State has adopted all regulatory measures necessary to fully implement the Plan in its coastal waters. The Commission shall immediately notify the Secretary of each negative determination made by it under the preceding sentence.

Page 6, line 4, strike "January 1, 1985" and insert in lieu thereof "July 1, 1985".

Page 6, line 13, strike "June 30, 1985" and insert in lieu thereof "December 30, 1985".

On page 7, strike lines 1 through 3 and insert the following:

the Secretary shall determine, within 30 days, whether that coastal State is in compliance with the Plan and, if the State is not in compliance, the Secretary shall declare a moratorium on fishing for Atlantic striped bass within the coastal waters of that coastal State. In making such a determination, the Secretary shall carefully consider and review the comments of the Commission and that coastal State in question.

Page 8, line 5, strike "or".

Page 8, line 9, strike "State." and insert in lieu thereof "State; or".

Page 8, after line 9, add a new subparagraph which reads as follows:

(4) To fail to return to the water Atlantic striped bass to which the moratorium applies that are caught incidental to harvesting that occurs in the course of commercial or recreational fish catching activities, regardless of the physical condition of the striped bass when caught.

Page 10, after line 11, insert the following:

SEC. 6. COMPREHENSIVE ANNUAL SURVEYS.

For the purposes of implementing the provisions of this Act, the Secretary and the Secretary of the Interior shall jointly conduct a comprehensive annual survey of the Atlantic striped bass fisheries. Each survey shall include, but not be limited to, a compilation and assessment of the recreational and commercial landings of that species in the coastal States during the period considered in the survey. The results of each annual survey shall be published in the Federal Register.

Page 10, line 22, strike out "SEC. 6." and insert "SEC. 7".

Page 10, line 23, before "There" insert "(a)".

Page 10, line 25, before the period insert ", except section 6".

Page 10, after line 25, insert the following:

(b) There are authorized to be appropriated to the Department of Commerce after September 30, 1985, not to exceed $2,000,000 for each of the fiscal years 1986 and 1987, for purposes of carrying out the survey required under Section 6.

(c) In addition to the appropriations authorized to be appropriated under paragraph (a), there are authorized to be appropriated to the Department of Commerce, $200,000 for each of fiscal years 1986 and 1987, and the amount that is appropriated under this authority for each such year shall be apportioned equally by the Secretary between the States of Maryland and Virginia for use by each of them for the propagation, in existing hatchery facilities of that State, of striped bass for the replenishment of the Chesapeake Bay stock: (1) if that State, for each such fiscal year, expends an equal amount of State monies for the propagation of such stock in its hatchery facilities; and (2) if the Secretary considers that that State is in full compliance with the Plan.

Page 11, line 19, strike out "SEC. 7." and insert "SEC. 8."

Page 11, line 20, strike out "This Act" and insert "Sections 1 through 7".

Page 11, after line 22, insert the following:

SEC. 9. MISCELLANEOUS PROVISIONS.

Section 7 of the Anadromous Fish Conservation Act (16 U.S.C. 757g) is amended—

(1) By inserting "with particular attention being given to the sources and effect of chemical contaminants and the effect of increasing acidity and acid rain" before the comma at the end of subsection (a) (2) (A); and

(2) By amending subsection (d) by striking out "and September 30, 1984," and inserting in lieu thereof "September 30, 1984, September 30, 1985, and September 30, 1986.".

Mr. BREAUX. Mr. Chairman, these are amendments that were adopted in the committee. The committee is not reporting a clean bill. These amendments would simply comply with the original intent of the bill as introduced.

I urge the adoption of the committee amendments.

The CHAIRMAN. The question is on the committee amendments.

The committee amendments were agreed to.

AMENDMENT OFFERED BY MR. BREAUX

Mr. BREAUX. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BREAUX: On page 12, add the following new subsections:

"(c) Section 207 of the Act entitled "An Act to provide for the establishment of the Bandon Marsh National Wildlife Refuge, Coos County, State of Oregon, and for other purposes" (Public Law 97-137) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 207. The Secretary of the Army is authorized to carry out his responsibilities under this title, at an estimated cost of $1,040,000. Any sums appropriated under this title shall remain available until expended.".

"(d) The amendment made by subsection (c) shall take effect October 1, 1986.".

Mr. BREAUX (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

Mr. BREAUX. Mr. Chairman, this amendment is an amendment which deals with a wildlife refuge in the gentleman from Kentucky's State, the gentleman who is a member of the committee [Mr. SNYDER], a ranking member.

We have already adopted this amendment in the House. I would say it is attached to a bill that there is a

good probability that the Senate will not act on, so we are merely adding this amendment to the bill in order to see that the legislation will be adopted.

The only thing the amendment does is increase by $740,000 the authorization for appropriations on the Falls of Ohio National Wildlife Conservation Area established, located in Kentucky, in the gentleman's district, who was one of the prime sponsors of the original bill which created this special area, National Wildlife Conservation Area, and we are certainly very supportive of the gentleman's amendment.

Mr. SNYDER. Mr. Chairman, will the gentleman yield?

Mr. BREAUX. I yield to the gentleman from Kentucky.

Mr. SNYDER. Mr. Chairman, the amendment offered by the gentleman from Louisiana seeks to correct problems which have arisen since the enactment of Public Law 97-137, creating the Falls of the Ohio National Wildlife Conservation Area.

When that legislation was passed during the last Congress, we estimated that land acquisition for the conservation area would be approximately $300,000. In last year's Energy and Water Appropriations Act the funds were provided to implement the authorization.

However, recently the Corps of Engineers issued a report which revises the estimate for land acquisition costs. The corps estimates it will now cost approximately $1,040,000 to fully protect this valuable wetland area.

In order to expedite congressional action on this new estimate, I am asking my colleagues to support this amendment so that we may realize the complete protection of this extremely valuable conservation area.

I am joined in supporting this amendment by the gentleman from Indiana [Mr. HAMILTON] and the gentleman from Kentucky [Mr. MAZZOLI] who share my concern for the Falls of the Ohio National Wildlife Conservation Area.

I would further note that the House, on September 20, 1984, overwhelmingly adopted H.R. 3082, the Emergency Wetlands Resources Act of 1984. In that bill we adopted by voice vote a provision concerning the Falls of the Ohio identical to the one which is now being considered. However, the companion bill to H.R. 3082 has run into problems in the Senate and has a good chance of dying this session.

I would point out to my colleagues that at the time this body adopted H.R. 3082 there was no opposition to this particular amendment and I know of none now.

I thank the gentleman for offering the amendment and I urge my colleagues to support it.

Mr. BREAUX. Mr. Chairman, I know of no controversy on the amendment and would ask for the adoption of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Louisiana.

The amendment was agreed to.

AMENDMENTS OFFERED BY MR. STUDDS

Mr. STUDDS. Mr. Chairman, I offer amendments, and I ask unanimous consent that they be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The CHAIRMAN. The clerk will report the amendments.

The Clerk read as follows:

Amendments offered by Mr. STUDDS:

Page 5, after line 12, insert the following:

(9) The term "Secretaries" means the Secretary of Commerce and the Secretary of the Interior.

Page 6, line 1, strike out "Secretary" and insert in lieu thereof "Secretaries".

Page 6, line 15, strike out "Secretary" and insert in lieu thereof "Secretaries".

Page 7, line 10, strike out all after the term "Commission" and insert in lieu thereof", that coastal State in question, and the Secretary of the Interior."

Page 10, strike out lines 23 through 25 and insert in lieu thereof:

"Funds for activities in fiscal year 1985 under this Act shall be made available only from funds appropriate for the Department of Commerce and the Department of the Interior for fiscal year 1985. For fiscal year 1986, there are authorized such sums as may be necessary or appropriate to carry out the provision of this Act."

Page 11, strike out lines 1 through 22 and insert in lieu thereof:

"SEC. 8. SECRETARIAL STUDY.

Within six months of the date of enactment of this Act, the Secretaries shall review the existing Plan and shall report to the Commission, the Chairman of the House Committee on Merchant Marine and Fisheries, the Chairman of the Senate Committee on Commerce, Science and Transportation, and the Chairman of the Senate Committee on Environment and Public Works on the adequacy of the plan to achieve the purposes of this Act. Such report shall include recommendations for additional measures that may need to be taken and include recommendations concerning specific state actions regarding the management and conservation of striped bass.

SEC. 9. EFFECTIVE PERIOD.

Section 1 through 8 shall take effect upon enactment of this Act and shall cease to have force and effect 18 months after the date of enactment of this Act."

Page 11, line 23, strike "SEC. 9." and insert in lieu thereof "SEC. 10."

Page 11, line 24, insert "(a)" before "Section 7".

Page 12, after line 9, inserting the following:

"(b) There are authorized to be appropriated to the Department of Commerce, $200,000 for each of fiscal years 1986 and 1987, and the amount that is appropriated under this authority for each such year shall be apportioned equally by the Secretary between the States of Maryland and Virginia for use by each of them for the propagation, in existing hatchery facilities of that State, of striped bass existing hatchery facilities of that State, of striped bass for the replenishment of the Chesapeake Bay stock: (1) if that State, for each such fiscal year, expends an equal amount of State moneys for the propagation of such stock in its hatchery facilities; and (2) if the Secretary considers that that State is in full compliance with the Plan."

Mr. STUDDS (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. STUDDS. Mr. Chairman, these amendments—which I am offering en bloc—were prepared in response to a number of suggestions that have been made by the administration and by Members of both bodies of Congress concerning specific provisions of H.R. 5492.

The amendments would make the following changes:

First, the Secretary of Commerce will be required to consult with the Secretary of Interior prior to imposing a moratorium on fishing for striped bass in any State. This change—which I do not believe will have any substantive effect—was recommended in congressional testimony by both the Commerce Department and the Department of Interior.

Second, the Commerce and Interior Secretaries will be required to review the adequacy of the plan developed by the Atlantic States Marine Fisheries Commission to protect the striped bass, and to report back to Congress with its findings and recommendations within 6 months.

□ 1200

I think such a study will be useful, especially in light of the recent decision by the State of Maryland to institute a moratorium in striped bass fishing in the waters of that State.

Finally, the amendment provides for the termination, I would say to the Members with some question about the bill, the amendment provides for the termination of the bill's provisions after 18 months. This will give Congress ample time to review any additional scientific information that might become available and to make an informed judgment about whether to continue with the language of this legislation or to adopt a revised method of guaranteeing protection for the striped bass.

It is, in other words, an 18-month sunset provision for the legislation.

I would like also to acknowledge at this point the assistance provided in our efforts to save the bass by the senior Senator from Massachusetts, and the junior Senator from Rhode Island, and I hope these amendments

which have been cleared by both sides, will be adopted.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Massachusetts [Mr. STUDDS].

The amendments were agreed to.

AMENDMENT OFFERED BY MR. BATEMAN

Mr. BATEMAN. Mr. Chairman, I have an amendment at the desk which I offer.

The Clerk read as follows:

Amendment offered by Mr. BATEMAN of Virginia: Page 7, line 6, strike "shall", and after "Secretary" insert "may".

Page 7, line 8, after "state" strike the period and add ", *Provided*, That the Secretary shall not declare a moratorium on fishing in any state which the Secretary determines has made substantial progress toward taking the actions necessary or appropriate to enforce within its coastal waters all regulatory measures necessary to implement fully the guidelines set forth in the Plan."

Page 7, line 10, after "question." add "A state shall be deemed to be in substantial compliance with the Plan, as defined in Section 3 of this Act, if that state has reduced fishing mortality by 90% of the level called for in the Interstate Fisheries Management Plan for Striped Bass, dated October 1, 1981, and as it may be amended hereafter."

Mr. BATEMAN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Virginia?

There was no objection.

Mr. BATEMAN. Mr. Chairman, this amendment would allow the Secretary of Commerce greater flexibility in deciding whether to impose a moratorium on States and would prevent the Secretary from being forced into a position of imposing a moratorium on a State which met the spirit if not the letter of the Atlantic States Marine Fishery Commission's interstate management plan for striped bass.

The amendment would, it seems to me, be in keeping with the amendment just offered and adopted as offered by Mr. STUDDS to require that the Secretaries of Commerce and Interior conduct a study of the Atlantic States Marine Fisheries Commission plan.

My amendment would allow the Secretary to act on the recommendations and findings of that study if they found a plan to be deficient.

Without my amendment, the study could take place and end up being a waste of time since notwithstanding what the findings might be, the bill would nonetheless require the imposition of a moratorium if certain figures were allegedly not in place.

The amendment would also exempt States from the moratorium if they have made substantial progress toward meeting the goals of the Commission plan.

Substantial progress is defined in the amendment as 90 percent of the reduction in catch called for in the October 1, 1981, plan. The plan as defined in H.R. 5492 calls for 55-percent reduction. To penalize States which have made an honest effort to meet the goals of the plan but have fallen just short would, it seems to me, be very unfortunate and an undue intrusion by the Federal Government into management of the internal fisheries of the States.

Bear in mind this amendment speaks in terms of 90-percent compliance with a reduction in catch or mortality of the species.

Bear in mind that reasonable people do and frequently differ even when they are experts as to whether a given regulatory or conservation measure will equate to this percent or that percent reduction in catch.

Whether there is such bona fide dispute among knowledgeable fisheries experts, why should this Congress be enacting a bill that requires a moratorium that may be unnecessary and improvident because of the inflexibility we have written into the bill.

Let me also point out an element of essential fairness that is involved in this amendment and which does help to improve this bill.

It has already been pointed out that the Chesapeake Bay, that area represented by the gentleman from Maryland [Mr. DYSON] and myself, produces 90 percent of the striped bass.

Our areas, our State, our watermen are impacted by a moratorium in a way that is significantly more drastic and threatening to them than would be the case with a moratorium in Rhode Island, Massachusetts, New York, New Jersey, Delaware, or other States.

I do not believe this Congress, in fairness, should put these States at the mercy of a commission and its plan which imposes little adverse effect upon the residents and watermen of their State while imposing extremely draconian measures on those of the State of Virginia.

I would say this is also especially the case when the State of Virginia has already imposed restrictions which would more than satisfy the existing Atlantic States Marine Fisheries Commission plan, and when the State of Maryland, at least presently, has imposed on its own a moratorium.

Please, through adoption of this amendment, inject an equity and a reasonableness and a flexibility into this bill.

Mr. BREAUX. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, as I said in the initial comments in offering this legislation, what this legislation simply does is to try and somehow get adopted the fisheries management plan that the Atlantic States Marine Fisheries Commission worked on for many years and developed.

And that plan happens at this time to call for a reduction of the take of striped bass by 55 percent.

Now I am not a fisheries biologist, as chairman of the Fish and Wildlife Subcommittee. I do not think we probably have the benefit of having a fish biologist anywhere sitting in the House or in the other body.

We have to do something about the condition of the striped bass. Scientists tell us that there are only one-tenth left that would constitute a healthy stock. Nine-tenths have died off.

It is clear that we have to do something to protect the striped bass species as a very valuable resource.

The Atlantic States Marine Commission which is composed of States from Maine to North Carolina, through their fishery biologists and through their scientists have developed a plan. That plan happens to recommend that the States adopt a management plan that reduces the take by 55 percent.

I do not know whether that is the right amount. I do not know whether it should be 100 percent or 10 percent, but the scientists, the biologists, the people who have looked at this, representatives of every State, have come up with a figure that we should at least try and reduce the take by 55 percent.

This simply says that what we should do is to get the States to enact a plan that they have already participated in developing.

The final point is that this amendment says, well, we in Congress really know a lot better and a lot more about managing fishery stocks than the Commission because we are going to stay by this, that we are going to say that only 90 percent of this plan is good and if you equate that out, it would call for a reduction of the stocks by 49.5 percent.

Now I ask all of you in all honesty: Do you know that 49.5 percent reduction is better than 55 percent? Of course we do not. We have to rely on the people who are professionals in this business who have looked at this, who have studied it, and who have worked on it and they have come up with their recommendation in their plan, that 55 percent is a figure that would take care of commercial and recreational uses and at the same time allow enough fish to go untaken to help increase and protect and improve the condition of the stock.

That is all we are talking about doing. So I do not think we know that 99 percent of that plan is good any more than we know that we would need to recommend 110 percent of the plan.

The bill is best as we can get, and we recommend a defeat of the gentleman's amendment.

Mr. Chairman, I will yield to the gentleman.

Mr. BATEMAN. I thank the gentleman for yielding to me.

Mr. Chairman, would the gentleman whose differences with the amendment I respect and understand, not concede that there is nothing whatsoever in this amendment that takes away from the commission the authority to set 55 percent as the level of reduced catch or for that matter, to hereafter set it at 75 percent or 90 percent or any other percent that the amendment only——

Mr. BREAUX. Reclaiming my time, Mr. Chairman, in response to the point that the gentleman is trying to make, what I am saying is that the gentleman would say that the commission could adopt a plan but that the States would not have to follow it. That the States would be free to, in effect, adopt only 90 percent.

We ought to bite the bullet at this time and come up with the best deals we possibly can, or not do anything.

I have analyzed the option of not doing anything to find out that it would be a nonacceptable alternative. We need to do something and I am willing to accept the recommendations of the professionals who have looked at this. Their recommendation is 55 percent. I do not think the State should be able to say, "OK, we are only going to do it 49.5 percent." It is either all the way or nothing. You are either pregnant or you are not pregnant. You cannot be a little bit pregnant. You cannot be a little bit in compliance. It is either one or the other and I would ask for defeat of the gentleman's amendment.

□ 1210

Mr. DYSON. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Virginia.

I stood up just a minute ago and I said that I was opposed to the bill. I am still opposed to the bill. I do believe, though, that the amendment offered by the gentleman from Virginia makes it a little bit better.

I listened to the chairman today, and during debate on H.R. 5492 in the full committee and the subcommittee on which we both serve, and he says it is very difficult to pinpoint what is a good cutoff. Yet the chairman is attempting to establish a cutoff point with this legislation.

On the floor he said he did not know whether 40 percent or 60 percent or whatever would be a cutoff.

I do not know but that 49.5 percent is a good idea. As would be the case under the Bateman amendment. Sometimes we would gather by this debate today that the States from North Carolina to Maine are not doing anything; in fact, they are. The States that are part of the Atlantic States Marine Fisheries Commission have all virtually decided that the 55-percent reduction is a reasonable way to go. My own State of Maryland, although I do not agree with the action taken by the Governor, has decided that, come this January 1, there should be a full 100-percent total ban on the taking of rockfish in the Chesapeake Bay.

I have a clipping here from the Baltimore Sun which says that Virginia which along with Maryland has 90 percent of the spawning stock has reduced its catch of rockfish by an estimated 74 percent.

So our State and other States are not sitting idly by. I think they intend to abide very seriously by this reduction of 55 percent, and I am impressed by their actions. We often pass laws here in the Congress because our States fail to act. That is not the case today. The States are doing something. The States are acting, including the State represented by the gentlewoman from Rhode Island. Her State at one time adopted a total ban, a 100-percent moratorium. The same article indicates that as a small State, Rhode Island's moratorium will not be significant in the overall conservation of rockfish. But they are supporting the 55 percent reduction also. Phil Coates, who is the Marine Resources Commissioner for the State of Massachusetts, said he felt the current 55-percent plan is showing some success and it might bear fruit if we all stick with it.

What I am saying in all of this is that the States are doing what we are telling them to do. I think the amendment offered by the gentleman from Virginia is a step in the right direction. It gives the States some flexibility and I do not think that we want to deny them that.

Mr. BATEMAN. Mr. Chairman, will the gentleman yield?

Mr. DYSON. I would be glad to yield to the gentleman from Virginia.

Mr. BATEMAN. I thank the gentleman from Maryland for yielding.

Mr. Chairman, would the gentleman from Maryland agree with me that if the Commonwealth of Virginia imposes restrictions on its commercial fishermen that limit their catch or reduce their catch of striped bass by 74 percent that that represents a larger negative impact on the commercial fishermen of Virginia than would a total moratorium in Rhode Island, Massachusetts, or other States represent in terms of its impact upon their commercial fishermen?

Mr. DYSON. Absolutely. If I can shift a little bit and go upstream to Maryland, we depend on that fishery in the State of Maryland. The very watermen that I represent depend on it, as well as many recreational fishermen. For our commercial watermen, that is about $50 million occupation.

Again, as I said, I do not agree with the total ban that has been imposed or will be imposed by Maryland come January 1. But even our watermen had agreed that something needed to be done and they very reluctantly endorsed the idea of the 55-percent reduction, which was the recommendation of the Atlantic States Marine Fisheries Commission.

What I am saying is, we do not need to fix something that is not broken. What we are attempting to do here has already been done. I think what we have done is jump the gun. I think we are a little premature. We are not waiting for the States to implement the 55-percent plan to see if it works. Maryland has already taken the lead. So has the State of Virginia.

Mr. Chairman, I ask the Members here to support the amendment offered by the gentleman from Virginia. I think it is fair. I think it makes the bill much more acceptable to us.

Mr. STUDDS. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Virginia.

Mr. Chairman, quite frankly, I do not understand the position of the gentleman from Maryland or the gentleman from Virginia. If I represented a State which I felt was in compliance, for the life of me I cannot figure out why I would not want the fishermen of other States to be compelled to come into compliance.

The State of Maryland is going to impose a total moratorium on its watermen next January. If I represented the State of Maryland, I would like to be darn certain that every other State's fishermen would be required to at least make some sacrifices if my fishermen are going to be required to stop fishing altogether. Why in the world would the Representative of Maryland, whose fishermen are going to be told they cannot fish at all come January, want to let the fishermen of all the other States from North Carolina to Maine off the proverbial hook?

Those of us who represent other States are saying that is not fair to the fishermen of Maryland, and if, indeed, the State of Virginia is in compliance—I do not know whether it is or is not—but if it has or is about to take measures that will reduce its catch by more than 55 percent, then it is not affected by the adoption of this bill either. If that is the case with respect to the State of Virginia and this bill were to become law, its effect on Maryland's fishermen and its effects on Virginia's fishermen will be zilch, nothing. You will already be in compliance and you will not be affected in any way by the provisions of this bill. Its only impact would be on those of us, if there are any, who represent other coastal States who may not have managed to come into compliance.

So frankly, the logic, such as it may be, utterly eludes me. I would be even more strongly, it seems to me, in favor of this bill if I represented States such

as Maryland, which is about to close of all of its fishermen from any right to take fish. If I were a Maryland fisherman, I would want to be darn sure that the fishermen of other coastal States were asked to share part of that burden in the effort to restore the stocks.

Finally, let me say with respect to the amendment offered by the gentleman from Virginia, to the extent that his concern may lie in the possibility of imposing an arbitrary number, we do not impose any number. There is no number in this bill, incidentally, and Members should know that. The only way there will be a number in this bill is if the gentleman's amendment is adopted. The bill references the plan recommended by the Atlantic States Marine Fisheries Commission—as it is now, and as it may or might be amended in the future. It is up to the Commission and its constituent coastal States to make that determination. We, as the gentleman from Louisiana [Mr. BREAUX] has said, do not arrogate to ourselves or presume to be able to make judgments as fishery biologists. The gentleman's amendment would put a number in the bill. It would effectively write into the bill our judgment, on God knows what grounds, as Members of Congress, that if you reduce your catch by 49.5 percent it is OK, somehow.

Let me say to the gentleman that he has not removed, if his amendment were adopted, the element of arbitrariness from the bill; he has simply changed the arbitrary number. And to the extent that he is concerned that a State may find itself maybe just under or maybe just over 55 percent, he has not removed that never-never land, that nebulous arbitrariness. He has simply changed the number to 49.5. If a State may be at 49.4 or 49.6, the same questions will come into effect with respect to whether or not a moratorium ought to be imposed, even if the gentleman's amendment were adopted.

So, in sum, it seems to me that logic and common sense say, most particularly to the fishermen of Virginia and the watermen of Maryland, that if our own States are in compliance, and in the case of the State of Maryland more than in compliance, then in elementary fairness the fishermen of those other coastal States ought to be asked to shoulder their fair share of the burden in attempting to protect a species upon which they all depend.

We do no favors for the fishermen in any State from Maine to North Carolina if, by our inaction or by ill-advised action, the striped bass ceases to exist.

Mr. BATEMAN. Mr. Chairman, will the gentleman yield?

Mr. STUDDS. Certainly I yield to the gentleman from Virginia.

Mr. BATEMAN. I thank the gentleman for yielding

Mr. Chairman, the gentleman is aware that under the bill there is, of course, as he has stated, no 55 percent reduction, but it simply speaks in terms of whatever plan the Commission comes up with.

□ 1220

The gentleman, I gather, would concede, therefore, that what is presently recommended by the Commission at 55 percent may become 65 percent, 75 percent, or some larger percent, as well as conceivably a lesser percent. Does the gentleman concede that?

Mr. STUDDS. The gentleman is correct.

Mr. BATEMAN. Mr. Chairman, would the gentleman further concede that 90 percent, as a standard by which to judge substantial compliance, does indeed introduce a measure of flexibility that can be mathematically equated to 10 percent?

Mr. STUDDS. No, sir; my point is precisely the opposite. It does not introduce flexibility. It simply changes the arbitrary number, and for that reason, among others, I urge the rejection of the amendment.

Mrs. SCHNEIDER. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I am very concerned about the discussions of substantial progress and the throwing back and forth of figures, whether we talk about 90 percent or 45.9 percent. I think that what we are focusing on here, unfortunately, is a numbers game. What we are failing to do is to look at the big picture. There is indeed flexibility in this piece of legislation. There is more flexibility than we need from my own personal point of view. But the additional flexibility in the amendment offerd by the gentleman from Virginia [Mr. BATEMAN], is excessive. We have to remember that the Atlantic States Coastal Marine Fisheries Commission has been focusing on the plight of the striped bass since 1977.

I would say that it is about time that we as policymakers get our act together. The chairman of the committee has suggested that we need to rely on fisheries biologists and that we must rely on scientists, and, yes, that is our responsibility to rely on the data. But as a member also of the Committee on Science and Technology and being married to a scientist, I think we have to acknowledge that we can never depend on one set figure or one set number and expect scientists to say that this is an exact answer. We just do not get exactitude from the scientific community.

For that reason, our responsibility is not to come up with numbers. Our responsibility as policymakers is to come up with value judgments, and I think it is quite clear that the value of the striped bass all along the Atlantic coast and beyond is of the utmost importance, not only to the commercial fishermen and to the sports fishermen but to all people.

It is imperative that this particular amendment be rejected. We cannot be graded on our effort. Yes, the State of Maryland is making some effort, and, yes, the State of Virginia is making efforts. That is like saying to your neighbor, "Your house is on fire. Here is a glass of water to help you put out the fire." Well, indeed there are not a whole lot of thank-you's to go around for that kind of effort. What counts is actually implementing legislation that will make a difference.

As my colleague had earlier stated, we are not here just to pass laws for the sake of passing laws; we want to pass laws that have some meat in them, and if we are going to enact legislation that will make a difference for the future of the striped bass, I think it is important that we reject this amendment.

Mr. PRITCHARD. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I can appreciate the position of the gentleman from Virginia and the gentleman from Maryland and some of the problems they have, but I think the committee has been very thoughtful and has taken a great deal of time in fashioning this bill. I think the amendment offered by the gentleman from Virginia [Mr. BATEMAN] should be defeated.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia [Mr. BATEMAN].

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

Mr. DYSON. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN pro tempore [Mr. BENNETT]. Does the gentleman from Louisiana [Mr. BREAUX] have a motion?

Mr. BREAUX. Mr. Chairman, under the agreement previously agreed to between the minority and the leadership, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore [Mr. WEISS] having assumed the chair, Mr. BENNETT, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5492) to provide for the conservation and management of Atlantic striped bass, and for other purposes, had come to no resolution thereon.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair desires to make an announcement. After consultation with both sides of the aisle, the Chair will entertain one or more special order speeches previously granted at this time, not necessarily in the order in which granted, with the understanding that further legislative business scheduled for the day, and possible rollcall votes, will follow those speeches for which the Chair recognizes. Other special orders may follow all legislative business.

A TRIBUTE TO THE HONORABLE JAMES M. SHANNON OF MASSACHUSETTS

THE SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts [Mr. BOLAND] is recognized for 60 minutes.

Mr. BOLAND. Mr. Speaker, the Massachusetts delegation, like many others in the Congress, will have some new faces next year. While that is part of the life of this institution, it is nonetheless difficult to contemplate working here, without the counsel of people whom we have come to respect, admire, and depend upon over the years. It is appropriate therefore, that we pause in the waning days of the Congress, to take special note of the contributions of those individuals who shortly will be ending their service in the House.

My colleague and friend, JIM SHANNON, is among those who will be focusing on new challenges in 1985. JIM came to Congress in 1978, just 3 years after his graduation from George Washington University's Law School. He was 26 years old when he came here, and he's a mere 32 now, so don't think that this special order is to mark JIM's retirement. Even if he was inclined to take it easy for a while, neither his charming wife Silvia nor his beautiful daughter, Sarah, would allow it. So JIM, forget about a gold watch and a warm spot in front of the fire. They are not on your horizon and won't be for a long time.

I can remember JIM after the 1978 election and being impressed by two things: His maturity that belied his years, and his keen intellect. Others obviously had the same impressions, because JIM was assigned a seat on the Ways and Means Committee, a prestigious assignment for any Member and even more so for a freshman. It is no secret in this House that the issues with which the Ways and Means Committee deals, are not only complex, but controversial. That has been especially true during the last 4 years and it's a testament to JIM's abilities that he could become acclimated to the operations of Congress, while at the same time, immersing himself in the nuances of tax law, trade policy and Medicare. He made an imprint on the work of the committee so surely and so swiftly, that it is sometimes difficult to remember that he has only been in the House for three terms.

JIM has a great breadth of interest and I believe that is best reflected by some of his legislative achievements. We recently completed action on a bill, that will reform the Social Security disability system, to make certain that those in need of benefits do not have them unfairly taken away. Much of the credit for that legislation should go to JIM SHANNON who, in response to the demonstrated inability of the old system, to safeguard the rights of beneficiaries, introduced a measure early last year, to standardize the review process, and ensure the receipt of benefits, through all of the stages of that process. The Shannon bill became the foundation upon which to build the legislation recently passed. Thousands of the least fortunate members of our society are indebted to him for his efforts. So too, are those who want a sound Social Security retirement system—a Medicare Program, that is both efficient and compassionate—and a Tax Code, that fairly distributes the burden of sustaining this country—for those have been the causes which JIM SHANNON has effectively championed.

I mentioned that JIM has a keen intellect, that he is a quick study with a wide variety of interests. Those attributes have served him well as a Massachusetts Member on the Ways and Means Committee because, as my colleagues know, Massachusetts is home to some of the most innovative and dynamic high technology companies in the world. JIM has been able to foresee the kinds of stimulus necessary to encourage expansion in the high-technology field, and he has been a leader in congressional efforts to provide that stimulus. He knows that the future of all businesses lies in developing new products or new approaches to providing services. His efforts to align the Federal Government, with a vigorous research and development effort in the private sector have been warmly received and widely appreciated in the business community.

JIM has not confined his work in Congress to the activities of the Ways and Means Committee. He has been among the most active and committed members of the Friends of Ireland—a group of Members of the House and Senate, dedicated to promoting a peaceful and just solution to the troubles in Northern Ireland. He has given countless hours of his time in meetings and discussions with leaders of Great Britain and Ireland, in an effort to make them aware of the willingness of our Government to work with them to bring an end to the bloodshed and divisions in Ireland. I believe that these efforts will bear fruit in the years to come, and that the cause of peace in Ireland will be seen to have been furthered by JIM's diligence.

In spite of the importance of his work on national and international issues, the needs of his own Fifth Congressional District have always been paramount with JIM. His predecessor, Senator PAUL TSONGAS, authored legislation creating a national historic park in Lowell, MA, as our country's memorial to the industrial revolution. Through JIM's tireless efforts each year, that park has received congressional support in the Interior appropriations bill, and restoration of the mills and canals is nearing completion. The Lowell National Historic Park will provide a valuable learning experience for generations of Americans and serve as a visible link, with an age that was determinative of the direction our country would travel, in the 20th century.

As this brief review suggests, JIM has made many contributions to the work of the Congress during his service in this House. He has much more to contribute to his country in the years to come, whether it be in Government or in some other area. JIM's future is as bright as the record he has thus far achieved. I know we will be hearing more of him. His absence from the capitol next year, may prove to be merely an interruption in his career in public service, but I know that from whatever forum, he will continue to bring his talents to bear on the important issues facing our Nation.

Mr. Speaker, Thomas Oliphant of the Boston Globe had a fine piece about JIM on September 30. I would like to have excerpts from that article entitled "Congress Will Miss Shannon" appear at this point in the RECORD:

[From the Boston Globe, Sept. 30, 1984]

CONGRESS WILL MISS SHANNON

(By Thomas Oliphant)

WASHINGTON.—The kid from Johns Hopkins University was pounding the pavement here doing legwork for a paper on a challenging topic—leadership in the U.S. House of Representatives.

The focus of the college senior's research was the House majority leader, Thomas P. O'Neill Jr., the year being 1973. After 11 years, what still sticks out is the probing nature of the kid's questions—whom does O'Neill talk to, how does he exert influence, how does he know when to move and when to wait?

The truly incredible thing is that 11 years later the kid is himself preparing to leave the House with the deserved reputation of a leader—not a mere insider or someone with a promising future, but a genuine leader.

James M. Shannon, assuming President Ronald Reagan's re-election, would have been one of a handful of Democrats in the middle of the most important fights looming in Congress next year: over an anticipated budget assault by the Administration on Medicare, and possibly on Social Security itself; and over the fashioning of some kind

of revenue-raising measure to undo some of the damage to the federal budget caused by the tax cuts and military spending spree improvidently authorized in Reagan's first term.

CAREER ON HOLD

On his perch as the eyes, ears and, on occasion, the muscle of now Speaker O'Neill on the House Ways and Means Committee, Shannon—as careful students of the legislative process would know—at many crucial moments would be of more significance in terms of what was going on than the committee's chairman, Chicago's Dan Rostenkowski.

Instead, of course, Shannon will be practicing law back in Massachusetts. His reach for the U.S. Senate nomination having just barely exceeded his grasp, Shannon, at age 34, finds his political career is abruptly on hold.

The merits of his tussle with Lt. Gov. John Kerry aside, the lasting significance of his departure can be measure in the very long faces of his legion of admirers here, most notably his colleagues in the Massachusetts delegation who are aware that not only has the state temporarily lost one of its ablest federal servants, but also the House may have lost a future Speaker—or at least a chairman for its sensitive Ways and Means Committee.

No one worries about Jim Shannon's limitless future; the true measure of his worth is the fact that no one wants him to be absent when the new Congress gets down to cases next year.

□ 1230

I am delighted to yield to the distinguished Speaker of the House of Representatives, the gentleman from Massachusetts, the Honorable THOMAS P. O'NEILL, a close personal friend of JIM SHANNON.

Mr. O'NEILL. Well, I am delighted that the dean of the Massachusetts and the New England delegation, EDWARD BOLAND, yields to me and has taken the time to have this tribute to JIM SHANNON.

As Speaker of the House and a member of the Massachusetts delegation, I am doubly sorry to see JIM SHANNON leave. His election to the House in 1978 at the tender age of 26 was indeed an impressive feat. I had known JIM for a few years before that while he was a student at Johns Hopkins University. He wrote his master's thesis on the career of one THOMAS P. O'NEILL of Massachusetts and I had many interviews with him. His political sophistication at that time amazed me. He graduated from Johns Hopkins and went to law school here in Washington and went back and passed the bar in Massachusetts and here in Washington, DC, where he was a practicing attorney.

He ran, at the age of 25, for the office of Congressman and was the youngest Member that had been here in some time.

In his first year he was elected to the Committee on Ways and Means and his 6 years on that committee have been truly distinguished. He has proven his legislative skills both on local domestic issues for us at home, on national issues, and yes, he is an authority, too, on international issues.

He led the fight for us in Massachusetts when we joined together to fight for the interests of the Commonwealth. All of us in New England, on both sides of the aisle, are deeply concerned with the economy of our area and JIM led many fights. He was a champion for us in trying to retain what we could of the shoe industry, and to that industry he has made a tremendous contribution.

JIM is a member of the Social Security Subcommittee. During those tenuous and tedious days when we were discussing the problems of the Social Security System, JIM was a valued advisor, and he helped put the compromise together to save Social Security.

He is an expert on taxes, tariffs, and trade. He is a well-rounded, well-schooled politician, and he is very, very popular in our delegation. As a freshman Member, we gave him special assignments and he performed every assignment, whether requested by the Massachusetts delegation, or by his Committee on Ways and Means, with quality and distinction. He is able and talented and he is a prodigious worker.

So as Jim retires into private life, I know he has a tremendous future ahead of him. At the age of 32, he leaves the Congress after three terms, with many friends here, and his experience across Massachusetts in an unsuccessful fight for the Senate nomination won him countless friends. He lost a very hard and a very close primary election and, of course, it had to be a bitter loss for him. But he is young and he has a great future ahead of him. I am sure that future is in the practice of law. I am sure that future can also be in politics in Massachusetts if he so desires.

So to JIM and Sylvia and their daughter, I join my colleagues in wishing him Godspeed and good luck.

Mr. BOLAND. Mr. Speaker, I am pleased to yield to the distinguished gentleman from Boston [Mr. MOAKLEY].

Mr. MOAKLEY. Mr. Speaker, I rise to pay tribute to a very distinguished member of the Massachusetts congressional delegation who will be leaving this Chamber after the coming Presidential elections. JAMES MICHAEL SHANNON has represented the Fifth Congressional District of Massachusetts for the past three terms. Filling the House seat that PAUL TSONGAS vacated when he left this Chamber to move to the Senate, JIM has been a tireless and effective spokesman for the residents of Lawrence, Lowell, Framingham, Concord, and other Fifth District towns just as he has been for the Nation's elderly, infirm, jobless, and very young.

Massachusetts' Fifth Congressional District is a microcosm of the Nation as a whole. Lawrence and Lowell, aging mill towns, are beset by many of the problems that confront larger cities such as Baltimore, Detroit, and Cleveland. Framingham and the towns of Middlesex County must grapple with major problems brought on by Boston's urban sprawl. The district's problems are virtually one and the same with the Nation's: Unemployment, urban decay, transportation, and infrastructure decay, and widespread educational inequities and opportunities. Luckily for the residents of the fifth congressional district, they have had an innovative and sensitive personality representing their interests and their future in this Chamber. JIM SHANNON has spoken so effectively on a myriad of issues and has consistently backed up his rhetoric with imaginative and practical legislative initiatives that have played key roles in the formation of public policy in the past 6 years.

As a member of the prestigious House Ways and Means Committee, JIM has been at the forefront of debates in public policy areas affecting both Massachusetts and the Nation. Almost intuitively, JIM mastered the complicated and multisided tax process and played a major role in tax questions involving often competing interests. Most notably, his efforts to keep Social Security solvent and stable and to insulate it from the budget-slashing tendencies of the present administration have been largely responsible for keeping the issue on top of the House's agenda. As a member of the Social Security and Health Subcommittee of Ways and Means, JIM has been a constant advocate of creating a health care system in this Nation that is available to all at a reasonable cost. In that hope, JIM was the author in this Congress of the Health Care Cost Control Act.

In other areas, the Chamber has witnessed JIM's efforts to spur this Nation into the 21st Century. He has addressed very sensitive and largely unexplored areas of trade policy and technological innovation. He was among the first to recognize that many of our domestic industries; industries that have played an ongoing and productive role in this Nation's history—footwear, textiles, and steel—face almost certain extinction due to unequitable and unfair trade policy. He has countered those inequities with farsighted and fair alternatives which the House will consider even after JIM's departure. JIM SHANNON's name has become virtually synonomous with "high technology." He is the prime author and mover of literally half-a-dozen significant bills in this legislative area, all of which I'm proud to say that I have been an original co-

sponsor of. He has singlehandedly been successful in connecting America's emerging high technology industries with this Nation's national security focus, and, consequently, has shaped much of the dialog over high tech's role in our future.

When JIM first came to this Chamber, I remember remarking to the Speaker that JIM was a young man with the head of a very experienced Member of Congress. He had a mastery of parliamentary procedure, a command of the legislative process, and a finely honed respect for the institution.

At the age of 32, we have probably only heard the beginning of JIM's contributions to this Nation. I know that he has a remarkable career ahead of him, should it be in either the private or public sector. Whatever JIM does, and wherever he goes, he leaves this Chamber knowing then he has made it and us better for the experience. Evelyn and I extend to Silvia, Sarah, and JIM all of our best wishes for the future, and look forward to seeing him often.

□ 1240

Mr. BOLAND. I thank my colleague, the gentleman from Massachusetts.

I now yield to the distinguished gentleman from Massachusetts [Mr. STUDDS].

Mr. STUDDS. I thank our dean for yielding.

Mr. Speaker, having heard some of this discussion, I think an announcement should be made that JIM SHANNON is alive and well. These are not funeral services being conducted here. We have a tendency sometimes I think in our special orders to become so solemn that those listening to it might have the impression that we are paying our last respects to a departed colleague.

JIM SHANNON is going to happier places, that is to say, elsewhere, and he goes with the affection and the respect I know of every Member of not only his own delegation but of this House.

Other Members have spoken and I know will continue to speak in some detail and some depth about the substance of his legislative achievements. I would just like to make a personal reflection.

I know whenever I have dealt with JIM, and I think it is true of the rest of our colleagues, whenever I think of him, I think of that smile and that twinkle and that humor that is uniquely his.

I remember once some time ago talking to, when I was a very young person and had not really dreamt of entering this body, a very senior Congressman from the other side of the aisle who would not talk to me because he knew I was a Democrat, but he found out that I went to the same university as he did and he vouchsafed an evening of grandfatherly advice. And he once said to me, he said, "Always remember rule 6," he said, "rule 6 is, don't take yourself too seriously; and there are no other rules."

I think that if anything at all could be said about JIM SHANNON, it is that he never, never ever forgot rule 6. And I think one of the things that we will never forget, those of us who served with him and were in Massachusetts on the night of the primary last month, and who saw the statement that JIM made when he reached the conclusion that the returns were definitive and that he had not won the nomination of our party for the U.S. Senate, I think all of us who saw that night and all of us who have been through elections, both winning and losing, and knowing the particular personal pain of having to acknowledge that so much of your effect and so much of the effort of the people who have supported you and had faith in you, and your family, your friends, your supporters, your volunteers, have been in vain, and that the fight at least for that moment has not been won, all of us who saw JIM SHANNON speak to the people in his headquarters and to the people of the Commonwealth of Massachusetts that night know that they saw an extraordinary demonstration of what can only be called class and dignity.

The pain and the sorrow I think that he felt were not in one moment reflected in what he said. And from the first words that he uttered, they were words of encouragement to the winner of that primary by whom he had just been defeated, and whose victory he was acknowledging.

It was entirely upbeat; it was with a smile, and it was with his usual good humor, and with the best of positive wishes for the winner of that primary.

I think only JIM SHANNON could have conducted himself in a moment like that with that kind of class and grace and dignity. And as JOE MOAKLEY just said, the future is ahead for him in ways that I think are going to be exciting indeed and beneficial not just for him and for us but for all of the people of our State and for the people of this country.

I join my colleagues in wishing him well.

Mr. BOLAND. Mr. Speaker, I thank the gentleman from Massachusetts. All of us in the delegation of course are very close to JIM SHANNON but none closer than the distinguished gentleman from the middle of the State, Mr. EARLY.

I am pleased to yield to him.

Mr. EARLY. Mr. Speaker, aside from the well-deserved honor being given to our colleague, Congressman JAMES SHANNON, this is not a very pleasant occasion for me. I am very sorry that he is leaving here.

In my opinion, JIM SHANNON rates very high among the finest and ablest persons who have ever served in this body.

A lot of people tend to estimate a Member's effectiveness by the list of their legislative accomplishments. By this standard, JIM SHANNON would be a big winner.

I think an equally good judgment can be made by reviewing a Member's demonstration of character, commitment, compassion, and sincerity in carrying out their duties here.

In the constant use of these high qualities in his congressional work, it is my feeling that JIM SHANNON has very few, if any, superiors.

Almost from the first day he arrived here, at the age of 26, he has been one of my closest and most valued associates.

He has earned the deepest respect of most Members of both parties for his thorough knowledge, his natural courtesy, and cooperative disposition. He never questions a colleague's intentions; he just tries to fully explain his own beliefs.

In the hearings of his vitally important Ways and Means Committee, where the real legislative work is done, he has exercised a tremendous influence for what is right and good and just for all Americans.

The people of his home district, who know him best, have repeatedly approved of him as an exceptionally competent and fully trusted Federal representative.

I believe they would have continued to return him to this House as long as he desired.

But the destiny that affects all of us has changed his course. It is the way of life and he accepts it as such.

I and all his friends will sorely miss his daily presence here if we are all fortunate enough to be reelected. His departure will be an even greater loss to our country.

Right now, in my opinion, this Nation is in urgent need of men and women in the Congress of his proven integrity, competence, and dedication.

It has been said that present disappointments are often future blessings, in disguise. All of us would like very much to see that happen in this case.

JIM, throughout your unselfish service here, your basic objective has been to try to provide a better life for all your friends, neighbors, and fellow citizens.

I know that everyone here joins me in sincerely hoping that when you leave here, you, yourself, will find a better life outside, that will enable you to give greater economic protection to your family and allow you to spend a lot more time with your gracious wife, Sylvia, and your lovely young daughter, Sarah. The best wishes of my wife,

Marilyn, and myself will always be with you and your family.

Mr. BOLAND. Mr. Speaker, I thank the gentleman from Massachusetts.

I yield to the distinguished gentleman from Massachusetts [Mr. DONNELLY].

Mr. DONNELLY. I thank the dean for yielding to me.

Mr. Speaker, I rise to pay tribute to my friend and colleague, JIM SHANNON. JIM's career in the House has demonstrated the meaning of the words "public service." He is one of the most effective, dedicated, and principled Members of this body, and I consider myself most fortunate to have had the opportunity to serve with him.

I have followed JIM's congressional career particularly closely since we arrived together as freshmen Massachusetts Representatives in 1978. From his first days here, JIM demonstrated his aptitude for the legislative process. He has willingly performed the difficult, often tedious work that is necessary to pass legislation. He is widely recognized as a knowledgeable and effective member of the Ways and Means Committee. JIM SHANNON has been the driving force behind several major bills, including the Social Security disability reform legislation currently awaiting President Reagan's signature. This legislation, perhaps more than any other, symbolizes the compassion, tempered with realism, that JIM SHANNON brought to this job. This legislation, which will dramatically improve the lives of thousands and thousands of people, was carefully crafted and skillfully maneuvered through the legislative process by JIM SHANNON. He did not just bemoan this problem in speeches and press releases; he moved aggressively and determinedly to solve it.

In the last few months I have become well aware of JIM SHANNON'S courage under even the strongest pressure. He was besieged by mayors, developers, and bond counsel due to his support for a limitation on the growth of the industrial development bonds program. He stuck to his position, despite the tremendous pressure, and criticism, and the very real danger of political fallout because he believed it was the right thing to do. I greatly admire the courage he displayed during that time, and I know I am not alone.

JIM SHANNON'S departure from the House is a great loss to this body and to the residents of the Fifth District of Massachusetts. We will miss him not only as a friend, but also because he is among the best of the legislators in this House. Washington's loss, however, is clearly Lawrence, MA, gain. I wish JIM and Sylvia the very best as they begin a new phase of their lives. I am confident that JIM'S career as a private citizen will be as distinguished as his career here in Congress.

□ 1250

Mr. Speaker, let me just say in conclusion that when I came to this institution with JIM SHANNON in 1979 I never thought in my wildest dreams that I would be here, just 6 short years later, bidding adieu and farewell to JIM SHANNON. He had a short but extremely brilliant career here in the House. There is nobody that has served in this institution with JIM SHANNON that could ever question that statement.

I know that over the course of the next few years JIM will return to the political arena. The tens of thousands of friends and admirers that he made during his bid for the Democratic nomination for the U.S. Senate will have a lasting impression of a man who is committed to public service not because he needs to do it for himself but because he feels that there is a tremendous amount of injustice in the society and he feels that he can help, that he wants to help, that he has the ability to help.

Those people who saw JIM SHANNON on election eve concede just so graciously with the words "it looks like we came a little bit short" will never forget the graciousness with which he conceded, but more importantly will never forget what he has done for the Commonwealth of Massachusetts over the course of the last 6 years serving in this institution.

Clearly, in my opinion, he has an extremely promising political future in Massachusetts. But more important than that, this respite from political life, I hope, will give JIM some time to enjoy his wonderful wife and beautiful little girl.

I think those of us who have spent most of our adult lives in government look with some envy at the time that JIM will be able to enjoy now in the presence of his wife and his beautiful little girl.

My wife Ginny and I wish them the best. It really seems kind of ironic that we are standing here talking in such sober terms about an individual who is so vibrant, lively, has a magnificent sense of humor and at the age of 32 I would suspect that in the future he will be back either to serve in this institution or that other institution across the Capitol.

We wish him nothing but the best and we will take this opportunity to thank him for his friendship, his counsel, and the service he has provided for all the residents of the Commonwealth of Massachusetts.

Mr. Speaker I thank the dean of our delegation [Mr. BOLAND] for taking this special order and for yielding this time to me.

Mr. BOLAND. I thank the gentlemen from Massachusetts.

Mr. Speaker, I yield to the distinguished gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK. Mr. Speaker, I thank the gentleman from Massachusetts [Mr. BOLAND] for bringing this special order and for giving us the chance to pay tribute to our colleague. There is sometimes a routine quality when politicians speak about each other and I think those who are listening to this and who will be reading the words will appreciate the fact that this is not at all the kind of routine that politicians sometimes engage in because JIM SHANNON made a very, very strong and favorable impact on all those who served with him, both for his personal quality and integrity of leadership and the commitment to values that he stuck with even when they appeared to be somewhat unfashionable.

People who are hearing these words, who will have heard the extremely eloquent tribute that our friend from Massachusetts [Mr. EARLY] paid to JIM SHANNON will, I think, understand we are talking about something that goes far beyond the ordinary.

Among the things JIM SHANNON has done that most impressed me are two that I want to talk about in policy terms.

First of all, he showed it is not only possible but logical to combine a concern for the economy as a whole with concern for the least fortunate within it. Too often people think there is some opposition between those and that if you are worried about the poor, if you are worried about the disabled, if you are worried about the elderly, JIM SHANNON did an enormous amount, from his position on the Committee on Ways and Means, to defend those vulnerable people against callous attacks. Sometimes it is argued that if you worry about that you are going to come up short when it comes to developing overall economic activity. It has been a privilege for me in the 4 years I served with JIM SHANNON to work with him on a number of very specific areas where he was taking the lead to provide economic programs that made sense both for the Nation as a whole and for the region we represent. His work in trying to put forward a sensible tax incentive which gave genuine assistance to those seeking to expand economic activity without giving away the store, in 1981, were very impressive. Work on export trading companies, work for other industries in Massachusetts whether it was shoe or high technology—and he cared a lot about both and worked hard for both—he showed a grasp for economics and an understanding of the need for cooperation between the public and private sectors, and showed that it was possible in fact to show those concerns and still be one of the most eloquent and one of the most

dedicated defenders of the poor and the vulnerable.

He did both, he did both in a way that was very important.

I want to dwell for just a minute on what he did for the disabled, for the elderly, for the poor, because that has not been the most politically popular thing to do in recent years.

It would have been easy for JIM SHANNON from his position on the Committee on Ways and Means to have dealt with other issues, to have continued the economic leadership he showed in various ways, given his mastery of the tax policy, how best to work with the private sector, but he never took the easy way out. He felt that commitment as an elected official to those who would be left behind in this society, to those who did not have the ability or the luck or some combination thereof to make it on their own. He continued to be during his 6 years here and I know he will continue to be in the future a very strong supporter and defender of those who are vulnerable.

As has been pointed out by the gentleman who preceded me he was a man of very strong principles. There are times in any politicians life when a tide comes at him which he does not necessarily agree with but prudence sometimes dictates swimming along. JIM SHANNON was one who did not succumb to that kind of situation. He showed the kind of principle and integrity that a lot of politicians wish they had but do not always manifest.

Time and again he figured out what he thought was best and he stuck by it.

By his service in this institution he graced the institution and he graced the profession. It is fashionable also these days to denigrate politics, to talk about people who run for elected office or hold elected office as if there were some qualities that we were lacking from the standpoint of dignity, integrity, commitment. People who are familiar with the superb 6 years that JIM SHANNON put into this institution and with what he will be doing in the future because of his continued concern and commitment to public life, that is a very strong statement in rebuttal of that.

One of the best young men of his generation has chosen to put into this institution and into a public career the best that he had and it has been very good indeed.

□ 1300

So for his service in this institution, for his advocacy in a sustained and thoughtful way of the interests of our region, for his creative work on the economy as a whole, and for his continued and principled commitment to the poor and the needy and to his insistence that they be allowed to share in the general prosperity that he has worked so hard to create, we are all indebted to Mr. SHANNON and we are indebted to our dean, Mr. BOLAND, for giving us the opportunity to say so.

Mr. BOLAND. Mr. Speaker, at this time I yield to the gentleman from Massachusetts [Mr. MARKEY].

Mr. MARKEY. Mr. Speaker, I commend the gentleman for holding this special order.

JIM SHANNON was a heavyweight. There is no one who can deny that. He was a very special person in this institution and somebody whom I think everyone looked to as an eventual chairman of the Ways and Means Committee. Almost every Member of this institution had assumed that that would one day be his place in this body had he chosen to stay here.

Many people have looked at the Massachusetts delegation itself, especially over the past couple of years, and noted our positions on the Ways and Means, Appropriations, Rules, and Energy and Commerce Committees and the Speaker's chair, and analogized us to the 1927 Yankees. There is in fact very little legislation that was not touched by the Massachusetts delegation as it went through this institution. Much of the most important legislation consisted of bills that were influenced by JIM SHANNON as the eyes and ears and the voice of the Massachusetts delegation, the people of our State, and the people of our country, who have a particular point of view regarding the way those issues should be resolved. He was an infighter, but also someone who had the capacity to capsulize on the floor of the House, to manifest a concern for issues in a way that very few other people in this institution have the capacity to master.

While he worked diligently on issues relating to his committee responsibility, he was also able to reach out and touch other issues that have tremendous importance for our country.

When the President announced that he had invaded the small island of Grenada, JIM SHANNON stood up on the floor and criticized the President that morning in terms that many others in this institution felt were a little bit too harsh at the time. But as more and more people look back, I think they realize in retrospect that he really was in fact calling it the way it was, that the President had overstepped his bounds and that the President had, in fact, jeopardized our position in world opinion.

He has done the same thing on a whole range of issues in the course of his brief career. I think one of the most disconcerting things about a special order like this is that you feel as though you are conducting a wake for someone, but the corpse is still lying in the casket looking up at you alive, listening to the words that you are saying about the alleged deceased.

JIM SHANNON's career is far from over. At the age of 32 he is going to be back and heard from time and time again in public life. It is nothing more than a very brief hiatus, I think, in his service to the Commonwealth of Massachusetts and to the United States.

I think what we are doing right now is for the most part summarizing the early part of his political career, as brilliant and brief as it may have been, in anticipation of yet greater contributions which will be coming in ensuing years because of the inevitability of his return to public life in a position which will again be able to benefit all of us who live in this country.

Once again, Mr. Chairman, I want to thank you for conducting this special order.

Mr. BOLAND. Mr. Speaker, since this is the "Year of the Woman" and also because there is no greater affinity than between the delegations of the States of Massachusetts and Connecticut, I am delighted to yield to the distinguished gentlewoman from Connecticut [Mrs. KENNELLY] who serves on the Ways and Means Committee with JIM SHANNON.

Mrs. KENNELLY. Mr. Speaker, the great Commonwealth of Massachusetts has given our Nation many great leaders and accomplished legislators. JIM SHANNON is one of them.

In his short tenure in the House, this distinguished legislator from the Bay State has become a respected authority on tax issues—issues that affect all Americans.

It was a pleasure to serve with such an effective and skilled member of the Ways and Means Committee. With enthusiasm and determination, JIM mastered many of the complexities of our Nation's tax system and worked to make it fairer and more understandable, always with an eye on the needs of the elderly, the poor, and the others who could not afford expensive lobbies to represent them.

As a member of the Health Subcommittee, JIM played a major role in guiding Social Security through its most recent difficulties to calmer seas.

With his considerable knowledge about the subject, JIM helped frame the debate that will set the stage for reforming the Medicare system—so it can continue to provide relief to America's elderly.

In accordance with his concern about Medicare, JIM SHANNON labored hard to bring about needed improvements in America's health care system. He set out to put the brake on the skyrocketing cost of health care by supporting the Health Care Cost Control Act.

I envy the world outside this Chamber, for it is getting one of our brightest stars. JIM SHANNON saw the need to bring about major changes in our tax system. He has been a strong and in-

telligent voice for responsible tax reform. He contributed to the 1982 tax law that closed many large tax loopholes.

For women, JIM SHANNON has been a trusted ally and friend. He has been on the side of the working woman—struggling to raise a family and make ends meet—who can't get her former husband to pay his court ordered child support. JIM has joined the fight against the feminization of poverty, and he has been steadfast in his commitment to the equal rights amendment.

And while we take this opportunity to review JIM SHANNON's accomplishments of the past, we must not forget that he is a man dedicated to the future. Legislation he introduced has helped put into place economic incentives for education and the development of high technology. And he also has introduced bills to strengthen America's competitive posture in international high-tech trade.

Education and technology are good issues—they are investments in our future. Yet anytime we speak of the future, we also must speak of the threat of nuclear war. And JIM SHANNON is one Member who has been totally committed to a nuclear freeze and to a future for our children. He has chosen to follow the avenue to peace instead of the road to war.

The leadership skills from which Congress and the people of the Fifth District have benefited will serve JIM well. It is his idealism that fuels his quick mind and supports his tough convictions.

Personally, I am going to miss JIM SHANNON. When I came to Congress in a special election, JIM held out the hand of friendship. JIM knew that the Ways and Means Committee should have a woman member. I was the fortunate recipient of this clear thinking.

JIM was always willing to share his expertise to the new Member from Connecticut. I'm going to miss JIM SHANNON, but I know others are now going to benefit by his presence.

Mr. BOLAND. Mr. Speaker, I am pleased to yield to the ranking Democratic member of the Connecticut delegation, Mr. RATCHFORD.

Mr. RATCHFORD. Mr. Speaker, I thank the gentleman.

The gentleman will notice that all of the Democrats from Connecticut are here because that is the way we feel about JIM SHANNON.

When you think in terms of this institution and what a high honor it is to be able to serve here, you think about history, you think about the personalities, you think about what it means to serve the people.

When it is all done, I think the fact that stands out the most in your mind is the people with whom you serve. That is the nice thing that happens to you, the people you meet.

One of the best people I have met here is JIM SHANNON. We came here together in January of 1979. Truly I can say that one of the most effective people, one of the brightest, one of the people with the best sense of humor is JIM SHANNON. And I would say to the dean of the delegation I think that a sense of humor is an attribute that guarantees survival in the Massachusetts delegation because I have watched them closely. They are a close knit delegation. They work very effectively together. But if you cannot take the needle in a friendly way, and if you cannot give it back, you will not survive in Massachusetts.

JIM SHANNON had the sensitivity, but also the sense of humor, to survive. He is indeed, one of the best people who has served in this body.

We look at his work and it is legend. Look at the Ways and Means work. I think in terms of trade reform and of export trading companies. He is the author of that act. I know what that means to so many small businesses throughout the United States. JIM came to Waterbury, CT, to outline the importance of this act and to say to small business people, "This is a way that you can get involved with doing more business overseas."

Social Security disability: We have had a situation for 2 years where decent people have been ground down by the system, where they have been told not by a doctor or not after consultation, but by a computer printout, "You are capable of going back to work."

JIM SHANNON said, "Go back to work if you are capable, but if you are not, you are entitled to disability."

He hung in there. He was tenacious. He fought that fight. Now we have a better disability bill that puts humanity back into the process, puts it back into the process because of the tenacity of JIM SHANNON.

The whole question of tax incentives: The direction that our Tax Code should be taking.

This individual certainly is a giant in the work that he did to encourage research and development, and for the work he did in developing high-tech firms.

In addition to this, looking at the code of 1981, he saw not an opportunity to benefit those who did not need benefits, but an opportunity to reform the code, to provide more relief for medium and small sized businesses.

In the area of foreign policy, if there was one consistent voice that was willing to stand up and say our direction is wrong, our emphasis is wrong, we are not showing enough concern for human rights and opportunities, we are placing too great a reliance on a military first option, it was JIM SHANNON.

□ 1310

I applaud him for this courage.

I also applaud him for the commitment to his district. As the ranking Member from Massachusetts knows, there is an important project in Lowell which has benefited greatly from the consistent concern of JIM SHANNON, and that is Lowell Park. Year in and year out, JIM SHANNON came before the Appropriations Committee, made his presentation, was very effective with the facts, and that park has flourished as a result of his commitment.

JIM SHANNON has given 6 good years to public service. But there will be more. All I can think of is the words of the poet who said: "Come along and live with me, the best of life is yet to be."

For public service, through the efforts of JIM SHANNON, the best of life is yet to be, and Massachusetts and the country has benefited but will continue to benefit from his great service.

Mr. JACOBS. Mr. Speaker, will the gentleman yield?

Mr. BOLAND. I yield to the distinguished gentleman on the Ways and Means Committee, who served with JIM SHANNON, the gentleman from Indiana [Mr. JACOBS].

Mr. JACOBS. Mr. Speaker, I thank the gentleman for yielding and for affording this opportunity for those who love JIM SHANNON—and there are many—to express our love and admiration both orally and in the RECORD in written statements.

I have a short statement which I have written, and I wrote it under the correction of the story of the Irish wake in Boston, where the bishop dropped around and said some wonderful things. He said that the deceased had been a person who never bilked his creditors, was loyal to a fault to his friend, was an exemplary man who drank but drank in moderation and did not smoke at all.

About that time the widow turned to her eldest son and said, "Go over and see who is in that casket."

Under the correction of that story and that nobody is perfect, I have written the following:

In 1978 Boston sent a special excellence to the Halls of Congress.

A young Representative with intelligence and with wit and wisdom far beyond his years suddenly was in our midst, enriching our deliberations with matter-of-fact and mildy spoken logic.

And with all this came sparkle, the light touch, which eased our burdens and which makes us all the sadder over his leaving us for private citizenship.

JIM SHANNON is one of the most decent things to happen to Congress since the start. I am fortunate to count him as my friend.

He leaves; his splendid example remains.

Mr. BOLAND. Mr. Speaker, I thank the gentleman from Indiana.

I yield to the gentleman from Massachusetts [Mr. MAVROULES].

Mr. MAVROULES. I thank the gentleman for yielding.

Mr. Speaker, I just want to join in with the gentleman in the well and commend him for taking the special order for a dear friend of ours and certainly a very important Member of the House of Representatives. We can talk about JIM SHANNON; we can talk about his background; but I think he has certainly demonstrated some character when he lost that election up in Massachusetts and the way in which he accepted it in his message to the people of Massachusetts and also his message to his colleagues here in the House of Representatives.

I just want to join with you, Mr. Speaker, and all his friends in the House. We are going to miss him because we are going to miss not only a man who is very well qualified but perhaps with one of the keenest minds in the Congress of the United States in this present sitting. We are going to miss him in Massachusetts because he has so much to offer as an individual. We are going to miss him because he is such a young, young gentleman who has performed so gallantly in the House of Representatives. I am hoping that perhaps we do not take this as a defeat for our dear friend JIM but also it will be the beginning of a good future in the world of politics.

Therefore, Mr. Speaker, I want to join with you and many others in commending our dear friend.

Mr. BOLAND. Mr. Speaker, I yield to our distinguished friend, the gentleman from Connecticut [Mr. GEJDENSON].

Mr. GEJDENSON. I thank the gentleman for yielding.

Mr. Speaker, I have come here with many of our friends today to say some words about JIM SHANNON, someone I met 4 short years ago and learned to have great respect for. There are interesting and often difficult to define qualities that make for excellence in a legislator. He had all the abilities, he knew the issues he worked on, he had the courage to be forthright, he knew how to work with his colleagues and he knew not to take himself too seriously. But he was always ready to give a full measure of commitment, whether it was concern for the human rights of people in Central America, in El Salvador and in Honduras and throughout the region, or whether it was on the issue of Soviet Jewry when he and I traveled together to spend 10 cold days in the Soviet Union some 3 years ago. JIM SHANNON's commitment was visible, it was clear, he had the courage to speak out, and his voice will be missed.

Mr. BOLAND. Mr. Speaker, I yield to the gentleman from Connecticut [Mr. MORRISON].

Mr. MORRISON of Connecticut. I thank the gentleman for yielding, and I want to thank and commend him for having scheduled this special order and giving all of us the opportunity to speak about our experiences with JIM SHANNON, which, as everyone is hearing, have been uniformly rewarding and inspiring.

As a new Member of this body, who has come within the last 2 years, I must look around the body and learn from people who are here how to be effective, how to do the job that needs to be done, how to work on those things that are important to you and important to your constituents. In this search, the model of JIM SHANNON has been a very important one to me.

Before I was elected to this body, JIM SHANNON was reaching out to me as a candidate in offering his help, despite the fact that I was a candidate that many people did not expect even to be elected to the body. He is that kind of person. He reaches out, he provides guidance, he provides leadership.

Certainly, as we talk about him today, it is important that we focus on the future that I know is ahead for JIM. A person of his ability, a person of his commitment, will not long remain out of the public service because he has brought, at an early age, to the public service what we so much need, the kind of quality of intelligence and compassion that will make a difference in the course that this country takes.

I am particularly pleased to talk for a moment about the work that JIM SHANNON did in terms of the disability amendments, because in my short 2 years in this House the problem that came to me most in my district office was the problem of Social Security recipients unfairly cut off at the disability rolls, not because they were able to work but because the computer had selected them to be terminated. JIM SHANNON did not just talk about this problem. He dug in and did something about it. And just within the last 2 weeks, we have now legislation which will allow my office and the offices of so many Members of this body to respond affirmatively to see to it that those people are restored to fair treatment by the social security system.

It is that kind of performance, it is that kind of "getting the job done" that has been so much of an example.

As a person who has been entrusted with the responsibility as the New England whip during these 2 years, it has been a pleasure to have JIM SHANNON as someone to turn to, as someone to gain counsel from, and someone to gain assistance from. I look forward to a day in the future that we can work again together in some public responsibility which I know lies ahead for JIM SHANNON, and I know we all wish him the very best of luck in the very immediate future as he goes forward in the private sector.

Mr. BOLAND. Mr. Speaker, I yield to the gentleman from Michigan [Mr. LEVIN].

Mr. LEVIN of Michigan. I thank the gentleman for yielding.

Mr. Speaker, I want to say a few words, if I might, applauding the gentleman for having this special order, not about the details of JIM SHANNON's record, because others have already done that and done it so well, but I would like to say a few words from the perspective of a new Member of this body.

We came here, there were 57 of us Democrats, and it was a new experience for all of us. I think many of us found JIM to be unusually friendly, unusually open, unusually committed to this institution, unusually compassionate, and unusually good humored.

I remember going to him about an unemployment compensation problem that very much affected the State of Michigan, and JIM was able to project himself as if he were a Member of Congress for a moment from the State of Michigan with its huge unemployment, as well as a Member from Massachusetts with its lesser rate of unemployment.

So I want to express to JIM my gratitude for having been able to serve with him for 2 years, and for all of those qualities which I mentioned. And if I might to the gentleman from Massachusetts express a rather personal hope: As one who also lost a close, tough statewide race, I want to express my fervent hope that JIM will keep faith in the unpredictability of life. It can witness happy surprises as well as less felicitous moments.

□ 1320

Mr. BOLAND. Mr. Speaker, I am delighted to yield to the distinguished majority whip, the gentleman from Washington [Mr. FOLEY].

Mr. FOLEY. Mr. Speaker, I want to join with the distinguished gentleman from Massachusetts [Mr. BOLAND] and all of the colleagues from Massachusetts and other States who are here to pay tribute to JIM SHANNON.

Few people in the history of our country have come to the House of Representatives so young. None, in my acquaintance, has made in the brief 6 years of his career here so enviable a record in so many fields of endeavor.

That is not unusual because he came to this body with extraordinary intellectual gifts and capacity, with a tremendous determination to seek and work for the values that have enlightened his public life: Concern for the elderly, the disadvantaged, the advancement of technology, the advancement of a just and fair society, the es-

tablishment of fair burdens among our citizens and sharing the fiscal responsibility of the Federal Government in so many of these areas, JIM SHANNON's knowledge, capacity and commitment have been outstanding, as have been detailed time and time again by speakers who have preceded me.

It is very difficult to say in words why he has been effective. It goes beyond his intellectual gifts, it goes beyond his commitment, his deep sense of public-spirited concern and high values of public life, into the unique personality that every person carries. His personality, one both sober and experienced beyond his years, on the one hand, and on the other hand, with the delightful capacity of friendship and humor that few Members have been able to master in the same personality, but made him extraordinarily effective with his colleagues.

We have a tremendous sense of loss here as he departs this body because of what he has done and because of the tremendous promise of his future, if he were able to continue in congressional service. Beyond that, there is a sense of having not lost a friend, because our friendship will subsist and continue, but because of what that friendship meant to all of us in our common endeavors.

He has had, in 6 years, one of the most brilliant congressional careers that I am aware of in the 20 years of my service in this body. He has the unanimous affection and support and best wishes of all who have known him; people from every region and part of this country. Members of every political persuasion and position, and I cannot help but believe that in the future success which we wish to him and Sylvia and his family, there will be another opportunity for him to serve the people of Massachusetts and the people of the United States in a public manner as he has done with such extraordinary brilliance in the past 6 years.

Mr. BOLAND. I thank the distinguished majority whip for his very thoughtful remarks.

Mr. Speaker, I yield to the distinguished gentleman from California [Mr. PANETTA], who has been here for some time, and who worked with JIM SHANNON on many problems over the past three terms. They have worked together on budget, on taxes, you name it. They were always together and consulting each other.

Mr. PANETTA. I thank the gentleman for yielding and I also thank him for providing this tribute for JIM.

Mr. Speaker, I do not think that in any manner or form this is the end of a career at all, it is really just the beginning of a political career. Those of us that come to this institution really develop different perceptions of the Members that are part of this institution. I think we know that there are a group of young and exciting Members who really devote themselves to working within the institution and working with the issues that concern them and their constituents. JIM was one of those Members. I think he will be remembered always as an example of the best in this Congress.

He has the capacity to learn and to learn quickly, and understand both the nature of the Members and the nature of the process. He became a legislator's legislator. He had the capacity to devote himself to the issues that he was concerned with. I can remember working with him diligently in an effort to combine distribution of commodities for the poor with an effort to pass disability legislation. It was at that moment that he really reflected the prowess and abilities of a senior Member of the institution.

Lastly and perhaps most importantly, I think he is an individual who is extremely compassionate about those he cares about: The poor, the disabled, the deprived of this Nation and the world. That compassion is combined with a deep sense of responsibility that we in Congress can do something to improve the lives of those less fortunate.

Those are the qualities that JIM reflected in his time here, and I think those are qualities that will be with him in what I think is the beginning, really, of a very long and distinguished political career.

Mr. BOLAND. Mr. Speaker, I thank the gentleman. I might like to indicate to those who want to get in this special order that my time has expired, but I will be succeeded by the gentleman from Massachusetts [Mr. DONNELLY], who has a few more minutes remaining.

IN TRIBUTE TO THE HONORABLE JIM SHANNON

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts [Mr. DONNELLY] is recognized for 60 minutes.

Mr. DONNELLY. Mr. Speaker, I took an additional 60 minutes beyond Mr. BOLAND because there was no question in my mind that we needed a minimum of 2 hours, knowing how people feel that served as colleagues with JIM, and I just knew that so many people would want to be here this afternoon to pay tribute.

I now yield to the gentleman from Maryland.

Mr. MITCHELL. I thank the gentleman for yielding.

Mr. Speaker, I owe a very special and personal debt to JIM SHANNON. When I first campaigned for Congress. JIM was a young student at Johns Hopkins University. He was with that group of young students at Johns Hopkins who volunteered to participate in my campaign.

During the course of his volunteer work, we talked and we addressed the issues that we thought were paramount as of that time. While we had enormous respect for the soldiers who were serving in Vietnam, our mission, it seems to me, was and JIM agreed, to end the tragic insanity of a war in Vietnam. He worked zealously pounding the pavement campaigning for me and at the same time campaigning to end a tragic and insane war in Southeast Asia.

In addition to that, we often talked about what America should be, and we translated that into campaign promises and slogans. One was to reorder the priorities of the Nation. In that reordering, we felt that the focus of this Government, the focus of the Nation, should be on the man, the woman, the child.

□ 1330

With messianic zeal he campaigned on those issues and one of the truly delightful things was he brought that same kind of intense, visceral commitment to his work in the Congress.

A rare young man, of rare commitment, a member of a legislative body who had all of the compassion and the caring that one could find and would seek to find in any human being. We are friends, and I hope that that friendship will last forever.

I thank the gentleman for yielding.

Mr. DONNELLY. I yield now to the distinguished gentleman from Georgia, our colleague on the Committee on Ways and Means.

Mr. FOWLER. I thank the gentleman for yielding to me.

Mr. Speaker, I could go on for a long time, but much has already been said about the commitment to excellence of our friend from Massachusetts, JIM SHANNON, but let me just say because so many of my colleagues would like to speak, following the words of my friend from Maryland [Mr. MITCHELL], when I think of JIM SHANNON and will continue to think of JIM SHANNON, I am reminded of the story in "Pygmalion," that wonderful play by George Bernard Shaw that was made into the musical "My Fair Lady."

In it you remember there is the old professor Henry Higgins who is trying to teach the young flower girl, Elizabeth Doolittle at least some manners to make her a lady before she is shown to proper society. But being frustrated at the end of a long day, he finally throws down his books in absolute resignation over his inabilities, looks Liza in the eye and says, "The great secret, dear Liza, is not really whether you have good manners or bad manners, but the same manner toward all people."

In short, to act as if you are already in heaven where there are no third-class carriages and one soul is as good as another.

You have heard the tributes of JIM SHANNON's colleagues today about how he looked at and spoke for and acted with people as if they were one. He did not discriminate. He did not forget. He enacted the same manner toward all people.

JIM SHANNON, as they say in my part of the country, ain't dead yet. He will be back. He will rise, Lazarus-like, either in public policy or in the private sector, and all of us who are his friends can be thankful that he passed this way, thankful that in all probability he will come back again and we will go to prepare a place for him where we are there and other kindred souls may be also.

Mr. DONNELLY. Mr. Speaker, I thank the gentleman for is comments. Let me yield now to the distinguished gentleman from Texas [Mr. PICKLE].

Mr. PICKLE. I thank the gentleman for recognizing me and I thank the courtesy of my colleagues for allowing me to proceed now.

Mr. Speaker, I wanted to make these comments at this time because the gentleman who just preceded me, Mr. FOWLER, and the gentleman who will be talking shortly, Mr. MATSUI are members of my Subcommittee on Social Security, and we all serve with JIM SHANNON. I speak of JIM SHANNON the legislator, not alone as a man we respect and love but as JIM SHANNON the legislator.

All of us who served here in the House world like to think that we have contributed something to our times. We often ask ourselves, have we done something, as Daniel Webster said, "worthy to be remembered"?

In our own opinion we think we have, because we think we are great people. The truth of the matter is we have to ask ourselves, have we or have we not helped? In JIM SHANNON's case I say that he has contributed something worthy to be remembered because as a member of the Social Security Subcommittee, he helped us draft a bill in 1983 that brought a reform and a great sense of relief and hope for everybody in this country in the area of social security.

Mr. SHANNON was one of the stalwarts on that committee that helped us bring that bill about. In my opinion, the Social Security Reform of 1983 was the most singularly important legislative accomplishment in this Congress, the 98th Congress. If people think about it, if you look back the last 2 years, I think. You have to put that reform at the top of the list. One of those who helped made that possible is JIM SHANNON.

Now, again this year when we were considering the disability bill, it was JIM SHANNON who drafted the first legislation on this subject to bring about reform. His was the first bill put in the hopper and essentially the bill we got passed last month was the basis of the bill that we achieved and it was JIM SHANNON's advocacy. It brought reform, and decency and humanity to the embittered fight over disability reform measures.

So in two instances, in Social Security and in disability, JIM SHANNON has left his name and his remarks. So when we ask will he be remembered, I say from a legislator's standpoint yes, indeed, and with good cause.

Now, to all that, I add my high respects for this man because he is such a delightful individual. He is young. He has a great future ahead of him and those of us who have been privileged to share his friendship know what a tremendous person he is and we are glad to pay our respects to him, but we are anxious to say to him just as quickly, "JIM, hurry back, we need you."

Mr. DONNELLY. I thank the gentleman for those kind words.

Mr. Speaker, let me yield now to the distinguished gentlewoman from California.

Mrs. BOXER. I thank the gentleman very much for yielding and for working on this special order along with his colleague, Mr. BOLAND.

Several weeks ago I got on a plane really early in the morning from San Francisco and went all the way over to Boston and my staff said: "Why are you going to Boston?" And I said, "I'm going to Boston because I want to campaign for a great friend of mine who is running for the U.S. Senate because I want to help him win," and I addressed a group of women in Boston for JIM SHANNON.

And the things that I told them I really would like to put in this RECORD because today women are fighting for their rights and as we are going to see in the next special order that Congresswoman SCHROEDER is going to have, we have a long way to go and we desperately need progressive men and women to help us get there and JIM SHANNON was a shining star.

It was not easy for him to stand up with a prochoice position. It was not easy for him to stand up for economic equity and some very controversial bills that came before this House but JIM SHANNON was there. He was counted as our friend.

Not only on these important issues was he there but as a new female Member of Congress, I can tell you that when you are in a body that has 435 Members and there are only 22 women, you look to all of your colleagues for support and he was there with that support.

He takes the women in this Congress very seriously. He helps us carry our issues. We are going to miss him.

Yes, JIM SHANNON was a shining star in this House. Whether he got up to talk about the travesty in Central America or to talk with eloquence on the nuclear weapons freeze or to talk about how wrong we were in Lebanon he had a strong and a steady voice and a very courageous voice.

I must say as a new Member of this House who looked forward to working with JIM SHANNON for many years, I am really sad that he will not be with us, but I, too, know that he will be back in some context because he cares so much about the public interest that the public will be wise enough to bring him back.

I thank the gentleman again for the opportunity to make these remarks.

Mr. DONNELLY. Mr. Speaker, I yield now to the distinguished gentleman from California [Mr. MATSUI].

Mr. MATSUI. I thank the gentleman for yielding to me.

Mr. Speaker, I knew JIM when he first came back to Washington in 1978. We were elected in November of that year together and we took office in January 1979; and of course as many of you know, JIM was a 25-year-old Member of Congress, the youngest Member that we had in our freshman class of some 78 Members. Most of us looked at him and noticed how arrogant he appeared to be to us and so most of us did not like him when we first met him because he had an opinion on almost every issue that we discussed in our respective campaigns.

But frankly, after about 2 hours with JIM SHANNON, we realized, and I say this on behalf of almost every one of my freshmen Members, just what a fine, strong, intelligent individual we had before us. JIM, as many of you know, also became the youngest Member probably ever to serve on the Committee on Ways and Means at the age of 25 and throughout the last 6 years I became a very close personal friend with him and came to realize just the kind of character and integrity he has had and the kind of inspiration he has been to those of us on the Ways and Means Committee and those of us that came in the class of 1979 with him.

I would have to add to follow through on some of the legislative accomplishments of JIM that the chairman of the Social Security subcommittee talked about, JIM SHANNON not only actually wrote the first draft of the disability bill, to correct problems to the American public, JIM and his chairman got in there and actually straightened it out, but he had a major role in the Social Security bill.

He was the one who got in the 1981 legislation, both in the Republican version and the Democratic version, the research and development credit for high technology and growth industries.

□ 1340

He was the one who led the charge in Central America and was very active on the issue of the nuclear freeze. He was the one who, to a large extent, helped move our class in the Democratic Party in the House of Representatives in the direction that we now feel it should be going.

From a personal point of view I would have to say that we are going to miss JIM, because obviously he was not a legislator who just voted on issues; he was a legislator who developed issues. But at the same time, I know and we all know that no matter what he does, in the practice of law or if he runs for statewide office or he comes back to this institution, he will have the same kind of leadership that he has demonstrated over the past 6 years.

For that reason, at the age of 31 his career really is ahead of him and we look forward to working with him in the years ahead.

I must just say, if I can, and I am not from Massachusetts so I will say this: I really think it was the people of that State's loss that they did not nominate him for the high position of U.S. Senator in the Democratic Party.

We will all miss him in the House and we will all miss him in government, but at the same time his voice will still be there and we look forward to his continued leadership.

Mr. DONNELLY. Mr. Speaker, I yield to the distinguished gentleman from Tennessee [Mr. COOPER].

Mr. COOPER. I thank the gentleman for yielding.

Mr. Speaker, I was over in my office when I heard this special order was going on, and I wanted to make a special effort to come over and pay tribute to JIM SHANNON.

I come from Tennessee, a slightly different area of the coutry than most of the speakers have been coming from today, but I also feel that he contributed an unusual amount, for any Member of Congress, but especially for one so young. The perspective I would like to bring today is a little bit different one.

I am fortunate enough to know two of his constituents, and from those people I heard of JIM SHANNON well before I ever came to Congress. One of JIM'S constituents is an old friend of mine, a very distinguished professor of American and European history, a man with an indepth and balanced view of decades and centuries of our past. This man, on his own accord, volunteered that JIM SHANNON was one of the very best U.S. Congresssmen that he had ever had the privilege of knowing or reading about. This man, Dr. Richard Irons and his wife, Audrey, are truly remarkable individuals, and their respect for JIM SHANNON is unparalleled.

Two other folks, constituents of JIM'S, happened to move to my district later on and their first words to me, "I just hope you can be as good a Congressman as JIM SHANNON." These folks, Dr. Jack and Joan Rice, are also truely remarkable individuals. Their main regret, in fact, in leaving Massachusetts was leaving JIM SHANNON'S district. They could still participate from afar in his campaigns, but they would no longer be able to do the direct, day-to-day campaign work that they relish doing for an individual of that caliber.

One of my great pleasures in coming to Congress was actually seeing firsthand that these reports were not exaggerated. JIM SHANNON is indeed as great as these reports would indicate. I am sorry to lose him. He will be back, and if I may quote from the last line of a great southern novel, "Gone With the Wind": Tomorrow is another day for JIM SHANNON.

Mr. DONNELLY. Mr. Speaker, I yield now to the distinguished gentlewoman from Ohio [Ms. OAKAR].

Ms. OAKAR. I thank the gentleman for yielding.

Mr. Speaker, I simply want to say that I think JIM SHANNON is a person of enormous quality, and he brought that sense of quality and dignity to the House of Representatives. The priorities that he dealt with were priorities that every American wants, priorities of peace, particularly his special interest and outspoken interest in the area of Central America, which I think was absolutely right on target.

The work he did on Social Security, so many thousands and literally millions of people will be forever grateful. I remember one of the special things he did was to restore the social security benefit back to religions. For some reason, the President decided to take it away from the sisters who have served so many people so well, and it was JIM SHANNON'S piece of legislation that later became an amendment that restored that benefit back to religions, and so many other things.

I personally hope he comes back to public service. I think it is important to have people of that caliber serving in public office, and I look for his return some day either to this body or another body. I know he is exquisite, and I wish him well. He is too young, in a sense, to be eulogized. We just all think he is marvelous and we will miss him very much, but we know he has an extraordinary future ahead of him.

Mr. DONNELLY. I thank the gentlewoman for those nice comments.

Mr. Speaker, let me yield now to the distinguished gentleman from Illinois [Mr. ROSTENKOWSKI], the chairman of the Committee on Ways and Means.

Mr. ROSTENKOWSKI. I thank the gentleman for yielding, and I congratulate him for taking this time.

Mr. Speaker, I had a rare experience with my colleague, JIM SHANNON long before he came to this body, JIM did an academic study for an institution about just how Congress works. I happened at the time to be the chairman of the Democratic Caucus, and it was amazing to me how much JIM SHANNON knew about me before he became a Member.

I might suggest to other young people who think of coming to Congress, that they do a study of his future legislative contemporaries. JIM caught the movement and spirit of the times with rare insight.

It is difficult to accept a person with such rare abilities leaving the House of Representatives and the practice of politics. JIM has a real affection for politics—not just the politics of the House or the Senate, but politics in general. He has a rare love for people, for helping them and perfecting the laws under which they live.

His greatest contribution, in my opinion, was his commitment to the sick, the aged, and the retired. For such a young man, he gave so much of himself to them.

As a chairman of the Committee on Ways and Means on which he served, I can finally confess that on occasion JIM, in his fervor to serve people, was truly a pain in the neck. But he was a pain in the neck for all of the good things that man stands for.

As Members of the House of Representatives who have served with him, we are better because he has served with us.

In any endeavor he will go into, I am sure that JIM SHANNON will be in the thick of things—associating with people, making them better and making them think a little more and serve their country better. JIM, we will miss you greatly.

Mr. DONNELLY. Mr. Speaker, let me yield now to the distinguished gentleman from Ohio [Mr. ECKART].

Mr. ECKART. I thank my friend, the gentleman from Massachusetts, and his predecessor, Mr. BOLAND, for taking this time.

Mr. Speaker, I could not help in the course of listening to this debate to feel that someone perhaps ought to come over here and set the record straight about JIM SHANNON. After all, he was just a 25-year-old kid who got elected to Congress. So what? Well, there is a lot to be spoken for that "so what," because what JIM represented in that election 6 or so years ago was the fact that people from totally different cultural, historical, and educational perspectives could take that which they had spoken so eloquently about outside these halls and bring their causes inside this Hall.

□ 1350

When I was first elected, I was 23 years old. JIM held out for me and for dozens of others like me, some of whom have already spoken in advance, an opportunity to assure that our generation got its opportunity to have a say in where this country is going and where our children are going to end up. JIM SHANNON came here as a kid to Congress, but in so doing, he helped set a new standard for dozens of other young people to realize that the system can work; it can work for their benefit and, through JIM's constituencies, his benefit and their benefit as well.

Oftentimes young people are condemned with the faint praise of "having great potential." They used to tell a story about the Cleveland Indians pitching staff. Every spring they would say that it had great potential, which usually would mean that each pitcher came with two arms and two legs. Well, as with many other young people coming into the political arena, they are condemned with the faint praise of "having great potential," only to disappear in the fire and heat of the crucible of politics at the national level within a few months or a few years.

But JIM SHANNON ran contrary to the rule. JIM SHANNON showed that the desire and the commitment that motivated tens of thousands of his contemporaries—my generation, if you will—can lead to success at the toughest levels of the political process, and for that JIM will serve as a beacon for us all.

The last point I want to make about JIM is that just a few days ago we had a piece of legislation with which he was involved, a particular tax assistance bill for individuals who received grants from their corporations to continue their education after they had been laid off. My office worked with Mr. SHANNON before his involvement in his recent election race in Massachusetts, and as that bill expired and the threat became very real for countless unemployed across the United States, one would have easily expected that the traditional politician's answer would be that, "My political fortunes are tied up somewhere else. Let the bill carry on as it may."

But that was not JIM SHANNON, and that is not what happened. Although his political fortunes were being determined elsewhere, the economic futures of hundreds and thousands of other people hung in the balance as to whether JIM would continue his commitment. We know that he did.

He did not drop the ball, as was alluded to in other instances at other times. He worked throughout his campaign to ensure that that bill came to the floor, and then, despite an adverse political outcome, he finished the fight that he had waged for so long to see that bill become a reality. JIM finished what he started, and for dozens of us in the Congress, we know that the encouragement, the direction, and the enlightenment that he gave to us to help advance causes that we view to be important for our generation will continue.

Our generation has lost a leader. All generations have lost a leader in this House with JIM's departure, but we know what he has started will continue on in different ways and in different directions, but always with his hopes and his goals at the forefront.

Mr. Speaker, I thank the gentleman for yielding.

Mr. DONNELLY. Mr. Speaker, I yield now to the distinguished gentleman from Texas [Mr. SAM B. HALL, JR.].

Mr. SAM B. HALL, JR. Mr. Speaker, I thank the gentleman for yielding.

Probably many who are viewing this in television wonder why a conservative from Texas is paying tribute to a liberal from Massachusetts. Probably JIM SHANNON and I have never voted alike on over a half dozen issues since we have both been in Congress, and probably most of those votes would be approving the Journal of the previous day. However, that fact does not diminish my respect for him as a dedicated Member.

JIM SHANNON has done an outstanding job in the field in which he excelled while he served in the Congress of the United States. We have never had a personal relationship of visiting with each other on the House floor, but I have always had great respect and admiration for the courage of the young man because he articulated so well of the matters which he believed in.

We are not giving a deathbed scene here today, JIM, because we know that you will, in the future, once again be very popular with the people of your State, whether it be here or in other places. The fact that you are leaving this body merely gives us all cause to reflect that, whether we are conservatives, liberals, on moderates, we are all trying to do the best we can for the people we represent, and if we have ideas that are different from each other, and vote those convictions, that merely gives additional strength and character which makes this the greatest deliberative body on Earth.

So, JIM, I say to you, Godspeed, good luck to you, and we will see you again.

Mr. DONNELLY. Mr. Speaker, I yield now to the distinguished gentleman from Montana [Mr. WILLIAMS].

Mr. WILLIAMS of Montana. Mr. Speaker, I thank the gentleman from Massachusetts for yielding.

JIMMY and I came to Congress together 6 years ago, and, as other speakers before me, I, too, recognized that he has had very significant legislative accomplishments. Without meaning to diminish those, though, I want to say that I am going to miss JIMMY SHANNON because he is a genuinely nice guy.

JIMMY is one of those Irishmen who is always himself; he is always honest; and he really cares about folks. JIMMY is the kind of a guy you enjoy seeing in the morning. You enjoy having him as a friend.

So while his struggles in the Ways and Means Committee for working people in this country will be missed, while his 16-hour-a-day efforts to be sure that deserving people in this country have health care benefits that are appropriate to them, while we are going to miss those and all the other things JIMMY did, I for one—and I think I speak for many others—really am going to miss JIMMY most because he is a genuinely nice guy.

Mr. DONNELLY. Mr. Speaker, let me yield at this time to the distinguished gentleman from California [Mr. THOMAS] from the other side of the aisle.

Mr. THOMAS of California. Mr. Speaker, I thank the gentleman for yielding.

This side of the aisle would like to say a few words about our colleague, JIM SHANNON.

He and I came in together in the same class. I knew him probably more professionally than personally, but last winter he and I shared more California wine than I care to remember in Minnesota in the winter and I got to know him personally. And during this last term I shared with him a committee assignment on the Ways and Means Committee.

I admire excellence, and I believe JIM SHANNON, in terms of his particular definition of himself in the world, embodies excellence. I believe competition breeds excellence, and so I have been very pleased to share this House with JIM because he has made all of us better. His arguments, while I do not think they were always right from my perspective, were always compelling, and they required a thoughtful response. In fact, JIM SHANNON was a part of the very first speech I ever gave on the floor of the House.

But to me he represents something even more important, and that is for the younger Members who have taken the well who either knew him as a classmate or who indicated he stood as a role model for them. I want to thank him for not just settling for the House of Representatives. It certainly is a laudable goal, but what he has done has refocused all of us on the fact that although it is important to serve here, it is probably more important to follow that inner voice, and I think JIM SHANNON indicated that he was more than willing to trade all of the privileges of serving with us to follow

his inner voice. I admire that very much in him.

Mr. DONNELLY. Mr. Speaker, I thank the gentleman for those kind words.

I am honored, Mr. Speaker, at this time to yield to the majority leader of the House, the gentleman from Texas [Mr. WRIGHT].

Mr. WRIGHT. Mr. Speaker, I thank my friend for yielding.

I remember the day JIM SHANNON came into this Chamber. He was the youngest Member of Congress at that time. JIM was only 26. What an impression he has made upon us in these short years that he has served with us.

□ 1400

One of the unique things that JIM SHANNON began to do immediately was to seek a position on the Ways and Means Committee. Any Member knows that it is almost unheard of for a first-term Member to be elected to that prestigious and singularly important body, but JIM SHANNON, upon the recommendation of our great friend, Speaker O'NEILL, was elected. His colleagues vested in him the responsibility which lies in that all powerful committee.

He has fulfilled that responsibility. JIM SHANNON has fulfilled all the expectations his colleagues reposed in him. He has lived up to every dream that we had for him. He has set a standard to which the wise and the just can well repair.

This is not a eulogy of JIM SHANNON, because he is far from dead. JIM's future is not behind him. His future lies ahead of him and I know that it will be a bright and glorious one. I wish him well in the path that moves toward that future which is rightly his.

Mr. DONNELLY. Mr. Speaker, I yield to the distinguished gentleman from South Dakota [Mr. DASCHLE].

Mr. DASCHLE. Mr. Speaker, I thank the gentleman for yielding.

We have not heard from people in the Upper Midwest to the extent that I think we should in talking about JIM SHANNON. I, too, was elected in the same year as JIM SHANNON. I recall thinking at the time that at 29, I might be the youngest elected Member that year. But then I found that JIM SHANNON had me beat hands down. He was 4 years younger than I was. In fact, he was one of the youngest Members ever elected to the U.S. Congress.

There is an old saying that I often hear on the reservations in South Dakota. It goes, "Consider the turtle. The turtle goes forward only when he sticks his neck out."

NOW, JIM SHANNON will tell you with his sense of humor that we might associate that story with him as just another turtle. But JIM SHANNON recently stuck his neck out once again. For him, it is not unusual. He has made progress in life because he has been willing to stick his neck out, willing to take chances.

The people of my State respect people who are willing to take chances. They respect people who are willing to demonstrate their convictions. And they respect people who demonstrate the kind of sense of humor that JIM SHANNON so characteristically does each day of his life.

JIM SHANNON came to South Dakota several years ago. They understood that he was a man of conviction by the way he spoke. They understood that he was a man who had a sense of humor by the way he laughed. And they understood he was a man who definitely was willing to take chances by coming to the State in the first place.

JIM SHANNON, I believe, will continue to stick his neck out. He will continue to take chances and demonstrate the conviction that he has so ably in Massachusetts, in the Congress, and around the country. He will continue to speak out for those things for which he so strongly believes. It is just what this country is all about. It is what JIM SHANNON has been about. He has been a beacon to whom all of us have looked as we have tried to emulate those in this Congress for whom we hold so much respect.

There is an old saying in South Dakota as well that I think is very apropos when one thinks of JIM SHANNON. If we are truly to see into the future, we must stand on the shoulders of giants. JIM SHANNON is a giant. JIM SHANNON has lent his shoulders to this Congress and to our country for 6 years and he has done it ably.

I have no doubt that in the future both the State of Massachusetts and our country will continue to stand on his shoulders, a real giant in our country, as we look to the future with optimism and with hope.

Mr. DONNELLY. Mr. Speaker, I yield now to the distinguished gentlewoman from California [Mrs. BURTON].

Mrs. BURTON of California. Mr. Chairman, I thank the gentleman.

I want to congratulate everyone who spoke about JIM SHANNON and I want to congratulate the House for having a special order for JIM SHANNON. I am so sorry he lost for the Senate.

I had met Mr. SHANNON when he came here, the first day he came. He was the youngest, the brightest, the ablest Member and, unfortunately, he is not with us today; however, he is still very young and very bright and very able. I can see him coming back to the House as a Member of the House of Representatives or perhaps as a Member of the Senate. So let us have hope that he will come back and serve as ably, as wisely, and as brightly as he did before.

I thank the gentleman.

Mr. DONNELLY. Mr. Speaker, I thank the gentlewoman for those kind words.

● Mr. CONTE. Mr. Speaker, I wish to take this opportunity to join with my colleagues in honoring a fellow member of the Massachusetts delegation, JIM SHANNON.

Upon his arrival in Congress in 1978, JIM made a rapid and positive impression on his colleagues. because of his ability and his energy he was honored by his party, who selected him to serve on the Ways and Means Committee, an appointment usually reserved only for the most senior and experienced Members of Congress.

As a member of the Ways and Means Committee, JIM has often taken the lead on tax-policy issues, including Social Security and health care. He is an advocate of responsible tax reform. He is recognized as a friend of education. JIM has also done much to promote high-technology development, both in Massachusetts, where the high-tech industry makes important contributions to the State's economy, and across the country, helping to keep us at the forefront of the industrialized nations in this area.

JIM has been of assistance to me personally on numerous occasions by aiding passage of legislation of particular interest to my constituents. He prompted committee action on tax legislation protecting on-campus housing for faculties of educational institutions. He was instrumental in passing legislation which allows hospitalized individuals and those serving jury duty to continue to collect unemployment compensation. JIM's help on these and other important pieces of legislation has proved to be invaluable to me.

JIM has played an important role in Congress both as a member of the Massachusetts delegation, and of the House as a whole. I wish him continued success in his every endeavor.●

● Mr. RODINO. Mr. Speaker, I want to take this opportunity to say a few words about an outstanding Member of this House, JIM SHANNON, who is leaving Congress at the end of this term.

Since he first arrived in Congress at the age of 26, JIM SHANNON showed remarkable promise and quickly distinguished himself as a bright and capable legislator. His legislative skills were demonstrated early on as a member of the Ways and Means Committee, where he became an expert on Social Security and Medicare.

He built a solid record of accomplishment, and fought continually for better care for the disadvantaged, social programs for the needy, and for a more equitable tax system. JIM SHANNON left his mark on this institu-

tion in the programs he fought for, and he will be missed.

While he may be leaving us in this body, I am confident that we will hear a great deal more of JIM SHANNON, and that his promising career as a public servant will continue. ●

● Mr. RANGEL. Mr. Speaker, I rise to join in this tribute to my colleague and close friend, JIM SHANNON. Since JIM has been in the Congress, I have had the honor of serving with him on the Ways and Means Committee.

Early on in his service on the committee, JIM demonstrated his uncanny ability to take complicated issues and boil them down to their essense. One of his trademarks has always been the ability to couch issues in terms of how they affect the average man on the street. JIM has always done a superb job of focusing our attention on this key concern.

And the concerns which he expressed during hearings were reflected in the areas where he made his legislative mark. When hundreds of thousands of disabled Americans were being thrown off the disability rolls in the wake of Reagan administration efforts to save dollars, JIM SHANNON introduce legislation to protect the disabled from arbitrary denial of benefits. He understood what it means for someone who is unable to work to be denied benefits they were entitled. He comprehended the anquish of those, who had no other means of support than their disability checks, receiving a notice in the mail that they were no longer entitled to disability payments.

He felt their pain and pushed for a change in the way the disabled were being treated by the Reagan administration. And when the conference report came to the House floor, the chairman of the full Ways and Means Committee, DAN ROSTENKOWSKI, and the Social Security Subcommittee chairman, JAKE PICKLE, acknowledged that if it were not for JIM SHANNON's persistence the disability reform bill would not have been enacted.

If JIM had done nothing else during his years in Congress, the disability reform bill would have been a significant legacy. But his deep concern for the less fortunate showed in his involvement in a myriad of issues. I am pleased to note that JIM SHANNON was one of the strongest supporters of my efforts to expand and extend the targeted job tax credit which provides tax incentives for businesses to hire the structurally unemployed.

He also was a moving force in the efforts to renew the energy tax credits which have the duel benefit of helping people stay warm in the winter while at the same time contributing to our energy independence.

At other times, JIM was one of our preeminent voices in opposition to Reagan administration efforts to cut medicare. But simply opposing cuts in benefits was not enough for JIM. He fully understood that continued unchecked increases in health-care costs not only threatened medicare, but that they also threatened the financial security of working Americans.

JIM SHANNON became a leader in the effort to impose health-care-cost containment.

It is becoming clearer and clearer, that both the administration and Congress will be carefully examining his ideas in our efforts to shore up the medicare trust fund.

And JIM SHANNON also demonstrated that he is looking toward the future and ways for America to become even more prosperous. He has been one of those Members of Congress who has been on the cutting edge of the new technology. During his years in Congress, he has consistently been in the vanguard of those who support our burgeoning high-tech industry. On the Ways and Means Committee, he has been the leader of the fight to expand and renew the research and development tax credit, which has been the economic catalyst to new developments in that industry.

Finally, I want to say that though we will all miss JIM SHANNON's compassion, sensitivity, and insight into the issues before us, I will miss even more the warm friendship that I have developed with him over the years. Congress is losing one of its dynamic leaders, and I am losing a colleague and dear friend.●

● Mr. JONES of Oklahoma. Mr. Speaker, in these days when it is vogue to recall the images of the Kennedy years, the frontier of invention and wants, it is appropriate that we are saluting the retirement of a Member whose political career has embodied the principles the New Frontier represents.

JAMES SHANNON's departure from this body means that our country has lost one of its strongest voices for exploring the frontier of unknown opportunities and unfilled hopes. JIM has given us, not a set of promises, but a set of challenges. The challenge to prosper economically, the desire to broaden human frontiers, and the promise of eternal vigilance in the name of individual liberty are foundations which he has held all of us personally accountable.

I have had a personal opportunity to observe JIM during the last several years in our work on the Ways and Means Committee. Although we did not always agree on our priorities, I found JIM to be a tough fighter, and honest competitor, and an excellent legislator. His sound judgment, acerbic wit, and technical skills will be greatly missed in the committee.

Not only have the citizens of the Fifth Congressional District lost a supreme representative, but small, emerging industry throughout our country has lost a unreplaceable spokesman. In 1981, JIM and I each sponsored legislation in the House to restore incentive stock-option tax provisions. We felt such a capital formation tool would help stimulate the productivity gains and new jobs which our economy needs. Because of JIM's untiring efforts on behalf of this legislation, employees throughout America are participating in corporate ownership plans.

As JIM begins his sojourn to the private sector, I know that his stay will be shortlived. We would be remiss if he were not encouraged to return eventually to public service. Our country has been very well served by JAMES SHANNON. He will be dearly missed.●

● Mrs. KENNELLY. Mr. Speaker, the great Commonwealth of Massachusetts has given our Nation many great leaders and accomplished legislators. JIM SHANNON is one of them.

In his short tenure in the House, this distinguished legislator from the Bay State has become a respected authority on tax issues—issues that affect all Americans.

It was a pleasure to serve with such an effective and skilled member of the Ways and Means Committee. With enthusiasm and determination, JIM mastered many of the complexities of our Nation's tax system and worked to make to make it fairer and more understandable, always with an eye on the needs of the elderly, the poor, and the others who could not afford expensive lobbies to represent them.

Together, JIM SHANNON and I weathered the political storms of Social Security. As a member of the Health Subcommittee, JIM played a major role in guiding Social Security through its most recent difficulties to calmer seas.

With his considerable knowledge about the subject, JIM helped frame the debate that will set the stage for reforming the medicare system—so it can continue to provide a helping hand to America's elderly well into the future.

In accordance with his concern about medicare, JIM SHANNON labored hard to bring about needed improvements in America's health-care system. He set out to put the brake on the skyrocketing cost of health care by supporting the Health Care Cost Control Act.

I envy the world outside this Chamber, for it is getting one of our brightest stars. JIM SHANNON saw the need to bring about major changes in our tax system. He has been a strong and intelligent voice for responsible tax reform. He contributed to the 1982 tax law that closed many large tax loopholes.

For women, JIM SHANNON has been a trusted ally and friend. He has been on the side of the working woman—

struggling to raise a family and make ends meet—who can't get her former husband to pay his court-ordered child support. JIM has joined the fight against the feminization of poverty, and he has been steadfast in his commitment to the equal rights amendment.

And while we take this opportunity to review JIM SHANNON's accomplishments of the past, we must not forget that he is a man dedicated to the future. Legislation he introduced has helped put into place economic incentives for education and the development of high technology. And he also has introduced bills to strengthen America's competitive posture in international high-tech trade.

Education and technology are good issues—they are investments in our future. Yet anytime we speak of the future, we also must speak of the threat of nuclear war. And JIM SHANNON is one Member who has been totally committed to a nuclear freeze and to a future for our children. He has chosen to follow the avenue to peace instead of the road to war.

The leadership skills from which Congress and the people of the fifth district have benefited will serve JIM well. It is his idealism that fuels his quick mind and supports his tough convictions.

We are sad to see JIM SHANNON leave this House, but assured knowing well that this is one star that will not fall.●

● Mr. EDWARDS of California. Mr. Speaker, I am delighted to be able to participate in this tribute to our distinguished colleague, JIM SHANNON, and I commend Congressman BOLAND for arranging this opportunity today.

I am honored to rise in tribute to the distinguished gentleman from Massachusetts. Our colleague has made major contributions during his tenure here in Congress. Congressman SHANNON has always stood steadfast in his support of issues such as education, labor, civil rights, technology—all that was crucial to the well-being and the future of America.

High-technology, so critical to American productivity and competitive strength, has always been an important concern to our colleague and I will miss his dedicated hard work and thoughtful proposals in this area, in particular.

As chairman of the Judiciary Committee's Subcommittee on Civil and Constitutional Rights, I am personally grateful to Congressman SHANNON for his consistent and full-hearted support of crucial civil rights issues. He can be proud that he was always there when he was needed. His determination and strength to stand firm, in this and in the other things in which he believed, has been an example to all of us.

I know we can count on JIM SHANNON, in his future endeavors, to continue in his fight for what is right and just and good. And I know he will continue to excel, just as he excelled in the important work he undertook in the House of Representatives. As he goes on to new things, he carries my fondest best wishes with him.●

● Mr. HUGHES. Mr. Speaker. I rise to join this tribute to our colleague JIM SHANNON. When JIM leaves the Congress at the end of this session, we will be losing a valuable Member of this Congress. I know that I join many Members of the House in saying that we will be losing a friend as well.

JIM SHANNON has been a capable and effective Congressman, ably representing the Fifth District of Massachusetts. In his two terms of service on the House Ways and Means Committee, JIM has paid special attention to the needs of his constituency—he has worked to assure both the strength of the traditional industrial base in Lawrence and Lowell, MA, and to encourage the vitality of the Bay State's growing high technology industry.

But JIM has not stopped his service at the Massachusetts border—he has also served the American public, playing a strong part in the Ways and Means Committee's efforts to draft equitable tax legislation, and to encourage a balance that fairly distributes the tax burden while encouraging continued economic growth.

Although JIM SHANNON's fine service in the House will come to a close at the end of this Congress, I have no doubt that JIM will nevertheless continue to provide community and public service. I wish him the best luck in all of his endeavors.●

● Mr. ROE. Mr. Speaker, it is always an honor to pay tribute to one of our colleagues. But is this case it is mixed with much sadness.

As you all know, JIM recently lost a close Senate primary race, and he will not be returning to serve in the House next year. but in the 6 years he has served here, JIM SHANNON has established an outstanding reputation as a skilled and effective member of the House of Representatives.

While serving on the Ways and Means Committee, JIM played a key role in helping develop legislation to address problems in the Social Security disability system and in medicare.

When JIM SHANNON came to the House in 1978, he was 26 years old, the youngest Member here at that time. But he soon proved that age had nothing to do with ability.

JIM's hard work and devotion to the needs of his constituents in Massachusetts' Fifth District have provided an example we all can follow.

JIM SHANNON is an energetic young man who I am sure will succeed in whatever he decides to undertake. I am also sure that this is not the last time we will hear his name mentioned in this Chamber.●

● Mr. TRAXLER. Mr. Speaker, I would like to take this opportunity to pay tribute to a good friend and colleague, Congressman JIM SHANNON. When the 98th Congress comes to a close, the Massachusetts delegation as well as the entire Congress will lose one of its most influential and respected Members. I personally will lose a good friend on whose judgment and values I have come to rely on over the years.

Congressman SHANNON has represented the Fifth District of Massachusetts since 1978. During this time he has carefully looked out for the many diverse interests of his district including many of the old mill towns that once formed the backbone of our Nation's textile industry as well as a substantial amount of high technology industry which is fast-becoming an important factor in our Nation's future.

Since his election to the Congress, Congressman SHANNON has served on the prestigious House Ways and Means Committee. Through this important committee assignment, he has been able to provide valuable leadership on many tax issues affecting not only Massachusetts but the entire Nation. On a national level, JIM has consistently worked to close many of the major tax loopholes which have plagued our tax structure.

At the same time, he has recognized the need to provide tax incentives for high technology research and development in order to keep the industry competitive with emerging technologies abroad. He has also realized the important role that education plays in our Nation's future by spearheading the fight for the continuation of a program which would allow tax-free assistance to employees who desire to continue their education.

Through his assignment on the Social Security and Health Subcommittees of Ways and Means, JIM has fought to protect the rights of our Nation's elderly and sick. His commitment to the stability and solvency of the Social Security system comes during a time when many of our senior citizens have grown skeptical and disillusioned with the present administration's actions in this area. His presence on this subcommittee has provided senior citizens with an able and influential voice concerning the future of Social Security.

His appointment to the Health Subcommittee has provided JIM with the opportunity to work and develop a health care system which will provide all Americans access to adequate health care at a reasonable cost. His work on Medicare has also reflected his commitment to providing adequate health care to our Nation's elderly and disabled.

In closing Mr. Speaker, Congressman SHANNON has established a legis-

lative record deserving of praise. His presence in this body will be missed.●

● Mr. COYNE. Mr. Speaker, JIM SHANNON is truly a man of the House, which makes his departure from this body that much more difficult for those of us who have come to trust his judgment and advice.

On the matter of taxation as it affects the average wage earner, there have been few voices more forthright than that of JIM SHANNON. Those who rely on Social Security as an important source of their income, and I include here the disabled as well as the elderly, are losing a champion of their cause. The people of Central America who seek a better life, one free of both hunger and repression, have had in JIM SHANNON an able and articulate spokesman.

JIM, we will miss your counsel and your voice in this House. Your devotion to your beliefs is equaled only by your respect for your colleagues and for this institution, a combination of which one can be proud. I know that your example as a legislator is one which many new Members will seek to emulate.●

● Mr. HERTEL of Michigan. Mr. Speaker, today I rise to pay tribute to a loyal and dedicated colleague, JIM SHANNON.

In three short terms JIM has distinguished himself as a leader in Congress. As a member of the Ways and Means Committee, JIM has been a major factor in efforts to provide solutions to problems threatening Social Security and Medicare. JIM has also implemented economic legislation which has affected the Nation as well as his own unique district.

The accomplishments of JIM are an indication of his aptitude for the political system. It is evident that JIM SHANNON has and will continue to contribute to the advancement of this great Nation.

As a Member of Congress, JIM SHANNON has faithfully served his constituents and has offered other Americans the opportunity to further themselves. Americans are grateful to the leadership and devotion of Members such as JAMES M. SHANNON, from the Commonwealth of Massachusetts.

JIM SHANNON is a close and personal friend and the House will certainly miss his dedication, integrity, and honest character.●

● Mr. OBERSTAR. Mr. Speaker, we are here today not to mark the end of a career in public service, but to pay tribute on the occasion of an end to an early segment of what we all know promises to be a rich, full career in public life. No one can doubt that JIM SHANNON will be back in public life and elective office at some not-too-distant point. Anyone who can earn the support of the people in three congressional campaigns and the respect of this body by the time he is 30 can look forward to an extraordinary career.

JIM has established his reputation as an articulate, analytical legislator. His well-thought out approach to issues, his clearly expressed views, his rational analysis of legislation have made him a significant force within this House. JIM and I share a commitment to progressive policies and legislation, a belief that the role of Government must be that of an active, compassionate force seeking to improve the quality of life for those citizens least able to do for themselves. I shall miss this conscientious, thoughtful, liberal legislator in the 99th Congress. When this House considers tax legislation in 1985, the Nation will miss the presence of a member of the Ways and Means Committee and the House who is firmly and deeply committed to fairness in taxation, a Member who would have fought for the interests of working women and men of moderate means.

I wish JIM much success in the years ahead and look forward to the time when he again joins us in public service, whether in Washington or elsewhere.●

● Mr. HEFTEL of Hawaii. Mr. Speaker, today we pay tribute to one of the rising stars of the Democratic Party, the gentleman from Massachusetts, Congressman JIM SHANNON. We have long known that JIM would be leaving this House at the end of the 98th Congress. However, I fully expected that JIM would be taking his seat as the next junior Senator from Massachusetts next January. His temporary departure from politics is a loss not only to his district and his State but to the Congress as well. His legislative skills, creativity, and boundless energy are qualities we can ill afford to lose in the Democratic Party and in the American political process.

Mr. Speaker, I rather think that JIM'S departure from the Congress should be considered as a sabbatical. I am confident that he will return to political life in the not too distant future. I understand that JIM will be returning to his native Lawrence, MA to practice law. I am certain that he will pursue these responsibilities with the vigor and success he enjoyed on Capitol Hill.

JIM and I took our seats on the House Ways and Means Committee at the start of the 96th Congress. JIM quickly established himself as one of the leaders of the new group of Members. His ideas on business depreciation reform became the basis for the Democratic alternative to the President's 1981 tax package for business. In my opinion, the Nation's economic future would be on more firm footing had this alternative been adopted. Had JIM remained in the Congress, I am certain that he would have been one of the leaders of the tax reform effort now beginning to unfold. I hope that JIM will continue to share with us his ideas on tax reform and deficit reduction in the next several years.

Mr. Speaker, let me just conclude by saying that in JIM SHANNON, this House has had one of those rare individuals with the ability not only to craft legislative concepts and policy agendas, but the skill to bring those ideas to reality. I have learned much from my association with JIM SHANNON, and I hope that he will continue to contribute his ideas and insight to this House and to his many friends both in and out of Government.●

● Mr. GLICKMAN. Mr. Speaker, one of the special honors and privileges of serving in this House is the opportunity to serve with truly outstanding individuals. JIM SHANNON is certainly such an individual. He has shown himself to be an imminently sensible, practical legislator with a heart a mile wide and the kind of creativity that it takes to confront the problems of this age. In the few short years he has served with us, he has left a mark on this country and this institution. I'm sure his constituents in Massachusetts would add that he has left his mark on them. We are all better off for what JIM has contributed, and, for all of us, I trust his departure is not the end of his career in public service.

As one of the youngest Members of this House, JIM SHANNON is indeed a part of a new generation of leaders, but he has proven to be one who dedicates the vigor of his youth to causes of concern to all of us. We all owe JIM a deep debt of gratitude, and, of course, we wish him well in his new endeavors.●

● Mr. FOWLER. Mr. Speaker, I first met JIM SHANNON when we were both battling for a seat on the Ways and Means Committee after the 1978 elections. In the 6 years since then, I have come to respect him as a colleague and to value him as a friend.

In the three terms Representative SHANNON has served on the Ways and Means Committee, he has been a thoughtful and effective legislator on such wide-ranging topics as the windfall profit tax, unemployment compensation, Medicare, and the Federal tax code. I would like to pay particular tribute to JIM for his contributions in the Social Security Subcommittee, of which I also am a member.

I know that these special orders often take on the aspect of a benediction, but I find it hard to shed too many tears for Mr. SHANNON, who is all of 32 years old. I am certain that we have not heard the last of JIM SHANNON in the field of public policy concerns.

As you leave us, JIM, at least for the time being, I would like to share with you the wisdom of a former Member of the Georgia delegation, who left

the House several years ago. When asked what he was going to do in retirement from Congress, this distinguished southern gentleman replied, "I am going to make as much money as possible doing as little as possible." To that a former constituent responded, "Well, why are you leaving the Congress?" Such is the burden, and the glory of public service.

In any event, I wish to give thanks to JIM SHANNON for his help and camaraderie over the years, and to extend my best wished for his future endeavors, which I know will be successful.●

● Mr. WHEAT. Mr. Speaker, I take this opportunity to join with my colleagues today in paying tribute to Representative JAMES SHANNON, a highly respected colleague and good friend.

In his three terms in the House of Representatives, JIM has combined his liberal ideals with a mastery of the legislative process to become a skilled and effective Member of this body. As a member of the Subcommittee on Social Security, he has supported the cause of the elderly and the disabled. He has been a strong and sincere advocate for their cause and has successfully fought against the unjust purging of the Social Security disability rolls. In the 98th Congress, JIM has been instrumental in developing legislation to protect benefits for disabled Social Security recipients and to address the problems in the Medicare Program. In 1981, he won a victory for working mothers by developing legislation for child-care tax credits.

This body will sorely miss the integrity and intelligence JIM brings to his responsibilities on behalf of the people of the Fifth District of Massachusetts. He has, without a doubt, helped to make the country, his State, and his district a better place.

I have considered it a privilege to serve with Jim. I congratulate him on his outstanding efforts, unsurpassed dedication, and unyielding commitment, and wish him much happiness in the days ahead. I am confident that JIM will continue to serve his State and the Nation with distinction.●

● Mr. OTTINGER. Mr. Speaker, special thanks to my colleague EDDIE BOLAND for arranging this special order in honoring of my friend and colleague from Massachusetts, JIM SHANNON. It is an honor mixed with sadness to pay tribute to JIM for his 6 years of distinguished service in the House of Representatives.

During his tenure in the House, JIM SHANNON proved himself to be an able, effective, and conscientious legislator. JIM's position on the House Ways and Means Committee, and particularly his assignments on the Social Security and Trade Subcommittees, placed him in a position to wield considerable influence in two areas of major national concern. JIM SHANNON lived up to that responsibility. JIM is most noted for his legislation in the Social Security disability and Medicare fields, areas that the Reagan administration have so cruelly tried to cut.

It is particularly sad to note that JIM leaves the House without the opportunity to serve in the Senate, as he had wished. That is a double loss for the country. JIM SHANNON would have made a superb Senator.

I wish JIM all the best in his future endeavors. He will be missed by his colleagues and myself.●

● Mr. PICKLE. Mr. Speaker, when a person becomes a member of your subcommittee, you really have a firsthand opportunity to learn about the caliber and depth of that person. When JIM SHANNON came to Congress, I expressed the hope that he serve on the Social Security Subcommittee, and I'm glad to say he was assigned. In the past 4 years, he has served with distinction and rendered strong, effective, and decisive leadership on the subcommittee.

It was JIM SHANNON who originally introduced House legislation to reform the Social Security Disability Program. The bill that we recently passed includes many provisions of the original SHANNON bill. JIM SHANNON cared about what was happening to the disabled citizens of our country and aggressively and decisively set out to return decency and fairness to the program. His voice was one of wisdom and compassion. The disabled people of this country owe JIM SHANNON a tremendous vote of thanks.

As a member of the Ways and Means Committee, JIM SHANNON repeatedly showed his concern for human services programs, but he balanced that concern with a sense of fiscal responsibility.

Actually, JIM SHANNON's district and my district have a great deal in common, particularly in the high technology field. As a result, I have had the opportunity to work with JIM SHANNON on a number of high technology related programs, and he represented his district well.

JIM SHANNON has all the strong attributes you look for in a public servant. And as you all know, JIM has one of the most pleasant personalities of the entire Congress and is well liked by everyone.

Moreover, JIM SHANNON has gained national recognition, and I'm sure we will see JIM SHANNON walk these Halls again. He is a topnotch public servant. We need JIM SHANNON, and the people need JIM SHANNON in this Congress.

I'm personally indebted to JIM SHANNON for the understanding, support, and friendship we've shared these past 4 years.●

● Mr. GUARINI. Mr. Speaker, I am pleased to join in this tribute to JIM SHANNON, a knowledgeable and dedicated legislator among the best of Massachusett's long tradition of leaders.

JIM and I share many of the same milestones in Congress. We are among the class of Representatives who arrived in Washington in 1979. And while it is rare that a freshman Member of Congress is assigned to the Ways and Means Committee, I do not believe there has ever been two freshmen Members given Ways and Means seats in the same year. JIM and I shared that honor in 1979, and he and I have sat alongside each other since our first day on the committee. That closeness has given me many opportunities to enjoy and admire JIM's wit, intelligence, and political acumen. These past three terms have been a pleasure together.

JIM has always been a champion of progress and development. His district reflects this: even its old industries of footwear and textiles where the most modern and innovative plants of their day. Today, the district boasts new inroads in the high-technology fields of computers, communications, and electronics. These are areas in which the United States has displayed world business domination, and they have given new life to certain of our aging industrial areas. The development of these industries, and thus the development of new jobs, income, tax ratables, and building renovation, has been among JIM's highest goals. His attention to the importance of research and development has benefited this Nation and it consumers with higher productivity and better quality goods. These benefits will continue to accrue as years go by, for it is R&D which will open new vistas of goods and services for American companies to explore and dominate.

JIM's dedication to progress did not mean that he ignored the people who helped get America to where it is today. As a member of the Social Security Subcommittee, JIM played a strong hand in crafting the legislation passed last year which will protect and strengthen our Social Security system well into the next century. And 3 years ago, when budget cuts had eliminated the $122 per month minimum benefit for Social Security recipients, I was pleased to work with JIM SHANNON to fight to have the benefit restored so that older Americans would not be hurt.

His youth belies his political expertise and talent for campaigning. He earned high marks in all his races, running hard hitting, yet dignified campaigns with the experience of a veteran. He deserves tremendous credit for his own talent in politics, yet I had to appreciate his sense of humor about his connections. He once wryly noted that while his career was helped amply by his many friends and associates, it never hurt to have the advice

and support of the Speaker, "TIP" O'NEILL.

JIM's talent, capacity for hard work, and youth guarantee that he will once again return to the public scene. I am sure the great State of Massachusetts and the United States will hear from this dedicated public servant again. I join my colleagues in wishing JIM and his charming wife, Silvia, the best of luck in their new ventures. I know the future will be bright and splendid for them both.●

● Mr. RUSSO. Mr. Speaker, Representative JIM SHANNON deserves every word of praise and tribute he will receive here today. When a Member of Congress leaves you can expect the other Members to make flattering remarks and highlight the positives. In this instance, one need not stretch for those positives, or strain to find the appropriate compliment. JIM, as a colleague and as a Congressman, has been superior.

From his first day here, JIM chose not to be an observer but an active mover, one whose strong beliefs were never mere words, but the impetus for rolling up his sleeves to do the hard work required to translate them into reality for the people of his State and Nation. We all have been well served by this able legislator.

It has been a special privilege for me to serve with JIM on the Ways and Means Committee. He is diligent, concientious, and knowledgeable. I was impressed by his effectiveness in developing legislation and his tact and skill in dealing with other members of the committee. Energetic and committed, he set a high standard for us all.

JIM will be greatly missed here, but given his talents I know we're going to be hearing more from him. I join with my colleagues in commending him for his work here and wishing him all the best.●

● Mr. FORD of Michigan. Mr. Speaker, it is a great privilege to join my colleagues in paying tribute to the Honorable JAMES SHANNON, whose dedication to his party and district has earned him great respect among his friends and fellow Members in Congress.

As a member of the House Ways and Means Committee, JIM as been instrumental in developing legislation to address the problems in the Social Security disability system and in Medicare. His goal has been reform of the health-care system to provide all Americans with access to adequate health care at a reasonable cost.

JIM has also played a key role in tax policy issues affecting the working people of America. He has spoken out for responsible tax reform and has worked diligently for a 1982 tax law that closed some major tax loopholes.

JIM is a most effective and devoted Member of the U.S. House of Representatives. I am honored to pay tribute to him for his impressive record as a public servant for the Fifth District of Massachusetts since 1978.●

● Mr. FUQUA. Mr. Speaker, I appreciate this chance to pay tribute to Congressman JIM SHANNON. The people of the Fifth District of Massachusetts have indeed been fortunate to have had JIM SHANNON as their Congressman since 1979. JIM has made major contributions as a member of the Ways and Means Committee and his legacy will be remembered by all.

He is a tireless worker who has taken to the floor of this Chamber to speak out for those less fortunate in our society. He is a conscientious and able legislator.

He never really served as a freshman Member. From the day he was first elected, he worked diligently to get things done for the Nation and for the people back home. He never accepted the idea that a new Member could not accomplish a great deal and his victories illustrate that point.

We will miss JIM SHANNON's insights and thoughtful review of the issues facing us. I wish him the best of luck in the years to come.●

● Mr. ADDABBO. Mr. Speaker, JIM SHANNON has represented the people and the State of Massachusetts with energy, enthusiasm, and offered them true leadership. Since he first joined this body in 1978, JIM has been a responsible Member and an able colleague.

Congressman SHANNON's work on the Ways and Means Committee has been noteworthy. He has fought for health and Social Security benefits at a time when it is becoming increasingly tougher to make inroads. This administration has an abysmal record in these two areas and without advocates such as Representative SHANNON in place, recipients of these programs would be further endangered. I commend him for his responsible actions and his ability to be sensitive to the needs of the people.

I am confident that JIM SHANNON will serve the people of Massachusetts in the near future. I wish him and his family the best of luck in those endeavors.●

● Mr. MAZZOLI. Mr. Speaker, in the years that JIM SHANNON and I have served in the House together, I have always known JIM to be an effective Member who represented his constituency well. He has served the people from the Fifth District of Massachusetts with dedication and distinction, and I wish him the very best in his future endeavors.●

● Mr. DE LA GARZA. Mr. Speaker, it is with regret we must bid our colleague JIM SHANNON farewell as he retires from the House of Representatives.

During his tenure in the Congress, and particularly as a member of the Ways and Means Committee, JIM has had a profound impact on important legislation that will shape our Nation for years to come. His positions on legislation were arrived at only after careful and thoughtful consideration of all factors. His legislative programs were the result of careful and conscientious preparation.

JIM has striven to do only what is right and he has succeeded. As a result, he has gathered unto himself honors he did not seek, power which he did not abuse, and friends too numerous to count.

Always the gentleman, he debates the issues and casts his votes for his district and the country, and tends to the business at hand. Serving with distinction and honor and always with a sense of perspective, JIM SHANNON has proven himself a legislator of no mean ability—a Member who did his homework and never neglected to look out for the interests of the people who sent him to Congress. A whirlwind of activity, JIM willingly took on a myriad of tasks—and his impeccable character is reflected in the high standards by which he lived.

By sending to Washington a man of JIM SHANNON's caliber the citizens of the Fifth District of Massachusetts have been well represented over the past 10 years. His assiduous attention to his job and to his position will long be remembered by his constituents as well as his colleagues.

May I wish JIM all the best in the future and say the House and this Nation is better for JIM SHANNON's having been here.●

● Mr. MONTGOMERY. Mr. Speaker, I want to join with my colleagues in this special order to pay tribute to the gentleman from Massachusetts, Representative JIM SHANNON.

JIM is one of this country's brightest young leaders and he has shown that leadership in his work on the very important Ways and Means Committee. I know the people of Massachusetts' Fifth District will miss his voice here in Washington. We in this Chamber will certainly miss him.

I have personally enjoyed our friendship since he has been in the Congress. JIM let me know he has a hard time understanding my accent, but I remind him it works both ways.

I have no doubt that we will hear from JIM SHANNON again. He has much to offer the people of Massachusetts and this Nation. He has been an outstanding public servant and I am proud to have had the chance to serve with him.●

GENERAL LEAVE

Mr. DONNELLY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to include their remarks on this special order in tribute to Congressman JIM SHANNON.

The SPEAKER pro tempore (Mr. FOWLER). Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

RAOUL WALLENBERG AND THE NEW ANTI-SEMITISM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. YATES] is recognized for 30 minutes.

Mr. YATES. Mr. Speaker, last month I was privileged to attend a dinner at the Mayflower Hotel to recognize and remember the rescuers of the Jews during the Holocaust. As a part of that splendid evening, we heard a remarkable address by a former Swedish Deputy Prime Minister and Minister of Labor, the Honorable Per Ahlmark, who gave one of the most perceptive, timely, and eloquent speeches in my experience.

I want the Members of the House to read that, and I make it a part of my special order.

FAITH IN HUMANKIND: RESCUERS OF JEWS DURING THE HOLOCAUST

PER AHLMARK: RAOUL WALLENBERG AND THE NEW ANTI-SEMITISM

The 17th of June this year I listened to one of the most moving speeches I have ever heard. Together with a thousand Romanian citizens and some fifty foreigners from a dozen countries we were standing in front of a monument commemorating the victims of Nazi Germany. We were in Sighet, Romania, where, exactly 40 years before, the Jews were deported to Auschwitz.

The speaker was Elie Wiesel, born and raised in Sighet. He told us about his native town, a place with happy children and religious studies, with joy and debates, with rabbis and revolutionaries. But that town of love and learning was destroyed forever when the Jews of Sighet, the majority of the people, were marched from the ghetto to the railway station.

And no one came to their help, no one opened his door or showed any compassion or took any risk for their sake. The Jews of Sighet were alone.

The opposite of love, said Elie Wiesel, is not hate. The opposite of love is indifference.

These words are also the message of Raoul Wallenberg. His deeds still tell us that under the most dangerous circumstances a human being has responsibilities that he, or she, should not escape. If you are in a position to save lives, you have to try. Just to stay safe, in neutral territory, closing your eyes or complaining about the cruelties of the world outside your own haven, is not enough. You have to take a stand and a risk when civilization is at stake. If you don't, you are part of the process of destruction. "The opposite of love is not hate. The opposite of love is indifference."

So, maybe Elie Wiesel's and Raoul Wallenberg's messages to humanity are almost the same. There was no Wallenberg in Sighet, so all Jews there were forced to leave. The survivor from Sighet and the one who helped so many to survive in Budapest have both proved to us that if you do not resist evil, it might be the end of everything we believe in.

But Raoul Wallenberg has never been able to tell us about his conclusions. He is a man who, after having fought one of the two worst tyrannies of our time, immediately fell victim to the second one—he disappeared into the Gulag and may still be a prisoner out there.

However, we can still hear the voice of the one common citizen of the United States and Sweden. Miriam Herzog was seventeen years old when she was saved by Wallenberg at one of the death marches from Budapest to the Hungarian border. Years later in Israel she spoke about her surprise when she at that moment heard Wallenberg saying, when he was distributing the one hundred protective passports he had that day: "I feel I have a mission to save the Jewish nation and so I must rescue the young ones first.

"To save the Jewish nation." What would be Raoul Wallenberg's reaction to the world 40 years later?

It is so easy and tempting to fight the battles of yesterday. In Europe today many people seem to think that anti-Semitism always wears the same face. Anti-Semitism to them is what was seen in Europe in the 30's and the 40's: a shouting dictator with a small mustache, stone-faced SS officers rounding up Jews for transportation to a death camp.

The remarkable thing with anti-Semitism, however, is its flexibility. It cannot change its ultimate goal. But it can change its strategy and part of its vocabulary. Arab dictators coming to Europe tell us that they have nothing at all against the Jews—but Zionism is evil and has to be eliminated.

And many people are deceived by this mask. We all know that anti-Semitism, disguised as anti-Zionism, during the last decade has had tremendous political victories. Political leaders in our countries in West Europe often express their admiration for Raoul Wallenberg. The next day they warmly receive an Arab visitor, whose country or organization demands the destruction of the Jewish state.

Politicians in Europe today often criticize those who 40 or 50 years ago did not understand that Nazi Germany meant literally what it said: that the Jews were to be exterminated. The same politicians now emphatically deny that the PLO covenant and other statements should be understood literally: that there is no room for a Jewish state in Palestine.

But it is not enough to resist the anti-Semitism of the past. Raoul Wallenberg taught us to fight the anti-Semitism of the present.

After the outbreak of the war in Lebanon in June 1982, a wave of anti-Semitic articles have reached readers of European newspapers and magazines. Again we can read that Jews are taught to hate other religions; that the Bible tells the Jews to oppress other peoples without mercy; that there is a conspiracy between Jews everywhere to reach power and dominate the world, that the chosen people is committing genocide against the Palestinians, etc.

I do not refer to the neo-Nazi papers, of course. I refer to part of the mainstream European press, often in the best tradition of European democracy. Here, not seldom, the same old lies are printed again—in letters to the editors, in sly innuendoes squeezed into articles about Lebanon, in the perversion of language drawing parallels between the only democracy in the Middle East and Nazi Germany.

The tolerance toward anti-Semitism has risen dramatically. Articles that were thrown into the waste baskets all these years after World War II may, anew, be read again. In the last 27 months in Europe we have seen how the old stereotypes used in propaganda against the Jews are now directed against the Jewish state. The new anti-Semitism often transfers its goal from the individual Jew to the collective Jew.

Anti-Semitism has always meant discrimination between Jews and non-Jews: to demand from Jews what would not be demanded from others, or to forbid to Jews what is permitted to others.

But, after Hitler, the word "anti-Semitism" is not proper any more. So the anti-Semites have searched for a new, clean, neutral term. And they have found "anti-Zionism."

Anti-Semitism is discrimination against the Jews. Anti-Zionism is discrimination against the Jewish state.

Anti-Semites in their most extreme form claimed that Jews had no right to exist. Anti-Zionists say that the Jewish state has no right to exist.

Anti-Semites reject the right of the Jewish people to express their opinions, culture and religion. Anti-Zionists reject the right of the Jewish people to have a national consciousness expressed in the state of Israel.

Auschwitz did not start in Auschwitz. It started with systematic attempts to make Jews illegal, to isolate the Jews from others, to prepare public opinion for the future destruction of the Jewish people, What we see on the international scene now, especially in the U.N. are systematic attempts to make the Jewish state illegal, efforts to isolate Israel in a way that, in fact, prepares world opinion for its future destruction.

What is always allowed to other countries is forbidden to Israel. What is never criticized when other states do it, is always condemned when Israel does it.

Anti-Zionists not only oppose certain decisions made by a certain Israel government—which everyone has a right to do—but immediately interpret these decisions as a proof that Israel as a nation should be eliminated, in one way or another.

Sometimes these anti-Zionists claim that they are not against Jews but only against the Jewish state.

Suppose someone said: I am only against the existence of the United States but I am not anti-American! Or if somebody told me that, "I love Swedes but Sweden should be abolished!" No one would take such a statement seriously. But when some people say that they are for Jews but Israel should be finished, that absurdity in many parts of the world is accepted as a balanced and reasonable statement.

All other peoples, including the Palestinians, have a right to form a nation, according to the anti-Zionists. Only the Jewish people is denied that right. That proves that they forbid to Jews what is permitted to others, which is anti-Semitism.

Our reaction to all this should be to strengthen our links to the state of Israel. When Israel becomes the main target of the anti-Semites, it is our duty to reconfirm our solidarity with the very existence and essence of the Jewish state.

The anti-Semites always start with the Jews but never stop with the Jews. Anti-Semitism is always a call for the destruction of democratic valves and institutions. To tolerate anti-Semitism is to invite disaster. In the end we will all be victims.

Raoul Wallenberg proved that it is not enough to resist the anti-Semitism of the

past. The man who once said at the Hungarian border that his mission was "to save the Jewish nation" taught us to fight the anti-Semitism of the present.

In Wallenberg's days in Budapest the most dangerous anti-Semites were those who tried to make Europe Judenrein, free of Jews. In our days, the most dangerous anti-Semites are those who want to make the Middle East Judenstaatrein, free of the Jewish state.

I am a non-Jew. I come from a small country, the native nation of Raoul Wallenberg. We have had the unbelievable privilege of peace for 170 years. I no longer represent any government or any political party.

However, I know that I speak on behalf of millions of Europeans, who want our countries to take a firm stand against the new anti-Semitism. There is another Europe beside those who embrace Arafat and give in to Arab demands. Now is the time for us to speak out against those who undermine democracy by attacking the Jews and the Jewish state.

REAGAN'S RECORD ON WOMEN

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Colorado [Mrs. SCHROEDER] is recognized for 60 minutes.

Mrs. SCHROEDER. Mr. Speaker, I have taken this special order on the Reagan administration's record on women to set the record straight. President Reagan has been trying to dazzle women with claims of what he has done for them. Those claims are just untrue.

If Ronald Reagan could have his way, not one piece of legislation would have been proposed, much less enacted. His response to women is little, late, and then only in response to the gender gap that was created when the Republican Party erased the equal rights amendment from their platform in 1980 and inserted Ronald Reagan as their candidate. In February 1984, the Reagan administration printed out its talking points on issues of interest to women. It lauds President Reagan for compiling a solid record of achievement on issues that affect women, stating that his record "not lipservice to the ERA is the true measure of whether the President has earned women's support."

Mr. Speaker, President Reagan's record on women's issues is just lipservice and window dressing. For example, he claims legislative victories in pension reform and child support enforcement.

Yet in the first 2 years of his Presidential term, when the congressional caucus for women's issues asked him to support the Economic Equity Act which included pension measures, not a word from the White House. In those 2 years, his administration proposed cutting the budget for child support enforcement.

To put it in Mr. Reagan's Gipper terms, he entered the playing field of women's issues late in the fourth quarter, and even then he had to be pushed.

Mr. Reagan's lack of leadership on women's issues have set back women's rights. The most obvious example happened this week with the Civil Rights Act of 1984. The Reagan-controlled Senate killed that bill which would have ended Government subsidization of schools that discriminate against women, blacks, Hispanics, and the handicapped.

Mr. Reagan could have made one phone call and helped to pass this bill, but he didn't.

Mr. Reagan could have told his Justice Department not to argue before the U.S. Supreme Court for narrowing the civil rights laws to permit Federal assistance for schools that discriminate, but he didn't.

On August 16, 1984, the Los Angeles Herald printed an article "Let's Take a Hard Look at What Reagan Has Done for Women" by columnist Marianne Means. That article hit the nail right on the head. She says:

> President Reagan, in his effort to appeal to female voters, claims credit for six legislative steps to address inequities in the legal and economic treatment of women. But he is embroidering his role. A careful look at those measures indicate that his administration initiated only one of them, tried to reduce the benefits to be provided in some, had only a small role in some and supported one while sharply slashing funds for a more directly helpful alternative.

Mr. Reagan can try to make his record sound positive, but all the acting techniques in the world can't erase the facts. Mr. Speaker, various Members will go into more detail about Mr. Reagan's record on women, but I want briefly to highlight some of the Ronald Reagan's most exaggerated myths about his record:

APPOINTMENTS

Myth: Reagan has appointed more women in his administration than any other President.

Fact: Ronald Reagan has appointed substantially fewer women, while sharply increasing the total number of political appointees. In the first 2 years of the Carter administration, 22.4 percent of appointees were women. In the first 2 years of the Reagan administration, only 14.6 percent of appointees were women.

CHILD SUPPORT ENFORCEMENT

Myth: Reagan is responsible for passage of new, tough child support enforcement laws.

Fact: Reagan didn't initiate the measure, the congressional caucus for women's issues did in the Economic Equity Act. Representative BARBARA KENNELLY, a Democrat, first introduced the legislation. This bill, however, was passed by powerful bipartisan support—only a handful of people voted against it. The Reagan administration did, however, initiate and lobby to cut funding for child support enforcement efforts. They wanted to reduce the proposed formula for Federal matching funds to reimburse the States for their expenses in collecting overdue payments.

MARRIAGE PENALTY TAX

Myth: Reagan reduced the marriage penalty tax.

Fact: This reform was kicking around Congress long before Ronald Reagan became President. All he did was to sign it once it passed with overwhelming bipartisan support.

LEGAL RIGHTS FOR WOMEN

Myth: Reagan is making sure women receive the legal rights and protections due them under the law.

Fact: The Reagan administration has argued toward limiting women's rights under the law when they argued before the Supreme Court in the Grove City College versus Bell to make enforcement of title IX, the law providing women equal opportunity in education, program specific. The Reagan Justice Department has cut funds for enforcement of civil rights laws and has cut back the number of civil rights cases they have pursued by 55 percent.

CHILD CARE

Myth: Reagan initiated increased tax credits for child care costs.

Fact: Reagan has taken no recent initiative to materially increase dependent care tax credits. In fact, the administration is currently trying to hold the limit for lower income families to 40 percent of their actual costs, against a pending bill that would raise the ceiling to 50 percent of costs. Since 1981, dependent care tax credits have been based on a sliding scale according to income.

Reagan also opposes a measure which would provide a refund for child care expenses to families who can't use a credit because they don't earn enough to owe taxes.

The Reagan administration opposed the school age child care bill, H.R. 4103 a bill that passed the House overwhelmingly, but was greatly modified and reduced in the Senate.

Reagan has been a longtime opponent of direct Federal funding for day care centers. In fiscal year 1983, he proposed cutting $1.9 billion from the program that includes day care, a cut of 18 percent from 1982, and a cut of one-third from 1981.

Mr. Speaker, I would like to thank all the Members who are participating in this special order to help the facts to the American women.

□ 1410

Ms. OAKAR. Mr. Speaker, will the gentlewoman yield?

Mrs. SCHROEDER. I am happy to yield to the gentlewoman from Ohio.

Ms. OAKAR. I thank the gentlewoman for yielding. I thank her for calling attention to the gross inequi-

ties and the lack of priorities relative to women and relative to the Reagan administration.

I would like to zero in on two areas, if I can. One relates to older women.

I think probably the meanest, the cruelest thing that this administration has done are the cuts in Social Security that they have proposed, some of which they got away with. Their first proposal, the President's 10-point plan, after he took office and promised the American people he would not touch Social Security, amounted to cuts for every single recipient and future recipient in Social Security to a tune of about $200 billion.

Now we have to understand that this is a woman's issue because two-thirds of our older Americans happen to be female. We have to understand that the poorest person in the country is a woman over 65 years of age.

So one of the things that they absolutely got away with, which was to me among the most cruel, is the cut in benefits for women who are between 75 and 90 years old, our grandmothers and great-grandmothers, who were receiving and were about to receive, I should say, the minimum benefit. That related to the fact that after the Reagan cuts they would not get that minimum benefit of $122 a month which is pretty much what they were living on because many of the elderly are too proud to ask for the additional benefits due to them, some of the social programs, and they reduced that benefit from $122 a month to a grand total of $88 per month. Yet we have all of those other areas that they have a total of billions of dollars for.

They have also cut Medicare. If they could have they would have cut it by at least $40 billion. They have been successful in cutting it by $13 billion.

The thing that is so cruel about it is that they have no plan for cost containment which is one of the reasons that Medicare is having problems. They do not care about what the hospitals charge or the doctors charge and the high health care costs in health delivery. They want the elderly to pay more out of their pockets.

So what they have done is increased the out-of-pocket expenses for older people, most of whom are women, and not in any way dealt with the cost containment issue.

In the area of housing, I sit on a housing committee, and I will tell you one of the absolute frauds, and you can call it really a form of certainly not telling the truth, is the Pierce report, the HUD report, on all of the great things they have done in housing. And under the guidance of Ronald Reagan the Secretary has cut housing for the elderly by one-half. And we would not have even been getting that half of new projects for the elderly if it were not for people like our colleagues on the Democratic side who are on that Banking, Housing, and Urban Affairs Committee.

So they just slashed their housing program. They tried to take away title V, which is the only employment program for the elderly and allows them to work for 20 hours a week. And they tried to take it out of the legislation.

Senator PEPPER and the gentleman from California [Mr. ROYBAL] and others were able to be successful in helping restore that.

But you see, one of the things that relates to elderly women is what they are paid when they are younger. And for women it is a catch-22 situation because if you are paid poorly when you are younger, you are bound to be poor when you are older because older women also suffer from discrimination.

□ 1420

We have tried to correct, that is the leadership and some of the Members of the House, including our colleague, Congresswoman FERRARO, have corrected some of the inequities in the private pension area, but we have not corrected the inequities in the most fundamental area, which is Social Security.

That law mandated, the law that we passed, the Social Security Amendments of 1983, mandated that they look at and provide a plan to implement the earnings-sharing bill that I introduced and Senator CRANSTON introduced, which would have corrected these inequities across the board for all women who look to Social Security in their future. They were supposed to come out with their plan of action in July of this year. And what do you think they did with respect to that? Well, they are breaking the law because they did not put their report out. Not only that, they are cavalier about it; they are saying that, "Well, we can't do anything about it, we haven't gotten around to it." It shows their absolute positive disdain for the elderly and elderly women in terms of not putting out that report.

With respect to the recent actions of the Senate, I should say the inactions of the Senate, last night at 3 in the morning Senator CRANSTON attempted to introduce an amendment relative to the continuing resolution that would have included the Federal pay equity study that this House, I am proud to say, in a bipartisan manner, passed 413 to 6. All it is is a little old study that would take a look for the first time since 1923 at how Federal employees, who are under civil service, are dealt with in terms of their pay.

We know that the women who work for Government are in the bottom six rungs of the classification system and that they only have 2 percent or 3 percent of the highest paying jobs. Even in the study we put a provision which said the study could not recommend lowering any male's salary, or anyone's salary, for that matter. The administration sent the word out to the other body that they did not want that study. They are dead set against pay equity for women. Economic justice and peace are the two most fundamental issues relative to women. That shows their disdain for the women of this country. They cannot even allow a study to take a look at how we treat our Government employees, which would serve as a benchmark for how we ought to be treating the rest of the women in the country.

So I think the gentlewoman from Colorado is right on target. Let us not let the President celebrate Eleanor Roosevelt day, that subtle form of hypocrisy; you know, wrapping the Democratic Presidents that are so excellent around his cloak is absolutely a fraud and everybody knows it.

Eleanor Roosevelt stood for the principles of fairness and fairness in particular to women. Let us hope that there is not that hypocrisy of celebrating her birthday again relative to that birthday.

Mrs. SCHROEDER. Would the gentlewoman yield back?

Ms. OAKAR. I would be happy to yield.

Mrs. SCHROEDER. I thank the gentlewoman from Ohio.

Let me say we have a problem.

Mrs. HOLT. Mr. Speaker, will the gentlewoman yield to me?

Mrs. SCHROEDER. Let me say that we have a problem. I would like to yield to everybody. The problem is we are getting ready to go back to legislative business. I am going to have to reserve the balance of my time in a few minutes.

Mrs. HOLT. Mr. Speaker, will the gentlewoman yield for 1 minute?

Mrs. SCHROEDER. But the problem is I have both the gentlewoman from California [Mrs. BOXER] and the gentlewoman from Maryland [Mrs. HOLT].

Mrs. HOLT. Would the gentlewoman, Mr. Speaker, yield for 30 seconds?

Mrs. SCHROEDER. Sure, for 30 seconds.

Mrs. HOLT. I thank the gentlewoman for yielding.

Mr. Speaker, I just think that the gentlewomen are overlooking the greatest thing that this administration has done for the women of this country, to get rid of the malaise of the 1980's that we faced at that point. We have turned the economy around. There are real opportunities for women today; 1,600 women are in real policymaking jobs, not the Mickey Mouse token jobs that we saw in the past. We have got a woman in the Supreme Court, we have got women in the Cabinet. But the big thing is that the economy is on the move, the economy is growing, inflation is down,

taxes are lower, people can really have some of their own money to spend.

The Social Security System was saved by a bipartisan commission appointed by this administration encouraged by the leadership of this administration which saved the Social Security for all of those wonderful people who are dependent on it.

Thank you very much.

Mrs. SCHROEDER. The time of the gentlewoman from Maryland [Mrs. HOLT] has expired.

Mr. Speaker, I believe that is what the gentlewoman from Ohio [Ms. OAKAR] was saying, but she also went on to say that they did not keep the agreement that they had.

Mr. Speaker, I yield to the gentlewoman from California.

Mrs. BOXER. Mr. speaker, I thank my colleague for yielding.

Mr. Speaker, I can understand the agitation on the other side of the aisle when we look at the Reagan administration's record on women. I would be agitated too if I were on that side of the aisle.

The SPEAKER pro tempore (Mr. FOWLER). The Chair will announce that the gentlewoman has 2 minutes remaining.

Mrs. BOXER. Two minutes?

As I was saying, I can understand it.

Mr. Speaker, I am pleased to be here because, as I look at my first 2 years in this Congress, in my heart I will always feel the sadness that I felt when this House failed to pass the equal rights amendment. It is something that, as I look back on the record of this Congress, I will always regret.

At that time I spoke about the equal rights amendment and I feel this is an opportunity to take a look at it, because I think we have to blame, I think we women of America and the grandmothers and grandfathers and daughters and sons and the mothers and the fathers have to know the truth, that the White House was working full time, full time and overtime to make sure that the equal rights amendment did not become the law of this great, great land.

It was done very directly and it was done very subtlely. We had phone calls coming in from the White House. They were calling Members off the floor to stop the passage of the equal rights amendment.

What are they afraid of? What are they afraid of? The most direct and simple words that we must have in our Constitution, equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex.

I would say to my friend, my good friend from Colorado [Congresswoman SCHROEDER], who has fought so long and hard on the committee to get the equal rights amendment to the House, that we are pledged to those women of America and to the men of America and their daughters and their sons that we are going to work until the equal rights amendment gets out of the history books, as a fight we women have been waging, and the good men in this House have been waging; get it out of the history books and into the Constitution, where it belongs.

It has been a prelude for too long. I would say, as the gentlewoman from Colorado has said, as we look back at the record of this administration, and I do not care what the polls say because it is OK, a poll is a poll, but a fact is a fact.

Any progress that was made in this Congress was not due to the White House, although they are going to have parties and teas in honor of Mrs. Roosevelt. It was due to the hard work of the men and women in this House of Representatives who came here to do a job and will come back and will do the job again.

In closing, I would like to echo the words of my friend from Colorado.

The President cheered on those athletes, those women, those minorities, at the Olympics. The politicians basked in the glory of the gold. But when it really comes down to title IX, where is the White House? On the phone again. With a simple phone call the Senate could have passed that title IX, we know it and now the American people know it.

Mr. Speaker, I thank my colleague from Colorado [Mrs. SCHROEDER] for this special order.

● Mr. GONZALEZ. Mr. Speaker, I welcome the opportunity today to participate in this special order. The Reagan administration has misstated the facts of the effects of its policies on women, and in fact all disadvantaged people—young, old, male, female, black, white, or brown, and it is time to set the record straight.

When the Reagan administration came into office, it targeted certain programs for cuts in funding, including food stamps, medicare, school lunches, and the women, infants, and children feeding program. Typically, the strategy was to package programs into block grants and then cut funding by 25 percent. These programs are not "women's programs," per se, but the majority of those who are dependent on or benefit from these programs are female—either young children or elderly women. The short-term effects of the budget cuts in these programs are starkly clear: there are 1.8 million more women living in poverty today than there were 4 years ago.

In addition to cutting programs for the elderly and for children, the Reagan administration has worked to curtail the enforcement of antidiscrimination laws affecting women in higher education and in the work force. This administration has sought to limit the application of title IX which, for 12 years, insured equal programs for women in schools, and it has failed to seek remedies for sex-based wage discrimination. The immediate effect of these policies on female students and laborers is clear: A women's right to equal education, job opportunities, and nondiscriminatory wages is simply not available under this administration's practice of a relaxed enforcement of the law. The Reagan Federal Government has in fact become an adversary, not an ally, of equal rights for women.

We can see and in some respects quantify the short-term adverse effects of the Reagan administration's policies on the welfare of America's women. But what about the long-term effects? And what about the more insidious hidden costs—the pain and suffering, so the speak? What price is America going to pay in the future for this administration's negative policies toward women?

The price for cutting nutrition programs for children is paid for with poor health in adults. We either pay to insure good nutrition now, or we pay vastly more later on in disability benefits, Medicaid, and Medicare. The price of allowing a double standard to exist in our Nation's educational programs is paid for by those women who are unable to continue their education, which translates into lost earning capacity, lost productivity, lost opportunity. The price of paying women less than men for comparable work is paid for with a lower standard of living for the millions of children whose mothers provide the sole household support, and indeed for all families with women workers present. We either pay for equal education and wages now, or we pay for it in the future with additional antipoverty programs. And more invidiously, we pay untold amounts in foregone oportunities, lost energy, lost contributions to the whole Nation.

This is the critical issue that must be addressed, the degree of unassessable damage to women by relegating them to a second-class citizenship. I know how it feels to be discriminated against, to live in a segregated society, to see all around me opportunities that would have been available had I been born Anglo. It is a feeling I would not wish on anyone. I had hoped that being told that you are something less—that you do not have the same rights as others by virtue of being born Hispanic, or black, or a woman—I had hoped that these practices were a part of our past, a past we must remember but never repeat. But the Reagan administration instills a mood, through its attitudes and policies and rhetoric, that perpetuates a class society—that polarizes races, and religions, and sexes. I remember how it felt to live in a polarized society, and it

is a feeling I will never forget. You never really recover from the injustices practiced upon you—you never forget. The spoken words, the closed doors, the double standard—these memories are the damages that scar your soul.

Women whose children were malnourished because the WIC programs has been cut; women whose higher education depended upon athletic scholarships; women whose wages were low because they worked in traditionally female-dominated occupations; women whose senior years were made intolerable because their medicare benefits were too minimal to provide relief from the health problems of the elderly—these women know how it feels to be treated as a lesser human being for no other reason than that they were born women. And all Americans, both men and women, will pay the price for the administration's attempts to demean women; we pay by wasting the talents of women whose contributions we'll never know, just as racial and ethnic discrimination robbed the Nation not only of moral dignity, but of incalculable losses in human potential.

If we speak of morality, let us begin with the proposition that we are all created equal beings, with an equal right not only to dignity and respect, but an equal right to work and live, an equal right to build our skills and talents, an equal right to utilize those skills and talents—in short, an equal right to the pursuit of happiness. That is what human rights is about, and it is what women's rights are about. And it is the Reagan administration's shameful acts to reduce, to neglect, to deny women equal rights that cannot be ignored, condoned, or endured.●

● Mr. OWENS. Mr. Speaker, today we consider the status and living conditions of women over the last 4 years. The adminstration claims to have done much for women. The reality is that a few gestures have been made which are undoubtedly encouraging to the most educated and wealthy women of this Nation. The gestures have occurred in the context of policies which have penalized the vast majority of women who live ordinary lives with ordinary concerns.

What are these ordinary concerns which women face? They begin in schooldays when young girls must wonder what they will do and how they will get the education and training to do it. The administration has supported the Grove City decision which permits institutional discrimination against women and minorities in all programs which do not receive direct Federal aid. This decision, and the adminstration's broad interpretation and support of it, will serve to limit options for education and training for women.

Entering the work world, young women cannot help but notice that lower paying jobs are held by women. The message is clear. Advancement is limited and you had best find someone to support you. This administration has reinforced this discriminatory situation by not pursuing EEO complaints and by not doing nondiscrimination compliance reviews of large companies which do business with the Federal Government.

Women with children have suffered the most under this administration. Motherhood may be sacred, or so goes the rhetoric, but it is not supported by an administration which sings paeans to its divinity. Starting with pregnancy, this administration denies benefits under the Aid to Dependent Children Program until after the 6th month of pregnancy. The earlier rule was 3 months, a time when pregnancy is generally diagnosed.

WIC, the program which provides food supplements to pregnant and nursing mothers, infants, and young children, has likewise been cut back. Apparently malnourished motherhood is acceptable to the administration. The fact that malnutrition during pregnancy leads to low birth weights and high infant mortality does not seem to concern the President in his role of supporter of women's rights. He may yet learn that it concerns women.

What are the concerns of women with families? The concerns that I hear are pretty ordinary. They ask for nothing which could be seen as excessive. They want decent housing, food, and medical care for their families and jobs for themselves and their husbands. These seem reasonable to me, but apparently they are not within the ken of this administration which displays itself in formal attire, stepping from limousines and eating from high-priced china. This administration has slashed public housing subsidies while bemoaning housing shortages. This administration has cut working mothers from AFDC, denying them the much needed Medicaid coverage to provide medical care for their children. This administration has slashed the School Lunch Program leaving children hungry. This administration has supported economic policies which have left millions unemployed, particularly minority men and women, and I assure you, that the high unemployment rate of black men is of deep and abiding concern to black women.

The appointment of a few women to highly visible positions is nice and I could even commend these acts if they were but the frills on a consistent policy of action on ordinary women's ordinary concerns. However, this administration cannot expect women who ask no frills to appreciate them at a time when they are cut off from education and employment opportunities and denied the possibility of decent food, shelter, medical care, and education for themselves and their families.

There is nothing romantic or poetic about the struggles of women. We confer no honor upon them by making their lives difficult. It may seem very heroic in the movies when a mother works and struggles to eke out a living. The reality is simply painful.

Let us take this opportunity to commend the women of this country for their patience and forbearance in these difficult times. Let us commit ourselves to substance and not to symbols. Let us recognize that we are not supporting women if we are harming them and those whom they love and protect.●

● Mr. CLAY. Mr. Speaker, I thank the gentlelady from Colorado for providing the opportunity for us to set the record straight on the real Reagan record on women's issues.

The President has tried to claim credit for the recently enacted Retirement Equity Act. He pretends to be the champion of pension equity for women and the leader of the fight to achieve equity. Even the most superficial reading of the record demonstrates the total falsehood of that claim.

The Retirement Equity Act was first introduced on February 6, 1981, by our colleague from New York, GERALDINE FERRARO, the Democratic Vice Presidential nominee. That bill was H.R. 1641. The President didn't put forth any legislative proposals until September 29, 1983. His bill was introduced by Congressman JOHN ERLENBORN as H.R. 4032.

Not only was the President not the first to propose pension reform, he was not even the first Republican to recognize the need for legislation. Senator DOLE, the chairman of the Senate Finance Committee, introduced S. 19 some 8 months earlier on January 26, 1983.

Was the administration's bill worth waiting for? Did it provide even greater equity for women than either the Ferraro or Dole bills? Did the administration put the full weight of its efforts toward moving the bill as quickly as possible? The answer to each of those questions is a resounding "No."

As far as the bill itself went, it had little new to offer. The administration embraced most of the proposals in the Ferraro bill and a few of the handful of new proposals in the Dole bill which did not appear in the original Ferraro bill. So much for Presidential leadership on women's pension issues.

More important than the provisions it embraced, however, are the provisions it omitted. For instance, the President's bill did not contain any provision which addressed the most serious question of pension equity affecting widows. Under the law which

existed before the passage of the Retirement Equity Act, if a worker died before the earliest retirement age under the pension plan, his widow got nothing. Even though he may have worked for 30 years, she wouldn't get a cent.

What did the President propose to do about this shocking inequity? Nothing. That's right. Nothing. In marked contrast, the Ferraro bill provided that if the worker had 10 years of service when he died, the widow would be entitled to a benefit.

Not only did the President's pension equity bill fail to address this problem, the public record is clear that the failure to help widows in this situation was no oversight. In public testimony before my subcommittee, the Subcommittee on Labor-Management Relations of the Committee on Education and Labor, on September 29, 1983—the day the administration bill was introduced—acting Assistant Secretary of Labor for Policy, Daniel K. Benjamin, said:

> As indicated in the administration's August 2 testimony before the Senate Committee on Finance, we do not support the proposed provisions requiring survivor coverage for the spouses of all participants with 10 years of service.

What was the administration's rationale for letting this serious problem go unaddressed? Basically cost. The administration was concerned that if companies were required to provided pensions to survivors, they would cut out life insurance. The problem with the administration position is twofold: First the bill continued the authorization under current law which permitted employers to pass on the cost of providing the additional survivor protection in the form of an actuarial reduced benefit. Therefore the total cost to employers could be zero, unless the employer voluntarily decided to absorb the cost. Second, the administration assumed that life insurance is an adequate substitute for a lifetime pension. Ask the widow whose life insurance proceeds have been exhausted by the funeral bills before the flowers at the cemetery are even dead whether she agrees with the President's position.

Even the Republican-controlled Senate adopted a provision addressing this problem: The so-called 10 and 45 rule—if a worker died with 10 years of service and was at least 45 years old, his survivor would be entitled to a benefit.

Notwithstanding the administration's strenuous objections, the Congress ultimately adopted a provision in the Retirement Equity Act which provided that if a worker was vested—that is, had a nonforfeitable right to receive benefits even if he were to leave employment—when he died, his widow would get a benefit.

So don't be deceived. The next time you hear the President himself, or an administration official, tell you how much the administration has done to help widows, you will know the real answer: Nothing. In fact, if the administration view had prevailed, the Retirement Equity Act would also have failed to address this major inequity. Fortunately Congress showed the leadership on this issue that the President lacked.

As far as whether the administration put the full weight of its efforts behind getting the bill passed, the answer again is "No." As a matter of fact, aside from a couple of routine telephone calls from the congressional liaison people in the Labor Department to my staff inquiring as to what we were doing, we never heard a peep from the administration. On other matters of importance to the administration before my subcommittee, I have received calls, letters, or visits from high administration officials. But on the retirement equity legislation, I heard nary a word.

Does this sound like something the administration cared about deeply? Or even cared about mildly? No way.

When it comes to pension equity for women, the President was like a late passenger running to catch a train. He huffed and he puffed until he caught up to the last car, pulled himself up on the caboose as the train barreled down the tracks, then ran up the aisles of the train toward the engine. When the train finally pulled into the station, he jumped off and tried to convince the passengers that he had been running the train all the time.

The passengers on that train will not be fooled and neither are we, Mr. President. You were no leader on pension equity. You were constantly trying to catch up with the rest of us. And with respect to widows' benefits, Mr. President, you tried to derail the train. But we kept it on course, despite your efforts.

No matter what the President, the Republican platform, or administration officials say about the role of the President in enacting the Retirement Equity Act, the record is clear. The most courageous act of leadership the President performed with respect to the bill was when he signed it, and even that showed a particular lack of political courage. Considering the importance the President would like us to believe he attaches to the bill, don't you think it is a bit strange that the signing of the bill was not a major media event?

The reason why there was no public signing ceremony is perfectly clear. Notwithstanding the President's claims of credit, the retirement equity act was originally GERALDINE FERRARO's bill. A quick comparison of Public Law 98-397 and the 1981 Ferraro bill confirms that. Normally the President includes the original sponsor of the bill in any signing ceremony. You've all seen the White House photos—a smiling President signing the bill with a beaming congressional sponsor at his side.

If the President had a signing ceremony and invited GERALDINE FERRARO, who happens to be the Democratic Vice Presidential nominee, that would be news. But it would also be an acknowledgment that pension equity legislation was hardly the President's idea. That would never do. That isn't consistent with the President's rhetoric.

If the President had a signing ceremony and didn't invite GERALDINE FERRARO, that too would be news. But the press would probably report the President's failure to include the bill's original sponsor. That might give the American public the idea that achieving pension equity for women was hardly the President's idea.

So the President did the politically expedient thing to do—signed the bill quietly and let the White House press releases herald his alleged leadership and initiative. But we know better.

So I once again thank my colleague from Colorado, Congresswoman SCHROEDER, for providing this opportunity to set the record straight. The Reagan record on pension equity is not one of strong leadership. It is one best characterized as opportunistically hanging on to the coattails of the Retirement Equity Act's congressional sponsors. I am proud to have played a major part in the enactment of Retirement Equity Act and it is about time that the American public knew the real story of this President's commitment to pension equity for women. The President's version of the legislative history belongs on television—as a script for "Fantasy Island."●

● Mr. SCHUMER. Mr. Speaker, I would like to thank the gentlewoman from Colorado for allowing me the opportunity to address President Reagan's recent attempts to portray his administration as one supportive of women's rights. During this important election year, it is imperative that we set the record straight on this issue. Clearly, even a cursory examination of the Reagan administration's record on women will indicate that Mr. Reagan has not furthered their cause. Rather, the budgets that the President has proposed have called for extensive cuts in programs that support women both directly and indirectly.

The Reagan budgets have called for sizable cuts in social service and health-related programs. These cuts have had an immediate detrimental effect on a substantial number of women, since women account for 60 percent of all those living below the poverty level. President Reagan's first 2 years in office saw cuts of $1.5 billion

in aid to families with dependent children, whose adult recipients are 90 percent women. Additionally, $2 billion was taken from Medicaid and SSI programs. The Reagan budget cuts in day care and family planning programs also directly contradict the President's assertion that his administration has been supportive of women. Family planning funding, under title X of the Public Health Service Act, was cut by 25 percent in fiscal year 1982, and funding for 1983 was frozen. I have to doubt Mr. Reagan's claims for helping women when 1 in 3 of the female-headed households live below the poverty level, while only 1 in 18 male-headed households do.

Equal employment opportunities for women have also come under attack. The Equal Employment Opportunity Commission and the Office of Federal Contracts Compliance Programs were established as agencies responsible for enforcing Federal laws prohibiting discrimination in employment on the basis of sex, age, religion, race, national origin, color, and handicap. Both of these important agencies' budgets were cut severely during Mr. Reagan's first 3 years. Although 1984 saw slight increases in funding for these agencies, the increases were not substantial enough to make up the previous losses or to reverse the crippling damage done by previous decreases in funding. These token increases are not significant enough to advance equal employment opportunities for women already working or for those attempting to join the workforce.

Finally, Mr. Reagan's staunch opposition to the equal rights amendment and the Republican party's exclusion of the ERA from its platform are clear signs that this administration has not, as has recently been claimed, extended justice and equality for women in the home and workplace. Rather, Mr. Reagan has only increased the opportunities for discrimination against all women. If hindering the cause of women's rights is what Mr. Reagan wants to do, then so be it. But he cannot have his cake and eat it, too. The record speakes for itself. Despite revisionist press releases to the contrary, Ronald Reagan has been no friend to women, and there is no reason to believe that there will be signficant change for the better if he is elected to a second term.●

● Mr. OTTINGER. Mr. Speaker, I am constantly amazed by President Reagan's attempts to portray himself as a President who has been supportive of women's rights. In fact, nothing could be further from the truth, and I would like to join my colleagues from the Congressional Caucus on Women's Issues in setting the record straight.

The recent decision by the Republican-controlled Senate to kill final action on a civil rights bill that the Reagan administration had actively opposed is a perfect example of the President's lack of concern for women's rights. This legislation, entitled the Civil Rights Act of 1984, was passed overwhelmingly by the House earlier this year, and would have overturned the Grove City College versus Bell Supreme Court decision last February that sharply narrowed coverage of Federal antidiscrimination laws (title IX of the 1972 Education Amendments.) Before passage of this important statute prohibiting sex discrimination in education, boys outnumbered girls 13 to 1 in interscholastic athletics. By 1982 this ratio was narrowed to two to one. In 1972, there were virtually no scholarships available to women; today, 22 percent of all athletic scholarships are awarded to women.

The Supreme Court's decision in this case, if not revised through legislation, threatens to reverse the great strides we have made in the last 12 years. The decision crippled title IX by ruling that it applied only to those programs directly receiving Federal dollars. In the few months since this decision was handed down, numerous sex discrimination cases aimed at forcing compliance in school athletic programs have been dropped. Is this what Mr. Reagan calls support for women's issues?

In addition to other women's rights legislation that Mr. Reagan has actively opposed since his term began, including the equal rights amendment, perhaps the most revealing evidence of his abysmal lack of concern for women can be found in his budget proposals, which continue to disproportionately attack programs aimed at helping women and children. For the past 3 years budgets have been submitted to Congress that demand an inequality of sacrifice from the women of America, mainly because of unwarranted cuts in social programs on which millions of women depend. These budgets overspend militarily in the name of "security," while ignoring threats to the health and security of American citizens, many of whom are sicker, poorer, and hungrier today than they were 3 years ago.

According to Census Bureau statistics, the share of the U.S. population living below the poverty line has risen sharply over the last 4 years. Women are disproportionately represented among these persons, particularly as heads of household with dependent children, and as older women living alone. Even when they are employed full time, women earn less than 60 percent of what men earn in full-time employment. Women have as a result been forced to rely on shrinking social programs as they struggle to secure a decent living for themselves and their families. Is this the support for women's issues that Mr. Reagan is talking about?

President Reagan's massive public relations campaign to portray himself as a President who has been supportive of women's rights is absurd. I believe that facts speak louder than words, and in this case the main fact is that his policies have been disastrous to women in this country.●

● Mr. BARNES. Mr. Speaker, I am pleased to have this opportunity to help set the record straight regarding the Reagan administration and women. The President has insisted that his administration has advanced the status of women both in its internal personnel practices and in its overall economic policy. There are more than enough facts available to dispel that claim.

In his July 1983 press conference, the President stated that his administration had been accused of being:

A little behind with regard to the appointment of women to positions in government, except that it turns out that, without their acknowledging it, they were comparing the 4-year record of the previous adminstration with our first 2 years. And when you compare our first 2 years with their first 2 years, well we're quite a ways ahead.

In fact, separate reports by Congresswoman PAT SCHROEDER, Congressional Quarterly, and the National Women's Political Caucus all showed that President Reagan appointed about 19 percent fewer women to jobs requiring Senate confirmation in his first 2 years than did President Carter during the comparable period. The data used in the reports came from both the White House and official congressional sources.

With regard to the economy, it has been well documented that women and children are the major beneficiaries of domestic social programs, making up 80 percent of the Nation's poor and near poor. They also make up 73 percent of the elderly poor. Most are not freeloaders, as the President would like us to believe, but work for a living while receiving benefits to enable them to survive at a minimum living standard. At the same time, they earn, on the average, 60 percent less than men earn in full-time employment.

The President has stated that "there is not one single fact or figure to substantiate" the charge that his budget policies have victimized the poor. However, the Congressional Budget Office has estimated that, since 1981, cuts in income security programs—food stamps, AFDC, child nutrition, low-income energy assistance, unemployment insurance, housing assistance, and the WIC Program—have totaled about $27 billion. Employment and retirement programs have been cut by about $25 billion. And those reductions were greatest for households with incomes below $10,000. How can he say that the poor, most of whom are women, are unaffected by these cuts? According to the Census study

released in February 1984, the percentage of the U.S. population living in poverty rose from 11.7 percent to 15 percent between 1979 and 1982, the highest level since 1965.

The President justifies the reductions in these programs by saying that they will reduce the deficit, but the deficit is raised by defense spending, interest on the national debt, and the tax cuts, not by runaway spending on programs for women and the poor.

The case to support the President's assertions is weak. The evidence is strong and clear. There have been no improvements during this adminstration in opportunities for women. In fact, there has been a step backwards, from which we will have to work doubly hard to recover.●

● Mr. TOWNS. Mr. Speaker, as the fateful day, November 6, approaches, President Reagan has begun to expond on his virtues as a President who has been supportive of women's rights. In reality, however, while the President extolls the value of women, the Women's Research and Education Institute stated that "women, particularly poor women with children, bear the brunt of the cuts proposed by the Reagan administration".

The hard facts are that women enter poverty faster than any other group in American society, and the fiscal 1984 budget proposed by President Reagan gave us every reason to believe that this trend will unfortunately continue. Between 1979 and 1981 alone, nearly 1.4 million households entered poverty; almost half—607,000—were female-headed. Of all children in female-headed households, 56 percent live in poverty. However, 70 percent of black children, and more than 70 percent of Hispanic children in female-headed households live in poverty.

The cumulative effect of the administration's budgets over the last 3 years is one of continued pain for women. Women have been disproportionately affected by reductions in spending for Aid to Families with Dependent Children [AFDC], Medicaid, Food Stamps, and Child Nutrition Programs. The AFDC Program, for example, which provides cash assistance primarily to needy children in single parent families, has been cut by $4.8 billion in outlays during this administration according to the Congressional Budget Office. The Food Stamp Program has been cut by 13 percent or $7 billion in outlays. This means that $7 billion less has been spent than benefits provided under the pre-Reagan Food Stamp Law. Because of these budget cuts, an estimated 2 million recipients have been dropped from the Food Stamp Program and nearly 20 million others have had their benefits reduced. These cuts continue while there is clear, undeniable, and authoritive evidence of widespread and increasing hunger in America.

There is also extensive evidence of health problems due to malnutrition, especially among infants and pregnant mothers. In 1982, of all infants born in the State of New York, 7.3 percent had a low birthweight of less than 2,500 grams. At present, 80 percent of reporting States will not meet the Surgeon General's modest 1990 goals for the reduction of low birthweight for all babies. Even though the impact of good nutrition on infant mortality and low birth-weight babies is well known, the Reagan administration proposed deep cuts in the Special Supplemental Food Program for Women, Infants, and Children [WIC] during fiscal years 1982-84. These cuts were proposed even though an estimated 70-75 percent of the women and children who are eligible for WIC are underserved because of the program's limited funding.

During the past 3 years, it has been the job of the Congress of the United States to reverse the inequality of sacrifice placed on women by President Reagan. At a time of unemployment and family stress, the Reagan administration offers no relief for a mother who is trying to make ends meet. Instead this administration has cut programs providing medical care and nutrition, for family planning, for the education of her children, and for employment training programs. The shifting of compassion and care from the Federal Government, which represents a step backward from this country's commitment to family and children must not be allowed to continue!●

● Ms. MIKULSKI. Mr. Speaker, to talk about the Reagan administration's record on women is an exercise in frustration. Democrats wanted the equal rights amendment, the keystone for women's economic equity. President Reagan said no. He said do it law by law. So we introduced separate bills on women's economic equity. And he said no, law by law. He said no to funding for child care services, so vital to working mothers. He said no to programs to aid victims of domestic violence, battered wives like Francine Hughes, depicted in the TV show "The Burning Bed." He said no to the Civil Rights Act of 1984 which prohibits sex discrimination in universities. He said no to pay equity for working women.

When Mr. Reagan talks about his record on women he speaks about women he has chosen for high places. This may be his trickle-down theory of women's rights. Well, Democrats too have chosen a woman: GERALDINE FERRARO, the best Democrat to run for Vice President. But we don't stop there. We may have helped 1 woman achieve equality, but we aren't forgetting the 116,492,643 others.

Let me tell you about the equal rights amendment, 24 words to put women in the Constitution and on the road to equal opportunities. We lost by six votes, and Mr. Reagan helped it happen. The defeat of the ERA is a national disgrace. When we talk about the Reagan record on women, let's not get sidetracked. ERA is essential for women and Mr. Reagan has made clear his opposition to it. When women vote in November, and when we work for women's equality in the next Congress, ERA will be uppermost in our minds.

Of course, we have other concerns as well. Child care, for instance, so vital to working families, and an outright necessity for the millions of women who are single heads of households. The Reagan administration has opposed efforts to provide quality, affordable child care services to all families. In fact, it was Ronald Reagan's budget cuts that slashed funding for child care by 21 percent in 1981. And each year since then he has requested additional cuts. This is Mr. Reagan's record on women.

Ronald Reagan's trickle-down economics didn't save the country and his trickle-down efforts for women won't save our rights. The Democratic platform makes clear the Democrats' principles of equality and equal opportunity for all Americans—including women. This Congress is leaving behind legislation which is urgently needed by the women of this country. I do not want to have to say the same thing 2 years from now. We will continue to work for women's rights and we will ultimately succeed.●

● Mr. MRAZEK. Mr. Speaker, I rise today to recognize the accomplishments attained in the 98th Congress on key initiatives of special concern to women.

Over the past 2 years, I have lobbied and supported important initiatives which endorse the notion that laws in this country should treat women equitably. I am pleased to acknowledge that a number of these bills, including the Child Support Enforcement Act, the Retirement Equity Act, and a bill granting tax-exempt status to dependent care facilities, passed both Houses and have been signed into law. However, while we have met with a number of important successes, we have been confronted with a great many failures.

It gives me no pleasure to point a finger of blame for these shortcomings. However, it is difficult to stand idly by when it is clear that the administration's positions on women's issues have worked against the goals of many of these initiatives. In particular, the administration's stance clearly contributed to a failure to move forward on the issues of child care and educational equity.

Over the past 4 years, the administration has consistently proposed drastic cuts in the title XX social services block grant. This block grant is vitally

important to women and children, as title XX moneys are used to fund day-care services for the children of working mothers. With greater numbers of women entering the work force out of necessity, this program has played a critical role in assisting women in getting adequate care for their small children. For the administration to adopt this position in our times is to avoid the reality, and to be negligent in its responsibility to all the people.

Another matter on which the administration has attempted to turn back the clock on equality between the sexes is on an issue that I'm sure is familiar to all of us. The Civil Rights Act of 1984 reaffirmed the intent of Congress in enacting title IX of the Education Amendments of 1972. These amendments held that an institution receiving Federal aid may not discriminate on the basis of sex. The bill was introduced in response to the Supreme Court ruling in Grove City versus Bell which held that title IX need only apply to education programs that directly receive Federal dollars and not to the entire institution. The Justice Department, under direction of the administration, advocated the position of narrowing the interpretation.

Over the years enforcement of title IX has contributed to invaluable gains by women while, at the same time, negating basic injustices in our public education system. For example, since the enactment of title IX in 1972, the share of professional degrees earned by women has quadrupled. In addition, the large number of gold medals won by women athletes in the summer Olympics can clearly be traced to the enforcement of equality in school athletic programs through title IX.

While debate raged on this matter, the Reagan administration sat on its hands. Subsequently, the bill died in the Senate. The same administration which, with great fanfare, appointed one woman to the Supreme Court, could not bring itself to further the cause of equality to all women.

Mr. Speaker, these are but two examples that show the true colors of this administration in regard to matters of sexual discrimination and true equality in our society. It is one thing to say that you support equality for women. It is quite another to work toward that goal.●

The SPEAKER pro tempore. Without objection, the gentlewoman from Colorado [Mrs. SCHROEDER] may reserve the balance of her time.

Mrs. SCHROEDER. Mr. Speaker, I would reserve the balance of my time.

There was no objection.

The SPEAKER pro tempore. The gentlewoman has 35 minutes remaining in the balance of her special order.

ATLANTIC STRIPED BASS CONSERVATION ACT

The SPEAKER pro tempore. Pursuant to House Resolution 591 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 5492.

□ 1429

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 5492) to provide for the conservation and management of Atlantic striped bass, and for other purposes, with Mr. ROEMER in the chair.

The Clerk read the title of the bill.

□ 1430

The CHAIRMAN. When the Committee of the Whole rose earlier today, the bill was open for amendment at any point and an amendment offered by the gentleman from Virginia [Mr. BATEMAN] had been rejected by a voice vote.

Pending was a point of order that a quorum was not present by the gentleman from Maryland [Mr. DYSON].

Does the gentleman from Maryland [Mr. DYSON] renew his point of order?

Mr. DYSON. I do, Mr. Chairman.

Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present. Pursuant to the provisions of clause 2 of rule XXIII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the pending question following the quorum call. Members will record their presence by electronic device.

The call was taken by electronic device.

The following Members responded to their names:

[Roll No. 442]

Ackerman	Berman	Burton (CA)
Addabbo	Bethune	Burton (IN)
Akaka	Bevill	Byron
Albosta	Biaggi	Campbell
Anderson	Bilirakis	Carney
Andrews (NC)	Bliley	Carper
Andrews (TX)	Boehlert	Carr
Annunzio	Boggs	Chandler
Anthony	Boland	Chappell
Applegate	Boner	Chappie
Archer	Bonior	Clarke
Aspin	Borski	Clay
AuCoin	Bosco	Clinger
Badham	Boucher	Coats
Barnard	Boxer	Coelho
Barnes	Breaux	Coleman (MO)
Bartlett	Britt	Coleman (TX)
Bateman	Brooks	Collins
Bates	Broomfield	Conable
Bedell	Brown (CA)	Conte
Beilenson	Brown (CO)	Conyers
Bennett	Broyhill	Corcoran
Bereuter	Bryant	Courter
Craig	Hughes	Nelson
Crane, Daniel	Hunter	Nichols
Crane, Philip	Hutto	Nielson
Crockett	Hyde	Nowak
D'Amours	Ireland	O'Brien
Daniel	Jacobs	Oakar
Dannemeyer	Jeffords	Oberstar
Darden	Jenkins	Obey
Daschle	Johnson	Olin
Daub	Jones (NC)	Ortiz
Davis	Jones (TN)	Ottinger
de la Garza	Kaptur	Owens
Dellums	Kasich	Oxley
Derrick	Kastenmeier	Packard
DeWine	Kazen	Panetta
Dickinson	Kemp	Parris
Dicks	Kennelly	Pashayan
Dingell	Kildee	Patterson
Dixon	Kindness	Paul
Donnelly	Kleczka	Pease
Dorgan	Kogovsek	Penny
Dowdy	Kolter	Petri
Dreier	Kostmayer	Pickle
Duncan	Kramer	Porter
Durbin	LaFalce	Price
Dwyer	Lagomarsino	Pritchard
Dymally	Lantos	Pursell
Dyson	Latta	Quillen
Early	Leach	Rahall
Eckart	Leath	Rangel
Edgar	Lehman (CA)	Ratchford
Edwards (CA)	Lehman (FL)	Ray
Edwards (OK)	Leland	Regula
Emerson	Lent	Reid
English	Levin	Richardson
Erdreich	Levine	Ridge
Evans (IA)	Levitas	Rinaldo
Evans (IL)	Lewis (CA)	Ritter
Fascell	Lewis (FL)	Roberts
Feighan	Lipinski	Robinson
Fiedler	Livingston	Rodino
Fields	Lloyd	Roe
Fish	Loeffler	Roemer
Flippo	Long (LA)	Rogers
Florio	Long (MD)	Rose
Foglietta	Lott	Rostenkowski
Foley	Lowery (CA)	Roth
Ford (TN)	Lowry (WA)	Roukema
Fowler	Lujan	Rowland
Franklin	Luken	Roybal
Frenzel	Lundine	Russo
Frost	Lungren	Sabo
Fuqua	Mack	Sawyer
Garcia	MacKay	Schaefer
Gaydos	Madigan	Scheuer
Gejdenson	Markey	Schneider
Gekas	Marlenee	Schroeder
Gephardt	Marriott	Schulze
Gilman	Martin (IL)	Schumer
Gingrich	Martin (NY)	Seiberling
Glickman	Martinez	Sensenbrenner
Gonzalez	Matsui	Shannon
Goodling	Mavroules	Sharp
Gore	Mazzoli	Shaw
Gradison	McCain	Shelby
Gramm	McCandless	Shumway
Gray	McCloskey	Shuster
Green	McCollum	Sikorski
Gregg	McCurdy	Siljander
Guarini	McDade	Sisisky
Gunderson	McEwen	Skeen
Hall (IN)	McHugh	Skelton
Hall (OH)	McKernan	Slattery
Hall, Ralph	McKinney	Smith (FL)
Hall, Sam	McNulty	Smith (IA)
Hamilton	Mica	Smith (NE)
Hammerschmidt	Michel	Smith (NJ)
Hance	Mikulski	Smith, Denny
Hansen (ID)	Miller (CA)	Smith, Robert
Hansen (UT)	Miller (OH)	Snowe
Harkin	Mineta	Snyder
Hartnett	Mitchell	Solarz
Hatcher	Moakley	Solomon
Hawkins	Molinari	Spence
Hayes	Mollohan	Spratt
Hefner	Montgomery	Staggers
Heftel	Moody	Stangeland
Hertel	Moore	Stenholm
Hightower	Moorhead	Stratton
Hiler	Morrison (CT)	Studds
Hillis	Morrison (WA)	Stump
Holt	Mrazek	Sundquist
Hopkins	Murphy	Swift
Hoyer	Murtha	Synar
Hubbard	Myers	Tallon
Huckaby	Natcher	Tauzin

Taylor	Walker	Wirth
Thomas (GA)	Watkins	Wise
Torres	Waxman	Wolf
Torricelli	Weaver	Wolpe
Towns	Weber	Wortley
Traxler	Weiss	Wright
Udall	Wheat	Wyden
Valentine	Whitehurst	Yates
Vander Jagt	Whitley	Yatron
Vandergriff	Whittaker	Young (FL)
Vento	Whitten	Young (MO)
Volkmer	Williams (MT)	Zschau
Vucanovich	Williams (OH)	
Walgren	Winn	

□ 1440

The CHAIRMAN. 397 Members have answered to their names, a quorum is present, and the Committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from Maryland [Mr. DYSON] for a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 98, noes 307, not voting 27, as follows:

[Roll No. 443]

AYES—98

Applegate	Holt	Packard
Badham	Hunter	Parris
Bartlett	Hyde	Pashayan
Bateman	Kasich	Paul
Bethune	Kemp	Regula
Bilirakis	Kindness	Richardson
Bliley	Lagomarsino	Ridge
Bosco	Latta	Roberts
Broomfield	Leath	Robinson
Broyhill	Lewis (CA)	Sensenbrenner
Burton (IN)	Lewis (FL)	Shuster
Byron	Lloyd	Sisisky
Campbell	Loeffler	Skeen
Chandler	Lott	Smith, Denny
Chappie	Lowery (CA)	Smith, Robert
Clinger	Lujan	Spence
Coleman (MO)	Mack	Stangeland
Conable	Madigan	Stratton
Crane, Daniel	Marlenee	Taylor
Crane, Philip	McCandless	Thomas (CA)
Daniel	McCollum	Vander Jagt
Dannemeyer	McDade	Vandergriff
Davis	McEwen	Volkmer
Dickinson	Michel	Vucanovich
Dreier	Miller (OH)	Walgren
Dyson	Moody	Whitehurst
Emerson	Moorhead	Whittaker
Fiedler	Murphy	Wolf
Fields	Myers	Wylie
Goodling	O'Brien	Young (AK)
Hartnett	Olin	Young (MO)
Hatcher	Ottinger	Zschau
Hiler	Oxley	

NOES—307

Ackerman	Boland	Conyers
Addabbo	Boner	Corcoran
Akaka	Bonior	Coughlin
Albosta	Borski	Courter
Anderson	Boucher	Coyne
Andrews (NC)	Boxer	Craig
Andrews (TX)	Breaux	Crockett
Annunzio	Britt	D'Amours
Anthony	Brooks	Darden
Archer	Brown (CA)	Daschle
Aspin	Brown (CO)	Daub
AuCoin	Bryant	de la Garza
Barnard	Burton (CA)	Dellums
Barnes	Carney	Derrick
Bates	Carper	DeWine
Bedell	Carr	Dicks
Beilenson	Chappell	Dingell
Bennett	Clarke	Dixon
Bereuter	Clay	Donnelly
Berman	Coats	Dorgan
Bevill	Coelho	Dowdy
Biaggi	Coleman (TX)	Downey
Boehlert	Collins	Duncan
Boggs	Conte	Durbin
Dwyer	Kostmayer	Rodino
Dymally	Kramer	Roe
Early	LaFalce	Roemer
Eckart	Lantos	Rogers
Edgar	Leach	Rose
Edwards (CA)	Lehman (CA)	Rostenkowski
Edwards (OK)	Lehman (FL)	Roth
English	Leland	Roukema
Erdreich	Lent	Rowland
Evans (IA)	Levin	Roybal
Evans (IL)	Levine	Russo
Fascell	Levitas	Sabo
Feighan	Lipinski	Schaefer
Fish	Livingston	Scheuer
Flippo	Long (LA)	Schneider
Florio	Long (MD)	Schroeder
Foglietta	Lowry (WA)	Schulze
Ford (TN)	Luken	Schumer
Fowler	Lundine	Seiberling
Franklin	Lungren	Shannon
Frenzel	MacKay	Sharp
Frost	Markey	Shaw
Fuqua	Marriott	Shelby
Garcia	Martin (IL)	Shumway
Gaydos	Martin (NY)	Sikorski
Gejdenson	Martinez	Siljander
Gekas	Matsui	Skelton
Gephardt	Mavroules	Slattery
Gilman	Mazzoli	Smith (FL)
Gingrich	McCain	Smith (IA)
Glickman	McCloskey	Smith (NE)
Gonzalez	McCurdy	Smith (NJ)
Gore	McHugh	Snowe
Gradison	McKernan	Snyder
Gramm	McKinney	Solarz
Gray	McNulty	Solomon
Green	Mica	Spratt
Gregg	Mikulski	St Germain
Guarini	Miller (CA)	Staggers
Gunderson	Mineta	Stark
Hall (IN)	Mitchell	Stenholm
Hall (OH)	Moakley	Stokes
Hall, Ralph	Molinari	Studds
Hall, Sam	Mollohan	Stump
Hamilton	Montgomery	Sundquist
Hammerschmidt	Moore	Swift
Hance	Morrison (CT)	Synar
Hansen (ID)	Morrison (WA)	Tallon
Hansen (UT)	Mrazek	Tauzin
Harkin	Murtha	Thomas (GA)
Hawkins	Natcher	Torres
Hayes	Nelson	Torricelli
Hefner	Nichols	Towns
Heftel	Nielson	Traxler
Hertel	Nowak	Udall
Hightower	Oakar	Valentine
Hillis	Oberstar	Vento
Hopkins	Obey	Walker
Horton	Ortiz	Watkins
Hoyer	Owens	Waxman
Hubbard	Panetta	Weaver
Huckaby	Patman	Weber
Hughes	Patterson	Weiss
Hutto	Pease	Wheat
Ireland	Penny	Whitley
Jacobs	Petri	Whitten
Jeffords	Pickle	Williams (MT)
Jenkins	Porter	Williams (OH)
Johnson	Price	Wirth
Jones (NC)	Pritchard	Wise
Jones (TN)	Pursell	Wolpe
Kaptur	Quillen	Wortley
Kastenmeier	Rahall	Wright
Kazen	Rangel	Wyden
Kennelly	Ratchford	Yates
Kildee	Ray	Yatron
Kleczka	Reid	Young (FL)
Kogovsek	Rinaldo	
Kolter	Ritter	

NOT VOTING—27

Alexander	Ford (MI)	Neal
Bonker	Frank	Pepper
Cheney	Gibbons	Rudd
Cooper	Harrison	Savage
Edwards (AL)	Howard	Sawyer
Erlenborn	Jones (OK)	Simon
Fazio	Martin (NC)	Tauke
Ferraro	McGrath	Wilson
Foley	Minish	Winn

□ 1450

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. Are there additional amendments to the bill?

If not, under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore [Mr. WRIGHT] having assumed the chair, Mr. ROEMER, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5492) to provide for the conservation and management of Atlantic striped bass, and for other purposes, pursuant to House Resolution 591, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. OTTINGER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were refused.

So the bill was passed.

A motion to reconsider was laid on the table.

□ 1500

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 5492, ATLANTIC STRIPED BASS CONSERVATION ACT

Mr. BREAUX. Mr. Speaker, I ask unanimous consent that the Clerk have permission to make any technically conforming changes that may be necessary in the engrossment of the bill, H.R. 5492.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

PERMISSION FOR COMMITTEE ON SMALL BUSINESS TO HAVE UNTIL NOON, DECEMBER 10, 1984, TO FILE AN INVESTIGATIVE REPORT

Mr. MITCHELL. Mr. Speaker, I ask unanimous consent that the Committee on Small Business may have until noon on December 10, 1984 to file an investigative report on the impact of

changes in the telecommunications industry on small business.

This request has been cleared with the minority.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

There was no objection.

PRIVILEGED RESOLUTION CONCERNING SUBCOMMITTEE RATIOS

Mr. DANNEMEYER. Mr. Speaker, I offer a privileged resolution (H. Res. 603) and ask for its immediate consideration.

The SPEAKER pro tempore. The Clerk will report the resolution.

The Clerk read as follows:

H. RES. 603

Whereas the ratio of Republicans to Democrats on the full Committee on Energy and Commerce is 15 to 27;

Whereas the ratio of Republicans to Democrats on several subcommittees of the Committee on Energy and Commerce is 6 to 13;

Whereas the ratio of Republicans to Democrats on other subcommittees of the House is lower than that of their respective full committees;

Whereas disproportionate ratios of Republicans to Democrats deny Republican members fair representation on subcommittees of the House of Representatives;

Whereas denial of fair representation on subcommittees disadvantages the constituents of the Republican members of those subcommittees and is, therefore, inconsistent with the doctrine of "one man, one vote";

Whereas the House of Representatives is almost unique amongst the parliamentary bodies of the world in not having truly proportional representation on its subcommittees;

Whereas these disproportionate and inequitable subcommittee ratios can adversely affect the rights of all Members of the House, not just the Republicans; and

Whereas circumstances disadvantaging Members individually adversely affect the integrity of the proceedings generally: Now, therefore, be it

Resolved, That each subcommittee of each standing and select committee of the House should be constituted with its membership in a ratio which is proportionate to the membership of the two political parties in each committee of the House.

The SPEAKER pro tempore. The gentleman from California [Mr. DANNEMEYER] has stated a question of privilege.

The Chair recognizes the gentleman from Washington [Mr. FOLEY].

MOTION OFFERED BY MR. FOLEY

Mr. FOLEY. Mr. Speaker, I have a motion at the desk which I offer.

The Clerk read as follows:

Mr. FOLEY moves to lay the resolution of the gentleman from California [Mr. DANNEMEYER] on the table.

PARLIAMENTARY INQUIRIES

Mr. DANNEMEYER. I have a parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore. The gentleman will state it.

Mr. DANNEMEYER. Under the rules of the House, is the motion to table debatable?

The SPEAKER pro tempore. No, the Chair will state that a motion to table is not debatable.

Mr. DANNEMEYER. A further parliamentary inquiry, Mr. Speaker. Is the motion that the privileged resolution of the gentleman from California has filed at the desk in a form that would make it immune from the requests or the observation of the suggestion that it is subject to a point of order?

The SPEAKER pro tempore. The Chair has already stated no point of order was offered, that in the opinion of the Chair the resolution is indeed in such a form as to qualify as a question of privileges of the House.

Mr. DANNEMEYER. A further parliamentary inquiry, Mr. Speaker. What is the policy reason that would prevent a Member from this body consistent with the comments of our distinguished majority leader of yesterday talking about the fairness of this institution and all for which——

The SPEAKER pro tempore. The Chair would state that the question being propounded by the gentleman from California [Mr. DANNEMEYER] is not a parliamentary inquiry as surely the gentleman from California is aware.

Mr. DANNEMEYER. Well, it is a further parliamentary inquiry, Mr. Speaker, that sometimes it is difficult, the Speaker is such a bright and learned gentleman, I suppose it is no mystery that the gentleman that is the Speaker right now could figure out what I was going to say before I could say it in order to say that it is not a parliamentary inquiry. I am not surprised.

PARLIAMENTARY INQUIRY

Mr. WALKER. I have a parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. WALKER. Would it be possible, by unanimous consent, to get 30 minutes of debate time on the motion to table?

The SPEAKER pro tempore. The Chair will state that a motion to table under the rules of the House is not debatable, notwithstanding that fact, that would be possible by unanimous consent, of course.

Mr. WALKER. Therefore, Mr. Speaker, I ask unanimous consent that the motion to table be debated for 30 minutes.

Mr. FOLEY. Reserving the right to object, Mr. Speaker.

The SPEAKER pro tempore. Objection is heard to the request.

Mr. WALKER. Could the Chair indicate who objected, please?

The SPEAKER pro tempore. The Chair identifies several Members having objected and the question would occur——

Mr. WALKER. Parliamentary inquiry, Mr. Speaker.

Who will the RECORD show tomorrow, objected?

The SPEAKER pro tempore. The RECORD would show the gentleman from New York [Mr. WEISS], the gentleman from Massachusetts [Mr. DONNELLY], the gentleman from Maryland [Mr. MITCHELL], the gentleman from Illinois [Mr. DURBIN]; several Members have registered objections.

Mr. WALKER. I thank the Chair.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Washington [Mr. FOLEY] to table the privileged resolution offered by the gentleman from California [Mr. DANNEMEYER].

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. DANNEMEYER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 251, nays 158, not voting 23, as follows:

[Roll No. 444]

YEAS—251

Ackerman	Derrick	Hertel
Addabbo	Dicks	Hightower
Akaka	Dingell	Hoyer
Albosta	Dixon	Hubbard
Anderson	Donnelly	Hughes
Andrews (NC)	Dorgan	Hutto
Andrews (TX)	Dowdy	Jacobs
Annunzio	Downey	Jenkins
Anthony	Durbin	Jones (NC)
Applegate	Dwyer	Jones (OK)
Aspin	Dymally	Jones (TN)
AuCoin	Dyson	Kaptur
Barnard	Early	Kastenmeier
Barnes	Eckart	Kazen
Bates	Edgar	Kennelly
Bedell	Edwards (CA)	Kildee
Beilenson	English	Kleczka
Bennett	Erdreich	Kogovsek
Berman	Evans (IL)	Kolter
Bevill	Fascell	Kostmayer
Biaggi	Fazio	LaFalce
Boggs	Feighan	Lantos
Boland	Flippo	Leath
Boner	Florio	Lehman (CA)
Bonior	Foglietta	Lehman (FL)
Bonker	Foley	Leland
Borski	Ford (MI)	Levin
Bosco	Ford (TN)	Levine
Boucher	Fowler	Levitas
Boxer	Frank	Lipinski
Breaux	Frost	Lloyd
Britt	Fuqua	Long (LA)
Brooks	Garcia	Lowry (WA)
Brown (CA)	Gaydos	Luken
Bryant	Gejdenson	Lundine
Burton (CA)	Gephardt	MacKay
Byron	Gibbons	Markey
Carper	Glickman	Martinez
Carr	Gonzalez	Matsui
Chappell	Gore	Mazzoli
Clarke	Gray	McCloskey
Clay	Guarini	McCurdy
Coelho	Hall (IN)	McHugh
Coleman (TX)	Hall (OH)	McNulty
Collins	Hall, Ralph	Mikulski
Conyers	Hall, Sam	Miller (CA)
Coyne	Hamilton	Mineta
Crockett	Hance	Mitchell
D'Amours	Harkin	Moakley
Daniel	Hatcher	Mollohan
Darden	Hawkins	Montgomery
Daschle	Hayes	Moody
de la Garza	Hefner	Morrison (CT)
Dellums	Heftel	Mrazek

Murphy	Rostenkowski	Tauzin
Murtha	Rowland	Thomas (GA)
Natcher	Roybal	Torres
Neal	Russo	Torricelli
Nelson	Sabo	Towns
Nichols	Savage	Traxler
Nowak	Scheuer	Udall
Oakar	Schroeder	Valentine
Oberstar	Schumer	Vandergriff
Obey	Seiberling	Vento
Olin	Shannon	Volkmer
Ortiz	Sharp	Walgren
Ottinger	Shelby	Watkins
Owens	Sikorski	Waxman
Panetta	Sisisky	Weaver
Patman	Skelton	Weiss
Patterson	Slattery	Wheat
Pease	Smith (IA)	Whitley
Penny	Solarz	Whitten
Pickle	Spratt	Williams (MT)
Price	St Germain	Wilson
Rahall	Staggers	Wirth
Ratchford	Stark	Wise
Ray	Stenholm	Wolpe
Reid	Stokes	Wright
Richardson	Stratton	Wyden
Rodino	Studds	Yates
Roe	Swift	Yatron
Roemer	Synar	Young (MO)
Rose	Tallon	

NAYS—158

Archer	Gekas	Martin (IL)
Badham	Gilman	Martin (NY)
Bartlett	Gingrich	McCain
Bateman	Goodling	McCandless
Bereuter	Gradison	McCollum
Bethune	Gramm	McDade
Bilirakis	Green	McEwen
Bliley	Gregg	McKernan
Boehlert	Gunderson	McKinney
Broomfield	Hammerschmidt	Michel
Brown (CO)	Hansen (ID)	Miller (OH)
Broyhill	Hansen (UT)	Molinari
Burton (IN)	Hartnett	Moore
Campbell	Hiler	Moorhead
Carney	Hillis	Morrison (WA)
Chandler	Holt	Myers
Chappie	Hopkins	Nielson
Clinger	Horton	O'Brien
Coats	Hunter	Oxley
Coleman (MO)	Hyde	Packard
Conable	Ireland	Parris
Conte	Jeffords	Pashayan
Corcoran	Johnson	Paul
Coughlin	Kasich	Petri
Courter	Kemp	Porter
Craig	Kindness	Pritchard
Crane, Daniel	Kramer	Pursell
Crane, Philip	Lagomarsino	Quillen
Dannemeyer	Latta	Regula
Daub	Leach	Ridge
DeWine	Lent	Rinaldo
Dickinson	Lewis (CA)	Ritter
Dreier	Lewis (FL)	Roberts
Duncan	Livingston	Robinson
Edwards (AL)	Loeffler	Rogers
Edwards (OK)	Lott	Roth
Emerson	Lowery (CA)	Roukema
Evans (IA)	Lujan	Sawyer
Fiedler	Lungren	Schaefer
Fields	Mack	Schneider
Fish	Madigan	Schulze
Franklin	Marlenee	Sensenbrenner
Frenzel	Marriott	Shaw
Shumway	Solomon	Whitehurst
Shuster	Spence	Whittaker
Siljander	Stangeland	Williams (OH)
Skeen	Stump	Winn
Smith (NE)	Sundquist	Wolf
Smith (NJ)	Taylor	Wortley
Smith, Denny	Thomas (CA)	Wylie
Smith, Robert	Vander Jagt	Young (AK)
Snowe	Vucanovich	Zschau
Snyder	Walker	

NOT VOTING—23

Alexander	Huckaby	Rangel
Cheney	Long (MD)	Rudd
Cooper	Martin (NC)	Simon
Davis	Mavroules	Smith (FL)
Erlenborn	McGrath	Tauke
Ferraro	Mica	Weber
Harrison	Minish	Young (FL)
Howard	Pepper	

□ 1520

So the motion to table was agreed to.

The result of the vote was announced as above recorded.

REPRESENTATIVE DANNEMEYER'S REMARKS ON RESOLUTION CONCERNING SUBCOMMITTEE RATIOS

Mr. DANNEMEYER. Mr. Speaker, I rise to a question of privilege.

Mr. Speaker, I ask for immediate consideration of the privileged resolution I have just sent to the desk and also ask for unanimous consent to revise and extend my remarks.

Mr. Speaker, it is with considerable regret, and without other recourse, that I rise on a question of privilege today. Were there some other way of handling this matter, I would pursue it. But I know of no other way. While rule 10, clause 6(a) provides a means of recourse in the case of inequitable full committee membership ratios, there is no specific means for challenging even more inequitable subcommittee ratios. Hence the resolution I am offering today.

The resolution is simple and straightforward. After the whereas clauses, it just says that "each subcommittee of each standing and select committee of the House should be constituted with its membership in a ratio which is proportionate to the membership of the two political parties in each committee of the House." What is harder to understand is why such a resolution is necessary.

To obtain that understanding, it is necessary to look at some figures and a bit of history. First the history.

Traditionally, subcommittee membership has been determined by the members of the full committee and full committee membership has been determined by the party caucus of each party in the House. Prior to 1971, the custom was for full committees, other than the exclusive committees, to be constituted in direct proportion to the strength of the respective political parties in the entire House of Representatives. But then, in 1971, the Democratic caucus voted to increase the strength of the majority on the exclusive committees from 60–40 to 2–1 and, beginning in the 96th Congress, the strength of the majority on the other committees, and also the subcommittees, was increased as well. By discarding fractional entitlements at both the subcommittee and full committee level, and by applying the new 2–1 formula for exclusive committees, the majority party was able to deny the minority party 7 full committee and 38 subcommittee seats. Then in the 97th Congress, when Republican membership in the House of Representatives increased from 36.32 to 44.14 percent, the trend worsened, with Republicans being "shorted" 31 full committee and a staggering total of 81 subcommittee seats. And in the 98th Congress, there was little improvement; at the time of organization, Republicans were denied 23 full committee and 62 subcommittee seats that are rightly theirs.

In order that my colleagues might have the opportunity to analyse these figures in greater detail and see what they have meant for particular full committees and their subcommittees, I insert two charts in the RECORD at this point. One outlines the systematic denial of proportionally proper Republican representation on subcommittees from 1979 to the present and the other does the same thing for full committees. Both indicate the sources of the information, the times at which it was collected and the methodology employed to arrive at the aforementioned figures.

COMMITTEE MEMBERSHIP BY PARTY (1979 THROUGH 1984)

Committees	96th Congress/36.32% GOP			97th Congress/44.14% GOP			98th Congress/38.16% GOP		
	Proper committee ratio	Actual committee ratio	GOP seats denied	Proper committee ratio	Actual committee ratio	GOP seats denied	Proper committee ratio	Actual committee ratio	GOP seats denied
Agriculture	27–15	27–15	0	24–19	24–19	0	26–16	26–15	1
Appropriations	36–20	36–18	2	33–26	33–22	4	36–22	36–21	1
Armed Services	29–16	29–16	0	26–20	26–19	1	28–17	28–16	1
Banking	28–16	28–15	1	26–20	26–19	1	30–18	30–17	1
Budget	17–09	17–08	1	18–14	18–12	2	20–12	20–11	1
District of Columbia	10–05	10–05	0	08–06	08–04	2	08–04	08–04	0
Education and Labor	24–13	24–13	0	20–15	20–14	1	21–13	21–11	2
Energy and Commerce	27–15	27–15	0	24–19	24–18	1	27–16	27–15	1
Foreign Affairs	22–12	22–12	0	21–16	21–16	0	24–14	24–13	1
Government Operations	25–14	25–14	0	23–18	23–17	1	25–15	25–14	1
House Administration	16–09	16–09	0	11–08	11–08	0	12–07	12–07	0
Interior	28–16	28–15	1	26–20	26–17	3	28–17	28–14	3

COMMITTEE MEMBERSHIP BY PARTY (1979 THROUGH 1984)—Continued

Committees	96th Congress/36.32% GOP			97th Congress/44.14% GOP			98th Congress/38.16% GOP		
	Proper committee ratio	Actual committee ratio	GOP seats denied	Proper committee ratio	Actual committee ratio	GOP seats denied	Proper committee ratio	Actual committee ratio	GOP seats denied
Judiciary	20–11	20–11	0	16–12	16–12	0	20–12	20–11	1
Merchant Marine	25–14	25–15	+1	21–16	21–15	1	26–16	26–14	2
Post Office	16–09	16–09	0	16–12	16–11	1	16–09	16–09	0
Public Works	31–17	31–17	0	27–21	27–19	2	32–19	32–18	1
Rules	11–06	11–05	1	11–08	11–05	3	09–05	09–04	1
Science and Technology	27–15	27–15	0	23–18	23–17	1	26–16	26–15	1
Small Business	25–14	25–14	0	23–18	23–17	1	26–16	26–15	1
Veterans Affairs	21–12	21–11	1	18–14	18–14	0	21–13	21–12	1
Ways and Means	24–13	24–12	1	23–18	23–12	6	24–14	23–12	2
Total			7 (net)			31			23

Sources: Henshaw, Edmund L., Jr., "List of Standing Committees and Select Committees of the House of Representatives of the United States Together With Joint Committees of the Congress," Washington, DC, March 7, 1979, March 25, 1981, and June 12, 1981. Guthrie, Benjamin, J., "List of Standing Committees and Select Committees of the House of Representatives of the United States Together With Joint Committees of the Congress," Washington, DC, March 15, 1983.

Methodology: Use the number of Democratic slots on each committee as a base. In all cases, compute the proper ratio on the basis of the party split in the House of Representatives at the time of organization. The five non-voting Members are not included in this calculation, but they are included in committee counts, where applicable, because they do vote in committee.

SUBCOMMITTEE MEMBERSHIP IN THE HOUSE OF REPRESENTATIVES—96TH THROUGH 98TH CONGRESSES

Committees	96th Congress (36.32% GOP)					97th Congress (44.14% GOP)					98th Congress (38.16% GOP)				
	Number of subcommittees	Number of Democrat slots	GOP entitlements	Actual GOP slots	GOP shortage	Number of subcommittees	Number of Democrat slots	GOP entitlements	Actual GOP slots	GOP shortage	Number of subcommittees	Number of Democrat slots	GOP entitlements	Actual GOP slots	GOP shortage
Agriculture	[1] 10	83	47.3	43	−4	[1] 8	72	56.9	55	−1	[1] 8	76	46.9	42	−4
Appropriations	[1] 13	95	54.2	47	−7	[1] 13	90	71.1	59	−12	[1] 13	101	62.3	59	−5
Armed Services	8	55	31.4	31		7	53	41.9	41		7	62	38.3	34	−4
Banking	9	89	50.8	45	−5	8	84	66.4	61	−5	8	102	62.9	58	−4
Budget	0	0	0.0	0	0	0	0	0	0	0	0	0	0	0	0
District of Columbia	4	12	6.8	8	+2	[1] 3	15	11.9	9	−2	3	15	9.3	9	
Education and Labor	[1] 8	68	38.8	34	−4	[1] 8	55	43.5	35	−8	[1] 8	66	40.7	40	
Energy and Commerce	[1] 6	60	34.2	30	−4	[1] 6	66	52.2	46	−6	[1] 6	62	38.3	28	−10
Foreign Affairs	[1] 8	43	24.5	23	−1	8	40	31.6	32	+1	8	50	30.9	23	−7
Government Operations	[1] 7	48	27.4	27		[1] 7	45	35.6	31	−4	[1] 7	49	30.2	28	−2
House Administration	8	34	19.4	21	+2	6	22	17.4	15	−2	5	24	14.8	12	−2
Interior	7	72	41.1	39	−2	6	56	44.3	36	−7	6	63	38.9	33	−5
Judiciary	7	44	25.1	22	−3	7	31	24.5	23	−1	7	43	26.5	25	−1
Merchant Marine	[1] 5	65	37.1	37		[1] 5	56	44.3	41	−3	[1] 5	71	43.8	39	−4
Post Office	7	34	19.4	19		[1] 7	43	34.0	29	−5	[1] 7	35	21.6	21	
Public Works	6	98	55.9	50	−5	6	79	62.4	54	−8	6	90	55.5	48	−7
Rules	2	8	4.6	4		2	10	7.9	5	−2	2	8	4.9	4	
Science and Technology	[1] 7	64	36.5	34	−2	[1] 7	55	43.5	38	−5	[1] 7	67	41.3	39	−2
Small Business	6	38	21.7	19	−2	6	34	26.9	24	−2	6	38	23.4	20	−3
Veterans Affairs	[1] 5	48	27.4	27		[1] 5	37	29.2	29		[1] 5	46	28.4	27	−1
Ways and Means	6	44	25.1	22	−3	6	42	33.2	24	−9	6	42	25.9	24	−1
Total	139	1,102	628.7	582	[2] −38	131	985	778.7	687	[2] −81	130	1,110	684.8	611	−62

[1] Denotes full committees on which the chairman of the full committee and the ranking minority member of the full committee have voting privileges on all subcommittees.

[2] Net.

Notes.—Figures include all voting members, including voting ex-officio members of all standing subcommittees of the House of Representatives for the 96th Congress.

Sources: Henshaw, Edmund L., Jr., "List of Standing Committees and Select Committees of the House of Representatives of the United States Together With Joint Committees of the Congress," Washington, DC, March 7, 1979, March 25, 1981, and June 12, 1981. Guthrie, Benjamin, J., "List of Standing Committees and Select Committees of the House of Representatives of the United States Together With Joint Committees of the Congress," Washington, DC, March 15, 1983. Committee on Rules, "Rules Adopted by the House of Representatives, 96th Congress, 1979–1980; 97th Congress, 1981–1982; 98th Congress, 1983–1984," Washington, DC, 1979, 1981, and 1983.

A careful perusal of the subcommittee calculations reveals that the problem of inequitable minority representation on subcommittees is worse on some subcommittees than on others. In the Energy and Commerce Committee, on which I serve, Republicans presently have 10 less seats than they should, if one accepts the numbers of Democratic subcommittee slots as given, assumes that these slots should account for 61.84 percent of the total slots—the 61.84 percent figure being equal to the percentage of Democrats in the whole House—and then calculates what 38.16 percent of the total number of slots—which equates to the percentage of Republicans in the whole House—would be. On the Foreign Affairs Committee and on the Public Works and Transportation Committee Republicans are short seven slots apiece using the same formula and on both the Interior and Appropriations Committees, the deficit is five slots. In some cases, the minority party representation is on subcommittees is not only less than what it should be when compared to Republican membership in the House of Representatives as a whole but it is lower percentagewise than Republican representation on the full committee of which the subcommittee(s) is/are a part.

Take the Energy and Commerce Committee for example. After the 1982 elections, in which Republicans got 44 percent of the congressional vote nationwide and won 38.16 percent of the House seats, Republicans were given 35.7 percent of the full committee seats by their Democratic colleagues in the House. But, at the subcommittee level, committee Democrats were only willing to give committee Republicans 28 of the 90 subcommittee slots that were created—or a meager 31.1 percent. Thus, the question becomes—where will it all end? If a full committee leadership can give the minority even smaller percentage representation on subcommittees than it enjoys on full committees, who is to say that the majority won't be given 25 percent, or 20 percent or even 15 percent of the subcommittee slots in the future. After all, Republicans have only been given 15.8 percent of the investigative staff on committees in the 98th Congress, so why not only 15 percent of the subcommittee seats in some future Congress, especially if it would help some controversial measure clear at least the first big hurdle in the legislative process? That possibility should frighten every Member, and every American in fact, for the threat it poses to our representative form of government. For what is clearly at stake is whether a majority party is going to be able to achieve its legislative ends, not on the merits of the issues, but by being able to manipulate the legislative process. All of us who have served in this institution know that many of the key decisions affecting the contents of a bill, or even whether it remains viable, are made early on—in subcommittee. If the ma-

jority party has a subcommittee margin unreflective of the full committee or the full House, it can shape a bill—not to mention keeping it alive or killing it—in a way that it could not be shaped otherwise. Indeed, on the Health and Environment Subcommittee, on which I serve, I can count three instances in the 98th Congress where amendments I offered lost by less than the two votes that Republicans are effectively denied by virtue of the fact that they should have two more seats on that subcommittee. Had Republicans been given their proper allocation of subcommittee seats—38.16 percent—or at least a percentage of seats equivalent to their percentage of members of the full committee, there is a very good chance that at least two of these amendments would have passed. Now, in one case—involving the acid rain legislation—the bill itself was eventually defeated in subcommittee so the shorting had no lasting effect, but the same cannot necessarily be said of the other two amendments, nor can it be assumed in a number of other instances where the subcommittee vote on amendments offered by other Members was very close.

But is the threat of progressively less representation of the minority party a real one? Some may say not, but consider again what has happened on the Energy and Commerce Committee. In the 96th Congress, Republicans were given 34 of the 102 subcommittee seats—33 percent—and 15 of the 42 full committee seats—35.7 percent—based on having elected 159 of the 435 Members of the House—36.3 percent. But, in the 98th Congress, where Republicans had won 166 of the 435 seats—38.2 percent—Republicans were given only 28 of the 90 subcommittee seats—31.1 percent—and the very same 15 of the 42 full committee seats—35.7 percent. So, instead of getting more representation by virtue of having elected 7 more Republicans to the House, the GOP made no progress whatever at the full committee level and actually lost ground at the subcommittee level. The justification for all this was, and is, that a working majority is needed at the committee level, from which one can surmise that their current numerical majority was in danger of not working as its leadership wants. Which raises a key point. This intentional shorting of the minority party on subcommittees and full committees hurts not only Republicans but any Member who may not always agree with the agenda of the leadership of the majority party here in this House. His or her rights, and the interests of his or her constituents, are effectively compromised by the fact that the shorting reduces the possibility of legislative arrangements being struck that the leadership of this House does not favor.

Mere mention of the word "constituent" serves to bring this whole issue into full, clear, and proper focus. It is not just individual Members of the House of Representatives who are being discriminated against in this business of underrepresentation of the minority on subcommittees and full committees. It is each and every constituent of those Members. In theory, at least, this House is supposed to represent everybody in this great Nation of ours to the same degree. That's why congressional districts have to be approximately the same size regardless of the State in which they are located. But, if the Members of one political party are given an advantage over Members of another political party in excess of that provided them by the voters, then some voters—citizens if you will—are not getting the same degree of representation as others. Certainly, the Constitution intended that the will of the majority be expressed, and the rules of the House reflect that desire, but what we are talking about here is an extracurricular development which is cumulative in effect and which can turn the will of the majority into the tyranny of the majority in a way that the Founding Fathers never intended.

In order that my colleagues might obtain a clearer perspective as to how this shorting has a cumulative effect, I ask unanimous consent to insert in the RECORD at this point another chart. This one shows how Republican representation has been successively diluted over the last three Congresses, starting with the GOP's share of the Republican congressional vote and working down to the GOP's share of the investigative staff on House committees. Please note, in particular, that GOP representation in the House, when calculated on a percentage basis, is on average 6.5 points lower than the average GOP percentage of the congressional vote in the elections of 1978, 1980, and 1982. Likewise, the average percentage of Republicans on full committees is 2.2 points lower than the average percentage of Republicans in the House during the 96th through 98th Congresses. Similarly, the average percentage of Republicans assigned to all the subcommittees of the House is, for that same 6-year period, 0.35 point lower than the percentage of Republicans assigned to the full committees. And if that weren't enough, the average percentage of Republican investigative staff on committees is a stunning 21.9 points below the average percentage of Republicans assigned to subcommittees.

[Chart not reproducible in RECORD.]

From our work on subcommittees, all of us who serve in this venerable institution are acutely aware of the importance of fair representation on subcommittees not only at the Member level but at the staff level as well. Like it or not, staff resources, along with Member votes, have a whole lot to do with what bills do and do not get considered and what form they will ultimately take. Therefore, the availability, or lack thereof, of staff resources forms an integral part of the pattern that I have been describing and so Members can examine it in more detail, I ask unanimous consent at this point to insert in the RECORD yet another chart which details the staff shorting committee by committee over the past three Congresses. After looking it and the previous charts over, I think you will agree that the more we look, the worse it gets. The minority party in the House of Representatives is disadvantaged to an ever greater extent each and every step down the legislative ladder.

COMMITTEE STAFFING IN THE HOUSE OF REPRESENTATIVES (96TH THROUGH 98TH CONGRESSES)

Committees	96th Congress 1980 (36.32% GOP)						97th Congress 1982 (44.14% GOP)							98th Congress 1984 (38.16% GOP)						
	Statutory staff	Investigative staff					Statutory staff			Investigative staff				Statutory staff			Investigative staff			
	Statutory staff total number of slots	Demo	GOP	GOP pct	GOP entitlements	GOP shortage	Demo	GOP	GOP pct	Demo	GOP	GOP pct	GOP entitlements	GOP shortage	Demo	GOP	GOP pct	Demo	GOP	GOP pct	GOP entitlements	GOP shortage
Aging [1]										28	12	30.0	22.1	10				29	11	27.5	17.9	6
Agriculture	30	28	11	28.2	16.0	5	20	9	31.0	23	13	36.1	18.1	5	20	10	33.3	26	12	31.6	16.0	4
Appropriations [2]	(3)	(3)	(3)	(3)	(3)	(3)	(3)	(3)	(3)	(3)	(3)	(3)	(3)	(3)	51	11	17.7					
Armed Services	28	6	0	0	3.4	3	(4)	(4)	(4)	(4)	(4)	(4)	(4)	(4)	(4)	(4)	(4)	(4)	(4)	(4)	(4)	(4)
Banking	29	67	10	13.0	38.2	28	18	8	30.8	45	12	21.1	35.6	23	19	9	32.1	49	11	18.3	30.2	19
Budget [2]	(3)	(3)	(3)	(3)	(3)	(3)	(3)	(3)	(3)	(3)	(3)	(3)	(3)	(3)	60	6	9.1					
District	30	14	1	6.7	8.0	7	20	7	25.9	13	0	0	10.3	10	21	9	30.0	15	1	6.03	9.3	8
Education and Labor	29	68	15	18.1	38.8	23	20	10	33.3	68	16	19.0	53.7	37	20	10	33.3	54	12	17.6	33.3	21
Energy and Commerce	30	118	15	11.3	67.3	52	20	9	31.0	108	9	7.7	85.3	76	20	9	31.0	107	12	10.1	60.0	54
Foreign Affairs	29	47	3	6.0	26.8	23	20	10	33.3	51	4	7.3	40.3	36	20	10	33.3	48	6	11.1	29.6	23

COMMITTEE STAFFING IN THE HOUSE OF REPRESENTATIVES (96TH THROUGH 98TH CONGRESSES)—Continued

Committees	96th Congress 1980 (36.32% GOP)						97th Congress 1982 (44.14% GOP)								98th Congress 1984 (38.16% GOP)							
	Statutory staff	Investigative staff					Statutory staff			Investigative staff					Statutory staff			Investigative staff				
	total number of slots	Demo	GOP	GOP pct	GOP entitlements	GOP shortage	Demo	GOP	GOP pct	Demo	GOP	GOP pct	GOP entitlements	GOP shortage	Demo	GOP	GOP pct	Demo	GOP	GOP pct	GOP entitlements	GOP shortage
Government Operations	19	60	6	9.1	34.2	28	16	7	30.4	58	6	9.4	45.8	39	17	9	34.6	56	6	9.7	34.6	28
House Administration [5]	30	60	1	1.6	34.2	33	17	3	15.0	21	2	8.7	16.6	14	24	5	17.2	21	1	4.5	13.0	12
Intelligence [1]		(4)	(4)	(4)	(4)	(4)				(4)	(4)	(4)	(4)	(4)	(4)	(4)	(4)					
Interior	29	33	8	19.5	18.8	10	20	10	33.3	32	7	17.9	25.3	18	20	10	33.3	34	8	19.0	21.0	13
Judiciary	29	49	3	5.8	27.9	24	20	10	33.3	40	3	7.0	31.6	28	20	10	33.3	48	4	7.7	29.6	25
Merchant Marine	30	54	7	11.5	30.8	23	20	10	33.3	45	11	19.6	35.6	24	20	10	33.3	40	9	18.4	24.7	15
Narcotics [1]										10	4	28.6	7.9	3				13	4	23.5	8.0	4
Post Office	29	32	4	11.1	18.2	14	20	8	28.6	36	4	10.0	28.4	24	20	10	33.3	43	7	14.0	26.5	19
Public Works	30	32	18	36.0	18.2	0	20	10	33.3	37	17	31.5	29.2	12	20	10	33.3	39	15	27.8	24.1	9
Rules	28	14	5	26.3	8.0	3	20	9	31.0	15	0	0	11.9	11	21	9	30.0	17	0	0	10.5	10
Science and Technology	30	47	11	19.0	26.8	15	19	10	34.5	42	5	10.6	33.2	28	20	10	33.3	44	4	8.3	27.2	23
Ethics	(4)	(4)	(4)	(4)	(4)	(4)	(4)	(4)	(4)						(4)	(4)	(4)					
Small Business	31	23	6	20.7	13.1	7	22	9	29.0	19	4	17.4	15.0	11	20	10	33.3	17	4	19.0	10.5	6
Veterans Affairs	24	8	3	27.3	4.5	1	17	5	22.7	10	2	16.7	7.9	5	19	5	20.8	9	1	10.0	5.6	4
Ways and Means	29	47	18	27.7	26.8	8	20	19	33.3	52	8	13.3	41.1	33	20	10	33.3	49	11	18.3	30.2	9
Child/Youth/Family [1]	(6)	(6)	(6)	(6)	(6)	(6)	(6)	(6)	(6)	(6)	(6)	(6)	(6)	(6)	(6)	(6)	(6)	(7) 9	5	35.7	5.6	0
Total	543	807	145	15.2	460.0	307				753	139	14.6	594.9	447				767	144	15.8	473.4	322

[1] Indicates select committees.
[2] Indicates committees whose staff is not funded by means of a committee funding resolution. Associate staff are not included in the calculation.
[3] Not available.
[4] Nonpartisan.
[5] Does not include staff assigned to House Information Systems (HIS).
[6] Not in existense.
[7] Does not include 3 staff members considered to be non-partisan.

Sources: For 1980 figures: Statutory Staff—Judy Schneider, "Congressional Committee Staff & Funding," Issue Brief #IB82006, Congressional Research Service (CRS), Washington, DC, May 1984. Investigative Staff—telephone survey of standing committees of the House taken by the office of William E. Dannemeyer, M.C., February 1980. For 1982 and 1984 figures: Committee on House Administration, "Budget Requests by Committee," February 1982 and February 1984 as well as telephone survey of two committees, taken by the Office of Congressman William E. Dannemeyer, M.C., July 1984.

As you well know, Mr. Speaker, this is not the first time the matter of fair representation in this institution has been raised, nor will it be the last if something is not done to rectify the glaring inequities demonstrated by the various figures I have previously cited. In the 96th Congress, Republicans as a unified group wrote you and asked that corrective steps be taken. We were subsequently informed that our concerns would be given serious consideration at an appropriate time, and they were, but not in the manner we had hoped. Instead of getting a fairer share of subcommittee and full committee seats in the 97th Congress, the "shorting" of Republicans on subcommittees and full committees got worse. That being the case, we had little choice but to contest the most egregious of the subcommittee ratios on the floor of this House, where we lost on a party line vote. That being the case, some of us then went to court, only to be confronted ultimately by the reluctance of the Supreme Court to intrude in what it apparently considers to be the exclusive business of this House. So that brings us to where we are today, and to why this resolution is being introduced. We have sought recourse by all other available means and it has been denied. But redress is still essential to the integrity of this House and to the entire legislative process. And so I would hope that Members would vote for this resolution. It will not solve the entire problem inasmuch as it only deals with subcommittee ratios and even then, for procedural reasons, it doesn't go quite as far as one might like. But it will correct the most egregious of the inequities inasmuch as the minority party has less representation at the subcommittee level than at more advanced levels in the legislative process.

If this resolution is adopted, it will put the House on record as favoring subcommittee ratios no more unfavorable to the minority than full committee ratios. Moreover, it would send a clear signal to the incoming 99th Congress that the matter of disproportionate ratios on the full committees should be addressed as well. Now I recognize that there will may be those who would prefer that the status quo be continued, either because they would continue to benefit now or because they could repay the favor if control of the House shifts sometime in the future. But, I submit that would be bad policy. If the doctrine of one man, one vote, as articulated in Baker versus Carr (1962), is to have any real meaning, the minority and the majority parties should be represented, at each rung on the legislative ladder, in accordance with their relative numerical strength as determined by the voters in the last congressional election. That way, everyone is treated fairly and no one is placed at an institutional disadvantage. Issues should be decided by the votes of the people's representatives without the possibility of distortion by a cumulative warping of the legislative process.

Mr. Speaker, in conclusion, just let me say this. Fair representation on the subcommittees and full committees of the House may not be the most glamorous of issues. But it is vitally important to the integrity of House proceedings and, unless resolved, it will not go away. The time has come for this body to confront the issue, and to confront it in as direct and forthright a manner as possible. For if we don't, the voters of this country may very well decide to confront it for us and in a way some of us might not like. Mr. Speaker, I urge adoption of this resolution.

AN UPDATED CHRONOLOGY OF CONGRESSIONAL ACTION ON THE BUDGET AND ON APPROPRIATIONS

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that I may be heard out of order.

The SPEAKER pro tempore (Mr. RATCHFORD). Without objection, the gentleman from Texas [Mr. WRIGHT] is recognized for 1 minute.

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that I may address the House for 5 minutes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The SPEAKER pro tempore. The gentleman from Texas [Mr. WRIGHT] is recognized for 5 minutes.

Mr. WRIGHT. Mr. Speaker, it is an unusual occasion when the majority leader of the House must defend the honor of the institution against an unwarranted aspersion. Today at the White House in a ceremony the President of the United States was asked why he is shutting down the Government. According to the report on the wire, his reply was: "That's not a question, that's a challenge."

"This has been very typical," said the President, "of what has happened ever since we have been here. You can

lay this right on the major party of the House of Representatives."

The President went on to say, "Just once it would be great to have a budget on time."

Now, I think it is important that we recite the chronological facts in order that the honor of the House as an institution may be defended.

The House, on April 5, well within the time allotted by the Budget Act, passed a budget resolution. The Senate passed that resolution on May 18, 3 days later than the date stipulated by law for its enactment. The Senate would not appoint conferees until June 7. From June 7 until September 26, almost 4 months, the conferees appointed by the other body on the budget refused to meet and discuss a settlement of the questions involved between the two Houses on the budget.

The House did pass the budget on time. That certainly is not one you can lay at the door of the House. The House was prepared to meet with the Senate for 4 months and tried repeatedly to do so and was frustrated by the conferees for the other body refusing even to discuss with Members of the House an appropriate figure for the defense expenditure. So, that surely is not the fault of the House. The President's attribution of blame for the tardy completion of the budget this year is factually untrue and manifestly unfair.

Let us talk about appropriations bills, because it is possible that the President may have confused the terms. He may have meant it would be nice to have appropriation bills before the beginning of the fiscal year. And let us be sure that the record is clear.

This body, the U.S. House of Representatives, every year since he has been President has passed most of the major appropriation bills substantially before the beginning of the fiscal year, and the other body has not seen fit to act upon them, or has been unable to act upon them, until after the beginning of the fiscal year to which they apply.

In 1981, the House passed 12 separate departmental appropriation bills, 11 of the 12 before October 1, the beginning of the fiscal year. The other body ultimately passed only nine, and none were passed in the other body before the beginning of the new fiscal year for which the appropriations were to apply.

In the following year, 1982, on appropriation bills for fiscal year 1983, the House passed 10 of them, most of them before the beginning of the fiscal year. The Senate ultimately passed only six of them, most of them after the beginning of the fiscal year. It is this scenario of timely House action followed by less timely Senate action, or in some cases total inaction, which repeatedly has made it necessary to pass continuing resolutions in order that the Government may continue to function.

Again in 1983, last year, on appropriation bills for the fiscal period just past, fiscal year 1984, the House passed 12 of them, 11 before the beginning of the fiscal year for which they were applicable. The Senate passed 11, and 8 were before that year.

The House this year, for fiscal year 1985, has passed 10 regular departmental appropriation bills which were sent to the Senate more than 1 month ago. Only four of them have been enacted. All of them were passed in the House before the beginning of the fiscal year.

Now, it seems that there is a great confusion with respect to this in the White House because, elaborating upon the President's comments, Mr. Larry Speakes is quoted as having said with reference to the President, "He determined there was no reasonable way to expect to have a bill to sign today."

Now, that is inaccurate in the extreme. He can have a second simple extension to sign if the Senate will act. The House already has done so, and it is pending in the Senate right now.

The House passed the first continuing resolution on the 25th of September. The other body has not acted upon it yet.

□ 1530

So, in light of that, the House on the 1st of October, Monday, the first day of the new fiscal year, sent a second continuing resolution to the Senate. It was a simple 2-day extension to give the Senate additional time to act upon the first one. This bill was passed and sent to the President on Monday, October 1.

The President allowed the Government to go on and continue operating without even signing that bill until 3 o'clock yesterday, 2 days after the lapse of time in which a legalistic interpretation would have required him to close the Government. Then finally he signed that bill and now it is expiring again. So, the House on October 4, today, has sent yet another continuing appropriation bill to the other body and we are still awaiting Senate action. There is nothing controversial about it. It is another simple extension of existing law. It would keep the Government operating.

Why should the President assume, as Mr. Speakes suggests, that there is "no reasonable way to expect to have a bill to sign today?" And why, in any event, would he blame the House? Clearly we have acted in a timely way.

Could it be that the President was actually looking for an excuse to close down the Government and place the blame upon the House? One hesitates to believe that any President would be guilty of so cruel and dishonest a thing. Surely he must just have been grossly misinformed.

POINT OF ORDER

Mr. WALKER. A point of order, Mr. Speaker.

The SPEAKER pro tempore. The gentleman will state his point of order.

Mr. WALKER. Mr. Speaker, is it not against the rules of the House to be referring to the actions of the other body?

The SPEAKER pro tempore. The gentleman has not referred to actions of the other body.

Mr. WALKER. A point of order, Mr. Speaker.

The SPEAKER pro tempore. The gentleman will state the point of order.

Mr. WALKER. The other body was just referred to as the Senate. Is that not against the rules of the House?

The SPEAKER pro tempore. According to the precedents, reference can be made to the fact of the legislative product of the other body, which the gentleman from Texas has done.

The gentleman from Texas may proceed for an additional 30 seconds.

Mr. WRIGHT. Mr. Speaker, I appreciate the gentleman's point. I was not aware the word "Senate" was an offensive expression or a dirty word. I did not mean by the use of that term to imply any shame or impugn any bad motives to the Members of the other body. They are distinguished Members of Congress and I meant them no harm. I merely insist that the record be set straight when anyone, particularly the President of our country, speaks falsehood about the actions of the House. As for the other body, as my colleague from Pennsylvania prefers for me to call them, I was not referring so much to their action, but rather to their inaction, and calling upon them to act.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

The gentleman tells us something by not yielding.

WETLANDS LOAN ACT EXTENSION

Mr. BREAUX. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 5271) to extend the Wetlands Loan Act, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Page 1, after line 2, insert:

TITLE I

Page 1, line 8, strike out "'September 30, 1994,'" and insert "'September 30, 1986,'".

Page 1, line 9, strike out "SEC. 2." and insert "SEC. 102.".

Page 1, lines 11 and 12, strike out "'October 1, 1994'" and insert "'October 1, 1986'".

Page 1, after line 12, insert:

TITLE II—TO ESTABLISH THE CONNECTICUT COASTAL NATIONAL WILDLIFE REFUGE

FINDINGS AND PURPOSES

SEC. 201. (a) FINDINGS.—The Congress finds that—

(1) Chimon Island, off the coast of Norwalk, is the most important heron rookery in Connecticut and contains one of the three largest wading bird colonies in the Northeast United States;

(2) Milford Point, a narrow ten-acre tombolo, is one of the few remaining nesting sites in Connecticut for the piping plover;

(3) Falkner's Island supports the only significant breeding population of the roseate tern in Connecticut and the only major population of the common tern; and

(4) Sheffield Island is an excellent potential nesting habitat for heron.

(b) PURPOSES.—The purposes for which the Connecticut Coastal National Wildlife Refuge is established are—

(1) to enhance the populations of herons, egrets, terns, and other shore and wading birds within the refuge;

(2) to encourage natural diversity of fish and wildlife species within the refuge;

(3) to provide for the conservation and management of all fish and wildlife, within the refuge;

(4) to fulfill the international treaty obligations of the United States respecting fish and wildlife; and

(5) to provide opportunities for scientific research, environmental education, and fish and wildlife-oriented recreation.

DEFINITIONS

SEC. 202. As used in sections 201 through 205 of this Act—

(1) The term "refuge" means the Connecticut Coastal National Wildlife Refuge.

(2) The term "Secretary" means the Secretary of the Interior.

(3) The term "selection area" means the lands and waters of Chimon Island, Milford Point, Falkner's Island, and Sheffield Island in the State of Connecticut.

ESTABLISHMENT OF REFUGE

SEC. 203. (a) SELECTION.—(1) Within ninety days after the effective date of this Act, the Secretary shall—

(A) designate approximately one hundred and forty-five acres of land and waters within the selection area as land which the Secretary considers appropriate for the refuge;

(B) prepare a detailed map depicting the boundaries of the land designated under subparagraph (A), which map shall be on file and available for public inspection at offices of the United States Fish and Wildlife Service, and publish notice in the Federal Register of such availability.

(2) The Secretary may make such minor revisions in the boundaries designated under paragraph (1)(B) of this subsection as may be appropriate to carry out the purpose of this Act or to facilitate the acquisition of property within the refuge.

(b) ACQUISITION.—Except as provided in paragraph (2), the Secretary shall acquire (by donation, purchase with donated or appropriated funds, or exchange) lands, waters, or interests therein within the boundaries designated under subsection (a)(1)(B).

(2) The Secretary of the department in which the Coast Guard is operating shall transfer jurisdiction over Falkner's Island, Connecticut, to the Department of the Interior; except that the Coast Guard shall remain responsible for the operation and maintenance of the lighthouse on the island.

(c) ESTABLISHMENT.—The Secretary shall establish the national wildlife refuge, by publication of a notice to that effect in the Federal Register, whenever sufficient property has been acquired under this section to constitute an area that can be effectively managed as a national wildlife refuge.

ADMINISTRATION

SEC. 204. The Secretary shall administer all lands, waters, and interests therein, acquired under section 203 of this Act in accordance with the provisions of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd-668ee). The Secretary may utilize such additional statutory authority as may be available to him for the conservation and development of wildlife and natural resources, the development of outdoor recreation opportunities, and interpretive education as he deems appropriate to carry out the purposes of the refuge.

AUTHORIZATION OF APPROPRIATIONS

SEC. 205. There is authorized to be appropriated to the Department of the Interior $2,500,000 from funds not otherwise appropriated from the Land and Water Conservation Fund for the acquisition of lands for the refuge, which sums shall remain available until expended.

Page 1, after line 12, insert:

TITLE III—TO ESTABLISH THE ATCHAFALAYA NATIONAL WILDLIFE REFUGE

DECLARATION OF FINDINGS AND PURPOSES

SEC. 301. (a) FINDINGS.—The Congress finds that—

(1) thousands of acres of bottomland hardwoods are being cleared each year in the Mississippi River Delta;

(2) these forested wetlands represent one of the most valuable and productive wildlife habitat types in the United States and have extremely high recreational value for hunters, fishermen, trappers, birdwatchers, nature photographers, and others, and

(3) the Atchafalaya area is a bottomland hardwood swamp which provides habitat for a diversity of wildlife, including herons, egrets, and other wading birds; mallards, wood ducks, and countless waterfowl; black bears, deer, bobcat, muskrat, and other mammals; a large population of alligators; and the Louisiana crawfish, as well as bass, catfish, and other fish.

(b) PURPOSES.—The purposes for which the Atchafalaya National Wildlife Refuge is established are—

(1) to provide for the conservation and management of all fish and wildlife within the refuge;

(2) to fulfill the international treaty obligations of the United States with respect to fish and wildlife; and

(3) to provide opportunities for scientific research, environmental education, and fish and wildlife-oriented recreation, including hunting, fishing and trapping, birdwatching, nature photography, and others.

DEFINITIONS

SEC. 302. As used in sections 301 through 305 of this Act—

(1) The term "Refuge" means Atchafalaya National Wildlife Refuge.

(2) The term "Secretary" means the Secretary of the Interior.

(3) The term "Selection area" means those lands and waters that are depicted on the map dated September 21, 1984, on file with the United States Fish and Wildlife Service which are not owned by the State of Louisiana and which are available from willing sellers.

ESTABLISHMENT OF REFUGE

SEC. 303. (a)(1) SELECTION.—Within one hundred and eighty days after the effective date of this Act, the Secretary shall—

(A) designate with the concurrence of the State of Louisiana land and waters within the selection area as land which the Secretary and the State of Louisiana consider appropriate for the refuge;

(B) prepare a detailed map with the concurrence of the State of Louisiana, depicting the boundaries of the land designated under subparagraph (A), which map shall be on file and available for public inspection at offices of the United States Fish and Wildlife Service, and publish notice in the Federal Register of such availability.

(2) The Secretary may make such minor revisions in the boundaries designated under paragraph (1)(B) of this subsection as may be appropriate to carry out the purpose of this Act or to facilitate the acquisition of property within the refuge.

(b) ACQUISITION.—The Secretary shall acquire with funds provided under Public Law 98-396; the lands, waters, or interests therein within the boundaries designated under subsection (a)(1)(B). The Secretary is authorized to include in any transfer of property to the United States, pursuant to this Act, language requiring the United States, in the event that such property is no longer required for fish and wildlife conservation and prior to any subsequent sale, exchange, other transfer of the property acquired, to first offer such property to the vendors, their heirs, successors or assigns, at the same price then being offered by any third party, which price shall in no event be less than the current fair marked value.

(c) ESTABLISHMENT.—The Secretary shall establish the National Wildlife Refuge, by publication of a notice to that effect in the Federal Register, whenever sufficient property has been acquired under this section to constitute an area that can be effectively managed as a national wildlife refuge.

ADMINISTRATION

SEC. 304. The Secretary shall administer all lands, waters, and interests therein, acquired under section 303 of this Act in accordance with the provisions of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd-668ee). The Secretary may utilize such additional statutory authority as may be available to him for the conservation and development of wildlife and natural resources, the development of outdoor recreation opportunities, and interpretive education as he deems appropriate to carry out the purposes of the refuge; *Provided, however,* That the Secretary shall enter into a cooperative agreement with the State of Louisiana to provide for management of the refuge by the State in a manner that is consistent with the responsibilities of the Secretary as the primary Administrator of the refuge and the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd-668ee).

Sec. 305. The refuge shall be treated as a fee area for purposes of applying section 401 of the Act commonly referred to as the refuge Revenue Sharing Act (16 U.S.C. 715s).

EFFECTIVE DATE

SEC. 306. This Act shall take effect October 1, 1984, or on the date of its enactment, whichever date is later.

Mr. BREAUX (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Louisiana?

Mr. PRITCHARD. Reserving the right to object, Mr. Speaker, I yield to the gentleman from Connecticut [Mr. MCKINNEY].

Mr. MCKINNEY. Mr. Speaker, I thank the gentleman for yielding.

I would like to thank the chairman of the full committee, the chairman of the subcommittee, and the ranking member, for helping me with this.

Mr. Speaker, I rise today in strong support of H.R. 5271, the Wetlands Loan Extension Act. As the author of title II of this measure, I would like to thank the distinguished chairman of the House Committee on Merchant Marine and Fisheries, Representative WALTER B. JONES, of North Carolina, as well as the chairman of the Subcommittee on Fisheries, Wildlife Conservation and the Environment, the Honorable JOHN B. BREAUX, for their stewardship of this legislation. I also would like to take this opportunity to thank my colleagues in the other body, particularly Senators LOWELL P. WEICKER, JR., of Connecticut, JOHN H. CHAFEE, of Rhode Island, ROBERT T. STAFFORD, of Vermont, and J. BENNETT JOHNSTON of Louisiana for the overwhelming support they have given to this critically important conservation bill.

Title II of H.R. 5271 would establish a four-site national wildlife refuge along Connecticut's southwestern coast. Encompassing 145 acres, the refuge would include the islands of Chimon, Sheffield, and Falkner's as well as the 10-acre barrier beach at Milford Point. This measure would preclude the development of these critical coastal lands by establishing Connecticut's second national wildlife refuge. Creation of the refuge would serve as a great step in the furtherance of wildlife preservation not only in Connecticut, but also our Nation. The lands to be protected are of national significance and clearly warrant inclusion in the Federal system.

Chimon Island, Connecticut's most important heron nesting ground, is located less than 1 mile off Calf Pasture Point in Norwalk Harbor. Norwalk, a city of nearly 80,000, lies along Connecticut's southwestern coast within the most heavily populated, urbanized area of the Northeastern United States—the New York metropolitan area. Ironically, though, within its relative isolation this 70-acre island supports one of the three largest wading bird colonies on the northeast coast. In fact, in some years Chimon is the largest breeding colony in the Northeast. Experts agree that at least eight species of shore birds nest on the island.

Likewise, 60-acre Sheffield Island, the second largest island in the Norwalk chain, offers excellent potential for nesting habitat and could provide vital overflow land for the expanding Chimon Island heron population. According to the Connecticut Audubon Society, Sheffield is home to American oystercatchers and double-crested cormorants. Neither of which nests in more than one other place in Connecticut.

Falkner's Island, presently owned by the U.S. Coast Guard, supports Connecticut's only significant population of State-threatened roseate terns, as well as our State's only major population of State-threatened common terns. Both species not only are threatened in Connecticut, but also in the whole of North America.

And finally, Milford Point is one of the few remaining nesting sites of the piping plover, a candidate for the Federal threatened species list. Experts claim that the current U.S. population of the piping plover is between 1,500 and 2,000 breeding pairs. Connecticut is reported to have 17 such pairs; Milford Point claims 5 of the 17. The 10-acre barrier beach also is home to the largest population of State-threatened least terns.

The urgent nature of this legislation is highlighted by ongoing attempts to purchase these sites for coastal development projects. With land values in southwestern Connecticut among the highest in the country, and with a paucity of undeveloped coastal land within a reasonable proximity to New York City, there is imminent danger that these lands will be lost for future generations. Serious development offers have been made for Chimon, Sheffield, and Milford Point—offers that, if accepted, would level an irreversible blow to the habitat of the Northeast's shore birds. Unless action is taken soon, this critical coastal habitat will be lost forever.

H.R. 5271 would authorize the establishment of the second national wildlife refuge in Connecticut. The Salt Meadow National Wildlife Refuge in Westbrook, CT, currently protects over 185 species of wildlife. Yet, while the refuge totals 183 acres, 177 of them were donated to the Federal system. The other 6 acres were purchased for only $2,000. Today, only three-tenths of 1 percent of Connecticut land is federally owned, the smallest percentage of Government-owned land in the 50 States. Our State has had very little Federal help in establishing parks and refuges. But action taken today by this Congress could reverse that trend.

We in Connecticut have waited 15 years for a chance to create our second Federal refuge. Now, we are very close to realizing that goal. Included in the House-passed version of the continuing resolution is $2.5 million for the acquisition of these lands. Since the entire $2.5 million will be nontax money taken from funds not otherwise appropriated from the Land and Water Conservation Fund, and therefore will not add to our mounting Federal deficit or be a drain on the U.S. Treasury, I am eager to see this measure become law.

Mr. Speaker, it gives me great pride to stand before the House today knowing that our actions will have a positive effect on the quality of life in Fairfield County, CT, and in America for generations to come. So often Congress produces temporary gains by taking a short range view of the future. Today, by passage of this bill, we are making a permanent contribution to the type of world we bequeath to our children.

Mr. MORRISON of Connecticut. Mr. Speaker, will the gentleman yield?

Mr. PRITCHARD. I yield to the gentleman from Connecticut.

Mr. MORRISON of Connecticut. Mr. Speaker, I would like to join my colleague, the gentleman from Connecticut [Mr. MCKINNEY], along with my other colleagues from Connecticut in thanking the committee chairman the subcommittee chairman, as well as the ranking Members, for facilitating the passage of the Connecticut Coastal Wildlife Refuge bill, which is going to make an important contribution to the preservation of the environment in Connecticut, including Milford Point and Falkner Island in my district.

I am very pleased to see that this legislation has been moved so promptly and expeditiously through both the House and the other body.

Mr. PRITCHARD. Mr. Speaker, further reserving the right to object, I would like to note that the House of Representatives previously passed by voice vote H.R. 5271, a bill to extend the Wetlands Loan Act, for 10 years.

The Senate amendments reduced the extension to 2 years.

The amendments also add the provisions of the House passed bill, H.R. 5464, which establishes the Connecticut Coastal Wildlife Refuge.

H.R. 5464 also included provisions for Wetland acquisition in the Atchafalaya Basin.

The Senate has added language clarifying that acquisition, that it will be managed by the State under a cooperative agreement with the Fish and

Wildlife Service and in accordance with the Refuge Administration Act.

Mr. Speaker, I yield now to the gentleman from Louisiana [Mr. BREAUX].

Mr. BREAUX. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, this legislation contains several noncontroversial provisions, all of which have been previously passed by the House.

First, it would extend the Wetlands Loan Act through fiscal year 1986. This act was passed in 1961 to complement the wetlands acquisition program established under the Migratory Bird Hunting and Conservation Stamp Act of 1934, known also as the Duck Stamp Act. Under the Duck Stamp Act, all waterfowl hunters must purchase a stamp, currently priced at $7.50, which they affix to their State hunting permits. Proceeds from the sale of the stamp are used to purchase habitat for migratory waterfowl. In 1961, Congress enacted the Wetlands Loan Act to accelerate the acquisition of wetlands habitat. This act authorized a loan of up to $200 million against future receipts from the sale of duck stamps. The loan, of which approximately $154 million has been appropriated, expired at the end of fiscal year 1984. Without this extension, the loan must be repaid with 75 percent of future duck stamp receipts.

To avoid the need for immediate repayment of the loan, the House passed a 10-year extension of the Wetlands Loan Act on September 25. The other body has returned a 2-year extension. This extension is vital if we are to continue our ongoing efforts to combat wetlands loss.

This legislation would establish the Connecticut Coastal National Wildlife Refuge, which would consist of several small islands and a barrier beach along the Connecticut coast. These islands are valuable habitat for a number of species of wildlife, most notably Herons, Terns, and other shore and wading birds. The refuge would become part of the National Wildlife Refuge System and would be managed by the U.S. Fish and Wildlife Service pursuant to the National Wildlife Refuge System Administration Act of 1966 and other applicable statutes. The legislation contains an authorization of $2.5 million for acquisition of the Refuge.

Chimon Island, the largest of the areas that would be included, supports Connecticut's most significant Heron Rookery and one of the largest wading bird colonies on the northern seaboard. Falkner Island, currently owned by the Coast Guard, supports Connecticut's only breeding population of roseate terns and most of the nesting population of common terns. Milford Point is one of the few nesting areas remaining for the piping plover and other shore birds. Sheffield Island also has great potential as habitat for shore and wading birds.

Finally, this legislation includes a provision to clarify the use of funds appropriated to the Fish and Wildlife Service under the Supplemental Appropriations Act, recently signed by the President, to acquire lands within the Atchafalaya Basin in Louisiana. That act appropriated $10 million to the U.S. Fish and Wildlife Service to acquire lands under the Fish and Wildlife Act of 1956 and other authority.

The Atchafalaya Basin is one of the great natural areas of this country, a one-half million acre river swamp that provides habitat for a remarkably diverse variety of fish and wildlife.

The debate over conservation of the Atchafalaya Basin has been going on for years in Louisiana. Flood control, agriculture, energy development, recreation and other interests in the basin were difficult to reconcile. Recently, however, all of the parties involved developed an agreement that resolves the major disputes. The agreement, which is incorporated in a plan developed by the Corps of Engineers for the basin, specifies flood control measures, waterflow rates, and the purchase of flowage easements designed to keep the basin in a natural state while providing flood protection for surrounding communities.

The plan also calls for the acquisition and management of 90,000 acres within the basin for public access. The Dow Chemical Co. has donated 40,000 acres. The acquisition of the remaining 50,000 acres is to be split between the State of Louisiana and the Federal Government. All of the public access lands are to be managed by the State of Louisiana. The State has recently purchased approximately 10,000 acres and has plans to acquire additional lands in the near future.

The provision relating to the Atchafalaya included in this legislation simply clarifies how the Service is to use funds contained in the fiscal year 1984 Supplemental Appropriation Act. As amended by the other body, lands acquired will become part of the National Wildlife Refuge System but will be managed by the State under a cooperative agreement with the Fish and Wildlife Service. The National Wildlife Refuge Administration Act requires that refuges are to be administered by the Secretary of the Interior through the Fish and Wildlife Service. However, it would make little sense to split the management responsibilities of the basin between Federal and State agencies. Since the State is already managing in excess of 50,000 acres in the basin, it is only sensible that they should be the management authority. The language provides that the area is to be managed by the State in a manner consistent with the provisions of the National Wildlife Refuge Administration Act and other applicable statutory and regulatory authority.

Mr. Speaker, as I have stated, the House has passed all of these provisions earlier. They are both important and noncontroversial and I ask that they be adopted.

Mr. PRITCHARD. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Louisiana [Mr. BREAUX]?

There was no objection.

A motion to reconsider was laid on the table.

APPROVAL OF GOVERNING INTERNATIONAL FISHERY AGREEMENTS WITH ICELAND AND THE EUROPEAN ECONOMIC COMMUNITY

Mr. JONES of North Carolina. Mr. Speaker, I ask unanimous consent that the Committee on Merchant Marine and Fisheries be discharged from further consideration of the bill (H.R. 6342) approval of the governing international fishery agreements with Iceland and the European Economic Community, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The Speaker pro tempore. Is there objection to the request of the gentleman from North Carolina?

Mr. PRITCHARD. Reserving the right to object, Mr. Speaker, I shall not object, but I would like the gentleman from North Carolina to explain the bill.

I yield to the gentleman.

Mr. JONES of North Carolina. Mr. Speaker, H.R. 6342 as introduced would provide congressional approval to the governing international fishery agreement between the United States and the European Economic Community and a similar agreement between the United States and Iceland. These agreements have been signed by the President and will help in the short-run to provide opportunities to U.S. fishermen which would not normally be available. Congressional approval of these agreements is required in order for them to become effective. Failure of congressional approval will prohibit any benefits from accruing to the fishing industry until Congress reconvenes.

Title II of H.R. 6342 would establish national standards to facilitate the establishment of artificial reefs in the waters of the United States. The Secretary of Commerce is directed to develop a national artificial reef plan and the Secretary of the Army is directed to use this plan as a guideline in issuing permits for the placement of artificial reefs. This title would also authorize the Department of Trans-

portation to use obsolete vessels for the purpose of establishing artificial reefs.

Title III of the bill would provide the necessary legislative authority to implement the convention on the conservation of antarctic marine resources. This legislation would allow the Department of Commerce, the National Science Foundation, State Department, and other appropriate agencies to carry out research in the antarctic. This provision is necessary for the United States to maintain an active presence in the antarctic region and carry out our responsibilities under the convention.

Title IV of H.R. 6342 would authorize several marine fisheries programs within the national marine fisheries service, a part of the National Oceanic and Atmospheric Administration. This measure would authorize: $28 million for fiscal year 1985 for functions relating to information collection and analysis; $35 million for functions relating to the fishery conservation and management activities for fiscal year 1985; and, $12 million in fiscal year 1985 for a portion of the State and industry assistance programs.

The National Aquaculture Act of 1980 would also be reauthorized for fiscal years 1984 and 1985 at the rate of $2 million each year to the Department of Agriculture and the Department of Commerce and $1 million each year to the Department of the Interior.

H.R. 6342 reauthorizes the regulatory structure for the development of deep seabed mining activities by U.S. citizens. The Deep Seabed Mining Act would be reauthorized for 2 years at $1.5 million annually for fiscal years 1985 and 1986.

The Fishery Conservation and Management Act, or the FCMA, would be amended to clarify that allocations of surplus fish to foreign nations from the U.S. fishery conservation zone are discretionary and not mandatory. In making an allocation the Secretary would be required to consider what steps a foreign nation has taken to facilitate the sale of U.S. fish and fish products and in particular the importation of those species for which that country is seeking an allocation.

The FCMA would also be amended to extend the fisheries management jurisdiction of the State of Alaska in certain areas. This change would provide for more uniform fisheries regulation in and among the many inlets and sounds of southeast Alaska.

The export of fish and fish products would also be facilitated by providing the USDA and the Commodity Credit Corporation with the discretionary authority to include all fish and fish products in their existing export assistance programs. Current CCC and USDA export assistance programs extend to fish and fish products if they are caught in freshwater streams or raised in fish ponds. This change would not create any new programs or require increased appropriations. This legislation was approved by the House Committee on Foreign affairs and by a House agriculture subcommittee.

The bill would also authorize the Secretary of Commerce to delegate certain legislative jurisdiction over lands and interests under the control of the Department of Commerce. This authority is similar to that possessed by several other Federal Departments and Agencies. This change is designed to allow local law enforcement and fire departments to enter and protect Federal personnel and property.

This legislation would reauthorize the National Sea Grant College Program for fiscal years 1985, 1986, and 1987 at levels of $39 million, $42 million, and $44 million, respectively. This program was created in 1966 as a matching-fund grant program to promote the productive development, utilization, and conservation of marine resources. It is patterned after the agricultural land grant college system with its experiment stations and extension services.

The bill also reauthorizes the Ocean Thermal Energy Conversion Program for fiscal years 1985, 1986, and 1987 at levels of $480,000, $630,000, and $630,000, respectively. This program authorizes the National Oceanic and Atomospheric Administration to regulate OTEC facilities and plantships, and to conduct environmental research on the impacts of OTEC activities—particularly effects on fisheries.

The bill would require that certain vessels, as designated by the Secretary of Transportation, must carry exposure or so-called survival units. A violation of this requirement carries a civil penalty of not more than $5,000 and a criminal penalty of not more than $25,000 or 5 years in prison, or both.

The bulk of the items in this bill have been reported by the committee on Merchant Marine and Fisheries by large and bipartisan majorities. Many of them—the fisheries authorizations, the aquaculture reauthorization, deep seabed mining, sea grant, OTEC, and the survival suit requirement—have been approved in identical or similar wording in other bills. We have consulted with key Senators and I expect that the other body will pass this bill without delay. I urge my colleagues to lend their support to H.R. 6342.

Mr. Speaker, I include the following letters:

COMMITTEE ON MERCHANT MARINE AND FISHERIES,
Washington, DC, October 3, 1984.

Hon. DON FUQUA,
Chairman, Committee on Science and Technology, Washington, DC.

DEAR MR. CHAIRMAN: This letter is in reference to H.R. 3416, the Antarctic Marine Living Resources convention Act of 1984. This legislation provides the necessary legislative authority to implement the Convention on the Conservation of Antarctic Marine Living Resources. It also directs the National Science Foundation to continue its basic research under the Antarctic Research Program and the Department of Commerce to prepare a plan for and carry out the design and conduct of a directed research program supplemental to and coordinated with the Antarctic Research Program.

As you know, this legislation, which was requested by the Administration, was jointly referred to this Committee and the Committee on Foreign Affairs. The Merchant Marine and Fisheries Committee favorably reported the bill on October 13, 1983, by a unanimous voice vote. Subsequently, the Committee on Foreign Affairs advised us that it did not plan to take any action on H.R. 3416 but would not object to consideration by the House of a mutually agreed upon text and has so advised the Speaker.

It is our understanding that the Committee on Science and Technology has filed a request with the Speaker for sequential referral of this measure. Given the late hour and the need for expeditious handling of this legislation, the Merchant Marine and Fisheries Committee has agreed to certain changes in the bill requested by your Committee in return for which we understand your Committee is prepared to withdraw its request for sequential referral without prejudice to its jurisdictional rights in the future and to so advise the Speaker.

The Committee on Merchant Marine and Fisheries greatly appreciates your cooperation in this regard. This Committee recognizes the legislative jurisdiction of the Committee on Science and Technology as set forth in Rule X(l)(r) of the Rules of the House of Representatives as well as its special oversight functions provided for in clause 3(f) of that Rule and does not in any way wish to infringe on that jurisdiction. We look forward to working with you in the future to assure the conservation of Antarctic natural resources.

With best wishes, we are

Sincerely,

WALTER B. JONES,
Chairman.
JOEL PRITCHARD,
Ranking Minority Member.

COMMITTEE ON SCIENCE AND TECHNOLOGY,
Washington, DC, February 2, 1984.

Hon. THOMAS P. O'NEILL, Jr.,
The Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: The Antarctic Marine Living Resources Convention Act of 1983 (H.R. 3416) was introduced in the House and referred jointly to the Committees on Merchant Marine and Fisheries and Foreign Affairs on June 27, 1983. On October 13, 1983 the Merchant Marine and Fisheries Committee favorably reported the bill with amendments. Section 12 of the bill as amended directs the Secretary of Commerce and the Director of the National Science Foundation in consultation with other agencies to design and conduct a directed research program on Antarctic marine living resources.

I would like to request sequential referral of H.R. 3416 to the Committee on Science and Technology. The Rules of the House assign this Committee legislative and oversight jurisdiction over most of the non-military federal R&D agencies, and special over-

sight responsibility over all non-military research and development. The legislation in question mandates two agencies under this Committee's purview, the National Oceanographic and Atmospheric Administration (NOAA) through the Secretary of Commerce and the National Science Foundation (NSF) to design and conduct the directed research program.

The role of the U.S. in Antarctic affairs and the research and development priorities of NOAA and NSF in this area have implications for national, as well as international science policy. All activities of the U.S. in the Antarctic are conducted under the Antarctic Treaty which was initially prepared by the U.S. It has also been long-standing U.S. policy that the U.S. presence in Antarctica shall be influential and solidly based on a balanced program of scientific research. For this reason, the conduct of the U.S. program in Antarctica has been assigned to the National Science Foundation, an agency under the sole jurisdiction of the Committee on Science and Technology. H.R. 3416 as amended would alter the research and development priorities and redirect the current Antarctic research efforts of both NOAA and NSF.

In view of the potential impact this legislation holds for federal research and development priorities, the role and function of NOAA and NSF, and pursuant to the legislative and oversight responsibilities assigned to this Committee by the Rules of the House, I believe it most important that this Committee review H.R. 3416 before its consideration by the Full House.

Sincerely,

DON FUQUA,
Chairman.

COMMITTEE ON FOREIGN AFFAIRS,
HOUSE OF REPRESENTATIVES,
Washington, DC, October 1, 1984.

Hon. WALTER B. JONES,
Chairman, Committee on Merchant Marine and Fisheries, House of Representatives, Washington, DC.

DEAR WALTER: We are writing you in regard to H.R. 3416, the Antarctic Marine Living Resources Convention Act of 1984. Our understanding is that this legislation provides the necessary legislative authority to implement the Convention on the Conservation of Antarctic Marine Living Resources that entered into force for the United States on April 7, 1982.

H.R. 3416 was referred jointly to your Committee and to the Committee on Foreign Affairs on June 27, 1983. On July 12, it was referred to the Subcommittees on International Security and Scientific Affairs, International Operations, and Human Rights and International Organizations. On April 12, 1984, the Subcommittee on Human Rights and International Organizations held a hearing on the bill and subsequently subcommittee staff developed various amendments to the bill. We have been advised that the differences have been resolved and a mutually agreeable text satisfactory to members of both Committees has been reached.

We agree that this legislation is important to implement the Convention and is important and necessary to fulfill U.S. obligations under the Convention. Therefore, without prejudice to the jurisdiction of the Committee on Foreign Affairs over certain matters in the bill, we have no objection to your motion to have the full House consider H.R. 3416 as soon as possible. It would be appreciated if you made copies of this exchange of letters on this matter a part of the record on H.R. 3416.

Thank you for your leadership in this matter.

With best wishes,

Sincerely yours,

DANTE B. FASCELL,
Chairman.

GUS YATRON,
Chairman, Subcommittee on Human Rights and International Organizations.

DAN MICA,
Chairman, Subcommittee on International Operations.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON MERCHANT MARINE AND FISHERIES,

Washington, DC, September 27, 1984.

Hon. DANTE FASCELL,
Chairman, Committee on Foreign Affairs, Washington, DC.

DEAR MR. CHAIRMAN: This letter is in reference to H.R. 3416, the Antarctic Marine Living Resources Convention Act of 1984. This legislation provides the necessary legislative authority to implement the Convention on the Conservation of Antarctic Marine Living Resources and directs the U.S. Federal agencies to continue the basic research conducted under the Antarctic Research Program of the National Science Foundation and to design and conduct a directed research program through the Department of Commerce.

H.R. 3416 was jointly referred to the Committees on Merchant Marine and Fisheries and Foreign Affairs. This Committee favorably reported the bill on October 13, 1983, by a unanimous voice vote. During the interim the staff of this Committee has worked with staff of the Foreign Affairs Committee to resolve differences and a mutually agreeable text has been accomplished. It is our understanding that the Foreign Affairs Committee does not plan to take any action on H.R. 3416 but does not object to consideration by the House of the mutually agreed upon text. If this is the case, we would appreciate your so advising the Speaker so that the legislation may be acted upon expeditiously.

As you know, this legislation is important and necessary to fulfill United States obligations under the Convention. We would like to take this legislation to the Floor as soon as possible and would very much appreciate your assistance.

Sincerely,

WALTER B. JONES,
Chairman, Committee on Merchant Marine and Fisheries.

JOEL PRITCHARD,
Ranking Minority Member, Committee on Merchant Marine and Fisheries.

● Mr. FUQUA. Mr. Speaker, I rise in support of H.R. 3416, the Antarctic Marine Living Resources Convention Act of 1983. The Science and Techology Committee requested sequential referral of the bill on Febuary 2, 1984. To assist in expediting the matter, I have informed Mr. JONES, chairman of the Merchant Marine and Fisheries Committee, that I have no objection to consideration of H.R. 3416 by the House without action by the Committee on Science and Technology.

There are provisions in the Merchant Marine and Fisheries amendment to the bill as reported on October 13, 1983, which substantially affect the Department of Commerce, the National Oceanic and Atmospheric Administration [NOAA] in particular, and the National Science Foundation [NSF]. The Science and Techology Committee has jurisdiction over all of NSF and the research and development functions of NOAA. I have carefully reviewed the bill as amended and worked with the Committee on Merchant Marine and Fisheries to ensure that the language maintained the responsibilities of NSF and NOAA regarding U.S. Antarctic affairs and Antarctic research and development.

Section 12 of the bill addresses Federal agency cooperation and responsibilities for implementing the policies and objectives of the Convention on the Conservation of Antarctic Marine Living Resources. The language ensures that NSF will maintain the lead position for basic research and the Department of Commerce, through NOAA, will assume the lead role in carrying out the directed scientific research program and preparing the plan for that program.

The representative to the Scientific Committee is to be appointed by the Director of NSF and the Secretary of Commerce in concurrence with the Secretary of State. At present, the interagency cooperation between NSF and NOAA is inadequate. In addition, the NSF program needs strengthening so that NSF can more effectively fulfill its important role as the lead agency for all activities of the United States in the Antarctic which are conducted under the Antarctic Treaty. The Committee on Science and Technology will continue to review the status of Antarctic research and ensure that coordination is improved.

Mr. Speaker, I thank the distinguished chairman of the Merchant Marine and Fisheries Committee, Mr. JONES of North Carolina, for his cooperation in developing the language contained in H.R. 3416 as amended.●

□ 1540

Mr. PRITCHARD. I thank the gentleman for his explanation.

Mr. Speaker, I rise in support of H.R. 6342, as amended, and would like to commend the chairman of the full committee and chairman and ranking member of the subcommittee for their work in finalizing these amendments and improving these important governing international fishery agreements [GIFA].

Mr. Speaker, title I of this bill approves the Governing International

Fishery Agreement between the Government of the United States and the European Economic Community and also approves the GIFA between the Government of the United States and the Republic of Iceland. These GIFA's provide an important mechanism to permit foreign fishing in U.S. waters for those species which are underutilized and to provide additional opportunities for U.S. fishermen participating in joint venture operations with these countries.

Title II directs the Secretary of Commerce to develop a national artificial reef plan and establish standards for design, construction, and siting of artificial reefs in the waters of the United States. The bill also authorizes the Secretary of the Army to use the artificial reef plan as a guideline when issuing permits for future artificial reefs.

Mr. Speaker, title III provides the necessary legislative authority to implement the Convention on the Conservation of Antarctic Marine Living Resources. The Department of Commerce, in consultation with the National Science Foundation, State Department, and other appropriate agencies, is directed to design and conduct a research program that is supplemental and coordinated with the U.S. Antarctic Program. The bill also calls for the support of icebreakers operated by the U.S. Coast Guard as platforms for scientific research in Antarctica similar to provisions established in Public Law 98-373 regarding the Arctic Research and Policy Act of 1983.

Title IV provides for the authorization of the National Marine Fisheries Service at a level of $28 million for fiscal year 1985 for information collection and analysis and authorizes the National Marine Fisheries Service's fishery conservation and management activities at a level of $35 million for fiscal year 1985. The bill also authorizes $12 million for fiscal year 1985 for a portion of State and industry assistance programs to the National Marine Fisheries Service.

Section 402 of this title reauthorizes the National Aquaculture Act of 1980 for fiscal years 1984 and 1985 at a level of $2 million for each year to both the Department of Commerce and the Department of Agriculture and at a level of $1 million for each year for the Department of the Interior.

Section 403 of this title contains a 2-year reauthorization of the Deep Seabed Hard Minerals Resources Act at a level of $1.5 million for each of fiscal years 1985 and 1986.

Section 404 of this title amends the Magnuson Fishery Conservation and Management Act—the Magnuson Act—to make clear that a full allocation of the total allowable level of foreign fishing [TALFF] is not required by law. That is, the United States does not have to fully allocate the TALFF. This section also requires an evaluation of what a particular foreign nation seeking an allocation is doing to provide additional access to its markets of U.S. industry-origin products for the particular species for which an allocation is sought. This section provides an important impetus for foreign nations to provide market access to U.S. fishery products. Subsection 4 is intended to resolve certain fishery management problems in southeast Alaska. The amendment would provide for the drawing of a series of straight baselines for the purposes of management of most species.

However, this amendment is not to be construed as a precedent which could apply to other parts of Alaska. Also, the amendment does not give any expanded authority to the State of Alaska to exercise jurisdiction over any crab species in the EEZ. Fish harvested within the area added to the waters subject to the jurisdiction of the State would continue to be considered taken within the Fishery Conservation Zone [FCZ] for the purpose of determining whether a fishery is engaged predominantly within and beyond this zone and is, therefore, subject to a secretarial action under section 306(b) of the Magnuson Act.

Finally, the amendment neither expands nor diminishes State jurisdiction over nonliving marine resources of the EEZ or the Outer Continental Shelf. The committee intends that the Interagency Baseline Committee within the U.S. State Department be consulted in the development of the specific depiction of these lines on maps and charts.

Mr. Speaker, section 405 of this title extends the export promotion authority of the Secretary of Agriculture and the Commodity Credit Corporation to include fish and fish products without regard to whether fish are harvested in aquaculture operations and makes marine fish and fish products eligible for export promotion and financing assistance programs administered by the Department of Agriculture.

Section 406 of this title is simply technical in nature and provides authority which is comparable to other Federal departments and agencies to the Secretary of Commerce regarding property under the Department's control.

Mr. Speaker, title V of this bill reauthorizes the National Sea Grant College Program Act for fiscal years 1985, 1986, and 1987 at levels of $39 million, $42 million, and $44 million, respectively.

Title VI provides for the reauthorization of the Ocean Thermal Energy Conversion Act of 1980 at levels of $480,000 for fiscal years 1984 and 1985 and at a level of $630,000 for each of fiscal years 1986 and 1987.

Title VII directs the Secretary of Transportation to develop regulations regarding the requirement of exposure suits on vessels in certain coldwater areas.

Mr. Speaker, this bill has been carefully examined by all parties involved and I rise in its support at this time and urge my colleagues to support it as well.

Mr. BREAUX. Mr. Speaker, will the gentleman yield?

Mr. PRITCHARD. I yield to the gentleman from Louisiana.

Mr. BREAUX. Mr. Speaker, the bill before us, H.R. 6342, contains a number of important and noncontroversial fishery provisions. Briefly, title I of the bill provides requisite congressional approval of the recently negotiated Governing International Fishery Agreement [GIFA] between the United States and the Republic of Iceland. Title I also contains a similar provision relating to the recently renegotiated GIFA between the United States and the European Economic Community. Such agreements are important to maintain positive fishery relations with these countries which ultimately benefit U.S. fishermen.

Title II of the bill contains a National Fishing Enhancement Act of 1984 which is designed to ensure the responsible and effective construction of artificial reefs in U.S. waters. The act specifies national standards and provides for the development of a national artificial reef plan which will assist the Corps of Engineers in the permitting of artificial reefs.

Title III of the bill provides the necessary legislative authority to implement the Convention on the Conservation of Antarctic Marine Living Resources.

Title IV of the bill contains specific authorization of appropriations for National Marine Fisheries Service program functions. In addition, title IV contains straight reauthorizations for the National Aquaculture Act and the Deep Seabed Hard Mineral Resources Act. Title IV also contains several amendments to the Fishery Conservation and Management Act which will strengthen the U.S. position regarding foreign fishing within U.S. waters as well as provisions to improve the management of U.S. fishery resources off of Alaska. Also, title IV contains provisions to extend the export promotion authority of the USDA to include fish and fish products. Lastly, title IV contains a housekeeping provision which would allow local law enforcement to occur on certain Government properties under the jurisdiction of the Department of Commerce.

Title V of the bill provides a reauthorization of appropriations for the National Sea Grant College Program for 3 years.

Title VI of the bill provides a reauthorization of appropriations for fiscal years 1984-87 for the activities con-

ducted under the Ocean Thermal Energy Conversion Act of 1980.

Finally, title VII of the bill contains a Coast Guard requirement for certain vessels to carry onboard exposure suits for the safety of their crew.

Mr. Speaker, I have prepared a more detailed analysis of the various provisions of the bill which I will include in the RECORD as part of my statement.

SECTION-BY-SECTION ANALYSIS OF H.R. 6342 AS AMENDED

TITLE I

Governing International Fishery Agreements with the European Economic Community and Iceland

This title: (1) approves the Governing International Fishery Agreement between the Government of the United States and the European Economic Community, as contained in the August 27, 1984, Message to Congress from the President, upon signature of the agreement by both parties; and (2) approves the Governing International Fishery Agreement between the Government of the United States and the Government of the Republic of Iceland, as contained in the September 28, 1984, Message to Congress from the President.

TITLE II

National Fishing Enhancement Act of 1984

This title establishes national standards for the design, construction, and siting of artificial reefs in the waters of the United States. The Secretary of Commerce is directed to develop a National Artificial Reef Plan that identifies design, construction, siting, and monitoring technology, as well as a synopsis of existing information and future research needs. The Secretary of the Army is authorized to use the Artificial Reef Plan as a guideline when issuing artificial reef permits. Although the bill does not require a permit to be issued by the EPA, pursuant to Section 402 of the Federal Water Pollution Control Act, the bill provides that if such permit is determined to be necessary, then the EPA must consult with the Corps of Engineers prior to issuing such a permit. Further, the title provides that the owner of reef construction materials is absolved of certain responsibility and liability for damages, to both person and property, once the transfer of title to the permittee has occurred.

This title also amends the Reefs for Marine Life Conservation law to include obsolete vessels as materials to be used to construct artificial reefs rather than limiting the program to the use of Liberty ships.

TITLE III

Antarctic Marine Living Resources Convention Act of 1984

This title provides the necessary legislative authority to implement the Convention on the Conservation of Antarctic Marine Living Resources (CCAMLR). The Department of Commerce, in consultation with the National Science Foundation, State Department, and other appropriate agencies, is directed to design and conduct a directed research program that is supplemental to and coordinated with the United States Antarctic program. The Secretary of Commerce is directed to prepare a continuous three-year plan to describe the priority directed research needs for implementing the Convention, identify which of those needs will be fulfilled by the United States, and specify the design of the research to be conducted. In addition, it calls for support of icebreakers operated by the Coast Guard as platforms for scientific research in Antarctica, similar to provisions already in the Arctic Research and Policy Act of 1983, Public Law 98-373.

TITLE IV

Section 401—NOAA Marine Fisheries Program Authorization Act Amendments

This Section: (1) authorizes $28,000,000 for Fiscal Year 1985 for a portion of the information collection and analysis functions of the National Marine Fisheries Service; (2) authorizes $35,000,000 for Fiscal Year 1985 for a portion of the fishery conservation and management activities of the National Marine Fisheries Service; and (3) authorizes $12,000,000 for Fiscal Year 1985 for a portion of the State and industry assistance programs of the National Marine Fisheries Service. This section also contains language to make clear that the funds authorized in section 401 are separate and distinct from monies in seven existing cyclical authorizations under which appropriations are also made to the agency. The seven existing authorizations are the Magnuson Fishery Conservation and Management Act; the Marine Mammal Protection Act; the Endangered Species Act; the Anadromous Fish Conservation Act; the Commercial Fisheries Research and Development Act; the Salmon and Steelhead Conservation Act; and the Central, Western and South Pacific Fisheries Development Act.

Section 402—National Aquaculture Act Authorization

This section reauthorizes the National Aquaculture Act of 1980 for Fiscal Years 1984 and 1985, and authorizes the appropriation of $2 million each year to both the Department of Agriculture and the Department of Commerce, and $1 million each year to the Department of the Interior.

Section 403—Deep Seabed Hard Mineral Resources Act Authorization

This section contains a two-year reauthorization of the Deep Seabed Hard Mineral Resources Act at a level of $1,500,000 annually for Fiscal Years 1985 and 1986. This act provides the regulatory structure for development of deep seabed mining activities by U.S. citizens.

Section 404—Amendments to the Magnuson Fishery Conservation and Management Act

This section contains several amendments to the Magnuson Fishery Conservation and Management Act (MFCMA).

Subsection (1) makes clear that a full allocation of the Total Allowable Level of Foreign Fishing (TALFF) is not required by law.

Subsections (2) and (3) would require an evaluation of what a foreign nation seeking an allocation is doing to open its market to U.S. industry exports of the particular species for which an allocation is being requested, and would require that when determinations of allocations are made, consideration shall be given to what a foreign nation seeking an allocation is doing for U.S. industry development in the specific fishery for which the allocation is being requested.

Subsection (4) amends Section 306(a) of the Magnuson Fishery Conservation and Management Act to solve certain fisheries management problems in Southeastern Alaska. The amendment allows the State of Alaska to perform fisheries management functions in certain specific areas of the U.S. Exclusive Economic Zone (EEZ). The language of the amendment is similar to language that has previously been used to address similar problems in Massachusetts. The amendment is necessary because the areas of the EEZ in question are intermingled with areas subject to State fisheries jurisdiction, thereby causing confusion and management inefficiency.

The coast of Southeastern Alaska is special in that it includes a number of wide channels, passages, sounds, and bays. Fishermen, processors, and State and Federal fisheries managers have a difficult time determining fisheries management jurisdiction in many areas due to the configuration of the lines of Federal and State jurisdiction. The amendment would alleviate the problem by drawing a series of straight lines for purposes of State fisheries management of most species.

A number of points should be stressed. First, this amendment is not to be construed as a precedent which could apply to other parts of Alaska. In fact, the Merchant Marine and Fisheries Committee specifically rejects a suggestion that all of Alaska's coast be included in this amendment. Second, the amendment does not give any expanded authority to the State of Alaska to exercise jurisdiction over the King, Tanner, and Dungeness crab fisheries in the EEZ. Fishermen from other areas were concerned about any precedent that might be established by expanding jurisdiction over crab fisheries, and their concerns have been accommodated. Third, under this amendment, fish harvested within the area added to waters subject to the jurisdiction and authority of the State would continue to be considered taken within the fishery conservation zone for the purpose of determining whether a fishery is engaged in predominately within and beyond this zone and is, therefore, subject to Secretarial action under section 306(b) of the Magnuson Fishery Conservation and Management Act. Fourth, the amendment neither expands nor diminishes State jurisdiction over nonliving marine resources of the Exclusive Economic Zone or the outer Continental Shelf and does not affect current or future litigation involving these resources. Fifth, the amendment is designed to extend the State of Alaska's fisheries jurisdiction beyond its boundaries over some species and has no effect on the territorial sea baseline or the international status of the waters affected. Sixth, this amendment does not supercede any treaties to which the United States is a party. Finally, when the exact limits of State jurisdiction are to be depicted on maps or charts, the Committee intends that the Interagency Baseline Committee be consulted.

Section 405—Fisheries Exports

This section, which extends the export promotion authority of the Secretary of Agriculture and the Commodity Credit Corporation to include fish and fish products without regard to whether fish are harvested in aquaculture operations, makes marine fish and fish products eligible for export promotion and financing assistance programs administered by the Department of Agriculture under the authority of the Commodity Credit Corporation Charter Act, the Agricultural Trade Development and Assistance Act of 1954 (P.L. 480), and other laws.

Section 4—Legislative Jurisdiction

This section is basically a "housekeeping" provision which would authorize the Secretary of Commerce to relinquish part or all of the legislative jurisdiction of the United States over lands or interests under the De-

partment of Commerce's control, anywhere in the United States. This authority is comparable to authority which numerous other Federal departments and agencies already possess, including the Departments of Defense, Transportation (with respect to the Coast Guard), Agriculture, and the Interior, and the Veterans Administration.

There are several kinds of legislative jurisdiction. The broadest of these is exclusive legislative jurisdiction. On lands subject to this type of jurisdiction, the local law enforcement agencies have no authority to enter and protect personnel and property. The armed services generally exercise this type of jurisdiction on military installations. Most of the lands owned by the Department of Commerce are not subject to exclusive legislative jurisdiction. However, in some cases the Department has obtained from the Department of Defense property over which the Federal Government had obtained exclusive legislative jurisdiction. This amendment would allow the Secretary of Commerce to relinquish part or all of the legislative jurisdiction of the United States over lands to the state, commonwealth, territory, or possession concerned, thereby enabling state and local law enforcement authorities to enforce, for example, local criminal law on the property. The provision does not transfer title or otherwise dispose of any Federal property under the jurisdiction of the Department of Commerce.

TITLE V

National Sea Grant College Program

This title reauthorizes the National Sea Grant College Program for Fiscal Years 1985, 1986, and 1987 at levels of $39 million, $42 million, and $44 million, respectively. This program was created in 1966 as a matching-fund grant program to promote the productive development, utilization, and conservation of marine resources. It is patterned after the agricultural land grant college system with its experiment stations and extension services. Nationwide, there are currently 29 Sea Grant colleges, universities, or consortia, and each maintains programs in marine research, education, and advisory services. A more detailed discussion of this program, and its accomplishments and benfits, is contained in House Report 98-144.

TITLE VI

Ocean Thermal Energy Conversion

This title authorizes the appropriation of not more than $480,000 for each of fiscal years 1984 and 1985, and not more than $630,000 for each of fiscal years 1986 and 1987, for activities under the Ocean Thermal Energy Conversion Act of 1980 (Public Law 96-320).

This program authorizes the National Oceanic and Atmospheric Administration (NOAA) to regulate OTEC facilities and plantships, and to conduct environmental research on the impacts of OTEC activities—particularly effects on fisheries. This title also contains other amendments which will: clarify the legal status of land-based ocean thermal energy conversion facilities and NOAA's authority to license such plants; require the NOAA Administrator to report to Congress in 18 months on what steps the U.S. Government is taking, and plans to take, to enhance the export potential of U.S. OTEC technology; amend the license application fee provisions to allow the NOAA Administrator to charge a fee that reflects actual administrative expenses incurred in reviewing and processing applications; and make a number of technical amendments to the OTEC Act of 1980. A more complete description of these amendments is contained in House Report 98-79.

TITLE VII

Exposure Suits

This title directs the Secretary of Transportation to issue regulations requiring exposure suits on vessels designated by the Secretary that operate in the Atlantic Ocean north of 32° North latitude or south of 32° South latitude, and in all other waters north of 35° North latitude or south of 35° South latitude. There is no exclusion for vessels with covered lifeboats. Civil penalties of up to $5,000 apply to violations. The vessel involved is also liable *in rem* for the penalty. Criminal penalties of up to $25,000 and five years imprisionment, or both, also may apply. This title does not impair the Secretary's existing authority to require exposure suits on certain vessels which are not directed by this title to carry exposure suits.

This title has been drafted to require minimal changes in the exposure suit regulations which the Coast Guard has already issued, but the latitude specified for the Atlantic Ocean in the bill is closer to the Equator than in the Coast Guard regulations.

The Secretary is directed to submit a report to Congress evaluating the merits of extending the exposure suit requirement to include designated vessels operating in all waters north of 31° latitude or south of 31° South latitude. The study is to be submitted not later than six months after enactment of this title.

Mr. PRITCHARD. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The Clerk read the bill, as follows:

H.R. 6342

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding section 203 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1823)—

(1) the governing international fishery agreement between the Government of the United States and the European Economic Community Concerning Fisheries Off the Coasts of the United States, as contained in the Message to Congress from the President of the United States dated August 27, 1984, is hereby approved by Congress as a governing international fishery agreement for purposes of that Act, and may enter into force with respect to the United States in accordance with the terms of Article XIX of the agreement after the date of the enactment of this Act, upon signature of the agreement by both parties; and

(2) the governing international fishery agreement between the Government of the United States and the Government of the Republic of Iceland Concerning Fisheries Off the Coasts of the United States, as contained in the message to Congress from the President of the United States dated September 28, 1984, is hereby approved by Congress as a governing international fishery agreement for purposes of that Act, and may enter into force with respect to the United States in accordance with the terms of Article XVI of the agreement after the date of the enactment of this Act.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. JONES OF NORTH CAROLINA

Mr. JONES of North Carolina. Mr. Speaker, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. JONES of North Carolina, strike out all after the enacting clause and insert the following:

TITLE I—APPROVAL OF GOVERNING INTERNATIONAL FISHERY AGREEMENTS WITH ICELAND AND THE EEC

Notwithstanding section 203 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1823)—

(1) the governing international fishery agreement between the Government of the United States and the European Economic Community Concerning Fisheries Off the Coasts of the United States, as contained in the Message to Congress from the President of the United States dated August 27, 1984, is hereby approved by Congress as a governing international fishery agreement for purposes of that Act, and may enter into force with respect to the United States in accordance with the terms of Article XIX of the agreement after the date of the enactment of this title, upon signature of the agreement by both parties; and

(2) the governing international fishery agreement between the Government of the United States and the Government of the Republic of Iceland Concerning Fisheries off the Coasts of the United States, as contained in the message to Congress from the President of the United States dated September 28, 1984, is hereby approved by Congress as a governing international fishery agreement for purposes of that Act, and may enter into force with respect to the United States in accordance with the terms of Article XVI of the agreement after the date of the enactment of this title.

TITLE II—ARTIFICIAL REEFS

SEC. 201. SHORT TITLE.

This title may be cited as the "National Fishing Enhancement Act of 1984".

SEC. 202. FINDINGS AND CONCLUSIONS.

(a) FINDINGS.—The Congress finds that—

(1) although fishery products provide an important source of protein and industrial products for United States consumption, United States fishery production annually falls far short of satisfying United States demand;

(2) overfishing and the degradation of vital fishery resource habitats have caused a reduction in the abundance and diversity of United States fishery resources;

(3) escalated energy costs have had a negative effect on the economics of United States commercial and recreational fisheries;

(4) commercial and recreational fisheries are a prominent factor in United States coastal economies and the direct and indirect returns to the United States economy from commercial and recreational fishing expenditures are threefold; and

(5) properly designed, constructed, and located artificial reefs in waters covered under this title can enhance the habitat and diversity of fishery resources; enhance United States recreational and commercial fishing opportunities; increase the production of fishery products in the United States; increase the energy efficiency of recreational and commercial fisheries; and contribute to the United States and coastal economies.

(b) PURPOSE.—The purpose of this title is to promote and facilitate responsible and effective efforts to establish artificial reefs in waters covered under this title.

SEC. 203. ESTABLISHMENT OF STANDARDS.

Based on the best scientific information available, artificial reefs in waters covered under this title shall be cited and constructed, and subsequently monitored and managed in a manner which will—

(1) enhance fishery resources to the maximum extent practicable;

(2) facilitate access and utilization by United States recreational and commercial fishermen;

(3) minimize conflicts among competing uses of waters covered under this title and the resources in such waters;

(4) minimize environmental risks and risks to personal health and property; and

(5) be consistent with generally accepted principles of international law and shall not create any unreasonable obstruction to navigation.

SEC. 204. NATIONAL ARTIFICIAL REEF PLAN.

Not later than one year after the date of enactment of this title, the Secretary of Commerce, in consultation with the Secretary of the Interior, the Secretary of Defense, the Administrator of the Environmental Protection Agency, the Secretary of the Department in which the Coast Guard is operating, the Regional Fishery Management Councils, interested States, Interstate Fishery Commissions, and representatives of the private sector, shall develop and publish a long-term plan which will meet the purpose of this title and be consistent with the standards established under section 203. The plan must include—

(1) geographic, hydrographic, geologic, biological, ecological, social, economic, and other criteria for siting artificial reefs;

(2) design, material, and other criteria for constructing artificial reefs;

(3) mechanisms and methodologies for monitoring the compliance of artificial reefs with the requirements of permits issued under section 205;

(4) mechanisms and methodologies for managing the use of artificial reefs;

(5) a synopsis of existing information on artificial reefs and needs for further research on artificial reef technology and management strategies; and

(6) an evaluation of alternatives for facilitating the transfer of artificial reef construction materials to persons holding permits issued pursuant to section 205, including, but not limited to, credits for environmental mitigation and modified tax obligations.

SEC. 205. PERMITS FOR THE CONSTRUCTION AND MANAGEMENT OF ARTIFICIAL REEFS.

(a) SECRETARIAL ACTION ON PERMITS.—In issuing a permit for artificial reefs under section 10 of the Rivers and Harbors Act of 1899, section 404 of the Federal Water Pollution Control Act, or section 4(e) of the Outer Continental Shelf Lands Act, the Secretary of the Army (hereinafter in this section referred to as the "Secretary") shall—

(1) consult with and consider the views of appropriate Federal Agencies, States, local governments, and other interested parties;

(2) ensure that the provisions for siting, constructing, monitoring, and managing the artificial reef are consistent with the criteria and standards established under this title;

(3) ensure that the title to the artificial reef construction material is unambiguous, and that responsibility for maintenance and the financial ability to assume liability for future damages are clearly established; and

(4) consider the plan developed under section 204 and notify the Secretary of Commerce of any need to deviate from that plan.

(b) TERMS AND CONDITIONS OF PERMITS.—(1) Each permit issued by the Secretary subject to this section shall specify the design and location for construction of the artificial reef and the types and quantities of materials that may be used in constructing such artificial reef. In addition, each such permit shall specify such terms and conditions for the construction, operation, maintenance, monitoring, and managing the use of the artificial reef as are necessary for compliance with all applicable provisions of law and as are necessary to ensure the protection of the environment and human safety and property.

(2) Before issuing a permit under section 402 of the Federal Water Pollution Control Act for any activity relating to the siting, design, construction, operation, maintenance, monitoring, or managing of an artificial reef, the Administrator of the Environmental Protection Agency shall consult with the Secretary to ensure that such permit is consistent with any permit issued by the Secretary subject to this section.

(c) LIABILITY OF PERMITTEE.—(1) A person to whom a permit is issued in accordance with subsection (a) and any insurer of that person shall not be liable for damages caused by activities required to be undertaken under any terms and conditions of the permit, if the permittee is in compliance with such terms and conditions.

(2) A person to whom a permit is issued in accordance with subsection (a) and any insurer of that person shall be liable, to the extent determined under applicable law, for damages to which paragraph (1) does not apply.

(3) The Secretary may not issue a permit subject to this section to a person unless that person demonstrates to the Secretary the financial ability to assume liability for all damages that may arise with respect to an artificial reef and for which such permittee may be liable.

(4) Any person who has transferred title to artificial reef construction materials to a person to whom a permit is issued in accordance with subsection (a) shall not be liable for damages arising from the use of such materials in an artificial reef, if such materials meet applicable requirements of the plan published under section 204 and are not otherwise defective at the time title is transferred.

(d) LIABILITY OF THE UNITED STATES.—Nothing in this title creates any liability on the part of the United States.

(e) CIVIL PENALTY.—Any person who, after notice and an opportunity for a hearing, is found to have violated any provision of a permit issued in accordance with subsection (a) shall be liable to the United States for a civil penalty, not to exceed $10,000 for each violation. The amount of the civil penalty shall be assessed by the Secretary by written notice. In determining the amount of such penalty, the Secretary shall take into account the nature, circumstances, extent, and gravity of the violation. The Secretary may compromise, modify, or remit with or without conditions, any civil penalty which is subject to imposition or which has been imposed under this section. If any person fails to pay an assessment of a civil penalty after it has become final, the Secretary may refer the matter to the Attorney General for collection.

SEC. 206. DEFINITIONS.

For purposes of this title—

(1) The term "artificial reef" means a structure which is constructed or placed in waters covered under this title for the purpose of enhancing fishery resources and commercial and recreational fishing opportunities.

(2) The term "State" means a State of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, American Samoa, Guam, Johnston Island, Midway Island, and Wake Island.

(3) The term "waters covered under this title means the navigable waters of the United States and the waters superjacent to the Outer Continental Shelf as defined in section 2 of the Outer Continental Shelf Lands Act (43 U.S.C. section 1331), to the extent such waters exist in or are adjacent to any State.

SEC. 207. USE OF CERTAIN VESSELS AS ARTIFICIAL REEFS.

The Act entitled "An Act to authorize appropriations for the fiscal year 1973 for certain maritime programs of the Department of Commerce and for other purposes", approved August 22, 1972 (16 U.S.C. 1220-1220c), is amended—

(1) by striking out "Liberty" each place it appears in sections 3, 4, 5, and 6 and inserting in lieu thereof "obsolete";

(2) by striking out "Commerce" in section 3 and inserting in lieu thereof "Transportation";

(3) by striking out "shall" in the matter preceding paragraph (1) in section 4 and inserting in lieu thereof "may", and

(4) by adding at the end thereof the following new section:

"SEC. 7. For purposes of sections 3, 4, 5, and 6, the term 'obsolete ship' means any vessel owned by the Department of Transportation that has been determined to be of insufficient value for commercial or national defense purposes to warrant its maintenance and preservation in the national defense reserve fleet and has been designated as an artificial reef candidate.".

SEC. 208. SAVINGS CLAUSES.

(a) TENNESSEE VALLEY AUTHORITY JURISDICTION.—Nothing in this title shall be construed as replacing or superseding section 26a of the Tennessee Valley Authority Act of 1933, as amended (16 U.S.C. 831y-1).

(b) STATE JURISDICTION.—Nothing in this title shall be construed as extending or diminishing the jurisdiction or authority of any State over the siting, contruction, monitoring, or managing of artificial reefs within its boundaries.

TITLE III—ANTARCTIC MARINE LIVING RESOURCES CONVENTION

SEC. 301. SHORT TITLE.

This title may be cited as the "Antarctic Marine Living Resources Convention Act of 1984".

SEC. 302. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) the Convention on the Conservation of Antarctic Marine Living Resources establishes international mechanisms and creates legal obligations necessary for the protection and conservation of Antarctic marine living resources;

(2) the Convention incorporates an innovative ecosystem approach to the management of Antarctic marine living resources, including standards designed to ensure the health of the individual populations and species and to maintain the health of the Antarctic marine ecosystem as a whole;

(3) the Convention serves important United States environmental and resource management interests;

(4) the Convention represents an important contribution to United States long term legal and political objectives of maintenance of Antarctica as an area of peaceful international cooperation;

(5) United States basic and directed research programs concerning the marine living resources of the Antarctic are essential to achieve the United States goal of effective implementation of the objectives of the Convention; and

(6) the United States has important security, economic, and environmental interest in developing and maintaining a fleet of icebreaking vessels capable of operating effectively in the heavy ice regions of Antarctica.

(b) PURPOSE.—The purpose of this title is to provide the legislative authority necessary to implement, with respect to the United States, the Convention on the Conservation of Antarctic Marine Living Resources.

SEC. 303. DEFINITIONS.

For purposes of this title—

(1) ANTARCTIC CONVERGENCE.—The term "Antarctic Convergence" means a line joining the following points along the parallels of latitude and meridians of longitude: 50 degrees south, 0 degrees; 50 degrees south, 30 degrees east; 45 degrees south, 30 degrees east; 45 degrees south, 80 degrees east; 55 degrees south, 80 degrees east; 55 degrees south, 150 degrees east; 60 degrees south, 150 degrees east; 60 degrees south; 50 degrees west; 50 degrees south, 50 degrees west; and 50 degrees south, 0 degrees.

(2) ANTARCTIC MARINE LIVING RESOURCES.—The term "Antarctic marine living resources" means the population of finfish, molluscs, crustaceans and all other species of living organisms, including birds, found south of the Antarctic Covergence.

(3) COMMISSION.—The term "Commission" means the Commission for the Conservation of Antarctic Marine Living Resources established pursuant to article VII of the Convention.

(4) CONVENTION.—The term "Convention" means the Convention on the Conservation of Antarctic Marine Living Resources, done at Canberra, Australia, May 7, 1980, and entered into forces with respect to the United States on April 7, 1982.

(5) HARVESTING OR OTHER ASSOCIATED ACTIVITIES.—The terms "harvesting" and "harvesting or other associated activities" mean—

(A) the harassing, molesting, harming, pursuing, hunting, shooting, wounding, killing, trapping, or capturing of Antarctic marine living resources;

(B) attempting to engage in any activity set forth in subparagraph (A);

(C) any other activity which can reasonably be expected to result in any activity described in subparagraph (A); and

(D) any operations at sea in support of, or in preparation for, any activity described in subparagraphs (A) through (C).

(6) HARVEST.—The term "harvest" means to engage in harvesting or other associated activities.

(7) IMPORT.—The term "import" means to land on, bring into, or introduce into, or attempt to land on, bring into, or introduce into, any place subject to the jurisdiction of the United States, whether or not such landing constitutes an importation within the meaning of the customs laws of the United States.

(8) PERSON.—The term "person" means an individual, partnership, corporation, trust, association, and any other entity subject to the jurisdiction of the United States.

(9) SCIENTIFIC COMMITTEE.—The term "Scientific Committee" means the Scientific Committee for the Conservation of Antarctic Marine Living Resources established pursuant to article IV of the Convention.

(10) VESSEL OF THE UNITED STATES.—The term "vessel of the United States" means—

(A) a vessel documented under chapter 121 of title 46, United States Code, or a vessel numbered as provided in chapter 123 of that title:

(B) a vessel owned in whole or in part by—

(i) the United States or a territory, commonwealth, or possession of the United States;

(ii) a State or political subdivision thereof;

(iii) a citizen or national of the United States; or

(iv) a corporation created under the laws of the United States or any state, the District of Columbia, or any territory, commonwealth, or possession of the United States;

unless the vessel has been granted the nationality of a foreign nation in accordance with Article 5 of the 1958 Convention on the High Seas; and

(C) a vessel that was once documented under the laws of the United States and, in violation of the laws of the United States, was either sold to a person not a citizen of the United States or placed under foreign registry or a foreign flag, whether or not the vessel has been granted the nationality of a foreign nation in accordance with Article 5 of the 1958 Convention on the High Seas.

(11) VESSEL SUBJECT TO THE JURISDICTION OF THE UNITED STATES.—The term "vessel subject to the jurisdiction of the United States" includes a vessel without nationality or a vessel assimilated to a vessel without nationality, in accordance with paragraph (2) of Article 6 of the 1958 Convention on the High Seas.

SEC. 304. REPRESENTATIVES.

(a) REPRESENTATIVE TO THE COMMISSION.—The Secretary of State, with the concurrence of the Secretary of Commerce and the Director of the National Science Foundation, shall appoint an officer or employee of the United States as the United States representative to the Commission.

(b) REPRESENTATIVE TO THE SCIENTIFIC COMMITTEE.—The Secretary of Commerce and the Director of the National Science Foundation, with the concurrence of the Secretary of State, shall designate the United States representative to the Scientific Committee.

(c) COMPENSATION.—The United States representatives to the Commission and the Scientific Committee shall receive no additional compensation by reason of their services as such representatives.

SEC. 305. CONSERVATION MEASURES; SYSTEM OF OBSERVATION AND INSPECTION.

(a) CONSERVATION MEASURES.—(1) The Secretary of State, with the concurrence of the Secretary of Commerce and the Director of the National Science Foundation, is authorized—

(A) to decide on behalf of the United States whether the United States is unable to accept or can no longer accept a conservation measure adopted by the Commission pursuant to Article IX of the Convention, and

(B) to notify the Commission of any such decision in accordance with Article IX of the Convention.

(2) The Secretary of State shall—

(A) publish in the Federal Register, if practicable, timely notice of each proposed decision under paragraph (1) and invite written public comment regarding it; and

(B) publish in the Federal Register notice of each notification made to the Commission under paragraph (1).

(b) SYSTEM OF OBSERVATION AND INSPECTION.—The Secretary of State, with the concurrence of the Secretary of Commerce, the Director of the National Science Foundation and the Secretary of the department in which the Coast Guard is operating, is authorized to agree on behalf of the United States to the establishment of a system of observation and inspection, and to interim arrangements pending establishment of such a system, pursuant to Article XXIV of the Convention.

(c) COMMUNICATIONS FROM THE COMMISSION.—The Secretary of State is further authorized to receive, on behalf of the United States Government, reports, requests, and other communications from the Commission and to take appropriate action on them, either directly or by reference to the appropriate authority.

SEC. 306. UNLAWFUL ACTIVITIES.

It is unlawful for any person—

(1) to engage in harvesting or other associated activities in violation of the provisions of the Convention or in violation of a conservation measure in force with respect to the United States pursuant to Article IX of the Convention;

(2) to violate any regulation promulgated under this title;

(3) to ship, transport, offer for sale, sell, purchase, import, export, or have custody, control or possession of, any Antarctic marine living resource (or part or product thereof) which he knows, or reasonably should have known, was harvested in violation of a conservation measure in force with respect to the United States pursuant to Article IX of the Convention or in violation of any regulation promulgated under this title, without regard to the citizenship of the person that harvested, or vessel that was used in the harvesting of, the Antarctic marine living resource (or part or product thereof);

(4) to refuse to permit any authorized officer or employee of the United States to board a vessel of the United States or a vessel subject to the jurisdiction of the United States for purposes of conducting any search or inspection in connection with the enforcement of the Convention, this title, or any regulations promulgated under this title;

(5) to assault, resist, oppose, impede, intimidate, or interfere with any authorized officer or employee of the United States in the conduct of any search or inspection described in paragraph (4);

(6) to resist a lawful arrest or detention for any act prohibited by this section; or

(7) to interfere with, delay, or prevent, by any means, the apprehension, arrest, or detention of another person, knowing that such other person has committed any act prohibited by this section.

SEC. 307. REGULATIONS.

The Secretary of Commerce, after consultation with the Secretary of State, the Secretary of the department in which the Coast Guard is operating, and the heads of other appropriate departments or agencies of the United States, shall promulgate such regulations as are necessary and appropriate to implement the provisions of this title.

SEC. 308. CIVIL PENALTIES.

(a) ASSESSMENT OF PENALTIES.—(1) Any person who is found by the Secretary of Commerce, after notice and opportunity for a hearing in accordance with subsection (b), to have committed any act prohibited by section 306 shall be liable to the United States for a civil penalty. The amount of the civil penalty shall not exceed $5,000 for each violation unless the prohibited act was knowingly committed, in which case the amount of the civil penalty shall not exceed $10,000 for each violation. Each day of a continuing violation shall constitute a separate violation for purposes of this subsection. The amount of any civil penalty shall be assessed by the Secretary of Commerce by written notice. In determining the amount of such penalty, the Secretary of Commerce shall take into account the nature, circumstances, extent, and gravity of the prohibited acts committed, and, with respect to the person committing the violation, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require, to the extent that such information is reasonably available to the Secretary.

(2) The Secretary of Commerce may compromise, modify, or remit, with or without conditions, any civil penalty which is subject to imposition or which has been imposed under this section, until such time as the matter is referred to the Attorney General under subsection (c) of this section.

(b) HEARINGS.—Hearings for the assessment of civil penalties under subsection (a) shall be conducted in accordance with section 554 of title 5, United States Code. For the purposes of conducting any such hearing, the Secretary of Commerce may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and may administer oaths. Witnesses summoned shall be paid the same fees and mileage that are paid to witnesses in the courts of the United States. In case of contumacy or refusal to obey a subpoena served upon any person pursuant to this subsection, the district court of the United States for any district in which such person is found, resides, or transacts business, upon application by the Attorney General of the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the Secretary of Commerce or to appear and produce documents before the Secretary of Commerce, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(c) REVIEW OF CIVIL PENALTY.—Any person against whom a civil penalty is assessed under subsection (a) of this section may obtain review thereof in the appropriate district court of the United States by filing a notice of appeal in such court within 30 days from the date of such order and by simultaneously sending a copy of such notice by certified mail to the Secretary of Commerce, the Attorney General, and the appropriate United States Attorney. The Secretary of Commerce shall promptly refer the matter to the Attorney General of the United States, who shall file in such court a certified copy of the record upon which the violation was found or such penalty imposed, as provided in section 2112 of title 28, United States Code. The court shall set aside the findings and order of the Secretary if the findings and order are found to be unsupported by substantial evidence, as provided in section 706(2)(E) of title 5, United States Code.

(d) RECOVERY OF CIVIL PENALTIES.—The Attorney General of the United States may seek to recover in any appropriate district court of the United States (1) any civil penalty imposed under this section that has become a final and unappealable order and has been referred to the Attorney General by the Secretary of Commerce of (2) any final judgment rendered under this section in favor of the United States by an appropriate court.

(e) PENALTIES UNDER OTHER LAWS.—The assessment of a civil penalty under subsection (a) for any act shall not be deemed to preclude the assessment of a civil penalty for such act under any other law.

SEC. 309. CRIMINAL OFFENSES.

(a) OFFENSES.—A person is guilty of an offense if that person commits any act prohibited by paragraph (4), (5), (6), or (7) of section 306.

(b) PUNISHMENT.—Any offense described in subsection (a) is punishable by a fine of $50,000 or imprisonment for not more than ten years, or both.

(c) OFFENSES UNDER OTHER LAWS.—A conviction under subsection (a) for any act shall not be deemed to preclude a conviction for such act under any other law.

SEC. 310. ENFORCEMENT.

(a) RESPONSIBILITY.—The provisions of this title shall be enforced by the Secretary of Commerce and the Secretary of the department in which the Coast Guard is operating. Such Secretaries may utilize by agreement, on a reimbursable basis or otherwise, the personnel, services, and facilities of any other department or agency of the United States in the performance of such duties.

(D) Powers of Authorized Officers and Employees.—Any officer or employee of the United States who is authorized (by the Secretary of Commerce, the Secretary of the department in which the Coast Guard is operating, or the head of any department or agency of the United States which has entered into an agreement with either Secretary under subsection (a)) to enforce the provisions of this title and of any regulation promulgated under this title may, in enforcing such provisions—

(1) secure, execute, and serve any order, warrant, subpena, or other process, which is issued under the authority of the United States;

(2) search without warrant any person, place, vehicle or aircraft subject to the jurisdiction of the United States where there are reasonable grounds to believe that a person has committed or is attempting to commit an act prohibited by section 306;

(3) with or without a warrant board and search or inspect any vessel of the United States or vessel subject to the jurisdiction of the United States;

(4) seize without warrant—

(A) any evidentiary item where there are reasonable grounds to believe that a person has committed or is attempting to commit an act prohibited by section 306,

(B) any Antarctic marine living resources (or part or product thereof) with respect to which such an act is committed,

(C) any vessel of the United States (including its gear, furniture, appurtenances, stores, and cargo), any vessel subject to the jurisdiction of the United States (including its gear, furniture, appurtenances, stores, and cargo), and any vehicle, aircraft, or other means of transportation subject to the jurisdiction of the United States used in connection with such an act, and

(D) any guns, traps, nets, or equipment used in connection with such an act;

(5) offer and pay rewards for services or information which may lead to the apprehension of persons violating such provisions;

(6) make inquiries, and administer to, or take from, any person an oath, affirmation, or affidavit, concerning any matter which is related to the enforcement of such provisions;

(7) in coordination with the Secretary of the Treasury, detain for inspection and inspect any package, crate, or other container, including its contents, and all accompanying documents, upon importation into, or exportation from, the United States;

(8) make an arrest with or without a warrant with respect to any act prohibited by paragraph (4), (5), (6), or (7) of section 306 if such officer or employee has reasonable grounds to believe that the person to be arrested is committing such act in his or her presence or view or has committed such act;

(9) exercise enforcement powers conferred on such officer or employee under a system of observation and inspection, or interim arrangements pending the establishment of such a system, which the Secretary of State has agreed to on behalf of the United States pursuant to section 305(b); and

(10) exercise any other authority which such office or employee is permitted by law to exercise.

(c) SEIZURE.—Subject to the succeeding provision of this subsection, any property or item seized pursuant to subsection (b) shall be held by any officer or employee of the United States, who is authorized by the Secretary of Commerce or the Secretary of the department in which the Coast Guard is operating, pending the disposition of civil or criminal proceedings concerning the violation relating to the property or item, or the institution of an action in rem for the forfeiture of such property or item. Such authorized officer or employee may, upon the order of a court of competent jurisdiction, either release such seized property or item to the world or destroy such property or item, when the cost of maintenance of the property or item pending the disposition of the case is greater than the legitimate market value of the property or item. Such authorized officer or employee and all officers or employees acting by or under his or her direction shall be indemnified from any penalties or actions for damages for so releasing or destroying such property or item. Such authorized officer or employee may, in lieu of holding such property or item, permit the owner or consignee thereof to post a bond or other satisfactory surety.

(d) FORFEITURE.—(1) Any Antarctic marine living resources (or part or product thereof) with respect to which an act prohibited by section 306 is committed, any vessel of the United States (including its gear, furniture, appurtenances, stoves, and cargo), vessel subject to the jurisdiction of the United States (including its gear, furniture, appurtenances, stoves, and cargo), or vessel, vehicle, or aircraft or other means of transportation subject to the jurisdiction of the United States, which is used in connection with an act prohibited by section 306, and all guns, traps, nets, and other equipment used in connection with such act, shall be subject to forfeiture to the United States.

(2) Upon the forfeiture to the United States of any property or item described in paragraph (1), or upon the abandonment or waiver of any claim to any such property or item, it shall be disposed of by the Secretary of Commerce, or the Secretary of the department in which the Coast Guard is operating, as the case may be, in such a manner,

consistent with the purposes of this title, as may be prescribed by regulation.

(2) APPLICATION OF CUSTOMS LAWS.—All provisions of law relating to the seizure, forfeiture, and condemnation of property (including vessels) for violation of the customs laws, the disposition of such property or the proceeds from the sale thereof, and the remission or mitigation of such forfeiture, shall apply to the seizures and forfeitures incurred, or alleged to have been incurred, and the compromise of claims, under the provisions of this title, insofar as such provisions of law are applicable and not inconsistent with the provisions of this title; except that all powers, rights, and duties conferred or imposed by the customs laws upon any officer or employee of the Customs Service may, for the purposes of this title, also be exercised or performed by the Secretary of Commerce or the Secretary of the department in which the Coast Guard is

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to the Commission in order to assist the Commission in carrying out its functions.

(2)(A) The Secretary of Commerce, in consultation with the Secretary of State, the Director of the National Science Foundation, and other appropriate Federal officials, shall prepare a plan, which shall be updated annually, for conducting the directed research program required under paragraph (1)(B) for each period of three consecutive fiscal years occurring during the period beginning on October 1, 1985, and ending on September 30, 1991. The plan shall—

(i) describe priority directed research needs for the implementation of the Convention;

(ii) identify which of those needs are to be fulfilled by the United States; and

(iii) specify the design of the research referred to in paragraph (1)(B) and the funds, personnel, and facilities required for the research, including, in particular, the need for and cost of enhanced ship capacity.

(B) In preparing the plan referred to in subparagraph (A), the Secretary of Commerce shall take into account, in addition to any other matters the Secretary considers appropriate, the possibilities of securing productive results, the minimization of duplication, and the methods for monitoring and evaluating a project.

(C) The Secretary of Commerce shall submit to the Congress each year the plan required under subparagraph (A). That part of the plan covering fiscal years 1986 through 1988 shall be submitted not later than October 1, 1985. That part of the plan covering each 3-fiscal-year period thereafter shall be submitted not later than the February 1 occurring before the beginning of the first fiscal year covered by that part of the plan.

(b) CONSULTATION WITH OTHER AGENCIES.—In carrying out their functions under this section, the Secretary of State, the Secretary of Commerce, and the Director of the National Science Foundation shall consult, as appropriate, with the Marine Mammal Commission and with other departments and agencies of the United States.

(c) ICEBREAKING.—The Department of Transportation shall facilitate planning for the design, procurement, maintenance, deployment, and operation of icebreakers needed to provide a platform for Antarctic research. All funds necessary to support icebreaking operations, except for recurring incremental costs associated with specific projects, shall be allocated to the United States Coast Guard.

SEC. 313. RELATIONSHIP TO EXISTING TREATIES AND STATUTES.

(a) IN GENERAL.—Nothing in this Act shall be construed as contravening or superseding (1) the provisions of any international treaty, convention, or agreement, if such treaty, convention or agreement is in force with respect to the United States on the date of the enactment of this title, or (2) the provisions of any statute which implements any such treaty, convention, or agreement. Nothing in this title shall be construed as contravening or superseding the provisions of any statute enacted before the date of the enactment of this title which may otherwise apply to Antarctic marine living resources.

(b) APPLICATION OF MORE RESTRICTIVE PROVISIONS.—Nothing in this section shall be construed to prevent the application of provisions of the Convention, conservation measures adopted by the Commission pursuant to article IX of the Convention, or regulations promulgated under this title, which are more restrictive than the provisions of, measures adopted under, or regulations promulgated under, the treaties or statutes described in subsection (a).

SEC. 314. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated, out of any moneys in the Treasury not otherwise appropriated, such sums as may be necessary for carrying out the provisions of this title, including, but not limited to—

(1) necessary travel expenses of the United States representatives referred to in section 304, alternate United States representatives, and authorized advisers and experts, in accordance with sections 5701 through 5708, 5731, and 5733 of title 5, United States Code, and the regulations issued under those sections;

(2) the United States contribution to the budget of the Commission as provided in article XIX of the Convention; and

(3) the directed research program and the furnishing of facilities and personnel to the Commission referred to in section 312.

SEC. 315. SEVERABILITY.

If any provision of this title or the application of this title to any person or circumstance is held invalid, neither the remainder of this title nor the application of that provision to other persons or circumstances shall be affected thereby.

TITLE IV—MISCELLANEOUS AMENDMENTS

SEC. 401. EOAA MARINE FISHERIES PROGRAM AUTHORIZATION ACT AMENDMENTS.

The National Oceanic and Atmospheric Administration Marine Fisheries Program Authorization Act (Public Law 98-210; 97 Stat. 1409) is amended as follows:

(1) Section 2 is amended—

(A) by inserting ", and $28,000,000 for fiscal year 1985" immediately after "1984" in subsection (a); and

(B) by striking out "of 1976" in subsection (b).

(2) Section 3 is amended—

(A) by inserting ", and $35,000,000 for fiscal year 1985" immediately after "1984" in subsection (a); and

(B) by inserting "Magnuson" immediately before "Fishery", and by striking out "of 1976", in subsection (b).

(3) Section 4 is amended—

(A) by amending subsection (a)—

(i) by inserting ", and $12,000,000 for fiscal year 1985" immediately after "1984", and

(ii) by striking out "boats" and inserting in lieu thereof "vessels"; and

(B) by striking out "of 1976" in subsection (b).

(4) Sections 2, 3, and 4 are each further amended by adding at the end thereof the following:

"(c) The duties authorized in subsection (a) of this section shall be considered separate and distinct from duties and functions performed pursuant to moneys authorized in subsection (b) of this section. The total authorization for all such duties and functions shall be the sum of amounts specified in such subsections.".

SEC. 402. AUTHORIZATION OF APPROPRIATIONS FOR THE NATIONAL AQUACULTURE ACT OF 1980.

Paragraphs (1), (2), and (3) of section 10 of the National Aquaculture Act of 1980 (16 U.S.C. 2809 (1), (2), and (3)) are amended to read as follows:

"(1) to the Department of Agriculture, $2,000,000 for each of fiscal years 1984 and 1985;

"(2) to the Department of Commerce, $2,000,000 for each of fiscal years 1984 and 1985; and

"(3) to the Department of the Interior, $1,000,000 for each of fiscal years 1984 and 1985.".

SEC. 403. AUTHORIZATION OF APPROPRIATIONS FOR DEEP SEABED HARD MINERAL RESOURCES ACT.

Section 310 of the Deep Seabed Hard Mineral Resources Act (30 U.S.C. 1470) is amended—

(1) by striking out "and" immediately after "1983,"; and

(2) by inserting ", and $1,500,000 for each of the fiscal years ending September 30, 1985 and September 30, 1986" immediately before the period at the end thereof.

SEC. 404. MAGNUSON FISHERY CONSERVATION AND MANAGEMENT ACT AMENDMENTS.

The Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.) is amended as follows:

(1) Section 201(d)(4) is amended by striking out "shall" the first time it appears and inserting in lieu thereof "may".

(2) Section 201(e)(1) is amended—

(A) by striking out "shall determine the allocation among foreign nations of" in subparagraph (A) and inserting in lieu thereof "may make allocations to foreign nations from";

(B) by amending subparagraph (E)(i)—

(i) by inserting "both" immediately before "United States",

(ii) by striking out "or fishery" and inserting in lieu thereof "and fishery", and

(iii) by inserting the following immediately before the semicolon at the end thereof: ", particularly fish and fishery products for which the foreign nation has requested as allocation"; and

(C) by amending subparagraph (E)(ii) to read as follows:

"(ii) whether, and to what extent, such nation is cooperating with the United States in both the advancement of existing and new opportunities for fishers exports from the United States through the purchase of fishery products from United States processors, and the advancement of fisheries trade through the purchase of fish and fishery products from United States fishermen, particularly fish and fishery products for which the foreign nation has requested an allocation;".

(3) Section 301(a)(1) is amended by inserting "for the United States fishing industry" immediately before the period at the end thereof.

(4) Section 306(a) is amended to read as follows: "(a) IN GENERAL.—

"(1) Except as provided in subsection (b), nothing in this Act shall be construed as extending or diminishing the jurisdiction or authority of any State within its boundaries.

"(2) For the purposes of this Act, except as provided in subsection (b), the jurisdiction and authority of a State shall extend—

"(A) to any pocket of waters that is adjacent to the State and totally enclosed by lines delimiting the territorial sea of the United States pursuant to the Geneva Convention on the Territorial Sea and Contiguous Zone or any successor convention to which the United States is a party;

"(B) with respect to the body of water commonly known as Nantucket Sound, to the pocket of water west of the seventieth meridian west of Greenwich; and

"(C) to the waters of southeastern Alaska (for the purpose of regulating fishing for other than any species of crab) that are—

"(i) north of the line representing the international boundary at Dixon Entrance and the westward extension of that line; east of 138 degrees west longitude; and not more than three nautical miles seaward from the coast, from the lines extending from headland to headland across all bays, inlets, straits, passes, sounds, and entrances, and from any island or group of islands, including the islands of the Alexander Archipelago (except Forrester Island); or

"(ii) between the islands referred to in clause (i) (except Forrester Island) and the mainland.

"(3) Except as otherwise provided by paragraph (2), a State may not directly or indirectly regulate any fishing vessel outside its boundaries, unless the vessel is registered under the law of that State.".

SEC. 105. EXPORT AUTHORITY REGARDING FISH.

(a) COMMODITY CREDIT CORPORATION.—Section 5(f) of the Commodity Credit Corporation Charter Act (15 U.S.C. 714c(f)) is amended by inserting "(including fish and fish products, without regard to whether such fish are harvested in aquacultural operations)" after "agricultural commodities".

(b) AGRICULTURAL TRADE DEVELOPMENT.—Section 402 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1732) is amended—

(1) by inserting "(including fish, without regard to whether such fish are harvested in aquacultural operations)" after "United States" the first place it appears; and

(2) by striking out the third sentence.

(c) FOOD FOR PEACE.—Section 4(c) of the Food for Peace Act of 1966 (7 U.S.C. 1707a(c)) is amended by inserting "(including fish, without regard to whether such fish are harvested in aquacultural operations)" after "agricultural commodity" the second place it appears.

(d) EFFECTIVE DATE.—For purposes of section 135 of the Omnibus Budget Reconciliation Act of 1982 (7 U.S.C. 612c note), the amendments made by this section shall be considered to have taken effect before the date of the enactment of that Act.

SEC. 106. RELINQUISHMENT OF LEGISLATIVE JURISDICTION OVER CERTAIN LANDS.

Notwithstanding any other law, the Secretary of Commerce, whenever the Secretary considers it desirable, may relinquish to a State, or to a Commonwealth, territory, or possession of the United States, all or part of the legislative jurisdiction of the United States over lands or interests under the Secretary's control in that State, Commonwealth, territory, or possession. Relinquishment of legislative jurisdiction under this section may be accomplished—

(1) by filing with the Governor (or, if none exists, with the chief executive officer) of the State, Commonwealth, territory, or possession concerned a notice of relinquishment to take effect upon acceptance of the notice; or

(2) as required by the laws of the State, Commonwealth, territory, or possession.

TITLE V—NATIONAL SEA GRANT COLLEGE PROGRAM

AUTHORIZATION

SEC. 501. (a) Section 212 of the National Sea Grant Program Act (33 U.S.C. 1131) is amended by inserting immediately after paragraph (3) the following new paragraph:

"(4) Not to exceed $39,000,000 for fiscal year 1985, not to exceed $42,000,000 for fiscal year 1986, and not to exceed $44,000,000 for fiscal year 1987.".

(b) Section 3(c) of the Sea Grant Program Improvement Act of 1976 (33 U.S.C. 1124a(c)) is amended by inserting immediately after paragraph (3) the following new paragraph:

"(4) For fiscal years 1985, 1986, and 1987, not to exceed $1,000,000, appropriated in each fiscal year pursuant to section 212 of the National Sea Grant Program Act, may be available to carry out out this section.".

TITLE VI—OCEAN THERMAL ENERGY CONVERSION ACT

SEC. 601. Section 406 of the Ocean Thermal Energy Conversion Act of 1980 (Public Law 96-320) is amended by—

(1) striking out the word "and" after "1982,"; and

(2) striking out "1983," and inserting in lieu thereof "1983, not to exceed $480,000 for each of the fiscal years ending September 30, 1984 and September 30, 1985, and not to exceed $630,000 for each of the fiscal years ending September 30, 1986 and September 30, 1987.".

MISCELLANEOUS

SEC. 602. (a) The Ocean Thermal Energy Conversion Act of 1980 (Public Law 96-320) is amended—

(1) in section 2(a)(1) by striking out "located in the territorial sea" and inserting in lieu theref "located in whole or in part between the highwater mark and the seaward boundary of the territorial sea";

(2) in section 3(11) by striking out "standing or moored in or beyond the territorial sea of the United States" and inserting in lieu thereof "standing, fixed or moored in whole or in part seaward of the highwater mark";

(3) in the first sentence of section 101(a) by striking out "located in the territorial sea" and inserting in lieu thereof "located in whole or in part between the highwater mark and the seaward boundary of the territorial sea";

(4) in section 101(b)(2) by striking out "located in the territorial sea" and inserting in lieu thereof "located in whole or in part between the highwater mark and the seaward boundary of the territorial sea";

(5) in section 101(c)(7) by striking out "will not be documented under the laws of the United States;" and inserting in lieu thereof "will be documented under the laws of a foreign nation;";

(6) in section 108(e)(2)(C)(ii) by striking out "moored or standing" and inserting in lieu thereof "moored, fixed or standing";

(7) in section 108(e) by adding a new paragraph (4) to read as follows:

"(4) For the purposes of this subsection the term 'ocean thermal energy conversion facility' refers only to an ocean thermal energy conversion facility which has major components other than water intake or discharge pipes located seaward of the highwater mark.";

(8) in section 110(1) by striking out "aboard" and inserting in lieu thereof "in or aboard";

(9) in section 301 by striking out "on board" and inserting in lieu thereof "in or on board", by striking out "or other" and inserting in lieu thereof "or on board any", and by striking out in paragraph (2) thereof "to board" and inserting in lieu thereof "to enter or board";

(10) in section 303(b) by striking out "on board" and inserting in lieu thereof "in or on board", by striking out "or other" in the chapeau and inserting in lieu thereof "or any", and by striking out in paragraph (1) thereof "board and inspect" and inserting in lieu thereof "enter or board, and inspect, any ocean thermal energy conversion facility or plantship or";

(11) in the first sentence of section 403(a)(1) by inserting "and all of which is located seaward of the highwater mark," immediately after "licensed under this Act"; and

(12) in the first sentences of the section 403(c)(2) by inserting "documented under the laws of the United States and" immediately after "ocean thermal energy conversion facility or plantship".

(b) Such Act is further amended—

(1) in section 101(c)(1) by striking out "cannot and will not" and inserting in lieu thereof "cannot or will not";

(2) in section 101(c)(5) by striking out "has expired;" and inserting in lieu thereof "has not expired;";

(3) in section 101(c)(10) by striking out "each" and inserting in lieu thereof "any";

(4) in section 101(c)(13) by striking out "and" after the semicolon and inserting in lieu thereof "or"; and

(5) in section 101(c)(10) by striking out "(33 U.S.C. 1451 et seq.)" and inserting in lieu thereof "(16 U.S.C. 1451 et seq.)";

(c) Section 405 of such Act is amended by striking out "of the first 3 fiscal years" and inserting in lieu thereof "fiscal year".

(d) Such Act is further amended by adding the following new section:

"SEC. 408. Within 18 months after the date of enactment of this provision, the Administrator shall submit to the President of the Senate and the Speaker of the House of Representatives a report detailing what steps the United States Government is taking and plans to take to promote and enhance the export potential of ocean thermal energy conversion components, facilities, and plantships manufactured by United States industry. Such report shall include—

"(1) the relevant views of the National Oceanic and Atmospheric Administration, International Trade Administration, Maritime Administration, Department of Energy, Small Business Administration, United States International Development Cooperative Agency, the Office of the Special Trade Representatives, and other relevant United States Government agencies;

"(2) the findings of studies conducted by the Administrator to fulfill the intent of this section;

"(3) a summary of activities, including consultations held with representatives of both the ocean thermal energy conversion and financial industries conducted by the Administration to fulfill the intent of this section; and

"(4) such recommendations as the Administrator deems, appropriate for amending the Ocean Thermal Energy Conversion Act

of 1980 (Public Law 96-320) or other relevant Acts to better promote and enhance the export potential of ocean thermal energy conversion components facilities and plantships manufactured by United States industry.".

"(e) Such Act is further amended—

(1) in the first sentence of section 108(d)(1) by striking out "reorganizational safety" and inserting in lieu thereof "navigational safety";

(2) in section 109(b)(2) by striking out "natural" and inserting in lieu thereof "national";

(3) in section 112(b) by striking out "confidential commercial and financial information)" and inserting in lieu thereof "commercial or financial information which is privileged or confidential)";

(4) in section 116(a) by striking out "facility or platform" and inserting in lieu thereof "facility or plantship";

(5) in section 302(b)(1) by inserting "to halt" immediately after "injunction,";

(6) in the first sentence of section 403(c)(2) by striking out "Treasury" and inserting in lieu thereof "Treasury, including the provisions of the Tariff Act of 1930, as amended (19 U.S.C. 1202), and other laws codified in title 19, United States Code,";

(7) in section 3(11) by striking out "freshwater," and inserting in lieu thereof "fresh water,";

(8) in section 101(c)(4) by striking out "enforcement" and inserting in lieu thereof "regulatory";

(9) in section 101(c)(6) by striking out "for license" and inserting in lieu thereof "for a license";

(10) in section 101(c)(14) by striking out "when" and inserting in lieu thereof "if";

(11) in section 101(d)(2) by striking out "licenses" and inserting in lieu thereof "applicant, licenses";

(12) in the first sentence of section 105(a)(2) by striking out "that (A)" and inserting in lieu thereof "(A) that";

(13) in the first sentence of section 105(b)(1) by striking out "of adjacent" and inserting in lieu thereof "of an adjacent";

(14) in the third sentence of section 105(b)(1) by striking out "is" and inserting in lieu thereof "are";

(15) by inserting the text of section 109(b)(3) as a new paragraph (3) immediately after the end of paragraph (2) of section 108(d), and by repealing section 109(b)(3);

(16) in section 109(c) by striking out "such of" and inserting in lieu thereof "of such", and by striking out "impingment" and inserting in lieu thereof "impingement";

(17) in section 111(b) by striking out "environment established by any treaty or convention," and inserting in lieu thereof "environment,"; and

(18) in section 112(b)(2)(B) by striking out "administrator" and inserting in lieu thereof "Administrator".

(f) Section 102(h) of such Act is amended to read as follows:

"(h) The Administrator shall not take final action on any application unless the applicant has paid to the Administrator a reasonable administrative fee, which shall be deposited into miscellaneous receipts of the Treasury. The amount of the fee imposed by the Administrator on any applicant shall reflect the reasonable administrative costs incurred by the National Oceanic and Atmospheric Administration in reviewing and processing the application".

TITLE VII—EXPOSURE SUITS

SEC. 701. (a)(1) Chapter 31 of title 46, United States Code, is amended by adding at the end thereof the following:

"§ 3102. Exposure suits.

"(a) The Secretary shall by regulation require exposure suits on vessels designated by the Secretary that operate in the Atlantic Ocean north of 32 degrees North latitude or south of 32 degrees South latitude and in all other waters north of 35 degrees North latitude or south of 35 degrees South latitude. The Secretary may not exclude a vessel from designation under this section only because that vessel carries other lifesaving equipment.

"(b) The Secretary shall establish standards for an exposure suit required by this section, including standards to guarantee adequate thermal protection, buoyance, and flotation stability.

"(c)(1) The owner, charterer, managing operator, agent, master, or individual in charge of a vessel violating this section or a regulation prescribed under this section is liable to the United States Government for a civil penalty of not more than $5,000. The vessel also is liable *in rem* for the penalty.

"(2) The owner, charterer, managing operator, agent, master, or individual in charge of a vessel violating this section or a regulation prescribed under this section may be fined not more than $25,000, imprisoned for not more than 5 years, or both.".

(2) The analysis of chapter 31 of title 46, United States Code, is amended by inserting immediatly after the item relating to section 3101 the following:

"3102. Exposure suits.".

(b) Section 3102 of title 46, United States Code (as added by subsection (a) of this section), does not limit the authority of the Secretary of the department in which the Coast Guard is operating to prescribe regulations requiring exposure suits on vessels not required by section 3102 to have exposure suits.

(c) The regulations prescribed under section 3102 of title 46, United States Code (as added by subsection (a) of this section), shall be effective not later than 60 days after the date of enactment of this title.

(d) Not later than 6 months after the date of enactment of this title, the Secretary of the department in which the Coast Guard is operating shall submit a report to the Congress evaluating the benefits and disadvantages of extending the regulations prescribed under section 3102 of title 46, United States Code (as added by subsection (a) of this section) to require exposure suits on designated vessels operating in all waters north of 31 degrees North latitude or south of 31 degrees South latitude.

Mr. JONES of North Carolina (during the reading). Mr. Speaker, I ask unanimous consent that the amendment in the nature of a substitute be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The amendment in the nature of a substitute was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The title of the bill was amended so as to read: "A bill to approve governing international fishery agreements with Iceland and the EEC; to establish national standards for artificial reefs; to implement the Convention on the Conservation of Antarctic Marine Living Resources; and for other purposes."

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. JONES of North Carolina. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

CLEARING CERTAIN IMPEDIMENTS TO LICENSING OF VESSEL "ENDLESS SUMMER" FOR EMPLOYMENT IN COASTWISE TRADE

Mr. JONES of North Carolina. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1689) to clear certain impediments to the licensing of the vessel *Endless Summer* for employment in the coastwise trade, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

Mr. PRITCHARD. Mr. Speaker, reserving the right to object, I would ask the gentleman from North Carolina to explain the Senate bill at this time.

Mr. JONES of North Carolina. Mr. Speaker, will the gentleman yield?

Mr. PRITCHARD. I yield to the gentleman from North Carolina.

Mr. JONES of North Carolina. Mr. Speaker, the Coast Guard Authorization Act of 1984 was approved by the House on March 29, by a rollcall vote of 348 to 38. The revised version of this bill—which I am asking the House today to accept—is, in most respects, consistent with the bill we brought to the floor this spring. The differences between this and the House-passed bill are generally minor, or consist of noncontroversial changes added, after consulting with the other body.

We have added $30 million in 1985 and 1986 to the amount authorized for the acquisitions, constructions and improvements account by the House. The extra money is intended for the purpose of establishing a search and rescue facility in the Aleutian Islands. Obviously, the ability of the Coast Guard to initiate this project will depend on the availability of additional appropriated funds. The language in the bill does not accord this project

a higher priority than other programs currently earmarked for funding, nor should it be interpreted to exempt the project from the normal cost-benefit studies carried out by the Coast Guard.

The bill includes an authorization for bridge alteration programs in fiscal 1986. We readily acknowledge the value of including this language in the bill, so that a separate authorization for this account next year will not be required.

The revised bill seeks to continue in law the present floor of 5,584 on the number of civilian personnel in the Coast Guard. The House bill, which refers to "full-time equivalent" civilian employees, would have established a floor of 5,814. Because of the peculiar manner in which the Office of Management and Budget learned arithmetic, these numbers—although apparently 330 apart—should add up to roughly the same number of actual people.

We have added a requirement that the Secretary of Transportation consult with other interested Federal agencies in formulating plans for the construction of new polar icebreakers. This is a constructive addition, and we had no problem accepting it.

We have revised a House provision intended to penalize those who knowingly sell recreational boats containing a safety defect. The Senate language would apply the penalties only if the seller has been formally notified by the Coast Guard or a manufacturer of the defect. This, too, is a helpful change.

We have added a requirement that the Coast Guard submit a study of the costs and benefits of using civilians to operate the vessel traffic service system in San Francisco prior to going forward with plans to civilianize that operation. Our primary interest is in barring the unwise contracting out of the operation of this facility. We have no problem with the requirement for a study, but we hope that it can be done quickly and without placing a significant burden on the Coast Guard.

The House-passed version of this bill included a requirement that the Coast Guard operate a fleet of 29 C-130 aircraft by the end of fiscal 1986. The revision has reduced this figure to 27. The Senate level represents an increase of four C-130's from the current figure, and should, I believe, be acceptable to the House.

We have a modified form of the House language requiring that Congress be notified prior to the issuance of contract proposals under OMB Circular A-76. The changes are relatively minor, and are intended to reduce somewhat the paperwork demands placed on the Secretary of Transportation. As I explained before House action on this bill, this section does not reflect opposiiton on our part to the contracting process. We do believe, however, that contracting could have a major effect on the size and scope of Coast Guard activities, and that we have a responsibility to gather accurate and timely information concerning this program as it goes forward. If, after a period of 6 months, it becomes clear that the A-76 process will not have a harmful effect on the operational capability of the Coast Guard, I will propose legislation to substitute a less formal notification provision for that contained in the present bill.

The revision includes a number of provisions that were not contained in the House-passed measure, but which are not controversial and will result in little, if any, increase in cost.

For example, the bill includes a provision to enable the Coast Guard to pay certain preappointment travel expenses to applicants to the Coast Guard Academy. This is similar to authority long held by the other service academies, and which has already been approved by the House in separate legislation.

The bill also includes a provision to require that 30 Coast Guard cutters be available through 1985 and 1986 for service on the Atlantic and gulf coasts. This requirement can be achieved by maintaining two or three older Coast Guard cutters in service while renovation programs for more modern cutters go forward.

In addition, there is language that will modify recently issued Coast Guard regulations requiring the presence of survival suits on certain types of U.S. vessels. This provision will eliminate an exemption from the regulations granted by the Coast Guard to vessels possessing wholly enclosed life boats, and will increase the penalty for violating the regulations to a maximum of a $25,000 fine or 5 years in jail. This provision will also extend the survival suit requirement on the east coast to cover vessels operating as far south as 32 degrees north latitude, a change from the 35 degrees north latitude contained in the Coast Guard regulations. Consideration had been given to expanding the coverage of this requirement even further, to cover all waters on both coasts down to 31 degrees north latitude. The reason for this is that water temperatures of 60 degrees Fahrenheit or below are common down to that latitude; 60 degrees is the temperature that the Coast Guard has itself selected as the cutoff for considering survival suits mandatory to protect against the effects of hypothermia. Our committee did not, however, believe that it would be equitable to change the Coast Guard requirement this extensively without permitting both the Coast Guard and the public the opportunity to study and comment on the issue in greater detail. The language includes a requirement that the Coast Guard prepare a study on this subject during the 6 months following enactment of this bill. We will review this study and consider taking additional action on this subject next year.

There is an authorization of $612,000 to be used for a demonstration project to develop a fire response capability for vessels through the acquisition of equipment and supplies and through training of fire response personnel. This grant, which must be approved through the appropriations process and which I would hope will not come from Coast Guard funds, would be awarded to the Maritime Fire and Safety Association, a nonprofit organization incorporated in the State of Oregon.

Two minor changes in shipping laws were also included. The first will exempt federally licensed pilots on U.S. vessels of less than 1,600 gross tons from the requirement that they have an annual physical examination. This language is required to relieve such individuals of a requirement that was imposed upon them as a result of events flowing from a recent court ruling that was intended primarily to deal with other issues. The second exempts barges which operate almost exclusively on the inland rivers except for a small near coastal section of Lake Michigan from certain load line requirements that were established for vessels operating extensively on the Great Lakes.

Finally, the revision includes several minor revisions of law related to the regulatory treatment of sailing school vessels. These revisions make it clear that sailing school students and sailing school instructors are not to be considered to be passengers for the purposes of subtitle II of title 46 or the United States Code, and that sailing school vessels are not to be considered merchant vessels for the purposes spelled out in sections 11101 (a) through (c) title 46. In addition, the definition of sailing school instruction is broadened to include instruction in mathematics and language arts skills to sailing school students having learning disabilities, provided this instruction is performed in conjunction with other sailing school subjects. This change is intended to permit the sailing school vessel operated by Landmark School of Prides Crossing, MA, to qualify for treatment as a sailing school vessel under the law. Landmark school is one of the pioneer institutions in education for learning disabled students. In accepting this language, I take note of the fact that the law authorized the Coast Guard to issue safety regulations providing for the safe operation of sailing school vessels, and that it is assumed under the law that sailing school students will be capable of assisting in the safe operation of a sailing school vessel. It is clear, therefore,

that those taking instruction to correct learning disabilities will still be required to meet Coast Guard standards for competence in assisting in the operation of the vessel.

The remaining changes are technical or administrative in nature, and did not present any problems for members of our committee to accept.

Mr. DAVIS. Mr. Speaker, will the gentleman yield?

Mr. PRITCHARD. I yield to the gentleman from Michigan.

Mr. DAVIS. Mr. Speaker, I rise in support of the Coast Guard authorization bill of 1984 which provides $2.4 billion for 1985, and $2.6 billion for 1986 and direction for Coast Guard capital improvements with regard to maintaining both vessel and aircraft fleets. In addition, the bill contains the military and civilian manning levels for the Coast Guard in each of these years. Beyond money and manpower, the bill contains other important measures concerning Coast Guard programs or laws administered by the Coast Guard.

I was particularly pleased that we were able to include certain provisions that concern the Great Lakes and the military responsibilities of the Coast Guard. Specifically, these provisions include:

Amendments to the Coastwise Load Line Act which exempts certain barges operating close to shore on the Great Lakes from loadline requirements but establishes special operating regulations to ensure safety;

Clarifies the logbook requirements in the shipping laws so that vessels traveling to Canada are exempt from this requirement as they had been prior to the enactment of subtitle II of title 46, United States Code;

Provides for adequate representation of the Coast Guard on the Reserve Forces Policy Board in DOD; and

Recognizes that the Commandant is on an equal pár with the chiefs of the other military services for pay purposes.

In addition, there are many items included in the legislation that were supported or requested by the administration. These provisions include a transfer of funds provision which gives the Secretary of Transportation the flexibility to manage various accounts, establishes the position of Associate Deputy Secretary of Transportation, provides for legal equity for women in the Coast Guard, enhances coastal and inland navigation safety, and makes improvements in the management and efficiency of the Coast Guard.

Mr. Speaker, the Coast Guard is recognized throughout the Nation as a highly professional and cost-effective service. Those of us who represent maritime areas, such as the Great Lakes, can assure you that these services are essential. This bill not only provides for adequate funding of the Coast Guard and its important programs, but also fulfills our oversight responsibilities to review the programs and laws of the Coast Guard and makes improvements where required.

Mr. STUDDS. Mr. Speaker, will the gentleman yield?

Mr. PRITCHARD. I yield to the gentleman from Massachusetts.

Mr. STUDDS. Mr. Speaker, the gentleman from North Carolina has explained to the House the differences between this legislation as it passed the House last March and the measure we have before us today. I would like, very briefly, to summarize the other major provisions of this legislation.

Most important, this bill will mandate a floor on the number of civilian and military personnel in the Coast Guard, thereby preventing reductions planned for 1985 and 1986. The goal is to make certain that Coast Guard positions made available as a result of contracting to the private sector will not be eliminated, but will instead be dedicated to strengthening the Coast Guard's ability to perform its high priority at-sea missions of law enforcement, military readiness, and search and rescue. We do not believe it would be in the national interest to reduce the size of the Coast Guard.

This bill includes language that I had originally sponsored to strengthen Federal law with respect to the problem of operating a vessel while intoxicated. This provision will improve boater education and accident reporting requirements within the framework of the Federal Boat Safety Act, while also imposing civil and criminal penalties for operating a vessel while drunk.

Our committee recognized that the primary responsibility for enforcing laws with respect to the operating of recreational vessels resides with State and local officials, not with the Coast Guard. This provision supplements, not preempts, State law, It is not anticipated that the Coast Guard will alter its current maritime law enforcement strategy, or the allocation of its law enforcement resources, as a result of the enactment of this section. This provision is intended merely to provide the Coast Guard with an additional law enforcement tool in the event it should—during the course of its normal law enforcement activities—become aware of a person operating a vessel while intoxicated. The committee recognizes that the Coast Guard does not have the equipment or the training to function with respect to recreational boaters in the same manner as State highway police forces function with respect to the operators of automobiles.

This provision is important, however, in that it will demonstrate a determination on the part of Congress to encourage State governments to enact—and enforce—strong boating safety laws. We also recognize that recreational boating is meant to be a relaxing and social experience. Operating a vessel is not precisely the same as operating a car. But the fact is that both cars and boats require coordination and concentration to operate safely; both can be deadly when control of their operation is lost; and too many fatalities both on the road and on the waters occur as a result of excessive use of alcohol.

We believe the other body will also accept a provision that I proposed to require the Coast Guard to initiate a program for the purpose of training selected Coast Guard personnel in specialized rescue swimming skills. This section was prompted by the tragic sinking of the collier *Marine Electric* off the coast of Virginia in February of last year. During the rescue efforts subsequent to that tragedy, the Coast Guard was forced to rely on a Navy swimmer to enter frigid waters for the purpose of assisting survivors into life rafts and helicopter rescue apparatus; 31 of the 34 crew members on that vessel died.

Our committee is well aware of the funding problems faced by the Coast Guard and does not intend that the requirements of this section should place an unwarranted burden on its resources. Testimony presented to the Subcommittee on Coast Guard and Navigation during marine safety oversight hearings in 1983 indicated that rescue swimmer training should be provided to Coast Guard personnel through participation in a program of this type conducted by the U.S. Navy. A Navy witness estimated during those hearings that training could be made available to the Coast Guard at a cost of $1,530 per student, excluding personnel and helicopter costs.

The committee expects the Coast Guard to make a serious effort to initiate an effective rescue swimmer program during 1985. To this end, it is suggested that the Coast Guard consider taking advantage of Navy training facilities, if they are judged suitable to the particular needs of the Coast Guard .

Another section of the bill requires the Secretary of Transportation to proceed vigorously with efforts to develop improved lifesaving equipment for use on passenger ferries.

This provision is also the result of the marine safety oversight hearings held by the Coast Guard Subcommittee in 1983. During those hearings, concern was expressed that passenger ferries are not required to carry lifeboats or liferafts with the capacity of the vessel. This is true despite the fact that the passengers on such vessels are not trained in emergency procedures and that passenger ferries frequently transverse coldwater areas where exposure to the water would

result in death within a brief period of time.

This issue was discussed in a letter from Admiral Gracey to Chairman JONES on November 10, 1983, in which the Commandant wrote that the Coast Guard has:

> Agreed in principle with a proposal by the Washington State ferries to provide a new type of buoyant apparatus on some of their vessels. The apparatus is designed to keep survivors out of the water, has no canopy, and has a large capacity. We will be working closely with the manufacturer of the apparatus and the ferry system to evaluate the device.

This section of the bill is intended to encourage the Coast Guard to persist in this effort to identify effective and affordable lifesaving equipment for use on ferries.

The Coast Guard Authorization Act of 1984 is, I believe, a highly constructive and very important piece of legislation. It charts a course for the Coast Guard for the next 2 years that reflects with some precision the very large interest that our Nation has in an active and strong Coast Guard; it requires a number of actions intended to promote safety in maritime operations and to improve the Coast Guard search and rescue capability; it recognizes our national security interest in a vigorous program of polar research and it includes a large number of minor revisions in law that will facilitate the sound and equitable management of Coast Guard operations and maritime law.

Mr. PRITCHARD. Mr. Speaker, I rise in strong support of S. 1689, the Coast Guard Authorization Act of 1984. The major elements of this bill are almost identical to those in H.R. 4841, which this House passed overwhelmingly on March 29 of this year by a vote of 348 to 38.

During my years of service on the House Committee on Merchant Marine and Fisheries, I have come to know the Coast Guard to be a highly capable, dedicated group of people, successfully performing many missions of national importance.

The Nation had asked the Coast Guard to undertake numerous significant additional at-sea responsibilities during the last few years, such as enforcement of the 200-mile fisheries zone, drug interdiction, patrol around the island of Grenada in relief of the U.S. Navy, and security at the Los Angeles Olympic games. We also count upon the Coast Guard for activities as diverse as safety of the U.S. merchant fleet, polar and domestic icebreaking, nationwide marine search and rescue, and numerous military roles such as coastal antisubmarine warfare, convoy escort, and port mobilization during time of war or national emergency.

I believe that the Coast Guard performs these diverse responsibilities remarkably well. We must not shortchange the Coast Guard when it comes to providing the service with adequate numbers of personnel, and providing them with adequate training and equipment to carry out their jobs safely and efficiently.

I am pleased to see that President Reagan's budget request for fiscal year 1985 takes a kinder view of the Coast Guard's requirements than the administration did in previous years. However, I still have some concern about the adequacy of the administration's request for certain budget accounts, for example, the operating expense and research and development accounts. In particular, I am concerned that the administration's request for only $23.5 million for research and development may be a penny-wise and pound-foolish way of saving some money, if the projects which the Coast Guard might pursue with additional money would have a high potential for achieving money-saving efficiencies in future years.

I want to make clear that I support many of the President's efforts to streamline Government operations and turn appropriate functions over to the private sector. It may well be reasonable, and more cost effective, to contract out certain functions that now are performed by Government agencies; some of the Coast Guard aids-to-navigation functions may fall in this category. However, I have a great concern that the administration's fiscal year 1985 proposals to reduce civilian and military personnel levels may erode the Coast Guard's overall capability to carry out its civilian and military missions. I believe that the personnel "floors" included in the Coast Guard Authorization Act for both military and civilian personnel will enable the Coast Guard to carry out its responsibilities fully, and with a quality of performance that the people of the United States expect and the public interest demands.

In addition to authorizing dollar amounts and personnel levels, this bill also directs the Coast Guard to initiate several activities which I believe are greatly in the public interest. Section 6 requires the Secretary of Transportation to prepare design and construction plans for the purchase of at least two new icebreaking vessels capable of operating in the heavy ice regions of the Arctic and the Antarctic. This planning is necessary to prepare for the replacement of the older existing Coast Guard icebreakers. The Secretary is to report to Congress in 1985 and 1986 on the status of these plans.

Section 9 directs the Commandant of the Coast Guard to establish a helicopter rescue swimmer program for the purpose of training selected Coast Guard personnel in rescue swimming skills. The Coast Guard estimates that this specialized rescue swimmer training should help to save several dozen lives each year.

Section 10 of the bill directs the Secretary of Transportation to proceed vigorously with efforts to develop improved lifesaving equipment for use on passenger ferries. Ferries now are required to carry only certain amounts and types of equipment which may or may not be sufficient to save the lives of all persons on board if a ferry sank, particularly if the sinking occurred in cold waters such as Puget Sound.

Section 15 of the bill would amend various statutes that currently make reference to only one sex—for example, "enlisted man," "widow"—to make them gender-neutral—for example, "enlisted member," "surviving spouse"—to eliminate any substantial sexual discrimination that may result from use of these terms under existing law. I am glad to see these amendments providing legal equity to the women of the Coast Guard.

S. 1689 adds a number of provisions which did not appear in H.R. 4841. Most of these new provisions either are housekeeping matters requested by the Coast Guard or are technical cleanup amendments to correct minor errors or oversights in laws enacted recently.

Mr. Speaker, the well-being of the United States benefits from a Coast Guard having the equipment and the capably trained, confident personnel to carry out the numerous missions to which I have just referred. I urge all my colleagues in the House of Representatives to support S. 1689.

● Mr. YOUNG of Alaska. Mr. Speaker, I rise in support of the Coast Guard authorization bill, S. 1689. This bill gives the Coast Guard funding for fiscal years 1985 and 1986. The bill provides $2.4 billion and $2.6 billion for each of those years respectively.

I, like many of us, want to see the Coast Guard adequately funded in these years so that it has the people and equipment to perform its important at-sea operations, including search and rescue, law enforcement, icebreaking, marine safety, and military readiness.

I want to outline some specific items that are important for my State of Alaska and for the rest of the Nation in this legislation. These provisions are:

The sum of $30 million for the design and construction of a search and rescue facility in the Aleutian Islands to permit prompt response to all fishing vessels in the Bering Sea;

Planning for icebreakers to replace the existing worn out cutters;

Establishment of a C-130 fleet of aircraft (27 planes) to insure a continued level of service throughout the Nation;

Development of an electronic surveillance system for C-130's to improve search and rescue capabilities as

well as maximize fisheries law enforcement and prosecution;

Authorization for the Coast Guard to pay travel expenses from remote areas such as Alaska for an orientation visit for potential candidates for appointment to the Coast Guard Academy;

Clarification of pilot requirements, including when a pilot is required on board vessels in Prince William Sound; and

Technical clarifications needed in the Commercial Fishing Industry Vessel Act.

In addition, the bill contains provisions that would provide for legal equity for women in the Coast Guard by eliminating gender-specific terms, for coastal and inland navigation safety by reauthorizing two valuable safety advisory committees and making a certain inland rule change, and for improvements in the management and efficiency of Coast Guard programs, including the administration of health care for Coast Guard personnel. These three general areas were the subject of legislation I introduced earlier this Congress and are provisions requested by the administration. Finally, the bill provides for better mobilization planning by allowing the Commandant to appoint the number of Reserve flag officers required and by authorizing the designation of two officers from the Coast Guard on the Reserve Forces Policy Board of DOD.

The Merchant Marine and Fisheries Committee has conducted numerous field oversight hearings throughout the country, most recently in Alaska, where we learned that the Coast Guard is a hard working, efficient agency providing the public and the Nation with services they need and deserve. If we found anything, it was a gap in the resources to do all of the jobs the Coast Guard is charged to do under the law. All Coast Guard duties need to be fully funded and this bill should be a step to achieve that goal.●

Mr. PRITCHARD. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The Clerk read the Senate bill as follows:

S. 1689

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding the provisions of section 27 of the Merchant Marine Act, 1920 (46 U.S.C. 883), or any other provision of law to the contrary, the Secretary of the department in which the United States Coast Guard is operating shall cause the vessel Endless Summer, owned by the Commonwealth of Virginia, to be documented as a vessel of the United States, upon compliance with the usual requirements, with the privilege of engaging in the coastwise trade so long as such vessel is owned by a citizen of the United States.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. JONES OF NORTH CAROLINA

Mr. JONES of North Carolina. Mr. Speaker, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. JONES of North Carolina: Strike all after the enacting clause and insert in lieu thereof the following:

That this Act may be cited as the "Coast Guard Authorization Act of 1984".

AUTHORIZATION OF FUNDS

SEC. 2. Funds are authorized to be appropriated for necessary expenses of the Coast Guard for fiscal years 1985 and 1986 as follows:

(1) For the operation and maintenance of the Coast Guard, including expenses related to the Capehart housing debt reduction, $1,800,000,000 for fiscal year 1985 and $1,950,000,000 for fiscal year 1986; and for increases in salary, pay, and other employee benefits authorized by law, and for the full amount of fixed costs associated with operation of five Coast Guard polar icebreaking vessels manned by Coast Guard military personnel, such sums as may be necessary for each such fiscal year.

(2) For the acquisition, construction, rebuilding, and improvement of aids to navigation, shore facilites, vessels, and aircraft, including equipment related thereto, $580,000,000 for fiscal year 1985 (of which $30,000,000 shall be for design, survey, acquisition and construction of a search and rescue facility in Western Alaska to serve the Aleutian Islands) and $680,000,000 for fiscal year 1986 (of which $30,000,000 shall be for construction of such facility).

(3) For research, development, test, and evaluation, $35,000,000 for fiscal year 1985 and $38,000,000 for fiscal year 1986.

(4) For the alteration or removal of bridges over navigable waters of the United States, constituting obstructions to navigation, $8,700,000 for fiscal year 1985, and such sums as may be necessary for expenses of the Coast Guard for such purposes for fiscal year 1986.

(5) For retired pay including the payment of obligations therefor otherwise chargeable to lapsed appropriations for this purpose, and payments under the Retired Serviceman's Family Protection and Survivor Benefit Plans, and for payments for medical care of retired personnel and their dependents under the Dependents' Medical Care Act, such sums as may be necessary for fiscal years 1985 and 1986.

PERSONNEL LEVELS

SEC. 3. Notwithstanding any other provision of law, the Coast Guard's full-time equivalent strength levels for fiscal years 1985 and 1986 shall be maintained as follows:

(1) For active duty military personnel, not less than 39,150 for fiscal years 1985 and 1986, which shall not include members of the Ready Reserve called to active duty under the authority of section 712 of title 14, United States Code, or Public Health Service officers on active duty with the Coast Guard.

(2) For civilian employees of the Coast Guard, not less than 5,484 for fiscal years 1985 and 1986.

MILITARY TRAINING

SEC. 4. For fiscal years 1985 and 1986, the Coast Guard is authorized average military training student loads as follows:

(1) for recruit and special training, 3,500 student-years.

(2) For flight training, 118 student-years.

(3) For professional training in military and civilian institutions, 556 student-years.

(4) For officer acquisition, 1,038 student-years.

TRANSFER OF FUNDS

SEC. 5. (a) Whenever the Secretary of the department in which the Coast Guard is operating determines it to be in the national interest, the Secretary may transfer not to exceed 5 percent of the funds appropriated for the purposes described in paragraph (1) or (2) of section 2 of this Act for use for any purpose described in any paragraph of section 2, except that the total available for the purposes for which the funds are transferred shall not be increased by more than 10 percent as a result of the transfer.

(b) No transfer of funds may occur under subsection (a) of this section until 15 days after the Secretary has provided written notification to the Chairman of the Committee on Commerce, Science, and Transportation of the Senate and the Chairman of the Committee on Merchant Marine and Fisheries of the House of Representatives stating the reasons for the determination and a description of the purposes for which the funds proposed to be transferred will be used.

POLAR ICEBREAKING

SEC. 6. (a) It is the sense of the Congress that the United States has important security, economic, and environmental interests in developing and maintaining a fleet of icebreaking vessels capable of operating effectively and independently in the heavy ice regions of the Arctic and Antarctic.

(b) The Secretary of the department in which the Coast Guard is operating shall prepare design and construction plans for the purchase of at least 2 new polar icebreaking vessels to be operational by the conclusion of fiscal year 1990, and shall provide detailed reports to the Congress describing the status of those plans in January 1985 and January 1986. In preparing such plans, the Secretary shall consult with other interested Federal agencies for the purpose of ensuring that all appropriate military, scientific, economic and environmental interests are taken into account.

ALCOHOL USE BY BOATERS

SEC. 7. (a) Section 2302 of title 46, United States Code, is amended by redesignating subsection (c) as subsection (d) and inserting immediately after subsection (b) the following:

"(c) An individual who is intoxicated when operating a vessel, as determined under standards prescribed by the Secretary by regulation, shall be—

"(1) liable to the United States Government for a civil penalty of not more than $1,000; or

"(2) fined not more than $5,000, imprisoned for not more than one year, or both.".

(b)(1) Section 6101(b) of title 46, United States Code, is amended by adding at the end thereof the following: "Each report filed under this section shall include information as to whether the use of alcohol contributed to the casualty.".

(2) Section 6102(a) of title 46, United States Code, is amended by inserting immediately before the period at the end thereof

the following: ", including information and statistics concerning the number of casualties in which the use of alcohol contributed to the casualty".

(3) Section 13102(c)(4) of title 46, United States Code, is amended by inserting immediately after "program" the following: ", that includes the dissemination of information concerning the hazards of operating a vessel when under the influence of alcohol".

RECREATIONAL BOATING SAFETY AMENDMENTS

SEC. 8. (a) Section 4307(a)(1)(A) of title 46, United States Code, is amended—

(1) by inserting "(i)" immediately after "(A)";

(2) by striking "or" at the end of clause (i), as so redesignated by paragraph (1) of this subsection, and inserting in lieu thereof "and"; and

(3) by adding at the end thereof the following:

"(ii) it does not contain a defect which has been identified, in any communication to such person by the Secretary or the manufacturer of that vessel, equipment or component, as creating a substantial risk of personal injury to the public; or".

(b) Section 4311(b)(1) of title 46, United States Code, is amended by inserting "defect or the" immediately before "nonconformity".

(c) Section 4311(f)(1) of title 46, United States Code, is amended by inserting "or that the person was not advised by the Secretary or the manufacturer of that vessel, equipment or component that the vessel, equipment or component contains a defect which creates a substantial risk of personal injury to the public" immediately before the semi-colon.

RESCUE SWIMMING PROGRAM

SEC. 9. The Secretary of the department in which the Coast Guard is operating shall use such sums as are necessary, from amounts appropriated for the operation and maintenance of the Coast Guard, to establish a helicopter rescue swimming program for the purpose of training selected Coast Guard personnel in rescue swimming skills.

LIFESAVING EQUIPMENT ON PASSENGER FERRIES

SEC. 10. The Secretary of the department in which the Coast Guard is operating shall proceed vigorously with efforts to develop improved lifesaving equipment for use on passenger ferries.

SAN FRANCISCO VTS

SEC. 11. (a) Of the funds authorized to be appropriated by paragraph (1) of section 2 of this Act, such sums as are necessary shall be used to maintain in full operation the vessel traffic service (VTS) system in San Francisco, California, throughout fiscal years 1985 and 1986.

(b) None of the funds authorized to be appropriated by this Act may be used to develop or issue a request for proposals to contract any function or activity involved in operating the vessel traffic service (VTS) system in San Francisco, California, which is, on the date of enactment of this Act, performed by Coast Guard personnel.

(c) None of the funds authorized to be appropriated by this Act may be used to hire, train, or otherwise utilize civilian personnel to replace Coast Guard military personnel involved in operating the vessel traffic service (VTS) system in San Francisco, California, until the Coast Guard has conducted a study in accordance with this subsection and has submitted the results of such study to the Congress. Such study shall identify the costs, efficiencies, and benefits, if any, that would accrue to the Federal Government, the Coast Guard, the ports, the Navy, and other users of the vessel traffic service (VTS) system in San Francisco, California, from the use of civilian personnel in that system.

LONG RANGE SEARCH AND SURVEILLANCE AIRCRAFT

SEC. 12. (a) Of the amounts authorized to be appropriated by paragraphs (1) and (2) of section 2 of this Act, such sums as are necessary shall be used to procure, maintain, and operate a fleet of not less than twenty-seven long range search and surveillance aircraft for use by the Coast Guard.

(b) The Secretary of the department in which the Coast Guard is operating is encouraged to conduct the research, development, test and evaluation necessary for an electronic surveillance system, capable of producing and documenting images for search and rescue or law enforcement purposes, for the long range search and surveillance aircraft of the Coast Guard.

PROTECTION OF SEAMEN

SEC. 13. (a) Chapter 21 of title 46, United States Code, is amended by adding at the end thereof the following:

"§ 2114. Protection of seamen against discrimination.

"(a) An owner, charterer, managing operator, agent, master, or individual in charge of a vessel may not discharge or in any manner discriminate against a seaman because the seaman in good faith has reported or is about to report to the Coast Guard that the seaman believes that a violation of this subtitle, or a regulation issued under this subtitle, has occurred.

"(b) A seaman discharged or otherwise discriminated against in violation of this section may bring an action in an appropriate district court of the United States. In that action, the court may order any appropriate relief, including—

"(1) restraining violations of this section; and

"(2) reinstatement to the seamen's former position with back pay.".

(b) The analysis of chapter 21 of title 46, United States Code, is amended by adding at the end thereof the following:

"2114. Protection of seamen against discrimination.".

CONTRACTING FOR SERVICES PERFORMED BY THE COAST GUARD

SEC. 14. (a) The Secretary of the department in which the Coast Guard is operating is encouraged to identify those functions and services presently performed by Coast Guard personnel which are not inherently governmental in nature, and which may be performed with equal effectiveness and at lower cost under contract to the private sector.

(b) None of the funds authorized to be appropriated by this Act may be used—

(1) to issue any contract that would have the effect, either by itself or in combination with other contracting proposals, of causing a deterioration in the overall ability of the Coast Guard to carry out its missions in behalf of the security, safety, and economic and environmental well-being of the United States; or

(2) to issue a request for proposals to contract out any function or activity which is, on the date of enactment of this Act, performed by civilian employees or members of the Coast Guard, unless a period of 30 days in which either the Senate or House of Representatives is in session has expired after the Secretary has submitted in writing to the President of the Senate, the Speaker of the House of Representatives, the Chairman of the Committee on Commerce, Science, and Transportation of the Senate, and the Chairman of the Committee on Merchant Marine and Fisheries of the House of Representatives a full and complete statement concerning the proposed contracting and the reasons therefor.

(c) Prior to the beginning of fiscal years 1985 and 1986, the Secretary shall submit to the Congress a list of functions or activities for which the Secretary expects to submit notifications required by subsection (b)(2) of this section during that fiscal year.

(d) The requirements of subsection (b)(2) of this section do not apply to contracts for functions or activities which are performed by three or fewer Coast Guard personnel.

LEGAL EQUITY FOR WOMEN

SEC. 15. (a)(1) Section 371 of title 14, United States Code, is amended—

(A) by striking "male" both places it appears in the second sentence of subsection (a);

(B) in subsection (c)(1)—

(i) by striking "he agrees in writing that, upon his" and inserting in lieu thereof "the person agrees in writing that, upon"; and

(ii) by striking "he will" and inserting in lieu thereof "the person will"; and

(C) by striking "he has the consent of his parent or guardian to his agreement" in subsection (c)(2) and inserting in lieu thereof (the person has the consent of the person's parent or guardian to the agreement".

(2) The first sentence of section 487 of such title is amended by striking "widows" and inserting in lieu thereof "surviving spouses".

(3)(A) The following section of such title are amended by striking "enlisted man" each place it appears and inserting in lieu thereof "enlisted member": 353, 354, 355, 357, 359, 360, 361, 362, 365, 366, 367, 370, 421, 423 and 424.

(B) The following sections of such title are amended by striking "enlisted men" each place it appears and inserting in lieu thereof "enlisted members": 41, 211(a)(2), 212(a)(2), 213(a)(1), 214, 357, 432(c), 478(d) and 480.

(C) The following sections of such title are amended by striking "Enlisted men" each place it appears and inserting in lieu thereof "Enlisted members": 41, 352, 367, 478(a), 481 and 482.

(D) The following sections of such title are amended by striking "officers and enlisted men" each place it appears and inserting in lieu thereof "members": 92(b), 144(a), 145(a)(2), 148, 149, 487 and 832.

(E) Section 149 of such title is amended by striking "Officers and enlisted men" and inserting in lieu thereof "Members".

(F) Section 351(a) of such title is amended by striking "men" and inserting in lieu thereof "persons".

(G) Section 361 of such title is amended by striking "the man" and inserting in lieu thereof "the member".

(H) Sections 192 and 483 of such title are amended by striking "commissioned officer, warrant officer, or enlisted man" each place it appears and inserting in lieu thereof "member".

(I) Section 488 of such title is amended by striking "officers and men" and inserting in lieu thereof "members".

(4)(A)(i) The heading of section 149 of such title is amended to read as follows:

"§ 149. Detail of members to assist foreign governments".

(ii) The item relating to such section in the analysis of chapter 7 of such title is amended to read as follows: "149. Detail of members to assist foreign governments.".

(B)(i) The heading of section 360 of such title is amended to read as follows:

"§ 360. Recall to active duty with consent of member".

(ii) The item relating to such section in the analysis of chapter 11 of such title is amended to read as follows: "360. Recall to active duty with consent of member.".

(C)(i) The heading of section 361 of such title is amended to read as follows:

"§ 361. Relief of retired enlisted member promoted while on active duty".

(ii) The item relating to such section in the analysis of chapter 11 of such title is amended to read as follows:

"361. Relief of retired enlisted member promoted while on active duty.".

(D)(i) The heading of section 487 of such title is amended to read as follows: "487. Procurement and sale of stores to members and civilian employees".

(ii) The item relating to such section in the analysis of chapter 13 of such title is amended to read as follows:

"487. Procurement and sale of stores to members and civilian employees.".

(E)(1) The heading preceding section 350 in such title is amended to read as follows:

"ENLISTED MEMBERS"

(ii) The heading preceding the item relating to section 350 in the analysis of chapter 11 of such title is amended to read as follows:

"ENLISTED MEMBERS"

(b)(1) The first section of the Act of August 19, 1950 (33 U.S.C. 771) is amended—

(A) by striking "he" in clause (1) and inserting in lieu thereof "that employee";

(B) by amending clause (2) to read as follows:

"(2) the surviving spouse of the former employee was married to the former employee prior to the retirement of the former employee from the Lighthouse Service and has not remarried—"; and

(C) by striking "such widow, so long as she" in the material after clause (2) and inserting in lieu thereof "the surviving spouse, so long as the surviving spouse".

(2) Section 2 of such Act (33 U.S.C. 772) is amended—

(A) by amending clause (2) to read as follows:

"(2) the surviving spouse of the employee has not since married,"; and

(B) by striking "such widow, so long as she" in the material after clause (2) and inserting in lieu thereof "the surviving spouse, so long as the surviving spouse".

COASTAL AND INLAND NAVIGATION SAFETY

SEC. 16. (a) Subsection (e) of Public Law 96-380 (33 U.S.C. 1231a(e)) is amended by striking "five years from the date of enactment of this Act" and inserting in lieu thereof "on September 30, 1990".

(b)(1) Rule 24(i) of the Inland Navigational Rules, enacted by section 2 of the Inland Navigational Rules Act of 1980 (33 U.S.C. 2024(i)), is amended by inserting "(except below the Huey P. Long Bridge on the Mississippi River)" immediately after "Western Rivers".

(2) Section 5 of the Inland Navigational Rules Act of 1980 (33 U.S.C. 2073) is amended—

(A) by amending the second sentence in subsection (c) to read as follows: "Members of the Council, while away from their home or regular place of business, may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code."; and

(B) by striking "5 years from the date of enactment of this Act" in subsection (d) and inserting in lieu thereof "on September 30, 1990".

(c) Rule 14 of the Inland Navigational Rules, enacted by section 2 of the Inland Navigational Rules Act of 1980 (33 U.S.C. 2014), is amended—

(1) in subsection (a), by striking "When" and inserting in lieu thereof "Unless otherwise agreed, when"; and

(2) by adding at the end thereof the following:

"(d) Notwithstanding paragraph (a) of this Rule, a power-driven vessel operating on the Great Lakes, Western Rivers, or waters specified by the Secretary, and proceeding downbound with a following current shall have the right-of-way over an upbound vessel, shall propose the manner of passage, and shall initiate the maneuvering signals prescribed by Rule 34 (a)(i), as appropriate.".

COAST GUARD MANAGEMENT AND EFFICIENCY

SEC. 17. (a) Section 971(b) of title 10, United States Code, is amended—

(1) by striking "and" at the end of clause (1);

(2) by striking the period at the end of clause (2) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following:

"(3) no officer of the Coast Guard may be credited with service as a midshipman at the United States Naval Academy or as a cadet at the United States Military Academy, United States Air Force Academy, or United States Coast Guard Academy.".

(b)(1) Section 257 of title 14, United States Code, is amended by adding at the end thereof the following:

"(e) An officer whose involuntary retirement or separation is deferred under section 295 of this title is not eligible for consideration for promotion to the next higher grade during the period of that deferment.".

(2)(A) Chapter 11 of such title is amended by inserting immediately after section 294 the following:

"§ 295. Deferment of retirement or separation for medical reasons.

"(a) Subject to subsection (b), the Secretary may defer the retirement or separation of a commissioned officer, other than a commissioned warrant officer, if the evaluation of the physical condition of the officer and determination of the officer's entitlement to retirement or separation for physical disability require hospitalization, medical observation, or other physical disability processing that cannot be completed before the date on which the officer would otherwise be retired or separated.

"(b) A deferment under subsection (a)—

"(1) may only be made with the consent of the officer involved; and

"(2) if the Secretary receives written notice from the officer withdrawing that consent, shall end not later than the end of the 60-day period beginning on the date the Secretary receives that notice.".

(B) The analysis of such chapter is amended by inserting immediately after the item relating to section 294 the following:

"295. Deferment of retirement or separation for medical reasons.".

(3)(A) Section 647 of such title is amended by striking "$25,000" and inserting in lieu thereof "$100,000".

(B) The amendment made by subparagraph (A) of this paragraph shall apply to all claims considered, ascertained, adjusted, determined, compromised or settled on or after the date of enactment of this Act.

(4) Section 367 of such title is amended—

(A) by striking "(a)" before "Under regulations";

(B) by striking "person detained" and inserting in lieu thereof "member detained"; and

(C) by striking "(1) of this subsection" and inserting in lieu thereof "clause (1)".

(c) Section 1114 of title 18, United States Code, is amended by striking "any officer or enlisted man of the Coast Guard," and inserting in lieu thereof "any member of the Coast Guard," and inserting in lieu thereof "any member of the Coast Guard, any employee of the Coast Guard assigned to perform investigative, inspection or law enforcement functions,".

(d) Section 402(d) of title 37, United States Code, is amended by inserting "and the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy" immediately after "Secretary of Defense".

(e)(1) Subsection (a) of section 3732 of the Revised Statutes of the United States (41 U.S.C. 11) is amended—

(A) by striking "except in the War and Navy Departments" and inserting in lieu thereof "except in the Department of Defense and in the Department of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy"; and

(B) by striking "or transportation" and inserting in lieu thereof ", transportation, or medical and hospital supplies".

(2) Subsection (b) of such section is amended by inserting "and the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy" immediately after "The Secretary of Defense".

(3) The first proviso under the heading "MEDICAL DEPARTMENT" in the Act entitled "An Act making appropriations for the support of the Army for the fiscal year ending June thirteenth, nineteen hundred and seven", approved June 12, 1906 (34 Stat. 255), is repealed.

(f)(1) Section 911 of the Military Construction Authorization Act, 1982 (42 U.S.C. 248c) is amended—

(A) by striking "and the Secretary of Health and Human Services" each place it appears and inserting in lieu thereof ", the Secretary of Health and Human Services, and the Secretary of Transportation when the Coast Guard is not operating as a service in the Navy"; and

(B) by inserting "the Secretary of Transportation when the Coast Guard is not operating as a service in the Navy," immediately before "and the appropriate officials".

(2) Section 1252 of the Department of Defense Authorization Act, 1984 (42 U.S.C. 248d) is amended—

(A) by striking "and the Secretary of Health and Human Services" each place it appears and inserting in lieu thereof ", the Secretary of Health and Human Services,

and the Secretary of Transportation when the Coast Guard is not operating as a service in the Navy"; and

(B) by inserting "and the Secretary of Transportation when the Coast Guard is not operating as a service in the Navy" immediately after "with the Secretary of Health and Human Services" each place it appears.

(g)(1) The first section of the Act of March 23, 1906 (33 U.S.C. 491), popularly known as the "Bridge Act of 1906", is amended—

(A) by striking "and Chief of Engineers for their aproval, nor until they" and inserting in lieu thereof "for the Secretary's approval, nor until the Secretary";

(B) by striking "by the Chief of Engineers and";

(C) by striking "of the Chief of Engineers and"; and

(D) by striking "of Transportation" the second and third places it appears.

(2) Section 502(b) of the General Bridge Act of 1946 (33 U.S.C. 525(b)) is amended—

(A) by striking "the Chief of Engineers and"; and

(B) by striking "they" both places it appears and inserting in lieu thereof "the Secretary".

REPEAL OF DUPLICATE TANKERMAN MANNING REQUIREMENT

SEC. 18. Section 8703(b) of title 46, United States Code, relating to tankerman manning requirements, is repealed.

INCLUSION OF SECRETARY OF TRANSPORTATION IN CERTAIN MEDICAL MATTERS

SEC. 19. Chapter 55 of title 10, United States Code, is amended—

(1) in section 1072—

(A) by striking all after "by" through "may be," in paragraph (2)(D)(iii) and inserting in lieu thereof "the administering Secretary"; and

(B) by adding at the end thereof the following:

"(3) 'Administering Secretaries' means the Secretaries of executive departments specified in section 1073 of this title as having responsibility for administering this chapter.";

(2) in section 1073, by striking all after "jurisdiction," through "Navy, and" and inserting in lieu thereof "the Secretary of Transportation shall administer this chapter for the Coast Guard when the Coast Guard is not operating as a service in the Navy, and the Secretary of Health and Human Services shall administer this chapter";

(3) in section 1074, by striking "Secretary of Defense and the Secretary of Health and Human Services" each place it appears and inserting in lieu thereof "administering Secretaries";

(4) in section 1074a(a), by striking "Secretary of Defense and the Secretary of Health and Human Services" and inserting in lieu thereof "administering Secretaries";

(5) in section 1076(b) and (d), by striking "the Secretary of Defense and the Secretary of Health and Human Services" and inserting in lieu thereof "the administering Secretaries";

(6) in section 1078(a) and (b), by striking "the Secretary of Health and Human Services" and inserting in lieu thereof "the other administering Secretaries";

(7) in section 1079—

(A) by striking "the Secretary of Defense and the Secretary of Health and Human Services" each place it appears and inserting in lieu thereof "the administering Secretaries"; and

(B) by striking "with the Secretary of Health and Human Services" in subsections (a), (h)(2) and (k) and inserting in lieu thereof "with the other administering Secretaries";

(8) in section 1080, by striking "the Secretary of Health and Human Services" and inserting in lieu thereof "the other administering Secretaries";

(9) in section 1081, by striking "the Secretary of Defense or the Secretary of Health and Human Services" and inserting in lieu thereof "the appropriate administering Secretary";

(10) in section 1083, by striking "the Secretary of Health and Human Services" and inserting in lieu thereof "the other administering Secretaries";

(11) in section 1084—

(A) by striking "the Secretary of Defense or the Secretary of Health and Human Services" and inserting in lieu thereof "an administering Secretary"; and

(B) by striking "he" and inserting in lieu thereof "the administering Secretary";

(12) by amending the text of section 1085 to read as follows:

"If a member or former member of a uniformed service under the jurisdiction of one executive department (or a dependent of such a member or former member) receives inpatient medical or dental care in a facility under the jurisdiction of another executive department, the appropriation for maintaining and operating the facility furnishing the care shall be reimbursed at rates established by the President to reflect the averge cost of providing the care.";

(13) in section 1086—

(A) by striking "the Secretary of Health and Human Services" in subsection (a) and inserting in lieu thereof "the other administering Secretaries"; and

(B) by striking "the Secretary of Defense and the Secretary of Health and Human Services" in subsection (e) and inserting in lieu thereof "the administering Secretaries"; and

(14) in section 1092(a)(1), by striking "Secretary of health and Human Services" and inserting in lieu thereof "other administering Secretaries".

CUTTER AVAILABILITY

SEC. 20. Throughout fiscal years 1985 and 1986, there shall be available for service at all times on the Atlantic and Gulf Coasts of the United States not less than, in the aggregate, 26 high and medium endurance Coast Guard cutters.

COAST GUARD REPRESENTATION ON RESERVE FORCES POLICY BOARD

SEC. 21. Section 175(b) of title 10, United States Code, is amended to read as follows:

"(b) Whenever the Coast Guard is not operating as a service in the Navy, the Secretary of Transportation may designate two officers of the Coast Guard, Regular or Reserve, to serve as voting members of the Board.".

EXPOSURE SUITS.

SEC. 22. (a)(1) Chapter 31 of title 46, United States Code, is amended by adding at the end thereof the following:

"§ 3102. Exposure suits.

"(a) The Secretary shall by regulation require exposure suits on vessels designated by the Secretary that operate in the Atlantic Ocean north of 32 degrees North latitude or south of 32 degrees South latitude and in all other waters north of 35 degrees North latitude or south of 35 degrees South latitude. The Secretary may not exclude a vessel from designation under this section only because that vessel carries other lifesaving equipment.

"(b) The Secretary shall establish standards for an exposure suit required by this section, including standards to guarantee adequate thermal protection, buoyance, and flotation stability.

"(c)(1) The owner, charterer, managing operator, agent, master, or individual in charge of a vessel violating this section or a regulation prescribed under this section is liable to the United States Government for a civil penalty of not more than $5,000. The vessel also is liable in rem for the penalty.

"(2) The owner, charterer, managing operator, agent, master, or individual in charge of a vessel violating this section or a regulation prescribed under this section may be fined not more than $25,000, imprisoned for not more than 5 years, or both.".

(2) The analysis of chapter 31 of title 46, United States Code, is amended by inserting immediately after the item relating to section 3101 the following:

"3102. Exposure suits.".

(b) Section 3102 of title 46, United States Code (as added by subsection (a) of this section), does not limit the authority of the Secretary of the department in which the Coast Guard is operating to prescribe regulations requiring exposure suits on vessels not required by section 3102 to have exposure suits.

(c) The regulations prescribed under section 3102 of title 46, United States Code (as added by subsection (a) of this section), shall be effective not later than 60 days after the date of enactment of this Act.

(d) Not later than 6 months after the date of enactment of this Act, the Secretary of the department in which the Coast Guard is operating shall submit a report to the Congress evaluating the benefits and disadvantages of extending the regulations prescribed under section 3102 of title 46, United States Code (as added by subsection (a) of this section) to require exposure suits on designated vessels operating in all waters north of 31 degrees North latitude or south of 31 degrees South latitude.

VESSEL FIRE RESPONSE CAPABILITY

SEC. 23. (a) The Secretary of the department in which the Coast Guard is operating shall make a grant to the Maritime Fire and Safety Association, a non-profit organization incorporated in the State of Oregon. Such grant shall be used for a demonstration project to develop a fire response capability for vessels through the acquisition of equipment and supplies and through training of fire response personnel. The Secretary shall ensure that funds made available by such grant are used for such purposes.

(b) For purposes of subsection (a) of this section, there are authorized to be appropriated not to exceed $349,000 for fiscal year 1985, not to exceed $160,000 for fiscal year 1986, and not to exceed $103,000 for fiscal year 1987.

CADET PREAPPOINTMENT TRAVEL EXPENSES

SEC. 24. (a) Chapter 9 of title 14, United States Code, is amended by inserting immediately after section 181 the following:

"§ 181a. Cadet applicants; preappointment travel to Academy.

"The Secretary is authorized to expend appropriated funds for selective preappointment travel to the Academy for orientation visits of cadet applicants.".

(b) The table of sections at the beginning of such chapter is amended by inserting im-

mediately after the item relating to section 181 the following:

"181a. Cadet applicants; preappointment travel to Academy.".

COMMODORE AND REAR ADMIRAL RESERVE POSITIONS

SEC. 25. (a)(1) Section 42(b) of title 14, United States Code, is amended by striking ".375" both places it appears and inserting in lieu thereof "0.375".

(2) Section 290 of such title is amended by striking "Board" in the fourth sentence and inserting in lieu thereof "Boards".

(3) The table of sections at the beginning of chapter 13 of such title is amended by striking the item relating to section 462a.

(4) Section 724 of such title is amended—

(A) by inserting "(1)" immediately after "(b)";

(B) by striking the last sentence; and

(C) by adding at the end thereof the following:

"(2) The authorized number of Reserve officers in an active status not on active duty in the grades of commodore and rear admiral is a total of two. However, the Secretary of the department in which the Coast Guard is operating may authorize an additional number of Reserve officers not on active duty in the grades of commodore and rear admiral as necessary in order to meet planned mobilization requirements.".

(b)(1) The matter in the table in section 210(a) of title 37, United States Code, under the heading "Navy, Coast Guard, and National Oceanic and Atmospheric Administration" and in the columns for 0-8 and 0-7 is amended to read as follows:

"Rear admiral	"Commodore"

(2)(A) The heading of section 202 of such title is amended to read as follows:

"§ 202. Pay grade: retired Coast Guard commodores".

(B) The item relating to section 202 in the table of sections at the beginning of chapter 3 of such title is amended to read as follows:

"202. Pay grade: retired Coast Guard commodores.".

(c) The matter in the table in section 741(a) of title 10, United States Code, under the heading "Navy and Coast Guard" is amended—

(1) by striking "Rear admiral (Navy) and Rear admiral (upper half) (Coast Guard)" and inserting in lieu thereof "Rear admiral"; and

(2) by striking "Commodore (Navy) and Rear admiral (lower half) (Coast Guard)" and inserting in lieu thereof "Commodore".

ASSOCIATE DEPUTY SECRETARY OF TRANSPORTATION

SEC. 26. (a) Section 102 of title 49, United States Code, is amended by redesignating subsection (d) as subsection (e) and inserting immediately after subsection (c) the following:

"(d) The Department has an Associate Deputy Secretary appointed by the President, by and with the advice and consent of the Senate. The Associate Deputy Secretary shall carry out powers and duties prescribed by the Secretary.".

(b) Section 5316 of title 5, United States Code, is amended by adding at the end thereof the following:

"Associate Deputy Secretary, Department of Transportation.".

(c) Notwithstanding any other provision of law, until April 15, 1985, the position created by subsection (a) of this section may be held by a person named by the President alone from among qualified individuals.

FLAT RATE PER DIEM TEST

SEC. 27. (a) Before October 1, 1986, the Secretary of the department in which the Coast Guard is operating may test a flat rate per diem allowances system for military travel allowances.

(b) Such flat rate per diem allowances shall be an amount determined by the Secretary to be sufficient to meet normal and necessary expenses in the area in which travel is performed, but such allowances may not be more than $75 for each day in the continental United States.

(c) The test authorized by this section may not begin before the Committees on Commerce, Science, and Transportation and Armed Services of the Senate and the Committees on Merchant Marine and Fisheries and Armed Services of the House of Representatives are notified of the test.

IMPROVEMENTS IN SHIPPING LAWS ADMINISTERED BY THE COAST GUARD

SEC. 28. (a) Section 7101(e)(3) of title 46, United States Code, is amended to read as follows:

"(3) has a thorough physical examination each year while holding the license, except that this requirement does not apply to an individual who will serve as a pilot only on a vessel of less than 1600 gross tons;".

(b) Section 8101(g) of title 46, United States Code, is amended by striking "or part B of this subtitle applies" and inserting in lieu thereof "applies or which is subject to inspection under chapter 33 of this title".

(c) Section 8301(a) of title 46, United States Code, is amended—

(1) by inserting "(except the Great Lakes)" immediately after "lakes"; and

(2) by striking "to which part B of this subtitle applies" and inserting in lieu thereof "subject to inspection under chapter 33 of this title".

(d) Section 8301(a)(1) of title 46, United States Code, is amended by inserting "propelled by machinery or carrying passengers" immediately after "vessels".

(e) Section 8501(a) of title 46, United States Code, is amended by striking "part" and inserting in lieu thereof "subtitle".

(f)(1) Section 8502(a) of title 46, United States Code, is amended to read as follows:

"(a) Except as provided in subsection (g) of this section, a coastwise seagoing vessel shall be under the direction and control of a pilot licensed under section 7101 of this title if the vessel is—

"(1) not sailing on register;

"(2) underway;

"(3) not on the high seas; and

"(4)(A) propelled by machinery and subject to inspection under part B of this subtitle; or

"(B) subject to inspection under chapter 37 of this title.".

(2) Section 8502 of title 46, United States Code, is amended by adding at the end thereof the following:

"(g) The Secretary shall designate by regulation the areas of the approaches to and waters of Prince William Sound, Alaska, on which a vessel subject to this section is not required to be under the direction and control of a pilot licensed under section 7101 of this title.".

"(3)(A) Chapter 85 of title 46, United States Code, is amended by adding at the end thereof the following:

"§ 8503. Federal pilots authorized.

"(a) The Secretary may require a pilot licensed under section 7101 of this title on a self-propelled vessel when a pilot is not required by State law and the vessel is—

"(1) engaged in foreign commerce; and

"(2) operating on the navigable waters of the United States.

"(b) A requirement prescribed under subsection (a) of this section is terminated when the State having jurisdiction over the area involved—

"(1) establishes a requirement for a State licensed pilot; and

"(2) notifies the Secretary of that fact.

"(c) For the Saint Lawrence Seaway, the Secretary may not delegate the authority under this section to an agency except the Saint Lawrence Seaway Development Corporation.

"(d) A person violating this section or a regulation prescribed under this section is liable to the United States Government for a civil penalty of not more than $25,000. Each day of a continuing violation is a separate violation. The vessel also is liable in rem for the penalty.

"(e) A person that knowingly violates this section or a regulation prescribed under this section shall be fined not more than $50,000, imprisoned for not more than five years, or both.".

"(B) The analysis of chapter 85 of title 46, United States Code, is amended by inserting immediately after the item relating to section 8502 the following:

"8503. Federal pilots authorized.".

(g) Section 7 of the Ports and Waterways Safety Act (33 U.S.C. 1226) is repealed.

"(h) Section 10 of the Ports and Waterways Safety Act (33 U.S.C. 1229) is amended by striking "6, and 7" and inserting in lieu thereof "and 6".

LOGBOOK REQUIREMENT

SEC. 29. Section 11301(a) of title 46, United States Code, is amended to read as follows:

"(a) A vessel of the United States shall have an official logbook if the vessel is—

"(1) on a voyage between a port in the United States and a foreign port (except a port in Canada); or

"(2) at least 100 gross tons and on a voyage between a port of the United States on the Atlantic Ocean and a port of the United States on the Pacific Ocean.".

TRENT RIVER RAILROAD BRIDGE

SEC. 30. Notwithstanding any other provision of law, the Trent River Railroad Bridge, mile 0.0, in New Bern, North Carolina, is deemed an unreasonable obstruction to navigation.

AMENDMENTS TO THE COASTWISE LOAD LINE ACT

SEC. 31. (a) Section 1(b) of the Act of August 27, 1935 (46 App. U.S.C. 88(b)), popularly known as the "Coastwise Load Line Act, 1935", is amended to read as follows:

"(b) This Act does not apply to—

"(1) a fish tender vessel of not more than 500 gross tons—

"(A) constructed, under construction, or contracted to be constructed as a vessel of this type before January 1, 1980; or

"(B) converted for use as a vessel of this type before January 1, 1983; and

"(2) a fish processing vessel of not more than 5,000 gross tons, except a vessel constructed after August 15, 1974, or converted for use as a vessel of this type after January 1, 1983.".

"(b) Section 2 of such Act (46 App. U.S.C. 88a) is amended to read as follows:

SEC. 2. (a) For vessels to which this Act applies, the Secretary of the department in which the Coast Guard is operating shall establish by regulation load lines and marks

indicating the maximum depth to which these vessels may be loaded safely.

"(b) In prescribing regulations under this Act, the Secretary shall consider the age, condition, character, design, and construction of a vessel to which this Act applies, including subdivision and stability characteristics.

"(c) This Act applies to the Great Lakes, except that the Secretary may establish special operating regulations for barges operating close to shore between Calumet Harbor, Illinois, and Burns Harbor, Indiana, that exempt these barges from the load line and marking requirements of this section.

"(d) The Secretary may not establish on any vessel a load line that is above the actual line of safety.".

TECHNICAL AMENDMENTS REGARDING COMMERCIAL FISHING INDUSTRY VESSELS

SEC. 32. (a) Section 4502(b)(3) of title 46, United States Code, is amended by striking "the exemption" and inserting in lieu thereof "this chapter".

(b) Section 4503 of title 46, United States Code, is amended by striking "shall be deemed" and inserting in lieu thereof "is deemed".

(c) Section 8104 (k) and (l) of title 46, United States Code, is amended by striking "may" and inserting in lieu thereof "shall".

(d) Section 402(13) of the Act of July 17, 1984 (Public Law 98-364) is amended by striking "Section 10101(a)" and inserting in lieu thereof "Section 10101".

SAILING SCHOOL VESSELS

SEC. 33. (a) Section 2101 of title 46, United States Code, is amended:

(1) in clause (21)(B), by inserting "or a sailing school vessel" immediately after "vessel" the first time it appears; and

(2) in clause (27), by striking all after "by sail" and inserting in lieu thereof "and may include—

"(A) any subject related to that operation and to the sea, including seamanship, navigation, oceanography, other nautical and marine sciences, and maritime history and literature; and

"(B) only when in conjuction with a subject referred to in subclause (A) of this clause, instruction in mathematics and language arts skills to sailing school students having learning disabilities.".

(b) Section 206 of the Sailing School Vessels Act of 1982 (46 App. U.S.C. 446b) is amended by inserting "section 11101(a)-(c) of title 46, United States Code," immediately before "and".

COMPENSATION OF COMMANDANT OF THE COAST GUARD

SEC. 34. (a) Footnote 2 of the table entitled "COMMISSIONED OFFICERS" in section 101(b)(1) of the Uniformed Services Pay Act of 1981 (Public Law 97-60; 95 Stat. 990) is amended—

(1) by striking "or"; and

(2) by inserting "or Commandant of the Coast Guard," immediately after "Corps,".

(b) The first sentence of footnote 4 of the table in section 1401 of title 10, United States Code, is amended—

(1) by striking "or"; and

(2) by inserting "or Commandant of the Coast Guard," immediately after "Corps,".

(c) The amendments made by this section shall become effective on October 1, 1984.

Mr. JONES of North Carolina (during the reading). Mr. Speaker, I ask unanimous consent that the amendment in the nature of a substitute be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The SPEAKER pro tempore. The question is on the amendment in the nature of a substitute offered by the gentleman from North Carolina [Mr. JONES].

The amendment in the nature of a substitute was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title of the Senate bill was amended so as to read: "An act to authorize appropriations for the Coast Guard for fiscal years 1985 and 1986, and for other purposes."

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. JONES of North Carolina. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

CONFERENCE REPORT ON S. 1146, AVIATION DRUG-TRAFFICKING CONTROL ACT

Mr. MINETA. Mr. Speaker, I call up the conference report on the Senate bill (S. 1146) to amend the Federal Aviation Act of 1958 to provide for the revocation of the airman certificates and for additional penalties for the transportation by aircraft of controlled substances, and for other purposes.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Pursuant to the rule, the conference report is considered as having been read.

(For conference report and statement, see Proceedings of the House of September 26, 1984, at page 27353.)

The SPEAKER pro tempore. The gentleman from California [Mr. MINETA] will be recognized for 30 minutes and the gentleman from Arkansas [Mr. HAMMERSCHMIDT] will be recognized for 30 minutes.

The Chair recognizes the gentleman from California [Mr. MINETA].

Mr. MINETA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the conference report on the Aviation Drug Trafficking Control Act. The House passed this legislation by a vote of 393 to 1 on July 24. The conference agreed to a bill which preserves all essential features of the House bill. This legislation can make an important contribution to our fight against illegal drugs.

The bill is designed to combat the use of aviation in drug trafficking. A large portion of the illegal drugs entering this country do so by air. Intelligence estimates presented at our hearing indicated that 77 percent of cocaine entering the country does so by air; 41 percent by private aircraft, and 35 percent by commercial aircraft. Additionally, 60 percent of heroin from Southeast Asia and 53 percent of heroin from Southwest Asia enter the United States by air, primarily by commercial aviation. Overall, it is estimated that 1.3 million pounds of illegal drugs entered the United States by private aircraft in 1983.

The conference bill focuses on increasing the aviation-related penalties against aircraft owners and airmen who participate in drug trafficking.

We are concerned with these illegal activities for two reasons. First and most obviously, we are concerned with the social and economic problems created by illegal drugs. There are also more specific, aviation-related concerns. Drug-smuggling flights create safety problems because of the hazardous maneuvers pilots undertake to avoid detection, such as operating without a flight plan and flying at extremely low altitudes. It is estimated that between 1980 and 1982 there were 491 accidents involving aircraft suspected of carrying drugs. In addition, many aircraft used in drug smuggling are stolen from innocent owners. Between 1980 and 1982 an estimated 180 aircraft were involved in drug-related thefts.

The conference bill substantially increases the aviation-related penalties against airmen and aircraft owners who participate in drug trafficking. Under current law, there are relatively minimal sanctions against aviation licenses, such as a $1,000 civil penalty or suspension of a pilot's license for 1 year. The conference bill establishes a 5-year revocation of airman licenses and aircraft certificates of registration if there is knowing use of an aircraft in drug trafficking.

The bill also establishes criminal penalties of 5 years imprisonment and a fine of up to $25,000 for persons without airman certificates who operate aircraft in drug trafficking and for persons who sell or use fraudulent aviation licenses or aircraft registration markings in connection with drug trafficking.

The conference bill contains full protection for the rights of airmen and aircraft owners. Before sanctions can be imposed NTSB must hold an evidentiary hearing, and NTSB's decision is subject to judicial review.

It should be emphasized that the bill is not intended to place the primary

responsibilities for enforcing the drug laws in FAA. Rather, the drug-enforcement agencies, such as Customs and DEA, will continue to have that mandate. However, we do feel that we have a responsibility to ensure that FAA's existing responsibilities to certificate airmen and aircraft are capable of making an important contribution toward our national effort to reduce illegal drug trafficking and to protect innocent airmen from threats to themselves and their aircraft.

In sum, I believe that the conference bill can make a substantial contribution in the war against illegal drugs. I urge passage of this important legislation.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the conference report on S. 1146, the Aviation Drug-Trafficking Control Act, and urge my colleagues to support this important measure.

A similar bill, H.R. 1580, passed the House last July by an overwhelming margin 393 to 1 and the bill before you today differs in only a few technical respects from that legislation.

As my colleagues are aware, the smuggling of illegal drugs is a serious problem for this country. Private and commercial aircraft are unfortunately a significant source of this illegal trafficking.

This bill would help to curtail this activity by strengthening the hand of the Federal Aviation Administration [FAA] in dealing with aviation-related aspects of drug smuggling. It would, for example, increase the period that an airman's certificate could be revoked for drug-related violations from 1 to 5 years. This same 5-year revocation period would also apply to the aircraft registration certificates of those who engage in these activities.

It would also impose criminal penalties in the following situations:

A person who knowingly and willfully operated without an airman's certificate in connection with violations of drug-trafficking laws would be subject to a $25,000 fine and imprisonment for up to 5 years.

The sale of fraudulent certificates and the possession of such certificates with the intent to use them would itself be a criminal violation, and if the violation occurred in connection with illegal drug trafficking, the penalty would be a fine of up to $25,000 and imprisonment for up to 5 years.

Use of fraudulent certificates or fraudulent-registration markings on aircraft in connection with an illegal transaction would make the perpetrator subject to a fine of up to $25,000 and imprisonment for up to 5 years.

These tougher penalties would be in addition to those that a drug smuggler is subject to under existing criminal law.

I would like to point out that the additional civil penalties in this bill would be imposed without violating the airman's procedural rights since this bill includes administrative procedures to govern the revocation of airman and aircraft registration certificates.

It requires the Administrator of the FAA to give the airman notice and an opportunity to answer the charges. If the Administrator decides to revoke the certificate, the airman has the right to appeal to the National Transportation Safety Board [NTSB], which must give him an evidentiary hearing. Furthermore, if the airman is acquitted of the criminal charges against him, his certificate cannot be revoked. If it has already been revoked, it must be restored.

Mr. Speaker, when our subcommittee held hearings on this legislation, the Drug Enforcement Agency [DEA], the Federal Aviation Administration [FAA], and the U.S. Customs Service were all extremely supportive. I believe this legislation meets the need to bring existing penalties against airmen more in line with the seriousness of the crimes being committed. It will act as an important deterrent to those who are illegally enriching themselves from drug trafficking without serious risks to either their airman certificate or their certificates of registration.

Mr. Speaker, S. 1146 is a well balanced bill. In our overall effort to deter illegal drug trafficking, it places the appropriate degree of responsibility on the FAA. For this reason, and the others I've mentioned, I urge my colleagues to support this legislation.

□ 1550

A similar bill, H.R. 1580, passed the House last July by an overwhelming majority, and the bill before you today differs in only a few technical respects from that legislation.

Mr. Speaker, I want to concur in the earlier remarks made by the distinguished chairman of the Subcommittee on Aviation of the Committee on Public Works and Transportation and, Mr. Speaker, I urge its passage.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

● Mr. SNYDER. Mr. Speaker, I rise in support of the conference report on S. 1146 and urge my colleagues to adopt this important piece of legislation.

S. 1146 is designed to complement the many State and Federal criminal laws relating to illegal drug trafficking by imposing more stringent penalties on airmen and other individuals who use airplanes to conduct these illicit activities.

I know that my colleagues are very well aware of the magnitude of the illegal drug problem in this country and I firmly believe that this bill will assist the various Federal agencies in combating this serious problem. According to the Federal Aviation Administration [FAA], between 1980 and 1982, 65 individuals had their airman certificates suspended or revoked for drug-related offenses and nearly 300 aircraft were stolen for drug-related reasons. Moreover, illegal drug trafficking also presents serious safety hazards to the public, since those who operate aircraft while engaging in this activity resort to a variety of dangerous tactics to avoid being detected. Along these lines, it has been estimated that nearly 500 accidents occurred between 1980 and 1982 involving aircraft which were suspected of carrying illegal drugs.

The primary intent of the bill is to require, in most cases, a mandatory 5-year revocation of airman and aircraft registration certificates held by those who are convicted or otherwise determined by the Administrator to have used aircraft while violating State or Federal drug laws. Under existing law, an individual who has committed a drug-related offense is only subject to a 1-year period of revocation before he is eligible to reapply for another certificate.

The conference report provides that, before revocation of a certificate can occur, the accused airman has the right to be notified and to answer the charges against him and may then request an administrative hearing before the National Transportation Safety Board [NTSB]. This right to an evidentiary hearing before revocation can occur applies in all cases except those in which safety requires the revocation to be effective immediately, in which case a hearing must be held within 60 days. The procedural safeguards are similar to those now in existing law which govern other situations where airmen are alleged to have violated the Federal aviation regulations.

The existing group of administrative law judges employed by the NTSB has considerable experience in conducting hearings involving airmen who have violated the drug laws since this activity is grounds for revocation under the existing regulations.

In view of this, and because the administrative procedures adopted under the conference report are essentially the same as those currently used by the NTSB in other airman cases, cases arising under this bill should not impose a substantial added burden on the NTSB's resources.

Another important feature of the bill would preclude the Administrator from revoking an airman's certificate if the individual has been acquitted of all pending criminal charges. Moreover, if the certificate has been revoked prior to such an acquittal, the Administrator is required to reissue the certificate. Similarly, if an airman's certificate is revoked based on

his conviction of a drug-related offense, and this conviction is subsequently reversed on appeal, then the Administrator must also reissue the certificate.

In addition to these provisions, the bill also increases the existing criminal penalties in the Federal Aviation Act for those who are convicted of these kinds of offenses. Under existing law, forgery of certificates and knowingly using false aircraft markings is punishable by a $1,000 fine and 3 years in prison. S. 1146 adds to the offenses subject to this penalty the additional offenses of selling or possessing fraudulent certificates with the intent to use them. The conference report also increases the maximum criminal penalties for all of these offenses to a fine of $25,000 and 5 years imprisonment if they are committed with the intent to violate State of Federal drug laws.

In addition, the bill creates a new crime of transporting illegal drugs without a valid airman's certificate and also imposes a maximum penalty of 5 years in prison and a $25,000 fine for this offense.

Mr. Speaker, I firmly believe that this legislation will not only assist in this country's fight against illegal drug trafficking, but will hopefully convince airmen that they not only risk substantial fines and jail terms, but their flying careers as well if they are apprehended while engaging in these activities.

For the foregoing reasons, I urge my colleagues to support the conference report on S. 1146.●

● Mr. HOWARD. Mr. Speaker, I rise in support of the conference report on S. 1146, the Aviation Drug-trafficking Control Act. The House conferees have brought back a conference report that reflects the House position on all of the important differences with the Senate. The Aviation Subcommittee chairman has described the conference report, so I will refrain from going into detail on its provisions.

In short, this bill imposes increased penalties on pilots and aircraft owners who engage in drug smuggling beyond those penalties already imposed by State and Federal drug laws. The Federal agencies responsible for enforcing the Nation's drug laws testified before the committee that with this legislation we will be able to strike at the crucial role played by pilots and aircraft owners in the drug smuggling chain. To put it another way, we will be upsetting a major component of the drug smuggling infrastructure, thereby making it more difficult for the drug smuggler to operate.

Mr. Speaker, the conference report we bring to the floor today enjoys wide support among law and drug enforcement officials as well as the aviation community. I urge my colleagues to adopt this measure.●

Mr. MINETA. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the conference report.

The conference report was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MINETA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

RENAMING DULLES INTERNATIONAL AIRPORT IN VIRGINIA AS THE "WASHINGTON DULLES INTERNATIONAL AIRPORT"

Mr. MINETA. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 2483) to rename Dulles International Airport in Virginia as the "Washington Dulles International Airport," and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. HAMMERSCHMIDT. Reserving the right to object, Mr. Speaker, I yield to the distinguished chairman of the Subcommittee on Aviation for an explanation of his request.

Mr. MINETA. I thank the gentleman for yielding.

Mr. Speaker, this bill would rename Dulles International Airport in Virginia as the "Washington Dulles International Airport." The purpose of this renaming is to make it clear to all passengers that Dulles Airport serves Washington, DC, and to end possible confusion between Dulles Airport and the airport at Dallas, TX. Similar legislation has been introduced in the House by our colleagues from Virginia, Mr. WOLF and Mr. PARRIS. The legislation is supported by local groups in Virginia and neither the administration nor the aviation community has any objections. I urge my colleagues to pass this legislation.

Mr. Speaker, I thank my colleague, the very distinguished gentleman from Arkansas [Mr. HAMMERSCHMIDT] for yielding.

Mr. HAMMERSCHMIDT. Mr. Speaker, further reserving the right to object, I want to concur in the remarks made by the distinguished chairman of our subcommittee.

Mr. Speaker, I rise in support of S. 2483, which would rename the Dulles International Airport as the "Washington Dulles International Airport."

Dulles Airport is a beautiful, modern facility, but unfortunately, it has long been underutilized. While there are several reasons for this, at least one is a lack of clear association between the name of this airport and the community it serves. By renaming it "Washington Dulles International," this obstacle to the airport's growth would be removed.

Enactment of this bill would have another important public benefit. It would eliminate confusion with the airport in Dallas. I am aware of several instances where passengers, especially foreigners, have flown to Dallas when they meant to come to Dulles. The name change proposed here would help prevent that.

John Foster Dulles was a great diplomat and champion of peace. It is only fitting that the airport serving our Nation's Capital should be named in his honor and this legislation would not detract from that in any way.

Mr. Speaker, S. 2483 will help promote the use of an important aviation facility. It has already been passed by the other body.

For these reasons, I believe this bill deserves our support and I join the gentleman from Virginia [Mr. WOLF] and my colleagues on the Public Works and Transportation Committee in urging its passage.

Mr. WOLF. Mr. Speaker, will the gentleman yield to me?

Mr. HAMMERSCHMIDT. Mr. Speaker, further reserving the right to object, I yield to the author of the bill, the gentleman from Virginia [Mr. WOLF].

Mr. WOLF. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I rise in support of the bill and ask unanimous consent to revise and extend my remarks.

Mr. Speaker, I rise in strong support of this bill to amend the name of Dulles International Airport to Washington Dulles International Airport.

I believe this legislation which I authored and have sponsored in the House will be an important step in enhancing the use of Dulles by helping to better identify its location and more closely associate it with the Nation's Capital. Not only will this benefit area residents by helping them view Dulles as the gateway to and from the Greater Washington, DC, area, it will also benefit visitors from across the country and around the world by assisting them in recognizing Dulles as the principal airport for travel to and from our Nation's Capital.

I also believe that adding the designator "Washington" to the amended name will help eliminate confusion among some air travelers and frustra-

tion among some people in the travel industry because the name "Dulles" is so similar to the city Dallas. There have been a number of cases reported where passengers have deplaned at Dulles expecting to be in Dallas, TX.

This closer identification with the Washington area and elimination of confusion for travelers will serve to combine very well with other recent developments that have contributed to significant growth trends at the airport. The opening of the Dulles connector road, which reduces traveltime to the airport, the addition of 14 new buses to the Dulles ground transportation network this May, and the addition of 9 new airlines at the airport over the past 18 months have all played a part in the Dulles facility's 32-percent growth in passenger traffic in the past 2 years. With Dulles in its 33d consecutive month of growth, the Federal Aviation Administration is currently working on plans for a midfield terminal at Dulles to accommodate the additional airline and ground traffic and hopes to double the airport's use by 1988.

Mr. Speaker, I believe that by adding the designator "Washington" to the name of the airport, we will be taking yet another step in promoting the Dulles facility as Washington's airport of the future. By better identifying Dulles with Greater Washington, DC, we can more quickly balance the transportation resources in our area and speed the day when this outstanding facility will live up to its full promise as a world-class international and domestic air-travel hub.

This legislation passed the other body on June 15, 1984, at the urging of Virginia Senator PAUL S. TRIBLE, who was the bill's author in the Senate, and Virginia Senator JOHN W. WARNER, who was an original cosponsor. Now, thanks to the cooperation of the chairman of the full Public Works and Transportation Committee, JIM HOWARD, and the committee's ranking minority member, GENE SNYDER, as well as the chairman of the Subcommittee on Aviation, NORM MINETA, and the subcommittee's ranking minority member, JOHN PAUL HAMMERSCHMIDT, this bill is now before the full House. I also want to thank my northern Virginia colleague, STAN PARRIS, who was an original cosponsor of the legislation here in the House, and who has been a strong supporter of efforts to limit growth at National Airport and encourage continued growth at Dulles.

I urge my colleagues to support this legislation.

Mr. Speaker, I think the next time my colleagues fly out of Dulles Airport they can say that because of their efforts Dulles Airport is now named "Washington Dulles International Airport" and they will not lose their baggage, the people will not lose their baggage and people coming from all parts of the world will know when they want to come to the United States that they do not have to go to John F. Kennedy Airport, they can now come to Washington Dulles.

● Mr. SNYDER. Mr. Speaker; I rise in support of S. 2483, which would rename the Dulles International Airport as the Washington Dulles International Airport.

This legislation is identical to H.R. 5268, which was introduced in the House by the gentleman from Virginia [Mr. WOLF]. It has substantial local support throughout the Washington metropolitan area and the administration has also indicated that it has no objection to its enactment.

Mr. Speaker, the major purpose of this legislation is to eliminate the confusion which exists among the traveling public, some of whom are not aware that Dulles Airport does, in fact, serve the Washington, DC, metropolitan area. Therefore, by inserting the word "Washington" before the airport's name, it will assure that passengers are not only aware of the airport's geographic location, but that any confusion with other airports, such as Dallas, would be eliminated. Naturally, by retaining the Dulles name in the airport's designation, we would in no way be diminishing the honor originally bestowed upon John Foster Dulles, for whom the airport is named.

For the foregoing reasons, I would urge my colleagues to support S. 2483.●

Mr. HAMMERSCHMIDT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate bill as follows:

S. 2483

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the airport constructed under the Act entitled "An Act to authorize the construction, protection, operation, and maintenance of a public airport in or in the vicinity of the District of Columbia", approved September 7, 1950 (64 Stat. 770), known as the Dulles International Airport, shall hereafter be known and designated as the "Washington Dulles International Airport". Any law, regulation, map, document, record, or other paper of the United States in which such airport is referred to shall be held to refer to such airport as the "Washington Dulles International Airport".

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MINETA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate bill just passed.

The SPEAKER pro tempore. Is there objecton to the request of the gentleman from California?

There was no objection.

CONFERENCE REPORT ON S. 1330, PUBLIC CAPITAL INVESTMENT ACT OF 1983

Mr. OBERSTAR. Mr. Speaker, I ask unanimous consent for the immediate consideration of the conference report on the Senate bill (S. 1330) to authorize the U.S. Army Corps of Engineers to provide grants to the several States to encourage and foster the construction of necessary public capital investment projects, and for other purposes, and ask unanimous consent that the statement of managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the requests of the gentleman from Minnesota?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of October 3, 1984, at page 29606.

Mr. OBERSTAR (during the reading). Mr. Speaker, I ask unanimous consent that the statement be considered as read.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

The SPEAKER pro tempore. The gentleman from Minnesota [Mr. OBERSTAR] will be recognized for 30 minutes and the gentleman from Pennsylvania [Mr. CLINGER] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. OBERSTAR].

Mr. OBERSTAR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, S. 1330 will establish a process for gathering information on Federal Government capital investments; it will also establish a National Council on Public Works Investments.

When this legislation passed the House on May 15 earlier this year, it was known as the capital budgeting bill, H.R. 1244. Its purpose is to gather, for the Congress and the executive branch in one consolidated report, information on public capital investments to be made by Federal Government agencies in the upcoming fiscal year.

The legislation requires the President to consolidate in his budget submission for each future fiscal year all those appropriations he is requesting for public capital investments. This is information which in the past has been available to the executive

branch, but has not been available, in one consolidated form, to the legislative branch.

The Council established under S. 1330 will submit three annual reports on the state of the Nation's infrastructure. The Council will expire at the end of that 3-year period.

S. 1330 will not authorize any new appropriation of funds for capital investments; it does not authorize a single project or program. I want to emphasize further that S. 1330 does not make policy. It is, however, a very important, even critical, informational tool for policymakers in both the Congress and executive branch.

This capital budgeting legislation has had unanimous bipartisan support in both the House and the other body. The conference report is an imaginative and effective blending of the House and Senate bills.

I would like to take this opportunity, Mr. Speaker, to compliment our two colleagues who have labored longest and most vigorously for this legislation, the gentlemen from Pennsylvania [Mr. EDGAR and Mr. CLINGER] whose bipartisan cooperation brought us to this successful conclusion.

The legislation also had to pass the careful and thorough scrutiny of the House Committee on Government Operations and cleared that body with the personal attention of Chairman BROOKS and with the active support of ranking member Mr. HORTON, both of whom also participated in yesterday's House-Senate conference on the bill.

Mr. Speaker, I am pleased to bring to the House floor the conference report to accompany S. 1330, the Public Works Improvement and Federal Capital Investment Program Information Act. The House version of this bill, H.R. 1244, passed this body by voice vote on May 15 of this year.

The bill is a compromise worked out between the House Public Works and Transportation Committee and the House Government Operations Committee, and the Senate Environment and Public Works Committee. I commend the leadership of these committees, the gentleman from New Jersey [Mr. HOWARD], the gentleman from Kentucky [Mr. SNYDER], the gentleman from Texas [Mr. BROOKS], the gentleman from New York [Mr. HORTON], the Senator from Vermont [Mr. STAFFORD] and the Senator from West Virginia [Mr. RANDOLPH], for their contributions to the bill. I also commend my colleagues the gentlemen from Pennsylvania [Mr. EDGAR and Mr. CLINGER] and my Minnesota Senate colleague [Mr. DURENBERGER] for their very early and sustained efforts to bring this very necessary piece of legislation to House and Senate and ultimately to this vote. Finally, many groups outside Congress vigorously supported this legislation, principal among them being the Northeast Midwest Congressional Coalition.

This is an important infrastructure bill. But it is not a spending bill, important as such a bill would be. Rather, it is a decisionmaking tool, providing invaluable information and guidance to help both the legislative and executive branches make the best allocation of our scarce capital resource dollars. It will also enable us better to protect our existing investment in the Nation's public capital portfolio: our civilian capital, including roads and bridges, airports, mass transportation systems, wastewater treatment or related facilities, ports and waterways, public buildings resource recovery facilities, and other public investment. It also covers military capital investments such as military bases, posts, installations, and other facilities. It would not include weapons and other sensitive defense information that does not belong in such a public database.

The Conference establishes a five-member Council on Public Works Improvement, made up of professionals in the fields of public administration, planning, architecture, civil engineering, and public investment financing. A 12-member advisory committee to that Council is also established comprised of Federal infrastructure agencies, and State and local national organizations. The Council is authorized for 3 years and sunsets at the end of that period. It is charged with submitting annual infrastructure reports on the age and condition of facilities, the methods of financing these facilities, their capacity to support a sustained and expanding economy, maintenance needs and projected expenditures, and other purposes. The Council is also to provide uniform guidelines and criteria for inventorying and assessing public works, and reporting construction, acquisition, rehabilitation, and maintenance data. The Council sunsets on April 15, 1988.

The agreement also provides that, beginning in fiscal year 1986, the President's annual budget submissions shall include detailed budget analyses of major public capital investments. These analyses are to include current, higher, and lower projections of investments in both civilian and military capital investments; projected civilian capital investment needs, and a discussion of policy issues and other factors that affect civilian investment needs, for the types of facilities I mentioned above.

This Nation's infrastructure, paid for over 200 years by generations of American taxpayers, has been valued at up to $2.7 trillion. We know, from newspaper headlines, from the feature stories on such national magazines as Newsweek, U.S. News & World Report, and Time magazine, that our infrastructure is wearing out faster than it is being replaced. We are painfully reminded of this fact with every commute to the Capitol, and with every trip back to our districts.

As I said before, this bill is not a spending bill—it does not authorize spending for a single program or project. Nor would it force spending, at any level, on any particular type of facility. What it does, and this is perhaps even more important, is to give us the information we need to best allocate our scarce infrastructure dollars, and will allow us to weigh the consequences of spending at various levels.

It will be an invaluable tool in our efforts to protect our past investment, and assure continued economic growth and expansion, which is dependent on adequate and well-maintained infrastructure.

This is important legislation, critically needed legislation, and I urge my colleagues to support it.

Mr. Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. BROOKS].

Mr. BROOKS. Mr. Speaker, in recent years, concern has grown throughout the country regarding the deteriorating shape and insufficient capacity of our Nation's infrastructure. There is a growing need to evaluate the condition of the Nation's capital works and set clear priorities for long-term public works investment.

S. 1330 will begin this process by establishing a National Council on Public Works Improvement that will prepare a report in 1986, 1987, and 1988 on the state of the Nations infrastructure. This Council will also work on developing standard criteria for evaluating needed public works improvements.

In addition, S. 1330 would require the President to prepare an expanded analysis of capital investments in the annual budget process. The special analysis will identify public infrastructure investments and present estimates of the expenditures necessary to operate and maintain capital facilities at specified levels of service for up to 10 years. It would require that information on infrastructure policy issues and estimates of capital investment needs be made a permanent part of the supplemental information accompanying the annual budget. In addition, it would require that information on military as well as civilian capital investments be reported, but the figures would be displayed separately.

I believe that S. 1330 is a workable proposal that will provide valuable planning and decisionmaking information on Federal capital investments. I urge you to support this conference report.

Mr. OBERSTAR. I thank the chairman of the committee.

Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. EDGAR].

Mr. EDGAR. Mr. Speaker, I am very pleased today to join with my colleagues, Mr. OBERSTAR, Mr. BROOKS, Mr. HORTON, and Mr. CLINGER in celebrating a bipartisan bill which has been brought before us to deal with the Nation's infrastructure problem.

Several years ago a number of us became aware of the fact that the Nation did not do a very good job of assessing the 5-year, 10-year, 15-year infrastructure needs.

This legislation gives us a tool, working through the Office of Management and Budget and other agencies of the Federal Government, to analyze what our problems are, in terms of rehabilitating our bridges, rehabilitating our roads, and the other basic building blocks that hold our community together.

Mr. Speaker, I am very active in not only the Committee on Public Works and Transportation but as chair of the Congressional Clearinghouse on the Future.

Mr. Speaker, if there is one thing we have learned as a nation we have learned that not only is the Nation growing older in terms of its people, with people living longer, but the basic things that hold us together, our railroads, our bridges, our highways, our water projects, and so forth, are in fact aging, and if we do not have a consolidated, coordinated plan for addressing these problems, our Nation is going to be in trouble.

Mr. Speaker, I believe this is a historic first step.

Mr. Speaker, I congratulate my subcommittee chairman [Mr. OBERSTAR] for his leadership. I particularly want to pay tribute to the gentleman from Pennsylvania [Mr. CLINGER].

Over the last several years he and I have shared many forums together, we have studied the issue together, and I think we have come up with a reasonable compromise.

Mr. Speaker, I thank the committee staff and the staff of the gentleman from Pennsylvania, and my staff. They are to be commended for their leadership on this project.

Mr. Speaker, I yield back the balance of my time.

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Mr. OBERSTAR. Mr. Speaker, I reserve the balance of my time.

Mr. CLINGER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in obviously very strong support of the conference report to accompany S. 1330. A bill rarely makes it to this point in the legislative process without very strong leadership and the need for good public policy. I think those two have been married in the conference report we have today.

I particularly want to pay my respects and to congratulate and applaud the leadership that has been shown by Chairman HOWARD of the Committee on Public Works and Transportation; by the gentleman from Kentucky [Mr. SNYDER], the ranking minority member; both of whom have been very helpful and supportive in this effort to come up with a first effort at a Federal capital budget.

I also want to commend and express my very deep appreciation to Chairman OBERSTAR, who has been most helpful, most supportive, and cooperative, and has pushed this bill and worked with this bill to get it to the point where we can get final passage.

I would just like to return the compliment of the gentleman from Pennsylvania [Mr. EDGAR] who I have been a partner with as we have looked at this thing.

I think that the person who should also be mentioned here is Dr. Pat Choate, who wrote a book called "American Ruins," which really first brought national focus onto this issue of what is happening with our crumbling infrastructure and pointed out that there is a very direct connection between the quality of our public facilities and the ability that we have for economic growth and development. That very direct umbilical connection, I think, is what has led us to the point of getting a Federal capital budget which is going to give us a planning tool—I stress that, it is a planning tool—for use by both Congress and by the administration in charting a direction of how we can address not only our needs for new infrastructure, but as importantly, those of us from the Northeast and Midwest, our needs to repair, restore, and rehabilitate aging and antiquated infrastructure.

So, I think that this has been a real partnership, a bipartisan partnership, and a number of very key people have played a very important role. Certainly on the Committee on Government Operations, Chairman BROOKS, and my ranking member, the gentleman from New York [Mr. HORTON], both of whom took a very personal interest in this bill and held hearings on it and expedited the consideration of the bill to get to conference.

I think the conference committee has built a bridge between two very separate and distinct concepts to bring about a sum that I really believe is greater than its parts. I think that the conference report which the Members have before them today is really a distinct improvement over the bills that came out of both the House and the other body.

The House bill would have given us the first capital budget for the Federal Government. The Senate bill expanded on these provisions by establishing a National Council on Public Works Improvement.

Under the conference agreement, this Council would take the numbers and the tables from the capital budget and provide us with a useful interpretative analysis on the state of the Nation's infrastructure.

I believe, Mr. Speaker, that this will enable Congress to take a broad overview of our public capital investments and adjust our programs and priorities accordingly.

I would urge my colleagues to adopt the conference report.

Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. HORTON].

Mr. HORTON. Mr. Speaker, I thank the gentleman and I would also join with my colleague from Pennsylvania [Mr. CLINGER] and others in applauding the efforts of those who have worked so hard to bring this legislation to the floor and then finally to bring this conference report to the floor. In that commendation I certainly want to include the gentleman from Minnesota [Mr. OBERSTAR], who, along with the rest of us, has been working for many years on this very serious problem; the gentleman from Pennsylvania [Mr. EDGAR] and the gentleman from Pennsylvania [Mr. CLINGER]; and my own chairman, the gentleman from Texas [Mr. BROOKS], for the interest that he has shown in this problem.

Many of us for several years have been concerned about the infrastructure problem, especially in the older cities and the older parts of our country.

This, I think, is probably one of the most historic steps that this Congress has taken in regard to that problem. I know it is not going to be on the front page tomorrow of the Washington Post or the New York Times. As a matter of fact, it probably will not even find its way into most of the papers around the country. But it is very historic legislation because it does provide, in this conference report, the mechanisms through which we can identify and solve the problems concerning our country's roads, bridges, water systems, and other capital items.

Mr. Speaker, the conference report on S. 1330 is a compromise that includes almost verbatim the language of H.R. 1244, the Federal Capital Investment Program Information Act, which passed the House without a single dissenting vote in May of this year. It also includes a slimmed down version of S. 1330 as approved by the other body earlier this year.

Public officials throughout America have grown increasingly concerned about the decaying state of our country's roads, bridges, water systems, and other critical capital items. S. 1330

provides two means for identifying and solving that problem.

First, the most important feature of this bill is a requirement that the President expand an existing analysis section of the annual budget submission. This expanded analysis would identify public infrastructure investments, and project the expenditures necessary to operate and maintain capital facilities, both civilian and military. It would also identify possible funding sources and investment priorities.

Second, the compromise language we consider today also includes a provision which creates an independent, five-member National Council on Public Works Improvements. It would additionally create a 12-member advisory group of infrastructure experts from the public and the private sectors.

I want to make it clear to my colleagues that neither the Council nor the advisory group will have any policymaking functions, nor will either have authority to change or create regulations. The role of the Council and the advisory group is to analyze and report of infrastructure information.

I call to the attention of my colleagues section 106(c), which gives the Council the authority to secure directly from any department or agency of the United States information necessary to enable it to carry out the provisions of this bill. I want to explain that this language is not meant to give the Council the right to get information that is not available under the Freedom of Information Act. The provision entitles the Council only to existing information which is available to the public.

Finally, Mr. Speaker, I want to commend again my colleague from Pennsylvania [Mr. CLINGER], who is one of the principal authors of this legislation and who has worked diligently for this capital budget concept. Mr. CLINGER has been, throughout his service on the Government Operations Committee, an outstanding member who proposes constructive solutions to our Nation's problems. His fine work in devising this legislation and moving it toward enactment is indicative of his great contributions to our efforts.

Mr. Speaker, I support the compromise version of S. 1330 and urge its approval.

Mr. CLINGER. I thank the gentleman from New York very much for his support and those kind words.

● Mr. HOWARD. Mr. Speaker, I rise in support of the conference report on S. 1330.

That report requires the compilation of information which will facilitate long-range capital investment planning at the State and local level and improve legislative oversight over Federal capital investment programs.

Title I of the conference report provides for the establishment of an independent National Council on Public Works Improvement to be assisted by an advisory group. The Council would submit three annual state-of-the-Nation's infrastructure reports by February 15, 1986, 1987, and 1988. In those reports, it would provide an interpretive analysis of the age and condition of public works facilities, methods of financing, trends in expenditures, capacity to support a sustained and expanding economy, maintenance needs and projected expenditures, and policy options for addressing infrastructure needs. The Council would also develop uniform guidelines and criteria for the inventory and assessment of public works, and for reporting construction, acquisition, rehabilitation, and maintenance data.

The Council would not have the authority to make specific legislative recommendations for changes in laws or regulations. It would terminate April 15, 1988, and would be subject to ongoing evaluation by the House Public Works and Transportation Committee and the Senate Environment and Public Works Committee—the sole committees of legislative jurisdiction over title I.

Title II, the so-called capital budgeting portion of the report, requires the President, beginning with fiscal year 1986, to include as part of the annual budget submissions to Congress detailed budget analyses of major capital investments.

Types of analyses are to include current, higher, and lower projections of investment in both civilian and military capital investments; projected civilian capital investment needs; and policy issues and other factors that affect civilian investment needs projections.

Public civilian capital investments include roads, bridges, mass transit systems, wastewater treatment facilities, water resource projects, public buildings facilities, hospitals, resource recovery facilities, space and communication facilities, railroads, and federally assisted housing.

Military capital investments are limited to military bases, posts, installations, and facilities.

This conference report is the cumulative product of over 3 years of work by the Committee on Public Works and Transportation and the Committee on Government Operations. In this regard, I want to take this opportunity to commend JIM OBERSTAR, chairman of the Economic Development Subcommittee, and other members of the subcommittee, especially BOB EDGAR, for their dedication and leadership in recognizing the need to bring the Federal capital budget issue before the Congress.

As has been customary on the Public Works Committee, this bill is the product of bipartisan efforts. BILL CLINGER, ranking minority member of the subcommittee, has been the major draftsman of this legislation and is to be complimented for his commitment to the issue of capital budgeting and the need for obtaining better data on our capital investments. Also, I want to thank my colleague, the ranking minority member of the Public Works Committee, GENE SNYDER, for his cooperation. In addition, I wish to express a special word of appreciation to members of the Government Operations Committee and Chairman BROOKS for their invaluable contribution to this bill.

Throughout the hearings, testimony was received on the present deplorable state-of-the-Nation's infrastructure. The Nation, at every level of government, is failing to maintain or repair adequately its priceless investment in public facilities. There is increasing evidence that the public works needs across the country are vast and growing. Estimates of the capital investment gap range from $450 billion to $3 trillion over the next two decades.

For example, while the construction and preservation of an adequate highway system has been and remains an essential element of the national economy, the Federal-aid highway system in which billions have been invested over the past quarter century—$74 billion for the interstate alone—is deteriorating at an alarming rate. Nearly 26,000 miles of interstate, arterial, and collector highways are in immediate need of major resurfacing or reconstruction, and on the Federal-aid system alone there are more than 55,000 deficient bridges. Merely to restore the highways to their 1975 condition and keep them that way would have required an annual investment of $14 billion a year for capital investments in 1975 constant dollars, according to a 1977 Department of Transportation needs report. Between now and the year 2000, according to a Joint Economic Committee infrastructure report entitled "Hard Choices," the estimated need for bridge and highway repairs is $720 billion. In the Surface Transportation Assistance Act of 1982, funds were added not only to pay for these problems but to target repairs. However, it is still estimated that we will be $265 billion short in meeting the highway and bridge needs for the rest of the century.

The capital needs of our Federal-aid highway system are only part of the picture. With the nationwide awakening to the new realities of energy and economy in transportation, greater-than-ever demands have also been placed on our public transit systems.

Transit use and its capital needs have increased accordingly. In fact, the Joint Economic Committee policy study projects needs of about $178 bil-

lion for urban transit requirements through the year 2000, compared to estimated revenues of only $88 billion.

Only through the continued capital investment can the demonstrated need for mass transit be met. The future of public transportation depends on continuation of our financial investment at levels that will assure essential service and reliability for our transit systems.

A similar case can be made for the protection of capital investment in water supply and distribution systems. We are faced with inadequate sources of water supply, contamination of water supply, and deterioration of systems, but it is estimated that we can provide only $55 billion of the $96 billion necessary to meet short-term needs.

In water pollution, $29 billion has been committed over the past 8 years in the form of Federal grants for wastewater treatment plants. Despite delays and an array of other problems, some headway has been made and we can now identify rivers, lakes, and streams which have started a turnaround after generations of neglect. Yet, the Joint Economic Committee survey indicates that for the final 15 years of this century, some $163 billion will be required to meet the Nation's water needs and to restore and protect our waters for the future. Resources, however, are estimated at $114 billion over the same period.

We have a responsibility to provide leadership in improving the management and encouraging the restoration of public facilities throughout the country. This must be accomplished in cooperation with and in a partnership with State and local governments.

While a national council and capital budget for the Federal Government are by themselves not likely to stimulate a renaissance in public works investment, they are a necessary first step that would give policymakers an indispensable tool for analyzing the best combination of capital investment programs needed to maintain the Nation's infrastructure.

It is my hope that the next Congress will be the "Congress of the Infrastructure." Building upon the valuable contributions of this conference agreement, I would encourage the President and Congress to move ahead to meet our Nation's infrastructure needs.

As we look to the future of the American economy, it should be self-evident to all of us that its health rests, to a great extent, upon upgrading basic infrastructure systems.

The time is now. The challenge faces all of us. In the months ahead we are going to find out whether we are prepared to meet it.●

● Mr. SNYDER. Mr. Speaker, I rise in support of the conference report accompanying S. 1330.

Two House committees have gone to conference with the Senate to produce a compromise worthy of acceptance by both bodies. We return with a bill with two titles. Let me start with the second title first because title II essentially contains 95 percent of the House-passed version of the Capital Budgeting Act.

The gentleman from Pennsylvania [Mr. CLINGER] to his credit brought this bill to the attention of the Public Works Committee in the 97th Congress when 3 days of hearings were held on his bill. In the 98th Congress, we reported a similar bill that was jointly referred to the House Government Operations Committee. Building upon this solid foundation, several technical improvements were made by Government Operations before final passage. Mr. CLINGER, who serves on both committees, deserves the title of "Father of the Capital Budget" for his dogged determination in bringing about the passage of this legislation.

Title I, which establishes a National Council on Public Works Improvements and requires three national infrastructure reports, was added by the Senate and deals with matters within the exclusive jurisdiction of the Committee on Public Works and Transportation. There was no comparable provision in the House bill. In essence, the Council, to be sunset in 1988, will prepare an annual state-of-the-Nation infrastructure report. Unlike the capital budget, this title focuses primarily on public works and transportation facilities with an identification of the problems and a discussion of the options for addressing infrastructure issues. The Council's policy recommendation role was stripped from the bill.

The result of all these lengthy deliberations is a better legislative product. I urge my colleagues to adopt the conference report.●

Mr. CLINGER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. OBERSTAR. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the conference report.

There was no objection.

The conference report was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. OBERSTAR. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

WAIVING CERTAIN POINTS OF ORDER AGAINST THE CONFERENCE REPORTS ON H.R. 4164, VOCATIONAL TECHNICAL EDUCATION ACT OF 1984, AND S. 2496, ADULT EDUCATION ACT AMENDMENT OF 1984

Mr. WHEAT. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 601 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 601

Resolved, That upon the adoption of this resolution it shall be in order, clause 2 of Rule XXVIII to the contrary notwithstanding, to consider at any time, the following conference reports, and said conference reports shall be considered as having been read when called up for consideration: (1) the conference report on the bill (H.R. 4164) to amend the Vocational Education Act of 1963 to strengthen and expand the economic base of the Nation, develop human resources, reduce structural unemployment, increase productivity, and strengthen the Nation's defense capabilities by assisting the States to expand, improve, and update high-quality programs of vocational-technical education, and for other purposes; and (2) the conference report on the bill (S. 2496) to amend the Adult Education Act in order to simplify requirements for States and other recipients participating in Federal adult education programs, and for other purposes.

The SPEAKER pro tempore. The gentleman from Missouri [Mr. WHEAT] is recognized for 1 hour.

Mr. WHEAT. Mr. Speaker, I yield the usual 30 minutes for the minority to the gentleman from Mississippi [Mr. LOTT], pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 601 provides for the consideration of the conference reports on H.R. 4164, a bill which amends the Vocational Education Act of 1963 and S. 2496, legislation which amends the Adult Education Act.

The rule waives all points of order against the conference reports for failure to comply with the provisions of clause 2 of rule XXVIII. That is the rule which prohibits consideration of conference reports until the third calendar day after the report has been filed in the House and printed in the CONGRESSIONAL RECORD. Conference reports on H.R. 4164 and S. 2496 were filed in the House and printed in the CONGRESSIONAL RECORD on Tuesday, October 2, 1984. Under House rules, during the last 6 days of a session, clause 2 of rule XXVIII is not applicable. We are anticipating, and hoping for, a final adjournment this week. However, Congress has not adopted a resolution establishing the final date of session and therefore, clause 2, rule XXVIII is still in force and this waiver is necessary to enable the House to consider these important legislative matters in a timely manner.

Mr. Speaker, the rule also provides that the conference reports be considered as having been read when called up for consideration.

H.R. 4164 is a measure which would amend the Vocational Education Act of 1963 by assisting States in expanding, improving, and modernizing quality vocational education programs. The measure also assures that individuals be granted access to quality vocational programs; promotes cooperation between public and private agencies providing vocational education and provides vocational education services to train, retrain, and upgrade employed and unemployed workers in new skills for which there is a demand in their labor market. S. 2496, the other legislation which this rule provides for consideration of, would amend the Adult Education Act. The legislation's purpose is to simplify requirements for States and other recipients to participate in Federal adult education programs. Included in the conference report are provisions which address the establishment and operation of bilingual education programs, amend Federal-impact-aid laws, establish educational equity for women, and authorize funding for emergency immigrant-education assistance.

Mr. Speaker, both conference reports are a matter of pressing concern. This rule simply provides the House with an opportunity to work its will before the adjournment of Congress. Therefore, I urge that we adopt the rule so that we may proceed to consideration of these important matters.

Mr. LOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this rule waives clause 2 of rule 28, the 3-day layover requirement for conference reports, against two conference reports. The first is the conference report on H.R. 4164, the Vocational Technical Educational Act of 1984. The second is the conference report on S. 2496, the Adult Education Act Amendments of 1984. The voc ed bill originally passed the House on March 8 of this year by a vote of 373 to 4. The adult education bill passed the House on July 26 of this year by a vote of 307 to 85.

Mr. Speaker, the conference reports on both of these bills were filed on October 2. Under clause 2 of House Rule 28, it would not be in order to consider these until the third calendar day after they were filed, or this Friday, October 5. The purpose of the waivers in this rule is to permit their consideration today.

Mr. Speaker, I think it should be pointed out that under House rules this 3-day layover requirement for conference reports does not apply during the last 6 days of a session. However, that provision is not triggered until the Congress has adopted a sine die adjournment resolution. So, even though we are now hopefully in the final few days of this session, the House rules does not apply because we have not yet adopted that adjournment resolution. This special rule therefore is needed to permit the consideration of the conference reports today.

Mr. Speaker, I think I should also point out that this rule, citing as it does two specific conference reports, is preferable to the type of blanket waivers we used to grant in special rules in the early part of the last decade. Under this rule, we know exactly what it is we are waiving the 3-day layover rule against. I appreciate the fact that there is still some controversy involved with the adult education conference report, but I do urge the adoption of this rule so that we can proceed to consider the two reports.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

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Mr. WHEAT. Mr. Speaker, both of these conference reports are matters of pressing concern. The rule simply provides the House with an opportunity to work its will before adjournment. I urge the House to adopt the rule so that we may proceed to consideration of these matters.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF H.R. 5172, NATIONAL BUREAU OF STANDARDS AUTHORIZATION ACT FOR FISCAL YEARS 1984 AND 1985

Mr. DERRICK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 600 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 600

Resolved, That upon the adoption of this resolution it shall be in order to consider in the House, without intervening motion, to take from the Speaker's table the bill (H.R. 5172) to authorize appropriations to the Secretary of Commerce for the programs of the National Bureau of Standards for fiscal years 1984 and 1985 and for related purposes, together with the Senate amendment thereto, and to concur in the Senate amendment. Said amendment shall be considered as having been read, and the previous question shall be considered as ordered on the motion to final adoption, without intervening motion.

The SPEAKER pro tempore (Mr. RATCHFORD). The gentleman from South Carolina [Mr. DERRICK] is recognized for 1 hour.

Mr. DERRICK. Mr. Speaker, I yield the customary 30 minutes for the purposes of debate only to the gentleman from Mississippi [Mr. LOTT], pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 600 provides for the consideration in the House of H.R. 5172, the National Bureau of Standards Authorization Act of Fiscal Year 1984 and Fiscal Year 1985, with a Senate amendment.

The resolution provides that it shall be in order to consider, without intervening motion, a motion to take H.R. 5172 from the Speaker's table, together with the Senate amendment thereto, and concur in the Senate amendment. The amendment shall be considered as read and the previous question shall be considered as ordered on the motion.

Mr. Speaker, yesterday the House managers of this legislation requested unanimous consent to take from the Speaker's table H.R. 5172, with the Senate amendment, and concur in the Senate amendment. Objection was raised to that unanimous consent request, thereby necessitating this rule.

Upon adoption of this rule, the chairman of the House Science and Technology Committee, Hon. DON FUQUA, will be recognized for the purpose of offering a motion in the House to take the bill, with the Senate amendment, from the Speaker's table and concur in the Senate amendment. Since the motion is offered in the House, it is debatable under the 1-hour rule. The time will be controlled by the gentleman making the motion, but it is customary in this situation for half of the time to be yielded for debate purposes only to the ranking minority member of the committee. At the end of the hour, the vote will occur on the motion without intervening motion. Should the measure be adopted, both Chambers will have approved the bill in the same form and it will be cleared by the White House.

I would like to stress to my colleagues that under this rule, there will be up to an hour of debate on the measure, followed by an up or down vote on the bill as amended by the Senate. I also believe it important for the Members to realize the reason this procedure is made necessary. With only 1 or 2 more days remaining in this session of Congress, it is unlikely that this measure could be taken to conference and returned to both Chambers and voted upon. Likewise, if the House were to pass the bill in a form differing from that which passed the Senate, it is similarly unlikely that the measure could be considered in the Senate before the end of the session. Therefore, if we are to enact this legislation during the 98th Congress, this is the only way to accomplish that objective.

The Senate amendment to ths authorization bill is an amendment in the nature of a substitute. Like the

original House bill, the Senate amendment provides authorizations for the National Bureau of Standards for fiscal years 1984 and 1985. The authorization levels in title I of the bill before you today are the same as those which were approved by the House when H.R. 5172 was passed by voice vote on May 2, 1984. Titles II and III, however, incorporate measures that were previously introduced or passed as separate bills in both Chambers.

Title II of the Senate amendment incorporates into this bill provisions that were passed by the House as an amendment to H.R. 4974, the National Science Foundation Authorization Act for fiscal years 1985 and 1986. The National Science Foundation bill was approved by the House on April 25 of this year, on a vote of 252 to 99. This title contains an amendment to the National Science Foundation Organic Act of 1950 to clarify and emphasize the Foundation's fundamental responsibility for engineering research and education.

Title III of the Senate amendment adds the Manufacturing Sciences and Robotics Research and Development Act of 1984 to the bill. This program provides for funding of basic university research, with the cooperation and participation of industry, in advanced manufacturing technologies, such as robotics. The provisions of title III of the Senate amendment have not been previously considered or voted upon by the full House. The legislation has, however, been favorably considered and reported from the House committee of jurisdiction, the Committee on Science and Technology. The Science and Technology Committee reported that measure on September 25, on a vote of 29 to 10.

Mr. Speaker, I would again like to point out to my colleagues that this rule provides an opportuntiy for the House to take an up-or-down vote on this bill after an hour of debate. It is the only way we can enact the legislation this year, while not foreclosing ample opportunity for Members of the House to debate and vote on the issue.

I urge adoption of this rule.

Mr. LOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this rule makes it in order to take from the Speaker's table, without intervening motion, the bill H.R. 5172 which authorizes appropriations to the Secretary of Commerce for programs of the National Bureau of Standards for fiscal years 1984 and 1985, together with the Senate amendments, and concur in the Senate amendments which consist of an entire substitute for the House-passed bill. The rule further states that the Senate amendment shall be considered as having been read, and the previous question is considered as ordered on the motion to final adoption, without intervening motion.

Mr. Speaker, this bill originally passed the House on May 2 of this year by voice vote. The other body passed its version, S. 2458 on June 26 by voice vote.

Mr. Speaker, I think it should be noted that there are some objectionable provisions in the Senate substitute we are being asked to agree to in this rule. The administration has indicated through an OMB "Statement of Administration Policy," dated October 3, that it supports the bill as passed by the House but "strongly opposes title III of the bill as passed by the Senate." That title establishes a new and significant Federal aid program for research and development on manufacturing technologies.

The Rules Committee heard from the ranking Republican on the Science Committee [Mr. WINN], asking that we at least allow for a separate vote on some of these objectionable provisions. An attempt to provide that vote under the rule failed on a 4 to 6 division vote in the Rules Committee. I think it should be clear that what was being asked was not something special under our normal rules of procedure. Had this rule not precluded an intervening motion, it would have been in order to offer a preferential motion to agree to the Senate amendments with an amendment.

I think the Rules Committee made a mistake in not protecting that usual motion in this rule. The House should not be put in a position of having to accept whole an entire substitute of the other body that may include new matters not previously considered when the bill was originally before the House.

While I do not intend to fight the previous question on this rule and attempt to amend it, I do want to register my protest against this procedure that denies the House its usual prerogative of getting a separate vote on new provisions sent to us by the other body. I appreciate, though, that the hour is late in this 98th Congress, and the managers of this legislation do not want to further delay final action on this bill that might jeopardize its chances of being enacted. I simply want to caution my colleagues who chair committees that this member of the Rules Committee, and I know at least three others, feel strongly the rights of this House should be protected in situations like this in the future. Under more normal circumstances in the next session, I hope we will not grant this kind of rule.

Mr. Speaker, I yield back the balance of my time.

Mr. DERRICK. Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON S. 905, NATIONAL ARCHIVES AND RECORDS ADMINISTRATION ACT OF 1983

Mr. BROOKS. Mr. Speaker, I call up the conference report on the Senate bill (S. 905) to establish the National Archives and Records Administration as an independent agency.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Pursuant to the rule, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of October 1, 1984, at page 28132.)

The SPEAKER pro tempore. The gentleman from Texas [Mr. BROOKS] will be recognized for 30 minutes and the gentleman from New York [Mr. HORTON] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Texas [Mr. BROOKS].

Mr. BROOKS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the conferees have met and agreed on a conference report on S. 905, establishing the National Archives and Records Administration as an independent agency. There were numerous differences between the House and Senate versions of this bill, but both have the essential purpose of separating the Archives from the General Services Administration and restoring it to the status that it held from its founding in 1934 until it was incorporated into GSA in 1949.

Under the conference report, the authorities exercised by the current National Archives, along with its personnel and assets, will be transferred to the new administration. Functions to be transferred will include basic archival activities, the storage and servicing of noncurrent agency records, operation of Presidential libraries, publication of certain official documents, and operation of the National Historical Publications and Records Commission.

The conference report adopts the House provision calling for the Archivist to be appointed by the President, by and with the advice and consent of the Senate. The Archivist may be removed by the President, but if the President does so, he must communicate the reasons for such action to the Congress. The conference report also adopts the House provision dividing records management responsibilities between the National Archives and GSA's Office of Information Resources Management.

Title II of the House bill reinforced the authority of the Archivist to carry

out his functions. These provisions were modified in several respects, and one important one, which gave the Archivist final authority to determine what documents were records and permitted him access to agency materials to make such determinations, was deleted. Mr. Speaker, I am disappointed that the conferees were unable to include these House provisions in the final conference report. The Government Operations Committee intends to maintain vigorous oversight of Archives operations and agency cooperation with the Archives in order to ensure that the new agency is able to carry out its mandated responsibilities as effectively as possible.

In sum, the conference report on S. 905 is a valuable step toward improving the operations of the National Archives, and ensuring that our children and their children will possess and be able to use the documentary heritage of our Nation.

Mr. HORTON. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, I rise in strong support of the conference report on S. 905, the National Archives and Records Administration Act of 1984.

This bill would rectify a mistake of 35 years' standing. By separating the National Archives from the General Services Administration, and reestablishing it as an independent agency, S. 905 would greatly strengthen the ability of the Federal Government to protect, preserve, and make available to its citizens the records which document its history.

I am pleased to note that the administration has stated that it, too, supports the establishment of the National Archives as an independent Federal Agency.

In my 22 years of service on the Government Operations Committee, we have always tried to make sure that agencies are organized in ways which will be not conducive to the performance of their functions. Back when the Congress placed the National Archives in GSA, it violated that fundamental principle of organization. The "shotgun marriage" of housekeeping functions with a cultural activity has never worked, and the wonder to me in retrospect is why we have taken so long to recognize it.

Throughout the years, the highly dedicated and professional staff of the National Archives has been able to overcome the misdirected efforts of GSA Administrators and keep the agency on course. But this is hardly the way that organizations should be designed to operate. The Archives would obviously function much better if its own professional leadership were free to set policy which is consistent with the agency's mission. Enactment of S. 905 will unshackle the Archives and, in that way, assist it in carrying out its mission.

I call particular attention to the statement of managers accompanying the conference report. There were a number of differences between the House and Senate-passed versions of this legislation, particularly with respect to various authorities of the Archivist. The statement of managers contains excellent descriptions of current law, the respective provisions of the House and Senate bills, and the resolution of the differences.

Mr. Speaker, I urge all Members to give this bill their support.

Mr. Speaker, I yield 3 minutes to the gentleman from Ohio [Mr. KINDNESS].

Mr. KINDNESS. I thank the gentleman for yielding.

Mr. Speaker, I must once again express my concern and my opposition to this legislation which would separate the National Archives and Records Service from the General Services Administration and establish it as an independent establishment in the executive branch.

One more independent agency.

When this legislation was on the House floor just prior to the August recess, I expressed my belief that it was neither wise nor necessary to grant independent status to the National Archives. I also expressed the fear that independence could exacerbate rather than solve the problems that are faced by the National Archives in the fulfillment of its mission.

I still hold to those beliefs, and I hope that they can be proven incorrect. However, all signs at the present time indicate that those problems are not ready for resolution, and we should be taking other steps to improve the situation at the National Archives.

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If anything, my concerns are heightened by the resolution of the difference between the House and Senate versions of this legislation. The conference agreement does not contain section 204 of the House-passed bill which would have clarified the authority of the Archivist to determine whether a record is an agency, as opposed to a personal record, for purposes of the records management and records disposal laws. Adoption of this language would have gone a long way toward solving the problems raised by the U.S. Supreme Court's decision in 1980 in the Henry Kissinger case. But we leave that unresolved.

Given executive agency head resistance to provisions such as those contained in section 204 of the House bill, I am not at all optimistic that we will achieve a satisfactory resolution of this problem in the foreseeable future. In fact, I can see it jeopardizing enactment of amendments to the Freedom of Information Act that are very much needed as representatives of media organizations can be expected to press for a resolution of this matter which would give private citizens a right of action under the Freedom of Information Act. I believe that clarifying the Archivist's authority in that area would be the proper solution and I regret that section 204 of the House bill was not contained in the conference agreement, and that the conferees buckled to the Senate and made the recommendation to recede from the House position and concur in the Senate version.

I think we will have to revisit this subject undoubtedly in the days ahead and try to resolve it, but we will be doing it with one foot in a hole.

Mr. BROOKS. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Georgia [Mr. LEVITAS].

Mr. LEVITAS. I thank the gentleman for yielding me this time.

Mr. Speaker, first I would like to pay tribute to the efforts of the chairman of our committee, the gentleman from Texas, and the ranking member, the gentleman from New York, for what I consider to be very important legislation.

History is the truth that one generation passes on to the next. Too often, history becomes simply a manipulative tool of the historian. In order for the truth to be kept pristine, there must be untainted original sources of information readily available to those scholars and those in subsequent generations who would seek the truth.

It is for that reason very important that we establish the Archives of this Nation as an independent agency within the executive branch, and not diminished nor trivialized and not politicized within one of the existing executive branches of government. We have had too much history in which we have seen the intervention of others who would distort or conceal or be selective in what they would make available. I think that the librarians of this Nation, the scholars and the academicians and our children, will be well served by the adoption of this important legislation in order to preserve the truth as history is written. Truly, the protectors of history are as heroic as the makers of history.

Mr. HORTON. Mr. Speaker, I have no additional requests for time, and I yield back the balance of my time.

Mr. BROOKS. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to

revise and extend their remarks on the conference report on S. 905.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

UNIFORM SINGLE AUDIT ACT OF 1983

Mr. BROOKS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1510) to establish uniform single audit requirements for State and local governments who receive Federal assistance and for recipients of Federal assistance from such governments, and for other purposes with Senate amendments to the House amendments thereto and concur in the Senate amendments to the House amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments to the House amendments, as follows:

In lieu of the matter proposed to be inserted by the House amendment to the text of the bill, insert:

SHORT TITLE; PURPOSE

SECTION 1. (a) This Act may be cited as the "Single Audit Act of 1984".

(b) It is the purpose of this Act—

(1) to improve the financial management of State and local governments with respect to Federal financial assistance programs;

(2) to establish uniform requirements for audits of Federal financial assistance provided to State and local governments;

(3) to promote the efficient and effective use of audit resources; and

(4) to ensure that Federal departments and agencies, to the maximum extent practicable, rely upon and use audit work done pursuant to chapter 75 of title 31, United States Code (as added by this Act).

AMENDMENT TO TITLE 31, UNITED STATES CODE

SEC. 2. (a) Subtitle V of title 31, United States Code, is amended by adding at the end thereof the following new chapter:

"CHAPTER 75—REQUIREMENTS FOR SINGLE AUDITS

"Sec.
"7501. Definitions.
"7502. Audit requirements; exemptions.
"7503. Relation to other audit requirements.
"7504. Cognizant agency responsibilities.
"7505. Regulations.
"7506. Monitoring responsibilities of the Comptroller General.
"7507. Effective date; report.

"§ 7501. Definitions.

"As used in this chapter, the term—

"(1) 'cognizant agency' means a Federal agency which is assigned by the Director with the responsibility for implementing the requirements of this chapter with respect to a particular State or local government.

"(2) 'Comptroller General' means the Comptroller General of the United States.

"(3) 'Director' means the Director of the Office of Management and Budget.

"(4) 'Federal financial assistance' means assistance provided by a Federal agency in the form of grants, contracts, loans, loan guarantees, property, cooperative agreements, interest subsidies, insurance, or direct appropriations, but does not include direct Federal cash assistance to individuals.

"(5) 'Federal agency' has the same meaning as the term 'agency' in section 551(1) of title 5, United States Code.

"(6) 'generally accepted accounting principles' has the meaning specified in the generally accepted government auditing standards.

"(7) 'generally accepted government auditing standards' means the standards for audit of governmental organizations, programs, activities, and functions, issued by the Comptroller General.

"(8) 'independent auditor' means—

"(A) an external State or local government auditor who meets the independence standards included in generally accepted government auditing standards, or

"(B) a public accountant who meets such independence standards.

"(9) 'internal controls' means the plan of organization and methods and procedures adopted by management to ensure—

"(A) resource use is consistent with laws, regulations, and policies;

"(B) resources are safeguarded against waste, loss, and misuse; and

"(C) reliable data are obtained, maintained, and fairly disclosed in reports.

"(10) 'Indian tribe' means any Indian tribe, band, nation, or other organized group or community, including any Alaskan Native village or regional or village corporation (as defined in, or established under, the Alaskan Native Claims Settlement Act) that is recognized by the United States as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

"(11) 'local government' means any unit of local government within a State, including a county, borough, municipality, city, town, township, parish, local public authority, special district, school district, interstate district, council of governments, and any other instrumentality of local government.

"(12) 'major Federal assistance program' means any program for which total expenditures of Federal financial assistance by the State or local government during the applicable year exceed—

"(A) $20,000,000 in the case of a State or local government for which such total expenditures for all programs exceed $7,000,000,000;

"(B) $19,000,000 in the case of a State or local government for which such total expenditures for all programs exceed $6,000,000,000 but are less than or equal to $7,000,000,000;

"(C) $16,000,000 in the case of State or local government for which such total expenditures for all programs exceed $5,000,000,000 but are less than or equal to $6,000,000,000;

"(D) $13,000,000 in the case of a State or local government for which such total expenditures for all programs exceed $4,000,000,000 but are less than or equal to $5,000,000,000;

"(E) $10,000,000 in the case of a State or local government for which such total expenditures for all programs exceed $3,000,000,000 but are less than or equal to $4,000,000,000;

"(F) $7,000,000 in the case of a State or local government for which such total expenditures for all programs exceed $2,000,000,000 but are less than or equal to $3,000,000,000;

"(G) $4,000,000 in the case of a State or local government for which such total expenditures for all programs exceed $1,000,000,000 but are less than or equal to $2,000,000,000;

"(H) $3,000,000 in the case of a State or local government for which such total expenditures for all programs exceed $100,000,000 but are less than or equal to $1,000,000,000; and

"(I) the larger of (i) $300,000, or (ii) 3 percent of such total expenditures for all programs, in the case of a State or local government for which such total expenditures for all programs exceed $100,000 but are less than or equal to $100,000,000.

"(13) 'public accountants' means those individuals who meet the qualifications standards included in generally accepted government auditing standards for personnel performing government audits.

"(14) 'State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands, any instrumentality thereof, any multi-State, regional, or interstate entity which has governmental functions, and any Indian tribe.

"(15) 'subrecipient' means any person or government department, agency, or establishment that receives Federal financial assistance through a State or local government, but does not include an individual that receives such assistance.

"§ 7502. Audit requirements; exemptions.

"(a)(1)(A) Each State and local government which receives a total amount of Federal financial assistance equal to or in excess of $100,000 in any fiscal year of such government shall have an audit made for such fiscal year in accordance with the requirements of this chapter and the requirements of the regulations prescribed pursuant to section 7505 of this title.

"(B) Each State and local government that receives a total amount of Federal financial assistance which is equal to or in excess of $25,000 but less than $100,000 in any fiscal year of such government shall—

"(i) have an audit made for such fiscal year in accordance with the requirements of this chapter and the requirements of the regulations prescribed pursuant to section 7505 of this title; or

"(ii) comply with any applicable requirements concerning financial or financial and compliance audits contained in Federal statutes and regulations governing programs under which such Federal financial assistance is provided to that government.

"(C) Each State and local government that receives a total amount of Federal financial assistance which is less than $25,000 in any fiscal year of such government shall be exempt for such fiscal year from compliance with—

"(i) the audit requirements of this chapter; and

"(ii) any applicable requirements concerning financial or financial and compliance audits contained in Federal statutes and regulations governing programs under which such Federal financial assistance is provided to that government.

The provisions of clause (ii) of this subparagraph do not exempt a State or local government from compliance with any provision of a Federal statute or regulation that requires such government to maintain records concerning Federal financial assistance provided to such government or that permits a Federal agency or the Controller General access to such records.

"(2) For purposes of this section, a State or local government shall be considered to receive Federal financial assistance whether such assistance is received directly from a Federal agency or indirectly through another State or local government.

"(b)(1) Except as provided in paragraph (2) and (3), audits conducted pursuant to this chapter shall be conducted annually.

"(2) If a State or local government is required—

"(A) by constitution or statute, as in effect on the date of enactment of this chapter, or

"(B) by administrative rules, regulations, guidelines, standards, or policies, as in effect on such date,

to conduct its audits less frequently than annually, the cognizant agency for such government shall, upon request of such government, permit the government to conduct its audits pursuant to this chapter biennially, except as provided in paragraph (3). Such audits shall cover both years within the biennial period.

"(3) Any State or local government that is permitted, under clause (B) of paragraph (2), to conduct its audits pursuant to this chapter biennially by reason of the requirements of a rule, regulation, guideline, standard, or policy, shall, for any of its fiscal years beginning after December 31, 1986, conduct such audits annually unless such State or local government codifies a requirement for biennial audits in its constitution or statutes by January 1, 1987. Audits conducted biennially under the provisions of this paragraph shall cover both years within the biennial period.

"(c) Each audit conducted pursuant to subsection (a) shall be conducted by an independent auditor in accordance with generally accepted government auditing standards, except that, for the purposes of this chapter, such standards shall not be construed to require economy and efficiency audits, program results audits, or program evaluations.

"(d)(1) Each audit conducted pursuant to subsection (a) for any fiscal year shall cover the entire State or local government's operations except that, at the option of such government—

"(A) such audit may, except as provided in paragraph (5), cover only each department, agency, or establishment which received, expended, or otherwise administered Federal financial assistance during such fiscal year; and

"(B) such audit may exclude public hospitals and public colleges and universities.

"(2) Each audit shall encompass the entirety of the financial operations of such government or of such department, agency, or establishment, whichever is applicable, and shall determine and report whether—

"(A)(i) the financial statements of the government, department, agency, or establishment present fairly its financial position and the results of its financial operations in accordance with generally accepted accounting principles; and

"(ii) the government, department, agency, or establishment has complied with laws and regulations that may have a material effect upon the financial statements;

"(B) the government, department, agency, or establishment has internal control systems to provide reasonable assurance that it is managing Federal financial assistance programs in compliance with applicable laws and regulations; and

"(C) the government, department, agency, or establishment has complied with laws and regulations that may have a material effect upon each major Federal assistance program

In complying with the requirements of subparagraph (C), the independent auditor shall select and test a representative number of transactions from each major Federal assistance program.

"(3) Transactions selected from Federal assistance programs, other than major Federal assistance programs, pursuant to the requirements of paragrpah (2)(A) and (2)(B) shall be tested for compliance with Federal laws and regulations that apply to such transactions. Any noncompliance found in such transactions by the independent auditor in making determinations required by this paragraph shall be reported.

"(4) The number of transactions selected and tested under paragraphs (2) and (3), the selection and testing of such transactions, and the determinations required by such paragraphs shall be based on the professional judgment of the independent auditor.

"(5) Each State or local government which, in any fiscal year of such government, receives directly from the Department of the Treasury a total of $25,000 or more under chapter 67 of this title (relating to general revenue sharing) and which is required to conduct an audit pursuant to this chapter for such fiscal year shall not have the option provided by paragraph (1)(A) for such fiscal year.

"(6) A series of audits of individual departments, agencies, and establishments for the same fiscal year may be considered to be an audit for the purpose of this chapter.

"(e)(1) Each State and local government subject to the audit requirements of this chapter, which receives Federal financial assistance and provides $25,000 or more of such assistance in any fiscal year to a subrecipient, shall—

"(A) if the subrecipient conducts an audit in accordance with the requirements of this chapter, review such audit and ensure that prompt and appropriate corrective action is taken on instances of material noncompliance with applicable laws and regulations with respect to Federal financial assistance provided to the subrecipient by the State or local government; or

"(B) if the subrecipient does not conduct an audit in accordance with the requirements of this chapter—

"(i) determine whether the expenditures of Federal financial assistance provided to the subrecipient by the State or local government are in accordance with applicable laws and regulations; and

"(ii) ensure that prompt and appropriate corrective action is taken on instances of material noncompliance with applicable laws and regulations with respect to Federal financial assistance provided to the subrecipient by the State or local government.

"(2) Each such State and local government shall require each subrecipient of Federal assistance through such government to permit, as a condition of receiving funds from such assistance, the independent auditor of the State or local government to have such access to the subrecipient's records and financial statements as may be necessary for the State or local government to comply with this chapter.

"(f) The report made on any audit conducted pursuant to this section shall, within thirty days after the completion of such report, be transmitted to the appropriate Federal officials and made available by the State or local government for public inspection.

"(g) If an audit conducted pursuant to this section finds any material noncompliance with applicable laws and regulations by, or material weaknesses in the internal controls of, the State or local government with respect to the matters described in subsection (d)(2), the State or local government shall submit to appropriate Federal officials a plan for corrective action to eliminate such material noncompliance or weakness or a statement describing the reasons that corrective action is not necessary. Such plan shall be consistent with the audit resolution standard promulgated by the Comptroller General (as part of the standards for internal controls in the Federal Government) pursuant to section 3512(b) of this title.

"§ 7503. Relation to other audit requirements.

"(a) An audit conducted in accordance with this chapter shall be in lieu of any financial or financial and compliance audit of an individual Federal assistance program which a State or local government is required to conduct under any other Federal law or regulation. To the extent that such audit provides a Federal agency with the information it requires to carry out its responsibilities under Federal law or regulation, a Federal agency shall rely upon and use that information and plan and conduct its own audits accordingly in order to avoid a duplication of effort.

"(b) Notwithstanding subsection (a), a Federal agency shall conduct any additional audits which are necessary to carry out its responsibilities under Federal law or regulation. The provisions of this chapter do not authorize any State or local government (or subrecipient thereof) to constrain, in any manner, such agency from carrying out such additional audits.

"(c) The provisions of this chapter do not limit the authority of Federal agencies to conduct, or enter into contracts for the conduct of, audits and evaluations of Federal financial assistance programs, nor limit the authority of any Federal agency Inspector General or other Federal audit official.

"(d) Subsection (a) shall apply to a State or local government which conducts an audit in accordance with this chapter even though it is not required by section 7502(a) to conduct such audit.

"(e) A Federal agency that performs or contracts for audits in addition to the audits conducted by recipients pursuant to this chapter shall, consistent with other applicable law, arrange for funding the cost of such additional audits. Such additional audits include economy and efficiency audits, program results audits, and program evaluations.

"§ 7504. Cognizant agency responsibilities.

"(a) The Director shall designate cognizant agencies for audits conducted pursuant to this chapter.

"(b) A cognizant agency shall—

"(1) ensure that audits are made in a timely manner and in accordance with the requirements of this chapter;

"(2) ensure that the audit reports and corrective action plans made pursuant to section 7502 of this title are transmitted to the appropriate Federal officials; and

"(3)(A) coordinate, to the extent practicable, audits done by or under contract with Federal agencies that are in addition to the audits conducted pursuant to this chapter; and (B) ensure that such additional audits build upon the audits conducted pursuant to this chapter.

"§ 7505. Regulations.

"(a) The Director, after consultation with the Comptroller General and appropriate Federal, State, and local government officials, shall prescribe policies, procedures, and guidelines to implement this chapter. Each Federal agency shall promulgate such amendments to its regulations as may be necessary to conform such regulations to the requirements of this chapter and of such policies, procedures, and guidelines.

"(b)(1) The policies, procedures, and guidelines prescribed pursuant to subsection (a) shall include criteria for determining the appropriate charges to programs of Federal financial assistance for the cost of audits. Such criteria shall prohibit a State or local government which is required to conduct an audit pursuant to this chapter from charging to any such program (A) the cost of any financial or financial and compliance audit which is not conducted in accordance with this chapter, and (B) more than a reasonably proportionate share of the cost of any such audit that is conducted in accordance with this chapter.

"(2) The criteria prescribed pursuant to paragraph (1) shall not, in the absence of documentation demonstrating a higher actual cost, permit (A) the ratio of (i) the total charges by a government to Federal financial assistance programs for the cost of audits performed pursuant to this chapter, to (ii) the total cost of such audits, to exceed (B) the ratio of (i) total Federal financial assistance expended by such government during the applicable fiscal year or years, to (ii) such government's total expenditures during such fiscal year or years.

"(c) Such policies, procedures, and guidelines shall include such provisions as may be necessary to ensure that small business concerns and business concerns owned and controlled by socially and economically disadvantaged individuals will have the opportunity to participate in the performance of contracts awarded to fulfill the audit requirements of this chapter.

"§ 7506. Monitoring responsibilities of the Comptroller General.

"The Comptroller General shall review provisions requiring financial or financial and compliance audits of recipients of Federal assistance that are contained in bills and resolutions reported by the committees of the Senate and the House of Representatives. If the Comptroller General determines that a bill or resolution contains provisions that are inconsistent with the requirements of this chapter, the Comptroller General shall, at the earliest practicable date, notify in writing—

"(1) the committee that reported such bill or resolution; and

"(2)(A) the Committee on Governmental Affairs of the Senate (in the case of a bill or resolution reported by a committee of the Senate); or

"(B) the Committee on Government Operations of the House of Representatives (in the case of a bill or resolution reported by a committee of the House of Representatives).

"§ 7507. Effective date; report.

"(a) This chapter shall apply to any State or local government with respect to any of its fiscal years which begin after December 31, 1984.

"(b) The Director, on or before May 1, 1987, and annually thereafter, shall submit to each House of Congress a report on operations under this chapter. Each such report shall specifically identify each Federal agency or State or local government which is failing to comply with this chapter.".

(b) The provisions of this Act shall not diminish or otherwise affect the authority of the Tennessee Valley Authority to conduct its own audits of any matter involving funds disbursed by the Tennessee Valley Authority.

(c) The table of chapters for subtitle V of title 31, United States Code, is amended by inserting after the item relating to chapter 73 the following new item:

"75. Requirements for Single Audits ..... 7501".

Amend the amendment of the House to the title so as to read: "An Act to establish uniform audit requirements for State and local governments receiving Federal financial assistance.".

Mr. BROOKS (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendments to the House amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The SPEAKER pro tempore. Is there objection to the original request of the gentleman from Texas?

Mr. HORTON. Mr. Speaker, reserving the right to object, would the gentleman from Texas describe the Senate amendments briefly?

I yield to the gentleman for his response.

Mr. BROOKS. Mr. Speaker, in answer to my distinguished friend from New York, the Senate amendment is similar to the provisions of H.R. 4821, which was approved by the House on May 15, 1984.

State and local governments receiving $100,000 or more per year in Federal financial assistance would be required to obtain independent, organization-wide audits of their operations. Such single audits will replace the many narrowly focused audits of individual grants that are currently required.

Auditors will review recipients' controls—both accounting and administrative—over Federal funds. They will also determine and report whether recipients have complied with Federal program requirements. These audits will be conducted either annually or biennially, depending on the audit practices of individual governments. The cost of single audits will be shared by the Federal Government and State and local governments.

State and local governments will also have responsibilities with respect to Federal funds passed through to subrecipients. If a subrecipient obtains a single audit, the primary recipient must review the audit and assure that appropriate action is taken to correct identified deficiencies. If the subrecipient does not obtain a single audit the primary recipient must determine—through audit of other appropriate means—whether Federal pass-through funds have been spent properly.

One must designate Federal cognizant agencies to implement the single audit. While these agencies are to coordinate additional Federal audit work when practical, Federal auditors retain the authority to audit Federal funds whenever the need arises.

Mr. Speaker, passage of the Single Audit Act of 1984 will help assure greater accountability over the nearly $100 billion in Federal aid provided to State and local governments each year. It will also help assure a more efficient and effective use of scarce audit resources. The single audit represents a tremendous improvement over the traditional grant-by-grant audit approach, which is uncoordinated, inefficient, and ineffective. Single-audit legislation is supported by the Comptroller General, the Federal Inspectors General, and State and local audit officials.

Mr. Speaker, I urge my colleagues to vote in favor of the Senate amendment.

Mr. HORTON. Mr. Speaker, further reserving the right to object, the bill which is now before us represents a compromise between House and Senate bills which would establish uniform single audit requirements for State and local governments receiving Federal financial assistance. The bill was written with bipartisan cooperation from both Houses and incorporates beneficial provisions from both versions. It deserves our support.

This measure is a welcome change for those of us who have long favored replacing the current system of expensive and duplicative grant-by-grant auditing with a more rational, organization-wide single audit that encompasses all Federal grants. It is safe to say that this single-audit approach will decrease duplication, auditing gaps, undue administrative burdens, and costs, while, making the use of audit resources efficient and effective.

Each audit required by this bill would cover the entirety of the financial operations of the State or local government being audited. The audit would report on that government's financial position, its internal control systems, and its compliance with laws and regulations which would have a material effect on Federal-assistance programs and financial statements.

Mr. Speaker, as the ranking minority member of the Committee on Government Operations, the primary oversight committee of this House, I can assure my colleagues that we have looked long and hard at this issue. We are convinced that the streamlined, single-audit approach contained in this bill would mandate a far better use of tax dollars than the audits currently being made.

Mr. Speaker, further reserving the right to object, I yield to the gentleman from Delaware [Mr. CARPER].

Mr. CARPER. I thank the gentleman for yielding to me.

Mr. Speaker, I rise in support of S. 1510, the Single Audit Act of 1984 and the Senate amendments thereto. The single-audit concept is certainly one who's time has come and I applaud and support the work by the chairman and the ranking minority members of the Government Operations Committee to turn the single-audit concert into reality.

As a former State treasurer, I am very aware of the problems State governments face in complying with the audit requirements found in most of our 450 different grant programs. Our current audit requirements are not only unwieldly, they are also arbitrary and inefficient. A 1979 study by the General Accounting Office indicated that a large number of State and local governments handling Federal funds never had their grants audited, and that some 80 to 90 percent of the $70 billion dispersed to State and local governments every year are not audited satisfactorily. Our country cannot afford such shoddy oversight of its expenditures, and the Single Audit Act will correct this situation.

The Single Audit Act provides a foundation upon which Federal audits will be based—a foundation that is organized and coordinated. It will provide the Federal Government with a more comprehensive and complete analysis of Federal expenditures than now exists. It will relieve State and local governments from burdensome Federal mandates. It will improve public financial management, and it will reduce the heavy costs of duplicative audit requirements that often create more confusion than clarity.

I strongly urge its passage.

Mr. HORTON. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Texas?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the amendments to the Senate bill, S. 1510.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

CONFERENCE REPORT ON H.R. 4164, VOCATIONAL TECHNICAL EDUCATION ACT OF 1984

Mr. HAWKINS. Mr. Speaker, I call up the conference report on the bill (H.R. 4164) to amend the Vocational Education Act of 1963 to strengthen and expand the economic base of the Nation, develop human resources, reduce structural unemployment, increase productivity, and strengthen the Nation's defense capabilities by assisting the States to expand, improve, and update high-quality programs of vocational-technical education, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to House Resolution 601, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of October 2, 1984, at page 28749.)

The SPEAKER pro tempore. The gentleman from California [Mr. HAWKINS] will be recognized for 30 minutes and the gentleman from Pennsylvania [Mr. GOODLING] will be recognized for 30 minutes.

The Chair recognizes the gentleman from California [Mr. HAWKINS].

Mr. HAWKINS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the conference report before us today on H.R. 4164 is one of the most important education bills of this Congress. We and the other body have labored several months to produce a bill that will reauthorize the Vocational Education Act of 1963 in a way that meets the training challenges of the future. I believe we have succeeded.

Since 1917, the Federal Government has contributed to the vocational education enterprise. H.R. 4164 would continue this Federal commitment by assisting States in providing vocational education and training for persons of all ages. Many recent reports on educational quality have focused on the need to improve the academic foundations of American education. H.R. 4164 affirms the principle that many students need vocational training as well as basic academic instruction to succeed in school and in the work force.

I believe it is telling that during the conference on this legislation, the one item that the conferees were able to agree upon most readily was that we needed to increase the authorization for this program. The bill therefore raises the authorized level for fiscal year 1985 to $950 million, over the current authorization of $735 million set by Gramm-Latta II. This program has been subject to budget cuts in recent years and is still below its actual level of spending in 1980, so the increased authorization will restore us to the level we would need to expand the program. For the 4 succeeding fiscal years through fiscal 1989, the conference report authorizes such sums as may be necessary.

Now I would like to discuss some of the specific provisions of the Carl D. Perkins Vocational Education Act, named after the late chairman who was the original sponsor of this bill and contributed so much to vocational education. It is crucial we adopt this bill today, because the program expired on September 30 and we are now operating under the contingent 1-year extension permitted by the General Education Provisions Act.

H.R. 4164 has three major themes: First, to strengthen the commitment to providing access to training for groups with special needs; second, to help States modernize and improve their vocational programs to address changes in technology and the labor market; and third, to emphasize the training needs of the adult population.

Toward the first goal, the conference report maintains the approach that the Federal law has used for several years of setting aside percentages of the grants to States to be used for special populations. As in current law, each State would be required to spend 10 percent of its basic grant for programs and services for handicapped persons. The set-aside for disadvantaged and limited English proficient individuals is increased from 20 percent in current law to 22 percent. A new set-aside of 3.5 percent is added for progams to promote sex equity in vocational education.

Toward the second goal, program modernization, the bill leaves 43 percent of a State's grant unencumbered by any reservations of funds to be used for expanding and improving existing programs and initiating new programs to benefit all the students served by vocational education. In addition, the bill establishes a new State grant program, authorized at $20 million, to train persons in high-technology fields, through partnerships with industry.

Acknowledging the shifts in population toward older workers and the greater need for adult retraining, H.R. 4164 increases the set-aside in current law for postsecondary and adult programs from 15 to 20.5 percent, with a new provision that out of that set-aside, 8.5 percent must be used for programs for single parents and homemakers. Also, the bill adds another new State grant program with a $35 million authorization specifically for adult training and retraining. This new part contains related requirements to meet the needs of single parents and homemakers. At the Federal level, the bill establishes two new types of demonstration projects aimed at adults: model centers for training older Americans and centers for training dislocated workers.

Other parts of the bill extend the separate program for consumer and homemaking education and create new programs for guidance and counseling and for grants to community-based organizations for youth. The conference report also encourages greater coordination between vocational education and other education and training programs, such as the Job Training Partnership Act.

Mr. Speaker, the conferees worked diligently to bring back a report that strikes a balance between the need to identify Federal priorities, through the set-asides of funds, and the need to allow States enough flexible money to update their programs. I believe we have accomplished this.

I urge the Members to join with me in voting for a bill to make a major contribution to a skilled, productive work force.

Mr. GOODLING. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, before I discuss the merits of H.R. 4164, the Carl D. Perkins Vocational Education Act, I must first state that this legislation will become a living monument and tribute to the one American—our late great chairman, Carl D. Perkins—who has done more than anyone to bring this area of education to the forefront of the national agenda and who has provided the leadership and drive to sustain, modernize, and improve the vital field of vocational education.

I know that Chairman Perkins would have been proud of the way in which our new chairman, AUGUSTUS F. HAWKINS, carried forth his dream. Mainly because of the skill and determination of Chairman HAWKINS and his keen instinct in knowing when and where to compromise, the Congress now has the opportunity to adopt this conference report on probably one of the best pieces of legislation to come before the 98th Congress. I thank our new chairman and his and our able staff for their efforts. I also realize the hard work and energy that went into this final product from the representatives of the education community at both the secondary and postsecondary levels.

The bill, H.R. 4164, achieves a delicate balance: On the one hand it recognizes the need to provide strict assurances for access to vocational education programs for the handicapped, disadvantaged, and others who have been traditionally underserved; on the other hand it provides flexibility to the States to use Federal dollars to assist in the improvement, expansion, and modernization of programs so that high quality programs become the norm rather than the exception.

H.R. 4164 makes a new major commitment to the postsecondary vocational education programs in the Nation especially in the area of training women for jobs that will provide them with increased earning power and upward job mobility. Another major emphasis was placed on new programs in the area of high technology. But these new emphases were not the only improvements. The legislation places a greater and more detailed role for the involvement and input of the private sector in these programs as well as a greater requirement for coordination with the vocational education programs and the activities conducted in a State under the Job Training Partnership Act. The synchronization of the planning cycles is a major step in this process. I would like to especially thank Chairman HAWKINS and Congressman JIM JEFFORDS in this regard.

The bill also streamlines the planning process and reduces the paperwork burden compared to the bill passed by the House. This was a major accomplishment in the conference agreement.

The legislation also continues support for the crucial research efforts currently in progress at the National Center for Research in Vocational Education. This bill will enable the center to provide leadership development activities, serve as a clearinghouse for and repository of the most important research in the field, as well as to conduct research on a broad range of topics related to the improvement in the quality of vocational education. Over the years, thousands of vocational education teachers and administrators have been brought together with private sector representatives and others at the national center who share a common interest in the improvement of our vocational education programs in this Nation. The legislation ensures that the national center will continue as an important national resource which will continue to assist and improve our State and local vocational education systems.

Finally, Mr. Speaker, I would like to once again urge the speedy adoption of this landmark piece of legislation. Once enacted into law, this legislation will provide the catalyst for the kinds of education reform, with its emphasis on both quality and access, that the people of our Nation are now demanding from our schools.

Mr. JEFFORDS. Mr. Speaker, will the gentleman yield?

Mr. GOODLING. I yield to the gentleman from Vermont.

Mr. JEFFORDS. I thank the gentleman for yielding to me.

Mr. Speaker, I rise in support of the conference report for H.R. 4164, the Carl D. Perkins Vocational Education Act. It goes without saying that it is particularly fitting that this bill be named for the distinguished Member of Congress the late Carl D. Perkins. Mr. Perkins was often referred to as the "Father of Vocational Education" and although he did not complete his mission to see this bill enacted into law, it serves his memory well.

A considerable amount of work has been done on this bill, and Mr. GOODLING, the ranking Republican, and the chairman, Mr. HAWKINS, deserve recognition for a job well done for bringing this compromise bill before us.

Vocational education, as does education as a whole, has a significant role to play in the relative productivity of this country. We continue to be the most productive nation in the world, but our growth in productivity has faltered. The real output of our economy depends on productivity and the quantity of resources employed. To increase productivity reduces the pressures of inflation and increases real income. Declines in productivity are related to such factors as growing adult illiteracy, declining rigor and relevance of education and training, and increasing numbers of unskilled and untrained individuals in the work force. The growth rate of our productivity affects our Nation's relative competitive position internationally.

We already have the necessary tools in this country to stem the tide of declining productivity. One of the most essential factors related to increasing productivity is education and skill training. Education, specifically in this case, vocational education contributes positively to productivity growth.

The bill before us attempts to direct the small percentage of funds that Federal dollars constitute of the total dollars spent for vocational education in this country toward two goals: program improvement and accessibility. It is important that those individuals who have been discouraged from participation in vocational education programs be provided access to programs of high quality. The basic State grant structure devised under this bill establishes a delicate balance between these two factors, allowing for sufficient flexibility, innovation, expansion, and modernization of vocational education programs.

I am particularly pleased that this bill provides for coordination of this program with other Federal education and training programs, including the Job Training Partnership Act [JTPA]. Specifically, activities under this act can contribute to, or augment services and training for, dislocated workers under JTPA. Additionally, the local private industry councils [PIC's] are to be notified of the vocational programs funded under the act, and can review and comment on the local application for funds under this act. At the State level, the State Job Training Coordinating Council has opportunity to review and comment on the State plan. There is now greater potential for collaboration between the two programs rather than working at cross

purposes. The education-training system at all levels can become both more effective and more efficient.

This bill provides a meaningful role for the private sector as a resource in the design, development, and implementation of vocational programs. There are technical committees at the State and national levels to provide an avenue of access for the private sector. Further, the national and State councils require a majority private sector membership. The responsibility and activities of these councils have been increased beyond the role of "advisory." Involvement of the private sector can have multiple effects which include: An expansion of community support; programs which reflect the business needs of the community for a skilled, trained work force; greater access of the programs to state-of-the-art equipment; and a broadening of employer acceptance of program graduates.

As vocational education programs are improved, the results are more highly educated, trained, and productive youth and adults. Education plays a critical role in the improvement of our Nation's productivity. It heartens me to see that the construct of this bill supports this premise.

There is an additional provision in this bill that I strongly support. It corrects an error in regulations promulgated by the Department of Labor regarding unit price contracts. The regulation as written severely limits the ability of service delivery areas under the JTPA to contract for services to youth. The change in this bill addresses one of the major concerns regarding services to youth expressed by those in the employment and training field. Without this change we place our at-risk, disadvantaged youth at an even greater disadvantage.

This bill takes great strides toward a more comprehensive national perspective between education and training programs. It is my hope that we will continue to move in this direction. I urge my colleagues to vote in support of this conference report.

Mr. HAWKINS. Mr. Speaker, I yield 1 minute to the gentlewoman from California [Mrs. BURTON].

Mrs. BURTON of California. I thank the gentleman for yielding to me.

Mr. Speaker, I also want to congratulate our new chairman, Congressman HAWKINS. I am very proud to have known Congressman HAWKINS for many years and in this moment of tragedy that struck the committee, he took over and it was beautiful to behold the conference.

I happened to be on the conference. I think it is my first one and I was very pleased to see both sides of the aisle working so well. This is a great bill. We need it in the country.

There is a special set-aside for women that makes me very happy. I was involved in that and I want to thank both sides of the aisle for working hard and doing a very good job on this bill.

Mr. GOODLING. Mr. Speaker, I yield 5 minutes to the gentleman from Texas [Mr. BARTLETT].

Mr. BARTLETT. I thank the gentleman for yielding this time to me.

Mr. Speaker, I rise in support of the conference report accompanying H.R. 4164, the Carl Perkins Vocational Education Act of 1984. Conferees resolved 256 points of difference. The agreement reflects the willingness of conferees to seek consensus, agree to compromise, and to honor our deceased colleague, Chairman Carl Perkins, the former chairman of the Education and Labor Committee in the 98th Congress. I intend to limit my comments to six provisions of the report in which I have had a sustained special interest, recognizing that my colleagues on the conference committee will ably address other provisions on which we may have common or unique perspectives. First, I am very pleased that the House receded to the Senate provision which prohibits the use of Federal funds under title II, part B—program improvement—to maintain vocational education programs. During consideration of H.R. 4164 in the Education and Labor Committee and on the floor, I urged the adoption of an amendment to limit the use of Federal dollars to innovation and improvement in, and expansion of vocational education programs.

Thanks to the efforts of my colleague from Pennsylvania, the final House bill included an amendment to the innovation, improvement, and expansion provision which would allow Federal dollars to be spent to maintain programs only if they were of demonstrated effectiveness. The Senate provision adopted by the conferees is stronger. It prohibits the use of program improvement funds to maintain programs. There are no exceptions.

This is a strong and reasonable provision. Since the Federal contribution to vocational education programs is about 8 percent, it seems appropriate that it be targeted on improvement.

Moreover, in reality the Senate provision reflects a balance—it affects only 43 percent of the Federal dollars. Another 57 percent is in the form of set-asides for special populations; set-asides which may be used to maintain vocational education programs for the disadvantaged, handicapped, single parents and homemakers, and other selected groups.

Second, I am pleased that the conferees agreed to a House provision which allows Federal funds for bilingual vocational education demonstration projects to include the use of such funds for English instruction during and/or within vocational education programs. This flexible provision permits English instruction as an integral part of bilingual vocational demonstration projects; it is sensitive to a fundamental need of vocational education programs. As the ranking Republican on the Subcommittee on Select Education with jurisdiction over two major programs which affect handicapped persons—the Education of the Handicapped Act and the Rehabilitation Act—I had a special interest in addressing the needs of such persons in a meaningful way within the reauthorization of the Vocational Education Act. I am firmly and fully committed to supporting programs which contribute to the independence of handicapped persons. I believe that vocational education represents such a program. Therefore, as a conferee on H.R. 4164, I was guided by three assumptions. First, in vocational education programs, we should promote the participation of handicapped students with their nonhandicapped peers. Second, we should not only maintain but increase access of handicapped students to quality vocational education programs. Third, in order to ensure that handicapped students benefit from Federal dollars set aside for them, accounting for such funds should be kept separately from funds set aside for other special populations.

The four provisions related to the handicapped I wish to address are those pertaining to: excess cost, non-Federal matching, prohibition against commingling, and the funding formula for within-State distribution.

First, the conferees agreed to a compromise on the definition of excess cost. Excess cost for handicapped students served in regular vocational education programs is defined as those supplemental services in the form of supplemental or additional staff, equipment, materials, and services not provided to other individuals in vocational education but which are needed in order for the handicapped student to benefit from vocational education in such a setting. Excess cost for handicapped students in a separate setting is defined as cost above the average per pupil expenditure. The first definition was taken from the bill of the other body. The second definition was taken from the House bill. By applying a different definition of excess cost in each of the settings the conferees intend to simplify fiscal accountability in each setting by allowing the use of a fiscal criterion common to a particular setting. Moreover, it is anticipated that the use of the "supplemental services" definition in regular settings will provide increased flexibility in defining excess costs and contribute to the increased participation of handicapped students in those settings.

Second, conferees agreed that Federal dollars set aside for handicapped students in vocational education continue to be used for 50 percent of the excess costs. Since March 1978, when the 50-percent excess cost provision was added to the regulations governing the Vocational Education Act, we have seen yearly increases in participation of handicapped students in vocational education programs. For example, in both the 1978 and 1980 school years, there was a 38.7-percent increase in the total enrollment increases in participation of handicapped students in vocational education programs. For example, in both the 1978 and 1980 school years, there was a 38.7 percent increase in the total enrollment of handicapped students in vocational education programs. The retention of the 50 percent of excess cost concept should promote an additional increase in the participation of such students in vocational education programs.

Third, the conferees agreed that the funds set aside for handicapped students cannot be commingled with those set-aside for the disadvantaged and limited English proficient. This prohibition against commingling serves two purposes. It gives validity to the set-asides for each special population and it provides an effective mechanism for ensuring that targeted students benefit from the funds allocated in proportion to the relative number they represent.

Fourth, the conferees agreed that Federal dollars set aside for the handicapped be distributed to local recipients within on the relative number of handicapped students enrolled in vocational education programs the previous year. This agreement was a compromise. It represents a radical departure from the distribution provision in the current statute. In current law and the House bill funds to local recipients must be distributed solely on the relative number of handicapped students served in vocational education the previous year.

The bill of the other body, in contrast, had a three-part formula. One-third based on the relative number of economically disadvantaged enrolled; one-third based on the relative number of handicapped, disadvantaged, and limited English proficient served in vocational education the previous year; and one-third based on the relative projected increase in these populations in the next year.

I am deeply concerned about the effects of the conference provision, but in the spirit of compromise I accepted it because it did constitute a middle ground between the two bodies. However, this middle ground may have some undesirable consequences. I offer two examples. First, the compromise provision will most likely increase vocational education opportunities for the handicapped in poorer communities, however, since services in such communities currently may be underdeveloped, increased Federal dollars may not be a sufficient catalyst for an increase or improvement in the local capacity to serve such students. Second, the compromise provision may decrease services to the majority of the handicapped students now being served in medium income communities. These communities will lose Federal dollars to poor communities which have a high concentration of economically disadvantaged students. Theoretically, Federal dollars to medium income communities could be reduced by up to as much as 50 percent. The formula may place a new burden on local resources to maintain vocational education opportunities for the handicapped. It may also create a disincentive for applying for Federal dollars if the amount in fiscal year 1985 is viewed as insignificant. In summary, vocational education opportunities for the handicapped may not expand or improve, and perhaps, may decline, because of the new weight given to the economically disadvantaged in the distribution formula for the handicapped. This one provision may be counter to the anticipated effects of the others adopted to benefit the handicapped.

In spite of my disappointment with the distribution formula, I recognize and appreciate the give and take experienced by all conferees. With a reauthorization which lasts through fiscal year 1989, we may have ensured the stability of the Vocational Education Program including time to adjust to new provisions vastly different from current law.

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Mr. Speaker, I support the conference report, and urge a "yes" vote.

Mr. HAWKINS. Mr. Speaker, I yield 2 minutes to the gentleman from Montana [Mr. WILLIAMS].

Mr. WILLIAMS of Montana. I thank the gentleman for yielding this time to me.

Mr. Speaker, this is a good bill. It is going to result in improved efficiency in the management of the vocational education system in America and it is going to result in improved career preparation for the American people.

My enthusiasm for this legislation is heightened because it includes another bill, a bill which I and some of my colleagues have been working on for 2 years now. When this bill passes and is signed into law, it will mandate a National Summit Conference on Education to be held in 1985.

For the first time in the history of this country, we will going to the American people in a summit conference, asking them what their expectations are for their schools, what their recommendations are for improving those schools and the teaching within them, and clarifying all of the myriad of reports and recommendations which have been issued, particularly during the first half of this decade.

We intend that the summit conference itself will be preceded by a series of local and perhaps statewide public meetings in which we will get the expectations, recommendations, and suggestions from the American people. The best of those will continue to bubble up to the top until we finally culminate with a 1-week-long National Summit Conference, to be followed with a product, a product which will be the recommendations of the people of America, those recommendations to be distributed to the various policymaking groups, the President, the Congress, both House and Senate, school boards and State legislatures throughout the country.

In my judgment, the National Summit Conference on Education to be held in 1985 will be the most important education event of the past 50 years, and I am delighted that the National Summit Conference on Education is included in this bill.

Mr. GOODLING. Mr. Speaker, I yield 1 minute to the gentlewoman from New Jersey [Mrs. ROUKEMA], who was very active in this vocational education bill, particularly in the areas of higher education and adult education.

Mrs. ROUKEMA. I thank the gentleman for yielding this time to me.

Mr. Speaker, I rise in support of the conference report on H.R. 4164, the Carl Perkins Vocational Education Act, which reauthorizes Federal assistance for State and local vocational education programs through fiscal year 1989.

I first want to compliment the new chairman of our committee, the gentleman from California, GUS HAWKINS, for quickly assuming the necessary leadership role in moving this major legislation through a difficult conference with the Senate. I also praise the outstanding work done by our ranking minority member on the subcommittee, the gentleman from Pennsylvania, BILL GOODLING, who has played an essential role throughout the development of this legislation and so many other education bills in this Congress.

Perhaps the most appropriate agreement reached by the conferees was to recede to the Senate provision entitling the bill: the Carl Perkins Vocational Education Act. This is only appropriate for a measure that is not only the first major education legislation to be enacted since his passing away, but is also in an area of primary concern to him. When this bill was before our committee and on the House floor, Chairman Perkins and I were in disagreement on several key points. But, despite some rather in-

tense debates between us, there were never any hard feelings because I knew that he simply disagreed with me as to what was best for vocational education and he stuck with his convictions. It was the strength of those convictions that warrants the naming of this legislation after this great legislator.

My principal concern throughout consideration of this legislation has been the relevance of the programs fostered under the act to the real needs of the marketplace for skilled workers. Up to this point, the Vocational Education Act has been criticized for lacking focus or direction in encouraging change and improvement in the Nation's vocational education system. I believe that an increase in relevance should clearly be one of those changes we should promote.

This legislation does not accomplish all that it can toward promoting such relevance. However, there are some positive steps forward. First of all, a greater share of the funding under the act will go toward those programs which are currently experiencing the most dynamic changes and improvements: adult and postsecondary education. The required set-aside of the basic State grant for these programs is increased from 15 percent to 20.5 percent. Of this amount, 8.5 percent will be required to be spent for programs serving single parents or displaced homemakers, a group which sorely needs the attention of these programs. While this reduces the percentage of unrestricted adult and postsecondary funds to 12.5 percent, this should not require cutbacks in existing programs which are already serving this population group to a large extent.

In addition, the House conferees agreed to a provision in the Senate bill which requires that funds other than those spent to serve the disadvantaged, adults, the handicapped, and those with limited English proficiency, must be spent for program improvements rather than to simply maintain existing programs. While I hope that in the future we can provide more guidance as to what improvements can be made in the system, I believe that this is a most positive aspect of the bill, which puts the Federal Government firmly on record as to why we are continuing to fund this program.

Finally, the conferees adopted two new separately authorized programs—one for adult training and another for industry-education partnerships for training in high-technology occupations. My own preference would have been to include these programs within the basic State grant, which is assured funding, but I am sincerely hopeful that the Appropriations Committees will see the necessity for these new programs and will choose to fund them at their authorized levels.

I am pleased to report to my colleagues that the Senate has agreed to the House-passed provision which prohibits the funds spent under this act to be used to purchase equipment, including computer software, where the purchase results in a financial benefit to an organization that represents the purchasing entity or its employees. I also note that this provision has been included in another measure, S. 2496, which has been agreed upon by the House and Senate. In S. 2496, the restriction is applied to all Federal education programs. This amendment, which I offered on the House floor, was aimed at preventing Federal funds from being used to assist in a situation involving a serious potential conflict of interest. Reportedly, that situation has been discontinued and I am confident that these new provisions in the law will prevent a recurrence.

Mr. Speaker, while the steps taken by this bill are not as bold as I would have preferred, I believe that the improvements in the existing programs are such that my colleagues should support this measure. As an original cosponsor of the legislation and a House conferee, I urge adoption of the conference report.

Mr. HAWKINS. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. BIAGGI].

Mr. BIAGGI. I thank the gentleman for yielding this time to me.

Mr. Speaker, I rise for the purpose of entering into a colloquy with the chairman.

Mr. Speaker, I wish to bring to the attention of the chairman a point of clarification for the legislative history of this conference report. Title IV of the act, specifically section 417, is the section which I authored to require the establishment of model centers in vocational education for older Americans. Section 417(b) is the section which contains the clause which mandates the establishment of these centers. However, I note that the word "shall" is missing from this section. I know that we did not intend to make this section 417 a permissible use of funds—and instead, intended that these centers shall be established.

Will the distinguished chairman concur with this observation—that the elimination of the word "shall" is a technical error on our part and that the Secretary of Education is directed to establish model vocational centers for older Americans?

Mr. HAWKINS. Mr. Speaker, if the gentleman will yield to me, I know of the interest of the distinguished gentleman from New York and his understanding of this is, I think, correct. It is also the chairman's understanding.

I would refer to section 417(a). The previous paragraph to which the gentleman referred does contain the word "shall." I think that section 417(a) refers to all of the succeeding sections. So the answer is "Yes."

Mr. BIAGGI. I thank the gentleman.

Mr. Speaker, I rise in strong support of the conference agreement before the House to reauthorize the Vocational Education Act of 1965.

As a member of the conference committee, I believe that this report merges the best provisions of both versions and presents a product that will continue our Federal commitment to training and retraining youth and adults to respond to current and future labor market needs. Since 1963, this act has been the foundation of educational and vocational opportunity for millions of working men and women that will assist them in entering and remaining in the workforce as productive members of society.

Today, as we consider this conference report, we see a vocational education program that will respond to the special needs of a variety of groups—in a variety of educational settings. We have an act that will assure access to educational opportunity for those special populations now underserved—or unserved—by the act—including the handicapped, the disadvantaged, women and the incarcerated.

Despite the fact that Federal funds for this program total only 8 percent of total national expenditures for vocational education, the Federal role has been central. It is through this act, that we establish the educational agenda for the next decade—a decade that will be characterized by increased reliance on high technology with a labor force that needs special, as well as basic, skills. Yet, while this bill before us today responds to the future labor needs of the marketplace, it does not neglect the job skills that have continued to form the core of support for vocational education programs. These include agricultural programs as well as consumer and homemaking programs.

I would be remiss if I failed to mention the fact that our deliberations here today and throughout the conference have been missing a central element—the contributions of our former Chairman, Carl D. Perkins, whose untimely passing last month left us without this body's most ardent support of vocational education programs. In his memory, we have renamed this act, the "Carl D. Perkins Vocational Education Act." This is a small but important provision that we intend should memorialize his leadership in this area.

Under the compromise proposal, we have retained the special emphasis on selected populations through separate authorizations and set-asides for special needs groups. These separate authorizations, which total $114.7 million, include:

$32 million for consumer and homemaking programs, which will assist the 3,000 vocational home economics educators in my own State;

$35 million for adult and postsecondary programs; half of which are earmarked for adult training and retraining and the remaining half, not to exceed $30 million, is earmarked for single parents and homemakers;

$20 million for programs in high technology, which is an essential area for increased emphasis considering that 45 percent of all economic growth in the United States between 1929 and 1969 was due to technological innovation;

$15 million for programs offered through community-based organizations that are critical to serving the needs of inner city and minority youth;

$8 million for State councils of vocational education, which provide important leadership in setting priorities for vocational education, especially in my own State of New York;

$3.7 million for national programs for bilingual vocational education, and

$1 million for guidance and counseling activities.

The State grant, which is the heart of this program, is authorized at $806.3 million. Of this amount, we have assured that the needs of special groups are served through the establishment of set-asides which will represent a percentage of State expenditures for vocational education. These are: 10 percent for the handicapped, 22 percent for the disadvantaged, 3.5 percent for sex equity activities, 20.5 percent for adults and 1 percent for the incarcerated. In total, these set-asides will represent 57 percent of total State expenditures.

I am especially pleased that we have responded to the concerns of the handicapped community which to date, have been inadequately addressed by the traditional vocational system funded through this act. This bill attempts to assure access to educational opportunity for the handicapped, also assures appropriate coordination of resources at the local level. To date, 1.23 million individuals or 34.3 percent of the total enrolled handicapped population participate in vocational education programs. This bill will assure that this population continues to receive special emphasis in State and local planning activities and services.

In additional to the handicapped emphasis, I am also pleased that we have responded in a significant fashion to the concerns of the educational community with regard to sex equity. In testimony before our subcommittee last year, the Full Access & Rights to Education Coalition in New York City, chaired by Tracy Huling, presented testimony which highlighted the significant sex stereotyping problems in New York City schools. I believe that this conference report addresses many of the concerns raised in FARE's testimony and in particular, its January 1983 report on sex discrimination in our city's schools.

The provision to earmark 1 percent of funds for the incarcerated will assist the 600,000 inmates of Federal, State, and local correctional institutions as well as the 2.2 million individuals who, at any given time, are under some form of correctional supervision. This provision is especially important to my own State of New York which operates a number of educational programs for these individuals. The presence of these educational activities can lead to free transfers of Federal facilities to the State which will significantly offset the pressing problems of inadequate housing in correctional facilities today.

Of particular interest is the provision which I authored to authorize the operation of national programs to provide vocational educational opportunities to older workers. This provision was based on legislation introduced by our colleague and former committee member, BILL RATCHFORD, who serves with me on the House Select Committee on Aging.

The current vocational education system is heavily biased toward students under the age of 25. What our educational system has failed to realize is that there remain large numbers of older Americans over the age of 55 who can and want to work. However, they need training and retraining opportunities that can and must be provided through the public educational system—including institutions of higher education.

Long-term unemployment continues to plague older workers. Jobless individuals 55 to 64 years old are unemployed an average of 27.9 weeks, compared to 19.4 weeks for unemployed persons 16 or older. Older workers also face longer periods of joblessness—43.8 percent longer periods than those 16 and older.

We need to encourage Federal programs which are age sensitive and respond to the special needs of older workers. The Job Training Partnership Act now sets aside 3 percent of State-allocated funds for training programs for older workers. With this provision in the Vocational Education Act, I intend that we will start to support similar efforts through the educational system, that can be coordinated with our national network of employment and training programs. Next year, when we reauthorize the Higher Education Act, I intend to make the needs of the nontraditional and part-time student, including students over the age of 55, a top legislative priority.

I intend to work with our colleagues in my capacity as chairman of the Human Services Subcommittee on the House Aging Committee and with the Department of Education, to assure that these programs will generate models which can be replicated on the local level and be of maximum use to educators in the field with little, if any, substantial experience in this area.

On the whole, I believe that the conference document represents an appropriate balance of interests. I commend my colleagues in both Houses and on both sides of the aisle for their diligence in seeing this legislation through the process. I am especially grateful to the work of our acting subcommittee chairman, my good friend, BILL FORD, our ranking minority member BILL GOODLING; as well as our full committee chairman, GUS HAWKINS. This product deserves strong bipartisan support and I urge its adoption.

Mr. GOODLING. Mr. Speaker, I yield 2 minutes to a very active participant, the professor, the gentleman from Utah [Mr. NIELSON].

Mr. NIELSON of Utah. I thank the gentleman for yielding to me.

Mr. Speaker, I will not speak long on this bill, but I did want to commend the ranking minority member of the Elementary, Secondary and Vocational Subcommittee, the gentleman from Pennsylvania, [Mr. GOODLING], and the new chairman of the Committee on Education and Labor, the gentleman from California [Mr. HAWKINS] for representing us a very fine conference with the Senate. We were able to confer and get everything ironed out. I think we now have a good bill.

I would also like to commend Senator HATCH for his very fine contribution; namely, the single-woman head-of-household so that she can have the proper training. I think that was a very good step that I am glad that we now have in the bill.

I was disappointed with the proliferation of vocational education programs. I think the money is being spread over too many different categories to be as effective as it should be.

Other than that, I have no complaints about the bill. The funding levels which were too high initially are now reasonable. I believe that the President will sign this bill. I think it is a very good bill and vocational education will take a very fine step forward.

□ 1700

Mr. HAWKINS. I have no further requests for time, Mr. Speaker.

I would like, however, to take this moment to congratulate all the conferees on both sides of the aisle for the splendid sense of cooperation extended in this conference and in particular I would like to commend the ranking minority member, the gentleman from Pennsylvania [Mr. GOOD-

LING] for the splendid support that he gave to the Chair and to the conference itself.

It was a spirit which he displayed during the incumbency of the previous chairman of the committee, the Honorable Carl Perkins, and I am very, very pleased that that spirit has continued and I hope that it certainly will continue from here on.

Mr. GOODLING. Mr. Speaker, will the gentleman yield?

Mr. HAWKINS. Yes; I will be glad to yield to the gentleman from Pennsylvania.

Mr. GOODLING. I would ask, Mr. Chairman, that we might engage in a colloquy to clarify something.

Mr. Speaker, I wish to clarify one point regarding the State leadership activities under the Consumer and Homemaking Education Program and the Guidance Counseling Program. The conference agreement limits State administration under these programs to 6 percent.

Is it the chairman's understanding that the conferees did not consider State leadership activities involving direct services to local programs under these programs as being subject to the 6-percent cap on administrative activities?

Mr. HAWKINS. That is correct. State leadership activities that involve direct services and technical assistance to local programs do not fall under the category of "State administration" and therefore would not fall under the 6-percent cap.

Mr. GOODLING. I thank the chairman for this important clarification. This should end any confusion which may have existed on this point.

Mr. HAWKINS. Mr. Speaker, I yield 1 minute to the gentleman from Michigan [Mr. FORD].

Mr. FORD of Michigan. Mr. Speaker, I would like to join those who have been complimenting our new chairman for the fine job he did in this conference and our friends on the other side of the aisle for their cooperation.

Mr. Speaker, I rise today in support of the conference report on S. 4164, the Carl D. Perkins Vocational Education Act of 1984. The report represents numerous hours of negotiations between the House and Senate conferees and staffs to solve over 250 initial differences between the bills.

There are several significant features of this act which will lead to an improved Federal role in assisting vocational education at the State and local levels. Specifically, these include increased authorization levels for many facets of vocational education. The Omnibus Budget Reconciliation Act of 1981 limited appropriations for vocational education to $735 million. The compromise authorization level reached in the conference is $950 million for fiscal year 1985 and such sums as necessary for the 4 succeeding years. With the number of individuals needing training and retraining in vocational areas, this increased amount will help to ensure that those who most need vocational assistance will receive it.

A new program for adult training, retraining, and employment development is also created. For fiscal year 1985, $35 million is authorized for this purpose. Other items receiving specific authorizations include community based organizations, consumer and homemaking programs, guidance and counseling services, industry partnerships, and bilingual education programs. Additionally, the bill provides percentage set-asides for disadvantaged programs, handicapped students, adult students including single-parent homemakers, sex equity programs, high technology, and programs for incarcerated individuals.

The Vocational Education Act as represented by this conference report clearly shows the concern of the Congress that those populations most in need receive necessary training to become productive citizens. It also delineates those types of specific programs that must be maintained if vocational education is to remain a vital and contributing factor in our educational system.

The chairman of the Education and Labor Committee in the House, my distinguished colleague Mr. HAWKINS, and the chairman of the Senate Labor and Human Resources Committee in the Senate, Mr. HATCH, are to be commended for their patience, leadership, and persistence in pursuing the numerous compromises that have been made to reach this conference agreement. These compromises are well thought out and provide for a comprehensive vocational educational program. I urge adoption of this report.

I am especially pleased that this bill will rename the Vocational Education Act in honor of our departed chairman of the Education and Labor Committee, Carl Perkins. Carl Perkins believed in and fought for vocational education during his entire career in the House. He presided over the hearings, committee markups, and floor debate on this bill. Naming it in his honor is a fitting tribute to one of education's greatest friends.

Mr. GUNDERSON. Mr. Speaker, will the gentleman yield?

Mr. HAWKINS. Mr. Speaker, I yield myself such time as I may consume, and I yield to the gentleman from Wisconsin.

Mr. GUNDERSON. Mr. Speaker, I appreciate the gentleman yielding.

I simply want to compliment the distinguished chairman and our distinguished ranking member [Mr. GOODLING] for their work on this particular bill.

Mr. Speaker, the House today is considering, and should pass, the conference report on H.R. 4164, a bill providing a reauthorization of the Vocational Education Act. This new law has been aptly named the Carl D. Perkins Vocational Education Act of 1984, for it contains much of what our late chairman had strived for during his many years of service in Congress.

The conference report retains the traditional Federal role in vocational education of access for those who might not receive proper vocational education without a Federal contribution, while also taking a new step forward toward the improvement and expansion of these programs.

This is a proper and timely step, and one which Chairman Perkins sought. The bill the Education and Labor Committee reported, and the House passed, maintained our commitment to certain special populations by retaining set-asides for the handicapped, disadvantaged, for sex equity, and for adult/postsecondary education.

At the same time, the House bill permitted use of remaining funds for program improvement and expansion, while establishing several new innovative categorical programs such as adult training and retraining, and industry-education partnerships for high technology occupations. In addition, language, was included in the basic State grant permitting its use for the purchase of equipment for and operation of high technology training programs and for the purchase of telecommunications to expand the reach of vocational education. Clearly, the House was providing an answer to the question—the Federal Government has provided access, but access to what? The answer now clearly is improved, expanded, and innovative programs.

Our colleagues in the Senate also had come to recognize that program improvement and quality in vocational education must become a Federal priority. Their answer was to reserve 50 percent of the basic State grant for such improvement funding. But they also substantially increased set-asides for specific populations, reducing the flexibility of our States and localities to use the funds as they see best.

The conference report we bring to the House floor today is, in the best sense of the word, a compromise. We have retained the Senate's structure in the basic grant with its equal emphasis on access funding and improvement funding. We have also established several new innovative categorical programs which will contribute to an expanded national vocational education system.

In dealing with the set-asides, conferees were again able to produce a compromise which will insure that these special populations are served, while also allowing local flexibility. In recognizing the budget constraints facing our Government, the confer-

ence committee produced a reasonable $950 million authorization, significantly below the current $1.4 billion established by the 1981 reconciliation.

We have also taken some major strides to reduce the burden of Federal law on our schools throughout the Nation, while still maintaining procedures that ensure Federal intent will be carried out. Significantly, we have reduced the burdensome Vocational Education Data System [VEDS] reporting requirements to sampling methodology. Now these time consuming and costly reporting activities will be reduced to a scientific sample, rather than across-the-board reporting.

In addition, we were able to remove planning requirements, which might have served to further reduce small school participation, by scaling back a proposed 2-year local plan to a 2-year local application, while eliminating requirements for a local advisory council altogether. The detailed and extensive planning mandates of the original local plan would have served only to convince more small schools that the cost of participation in the Federal program was not worth the rewards. Fortunately, we were also able to retain an exemption from this application requirement for small program local education agencies, at the discretion of State board.

In one area only is there an aspect of this conference report that I regret that conferees could not be persuaded to act differently. This is on the question of retaining House provisions which permitted use of funds to sustain programs of proven effectiveness. While I understand the concerns of our Senate colleagues that our emphasis be on improvement and expansion, reality is that many of our small programs cannot, year after year, meet that strict criteria. I am sincerely concerned that our new law may simply ask these programs to consider withdrawing from participation in the new Vocational Education Act.

Despite retention of the Senate provision on this particular issue, we have produced a forward-looking and worthwhile conference report. The Carl Perkins Vocational Education Act will continue to provide access for our special populations. But of equal significance, it will also provide a new direction—one of quality and program improvement. I urge my colleagues in the House to support this conference report.

● Mr. MURPHY. Mr. Speaker, I rise in support of the Vocational Education Reauthorization Report and I wish to congratulate my colleagues for working through the complexities of this important legislation. Vocational education is an integral part of both our educational and economic systems, and without a strong vocational education program talented young people fail to acquire the skills they are capable of developing. In my district in Pennsylvania vocational programs must be able to keep step with improved technologies as well as provide students with basic skills appropriate to our local economy. The conference report that we are considering today accomplishes these purposes.

I would like to confine the remainder of my remarks to those provisions in the conference report which address the needs of handicapped students in vocational education. As chairman of the Subcommittee on Select Education, which has jurisdiction over the major educational programs affecting handicapped students, I have been particularly interested in the evolution of this legislation. For the most part I am pleased to note that handicapped students will benefit from the provisions contained in the legislation we are considering today.

A number of beneficial features from current law have been maintained or refined in this legislation. These features include the 10-percent set-aside, the State and local matching requirement, and the excess cost provision. These critical fiscal features ensure access to vocational education programs for handicapped students and guarantee the provision of State and local revenues on behalf of handicapped students in vocational programs.

The new provisions that will enhance the role of handicapped students in vocational education include improvements in the data collection system and assurances that the special education systems and the vocational education systems work in concert toward the development of skilled and independent handicapped individuals. These two new provisions in particular will give us information on the quality of the vocational education that handicapped students are receiving as well as assure that the protections contained in Public Law 94-142 are applied to vocational education programs serving handicapped students.

As I stated earlier, this legislation will improve the status of handicapped students in vocational education for the most part, but I would be remiss in my duties as chairman of the Select Education Subcommittee if I failed to record my concern that the in-State distribution formula contained in the conference report that applies to handicapped students is flawed and will prove to be detrimental to a large number of handicapped vocational education students. This distribution formula seeks to drive handicapped vocational education funds toward disadvantaged areas. On its face this is a very appealing concept, but in fact as presently constructed this provision in the legislation will penalize middle-class students in the interest of their disadvantaged peers. This is a very delicate situation, and I must register my deep concern that the damage that will be dealt to these middle-class youngsters will outweigh the benefit that will accrue to disadvantaged youngsters. In many respects this is a classic dilemma. In current law the handicapped money in vocational education is distributed without factoring in the relative economic conditions of the area. The House version of the vocational education reauthorization maintained this formula. The Senate bill contained a vastly different formula and sought to direct moneys toward disadvantaged areas. The basic rationale of the Senate bills orientation was that rich school districts don't really need the Federal dollar compared to the needs of the disadvantaged areas. As I stated earlier there is a certain logic and appeal to this reasoning. My problem with this position is that it fails to consider the effects of this formula on those students who are neither rich nor disadvantaged. These students not only make up the vast majority of handicapped persons in the vocational education system, but also have needs equal to those of their wealthy or disadvantaged peers. These are the students who will suffer from the in-State distribution formula worked out in conference, because the wealthy school districts will be able to make up the lost Federal revenue with local funds and because these middle-income students will not be able to qualify for preferred treatment as disadvantaged. This is a dangerous precedent in the treatment of handicapped students, and I hope that its effects will be monitored closely. I regret that the compromise that I understood was worked out between certain key House and Senate Members did not prevail in conference and I would like to express my gratitude to my colleague, and the ranking minority member of the Select Education Subcommittee, Mr. BARTLETT, for attempting to promote the compromise position, a position that had the complete support of the handicapped community.

Mr. Speaker, I support this conference report and urge its approval by the House.●

● Mr. SIMON. Mr. Speaker, I have reviewed the conference report on the Carl D. Perkins Vocational Education Act, and I would like to commend my colleagues on their excellent work on this important bill.

I am particularly impressed by the forward direction in which this reauthorization moves vocational education. This bill acknowledges the need for change in the distribution of Federal dollars to local and State vocational programs. Now, 80 percent of the funding will go to local vocational programs, and only 20 percent to the State. More importantly, two-thirds of the State allotment goes to program

development and implementation, leaving only one-third to administration. I predict a great improvement in the quality and innovation that this mix of funding can bring.

Throughout the bill, there is an emphasis on upgrading ongoing programs and creating new programs to prepare vocational education students for new technology.

In addition the bill emphasizes provision of service to students formerly underserved by vocational education. This bill encourages vocational educators to recruit and provide high quality training for disadvantaged, limited English-speaking and handicapped students by providing payment for the extra cost of educating these students.

Finally, Mr. Speaker, I am pleased to see that this bill opens wider the vocational education system to interactions with business and other job training efforts and that it is more sensitive to local concerns in vocational education.

With the increased funding and the 5-year duration of this authorization, I feel certain that we will see great improvements in vocational education.

Therefore, Mr. Speaker, I urge my colleagues to join me in voting for the Carl D. Perkins Vocational Education Act.●

Mr. HAWKINS. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. HAWKINS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

DIRECTING THE CLERK TO MAKE CORRECTIONS IN ENROLLMENT OF H.R. 4164, VOCATIONAL TECHNICAL EDUCATION ACT OF 1984

Mr. HAWKINS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate concurrent resolution (S. Con. Res. 151) directing the Clerk of the House of Representatives to make corrections in the enrollment of the bill (H.R. 4164) to amend the Vocational Education Act of 1963 to strengthen and expand the economic base of the Nation, develop human resources, reduce structural unemployment, increase productivity, and strengthen the Nation's defense capabilities by assisting the States to expand, improve, and update high-quality programs of vocational technical education, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate concurrent resolution, as follows:

S. CON. RES. 151

Resolved by the Senate (the House of Representatives concurring), That in the enrollment of the bill (H.R. 4164) to amend the Vocational Education Act of 1963 to strengthen and expand the economic base of the Nation, develop human resources, reduce structural unemployment, increase productivity, and strengthen the Nation's defense capabilities by assisting the States to expand, improve, and update high-quality programs of vocational-technical education, and for other purposes, the Clerk of the House of Representatives shall make the following corrections:

(1) In section 102(b) of the Carl D. Perkins Vocational Education Act (as amended by the first section of the bill) strike out "section 113(b)(1)" after "provision of" and insert in lieu thereof "section 111(b)(1)".

(2) In section 342 of such Act (as so amended) insert "(a)" after "342.".

(3) In section 342(c)(3) of such Act (as so amended) stike out "this title" and insert in lieu thereof "title II".

(4) In section 421 (a)(2) of the Carl D. Perkins Vocational Education Act (as amended by the first section of the bill) insert the following new sentence after the paragraph designation: "The Secretary shall take such action as may be necessary to secure the data required by this section at reasonable cost.".

The SPEAKER pro tempore. The gentleman from California [Mr. HAWKINS] is recognized for 1 hour.

Mr. HAWKINS. Mr. Speaker, this resolution corrects erroneous cross-references in the just passed conference report on vocational education.

The Senate passed this resolution after it considered the conference report. It is my understanding that the minority has seen this resolution and supports it.

The SPEAKER pro tempore. The question is on the Senate concurrent resolution.

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

ORDER OF BUSINESS

The SPEAKER pro tempore. Does the gentleman from California have another conference report?

Mr. WAXMAN. Mr. Speaker, I seek recognition.

I think the gentleman from California is going to allow me to go ahead on a very brief matter.

Mr. HAWKINS. Mr. Speaker, in explanation, the gentleman from California has a matter which he says will not take more than 2 minutes. I have tried to refrain from yielding such time at this time; however, on the stipulation that it is a matter which will only consume 2 minutes, he has an urgent meeting in the Senate and in deference to my colleagues on the other side of the aisle, if they so concur, I will certainly allow the gentleman from California [Mr. WAXMAN] to proceed.

The SPEAKER pro tempore. For what purposes does the gentleman from California [Mr. WAXMAN] rise?

CONFERENCE REPORT ON S. 2303, ALCOHOL ABUSE, DRUG ABUSE AND MENTAL HEALTH AMENDMENTS OF 1984

Mr. WAXMAN. Mr. Speaker, I call up the conference report on the Senate bill (S. 2303) to revise and extend the Alcohol and Drug Abuse and Mental Health Services block grant.

The clerk read the title of the Senate bill.

The SPEAKER pro tempore. Pursuant to the rule, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of October 1, 1984, at page 28103.)

The SPEAKER pro tempore. The gentleman from California [Mr. WAXMAN] will be recognized for 30 minutes, and the gentleman from Illinois [Mr. MADIGAN] will be recognized for 30 minutes.

The Chair now recognizes the gentleman from California [Mr. WAXMAN].

Mr. WAXMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it is with pleasure that I report to my colleagues that the conferees on S. 2303 have agreed on a conference report that will extend the Alcohol, Drug Abuse and Mental Health Services block grant for 3 fiscal years.

Alcohol abuse, drug abuse, and mental illness are among the most serious public health problems facing our Nation. They affect all segments of society and impose annual costs exceeding $100 billion.

An estimated 35 million Americans suffer from mental disorders. As many as 13 million Americans are problem drinkers. Millions more experiment with or abuse illicit and licit drugs. Left untreated, substance abuse and mental illness cripple our economy and significantly increase demand for expensive health care or institutional services.

The principal purpose of the legislation is to extend the authorization of appropriations for the Alcohol, Drug Abuse and Mental Health Services [ADM] block grant. The ADM block grant is the principle source of Federal support for prevention and treatment services. Funds are allocated directly to the States and assist thousands of community-based programs in provid-

ing substance abuse and mental health prevention and treatment services. The ADM block grant provides States much needed resources to care for their residents who suffer from these serious health problems.

The conference agreement assures that block grant funds are allocated more equitably among the States. As appropriations for this program increase, they will be distributed to the States according to a formula based upon the relative population and per capita income of the States.

In addition, the legislation provides for establishment of a system for collecting data on the incidence of substance abuse and mental illness and provides States greater discretion in allocating block grant funds according to need.

The bill also addresses the needs of two groups which have not received adequate support by States under the block grant. Beginning in fiscal year 1985, States must allocate at least 5 percent of the block grant funds they receive for development or expansion of alcohol and drug abuse prevention and treatment services for women. In addition, States are encouraged to expand community based mental health services with an emphasis upon programs responsive to the needs of severely disturbed children and adolescents; 10 percent of a State's block grant allotment for mental health services must be allocated to provision of new services to areas and groups in greatest need.

Most significantly, the legislation expands the responsibilities of the Alcohol, Drug Abuse and Mental Health Administration [ADAMHA]. Like the original House bill, the conference agreement substantially increases ADAMHA's nonresearch-related responsibilities. In addition to continuing its administration of the ADM block grant, the agency is charged with development of a nationwide system for collecting data on the incidence of alcohol abuse, drug abuse, and mental illness. Further, the agency's institutes are charged with responsibility for funding a comprehensive demonstration program to improve the delivery of alcohol abuse, drug abuse, and mental health services and providing technical assistance to the States.

Mr. Speaker, S. 2303 also extends several other expiring Public Health Service Act authorities.

Drug and alcohol abuse research conducted by the National Institute on Drug Abuse and the National Institute on Alcohol Abuse and Alcoholism are extended for 2 fiscal years. Continuation of these activities are essential to lessening the effects of drug and alcohol abuse on our Nation. By improving our understanding of these addictive disorders more effective prevention and treatment services can be developed.

I want to recognize the invaluable contribution of the gentlelady from Maryland [Ms. MIKULSKI] who was an original cosponsor of this legislation. She has a deep concern over the serious obstacles women face in obtaining treatment for alcoholism and drug abuse. She has argued convincingly about the resistance of States to recognize these obstacles and respond to the need many women have for alcoholism or drug abuse treatment. BARBARA MIKULSKI's contribution and leadership has resulted in a bill that will significantly expand the number of treatment programs available in States for women. On behalf of the subcommittee, I commend her for bringing this issue to our attention and for championing a compassionate and constructive solution.

I urge support for the legislation and reserve the balance of my time.

Mr. MADIGAN. Mr. Speaker, I yield myself such times as I may consume.

Mr. Speaker, I rise in support of the conference report on S. 2303, legislation which provides for the reauthorization of research and service programs in the fields of alcoholism, drug abuse, and mental health.

Alcoholism, drug abuse, and mental illness are among the most serious health problems facing the Nation. The annual costs in lost productivity, medical costs, and related expenses exceed $100 billion annually. The alcohol, drug abuse, and mental health services block grant represents the Federal Government's principal tool for assisting States in making community based prevention and treatment services available to the public. S. 2303 reauthorizes the block grant, making a number of revisions.

First, revises the formula under which block grant funds are allotted among States to reflect a population, per capita based formula.

Second, provides greater State discretion in allocating block grant funds between mental health and substance abuse programs according to State need.

Third, provides incentives for States to develop special programs to provide alcohol and drug abuse treatment services to women and mental health services to children.

The legislation also povides for the reauthorization of the research authorities supported by the National Institute on Drug Abuse [NIDA] and the National Institute on Alcohol Abuse and Alcoholism [NIAAA] which are essential to better understanding the cause and most effective treatment of addictive disorders.

H.R. 5603, the House bill reauthorizing these programs received bipartisan support and was passed by the House under suspension of the rules.

The conference report on S. 2303 is the product of lengthy negotiations with the Senate and represents a final product that strengthens the block grant mechanism and provides continued research funding.

I urge my colleagues to support this important legislation.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. WAXMAN. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

DIRECTING SECRETARY OF THE SENATE TO MAKE CERTAIN CORRECTIONS IN ENROLLMENT OF S. 2303, ALCOHOL ABUSE, DRUG ABUSE AND MENTAL HEALTH AMENDMENTS OF 1984

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate concurrent resolution (S. Con. Res. 150) directing the Secretary of the Senate to make certain corrections in the enrollment of the bill (S. 2303) to revise and extend the Alcohol and Drug Abuse and Mental Health Services block grant.

The Clerk read the title of the Senate concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. MADIGAN. Reserving the right to object, Mr. Speaker, under my reservation I would ask the gentleman from California if the purpose of this is simply to make a technical correction to the title of the Senate bill?

Mr. WAXMAN. That is correct.

Mr. MADIGAN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate concurrent resolution, as follows:

S. CON. RES. 150

Resolved by the Senate (the House of Representatives concurring), That, in the enrollment of the bill (S. 2303) to revise and extend the Alcohol and Drug Abuse and Mental Health Services block grant, the Secretary of the Senate, shall, in the amendment of the House of Representatives to the title of the bill, strike out "and to revise and extend the Developmental Disabilities Assistance and Bill of Rights Act".

The SPEAKER pro tempore. The question is on the Senate concurrent resolution.

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

PERMISSION TO FILE CONFERENCE REPORT ON S. 2574, NURSE EDUCATION AMENDMENTS OF 1984

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight to file a conference report on the Senate bill (S. 2574) to revise and extend title VIII of the Public Health Service Act, relating to nurse education.

The SPEAKER pro tempore. Is objection to the request of the gentleman from Calfornia?

There was no objection.

CONFERENCE REPORT ON S. 2496, ADULT EDUCATION ACT AMENDMENTS OF 1984

Mr. HAWKINS. Mr. Speaker, I call up the conference report on the Senate bill (S. 2496) to amend the Adult Education Act in order to simplify requirements for States and other recipients participating in Federal adult education programs, and for other purposes.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Pursuant to House Resolution 601, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of October 2, 1984, at page 28734.)

The SPEAKER pro tempore. The gentleman from California [Mr. HAWKINS] will be recognized for 30 minutes and the gentleman from Pennsylvania [Mr. GOODLING] will be recognized for 30 minutes.

The Chair recognizes the gentleman from California [Mr. HAWKINS].

Mr. HAWKINS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to bring before the House the conference report on S. 2496, the Education Amendments of 1984.

This conference report extends 10 important Federal education programs which are an integral part of our national effort to assist the States and localities in supporting our elementary and secondary schools.

Three major programs are extended by this conference report for 4 fiscal years, 1985 through 1988. These programs are the Adult Education Act, the Bilingual Education Act, and the impact aid laws—Public Laws 874 and 815.

The other seven programs are extended for 5 fiscal years: 1985 through 1989. These programs are the Women's Educational Equity Act, the Indian Education Act, the Emergency Immigrant Education Act, the National Assessment of Educational Progress, the National Center for Education Statistics, assistance to the Virgin Islands, and assistance to the territories to improve teacher training.

This conference report not only extends these programs but also improves their provisions.

ADULT EDUCATION

The Adult Education Act is authorized at $140 million for fiscal year 1985 and such sums for the following 3 years.

Many proposed improvements from the administration's legislative proposals are incorporated into the revised Adult Education Act, including new authority for contracting in limited circumstances with private, profitmaking organizations and a new reservation of funds for national programs to be operated by the Secretary. The State Advisory Council provisions are also simplified and unfunded authorizations are eliminated.

BILINGUAL EDUCATION

The Bilingual Education Act is authorized at $176 million for fiscal year 1985 and such sums for the following 3 fiscal years.

The traditional strong emphasis on the use of a child's native language to facilitate the learning of English is retained in the amendments to this program. However, alternative instructional programs are explicitly authorized for the first time by this statute. Eventually, up to 10 percent of the funding under this act could be used for such alternative programs if local school districts choose to apply for such funding.

New programs are also authorized under these amendments in order to permit funding of family English literacy programs and to identify excellent bilingual and alternative instructional programs. Data collection, evalutation and research are also given greater emphasis in this conference report than they currently receive under the present law.

IMPACT AID

Both Public Law 874, authorizing operational funds, and Public Law 815, authorizing construction funds, are extended through fiscal year 1988. The authorizations for Public Law 874 are $740 million for fiscal 1985, $760 million for fiscal 1986, $780 million for fiscal year 1987, and $800 million for fiscal 1988.

WOMEN'S EDUCATIONAL EQUITY

The Women's Educational Equity Act is reauthorized through fiscal 1989 with an authorization of $10 million for fiscal 1985, $12 million for fiscal 1986, $14 million for fiscal 1987, $16 million for fiscal 1988, and $20 million for fiscal 1989.

The current law is revised to permit funding of new national activities or local activities when appropriations exceed $6 million. Challenge grants are also authorized by these amendments.

INDIAN EDUCATION

The conference report revises the law for the operation of Indian education programs by the Bureau of Indian Affairs. These revisions include a provision encouraging immunization of Indian children and rules regarding the closing of schools and the setting of school boundaries.

The conference report also extends the Indian Education Act benefitting Indian children in public schools. This act is authorized at $100 million for fiscal 1985 and such sums for fiscal 1986, with contingent authorizations for fiscal years 1987 through 1989 at an authorization level to conform with the fiscal 1986 appropriation.

EMERGENCY IMMIGRANT EDUCATION ACT

The Emergency Immigrant Education act providing assistance to school districts for educating both legal and undocumented alien children is reauthorized at $30 million for fiscal 1985 and $40 million a year from 1986 through 1989. The threshold for eligibility of school districts is reduced from 5 to 3 percent of the children counted under this act.

NATIONAL ASSESSMENT OF EDUCATIONAL PROGRESS

The national assessment of educational progress is reauthorized at $8 million for fiscal 1985 and $10.8 million a year from 1986 through 1989. The assessment is expanded to include State-by-state data at the discretion of the States. Departmental and OMB clearance and review are limited to no more than 60 days.

NATIONAL CENTER FOR EDUCATION STATISTICS

The National Center's granting and contracting authority is reauthorized at $10 million for fiscal 1985, $12 million for fiscal 1986, $14 million for fiscal 1987, $16 million for fiscal 1988, and $18 million for fiscal 1989.

TERRITORIAL ASSISTANCE

The program of general assistance to schools in the Virgin Islands and the program to assist the territories in improving their teacher training are both extended with an authorization of no more than $5 million a year for both programs for fiscal year 1985 and $7 million for the 4 succeeding fiscal years.

MIGRANT EDUCATION

The Office of Migrant Education is upgraded in this conference report in order to show the importance that the Congress attaches to programs of educational aid for migrants. Two other organizational provisions are deleted in the conference report.

STUDENT AID

The family contribution schedules for Pell grants and for guaranteed student loans are set by the provisions of this conference report for school years 1985-86 and 1986-87. We enacted this provision in order to bring stability to Federal student aid programs which need a very long leadtime for printing and distribution of information on stu-

dent aid to students and perspective students and their families.

MISCELLANEOUS

The conference report does not contain provisions enacted by the House dealing with audits or silent prayer. We deleted the provisons revising the Department of Education's audit procedures because the Senate was not prepared to act this time on those provisions without the benefit of hearings and markup. We have agreed, however, to hold joint hearings and to move on legislation in this area as soon as possible in the new Congress.

Regarding the silent prayer amendment we were told by the Senate conferees that there would be no conference report adopted by the Senate unless we agreed to delete the silent prayer provision enacted by the House. All but three of the House conferees voted for that provision when it was considered by the House. However, due to this pressure from the Senate conferees we had to delete that provision in order to secure their agreement to any conference report.

Mr. Speaker, we are bringing before the House a good conference report extending and improving many essential Federal education programs. The most important part of this conference report is that these programs will be given stability for 4 or 5 years so that State and local administrators and program participants will be able to count on Federal support for their educational programs.

□ 1710

Mr. GOODLING. Mr. Speaker, I yield whatever time he may consume to the gentleman from Vermont [Mr. JEFFORDS].

Mr. JEFFORDS. Mr. Speaker, I rise in support of the conference report accompanying S. 2496. As my colleagues know, this bill would reauthorize several education programs. These programs include adult, bilingual, Indian, and immigrant education, impact aid and women's educational equity.

This past year has been a time of intense scrutiny of our educational system which has lead to a national call for improvement. Educators at the local, State, and National level have been quick to act. Computers, testing, and gifted programs are some of the most frequently mentioned initiatives. It is important, however, to insure that this same spirit of excellence extends to all educational programs. The education amendments we are considering move those programs which serve illiterate adults, immigrant children, and other nontraditional students in the direction of excellence.

At the same time that employers are demanding a better educated pool of prospective employees, 2.3 million adults join the ranks of the 2.3 million illiterate persons each year. Adult education must be expanded and revised in order to meet these needs. Provisions in this reauthorization—allowing support of cooperative programs involving business, schools, and the community—are a move in the right direction.

With the large number of people entering this country for whom English is not the first language, new demands are also being placed on bilingual education. Several of the Republican members of the Education and Labor Committee worked very hard to allow flexibility in instructional methods. Again, the philosophy of maintaining those methods which are effective, while exploring new approaches to an educational problem, is embodied in this title of the bill.

Yesterday we received word that the Office of Management and Budget had recommended that the President veto this legislation if it should reach his desk. This action may come as a surprise to the Republican members of the committee. Many of them worked very hard at each stage of the legislative process to accommodate the administration's concerns.

For example, several Republican members have worked for years with Democratic members of the Education and Labor Committee to revise the audit determination procedures used by the Department of Education. While I know they would have liked to have had this title retained in the bill, the audit provisions were dropped during the conference. In response to the administration's concerns, authorization levels were lowered, attempts to legislate changes in the Department of Education limited, and the reauthorization periods shortened for many of the programs.

In light of these accommodations, I would hope that the administration would review this legislation and realize that, while it not exactly what it wanted, it is in fact a good-faith attempt to improve a set of important educational programs.

Compromise is the stuff of which conferences are made. The Republican members of the Committee on Education and Labor are pleased with some of the provisions and not so happy with others. But taken as a package, I think the majority of us are proud of this legislation, proud of the work that went into getting our views included, and hopeful that the individuals served by these programs will be provided a better education as a result.

Mr. HAWKINS. Mr. Speaker, I yield 4 minutes to the gentleman from Michigan [Mr KILDEE].

Mr. FORD of Michigan. Mr. Speaker, will the gentleman yield?

Mr. KILDEE. I yield to my colleague the gentleman from Michigan.

Mr. FORD of Michigan. I rise today to speak in favor of the conference report on S. 2496 (H.R. 11), the Education Amendments of 1984. This is an omnibus education bill which authorizes six major education programs and puts in place other provisions which ensure the smooth and continuous operation of several additional programs.

Title III of the act reauthorizes impact aid for an additional 4 years. Impact aid districts, those areas which are subject to reduced local and State taxes because of the presence of Federal programs or military installations, must have some form of assistance to make up for lost revenues if they are to provide effective public elementary and secondary education programs for their children. Under this act, impact aid is authorized to receive $740 million for fiscal year 1985; $760 for fiscal year 1986; $780 million for fiscal year 1987; and $800 million for fiscal year 1988. Although these increases do not begin to make up for the reductions in the program over the last 4 years—a 45-percent reduction since 1981 when adjusted for inflation—they do signal that the Congress understands the difficulty that impact aid districts face and that the Federal Government must accept a responsibility for ensuring that education programs in these areas do not suffer.

A second provision in the bill which is of vital importance is the continuation of regulations governing the allocation of student financial assistance. These amendments mandate that the same provisions that have been in place for the past 3 years remain effective for the 1985–86 and 1986–87 academic years. This will ensure that there will be no delays in the delivery of student aid to needy students during the next 2 years.

Section 801 of S. 2496 requires that a separate Office of Migrant Education be established, reporting directly to the Assistant Secretary for Elementary and Secondary Education. The Secretary is further prohibited from undoing, by future reorganizations, the requirements of this section. It was necessary to require that this provision be statutorily mandated because of recent actions by the Secretary placing the Office of Migrant Education under the basic chapter 1 compensatory education program. Until the 1983 reorganization, migrant education had been maintained as a separate office reporting to the Assistant Secretary. This amendment restores that status. It is essential to maintain this reporting process because the needs of migrant students and the functioning of the Migrant Education Office are significantly different from those of compensatory education students and their programs. The Department's reorganization threatens the functioning and integrity of the Office. In the original House version of H.R. 11, the Women's Educational Equity Act program and the Equity Training and Technical Assistance

Program were also restored to appropriate locations in the Department. Although we agreed to drop these two provisions in conference, it is important that we monitor what effect the reorganization has on them and conduct vigorous oversight activity into their operations.

The resolution of one issue during conference was very disappointing to me. Section 809 of H.R. 11 contained extensive legislative language governing the audit and appeals process used by the Department of Education. During the hearings held on H.R. 11, it became clear that there are very serious flaws in the education audit appeals process and that the State and local education agencies had legitimate and longstanding problems which needed resolution. As a result, H.R. 11 mandated that due process rights be given to agencies or institutions appealing audit determinations. These provisions were not drafted in a haphazard manner. In fact they were the result of over 3 months of meetings and negotiations among House staff, civil rights organizations, and representatives of State and local educational agencies. Unfortunately, because of the complexity of the resulting legislation, it was decided during the conference that still further study was needed and that the provision should be withdrawn. I am pleased, however, that we do have a commitment from all of the conferees to undertake joint oversight hearings at the beginning of the next Congress on this issue and to produce an appropriate legislative remedy.

The conference agreements reached on this bill represent an excellent effort by the conferees to preserve and continue several education programs. I urge my colleagues to vote for its adoption.

Mr. KILDEE. Mr. Speaker, I urge support of this conference report.

The other body accepted our bilingual bill written by the gentleman from Puerto Rico [Mr. CORRADA] and myself, along with the gentleman from Texas [Mr. BARTLETT] and the gentleman from Arizona [Mr. MCCAIN]. And in this section the conference committee accepted an amendment proposed by the Senate conferees to restrict the Secretary to further define through regulations certain terms.

We felt there was no need to give authority to define that which needs no further definition.

Mr. Speaker, the conference committee in the Indian education title made several changes in the House language while keeping the intent of this title. Specifically, changes were made to maintain administrative flexibility and to guarantee that no changes in reporting mechanics will occur which could jeopardize administrative performance. At the same time, amendments to current law to streamline operations and enhance education delivery were maintained.

The provisions deleted the House's detailed procedures for establishing attendance boundaries, and substituted language requiring the Assistant Secretary to consult with tribal and school board leaders before setting attendance areas.

The compromise also deleted language which might have been incorrectly interpreted to elevate the Director of the Office of Indian Education Programs to the status of a Deputy Assistant Secretary. Language was added to clarify that the Assistant Secretary is ultimately and solely responsible for the performance of Bureau education functions, particularly as related to facilities maintenance issues, and that the Director should be the supervisor of these functions on a day-to-day basis. House language vesting procurement authority for transactions under $25,000 within the education division was deleted, since the Bureau has begun the process of licensing education personnel for this amount administratively. Report language citing and encouraging this process was added.

Finally, the Indian Education Act—title IV—programs are reauthorized. In deferrence to the plans of the Senate Select Committee on Indian Affairs to hold extensive oversight hearings on this program in the next Congress, the compromise reauthorizes the act for 2 years at the level of such sums as may be necessary. However, in order to guarantee stability for this vital program, we have also included three 1-year extensions at the fiscal year 1986 appropriations level, in case legislative action is held up.

Language clarifying the nature of the distribution of the appropriated funds and allowing Alaska to qualify for the contact school amount—a provision added for Senator STEVENS of that State—were also added.

One point of clarification. The reauthorization contained in section 513(d) of this bill, reauthorizing the Adult Indian Education Programs originally enacted as part of the Indian Education Act in 1972, Public Law 92-318, refers to section 316(e) of the Adult Education Act. This section will be redesignated under this bill, so that section 316(e) will become section 315(e) upon enactment of this legislation.

Mr. GOODLING. Mr. Speaker, I yield 5 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I do find a problem with this bill in that we are faced with approving legislation that does not include the school prayer language that was adopted overwhelmingly by this House.

During the deliberations on this bill, that was one of the most emotional debates that took place on the House floor.

□ 1720

It was also one of the debates that, in all honesty, accumulated the largest number of votes in favor of a particular amendment.

So we sent our conferees into a conference with something where an overwhelming number of people had made it clear that they wanted a provision with regard to silent prayer in the legislation.

Now I heard the explanation of the gentleman from California and I certainly accept it and I certainly accept that the other body had some concerns on that. But it still gives me pause when we come back to the House floor with something that was overwhelmingly endorsed by this body and it has been totally excluded from this conference report. Not only is the language not in which the House adopted, but there is not even any hint of any language which would indicate that this House even considered that issue.

There was no compromise language with the Senate, no, nothing was done.

I really do believe that we have got a major problem with legislation when we have tried for months and months and months on this floor to address that singular issue.

I notice for example that one of the issues the gentleman said was dropped out of the bill, there was some assurance we were going to hold hearings on it. I heard no assurance whatsoever that we were going to have any hearings on the school prayer issue.

In other words, the school prayer issue was dropped and was dropped in a way that we are not even sure that it will ever be revived again. It is the kind of cavalier attitude with which the issue is treated, an issue which has overwhelming support by the American people that bothers this gentleman to no end.

It is not just this piece of legislation. We are going to have another piece of legislation dealing with the Department of Education coming before us in a matter of perhaps hours here where a similar kind of situation exists, where House-passed language, as a matter of fact language in law, was modified and/or dropped in conference committee, relating to this particular issue. And I would say that I think that the problem is that people do not regard this issue as seriously in this body as the American people regard the issue.

At every opportunity to drop language relating to school prayer, we seem to find a way to do it; at every opportunity to downplay it, we seem to do it; at every opportunity to not schedule hearings, we do not schedule hearings; at every opportunity we can,

we ignore amendments in legislation that deal with this particular issue.

We literally have to force it out on the floor, force it out for votes, and then we find that our conferees cannot come back with even a semblance of that language in the legislation after the House has voted.

I find that disturbing in this bill. I do not think that the House is of a mind to turn down the legislation based upon that one provision. But I do think that the record needs to show that here was a case where one of the major debates in the consideration of the bill has suddenly been obliterated when the bill comes back from conference.

I think it is a shame.

Mr. Speaker, I yield back to the gentleman the balance of my time.

Mr. HAWKINS. Mr. Speaker, I yield 1 minute to the gentleman from Montana [Mr. WILLIAMS].

Mr. WILLIAMS of Montana. I thank the chairman for yielding.

Mr. Speaker, one of the things we found out from that now famous report called "A Nation at Risk" was that adult education, particularly adult literacy, in this country is not what it should be.

As the chairman of the full committee, Mr. HAWKINS mentioned in his explanation of the bill, adult education is reauthorized for 4 more years in the identical form that we have been delivering adult education for the first half of this decade.

I personally believe, and I made the point to our colleagues in the other body, that we need better coordination of the various elements in the Adult Education Act. We need a much better system than we have to assure adult literacy.

We have to better prepare unemployable adults to take jobs in this society.

Mr. Speaker, I encourage Mr. HAWKINS, the chairman of the Committee on Education and Labor, to support early hearings next year so that we can reauthorize the Adult Education Act and make adult education better in this country as quickly as possible.

Mr. GOODLING. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from Texas [Mr. BARTLETT], a member of the committee.

Mr. BARTLETT. I thank the gentleman for yielding.

Mr. Speaker, I rise to urge support of Senate bill 2496, also H.R. 11 from this floor, the conference before us.

I urge support of this bill not because it is a perfect bill, it is not; but because the bill has been much improved and is a piece of legislation that is worthy of support of this House and of the administration.

Mr. Speaker, I was 1 of those 78 who voted against the legislation when it originally passed the House.

I am here to report that that legislation has been improved substantially and significantly and in ways that should earn our support.

Let me go through some of the improvements. First on the improvement of the money or the authorization figures; as it passed the House the bill authorized $1.3 billion, and the conferees were able to bring that down by $100 million to $1.2 billion.

In my judgment that is still too much, but that is an improvement and is an authorization level I believe we will still be able to hold the line on appropriations bills.

For that reason as I understand and for that reason alone the administration continues to have some objections to this bill within the administration.

It is my understanding that the Office of Management and Budget may well counsel rejection of this bill by the President. It is also my understanding that the Secretary of Education, who was active in the negotiations and active at the conference level in improving this legislation, will counsel the President to sign the legislation. That issue is as yet to be resolved. As to the omission of the silent prayer provision, I concur with the gentleman from Pennsylvania [Mr. WALKER]. I believe the conferees would have been better off and the country would have been better off had we retained that silent prayer language.

It was the first time that this body or any other body included silent prayer language in the authorization level of education. The other body stated unequivocally that with that language or any language referring to prayer then the other body would not in any way consider any legislation this late in the legislative session. So the conference decided to drop the report.

I do believe the silent prayer issue is not dead and it will be and it should be added to every piece of education legislation in the next session of Congress.

I do believe it was too late in the session to insist on it being added to this legislation.

In addition, the conference removed those changes in the audit procedure to satisfy the administration as they had requested, to maintain the safeguards built into the system by the Inspector General. And as for bilingual, I was active with the Member from Michigan [Mr. KILDEE], who was the chief sponsor of bilingual, as well as my colleague and friend [Mr. MCCAIN], without whose consensus-building and leadership we would not have prevailed, as well as the gentleman from Puerto Rico [Mr. CORRADA].

I believe we came up with a bilingual education bill that improves the status quo, it significantly improves current law as it is by providing for the first time in Federal law the acquisition of English will be the purpose of bilingual education, and in addition I would remind this House that for the first time in this bilingual section we will have funded and authorized forms of alternative instruction and curriculum by the Federal Government which are currently being used by many State and local governments including English as secondary language and structured immersion, as long as that structured immersion has as its purpose the acquisition of English and the acquisition of academics.

I would emphasize that it is still my contention that bilingual education should be in a separate piece of legislation. It was not. I lost on that. It is included in H.R. 11.

I urge my colleagues to vote for this legislation in its present form.

Mr. HAWKINS. Mr. Speaker, I yield 1 minute to the gentleman from New York [Mr. BIAGGI].

Mr. BIAGGI. I thank the chairman for yielding.

Mr. Speaker, I rise in support of the conference report. Clearly the ultimate product is not all that we would like it to be nor what we would like to see. But two areas which I think are especially important, one is adult population. Without the emphasis placed in the this area we find many of the schools of higher learning would be in difficulty with registrations falling in the past.

Now there is a resurgence in attendance clearly providing a need for many adults who were looking for another avenue to educate themselves.

□ 1730

Insofar as the silent prayer is concerned, I have been a strong advocate of that and voted for that in the House. I am clearly disappointed that the conduct of the other body that remains intractable on such an important and singular issue, especially in light of the fact that the issue was overwhelmingly supported by this House.

I am especially pleased that this bill extends, for 4 years, the bilingual education programs which are critical to assuring educational opportunity to students of limited English proficiency. As New York's senior member of the House Education and Labor Committee, I know first hand the importance of the title VII program to the families of New York City. Our public school system, which is the largest in the Nation and which serves over 1 million students, enrolls large numbers of students who are not proficient in English.

According to a recent evaluation of language-minority students by the New York City Board of Education, we know that these students are a diverse group, with varying educational needs. More than one-half of those are enti-

tled to services; 54 percent meet the entitlement criteria. We also know that there are a number of language groups: Three-quarters are Spanish speaking, the next largest group speak Chinese. Other common languages include Haitian Creole, French, Korean, Italian, Vietnamese, Russian, Greek, and Arabic. Many of these students live in neighborhoods where the native language predominates. Up until grade eight, boys outnumber girls; by high school, only 37 percent of these students are male.

The most startling point of the evaluation, in my opinion, is the fact that 16 percent of these students have been in bilingual programs for 4 or more years. I am pleased that this bill provides for greater flexibility for bilingual education programs so that we may be able to adapt programs according to local needs.

The bilingual programs are extended for a period of 4 years through fiscal year 1988 at the following levels: $176 million in fiscal year 1985 and such sums as may be necessary through fiscal year 1989. Flexibility is achieved by allowing up to 4 percent of funds appropriated, up to $140 million, to be used for programs which do not have a native language component; 50 percent of any new funds appropriated above $140 million, with a total cap of 10 percent of all bilingual funds which can be used for alternative programs.

I intend to monitor these new programs very closely with an eye toward evaluating the types of programs used so that we can assure that we are supporting those types of programs which provide proficiency in English to students in the most timely, and effective manner possible.

This bill also extends the important Impact Aid Program for 4 years which will assure that local school districts continue to be compensated for the loss of local tax revenues due to Federal activity which precludes taxation. This bill is authorized at $780 million in fiscal year 1985 and such sums for each of the following years, and also includes continuation of section B payments at current levels limiting payments to one-third of maximum entitlement. I regret that while we are reauthorizing this program, that the Senate has failed to act on the Emergency School Assistance Act, which compensates schools for the costs of desegregation as a result of court rulings. This program is especially important to districts, such as the city of Yonkers, which is part of the 19th Congressional District which I represent. Yonkers has been battling for funds with which to initiate such proceedings without success and funds from this program would be of substantial benefit to the Yonkers school system.

We also reauthorize the Asbestos School Hazard Detection and Control Act of 1980 which provides funds to schools to assist them in the removal of asbestos. For each of the 4 years 1985-89 we provide $22.5 million for detection activities and $75 million for interest-free loans for abatement. This program is also important not only to Yonkers, but to the New York City school system as well. At present, the Environmental Protection Agency is threatening to fine the school system with a $231,000 fine for allegedly failing to comply with asbestos regulations. The city is challenging EPA's allegations as New York has been the model and training site for other schools in the Nation and has taken the lead in developing comprehensive detection and removal programs. It is imperative that we provide this program with adequate funding so that all schools will be able to address these problems in a timely fashion which will assure the health and safety of students and school personnel.

I regret that this report does not contain two other important provisions which were included in the House bill: the Gunderson amendment providing for silent school prayer and the audit provisions which assist State and local school districts to comply with DOE mandates. The audit provisions would have substantially enhanced administration of these programs and would have assured that the intent of Congress is being carried out by the executive branch. I would hope that we will revisit this issue early in the next Congress.

With respect to school prayer, I regret that we were forced into a corner by the Senate conferees who threatened to filibuster this bill to death. I further regret that we did not counter this threat by refusing to recede on this provision which was overwhelmingly approved by this House—in bipartisan spirit—on July 26. I have remained an ardent supporter of school prayer and am confident that we will be able to address this issue again in the not too near distant future.

In sum, Mr. Speaker, I believe this a good bill that merits our support. I commend my colleagues on the committee, our chairman, GUS HAWKINS, my good friend, BILL FORD, acting chairman of the subcommittee, and our distinguished ranking Republican, BILL GOODLING, for their substantial leadership in this effort. I urge adoption of the pending bill.

Mr. GOODLING. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, when H.R. 11 came to the floor of the House and when H.R. 11 left the floor of the House, I was one of 78 Members who opposed it for several reasons.

First of all, when H.R. 11 came to the floor of the House it was 177 percent above the level that appeared in the first budget resolution. After the Congressman from Michigan [Mr. KILDEE] offered his amendment, it was still 70 percent above the majority's budget resolution.

I offered an amendment which would have brought it in line with the majority's budget resolution. My first amendment failed so my backup amendment, the Goodling substitute, was offered by the Congressman from Michigan [Mr. FORD], which brought it to 34.4 percent above the first budget resolution.

I am happy to say that at this particular time at least we have reduced the bill by another $100 million in conference. So it is far better than it was when it left.

I had also opposed it because of the years of authorization. We have made some changes in those years and have reduced those years and so we have made it a better piece of legislation.

We also had some opposition to the extensive limitations on reorganization of the Department of Education. But at least after conference we now have a far better bill than we had when it left the floor of the House.

The very distinguished gentleman from Wisconsin [Mr. GUNDERSON] offered a prayer amendment on the House floor which I think was the best of all worlds. Sometimes I suppose when you move to the other body you cannot see the fire for the smoke and they did not realize that this amendment was a reasonable compromise. So it was the other body which insisted that we not include the prayer amendment because they said it would be subjected to filibuster and therefore we would not have a bill at all.

In conference committee, we reduced the authorization level by $100 million. We have also reduced the years of authorization. There are some other things that we did. We limited the years, as I indicated, in some areas. Two of those are impact aid and bilingual education from 5 years to 4 years. Both should have had more careful consideration, but that is the art of compromise when you are in conference.

I am sorry to say that the House receded to a Senate request to drop audit determination procedures. There are many States that will be very disappointed that this was deleted in conference. However, the chairman has indicated that we will move forward with hearings on this very important issue and we will give the help to the States who have been asking for justice in this whole audit procedure.

In this particular case we pleased the administration because they and I were on different sides of the issue.

The House receded to the Senate request to drop the limitation on the Secretary of Education to reorganize the Women's Education Equity Pro-

gram in the Office of Civil Rights Training.

The adoption of the Senate's Adult Education Program was basically the administration's proposal. Mr. WILLIAMS did a great deal of work trying to rewrite that entire program, but it got bogged down in our own committee and therefore, we did not have an opportunity to do all the things we probably should have done in that particular program.

So, overall, Mr. Speaker, we believe that we have a far better bill than we had when it left the floor of the House.

Now I am told, for those who might be interested, that the Secretary of Education will recommend that the President sign the bill. I am told that the Director of OMB will recommend that the President veto the bill. I am also quite sure that both will accept whatever the President decides to do when he makes that decision.

Mr. Speaker, I yield 1 minute to the gentleman from Arizona [Mr. MCCAIN].

Mr. MCCAIN. Mr. Speaker, the bilingual education title of this bill has remained basically unchanged since it left the Committee on Education and Labor. It has been approved on the floor of the House and in conference. The bilingual education title has also come under careful scrutiny. It is the product of long hours of negotiation and compromise.

This bill makes a number of important changes in bilingual education authority. One provision allows local flexibility in federally funded bilingual education programs for the first time. This concept is a vital component of this title. In the past, a specific form of instruction has been federally mandated. Transitional bilingual education calls for instruction in a student's native language and is not always workable, practical or possible.

In Arizona, there are students whose native language is Spanish and others who are Native Americans attending the same schools. A traditional form of transitional bilingual education does not work here. It is more difficult to make transitional bilingual education work in large urban areas with students from Vietnam, Cambodia, Central America, and other parts of the world. It is an impossible task to teach all of these students in their native languages and dialects.

I would also like to remind my colleagues that a number of school districts and local governments are unhappy with transitional bilingual education. There are schools here in Washington, DC, which do not qualify for Federal funds because they use an alternative approach. This title of the conference report would allow these schools to implement bilingual education programs which would meet their community's needs.

Make no mistake about it, the purpose of this title is to teach students English. In many cases transitional bilingual education works and works well. However, with this compromise it will allow for flexibility on the local level. Unfortunately, some groups have raised the unfounded concern that bilingual education will institute and perpetuate a two-language system. Nothing could be further from the truth. We must teach all students English without destroying their ethnic heritage and we must make sure that limited-English-proficient students are not left behind their English-speaking peers.

Mr. HAWKINS. Mr. Speaker, I yield such time as he may consume to the gentleman from the Virgin Islands [Mr. DE LUGO].

Mr. DE LUGO. Mr. Speaker, I rise in support of the conference report on S. 2496, the education authorization bill. The conference report reflects a commitment to important educational programs, and I urge my colleagues to vote for its passage.

As I noted when this body considered H.R. 11, the House version of this legislation, there are two provisions of special concern to me: The 5-year reauthorization of general assistance to the Virgin Islands and teacher training for all the territories. Both of these provisions have been retained in the conference report. The General Assistance and Teacher Training Programs are of particular importance to the Virgin Islands because they address the special educational needs of the territory. General assistance provides additional funding for the Virgin Islands' overcrowded schools and remedial education problems. The Teacher Training Program addresses the difficulties faced by all of the territories in attracting and, especially, keeping qualified teachers. The program provides for local training of teachers, and is leading to a more stable teaching force in the territories.

I am very grateful to my colleague, BILL FORD of Michigan, for his help in securing these important provisions for the Virgin Islands and the rest of the territories. It is the concern of Members such as him that has focused the necessary attention on the U.S. territories. I also am grateful to the attention which our colleague the late Chairman Perkins had given to these programs and other territorial concerns through the years. Similarly, my colleague, Mr. WILLIAM NATCHER of Kentucky has consistently helped the Virgin Islands and the other territories with their special educational needs, and the difficulties caused when the territories interfaced with Federal programs designed for the States. I thank him for his interest and support.

I also join my Hispanic colleagues in supporting the bilingual education provisions of the conference report and I want to join in complimenting the new chairman for the fine job that he did in conference on this bill.

● Mr. ERLENBORN. Mr. Speaker, while I feel that the conference agreement on S. 2496 to amend several education laws has improved upon the version that passed the House (H.R. 11) on July 25, I still have several concerns which I addressed then.

For example, the conference agreement extends the Impact Aid Program and includes a continuation of category "b" payments to schools for children whose parents either work or live on Federal property. In the Reconciliation Act of 1981 we achieved the goal of curtailing this program which had eluded every President from Eisenhower through Carter, although all of them tried. In this conference report we provide for the continuation of category "b" payments which were due to be phased out at the end of fiscal year 1984. Thus, the conference report effectively destroys the hard won and needed impact aid reform.

Importantly, school officials have known for 3 years that "b" payments were scheduled to end on September 30, 1984. Their faith in the inability of Congress to end this questionable program has been borne out.

As I also noted in July, this bill contains a rewrite of the entire Bilingual Education Act. I feel that we have missed a golden opportunity to remedy the defects of this program. It is unfortunate that the Congress does not put enough trust in the process of local decisionmaking to allow local needs, priorities, and concerns to dictate how students of limited English language proficiency can best learn to read, write, and comprehend the English language. I fear the compromise incorporated in the House bill and accepted by the Senate does not do nearly enough in this regard.

The legislation also unfortunately ended up making significant changes in the way the Bureau of Indian Affairs administers various education programs. I still feel that inadequate time was devoted to these proposed changes and, since these issues involve no expiring legislative authority and no emergency situations, there is no good way to justify this part of S. 2496.

At the same time, I would like to compliment the conferees for making certain improvements in the bill. Although the overall authorization in the bill is $1.2 billion which is $238.2 million over the budget resolution passed by the House, that amount is to be preferred over the $1.3 billion bill that passed this House in July. This change, along with certain modifications which have the effect of reducing paperwork and providing for greater emphasis on direct educational

services at the local level, improved this bill.

These changes enabled me to sign the conference report. However, with the serious reservations noted above, I would have hoped that the spirit of compromise would have delivered better results than this conference report has provided.●

● Mr. SIMON. Mr. Speaker, I want to join my colleagues on the House Education and Labor Committee in recommending adoption of the conference committee report on S. 2496, which amends the Adult Education Act, authorizes the continuance of certain essential education programs and includes provisions essential to the continuing orderly operation of the Pell Grant and Guaranteed Student Loan Programs through academic year 1968-87.

I want to begin by congratulating Chairman HAWKINS, my colleague and friend from Michigan, BILL FORD, together with Representatives DALE KILDEE, BALTASAR CORRADA, and STEVE BARTLETT for their outstanding work on certain parts of the legislation which led to this conference report and on the conference report itself. Without their sincere and dedicated efforts, the House would not be in a position today to adopt this important conference report continuing the Adult Education Program, the Bilingual Education Program, the Women's Educational Equity Act Program, and the National Center for Education Statistics and the National Assessment for Educational Progress. Each of these programs, and others included in the act, are essential to continuing a strong Federal role in education. There were times during our consideration of this legislation when many doubted that we would get to the point where the Senate and House could act favorably. Through the hard work of Chairman HAWKINS and the persistent efforts of the gentleman from Michigan, Congressman FORD, we are here today to adopt a conference report which is essentially identical to H.R. 11, which passed the House on July 26, 1984.

I have a special interest in the bilingual education and the student aid provisions contained in the conference report. The 4-year extension of the Bilingual Education Program will go a long way toward strengthening and improving this program which is critical to language instruction for so many students in the Nation's elementary and secondry schools across the United States. Bilingual education has often been criticized and is seen by many as delaying needed instruction in English for many Hispanic students. I believe that that view is mistaken. Many of the beneficiaries of the Bilingual Education Program in the schools in the city of Chicago are recent immigrants to this country from Southeast Asia and refugees from other parts of the world who have been welcomed to our Nation to seek a better life and livelihood. It is true, nevertheless, that many non-English-speaking students do come to the classrooms of our public schools with inadequate language skills. These students need to learn in their own language, as well as in English, until they are fully capable of functioning and learning in English. Bilingual education benefits these students, as well as those who speak English but can learn Spanish, or French, or Thai from a seatmate.

The conference report also contains a technical amendment that is needed to assure that Federal student aid can be delivered to students on a timely basis prior to reauthorization of the Higher Education Act in the next Congress. If our Nation is to achieve our stated goal of providing access and some measure of choice for low- and middle-income students as they pursue a postsecondary education, it is critical that students and their parents have adequate lead time to make plans for college attendance. Federal student aid dollars are of little help unless students can secure the proper application forms and determine their eligibility for student aid well in advance of their enrollment in the college or university of their choice. The technical amendment which was incorporated in H.R. 11 during the floor consideration will continue the procedures in effect in 1982, and assures the necessary stability in the student aid delivery system. Without this technical amendment, work on the 1986-87 application form cannot begin because it will be impossible to assume the continuation of current policies on a number of important issues, including the extension of separate systems of need analysis for Pell grants and for campus-based programs, the existing independent student definition and the Pell grant and guaranteed student loan family contribution schedules updated for inflation. I am pleased that the House included this amendment in its bill and that the conferees have agreed to retain it. It is essential to the continued timely delivery of Federal student aid through the 1986-87 academic year.

I urge an "aye" vote on the conference report on S. 2496.●

Mr. GOODLING. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. HAWKINS. Mr. Speaker, I have no further requests for time, and I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. GOODLING. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks on the conference report just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

CONFERENCE REPORT ON S. 2166, INDIAN HEALTH CARE AMENDMENTS OF 1984

Mr. UDALL. Mr. Speaker, pursuant to the unanimous consent agreement of October 2, 1984, I call up the conference report on the Senate bill (S. 2166) to authorize appropriations to carry out the Indian Health Care Improvement Act, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of October 2, 1984, at page 28714.)

Mr. UDALL [during the reading]. Mr. Speaker, I ask unanimous consent that the statement be considered as read.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

The SPEAKER pro tempore. The gentleman from Arizona [Mr. UDALL] will be recognized for 30 minutes and the gentleman from Arizona [Mr. MCCAIN] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Arizona [Mr. UDALL].

GENERAL LEAVE

Mr. UDALL Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

Mr. UDALL Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to bring before the House for consideration the conference report on S. 2166, reauthorizing and amending the Indian Health Care Improvement Act. My committee has worked for nearly 2 years on this legislation and I believe that we bring to the House a very good bill.

Since the enactment of the Indian Health Care Improvement Act in 1976,

there has been considerable improvement in the health conditions among the Indian people. Nevertheless, there remains a wide gap between Indian health conditions and the national health status. It is the purpose of S. 2166 to continue the programs and efforts established in the 1976 act and to bring about other kinds of reforms in the administration of Indian health programs and the delivery of Indian health care by the Indian Health Service.

I firmly believe that the adoption of this conference report is critical and essential to fairly fulfilling this Nation's responsibility for providing adequate health care to Indians.

Mr. Speaker, I will not dwell on the details of this legislation nor the agreements reached in conference. For the most part, the Senate and House bills were very much the same in substance. For those few parts that were in real disagreement, the conferees achieved quick agreements by either dropping in certain provisions or modifying provisions of disagreement. As in any conference, the report contains some provisions about which I have some concerns, but I do believe this is a good bill and urge adoption of the conference report.

Mr. McCAIN. Mr. Speaker, I yield 2 minutes to the gentleman from Utah [Mr. NIELSON].

Mr. NIELSON of Utah. Mr. Speaker, I whole heartedly support simple reauthorization of the Indian Health Care Improvement Act. While improvements in the health status of Indians have been made, there continues to be a disparity between the health status of Indians and that of the general population. Although Indian Health Services are authorized by other provisions of law, the Indian Health Care Improvement Act is essential for a number of necessary programs including manpower, and the use of the buy Indian authority for construction.

However, H.R. 6039, contained several provisions which make substantial changes in the Indian Health Care Improvement Act. I believe that a number of these changes were counterproductive to the cause of improved health care for Indians.

Section 8 of H.R. 6039 would have required a reorganization of the Indian Health Service. That was ill conceived and inappropriate. Removing the Indian Health Service from the Health Resources and Services Administration would not be in the best interests of the Indian people. The Indian Health Service should remain a component of the Health Resources and Services Administration [HRSA]. It is the largest Bureau within HRSA and draws a major share of that agency's administrative support. HRSA also administers most of the health services delivery programs of the Department of Health and Human Services, including the National Health Service Corps, many of whose members serve in the Indian Health Service. In fact, during the last 2 fiscal years, over 65 percent of the Indian Health Service physicians were provided by the National Health Service Corps Program. Over a hundred scholarship obligated physicians were assigned to the Indian Health Service last year and a similar number are expected to be assigned to the service this fall. I think it would be very unfortunate if the existing working relationship among these programs was disturbed. I worry that it would impede the progress of the Indian Health Service. I hope that the blue ribbon committee called for in the conference report will take these matters into consideration.

The other provision in section 8 would have required independent submission of the IHS budget to the President for review and submission to Congress. The Indian Health Service budget should be processed according to the normal budget procedure where competing needs can be evaluated and considered judgments made. Although the Indian Health Service is an extraordinarily important bureau within the Department of Health and Human Services, it should not be singled out for special treatment in assessing the resources it needs to function well. I am glad that this provision was deleted in conference.

I am sorry that the formula for distributing health care funds among States, which was developed in the Energy and Commerce Committee was not included. Distributing funds by tribes does not guarantee that Indians in States like California and Utah will be treated fairly. I think it will be necessary to review the allocation of funds to find an equalization formula that will not give 10 times as much to an Indian in one State as to an Indian in another State.

In spite of these concerns, I support the bill as a small first step in improvising the health care of the American Indian.

I would like to commend the chairman of the Committee on Interior and Insular Affairs, the gentleman from Arizona [Mr. UDALL], the ranking minority member, and the gentleman from Arizona [Mr. McCAIN], for their work, and also the gentleman from California [Mr. WAXMAN], chairman of the Health and Environment Subcommittee on Energy and Commerce. We do have a bill we can support, and hopefully we can correct the minor problems that remain in the future.

Mr. McCAIN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the conference report on S. 2166, the Indian Health Care Amendments of 1984.

I concur in the remarks of the gentleman from Arizona, the chairman of the Interior Committee [Mr. UDALL], that the conference achieved a fair and reasonable compromise between the House and Senate bills. As a conferee and as a sponsor of this legislation, I must say that I do not like parts of this report. However, overall, I believe it is a solid piece of work, and I urge my colleagues to accept it.

S. 2166 is the most important Indian legislation to be considered by this Congress. It affirms the Federal responsibility and commitment to the goal of raising the level of Indian health to a level at least comparable to that of the rest of the American population. It continues a comprehensive effort, begun by Congress in 1976 and furthered in 1980, to increase Indian health manpower, to upgrade the facilities of the Indian Health Service, to provide water and sanitation to Indian communities, to ensure that Indians receive medicare and medicaid benefits to which they are entitled, and to provide outreach and services to Indians in urban areas.

In addition, S. 2166 addresses other concerns in the area of Indian health. Key among these is the placement of the IHS in the bureaucratic structure of the Department of Health and Human Services. As agreed to by the Conferees, S. 2166 provides for the elevation of the position of the Director of the IHS if a blue-ribbon panel determines that such elevation will contribute to the enhancement of Indian health and Indian health administration.

I believe this is an extremely important provision that should in the long term contribute to greater responsiveness by the IHS to the needs of Indian people and greater accountability to the Congress.

S. 2166 adopts a 4-year authorization compared to the 3-year authorization passed by the House. On a year-by-year basis the amounts authorized are actually less than those authorized by the Indian Health Care Improvement Act for 1984 and preceding years. The totals are within budgetary ceilings and, all in all, are fiscally responsible.

This legislation enjoys broad bipartisan support in this House and in the other body. It has overwhelming support by the Indian community around the Nation. And it is acceptable to the administration. I therefore strongly urge the adoption of the conference report on S. 2166.

● Mr. WAXMAN. Mr. Speaker, I rise in strong support of the conference report on S. 2166, the Indian Health Care Amendments of 1984.

This legislation would revise and extend for 4 years the Indian Health Care Improvement Act. Its central purpose is to raise the health status of American Indians and Alaska Natives

to parity with that of the U.S. population as a whole.

I am pleased to report that the conference agreement preserves every significant provision in the House bill, although the implementation of some items, such as the elevation of the Indian Health Service to an agency level within the Public Health Service, will be delayed. The conference report also includes some Senate provisions which, in my view, will make a positive contribution to the health of the Indian people, including an expansion of the types of Indian health facilities that may participate in medicaid and medicare.

According to CBO, the conference report will result in total new budget authority of $368.7 million over the next 4 years. In view of the great unmet health needs among the Indian people, this is a very modest sum indeed.

This conference agreement contains a number of provisions that are of particular importance to California Indians:

The Urban Indian Health Care Program, which currently provides primary care and referral services to 29,000 Indians in eight different cities throughout California, would be reauthorized through fiscal year 1988;

The current IHS policy and practice with regard to the eligibility of California Indians for health services would be codified, so that eligibility could not be restricted administratively in the future;

Artificial geographic barriers to the availability of contract health services to rural California Indians would be eliminated; and

Tribes and tribal organizations delivering health care under contract with the Indian Health Service would be assured of equal treatment with IHS facilities in regard to funding.

I would urge the adoption of this conference report.●

Mr. McCAIN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. UDALL. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR USE AND DISTRIBUTION OF CERTAIN FUNDS AWARDED TO WYANDOTTE TRIBE OF OKLAHOMA

Mr. UDALL. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 6221) to provide for the use and distribution of certain funds awarded to the Wyandotte Tribe of Oklahoma, with Senate amendments, thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Page 1, after line 2, insert:

TITLE I—WYANDOTTE TRIBE OF OKLAHOMA

Page 1, line 5, strike out "SECTION 1." and insert "SEC. 101.".

Page 2, line 13, strike out "3(b)" and insert "103(b).".

Page 2, line 15, strike out "Act" and insert "title.".

Page 2, line 25, strike out "2" and insert "102.".

Page 4, line 10, strike out "3(b)" and insert "103(b).".

Page 4, line 11, strike out "4 or 5" and insert "104 or 105.".

Page 4, line 15, strike out "Act" and insert "title.".

Page 5, line 3, strike out "3" and insert "103.".

Page 5, line 6, strike out "2(a)" and insert "102(a).".

Page 5, line 9, strike out "2(b)" and insert "102(b).".

Page 5, line 10, strike out "1" and insert "101.".

Page 5, line 17, strike out "1" and insert "101.".

Page 5, line 23, strike out "4" and insert "104.".

Page 5, line 24, strike out "3(b)" and insert "103(b).".

Page 6, line 2, strike out "2(b)" and insert "102(b).".

Page 6, line 4, strike out "5." and insert "105.".

Page 6, line 5, strike out "3(b)" and insert "103(b).".

Page 6, line 12, strike out "3(b)" and insert "103(b).".

Page 7, line 16, strike out "3(b)" and insert "103(b).".

Page 7, line 21, strike out "Act" and insert "title.".

Page 7, line 24, strike out "6." and insert "106.".

Page 7, line 25, strike out "Act" and insert "title.".

Page 8, line 2, strike out "Act" and insert "title.".

Page 8, strike out line 14 and insert "title or made available under this title for any tribal program.".

Page 9, after line 3, insert:

TITLE II—FORT BERTHOLD RESERVATION MINERAL RESTORATION

SEC. 201. This title may be cited as the "Fort Berthold Reservation Mineral Restoration Act".

SEC. 202. (a) Subject to the provisions of this title, all mineral interests in the lands located within the exterior boundaries of the Fort Berthold Indian Reservation which—

(1) were acquired by the United States for the construction, operation, or maintenance of the Garrison Dam and Reservoir Project, and

(2) are not described in subsection (b),

are hereby declared to be held in trust by the United States for the benefit and use of the Three Affiliated Tribes of the Fort Berthold Reservation.

(b) The provisions of subsection (a) shall not apply with respect to—

(1) lands located in Township 152 North or Township 151 North of Range 93 West of the 5th principal meridian which lie east of the former Missouri River, and

(2) lands located in any of the following townships: Township 152 North and Township 151 North of Range 92 West of the 5th principal meridian; Township 152 North and Township 151 North of Range 91 West of the 5th principal meridian; Township 152 North and Township 151 North of Range 90 West of the 5th principal meridian; Township 152 North, Township 151 North, Township 150 North, and Township 149 North of Range 89 West of the 5th principal meridian; Township 152 North, Township 151 North, Township 150 North, and Township 149 North of Range 88 West of the 5th principal meridian; and Township 152 North, Township 151 North, Township 150 North, and Township 149 North of Range 87 West of the 5th principal meridian.

SEC. 203. Any exploration, development, production, or extraction of minerals conducted with respect to any mineral interest described in section 202(a) shall be conducted in accordance with such regulations as the Secretary of the Army shall prescribe in order to—

(1) protect the Garrison Dam and Reservoir, or

(2) carry out the purposes of the Garrison Dam and Reservoir Project.

SEC. 204. (a) Nothing in this title shall deprive any person (other than the United States) of any right, interest, or claim which such person may have in any minerals prior to the enactment of this Act.

(b) The United States may renew or extend any lease, license, permit, or contract with respect to any mineral interest described in section 202(a) after the date of enactment of this Act only if—

(1) the governing body of the Three Affiliated Tribes of the Fort Berthold Reservation approves of such renewal or extension, or

(2) the holder of such lease, license, or permit or a party to such contract (other than the United States) had the right to renew or extend such lease, license, permit, or contract prior to the date of enactment of this Act and such holder or party exercises such right of renewal or extension.

(c) All rentals, royalties, and other payments with respect to any mineral interest described in section 202(a) accruing to the United States after the date of enactment of this Act shall be held in trust by the United States for the benefit and use of the Three Affiliated Tribes of the Fort Berthold Reservation.

SEC. 205. Public Law 87-695 is amended—

(1) by striking out "such former Indian land" and inserting in lieu thereof "such land",

(2) by striking out "Subject" in the first sentence and inserting in lieu thereof "That (a) subject", and

(3) by adding at the end thereof the following new subsection:

"(b) Subsection (a) shall not apply with respect to any lands described in section 202(b) of the Fort Berthold Reservation Mineral Restoration Act.".

SEC. 206. (a) The Secretary of the Army and the Secretary of the Interior may enter into agreements for the transfer to the United States of any land located near the Garrison Dam and Reservoir Project which is held in trust for the benefit of the Three Affiliated Tribes of the Fort Berthold Reservation or any individual Indian if such agreement is approved—

(1) in the case of land held for the benefit of such tribes, by the governing body of such tribes, or

(2) in the case of land held for the benefit of any individual Indian, by the individual or individuals holding a majority of the beneficial interest in such land.

Any land transferred to the United States under the preceding sentence shall be treated as land acquired for the operation and maintenance of the Garrison Dam and Reservoir Project.

(b) The Secretary of the Army and the Secretary of the Interior may enter into agreements under which any land within the exterior boundaries of the reservation acquired by the United States for the construction, maintenance, or operation of the Garrison Dam and Reservoir Project that is no longer needed for such purposes is declared to be held by the United States in trust for the benefit of the Three Affiliated Tribes of the Fort Berthold Reservation.

SEC. 207. The provisions of this title, and of any agreement entered into under section 206, shall not be taken into account under section 2 of title I of the Second Deficiency Appropriation Act, fiscal year 1935 (25 U.S.C. 475a) or section 2 of the Act of August 13, 1946 (60 Stat. 1050) for purposes of determining any offset or counterclaim.

SEC. 208. To the extent that there are net proceeds from the development of any mineral interests described in section 202(a) of this Act, in excess of $300,000 the Three Affiliated Tribes of the Fort Berthold Reservation shall reimburse the United States the fixed sum of $300,000 from such proceeds. This reimbursement shall be deemed full reimbursement for any and all payments from the United States that the Three Affiliated Tribes received for the mineral estate, or any portion thereof, described in section 202(a) of this Act.

Amend the title so as to read: "An Act to provide for the use and distribution of certain funds awarded the Wyandotte Tribe of Oklahoma and to restore certain mineral rights to the Three Affiliated Tribes of the Fort Berthold Reservation".

Mr. UDALL (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

Mr. McCAIN. Mr. Speaker, reserving the right to object, will the gentleman explain what is involved?

Mr. UDALL. Mr. Speaker, if the gentleman will yield, the House passed H.R. 6221, under suspension of the rules on September 24. This bill authorized the use and distribution of certain judgment funds awarded to the Wyandotte Tribe of Oklahoma by the Court of Claims.

The Senate passed the House bill on October 2 with several minor amendments and a nongermane amendment. This amendment adds a new title II to the act which provides that certain mineral interests acquired by the United States within the exterior boundaries of the Fort Berthold Indian Reservation in North Dakota with respect to the Garrison Dam and Reservoir and to be held in trust for the benefit of the three affiliated tribes of that reservation. It further provides that, to the extent there is any revenue earned by the tribe from the mineral interests transferred, the tribe shall pay the United States $300,000 as reimbursement for any payment made to the tribe originally.

It is my understanding that, with the amendments made to the Fort Berthold provision, particularly the requirement for reimbursement, the administration has no objection to enactment. It is for that reason I support concurring in the Senate amendment to H.R. 6221.

Mr. McCAIN. Mr. Speaker, I thank the gentleman for his remarks, and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Arizona?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. UDALL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

PERTAINING TO INHERITANCE OF TRUST OR RESTRICTED LAND ON LAKE TRAVERSE INDIAN RESERVATION, NORTH DAKOTA AND SOUTH DAKOTA

Mr. UDALL. Mr. Speaker, I ask unanimous consent that the Committee on Interior and Insular Affairs be discharged from further consideration of the Senate bill (S. 2663) pertaining to the inheritance of trust or restricted land on the Lake Traverse Indian Reservation, North Dakota and South Dakota, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

Mr. McCAIN. Mr. Speaker, reserving the right to object, will the gentleman briefly explain the bill?

Mr. UDALL. If the gentleman will yield, Mr. Speaker, the purpose of S. 2663 is to establish a law to govern the right to inherit trust or restricted land located within the Lake Traverse Indian Reservation.

Other provisions of the bill are aimed at consolidating certain lands within the reservation in the Sisseton-Wahpeton Sioux Tribe and to reduce the problem of fractional ownership of lands held in trust. This problem is widely known and has been amply documented. Congress has enacted in the past other acts to solve these problems on other reservations including acts for the Umatillas, Yakimas, Standing Rock Sioux, and more recently the Devil's Lake Sioux Tribes.

Mr. Speaker, S. 2663 was introduced by Senators PRESSLER and ABDNOR and a similar bill, H.R. 5639 was introduced by Mr. DASCHLE in the House. The bill, therefore, has bipartisan support. The administration initially objected to the bill as introduced mainly because it thought that its provisions were covered by another legislation enacted in the previous Congress, the Indian Land Consolidation Act. However, I understand that the Senate amended the bill so as to remove most of the administration's concerns. In addition, the Land Consolidation Act is in the process of being amended in a fashion that would make it vastly different from this bill.

Mr. Speaker, this bill is supported by the whole South Dakota delegation, it would not cost anything to the Federal Government and is not unlike many other bills which we passed for other Indian tribes in previous Congresses, I, therefore, urge the House to pass S. 2663.

● Mr. DASCHLE. Mr. Speaker, the bill before us today deals with what has been referred to as one of the most fractionated parcels of land in the world—the Lake Traverse Reservation, home of the Sisseton-Wahpeton Sioux Tribe. It is a bill designed to enable the Sisseton-Wahpeton Tribe to better consolidate and utilize their small fractions of trust land.

The Lake Traverse Reservation was the first reservation partitioned under the General Allotment Act. Beginning in 1887, 300,000 acres of the reservation were divided into 1,369 individual allotments. The remaining 600,000 acres of the original reservation were declared "surplus" by the Government and sold to non-Indian settlers. There are currently approximately 100,000 acres left in trust status.

Under the law, when an Indian person died, land passed to the heirs in undivided ownership. This land cannot be leased without majority approval of the heirs and cannot be sold without unanimous approval of the heirs. Any proceeds must be divided among all heirs. As you can imagine, there are now hundreds of heirs, many of whom do not even live on the reservation and whose whereabouts are unknown. Some people own miniscule pieces of land in undivided interest scattered all over the reservation. The result is thousands of acres of land rendered

useless and an expensive administrative nightmare.

Michael Lawson of the Bureau of Indian Affairs presented a paper to the Organization of American Historians in 1982 entitled "Heirship: The Indian Amoeba" which gives an excellent account of the fractionated land morass at the Lake Traverse Reservation. Mr. Lawson gives an example of an allotment at Sisseton where there are 439 heirs:

A portion of the allotment consisting of forty acres of farmland is currently leased at the rate of $1080 per year. When it comes time to distribute this money, it requires three full days for a realty clerk to calculate the heirship interest values. A breakdown of the current lease distribution reveals that more than two-thirds of the heirs receive less than $1.00 per year from the estate, that approximately one-third receive less than 5¢, and that the interest of 100 of the heirs entitled them to a fraction of 1¢. The largest interest holder receives $82.85, but the value of the smallest heir is $.0000564. At the current lease rate, it would require 177 years for the smallest heir to earn 1¢, and 88,652 years to accumulate $5.00, which is the minimum amount for which the Bureau of Indian Affairs will issue a check. If this portion of the allotment was sold at its appraised value of $8,000, the share of the smallest heir would be $.000418, and if it were physically partitioned, the smallest heir would be given title to approximately 13 square inches.

Mr. Lawson goes on to note that it takes five realty and probate specialists to deal with 86,586 acres of land in heirship status. At a cost of $40 per heir to transact an allotment lease, the BIA expends $17,560 per year to administer the lease of the above allotment—a lease which brings the heirs only $1,080 in total revenue.

Although there have been hearings in Congress on heirship problems going back over 50 years, the issues are so complex that no one single piece of legislation can address all situations. Hearings were held in the 97th Congress on the heirship issue, and subsequently the Land Consolidation Act was enacted into law.

The Sisseton-Wahpeton Tribe, because of the particularly severe nature of their fractionated land problem, does not feel that the Land Consolidation Act provides the necessary authority to address their situation. That is why Senators ABDNOR, PRESSLER, and myself introduced this legislation specific to the Sisseton-Wahpeton Tribe.

This legislation applies to only Sisseton-Wahpeton trust land. The bill provides that nonmunicipal trust land under 2½ acres will revert to the tribe. In cases where a will is not made, this bill sets out how land is to be passed on to family members. In cases where inherited land is leased and there is no will, the bill spells out division of lease income. Non-Indian spouses and children who are not tribal members will be able to live on the land for life. The bill is also designed to facilitate partitions of allotments. Currently, it is required that all heirs consent before partition is permitted, thus making it virtually impossible to partition land.

This legislation also authorizes the Sisseton-Wahpeton Tribe to exercise the power of eminent domain to condemn fractional heirship interests and develop tribal economy.

I urge my colleages to join the Senate in supporting this legislation. It will be a big step in giving the Sisseton-Wahpeton Tribe the necessary tools to reduce the division of trust allotments and to make more effective use of their trust lands.●

The Clerk read the Senate bill, as follows:

S. 2663

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That to the extent that the laws of devise, descent and distribution of the State of North Dakota or the State of South Dakota are inconsistent with this Act or to the extent that the Indian Land Consolidation Act (25 U.S.C. 2201 et seq.), is inconsistent with this Act, the provisions of this Act shall govern the right to inherit trust or restricted land located within such States and within the original exterior boundaries of the Lake Traverse Indian Reservation (hereinafter the "reservation") as described in article III of the Treaty of February 19, 1867 (15 Stat. 505).

SEC. 2. (a) Except as provided in section 4 of this Act, only the Sisseton-Wahpeton Sioux Tribe of North Dakota and South Dakota (hereinafter the "tribe") or persons who are enrolled members of the tribe shall be entitled to receive by devise or descent any interest in trust or restricted land within the reservation.

(b) The provisions of this Act shall apply only to estates of decedents whose deaths occur on or after the date of enactment of this Act.

SEC. 3. (a) Whenever any person dies possessed of any interest in trust or restricted land within the reservation and the trust or restricted land has not been devised by a will approved by the Secretary of the Interior pursuant to section 2 of the Act of June 25, 1910 (36 Stat. 856), as amended (25 U.S.C. 373), or the bequest of devise is not consistent with the provisions of section 2 of this Act, such interest shall descend to the following persons: *Provided,* That such persons are eligible heirs under sections 2 and 5 of this Act:

(1) one-half of the interest shall descend to the surviving spouse and the other one-half shall descend in equal shares to the children of the decedent and to the issue of any deceased child of the decedent by right of representation;

(2) if there is no surviving spouse, the interest shall descend in equal shares to the children of the decedent and to the issue of any deceased child of the decedent by right of representation;

(3) if there are no surviving children or issue of any child, the interest shall descend to the surviving spouse;

(4) if there is no surviving spouse and no surviving children or issue of any child, the interest shall descend to the surviving parents or parent of the decedent;

(5) if there is no surviving spouse, and no surviving children or issue of any child, and no surviving parent, the interest shall descend equally to the brothers and sisters of the decedent; and

(6) if there is no surviving spouse, and no surviving children or issue of any child, no surviving parent, and no surviving brothers or sisters, the interest shall escheat to the tribe and title to such escheated interest shall be taken in the name of the United States in trust for the tribe.

(b) As used in this section, the works "children" and "issue" include children adopted under the laws of a State or foreign country, or in accordance with the laws of an Indian tribe, children of unwed parents where the Secretary of the Interior determines that paternity had been acknowledged or established under the laws of a State or foreign country or in accordance with the laws of an Indian tribe, and children of parents whose parental rights have been terminated pursuant to lawful authority.

(c) As used in this section, the work "parent" shall not include the parent of any child with respect to whom such parent's parental rights have been voluntarily terminated pursuant ot lawful authority.

SEC. 4. (a) Notwithstanding the provisions of section 2 and subject to the provisions of section 5 of this Act, the nonmember of the tribe surviving spouse, nonmember surviving children and the nonmember surviving issue of any children of any person who dies possessed of any interest in trust or restricted land within the reservation, shall be entitled to take only a life estate in any interest in such trust or restricted land revised by a will approved by the Secretarty of the Interior pursuant to section 2 of the Act of June 25, 1910 (36 Stat. 856), as amended (25 U.S.C. 373).

(b) Notwithstanding the provisions of sections 2 and 3 and subject to the provisions of section 5 of this Act, wherever any person dies possessed of any interest in trust or restricted land within the reservation and the trust or restricted land has not been devised by a will approved by the Secretary of the Interior pursuant to section 2 of the Act of June 25, 1910 (36 Stat. 856), as amended (25 U.S.C. 373), the nonmember of the tribe surviving spouse, nonmember children, and the nonmember issue of any children of the decedent shall be entitled to take only a life estate in any interest provided in section 3 of this Act.

(c) At the time that the Secretary of the Interior approves any life estate for a surviving spouse, children, or the issue of any children of a decedent, the trust or restricted land subject to such life estate thereafter shall be held in trust for the appropriate heir under section 3 of this Act or the provisions of any will approved by the Secretary pursuant to section 2 of the Act of June 25, 1910 (36 Stat. 856), as amended (25 U.S.C. 373).

(d) The provisons of subsections (a) and (b) of this section notwithstanding, unless a devise of trust or restricted land otherwise provides, any life estate provided for in this Act shall be subject to applicable regulations pertaining to the use of trust or restricted land and to the following conditions, restrictions and limitations:

(1) whenever the life tenant is a sole heir, such life tenant shall be entitled to determine the use and to receive any income from the lease or other use of the life tenant's interest in the land;

(2) whenever an enrolled member of the tribe dies survived by a nonmember spouse and nonmember children, such spouse shall

be entitled to one-half of the income from the lease or other use of the life tenant's interest in the land and such children shall be entitled to the other one-half, and the same divison shall apply to any land use determination;

(3) whenever an enrolled member of the tribe dies survived by a nonmember spouse, nonmember children, and nonmember issue of any deceased child, such spouse shall be entitled to one-half of the income from the lease or other use of the life tenant's interest in the land and such children and issue of children shall be entitled to equal shares of the other one-half, and the same division shall apply to any land use determination;

(4) whenever an enrolled member of the tribe dies without a surviving nonmember spouse but survived by nonmember children, such children shall be entitled equally to determine the use and to receive any income from the lease or other use of the life tenant's interest in the land;

(5) whenever an enrolled member of the tribe dies without a surviving nonmember spouse but survived by nonmember children and nonmember issue of any deceased child, such children and issue of children shall be entitled equally to determine the use and to receive any income from the lease or other use of the life tenant's interest in the land; and

(6) whenever an enrolled member of the tribe dies without a surviving nonmember spouse and nonmember children but survived by nonmember issue of children of such member, such issue shall be entitled equally to determine the use and to receive any income from the lease or other use of the life tenant's interest in the land.

For the purposes of this subsection, any children or the issue of any children of an enrolled member of the tribe born after the death of such member shall have the same rights as any children or the issue of any children who survive such member.

SEC. 5. Notwithstanding any other provision of this Act, no person shall be entitled by devise or descent to take any interest, including any interest in a life estate under section 4 of this Act, less than two and one-half acres, or the equivalent thereof, in trust or restricted land within the reservation. Any interest less than two and one-half acres of a devisee or intestate distributee of a decedent under section 3 of this Act, shall escheat to the tribe and title to such escheated interest shall be taken in the name of the United States in trust for the tribe: *Provided*, That the provision of this section shall not be applicable to the devise or descent of any interest in trust or restricted land located within a municipality.

SEC. 6. If a decedent has devised an interest in trust or restricted land within the reservation to a person prohibited under section 2 of this Act from acquiring an interest in such trust or restricted land, the interest in such land shall escheat to the tribe to such escheated interest shall be taken in the name of the United States in trust for the tribe: *Provided*, That any interest escheated to the tribe shall be subject to a life estate in the devisee as provided for under section 4(a) of this Act.

SEC. 7. (a) Whenever the tribe or an enrolled heir member, or members, of the tribe holds at least a 50 per centum undivided interest in trust or restricted land within the reservation, the Secretary of the Interior, upon the request of the tribe or the enrolled member, or members, of the tribe shall partition the allotment or part thereof: *Provided*, That whenever the tribe requests partition, the Secretary shall partition the allotment to the advantage of the heirs, except that any partition shall assure that the tribe retains one contiguous divided interest in the land unless the tribe agrees to a different division: *Provided further*, That whenever an enrolled member or members of the tribe requests partition, the fair market value of the lands remaining after partition shall not be less than the fair market value of the interest, prior to partition, of the owners of such lands. The person or persons requesting partition, in order to meet the fair market value requirement of this subsection, may relinquish to the other heirs a portion of their undivided interest in the trust or restricted lands to be partitioned.

(b) The provisions of any law to the contrary notwithstanding, the Secretary of the Interior, upon the request of the tribe or an enrolled heir member of the tribe, shall approve partition of trust or restricted land within the reservation whenever the partitioned interest in the land of the tribe or the enrolled heir member of the tribe is at least two and one-half acres and the owners of more than a 50 per centum undivided interest in the trust or restricted land to be partitioned consent to the partition.

(c) Within one hundred and eighty days after the Secretary, pursuant to subsections (a) or (b) of this section, receives a request to partition trust or restricted land, he shall issue a new trust patent, in accordance with applicable law, for the lands set apart for the tribe or the enrolled heir member of the tribe, as the case may be, the trust period to terminate in accordance with the terms of the original patent or order of extension of the trust period set out in said patent or in accordance with the provisions of law governing the sale of alloted lands: *Provided*, That the provisions of any law to contrary notwithstanding, no patent in fee shall be issued for lands partitioned under this section until the expiration of at least ten years from the date of issuance of such new trust patent.

SEC. 8. (a) The tribe shall have authority to exercise powers of eminent domain, over trust or restricted lands within the reservation, to eliminate fractional heirship interests in trust or restricted land, to consolidate tribal interests in land, to develop agriculture, and to condemn for other public purposes any interest in trust or restricted land. Upon the request of the tribe, the interest acquired thereafter shall be held by the United States in trust for the tribe: *Provided*, That the tribe has made just compensation under tribal judicial process and in accordance with a code of tribal eminent domain laws approved by the Secretary of the Interior.

(b) Subject to the right of judicial review provided in subsection (c) of this section, a final judgment of the tribal court in favor of the tribe in a condemnation action is conclusive as to the title of the tribe, in and to the interest in the trust or restricted land described in said judgment, against any and all parties in said action, including unknown defendants, and against any and all persons claiming from, through or under such a party by title accruing after the filing of the judgment by the clerk of the tribal court or after the filing of a notice of the pendency of the action with an official designated for that purpose under the eminent domain laws of the tribe.

(c) Any party aggrieved by the condemnation findings and determination of the tribal court may seek judicial review thereof in the United States district court for the district within which the affected interest in land is located. Judicial review shall be taken by filing a notice of appeal with the clerk of the tribal court and district court within thirty days of the date of the entry of the judgment or order of condemnation appealed from. If a timely notice of appeal is filed by a party, any other party may file a notice of appeal within fourteen days of the date on which the first notice of appeal was filed. Any appeal taken under this Act shall be limited to a review of whether the tribal court order or judgment of condemnation is in accordance with the provisions of this Act, any tribal eminent domain laws and the provisions of title II of the Act of April 11, 1968 (82 Stat. 77).

(d) In any tribal court or United States district court proceeding pursuant to subsections (a) or (d) of this section, notice of the proceeding shall be served upon the United States. The United States shall not be an indispensable party in such proceeding.

SEC. 9. The Secretary of the Interior is authorized, with any available funds provided by the United States or the tribe, to acquire by purchase, exchange, or condemnation any land or interest in trust or restricted land within the reservation for the purpose of eliminating fractional heirship interests in land, consolidating tribal interests in land, and developing tribal agriculture or commercial enterprises. After such acquisition, said lands or interests in lands shall be held by the United States in trust for the tribe.

SEC. 10. Whenever the tribe imposes a tax against the estate of any person who dies possessed of any interest in trust or restricted land within the reservation, the Secretary of the Interior shall collect the tax out of the estate as part of the probate proceeding. The amount of the tax collected shall be payable to the tribe.

SEC. 11. Within one hundred and twenty days after the date of enactment of this Act, the Secretary of the Interior shall send an explanation of the provisions of this Act to all persons who have any interest in trust or restricted land within the reservation.

SEC. 12. Wills executed prior to or within one hundred and twenty days after the date of enactment of this Act shall be effective, in the absence of compliance with the provisions of this Act, for a period not to exceed one hundred and eighty days after the date of enactment of this Act: *Provided*, That this section shall not apply to invalidate the will of any person who because of unsound mind is unable to amend a will in order to comply with the provisions of this Act.

SEC. 13. If any provision of this Act or its application to any person or circumstance is found to be invalid, the remainder of this Act, or the application of the provisions of this Act to other persons or circumstances, shall not be affected.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. UDALL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

OLD AGE ASSISTANCE CLAIMS SETTLEMENT ACT

Mr. UDALL. Mr. Speaker, I ask unanimous consent that the Committee on Interior and Insular Affairs be discharged from further consideration of the Senate bill (S. 1151) to compensate heirs of deceased Indians for improper payments from trust estates to States or political subdivisions thereof as reimbursements for old age assistance received by decedents during their lifetime, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

Mr. McCAIN. Mr. Speaker, reserving the right to object, will the gentleman briefly explain the bill?

Mr. UDALL. If the gentleman will yield, Mr. Speaker, S. 1151 is a bill to compensate heirs of deceased Indians for improper payments from trust estates to States or political subdivisions as reimbursements for old age assistance received by decedents during their lifetime.

For a number of years prior to 1962, the Department of the Interior followed a practice of reimbursing States for old age assistance paid to a deceased Indian during his lifetime. However, in 1962, in the case of Running Horse versus Udall, this practice was declared to be a violation of the law shielding trust property of Indians from any lien or encumbrance.

As a result, it appears that these funds should be reimbursed to these estates and given out to the legitimate heirs. It is not clear exactly how much money was paid to the States but the Department of the Interior is estimating the figure to be between $1.5 million and $2.5 million. S. 1151 would allow the Secretary of the Interior to locate the heirs of such estates and reimburse them for their shares of the funds taken from the estates and given to the States. The bill authorizes $2.5 million for this purpose in each of fiscal years 1986-87.

Mr. Speaker, S. 1151 was introduced by Senator ANDREWS at the request of the administration. It is a bill which would give back to these heirs what was illegally taken from them in the first place. Althought the funds were given to the States it was taken from the estates by the United States because of an erroneous interpretation of the law, it is therefore fair for the United States to assume the responsibility of reimbursing these estates.

Mr. McCAIN. Mr. Speaker, I thank the gentleman for his explanation, and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1151

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this act may be cited as the Old Age Assistance claims Settlement Act.

DEFINITIONS

SEC. 2. For purposes of this Act, the term—

(1) "Secretary" means the Secretary of the Interior;

(2) "unauthorized disbursement" means a disbursement made from the trust estate of a deceased Indian which was made by the Secretary to a State or a political subdivision of a State for the purpose of reimbursing the State or political subdivision for any old age assistance made to the deceased Indian before death in violation of Federal laws governing Indian trust property; and

(3) "trust estate" means that portion of the estate that consists of real or personal property, title to which is held by the United States for the benefit of the Indian or which may not be alienated without the consent of the Secretary.

PAYMENT OF CLAIMS

SEC. 3. (a) The Secretary is authorized and directed to determine the portion of any unauthorized disbursement to which any individual under this Act is entitled, and to pay to such individual the amount which the Secretary determines such individual to be entitled. Any payment under this provision shall include interest at a rate of 5 per centum per annum, simple interest, from the date on which such disbursement was made from the trust estate of the deceased Indian.

(b) No payment shall be made under subsection (a) with respect to any unauthorized disbursement from the trust estate of a deceased Indian if the total amount of unauthorized disbursement from such trust estate was less than $50.

NOTICE

SEC. 4. (a) Within one hundred and eighty days after the date of enactment of this Act, the Secretary shall publish in the Federal Register a list of all trust estates from which unauthorized disbursements are known to have been made, including the amount of the unauthorized disbursement made for each such trust estate.

(b) Within thirty days after the publication of this list, the Secretary shall provide a copy of this Act and a copy of the Federal Register containing this list, or such parts as may be pertinent, to each Indian tribe, band, or group the rights of whose members may be affected by this Act.

(c) Any tribe, band or group of Indians, or any individual Indian shall have one hundred and eighty days after the date of the publication in the Federal Register of the list provided for in subsection (b) of this section to submit to the Secretary any additional unauthorized disbursement claims not contained on the list.

(d) Not more than thirty days after the expiration of the one hundred and eighty day period provided for in subsection (c) of this section, the Secretary shall publish in the Federal Register a list containing the additional unauthorized disbursement claims submitted during such period.

IDENTIFICATION OF RIGHT TO PAYMENT AND EXPEDITED CLAIM PAYMENT

SEC. 5. (a) The Secretary shall conduct a search of the records of the Department of the Interior to identify individuals who are entitled to any portion of the unauthorized disbursements which were made and to ascertain the amount of such unauthorized disbursements to which each of such individuals is entitled.

(b) In any case in which the Secretary ascertains the name and location of any individual who is entitled to an portion of an unauthorized disbursement and determines the amount of such unauthorized disbursement to which such individual is entitled, the Secretary shall pay such amount, including interest thereon as provided in section 3, to such individual immediately without requiring such individual to file a formal claim for payment.

(c) The Secretary shall use the best available means of notifying each individual who is identified in the search conducted under subsection (a) of the right of such individual to receive payment under this Act. The means of notification available to the Secretary shall include—

(1) notice provided directly to such individual;

(2) notification of the next of kin of such individual;

(3) notification of the chairman or chief executive officer of the tribe of which such individual is a member or of which the deceased Indian was a member; and

(4) publication of notice in newspapers of general circulation in the appropriate area.

DISCHARGE AND BARRING OF CLAIMS

SEC. 6. (a) The payment and acceptance of any claim, after its determination in accordance with this Act, shall be a full discharge to the United States or any State or political subdivision thereof of all claims and demands touching any of the matters involved in the controversy.

(b) The provisions of this Act shall not affect claims arising from any unauthorized disbursement which were filed in any court of competent jurisdiction prior to the date of enactment of this Act.

AUTHORIZATIONS

SEC. 7. (a) There are authorized to be appropriated for the purpose of carrying out the provisions of this Act $2,500,000 for each of the fiscal years 1986 and 1987, and such sums as may be necessary for any subsequent fiscal year. The amounts appropriated under the authority of this subsection shall remain available without fiscal year limitation for purposes of carrying out the provisions of this Act until all claims filed under this Act have been resolved.

(b) Funds necessary to pay the expenses of administering this Act shall be appropriated and expended under the authority of the Act of November 2, 1921 (42 Stat. 208; 25 U.S.C. 13), popularly known as the Snyder Act.

TREATMENT OF FUNDS

SEC. 8. Funds distributed under the provisions of this Act shall not be considered as income or resources nor otherwise utilized as the basis for denying or reducing the financial assistance or other benefits to which such household or member would otherwise be entitled under the Social Security Act or, except for per capita shares in

excess of $2,000, any Federal or federally assisted program.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. UDALL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

MAKING TECHNICAL CORRECTIONS IN THE ACT OF JANUARY 12, 1983 (PUBLIC LAW 97-459)

Mr. UDALL. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the joint resolution (H.J. Res. 158) to make technical corrections in the act of January 11, 1983 (Public Law 97-459), with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the joint resolution.

The Clerk read the Senate amendment, as follows:

Strike out all after the resolving clause and insert:

That the Act of January 12, 1983 (96 Stat. 2515; Public Law 97-459), is hereby amended as follows:

(1) At the end of section 204 change the period to a colon and insert the following: "*Provided*, That—

"(1) the sale price or exchange value received by the tribe for land or interests in land covered by this section shall be no less than within 10 per centum of the fair market value as determined by the Secretary;

"(2) if the tribal land involved in an exchange is of greater or lesser value than the land for which it is being exchanged, the tribe may accept or give cash in such exchange in order to equalize the values of the property exchanged;

"(3) any proceeds from the sale of land or interests in land or proceeds received by the tribe to equalize an exchange made pursuant to this section shall be used exclusively for the purchase of other land or interests in land;

"(4) the Secretary shall maintain a separate trust account for each tribe selling or exchanging land pursuant to this section consisting of the proceeds of the land sales and exchanges and shall release such funds only for the purpose of buying lands under this section; and

"(5) any tribe may retain the mineral rights to such sold or exchanged lands and the Secretary shall assist such tribe in determining the value of such mineral rights and shall take such value into consideration in determining the fair market value of such lands.

"(b) The Secretary must execute such instrument of conveyance needed to effectuate a sale or exchange of tribal lands made pursuant to an approved tribal land consolidation plan unless he makes a specific finding that such sale or exchange is not in the best interest of the tribe or is not in compliance with the tribal land consolidation plan.".

(2) Section 205 is amended to read as follows:

"SEC. 205. Any Indian tribe may purchase at no less than the fair market value part or all of the interests in any tract of trust or restricted land within that tribe's reservation or otherwise subject to that tribe's jurisdiction with the consent of the owners of such interests. The tribe may purchase all of the interests in such tract with the consent of the owners of over 50 per centum of the undivided interests in such tract: *Provided*, That—

"(1) any Indian owning any undivided interest, and in actual use and possession of such tract for at least three years preceding the tribal initiative, may purchase such tract by matching the tribal offer;

"(2) if, at any time within five years following the date of acquisition of such land by an individual pursuant to this section, such property is offered for sale or a petition is filed with the Secretary for removal of the property from trust or restricted status, the tribe shall have 180 days from the date it is notified of such offer or petition to acquire such property by paying to the owner the fair market value as determined by the Secretary;

"(3) all purchases and sales initiated under this section shall be subject to approval by the Secretary.".

(3) Section 206 is amended to read as follows:

"SEC. 206. Notwithstanding any other provision of law, any Indian tribe, subject to approval by the Secretary, may adopt its own code of laws to govern descent and distribution of trust or restricted lands within that tribe's reservation or otherwise subject to that tribe's jurisdiction, and may provide that nonmembers of the tribe or non-Indians shall not be entitled to receive by devise or descent any interest in trust or restricted lands within that tribe's reservation or otherwise subject to that tribe's jurisdiction: *Provided*, That in the event a tribe takes such action—

"(1) if an Indian dies intestate, the surviving non-Indian or nonmember spouse and/or children may elect to receive a life estate in as much of the trust or restricted lands as such person or persons would have been entitled to take in the absence of such restriction on eligibility for inheritance and the remainder shall vest in the Indians or tribal members who would have been heirs in the absence of a qualified person taking a life estate;

"(2) if an intestate Indian descendent has no heir to whom interests in trusts or restricted lands may pass, such interests shall escheat to the tribe, subject to any non-Indian or nonmember spouse and/or children's rights as described in paragraph (1) of this section;

"(3) if an Indian decedent has devised interests in trust or restricted lands to persons who are ineligible for such an inheritance by reason of a tribal ordinance enacted pursuant to this section, the devise shall be voided only if, while the estate is pending before the Secretary for probate, the tribe acquires such interests by paying to the Secretary, on behalf of the devisees, the fair market value of such interests as determined by the Secretary as of the date of the decedent's death: *Provided*, That any non-Indian or nonmember spouse and/or children of such decedent who have been devised such interests may retain, at their option, a life estate in such interests.

"(4) any ineligible devisee shall also have the right to renounce his or her devise in favor of a person or persons who are eligible to inherit.

"(b) The right to receive a life estate under the provisions of this section shall be limited to—

"(1) a spouse and/or children who, if they had been eligible, would have inherited an ownership interest of 10 per centum or more in the tract of land; or

"(2) a spouse and/or children who occupied the tract as a home at the time of the decedent's death."

(4) Section 207 is amended to read as follows:

"Sec. 207. (a) No undivided interest in any tract of trust or restricted land within a tribe's reservation or otherwise subject to a tribe's jurisdiction shall descend by intestacy or devise but shall escheat to that tribe if such interest represents 2 per centum or less of the total acreage in such tract and is incapable of earning $100 in any one of the five years from the date of the decedent's death. Where the fractional interest has earned to its owner less than $100 in any one of the five years before the decedent's death, there shall be a rebuttable presumption that such interest is incapable of earning $100 in any one of the five years following the death of the decedent.

"(b) Nothing in this section shall prohibit the devise of such an escheatable fractional interest to any other owner of an undivided fractional interest in such parcel or tract of trust or restricted land.

"(c) Notwithstanding the provisions of subsection (a), any Indian tribe may, subject to the approval of the Secretary, adopt its own code of laws to govern the disposition of interests that are escheatable under this section, and such codes of laws shall take precedence over the escheat provisions of subsection (a), provided, the Secretary shall not approve any code or law that fails to accomplish the purpose of preventing further descent or fractionation of such escheatable interests."

(5) At the conclusion of the Act add the following new section:

"SEC. 212. Nothing in this Act shall be construed as vesting the governing body of an Indian tribe with any authority which is not authorized by the constitution and bylaws or other organizational document of such tribe.".

"SEC. 2. The Act of March 29, 1956, (c. 107, 70 Stat. 62; 25 U.S.C. 483a) is amended by inserting immediately after the enacting clause "(a)" and by adding at the conclusion of the Act a new subsection (b) as follows:

"(b) In the event such land is acquired by an Indian or an Indian tribe, such land shall not be removed from trust or restricted status except upon application to the Secretary under existing law.".

Mr. UDALL (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

Mr. McCAIN. Mr. Speaker, reserving the right to object, will the gentleman explain what is involved in this bill?

Mr. UDALL. Mr. Speaker, if the gentleman will yield for that purpose, when the House passed House Joint Resolution 158 on April 19, 1983, it was a very simple bill making extremely technical amendments to the Indian Land Consolidation Act.

After hearings on this legislation, the Senate has passed the bill with further amendments to the act which are much more substantive. We have reviewed the Senate substantive amendments and are in general accord with them. They tighten up the provisions of the act and ease some of the burdens that were placed upon Indian land owners and upon persons who would have an expectation to inherit interest in Indian trust land.

I do, however, want to make one point very clear. Section 207 of the Indian Land Consolidation Act is designed to remedy what is known as the Indian fractionated heirship problem. Because of the nature of Federal law protecting Indian trust lands, some of these tracts of land are so badly fractionated among numerous heirs that the lowest common denominator of interest runs into the quadrillionths.

Section 207 of the act gets at this problem by providing that very minimal interest in fractionated lands will not descend to heirs or devisees, but will escheat to the tribe.

As amended by the Senate, House Joint Resolution 158 amends section 207 to provide that these interests will not escheat to the tribe if the departmental probate examiner finds that interest has the potential of earning the prospective heir $100 or more in any of the succeeding 5 years. It further provides that if the interest had not earned $100 or more in any of the last 5 years, there would be a rebuttable presumption that it would not earn $100 or more in any of the next 5 years. This is a very cumbersome provision, but I am willing to accept it with the understanding that the rebuttable presumption is binding on the examiner and he must escheat the interest unless it is overcome by credible and clear evidence to the contrary.

In addition, section 207(b) provides that 207(a) shall not apply to interests which are devised in a will to a person already owning interests in the tract of land. I am accepting that provision with the understanding that it does not allow residual clause disposing of such interests but that in order to avoid the application of section 207(a), the devise has to be about a specific interest and given to a specific person.

Mr. McCAIN. Further reserving the right to object, Mr. Speaker, I would like to express my appreciation and that of Native Americans for the hard work that Chairman UDALL has done on this bill, and both the majority and minority staffs.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Arizona [Mr. UDALL]?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. UDALL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

PROVIDING FOR TRANSFER OF CERTAIN LAND IN DOUGLAS COUNTY, NV

Mr. UDALL. Mr. Speaker, I ask unanimous consent that the Committee on Interior and Insular Affairs be discharged from further consideration of the Senate bill (S. 1160) to authorize Douglas County of the State of Nevada to transfer certain land to a private owner, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

Mr. LUJAN. Mr. Speaker, reserving the right to object, I do so for the purpose of asking the gentleman from Arizona to give us an explanation of the bill.

Mr. UDALL. If the gentleman will yield, Mr. Speaker, the purpose of S. 1160 as passed by the Senate is to release the reversionary interest of the United States in a small parcel of land in Douglas County, NV, so that the county can exchange the land with a private landowner who is donating land to the county to complete a roadway to county buildings. The land affected by the bill comprises only 3,300 square feet—that is, about eight one-hundredths of an acre.

The House amendments to the bill would do the following:

First, authorize the Secretary of the Interior to enter into cooperative agreements with local governments to assist those governments with regard to law enforcement in the vicinity of Federal water projects.

Second, remove technical obstacles to implementation of an agreement between the municipality of Anchorage, AK, and the Alaska Power Authority which will allow the municipality to use water from Eklutna Lake and its tributaries for public water supply proposes.

Mr. Speaker, these are essentially management or housekeeping matters, but they do address specific situations and resolve certain specific problems, and I urge the adoption of the amendments and approval of the amended bill.

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Mr. LUJAN. Further reserving the right to object, Mr. Speaker, I would like to ask the gentleman if it is his intention to offer an amendment to include the provisions for law enforcement of reclamation projects offered by Mr. LEHMAN and the problem at the Eklutna project in Alaska which was offered by the gentleman from Alaska [Mr. YOUNG].

Mr. UDALL. Mr. Speaker, if the gentleman will yield, at the appropriate time when this unanimous-consent request is adopted, I will offer those amendments.

Mr. LUJAN. In that event, Mr. Speaker, I will withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1160

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding the Act entitled "An Act to authorize acquisition or use of public lands by States, counties, or municipalities for recreational purposes", approved June 14, 1926 (43 U.S.C. 869 et seq.), or the provisions of any patent granted pursuant to such Act by the United States concerning the real property described in section 2, the United States releases any reversionary interest in such real property, and Douglas County of the State of Nevada is authorized to transfer such real property to any private person.

SEC. 2. The real property authorized to be transferred in the first section is the lot, piece or parcel of land lying along and adjoining the Virginia and Truckee Railroad right-of-way in the Town of Minden, Nevada, described as follows: Beginning at a point on the northerly side of the State Highway right-of-way line, north 63 degrees 25 minutes west, 146 feet from the southeast corner of the wool warehouse lot, said point of beginning further described as bearing north 58 degrees 58 minutes 40 seconds west, 855.32 feet from the established Town Monument of the said Town of Minden; thence north 63 degrees 25 minutes west, along the Highway right-of-way line 60 feet to a point; thence north 26 degrees 35 minutes east, 55 feet, to a point; thence south 63 degrees 25 minutes east, parallel with the railroad spur track, 60 feet to a point; thence south 26 degrees 35 minutes west, 55 feet, to the point of beginning; all within section 29, township 13 north, range 20 east, Mount Diablo Meridian, Nevada, containing 3,300 square feet.

AMENDMENT OFFERED BY MR. UDALL

Mr. UDALL. Mr. Speaker, I have an amendment at the desk which I offer.

The Clerk read as follows:

Amendment offered by Mr. UDALL: Page 2, after line 18 add the following:

"SEC. 3. The Secretary of the Interior, in connection with Federal resource protection and the Federal administration of the use and occupancy of lands and waters within a water resource development project under his jurisdiction, is authorized to cooperate with the regulatory and law enforcement officials of any State or political subdivision thereof in the enforcement of the laws or ordinances of such State or political subdivision. Such cooperation may include the reimbursement of a State or its political subdivision for expenditures incurred in connection with such resource protection and administration. For purposes of complying with section 401 of the Congressional Budget Act of 1974, the authorization provided under this Section is subject to the availability of appropriations.

"SEC. 4. The Secretary of Energy, acting through the Alaska Power Administration, is authorized and directed to enter into an agreement with respect to the Eklutna Lake hydropower project in accordance with provisions of the Act of July 31, 1950, as amended (64 Stat. 382), the last sentence of the first paragraph of section 1 of which is amended to read as follows: 'The water of Eklutna Lake and its tributaries which are required for the operation of the Eklutna project are reserved for that purpose: *Provided*, That a portion of the waters so reserved may be diverted from Eklutna Lake for public water supply purposes, if compensation for reduced electric energy production due to such diversions is made as required by the February 1984 agreement between the Municipality of Anchorage and the Alaska Power Administration.'."

Mr. UDALL (during the reading). Mr. Speaker, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

The SPEAKER pro tempore. The question is on the amendment offered by the gentleman from Arizona [Mr. UDALL].

The amendment was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. UDALL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on S. 1160, the Senate bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

OZARK RIVERWAYS

Mr. UDALL. Mr. Speaker, I ask unanimous consent that the Committee on Interior and Insular Affairs be discharged from further consideration of the bill (H.R. 2122) to require the Secretary of the Interior to permit trapping in the Ozark National Scenic Riverways Area, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

Mr. EMERSON. Reserving the right to object, Mr. Speaker, is it the intention of the gentleman to offer the amendment we have discussed if this request is granted?

Mr. UDALL. If the gentleman will yield to me, yes, sir, on that matter I would refer to Chairman SEIBERLING, on the subcommittee, who recommended the bill and he is my leader on this particular piece of legislation.

Mr. SEIBERLING. Mr. Speaker, if the gentleman would yield to me, the substitute amendment would simply eliminate all portions of the bill and substitute a paragraph which would authorize the Secretary of Interior, through the Director of the National Park Service, to conduct a study of trapping for fur bearing animals as wildlife management activity within the Ozark National Scenic Riverways.

Such a study would be conducted in cooperation with the Missouri Department of Conservation and the Secretary would be directed to seek full public involvement in the study.

The Secretary would also be directed to submit the study with such recommendations as may be appropriate to the Committee on Interior and Insular Affairs and the Committee on Energy and Natural Resources of the U.S. Senate not later than December 31, 1986, and that will be the sum and substance of the bill.

I might add that the title of the bill would also have to be conformed to the change in the nature of the bill and I asume that could be done one way or the other, though I do not know that the amendment actually deals with changing the title.

Mr. UDALL. If the gentleman will yield, Mr. Speaker, I concur with the gentleman from Ohio and the appropriate amendment will be offered shortly.

Mr. EMERSON. I thank the gentleman and with that understanding, Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

The Clerk read the bill, as follows:

H.R. 2122

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 5(b) of the Act entitled "An Act to provide for the establishment of the Ozark National Scenic Riverways in the State of Missouri, and for other purposes", approved August 27, 1964 (16 U.S.C. 460m-4(b)), is amended—

(1) in the first sentence by striking out "and fishing" and inserting in lieu thereof ", fishing, and trapping", and

(2) in the second sentence by inserting "or trapping" after "hunting".

The SPEAKER pro tempore. The Chair recognizes the gentleman from Arizona.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. UDALL

Mr. UDALL. Mr. Speaker, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. UDALL: Strike all after the enacting clause and insert the following:

That section 5(b) of the Act entitled "An Act to provide for the establishment of the Ozark National Scenic Riverways in the State of Missouri, and for other purposes", approved August 27, 1964 (16 U.S.C. 460m-4(b)), is amended by inserting the following new sentence at the end thereof:

"The Secretary, acting through the Director of the National Park Service, shall conduct a study of trapping for fur bearing mammals as a wildlife management activity within the Ozark National Scenic Riverways. Such study shall be conducted in cooperation with the Missouri Department of Conservation and the Secretary shall seek full public involvement in the study. The Secretary shall submit the study with such recommendations as may be appropriate, to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the U.S. Senate not later than December 31, 1986."

Mr. UDALL (during the reading). Mr. Speaker, I ask unanimous consent that the amendment in the nature of a substitute be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

The SPEAKER pro tempore. The question is on the amendment in the nature of a substitute offered by the gentleman from Arizona [Mr. UDALL].

The amendment in the nature of a substitute was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

Mr. UDALL. Mr. Speaker, on the bill just passed, I ask unanimous consent that the Clerk be authorized to change the title.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

The title of the bill was amended so as to read: "A bill to require the Secretary of the Interior to conduct a study of trapping in the Ozark National Scenic Riverways Area."

PENNSYLVANIA WILDERNESS ACT OF 1984

Mr. UDALL. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 5076) to designate certain areas in the Allegheny National Forest as wilderness and recreation areas, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Strike out all after the enacting clause and insert:

That this Act may be cited as the "Pennsylvania Wilderness Act of 1984".

FINDINGS

SEC. 2. The Congress finds and declares that—

(1) there is an urgent need to identify and protect natural areas to meet the recreational needs of Americans;

(2) certain lands within the Allegheny National Forest in Pennsylvania are worthy of inclusion in the National Wilderness Preservation System; and

(3) certain other lands within the Allegheny National Forest are suitable for designation as a national recreational area.

PURPOSE

SEC. 3. It is the purpose of this Act to—

(1) establish the Allegheny Islands Wilderness and the Hickory Creek Wilderness;

(2) establish the Allegheny National Recreation Area so as to ensure the preservation and protection of the area's natural, scenic, scientific, historic, archaeological, ecological, educational, watershed, and wildlife values and to provide for the enhancement of recreational opportunities, particularly undeveloped recreational opportunities; and

(3) ensure that any mineral exploration and development that takes place within the recreation area is done in an environmentally sound manner.

WILDERNESS DESIGNATIONS

SEC. 4. In furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131-1136), the following lands in the State of Pennsylvania are hereby designated as wilderness and therefore, as components of the National Wilderness Preservation System:

(1) certain lands in the Allegheny National Forest, Pennsylvania, which comprise approximately three hundred and sixty-eight acres, as generally depicted on a map entitled "Allegheny Islands Wilderness—Proposed", dated March 1984, composed of Crulls Island, Thompsons Island, R. Thompsons Island, Courson Island, King Island, Baker Island, and No Name Island, and which shall be known as the Allegheny Islands Wilderness; and

(2) certain lands in the Allegheny National Forest, Pennsylvania, which comprise approximately nine thousand three hundred and thirty-seven acres as generally depicted on a map entitled "Hickory Creek Wilderness—Proposed", dated March 1984, and which shall be known as the Hickory Creek Wilderness.

ADMINISTRATION OF WILDERNESS

SEC. 5. (a) Subject to valid existing rights, each wilderness area designated by this Act shall be administered by the Secretary of Agriculture in accordance with the provisions of the Wilderness Act governing areas designated by that Act as wilderness, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the date of enactment of this Act.

(b) As provided in section 4(d)(8) of the Wilderness Act, nothing in this Act shall be construed as affecting the jurisdiction or responsibilities of the State of Pennsylvania with respect to wildlife and fish in the Allegheny National Forest in the State of Pennsylvania.

(c)(1) The Secretary is authorized to acquire by purchase, donation, or exchange, with donated or appropriated funds, such lands or interests in lands (including oil, gas, and other mineral interests and scenic easements) within the wilderness areas designated by this Act as the Secretary deems necessary to carry out the purposes of this Act. Such lands and interests in lands may be acquired only with the consent of the owner thereof.

(2) Not more than $2,000,000 is authorized to be appropriated for the purpose of acquiring, in accordance with this subsection, lands and interests in lands in the wilderness areas designated by this Act.

ALLEGHENY NATIONAL RECREATION AREA

SEC. 6. (a) In furtherance of the findings and purposes of this Act, certain lands in the Allegheny National Forest, Pennsylvania, which comprise approximately twenty-three thousand one hundred acres, as generally depicted on a map entitled "Allegheny National Recreation Area—Proposed", dated March 1984, are hereby designated as the Allegheny National Recreation Area (hereinafter in this Act referred to as the "national recreation area"). The Secretary of Agriculture may revise the boundaries of the national recreation area to correct errors or to include additional lands acquired adjacent to the area.

(b) The national recreation area shall be managed for the purposes of—

(1) outdoor recreation including, but not limited to, hunting, fishing, hiking, backpacking, camping, nature study, and the use of motorized and nonmotorized boats on the Allegheny Reservoir;

(2) the conservation of fish and wildlife populations and habitat;

(3) the protection of watersheds and the maintenance of free flowing streams and the quality of ground and surface waters in accordance with applicable law;

(4) the conservation of scenic, cultural, and other natural values of the area;

(5) allowing the development of privately-owned oil, gas, and mineral resources subject to reasonable conditions prescribed by the Secretary under subsection (c) for the protection of the area; and

(6) minimizing, to the extent practicable, environmental disturbances caused by resource development, consistent with the exercise of private property rights.

(c) The Secretary shall administer the national recreation area in accordance with the purposes described in subsection (b) and the laws, rules, and regulations applicable to the National Forest System. Subject to valid existing rights, any activity associated with the exploration, development, or transportation of oil, gas, or other minerals shall be subject to such reasoanble conditions as the Secretary may prescribe, and in accordance with the management plan described in subsection (d), to achieve the purposes, described in subsection (b), of the national recreational area. For any such activity, the Secretary shall require a plan of operations which shall include provisions for adequate reclamation, including, to the extent practicable, revegetation and rehabilitation after each phase of operations is completed.

(d) The Secretary shall prepare, and may from time to time amend, a management plan for the national recreation area. The plan may be prepared in conjunction with, or incorporated with, ongoing planning for the Allegheny National Forest in accordance with the National Forest Management Act of 1976. The initial management plan and significant amendments or revisions shall be accompanied by an environmental impact statement prepared in accordance with the National Environmental Policy Act of 1969.

(e) The Secretary shall permit hunting, fishing, and trapping within the boundaries of the national recreation area in accordance with applicable Federal and State laws except that the Secretary may designate zones where, and establish periods when, no hunting, fishing, or trapping shall be permitted for reasons of public safety, administration, or public use and enjoyment. Except in emergencies, any prohibitions or restrictions made pursuant to this subsection shall be put into effect only after consultation with the appropriate State fish and game department.

(f) Subject to valid existing rights, the minerals in all federally-owned lands within the national recreation area designated by this Act are withdrawn from all forms of appropriation under the mining laws and from disposition under all laws pertaining to mineral leasing, including all laws pertaining to geothermal leasing, and all amendments thereto.

(g) Nothing in this section shall be construed to apply to or have any effect on any other management area of the National Forest System, including any wilderness area or other national recreation area.

MAPS AND DESCRIPTIONS

SEC. 7. As soon as practicable after enactment of this Act, the Secretary of Agriculture shall file a map and a legal description of the national recreation area and of each wilderness area designated by this Act with the Committee on Interior and Insular Affairs and the Committee on Agriculture of the United States House of Representatives and with the Committee on Agriculture, Nutrition, and Forestry of the United States Senate. Each such map and description shall have the same force and effect as if included in this Act, except that correction of clerical and typographical errors in such maps and descriptions may be made by the Secretary. Each such map and description shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Department of Agriculture.

EFFECT OF RARE II

SEC. 8. (a) The Congress finds that—

(1) the Department of Agriculture has completed the second roadless area review and evaluation program (RARE II); and

(2) the Congress has made its own review and examination of National Forest System roadless areas in the State of Pennsylvania, and of the environmental impacts associated with alternative allocations of such areas.

(b) On the basis of such review, the Congress hereby determines and directs that—

(1) without passing on the question of the legal and factual sufficiency of the RARE II final environmental statement (dated January 1979) with respect to National Forest System lands in States other than Pennsylvania, such statement shall not be subject to judicial review with respect to National

Forest System lands in the State of Pennsylvania;

(2) with respect to the National Forest System lands in the State of Pennsylvania which were reviewed by the Department of Agriculture in the second roadless area review and evaluation (RARE II) and those lands referred to in subsection (d), that review and evaluation or reference shall be deemed for the purposes of the initial land management plans required for such lands by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, to be an adequate consideration of the suitability of such lands for inclusion in the National Wilderness Preservation System and the Department of Agriculture shall not be required to review the wilderness option prior to the revisions of the plans, but shall review the wilderness option when the plans are revised, which revisions will ordinarily occur on a ten-year cycle, or at least every fifteen years, unless, prior to such time, the Secretary of Agriculture finds that conditions in a unit have significantly changed;

(3) areas in the State of Pennsylvania reviewed in such final environmental statement or referenced in subsection (d) and not designated as wilderness or for special management under section 6 of this Act upon enactment of this Act shall be managed for multiple use in accordance with land management plans pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976: *Provided*, That such areas need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of the initial land management plans; and

(4) in the event that revised land management plans in the State of Pennsylvania are implemented pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, and other applicable law, areas not recommended for wilderness designation need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of such plans, and areas recommended for wilderness designation shall be managed for the purpose of protecting their suitability for wilderness designation as may be required by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, and other applicable law.

(c) As used in this section, and as provided in section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, the term "revision" shall not include an "amendment" to a plan.

(d) The provisions of this section shall also apply to National Forest System roadless lands in the State of Pennsylvania which are less than five thousand acres in size.

BUFFER ZONES

SEC. 9. The Congress does not intend that the designation of a wilderness area under this Act lead to the creation of protective perimeters or buffer zones around such wilderness area. The fact that nonwilderness activities or uses can be seen or heard from areas within a wilderness shall not preclude such activities or uses up to the boundary of the wilderness area.

Mr. UDALL (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

Mr. LUJAN. Mr. Speaker, reserving the right to object, I do so only because I am going to take a little bit of time now so we can save a lot of time later on. We are going to consider five wilderness bills. Normally there is big controversy over them and I would like to state at this point that the next five wilderness bills, I have checked them out with both majority and minority and everybody that gets involved, and there is absolutely no objection, and further under my reservation I would yield to the gentleman from Arizona to explain what is involved in this particular bill.

Mr. UDALL. Mr. Speaker, I would defer to the gentleman from Ohio [Mr. SEIBERLING] who is chairman of the distinguished subcommittee which produced this legislation.

Mr. SEIBERLING. I thank the gentleman for yielding to me.

Mr. Speaker, I rise in support of H.R. 5076 as amended by the Senate. This is essentially the same legislation which passed the House on May 1 of this year by a vote of 387–28. The Senate amendment changes the release language to reflect the release/sufficiency compromise that was reached with the Senate subsequent to House passage of the bill, and also makes certain changes with respect to the language of section 6 pertaining to management of the proposed Allegheny National Recreation Area. Other than that, the provisions are identical to the House-passed measure. Namely, the bill designates a 368-acre Allegheny Islands Wilderness, a 9,337-acre Hickory Creek Wilderness and a 23,100-acre Allegheny National Recreation Area. The Subcommittee on Public Lands conducted a field inspection of the three areas in 1979 and I most certainly agree with the members of the Pennsylvania delegation that they deserve wilderness and national recreation area status.

Insofar as the Senate changes to the national recreation area language of section 4 are concerned, I would like to make several observations which I believe clarify the intentions of all concerned. The House version of section 6 resulted from direct negotiations between the various interest groups in northwestern Pennsylvania concerned with both resource extraction and preservation of the environment. The House language explicitly considered in detail the conflicts between the development of privately owned oil and gas resources and the protection of the environment. It was a carefully crafted piece of new law designed to give the Secretary specific new powers and responsibilities. It was the House's best attempt to answer the specific Forest Service complaint, as reported in the GAO critique on mineral conflicts in eastern wilderness areas, that the agency needs explicit congressional direction in resolving resource conflicts.

The version which was approved by the other body is not so explicit. Several specific provisions included in the House version which detail requirements for consideration in the environmental impact statement which must be prepared for the Allegheny National Recreation Area have been dropped. Other explicit requirements for the management of the area have been dropped. I can support this bill today because, while it has been made less explicit, it has not been made weaker. However, with the dropping of detailed management responsibilities, it behooves us to create the legislative history necessary to supply the detail to fill out the framework that is contained in the legislation. Therefore, it is important to review some of the major detailed conflicts in the Allegheny National Recreation Area proposal and our specific understanding of how, under this language, those problems will be resolved.

First, let me make it very clear that it is the intent of the House, in accepting the Senate version, that we are creating new law beyond that which governs national forest land generally. The Secretary will have new responsiblities, new congressional requirements, to be considered in his management of this tract of land called Allegheny National Recreation Area. Regardless of regulations or administrative decisions promulgated by the Department of Agriculture concerning similar circumstances on other national forest lands, they shall not be directly applicable, because the Allegheny National Recreation Area will have these additional standards.

The development of privately owned oil and gas reserves can only proceed in the national recreation area if the private mineral holder submits a plan of operations—operating plan—which must be approved by the Forest Service before operations may begin. That plan of operations shall include provisions for adequate reclamation, including, to the extent practicable, revegetation and rehabilitation of the surface after each phase of operations is completed. It is our intent that when operations are completed, the natural characteristics of the area be restored as fully as possible, including, to the extent possible, returning land to its original contours and the closing of roads. Moreover, to be approved, the plan of operations for oil and gas development must be in accordance with the management plan for the entire

national recreation area, which is to be prepared in accordance with section 6(d).

It is explicitly stated in section 6(d) that the management plan for the national recreation area shall be accompanied by an environmental impact statement. That environmental impact statement and plan shall include standards and guidelines for the protection and preservation of historic archaeological and paleontological resources in the recreation area for the public benefit and knowledge, provisions to maintain and enhance existing opportunities for recreation on Allegheny Reservoir, provisions to regulate the use of and protect the surface values of the recreation area. But most importantly, the plan and the environmental impact statement shall contain provisions governing oil gas and other mineral exploration and development, including access by road when necessary; will ensure that disturbances to the environment are minimized during all phases of exploration and development and that revegetation and restoration of the surface of the land disturbed in performing exploration and development is accomplished as soon as possible after each phase of exploration and development; and that protection of high quality of surface and ground water is maintained.

This means that before any plan of operations can be approved, the Secretary must have completed his environmental impact statement and management plan for the national recreation area. Only after this management plan and environmental impact statement have been completed will the Secretary have established the provisions to govern oil and gas operations. Only then will the Secretary be able to approve the individual plans of operation.

The Senate bill is not as explicit as the House bill with regard to access to the privately held mineral rights across the publicly owned national recreation area surface. Let us make it very clear that the Secretary in all national forests and specifically in this national recreation area has a responsibility and the power to determine reasonable access which minimizes to the extent practicable the environmental impacts of exploration and development. In other words, if an operator chose to build a road by the cheapest manner and that road would damage the surface or ground water quality or wildlife of the Allegheny National Recreation Area, the Secretary is empowered to demand an alternative access road which may be more expensive, but which will lessen the environmental damage and be more easily reclaimed. This bill gives the Secretary wide discretion in making a case-by-case judgment for individual operating plans. But the Secretary shall not abdicate that discretion and allow any plan of operations unless it fully conforms with the management plan of the national recreation area.

In reviewing the provisions for section 6 as approved by the other body, it is apparent that the committee report approved by the Interior Committee is fully applicable in establishing the intent of the House with regard to the detailed management of the Allegheny National Recreation Area. Let me quote from the pertinent language of that report, as follows:

NATIONAL RECREATION AREA

In addition to the wilderness proposals, H.R. 5076 establishes an approximate 23.100-acre Allegheny National recreation Area (NRA). The proposed NRA is comprised primarily of the RARE II Tracy Ridge, Cornplanter and Allegheny Front Roadless areas, which lie along the Allegheny Reservoir and River. The Committee believes all three of these roadless areas would be highly qualified for wilderness designation, but the previously mentioned problem of underlying mineral rights rules such designation out at this time. The mineral values in these areas are believed to be far greater than those in Hickory Creek and could cost well in excess of $10 million to acquire (some estimates, although probably exaggerated, have put the cost at closer to $50 to $100 million). Thus, while wilderness designation may be a possibility at some point in the future, if oil and gas exploration produces unfavorable results, or if the reserves are developed and depleted, the Committee believes wilderness is not a viable option at this time.

However, the Committee notes that these are beautiful wild areas and that they are extremely popular for primitive and unconfined recreation, especially given their proximity to the Allegheny Reservoir and River. Developed campgrounds and other recreational facilities on the fringes of the areas enchance their current recreation use and recreation development potential. Accordingly, as with other national forest areas where a combination of water and land based resources afford outstanding opportunities for recreation use, the Committee has opted to stress such values by establishing a National Recreation Area. As is stated in the bill, the purposes of the NRA are twofold:

First, the NRA should be managed to preserve and enchance the "status quo" insofar as existing primitive, semi-primitive and developed recreation uses are concerned. Thus, for example, while the NRA designation does not specifically prohibit future road construction and timber harvest in the current roadless areas, it is the Committee's intention that such uses must not be authorized unless the Forest Service determines that they will in no way impair existing primitive recreation uses of watershed and wildland values. Of course, timber harvest or other activities necessary to control fire, insects, or disease may be permitted, just as they are in wilderness areas. Selective, salvage, or other types of logging may also be appropriate in certain instances to maintain wildlife openings or for other purposes, but any such activity should be planned solely to enhance recreation, wildlife or watershed values, and not for commercial reasons.

In addition, the Forest Service may wish to construct new trails, campgrounds or other facilities to accommodate increased recreational demands. However, where possible, developed recreation facilities (permanent campgrounds, etc.) should be limited to those general areas where they already occur and should not be planned in the more remote and wild areas. In considering recreational uses, the Forest Service should also avail itself of opportunities to promote combined water/land recreation in the interface between the Allegheny Reservoir/River and the roadless areas. An example of this might be designation and construction of primitive or semi-primitive campground facilities along the Resevoir or River, or the expansion of any existing developed campgrounds.

As has been mentioned earlier, the overall emphasis should be on retaining and enhancing existing recreation uses, wildlife and fish populations, and watershed and wildland conditions. Of course hunting, fishing and trapping will be permitted to continue, and should be benefitted by the NRA designation.

The second major purpose of the NRA designation is to emphasize that all exploration for, and development of, mineral resources should be conducted in a manner which will minimize disturbance to other values. Where feasible and economically practicable, road construction should be avoided and alternative access utilized. If roads are deemed essential to exploration and development, their length, size and standard should be limited to the minimum necessary to perform the task(s) at hand consistent with sound environmental protection. Of course, the Committee recognizes that development of major oil and gas finds could necessitate basic changes in the existing wild character of the land, and nothing in H.R. 5076 is intended to prohibit such changes where they are essential to proper and economic development of the mineral resource. The Committee trusts, however, that mineral rights holders will work closely with the Forest Service to minimize adverse impacts, and consider mineral rights exchanges limited purchases or other options (slant drilling, helicopter access, etc.) in cases where development would clearly have long-term adverse impacts on recreation, wildlife, fisheries, watershed or other values.

The U.S. Forest Service supervisor in the Allegheny National Forest and the regional office in Milwaukee have shown a good faith effort to attempt to use their management responsibilities to balance the demands for oil and gas development with the environmental responsibilities as a forest manager. As managers of this bill for the House, we trust this local spirit of responsibility and cooperation will be maintained. Should a good faith effort not be made by the Forest Service, it is apparent that the Congress will have to revisit this issue in the future and at that time will have to insist that discretion be removed and strict legal requirements be imposed. We certainly would prefer not to have to go that route and we trust that the land managers will fully and fairly carry out this law with a full and complete understanding of congressional intent.

In summary, Mr. Speaker, I believe H.R. 5076, as amended, fully reflects the concerns contained in the House-

passed measure and shared by the Pennsylvania congressional delegation. I urge approval of the bill.

Mr. LUJAN. I thank the gentleman for his explanation and, further reserving the right to object, Mr. Speaker, and under that reservation I would like to congratulate Mr. CLINGER, the original author of the bill, and I would yield to the gentleman from Pennsylvania under that reservation.

Mr. CLINGER. Mr. Speaker, I rise in very strong support of the Pennsylvania Wilderness bill which, as Chairman SEIBERLING has indicated, has the unanimous support of the entire Pennsylvania delegation and our two Senators.

Mr. Speaker, we have before us in the Pennsylvania wilderness bill, a solid piece of legislation which is truly the result of the deliberative nature of our system of government. This legislation has been over 10 years in the making and represents a delicate compromise. The negotiations have included Pennsylvania Republicans and Democrats, preservationists and developers, foresters and sportsmen among others. The bill passed the House by an overwhelming margin in May was a compromise reached among all interested parties and was supported by the entire Pennsylvania delegation. This bill represents the result of continuing negotiations in the other body and, though the language is somewhat different than that originally passed by this House, the intent and overall effect of the language is in my estimation identical. It is a good bill. It serves the people of the Commonwealth of Pennsylvania well, it serves the people of my district who live near the proposed wilderness areas well, and it serves the 92 million Americans within 1 day's drive of the Allegheny Forest quite well. Though I would have prefered that the original House version come back from the other body intact, this bill is good legislation and I urge my colleagues to adopt it.

The Pennsylvania Wilderness Act of 1984 would protect approximately 9,700 remote and pristine acres of the Allegheny National Forest by designating them as components of the National Wilderness Preservation System. This wilderness is situated in the Hickory Creek area and on the Allegheny Islands in Warren County, PA, in my congressional district. Passage of this bill would also ensure the preservation of scenic, historical archeological, wildlife, and watershed resources and would maximize opportunities for recreational activities on 23,100 acres located in Elk, Forest, McKean, and Warren Counties, also in my district, by designating them a national recreation area.

There are many, Mr. Speaker, who share in the credit for bringing this bill to fruition. Of course, the distinguished chairman of the Interior Subcommittee on National Park and Public Lands, the gentleman from Ohio, [Mr. SEIBERLING], has been a driving force behind this bill. In addition, my colleague from Pennsylvania, Mr. KOSTMAYER, has been involved every step of the way to ensure the passage of this measure. In the other body, the Senator from Pennsylvania, Senator HEINZ, was the primary sponsor of the bill and has put in a long and arduous fight for the creation of the only wilderness area in the commonwealth. In addition, Senator SPECTER has been deeply involved in the negotiations with the Senate Agriculture Committee and its distinguished chairman, Senator HELMS, in nurturing this effort along. I want to commend these fine legislators and their staffs for the creative and untiring work they have contributed. Not to be overlooked are those private citizens who have worked so hard to give birth to this bill, not the least of which is Mr. John Oliver, of the Western Pennsylvania conservancy who labored so diligently in making this legislation possible.

This act will preserve wilderness and establish a national recreation area while at the same time not obstructing the progress of busines and industry in our State. I am pleased to have played a role in this bill's development and fervently urge its adoption.

● Mr. KOSTMAYER. Mr. Speaker, 6 years ago I introduced the Pennsylvania Wilderness Act. I am proud of the hard work and the willingness to compromise that has characterized the Pennsylvania delegation in its efforts to make this bill a reality. Congressman CLINGER and I negotiated long and hard on the Pennsylvania wilderness bill which first passed the House in May. We are, of course, extremely happy that the bill was approved by the Senate this week, has been sent back again to the House and will be ready for the President's signature.

The creation of wilderness in the Allegheny National Forest was complicated by the fact that private subsurface mineral rights have to be bought outright. While we have received assurances from the Senate that $2 million for the subsurface rights in Hickory Creek will be appropriated, funds to buy out rights in other areas of the forest are not available. Thus, some areas with unique and valuable wilderness characteristics have been placed in a national recreation area for future generations to enjoy. The national recreation area should be managed to preserve and enhance its existing primitive and semiprimitive components. Protection of natural, scenic, scientific, historic, archaeological, ecological, and wildlife values is of primary concern.

If mineral exploration or development must take place, it must be done in an environmentally sound manner. An environmental impact statement must accompany the management plan for the NRA. Standards for the protection and preservation of historic, archeological, and paleontological resources must be included as well as standards relating to the protection of surface and ground water, and standards relating to revegetation and restoration of the surface of the land disturbed in performing exploration or development.

Mr. Speaker, this bill is truly a bipartisan compromise and I am appreciative of the efforts put forth by Congressman CLINGER and Senator HEINZ. It is an important day for all Pennsylvanians and the millions of others who will be able to enjoy this wilderness.●

● Mr. DE LA GARZA. Mr. Speaker, I rise in support of H.R. 5076, as amended, a bill designating wilderness areas in the Allegheny National Forest in the State of Pennsylvania. The bill, which was referred jointly to the Committee on Agriculture and the Committee on Interior and Insular Affairs, was passed by the House on May 1, 1984. The bill was amended by the Senate to authorize the acquisition by the Secretary of Agriculture of oil, gas, and other mineral interests and scenic easements in two of the areas designated as wilderness, and to revise the provisions governing the management of the Allegheny National Recreation Area designated by the legislation. The Senate amendments also would include the sufficiency/release language which was agreed upon after the House passed H.R. 5076 and which has since become a standard provision for inclusion in wilderness bills adopted by Congress in this session.

Except for the changes described above, H.R. 5076, as passed by the Senate, is substantially the same as the House-passed bill. It has the support of the Pennsylvania delegation and is not controversial. I am pleased to concur in the Senate amendments and encourage my colleagues to do likewise.●

Mr. LUJAN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Arizona?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. UDALL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 5076, the legislation just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

TEXAS WILDERNESS ACT OF 1984

Mr. UDALL. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 3788) to designate various areas as components of the National Wilderness Preservation System in the national forests in the State of Texas, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Strike out all after the enacting clause and insert:

That this Act may be cited as the "Texas Wilderness Act of 1984".

DESIGNATION OF WILDERNESS AREAS

Sec. 2. In furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131-1136), the following lands in the State of Texas are hereby designated as wilderness and, therefore, as components of the National Wilderness Preservation System:

(1) certain lands in the Angelina National Forest, Texas, which comprise approximately five thousand four hundred acres, as generally depicted on a map entitled "Turkey Hill Wilderness—Proposed", dated March 1984, and which shall be known as the Turkey Hill Wilderness;

(2) certain lands in the Angelina National Forest, Texas, which compromise approximately twelve thousand acres, as generally depicted on a map entitled "Upland Island Wilderness—Proposed", dated March 1984, and which shall be known as the Upland Island Wilderness;

(3) certain lands in the Davy Crockett National Forest, Texas which comprise approximately three thousand acres, as generally depicted on a map entitled "Big Slough Wilderness—Proposed", dated March 1984, and which shall be known as the Big Slough Wilderness;

(4) certain lands in the Sabine National Forest, Texas, which comprise approximately nine thousand nine hundred and forty-six acres, as generally depicted on a map entitled "Indian Mounds Wilderness—Proposed", dated September 1984, and which shall be known as the Indian Mounds Wilderness; and

(5) certain lands in the Sam Houston National Forest, Texas, which comprise approximately four thousand acres, as generally depicted on a map entitled "Little Lake Creek Wilderness—Proposed", dated March 1984, and which shall be known as the Little Lake Creek Wilderness.

MAPS AND DESCRIPTIONS

Sec. 3. As soon as practicable after enactment of this Act, the Secretary of Agriculture shall file a map and legal description of each wilderness area designated by this Act with the Committee on Interior and Insular Affairs and the Committee on Agriculture of the United States House of Representatives and with the Committee on Agriculture, Nutrition, and Forestry of the United States Senate. Each such map and description shall have the same force and effect as if included in this Act, except that correction of clerical and typographical errors in each such map and description may be made by the Secretary. Each such map and description shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Department of Agriculture.

ADMINISTRATION OF WILDERNESS

Sec. 4. (a) Subject to valid existing rights, each wilderness area designated by this Act shall be administered by the Secretary of Agriculture in accordance with the provisions of the Wilderness Act governing areas designated by that Act as wilderness, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the date of enactment of this Act.

(b) The Congress finds that the Indian Mounds and Upland Island Wilderness areas designated by this Act contain significant amounts of intermingled lands owned by the Temple-Eastex Incorporated and that in order to manage the wilderness in an efficient and effective manner it is in the public interest that these lands be owned by the Federal Government. Accordingly, the Secretary is encouraged to expeditiously acquire by exchange the intermingled lands owned by Temple-Eastex Incorporated. The lands acquired by the United States under the provisions of this section shall become parts of the Sabine and Angelina National Forests, respectively, and shall be administered in accordance with the laws, rules, and regulations applicable to the National Forest System and the National Wilderness Preservation System, as appropriate.

(c) Any purchaser under an existing timber sale contract wholly or partially within the boundaries of the Indian Mounds, Upland Islands, or Little Lake Creek Wilderness areas designated by this Act shall be entitled, for a period of ninety days following the date of enactment of this Act, to enter into an agreement with the Secretary to mutually cancel the timber sale contract without payment of damages by either party if the contract is not in breach and if the purchaser has completed its contractual obligations to logical stopping points as determined by the Secretary after consultation with the purchaser: *Provided*, That upon satisfaction of all such contract requirements, moneys held by the Forest Service for payment of timber to be cut under the contract shall be returned to the purchaser with interest payable from the date the moneys were deposited with the Forest Service at the rate published for use under section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611).

EFFECT OF RARE II

Sec. 5. (a) The Congress finds that—

(1) the Department of Agriculture has completed the second roadless area review and evaluation program (RARE II); and

(2) the Congress has made its own review and examination of National Forest System roadless areas in the State of Texas, and of the environmental impacts associated with alternative allocations of such areas.

(b) On the basis of such review, the Congress hereby determines and directs that—

(1) without passing on the question of the leagl and factual sufficiency of the RARE II final environmental statement (dated January 1979) with respect to National Forest System lands in States other than Texas, such statement shall not be subject to judicial review with respect to National Forest System lands in the State of Texas;

(2) with respect to the National Forest System lands in the State of Texas which were reviewed by the Department of Agriculture in the second roadless area review and evaluation (RARE II) and those lands referred to in subsection (d), that review and evaluation or reference shall be deemed for the purposes of the initial land management plans required for such lands by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, to be an adequate consideration of the suitability of such lands for inclusion in the National Wilderness Preservation System and the Department of Agriculture shall not be required to review the wilderness option prior to the revisions of the plans, but shall review the wilderness option when the plans are revised, which revisions will ordinarily occur on a ten-year cycle, or at least every fifteen years, unless, prior to such time, the Secretary of Agriculture finds that conditions in a unit have signficantly changed;

(3) areas in the State of Texas reviewed in such final environmental statement or referenced in subsection (d) and not designated wilderness upon enactment of this Act shall be managed for multiple use in accordance with land management plans pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976: *Provided*, That such areas need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of the initial land management plans;

(4) in the event that revised land management plans in the State of Texas are implemented pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, and other applicable law, areas not recommended for wilderness designation need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of such plans, and areas recommended for wilderness designation shall be managed for the purpose of protecting their suitability for wilderness designation as may be required by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, and other applicable law; and

(5) unless expressly authorized by Congress, the Department of Agriculture shall not conduct any further statewide roadless area review and evaluation of National Forest System lands in the State of Texas for the purpose of determining their suitability for inclusion in the National Wilderness Preservation System.

(c) As used in this section, and as provided in section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, the term "revision" shall not include an "amendment" to a plan.

(d) The provisions of this section shall also apply to National Forest System roadless lands in the State of Texas which are less than five thousand acres in size.

Mr. UDALL (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

Mr. LUJAN. Reserving the right to object, Mr. Speaker, I do so simply to ask the gentleman to explain the context of the legislation.

Mr. UDALL. Mr. Speaker, I trust the gentleman would yield to the gentleman from Ohio.

Mr. LUJAN. I will be happy to yield.

Mr. SEIBERLING. I thank the gentleman for yielding to me.

Mr. Speaker, H.R. 3788 is essentially the same legislation which passed the House by suspension earlier this year on May 8. The Senate has amended the bill to make a minor boundary change in the proposed Indian Mounds Wilderness and to modify House-passed provisions pertaining to a land exchange and the cancellation of timber sales. I find the changes acceptable, and urge my colleagues' acceptance of the Senate amendments.

Briefly, Mr. Speaker, H.R. 3788—as amended—would designate five national forest wilderness areas in Texas, totaling approximately 34,346 acres. Not only would these areas be the first national forest wilderness in the State and the only wilderness in east Texas, but their wilderness value is enhanced by the fact that they be within a 2- to 3-hour drive of Houston and a 4- to 5-hour drive of Dallas. Residents of those two large population centers are increasingly utilizing the five proposed wildernesses for primitive recreation.

Mr. Speaker, I am personally familiar with the two largest of the proposed wildernesses, Indian Mounds and Upland Island, by virtue of the subcommittee's 1980 field inspection visit to east Texas. During that visit we spent several hours walking through the areas, and while they are not the classic mountainous terrain found in many other wildernesses, I nevertheless believe they will provide excellent opportunities for hiking, camping, hunting, and fishing in an area of the Nation that is largely devoid of such opportunities. I also believe that it is important to leave this small portion of east Texas in its wild state so that future generations will have the option of experiencing and studying some lands that have been largely unaltered by man's management.

In considering the Senate's amendments to the bill—and as I said, I find them acceptable—I would underscore the fact that there are some lands within the proposed Indian Mounds and Graham Creek Wilderness that are privately owned. As is indicated in both the House and Senate committee reports on the legislation, it is Congress' explicit intention that the Forest Service expeditiously acquire the private inholdings by exchange. We felt strongly about the acquisition on the House side that we actually referenced specific exchange parcels in the House-passed bill. Due to certain perceived valuation questions, the Senate opted to go with an exchange procedure that will be subject to negotiation after enactment of the legislation. We are willing to accept the Senate's language because both we and the Senate have been assured by the Forest Service that they will pursue the exchange diligently and expeditiously. However, and I believe I speak for both the House and Senate on this; if the exchange negotiations bog down, or if the Forest Service drags its feet on the exchange, the next Congress may have to revisit the exchange issue and may opt for a legislated exchange similar to what was in the House bill. I only mention that because of the House's strong feelings on the desirability of the exchange.

In summary, Mr. Speaker, I believe H.R. 3788, as amended by the Senate, is meritorious legislation which deserves our approval. We have been working on the Texas Wilderness issue since 1979, and I believe the bill before us today, which is endorsed by Senators TOWER and BENTSEN, and Congressmen CHARLES WILSON, SAM HALL, and PHIL GRAMM, in whose districts the area's lie, represents a consensus that will fairly settle a longstanding controversy. I, therefore, urge the House's approval of the bill.

□ 1800

Mr. LUJAN. I thank the gentleman for his explanation.

Mr. Speaker, further reserving the right to object, I would like to yield to my friend, the gentleman from Texas [Mr. STEVE BARTLETT].

Mr. BARTLETT. I thank the gentleman for yielding.

Mr. Speaker, I take this time to commend the chairman of the subcommittee, the gentleman from Ohio [Mr. SEIBERLING] for sponsoring this legislation and working on this legislation and for bringing it to the floor today. I know the gentleman from Ohio has actually walked through this wilderness area and has been a sponsor of this wilderness for some time.

I also rise to support the legislation and thank the other people who have been involved, including the gentleman from Alaska, the ranking Republican on the subcommittee, and my friend and neighbor, the gentleman from New Mexico, who is so ably handling the legislation on this side today, as well as the original sponsor of the bill, the gentleman from Dallas [Mr. BRYANT] with whom I share the city.

Mr. Speaker, H.R. 3788 represents a carefully crafted compromise clearly of benefit to the State of Texas and the Dallas metroplex. The legislation before us is a response to a situation in which Texas—the largest State in the lower 48—designated just 0.028 percent of its 168 million acres as wilderness. States about half the size of Texas exceed Texas in designated wilderness acreage by as much as 73 times. By including these acres in our wilderness designation, we are taking a meaningful step in preserving our Texas heritage.

I think the chairman of the subcommittee said it rather well when he pointed out the large number of people who live within a short distance of these areas. Indeed, it has been estimated that up to 10 million citizens live within a 5-hour drive of these 34,000 acres.

Designating a Texas Wilderness in this Congress has been a high personal priority for me, and so I support this measure. However, I would rise to clarify two points. First, I originally endorsed a bill containing 64,000 acres of wilderness. The version approved by this body contained 34,400 acres and the legislation before us contains slightly less than that. Although I understand the necessity for progress through negotiation, consensus building, but I still would prefer if this bill still contained 64,000 acres. Second, the legislation before us, unlike the original House version, does not direct or mandate a land exchange. It does authorize the U.S. Forest Service to undertake a land exchange. I have followed the other body's work closely and know that there are many reasons for the bill's present structure. It is critical that these land transactions be completed as soon as possible to make our wilderness a reality and to make it comprehensive. I urge the Forest Service not only to begin work on this as soon as H.R. 3788 becomes law, but also to complete that work expeditiously and complete the land exchange contemplated in this legislation.

I commend this legislation and urge that the House approve it today.

Mr. LUJAN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

Mr. BRYANT. Mr. Speaker, I rise to strongly urge the House to again permit the unanimous approval on final passage of the Texas Wilderness bill, H.R. 3788, which I introduced in an effort to preserve as it is today one small piece of the vast natural heritage of Texas. This legislation grants wilderness protection to 34,346 acres of the most unusual and scenic woodlands in the world and guarantees that future generations of Texans and other Americans will forever have the opportunity to know and enjoy the finest examples of our natural heritage.

Enactment of this bill will provide the only federally protected wilderness area within reach of the majority of the State's residents. It almost doubles the amount of wilderness area in our State.

Out of 171.1 million acres that make up Texas, only 46,850 acres in one tract in the remote Guadalupe National Park of far west Texas have been saved from the ravages of development since the establishment of the National Wilderness Preservation System in 1964, as compared with more than 80 million acres in the other 49 States.

One of the five areas that will be saved from clear-cutting contains a pool where wagon trains once watered. Each contains an impressive array of champion trees and various species of plants and animals that exist in few—and in some cases no—other places in the Nation or the world.

Because Texas is among the fastest growing States in the Nation and that growth poses a severe threat to our once lavish and expansive natural wilderness areas, this legislation is essential. It will cost the taxpayers not one penny and yet convey to future generations an invaluable and irreplaceable resource.

I would like to thank both Texas Senators—LLOYD BENTSEN and JOHN TOWER—for sponsoring this legislation and shepherding it through the U.S. Senate. I am also grateful to my cosponsors in the House—my colleagues from Dallas County, TX, Congressman MARTIN FROST and STEVE BARTLETT, and Representatives JAMES WEAVER and BARBARA BOXER—and to this entire body for giving this legislation unanimous approval in May.

This legislation could not have reached this final step in the legislative process without the special encouragement, support, and counsel of Congressman JOHN SEIBERLING, chairman of the Public Lands and National Parks Subcommittee of the House Interior Committee, and the good faith negotiations of my colleague and friend Congressman CHARLES WILSON, in whose district most of these wilderness areas lie, which led to this compromise legislation.

Deserving of special recognition are the Texas Committee on Natural Resources, the Sierra Club, the Audubon Society, the Wilderness Society, the Sportmens' Clubs of Texas, the Texas Independent Birdhunters Association, the Houston Sportsmen's Association, the Texas League of Women Voters, the Texas Parks and Wildlife Department, Texas Agriculture Commissioner Jim Hightower, and the countless other individuals and groups who fought so long and so diligently for this Texas Wilderness bill.

Today is the culmination of a decades-long dream of literally thousands of Texans. This is their bill, and, if we may presume the approval of this House and the President's signature, it will be their wilderness forever.

● Mr. DE LA GARZA. Mr. Speaker, I rise in support of H.R. 3788, as amended, a bill designating wilderness areas in national forests in the State of Texas.

The bill, which was referred jointly to the Committee on Agriculture and the Committee on Interior and Insular Affairs, was passed by the House on May 8, 1984. The bill was amended by the Senate to encourage, rather than direct, the Secretary of Agriculture to make certain land exchanges that would enhance the management of the Upland Island and Indian Mounds Wilderness. I understand that the Secretary is agreeable to making the exchanges. Further, the Senate amendment would give purchasers of small acreages of timber within some of the areas to be designated as wilderness an option to cancel their contracts with the Secretary without payment of damages by either party, rather than to require the Secretary to terminate such contracts.

Except for the changes I have described, H.R. 3788, as passed by the Senate, is subtantially the same as the House-passed bill. It has the support of the Texas delegation and is not controversial. I concur in the Senate amendments and encourage my colleagues to do likewise.●

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Arizona?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. UDALL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 3788, the legislation just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

MAKING IN ORDER CONSIDERATION OF CONFERENCE REPORT AND AMENDMENTS IN DISAGREEMENT ON HOUSE JOINT RESOLUTION 648, CONTINUING APPROPRIATIONS, 1985

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that it shall be in order, any rule of the House to the contrary notwithstanding, to consider the conference report and amendments in disagreement on House Joint Resolution 648 subject to the availability of said conference report and amendments in disagreement for at least 1 hour, that all points of order be waived against the conference report and amendments in disagreement, and that said conference report and amendments in disagreement be considered as having been read when called up for consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

MISSISSIPPI NATIONAL FOREST WILDERNESS ACT OF 1984

Mr. UDALL. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 2808) to designate certain National Forest System lands in the State of Mississippi as wilderness, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

Mr. LUJAN. Mr. Speaker, reserving the right to object, I do so in order to ask the gentleman from Ohio [Mr. SEIBERLING] if he would give us a short explanation of the legislation.

Mr. SEIBERLING. Mr. Speaker, if the gentleman will yield, S. 2808 would designate two national forest areas in Mississippi as components of the National Wilderness Preservation System. The first area, Black Creek, comprises approximately 4,560 acres and protects the watershed of a creek that is under study for wild or scenic river designation. The second area, the 940-acre Leaf area, represents a landform typical to southern Mississippi and would preserve an interesting mix of local flora and fauna. The areas would be the first onshore wilderness areas in the entire State.

I believe S. 2808 is entirely without controversy and note that the Black Creek Wilderness proposal previously passed the House in 1980 as part of an omnibus wilderness bill (H.R. 5341). The gentleman from Mississippi [Mr. LOTT] introduced companion legislation in the House, H.R. 5965, on June 30 of this year, and the Subcommittee on Public Lands and National Parks held a hearing on the bill on September 27. The Reagan administration recommends enactment of the bill.

In summary, therefore, I believe S. 2808 is meritorious legislation which deserves our support.

Mr. LUJAN. I thank the gentleman for his explanation.

Mr. Speaker, further reserving the right to object, I would like at this point to yield to the minority whip, the gentleman from Mississippi [Mr. LOTT] who is an original cosponsor of this legislation in the House.

Mr. LOTT. I thank the gentleman for yielding.

Mr. Speaker, I rise just briefly to express my support for this legislation.

The gentleman from Ohio is correct. It is not controversial. It has been worked out carefully and I think it will be a very positive addition to the southern part of our State of Mississippi.

I thank the Committee on Interior and Insular Affairs and my colleague, the gentleman from New Mexico, for his assistance.

Mr. LUJAN. Mr. Speaker, with such great support for this legislation, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2808

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Mississippi National Forest Wilderness Act of 1984".

DESIGNATION OF WILDERNESS AREAS

SEC. 2. In furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131-1136), the following lands in the State of Mississippi are hereby designated as wilderness and, therefore, as components of the National Wilderness Preservation System:

(1) certain lands in the De Soto National Forest, Mississippi, which comprise approximately four thousand five hundred and sixty acres, as generally depicted on a map entitled "Proposed Black Creek Wilderness", dated January 1979, and which shall be known as the Black Creek Wilderness; and

(2) certain lands in the De Soto National Forest, Mississippi, which comprise approximately nine hundred and forty acres, as generally depicted on a map entitled "Proposed Leaf Wilderness", dated January 1979, and which shall be known as the Leaf Wilderness.

MAPS AND DESCRIPTIONS

SEC. 3. As soon as practicable after enactment of this Act, the Secretary of Agriculture shall file a map and a legal description of each wilderness area designated by this Act with the Committee on Interior and Insular Affairs and the Committee on Agriculture of the United States House of Representatives and with the Committee on Agriculture, Nutrition, and Forestry of the United States Senate. Each such map and description shall have the same force and effect as if included in this Act, except that correction of clerical and typographical errors in each such map and description may be made by the Secretary. Each such map and description shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Department of Agriculture.

ADMINISTRATION OF WILDERNESS

SEC. 4. Subject to valid existing rights, each wilderness area designated by this Act shall be administered by the Secretary of Agriculture in accordance with the provisions of the Wilderness Act governing areas designated by that Act as wilderness, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the date of enactment of this Act.

EFFECT OF RARE II

SEC. 5. (a) The Congress finds that—

(1) the Department of Agriculture has completed the second roadless area review and evaluation program (RARE II); and

(2) the Congress has made its own review and examination of National Forest System roadless areas in the State of Mississippi, and of the environmental impacts associated with alternative allocations of such areas.

(b) On the basis of such review, the Congress hereby determines and directs that—

(1) without passing on the question of the legal and factual sufficiency of the RARE II final environmental statement (dated January 1979) with respect to National Forest System lands in States other than Mississippi, such statement shall not be subject to judicial review with respect to National Forest System lands in the State of Mississippi;

(2) with respect to the National Forest System lands in the State of Mississippi which were reviewed by the Department of Agriculture in the second roadless area review and evaluation (RARE II) and those lands referred to in subsection (d), that review and evaluation or reference shall be deemed for the purposes of the initial land management plans required for such lands by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, to be an adequate consideration of the suitability of such lands for inclusion in the National Wilderness Preservation System and the Department of Agriculture shall not be required to review the wilderness option prior to the revisions of the plans, but shall review the wilderness option when the plans are revised, which revisions will ordinarily occur on a ten-year cycle, or at least every fifteen years, unless prior to such time, the Secretary of Agriculture finds that conditions in a unit have significantly changed;

(3) areas in the State of Mississippi reviewed in such final environmental statement or referenced in subsection (d) and not designated wilderness upon enactment of this Act shall be managed for multiple use in accordance with land management plans pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976: *Provided,* That such areas need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of the initial land management plans;

(4) in the event that revised land management plans in the State of Mississippi are implemented pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, and other applicable law, areas not recommended for wilderness designation need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of such plans, and areas recommended for wilderness designation shall be managed for the purpose of protecting their suitability for wilderness designation as may be required by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, and other applicable law; and

(5) unless expressly authorized by Congress, the Department of Agriculture shall not conduct any further statewide roadless area review and evaluation of National Forest System lands in the State of Mississippi for the purpose of determining their suitability for inclusion in the National Wilderness Preservation System.

(c) As used in this section, and as provided in section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, the term "revision" shall not include an "amendment" to a plan.

(d) The provisions of this section shall also apply to—

(1) those National Forest System roadless lands which were evaluated in the Delta unit plan dated February 1976; and

(2) National Forest System roadless lands in the State of Mississippi which are less than five thousand acres in size.

Mr. DE LA GARZA. Mr. Speaker, I rise in support of S. 2808, a bill designating wilderness areas in national forests in the State of Mississippi.

The bill designates two wilderness areas in the State of Mississippi totaling about 5,500 acres and contains the "sufficiency/release" language which has become a standard provision for inclusion in wilderness bills adopted by Congress in this session. The subject matter of the bill falls within the "sufficiency/release" language which has become a standard provision for inclusion in wilderness bills adopted by Congress in this session. The subject matter of the bill falls within the jurisdiction of the Committee on Agriculture.

While S. 2808 has not been considered by our committee, it has the support of the Mississippi delegation and is not controversial. I am pleased to urge its passage by the House.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. UDALL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on S. 2808, the Senate bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

□ 1810

GEORGIA WILDERNESS ACT OF 1984

Mr. UDALL. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 2773) to designate certain National Forest System lands in the State of Georgia as wilderness, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

Mr. LUJAN. Reserving the right to object, Mr. Speaker, I do so to ask the gentleman from Ohio if he would explain to us what is involved in this legislation.

I yield to the gentleman.

Mr. SEIBERLING. Mr. Speaker, I rise in support of S. 2773, the Georgia Wilderness Act of 1984. This bill designates additions to two existing wilderness areas and provides that certain other roadless areas in Georgia will receive additional wilderness study through the national forest land management planning process. The bill also contains language to insure that lands not designated wilderness or slated for further wilderness study are available for nonwilderness types of uses.

I believe S. 2773 is without controversy. The two wilderness proposals were recommended by the Forest Service in RARE II and would add approximately 12,439 acres to the Southern Nantahala Wilderness and 2,000 acres to the Ellicott Rock Wilderness. I was fortunate to be able to view the Southern Nantahala area during a subcommittee field inspection trip in 1979, and I strongly agree that it will make a high quality addition to the existing wilderness in North Carolina. In general, the Georgia portion of the Southern Nantahala area comprises rugged mountainous terrain that is popular for hiking, hunting, fishing, and other forms of primitive recreation. Numerous waterfalls and streams enhance the area's scenic values and provide a major attraction for visitors. The area is also highly desirable for wilderness because it lies within a 3-hour drive of Atlanta and thus represents an excellent opportunity to protect primitive recreation values in relatively close proximity to one of the Nation's fastest growing metropolitan areas. The proposed 2,000-acre addition to the Ellicott, Rock Wilderness possesses many of the same values, including habitat for several threatened or endangered plant and animal species.

In addition to its wilderness proposals, S. 2773 releases some 85,000 acres of national forest roadless land in Georgia for other than wilderness use. This should be helpful to the timber industry and Forest Service planners because it will end the current uncertainty which surrounds the management of national forest roadless lands.

In summary, Mr. Speaker, I believe S. 2773 is a good bill which deserves my colleagues support. The legislation is endorsed by the Reagan administration, Senators NUNN and MATTINGLY and by our colleague, ED JENKINS, in whose district the proposed wilderness additions are located. I, therefore, urge its approval by the House.

Mr. LUJAN. Mr. Speaker, I thank the gentleman for his explanation.

Mr. Speaker, further reserving the right to object, I yield to the gentleman from Georgia [Mr. GINGRICH].

Mr. GINGRICH. Mr. Speaker, I just want to commend the committee for adding to an area such as this. As a former environmental study student, I used to take classes from West Georgia College into this region. I know it has been a significant addition, and I want to thank the committee on both sides for working on it.

Mr. LEVITAS. Mr. Speaker, will the gentleman yield?

Mr. LUJAN. I am happy to yield to the gentleman from Georgia.

Mr. LEVITAS. Mr. Speaker, I thank the gentleman for yielding.

I would like to commend the chairman and the ranking member of the subcommittee for bringing this bill and to commend the outstanding work done by our colleague, the gentleman from the Ninth District of Georgia [Mr. JENKINS] and both Senator NUNN and Senator MATTINGLY for their leadership.

This is balanced approach to providing the necessary wilderness areas in this region, as well as the releasing of those other lands for multiuse so that the timber industry and the economic well-being of this region may also be furthered.

I express my appreciation and admiration for the work that has been done.

● Mr. DE LA GARZA. Mr. Speaker, I rise in support of S. 2773, a bill designating wilderness areas in the Chattahoochee National Forest in the State of Georgia. The bill designates two wilderness areas in the forest totaling about 14,439 acres and contains the "sufficiency/release" language which has become a standard provision for inclusion in wilderness bills adopted by Congress in this session. The subject matter of the bill falls within the jurisdiction of the Committee on Agriculture.

While S. 2773 has not been considered by our committee, it has the support of the Georgia delegation and is not controversial. I am pleased to urge its passage by the House.●

● Mr. JENKINS. Mr. Speaker, I rise today to ask my colleagues to support S. 2773, the Georgia Wilderness Act of 1984. This Senate-passed bill is identical to a bill I proposed.

This bill designates two areas in my district, the Southern Nantahala and Ellicott Rock Extension, as part of the National Wilderness Preservation System. Inclusion of these Georgia lands located in the Chattahoochee National Forest will extend the wilderness areas in North Carolina and South Carolina, already approved by this body.

Congress recognized the primeval character of a portion Ellicott Rock in 1975 when it established the 3,584-acre Ellicott Rock Wilderness. The approximately 2,000 acres in Georgia we are adding today will preserve the pristine identity of this region.

The Chattooga Wild and Scenic River races through the center of this mountainous area where numerous endangered plants take root and several kinds of threatened animals find refuge.

The 12,439 acres of the Southern Nantahala also lie in the southern Appalachians on the North Carolina border. The Tallulah River headwaters rise here among the scenic peaks and unique balds. From the cliffs and the waterfalls to the bogs and coves, black bear, deer, wild hog, wild turkey, brook trout live in an environment of lush plant life, some of which is endangered.

Several areas not included in this bill for wilderness designation will remain in protected status by the National Forest Service to be considered for all uses, including wilderness, in the forest management plan.●

Mr. LUJAN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2773

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Georgia Wilderness Act of 1984".

DESIGNATION OF WILDERNESS AREAS

SEC. 2. In furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131-1136), the following lands in the State of Georgia are hereby designated as wilderness and, therefore, as components of the National Wilderness Preservation System:

(1) certain lands in the Chattahoochee National Forest, Georgia, which comprise approximately two thousand acres, as generally depicted on a map entitled "Ellicott Rock Wilderness Addition—Proposed", dated June 1984, and which are hereby incorporated in, and shall be deemed to be part of, the Ellicott Rock Wilderness as designated by Public Law 93-622; and

(2) certain lands in the Chattahoochee National Forest, Georgia, which comprise approximately twelve thousand four hundred and thirty-nine acres, as generally depicted on a map entitled "Southern Nantahala Wilderness Addition—Proposed", dated June 1984, and which are hereby incorporated in, and shall be deemed to be part of, the Southern Nantahala Wilderness as designated by Public Law 98-324.

MAPS AND DESCRIPTIONS

SEC. 3. As soon as practicable after enactment of this Act, the Secretary of Agriculture shall file a map and a legal description of each wilderness area designated by this Act with the Committee on Interior and Insular Affairs and the Committee on Agriculture of the United States House of Representatives and with the Committee on Agriculture, Nutrition, and Forestry of the United States Senate. Each such map and description shall have the same force and

effect as if included in this Act, except that correction of clerical and typographical errors in each such map and description may be made by the Secretary. Each such map and description shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Department of Agriculture.

ADMINISTRATION OF WILDERNESS

SEC. 4. Subject to valid existing rights, each wilderness area designated by this Act shall be administered by the Secretary of Agriculture in accordance with the provisions of the Wilderness Act governing areas designated by that Act as wilderness, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the date of enactment of this Act.

EFFECT OF RARE II

SEC. 5. (a) The Congress finds that—

(1) the Department of Agriculture has completed the second roadless area review and evaluation program (RARE II); and

(2) the Congress has made its own review and examination of National Forest System roadless areas in the State of Georgia and of the environmental impacts associated with alternative allocations of such areas.

(b) On the basis of such review, the Congress hereby determines and directs that—

(1) without passing on the question of the legal and factual sufficiency of the RARE II final environmental statement (dated January 1979) with respect to National Forest System lands in States other than Georgia, such statement shall not be subject to judicial review with respect to National Forest System lands in the State of Georgia;

(2) with respect to the National Forest System lands in the State of Georgia which were reviewed by the Department of Agriculture in the second roadless area review and evaluation (RARE II) and those lands referred to in subsection (d), that review and evaluation or reference shall be deemed for the purposes of the initial land management plans required for such lands by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, to be an adequate consideration of the suitability of such lands for inclusion in the National Wilderness Preservation System and the Department of Agriculture shall not be required to review the wilderness option prior to the revisions of the plans, but shall review the wilderness option when the plans are revised, which revisions will ordinarily occur on a ten-year cycle, or at least every fifteen years, unless, prior to such time, the Secretary of Agriculture finds that conditions in a unit have significantly changed;

(3) areas in the State of Georgia reviewed in such final environmental statement or referenced in subsection (d) and not designated wilderness upon enactment of this Act shall be managed for multiple use in accordance with land management plans pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976: Provided, That such areas need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of the initial land management plans;

(4) in the event that revised land management plans in the State of Georgia are implemented pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, and other applicable law, areas not recommended for wilderness designation need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of such plans, and areas recommended for wilderness designation shall be managed for the purpose of protecting their suitability for wilderness designation as may be required by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, and other applicable law; and

(5) unless expressly authorized by Congress, the Department of Agriculture shall not conduct any further statewide roadless area review and evaluation of National Forest System lands in the State of Georgia for the purpose of determining their suitability for inclusion in the National Wilderness Preservation System.

(c) As used in this section, and provided in section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, the term "revision" shall not include an "amendment" to a plan.

(d) The provisions of this section shall also apply to National Forest System roadless lands in the State of Georgia which are less than five thousand acres in size.

(e) The provisions of this section shall not apply to—

(1) the Georgia portion of the Big Frog Wilderness Study Area as designated by Public Law 93-622; and

(2) the following areas in the Chattahoochee National Forest, Georgia, as generally depicted on a map entitled "Chattahoochee National Forest RARE II Inventory," dated June 1984, and which are known as—

(A) "Raven Cliff", comprising approximately nine thousand one hundred acres;

(B) "Overflow", comprising approximately five thousand acres;

(C) "Blood Mountain", comprising approximately nine thousand four hundred acres;

(D) "Chattahoochee River", comprising approximately twenty-one thousand six hundred acres;

(E) "Tray Mountain", comprising approximately thirty-six thousand six hundred acres;

(F) "Hemp Top", comprising approximately two thousand seven hundred acres;

(G) "Mountain Town", comprising approximately six thousand seven hundred acres;

(H) "Rich Mountain", comprising approximately fifteen thousand six hundred acres;

(I) "Brasstown", comprising approximately three thousand six hundred acres; and

(J) "Wolf Pen", comprising approximately seven thousand seven hundred acres;

These areas shall be considered for all uses, including wilderness, during preparation of a forest plan for the Chattahoochee National Forest pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. UDALL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on S. 2773, the Senate bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

TENNESSEE WILDERNESS ACT OF 1984

Mr. UDALL. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 4263) to designate certain lands in the Cherokee National Forest, TN, as wilderness areas, and to allow management of certain lands for uses other than wilderness with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Strike out all after the enacting clause and insert:

That this Act may be cited as the "Tennessee Wilderness Act of 1984".

DESIGNATION OF WILDERNESS AREAS

SEC. 2. In furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131-1136), the following lands are hereby designated as wilderness and, therefore, as components of the National Wilderness Preservation System:

(1) certain lands in the Cherokee National Forest, Tennessee, which comprise approximately five thousand and fifty-five acres, as generally depicted on a map entitled "Big Frog Wilderness—Proposed", dated April 1984, and which shall be known as the Big Frog Wilderness;

(2) certain lands in the Cherokee National Forest, Tennessee, which comprise approximately sixteen thousand acres, as generally depicted on a map entitled "Citico Creek Wilderness—Proposed", dated April 1984, and which shall be known as the Citico Creek Wilderness; and

(3) certain lands in the Cherokee National Forest, Tennessee, which comprise approximately three thousand eight hundred and eighty-seven acres, as generally depicted on a map entitled "Bald River Gorge Wilderness—Proposed", dated April 1984, and which shall be known as the Bald River Gorge Wilderness.

MAPS AND DESCRIPTIONS

SEC. 3. As soon as practicable after enactment of this Act, the Secretary of Agriculture shall file a map and a legal description of each wilderness area designated by this Act with the Committee on Interior and Insular Affairs and the Committee on Agriculture of the United States House of Representatives and with the Committee on Agriculture, Nutrition, and Forestry of the United States Senate. Each such map and description shall have the same force and effect as if included in this Act, except that correction of clerical and typographical errors in each such map and description may be made by the Secretary. Each such map and description shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Department of Agriculture.

ADMINISTRATION OF WILDERNESS

SEC. 4. Subject to valid existing rights, each wilderness area designated by this Act shall be administered by the Secretary of Agriculture in accordance with the provi-

sions of the Wilderness Act governing areas designated by that Act as wilderness, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the date of enactment of this Act.

EFFECT OF RARE II

SEC. 5. (a) The Congress finds that—

(1) the Department of Agriculture has completed the second roadless area review and evaluation program (RARE II); and

(2) the Congress has made its own review and examination of National Forest System roadless areas in Monroe and Polk Counties, Tennessee, and of the environment impacts associated with alternative allocations of such areas.

(b) On the basis of such review, the Congress hereby determines and directs that—

(1) without passing on the question of the legal and factual sufficiency of the RARE II final environmental statement (dated January 1979) with respect to National Forest System lands other than in Monroe and Polk Counties, Tennessee, such statement shall not be subject to judicial review with respect to National Forest System lands in Monroe and Polk Counties, Tennessee;

(2) with respect to the National Forest System lands in Monroe and Polk Counties, Tennessee, which were reviewed by the Department of Agriculture in the second roadless area review and evaluation (RARE II) and those lands referred to in subsection (d), except those lands designated for wilderness study upon enactment of this Act, that review and evaluation or reference shall be deemed for the purposes of the initial land management plans required for such lands by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, to be an adequate consideration of the suitability of such lands for inclusion in the National Wilderness Preservation System and the Department of Agriculture shall not be required to review the wilderness option prior to the revisions of the plans, but shall review the wilderness option when the plans are revised, which revisions will ordinarily occur on a ten-year cycle, or at least every fifteen years, unless, prior to such time, the Secretary of Agriculture finds that conditions in a unit have significantly changed;

(3) areas in Monroe and Polk Counties, Tennessee, reviewed in such final environmental statement or referenced in subsection (d) and not designated as wilderness or for wilderness study upon enactment of this Act shall be managed for multiple use in accordance with land management plans pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976: *Provided*, That such areas need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of the initial land management plans; and

(4) in the event that revised land management plans in Monroe and Polk Counties, Tennessee, are implemented pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, and other applicable law, areas not recommended for wilderness designation need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of such plans, and areas recommended for wilderness designation shall be managed for the purpose of protecting their suitability for wilderness designation as may be required by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, and other applicable law.

(c) As used in this section, and as provided in section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, the term "revision" shall not include an "amendment" to a plan.

(d) The provisions of this section shall also apply to National Forest System roadless lands in Monroe and Polk Counties, Tennessee, which are less than five thousand acres in size.

DESIGNATION OF WILDERNESS STUDY AREAS

SEC. 6. (a) In furtherance of the purposes of the Wilderness Act, the following lands shall be reviewed by the Secretary of Agriculture as to their suitability for preservation as wilderness during preparation of the initial land management plan for the Cherokee National Forest pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended:

(1) certain lands in the Cherokee National Forest, which comprise approximately four thousand eight hundred acres, as generally depicted on a map entitled "Little Frog Wilderness Study Area—Proposed," dated April 1984, and which shall be known as the Little Frog Wilderness Study Area; and

(2) certain lands in the Cherokee National Forest which comprise approximately three thousand acres, as generally depicted on a map entitled "Big Frog Study Area," dated April 1984.

(b) Subject to valid existing rights, the Little Frog Wilderness Study Area designated by this section shall, until Congress determines otherwise, be administered by the Secretary so as to maintain its presently existing wilderness character and potential for inclusion in the National Wilderness Preservation System.

Mr. UDALL (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

Mr. LUJAN. Reserving the right to object, Mr. Speaker, I do so only to ask the gentleman from Ohio to advise us what is in this legislation.

I yield to the gentleman.

Mr. SEIBERLING. Mr. Speaker, H.R. 4263 is nearly identical to legislation which passed the House by a vote of 404 to 12 on April 30 of this year. The only change made by the Senate has been to incorporate new so-called release/sufficiency in the bill to reflect an agreement reached on the release issue subsequent to House passage of the bill.

H.R. 4263 was originally introduced by our colleague, JOHN DUNCAN, and covers lands in his congressional district only. It is my understanding that the bill has the support of the entire Tennessee congressional delegation, and I am aware of no opposition to the measure. I was fortunate to be able to view two of the bill's proposed wilderness areas during the subcommittee's 1979 field inspection trip to North Carolina and Tennessee and I share Congressman DUNCAN's assessment that they should be designated wilderness.

If Members have any questions about the legislation I would be happy to attempt to answer them, otherwise I would urge that we accept the bill as amended.

Mr. LUJAN. Mr. Speaker, I thank the gentleman for his explanation.

Mr. Speaker, the bill addresses only a part of Tennessee in the district of the gentleman from Tennessee [Mr. DUNCAN]. I understand the gentleman supports this legislation.

The only change the other body made was to update the release language to reflect the new compromise.

There is no opposition to the bill.

Mr. GORE. Mr. Speaker, I rise in strong support of H.R. 4263, the Tennessee Wilderness Act of 1984. I want to commend my good friend and colleague JOHN DUNCAN, for his work on behalf of this bill, a bill of tremendous importance to the people of Tennessee.

This bill designates 24,942 acres of the Cherokee National Forest in Monroe and Polk Counties in southeast Tennessee as wilderness, thereby insuring the preservation of some of the most superlative natural terrain in Tennessee and the southeast region. It is an important step in our continuing efforts to set aside rugged, yet pristine lands to be enjoyed as such for generations to come.

H.R. 4263 would set aside as wilderness Citco Creek and Bald River Gorge Wilderness in Monroe County and Big Frog Wilderness in Polk County. The largest area would be the 16,000-acre Citco Creek Wilderness, a simply exceptional area lying adjacent to the existing 15,000-acre Joyce Kilmer-Slickrock Wilderness in North Carolina. Citco Creek is known for its majestic virgin timber and cascading waterfalls. The most spectacular falls reaches over 70 feet in height and several more are in excess of 40 feet. The many natural wonders of the area are accessible by an excellent system of trails for the many hikers, fishermen, hunters, and sportsmen who travel to the area each year.

In addition to the three areas designated as wilderness, the bill also provides for the designation as wilderness study areas the Little Frog Wilderness and additional portions of Big Frog.

For the citizens of east Tennessee, this bill will resolve many unanswered questions of great interest to the area and I am pleased to see it pass today.

● Mr. DE LA GARZA. Mr. Speaker, I rise in support of H.R. 4263, as amended, a bill designating wilderness areas in the Cherokee National Forest in the State of Tennessee. The bill, which was referred jointly to the Committee

on Agriculture and the Committee on Interior and Insular Affairs, was passed by the House on May 1, 1984. The bill was amended by the Senate to include the "sufficiency/release" language which was agreed upon after the House passed H.R. 4263 and which has since become a standard provision for inclusion in wilderness bills adopted by Congress in this session.

Except for the change I have described, H.R. 4263, as passed by the Senate, is substantially the same as the House-passed bill. It has the support of the Tennessee delegation and is not controversial. I am pleased to concur in the Senate amendments and I encourage my colleagues to do likewise.●

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Arizona?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. UDALL. I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the legislation, H.R. 4263, just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

NATIONAL HISTORIC PRESERVATION ACT AMENDMENTS

Mr. UDALL. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 2889) to amend the National Historic Preservation Act, and for other purposes, with a Senate amendment thereto and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Strike out all after the enacting clause and insert:

That section 212(a) of the National Historic Preservation Act (16 U.S.C. 470t(a)) is amended by striking out the second and third sentences and inserting in lieu thereof "To carry out the provisions of this title, there is authorized to be appropriated not more than $2,500,000 for each of the fiscal years 1985 through 1989".

Mr. UDALL (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

Mr. LUJAN. Reserving the right to object, Mr. Speaker, I ask the gentleman from Ohio to tell us what is involved in this legislation.

I yield to the gentleman.

Mr. SEIBERLING. Mr. Speaker, H.R. 2889, as it passed the Senate, would amend the National Historic Preservation Act to provide for reauthorization of appropriations for the Advisory Council on Historic Preservation. That provision is identical to the one contained in the House version.

However, the Senate deleted two other provisions from the House version. The provisions were for Federal assistance for the National Building Museum and the National Learning Center—known also as the Capitol Children's Museum. The Senate committee report on the bill notes that these provisions were deleted with the agreement that "funding, or a mechanism for funding, would be contained in one form or other in the final 1985 Interior and Related Agencies Appropriations Act or continuing resolution."

I would note that the House provisions for the two museums were excellent ones that would have provided not just funding but also certain planning directives to assist these institutions. However, I also believe that the amended bill should be enacted. The work of the Advisory Council on Historic Preservation is important. I appreciate the fact that the Senate report includes language recognizing the Council's authorities pursuant to the National Historic Preservation Act, similar to that of the House report.

Regarding the other provisions, I intend to examine what progress has been made and whether any further legislation may be needed in the next Congress.

I urge Members again to support H.R. 2889.

Mr. LUJAN. Mr. Speaker, I thank the gentleman for his explanation.

It is a simple reauthorization which was pared down some by the Senate.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Arizona?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. UDALL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 2889, the legislation just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

CHATTAHOOCHEE RIVER NATIONAL RECREATION AREA AMENDMENTS

Mr. UDALL. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 2645) to amend the act of August 15, 1978, regarding the Chattahoochee River National Recreation Area in the State of Georgia, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Page 2, line 9, strike out "February" and insert "September".

Page 2, line 11, strike out "7,328" and insert "6,800".

Page 2, strike out all after line 13 over to and including line 9 on page 3 and insert:

"(f)(1) The Secretary shall exchange those federally owned lands identified on the map referenced in section 101 of this Act as 'exchange lands' for non-Federal lands which are within the boundaries of the recreation area. The values of the lands exchanged under this subsection shall be equal, or shall be equalized in the same manner as provided in section 206 of the Federal Land Policy and Management Act of 1976.

Page 3, lines 21 and 22, strike out "and included within the recreation area." and insert "as part of the recreation area.".

Page 3, strike out all after line 22 over to and including line 4 on page 4 and insert:

"(4) The Secretary shall publish a revision of the boundary map referred to in section 101 to exclude from the boundaries of the recreation area any exchange lands which are used to acquire non-Federal lands under paragraph (3).".

Page 4, strike out lines 7 to 16, inclusive, and insert:

"(d)(1) Notwithstanding any other authority of law, any department, agency, or instrumentality of the United States or of the State of Georgia, or any other entity which may construct any project recommended in the study entitled 'Metropolitan Atlanta Water Resources Management Study, Georgia: Report of Chief of Engineers,' dated June 1, 1982, which directly adversely impacts any lands within the authorized recreation boundaries of the Bowman's Island tract as shown on the map numbered and dated CHAT-20,003, September 1984, which were in Federal ownership as of September 1, 1984, shall, upon request by the Secretary, mitigate such adverse impacts. It is expressly provided that use of or adverse impact upon any other lands within the recreation area as result of any such project shall not require mitigation. Mitigation required by this paragraph shall be provided by payment to the United States of a sum not to exceed $3,200,000. the mitigation funds paid pursuant to this paragraph, shall be utilized by the Secretary for the acquisition of replacement lands. Such replacement lands shall be acquired only after consultation with the Governor of Georgia.

Page 4, strike out lines 17 to 22, inclusive, and insert:

"(2) In acquiring replacement lands under paragraph (1) priority shall be given to acquisition of lands within the recreation area boundary and those lands within or adjacent to the 2,000 foot wide corridor referred to in section 101. Any lands acquired pursuant to this subsection lying outside the boundaries of the recreation area shall, upon acquisition, be included within the recreation area and transferred to the Secretary for management under this Act. The Secretary shall publish a revised boundary map to include any lands added to the recreation area pursuant to this subsection.

Page 4, strike out lines 23 and 24 and insert:

"(3) If lands as described in paragraph (2) are not available for acquisition,"

Page 5, line 5, strike out " "$84,600,000" " and insert " "$79,400,000" ".

Page 5, line 20, strike out "effect," and insert "effect on the natural or cultural resources of the recreation area,".

Page 10, lines 7 and 8, strike out "Georgia Chamber of Commerce" and insert "Business Council of Georgia".

Page 11, strike out lines 11 to 14, inclusive, and insert:

"(e) The Advisory Commission shall terminate on the date ten years after the date of the enactment of this subsection.".

Mr. UDALL (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

Mr. LUJAN. Reserving the right to object, Mr. Speaker, I do so to ask the gentleman from Ohio to explain the legislation.

I yield to the gentleman.

Mr. SEIBERLING. Mr. Speaker, H.R. 2645, as originally passed by the House on March 5, 1984, would amend the act establishing the Chattahoochee River National Recreation Area by establishing a 2,000-foot wide corridor adjacent to each bank along the entire 48-mile stretch of river as an area of national concern for the purpose of facilitating Federal technical support and Secretarial review of Federal activities to aid in the protection of the values of the river; by changing the boundary of the recreation area, adding some lands, deleting others, and providing for expedited land exchange procedures within that boundary; by increasing the authorized expenditure ceiling from $72.9 million to $84.6 million; by providing that section 7(a)(3) of the LWCF would apply; by creating an advisory commission to provide for citizen participation in park administration; and by providing a scheme for replacement of lands that might be lost to possible water supply projects.

The amendments made in the other body reduced the acreage of the Chattahoochee River NRA by 528 acres and reduced the acquisition authorization to $79.4 million. The land exchange language also was amended as was the language providing for replacement of lands that might be lost to water resource projects.

Mr. Speaker, I am not pleased with these amendments. I believe that the House language, which was carefully crafted to avoid ambiguities that are often inherent in our attempts to solve these complex problems, was more clear and concise. However, H.R. 2645 as amended still provides a solution to a difficult issue that our colleague ELLIOTT LEVITAS has worked diligently to solve and on balance I am persuaded that the House should accept the Senate amendments and pass H.R. 2645.

Mr. LUJAN. Mr. Speaker, I thank the gentleman for his explanation.

Mr. Speaker, further reserving the right to object, I yield to my friend, the gentleman from Georgia [Mr. LEVITAS].

Mr. LEVITAS. Mr. Speaker, I am extremely pleased that I have the opportunity to speak on the House floor today in support of our bill, H.R. 2645, which will further implement the intent of the original act creating the Chattahochee River National Recreation Area. This bill, of which I am the principal sponsor, is cosponsored by every Congressman and Senator from Georgia.

I would have much preferred to have seen the passage of the House version of this bill which would have added approximately 1,000 acres to the park. Unfortunately, the Senate has reduced the acreage to be added and does not do as much to protect these precious resources. However, because of the lack of time at the end of this session, which may end very shortly, I believe we should pass this bill in order to obtain something rather than risk losing even this cutback version, which is certainly far better than nothing. A half of loaf is better than none. This legislation is important to the future of the CRNRA, and I urge my colleagues to support H.R. 2645. We will be back, if we have to, in the future.

Although the original law directed the Interior Department to provide us with a general management plan for the park, they failed to do so. In the absence of such a GMP, many concerned individuals, citizens groups, and advisory groups have worked with the Park Service to make such a determination. The superintendent of the park organized a public advisory group in 1980 which was composed of homeowners, developers, public officials, environmentalists, and Park Service representatives. This group has met frequently and regularly since that time to study the Chattahoochee corridor. In addition, the Park Service has held several hearings to which the public was invited, and held workshops in conjuction with the Atlanta Regional Commission. A coalition of concerned groups was framed, the Chattahoochee River Coalition, specifically to study the area, and make suggestions to further define the park.

In addition to this local involvement, the State of Georgia has played an active role in the protection of the Chattahoochee corridor. The State has already donated over 685 acres to the National Park Service. When I served in the Georgia House of Representatives, I was the principal sponsor of the Metropolitan River Protection Act which was enacted in 1972. This State law recognized the unique role of the Chattahoochee River to the citizens of Georgia, and designates the Chattahoochee corridor as a unique area, setting up standards for controlling development along the river. That legislation was the first multijurisdictional land use law in our State. That landmark State legislation would never have occurred without the tireless efforts by concerned citizens over a number of years, especially those people who formed a group known as Friends of the River, who had a dream and saw it realized. Last year, in an effort to strengthen this law and prevent crippling development, amendments were passed that allow the State to become involved and exercise police powers when necessary if the development standards are ignored, as well as increasing counties' police powers.

When I came to Congress I had the privilege of once again being able to be the principal sponsor of legislation for the Chattahoochee River and this time it was the bill that created the National Recreation Area in 1978. Once again, this legislation came about as a result of dedicated efforts of citizens, many of whom were the same ones who had the original dream and brought about the passage of the State law. Once again, the importance of a local and State role was retained. The local governments have tried to protect this corridor. The Atlanta Regional Commission [ARC], the planning body for the local governments, was instrumental in drafting and working for passage of MRPA and the ensuing amendments. With this input, into MRPA, the localities have increased their ability to control development along this area. In addition, the ARC has completed a metropolitan Atlanta water resource study, and a study of the recreational needs of the area, to better determine the needs of this urban region.

In 1982, the State of Georgia entered into a concurrent jurisdiction agreement with the National Park Service, allowing the Park Service to utilize their personnel to enforce the law on the river itself. These State and local actions and agreements show the interest of the State of Georgia to preserve the resources along the corridor, and work with both Federal and local

citizens to achieve the best national park that is possible.

As a result of all this public input and careful study of the Chattahoochee corridor, the entire Georgia delegation has introduced this bill which will go forward with the thrust of the original legislation, and flesh out the dimensions of the park in order to make it the great national park envisioned by Congress when it was created. We have, with all these public meetings and hearings, come up with what we believe most appropriately resolves the question about the boundaries of the national park. We are proposing deleting some parcels of land which were included in the park's original boundaries; those that are not as crucial to the overall plan of the area. By the same token, other key tracts of land will be added to the boundaries, both for additional resource protection, and for recreational opportunities. These boundary changes would bring the total acreage cap of the park from 6,300 acres to 6,800 acres.

I also point out that the funds that are used to acquire parkland in the Chattahoochee corridor do not come from general tax dollars, but rather from the land and water conservation fund. That fund is derived from proceeds from leases on the Outer Continental Shelf, and from exploitation of minerals and resources in our public lands. So these funds are returned through the land and water fund, to the benefit of the American people through the acquisition of parkland and other land for public use.

Specifically, our bill would do the following:

Change the boundaries of the park, adding some new land, and deleting other land. It would also authorize the exchange of land already included in the park for some of the land newly authorized.

Increase the acreage ceiling from its present cap of 6,300 acres to a cap of 6,800 acres.

Increase the presently authorized ceiling of $72.9 million to an overall cap of $79.4 million. This is the same percentage increase as was made in the land authorization.

Create an advisory commission to provide a forum for State and local participation in the park.

Would not prevent any water resource project which is deemed necessary for water supply and which is specifically authorized by an act of Congress. If such a water supply project is built, would require mitigation which would be used to buy replacement lands, first in the corridor, or elsewhere in the State for recreation purposes.

Specifies an "area of national concern" as a corridor of 2,000 feet on each side of the river around the park land to facilitate Federal help to State and local efforts to protect the park.

Allows the Secretary to control Federal actions that would have an adverse affect on land owned by the NPS, except in the case of a water development project recommended in a referenced study, and allows the Secretary to comment on actions affecting land not owned by the NPS.

By making this present commitment, we are looking to our future and making wise choices. Preservation of our natural resources is a necessity, and one which this subcommittee and Congress recognized when it created the Chattahoochee Park.

At the time the park was established, Congress showed its interest in this unique urban area, and its intent to preserve this area for future generations. The Chattahoochee River, called the River of Flowered Stones by the Creek Indians, is still a largely unspoiled area which is immediately available to more than 2 million people in the Metropolitan Atlanta area, and to millions more all over the Southeast and the Nation. Last year alone, over 1 million people used the park which consists of 14 parcels of land along a 48-mile corridor on the Chattahoochee River. These 14 parcels of land are like pearls on a necklace, strung together by the river. Congress realized that it was crucial that we preserve these "pearls" of land before further development causes increasing damaging pollution and destruction of the natural beauty and wilderness, and therefore gave the area the Federal recognition and protection it needed as an important national resource.

This park provides a beautiful resource in an urban area, and enables visitors to get away for fishing, hiking, rafting, canoeing, camping, cycling, or any number of other outdoor activities which serve to renew the spirit. While the Chattahoochee fulfills important recreational needs, it also serves as an area for environmental study, for nature use, and for the preservation of water quality for the Metropolitan Atlanta area. This wonderful park, so close to a major urban area, is truly a unique resource that deserves protection and preservation. This urban park is a shining example to the rest of the country, and needs to be saved from development and commercialization. Former Secretary of the Interior, Cecil D. Andrus said at the time of the park's inception:

> This river possesses high recreational value, and we believe that it ought to be preserved. We endorse the statement in the bill that the values of this segment of the Chattachoochee River are of "national significance." We belivee that this area has high intensive worth which combined with its association with an urban center makes its preservation and protection highly desirable.

Under the circumstances, this plan is a good one. This legislation further carries out the intent of the original law. Many other individuals and organizations, including the Chattachoochee River Coalition, the Georgia Conservancy, the Sierra Club, the League of Women Voters, and the Audubon Society have endorsed this plan for the park. These 14 separate areas tied together by the river like a string of peals will be further polished by these changes, and shined to perfection as Congress intended. I urge my colleagues to join with me and the other Members and Senators from Georgia to show your concern for our precious resources before it is too late.

I ask my colleagues to support these efforts and to act now in order to keep this area for future generations. In these days when our enivronment is threatened in all areas, by pollutants in our air and toxic waste contamination in our water and land it is of utmost importance that we take the necessary steps to save our natural resources. I urge you all to make this effort to protect our fragile resources before it is too late, and make this a park of the caliber envisioned by Congress when it was created. And if we do not act now, this treasure will be lost forever.

Mr. LUJAN. Further reserving the right to object, Mr. Speaker, I yield to my other friend, the gentleman from Georgia [Mr. GINGRICH].

Mr. GINGRICH. Mr. Speaker, I thank my friend from New Mexico for yielding.

I just want to say that this has been a bipartisan effort both in the other body and here.

Anyone who has any doubts about the value of this kind of urban national park, which I know was a very controversial idea when it was first developed, need only to come on a Saturday or Sunday and visit this particular area and see what a tremendous enhancement to the quality of life it has been for everyone in our State and the people who pass through.

Again, I want to thank the leadership on both sides for having done a good job in producing a bill that met everyone's objections and also, frankly, a bill that got through this year.

Mr. SEIBERLING. Mr. Speaker, will the gentleman yield?

Mr. LUJAN. I would be happy to yield.

Mr. SEIBERLING. Mr. Speaker, I want to thank the gentleman from Georgia for his efforts in getting the bill to this point.

I want to say that I visited the area twice. I floated the river. It is a beautiful recreational asset and it is a great thing for the people of Atlanta and that region, so I think it merits this attention.

Mr. LUJAN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Arizona?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. UDALL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 2645, the bill just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

□ 1820

VOLUNTEERS IN THE PARKS ACT OF 1969 AMENDMENTS

Mr. UDALL. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 864) to amend the Volunteers in the Parks Act of 1969, and for other purposes, with a Senate amendment to the House amendment and concur in the Senate amendment to the House amendment.

The Clerk read the title of the Senate bill.

The Clerk read the Senate amendment to the House amendment, as follows:

In lieu of the matter proposed to be inserted by the amendment of the House, insert:

That (a) section 4 of the Volunteers in the Parks Act of 1969 (84 Stat. 472; 16 U.S.C. 18j) as amended is further amended by striking out "$250,000" and substituting "$1,000,000". The amendment made by this subsection shall apply with respect to fiscal years beginning after September 30, 1984.

(b) Section 1 of such Act is amended by adding by adding the following at the end thereof: "In accepting such services of individuals or volunteers, the Secretary shall not permit the use of volunteers in hazardous duty or law enforcement work or in policymaking processes, or to displace any employee: *Provided*, That the services of individuals whom the Secretary determines are skilled in performing hazardous activities may be accepted.

SEC. 2. Section 307 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2766; 43 U.S.C. 1737) is amended by adding at the end thereof the following new subsections:

"(d) The Secretary may recruit, without regard to the civil service classification laws, rules, or regulations, the services of individuals contributed without compensation as volunteers for adding in or facilitating the activities administered by the Secretary through the Bureau of Land Management.

"(e) In accepting such services of individuals as volunteers, the Secretary—

"(1) shall not permit the use of volunteers in hazardous duty or law enforcement work, or in policymaker processes or to displace any employee; and

"(2) may provide for services or costs incidental to the utilization of volunteers, including transportation, supplies, lodging, subsistence, recruiting, training, and supervision.

"(f) Volunteers shall not be deemed employees of the United States except for the purposes of the tort claims provisions of title 28, United States Code, and subchapter 1 of chapter 81 of title 5, United States Code, relating to compensation for work injuries.

"(g) Effective with fiscal years beginning after September 30, 1984, there are authorized to be appropriated such sums as may be necessary to carry out the provisions of subsection (d), but not more than $250,000 may be appropriated for any one fiscal year.".

SEC. 3. (a) The Congress finds that—

(1) the public lands administered by the National Park Service, the Bureau of Land Management, and the United States Fish and Wildlife Service contain valuable wildlife, scenery, natural and historic features, and other resources;

(2) the Congress has specified the duties and responsibilities of the National Park Service, the Bureau of Land Management, and the United States Fish and Wildlife Service to balance the conservation and protection of these public lands and resources with permitted uses in ways Congress has found to be appropriate for each of the various land areas;

(3) the National Park Service, the Bureau of Land Management, and the United States Fish and Wildlife Service are currently under congressional mandates to maintain sufficient visitor and recreational services in our national parks, campgrounds, and wildlife refuges;

(4) the Congress has authorized the National Park Service, the Bureau of Land Management, and the United States Fish and Wildlife Service to contract for the provision of certain facilities, accommodations, and services by non-Federal entities, but with certain limitations that reflect the values and appropriate management policies of the various conservation areas, parks, wildlife refuges, and other public lands;

(5) expansion of the contracting authority of the managers of these conservation areas, parks, wildlife refuges, and lands should be considered only after careful study of the existing management mandates and contracting authorities; and

(6) management and regulation of natural resources on Federal lands are inherently Government functions and should be performed by Federal employees.

(b)(1)(A) The provisions of Office Management and Budget Circular A-76 and any similar provisions in any other order or directive shall not apply to activities conducted by the National Park Service, United States Fish and Wildlife Service and the Bureau of Land Management which involve ten full time equivalents (FTE) or less.

(B) For fiscal years 1985 through and including 1988, no contracts, for activities conducted by the National Park Service, United States Fish and Wildlife Service, or the Bureau of Land Management which have been subject to the provisions of Office of Management and Budget Circular A-76 or any similar provision in any other order or directive, shall be entered into by the United States until funds have been specifically provided therefore by an Act of Congress.

(2) Nothing in this section shall prevent the National Park Service, United States Fish and Wildlife Service and the Bureau of Land Management from entering into contracts for services and materials under provisions of law and rules, regulations, orders, and policies other than the circular referred to in paragraph (1) or any similar order or directive.

SEC. 4. (a) Beginning in fiscal year 1985, the National Park Service shall implement a maintenance management system into the maintenance and operations programs of the National Park System. For purposes of this section the term "maintenance management system" means a system that contains but is not limited to the following elements:

(1) a work load inventory of assets including detailed information that quantifies for all assets (including but not limited to buildings, roads, utility systems and grounds that must be maintained) the characteristics affecting the type of maintenance work performed;

(2) a set of maintenance tasks that describe the maintenance work in each unit of the National Park System;

(3) a description of work standards including frequency of maintenance, measurable quality standard to which assets should be maintained, methods for accomplishing work, required labor, equipment and material resources, and expected worker production for each maintenance task;

(4) a work program and performance budget which develops an annual work plan identifying maintenance needs and financial resources to be devoted to each maintenance task;

(5) a work schedule which identifies and prioritizes tasks to be done in a specific time period and specifies required labor resources;

(6) work orders specifying job authorizations and a record of work accomplished which can be used to record actual labor and material costs; and

(7) reports and special analyses which compare planned versus actual accomplishments and costs and can be used to evaluate maintenance operations.

(b) The National Park Service shall transmit to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the United States Senate, at the end of each fiscal year, a copy of a report summarizing the status of implementation of a maintenance management system until such a system has been implemented.

The report shall incorporate the following information:

(1) the number of units in the National Park System that have implemented a maintenance management system during the period;

(2) contract costs versus management efficiencies achieved;

(3) the total amount of dollars spent on contracts for services; and

(4) estimation of the total value of benefits achieved through greater management efficiency.

Mr. UDALL (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment to the House amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

Mr. LUJAN. Mr. Speaker, reserving the right to object, I do so in order to ask the gentleman from Ohio [Mr. SEIBERLING] to explain the legislation.

Mr. SEIBERLING. Mr. Speaker, will the gentleman yield?

Mr. LUJAN. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Speaker, S. 864 passed the Senate on September 15, 1983, and an amended version passed the House on August 6, 1984. It was further amended by the Senate, which passed it again today. I will briefly describe the changes that have been made in the bill.

The bill essentially concerns the volunteers programs of the National Park Service and the Bureau of Land Management. The Senate accepted the House amendments relating to these programs—essentially to place a $1 million annual cap on the National Park Service Program and a $250,000 annual cap on the Bureau of Land Management Program.

The House added a new section to the bill to exempt the National Park Service, the Bureau of Land Management, and the Fish and Wildlife Service from the Office of Management and Budget's Circular A-76 directive on Federal contracting. The House amendment further specified that the agencies would not be prevented from entering into contracts for services and materials under other provisions of law, rules, or policies.

The House adopted the A-76 exemption provisions because of great concern by our Members over the way that the Department of the Interior has carried out the implementation of this directive. This was not merely a question of contracting, since the agencies already do extensive contracting. The National Park Service alone, for example, contracted out nearly $89 million in projects during the fiscal year.

The problem is that the OMB-imposed process for contracting does not allow for consideration of the missions of these agencies, the congressional mandates under which they must operate, or the natural and cultural resources they are charged with managing and protecting.

As further amended by the Senate, S. 864 modifies the provisions relating to the A-76 Circular. Basically, the amended bill would ban any implementation of the A-76 Program in the National Park Service, Fish and Wildlife Service, and Bureau of Land Management involving 10 full-time equivalent positions [FTE's] or less. It would also prohibit the three agencies for the next 4 fiscal years from entering into contracts under the provisions of A-76 until funds are specifically provided by an act of Congress.

My understanding is that it is intended that the 10 FTE cap could not be circumvented by grouping activities together. To assure this, the inventories previously submitted to the congressional committees are to be utilized and not added to include new activities not already identified. For example, the National Park Service inventory contains 447 activities involving 3,503 FTE's. By dropping those activities with 10 or fewer FTE's, the remaining inventory would include 102 activities with 2,270 FTE's.

For those activities over 10 FTE's, the management studies called for under the OMB Circular A-76 are neither prohibited nor encouraged. The Senate amendment would require, however, that the agencies could not go beyond the study stage—to contract bidding, and so forth—during fiscal years 1985 through 1988 unless funds were specifically provided by an act of Congress.

In addition, the Senate amendment would direct the National Park Service to implement a maintenance management system, starting in fiscal 1985. Among other things, the system would include a work load inventory of assets, description of work standards, work program and performance budget, priority work schedule, work orders specifying job authorizations and record of work accomplished, and reports and special analyses which compare planned versus actual accomplishments and costs.

The National Park Service would be further directed to transmit to the authorizing committees annual reports summarizing the status of the implementation of the Maintenance Management Program.

Such a maintenance management system has been recommended by the General Accounting Office. Pilot tests which the National Park Service has conducted indicate potential savings of as much as 10 percent which, out of a $250 million construction program, could result in substantial savings. Indeed, it would appear that the maintenance management system would more than pay for itself.

Further, such a maintenance management system should be in place before the provisions of the OMB A-76 Circular are implemented. To do otherwise is to put the cart before the horse. Indeed, an analysis of the National Park Service's A-76 inventory of activities, which was done at my request by staff of the Congressional Research Service, reveals that most of these are maintenance functions. Of the 29 kinds of activities which the National Park Service has identified as "commercial," and hence subject to A-76 review, 85 percent of the total FTE's fell in seven maintenance categories. Six of these categories were considered particularly sensitive because the jobs relate directly to work with the park resources and/or involve visitor contacts.

I would also like to note that CRS pointed out that 65 percent of the FTE's in the 447 inventoried positions are full-time permanent employees; 23 percent are seasonal temporary employees; and 12 percent are in other categories. Hence, the greatest impact of contracting out, if the A-76 Circular were fully implemented, would be on permanent employees, not on seasonal positions.

CRS also noted that the National Park Service would have no assurance that positions converted to contract could be retrieved by NPS if contract performance were unsatisfactory. This could have serious implications, given that 65 percent of the FTE's are full-time permanent National Park Service employees.

Mr. Speaker, before closing I would like to commend several Members who have worked so hard on this issue—Mr. UDALL, Mr. WILLIAMS, Mrs. BYRON, Mr. VENTO, Mr. KOGOVSEK, and Mr. CHENEY. I would also like to thank Mr. ALBOSTA, Chairman of the Subcommittee on Human Resources of the Committee on Post Office and Civil Service.

I would also like to thank several staff members, including Art Noonan of Mr. WILLIAMS' staff, Loretta Neumann of subcommittee staff, and Terri Ann Lowenthal of the Human Resources Subcommittee staff.

I urge all Members to support the bill.

Mr. LUJAN. I thank the gentleman for his explanation.

Further reserving the right to object, Mr. Speaker, let me say this is a very effective program that we have had for a long time. It tracks pretty well and reflects the position of the administration that there ought to be people in the private sector involved in providing of Government services and not just leave it up to the Government; so I think it is a good bill and I find no objection to it, and I enthusiastically support it.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

Mr. WILLIAMS of Montana. Mr. Speaker, reserving the right to object, I do so in order to ask the gentleman from Ohio, Chairman SEIBERLING, some questions. I know the gentleman from Ohio is personally familiar with the A-76 OMB Circular, and I want the gentleman to know how much I appreciate his interest in the problems that the A-76 process has created at both Glacier and Yellowstone Parks, and further, I am particularly grateful for your onsite visits to Glacier Park.

Mr. Speaker, I wonder if my distinguished colleague from Ohio would clarify a few points about the effects

of my amendment, changed somewhat in the Senate, on the A-76 process.

It is my understanding that any Government function consisting of 10 FTE's or fewer is exempted from having to undergo an A-76 type study. Some fear, however, that this exemption might prompt some agencies to group smaller functions into larger categories that superficially meet the 10-or-under requirement. To avoid any confusion on this point, I believe it is the Senate's clear intent and that of the House as well, that the Park Service, Fish and Wildlife Service, and the BLM utilize only their current inventory of job functions, as they submitted them to Congress in the hearing process.

S. 864 also requires that the Department submit any contract proposal to Congress before they can proceed. It is my understanding that this process allows only the study portion of the A-76 Program to go forward, but stops the process short of any actual solicitation or granting of public bids. This approach allows the Government to continue internal study of efficiency but does not allow the granting of contracts until approved by the Congress.

I believe the gentleman from Ohio and I agree that there is a need for increased efficiency in Government operations. This need must not, however, alter the congressional, statutory mandates given our various Government agencies. What we are proposing today is a responsible contract/study program that allows internal review but also assures responsible congressional oversight.

Mr. SEIBERLING. Mr. Speaker, will the gentleman yield?

Mr. WILLIAMS of Montana. Under my reservation, I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Speaker, I am certainly pleased to help clarify with my colleague some of the points included in S. 864 and the A-76 Circular.

The gentleman from Montana is correct in his assertion that any government function in the Park Service, Fish and Wildlife Service, or Bureau of Land Management of 10 FTE's or fewer, is exempted from the A-76 Circular. It is the intent of the Senate amendment that this should not encourage the bunching of job descriptions and, to avoid confusion, these agencies should address only those functions identified by their current inventory.

On your second point, it is absolutely the intent of this legislation that only the study portion of the A-76 guidelines be allowed to go forward. Any actual contract/bid portion of the circular can only be completed after the Congress has acted.

Mr. WILLIAMS of Montana. Mr. Speaker, I thank the gentleman and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Arizona?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. UDALL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on S. 864.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

REQUEST FOR CONSIDERATION OF SENATE AMENDMENT TO H.R. 5121, VIRGINIA WILDERNESS ACT OF 1984

Mr. UDALL. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 5121) to designate certain national forest system lands in the State of Virginia as wilderness, and for other purposes, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment as follows:

Strike out all after the enacting clause and insert:

That this Act may be cited the "Virginia Wilderness Act of 1984.

DESIGNATION OF WILDERNESS AREAS

SEC. 2. In furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131-1136), the following lands in the State of Virginia are hereby designated as wilderness and, therefore, as components of the National Wilderness Preservation System:

(1) certain lands in the Jefferson National Forest, Virginia which comprise approximately six thousand three hundred and seventy-five acres, as generally depicted on a map entitled "Beartown Wilderness—Proposed", dated February 1984, and which shall be known as the Beartown Wilderness;

(2) certain lands in the Jefferson National Forest, Virginia which comprise approximately five thousand five hundred and eighty acres, as generally depicted on a map entitled "Kimberling Creek Wilderness—Proposed", dated February 1984, and which shall be known as the Kimberling Creek Wilderness;

(3) certain lands in the Jefferson National Forest, Virginia which comprise approximately five thousand seven hundred and thirty acres, as generally depicted on a map entitled "Lewis Fork Wilderness—Proposed", dated February 1984, and which shall be known as the Lewis Fork Wilderness;

(4) certain lands in the Jefferson National Forest, Virginia which comprise approximately three thousand four hundred acres, as generally depicted on a map entitled "Little Dry Run Wilderness—Proposed", dated February 1984, and which shall be known as the Little Dry Run Wilderness;

(5) certain lands in the Jefferson National Forest, Virginia which comprise approximately three thousand eight hundred and fifty-five acres, as generally depicted on a map entitled "Little Wilson Creek Wilderness—Proposed", dated February 1984, and which shall be known as the Little Wilson Creek Wilderness;

(6) certain lands in the Jefferson National Forest, Virginia which comprise approximately eight thousand two hundred and fifty-three acres, as generally depicted on a map entitled "Mountain Lake Wilderness—Proposed", dated February 1984, and which shall be known as the Mountain Lake Wilderness;

(7) certain lands in the Jefferson National Forest, Virginia which comprise approximately three thousand three hundred and twenty-six acres, as generally depicted on a map entitled "Peters Mountain Wilderness—Proposed", dated February 1984, and which shall be known as the Peters Mountain Wilderness;

(8) certain lands in the Jefferson National Forest, Virginia, which comprise approximately two thousand four hundred and fifty acres, as generally depicted on a map entitled "Thunder Ridge Wilderness—Proposed", dated February 1984, and which shall be known as the Thunder Ridge Wilderness;

(9) certain lands in the Jefferson National Forest, Virginia, which comprise approximately two hundred acres, as generally depicted on a map entitled "James River Face Wilderness Addition—Proposed", dated September 1984, and which are hereby incorporated in, and shall be deemed to be part of, the James River Face Wilderness as designated by Public Law 93-622;

(10) certain lands in the George Washington National Forest, Virginia, which comprise approximately six thousand seven hundred and twenty-five acres, as generally depicted on a map entitled "Ramseys Draft Wilderness—Proposed", dated January 1984, and which shall be known as the Ramseys Draft Wilderness; and

(11) certain lands in the George Washington National Forest, Virginia, which comprise approximately ten thousand and ninety acres, as generally depicted on a map entitled "Saint Mary's Wilderness—Proposed", dated January 1984, and which shall be known as the Saint Mary's Wilderness; and

MAPS AND DESCRIPTIONS

SEC. 3. As soon as practicable after enactment of this Act, the Secretary of Agriculture shall file a map and a legal description of each wilderness area designated by this Act with the Committee on Interior and Insular Affairs and the Committee on Agriculture of the United States House of Representatives and with the Committee on Agriculture, Nutrition, and Forestry of the United States Senate. Each such map and description shall have the same force and effect as if included in this Act, except that correction of clerical and typographical errors in each such map and description may be made by the Secretary. Each such map and description shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Department of Agriculture.

ADMINISTRATION OF WILDERNESS

SEC. 4. Subject to valid existing rights, each wilderness area designated by this Act shall be administered by the Secretary of

Agriculture in accordance with the provisions of the Wilderness Act governing areas designated by that Act as wilderness, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the date of enactment of this Act.

EFFECT OF RARE II

SEC. 5. (a) The Congress finds that—

(1) the Department of Agriculture has completed the second roadless area review and evaluation program (RARE II); and

(2) the Congress has made its own review and examination of National Forest System roadless areas in the State of Virginia and of the environmental impacts associated with alternative allocations of such areas.

(b) On the basis of such review, the Congress hereby determines and directs that—

(1) without passing on the question of the legal and factual sufficiency of the RARE II final environmental statement (dated January 1979) with respect to National Forest System lands in States other than Virginia, such statement shall not be subject to judicial review with respect to National Forest System lands in the State of Virginia;

(2) with respect to the National Forest System lands in the State of Virginia which were reviewed by the Department of Agriculture in the second roadless area review and evaluation (RARE II) and those lands referred to in subsection (d), except those lands designated for wilderness study upon enactment of this Act, that review and evaluation or reference shall be deemed for the purposes of the initial land management plans required for such lands by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, to be an adequate consideration of the suitability of such lands for inclusion in the National Wilderness Preservation System and the Department of Agriculture shall not be required to review the wilderness option prior to the revisions of the plans, but shall review the wilderness option when the plans are revised, which revisions will ordinarily occur on a ten-year cycle, or at least every fifteen years, unless, prior to such time, the Secretary of Agriculture finds that conditions in a unit have significantly changed;

(3) areas in the State of Virginia reviewed in such final environmental statement or referenced in subsection (d) and not designated as wilderness or for wilderness study upon enactment of this Act shall be managed for multiple use in accordance with land management plans pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976: Provided, That such areas need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of the initial land management plans;

(4) in the event that revised land management plans in the State of Virginia are implemented pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, and other applicable law, areas not recommended for wilderness designation need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of such plans, and areas recommended for wilderness designation shall be managed for the purpose of protecting their suitability for wilderness designation as may be required by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, and other applicable law; and

(5) unless expressly authorized by Congress, the Department of Agriculture shall not conduct any further statewide roadless area review and evaluation of National Forest System lands in the State of Virginia for the purpose of determining their suitability for inclusion in the National Wilderness Preservation System.

(c) As used in this section, and as provided in section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, the term "revision" shall not include an "amendment" to a plan.

(d) The provisions of this section shall also apply to National Forest System roadless lands in the State of Virginia which are less than five thousand acres in size.

DESIGNATION OF WILDERNESS STUDY AREAS

SEC. 6. (a) In furtherance of the purposes of the Wilderness Act, the Secretary of Agriculture shall review, as to their suitability for preservation as wilderness, the following lands in the State of Virginia:

(1) certain lands in the George Washington National Forest, which comprise approximately nine thousand three hundred acres, as generally depicted on a map entitled "Rough Mountain Wilderness Study Area—Proposed", dated January 1984, and which shall be known as the Rough Mountain Wilderness Study Area;

(2) certain lands in the George Washington National Forest, which comprise approximately five thousand six hundred acres, as generally depicted on a map entitled "Rich Hole Wilderness Study Area—Proposed", dated January 1984, and which shall be known as the Rich Hole Widerness Study Area;

(3) certain lands in the Jefferson National Forest, which comprise approximately five thousand eight hundred and seventy-five acres, as generally depicted on a map entitle "Barbours Creek Wilderness Study Area—Proposed", dated February 1984, and which shall be known as the Barbours Creek Wilderness Study Area; and

(4) certain lands in the Jefferson National Forest, which comprise approximately four thousand three hundred acres, as generally depicted on a map entitled "Shawvers Run Wilderness Study Area—Proposed", dated February 1984, and which shall be known as the Shawvers Run Wilderness Study Area.

(b) In carrying out the review required under this section, the Secretary shall give public notice at least sixty days in advance of any hearing or other public meeting concerning a study area.

(c) Subject to valid existing rights, the wilderness study areas designated by this section shall, until Congress determines otherwise, be administered by the Secretary so as to maintain their presently existing wilderness character and potential for inclusion in the National Wilderness Preservation System.

(d) The Secretary, in consultation with the Environmental Protection Agency and the State of Virginia, shall evaluate and report to Congress no later than two years after the date of enactment of this Act on the effects of the proposed industrial development site at Covington, Virginia, on air quality on the areas designated for wilderness study by this Act. The Secretary shall provide an interim report to the appropriate committees of Congress no later than one year after the date of enactment of this Act.

BUFFER ZONES

SEC. 7. Congress does not intend that designation of wilderness areas in the State of Virginia lead to the creation of protective perimeters or buffer zones around each wilderness area. The fact that nonwilderness activities or uses can be seen or heard from areas within the wilderness shall not, of itself, preclude such activities or uses up to the boundary of the wilderness area.

Mr. UDALL (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Arizona?

Mr. HUBBARD. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

REQUEST FOR CONSIDERATION OF SENATE CONCURRENT RESOLUTION 149 AUTHORIZING SECRETARY OF THE SENATE TO MAKE CORRECTIONS IN ENROLLMENT OF S. 543, WYOMING WILDERNESS ACT OF 1984

Mr. UDALL. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate concurrent resolution (S. Con. Res. 149), authorizing the Secretary of the Senate to make corrections in the enrollment of the Senate bill, S. 543, the Wyoming Wilderness Act of 1984, and ask for its immediate consideration in the House.

The SPEAKER pro tempore. The Clerk will report the Senate concurrent resolution.

The Clerk read the Senate concurrent resolution as follows:

S. CON. RES. 149

Resolved by the Senate (the House of Representatives concurring), That in the enrollment of the bill (S. 543), entitled "The Wyoming Wilderness Act of 1984" the Secretary of the Senate shall make the following corrections:

Strike section 201(a)(8) and insert in lieu thereof: "(8) subject to section 201(c) of this Act, certain lands in the Medicine Bow National Forest which comprise approximately twenty-two thousand acres as generally depicted on a map entitled Platte River Wilderness Area—Proposed," dated October 1984, and which shall be known as the Platte River Wilderness;".

Mr. UDALL (during the reading). Mr. Speaker, I ask unanimous consent that the Senate concurrent resolution be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

Mr. WIRTH. Mr. Speaker, I reserve the right to object.

Mr. UDALL. Mr. Speaker, will the gentleman yield to me under his reservation?

Mr. WIRTH. I will be happy to yield.

Mr. UDALL. Mr. Speaker, I have discovered in the last few years that the way to be a great legislator and a great committee chairman is to get subcommittee chairmen who know what they are doing and turn them loose.

Today is a great day for wilderness and for conservation and JOHN SEIBERLING of Ohio, who has chaired our subcommittee, has been one of the most tenacious, productive, able and brilliant lawmakers that we have had around here in a long time.

We had great cooperation and bipartisan spirit in all of these bills and I take nothing away from anybody else, but he has been a brilliant and an effective legislator and he ought to be very proud of what he has done for the country and be proud of this wilderness legislation that we have passed this year.

It has been a great year and this has been a great day, and I congratulate him and all of my colleagues.

Mr. WIRTH. Mr. Speaker, further reserving the right to object, I want to associate myself with the remarks of the distinguished chairman of the Interior Committee, and on behalf of our colleague from the State of Ohio, I have a question on the Senate joint resolution before us today.

Do I understand from the gentleman from Ohio that this resolution before us now is designed to remove 800 to 1,000 acres from the North Platte area?

Mr. SEIBERLING. Will the gentleman yield?

Mr. WIRTH. I yield to the gentleman from Ohio.

Mr. SEIBERLING. The gentleman is correct.

Mr. Speaker, Senate Concurrent Resolution 149 authorizes the clerk of the Senate, in the enrollment of the bill S. 543, to make a change to delete approximately 1,000 acres from the proposed Platte River Wilderness. When we passed S. 543 in the House Tuesday night, we were under the assumption that the approximate 1,000-acre area, which covers lands in Colorado that were recommended for wilderness in RARE II, had been cleared with Senator ARMSTRONG. The Colorado lands were included in the Wyoming bill because over 95 percent of the proposed wilderness lies in Wyoming, and in 1980, when the Colorado legislation was passed, the Colorado delegation agreed to defer consideration of the area until the Wyoming bill was taken up (see Conference Report No. 96-1521 to accompany H.R. 5487, page 19).

Apparently, Senator ARMSTRONG was not aware of the inclusion of the Colorado lands in S. 543 and he objected to Senate consideration of S. 543 unless the Colorado lands were deleted. Senate Concurrent Resolution 149 will make the change requested by the Senator.

□ 1830

They were included in the bill because over 95 percent of the proposed wilderness lies in Wyoming. Apparently he objects to that. So this would delete those acres in Colorado from the Wyoming bill.

Mr. WIRTH. Mr. Speaker, further reserving the right to object, is it my understanding this is the exact same acreage we dealt with in passing the 1980 Colorado wilderness bill?

Mr. SEIBERLING. That is correct.

Mr. WIRTH. Further reserving the right to object, I have the conference report on the 1980 Colorado bill. The pertinent part of the report reads:

> The conferees determined that the 800-acre North Platte Area should remain as a pending wilderness recommendation. The conferees expect that the North Plattee Area (which lies mostly in Wyoming but has a small portion in Colorado) will be addressed in future legislation dealing with the State of Wyoming.

So it was the assumption of the conferees and all the Colorado delegation in 1980 this would remain part of the Wyoming bill.

It is the best of my recollection that the entire Colorado delegation strongly supported that conference agreement in 1980. Is that not the case?

Mr. SEIBERLING. That is correct.

Mr. WIRTH. I am a little confused as to where we are today. This resolution has been advocated by Senator ARMSTRONG but I have not heard anything from Senator ARMSTRONG on this issue although I met with him only last week on Colorado wilderness issues.

Could the gentleman from Ohio enlighten me on what the Senator from Colorado has told him on this issue?

The SPEAKER pro tempore. The gentleman cannot refer to a name from the other body. The record will show that.

Mr. SEIBERLING. Let me just say in response that I have had no communications from anyone in the other body in the delegation on this bill. I guess under the restrictions just pointed out by the Speaker that is as far as I can go.

Mr. WIRTH. Well, further reserving the right to object, we have worked in the Colorado delegation with the chairman to try to arrive at a compromise on the Colorado wilderness bill, but it appears that no compromise can now be reached.

Finally, reserving the right to object, am I correct, Mr. Chairman, in saying that if we pass this resolution we will halt the designation of part of a wilderness bill that the House and Senate have already voted to designate?

Mr. SEIBERLING. That is correct.

Mr. WIRTH. Finally, it is my understanding that the area in question is the wild reach of the Platte just before it enters Wyoming which has long been advocated for wilderness because it is very popular for whitewater rafting, bighorn, nesting place for the bald eagle, and many black bear and elk. This is the only, now, remaining wilderness area in the State of Colorado that we will be able to designate in 1984.

Mr. Speaker, since this resolution, Senate Concurrent Resolution 149, would prevent this designation, I am constrained to object.

Mr. Speaker, I do object.

The SPEAKER pro tempore. The Chair hears objection.

NATIONAL BUREAU OF STANDARDS AUTHORIZATION ACT FOR FISCAL YEAR 1985

Mr. FUQUA. Mr. Speaker, pursuant to House Resolution 600, I move to take from the Speaker's table the bill (H.R. 5172) to authorize appropriations to the Secretary of Commerce for the programs of the National Bureau of Standards for fiscal years 1984 and 1985 and for related purposes, with a Senate amendment to the text of the bill, and concur in the Senate amendment.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to House Resolution 600, the amendment is considered as read.

The text of the Senate amendment is as follows:

Strike out all after the enacting clause and insert:

TITLE I

SHORT TITLE

SEC. 101. This title may be cited as the "National Bureau of Standards Authorization Act for Fiscal Year 1985".

AUTHORIZATION FOR PROGRAM ACTIVITIES

SEC. 102. There are authorized to be appropriated for fiscal year 1985 to the Secretary of Commerce to carry out activities performed by the National Bureau of Standards the sums set forth in the following line items:

(1) Measurement Research and Standards, $52,030,000.

(2) Engineering Measurements and Standards, $23,194,000.

(3) Computer Science and Technology, $10,000,000.

(4) Center for Fire Research, $5,827,000.

(5) Core Measurement Research for New Technologies, $12,168,000.

(6) Technical Competence Fund, $8,598,000.

(7) Central Technical Support, $13,728,000.

EXCESS FOREIGN CURRENCY

SEC. 103. In addition to the sums authorized to be appropriated by section 102 of this title, there are authorized to be appropriated to the Secretary of Commerce $600,000 for fiscal year 1985 for expenses of the National Bureau of Standards incurred outside the United States, to be paid for in foreign currencies that the Secretary of the

Treasury determines to be excess to the normal requirements of the United States.

OFFICE OF PRODUCTIVITY, TECHNOLOGY, AND INNOVATION

SEC. 104. (a) In addition to the sums authorized to be appropriated by sections 102 and 103 of this title, there are authorized to be appropriated to the Secretary of Commerce $3,371,000 for fiscal year 1985 for the activities of the Office of Productivity, Technology, and Innovation.

(b) Of the sums authorized to be appropriated in subsection (a) of this section, the Assistant Secretary of Commerce for Productivity, Technology and Innovation is authorized and directed to expend $500,000 for the purpose of substantially increasing the availability of Japanese science and engineering literature to United States scientists and engineers through increased accessibility, monitoring, screening, translation, abstracting, indexing, dissemination, awareness, and marketing. In the conduct of this activity, the Assistant Secretary is authorized to make grants and, to the extent provided in advance by appropriations Acts, contracts with private for profit, nonprofit, and educational organizations and to provide funds to other Government organizations, to coordinate with other Government organizations, and to utilize (for all or part of this effort) the Director, staff, and facilities of the National Technical Information Service.

SALARY ADJUSTMENTS

SEC. 105. In addition to the sums authorized to be appropriated by sections 102, 103, and 104 of this title, there are authorized to be appropriated to the Secretary of Commerce for fiscal year 1985 such additional sums as may be necessary to make any adjustments in salary, pay, retirement, and other employee benefits which may be provided for by law.

AVAILABILITY OF APPROPRIATIONS

SEC. 106. Appropriations made under the authority provided in this title shall remain available for obligations, for expenditure, or for obligation and expenditure for such period or periods as may be specified in the Acts making such appropriations.

COST RECOVERY AUTHORITY

SEC. 107. (a) Section 12(f) of the Act of March 3, 1901 (15 U.S.C. 278(f)) is amended—

(1) by striking "first"; and

(2) by inserting immediately before the period at the end thereof the following: ", and to ensure the availability of working capital necessary to replace equipment and inventories".

(b) Fees for calibration services, standard reference materials, and other comparable services provided by the National Bureau of Standards shall be at least sufficient to meet the requirements set forth in the amendments made by subsection (a) of this section, and any funds recovered in the excess of such requirements shall be returned to the Treasury of the United States.

COMPENSATION OF DIRECTOR

SEC. 108. (a) Section 5 of the Act of March 3, 1901 (15 U.S.C. 274), is amended by adding at the end thereof the following: "The director shall be compensated at the rate now or hereafter in effect for level IV of the Executive Schedule, pursuant to section 5315 of title 5, United States Code.".

(b)(1) Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following:

"Director, National Bureau of Standards, Department of Commerce.".

(2) Section 5316 of title 5, United States Code, is amended by striking the following item: "Director, National Bureau of standards, Department of Commerce.".

STRUCTURAL FAILURES

SEC. 109. The National Bureau of Standards, on its own initiative but only after consultation with local authorities, may initiate and conduct investigations to determine the causes of structural failures in structures which are used or occupied by the general public. No part of any report resulting from such investigation shall be admitted as evidence or used in any suit or action for damages arising out of any matter mentioned in such report.

TITLE II

AMENDMENTS TO THE ACT OF MAY 10, 1950

SEC. 201. (a)(1) Section 3(a)(1) of the Act of May 10, 1950 (42 U.S.C. 1862(a)(1) is amended—

(A) by striking "engineering,"; and

(B) by inserting after "other sciences," the following: "and to initiate and support research fundamental to the engineering process and programs to strengthen engineering research potential and engineering education programs at all levels in the various fields of engineering,".

(2) Section 3(a)(3) of such Act is amended—

(A) by inserting "and engineering" immediately after "scientific"; and

(B) by inserting "and engineers" immediately after "scientists".

(3) Section 3(a)(4) of such Act is amended by inserting "and engineering" immediately after "sciences".

(4) Section 3(a)(5) of such Act is amended by inserting "and fields of engineering" immediately after "sciences".

(5) Section 3(a)(6) of such Act is amended by striking "technical" each place it appears and inserting in lieu thereof "engineering".

(6) Section 3(a)(7) of such Act is amended by inserting "and engineering" immediately after "scientific".

(b) Section 3(b) of such Act is amended by inserting "and engineering" immediately after "scientific" each place it appears.

(c) Section 3(c) of such Act is amended—

(1) by inserting "and engineering" immediately after "scientific" in the first sentence; and

(2) by inserting "and engineering research" immediately after "applied scientific research" in the second sentence.

(d) Section 3(d) of such Act is amended by striking "basic research and education in the sciences" and inserting in lieu thereof "research and education in science and engineering".

(e) Section 3(ed) of such Act is amended by inserting "and engineering" immediately after "sciences".

(f) Section 4(c) of such Act (42 U.S.C. 1863(c)) is amended—

(1) by inserting "and engineering" immediately after "scientific" in clause (3) of the first sentence;

(2) by inserting "and engineers" immediately after "scientists" in the second sentence; and

(3) by inserting "the National Academy of Engineering," immediately after "National Academy of Sciences,", and by inserting ", engineering," immediately after "scientific" in the third sentence.

(g) The first sentence of section 10 of such Act (42 U.S.C. 1869) is amended by striking "scientific study or scientific work in the mathematical, physical, medical, biological, engineering, social, and other sciences" and inserting in lieu thereof "study and research in the sciences or in engineering".

(h) Section 11 of such Act (42 U.S.C. 1870) is amended—

(1) by inserting "or engineering" immediately after "scientific" each place it appears in subsections (c) and (i); and

(2) by inserting ", engineering," immediately after "scientific" where it first appears in subsection (g).

(i) Section 12 of such Act (42 U.S.C. 1871) is amended by inserting "or engineering" immediately after "scientific".

(j) Section 13 of such Act (42 U.S.C. 1872) is amended—

(1) by inserting "or engineering" immediately after "scientific" each place it appears; and

(2) by inserting "or engineers" immediately after "scientists" in subsection (a).

(k) Section 14 of such Act (42 U.S.C. 1873) is amended—

(1) by inserting "or engineering" immediately after "scientific" each place it appears in subsection (f); and

(2) by striking "technical" in subsection (g) and inserting in lieu thereof "engineering".

(l) Section 15(b) of such Act (42 U.S.C. 1874(b)) is amended—

(1) by striking "technical" in paragraph (1) and inserting in lieu thereof "engineering"; and

(2) by inserting "or engineering" immediately after "scientific" in paragraph (2).

(m) Section 2(b) of the Act of August 9, 1975 (42 U.S.C. 1869a(b)) is amended by inserting "or engineering" immediately after "science" each place it appears.

TITLE III

SHORT TITLE

SEC. 301. This title may be cited as the "Manufacturing Sciences and Robotics Research and Development Act of 1984."

FINDINGS

SEC. 302. (a) The Congress finds that—

(1) manufacturing contributes significantly to the Nation's gross domestic product and employs more than one-fifth of the Nation's work force;

(2) transportation and delivery of manufactured goods are vital components of the Nation's interstate commerce;

(3) while manufacturing industries are essential to the economic well-being of the Nation, many manufacturing processes and methods are no longer capable of producing goods as reliable and cost competitive as those produced by foreign industries which utilize modern manufacturing methods and processes;

(4) domestic manufacturing is increasingly threatened by external competition and the development by foreign countries of more efficient manufacturing processes and technologies;

(5) outdated manufacturing methods and processes result in higher costs and in goods and services of inferior quality, to the detriment of consumers of such goods and services;

(6) outdated and inefficient manufacturing processes hinder domestic commerce;

(7) a decline in consumption of domestic manufactured goods due to outdated manufacturing processes produces a resultant decline in transportation;

(8) various sectors of private industry, the Federal Government, and the United States research establishment have not devoted

sufficient attention to research on developing new processes and methods to improve the Nation's capability to manufacture goods;

(9) domestic manufacturers have not sufficiently utilized such recent technological changes in manufacturing as programmable automation, robotics, advanced sensors, and computer-assisted design and manufacturing; and

(10) a program to conduct research in more advanced manufacturing processes and methods and to encourage research utilization would strengthen commerce and be beneficial to the Nation's consumers. (b) The Congress further finds that—

(1) the widespread implementation of robotics and automated manufacturing technology and other practices and activities to implement improved manufacturing methods and processes, including new metallurgical technology, and processes for new nonmetallic materials, including composite materials and ceramics, can improve productivity, enhance quality, and increase competitiveness in a wide variety of domestic manufacturing industries;

(2) because robotics and automated manufacturing systems and other practices and activities to implement improved manufacturing methods and processes, including new metallurgical technology, and processes for new nonmetallic materials, including composite materials and ceramics, affect widely divergent segments of industry, a program fostering these technologies should be of broad benefit to domestic manufacturing firms;

(3) a national program of research and information dissemination in robotics and automated manufacturing systems and other practices and activities to implement improved manufacturing methods and processes, including new metallurgical technology, and processes for new nonmetallic materials, including composite materials and ceramics, is essential to ensure the timely and widespread implementation of these technologies; and

(4) to ensure the success of this program, the active participation and support of industry universities, labor, and government are required.

PURPOSE

SEC. 303. It is the purpose of this title to establish a program for conducting research and other activities which will produce more advanced manufacturing technologies and for conducting research on utilization activities to encourage widespread adoption of these technologies.

DEFINITIONS

SEC. 304. As used in this title—

(1) the term "Advisory Committee" means the Manufacturing Sciences and Technologies Enhancement Advisory Committee established under section 309;

(2) the term "consortium" means a group of institutions consisting of a nonprofit research institution and such other entities as a State, or a subdivision thereof, an individual firm or industry association, any other nonprofit research institution, and a university and any other high education institution (including a two-and four-year college);

(3) the term "Center" means a Center for Manufacturing Research and Technology Utilization established under section 305(c);

(4) the term "Office" means the Office of the Assistant Secretary for Productivity, Technology, and Innovation within the Department of Commerce;

(5) the term "robot" means a programable, multifunction manipulator designed to move material, parts, tools, or specialized devices through variable programed motions for the performance of a variety of tasks;

(6) the term "robotics" means the study of robots or the practice of using robots;

(7) the term "automated manufacturing system" means two or more operating stations of robots or fixed sequence automatic machines interconnected by a transport system, where both the operating stations and the transport system are controlled by a computer which performs such functions as production planning, task scheduling, and control of part and tool movement;

(8) the term "technology-sensitive industrial sector" means an industry whose productivity, efficiency and competitiveness, particularly in the world marketplace, is or is likely to be dependent upon the utilization of more advanced manufacturing processes and methods, as that term is used in section 305(a); and

(9) the term "Secretary" means the Secretary of Commerce.

GRANTS, CONTRACTS AND COOPERATIVE AGREEMENTS

SEC. 305. (a) PURPOSES.—The Secretary, through the Office, may award grants and enter into contracts and cooperative agreements in accordance with the provisions of this section to provide for research on advanced manufacturing processes and methods, including—

(1) computer-assisted design;

(2) automated materials handling, processing, and assembly;

(3) automated testing;

(4) machine adaptive learning;

(5) integrated manufacturing systems, including interface of automated machines with automated and nonautomated machines, with production and design personnel, and with other systems (including testing devices, design systems, and inventory control systems);

(6) machine and process control strategies;

(7) automated sensing for machine and process control and product testing;

(8) new metallurgical technology;

(9) processes for new nonmetallic materials, including composite materials and ceramics;

(10) practices and activities to implement improved manufacturing methods; and

(11) such other research as the Secretary determines to be consistent with the purpose of this title.

(b) GRANTS.—(1) The Secretary, through the Office, may make grants to provide for research to increase the amount of fundamental scientific and technological knowledge in fields relevant to manufacturing methods and processes. Such grants shall be made on a competitive basis to applicants who comply with such criteria as are specified in this title and as the Secretary shall establish, consistent with the purpose of this title.

(2) A recipient of such a grant may be affiliated with a nonprofit research institution, a private firm or industry association, a university or college, a Center established pursuant to subsection (c), or any other institution which the Secretary considers appropriate. Any such recipient shall not be required to provide any part of the costs of such research, unless the recipient desires to expand the scope of the research to be conducted. In such a case, the Secretary may enter into an agreement which provides for cost sharing by the recipient.

(3) Grants made under this subsection shall be based on the findings of the competitiveness study under section 308 to the extent practicable and on the recommendations of the Advisory Committee established under section 309.

(4) There are authorized to be appropriated for the purposes of this subsection not to exceed $20,000,000 for the fiscal year ending September 30, 1985, and not to exceed $30,000,000 for each of the fiscal years ending September 30, 1986, September 30, 1987, and September 30, 1988. Such funds shall remain available until expended.

(c) COOPERATIVE AGREEMENTS.—(1) The Secretary, through the Office, may enter into cooperative agreements with consortia for the purpose of establishing and supporting Centers for Manufacturing Research and Technology Utilization. Such agreements shall be made with applicants who comply with such criteria as are specified in this title and as the Secretary shall establish, consistent with the purpose of this title.

(2) Such Centers shall conduct research of a more applied nature than the research conducted under subsection (b). Centers shall conduct research on methods of increasing the utilization by the Nation's industries of those modern manufacturing methods which may result in lower production costs or improved product quality or reliability. Such research may be directed toward problems or processes and methods appropriate to a specific industrial sector, including aerospace, microelectronics, apparel mechanical assembly, basic materials, new materials, and transportation.

(3)(A) In addition to funds received by means of a contract or cooperative agreement entered into under this subsection, a consortium may also receive funds from other Federal agencies and from public and private institutions.

(B) A consortium which enters into such a cooperative agreement shall provide support and participation in a dollar amount at least equal to the amount of the Federal contribution to be made under this subsection. For purposes of this subparagraph, the term "support and participation" includes cash or equipment contributions, industry personnel to conduct research, and access by persons in the research institutions to modern manufacturing equipment in the participating industry for research and other appropriate purposes. Any such consortium shall provide a cash or equipment contribution in an amount equal to at least 50 percent of the Federal Government's share. Contributions from the nonprofit participants of the consortium may consist of inkind contributions.

(4) In entering into agreements under this subsection, the Secretary shall consider (with respect to each such agreement)—

(A) the quality of the research which is to be undertaken as a result of the agreement;

(B) the extent of participation by industry in the research to be undertaken as a result of the agreement;

(C) the size of the industrial sector involved and the potential impacts on the productivity of that industrial sector as a result of successful research undertaken through the agreement, as well as the subsequent development and utilization of the manufacturing methods and processes to be studied as part of such research; and

(D) the extent to which entering into the agreement would be likely to increase the number of scientific and technical personnel capable of utilizing modern manufacturing methods and processes.

In addition, the Secretary shall consider the extent to which the industrial sector involved is presently competitively disadvantaged as a result of foreign technological advances and shall ensure diversity among the industrial sectors which are the subject of the research conducted under any such agreement, as well as geographic dispersion of the Centers established and supported under this subsection.

(5) Cooperative agreements entered into under this subsection shall be based on the findings of the competitiveness study under section 308 to the extent practicable and on the recommendations of the Advisory Committee established under section 309.

(6) There are authorized to be appropriated for the purposes of this subsection not to exceed $15,000,000 for the fiscal year ending September 30, 1985, and not to exceed $25,000,000 for each of the fiscal years ending September 30, 1986, September 30, 1987, and September 30, 1988. Such funds shall remain available until expended.

(d) CONTRACT AUTHORITY.—To the extent provided in advance by appropriations Acts, the Secretary, under such regulations as the Secretary may prescribe, may enter into contracts with applicants to effectuate the purpose of this title.

(e) FEDERAL RESEARCH CENTER ON ROBOTICS AND AUTOMATED MANUFACTURING.—(1) There shall be a Federal Research Center on Robotics and Automated Manufacturing at the National Bureau of Standards. The Research Center shall focus its research and development on (A) measurements and standards required in robotics and automated manufacturing systems, including interface standards for integrated robot systems, and (B) systems integration, reliability, and performance.

(2) The Research Center shall coordinate its research activities with the Centers established under subsection (c) and shall share information through meetings, exchange of scientists, and network computer systems.

(3) The Director of the Research Center shall meet at least annually with the directors of the Centers established under subsection (c) to exchange specific plans and programs for the upcoming year to coordinate activities.

ROBOTICS AND AUTOMATED MANUFACTURING

SEC. 306. (a) SUPPORT.—The Secretary is authorized to support the education and training of scientists, engineers, and technicians needed for the theoretical understanding, design, construction, installation, use, and maintenance of robots and automated manufacturing systems. Such support may include, but need not be limited to, providing funds for the following: graduate fellowships and traineeships, undergraduate scholarships, instructional equipment, the development of curricula for intramural or extramural use at undergraduate and graduate levels, and postdoctoral fellowships. Such support shall be provided on a matching basis with other soources of support, whenever possible.

(b) AUTHORIZATION.—There are authorized to be appropriated for purposes of this section not to exceed $5,000,000 for the fiscal year ending September 30, 1985 not to exceed $7,000,000 for the fiscal year ending September 30, 1986, and not exceed $10,000,000 for each of the fiscal years ending September 30, 1987, and September 30, 1988. Such funds shall remain available until expended.

ADVANCED MANUFACTURING METHODS RESEARCH UTILIZATION PROGRAM

SEC. 307. (a) ACTIVITIES.—The Secretary shall establish a program to identify the impact on workers of enhanced utilization of technologically advanced manufacturing methods, including the potential for retraining workers who might otherwise be displaced. The Secretary may, to the extent provided in advance in appropriation Acts, contract with any appropriate person or institution including States and consortia established under section 305(c) to carry out such program.

(b) REPORT.—Not later than two years after the enactment of this Act, the Secretary shall submit to the Congress a report on such program.

(c) AUTHORIZATION.—There are authorized to be appropriated for the purposes of this section not to exceed $10,030,000 for the fiscal year ending September 30, 1985. Such funds shall remain available until expended.

COMPETITIVENESS STUDY

SEC. 308. (a) STUDY.—The secretary shall select specific domestic technology-sensitive industrial sectors, and shall analyze such sectors' one-term capability for remaining competitive and identify technological advances which might be needed to keep such sectors competitive, especially with industries in foreign countries. In making such selection, the Secretary shall consider industrial sectors which are or are likely to be vulnerable to foreign competition, as well as sectors which are likely to experience rapid and signficant growth.

(b) SUBJECTS OF STUDY.—As part of such study, the Secretary shall consider—

(1) the adequacy of technologies utilized to produce the goods and services of the sectors involved;

(2) the existence of superior foreign technologies or unique resources which yield a competitive advantage to industries in foreign countries over comparable domestic industries;

(3) the anticipated scientific and technical personnel requirements for such sectors;

(4) the adequacy of Federal laws and regulations, and the enforcement of such laws and regulations, in promoting technological innovativeness and commercial competitiveness by such sectors; and

(5) the need for changes in such laws and regulations, or enforcement of such laws and regulations, in order to promote technological innovation and competition in such sectors and to safeguard the well-being of the Nation and the public.

(c) CONSULTATION.—As part of such study, the Secretary shall consult with and solicit comments from both management and labor representatives of the industrial sectors which are the subject of such study.

(d) AUTHORIZATION.—There are authorized to be appropriated for purposes of this section not to exceed $2,000,000 for each of the fiscal years ending September 30, 1985, September 30, 1986, September 30, 1987, and September 30, 1988. Such funds shall remain available until expended.

ADVISORY COMMITTEE

SEC. 309. (a) ESTABLISHMENT.—The Secretary shall establish a Manufacturing Science and Technology Enhancement Advisory Committee to advise the Secretary concerning the activities to be conducted under this title. The Advisory Committee shall have twelve members and shall include at least three representatives each from the manufacturing research community, from labor, and from management of technology-sensitive industrial sectors identified under the terms of this title. Such members shall receive no compensation and shall be appointed for terms of six years, except that of the members first appointed four shall be appointed for terms of two years, two shall be appointed for terms of four years, three shall be appointed for terms of five years, and three shall be appointed for terms of six years. Any such member shall, in accordance with section 5703 of title 5, United States Code, be entitled to reimbursement for travel or transportation expenses incurred in the performance of responsibilities as a member of the Advisory Committee.

(b) FUNCTIONS.—The Advisory Committee shall—

(1) recommend to the Secretary policies and selection criteria for individual industrial sectors in need of assistance under section 305 of this title;

(2) review the progress of the Secretary in meeting all the requirements of this title;

(3) assess the effectiveness of the activities funded pursuant to this title; and

(4) submit to the Secretary, at least annually, evaluations and recommendations regarding activities carried out under this title.

(c) REPORT.—The Advisory Committee shall submit to the Congress an annual report on its activities under this title.

(d) APPLICABILITY.—The Advisory Committee shall be subject to the Federal Advisory Committee Act (5 U.S.C. App. 1 et seq.).

Amend the title so as to read: "An act to authorize appropriations to the Secretary of Commerce for the programs of the National Bureau of Standards for fiscal year 1985, and for other purposes.".

The SPEAKER pro tempore. Under the rule, the gentleman from Florida [Mr. FUQUA] is recognized for 1 hour.

Mr. FUQUA. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, I rise in support of the bill H.R. 5172, the National Bureau of Standards' authorization bill for fiscal year 1985 as passed by the Senate which, I think, reflects a consensus between the House version passed on May 2, 1984, and S. 2458, the Senate bill passed on June 26, 1984. I also support the automated manufacturing title and the Amendment to the National Science Foundation Organic Act of 1950 which were added to this bill by the Senate. Both of these new titles were given full consideration and reported as separate legislation by the Committee on Science and Technology.

The authorization for the National Bureau of Standards is essentially the same as that passed by the House in May, with some minor variations in language. The funding level of this title, which is $517,000 below the administration's request, is $125,545,000 for fiscal year 1985, the same amount authorized by the House. Although the appropriation bill for the Bureau has already passed, it is very important that an authorization bill be passed for the National Bureau of Standards in order to give direction to those programs vital to this country's technological capability.

Title II of the bill contains an amendment to the National Science Foundation Organic Act of 1950 which is designed to emphasize and strengthen support for both basic scientific and fundamental engineering research and education. This is done principally by adding the words "engineering" or "engineers" in almost every place that "science" or "scientist" appears in the original text.

The purpose of the title is to more clearly establish the role of the National Science Foundation in supporting both science and engineering.

This title passed the House of Representatives as part of the National Science Foundation Authorization last April, and prior to being reported by the committee, the language was subjected to public hearings, and received very strong support in both the engineering and scientific communities. Those that support it include: professional organizations, the National Science Board, the National Academy of Engineering, the National Society of Professional Engineers, the American Association for the Advancement of Science, and the National Association of Land-Grant Universities.

Because of the jurisdictional argument in the other body over the authorization of the National Science Foundation, the direct result is that an NSF authorization act will not be enacted this Congress. Passage of this bill will ensure that engineering research and education will receive the support it needs.

Title III of the bill is the Manufacturing Sciences and Robotics Research and Development Act of 1984 (S. 1286). It is the text of the version of this legislation reported by a vote of 29 yeas to 10 nays by the Committee on Science and Technology and reported to the House on September 25, 1984.

The text of the Senate bill was amended in full committee to remove language the administration objected to. The committee changes are all included in the bill in its present form. They effectively eliminate any semblance of Government intervention, and also remove language that some thought might place the Federal Government in the postition of selecting "technology winners and losers."

The purpose of this legislation is a restore American technological leadership and innovation in manufacturing through research and education activities, and to foster the development and use of robots and automated manufacturing systems.

This bill addresses the critical need to strengthen this country's competitiveness and productivity by authorizing grants and cooperative agreements for research in advanced manufacturing methods, including robotics and automated manufacturing systems. Under the cooperative agreements, universities, industries, and State and local governments interested in cooperating in research would be eligible to receive matching funds from the Secretary of Commerce.

Mr. Speaker, titles I and II have already been passed by the House with bipartisan support, and title III has the support of the Republican High-Technology Task Force, as well as bipartisan support in the Committee on Science and Technology.

Mr. Speaker, the country that leads the world in the technologies of manufacturing will lead the world in manufacturing. I want that country to be the United States, and I am sure that other Members do, also. The Manufacturing Science and Robotics Research and Development Act will help make that possible. I urge all Members to support this bill.

Mr. Speaker, I yield 2 minutes to the distinguished ranking minority member of the committee, the gentleman from Kansas [Mr. WINN].

Mr. WINN. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I oppose H.R. 5172 as it comes before the House in its present form. Back in the spring of this year, this body passed a clean version of H.R. 5172, solely authorizing the programs of the National Bureau of Standards. The Members may recall that we spent 2 difficult days anguishing over the funding levels contained in that authorization. After those 2 days we had a good, responsible bill that I fully supported.

Unfortunately, as so often happens, when this bill reached the other body they added nongermane titles to the bill and I am now placed in the uncomfortable position of opposing the bill in the form which it has returned to the House. Specifically, I am addressing title III of the bill which is the text of S. 1286. This part of the bill was strongly opposed by the administration. We all have available a copy of the notification which we have received saying that if it is passed in its present form, this bill, because of title III, will be vetoed. We may be hearing stories to the effect that the Secretary of Commerce has changed his position on this bill, that he now approves of it, but this is just not so. We have not seen a single piece of paper or letter that says that the administration has changed its previous position in opposition to the bill.

Mr. Speaker, I want to commend the gentleman from New Hampshire [Mr. GREGG] and the gentleman from New Mexico [Mr. SKEEN] for their fine work on this bill. I know that they have a particular interest in titles I and II. And that because of their concern and support for those titles they have been placed in a difficult position with regard to the whole package. I share their concerns and support them on these two particular titles. However, because of the inclusion of title III in this bill, and the lack of an opportunity by the full House to address title III—a major piece of legislation—separately, I cannot support this bill. At the Committee on Rules yesterday, the gentleman from Tennessee [Mr. QUILLEN] offered an amendment which would have allowed us a motion to strike title III from the bill. Unfortunately, such a rule was not granted.

Mr. Speaker, I will not request a recorded vote on this bill but I do want my colleagues to know of my strong opposition to this packaged piece of legislation.

Mr. FUQUA. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Pennsylvania [Mr. WALGREN], the chairman of the subcommittee which considered this bill.

Mr. WALGREN. Mr. Speaker, I rise in support of H.R. 5172, as passed by the Senate, which would authorize appropriations for the National Bureau of Standards in title I; amend the National Science Foundation Organic Act to emphasize the role of engineering research and education as part of the Foundation's mission in title II; and establish a program to conduct research and development for improved manufacturing technologies in title III. All three titles complement each other and they strengthen Federal activities to improve innovation and productivity.

All the programs included in this bill were the subject of intensive hearings held by the Subcommittee on Science, Research and Technology, and the full Committee on Science and Technology this past year, and all the programs represented in the three titles were favorably reported by the Science Committee.

Title I, the National Bureau of Standards Authorization Act, represents a consensus of the House-passed Bureau authorization of last May and the version recently passed by the Senate. The amount funded for the Bureau, $125.5 million, is the House-passed sum and is actually less than the sum requested by the administration. The bill restores funding for several vital research programs such as the Center for Fire Research, the Center for Building Research, and the Institute for Computer Science and Technology. H.R. 5172 also provides funding for the Office of Productivity, Technology, and Innovation for such activities as technology transfer to the private sector, and includes a new initiative directed toward increasing the availability of Japanese scientific and technical literature.

The National Bureau of Standards, the country's oldest national laboratory, has long been known for its scientific and engineering excellence. At a time when this country's once unchallenged role as No. 1 in technological

innovation is being threatened by competitors throughout the world, it is especially important that the Bureau continue to contribute to the scientific and technological capabilities of the Nation.

Title II amends the National Science Foundation Organic Act of 1950 to emphasize the importance of engineering research and education. No funding is involved but language has been added to clearly establish support of both science and engineering research and education as the role of the National Science Foundation. This amendment was carefully considered in both subcommittee and full committee authorization hearings for the National Science Foundation, and it is supported by a variety of prominent professional and academic organizations.

Title III establishes a program to conduct research and development for improved manufacturing technologies through the Manufacturing Sciences and Robotics Research and Development Act. This bill addresses the critical need to strengthen the competitiveness and productivity of our manufacturing sector. Our Nation's manufacturing industries are in trouble. In 1982, the United States had a negative balance of trade in manufactured goods exceeding $3 billion. In 1983, foreign imports accounted for 9 percent of the domestic market or manufactured goods. More than one-third of the equipment used by U.S. industry is 20 years old or older.

The Subcommittee on Science, Research and Technology, which I chair, held 4 days of hearings last June on the subject of technological innovation. Testimony at the hearings reinforced the fact that the United States is facing some very tough competition from abroad, particularly from the Japanese.

This bill would authorize the Department of Commerce to fund basic and applied research in manufacturing technologies through grants and cooperative agreements in universities, industry associations, and other institutions. It also provides funding for Centers for Manufacturing Research and Technology Utilization, and establishes a Federal Research Center on Robotics and Automated Manufacturing at the National Bureau of Standards to focus on measurements and standards and to coordinate the research efforts of the manufacturing centers. A provision for funding of education and training in robotics and automated manufacturing is included.

In order to be aware of the impact of advanced manufacturing methods on the work force, a provision has been included for a study to be made which includes the potential for retraining displaced workers.

Another provision of the bill authorizes a study to be made of domestic technology-sensitive industrial sectors which are or are likely to be vulnerable to foreign competition.

Finally, the bill establishes a Manufacturing Sciences and Technology Enhancement Advisory Committee to provide advice and guidance to the Secretary of Commerce.

Mr. Speaker, in the interest of this great country's future, I strongly urge the wholehearted support of my colleagues for this important legislation.

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Mr. FUQUA. Mr. Speaker, I yield 2 minutes to the gentleman from New Mexico [Mr. SKEEN].

Mr. SKEEN. Mr. Speaker, I rise in strong support of H.R. 5172. Part of the bill was an original bill that I sponsored, what has now become title II of this particular instrument.

I think it is a well put together bill. There was a great deal of opposition from the administration over title III, which had to do with manufacturing science and robotics. But I think that those objections, in the main, have been withdrawn from the bill.

I think it is a perfectly acceptable bill at the present time and I want to add my voice in support of it.

Mr. FUQUA. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. BROWN].

Mr. BROWN of California. Mr. Speaker, I rise in strong support of this bill. I do not think there is anyone who objects to the content of the bill. There are some objections to procedural aspects in that title III has not been passed by the House as title I and title II have.

Title III has been passed twice by the Senate and has passed the Committee on Science and Technology. If I had my own druthers, I think, as with some of the others, I would have preferred that we could have debated it on the floor as an independent piece of legislation.

It proved not to be possible to do that and the Senate, in its wisdom, put the three pieces together. They have a little parliamentary problem over in that body because of a jurisdictional dispute with regard to the National Science Foundation.

So, in order to get all three of these vitally important programs passed and to the President, they have been put together into this one bill.

Now, title III in itself represents a very modest step in our efforts to improve the technological and scientific industrial base of this country. I am very pleased that it has the support of the Republican Technology Task Force. I think that this is one indication that it is a step in the right direction.

I personally have several much more ambitious pieces of legislation. But recognizing the reality of the situation that confronts us today, I have not chosen to push more ambitious programs in favor of this modest initiative by Senator GORTON and supported by the gentleman from Florida [Mr. FUQUA] in the House.

I think this will give us valuable information about how we can keep the American industrial base competitive with the rest of the world. I think that we ought to support it. And aside from the slight procedural flaws, I think this is an excellent piece of legislation.

Mr. Speaker, I rise in support of H.R. 5172, the National Bureau of Standards authorization bill for fiscal years 1984 and 1985 and in support of the rule House Resolution 600 providing for consideration of the bill. H.R. 5172, as amended, contains several important provisions, including an amendment to the National Science Foundation charter which Mr. SKEEN and I originally offered to the National Science Foundation authorization bill when it was considered by the Science and Technology Committee. This amendment adds a new engineering function to the NSF Organic Act, and ensures full consideration of engineering leaders for nomination to the National Science Board.

The National Science Foundation authorization bill, including the engineering amendment to the NSF charter, passed the House earlier this year but has been stalled in the other body due to jurisdictional disputes. For this reason, it is critical that the House pass this bill today, including the amendment to the National Science Foundation charter.

Mr. Speaker, the National Bureau of Standards authorization bill also provides for the continuation of funding for computer science and technology programs, continuation of the fire research program and the building research program, and the manufacturing bill considered by the Science and Technology Committee.

Mr. Speaker, I urge adoption of the bill.

Mr. FUQUA. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I must admit that I have some substantive concerns about this bill and in particular about title III, which, of course, never has been considered by the House of Representatives.

Title III is purely a product of the other body.

Title III, among other things, authorizes $250 million in new spending for the Department of Commerce. I would point out to this body that that $250 million is more money than has been committed thus far to the space station that we all agree is one of the real projects that is moving the frontiers of science and technology well ahead.

What really bothers me, though, about title III is that it is basically

based upon the premise that Government can best select future technologies. That bothers me and it bothers the administration as well.

I quote from a letter from the General Counsel of the U.S. Department of Commerce of July 17, 1984.

They said:

S. 1286 is based upon the premise that the Federal Government should adopt an industrial policy to guide our nation's technological development. While we agree that selected manufacturing industries face serious problems, we believe the Federal Government should not be in the position of deciding the composition of U.S. industry. This Administration prefers to rely on the market to allocate resources and believes the problems faced by the U.S. industry can be solved through sound monetary and fiscal policies.

Some of the people who purportedly support this bill also believe the same thing.

The American Electronics Association stated in testimony before the Senate Committee on Commerce, Science, and Transportation that:

Legislation proposed by S. 1286 and the funds appropriated may produce the result you are looking for, but I would spend the money to discover why industry does not perform on its own.

I believe the results lie in a tax structure and the incentives to modernize production processes, rather than the availability of technology.

That comes from one of the associations that supposedly supports this bill.

Another group that supposedly supports the bill, the National Society for Professional Engineers state that they applaud the objectives of the bill but the National Science Foundation is a far more appropriate place for centers than the Department of Commerce, given NSF's longstanding and successful experience with research.

The Chamber of Commerce, though never contacted for their position by the people who put this bill together, have raised some concerns about the use of the Department of Commerce for this purpose.

The NAM has several recommendations that were made for improvement of the bill that were not adopted.

The problem is that many people who look at business the way business really is out there and look at the kind of research that would, in fact, push the frontier forward and get us the new generations of technology that we need believe that this kind of approach, where bureaucrats make a lot of the decisions or where even advisory committees make a lot of the decisions, is going to produce a situation where we come up with technologies that are a year or more too late and a generation behind, because by the time you go through all of the bureaucratic necessities to comply with the kinds of research that would be envisioned in this bill, we are going to end up not getting the kind of forward-looking research that we need.

I would hope that we would reject this piece of legislation.

Mr. FUQUA. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from New York [Mr. LUNDINE].

Mr. LUNDINE. Mr. Speaker, it has just been said the bill, specifically title III, is an industrial policy approach.

I favor a strong industrial strategy for America, but I am afraid that I do not think that the bill really does that.

We reported a bill for an advanced technology foundation out of the House Banking Committee which, indeed, would have taken an aggressive stance and had the Federal Government fund the innovation process. But that was considered more ambitious than we could achieve in this Congress.

In the Committee on Science and Technology, we, I think, improved on the manufacturing technology component of the Commerce Department. The National Science Foundation's attention to engineering was strengthened, and the National Bureau of Standards' already existing program to develop manufacturing technology was also strengthened.

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Now, some people have the idea that you can seed the clouds of basic research and it will naturally rain down on the land and produce the kind of innovation that we need to be world-class competitors. But we have found out that that does not necessarily happen and that some of our foreign competitors are actually taking our own basic research and translating it into products and processes and that we are often losing out.

So I believe that this entire bill is a very strong step in the right direction. It is not an industrial policy. I believe that the technology component for that will have to await the President's Commission on Industrial Competitiveness and other developments which will occur in the next several months and years, but I believe that this bill is a step toward becoming world class competitors and toward better technology in manufacturing.

Mr. FUQUA. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Washington [Mr. CHANDLER].

Mr. CHANDLER. I thank the gentleman for yielding and I thank the chairman for his leadership on this legislation.

Mr. Speaker, I am particularly interested in title III. The gentleman from Pennsylvania, my good friend and colleague, says that the title, S. 1286, was not considered by the House, which is correct, but I can tell you and assure the gentleman it was considered and passed overwhelmingly by the Science and Technology Committee.

So I think we can certainly make the point that the most important part of the House has considered the bill.

I would also point out that while the argument is advanced that having a partnership of industry and university and local governments with the Federal Government does put an element of planning in this, one of the things that is working so well right now is the Jobs Partnership Training Act where private industry councils gather and decide their most important problem and then go out and attempt to solve it. That is nothing more than is being proposed here in Senator GORTON's bill.

I simply rise to say that with 21 million jobs lost in 1979 to foreign exports and problems that we are having in manufacturing that we need this kind of legislation and probably even more.

Mr. BOEHLERT. Mr. Speaker, will the gentleman yield?

Mr. CHANDLER. I yield to the gentleman from New York.

Mr. BOEHLERT. I thank the gentleman for yielding.

Mr. Speaker, there are two reasons why I am in strong support of this very important legislation. The first, of course, is that, like everybody else in this Chamber, I am concerned about the competitiveness of the American industrial machine; and, second, I am deeply disturbed by our balance-of-payment deficit. I think this important legislation will allow us meaningful progress toward the solution of that last problem and toward the increased competitiveness that we all seek for the American industrial machine.

I am very much in support of this legislation, I was proud to identify with it in our committee, and I thank the chairman for his leadership.

Mr. FUQUA. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Pennsylvania [Mr. RITTER].

Mr. RITTER. Mr. Speaker, I rise in support of this legislation, and I believe that titles I, II, and III all will help provide for a strong basic science and engineering research program in support of our Nation's industries. There is no question concerning titles I and II of the bill. Therefore, I will limit my remarks to title III of the bill, Manufacturing Sciences and Robotics Research and Development Act of 1984.

The gentleman from Pennsylvania, our colleague, Mr. WALKER, talked about the basic environment for industrial competitiveness and innovation and he is right. Let us face it, this bill is not by itself going to set the tone for that basic climate.

The four conditions that we need to influence in order to provide for a climate that promotes innovation are:

First, a strong commitment to basic research, depending and broadening our understanding of fundamental processes that will form the basis for industries, processes, and products in the future;

Second, incentives for investor, entrepreneurs, and innovators to provide the capital and take the personal risks associated with making technological advances, developing new products, establishing new companies, and rejuvenating mature industries;

Third, a strong educational capability, particularly in the sciences, that assures an ample quantity of trained technical and managerial personnel and a broad base of educated and well-trained citizens who can meet the challenges of a rapidly changing world;

Fourth, expanding market opportunities, domestic as well as foreign, which require a healthy domestic economic environment and aggressive trade policies.

This bill addresses two of these conditions. It provides for a strong basic research program in manufacturing sciences and technology. In addition, it provides for the education of new scientists and engineers who are needed to meet the challenge of modern competitive manufacturing.

There is room within all of the major Federal investments in science and technology for more emphasis on manufacturing. For years the manufacturing sciences was the left-out child, so to speak, while the more elegant areas of basic research were supported. This bill is going to help to correct that inequity. This is absolutely essential so that our manufacturing industries will have access to the fundamental knowledge that they need so that they can develop new products and production processes.

Supporters of title III include:

First, the American Business Conference;

Second, the National Association of Manufacturers;

Third, Institute of Electrical and Electronic Engineers;

Fourth, Association of American Universities;

Fifth, Lewis Branscomb, IBM;

Sixth, PACCAR;

Seventh, Tennessee Valley Authority;

Eighth, Marshal Space Flight Center;

Ninth, Ed David, Exxon; and

Tenth, National Society of Professional Engineers.

I want to commend my colleague on the Senate side, Senator GORTON, of Washington State, for his distinguished leadership in authoring this important legislation and guiding it through passage in the Senate.

I would also like to commend my colleague from Florida, Mr. FUQUA, and the House Science and Technology Committee and its staff, for their leadership in this body.

Mr. FUQUA. Mr. Speaker, I yield back the remainder of my time.

The SPEAKER pro tempore. All time having expired, pursuant to House Resolution 600, the previous question is considered as ordered on the motion.

The question is on the motion offered by the gentleman from Florida [Mr. FUQUA].

The motion was agreed to.

The SPEAKER pro tempore. Without objection, the Senate amendment to the title of the bill is agreed to.

There was no objection.

A motion to reconsider was laid on the table.

AUTHORIZING CREATION OF RECORD OF ADMISSION FOR PERMANENT RESIDENCE IN CASES OF CERTAIN NATIVES OF CUBA AND HAITI

Mr. RODINO. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of the bill (H.R. 4853) to authorize the creation of a record of admission for permanent residence in the cases of certain natives of Cuba and Haiti, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The Clerk read the bill, as follows:

H.R. 4853

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the status of any alien described in subsection (b) may be adjusted by the Attorney General, in the Attorney General's disretion and under such regulations as the Attorney General may prescribe, to that of an alien lawfully admitted for permanent residence if—

(1) the alien makes application for such adjustment within two years after the date of the enactment of this section;

(2) the alien is otherwise eligible to receive an immigrant visa and is otherwise admissible to the United States for permanent residence, except in determining such admissibility the grounds for exclusion specified in paragraphs (14), (15), (20), (21) (25), and (32) of section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)) shall not apply;

(3) the alien is not an alien described in section 243(h)(2) of such Act (8 U.S.C. 1253(h)(2); and

(4) the alien is physically present in the United States on the date the application for such adjustment is filed.

(b) The benefits provided by subsection (a) shall apply to any alien (other than an alien described in subsection (c))—

(1) who has received an immigration designation as a Cuban/Haitian entrant (status pending), or

(2) who is a national of Cuba or Haiti, arrived in the United States before January 1, 1982, and with respect to whom any record was established by the Immigration and Naturalization Service before January 1, 1982.

(c) The benefits provided by subsection (a) shall not apply to an alien who was admitted to the United States as a nonimmigrant, unless the alien filed an application for asylum with the Immigration and Naturalization Service before January 1, 1982.

(d) Aliens granted permanent resident status under this Act shall be considered to be granted the special status referred to in section 501(d)(1) of Public Law 96-422.

(e) Upon approval of an alien's application for adjustment of status under subsection (a), the Attorney General shall establish a record of the alien's admission for permanent residence as of January 1, 1982.

(f) When an alien is granted the status of having been lawfully admitted for permanent residence pursuant to this section, the Secretary of State shall not be required to reduce the number of immigrant visas authorized to be issued under the Immigration and Nationality Act and the Attorney General shall not be required to charge the alien any fee.

(g) Except as otherwise specifically provided in this section, the definitions contained in the Immigration and Nationality Act shall apply in the administration of this section.

Nothing contained in this section shall be held to repeal, amend, alter, modify, effect, or restrict the powers, duties, functions, or authority of the Attorney General in the administration and enforcement of the Immigration and Nationality Act or any other law relating to immigration, nationality, or naturalization. The fact that an alien may be eligible to be granted the status of having been lawfully admitted for permanent residence under this section shall not preclude the alien from seeking such status under any other provision of law for which the alien may be eligible.

SEC. 2. Consular officers shall provide for the issuance of immigrant visas to aliens who are nationals, citizens, subjects, or residents of Cuba and who have qualified for issuance of the visas under section 203 of the Immigration and Nationality Act (8 U.S.C. 1153) without regard to section 243(g) of such Act (8 U.S.C. 1253(g)).

Mr. RODINO. Mr. Speaker, this bill was unanimously approved by the Subcommittee on Immigration, Refugees, and International Law yesterday and I know of no opposition to it.

Hearings were held before the subcommittee on May 9, 1984, and the administration supported its enactment but preferred that this matter be considered within the context of the immigration reform bill.

Because that bill is still in conference, it was decided to proceed separately at this time with this urgently needed legislation.

I wish to advise my colleagues that the language of this bill has previously been approved unanimously by the House when the immigration reform bill was considered and the Senate conferees agreed to accept the House language during the early days of the conference on the immigrant bill.

As I indicated when this matter was considered on the House floor in June,

the bill is supported by the administration, religious, civic, and civil rights organizations, as well as the AFL-CIO and the U.S. Catholic Conference.

It is noncontroversial legislation designated to regularize the immigration status of those Cuban and Haitian entrants who have been in legal limbo for far too long.

Authorizing these persons to adjust their status to permanent residence is an act of simple justice and a demonstration of our deep concern for their plight.

We must remove the uncertainty surrounding the legal status of these Cubans and Haitians so they can get on with their lives. We must provide them with the assurance that they are welcome here and will not be uprooted at some future time and returned to their home countries.

It is clearly the right thing to do and now is the time to do it.

AMENDMENT OFFERED BY MR. RODINO

Mr. RODINO. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. RODINO: Page 2, line 14, strike out "(other than an alien described in subsection (c))".

Page 2, amend lines 17 through 21 to read as follows:

(2) who is a national of Cuba or Haiti, who arrived in the United States before January 1, 1982, with respect to whom any record was established by the Immigration and Naturalization Service before January 1, 1982, and who (unless the alien filed an application for asylum with the Immigration and Naturalization Service before January 1, 1982) was not admitted to the United States as a nonimmigrant.

Page 2, strike out line 22 and all that follows through page 3, line 2, and redesignate the succeeding subsections accordingly.

Mr. RODINO (during the reading). Mr. Speaker, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. RODINO. Mr. Speaker, this is a clarifying amendment to ensure that a small number of Haitians who entered this country legally as nonimmigrants and who later applied for asylum or were classified as entrants, are eligible to adjust under this legislation.

The SPEAKER pro tempore. The question is on the amendment offered by the gentleman from New Jersey [Mr. RODINO].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. RODINO

Mr. RODINO. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. RODINO: Page 4, strike out lines 4 through 9.

Mr. RODINO. Mr. Speaker, this amendment would delete from the bill the section requiring the Secretary of State to issue visas to those intending immigrants from Cuba who are currently qualified to immigrate. The administration objects to this provision because of its belief that it may effect ongoing efforts to return the excludable Mariel Cubans who are now incarcerated in the United States.

The SPEAKER pro tempore. The question is on the amendment offered by the gentleman from New Jersey [Mr. RODINO].

The amendment was agreed to.

Mr. FISH. Mr. Speaker, I am pleased to speak in support of legislation that will permit adjustment of status to that of permanent resident for Cubans and Haitians who arrived in the United States prior to January 1, 1982, and meet certain other conditions. Although I had hoped that the plight of Cubans and Haitians could be addressed in the context of the Simpson-Mazzoli Immigration Reform and Control Act, the conferees remain deadlocked on an unrelated issue. It is necessary, for this reason, to provide relief to Cubans and Haitians through enactment of this separate bill.

The Carter administration linked the futures of these two groups when it provided the Cuban-Haitian entrant designation. An effort to address the plight of one group without also providing relief to the other would be perceived by many people as discriminatory. The January 1, 1982, cutoff date incorporated in this bill appropriately embraces both the migration from Mariel, Cuba, and the Haitian boat arrivals prior to the implementation of the interdiction agreement with the Government of Haiti.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. RODINO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

PERMITTING ALIENS EMPLOYED BY AMERICAN UNIVERSITY OF BEIRUT TO RETURN TO UNITED STATES AS SPECIAL IMMIGRANTS

Mr. RODINO. Mr. Speaker, I ask unanimous consent that the Committee on the Judicary be discharged from further consideration of the bill (H.R. 5728) to permit aliens lawfully admitted for permanent residence who are employed by the American University of Beirut to return to the United States as special immigrants after completion of such employment, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

Mr. FISH. Mr. Speaker, reserving the right to object, I welcome this opportunity to speak in support of my bill that focuses on the plight of a small group of lawful permanent residents of the United States—the approximately 12 percent of the American University of Beirut faculty—totaling about 50 professors—with that status under our immigration laws.

Lawful permanent residents generally are expected to live in the United States except for temporary visits abroad. There is no exception for faculty of the American University of Beirut with U.S. permanent resident status. The result is that this small group of returning U.S. residents is subject to challenge on the ground that they allegedly have given up their immigration status in our country by virtue of protracted or repeated absences.

Without this legislation, many of the faculty members—we are told—will leave their teaching posts and return to the United States in the near future rather than lose their permanent resident status. It is in our national interest and in the interest of stability in the Middle East, however, that they continue their work at the American University of Beirut. H.R. 5728 will permit them to do this by providing assurance that their necessary physical absences from the United States will not lead to a determination that they have given up their lawful permanent resident status.

This legislation has nothing to do with the residency and physical presence requirements for U.S. citizenship. On the contrary, the only benefit it confers is protection against loss of lawful permanent resident status. My bill provides specifically that lawful permanent residents of the United States will be considered to be visiting abroad temporarily during periods of employment by the American University of Beirut.

This bill enjoys the strong support of the administration. The Department of State "supports the proposal because of AUB's prominent role in maintaining deep cultural and educational ties between the United States and the Middle East." The letter from the Department of State continues: "The ability of AUB to provide an American-style education, aided by faculty members trained in the United States, is an important interest of the foreign policy of the United States in Lebanon and the entire area." The Department of Justice "recommends enactment of this legislation." The

report from the Department of Justice expresses the belief that "this bill will be helpful in respect to professors who must travel back and forth between the United States and the American University of Beirut, an institution of critical importance in the Middle East."

The contributions of permanent U.S. residents to the educational efforts of this great university, an American institution, promote international understanding. Such understanding is especially needed today. We must now do our part to help these faculty members with ties to the United States so they can continue their important work.

I urge my colleagues to support H.R. 5728.

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Mr. FISH. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The Clerk read the bill, as follows:

H.R. 5728

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That an alien lawfully admitted to the United States for permanent residence shall be considered, for purposes of section 101(a)(27(A) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)(A)), to be temporarily visiting abroad during any period (before or after the date of the enactment of this Act) in which the alien is employed by the American University of Beirut.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. RODINO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 5728, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

FOR THE RELIEF OF AUDREY O. LEWIS AND EMERSON B. VEREEN

Mr. SAM B. HALL, JR. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of the bill (H.R. 2519) for the relief of Audrey O. Lewis and Emerson B. Vereen, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman fom Texas?

Mr. KINDNESS. Reserving the right to object, Mr. Speaker, I do so in order to allow the gentleman from Texas, the chairman of the subcommittee [Mr. SAM B. HALL, JR.] the opportunity to explain the content of this legislation, which I support.

Mr. SAM B. HALL, JR. I thank the gentleman for yielding to me.

Mr. Speaker, on August 16, 1972, a search and seizure warrant was issued for persons and premises at 9 North Abington Avenue, Baltimore, MD. As a result of that search, Audrey O. Lewis and Emerson Vereen were arrested and charged with criminal offenses.

In February 1978, Wayne A. Ambrose, Jr., a special agent with the Federal Bureau of Narcotics and Dangerous Drugs, admitted to a grand jury that he and Larry L. Clark, a Baltimore city detective, had fabricated the facts on which the search warrant had been based.

As a result, Mrs. Lewis' conviction was expunged and the charge against Mr. Vereen was dropped.

The Baltimore detective, Clark, was indicted for his participation in this incident. The Federal Agent, Ambrose, resigned his position from the Bureau of Narcotics and Dangerous Drugs.

In October 1981, in an action for the violation of civil rights and damages, default judgments were entered against Ambrose and Clark in the amount of $140,500 to Mrs. Lewis, $43,700 to Mr. Vereen, and $9,100 to the attorneys.

This is an extraordinary case in which the equities are compelling. Mrs. Lewis and Mr. Vereen were damaged by a direct act of a Federal agent. As Mrs. Lewis and Mr. Vereen were unable to collect on the default judgment, there is no other remedy available to them except through this piece of legislation.

This amendment to this bill provides that Mrs. Lewis and Mr. Vereen each be paid the full amount awarded them in the default judgment, rather than the higher amounts named in the bill. The amendment also limits attorneys fees to an amount not to exceed $9,100.

It is the recommendation of the Subcommittee on Administrative Law and Governmental Relations that H.R. 2519 be passed by the House.

Mr. KINDNESS. Further reserving the right to object, Mr Speaker, I would simply add that it is one of those cases in which the Department of Justice has taken a more open stance than usual and supports the passage of this legislation, which I think is entirely warranted, and I would urge the support of the bill.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the bill, as follows:

H.R. 2519

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Secretary of the Treasury shall pay, out of any money in the Treasury not otherwise appropriated, to—

(1) Audrey O. Lewis of Loris, South Carolina, the sum of $214,500; and

(2) Emerson B. Vereen of Baltimore, Maryland, the sum of $71,550,

in full settlement of all of their claims against the United States arising out of the tortious and felonious activity of Wayne A. Ambrose, Junior, who, while employed as a special agent of the Bureau of Narcotics and Dangerous Drugs (abolished pursuant to Reorganization Plan No. 2 of 1973 in conjunction with the formation of the Drug Enforcement Administration) engaged in such activity.

(b)(1) Any amount of money damages to be paid by the United States pursuant to subsection (a) shall be reduced by an amount equal to any sum received by Audrey O. Lewis or Emerson B. Vereen on or before the date of such payment under such subsection from Wayne A. Ambrose, Junior, or Larry L. Clark pursuant to the default judgment entered on November 18, 1982, in favor of Audrey O. Lewis and Emerson B. Vereen by the United States District Court for the District of Maryland in civil action numbered Y-81-2569.

(2) Upon the payment by the United States of the amounts described in the subsection (a), the United States shall be subrogated to the claims of Audrey O. Lewis and Emerson B. Vereen against Wayne A. Ambrose, Junior, or Larry L. Clark under the default judgment described in paragraph (1) to the extent of the amounts paid by the United States, and any amount received by Audrey O. Lewis or Emerson B. Vereen to which such subrogation applies shall be due and payable to the United States as of the date of receipt of such amount.

SEC. 2. No amount in excess of 10 per centum of the payment authorized in the first section of this Act shall be transferred or received by any agent or attorney for services rendered in connection with such payment. Any person violating this section shall be fined not more than $1,000.

AMENDMENT OFFERED BY MR. SAM B. HALL, JR.

Mr. SAM B. HALL, JR. Mr. Speaker, I have an amendment at the desk which I offer.

The Clerk read as follows:

Amendment offered by Mr. SAM B. HALL, JR.: Page 1, line 6, strike "$214,500" and insert in lieu thereof "$140,500".

Page 1, line 8, strike "$71,550" and insert in lieu thereof "$43,750".

Page 2, line 23, strike "10 per centum" and in lieu thereof "$9,100".

The SPEAKER pro tempore. The question is on the amendment offered by the gentleman from Texas [Mr. SAM B. HALL, JR.].

The amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

RECOGNIZING THE DAUGHTERS OF UNION VETERANS OF THE CIVIL WAR 1861-65

Mr. SAM B. HALL, JR. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of the bill (H.R. 3406) to recognize the organization known as the Daughters of Union Veterans of the Civil War 1861-65 and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. KINDNESS. Mr. Speaker, reserving the right to object, I would state with respect to H.R. 3406 and the two bills following, H.R. 2372 and H.R. 1881, that I support those measures which are measures to provide Federal charters to three organizations which will be described and they are quite deserving.

I would, however, make the point again for the record that we must look to a more rational approach to the granting and administering of federally chartered organizations since we have no mechanism for dealing with these organizations other than the granting of the charter and amendments from time to time.

I know the gentleman from Texas [Mr. SAM B. HALL, JR.] shares some concern in that respect, but nonetheless under the present practices and guidelines, these three organizations I think are well qualified to receive Federal charters, and I urge their support.

Mr. Speaker, I am pleased to voice my support today for H.R. 3406, a bill to grant a Federal charter to the Daughters of Union Veterans of the Civil War, 1861-65, Inc. It is one of the oldest veteran and patriotic organizations in the country, having been organized in my home State of Ohio in 1885. As the organization prepares to celebrate its 100th anniversary next year, it can look back with pride as to its accomplishments.

The Daughters of Union Veterans is involved in several fine civic activities, including the presentation of scholarships and gifts to graduating seniors in the four service academies as well as providing hundreds of volunteers hours a year in our Nation's VA hospitals.

Mr. Speaker, as has been my practices before, I must state for the record that while I favor the prompt and favorable passage of H.R. 3406, I think it nonetheless important to note my concern with regard to the oversight of Federal charters. Given the great number of Federal charters we have granted, it is doubtful whether we have the capacity to perform the proper oversight necessary to ensure the continued integrity of the Federal charter process. Specifically, Mr. Speaker, I feel compelled to restate my concern regarding a potential situation where we may 1 day face a citizen seeking private bill relief due to the wrongs caused by a federally chartered organization. This would indeed put us in a difficult situation. So in supporting H.R. 3406, Mr. Speaker, let me say that while I support this particular measure, I continue to remain concerned about potential problems we may one day face should we not begin to address the issue of Federal charter oversight. Thank you.

Mr. Speaker, I yield to the gentleman from Texas to explain H.R. 3406.

Mr. SAM B. HALL, JR. I thank the gentleman for yielding to me.

Mr. Speaker, the Daughters of Union Veterans of the Civil War, 1861-65 was originally organized on May 30, 1885, and was incorporated under the not-for-profit laws of the State of Ohio as the National Alliance of Daughter of Veterans on December 12, 1885. In 1944, the corporation changed its name to the Daughter of Union Veterans of the Civil War, 1961-65, Inc.

The corporation is organized and dedicated to the promotion of our Nation's history and to perpetuate the memories of the soldiers who sacrificed their lives to preserve the Union. Membership is open to women descendants of honorably discharged, killed, or missing in action Union soldiers, sailors, and marines who are at least 8 years of age. There are over 20,000 members in this corporation.

The Daughters of Union Veterans of the Civil War, 1861-65, Inc., is particularly active in its support for the U.S. Veterans Administrative Volunteer Service, as well as providing scholarships, and maintaining a Civil War museum and library.

Mr. KINDNESS. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

● Mr. OXLEY. Mr. Speaker, I rise in support of H.R. 3406, a bill to establish a Federal charter for the organization known as the Daughters of Union Veterans of the Civil War, 1861-1865.

The Daughters of Union Veterans [DUV] is a nonprofit organization that is primarily devoted to the memory of soldiers who fought to preserve our Union. The DUV is actively involved in maintaining and promoting our Nation's history. The organization encourages the preservation of historic sites, maintains a museum and library dedicated to Civil War memorabilia, promotes educational achievement in the study of American history, and provides volunteer help to veterans of all wars.

As a patriotic organization, the DUV requires that its members have a direct descendant who served in the Union Army. The organization has long been a member of the Grand Army of the Republic [GAR], and its tireless efforts in providing support to the U.S. Veterans Administration Volunteer Service are inspiring. Further, the DUV, which was founded in Massillon, OH, in 1885, will be celebrating its 100th anniversary of service in August 1985. I believe that a national charter would be a fitting way for the 98th Congress to express its appreciation.

I would particularly like to thank Mrs. Dorothy Archdeacon of Shelby, OH, who has ably served as the national president of the DUV, and whose efforts brought about this bill.

At a time when Members of this body must face many single-issue organizations, it is encouraging to be able to support a patriotic organization that is dedicated to a worthy and noble cause. For these reasons, I believe the DUV is fully deserving of national recognition and I urge my colleagues' support of the bill.●

The Clerk read the bill, as follows:

H.R. 3406

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

CHARTER

SECTION 1. The Daughters of Union Veterans of the Civil War 1861-1865, a nonprofit corporation organized under the laws of the State of Ohio, is recognized as such and is granted a Federal charter.

POWERS

SEC. 2. The Daughters of Union Veterans of the Civil War 1861-1865 (hereinafter in this Act referred to as the "corporation") shall have only those powers granted to it through its bylaws and articles of incorporation filed in the State or States in which it is incorporated and subject to the laws of such State or States.

OBJECTS AND PURPOSES OF CORPORATION

SEC. 3. The objects and purposes of the corporation are those provided in its articles of incorporation and, for the purpose of perpetuating the memories of the fathers of the Daughters of Union Veterans of the Civil War 1861-1865, their loyalty to the Union, and their unselfish sacrifices for the preservation of the same, shall include the following:

(1) Encouraging the preservation of historic sites and the construction and preservation of monuments commemorating any aspect of the Civil War.

(2) Building and maintaining a Museum of Civil Way History, admission to which shall be free and open to the public, in the city of Springfield, Illinois, as a repository of Civil War documents, artifacts, and cultural relics.

(3) Maintaining a library in connection with the Civil War museum, admission to which shall be open to the public, containing the official volumes of the War of the Rebellion Records, Civil War genealogical files, Adjutant General reports of the various States, military and biographical records and accounts of the individual service of Union soldiers, sailors, and marines, diaries, letters, relics, and other records.

(4) Promulgating and teaching American history, particularly the history of the Civil War period, through the establishment of scholarship programs at the National and State levels, the presentation of American flags to youth groups and newly naturalized citizens, and the sponsorship of contests of educational merit.

(5) Caring for veterans of all wars through volunteer programs in Veterans' Administration medical centers and in homes and other institutions maintained by the States for the welfare of American veterans.

(6) Participating, in a spirit of cooperation and reciprocity, in programs with other societies devoted to American history, veterans' affairs, or community interests.

The corporation shall function as a veterans' and patriotic organization as authorized by the laws of the State or States in which it is incorporated.

SERVICE OF PROCESS

SEC. 4. With respect to service of process, the corporation shall comply with the laws of the States in which it is incorporated and those States in which it carries on its activities in furtherance of its corporate purposes.

MEMBERSHIP

SEC. 5. Eligibility for membership in the corporation and the rights and privileges of members of the corporation shall be as provided in the constitution and bylaws of the corporation.

BOARD OF DIRECTORS; COMPOSITION; RESPONSIBILITIES

SEC. 6. The composition of the board of directors of the corporation and the responsibilities of such board shall be as provided in the articles of incorporation of the corporation and in conformity with the laws of the State or States in which it is incorporated.

OFFICERS OF CORPORATION

SEC. 7. The positions of officers of the corporation and the election of members to such positions shall be as provided in the articles of incorporation of the corporation and in conformity with the laws of the State or States in which it is incorporated.

RESTRICTIONS

SEC. 8. (a) No part of the income or assets of the corporation may inure to the benefit of any member, officer, or director of the corporation or be distributed to any such individual during the life of this charter. Nothing in this subsection shall be construed to prevent the payment of reasonable compensation to the officers of the corporation or reimbursement for actual and necessary expenses in amounts approved by the board of directors.

(b) The corporation may not make any loan to any officer, director, or employee of the corporation.

(c)(1) The corporation may not contribute to, support, or otherwise participate in any political activity or attempt in any manner to influence legislation.

(2) No officer or director of the corporation, acting as such officer or director, may commit any act prohibited under paragraph (1) of this subsection.

(d) The corporation shall have no power to issue any shares of stock nor to declare or pay any dividends.

(e) The corporation shall not claim congressional approval or the authorization of the Federal Government for any of its activities.

LIABILITY

SEC. 9. The corporation shall be liable for the acts of its officers and agents whenever such officers and agents have acted within the scope of their authority.

BOOKS AND RECORDS; INSPECTION

SEC. 10. The corporation shall keep correct and complete books and records of account and minutes of any proceeding of the corporation involving any of its members, the board of directors, or any committee having authority under the board of directors. The corporation shall keep, at its principal office, a record of the names and addresses of all members having the right to vote in any proceeding of the corporation. All books and records of such corporation may be inspected by any member having the right to vote in any corporation proceeding, or by any agent or attorney of such member, for any proper purpose at any reasonable time. Nothing in this section shall be construed to contravene any applicable State law.

AUDIT OF FINANCIAL TRANSACTIONS

SEC. 11. The first section of the Act entitled "An Act to provide for audit of accounts of private corporations established under Federal law", approved August 30, 1964 (36 U.S.C. 1101), is amended by adding at the end thereof the following:

"(60) Daughters of Union Veterans of the Civil War 1861-1865.".

ANNUAL REPORT

SEC. 12. The corporation shall report annually to the Congress concerning the activities of the corporation during the preceding fiscal year. Such annual report shall be submitted at the same time as the report of the audit required by section 11 of this Act. The report shall not be printed as a public document.

RESERVATION OF RIGHT TO AMEND OR REPEAL CHARTER

SEC. 13. The right to alter, amend, or repeal this Act is expressly reserved to the Congress.

DEFINITION OF "STATE"

SEC. 14. For purposes of this Act, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, and the territories and possessions of the United States.

TAX-EXEMPT STATUS

SEC. 15. The corporation shall maintain its status as an organization exempt from taxation as provided in the Internal Revenue Code of 1954. If the corporation fails to maintain such status, the charter granted by this Act shall expire.

TERMINATION

SEC. 16. If the corporation shall fail to comply with any of the restrictions or provisions of this Act, the charter granted by this Act shall expire.

AMENDMENT OFFERED BY MR. SAM B. HALL, JR.

Mr. SAM B. HALL, JR. Mr. Speaker, I have an amendment at the desk which I offer.

The Clerk read as follows:

Amendment offered by Mr. SAM B. HALL, JR., of Texas: Page 6, line 15, strike " "(60)" and insert " "(65)".

The SPEAKER pro tempore. The question is on the amendment offered by the gentleman from Texas [Mr. SAM B. HALL, JR.].

The amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

RECOGNIZING NAVY WIVES CLUBS OF AMERICA

Mr. SAM B. HALL, JR. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of the bill (H.R. 2372) to recognize the organization known as the Navy Wives Clubs of America, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. KINDNESS. Mr. Speaker, reserving the right to object, I do so for the purpose of again yielding to the gentleman from Texas [Mr. SAM B. HALL, JR.] in order that a short explanation of the bill be given to the Members.

Mr. Speaker, I rise in support of H.R. 2372, a bill to grant a Federal charter to the Navy Wives Clubs of America. With over 62 chapters nationwide and 21 clubs overseas, the Navy Wives Clubs of American have been performing charitable and civic activities since 1935. The NWCA is comprised of the wives of enlisted men in the U.S. Navy, Marine Corps, and Coast Guard and was established to support the Constitution of the United States as well as provide support to other nonprofit organizations, including the American Red Cross, the Salvation Army, the March of Dimes, and the Boys Clubs of America.

The Navy Wives Clubs of America also work to promote the educational goals of sons and daughters of enlisted men by providing $20,000 a year in scholarship funds to eligible recipients. They are indeed deserving of a Federal charter.

However, Mr. Speaker, at the risk of appearing to be a broken record, I must state that I think it nonetheless important to note my concern with regard to the oversight of Federal charters. Given the great number of Federal charters we have granted, it is doubtful whether we have the capacity to perform the proper oversight necessary to ensure the continued integrity of the Federal charter process. Specifically, Mr. Speaker, I feel compelled to restate my concern to note my concern regarding a potential situation where we may one day face a citizen seeking private bill relief due to the wrongs caused by a federally chartered organization. This would indeed put us in a difficult situation. So in supporting H.R. 2372, Mr. Speaker, let me say that while I support this particular measure, I continue to remain concerned about potential problems

we may one day face should we not begin to address the issue of Federal charter oversight. Thank you.

GENERAL LEAVE

Mr. KINDNESS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 2372, the bill presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from from Ohio?

There was no objection.

Mr. KINDNESS. Mr. Speaker, I yield to the gentleman from Texas.

Mr. SAM B. HALL, JR. I thank the gentleman for yielding to me.

Mr. Speaker, the Navy Wives Club of America was originally organized in 1936 and was incorporated under the not-for-profit laws of the State of California in 1936.

The corporation is organized and dedicated to the support of the Constitution of the United States; to perform charitable activities; to promote a friendly relationship between the wives of enlisted men who are serving in the Navy, Marine Corps, or Coast Guard. Membership is open to wives of enlisted men of the U.S. Navy, the U.S. Marine Corps, and the U.S. Coast Guard and has over 2,000 members nationwide.

The Navy Wives Club of America works for charitable and educational purposes. The Navy Wives Club of America sponsors and supports charitable activities with other nonprofit organizations, including the American Red Cross, the Salvation Army, the March of Dimes, and the Boys Club of America.

Mr. KINDNESS. Mr. Speaker, I withdraw my reservation of objection.

● Mr. FORD of Tennessee. Mr. Speaker, the membership of the Navy Wives Club of America consists of the wives of enlisted men of the U.S. Navy, the U.S. Marine Corps, and the U.S. Coast Guard. Navy Wives Clubs, which were established in 1935, are composed of 62 chapters nationwide, and 21 overseas clubs.

The purpose of the Navy Wives Club is to support the Constitution of the United States; to perform such charitable activities as provided by its constitution and bylaws; and to promote a friendly relationship between the wives of enlisted men who are serving in the Navy, Marine Corps, or Coast Guard. The Navy Wives Club of America has not only been upholding these standards, but has been building upon them ever since its establishment in 1935.

As a nonprofit organization, the Navy Wives Club of America works wholly for charitable and educational purposes. Its members sponsor and support charitable activities with a wide variety of other nonprofit organizations, including the American Red Cross, Salvation Army, March of Dimes, and Boys Club of America, to name but a few.

In addition, the Navy Wives Club of America works to promote strong educational values by maintaining a scholarship foundation. Each year, the Navy Wives Club grants 20 scholarships of $1,000 each to the sons and daughters of enlisted men. Along with many of my colleagues from both sides of the aisle, Mr. Speaker, I urge the House to recognize the Navy Wives Club's outstanding record of worthy public service through the granting of a Federal charter.●

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the bill, as follows:

H.R. 2372

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

CHARTER

SECTION 1. Navy Wives Clubs of America, organized and incorporated under the laws of the State of California, is hereby recognized as such and is granted a charter.

POWERS

SEC. 2. Navy Wives Clubs of America (hereinafter referred to as the "corporation") shall have only those powers granted to it through its bylaws and articles of incorporation filed in the State or States which it is incorporated and subject to the laws of such State or States.

OBJECTS AND PURPOSES OF CORPORATION

SEC. 3. The objects and purposes of which the corporation is organized shall be those provided in its articles of incorporation and also shall be—

(1) to support the Constitution of the United States;

(2) to promote a friendly relationship between the wives of enlisted men who are serving in the active United States Navy, United States Marine Corps, or the United States Coast Guard or who are serving in the Active Reserves thereof; and

(3) to perform such charitable activities as provided by the constitution or bylaws of the corporation.

SERVICE OF PROCESS

SEC. 4. With respect to service of process, the corporation shall comply with the laws of the States in which it is incorporated and those States in which it carries on its activities in furtherance of its corporate purposes.

MEMBERSHIP

SEC. 5. Eligibility for membership in the corporation and rights and privileges of members shall be as provided in the bylaws of the corporation.

BOARD OF DIRECTORS; COMPOSITION; RESPONSIBILITIES

SEC. 6. The board of directors of the corporation and the responsibilities thereof shall be as provided in the articles of incorporation of the corporation and in conformity with the laws of the State or States in which it is incorporated.

OFFICERS OF CORPORATION

SEC. 7. The officers of the corporation, and the election of such officers shall be as is provided in the articles of incorporation of the corporation and in conformity with the laws of the State or States wherein it is incorporated.

RESTRICTIONS

SEC. 8. (a) No part of the income or assets of the corporation shall inure to any member, officer, or director of the corporation or be distributed to any such person during the life of this charter. Nothing in this subsection shall be construed to prevent the payment of reasonable compensation to the officers of the corporation or reimbursement for actual necessary expenses in amounts approved by the board of directors.

(b) The corporation shall not make any loan to any officer, director, or employee of the corporation.

(c) The corporation and any officer and director of the corporation, acting as such officer or director, shall not contribute to, support or otherwise participate in any political activity or in any manner attempt to influence legislation.

(d) The corporation shall have no power to issue any shares of stock nor to declare or pay any dividends.

(e) The corporation shall not claim congressional approval or Federal Government authority for any of its activites.

(f) The corporation shall retain and maintain its status as a corporation organized and incorporated under the laws of the State or States wherein it is incorporated.

LIABILITY

SEC. 9. The corporation shall be liable for the acts of its officers and agents when acting within the scope of their authority.

BOOKS AND RECORDS; INSPECTION

SEC. 10. The corporation shall keep correct and complete books and records of account and shall keep minutes of any proceeding of the corporation involving any of its members, the board of directors, or any committee having authority under the board of directors. The corporation shall keep at its principal office a record of the names and addresses of all members having the right to vote. All books and records of such corporation may be inspected by any member having the right to vote, or by any agent or attorney of such member, for any proper purpose, at any reasonable time. Nothing in this section shall be construed to contravene any applicable State law.

AUDIT OF FINANCIAL TRANSACTIONS

SEC. 11. The first section of the Act entitled "An Act to provide for audit of accounts of private corporations established under Federal law", approved August 30, 1964 (36 U.S.C. 1101), is amended by adding at the end thereof the following:

"(67) Navy Wives Club of America.".

ANNUAL REPORT

SEC. 12. The corporation shall report annually to the Congress concerning the activities of the corporation during the preceding fiscal year. Such annual report shall be submitted at the same time as is the report of the audit required by section 11 of this Act. The report shall not be printed as a public document.

RESERVATION OF RIGHT TO AMEND OR REPEAL CHARTER

SEC. 13. The right to alter, amend, or repeal this Act is expressly reserved to the Congress.

DEFINITION OF "STATE"

SEC. 14. For purposes of this Act, the term "State" includes the District of Columbia,

the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

TAX-EXEMPT STATUS

SEC. 15. The corporation shall maintain its status as an organization exempt from taxation as provided in the Internal Revenue Code of 1954. If the corporation fails to maintain such status, the charter granted hereby shall expire.

TERMINATION

SEC. 16. If the corporation shall fail to comply with any of the restrictions or provisions of this Act the charter granted hereby shall expire.

AMENDMENT OFFERED BY MR. SAM B. HALL, JR.

Mr. SAM B. HALL, JR. Mr. Speaker, I have an amendment at the desk which I offer.

The Clerk read as follows:

Amendment offered by Mr. SAM B. HALL, JR., of Texas: Page 5, line 7, strike "(60)" and insert "(67)".

The SPEAKER pro tempore. The question is on the amendment offered by the gentleman from Texas [Mr. SAM B. HALL, JR.].

The amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

FEDERAL CHARTER TO THE NATIONAL SOCIETY, DAUGHTERS OF THE AMERICAN COLONISTS

Mr. SAM B. HALL, JR. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of the bill (H.R. 1881) to grant a Federal charter to the National Society, Daughters of the American Colonists, and ask for its immediate consideration.

The Clerk read the title of the bill.

□ 1910

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. KINDNESS. Mr. Speaker, reserving the right to object, I would yield to the gentleman from Texas to explain the content of the bill.

Mr. SAM B. HALL, JR. I thank the gentleman for yielding.

Mr. Speaker, the National Society, Daughters of the American Colonists was originally organized in 1921 and was incorporated under the laws of the District of Columbia in 1921.

The corporation is organized and dedicated to be patriotic, historical and educational; to research the history and deeds of the American colonists, and to record and publish the same; to commemorate deeds of colonial interest; to inculcate and foster love of America and its institutions; to obey its laws and venerate its flag. The corporation is a nonprofit, nonpartisan organization, and is not discriminatory as to race, color, religion, or national origin.

Membership is open to any female American citizen, who is 18 years of age and is a lineal descendant of an ancestor who rendered civil or military service in any of the colonies prior to July 4, 1776. There are over 30,000 members of this corporation.

The National Society, Daughters of the American Colonists is particularly active in providing contributions to veterans and veterans hospitals; as well as providing scholarships to undergraduate students. This corporation has also raised money for various civic projects, including a shelter for abused women and children in Utah and to send needy children to summer camps in Pennsylvania.

Mr. KINDNESS. Mr. Speaker, I would like to add my support to H.R. 1881, a bill to provide a Federal charter to the National Society, Daughters of the American Colonists. with over 30,000 members in 48 States and the District of Columbia, the DAC has grown into a truly national organization which actively pursues the patriotic, historical, and educational ideas upon which it was founded in 1921.

In this time of renewed patriotism, I think it especially appropriate to note the work of organizations such as the DAC for the continued tireless efforts to foster respect for America and its institutions by all our citizens. Mr. Speaker, the charitable, civic, educational, and patriotic activities of the DAC are numerous and include thousands of dollars in contributions to and thousands of hours of volunteer activity in VA hospitals across the country, academic awards to students, and fundraising for such things as abused women and children shelters and summer camp programs for disadvantaged children.

Mr. Speaker, I must say that in supporting H.R. 1881, I think it, nonetheless, important to note my concern with regard to the oversight of Federal charters. Given the great number of Federal charters we have granted, it is doubtful whether we have the capacity to perform the proper oversight necessary to ensure the continued integrity of the Federal charter process. Specifically, Mr. Speaker, I feel compelled to restate my concern to note my concern regarding a potential situation where we may one day face a citizen seeking private bill relief due to the wrongs caused by a federally chartered organization. This would indeed put us in a difficult situation. So in supporting H.R. 1881, Mr. Speaker, let me say that while I support this particular measure, I continue to remain concerned about potential problems we may one day face should we not begin to address the issue of Federal charter oversight.

● Mr. DINGELL. Mr. Speaker, I am very pleased, indeed, that legislation I have introduced, H.R. 1881, to grant a Federal charter to the National Society, Daughters of the American Colonists, is being considered today.

I introduced H.R. 1881 on March 3, 1983, and in the previous Congress, the legislation had been introduced by my colleague, the Honorable CARL PURSELL. The measure has clear bipartisan support, and I am pleased to report that H.R. 1881 currently has over 145 cosponsors representing 45 States, American Samoa, and Guam. The measure has also been introduced in the Senate by the Honorable NANCY KASSEBAUM.

The House Judiciary Committee, Subcommittee on Administrative Law and Governmental Relations, has jurisdiction over Federal charter legislation and has established four requirements for the granting of a charter. First, the organization must be operating under a charter issued by a State or the District of Columbia for no less than 10 years. The DAC has been operating under a charter from the District since 1921, over 63 years. Second, the group must be organized and operated in the public interest as a nonprofit, nonpartisan organization which does not discriminate on the basis of race, color, religion, or national origin. The DAC also meets these requirements. Third, the organization must be granted tax exemption from the Department of Treasury, which the DAC has obtained. Finally, the organization must conduct activities which are national in scope and responsive to a national need. The DAC is engaged in a number of civic, educational, patriotic, and charitable projects, which provide services to needy citizens throughout the country.

The DAC is involved in numerous philanthropic, civic, educational, and patriotic activities. DAC members provide thousands of dollars in contributions and gifts to veterans and veterans hospitals and spend thousands of volunteer hours at the hospitals. The DAC also provides scholarships to deserving youths at several colleges and universities, including Bacone College for American Indian students. State and local DAC chapters pursue projects to help educate our citizens, particularly our young people. The groups award citations and gifts to young people for outstanding academic performance, to ROTC students, to military service academy trainees, and to many outstanding citizens who have been unsurpassed in their community involvement. DAC chapters have raised money for a shelter for abused women and children in Utah, to purchase flags for the blind in Illinois, and to send a needy child to summer camp in Pennsylvania, to name a few of the civic projects. The DAC also works to preserve our colonial heritage by erecting memorials and historical markers at many sites throughout our

country, and by restoring and preserving historical documents.

The National Society, Daughters of the American Colonists, is highly worthy of a Federal charter. In a time of scarce financial resources, volunteer groups and the services they provide, are essential to meeting the basic needs of our citizens. The DAC is extremely important in this regard and their countless services, activities, and talents, are indicative of their strong dedication to our communities and our Nation. I sincerely believe that they warrant special Federal recognition through the granting of a Federal charter, and I urge my colleagues to join me in supporting this measure.●

Mr. KINDNESS. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the bill, as follows:

H.R. 1881

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

INCORPORATION

SECTION 1. (a) The following individuals, and their associates and successors, hereby are created and declared to be a body corporate in the District of Columbia having the name National Society, Daughters of the American Colonists: Mary E. St. Clair, of the District of Columbia; Jessie McCausland Casanova, of the District of Columbia; Maud Burr Morris, of the District of Columbia; Kate D. Berryman, of the District of Columbia; Lillian A. Norton, of the District of Columbia; Sarah E. Guernsey, of Independence, Kansas; Ida K. Schaaf, of St. Louis, Missouri; Bertha Hall Talbott, of Rockville, Maryland; and Hattie Wilson High, of Atlanta, Georgia.

(b) The Society shall have perpetual succession and shall have the powers, and be subject to the limitations, established in this Act.

COMPLETION OF ORGANIZATION

SEC. 2. Any individual named in section 1 may, in person or by written proxy, engage in any action necessary or desirable to complete the organization of the society.

PURPOSES OF CORPORATION

SEC. 3. The purposes of the society shall be—

(1) to conduct research with respect to the history and deeds of the American colonists, and record and publish the results of such research;

(2) to publish the memoirs of American colonists;

(3) to erect memorials to commemorate the history and deeds of the American colonists;

(4) to promote respect and admiration for the institutions, laws, and flag of the United States;

(5) to engage in mutual improvement and educational activities; and

(6) to establish scholarships to assist needy and deserving students and to promote the improvement of educational institutions, engage in volunteer service and make contributions to veterans hospitals, and perform such other charitable activities including the national presidents' projects as may be provided by the articles of incorporation or bylaws of the society.

POWERS OF CORPORATION

SEC. 4. Subject to any applicable law of the United States, and of any State in which the society conducts any activity, the society may—

(1) sue and be sued, complain, and defend in any court of competent jurisdiction;

(2) adopt, use, and alter a corporate seal, badge, and emblem;

(3) adopt, alter, and amend articles of incorporation and bylaws not inconsistent with the provisions of this Act;

(4) enter into contracts and other agreements;

(5) acquire, control, hold, lease, and dispose of such real, personal, or mixed property as may be necessary to carry out any purpose of the society;

(6) choose any officer, manager, agent, or employee necessary to carry out any purpose of the society;

(7) charge and collect membership dues and subscription fees, and receive contributions or grants of funds, or property, to be used to carry out any corporate purpose; and

(8) establish local and State chapters and other organizational units; and

(9) take such other actions as may be necessary and proper to carry out any purpose of the society.

MEMBERSHIP IN CORPORATION

SEC. 5. Except as otherwise provided in this Act, eligibility for membership in the society, and the rights and privileges of such membership, shall be as provided in the articles of incorporation or bylaws of the society.

GOVERNING AUTHORITY OF CORPORATION

SEC. 6. (a) The society shall have a national board as provided in the articles of incorporation or bylaws of the society.

(b) Qualifications of membership on the board, the manner of selection, terms of office, and the powers and responsibilities of the board and its members shall be as provided in the articles of incorporation or bylaws of the society.

OFFICERS OF CORPORATION

SEC. 7. The officers of the society, and the manner of election, terms of office, and powers and responsibilities of such officers, shall be as provided in the articles of incorporation or bylaws of the society.

PRINCIPAL OFFICE: SCOPE OF ACTIVITIES

SEC. 8. The principal office of the society shall be in the District of Columbia, but the activities of the society may be conducted at such locations as may be necessary or desirable to carry out any purpose of the society.

EXCLUSIVE RIGHT TO NAME, EMBLEMS, SEALS AND BADGES

SEC. 9. The society shall have the exclusive right to use the name National Society, Daughters of the American Colonists and any emblem, seal, or badge adopted, used, or altered by the society under section 4(2).

DEFINITIONS

SEC. 10. For purposes of this Act:

(1) The term "board" means the national officers of the society, required to be established by section 6.

(2) The terms "corporation" and "society" mean the National Society, Daughters of the American Colonists, incorporated by section 1.

(3) The term "State" means the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

AMENDMENT OFFERED BY MR. SAM B. HALL, JR.

Mr. SAM B. HALL, JR. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SAM B. HALL, JR.: Page 6, following line 2, insert:

AUDIT OF FINANCIAL TRANSACTIONS

SEC. 11. The first section of the Act entitled "An Act to provide for audit of accounts of private corporations established under Federal law", approved August 30, 1964 (36 U.S.C. 1101), is amended by adding at the end thereof the following:

"(66) National Society, Daughters of the American Colonists."

The SPEAKER pro tempore. The question is on the amendment offered by the gentleman from Texas [Mr. SAM B. HALL, JR.].

The amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SAM B. HALL, JR. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill, H.R. 1881, just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

GRANTING POSTHUMOUSLY FULL RIGHTS OF CITIZENSHIP TO WILLIAM PENN AND TO HANNAH CALLOWHILL PENN

Mr. MAZZOLI. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of the Senate joint resolution (S.J. Res. 80) to grant posthumously full rights of citizenship to William Penn and to Hannah Callowhill Penn, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

Mr. McCOLLUM. Mr. Speaker, reserving the right to object, I do so only to allow the author of this legislation an opportunity to address it.

Mr. MAZZOLI. If the gentleman will yield, may I ask the gentleman from Florida to yield to the gentleman from Illinois [Mr. ROSTENKOWSKI] to speak out of order for a few minutes on another matter?

Mr. McCOLLUM. I would be happy to yield to the gentleman from Illinois.

DEBT CEILING AND SUPERFUND

(By unanimous consent, Mr. ROSTENKOWSKI was allowed to speak out of order.)

Mr. ROSTENKOWSKI. Mr. Speaker, I would like to take this opportunity to comment upon the status of the debt ceiling legislation now pending in the Senate. As Members know, the debt ceiling must be increased before this Congress can be adjourned. Upon adoption of the budget conference report on Monday, a clean debt ceiling bill was sent to the Senate increasing the debt limit by approximately $250 billion. This amount is consistent with the administration's request and exceeds the largest previous increase in the Nation's history by more than $100 billion.

My purpose in rising at this time is to emphasize in the strongest possible terms the need to keep the debt ceiling clean of costly, nongermane amendments. Any intention to amend the debt ceiling bill with revenue-losing provisions costing many hundreds of millions of dollars will add significantly to our already enormous deficit problems. I want to clearly state for the benefit of the administration and the other body my intention to resist any and all Senate amendments to the debt ceiling bill.

On several occasions in this Congress, the Ways and Means Committee has cooperated fully with the administration by conducting expeditious hearings and processing several debt ceiling increases. We now seek the cooperation of the administration and responsible leaders of the other body in keeping the debt ceiling clean of amendments. The concluding hours of a Congress is not the time for high theatrics and politically motivated amendments which jeopardize the ultimate enactment of this essential legislation. Enactment of the debt ceiling increase is necessary not only so the Congress can adjourn, but also to ensure that the Government's bills, which have already been incurred, can now be paid.

I want to take this opportunity to address the potential for action in the closing hours of this Congress on the issue of Superfund and state my position on accepting modifications to this important environmental legislation.

The Superfund bill, which the House has passed, would provide over $10 billion in the next 5 fiscal years to clean up hazardous wastes across the country. While this amount is a significant increase over the current funding level, it is clear that even this amount will not be sufficient to defuse the ticking time bombs which threaten all of us and also future generations of Americans.

The House-passed Superfund bill was the product of long hours of labor by members of the Committees on Ways and Means and Energy and Commerce. It was considered by this House in a timely fashion and delivered to the other body with ample time for it to act responsibly. It provides an adequate and stable source of funding to clean up waste sites and does so in a manner which does not overburden taxpayers or the Treasury. The bulk of the Superfund revenues are raised from those industries—chemical and oil—which are the historic sources of the substances which are found at Superfund sites.

I just want to state for the record that it is my intention to reject any proposal which either seriously reduces the funding level below the House-passed bill or which puts a heavy reliance on general revenues.

To accept a proposal to significantly increase the percentage of the funding coming from general revenues would be to reject the will of this body to continue the policy of placing the burden for cleanup on the Nation's hazardous waste sites on those that are responsible for them. To accept heavy reliance on general revenue funding would also ignore the reality of $200 billion deficits. It is the height of irresponsibility, in my view, to further burden the deficit in order to appease the special interests which stand to pay their fair share of this national disaster.

And, we cannot accept a drastically lower level of funding for the Superfund if we are to maintain that we care about this issue. If, as some have suggested, a bill is returned to this House which cuts funding significantly it would be tragic to accept it. We face a national crisis; we simply cannot accept whatever is sent to us, declare victory, and go home.

Some of my colleagues may wish to suggest that we take whatever we get in the name of "action now." I reject that. This body has taken the tough vote on this issue and has stared down the special interests which are determined to see this legislation weakened and watered down. To accept, for expedient reasons, an inadequate product makes a mockery of the hours of labor and discipline which both committees devoted—and Members of this House ratified by their votes. It would also show that we are more interested in the symbol of Superfund rather than the substance of cleaning up hazardous waste.

So, Mr. Speaker, I want to send a message to those considering this vital legislation to be prudent. I might also add nongermane additions to this bill will be rejected or may result in our inability to complete action before adjournment.

Mr. DANNEMEYER. Mr. Speaker, will the gentleman yield?

Mr. ROSTENKOWSKI. I would be glad to yield to the gentleman from California.

Mr. DANNEMEYER. I thank the gentleman for yielding.

Mr. Speaker, I want to see if I understand correctly. Will this House have an opportunity to vote on this proposed debt ceiling increase before the close of this week?

Mr. ROSTENKOWSKI. Mr. Speaker, as the gentleman is aware, our debt ceiling under the Gephardt amendment, went over with the budget resolution.

Mr. DANNEMEYER. Yes.

Mr. ROSTENKOWSKI. The Senate will then pass the debt ceiling, and if it is the same in the term of time, there will not be any necessity for us to vote on it. As the gentleman is aware, our extension of the debt ceiling was until September of next year.

I am afraid that if a debt ceiling came back and we would have to vote for it, it would mean that the Committee on Ways and Means would consider it and maybe only extend the debt ceiling until January.

Mr. DANNEMEYER. Would that give us an opportunity of having a vote in this body on the debt ceiling increase?

Mr. ROSTENKOWSKI. If the resolution is not the same as the one adopted by the House of Representatives in the budget resolution.

Mr. DANNEMEYER. I thank the gentleman.

Mr. McCOLLUM. Mr. Speaker, I have a reservation of objection only for the purpose of yielding to the distinguished gentleman from Pennsylvania [Mr. GOODLING] who is the author of this legislation on recognizing the citizenship of William Penn posthumously.

I certainly think in light of the fact that William Penn was the founder of the Commonwealth of Pennsylvania, it is only appropriate that the distinguished gentleman have an opportunity to elaborate momentarily.

Mr. GOODLING. I thank the gentleman for yielding. I also thank the gentleman from Kentucky for bringing this legislation before us.

Mr. Speaker, the legislation before us, Senate Joint Resolution 80, would provide posthumous citizenship for William Penn and this wife, Hannah. Although the honor of posthumous citizenship is awarded in few instances, William Penn's involvement with the early development of our great country, his desire to make America his home, and the traces of his beliefs of personal rights and justice which remain an intrinsic part of our Government today, make him a most worthy candidate for this distinction.

Penn's first connection with our country was with New Jersey. As a member of the Friends, Penn became one of the trustees of their property of West Jersey in the New World.

When the first settlers of West Jersey came to America in 1677, they brought with them the famous Concessions and Agreements for their government. Histories believe that this document was drafted largely by William Penn—his first gift to America and most likely the precursor of our modern Bill of Rights.

The charter guaranteed the colonists the rights of petition and trial by jury and provided against imprisonment for debt. It made no provision for capital punishment, even in cases of treason. In addition, the charter guaranteed religious freedom and recognized the importance of personal rights by providing for equal representation of Indians injury trials—with the jury consisting of six Indians and six whites.

Then, in 1681, in payment of a debt, the King of England gave to William Penn a tract of land north of Maryland which the King insisted Penn name Pennsylvania for his late father. In 1682, William Penn also secured from the Duke of York the territory of Delaware.

As you can see, Mr. Speaker, William Penn was highly involved in the founding and early history of 3 of the original 13 Colonies of our country. I could cite many more examples of Penn's contributions to our country, of his lasting treaties with the Indians, but time is valuable—especially in the final days of the 98th Congress—and I believe the examples I have given strongly support Penn's interest in and love for our country.

Penn loved America, so much that his last trip home was to defend his interests in the Colonies. After the outbreak of the Spanish Succession, a move was made in the English Parliament to annex all colonies to the Crown and Penn returned to England to protect his lands. Even though Penn was successful in returning his proprietorship, events in his life prevented him from returning to his beloved land.

Mr. Speaker, William Penn once said, "I expect to pass through life but once. If there be any kindness I can show, let me do it now, as I shall not pass this way again." Well, William Penn passed through life, leaving behind him a great many gifts for those who follow. Penn will not pass this way again. Let us now show a kindness to William Penn and give him citizenship in the country he loved so dearly. He spent a lifetime promoting peace and liberty and helped to establish the foundation for our great country. It is only appropriate that we pay this one last tribute to him—citizenship in the United States of America.

Mr. MAZZOLI. Mr. Speaker, will the gentleman from Florida yield for a question?

Mr. McCOLLUM. Mr. Speaker, further reserving the right to object, I certainly do yield to the gentleman from the great State of Kentucky.

Mr. MAZZOLI. I thank the gentleman for yielding.

Mr. Speaker, I would just propound a question to the gentleman, the sponsor of the bill.

Are there any benefits which would be available to the descendants and heirs and progeny of the Penn family under this particular resolution?

Mr. GOODLING. If the gentleman will yield further, there would be no benefits available.

Mr. MAZZOLI. If the gentleman will yield further, the gentleman from Kentucky has searched the resolution and finds no specific disability in that sense, but the gentleman is convinced that that is the intent; that no benefits could derive under any person?

Mr. GOODLING. No benefits whatsoever.

Mr. MAZZOLI. If the gentleman will yield further, second, I would just make a very short statement that I certainly have great honor and respect for William Penn for many, many reasons, as well as for his wife. There is a problem here of precedent, of taking bills from committees which have not yet had a chance, perhaps, to work on them fully and to, perhaps, even improve the wording.

□ 1920

I just want to assure my friend, the gentleman from Florida, a distinguished member of our subcommittee, and I think he would agree, that this action of the House tonight does not establish a precedent for taking bills away from subcommittees or committees and in effect reducing the power and propriety of the committee system. Would the gentleman agree?

Mr. McCOLLUM. Further reserving the right to object, Mr. Speaker, I recognize the diligent effort that the chairman has made to eliminate consideration often of matters of this nature when they are not truly exceptional. I think that this is one of those cases.

I understand that a precedent is not being set here. I greatly appreciate it.

S.J. RES. 80

Whereas William Penn, as a British citizen, founded the Commonwealth of Pennsylvania in order to carry out an experiment based upon faith in divine guidance, representative government, public education without regard to race, creed, sex or ability to pay, and respect for the civil liberties of all persons;

Whereas William Penn, as a farsighted reformer, established a judicial system including public trials, trial by a jury of peers, limitations on the imposition of capital punishment, and the substitution of workhouses for prisons;

Whereas William Penn worked to protect rights concerning personal conscience and freedom of religion consistent with the principles of the first amendment of the Constitution;

Whereas William Penn was conscientiously opposed to war as a means of settling international disputes and worked toward the elimination of war by proposing the establishment of a Parliament of Nations, not unlike the present-day United Nations; and

Whereas Hannah Callowhill Penn, wife of William Penn, for six years effectively administered the Province of Pennsylvania and like her husband devoted her life to the pursuit of peace and justice: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is hereby authorized and requested to declare by proclamation that William Penn, founder of the Commonwealth of Pennsylvania, and his wife, Hannah Callowhill Penn, are honarary citizens of the United States of America.

Mr. McCOLLUM. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

The Senate joint resolution was ordered to be read a third time, was read the third time and passed, and a motion to reconsider was laid on the table.

ENCOURAGING AND SUPPORTING PEOPLE OF AFGHANISTAN IN THEIR STRUGGLE TO BE FREE FROM FOREIGN DOMINATION

Mr. FASCELL. Mr. Speaker, I ask unanimous consent that the Committee on Foreign Affairs be discharged from further consideration of the Senate concurrent resolution (S. Con. Res. 74) to encourage and support the people of Afghanistan to continue their struggle to be free of foreign domination, and ask for its immediate consideration.

The Clerk read the title of the Senate concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

Mr. PRITCHARD. Reserving the right to object, Mr. Speaker, and I shall not object at this time, first I would like to ask the chairman of the committee to explain this resolution.

Mr. FASCELL. Mr. Speaker, will the gentleman yield?

Mr. PRITCHARD. I am happy to yield.

Mr. FASCELL. Mr. Speaker, this resolution passed the other body last evening. When passed by the House today, hopefully by another overwhelming vote in favor, the resolution will make absolutely clear that the U.S. Congress is solidly behind the people of Afghanistan who are struggling so valiantly to regain their freedom.

Our support for the return of Afghan sovereignty and the ending of bloodshed in Afghanistan should not be questioned. Many of us supported the original grain embargo against the Soviet Union and opposed President Reagan's lifting of that sanction. In other ways, we have maintained international pressure on the Soviet Union.

As Chairman of the Commission on Security and Cooperation in Europe, I have made certain that the question of Afghanistan is not forgotten in the context of negotiations on European cooperation and security under the Helsinki Final Act. Indeed, the Soviet invasion and continued occupation violate the principles of that act.

At the same time we persist in opposing this unconscionable Soviet behavior, we should also give all appropriate support to those who are enduring the most hardship—the people of Afghanistan.

Opportunities are readily available for the Soviet Union to negotiate a settlement that would lessen world tensions and return freedom to Afghanistan. Regrettably, the Soviet Union has not yet taken advantage of the possibilities. The world needs to persist in opposing the Soviet behavior and in aligning with the people struggling for freedom. Those fighting for their own independence in Afghanistan deserve at least this much.

I urge the quick passage of this important legislation.

The SPEAKER pro tempore (Mr. MURTHA). The Chair would admonish the gentleman that he should not refer to votes in the other body.

Mr. FASCELL. I did not, Mr. Speaker, now that the Chair has mentioned it.

Mr. PRITCHARD. Further reserving the right to object, Mr. Speaker, I yield to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I rise in support of Senate Concurrent Resolution 74, a resolution to encourage and support the people of Afghanistan in their struggle to be free from foreign domination.

The brave Afghan freedom fighters are a source of pride to all freedom-loving peoples. For over 4 years, the freedom fighters of Afghanistan have withstood onslaught after onslaught by the full force of the Soviet fighting machine. The Soviet invasion of Afghanistan has been widely condemned, as have the brutal attacks which the Soviet Union has launched against the Afghan populace.

Earlier this year, Mr. Speaker, I had the opportunity to visit an Afghan refugee camp in Pakistan to discuss with Afghan refugees their plight. Currently, there are more than 4 million Afghan refugees and the Government of Pakistan is to be commended for their humanitarian efforts on behalf of the refugees.

I witnessed in those people at that refugee camp a fierce determination to rid from their homeland the invading Soviet Army. It is incumbent upon all of us who wish to see the Soviets driven from Afghanistan to explore all options to support effectively the people of Afghanistan in their fight for freedom.

Accordingly, Mr. Speaker, I urge my colleagues to support this resolution so that the Congress places itself squarely on record in support of the brave people of Afghanistan.

Mr. PRITCHARD. Further reserving the right to object, Mr. Speaker, I yield to the gentleman from Pennsylvania [Mr. RITTER], who was the originator of this proposal.

Mr. RITTER. Mr. Speaker, I thank the gentleman for yielding.

I would just like to point out to my colleagues that probably never in the history of this body has a resolution dealing with an armed conflict achieved such bipartisan support. From all corners of this House, from all ideological and philosophical perspectives, we have had support. This resolution is unique in that fashion.

And why is it unique? It is because the American people and the people of this House have recognized that the Soviet Union is engaged in a war of genocide against the Afghan nation and it understands that unless the world speaks out with a potent voice, there will be an Afghanistan, but there will be no Afghan people.

The U.S. Congress also recognizes that whoever holds the high ground of Afghanistan holds the passages to South Asia. Whoever holds Afghanistan is close, too close for comfort, to the Arabian Sea and the oil shipping lanes, conceivably working through the region of Baluchistan to warm waters on the Arabian Sea, for the Soviet Union a dream, a millenial dream of czars dating back 1,000 years, not just commissars.

Mr. Speaker, it is imperative that people around this country and the world know of the continuing fight for freedom being waged inside Afghanistan. The tribes people of Afghanistan are freedom fighters in the truest sense of the words. And, most importantly, they deserve our help and our support, as proclaimed by unanimous vote in the Senate last night and by unanimous consent in the House.

A good explanation of the tragic situation in Afghanistan has been provided by a June 18, 1984, editorial in the Wall Street Journal which follows:

[From the Wall Street Journal, June 18, 1984]

BOILING THE OCEAN

News from Afghanistan is both exhilarating and tragic. The Soviets have failed to crush the Afghan resistance in their largest offensive to date. But they may take their vengeance on the Afghan population with an induced famine that competent Western observers think may rank among the more spectacular disasters of the last few years.

The Soviet invaders staged a massive march this spring into the strategic Panjshir Valley stronghold of the Mujahedeen, the Afghan freedom fighters, northeast of the capital city of Kabul. Military observers have marveled at the Russians' coordinated use of ground troops, helicopters, paratroops and saturation high-altitude bombing (as well as poison gas). Yet the guerrillas have bounced back. Afghan exile headquarters in Peshawar, Pakistan, claim that Soviet troops have withdrawn from the upper half of the Panjshir under increasing harassment. One Russian outpost is currently cut off. A 900-man unit of Afghans, including an Afghan general and a number of Soviet officers, surrendered in a side valley and is being brought back to Pakistan. The Soviet forces, 16,000 strong, have now concentrated in the towns of Bazared and Rukha, famous for an ice cream parlor made by Afghans out of a downed Soviet supply helicopter.

It remains to be seen whether this withdrawal is a classic anti-guerrilla tactic, designed to draw the mujahedeen out in the open, part of a Soviet plan to hold only the lower valley, or simply a retreat. But there is growing agreement that Soviet hopes of a military victory have been frustrated, and possibly at higher cost to the Russians than to the mujahedeen. Ahmad Shah Massoud, the Panjshir Valley commander who is deservedly becoming a legend, evacuated troops and civilians before the assault and left his abandoned strongholds heavily mined. Afghan sources think, this tactic alone caused 400 to 500 serious injuries among elite Soviet paratroopers.

In short, the Afghans appear to have kept pace with the improved Soviet military. In spite of scandalously inadequate Western aid, a network of local commanders, some of whom equal Massoud in ability if not fame, has brought the resistance to its highest level yet of coordination and organization. In turn, the Soviets appear to have decided that if they can't win a military victory, they will have a demographic one by eliminating the population that gives the resistance its base.

Warnings of this strategy came last year from Claude Malhuret, executive director of the Paris-based Medecins sans Frontieres (Doctors without Borders), a volunteer group that maintains six hospitals in mujahedeen-controlled parts of Afghanistan. If guerrillas move among the population, in Mao's words "like fish in the water," then the Soviet response is to boil the ocean. Anti-guerrilla wars aren't decided by the Western strategy of winning over the population, Dr. Malhuret concludes glumly, but by "making terror reign." Over the years his group has seen this Soviet approach firsthand several times. In the Ogaden province of Ethiopia, the populations of villages and towns were driven into Somalia. In Cambodia after the Vietnamese invasion, grain was bottled up in Kompong Som until the population that might support the resistance had starved or fled. Now it's Afghanistan's turn.

More than four million Afghans, maybe half the population under mujahedeen control, have fled to Pakistan and Iran, helped along by indiscriminate Soviet bombing, massacring and sowing of mines. (These mines are designed to maim rather than kill, French doctors from several groups report, and some have been disguised as toys.) A million more Afghans may have been driven

to cities under Soviet control. The Soviet invaders are working hard to centralize the food-distribution system, and they are now trying to destroy crops they can't buy up. Afghans report Russian bombing of the irrigation system in the rich Shomali plain and napalming of storage bins to destroy the wheat harvest.

The parallel often cited is Stalin's man-made famine in the Ukraine in 1932-33, when communist confiscation of the harvest caused at least five million to seven million deaths and wiped out the entire nationalist strata of that society. So far, Afghans have escaped the worst, but danger signs are already up. The British group Afghan Aid recently released a nutritional and economic survey by Frances D'Souza of the Food Emergencies Research Unit of London University. To its shock, field examinations in remote Badakshan revealed severe malnutrition among more than 20% of the children, worse results than in Biafra. Not by accident, Badakshan sits on important Soviet supply lines; mujahedeen attacks have been intense, and earlier reports say the Russians have tried to terrorize and drive out its inhabitants by dropping "yellow rain."

The mujahedeen are deeply aware that their most important battle now may be to feed their population. Some commanders have delegated units to help with the harvest and repair the irrigation system. Emissaries to the West now plead for food aid as urgently as they ask for antiaircraft missiles. They deserve both. But if the West lacks the nerve to send them SAMs (or Stingers), it has no excuse to stint in shipping humanitarian aid. The Soviet famine strategy can be frustrated if sufficient grain supplies are made available in Pakistan to the mujahedeen distribution network. Perhaps even more so than the fight in the Panjshir Valley, the economic battle will be critically important. Will the West sit this one out too?

So I think what we have achieved here today with a change in language from the Senate version, and I want to commend our colleague on the Senate side, Senator TSONGAS, for having the Senate side version, the change in language has made this resolution possible to go forward with the full support of all the Members of the House of Representatives, passing 97 to 0 in the Senate.

I thank the gentleman for yielding.

The SPEAKER pro tempore (Mr. MURTHA). If the Chair would again remind the gentleman from Pennsylvania not to refer to the proceedings in the Senate, as the Chair reminded the other gentleman.

Mr. PRITCHARD. Further reserving the right to object, Mr. Speaker, I yield to the gentleman from Connecticut [Mr. MORRISON].

Mr. MORRISON of Connecticut. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I rise in strong support of Senate Concurrent Resolution 74, a resolution calling for support of the Afghan freedom fighters in their struggle to be free from foreign domination. I want particularly to commend Chairman FASCELL for bringing this resolution to the floor before the close of business in this House. I think it is an important action that we take today.

It has been 4 years since the Soviet Union invaded Afghanistan and began their brutal occupation of the Afghan nation. In those 4 years neither the executive branch nor the legislative branch has issued a statement of support for the Afghan resistance that goes beyond praise for Afghan efforts to free their country. Senate Concurrent Resolution 74 presents effective support for the Afghan liberation movement.

The Afghan people are struggling against a brutal occupation by the world's most powerful land army. In 1983, Soviet troop strength in Afghanistan reached an all time high, and the firepower of hundreds of helicopter gunships has devastated one valley after another. The result has been tens of thousands of casualties and more than 3 million people leaving the country as refugees. Yet the freedom fighters, in an heroic lopsided struggle, have held on and even repulsed Soviet offensives in the province of Paktia and in the Panjshire Valley.

It is time that the United States show the people of Afghanistan that the U.S. Congress has not forgotten their struggle, and that the pursuit of freedom is admired and supported by the United States.

The Afghan resistance is a genuine expression of the independence and dignity of the Afghan people, and their struggle to liberate their country from a foreign invader deserves the attention and support of us all. I hope this important resolution will be speeded on to passage and sent to the President for his signature.

Mr. PRITCHARD. Mr. Speaker, further reserving the right to object, I yield to the gentleman from California [Mr. LAGOMARSINO].

Mr. LAGOMARSINO. Mr. Speaker, I rise today in strong support of legislation, House Concurrent Resolution 237, expressing U.S. support for the freedom fighters in Afghanistan.

There is, in my opinion, no one issue facing us today which as elicited such broad, bipartisan support as providing assistance to the mujahideen in Afghanistan. These determined and courageous fighters have struggled to free their country from the tyranny and oppression that has infested their rich and diverse land since 100,000 Soviet Red Army troops rolled over the border in 1979.

The resolution before us today states, "* * * the freedom fighters in Afghanistan have gained the admiration of free men and women the world over * * *." This, Mr. Speaker, is an understatement. The valiant Afghan men, women, and children have not only endured the murderous Soviet policies, including their high-altitude carpet bombings which brings wholesale slaughter of humans and farm animals, as well as the destruction of important crops and foodstuffs, they have taken up arms against their invaders from the north. I have personally met with several resistance leaders, and have been impressed by their courage and their desire for freedom.

Mr. Speaker, I believe the American people would be shocked if they really knew the extent to which the Soviets have resorted to terrorism and genocide in their unsuccessful attempt to break the will of the Afghan people and fighters. Toys laden with mines, which are designed for only one purpose—to maim innocent children—are causing massive and untreatable wounds in hundreds of Afghan children; the use of chemical weapons, including poison gases, against innocent villagers for the sole purpose of terrorizing the unsuspecting populace; high altitude carpet bombings; these are all symbols of Soviet power in their violent campaign in Afghanistan.

There is evidence from numerous sources which, although virtually denied by the media, suggests that over one-third of Afghanis now live in either Iran or Pakistan. We must thank the Pakistanis for their efforts on behalf of these refugees, and we must urge that other international efforts also be undertaken or bolstered in the name of these unfortunate people. There is further evidence that the Soviets are attempting to starve the Afghan people into submission. Such acts are morally outrageous; who can justify such repulsive actions?

Mr. Speaker, the issue before us today is clear. The people of a terrorized and embattled nation cry out not for American troops. They do not request that armies from foreign lands come to their assistance. They merely seek U.S. support, in the form of material and humanitarian assistance, to drive the Soviets and the puppet regime in Kabul out of their sacred country, and to once again bring freedom to their land. This much we can do, Mr. Speaker, and do it we must. For our heritage, our love of freedom, our desire for all men to be free from domination—foreign or domestic—guides our actions in this instance. We as a people stand united with the valiant freedom fighters in Afghanistan, Mr. Speaker. Those struggling for their country's survival "half a world away" depend on us. Let us show them our support by passing the resolution before us. We are no less than morally bound to do so.

Mr. PRITCHARD. Further reserving the right to object, Mr. Speaker, I would only say that this Member has been on the borders of the Pakistan-Afghan region twice. I went over with Congressman OBEY and a party immediately after the Russians moved into Afghanistan and the first refugees

were coming into that part of the country.

I went back with Congressman RITTER about a year later and now there are almost 3 million refugees. Just think what an impact that has on Pakistan and what a problem it is, 3 million Afghan refugees.

America in the things that it is helping can be very proud of the effort we are making there in feeding and helping those 3 million people that are on the borders.

This is an important issue. It is a tragedy and it is one of the darkest chapters in Soviet history.

Mr. FASCELL. Mr. Speaker, will the gentleman yield?

Mr. PRITCHARD. I am happy to yield to the gentleman from Florida.

Mr. FASCELL. Mr. Speaker, I want to commend the gentleman for his efforts with respect to this resolution and also the gentleman from Pennsylvania [Mr. RITTER] and the others who have spoken on this matter.

It is an important resolution, because it signifies the support and the spirit of the American people behind the struggle for freedom that is taking place in Afghanistan. Those people need the spiritual and moral support that this resolution represents, speaking through the Congress of the United States for the American people.

Mr. PRITCHARD. Mr. Speaker, I withdraw my resolution of objection.

● Mr. BROOMFIELD. Mr. Speaker, in December 1979, the Soviet Union unleashed its brutal invasion of Afghanistan. Today, almost 5 years later, the Soviet army continues its ruthless assault on the Afghani people. Whole villages of innocent men, women, and children have been slaughtered by Soviet troops whose leaders still cling to the tired refrain that they were invited to occupy Afghanistan.

Afghan freedom fighters—in the face of an immensely powerful Soviet military machine—battle on in a tenacious effort to win freedom from harsh foreign domination. The difficult struggle for the liberation of Afghanistan deserves the support of all who recognize the value of freedom and self-determination.

In principle, and in our self-interest, the United States must support the people of Afghanistan in their fight to choose their own way, free from external interference.

Passage of this resolution will have the active and well deserved support of free people everywhere. Most importantly, the Afghani people must know that their cause does not go unnoticed. They must know that the American people are firmly in support of their efforts to be free of Soviet oppression. With this in mind, I urge the passage of the resolution.●

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

The clerk read the Senate concurrent resolution, as follows:

S. CON. RES. 74

Whereas the freedom fighters of Afghanistan have withstood the might of the Soviet Army for over four years and gained the admiration of free men and women the world over with their courageous sacrifice, bravery, and determination;

Whereas the Soviet invasion of Afghanistan is the first Soviet seizure of independent territory since the 1940's and represents a dangerous and unacceptable development in Soviet foreign policy;

Whereas the struggle for liberation in Afghanistan can succeed if those of us who believe in freedom come to its support;

Whereas the European Parliament, the Non-Aligned Movement, the United Nations, the Conference of Islamic Nations, the Association of Southeast Asian Nations, and the United States Congress have all condemned the Soviet invasion and occupation of Afghanistan;

Whereas the Soviet airbases in southwest Afghanistan present an unacceptable threat to the Hormuz oil passage lanes which are so vital to the free world's economies;

Whereas many individuals and private organizations all over the world have already sent substantial aid to the Afghan freedom fighters; and

Whereas it would be indefensible to provide the freedom fighters with only enough aid to fight and die but not enough to advance their cause of freedom: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it should be the policy of the United States—

(1) to encourage and support the people of Afghanistan to continue their struggle to be free of foreign domination;

(2) to support effectively the people of Afghanistan in their fight for freedom;

(3) to pursue a negotiated settlement of the war in Afghanistan, based on the total withdrawal of Soviet troops and the recognition of the inalienable right of the Afghan people to choose their own destiny free from outside interference or coercion, so that the four million Afghan refugees can return to their country in safety and in honor.

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. FASCELL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days on which to revise and extend their remarks on the Senate concurrent resolution, Senate Concurrent Resolution 74, just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

COMMEMORATING UKRAINIAN FAMINE OF 1933

Mr. FASCELL. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the concurrent resolution (H. Con. Res. 111) to commemorate the Ukrainian famine of 1933, with Senate amendments thereto, and concur in the Senate amendments

The Clerk read the title of the concurrent resolution

The Clerk read the Senate amendments, as follows:

Page 3, line 2, strike out all after "That" down to and including "to" in line 4 and insert "the Congress hereby condemns the systematic disregard for human life and for human and national rights and liberties that characterizes the policies of the Union of Soviet Socialist Republics, expresses sympathy for the millions of victims of such policies and urges the President to".

Page 3, line 5, strike out "issue a proclamation in" and insert "proclaim a day for".

Page 3, line 8, strike out "the Soviet Russian Government" and insert "Moscow".

Page 3, after line 11, insert:

(2) urge the Government of the Union of Soviet Socialist Republics to remove current restrictions on the shipment of food parcels and other necessities to residents of the Union of Soviet Socialist Republics by private individuals and charitable organizations;

Page 3, line 12, strike out "(2)" and insert "(3)".

Page 3, line 12, strike out "enslavement" and insert "subjugation".

Page 3, line 18, strike out "(3)" and insert "(4)".

Page 4, lines 1 and 2, strike out "for the recovery of their freedom and national independence" and insert "to determine their own destiny and recover their freedom".

Page 4, after line 2, insert:

SEC. 2. The Secretary of the Senate shall transmit a copy of this concurrent resolution to the President.

Amend the preamble as follows:

Page 1, in the 6th line strike out "the Soviet Russian Government" and insert "Moscow".

Page 2, in the 4th line, strike out "the Soviet Russian Government" and insert "Moscow".

Page 2, in the 17th and 18th lines, strike out "Soviet Russian" and insert "Communist".

Page 2, in the 18th line, after "Government" insert "in Moscow".

Page 2, in the 27th, and, 28th, and 29th lines, strike out "some six months after the formal recognition of the Union of Soviet Socialist Republics by the United States,".

Page 2, in the 31st line, strike out all after "2 sess.)" over to and including "people" in the 2d line on page 3 and insert "urging the Government of the Union of Soviet Socialist Republics to end its genocidal policy toward the Ukrainian people and to place no obstacles in the way of American citizens seeking to send aid to the famine-stricken regions of Ukraine".

Mr. FASCELL. Mr. Speaker, I ask unanimous consent that the Senate amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

Mr. SOLOMON. Reserving the right to object, Mr. Speaker, I will not object.

First of all, I want to thank the chairman for bringing my resolution to the floor.

Mr. Speaker, I rise in strong support of the Senate amendments to my resolution.

This resolution calls on the President to issue a proclamation in mournful commemoration of the great Ukrainian famine of 1932 and 1933. It also calls for the President to issue a warning that the continued enslavement of the Ukrainians and other non-Russian peoples within the U.S.S.R. are a threat to world peace and the stability of Europe. And perhaps most importantly, the resolution places the moral authority of the United States behind the aspirations of the people within the U.S.S.R. for a recovery of their freedom and independence.

Mr. Speaker, the Ukrainian famine in the early 1930's stunned the world. The Soviet Government, in a deliberate attempt to starve the Ukraine into submission, withheld the transportation and distribution of vital foodstuffs and other supplies from the Ukrainian people.

Moreover, the Soviet Government embarked on a declared policy that has, as its objective, nothing less than the total eradication of Ukrainian culture and traditions. The physical and cultural genocide in the Ukraine rivals the subsequent Holocaust against the Jewish people in Germany, Poland, and elsewhere. The tragic dimensions of the Ukrainian famine were revealed by the deaths of over 7 million people in the Ukraine itself and the deaths of over 4 million people at the same time in other sections of the U.S.S.R.

It was in 1934 that the House of Representatives first drew national attention to the holocaust in the Ukraine. The resolution passed that year was authored by the father of our colleague from New York, Hamilton Fish.

The resolution that passed in 1934 called on the Soviet authorities to cease their attempts to place obstacles in the way of American citizens who were seeking to send aid to their friends and relatives in the Ukraine.

The Senate version of this year's resolution added similar language, calling on Soviet authorities to—quote:

Remove current restrictions on the shipment of food parcels and other necessities to residents of the Union of Soviet Socialist Republics by private individuals and charitable organizations.

The addition of this language constitutes the only substantive difference between the House and Senate versions of the resolutions, and I urge that the House adopt the Senate language in order that the two resolutions will be brought into conformity.

The two other changes are rather minor. One would change the wording in the final whereas clause that makes reference to the resolution passed in 1934. The other would strengthen the wording contained in the House version of the first resolved clause. These changes do not alter the substance of the resolution, they merely strengthen the wording.

□ 1730

Mr. GILMAN. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. Further reserving the right to object, I yield to my good colleague, the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I want to rise in support of this measure, and I want to commend the gentleman from New York [Mr. SOLOMON] for his work in attempting to commemorate the Ukrainian famine of the early 1930's; and our distinguished chairman, the gentleman from Florida [Mr. FASCELL], for bringing this measure to the floor at this late hour.

Just this week our Subcommittee on International Operations on which I serve conducted a hearing on legislation to establish the commission to gather information and to prepare a report on the holocaust launched against the Ukrainian people. Our subcommittee heard testimony which poignently told of the deliberate campaign of the Soviet Union to decimate the Ukrainian people and to eradicate the proud culture and tradition of that people.

While I regret that the House has not had the opportunity to establish a commission, I certainly appreciate this opportunity that this resolution provides us to bring visibility to the Ukrainian famine so that the world will fully recognize the Soviet Union's willingness to resort to a systematic campaign of brutally eradicating an entire people.

Accordingly, I urge my colleagues to support the measure so that the record of these atrocities can become known to the entire international community.

I thank the gentleman for yielding.

Mr. SOLOMON. I thank the gentleman for his remarks and I also thank him for being one of the strongest sponsors of this resolution.

Mr. RITTER. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from Pennsylvania.

Mr. RITTER. As cochairman of the Ad Hoc Committee on Baltic States and the Ukraine, I have been very interested in the subject of the famine, and it is instructive for all of us here in this body to learn the lessons of the past so that we do not have to relive them.

The fact is that this holocaust killed some 7 million Ukrainian people in the space of 2 years. That outdid Adolf Hitler's record against the Jews in terms of raw efficiency. The fact is that human rights is an essential ingredient in our relationship with the Soviet Union, and yes, human rights is even an essential ingredient in our relationship with the Soviet Union when it comes to arms control talks.

A ballot issue in a recent San Francisco election showed that the people there wanted to link human rights questions with arms control talks. One cannot divorce the two. One cannot establish the proper levels of trust between the United States and the Soviet Union unless these kinds of human rights conditions are met.

The fact remains, and we just finished it on the floor, that there is occurring in Afghanistan today a systematic attempt to remove the Afghan people from the face of this Earth. In other words, history is repeating itself in a form of genocide with the Soviet Army at the helm in that part of the world, not unlike, in its end result, the genocide that was perpetrated against the Ukrainian nation.

It is, I think, a wonderful thing that the people of the United States and the members of this body can learn about the genocide against the Ukrainian people in the early 1930's and understand the lesson that tragedy should have taught us.

I yield back to my colleague from New York.

Mr. SOLOMON. I certainly thank the gentleman and I again thank him for his leadership and support in bringing attention to the plight of the Ukrainian people.

Mr. FASCELL. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. I am glad to yield to the good chairman of the committee.

Mr. FASCELL. Mr. Speaker, my colleagues have explained the bill.

Mr. SOLOMON. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Florida?

There was no objection.

A motion to reconsider was laid on the table.

SENSE OF CONGRESS CONCERNING INFRINGEMENT OF RELIGIOUS FREEDOM BY THE GOVERNMENTS OF THE WARSAW PACT STATES

Mr. FASCELL. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate concurrent resolution (S. Con. Res. 119) expressing the sense of the Congress concern-

ing infringements of religious freedom by the governments of the Warsaw Pact States, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

Mr. PRITCHARD. Mr. Speaker, reserving the right to object, I shall not object, but first I would like the chairman of the committee to explain the bill.

Mr. FASCELL. Mr. Speaker, will the gentleman yield?

Mr. PRITCHARD. I yield to the gentleman from Florida.

Mr. FASCELL. I thank my colleague and I will be glad to do that.

This resolution addresses the issue of religious freedom and its infringement by the governments of the Warsaw Pact. It condemns that infringement and the persecution of religious believers and discrimination on religious grounds which occurs all too often and it is concomitant with perhaps the worst surge of anti-Semitism in the Soviet Union in modern times.

We have taken strong positions in this Congress on this issue and on human rights and this kind of infringement. This resolution coming from the other body is a reaffirmation of our strong feelings with regard to the failure of the Warsaw Pact countries to fulfill their commitments under Helsinki and under normal international accords, and just on plain human decency.

Therefore it is an important resolution, Mr. Speaker, and I hope it will be unanimously adopted.

I thank my colleague for yielding.

Mr. GILMAN. Mr. Speaker, will the gentleman yield?

Mr. PRITCHARD. I yield to the gentleman from New York.

Mr. GILMAN. Mr. Speaker, I want to commend the distinguished chairman of the Foreign Affairs Committee, the gentleman from Florida [Mr. FASCELL], for bringing this measure to the floor at this time and for his staunch efforts as Chairman of the Commission on Cooperation and Security in Europe in continually raising the issue of human rights for this body and for our entire Nation.

I rise in support of this measure expressing the sense of Congress concerning infringements of religious freedom by the governments of the Warsaw Pact states.

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Mr. Speaker, the Soviet Union and its Warsaw Pact allies promise in their constitutions the right of freedom of religion. The harsh reality, however, is that the laws of these states are highly restrictive with respect to the exercise of religious freedoms.

As the resolution indicates, "religious believers in several Warsaw Pact States experience officially sanctioned discrimination in employment, housing, and education."

Mr. Speaker, because the right to practice freely one's religion and to observe related cultural traditions are such basic human rights, our Nation cannot refrain from continuing to bring to light such egregious disregard for religious freedoms as is practiced by Warsaw Pact States. Accordingly, I urge my colleagues to support Senate Concurrent Resolution 119.

Mr. PRITCHARD. Mr. Speaker, I yield to the gentleman from Pennsylvania [Mr. RITTER].

Mr. RITTER. I thank the gentleman for yielding.

Mr. Speaker, I also thank the gentleman from Florida [Mr. FASCELL] Chairman of the Commission on Security and Cooperation in Europe, for his work in this field, constantly bringing these violations before the Helsinki Commission. I would like to make a point about the response of the Soviet Union to the continuing strength of Catholicism in these Warsaw Pact nations. A particular example is an event which occurred several years ago when the Pope, John Paul II, was the victim of an attempted assassination. A great deal of effort has been conducted not only by journalists but by the Italian courts; some 25,000 pages of documentation and testimony have been received. I think it is instructive for this body and the American people to know that all roads lead to Bulgarian connection with that assassination, and I think most people in this body understand the fact that the Bulgarian secret service and the Bulgarian military does not move without the okay of the Soviet Union.

This is the level at which the Soviet Union has sought to repress the natural forces of Catholicism in Eastern Europe. Today, for example, in Slovakia, there is a whole host of repressive measures being taken against the Slovak people in order to prevent what the Soviets feel is a strong tie between nationalism and Catholicism, similar to what we have seen in Poland.

I thank the gentleman for yielding.

Mr. PRITCHARD. Mr. Speaker, I yield to the gentleman from Tennessee.

Mr. GORE. Mr. Speaker, I appreciate my colleague [Mr. PRITCHARD] yielding.

I would like to speak in strong support of this concurrent resolution and ask my colleagues to vote in favor of it unanimously.

Mr. Speaker, I want to applaud the leadership of my colleague, the gentleman from Florida [Mr. FASCELL] and the gentleman from Washington [Mr. PRITCHARD] for this important concurrent resolution. Mr. Speaker, I support it very strongly.

● Mr. BROOMFIELD. Mr. Speaker, since the Pilgrims first landed on our shores in 1620, Americans have vigorously defended the freedom to practice one's religion. While the protection of this and other fundamental human rights remains a cornerstone of American society, barbaric infringements of religious freedom are daily occurrences in countries of the Warsaw Pact.

Led by the Soviet Union in this, as in almost everything else of a negative nature, Warsaw Pact countries place severe restrictions on the activities of all religious groups in contravention of the Universal Declaration of Human Rights and the Helsinki Final Act. The paper constitutions of the Warsaw Pact countries provide for freedom of religion both for the individual and for religious groups or sects. However, in the cold reality of practice, these states bar many religious activities and practices and deny many denominations legal recognition.

To ensure that their Orwellian edicts cannot be circumvented, Warsaw Pact countries prevent all but a small handful of individuals from escaping this religious persecution by denying the fundamental right to emigrate to all their citizens.

This resolution properly condemns the infringement of religious freedom, persecution of religious believers, and discrimination on religious grounds by the Governments of the Warsaw Pact states, and urges the President to express the sentiment of the Congress to the offending governments. I support this measure and urge my colleagues to do the same.●

● Mr. YATRON. Mr. Speaker, human rights violations in the Warsaw Pact states continue unabated. One of the most grievous injuries these governments inflict on their citizens is denial of religious freedom. We in the U.S. Congress continue to express our concern for the persecuted religious groups, the refuseniks, the political prisoners languishing in asylums, and all other dissidents subject to these repressive regimes.

If one Catholic in Poland, one Jew in the Soviet Union, one Jehovah's Witness in Romania is not permitted to practice his or her faith, then a thread of hope is torn from the fabric representing all of humanity. I am deeply distressed by the mental and spiritual genocide being perpetrated by the Warsaw Pact states. For those who have suffered and continue to suffer every form of oppression their governments can manufacture, the words we speak here today and the actions we take are vital. Their courageous endurance stands as an inspiration to all of us.

As chairman of the Subcommittee on Human Rights and International Organizations, I would like to give a

special tribute to Senator PELL for this very worthwhile initiative.●

Mr. PRITCHARD. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

The Clerk read the Senate concurrent resolution as follows:

S. CON. RES. 119

Whereas the Final Act of the Conference on Security and Cooperation in Europe (hereafter referred to as the Helsinki Final Act), which all of the Warsaw Pact states have signed, commits the participating states to act in conformity with the purposes and principles of the Universal Declaration of Human Rights and to fulfill their obligations with respect to human rights and fundamental freedoms as set forth in international law;

Whereas the Helsinki Final Act reaffirms the commitment of the participating states to respect human rights and fundamental freedoms including the freedom of the individual to profess and practice, alone or in community with others, religion or belief acting in accordance with the dictates of his own conscience;

Whereas the constitutions of the Warsaw Pact states provide for freedom of religion both for the individual and for religious groups or sects, the laws of these states are highly restrictive with respect to religious activities and practices and do not permit certain denominations such as the Baptists, Pentecostals, and the Seventh Day Adventist to practice their religion freely in the Soviet Union, or sects such as the Jehovah's Witnesses in Romania, East Germany and the Soviet Union and the Uniates in Romania and the Soviet Union to function as legally recognized religious entities;

Whereas the governments of the Warsaw Pact states impede the free exercise of religion through administrative interference in the affairs of religious bodies including control over seminaries, religious publications and materials, construction and restoration of church buildings, finances, and the selection of religious leaders;

Whereas the Government of Czechoslovakia, in particular, has not reached an agreement with the Vatican on filling the vacant bishoprics of the Roman Catholic Church in Czech and Slovak dioceses;

Whereas religious believers in several Warsaw Pact states experience officially sanctioned discrimination in employment, housing, and education;

Whereas the governments of most Warsaw Pact states severely restrict or prohibit optional religious instruction for children even on church premises;

Whereas the Governments of Czechoslovakia, Romania, the Soviet Union, and at times Bulgaria persecute, imprison, and confine religious believers for exercising religious freedom;

Whereas the Government of Poland has attempted to exert pressure on the Catholic Church to endorse governmental policies, particularly with respect to Solidarity and its members;

Whereas the Government of Czechoslovakia has increased persecution of clergy and religious believers, especially those of the Catholic faith, since the birth of Solidarity in Poland;

Whereas the restrictions imposed by the Government of the Soviet Union on the activities of all religious groups including officially recognized groups such as the Russian Orthodox Church, the Roman Catholic Church, the Four Islamic Spiritual Boards, and the All-Union Council of Evangelical Christians and Baptists are so severe that thousands of Soviet believers have been forced to form illegal groups in order to practice their religion according to their conscience;

Whereas the Soviet Union has severely curtailed the right of Jews to study and practice their religion and to adhere to their cultural traditions;

Whereas religious activity in the occupied Baltic States of Lithuania, Latvia, and Estonia has been harshly repressed by the Government of the Soviet Union; and

Whereas in most cases the Warsaw Pact states prevent individuals from escaping religious persecution by denying the fundamental right to emigrate to all of their citizens: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress opposes and condemns infringement of religious freedom, persecution of religious believers, and discrimination on religious grounds by the Governments of the Warsaw Pact states.

SEC. 2. Accordingly, it is the sense of the Congress that the Government of the United States should raise publicly and privately the failure of the Soviet Union, Czechoslovakia, Romania, Bulgaria, German Democratic Republic, Hungary, and Poland, Warsaw Pact states, to fulfill commitments on religious freedom undertaken in the Helsinki Final Act and to respect international law on human rights and fundamental freedoms, especially in the area of religion, at every appropriate international forum, including all of the meetings of the Conference on Security and Cooperation in Europe, all appropriate gatherings of the United Nations, and in bilateral meetings with the offending governments.

SEC. 3. The President shall transmit a copy of this resolution to the Ambassador from each of the Warsaw Pact states.

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. FASCELL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days on which to revise and extend their remarks on the Senate concurrent resolution just adopted.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

AWARDS OF EXPENSES OF CERTAIN AGENCY AND COURT PROCEEDINGS

Mr. KASTENMEIER. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 5479) to amend section 504 of title 5, United States Code, and section 2412 of title 28, United States Code, with respect to awards of expenses of certain agency and court proceedings, and for other purposes, with a Senate amendment thereto, and concur in the Senate amendment with an amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment and the House amendment to the Senate amendment as follows:

Senate amendments: Strike out all after the enacting clause and insert:

That (a) section 504(a)(1) of title 5, United States Code, is amended—

(1) by striking out "as a party to the proceeding", and

(2) by adding at the end thereof the following: "The decision of the adjudicative officer on the application for fees and other expenses shall be the final administrative decision under this section.".

(b) Section 504(a)(2) of title 5, United States Code, is amended by adding at the end thereof the following: "When the United States appeals the underlying merits of an adversary adjudication, no decision on an application for fees and other expenses in connection with that adversary adjudication shall be made under this section until a final and unreviewable decision is rendered by the court on the appeal or until the underlying merits of the case have been finally determined pursuant to the appeal.".

(c) Section 504(b) of title 5, United States Code, is amended—

(1) by amending paragraph (1)(B) to read as follows:

"(B) 'party' means a party as defined in section 551(3) of this title, who is (i) an individual whose net worth did not exceed $2,000,000 at the time the adversary adjudication was initiated, or (ii) any owner of an unincorporated business, or any partnership, corporation, association, unit of local government, or organization, the net worth of which did not exceed $7,000,000 at the time the adversary adjudication was initiated, and which had not more than 500 employees at the time the adversary adjudication was initiated; except that an organization described in section 501(c)(3) of the Internal Revenue Code of 1954 (26 U.S.C. 501(c)(3)) exempt from taxation under section 501(a) of such Code, or a cooperative association as defined in section 15(a) of the Agricultural Marketing Act (12 U.S.C. 1141j(a)), may be a party regardless of the net worth of such organization or cooperative association;";

(2) in paragraph (1)(C)—

(A) by inserting "(i)" before "an adjudication under";

(B) by inserting before the semicolon at the end thereof the following: ", and (ii) any appeal of a decision made pursuant to section 6 of the Contract Disputes Act of 1978 (41 U.S.C. 605) before an agency board of contract appeals as provided in section 8 of that Act (41 U.S.C. 607)"; and

(C) by striking out "and" at the end thereof;

(3) by striking out the period at the end of subparagraph (D) and inserting in lieu thereof "; and"; and

(4) by adding at the end thereof the following:

"(E) 'position of the agency' includes the underlying action which led to the adversary adjudication; except that fees and expenses may not be awarded to a party for any portion of the adversary adjudication in which the party has unreasonably protracted the proceedings.".

(d) Section 504(c)(2) of title 5, United States Code, is amended to read as follows:

"(2) If a party or the United States is dissatisfied with a determination of fees and other expenses made under subsection (a), that party or the United States (as the case may be) may, within 30 days after the determination is made, appeal the determination to the court of the United States having jurisdiction to review the merits of the underlying decision of the agency adversary adjudication. The court's determination on all appeals heard under this paragraph shall be based solely on the factual record made before the agency. The court may modify the determination of fees and other expenses only if the court finds that the failure to make an award of fees and other expenses, or the calculation of the amount of the award, was unsupported by substantial evidence.".

(e) Section 504(d) of title 5, United States Code, is amended to read as follows:

"(d) Fees and other expenses awarded under this subsection shall be paid by any agency over which the party prevails from any funds made available to the agency by appropriation or otherwise.".

(f) Section 504 title 5, United States Code, is amended by adding at the end thereof the following:

"(f) If complete payment of the fees and other expenses awarded under this section is not made within 60 days after the final agency action making an award of such fees and other expenses, interest shall be paid on the amount remaining due. Such interest shall be computed at the rate the Secretary of the Treasury establishes for interest payments under section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611), and shall run from the date which is 61 days after the date of such award up to and including the date such payment is posted by certified or registered mail.".

SEC. 2. (a) Section 2412 of title 28, United States Code, is amended—

(1) in subsections (a) and (b) by striking out "or any agency and any official of the United States" each place it appears and inserting in lieu thereof "or any agency or any official of the United States";

(2) in subsection (d)(1)(A) by inserting ", including proceedings for judicial review of agency action," after "in tort)"; and

(3) in subsection (d)(1)(B) by inserting immediately after "action" the following: "or within 30 days after the party prevails on remand ordered pursuant to section 205(g) or 1631(c)(3) of the Social Security Act (42 U.S.C. 405(g) or 1383(c)(3))".

(b) Section 2412(d)(2) of title 28, United States Code, is amended—

(1) in subparagraph (B)—

(A) in clause (i) by striking out "$1,000,000" and inserting in lieu thereof "$2,000,000"; and

(B) by striking out "(ii)" and all that follows through the end of the subparagraph and inserting in lieu thereof the following: "or (ii) any owner of an unincorporated business, or any partnership, corporation, association, unit of local government, or organization, the net worth of which did not exceed $7,000,000 at the time the civil action was filed, and which had not more than 500 employees at the time the civil action was filed; except that an organization described in section 501(c)(3) of the Internal Revenue Code of 1954 (26 U.S.C. 501(c)(3)) exempt from taxation under section 501(a) of such Code, or a cooperative association as defined in section 15(a) of the Agricultural Marketing Act (12 U.S.C. 1141j(a)), may be a party regardless of the net worth of such organization or cooperative association;";

(2) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof a semicolon; and

(3) by adding at the end thereof the following:

"(D) 'position of the United States' includes the underlying agency action which led to the litigation; except that fees and expenses may not be awarded to a party for any portion of the litigation in which the party has unreasonably protracted the proceedings;

"(E) 'civil action brought by or against the United States' includes an appeal by a party, other than the United States, from a decision of a contracting officer rendered pursuant to a disputes clause in a contract with the Government or pursuant to the Contract Disputes Act of 1978;

"(F) 'court' includes the United States Claims Court;

"(G) 'final judgment' means a judgment that is final and not appealable;

"(H) 'prevailing party in a civil action' includes a party who, pursuant to section 205(g) or 1631(c)(3) of the Social Security Act (42 U.S.C. 405(g) or 1383(c)(3)), has won an order remanding the cause for further hearing, except that this provision shall not apply—

"(i) to cases to the extent that the remand was based on section 2(d) of the Social Security Disability Benefits Reform Act of 1984;

"(ii) to cases to the extent the remand is requested by the claimant in order to introduce new evidence which the claimant had not introduced or attempted to introduce at the administrative agency level; or

"(iii) to cases in which, after the remand, the claimant has not prevailed with respect to the underlying issue; and

"(I) 'prevailing party', in the case of eminent domain proceedings, means a party who obtains a final judgment (other than by settlement), exclusive of interest, the amount of which is at least as close to the highest valuation of the property involved that is attested to at trial on behalf of the property owner as it is to the highest valuation of the property involved that is attested to at trial on behalf of the Government.".

(c) Section 2412(d)(4) of title 28, United States Code, is amended to read as follows:

"(4) Fees and other expenses awarded under this subsection to a party shall be paid by any agency over which the party prevails from any funds made available to the agency, by appropriation or otherwise."

(d) Section 2412 of title 28, United States Code, is amended by adding at the end thereof the following:

"(f) If complete payment of the costs or fees and other expenses awarded under this section is not made within 60 days after the award of such costs or fees and other expenses, interest shall be paid thereof on the amount remaining due. Such interest shall be computed at the rate the Secretary of the Treasury establishes for interest payments under section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611), and shall run from the date which is 61 days after the date of such award up to and including the date such payment is posted by certified or registered mail.".

SEC. 3. Section 206 of the Equal Access to Justice Act is amended—

(1) by striking out "Nothing" and inserting in lieu thereof "(a) Except as provided in subsection (b), nothing"; and

(2) by adding at the end thereof the following:

"(d) Section 206(b) of the Social Security Act (42 U.S.C. 406(b)(1)) shall not prevent an award of fees and other expenses under section 2412(d) of title 28, United States Code. Section 206(b)(2) of the Social Security Act shall not apply with respect to any such award but only if any fees collected by the claimant's attorney or withheld for such attorney pursuant to such section 206(b) are refunded to the claimant insofar as the fees relate to the same work for which the claimant's attorney is awarded fees under section 2412(d) of title 28, United States Code.".

SEC. 4. Section 203(c) of the Equal Access to Justice Act (Public Law 96-481) is repealed.

SEC. 5. Section 203(c) of the Equal Access to Justice Act is repealed.

SEC. 6. Section 207 of the Equal Access to Justice Act is repealed.

SEC. 7. Section 208 of the Equal Access to Justice Act is amended by adding at the end thereof the following: "Awards may be made for fees incurred before October 1, 1981, in any such adversary adjudication or civil action.".

SEC. 8. (a) Section 7430(b)(1) of the Internal Revenue Code of 1954 (relating to maximum dollar amount) is amended by striking out "$25,000" and inserting in lieu thereof "$50,000".

(b) Subparagraph (A) of section 7430(c)(2) of such Code (defining prevailing party) is amended to read as follows:

"(A) IN GENERAL.—The term 'prevailing party' means any party to any proceeding described in subsection (a) (other than the United States or any creditor of the taxpayer involved)—

"(i) which has substantially prevailed with respect to—

"(I) the amount in controversy, or

"(II) the most significant issue or set of issues presented, and

"(ii) with respect to which the United States has not established that its position in the civil proceeding was substantially justified.

In determining whether the position of the United States in any civil proceeding was substantially justified, the court may take into account the administrative actions of the Internal Revenue Service in the matter giving rise to the issues in such proceeding. Notwithstanding this subparagraph, a party shall not be treated as a prevailing party if special circumstances would make an award unjust.".

(c) Section 7430(f) of such Code (relating to termination date) is amended by striking out "1985" and inserting in lieu thereof "1989".

SEC. 9. (a) Except as otherwise provided in this section, the amendments made by this Act shall be effective as of October 1, 1984, and shall apply to cases pending on such date.

(b) The amendments made to section 504(b)(1)(C)(ii) of title 5, United States Code, by subsection (c)(2) of the first section of this Act, and the amendments to section 2412(d)(2)(E) of title 28, United States Code, made by section 2(b)(3) of this Act shall apply to any adversary adjudication which was pending on or commenced on or after October 1, 1981, in which applications for fees and expenses were timely filed and were dismissed for lack of jurisdiction.

(c)(1) Except as provided in paragraph (2), the amendments made by section 8 of this Act shall apply to civil actions or proceedings pending on, or commenced after, the 45th day after the date of the enactment of this Act.

(2) The amendments made by section 8 shall not apply to any action or proceeding

pending on such 45th day if there has been a determination by any court of the United States (including the Tax Court and the United States Claims Court) with respect to—

(A) the awarding of reasonable litigation costs in such proceeding, or

(B) the most significant issue or set of issues presented in such proceeding.

Amend the title so as to read: "A bill to amend section 504 of title 5, United States Code, and section 2412 of title 28, United States Code, with respect to awards of expenses of certain agency and court proceedings, and for other purposes.".

House amendment to the Senate amendment:

In lieu of the matter proposed to be inserted by the Senate amendment, insert:

That (a) section 504(a)(1) of title 5, United States Code, is amended—

(1) by striking out "as a party to the proceeding", and

(2) by adding at the end thereof the following: "The decision of the adjudicative officer on the application for fees and other expenses shall be the final administrative decision under this section.".

(b) Section 504(a)(2) of title 5, United States Code, is amended by adding at the end thereof the following: "When the United States appeals the underlying merits of an adversary adjudication, no decision on an application for fees and other expenses in connection with that adversary adjudication shall be made under this section until a final and unreviewable decision is rendered by the court on the appeal or until the underlying merits of the case have been finally determined pursuant to the appeal.".

(c) Section 504(b) of title 5, United States Code, is amended—

(1) by amending paragraph (1)(B) to read as follows:

"(B) 'party' means a party, as defined in section 551(3) of this title, who is (i) an individual whose net worth did not exceed $2,000,000 at the time the adversary adjudication was initiated, or (ii) any owner of an unincorporated business, or any partnership, corporation, association, unit of local government, or organization, the net worth of which did not exceed $7,000,000 at the time the adversary adjudication was initiated, and which had not more than 500 employees at the time the adversary adjudication was initiated; except that an organization described in section 501(c)(3) of the Internal Revenue Code of 1954 (26 U.S.C. 501(c)(3)) exempt from taxation under section 501(a) of such Code, or a cooperative association as defined in section 15(a) of the Agricultural Marketing Act (12 U.S.C. 1141j(a)), may be a party regardless of the net worth of such organization or cooperative association;";

(2) in paragraph (1)(C)—

(A) by inserting "(i)" before "an adjudication under";

(B) by inserting before the semicolon at the end thereof the following: ", and (ii) any appeal of a decision made pursuant to section 6 of the Contract Disputes Act of 1978 (41 U.S.C. 605) before an agency board of contract appeals as provided in section 8 of that act (41 U.S.C. 607)"; and

(C) by striking out "and" at the end thereof;

(3) by striking out the period at the end of subparagraph (D) and inserting in lieu thereof "; and"; and

(4) by adding at the end thereof the following:

"(E) 'position of the agency' includes the underlying action which led to the adversary adjudication; except that fees and expenses may not be awarded to a party for any portion of the adversary adjudication in which the party has unreasonably protracted the proceedings.".

(d) Section 504(c)(2) of title 5, United States Code, is amended to read as follows:

"(2) If a party or the United States is dissatisfied with a determination of fees and other expenses made under subsection (a), that party or the United States (as the case may be) may, within 30 days after the determination is made, appeal the determination to the court of the United States having jurisdiction to review the merits of the underlying decision of the agency adversary adjudication. The court's determination on all appeals heard under this paragraph shall be based solely on the factual record made before the agency. The court may modify the determination of fees and other expenses only if the court finds that the failure to make an award of fees and other expenses, or the calculation of the amount of the award, was unsupported by substantial evidence.".

(e) Section 504(d) of title 5, United States Code, is amended to read as follows:

"(d) Fees and other expenses awarded under this subsection shall be paid by any agency over which the party prevails from any funds made available to the agency by appropriation or otherwise.".

(f) Section 504 of title 5, United States Code, is amended by adding at the end thereof the following:

"(f) If complete payment of the fees and other expenses awarded under this section is not made within 60 days after the final agency action making an award of such fees and other expenses, interest shall be paid on the amount remaining due. Such interest shall be computed at the rate the Secretary of the Treasury establishes for interest payments under section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611), and shall run from the date which is 61 days after the date of such award up to and including the date such payment is posted by certified or registered mail.'.

SEC. 2. (a) Section 2412 of title 28, United States Code, is amended—

(1) in subsections (a) and (b) by striking out "or any agency and any official of the United States" each place it appears and inserting in lieu thereof "or any agency or any official of the United States";

(2) in subsection (d)(1)(A) by inserting ", including proceedings for judicial review of agency action," after "in tort)"; and

(3) in subsection (d)(1)(B) by inserting immediately after "action" the following: "or order of remand for further hearing made pursuant to section 205(g) or 1631(c)(3) of the Social Security Act (42 U.S.C. 405(g) or 1383(c)(3))".

(b) Section 2412(d)(2) of title 28, United States Code, is amended—

(1) in subparagraph (B)—

(A) in clause (i) by striking out "$1,000,000" and inserting in lieu thereof "$2,000,000"; and

(B) by striking out "(ii)" and all that follows through the end of the subparagraph and inserting in lieu thereof the following: "or (ii) any owner of an unincorporated business, or any partnership, corporation, association, unit of local government, or organization, the net worth of which did not exceed $7,000,000 at the time the civil action was filed, and which had not more than 500 employees at the time the civil action was filed; except than an organization described in section 501(c)(3) of the Internal Revenue Code of 1954 (26 U.S.C. 501(c)(3)) exempt from taxation under section 501(a) of such Code, or a cooperative association as defined in section 15(a) of the Agricultural Marketing act (12 U.S.C. 1141j(a)), may be a party regardless of the net worth of such organization or cooperative association;";

(2) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof a semicolon; and

(3) by adding at the end thereof the following:

"(D) 'position of the United States' includes the underlying agency action which led to the litigation; except that fees and expenses may not be awarded to a party for any portion of the litigation in which the party has unreasonably protracted the proceedings;

"(E) 'civil action brought by or against the United States' includes an appeal by a party, other than the United States, from a decision of a contracting officer rendered pursuant to a disputes clause in a contract with the Government or pursuant to the Contract Disputes Act of 1978;

"(F) 'court' includes the United States Claims Court;

"(G) 'final judgment' means a judgment that is final and not appealable;

"(H) 'prevailing party in a civil action' includes a party who, pursuant to section 205(g) or 1631(c)(3) of the Social Security Act (42 U.S.C. 405(g) or 1383(c)3)), has won an order remanding the cause for further hearing except that this provision shall not apply to cases to the extent that the remand was based on section 2(d) of the Social Security Disability Benefits Reform Act of 1984; and

"(I) 'prevailing party' in the case of eminent domain proceedings, means a party who obtains a final judgment (other than by settlement), exclusive of interest, the amount of which at least as close to the highest valuation of the property involved that is attested to at trial on behalf of the Government.".

(c) Section 2412(d)(4) fo title 28, United States Code, is amended to read as follows:

"(4) Fees and other expenses awarded under this subsection to a party shall be paid by an agency over which the party prevails from any funds made available to the agency, by appropriation or otherwise.".

(d) Section 2412 of title 28, United States Code, is amended by adding at the end thereof the following:

"(f) If complete payment of the costs or fees and other expenses awarded under this section is not made within 60 days after the award of such costs or fees and other expenses, interest shall be paid thereafter on the amount remaining due. Such interest shall be computed at the rate the Secretary of the Treasury establishes for interest payments under section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611), and shall run from the date which is 61 days after the date of such award up to and including the date such payment is posted by certified or registered mail.".

SEC. 3. Section 206 of the Equal Access to Justice Act is amended—

(1) by striking out "Nothing" and inserting in lieu thereof "(a) Except as provided in subsection (b), nothing"; and

(2) by adding at the end thereof the following:

"(b) Section 206(b) of the Social Security Act (42 U.S.C. 406(B)(1)) shall not prevent an award of fees and other expenses under section 2412(d) of title 28, United States Code. Section 206(b)(2) of the Social Security Act shall not apply with respect to any such award but only if any fees collected by the claimant's attorney or withheld for such attorney pursuant to such section 206(b) are refunded to the claimant's attorney is awarded fees under section 2412(d) of title 28, United States Code.".

SEC. 4. Section 204(c) of the Equal Access to Justice Act (Public Law 96-481) is repealed.

SEC. 5. Section 204(c) of the Equal Access to Justice Act is repealed.

SEC. 6. Section 207 of the Equal Access to Justice Act is repealed.

SEC. 7. Section 208 of the Equal Access to Justice Act is amended by adding at the end thereof the following: "Awards may be made for fees incurred before October 1, 1981, in any such adversary adjudication or civil action.".

SEC. 8. The amendments made by this act shall be effective as of October 1, 1984, and shall apply to cases pending on such date.

Mr. KASTENMEIER (during the reading). Mr. Speaker, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Wisconsin?

Mr. STARK. Mr. Speaker, reserving the right to object, and I do so in order to make inquiry of the distinguished gentleman from Wisconsin [Mr. KASTENMEIER].

It is my understanding the Senate amendment contains a number of amendments to the Internal Revenue Code that would be within the jurisdiction of the Committee on Ways and Means.

Mr. Speaker, would the gentleman tell me that these provisions are deleted by the House amendment to the Senate amendment?

Mr. KASTENMEIER. Mr. Speaker, will the gentleman yield to me under his reservation?

Mr. STARK. I yield to the gentleman from Wisconsin.

Mr. KASTENMEIER. I thank the gentleman for yielding.

Mr. Speaker, as I have previously indicated to the gentleman from California, the tax provisions are deleted. We are sending the bill back to the other body with an amendment. That amendment has three changes in it from the amendment received by the other body. One, even though the bill is in other respects substantially the same as that bill which passed the House on September 11, that is the Equal Access to Justice Act extension, it does not include the language from the other body relating to tax cases and changes in the Tax Equity and Fiscal Responsibility Act [TEFRA]. The other two changes relate to the Social Security remand provision and to when the effective date applies to hearings before the Boards of Contract Appeals.

As the gentleman knows, our colleague from Illinois [Mr. ROSTENKOWSKI], the chairman of the Committee on Ways and Means, has, as the gentleman has stated, indicated disagreement with that provision applying to tax cases under TEFRA.

While I personally do not find the provision obnoxious, nonetheless because I do feel it would be more consistent with the language of the Equal Access to Justice Act, nonetheless I do defer to my colleague and his committee's jurisdiction on this question, and the bill will go back to the Senate without any reference whatsoever to taxes and tax cases under TEFRA.

Mr. Speaker, I rise in support of H.R. 5479 as so amended by the amendment to the Senate amendment.

This bill as so amended is essentially the same as H.R. 5479 which passed this body on September 11. However, we have incorporated some provisions which the Senate suggested; First, raising the net worth ceiling of an eligible party to $2 million for an individual and $7 million for a business or organization; second, limiting the source of the funds for fees from the liable agency to the funds made available by appropriation or otherwise to that agency; third, revising the definition of the position of the United States or agency which must be substantially justified; and fourth, clarifying the term "final judgment."[1]

Most of the other provisions of this amendment incorporate identical language in H.R. 5479 and S. 919.

The amendment as offered does not include the language from the other body relating to tax cases and changes in the Tax Equity and Fiscal Responsibility Act [TEFRA]. My distinguished colleague from Illinois [Mr. ROSTENKOWSKI] who is chairman of the Committee on Ways and Means has indicated his disagreement with that provision. Although I personally could have supported the language including changes in TEFRA to be more consistent with the Equal Access to Justice Act, I defer to my colleague and to his committee's jurisdiction. The House amendment also contains language which was recommended by the other body which would limit fees and expenses under this act to the extent a remand is ordered pursuant to section 2(d) of the Social Security Disability Benefits Reform Act of 1984.

[1] The term final judgment does not exclude fee recoveries in cases resolved by orders from which no appeals may ordinarily be taken, such as consent orders or orders granting voluntary dismissals. The term will cover situations in which all judicial review has ended, including certiorari petitions to and direct appeals to the U.S. Supreme Court.

Mr. Speaker, this legislation has as its primary purpose to allow individuals and small business to be able to vindicate their rights in certain administrative and court proceedings when they prevail against the United States. It has widespread support from the business community and from others including the American Bar Association. The cost of the original act (title II, Public Law 96-481) has only been $2.5 million during the past 3 years. CBO has estimated that it could cost approximately $3 to $5 million in the future. It is a small price to pay to ensure that justice is done. In the case of fee awards, fees will come from the agencies own budgets and they will be made more accountable for their actions. In the case of Social Security claimants who prevail under the act the fees will come from the Department of Health and Human Services budget, and not directly or indirectly from the Social Security trust fund. Most of the provisions of the Equal Access to Justice Act were due to expire on October 1, 1984. This legislation will ensure that this important act is continued.

I am hopeful that this compromise will be acceptable to the other body.

Mr. STARK. Mr. Speaker, I thank my distinguished colleague from Wisconsin, and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Wisconsin?

Mr. MORRISON of Connecticut. Reserving the right to object, Mr. Speaker, first I would like to commend the gentleman from Wisconsin for his persistent leadership in moving this important legislation toward enactment. It is important to note that the Equal Access to Justice Act expired on September 30, 1984, and it is important legislation that we should try our best to enact.

Mr. Speaker, I do want to inquire of the gentleman from Wisconsin with respect to one particular provision.

As I understand the amendment which the Senate placed on this bill, it included a change in the language which was passed by this House with respect to the treatment of social security cases when remanded by the district court.

As I understand, the Senate language added certain exceptions to the provision that we included in the House.

Do I understand correctly that this amendment which the gentleman is now offering, which we expect to send back to the Senate, has removed those exceptions except for the exception which relates to the disability amendments which we have recently passed in the Congress?

Mr. KASTENMEIER. Mr. Speaker, will the gentleman from Connecticut

yield under this reservation of objection?

Mr. MORRISON of Connecticut. I yield to the gentleman from Wisconsin.

Mr. KASTENMEIER. I thank the gentleman from Connecticut for yielding.

Mr. Speaker, the gentleman from Connecticut states the matter absolutely correctly. We have concurred with the Senate only with reference to the exception relating to a remand based on section 2(d) of the Social Security Disability Benefits Reform Act of 1984. We have deleted the other two exceptions.

So the amendment returns to the other body with those two other exceptions related to remands in Social Security cases deleted.

Mr. MORRISON of Connecticut. Mr. Speaker, I thank the gentleman. I thank the gentleman for this action in taking this position with respect to these amendments.

Mr. Speaker, I think the rights of Social Security recipients will be much better protected if this version of the language is in the final act.

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Mr. KASTENMEIER. If the gentleman form Connecticut [Mr. MORRISON] will yield further, I want to compliment him for his work in the subcommittee, in the full committee, and since that time on behalf of certain Social Security changes of considerable benefit in this bill to Social Security recipients.

Mr. MORRISON of Connecticut. I very much thank the gentleman, my chairman.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Wisconsin [Mr. KASTENMEIER]?

Mr. MOORHEAD. Mr. Speaker, reserving the right to object, I support this legislation, together with the amendment being offered by the gentleman from Wisconsin.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Wisconsin [Mr. KASTENMEIER]?

There was no objection.

A motion to reconsider was laid on the table.

UNFILLED PROMISES OF SUPPLY SIDE ECONOMICS

(Mr. ALEXANDER asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous material.)

● Mr. ALEXANDER. Mr. Speaker, when Ronald Reagan was elected President, he promised to break the back of inflation. Unfortunately, he failed to recognize at that time that his plan for breaking the back of inflation would start the worst recession since the 1930's and ultimately cost 20 million American jobs. He also failed to tell the American people that he would change course and finance his economic recovery with deficit spending that would cost American taxpayers about $200 billion a year.

Today I include as part of the RECORD the last of two parts of an eight-part series from the Arkansas Gazette entitled "Unfilled Promises of Supply Side Economics." I have placed this series in the RECORD to provide my colleagues access to this important analysis, and I commend the Gazette and Mr. DuVall, the author, for this significant contribution to the public's understanding of the economic crisis which Ronald Reagan has placed at America's doorstep.

The article follows:

UNFILLED PROMISES OF SUPPLY SIDE ECONOMICS—INFLATION IS OVERDUE

(By Leland DuVall)

The four apocalyptic horsemen—War, Famine, Pestilence and Death—are familiar figures to students of the Revelation. The fifth horseman, a little buckaroo riding a Shetland and bringing up the rear, may be ignored because he is not perceived to share power over "the fourth part of the earth."

He is Inflation and, even though the depredation of his deeds is not always dramatic, he is no modern phenomenon. Plutarch recorded that Solon, who became the Archon of Athens in 594 B.C., inflated the money to shake off the debt burdens of the Athenians.

Solon obviously did not comprehend the potential danger of the sinister force. He apparently believed he did a noble deed when he raised the "value" of a pound of silver from 67 drachmas to 100 drachmas. Nearly 26 centuries later, having observed and recorded the repeated plunderings of inflation, we have a clearer understanding of the threat.

Fortunately, there is little reason to worry. President Reagan has assured us that he has brought inflation under control by applying the wisdom of the "New Beginning." The ancient enemy of a stable economy, we are told, has been neutralized by the Curve of Laffer and the magic of supply-side economics.

The formula and the results must have come as a complete surprise to those dedicated scholars who, having spent decades studying the causes and cures of inflation, saw all their theories flushed down the drain. Mr. Reagan did none of the things that were supposed to tame the fifth horseman. Actually, in his frantic effort to end the longest and one of the deepest post-war recessions, he initiated policies that most economists—Keynesians or Friedmanites—believed would generate inflation.

To the amazement of just about everyone—including, perhaps, Mr. Reagan himself—prices drifted toward stability. The condition has been widely interpreted as evidence that inflation is under control.

Economists—who, like many other scholars, spend a great deal of time trying to find simplified and understandable solutions to complex problems—usually embrace one of two theories about the causes and cures of inflation.

One group, which traces the origin of its theory at least back to Solon, holds that inflation reflects the relationship between the "money supply," as measured by some agreed-upon definition, and the supply of goods and services. If the money supply is expanded, prices rise; if it is contracted, prices fall. Milton Friedman has restated the theory and emerged as the chief guru of the "Monetarists."

The rival school—whose views, incidentally, differ only moderately from the Friedmanites—concentrates its attention on management of the federal budget. Deficit spending generates inflation; taxing-spending policies that produce surpluses for the U.S. Treasury, if that condition ever existed, would be deflationary. The late John Maynard Keynes followed the "Fiscal" theory.

(A more detailed analysis reveals that the two groups are in general agreement. The fiscalists simply hold that deficit spending is a method by which the money supply is inflated.)

By either definition, the Reagan administration has followed the most inflationary course ever pursued in the history of the country.

The "money supply" on December 31, 1981, was $406.2 billion; at the beginning of August, 1984, it was about $547 billion for an expansion of about $141 billion or almost 35 per cent. (For the benefit of precisionists. the currently-defined "money supply" consists of checkable deposits and currency held by the public.)

In the process of permitting the money supply to expand by 35 percent in less than four years, the Federal Reserve violated all the rules of the monetarists. Dr. Friedman, who spelled out the formula in detail, said the growth rate should be in the range of 3 to 5 percent a year. Any expansion beyond that would be inflationary. His argument is that some growth is necessary in order to accommodate normal expansion, but, for all its marvelous recovery, the American economy is barely above the level achieved before the 1980 recession. Consequently, while the economy has posted only moderate development, the money supply increased by 35 per cent. In theory, that certainly should be inflationary.

Late in President Carter's term, the national debt bumped against its $925 billion ceiling and Congress raised the limit to $978.6 billion. That was supposed to take care of matters through September, 1981.

Now, three years later, the national debt is somewhere above $1.55 trillion for an increase of almost 60 per cent. According to the wisdom of the fiscalists, that should be wildly inflationary.

With both fiscal and monetary policies designed to send prices into orbit, we are witnessing the amazing spectacle of a stabilizing Consumer Price Index. The CPI was rising at a double-digit pace when the policies of the "New Beginning" were initiated. The rise last year was about 3.8 per cent and the current rate is in the range of 4 per cent. That should be enough to puzzle the academic economists, regardless of their theological leanings.

Since the "New Beginning" has not been characterized by moderation in either fiscal or monetary policies, there must be other reasons for the stabilizing tendencies of the CPI.

Money supply

	Billions
January 1981	$406
January 1982	450
January 1983	480
January 1984	525
August 1984	547
Growth (35 percent)	141

Mr. Reagan may have provided a part of the explanation back in 1976. In his book, "Ronald Reagan's Call to Action," he quoted Friedrich Hayek as saying "only several months of unemployment at 13 or 14 per cent" would halt the inflationary growth in the United States.

Mr. Reagan never actually achieved unemployment at 13 or 14 per cent, but he did preside over joblessness at 10.8 per cent in the last couple of months of 1982. For the record, Mr. Reagan (and the Federal Reserve) worked frantically to prevent the unemployment peak from coinciding with the 1982 election, which suggests that he was less interested in controlling inflation with the Hayek method than in rejuvenating his mandate by helping Republicans get through the off-year election.

The high rate of unemployment achieved during the Reagan recession certainly helped hold down the rise in the CPI, but other factors have to be considered. Three come to mind: (1) The severe farm recession, coupled with a world abundance of nonagricultural commodities, curbed the cost of raw materials; (2) the Organization of Petroleum Exporting Countries (OPEC) lost a measure of its control over the energy market and (3) a rising flood of imports provided competition that would have been absent if we had relied primarily on domestic production.

Farmers know how their prices have behaved, but that is only a part of the picture. The Dow Jones Commodities Futures Index has declined 15 per cent and the Spot Index has declined 11 per cent in the last year. In general, the weakness can be attributed to abundant supplies, but, it should be noted, the high level of production did not result from the stimulus of supply-side economics. The policies of the Reagan administration were not designed to generate prosperity in the boondocks.

The wisdom of the "New Beginning" certainly had nothing to do with the fact that the OPEC members are producing more oil than can be sold at $34 a barrel; consequently, the price has weakened. Gasoline prices are about 15 per cent lower than they were when Mr. Reagan was inaugurated but the decline cannot be credited to his economic policies. Rather, it is due primarily to a weakening of the cartel that tripled and retripled the price of petroleum in the period that began with the oil embargo of 1973.

The United States is importing price stability in a broader sense with its "strong" dollar. The currency is being supported to a major degree by heavy government borrowing that bids up the yields on securities. In the merchandise sector, the United States is expected to show a trade deficit of about $130 billion this year. With this amount of goods, ranging from cameras to cars, dumped on the market, domestic producers are unable to raise prices to anything like the degree that might be expected during a boom fueled by domestic production.

Make no mistake; the fifth horseman is still out there waiting patiently for the deficits and the expanding money supply to do their work. When the time is right, he can be expected to return.

With the election out of the way, Mr. Reagan may ride forth to meet him—with a strong effort to reduce the deficit and with tighter credit initiated by the Federal Reserve. There is one other thing: Mr. Reagan, in his incarnation as a lame duck (if he wins), might be prepared to accept the Hayek solution by tolerating "several months of unemployment at 13 or 14 per cent."

UNFILLED PROMISES OF SUPPLY SIDE ECONOMICS—VOTING ISN'T SIMPLE

(By Leland DuVall)

A capitalistic democracy is a cumbrous economic-political structure whose performance ultimately is determined by the amalgamated wisdom of its citizens. The statesmen who founded the country seemed to understand that the United States would function only so long as its citizens selected representatives and executives who possessed sufficient understanding and integrity to manage the affairs of a growing nation for the benefit of everyone.

Under our system, the whole process of governance begins with those who cast the votes—for alderman and for president. Consequently, the basic premise on which a capitalistic democracy is founded holds that all its citizens should "know what is happening while the events are taking place."

The task is not simple. Political campaigns, packaged by experts, often bury the issues in nests of fluff and camouflage them so effectively that a diligent effort is required to separate the wheat from the chaff.

The current presidential campaign provides a marvelous example of designed confusion. Since the formula was successful in 1980, Republicans had reason to believe it could be used again.

Four years ago voters were asked to give Ronald Reagan a mandate to "Revitalize America." When translated into policy, this meant: Reduce taxes by $750 billion, or some similar amount, over a five-year period with the bulk of the benefits flowing to a special interest class—namely, corporations and those who happened to be in the upper-income brackets. Through the magic of supply-side economics—which, in reality, happens to be the basic theology of traditional Republicanism—the benefits of forgiven taxes were supposed to percolate down to the lower economic strata.

The promise to reduce taxes was coupled with a pledge to balance the federal budget in 1983. After the inauguration, the schedule was revised to 1984. Mr. Reagan had an explanation for those who wondered how he could reduce revenues by $750 billion, increase defense spending dramatically and deliver a balanced budget to Congress for fiscal 1984. He said he would reduce the size and scope of government and cut out waste and fraud.

Voters, lulled by the hope that they would share in the $750 billion tax relief, were willing to believe that the elimination of "waste and fraud" would generate enough additional revenue to cover the expansion of the defense budget.

In retrospect, we can see that Mr. Reagan campaigned against "Big Government" and welfare fraud in 1980 and managed to convey the belief that only the Democrats favored a bloated bureaucracy. The warp of the weave—those threads that run from end to end through the pattern—remained the basic Republican theology as expressed by Calvin Coolidge when he said: "The business of this country is business."

Barry Goldwater had argued the theme belligerently in 1964, but the voters were not buying. Since no immediate benefits, such as a tax cut, were promised and the ordinary citizens would have to wait for their reward until corporate prosperity overflowed, the fabric lacked color and appeal. In 1980, the woof of the pattern—those threads that run crosswise in the loom—added the necessary hue. Mr. Reagan has stated the proposition repeatedly with the one-liner: "You are not living too well; the government is living too well."

The magic combination in 1980, which is being repeated in the current campaign, can be seen as the philosophy of Goldwater expressed in the idiom of George Wallace. The linguistic detail missing from Mr. Reagan's campaign oratory is that his "liberals" are not "pointy-headed."

Even though Mr. Reagan is trying to repeat the successful formula of his 1980 campaign, circumstances are forcing him to alter the details. His effort to eliminate "waste and fraud" and shrink the size of government have failed to compensate for the revenue loss. Consequently, his budget deficits approached $200 billion—four times the largest deficit posted at the peak of World War II and eight times Lyndon Johnson's largest shortfall—and no realistic citizen expects the present policy to solve the problem. Since he is seeking to succeed himself, Mr. Reagan cannot promise that his second term will correct the flaws of the previous four years.

Even Mr. Reagan's strongest corporate supporters grow nervous when they contemplate the debt explosion. Voters who "know what is happening" must understand that the winner in the current campaign will be expected to bulldog the budget deficit in 1985. There is, after all, a limit to this country's ability to absorb debt without generating rampant inflation.

The nonpartisan Congressional Budget Office has estimated that if the country follows the present course the shortfall in 1989 will be about $260 billion. Even Budget Director David Stockman has predicted that the 1989 deficit would be $161 billion, so few people are reassured by Treasury Secretary Donald Regan's promise of balance by the end of the decade.

Those who benefited most from the policies of Mr. Reagan's first term now face a compelling need to consolidate their gains and to find a painless (for them) way to replace the revenue lost through the Economic Recovery Tax Act of 1981.

In 1980, when Mr. Reagan was campaigning against "big government and those tax-and-tax, spend-and-spend liberals," the federal government spent $576.7 billion. Earlier this year, Mr. Reagan submitted his budget for fiscal 1985, the fourth for which he was responsible. It called for spending $925 billion for an increase of $343.3 billion or more than 60 per cent over 1980 outlays. The increase was almost double the total spending in the last year of the Johnson administration.

Budget deficits

	Billions
1969	Balanced
1976	$66.4
1980	59.6
1981	57.9
1982	110.6
1983	195.4

Fortunately, Mr. Reagan has a solution. Actually, he seems to have two plans for dealing with the matter—one of which will

be expected to serve the political needs of the campaign, and the other to be initiated when the next administration (his or Walter Mondale's) actually bulldogs the budget.

The proposal we can expect to hear between now and November is pure chaff. In his acceptance speech at the Republican National Convention and again in his weekly radio broadcast, Mr. Reagan said the deficits would be controlled if the country would adopt his balanced budget amendment to the Constitution and give him authority for the line-item veto.

The proposed amendment is a dodge that should be apparent to anyone who gives the matter serious thought. The process by which we alter the Constitution is long and involved, as the writers of the document intended. The wise course was designed to discourage frivolous tinkering with the basic statement of principles. If Congress, in a weak moment, should approve a resolution calling for a balanced budget amendment, the action would be completely meaningless until the required number of states stamped their approval. And while the state legislatures are willing to call for a convention, many of them may refuse to affirm the amendment the convention produces, especially if they think it might dry up their most painless source of revenue.

In any case, there is no possible way a balanced budget amendment could be adopted in time to influence fiscal affairs in the four years that will begin in 1985.

The line-item veto is equally meaningless as a tool for dealing with Mr. Reagan's fiscal problems. He could not be expected to line out items contained in his own budget, and his proposed spending plans consistently have been reduced in Congress.

Mr. Reagan could have saved all the confusion by submitting balanced budgets each year. He has the promise of Democrats in the House that any document calling for a balance between revenues and spending would be brought to the floor "in 48 hours." In such a budget, he could simply omit those items he intended to line out.

These proposals are no more than camouflage designed to conceal the reserve plan for dealing with the deficit. In his acceptance speech, Mr. Reagan delivered a throwaway line in which he promised to make future tax proposals "simple." If the pledge is fleshed out, it becomes the "Fair and Simple Tax," a so-called flat tax espoused by Representative Jack Kemp (Rep., N.Y.) and others. The plan would eliminate graduated income tax scales and apply the same rate to everyone. Thus would the "Marxist" taxing system, one of Mr. Reagan's most cherished targets, be eliminated.

If the initial flat rate still left us with an unacceptable deficit, revenue could be beefed up with a value-added tax that imposes levies on spending, rather than on income.

This is where we are and this is what we can expect. If the citizens understand what is happening and if they like the course we are following, they will have an opportunity to express their approval in November.

The assumption, of course, is that they are prepared to live with the consequences of their decision. After all, that is the way a capitalistic democracy is supposed to work.●

FAIR AND SIMPLE TAX SYSTEM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. PATTERSON] is recognized for 5 minutes.

● Mr. PATTERSON. Mr. Speaker, I rise today to speak out for reform of our Federal income tax system.

Americans have a rich history of objecting to taxes, going back to the Boston Tea Party. But, Americans have an also richer history of paying their taxes, with a degree of reliability and acceptance—or, should I say, resignation—that is rare in the world.

Today, however, that tradition of compliance is in trouble. More and more Americans are questioning the fairness of our current tax system; many believe they are being forced to bear a disproportionate share of the tax base.

Many people simply no longer believe that our tax laws are fair. Thus, compliance deteriorates. In a 1972 poll, a plurality of Americans (36 percent) identified the Federal income tax as the most fair tax in the United States. However, only 11 years later, an identical poll showed that a plurality of the population (35 percent) now believes that the income tax is the least fair tax. A majority of respondents to a more detailed 1978 poll said, above all, that the income tax isn't fair; middle-income persons pay too much, while the wealthy and big corporations pay too little.

A similar message comes from tax-filing behavior. The Internal Revenue Service [IRS] estimates that revenue lost owing to taxpayer noncompliance more than tripled from 1973 to 1981.

I think we have to pay attention to these facts and reexamine our tax system. Our citizens are trying to send us a message that today's Tax Code is unfair and excessively complicated.

Indeed, it is inequitable in that people with equal ability to pay taxes out of current income may in fact pay vastly different amounts of income tax.

The code is extraordinarily complex and lengthy, to the point where the ability to master the code (or to pay someone else to do it) has become a principal determinant of how much tax one actually pays. Indeed, an individual taxpayer can't even begin to understand the Tax Code which now spans over 2,000 pages, containing more than 100 major personal and business exemptions or incentives.

Because of the Tax Code, investment decisions are often based on their tax consequences more than on their economic potential, at a cost in economic growth that is probably heavy.

I have long believed that it is the role of the Government to provide the economic climate in which our neighborhoods and businesses can thrive. Primarily, this has meant the extension of tax incentives for certain economic activities which are deemed good for our society. However, I'm beginning to question the wisdom of such a system. Today we find that often these incentives do not work—and in some cases work too well to the extent that the "incentive" becomes a "loophole." And in some cases, the incentive is so powerful that it distorts the market to the degree that it ends up harming the group it was designed to assist.

Rather than merely tinkering with the Tax Code—making incremental changes to eliminate loopholes—as we have done over the last decade, I believe it is time for a major overhaul, one that would make the tax system simple and fair.

One proposal which I favor is the Bradley-Gephardt "fair tax" plan, a modified flat tax proposal. Under this tax simplification plan, the tax base is broadened and tax rates are cut.

Under the fair tax system most Americans—about 80 percent—would be taxed at a simple 14-percent rate. The personal exemption would be $1,600 per taxpayer ($3,200 for joint returns) and $1,000 per dependent. Single heads of households would receive a $1,800 exemption. Extra exemptions of $1,000 each for the elderly and the blind are retained. The standard deduction is increased to $3,000 for individual returns and $6,000 for joint returns. A family of four would have to receive income exceeding $11,200 before it paid any tax at all.

For families with incomes over $25,000 ($40,000 for joint returns), the tax would be 14 percent for income up to $25,000, plus a tax of 26 percent on income over that amount. A 30-percent rate would apply to income exceeding $37,500 (or $65,000 (for couples filing jointly).

While many deductions would be eliminated, those that would be retained include: home mortgage interest, State and local income and property taxes, charitable contributions, medical expenses exceeding 10 percent of adjusted gross income and business expenses. However, these deductions could only be used against the basic 14 percent tax rate and would thus be worth 14 cents per dollar spent by the taxpayer, regardless of his income level. Current law on contributions to IRA and Keogh plans and veterans and Social Security benefits would be retained. The child care credit would be converted to a deduction that would be available whether the taxpayer itemized or not.

The fair tax plan does not raise taxes. In fact, it would generate about the same amount of revenues as current law does. It would not shift the tax burden among income groups, but would tend to equalize the tax bills of various people with comparable income regardless of its source.

I'm pleased to learn that President Reagan may become a supporter of the fair tax plan. According to news accounts, Treasury Secretary Regan

has indicated that he will probably recommend a modified flat tax plan to President Reagan as the administration's promised tax reform program.

I look forward to working with the President and my colleagues in Congress next year as we take on the critical task of reforming the Tax Code. As complicated as this challenge is, we must work together to develop a consensus package which provides the reform that our citizens demand, need, and deserve.●

THE CONTINUING RESOLUTION—A LEGISLATIVE FIASCO

The SPEAKER pro tempore. Under a previous order of the House. the gentleman from California [Mr. DREIER] is recognized for 5 minutes.

Mr. DREIER. Mr. Speaker, although Halloween is still several weeks away, the party began early in our Nation's Capital, as my friends and colleagues here in Congress began dressing up in their favorite costumes to trick or treat before the American people. Unfortunately, as victims of the trick, the public was led to believe that a more responsible Congress had emerged, strong in its desire to prove it can effectively deal with the current budget crisis. The treat, however, was reserved for the participants of this Halloween party, and it came in the form of that legislative fiasco known as the continuing resolution.

This catchall spending bill passed by the House contains an unprecedented assortment of treats and goodies, all at the expense of the American taxpayer. It wasn't enough that $477 billion, approximately one-half of the Federal Budget, had been approved in one appropriation bill with minimum debate, thus circumventing a budget process once lauded as the cornerstone of an era in which discipline and accountability will be brought to the congressional budget process. But the continuing resolution also included an additional $18 billion for special projects that could not have possibly been approved through the normal budget process. Somewhere along the route to fiscal responsibility, the train was stopped on its tracks, held up by a band of special interest thugs who have been looting its compartments ever since. Today, the budget process is on its death bed. I am one who is prepared to see the last rites delivered.

Mr. Speaker, the continuing resolution was initially designed as a stopgap funding measure to keep the Federal Government operating until Congress can complete the budget process. But as always, this year's continuing resolution has now become a victim of policies so inscribed in the platform of the Halloween party. But preparations for this year's festivities actually began in 1982. As you recall, party planners promised that future deficit reduction proposals would contain $3 in spending cuts for every $1 in new taxes if we would only accept the $98 billion in new taxes called for in TEFRA. Then, in the spirit of Halloween trickery, Congress went on to approve a so-called deficit reduction package last June which contained $4 in new taxes for every $1 in spending cuts. And now, the Presidential nominee of the Halloween party promises to continue this tradition by proposing billions more in taxes and billions more in spending, so that the ghosts and gobblins in Congress can continue to ravage the candy store.

As if this wasn't enough, party pranksters decided to don their Halloween masks once again and stage an event that would surely spook the American public. On Tuesday, we sat in this Chamber in an atmosphere of fun and frolic, and were forced to accept a balanced budget measure void of any substance. It was an obvious con job on the American public, which is looking strenuously for a glimmer of hope that Congress may soon act to rid this country of its deficit woes. But when presented with the opportunity on Wednesday to go beyond this simple lip service and support a balanced budget constitutional amendment, the real purpose of those responsible for this masquerade of imagery was revealed.

The line-item veto, which, outside of a balanced budget amendment is the most effective way in which Congress can show its determination to eliminate wasteful and extravagent spending, was manipulated in similar fashion. The fact that a line-item veto is effectively used in 43 of 50 States is enough to send chills down the spines of Washington's big spenders.

I doubt that anyone is really fooled by the day-to-day charades which are so commonplace in this Chamber. Come out from under your transparent costumes; give up the gimmicks; throw away the props; and join the majority of us Americans who are determined to bring the Federal deficit under control, and preserve into the next generation the economic growth and prosperity begun under the present administration.

A TRIBUTE TO GEN. CASIMIR PULASKI

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ANNUNZIO] is recognized for 5 minutes.

● Mr. ANNUNZIO. Mr. Speaker, October 11 marks the 205th anniversary of the day on which the great Polish patriot and military leader, Count Casimir Pulaski, gave his life in order that our own country might be free. His name is known to all Americans, and to all people who value freedom, as a person whose selfless contributions and sacrifices personified the ideals which gave birth to our Nation.

Casimir Pulaski was actively involved in the resistance to Russian encroachments on Polish independence during the years 1768 to 1772. Although his military activities met with some success, Pulaski was unable to prevent the partition of his beloved country of Poland and was forced into exile. His deep commitment to the ideals of freedom, however, never waivered.

No longer able to fight for liberty in his own country of Poland, Pulaski offered his services to the United States, and in a letter to the Continental Congress in 1779, Count Pulaski recalled his gallant reasons for joining the American Colonies in their fight for independence, stating:

> As an enthusiastic Zeal for the glorious cause which animated America, when I came over, and a contempt of death, first introduced me in your service.
>
> I could not Submit to Stoop before the Sovereigns of Europe. So I came to hazard all the freedom of America, and desirous of passing the rest of my life in a Country truly free and before settling as a Citizen, to fight for liberty.

Pulaski arrived in Boston in June 1777, and fought with distinction at the Battle of Brandywine. Because of his meritorious service, Gen. George Washington recommended to the Continental Congress that it appoint Pulaski to the post of Brigadier General of Cavalry. Following additional military action, Pulaski organized an independent corps of cavalry and light infantry, known as the Pulaski Legion—and contributed to many successes of the American military cause throughout 1778.

Pulaski's courage and determination helped save Charleston, SC, from a superior force, and during the fierce siege of Savannah, he displayed undaunted courage in the face of fierce enemy resistance as he bravely led his cavalry into the thick of battle.

General Pulaski's final act of courage came at the Battle of Savannah. As the British fired from the fortified city, Pulaski volunteered to charge through the line of defense, enter the city of Savannah, and confuse the enemy. His untimely death at the head of this famous cavalry charge underscored his dedication to the ideals for which the colonists fought. His example of sacrifice and devotion to our Nation's cause is a model of patriotism for all times.

Mr. Speaker, true to the example set by Pulaski in his defense of freedom, Americans of Polish descent throughout the history of our Nation both in war and in peace, have made outstanding contributions to our precious heritage of liberty. I am proud to join Polish Americans in the 11th Congressional District of Illinois, which I am honored to represent, Americans of

Polish descent in Chicago, and all over this Nation in commemorating the 205th anniversary of General Pulaski's valiant sacrifice for the noble ideals of freedom.●

CONSULTATION ON THE REFUGEE ADMISSIONS PROGRAM FOR FISCAL YEAR 1985

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey [Mr. RODINO] is recognized for 5 minutes.

● Mr. RODINO. Mr. Speaker, the Refugee Act of 1980 (Public Law 96-212) requires the President to consult with Congress prior to the beginning of each fiscal year on his proposals for refugee admissions for the coming year. The following letter from Ambassador H. Eugene Douglas, the U.S. Coordinator for Refugee Affairs, forwarding a memorandum from the President of the United States, initiated the fiscal year 1985 consultation process:

U.S. COORDINATOR FOR
REFUGEE AFFAIRS,
Washington, DC, September 7, 1984.

Hon. PETER W. RODINO, Jr.,
Chairman, Committee on the Judiciary, House of Representatives.

DEAR MR. CHAIRMAN: In accordance with the Refugee Act of 1980, I am pleased to transmit the President's recommendation for the Fiscal Year 1985 refugee admission ceiling in preparation for our annual consultations with the Congress.

The Administration's final determination on admission levels and regional allocations will be made only after we have carefully considered Congressional and other views expressed during the consultation process.

Sincerely,

H. EUGENE DOUGLAS,
Ambassador-at-Large.

THE WHITE HOUSE,
Washington, DC, September 5, 1984.

Memorandum for Hon. H. Eugene Douglas,
U.S. Coordinator for Refugee Affairs.

Subject: Fiscal year 1985 refugee consultations.

I have reviewed the Senior Interagency Group recommendations on proposed levels for FY '85 refugee admissions and have approved the following ceilings for the consultations with Congress: Up to 70,000 refugees to the United States during FY '85 to be allocated as follows: 50,000 for East Asia; 9,000 for the Soviet Union/Eastern Europe; 5,000 for the Near East/South Asia; 3,000 for Africa; and 3,000 for Latin America/Caribbean. I have also approved a level of up to 5,000 refugee admissions numbers which shall be made available for the adjustment to permanent residence status of aliens who have been granted asylum in the United States as this is justified by humanitarian concerns or is otherwise in the national interest.

Further, in accordance with provisions of the Immigration and Nationality Act, I propose to specify that special circumstances exist that for the purposes of admissions the following persons, if they otherwise qualify for admission, may be considered refugees of special humanitarian concern to the United States even though they are still within their countries or nationality or habitual residence:

Persons in Vietnam with past or present ties to the United States, including Amerasian children; and

Present and former political prisoners, and persons in imminent danger of loss of life, and their family members, in countries of Latin America and the Caribbean.

RONALD REAGAN.

Adhering to the two-tier consultation format used in prior years, I, as chairman of the Committee on the Judiciary, scheduled on September 11, 1984, a closed meeting between committee consultative members and the Secretary of State, George Shultz, followed by a public hearing before the full committee.

As background information for members of the committee, the following tables were made available:

REFUGEE ADMISSION LEVELS SINCE ENACTMENT OF REFUGEE ACT OF 1980.

Fiscal year	Presidential proposal	Presidential determination [1]	Actual admissions
1981	217,000	217,000	159,252
1982	173,000	140,000	97,355
1983	98,000	90,000	61,681
1984	72,000	72,000	[2] 71,100

[1] Presidential determination made after completion of consultation process and consideration of congressional views.
[2] Estimated.

PROPOSED U.S. REFUGEE ADMISSIONS IN FISCAL YEAR 1985

Area of origin	Proposed admissions
Africa	3,000
East Asia	40,000
East Asia (Orderly Departure Program—Vietnam)	10,000
Eastern Europe and the Soviet Union	9,000
Latin America and the Caribbean	3,000
Near East and South Asia	5,000
Total	70,000

The proposed refugee admission numbers are regarded as ceilings, not goals or quotas.

A. ESTIMATED COSTS OF REFUGEE MOVEMENT TO AND RESETTLEMENT IN THE UNITED STATES

[Dollars in millions]

Agency	Fiscal year 1984 total cost	Fiscal year 1985
Department of State (RP)	106.0	117.2
Department of Health and Human Services (ORR)	509.6	354.5
Department of Health and Human Services (other)	155.3	109.7
Department of Agriculture (food stamps)	152.5	126.7
Total	923.4	708.1

B. U.S. CONTRIBUTIONS TO INTERNATIONAL REFUGEE SITUATIONS

[Dollars in million]

Agency	Fiscal year 1984	Fiscal year 1985
UNHCR	98.125	100.8
UNRWA	67.0	67.0
Refugees in Israel	12.5	12.5
ICRC	20.625	14.5
Other:		
Africa	6.5	4.0
UNBRO (Khmer)	10.0	9.5
Latin America (Salvador)	7.5	--
Pakistan	1.5	2.0
ICM	4.8	5.0
Food for Peace (Public Law 480)	63.9	61.6
Total	300.55	285.805

In the closed meeting with consultative members, Messrs. ROMANO L. MAZZOLI, HAMILTON FISH, Jr., DAN LUNGREN, and myself, Secretary of State Shultz presented the President's proposal for the admission of 70,000 refugees in fiscal year 1985. In addition, he announced two new initiatives at resolving the refugee problems in Southeast Asia: One, the United States would accept for admission all Asian American children and their qualifying family members in Vietnam, and two, a separate program within the Orderly Departure Program from Vietnam for the resettlement of political prisoners currently and previously confined in the reeducation camp prisons in Vietnam and their qualifying family members. Both initiatives, according to the Secretary, are dependent on the good will and cooperation of the Vietnamese Government.

Immediately after the closed meeting, the full committee met and heard testimony from Ambassador Eugene Douglas; James N. Purcell, Director, Bureau of Refugee Programs, Department of State; Phillip Hawkes, Director, Office of Refugee Resettlement, Department of Health and Human Services; Dr. Robert Knouss, Director, Office of Refugee Health, Department of Health and Human Services; and Doris Meissner, Associate Deputy Commissioner, Immigration and Naturalization Service, Department of Justice. Testimony presented by administration witnesses included policy and operational information concerning the fiscal year 1984 and fiscal year 1985 admissions programs.

On September 14, 1984, the consultative members sent the following letter to the President:

COMMITTEE ON THE JUDICIARY,
Washington, DC, September 14, 1984.

The PRESIDENT,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: We have completed the consultative process mandated by P.L. 96-212, the Refugee Act of 1980, with regard to refugee admissions and allocations for FY 1985 as recommended by you and transmitted to us by the U.S. Coordinator for Refugee Affairs, Ambassador H. Eugene Douglas.

The proposal calls for a ceiling of 70,000 refugees to be allocated as follows: 50,000 from East Asia, of which 10,000 numbers will be used for the Orderly Departure Pro-

gram from Vietnam; 3,000 from Africa; 9,000 from Eastern Europe and the Soviet Union; 3,000 from Latin America and the Caribbean; and 5,000 from the Near East and South Asia.

We are pleased to advise you that we interpose no objections to the number and allocations as recommended.

We note that, as in the past, these numbers are to be considered as ceilings rather than goals. During the course of the fiscal year, should there be a need to reallocate refugee numbers between regions, we respectfully request that we be consulted prior to effectuating any shift in numbers.

This Committee would appreciate being kept advised on a monthly basis by the U.S. Coordinator for Refugee Affairs with regard to the progress of the FY 1985 refugee admissions program.

Sincerely,

HAMILTON FISH, Jr.,
Ranking Minority Member, Committee on the Judiciary.
DANIEL LUNGREN,
Ranking Minority Member, Subcommittee on Immigration, Refugees, and International Law.
PETER W. RODINO, Jr.,
Chairman, Committee on the Judiciary.
ROMANO L. MAZZOLI,
Chairman, Subcommittee on Immigration Refugees, and International Law.

The following Presidential Determination, No. 85-1, dated September 29, 1984, was transmitted to the Congress by the U.S. Coordinator for Refugee Affairs, Ambassador H. Eugene Douglas:

THE WHITE HOUSE,
Washington, DC, September 29, 1984.

Memorandum for Hon. H. Eugene Douglas,
U.S. Coordinator for Refugee Affairs.

Subject: Fiscal year 1985 refugee ceilings.

In accordance with the relevant statutes and after appropriate consultations with the Congress, I have determined that:

The admission of up to 70,000 refugees to the United States during FY 1985 is justified by humanitarian concerns or is otherwise in the national interest;

The 70,000 worldwide refugee admission ceiling shall be allocated among the regions of the world as follows: 3,000 for Africa; 40,000 for first asylum from East Asia and 10,000 for the East Asian Orderly Departure Program; 9,000 for Eastern Europe and the Soviet Union; 3,000 for Latin America and the Caribbean; and 5,000 for the Near East and South Asia.

An additional 5,000 refugee admissions number shall be made available for the adjustment to permanent residence status of aliens who have been granted asylum in the United States, as this is justified by humanitarian concerns or is otherwise in the national interest.

In accordance with provisions of the Immigration and Nationality Act and after appropriate consultations with the Congress, I specify that special circumstances exist such that, for the purposes of admission under the limits established above, the following persons, if they otherwise qualify for admission, may be considered refugees of special humanitarian concern to the United States even though they are still within their countries of nationality or habitual residence:

Persons in Vietnam with past or present ties to the United States, including Amerasian children; and

Present and former political prisoners, and persons in imminent danger of loss of life and their family members, in countries of Latin America and the Caribbean.

You will inform the appropriate committees of the Congress of these determinations.

This memorandum shall be published in the Federal Register.

RONALD REAGAN.●

CONCURRING IN SENATE AMENDMENT TO TITLE OF H.R. 5479, AWARDS OF EXPENSES OF CERTAIN AGENCY AND COURT PROCEEDINGS

The SPEAKER pro tempore. Earlier this evening, on a request of Mr. KASTENMEIER of Wisconsin, the House concurred in the amendment of the Senate to H.R. 5479 with a further amendment.

Without objection, the House will also concur in the Senate amendment to the title of the bill.

There was no objection.

□ 2000

THE REPUBLICAN PARTY—A GRASSROOTS OPPORTUNITY PARTY—SPEAKS TO THE NEEDS OF AMERICAN PEOPLE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. WALKER] is recognized for 5 minutes.

Mr. WALKER Mr. Speaker, during the last few days, we have again observed the real difference between a party committed to backroom politics and a party committed to grassroots politics.

We have seen on this floor a number of measures come before us which were created in the backroom, brought to the floor in order to fool the American people and then sent away again to the backroom where they never will be heard from again.

That is opposed to a grassroots kind of strategy, which is attempting to bring to this floor for debate and final action those items that the American people have long put on their agenda. And whenever those items have shown up on this floor, we find that the backroom tactics are used in order to shove them aside or obliterate them completely.

Take, for example, the school prayer measure. In a massive debate on the floor only a few weeks ago over the issue of voluntary school prayer, that was an issue where ultimately we ended up endorsing the concept of silent prayer, and when the bill came back, what we found was that the whole provision had been eliminated, despite the fact that well over 300 Members of Congress had decided that that was something that they would indeed endorse.

Take the issue of a balanced budget. We had a backroom creation come before us earlier this week, which was in fact a sham, that said nothing of substance about a balanced budget, but a day later got the substantive approach on the floor only by a procedural means and then had that defeated, while Members will run around telling the American public that indeed what they voted on was simply a procedural question that had nothing to do with a balanced budget.

The fact is that the American people are not going to be fooled. The fact is that the American people know that when they want a balanced budget there is one party, a grassroots political party, the Republican Party, that is speaking to their needs on this floor. They also understand from watching the proceedings of this body that there is also a backroom political party in America today, the Democratic Party.

In fact, the President, the White House, today said the GOP, the Republican Party—GOP used to stand for Grand Old Party—today it has begun to stand for the grassroots opportunity party. And absolutely that is the case, because indeed the grassroots are being addressed in the Republican Party. And what the Republican Party has stood for on this floor in the last several weeks and in the last several days has been precisely those issues that the American people are saying in overwhelming numbers that they endorse.

The party of opportunity is the party which is really saying that the American families ought to have the ability to take that which they earn and use it for their own purposes and for their own priorities and not have it taxed away. An opportunity party does not believe in taking $157 a month out of the family paycheck. Walter Mondale's tax plan would take $157 a month out of every paycheck of the average family across this country, $157 a month that would go for priorities set in Washington rather than priorities set within the family itself.

The grassroots opportunity party understands that there is a difference between opportunities created in Washington and opportunities created at home.

Those are the issues that we have seen created here on the floor. Those are the issues that the American people will address in a matter of just a few weeks in the districts. Nothing that we do on the floor in terms of running backroom covers should divert the attention away from the basic issues and, in my opinion, will not divert the attention of the American people away from the basic issues. They know better. They are smarter than the politicians. They are way ahead of the politicians in most instances. They know what really affects their lives, and they know that this

body for too long has refused to address the issues that they are really concerned about. They may put an end to that. They may stop that process this year. The elections are the time when they can do it. The grassroots opportunity party, the Republican Party, is offering them a chance to do so.

FINANCIAL INSTITUTIONS LEGISLATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman form Rhode Island [Mr. ST GERMAIN] is recognized for 5 minutes.

● Mr. ST GERMAIN. Mr. Speaker, today the chairman of the Senate Banking Committee, the Hon. JAKE GARN, and the ranking minority member, the Honorable WILLIAM PROXMIRE, and I released to the public the following statement:

In view of the fact that no banking legislation will be finalized by Congress this week, we emphasize that legislation addressing the competitive and regulatory framework of the financial system will be the first priority of the Banking Committees of the House and Senate as soon as the 99th Congress convenes in 1985. Both of us agree on a need for a final resolution of all the issues early in the next Congress.

As regards the specific issue of the so-called "nonbank bank" loophole, it is our intention that the grandfather date of July 1, 1983, become law. Those who invest funds now assuming this grandfather date will be extended will, in our opinion, end up having to divest, no matter what the cost.●

THE RETIREMENT OF HON. BARBER CONABLE OF NEW YORK

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. STRATTON] is recognized for 5 minutes.

Mr. STRATTON. Mr. Speaker, because of a schedule conflict, it was impossible for me to be on hand last evening to join with an overwhelming number of Members of the House in participating in the special order of Mr. HORTON to pay tribute to our revered colleague, Hon. BARBER CONABLE of New York, who has decided to retire voluntarily from the House of Representatives at the end of the current session of the 98th Congress.

Therefore, I take this time today, as the chairman of the bipartisan New York State congressional delegation, to add my plaudits to those already extended to BARBER CONABLE on last evening, as well as my deep regrets at the heavy loss that the people of New York State, as well as the U.S. House of Representatives, will suffer in the retirement of BARBER CONABLE. It is, of course, still true that in our democratic system no one is really indispensable. But some people turn out to be more indispensable than others, and BARBER CONABLE is certainly high on the register of whatever takes the place of indispensability these days.

BARBER CONABLE is a man of many skills. He has become one of the Nation's outstanding experts in taxation, and is sought out by his colleagues on both sides of the aisle for his advice when difficult decisions on tax legislation have to be made.

He has also achieved some limited fame as probably the most colorful doodler in the long history of the House of Representatives, although the documentary evidence on this point is partly flawed because of the damage to records pertaining to this particularly popular legislative diversion that was sustained when the British forces burned down the Capitol in the year 1814.

However, a move is underfoot to add another wing—a north wing, I am told—to the National Gallery of Art for the hanging of BARBER'S unique doodles for the edification and perhaps even the "admonition of wiser ages yet to come," to quote an inscription from the library of the University of Rochester—his honorary alma mater and my real one.

Moreover, our colleague from Alexander, NY, is a very knowledgeable history buff, especially with regard to the activity of the Indians in New York State—not so much as regards their current activities in New York, as their earlier activities in the western New York area in those good old days when BARBER and I were growing up. When BARBER leaves the House Chamber, a treasure trove of Indian lore will, alas, go with him.

But most of all we will miss not only his wisdom and his wit, we will also miss his plain, down-to-earth, commonsense approach to the many perplexing problems that come to the attention of our National Legislature. Barber has not been one who fell for nostroms, or was taken in by flashy formulas or solgans.

As a good, sound eastern Republican I'm afraid that BARBER CONABLE may not entirely appreciate what I am going to say.

Back in the 1950's there was a very talented and witty politician, one who sought his Nation's highest office, but failed somehow to achieve it. Though he did not reach the political summit, he was the recipient of widespread admiration and respect.

I am, of course, referring to Adlai Stevenson, who believed in politics that, though other courses might be tempting, he would continue to "talk sense to the American people."

Mr. Speaker, in my judgment that is precisely what our great colleague, BARBER CONABLE, has been doing here in the House of Representatives where, as we all know, plain, common sense on occasion has not, alas, always been in the ascendant for the 20 years he has served here.

That is why BARBER CONABLE was voted by his colleagues earlier this year as the most respected Member of the House of Representatives. And that is why this great legislative Chamber will be the poorer when the gentleman from Alexander, NY, completes his 20 years as a Member of the House with the sine die adjournment of the 98th Congress.

Ave, atque, vale!

□ 2010

THE FACE OF POVERTY IS INCREASINGLY FEMALE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. HAYES] is recognized for 5 minutes.

Mr. HAYES. Mr. Speaker, the Reagan administration has been tooting a horn over their acomplishments on behalf of women's rights. I feel forced to dispute their stance because all the studies I have seen reinforce what so many of us observe firsthand in our districts, the face of poverty is increasingly female.

What has this administration done for women in jobs and training? As we all know, a stable and adequate income can mean the difference between struggling to survive and living in dignity. Women are struggling to exist in the lower economic levels of our society, and the projections for the 1990's do not offer much optimism.

In 1983, women made up 35 percent of the Federal workforce. These women continue to be disproportinately affected by reductions-in-force [RIF's], furloughs, limited new hirings, cutbacks in training, and pay freezes. On a broader scale, more than half of all employed women work in only 2 of the 12 major occupations—clerical and service workers, both lower paying occupations. In the next decade women will increase participation in the workforce but projections indicate that they will receive limited economic rewards. Women of color face a worse dilemma.

A serious and major effort must be made to alleviate the economic hardship faced by women. They need and must have jobs and salaries comparable to those of men because they are increasingly becoming the sole supporters of dependent children.

This week, Mr. Reagan told a Hispanic crowd in the Brownsville area of Texas that there is truth to the old saying: "Man does not live by bread alone. Man lives by belief, by faith in things that are larger than himself." That's all true: However, when men and women find themselves without employment, without the means to feed their family, they need more than faith and belief. They need realistic jobs.

I am pleased that the 98th Congress has increased the Nation's focus on the plight of women but it is insufficient to bring about the economic equity they deserve. Equal opportunity for women, minorities, the disadvantaged, and handicapped must become more than a slogan. We must make it a reality.

Mr. Chairman, I yield back the balance of my time.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a joint resolution of the House of the following title.

H.J. Res. 656. Joint resolution making further continuing appropriations for fiscal year 1985.

TRIBUTE TO THE HONORABLE KENNETH J. ROBINSON

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. MICHEL] is recognized for 60 minutes.

Mr. MICHEL. Mr. Speaker, I take this time because during the course of special orders earlier in the week when we were honoring the service of our departing Members, I was rather dumbfounded to learn that there had been, up to this point, no special order taken for our good friend KENNY ROBINSON of Virginia, and it is my understanding now that in the event we do not get adjourned this weekend and are forced to come back next week that the gentleman from Virginia [Mr. WHITEHURST] has requested a special order for the purpose of honoring the service of KENNY ROBINSON.

In the event we are not here next week and this would be the only opportunity for that special order to serve as a vehicle for Members to express themselves on the outstanding, exemplary service of our good friend, KENNY ROBINSON, I have taken this special order and given this opportunity.

I would like to say just a few things about KENNY's service here, particularly since he has served for these many years as a distinguished member of our Defense Appropriations Subcommittee.

KENNY ROBINSON is not one of those flamboyant individuals who rants and raves and loudly proclaims whatever he feels strongly about. Oddly enough, he is one of those very few in this House who when feeling strongly about a particular issue can make this case so well, the quiet tones only he possesses.

He has been a very fine member of that subcommittee, working arduously day in and day out, hour after hour, little recognized when you are in closed hearings from say January to May as is required so frequently by that subcommittee, but over and above that, there is one other obligation that he has performed for this House in such fine fashion.

As our ranking member of the Intelligence Committee ever since that committee was authorized 6 years ago, he has been our senior member and, here again, if ever there was a committee for which you get no public acclaim and accolades because of the very nature of the sensitive business that is heard before that committee, the quieter one serves, the better off he serves this body.

On occasion, yes, the case has to be made on the floor of this House and KENNY ROBINSON in his last 2 years, particularly when there have been some very strong differences of opinion that have been expressed in the intelligence area, KENNY ROBINSON has stood his ground in the well of this House against all his peers and made the most logical of cases.

I certainly would not want this opportunity to slip without having said these few things tonight, at least about our good friend KENNY ROBINSON, because hopefully there will be occasion next week, but in the event there is not, as I said, I would surely want that vehicle to be present for Members to express themselves.

I have noticed our good friend RALPH REGULA who serves on the Appropriations Committee with KENNY, and with me for those years when I served would like to be recognized, and I am happy to yield.

Mr. REGULA. I thank the gentleman for yielding to me and I am pleased that you did take the time for this special order.

Mr. Speaker, KENNY ROBINSON has been one of the great Members of this body and we cannot say enough nice things about his service.

When I grew up in a rural community as a boy and still live in a rural community, one of the highest accolades we could pay by way of tribute to someone was to say that they were a steady hand. What that meant in my community was that it was an individual who exercised common sense in approaching problems, an individual who was always to be counted on to make good, solid decisions, an individual that was there when you needed help and it was just simply a steady person in the community.

KENNY ROBINSON, as a Member of this body has been a steady hand. He is one that we can count on when tough decisions have to be made and he can be counted on when he brings a bill to the floor to be well informed and be able to articulate his position and the position that is good for this Nation very clearly and forcefully.

I have noticed, as a member of the Appropriations Committee and I am sure the gentleman in the well has found this to be true also, that when KENNY ROBINSON has something to say in the committee, people listen. They respect and appreciate his judgment on whatever the issue might be.

Clearly the fact that he served on Appropriations and on the Committee on Intelligence says very eloquently the confidence that the leadership has in his ability to bring good judgment to situations and clearly says that the other members of the minority appreciate the service that he can bring to these committees.

My predecessor in the Congress, Frank Bow, was the ranking member of Appropriations, and I know that he had the highest regard for KENNY ROBINSON. He placed him on the committee his second term in the Congress and one of the reasons he did was because he was a new legislator, a person who could be counted on to make those tough calls very much a part of the appropriations process.

I want to join in saying to you that the loss to this body will be enormous in terms of the abilities that KENNY brings to this responsibility as a Member and the loss to the Nation of the steady hand in this body will be something that we all hate to see happen, but I understand that he has to think in terms of his own concerns for the future and I thank the gentleman for taking this time.

□ 2020

Mr. MICHEL. I thank the gentleman for his very valuable contribution to these proceedings. As I indicated earlier, we will hope—or, frankly, I have mixed feelings, because I would just as soon that we get this Congress adjourned by tomorrow night if at all possible—but in the event we are obliged to be here next week, I am sure there will be that occasion under the special order of the gentleman from Virginia [Mr. WHITEHURST] for other members to expand upon this particular special order.

● Mr. BIAGGI. Mr. Speaker, for the past 14 years the people of the Seventh Congressional District in Virginia have been ably represented by J. KENNETH ROBINSON. On the occasion of his retirement from the House, I wish to pay tribute to this fine man and dedicated public servant.

J. KENNETH ROBINSON is a native and lifelong son of beautiful Winchester, VA. After a distinguished career in the Virginia State Senate, J. KENNETH ROBINSON was elected to the House in 1970. While in the House, he has served with special distinction as a member of the House Appropriations Committee and particularly the Subcommittee on Defense. His retirement will deprive this body of one of its more knowledgeable Members in the area of defense appropriations. The

expertise he developed during his 14 years proved most helpful in the passage of defense bills over those years.

It has been a pleasure to have served with and known the gentleman from Virginia during his career in the House. He represented the finest tradition of those who have represented Virginia in the Congress, and he will be missed by his colleagues. I wish he and his wife, Kathryn, and their seven children much happiness together in the coming years.●

GENERAL LEAVE

Mr. MICHEL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on the life and service and feelings about our good friend, KENNY ROBINSON, who will be leaving Congress after the conclusion of this session.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

PERMISSION FOR MEMBER TO REVISE AND EXTEND HIS REMARKS

Mr. KAZEN. Mr. Speaker, I ask unanimous consent that the gentleman from Texas [Mr. WRIGHT] be allowed to revise and extend his remarks.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

JAPANESE DEFENSE BURDEN SHARING

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio [Mr. REGULA] is recognized for 60 minutes.

Mr. REGULA. Mr. Speaker, on March 9, 1982, I took the floor to discuss defense burden sharing between our country and Japan. Today I will again address this issue, largely because little progress has been achieved toward parity in allocating these defense costs.

As we all realize, after World War II the United States by necessity shouldered the burden of protecting the Pacific region, largely because the Japanese economy was in chaos following the war. Additionally, there were many allies not anxious to allow Japan to rebuild its fearsome military machine very quickly. It was agreed that the United States would assume the lion's share of free world defense while the devastated economies of the smaller nations recovered.

My colleagues, those economies have recovered. While I have grave concerns over NATO burden sharing, I wish today to address only the defense of the Pacific and the responsibilities of Japan in its security.

At the heart of the differences on burden sharing are some fundamentally divergent perspectives on the nature of the Soviet threat and the appropriate response. Most Japanese have not viewed the Soviet threat with the degree of concern felt by American observers. Many Japanese believe that no Soviet purpose would be served by an attack on and occupation of Japan, and that Moscow derives sufficient benefits from the current state of relations to discourage an attack on their country.

In addition, the Japanese have developed a wide range of mutually beneficial cooperation in trade economic affairs with the Soviets which make them reluctant to change their attitude toward the Soviet Union except in the most grievous case of Soviet adventurism.

On the other hand, the United States tends to believe that Western security can only be guaranteed by the military capabilities to repulse or deter any attack. While we have pursued defense policies toward this end, we need the active support of our allies, particularly those with booming economies, to assist in the achievement of this goal.

Several relatively recent events have mobilized Japanese defense thinkers into a marked change in perception of the threat. Specifically, the Soviet invasion of Afghanistan marked a watershed in Japanese attitudes toward the Soviet Union, and informed Japanese are now concerned about shifts in the global balance, the danger of increased Soviet intervention in political affairs of states in and around the Middle East, and the increasing Soviet ability to project its forces around the world and in the Far East in particular.

In fact, the September 17, 1984, New York Times noted that the Government of Japan "warned today that an 'unrelenting military buildup' by the Soviet Union had increased the 'latent threat' both to Japan and to the rest of Asia."

Japan now realizes that it can not afford to be an island of prosperity in an ocean of instability. In fact, no other nation is more keenly aware that it can flourish only in a world of peace. Japan relies completely on open and peaceful sealanes for natural resources importation and its burgeoning trade exports.

Japan has continued, however, to give little more than lip service to our pleas for parity in defense. While it is true that Japanese defense spending increased by 6.55 percent in 1984, their rate of increase is actually going down—from a high of 7.8 percent in 1982. They have yet to take seriously their commitment to patrol up to 1,000 miles from their shores.

The effect of Japan with the capability to carry out its self-chosen defense goals, including sealane defense to 1,000 miles, and of a strong United States western Pacific and Indian Ocean force posture would not be to match the Soviet force levels in East Asia, but would significantly deter Soviet aggression in that region of the world. This type of deterrence is the goal of United States defense policy in Asia. It should also be the very real concern of Japan.

On the contrary, the Times article went on to say that: "Despite the perceived threat, however, Japanese officials seemed more optimistic than they have been in recent years about the West's commitment to East Asia and its ability to resist aggression." While these officials' remarks are obviously intended to flatter the United States into increased defense protection, it is time to confront the Japanese with their own responsibilities for that protection.

There are extremely significant financial costs of the large United States military presence in Asia. And it is our wide ranging western Pacific presence rather than the limited number of our Armed Forces stationed in Japan that really provides the regional stability from which Japan clearly benefits, along with the United States and our other Asian allies and friends.

Equipping and maintaining the U.S. 7th Fleet with its 75 ships, 220 aircraft, and 25,000 Marines, the 3d and 5th Air Forces with 360 aircraft and the 2d Division of 14,000 men has been estimated at over $40 billion annually. These forces are the minimum necessary to achieve United States goals for stability in East Asia through our commitments to allies, especially Japan.

According to United States Department of Defense estimates, the Japanese Government contributes about $1 billion a year in burdensharing—in the form of rent, construction, labor, and subsidies—to help defray the cost of United States forces in Japan. In addition, Japan's self-defense forces today include 13 army divisions, 50-plus destroyer type vessels, almost as many antisubmarine warfare aircraft as the United States has in the entire Pacific Command, and approximately 400 tactical fighter aircraft.

However, Japan's flourishing economic growth and rapid growing trade surplus, fueled heavily by United States secured sealanes, have stoked the growing fires of legitimate resentment felt by many Americans in considering United States defense expenditures in the Pacific. American distress has increased as Japan has subsidized its industries and, through the use of nontariff barriers, severely restricted United States exports to Japan. Further, this Nation has persisted in re-

sisting American efforts to reallocate defense costs in the Far and Middle East.

While the United States relies heavily on its trade with countries of East Asia, Japanese exports are skyrocketing. Although United States exports to Japan in 1983 increased by 4.4 percent to $21.9 billion, Japanese exports to this country increased by 9.1 percent to a record high of $41.2 billion. This left the United States with a $19.3 billion merchandise trade deficit with Japan, a figure that is expected to climb to $25 billion in 1984.

More significant are two-way sales of manufactured goods. Last year 99 percent of all Japanese exports to the United States were manufactured products while less than half of our sales fell into this category. It is significant to note that Japanese imports into the United States are labor intensive products, while the United States exports raw materials. The result: a $30.3 billion imbalance in trade in manufactures.

Japan also registered a trade surplus on a global basis in 1983, $31.4 billion, and a global current account surplus of $20.7 billion. Government forecasts for Japanese fiscal year 1984—April 1984–March 1985—project figures only slightly higher: a trade surplus of $34 billion and a current account surplus of $23 billion.

But private Japanese economic forecasters are far more bullish. Taking into account the strong economic recovery in the United States and the increasing sales of Japanese imports in this country, they foresee a Japanese global current account surplus that could reach $30 billion, or $7 billion more than the official forecast.

Taking the period 1983 through 1990, the Industrial Bank of Japan projects that Japan will accumulate a current account surplus of $400 billion—mostly as a trade surplus. Incidentally, this also indicates a permanently undervalued yen for trade purposes.

Japanese companies should reduce future trade surpluses by converting some of their export earnings into foreign investment. The auto industry offers a case in point. Over the 7-year period 1980 to 1986, Japanese auto companies can expect to enjoy sales exceeding $100 billion in our market. Yet their announced investments here cumulate to less than 2 percent of those sales during the same period.

On the same principle, Japan has similarly closed its doors to foreign investments in Japan. There is widespread awareness in the United States that while no nation in the world has benefited so greatly from the United States policy of free trade as has Japan, the Japanese market has remained relatively less open to United States exporters or investors. Japan ranks 10th among host countries for United States investment abroad, despite the great size and importance of the Japanese economy.

Frequently this problem is characterized as one of different perceptions regarding the purpose and use of national boundaries. American attitudes, deeply influenced by the historic role of the immigrant and the country's sense of economic invulnerability over many decades, have tended to favor open boundaries, over which people, services, and money could easily flow. Japanese attitudes, shaped by very different historical factors, have favored separateness and aloofness.

Accordingly, when the Japanese economy required technology from the rest of the world, the Government was not eager to bring that technology in through direct investments by foreigners in the Japanese economy. Instead, the favored channel has been the licensing route, under which Japanese technicians go abroad to master the technology and foreigners are brought to Japan only on a temporary basis.

Additionally, though the average tariff Japan applies to imports is now relatively low, the rates remain high on some products, including certain ones which the United States can offer competitively for sale in that country.

This pattern cannot continue. The United States exercised considerable diplomatic effort during the 1950's to secure the world's acceptance of Japan as a participant in international trade. The principle instrument for accomplishing that objective at the time was the General Agreement on Tariffs and Trade. GATT epitomized for policymakers in the United States a world view of considerable ideological importance: a view of open markets, in which the direct transactional role of governments was held to a minimum, and in which the interventions of government, to the extent that they occurred, were conducted on a nondiscriminatory basis. Such has not been the case in trade with Japan, a leading country in closed markets and Government industrial subsidies.

While the Bank of Tokyo forecasts a $24 billion Japanese current account surplus in 1984, the U.S. deficit for the same period is generally believed to be between $60 and $70 billion.

It is obvious that trade lanes in the Far East must be open and secure. This is essential to Japan, but also of tremendous importance to us. Economically, over 30 percent of United States trade is with countries of East Asia. Projections all point toward even greater rates of increase in the amount of our Pacific trade. Moreover, the significance of international trade to the way of life of the average American is also increasing dramatically. Exports are now about 9 percent of the American GNP. Exports as a percentage of GNP have doubled since 1973 and are expected to double again by the year 2000.

Additionally, the strategic importance of the Pacific to the United States is attested by the fact that five of our eight mutual security treaties are with nations of the region. The world's six largest armed forces are in the area of responsibility of the United States Pacific Command: those of the Soviet Union, China, Vietnam, India, North Korea, and the United States. Five of these six have been at war within the past 11 years and the sixth is North Korea who could be said to be at war all the time.

The growing importance of the Pacific as the "Great Connector" makes the security of its lines of communication ever more important to the security of the United States and of the other Pacific rim nations, particularly Japan. Our own economic interdependence with Asian economies which are dependent on Persian Gulf oil—notably Japan, 65 percent; Korea, 75 percent, and the Philippines, 75 percent—adds to the strategic importance of Southwest Asia to the United States.

The United States, however, almost unilaterally patrols the Persian Gulf and keeps these oil lanes open. Japan, with the bulk of its crude oil coming through the Strait of Hormuz, depends completely on United States protection in this region. Any threat to safe navigation in the Persian Gulf arising from escalation of the Iran-Iraq conflict would not only pose a serious menace to Japan's economic security but create a grave threat to world peace and stability.

Additionally, the United States patrols the Strait of Malacca, permitting the further free flow of oil to Japan. The great bulk of Japanese oil must pass through this region—a region, like the Persian Gulf, nearly unilaterally defended by our Navy.

So the United States is alone protecting several key areas of the world which play extremely critical roles in the well-being of the Japanese economy. While the Japanese perception of the Soviet threat in the Pacific is changing, it is doubtful if the full extent of the danger is felt widely in Japan.

The major dangers facing the United States-Japanese defense relationship at present are the trends in Soviet military capability in Asia. As the United States began reducing its military strength in Asia following the Vietnam era, the Soviets began emphasizing the Far East in their military programs.

The trend in the expansion of Soviet military power in the Far East since 1965, and especially since 1978, clearly points to greater Soviet interest and involvement in East Asia and the Pacific. They already have over 50 Army

divisions, 800 Navy ships, 2,000 fixed-wing aircraft, and 135 SS-20 launchers in the Far East—far beyond the assets of the United States and its Asian allies now and for the foreseeable future. If the trend continues through 1990, the Soviets will have a potent offensive force to project military power throughout the Pacific Basin while simultaneously fighting on another front.

The Soviet threat is the most dangerous security risk, in the Pacific as elsewhere, but it isn't the only menace to our East Asian security. North Korea continues the unrelenting buildup of its offensively postured military forces. Vietnam, with Soviet aid, maintains one of the largest armies in the world—over 1 million men. About 160,000 Vietnamese troops occupy Kampuchea and threaten Thailand. It is estimated that the Soviets pay the equivalent of some $3 million [United States] per day to buttress their surrogate and assure their important foothold in Southeast Asia. It is that support which enables Hanoi to continue its occupation of Kampuchea.

Japan's naval and air forces, impressive as they are, are not adequate in light of the threat imposed on Japan by virtue of its geostrategic location in proximity to the Soviet East Asian air and naval forces. More important, all three Japanese self defense forces are presently very limited in simple self-defense capability because they are unable to sustain themselves in combat for more than short periods of time.

While it is not an American plan or necessity to match the Soviet force levels in East Asia, a major military role for Japan in the Pacific would significantly complicate Soviet plans to achieve military superiority in the region. A Soviet Union which does not see a relatively risk-free way to employ its military power in East Asia is less likely to use its awesome military might. Such deterrence is the goal of United States defense policy worldwide—a goal in which Japan's active participation is now required.

If the Japanese do not move fast enough, they will be at greater risk than we because of their overall vulnerability due to their small size, proximity to the threat, and their value as a target of exploitation.

Some Japanese have argued that they are compensating for their relatively small defense efforts by increasing support for allied security interests by other means. Japanese spokesmen have pointed to Japan's economic aid to Thailand, Pakistan, Turkey, and some African and Latin American countries as providing assistance to nations of importance to American-supported efforts to check the expansion of Soviet and Soviet-backed power. They call this support for a policy of comprehensive security.

Japan also supported American sanctions against the Soviet Union following the Soviet invasion of Afghanistan. Japan backed the boycott of the Olympics, and it imposed certain trade restrictions against the U.S.S.R. which went as far as those imposed by other United States allies.

This is not enough. The simple fact is that, by almost any quantitative measure, the United States devotes more resources to defense than does any of its allies. The United States spends more on defense than all the European allies combined. And while over 6 percent of the United States GNP goes for defense, Japan spends barely 1 percent.

Most Americans believe that, although our defense efforts are vitally important to our own security, they also contribute a major share of the physical security enjoyed by our allies, notably Japan. Such defense spending discrepancies were tolerable when Japan was relatively weak economically, particularly in the immediate post-war period when massive construction efforts were underway.

But now there is a question as to whether the allies have become too dependent on the United States militarily while reaping the advantages of the strong economies that have benefited from the security umbrella provided by the United States. Japan's economic growth and trade surplus have contributed to the increased scrutiny that many in the United States have given to the United States-Japanese security relationship. Concern has grown as Japanese industries have prospered in American markets and the commitment of American military resources to protecting countries and sealanes of vital importance to Japan seems more burdensome.

Solutions are not easily drawn. The fact is that Japan will probably not develop in the 1980's a military force structure capable of fulfilling the role envisaged for it by the United States. Japan would have to alter drastically its defense policy in order to procure the weaponry, develop the logistics, and establish reserve forces necessary for a multifunctional self defense force that could assume the primary responsibility for a Northwest Pacific defense zone.

Such a proposal in Japan would likely split the emerging prodefense coalition of the Japanese Democratic Socialist Party, the defense-oriented think tanks, business groups, and the smaller newspapers. The majority of the Japanese public would probably oppose such a policy. In short, it would be difficult for any political leadership to embrace this kind of defense plan.

In addition, opposition within the Japanese Government to such proposals would be formidable, especially from the Finance Ministry and other ministries dealing with economic and social issues. Japan's large Government budgetary deficit—$55 billion in fiscal year 1981, or about 5 percent of GNP—has been a major hindrance to the adoption of policies more favorable to United States exports and increased defense expenditures.

The deficit also has kept the Japanese Government from adopting expansionary economic policies, perhaps the most effective way to increase Japanese imports. But, as we all know, the United States has a deficit problem of its own.

In short, while there is some understanding for the difficulties faced by the Japanese in increasing their defense spending and removing trade barriers, it remains a fact that Japan is far more capable at fair defense and trade than has been exhibited to date. It is obvious that more stringent measures need to be adopted to persuade the Japanese that their self interests are critically at stake in sharing the Pacific—and global—defense burden.

Consistent with this goal, I have introduced a bill that grants to the President a very powerful bargaining chip for use in United States-Japanese defense burden negotiations. My bill, H.R. 1740, the Defense Tariffs Act, gives the President the power to impose tariff surcharges on allied imports to the United States at levels designed to recover the amounts we spend on allied defense. While this bill is designed to apply to all NATO allies and France, as well as Japan, it is the low defense spending of the Japanese, together with their massive trade surplus, that makes this form of pressure particularly suited to United States-Japanese defense negotiations.

Under the Defense Tariffs Act, critical U.S. protection of the Pacific and other areas of the world would continue. But our allies would pay for it. It is a timely solution to a tiresome problem, and it addresses both elements—defense and trade—which make our relationship with Japan so unique.

I urge my colleagues to support this legislation.

□ 2040

I recognize that this session is almost over but I think that it is something we have to seriously consider in the 99th Congress. Just today I had a call from a major producer in our area and he said to me the problem of imports is far more serious than most people realize. He said it is one of those things where the numbers do not catch up to the actual impact for a period of months and by the time we recognize what is happening by way of dumping of surplus-capacity products into the United States it may be too late.

I think that if we are to achieve an equitable balance in terms of trade and defense our allies, particularly Japan, must assume a much greater share of responsibility for free world security, while at the same time adopting policies that will not only allow a free flow of trade but will at the same time allow a fair flow of trade among the countries of the free world.

I yield back the balance of my time.

TRIBUTE TO THE U.S. POSTAL SERVICE 1984 OLYMPIC PROGRAM

(Mr. ANDERSON asked and was given permission to address the House for one minute and to revise and extend his remarks.)

Mr. ANDERSON. Mr. Speaker, the Los Angeles Olympics Organizing Committee [LAOOC] recently received well-deserved national recognition for the huge profit earned by the Los Angeles Olympics, which will be used to support our Olympic teams in the future and for local youth sports programs. I would also like to extend recognition to the U.S. Postal Service [USPS] and highlight the impressive profit its 1984 Olympic program earned.

The USPS made early preparation for the Olympics a priority. Postal officials from Montreal and Lake Placid were consulted to learn from their earlier experiences, and liaison was established with the LAOOC over 1 year in advance of the Olympics. The result of this extra effort and detailed planning was a profit to the USPS of $3.5 million. The USPS has approved a budget for its Olympic program of $6.4 million, which was pared by an astounding 42 percent. Total operating costs for the Olympic program were $3.7 million and total revenues, including credit for equipment transferred to other post offices, was $7.2 million.

The early preparations resulted in Postal Service vending sites at the Olympic venues which were the envy of all other vendors; 350,000 customers were served at these retail sites, accounting for 3 million letters and cards receiving the Postal Services' special Olympic canellation. In all, 6 million special cancellations were done, and 60,000 "Golden Moments" commemorative stamp books and 2 million special Olympic post cards were sold. Early planning also resulted in revenues of $1.7 million from a contract to mail Olympic tickets by registered mail, and the handling of a large volume of express mail.

The USPS Olympic program was able to achieve the outstanding reduction in its operating costs despite the extremely elaborate and costly procedures that the special circumstances required. Modular, completely mobile post office outlets had to be developed so that they could be quickly moved from one athletic facility to the other, and a screening facility that included a bomb bunker and a helicopter pad had to be set up to screen mail for explosives.

The director of the USPS 1984 Olympic program was Henry J. DeSimas, a former Long Beach postmaster and regional director for the USPS. Mr. DeSimas was able to reduce the number of Postal Service employees required for this operation from an original estimate of 445 to 223. I believe that the efficiency and foresight in planning that the Postal Service management displayed, as exemplified by Hank DeSimas, and the dedication and high productivity of the postal workers which made it possible deserve special recognition by this body.

□ 2050

TRIBUTE TO THE HONORABLE ABRAHAM "CHICK" KAZEN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. BROOKS] is recognized for 60 minutes.

Mr. BROOKS. I thank the Speaker.

Mr. Speaker, my good friend and colleague for 37 years, ABRAHAM KAZEN, will be leaving Congress at the end of this session and we will miss him deeply. Since joining the House of Representatives in the 90th Congress, CHICK KAZEN has become known as a man of action and a dynamic force for progress in the State of Texas. He has been a very capable member of our Texas legislative team and he has demonstrated time and again that he has the will and determination to pursue the goals he believes will lead to a better Nation.

CHICK KAZEN is a combat veteran of World War II. As an Air Force pilot he served in North Africa, Sicily, Italy, India, and Burma. Prior to service in World War II, Congressman KAZEN graduated from Laredo High School in 1937, attended the University of Texas and received a law degree from Cumberland University in 1941.

CHICK KAZEN's career in service to the people has been long and productive. He has held public office always remembering that he was a steward—holding a public trust. CHICK served in the Texas House of Representatives from 1947 to 1952; in the Texas Senate, 1952 to 1966; he was president pro tempore of the State senate in 1959; and Acting Governor of Texas. CHICK has been a member of the Texas Legislative Council, where he served for 16 years.

Among CHICK's proudest accomplishments was his sponsorship of a preschool program for non-English-speaking children. That tells you a lot about the man I speak of today.

Those of us who have been privileged to work most closely with CHICK have also had the opportunity to become friends with his fine family. Some of us feel as though we have all grown up together over the years. CHICK's gracious wife, Connie, his five children and eight grandchildren, have been and are an integral part of his life. Some of you may not be aware of it, but among CHICK's honors are "Mr. South Texas," "Man of the Year," and "Father of the Year," in his hometown of Laredo. Our respect for CHICK's work is complemented by our affection for his family.

Mr. Speaker, the Texas delegation will miss CHICK KAZEN's service and dedication, the Congress will miss his many contributions to the legislative process, the people of the 23d District of Texas will miss and long remember his skillful representation of their interests. I will miss his daily presence as a friend and valued colleague. But above all, I wish him well.

Mr. Speaker, I yield to my distinguished friend from Texas [Mr. HIGHTOWER].

Mr. HIGHTOWER. Mr. Speaker, I thank the dean of the Texas delegation. We are grateful to him for securing this special order.

Mr. Speaker, I am not bilingual, as is my friend CHICK KAZEN, but I do know two Spanish words that are very significant, "mi amigo."

Mi amigo, CHICK KAZEN, has been a good friend for a long time. I was privileged to serve 2 years in the Texas Senate, 1965 and 1966, with Senator KAZEN before he came to Washington.

When I came in 1975, he was one of the first ones to greet me here.

But that service with CHICK in Texas and the service with him in this body has made that friendship closer and deeper.

I have been with him many days on the floor of the House and CHICK has been very attentive to the responsibilities that a Member has of being on the floor, being here to look after the interests that the people of south Texas expected him to look after when they elected him to come here.

Mr. Speaker, CHICK has been a very valuable member of the Committee on Interior and Insular Affairs, a very valuable member of the House Committee on Armed Services, and on those two committees he not only represented the district, his home district, but he served as our Texas delegation liaison man.

When any Texas Member had some problem in one of those committees, CHICK KAZEN was the one that I always went to, and I know many of the other members of the delegation did the same thing because we knew that he would look after the problem, he would help us and assist us.

That is one of the reasons why service in this body is such a real pleasure, because we work with such fine people.

Mr. Speaker, it was a great disappointment when I learned that the people of his district had decided that it was time for CHICK to come back home, but he has taken that in very good graces and is planning to return to Laredo.

I have argued with him that he ought to hang around here for a while, that we want to see him, that just because he will not be a Member of the 99th Congress does not mean that he ought to turn around and go back to Texas.

But he has been anxious to go back. We regret, in the sense that we will not have the day-to-day contact with CHICK which we have enjoyed so much; he is our friend, he is a friend of every Member of Congress.

Mr. Speaker, he has served his people with ability and distinction. He has earned all the honors that have come his way and will continue to come his way in the years ahead.

Mr. Speaker, we wish him Godspeed. He has been our amigo.

Mr. BROOKS. Mr. Speaker, I yield to my friend, GEORGE O'BRIEN.

□ 2100

Mr. O'BRIEN. I thank the gentleman for yielding.

Mr. Speaker, I guess I am not CHICK KAZEN's oldest friend nor his newest. My acquaintance with him is not nearly as deep and so profound as my friend, Mr. BROOKS, and my friend, Mr. HIGHTOWER.

I served with him and I always learned something from him. He never said anything that did not have to be said. What he said was always worth listening to.

I think the House will be the less for his leaving and so will I.

I thank the gentleman.

Mr. BROOKS. Mr. Speaker, I yield to the gentleman from Texas [Mr. RALPH M. HALL].

Mr. RALPH M. HALL. I thank the gentleman for yielding.

Mr. Speaker, it is my honor to get to say a few words for my good friend CHICK KAZEN. I go back a long, long way with CHICK, and Connie, and the Kazen family. Very great and giving and public servants, very generous people of Webb County and up and down the valley highly respected.

I go back to the time when an event that affected this body, the Honorable Sam Rayburn was Speaker of the House, the Congressman from the Fourth District of Texas. When Mr. Rayburn died, as you may well remember, the Honorable Ray Roberts was a member of the State senate. He was one of CHICK KAZEN's colleagues in the Texas Senate. Ray Roberts decided to run for this seat in Congress, Mr. Rayburn's seat, and was elected. I took Ray Roberts place in the Texas Senate. That is the first time I really got to know CHICK KAZEN. I might say it was the first time I really suffered at the hands of CHICK KAZEN because senate bill 1, on my first entrance into the Texas Senate, was a bill that did away with the Fourth Congressional District of Texas in a redistricting bill. I knew that if I lost my congressional district and particularly Mr. Sam's district, that I not only could not run again, I probably could not go home.

That is one of the first times that I realized that CHICK KAZEN was really a very kind and a very generous person and capable of friendship.

I went to CHICK and talked to him and explained it to him and asked him to rewrite his bill and work with me a little bit and see if we could not work out northeast Texas to where we could maintain some semblance of a Fourth District.

I think the dean of this Texas body knows that it happened. CHICK KAZEN did work with me as a freshman member of the Texas Senate. He is the kind of guy that has worked with people who would come to him and seek his help, seek his guidance, seek his experience. He has always shared it with everyone.

I know that Connie was one of the senate ladies with my wife, Mary Ellen. They were very good friends, highly respected, and highly loved by the other senate ladies there.

CHICK, as the dean has pointed out, initiated the preschool program and certainly that was the forerunner, I think, for the national Head Start Program. He was a leader in the field of education. One of the original carriers of the bill that set up the junior-college concept in Texas. He repealed the poll tax. I could go on, and on, and tell you the things that CHICK KAZEN did when he was a member of the Texas Senate.

But, of course, I think in about 1966 he was elected to Congress. I had the pleasure of joining CHICK here in 1981 and have had the great pleasure of working with him.

As I say, I have heard CHICK KAZEN speak from his desk for 19 straight hours in a filibuster. He is a wonderful friend and a fearful opponent in debate. We are going to miss CHICK KAZEN. We are not going to miss him much because I think he is going to be back up here with us from time to time and we are going to stay in contact with him.

I just think that this is a better place because CHICK KAZEN came this way. Certainly I know that the Texas Senate was a better place because CHICK went that way. I know that Laredo has something really to look forward to when one of their very favorite sons and daughters come back home.

I thank the dean.

Mr. BROOKS. Mr. Speaker, at this time I yield to the gentleman from Texas [Mr. GONZALEZ], the original "king of special orders."

Mr. GONZALEZ. I thank my most distinguished fellow Texan and dean of the Texas delegation, both for giving me the opportunity to join me and above all for having the generosity of thought in providing for this special order at which time we pause and make sure that the record reflects some of those aspects that otherwise would be lost to history and to the cherished memory of those who have served as stalwart, shoulder to shoulder, with us and those of us having the privilege because we have had the honor of not only knowing but having worked with and fought with, in common strife, or high cause, with such men as ABRAHAM—lovingly called CHICK—KAZEN. And I particularly. Because I think that I am in a special category inasmuch as the family background, the closeness of my district and the city of San Antonio to CHICK's native district and hometown, Laredo, and Webb County.

It gives me a chance to render testimony from an aspect that perhaps is in effect unique.

Those of us who had the privilege of serving in the State senate—in which, incidentally, I do not mind my fellow Texans knowing this or the whole world—I considered the highest point of my career, the greatest honor to have served in that great institution, the noblest, the greatest of any, the Texas State Senate. That, in effect, is the birthplace of the filibuster. The really honored unlimited debate. Not the U.S. Senate. The Texas Senate, believe it or not.

Frankly, I would not have left such cherished company as CHICK KAZEN, who served with me in the State Senate—or rather I served with him because he preceded me in service to the State Senate. CHICK had a great number of years of great effective work first as a State representative, immediately upon his return from the war where he has served in the Army Air Force and where he had performed way beyond the normal—call it duty. He came back and represented that district as composed then in the State house of representatives.

Being as he was from Laredo and being that we had relatives in Laredo, I knew of CHICK. I knew of his performance in the house which unfortunately history has not recorded. But back in the dim past before the era of civil rights and what have you, Texas was a very, very cosmopolitan and very unique laboratory because we have two great ethnic or minority groups. One of which has this great cultural, and language, and other heritage, and which had problems, which were similar in nature to those of other ethnic groups.

It was CHICK KAZEN who arose singlehandedly in the State house of representatives and provided the first State legislature recognition of this group known as the Mexican-American or the Hispanic.

The word used then was "Latin-American." I have often pondered on this. Whenever we get away from just saying we are Americans, we get into trouble. This particular group, even now, has not, even with the acquisition of this new appellation known as Hispanic, which I do not really like, because I remember that when we were growing up in that period of time in Texas, those who chose to call themselves Spanish or Hispanic were those who were ashamed to be identified as Mexican.

So I kind of startled my fellow Puerto Rican descendent and other descended Hispanics when I say: "No, don't call me Hispanic. I am just a plain old Mexican."

CHICK got up in a very harsh period of time and offered the first successful recognition on the State legislative level in defense of the rights, civil rights, if you please, of the Mexican-American.

Naturally at that time that community was very much apart from the mainstream.

□ 2110

In San Antonio, for example, which today is still one of the largest concentrations of urban citizens of Mexican descent, even in that day and time it was as if you had a city or a country within a city.

So CHICK KAZEN has been a fighter all along. He has been a man with a great deal of courage, wit, humor, and skill, above all. He has been one of the most skillful forum speakers, and debaters, and legislators that I have ever had the honor to serve with.

So I think anybody could discern the keen disappointment when CHICK KAZEN, in a newly drawn district, was not reelected. I know that his record of performance and achievement over a span of 38 years of discharging the responsibilities as a public elected official contains not one little smirch on his name and reputation, not one; 38 years in actively representing districts, from the State legislative district to the senatorial district to the congressional district, 38 years of successive performance as a public elected official, and not once, not once even a scintilla, even a whisper, even a rumor that would in any way cast any kind of an aspersion on his character, reputation, or fame.

That I think is something that perhaps too often we take for granted in our society.

But over and above that, I saw CHICK KAZEN forge and help some of us who had introduced legislation that provided the third medical school of the great University of Texas system for San Antonio, I saw him battling shoulder to shoulder with us later in 1957, which was my first year in the State senate, in which the Texas State Senate was the only legislative body in the entire range of the 11 Confederate States that even debated the massive kit of resistance that had been born here in the State of Virginia and circulated in every one of the Confederate States.

In the State of Arkansas, for instance, that massive kit of resistance, which consisted of about 16 different bills, were adopted in about 15 minutes. Only in the Texas State Senate were they even debated and much less defeated because through a joint filibuster in which CHICK and I held the floor for over 36 hours we managed to defeat 14 of those 16 bills.

But it was CHICK KAZEN who really made it possible because he was by then one of those acquiring that seniority that gave him that position of respect, and trust, and leadership that enabled a freshman such as I to take the floor and hold it individually for about 26 or 26½ hours of the 36.

Now, this was before Martin Luther King. This was at a time when in Texas, particularly, people got pretty hot and bothered about such things as integration. It is true that that was in May 1957, which was a few months before September and the Little Rock incident in which troops were ordered in to preserve the peace in Arkansas because of the very issue.

CHICK's performance since he has come to the Congress in 1966 has also been outstanding. Some people back home have made comparisons and they have said, "Well, CHICK doesn't work like you. We don't hear, we don't know."

Well, CHICK and I, of course, have had different districts, and different settings, and different situations. My goodness, I remember what Dean Weiner told me when I got to the State senate, and he was representing the area next door to Bexar County or San Antonio and Seguin, and he came over and he said, "Senator, your philosophy of government and my philosophy of government are very different and far apart, but I want to help you. You want to know why?" And I said, "Yes, Senator." And he was the dean of the Texas Senate at the time. He said, "Because I feel sorry for you. I feel sorry for anybody who has to represent Bexar County."

Well, the reason is that Bexar County is difficult. It is a highly cosmopolitan area, it has, in a microscopic sense, every single social, ethnic, economic, political set of problems, if you will, that you find on a greater scale only in our Nation, all in that one district. So that it is a tremendous laboratory. And I can testify to the fact that only because of men such as then Senator CHICK KAZEN, now Congressman CHICK KAZEN, that entire area, not just the 23d District which Mr. KAZEN represents or the 20th, which I have the honor of representing, but every single inch of square footage in and around that entire border of counties contained within the 23d and 20th have benefited from CHICK KAZEN's performance.

Now, he has counties that are more rural than urban. I have a 100 percent urban district. Yet working together we have harmonized that effort and we can look back and proudly say that CHICK KAZEN has added to the substance and the wealth of the entire region in his performance, faithful and loyal, in the discharge of his office, honestly, competently, efficiently and with great fervor. It is with a deep sense of regret, regret because of the loss to the Nation and the loss to that area that I rise here in a manner of farewell. Certainly this is not a eulogy to which we are accustomed when somebody has passed away. This is perhaps like a graduation ceremony, and I think we should mean it that way. And I have no doubt in my mind that in the coming years, as CHICK's performance more and more is made obvious by the concrete realization through even the physical evidences, the dams, for instance, along the Rio Grande, the irrigation projects, south and east and somewhat north of his home county, the hundreds, some of whom I have spoken with, of young men and young ladies who are today a productive element in our society—they are doctors, they are lawyers, they are engineers, they are businessmen who would not be if it had not been for the fact that CHICK was there in the State senate to provide the famous tuition program that made it possible.

Here is where the State of Texas has pioneered, even though it has never been given the credit, made it possible for any high school student who was in the upper 20 percent of the class, no matter how poor, to go to college with absolutely no resources and not on a loan basis or anything like that.

□ 2120

That was the State of Texas and it was CHICK KAZEN who was coauthor of that bill before I got there, before I got to the Senate. I had the great honor of implementing and helping to explain it, but it was CHICK KAZEN.

Those are the testimonials. These are the monuments in the hearts and in the minds of those citizens today that will speak out for themselves and will enshrine forever, as permanent as anything can be in this endeavor we call politics, which is like writing in water and in a democracy that is the way we expect it to be.

Nobody in a democracy expects that we are publicly elected officials could have higher honor than to have been elected by fellow citizens and not expect gratitude, gratitude for doing the job, no.

So, we do not have the monuments and the personal shrines and that is the way it should be in a democracy. I say, and repeat, that I know because I myself have spoken with them that enshrined in the hearts and the minds and souls of these citizens in Southwest Texas is CHICK's true monument.

I wish CHICK well in the company of his lovely wife Connie. I have known all of his children since about the time they were born and they are all grown up now.

But whether he goes back to Laredo or comes I hope to San Antonio our hometown, Godspeed to CHICK KAZEN.

Mr. ARCHER. Would the gentleman yield?

Mr. BROOKS. My friend, Mr. ARCHER, from Houston, TX.

Mr. ARCHER. I thank the gentleman for yielding and I would like to say amen to the words of our friend HENRY GONZALEZ and to the words of others who have spoken on behalf of CHICK KAZEN today.

Mr. Speaker, I rise from the other side of the aisle and I say that my experiences with CHICK KAZEN have been nothing but highly rewarding and warm over the years that we have served together in the Congress.

He is an individual who cares not only for his district as Congressman GONZALEZ has just spoken, but cares strongly for his State and for his country. He is an individual who, when he gives you his word you know it is good. He is an individual that in my opinion we need more of in the House of Representatives.

And I want to add my compliments and congratulations to him for a career that has been dedicated in service to his country and to thank him and his lovely wife, Connie, for what they have given, because as a result of what they have given over the years, we all are better both individually and as a country and I also wish you godspeed and the best of luck for the many, many active years ahead of you, CHICK KAZEN.

Mr. BROOKS. Mr. Speaker, I yield to the gentleman from California [Mr. ANDERSON].

Mr. ANDERSON. I thank the chairman for yielding to me.

Mr. Speaker, I want to thank the dean of the Texas delegation for taking this special order of tribute to CHICK KAZEN. You introduced me as the gentleman from California, but I was going to put it another way.

The last time I was speaking in Texas, I was introduced as a Member of the House, representing a district in west Texas called California.

Now apparently I have never spoken of California as in Texas, because I have been introduced as a Texan several times and I have been very proud of it.

The only comment that I have is I have never been able to get into your delegation and I felt if I could be voting in your delegation and I could get some of that muscle and power we could do a lot better out in California.

But anyway, on a serious side, I am going to miss CHICK. I know when I first came here, CHICK had given me the aura of having been here much longer. I believe he had only been here a couple of years, but apparently his background in the house of representatives in Texas and his background in the senate gave him an aura of one who really knew and I know every time that I asked him and I did ask him for many different things when I first got here, he seemed to always have the answer. He did not seem to bother when a new fellow came and asked him. He was always very accommodating and I know that I have always felt that CHICK was a guy that I could always depend upon.

I know that I am going to miss him. I believe that Texas is going to miss him. I know the West is going to miss him. I think our country is going to miss him. Perhaps the only place that is going to benefit by his leaving us is Laredo, and maybe it will even up, but I want to say that he has been excellent as far as I have been concerned.

I know that my wife, Lee, and I are going to miss CHICK and Connie and we wish them the very, very best wherever they go. Maybe after Laredo, they will come to California. That is a part of west Texas, you know.

Mr. BROOKS. I yield to the gentleman from Oklahoma [Mr. JONES].

Mr. JONES of Oklahoma. I thank the gentleman for yielding to me, and thank the gentleman for taking this special order.

Mr. Speaker, I, too, want to pay my best wishes to CHICK KAZEN after he leaves the House of Representatives. I got to know CHICK KAZEN when I was on President Johnson's staff at the White House and I got to know a lot about Texas when I joined the Johnson administration and one of the things I found was that there really were some standup people in the Texas delegation on some very tough votes in the turbulent years of the 1970's and clearly, one of the favorite people of Lyndon Johnson was CHICK KAZEN.

He was a tough, standup legislator who always has done his homework. He is a legislator in every sense of the word. I have learned a lot from him in serving with him these past 12 years and the House of Representatives will miss him and we wish him the very best.

Mr. BROOKS. I yield to the gentleman from New York [Mr. DOWNEY].

Mr. DOWNEY of New York. I want to thank the gentleman also for taking the special order to honor CHICK.

Mr. Speaker, I was privileged to serve with CHICK as a freshman member of the House Armed Services Committee and I could say with absolute certainty there was almost nothing on which we agreed, and despite the fact that we had wide differences of opinion about national security, he was honest, and fair, and someone I learned a great deal about Government from.

I will miss him and I am sure the people of Texas and the people of this country will also miss him.

Mr. BROOKS. Mr. Speaker, for the last 6 years the people of Texas' 19th Congressional District have had a friend here in Washington with whom they could work on many projects of vital importance to the State of Texas.

KENT HANCE is a true son of Texas. He is the product of the public schools of Dimmit, TX, Texas Tech University, and the University of Texas Law School. He practiced law in Lubbock and was a professor at Texas Tech from 1968–73.

Congressman HANCE has contributed greatly to his community through his many years of public service. He served in the Texas Senate from 1974–79, was one of the original incorporators of the Texas Boys' Ranch at Lubbock and has been active in the Baptist Church. KENT is young and active, and I'm sure he will continue to be heard in the years ahead.

KENT's wife, Carol, and their two children, Ron and Susan, have made many friends here. We hope those relationships will continue to grow as the years go by.

Mr. Speaker, while Congressman HANCE and I have not always agreed on every issue confronting our country, we have proven once again that in the broad spectrum of the Democratic Party we have room for a diversity of opinion. So long as we remember and adhere to the great tradition of our party—the oldest such coalition in the world—we will continue to make room for capable people who want to lead a life of public service.

We in Congress will miss the presence of Congressman HANCE here in the House next year. We wish him and his family the best in whatever future endeavors they may pursue.

□ 2130

Mr. Speaker, at this time I yield to my distinguished friend, the illustrious gentleman from North Texas [Mr. HIGHTOWER].

Mr. HIGHTOWER. I thank my dean for yielding.

Mr. Speaker, I am so pleased to have an opportunity to say a few words about KENT HANCE.

KENT HANCE is a west Texan, a young man who I first met when he was working for a State representative in the Texas Legislature. He went to the Texas Senate at the same time that I came to Washington, so I did not have an opportunity to serve him there, but I did have an opportunity to observe his work in the Texas Senate and to hear reports from Austin as to the accomplishments of the new senator from Lubbock County.

He had been there 3 years when he and his wife came to Washington one day, and came by my office to visit, and to tell me that he was considering running for Congress, since Congressman George Mahon, the dean of the House and long-time Member of Congress from that 19th District, had announced his intention to retire. I was very pleased to hear that KENT was considering a candidacy. I knew that he was doing a good job in the Texas Senate, but that a man of his talent and ability would certainly do well here.

We welcomed him to Washington. It has been a delight to serve with him these years that he has been a Member of Congress. We, of course, hated to see him make another race because we were so pleased with the good job he was doing as a Member of the House and a member of the Committee on Ways and Means. We hated to see him make an effort to go to the U.S. Senate, but he felt that that was the thing he should do. We applauded him in his determination, and he made a good effort there, and now will go back to Texas.

I do not think, though, that he is going to go into any kind of retirement. KENT is just not that kind of a person. I know that we will be hearing from him again in the future, whether his political future means coming to Washington at a future time or to some high State office there. I predict great things for KENT HANCE. He is a fine, able man, a distinguished legislator, a good friend, the kind of man who has been a joy to serve with, and we wish him Godspeed as he returns to Texas and what I am convinced will be an even brighter future.

Mr. BROOKS. I thank the gentleman for his contribution.

● Mr. LOEFFLER. Mr. Speaker, to those of us who have known him, who have had the privilege of working along side of him, who have sought his advice and counsel, who are proud to call him friend—CHICK KAZEN exemplifies the dedication and honesty that are the main responsibility of public service.

These qualities have been the trademark of a man who has devoted a lifetime to Texas and to our Nation, 18 years as a Congressman representing the 23d District of Texas; 20 years in the Texas Legislature; service as an Air Force pilot in the Troop Carrier Command during World War II, where he flew 1,700 hours of successful missions to help preserve our precious freedom.

These years represent a cumulative record of distinguished achievement on a wide variety of ussues.

As one with a district which runs along our Nations' Southern border, CHICK arrived in Washington with a special understanding of the importance of fostering positive relations between nations. And, it is no accident that he has been chosen to represent the Congress with great distinction on 14 occasions at United States-Mexico Interparliamentary Conferences.

This same expertise was utilized as congressional adviser to the Organization of American States, and for these efforts, I am deeply grateful.

On the Armed Services Committee, CHICK has worked tirelessly and with legislative skill to enhance our overall military posture and to improve the quality of life for both our active and retired military. As chairman of the Water and Power Resources Subcommittee of the Interior Committee, he has worked diligently and effectively to address the declining availability of a clear and adequate supply and to determine how best to conserve this most precious natural resource.

In a personal way, I would like to attest to the civility and comity which so characterizes this man. Upon my election to the neighboring 21st Congressional District, CHICK welcomed me to Washington and offered to share his knowledge and expertise. We have spent long, pleasant, and productive hours together in pursuit of the best interests of Texas and in these past 6 years I have developed deep respect and affection for my colleague, who so epitomizes the best that a life devoted to public service can represent.

My wife Kathy joins me in wishing CHICK and Connie the very best that life has to offer and to extend the heartfelt thanks of one who is honored to call him friend.

Vaya con Dios, CHICK, we will all miss you.●

● Mr. MAZZOLI. Mr. Speaker, I will miss my friend and colleague, ABRAHAM "CHICK" KAZEN who will be leaving the House at the end of this session.

I have enjoyed my association with CHICK and have always found him to be a very capable Member. I know his constituents from the 23d District of Texas have been well represented during his years in the House.

I wish CHICK the very best in his future endeavors.●

● Mr. STENHOLM. Mr. Speaker, I am pleased to rise and join my colleagues in paying tribute to ABRAHAM "CHICK" KAZEN, JR. I have served here in the House with CHICK and am proud to say he has been both a leader and a legislator whose presence will be sorely missed.

While I have never served on a standing or select committee with CHICK, we have none the less shared a common bond in our commitment to conservative principals in regard to a number of great issues that have been before the House of Representatives.

This west Texan will not be alone in noting his absence in the chair of the Water and Power Resources Subcommittee and in the Armed Services Committee. His dedication to his district and his constituents will long be remembered in the 23d District and in the Congress.

CHICK's record of public service did not begin with the House and I'm certain it won't end here. From his first act of service in 1942 when he joined the U.S. Air Force, to his first taste of public office in the Texas House and Senate in 1947, and finally after his election to this body in 1946, CHICK has proven time and again he is a caring and compassionate leader.

I wish CHICK continued success with his life and his career. I'm sure the people of the 23d Congressional District are looking forward to having him home again.●

● Mr. MURPHY. Mr. Speaker, I rise today to commend one of Congress' most distinguished and respected Members, Congressman ABRAHAM KAZEN of Laredo, TX.

While many pass through the Halls of Congress, few manage to leave their mark on this institution. ABRAHAM KAZEN is one of those few.

He has been extremely active in Congress in matters concerning defense, education, agriculture, housing, public facilities, land planning, veterans' affairs and law enforcement.

As the ranking majority member of the Committee on Interior and Insular Affairs, Congressman KAZEN has proven to be instrumental in helping protect our Nation's vital natural resources. As the chairman of the Subcommittee on Water and Power Resources, he initiated the Pacific Electric Power Planning and Conservation Act of 1980. This important legislation helps to ensure that the Pacific Northwest has an economically efficient and reliable power supply. He was also responsible for the Reclamation Reform Act of 1982, which modernized the 1902 Reclamation Act.

In working with ABRAHAM KAZEN over the years I particularly admire his ability to conduct his affairs on a fair basis. On the Interior Committee he placed power and reclamation matters above politics. It is easy to focus on the many outstanding qualities of ABRAHAM KAZEN through legislation: his even-handedness, his fairness, his

consistency, his mastering of the substance of an issue, his work with his constituents, and his dedication and his hard work. We know that he is fair and loyal in dealing with his colleagues, his staff, and his principles.

It is this trust in ABRAHAM KAZEN that has earned him various important positions such as: serving as Congressional adviser to the U.S. delegation on the Organization of American States, and serving as a congressional adviser to the American delegation to the Law of the Sea Conferences, as well as representing the Congress 14 times at United States-Mexico interparliamentary conferences.

ABRAHAM KAZEN has left his mark on Congress and his presence as a Member of this body will be missed. We wish him success in his future endeavors and I extend my heartfelt best wishes for the future.●

● Mr. SAM B. HALL, JR. Mr. Speaker, I just have the greatest respect and admiration for our colleague and friend, CHICK KAZEN. He has been a trusted and valuable ally of mine since I first arrived in this body over 8 years ago. He is a true son of Texas and a gentleman of the first order, and it's just difficult to imagine that come the 99th Congress CHICK will no longer be in our midst. I'm going to miss him.

For 18 years CHICK KAZEN has represented his District. State, and Nation with honor and dignity. He has fought long and hard for a strong national defense, and he has been as instrumental as anyone I know in the constant struggle to assure an adequate water supply for the great Southwest, a matter of utmost importance to our people.

CHICK KAZEN has spent a lifetime helping others. He likes people and they like him. From his early days in the Texas Legislature some 37 years ago to his exemplary service in the House of Representatives right now, CHICK KAZEN has been a public servant, and I might add, a highly effective public servant. He has won more elections than anyone could hope to win, and yet he maintains a friendly and engaging manner that would be characteristic of someone entering elective politics for the first time. He has time for people and he has time to listen to their problems, and this includes those of us who are privileged to serve with him.

In Laredo, TX, where CHICK KAZEN was born and raised, his name is synomous with good citizen and good neighbor. Citizens of Laredo have named him "Man of the Year," "Father of the Year," and "South Texas Man of the Year." It is often said that great men often are not recognized and appreciated until long after their passing. CHICK KAZEN has been recognized and justifiably praised in his lifetime. He now takes a rightful place among the honor roll of great Texans who have served in this body.

CHICK KAZEN is an active, hard-charging personality. He is leaving the House of Representatives but he can never leave public service. It just isn't his nature and way of doing things. That's why we'll all continue to benefit from his wisdom and counsel in the years ahead. Of course, he and his lively wife, Connie, have five children and eight grandchildren, so they will have plenty to keep them busy. I look forward to a continued association and friendship with CHICK and Connie Kazen. While Texas and the House of Representatives has indeed lost one of its most effective and loyal voices, CHICK KAZEN will still make his voice heard on the national scene. I wish him well.●

● Mr. ANNUNZIO. Mr. Speaker, I rise to join with the distinguished chairman of the House Government Operations Committee, Congressman JACK BROOKS, in paying tribute to the Honorble ABRAHAM "CHICK" KAZEN, JR., who has been a dedicated Member of the U.S. House of Representatives for the last 18 years, ably representing the 23d District of Texas.

Most recently, I had the pleasure of working with CHICK on the passage of a resolution to erect a memorial in commemoration of the Lebanese-American poet, philosopher, and artist, Kahlil Gibran, and through the years we have served in Congress together, I have come to respect CHICK for his knowledge, for his fairness, and for his legislative and leadership abilities. His tireless efforts on behalf of his constituents, and on behalf of the citizens of the United States are admired and most worthy of recognition.

CHICK KAZEN has dedicated his life to public service, and has compiled an outstanding record of achievement. He served with distinction as a captain in the U.S. Air Force during World War II. Also, he was a member of the Texas House of Representatives from 1947 to 1952 and a member of the Texas Senate from 1952 to 1966, serving as president por tempore in 1959.

Elected to the 90th Congress in 1966, CHICK KAZEN has served in the House of Representatives during the last 18 years with diligence and distinction, as a member of the House Armed Services Committee, and its Subcommittee on Investigations and its Subcommittee on Military Installations and Facilities; and as a member of the House Interior and Insular Affairs Committee, and its Subcommittee on Mining, Forest Management, and Bonneville Power Administration, and as chairman of its Subcommittee on Water and Power Resources.

CHICK is a fine legislator and a Congressman of great ability and skill, who has provided exemplary service to his constituents and to our Nation during his nine terms as a Member of the House of Representatives.

I extend to my colleague, CHICK KAZEN, my best wishes for continued success in all of his future endeavors in devotion to the highest principles.●

● Mr. ARCHER. Mr. Speaker, I appreciate the time that the dean of the Texas delegation, Mr. BROOKS, has requested for us to pay special tribute to two of our departing colleagues from the Lone Star State, CHICK KAZEN and KENT HANCE.

I'm grateful for this chance to express my own feelings about these two gentlemen from Texas as they leave the Congress.

CHICK KAZEN has provided strong, effective representation for his constituents in south Texas throughout his career, and he has been a key figure on the Armed Services Committee in representing the role of our State in maintaining a strong national defense. His constituents, as well as all other citizens of this Nation, owe him a great debt of gratitude. I know he will be sorely missed in this Chamber, but the friendships he has made, and the respect that he has earned will remain long after his retirement from the House of Representatives.

With the retirement of KENT HANCE. Texas loses an able voice on the House Ways and Means Committee, a member of the committee whose presence there gave us an opportunity on several occasions to forge a bipartisan coalition on vital tax issues affecting our State and Nation. We lost a lot of battles together, but we won a few, too. We'll miss having KENT on the committee next year, as once again we face the need to effect responsible changes in the Tax Code.

Again, I appreciate the time made available to us to pay tribute to these two retiring colleagues. I know we all join in wishing them well in their future endeavors.●

● Mr. WHITTEN. Mr. Speaker, it is with real regret that I see our friend, CHICK KAZEN, conclude his service in the Congress at the end of this term.

CHICK KAZEN and I have been close friends since he began his service in 1967. Likeable, a hard worker, and able man, he has contributed greatly to the Congress, not only for the people of his district and State, but to the well-being of the Nation.

CHICK, we wish you and your family well in the years ahead and I express the hope that you will spend some time with your friends here in Washington.●

● Mrs. HOLT. Mr. Speaker, at the end of this session of Congress we will be losing two Members from Texas for whom I have great respect.

CHICK KAZEN and I have come to know each other through our work in the Armed Services Committee. I admire his intellect and the contribu-

tions he has made to the work of the committee, but there are other qualities in him which I value even more. He is a very compassionate and kindly man with a great commitment to public service. CHICK KAZEN's constituents have been well served by him.

As he prepares to leave us, I want to extend to him and Connie my best wishes for all of their future endeavors.

KENT HANCE will also be leaving the House after this session, and he, too, has provided distinguished service. We have come to know him as an independent spirit with strong convictions. We know that he represented his constituents well.●

● Mr. PICKLE. Mr. Speaker, it seems CHICK KAZEN and I have been working together forever and that is a most satisfying realization. Back in our University of Texas days, when I was running for campus office, young CHICK KAZEN was one of my ardent supporters and friends. He was very popular with the student body, and it was a credit to claim his friendship.

In not too many years, after we left the University, CHICK, and I, and other friends were scattered all over the State, working in our various occupations. However, a group of us decided to join together in an effort to promote good government by working to elect responsible leaders to public office. Here again, CHICK KAZEN took his place around the council table and was a principal regional coordinator of many campaigns.

Of course, CHICK KAZEN came by his leadership skills naturally. The Kazen family is one of the most respected in all of south Texas. When Abraham Kazen, Sr., started his career, he couldn't know that he would produce a family whose members would become county judges, district attorneys, Federal judges, and a U.S. Congressman. But I say none has contributed more to public service than ABRAHAM "CHICK" KAZEN. CHICK married Connie Raymond, daughter of Judge Manuel Raymond, who easily is recognized as the ablest south Texas political figure in the last 50 years. This combination of the Kazen and Raymond families has produced many prominent citizens. Connie has distinguished herself here in Washington as one of the most innovative and constructive workers for the Texas State society. She is an indefatigable worker and—oh, my, how we Texans are going to miss Connie.

CHICK served for 20 years with distinction in the Texas Legislature prior to being elected to the Congress in 1966. As the No. 2 man on the House Interior Committee, he has protected the mineral and water resources of our Nation. He has also distinguished himself as one of the ablest presiding officers of the House.

It is regrettable that we are losing a man of CHICK KAZEN's stature. But we are thankful for the time CHICK KAZEN has served in this House. Our Nation and our State are better off today because of CHICK KAZEN's service.●

● Mr. WINN. Mr. Speaker, it is truly an honor and a privilege to join my colleagues to pay tribute to a special friend of mine—CHICK KAZEN. CHICK and I came to Congress together in 1966, and I have valued our friendship over the years. I have always respected his dedication and devotion to both constituent interests as well as national interests. Those who live in the 23d District of Texas, which he represents, have been well served by such an able and effective legislator. His interests in matters concerning defense, education, agriculture, land planning, veterans' affairs, and law enforcement are well known. In all fiscal matters, CHICK has been a long-term supporter of measures to balance the Federal budget. All in all, CHICK KAZEN has been a pleasure to work with through the 18 years that I have known him. It goes without saying that his talents will be sorely missed by this body.

As one who is also leaving at the end of this year, I know how hard it is to actually say "goodbye" to friends and colleagues. However, it is also exciting to move on to new endeavors, and I am certain that CHICK KAZEN will continue to achieve only the best.

I wish CHICK and his wife, Connie, the very best in all that they seek to do. As we both prepare to leave the Halls of Congress, I sincerely hope that our paths cross again some day.●

● Mr. COLEMAN of Texas. Mr. Speaker, today I join Chairman BROOKS and the Texas delegation in paying tribute to two of our colleagues, CHICK KAZEN and KENT HANCE. As a freshman Member of this body, I am especially appreciative of their friendship, wisdom, and counsel.

ABRAHAM "CHICK" KAZEN, JR., has served the people of the 23d Congressional District with enthusiasm and vigor for 38 years—first as a leader in the Texas Legislature and then as a distinguished Member of the House. I was proud to serve with him on the Armed Services Committee where he effectively protected the interests of the people of south Texas and the Nation. His guidance of the Interior Subcommittee on Water and Power Resources will have a lasting effect on Federal policy in this critical area. Congressman KAZEN joined me as an original founder of the congressional border caucus, and it has flourished greatly because of his contributions and knowledge of the borderlands.

It is also a pleasure to salute my neighbor from Lubbock, KENT HANCE, who has been a good friend since we served together in the Texas Legislature. During his decade of public service, he has been a dynamic voice for the people of the 19th Congressional District. His dramatic race for the U.S. Senate evidenced his command of the important issues of the day and his leadership ability. He served with distinction on the Agriculture and Science Committees and was rewarded by a seat on the Ways and Means Committee, where he gained national attention. I am certain that we have not seen the last of KENT.

It has indeed been an honor to serve with CHICK KAZEN and KENT HANCE. I hope they will continue to share their views with us.●

● Mr. STOKES. Mr. Speaker, I would like to thank my distinguished colleague, the gentleman from Texas [Mr. BROOKS] for reserving this time so that Members can pay tribute to my good friend, Representative ABRAHAM "CHICK" KAZEN. As my colleagues know, Congressman KAZEN will complete his notable career in the House of Representatives when we adjourn.

Since he was elected to the Congress in 1966, Mr. Speaker, ABRAHAM KAZEN has worked tirelessly on behalf of his constituents in the 23d Congressional District of Texas. Before coming to Washington, Congressman KAZEN served in the Texas House of Representatives and the Texas State Senate. In total, ABRAHAM KAZEN has accumulated over 37 years in public service.

Judging from his long tenure in public service, it is easy to understand why he is respected by the people from the great State of Texas. The answer Mr. Speaker is his commitment to the district.

Throughout his career in the Congress, ABRAHAM KAZEN has worked to serve the best interests of his constituents in San Antonio and Laredo.

As a ranking member of the House Interior and Insular Affairs Committee, Representative KAZEN focused on irrigation and reclamation issues as the chairman of the Water and Power Resources Subcommittee. Through that committee assignment, he has worked to promote the interests of his constituents in the fertile farmland and livestock center of Laredo.

Mr. Speaker, my virtue of his position on the House Armed Services Committee, Congressman KAZEN has been the watchdog on issues affecting the Nation's military installations. There are several large military facilities in the 23d Congressional District.

He has been a true public servant. In the Congress, he has not lost sight of the needs of his constituents in Texas. He has used his position to meet their needs.

Mr. Speaker, I know that the residents of the San Antonio and Laredo areas will miss the leadership of Representative KAZEN. In the Congress, I and many of my colleagues will miss

his friendship and commitment to the well-being of this Nation.

Again, thank you for allowing me to join in this salute to Representative ABRAHAM "CHICK" KAZEN.●

● Mr. LEATH of Texas. Mr. Speaker, CHICK KAZEN won't be among us when the 99th Congress convenes in January, and that is a sad prospect.

Most of us are fully aware of CHICK's ability and dedication and we have known what a willing worker he is. His representation of the 23d District has been caring and thorough and the people of Laredo have been extraordinarily fortunate to have been served by him. As loyal and devoted to his constituents as CHICK is, he has been equally loyal to the Congress and its traditions. We could never ask for a more generous colleague, or one more devoted to the integrity of this institution.

CHICK KAZEN is a happy person and his happiness is contagious. We all smile a lot more when CHICK and Connie are around. Sometimes I think the Lord smiled on the Congress when CHICK became a part of us. It has been a most satisfying association and one that I have valued highly.

CHICK, you have been a loyal friend and a trusted colleague. Our lives are richer because you are our friend and the Nation is better served because you came our way. Our appreciation and best wishes go with you.●

● Mr. FROST. Mr. Speaker, I want to join my colleagues from Texas and from across the Nation in paying tribute to CHICK KAZEN. When I first came to the House almost 6 years ago, I looked to the veterans in the Texas delegation for guidance and leadership. Among those veterans was CHICK KAZEN, whose longstanding ties with the leaders of the country and of the House gave him a unique perspective on our legislative process.

From his close friendship with President Johnson to the enormous respect he received from the House leadership over the years for his conscientious and dedicated work in the Congress, CHICK KAZEN has been the epitome of responsible public service.

The Texas House delegation is like a family, and when one of those family members leaves, it makes us all a little sadder. We are sad to see him leave our Chamber, but we are better for having known and worked with him. On behalf of my colleagues in the Congress, I would just like to say "Thank you" to CHICK KAZEN for his friendship and leadership.●

● Mr. BEREUTER. Mr. Speaker, I am pleased to join my colleagues today in honoring our distinguished friend and colleague, the gentleman from Texas, ABRAHAM "CHICK" KAZEN, who will be leaving us at the end of this Congress.

CHICK has served his constituents, the residents of the 23d District of Texas, and the American people with distinction and dedication. He will be missed by them as well as by the Members of this body. The gentleman from Texas was elected to Congress in 1966 and has served with distinction on the House Armed Services Committee and the Interior Committee.

With CHICK's advice and support as chairman of the Subcommittee on Water and Power Resources, I was able to see one of my legislative initiatives become law this week, the Groundwater Recharge Demonstration Act. I shall always be grateful to him for the support and advice he gave me on this bill and others in which I had an interest. He has been a pleasure to work with, and I value him as a colleague and a friend.

CHICK has truly been an outstanding advocate and legislator for his district and for the State of Texas through his interest and actions concerning defense, education, agriculture, housing, public facilities, veterans' affairs, and law enforcement.

I join my colleagues in wishing CHICK and his wonderful wife, Connie, the best of luck in all their future endeavors. We shall miss them here, but know that they will continue their outstanding contribution to the country and Texas in other ways.●

● Mr. BIAGGI. Mr. Speaker, I am saddened over the fact that the end of the 98th Congress marks the departure from this House of my old friend ABRAHAM "CHICK" KAZEN of the great State of Texas. A distinguished career encompassing 18 years of service in the House has come to an end.

CHICK KAZEN served with great distinction on both the Armed Services and Interior and Insular Affairs Committee. On the latter committee, he served as chairman of the all important Subcommittee on Water and Power Resources and in the capacity produced important legislation benefiting many areas of the United States.

Yet when we reflect on those of our colleagues who are departing—we want to focus on them not just as legislators but as people. We all know that CHICK is a fine and effective legislator. We all know that CHICK worked long and hard for the people of the 23d Congressional District in Texas. Yet all of us who worked with CHICK over these years will remember the man. In my 15 years in the House, I have been honored to have CHICK as a friend. He is a warm and friendly man always with a good story—always with a good laugh. We can sometimes get caught up in the process here and forget the human qualities that we possess as individuals. I will remember CHICK for the many qualities he has as a person and I am sorry to see him go.

The people of south Texas have been served by ABRAHAM KAZEN in one form of elected service or another for some 37 years. He preceded his outstanding career in the House of Representatives with an equally distinguished career in the Texas House of Representatives and the Texas Senate and even a brief stint as Acting Governor. As CHICK prepares to return to Texas, he should go replete with the knowledge that he has served his constituents and Nation well and that he deserves nothing but the best in whatever future endeavor he chooses.●

● Mr. DE LA GARZA. Mr. Speaker, one of the great privileges of serving in this House is the association we have with some of the finest and most dedicated representatives of the people of our country. We are all conscious of the high honor of being selected by our fellow citizens to represent them here, but we soon become aware that most of us share this other privilege and honor of association.

Today I join with my colleagues in paying tribute to KENT HANCE, one of the finest gentleman I have had the pleasure and privilege of knowing since I first came to Congress in 1965. Though our years together have been but a few I have come to know KENT well. He has become a friend.

For 6 years now KENT HANCE has represented the 19th District of Texas with distinction. Fair and kindly, he has worked faithfully for his constituents and the Nation. The strength of his personality, the willingness to say what many felt and the conviction to do the tough things that had to be done—these are the qualities that have brought KENT both personal and legislative success.

His record is a monument to constructive thinking, farsightedness, and legislative acumen. His contributions to the Ways and Means Committee are particularly impressive. There is no question the standards KENT HANCE has set will be difficult to equal.

Though he is leaving our Chamber KENT will be long remembered—by the people of his district who will benefit from the work and legislation with which he has been identified through the years, and by us who profited from his inspiration and guidance.

The House of Representatives will miss him. I will miss him—his experience, his wisdom, and his humor. It is an honor to be able to say KENT HANCE is my friend for his was a job well done.●

Mr. BROOKS. Mr. Speaker, I yield back the balance of my time.

TRIBUTE TO HON. RON PAUL

The SPEAKER pro tempore (Mr. ANDERSON). Under a previous order of the House, the gentleman from Texas [Mr. ARCHER] is recognized for 60 minutes.

Mr. ARCHER. Mr. Speaker, I appreciate this opportunity for the House of Representatives to pay special tribute

to our colleague RON PAUL, who is retiring at the end of this Congress.

RON PAUL personifies for me the basic concept of a citizen/statesman which our forefathers in this country envisioned. Like many who served in our earlier Congresses, RON PAUL approached his public service in a true spirit of self-sacrifice. He left his successful medical practice in Lake Jackson, TX, because of his strong desire to do what he could to make this Nation a better place. He was not a professional politician. He was a physician. But he was also a thinking man with a vision for America for which he was willing to make great personal sacrifices.

RON PAUL viewed his service in Congress as a means to an end, not an end unto itself. Election to Congress was a way in which he could increase the strength of his voice, to focus national attention on issues he felt were critical to the future of this country. Throughout his years of service he continually sought to use his office to the fullest extent possible to accomplish the greatest possible good for his constituents and the Nation. No one can ask any more of a Member of Congress.

One of RON PAUL's greatest attributes is his steadfastness of purpose and devotion to principle. Individual Members of the House may disagree with RON on issues, but certainly there is no Representative here who has ever doubted his convictions. He made it clear from the start that his principles would never be compromised. They never were.

We'll miss RON PAIL in the House of Representatives, but, knowing him as I do, I'm confident that we will be hearing more from him in whatever activity he chooses to undertake from the point of his retirement forward. That's the kind of man he is. He'll continue to serve this Nation to the utmost of his ability. I know he'll find a way.

So I say to RON and his lovely wife, Carol, and to their entire family who have made a personal sacrifice over the years to help to build a better country, Godspeed and good luck.

Mr. Speaker, I have been asked by the gentlewoman from Colorado, PAT SCHROEDER, to read into the RECORD what she would say if she could be with us at this time.

RON PAUL, RAIN OR SHINE

Mr. Speaker, there are few people in public life who through thick and thin, rain or shine, stick to their principles. RON PAUL is one of those few.

I am pleased to have served with RON in the House. It may surprise some, but RON and I have teamed up on a number of issues.

We both opposed the reinstitution of Selective Service registration. We both sought to increase burden sharing among our NATO allies. We fought many good battles together.

RON could always be counted upon to jar this body out of its complacency, to focus on an issue. I hope he will not mind if I recruit John Maynard Keynes to praise him: "Words ought to be a little wild, for they are assaults of thought upon the unthinking."

I will miss RON's assaults of thought upon this body.

Mr. Speaker, I appreciate having this time to compliment RON PAUL, our Member from Texas, who will be leaving us at the end of this term.

● Mr. LOEFFLER. Mr. Speaker, I want to join the list of colleagues taking part in this tribute to a man who has served his Nation and the people of Texas with dedication and vigor.

RON PAUL has devoted his years of public service to reducing the intrusion of the Federal Government in the lives of all Americans. He has worked diligently on the Banking Committee, focusing on issues relating to our national currency and economic well-being. He has promoted policies designed to foster America's energy independence. He has stood firmly by his principles that free enterprise is the great hope for the development of human potential.

Thank you, RON, for your dedicated efforts in behalf of our country. As your friend, I extend my very best wishes, as well as every hope that your future endeavors will be fulfilling and rewarding.●

● Mr. MAZZOLI. Mr. Speaker, I would like to add my tribute to an able and effective Member of the House, RON PAUL of Texas, who will soon retire from the ranks of the House.

RON has been a dedicated Member who has served his constituency and the people of Texas well.

I wish him much good health and happiness in the years ahead.●

● Mr. DE LA GARZA. Mr. Speaker, one of our distinguished colleagues from my own State of Texas, RON PAUL, will not be returning to the House next session. Though we have often disagreed on the issues under debate in this body, I will certainly miss Dr. PAUL's presence. as the majority of us go about our business of governing the country, compromising where necessary, this body also needs Members who will provide us with a constant flow of thought-provoking ideas.

In the 8 years he has served as the Representative of the 22d District of Texas, Dr. PAUL has provided us with a unique perspective on many subjects. Whether we have agreed or disagreed, it is always a pleasure to deal with a principled individual who while in the minority, does not attempt to obstruct the workings of the institution. RON PAUL's departure is a loss to the institution, for I have certainly learned much from listening to his discourses. I know I join my colleagues in wishing Dr. PAUL great success in returning to his medical practice in Houston.●

● Mr. ANNUNZIO. Mr. Speaker, when this Congress adjourns, the House will be losing one of its most distinguished Members. For the past two Congresses, it has been my pleasure to have the gentleman from Texas [Mr. PAUL] serve as the ranking minority member on the Consumer Affairs and Coinage Subcommittee. The gentleman has served the subcommittee, his constituents, and the American people in an outstanding manner. The subcommittee will sorely miss him next Congress.

The gentleman's interest in gold coinage is well known. His support in 1982 led to the minting of the Olympic Gold Eagle this year—the first American gold coin issued in over 50 years. Not only did the gentleman help bring this coin to fruition, but he fought long and hard beside me to assure that all the profits would go to our Olympic athletes.

The gentleman joined me in opposing a plan that would have permitted private marketers to siphon off most of the profits from the athletes. Because of the courage of his conviction and his willingness to join in this lonely fight, we have an Olympic coin program that has raised nearly $60 million for our Olympic athletes—double what the private marketers' plan would have provided.

Perhaps more importantly, his concern helped protect the integrity of the U.S. Mint and protected the constitutionally mandated coinage function of the United States.

The gentleman's concern with the integrity of the monetary system in the United States is well known. This past summer, he joined with me in sponsoring legislation to prohibit changes in the design of paper currency without the approval of Congress. Our concerns were expressed in subcommittee hearings on the Treasury Department's research to change the currency.

I have had differences on legislation with the gentleman from Texas over the years. When it came to coinage issues, however, he and I more often than not saw eye to eye. We share a common belief that issuing the money of the United States is a constitutionally mandated function, and as such, coinage issues are not ones to be taken lightly. The gentleman was a great asset to the subcommittee and the Congress in that regard, and I will sorely miss him next year.●

● Mr. SHUMWAY. Mr. Speaker, I am pleased to have this opportunity to express my appreciation to RON PAUL for his outstanding service in Congress on behalf of the 22d District of Texas, and to bid him farewell as he prepares to return to private life.

RON has become a good friend during my tenure in the House. I have come to know him well as a legislator through our mutual service on the House Banking Committee, and to admire him for his courage in standing

up for that in which he believes. RON PAUL is totally dedicated to strong conservative principles. He has been a leader in the campaign for a gold standard, and he has made a mark through his public service which certainly will not be forgotten.

To RON and to his family I extend every best wish for continued success and prosperity, as well as my best personal regards.●

● Mr. SAM B. HALL, JR. Mr. Speaker, the history of the great State of Texas has always been characterized by a spirit of freedom and independence, and our colleague and friend, RON PAUL, carries this spirit through in his every endeavor. He is a man of rare courage and determination, and he isn't afraid or discouraged by overwhelming odds. That's why when I think of RON PAUL, I think of another man of American political history, Henry Clay, who once said that: "I would rather be right than be President." RON PAUL is a maverick in the finest sense of the word, and whether you agree or disagree with him, you've got to admire his tenacity and willingness to fight for principle.

I'm going to miss RON PAUL. We need more men and women like him in public life who are willing to stand up and be counted and who aren't afraid to go against the grain. Many of us remember the late Wayne Morse, who often stood alone in the Senate, and while his philosophy of Government was markedly different from that of RON PAUL, the fact is that these two men were willing to speak their minds regardless of the political consequences. Our democracy survives because of such men. It came into being because of such men.

I value my friendship with RON PAUL. I recall several years ago when I had my first and only fundraiser in Washington, an 8 a.m. breakfast. Many of my Democratic colleagues attended, but I can also tell you that one of my Republican colleagues also attended. It was RON PAUL. To my way of thinking, that is friendship. In northeast Texas, which is my area, we respect such a man.

RON PAUL has enjoyed a distinguished career as both a physician and a public servant. No matter what career he decides to pursue at this time, there is no doubt in my mind that he will be successful. He and his lovely wife, Carol, have five children, and I know how much he looks forward to spending more time with his family. Come the 99th Congress, I will miss his presence here, but I look forward to his continued strong input into the body politic.●

● Mr. HAMMERSCHMIDT. Mr. Speaker, I am thankful for this opportunity to say a few words in appreciation of our colleague, the Honorable RON PAUL, who is leaving the House after pursing a seat in the Senate.

In his 7 years in the House of Representatives RON has distinguished himself by advocating the importance of a sound monetary policy in preserving our freedom. He has also effectively articulated his support of a strong defense and noninterventionist foreign policy.

No Member better understands his area of responsibility nor presents a bill with better clarity. As a member of the Banking and Finance Committee, and especially as the senior Republican on the Consumer Affairs and Coinage Subcommittee, he has provided valued insight into the merits of a gold standard in U.S. monetary policy.

I have been privileged to serve with RON, who, through his untiring efforts in behalf of the 22d District of Texas, has epitomized the best spirit of ability, concern, and cooperation within the Congress. I wish him the best in all his future endeavors.●

● Mr. PETRI. Mr. Speaker, it has been a true privilege for me to serve in this House in the company of RON PAUL, Member of Congress from the 22d District of Texas.

All too often, we hear people around here pontificating that they stand foursquare in favor of liberty—whenever possible. Or that they favor frugal Government—whenever practical. Or that they support lower taxes—whenever feasible. Well, RON PAUL has accepted none of these weasel words and phrases, these escape clauses, and copouts. We have always known that he stands foursquare for freedom—period.

In Congress, it is frequently said that each Member needs to go along to get along. Well, RON PAUL knows that we all have a choice here. We are free either to do what is easy and safe, or to do what is best for America. One need not always agree with Representative PAUL to recognize that he has always stood up for his beliefs. He has never taken the easy way out.

On more than one occasion while those more cautious among us in this Chamber have run for cover, RON has stood up and singlehandedly argued his case. At times, it must have been quite difficult and unpleasant, but he did it anyhow.

Although many have refused to listen, RON has often served as the conscience of the Congress. He will be missed.

But, let us remember that this is no memorial speech. RON lost a primary, but not his life. I expect that he is simply planning to change the forum from which he speaks. I look forward to hearing him state his views loud and clear in the future. His are views more Americans need to hear and consider.●

● Mr. WINN. Mr. Speaker, I am pleased to join my colleagues in honoring RON PAUL, who has provided dedicated service to this body and to the constituents of the 22d District of Texas since April 1976. During the past decade, RON has emerged as a dynamic and consistent advocate of sound money, economic and civil liberty, a strong defense, and a noninterventionist foreign policy. His stand on these and other issues have brought him national acclaim.

In an effort to promote the importance of education in this country, RON has founded the Foundation for Rational Economics and Education, which conducts seminars and publishes both books and a monthly newsletter. I know he is looking forward to devoting more time to this fine organization upon his return to Texas.

I wish RON and his fine family all the very best that life has to offer.●

● Mr. JACOBS. Mr. Speaker, our colleague RON PAUL is honest, honest in every way and in every case.

He is intellectually honest, without a trace of tergiversation. When RON PAUL says he is against wasteful government spending, he means all government waste. He does not mean all waste except that of the military. He does not mean all waste except that of social programs or public works programs. He means all waste. Thus he finds himself in agreement and disagreement with practically everyone in Congress at one time or another. But, RON PAUL disagrees with waste by government, waste of money as well as waste of military lives, everytime. RON PAUL's conscience is an important part of the body politic. And his important contribution to the deliberations of the House is leaving us. That is unfortunate for our Republic. I wish him well and thank him for his friendship.●

GENERAL LEAVE

Mr. ARCHER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include therein extraneous material on the subject of my special order on behalf of RON PAUL today.

The SPEAKER pro tempore (Mr. HIGHTOWER). Is there objection to the request of the gentleman from Texas?

There was no objection.

INAPPROPRIATE REPUBLICAN REPRESENTATION ON COMMITTEES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. DANNEMEYER] is recognized for 60 minutes.

Mr. DANNEMEYER. Mr. Speaker, earlier today in the legislative session of the House, this Member from California rose to a question of privilege. I had a privileged resolution sent to the

desk and asked for its immediate consideration.

The Members will recall that when I did that earlier today, immediately the majority whip for the Democratic Party stood and was recognized, and moved to table this privileged resolution. I suspect that if I had been in his shoes, I would have made the same move, because the last thing the Democrats who control this House want to have happen is for the American people to understand the stewardship of power which they have administered during the course of the last 30 years that they have run this House continuously without interruption.

We Republicans in this House comprise 168 by number. The Democrats have 267. I took this special order today for the purpose of bringing to the attention of the people of our country the extent to which those of us on the minority side, the Republicans, have been deprived of our appropriate representation on the committees of the House, the 22 of them, on the subcommittees of the House, and on staff which serve the committees.

During the course of this special order today I intend to point out some of these facts which establish this beyond any doubt in anyone's mind.

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Unfortunately, the motion to table was carried on a straight party line vote. That is unfortunate, because just yesterday the same gentleman, the majority whip, the gentleman from the State of Washington, stood in the well of the House and extolled the existence of rules which provide equality for all who serve in this esteemed body. But what the gentleman did not say, but could have said and needs saying right now is that there is only one rule that pertains here in the House of Representatives under the tyranny of the Democratic majority, and that is the rule of 218, and the rule of 218 says you can do anything you want to; with a straight face and a smile, because when push comes to shove and you have 218 votes, you can stuff down the throat of any Member the ability to silence them, to short them on committees or what have you.

Mr. Speaker, it is with considerable regret and without other recourse that I rise on a question of privilege today. Were there some other way of handling this matter I would pursue it, but I know of no other way.

While rule X, clause 6(a) provides a means of recourse in the case of inequitable full committee ratios, there is no specific means for challenging even more inequitable subcommittee ratios; hence the resolution which I offered earlier today.

The resolution is simple and straightforward. After the "Whereas" clause it just says that each subcommittee of each standing and select committee of the House should be constituted with its membership in a ratio which is proportionate to the membership of the two political parties in each committee of the House. What is harder to understand is why such a resolution is necessary.

To obtain that understanding, it is necessary to look at some figures and a bit of history.

First, the history. Traditionally, subcommittee membership has been determined by the members of the full committee and full committee membership has been determined by the party caucus of each party in the House. Prior to 1971, the custom was for full committees other than the exclusive committees to be constituted in direct proportion to the strength of the respective political parties in the entire House of Representatives, but then in 1971 the Democratic Caucus voted to increase the strength of the majority on the exclusive committees from 60-40 to 2 to 1, and beginning in the 96th Congress the strength of the majority in the other committees and also the subcommittees was increased as well.

By discarding fractional entitlements at both the subcommittee and full committee levels and by applying the new 2-to-1 formula for exclusive committees, the majority party was able to deny the minority party 7 full committee and 38 subcommittee seats.

Then in the 97th Congress, when the Republican membership in the House of Representatives increased from 36.32 to 44.14 percent, the trend worsened, with Republicans being shorted in 31 full committee and a staggering total of 81 subcommittee seats.

Then in the 98th Congress, there was little improvement. At the time of organization, Republicans were denied 23 full committee and 62 subcommittee seats that are rightfully theirs.

In order that my colleagues might have the opportunity to analyze these figures in greater detail and see what they have meant for particular full committee and other subcommittees, I ask that the two charts be inserted in the RECORD at this point; one outlines the systematic denial of proportionally proper Republican representation on subcommittees from 1979 to the present and the other does the same thing for the full committees. Both indicate the sources of the information, the times at which it was collected and the methodology employed to arrive at the aforementioned figures.

Mr. NIELSON of Utah. Mr. Speaker, will the gentleman yield?

Mr. DANNEMEYER. I yield to my friend, the gentleman from Utah [Mr. NIELSON].

Mr. NIELSON of Utah. Mr. Speaker, I was impressed with this particular situation when I first came to Congress and I could not understand why they would not have the same representation in the subcommittees as they have in the full committees. For example, in the Energy and Commerce Committee on which I am privileged to serve, six of us—we only had one subcommittee assignment. We were underutilized for that particular committee, and yet, for example, we should have had 38 subcommittee spots in the Energy and Commerce Committee and we were only given 28. In other words, we were shorted 10 spots. That committee was perhaps treated worse than any other committee.

Every subcommittee was on a 2 plus 1, two times the number of Republicans plus 1; 13 to 6, 9 to 4, 11 to 5, 7 to 3, this kind of ratio.

If you consider one of those slots on both the Republican and Democratic sides is the ranking minority member and the chairman, those who are actually other than those two, that 7 to 3 translates into 6 to 2, almost 3 to 1 of those actually working on the committee on a full-time basis.

The same thing is true in the Foreign Affairs Committee. The Foreign Affairs Committee has also that twice the number plus 1, 7 to 3, 9 to 4 type ratio. That makes it so that the subcommittee is not really performing the role that it should perform.

What it does, it rides over the heads of the smaller number of the minority and into the full committee. In the full committee you have a somewhat better exchange of ideas. Many things are corrected in the full committee that should have been done in the subcommittee, so essentially we have wasted some of the work of the subcommittee.

So then, too, because we have a wrong division in the full committee, in the House we are able sometimes to get concessions that we are not able to get in the subcommittee or the committee. We have won some great victories in the House with the help of some good Members from the Democratic party; but I just want to point out that it is unfair to the new members of the committee to only have one committee or subcommittee assignment. That was the case with Representative FIELDS and myself and four of the subcommittee ranking minority members.

It is also unfair because the subcommittee does not do the kind of work it is supposed to do. It passes on to the full committee the work that could well be done in the subcommittee if the subcommittee had a proper ratio.

The one on which I serve with the gentleman from California [Mr. DANNEMEYER], Health and Environment Subcommittee, the ratio is 13 to 6. By any mathematical scheme it should be 13 to 8. Many times the votes have been by one or two votes and with a

13-to-8 ratio, some of the decisions made there would have been reversed and many of those are reversed in the full committee, but they could have been done at the subcommittee level had the ratios been correct.

I felt that was the most unfair thing I had seen. It is the only body I know of that does this. The Senate does not do it that way. The Parliament does not do it that way. The various State legislatures do not do it that way. This is the only body that I know of in existence which is so patently unfair.

I recognize the majority must rule and the majority must work its will, but I think it would be much better if they did it in a proper way. We would feel better about it and I think we would have a better product.

I thank the gentleman for yielding.

Mr. DANNEMEYER. Mr. Speaker, I thank my colleague, the gentleman from Utah, for his contribution.

On the point of making reference to other democracies in the Western World, it is interesting to note that there are 54 democratically elected democracies in the Western World. Most of them elect and place members on committees and subcommittees consistent with the division of the party in the whole house.

There are certain countries in the world to which there is an exception and one of them is Albania, Bulgaria, Poland, and the U.S.S.R. In other words, the House of Representatives in the United States of America is in the same league with Albania, Bulgaria, Poland, and the U.S.S.R.

Now, I do not think that really is in a league where we belong. The other body here in the U.S. Congress apportions its Members on committees and subcommittees consistent with the membership in the whole House. It has done that irrespective of which party, the Democratic party or the Republican party, controlled the Senate; but unfortunately, we have not been able to bring that change into existence here in the U.S. House of Representatives.

One of the charts that I referred to earlier related to subcommittee membership. In the 96th Congress, which was in 1979 and 1980, the first Congress in which this Member from California served, Republican Members on subcommittees were shorted 38 slots.

In the 97th Congress in 1981 and 1982, the Republican Members were shorted in that Congress 81 slots on subcommittees.

In the current Congress, the 98th Congress, serving in 1983 and 1984, Republican Members were shorted 62 slots on subcommittees.

With respect to full committees in the 96th Congress, the Republicans were shorted 7 seats on the 22 committees in that Congress.

Then in the 97th Congress, on full committees the Republicans were shorted 31 slots.

Then in the 98th Congress, the current one, Republican Members were shorted 23 slots.

□ 2150

A careful perusal of the subcommittee calculations reveals that the problem of inequitable minority representation on subcommittees is worse on some subcommittees than on others. In the Energy and Commerce Committee, on which I serve, Republicans presently have 10 less seats than they should, if one accepts the number of Democratic subcommittee slots as a given, assumes that these slots should account for 61.84 percent of the total slots—the 61.84 percent figure being equal to the percentage of Democrats in the whole House—and then calculates what 38.16 percent of the total number of slots—which equates to the percentage of Republicans in the whole House—would be. On the Foreign Affairs Committee and on the Public Works and Transportation Committee Republicans are short seven slots apiece using the same formula and on both the Interior and Appropriations Committees, the deficit is five slots. In some cases, the minority party representation is on subcommittees is not only less than what it should be when compared to Republican membership in the House of Representatives as a whole but it is lower percentage wise than Republican representation on the full committee of which the subcommittee is a part.

Take the Energy and Commerce Committee for example. After the 1982 elections, in which Republicans got 44 percent of the Congressional vote nationwide and won 38.16 percent of the House seats, Republicans were given 35.7 percent of the full committee seats by their Democratic colleagues in the House. But, at the subcommittee level, committee Democrats were only willing to give committee Republicans 28 of the 90 subcommittee slots that were created—or a meager 31.1 percent. Thus, the question becomes—where will it all end? If a full committee leadership can give the minority even smaller percentage representation on subcommittees than it enjoys on full committees, who is to say that the minority won't be given 25 percent, or 20 percent or even 15 percent of the subcommittee slots in the future. After all, Republicans have only been given 15.8 percent of the investigative staff on committees in the 98th Congress, so why not only 15 percent of the subcommittee seats in some future Congress, especially if it would help some controversial measure clear at least the first big hurdle in the legislative process? That possibility should frighten every Member, and every American in fact, for the threat it poses to our representative form of government. For what is clearly at stake is whether a majority party is going to be able to achieve its legislative ends, not on the merits of the issues, but by being able to manipulate the legislative process. All of us who have served in this institution know that many of the key decisions affecting the contents of a bill, or even whether it remains viable, are made early on—in subcommittee. If the majority party has a subcommittee margin unreflective of the full committee or the full House, it can shape a bill—not to mention keeping it alive or killing it—in a way that it could not be shaped otherwise. Indeed, on the Health and Environmental Subcommittee, on which I serve, I can count three instances in the 98th Congress where amendments I offered lost by less than two votes that Republicans are effectively denied by virtue of the fact that they should have two more seats on that subcommittee. Had Republicans been given their proper allocation of subcommittee seats—38.16 percent—or at least a percentage of seats equivalent to their percentage of members of the full committee, there is a very good chance that at least two of these amendments would have passed. Now, in one case—involving the acid rain legislation—the bill itself was eventually defeated in subcommittee so the "shorting" had no lasting effect, but the same cannot necessarily be said of the other two amendments, nor can it be assumed in a number of other instances where the subcommittee vote on amendments offered by other Members was very close.

But is the threat of progressively less representation of the minority party a real one? Some may say not, but consider again what has happened on the Energy and Commerce Committee. In the 96th Congress, Republicans were given 34 of the 102 subcommittee seats (33 percent) and 15 of the 42 full committee seats (35.7 percent) based on having elected 159 of the 435 Members of the House (36.3 percent). But, in the 98th Congress, were Republicans had won 166 of the 435 seats (38.2 percent), Republicans were given only 28 of the 90 subcommittee seats (31.1 percent) and the very same 15 of the 42 full committee seats (35.7 percent). So, instead of getting more representation by virtue of having elected 7 more Republicans to the House, the GOP made no progress whatever at the full committee level and actually lost ground at the subcommittee level. The justification for all this was, and is, that a working majority is needed at the committee level, from which one can surmise that their current numercial majority was in danger of not working as its leadership wants. Which raises a key point. This intentional shorting of the minority party

on subcommittee and full committees hurts not only Republicans but any Member who may not always agree with the agenda of the leadership of the majority party here in this House. His or her rights, and the interests of his or her constituents, are effectively compromised by the fact that the shorting reduces the possibility of legislative arrangements being struck that the leadership of this House does not favor.

Mere mention of the word "constituent" serves to bring this whole issue into full, clear, and proper focus. If is not just individual Members of the House of Representatives who are being discriminated against in this business of underrepresentation of the minority on subcommittees and full committees. It is each and every constituent of those Members. In theory, at least, this House is supposed to represent everybody in this great Nation of ours to the same degree. That's why congressional districts have to be approximately the same size regardless of the State in which they are located. But, if the Members of one political party are given an advantage over Members of another political party in excess of that provided them by the voters then some voters—citizens, if you will—are not getting the same degree of representation as others. Certainly, the Constitution intended that the will of the majority be expressed, and the Rules of the House reflect that desire, but what we are talking about here is an extracurricular development which is cumulative in effect and which can turn the will of the majority into the tyranny of the majority in a way that the Founding Fathers never intended.

In order that my colleagues might obtain a clearer perspective as to how this shorting has a cumulative effect, I ask unanimous consent to insert in the RECORD at this point another chart. This one shows how Republican representation has been successively diluted over the last three Congresses, starting with the GOP's share of the Republican congressional vote and working down to the GOP's share of the investigative staff on House committees.

This chart is the one to my left. You will note the same pattern is followed in the 96th, 97th, and the 98th Congress.

In the 96th Congress, for instance, Republican candidates running for Congress nationwide received 45.6 percent of the vote. We received 36.3 percent of the votes here in the full House, 35.1 percent of the votes on committees, 34.6 percent on subcommitttees, and 15.2 percent of the staff assigned to those committees and subcommittees.

We had the same pattern with the 97th Congress and the 98th Congress.

A good question comes up as to why it is that Republican candidates for Congress in November 1980 received 48.6 percent of the vote nationally for Congress, and yet only received 44.1 percent of the slots in the House of Representatives.

Why is there that disparity? That is because around this country we have a process known as gerrymandering and a majority of the State legislatures of America today and in 1980 were controlled by the Democratic Party and naturally that party used the process of gerrymandering to increase the probability that Democrats would serve out of those districts that were created.

That is the explanation as to why in each of the last three Congresses Republican Members in the House of Representatives totaled significantly less than the total vote the Republican candidates for Congress received nationwide.

Please, note, in particular, that GOP representation in the House, when calculated on a percentage basis, is on average 6.5 points lower than the average GOP percentage of the congressional vote in the elections of 1978, 1980, and 1982. Likewise, the average percentage of Republicans on full committees is 2.2 points lower than the average percentage of Republicans in the House during the 96th through 98th Congresses. Similarly, the average percentage of Republicans assigned to all the subcommittees of the House is, for that same 6-year period, 0.35 points lower than the percentage of Republicans assigned to the full committees.

□ 2200

And if that weren't enough, the average percentage of Republican investigative staff on committees is a stunning 21.9 points below the average percentage of Republicans assigned to subcommittees.

From our work on subcommittees, all of us who serve in this venerable institution are acutely aware of the importance of fair representation on subcommittees not only at the Member level but at the staff level as well. Like it or not, staff resources, along with Member votes, have a whole lot to do with what bills do and do not get considered and what form they will ultimately take. Therefore, the availability, or lack thereof, of staff resources forms an integral part of the pattern that I have been describing and so Members can examine it in more detail, I ask unanimous consent at this point to insert in the RECORD yet another chart which details the staff "shorting" committee by committee over the past three Congresses. After looking it and the previous charts over, I think you will agree that the more we look, the worse it gets. The minority party in the House of Representatives is disadvantaged to an ever greater extent each and every step down the legislative ladder.

As you well know, Mr. Speaker, this is not the first time the matter of fair representation in this institution has been raised, nor will it be the last if something is not done to rectify the glaring inequities demonstrated by the various figures I have previously cited. In the 96th Congress, Republicans as a unified group wrote you and asked that corrective steps be taken. We were subsequently informed that our concerns would be given "serious consideration" at an appropriate time, and they were, but not in the manner we had hoped. Instead of getting a fairer share of subcommittee and full committee seats in the 97th Congress, the "shorting" of Republicans on subcommittees and full committees got worse. That being the case, we had little choice but to contest the most egregious of the subcommittee ratios on the floor of this House, where we lost on a party line vote. That being the case, some of us then went to court, only to be confronted ultimately by the reluctance of the Supreme Court to intrude in what it apparently considers to be the exclusive business of this House. So that brings us to where we are today, and to why this resolution is being introduced. We have sought recourse by all other available means and it has been denied. But redress is still essential to the integrity of this House and to the entire legislative process. And so I hope that Members would vote for this resolution. It will not solve the entire problem, inasmuch as it only deals with subcommittee ratios and even then, for procedural reasons, it doesn't go quite as far as one might like. But it will correct the most egregious of the inequities isasmuch as the minority party has less representation at the subcommittee level than at more advanced levels in the legislative process.

If this resolution is adopted, it will put the House on record as favoring subcommittee ratios no more unfavorable to the minority than full committee ratios. Moreover, it would send a clear signal to the incoming 99th Congress that the matter of disproportionate ratios on the full committees should be addressed as well. Now I recognize that there will may be those who would prefer that the status quo be continued, either because they would continue to benefit now or because they could repay the favor if control of the House shifts sometime in the future. But, I submit that would be bad policy. If the doctrine of "one man, one vote," as articulated in Baker versus Carr (1962), is to have any real meaning, the minority and the majority parties should be represented, at each rung on the legislative ladder, in accordance with their rela-

tive numerical strength as determined by the voters in the last congressional election. That was, everyone is treated fairly and no one is placed at an institutional disadvantage. Issues should be decided by the votes of the people's representatives without the possiblity of distortion by a cumulative warping of the legislative process.

Mr. Speaker, in conclusion, just let me say this. Fair representation on the subcommittees and full committees of the House may not be the most glamorous of issues. But it is vitally important to the integrity of House proceedings and, unless resolved, it will not go away. The time has come for this body to confront the issue, and to confront it in as direct and forthright a manner as possible. For if we don't, the voters of this country may very well decide to confront it for us and in a way some of us might not like.

Sometimes people ask when you take up this issue, "Well, really what is the difference? What difference does it make with respect to the outcome of the legislative process whether or not you have proper representation on committees for different proposals?" I have a chart here of 10 votes that were taken in 1980 and 1981. I will make reference to them to indicate where the result would have changed on a close vote in a committee if the Republican members of that committee had been given their proper representation.

On the Budget Committee in 1980 the Wirth amendment on the MX basing mode, adopted. It was adopted and the tie vote would have resulted in a defeat of the amendment. The vote was 13 to 12. If the number of GOP slots had been what our entitlement deserved, that would not have been adopted at that time.

Again in the Budget Committee the Trible amendment to adopt the administration's defense figures lost in 1981 on a vote of 14 to 14. Republicans were shorted two votes at that time. Had they been there, that would have carried, it would have changed the result.

In the Ways and Means Committee, 1981 on a vote of 18 to 14, a motion offered by Representatives PICKLE and CONABLE to make substantial changes in Social Security lost. If the additional Republicans had been there that were shorted, the result would have made that motion carry.

Again in the Ways and Means Committee, 1981 by a vote of 18 to 14 the Gradison amendment to remove the Social Security trust funds from the unified budget lost. Had the six additional Republicans been there, it would have carried.

Again the Ways and Means Committee, 1981 by a vote of 18 to 15 the Gephardt amendment calling for a reduction in excise taxes on oil lost. If the number of Republican slots had been there, the additional six, it would have carried.

Again the Ways and Means Committee in 1981 by a vote of 19 to 16 the Frenzel amendment calling for an increased exclusion of foreign-earned income from Federal taxation lost. If the additional six Republicans that we were shorted had been there, the amendment would have carried.

Again the Ways and Means Committee in 1981 by a vote of 17 to 17 a motion by Mr. GUARINI relating to employee stock options lost. If the six additional Republicans had been there, it would have carried.

Again in the Ways and Means Committee by a vote of 18 to 17 in 1981 the Pickle amendment to increase the foreign-income exclusion lost. If the six GOP Members had been there, the vote would have been different.

Again in 1981 by a vote of 20 to 15 in the Committee on Ways and Means the Schultze amendment seeking an optional cash accounting method for sole-proprietor taxpayer lost. If the six Republicans who were shorted had been there, the motion would have carried.

Finally, again on the Committee on Ways and Means, in 1981 by a vote of 19 to 15 the Pickle amendment relating to dividend reinvestments lost. If the six Republicans had been there that we were shorted, it would have carried.

In the subcommittee on which I serve, the Subcommittee on Fossil and Synthetic Fuels of the Committee on Energy and Commerce, in the 98th Congress the Democrats have 13 and the Republicans have 6 slots. If the Republicans had received their proper entitlement, we would have eight. Instead of 13 to 6 it would be 13 to 8.

What is the difference, people ask? The difference is absolutely profound, because that subcommittee deals with the legislation of natural gas policy for America. We have two conflicting philosophies competing for dominance on that issue. One seeks to recontrol the price of natural gas on the theory that by controlling prices and regulating prices by the Federal Government we protect consumers of our country.

The Democratic Party essentially philosophically is asserting that to the people of this country.

We on the Republican side believe just the opposite, that the availability of a product such as energy, natural gas, serves the interest of consumers best in terms of price and quantity when that product is determined in the sense of availability and price by the market system.

□ 1010

On the one hand the Democrats tell us we need the benevolent hand of the Federal Government to regulate price and quantity. We Republicans, on the other hand, say we need the market system to determine availability of price and quantity.

Each of those philosophies is entitled to be heard here. Each has their advocates. In this forum we give respect to the view of each of us. But it is totally unfair when the Democratic Party controlling this House, as it has for the last 30 years, tells those of us on the Republican side, "We are going to sandbag the result from the beginning by denying you Republcans two slots on that subcommittee at the beginning of the struggle."

It makes the fight unfair. It distorts the result in a way that does not serve the people of this country. I use that an an illustration because I think, as I say, and I mean this sincerely, both of these philosophically different views are entitled to be heard. But Americans if they agree on one thing, that is on an equal playing field and fairness in a matter of this type, and this is just one of many instances that I could bring to the attention of the Members of the House as to what meaning this has to the people of the country in terms of distorting the legislative result that comes about when we in the House of Representatives labor on subcommittees and committee that tilt the ultimate result in the way of a work product that comes out of those subcommittees and full committees.

Charts referred to follow:

COMMITTEE MEMBERSHIP BY PARTY (1979 THROUGH 1984)

Committees	96th Congress/36.32% GOP			97th Congress/44.14% GOP			98th Congress/38.16% GOP		
	Proper committee ratio	Actual committee ratio	GOP seats denied	Proper committee ratio	Actual committee ratio	GOP seats denied	Proper committee ratio	Actual committee ratio	GOP seats denied
Agriculture	27–15	27–15	0	24–19	24–19	0	26–16	26–15	1
Appropriations	36–20	36–18	2	33–26	33–22	4	36–22	36–21	1
Armed Services	29–16	29–16	0	26–20	26–19	1	28–17	28–16	1
Banking	28–16	28–15	1	26–20	26–19	1	30–18	30–17	1
Budget	17–09	17–08	1	18–14	18–12	2	20–12	20–11	1
District of Columbia	10–05	10–05	0	08–06	08–04	2	08–04	08–04	0

COMMITTEE MEMBERSHIP BY PARTY (1979 THROUGH 1984)—Continued

Committees	96th Congress/36.32% GOP			97th Congress/44.14% GOP			98th Congress/38.16% GOP		
	Proper committee ratio	Actual committee ratio	GOP seats denied	Proper committee ratio	Actual committee ratio	GOP seats denied	Proper committee ratio	Actual committee ratio	GOP seats denied
Education and Labor	24–13	24–13	0	20–15	20–14	1	21–13	21–11	2
Energy and Commerce	27–15	27–15	0	24–19	24–18	1	27–16	27–15	1
Foreign Affairs	22–12	22–12	0	21–16	21–16	0	24–14	24–13	1
Government Operations	25–14	25–14	0	23–18	23–17	1	25–15	25–14	1
House Administration	16–09	16–09	0	11–08	11–08	0	12–07	12–07	0
Interior	28–16	28–15	1	26–20	26–17	3	28–17	28–14	3
Judiciary	20–11	20–11	0	16–12	16–12	0	20–12	20–11	1
Merchant Marine	25–14	25–15	+1	21–16	21–15	1	26–16	26–14	2
Post Office	16–09	16–09	0	16–12	16–11	1	16–09	16–09	0
Public Works	31–17	31–17	0	27–21	27–19	2	32–19	32–18	1
Rules	11–06	11–05	1	11–08	11–05	3	09–05	09–04	1
Science and Technology	27–15	27–15	0	23–18	23–17	1	26–16	26–15	1
Small Business	25–14	25–14	0	23–18	23–17	1	26–16	26–15	1
Veterans Affairs	21–12	21–11	1	18–14	18–14	0	21–13	21–12	1
Ways and Means	24–13	24–12	1	23–18	23–12	6	24–14	23–12	2
Total			7 (net)			31			23

Sources: Henshaw, Edmund L., Jr., "List of Standing Committees and Select Committees of the House of Representatives of the United States Together With Joint Committees of the Congress," Washington, DC, March 7, 1979, March 25, 1981, and June 12, 1981. Guthrie, Benjamin, J., "List of Standing Committees and Select Committees of the House of Representatives of the United States Together With Joint Committees of the Congress," Washington, DC, March 15, 1983.

Methodology: Use the number of Democratic slots on each committee as a base. In all cases, compute the proper ratio on the basis of the party split in the House of Representatives at the time of organization. The five non-voting Members are not included in this calculation, but they are included in committee counts, where applicable, because they do vote in committee.

CLOSE VOTES IN COMMITTEE

Committee	Description of issue	Date	Vote	Number of GOP slots shorted
Budget	Wirth amendment on the MX basing mode. Adopted. (Tie vote would have resulted in defeat of the amendment.)	1980	13–12	1
Budget	Trible amendment to adopt the amendment's defense figures. Lost	1981	14–14	2
Ways and Means	A motion offered cooperatively by Representatives. Pickle and Conable to make substantial changes in Social Security. Lost	1981	18–14	6
Ways and Means	Gradison amendment to remove the Social Security trust funds from unified budget. Lost	1981	18–14	6
Ways and Means	Gephardt amendment calling for a reduction in excise taxes on oil. Lost	1981	18–15	6
Ways and Means	Frenzel amendment calling for an increased exclusion for foreign earned income from Federal taxation. Lost	1981	19–16	6
Ways and Means	A motion by Guarini relating to employee stock options. Lost (1 GOP "nay" vote)	1981	17–17	6
Ways and Means	Pickle amendment to increase the foreign income exclusion. Lost	1981	18–17	6
Ways and Means	Schulze amendment seeking an optional cash accounting method for sole proprietor taxpayer. Lost	1981	20–15	6
Ways and Means	Pickle amendment relating to dividend reinvestments. Lost	1981	19–15	6

SUBCOMMITTEE MEMBERSHIP IN THE HOUSE OF REPRESENTATIVES—96TH THROUGH 98TH CONGRESSES

Committees	96th Congress (36.32% GOP)					97th Congress (44.14% GOP)					98th Congress (38.16% GOP)				
	Number of subcommittees	Number of Decomcrat slots	GOP entitlements	Actual GOP slots	GOP shortage	Number of subcommittees	Number of Decomcrat slots	GOP entitlements	Actual GOP slots	GOP shortage	Number of subcommittees	Number of Decomcrat slots	GOP entitlements	Actual GOP slots	GOP shortage
Agriculture	[1] 10	83	47.3	43	−4	[1] 8	72	56.9	55	−1	[1] 8	76	46.9	42	−4
Appropriations	[1] 13	95	54.2	47	−7	[1] 13	90	71.1	59	−12	[1] 13	101	62.3	59	−5
Armed Services	8	55	31.4	31		7	53	41.9	41		7	62	38.3	34	−4
Banking	9	89	50.8	45	−5	8	84	66.4	61	−5	8	102	62.9	58	−4
Budget	0	0	0.0	0	0	0	0	0	0	0	0	0	0	0	0
District of Columbia	4	12	6.8	8	+2	[1] 3	15	11.9	9	−2	3	15	9.3	9	
Education and Labor	[1] 8	68	38.8	34	−4	[1] 8	55	43.5	35	−8	[1] 8	66	40.7	40	
Energy and Commerce	[1] 6	60	34.2	30	−4	[1] 6	66	52.2	46	−6	[1] 6	62	38.3	28	−10
Foreign Affairs	[1] 8	43	24.5	23	−1	8	40	31.6	32	+1	8	50	30.9	23	−7
Government Operations	[1] 7	48	27.4	27		[1] 7	45	35.6	31	−4	[1] 7	49	30.2	28	−2
House Administration	8	34	19.4	21	+2	6	22	17.4	15	−2	5	24	14.8	12	−2
Interior	7	72	41.1	39	−2	6	56	44.3	36	−7	6	63	38.9	33	−5
Judiciary	7	44	25.1	22	−3	7	31	24.5	23	−1	7	43	26.5	25	−1
Merchant Marine	[1] 5	65	37.1	37		[1] 5	56	44.3	41	−3	[1] 5	71	43.8	39	−4
Post Office	7	34	19.4	19		[1] 7	43	34.0	29	−5	[1] 7	35	21.6	21	
Public Works	6	98	55.9	50	−5	6	79	62.4	54	−8	6	90	55.5	48	−7
Rules	2	8	4.6	4		2	10	7.9	5	−2	2	8	4.9	4	
Science and Technology	[1] 7	64	36.5	34	−2	[1] 7	55	43.5	38	−5	[1] 7	67	41.3	39	−2
Small Business	6	38	21.7	19	−2	6	34	26.9	24	−2	6	38	23.4	20	−3
Veterans Affairs	[1] 5	48	27.4	27		[1] 5	37	29.2	29		[1] 5	46	28.4	27	−1
Ways and Means	6	44	25.1	22	−3	6	42	33.2	24	−9	6	42	25.9	24	−1
Total	139	1,102	628.7	582	[2] −38	131	985	778.7	687	[2] −81	130	1,110	684.8	611	[2] −62

[1] Denotes full committees on which the chairman of the full committee and the ranking minority member of the full committee have voting privileges on all subcommittees.

[2] Net.

Notes.—Figures include all voting members, including voting ex-officio members of all standing subcommittees of the House of Representatives for the 96th Congresses.

Sources: Henshaw, Edmund L., Jr., "List of Standing Committees and Select Committees of the House of Representatives of the United States Together With Joint Committees of the Congress," Washington, DC, March 7, 1979, March 25, 1981, and June 12, 1981. Guthrie, Benjamin, J., "List of Standing Committees and Select Committees of the House of Representatives of the United States Together With Joint Committees of the Congress," Washington, DC, March 15, 1983. Committee on Rules, "Rules Adopted by the House of Representatives, 96th Congress, 1979–1980; 97th Congress, 1981–1982; 98th Congress, 1983–1984," Washington, DC, 1979, 1981, and 1983.

COMMITTEE STAFFING IN THE HOUSE OF REPRESENTATIVES (96TH THROUGH 98TH CONGRESSES)

Committees	96th Congress 1980 (36.32% GOP)						97th Congress 1982 (44.14% GOP)									98th Congress 1984 (38.16% GOP)						
	Statutory staff, total number of slots	Investigative staff					Statutory staff			Investigative staff						Statutory staff			Investigative staff			
		Demo	GOP	GOP %	GOP entitlements	GOP shortage	Demo	GOP	GOP %	Demo	GOP	GOP %	GOP entitlements	GOP shortage		Demo	GOP	GOP %	Demo	GOP	GOP %	GOP entitlements	GOP shortage
Aging [1]										28	12	30.0	22.1	10					29	11	27.5	17.9	6
Agriculture	30	28	11	28.2	16.0	5	20	9	31.0	23	13	36.1	18.1	5		20	10	33.3	26	12	31.6	16.0	4
Appropriations [2]	([3])	([3])	([3])	([3])	([3])	([3])	([3])	([3])	([3])	([3])	([3])	([3])	([3])	([3])		51	11	17.7					
Armed Services	28	6	0	0	3.4	3	([4])	([4])	([4])	([4])	([4])	([4])	([4])	([4])		([4])	([4])	([4])	([4])	([4])	([4])	([4])	([4])
Banking	29	67	10	13.0	38.2	28	18	8	30.8	45	12	21.1	35.6	23		19	9	32.1	49	11	18.3	30.2	19
Budget [2]	([3])	([3])	([3])	([3])	([3])	([3])	([3])	([3])	([3])	([3])	([3])	([3])	([3])	([3])		60	6	9.1					
District	30	14	1	6.7	8.0	7	20	7	25.9	13	0	0	10.3	10		21	9	30.0	15	1	6.3	9.3	8
Education and Labor	29	68	15	18.1	38.8	23	20	10	33.3	68	16	19.0	53.7	37		209	10	33.3	54	12	17.6	33.3	21
Energy and Commerce	30	118	15	11.3	67.3	52	20	9	31.0	108	9	7.7	85.3	76		20	9	31.0	107	12	10.1	60.0	54
Foreign Affairs	29	47	3	6.0	26.8	23	20	10	33.3	51	4	7.3	40.3	36		20	10	33.3	48	6	11.1	29.6	23
Government Operations	19	60	6	9.1	34.2	28	16	7	30.4	58	6	9.4	45.8	39		17	9	34.6	56	6	9.7	34.6	28
House Administration [5]	30	60	1	1.6	34.2	33	17	3	15.0	21	2	8.7	16.6	14		24	5	17.2	21	1	4.5	13.0	12
Intelligence [1]		([4])	([4])	([4])	([4])	([4])				([4])	([4])	([4])	([4])	([4])		([4])	([4])	([4])					
Interior	29	33	8	19.5	18.8	10	20	10	33.3	32	7	17.9	25.3	18		20	10	33.3	34	8	19.0	21.0	13
Judiciary	29	49	3	5.8	27.9	24	20	10	33.3	40	3	7.0	31.6	28		20	10	33.3	48	4	7.7	29.6	25
Merchant Marine	30	54	7	11.5	30.8	23	20	10	33.3	45	11	19.6	35.6	24		20	10	33.3	40	9	18.4	24.7	15
Narcotics [1]										10	4	28.6	7.9	3					13	4	23.5	8.0	4
Post Office	29	32	4	11.1	18.2	14	20	8	28.6	36	4	10.0	28.4	24		20	10	33.3	43	7	14.0	26.5	19
Public Works	30	32	18	36.0	18.2	0	20	10	33.3	37	17	31.5	29.2	12		20	10	33.3	39	15	27.8	24.1	9
Rules	28	14	5	26.3	8.0	3	20	9	31.0	15	0	0	11.9	11		21	9	30.0	17	0	0	10.5	10
Science and Technology	30	47	11	19.0	26.8	15	19	10	34.5	42	5	10.6	33.2	28		20	10	33.3	44	4	8.3	27.2	23
Ethics [1]	([4])	([4])	([4])	([4])	([4])	([4])	([4])	([4])	([4])							([4])	([4])	([4])					
Small Business	31	23	6	20.7	13.1	7	22	9	29.0	19	4	17.4	15.0	11		20	10	33.3	17	4	19.0	10.5	6
Veterans Affairs	24	8	3	27.3	4.5	1	17	5	22.7	10	2	16.7	7.9	5		19	5	20.8	9	1	10.0	5.6	4
Ways and Means	29	47	18	27.7	26.8	8	20	19	33.3	52	8	13.3	41.1	33		20	10	33.3	49	11	18.3	30.2	9
Child/Youth/Family [1]	([6])	([6])	([6])	([6])	([6])	([6])	([6])	([6])	([6])	([6])	([6])	([6])	([6])	([6])		([6])	([6])	([6])	([7]) 9	5	35.7	5.6	0
Total	543	807	145	15.2	460.0	307				753	139	14.6	594.9	447					767	144	15.8	473.4	322

[1] Indicates select committees.
[2] Indicates committees whose staff is not funded by means of a committee funding resolution. Associate staff are not included in the calculation.
[3] Not available.
[4] Nonpartisan.
[5] Does not include staff assigned to House Information Systems (HIS).
[6] Not in existense.
[7] Does not include 3 staff members considered to be non-partisan.

Sources: For 1980 figures: Statutory Staff—Judy Schneider, "Congressional Committee Staff & Funding," Issue Brief #IB82006, Congressional Research Service (CRS), Washington, DC, May 1984. Investigative Staff—telephone survey of standing committees of the House taken by the office of William E. Dannemeyer, M.C., February 1980. For 1982 and 1984 figures: Committee on House Administration, "Budget Requests by Committee," February 1982 and February 1984 as well as telephone survey of two committees, taken by the Office of Congressman William E. Dannemeyer, M.C., July 1984.

1984 ELECTION

The SPEAKER pro tempore (Mr. HIGHTOWER). Under a previous order of the House, the gentleman from Georgia [Mr. GINGRICH] is recognized for 60 minutes.

Mr. GINGRICH. Mr. Speaker, I will not take all of my time, but I want to talk about the $157 a month election, party politics, and the Reagan-Mondale teams in the 1984 election.

The 1984 election offers the American people an unsually clear choice between two teams and two visions of the American future. The Democratic Presidential candidate platform, House Speaker, and the vast majority of elected Democrats in Washington are committed to solving America's problem through higher taxes.

The Republican Presidential candidate platform, House leadership, and the vast majority of elected Republicans are committed to solving America's problems through a new ideas, grassroots, effective compassion approach.

The Democrats support the failed ideas of the past. They and their welfare state, bureaucratic, Washington-oriented allies need $157 a month from your family to prop up their inefficient, wasteful programs. They know you will not give them money to subsidize their failures. That is why they try to make you feel bad about your country and yourself so that out of guilt you will give them your money. In fact, their Presidential candidate began his campaign with a promise to take $157 from your family every month in higher taxes.

President Reagan and the Republicans know better. We know higher taxes kill jobs and increases Government spending. We know that less people working and more Government spending will not reduce the deficit. We know that higher taxes produces more inflation as everybody raises the cost of living. We know the key to solving the deficits is to create jobs and prosperity, not more taxes for the Federal Government.

Republicans are committed to making Mondale's Washington Democratic allies live frugally.

Mondale and the Democrats are committed to making you and your family live frugally.

We are building a new GOP, a grassroots opportunity party that seeks effective compassion through new ideas, new opportunities, new solutions. We believe that if you have that extra $157 in your family's take-home pay, then you can decide to save or invest, you can decide to buy a new home or a new car or go on a vacation. You can decide to give to your church or synagogue. You can decide to spend on your favoriate charities or philantrophies. You can decide to spend through your city, county, or State government.

But you only have these choices if you have the take-home pay.

In Washington, our two teams are clear. The Democrats' tax increase team is led by Walter Mondale. The Democrats' tax increase team will elect a pro-tax increase Speaker of the House. The Democrats' tax increase team will put tax increases in charge of the tax-raising committee, the Budget Committee, the Rules Committee, and the Calendar of House legislation. The Democrats' allies in Washington are committed to higher taxes to pay for the programs that only they benefit from. Democratic incumbent Members belong to the tax increase team because they vote for all the leaders who favor more taxes. The Democratic incumbent is by definition a member of the $157 a month tax increase team that will enrich Walter Mondale's allies and make your family poorer.

Our Republican challenger is by definition a member of the pro jobs and growth, pro take-home pay, pro new ideas, effective, grassroots compassion being led by President Reagan that will fight to help you keep the $157 a month for your family.

When you vote, you must choose. You can vote for the team that kicked

off its campaign with a pledge to take $157 a month from your family. If you vote Democratic, you may pay an extra $157 every month for your mistake and that is only the first tax increase you might see in a Mondale term.

Or you can vote for the new grassroots opportunity team, that wants to work with you to help solve problems while keeping the $157 a month in your family budget.

Come join our team. Together we will continue to go forward with the necessary changes which President Reagan and the Republicans have been developing. Together we will build a better America.

The fact is that there really are two teams, as Mr. DANNEMEYER's special order of the last few minutes has indicated.

When you are elected and you come to Washington you end up creating a set of choices based on team work. You elect a Speaker. You elect a majority leader, committee chairmen. They decide how the staffs will be divided. The Speaker you elect ends up being in charge of the Calendar. The result is that if you elect a tax increase team, that team will buy us everything that happens in favor of raising taxes.

If you elect a pro-liberal welfare state team, that team ends up doing the things that help protect and preserve and expand the liberal welfare state.

On the other hand, if you elect a pro-take-home pay team, that team works to make sure you get to keep the money you earn.

If you elect an opportunity society team, that team will work to try to build the new ideas, the new approaches, the new efforts that will make it possible for America to prosper in the future.

In the 6 years I have served in this Congress I have become convinced that the team you elect is probably far more important than the individual Members, that a brilliant Member whose team has no power is far less effective than a far less intelligent Member whose team is in charge. That in fact the key is what values do you want represented in Washington? What kind of bills do you have to have come to the floor of the House? What kind of opportunities for hearings, for investigations, for research do you want to be in the House of Representatives?

Furthermore, I think it is a fair charge to suggest that the Democratic Party as a party, is now the tax increase party in America. Not only did the Democratic Party fight against President Reagan's tax cuts in 1981, but in the key States, for example in Ohio and in Michigan, as soon as Democratic Governors were elected in 1982, they raised taxes. In fact, in Michigan, the Democrats raised taxes so much that in the intervening period there were two recall elections where people went out and gathered petitions and forced an election and recalled their Democratic Senator and elected Republican State senators and the Republicans took over the State senate in reaction to how high the Democrats had raised taxes in Michigan.

□ 2220

It is no accident that in Ohio and in Michigan, two States which in 1982 were not very favorable to President Reagan, in reaction to the combination of the Democratic Party's State tax increases and to Walter Mondale's promises to raise taxes when he made his acceptance speech in San Francisco and to the activities of the House Democrats here in Washington, in both Ohio and Michigan President Reagan and the team that wants to protect your take-home pay is now far ahead of Walter Mondale and the Democratic team that wants to raise your taxes.

Furthermore, it is fair to break that tax down to the amount you would pay per month. We could use a big number. President Reagan has talked about $1,800 a year tax increase, Secretary of the Treasury Don Regan has talked about a $1,890 tax increase. But if you are at all like me, you pay most of your bills once a month, whether it is for your car, or your rent, or your insurance, and you are used to writing a monthly check. Based on Secretary of the Treasury Regan's figures, the monthly check the average American family would pay every month for Walter Mondale and the tax-increase Democrats is $157 a month. That is for the average family, whatever your current family budget, you would have to sit down and try to make do with $157 less every month.

Is that a fair amount?

Well, it is the amount Secretary of Treasury Regan gave to it. Some Democrats might argue it is only $120; others have argued it is even more than that. But as a figure, to get people to realize that this is a serious problem, that the tax increase efforts of the Democrats are not something to be taken lightly, they are sincere people, they really do believe in a liberal welfare state, they really do believe in a larger bureaucratic government in Washington. They did not just kid around. They honestly came out front and said, "Vote Democrat and raise taxes." And I think they should be taken at their word.

However, the answer might be given, "Well, won't they just raise taxes on the rich? Won't they raise taxes on business? They wouldn't raise taxes on me."

Let me say, first of all, that whatever you think of the current tax system, for 30 years the Democrats have controlled the tax-writing committee, for 30 years it has been clear that the Democratic Party, and even to this day, in their relationship with political action committees and the work they do with special lobbying groups, the Democratic Party may talk about raising taxes on the rich and on corporations, but in fact raise taxes on working Americans.

The fact is that every loophole that Walter Mondale complains about in the Tax Code has been passed in the last 30 years in a Democratic-controlled House with a Democratic-controlled tax-writing Ways and Means Committee.

So the people who have given you the Tax Code you are already mad about are promising you they will somehow change their ways. They have had 30 years. Do you like the current tax system? Do you think the current tax system is fair? Do you like the current loopholes? They have all been written for 30 years by Democratic-controlled committees in a Democratic-controlled House.

But let us go a step further. It is not a fact that every time politicans come along and promise you they are going to raise taxes on someone else, if you are a typical American you end up paying for it.

Do you really want to take the risk that this might be the first time somebody raised taxes and you do not pay? Or do you want to work on an insurance policy where you keep your own money and you vote for the candidate, the Republican candidate, who is trying to do everything possible to avoid raising taxes?

Well, the Democrats will respond: This is just a sign of how selfish this campaign is.

Here we are, encouraging people to keep their own money. And I want to both defend the American people and make a very clear, strong statement about what is wrong with the liberal welfare state and Walter Mondale and the current Democratic policies of raising taxes and building a large bureaucracy.

The American people have not suddenly grown callous and selfish and uncaring. The American people are not more cruel today than they were 30 years ago. What has happened is that the American people have come to learn that the liberal welfare state in Washington does not work. It is not compassion to take $157 out of your family budget and send it to a bureaucrat in Washington to spend at another high-rise building, or a $435 hammer, or $2 billion in food stamp fraud.

If the average American thought that their dollars were going to go to help house their grandmother or a similar elderly person, that their dol-

lars were going to help feed a person genuinely in need, that their dollars are going to help educate somebody who otherwise would remain ignorant, the American people are as generous as any people in the history of the world. They are not less generous today than we were when Hubert Humphrey was alive or when Franklin Roosevelt was alive. In fact, there is something insultingly mean and nasty about Walter Mondale's suggestion that this involves selfishness. I would say to the Democrats, the American people are not selfish but they have begun to learn that giving their money to Washington does not help themselves and it does not help the poor. It just helps the bureaucrats in between.

And that is why I talked and we are talking in the Republican Party about a grassroots opportunity party, about a party that goes back to the grassroots that tries to develop through new ideas, through a grassroots approach, and effectively compassionate system. We want to make sure that if people need help the help gets to the people who need it. We want to take power away from Washington and put it back in the State government, in the country government, in the city government. We want to leave you with enough take-home pay so that you can afford to give to your church or your synagogue, to your favorite charity, to your philanthropy, to the school you once went to and are an alumnus of. We feel that it would liberate the American people that the American people are basically good, and decent, and caring and in fact that we are appealing to their better half if we reach out to them and say, "We are going to trust you with your own $157 because we think you will spend it on your children and your parents, on your neighborhood, on your church or your synagogue, on your charity. And we think if you want to build a new public library in your county, you can take that money and do it. If you want to build a new school, or if you want to buy computer equipment for your school so your children can learn right there. But we believe in self-government, we believe you should have the right to do that, that it is your choice, not Walter Mondale's, not the Democrats."

You see, the Democrats honestly believe that you are not bright enough to make those decisions that you cannot be trusted with your own money, that the best way to help America is to take $157 more every month away from you in taxes and they will spend it for you.

Now, of course, the great problem with that is, when they build a bureaucracy, they hire Americans. If you do not trust Americans to make their own decisions with their own money, why would you trust the same people to make better decisions with other people's money? And, of course, that is where the whole system has fallen down.

I think the greatest and most interesting failure of the Mondale campaign and the tax-increase Democratic Party this year has been the failure to understand that the repudiation of the Washington-based liberal welfare state is in fact a repudiation of the big-government redtape bureaucracy and the approach of the old-time welfare state that simply did not work, that an entire new generation, the baby boom generation and the young people who are in college today, have come to the conclusion that sending another $157 a month to Washington for Walter Mondale and the tax-increase Democrats will not make America any better, will not make the poor any better, will not make their neighborhood any better and it will make themselves and their family a whole lot poorer.

So how would we solve the problem? Because the other great charge that the liberal Democrats make is that they have to raise taxes to pay for Ronald Reagan's deficit.

Let me say, first of all, it is not Ronald Reagan's deficit. It is the deficit of the U.S. Congress and the President. Not a single dollar is spent by this country that does not pass from the Democratic-controlled House of Representatives. Under the Constitution it is the House which comes first, article I, section 1. Under the Constitution every dime spent by the Federal Government has to start in the House of Representatives, has to be spent by the House of Representatives, or the President cannot sign the bill. and for 30 years, since I was 11 years old, the same team has been in charge of the House, the Democrats. They passed bill after bill, built bureaucracy after bureaucracy, created regulation after regulation, and finally now suddenly want to wash their hands and say, "Gosh, we haven't had anything to do with this, we didn't do any of this."

In the first place, the deficit is a problem. but there are steps to solve it.

□ 2230

I recently did two special orders on ways to balance the budget, but let me tonight focus on one key concept. It is a concept the President talked about today at the White House with all of the Republican candidates together when he talked about becoming a grassroots opportunity party and he told all of us that as a former Democrat who had joined us, that he wanted to reach out to the forgotten American.

The forgotten American today that is a conservative Democrat who believes in hard work and traditional values in neighborhoods in a safe area, who believes their country should be strong and they should be allowed to keep their take-home pay.

Those forgotten Democrats cannot turn back to Walter Mondale and the tax increase Democratic Party of weakness and big bureaucracy and a welfare state.

And so President Reagan said to us today there are two groups; the grassroots opportunity party must reach out to. We must reach out to the young, the new people who are coming up who want new ideas, who want their compassion to do this job. They want their compassion to truly help. They want the things they give their money to to work.

And he said second, we must reach out to all of those traditional value moderate and conservative Democrats who no longer have a home in the Democratic Party.

And in that setting I would say to you that the most powerful new idea that the Republican Party has developed thanks to President Reagan and to Jack KEMP, is the idea that economic growth creating new jobs, creating better jobs, encouraging people to go out and found new businesses that as we grow richer we can pay more to the Government because we have more. That in the last 2 years we have begun to succeed in creating jobs and in creating growth.

There is no accident that in May of this year the United States created more jobs than the entire Common Market created in the last 7 years. It is no accident with the tax cut approach which created incentive which made it easier and more desirable to go out and create jobs, that that approach has led to a tremendous increase in jobs.

So our first goal when we are reelected is to come with a team that protects our take-home pay, passes an omnibus bill for growth and begins to cure the deficit by putting more Americans to work.

The President said today we must pledge ourselves as a grass roots opportunity party to make sure that we will never stop until every American willing to work has a job they can work at and every possible step has been taken to ensure that every American can go out and make a decent living for themself and their family.

And what would $157 a month Democratic tax increase do to that? It would kill it. Did not we learn from the Carter-Mondale years that inflation and high taxes kill jobs, that high taxes destroy the chance to build the new factories, create the new machinery, train the workers in the new opportunities.

That if you want to kill this recovery, if you want to put Amerians out of work, all you have got to do is adopt the Walter Mondale Democratic tax

increase and start taking that $157 a month away from every family.

What happens then? The family that was about to buy a new car cannot afford it. The family that was about to save up for a house cannot afford it. The family that wanted to buy a new refrigerator cannot afford it.

And when they cannot afford it, what happens? Well, then, if they are not purchased we lay off the car worker, the housing worker, the refrigerator manufacturer and suddenly, they go on unemployment. They quit paying taxes. They start drawing food stamps and welfare and suddenly instead of Walter Mondale and the tax increase solving deficit by crushing growth and killing jobs it has increased the deficit because it took people off taxes and put then onto welfare.

Now, we have not solved everything in this first 4 years of the Reagan administration partially because the Democrats controlled the House and did not cooperate; did everything they could to fight the President and his program.

But we have begun. We are starting the long path toward an opportunity society, toward new ideas, new approaches, new programs. We think it is possible to work together, to work with the great revolutions in biology and computers and space, to create what we have called an opportunity society by combining traditional values, high technology, free enterprise and self-government.

Our final message to the American people is, that when election day comes and you have to choose between those two teams and you know the one team has pledged to raise your taxes $157 a month, the Democratic team led by their candidate who began his inauguration or his acceptance speech in San Francisco by saying, "I will be honest with you, I will raise your taxes" and that was Walter Mondale's pledge. And it speaks honestly for his team.

And another team, that wants you to keep that $157 a year take-home pay every month so that you can go out and buy that new home computer. You can buy the book that will teach you about the future. You can afford to go to the local college in the evening and learn that new skill to get that new job.

You can invest in that new company that will create new jobs. That is your choice. It is a choice of teams. It is a $157 a month choice, and I hope that every American will think long and hard before they decide whether they really want to take the risk of sending back to Washington a $157 a month tax increase Democrat or they want to keep that $157 in their take-home pay and vote for the Republican team.

CONFERENCE REPORT ON S. 2574

Mr. DINGELL submitted the following conference report and statement on the bill (S. 2574) to revise and extend title VIII of the Public Health Service Act, relating to nurse education:

CONFERENCE REPORT (H. REPT. No. 98-1143)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the amendments of the House to the bill (S. 2574) to revise and extend title VIII of the Public Health Service Act, relating to nurse education, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from it disagreement to the amendment of the Senate to the amendment of the House to the text of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

That this Act may be cited as the "Public Health Service Act Amendments of 1984".

REFERENCE

SEC. 2. Except as otherwise specifically provided, whenever in this Act an amendment of repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Public Health Service Act.

TITLE I—HEALTH PROFESSIONS TRAINING ASSISTANCE

PART A—AUTHORIZATIONS OF APPROPRIATIONS

SCOPE AND DURATION OF FEDERAL LOAN INSURANCE PROGRAM

SEC. 101. (a) The first sentence of section 728(a) is amended by striking out "and" after "1983;" and by inserting before the period a semicolon and "$250,000,000 for the fiscal year ending September 30, 1985; $275,000,000 for the fiscal year ending September 30, 1986; and $290,000,000 for the fiscal year ending September 30, 1987".

(b) The second sentence of such section is amended by striking out "1987," and inserting in lieu thereof "1990,".

STUDENT LOANS

SEC. 102. (a) Section 742(a) is amended by striking out "and" after "1983," and by inserting before the period a comma and "$7,500,000 for the fiscal year ending September 30, 1985, $7,500,000 for the fiscal year ending September 30, 1986, and $7,500,000 for the fiscal year ending September 30, 1987".

(b) Section 743 is amended by striking out "1987" each place it appears and inserting in lieu thereof "1990".

SCHOLARSHIPS FOR STUDENTS OF EXCEPTIONAL FINANCIAL NEED

SEC. 103. Section 758(d) is amended by striking out "and" after "1983," and by inserting before the period a comma and "$8,000,000 for the fiscal year ending September 30, 1985, $8,600,000 for the fiscal year ending September 30, 1986, and $9,000,000 for the fiscal year ending September 30, 1987".

DEPARTMENTS OF FAMILY MEDICINE

SEC. 104. Section 780(c) is amended by striking out "and" after "1983," and by inserting a comma and "$8,200,000 for the fiscal year ending September 30, 1985, $8,500,000 for the fiscal year ending September 30, 1986, and $8,500,000 for the fiscal year ending September 30, 1987" after "1984".

AREA HEALTH EDUCATION CENTERS

SEC. 105. The first sentence of section 781(g) is amended by striking out "and" after "1983," and by inserting before the period a comma and "$18,000,000 for the fiscal year ending September 30, 1985, $19,200,000 for the fiscal year ending September 30, 1986, and $20,000,000 for the fiscal year ending September 30, 1987".

PHYSICIAN ASSISTANTS

SEC. 106. Section 783(d) is amended by striking out "and" after "1983," and by inserting before the period a comma and "$5,600,000 for the fiscal year ending September 30, 1985, $5,600,000 for the fiscal year ending September 30, 1986, and $5,600,000 for the fiscal year ending September 30, 1987".

GENERAL INTERNAL MEDICINE AND GENERAL PEDIATRICS

SEC. 107. Section 784(b) is amended by striking out "and" after "1983," and by inserting before the period a comma and "$21,500,000 for the fiscal year ending September 30, 1985, "$21,500,000 for the fiscal year ending September 30, 1986, and "$21,500,000 for the fiscal year ending September 30, 1987".

FAMILY MEDICINE AND GENERAL PRACTICE OF DENTISTRY

SEC. 108. (a) The first sentence of section 786(c) is amended by striking out "and" after "1983," and by inserting before the period a comma and "$37,000,000 for the fiscal year ending September 30, 1985, $39,000,000 for the fiscal year ending September 30, 1986, and $39,000,000 for the fiscal year ending September 30, 1987".

(b) The second sentence of such section is amended by striking out "and" after "1983," and by inserting "September 30, 1985, September 30, 1986, and September 30, 1987," after "1984,".

EDUCATIONAL ASSISTANCE TO INDIVIDUALS FROM DISADVANTAGED BACKGROUNDS

SEC. 109. The first sentence of section 787(b) is amended by striking out "and" after "1983," and by inserting before the period a comma and "$24,000,000 for the fiscal year ending September 30, 1985, $25,200,000 for the fiscal year ending September 30, 1986, and $26,000,000 for the fiscal year ending September 30, 1987".

CURRICULUM DEVELOPMENT AND FACULTY TRAINING GRANTS

SEC. 110. Section 788(f) is amended—

(1) by inserting "(1)" before "For";

(2) by striking out "this section," and inserting in lieu thereof "subsections (a), (b), (c), (e), and (f),";

(3) by striking out "and" after "1983;";

(4) by inserting before the period a semicolon and "$6,000,000 for the fiscal year ending September 30, 1985; $6,500,000 for the fiscal year ending September 30, 1986; and $7,000,000 for the fiscal year ending September 30, 1987"; and

(5) by adding at the end thereof the following:

"(2) For purposes of subsection (d), there are authorized to be appropriated $2,000,000 for the fiscal year ending September 30, 1985; $3,000,000 for the fiscal year ending September 30, 1986; and $3,000,000 for the fiscal year ending September 30, 1987.".

ADVANCED FINANCIAL DISTRESS ASSISTANCE

SEC. 111. The first sentence of section 788B(h) is amended by inserting before the period a comma and "$5,600,000 for the fiscal year ending September 30, 1985, $4,200,000 for the fiscal year ending September 30, 1986, and $3,000,000 for the fiscal year ending September 30, 1987".

GRADUATE PROGRAMS IN HEALTH ADMINISTRATION

SEC. 112. Section 791(d) is amended by striking out "and" after "1983," and by inserting before the period a comma and "$2,500,000 for the fiscal year ending September 30, 1985, $2,500,000 for the fiscal year ending September 30, 1986, and $2,500,000 for the fiscal year ending September 30, 1987".

TRAINEESHIPS FOR STUDENTS IN OTHER GRADUATE PROGRAMS

SEC. 113. Section 791A(c) is amended by striking out "and" after "1980;", and by inserting before the period a semicolon and "$1,000,000 for the fiscal year ending September 30, 1985; $1,000,000 for the fiscal year ending September 30, 1986; and $1,000,000 for the fiscal year ending September 30, 1987".

PUBLIC HEALTH TRAINEESHIPS

SEC. 114. Section 792(c) is amended by striking out "and" after "1983;" and by inserting before the period a semicolon and "$4,000,000 for the fiscal year ending September 30, 1985; and $4,000,000 for the fiscal year ending September 30, 1986; and $4,000,000 for the fiscal year ending September 30, 1987".

TRAINING IN PREVENTIVE MEDICINE

SEC. 115. Section 793(c) is amended by striking out "and" after "1983," and by inserting before the period a semicolon and "$2,500,000 for the fiscal year ending September 30, 1985, and $2,500,000 for the fiscal year ending September 30, 1986, and $2,500,000 for the fiscal year ending September 30, 1987".

PART B—PROGRAM REVISIONS

SCHOOLS OF CHIROPRACTIC

SEC. 121. (a) Section 701(4) (42 U.S.C. 292a (4)) is amended—

(1) by striking out "and" after " 'school of veterinary medicine', ";

(2) by inserting a comma and "and 'school of chiropractic'," after " 'school of public health' ";

(3) by striking out "and" after "a degree of doctor of veterinary medicine or an equivalent degree,"; and

(4) by inserting "and a degree of doctor of chiropractic or an equivalent degree," before "and including advanced training related to".

(b) Section 701(b) (42 U.S.C. 292a (5)) is amended—

(1) by striking out "or", after "pharmacy,"; and

(2) by striking "or chiropractic," after "public health,".

(c) Section 737 (42 U.S.C. 294j) is amended by striking out paragraph (2) and by redesignating paragraphs (3), (4), and (5) as paragraphs (2), (3), and (4), respectively.

TRAINING OF PHYSICIAN ASSISTANTS

SEC. 122. Section 701(8) (42 U.S.C. 292a (8)) is amended to read as follows:

"(8)(A) The term 'program for the training of physician assistants' means an educational program which (i) has as its objective the education of individuals who will, upon completion of their studies in the program, be qualified to provide primary health care under the supervision of a physician, and (ii) meets regulations prescribed by the Secretary in accordance with subparagraph (B).

"(B) After consultation with appropriate organizations, the Secretary shall, not later than May 1, 1985, prescribe regulations for programs for the training of physician assistants. Such regulations shall, as a minimum, require that such a program—

"(i) extend for at least one academic year and consist of—

"(I) supervised clinical practice, and

"(II) at least four months (in the aggregate) of classroom instruction, directed toward preparing students to deliver health care;

"(ii) have an enrollment of not less than eight students; and

"(iii) train students in primary care, disease prevention, health promotion, geriatric medicine, and home health care.".

SCHOOLS OF ALLIED HEALTH

SEC. 123. (a) Section 701(10) (42 U.S.C. 292a(10)) is amended—

(1) by inserting "college," before "junior college,"; and

(2) by striking out "in a discipline of allied health leading to a baccalaureate or associate degree (or an equivalent of either) or to a more advanced degree" in subparagraph (A) and inserting in lieu thereof "to enable individuals to become allied health professionals or to provide additional training for allied health professionals".

(b) Section 701 (42 U.S.C. 292a) is amended by adding at the end thereof the following new paragraph:

"(13) The term 'allied health professional' means an individual—

"(A) who has received a certificate, an associate's degree, a bachelor's degree, a masters' degree, a doctoral degree, or postbaccalaureate training, in a science relating to health care;

"(B) who shares in the responsibility for the delivery of health care services or related services, including—

"(i) services relating to the identification, evaluation, and prevention of diseases and disorders;

"(ii) dietary and nutrition services;

"(iii) health promotion services;

"(iv) rehabilitation services; or

"(v) health systems management services; and

"(C) who is not a graduate of a school of medicine, osteopathy, dentistry, veterinary medicine, optometry, podiatry, pharmacy, public health, or chiropractic, or a graduate program in health administration or clinical psychology.".

GRADUATE PROGRAMS IN CLINICAL PSYCHOLOGY

SEC. 124. (a) Section 701 (42 U.S.C. 292a) (as amended by section 123(a)(2) of this Act) is further amended by adding at the end thereof the following new paragraph:

"(14) The term 'graduate program in clinical psychology' means an accredited graduate program in a public or nonprofit private institution in a State which provides training leading to a doctoral degree in clinical psychology or an equivalent degree.".

(b) Section 701(5) (42 U.S.C. 292a(5)) (as amended by section 121(b) of this Act) is further amended—

(1) by striking out "or" after "chiropractic,"; and

(2) by inserting "or a graduate program in clinical psychology," after "health administration,".

(c) Section 737 (42 U.S.C. 294j) (as amended by section 121(c) of this Act) is further amended by striking out paragraph (2) (as redesignated by section 121(c) of this Act) and by redesignating paragraphs (3) and (4) (as redesignated by section 121(c) of this Act) as paragraphs (2) and (3), respectively.

NATIONAL ADVISORY COUNCIL ON HEALTH PROFESSIONS EDUCATION

SEC. 125. (a) Section 702(a) (42 U.S.C. 292b(a)) is amended by striking out the last sentence and inserting in lieu thereof the following: "Of the appointed members of the Council—

"(1) twelve shall be representatives of the health professions schools assisted under programs authorized under this title, including—

"(A) one representative of each of schools of veterinary medicine, optometry, pharmacy, podiatry, public health, and allied health, and graduate programs in health administration; and

"(B) at least six persons experienced in university administration, at least one of whom shall be a representative of a school described in subparagraph (A);

"(2) two shall be full-time students enrolled in health professions schools; and

"(3) six shall be members of the general public.

TECHNICAL ASSISTANCE

SEC. 126. Section 709(d) (42 U.S.C. 2921(d)) is amended to read as follows:

"(d) Funds appropriated under this title may be used by the Secretary to provide technical assistance in relation to any of the authorities under this title.".

RECOVERY OF ASSISTANCE

SEC. 127. (a) Section 723 (42 U.S.C. 293c) is amended to read as follows:

"RECOVERY

"SEC. 723. (a) If at any time within 20 years (or within such shorter period as the Secretary may prescribe by regulations for an interim facility) after the completion of construction of a facility with respect to which funds have been paid under section 720(a)—

"(1)(A) in the case of a facility which was an affiliated hospital or outpatient facility with respect to which funds have been paid under section 720(a)(1), the facility is sold or transferred to an entity that would not be qualified to file an application under section 605 or the owner shall cease to be a public or other nonprofit entity that would be qualified to file such an application.

"(B) in the case of a facility which was not an affiliated hospital or outpatient facility but was a facility with respect to which funds have been paid under paragraph (1) or (3) of section 720(a), the facility is sold or transferred to an entity which is not a public or nonprofit school or the owner shall cease to be a public or nonprofit school, or

"(C) in the case of a facility which was a facility with respect to which funds have been paid under section 720(a)(2), the facility is sold or transferred to an entity which is not a public or nonprofit school or the owner shall cease to be a public or nonprofit school,

"(2) the facility shall cease to be used for the teaching or training purposes (or other purposes permitted under section 722) for which it was constructed, or

"(3) the facility is used sectarian instruction or as a place for religious worship,

the United States shall be entitled to recover, whether from the transferor or the transferee (or, in the case of a facility which has ceased to be an entity qualified to file an applica-

tion under section 605 or a public or nonprofit school or ceased to be used for a purpose referred to in paragraph (2) or is used for sectarian instruction or religious worship, from the owners thereof) an amount determined under subsection (c).

"(b) The transferor of a facility which is sold or transferred as described in paragraph (1) of subsection (a), the owner of a facility which ceases to be a qualified public or other nonprofit entity or a public or nonprofit school, or the owner of a facility the use of which is changed as described in paragraph (2) or (3) of subsection (a), shall provide the Secretary written notice of such sale, transfer, or change—

"(1) not later than—

"(A) ten days after the date on which such sale, transfer, or change of use occurs, in the case of a facility which is sold or transferred or the use of which changes on or after the date of the enactment of this subsection, or

"(B) thirty days after the date of the enactment of this subsection, in the case of a facility which was sold or transferred or the use of which changed before the date of the enactment of this subsection, or

"(2) if the Secretary determines that such notice with respect to such change should more appropriately be made in the annual report to the Secretary of the person required to provide such notice, in the first such report after such change.

"(C)(1) Except as provided in paragraph (2), the amount the United States shall be entitled to recover under subsection (a) is an amount bearing the same ratio to the then value (as determined by the agreement of the parties or in an action brought in the district court of the United States for the district for which the facility involved is situated) of so much of the facility as constituted an approved project or projects as the amount of the Federal participation bore to the cost of the construction of such project or projects.

"(2)(A) After the expiration of—

(2)"(i) 180 days after the date of the sale, transfer, or change of use for which a notice is required by subsection (b), in the case of a facility which is sold or transferred or the use of which changes on or after the date of the enactment of this subsection, or

"(ii) thirty days after the date of the enactment of this subsection or if later 180 days after the date of the sale, transfer, or change of use for which a notice is required by subsection (b), in the case of a facility which was sold or transferred or the use of which changed before the date of the enactment of this subsection,

the amount which the United States is entitled to recover under paragraph (1) with respect to a facility shall be the amount prescribed by paragraph (1) plus interest, during the period described in subparagraph (B), at a rate (determined by the Secretary) based on the average of the bond equivalent of the weekly ninety-one-day Treasury bill auction rate.

"(B) The period referred to in subparagraph (A) is the period beginning—

"(i) in the case of a facility which was sold or transferred or the use of which changes before the date of the enactment of this subsection, thirty days after such date or if later 180 days after the date of the sale, transfer, or change of use for which a notice is required by subsection (b),

"(ii) in the case of a facility which was sold or transferred or the use of which changes on or after the date of enactment of this subsection, and with respect to which notice is provided in accordance with subsection (b), upon the expiration of 180 days after the receipt of such notice, or

"(iii) in the case of a facility which was sold or transferred or the use of which changes on or after the date of enactment of this subsection, and with respect to which such notice is not provided as prescribed by subsection (b), on the date of the sale, transfer, or change of use for which such notice was to be provided,

and ending on the date the amount the United States is entitled to under paragraph (1) is collected.

"(d) The Secretary may waive the recovery rights of the United States under subsection (a)(2) with respect to a facility in any State if the Secretary determines, in accordance with regulations, that there is good cause for waiving such rights with respect to such facility.

"(e) The right of recovery of the United States under subsection (a) shall not constitute a lien on any facility with respect to which funds have been paid under section 606.".

(b) Within one hundred and eighty days after the date of the enactment of this Act, the Secretary shall have in effect regulations to carry out subsection (b) of section 723 of the Public Health Service Act (as added by the amendment made by subsection (a) of this section).

HEALTH EDUCATION ASSISTANCE LOAN PROGRAM

SEC. 128. (a)(1) Section 731(a)(1)(A) (42 U.S.C. 294d(a)(1)(A)) is amended by striking out "and" at the end of clause (iii), by redesignating clause (iv) as clause (v), and by inserting after clause (iii) the following:

"(iv) if required under section 3 of the Military Selective Service Act to present himself for and submit to registration under such section, has presented himself and submitted to registration under such section; and".

(2) Section 731(a)(1)(B) (42 U.S.C. 294d (a)(B)) is amended by striking out "and" at the end of clause (ii), and by inserting after clause (iii) the following:

"(iv) if required under section 3 of the Military Selective Service Act to present himself for and submit to registration under such section, has presented himself and submitted to registration under such section; and".

(b) (1) Section 731(a)(2)(B) (42 U.S.C. 294d (a) (2) (B)) is amended to read as follows:

"(B) provides for repayment of the principal amount of the loan in installments over a period of not less than 10 years (unless sooner repaid) nor more than 25 years beginning not earlier than 9 months nor later than 12 months after the later of—

"(i) the date on which—

"(I) the borrower ceases to be a participant in an accredited internship or residency program of not more than four years in duration;

"(II) the borrower completed the fourth year of an accredited internship or residency program of more than four years in duration; or

"(III) the borrower, if not a participant in a program described in subclause (I) or (II), ceases to carry, at an eligible institution, the normal full-time academic workload as determined by the institution; or

"(ii) the date on which a borrower who is a graduate of an eligible institution ceases to be a participant in a fellowship training program not in excess of two years or in a full-time educational activity not in excess of two years, which—

"(I) is directly related to the health profession for which the borrower prepared at an eligible institution, as determined by the Secretary; and

"(II) may be engaged in by the borrower during such a two-year period which begins within twelve months after the completion of the borrower's participation in a program described in subclause (I) or (II) of clause (i) or prior to the completion of the borrower's participation in such program,

except as provided in subparagraph (C), except that the period of the loan may not exceed 33 years from the date of execution of the note or written agreement evidencing it, and except that the note or other written instrument may contain such provisions relating to repayment in the event of default in the payment of interest or in the payment of the costs of insurance premiums or other default by the borrower, as may be authorized by regulations of the Secretary in effect at the time the loan is made;".

(2) Section 731(a)(2)(C) U.S.C. 294d(a)(2)(C)) is amended—

(A) by inserting "(including any period in such a program described in subclause (I) or subclause (II) of subparagraph (B)(i))" before the comma in clause (ii);

(B) by striking out "or the 33-year period" in clause (vi);

(C) by striking out "or" after "National Health Service Corps," in clause (v); and

(D) by inserting "or (vii) any period not in excess of two years which is described in subparagraph (B) (ii)" after "Domestic Volunteer Service Act of 1973,".

(3)(A) The provisions of clause (i) of section 731(a)(2)(B) of the Public Health Service Act (as amended by paragraph (1) of this subsection) and the provisions of clauses (ii) and (vi) of section 731(a)(2)(C) of such Act (as amended by subparagraphs (A) and (B) of paragraph (2)) shall not apply to any individual who, prior to the date of enactment of this Act, received a loan insured under subpart I of part C of title VII of such Act.

(B) The provisions of Clause (ii) of section 731(a)(2)(B) of the Public Health Service Act and clause (vii) of section 731(a)(2)(C) of such Act (as added by the amendments made by paragraphs (1) and (2)(D) of this subsection, respectively) shall apply to any loan insured under subpart I of part C of title VII of such Act after the date of enactment of this Act.

(4) Within 90 days after the date of enactment of this Act, the Secretary of Health and Human Services shall promulgate regulations to carry out clause (ii) of section 731(a)(2)(B) of the Public Health Service Act and clause (vii) of section 731(a)(2)(C) of such Act (as added by the amendments made by paragraphs (1) and (2)(D) of this subsection, respectively). Such regulations shall—

(A) prescribe criteria for the determination of the types of fellowship training programs and full-time educational activities which will be permitted under such clauses; and

(B) establish procedures for a borrower to apply to the Secretary for a determination concerning whether a particular fellowship training program or full-time educational activity will be permitted under such clauses.

(c) (1) Section 731(a)(2)(D) (42 U.S.C. 294d(a)(2)(D)) is amended to read as follows:

"(D) provides for interest on the unpaid principal balance of the loan at a yearly rate, not exceeding the applicable maximum rate prescribed and defined by the Secretary (within the limits set forth in subsection (b))

on a national, regional, or other appropriate basis, which interest shall—

"(i) be simple interest during—

"(I) any period during which the borrower is pursuing a full-time course of study at an eligible institution (or at an institution defined by section 435(b) of the Higher Education Act of 1965); and

"(II) any period or periods which total not in excess of two years and during which the borrower is not required to pay periodic installments of principal and interest pursuant to clauses (ii) through (vii) of subparagraph (C);

"(ii) be compounded semiannually during any period of the loan to which clause (i) of this subparagraph does not apply; and

"(iii) be payable in installments over the period of the loan, except as provided in subparagraph (C),

except that the note or other written agreement may provide that payment of any interest may be deferred until not later than the date upon which repayment of the first installment of principal falls due or the date repayment of principal is required to resume (whichever is applicable) and may further provide that, on such date, the amount of the interest which has so accrued may be added to the principal for the purposes of calculating a repayment schedule;".

(2) The amendment made by paragraph (1) of this subsection shall apply to any loan insured under subpart I of part C of title VII of the Public Health Service Act after the date of enactment of this Act.

(d) Section 731(c) (42 U.S.C. 294d(c)) is amended—

(1) by striking out "section 731(a)(2)(C)" and inserting in lieu thereof "subsection (a)(2)(C)"; and

(2) by inserting before the period a comma and "unless the borrower, in the written agreement described in subsection (a)(2), agrees to make payments during any year or any repayment period in a lesser amount".

(e) Section 732(c) (42 U.S.C. 294e(c)) is amended—

(1) by inserting "(1)" before "The";

(2) by striking out "2" in the first sentence and inserting in lieu thereof "4";

(3) by striking out "in advance, at such times and" in the first sentence and inserting in lieu thereof "in advance at the time the loan is made"; and

(4) by adding at the end thereof the following new paragraph:

"(2) The Secretary may not increase the percentage per year on the principal balance of loans charged pursuant to paragraph (1) for insurance premiums, unless the Secretary has, prior to any such increase—

"(A) requested a qualified public accounting firm to evaluate whether an increase in such percentage is necessary to ensure the solvency of the student loan fund established by section 734, and to determine the amount of such an increase, if necessary; and

"(B) such accounting firm has recommended such an increase and has determined the amount of such increase necessary to ensure the solvency of such fund.

The Secretary may not increase such percentage in excess of the maximum percentage permitted by paragraph (1) or increase such percentage by an amount in excess of the amount of the increase determined by a qualified accounting firm pursuant to this paragraph.".

(f) The first sentence of subsection (a) of section 734 (42 U.S.C. 294g) and the first sentence of subsection (b) of such section are each amended by inserting "collection or" before "default".

(g)(1) Section 729(a) (42 U.S.C. 294b(a)) is amended by inserting "allied health," after "public health," each place it appears.

(2) Section 737 (42 U.S.C. 294j) (as amended by sections 121(c) and 124(c) of this Act) is further amended—

(1) by inserting a comma and "allied health," after "public health" in paragraph (a); and

(2) by adding at the end thereof the following new paragraph:

"(4) The term 'school of allied health' means a program in a school of allied health (as defined in section 701(10)) which leads to a masters' degree or a doctoral degee.".

HEALTH PROFESSIONS STUDENT LOAN PROGRAM

SEC. 129. (a)(1) Section 740(a) (42 U.S.C. 294m(a)) is amended—

(A) by striking out "or veterinary medicine" and inserting in lieu thereof "veterinary medicine, public health, or chiropractic"; and

(B) by inserting before the period "and with any public or other nonprofit school which is located in a State and which offers an accredited graduate program in clinical psychology".

(2) Section 740(b)(4) (42 U.S.C. 294m(b)(4)) is amended—

(A) by inserting "doctor of pharmacy or an equivalent degree," before "doctor of podiatry";

(B) by striking out "or" before "doctor of veterinary medicine"; and

(C) by inserting a comma and "or doctor of chiropractic or an equivalent degree, a graduate degree in public health or an equivalent degree, or a doctoral degree in clinical psychology or an equivalent degree" before the semicolon.

(3) Section 741(b) (42 U.S.C. 294n(b)) is amended—

(A) by inserting "doctor of pharmacy or an equivalent degree," before "doctor of podiatry";

(B) by striking out "or" before "doctor of veterinary medicine"; and

(C) by inserting a comma and "or doctor of chiropractic or an equivalent degree, a graduate degree in public health or an equivalent degree, or a doctoral degree in clinical psychology or an equivalent degree" before the period.

(4) Section 741(c) (42 U.S.C. 294n(c)) is amended by striking out "or veterinary medicine," and inserting in lieu thereof "veterinary medicine, public health, or chiropractice, or in a graduate program in clinical psychology,".

(5) Section 741(f)(1)(A) (42 U.S.C. 294n(f)(1)(A)) is amended by striking out "or doctor of podiatry or an equivalent degree" and inserting in lieu thereof "doctor of pharmacy or an equivalent degree, doctor of podiatry or an equivalent degree, or doctor of chiropractic or an equivalent degree, a graduate degree in public health, or a doctoral degree in clinical psychology".

(6) Section 742(a) (42 U.S.C. 2940(a)) is amended by adding at the end thereof the following: "Of the amount appropriated under this subsection for any fiscal year, not more than 4 percent of such amount may be made available for Federal capital contributions for student loan funds at schools of chiropractic.".

(7) Subpart II of part C of title VII is amended by adding at the end thereof the following new section:

"DEFINITION

"SEC. 745. For purposes of this subpart, the term 'school of pharmacy' means a public or nonprofit private school in a State which provides training leading to a degree of bachelor of science in pharmacy or an equivalent degree or a degree of doctor of pharmacy or an equivalent degree and which is accredited in the manner described in section 701(5).".

(b) Section 740(b) (42 U.S.C. 294m(b)) is amended by adding after paragraph (6) the following: "With respect to fiscal years beginning after the fiscal year ending September 30, 1984, each agreement shall provide that at least one-half of the Federal contribution in such fiscal years to the student loan fund of the school shall be used to make loans to individuals from disadvantaged backgrounds as determined in accordance with criteria in effect on September 30, 1984, which were prescribed by the Secretary under section 787.".

(c) Section 741(b) (42 U.S.C. 294n(b)) (as amended by subsection (a)(3) of this section) is further amended by inserting "(1)" after "student" and by inserting before the period a comma and the following: "and (2) who if required under section 3 of the Military Selective Service Act to present himself for and submit to registration under such section, has presented himself and submitted to registration under such section.".

(d)(1) Section 741(c) (42 U.S.C. 294n(c)) (as amended by subsection (a)(4) of this section) is amended to read as follows:

"(c) Such loans shall be repayable in equal or graduated periodic installments (with the right of the borrower to accelerate repayment) over the ten-year period which begins one year after the student ceases to pursue a full-time course of study at a school of medicine, osteopathy, dentistry, pharmacy, podiatry, optometry, veterinary medicine, public health, or chiropractic, or in a graduate program in clinical psychology, excluding from such ten-year period—

"(1) all periods—

"(A) not in excess of three years of active duty performed by the borrower as a member of a uniformed service,

"(B) not in excess of three years during which the borrower serves as a volunteer under the Peace Corps Act; and

"(C) during which the borrower participates in advanced professional training, including internships and residencies; and

"(2) a period—

"(A) not in excess of two years during which a borrower who is a full-time student in such a school or program leaves the school or program, with the intent to return to such school or program as a full-time student, in order to engage in a full-time educational activity which is directly related to the health profession for which the individual is preparing, as determined by the Secretary; or

"(B) not in excess of two years during which a borrower who is a graduate of such a school or program is a participant in a fellowship training program or a full-time educational activity which—

"(i) is directly related to the health profession for which such borrower prepared at such school or program, as determined by the Secretary; and

"(ii) may be engaged in by the borrower during such a two-year period which begins within twelve months after the completion of the borrower's participation in advanced professional training described in paragraph (1)(C) or prior to the completion of such borrower's participation in such training.".

(2) The provisions of section 741(c)(2)(A) of the Public Health Service Act (as added

by the amendment made by paragraph (1) of this subsection) shall apply to—

(A) any individual who received a loan under subpart II of part C of title VII of the Public Health Service Act and to whom the provisions of such section (if such provisions had been in effect) would have applied between June 17, 1982, and July 7, 1983; and

(B) any individual who, after the date of enactment of this act, is a full-time student in a school or program referred to in such section and who (prior to, on, or after the date of enactment of this Act), received a loan under such subpart to assist such student in their studies in such school or program.

(3) The provisions of section 741(c)(2)(B) of the Public Health Service Act (as added by the amendment made by paragraph (1) of this subsection) shall apply to any loan made under subpart II of part C of title VII of such Act after the date of enactment of this Act.

(4) Within 90 days after the date of enactment of this Act, the Secretary of Health and Human Services shall promulgate regulations to carry out section 741(c)(2) of the Public Health Service Act (as added by the amendment made by paragraph (1) of this subsection) with respect to any loan made under subpart II of part C of title VII of such Act on or after the date of enactment of this Act. Such regulations shall—

(A) with respect to the provisions of subparagraph (A) of such section—

(i) prescribe criteria for the determination of the types of full-time educational activities which will be permitted under such subparagraph;

(ii) require the school or program in which the borrower was enrolled as a full-time student to determine, prior to the borrower's leaving such school or program, whether an educational activity in which the student proposes to engage qualifies for purposes of such subparagraph and such regulations; and

(B) with respect to the provisions of subparagraph (B) of such section—

(i) prescribe criteria for the determination of the types of fellowship training programs and full-time educational activities which will be permitted under such subparagraph; and

(ii) establish procedures for a borrower to apply to the Secretary for a determination concerning whether a particular fellowship training program or full-time educational activity will be permitted under such subparagraph.

(e) Section 741(i) (432 U.S.C. 29n(i)) is amended to read as follows:

"(i) Subject to regulations of the Secretary, a school may assess a charge with respect to loans made under this subpart to cover the costs of insuring against cancellation of liability under subsection (d).".

(f) Section 741(j) (42 U.S.C 294n(j)) is amended—

(1) by inserting "and in accordance with this section" after "Secretary" in the first sentence;

(2) by striking out "may" in such sentence and inserting in lieu therof "shall"; and

(3) by striking out the second sentence and inserting in lieu thereof the following: "No such charge may be made if the payment of such installment or the filing of such evidence is made within 60 days after the date on which such installment or filing is due. The amount of any such charge may not exceed an amount equal to 6 percent of the amount of such installment.

(g) Section 741 (42 U.S.C. 294n) is amended by adding at the end thereof the following new subsection:

"(m) The Secretary is authorized to attempt to collect any loan which was made under this subpart, which is in default, and which was referred to the Secretary by a school with which the Secretary has an agreement under this subpart, on behalf of that school under such terms and conditions as the Secretary may prescribe (including reimbursement from the school's student loan fund for expenses the Secretary may reasonably incur in attempting collection), but only if the school has complied with such requirements as the Secretary may specify by regulation with respect to the collection of loans under this subpart. A loan so referred shall be treated as a debt subject to section 5514 of title 5, United States Code. Amounts collected shall be deposited in the school's student loan fund. Whenever the Secretary desires the institution of a civil action regarding such loan, the Secretary shall refer the matter to the Attorney General for appropriate action.".

(h) Section 742(b) (42 U.S.C. 294o(b)) is amended by adding at the end thereof the following new paragraph:

"(5) Any funds from a student loan fund established under this subpart which are returned to the Secretary in any fiscal year shall be available for allotment under this subpart, in such fiscal year and the fiscal year succeeding such fiscal year, to schools which, during the period beginning on July 1, 1972, and ending on September 30, 1984, established student loan funds with Federal capital contributions under this subpart.".

(i) Subpart II of part C of title VII (as amended by subsection (a)(7) of this subsection) is further amended—

(1) by redesignating section 745 (as added by subsection (a)(7) of this section) as section 747; and

(2) by inserting after section 744 (42 U.S.C. 294q) the following new sections:

"STUDENT LOAN INFORMATION BY INSTITUTIONS

"SEC. 745. (a) With respect to loans made by a school under this subpart after June 30, 1985, each school, in order to carry out the provisions of sections 740 and 741, shall, at any time such school makes such a loan to a student under this subpart, provide through and adequate loan information on loans made under this subpart to the student. The loan information required to be provided to the student by this subsection shall include—

"(1) the yearly and cumulative maximum amounts that may be borrowed by the students;

"(2) the terms under which repayment of the loan will begin;

"(3) the maximum number of years in which the loan must be repaid;

"(4) the interest rate that will be paid by the borrower and the minimum amount of the required monthly payment;

"(5) the amount of any other fees charged to the borrower by the lender;

"(6) any options the borrower may have for deferral, cancellation, prepayment, consolidation, or other refinancing of the loan;

"(7) a definition of default on the loan and a specification of the consequences which will result to the borrower if the borrower defaults, including a description of any arrangements which may be made with credit bureau organizations;

"(8) to the extent practicable, the effect of accepting the loan on the eligibility of the borrower for other forms of student assistance; and

"(9) a description of the actions that may be taken by the Federal Government to collect the loan, including a description of the type of information concerning the borrower that the Federal Government may disclose to officers, employees, or agents of the Department of Health and Human Services, officers, employees, or agents of schools with which the Secretary has an agreement under this subpart, or any other person involved in the collection of a loan under this subpart.

"(b) Each school shall, immediately prior to the graduation from such school of a student who received a loan under this subpart after June 30, 1985, provide such student with a statement specifying—

"(1) each amount borrowed by the student under this subpart;

"(2) the total amount borrowed by the student under this subpart; and

"(3) a schedule for the repayment of the amounts borrowed under this subpart, including the number, amount, and frequency of payments to be made.

"PROCEDURES FOR APPEAL OF TERMINATIONS

"SEC. 746. In any case in which the Secretary intends to terminate an agreement with a school under this subpart, the Secretary shall provide the school with a written notice specifying such intention and stating that the school may request a formal hearing with respect to such termination. If the school requests such a hearing within 30 days after the receipt of such notice, the Secretary shall provide such school with a hearing conducted by an administrative law judge.".

SCHOLARSHIPS FOR FIRST-YEAR STUDENTS OF EXCEPTIONAL FINANCIAL NEED

SEC. 130. (a) Section 758(b) (42 U.S.C. 294z) is amended by striking out paragraph (2) and inserting in lieu thereof the following:

"(2) A scholarship provided to a student for a school year under a grant under subsection (a) shall consist of—

"(A) payment to, or (in accordance with paragraph (4)) on behalf of, the student of the amount (except as provided in section 710) of—

"(i) the tuition of the student in such school year; and

"(ii) all other reasonable educational expenses, including fees, books, and laboratory expenses, incurred by the student in such school year; and

"(B) payment to the student of a stipend of $400 per month (adjusted in accordance with paragraph (5)) for each of the 12 consecutive months beginning with the first month of such school year.

"(3) Notwithstanding paragraph (2), the total scholarship award to a student for each year shall not exceed the cost of attendance for that year at the educational institution attended by the student (as determined by such educational institution).

"(4) The Secretary may contract with an educational institution in which is enrolled a student who has received a scholarship with a grant under subsection (a) for the payment to the educational instituton of the amounts of tuition and other reasonable educational expenses described in paragraph (2)(A). Payment to such an educational institution may be made without regard to section 3324 of title 31, United States Code.

"(5) The amount of the monthly stipend, specified in paragraph (2)(B) and as previously adjusted (if at all) in accordance with this paragraph, shall be increased by the

Secretary for each school year by an amount (rounded to the next highest multiple of $1) equal to the amount of such stipend multiplied by the overall percentage (as set forth in the report transmitted to the Congress under section 5305 of title 5, United States Code) of the adjustment (if such adjustment is an increase) in the rates of pay under the General Schedule made effective in the fiscal year in which such school year ends."

(b) Section 338A(g)(1) (42 U.S.C. 2541 (g)(1)) is amended by striking out "or under section 758 (relating to scholarships for first-year students of exceptional financial need),".

CAPITATION GRANTS FOR SCHOOLS OF PUBLIC HEALTH

SEC. 131. (a)(1) Section 770 (42 U.S.C. 295f) is amended to read as follows:

"CAPITATION GRANTS FOR SCHOOLS OF PUBLIC HEALTH

"SEC. 770. (a)(1) The Secretary shall make annual grants to schools of public health for the support of the education programs of such schools. The amount of the annual grant to each such school with an approved application shall be computed for each fiscal year in accordance with paragraphs (2) and (3).

"(2) Each school of public health shall receive for the fiscal year ending September 30, 1985, and for each of the next two fiscal years, an amount equal to the product of—

"(A) $1,400, and

"(B) the sum of (i) the number of full-time students enrolled in degree programs in such school in the school year beginning in such fiscal year, and (ii) the number of full-time equivalents of part-time students enrolled in degree programs in such school, determined pursuant to paragraph (3), for such school for such school year.

"(3) For purposes of paragraph (2), the number of full-time equivalents of part-time students for a school of public health for any school year is a number equal to—

"(A) the total number of credit hours of instruction in such year for which part-time students of such school, who are pursuing a course of study leading to a graduate degree in public health or an equivalent degree, have enrolled, divided by

"(B) the greater of (i) the number of credit hours of instruction which a full-time student of such school was required to take in such year, or (ii) 9,

rounded to the next highest whole number.

"(b) Notwithstanding subsection (a), if the aggregate of the amounts of the grants to be made in accordance with such subsection for any fiscal year to schools of public health with approved applications exceeds the total of the amounts appropriated for such grants for such schools under subsection (e), the amount of a school's grant shall for such fiscal year be an amount which bears the same ratio to the amount determined for the school under subsection (a) as the total of the amounts appropriated for that year under subsection (e) for grants to schools of public health bears to the amount required to make grants in accordance with subsection (a) to each of the schools of public health with approved applications.

"(c)(1) For purposes of this section, regulations of the Secretary shall include provisions relating to the determination of the number of students enrolled in a school or in a particular year-class in a school on the basis of estimates, on the basis of the number of students who in an earlier year were enrolled in a school or in a particular year-class, or on such other basis as the Secretary deems appropriate for making such determination, and shall include methods of making such determination when a school or a year-class was not in existence in an earlier year at a school.

"(2) For purpose of this section, the term 'full-time students' (whether such term is used by itself or in connection with a particular year-class) means students pursuing a full-time course of study leading to a graduate degree in public health or equivalent degree.

"(d) In the case of a new school of public health which applies for a grant under this section in the fiscal year preceding the fiscal year in which it will admit its first class, the enrollment for purposes of subsection (a) shall be the number of full-time students which the Secretary determines, on the basis of assurances provided by the school, will be enrolled in the school, in the fiscal year after the fiscal year in which the grant is made.

"(e) For payments under this section, there are authorized to be appropriated $5,000,000 for the fiscal year ending September 30, 1985, and the each of the two succeeding fiscal years.".

(2) Section 731(a)(1)(A)(ii) (42 U.S.C. 294d (a)(1)(A) (ii)) is amended by striking out "(as defined in section 770(c)(2))" and inserting in lieu thereof "(as defined in section 770(c)(2) (as such section was in effect on September 30, 1984))".

(b) Section 771 (42 U.S.C. 295F-1) is amended to read as follows:

"ELIGIBILITY FOR CAPITATION GRANTS

"SEC. 771. (a)(1) The Secretary shall not make a grant under section 770 to any school of public health in a fiscal year beginning after September 30, 1984, unless the application for the grant contains, or is supported by, assurances satisfactory to the Secretary that—

"(A) the enrollment of full-time equivalent students enrolled in degree programs in the school in the school year beginning in the fiscal year in which the grant applied for is to be made will not be less than the enrollment of such students in degree programs in the school in the school year beginning in the fiscal year ending September 30, 1983; and

"(B) the applicant will expend in carrying out its functions as a school of public health during the fiscal year for which such grant is sought, an amount of funds (other than funds for construction as determined by the Secretary) from non-Federal sources which is at least as great as the amount of funds expended by such applicant for such purpose (excluding expenditures of a nonrecurring nature) in the fiscal year preceding the fiscal year for which such grant is sought.

"(2) For purposes of subsection (a)(1)(A), the number of full-time equivalent students enrolled in a degree program in a school, in a school year, is equal to the sum calculated under section 770(a)(2)(B) for that school year.

"(b) The Secretary may waive (in whole or in part) application to a school of public health of the requirement of subsection (a)(1)(A) if the Secretary determines, after receiving the written recommendation of the appropriate accreditation body or bodies (approved for such purpose by the Commissioner of Education) that compliance by such school with such requirement will prevent it from maintaining its accreditation.".

(c)(1) Section 772(b) (42 U.S.C. 295f-2 (b)) is amended—

(A) by striking out "or subsection (a) or (b) of section 788";

(B) by striking out "of medicine, osteopathy, dentistry, public health, veterinary medicine, optometry, pharmacy, or podiatry," and inserting in lieu thereof "public health,";

(C) by striking out "Secretary" each place it appears and inserting in lieu thereof "Secretary of Health and Human Services";

(D) by striking out "Commissioner of Education" and inserting in lieu thereof "Secretary of Education"; and

(E) by striking out "Commissioner" each place it appears and inserting in lieu thereof "Secretary of Education".

(2) The section heading for section 772 (42 U.S.C. 295f-2) is amended to read as follows:

"APPLICATIONS FOR CAPITATION GRANTS"

(d) The heading for part E of title VII is amended to read as follows:

"PART E—GRANTS TO IMPROVE THE QUALITY OF SCHOOLS OF PUBLIC HEALTH"

DEPARTMENTS OF FAMILY MEDICINE

SEC. 132. Section 780 (42 U.S.C. 295g) is amended by redesignating subsection (c) (as amended by section 104 of this Act) as subsection (d) and by inserting after subsection (b) the following:

"(c) In making grants under subsection (a), the Secretary shall give priority to applicants that demonstrate to the satisfaction of the Secretary a commitment to family medicine in their medical education training programs.".

AREA HEALTH EDUCATION CENTERS

SEC. 133. (a) Section 781(a)(2) (42 U.S.C. 295g-1 (a)(2)) is amended by redesignating subparagraphs (A), (B), and (C) as clauses (i), (ii), and (iii), respectively and by striking out all that precedes clause (i) (as so redesignated) and inserting in lieu thereof the following:

"(2)(A) The Secretary shall enter into contracts with schools of medicine and osteopathy—

"(i) which have previously received Federal financial assistance for an area health education center program under section 802 of the Health Professionals Educational Assistance Act of 1976 in fiscal year 1979 or under paragraph (1), or

"(ii) which are receiving assistance under paragraph (1),

to carry out projects described in subparagraph (B) through area health education centers for which Federal financial assistance was provided under paragraph (1) and which are no longer eligible to receive such assistance.

"(B) Projects for which assistance may be provided under subparagraph (A) are—".

(b) The last sentence of section 781(g) (42 U.S.C. 295g-1 (g)) is amended by striking out "may" and inserting in lieu thereof "shall".

(c) Section 781(d)(2)(F) is amended to read as follows:

"(F) conduct interdisciplinary training and practice involving physicians and other health personnel including, where practicable, physician assistants and nurse practitioners;".

GENERAL INTERNAL MEDICINE AND GENERAL PEDIATRICS

SEC. 134. Section 784 (42 U.S.C. 295g-4) is amended by redesignating subsection (b) (as amended by section 107 of this Act) as subsection (c) and by inserting after subsection (a) the following new subsection:

"(b) In making grants and entering into contracts under subsection (a), the Secretary shall give priority to applicants that demonstrate to the satisfaction of the Secretary a

commitment to general internal medicine and general pediatrics in their medical education training programs.".

FAMILY MEDICINE AND GENERAL DENTISTRY

SEC. 135. (a) Section 786(b) (42 U.S.C. 295g-6 (b)) is amended—

(1) by inserting "or an approved advanced educational program in the general practice of dentistry" before the semicolon in paragraph (1); and

(2) by striking out "residents" in paragraph (2) and inserting in lieu thereof "participants".

(b) Section 786 (42 U.S.C. 295g-6) is amended by redesignating subsection (c) (as amended by section 108 of this Act) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) In making grants under subsection (a), the Secretary shall give priority to applicants that demonstrate to the satisfaction of the Secretary a commitment to family medicine in their medical education training programs.".

((c) Section 786(d) (42 U.S.C. 295g-6 (d) (as amended by section 108 of this Act and redesignated by subsection (b) of this section) is further amended by inserting before the period in the second sentence a comma and "and shall obligate not less than 7.5 percent of such amounts in each fiscal year for grants under subsection (b)".

EDUCATIONAL ASSISTANCE TO INDIVIDUALS FROM DISADVANTAGED BACKGROUNDS

SEC. 136. (a) Section 787 (a) (1) (42 U.S.C. 295g-7 (a) (1)) is amended—

(1) by inserting "chiropractic," after "allied health,"; and

(2) by inserting after "podiatry" a comma and "public and nonprofit private schools which offer graduate programs in clinical psychology,".

(b) Section 787 (a) (2) (42 U.S.C. 295g-7 (a) (2)) is amended by inserting after subparagraph (E) the following: "The term 'regular course of education of such a school' as used in subparagraph (D) includes a graduate program in clinical psychology.".

SPECIAL PROJECTS

SEC. 137. (a) (1) Section 788 (a) (1) (42 U.S.C. 295g-8 (a) (1)) is amended to read as follows:

"(a) (1) The Secretary may make grants to maintain and improve schools which provide the first or last two years of education leading to the degree of doctor of medicine or osteopathy. Grants provided under this paragraph to schools which were in existence on September 30, 1984, may be used for construction and the purchase of equipment.".

(2) Paragraph (2) of section 788 (a) (42 U.S.C. 295g-8 (a)) is repealed and paragraph (3) of such section is redesignated as paragraph (2).

(3) Section 788 (a) (2) (as so redesignated) is amended by inserting "or last" after "the first", by inserting "or osteopathy" after "medicine" and by inserting "or be operated jointly with a school that is accredited by" after "accredited by".

(b) Section 788(b) (42 U.S.C. 295g-8) (b)) is amended to read as follows:

"(b)(1) The Secretary may make grants to and enter into contracts with any health profession, allied health profession, or nurse training institution, or any other public or nonprofit private entity for projects in areas such as—

"(A) health promotion and disease prevention;

"(B) curriculum development and training in health policy and policy analysis, including curriculum development and training in areas such as—

"(i) the organization, delivery, and financing of health care;

"(ii) the determinants of health and the role of medicine in health; and

"(iii) the promotion of economy in health professions teaching, health care practice, and health care systems management;

"(C) curriculum development in clinical nutrition;

"(D) the development of initiatives for assuring the competence of health professionals; and

"(E) curriculum and program development and training in applying the social and behaviorial sciences to the study of health and health care delivery issues.

"(2)(A) Of the amounts available for grants and contracts under this subsection from amounts appropriated under subsection (g)(1), at least 75 percent shall be obligated for grants to and contracts with health professions institutions, allied health institutions, and nurse training institutions.

"(B) Any application for a grant or contract to institutions described in subparagraph (A) shall be subject to appropriate peer review by peer review groups composed principally of non-Federal experts.

"(C) The Secretary may not approve an application for a grant or contract to an institution described in subparagraph (A) unless the Secretary has received recommendations with respect to such application from the appropriate peer review group required under subparagraph (A) and from the National Advisory Council on Health Professions Education.

"(3) Of the amounts available for grants and contracts under this subsection from amounts appropriated under subsection (g) (1), not more than 25 percent shall be obligated for grants to and contracts with public and nonprofit entities which are not health professions institutions, allied health institutions, or nurse training institutions.".

(c) Section 788(d) (42 U.S.C. 295g-8 (d)) is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(2) by inserting "(1)" before "The";

(3) by striking out "with schools of medicine or osteopathy or other appropriate public or nonprofit private entities to assist in meeting the costs of such schools or entities" and inserting in lieu thereof "with accredited health professions schools referred to in section 701(4) or 701(10) to assist in meeting the costs of such schools";

(4) by amending subparagraph (A) (as redesignated by paragraph (1) of this subsection) to read as follows:

"(A) improve the training of health professionals in geriatrics, develop and disseminate curriculum relating to the treatment of the health problems of the elderly, expand and strengthen instruction in such treatment, support the training and retraining of faculty to provide such instruction, and support continuing education of health professionals in such treatment; and "; and

(5) by adding at the end thereof the following new paragraph:

"(2) (A) Any application for a grant or contract under this subsection shall be subject to appropriate peer review by peer review groups composed principally of non-Federal experts.

"(B) The Secretary may not approve an application for a grant or contract under this subsection unless the Secretary has received recommendations with respect to such application from the appropriate peer review group required under subparagraph (A) and from the National Advisory Council on Health Professions Education.".

"(d) Section 788 (42 U.S.C. 295g-8) is amended by redesignating subsection (f) (as amended by section 110 of this Act) as subsection (g) and by inserting after subsection (e) the following:

"(f) The Secretary may make grants to schools of veterinary medicine for (1) the development of curriculum for training in the care of animals used in research, the treatment of animals while being used in research, and the development of alternatives to the use of animals in research, (2) the provision of such training, and (3) large animal care and research.".

(e) The heading for section 788 (42 U.S.C. 295g-8) is amended to read as follows:

"TWO-YEAR SCHOOLS OF MEDICINE, INTERDISCIPLINARY TRAINING, AND CURRICULUM DEVELOPMENT"

ADVANCED FINANCIAL DISTRESS ASSISTANCE

SEC. 138. Subsections (b) (1) and (f) of section 788B (42 U.S.C. 295g-8b) are each amended by striking out "five" and inserting in lieu thereof "six".

GRADUATE PROGRAMS IN HEALTH ADMINISTRATION

SEC. 139. Section 791(c)(2)(A)(i) (42 U.S.C. 295h (c) (2) (A) (i)) is amended by inserting before the semicolon a comma and "except that in any case in which the number of minority students enrolled in the graduate educational programs of such entity in such school year exceeds an amount equal to 45 percent of the number of all students enrolled in such programs in such school year, such application shall only be required to contain assurances that at least 20 individuals will complete such programs in such school year".

PROGRAM ELIMINATIONS

SEC. 140. (a) Section 703 (42 U.S.C. 292c) is repealed.

(b) Part D of title VII is repealed.

(c) Section Section 782 (42 U.S.C. 295g-2) is repealed.

(d) Section 785 (42 U.S.C. 295g-5) is repealed.

(e)(1) Section 788A (42 U.S.C. 295g-8a) is repealed.

(2) The second sentence of section 788B(a) (42 U.S.C. 295g-8b (a)) is amended by inserting "(as such section was in effect prior to October 1, 1984)" after "section 788A".

(3) Section 788B(f) (42 U.S.C. 295g-8b (f)) (as amended by section 138 of this Act) is further amended by striking out the last sentence.

(4) Section 788(h) (42 U.S.C. 295g-8b (h)) (as amended by section 111 of this Act) is further amended—

(A) by striking out "and section 788A" in the first sentence; and

(B) by striking out the second sentence.

(f) Section 789 is (42 U.S.C. 295g-9) is repealed.

ANALYSIS OF FINANCIAL DISINCENTIVES TO CAREER CHOICES IN HEALTH PROFESSIONS

SEC. 141. The Secretary of Health and Human Services shall include in the report required to be submitted on October 1, 1985, pursuant to section 708(d)(2) of the Public Health Service Act—

(1) an analysis of any financial disincentive to graduates of health professions schools which affects the specialty of prac-

tice chosen by such graduates or the decision of such graduates to practice their profession in an area which lacks an adequate number of health care professionals; and

(2) recommendations for legislation and administrative action to correct any disincentive which are identified pursuant to clause (1) and which are contrary to the achievement of national health goals, including recommendations concerning the appropriateness of providing financial assistance to mitigate such disincentives.

STUDY ON COMPLIANCE WITH SELECTIVE SERVICE ACT

SEC. 142. The Secretary of Health and Human Services, in cooperation with the Director of Selective Service, shall conduct a study to determine if health professions schools are engaged in a pattern or practice or failure to comply with section 12(f) of the Military Selective Service Act (50 U.S.C. App. 462(f)) (or regulations issued under such section) or are engaged in a pattern or practice of providing loans or work assistance to persons who are related to register under section 3 of such Act (and any proclamation of the President and regulations prescribed under that section) and have not so registered. The Secretary shall complete the study and report its results to the Congress not later than one year after the date of enactment of this Act.

TITLE II—NURSE EDUCATION

SPECIAL PROJECTS

SEC. 201. (a) Section 820(a) (42 U.S.C. 296k (a)) is amended—

(1) by striking out "or" after the semicolon in paragraph (4);

(2) by striking out the period at the end of paragraph (5) and inserting in lieu thereof a semicolon; and

(3) by inserting after paragraph (5) the following:

"(6) demonstrate clinical nurse education programs which combine educational curricula and clinical practice in health care delivery organizations, including acute care facilities, long-term care facilities, and ambulatory care facilities;

"(7) demonstrate methods to improve access to nursing services in noninstitutional settings through support of nursing practice arrangements in communities; or

"(8) demonstrate methods to encourage nursing graduates to practice in health manpower shortage areas (designated under section 332) in order to improve the specialty and geographical distribution of nurses in the United States.".

(b) Section 820(d) (42 U.S.C. 296k (d)) is amended—

(1) by striking out the first sentence and inserting in lieu thereof: "(1) For payments under grants and contracts under paragraphs (1) through (5) of subsection (a), there are authorized to be appropriated $13,000,000 for the fisal year ending September 30, 1985, $14,000,000 for the fiscal year ending September 30, ,986, and $14,900,000 for the fiscal year ending September 30, 1987.";

(2) by striking out "this subsection" in the second sentence and inserting in lieu thereof "this paragraph";

(3) by striking out "1981," in such sentence and inserting in lieu thereof "1984,"; and

(4) by adding at the end thereof the following new paragraph:

"(2) For payments under grants and contracts under paragraph (6), (7), and (8) of subsection (a), there are authorized to be appropriated $5,000,000 for the fiscal year ending September 30, 1985, $5,350,000 for the fiscal year ending September 30, 1986, $5,800,000 for the fiscal year ending September 30, 1987. In making grants and entering into contracts with amounts appropriated under this paragraph, the Secretary shall give priority to applications for grants and contracts under paragraph (7) of subsection (a).".

ADVANCED NURSE EDUCATION

SEC. 202. Section 281 (42 U.S.C. 2961) is amended to read as follows:

"ADVANCED NURSE EDUCATION

"SEC. 821. (a) The Secretary may make grants to and enter into contracts with public and private nonprofit collegiate schools of nursing to meet the costs of projects to—

"(1) plan, develop, and operate,

"(2) expand, or

"(3) maintain,

programs which lead to masters' and doctoral degrees and which prepare nurses to serve as nurse educators, administrators, or researchers or to serve in clinical nurse specialties determined by the Secretary to require advanced education.

"(b) For payments under grants and contracts under this section, there are authorized to be appropriated $17,500,000 for the fiscal year ending September 30, 1985, $18,900,000 for the fiscal year ending September 30, 1986, and $20,300,000 for the fiscal year ending September 30, 1987.".

NURSE PRACTITIONER AND NURSE MIDWIFE PROGRAMS

SEC. 203. (a)(1) Paragraph (1) of section 822(a) (42 U.S.C. 296m (a)) is amended to read as follows:

"(1) The Secretary may make grants to and enter into contract with public or nonprofit private schools of nursing and public health, public or nonprofit private schools of medicine which received grants or contracts under this subsection prior to October 1, 1984, public or nonprofit private hospitals, and other public or nonprofit private entities to meet the cost of projects to—

"(A) plan, develop, and operate,

"(B) expand, or

"(C) maintain,

programs for the education of nurse practitioners and nurse midwives. The Secretary shall give special consideration to applications for grants or contracts for programs for the education of nurse practitioners and nurse midwives who will practice in health manpower shortage areas (designated under section 332) and for the education of nurse practitioners which emphasize education respecting the special problems of geriatric patients and education to meet the particular needs of nursing home patients and patients who are confined to their homes.".

(2) Paragraph (2) of such section is amended—

(A) by striking out subparagraph (A) and inserting in lieu thereof the following:

"(A) For purposes of this section, the term 'programs for the education of nurse practitioners and nurse midwives' means educational programs for registered nurses (irrespective of the type of school of nursing in which the nurses received their training) which meet guidelines prescribed by the Secretary in accordance with subparagraph (B) and which have as their objective the education of nurses (including pediatric and geriatric nurses) who will, upon completion of their studies in such programs, be qualified to effectively provide primary health care, including primary health care in homes and in ambulatory care facilities, long-term care facilities (where appropriate), and other health care institutions.";

"(B) by striking out "training" in the first sentence of subparagraph (B) and inserting in lieu thereof "education"; and

"(C) by inserting "and nurse midwives" before the period in the first sentence of subparagraph (B).

(b) Section 822 (b) (42 U.S.C. 295m (b)) is amended—

"(1) by striking out "nursing, medicine, and public health," in paragrpah (1) and inserting in lieu thereof "nursing and public health, schools of medicine which received grants or contracts under this subsection prior to October 1, 1984,";

"(2) by inserting "and nurse midwives" before the period in the first sentence of paragraph (1);

"(3) by inserting "or nurse midwife" after "practitioner" in paragraph (3); and

"(4) by inserting "or in a public health care facility" before "for a period" in paragraph (3).

(c) Section 822 (c) (42 U.S.C. 296m (c)) is amended—

(1) by striking out "training" and inserting in lieu thereof "education"; and

(2) by inserting "and nurse midwives' after "nurse practitioners".

(d) Section 822 (42 U.S.C. 296m) is further amended by striking out subsection (d) and by redesignating subsection (e) as subsection (d).

(e) Section 822(d) (as redesignated by subsection (d) of this section) is amended to read as follows:

"(d) For payments under grants and contracts under this section, there are authorized to be appropriated $16,500,000 for the fiscal year ending September 30, 1985 $17,800,000 for the fiscal year ending September 30, 1986, and $19,100,000 for the fiscal year ending September 30, 1987.".

(f) The heading for section 822 (42 U.S.C. 296m) is amended to read as follows:

"NURSE PRACTITIONER AND NURSE MIDWIFE PROGRAMS"

TRAINEESHIPS FOR ADVANCED EDUCATION OF PROFESSIONAL NURSES

SEC. 204. (a) Paragraph (1) of section 830(a) (42 U.S.C. 297(a)) is amended to read as follows:

"(1)(A) The Secretary may make grants to public or nonprofit private schools of nursing and public health, public or nonprofit private hospitals, and other public or nonprofit private entities to cover the cost of traineeships for nurses in masters' degree and doctoral degree programs in order to educate such nurses to—

"(i) serve in and prepare for practice as nurse practitioners,

"(ii) serve in and prepare for practice as nurse administrators, nurse educators, and nurse researchers, or

"(iii) serve in and prepare for practice in other professional nursing specialities determined by the Secretary to require advanced education.

"(B) The Secretary may make grants to public and private nonprofit schools of nursing and appropriate public and private nonprofit schools of nursing and appropriate public and private nonprofit entities to cover the cost traineeships to educate nurses to serve in and prepare for practice as nurse midwives.".

(b) Section 830 (42 U.S.C. 297) is further amended—

(1) by redesignating subsection (b) as subsection (c);

(2) by striking out the first sentence of such subsection and inserting in lieu thereof the following:

"(1) There are authorized to be appropriated for the purposes of subsection (a), $15,250,000 for the fiscal year ending September 30, 1985, $16,500,000 for the fiscal year ending September 30, 1985, and $17,700,000 for the fiscal year ending September 30, 1987.";

(3) by striking out the second sentence of such subsection;

(4) by adding at the end of such subsection the following new paragraph:

"(2) To carry out subsection (b), there are authorized to be appropriated $1,500,000 for the fiscal year ending September 30, 1985, $1,600,000 for the fiscal year ending September 30, 1986, and $1,750,000 for the fiscal year ending September 30, 1987.";

(5) by inserting after subsection (a) the following new subsection:

"(b) The Secretary may make grants to public or private nonprofit schools of nursing to cover the costs of post baccalaureate fellowships for faculty in such schools to enable such faculty to—

"(1) investigate cost-effective alternatives to traditional health care modalities, with special attention to the needs of at-risk populations, such as the elderly, premature infants, physically and mentally disabled individuals, and ethnic and minority groups;

"(2) examine nursing interventions that result in positive outcomes in health status, with attention to interventions which address family violence, drug and alcohol abuse, the health of women, adolescent care, and disease prevention; and

"(3) address other areas of nursing practice considered by the Secretary to require additional study."; and

(6) by striking out "TRAINING" in the section heading and inserting in lieu thereof "EDUCATION".

NURSE ANESTHETISTS

SEC. 205. (a) Section 831(a)(1) (42 U.S.C. 297-1(a)(1)) is amended by striking out "Commissioner" and inserting in lieu thereof "Secretary".

(b) Section 831 (42 U.S.C. 297-1) is further amended by redesignating subsection (b) as subsection (c) and by inserting after subsection (a) the following new subsection:

"(b) The Secretary may make grants to public or private nonprofit institutions to cover the cost of projects to improve existing programs for the education of nurse anesthetists which are accredited by an entity or entities designated by the Secretary of Education. Such grants shall include grants to such institutions for the purpose of providing financial assistance and support to certified registered nurse anesthetists who are faculty members of accredited programs to enable such nurse anesthetists to obtain advanced education relevant to their teaching functions.".

(c) Section 831(c) (as redesignated by subsection (b) of this section) is amended to read as follows:

"(c) For the purpose of making grants under this section, there are authorized to be appropriated $1,000,000 for the fiscal year ending September 30, 1985, $1,125,000 for the fiscal year ending September 30, 1986, and $1,500,000 for the fiscal year ending September 30, 1987. Not more than 20 percent of the amount appropriated under this section for any fiscal year shall be obligated for grants under the second sentence of subsection (b).".

(d) The section heading for such section is amended by striking out "TRAINEESHIPS FOR TRAINING OF".

STUDENT LOANS

SEC. 206. (a) Section 838 (42 U.S.C. 297d) is amended by striking out subsections (a) and (b) and inserting in lieu thereof the following:

"(a)(1) The Secretary shall from time to time set dates by which schools of nursing must file applications for Federal capital contributions.

"(2)(A) If the total of the amounts requested for any fiscal year in such applications exceeds the total amount appropriated under section 837 for that fiscal year, the allotment from such total amount to the loan fund of each school of nursing shall be reduced to whichever of the following is the smaller:

"(i) The amount requested in its application.

"(ii) An amount which bears the same ratio to the total amount appropriated as the number of students estimated by the Secretary to be enrolled on a full-time basis in such school during such fiscal year bears to the estimated total number of students enrolled in all such schools on a full-time basis during such year.

"(B) Amounts remaining after allotment under subparagraph (A) shall be reallotted in accordance with clause (ii) of such subparagraph among schools whose applications requested more than the amounts so allotted to their loan funds, but with such adjustments as may be necessary to prevent the total allotted to any such school's loan fund under this paragraph and paragraph (3) from exceeding the total so requested by it.

"(3) Funds which, pursuant to section 839(c) or pursuant to a loan agreement under section 835, are returned to the Secretary in any fiscal year, shall be available for allotment in such fiscal year and in the fiscal year succeeding the fiscal year. Funds described in the preceding sentence shall be allotted among schools of nursing in such manner as the Secretary determines will best carry out this subpart, except that in making such allotments, the Secretary shall give priority to schools of nursing which established student loan funds under this subpart after September 30, 1975.

"(b) Allotments to a loan fund of a school shall be paid to it from time to time in such installments as the Secretary determines will not result in unnecessary accumulations in the loan fund at such school.".

(b) Section 839 (42 U.S.C. 297e) is amended—

(1) by striking out "1987," each place it appears in subsections (a) and (b) and inserting in lieu thereof "1990,"; and

(2) by adding at the end thereof the following new subsection:

"(c)(1) Within 90 days after the termination of any agreement with a school under section 835 or the termination in any other manner of a school's participation in the loan program under this subpart, such school shall pay to the Secretary from the balance of the loan fund of such school established under section 835, an amount which bears the same ratio to the balance in such fund on the date of such termination as the total amount of the Federal capital contributions to such fund by the Secretary pursuant to section 835(b)(2)(A) bears to the total amount in such fund on such date derived from such Federal capital contributions and from funds deposited in the fund pursuant to section 835(b)(2)(B). The remainder of such balance shall be paid to the school.

"(2) A school to which paragraph (1) applies shall pay to the Secretary after the date on which payment is made under such paragraph and not less than quarterly, the same proportionate share of amounts received by the school after the date of termination referred to in paragraph (1) in payment of principal or interest on loans made from the loan fund as was determined for the Secretary under such paragraph.".

REPEALS

SEC. 207. (a) Sections 801, 802, 803, 805, 810, 811, and 815 (42 U.S.C. 296, 296a, 296b, 296d, 296e, 296f, and 296j) are repealed.

(b)(1) Part A of title VIII is amended by striking out the headings for subparts I, II, III, and IV.

(2) The heading for part A of the title VIII is amended to read as follows:

"PART A—SPECIAL PROJECTS"

(3) The heading for title VIII is amended to read as follows:

"TITLE VIII—NURSE EDUCATION"

(c)(1) Section 804 (42 U.S.C. 296c) is redesignated as section 858 and is amended to read as follows:

"RECOVERY FOR CONSTRUCTION ASSISTANCE

"SEC. 858. (a) If at any time within 20 years (or within such shorter period as the Secretary may prescribe by regulation for an interim facility) after the completion of construction of a facility with respect to which funds have been paid under subpart I of part A (as such subpart was in effect on September 30, 1984)—

"(1) the facility is sold or transferred to an entity which is not a public or nonprofit school or the owner shall cease to be a public or nonprofit school,

"(2) the facility shall cease to be used for the training purposes for which it was constructed, or

"(3) the facility is used for sectarian instruction or as a place for religious worship, the United States shall be entitled to recover, whether from the transferor or the transferee (or, in the case of a facility which has ceased to be a public or nonprofit school or to be used for a purpose referred to in paragraph (2) or is used for sectarian instruction or religious worship, from the owners thereof) an amount determined under subsection (c).

"(b) The transferor of a facility which is sold or transferred as described in paragraph (1) of subsection (a), the owner of a facility which ceases to be a public or nonprofit school, or the owner of a facility the use of which is changed as described in paragraph (2) or (3) of subsection (a), shall provide the Secretary written notice of such sale, transfer, or change—

"(1) not later than—

"(A) ten days after the date on which such sale, transfer, or change of use occurs, in the case of a facility which is sold or transferred or the use of which changes on or after the date of the enactment of this subsection, or

"(B) thirty days after the date of the enactment of this subsection, in the case of a facility which was sold or transferred or the use of which changed before the date of the enactment of this subsection, or

"(2) if the Secretary determines that such notice with respect to such change should more appropriately be made in the annual report to the Secretary of the person required to provide such notice, in the first such report after such change.

"(c)(1) Except as provided in paragraph (2), the amount the United States shall be entitled to recover under subsection (a) is an amount bearing the same ratio to the then value (as determined by the agreement of the parties or in an action brought in the

district court of the United States for the district for which the facility involved is situated) of so much of the facility as constituted an approved project or projects as the amount of the Federal participation bore to the cost of the construction of such project or projects.

"(2)(A) After the expiration of—

"(i) 180 days after the date of the sale, transfer, or change of use for which a notice is required by subsection (b) in the case of a facility which is sold or transferred or the use of which changes on or after the date of the enactment of this subsection, or

"(ii) thirty days after the date of enactment of this subsection or if later 180 days after the date of the sale, transfer, or change of use for which a notive is required by subsection (b), in the case of a faiclity which was sold or transferred or the use of which changed before the date of the enactment of this subsection, the amount which the United States is entitled to recover under paragraph (1) with respect to a facility shall be the amount prescribed by paragraph (1) plus interest, during the period described in subparagraph (B), at a rate (determined by the Secretary) based on the average of the bond equivalent of the weekly ninety-one-day Treasury bill auction rate.

"(B) The period referred to in subparagraph (A) is the period beginning—

"(i) in the case of a facility which was sold or transferred or the use of whch changed before the date of the enactment of ths subsection, thirty days after such date or if later 180 days after the date of the sale, transfer, or change of use for which a notice is required by subsection (b),

"(ii) in the case of a facility which was sold or transferred or the use of which changes on or after the date of enactment of this subsection, and with respect to which notice is provided in accordance with subsection (b), upon the expiration of 180 days after the receipt of such notice, or

"(iii) in the case of a facility which was sold or transferred or the use of which changes on or after the date of enactment of this subsection, and with respect to which such notice is not provided as prescribed by subsection (b), on the date of the sale, transfer, or changes for which such notice was to be provided,

and ending on the date the amount the United States is entitled to under paragraph (1) is collected.

"(d) The Secretary may waive the recovery rights of the United States under subsection (a)(2) with respect to a facility in any State if the Secretary determines, in accordance with regulations, that there is good cause for waiving such rights with respect to such facility.

"(e) The right of recovery of the United States under subsection (a) shall not constitute a lien on any facility with respect to which funds have been paid under this title.".

(2) Within one hundred and eighty days after the date of the enactment of this section, the Secretary shall have in effect regulations to carry out subsection (b) of section 858 of the Public Health Service Act (as added by the amendment made by subsection (a) of this section).

(d) Section 851(b) (42 U.S.C. 298(b)) is amended by striking out ", and in the review of applications for construction projects under subpart I of part A, of applications under section 805, and of applications under subpart III of part A".

(e) Section 853(1) (42 U.S.C. 298b(1)) is amended by striking out "the Canal Zone," and inserting in lieu thereof "the Commonwealth of the Northern Mariana Islands,".

(f) Section 853(6) (42 U.S.C. 298b(6)) is amended to read as follows:

"(6) The term 'accredited' when applied to any program of nurse education means a program accredited by a recognized body or bodies, or by a State agency, approved for such purpose by the Secretary of Education and when applied to a hospital, school, college, or university (or a unit thereof) means a hospital, school, college, or university (or a unit thereof) which is accredited by a recognized body or bodies, or by a State agency, approved for such purpose by the Secretary of Education, except that a school of nursing seeking an agreement under subpart II of part B for the establishment of a student loan fund, which is not, at the time of the application under such subpart, eligible for accreditation by such a recognized body or bodies or State agency, shall be deemed accredited for purposes of such subpart if the Secretary of Education finds, after consultation with the appropriate accreditation body or bodies, that there is reasonable assurance that the school will meet the accreditation standards of such body or bodies prior to the beginning of the academic year following the normal graduation date of students who are in their first year of instruction at such school during the fiscal year in which the agreement with such school is made under such subpart; except that the provisions of this clause shall not apply for purposes of section 838. For the purpose of this paragraph, the Secretary of Education shall publish a list of recognized accrediting bodies, and of State agencies, which the Secretary of Education determines to be reliable authority as to the quality of education offered.".

TITLE III—NATIONAL HEALTH SERVICE CORPS

AUTHORIZATIONS OF APPROPRIATIONS

SEC. 301. (a) Section 338(a) (42 U.S.C. 254K(a)) is amended by striking out "and" after "1983;" and by inserting before the period a semicolon and "$75,000,000 for the fiscal year ending September 30, 1985; $75,000,000 for the fiscal year ending September 30, 1986; and $75,000,000 for the fiscal year ending September 30, 1987".

"(b) Section 338F(a) (42 U.S.C. 254q(a)) is amended by striking out the last sentence and inserting in lieu thereof the following: "There are authorized to be appropriated—

"(1) for the fiscal year ending September 30, 1985, such sums as may be necessary to make three hundred and fifty new scholarship awards in accordance with section 338A(d) for such fiscal year;

"(2) for the fiscal year ending September 30, 1986, such sums as may be necessary to make four hundred new scholarship awards in accordance with such section for such fiscal year;

"(3) for the fiscal year ending September 30, 1987, such sums as may be necessary to make four hundred and twenty-five new scholarship awards in accordance with such section for such fiscal year; and

"(4) for each of the fiscal years ending September 30, 1985, September 30, 1986, September 30, 1987, September 30, 1988, September 30, 1989, and September 30, 1990, such sums as may be necessary to continue to make scholarship awards to students who have entered into written contracts under the Scholarship Program before October 1, 1987.".

DESIGNATION OF HEALTH MANPOWER SHORTAGE AREAS

SEC. 302. Section 332(a)(1) (42 U.S.C. 254e(a)(1)) is amended by adding at the end thereof the following: "The Secretary shall not remove an area from the areas determined to be health manpower shortage areas under clause (A) of the preceding sentence until the Secretary has afforded interested persons and groups in such area an opportunity to provide data and information in support of the designation as a health manpower shortage area of a population group described in clause (B) of such sentence or a facility described in clause (C) of such sentence, and has made a determination on the basis of the data and information submitted by such persons and groups and other data and information available to the Secretary.".

OBLIGATED SERVICE

SEC. 303. Section 338B(b)(5) (42 U.S.C. 254m(b)(5)) is amended to read as follows:

"(5)(A) With respect to an individual receiving a degree from a school of medicine, osteopathy, dentistry, veterinary medicine, optometry, podiatry, or pharmacy, the date referred to in paragraphs (1) through (4) shall be the date upon which the individual completes the training required for such degree, except that—

"(i) at the request of such an individual with whom the Secretary has entered into a contract under section 338A prior to October 1, 1984, the Secretary shall defer such date until the end of the period of time (not to exceed the number of years specified in subparagraph (B) or such greater period as the Secretary, consistent with the needs of the Corps, may authorize) required for the individual to complete an internship, residency, or other advanced clinical training; and

"(ii) at the request of such an individual with whom the Secretary has entered into a contract under section 338A on or after October 1, 1984, the Secretary may defer such date in accordance with the provisions of clause (i).

"(B)(i) With respect to an individual receiving a degree from a school of medicine, osteopathy, or dentistry, the number of years referred to in subparagraph (A)(i) shall be three years.

"(ii) With respect to an individual receiving a degree from a school of veterinary medicine, optometry, podiatry, or pharmacy, the number of years referred to in subparagraph (A)(i) shall be one year.

"(C) No period of internship, residency, or other advanced clinical training shall be counted toward satisfying a period of obligated service under this subpart.

"(D) With respect to an individual receiving a degree from an institution other than a school referred to in subparagraph (A), the date referred to in paragraphs (1) through (4) shall be the date upon which the individual completes his academic training leading to such degree.".

PRIVATE PRACTICE

SEC. 304. (a) Section 338C(a)(2) (42 U.S.C. 254n(a)(2)) is amended by inserting before the period the following: "for which the Secretary has made the evaluation and determination described in section 333(a)(1)(D)".

(b) Section 338C(b) (42 U.S.C. 254n(b)) is amended by inserting at the end thereof the following: "The Secretary shall take such action as may be appropriate to assure that the conditions of the written agreement prescribed by this subsection are adhered to.".

SPECIAL LOANS FOR CORPS MEMBERS TO ENTER PRIVATE PRACTICE

SEC. 305. (a) Subsections (a) and (b) of section 338E (42 U.C. 254p(a), (b)) are recommended to read as follows:

"(a) The Secretary may, out of appropriations authorized under section 338, make one loan to a Corps member who has agreed in writing—

"(1) to engage in the private full-time clinical practice of his profession in a health manpower shortage area (designated under section 332) for a period of not less than two years which—

"(A) in the case of a Corps member who is required to complete a period of obligated service under this subpart, begins not later than one year after the date on which such individual completes such period of obligated service; and

"(B) in the case of an individual who is not required to complete a period of obligated service under this subpart, begins at such time as the Secretary considers appropriate;

"(2) to conduct such practice in accordance with the provisions of section 338C (b)(1); and

"(3) to such additional conditions as the Secretary may require to carry out the purposes of this section.

Such a loan shall be used to assist such individual in meeting the costs of beginning the practice of such individual's profession in accordance with such agreement, including the costs of acquiring equipment and renovating facilities for use in providing health services, and of hiring nurses and other personnel to assist in providing health services. Such loan may not be used for the purchase or construction of any building.

"(b) the amount of a loan under subsection (a) to an individual shall not exceed $25,000.".

(b) Subsection (c) of such section is amended by striking out "grant or" in the first sentence.

(c) Subsection (d)(1) of such section is amended by striking out "this section," and inserting in lieu thereof "this section (as in effect prior to October 1, 1984),".

(d) Section 338C (e) (42 U.S.C. 254p (e)) is amended by striking out paragraph (1) and by striking out "(2)" before "Upon".

PERSONNEL PLAN FOR THE NATIONAL HEALTH SERVICE CORPS

SEC. 306. (a) By October 1, 1985, the Secretary of Health and Human Services shall prepare and transmit to the Committee on Labor and Human Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives a plan for the recruitment, employment, and retention of personnel for the National Health Service Corps which assures that—

(1) the Corps will continue to improve the delivery of health services in health manpower shortage area (as designated by the Secretary under section 332 of the Public Health Service Act) during fiscal years 1988 through 1991; and

(2) during each such fiscal year, the total number of Corps members shall be the number the Secretary considers necessary to serve the demonstated needs of health manpower shortage areas.

(b) The plan required by subsection (a) shall include alternative proposals for the recruitment, employment, and retention of personnel for the National Health Service Corps, estimates of the amounts that would be required to carry out each such proposal during each of the fiscal years with which the plan is concerned, and such recommendations for legislation and administrative action as the Secretary considers appropriate.

(c) The Secretary shall prepare the plan required by subsection (a) in consolation with State governments, voluntary organizations, and organizations representing health professionals.

TECHNICAL ASSISTANCE TO STATES

SEC. 307. (a) Section 332 (42 U.S.C. 254e) is amended by adding at the end thereof the following new subsection:

"(i) In order to assist a State in carrying out data collection and public information activities to enable the State to make recommendations regarding the designation of health manpower shortage areas in the State, the Secretary may provide technical assistance of an appropriate nature to the State or, at the request of the State, to entities within the State.".

(b) Section 338 (42 U.S.C. 254k) (as amended by section 301(a) of this Act) is further amended by adding at the end thereof the following new subsection:

"(c) To carry out the purposes of section 332(i), there are authorized to be appropriated $500,000 for the fiscal year ending September 30, 1985, and for each of the two succeeding fiscal years.".

TITLE IV—HEALTH MAINTENANCE ORGANIZATIONS

ELIMINATION OF AUTHORIZATION OF SUPPORT FOR FEASIBILITY SURVEYS, PLANNING, AND INITIAL DEVELOPMENT COSTS

SEC. 401. (a) Sections 1303, 1304, and 1307(c) (42 U.S.C. 300e–2, 300e–3, and 300e–6 (c)) are repealed.

(b) Section 1306 (42 U.S.C. 300e–5) is amended—

(1) by striking out "grant, contract, loan," each place it appears (except in subsection (b)(6)) and inserting in lieu thereof "loan",

(2) by striking out "in the case of an application for assistance under section 1303 or 1304, such application meets the application requirements of such section and in the case of an application for a loan or loan guarantee," in subsection (b)(1),

(3) by striking out "1304," in subsection (b)(2), and

(4) by striking out "grants, contracts, loans," in subsection (c) and inserting in lieu thereof "loans".

(c) Section 1307 (42 U.S.C. 300e–6) is amended—

(1) by striking out "grant, contract, loan," each place it appears and inserting in lieu thereof "loan",

(2) by striking out "grant, contract, or" in subsection (a)(1), and

(3) by striking out "such assistance" in subsection (a)(1) and inserting in lieu thereof "the loan".

(d) Section 1309(a) (42 U.S.C. 300e–8(a)) is amended—

(1) by striking out paragraph (1), and

(2) by striking out "(2)".

(e) The first sentence of section 1317(b) is amended—

(1) by striking out clause (1), and

(2) by redesignating clauses (2) and (3) as clauses (1) and (2), respectively.

(f) The amendments made by this section do not apply to any grant made or contract entered into under title XIII of the Public Health Service Act before October 1, 1984.

LIMITATION ON LOANS AND LOAN GUARANTEES FOR INITIAL COSTS OF OPERATION

SEC. 402. (a) The last sentence of section 1305(a) (42 U.S.C. 300e–4(a)) is amended by inserting before the period ", and unless the Secretary has made a grant or loan to, entered into a contract with, or granted a loan for, the organization in fiscal year 1981, 1982, 1983, or 1984 under this section or section 1304(a) (as in effect before October 1, 1984)".

(b) The amendment made by subsection (a) does not apply to any loan or loan guarantee for the initial costs of operation of a health maintenance organization made under title XIII of the Public Health Service Act before October 1, 1984.

ELIMINATION OF LOANS AND LOAN GUARANTEES FOR ACQUISITION AND CONSTRUCTION OF AMBULATORY CARE FACILITIES

SEC. 403. (a) Section 1305A (42 U.S.C. 300e–4a) is repealed.

(b) Section 1306(b)(2) (42 U.S.C. 300e-5 (b)(2)) is amended by striking out "or 1305A,".

(c) The amendments made by this section do not apply to any loan or loan guarantee made under section 1305A of the Public Health Service Act before October 1, 1984.

REPEAL OF REQUIREMENT FOR HEALTH SYSTEMS AGENCY REVIEW

SEC. 404. Paragraph (5) of section 1306(b) (42 U.S.C. 300e-5 (b)) is repealed. Paragraphs (6), (7), and (8) are redesignated as paragraphs (5), (6), and (7), respectively.

LIMITATION ON BORROWING BY LOAN GUARANTEE FUND

SEC. 405. The first sentence of section 1308 (d)(2) (42 U.S.C. 300e-7 (d) (2)) is amended by inserting "before October 1, 1984," after "guarantees issued by him".

REPEAL OF REQUIREMENT OF PERIODIC DEMONSTRATION OF COMPLIANCE

SEC. 406. Section 1310(d) (42 U.S.C. 300e–9 (d)) is amended by striking out the last sentence.

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SEC. 407. The first sentence of section 1311(c) (42 U.S.C. 300e–10(c)) is amended by striking out "quarterly" and inserting in lieu thereof "annually".

AUTHORIZATION OF APPROPRIATIONS

SEC. 409. (a) Section 1309(a) (42 U.S.C. 300e-8 (a)) (as amended by section 401 (d) of this Act) is further amended by inserting before the period a comma and "and $400,000 for each of the fiscal years 1985, 1986, 1987, and 1988".

(b) Section 1309(b) (42 U.S.C. 300e-8 (b)) is amended to read as follows:

"(b) To meet the obligations of the loan fund established under section 1308(e) resulting from defaults on loans made from the fund and to meet the other obligations of the fund, there is authorized to the appropriated to the loan fund for fiscal years 1985, 1986, 1987, and 1988, such sums as may be necessary.".

ORGAN TRANSPLANTS AS PART OF BASIC COVERAGE

SEC. 410. Section 1302 (1) (42 U.S.C. 300e-1 (1)) is amended by inserting before the last sentence the following new sentence: "Such term does not include any organ transplant, other than organ transplants required to be included in basic health services on the date of enactment of this sentence, unless the Secretary has published in the Federal Register a notice of the Secretary's proposal to include any other organ transplant, provided an opportunity for public comment on the proposal before its implementation, published in the Federal Register a final determination that such organ transplant is required to be provided, and provided a reasonable opportunity for health maintenance

organizations to comply with the new requirement.".

TITLE V—PRIMARY CARE

MEDICALLY UNDERSERVED POPULATIONS

SEC. 501. Section 330 (b) (42 U.S.C. 254c (b)) is amended—

(1) by striking out the second, third, fourth, and fifth sentences of paragraph (3); and

(2) by adding at the end thereof the following:

"(4) In carrying out paragraph (3), the Secretary shall by regulation prescribe criteria for determining the specific shortages of personal health services of an area or population group. Such criteria shall—

"(A) take into acccount comments received by the Secretary from the chief executive officer of a State and local officials in a State; and

"(B) include infant mortality in an area or population group, other factors indicative of the health status of a population group or residents of an area, the ability of the residents of an area or of a population group to pay for health services and their accessibility to them, and the availability of health professionals to residents of an area or to a population group.

"(5) The Secretary may not designate a medically underserved population in a State or terminate the designation of such a population unless, prior to such designation or termination, the Secretary provides reasonable notice and opportunity for comment and consults with—

"(A) the chief executive officer of such State;

"(B) local officials in such State; and

"(C) the State organization, if any, which represents a majority of community health centers in such State.

"(6) The Secretary may designate a medically underserved population that does not meet the criteria established under paragraph (4) if the chief executive officer of the State in which such population is located and local officials of such State recommend the designation of such population based on unusual local conditions which are a barrier to access to or the availability of personal health services.".

MEMORANDUM OF AGREEMENT

SEC. 502. Section 330 (42 U.S.C. 254c) is amended by redesignating subsection (g) as subsection (i) and by inserting after subsection (f) the following new subsection:

"(g) In carrying out this section, the Secretary may enter into a memorandum of agreeement with a State. Such memorandum may include, where appropriate, provisions permitting such State to—

"(1) analyze the need for primary health services for medically underserved populations within such State;

"(2) assist in the planning and development of new community health centers;

"(3) review and comment upon annual program plans and budgets of community health centers, including comments upon allocations of health care resources in the State;

"(4) assist community health centers in the development of clinical practices and fiscal and administrative systems through a technical assistance plan which is responsive to the requests of community health centers; and

"(5) share information and data relevant to the operation of new and existing community health centers.".

AUTHORIZATION OF APPROPRIATIONS

SEC. 503. (a) Paragraphs (1) and (2) of section 330 (i) (as redesignated by section 502 of this Act) are amended to read as follows:

"(1) There are authorized to be appropriate for payments pursuant to grants under this section $375,000,000 for the fiscal year ending September 30, 1985, $405,000,000 for the fiscal year ending September 30, 1986, $437,000,000 for the fiscal year ending September 30, 1987, and $472,000,000 for the fiscal year ending September 30, 1988.

"(2) The Secretary may not in any fiscal year—

"(A) expend for grants to serve medically underserved populations designated under subsection (b)(6) an amount which exceeds 5 percent of the funds appropriated under this section for that fiscal year; and

"(B) expend for grants under subsection (d)(1) (C) an amount which exceeds 5 percent of the funds appropriated under this section for that fiscal year.".

STATE GRANTS FOR PRIMARY CARE RESEARCH, DEMONSTRATION, AND SERVICES

SEC. 504. (a) Part C of title XIX (42 U.S.C. 300y-300y-11) is repealed.

(b) Title XIX is amended by adding at the end thereof the following new part:

"PART C—STATE GRANTS FOR PRIMARY CARE RESEARCH, DEMONSTRATION, AND SERVICES

"PURPOSE; AUTHORIZATION OF APPROPRIATIONS

"SEC. 1921. (a) For the purpose of—

"(1) improving access to primary health services for medically underserved populations,

"(2) improving the delivery of primary health services to medically underserved populations, particularly the effectiveness, efficiency and quality of such services, and

"(3) improving the health status of such populations, through reductions in—

"(A) the incidence of preventable diseases and illnesses and premature death, and

"(B) the need for costly inpatient and long-term care services,

the Secretary shall make payments under allotments, in accordance with the provisions of this part, to States for the conduct of activities authorized by this part.

"(b) For allotments under this part, there are authorized to be appropriated $15,000,000 for fiscal year 1985, $17,500,000 for fiscal year 1986, $20,000,000 for fiscal year 1987, and $23,500,000 for fiscal year 1988.

"ALLOTMENTS

"SEC. 1922. (a)(1) Except as provided in paragraph (2), from the amounts appropriated under section 1921 for each fiscal year, the Secretary shall allot to each State an amount equal to the product of—

"(A) the total amount appropriated for such fiscal year, multiplied by

"(B) the ratio (stated as a percentage) that the total number of low-income persons residing in the State bears to the total number of low-income persons residing in the United States.

"(2) Notwithstanding paragraph (1)—

"(A) the total amount of the allotment for each of the several States, the District of Columbia, and Puerto Rico for each of the fiscal years 1985, 1986, 1987, and 1988 shall not be less than 1 percent of the total amount appropriated under section 1921 for such fiscal year;

"(B) the total amount of the allotment for each of the Virgin Islands, Guam, and the Trust Territory of the Pacific Islands for each such fiscal year shall not be less than one-fourth of 1 percent of the total amount appropriated under section 1921 for such fiscal year; and

"(C) the total amount of the allotment for each of American Samoa and the Commonwealth of the Northern Mariana Islands for each such fiscal year shall not be less than one-sixteenth of 1 percent of the total amount appropriated under section 1921 for such fiscal year.

"(b) To the extent that all the funds appropriated under section 1921 for a fiscal year and available for allotment in such fiscal year are not otherwise allotted to States because—

"(1) one or more States have not submitted an application or description of activities in accordance with section 1925 for such fiscal year;

"(2) one or more States have notified the Secretary that they do not intend to use the full amount of their allotment; or

"(3) some State allotments are offset or repaid under section 1906(b)(3) (as such section applies to this part pursuant to section 1925(e));

such excess shall be allotted among each of the remaining States in proprotion to the amount otherwise allotted to such States for such fiscal year without regard to this subsection.

"(c)(1) If the Secretary—

"(A) receives a request from the governing body of an Indian tribe or tribal organization within any State that funds under this subpart be provided directly by the Secretary to such tribe or organization, and

"(B) determines that the members of such tribe or tribal organization would be better served by means of grants made directly by the Secretary under this subpart,

the Secretary shall reserve from amounts which would otherwise be allotted to such State under subsection (a) for a fiscal year the amount determined under paragraph (2).

"(2) The Secretary shall reserve for the purpose of paragraph (1) from amounts that would otherwise be allotted to such State under subsection (a) an amount equal to the amount which bears the same ratio to the State's allotment for the fiscal year involved under subsection (a) as the total number of low-income persons in the tribe during such fiscal year bears to the total number of low-income persons residing in the State during such fiscal year.

"(3) The amount reserved by the Secretary on the basis of a determination under this subsection shall be granted to the Indian tribe of tribal organization serving the persons for whom such a determination has been made.

"(4) In order for an Indian tribe or tribal organization to be eligible for a grant for a fiscal year under this subsection, it shall submit to the Secretary a plan for such fiscal year which meets such criteria as the Secretary may prescribe.

"PAYMENTS UNDER ALLOTMENTS TO STATES

"SEC. 1923. (a) For each fiscal year, the Secretary shall make payments, as provided by section 6503 (a) of title 31, United States Code, to each State from its allotment under section 1922 from amounts appropriated for that fiscal year.

"(b)(1) Except as provided in paragraph (2), any amount paid to a State for a fiscal year and remaining unobligated at the end of such year shall remain available for the next fiscal year to such State if the Secretary determines that there is good cause for such funds remaining unobligated.

"(2) If the amount paid to State under this part for a fiscal year which remains unobligated at the end of such fiscal year exceeds 20 percent of the amount allotted to such State under section 1922 for such fiscal year, the amount of such excess shall not remain available for the next fiscal year to such State under paragraph (1) and shall be returned to the Treasury and credited as miscellaneous receipts.

"USE OF ALLOTMENTS

"SEC. 1924. (a) Amounts paid to a State under section 1923 from its allotment under section 1922 may be used to—

"(1) make grants to eligible entities to provide primary health services to medically underserved populations in the State; and

"(2) conduct, or make grants for the conduct of, research, demonstration, or the development of methods to evaluate—

"(A) alternative systems of reimbursement for primary health services;

"(B) new or innovative methods for the provision of primary health services;

"(C) methods of attracting and retaining primary health service providers (including physicians, dentists, physician assistants, nurse practitioners, and other health professionals), both individually and as teams, to train and practice among medically underserved populations;

"(D) different types of organizational models and relationships, including federations of providers of primary health services, designed to meet unique primary health and dental health service needs; and

"(E) methods of reducing long-term institutional costs by improving service connections between providers of primary health services and home and community-based services; or

"(F) such other matters which will enhance the availability or accessibility of primary health services.

"(b) (1) A State may not use funds alloted under section 1922 for the purposes of administering this part or administering an agreement under section 330 (g).

"(2) (A) Of the amounts paid to a State under section 1923 for each fiscal year—

"(i) not less than 80 percent shall be used to make grants under paragraph (1) of subsection (a); and

"(ii) not more than 20 percent may be used to conduct, or to make grants for the conduct of, activities described in paragraph (2) of subsection (a).

"(B) Not more than 10 percent of the amounts paid to a State under section 1923 for each fiscal year may be used for activities described in paragraph (2) of subsection (a) which are directly conducted by the State.

"(3) If a State makes a grant under paragraph (1) of subsection (a) for the provision of primary health services to a medically underserved population which is in the service area (determined in accordance with section 330 (e) (3) (I)) of an entity which is a recipient of a grant under section 330, the State shall make such grant to such entity.

"(c) The Secretary may provide technical assistance to States in planning and operating activities to be carried out under this part.

"(d) A State may not use amounts paid to it under section 1923 to—

"(1) provide inpatient services;

"(2) make cash payments to intended recipients of health services;

"(3) purchase or improve land, purchase, construct, or permanently improve (other than minor remodeling) any building or other facility, or purchase major medical equipment;

"(4) satisfy any requirement for the expenditure of non-Federal funds as a condition for the receipt of Federal funds; or

"(5) provide financial assistance to any entity other than a public or nonprofit private entity.

The Secretary may waive the limitation contained in paragraph (3) upon the request of a State if the Secretary finds that there are extraordinary circumstances to justify the waiver and that granting the waiver will assist in carrying out this part.

"APPLICATION AND DESCRIPTION OF ACTIVITIES; REQUIREMENTS

"SEC. 1925. (a) In order to receive an allotment for a fiscal year under section 1922 each State shall submit an application to the Secretary. Each such application shall be in such form and submitted by such date as the Secretary shall require. Each such application shall contain assurances that the legislature of the State has complied with the provisions of subsection (b) and that the State will meet the requirements of subsection (c).

"(b) After the expiration of the first fiscal year in which a State receives an allotment under section 1922, no funds shall be allotted to such State for any fiscal year under such section unless the legislature of the State conducts public hearings on the proposed use and distribution of funds to be provided under section 1923 for such fiscal year.

"(c) As part of the annual application required by subsection (a), the chief executive officer of each State shall certify that the State—

"(1) agrees to use the funds allotted to it under section 1922 in accordance with the requirements of this part;

"(2) has identified the populations, areas, and localities in the State with a need for the primary health services for which funds may be provided by the State under this part;

"(3) has established an appropriate mechanism to administer grants to be made under section 1924, and to comply with the requirements of this part;

"(4) will participate in the coordination of activities supported under this part with the activities of other providers of primary health services within the State (including entities which are recipients of grants under sections 329 and 330), to ensure that such activities are carried out in an effective manner and without duplication of effort;

"(5) will establish, after providing reasonable notice and opportunity for the submission of comments, reporting requirements and reasonable criteria to evaluate the fiscal, managerial, and clinical performance of entities which receive grants under section 1924;

"(6) will not require, for purposes of compliance with paragraph (5), entities which are recipients of grants under section 1924 and under section 329 or section 330 to comply with different reporting requirements and criteria than are required under section 329 or section 330, as the case may be; and

"(7) agrees that Federal funds made available under section 1923 for any period will be so used as to supplement and increase the level of State, local, and other non-Federal funds that would in the absence of such Federal funds be made available for the programs and activities for which funds are provided under that section and will in no event supplant such State, local, and other non-Federal funds.

The Secretary may not prescribe for a State the manner of compliance with the requirements of this subsection.

"(d)(1) The chief executive officer of a State shall, as part of the application required by subsection (a), also prepare and furnish the Secretary (in accordance with such form as the Secretary shall provide) with a description of the intended use of the payments the State will receive under section 1923 for the fiscal year for which the application is submitted, including—

"(A) a description of the populations, areas, and localities in the State which the State has identified as needing primary health services;

"(B) a statement of goals and objectives for meeting the needs identified pursuant to subparagraph (A);

"(C) information on the activities to be supported and services to be provided with payments under this part;

"(D) after the expiration of the first fiscal year in which the State received payments under section 1923, a description of the criteria and methods that will be used by the State for the distribution of payments under such section, and the relationship of such criteria and methods to the achievement of the purposes of this part; and

"(E) the information and data which the State intends to collect respecting activities supported under this part.

"(2) The description required by paragraph (1) shall be made public within the State in such manner as to facilitate comment from any person (including any Federal or other public agency) during development of the description and after its transmittal. The description shall be revised (consistent with this section) throughout the year as may be necessary to reflect substantial changes in the programs and activities assisted by the State under this part, and any revision shall be subject to the requirements of the preceding sentence.

"(e) Except where inconsistent with the provisions of this part, the provisions of section 1903(b), section 1906(a), paragraphs (1) through (5) of section 1906(b), section 1906(c), and sections 1907, 1908, and 1909 shall supply to this part in the same manner as such provisions apply to part A of this title.

"DEFINITIONS

"SEC. 1926. As used in this part:

"(1) The term 'low income person' refers to those individuals and families whose income is determined to be below the official poverty line as defined by the Office of Management and Budget and revised annually in accordance with section 673(2) of the Community Services Block Grant Act.

"(2) The terms 'Indian tribe' and 'tribal organization' have the same meaning given such terms in section 4(b) and section 4(c) of the Indian Self-Determination and Education Assistance Act.

"(3) The term 'medically underserved population' has the meaning given to such term by section 330(b)(3).

"(4) The term 'primary health services' means the preventive, diagnostic, treatment, consultation, referral, and other services rendered, on an ambulatory basis, by a physician and, where feasible, by a physicians' assistant or nurse practitioner. Such term includes, at a minimum, access to routine associated laboratory services, diagnostic radiologic services, preventive health services, and emergency medical care.

"(5) The term 'eligible entity' means a public or nonprofit private entity capable of

providing primary health services to medically underserved populations.".

MIGRANT HEALTH CENTERS

SEC. 505. The first sentence of section 329(h)(1) (42 U.S.C. 254b(h)(1)) is amended by striking "and" after "1983," and by inserting before the period a comma and "$46,000,000 for the fiscal year ending September 30, 1985, $50,000,000 for the fiscal year ending Septembr 30, 1986, $56,000,000 for the fiscal year ending September 30, 1987, and $61,000,000 for fiscal year ending September 30, 1988".

REGULATIONS

SEC. 506. By the earliest possible date, but not later than June 30, 1985, the Secretary shall promulgate separate final regulations to carry out part C of title XIX of the Public Health Service Act (as added by section 504(b) of this Act) which take into account the provisions of such part which are different from the provisions of parts A and B of such title.

TECHNICAL AMENDMENT

SEC. 507. Section 329(d)(2) (42 U.S.C. 254b(d)(2)) is amended by inserting before the semicolon "and the costs of repaying loans made by the Farmers Home Administration for buildings".

HEALTH CARE CONSUMER INFORMATION

SEC. 601. (a) The Secretary of Health and Human Services shall—

(1) study criteria and methodologies for collecting and disseminating, to third party payors and consumers, (A) aggregate health care price and utilization data, including price data with respect to ambulatory health care services, and (B) other health care consumer information;

(2) study programs under which such information is collected and disseminated, including the activities of public and private entities and individuals;

(3) analyze methods to assist in collecting and disseminating such information to consumers through public and private entities;

(4) study the effects of current efforts to provide price and quality data to third party payors and consumers; and

(5) study criteria and methodologies for providing consumers with information with respect to quality of health care services.

(b) Not later than October 1, 1985, the Secretary shall complete the studies and analysis required by subsection (a) and shall report to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate the results of such studies and analysis, together with recommendations for Federal, State, and local governmental and private activities to collect and disseminate consumer information and recommendations for providing technical assistance to those undertaking such activities.

(c) In carrying out subsection (a), the Secretary shall consult with the National Committee on Vital and Health Statistics established under section 306(k)(1) of the Public Health Service Act, the Health Care Financing Administration, the Prospective Payment Assessment Commission, and representatives of—

(1) physicians, hospitals, and other health care providers,

(2) insurers,

(3) businesses, unions, and public entities which purchase health care through insurance or self-insurance, and

(4) health care consumers.

(d) In carrying out subsection (a), the Secretary shall assure that the methodology and criteria referred to in such paragraph shall protect the confidentiality of individually identifiable patient medical information.

(e) This subsection does not authorize the Secretary to require the disclosure of any information.

(f) In carrying out this subsection, the Secretary shall not duplicate any studies or reports required to be prepared by the Department of Health and Human Services.

PLAGUE CONTROL

SEC. 602. Section 317 is amended by adding at the end thereof the following new subsection:

"(k) The Secretary, acting through the Director of the Centers for Disease Control, may make grants to States for the control of plague. For grants under this subsection, there are authorized to be appropriated $1,000,000 for each of the fiscal years 1985, 1986, and 1987.".

HEALTH CARE COSTS

SEC. 603. It is the sense of the Congress that the problem of rising health care costs can be reduced if those engaged in health care professions do everything possible to hold down the cost of delivering health care to the Nation by considering options to institutionalized health services wherever appropriate.

STUDY OF THE DELIVERY OF HEALTH CARE SERVICES TO HOMELESS INDIVIDUALS

SEC. 604. The Secretary of Health and Human Services shall conduct a study of the delivery of inpatient and outpatient health care services to homeless individuals. Such study shall include an evaluation of whether eligibility requirements prevent homeless individuals from receiving health care services and an evaluation of the efficiency of the delivery of health care services to homeless individuals. The Secretary shall complete the study and report its results to the Committee on Labor and Human Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives not later than March 31, 1986, together with recommendations for activities by Federal, State, and local governments and private entities that would improve the availability of health care service delivery to homeless individuals.

DESIGNATION OF REGIONAL PRIMATE RESEARCH CENTER

SEC. 605. (a) The Secretary of Health and Human Services, through the Division of Research Resources of the National Institutes of Health, shall designate as a Regional Primate Research Center a laboratory for experimental medicine and surgery in primates which is in existence on the date of enactment of this Act. The laboratory designated under this subsection shall be a laboratory which was initially established in 1965 and which became formally sponsored by an association of schools of medicine in 1967.

(b) The Secretary of Health and Human Services shall provide the Regional Primate Research Center designated under subsection (a) with opportunities for consideration for core support and grants to support biomedical research equal to the opportunities for consideration for such support and grants provided to all other Regional Primate Research Centers designated by the Secretary.

And the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate to the amendment of the House to the title of the bill and agree to the same.

JOHN D. DINGELL,
HENRY A. WAXMAN,
JAMES H. SCHEUER,
TOM LUKEN,
JAMES T. BROYHILL,
EDWARD MADIGAN,
Managers on the Part of the House.
ORRIN HATCH,
ROBERT T. STAFFORD,
DAN QUAYLE,
TED KENNEDY,
JENNINGS RANDOLPH,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the amendments of the House to the bill (S. 2574) to revise and extend title VIII of the Public Health Service Act, relating to nurse education, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment to the text of the bill struck out all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate amendment struck out all of the House amendment after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the Senate amendment and the House amendment. The differences between the House amendment, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

TITLE I—HEALTH PROFESSIONS TRAINING ASSISTANCE

SECTIONS 101–115—AUTHORIZATIONS FOR APPROPRIATIONS

Conference agreement

The House amendment authorized the Health Professions provisions in Title VII of the Public Health Service Act for two years, providing $172.5 million in FY 1985 and $190.7 million in FY 1986, for a total of $363.2 million. The Senate Bill authorized those programs for four years, providing $144.5 million in FY 1985, $154.6 million in FY 1986, $164.7 million in FY 1987, and $174.6 million in FY 1988, for a total of $638.4 million. The conference agreement authorizes these programs for three years, providing $158.4 milion in FY 1985, $163.8 million in FY 1986, and $165.1 million in FY 1987, for a total of $487.3 million.

SECTIONS 121–124—DEFINITIONS OF HEALTH PROFESSIONAL SCHOOLS

Conference agreement

Each bill included changes in the definition of health professional schools, the House and Seante adding schools of chiropractic, and the Senate including graduate clinical psychology and redefining allied health professionals. The allied health definition was expanded to include doctoral degrees and post baccalaureate training. Conferees agreed to accept these provisions, and clarify that allied health professionals "share in the responsibility" for the delivery of health care.

The Senate bill also redefined "programs forthe training of physician assistants" to emphasize training in primary care, disease prevention, and home health care. The House receded to this provision.

SECTION 125—NATIONAL ADVISORY COUNCIL ON HEALTH PROFESSIONS EDUCATION

Conference agreement

This Council advises the Secretary in preparation of general regulations and with respect to policy matters arising in administration of Health Profession programs under Title VII. The conference agreement requires that at least one representative of public health and alllied health schools be included in the representative of health profession schools serving on the Council.

Current law require the Secretary to establish a program to collect and analyze date on health professions personnel and requires biennial reports to Congress. The Senate bill repealed the reporting requirement for schools receiving aid under Titles VII or VIII. The Senate receded to the House bill which maintained current authority, with the understanding that data collection and reporting will not duplicate in any way the Analysis of Financial Disincentives in Career Choices in Health Professions required in this law.

SECTION 126—TECHNICAL ASSISTANCE

Conference agreement

The Secretary is currently permitted to provide technical assistance for the purpose of carrying out Title VII programs. The Senate receded to a House amendment that clarifies that funds authorized under Title VII can be used for technical assistance.

CONSTRUCTION GRANTS

Conference agreement

Title VII authorizes grants for construction of teaching facilities. The Sente bill added authority for the acquisition of equipment and instrumentation for purposes related to programs of education. The Senate receded to House language which maintained current language. The Conferees decided that any substantial changes in this authority would require further examination. The construction authority is openened, so that there is no ceiling on appropriations under this provision. The addition of an open-ended authorization for equipment as well might lead to substantial increases in spending. The Conferees agreed that the Senate Committee on Labor and Human Resources and the House Committee on Energy and Commerce would explore the implications of adding such a provision, and would consider approprite changes in authority during the next Congress.

SECTION 127—HEALTH EDUCATION ASSISTANCE LOAN

Conference agreement

Military Service Act

The conference agreement incorporates the House provision that if a student is required to be registered for the draft, no HEAL loans may be made unless the student certifies that he has registered.

This amendment is intended to restrict federal assistance to students who have met their obligation to register for the draft. This responsbility remain with the student and is not as such a responsibility of the school. For its part, a school may satisfy the requirements of this provision by obtaining a signed response from students as to whether they have registered for the draft. The Conferees do not intend to place upon the school the burden of assuring compliance on the part of the students.

Deferment

While agreeing that those individuals receiving government supported loans should begin repayment within a limited time period after graduaton (4 years for HEAL loans and 3 years for HPSL loans), the Conferees felt that some exceptions should be permitted. The Congress has long recognized the need to encourage talented men and women to pursue additional training and educational experiences that will allow them to make contributions to new knowledge in health care policy and medical science. The remuneration available for those who choose these pathways is often significantly less than that of peers who choose traditional clinical practice. The Conferees felt the requirement of repayment of loans durng periods of fellowship training or additional full-time educational activity which provide relatively low stipends, could discourage such study. Thus, an additional period of up to two years of deferral status may be requested by the student and approved by the Secretary for both HEAL and HPSL loans.

Compounding of interest

The conference agreement incorporates the House provision deleting the semiannual compounding of interest provision to the student status the simple interest provision to the student status period and not more than a total of two years during deferment periods. The amendment also limits the simple interest provision to new HEAL loans made after the date of enactment of the Act.

The Conferees note that there is a savings to the student by limiting HEAL loans to simple interest during certain periods, but also a loss (when compared to current statute) to the lenders making the loans. No advantage is achieved for students if changes in the program discourage lenders from participating in the program. The Conferees believe tht an equitable solution for both the students and lenders is to limit the simple interest provision to certain periods rather than for the like of these high interest loans.

Insurance premium to cover loan defaults

The conference agreement incorporates the Senate provision increasing the insurance premium payable by borrowers to cover the cost of loan defaults, but with an amendment setting the ceiling at 4 percent and requiring a qualified public accounting firm to evaluate whether additional funds are needed to keep the loan insurance fund solvent. The amendment also requires that insurance premiums be collected at the time the loan is made, not over the life of the loan.

The Conferees agreed that it was necessary to keep the HEAL insurance fund solvent to protect the federal government from having to make payments beyond those collected from borrowers. Howeyer, it was also agreed that the ceiling should only be raised when absolutely necessary. In addition, to assure that students who ultimately default would pay their fair share of insurance premiums, the Conferees decided to require that loan insurance premiums be collected up front, rather than penalizing those who continue to pay off their loans by collecting funds for the insurance pool over the life of the loan.

The Conferees wish to clarify that the Senate provision allowing insurance funds to be used for collection costs refers only to those costs incurred by the federal government, not the costs incurred by the lenders. Lenders are expected to make every effort to collect loans prior to requesting reimbursement from the insurance fund. Costs of such collection activities are to be borne out of the interest rates provided.

The Conferees expect that HEAL lenders must have exhausted reasonable collection efforts during the preclaim assistance phase before they are eligible to be paid a default claim on a HEAL loan. Reasonable collection efforts by lenders may include asking the Secretary of HHS to use direct mailing through the Internal Revenue Service.

Negative amortization

The conference agreement modifies the prohibition against negative amortization of HEAL loans provision in current statute. Repeal of this provision is intended to encourage students to begin paying back their loans at the earliest possible date by reducing the size of the minimum payment. The option to elect a repayment schedule incorporating annual payments that are less than the interest accruing during that year is the student's, not the lender's.

SECTION 128—HEALTH PROFESSIONS STUDENT LOANS (HPSL)

Conference agreement

Under the HPSL program, health professions schools maintain revolving funds from which they make loans at 9 percent interest to their students. Medical and osteopathic students must meet a definition of exceptional financial need to qualify for these loans.

The conference agreement incorporates the House provision authorizing new federal capital contributions to all eligible schools, but setting aside one-half of the new monies for loans to students, from disadvantaged backgrounds. A disadvantaged background is one as currently defined by regulations pursuant to Section 787 of the PHSA. The House provision adds schools of chiropractic and schools offering graduate programs in clinical psychology to the list of schools eligible to make HPSLs.

In addition, the conference agreement incorporates the Senate provision to extend eligiblity for loans to include graduate students in schools of public health and to make it clear that doctoral-level pharmacy students can also receive HPSL loans.

Repayment period

The conference agreement incorporates the House provision that allows students to leave school for up to two years for activities related to their health profession without being required to begin repayment of their HPSL loan(s). A Senate amendment specifies that the activity must be a full-time educational activity.

Miscellaneous HPSL provisions

The conference agreement incorporates the Senate provisions that the Secretary is no longer required to reimburse a school for its capital contribution for the loans of a borrower who died or became disabled, but schools are authorized to collect an insurance premium to cover these costs. Also, schools are required to assess a charge of not more than 6 percent on past due installments.

The conference agreement also incorporates Senate provisions to require school loan programs to make available to borrowers extensive information on their loan obligations and actions that may be taken by the school and government to collect the loans.

A notice and formal hearing before an administrative law judge are required if the Secretary intends to terminate a loan agreement with the school.

Military Service Act

The conference agreement incorporates the House provision that if a student is required to be registered for the draft, no HPSL loan may be made unless the student certifies that he has registered.

This amendment is intended to restrict federal assistance to students who have met their obligation to register for the draft. This responsibility remains with the student and is not as such a responsibility of the school. For its part, a school may satisfy the requirement of this provision by obtaining a written response from students as to whether they have registered for the draft. The Conferees do not intend to place upon the school the burden of assuring compliance on the part of students.

Funds returned to the Secretary

The conference agreement incorporates the Senate provision which states that any excess cash or other funds returned to the Secretary from a school loan fund in any fiscal year are required to be available in that and the succeeding fiscal years for payment to other school loan funds. A House amendment requires distribution among schools that first established their loan funds between July 1972, and September 30, 1984.

The Conferees want to make it clear that the purpose of limiting distribution to new schools is to target the funds to assist disadvantaged students.

Referral of loans to the Secretary

The conference agreement incorporates the Senate provision which allows schools to refer loans to the Secretary. The Secretary may assist schools in collecting loans in default, if the schools have met requirements for attempting to collect the loan.

In adopting the provisions for referral of loans in default to the Secretary for collection, for penalty charges on past due installments, and for detailed information to students on their loan obligations, the Conferees expressed their strong support for collection of outstanding loans. Health professionals who have received low-interest loans at public expense for their education must be held to their responsibility to repay their loans and, in so doing, to replenish the revolving loan funds.

Many schools have commented that the June 3, 1983, regulations (which have not yet been fully implemented) regarding loan collection performance standards would place an impossible burden on them by redefining previously ambigious regulations in ways that cannot now be met. Further, they argue that they should not be excluded from the Health Professions Student loan Program for previous administrative inadequacies that were not monitored adequately by the Department in the past and for which no corrective action was ever recommended by the Department.

The Conferees believe that schools should be required to do everything currently possible to collect old loans and come into compliance on a reasonable timetable. In addition, the Conferees felt that when determining compliance, administrative problems beyond the control of current officials responsible for loan collection should be considered. However, the Conferees note that termination of a loan agreement with a school benefits virtually no one and may preclude needy students from attending a particular health professions school. Therefore, termination should be reserved for recalcitrant institutions that do not make good faith efforts to redress previous administrative shortcomings.

In particular, the Conferees are concerned that measures not be taken by the Department that would penalize future students unfairly by terminating loan agreements before schools have adequate opportunity to bring their collection procedures into conformance with current regulations. Thus, the Conferees adopted a provision requiring written notice and a formal hearing before an administrative law judge when agreements are to be terminated.

Finally, the Conferees intend that the Senate Committee on Labor and Human Resources and the House Committee on Energy and Commerce monitor the performance of the Department in improving loan collections and that those Committees consider the need for additional legislation in the future if insufficient progress is made or unfair procedures are applied.

SECTION 131—CAPITATION SUPPORT FOR SCHOOLS OF PUBLIC HEALTH

Conference agreement

Capitation support is intended to create incentives to address personnel shortages in the various health professions. Funds are provided on the basis of the number of students enrolled in a school. No capitation funds have been appropriated for health profession schools other than public health in recent years because personnel needs appear to have been met or even exceeded in those fields.

Both the House and Senate bills included modifications in how schools of public health would qualify for capitation funds. At conference, an agreement was reached to change the method of calculating full-time enrollments to one already applied under Section 770(a)(2)(A) of the Act and setting the base year as 1983.

There are still demonstrated shortages of public health personnel, and, therefore, the Conferees included reauthorization of appropriations for capitation for schools of public health. Both the Senate Committee on Labor and Human Resources and the House Committee on Energy and Commerce had received information that many students attend graduate school part-time, and that this makes it difficult for some schools of public health to meet the capitation requirement in current law. But since capitation is meant to stimulate enrollment the Conferees felt that it would not be appropriate to continue reauthorizing capitation funds while deleting or seriously weakening enrollment requirements. To address the situation of schools with increasing numbers of part-time students, the Conferees approved an amendment that expresses the capitation requirement in terms of "full-time equivalent" students. This eliminates the burdensome aspects of the current while continuing the encouragement to maintain enrollments.

There exists in law a provision to obtain a waiver from these requirements. The Conferees believe that quality of education is essential, and that when enrollment requirements may compromise training of a limited number of public health specialists to meet documented needs, the waiver provision should be utilized. However, the waiver should not be applied in a way that undermines the enrollment requirement.

SECTIONS 133-134—SUPPORT FOR PRIMARY CARE PROGRAMS IN FAMILY MEDICINE, GENERAL INTERNAL MEDICINE AND GENERAL PEDIATRICS

Conference agreement

The Senate receded to a modified House provision requiring that the institution or hospital applying for funds under these sections, demonstrate a commitment to family medicine, general pediatrics, or general internal medicine in their medical education program.

Both the Senate Committee on Labor and Human Resources and the House Committee on Energy and Commerce heard testimony that continuing support for these programs is necessary because of the difficulty in financing primary care training programs out of patient care revenues, research monies or institutional support. Because these programs serve important national health care needs and cost-containment objectives by training primary care specialists, the Conferees supported their reauthorization at slightly increased funding levels. Funding under these programs is necessary to improve the economic self sufficiency of primary care training programs.

But the Conferees also were concerned that schools demonstrate a genuine commitment to primary care training and, accordingly instructed the Secretary to give priority to applicant institutions that demonstrate such commitment. The Conferees recognized that demonstration of commitment might vary among programs and intend that the definition of commitment allow for flexibility. In developing regulations the Secretary should consider the characteristics of the applicant institution and its other training programs. Special attention should be given to support fledgling programs in traditional medical centers which hold the promise of developing academic excellence.

The Conferees recognize that the development of adequate numbers of educators in general internal medicine and general pediatrics, as well as in family medicine, is an important adjunct to efforts to foster primary care medicine through the funding of residency training programs. The training of such faculty further enhances the necessary integration of family medicine, general internal medicine and general pediatrics into traditional medical education training programs. Accordingly, the Conferees strongly support the use of a portion of the funds under Section 784 for model faculty development programs and encourage the Secretary of Health and Human Services to continue recent departmental efforts to support such faculty development.

SECTION 135—SUPPORT FOR PROGRAMS IN GENERAL DENTISTRY

Conference agreement

Both the Senate and the House bills provided protection for funding of general dentistry residency training programs by mandating support at a specific percentage of the authority.

The Conferees agreed to split the designated figure setting aside 7½ percent of funds in Section 786 for graduate training programs in general dentistry.

SECTION 138—2-YEAR SCHOOLS OF MEDICINE, INTERDISCIPLINARY TRAINING, AND CURRICULUM DEVELOPMENT

Conference agreement

Current law authorizes assistance in converting a 2-year school of medicine to a 4-year degree program.

The Senate receded to a House amendment to allow conversion authority to be replaced by authority for grants to maintain or improve schools providing the first or last two years of education leading to the degree of doctor of medicine or osteopathy. Grants to schools in existence on the date of enactment of these amendments could be used for construction and the purchase of equipment. The Conferees determined that it was no longer appropriate to encourage additional conversion of two-year schools of medicine to four-year schools, but recognized that some existing two-year schools require assistance in maintaining and improving their programs. This authority is not intended to be "open-ended," and Conferees recommend that such grants—particularly those for construction—be awarded one time only to an applicant school.

SPECIAL PROJECTS

Conference agreement

Current law includes a general health manpower special project authority with 24 illustrative possible project purposes.

The Senate bill changed this authority to fund only projects for curriculum development and faculty training in health promotion and disease prevention; geriatrics and long-term care; promotion of economy in health professions teaching, health care practice, and health care systems management; development of initiatives for continuing competence; clinical nutrition; and, large animal care and animal research.

The House bill authorized projects limited to health policy and policy analysis; applying the social and behavioral sciences to the study of health and health care delivery; health promotion and disease prevention; and, human nutrition. Separate authorities were provided for geriatrics and for grants for animal care and use and the development of alternatives to the use of animal in research.

The Conferees agreed that projects may be funded for any of the purposes in either the House amendment or the Senate bill.

The Conferees agreed that the list of twenty-four areas for special projects in existing law provided insufficient direction to the Secretary. Accordingly, the list was reduced to areas deemed to represent national health priorities. One particular area needing greater emphasis is training of health professionals in geriatrics and the problems of the elderly. The Conferees agreed to emphasize this by providing a separate authorization for appropriation for geriatric training and curriculum development.

The House receded to a Senate provision to require that of amounts appropriated under this section, at least 75 percent shall go to peer reviewed applications from health professions schools and not more than 25 percent to other entities.

The Conferees wish to clarify that two-year schools that are eligible for grants for their maintenance or improvement should be considered health professions schools for the other projects in this provision.

SECTION 133—AREA HEALTH EDUCATION CENTERS (AHEC'S)

Conference agreement

Current law requires the Secretary to set aside no more than 10% of funds for project grants to AHECs that have previously received federal assistance for development and operation.

Both House and Senate bills extended the provision, but the Senate receded to a House provision which allows only health professions schools which have previously received or still receive assistance for an AHEC program to apply for project funds for individual AHECs in their program that no longer receive federal funds.

The Senate also receded to the House to delete an amendment waiving the requirement that 10 percent of a school's undergraduate medical education be conducted in the AHEC, and requiring schools to provide training for physician assistants (PAs) or nurse practitioners (NPs).

SECTION 136—EDUCATIONAL ASSISTANCE TO DISADVANTAGED STUDENTS

Conference agreement

Current law authorizes grants and contracts with MODVOPP and allied health schools and with other public or private nonprofit entities to assist students from disadvantaged backgrounds to undertake and complete health professional training. Not less than 80% of appropriated funds are set aside for grants to institutions of higher education and not more than 5% may be obligated for projects having the primary purpose of informing individuals about health careers. The House receded to a Senate provision allowing participation of schools of chiropractic and graduate programs in clinical psychology.

Both the Senate Committee on Labor and Human Resources and the House Committee on Energy and Commerce recognized the importance of this program in assisting disadvantaged students to enter and successfully complete health professional training, and supported large increases in authorization levels. However, the Conferees note their concern with the priorities set by the Department for funding. This program is intended to help disadvantaged students enter *any* professional school, not just those schools with a high percent of individuals from disadvantaged backgrounds. Thus, the Conferees question the validity of funding priorities which serve to limit support to institutions with a higher percentage of disadvantaged individuals.

In addition, although current law sets only a minimum for the proportion of funds that go to educational institutions, the Conferees also expressed concern that other eligible applicants not be excluded. In FY 1984, nearly 90 percent of funds went to educational institutions. At the same time, many approved applications from other entities went unfunded. In supporting increased appropriations for this program, the Conferees intend that meritorious applications receive funding, regardless of whether the applicant is an educational institution or not. Moreover, the Conferees are concerned that funding priorities not exclude consideration of any such applicant regardless of the level of appropriations available. The Conferees intend that the Senate Committee on Labor and Human Resources and the House Committee on Energy and Commerce monitor future funding priorities carefully to determine if new legislation is necessary.

SECTION 140—REPEALS

Conference agreement

The House receded to the Senate regarding several repeals of sections considered obsolete or redundant. None of the repealed authorities relate to currently funded activities in health professions training.

SECTION 141—ANALYSIS OF FINANCIAL DISINCENTIVES IN CAREER CHOICES IN HEALTH

Conference agreement

The House receded to a Senate provision requiring a report to Congress in October, 1985, regarding analysis of financial disincentives to health professional students regarding career choice. The Conferees are concerned that there may be financial disincentives to graduates of health professions schools selecting careers in primary care specialties, basic biomedical research or academic medicine. Also, there may be financial disincentives which affect the decisions of graduates to locate in medically underserved areas. Large personal debts often accrue during the course of a student's education and may affect decisions about location and type of a practice.

RECOVERY OF TITLE VII AND VIII CONSTRUCTION FUNDS

Conference agreement

The Conferees expect that the Department upon notification will expedite recovery procedures to avoid subjecting facilities to interest charges that might result from Departmental delay. The Secretary may provide that where such delays are caused solely by the Department, the resulting interest charges may be waived.

SKIP TRACING AND MAIL FORWARDING

Conference agreement

The Senate bill contained a provision allowing the Secretary of Health and Human Services to obtain from the Internal Revenue Service and release to schools or lenders, the addresses of individuals who have defaulted on HPSL, HEAL or NSL loans. The conferees gave serious consideration to adopting this provision but decided instead to request the Department of Health and Human Services first to attempt to improve collections by using the IRS Mail Forwarding Service. The Conferees anticipate that the Secretary will enter into a trial agreement with the IRS to implement Mail Forwarding at the earliest practicable date, and intend that the Senate Committee on Labor and Human Resources and the House Committee on Energy and Commerce monitor progress under this agreement closely and consider whether legislation is necessary in the future.

TITLE II—NURSE TRAINING ACT

SECTION 201—SPECIAL PROJECTS

Conference agreement

The conference agreement incorporates the Senate provision with an amendment to give priority to the awarding of grants and contracts under paragraph (7) of subsection (a) of the Senate provision. The conference extends for three years the authorization of appropriations for purposes (1) through (5) of subsection (a) at $13 million for FY 1985, $14 million for FY 1986 and $14.9 million for FY 1987; and for purposes (6) through (8) of subsection (a) the authorizations of appropriations at $5 million for FY 1985, $5.35 million for FY 1986, and $5.8 million for FY 1987. The Conferees note that project purposes (1) through (5) are intended to be illustrative of a number or activities which could be supported under this authority. Other projects which the Conferees expect to be supported under this authority would include projects to strengthen such specialized areas as geriatric and long-term care, maternal and child health, and health promotion and disease prevention.

SECTION 202—ADVANCED NURSE EDUCATION

Conference agreement

The conference agreement incorporates the Senate provision with an amendment to strike the word "consultatnts"; and extends for three years the authorization of appro-

priations for this provision at $17.5 million for FY 1985, $18.9 million for FY 1986 and $20.3 million for FY 1987.

SECTION 203—NURSE PRACTITIONER PROGRAMS

Conference agreement

The conference agreement invorporates the House provisions with several amendments. The House provision making the primary care requirement inapplicable to nurse midwifes was deleted and the Senate repeal of subsection (d) was retained. The conference committee acknowledges the efforts of nursing educators and schools to standardize nurse practitioner programs around the country. While the conference committee encourages such efforts on a state-by-state basis, the conferees have retained the eligibility of non-degree nurse practitioners programs. The conferees intend for the Secretary to re-institute the traineeship program for nurse practitioner and nurse midwife programs authorizaed under this section. The "public health care facility" option provided by the conference agreement should ease those problems of placement of students with service commitments that have, for the past few years, restricted the implementation of the traineeship.

The conference agreement also extends the authorizations for Section 822 at $16.5 million for FY 1985, $17.8 million for FY 1986 and $19.1 million for FY 87.

SECTION 204—TRAINEESHIPS FOR ADVANCED EDUCATION OF PROFESSIONAL NURSES

Conference agreement

The conference agreement incorporates the Senate provision with an amendment to conform the list of eligible entitles with those listed in 822 (a)(1) of Title VIII. The conference agreement also authorizes appropriations for this provision at $15.25 million for FY 1985, $16.5 million for FY 1986 and $17.0 million for FY 1987.

The conference agreement also includes the Senate provision to allow the Secretary to make grants to public and private nonprofit schools of nursing to cover the costs of post-baccalaureate fellowships for faculty in such schools. For this purpose, there are authorized to be appropriated $1.5 million for FY 1985, $1.6 million for FY 1986 and $1.75 million for FY 1987.

SECTION 205—NURSE ANESTHETISTS

Conference agreement

The conference agreement reauthorizes Section 831 of Title VIII and amends it to include grants to public or private institutions "for the purpose of providing financial assistance and support to certified registered nurse anesthetists who are faculty members of accredited programs to enable such nurse anesthetists to obtain advanced education relevant to their teaching functions." There are authorized to be appropriated for Section 831 of Title VIII, $1.0 million for FY 1985, $1.25 million for FY 1986 and $1.5 million for FY 1987, of which not more than 20 percent of the amounts appropriated in any fiscal year may be used for grants for the purpose of advanced faculty education.

SECTION 206—STUDENT LOANS

Conference agreement

The conference agreement incorporates the Senate provisions with amendments to strike the repeal of the requirement that not less than $1 million of nursing student loan appropriations for any fiscal year be reserved for loans to those students who have not been students or employed on a full-time basis for the past seven years, and the preference for nursing student loans being awarded to first year students. It also amends the number of days required for schools to return loan funds to the Secretary if a school is terminated from 30 to 90 days.

SECTION 207—REPEALS TO CONSTRUCTION AUTHORITY AND CAPITATION GRANTS

Conference agreement

The conference agreement incorporates the Senate provision with an amendment to include provisions to allow the Department of Health and Human Services to recover the costs of construction of a facility built with Title VIII constructions funds. The conference agreement also makes technical corrections in the definition of "accredited" to reflect the repeal of the construction authority.

TITLE III—NATIONAL HEALTH SERVICE CORPS

SECTION 301—AUTHORIZATION OF APPROPRIATIONS

Conference agreement

The conference agreement authorizes appropriations for both the National Health Service Corps (NHSC) "field" and scholarship programs for three years (FY 85-87).

The conference agreed to $75 million in each fiscal year (FY 1985-87) for the NHSC field program. Based on Departmental estimates and the NHSC fiscal year 1984 appropriation, the conferees felt that this amount would maintain the federal and private practice field strengths through fiscal year 1987.

With regard to the NHSC scholarship program, the Conferees agreed to an authorization of 350, 400, and 425 new scholarships in fiscal years 1985-87, respectively. The Conferees intend for the Department to recruit volunteers into the NHSC whenever possible.

SECTION 302—DESIGNATION OF HEALTH MANPOWER SHORTAGE AREAS

Conference agreement

The conference agreement adopts the intent of the House provision with amendments. As amended, the provision would prohibit the Secretary of Health and Human Services (HHS) from removing the designation of a geographic area as a HMSA until interested persons and groups in the area have had notice of the area dedesignation and an opportunity to provide data in support of the designation of a population group or facility in the area. The Conferees intend for the persons and groups to initiate the request and supply data to support a population group or facility designation. The Secretary should assist in the HMSA application process, using additional information and data available to the Secretary, once intent has been established by the interested persons or groups. Interested persons and groups would include community or migrant health centers, National Health Service Corps sites, public hospitals, state and local health officials and other interested community organizations.

SECTION 303—OBLIGATED SERVICE

Conference agreement

The conference agreement incorporates the Senate provision which stipulates that for those persons receiving scholarships before October 1, 1984, the Secretary shall defer the beginning date of service upon request by the scholarship recipient for additional training; for those recipients who receive scholarships after October 1, 1984, the Secretary *may* defer the beginning date of service upon request.

The Conferees note that the new authority applies to first time scholarship contracts awarded on or after October 1, 1984. This change will provide the Secretary with the authority, if needed, to restrict deferments to specialists which are in greatest need in HMSAs. It is the conferees understanding that these specialties include Family Medicine, Internal Medicine, Pediatrics, Obstertrics/Gynecology, and Psychiatry. Such a change will eliminate the difficulties being experienced in placing individuals trained in other than the needed primary care specialties.

SECTION 304—PRIVATE PRACTICE

Conference agreement

The conference agreement incorporates the House provision which clarifies the authority of the National Health Service Corps to maintain its "Health Manpower Shortage Area Placement Opportunity List" and to restrict National Health Service Corps obligees to serving in the listed areas.

The Conference agreement also incorporates the House provision which directs the Secretary to take such action as may be appropriate to assure that NHSC providers, who serve under the private practice option (PPO) authorized in Section 338C of the PHS Act, meet the conditions of their agreement with the NHSC. These conditions require, among other things, that the NHSC provider serve Medicare and Medicaid recipients and not discriminate against patients on the basis of their ability to pay for services.

SECTION 305—SPECIAL LOANS FOR CORPS MEMBERS TO ENTER PRIVATE PRACTICE

Conference agreement

The conference agreement incorporates the Senate provision to assist eligible PPO Corps practitioners in the purchase of equipment and renovation of facilities used in providing health services and for other purposes.

This provision authorizes loans to (1) persons who will fulfill their service obligation through the PPO in a HMSA (including those who will begin their service under the PPO as well as those who wish to convert to private practice after having begun their service as a Federal employee); (2) persons who have completed their service obligation and who are located in or will enter into private practice in a HMSA; and (3) Corps volunteers who never received a NHSC scholarship and who wish to enter into private practice in a HMSA.

It is the Conferees' hope that this revised loan program will encourage Corps members to locate in areas where they might not have been able to start a practice without this loan.

SECTION 306—PERSONNEL PLAN FOR THE NHSC

Conference agreement

The conference agreement incorporates the Senate provision for a personnel plan for the NHSC with an amendment. As revised the required plan for FY 1988-91 would be based on the number of Corps members that the Secretary considers necessary to serve the demonstrated needs of HMSAs.

SECTION 307—TECHNICAL ASSISTANCE TO STATES

Conference agreement

The conference agreement incorporates the Senate provision which authorizes the Secretary to provide technical assistance to the State or, at the request of the State, to entities within the State. Under the provi-

sion, the Secretary will assist a state in carrying out data collection and public information activities to enable the State to make recommendations regarding the designation of HMSAa in the State.

The Conference agreement also incorporates the Senate provision to authorize appropriations of $500,000 for each fiscal year to carry out this technical assistance, but amends the provision to authorize the appropriation through FY 1988 rather than FY 1987.

TITLE IV—HEALTH MAINTENANCE ORGANIZATIONS

The Conference Agreement on Title XIII of the Public Health Service Act eliminates or phases out various Federal grant, loan and loan guarantee programs supporting the development of Health Maintenance Organizations. These programs are no longer needed and are not currently receiving appropriations. The Agreement also repeals or amends certain reporting and review requirements which are no longer necessary. Finally, it reauthorizes the Federal training and technical assistance fund at $400,000 per year through 1988 and the loan default fund through 1988 at no fixed balance. There follows a description of the Conferees' specific actions:

SECTION 401—ELIMINATION OF AUTHORIZATION OF SUPPORT FOR FEASIBILITY SURVEYS, PLANNING, AND INITIAL DEVELOPMENT COSTS

The Senate bill contains a provision repealing sections 1303, 1304, and 1307 of the Public Health Service Act. This eliminates federal grant support for HMO feasibility surveys, planning and initial development costs. The House amendment contains no such provision. The conference agreement adopts the Senate bill.

SECTION 402—LIMITATION ON LOANS AND LOAN GUARANTEES FOR INITIAL COSTS OF OPERATION

The Senate bill phases out federal loans and loan guarantees under section 1305 of the Public Health Service Act. the House amendment contains no such provision. The conference agreement adopts the Senate bill.

SECTION 403—ELIMINATION OF LOANS AND LOAN GUARANTEES FOR ACQUISITION AND CONSTRUCTION OF AMBULATORY CARE FACILITIES

The Senate bill eliminates the authorization for federal loans and loan guarantees for the acquisition and construction of HMO ambulatory care facilities under Section 1305A of the Public Health Service Act. The House amendment contains no such provision. The conference agreement adopts the Senate bill.

SECTION 404—REPEAL OF REQUIREMENT FOR HEALTH SYSTEMS AGENCY REVIEW

The Senate repeals Section 1306(b)(5) of the Public Health Service Act, eliminating the requirement for review by a health systems agency of any proposed federal support of HMO activities. The House amendment contains no such provision. The conference agreement adopts the Senate bill.

SECTION 405—LIMITATION ON BORROWING BY LOAN GUARANTEE FUND

The Senate bill limits the authority of the Secretary to borrow from the Treasury to meet obligations of the Loan fund to instances in which borrowing is necessary to meet guarantees issued before October, 1983. The House amendment contains no such provision. The conference agreement adopts the Senate bill with an amendment extending the authority to guarantees issued before October, 1984.

SECTION 406—REPEAL OF REQUIREMENT FOR PERIODIC DEMONSTRATION OF COMPLIANCE

The Senate bill repeals the requirement that an HMO periodically demonstrate to the Secretary that it continues to meet the federal requirements for HMOs. The House amendment contains no such provision. The conference agreement adopts the Senate bill.

SECTION 407—ANNUAL UPDATE OF STATE LAW DIGEST

The Senate bill amends the Section 1311 digest of state HMO laws and regulations to require annual rather than quarterly updating. The House amendment contains no such provision. The conference agreement adopts the Senate bill.

SECTION 408—ELIMINATION OF UNNECESSARY REPORT

The Senate bill repeals the Section 1318(e) requirement for an annual report by the Secretary to Congress of the implementation of financial disclosure requirements, while not disturbing the Department's monitoring of that implementation. The House amendment contains no such provision. The conference agreement adopts the Senate bill.

SECTION 409—AUTHORIZATION OF APPROPRIATIONS

The Senate bill reauthorizes the Department's Section 1309(a) training and technical assistance authority through 1987 at $400,000 per year, and reauthorizes the Section 1308(e) loan fund through 1987, at such sums as necessary. The House amendment does not reauthorize the training and technical assistance authority, and reauthorizes the loan fund at a level of $5,000,000 through 1988, so that new loans could be made. The Conference Agreement reauthorizes both the training and technical assistance fund (at $400,000 per year) and the loan fund (at such sums at necessary, with no required balance) through 1988.

SECTION 410—ORGAN TRANSPLANTS AS PART OF BASIC HEALTH SERVICES

The House amendment prohibits the Secretary from requiring federally qualified health maintenance organizations to include organ transplants, other than kidney transplants, in their basic health services package before their contract years beginning after January 1, 1986. In determining whether such procedures should be included after such date, the Secretary would provide an opportunity for public comment on the proposed requirement.

The Senate bill has no comparable provision.

The conference agreement adopts the House provision with an amendment. After the date of enactment, the Secretary could require the inclusion of organ transplants not currently required to be included in basic health services if the Secretary follows certain procedures. The Secretary must publish the proposed requirement in the Federal Register, provide an opportunity for public comment prior to the implementation of the requirement, and, after considering the comments, publish any new requirement in the Federal Register. In requiring any new organ transplant procedure, the Secretary must provide a reasonable opportunity for Health Maintenance Organizations to implement the new requirement.

The Conferees are aware that the Assistant Secretary for Health has recently determined that liver transplants for children with biliary atresia are no longer experimental. The Conferees expect the Department to act expeditiously in following these new administrative procedures if it intends to require federally qualified health maintenance organizations to include coverage for this liver transplant procedure as a condition of federal qualification. It is the Conferees intent that the Secretary follow these procedures in future organ transplant determinations instead of the past procedure involving letters on the experimental or accepted status of the transplant.

The Conferees also intend for the Secretary to provide a reasonable phase-in period whenever an organ transplant procedure is required to be covered. In determining the length of the period, consideration should be given to HMO budgeting cycles, member contract renewal dates, and limitations on the manner in which federally qualified HMOs establish their rates. Adequate time should be provided so that HMOs can adjust their rates and coordinate the necessary personnel and facilities in an orderly manner.

The Conferees note that the inclusion of this provision in Title 13 of the Public Health Service Act does not alter the authority of states to require the HMOs to cover organ transplants under state law.

Repeals

The Senate bill repeals Section 1313 of the Public Health Service Act, which requires that only title XIII funds may be used for HMO development. The House amendment contains no such provision. The conference agreement adopts the House amendment.

TITLE V—PRIMARY HEALTH CARE SERVICES

SECTION 501—MEDICALLY UNDERSERVED POPULATIONS

Conference agreement

The conference agreement incorporates the Senate provisions with an amendment to strike the phrase "(or the designee of such chief executive officer)" from subsection 2(A).

SECTION 502—MEMORANDUM OF AGREEMENT

The conference agreement incorporates the Senate provisons. The Conferees specifically reference Senate Report #98-490 with regard to these Memorandum of Agreement provisions.

SECTION 503—AUTHORIZATIONS OF APPROPRIATIONS

Conference agreement

The conference extends for four fiscal years the authorization of appropriations for Community Health Centers at $375 million for FY 1985, $405 million for FY 1986, $437 million for FY 1987 and $472 million for FY 1988.

SECTION 504—STATE GRANTS FOR PRIMARY CARE RESEARCH, DEMONSTRATION, AND SERVICES

Conference agreement

The conference agreement incorporates the Senate provisions with an amendment to authorize appropriations at $15.0 million for FY 1985, $17.5 million for FY 1986, $20.0 million for FY 1987 and $23.5 million for FY 1988. The Conferees also agreed to specifically reference Senate Report #98-490 with regard to the State Grant program provisions.

The Conferees agreed to include in the Statement of the Managers clarification of Section 1925 with regard to "Applications and Description of Activities; Requirements." The conference committee intends that State grant funds be used primarily for

the provision of primary care services and retains the Senate provision that at least 80 percent of these funds be spent for the provision of services. These services must be provided in medically underserved areas and to individuals who need primary health care and may not be used merely to supplant ongoing State services in any areas. The last sentence in subsection (c) of Section 1925 states that the "Secretary may not prescribe for a State the manner of compliance with the requirements of this subsection." This statement is added to assure that the States, while having to comply fully with the terms of the statute, will have optimum flexibility in developing primary care programs which meet local needs, without further federal regulatory direction. However, subsection (c)(6) states that for purposes of compliance with this section, entities which are recipients of grants under section 1924 and under section 329 or section 330 can not be required to comply with different reporting requirements and criteria than are required under section 329 or section 330. It is not intended that States be allowed to develop new reporting requirments or criteria with which existing federal grantees must comply.

SECTION 505—MIGRANT HEALTH CENTERS

Conference agreement

The conference agreement incorporates the House provision with an amendment to reauthorize these programs at $46.0 million for FY 1985, $50.0 million for FY 1986, $56.0 million for FY 1987 and $61 million for FY 1988. The conference agreement also includes a technical amendment from both House and Senate bills to allow MHC's to use their grants for the costs of repaying loans made by the Farmers Home Administration. This corresponds to a technical change made for the community health center program under P.L. 97-414, the Orphan Drug Act.

TITLE VI—MISCELLANEOUS PROVISIONS

SECTION 601—HEALTH CARE CONSUMER INFORMATION

Conference agreement

The conference agreement would require the Secretary to undertake a set of related studies regarding health care consumer information and report the results to the Committee on Energy and Commerce and the Committee on Labor and Human Resources.

Many efforts are currently being made, by business coalitions, consumer groups, state governments and others, to collect and disseminate consumer information. Many of these are developing effective programs. There are concerns, however, that the information being made available to consumers may be incomplete, may not be in useful form, or may give rise to misunderstandings or misinterpretations.

The conferees have agreed that the Secretary shall conduct studies and make recommendations to the Congress for Federal, state and local governmental and private sector activities to collect and disseminate health care consumer information. The Secretary would be required to study existing programs and their effects, to study criteria and methods for collecting and disseminating information to consumers and third party payors, and to analyze methods to assist in collecting and disseminating information to consumers through public and private entities. The Secretary would be required to complete these studies and to report to the Congress by October 1, 1985, with recommendations regarding how such activities might be carried out and recommendations for providing technical assistance to those undertaking such activities.

It is not the conferees' intent that the Department of Health and Human Services would begin to collect and disseminate consumer information. Instead, it is the conferees' intent that the Secretary study the issues thoroughly and advise the Committees on recommendations for further efforts to collect and disseminate consumer information.

SECTION 602—PLAGUE CONTROL

Conference agreement

The House Amendment contained an authorization for plague control activities. The funds authorized are to be used for grants and cooperative agreements for prevention and control of the disease, including improvement and implementation of plague control strategies among animals and among humans. The Senate receded.

SECTION 603—HEALTH CARE COSTS

Conference agreement

The House Amendment expressed the sense of the Congress that rising health care costs can be reduced by considering options to institutionalized care when appropriate. The Senate receded.

SECTION 604—STUDY OF HEALTH CARE SERVICES TO THE HOMELESS

Conference agreement

The House Amendment required the Secretary of Health and Human Services to conduct a study of the delivery of health care services to the homeless and an evaluation of eligibility requirements which prevent the homeless from receiving health care. The Senate receded with a modification requiring an evaluation of whether eligibility requirements present such a barrier to care.

SECTION 605—PRIMATE CENTERS

Conference agreement

The Senate bill required the Secretary of Health and Human Services to designate as a Regional Primate Research Center a laboratory for experimental medicine which is in existence, was established in 1965, and became formally sponsored by an association of schools of medicine in 1967. These provisions apply to the Laboratory for Experimental Medicine and Surgery in Primates, Sterling Forest, New York. The conferees agree that this is not intended to require funds from monies appropriated for existing primate centers. No currently designated center should be funded at a lesser amount due to this provision. The House receded.

JOHN D. DINGELL,
HENRY A. WAXMAN,
JAMES H. SCHEUER,
TOM LUKEN,
JAMES T. BROYHILL,
EDWARD MADIGAN,
Managers on the Part of the House.
ORRIN HATCH,
ROBERT T. STAFFORD,
DAN QUAYLE,
TED KENNEDY,
JENNINGS RANDOLPH,
Managers on the Part of the Senate.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. DREIER of California) to revise and extend their remarks and include extraneous material:)

Mr. DAUB, for 5 minutes, today.

Mr. WHITEHURST, for 60 minutes, October 9.

Mr. DANNEMEYER, for 60 minutes, today.

Mr. MOLINARI, for 5 minutes, today.

Mr. GINGRICH, for 60 minutes, today.

Mr. WALKER, for 5 minutes, today.

Mr. GINGRICH, for 5 minutes, October 5.

(The following Members (at the request of Mr. HAYES) to revise and extend their remarks and include extraneous material:)

Mr. HAYES, for 5 minutes, today.

Mr. STRATTON, for 5 minutes, today.

Mr. ST GERMAIN, for 5 minutes, today.

Mr. ALEXANDER, for 5 minutes, today.

Mr. RODINO, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. GONZALEZ, for 60 minutes, today.

Mr. ALEXANDER, for 60 minutes, October 5.

Mr. FOLEY, for 60 minutes, October 5.

Mr. SHARP, for 60 minutes, October 5.

Mr. YATES, for 30 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. DANNEMEYER, and to include extraneous matter, immediately following vote on motion to table House Resolution 603.

Mr. WEISS, prior to the vote on the bill, H.R. 5492 in the Committee of the Whole today.

Mr. GORE, prior to the vote on H.R. 4283 today.

(The following Members (at the request of Mr. DREIER of California) and to include extraneous matter:)

Mr. BLILEY in three instances.
Mr. PETRI in two instances.
Mr. COUGHLIN.
Mr. LOTT.
Mrs. JOHNSON.
Mr. DANNEMEYER.
Mr. ROBINSON.
Mr. BILIRAKIS.
Mr. LENT.
Mr. BROYHILL.
Mr. GEKAS.
Mr. KRAMER in three instances.
Mr. CAMPBELL.
Mr. BEREUTER in two instances.
Mrs. MARTIN of Illinois.
Mr. MOLINARI.
Mr. WINN.
Mr. LAGOMARSINO in two instances.
Mr. MACK.
Mr. HUNTER in two instances.
Mr. BADHAM.
Mr. KINDNESS.
Mr. BROOMFIELD in two instances.

Mr. SHUMWAY.
Mr. SILJANDER.
Mr. PETRI.
Mr. SHAW.
Mr. THOMAS of California.
Mr. DUNCAN in two instances.

The following Members (at the request of Mr. HAYES) and to include extraneous matter:

Mr. FORD of Michigan.
Mr. EDWARDS of California.
Mr. BOLAND.
Mr. NATCHER.
Mr. OTTINGER.
Mr. SAM B. HALL, JR.
Mr. FRANK.
Mr. STARK.
Mr. MAZZOLI.
Mr. ROE in five instances.
Mr. RANGEL in five instances.
Mr. HOYER.
Mr. CONYERS.
Mr. SKELTON.
Mr. FLORIO in two instances.
Mr. TRAXLER in two instances.
Mr. GARCIA.
Mr. FORD of Tennessee.
Mr. FEIGHAN.
Mrs. KENNELLY.
Mr. RODINO in two instances.
Mr. DOWNEY of New York.
Mr. LUKEN.
Mr. WILLIAMS of Montana.
Mr. MATSUI.
Ms. MIKULSKI.
Mr. ANDREWS of Texas.
Mr. WYDEN.
Mr. CARR.
Mr. WAXMAN.
Mr. KLECZKA.
Mr. ROE.
Mrs. BURTON of California.
Mr. ROYBAL.
Mr. ADDABBO.
Mr. LANTOS in two instances.
Mr. DELLUMS.
Mr. SMITH of Florida.
Mr. MICA.
Mr. GUARINI.
Mr. VENTO.
Mr. DE LA GARZA in five instances.
Mr. BORSKI.
Mr. MCCLOSKEY.
Ms. OAKAR in two instances.
Mr. LEVINE of California in two instances.
Mr. DYSON.
Mr. EDGAR.
Mr. RICHARDSON.
Mr. LIPINSKI.
Mr. KOSTMAYER.
Mr. GEPHARDT.
Mr. BIAGGI.
Mr. DE LUGO.
Mr. PATTERSON.

ENROLLED JOINT RESOLUTION SIGNED

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a joint resolution of the House of the following title, which was thereupon signed by the Speaker:

H.J. Res. 656. Joint resolution making further continuing appropriations for fiscal year 1985.

SENATE ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

The SPEAKER announced his signature to enrolled bills and joint resolutions of the Senate of the following titles:

S. 1967. An act to compensate the Gros Ventre and Assinboine Tribes of the Fork Belknap Indian Community for irrigation construction expenditures;

S. 2819. An act to make technical and conforming amendments in certain laws relating to housing and community development;

S.J. Res. 201. Joint resolution to provide for the designation of the week of November 25 through December 1, 1984, as "National Epidermolysis Bullosa Awareness Week";

S.J. Res. 237. Joint resolution to designate the week of November 25, 1984, through December 1, 1984 as "National Home Care Week";

S.J. Res. 260. Joint resolution designating the week beginning on November 11, 1984, as "National Blood Pressure Awareness Week";

S.J. Res. 322. Joint resolution designating the week beginning on October 7, 1984, as "Mental Illness Awareness Week";

S.J. Res. 324. Joint resolution designating the month of November 1984, as "National Christmas Seal Month"; and

J. Res. 332. Joint resolution to proclaim October 16, 1984, as "World Food Day."

BILLS AND JOINT RESOLUTION PRESENTED TO THE PRESIDENT

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee did on October 3, 1984, present to the President, for his approval, bills and a joint resolution of the House of the following titles:

H.R. 960. An act to confer citizenship posthumously on Cpl. Wladyslaw Staniszewski;

H.R. 5164. An act to amend the National Security Act of 1947 to regulate public disclosure of information held by the Central Intelligence Agency, and for other purposes;

H.R. 5221. An act to extend through September 30, 1988, the period during which amendments to the United States Grain Standards Act contained in section 155 of the Omnibus Budget Reconciliation Act of 1981 remain effective, and for other purposes;

H.J. Res. 606. Joint resolution to designate the week of October 14, 1984, through October 21, 1984, as "National Housing Week"; and

H.R. 3130. An act to authorize amendments to a certain repayment and water service contract for the Frenchman Unit of the Pick-Sloan Missouri River Basin Program.

ADJOURNMENT

Mr. GINGRICH. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 35 minutes p.m.), the House adjourned until Friday, October 5, 1984, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4114. A communication from the President of the United States, transmitting the annual report on the effectiveness of soil and water conservation programs, pursuant to Public Law 95-192, section 7(c); to the Committee on Agriculture.

4115. A letter from the Acting Secretary of State, transmitting a report on the manner in which the national interest has been served by payments under loan guarantees or credit assurance agreements, with respect to loans made or credits extended to Poland, in the absence of a declaration of default against Poland, pursuant to Public Law 97-257, section 306; Public Law 98-151, section 101(d); to the Committee on Appropriations.

4116. A letter from the Deputy Assistant Secretary of Defense (Installations), Department of Defense, transmitting notification of a format change for the fiscal year 1986 report on the active duty strength level of components of the Armed Forces, civilian personnel and base structure, pursuant to 10 U.S.C. 138(c)(3) (93 Stat. 806; 94 Stat. 2840); to the Committee on Armed Services.

4117. A letter from the Deputy Assistant Secretary of Defense, transmitting notification of a new records system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

4118. A letter from the Director, Office of Management and Budget, transmitting the Soil Conservation Service plan for Turkey Creek Watershed, OK, pursuant to the act of August 4, 1954, chapter 656, section 5 (76 Stat. 609; 95 Stat. 1338); to the Committee on Public Works and Transportation.

4119. A letter from the Director, Office of Management and Budget, transmitting a Soil Conservation Service plan for the Indian Creek-Van Buren Watershed, IA, pursuant to the act of August 4, 1954, chapter 656, section 5 (76 Stat. 609; 95 Stat. 1338); to the Committee on Public Works and Transportation.

4120. A letter from the Secretary of Commerce, transmitting a report on research activities undertaken during fiscal years 1979 and 1980 on long-range effects of pollution, overfishing, and man-induced changes of ocean ecosystems, pursuant to Public Law 92-532, section 202(c) (94 Stat. 2242); March 10, 1934, chapter 55, section 5 (60 Stat. 1080); to the Committee on Science and Technology.

4121. A letter from the Secretary of Commerce, transmitting a report on research activities undertaken during fiscal year 1983 on the effects of dumping wastes into the ocean and the possible long-range effects of pollution and man-induced changes of ocean ecosystems, pursuant to Public Law 92-532, sections 201 and 202; to the Committee on Science and Technology.

4122. A letter from the Director, Office of Legislative Affairs, Agency for International Development, transmitting a report on program allocations for fiscal year 1984, pursuant to 22 U.S.C. 2413(a); jointly, to the Committees on Appropriations and Foreign Affairs.

4123. A letter from the Administrator, Office of Federal Procurement Policy, OMB, transmitting additional information on Department of Defense procurement actions awarded during the last week of fiscal year 1983, pursuant to Public Law 98-191, section 11(a)(1), jointly, to the Committees on Armed Services and Government Operations.

4124. A letter from the Secretary of Energy, transmitting a report explaining the reasons for not completing a written agreement within 6 months, on the development of a nuclear waste repository, with the State of Washington and the Yakima Indian Nation, pursuant to Public law 97-425, section 117(c); jointly, to the Committees on Interior and Insular Affairs and Energy and Commerce.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BROOKS: Committee on Government Operations. Report on Synthetic Fuels Corporations oversight: Project selection procedures and the Santa Rosa Tar Sands project (Rept. No. 98-1135). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on Government Operations. Report on Groundwater protection: The quest for a national policy (Rept. No. 98-1136). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on Government Operations. Report on Federal response to criminal misconduct and insider abuse in the Nation's financial institutions (Rept. No. 98-1137). Referred to the Committee of the Whole House on the State of the Union.

Mr. HAWKINS: Committee on Education and Labor. H.R. 5144. a bill to provide reporting, disclosure, and fiduciary standards for State and local public employee retirement plans and to amend the Internal Revenue Code of 1954 to limit the role of the Federal Government in the regulation of such plans with respect to contributions, benefits, and other matters, and to exempt such plans from the Federal income tax, and for other purposes, with an amendment (Rept. No. 98-1138, Pt. I). order to be printed.

Mr. HAWKINS: Committee on Education and Labor. H.R. 5143. A bill to provide reporting, disclosure, and fiduciary standards for State and local public employee retirement systems, with an amendment (Rept. No. 98-1139). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on Government Operations. Report on Oversight of the Advisory Commission on Intergovernmental Relations: The First Twenty-Five Years (Rept. No. 98-1140). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on Government Operations. Report on delay, slowness in decisionmaking, and the case backlog at the National Labor Relations Board (Rept. No. 98-1141). Referred to the Committee of the Whole House on the State of the Union.

Mr. MOAKLEY: Committee on Rules. H.R. 4447. A bill to provide for the temporary suspension of deportation for certain aliens who are nationals of El Salvador, and to provide for Presidential and congressional review of conditions in El Salvador, and for other purposes; with an amendment (Rept. No. 98-1142, Pt. I). Ordered to be printed.

Mr. DINGELL: Committee of conference. Conference report on S. 2574 (Rept. No. 98-1143). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. WOLF (for himself and Mr. PARRIS):

H.R. 6392. A bill to prevent the Longshore and Harbor Workers' Compensation Amendments of 1984 from affecting pending suits against the Washington Metropolitan Area Transit Authority; to the Committee on Education and Labor.

By Mr. KASTENMEIER:

H.R. 6393. A bill to extend the Equal Access to Justice Act; to the Committee on the Judiciary.

By Mr. ACKERMAN:

H.R. 6394. A bill to amend title 38, United States Code, to authorize the Administrator of Veterans' Affairs to guarantee loans made to veterans for the purchase of residential units held by cooperative housing projects; to the Committee on Veterans' Affairs.

By Mr. ALBOSTA:

H.R. 6395. A bill to amend the Agricultural Act of 1949 to establish a program to support the price of the 1986 through 1989 crops of feed grains and wheat; to require that strategic and critical materials be acquired, to the maximum extent feasible, by bartering agricultural commodities; to make persons who produce agricultural commodities on highly erodible land ineligible for certain agriculture-related programs, and for other purposes; jointly, to the Committees on Agriculture, Foreign Affairs, Energy and Commerce, and Armed Services.

By Mr. ANDREWS of Texas:

H.R. 6396. A bill to amend the Disaster Relief Act of 1974 to ensure that Federal assistance will be provided expeditiously to communities threatened by major disasters; to the Committee on Public Works and Transportation.

By Mr. BATEMAN:

H.R. 6397. A bill to establish the Cape Charles National Wildlife Refuge and the Cape Charles National Fish and Wildlife Service Training Center in Northampton County, VA; to the Committee on Merchant Marine and Fisheries.

By Mr. DINGELL:

H.R. 6398. A bill to amend the Clean Air Act with regard to the control of hazardous air pollutants; to the Committee on Energy and Commerce.

By Mr. GEJDENSON:

H.R. 6399. A bill to require motor vehicle rental companies to provide child restraint systems in rented motor vehicles on request and to direct the Secretary of Transportation to prescribe necessary regulations for administration and enforcement of such requirement; to the Committee on Energy and Commerce.

By Mr. SAM B. HALL, JR.:

H.R. 6400. A bill to promote prisoner rehabilitation through assessment of the role of correctional officers by requiring a study of the classification of prevailing rate positions within the Bureau of Prisons; to place a moratorium on the downgrading of prevailing rate positions within the Bureau of Prisons, and for other purposes; jointly, to the Committees on the Judiciary and Post Office and Civil Service.

By Mrs. JOHNSON:

H.R. 6401. A bill to designate the west branch of the Farmington River as a study area for inclusion in the National Wild and Scenic Rivers System, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. PETRI (for himself, Mr. GOODLING, Mr. KILDEE, Mr. MOODY, Mr. MCKERNAN, Mr. WON PAT, and Mr. MCEWEN):

H.R. 6402. A bill to establish a program to improve the leadership and management skills of school administrators and for other purposes; to the Committee on Education and Labor.

By Mr. RODINO (for himself, Mr. FISH, Mr. CONYERS, Mr. EDWARDS of California, Mr. SEIBERLING, Mrs. SCHROEDER, Mr. GLICKMAN, Mr. FRANK, Mr. BERMAN, Mr. BOUCHER, Mr. MORRISON of Connecticut, Mr. FEIGHAN, and Mr. SMITH of Florida, Mr. FASCELL, Mr. YATES, Mr. BIAGGI, Mr. WHITEHURST, Mr. MITCHELL, Mr. LEHMAN of Florida, Mr. STARK, Mr. BROWN of California, Mr. EDGAR, Mr. SIMON, Mr. WAXMAN, Mr. GOODLING, Mr. HYDE, Mr. VENTO, Ms. MIKULSKI, Mr. GREEN, Mr. FAZIO, Mr. GRAY, Mr. GUARINI, Mr. LELAND, Mr. MATSUI, Mr. SABO, Mr. DYMALLY, Mr. HOWARD, Mr. HOYER, Mr. LANTOS, Mr. MARTINEZ, Mr. ANDREWS of Texas, Mr. EVANS of Illinois, Mr. KLECZKA, Mr. MRAZEK, Mr. OWENS, Mr. RICHARDSON, Mr. TORRES, Mr. WISE, Mr. GEKAS, Mr. DEWINE, and Mr. MAZZOLI):

H.R. 6403. A bill to provide assistance for the victims of crime, and for other purposes; to the Committee on the Judiciary.

By Mr. ROYBAL (for himself, Mr. SKELTON, Mr. RATCHFORD, Mrs. SCHNEIDER, Mr. VANDERGRIFF, and Mr. WISE):

H.R. 6404. A bill to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1954 to provide for additional and more effective controls on terminations of single-employer plans and reversions to employers resulting from such terminations; jointly, to the Committees on Education and Labor and Ways and Means.

By Mr. VENTO:

H.R. 6405. A bill to amend the Federal Deposit Insurance Act and the National Housing Act to restrict the manner in which federally insured depository institutions may increase fees on individual retirement accounts and to limit the penalties imposed by any depository institution for the early withdrawal of a time deposit; to the Committee on Banking, Finance and Urban Affairs.

By Mr. WILLIAMS of Montana:

H.R. 6406. A bill to amend title 38, United States Code, to provide compensation to former prisoners of war of World War II and of the Korean conflict; to the Committee on Veterans' Affairs.

By Mr. WINN:

H.R. 6407. A bill entitled the Value Engineering Council Act of 1984; jointly, to the

Committees on Science and Technology and Government Operations.

By Mr. WHITTEN:

H.J. Res. 656. Joint resolution making further continuing appropriations for fiscal year 1985; to the Committee on Appropriations; committee discharged; considered and passed.

By Mr. HOYER:

H.J. Res. 657. Joint resolution making further continuing appropriations for fiscal year 1985; to the Committee on Appropriations.

By Mr. CARPER:

H.J. Res. 658. Joint resolution proposing an amendment to the Constitution of the United States to provide for a single 6-year term of office for the President and Vice President, to provide that no Member of the House of Representatives may serve for more than three 4-year terms, to provide that no Senator may serve more than two terms, and for other purposes; to the Committee on the Judiciary.

By Mr. DANNEMEYER:

H. Res. 603. Resolution to require that subcommittees of committees of the House have membership ratios in proportion to the membership of the two political parties in the House; submitted and laid on the table.

By Mr. SEIBERLING:

H. Res. 604. Resolution authorizing the printing as a House document of the transcript of the proceedings of the Second Workshop on Congressional Oversight and Investigations; to the Committee on House Administration.

By Mr. DYMALLY:

H. Res. 605. Resolution expressing the sense of the House of Representatives that the President should convene a multinational Commission for the Caribbean to address the long-term problems of social, educational, agricultural and economic development in the Caribbean region to include all of the sovereign states in the region; to the Committee on Foreign Affairs.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

504. By the SPEAKER: Memorial of the Legislature of the State of California, relative to the 1985 Federal farm bill; to the Committee on Agriculture.

505. Also, memorial of the Legislature of the State of California, relative to Filipino veterans of the U.S. Armed Forces; to the Committee on the Judicary.

506. Also, memorial of the Legislature of the State of California, relative to foreign joint venture fisheries; to the Committee on Merchant Marine and Fisheries.

507. Also, memorial of the Legislature of the State of California, relative to U.S. trade statistics; to the Committee on Post Office and Civil Service.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. FRANK introduced a bill (H.R. 6408) for the relief of Denise Chaffee Soltys, which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 1354: Mr. HOWARD.

H.R. 1676: Mr. WOLF and Mr. WILLIAMS of Ohio.

H.R. 2161: Mr. HAWKINS and Mr. WEISS.

H.R. 2698: Mr. EDWARDS of Oklahoma.

H.R. 2742: Mr. MCKERNAN.

H.R. 3218: Mr. LONG of Maryland and Mr. HILER.

H.R. 4458: Mr. COUGHLIN.

H.R. 4857: Mr. LENT and Mr. DAVIS.

H.R. 4909: Mrs. SCHROEDER, Mr. LOWRY of Washington, Mr. STARK, Mr. MITCHELL, Mrs. COLLINS, Mr. RANGEL, Mr. DYMALLY, Mr. CROCKETT, Mr. YATES, Mr. LELAND, Mr. OWENS, Mr. WAXMAN, Mr. GRAY, Mr. LEVINE of California, Mr. OTTINGER, and Mr. HAYES.

H.R. 5030: Mr. MILLER of California, Mr. WILLIAMS of Montana, and Mr. EDWARDS of Oklahoma.

H.R. 5043: Mr. LEVIN of Michigan.

H.R. 5098: Mr. EDWARDS of California, Mr. PATTERSON, Mr. LENT, Mr. ACKERMAN, Mr. MINETA, Mr. PRITCHARD, Ms. SNOWE, and Mr. JACOBS.

H.R. 5107: Mr. MOLLOHAN.

H.R. 5148: Mr. FISH.

H.R. 5307: Mr. BRYANT, Mrs. COLLINS, Mr. HARRISON, Mr. STRATTON, and Mr. WEAVER.

H.R. 5432: Mr. GILMAN.

H.R. 5475: Mr. OWENS.

H.R. 5605: Mr. HILLIS.

H.R. 5725: Mr. CARNEY, Mr. EDWARDS of Oklahoma, Mr. MINETA, Mr. LOWRY of Washington, and Mr. SCHUMER.

H.R. 5823: Mr. GORE and Mr. SHELBY.

H.R. 5848: Mr. HAMMERSCHMIDT.

H.R. 5863: Mr. BERMAN, Mr. BEVILL, Mr. BONER of Tennessee, Mr. BORSKI, Mr. CARR, Mr. CROCKETT, Mr. DWYER of New Jersey, Mr. FLORIO, Mr. FOGLIETTA, Mr. FORD of Michigan, Mr. FROST, Mr. GORE, Mr. HEFTEL of Hawaii, Mr. HUGHES, Mr. KLECZKA, Mr. LAGOMARSINO, Mr. LEHMAN of Florida, Mr. LELAND, Mr. LEVIN of Michigan, Mr. MARTINEZ, Mr. MURPHY, Mr. PRICE, Mr. REID, Mr. RODINO, Mr. ROE, Mr. STARK, Mr. WISE, and Mr. WON PAT.

H.R. 5883: Mr. WHITEHURST, Mr. BERMAN, Mr. GEKAS, and Mr. BADHAM.

H.R. 5906: Mr. GRAY.

H.R. 5930: Mr. VENTO.

H.R. 5964: Mrs. BURTON of California.

H.R. 5981: Mr. GONZALEZ, Mr. SAVAGE, Mr. GEJDENSON, Mr. MORRISON of Connecticut, and Mr. BIAGGI.

H.R. 6021: Mr. COLEMAN of Texas.

H.R. 6043: Mr. BIAGGI, Mr. GRAY, Mr. KILDEE, Mr. MARTINEZ, and Mr. ST GERMAIN.

H.R. 6049: Mr. MARTINEZ.

H.R. 6050: Mr. BARNES, Mr. BIAGGI, Mr. BOLAND, Mr. BONER of Tennessee, Mr. BORSKI, Mrs. BURTON of California, Mr. CHANDLER, Mrs. COLLINS, Mr. DAUB, Mr. DORGAN, Mr. ECKART, Mr. EDWARDS of California, Mr. FORD of Michigan, Ms. KAPTUR, Mr. KRAMER, Mr. LEHMAN of California, Mr. LEHMAN of Florida, Mr. LELAND, Mr. LEVIN of Michigan, Mr. LOWERY of California, Mr. MCCAIN, Mr. MARTINEZ, Mr. OTTINGER, Mr. RAHALL, Mr. RANGEL, Mr. RATCHFORD, Mr. RIDGE, Mr. RODINO, Mrs. SCHNEIDER, Mr. SIMON, Mr. VENTO, and Mr. WISE.

H.R. 6051: Mr. BARNES, Mr. BERMAN, Mr. BIAGGI, Mr. BOLAND, Mr. BONER of Tennessee, Mr. BORSKI, Mrs. BURTON of California, Mr. CHANDLER, Mrs. COLLINS, Mr. DAUB, Mr. DORGAN, Mr. ECKART, Mr. EDWARDS of California, Mr. FORD of Michigan, Mr. KRAMER, Mr. LEHMAN of California, Mr. LEHMAN of Florida, Mr. LELAND, Mr. LOWERY of California, Mr. MARTINEZ, Mr. OTTINGER, Mr. RAHALL, Mr. RANGEL, Mr. RATCHFORD, Mr. RIDGE, Mr. RODINO, Mrs. SCHNEIDER, Mr. SIMON, Mr. VENTO, and Mr. WISE.

H.R. 6124: Mr. BEDELL, Mr. BERMAN, Mr. BEVILL, Mr. BOEHLERT, Mr. BORSKI, Mr. BRITT, Mr. CROCKETT, Mr. DIXON, Mr. DWYER of New Jersey, Mr. FAUNTROY, Mr. FISH, Mr. FLORIO, Mr. FORD of Michigan, Mr. FRANK, Mr. HAMILTON, Mr. HEFTEL of Hawaii, Mr. HORTON, Mr. HOWARD, Mr. HUGHES, Ms. KAPTUR, Mr. KILDEE, Mr. LELAND, Mr. LIVINGSTON, Mrs. LLOYD, Mr. MCHUGH, Mr. MCKERNAN, Mr. MCNULTY, Ms. MIKULSKI, Mr. MITCHELL, Mr. MURTHA, Mr. OWENS, Mr. RAHALL, Mr. RATCHFORD, Mr. RODINO, Mr. ROSE, Mr. SIMON, Mr. SKELTON, Mr. STARK, Mr. VENTO, Mr. WEISS, Mr. WISE, Mr. WON PAT, Mr. WORTLEY, and Mr. YATES.

H.R. 6132: Mr. HUGHES, Mr. MRAZEK, Mr. RICHARDSON, Mr. MINETA, Mr. FAZIO, Mr. MITCHELL, Mr. VENTO, Mr. BRITT, Mr. SKELTON, Mr. MORRISON of Washington, Mr. MCCOLLUM, Mr. OTTINGER, Mr. OXLEY, Mr. KOLTER, Mr. WISE, Mr. DARDEN, Mr. SAWYER, and Mr. VANDERGRIFF.

H.R. 6158: Mr. STUMP.

H.R. 6172: Mr. VENTO and Mr. MOODY.

H.R. 6210: Mr. HAYES.

H.R. 6231: Mr. BADHAM.

H.R. 6243: Mr. MOODY, Mr. LEHMAN of California, and Mr. FAZIO.

H.R. 6277: Mr. DASCHLE.

H.R. 6307: Mr. FROST, Mr. LEVINE of California, Mr. HEFTEL of Hawaii, Mr. MARTINEZ, Mrs. BOXER, and Mr. SIMON.

H.R. 6346: Mr. STUMP.

H.J. Res. 71: Mr. BONER of Tennessee, Mr. REID, Mr. KOSTMAYER, Mr. MCNULTY, and Mr. GORE.

H.J. Res. 450: Mr. BONIOR of Michigan.

H.J. Res. 460: Mr. CRAIG, Mr. ROSTENKOWSKI, Mr. MOLLOHAN, Mr. UDALL, Mr. COATS, Mr. GILMAN, Mr. LEACH of Iowa, Mr. MCCLOSKEY, Mr. BEREUTER, Mr. SAM B. HALL, JR., Ms. FIEDLER, Mr. SMITH of Iowa, Mr. ASPIN, Mr. MOORHEAD, Mr. LEWIS of California, Mr. HYDE, Mr. ROBINSON, Mr. LEWIS of Florida, Mr. AUCOIN, Mr. HARTNETT, Mr. KINDNESS, Mr. SCHUMER, Mr. OBEY, Mr. LUNGREN, Mr. BOEHLERT, Mr. BROOKS, and Mr. HILLIS.

H.J. Res. 528: Mr. MAVROULES.

H.J. Res. 535: Mr. BRYANT, Mrs. COLLINS, and Mr. HEFTEL of Hawaii.

H.J. Res. 613: Mr. CLARKE, Mr. GORE, Mr. BONER of Tennessee, Mr. MCEWEN, Mr. MCKERNAN, Mr. MCCURDY, Mr. BLILEY, Mr. LUNDINE, and Mr. MCHUGH.

H.J. Res. 615: Mr. CARPER, Mr. FORD of Tennessee, Mrs. LLOYD.

H.J. Res. 647: Mr. BARNARD, Mr. KEMP, Mr. THOMAS of Georgia, Mr. BROWN of Colorado, Mr. JENKINS, Mr. MARTINEZ, Mr. HEFNER, Mr. O'BRIEN, Mr. DANIEL, Mr. VANDERGRIFF, Mr. ROSE, Mr. ROE, Mr. BEVILL, Mr. WOLF, Mr. NOWAK, Mr. ALEXANDER, Mr. OWENS, Mr. WYLIE, Mr. ANDREWS of North Carolina, Mr. EMERSON, Mr. REID, Mr. WON PAT, Mr. CONYERS, Mr. FEIGHAN, Mr. LEHMAN of Florida, Mr. MCDADE, Mr. PATTERSON, Mr. FRANKLIN, Mr. FASCELL, Mr. BRYANT, Mr. YATRON, Mr. DE LA GARZA, Mr. MCKERNAN, and Mr. OLIN.

H.J. Res. 655: Mr. O'BRIEN, Mr. DIXON, Mr. MOAKLEY, Mr. WORTLEY, Mr. WALGREN, Mr. LELAND, Mr. HOWARD, Mr. MCNULTY, Mr. ADDABBO, Mr. ROE, Mr. DWYER of New Jersey, Mrs. JOHNSON, Mr. CLAY, Mr. YOUNG of Florida, Mr. HORTON, Mr. RATCHFORD, Mr. RITTER, Mr. HUGHES, Mr. FROST, Mr. GEJDENSON, Mr. KASICH, Mr. KOSTMAYER, Mr.

FLORIO, Mr. FAUNTROY, Mr. ECKART, Mr. BEDELL, Mr. RUSSO, Ms. KAPTUR, Mr. HYDE, Ms. MIKULSKI, Mr. MADIGAN, Mr. PORTER, Mr. MCGRATH, Mr. FISH, Mr. BARNES, Mr. OWENS, Mr. BROOMFIELD, Mr. GRAY, Mr. GREEN, Mr. FAZIO, Mr. SISISKY, Mr. CLINGER, Mr. DE LA GARZA, Mr. COURTER, and Mr. DURBIN.

H. Con. Res. 83: Mr. VALENTINE.

H. Con. Res. 332: Mr. WORTLEY.

H. Con. Res. 341: Mr. CROCKETT and Mr. WAXMAN.

H. Res. 537: Mrs. COLLINS, Mr. KINDNESS, Mr. MCDADE, Mr. SAM B. HALL, JR., Mr. HUGHES, Mrs. BOXER, Mr. MADIGAN, Mr. EVANS of Iowa, Mr. EDGAR, and Mr. HYDE.

H. Res. 540: Mr. BRYANT, Mr. TOWNS, Mr. HAYES, Mr. BROWN of California, Mr. MATSUI, and Mr. JEFFORDS.

EXTENSIONS OF REMARKS

WHERE THE PRESIDENT'S MILITARY POLICIES MAY LEAD

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1984

● Mr. OTTINGER. Mr. Speaker, my constituent, David Carsen, has once again written another fine article that details in chilling fashion where President Reagan's misguided military policies may lead. Mr. Carsen, who was an engineer on the Manhattan project from 1943 to 1945, poses the question of why we run the risk of nuclear annihilation on the hope that we can reverse direction at the last possible minute. The technical possibilities Mr. Carsen describes are quite sobering. I commend Mr. Carsen's article to the attention of my colleagues.

STAR WARS SCENARIO: SCRIPT FOR THE DEMENTED

(By David Carsen)

We have grasped the mystery of the story and rejected the Sermon on the Mount. Ours is a world of nuclear giants and ethical infants. We know more about war than we know about peace, more about killing than we know about living.—Gen. Omar Bradley, former chairman of the Joint Chiefs of Staff.

The coming presidential election bids well to become the most interesting one to our history. Some of us will be voting for the first time. Most of us will be voting again. But all of us will be voting for the last time if the man in the Oval Office blows it.

I don't know how you feel about it, but I have become terribly resentful that two septuagenarians, one in the Kremlin and one in the White House, have their wrinkled fingers on the nuclear buttons. Aren't you angered that they can rob your children and grandchildren of their future?

It has been said that war begins in the minds of men. Our military appropriations under Reagan are the largest the world has even seen. This does not speak of a dedication to peace, but to war. The existence and growth of the Soviet war machine suggests that our lunacy is not a disorder or disease of our nation alone, but rather a part of the global condition.

The fact that mutual fear induces a continuing buildup between these two antagonists is not unique or unusual to our time. History has shown that the malled fist can fit into the glove of any madman who would choose to use it. President Reagan's recommendation for the development of such a technically flawed weapons system as an anti-ballistic missile defense against nuclear attack suggests that knowledge and thoughful constraint play no part in his process of decisionmaking. His recent "joke" about destroying Russia reveals more about his psychological state than about his sense of humor.

In his "Star Wars" speech March 22, 1982, President Reagan first signaled a shift from deterrence based on mutual fear of assured destruction in a reliance on an anti-ballistic missile defense. Like so many of his "solutions" for ending the nuclear impasse; the form is well-packaged, but the substance is addressed to the machinery of war, not to the strategy for peace. He is still trying to outmaneuver the Russians. He still thinks he can win, and the price we will all have to pay beggars the imagination.

Let us examine the technology involved in its simplest form. When Reagan presented the concept of destroying attacking missiles with what can be best described as "death rays," he was alluding to chemical laser beams, or alternately, particle beam weapons.

In the first case, two chemicals in a gaseous state (fluorine and hydrogen) are combined to produce energy in the form of light. This light is then amplified and manipulated inside one part of the weapon and emerges as a powerful laser beam.

In the second, electrons are produced on a cathode grid (a negative pole of an electric current). They are then focused and accelerated by magnets until the flow emerges as a powerful beam. Both weapons are far beyond the present state of the art, although the laser weapon is probably closer to a workable product.

A third alternative using low-yield nuclear bombs to be exploded near an attacking missile was proposed by Dr. Edward Teller, popularly though inaccurately known as the "father of the hydrogen bomb."

Since hundreds of millions of dollars are now being appropriated for development of these weapons, it is evident that no consideration is being given to the probability that technical follies have no future.

The simple fact is that a 100 percent foolproof military capability is not a mathematical possibility. It might be possible to defend a single missile silo or even a multiple missile field, but defense of the entire nation, or even its major cities, covering tens of thousands of square miles, is technologically impossible. Yet any system that failed to stop 2 percent of the thousands of warheads aimed at the United States would leave this country totally destroyed.

Other factors make an infallible defense impossible. If the ABM weapon is space-based, its many thousands of sensors and battle-stations will be large and delicate pieces of equipment, extremely vulnerable to attack as they circle the earth. The same technology that is used to direct our "death rays" will enable the enemy to injure or destroy our defense weapons.

If our ABM battle-stations are ground-based, they would have to be deployed near the Soviet border and launched within seconds of firing because of constraints of a very limited flight time. Computers would then become the controllers and World War III would start with the first mulfunction.

Dr. Teller's solution also has a built-in defect. When a nuclear warhead is detonated outside the atmosphere, a widespread high-voltage electromagnetic pulse is produced. The resulting damage to all radio and electrical systems, military as well as civilian, could impair or even destroy the command and control structure of the U.S. military defense at the moment of greatest need. A nuclear detonation at 200 miles above the central part of our country will bathe the entire country, and parts of Canada and Mexico with electromagnetic radiation. Attempting a lower level intercept, to reduce the scope of the electromagnetic pulse effect automatically reduces the time for a secondary intercept, if the first one fails. A dilemma of more than Catch-22 proportions.

Estimates by military and civilian scientists and engineers to design, fabricate and deploy such a defense system vary greatly. But most realistic figures seem to range between $1 and $2.5 trillion dollars, or somewhat less than the national debt. Richard D. Delauer, undersecretary of defense for research and engineering, has said it would require the equivalent effort of eight Manhattan District Projects (first atom bomb program). In today's dollar, this equates to a little less than $0.5 trillion. Whatever the actual figure may eventually be, there is little doubt that India's loincloth will replace Calvin Klein designer jeans as the fashion of the day.

My question to you, my fellow citizens, is why do we have to travel to the dark edge of lunacy and then hope that we can pull back?

Are you content to live with a military solution to every real or imagined dispute? Are you content to follow men who, like blowfish, inflate with every real or imagined danger?

If you are, then I would suggest that you take a good look around you. Everything and everyone you know may have a very limited life span.●

MICHAEL KOVATS DE FABRICY—HUNGARIAN HERO OF THE AMERICAN REVOLUTION

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1984

● Mr. LANTOS. Mr. Speaker, the independence of the United States was won through the sacrifice and valor of the colonial Americans over 200 years ago. The native Americans, however, were assisted by the efforts of many foreign military leaders, who made important and significant contributions to our independence.

During the Revolutionary War, 141 Hungarians fought under the American flag. One individual whom I would like to single out today is Col. Michael Kovats de Fabricy, the architect of the American Light Cavalry, who died in the Battle of Charleston, SC, on May 11, 1779.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

Kovats was born in Hungary, a country where military virtues reached a high level of development in the 18th century, and also a country which had a love of freedom. He exemplified both virtues. He was a trained Hussar (light cavalry) officer and rendered outstanding service for 16 years to the Prussian king, Frederick the Great.

While he was in Bordeaux in January 1777, Kovats learned of the American revolution and volunteered his military services in a letter, written in Latin, to Benjamin Franklin, the American ambassador to France. That letter, now in the possession of the Library of the American Philosophical Society in Philadelphia, concludes with the following lines:

I have no wish greater than to leave forthwith, to be where I am needed most, to serve and die in everlasting obedience to your excellency and the Congress.

Most faithful unto death

MICHAEL KOVATS DE FABRICY.

Kovats application was rejected in Paris, but this did not deter him. He came to America on his own, contacted an American military officer, who applied to the Continental Army's commander-in-chief, George Washington, on his behalf. Washington commissioned Kovats as a colonel and charged him with training the American Light Cavalry in the Pulaski Legion. This famous legion was established by Washington in the same letter in which he commissioned Kovats.

The Pulaski Legion, headed by the Pole Casimir Pulaski, badly needed training and organization. Under Kovat's skilled hand, the calvary reached the level that even a British officer praised it as "the best cavalry the rebels ever had."

Kovats died in battle on May 11, 1779, leading the light cavalry which he trained so well. The Pulaski Legion, heavily outnumbered, had been sent to relieve the city of Charleston, which was being menaced by the British.

Mr. Speaker, Michael Kovats de Fabricy was one of many Hungarians who have given their lives for the United States, not only in the American Revolution but in many other conflicts as well. Many brave Hungarians have fought for freedom in the past, not only in defense of their own liberty, but on behalf of ours as well. Hungarian Americans can be proud of such heroic deeds of their forebearers, which are disproportionate to the number of Americans who presently claim Hungarian ancestry.

I welcome this occasion to pay tribute to the patriotism and cultural diversity which the people of Hungary have contributed to the United States.●

TRIBUTE TO HON. LARRY WINN

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 2, 1984

● Mr. RANGEL. Mr. Speaker, LARRY WINN is the best kind of Representative; he has represented his district well, worked on bills to support research at the University of Kansas, for example, on NASA projects, and on countless other issues as a member of the Foreign Affairs Committee. His work has helped not only his district and his own State of Kansas, but the entire Nation.

First elected in 1966, after a long and varied career in business, LARRY WINN has quietly worked behind the scenes for his constituents. Now, he has decided to return to Kansas and to a third career. We all know that we are losing a fine man, an outstanding legislator, and a Congressman who represented his district well throughout his career.●

CONGRESSIONAL SALUTE TO THE CLERGY AND CONGREGATION OF HOLY CROSS R.C. PARISH COMMUNITY OF WAYNE, NJ, UPON ITS GALA ANNIVERSARY CELEBRATION

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1984

● Mr. ROE. Mr. Speaker, on Saturday, October 26 the residents of my congressional district and State of New Jersey will join with Rev. John Heekin, pastor, and the people of Holy Cross Roman Catholic Parish, Wayne, NJ, in a gala dinner-dance, followed the next day by a solemn concelebrated anniversary mass by the Most Reverend Frank J. Rodimer, bishop of the Diocese of Paterson, in celebration of the 50th anniversary of the laying of the cornerstone of their present church edifice (1934-84) and the forthcoming celebration of the 60th anniversary of the founding of Holy Cross Parish in 1925.

During the course of the year, the clergy and laity of Holy Cross will be celebrating these most important commemorative events in the history of their parish devoting themselves in an outstanding program dedicated to the remembrance of the blessings of the Parish of Holy Cross and strengthening the resolve of all to continue their most noteworthy efforts in service to God and mankind.

Mr. Speaker, the faith and devotion of our people in a full communion of understanding, ever caring, and respecting the individual religous beliefs of his fellowman has been the lifeline of our democracy—ever inspiring our people with hope and urging the individual on to great achievements and purpose in pursuing the fulfillment of his or her dreams and ambitions. The exemplary leadership and outstanding efforts of our citizens so important to our quality of life are in the vanguard of the American dream and today we express our appreciation to the pastor and administrator of Holy Cross, Father Heekin, and his predecessors whose esteemed dedication and unselfish devotion in promulgating spiritual guidance, good will, fellowship, and brotherhood in service to God have truly enriched our community, State, and Nation.

A roster of the pastors and administrators during the history of the Holy Cross R.C. Church is as follows:

HOLY CROSS PASTORS AND ADMINISTRATORS

Rev. Marcellus Colemer, O.F.M.—1925-29.
Rev. Luke Panfoerder, O.F.M.—1929-32.
Rev. Luke Panfoerder, O.F.M.—1938-40.
Rev. Gerald McGlynn, O.F.M.—1932-38.
Rev. Harold Blake, O.F.M.—1940-44.
Msgr. Edward J. Scully—1944-59.
Rev. James E. Doherty—1959-66.
Rev. Francis P. McGowan—1966-67.
Rev. James J. Donnelly—1967-69.
Rev. Eugene R. Schweitzer—1969-75.
Rev. John Heekin—1975-present.

May I also commend to you the law teachers and sisters of the Franciscan Order who make an outstanding contribution to the pastor and congregation through their dedicated educational endeavors at the parish school.

Many outstanding special events have been planned for this gala anniversary celebration under the auspices of the Holy Cross Church Anniversay Committee whose membership is comprised of highly reputable citizens and community leaders, as follows:

HOLY CROSS CHURCH ANNIVERSARY COMMITTEE

The Honorable: Janie Ferrazzano, Helena Parisi, Mike Ford, Dolly Kerr, Karen Russo, Helen Bogan, Sophia Labastide, Annette Ford, Marge Schroeder, Tom Finn, Dorothea Tutuska, Marie Husted, Gerry Schilling, Helen Felice, and Eve Finn.

Mr. Speaker, with your permission, I would like to insert at this point in our historic journal of Congress a brief profile on the history of Holy Cross Parish and its beginnings, as follows:

HOLY CROSS PARISH COMMUNITY WAYNE, NJ

BRIEF OUTLINE OF HISTORICAL FACTS OF THE FOUNDING OF HOLY CROSS PARISH

1870's—the Franciscan Missionaries of West Paterson began to say masses in home of Catholic families living between Paterson and Denville. This included Mountain View (the current location of Holy Cross).

1920's—As Wayne's Mountain View area became a center for more Catholic families and in particular as a summar resort for Catholics from New York, Newark and eastern New Jersey, missions were founded for the pastoral needs by the Franciscans.

1925—In August of 1925, because of considerable influx of summer residents, Fr. Marcellus Colemer, O.F.M. was appointed

first pastor for the newly founded mission at Mountain View, Church of the Holy Cross. Services were conducted in the Bungalow Club until the present choice property had been acquired and the Van Duyne-De Hart home has been turned into a chapel. In November of 1925, the first mass was celebrated in this oratory. November 29th, Fr. Bahlmann, O.F.M dedicated the building to God's service. On that occasion, Confirmation was administered to eighteen persons.

1929—On October 22nd, by ruling of his Excellency Bishop Thomas Walsh, the Church of the Holy Cross was properly incorporated according to the laws, of the State of New Jersey. Fr. Luke Panoerder, O.F.M. was then pastor.

1933—In 1933, the Building and Sites Commission of the diocese gave permission for the construction of the present Church of the Holy Cross at an approximate cost of $28,000, in addition to the plumbing and heating at a cost of $3,420.75. Fr. Gerard McGlynn, O.F.M., being then the present pastor. Fr. McGlynn remained as pastor until 1940 when Fr. Harold Blake, O.F.M. was appointed pastor.

1934—Holy Cross Church Building—Cornerstone Laid (93 families—468 parishioners)

1945—At a meeting of the board of Trustees of the Catholic Church of the Holy Cross, it was resolved and passed that Rev. Edward J. Scully, having been appointed pastor of the aforesaid church by the Most Rev. Thomas H. McLaughlin on March 31, 1945. It may be noted that Rev. Scully was the first diocesan priest to serve the people of Holy Cross Parish.

1950—Holy Cross School founded.

1959—We are grateful to the pastors and administrator who led the people spiritually during the following years: Rev. James E. Doherty, 1959-66; Rev. Francis P. McGowan, 1966-67; Rev. James J. Donnelly, 1967-69; Rev. Eugene R. Schweitzer, 1969-75; Rev. John M. Heekin, 1975-present.

1976—In January 1976, Fr. John M. Heekin was appointed pastor of Holy Cross, which now proudly was the Mother Church of Wayne, following the establishment of four other Roman Catholic Churches and three additional parochial schools. Through the living faith, love and loyalty to Holy Cross, the parish and its council accepted the challenge to change and grow, always accepting the daily cross. Various spiritual, temporal, educational and social areas in our parish life had to be re-evaluated and analyzed in terms of the future projection and visions of the total Mt. View community. These difficulties were met. We have a strong and vibrant religious education program for the whole parish, with a Director of Religious Education—Sr. Gemma; our once convent is now home to thirteen elderly women; our church hall was renovated to enhance our social affairs.

1981—On June 1, 1981, the Board of Consultors of the Diocese of Paterson adopted a motion accepting the proposal of Fr. John M. Heekin, Pastor, to renovate the entire Church Sanctuary with the approval of Bishop Frank J. Rodimer. The Church Architectural Firm of Edward Zucchi & Sons, Inc. was unanimously approved by Holy Cross Parish Council to execute the renovation.

Bishop Lawrence Graziano, O.F.M. dedicated the New Altar and rededicated the newly restored interior of Holy Cross Church on September 13, 1981.

1982—On September 19, 1982, the people of Holy Cross Parish celebrated a Solemn Mass on Thanksgiving in honor of the Feast of the Triumph of the Cross and the completion of the final phase of the exterior renovation of the parish site.

The history of Holy Cross would be incomplete without acknowledging the loyalty, devotion and service of its Church Trustees and Parish Council Presidents: Basil McMichael, Howard Ribakusky, J. Joseph Simonelli, Dr. Henry Rivetti, Gerard Schilling, Joseph Roche, Edward Fraclose, James Harrington, Fern Heinis, James Corcoran, James Conroy, James P. Grogan: council presidents: James P. Grogan, John Bartels, Joan Sergeant, Joseph Cabrelli, Thomas Iannelli, Thomas Naiman.

HOLY CROSS SPIRITUAL LANDMARKS

November, 1925: First Mass Celebrated—Holy Cross Mission Chapel, Van Duyne Avenue—Fr. M. Colemer, O.F.M.

November, 1925: First Confirmations—Chapel.

January, 1926: First Baptisms—Chapel—James W. Roe, Edith Mary Kemp, and Loretta T. Flynn.

September, 1926: First Marriage—Chapel—Thomas Costello and Anna Gillespie.

October, 1929: Incorporation of Parish—Fr. L. Panfoerder, O.F.M. Pastor.

1933: Holy Cross Church Building—Cornerstone Laid 1934 (93 families—468 parishioners).

September, 1950: Holy Cross School founded—first Catholic school in Wayne.

June, 1953: First Graduation—Holy Cross School.

1972: First Ordinations to the Priesthood from Holy Cross—John Timmerman, William Abbott, S.J.

Mr. Speaker, I am pleased to have this opportunity to seek national recognition of the distinguished pastors, associate priests, sisters, and parishioners of St. Anthony's. In their dedication and devotion to our people, in service to God and mankind, and through their noble deeds and quality leadership, they have truly enriched the cultural, educational and religious endeavors of our community, State and Nation. We do indeed salute the clergy and congregation of Holy Cross Parish upon the observance and commemoration of their gala anniversary celebration.●

OUR DISTINGUISHED COLLEAGUE, LARRY WINN

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 2, 1984

● Mr. LANTOS. Mr. Speaker, as this session of the Congress comes to a close, we are also seeing the close of the congressional career of one of our respected colleagues, my friend, the distinguished Representative of the Third District of Kansas—LARRY WINN.

LARRY served with me as the cochairman of the congressional delegation to the European Parliament. Thus, I had the unique opportunity to observe LARRY in many complex and sensitive diplomatic situations. He represented our Nation's interests in all these decisions with exemplary effectiveness and with extraordinary skill.

I am certain—and I earnestly hope—that his public career is not over. LARRY has served our Nation well in this House and I am certain that he will continue to serve our Nation in important capacities in the future.●

TRIBUTE TO HARRY S. TRUMAN

HON. BILL EMERSON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1984

● Mr. EMERSON. Mr. Speaker, I rise today to pay tribute to a great American soldier—although most Americans are more familiar with this man's achievements in another area of endeavor.

At this year's convention of the Reserve Officers Association of the United States, in Chicago, Maj. Gen. Donald S. Dawson delivered the keynote address on the life of a veteran of World War I—Capt. Harry S. Truman of the 129th Field Artillery.

Recently, the Congress celebrated the 100th anniversary of the birth of Harry S. Truman with a joint session of Congress. In further recognition of Harry S. Truman's achievements and accomplishments I would like to insert Major General Dawson's remarks for the RECORD.

Remarks of Maj. Gen. Donald S. Dawson follow:

Mr. President, distinguished guests, honored past presidents, ladies of the ROAL, my fellow officers, I am highly honored to have this invitation to take another early morning walk with President Truman. Not down Pennsyvlania Avenue and up to the Capitol this time, nor with the Secret Service, but a stroll down memory lane, with one of the great men of history—one who has meant so much to ROA.

The Reserve Officers Assocation is dedicating this convention to an outstanding Reserve Officer, Harry S. Truman, who rose from National Guard private in 1905 to captain—on active duty in France in world War I and then by Presidential election became Commander-in-Chief of all our Armed Forces.

He was a preeminent example of the citizen soldier—the example set by our first President, George Washington.

Born in Lamar, Missouri, he grew to manhood on a Missouri farm near Independence. He was a farmer. His mother said he could plow the straightest furrow in Jackson County, Missouri, and that was behind a walking plow pulled by a mule—no high-powered tractor.

During the 1948 Presidential campaign when he had literally been living on the "whistle-stop" train, making a dozen speeches a day and shaking thousands of hands, I asked him how he seemed so full of energy and never tired of doing all the things we put upon him, when his staff much younger was worn out.

After a moment's reflection he said "I think it it because I was behind a plow, at the right time of life."

He also knew the life of a small town, and where he went to school, and fell in love on his first day at Sunday school, when he was six, with the prettiest girl he ever saw and later married after the war—a long courtship, one that was to last all of his life.

He worked as a railroad timekeeper. He worked in the post office, in a drug store, as a bank clerk in the big city—Kansas City, tried his hand at oil well development, which did not work out, and owned a small haberdashery after the war with his buddy, Eddie Jacobson, that went broke.

Many stores in the Midwest failed in that advance tremor of the Great Depression, so there was little mystery or shame. Indeed, what struck most people was not his failure but how he handled it. He refused to take bankruptcy, as was commonly done, and over the next 20 years he paid off some $20,000 in haberdashery debts, down to the dollar. He was still paying them off while he was in the Senate, when the salary was only $10,000 a year and when he could barely make ends meet in Washington.

If there was one turning point in his career, it was his success as an artillery officer in World War I. He need never have gone to war. He had applied to West Point and had been turned down because of poor eyesight. He was past 30, and he was needed on the family farm, where he had worked for 11 years.

As Captain Harry Truman of the 129th Field Artillery in France, he was a triumph, as is plain in the record. His 1918 service record says, "This officer is an excellent Battery Commander. He is unusually well-equipped and is an excellent instructor. He is resourceful and dependable."

He was put in command in France of an unruly Kansas City unit, Battery D, the regiment's most troubled unit, more than 200 men who were mostly Irish who did not go easy on any officer, let alone one in big horn-rimmed glasses who still looked a lot like a bank clerk. He was the fourth officer in less than a year.

Truman later wrote, "They called themselves the Irish Battery and it did sound as if the Hibernians were meeting when the roll was called, except that now and then, along with the McKims and Caseys and the Donnellys, there'd be Schmidt and a Meisberger."

The morning he took over, he was as frightened as he ever had been. "I didn't come here to get along with you," he told the non-coms. "You've got to get along with me. And if there are any of you who can't—speak up, and I'll bust you back now."

At St. Mihiel and the Argonne Forest, through some of the heaviest fighting seen by any American unit in the war, he proved himself tough, courageous and consistently popular. His men said: "He was the boss of the outfit." "He not only commanded it, he owned it." "We felt he knew what he was doing." "He was the best in the world." "On firing problems we began to hit the target." After two months in France, his unit went to the front—before they had finished their training.

In the first shelling by the Germans, Vic Householder saw Captain Truman's horse go down, its belly torn open by shrapnel. He rushed over and found Truman lying there with only his upper chest and head sticking out from under the horse. They dragged him out and he quickly recovered. Then, using language learned driving Missouri mules, he brought his men together. They now saw him as a cool captain under fire, and some even spoke of him as a good luck piece for the battery.

On another occasion, the enemy began shelling Battery D's position. Three rounds landed close and some nervous Nellie yelled, "Let's get out of here." Several men ran over Truman, knocking him into the mud as he was coming out of his command dugout. He jumped up, pulled his pistol and shouted, "Any SOB who isn't back in position in ten seconds will be shot." They made it back, and later called it the "Battle of Who Run."

"He was tough, but he was fair," said Gene Donnelly. Some have gone so far as to say, "He was one of the kindest and most thoughtful men I've ever known."

After the war, he maintained a personal relationship with each of the men in Battery D, which lasted through the years. Countless times I have seen him recollect from memory where they were, what they were doing, how their families were. He kept a little black book in the left bottom drawer of his Presidential desk in the Oval Office with the address of each, with personal notes about them, that were up-to-date.

He was never too busy to see any of them and enjoy old times whenever they happened to be in Washington or wherever he was, throughout the country. He attended every reunion, even as President and marched in their ever-thinning ranks on parade.

After the war Captain Harry became Major Truman in the Army Reserve, assigned to the 102nd Reserve Division. The educational program he and his fellow reservists initiated served the Army for years as a model reserve training program which was used throughout the country. General Harry Smith, Commanding Officer of the VII Corps, addressing the Kansas City reserve officers commended the Kansas City reservists as the "best coordinated effort in the nation."

Truman became active in the American Legion and helped with the 1921 Convention in Kansas City. A few days after the Convention, he met with several other World War I veterans and members of the Officers Reserve Corps at Morton's Restaurant and decided to start a club of all reserve officers in the Kansas City Area—the Reserve Officers Club of Kansas City, which became Kansas City Chapter No. 1 of ROA.

Harry Truman was Army; make no mistake about it. He loved the military from boyhood. While he was President, he said at a Medal of Honor presentation that he would rather have earned the medal himself than be President. As President, he was convinced of the vital necessity for universal military training for all our youth. He lost that fight to the Congress, but never his interest in a strong reserve program, which he knew was the force on which our country must ultimately depend in time of national emergency.

I said he rose from Private to Captain in World War I, but he was never a Second Lieutenant. In those days the men elected their officers in the National Guard and he was elected First Lieutenant. He later said, when his political popularity was at a low ebb, he did not know whether he could win that election again.

Those early days bred a desire and a dedication that would serve our country well today. For example, there was no facility for training and very little else. The men rented a hall in which to hold their meetings and took up a collection to pay the rent out of their own pockets.

Reserves have known lean days in equipment, money and facilities through the years, but we have come into our own because we have persisted in the determination and dedication of the men who came back from France vowing that this nation will never again be caught with its defenses down. Captain Truman learned the hardest and most important lesson which came out of World War I, that a nation unprepared for war was only inviting aggression and condemning to the casualty rolls many young men who would go into battle to save our country and our freedom without the necessary military training and leadership.

Our great association grew out of recognition of this historic principle—over 125,000 members whose only purpose is—adequate military preparedness, to maintain the eternal viligance which is the price of freedom. We of ROA have been fostering the national defense in general and the reserves in particular for the past 60 years. The next 60 years will see ROA continuing the battle for a strong America.

A famous British general remarked a quarter of a century ago that "it is a law of life that has yet to be broken that a nation can only earn the right to live soft by being prepared to die hard." We of ROA have lived with this precept. We will continue to live with it for the years to come.

As Commander-in-Chief, Harry Truman gave every support within his power to the reserves. It is in a large measure due to the leadership he provided during those critical years that our reserve programs flourished to the extent they did.

Harry Truman's life found its true purpose when he went into politics. History records his first political job. He was appointed Postmaster of Grandview, Missouri, but he passed the job on to a widow who needed the money.

In time, he was elected County Judge, a position usually belittled by writers who knew nothing about it. A Judge in Jackson County is an administrator. In fact, as Chief Administrator of the county for eight years, Truman erected and administrated courthouses, public buildings, ran welfare agencies and built what was acknowledged to be one of the best highway systems in the entire United States. He had overall responsibility for more than a thousand employees and expenditures of $15 to $20 million a year—and that was in the 1920s. All of this was done without a hint of scandal being associated with him. No one ever questioned his honesty.

Clean, upright, popular, able, Harry Truman—a man who always tried his level best at everything he ever did—gave Jackson County, Kansas City politics a good name, although the Kansas City and St. Louis big-city newspapers had scourged him for years, trying to dig up skeletons that just were not there.

In the U.S. Senate, to which he was elected for two terms, he headed the Truman Committee which he had proposed to expose waste, inefficiency and profiteering in the war effort. He quickly proved himself extraordinarily effective. A panel of journalists voted him one of the ten men who had contributed most to the war effort in all fields, and he was the only one who was a member of Congress. By 1944, the Truman Committee had saved an estimated $15 billion and many thousand American lives.

Truman was 60 when he became Vice President. He had not as yet held an office of great power, it is true. Nor had he made any money to speak of. But again and again, he had turned setbacks into positive accomplishments. The boy who couldn't go to college became a lifelong student of history—perhaps the most knowledgeable of all our Presidents. The boy who was turned down by West Point became a model battlefield officer. The failed businessman met his debts so honorably that it is still talked about in and around Kansas City. The man who was first dismissed in Washington as "the Senator from Pendergast" became one of the prominent figures in the wartime Senate and in the Democratic Party. Otherwise, Roosevelt never would have picked him as a running mate.

As President Reagan said May 8th: "'Little Harry,' some people called him when he first took Roosevelt's place. Funny that 'Little Harry' looms so large in our memories—he was in many ways the quintessential American—he was a patriot. He loved his country. He was an unpretentious man who esteemed common sense and common wisdom. And he was most American in this: Imbedded in his heart, like a piece of gold, was a faith that said that the ideals that shaped this country are enduring, that they are continually reborn as we live our lives every day.

"On the day he became President, he said, 'I felt like the moon, the stars and all the planets had fallen on me.' And in a way they had.

"History handed him the toughest of all tasks: To explain to his troubled countrymen that all their efforts in four years of war, had not assured the victory of freedom. That the struggle against totalitarianism would have to continue. And that the victories would not be as clear-cut as those of World War II and the battle lines would keep moving."

"President Truman has often been called the 'uncommon man.' And he was. He elevated the Presidency to a new height by taking command in the free world at a time when most leaders were bewildered and stunned by the sudden onslaught of pressure from the Soviet Union which had so recently been the West's ally and wartime partner.

"President Truman rallied the free world. He provided the resources with which to defend it."

Winston Churchill wrote to him January 5, 1952, "You sir, more than any other man have saved Western Civilization from Communism.'

He was often criticized for his decisions, and he was sometimes alone. Later, after listening to attacks on what was called "Trumanism," he took to his diary and wrote, "Let us define Trumanism. We have built up our Armed Forces. We have prevented Tito from taking Trieste. We forced Stalin out of Iran. We saved Greece and Turkey. We stayed in Berlin. We knocked the socks off the Communists in Korea. We gave the Philippines free government. And we gave Puerto Rico home rule. If that's Trumanism, I confess I'm proud to have my name attached to it."

He could have added that he showed the world the depth of America's commitment to freedom when he started NATO. He could have added that when the war was over, he considered the starving people and the burned-out rubble of Europe and put together a plan to get our former allies and our former enemies back on their feet. And the Marshall Plan saved Europe.

It was in its way the most stunning act of American idealism since Lincoln declared his policy of "malice toward none and charity for all."

And, as President Reagan further said, "You have to go back to Grant telling Lee to keep his sword to find another such moment of American grace.

"None of his decisions were made without cost. By 1948, the joke of the day was 'to err is Truman.' Tom Dewey was picking his Cabinet. At the Democratic Covention, they carried signs that said: 'We're just wild about Harry.' Even the symbolism was against him. When he walked into the convention hall, they released 50 doves that had been hidden under a liberty bell as a symbol of peace. The doves were weak from the heat and the long confinement. They circled about the convention hall and one frantically looking for a landing place, a safe place—finally spotted a smooth and shining perch, and it was Sam Rayburn's head.

"Truman told the story for years and could never control his laughter.

"Harry Truman won the nomination and went to the people on his whistle-stop tour, going from town to town throughout the country and bringing his message, explaining what he was doing and why, and how the Congress was thwarting his efforts. Everyone knew he'd lose. The commentators said so, and the polls, and the politicians.

"But a funny thing happened. Everywhere his train went, the people went, thronging the platforms and spilling onto the grass and off the sidewalks. They cheered him on. 'Give 'em hell, Harry,' they'd say. 'Pour it on.' And Truman said, 'I never give them hell. I just tell the truth and they think it's hell.'

"Election night, the returns came in and when it was over, Harry Truman had won by two million votes. He held aloft a Chicago newspaper with four-inch headlines that said Dewey had won—smiled his great smile and gave us a picture we'll never forget because there just aren't that many photographs of greatness triumphant.

"That picture hangs on the wall of my office today, telling me in even bigger headlines—'Never give up—never give up if you believe you are right."

We are here today to honor Harry S. Truman. A long century has passed since he was born a hundred years ago; but he is still a vital presence. He lives on in the American consciousness. He is a shared memory.

Harry Truman in the pearl gray Stetson and the light gray suit and the round-rimmed glasses and the walking stick. Harry Truman on his morning stroll, the brisk cadence of his walk matched by the blunt rhythm of his speech. Plain spoken, plain talking, no-nonsense Harry.

In dedicating this convention on the 100th anniversary of Harry S. Truman's birth, we must, however, dedicate ourselves—not just this convention—to the great principles he believed in.

I share your hope, and pray today, that no future generations of Americans will have to serve our country in combat against the enemy, but I tell you that we must also hope and pray and work so that Americans will always have the will and the wisdom to hear their country's call and answer it—in war and in peace.

If Washington's men could go barefoot in the snow at Valley Forge to give us this country and its freedom . . .

If those who have gone before us could lay their lives on the line at Chateau Thierry, Belleau Wood and the Argonne . . .

If we could storm the beaches of Normandy and General McAuliffe, with his back against the wall, could say "nuts" to the Nazis . . .

If the Marines could raise Old Glory on Mount Suribachi in the far-off Pacific to avenge Pearl Harbor . . .

If American G.I.'s could survive Pork Chop Hill in Korea . . .

And if six million Americans who have served in Viet Nam—your loved ones and mine—could stand the acid test of battle—for our country . . .

Then, I say we can face up to our responsibility on the battlefront at home and go forward to a new day in America with a rebirth of the Spirit of 1776—with every man and woman, a minuteman fighting for our homes, our schools, our churches, the good, the clean, the decent things in life. And the strength to keep them secure against all challengers.

When we forget ourselves and put our God and our country first, this nation shall stand as the unchallenged leader of the world.

And in all we do remember, when the buck comes to us—we even, as Harry Truman, must have the courage—the determination and the will to reach out and grasp it and make the most of the responsibility—the decision is ours!●

BAN COMMERCIAL SLAUGHTERING OF FUR SEALS

HON. BARBARA BOXER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1984

● Mrs. BOXER. Mr. Speaker, there is considerable controversy regarding our Government's support for and promotion of commercial hunting of the North Pacific fur seal. Our colleague, Mr. YOUNG of Alaska, entered into the CONGRESSIONAL RECORD an article about the hunt by Elinor Horowitz which appeared in the Washington Times on August 16. A response to that article was written in the form of a letter to the editor by John Grandy of the Humane Society. I ask that Dr. Grandy's letter also be included in the RECORD to provide another point of view. The response follows:

Elinor Horowitz's Aug. 16 column, "Which species is the most endangered?" only adds confusion and misunderstanding to efforts to stop the commercial slaughtering of seals by the Aleuts.

For example, Ms. Horowitz spent the better part of her column glorifying the Aleut way of life and the slaughter of seals. She left us with the ominous suggestion that Aleuts are more endangered than seals. Readers are thus left with the implication, or easily drawn inference, that the native Aleut Indians should be allowed to slaughter seals because "the industry is still virtually the only source of jobs on the island."

This is precisely the kind of emotionalism that has perpetuated the seal slaughter and left the Aleuts little more than unwitting wards of the U.S. government.

Ms. Horowitz might have pointed out—explicitly—that the fur seal population is now declining so fast that it will be cut in half every seven years, and that commercial slaughter contributes to the decline.

Ms. Horowitz might also have pointed out that killing seals is not employment at all. It now costs as much to process a seal skin for sale as it brings at sale. In addition, this summer the Commerce Department paid 80 Aleuts $500,000 and 30,000 seal skins (left unsold from seals killed in 1981-1983) to kill this summer's total of 22,078 seals. Obviously killing seals is not productive employment. Rather, it is simply "make work" that is a thinly veiled social welfare program.

Ms. Horowitz did point out that the islanders have just been given a $20 million trust fund as well as other assistance, to develop alternative employment. We support this assistance and believe that the Aleuts should pursue alternative employment vigorously. Unfortunately, they are not going to do so while well-meaning people like Ms. Horowitz glorify a form of behavior—slaughtering seals—that is an anachronism in modern-day America.

Ms. Horowitz concluded by noting that some people believe the treaty under which the seals are slaughtered will be renewed by the Senate this year or next. We hope she is wrong.

The treaty should be rejected. It would be a grave injustice both to the seals and to the Aleuts if an outmoded treaty that allows the wasteful and brutal slaughter of seals were to be continued.

JOHN W. GRANDY.●

RAILROAD REVITALIZATION—1984

HON. EDWARD R. MADIGAN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1984

● Mr. MADIGAN. Mr. Speaker, as this 98th Congress draws to a close, I want to take a few minutes to discuss the revitalization of America's railroads. This is the first Congress in a number of years in which we have not had to deal with a major piece of legislation designed to correct problems facing the Nation's railroads. There has been a remarkable revitalization and turnaround for the railroad industry. The primary reason for that revitalization has been the legislation hammered out by every Congress between 1973 and 1981.

Our legislation efforts during every Congress during that time period were not in vain. Today, America's railroads are healthier than at any time in our Nation's history. For example, in 1978, the Department of Transportation sent us a report—"A Prospectus for Change in the Freight Railroad Industry"— as we had requested in the 4-R Act. In 1978 dollars, the report concluded that the railroad industry, exclusive of the Long Island Railroad and Conrail, would have a capital shortfall of between $13.1 and $16.1 billion between 1976 and 1985. In 1980 dollars, that shortfall was between $16 and $20 billion. In the last 5 years, the railroad industry has invested more than $30 billion in capital expenditures. Last year alone, railroads invested more than $1 billion in new track, yards, and terminals, and over $5 billion in maintaining existing track, yards, and terminals; 10 years ago, they were investing only about $300 million annually in rights-of-way improvements and less than $2 billion in maintenance of those facilities.

A few years ago, deferred maintenance was so bad that at some railroads, there were derailments even when the trains were standing still. Today there is no deferred maintenance in the railroad industry.

A few years ago, a week never went by in which my office would not receive dozens of complaints from shippers that they could not get the cars they needed to ship their freight. Today, there is no shortage of freight cars. As a matter of fact, 40 percent of the car fleet in the railroad industry is less than 10 years old, and the car fleet's capacity has increased 13 percent over the last decade. Almost half the locomotives in the industry are less than 10 years old, and average locomotive horsepower has increased 20 percent since 1970, with fuel efficiency up 23 percent.

Mr. Speaker, since I came to Congress in 1973, there have been few legislative initiatives which have produced the kind of results that the numerous pieces of rail legislation have produced in such a short period of time. Everyone should be encouraged by these results. Less than a decade ago, the railroad industry was in dire straits. We need to remember just how bad things were. We also need to remember the steps the Congress took to permit the total restructuring and revitalization of the railroad industry.

In 1973, over a quarter of the railroad industry was in bankruptcy. In the Northeast, almost all the railroads were bankrupt. And service was so bad that a lot of people felt the situation was hopeless. In 1973, we enacted the Regional Railroad Reorganization Act—the 3-R Act. That act established the U.S. Railway Association, and charged it with the responsibility of restructuring railroad service in the Northeast. In 1975, USRA presented us with a plan that led to the creation of Conrail.

The Railroad Revitalization and Regulatory Reform Act of 1976 was the beginning of a process which led to the restructuring of America's railroads.

You may recall, Mr. Speaker, that in 1975 and 1976 the Nation and the Interstate Commerce Commission were very skeptical about railroad mergers. The Commission had approved the Penn Central merger in 1968, only to see that giant corporation file for bankruptcy on June 21, 1970. That disaster would have had an absolutely chilling effect on any future railroad mergers had not Congress encouraged mergers by simplifying the merger process as part of the 4-R Act. The first simplification involved putting a time limit upon how long the Interstate Commerce Commission could take to decide whether or not to approve a merger. In the early 1960's, the Union Pacific had applied to the Commission to merge with the Rock Island Railroad. The Commission dragged out that proceeding for over 12 years. The result was no merger and the bankruptcy of the Rock Island—which has now totally disappeared.

The second simplification of the merger process included changing the law so that the Commission would not have to include weak carriers as a condition for approval of a merger. The Penn Central had been forced to include the bankrupt New Haven Railroad in its merger. To some extent, that inclusion hastened the decline of the Penn Central.

Third, the Congress had enacted a temporary merger procedure which would have totally bypassed the Commission. This provision was never used by any railroads, but did serve to notify the Commission that Congress expected it to act promptly on merger applications.

The results were far reaching. In April 1980, the Commission approved the merger of the Burlington Northern and Frisco; in September 1980, the merger of the Chessie System and Seaboard Lines into CSX; in March 1982, the merger of the Norfolk Western and Southern Railway into NS; and in October 1982, the merger of the Union Pacific, Missouri Pacific, and Western Pacific into a single company. A merger between the Sante Fe and Southern Pacific is now pending before the Commission.

Within a very few years, a total restructuring of the railroad industry has taken place. There was nothing new about the knowledge that the industry needed restructuring. The 1920 Transportation Act had directed the Interstate Commerce Commission to proceed with a plan to consolidate the Nation's railroads into a few large companies. Nothing happened. By 1940, it was clear to Congress that another way had to be found to get railroad companies to consolidate into efficient and financially sound companies. While some merger activity had occurred during the late fifties and early sixties, the collapse of the Penn Central would have stopped such rationalization in its tracks. The merger reforms of the 4-R Act accomplished in very few years what had not been possible in the preceding half century.

The 4-R Act also placed time limits on the Commission for consideration of rate proceedings and other regula-

tory activities. Those time limits were coupled with a small measure of ratemaking freedom. As I recall, carriers could increase or decrease their rates by 5 percent without Commission approval.

Between 1976 and 1979, it became clear that a much greater congressional initiative was needed to reform the way railroads did business. For example, under the law, railroads could not enter into contracts with shippers. Railroads had also evolved an elaborate system of collective ratemaking, which in theory gave them the ability to fix prices but in practice nearly bankrupted them all. Every railroad rate was also subject to challenge before the Interstate Commerce Commission, which meant that railroads never reduced rates to keep business because they were afraid they could never increase those rates at a later date. In the fall of 1979, JIM FLORIO and I directed the staff of the Interstate and Foreign Commerce Committee to provide us with options for changing the law so that railroads could do a better job at attracting and keeping business. In 1980, the Congress enacted the Staggers Rail Act, which revolutionized the way railroads conducted business. Under the Staggers Rail Act, railroads were given considerable price freedom; the ability to enter into contracts with shippers; and forced to abandon price fixing in favor of competitive pricing.

By 1980, all of us had come to realize that railroads were no longer the monopoly they had been in 1887 when the Interstate Commerce Commission was established. Enactment of the Staggers Rail Act of 1980 challenged the railroad industry to behave as innovative and efficient businessmen. For the most part, the industry has responded to the challenge well.

Today, the Milwaukee Railroad is the only railroad in reorganization, and it made a profit last year of nearly $20 million. Within the next few months, I expect that the Milwaukee will successfully reorganize and be merged with another railroad. The successful reorganization of the Milwaukee is due in part to the passage by Congress of the Milwaukee Railroad Restructuring Act in 1979. In that act, Congress dealt with difficult issues, which permitted the trustee of the Milwaukee to reshape the railroad into something that could be reorganized.

The enactment of the Milwaukee Railroad Restructuring Act prevented the formation of a Midwest Conrail. It also demonstrated that railroad labor organizations could rise to the difficult challenge of constructively participating in the restructuring of the American railroad system; 2 years later, the courage of railroad labor to accept short-term hardship in order to assist in the restructuring of America's railroads was again demonstrated. Their support for the Northeast Rail Services Act of 1981 was vital. Under that act, railroad labor accepted reduced labor protection and a wage reduction totaling $124 million a year in order to give Conrail a chance to become free of Federal operating subsidy.

Since the passage of the Northeast Rail Services Act, Conrail has in fact moved from red ink to black. The Northeast Rail Services Act transferred commuter operations from Conrail to the commuter agencies; gave Conrail the right to expedited abandonment proceedings; relieved Conrail of the obligation to pay State taxes—which amount to over $25 million a year; and achieved a combined wage reduction from labor and management of $144 million a year. In this protected environment, Conrail has made money in each of the last 3 years. Today, Conrail has over $700 million cash on hand.

In the Northeast Rail Services Act, Congress directed the Secretary of Transportation to sell Conrail once it become profitable. Secretary Dole is now following that process, and next year the Congress will have to determine whether or not it approves the sale.

Mr. Speaker, the turnaround of the American railroad industry has been remarkable. Equally remarkable has been the fact that Congress, through a series of legislative proposals, has successfully restructured the rail industry. Railroad labor, shippers, and the carriers themselves have responded well to the opportunities given them with the enactment of major railroad legislation between 1973 and 1981.

It is a welcome relief not to be faced with a major railroad crisis as this Congress draws to a close. It is also verification of the fact that our congressional action in response to railroad crises of the past was correct.●

THE SPACE PROGRAM LOOKS AT AGRICULTURE

HON. BERYL ANTHONY, JR.

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1984

● Mr. ANTHONY. Mr. Speaker, the study of Earth sciences began when humans first recorded phenomena they observed around them. Scientific interest in those phenomena arose both from intellectual curiosity and from the effects on daily life of many of the processes studied. Division of Earth sciences into disciplinary areas such as meteorology, atmospheric physics, oceanography, geology, and biology came about because of the necessity to delineate problems that are tractable. However, as the boundaries of each discipline have grown, so has the overlap between disciplines. In recent years, the view of Earth from space has engendered a growing realization that a full understanding of Earth requires global, interdisciplinary research. Study of the processes governing the solid Earth and its oceans, atmosphere, magnetosphere, and life forms requires coordinated global observations and theories to integrate the observations.

NASA's programs have accomplished much both in basic understanding of the Earth sciences and in developing techniques that have practical application: observations from space are used in inventorying land cover; locating, measuring, and classifying major types of forests; and identifying shoreline changes, flood plain boundaries, and water impoundments larger than 2 acres in area. Space-acquired data are in regular use and have demonstrated their utility for research in land use, geology, hydrology, and agriculture.

An extraordinary achievement of our space program is the capability it has provided for keeping a current inventory of our resources, monitoring the quality of our environment, and maintaining up-to-date maps depicting natural and manmade surface features at minimal cost. Steady advances in this capability have been achieved primarily through NASA's Landsat program.

The advantages of an Earth-resources oriented satellite system like Landsat over aerial and surface surveys, which continue to supplement satellite observations, are significant: Landsat can make repeated observations of an area, revealing changes; it can acquire data from areas where it would be too hazardous or inordinately expensive to do so by other means; and it can also reveal large-scale features that are overlooked when viewed at lower altitudes.

NASA launched Landsat 1 in July 1972; Landsat 2 in January 1975; Landsat 3 in March 1978; Landsat 4 in July 1982; and most recently Landsat 5 in March 1984.

Landsat contributes to various disciplines; however it is in the area of agriculture that perhaps the tests and demonstrations of this satellite system have been most notable. From the early days of the space program, the value of remotely sensed multispectral data for agricultural applications was recognized; initially these data were provided through aircraft-based research programs and sophisticated cameras employing various lenses multispectral—on manned spacecraft. In 1970 and 1971, a multispectral analysis of the severe infestation of the southern corn blight was conducted jointly by NASA and the USDA; this corn blight watch experiment showed the promise of remote-sensing for agricultural purposes.

In 1973, the Soviet Union, having suffered massive grain crop failure, negotiated a major purchase of U.S. grains resulting in a marked disruption of U.S. commodity markets. The demand became apparent for better information on global crop production; this demand was transformed into the multiagency large area crop inventory experiment [LACIE]. The LACIE approach used Landsat data to estimate crop acreage and metorologically driven yield models to estimate crop harvests. Simultaneously with LACIE, a number of research projects within NASA, the USDA, and their associate university communities explored the applications of Landsat data to a wider variety of problems including forestry, range management, and agricultural hydrology.

On the initiative of the USDA, the Agricultural and Resource Surveys Through Aerospace Remote Sensing [AgRISTARS] Program was begun in 1980; this cooperative effort initially involved NASA, USDA, and the National Oceanic and Atmospheric Administration [NOAA]. AgRISTARS is a long-term program of research, development, test, and evaluation to determine the feasibility of using aerospace remote sensing technology to augment or replace existing techniques for compiling vital information about Earth resources relied upon by the USDA in its policy making decisions. AgRISTARS relies on data generated by Landsat, imaging radar on various shuttle flights, and several NOAA satellites. The overall approach of AgRISTARS consists of a balanced program of remote sensing research, development and testing which addresses a wide range of informational needs on domestic and global resources and agricultural commodities.

The USDA identified seven information requirements necessary for making and executing national agricultural policy: Early warning of change—including infestation—affecting production and quality of commodities and renewable resources; comodity production forecast; land use classification and measurement; renewable resources inventory and assessment; land productivity estimates; conservation practices assessment; pollution detection and impact evaluations.

The AgRISTARS program has been underway for 4 years and is being continued within the USDA and NOAA, making substantive progress on a number of fronts; in general, remote sensing has demonstrated again and again that the technology can predict earlier, more accurately, and more economically. The USDA, as the prime user of the technology being developed, leads the program and continues to view the efforts as one of great importance.

The Fourth Congressional District of Arkansas, with its vast farmlands and significant forests, along with American agriculture in general, has begun to feel the impact and reap the benefits of research generated by the Nation's space program.●

RELIGION IN POLITICS II

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1984

● Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, October 3, 1984, into the CONGRESSIONAL RECORD.

RELIGION IN POLITICS II

In last week's newsletter, I suggested that religious groups do not necessarily overstep their limits when they get involved in politics. Although one may disagree at times with what they say, they have a right to bring up specific religious issues, to try to promote their moral values through legislative process, and to endorse particular candidates for public office. However, that does not mean that their involvement raises no significant worries. In fact, the involvement of some religious groups in the political process may be quite harmful. Like anyone else, they cross over the line when they bring intolerance into that process. Intolerance, no matter what its source, is the enemy of democracy.

The danger signs are usually obvious enough. When we say that God is on our side on a particular bill, when we say that a political position is based upon divine or revealed truth, when we say that our opponent is godless, or when we say that someone who disagrees with us is sinful or immoral, we raise real threats to the democratic process. People will often disagree on political issues, but we can erode the democratic process when we see the disagreement as a struggle between the forces of light and the forces of darkness.

Such views shut off all debate. They really do undermine the give and take of the democratic process. There is no room for doubt, dialogue, or compromise. Lost under this approach is the requirement that democracy places upon us to accord mutual respect to our political adversaries and to refrain from ascribing evil motives to them. We must be wary of the view that there is always a simple division of the solutions to complex political issues into good and evil, with no middle ground. It reflects a certainty, a feeling that we are so sure we are right, that can undermine the proper functioning of a democracy. A democracy with leaders from several different religious traditions, each of whom proclaimed his own divine inspiration and dismissed his colleagues as ungodly sinners, would soon be paralyzed.

Those of us who would bring our religious views into the political process should recall the clear Biblical theme that each of us is fallible and finite, and that no one knows God's will but God. The New Testament reminds us to look first for the log in our own eye, and only then to the speck in our brother's eye. We must recall that religion in America has been invoked to justify witch hunting, refusal to help the poor, slavery, and racial segregation. Elsewhere in the world, individuals have been persecuted and put to death by church leaders for doubting that the Earth was a sphere in orbit around the Sun. We should actively resist this kind of error. During the Civil War, President Abraham Lincoln was struck by the extent to which both North and South claimed to have God on their side. Yet his concern was to be on God's side; he did not presume that God was on his side. Mr. Lincoln's attitude is one that ought to be ours.

People are often strong and sincere in their religious conviction, but I get uneasy when someone says that his position is religious and virtuous, and, by implication at least, that all others are irreligious and sinful. When we are engaged in public discourse on such difficult issues, there is a special need for us to behave with added civility and restraint. While I am aware that there are Christians and Jews who take positions on many issues, I wonder whether we can identify the Christian or Jewish position on most issués.

This is not to single out religious groups for special criticism. Intolerance is unhealthy in the political arena, no matter what the source, be it a religious person, a member of an extremist political organization, or a college student who shouts down speakers on campus. Religious intolerance has no more place or future in our democracy than did political intolerance in the 1950's.

There are special problems with intolerance in a democracy. First, it cuts off all debate at the beginning, as we attempt to make governing decisions prior to the participatory process rather than through that process. Second, it is often counterproductive for the intolerant person himself. It may prompt others to respond in kind, it may lead to smoldering anger and discontent, and it may result in retribution and persecution. Third, causes are more likely to be successful, and solutions more likely to be lasting, if, instead of dogmatically insisting on having our way at every turn, we move forward by accommodating various points of view and developing consensus. With time, education, good will, and with continued freedom to criticize and discuss, we may see our principles accepted. That does not mean that we have to sacrifice our basic principles in doing so. We can still retain them, while at the same time accepting temporarily a proposal that does not satisfy all of our demands. Tolerance and accommodation are essential to a well-functioning democracy. As the American jurist Learned Hand once noted, the spirit of liberty is the spirit that is not too sure it is right.

Let me stress that I do not think that we should try to exclude someone from the political process because of his intolerance. We must not become intolerant of the intolerant. On the contrary, we should welcome them (but not their intolerance) into the political process. This involvement is especially important for religious individuals. For example, those in the Judeo-Christian tradition have been taught a concern for their fellowman and for peace among nations, important assets in the political arena. When those of us from different backgrounds leave our intolerance behind and freely debate the merits of an issue, the democratic process is invigorated by the broadened participation. The prophet Isaiah pointed to the appropriate standard of conduct when he said: "Come now, and let us reason together"●

TRADEMARK COUNTERFEITING ACT OF 1984

HON. EDWARD F. FEIGHAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1984

● Mr. FEIGHAN. Mr. Speaker, I rise today in support of the trademark counterfeit package. This bill will provide consumers with much needed protection from shoddy merchandise foisted upon an unknowing public by unscrupulous manufacturers out to make a fast buck.

I have supported this bill from the very start. As I have said many times before, the costs of counterfeiting are enormous:

In 1982, 131,000 jobs were lost to counterfeiters.

Counterfeit parts endanger consumers when put in heart pumps, cars or when they are supplied to the Defense Department.

Counterfeiters pay no Federal, State, or local taxes on their estimated $18 billion a year income. The average taxpayer is left to pick up the tab.

I support the present bill as a way to prevent continuing consumer rip-offs perpetrated by fast-buck artists, while at the same time protecting retailers from unfair trade practices. Chairman HUGHES is to be congratulated for his hard work in finding that delicate balance between competing interests in this bill.

Since this legislation permits the use of ex parte seizure orders, I must stress that the differences which were reconciled between the House and the other body leave intact the requirement that ex parte seizures may not be used except in those extremely limited circumstances where the defendant can be expected to violate a valid court order in order to secrete the allegedly counterfeit merchandise to defeat the court's jurisdiction.

I am thankful that the provisions on exclusivity have been removed. Although the present bill is silent in the area of exclusivity, common sense will tell the legal practitioner that this bill should be construed to preempt the equitable powers of the courts in the area of Lanham Act ex parte seizures. In other words, it is the intent of the Congress to set a very stringent standard for ex parte seizure in this area. The courts should not circumvent that intent by allowing ex parte seizures upon other principles of law or equity which demand a lesser standard. We did not labor for 2 years merely to provide another alternative to present ex parte seizure law.

In conclusion, I ask my colleagues to join me in supporting this legislation so that together we can bring an end to shoddy practices which threaten the lives and well-being of all Americans.●

THE CIVIL LIBERTIES ACT OF 1983—"COMPENSATE INTERNMENT SURVIVORS"

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1984

● Mr. MINETA. Mr. Speaker, I call to my colleagues' attention an article in the September 14, 1984, issue of the National Catholic Reporter by Father Robert Drinan.

As my colleagues know, Father Drinan served in this House with distinction for 10 years, representing the people of the Fourth District of Massachusetts.

In the following article, Father Drinan discusses the case for H.R. 4110, the Civil Liberties Act of 1983. This landmark legislation provides for the implementation of the recommendations of the special Commission on Wartime Relocation and Internment of Civilians. As an enthusiastic supporter of H.R. 4110, I welcome Father Drinan's comments, and call my colleagues' attention to them.

The article follows:

[From the National Catholic Reporter, Sept. 14, 1984]

COMPENSATE INTERNMENT SURVIVORS

(By Robert F. Drinan, SJ)

Does America owe something to the 60,000 survivors of the Japanese internment camps of World War II? And if so, what? A bill (H.R. 4110), filed by the Majority Leader Jim Wright and cosponsored by 103 members of Congress, answers in the affirmative and recommends $20,000 as compensation for the three and a half years during which 120,000 persons of Japanese ancestry were detained.

That figure was recommended by the Federal Commission on Wartime Relocation and Internment of Civilians, on which I served as one of the nine members. The report of that group, "Personal Justice Denied," is probably the most definitive study of one of the saddest and most shameful events in U.S. history.

The hearings on HR 4110 recently conducted by the House Judiciary committee brought out once again the story of how the Japanese on the West Coast (but not in Hawaii) were locked up without a trial and kept behind barbed wire until the war ended. The remedies in HR 4110 include a formal apology by the Congress and the president for the internment, a request that the president pardon a few dozen persons who were convicted of violating the internment procedures, the creation of a short-term trust fund to finance educational programs on civil liberties and, as mentioned, the payment to those survivors who claim it.

The advocates of this measure do not desire to have Congress pass any judgment on the constitutionality of what was done. The fact remains that President Franklin Delano Roosevelt signed the order, Congress financed the detention centers and the U.S. Supreme Court by a divided vote refused to intervene. But there exists today an overwhelming consensus that in 1942 the government overreacted, that there was little if any military justification for what was done and that the reputation of loyal and patriotic Americans of Japanese ancestry, many of them U.S. citizens, was damaged.

The case to support these conclusions was presented in a most moving way to the House Judiciary Committee by Congressman Norman Mineta (D-Calif.), who as a boy of 10 was confined to the camps for more than three years.

One of the most touching aspects of the extensive testimony taken in several cities by the U.S. Commission on the Internment of the Japanese focused on the role of religion in the camps, located in seven states. The Christian churches, despite their profound problems with congregations altered by the war, extended themselves to furnish clergy and religious literature for the camps.

Churches were created, Bibles were made available, choirs formed and even religious libraries were established. Clergy visited the sick, buried the dead, performed marriages—all under the most adverse circumstances imaginable.

Today the tiny Japanese community in the U.S. (about 400,000) is somewhat divided about pushing the case for indemnification for the survivors. Many Japanese want the humiliations they endured to be forgotten rather than exposed to the Congress and the country. It would be inspiring indeed if the churches of America would renew the friendship and love they extended to the interned Japanese from 1942 to 1945. The churches can do that by working vigorously for the enactment of H.R. 4110.●

THE FUTURE OF THE FOX LOCKS

HON. TOBY ROTH

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1984

● Mr. ROTH. Mr. Speaker, the Fox River locks of northeast Wisconsin must remain open. In the past 2 years I have come before this House on many occasions to go to bat for the locks and was successful in gaining crucial transition time. I am confident that the people of Wisconsin will reach a consensus solution which will allow for the preservation of this historic waterway and I am more than willing to support any reasonable resolution.

The history of northeast Wisconsin is the history of the Fox River. Early French explorers utilized the waterway to penetrate into the continent's interior. Later, as America grew, the Fox became the trail that was followed by settlers. With the industrial revolution, dams were built to provide power for mills and locks were constructed to assure the free flow of commerce on the "wild" Fox. The U.S. Army Corps of Engineers was called in shortly before the turn of the last century to complete the project and operate it.

Today the 17 locks between De Pere and Menasha allow for pleasure boating from Green Bay to Lake Winneba-

go for local citizens as well as visitors. The operation of the system is exactly the same today as it was nearly 100 years ago. The hand-operated system is the only one of its kind in Wisconsin and is one of very few in the entire country.

The Corps of Engineers operation is based on various historic and legal issues designated to provide free water routes for defense and commerce, defined as the moving of goods and passengers for hire. Today, though recreational boating has grown and continues to do so, commercial traffic is almost nonexistent. This is the crux of the matter, because with commerce and defense no longer key factors, the corps has declared it would no longer operate the locks.

The corps stated that they would cease operations on October 1, 1982. The Wisconsin delegation worked successfully and skillfully as a group to avoid an abrupt cut in Federal funding. In gaining additional funding for 2 years, we hoped to provide sufficient time to transfer the operation of the locks to another authority. I am disappointed that this time has produced much talk and few tangible results.

The corps will cease operating the locks on October 15 of this year. At that time the locks will be put into caretaker status, while the corps continues regulating and caring for the dams. Some have suggested there will be dire environmental consequences but the corps will still maintain the level of Lake Winnebago, the flood plains, siltation, and flows. Stagnation is unlikely since there was little flushing action through the lockages anyway.

I am encouraged that the Fox River Locks Task Force has been exploring a number of solutions. I would urge them to work quickly for a consensus solution. I believe that it is very important that if the locks are to continue operating, we should make sure that they reopen for the 1985 boating season. I would like to offer several suggestions as the task force looks for an answer.

Surely the State has the interest, organization and regional perspective to coordinate an effort to preserve this historic waterway. The policy of the New Federalism, that we have been pursuing these past few years, means not only power, but also responsibilities are returned to the States which is more adept to handle local issues. The task force recently sent an estimated budget for State operation of the locks and I would encourage the State legislators of Wisconsin to review it when they debate their fiscal plans for next year. The task force's operations budget is less than half of last year's corps' operations budget. Though this is encouraging, I would emphasize that any budget should take into consideration future major rehabilitation work.

Segregating a part of the gas tax for maritime purposes, as is currently done for snowmobilers, seems like a reasonable option. The Army Corps of Engineers proposed that the State provide operating personnel for the system, while the corps would fund the operations and training during a transitional stage. This proposal was apparently rejected, though the reason for rejection remains unclear.

A number of other options are involving the major maritime industries in an effort to secure funds and local yacht clubs in an effort to secure volunteers. User fees and the reduction of hours would seem to be a necessity. There is the option of leasing the area to the private sector. However, the idea of preserving the system as a State park remains one of the most credible suggestions.

Almost 20 years ago a fate similar to the one about to befall the Fox River system, occurred in Ohio's Muskingum River Valley. Because the river was no longer used for commerce the corps deauthorized this 11-lock system. However, the State stepped in and they now have a vital recreational park with a booming attendance. It it can be done in Ohio, it can certainly be achieved in Wisconsin. This is especially true since the State has most recently reported a surplus, unlike the Federal Government.

The idea that the Federal Government will step in with major funding should not be considered an option. With the burden that the Federal deficit has placed on the economy, the Federal Government simply is not likely to continue to bear responsibility for keeping the locks functioning, particularly since commerce is now absent on the river. The mood of the country has shifted sharply as regards Government spending. Just recently this House deauthorized over 300 water projects.

There have been suggestions that Federal legislators have simply washed their hands of the locks. This is both unfair and untrue. We have played a key role in buying time for the locks when an abrupt pullout seemed most likely. The argument that we used last year to get funds was that a year's delay would allow the groups involved to get together and work toward a solution. Unfortunately, there has been little evidence of this. A study showed that any commitment by boaters and local units of government fell far short of what is required to operate and maintain the system.

What I would like to see is the State working with the localities and the boaters and with the advice of the corps to produce a concrete solution. I believe the Fox River Locks Task Force can serve as an important vehicle in assuring that a solution is found. We at the Federal level stand ready to endorse any reasonable consensus solution that does not involve a large amount of Federal money.

When similar problems have befallen other States, they have coordinated their efforts to provide a suitable solution. I believe the crisis hour for the locks will be this winter. That is when we must set forth a plan to ensure that the locks will be opened in the spring of 1985. I have no doubt that the people of northeast Wisconsin can meet and more than match this challenge.●

CHARITABLE DEDUCTIONS TO ATHLETIC SCHOLARSHIP FUNDS

HON. NORMAN D. DICKS

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1984

● Mr. DICKS. Mr. Speaker, I'd like to draw to the attention of my colleagues a revenue ruling recently adopted by the Internal Revenue Service which could hurt colleges and universities across the country if they participate in intercollegiate athletics and solicit contributions for an athletic scholarship fund. Together with several of my colleagues from Washington State, I am introducing legislation today to repeal this revenue ruling. Let me take this opportunity to explain the ruling and its impact on athletic scholarships programs.

Many universities with competitive athletic programs support those programs in part with contributions from alumni and friends. Those contributions are tax deductible, and often carry with them the privilege of buying perferential seating at athletic events. For example, if a donor gives $300 to a university's scholarship fund program, he becomes a member of the program, and is entitled to pay an additional $120 for seats at home football games between the 40-yard lines. In most cases, these seats are only available to members of the scholarship fund program. The money raised through this program goes primarily to scholarships for student athletes.

But a Revenue Ruling recently issued by the IRS could end the tax-deductible status of these scholarship contributions. The IRS has declared that there is a value to the contribution, since without it, you cannot purchase preferred seats to home football games. Consequently, the IRS has ruled that the $300 contribution to the scholarship fund should not be tax deductible.

This decision, contained in Revenue Ruling 84-132, could have a significant adverse impact on the ability of colleges and universities to attract scholarship contributions. The result would be a reduction in the pool of financial

aid available to to help promising scholar-athletes attend college.

This Revenue Ruling strikes close to home. As a former University of Washington Husky, I know many of the members of my Rose Bowl football team received financial aid. Without those scholarships, they might not have been able to go to college. A tax deduction is a powerful incentive to support higher education. Though I'd like to believe that people would continue to make donations to our universities without the guarantee of deductibility, human nature is rarely so beneficent. Without the contributions, the type and scope of college athletics we enjoy today would not be possible.

I believe Revenue Ruling 84-132 is bad tax policy, and I am introducing legislation today to repeal it. I am joined in my effort by Congressmen FOLEY, PRITCHARD, SWIFT, CHANDLER, and MORRISON from Washington State, and I would welcome the help of any of my colleagues who would like to participate in this repeal movement.●

ANIMAL WELFARE PEOPLE ARE GAINING—THE IMPACT MOVES BEYOND ANIMALS

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1984

● Mr. LANTOS. Mr. Speaker, the movement for animal welfare is gaining momentum and important changes are taking place within the organizations that are leading the way. I welcome that progress. All too frequently we see callous examples of inhumane treatment of animals. All too frequently we find examples of wasteful and unnecessarily cruel practices in the treatment of laboratory and other animals.

The significance of concern for animal welfare, however, is important for other reasons as well. William Kahrl, in an excellent article published in the Los Angeles Times, noted that "throughout its history the animal welfare movement has always risen and fallen in tandem with a popular concern for child abuse." It has been evident to me, Mr. Speaker, that concern for animal welfare implies a greater concern for all humanity.

Since many of my colleagues may not have seen Mr. Kahrl's article, I insert it in the RECORD.

ANIMAL-RIGHTS PEOPLE ARE GAINING ON US

(By William Kahrl)

If nothing else, the animal-rights movement has given a lot of people and idea of what it must been like to be Bull Connor. Back in the 1960s, when Connor's police were turning fire hoses and vicious dogs on civil-rights demonstrators in Birmingham, Ala., one wondered how anyone could be so estranged from basic decency. These days animal-rights activists are gazing with the same puzzlement at the rest of us.

I don't think that we're really as bad as the activists imagine. The indifference that many people of good conscience display toward the cause of animal rights doesn't derive from a lack of sympathy for its objective; it's more a matter of a discomfort with its sense of priorites. Why, after all, at a time when the nuclear shadow is lengthening and the sum of human misery seems to be rising on every hand, are our elected leaders and journals of opinion spending so much time in debating the well-being of rats and mice?

At least in the past there were specific events that brought a concern for animals to the fore.

When the modern movement was born in 18th-Century England, for example, its early campaigns against bear-baiting drew strength from the popular artworks of William Hogarth, who drew a direct link between cruelty toward animals and ultimate moral decline.

Similarly, when the movement first caught fire in this country in the latter half of the 19th Century, its efforts to stop the death of 25,000 horses every year in the streets of New York gained from the contemporary enthusiasm for Darwin's theories, which had for the first time fixed mankind as a part of creation rather than its lord and master.

Even when the movement last flared into prominence in the 1950s it was responding to the sudden outpouring of federal financial support for medical research in post war America.

But there has been no corresponding recent increase in the nature of the evil that animal-rightists perceive that would explain their resurgence today.

And if the problems haven't changed, neither have the issues. Gretchen Wyler of the Fund for Animals, for example, is still working for the same causes that she has been pursuing for the past 20 years.

What has changed most noticeably is the people at the forefront of the movement. In place of the sterotypical little old lady in a flowered hat who spoke movingly of her affection for dogs and cats and who could so easily be dismissed as slighty batty, the new spokesmen for animal rights are often professionals who are trained in the very scientific disciplines whose practices they are criticizing. Rather than playing on sentimental affection, they speak the language of the Yuppies, talking confidently about the counterproductive effects of an overreliance on animal test data, and about new technological advances that they claim are making research on animals obsolete.

Instead of organizing spay clinics and local shelters, today's crusaders have set their sights on statutory change. And many of these crusaders are no longer talking about humane treatment in the laboratories; they want an outright ban on the research that currently accounts for the deaths of an estimated 80 million animals each year.

With nearly 500 animal-welfare groups operating in the country today, theirs is still less a movement than it is a concatenation. But the new activists are showing increasing sophistication at coordinating their efforts and gaining the attention of the media. They have demonstrated as well a considerable facility for capitalizing on their own differences. Every time a band of extremists trashes a university laboratory or destroys someone's research project, the mainstream animal-rights organizations appear all the more reasonable in their appeals for reform. And the most forward-thinking of their leaders are already speaking of building bridges to the environmental and nuclear movements, whose concerns for life they see as linked together in a single ethical spectrum.

But if these people are so smart, why are they focusing their fire on medical research, which seems to be the hardest case in terms of drawing public sympathy to their cause? Why not march on a cosmetics company instead, or begin liberating farm livestock, which are almost entirely unprotected under the current anticruelty laws?

The answer is that although medicine might appear to be the most unassailable of our surviving establishments, it is also peculiarly vulnerable in its dependence on continued public funding for research. The government, therefore, provides a lever for forcing reforms that might be altogether unattainable in the private sector. And, besides, universities make tempting targets—in part because they are so open to new ideas, but also because academics can usually be counted on to respond foolishly to criticism of their practices.

Both Stanford University and the University of California at Berkeley, for example, have recently lost accreditation from the private voluntary association that is responsible for monitoring the care of laboratory animals. The president of Stanford made his contribution to reasoned debate on this question by denouncing his adversaries as terrorists and vigilantes. The University of California has weighed in with a customary flurry of study committees and internal investigative commissions, as well as a public-relations film showing faculty members dutifully petting their intended victims while they talk about the importance of their research projects. Academic vanity being what it is, fully half the film's 14-minute running time is devoted to listing every member of the departments involved.

Our distinguished representatives in the California Assembly still open every debate on an animal-welfare bill with a chorus of meows and barks. Some traditions die hard. But throughout its history the animal-welfare movement has always risen and fallen in tandem with a popular concern for child abuse. And, judging by the political attention that both issues are receiving today, this, too, is a tradition that retains all of its potency for effecting the kind of long-term changes that the Bull Connors among us might consider unimaginable.●

TRIBUTE TO JOHN N. ERLENBORN

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 1, 1984

● Mr. GOODLING. Mr. Speaker, I would like to take some time to say a few words of praise and thanks to the Republican leader of our Education and Labor Committee. It is well known that no pension legislation could ever have left this body without the imprint of JOHN N. ERLENBORN. His contributions to ERISA cannot be measured in ordinary terms—I would be

safe to say that few people in this world have such a mastery of this detailed and complex legislation.

Beyond the particular speciality JOHN has in the pension area, his abilities and knowledge on all issues under the jurisdiction of the Committee on Education and Labor are well known and respected. For example, he has been a national figure in the development of the Higher Education Act. When JOHN speaks on higher education, his colleagues listen.

He is a man of strong convictions, personal courage, and possesses rare leadership qualities that will be sorely missed by those of us who are accustomed to his efforts in Congress—our loss will be the private sector's gain.

I wish JOHN good luck—even though I know he really won't need it—he is a born winner.●

TERRORISM SHOULD NOT BE A POLITICAL FOOTBALL

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1984

● Mr. BROOMFIELD. Mr. Speaker, terrorist attacks on American Embassies overseas should not become a political football. It is morally wrong to turn a tragedy into a political issue and try to make points with the American voter. Already, our President has willingly taken the blame for the recent tragedy in Beirut.

We all know that terrorism is a growing worldwide threat. Our Government over the years has spent millions of dollars to improve the security of our overseas facilities. Ballistic materials have been developed, additional security personnel have been assigned overseas, and international cooperation to combat terrorism has been formalized to a great degree.

We must never forget that an American diplomatic facility overseas is there to do business with the host government. Because of this need to interact with hundreds of people every day and provide them access, a certain amount of exposure to the public is necessary. All along, we have tried to have good security without making our overseas facilities look like fortresses.

As terrorists improve their techniques for attacking our Embassies, we may want to take a fortress approach to our overseas missions. This new approach should be carefully studied by our Department of State and a formal recommendation made to the President if a change in this direction is deemed necessary.

Pointing the finger of blame at any President is foolish. Making political hay out of a disaster is an insult to those who have given their lives serving our Nation overseas in Lebanon. Should a major change in our approach to securing American Embassies be needed, we should make this decision as a nation and not in the heat of a political battle.

Let me recommend the following article from the Atlanta Journal to all of my colleagues in the House on this timely and important subject. The article gives food for thought to all of us.

[From the Atlanta Journal, Tuesday, Oct. 2, 1984]

BEIRUT BOMBING

(By Durwood McAlister)

Embassy Safety Should Not Be Political Issue—The vulnerability of U.S. embassies around the world is the natural outgrowth of a calculated policy which has been followed by every president in modern history. That policy dictates that our embassies abroad should reflect the open nature of American society. It may be that the time has come to rethink that policy. The increasing use of suicidal bombings as a weapon by fanatical terrorists may leave us no alternative. But such a decision should not be made in an atmosphere of finger-pointing and blame-laying, nor should it become a factor in a political campaign. Unless and until the United States is prepared to withdraw completely from countries like Lebanon, it is pointless to argue about the effectiveness of "assertive leadership." And Walter Mondale knows that.●

RETIREMENT OF HON. LARRY WINN, JR.

HON. F. JAMES SENSENBRENNER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 2, 1984

● Mr. SENSENBRENNER. Mr. Speaker, I wish to join my colleagues in honoring LARRY WINN, who has announced his retirement, after 18 years in the Congress. The citizens of the Third Congressional District in Kansas could not have been better represented than through the service rendered by LARRY. I know that I speak for my colleagues when I say that this body will be the lesser when he retires.

As a member of the Science and Technology Committee, I have served with LARRY during the past two Congresses. During this period, LARRY's guidance in shepherding the administration's efforts to control the growth in the Federal budget and to develop realistic research programs were extremely valuable. In this regard, his efforts to insure that scientific research projects and facilities are awarded on their merits, rather than on the strength of their political clout, is appreciated by all Americans, particularly those new inventive researchers.

The qualities of a person are not measured by the tangible rewards bestowed upon him or the temporal victories he achieves, but rather by the intangible rewards that cannot be purchased, such as friendship, and respect. In this regard, LARRY, leaving with the deepest respect of his peers and their sincere friendship, is rich beyond measure. I am happy to have had the privilege to have served with him and look forward to continuing our friendship.●

IN MEMORIAM TO THE HONORABLE PATSY C. GATTO OF PASSAIC, NJ, DISTINGUISHED CITIZEN, COMMUNITY LEADER, AND GREAT AMERICAN

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1984

● Mr. ROE. Mr. Speaker, the people of the city of Passaic, my Eighth Congressional District and State of New Jersey deeply mourn the passing of one of our finest citizens, exemplary neighbor, and good friend, the Honorable Patsy C. Gatto of Passaic, NJ, who went to his eternal rest on July 5, 1984. I know that you and our colleagues here in the Congress will want to join with me in extending our most sincere condolences and profound sympathy to his wife, the former Carmela Colombo; daughters, Mrs. Christine Kubas and Mrs. Harold (Lucy) Guenther; son, Angelo A. Gatto; and grandson, Brian Patrick Kubas.

In memoriam to his lifetime of dedication and devotion to the public good, I am privileged and honored to seek this national recognition of his many achievements in his quest to accommodate the needs of our people and provide a better way of life for his fellowman.

Mr. Speaker, Patsy Gatto was a champion of the people with the deepest of compassion, benevolence, unselfishness and willingness to help others, young and adults alike, and particularly those in need. He was always a major bulwark of strength in the Democratic Party from his early days in its organizational structure. In the early 1950's he became active in the Democratic Party in Passaic and worked tirelessly in his dedication toward helping candidates who aspired to public office on every level in the Democratic Party organization. He was honored by his colleagues with the highly coveted award of "Democrat of the Year," District 36, in 1981. At the time of his passing, he had served as Passaic County Committeeman for 10 years and was the third ward leader in Passaic.

Patsy Gatto, son of Angelo J. Gatto and Lucy Badami Gatto, was born on September 8, 1921 in Lodi, NJ. He was educated in New Jersey schools located in Garfield and Wallington and

subsequent to high school attended auto mechanics school for 2 years where he attained knowledge, training and expertise in a profession that served him well in his career pursuits. Before enlisting in the U.S. Navy he worked at Bendix Airport, Bendix, NJ, as an aircraft engine mechanic for a few years.

Mr. Speaker, Mr. Gatto served our people and our country with distinction. On July 15, 1942, he enlisted in the U.S. Navy. He received his boot training at Camp Endicott, Davisville, RI, as a "Sea Bee" in the 28th Construction Battalion. After serving at several stations, that is, NRS N.Y.C., NCTC Norfolk, VA; RS Pier 92, N.Y.C.; and PSC Lido Beach, Long Island, NY, he was sent to Keykavik, Iceland for 15 months where he served with the 28th Construction Battalion. He was honorably discharged on November 1, 1945.

In his career pursuits, Mr. Gatto was Vice President of Tractor Supply Corp. and New Jersey Heavy Haulage, Wallington, NJ, from 1950 to 1956. He then joined the firm of Ionic Electrostatic, Garfield, NJ, until 1965. For the next decade, until 1975, he was associated with, and became president of Selectrostatic Corp., a highly specialized manufacturer or electrostatic spray painting equipment. Mr. Gatto served the Passaic Valley Sewerage Commission as a mechanic in May 1975 and was promoted to operator on August 30, 1978.

Mr. Speaker, Patsy Gallo was a staunch supporter and active participant in many civic and community improvement programs and always applied the highest standards of excellence in everything he set out to do. His passing is a great loss to all of us. I know I will never forget the warmth of his friendship and goodwill and am proud to have been numbered amongst his many, many friends. He was indeed a distinguished citizen, community leader and great American. I am sure that you and our colleagues here in the Congress will want to join with me in a moment of silent prayer to his memory and extend our heartfelt sympathy to his wife and family. I trust that they will soon find abiding comfort in the faith that God has given them and in the knowledge that our beloved Patsy Gatto is now under his eternal care. May he rest in peace.●

THE WALL THAT BROUGHT US TOGETHER

HON. DUNCAN HUNTER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1984

● Mr. HUNTER. Mr. Speaker, I recently sponsored an appreciation dinner for Vietnam veterans in Lakeside, CA. This event was held to honor those who served this country so bravely and selflessly in Vietnam. Perhaps the most moving moment of the evening was the reading of a poem saluting those who served and the Vietnam Veterans Memorial which honors those men and women who did not return. The poet, Mr. Robert Fleetwood of San Diego, himself a Vietnam veteran, read his work to the more than 800 present at the dinner and I believe it expressed the feelings of all Vietnam veterans. I am pleased to share this work with my colleagues today.

THE WALL THAT BROUGHT US TOGETHER

As the sun breaks the morning horizon, in a place called Washington, D.C.
Its rays in their searching now greet for all time, a new part of history
On a long black granite wall are the names of those who gave their lives in Vietnam
The suffering is over for the Americans on that wall, for them all is peaceful and calm
Throughout the world, in graves both marked and unmarked, they lie beneath the stars
Their souls are at rest with their God or belief, and we miss them, for they were ours
They were husbands and fathers, daughters and sons, brothers, sweethearts and friends
Rest assured, fallen heroes, you'll never be forgotten, for a memory of love never ends
For too many years Vietnam veterans went unhonored, both the dead and those still living
Asking only to be remembered and understood, for it was they who had done all the giving
They had known the pain and hardships of war, they had given their blood and their youth
But as always, the gristmill of time moved too slowly, before grinding out the truth
There's no real victory in battle, only memories, for the living and of those who died
Each paid a price in one way or another, but for the living to live, one needs pride
Not the medals, the speeches, the bonuses, the parades and all the rest
Just a welcome home, soldier, sailor, airman or marine, we all know you did your best
After long long years of peace, the survivors now pay homage at their wall
Alone or with loved ones, their hearts beat as one, as they read the honored roll call
The names stir up memories, some terrible, some good, of a time in a troubled land
Some trace their fingers on carved letters of names, as if they are shaking a hand
Some will tell stories to all who will listen, of the Americans who live on that wall
Others will pray that their sons and daughters, will never again need to answer war's call
In years yet ahead, more veterans will come, and leave with their hearts and minds calm
Proud to have known someone on that wall, and proud to have served in Vietnam
It's the wall that brought us together, from a separation too many knew
On that wall are the names of our loved ones, making their sacrifice ring true
Making each of us feel humble, whether we supported them, protested or fought
Letting each precious name on that wall, know it was not all for naught
Letting all the world know we remember, letting all the world know we care
Giving to every American, a special new place for prayer
May that silent wall shout out for peace, as we all should now and forever
For while most walls keep people apart, it's the wall that brought us together●

HON. LARRY WINN, JR.

HON. JOHN P. HAMMERSCHMIDT

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 2, 1984

● Mr. HAMMERSCHMIDT. Mr. Speaker, our friend and colleague, LARRY WINN, has represented the Third District of Kansas in the House of Representatives with dedication and success for the past 18 years. He will be sorely missed when he retires from Congress at the end of this session.

LARRY and I came to Washington together, both of us having been first elected to the 90th Congress. Together we learned the intricacies of the legislative process.

As the ranking member on the Science and Technology Committee, LARRY has been directly involved with U.S. space policy. He is a strong supporter of expanding space programs in order to meet the challenges that our country faces. In particular, he has focused his efforts on NASA research grants and contracts, and was instrumental in helping NASA get its Space Technology Center.

LARRY's deep concern for the citizens of Kansas is evidenced by his initiative in the area of severe storms research. He has been a moving force in improving the effectiveness and quality of storm warnings, as well as in making great progress in research that may someday mitigate the effects of such storms. Tornadoes, severe thunderstorms, and flash floods take many lives and cause millions of dollars in damages each year in many States, including Kansas.

Yet his impressive accomplishments are not limited only to the scientific arena. LARRY is also the second ranking member of the Foreign Affairs Committee, and the ranking member of the Subcommittee on Europe and the Middle East. In this area, he has encouraged the integration of women into our foreign assistance programs through Agency for International Development technical training programs directed toward women, and has been

a leader in evaluating the effectiveness of various foreign aid projects.

LARRY was also selected by the President to serve as a member of the U.S. delegation to the United Nations in 1979, and has been a member of the U.S. delegation to the United States-Canada Interparliamentary Meetings since the 93d Congress. He is also the ranking member of the U.S. delegation to the European Parliamentarians meeting.

Throughout the nine terms LARRY and I have served together, he has been a strong and determined legislator as well as a very good friend. His untiring efforts in behalf of the people of the Third District of Kansas and this Nation epitomize the best spirit of ability, cooperation, and concern in this Congress. I wish him and his family only the best in whatever the future holds.●

TRIBUTE TO LARRY WINN

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 2, 1984

● Mr. BEREUTER. Mr. Speaker, this Member is pleased to join with his colleagues in tribute to the gentleman from Kansas, LARRY WINN. The people of the Third District of Kansas have indeed been very fortunate to have a man of such high caliber representing them in the U.S. House of Representatives.

LARRY WINN has earned the respect and admiration of his colleagues on both sides of the aisle. His work on the Foreign Affairs Committee and on the Committee on Science and Technology has been characterized by energy and dedication.

He has been an outstanding advocate and legisator for his district and for the State of Kansas. He has been reelected eight times since first coming to the House of Representatives in 1966. That fact clearly reflects the confidence his constituents have had in his abilities, judgment, and his hard work.

His record makes clear his determination to stand and act firmly on his convictions. The gentleman from Kansas has consistently sought to vote and act for the people's best interest, and his absence from Congress will be a significant loss to the people of Kansas and the United States.

The gentleman from Kansas, our colleague, LARRY WINN, can retire with the full satisfaction of having done his duty for his district, his State, and his country. We shall miss him, but we know that his years of outstanding service to his country and State will continue in other ways.●

A TRIBUTE TO TOM CORCORAN

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 1, 1984

● Mr. PORTER. Mr. Speaker, the departure of TOM CORCORAN, my colleague from Illinois, will be a grave loss to the people of Illinois and our Nation.

TOM and his lovely wife Helenmarie, have been the special friends in our Illinois delegation of Kathryn and me, and, we are delighted that, at least for now, they will remain in Washington.

TOM carved out early a field of important expertise—energy—and it has been his views that have largely influenced the members on our side of the aisle in energy matters. I would frequently ask TOM his opinions on energy matters coming before us for a vote because of his deep knowledge and full understanding of this very complex public policy area.

TOM was a special influence on me before I came to Congress and has greatly influenced the direction of my own policy interests. I remember meeting with TOM at the O'Hare Hilton one night to gain his insights on congressional service. Among many thoughts, he described to me how he was able to help some people in this district who had relatives in the Jewish community in the Soviet Union who wanted to emigrate to Israel or to the United States. He indicated there would probably be constituents in my new district who would have the same need for their relatives trapped in Soviet oppression.

When I began my service, I quickly found that he was right. In 1982 I went to the Soviet Union to help and give hope to refuseniks and on my return founded the congressional human rights caucus. The caucus, which I cochair on a bipartisan basis with TOM LANTOS of California, is now 210 members strong—the second largest of all congressional caucuses—and addresses individual human rights problems worldwide. In a very real sense, all this has evolved out of that first conversation with TOM CORCORAN, and I will always be grateful to him for it.

Kathryn and I wish TOM and Helenmarie success and happiness in all that they undertake. The legacy of leadership and commitment that TOM CORCORAN leaves in the Congress is a great and inspiring one.●

TRIBUTE TO LARRY WINN, JR.

HON. BOB LIVINGSTON

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 2, 1984

● Mr. LIVINGTON. Mr. Speaker, I'm truly proud to join with my colleague, DAN GLICKMAN, to pay a well-deserved tribute to our good friend and colleagues, LARRY WINN. I have been fortunate to have served with LARRY over these last 7 years, less than half of his very successful career in the House of Representatives.

In that time, I have come to recognize the quiet competence with which he has managed his legislative responsibilities. He is the type of Congressman in whom his constituents could always be proudly confident that he would represent their interest with diligence and expertise.

His expertise was well grounded. As a radioman, an aviator, a veteran community servant with the Red Cross, and a national director of the National Association of Home Builders for 14 years, LARRY brought to the Congress a wealth of knowledge and intuitive skills. He molded them into his service as one of the most able, hard-working members of the Committee on Science and Technology, on which he has served as ranking minority member for the last 4 years.

There he has fostered and nurtured the growth and development of our country's space program by enveloping technological innovation within the most future oriented bureaucracy of all time, the National Aeronautics and Space Administration. His concern for building America's technological base has made him one of our foremost supporters of innovative energy production, and in a more parochial sense, caused him to shape the research capacity of his alma mater, Kansas University.

As the second ranking minority member of the Foreign Affairs Committee, LARRY will be sorely missed, for he is a strong believer in an effective U.S. intelligence network as an integral part of a comprehensive foreign policy. Armed with his strong conviction on behalf of economic and military support for our friends and allies throughout the world, LARRY was one of the prime supporters of a realistic application of America's strength in defense of peace and freedom throughout the world.

A fiscal conservative, LARRY has suffered no delusions about the capabilities, and the limitations, of government. Instead, his quiet, thoughtful approach to his tasks as a Congressman has always tended to enhance the process in which we are all encumbered.

He has been the ideal—and ideals are never replaced—they are only missed.

We wish LARRY WINN, his lovely wife, Joan, and their children much happiness in the wake of his retirement.●

DANNY LAWSON EXEMPLIFIES BEST IN FREE ENTERPRISE

HON. MICKEY LELAND

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1984

● Mr. LELAND. Mr. Speaker, the emergence of minorities in the economic arena of growth merits citation of those individuals who have attained personal success as well as being strong contributing forces in society.

A recent article published in the Houston Post outlines the many accomplishments of one such entrepreneur from my home district of Houston, TX, Mr. Danny Lawson.

Danny Lawson exemplifies the businessman on the rise. After a brief career in professional football, Danny Lawson worked for a few private companies, as well as the city of Houston, before embarking on the formation of the Lawson National Distributing Co.

In 1979, with $10,000 he borrowed from his mother, Danny formed his company with the dream of becoming the major bus supplier in the country. In just 5 short years, Lawson National Distributing Co. has secured contracts worth $110 million. Danny Lawson is currently negotiating a $140 million contract with the Chicago Transit Co.

Danny Lawson hopes to employ 10,000 people in four plants by the year 2000. I think Danny Lawson's rise to the top is one worth watching. I urge all my colleagues to read the following article.

[From the Houston Post, Oct. 1, 1984]

BUS SUPPLIER SAYS AGREEMENT NEARLY CINCHES HIS DOMINANCE

(By Jerry Laws)

Houstonian Danny Lawson has landed contracts worth $110 million in just five years as a bus supplier to major U.S. cities.

Practically bouncing with excitement, Lawson says his newest catch is a national marketing agreement that positions his company to dominate the industry.

The agreement gives Lawson National Distributing Co. exclusive rights to sell buses produced by M.A.N. Truck & Bus Corp. of Charlotte, N.C., to urban transit systems.

With 1,200 articulated buses rolling on America's streets, M.A.N. is the top U.S. supplier of the $240,000 bendable bus. The German-affiliated firm will unveil its new 40-foot bus, the standard size for most transit systems, this week in Washington.

Lawson, 38, says he's determined to "Lawsonize the country."

"We want to be the largest business that employs black Americans across this country . . . To employ people, you must have marketplaces where you can control all of the products that are coming in," he says.

"And we've been able to do that in a number of major cities across this country—Chicago, Los Angeles, New Orleans, San Francisco, Birmingham, Detroit. All of these cities, they're not buying any transit vehicle unless it comes from Lawson National Distributing Co."

Adding M.A.N. fulfilled Lawson's "department store" concept: a single company assembling, servicing and marketing transit vehicles of all types, from midsize buses to heavy rail cars.

Two years ago, 13 people worked for Lawson National Distributing Co. The staff has grown to 89 and Lawson predicts that 200 will be working by the end of 1985 in his Chicago plant alone.

Gross sales are in the range of $15 million annually, he says.

Like the M.A.N. agreement, dedication of the Chicago bus assembly plant last April showed that the company has joined the economic mainstream, Lawson says. A $140 million contract with the Chicago Transit Authority is in negotiation now, he says.

The Chicago plant is too small for rail car assembly, however, so Lawson is searching for a suitable site.

Lawson envisions having four plants, employing as many as 10,000 people, in the year 2000.

Buses symbolize his road to that goal.

"When I went to school in Louisville, Ky., the only real vestige of racism that I can remember happened on that bus. I had to ride in the back, the bus driver had a gun, he would call me a nigger. The only time in Louisville that I heard that word was from a bus driver. So I had a real bad experience on the bus," he says.

"That has changed. We've gone from those bad experiences to where we've integrated. Now, most of the bus drivers across this country are black, most of the riders in urban areas are black. And now, we want to change all that into a viability, an economic viability."

Lawson attended Oklahoma State University on a football scholarship and was graduated with a bachelor's degree in marketing. After a short career in professional football, he returned to Oklahoma State and received a master's degree in business administration.

Jobs with Foley's, Gulf Oil Corp. and the city of Houston followed. Lawson was assistant transit administrator for the city in the pre-Metro days, a vantage point from which he discovered the usefulness of midsize buses in downtowns.

With that knowledge, and $10,000 borrowed from his mother, Lawson started his company in 1979.

He says he has no plans to develop a transit vehicle of his own.

"We don't want to reinvent the wheel. We basically want the wheel to turn for us," Lawson says. "We want to become the Sears, Roebuck (of transit)."

Lawson has not managed to crack the market at home, with Houston's Metropolitan Transit Authority. With the M.A.N. pact, Lawson believes his company has the products, and the enticement of an assembly plant planned for somewhere in the Sunbelt, to end the drought.

Chicago wooed Lawson with industrial revenue bonds and grants to train its workers. Whatever city gets the southern plant must offer a similarly attractive environment, he says.

"I would think Houston has a leg up on everybody else" because of its aggressive transit plan and its need for a large number of buses," he says.●

TRIBUTE TO HON. LARRY WINN, JR.

HON. DON FUQUA

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 2, 1984

● Mr. FUQUA. Mr. Speaker, I rise today to say a few words in tribute to a fine man who has been an outstanding Member of the House of Representatives. I am referring, of course, to Representative LARRY WINN from the Third District of Kansas.

Larry has made us all sad by announcing his retirement at the end of this Congress, having represented this district in outstanding fashion for the 18 years since his election in 1966.

We have been good friends and our wives also. We have spent many hours together over the years in connection with our congressional duties and socially. His departure will leave a big void.

I have worked with LARRY WINN on the Committee on Science and Technology, and that has indeed been a very rewarding experience.

When I sat down to prepare these remarks, of course I had a very warm feeling about LARRY WINN, but I decided to refresh my memory by going back to a history book to get some specifics. I picked up the history of the Committee on Science and Technology—called Toward the Endless Frontier—a history of the committee from 1959 to 1979 that was written by Ken Heckler, a professional historian and, as you all know, a former Member of this House and of our committee.

I skimmed through the pages of that book and it reminded me once again of what a remarkable man LARRY WINN is.

Although LARRY WINN stands out in this history of the committee, I can't help remarking that he was very much opposed to its preparation, feeling that it would be something of a "puff piece." Well, I'm glad that we have this book, because it does help us remember the great accomplishments, and the specific qualities of Members like LARRY WINN.

This may be one of the few worthwhile things that LARRY opposed in his career in Congress.

The history shows LARRY WINN to be a man of strong and thoughtful conservative principles. You always knew where he stood on any issue. At the same time, he was a man with a very open and progressive mind. He was willing to push for things that he believed in, even if they were unpopular.

I am reminded of the weather modification legislation that he and GEORGE BROWN, sponsored. That bill was opposed by the administration, but LARRY WINN downplayed their op-

position, appropriately saying that it was "picked out of thin air."

LARRY quickly realized the value that space technology could create on Earth. As a result, he was a strong supporter of activities whereby NASA would use space technology for use here on Earth.

LARRY'S support of the NASA technology utilization program shows that he understood very well what needs to be done to get broader use of space technology.

LARRY WINN has always supported research and development in the area of weather prediction, especially severe storms. A great deal of this work, of course, involves the use of satellites and this was perhaps one of the reasons that LARRY always appreciated and worked hard for the NASA space applications budget.

Although he was a fiscal conservative at heart, LARRY WINN was able to see when money needed to be added to a budget request. In 1967, he was a supporter of an increase in NASA's sustaining university program, because he realized that it was important to the future of the space program and to the Nation. He said on the floor of the House:

I want to go on record as supporting the committee recommendation concerning the sustaining university program. Although I am usually one of the first to vote for cuts in our Government spending programs, I do think that we ought to take a good look at our space efforts for the future * * * This is an important long-range program which is badly needed to protect the billions of dollars we are pouring into the space effort. We must maintain the equilibrium of NASA by urging them to further promote research and the training of space-educated young men and young women from the outstanding universities of our Nation."

LARRY WINN always kept an open mind. He would take a position, but then he would keep listening to the arguments and new thoughts that were brought before him. In 1973, when we were considering the Apollo-Soyuz program, Chairman Olin Teague and LARRY WINN were both initially opposed to it. However, as more facts came to light, Congressman WINN softened his position. On March 7, he said:

I think both Chairman Teague and I are proceeding with caution on some things because we are of the opinion that it may be a one-sided deal where they are basically picking our brains, but the more of the hearings I read and also some of the earlier comments by Dale Myers, I am beginning to alter my thinking in that field. I think maybe we are benefitting in more ways than I thought we were going to.

LARRY WINN has supported the shuttle program from the beginning, demonstrating once again his foresight. In 1970, he was one of the several committee Republicans that supported Tiger Teague in the first floor vote on the shuttle program. And he was consistent. In 1978, he supported procurement of a fifth shuttle orbiter, calling the decision to delay the procurement "depressing."

WINN added his support to a move to add money to the 1979 NASA authorization in order to restore the fifth space shuttle orbiter to NASA's program.

I've tried to give you a few examples, substantive examples, of why we are going to miss LARRY WINN, a man that always understood the programs that he had to vote on and voted for what he thought was right. Another reason that we are going to miss him is that he had a very down-to-earth way of expressing himself so that you always knew where he stood.

He was a space enthusiast and he didn't have very much patience with those that were not. One time, he addressed two high administration officials in a hearing as follows:

I don't quite know how to say this without sounding rude, and I don't mean it that way, but most of us on this committee are really excited about the space program and about our accomplishments. After listening to the testimony of you two gentlemen, you leave us very bored.

Another time, at a set of hearings on a program that seemed to be going nowhere, he compared the situation to what happens when you throw a football to a bunch of kids that have never seen a football game:

* * * They do not know whether you kick it, eat it, sit on it. I think we may be doing that and thinking we may be helping * * *

At one point in his career, LARRY was on our subcommittee dealing with environmental research and EPA. For the most part, he supported EPA's research programs because he recognized the need of that Agency to gain a better understanding of what was going on.

At the same time, he was somewhat less supportive of EPA's regulatory programs. On the floor of the House on April 19, 1977, when the EPA research bill was under consideration, Mr. WINN said:

I believe it is essential that EPA personnel actually roll up their sleeves and get their hands dirty with environmental technology. Before they seek to compel the private sector to implement technical systems of doubtful merit. To put it in the Carteresque dialect, the EPA should not force others to do something which it cannot do itself. I certainly endorse President Carter's statement that agency heads should personally read all regulations promulgated by their organizations. If that practice were followed, it would be a major step forward in reducing the double-talk in bureaucratic Washington.

We are going to miss LARRY WINN. Probably we will miss him a lot more than he will miss us.

I want to close by wishing him and his family the best of luck as he starts another career after the House of Representatives.

Mr. Speaker, thank you very much.●

JOHN N. ERLENBORN

HON. FRANK HORTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 1, 1984

● Mr. HORTON. Mr. Speaker, I rise with a heavy heart to honor JOHN ERLENBORN on the occasion of his retirement from the Congress.

Of course, we always wish the best to Members who leave the Hill. I wish the best to JOHN, too, and I know that with his outstanding talents, he will find it.

The best for JOHN, however, is not the best for either this House or the people of this Nation. JOHN is one Member who will be sorely missed.

For the past 20 years, JOHN ERLENBORN and I have served together on the Government Operations Committee. For the last 16 of those years, we have sat next to each other and worked closely together on legislation, reorganizations, and investigations. We have lived near each other in the Washington suburbs, as well, and my wife Nancy and I have had occasion to get to know JOHN and his wife Dodie socially.

JOHN and I haven't always agreed on issues. In fact, on two of the most strenuously fought measures we have considered on the Government Operations Committee, creation of a Consumer Protection Agency and establishment of the Department of Education, we found ourselves on opposite sides.

No matter whether we agreed or not, though, I have never wavered in my judgment of the man. After all these years, I can say without qualification that I have no higher regard for anyone as a legislator and friend.

What makes JOHN ERLENBORN such a magnificent Congressman? He has an incisive mind that cuts to the heart of every issue and constructs solutions which embody his conception of what is best for the people. He is a skillful strategist and tactician, consistently devising outstanding means of accomplishing his objectives. He is a fine coalition builder, willing to work with persons of all viewpoints to put together a majority. And he is a superb orator, able to explain extemporaneously why people should support his point of view.

But those are not the only qualities which make me respect JOHN so highly. He is also among the most decent and honorable men ever to serve in this House. He always carries himself with grace, never gloating over victory or expressing anger over defeat. When he gives his word, you can count on it. JOHN ERLENBORN is a true gentleman, in every sense of the word.

Mr. Speaker, I will miss JOHN ERLENBORN as a colleague and friend. The people will miss the great contribution he has made to the House of Representatives over the past 20 years.●

SMALL BUSINESS CONSUMED INCOME TAX ACT OF 1984

HON. HAROLD E. FORD

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1984

● Mr. FORD of Tennessee. Mr. Speaker, today I introduced the Small Business Consumed Income Tax Act of 1984. This act would reform Federal income taxes imposed on small business corporations. Under the act, small companies could elect to operate for a 10-year period under a new subchapter of the Internal Revenue Code, subchapter W. These companies would be exempt from the corporate income tax for 10 years. In that time, however, a small company's shareholders would be taxed at individual rates when the income is distributed to them or invested in nonbusiness assets.

Mr. Speaker, this consumed income tax system would allow small companies to use vitally needed capital to finance new employees, expansion, and growth. So long as a qualifying company invests its income in its own operations, no tax would be imposed. When the company no longer needs the income, and either distributes it to shareholders or invests it in nonbusiness assets, the income would be taxed. But it would be taxed to shareholders, at individual rates.

Mr. Speaker, the act would have the immediate effect of allowing small companies, which traditionally have a very difficult time raising capital, to finance their operations and expansion. It would put these companies on a stronger financial footing, and would allow them to contribute yet more to the national economy.

And those contributions are significant. In 1981 and 1982 alone, small companies created more than 2.6 million new jobs. Large companies lost 1.6 million jobs in the same period. In the decade of the 1970's small companies created more than 20 million jobs. A stronger small business community would result in increased job creation. In addition, small companies contribute 24 times more technological innovations per dollar spent than large companies. A stronger small business community would result in a stronger, more vigorous, and more prosperous national economy.

I believe that small business has great potential to redress unemployment problems. Small business can, if allowed to, help with job expansion. Small business, if given the means to expand, can help with unemployment and underemployment. Thus I view this effort as not just help to small business owners but rather also a way to help put our citizens back to work.

Mr. Speaker, in developing this legislation I benefitted greatly from the assistance of a diverse group of tax experts, small business leaders, economists, and individual small businessmen. These groups communicated to me burdens small businesses face in raising and retaining capital, and in meeting the tax requirements now imposed on them.

An overwhelming concern of small businesses, Mr. Speaker, is capital. Institutional equity capital for small businesses is generally unavailable. Most small businesses must borrow to finance operations, usually at interest rates much higher than those charged to large companies. They are also prey to fluctuating interest rates, which hit them especially hard during recessionary times, when they can least afford the additional interest costs. Tax relief that makes small companies less dependent on borrowed capital would be of overwhelming importance and value to small business.

In addition, Mr. Speaker, small companies shoulder a considerable relative tax burden. They receive only a 2.8-percent reduction from the recent tax cuts. And many small companies, especially those in the service sector, cannot take advantage of many tax deductions availabe to capital-intensive large companies. This tax burden does not merely threaten small companies' profit margins; in many cases it threatens their very profitability. Many companies must borrow to meet their tax requirements, setting off a spiral of borrowing and taxing that drains their life blood, and contributes to small companies' disproportionately high failure rate.

Small businesses are a major force in the Nation's economic growth. This vital economic segment accounts for the majority of job creation and technical innovation. I believe that it is absolutely essential that the small business community have a seat at the table when basic tax reform is considered in the 99th Congress.

Mr. Speaker, in the conferences with the small business leaders I learned that their aim is not to avoid paying taxes. Small businesses are an integral part of their communities, and willingly contribute their fair share to Government and the community. They ask only to be given a chance. A chance to nurture their companies to stability and profitability. But, Mr. Speaker, what kind of chance do small companies have when close to 40 percent of their profits are taken immediately in Federal taxes?

Many small business owners willingly reinvest their profits into the companies to finance their operation. We ask only that the Federal Government, a partner in their businesses, defer collecting its share of profits until the owner collects his. When the owner reinvests his share in the company, so should the Government. But when the owner takes his profits as dividends, or invests the company's income in nonbusiness assets, then the Government properly collects its share. This is the crux of the proposal, Mr. Speaker, to make the Federal Government a rational partner in small business by having it reinvest its profits in the company when the other shareholders do, and share in the profits when the company no longer needs the income.

In addition I conducted two conferences of business experts to discuss small business needs, and the best ways to meet those needs. In a conference in Los Angeles in July, and in Washington in September, these business experts examined the proposed legislation, and made valuable suggestions for making the legislation as effective as possible. I am grateful for their assistance, and wish to acknowledge their important role in developing legislation to relieve the tax burden on small business.

I believe this bill will make an important contribution to small businesses by providing long-overdue tax reform and alleviating their capital formation problems. With major tax reform likely during the next Congress, it is crucial for small business to obtain a seat at the tax reform table now. So it is especially important to introduce the bill this term, to generate Member and public awareness and support for it before the new Congress convenes.

Mr. Speaker, I call upon my colleagues in the House, and upon the business community, to support the Small Business Consumed Income Tax Act of 1984, and to work for the much-needed reform of Federal taxes on small business corporations when we return in 1985.

Finally, Mr. Speaker, I invite the comments and suggestions of small business persons and groups as well as others interested in basic tax reform. I am not wed to the numbers or the definitions in this bill. They are subject to change based on revenue projections, job creation projections, and the comments I receive over the adjournment. So I urge my colleagues to review the legislation, discuss it with your small business constituents and let me know your opinions.●

TRIBUTE TO CHIEF JUSTICE JOHN A. SPEZIALE

HON. NANCY L. JOHNSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1984

● Mrs. JOHNSON. Mr. Speaker, I wish to pay tribute to Chief Justice John A. Speziale who is retiring from the Connecticut Supreme Court on November 21, 1984, his 62d birthday. It is with abiding and sincere respect that I recognize the outstanding career of the Connecticut Chief Justice.

I have long respected Chief Justice Speziale as a man of integrity, dedication, and action. As a public official of high caliber and accomplishment, his leadership will be sorely missed.

Chief Justice Speziale consistently demonstrated a dedication to preserving and promoting the constitutional rights of all individuals. He possesses what is a rare quality in a public official—the ability to successfully integrate and satisfy the needs of the people and the efficiency of the system.

I especially admire Chief Justice Speziale's innovative and responsible approach to court functions and court reform. I laud his inexhaustible energy and commend his achievements.

During his 3-year term, Chief Justice Speziale was successful in making the Connecticut court structure more effective, increasing judicial pay, implementing judicial evaluation, reducing case backlogs and introducing a constitutional amendment to disconnect prosecutors from the judicial branch.

With Chief Justice Speziale's guidance and creativity, dramatic progress was made in addressing the caseload problem in the Connecticut courts. The chief justice implemented truly innovative and unprecented programs, making possible sweeping gains in the efficiency of the courts. He established the lawyer-referee program and transferred civil cases from crowded larger districts to less urban locations, using attorneys as fact-finders, arbitrators and magistrates.

Chief Justice Speziale set a national example in instituting these initiatives which helped to relieve the Connecticut docket, one of the most crowded dockets in the entire country. In just 4 months, 3,000 cases from the civil court trial list in Connecticut were heard and settled.

Chief Justice Speziale has truly served justice and the people well, never sacrificing the good of the people for the sake of expediency or judicial principles for the sake of advocacy. While many, including myself, will miss the remarkable energy, foresight and dedication of Chief Justice Speziale, I am sure I speak for all who have known and admired his work when I say it is with a sense of deep pride and accomplishment that Chief Justice Speziale will retire from the court to pursue other work and smell the proverbial flowers. Uncompromising and sensitive, effective and fair, I laud his achievements and extend my best wishes to the chief justice. We in Connecticut look forward to his future civic and professional involvement and pray that the flowers he seeks to smell, will bring him the happiness and pleasure he deserves and has earned.●

TWO OUTSTANDING ESSAYS ON GOOD CITIZENSHIP

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1984

● Mr. ANDERSON. Mr. Speaker, I recently received from Mr. Robert Dunn, chairperson, department of political science of Los Angeles Harbor College, copies of two essays that won the Harbor College essay contest for 1984. These essays were written by two students, William Philhower, and Patrick McAuley.

These two essays, and the philosophies they espouse, are as different as night and day. But both of them exemplify the ability to think and the ability to write. I believe you and our colleagues will appreciate this fact upon reading them:

WHAT GOOD CITIZENSHIP MEANS TO ME: PRIZE-WINNING ESSAY, HARBOR COLLEGE, 1984

(By Bill Philhower)

As I reflect back on my childhood, I remember that in grade school we learned a lot of patriotic songs. Over the years, they seem to have fallen back into the recesses of my mind. A couple of years ago, while on a drive up Interstate 5, a group of friends and I were bored stiff as we passed along town after town, billboard after billboard, on that moonless night. Someone started humming a quiet tune; it was "My Country 'tis of Thee". All of a sudden, we all were singing. After a few hours, we had sung every patriotic song anyone could think of. It was great. We were at our destination before we knew it. I really believe that the foundation I had as a child is still there. I have built various other things in life upon it, but the initial foundation is sure.

As I look about our country today, I see it clothed with the fabric of freedom and liberty, and sown with the thread of patriotism and determination. I have also come to the conclusion that freedom demands responsibility. Being responsible is not something that we are born with. It comes as a result of education and discipline.

I have now come to an age at which I can take an active part in the decision-making process in this country. I wanted to "start small"—so I have decided to run for County Central Committee. To do this, one must acquire two to forty signatures from registered members of one's own party in one's own Assembly district. The thought of getting these signatures was a bit scary at first, but as I walked through a neighborhood with a precinct sheet, and knocked only on doors with registered Republicans (my party), I found the people to be very supportive. Getting my petition signed was really quite easy.

After I did this, I contacted the chairman of the present County Central Committee. In days to come we became friendly and I was asked to join the Carson Republican Club, of which he is also chairman. And stranger yet, I was asked to be membership chairman. It seems that my enthusiasm and youthful zeal were what he was looking for. I accepted.

At a meeting, we decided to have a registration drive. The City of Carson was going to have a Cinco de Mayo celebration at a local park, and we set up a booth. As I sat alone in the booth for about fifteen or twenty minutes without one person approaching me, I decided to go to them. So I went up to the stage and asked the M.C. to announce our being there. It didn't help much, So I started to stop people as they walked by. I would say, "Excuse me, sir, would you like to register to vote today?" Using that approach, with a friendly smile, I had registered forty-three people in about six hours. At first, the people were a bit shy. Many of them had never been registered. But after a few minutes, invariably they were very happy that they had spent the short time needed to be a registered voter.

A final part of my recent involvement concerns the 53rd Assembly District election race. The man who is chairman of the County Central Committee, and of the Carson Republican Club, is also running for the State Assembly. He has asked me to be his area chairman in Carson. It is quite an honor and also quite a responsibility indeed. It will be my duty to oversee the campaign and to report what is happening to the campaign manager as well as to the candidate I am looking forward to the challenge of this opportunity as well as to my activities with the Central Committee and the Republican Club.

In closing, I want to say that what is needed in our great country is a strong conviction that freedom demands responsibility. I don't think everyone is cut out for public office or needs to join a political club. What I do think is desperately important is that people register to vote and at least read their sample ballot and take part in the elections process.

Recently, I talked with a man from Cambodia. I asked him how he liked America. He responded, "Wonderful! Much freedom! No freedom in my country!" We native-born Americans have been blessed with liberty; others around the globe have no such liberty. We need to take an objective, sober look at what we have. After thanking God, we should ask ourselves, "What will be my part?" As Solomon wrote, "Without vision, the people perish." Many Americans are lacking a vision. They are not bad people; they just need someone to stir up the smouldering coals under them. I mean to do my best to stir those coals in a very positive way.

WHAT GOOD CITIZENSHIP MEANS TO ME: PRIZE-WINNING ESSAY, HARBOR COLLEGE, 1984

(By Patrick McAuley)

Between 1964 and 1968, I attended St. Anthony's Seminary on the grounds of the

"Old Mission" in Santa Barbara. At the time, I was hoping to become a Franciscan priest. I was attracted to the ideologies of St. Francis of Assisi, who founded the Order centuries ago, to administer to the forgotten and the poor.

One afternoon, I saw a young priest, Mark Day, that I knew. He and another priest were walking through the campus supporting, between them, another man who was bent over in obvious weakness and pain. Fr. Mark Day had been working in Delano with Mexican farm workers. When I stopped to talk with him, he introduced me to his sick friend. It was Cesar Chavez, president of the United Farm Workers, a fledgling union at that time, which was involved in a bitter struggle with the powerful growers here in California. Cesar Chavez looked so small that day. He was at the end of a long hunger strike and had come to the Old Mission with Fr. Mark because of his rapidly worsening physical condition. He ended his hunger strike shortly after I had met him, and he stayed on at the mission to recuperate.

About a week later, on the occasion of some feast day or another, Chavez came to our dining room to eat, still thin but looking much healthier. I had the good luck to be seated on the other side of the table from him, and during dinner, I asked questions and he talked about "La Causa."

I've never seen or spoken to Chavez since that dinner, but that night was my birth into political action. Later that year, a group of my friends and I went to Delano. We carried picket signs with the braceros in peaceful demonstrations both at the site of ranches, and later at the site of stores. One chain in particular was picketed heavily, for not recognizing the farm workers' right to organize for fair wages, decent working conditions, as well as decent housing and plain, simple human dignity.

Chavez' union became stronger as the years went by. As for me, I left the seminary, got married, and had twin girls, in what seems like no time at all. Within a year and a half thereafter, I found myself alone, raising my girls by myself as a single parent. I was for forced a time, to go on welfare, no doubt the toughest time of my life. I was too busy or tired all the time to be politically active or even go back to school and continue my education, but I got a view of life from a different angle, the angle of the single mother. I have been complimented over the years. People say things like: "Imagine a dad raising his kids alone! How wonderful". I usually reply; Look at the women doing the same thing on a shoestring budget that can only keep you mired in poverty and depression.

My girls are twelve now, and I've found the time to return to school; and going back to school has also made me aware that I have a moral responsibility to become politically active again. I have recently contacted the Democratic party and given them the good news!

I would like to work my way up through the party to impact party platforms that will affect our society by more equitably distributing food. It is not right that in this country 75% of the profits went to the richest 5% of our population, 25% to the middle class, and none to the poor.

A strong America is an America more responsive to the needs of its poorest. I would like to see the Democratic party, the party of the people, raise the level of social consciousness. By working through the party, I would like to be a part of broad sweeping reforms more equitable for all people.

I would like to see more progressive tax reforms, that would limit excess income from corporations as well as individuals, ending individual gluttony at the expense of the poor. I would like to see this money pooled to provide income to those people, such as single mothers, who provide this country with their citizens of tomorrow, and I am not talking welfare. I am talking an earned salary. I would like to see this funded through the closing of the tax loopholes for corporations I mentioned above. However, I would favor tax incentives for corporations that would locate in the barrios of the ghettos of this country—tax incentives for corporations that shifted from an investor-owned to an employee-owned structure.

I would also like to see vigorous application of affirmative action programs, especially in the area of management of corporations.

And I would like to see limitations placed on Political Action Committees' campaign contributions, which amount to de facto discrimination, because the monied interests in this country don't live in the barrio or the ghetto. Political action is great, but expenditures of that sort by heavily funded groups take government out of the hands of all the people and put it in the hands of a few.

I want an America of excellence, and by becoming an active Democrat, I hope to enhance our society in the same spirit as Cesar Chavez impressed me with, all those years ago.●

TRIBUTE TO HON. JOHN N. ERLENBORN

HON. AUSTIN J. MURPHY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 1, 1984

● Mr. MURPHY. Mr. Speaker, I would like to take this opportunity to salute my colleague JOHN N. ERLENBORN who is going to retire from Congress at the end of this year.

It has been an honor to serve in this House with JOHN ERLENBORN and I have especially enjoyed our work together on the Education and Labor Committee. JOHN has played a major role in drafting some of Congress most important legislation in the past 18 years. He deserves a great deal of credit for his work on pension reforms, individual retirement accounts, ERISA, and vocational education. He is the author of the Equal Employment Opportunity Act of 1972 and his proposal for a three-step increase in the minimum wage won approval of the House in 1977.

Another great accomplishment was JOHN'S sponsorship in 1976 of amendments to extend and improve the Guaranteed Student Loan Program. In fact, he has been involved with the Student Loan Program since its inception, and has focused his efforts on ensuring that the program remains open to middle-income families as well as low-income families.

As a member of the Governmental Operations Committee, JOHN has actively pursued legislation seeking to make the Federal Government more responsive. He was a cosponsor of the Freedom of Information Act, under which most Federal records were opened to the public.

I have particularly enjoyed working with JOHN on child abuse legislation which recently passed the House of Representatives. JOHN made a valuable contribution in coauthoring the "Baby Doe" language in this bill, which protects handicapped infants from medical neglect.

I salute JOHN ERLENBORN as a man of principle and integrity who has served the people of this Nation effectively and admirably since 1964. He has been a valued colleague and an outstanding public servant and I wish him continued success in his future endeavors.●

FATHER JAMES ALOUPIS

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1984

● Mr. RODINO. Mr. Speaker, on November 4 my dear friend Father James A. Aloupis will celebrate the 30th anniversary of his stewardship of St. Nicholas Church in Newark. This year also marks his 40th year in the priesthood. I am very honored to know Father Aloupis, and it is my special privilege to take these moments to say a few words about him.

Father Aloupis was born in Lynn, MA, and attended Bates College in Maine. He graduated from the Greek Theological Seminary in Pomfret Centre, CT, and was ordained in 1944. Father Aloupis first served in Clarksburg, WV, and at Albright College in Reading, PA, before joining St. Nicholas Church in 1954. Since his arrival in New Jersey he has presided over a tremendous expansion of that church, and has built it into what is now known as the Jewel on the Hill.

Perhaps the major reason why Father Aloupis enjoys such widespread respect is his firm commitment in the need to build bridges with people of all faiths. In his own words:

In the unfolding of our continuous maturity, may we sincerely strive to be the cogardeners of this special spiritual cultivation—total community bridge-building—within the garden of God's love.

This belief in building bridges of respect, friendship, and understanding with all people has been recognized by organizations such as B'nai B'rith and the National Conference of Christians and Jews, which have honored him over the past three decades for his outstanding efforts at interfaith understanding.

In addition to this special commitment to reach out into the community, Father Aloupis is best known for

his ability to touch and inspire young people. He has had a long history of involvement with groups such as the Boys Clubs of America, and his spiritual guidance has been felt by many young people in our community.

Having known Father Aloupis all these years, I believe that one of his most important qualities is recognizing the need to view each member of his flock as a unique and special person, requiring individualized attention. Again, in his own words, Father Aloupis constantly refers to his congregation as his "family" and says that a parish is blessed, "but when a parish becomes a family, it is doubly blessed." The members of his parish, his "family," all hold Father Aloupis in deep esteem, as demonstrated by the following dedication which appeared on the Diamond Jubilee Anniversary Journal:

This journal is dedicated to our beloved Father James A. Aloupis, whose agape, dedication, prayer, and ecumenical fellowship have been a guiding light throughout his years as spiritual leader of the St. Nicholas family.

Through the efforts of Father Aloupis and the St. Nicholas Church, our community has become a better place. With Father Aloupis at the helm of this great church, it has become a leader in the efforts to narrow those distances that divide our society. For three decades, Father Aloupis has given of himself and we in the Newark community are grateful to him.

Mr. Speaker, on November 4 the members of Father Aloupis "family" will join his many, many friends—which I proudly count myself as one—to celebrate this very special anniversary. As an admirer and friend of Father Aloupis, I am grateful to have this opportunity to let my colleagues know about this very special individual, and to salute him and St. Nicholas Church for the good works they have done.●

SOVIET HUMAN RIGHTS ACTIVIST SENTENCED

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1984

● Mr. BIAGGI. Mr. Speaker, I rise at this time to say a few words about the recent sentencing of a long-time human rights activist in the Soviet Union. On September 6 of this year Yuri Shikhanovich was sentenced to 5 years in strict-regime labor camps and 5 years of internal exile.

Mr. Speaker, this most recent travesty of justice in the Soviet Union poignantly illustrates the worsening human rights situation in that country. Yuri Shikhanovich was one of the last remaining veterans of the human rights movement in the Soviet Union. Mr. Shikhanovich refused to be intimated by the oppressiveness and brutality of the Soviet authorities. He continued to speak out and work for human rights in the Soviet Union. In the end he was convicted of "anti-Soviet agitation and propaganda" under article 70 of the Russian Republic's criminal code. In reality Mr. Shikhanovich's conviction was the result of his admission that he had compiled and edited the Chronicle of Current Events—the oldest and most respected human rights bulletin in the Soviet Union. It is clear Mr. Speaker, that Yuri Shikhanovich was convicted for his desire to see that all those who live in the Soviet Union are accorded the basic human rights deserving of every man and woman—and for providing a brave voice in the face of mounting Soviet violations of human rights. This the Soviet authorities could not allow. His conviction and the circumstances of his trial—according to Western news agencies, none of Shikhanovich's friends and relatives, except his wife and daughter, were permitted to attend his trial—all reflect the type of blatant disregard the Soviet authorities have for human decency and basic human rights.

I speak out today, Mr. Speaker, to reiterate my outrage and strong opposition to ongoing Soviet violations of human rights—as exemplified by this most recent case involving Yuri Shikhanovich. Mr. Shikhanovich is not alone—so many before him have suffered the same fate—and it is on behalf of these brave men and women that I speak here today. By continuing to express outrage and strong opposition to the unjust treatment of Soviet human rights activists like Yuri Shikhanovich, we send a powerful message to the Soviet leadership that we here in the free world will never remain silent in face of such blatant violations of human decency. The struggle of the countless victims of Communist oppression in the Soviet Union will never go unnoticed and we here in the free world will never waver in our unbending support for these brave freedom fighters.●

"NO BUCKPASSER"—A CITIZEN'S POEM IN COMMEMORATION OF A REMARKABLE PRESIDENT

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1984

● Mr. ROE. Mr. Speaker, this year we commemorated the 100th anniversary of a remarkable and highly respected President—the Honorable Harry S. Truman.

In my congressional district a most distinguished citizen, the Honorable Ernest T. Scheidemann of Clifton, NJ, was inspired by many of the news reports of this historic occasion and taking his pen in hand composed a most thought-provoking poem to help reacquaint the American people with the sterling attributes of this truly great American. I would like to share this writing with you and with your permission would like to insert Ernie Scheidemann's poem at this point in our historic journal of Congress, as follows:

NO BUCKPASSER!

On this day we honor Truman,
Peerless leader! President!
His life-aim was "being human",
Altruistic! Competent!

He was modest in demeanor,
He disdained all "fol-de-rol".
Politics through him grew cleaner,
With good government his goal.

When decisions great were needed
Harry Truman "filled the bill".
Confidence, full trust, he breeded,
His example stirs men still.

Brevity—yes, true conciseness,
Was his most admired trait.
"Do it now, and with preciseness,
When it's right, don't hesitate."

Folks give fellow men the power,
"To act in their place and stead".
Never let false interests tower.
And control. Don't e'er be led.

When it comes to casting ballots,
Let your vote be "Yes" or "No".
Don't be influenced by zealots,
Whose main aim is "steal the show".

Take position firm! Don't waver,
Do your job! Do not evade!
Lukewarm service men don't favor;
Honesty is no charade.

"Never be a weak 'buckpasser'.
Tell the world just where you stand.
An accomplishment-amasser,
Is a leader, in command."

Mr. Speaker, as we near the close of the 98th Congress, I appreciate the opportunity of presenting this artistic expression of merit which really says it all in the American way and is truly a significant ending of this year's legislative session in commemoration of President Truman's centennial anniversary.●

THE LEADERSHIP IN EDUCATIONAL ADMINISTRATION DEVELOPMENT [LEAD] ACT

HON. THOMAS E. PETRI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1984

● Mr. PETRI. Mr. Speaker, today, I have joined with the gentleman from Pennsylvania [Mr. GOODLING] in introducing a revised Leadership in Educational Administration Development [LEAD] Act. We jointly introduced an earlier draft of this measure as H.R. 4775 on February 7, 1984. Since that time, we have received much support for our effort to improve principal

education from our colleagues and several outside organizations, including the American Association of School Administrators, the National Association of Secondary School Principals, and the National Education Association. I have been particularly encouraged by the interest in the LEAD concept expressed by the Wisconsin Department of Public Inspection, led by Supt. Herbert J. Grover who hopes to establish a LEAD academy in my State. Several other States are also moving in similar directions, including New Jersey, South Carolina, and Minnesota.

During the past 8 months, we have also received several suggestions about how we could make our LEAD proposal even better. This new bill incorporates some of those suggestions without changing our basic concept. I am pleased that five of our colleagues now join us as original cosponsors of this revised bill.

Studies have shown that the key to a good school is a good school administrator. Yet too little has been done on the Federal level to help improve the quality of school administrators. Our bill provides Federal seed money to start, or expand, a nationwide network of LEAD academies where school administrators can receive continuing education and training in the latest leadership and management techniques drawn from business executives, expert educators, and the military. We know of no more cost-effective way to improve the quality of public education in America than this bill's modest investment in principal education.

PRINCIPAL EDUCATION LEAD BILL

1. This bill would establish technical assistance centers for each State to develop business and educational leadership skills among school administrators.

Services would be made available to school administrators throughout the State.

Contracts for a State center would be let by competitive bidding to states, local education agencies, higher education institutions, non-profit organizations, or private management organizations.

Total annual authorizations for this Act would be $20 million for the next five years. Each State would be assured of at least $150,000.

2. Each center would provide principals with practical assistance in developing leadership skills relating to management, administration, evaluation, communication, and discipline by—

(a) seminars, training programs, and consultation,

(b) internships in business and effective schools,

(c) making business executives available to help schools,

(d) Model Administrator Program,

(e) collecting and distributing school leadership information, and

(f) assessing individual leadership skills.

3. This bill would use federal funds only as seed money by—

(a) mandating at least 50/50 matching support,

(b) limiting federal funds to three years, with possible three-year extension at half the original amount,

(c) requiring center advisory boards with representatives from business, foundations, and local education agencies to assure ongoing financial support,

(d) encouraging in-kind contributions for facilities, and

(e) requiring commitment to continue center after federal funds end.●

CUBAN INVOLVEMENT IN ANGOLA STOPS PEACE SETTLEMENT

HON. CONNIE MACK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1984

● Mr. MACK. Mr. Speaker, among the many fine and accomplished constituents I represent is Carl Shipley, the president of the United States-Southwest Africa/Namibia Trade and Cultural Council. Mr. Shipley recently wrote a column on the interrelationship of Cuban involvement in Angola and its effect on Namibia's independence. I would like to bring his timely observation and a recent column on the subject from the New York Times to the attention of my colleagues.

[Mr. Shipley's column and the New York Times article follows:]

UNITED NATIONS/CUBA BLOCK AFRICAN PEACE SETTLEMENT

(By Carl Shipley)

The United Nations General Assembly, which convened last month, will soon have another opportunity to return to the pathways of impartiality in international affairs as contemplated by the United Nations Charter. Paul Lusaka of Zambia, President of the General Assembly's 39th session, has said that independence for Namibia will be a top priority item during the current year.

According to a news article which appeared in the September 19 issue of the New York Times independence for Namibia depends upon withdrawal of the 26,000 Cuban troops presently deployed in Angola. In 1975, the Soviet Union ferried these combat troops into Angola from Havana with 'Ilyushin' military transport planes as part of a Soviet campaign to install a Soviet-puppet government in that country. The Soviets were successful, and the Marxist MPLA government now controlling Angola continues to keep thousands of Cuban combat troops in Angola so that it can remain in power. Despite promises to hold elections, the MPLA government never has and probably never will.

Of more immediate concern to America, the 1984 Republcan Platform provides that:

"The Reagan-Bush Administration will continue its vigorous efforts to achieve Namibian independence and the explusion of Cubans from occupied Angola."

The United Nations, however, continues to thwart the Reagan Administration's foreign policy in southern Africa by continuing to designate the terrorists of the South/West Africa People's Organization (SWAPO) as the "sole and authentic" representative of the Namibian people—despite the fact that no one in Namibia has ever had an opportunity to vote for or against any SWAPO terrorist. Moreover, the United Nations provides millions of dollars in financial support for SWAPO—as well as for the Palestine Liberation Organization (PLO)—and other groups who carry on around the world.

Today, the United Nations provides funds to maintain SWAPO and PLO offices in New York, London and other areas and finances other terrorist groups.

In 1983 the U.S. Congress enacted Public Law 98-64, which prohibits United Nations' use of U.S. tax dollars to finance terrorist activities and specifically restricts U.N. financial support for PLO and SWAPO. The same law requires that the President "shall annually review the budget of the United Nations and report to the Congress on any project benefiting terrorists."

U.S. taxpayers provide over $1 billion annually for the United Nations. The United States must take care that U.S. taxpayers are protected from the misuse of their hard-earned tax dollars by the United Nations to support SWAPO, the PLO, Cuban terrorists, and other such groups.

On September 29, the New York Times published an article suggesting that the "door is very much open" to an agreement on Namibian independence. However, nothing is possible so long as the United Nations continues to put its thumb on the scales and select SWAPO as the winner in any election by designating these terrorists as the sole representative of the Namibian people before there has been an election. Hence, it is imperative that the Congress insist that U.N. funds not be misappropriated in the support of terrorists. Unless it does, an historic chance for peace may be missed.

[From the New York Times, Sept. 19, 1984]

STATE DEPT. AIDE SAYS 'DOOR IS VERY MUCH OPEN' TO AN ACCORD ON NAMIBIA

(By Bernard Gwertzman)

WASHINGTON, Sept. 18.—A senior State Department official said today that "the door is very much open" to early progress on a package agreement between Angola and South Africa, leading to the independence of South-West Africa and the withdrawal of Cuban troops from Angola.

The expression of optimism was not new, since top American officials, starting with former Secretary of State Alexander M. Haig Jr., have talked of the possibility of a breakthrough in the longstanding southern African problem since the end of 1981. The senior State Department official, who has been directly involved in the diplomacy, said that given the disappointments of the past, it made no sense to venture predictions anymore.

SKEPTICISM IS WIDE

State department officials also said there had been only little variation of the basic Administration formula for a settlement—Cuban withdrawal from Angola in return for South Africa's ending its support for guerrillas in Angola and withdrawing its forces from South-West Africa, or Namibia.

The failure of previous predictions to be borne out have produced widespread skepticism in Washington that anything will come of the Administration efforts. Any breakthrough in the next several weeks would be seen as a tangible accomplishment for the Reagan Administration. In the past, department officials said they doubted Cuba would cooperate in a withdrawal plan because it might be seen as helping Mr. Reagan in the election.

The senior official, however, said he was encouraged by a round of discussions this month in Lusaka, Zambia, with senior Angolan officials. He said the talks left the American mediators with the impression that the Angolans were serious in looking for a compromise to break the impasse, which has lasted for three years.

The South Africans have said they will comply with the six-year-old United Nations Security Council Resolution 435 for the independence of Namibia, but only if the 26,000 Cuban combat troops in Angola are withdrawn at the same time.

The Angolans, however, have insisted that the Cubans, who have been there since 1975, are necessary for their security and will leave only after Namibia is independent and the South African-backed insurgents in Angola have stopped fighting.

But the senior American official said that despite this public position, there was more flexibility in the Angolan private stand.

"The mood in Luanda is one of 'let's try to settle this problem,' " the senior official said after the latest discussions with the Angolans in Lusaka.

But he cautioned that "the exact timing on how this open door would lead to really concrete future steps is not that easy for us to predict." The official gave an interview on the condition that he not be named.

"It looks as good now as it has," he said. "We're not holding back because of our electoral season. We are going full tilt ahead. If others are watching and waiting because of our elections, that's their decision."

The Reagan Administration expressed optimism in February, when Angola and South Africa reached an accord on South African troop withdrawal from Angola. But since then, the South Africans have halted their troop withdrawal 21 miles from the border between Angola and Namibia, pending the next political agreement, the official said.

Chester A. Crocker, the Assistant Secretary of State for African Affairs, returned last week from a trip to Africa that included the talks in Zambia. The senior official said, "We had a very useful round in Lusaka."

The Angolans, he said, "brought some ideas."

"We talked them over," he said, "and they're chewing over some of that discussion, and I think we'll be in a position to go to South Africans and say this is something tangible, and what do you think."●

REQUIRING THE PRESIDENT TO TRANSMIT A BALANCED BUDGET FOR EACH FISCAL YEAR

HON. BARBARA BOXER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1984

● Mrs. BOXER. Mr. Speaker, I was pleased to join my colleagues in voting for passage of the much needed Jones balanced budget bill, H.R. 6300. Our Nation's budget deficit is a ticking time bomb which threatens to cause skyrocketing interest rates and higher unemployment.

We are jeopardizing our future and our children's future if our country continues to spend more than our budget allows us to afford. This well crafted bill requires the President and the budget committees in both Houses to submit a balanced budget to Congress by 1986. We must confront the tough decisions necessary to produce budgets within our means. This legislation will force the discipline which is needed on the President and the Congress.

This bill establishes a concrete and workable process to bring our budget into balance. It doesn't simply say the budget must be balanced. It provides a method which can be implemented in the immediate future, rather than years away when our deficit situation is even more difficult to solve than it is today.

Many persons have said that our budget process has failed. This bill will make that process work.

The Congressional Budget Office estimates that by 1987 we will be paying $101 billion in interest payments alone on the deficit if our current policies continue in effect. It is calculated that by 1989, 43 cents on every dollar of individual income tax will be needed to make interest payments. We cannot tolerate the current situation. I congratulate my colleagues for supporting this desperately needed measure. Let's put Congress and the President on the same track toward a balanced budget.●

HONORING CONGRESSMAN DAN MARRIOTT

HON. MICKEY EDWARDS

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 19, 1984

● Mr. EDWARDS of Oklahoma. Mr. Speaker, DAN MARRIOTT and I became Members of Congress on the same day and for 4 years we sat together on the same committee. We have worked together, traveled together, worked on legislation together, campaigned for each other, visited in each other's homes, and have become not just colleagues but friends as well.

The people of Utah have been well represented by DAN MARRIOTT, not just as a public official—a job he has done very well—but as an individual, whose character and personality and talent were like a sign proclaiming: "This is the kind of man Utah produces." He should have been on retainer from the chamber of commerce, because DAN MARRIOTT has done more to promote the State of Utah than 1,000 brochures or television commercials.

DAN'S diligence, intelligence, and hard work would have made him a good Governor, but instead he is reentering the private business world in which he has done so well. I'm not here to wish DAN success, because DAN MARRIOTT will be a success in anything he ever does. Instead, I want to let him know how much we will miss him in the Congress, and to let the people of Utah know how proud they can be of this native son who has served the country so well.●

BALANCED BUDGET AMENDMENT FOR THE RECORD

HON. TRENT LOTT

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1984

● Mr. LOTT. Mr. Speaker, yesterday 238 House Members voted against even considering a constitutional amendment to balance the budget. The key vote was on adopting the previous question to the rule—House Resolution 595—providing for the consideration of H.R. 2848, the Service Industries Commerce Development Act of 1983. Had the previous question been defeated, I was prepared to offer a substitute rule that would make in order a new title II to the bill consisting of the provisions of House Joint Resolution 243, the balanced budget constitutional amendment introduced by the gentleman from New York [Mr. CONABLE] and cosponsored by approximately 170 House Members.

Mr. Speaker, during the course of the debate, several erroneous statements were made by opponents of our efforts. It was stated, for instance, that somehow the defeat of the previous question would allow a minority to impose its will on the House. That statement was incorrect, of course, because it would take a majority of House Members to defeat the previous question in the first place, and also a majority to adopt the amendment. Moreover, under our proposed rule, it would take a two-thirds House vote to transfer the constitutional amendment into a separate joint resolution, since constitutional amendments require a two-thirds vote of both Houses.

It was also stated by some that a defeat of the previous question would somehow open the bill itself to all manner of amendments. Nothing could be further from the truth. We made it quite clear that our substitute rule only made in order one additional amendment by Mr. CONABLE, which itself would be subject to one substitute amendment to give the Democrats the option of proposing an alternative if they wished.

Third, the previous question vote was posed as somehow a vote to uphold the integrity of the Chair on grounds that the substitute rule was nongermane. That was not at issue in the previous question vote. Our substitute rule specifically waived the House germaneness rule against the Conable amendment so there was no attempt to deceive Members about what they were voting on. Had someone wished

to make a point of order against our substitute rule if the previous question had been defeated and the substitute then offered, that would be their prerogative, though I would think the fact that a majority of the House at that point have indicated its preference for considering a constitutional amendment would discourage further efforts to derail a direct vote on that issue. Had the Chair sustained a point of order against the substitute rule, however, a House majority always has the option of overturning that ruling, just as the other body recently did in making in order a civil rights amendment to the continuing resolution. In short, all we were proposing was that a House majority be allowed to work its will.

Fourth, it was charged that a constitutional amendment could not be included in a bill because a bill is sent to the President and a constitutional amendment is sent to the States in a joint resolution. But, as we explained during debate, our substitute rule would have provided for the transfer of the amendment language to a joint resolution if separately passed in the House by a two-thirds vote. This is the same procedure we now use for automatically transferring debt limit levels from concurrent resolutions on the budget to separate joint resolutions for the President's signature. So the procedure we were proposing was not unusual. It was inspired by the ingenious debt limit device authored by a Democratic member of the Ways and Means Committee [Mr. GEPHARDT].

Fifth, it was charged during debate that our effort to amend the service industries bill would somehow jeopardize that legislation. Nothing could be further from the truth. In the first place, the inclusion of such an amendment, given its popularity, would have further enhanced the chances for passage of the bill. And second, the procedure for transferring the constitutional amendment to a separate joint resolution would remove that as an issue in conference with the other body on the bill.

Mr. Speaker, when one cuts through all this smoke about our substitute rule, it is clear that the previous question vote involved nothing more than the question of considering a balanced budget constitutional amendment. At this point I include a summary and text of the provisions of our substitute rule:

SUMMARY OF PROVISIONS OF SUBSTITUTE TRADE RULE: MAKING IN ORDER BALANCED BUDGET CONSTITUTIONAL AMENDMENT—HOUSE RESOLUTION 595

1. The rule is identical to the rule as reported by the Rules Committee with the exceptions noted below;

2. One additional amendment is made in order which would add a new Title II consisting of the provisions of H.J. Res. 243 (Balanced Budget Constitutional Amendment), by and if offered by Representative Conable of New York.

3. The germaneness rule (clause 7, Rule XVI) is waived against the consideration of the Conable amendment;

4. The Conable amendment would be subject to five hours of debate divided between Rep. Conable and Rep. Rostenkowski;

5. One substitute amendment would be in order to the Conable amendment within that five-hour time frame;

6. If the Conable amendment is adopted in the Committtee of the Whole, a separate rollcall vote would be required on it in the House;

7. If the amendment is adopted in the House by a two-thirds vote, it would be engrossed as a joint resolution by the enrolling clerk and the vote on the adoption of the amendment in the House would be considered the vote on final passage of the joint resolution.

H. RES. 595

(The rule providing for the consideration of H.R. 2848 establishing a service industries development program.)

An amendment in the nature of a substitute offered by Mr. LOTT:

Strike all after the resolving clause and insert in lieu thereof the following:

"That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2848) to establish a service industries development program, and for other purposes, and the first reading of the bill shall be dispensed with. All points of order against the consideration of the bill for failure to comply with the provisions of clause 2(l)(3)(A) of rule XI are hereby waived. After general debate, which shall be confined to the bill and to the amendment made in order by this resolution and which shall continue not to exceed one hour, thirty minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on Energy and Commerce and thirty minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means, the bill shall be considered as having been read for amendment under the five-minute rule.

No amendment to the bill shall be in order except the amendment in the nature of a substitute printed in the Congressional Record of October 1, 1984, by, and if offered by, Representative Florio of New Jersey, said amendment shall be considered as having been read and shall not be subject to amendment, and all points of order against said amendment for failure to comply with the provisions of clause 7 of rule XVI are hereby waived. Said substitute shall be subject to one amendment to add to new title II of said substitute which shall consist of the provisions of H.J. Res. 243, by and if offered by Representative Conable of New York, and, notwithstanding any rule of the House, said amendment shall not be subject to amendment except for one substitute amendment but shall be debatable for not to exceed five hours to be equally divided and controlled by Representative Conable and Representative Rostenkowski of Illinois, and all points of order against said amendment for failure to comply with the provisions of clause 7 of rule XVI are hereby waived. At the conclusion of the consideration of the bill for amendment, the committee shall rise and report the bill to the House with such amendments as may have been adopted, and there shall be a separate roll call vote on the Conable amendment as and if adopted in the Committee of the Whole. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

After the passage of the bill, if it has been amended by the Conable amendment and said amendment has been separately adopted by the House by a vote of at least two-thirds of those Members voting, a quorum being present, the enrolling clerk of the House shall prepare an engrossment of a joint resolution, the matter after the resolving clause which shall be the text of the Conable amendment as adopted; and the vote by which the Conable amendment was adopted by the House shall be deemed to have been the vote in favor of such joint resolution upon final passage in the House of Representatives."●

UNIVERSITY OF MICHIGAN-DEARBORN CELEBRATES 25TH BIRTHDAY

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1984

● Mr. FORD of Michigan. Mr. Speaker, although I have already congratulated the University of Michigan-Dearborn on its 25th anniversary, I would like to call your attention to a recent article in the Michigan Alumnus commemorating this event.

Carrie Bachman, a writer for the Dearborn Heights Leader, attended both the University of Michigan in Ann Arbor and the University of Michigan-Dearborn campus. She has written the following piece which takes a look at those 25 years of commitment to quality education and the campus plans for the future. I think you will enjoy this article and I am glad to call it to your attention.

[From the Dearborn Heights Leader]

A COMMITMENT TO QUALITY, DIVERSITY, COMMUNITY

(By Carrie Bachman)

Distinguishing between a miracle and a simple coincidence is often difficult to do. Yet there are people who say that miracles, even minor ones, happen all the time.

One definition of a miracle is "a wonder; a marvelous thing." And it did seem a wonder when a 1959 copy of the Michigan Daily was found recently in an Ann Arbor apartment. Passed from person to person, the paper took on special significance when it reached Dearborn. There it became a "marvelous thing."

The yellowed, tattered front page carries this headline: "Dearborn prepares to grow into 'Rich Addition to U.'" Today, as The University of Michigan-Dearborn celebrates its twenty-fifth year of existence, the paper's discovery seems more than coincidence. A look back into the promise U of M-D held twenty-five years ago, as well as a look ahead, provides more proof that miracles happen all the time.

The land was both farmland and wilderness then, an unlikely marriage of soybean fields and deer trails, set somewhat absurdly in the midst of a city whose claim to fame was its famous native son, Henry Ford, and his equally famous invention, the automobile. As the 1950's wore on, the city's proud history was to be merged with another tradition—The University of Michigan's tradition of excellence.

In the mid-fifties, the Ford Motor Company approached the University with a proposal that had originated with Archie Pearson, Ford's director of training, who believed that more engineering and business administration college graduates would soon be needed than were currently available. Pearson and his staff had already approached several educational institutions in southeastern Michigan with the idea of an educational consortium, but it was not until he contacted Jim Lewis, vice-president of student affairs at the University, that he received a positive response.

A year of quiet negotiations brought the two groups to Fair Lane Mansion on 17 December 1956. This sprawling, elegant estate, which had been the home of Henry and Clara Ford until their deaths and was now maintained by the Ford Motor Company, was surrounded by Clara Ford's famed gardens, as well as a lake, several ponds, and wildlife. Inside, the mansion was oak and marble, with chandeliers and stained glass windows illuminating many of the fifty-six rooms.

In this setting U-M President Harlan Hatcher and Ford Motor President Henry Ford II announced the donation by the company and the Ford Fund of 202 acres of land and $6.5 million to the University to establish a Dearborn campus.

As he publicly accepted the gift, Hatcher addressed the purpose the campus was to serve: "The shortage of college-trained manpower to supply the needs of the increasingly complex technology and an expanding economy is today a major national problem. In some fields, such as engineering and science, this shortage is already so acute that it may threaten the loss of the technological and economic lead which the United States now holds."

To supply this need, the campus was to offer junior and senior upper division courses in engineering and business administration, as well as graduate degree opportunities. But the campus was to have a different orientation than most traditional universities—its basis was to be cooperative education, a concept that was being tried in several places around the country. A program that alternated a semester of classroom instruction with a semester of practical work experience in local business and industry was hailed as a benefit to both the student and the business community.

The significance of the venture was also addressed by Ford: "As a charter member of the Dearborn community, we know that this area needs a first-rate university center to meet more adequately its educational, social, cultural, and industrial requirements. We believe a precedent is being established here by which other American companies may contribute materially to meeting one of our nation's most urgent problems while leaving the actual educating job where it should be—in the hands of our professional educators."

Incredible as it seems now, the "professional educators" Ford spoke of numbered only twenty, including instructional and administrative personnel, when the campus' doors opened in September 1959 with a total student body of thirty-four.

Today, with an annual enrollment of approximately 6,400 students, and with nearly three-hundred full- and part-time faculty, U of M-D has established itself in the metropolitan Detroit and downriver communities. Located centrally within Dearborn, the campus draws students primarily from Wayne County and also from nearby Oakland and Macomb counties.

In twenty-five years, much has changed, yet much remains the same. Although principally a four-year regional campus of the University (master's degrees are offered in engineering, management, education and public administration), Dearborn maintains the same high admissions standards, attracting freshman classes second in the state only to Ann Arbor in terms of academic quality.

The U-M tradition is pointed to with pride at Dearborn. Chancellor William A. Jenkins says, "If you adopt the Ann Arbor traditions, Ann Arbor standards, you cannot go wrong. It is a flagship institution, world class." The U-M name, he adds, is the attraction: "When you have that name on your diploma you have really got it."

Yet along with its proud association with Ann Arbor, U of M-D has made its own mark, with its own mission and assets.

The official statement of mission outlines the campus' goals as three-fold: to maintain high quality in programs, instruction, faculty, and research; to attract and accommodate a highly qualified and diverse student body; and to maintain and strengthen community ties.

Its mission differs from Ann Arbor's in some ways, and these were summed up by U of M-D's first chancellor, Leonard Goodall, in his 1971 inaugural address:

"An urban campus has a particular obligation to a certain clientele, including the urban minority student, the disadvantaged student—whether economically or educationally disadvantaged—and the adult student, who is returning to school for career improvement or life enrichment.

"In particular, we have an obligation to provide high quality education to the commuter student who, because of necessity or personal preference, chooses to attend school near home."

In the early seventies, when women were beginning to return in growing numbers to complete their education, the Women's Center was established. For the 48 percent of the student population that consists of women (as of the fall of 1983), the center provides information and support services. Working with other University departments and the community, the center offers programs on topics such as rape prevention, sexual harassment, finances, and other issues important to women.

Also established in the early seventies was the Commission for Women, which has since advised University officers and directors on issues of concern to women and acted as liaison between departments, providing a forum for the women on campus. The commission was instrumental, for example, in securing representation for nonacademic staff on campus committees.

Chancellor Goodall stressed heterogeneity as a goal for U of M-D, and it is one the campus has achieved. The average age of the student body in the fall of 1983 was twenty-four, with nearly eight percent of the students over thirty-five. Through a new Guest Scholar Program, senior citizens are now brought into the campus community as students who pay only a nominal enrollment fee.

Dr. Eugene Arden, vice-chancellor for academic affairs, is delighted with the outcome and hopes to expand the Guest Scholar Program. "A class discussion with an 18-year-old, a 30-year-old and a 65-year-old is more interesting than with just 18-year-olds; it provides a mix of age and knowledge."

Dearborn also provides an evening degree program, extension courses, individualized learning, and professional development degrees aimed at life-long learning, all attracting a large number of adults and part-time students.

Underrepresented minority enrollment stands at 8.6 percent, as compared to the Flint campus' 11.1 percent, and Ann Arbor's 6.8 percent. Programs like the Program for Academic Support and the Pre-College Retention and Education Program offer academic and emotional support to educationally disadvantaged students from the Detroit area.

The campus community is provided with distinct surroundings. Four new buildings have been added to the original four, sprawling across a combination of concrete and grass. But in the backyard of the campus, nature takes over: seventy-two of the original 202 acres remain as an Environmental Study Area.

The late Dr. William Stirton, a former U-M vice president who served as Dearborn's director from 1959 to 1968, once described the campus as a "combination of beauty and utility, a haven of peace for study and contemplation set down in the heart of industrial America." Today the natural area is protected and, as Dr. Arden says, "It has crept into the consciousness of the campus. There is a tremendous awareness and sensitivity to environmental issues here."

There is also the distinction of having Henry Ford's estate, Fair Lane, on campus, with the facilities it provides the campus and outside communities for cultural and educational life.

But there are other assets U of M-D retains that are not visible to the eye—a resilience, a fighting spirit that has allowed it to exist twenty-five years despite setbacks, opposition, financial problems and, for a long time, invisibility behind the trees on Evergreen Road. The string of minor miracles it has experienced is impressive.

The early years of Dearborn never quite measured up to the expectations it had created. Of the three original divisions, only two—engineering and administration—operated the first year. The Division of Literature, Science, and the Arts began in 1960 when funding became available. By 1968, when total enrollment was only 777, the first predictions of 2,500 to 3,000 students had become an embarrassment.

But for all the problems, those who came to the campus in the early years found a sense of commitment and community that made them stay.

For Professor Emeritus Emanuel C. Hertzler, who joined the science faculty in 1960, "The excitement was Dr. Stirton. I was doubtful, but after sitting with him for a little while, I desperately wanted this job."

In the case of Dr. Robert Smock, who came to U of M-D in 1963 and now serves as interim director of the Office of Institutional Analysis, the reason for accepting the job was different.

"I didn't know a great deal about it, but I knew it was the University of Michigan and that meant it would do things right. Opportunity is what I saw here."

With opportunity came hard work. Because there were so few personnel, everyone had to perform diverse tasks.

Herschel Wallace, hired in 1959 as director of student services, was responsible for establishing various areas, including health services, registration and records, admissions, placement, and even some student activities. In addition, he spent much of his time traveling throughout the state, visiting each community college twice a year to recruit students.

Today he simply smiles and shrugs. "It was just something that had to be done."

For Dr. Dennis Papazian, who was in the Soviet Union recuperating from a plane crash when he received the call that led to his being hired, arrival on campus in 1962 brought new adventures—including weekends spent moving office furniture.

"During my early days, I would work twelve hours a day, seven days a week. We all worked terribly hard, but it was not just work that people concerned themselves with; it was a sense of mission."

Yet Papazian and others soon found that the mission or the direction of U of M-D was not always clear-cut. Its experimental image produced both advantages and drawbacks.

This experimental nature opened up avenues for creativity and innovation. As Professor Paul Trojan, who joined the engineering faculty in 1960, says, "You could sort of wheel and deal and do things that in the classical university you could not because your are impeded by the bureaucracy."

It also led to the feeling of closeness among those on campus. Dr. D. Ross Cowan, a faculty member in the School of Management from the beginning, recalls that when a meeting was held, "we could sit around one big table. We would have everybody from the gardeners to the vice-president of the University at the table. It was exciting from the standpoint of forming an enterprise."

But the enterprise was not the dramatic success expected, and reality set in. This reality was a difficult one: students were not coming to Dearborn. Recalls Wallace: "We joked that we were the best kept secret in Dearborn. I used to kiddingly say that if a student found his way here, he should be admitted."

The low enrollment led to the Dearborn Planning Study Committee, formed by U-M Vice-President of State Relations and Planning Arthur Ross, and chaired by Professor Richard Balhizer, an Ann Arbor instructor. After evaluating the campus, the committee was asked to make recommendations for its future.

Committee members suggested that the limitation to two-year programs with mandatory co-op assignments was keeping enrollment down, and that the campus should reorganize as a four-year institution with optional co-ops as well as a chief executive officer who would report directly to the University president.

These recommendations were accepted, but the committee's opinion that the school be spun off from the University in five years sparked the emotions of both faculty and staff. In October 1969, House Bill 3897 was introduced into the legislature, asking for the same action. The students protested, holding a mock funeral complete with casket, and called the bill "infanticide."

The bill died in committee and the Board of Regents, who had opposed the measure from the start, tabled the issue and approved the four-year expansion.

In the fall of 1971, the first class of 313 freshmen entered the University of Michigan-Dearborn, now the official name. (Formerly the campus had been known simply as Dearborn Center or the Dearborn campus.) The restructuring process changed the face and the nature of the campus.

Papazian calls this a time of "bureaucracy building," and notes that it was both good and bad. "I do not think the campus could have gone on forever in an experimental stage. It was that time (1971) that we adopted all the traditional trappings of a university."

The campus was then structured into five academic units: the College of Arts, Sciences, and Letters; the School of Engineering; the School of Management; the Division of Education; and the Division of Interdisciplinary Studies. With the reorganization came new offices, new buildings, new administration, new programs, and new hope. Growth was rapid; by the mid-seventies, the student population was nearing 5,500.

As Dr. Arden describes the feeling then, "It was like Las Vegas. We were gambling all the time."

But in 1979, as the economy slumped, the heady days of growth ended. Chancellor Goodall left the campus that year and Dr. Bernard Klein, professor of political science and public administration, served as interim chancellor until Dr. Jenkins was appointed to the position in 1980. The new chancellor faced a grim situation.

"One month after I arrived, the bottom fell out of the state's financial basket," he says today. Subsequently, seven executive orders from Lansing reduced U of M-D's budget dramatically, and a voluntary reduction of one million dollars was undertaken, along with other cuts.

Dr. Arden remembers those days vividly. "We went through years where we didn't even know how much money we were ever going to have," he says. "If the phone rang and we were told, 'Lansing calling,' our hearts would sink."

Today, there has been some easing of the money crunch as the economy becomes healthier, but U of M-D has learned to look for other sources of funding. The campus recently joined the Campaign for Michigan in its first capital campaign for private support. New projects are planned, notably a computer-aided laboratory for the School of Engineering, and recently a new microcomputer system was installed on campus.

Some problems remain, the most serious being faculty salaries, which rank at the bottom compared with colleagues at peer institutions. This problem has affected morale, turnover, and recruitment. But the administration considers the situation a top priority and believes that with Michigan Governor James Blanchard's tax increase and the recovering economy, the state will have the kind of resources to help rebuild higher education.

Chancellor Jenkins looks forward to a "very good remodeling program," and says U of M-D will remain forever a part of the University.

"We are a regional campus of the University, very much a part of it, yet we have maximum autonomy," he says. Jenkins sees the campus remaining basically the same size, undergraduate oriented, continuing to serve its students' needs.

Vice-Chancellor Arden smiles at the thought of the future. "George Burns once said, 'I can't afford to die. I'm booked solid for the next year and a half.' That is kind of how I feel. Every September is a miracle for me."●

TRIBUTE TO JOHN ERLENBORN

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 1, 1984

● Mr. BIAGGI. Mr. Speaker, I wish to take this occasion to pay tribute to one of the most effective House Members over the past 20 years—JOHN N. ERLENBORN, native son of Glen Ellyn, IL, and distinguished Representative of the people of the 13th Congressional District in the great State of Illinois.

I had the good fortune to serve with JOHN on the House Education and Labor Committee these past 15 years. While there we sat on opposite sides of the chairman—but at times we found ourselves in agreement—other times we did not. Yet no matter the issue or the position—JOHN ERLENBORN was always a reasonable man. He argued his positions with great ability and effectiveness. Yet JOHN more so than many Members realized that the legislative process did oftentimes demand bipartisanship. JOHN was always able to exhibit this important leadership quality on behalf of scores of key bills which emerged from our committee over the years.

JOHN retires as the ranking minority member on the full Education and Labor Committee which in this 98th Congress did produce a number of vitally important bills. JOHN provided pivotal leadership on many of these bills—especially the just passed reauthorization of the Child Abuse Prevention and Treatment Act. Leadership is a quality—and JOHN exercised it well during his years in the House.

I wish JOHN ERLENBORN the very best as he moves onto whatever his next career endeavor may be. I know he will grace any future vocation as he did this House with style and substance. JOHN will be missed but he can leave with the satisfaction that he has many friends and admirers in the House. He also can leave knowing that he has done a great job. I wish JOHN and his wife, Dorothy, many happy years together and more importantly more time together than this job allows for.●

TRIBUTE TO HON. LARRY WINN, JR.

HON. HAROLD L. VOLKMER

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 2, 1984

● Mr. VOLKMER. Mr. Speaker, I rise today to pay tribute to a very fine man

and his accomplished career in the House of Representatives—the Honorable LARRY WINN, JR., a Representative of the Third Congressional District of Kansas. LARRY WINN will retire at the end of this Congress, having represented his district faithfully for 18 years since he was elected in 1966.

From my perspective, his service in the Congress has been highlighted by his membership on the Committee on Science and Technology. LARRY WINN joined the committee in 1967 and now sits as the senior Republican member of the committee. LARRY WINN is also the second ranking Republican on the Foreign Affairs Committee, and senior Republican on the Subcommittee on Europe and the Middle East. In addition, he is a member and former Vice Chairman (1977-78) of the Bipartisan Congressional Board of the Office of Technology Assessment.

My closest associations with LARRY WINN have been through our work together on the Science and Technology Committee. During his 17 years on the committee, Representative WINN has sat on subcommittees concerned with space, aeronautics, the environment, energy, and international cooperation in science.

As a member of the committee, he has provided a voice of reason to the committee's deliberations—supporting and defending scientific growth while at the same time recognizing the need for fiscal restraint. He has been a strong advocate for space policy, encouraging expansion and continued nurturing of space programs as a means of finding solutions to technological and economic problems.

One of the strongest advocates of the space shuttle, LARRY WINN defended the space shuttle program by explaining to his colleagues in the House, "the shuttle will do for the exploration of space what the automobile did for interstate travel." LARRY WINN was an active and persistent supporter of the shuttle program, through both its ups and downs. Similarly, WINN was active in encouraging the development of long-range plans for the space program, and was uninhibited in publicly telling the admininstration when they did not share the same excitement about the space program and its accomplishments.

LARRY WINN is also responsible for progress in the evolution of severe storms research. The timeliness, quality, and effectiveness of severe storm warnings are directly resultant of efforts made by LARRY WINN.

LARRY WINN has also been active in international affairs, having been selected by the President and confirmed by the Senate to serve as a delegate to the United Nations. He has served as an active participant in the United States-Canadian Interparliamentary Delegation, which seeks to provide better economic, defense, and energy coordination between the two countries. He was a persistent advocate of the Peace Corps, espousing it as one of the least expensive and most effective means of providing small scale technology on a grassroots level to developing countries.

LARRY WINN has ably represented the people of the Third Congressional District of Kansas. He was recently honored as "Kansan of the Year" by the Kansas State Society. At the award ceremony, at which he received the honor, Senator NANCY KASSEBAUM said:

> Throughout his many years of service in Congress, he has proven again and again that he is a superb representative of the people of our state. Through his leadership, dedication and hard work, he exemplifies all that is good about our state and its people.

LARRY WINN has been a credit to this institution, serving it faithfully and well. LARRY, we wish you well upon the occasion of your retirement, and wish the best for you and your wife Joan and your family in the years ahead.

Thank you, Mr. Speaker.●

TRIBUTE TO HON. JACK EDWARDS

HON. KEN KRAMER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1984

● Mr. KRAMER. Mr. Speaker, I rise to pay tribute to the 20 years of distinguished service of our friend and colleague from Alabama, Congressman JACK EDWARDS, who is retiring from this body at the end of this session of Congress.

During his 10 terms of service, JACK has earned a well-deserved reputation for incisive intelligence and sound judgment. His arguments in support of the need for military preparedness are so thorough and balanced that even critics of the Pentagon find them difficult to ignore—especially since JACK has never been one to accept the Pentagon's requests for funds at face value.

As ranking Republican member of the Defense Appropriations Subcommitte, JACK has worked tirelessly as a champion of combat readiness for our Armed Forces—the need to be sure that our men and women in uniform are not shortchanged in the accounts for maintenance, training, and operations.

JACK's good counsel and dedication to a strong and cost-effective military establishment will be sorely missed in this body, as will his leadership in the House Republican Conference, which he has served so well as vice chairman since 1979. I salute JACK for his outstanding record of accomplishment in the House, and wish him and his family every happiness as the years roll by.●

A TRIBUTE TO THE HONORABLE BARBER CONABLE

HON. ROBERT J. MRAZEK

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1984

● Mr. MRAZEK. Mr. Speaker, I rise to join in chorus with my colleagues as we pay tribute to the exemplary service to this body and this Nation of the distinguished Member from New York, BARBER CONABLE.

Unlike many Members of this body, it is not in my power to offer memories of my service with BARBER CONABLE. The reason for this is simple: He is in his 10th term, and I in my first. In regard to congressional service, we are but the proverbial ships passing in the night.

We do have two things in common. Both of us can claim Cornell University as our alma mater, and both of us have had the distinct privilege of serving the people of the State of New York in the U.S. Congress.

Mr. Speaker, some have said that BARBER CONABLE represents the end of an era in American politics and in this body. His strategies have demonstrated the triumph of compromise over confrontation, and the power of common civility in political persuasion. Above all else, he has shown himself to be a gentleman, no matter the heat of the struggle or the incivility of those he may have faced in political battle.

In great partisan turmoil, we need Members of Congress like BARBER CONABLE among us more than ever before, people who are not idealogues but who realize that in a body of 435 Members, no one has a monopoly on good judgment. For this reason, his departure from our ranks is a time for sadness. We wish him the best, for he has been among our brightest stars.●

THE PLIGHT OF SALVADORAN TRADE UNIONISTS

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1984

● Mr. GARCIA. Mr. Speaker, I am submitting for the RECORD a copy of a newsletter from the Labor Campaign for Jailed Salvadoran Unionists. It points out the problems confronting Salvadoran trade unionists, and their struggle to keep the labor movement in El Salvador alive despite overwhelming odds. I hope my colleagues find the newsletter useful.

[From the Labor Campaign for Jailed Salvadoran Unionists, Fall 1984]

FOR 10 STECEL UNIONISTS, A 4-YEAR PRISON NIGHTMARE

Ten leaders of El Salvador's STECEL trade union, whose members are hydroelectrical workers, have been behind bars for 4 years in a San Salvador prison although to this date no formal charges have been filed against them and they have received no trial. The National Labor Committee in Support of Human Rights and Democracy in El Salvador is launching a campaign to free these illegally-jailed unionists.

In the first independent U.S. trade union tour of its kind, leaders of unions affiliated with the national committee went to El Salvador in the Summer of 1983 and visited the STECEL leaders in prison.

ACTWU Secretary-Treasurer Jack Sheinkman, a member of the delegation, said: "After more than four years in prison without formal charge or trial, they are among the longest held political prisoners in El Salvador. Because the Salvadoran judicial system simply does not function, they have no hope of vindication or release without international pressure."

Upon their return to the US, the delegation, which also included AFSCME Secretary-Treasury Bill Lucy and Assistant to the President Jack Howard, NEA officials San Pizzigati and John DeMars, UAW region 9A director Ted Barrett and Dave Dyson also of ACTWU, issued a report condemning the abuse of trade unions rights in El Salvador.

That report, entitled "El Salvador, Labor, Terror and Peace," stated: "Trade unions exist in El Salvador. The workplace landscape of El Salvador abounds with acronyms of labor organizations . . . But there is no trade union freedom in El Salvador, no semblance of trade union rights we as North American trade unionists consider fundamental to democracy. In El Salvador, we spoke to trade unionists whose wages had been frozen, whose meetings had been disrupted, whose offices had been bombed, whose bodies had been tortured, whose coworkers had disappeared—and murdered."

The STECEL leaders were arrested during a nationwide strike called to protest government attacks against STECEL and unionists in general. 18 members of the union had been murdered or disappeared between 1979 and 1980. Union halls were dynamited and machine-gunned. Hundreds of trade unionists had been dismissed for previous strike activity.

The day after the STECEL leaders were arrested, their union was dissolved by government decree. The country's hydro-electrical plants, as well as other public installations, were placed under military control.

The STECEL leaders were held for 70 days at National Guard headquarters. There, they were beaten, tortured and told that their families would be killed.

Hundreds of rank-and-file trade unionists arrested at the same time were soon released. But the STECEL leaders were transferred first to Santa Tecla Prison and then to Mariona Prison on the outskirts of the capitol. Many of those released have since been "disappeared" or assassinated by government security forces and anonymous "death squads."

In September 1980, prison authorities took "extra-judicial statements" from the STECEL leaders, obtained under extreme physical duress. The prisoners were forced to sign papers that they were never allowed to read—only to learn much later that these confessions implicated them in "terrorist acts."

FAMILIES FORCED TO FLEE

Then the prisoners' worst fears were realized. On June 11, 1981, the 17 year old daughter of one of the STECEL leaders, Jose Valencia, was abducted from her home by armed men in civilian clothes. Her tortured body was later found in a public garbage dump in the city of Santa Ana. The rest of the family was forced to flee the country.

On August 20, 1982, the wife and 13 year old daughter of Hector Recinos were arrested by uniformed and civilian men. Mrs. Recinos was an active member of the Committee of Mothers of Prisoners and the Disappeared. Now she and her daughter have "disappeared" themselves. Recinos' remaining children, ages 15, 13 and 7, were forced to survive on their own, visiting their father under assumed names, going to school under assumed names and working in a brick factory to be able to eat.

They recently fled El Salvador and came to the United States where they were immediately arrested by the Immigration and Naturalization Service. They are now seeking political asylum in the United States.

"Every one of the STECEL members has a family that depended upon him for support," said Sheinkman. "Every family member that has remained in El Salvador knows that their lives are constantly at risk and that even the release of the imprisoned will not change that reality."

NO TRADE UNION FREEDOM

"Every day that passes the STECEL unionists are in danger, from torture and death in the middle of the night or from military trial, without defence, since STECEL was taken over by the military before it was dissolved," Sheinkman said.

WE MUST TAKE ACTION ONCE AGAIN

In the past, the National Labor Committee has been able to win the release of captured trade unionists through quick and forceful action. We have generated hundreds of messages and helped organize delegations which have literally saved lives. It is time to try again, this time to secure the release of the STECEL union leaders and insure the safety of themselves and their families.

A PRISON LETTER FROM HECTOR RECINOS

(Translation of Hector Recinos' letter to the Committee)

OF HOPE
PRISON "LA ESPERANZA"
May 17, 1984.

To the Committee for Human Rights in El Salvador:

We send you our brotherly greetings, dearest friends, and our admiration for the noble task that you are carrying forward.

Our knowledge of your work comes to us from our representative (Francisco Acosta) who has told us about all you have done for us and our people.

Your committed, dedicated efforts against social injustice helps to lessen the sadness of our people, and it fills us with pride and strength to know that there are brothers who are aware of our degrading situation, a situation brought about by the Salvadoran regime's disregard for life. We know that you support us and are making efforts for peace and justice, and this raises our morale to continue forward, as it is nearly four years now that we have been in prison, ignored and forgotten for the most part.

We want to take this opportunity, therefore, to express our deepest thanks for all that you are doing for us and to send you our love as brothers and sisters in the fight for peace and justice.

You have our strong embrace and our hope that the campaign you have undertaken will someday permit us to work together for the good of humanity.

Warmly,

HECTOR BERNABE RECINOS,
Sec. General, Fenastras, in prison,
San Salvador, El Salvador, C.A.

(Recinos is President of STECEL.)

A HISTORY OF STECEL

CHRONOLOGY

1967.—Workers at hydro-electric generating plants begin to organize for better working conditions.

1972.—STECEL union legally recognized as bargaining agent for electrical workers.

1979-80.—18 members of STECEL killed by "death squads". Union local is dynamited and machine gunned. Many union members are fired.

1980/March 3.—Jose Napoleon Duarte becomes leader of ruling junta.

1980/summer.—Nationwide general strikes are called to protest government repression and violent attacks against unions. STECEL helped lead strike by undertaking nationwide electrical stoppage.

1980/August 22.—STECEL union leaders arrested.

1980/August 23.—STECEL union is dissolved and all electrical generating plants come under the legal control of the army.

1984/June 1.—Jose Napoleon Duarte becomes president of El Salvador after 3 years of military rule.

1984.—STECEL unionists remain among the longest held political prisoners in El Salvador.●

TRIBUTE TO HON. JOHN ERLENBORN

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 1, 1984

● Mr. WOLF. Mr. Speaker, I am pleased to join with my colleagues in this special order to honor our fellow colleague, JOHN ERLENBORN, as he nears the end of a distinguished career of service in Congress after 10 terms as the Representative of the people in the western Chicago suburbs of Illinois. I thank the gentleman from Illinois [Mr. MICHEL] for organizing this special time.

One of the benefits of serving in the Congress is having the opportunity to work with colleagues of such high caliber as JOHN ERLENBORN. I believe one of JOHN'S most impressive attributes has been his perseverence, his tenacity in working and fighting for legislation which he believed was in the best interest of this nation when the odds, as a member of the minority party, were clearly against him.

JOHN ERLENBORN'S success stories against those odds have been remarkable. His record of legislative accom-

plishments is truly outstanding and a tribute to his skill as an organized and prepared legislator, his intellectual prowess, and his thorough knowledge of the issues. Whether in the Education and Labor Committee, where he has held the leadership position of ranking minority member, and where he authored or help craft the major labor legislation of the last two decades and pursued policies to strengthen the quality of education in this nation and the ability of students to finance higher education, or Government Operations, where he served as the second ranking Republican, and where he led the fight against waste and fraud in Government, or whether on the House floor, where he maneuvered and mastered the rules to bring his legislative ideas before all his colleagues for a vote, the mark of JOHN ERLENBORN has been indelibly etched in the pages of history of the House of Representatives. He clearly deserves being called one of the best Members of Congress ever to have served in the people's house.

JOHN ERLENBORN has been a valued colleague and an outstanding public servant and I wish him well in his future endeavors as he returns to the private sector, where I'm certain he will enjoy continued success.●

IN PRAISE OF DISTINGUISHED COLLEAGUES

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1984

● Mr. GARCIA. Mr. Speaker, today's Wall Street Journal has an article on two of our colleagues, Representative BARNEY FRANK and Representative DAN LUNGREN. Both of these gentlemen were key players in the debate over the Simpson-Mazzoli Immigration bill.

Although they held opposing points of view, and although, I had occasion to disagree with both of them, they represent what is best about this institution. They raised the level of debate beyond the particular to the broader interests of our Nation.

I want to praise my colleagues for their dedication to an issue which is important not only to my community, but to the entire Nation. We may disagree with each other from time to time in this body, but our purpose is to do the best we can to serve the Nation. The debate over Simpson-Mazzoli exemplified that attitude, that approach.

BARNEY FRANK and DAN LUNGREN were only two of the players that made this debate so memorable. There are many more on both sides of the aisle, on both sides of the issue, that should be praised. I am submitting a copy of the Wall Street Journal article for my colleagues' perusal.

The article follows:

[From the Wall Street Journal, Oct. 4, 1984]

COMING OF AGE IN THE HOUSE—LUNGREN AND FRANK GAIN CREDIBILITY

(By David Rogers)

WASHINGTON.—One is a graduate of Notre Dame, a Catholic and a Republican conservative whose father was Richard Nixon's personal physician. The other is Jewish, Harvard-educated liberal, the fast-talking child of a Jersey City truck-stop operator.

Dan Lungren and Barney Frank: the hard-charging California bodysurfer and the whiz kid from Bayonne and Boston City Hall.

Few congressmen seem so far apart, yet together they have come of age in the House as each has played a crucial role in the complicated debate over changing the nation's immigration laws. Bigger names have captured the headlines, but the debate provides a revealing story of two young men trying to establish themselves in the competitive domain of Congress.

The highly controversial immigration bill may well die as Congress rushes to adjourn for the elections. But the experience has left its mark on Dan Lungren and Barney Frank. Each stood up to traditional allies and, as a result, respect for—and between—these two young legislators has grown.

Respect, a precious commodity in a legislative chamber, has little to do with a member's party or philosophy. In subtle, often personal ways, the institution looks beyond first impressions and judges the substance of a member. Reps. Lungren and Frank experienced that rite of passage this year.

"You don't get much chance to shine, and on that bill both of those guys stood out," says Rep. Tony Coelho (D., Calif.). "Once you get the mark of credibility, that credibility extends to other issues. That's the goal of a legislator. These guys become positives now. People pay attention to them."

As members of the Judiciary Committee, both men participated in the drafting of the immigration legislation, but it was on the House floor that their role was most striking. Mr. Lungren was the bill's Republican manager, and on a series of strategic votes, his united minority was able to dictate the course of the legislation, which bitterly divided Democrats. On the issue of legalization for millions of aliens already in the U.S., the Californian withstood conservative pressure within his own party to kill the provision. In trying to strike a middle ground, he irritated both the Chamber of Commerce and powerful agricultural interests at home.

Across the aisle, Mr. Frank became the lightning rod for black and Hispanic critics of the bill, which seeks to control immigration by imposing sanctions on employers who hire illegal aliens in the future. In sharp, personal exchanges, the Massachusetts Democrat was challenged by friends who saw him as belittling their fears of discrimination. While liberals overwhelmingly voted against the measure, Mr. Frank lent his credibility to help win House passage on a close 216-211 vote. Now, in a House-Senate conference committee, Mr. Frank is drawing barbs for insisting on controversial language to protect the rights of aliens.

Some critics contend the Massachusetts legislator is being used by border-state interests who want the bill killed. But across the table, Mr. Lungren is among his staunchest defenders. Despite their philosophical differences, he is sure Mr. Frank is a man of genuine conviction.

"Barney Frank tells you where he's going and he goes there," Mr. Lungren says. "It's like playing Vince Lombardi's Green Bay Packers. You know what their tendencies are." Although the Californian opposes Mr. Frank's amendment on the rights of aliens, he believes the issue "is a matter of principle," not politics, for the Democrat. "So even though I'm obviously frustrated by it, my disappointment is tempered."

Rep. Frank reciprocates this respect. His conservative California colleague is known for a quick, sharp mind, but Rep. Frank notes: "There really isn't any nastiness in him."

First elected to Congress in 1978, the 37-year-old Rep. Lungren is one of the Young House Republican turks demanding a more aggressive GOP leadership. In 1980 he was one of those who unsuccessfully sought to block the election of Rep. Robert Michel of Illinois as House Minority Leader.

But Mr. Lungren has softened his approach, if not his views. For all his partisanship, he hangs on his office wall a letter from Democratic Speaker Thomas P. O'Neill Jr. More substantively, he's gaining skills as an effective legislator. Last year Rep. Michel selected him to draft a package of crime legislation, though some others of the younger, more assertive, Republicans wanted to drop the legislation and instead use the issue to hammer the Democrats politically. Mr. Michel and his young ally prevailed.

"He's the best man on the point out there," the GOP House leader says of his one-time young critic. "He's seasoned a lot."

Sometime soon Mr. Lungren will have to decide whether he wants to climb the leadership ladder in the House or to run for the Senate in 1986. Barney Frank, however, believes being a House member is just about the perfect job.

At 44, Mr. Frank, like his young Republican colleague, has softened his tone and changed his style. In the Massachusetts legislature, he says, "I was taken aback by the extent to which people wanted to get even with me." Now, he adds, "I've tried to mellow that a little bit." Though he once ran on the slogan that neatness isn't everything, the Democrat has shed more than 70 pounds and now sports a stylish haircut. "It's a little Freudian research I'm doing," he says. "I'm trying to prove the sex drive is greater than the food drive."

He still relishes his liberal credentials, but he is less the ideologue than he first seems. When banks mounted a strong lobbying campaign to repeal income-tax withholding on interest, Rep. Frank supported them. "I think the book on him would be 'Knee-jerk liberal,' and the book is wrong," says Rep. Henry Hyde. "There is an unpredictable side of him that makes him interesting."

Although they're both liberals, Mr. Frank's relations with House Speaker O'Neill have been somewhat wary. When the younger man opposed Mr. O'Neill and the massive Social Security finance package approved by Congress last year, his vote was played up in their adjoining districts around Boston.

"He said, 'You're rocking my boat,' " Mr. Frank recalls. "And I said, 'Yeah, but unfortunately it's the damn Queen Mary. I' jumping from side to side and it hasn't moved a quarter of an inch.' "●

PRECEPTORSHIP PROGRAM IN HEALTH

HON. J. KENNETH ROBINSON

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1984

● Mr. ROBINSON. Mr. Speaker, I welcome this opportunity to invite the attention of my colleagues to a new preceptorship program established by the University of Virginia Medical Center under the sponsorship of the American Academy of Dermatology.

I believe that this program will prove to be of substantial benefit to congressional staff persons having responsibility for health care concerns and, by extension, to the informed consideration of these matters in the lawmaking and appropriations processes of the Congress.

This is a pilot effort in which a limited number of congressional aides will be invited to the center in Charlottesville, VA, to observe, in an academic setting, the potential impact of health policy decisions by Government upon medical education, research and clinical practice.

It has been my privilege to represent the congressional district which includes the city of Charlottesville, and I have benefited greatly during my service in the House from the insights provided by the health care professionals—faculty, medical practitioners, researchers and administrators—of one of the Nation's top-rank medical centers.

Although I was honored to be invited to serve as a consultant to the Academic Medical Center Preceptorship Program Curriculum Committee, I can claim no substantive part in the development of the program. It has been brought forward after most careful planning by the committee: Peyton E. Weary, M.D., chairman; Toni Arnett, Dennis W. Barnes, Leslie E. Rudolf, M.D., Edward A. Smith, Jr., and Oscar A. Thorup, M.D.

For the further information of my colleagues, I include the following additional information on the Preceptorship Program:

PRECEPTORSHIP PROGRAM IN HEALTH

BACKGROUND

In 1983, a survey published by Grupenhoff* indicated that only 2% of congressional health legislative aides who deal regularly with health care issues have been trained in the health care professions.

Also, while the survey noted that such aides generally have excellent academic backgrounds, are politically astute, are nearly always open to the properly presented views of those concerned about health care issues, it is also the fact that they labor under a heavy and stressful workload, and few have had the opportunity to experience the day-to-day workings of medical schools, hospitals, biomedical research, or the formal and informal organizational relationships of the professionals working in the field.

It seems appropriate that a program be developed to invite such aides to an academic medical center for a hands-on experience so they can more readily assess the need for, and impact of, new health legislation. After all, the academic medical center is a complex institution which presents a microcosm in which to study and analyze the impact of health care legislation upon a wide range of health professionals, patients, and systems of delivery.

PRECEPTORSHIP FOR CONGRESSIONAL HEALTH AIDES

The American Academy of Dermatology, in 1984 provided a grant to the University of Virginia Medical Center to establish, on a pilot-project basis, a program for a limited number of one or two-week preceptorships for congressional health legislative aides who will be invited to the University for one or two weeks of exposure to the inner workings of an academic medical center.

The grant will cover travel expenses to and from the University of Virginia in Charlottesville, Virginia and reimburse, on a per-diem basis, the living expenses while the preceptee is in residence. If this experience proves worthwhile, it is anticipated that stable long-term funding will be sought and the program expanded to other interested academic medical centers.

The preceptorships will be scheduled during a congressional recess. The curriculum is designed to provide maximum exposure of the preceptee to activities which will broaden the individual's understanding of the multiple goals and missions of an academic medical center. The focus will be on the problems encountered in education, research and delivery of care and provide exposure to a broad range of individuals including patients, students, administrators, and health professionals of all types.

In addition to a formal curriculum, time will be set aside for in-depth analysis and study of selected problems of issues of particular concern to the legislators whose aides are participating. The committee responsible for the curriculum will plan to meet several months in advance of the preceptorship with the legislators and aides to arrange for any special opportunities desired.

CURRICULUM

The scheduled curriculum will be divided into regular activities in which all preceptees would be expected to participate, and elective activities from a list of possibilities offered.

The following is a list of regular activities with approximate time allotments for a two-week preceptorship which will provide an opportunity for the preceptees to:

1. Attend basic science lectures and laboratory sessions with the first-year medical students (3 hours)

2. Make ward rounds with the third-year medical students, residents, and attending physicians (3 hours)

3. Take a conducted tour of basic science and clinical research laboratories and animal care facilities (3 hours)

4. Spend one Friday evening in the Emergency Room (3 hours)

5. Spend time in the Neonatal Intensive Care Unit, the Coronary Care Unit, the Medical Intensive Care Unit and the Surgery Intensive Care Unit and Recovery Room (6 hours)

6. Spend time in several ambulatory care clinics (4 hours)

7. Interview at scheduled times the following individuals: (8 hours total) Vice President for Health Affairs and staff; Dean of the Medical School and staff, Hospital Director and staff; Dean of the School of Nursing and staff.

8. Attend regularly scheduled meetings of the following committees: (20 hours total)

Medical Policy Committee;
Human Investigation Committee;
Quality Assurance Committee;
Medical Ethics Committee;
Cost Control Committee;
Animal Care Committee;
Council on Medical Education;
Critical Care Medicine Committee;
Patient Education Committee; and
Child Protection Committee.

In addition, a maximum of ten hours will be allotted during which the preceptee may select a number of activities to include:

1. Visits to a private office of one or more clinical faculty (3 hours)

2. Attendance at meetings of the following regularly scheduled committees: (2 hours each)

Accreditation Advisory Committee;
Blood Bank Committee;
Cancer Committee;
Drug and Pharmacy Committee;
Safety and Risk Management Committee; and
Subcommittee on Minority Students.

3. Interviews with departmental chair-persons, medical students, residents, nursing students, hospital administrative personnel, and others: (1-2 hours each)

The preceptee will also have approximately 20 hours available for specially arranged activities to be determined on an individual basis.

Please note that if a one-week preceptorship is selected, major modifications in the program will have to be made on an individual basis.

NOMINATING PROCEDURE

If you believe that one of your aides would benefit from such an experience, please submit a nomination for your Congressional aide to: *Peyton E. Weary, M.D., Chairman, Academic Medical Center, Preceptorship Program, Department of Dermatology, University of Virginia Medical Center, Charlottesville, VA 22908.* Please indicate the name of the Congressional aide, address, telephone number, and preference for a one or two-week preceptorship.

The tentative dates for the first group of preceptees are Sunday, November 25 through Saturday, December 8, 1984.

*Grupenhoff, JT, PhD, "Profile of Congressional Health Legislative Aides," The Mount Sinai Journal of Medicine, Jan-Feb 1983. (The survey dealt with aides who served on the staffs of individual members and did not include professional committee staff.)●

TRIBUTE TO BARBER CONABLE

HON. LARRY WINN, JR.

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1984

● Mr. WINN. Mr. Speaker, it is indeed a privilege and an honor to join my colleagues today to pay special tribute to a man who has served his constituents, this body, and the Nation in a most exemplary fashion. BARBER CONABLE has been one of the most effec-

tive, dedicated and talented legislators that the House has ever seen. During the 20 years that BARBER has served, he has distinguished himself as a leading authority on tax policy and economic matters. As the ranking Republican of the House Ways and Means Committee, he has helped guide a number of major legislative efforts through to completion, including tax reform, revenue sharing, spending limitations, long-term health care for the elderly, Social Security and conservation of historical sites. Through thick and thin, BARBER CONABLE has continued to receive and warrant the highest respect from Members of both sides of the aisle.

It has been my pleasure to work with BARBER over the years, knowing that there would always be someone prepared to offer the voice of reason in the face of emotion, prudence when accommodating the wide array of legitimate interest groups, and flexibility during moments of seeming legislative stalemate. Those qualities are certainly hard to find, and will undoubtedly be sorely missed in the future.

I wish BARBER and his entire family the very best in all that they seek to do. As we both prepare to leave the Halls of Congress, I hope our paths will cross again someday.●

RALPH REGINALD ROOKE, 1898–1984

HON. THOMAS J. BLILEY, JR.

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1984

● Mr. BLILEY. Mr. Speaker, it is with extreme sadness that I come to the House floor today. Many of my colleagues knew Reggie well, and we will all sorely miss him. We convey our deepest sympathies to Ms. Rooke.

RALPH REGINALD ROOKE, 1898-1984

ALEXANDRIA, VA, August 14, 1984.—Independent retail pharmacy has lost a giant among its leadership. R. Reginald Rooke—known affectionately by his many friends as "Reggie"—died August 11 after a long illness at the age of 86. Memorial services were held two days later with members of the NARD Official Family and the NARD Foundation in attendance, including President James H. Vincent, President-Elect John W. White, Executive Committee member Donald W. Arthur, Executive Vice President William E. Woods, and for the Foundation, Frank Lobraico, president, and Helen Gouin, trustee.

Rooke earned the veneration of his peers for over 50 years for his intelligence, wise counsel, and ever-present qualities of a Southern gentleman. He was known throughout the nation for a fierce and loyal advocacy of his profession, and for his beliefs in American traditions and in the free enterprise system. There were few lives that he touched, during a long and distinguished career in independent retail pharmacy, that were not enriched by the good humor and self-effacing nature of this patriarch of pharmacy.

The stature of Rooke as a leader was noted by NARD's Woods who was the first lecturer in the R. Reginald Rooke Lecture series, inaugurated by the Medical College of Virginia School of Pharmacy and the Virginia Pharmaceutical Association in 1982. Woods said: "I have been asked to introduce Reggie to you. But I must confess the assignment is much like introducing the Pope to the College of Cardinals. The man truly doesn't need an introduction. Reggie is held in such high esteem within the profession of independent retail pharmacy, not only here in the Commonwealth of Virginia, but in pharmacy circles throughout the nation. He has set an example for all pharmacists through his service to local, state, and national pharmaceutical organizations . . . to his church, community, and especially to his friends."

Rooke held a special place in the annals of NARD. He was first elected to the Official Family as fourth vice president in 1949. During the next 10 years he moved upward in NARD councils and ultimately served as its 59th president in 1959. Through the years, he regularly attended the NARD Legislative Conference, the Annual Convention, as well as serving ably as a trustee on the NARD Foundation. He was named trustee emeritus in 1983.

Rooke graduated from MCV and began his career as a community pharmacist in 1929. He was very active in his state association and his community. During his tenure as president of VPhA, the association established a central headquarters and employed its first full-time executive secretary. He was also president of the MCV Alumni Association, chairman of the Virginia Retail Federation, member of the Richmond City Board of Health, president of the Richmond Pharmaceutical Association and Lions Club, and was appointed to the Surgeon General's National Polio Control Commission.

His constant companion at all NARD functions was his loyal wife, Lucille, who extends her appreciation for the flowers and many cards, letters, and telephone calls of support she and Reggie received in recent months, "They were just wonderful and meant so much to Reggie and me."

Mrs. Rooke has suggested that those who wish to make a contribution in memory of Mr. Rooke may do so to either of the following:

NARD Foundation, c/o National Association of Retail Druggists, 205 Daingerfield Road, Alexandria, VA 22314, or R. Reginald Rooke Memorial Lecture, c/o Virginia Pharmaceutical Association, Research & Education Foundation, 3119 West Clay Street, Richmond, VA 23220.●

MICHIGAN INSURANCE RATES LOWERED FOR SAFER DOMESTIC CARS

HON. BOB CARR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1984

● Mr. CARR. Mr. Speaker, some recent information about the safety of motor vehicles using our road system should be of interest to our colleagues both as policymakers and as consumers, particularly since Michigan auto owners are to be the beneficiaries of reductions in insurance premiums because of the superior safety performance of domestic vehicles vis-a-vis Japanese.

Recent reports in the Detroit papers indicate that domestically produced cars are safer than the foreign competition, and this improved safety performance is paying off for consumers in reduced insurance premiums.

One article, headlined "Imports Called Most Dangerous," appeared in the September 5 Detroit News. It relates Insurance Institute for Highway Safety findings that small, two-door cars, predominantly from Japan, continue to have proportionally high injury and damage claims, while American-made vehicles have the best claim records.

In a similar vein, September 18 Detroit News and Detroit Free Press articles noted that Michigan's largest auto insurer, the Automobile Club of Michigan, is carrying these Insurance Institute findings into the marketplace by reducing or raising its premiums based on vehicles' safety records. These articles point out that the vehicles with the best safety records, and therefore receiving rate decreases, are predominantly domestic makes, while a significant majority of the vehicles receiving rate increases are imports.

Mr. Speaker, I ask that these articles be printed in the RECORD following my remarks, and encourage my colleagues to read them as they consider the safety characteristics of the vehicles which are now available. Real-world experience measured by the insurance industry is showing that safety is yet another reason to buy American.

[From the Detroit News, Sept. 9, 1984]

IMPORTS CALLED MOST DANGEROUS

(By John E. Peterson)

WASHINGTON.—Many of America's hottest-selling Japanese imports also are among the most dangerous to drive and costliest to repair, according to a new insurance industry study.

Figures released yesterday by the Insurance Institute for Highway Safety indicate that small, two-door cars—predominantly from Japan—continue to have proportionately higher injury and damage claims. Expensive sports cars and specialty models tend to have the very worst records.

"By and large, small cars have poorer safety records when they are involved in a collision," said Brian O'Neill, vice-president of the institute, a nonprofit organization funded by the largest auto insurers.

The best claim records belonged to the Oldsmobile Delta 88, Pontiac Bonneville station wagon, Buick LeSabre and Mercury Grand Marquis—large, four-door cars built in America. U.S.-made cars had the best overall ratings in nine vehicle-size categories, while Japanese imports chalked up the worst overall injury and damage records in six categories.

The annual study compares injury and collision damage records of 1981, 1982 and 1983 models. It uses a pair of numerical scales with a baseline of 100.

A score higher than 130 in either the 130 in either the injury or property damage ratings indicates an above-average insurance loss record, the institute said, while a score below 70 indicates an insurance loss substantially lower than average.

The small Datsun 280 ZX sports car drew a total score of 346—the worst overall record among all cars. It scored an average 108 in injury losses, but had the worst property damage score of 238.

Another Datsun product, the subcompact Nissan Pulsar, had the worst injury score with 148 and an overall score of 294. Other cars with poor overall records included the Mitsubishi-built Dodge Challenger (302) and the Datsun 200SX (289).

Other small, two-door models with relatively poor injury and collision loss records include Plymouth Colt, Toyota Corolla, Saburu Hardtop, Chevrolet Chevette and Renault Le Car.

The full-sized Oldsmobile Delta 88 had the best overall record, scoring 59 in the injury losses and 62 in property damage. It led all cars in lowest injury losses.

The Pontiac Bonneville station wagon had a 124 overall total, and scored 55 for the lowest damage rating.

The Volkswagen Jetta two-door had the best overall record among imports—scoring 75 in the injury ratings and 91 in damage for an overall 166.

Other cars with especially good overall records included in the Mercury Grand Marquis four-door (124), the Buick LeSabre four-door (126) and the Ford Crown Victoria 2-door (126).

The Mercedes 300D protected its occupants well in an accident but costs a lot of money to repair, the study said.

"Many of the cars with the worst records overall have injury and property damage losses that are two to three times higher than the cars with the best records," said O'Neill.

Although the new institute report covers 1981-83 models only, O'Neill said their experience can be used to predict the probable performance of 1984 models.

O'Neill said 1984 General Motors vehicles with soft interiors, such as the Pontiac Fiero and the Chevrolet Corvette, were not included in the survey because "they have not been on the road enough to generate a meaningful base of insurance claims." They likely will be included in next year's study.

The Fiero recently recorded the lowest head injury score in the six-year history of the federal government's 35 m.p.h. crash tests.

[From the Detroit Free Press, Sept. 18, 1984]

AUTO CLUB PLAN—INSURER TO BASE COST ON CAR SAFETY RATINGS

(By Luther Jackson)

The Automobile Club of Michigan said Monday it will use safety ratings of 92 1984- and 1985-model cars to help set insurance rates for those vehicles.

Under the plan, which will take effect Oct. 1, owners of 63 new car models with relatively good safety ratings will pay 10 percent, 15 percent or 20 percent less for personal injury protection. This protection, called PIP, includes unlimited medical costs, work loss and survivors' loss coverage. It represents about 21 percent of the average total premium payment.

Motorists owning one of the 29 vehicles with poorer safety records would pay 10 percent, 15 percent or 20 percent more for personal injury protection.

The Automobile Club will use safety ratings compiled from nationwide data by the Highway Loss Data Institute, a non-profit Washington-based insurance industry trade group.

"We are taking this major step to help stimulate the design of even safer vehicles and encourage new car buyers to look closely at safety features before making their purchases," Automobile Club President Jack Avignone said.

Automobile Club officials said the program is the first of its kind in Michigan and one of the first in the country. Allstate Insurance Co., the nation's second largest company, does not have such a program, a spokeswoman said Monday. Other insurance officials interviewed Monday said they did not know of similar programs.

The Automobile Club, which insures 1.2 million Michigan motorists, is the state's largest automobile insurance writer.

Ninety percent of the car models getting PIP decreases are domestic cars while 62 percent of those facing increased rates are made by foreign manufacturers, the Automobile Club said.

Asked if the plan is unfair to foreign car owners, Thomas Bowman, Automobile Club assistant vice-president, said: "We call them as we see them. The (most) injuries occur in small cars."

As an example, Automobile Club officials said the Oldsmobile Ninety-Eight four door is 39 percent less likely to be involved in an accident with an injury than the average car, while the Datsun 200SX two door is 35 percent more likely to be in an accident with an injury.

The new rates would work like this, for example: The owner of a 1985 Mercury Marquis Colony Park station wagon who lives in Detroit and is over 25 years old would receive a six-month premium decrease from $540 to $522.

The owner of a 1985 Toyota Corolla Sport two door who lives in Detroit and is over 25 would see a six-month rates increase from $611 to $628.

The Automobile Club also said if the state Legislature passes mandatory seat belt legislation, PIP premiums would be dropped an additional 20 percent if the insured parties certify they wear seat belts.

[From the Detroit News, Sept. 18, 1984]

AUTO CLUB GEARS RATES TO SAFETY

(By James V. Higgins)

The Automobile Club of Michigan announced a new insurance rating program on 92 of 1984-85 cars, which will generally decrease premiums on larger models and raise premiums on smaller ones based on the cars' safety aspects.

The firm, Michigan's largest car insurer with 1.2 million policyholders in the state, said the insurance premium changes will go into effect Oct. 1, but said precisely how great individual changes will be depends on a number of factors, including the policyholder's place of residence, how many people drive the vehicle, and their ages.

Changes are being applied to the personal injury portion of the policy only, and will range from a decrease of 20 percent for what the Auto Club termed "safe" cars to an increase of 20 percent for "unsafe" ones. Auto club officials said the personal injury coverage represents approximately 21 percent of the average policy cost.

As examples, the firm said an adult driver in Detroit would pay about $35 a year more if he or she owned a Toyota Corolla, and about $35 a year less if the insured car was a Chevrolet Caprice station wagon. A young driver, however, would pay about $83 a year more for the Toyota and $83 less for the big Chevy.

At a news conference, Auto Club officials said they expect the new system will have no immediate impact on insurance revenues or payouts for personal injury claims. But if it meets the firm's goal of encouraging car manufacturers to produce safer vehicles, it ultimately will reduce injury claims.

"It is our hope that auto manufacturers will be encouraged as a result of our actions and their natural interest in this issue to build even safer vehicles," said Thomas Bowman, assistant vice-president for insurance at the Auto Club. "We also hope that more car buyers take a closer look at the safety characteristics of the new vehicle they purchase."

It has long been accepted that people driving larger cars are less likely to suffer injury in a traffic accident than those in smaller cars. But the auto club said its statistics also show that domestic small cars tend to be safer than imported small cars.

In the premium changes announced Monday, decreases ranged from 10 percent of personal injury premiums on the Volvo DL and GL to 20 percent on the Buick Electra and from 10 percent on the Toyota Tercel to 20 percent on the Datsun 200 SX two-door.

The Auto Club said 90 percent of the cars receiving rate decreases were domestics and 62 percent receiving increases were imports. Those statistics, however, are somewhat distorted because few imported large cars are sold here.

The firm calculated the new rates with information supplied by the Highway Loss Data Institute, a statistical service for the insurance industry. The data was for nationwide accident experience of 1980-82 models and was adjusted for similar late model vehicles.

Auto Club officials said it is the first program of its type in Michigan, although similar programs are being tried in a few other states. None are offered nationwide.

Auto Club President Jack Avignone acknowledged there is a risk that small-car owners may decide to change insurance companies rather than pay the higher rates, but said those losses probably would be offset by reduced injury claims in the future if the program works.●

HON. BARBER CONABLE

HON. PARREN J. MITCHELL

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1984

● Mr. MITCHELL. Mr. Speaker, I rise today to join my colleagues in paying tribute to Representative BARBER B. CONABLE, JR., for 20 years of dedicated service in the U.S. House of Representatives.

I truly admire a gentleman who can retire from a high ranking position in his party during a time when he would play an influential role in significant tax and spending decisions because, as he says "it is time to step aside to allow an infusion of new ideas into Congress." This is truly an indication

of Mr. CONABLE's recognition of a representative government.

Congressman CONABLE has recognized the frustrations of being in the minority, a frustration that we all have faced at some time, some of us more than others. Yet, when you come to respect the political process and the judgement of others you have accomplished what Mr. CONABLE has by keeping it all in its proper perspective. The mere fact that Representative CONABLE is leaving here without that frustration or a sense of regret says something about his individual character. The ability to leave office and to take with you an enriching social and intellectual experience is a goal we all hope to achieve.

BARBER CONABLE has attained the reputation of a dedicated, influential leader for his party. Indeed, 20 years of service acknowledges the support and the gratitude of his constituents in the 30th Congressional District of New York. Mr. CONABLE's retirement will be a severe loss for his district and Congress. The House and the many committees that Mr. CONABLE has served will be deprived of one of the most respected Members. We have all respected and admired his participation, leadership, and input in the legislative process. We shall remember and honor his deeds.●

TRIBUTE TO HON. JOHN ERLENBORN

HON. KEN KRAMER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Monday, October 1, 1984

● Mr. KRAMER. Mr. Speaker, I rise in tribute to the two decades of outstanding service in this body by our colleague and friend from Illinois, Congressman JOHN ERLENBORN, who is retiring at the end of the current Congress.

JOHN's departure from the House will leave a void in the leadership of the House Committee on Education and Labor, where he has served with great distinction as ranking Republican—a fact to which I can attest first hand as a former member of that committee.

JOHN's knowledge and expertise in the sensitive and difficult fields of education and labor law have earned him the well-deserved respect of his colleagues on both sides of the aisle. He has played a vital role in crafting major pension and education program reforms to the great benefit of all Americans. His tireless efforts to curb abuses in Federal benefits and public service jobs programs will long be remembered.

JOHN will be missed, and his shoes will be hard to fill. His record of legislative accomplishments will stand as a lasting tribute to his selfless service long after these words are forgotten. I only regret that he will not be returning to the House in the next Congress to add to this record. However, I am sure that, one way or another, his voice will continue to be heard in support of sound, commonsense education and labor policies.

I join my colleagues in wishing JOHN and his family many good and happy years to come.●

TRIBUTE TO THE HONORABLE BARBER CONABLE

HON. CECIL (CEC) HEFTEL

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1984

● Mr. HEFTEL of Hawaii. Mr. Speaker, it is with mixed feelings that I participate in this special order honoring our colleague, BARBER CONABLE, who will be leaving the House of Representatives at the end of the 98th Congress. This evening we will commemorate two decades of unparalleled accomplishment by the gentleman from New York. However, we will also mark the end of an era in the House of Representatives, an era that has been shaped by the unique qualities of this modest man whose persuasive and compassionate style has set a standard for all who have served and will serve in this body.

BARBER CONABLE's career in Washington spans 20 of the most tumultuous years in our Nation's history. By all accounts, his contribution to American political life transcends the contributions he has made in shaping tax policy as the ranking minority member of the House Ways and Means Committee. BARBER will long be remembered as a force of reason and moderation as events engulfed the Congress and the Nation in the sixties and seventies.

Mr. Speaker, inevitably, all who hold elective office labor under the frustrations of the system. We all criticize it when it fails to respond to our particular agendas. BARBER has been one of those unique individuals who was always willing to give of his time when another Member came calling for assistance on a tax project or on any other matter of concern. I, for one, will always be grateful to BARBER for his counsel on Ways and Means matters. I will miss his presence on the committee. We will all miss his gentle good humor and his friendly, persuasive manner.

Mr. Speaker, I know that I join all of my colleagues in the House in wishing BARBER and his family the very best in the years ahead. While he will be leaving the House of Representatives, his contributions to this institution will be felt for many years to come, in the philosophy he espoused, and in the style and demeanor he presented. We are all the richer for having served with BARBER, and the House he leaves will be forever shaped by his legacy.●

STATE-OF-THE-ART HAZARDOUS WASTE DISPOSAL ALTERNATIVES

HON. RON WYDEN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1984

● Mr. WYDEN. Mr. Speaker, we all share a common desire to rid our Nation of hazardous waste and the associated risks to the public health and the environment from its disposal.

Congress has taken a major step to ensure the safer disposal of hazardous waste with the passage of the Resource Conservation and Recovery Act amendments. The clear thrust of these RCRA amendments is to discourage the land disposal of hazardous waste.

Next year, Congress will resume its reauthorization of the Superfund law. It is my sincere hope that Congress will continue the progress made in the 98th Congress in establishing a waste-end tax on the land disposal of hazardous waste. Without a direct economic disincentive for land disposal, our efforts to regulate land disposal out of existence simply will not succeed.

No matter how many volumes of the Federal Register the EPA may fill with regulations, the simple fact remains that without alternatives to land disposal of hazardous waste guarantees that land disposal will continue beyond the date Congress intends the problem to go away.

We must make every effort to accelerate the commercial development and public acceptance of alternatives to the land disposal of hazardous waste as well as finding new means to manufacture products without generating a hazardous waste byproduct. The creation of a Federal waste-end tax—by closing the cost differential between land disposal and more expensive treatment and recycling techniques—is clearly one such means of accelerating the search for alternatives to the land disposal of hazardous waste.

I would like to share with my colleagues excerpts from an outstanding article published recently in Consulting Engineer magazine that deals with the options available for the treatment and disposal of hazardous wastes.

STATE-OF-THE-ART DISPOSAL ALTERNATIVES

(By Jay Mackie)

The current status of alternative technologies for processing hazardous wastes—what new technologies are being developed and what problems must be solved before these technologies can become commonly accepted practices—is an important issue.

While most of the attention has been directed at disposal, the field of alternative technologies should be viewed in a context broader than just disposal. Technologies should be viewed as available for solving many waste management problems, from initial generation to securing final residuals. For example, significant reductions in the volume of wastes can be accomplished through source segregation, process modification, end-product substitution, or recovery and recycle.

Source segregation methods are the simplest and probably the least costly method of reduction. These usually are easy to implement and involve low investment. In some, cases, they may only involve retraining personnel on proper materials handling.

Process modifications have the potential to reduce both hazard and volume. They offer a longer-range solution and possible savings in production costs. However, implementing such process modifications involves research and development, capital investment, and potential new liabilities, such as possible effects on product quality.

End product substitution is another possible method of reducing or eliminating hazardous wastes. Examples are new non-PCB oils for transformers, zinc as a replacement for cadmium, and PVC pipe in place of asbestos pipe. Obviously, this method is limited because substitution may not be possible in situations where the products serve some particularly useful purpose. And not all these substitutions avoid the production of hazardous waste. For example, the manufacture of PVC pipe as compared with asbestos-cement pipe involves new, but supposedly lesser hazards.

In addition to in-plant and in-process methods, various means of recycling and recovery are available. Inplant recycling is the most common, e.g., recycling a process waste by-product to another product operation. Use of a waste oil or solvent as fuel for boiler operation is another common practice, although even this receives environmental criticism when certain materials are burned. Commercial off-site recovery also has been burned. Commercial off-site recovery also has been adopted by some manufacturers. Recycle and recovery may be a matter of economy or provide the best answer to solve an operations problem to minimize long-term liability risks from disposal. Material or waste exchanges have cropped up in this country in the last few years. Although waste exchanges are listing mechanisms only, they do facilitate reuse of materials that might otherwise enter a waste site.

It would be easy to take a Pollyanna view of the ability of industry and other commerce to adopt new technologies or make substitutions that would eliminate the production of hazardous waste. Although industry's ability to reduce hazardous waste volumes from improved management practices is encouraging, these materials will remain with us in the future and improved technologies for safe treatment and disposal are mandatory.

EXISTING TECHNOLOGIES

Applications of alternative technologies have grown markedly in the last five years with the legislative emphasis on hazardous waste disposal. The most common processes are the standard wastewater treatment unit processes such as precipitation, clarification, filtration, biological treatment, flotation, oxidation, reduction, and dewatering.

Incineration for permanent destruction is being emphasized over and above traditional incineration uses based on economics. Activated carbon and air-stripping have found extensive application in processing contaminated groundwaters. Chemical process unit operations such as evaporation, distillation, and neutralization are commonly practiced and various fixation technologies are being applied on heavy metals.

EMERGING AND FUTURE TECHNOLOGIES

With the wealth of research and development talent available in the nation's scientific and engineering community, many emerging technologies will become available for handling hazardous waste. Many of these have been developed for the chemical processing industry but have not been applied wdely to hazardous waste treatment.

Physical processes provide an intermediate level of treatment that can reduce the quantity of, extract a hazardous component from, or change the physical state of a hazardous waste. Since these processes do not alter the hazardous potential of the waste, they must be coupled with other processes to degrade, destroy, or otherwise manage the contaminants. Alcohol, for example, can be used to dissolve by solvent extraction a hazardous material attached to soil, which is a physical process. The resulting contaminated solution can be concentrated by distillation, another physical process. The contaminant then can be destroyed by incineration, a thermal process.

Chemical, biological, and thermal processes are used to degrade contaminants to levels that are considered safe or more easily managed Chemical treatment normally involves adding chemicals to alter or destroy the hazardous compounds through chemical reactions. These reactions sometimes are augmented with ultraviolet light or gamma rays. Biological processes using either natural bacteria or specifically cultured bacteria may be developed for some of the less easily degraded wastes. Thermal treatment, which includes high temperature incineration, involves the use of heat to destroy organic compounds. Incineration would not apply to inorganic contaminants (cyanide being the exception).

New incinerator designs and incineration concepts, such as the use of molten salt and electrical plasma, are under development and show promise for the destruction of persistent compounds such as dioxin of PCB.

OBSTACLES TO APPLYING TECHNOLOGIES

From an environmental point of view, land disposal of hazardous waste has been considered the least favorable alternative. However, it continues to be the primary method of waste management. California, New York, and Missouri have passed laws to restrict the land disposal of certain wastes. Other states and the U.S. Congress have been investigating treatment alternatives to land disposal.

There are a number of reasons why alternative technologies have not found much application in spite of their inherent appeal:

Land disposal remains, in most cases, the most economical form of treatment and disposal. Under the current law, EPA and the states allow land disposal of any waste if the disposer can show that he can manage it safely. It would take legislative changes to disallow land disposal. Legislative initiatives are shifting away from land disposal emphasis to outright bans on certain materials, raw materials taxes, or waste taxes that penalize land disposal.

In their early stages of development many emerging technologies require substantial effort to develop them to a commercial scale. Until technology has been tested, the cost of using it to manage waste is unpredictable.

For many hazardous wastes listed under the Resource Conservation and Recovery Act there is little incentive to employ alternative technologies. The use of a treatment process does not reduce the regulatory requirements pertaining to waste classification even if the waste is rendered harmless.

Public opposition to hazardous waste management facilities is a common occurrence. This opposition is not limited to land disposal facilities, but also is aroused by waste treatment facilities. When permits are requested to allow construction of a hazardous waste processing facility, there usually is a local public outcry based on speculations of residual health risks.

Product liability and other liability considerations limit new technology applications. There is a prejudice against recycling used materials into normal production operations. In fact, in many cases there are specifications that specifically ban the use of recycled materials in a manufactured item or construction project. Attracting the financial community to these recycling ventures has proven difficult. Investment analysts want risks clearly defined before advising clients to invest. With the newness of the industry, the complexity of the waste materials, risk assessments vary with emerging data. Also, insurance companies are leery of giving blanket policies to facilities handling waste materials that are not totally definable.

WHAT IS NEEDED

It is obvious that the barriers mentioned in the previous section will not exist forever. As with any emerging technology, there will be a period of proven application and public acceptance and with time these technologies will become accepted practices. Alternative technologies should be used for hazardous waste disposal where possible. However, it would be impractical to place a ban of all land disposal activity. Land disposal in some cases will be the only feasible remedy, considering cost and risks associated with handling and treatment.

Possible actions that would help to implement alternative technologies include:

Write laws or regulations that disallow land disposal if a practical alternative exists.

Develop incentives for research and development programs for alternative technologies.

Modify the current RCRA "delisting" procedure to allow hazardous waste management controls to be removed from properly treated waste.

Provided for increased public awareness and involvement in hazardous waste management decisions.

Allow hazardous waste processing facilities to be sited under reasonable permit conditions.

Provide appropriate economic incentives through taxing waste or landfill sites or provide financial supports to alternative technologies.

The use of alternative technologies is a complex subject. Decisions should be made with the future in mind, avoiding shortsighted solutions that cost more in the long run.●

AMERICAN PARTICIPATION IN EXPO-85 IN SCIENCE CITY, JAPAN

HON. DON FUQUA

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1984

● Mr. FUQUA. Mr. Speaker, next year a major world exposition, to be known as EXPO-85, will be held in Japan. Like the world exposition in Osaka in 1970, this exposition will have extensive participation from around the world, including a large pavilion by the United States.

The American participation in EXPO-85 is being coordinated by U.S. Ambassador James J. Needham. I recently heard an impressive briefing by Ambassador Needham about the plans for EXPO-85 and for the American Pavilion which will have as its theme "Artificial Intelligence." This is a subject which will surely generate wide interest among the Japanese and foreign visitors attending EXPO-85.

A particularly impressive aspect of the U.S. pavilion is the broad participation by American business firms. Much of the credit for that participation goes to Ambassador Needham, who personally has worked hard to make sure that American business is fully aware of the tremendous opportunities in the export market which this exposition offers for individual U.S. companies.

So that my colleagues in the House will have the opportunity to be familiar with the important event, I ask unanimous consent that the text of Ambassador Needham's address on this subject to the Japan Society at New York, together with a list of participating firms, be printed in the RECORD at this point.

ADDRESS TO JAPAN SOCIETY BY JAMES J. NEEDHAM, AMBASSADOR OF THE UNITED STATES, COMMISSIONER GENERAL OF THE U.S. SECTION, INTERNATIONAL EXPOSITION, TSUKUBA, JAPAN, 1985

Thank you and good afternoon. It is an honor to be invited here today and a pleasure to tell you about a project that is generating a great deal of excitement in our country and in Japan—the Tsukuba Expo '85—a world's fair.

It is truly extraordinary that Japan and the United States, which are so culturally different, so geographically distant, have forged a partnership as close and effective as ours. The U.S. Ambassador to Japan, Mike Mansfield, has characterized this relationship as the "Most important bilateral relationship in the world, bar none."

The members of the Japan-American Society of Washington and its sister organizations around the country have played an important role in maintaining a strong bilateral relationship. Your organization, through its corporate and general membership programs, has helped bridge the gap between the economic and cultural differences that have, at times, separated the two countries.

Activities such as the society's educational outreach program in local schools and universities have helped foster an appreciation for the Japanese culture among students. The seminars for business and industrial executives on how and why they should do business with Japan have encouraged prosperity in both countries. The cultural exhibits displayed in Federal and international organizations headquartered in Washington have stirred our curiosity and deepened our understanding of Japanese lifestyles and traditions.

The efforts of your organizations to foster greater awareness and appreciation of Japan within the United States is closely aligned to the exchange programs between the two countries. Did you know that the United States has more cultural and educational exchange programs with Japan than it has with any other country? This fact is further evidence of the personal commitments by the Japanese and American people.

An indication of the success and support of these exchange programs was shown last month when 100 former Fulbright Scholars from Japan met with Vice President George Bush and members of the Fulbright Commission. The Japanese alumni group had raised one point five million dollars for the Fulbright Commission to sponsor more Japanese in the scholarship program. The fund raising project arose from a promise made by the Japanese alumni of the program at a thirty-year anniversary of the Fulbright Scholarship Program in Japan several years ago.

The effort was unparalleled by any other group of Fulbright Scholars in the world and is an example of the importance and respect the Japanese have for educational and cultural exchange programs.

Some of these exchange programs result in expanding trade, thus improving both countries' economies. The combined gross national product of Japan and the United States now accounts for about thirty-five percent of the total world GNP. That's a staggering relationship. Last year, our two-way trade was sixty billion dollars. That figure has more than doubled in the last seven years and more than tripled what it was ten years ago.

On both sides of the Pacific, it is recognized that the ideas and values of Japan and the United States are fundamentally the same and that our political and economic interests are similar. We are two great democracies. We are also friends, allies and partners in a number of cooperative endeavors.

The exchange programs are the foundation for important discussions between Japanese and Americans that encourage trade and development in science and technology. And, the next level for the partnership Japan and the United States have established will be the Tsukuba Expo '85.

The world's fair is one way Japan and the United States can once again demonstrate and strengthen the bond that has been forged in the last thirty years. And, I am proud to report that the U.S. Government was the first to sign the participation agreement for the fair.

The aim of the exposition is to focus worldwide attention on the ways man will have to adapt to the social, political, and economic changes resulting from the mind boggling progress in the fields of science, computer science, and communication.

Equally important, it is an opportunity for the technologically-advanced countries to share ideas and hopes of what technology can ultimately do for us in the 21st century. And to understand the importance of the business communities involvement in the shaping of our future societies. This is what we mean when we say Tsukuba Expo '85 is an opportunity for American business.

We expect the U.S. Pavilion to be as popular as the U.S. exhibit at Osaka's Expo '70, where every day people waited in line three or four hours to see our presentation. The U.S. exhibits will be presented in two pavilions and a theater. The structure is open and airy and lit by natural light as you can see from the pictures here today.

The theme for the U.S. Pavilion is "Artificial Intelligence," or knowledge systems. The term "artificial intelligence" includes the articulation of theories of knowledge, inference, problem-solving and decision-making, language acquisition and use, learning, memory, perception, and other aspects of human behavior generally encompassed by the term "intelligence." What distinguishes artificial intelligence from other fields is the emphasis that the AI scientist places on the expression of theories and models of intelligence as computer programs.

To move from today's primitive application of artificial intelligence, it is necessary to build revolutionary computers and supercomputers thousands of times faster than today's machines—computers that can think and reason somewhat like human beings and to understand information conveyed by sight, speech and motion.

This new line of "smart" computers may soon be put to work in diagnosing medical problems, in substituting for defective nervous systems which can inhibit a person's mobility or thought process. The potential is awesome.

Until now the United States has dominated advanced-computer technologies—all of the world's advanced-computers have been American-made. There are Seventy-four in operation. They are very powerful machines, capable of performing several hundred million operations per second.

Yet the current supercomputers are only at the threshold of what computer designers think can be acheived—the next generation will make many of the present computers obsolete.

To build this fifth generation of computers that will dominate the 1990's, both Japan and the United States are depending on the onrushing technological advances in microelectronics. Both countries have major research projects underway to develop faster, denser circuitry to create the new class that can be labeled "superintelligent."

That is some of the background on the theme of the U.S. Pavilion. The U.S. exhibit will also include the following series of topics:

American Technological Achievements; the Challenge; the Road to Artificial Intelligence: Where We Are; Networking; the Free Flow of Information; the American Way; the Challenge of Complexity: Building a Machine That Thinks; and the Real Thing: A Laboratory of Brain Power.

Visitors will then flow into the Pavilion's theater with seating for at least 400 visitors where a short entertaining and informative film relating to "Artificial Intelligence" will be shown.

So far, 55 corporations have committed themselves to supporting the Pavilion. Many of these contributions are for materials and supplies essential to the construction and operation of the Pavilion and we are grateful to these companies.

The space for corporate exhibits adjoining the Pavilion has been sold to American com-

panies which recognized the value of this unique opportunity to identify themselves as being active in the Japanese economy. These firms will develop their own displays consistent with the theme of the Pavilion. There are four companies which have accepted this combined challenge and opportunity. They are:

DuPont Japan; Polaroid International; TRW Corporation; and Texas Instruments Japan Ltd.

Only these and other contributing corporations will be allowed to associate their names with the United States Pavilion.

Their names will be prominently displayed and their contributions recognized at the Pavilion. In addition, they will have the right to advertise their affiliation with Tsukuba and use the fair's logo in promotional materials.

The first response to our request for financial assistance to the U.S. effort came jointly from an American and a Japanese firm, Houghton Mifflin Company and DAI Nippon Printing, which is an example of the cooperative spirit existing between American corporations and their Japanese counterparts operating in the United States.

Some of the other contributing companies are:

1. Citicorp; 2. Chrysler Corporation, General Motors and the Ford Motor Company; 3. International Business Machines; 4. Martin Marietta; 5. McDonnell Douglas; 6 Northern Telecom; 7. Northwest Airlines; 8. Western Union; and 9. Digital Equipment Corporation.

As for the Japanese Government exhibits, a history pavilion will feature Japan's developments in the areas of science and technology. They will include a "Theme Pavilion"—consisting of presentations about life in Japan and our world in general and a science playground.

Many other pavilions will be sponsored by Japanese corporations such as Sony, which will feature a giant TV screen twenty-five by forty meters.

A part of the U.S. participation in the Japanese World's fair—and an aspect that you will particularly appreciate—is the series of cultural events and business and scientific conferences that are being planned.

We are calling these activities our collateral programs. They range from scholarly symposia to marching bands.

The National Science Foundation will sponsor a conference in June of next year. American and Japanese scientists will discuss "Knowledge Systems: Corporation Through Competition."

Tsukuba promises to be one of the highlights of the decade. Excitement is growing in Japan as the opening draws closer. Around the country, fair organizers have constructed count down clocks that keep track of the days until the fair opens on March 17.

Currently thirty-three countries, thirty United Nations organizations, five other international organizations including the European Economic Community have declared their intention to participate in Tsukuba.

Twenty million people are expected to visit Tsukuba Expo '85. Two point two million tickets were sold by February of this year, exceeding all expectations and leading us to hope that attendance forecasts may be too conservative.

Expo '85 will be a unique opportunity for Japan and America to show the cooperation and understanding that binds the two countries. It also will be the last opportunity for a long time for American technological achievements to be displayed to such a wide Japanese audience. Japanese officials have stated that, because of the cost—over two billion dollars—Tsukuba is likely to be the last world's fair in Japan in this century.

With your help, America can show its appreciation to its Japanese partner and forge a new era of exchange programs. This international event is a chance for groups such as yours to demonstrate again their commitment to cultural and educational exchanges between Japan and the United States.

Your support of the collateral programs will help generate interest and draw attention to the Fair's international conferences and exchange programs. When the list of special conferences and events is finalized later this year, I encourage your companies to participate and, please, tell your friends and business associates about the programs.

When President Reagan spoke last November to the Japanese National Diet about the U.S. participation at the Tsukuba Fair, he talked abut a "New Pacific tide" and welcomed it. "Let it roll peacefully on," he said, "carrying a two-way flow of people and ideas that can break down barriers of suspicion and mistrust, and build up bonds of cooperation and shared optimism."

Thank you for your interest and your time, so that I could describe how our most important bilateral relationship will be enhanced at the Tsukuba Expo in 1985.

I hope you will join in this endeavor by supporting our corporate participation program which is an opportunity for American business.

U.S. PAVILION—TSUKUBA EXPO '85—PARTICIPATING CORPORATIONS

American Motors Corporation; Anheuser-Busch; Asakuma Co. Ltd.; Automation Intelligence; B-J Systems; Bose Corporation; Burroughs Co., Ltd.; Chrysler Int'l Services, S.A.; Citicorp; Coca Cola; Computervision; Cross, A.T., Export Co.

Dai Nippon; Digital Equipment Corporation; Dupont Experimental Station; Dupont Japan, Ltd.; Evans & Sutherland; Ford Motor Company; Franklin Mint Co., Ltd.; Fuji Xeros Co., Ltd.; General Motors; Hamilton Standard; Honda Motor Company; Houghton Mifflin.

IBM; Inference Corp.; James B. Beam Distilling Co.; Japan Society for the Promotion of Science; Jeep Japan Ltd.; Jockey International, Inc.; Kidde, Walter; Kurzweil Computer Products.

Martin Marietta Aerospace; McDonnell Douglas; Medical Graphics Corp.; Micropro Japan, Inc.; National Science Foundation; Neese Industries; Nippon Motorola, Ltd.; Northern Telecom; Northwest Airlines, Inc.

Oriental Kiiko Co., Ltd.; Polaroid International; SUNY Buffalo; Simmons, Japan Ltd.; Sony of America; Suntory Limited; Symbolics, Inc.

TRW; Texas Instruments Japan, Ltd.; Tupperware International; Vicom Systems, Inc.; Western Union; Wilson Sporting Goods; Zenith Electronics Corp.; and Zippo Manufacturing Co.●

TRIBUTE TO HON. BARBER CONABLE

HON. JAMES M. JEFFORDS

OF VERMONT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1984

● Mr. JEFFORDS. Mr. Speaker, this week, though a busy one for me as everyone else, should be a happy one. I face the prospect of returning to my home in Vermont at the conclusion of our business, and every Member I am sure relishes the chance to go home.

But our expectation is tingled with some sadness. Throughout this week, we are faced with the prospect of bidding farewell to a number of our colleagues. Tonight is no exception, as we pay tribute to one of the finest people to have served in this Congress, BARBER CONABLE. I concur in those most laudatory remarks that have preceded me.

As we have seen today and so many days, BARBER is one of the most thoughtful, articulate, and principled members of this body.

To the end of his tenure in Congress, he has taken an active and energetic approach to his work. At all times he has been courteous, and a colleague in the truest sense of the word. He has provided tremendously important leadership on tax and other issues.

BARBER is a valuable asset to the House, his party, and his friends. While he will be missed no matter what he does, I hope we will be able to continue to rely on his good counsel and companionship in the years to come.●

CONGRESSIONAL SALUTE TO THE HONORABLE NICHOLAS MARTINI OF NEW JERSEY UPON HIS INDUCTION AS KNIGHT COMMANDER OF THE ROYAL KNIGHTS OF JUSTICE OF GREAT BRITAIN

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1984

● Mr. ROE. Mr. Speaker, it is with great pride and pleasure that I call the attention of you and our colleagues here in the Congress to a most distinguished citizen, esteemed lawyer, and good friend in my congressional district—the Honorable Nicholas Martini—who as a defender, champion, and zealous upholder of a cause and principle for the public good has received a highly coveted international honor for his services to British War Relief during World War II—Knight Commander of the Royal Knights of Justice of Great Britain.

Mr. Speaker, in tribute to Nicholas Martini's many meritorious achievements in exemplary service to our people, with your permission I would like to insert at this point in our historic journal of Congress a recent article that appeared in a most prestigious publication among lawyers in our State and Nation—the Reporter: An Antidote to Law Reviews—which is published by our Passaic County Bar Association, announcing the induction of Nicholas Martini, Esq., as a Knight Commander of the Royal Knights of Justice of Great Britain, as follows:

NICK MARTINI "KNIGHTED" FOR WORLD WAR II SERVICES TO GREAT BRITAIN

Great Britain paid a debt of gratitude to Nicholas Martini, unquestioned dean of the Passaic County Bar, when he was inducted as a Knight Commander of the Royal Knights of Justice of Great Britain on June 5, 1984, at the 39th Annual Luncheon of Boys Town of Italy, Passaic area, held at the Robin Hood Inn in Clifton.

The impressive ceremony which closely followed the pageantry of dubbing a young man a knight in medieval England was a highlight of the charity luncheon. Nearly 600 persons attended.

Nick received the prestigious honor for his services to British War Relief during World War II. At that time, he also served as Chairman of the United States War Finance Committee in Passaic and was awarded a special citation from the United States Treasury Department.

As is typical in his long and distinguished career, the personal honor conferred upon him was only incidental to the important business of helping others. Martini, now an incredibly youthful 79, has held a fund-raising luncheon each year since 1945 to aid orphans and abandoned children in Italy. Expectation was that the affair would raise more than $10,000 from the $19.50 a plate lunch and other donations.

Governor Thomas Kean told the audience that Martini, an honorary founder of the Boys' Town of Italy, symbolized the ideals and principles that Americans have defended throughout their history. "This is a tribute," Governor Kean said, "to the good people who are concerned with the welfare of others. I am honored to be here and commend those who support this worthwhile program."

State, county and municipal officials were in attendance and enthusiastically took part in the formal pageantry that inducted Nick into the fraternal society of Knights of Justice of Great Britain, supporters of the work of the Boys Town organization and transmitters of Great Britain's thanks to Nick for his wartime services to that then embattled country. History came alive as there was reenacted the different steps of conferring knighthood upon a young man of medieval England, including the "hurling down of the gauntlet," the admonition, the oath, and the consecration.

Nick's investiture into the ancient order of the Royal Knights of Justice of Great Britain links him with authentic English and legal history. It also makes him the only Passaic County or New Jersey lawyer who has earned the right to be called "Sir" with a capital "S".

The Royal Knights of Justice of Great Britain trace back historically to the successful effort in 1483 by Henry VII (Henry Tudor) to solidify his still shaky hold on the English crown following the end of the War of Roses. England was then in chaos. Henry would either have to assert control quickly, including assurance of justice, or run the risk of fighting off a rival claimant to the throne. A major problem, as he viewed it, was the badly factionalized House of Lords, where under the provisions of Magna Charta, any Lord of the land accused of crime had to be tried. Politics ruled the day in the House of Lords, as elsewhere. Innocents were sent to the block, while scoundrels were set free.

Henry's solution was to seize upon the fact that a prerequisite for being a lord was that one also had to be a knight. He circumvented Magna Charta and the power of the House of Lords by using his medieval kingly right to convene Courts of Knightly Honor to inquire into the conduct of any knight. Assembling a dozen of England's best knights, he instructed them to bring justice to his realm. Known as the Royal Knights of Justice, they heard all accusations against knights, and, therefore, ipso facto, against disputatious lords. One theory as to why historically there have been twelve members of a petit jury is that there were twelve Royal Knights of Justice.

Their power dwindled as the crown of England successfully asserted full sovereignty. By the time the Virgin Queen, Elizabeth I, granddaughter of Henry VII, ascended the throne, they rarely heard a case any more. Membership in the order was then simply a court distinction. The Royal Knights of Justice became merely a footnote in legal history. It was revived in 1977, as a charitable and worldwide order, open to men and women of merit.

The elaborate ceremony of inducting Passaic County's own Nick Martini into the revived and revitalized Royal Knights of Justice was performed by David Nelson Alloway, New York Area Chancellor of the ancient order, assisted by state and local community leaders.

The Oath and Consecration were given by Msgr. John Patrick Carroll-Abbing, President, Boys' Towns of Italy. The Aide-de-Camp assisting Knight Chancellor Alloway was Dr. Harry R. Moon, a national leader of the Royal Knights of Justice. The Crier was Passaic County Sheriff Edwin Englehardt, while the Herald in the ancient ceremony was Passaic County Senator and Paterson Mayor Frank X. Graves, Jr.

The Pages at the ceremony were: Senator Carmen A. Orechio, President of the New Jersey Senate; Senator Joseph Bubba; Senator Joseph Hirkala, President Pro Tempore of the Senate; Passaic County Surrogate William J. Bate, Mayor Gloria Kolodziej of Clifton; and Mayor Louis Bay II of Hawthorne.

History came alive too in the use during the ceremony of investiture of a special sword and in the cape and neck decoration placed upon Nick during his induction. The sword had a hilt of solid silver with gold decorations, with the top set in 25 matching diamonds. It is one of a set of a hundred similar swords made to commemorate the 25th anniversary of the accession to the English throne by Queen Elizabeth II in 1977. The Neck Decoration was a gold replica of the ones worn by the original Royal Knights of Justice in the 15th Century when they sat in judgments as a Court of Honour. The Cape placed upon Nick marks the symbolic setting apart of the candidate for investiture into the ancient order from his former status. The black outer part symbolizes the order's solemnity, while the scarlet lining typifies the blood that has historically had to be shed during the ages in defense of justice, honor and integrity.

Nicholas Martini (Nick to all his innumerable friends) richly earned the unique honor. He has had a most distinguished legal and public career. He goes back a long, long way and himself forms a link with the legal history in the county and in the State.

Born in Paterson, he received his LLB degree in 1926 from Rutgers University cum laude. He has been a member of the Passaic County, New Jersey and Arizona State Bar Associations for 58 years. The past Bar Dinner of the Passaic County Bar, marked his 58th consecutive attendance at that event.

Nick's achievements fill the proverbial book. He was elected for five consecutive terms as Passaic City Commissioner during the period 1935-1955. He was elected Mayor of Passaic during the World War II years and organized and was very active in many relief and charitable drives and projects, including relief drives for Italy, Poland, Jewish refugees, and Russian and British War Relief.

He was elected Passaic County Freeholder in 1937. He also served as County Counsel in 1943 for six consecutive years, thus cumulating a total of 24 years in county government. He helped to organize and to obtain funding for the Passaic County Vocational and Technical High School, largest vocational school in the nation. He served as President of the Passaic County Board of Education for many years. Understandably, he has been named Passaic Outstanding Citizen.

President Franklin Delano Roosevelt appointed Nick as one of the original members of American Relief for Italy. He is an Honorary Founder of Boys Town of Italy, and has been active in that group continuously since 1945. The Republic of Italy in 1947 granted him its highest civilian award, the Star of Solidarity. On June 6, 1981, he was elected to and received the Academico Di Merito of the Academy of Science of Rome for his contribution to humanity. Unico National has named him Man of the Year. Boys Town of Italy has given him its International Award. And with all that he has been Trustee of the Mount Carmel R.C. Church for the past 59 years, and the spark-plug of innumerable charities and civic organizations. For the past 56 years he has been married to the former Theresa Viola De Rose.

The Reporter lacks a formal award to give Nick to add to this impressive list. We wish we had one. What we do give, however, is our most fervent congratulations for a continuing young and vigorous life that brings honor to all of us as well as to this distinguished fellow attorney.

Mr. Speaker, it is indeed appropriate that we reflect on the deeds and accomplishments of our people who have contributed to the quality of life here in America and the preeminence of our representative democracy, second to none, among all nations throughout the world. I appreciate the opportunity to seek national recognition of Nick Martini for all of his good deeds of national and international renown. We do indeed salute a highly compassionate gentleman, esteemed lawyer, and great American—the Hon-

orable Nicholas Martini of New Jersey.●

TRIBUTE TO HON. BARBER CONABLE

HON. KEN KRAMER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1984

● Mr. KRAMER. Mr. Speaker, I rise in tribute to one of the true giants of this hallowed body, Congressman BARBER CONABLE of New York. His articulate advocacy of sound budgetary and tax policies has done much to benefit all Americans. His leadership was essential to the success of the President's 3-year, 25-percent tax rate cut in the 97th Congress.

As an advocate of a balanced Federal budget, I am especially appreciative of BARBER'S quest for a constitutional amendment to require balancing the budget. BARBER, I want you to know that, although you will not be with us here when the next Congress convenes, those of us who share your commitment to a balanced budget will not rest until a balanced budget amendment is embodied in the Constitution.

It has been a privilege for me to serve in this House with BARBER CONABLE. His decision to leave is a great loss to this body and the Nation. His leadership will be missed.

I join my colleagues in wishing BARBER and his family the very best.●

TRIBUTE TO REPRESENTATIVE BARBER CONABLE

HON. THOMAS J. BLILEY, JR.

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 3, 1984

● Mr. BLILEY. Mr. Speaker, for the past 20 years the U.S. Congress and the American people have been the beneficiaries of the exceptional service of one of our Nation's most able lawmakers and statesmen—BARBER CONABLE. The distinguished gentleman from New York has established a well-deserved reputation for integrity, hard work, and effectiveness—a reputation that is unsurpassed and admired by his colleagues on both sides of the aisle.

Although BARBER CONABLE'S legislative and political accomplishments will assure him an enviable place in the history of American statecraft, I must admit that I will remember the man in a slightly different context. As a junior Member of Congress in my first term, I was unfamiliar and tentative over the workings of this great body. I remember the kindness and patience of my senior colleague from New York, who took the time to lend a helping hand to this very new colleague from the Commonwealth of Virginia. It was an unexpected and very welcome expression of good will that I received from my esteemed friend and coworker.

The people of Virginia place high value in the personal qualities of any individual. A person's rank is less important than his character. In BARBER CONABLE we have a man endowed with those qualities that characterize greatness. He is a gentleman who possesses the warmth, charm, and intelligence that place him in a category by himself. I am proud to have served with him, and I am honored to have known such an extraordinary man of the people.●

LATIN AMERICA AND THE LAW

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1984

● Mr. GARCIA. Mr. Speaker, I am submitting for the RECORD an article by Colin Danby, a research associate at the Council on Hemispheric Affairs. The article examines the Reagan administration's approach to the law and Central America.

Mr. Danby points out that the administration's ability to bend the law extends beyond sending aid to the Contras. I hope my colleagues find his article useful.

AT THE WATER'S EDGE

(A COHA research memorandum by Colin Danby, COHA Research Associate)

"Respect for the law is the essence of the American tradition and heritage," observed the introduction to a September 11th report from the House/Senate Arms Control and Foreign Policy Caucus. "Any policy," it continued, "which appears to treat the law as a roadblock to be evaded rather than a foundation to build upon creates unease and suspicion among both its supporters and its opponents."

Entitled "U.S. Policy in Central America: Against the Law?," the report lists 30 U.S. and international statutes that may have been violated by the Reagan administration in the pursuit of its Central America policy. Refraining from any final judgments, the report carefully lists the section of the statute in question, the allegations of transgression, and the administration's response. Nineteen of the counts concern U.S. law, eleven international law.

Allegations cover military construction in Honduras, aid to El Salvador, and support for the Nicaraguan counterrevolution. Many are familiar, and some—like allegations that U.S. food aid to El Salvador has been sold to raise money for arms—have received very little airing. The document's most instructive aspect is perhaps the administration's responses to the thirty charges, for behind the shifting justifications and excuses, there is evident a firm conviction that might makes right, and that while one may have to play by Queensbury rules within the United States, abroad the gloves come off.

Among the first statutes to fall victim to Reagan's foreign policy was the Neutrality Act, which prohibits conspiring or preparing within the United States for an attack on another country with which the United States is "at peace." Newspaper articles began appearing as early as March 1981 describing the training of Nicaraguan counter-revolutionaries at Florida camps run by Cuban exiles. Subsequent reports described a network of camps in California, Texas, Florida, and New Jersey. Exile spokesmen at these camps boasted publicly of training recruits to fight in Nicaragua, yet in 1981, Justice Department spokesman John Russell told a journalist that "Officially we're not aware of any military maneuvers taking place in Florida."

The administration is now arguing that "the United States cannot fairly be said to be 'at peace' " with a country against which the executive and Congress have "acted jointly to prosecute and support military operations," and that the Neutrality Act does not apply to the U.S. executive in any case, its purpose being simply to limit freelance activities that are not in accordance with U.S. policy.

This position is central to the legal issue, since an extensive private coalition has been assembled to support the activities of the Nicaraguan Contras. According to recent reports, their funding derives from rightist religious sources such as the Christian Broadcasting Network and the Unification Church, as well as shadowy foundations like the Friends of the Americas, Human Development and Pro-American Educational Foundations, from at least one Veterans' Organization and Soldier of Fortune magazine, and from foreign governments including those of Israel, Taiwan, Argentina, Venezuela, and Guatemala, plus a number of U.S. corporations.

In connection with a lawsuit brought by Rep. Ron Dellums (D-Calif.) and the Center for Constitutional Rights, two federal courts have rejected the administration's contention that it is not subject to the Neutrality Act, but the Justice Department apparently hopes to prevail in the appeals process, and given the makeup of the Supreme Court its chances are good. That court voted in June to reverse an Appeals Court Decision and reinstate an administration-imposed ban on travel to Cuba, holding that "weighty concerns of foreign policy" overrode individual liberties.

White House tolerance for overseas trouble-making does not extend, however, to assaults on friendly governments. In 1981, ten people, mostly members of the Ku Klux Klan and neo-Nazi groups, were prosecuted in connection with a bizarre plot to invade Dominica. At least four groups of Haitians have been prosecuted under Neutrality statutes over the last three years for abortive plots to overthrow the Jean-Claude Duvalier regime, a government that has twice this year been certified by the Secretary of State for its improving human and political rights performance, despite escalating repression and a near-total ban on political activity.

In January 1983, Thomas Enders, then Assistant Secretary of State for Inter-American Affairs, signed a communique in Haiti saying the United States "reaffirms its engagement in the framework of American law to block terrorist actions directed against Haiti by individuals operating from U.S. territory."

The administration has actually been pushing to tighten legislation regarding involvement by U.S. citizens in foreign matters. One of the bills included in a four-part

"antiterrorism package" introduced by the administration sought to prevent the provision of services by U.S. citizens to governments or organizations labelled "terrorist" by the executive branch. In response to protests that this approach would allow the administration to declare ongoing activities illegal according to whim, a substitute version was offered which would require a license to engage in the provision of services outside the United States. This version, however, will have to wait for the 99th Congress, as members of the House Foreign Affairs Committee decided September 21 to shelve it for the time being.●

THE 75TH ANNIVERSARY OF THE NATIONAL MENTAL HEALTH ASSOCIATION

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1984

● Mr. WAXMAN. Mr. Speaker, I wish to extend my congratulations to the National Mental Health Association as it celebrates its diamond anniversary this year.

The National Mental Health Association is a nationwide, voluntary organization devoted to the promotion of citizen interest and activity for the cause of mental health and the improved care and treatment of mentally ill persons. Originally formed in 1909 by Clifford Beers, a former patient himself, as the National Committee for Mental Hygiene, the National Health Association stands today as the only citizens' organization with concerns for all aspects of mental illness.

The National Health Association maintains a volunteer cadre of over a million members and supporters. It is represented by 650 affiliates in 40 States and the District of Columbia, and through service and leadership, its volunteers encourage:

Positive attitudes toward mental illness and mentally ill persons, upgraded services for mentally ill persons, and collaborative work for the prevention of mental illness and the advancement of mental health.

In one out of every three homes in America is someone with some form of mental illness. That equals more than 30 million sufferers of stress, depression, or more devastating emotional disturbances. Great progress has been made in reaching out and treating these persons, but millions of others remain unserved, underserved, or inappropriately served by the present system of therapy, counseling, rehabilitation, and training. The overriding intent of the association is to make best use of its resources by being a watchdog of the system and acting as a catalyst for change.

State, local, and national Mental Health Association volunteers and professional staff persons serve on myriad boards, commissions, committees, and task forces as consumers' representatives and mental health advocates. This participation results from its credible interpretation of citizen viewpoint—and chief decisionmakers' respect for it.

Community-level promotion of mental health is delivered through program services and informational, educational activities of Mental Health Association chapters. Local volunteers serve in State hospitals and community mental health centers, in addition to nursing homes. Mental Health Association chapters operate social clubs and drop-in centers; assist family and friends of the mentally ill victims through support groups; help to integrate former patients back into their communities; and sponsor lay and professional workshops in an effort to overcome the onslaught of mental and emotional illnesses and the stigma related to them.

A small sample of successful Mental Health Association chapter programs are:

In Los Angeles County, CA, 36 self-help clubs operated by the Mental Health Association chapter for the long-term mentally disabled are currently serving 500 community members. Vocational rehabilitation and job development programs are also provided for mentally disabled individuals.

In Dallas County, TX, the MHA chapter's We Have Ourselves Program [WHO] helps children and young people from kindergarten through high school recognize and cope with all forms of victimization. Some 55,000 youngsters have been served.

The greater Atlanta, GA, Mental Health Association chapter's Community Friends Program links volunteers with community members requiring support, assistance, and friendship. Volunteer-led support groups provide direction and support for mentally ill people and their families, emotionally troubled children, and adolescents.

In Florida the PACE Program [Positive Action for Community Effort] operated by the Dade County MHA in conjunction with the Coral Gables Police Department provides counseling and early intervention through communication and friendship for troubled adolescents who are not yet involved with the criminal justice system.

The Mental Health Association in Michigan's Choices for Positive Living Program in Detroit and Muskegon public schools focuses on enhancing self-esteem in children. Interested local parents are offered training in parenting skills.

It has been my privilege to work with the Mental Health Association on many issues over the last several years, and I know I am joined by many of my constituents and by my colleagues in the House of Representatives in celebrating the Mental Health Association's 75 years of achievements and good works. We wish them well in their future endeavors.●

THE TRUE STATE OF JOBLESSNESS IN AMERICA

HON. AUGUSTUS F. HAWKINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1984

● Mr. HAWKINS. Mr. Speaker, the Council on International & Public Affairs, a nonprofit research group in New York, has just released a report entitled "The Underbelly of the Current Recovery: Joblessness and Pauperization of Work in America." The report challenges the Reagan administration's claims that the current recovery has created many new jobs and suggests that the quantity and quality of full-time, well-paying jobs are declining in the U.S. economy.

The monthly official unemployment rate, as reported by the Bureau of Labor Statistics [BLS] at the Department of Labor, does not truly reflect the extent of joblessness in the United States, as the media and the present administration would like the public to believe. In order to fully understand the serious problems associated with unemployment and underemployment, the following factors must be taken into consideration:

According to BLS's reporting requirements, a person need only work 1 hour during the survey week to be counted as employed in the labor force.

Discouraged workers, those individuals who are unable to find jobs and have stopped actually seeking employment for more than 4 weeks, are excluded from the labor force. This BLS definition distorts the true number of all unemployed persons. For example, if all persons who wanted a job were added to the labor force count in 1982, the unemployment rate would be 14.8 percent instead of the 9.7 percent reported for the year.

Part-time employment "for economic reasons" has increased 156 percent since 1972, but more than half of that increase has occurred during the last 3 years.

Higher paying jobs, particularly in heavy manufacturing industries, are being lost—mostly by prime-age male workers—and are being substituted by much lower paying jobs, largely in the service industries and largely held by women who are entering the labor force in increasing numbers. Since many service sector jobs pay minimum wage and yield annual incomes below the poverty level, this shift from higher to lower paying jobs lends credence to the "pauperization of paid employment' theory.

The stark reality of joblessness for millions of Americans can be shown if BLS, among other things: (1) eliminates the Armed Forces from the U.S. labor force count; and (2) calculates the unemployment rate by including all persons who want jobs but do not have them, a substantially larger category than BLS's definition of "discouraged workers."

The Reagan administration claims that the current recovery is creating many new jobs. In fact, of the 4 million new jobs credited to the current economic recovery, 2 million represent jobs lost during the 1981–82 recession and the rest represents only a 2-percent increase over 2½ years—much less than the annual increase for previous years.

The sad state of joblessness is forcing some individuals to engage in activities outside the formal economic structures—for example, nonpaid self or family employment; cash transaction off the books; or illegal activities, all of which do not contribute to this country's measure of the GNP.

The following summary of this recent report puts all of the above factors into proper perspective:

[Press release: Council on International and Public Affairs, Oct. 5, 1984]

REAGAN ADMINISTRATION JOB CLAIMS A MYTH

MAJOR INCREASES IN JOBLESSNESS REPORTED BY NEW STUDY

Reagan Administration claims that the current recovery has created lots of new jobs are largely a myth, the authors of a new study reported today. On the contrary, joblessness has increased substantially during the Reagan years, and the quality of the jobs created has declined sharply.

These are the major findings of a new study released today by the Council on International and Public Affairs in New York. The study reports that the Unemployment or Jobless Rate for all civilians who want jobs jumped from an annual rate of 13.4 per cent in 1981 to 15.9 per cent in 1983. During 1982, at the height of the worst recession in 50 years, the Jobless Rate stood at 16.9 per cent.

"Even if we take monthly figures for July 1981 and July 1984, two roughly comparable points in the business cycle and calendar year," observed Ward Morehouse, President of the Council and co-author of the study, "Reagan Administration claims that the U.S. economy is an astounding job machine cannot be sustained." In July 1981, the number of jobless was 13.8 million while in July 1984, there were 15.0 million jobless, an increase of 8.9 per cent.

The Jobless Rate used in the study is a broader measure of unemployment than the one reported each month by the government's Bureau of Labor Statistics. It is weighted for part-time workers and includes discouraged workers and others who say they want a job but have given up looking because they cannot find one. In fact, the BLS does make some calculations of alternative unemployment rates but gives no visibility to them.

"All our figures come from the Bureau of Labor Statistics, a highly professional operation that produces the best numbers we have on the job situation in the country," Morehouse emphasized.

Two factors explain the discrepancy between the Jobless Rate and the monthly Unemployment Rate, which was 7.3 per cent in July 1981 and 7.5 per cent in July 1984—excluding the armed forces who were added to the number employed in January 1983 (the Jobless Rates for those months were 13.0 per cent and 13.1 per cent respectively). One is the increase in part-time employees.

"It is important to remember," David Dembo, the study's other co-author and Coordinator of the Council's Technology and Work Program, stated, "that even if you work only one hour in a week, you are treated statistically the same as if you worked 35 hours in calculating the official Unemployment Rate."

The other factor is the increase in those who want jobs but cannot find them, which surged from 5.8 million in 1981 to 6.5 million in 1983. The Bureau of Labor Statistics stops counting these persons as unemployed if they have not tried to find work in the preceding four weeks.

"This category always increases in a recession," Dembo noted, "but this time the increase appears to have been proportionately greater and the decline during the recovery much slower than in other recent recessions."

Many of the jobs created during the recovery, furthermore, are not only part time but low wage as well. "We cannot be certain because we do not yet have conclusive data," Morehouse said, "but it appears a large number of high-paying jobs, mostly in manufacturing, were lost in the recession and have been replaced by service sector jobs at or close to the minimum wage." Even a full-time, minimum wage job only pays $5,860 a year as against the poverty line of $10,178 for a family of four. "What we are seeing," Morehouse continued, "is the pauperization of work in America."

Both authors emphasized the historical character of the trends documented in their study. "These trends did not originate with the Reagan Administration," they stated, "but it does appear that they have accelerated sharply since January 1981." For example, part-time employment "for economic reasons" (i.e., mostly involuntary for those really seeking full-time jobs) has grown 156 per cent since 1972, but more than half of that increase has come in the last three years.

The study, entitled The Underbelly of the Current "Recovery": Joblessness and the Pauperization of Work in America, is available from the Council on International and Public Affairs, 777 United Nations Plaza, New York, NY 10017, for $6.●

FORMER POW BILL

HON. PAT WILLIAMS

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1984

● Mr. WILLIAMS of Montana. Mr. Speaker, today I introduced a bill to provide automatic compensation to former prisoners of war held by the enemy in either the Asian Theater in World War II or the Korean conflict. I am introducing this just completed legislation so late in the Congress only because I sincerely believe we cannot forestall just compensation for these veterans for even another minute. Let me quote from the June 1983 report of the Advisory Committee on Former Prisoners of War, established under Public Law 97-37—the Former Prisoner of War Omnibus Act, which I supported:

It is clear that the progress to date is not satisfactory, the effort started too late, entirely too many delays have been experienced, and sufficient emphasis and interest by key officials has not always been evident.

They go on to advise:

We are obliged to point out that prompt and effective action is essential. The overwhelming majority of former POWs are from World War II and their average age is over sixty. If the VA does not demonstrate the ability to fairly and effectively rate the claims of former POWs in consonance with the medical knowledge now available, we will have no choice other than to recommend that a disability award be made to all former POWs based upon geographical location and tenure of imprisonment. Former POWs cannot wait any longer for equity.

Little has changed in the VA since the report, but recognition of the problems suffered by these ex-servicemen has continued to grow. Former prisoners of war represent only 0.0032 of the total veteran population served by the VA. This factor has made it exceedingly difficult to get the attention of VA personnel in dealing with former-POW problems. Public Law 97-37 was a good first step in coming to grips with the problems of former prisoners, but I believe there is sufficient evidence to dictate that our Government take the final step and grant automatic compensation for our former prisoners of war.

My legislation addresses only those veterans who fought in the Asian theater in World War II or the Korean conflict. This division of former prisoners of war is only because I believe the body of evidence about recurring illness due to incarceration is more compelling with this group of veterans. To move the Congress toward automatic compensation will be difficult. I see my legislation as only a start. I am exploring and will strongly look at a future possibility of including prisoners from other conflicts.

The Advisory Committee's report cited four reasons why Public Law 97-37 was not succeeding. Again, I quote from the report:

The adjudication of claims for service-connected disability by former POWs is profoundly and negatively affected by four factors. First, the number of former POWs is very small in relation to the total number of veterans. Second, the POW experience is so different from the experiences of most citizens, most veterans, and even more combat veterans. Therefore, adjudicators and physicians who participated in the rating process are rarely exposed to former POWs. Third, former POWs generally have nonexistent or poor medical records covering the period of captivity and immediately thereafter. Fourth, the normal adjudication process requires clear medical evidence or etiological proof of the origin of disabilities. We are

concerned that these factors are not sufficiently addressed or compensated for in either the law or VA administrative directives and practices. Because of these factors, it has been difficult to implement Public Law 97-37.

Not one of these factors has changed since this report, and daily we face the loss of these men and the suffering of their families.

When Public Law 97-37 passed Congress, I believed, as did others, that we were finally paying our unpaid debt to these veterans who suffered dearly at the hand of our enemies. I recounted in the CONGRESSIONAL RECORD, before the passage of Public Law 97-37, the old barracks ballad sung by prisoners of the Japanese captured at Bataan and Corregidor:

We are the battl'n bastards of Bataan
No Momma, no Pappa, and no Uncle Sam."

I hailed that bill as an answer to the old ballad, but Public Law 97-37 was not the panacea that we had hoped. Those veterans are still awaiting justice and I believe the 99th Congress will see fit to move vigorously to finally assist these men and their families.

My legislation grants an automatic disability compensation of 60 percent to any veteran held by the enemy for more than 30 days. The bill also liberalizes the definition of POW to include civilians who were captured and servicemen who evaded capture, but never rejoined our forces. These changes bring American compensation into line with that of other countries, most particularly with that of Canada.●

OMB IN REAL CONTROL OF NATIONAL ENVIRONMENTAL LEGISLATION

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1984

● Mr. FLORIO. Mr. Speaker, over the last 4 years we have accomplished final passage of only one piece of major environmental legislation—the reauthorization of the Resource Conservation and Recovery Act. Several other major pieces of environmental legislation—including reauthorizations of Superfund, the Safe Drinking Water Act and the Clean Water Act—have become bogged down and ensnared in a process so tortuous that effective action has become impossible.

The chief factor in the defeat of all of the these crucial pieces of legislation has been the opposition of the administration, led by the Office of Management and Budget, to even minimal improvements in our major environmental laws. The administration has pulled all stops to prevent final enactment of any of these important bills this year.

Many of us who have watched these disturbing developments fear that the real motivation behind the administration's position is the delay of all substantive legislation until after the election so that proposals to modify the laws can shift in an entirely new direction: the systematic dismantling of the fundamental framework of environmental protection which bipartisan coalitions in the Congress have so painstakingly developed over the past two decades.

The most recent confirmation of our worst suspicions was provided by an article in the New York Times detailing OMB's efforts to control even the editing of basic public relations documents produced by the Environmental Protection Agency. I recommend this troubling story to my colleagues' attention.

TOWARD A CLEAN AND BUDGETED ENVIRONMENT

(By Philip Shabecoff)

WASHINGTON, Oct. 1.—The report, its cover a pretty, abstract drawing of bright flowers and blue water, is called "Environmental Progress and Challenges: an E.P.A. Perspective."

But it might just as easily be called "an O.M.B. Perspective," according to an Environmental Protection Agency official who helped write it, because it was heavily revised to reflect the views of the Office of Management and Budget.

The report was sent to employees of the environmental agency last week accompanied by a letter from the agency's chief, William D. Ruckelshaus, saying that it "highlights the challenges ahead for us and outlines our agenda for addressing them."

That agenda appears to have been strongly modified by changes and deletions made at the behest of the White House budget office. The printed version of the report reflects many, if not most, of the changes suggested by the budget office when it edited the final draft prepared by the environmental agency.

DELETIONS AND MODIFICATIONS

A copy of the edited draft shows that the budget office wanted references to new spending on environmental programs and new regulation of industry deleted or modified. It also wanted to moderate statements about the urgency of emerging environmental problems.

For example, a statement of the acid rain "problem" in the report ends with a paragraph explaining how "acid deposition is believed to pose little direct risk to human health." The agency's final draft ended with this sentence, which was neatly lined out by the budget office editor: "However, the National Academy of Sciences reported that acid deposition is a threat to human welfare because of its potential impact on materials, forest and farm productivity, aquatic ecosystems and drinking water systems."

The final draft had said: "E.P.A. will be working with the states to prepare to implement an acid rain control program." The printed version incorporates language proposed by the budget office, stating that more knowledge about the problem "will increase our ability to determine the need for and select effective controls."

The budget office has led the Reagan Administration's opposition to programs for controlling acid rain, arguing that more must be learned about acid rain before an expensive controls program is undertaken.

NO MORE INDOOR AIR POLLUTION

Dropped from the report is an entire section on indoor air pollution, which, in the draft, was described as a "potentially significant health problem" that includes risks from asbestos fibers, radon, formaldehyde and other substances. All that remains is a paragraph in the "overview" section of the report saying that indoor air "can become polluted" from cigarettes, building materials and heating and cooking devices and other sources.

The final draft, discussing the impact on underground water supplies from waste disposed of in landfills, said: "It is all but certain that such facilities are major sources of ground-water pollution." In response to the budget office's objection, that was changed to read: "Such facilities can be sources of ground-water pollution." The Reagan Administration is not supporting pending legislation that would virtually eliminate the use of landfills for hazardous wastes.

The draft said the "E.P.A. is currently preparing regulations that will require monitoring by public water systems for certain volatile organic chemicals and pesticides." That sentence was dropped completely. The Administration has taken the position that the Federal Government should defer to states and localities in regulating underground water supplies.

SEWAGE COST ESTIMATES DELETED

Other parts deleted entirely from the final report are the draft's estimates that an additional $35.4 billion had to be spent to meet secondary sewage treatment requirements of the Clean Water Act and that an additional $118 billion will be needed to meet all of the nation's public sewage treatment requirements by the year 2000.

In some cases the agency did not incorporate the budget office suggestions in the final report. For example, the budget office wanted deleted as "too negative" a statement that "The environmental victories of the 70's notwithstanding, continued progress will be much more difficult." The sentence appears in the printed report.

In general, however, the extent and nature of the changes sought by the budget office in the document tend to support previous reports that the budget office was trying to shape environmental policy to meet President Reagan's goal of reducing the impact of Federal regulation.

VALUABLE BUT MINIMAL

The official who helped write the report, who asked not be be identified by name, said that even with the changes, the final report is "a valuable document that gives a good sense of where E.P.A. is going; it is a valid agenda."

"But it is a minimal agenda," he added, complaining that the goals of the original report were "watered down by the O.M.B., which regarded it as a budget-busting exercise."

Hugh Kaufman, a career employee in the agency's hazardous waste division who is one of its most inexorable critics, said the report was one of "the most important documents to come out of E.P.A. because it tells in one place what E.P.A. has to do to protect the public."

He added, however, "the problem is that the constraint imposed by the White House and the O.M.B. make it impossible for

E.P.A. to do the minimal things this calls for."

Mr. Ruckelshaus, in a recent interview, said, "There is no management of this agency by the White House or the Office of Management and Budget." He added, however, that "we do have an interface with O.M.B. on rules and regulations. That is inherently a tough and abrasive process."●

MULTIPLE SECTOR HEALTH CARE STRATEGY ACT

HON. THOMAS E. PETRI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1984

● Mr. PETRI. Mr. Speaker, yesterday I introduced H.R. 6383, the Multiple Sector Health Care Strategy Act of 1984, called Multicare for short. This is a comprehensive proposal to reform the entire involvement of the Federal Government in health care in order to maximize the use of market forces and competition in controlling costs and improving quality.

Earlier this year, I circulated this bill very widely in draft form to those interested in health care issues, including members and their staffs, various health care associations, and a large number of outside experts. In response, I received a great many comments and recommendations, and I certainly appreciate the efforts of all those who gave me the benefit of their knowledge and experience in this field.

After thoroughly reviewing all the comments I received, I decided to produce a revised and simplified version of my proposal, on which task I have been working for much of this year. It is now clear that the revised proposal will not be ready before the next Congress. It is also clear that the revised proposal will not contain all of the innovative features of the original draft bill, including most particularly the unique combination of income-related and price-sensitive cost sharing found in sector 1—in fact, the revised proposal will eliminate sector 1 itself. In order to make these ideas widely available and to elicit further comments and discussion, I have decided to introduce the original bill at this time.

A detailed outline of the bill is available from my office. A brief summary follows:

MULTICARE [MULTIPLE SECTOR HEALTH CARE STRATEGY] SUMMARY

GOALS

Restrain health care inflation by increasing competition among providers and cost-sensitivity among consumers.

Ensure adequate health care for all Americans.

Make federal contributions to health care fairer and more rational.

METHODS

Multiple sectors: Each U.S. resident receives a medicard that can be used to purchase medical services on a fee-for-service basis (Sector One) or exchanged for enrollment in a private insurance plan (Sector two) or in a direct provider plan, such as an HMO (Sector Three).

Cost sharing: While all Americans receive subsidized health benefits, all have strong incentives to seek economical care.

Sector one: Cost-sharing varies directly with price; government reimbursement is normally 80 percent of the mean prevailing charge in the marketplace; if the actual charge is lower than the mean, the patient gets all or most of the savings; for every dollar the charge is higher, reimbursement is reduced one dollar.

Sectors two and three: The contracting intermediaries and direct provider groups receive, for every enrollee, a capitation payment equivalent to the actuarial cost to the government of treatment in Sector One; the various plans compete for enrollees by offering extra benefits, lower cost-sharing, and higher quality, with restrictions to prevent adverse selection.

Income related: Patients also share in the cost of received benefits according to their marginal tax rates, minus 10 percent.

Catastrophic protection: No family will have to spend more than a portion of its income on health care (10 percent to 30 percent depending on income).

Medicare-medicaid: Continues current levels of benefits for the aged, disabled, and needy, but with increased incentives for patients to seek efficient care, and with freedom for eligibles to enroll in any sector.

Prospective payment: Diagnosis related groups are employed in Sector one for hospitals, with reimbursement rates set by the marketplace, as explained above.

Information provisions: Provides extensive consumer information as to prices, plans, and reimbursement; to aid price comparison, each Sector two and Sector three organization must offer at least a standard Multicare package.

Insurance: No restrictions on purchase of supplemental or gap insurance.

Total cost: Multicare is offered at no added cost to the government, employing funds now used for Medicare and Medicaid and regained by eliminating the medical expense deduction and the exclusion for employer-provided health benefits; as Multicare restrains health care inflation, the burden on patients and taxpayers will be reduced.●

REBUILDING OUR HUMAN INTELLIGENCE (HUMINT) CAPABILITY

HON. WILLIAM S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1984

● Mr. BROOMFIELD. Mr. Speaker, the controversy over President Reagan's remarks that were perceived by many as linking the suicide bombings of the U.S. Embassy in Beirut to inadequate intelligence has provoked a number of comments that must be refuted.

First, it is misleading to contend that only CIA headquarters personnel were affected by the reductions in force made during the period Admiral Turner was heading the CIA. It is true that most of the individuals involved happened to be assigned to headquarters when the cuts occurred. One must bear in mind, however, that almost all of these individuals belonged to the CIA's operations component which periodically rotates such personnel between the field and headquarters. Therefore, these actions reduced the number of people who could be rotated to the field upon completion of their headquarter tours.

Second, it is unrealistic to believe that experienced case officers can be replaced overnight by neophytes without any loss of intelligence capability. Indeed, Admiral Turner ultimately realized this as he was forced to hire back on contract some of the individuals that he prematurely retired in order to remedy certain intelligence gaps. He learned the hard way that the human intelligence business is not like an assembly plant of semiskilled workers who you can hire and fire indiscriminately without any loss of productivity or effectiveness. As veteran intelligence officers will tell you, it often takes a good 5 years to produce a competent field operative.

Altogether, Turner eliminated 820 positions over a 2-year period. Needless to say, morale plummeted as the result of these moves and Turner himself now reportedly regrets the insensitive manner in which some of the old hands were let go.

Third, Bill Casey and President Reagan deserve credit for taking measures since 1981 which have significantly restored morale in the operations directorate of the CIA. In particular, the Human Intelligence (Humint) area has been given special attention and the rate of increase in funding for intelligence even exceeds that for the Defense budget. Congress also earns kudos as it has approved these increases without exceptions.

Finally, as far as the Carter administration is concerned, there was a net decrease in spending and manpower until 1979 when in the wake of Iran and Afghanistan it began to request increases. In evaluating this period, we should also remember the severe inflation that occurred during the Carter era. In this regard, knowledgeable sources point out that the intelligence budget did not keep pace with the spiraling costs of the sophisticated technology sought during this period.

Incidentally, Walter Mondale served on the Select Intelligence Committee chaired by the late Frank Church. By virtue of that service, he should have been aware of U.S. intelligence needs and advised Carter accordingly.

In short, Mr. Speaker, the President was correct when he stated that our human intelligence collection capability was seriously damaged in the decade preceding his administration. Rebuilding that capability cannot be achieved overnight, but the efforts

that have been made in recent years to restore that capability will increase significantly the prospect of the United States more effectively combating terrorism.●

REAGAN ENDORSEMENT OF PRODUCT LIABILITY BILL HIGHLIGHTS LACK OF COMMITMENT TO TOXIC WASTE VICTIMS

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1984

● Mr. FLORIO. Mr. Speaker, the Washington Post recently ran a brief story on President Reagan's decision to endorse uniform national legislation concerning product liability standards. As many of my colleagues know, that legislation has been sponsored by Senator ROBERT KASTEN and would preempt all State product liability laws which are in conflict with its basic provisions. The Kasten bill is strongly supported by the National Association of Manufacturers and a coalition of other industry groups. It is vigorously opposed by every major national consumer organization.

The reason consumer groups oppose the Kasten bill is that it would roll the clock back several decades to a period when caveat emptor—"let the buyer beware"—principles prevailed in the marketplace. The Kasten bill would not only arrest the development of State laws in the product liability area, it would wipe State laws developed in recent decades off the books, leaving consumers at the mercy of unscrupulous manufacturers.

It is interesting to contrast the President's position on the Kasten bill with the administration's vehement opposition to legislation I and others have sponsored to provide the right to a Federal remedy for victims of toxic waste exposure. This legislation would not preempt State law, but would provide uniform national standards for determining liability in cases brought under its provisions. Because these standards are tough, and represent the principle that polluters should pay for the human health and environmental damage they cause, the legislation has been supported by every major environmental organization. It is, however, vigorously opposed by the Chemical Manufacturers Association and the insurance industry, many of whose members have lobbied for the Kasten bill by using the argument that national uniformity is crucial if industry and consumers are to avoid staggering litigation costs.

Apparently, in the eyes of this administration, the real distinction between the Kasten product liability bill and the toxic waste victim legislation I and others have proposed is the relative strength of the legal liability standards each contains. If liability is sufficiently weakened, as it is in the Kasten bill, the administration will support the legislation, claiming that it only seeks uniform national standards. If, on the other hand, standards of liability in Federal legislation remain strong, the uniformity principle is ignored.

I commend the article on the administration's product liability position to my colleagues' attention.

REAGAN ENDORSES SENATE UNIFORM LIABILITY BILL

President Reagan has personally endorsed the Senate bill to create uniform federal liability limits for manufacturers accused in lawsuits of selling defective products, saying that "experience has shown" the states cannot do the job.

The bill is "an appropriate legislative response to the burdens of higher costs borne by manufacturers and consumers resulting from differences among state product liability laws," Reagan said in a letter yesterday to Sen. Robert W. Kasten Jr. (R-Wis.), the principal sponsor.

The bill is supported by manufacturers but opposed by Democratic presidential candidate Walter F. Mondale and consumer groups. In a few states, it has become a political issue for Senate Republicans, mainly because of a provision that would spare the A. H. Robins Co. from paying punitive damages to women injured by the Dalkon Shield contraceptive device.

Jay Angoff, of Public Citizen's Congress Watch, said: "It is certainly ironic that a president who usually favors giving power to the states is now strongly supporting a bill that would take power away from the states." No date has been set for Senate action on the measure.●

TRIBUTE TO HON. IKE SKELTON

HON. RICHARD A. GEPHARDT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1984

● Mr. GEPHARDT. Mr. Speaker, reforming the top levels of our military in order to make it a more efficient and effective organization has long been a goal of my colleague from Missouri [Mr. SKELTON]. This year, with the passage of the defense authorization for fiscal year 1985, he has achieved his first step toward success. The conference committee on this bill included several of the provisions twice passed by this House, which reform the Joint Chiefs of Staff of the military. I submit to the RECORD a copy of an editorial printed in the Jefferson City News-Tribune which lauds our colleague for his efforts.

SKELTON'S PROPOSAL

Congress has just a week left in this session, but among the many vital bills awaiting final action is a measure that would provide better military leadership for our armed forces and improve military efficiency at the same time.

The legislation we refer to is Congressman Ike Skelton's long-ignored proposal to reform the Joint Chiefs of Staff, an antiquated panel rendered ineffective by interservice rivalries and an inability to maintain competent support staff.

This measure would provide a centralized and streamline command system by increasing the powers of the chairman of the joint chiefs and lengthening the tour of duty for officers on the support staff.

But the bill has been severely pared down by a House-Senate conference committee. The original was opposed by the administration, the Senate and, of course, the joint chiefs. Its broader reforms would have elevated the chairman to a position on the National Security Council and given him greater independence in running the staff.

We regard the opposition to the original bill as a mistake. It would have given our armed forces something they have lacked for years—a military commander. And it would have transformed the JCS staff into an elite, professional body more capable of providing the best possible advice and decision-making for the entire military, which has grown into a bloated, bureaucratic monster.

Ike Skelton is recognized as an authority on national defense measures. He authored the original bill and has long pressed for its passage. He sat on the negotiating panel that gave us the final version. The administration's various service secretaries and all of the joint chiefs ought not ignore his expertise just because they stand to lose some of their influence and powers.

The Congress needs to pass the bill before them now. Next year, Congressman Skelton promises, will bring a new effort for the continued broad reforms.

For the good of our national defense, we hope he succeeds.●

W.E. SIMPSON CO.—75 YEARS OF SERVICE

HON. HENRY B. GONZALEZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1984

● Mr. GONZALEZ. Mr. Speaker, more than anything else in America, the small business lies at the heart of our innovativeness and strength. Small companies overcome the greatest problems; they produce enormous ideas; they serve their communities in unique ways; and they endure. One of the first consulting engineers in Texas was W.E. Simpson, whose company has existed for 75 years now and which is, more than ever before, a vital part of its community.

W.E. Simpson was a graduate of the Massachusetts Institute of Technology, in the class of 1905. In a sense, this was the golden age of engineering, the age when engineers developed and operated what later became great business empires, the industrial heart of our country. But in another sense, engineering was evolving as rapidly as all other technology. So it was this after a few years of working as a railroad engineer, W.E. Simpson came to San An-

tonio, to work first as a structural engineer and then, in 1909 to establish his own engineering firm. His was one of the first firms in Texas to operate as a consulting engineering service—his was a prototypical engineering service of the kind that we know today.

The Simpson firm grew very rapidly because of the surge in demand for new roads, brought about by the advent of the automobile as the standard mode of personal transportation. At that time there was no formal discipline of geotechnical engineering, and so Mr. Simpson developed his own soils engineering. The soils in the hill country area of Texas are especially tricky, and Mr. Simpson, working with a well driller, developed the drilled pier foundation. It was only one of many contributions he made to his profession, and it was a typical mark of his energy and ingenuity. As much as anyone, Mr. Simpson supported the development of soils engineering as a key discipline in engineering schools around Texas.

The Depression destroyed the Simpson firm in 1933, but 4 years later Mr. Simpson was able to resume his old association with Manfred Gerhardt, with whom he had a lifelong association. World War II brought much new work, and the postwar boom in Texas construction ensured the vigorous growth of the Simpson Co.

This is not, in the strict sense, an unusual story. But the history of the W.E. Simpson Co. is part of the great stream of individual stories that form the best part of our history. It is the story of a young man and his associates, people of energy and ideas, people who planted deep roots in their community, and stayed on through thick and thin to make their community a finer place to live. They were not paper entrepreneurs, but solid contributors to their profession, responsible citizens who helped their profession grow, and who founded, fostered, and passed on an honorable business, a decent and respected body of work, benefiting everyone with whom they associated. Such stories are the greatness of our country. Such stories need to be told, to remind us of the true source of our strength—the ingenuity, the energy, and the decency of our people. W.E. Simpson Co., for 75 years, has been a part of that greatness. It is an anniversary worthy of noting, a company worthy of respect, a man and his associates whose strength endures, and grows. Mr. Simpson died in 1967, but his son and associates carry on the same great tradition, in the same quiet way, building not just for themselves, but for a greater good as well. Not unusual, perhaps, but still a wellspring of enduring strength, one of those enterprises truly worthy of respect and honor. W.E. Simpson Co. is after 75 years stronger than ever, better than ever, built on a strong foundation, carried on by people who understand and care, in the same way he did.●

TRIBUTE TO HON. TOM CORCORAN

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 1, 1984

● Mr. WOLF. Mr. Speaker, I am pleased to join with my colleagues in this special order to honor our fellow colleague, TOM CORCORAN of Illinois, as he nears the end of 8 years of distinguished service in Congress. I would like to thank the gentleman from Illinois, ED MADIGAN for arranging this special order time.

It has been an honor to serve in this house with TOM CORCORAN and as his colleague on the House Post Office and Civil Service Committee where he has worked to improve mail service and to require accountability in the financing and operation of the U.S. Postal Service.

In addition, he has distinguished himself as a member of the Energy and Commerce Committee where he serves as the ranking minority member of the major fossil and synthetic fuels subcommittee. He has been a leader in energy issues and has supported a free market approach to energy problems. He also left his mark as a skilled legislator as he led the opposition in major telecommunications legislation and a proposed anticonsumer financing package for the Alaska Natural Gas Pipeline.

I salute TOM CORCORAN as a man of principle and integrity who has served the people of this Nation and the people of north central Illinois effectively and admirable since 1976. He has been a valued colleague and an outstanding public servant and I wish him continued success in his future endeavors.●

TRIBUTE TO THE HONORABLE JOHN ERLENBORN AND THE HONORABLE TOM CORCORAN

HON. LAWRENCE COUGHLIN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 1, 1984

● Mr. COUGHLIN. Mr. Speaker, I join the distinguished minority leader and Hon. ED MADIGAN in paying tribute to two very able and well-respected Members of this body, Hon. JOHN ERLENBORN and Hon. TOM CORCORAN, who will be ending their congressional careers when this legislative session adjourns.

It is difficult indeed to sum up a 20-year career in just a few short paragraphs. NO CONGRESSIONAL RECORD statement could ever really do justice to the unwaivering commitment to his constituents, the dedication to principle, the countless hours and the hard work that have characterized JOHN ERLENBORN's term of office.

As a member of the House Education and Labor Committee, and now as the ranking minority member of that committee, JOHN has never hesitated to stand up for what he believed in, even when the odds were overwhelmingly against him. Noted for his tenacity, JOHN fought tough legislative battles on minimum wage legislation, private pension benefits protection, and employee rights and benefits.

JOHN ERLENBORN's legislative accomplishments go far beyond the realm of labor law reform, however. His contributions to the educational system of this Nation have been—in a word—invaluable, especially in the area of higher education. JOHN authored legislation creating the Student Loan Marketing Association (Sallie Mae) and helped to ensure that programs such as Guaranteed Student Loans remain a vaiable source of financial aid for middle income families.

Mr. Speaker, I also would like to take this opportunity to pay tribute to another outstanding Illinoisan, TOM CORCORAN. In his 8 years in Congress TOM has distinguished himself as an able legislator both on the Energy and Commerce Committee and on the Post Office and Civil Service Committee. He, too, has served with skill and integrity, working toward more efficient use of our energy resources and to curb unnecessary Government intrusion in the energy industry. No less noteworthy have been his efforts to reform and improve the U.S. Postal Service.

The contributions of these gentlemen to their constituents, to the State of Illinois and to this Nation have been innumerable. When the 99th Congress convenes next January, their experience and presence will be sorely missed.●

GORDON AND PHYLLIS SPIELMAN, ADVOCATES FOR WORKERS

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1984

● Mr. VENTO. Mr. Speaker, the history of American working men and women has demonstrated, perhaps too dramatically in recent years, the need for a spokesperson on their behalf.

In the good times and the bad, American workers need people to speak out and to work on their behalf. While these efforts often pass unrecognized, they are not in vain. A fair

and honest wage, a safe workplace, and the right to organize are the very real fruits of such endeavors.

The workers of my Fourth Congressional District and of all of Minnesota have been most fortunate to be served by two dedicated individuals, Gordon and Phyllis Spielman.

I am privileged to count Gordon and Phyllis as friends and advisers. Throughout my service as a State legislator and a Member of Congress, I have worked with Gordon and Phyllis. Their commitment to working people and their ability are unparalleled. They have made a real difference.

Gordon Spielman, a native of New York City, has a long, productive history as a trade union activist, and newspaperman.

As a union activist, Gordon has served as assistant to the business manager of the Radio Factory Workers Union. AFL; organizer for the United Textile Workers Organizing Committee, CIO; and secretary, council member and editorial board member of local 65, Retail and Wholesale Workers, CIO.

Gordon has had a prestigious career as a newspaper editor. From the late 1940's to the early 1970's, Gordon and Phyllis coedited and copublished a Minnesota weekly newspaper, the Trimont Progress-Ceylon Herald. Their efforts at the Progress-Herald won them wide recognition and numerous Minnesota Newspaper Association awards for journalism.

During the 25 years they published that newspaper, Gordon was a member of the Minnesota Newspaper Association board of directors, a founding member and secretary of the Minnesota News Council, and a member and officer of the Minnesota Society of Professional Journalists.

In 1971, Gordon Spielman became the editor of the Union Advocate in St. Paul, MN. As the editor, Gordon became a leading advocate for workers' rights and was a force for the enactment of crucial State employee rights laws. Gordon's work at the Union Advocate led to 16 national awards for journalism.

Phyllis Posivio Spielman has an equally distinguished career of public service. She worked as a stafff assistant to U.S. Senator Ernest Lundeen of Minnesota and at the Library of Congress. In addition, Phyllis worked for Time magazine and several unions.

During their tenure at the Trimont Progress-Ceylon Herald, Phyllis received several awards, including national photo-journalism award.

When she moved to St. Paul, Phyllis resumed her career in government. She was the administrative assistant to the House Labor-Management Committee. Phyllis then served in the Minnesota Department of Labor and Industry as director of pension protection.

Because of her expertise and commitment to worker pension rights, Phyllis Spielman was appointed by President Carter as a member and chair of the National Advisory Committee for the Pension Benefit Guaranty Corporation, the public agency which insures pensions of workers whose employers teminate plans without sufficient funds to pay them.

This year, both Phyllis and Gordon retired from the day-to-day work. But fortunately, they have not retired from their commitment to workers' rights. Phyllis and Gordon remain eloquent advocates and activists. I wish Phyllis and Gordon Spielman a long and happy retirement and look forward to their continued invaluable guidance.●

WHY TAX LOBBYISTS NEVER MENTION JAPAN

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1984

● Mr. STARK. Mr. Speaker, corporate lobbyists are always saying that we need to reduce U.S. corporate taxes in order to compete better with the Japanese. But as the Library of Congress reported to me last year, the total effective corporate tax rate in Japan is about double the effective U.S. rate.

Among the things we should consider adopting from the Japanese, is the type of tax reform which gets away from the terrible investment distortions which have crept into our own laws. It is particularly ironic that the Japanese system is largely a product of the MacArthur era in Japan—they just never eroded their original law with the kind of loopholes we have adopted.

Following is a excellent article from the September 1984 issue of the public interest monthly, People and Taxes, which describes the Japanese approach to corporate taxation.

The article follows:

[From People & Taxes, September 1984]

WHY TAX LOBBYISTS NEVER MENTION JAPAN

(By Sam Howe)

TOKYO.—In a recent speech in Detroit, Chrysler President Lee Iacocca attributed Japan's success in penetrating American markets to the support Japanese companies receive from their government. Executives in many other industries echo this view.

It is true that the Japanese government actively aids corporations through protective trade measures and cooperative planning. But when it comes to levying taxes, Japan Inc.'s velvet glove wields something of an iron hammer.

Japanese corporations pay a higher effective tax rate than do American corporations—in fact, the Japanese rate is higher than that of any other advanced country. Adding in corporate taxes at the federal, state, and local level, Japan's rate is about twice as high as the United States' rate.

This has led analysts to note that Japan's economy has consistently grown at higher rates, even though Japan raises a much higher percentage of revenues from the corporate tax than does the United States. Furthermore, while the Reagan administration and many American corporate executives argue that the key to economic success is to create business "incentives," the Japanese tax system contains few business tax breaks.

According to both Japanese and American analysts here, the tax system encourages economic activity without many of the free-market distortions that have slipped into the pages of United States tax laws, particularly in the 1981 tax act. Japanese companies—not yet, anyway—do not invest in the Netherlands Antille, prime farmland, or suburban real estate just to take advantage of the tax code. No industry has sprung up to encourage such investments because the Japanese have no laws encouraging them.

The irony of any comparison is that Japan's tax system was essentially devised by a team of American specialists—known as the Shoup Mission—who came over here in 1949 at General Douglas MacArthur's invitation. (See "When American Tax Reformers Devised Japan's Tax System," November 1983.) In many respects, the Japanese system still duplicates the American system of that period—one with a few tax breaks and with most revenue coming from individual and corporate income taxes. The American system now features numerous tax incentives and raises much more revenue than before from Social Security and consumption taxes.

There is no better example of this than the two countries' approach to the corporate income tax.

Back in 1955, according to government figures, both countries relied on the corporate tax to raise a large percentage of federal revenues—about 20 percent in Japan and even more, 27 percent, in the United States.

Since then, Japan has raised as much as 37 percent from corporations (in 1974), and the percentage has never dropped below 27.8 percent, the 1983 figure.

CORPORATE TAXES LOWER

In the United States, by contrast, the percentage of money raised from the corporate tax as a percentage of all federal revenues has consistently and, at times, precipitously, declined. While corporate taxes provided just under 22 percent of federal revenue in 1965, they dropped to 6.2 percent last year—the lowest rate in 40 years. (See chart.)

In fact, the corporate income tax now generates more total revenue here than it does in the United States—even though Japan's budget is one-fourth the size and its GNP barely one-third. (In making any comparisons, it's important to note that the United States spends about 20 times as much per capita on defense. And overall, the United States government needs to worry about raising a lot more money than Japan's, because even per captia it spends more than twice as much.)

Japanese subnational governments also raise a much larger share of their revenues from corporate income taxes than do American states and cities. In fiscal 1983, corporate taxes amounted to 19.4 percent of the revenues of Japanese prefectural and local governments, compared to only 5 percent for state and local governments in the United States. The $15.6 billion collected in corporate income taxes at the prefectural and local levels in Japan also exceeded the

United States state and local total of about $14.1 billion even in absolute terms.

The primary reason that there is now a disparity between the two countries in the rate of revenue raised is not any change in the tax itself. Statutory rates have remained roughly comparable. Instead, it is because of the exponential growth of tax breaks in the United States.

While the question of how successful such tax breaks as the investment tax credit and rapid writeoffs of new plant and machinery have been is much debated, it is clear they have cost the federal government an increasing amount of tax revenue. In 1970, they cost the United States about $7 billion; in fiscal 1983, they had ballooned to $62 billion; and corporate tax breaks will climb to $87 billion by 1985, according to the Office of Management and Budget.

By one measure, tax breaks have wiped out almost two-thirds of the corporate income tax in America. Corporate loopholes cost the government more money than corporations paid in revenue—corporate tax breaks were $62 billion last year while corporations paid the federal government only $37 billion in taxes.

The situation could hardly be more different in Japan. While corporations paid $40 billion in taxes last year, corporate tax breaks cost the government only $1.1 billion.

Thus, while the United States provided companies with tax concessions totalling $1.67 for every dollar paid in corporate income taxes, Japan's "special taxation measures" for corporations amounted to only 2.7 cents for every dollar paid in corporate taxes.

Even the $1.1 billion causes concern to the Japanese Ministry of Finance. The Ministry's English language summary of the Japanese tax system emphasizes that the "special taxation measures" for corporations "are temporary in nature" and says that they "tend to corrupt the principle of equality in taxation."

The business tax incentives have caused another important difference between the two countries' tax systems. While Japanese companies essentially pay the same tax rate, the rate American companies pay on United States income varies widely. In 1983, it ranged from an average −17.7 percent for chemical companies to 39.0 percent for the rubber industry, according to Congress' Joint Committee on Taxation.

Masaru Yoshitomi, a deputy director general of the government's Economic Planning Agency, said that tax incentives were used for a few years after World War II when the nation was struggling to regain its economic bearings. These, he said, have been widely abolished, "to reflect the growing-up of infant industries."

Some people question how much the tax breaks worked even then. They attribute Japan's growth in the 1950s more to the enormous trade protection Japanese industries enjoyed and the few barriers to investment in Western nations.

THE DIFFERENCES IN CORPORATE TAXES PAID

[Corporate income tax as a percent of total Federal revenues]

	United States	Japan
Fiscal year:		
1950	26.5	14.7
1955	27.3	20.5
1960	23.2	31.8
1965	21.8	28.3
1970	16.9	33.0

THE DIFFERENCES IN CORPORATE TAXES PAID—Continued

[Corporate income tax as a percent of total Federal revenues]

	United States	Japan
1975	14.5	28.5
1980	12.5	31.4
1983	6.2	27.8

DEEP-SEATED SENTIMENT

Sentiment against loopholes seems deep-seated. Morio Uematsu, a former top administrator and a 20-year veteran of the Ministry of Finance, said the approach is "completely alien to the thinking of [government] tax specialists in Japan. It is not proper."

Uematsu, who now practices law privately, said, "If Japanese lawyers could get in there and start figuring out loopholes, that's just a problem we don't need."

Japanese companies basically do not have to consider the distortions created by tax laws when they make investment decisions. Compared to American companies, they are forced to be more concerned with what they can sell and less with what they can deduct.

The incentive twists of United States tax laws are far from trivial. For example, a 1983 study by the Congressional Research Service in Washington found that United States tax laws greatly encourage short-term investments over long-term ones, while Japan barely differentiates between the two for tax purposes.

Many analysts say that this distinction is an important reason why, in the steel industry, for example, American companies have not kept pace with Japanese companies in investing in the most efficient and innovative steelmaking processes.

The bottom line on this is that corporations in Japan are more apt to respond to genuine market demands rather than to the artificial call of tax laws. They are also under less pressure to produce a quick payoff on their investments.

In its most recent paper on trade, the Japanese government said that the main reason for the country's large trade surpluses is the "flexibility" of its industrial structure. "The nature of the economy is such that it is highly sensitive to market trends and changes in the times," the paper said.

Even though high taxes do not seem to have affected their success, Japanese businessmen complain that they are over-taxed. Yoshihiro Inayama, chairman of Keidanren, the huge trade federation whose membership includes almost every major corporation in the country, blasted the corporate tax in a speech earlier this year. He called it "particularly regrettable" that the government offset a cut in personal income taxes in 1983 by slightly increasing corporate taxes.

Nor are executives always diligent about paying the taxes their companies owe. Tax authorities here recently accused Mitsubishi Corporation, Japan's largest trading firm, of deliberately failing to report $25.6 million of income by shuffling it off to a subsidiary in Hong Kong.

Similar scandals involving Mitsubishi ($47.8 million) in 1975 and the Marubeni Corporation ($43.5 million) in 1982 resulted from tax checks.

Yet, businessmen don't spend a lot of time fighting tax laws here. This is partly because Keidanren speaks with such a unified voice, which is also a reason that companies don't compete with each other for tax breaks as they often do in America. Corporate executives here, specialists say, are far less concerned with the outcome of tax legislation than their American counterparts.

Furthermore, it's not clear that a business lobby could have much success in changing the tax laws anyway. Uematsu, the ex-Ministry of Finance official, said that compared to the United States, career tax officials have far more power in setting tax policy. These career civil servants are less susceptible to outside lobbying pressures than politicians are, he said.

Masaki Honma, a professor of economics of Osaka University, said in commenting on last year's wrangling over changes in the law, "It's easier to increase the corporate income tax than the personal tax."

Honma is well-known among economists here for his research on the effect of corporate taxes on investment and growth. One of his primary conclusions is that interest rates—which are far lower here than in the United States—are a much more significant factor in encouraging investment and growth than the corporate tax rate.●

CYPRUS TURMOIL THREATENS FUTURE OF NATO

HON. MARK D. SILJANDER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1984

● Mr. SILJANDER. Mr. Speaker, there has recently been some sign for hope that the situation in Cyprus may finally be resolved. Representatives of the Greek Cypriot and the Turkish Cypriot communities have been meeting at the United Nations in an attempt to reunite the island torn apart by years of destructive conflict.

The following article by Allan C. Brownfeld that appeared in the July 21, 1984, issue of Human Events is an objective analysis of the situation on Cyprus.

Mr. Speaker, it is time to clear up prior misconceptions and wipe the slate clean. Old hostilities will not bring peace to Cyprus—only new energy, commitment, and vision will restore peace between our two NATO allies and bring constitutional rights to all citizens of Cyprus.

The article follows:

[From Human Events, July 21, 1984]

CYPRUS TURMOIL THREATENS FUTURE OF NATO

(By Allan C. Brownfeld)

NICOSIA, CYPRUS.—The division between Greek and Turkish Cypriots on this troubled—and strategically important—island continues to grow, threatening the future of NATO, the alliance to which both Greece and Turkey belong.

In November 1983, the Turkish Cypriots declared their northern third of the island an independent republic. The Turkish Cypriot leader, Rauf Denktash, declared: "We hereby declare before the world and before history the establishment of the Turkish Republic of Northern Cyprus as an independent state. On this historic day, we extend once again our hand in peace and friendship to the Greek Cypriot people." He said that the action "will not hinder, but fa-

cilitate the establishment of a genuine federation between the two communities in Cyprus.

Denktash said that this action should not be regarded as secession because the island's government has been "illegitimate" since 1963 constitutional changes that reduced the influence of the Turkish minority. He said: "The Greek Cypriots threw the constitution in the wastebasket in 1963. Twenty years is long enough for rehabilitation."

In April 1984 Turkey exchanged ambassadors with the new Turkish Cypriot Republic. This action was sharply criticized by the Greek government and by the Greek Cypriots. In Athens, Prime Minister Andreas Papandreou warned that Greece would not accept the exchange of ambassadors. He declared: "The U.S and our other NATO partners have to understand that Greece will not tolerate these arbitrary acts in Cyprus."

This August, Turkish Cypriots will hold a referendum on the new constitution, followed in November by general elections for a parliament.

The latest developments in Cyprus exacerbating tensions between Turkey and Greece, guardians of the exposed southeastern flank of NATO, threaten the island's viability as a staging area for various rescue and supply operations. The future of Western defenses in the region are brought into serious question. In April, Greece refused to provide transit facilities for U.S. troops in the event of a Gulf emergency. Western defense analysts argue that, because of growing tensions, NATO's southeastern flank is perhaps the most vulnerable link in Western defenses.

Visiting this island is reminiscent of visits to Berlin, where the Wall divides the city between East and West, or the demilitarized zone in Korea, between North and South. The so-called "Green Line" divides the country—and actually runs through the center of the capital city, Nicosia. Turkish Cypriots may not enter the Greek zone, and Greek Cypriots may not enter the Turkish area. A United Nations force mans the buffer zone.

While many in the Western world understand the fact that Greeks and Turks have been at odds over the future of Cyprus for some time, few understand the basic history of the island in recent years, or the conflicting goals of the overwhelming Greek majority (82 per cent) and the Turkish minority (18 per cent).

Cyprus achieved independence from Great Britain in 1960 when the Republic of Cyprus was established. A constitution was prepared by a Joint Constitutional Commission composed of legal experts from Greece and Turkey, as well as from the Greek Cypriot and Turkish Cypriot communities, and chaired by a Swiss professor of international law, Marcel Bridel.

According to the constitution, Cyprus was to be bilingual, the two official languages being Greek and Turkish. The executive branch of the government was to consist of a Greek Cypriot president and a Turkish Cypriot vice president, both to the elected by their respective communities. They were to be assisted by a Council of Ministers, seven of whom were to be Greek Cypriots and three of whom were to be Turkish Cypriots.

The Council of Ministers was to vote by a simple majority on matters within its purview, but its decisions in the realms of foreign affairs, defense or security could be vetoed by either the president or the vice president. The civil service was to be shared in such a way that in all grades the Greek Cypriots were to be given 70 percent and the Turkish Cypriots 30 percent of the positions.

A Treaty of Guarantee between Great Britain, Greece and Turkey was signed to "ensure the recognition and maintenance of the independence, territorial integrity and security of the Republic of Cyprus by preventing direct or indirect enosis [incorporation of Cyprus into Greece] or partition or annexation by any of the three guarantor states." In case of a breach of this treaty, the guarantor states shared the collective responsibility of taking "the necessary steps to ensure observance" of the relevant provisions.

From the very beginning, it seemed clear that the Greek Cypriots viewed the Constitution of 1960 not as a final document to be adhered to, but as a way station to enosis—to making Cyprus a part of Greece.

The first elected president of Cyprus, Archbishop Makarios, continued to urge union with Greece. He stirred bitter anti-Turkish feeling declaring, in a speech in his native village of Panayia on Sept. 4, 1962: "Unless this small Turkish community forming a part of the Turkish race which had been the terrible enemy of Hellenism is expelled, the duty of the heroes of EOKA [a Greek paramilitary group which fought the British and then the Turks] can never be considered terminated."

British journalist Michael Wall, writing in the New York Times (March 8, 1964), reported that Makarios made liberal use of the Greek Cypriot schools and the services of the Greek Cypriot-controlled Cyprus Broadcasting Corp. to stimulate anti-Turkish feeling. Children were taught that "Cyprus is Greek—and that the Turks are intruders."

The Cyprus Broadcasting Corp. regularly broadcast anti-Turkish plays. In one, a mother asks her son what he wants to become, to which he replies, "A hero." When she asks him "What will you bring us?" he answers, "I am going to bring seven Turkish heads to you."

The goal of making Cyprus totally Greek, regardless of the constitution, proceeded. Dr. Ernst Forsthoff, a distinguished German jurist and a professor at the University of Heidelberg, was named to head the Supreme Constitutional Court. Looking back upon the 1960-63 period, he came to this conclusion:

"Failure to achieve a joint legislation was not due to the incompetency of those concerned, but to the fact that the ruling group of Greek Cypriots made no serious effort to cooperate or arrive at a compromise, but insisted with growing determination on ignoring or abolishing the existing constitution. . . . From the moment Makarios started openly to deprive Turkish Cypriots of their rights, the present events were inevitable."

Violence broke out against Turkish Cypriots, much of it brutal, with men, women and children killed. In an address at Rizokarpasso on May 26, 1965, Makarios declared: "Either the whole of Cyprus is to be united with Greece or it will become a holocaust. . . ." The elected Turkish Cypriot representatives were ousted from office.

For all intents and purposes, Turkish Cypriots became stateless persons without any civil rights. Children born to Turkish Cypriots were not recorded in the State Register of Persons. Turkish Cypriots could not get passports. No Greek Cypriot was prosecuted for any crime committed against Turkish Cypriots.

Eventually Makarios himself was overthrown by the Greek colonels who seized power through a coup on the mainland—in part, because he was not sufficiently militant in pursuing enosis.

In response to the growing violence against Turkish Cypriots and the fact that the elected president of Cyprus had been overthrown by Greece, Turkey intervened with military force in 1974. By this time most Turkish Cypriots had moved to the north, where they could be protected from further attack by the Turkish army, and Greeks from the north had moved south. The island was effectively divided into two separate states. In 1975, the Turkish Federated State of Cyprus was declared.

Makarios, whose romantic notion was that of restoring Greek control over the entire area ruled by Ancient Greece, led Cyprus to its darkest days. In an obituary, the International Herald Tribune (Aug. 4, 1977) declared: "Makarios seemed to share the widespread Greek view that Turks were inferior barbarians and he never tried very hard to make them feel part of a Cyprus nation. He acted, said an observer, 'as if Cyprus were 40 miles from Greece instead of 40 miles from Turkey.'"

When Turkey invaded in 1974, it acted in an often brutal and arbitrary manner, tending to duplicate many of the most offensive Greek actions toward the turks in the past.

Discussing a 100-page UNESCO report about the Turkish desecration of Christian churches, John Fielding, writing in the Guardian of London (June 5, 1976) reported:

"On the evidence of two weeks surreptious driving round the occupied areas . . . the vandalism and desecration are so methodical and so widespread that they amount to institutionalized obliteration of everything sacred to a Greek. . . .

"We visited 26 former Greek villages. Only four churches from that number could be described as being in decent condition. We found not a single undesecrated graveyard. . . . At Syngrasis, the church interior was smashed beyond recognition, littered with the remains of icons, pews and beer bottles. The broken crucifix was drenched in urine. . . ."

The Turkish army was accused of widespread rape, pillage and torture and of forcibly removing approximately 200,000 Greek Cypriots from their homes. While Turkey and Turkish Cypriots deny these figures, a report issued by the European Commission of Human Rights of the Council of Europe indicates that there is at least some truth to such charges.

The Commission, in a report adopted July 10, 1976, concluded, among other things, that ". . . by the refusal to allow the return of more than 170,000 Greek Cypriot refugees to their homes in the north of Cyprus, Turkey violated, and was continuing to violate Article 8 of the Convention. . . . The Commission concludes . . . that by the eviction of Greek Cypriots from houses, including their own homes, by their transportation to other places within the north of Cyprus, or by their deportation across the demarcation line, Turkey has equally violated Article 8."

The Commission also concluded that "the incidents of rape described . . . constitute inhuman treatment" and that "prisoners were in a number of cases physically ill-treated by Turkish soldiers. These acts of ill-treatment caused considerable injuries and at least in one case the death of the victim."

Looking at the treatment of Turkish Cypriots by Greek Cypriots in the years from 1960 to 1974, and the treatment of Greek Cypriots by Turkish Cypriots after 1974, it is clear that both sides have acted in a harsh and sometimes brutal manner. To measure the relative levels of harshness can only be counterproductive at this time. Still, the memories of past mistreatment are very much alive and make a truly bicommunal Cyprus that much more difficult to achieve.

At the present time, the Greek Cypriots are pursuing a diplomatic offensive which seeks to isolate the Turkish Cypriot area.

Assessing the political stand of the current Greek Cypriot President Kyprianou, Prof. Pierre Oberling of the City University of New York, an authority on Cyprus, declares:

"An ardent advocate of the 'long-term struggle' approach to solving the Cyprus problem, Kyprianou has assured the Greek Cypriot refugees in the south that he will never 'sell them down the river' to achieve a quick settlement with the Turkish Cypriots.

"Accordinly, he has been pursuing what he calls 'aggressive diplomacy' which has consisted mostly of a vigorous campaign to convince the governments of other nations to put pressure on Turkey to withdraw its troops from northern Cyprus and to isolate the Turkish Federated State of Cyprus commercially. He has shown little interest in inter-communal talks, and during the early months of his presidency he refused to meet President Denktash. . . ."

This writer met with President Denktash, who expressed a desire to resolve the current dilemma with his Greek counterpart and to enter into a federated state of Cyprus in which Greeks and Turks would be able to maintain their own identities with full legal safeguards. The declaration of independence, he indicated, was a move taken because the Greeks were not forthcoming in negotiations. If Greek intransigence continues, he indicated, independence will be the only option for the Turkish Cypriots.

Rather than negotiate seriously with President Denktash, President Kyprianou, 40 per cent of whose Greek Cypriot constituents vote for Soviet-oriented Communist parties, has been pursuing "aggressive diplomacy" in the Third World and in the Communist bloc. At the summit conference of non-aligned countries at Havana in 1979, his efforts were rewarded with the passage of a resolution supporing his views.

In January 1980, Kyprianou, still courting the Soviet Union, refused to vote for a U.N. resolution deploring the Russian invasion of Afghanistan. He also allowed the PLO to use Cyprus as a training ground for terrorists and, informed sources report, Kyprianou has been encouraging American terrorists in their activities against Turkish citizens—which have included murders in the United States as well as Western Europe.

If the divisions on Cyprus are not resolved, two separate states on the island appear inevitable. With Turkey only 40 miles away, Greece is in a difficult position to counter such a move. Yet, Turkish Cypriots still seem prepared to negotiate if their Greek counterparts would be forthcoming. Unless they are, NATO's southern flank appears in as much danger from Western allies as from adversaries.

For the United States, however, there is the added problem that Turkey perceives Washington's attitude as one-sided in support of Greece, and this has led to increased anger and irritation.

(From Cyprus, this writer traveled to Ankara, to discover the thinking of Turkish officials.)

ANKARA, TURKEY.—Turkey has returned to democracy and Prime Minister Turgut Ozal has already made dramatic changes. He has, for example, liberalized foreign trade and has removed foreign currency restrictions. On Nov. 6, 1983, the first general elections were held and on March 25, 1984, local elections were held.

Democracy is not yet complete, but opposition parties freely discuss their plans for the future in an increasingly free and open press. Erdal Inonu of the Social Democratic party, for example, recently declared:

"A great amount has been accomplished toward a return to democracy. We have had two elections. It can be said that a return to true democracy has still not been reached. To give one simple example, the opposition parties not represented in the parliament who collected 41.5 percent of the votes do not have a representative in parliament. . . . As our efforts and works bear fruit, true democracy will be attained and blossom."

If the Turkish political parties disagree about domestic policy and the pace at which democracy is being instituted, they tend to agree about one key subject, namely an irritation with the U.S. and its attitude toward Turkey's policy on Cyprus and repeated threats in the Congress to cut U.S. military aid.

Turks argue that the Turkish military intervention in 1974 in Cyprus was entirely legal because Turkey was a guarantor of the treaty which established the independence of Cyprus in 1960.

The treaty gave the guarantors—Turkey, Great Britain and Greece—the responsibility of taking "the necessary steps to ensure observance" of the relevant provisions of the treaty if there was a breach. That breach occurred in 1974, Turkey argues, when the duly elected president of Cyprus, Archbishop Makarios, was overthrown in a coup engineered by the Greek colonels, who had themselves assumed power through a coup. This came after a long period during which the Greek majority on the island had mistreated the Turkish minority and had violated treaty provisions calling for the sharing of power in ratio to the population.

The Greek government has never acknowledged the legality of the Turkish military intervention in Cyprus, but the Athens Court of Appeals did so in one of its rulings. In its Decision No. 2658/79, dated March 21, 1979, it stated: "The Turkish military intervention in Cyprus, which was carried out in accordance with the Zurich and London accords, was legal. Turkey, as one of the Guarantor Powers, had the right to fulfill her obligations. The real culprits . . . are the Greek officers who engineered and staged a coup and prepared the conditions for this intervention."

The U.S. did not immediately react at the time of the Turkish intervention. This so angered Greece that Athens withdrew its troops from NATO. In Washington, some 20,000 Americans of Greek descent demonstrated in front of the White House. In Athens and Nicosia, there were major anti-American riots. In Nicosia, feelings ran so high that U.S. Ambassador Rodger P. Davis was shot and killed. At the same time, a group of U.S. congressmen, swayed by the vocal and influential "Greek lobby" in Washington, began to agitate for an arms embargo against Turkey.

The Foreign Assistance Act of 1961, as well as the bilateral agreements of 1947 and 1960 between the U.S. and Turkey, all stipulated that military assistance was to be used strictly for defensive purposes or for the maintenance of internal security. Arguing that Turkey had violated these restrictions, the advocates of an embargo declared that continued military aid to Turkey was illegal.

Both President Gerald Ford and Secretary of State Henry Kissinger, aware of Turkey's immense strategic importance, strenuously opposed any sanctions. But the pro-embargo forces finally gained the upper hand. On Feb. 5, 1975, the embargo went into effect, denying Turkey grants, credits, and commercial military sales, including the delivery of aircraft that already had been paid for by the Turkish government.

Discussing the double standard which was apparently used in placing the embargo upon Turkey, Prof. Pierre Oberling of the City University of New York, points out that "The fact that the embargo was a purely anti-Turkish measure was confirmed on June 27, 1979, when Israeli F-15 fighters, provided by the U.S. through a similar bilateral agreement, violated Lebanese air space and proceeded to shoot down six or seven Syrian MiG-21s. Though this constituted a clear violation of the bilateral agreement, there was no move in Congress in favor of an arms embargo against the state of Israel."

Finally, on Sept. 26, 1977, President Jimmy Carter, having found that Turkey was "acting in good faith to achieve a just and peaceful settlement of the Cyprus problem," lifted the embargo on arms transfers to Turkey.

On November 7, the U.S. offered a plan of its own to end the deadlock in the Cyprus negotiations. This plan called, among other things, for a Cyprus which "would be a bicommunal federal state with two constituent regions, one populated mostly by Greeks and the other by Turks. The incorporation of either of the two parts into any other state would be expressly prohibited." Turkish Cypriot leaders were prepared to consider the U.S. plan as a basis for negotiation, but the Greek Cypriot government rejected it outright.

Now, with the declaration of an independent republic by the Turkish Cypriots in November 1983 and the exchange of ambassadors with Turkey in April 1984, pressure is growing in the U.S. Congress once again to cut aid to Turkey.

This pressure is being orchestrated by Greek-Americans, who are often compared with Jewish Americans in the effectiveness of their political lobbying. Recently, the Senate Foreign Relations Committee cut $215 million from the Administration's $930-million military and economic aid request for Turkey and the House voted to cut military aid to Turkey.

Here in Ankara, there is growing anger at what is now occurring in Washington. At the Turkish Foreign Ministry, this view was repeatedly expressed:

"If there were as many Turkish-Americans lobbying in the halls of Congress as there are Greek-Americans, this issue of an aid cut-off would not be a serious threat. The Israelis use U.S. military aid as they see fit, but they are immune to serious criticism because of the effectiveness of the Zionist lobby. We have never used U.S. arms for aggression, but only to protect the rights of Turkish Cypriots, which we had a legal right to do.

"We have an army of more than 800,000 men as opposed to the Greeks, who have military forces of less than 150,000. We have

been a good and faithful ally, yet we are repeatedly mistreated. You cannot treat an ally in such a manner and continue to count upon him as a friend."

The difference between the allegiance of Turkey to the NATO alliance and that of Greece was made clear early in May when Greek Prime Minister Andreas Papandreou denounced the United States and delivered a message of warm praise to the Soviet Union, calling Moscow an agent of detente and a brake on imperialism and capitalism.

In a speech opening the first congress of his Panhellenic Socialist Movement (PASOK), Papandreou said: "the Soviet Union's fight for detente is genuine. The USSR cannot be called an imperialist power like the United States. It is a force against imperialism and capitalism. Even in Africa, the Soviets are only trying to counter U.S. expansionism."

In response to Papandreou's remarks, the State Department called the Greek prime minister's declaration "outrageous." State Department spokesman Kathleen Lang said: "We find this particularly distressing coming from a member of the Western Alliance. Such an outrageous comparison between the U.S. and the Soviet Union, which ignores the long history of Soviet international conduct and has no factual basis, is totally uncalled for."

Turkish leaders find it incredible that there are those in Washington who are prepared to embrace such an ambivalent "ally" as Greece, while treating Turkey in what is viewed in Ankara as a hostile and insensitive manner.

The depth of Turkish feeling on this subject should not be underestimated. Prime Minister Ozal has issued a stern warning that his government cannot accept U.S. military assistance if it involves conditions. He lashed out at the Senate Foreign Relations Committee's recommendation to cut $215 million from the current military aid package to Turkey of $715 million. The committee recommended the action as a way of forcing Turkey to cede the modern quarter of the abandoned Cypriot port town of Famagusta under U.N. auspices.

The two issues are not related, Ozal declared. "We cannot accept aid with strings attached," he said. "The money we receive from the U.S. is for the defense of NATO, of the West. We are an outpost in the NATO system. If funds are cut, who will benefit? We have a very well-trained army with the oldest equipment in NATO. By strengthening our armed forces, the U.S. will benefit, Europe would benefit."

If U.S. aid is cut, Ozal indicates, Turkey's role in NATO might be reduced. Ozal is under considerable popular pressure to preserve national dignity. The Turks are traditionally sensitive about any form of foreign pressure. "I know the American mentality, particularly that of some senators," Ozal said. "They believe that money is everything. They are not right. There are other values, too."

One official said: "We need NATO just as NATO needs us. But there is a limit to the *diktat* we can accept from the Greek lobby."

Turkey's ambassador to Washington, Sukru Elekdag, notes that Turkey has a 1,200-mile land and sea border with the Soviet Union, controls the Bosphorus Strait and ties down 40 Soviet and Warsaw Pact divisions with its 800,000-man force—the second largest in NATO after those of the U.S.

"Compare this with Greece's lack of commitment toward NATO," he said. "Ever since Andreas Papandreou's PASOK [Panhellenic Socialist Union] party assumed power, the Greek government has been challenging the very foundations on which the NATO alliance rests. The Greek leader endorses the same prevaricating proposals that the Communist bloc hypocritically advances for the dissolution of the military alliance. He also insists that there is no such thing as a Warsaw Pact threat, and proposes creation of nuclear-free zones which, under the circumstances, would cause the total collapse of NATO's strategy and deterrence."

In Congress, the Cyprus question is threatening proposed programs for America's friends throughout the world. The Reagan Administration sought authority for stepped-up aid and military sales credits to several countries, including Turkey, in an updated foreign aid bill. But Greece's supporters, led by Senator Joseph Biden (D.-Del.), pushed through an amendment in the Foreign Relations Committee cutting aid to Turkey. The Administration has now told Congress that it would rather sacrifice the bill than risk a vote on the amendment. If the offending provision cannot be killed in committee, the White House wants to scrap the bill in favor of a simply continuing resolution to leave aid levels where they are.

Moscow seems eager to take advantage of any Turkish disaffection with the U.S. In mid-March a top Soviet diplomat visited Ankara and told the Turks to say "No" to U.S. requests for cruise missile bases.

The Turks, it seems, are not averse to flirting with Russia to reinforce the idea that they cannot be taken for granted. Informed sources in Ankara, however, state that Turkey knows that its future lies with the West and the worst that can happen is that Turkey may suspend the program of modernization of its armed forces, particularly its underequipped 3rd Army, deployed against the Soviet border. Only Moscow, however, gains from such a decision.

The creation of artificial tensions between the U.S. and Turkey may represent yet another illustration of the often negative role played by ethnic politics within the U.S. foreign policy-making process.●

THANKS FOR SAVING LAW ENFORCEMENT LIVES

HON. THOMAS R. CARPER

OF DELAWARE

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1984

● Mr. CARPER. Mr. Speaker, the FBI has recently reported large decreases in major crimes in our Nation. The number of murders in our country went down 8.1 percent from 1982 to 1983. The number of thefts went down 6 percent, robberies were reduced by 8.4 percent and burglaries went down by an astounding 9.2 percent.

These statistics did not come about due to blind luck. There were people out there serving as a barrier between criminals and the safety of the American people. I refer, of course, to our Nation's law enforcement officers. And those law enforcement officers deserve praise for these incredible achievements in our war against crime.

They also deserve our praise and respect for the daily sacrifices they make to ensure our safety. Everyday law enforcement officers face possible death. In fact, according to FBI statistics, one out of every five police officers will be assaulted in the next year.

One piece of equipment that has gone far to save the lives of police officers is the bullet-proof vest, and I am most proud that a company in my home State—the Du Pont Co.—aided in developing, testing and producing Kevlar body armor to protect the lives of police officers.

Over half of our Nation's police officers wear soft body armor on a daily basis. A Justice Department report states that vests made from Kevlar have saved the lives of more than 400 police officers since the law enforcement community began wearing them in the mid-1970's. The number of law enforcement officers who wear soft body armor continues to grow dramatically every year.

On October 10, the Delaware Police Chiefs' Foundation is sponsoring its first annual appreciation dinner entitled "Thanks for Saving Law Enforcement Lives." This dinner is being given to honor the Du Pont Co., the Department of the Army, and the National Institute of Justice for their efforts in developing soft body armor.

I would like to share with the House of Representatives a resolution introduced into the Delaware State Senate which joins the Delaware Police Chiefs in commending these organizations who have done so much for a group to whom all Americans owe so much.

I would like to have the contents of the resolution inserted in the RECORD along with these remarks:

Whereas, the Delaware Police Chiefs' Foundation, Inc. will hold its first Annual Appreciation Dinner on Wednesday, October 10, 1984 at 6:00 p.m. at the Radisson Hotel in Wilmington; and

Whereas, this first annual event, "Thanks for Saving Law Enforcement Lives", will honor the Du Pont Company, the U.S. Department of the Army, and the National Institute of Justice for their efforts in the development, testing, and production of Kevlar soft body armor; and

Whereas, Kevlar is a fiber five times as strong as steel that has been responsible for saving the lives of approximately 600 law enforcement officers since its introduction in 1975; and

Whereas, Kevlar soft body armor has proven to protect police officers fron injury in assaults from a variety of offensive instruments and in traffic accidents, as well as from ballistic attacks; and

Whereas, in view of the statistic that one of every five police officers is assaulted each year, Kevlar soft body armor has made an invaluable contribution as a life-saving device; and

Whereas, the Delaware Police Chiefs' Foundation, Inc. is sponsoring "Thanks for Saving Law Enforcement Lives" to honor those who conceived, developed, and

brought into use Kevlar soft body armor; and

Whereas, The Foundation is joined in this effort by the International Association of Chiefs of Police, the National Fraternal Order of Police, the National Troopers' Coalition, the American Society for Industrial Security, the Federal Bureau of Investigation, and other Federal law enforcement agencies.

Now therefore:

Be it resolved By the Senate of the 132nd General Assembly of the State of Delaware that we hereby join the sponsors of the "Thanks for Savings Law Enforcement Lives" testimonial in honoring the DuPont Company, The U.S. Department of the Army, and the National Institute of Justice for their contributions to the development of Kevlar soft body armor.

Be it further resolved That we commend the Delaware Police Chief's Foundation, Inc. and the other sponsors of this notable event for their intitiative in recognizing those who made possible this important breakthrough in protecting the lives and safety of those who protect the lives and safety of all of us.

Be it further resolved That Delaware is proud to host "Thanks for Savings Law Enforcement Lives" and that a copy of this Resolution be presented at the banquet on October 10, 1984 to commend and welcome all the participants in this worthwhile event.●

THE PRESIDENT IS HELPING SMALL- AND MEDIUM-SIZED BUSINESSES

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1984

● Mr. BROOMFIELD. Mr. Speaker, hats off to the administration for its recent efforts to extend a helping hand to the American business community. Thankfully, the President has given a shot in the arm to the United States and Foreign Commercial Service [US&FCS]. This is a step in the right direction and the positive results of this program are already being seen. Let's take a look at the facts.

The United States had a record trade deficit of $57.6 billion in 1983 and it is expected to reach more than $100 billion this year. The strength of the dollar continues to present export difficulties for small- and medium-sized business. Although it's a little noted fact, U.S. exports have increased 6 percent in the past year.

President Reagan's administration has responded to the special international trade needs of small- and medium-sized business by strengthening the US&FCS. As the only Government organization with global outreach capabilities, the US&FCS is able to assist the grassroots of American businesses by helping them match their domestically produced products and services with the needs of overseas customers.

The service's 70 U.S. offices are linked to 120 overseas posts in 63 countries. These countries represent over 95 percent of the total world marketplace for U.S. goods and services. The US&FCS is a global network of 1,300 men and women working to increase exports and profits of U.S companies. While they work with many of the larger companies, their main area of interest is small- and medium-sized firms that cannot afford direct representation and marketing in overseas markets.

During 1983, US&FCS offices helped more than 3,000 U.S. companies make their first sale overseas, or find new markets. These transactions totaled nearly $1 billion—which created thousands of jobs for Americans.

One of their successes took place in Ecuador. The US&FCS post in Guayaquil was successful in helping a Seattle-based company supply 18 fishing vessels valued at over $3 million to the Ecuadorean National Fisheries Company.

A small, new-to-market medical equipment company from Covington, LA, was provided sales leads in Panama which resulted in $140,000 of business with a possiblity of more than $100,000 in future sales.

US&FCS specialists conducted 5,000 trade seminars across the United States last year; more than 200,000 business people participated. Approximately 86 percent of the companies served at these seminars were small- and medium-sized firms with less than 250 employees.

They also held 110,000 individual counseling sessions with companies on specific trade problems. Ninety percent of these clients represented small- to medium-sized firms.

An unparalleled opportunity exists today for small- and medium-sized firms to become profitable exporters of their products and services. The overseas markets are there—and they can find solid, substantial assistance from the U.S. and Foreign Commercial Service to enter those markets.

At present, only 1 percent of U.S. business firms generate 80 percent of U.S. exports. There are nearly 20,000 mostly small- and medium-sized firms whose products are competitive in the world market, but are not now being exported. The US&FCS wants to make these firms part of the global economy, and competitive in today's market.

Available from US&FCS is a roster of US&FCS District Officers, which will welcome calls from potential exporters. I salute the administration for its productive efforts in helping the U.S. business community. The competitive international marketplace must be targeted by U.S. companies if America is to economically survive in the world. I wish the US&FCS good luck in its important efforts.

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MARYLAND

Baltimore—LoRee P. Silloway, Director; telephone: 301/962-3560.

MASSACHUSETTS

Boston—Francis J. O'Connor, Director; telephone: 617/223-2312.

MICHIGAN

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MINNESOTA

Minneapolis—Ronald E. Kramer, Director; telephone: 612/349-3338.

MISSISSIPPI

Jackson—Mark E. Spinney, Director; telephone: 601/960-4388.

MISSOURI

St. Louis—Donald R. Loso, Director; telephone: 314/425-3302.

Kansas City—James D. Cook, Director; telephone: 816/374-3142.

NEBRASKA

Omaha—George H. Payne, Director; telephone: 402/221-3664.

NEVADA

Reno—Joseph J. Jeremy, Director; telephone: 702/784-5203.

NEW JERSEY

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NEW MEXICO

Albuquerque—William E. Dwyer, Director; telephone: 505/766-2386.

NEW YORK

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UTAH

Salt Lake City—Stephen P. Smoot, Director; telephone: 801/524-5116.

VIRGINIA

Richmond—Philip A. Ouzts, Director; telephone: 804/771-2246.

WASHINGTON

Seattle—C. Franklin Foster, Director; telephone: 206/442-5616.

WEST VIRGINIA

Charleston—Rogert L. Fortner, Director; telephone: 304/347-5123.

WISCONSIN

Milwaukee—Patrick A. Willis, Director; telephone: 414/291-3473.●

THE 100TH ANNIVERSARY OF HOLY ROSARY PARISH, JERSEY CITY

HON. FRANK J. GUARINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1984

● Mr. GUARINI. Mr. Speaker, it is my honor to inform this body of the 100th anniversary of Holy Rosary Roman Catholic Church parish in Jersey City which begins Sunday, October 7.

This parish, located in downtown Jersey City, has been the mother church to Jersey City's largest community, namely those with Italian heritage. In the last 100 years it is estimated that hundreds of thousands of Catholics in the New York, New Jersey, and Pennsylvania area can trace their American beginnings to Holy Rosary parish.

As you know, the Statue of Liberty is in my district and because of the more than 100 nationality and ethnic groups, our community is often referred to as a second Ellis Island.

Rev. Nicholas A. Di Marzio, pastor of Holy Rosary Church, has announced the beginning of yearlong activities with a Solemn Mass to be celebrated on Sunday, October 7, at 10:30 am. The principal celebrant of this Mass will be Bishop Jerome A. Pechillo, T.O.R., Vicar of Hudson County for the Archdiocese of Newark, which is led by Archbishop Peter A. Gerity.

"The next 12 months will see a multiplicity of events which will result in a year of spiritual and social renewal," said Father Di Marzio.

This year will also be an important year when support from parishioners, former parishioners, and friends will be sought to make necessary repairs to the church which will allow the continuance of work serving God and man.

Holy Rosary Church is in good hands under the able and dedicated leadership of its current pastor, Father Di Marzio, who holds a master of social work degree, and has been assigned for many years by the Archdiocese of Newark in a leadership role in the Catholic Community Service.

Father Di Marzio also has for many years headed the Migration Office/Refugee Resettlement and has done outstanding work in that capacity. At the present time he is finalizing a study on the current problems of migrants to America by commission by the U.S. Department of Labor.

Holy Rosary traces its beginnings to the 1880's in the Italian-speaking community of a few hundred dock and railroad laborers. For years they had traveled each Sunday to churches in New York. Then Italian-speaking priests were asssigned to a little chapel alongside the railroad on Sixth Street.

The parish grew to meet the turn-of-the-century tide of immigrants who turned to their church for both spiritual and practical help in adjusting to the American environment.

From their clergy, and in their parish school they learned English and raised an English-speaking second generation that has long since burst out of strictly Italian-speaking neighborhoods and has become interwoven with Jersey City's social fabric in all economic directions.

The sons and daughters of Holy Rosary parish have made their mark in the professions—doctors, lawyers, teachers, scientists, engineers, members of the clergy—they have led exemplary lives as heads of families—they have fought in America's wars, World War I, World War II, Korea, and Vietnam.

My father, Frank J. Guarini, Sr., a member of the New Jersey Bar and member of the New Jersey Assembly, often spoke with pride and pleasure that "Holy Rosary was my parish," dating back to the days when my grandparents migrated from Italy to America.

In modern church history those who have served as pastors of our beloved Holy Rosary parish have been Rev. Gerald M. Santora, Rev. Joseph M. Msgr. Cevetello, Rev. Francis Lo Bianco, and Rev. John De Sanctis.

These men of God worked closely not only in pastoral service, but in the development of the Holy Rosary Grammar School, which is held in the highest esteem by parents, educators, children, and the graduates of this institution of learning, under the capable leadership of the Religious Teachers Filippini, and its principal Sister Irma Papaleo.

Father Di Marzio, working with former Assemblyman Michael P. Esposito and Joseph Paluscio, long-time members of this parish, and more than 100 volunteers, have arranged the following centennial events:

October 7—Solemn Pontifical Mass.

October 21—Centennial opening cocktail party.

Nobember 2—All Souls Memorial Mass for past parishioners.

November 11—Solemn Vesper in Honor of Mother Cabrini, Bishop Dominic Marconi, celebrant.

December 15—Family Christmas Party.

1985

February 9—Mardi Gras.

March 16—St. Joseph Communion Supper.

March 26—Centennial Card Party.

April 20—Parish Review.

May 4—Centennial Crowning of Our Lady of the Rosary.

May 14—Family Communion Breakfast (Holy Name).

June 23—Parish Centennial Picnic.

October 6—Solemn Pontifical Mass—Archbishop Peter Gerety, celebrant and solemn procession in honor of Our Layd of the Rosary.

October 19 Centennial Gala—Birchwood Manor.

It is our hope that former parishioners and friends from throughout our Nation will recall the Holy Rosary also has stood like a beacon to its parishioners. Their devotion to the church and the Sabbath is echoed in the words of Henry Ward Beecher:

A world without a Sabbath would be like a man without a smile, like a summer without flowers, and like a homestead without a garden. It is the joyous day of the whole week.

Sunday's Mass will be attended by hundreds of friends and parishioners who will join heart and hand at a brunch to be held at Holy Rosary School auditorium on Brunswick Street, Jersey City, breaking bread in celebration.

Father Di Marzio recalls the rich hundred years of history of this parish inspires nostalgia and makes up harken back to the good old days. But it is not only to the past that we look during this centennial year but to the future, and to our present needs as a vibrant and serving parish.

Our centennial celebration will combine both our remembrance of the past and our commitment to the future. Because we have many repairs and restoration expenses which cannot be covered under our annual income, a capital campaign will be conducted also. In this manner there can be participation in this campaign as a tribute to our past history and to insure that our future will be as bright and glorious as the past.

Those who wish to join in the activities of this centennial year may contact Father Di Marzio at Holy Rosary Rectory, 344 Sixth Street, Jersey City, NJ.

The contributions of the parishioners of Holy Rosary Church and the pastors who served is best reflected in remarks by Pope John Paul II on his Battery Park, NY, visit of October 1979 when in the shadow of the Statue of Liberty he said:

It will always remain one of the glorious achievements of this nation that, when people looked toward America, they received together with freedom also a chance for their own advancement. This tradition must be honored also today. The freedom that was gained, must be ratified each day by the firm rejection of whatever wounds, weakens or dishonors human life. And so I appeal to all who love freedom and justice to give a chance to all in need, to the poor and the powerless. Break open the hopeless cycles of poverty and ignorance that are still the lot of too many of our brothers and sisters; the hopeless cycles of prejudices that linger on despite enormous progress toward effective equality in education and employment; the cycles of despair in which all imprisoned all those that lack decent food, shelter or employment; the cycles of underdevelopment that are the consequences of international mechanisms that subordinate the human existence to the domination of partially conceived economic progress; and finally the inhuman cycles of war that springs from the violations of man's fundamental rights and produces still graver violation of them.

Freedom in justice will bring a new dawn of hope for the present generation as it has done before; for the homeless, for the unemployed, for the aging, for the sick and handicapped, for the migrants and the undocumented workers, for all who hunger for human dignity in this land and in the world.

I am sure my colleagues here in the House of Representatives and those former parishioners of Holy Rosary wish to join me in this pleasure of paying tribute to a grand and illustrious parish.

I will close with a fervent wish on behalf of all the good people of many nationalities, supporters, and friends that the Holy Rosary Roman Catholic Church prospers and continues its good works in its second century.●

NINTH DISTRICT FINDINGS

HON. MARCY KAPTUR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1984

● Ms. KAPTUR. Mr. Speaker, I held a competition in my district to choose the recipient of the LBJ congressional internship. As part of the competition, interested constituents were required to submit papers on the topic: "The Unmet Housing Needs in Ohio's Ninth District." Karen Davis was one of two competitors who were chosen to participate in the internship. However, due to personal circumstances, she was not able to serve as an intern. I would like to share with my colleagues a summary of the findings she made in her excellent report:

It can be concluded that there is a crucial need for housing in the Ninth Congressional District of Ohio. Economic instability, high interest rates, high unemployment, and discrimination are the major deterrents in the unmet housing needs. The needs are in all facets of the housing areas, although the public and subsidized housing needs seem to be more extensive.

Low-income families are in great need of subsidized housing. Because of their low income levels, they have nowhere to turn but to the Government for their housing assistance. This can be seen by the applicant waiting list at Lucas Metropolitan Housing Authority.

There were 4,972 units under LMHA's management at the end of April, 1984. There were 20,575 households with incomes below $5,000 in the 1980 Census. At present, the Government subsidy programs can help less than one-fourth of the lowest income households. This does not speak of the low to moderate income households who are in need of some form of housing assistance. One problem with the subsidy programs, this author believes, is that HUD's Fair Market Guidelines are set too low, thereby discouraging many potential landlords to participate in these programs.

When analyzing the needs by bedroom size it was very apparent that the need was for two and three bedroom non-elderly units. Seventy-eight percent of the total applicant waiting list at LMHA in January, 1984, were in need of such units.

High interest rates, including both construction costs and mortgage rates, and high rent costs continue to be the major problem in non-subsidized housing.

The Government has many programs to help the unmet housing needs. Unfortunately, the programs, like the housing units, are at inadequate levels.●

WAGE DISCRIMINATION

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1984

● Mr. RICHARDSON. Mr. Speaker, I rise today to draw the attention to a most disturbing inequity in our Nation's tax laws. Gloria Martin, from my home State of New Mexico, has alerted me to a problem that exists in many small-community restaurant businesses across this country.

In a letter and article, which I would like to enter into the RECORD, Ms. Martin explains how our present system of taxation is unfair to many restaurant workers in these communities. I feel that Gloria Martin clearly explains this situation and I urge my colleagues to read both Ms. Martin's letter and article very carefully. We can't allow this type of wage discrimination and I ask Congress to carefully examine this problem and act on it in the days ahead.

GLORIA MARTIN'S LETTER TO CONGRESSMAN BILL RICHARDSON

CONGRESSMAN BILL RICHARDSON: I received your letter stating your concern over the inequities in wages paid to women compared to those paid to men.

I have been a waitress and part-time college student for the past five years. Since the law went into effect wherein 8% of a waitress/waiter's gross receipts must be declared as taxable income along with their hourly wages (approximately $2.01 per hour), it is impossible for a waitress working 40 hours per week to earn more than $100 to $150 per week after taxes. The actual figure in most of New Mexico is much less because tipping is not a common practice except in the larger cities. This means that we are often paying Federal taxes on money we have not earned.

I am aware that the 8% figure is supposed to be a guideline and the employer is not obligated to withhold taxes on that sum but the standard procedure is that they do. In fact, some employers arbitrarily withhold Federal taxes on $4.00 per hour so they don't have to take the trouble to account for 8% of each employee's gross receipts.

I feel that is not only discrimination against women but it is discrimination against poor who are trying to support themselves rather than go welfare. It is discrimination against students, mothers with responsibilities in the home and people with only marginal educational experience. Serving the public is difficult and demanding work and those who, for whatever reason, must opt to do that kind of work are deserving of adequate compensation.

Sincerely yours,

GLORIA MARTIN.

DINING OUT IS PASTIME

(By Gloria Martin)

Dining out has become a favorite pastime for the average American. Whether it's a quick hamburger at the closest drive-in, a carry-out pizza or a sumptuous meal complete with wine and gourmet appetizers, Americans buy an average of three meals per week per person from licensed dining es-

tablishments, according to Nation's Restaurant News Magazines.

"There are 367 people employed in Valencia County's 24 restaurants including fast food drive-ins," said Martin Quintana of the Department of Research and Analysis, a branch of the Employment Security Department. "The average wage paid to restaurant employees is $86.27 per week but it is difficult to come up with exact figures as we have no record of the number of hours worked for that amount of pay," said Quintana.

"Kitchen help is paid on a higher scale than waiters and waitresses. Also, people working in fast-food establishments usually are paid the minimum wage of $3.35 per hour. The legal minimum wage for waiters and waitresses is about $2.01 per hour because they earn gratuities (tips), which are counted as taxable income," he said.

The money I earn on my check is less than $1.50 per hour after deductions," said a waitress at Little Anita's, a restaurant in Belen. "If I don't average at least $2 per hour in tips, I'm paying Federal Income Taxes on more money than I earn. It doesn't do any good to complain," said the waitress, who did not want her name used.

"The IRS uses eight percent of gross receipts figures as a guideline," said Laura Criel of the Internal Revenue Service in Albuquerque. "The figure is for information purposes only and should be reported by the employer on the employees W-2 form as separate from wages and reported tips. "The allocated eight percent figure is for our use in determining if a taxpayer is actually reporting his/her tips as earned income."

"I cannot understand," said Criel, "why an employer would choose to show a higher income for an employee than may be realistic because the employer must pay more Social Security (F.I.C.A.) as the earned income figure is higher. It just doesn't make sense."

"Some people don't believe in tipping—it's just not their policy," said a waitress who works at the Pub in Los Lunos. "I suppose they feel a waitress is being paid enough so they shouldn't expect a tip. Actually, at the Pub we usually make enough in tips to justify the taxes withheld on our checks. Besides, I like my job. I meet interesting people and when I'm through for the day I don't take my job home with me," she said.

"I like waitress work because I enjoy working with the public," said Ritha Aragon, who works at the Tierra del Sol Country Club. "Sometimes, when things go wrong I get upset but I still find waitress work more stimulating than anything else I've done. I used to do clerical work but I got bored with it. Also, the hours are more flexible than in most jobs. With a husband and a daughter, I don't want a full-time career so waitress work provides extra money while not taking me away from home for long periods of time."

"About 30 percent of our gross sales income goes to pay labor costs," said Carol Pino, manager of the Tierra del Sol Country Club. "If we were to raise the hourly rate of pay we would either have to raise our prices or increase our volume of business or we'd be losing money. We'd price ourselves out of the market because the restaurant business is competitive. The people who serve food and liquor are selling a service—similar to a commissioned salesperson. They have a right to expect a gratuity for pleasant, efficient service."

"Some restaurants have a policy of adding a percentage to the check as a gratuity," said George Pappas, owner of Choice's Restaurant south of Belen. "We don't believe in that as there is less incentive for the serviceperson to do the best possible job of serving the customer. Many people don't realize that our waitresses couldn't make a living without their tips. The eight percent of gross income the IRS uses as a guideline is not an equitable figure for this part of the country."●

AN ISSUE FOR TOMMORROW: OUR AGING VETERAN POPULATION

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1984

● Mr. FORD of Michigan. Mr. Speaker, as the 98th Congress draws to an end, we should give some thought to the issues which we will be facing in the 99th and subsequent Congresses. One of particular note is our aging veteran population, an issue of growing concern.

An article in the May 12 Congressional Quarterly points out that there are now 11.3 million World War II veterans still living and in the next few years most of them will be at least age 65. The article goes on to state that the number of veterans at least age 65—now about 4 million—is expected to double by the end of this decade and triple by the end of the century. "By the year 2000," the article indicates, "two-thirds of all American men over 65 will be veterans."

With such increasing numbers of older Americans who are veterans, it is most appropriate that we do not delay giving careful thought to what lies ahead. Our Nation long ago assumed a number of obligations for our veterans, especially older veterans. How these responsibilities can best be discharged demands careful thought and planning, lest we be entrapped by a situation which has become acute.

I ask unanimous consent that the Congressional Quarterly article to which I referred be included as part of my remarks.

The article follows:

HEALTH COSTS SKYROCKETING AS VETERANS GROW OLD

(By Robert Rothman)

Veterans' health care—traditionally one of the least controversial items in the federal budget—soon will become a bigger issue as an expected explosion in demand drives up costs.

During World War II, some 16.5 million Americans served in the military; about 11.3 million of them are still living, and in the next few years most of them will turn 65. The number of veterans aged 65 and older—now about four million—is expected to double by 1990 and triple by 2000, as veterans of the Korean War also turn 65. By the year 2000, two-thirds of all American men over 65 will be veterans.

For the Veterans Administration (VA), 65 is a key age because veterans then become entitled to health care regardless of income, if space is available. And aging increases the need for health care.

As a result of this potential increase in demand, the cost of the VA health care system—currently $8.8 billion—is expected to shoot up to $9.85 billion by 1990 and $12.6 billion by 2000, according to the Congressional Budget Office (CBO).

Those figures assume that the current average length of stay will remain constant, and they do not include construction costs.

The VA is about to release a study on the effects of the aging veteran population. The study will address the entire spectrum of veterans' benefits, of which the largest element by far is the health care system.

The study likely will have ramifications beyond the VA, since the graying of the veterans' population anticipates the graying of the U.S. population as a whole, and what affects the VA health care system in the coming decade also will affect the rest of the nation's health care system in the future.

Moreover, since VA health care is an entitlement—that is, everyone who meets the criteria for the program is automatically entitled to full benefits—decisions that Congress and future administrations make on VA benefits may be played out on a larger scale with other entitlement programs.

PLANNING FOR THE CRUNCH

Veterans' groups, as well as members of Congress charged with overseeing veterans' benefits, are bracing for the potential crunch, and planning ways to deal with it.

"We . . . are not reacting to a crisis; we are preparing for a crisis," said Rep. Thomas A. Daschle, D-S.D., chairman of the Congressional Vietnam-Era Veterans Caucus.

The House Veterans' Affairs Subcommittee on Hospitals and Health Care held a series of field hearings in 1983 to see how local VA facilities were meeting the challenge, and what they expected to do in the future. Unlike most congressional field hearings, these were usually well attended; as many as 12 members took part.

Partially in response, subcommittee Chairman Bob Edgar, D-Pa., sponsored a bill (H.R. 2920—P.L. 98-160) designed to reduce the long-term costs to the federal government of veterans; health care by encouraging less expensive means of health care. (1983 Weekly Report, p. 2376).

However, the Reagan administration's fiscal 1985 budget for the VA failed to fund several of the new initiatives in the bill, so some cost savings may not take place right away if the Appropriations committees go along. (Budget Weekly Report, p. 275).

Nevertheless, many members of Congress argue that when the time comes, the government will meet the demand.

"It's always a myth to me how there ever could be a thought that this country didn't take care of its veterans from every war," said Alan K. Simpson, R-Wyo., chairman of the Senate Veterans' Affairs Committee.

VA HEALTH CARE SYSTEM

President Reagan's fiscal 1985 budget request for the VA health care system is $8.8 billion. In 1983, the system included 172 hospitals, 226 outpatient clinics, 103 nursing homes and 16 veterans' homes, and in fiscal 1985 the VA plans to add more.

In addition, the president requested $193 million for medical research, down from $218 million in fiscal 1984.

The total VA health care budget represents about 2.5 percent of the cost of health care in the United States.

In addition to providing health care for veterans, the system has provided at least part of the training, through affiliations with private medical institutions, for half of all the health care professionals in the country.

Moreover, VA researchers recently won two Nobel Prizes in medicine. The agency's medical research program is credited with finding a cure for tuberculosis and developing the cardiac pacemaker, as well as major breakthroughs in kidney transplants, cancer research, renal disease, hypertension and psychiatry.

PRIORITIES

Because of space limitations in its hospitals and other facilities, the VA has established a system of priorities for providing health care services to veterans.

Those receiving top priority are veterans needing hospitalization because of injuries or disease incurred or aggravated in the line of duty during active service.

Second are veterans who were discharged because of a service-connected disability but who need treatment for an ailment not connected to their disability.

Third are other veterans, who are admitted if hospitalization is necessary, if they are unable to pay for care elsewhere, and if space is available.

Certain veterans, such as those needing treatment because of exposure to Agent Orange or radiation from nuclear weapons testing, are admitted regardless of ability to pay, as are those over 65. (Agent Orange, p. 1109)

Similar priorities are established for nursing home an outpatient care.

INCREASING DEMAND

The next few years will see a vast increase in demand on VA medical care.

Of the 3.3 million veterans over 65 in 1981, 768,000 came to the VA for medical care. At the same pace, the number using VA care would increase to 1.6 million by 1990, and to 2.1 million by 2000.

But some observers believe the pace will quicken.

"I think the proportion of probable users of the VA health system within the total pool of over-65-year-old veterans is likely to be somewhat greater than this," said Donald Custis, director of the VA's Department of Medicine and Surgery.

"I believe that efforts at the federal and state level to control health care costs may have major impact on the VA," Custis said. "Increases in Medicare deductibles an co-insurance and reductions in Medicaid funding will make the VA more economically attractive or even necessary to the future population pool than it is to the present population pool."

In addition, fluctuations in the economy affect demand on VA services. Areas of high unemployment show increases in the use of VA health care facilities.

Geography also is a factor in health care demand.

Like the rest of the older population, veterans are moving south and west in great numbers. But most of the hospitals and other facilities are in the Northeast. Thus the strain on Veterans Administration facilities in the South and West will be that much more acute.

BUILDING MORE BUILDINGS?

The obvious solution to meet the higher demand would be to build more facilities, but that solution has drawbacks.

For one thing, hospital construction is expensive. Current plans for modernization and expansion of five VA facilities in western Pennsylvania, for example, is expected to cost a total of $156.2 million. New construction is even more expensive.

"It's absurd to just build and build and build," said Simpson.

Simpson also says the VA should "get away from the 'Frank Lloyd Wright Design Award,'" and standardize construction of medical facilities. "That would save big bucks down the line," he said.

Some critics of new construction also look at demand beyond the year 2000. While World War II and Korean War veterans will turn 65 by then, Vietnam-era veterans will not turn 65 until about 2020. Building new facilities for the next 20 years would result in those facilities being under-utilized for 20 years after that. And VA planners anticipate no larger group of other veterans after the Vietnam era.

FUTURE COSTS

But regardless of building plans, most observers predict an increase in expenses in the coming decades.

Donald Leon, dean of the University of Pittsburgh medical school, said "it is my opinion that the Congress of the United States—in fact, the whole federal administration—has no concept of the onslaught of expense that you are about to face over the next decade."

Leon noted that geriatric care is "resource-intensive," requiring more nurses and practitioners than does health care for younger people. He also noted that physicians are relatively untrained in geriatric care.

The VA has started to address that problem. Under legislation passed in 1980 (Pub.L. 96-330), the VA was directed to establish Geriatic Research Education and Clinical Centers. Each of these centers, located in existing VA medical centers, focuses on a particular area of geriatics. (1980 Almanac p. 427)

In December, the VA announced the formation of two new centers, bringing the total to 10, and the budget calls for another one in fiscal 1985. The centers provide care and consultation to about 3,500 inpatients and staff about 5,000 outpatient visits. They also produce publications on aging and conduct a wide range of educational activities, helping provide training to allied health professionals in the problems of geriatrics.

Some Vietnam-era veterans' groups have expressed concern that if health care costs for older veterans rise, budget constraints will force cutbacks in programs for younger veterans.

But members of Congress have cautioned veterans against dividing along age lines. For one thing, the younger veterans will want programs for the aging to be in place when they get old.

For another, a split in the veterans community would weaken it in the face of budget cutters.

"The worst thing that could happen," said Daschle, "Is the young pitted against the older veterans for a diminishing budget pie."

Others say the increases in VA health care costs may not be as dramatic as it would appear now. "There will be increases," Edgar said, "but below [those of] the private sector."

Edgar and others in Congress are looking for ways to make sure that is true. In most cases, this means providing care other than institutionalization.

COST SAVINGS ENACTED

One provision of Pub. L. 98-160, which was sponsored by Simpson, provided adult day-care services in VA facilities and community-operated facilities to veterans who have someone to care for them at home. According to CBO, that provision could save an estimated $3,000 per patient by 1990.

Other provisions of the legislation encouraged non-institutionalization. One gave the VA authority to refer patients to private, VA-approved community facilities. Another authorized it to provide eligible veterans certain preventive health care services. A third increased the per diem payments to state veterans' homes, encouraging their use instead of VA facilities.

CBO estimated that placing short-stay patients in community nursing homes could save $140 million, while increasing grants to states for construction would save about $1.9 million a year in the future for every $5 million in grants given in 1985.

CONTROVERSIAL PROPOSALS

Other suggested cost-saving methods are more drastic, and thus more controversial. Perhaps the most controversial would be to restrict eligibility for VA health care.

"I don't relish going into that kind of thing," said Simpson, but even if it is necessary, "it isn't going to lessen our commitment."

According to CBO, restricting VA health care eligibility to veterans with disabilities resulting from service would save $3.5 billion per year after 1990.

Restricting hospital eligibility only would save $2.6 billion a year.

Another option, reducing the level of services provided by VA medical facilities, would result in less savings. CBO estimated that eliminating acute care services could save more than $2.6 billion in 1990; however, more than half of those savings would be shifted to Medicare.

In addition, CBO estimated that eliminating VA nursing home care would save $410 million per year after 1990—more if reductions in anticipated construction were included.

RESISTANCE TO CUTS

But veterans' groups likely will resist fiercely any attempt to cut back on the level of service currently provided.

"Amvets will support every effort to make sure that this [aging] group of veterans receives its full measure of benefits and services, and we will oppose any effort to give [them] less than this full measure," said Robert L. Wilbraham, National Commander of the American Veterans of World War II, Korea and Vietnam [Amvets].

Whatever changes are made, the total cost for VA health care is likely to rise.

And many members of Congress argue that, despite budget constraints, Congress will be willing to pay that cost.

"Thirty million veterans is a potent political force," said Simpson.

Daschle agreed. "They are well-organized, experienced in getting their message heard on Capitol Hill, have sympathetic committees with which to work, and can clearly demonstrate a need," he said. "My guess is that they are going to be in a strong position to make their case on Capitol Hill any time they want."●

PRESS FOR PHILIPPINE REFORMS

HON. SALA BURTON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1984

● Mr. BURTON of California. Mr. Speaker, our colleague STEPHEN SOLARZ, chairman of the Foreign Affairs Subcommittee on Asian and Pacific Affairs, recently wrote a column, which appeared in the New York Times, on the political situation in the Philippines. Congressman SOLARZ is well known for his expertise in Foreign Affairs. I commend the article to my colleagues' attention. I feel it is a cogent analysis of the current situation in the Philippines. The article follows:

[From the New York Times, Aug. 8, 1984]

PRESS FOR PHILIPPINE REFORMS

(By Stephen J. Solarz)

WASHINGTON.—A year after the assassination of opposition leader Benigno S. Aquino Jr., the Philippines is in the midst of its most severe economic and political crisis in decades. Yet the attention focused on the vast capital flight and foreign debt burden, the May parliamentary elections and the investigation of the Aquino assassination has obscured a development that may have far more significant long-term consequences for that country and for America's position in Asia: the rapidly expanding strength of the Communist-dominated New People's Army.

Instead of waiting until the new People's Army is on the verge of winning power, the United States should press for political and economic reforms now, while there is still time to prevent a guerrilla victory.

During recent years, the New People's Army has expanded beyond the island of Luzon and established itself as a truly national insurgency. It has 10,000 to 20,000 men under arms, who collect taxes and dispense "justice." They exert substantial or even controlling influence in roughly one-fifth of the barrios, the country's smallest political unit. The insurgents' front group, the National Democratic Front, can moblize tens of thousands of people—mostly non-Communists—for anti-Government demonstrations.

There are several reasons for the dramatic increase in opposition to the Government and support for the New People's Army. Real wages have fallen by more than one-third in the past decade. The country is groaning under a $25 billion foreign debt. Through the establishment of monopolies and the centralization of corruption—what Filipinos call "crony capitalism"—the country's top leadership has siphoned off the nation's wealth on a vast and unprecedented scale.

The combination of economic deterioration and political repression has created a situation in which more and more people see the rebels as an alternative to the regime of President Ferdinand E. Marcos. The wide-spread belief that the Government was responsible for the Aquino assassination has greatly accelerated these trends. Compounding the problem, many units of the Philippine Constabulary and Army are often brutal and corrupt. Their actions probably do as much to fuel the insurgency as to control it.

Thus, the Philippines bears a certain resemblance to South Vietnam in the late 1950's. Once again, the United States appears tied to a corrupt and inefficient Government that has lost the confidence of its people.

There are, to be sure, important differences between the two situations. The New People's Army has no sanctuaries in neighboring countries and, unlike the Vietnamese Communists, is not receiving any outside support. It has not yet succeeded in seizing the nationalist banner as Ho Chi Minh did in Vietnam, and it must contend with the democratic tradition of the Philippines. There is little prospect of a Communist takeover in the next several years, but such a threat could easily materialize by the early 1990's without fundamental political and economic reforms.

A Communist victory in the Philippines could have extremely adverse consequences for the United States. The flickering flame of democracy, which we helped kindle, would be permanently extinguished. We would almost inevitably lose our air and naval bases at Clark Field and Subic Bay, which greatly facilitate our ability to preserve the peace and maintain a balance of power in Asia. Their loss would also shake the confidence of our friends in the area in our ability to fufill our commitments to them.

The best way to forestall the further growth of the New People's Army would be to restore democracy, giving the democratic opposition a genuine opportunity to compete for power and providing an alternative to violence as a way of bringing about fundamental change. Some have hailed the opposition's gains in the recent elections and the emergence of a freer press as evidence of significant political liberalization. But what the tremendous turnout at the polls really indicated is that the Filipino people want democracy—not that democracy has been restored.

The National Citizens Committee for Free Elections, which mobilized 150,000 volunteer poll-watchers, estimates that the elections were so fraudulent in one-quarter to one-third of the races that the opposition rather than the Government would have won a majority in the National Assembly if the vote had been honest. Moreover, all television and most radio stations—the main source of news for Filipinos—are controlled by Marcos supporters and allow the opposition limited access.

What can the United States do? We must distinguish between support for the Filipino people and support for Mr. Marcos. An alliance with the Filipino people is essential to preserving our long-term relationship with the country. Identification with the Marcos regime must be avoided if we are to escape political disaster.

Some would argue that we should suspend our present aid program to the Philippines unless basic reforms are made, or even end our aid in an effort to force President Marcos from office on the grounds that no solution to the crisis is possible as long as he holds power. Yet given the limited size of our aid program—$240 million a year—such a cutoff could easily backfire. Mr. Marcos might make a bid for popular support by adopting a rabidly nationalistic, anti-American stance. Nor can we be sure, in those circumstances, that his successor would be better. Finally, ending American aid could jeopardize our access to the bases.

Given the deteriorating situation and the limits of American power, we are faced with extremely difficult choices. Yet the American stake in stability and democracy in the Philippines requires that Washington use all of its influence to persuade Manila to make essential reforms.

Our leverage would be the offer of a large-scale economic assistance program—separate from the bases agreement—and cooperation with the International Monetary Fund's efforts to reschedule the country's huge foreign debt. This should be granted only on two conditions. The first would be a return to full-scale democracy, including genuinely open press and broadcasting and the abolition of Mr. Marcos' power to legislate by decree. The second would be the elimination of widespread corruption and a restructuring of the economy—including dismantling the sugar, coconut and grain monopolies—in order to reverse the country's economic decline and growing income disparities.

There is no guarantee that such a strategy would work. But against the background of economic crisis, public pressure on Mr. Marcos might become so strong that he would accept the offer. Even if he did not, we would have sent a powerful message to the Filipino people that the United States cares about their future and wants to preserve the historic ties between our two nations.

Stephen J. Solarz, Democrat of New York, is chairman of the House Foreign Affairs Committee's Subcommittee on Asian and Pacific Affairs.●

HARD TIMES AHEAD FOR THE HOMELESS

HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1984

● Ms. OAKAR. Mr. Speaker, as winter draws near and cold weather threatens, the most neglected members of our society will suffer untold misery with no relief in sight. I am speaking of the homeless. In New York City, there are over 40,000, many of them are the deinstitutionalized mentally ill. This large population of homeless is at least equal to the population of a small city. Right here, in our Capital, over 85 percent of the homeless are mentally disturbed or mentally handicapped. A few weeks ago, the State Department covered the gratings in front of its building, because the homeless were lying on them for warmth at night. The State Department termed this "unsightly." This decision was reversed, however, when there was a public outcry against this cruel action. The American Psychiatric Association released a report on the homeless mentally ill stating that the practice of discharging mentally ill patients from State hospitals into ill-prepared local communities has been a failure and a major societal tragedy. The association, the Nation's chief professional organization for psychiatrists, said a disastrous failure to provide adequate mental health care in the community, or even such basic needs

as shelter and food, has left tens of thousands, perhaps even a million or more, of the mentally ill cast adrift under conditions that most persons think no longer exist in this country. Today, in the Washington Post, a news release reveals that the GAO found that most of the $8 million appropriated by Congress to shelter the homeless was used by the Defense Department for routine defense maintenance. The tragic situation of the homeless must be dealt with now. The Community for Creative Non-Violence which operates a shelter in Washington, DC, has a number of members who are into their 20th day of fasting to force this administration to repair the shelter before the winter sets in. The building is in deplorable condition and needs immediate repairs in order to house the hordes of homeless this winter.

I recently sponsored a bill, H.R. 5752, to address in a more permanent manner the housing needs of homeless people, particularly the deinstitutionalized homeless. The decade-old policy of deinstitutionalizing people suffering from emotional and mental disabilities from many of our State institutions without any careful planning and followup programs, together with economic forces and lack of new housing for poor people, has caused much suffering. The bill provides for a demonstration program for what is called second-stage housing for homeless people, particularly the deinstitutionalized homeless. This proposal is being developed on a demonstration basis and would provide direct Federal assistance to nonprofit sponsors and would be limited to residences housing not more than 12 individuals. In addition, each residence would have a live-in supervisor-counselor who would provide, with other resources available from Federal, State, and local governments, and nonprofit sources, the necessary medical, psychological, pharmaceutical counseling and general assistance to help the residents cope with the demands of everyday life. The bill would amend the section 202 housing for the elderly and handicapped program by authorizing $62 million in new contract authority. This level of funding is modest and only represents the amounts that this Congress has so casually approved for the continued funding of certain Central American countries' military assistance.

It is a disgrace that in this country, which is the richest country in the world, so many of our needy are bypassed for the special interests of a privileged few. Something must be done to correct this situation now.●

HARDWARE HAZARDS

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1984

● Mr. LEVINE of California. Mr. Speaker, last week three of my colleagues and I sent a letter to Secretary of Defense Caspar Weinberger in response to information we received which indicated that the Department of Defense had intentionally avoided proper testing of the Bradley Infantry Fighting Vehicle, had rigged the tests which were done, as was attempting to dismiss Col. John Burton, the officer who had been assigned the job of testing the Bradley because he tried to do his job too well.

Today the Los Angeles Times added its voice to ours in calling for more complete testing of the Bradley and a full investigation of the circumstances surrounding Colonel Burton's dismissal.

Last year I sponsored an amendment which would have withheld funds for the Bradley until proper testing was completed. The events of the past week serve to validate my concerns that improper and inadequate testing has been conducted on a vehicle which will cost taxpayers more than $1.5 million each, has been called a $12 billion deathtrap by one publication.

Mr. Speaker, I hope that my colleagues will take the time to read the Los Angeles Times editorial and join with us in urging that proper tests of the Bradley be conducted, and a full, public investigation of the circumstances surrounding Colonel Burton's dismissal be conducted.

HARDWARE HAZARDS

Critics of the Pentagon's weapons-development and -procurement process have long contended that the military services, once committed to a new weapon, are tempted to tinker with testing procedures to ensure a passing grade. Two current cases involving the Army seem to illustrate their point.

The Army has been planning to spend $4.5 billion by 1989 for 618 Sgt. York anti-aircraft guns from Ford Aerospace & Communications Corp. of Newport Beach. The first 146 units already have been bought by the Army.

The Sgt. York is a self-propelled weapon designed to shoot down both helicopters and conventional warplanes under modern battlefield conditions. However, the Pentagon's inspector general reported last week that test data submitted by the Army to higher officials included "Misleading" test results.

Congressional investigators have charged that the gun's actual test performance fell below specifications for reliability, accuracy, reaction time and ability to function against electronic jamming. The Army claims that deficiencies are being corrected.

Defense Secretary Caspar W. Weinberger has now asked Congress to withhold almost $380 million in appropriations for the next fiscal year until further tests can be made to pin down the Sgt. York's actual capabilities. He indicated that, depending on the result, cancellation of the project will be considered.

Disciplinary action should be considered against military officers or civilian officials found to be responsible for submitting the misleading reports on test results to higher authority.

The other case involves the new Bradley fighting vehicle, a tank-like armored personnel carrier that carries 10 men, a 25-millimeter cannon, a machine gun and an anti-tank missile. Several of the vehicles have been shipped to U.S. forces in West Germany, where they are said to have performed impressively in exercises.

However, some Pentagon officials worry that the aluminum-skinned vehicle has never undergone tests to gauge its survivability in wartime conditions when loaded with fuel and ammunition. Critics fear that chemically enhanced rounds could burn through the aluminum exterior and turn the vehicle into a fiery death trap for the men inside.

Several Senators and House members have asked Weinberger to investigate allegations by a colonel in the Pentagon's research and engineering office that he was being reassigned for insisting on further tests to determine whether steel should be used on the Bradley vehicle instead of aluminum.

In one sense the Army's inclination to let well enough alone is understandable. If the Bradley vehicle were found unacceptably vulnerable, it would take a long time to develop and produce a substitute. But U.S. servicemen's lives are potentially at stake; there can be no excuse for playing games with tests of weapons and equipment.

By definition, an armored personnel carrier is supposed to protect troops being carried into combat. It will never be possible to offer 100% protection. But the American people and their elected representatives are entitled to honest and thorough testing procedures to determine how the vehicle will perform in real battlefield conditions.

Weinberger, under prodding, demonstrated a willingness to stand up for the public interest in the case of the Sgt. York anti-aircraft gun. He should be just as hard-nosed in getting to the bottom of the Bradley vehicle controversy.●

A RUNAWAY PENTAGON

HON. BOB TRAXLER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1984

● Mr. TRAXLER. Mr. Speaker, yesterday the New York Times published a most interesting article titled "A Runaway Pentagon" which deserves the review of every one of our colleagues. This article is most interesting precisely because it was authored by David Evans, a Marine Corps lieutenant colonel who is a staff officer in the Office of the Secretary of Defense.

Some of our colleagues feel secure because we are spending more money on our so-called defense program than ever before in our Nation's history. Colonel Davis prefers to describe this spending as based upon exaggerated

force requirements, inappropriate technology and high costs.

If any American is concerned about whether or not we are getting our money's worth from the Pentagon, they should read this article. Maybe then more Americans will agree that our defense budget is in serious need of a lean and mean diet. I urge all of our colleagues to read the following article:

A RUNAWAY PENTAGON

(By David Evans)

WASHINGTON.—At a recent internal Pentagon briefing concerning the fiscal 1986 defense budget, the Air Force speaker raised irony to a new level. A tentative budget of "only" $109 billion, he said, placed "severe fiscal constraints" on the Air Force. This conviction, shared equally by the Army and Navy, is as unconvincing as the kid who laps down a three-scoop ice cream cone and says he's "still hungry." But the remark is revealing. Despite the biggest sustained budget growth since the World War II mobilization, the Pentagon still regards a shortage of money as the main obstacle to a full renaissance of American military power.

The perception of a cash shortage is driven, first, by an out-of-control requirements process. One immutable law of Pentagon force planning is that the Joint Chiefs of Staff will generate requirements greater than the existing force, irrespective of the strategy in vogue at the time. It is the inevitable result of a cycle that a former officer calls "incestuous amplification."

It begins with the services each going through an elaborate itemization of the number of ships, planes and divisions they want. These listings are stapled together to produce the whole. Real trade-offs—say, giving up a wing of Air Force F-15 fighters for an extra Army division—do not intrude on this stylized ritual. The process is additive, and the result is an inflated "requirements menu" with a five-year cost of about a trillion dollars more than the existing force. Naturally, any peacetime defense budget compared to this target appears woefully inadequate.

The perception of a cash shortage stems also from the seductive notion that we can fight a "sanitary" war using complex (and costly) weapons—sophisticated target-acquistion devices, computers, long-range missiles, etc.—that will whittle down a numerically superior foe before he can use his own arms. The unstated premise is that the side doing the whittling will suffer minimal losses.

From this optimistic vision of conventional conflict the "force multiplier" idea originates: a single fighter equipped to shoot down five MIG's at long range is really the equivalent of more than one plane. There are two assumptions: first, the enemy will accommodate us by charging blindly into the teeth of this technology; second, he will continue to do so in the face of unacceptable losses. In short, a predictable foe destroyed by arms that always work perfectly.

This video-game vision would be fine were it not for a few real-world problems. Not only are these expensive and difficult-to-maintain systems vulnerable to saturation attacks, they can be thwarted in cheap and unpredictable ways, as Iran is doing by using simple radar reflectors to lure Iraqi Exocet missiles away from their intended targets, the oil tankers at Kharg Island.

It is also doubtful that our heavy investment in this "beyond visual range" technology will be used in a shooting war, where the rules of engagement dictate positive identification of the target before shooting. This means that the pilot must make sure the blip on his radar screen is an enemy plane, not a buddy. But combat at such close quarters does not require complex technology: short-range missiles and cannons are brutally effective. More importantly, aircraft stripped of all the electronic "black boxes" and heavy long-range missiles are much more agile. Greater effectiveness does not necessarily come at greater cost.

The net result is the creation of a self-fulfilling prophecy. Long-range capability is touted as essential to prevail against a numerically superior foe; this drives up each weapon's cost, which reduces the number that can be bought. The inevitable numerical shortfall is then served up to justify spending additional sums. This is why, after an increase in the defense budget of more than $100 billion in the past four years, the claim is still made that Moscow is "outproducing" us.

The budgetary arguments are clouded still further by the "should cost" dilemma. Billion dollar warships and $50 million fighters may no longer raise eyebrows among inside budgeteers, but do these huge sums reflect what these weapons should cost? The unappreciated answer from A. Ernest Fitzgerald, a cost analyst for the Secretary of the Air Force, is that the Pentagon is generally getting taken to the cleaners by contractors charging anywhere from two to 10 times what would be expected in the private sector. The brouhaha over the $400 claw hammer is symptomatic of how major items like bombers and cruisers themselves are priced.

Closely related to the "should cost" phenomenon is the habit of underestimating initial production costs and assuming that they will decline as experience is gained on the production line. Actual experience dictates otherwise. Costs are generally underestimated and tend to increase over the life of the production cycle.

While these costing assumptions are at odds with reality, they are bureaucratically useful for getting programs started. The system in effect rewards underbid proposals for new weapon systems. The result? A vicious cycle of rising costs, declining production rates and fewer weapons, all of which combine to produce tremendous pressure for increased defense spending.

Speaking for myself, I think that exaggerated force requirements, inappropriate technology and high costs are symptomatic of a runaway system. A 45 percent real increase in defense spending over the past four years has been necessary just to keep the force from shrinking. The former Army Chief of Staff, Gen. Edward C. Meyer, was on target when he said: "Either we are going to spend ourselves into extinction, or we have to come up with alternative strategies and news ways to allocate resources."●

OBSERVANCE OF NATIONAL DOMESTIC VIOLENCE AWARENESS WEEK

HON. JOHN BRYANT

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1984

● Mr. BRYANT. Mr. Speaker, the week of October 8 through October 14 has been designated National Domestic Violence Awareness Week. This week has been set aside to focus public attention on the magnitude of family violence including wife battering, child abuse, and abuse of elders.

Although abuse of women has long been recognized as a social problem in America, many people still do not know much about it, or they chose to ignore it. The extent of domestic violence has been clouded by the troublingly persistent myths that battered women aren't really hurt that badly, that beatings and other abuses just happen and that abuse is not a regular occurrence. The myth is enhanced by the fact that so few women press charges and leave home. Why? Many women stay in violent homes because of the "battered woman syndrome." Overwhelming fear too often immobilizes victims, and learned helplessness makes them feel they cannot control their lives or escape their violent worlds.

Family violence is a shockingly widespread problem in the United States, cutting across every segment of society. Women victims of domestic violence come from all racial, ethnic, religious, age, and socioeconomic groups. Each year about 2 million American women are severely beaten in their own homes by their partners. A 1982 survey in Texas revealed that 25 percent of abused women were victimized at least once a week. Because battering tends to escalate over time, it sometimes leads to homocide or suicide. Statistics show that most female murder victims are killed by their husbands or boyfriends and that 25 percent of suicide attempts by women are directly related to battering.

These statistics provide only a rough outline of the problem. Because victims of domestic violence bear an extra burden of fear and shame, domestic violence is too often an invisible crime.

Child abuse, too, is a crime of alarming proportions, one which takes many forms including physical battering and sexual abuse. Studies estimate that 1,000 children die each year as a result of abuse and neglect. Evidence from other sources suggests that this estimate is far too low. In addition, reports indicate that the incidence of child abuse is rising. As many as 240,000 children are victims of sexual abuse each year. Sexual abusers of

children frequently do not use physical force, but gain the child's cooperation through bribes, threats, or use of their position of authority.

In the past, most instances of child abuse, particularly sexual abuse, were kept secret within the family. Today, we are beginning to learn the true extent of the problem as more and more family violence victims are learning that they are not alone. They are coming forward in growing numbers. It is impossible not to shed a tear when you see the pain of a child relating the fact he or she cannot remember a time without beatings or did not believe that to be a normal relationship.

We must also remember that child abusers were found to have been abused as children. This cycle must be broken before today's abused child becomes tomorrow's child abuser.

Elderly persons are also victims of abuse. Physical abuse has been found in nearly 75 percent of the cases reported to the police. In addition, our aged citizens have been subjected to theft, verbal abuse, drug overdosing, and sexual abuse by their own families, as well as others.

The average elderly victim of abuse is female and over 75, often seriously ill and financially destitute. The typical abuser is a close relative and primary care-giver for the abused elder. Exact numbers of the abused are unknown, as most elderly persons refuse to tell of such instances for fear of being rejected and left alone by their families.

Although domestic violence reflects the darker side of American life, there is still hope for families in trouble. The veil of secrecy covering family violence is gradually being lifted. Many victims, instead of being blamed for the crime, are speaking out and being heard.

The fourth annual observance of National Domestic Violence Awareness Week helps focus public attention on the problem of family violence. We celebrate with women and children who have survived to live violence-free lives, and we mourn those whose beatings have led to permanent physical damage, mental trauma, or death. If we can educate the community about the extent of the problem and the need for everyone to become a part of the solution, we can help protect, support, and encourage America's families.●

CONGRESSIONAL SALUTE TO THE PASSAIC COUNTY BOARD OF REALTORS, WAYNE, NJ, UPON THE CELEBRATION OF ITS 75TH DIAMOND JUBILEE ANNIVERSARY

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1984

● Mr. ROE. Mr. Speaker, in January 1985 the Passaic County Board of Realtors which is now headquartered in Wayne, NJ, will be celebrating the 75th anniversary of its founding and will honor its outstanding community and business leaders who have served as officers and members of the board throughout the past three-quarters of a century.

Mr. Speaker, I know that you and our colleagues here in the Congress will want to join with me in extending our heartiest congratulations to the officers and members of the Passaic County Board of Realtors on this most significant and historic occasion.

The Passaic County Board of Realtors is one of our Nation's most prestigious affiliates of the National Association of Realtors which is pledged to the letter and spirit of U.S. policy for the achievement of equal housing opportunity throughout the Nation. The association encourages and supports an affirmative advertising and marketing program in which there are no barriers to obtaining housing because of race, color, religion, sex, or national origin.

At the outset let me commend to you the past presidents of the Passaic County Board of Realtors whose sincerity of purpose throughout the years has helped to perpetuate its sterling principles of organization on behalf of our county real estate agents, as follows:

THE PASSAIC COUNTY BOARD OF REALTORS
PAST PRESIDENTS

1909-1912—E. Harvey Lambert*; 1913—Patrick Lynch*; 1914—John F. Lee*; 1915—Samuel P. Vought*; 1916—Benjamin Grunauer*; 1917—Jacob DeLazier*; 1918—Frank W. Furrey*; 1919-21—Jared Seeley*; 1922-23—Arthur S. Hughes*; 1924-25—Samuel P. Vought*; 1926-28—John H. Doremue*; 1929—Alfred V.R. Doremus*; 1930—John E. Hambor*; 1931—W.W. Duddleston*; 1932—Richard Lowe*; 1933-36—William R. Lambert*; 1937-38—William Dewey*; 1939-40—William F. O'Brien*; 1941—Arthur T. Riedel, Sr.*; 1942—Henry N. Stam*; 1943—Gilbert D. Bogert*; 1944—David Van Dillen*; 1945—Frederick J. Hunziker*; 1946—Fred Hoelscher*; 1947—John Weiss, Jr.; 1948—William G. Heuser*; 1949—Chris S. Adams*; 1950—Anthony Ventimiglia; 1951—Arthur T. Riedel, Jr.; 1952—F. Paul Marsehalk*; 1953—Clifford Hunt, Sr.*; 1954—Bertha M. O'Donnell; 1955—Morris Diamond; 1956—David Krugman; 1957—Salvatore Borrelli; 1958—Raph Weise; 1959—John A. Dale, Jr.; 1960—James E. Marston; 1961—George H. Stickney, Jr.; 1962—Olaf Haroldson*; 1963—Charles Pirozzi; 1964—Raymond J. Lee*; 1965—Vincent J. Montalto; 1966—William Sybesma, 1967—Leon Komorowski; 1968—Robert E. Adams; 1969—Harry M. Stanley; 1970—John Butler; 1971—Eugene T. Fontana; 1972—Norman Kailo; 1973—Alvin G. Blao; 1974—Bart B. Montalbano; 1975—William C. Fenners; 1976—Alan R. Weiss; 1977—Mildred Krakower; 1978—Terry Ferko; 1979—John C. Wegner; 1980—Solomon W. Masters; 1981—Louis Gilmore; 1982—Clifford J. Garrigan, Jr., 1983—Robert E. Spiegel; and 1984—Pat Goudie.

*Deceased.

Mr. Speaker, with your permission I would like to insert at this point in our historic journal of Congress a brief history concerning the establishment of the Passaic County Board of Realtors, as follows:

HISTORY OF THE PASSAIC COUNTY BOARD OF REALTORS

On January 28, 1909, two dozen men gathered in a room on the second floor of the Romaine Building, on Washington Street in Paterson, New Jersey and formed the Paterson Real Estate Exchange. The meeting was held as a result of the activities of a few local brokers who had been trying to form an organization since the Great Fire of 1902. Their purpose was to protect the interests of brokers, owners and purchasers of real estate, and to control the profession by instituting a code of ethics to guide the members in all transactions.

E. Harvey Lambert was the father of the idea, and at this meeting was elected as the group's first President, with Frank W. Furry elected treasurer; John T. Pollitt, secretary; L.A. Piaget, First Vice-President; and George C. Mason, second Vice-President.

A.H. Radcliffe, P. M. Botbyle, William Merz, Frank B. Leary, George Clair, A. R. Carlock, Philip A. Bruckman, Junior Hatfield, J. W. Vest and Eugene Olden were elected to the Board of Directors.

Other members in attendance were Peter L. Alberse, Robert Sinclair, Jacob Elazier, Frank L. Habben, Edwin Petry, David Gordon, S.D. Rumsey, John F. Lee, William F. McDermott, Samuel P. Vought, and Joseph R. Lambert, son and guest of E. Harvey Lambert. Dues were set at $10 annually, payable quarterly.

Within one year, this organization grew to a membership of forty. At its first anniversary meeting, the same officers were re-elected to a second term.

The organization's first banquet was held on February 24, 1910 at the French Restaurant at 17 Ramapo Avenue (now East Railway Avenue) in Paterson. It was at this meeting that a floral tribute was sent to the members of the family of David Thompson, the first member of the group to pass away.

The New Jersey Real Estate League was founded in 1917-1918, with Francis Gormly of Jersey City serving as its' first President. In 1921, this group became known as the New Jersey Association of Real Estate Boards, and has since become the New Jersey Association of Realtors.

The original nominating committee of the state League met in Atlantic City on December 7-8, 1918. E.H. Lambert represented the Passaic County Board as a member of this committee, and was elected a member of the Board of Governors. Subsequent to the formation of the League, and at the creation of the New Jersey Association of Real Estate

Boards, he was also elected a member of the first Board of Governors.

The Passaic County Board has been active in state and national Association activities since its inception. Five past Presidents of the Passaic County Board of Realtors have served on a state level.

Henry Stam served as State President in 1947, and Norman Kailo held that office in 1979. Tony Ventimiglia has served as a district vice-president, and Terry Perko and Harry Stanley and Arthur Riedel, Jr. have served as State officers. Norman Kailo currently serves as a director of the National Association of Realtors.

In addition to members involvement in board activities, they have also served the real estate industry as a whole. Two board members, Fred Hoelsher and John Soldoveri have distinguished themselves through service on the New Jersey Real Estate Commission. Both have held the office of President of that body.

In 1934 the (city of) Passaic Real Estate Exchange, with broker members from Passaic , Clifton, Garfield and Lodi, New Jersey merged with the Passaic County Board of Realtors.

In 1959, the Passaic County Board of Realtors celebrated its Golden Anniversary, during the term of Board President, John Dale. Bertha O'Donnell, who was later to serve as the first woman president of the group, served as Chairman. Both are still active Realtors.

The Board has grown through the years to its present membership of 160 Realtors, 550 Realtor Associates, and 56 Affiliates. All are sworn to uphold the code of ethics of the profession as laid down by the National Association of Realtors.

The Board has come of age in recent years. A full time executive officer, Jo McGrath, coordinates the activities of the members and officers from the Board's offices in the Berdan Shopping Center, on the Hamburg Turnpike, in Wayne, New Jersey.

The planned 75th Anniversary Diamond Jubilee celebration is scheduled to be held at the Wayne Manor, in Wayne, New Jersey. It is being chaired by Norman Kailo. The honorary Chairman, William F. O'Brian, who served as Board President in 1939 and 1940 will receive special recognition for 50 years of continued service to the real estate industry. The Diamond Jubilee celebration of the Passaic County Board of Realtors occurs during the administration of Board President, Pat Goudie.

Mr. Speaker, our realtors provide integral support and assistance to all of our people in our Nation's quest for a comprehensive housing goal which will attain a home and a suitable environment for every American family. Decent housing, attractive real estate, and homeownership bring pride to our citizens and make a major contribution to the vitality of communities throughout our Nation.

America's real estate is inextricably related to the dynamics of our economy and in recognition of our Nation's commitment to housing and homeownership and the role that real estate plays in our economic recovery, I appreciate the opportunity to call to your attention and seek national recognition of the outstanding service provided by the Passaic County Board of Realtors over the past 75 years. Their dedication and devotion, motivated by the warmth and indepth feeling of caring, has provided outstanding assistance to those who have sought their good counsel. Throughout the past three-quarters of a century they have helped improve the quality of life for many of our people. We do indeed salute the Passaic County Board of Realtors upon the celebration of their 75th diamond jubilee anniversary.●

NATIONAL DAY OF VOTER REGISTRATION

HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1984

● Ms. OAKAR. Mr. Speaker, I am pleased to call to the attention of my colleagues this National Day of Voter Registration, October 4, 1984. On this day, a coalition of more than 50 human service and public interest organizations are joining together in the culmination of the largest voter registration campaign in our Nation's history. The organizations involved in these efforts represent a cross section of interests and concerns such as the National Association of Social Workers, the American Nurses Association, the National Organization for Women, the National Education Association, the League of Women Voters, the National Council of Senior Citizens, and dozens of others who are working toward the mutual goals of peace, equality, and social justice. Known as the National Voter Registration Mobilization, this coalition has been working for months to sign up millions of unregistered voters.

I am very proud that in my home State of Ohio, for example, an extremely effective voter registration campaign is being waged under the leadership of our distinguished secretary of State, Hon. Sherrod Brown and Mary Ellen Withrow, our State treasurer. This campaign has produced very tangible results as evidenced by the 400,000 new persons added to the voter registration lists. Many individuals and organizations are participating in these efforts. For example, Doris Detamore, a retired social worker and a member of the Ohio Chapter of the National Association of Social Workers, was recently recognized by the secretary of state for registering 1,000 new voters. Her work, in and of itself, is an outstanding example of the very vital contribution which so many of our retired citizens make to our society.

In addition to these State-wide efforts in Ohio, I am pleased to call attention to the work of the Peace and Social Welfare Committee of the Cleveland area unit of the National Association of Social Workers. Members of this committee have all been deputized as registrars. As volunteers, they have generously given of their time in outreach efforts to people in grocery stores, shopping centers, welfare, and food stamp offices and neighborhoods. On a recent Saturday, over 100 new voters were registered in one site alone. On another weekend, 180 people were registered in a local shopping area. These registration efforts have yielded substantial numbers of new registrants and I commend these individuals for their work.

There are over 60 million people in the United States who are eligible to vote but are not registered to do so. A very large percentage of these people are women, minorities, the handicapped, and low-income persons. These are the groups who are often treated the least fairly in our society and therefore potentially have the most to gain from exercising their constitutional right to the ballot. Yet these are the very people who tend to be part of a disenchanted and discouraged electorate who have been convinced that their voices don't count. The present administration has actually made this perfectly clear—that indeed they don't count and that their voices will never be heard as long as the present occupant continues to reside at 1600 Pennsylvania Avenue.

Today, through this National Day of Voter Registration, concerned organizations all over our country are reaching out to others to expand the democratic process and to empower our citizenry so that they can raise their voices and be heard on the issues which so directly impact the lives of all of us. I am extremely grateful to the thousands of volunteers who have for months committed themselves to this work. Their message is a clear one: By claiming the power that is gained through the voting booth, we can together continue to advance the struggle for peace, equality, and social justice.●

GOV. TIM WILLIAMS

HON. LAWRENCE J. SMITH

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1984

● Mr. SMITH of Florida. Mr. Speaker, I wish to bring to my colleagues' attention the achievement of a young man in Broward County, FL. Tim Williams was sponsored by the Broward Memorial Post No. 180 of the American Legion to represent his community at the 41st Annual Florida Boys State. Tim participated so enthusiastically in this exercise, which teaches young men about the workings of Government and politics, that he was hon-

ored by his fellow participants by being elected Governor of Boys State.

I commend him in this achievement and wish him the best in the future.

I also want to include in the RECORD the following article from the July 12, 1984, Miami Herald.

A LESSON LEARNED WELL: TEEN ELECTED GOVERNOR

(By Lynn Demarest)

Plantation High School junior Timothy Williams traveled to Tallahassee last month to learn more about government and politics. In the end, he had learned well enough to be elected governor of Boys State.

A nationwide program sponsored annually by American Legion posts in each state, Boys State is designed to teach the country's most promising teen-agers about government.

This year, 549 boys chosen by the 337 American Legion posts statewide met at Florida State University for the state's 41st Boys State.

Living in dorms, they rose at 6 and retired at 11, conducting mock elections, attending speeches by several Tallahassee notables and passing mock laws, two of which would establish a state lottery and require drug-abuse education in elementary schools.

Williams learned about Boys State from a school counselor who was impressed with his 3.5 grade-point average and his participation in sports. In mid-April, he was interviewed by members of Broward Memorial Post 180 in Plantation.

"He presented himself real well, and he wasn't afraid of any of the questions," said Sal Casgaldi, chairman of Post 180's selection committee.

The youngest of a Fort Lauderdale family's six children—only two of whom made it through high school—Williams plans to study electrical engineering and politics at the U.S. Air Force Academy after he graduates next year.

At the Boys State convention, Williams campaigned heavily during the week, catching the other boys as they were leaving the cafeteria.

It took a long hour to count the votes. Williams, 17, was nervous, "shaking like a leaf," he said. But then five boys bored by the wait began singing "Amazing Grace."

"I listened to the words," Williams said, "and I just wasn't nervous anymore."

Soon, everyone joined in, singing "America the Beautiful," "The Battle Hymn of the Republic" and "Let There Be Peace On Earth."

"That was the best part of the whole week," Williams said. "It's just something that you can't expect, guys that play football and all, real macho, to open up to each other like that. It was something very special."

When the results were in, Williams had won by about 50 votes. The next day, he met with Gov. Bob Graham for lunch and light conversation.

"We didn't talk for as long as I'd have liked to," Williams said. "But he was going out of town. I was lucky to have seen him at all."

In the coming year, Williams will meet a number of other politicians and speak before several American Legion posts.

Tonight, he'll speak to a post in Deerfield Beach. He already has spoken to two posts.

"I mostly thanked the American Legion for one of the best weeks of my life," he said.●

CONGRESSIONAL SALUTE TO THE HONORABLE JUSTICE MORRIS PASHMAN OF NEW JERSEY, RECIPIENT OF NEW JERSEY'S MOST PRESTIGIOUS LEGAL AWARD, THE EIGHTH ANNUAL BRENNAN AWARD OF JURISPRUDENCE

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1984

● Mr. ROE. Mr. Speaker, our Nation's history has been replete with great men of law who have played major roles in our public life. In my congressional district and State of New Jersey we have an outstanding courageous, farsighted individual who has dedicated his lifetime extending the highest standards of excellence in his legal profession seeking individual freedom and equal justice for all—the Honorable Morris Pashman, New Jersey Supreme Court Justice (Ret.).

Mr. Speaker, in tribute to Justice Pashman's many meritorious achievements on the bench in exemplary service to our people, with your permission I would like to insert at this point in our historic journal of Congress a recent article that appeared in a most highly respected publication among lawyers in our State and Nation—the Reporter: An Antidote to Law Reviews—which is published by our Passaic County Bar Association announcing the presentation of the Eighth Annual U.S. Supreme Court Justice William J. Brennan, Jr., Award to Justice Pashman, as follows:

EIGHTH ANNUAL BRENNAN AWARD PRESENTED TO JUSTICE PASHMAN

(By the Reporter)

The notable judicial careers of Justice William J. Brennan, Jr., of the United States Supreme Court and of Justice Morris Pashman (Ret.) of the New Jersey Supreme Court were happily linked on May 11th when the Association of the Federal Bar of the State of New Jersey conferred its Eighth Annual William J. Brennan, Jr., Award, on Justice Pashman at a dinner held at the Parsippany Hilton Hotel.

More than three hundred persons attended the dinner at which New Jersey's most prestigious legal award was presented to Justice Pashman. Master-of-Ceremonies Ronald Sturtz reminded them that the annual award "is given to commemorate, to inspire and to reward those members of the Bar and jurists who have followed in the Brennan mold."

The first William J. Brennan, Jr., Award was given posthumously to the late Chief Justice Joseph Weintraub in 1977 with Justice Brennan himself paying tribute to his longtime friend and colleague. The other winners of the Brennan Award have been Justice Worrall Mountain, Chief Justice Richard Hughes, the late Senator Clifford Case, FBI Director William Webster, Third Circuit Court Judge Albert Maris, former Attorney General Nicholas Katzenbach, and (last year) Chief Justice Robert N. Wilentz.

Association President John McGoldrick welcomed the enthusiastic guests to the dinner. He spoke warmly about the man they were honoring that evening.

"Our main task and pleasure this evening is the presentation of the Brennan Award to Justice Morris Pashman. And it might be well on an occasion like this for us to stop for a minute and say aloud what is widely known in this country but what we in this room probably best of all. And that is that for many years now, New Jersey has had a judiciary whose quality is unexcelled among the states. No, just on the federal side, but on the state courts as well.

"Whatever the failings of other branches of government, whatever New Jersey's sometimes checkered history of integrity in public office, we can hold our heads high where our courts are concerned. We know it and our professional brothers and sisters in other states also know it.

"Justice Pashman is one strong reason we can have this pride. While he has been on the Court, it has dealt with a great many great issues. From the ordinances of a small town in Burlington County with the little known name of Mt. Laurel to the illness of a working man in Middlesex County named Edward Pachata, to the way we pay for Kindergartens in Newark and in Far Hills. But our pride in our bench stems for not just from judicial results, for it is no secret that there is often disagreement about outcome. Indeed, some of my clients say that Justice Pashman greatly simplified the law of products liability. (Laughter). They say he adopted the simple rule that where there are products, there is liability." (Laughter).

Mr. McGoldrick added:

"Rather, our pride and really the signature of Morris Pashman has been inscribed very deeply in the best values of judgeship. The will to be just, the courage not to shrink from the task, the drive to excel at the craft of judging; these have characterized our court and Justice Pashman and transcend any particular collection of decisions.

"For all the importance of Justice Pashman as an appellate judge, it is only fitting that this group of primarily trial lawyers recalls him as well as a trial judge and as an assignment judge.

"Some have said—I don't know whether Judge Blake and Judge O'Brien are among those who have said this—That it is harder to be a great Assignment judge than it is to be a great Supreme Court Justice.

"As a trial judge, Morris Pashman was diligent. There are those in this room who recall his holding court by the light of one flashlight in his blacked-out Hackensack courtroom one day.

"He was honest. There are others in this room who recall his forcing a policeman to give him a ticket when the policeman wanted to demur because of the culprit's high station.

"He early showed harbingers of things to come when as a trial judge, mind you, he wrote New Jersey Sports Authority versus McCrane, consuming a full 109 pages in N.J. Super and citing authorities ranging from Plato to Bobby Orr, from Alexi Kosygin to Joe Namath. But, most of all, as an assignment judge he showed not just an affinity for law, but an affection for lawyers. He was decent and fair. Tough enough to do that tough job but also kind enough to be civilized and friendly while doing it."

Next, Chief Justice Robert Wilentz, in presenting the Brennan Award to Justice Pashman, spoke wittily and winningly,

about his former colleague on the Supreme Court. He reminded the audience that Justice Pashman is still very much a part of the ongoing Supreme Court team:

"It is not often," the Chief noted, "that a man like Morris Pashman appears on the scene. The judicial scene or any other scene. As the saying goes they just don't make them like that any more. As a matter of fact, they didn't often make them like that before.

"He is a rare commodity. A Chief Justice would give anything to have himself the talents and experience that Justice Pashman has. The next best thing to that is to have him on your court. Just one of him, not six."

That dead-pan one-liner drew laugher. So too did other sparkling, good-humored jests:

"Given his prestige, I thought you might be interested in his views on a controversial subject. Views unfortunately not shared by anyone else, so far as I know. It concerns the Mount Laurel matter. He thinks the opinion is just about long enough.

"I don't know why Mr. McGoldrick had to mention that case about the New Jersey Sports and Exposition Authority v. McCrane. Each one of those 120-some pages hurt. Each page after page was—at the end of it, I lost the case."

Drawing upon his experience as Justice Pashman's Chief, the C.J. reminisced about Justice Pashman's tenure on the New Jersey Supreme Court:

"Most of you have a fair idea of his opinion production. While on the Supreme Court he authored 397. Three hundred ninety-seven opinions. If you have read even a few of them, you must have a very good idea of his judicial philosophy, for he left little to guess about that. He was a judicial activist and a liberal with every connotation that that word has today when applied to a court.

"There was no power that the Court lacked if, in his view, it was needed to achieve a legitimate judicial goal. And his ideas of judicial legitimacy were expansive. The result of those combined qualities, his active and his liberal philosophy, was that where human needs were involved, Justice Pashman would find the resources. And I mean not just the precedent to justify the propriety of judicial action. I mean the resources, themselves.

"Where human rights are involved, Justice Pashman would vindicate them. To him discrimination was not the sad but inevitable consequence of a complex society. It was a call to action. His list of fundamental rights is as long as someone else's list of unavoidable deprivations.

"Where civil liberties are involved, Justice Pashman would protect them. And if on occasion the interests that he believed in conflicted with each other in a particular case, he would move heaven and earth to satisfy both. He is one of the few jurists who could fashion an opinion and a remedy that convinced both sides they had won.

"His views were deeply held and he was a strong advocate for them. In conference, on the bench and in print, there rarely was any doubt where Morris Pashman stood. Much as he prided himself in his ability to guess how the six others would vote, we all had, I think, an even better record in predicting how he would.

"Those views and the strength of his advocacy are probably what led to a consensus noted by Justice Brennan.

"'It has been said that one may not be neutral about Justice Pashman; that he deeply pleased some people and deeply displeased others. I have not risked a poll,' continued Justice Brennan, 'but I am confident that the deeply pleased far outnumber the deeply displeased.' And I agree.

"For instance, it takes a most unusual talent to serve as Passaic's Municipal court justice for five years and then turn around and immediately be elected Mayor. I wouldn't be surprised if those he sent to jail voted for him."

Chief Justice Wilentz continued with a rare peek into the closed conferences of the Supreme Court:

"His ability to persuade those who disagreed with him of the reasonableness of his position was remarkable. That ability stemmed not only from the force of his personality and his logic, but from an almost intuitive sense of determining what disposition represented the optimum point in serving the interests of both sides as well as the public interest, for he was a great pragmatist. And with all of his idealism he was fully capable of devising an effective compromise of conflicting interests without compromising the public interests.

"This result-oriented jurist is also a scholar. He insisted upon precedent to support his views and the views of others. He absolutely would scour the universe in search of support for what he knew was right. And sometimes it took quite a bit of scouring. All sources were explored, works of history, research from social sciences, learned treatises, along with a mass of legal authority bearing on the issue.

"His discussion in conference, as well as opinions in print, clearly reflected his training as a member of the Rutgers Law Review and his almost 30 years on the bench, during most of which he was required to find and follow precedent and not to make it."

And the Chief spoke with equal praise of Justice Pashman's rare gifts as an administrator:

"This scholar, this jurist, this idealist was an absolutely superb administrator. There never was a better assignment judge in this state. By the time he became a member of the Supreme Court, he had earned the respect of both the bench and the Bar for his unbelievably hard work, his effectiveness, his knowledge of what the system was capable of and his consideration for all of those with whom he worked. The strength of their loyalty to him was both a tribute to his past efforts and a guarantee of the success of his future ones.

"The credit should be his for the massive reform, desperately needed reform, of our matrimonial practice, for the entire pretrial intervention program, for the periodic review of mental commitments, for whatever is good about the judicial facilities at the Justice Complex. (Laughter).

"Every Justice of our court knows of his substantial and unrecognized contribution to other projects that were their responsibility. For instance, the Family Court Committee, the Probation Planning Committee, the Committee on Efficiency in the Operation of the Courts, the Committee on Relations with the Media, the Budget Impasse Committee, the Committee on Civil Case Management, as well as many other, all chaired by other Justices or by me, all received substantial help from him. Ever since I have been a judge, hardly a week would pass when I did not seek his advice about some administrative matter.

"I tried—I tried and tried to keep this wonderful judge available for the court system by giving him the status of a recall judge with an awesome administrative responsibility as well. He told me he wanted to practice law with Louis Pashman and I couldn't blame him, so father and son now practice together.

"And Louis knows that when his dad isn't there he is back at the old beat serving the judiciary, still sitting as a member of the statewide Speedy Trial Cordinating Committee, Committee on Family Practice, Committee on Relations with the Media and the Committee on Civil Case Management.

"We thank you, Louis, for letting us borrow Morris from time to time and warn you that as long as he is willing we will continue to call on him. This man forever young brings to every task a boundless enthusiasm that energizes those with whom he works. His upbeat mood will not tolerate doubt, will not tolerate despair. His confidence coming from one so respected and so experienced has kept committees working, projects going and enabled us, including me, to continue and redoubled our efforts.

"How appropriate it is that he be given the William J. Brennan, Jr., Award. His goal as a judge was clear. He wanted to make it a fairer world for all of us and a better world for all of us.

"He labored for those who needed help, those who seemed not to have been treated fairly by the courts, not treated fairly by the state, not treated fairly by society, and sometimes not treated fairly by nature. He spoke for to those who need help and hope and he spoke to a society that needs a reminder."

Completing his eloquent tribute to an every-young jurist who is still has active colleague, Chief Justice Wilentz said, "It is my pleasure to present the Eighth Annual William J. Brennan, Jr., Award to the Honorable Morris Pashman."

The applause was tumultuous.

And then it was Justice Pashman's air time. His opening words were characteristically modest and whimsical:

"Thank you so much for that very generous gesture and that very, very warm welcome. It is really a great honor to join your prestigious list of recipients. I thank the Association of the Federal Bar for this very singular award.

"Frankly, I'm really overwhelmed. And that is putting it mildly. I accept it with humility and, frankly, I don't even care about the exaggerations. They sounded great."

And then Justice Pashman spoke of his high regard for Chief Justice Wilentz:

"Chief, I have thanked you privately on various occasions since August the 10th, 1979, when you became our C.J. I'm delighted now to publicly thank you for your words, for your compassion, your eloquence and your constant graciousness."

He continued in words that made clear to the audience both his continuing interest in prison reform and his profound admiration for Justice Brennan in whose name the Association of the Federal Bar's annual award is given:

"I had been on the Supreme Court only one month. It was October, 1973 and I believe it was the second year of this Association when Judge Herbert Stern called and invited me to speak at the annual dinner of your Association at the Robert Treat. Those were years when we could have no dinner, of course, without a speech. I don't know how his Honor made the unwise choice, but that's his problem. That's his error.

"Needless to say, I was thrilled. I was thrilled and the judge said I could choose

any subject I want. And I remember so well telling the audience that the subject matter I had chosen was about as popular as the bubonic plague. And the subject was prison reform.

"I really wanted to generate some interest amongst the members of the federal bar, some interest in this effort. Well, today that subject is a little more respectable. Really, it is. And our courts are seriously addressing various aspects of the problem.

"Now, I know that many awards are given out by many groups to many people. But not all awards are alike. This award to me, and I know to others, is very, very special and I know that you will recognize that some embarrassment attends any effort to describe my feelings about the Chief's words and about this award. It is given by an Association that I hold in the highest esteem, an association of lawyers who know that their obligation to society is perpetual. They need no motivation beyond their sense of duty and their pride. This award is given in the name of someone I admire and I revere so deeply, I confess to you he is my hero.

"I thought about the choice of Justice Brennan's name for this award and sort of rhetorically posed the question to myself: Why was his name chosen? Was it because he was from New Jersey?

"I would think, frankly, that is enough to honor the Justice because if anyone is a chauvinist insofar as the state of New Jersey is concerned, our friend Justice Brennan is.

"But that, of course, we all know is not the reason.

"I think it has to do with the manner in which he administers the Constitution and the manner in which he interprets the Bill of Rights. It has to do with the dignity of human beings, all human beings. It has to do with his continuing quest for the freedom, for the dignity and for the rights of man. And I think it has to do with his belief that without such dignity people cannot be free.

"Justice Brennan has recognized that individuals do not live on islands. We each live as part of society. And our individual ability to pursue happiness depends on the cooperation of others. And it cannot be realized if those others are left behind.

"By creating the space, if you will, for individuals to make their own lives and by allowing everyone in society to participate in our common endeavor, we really enlarge ourselves. That, I believe, is the credo of one of the greatest members ever to have served on the Supreme Court of the United States, this towering judicial giant who is also so humane, so kind and so very, very charming.

"I have read so many lines of Justice Brennan's opinions. I've read them in silence. I've recited them aloud to myself. And they stir in me a certain emotion which I just will not attempt to articulate. They just embody the appraisal of a life motif by an intellectual humanitarian.

"The freedom of individuals to set their own paths and to believe their own beliefs allows each of us to develop his own potential and to make his life meaningful. Well, Justice Brennan, is a champion of that individual freedom. I have tried in a very small way—and please let me assure you unsuccessfully—to live up just a little bit to those values. Justice Brennan, is a national treasure so far as I am concerned, and I am deeply gratified, so very deeply, that you have honored me in his name. You have honored me far beyond my due. I am in your debt."

Then Justice Pashman was finished—all too soon.

We exaggerate only slightly when we report that the applause in that crowded hall in the Parsippany Hilton Hotel was audible in his former home town of Passaic.

Mr. Speaker, it is indeed appropriate that we reflect on the deeds and accomplishments of our people who have contributed to the quality of life here in America and the preeminence of our representative democracy, second to none, among all nations throughout the world. I appreciate the opportunity to seek national recognition of Justice Pashman for his lifetime of dedication to the cornerstone of freedom, the rule of law, which has truly enriched our community, State and Nation. We do indeed salute a distinguished citizen, esteemed lawyer, and great American—the Honorable Justice Morris Pashman of New Jersey.●

THE WATSON LAND CO.: 200 YEARS OF ACHIEVEMENT

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1984

● Mr. ANDERSON. Mr. Speaker, on November 16, 1984, the Harbor Association of Industry & Commerce will hold its sixth annual Salute to Industry Awards Banquet. The banquet will be held in the Spruce Goose Dome adjacent to the Queen Mary. This year's honoree will be the Watson Land Co., which is celebrating its 200th anniversary.

Created by a Spanish Crown land grant of 75,000 acres in 1784, the Watson Land Co. was incorporated in 1927, to oversee the portion of the original territory in Carson and Dominguez Hills still owned by the Watson family, descendants of the original Spanish property recipient.

The Watson Land Co. has been the leading innovator in developing the master-planned industrial park. This concept resulted in extensive landscaping, wide setbacks and green-belt areas, underground utilities, spacious streets with ample off-street parking and loading facilities behind buildings in out-of-sight areas. The company was one of the first developers in the United States to use this plan.

Utilizing about 750 acres in the city of Carson, the Watson Land Co. created the Watson Industrial Center which today serves as home to more than 60 companies who occupy the more than 8 million square feet under roof.

Another Watson developed industrial park, the 150-acre Watson/Alameda Business Park in Dominguez Hills, also reflects the original in-depth master planning by Watson Land Co. personnel.

The South Bay has benefited extensively through the creation of more than 7,000 new jobs in Watson Land Co. projects. These jobs, through the ripple effect, added approximately 23,000 jobs to the southern California economy.

In terms of dollars, the Watson Land Co. created, through its industrial park concept, a yearly payroll in excess of $104 million, which has generated $380 million in consumer spending and additional salaries as of 1980. Partly because of these efforts, the city of Carson still does not levy a property tax on its more than 80,000 residents.

The Watson Land Co., whose holdings now total approximately 1,000 acres in the South Bay area, is viewing the future in much the same fashion as it has the past. Industrial construction will continue but an emphasis will be to provide facilities for electronics, aerospace and other high technology fields.

One such new development designed to meet these requirements is the Watson Office Plaza. Already it has attracted one large company, AFSA Data, Inc., which employs more than 300 with an annual payroll in excess of $10 million.

The company has also pioneered a unique solid waste disposal system that will convert household wastes to electricity while meeting stringent air pollution control requirements. Watson Energy Systems, Inc., has developed a second generation waste-to-energy facility that will receive and dispose of 10,000 tons of waste per week from the South Bay area. Utilization of this system will provide enough energy to meet the demands of 60,000 homes while eliminating dependence of 600,000 barrels of imported oil annually. A 30-year power purchasing agreement has been signed with Southern California Edison. This facility is projected to begin construction in the first quarter of 1986, and become fully operational 30 months thereafter.

Attractive to the workforce, close to the Los Angeles and Long Beach Harbors and minutes away from the Los Angeles and Long Beach Airports, the Watson Land Co. continues to serve as the role model for competitors and clients alike.

I join with my wife, Lee, in saluting 200 years of progress and innovation by the Watson Land Co.●

MR. MONDALE'S MISGUIDED TAX INDEXING PROPOSAL

HON. CARROLL A. CAMPBELL, JR.

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1984

● Mr. CAMPBELL. Mr. Speaker, many tax plans have been proposed over the last year to either reform the Internal Revenue Code, raise revenue, simplify the present system, or induce savings and investment. However, one of the latest proposals, the Mondale plan, is also one of the worst tax plans I have seen. I want my colleagues to be aware of what Mr. Mondale's indexing proposal would mean for the working taxpayer of this Nation. The following excerpt from the Economic Report reveals the burdensome effect of this misguided proposal:

Over half of the Mondale plan's new revenues would come from three changes in the tax treatment of individuals in middle and upper income brackets. The Mondale campaign has not released a detailed accounting of the revenue it expects from these provisions. It promises that the measures would collect $46 billion in 1989 but has not said how much each of the three would contribute and has not provided numbers for any other years. First, the individual income tax indexing provisions of the Economic Recovery Tax Act of 1981 (ERTA), scheduled to take effect in 1985, would be severely limited for single individuals with adjusted gross incomes (AGI) over $15,000 and married couples with AGIs over $25,000. These taxpayers would have their tax rates adjusted only for that portion of inflation which exceeds four percent. Put bluntly, this element of the plan would go back to the technique of using inflationary bracket creep for added tax revenues. It is not clear from the information released by the Mondale campaign whether this restriction on indexation applies to the entire income of individuals whose AGI exceeds the specified limits or just to that portion of their income above the limit. If applied to the entire income of such taxpayers, it would create a "notch" in the tax schedule; the marginal tax rate at an AGI level of $15,000 for single taxpayers ($25,000 for couples) would be astronomical.

* * *

In the current Mondale tax proposal only "* * * families making $25,000 or less will receive the benefits of indexing. Families above this level will be indexed only to the extent that inflation exceeds 4 percent." The ambiguities present in this provision make it difficult to analyze the proposal very precisely. It is not clear what measure of income (gross, adjusted gross, or taxable) is intended to be used as the indexing threshold, whether the taxes only of families with incomes below this level are indexed, while taxpayers with greater incomes would not be able to index at all, or whether the first $25,000 of family income is indexed, and whether the indexing formula for those with incomes over $25,000 is to be inflation minus 4 percent or full inflation indexing only when inflation exceeds 4 percent.

This partial indexing provision has various implications for the progressivity of tax rates. Consider the following brackets in the current rate structure.

	Marginal rate on this income is (percent)
Taxable income between:	
$20,200 to $24,600	22
$24,600 to $29,900	25
$29,900 to $35,200	28

The Mondale proposal relies on a $25,000 threshold for indexing, although it does not appear to index that amount. The effect of a 4 percent inflation rate on the 1989 tax brackets can be seen below.

	Marginal rate is (percent)
Inflation adjusted taxable income between:	
$20,200 to $22,582	22
$20,582 to $24,616	25
$24,616 to $28,980	28
$28,980 to $37,706	33

Mr. Mondale's proposal would cut off indexing for a married taxpayer, filing jointly, whose real 1989 taxable income——measured in constant 1985 dollars—is $20,582. If his or her real taxable income were between $20,582 and $24,600, the taxpayer would confront a marginal rate of 25 percent, a jump of 3 percentage points compared with the rate that would apply if indexing were not cut off at $25,000. And for a married taxpayer filing jointly with real taxable income of, say, $30,000 in 1989, the marginal tax rate would be 33 percent, 5 points more than without the Mondale cut off. It is this bracket creep, especially when combined with the other tax measures, that accounts for much for the revenue gain in Mr. Mondale's proposal.●

BILINGUAL BALLOTS

HON. ROBERT E. BADHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1984

● Mr. BADHAM. Mr. Speaker, on November 6 of this year, California voters will have the opportunity to advise the Federal Government as to whether they want mandated bilingual ballots. Proposition 38 is on the ballot because the people want it there. A citizen's initiative led by the California Committee for Ballots in English gathered over 626,000 signatures to qualify the proposition. In early September, the California poll, conducted by the Field Institute, found that 57 percent of the State's voters had heard of proposition 38; 40 percent of the voters favor it, 13 percent oppose it, and 4 percent are undecided.

Mr. Speaker, it is crystal clear that the overwhelming majority of California voters are looking forward to telling the Federal Government to repeal its mandate that requires many counties to print ballots in foreign languages.

As the sponsor of a bill that would return our Nation to the English-only ballot, I take exception to the lawsuit recently filed to prohibit the Secretary of State from tallying the results of the vote on proposition 38. This suit was filed by a few small special interest groups with the sole purpose of impinging on the right of California voters to have their say. This is not the first time that we have seen special interest groups take advantage of this Nation's freedoms. We have made the same process available to everyone, but such abuse of it at the expense of the general welfare of the Nation puts a very bad taste in my mouth. I am outraged by this move that would effectively disenfranchise the great majority of Californians, and I ask every American citizens to pay heed to this attack.

Mr. Speaker, the following article from the San Francisco Chronicle reports the findings of the California poll and I ask that it be inserted in the RECORD for the review of my colleagues.

MOST CALIFORNIANS WANT BALLOTS IN ENGLISH ONLY

(By Mervin Field)

Proposition 38 on the November ballot, an initiative that calls for printing all voting materials in English only, is popular with the state's voters, according to the California Poll.

In a survey completed in early September, the California Poll found that 57 percent of this state's voters say they have heard of Proposition 38's provisions and, among this group, 40 percent are in favor, 13 percent are opposed and 4 percent are undecided.

Proposition 38 calls upon the governor to write to the president and the Congress to urge that federal law be changed so that ballots, voter pamphlets and all other official voting materials be printed in English only. It is a statewide advisory measure and would not be legally binding, since its provisions are covered under federal law.

Under the federal Voting Rights Act, counties are required to provide bilingual voting materials if, within a single-language minority group, the number of persons who cannot speak English well is greater than 5 percent of that county's voting-age population.

Currently, 10 counties in California meet this criterion for its Spanish-speaking population and are therefore required to provide bilingual ballots in Spanish. They are Fresno, Imperial, Kern, Kings, Madera, Merced, Monterey, San Benito, Tulare and Yuba.

However, other counties can choose to provide non-English voting materials to their citizens if they wish. For example, although it does not meet the strict federal criterion, San Francisco provides bilingual voting materials in both Spanish and Chinese.

The current survey also included several other questions related to the issue of non-English-speaking citizens. The results show that Californians are generally supportive of an immigrant groups' right to preserve their own foreign language, but oppose extending the vote to those who cannot read English. A majority (54 percent to 23 percent) of the voters surveyed feels that it is a good thing for different immigrant groups within the United States to preserve their own foreign languages. However, by a 61 percent to 36 percent ratio voters believe citizens who cannot read English should not be allowed to vote in U.S. elections.

This poll is based on telephone interviews with 516 registered voters) conducted between September 4 and 9. The findings have a standard margin of error of plus or minus 4.2 percent, but the variation could be larger for other reasons.●

CONGRESSIONAL STEEL CAUCUS FINANCIAL REPORTS

HON. LYNN MARTIN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1984

● Mrs. MARTIN of Illinois. Mr. Speaker, in accordance with Executive Committee Order No. 1, I am respectfully submitting herewith the financial reports of the Congressional Steel Caucus for the second quarter of 1984, for insertion into the RECORD. The report is as follows:

Monthly report—APRIL 1984: Statement of expenses, and fund balance statement, U.S. House of Representatives, Congressional Steel Caucus

Statement of expenses:	
Salaries	$3,230.95
Travel	0
Stationery	0
Postage	0
Telephone	76.79
Publications	0
Equipment	1,010.84
Printing	0
Miscellaneous	14.08
Total expenditures	4,332.66
Fund balance statement:	
Balance forward (as of April 1, 1984)	16,099.25
Total revenues—April (clerk hire, dues, donations)	4,430.95
Total	20,530.20
Less April expenses	−4,332.66
Total unexpended revenues (as of April 31, 1984)	16,197.54

Monthly report—lising of staff, U.S. House of Representatives, Congressional Steel Caucus, April 1984, gross monthly salary

Clerk hire contributor:	
Jack O. Andresen, staff director:	
Hon. Joseph Gaydos	$300.00
Hon. William Clinger	500.00
Hon. Ben Erdreich	300.00
Hon. Elwood Hillis	310.23
Hon. Alan Mollohan	300.00
Hon. John Murtha	600.00
Hon. Ralph Regula	326.98
Stephanie Niemiec, staff assistant:	
Hon. Doug Applegate	207.09
Hon. Katie Hall	196.65
Hon. Lynn Martin	190.00

Monthly report—May 1984: Statement of expenses, and fund balance statement, U.S. House of Representatives, Congressional Steel Caucus

Statement of expenses:	
Salaries	$3,254.18
Travel	0
Stationery	0
Postage	110.00
Telephone	83.94
Publications	348.45
Equipment	505.42
Printing	405.00
Miscellaneous	183.97
Total expenditures	4,890.96
Fund balance statement:	
Balance forward (as of May 1, 1984	16,197.54
Total revenues—May (clerk hire, dues, donations)	3,506.68
Total	19,704.22
Less May expenses	−4,890.96
Total unexpended revenues (as of May 31, 1984)	14,813.26

Monthly report—Listing of staff, U.S. House of Representatives, Congressional Steel Caucus, May 1984, gross monthly salary

Clerk hire contributor:	
Jack O. Andresen, staff director:	
Hon. Ben Erdreich	$300.00
Hon. Joseph Gaydos	300.00
Hon. Elwood Hillis	310.23
Hon. Alan Mollohan	300.00
Hon. John P. Murtha	600.00
Hon. Ralph Regula	326.98
Stephanie Niemiec, staff assistant:	
Hon. Katie Hall	310.50
Hon. Douglas Applegate	326.98
Hon. Lynn Martin	300.00
Hon. Don Ritter	179.49

Monthly report—June 1984: Statement of expenses, and fund balance statement, U.S. House of Representatives, Congressional Steel Caucus

Statement of expenses:	
Salaries	$4,179.73
Travel	0
Stationery	0
Postage	20.00
Telephone	61.41
Publications	0
Equipment	518.43
Printing	62.00
Miscellaneous	1,258.26
Total expenditures	6,099.83
Fund balance statement:	
Balance forward (as of June 1, 1984)	14,813.26
Total revenues—June 1984 (Clerk Hire, dues, donations)	5,258.73
Less June expenses	−6,099.83
Total unexpended revenues (as of June 31, 1984	13,972.16

Monthly report—Listing of staff, U.S. House of Representatives, Congressional Steel Caucus, June 1984, gross monthly salary

Clerk hire contributor:	
Jack O. Andresen, staff director:	
Hon. Ben Erdreich	$300.00
Hon. Joseph P. Gaydos	679.00
Hon. Elwood Hillis	310.23
Hon. Joe Kolter	300.00
Hon. Alan Mollohan	300.00
Hon. John Murtha	1,000.00
Hon. Ralph Regula	326.98
Stephanie Niemeic, staff assistant:	
Hon. Douglas Applegate	326.98
Hon. Lynn Martin	300.00
Hon. Don Ritter	336.54●

WHAT'S REALLY DRIVING THE DEFICITS?

HON. AUGUSTUS F. HAWKINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1984

● Mr. HAWKINS.. Mr. Speaker, in January 1981, the administration told the American people that it would balance the budget by 1984 if the Congress would agree to support a program of cutting taxes, increasing military spending and slashing domestic spending.

It is now 1984. The Congress did go along with the Reagan agenda of unfair and unbalanced economic policy, and as a result we have the largest ocean of red ink in our Nation's history.

Even the President, himself said in his fiscal year 1985 Budget Message that "* * * the threat of indefinitely prolonged high budget deficits threatens the continuation of sustained noninflationary growth and prosperity. It raises the specter of sharply higher interest rates, choked-off investment, renewed recession, and rising unemployment."

Thus, not only is the President forecasting early recession, his policies of high budget deficits submitted to Congress are actually causing recession. However, one of the most distinguishing features of the President's economic program is that it totally fails to address this deficit problem and is deficient in even beginning to meet our national priority needs in such vital areas as housing, health care, energy and transportation, agriculture, employment, training, and education.

Instead of exploring ways to fund the programs necessary to address these priority areas, through vigorous growth with price stability, the administration approach is to ignore the deficiencies, and instead concentrate on reducing deficits by creating imbalances in the economy by helping those among us with money and power and by blaming runaway domestic spending for this huge national debt.

But, the facts tell us otherwise!

In the words of the House Budget Committee staff report, entitled, "Review of President Reagan's Budget Recommendations, 1981-1985": "Growth of the structural deficit is the result of large and increasing tax reduction, rapid growth in military spending and escalating interest payments* * *."

The facts show that nearly three quarters of the increased deficit is due to a loss of revenues caused by the recession and the Reagan tax cuts. While spending on recession-related programs have increased in actual dollars, it is the outlays for national de-

fense and interest payments on the debt which are responsible for the increase in the deficit.

Investments in the education and training of our young people, employment opportunities for the long-term unemployed and other essential domestic priorities have not fueled the fires of this deficit. All nondefense discretionary programs have been reduced by 28.2 percent. Education has suffered over a 24-percent reduction and employment and training has been cut by 50 percent. Also, entitlements can not be blamed either. When scapegoating entitlements like Social Security and Medicare as primary causes of the deficit, the administration fails to mention that these programs are funded by their own earmarked payroll taxes. Thus, because they are funded by their own revenue sources, and because spending levels for entitlements has actually decreased relative to GNP—gross national product—since 1981, it is inaccurate to say these programs fuel the increase in the deficit.●

AMERICAN GASTROENTEROLOGICAL ASSOCIATION INDUSTRY RESEARCH SCHOLARS PROGRAM

HON. THOMAS J. BLILEY, JR.

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1984

● Mr. BLILEY. Mr. Speaker, today I would like to call the attention of my colleagues to a newly established and privately funded program to increase the number and quality of biomedical research scholars in the field of gastroenterology-digestive diseases.

Last year, under the leadership of Dr. John T. Farrar, while he was President of the American Gastroenterological Association, an AGA/Industry Research Scholars Program was established which will make available $25,000 a year for 3 years to each of 15 young investigators.

Dr. Farrar, who is chief of staff of Hunter Holmes McGuire VA Medical Center in Richmond, VA, and also professor of medicine at the Medical College of Virginia, became deeply concerned over decreasing public funding available to young investigators in his field, and worked hard with his physician colleagues to obtain industry support for the program.

The work was successful and an announcement recently was made of the first AGA/Industry Research Scholars. Eleven pharmaceutical firms have contributed, along with the American Gastroenterological Association, to the program; 10 scholars have been named, and five more will be chosen in April of next year. The scholars, and their industry sponsors, are as follows: AGA/Robins Research Scholar: Gordon D. Luk, Johns Hopkins Medical Center; AGA/Ross Research Scholar: James L. Madara, M.D., Peter Bent Brigham Hospital; AGA/Merrell-Dow Research Scholar: Jean-Pierre Raufman, M.D., Downstate (NY) Medical Center; AGA/Rorer Research Scholar: Richard B. Weinberg, M.D., University of Texas, Houston; AGA/Janssen Research Scholar: Nathan M. Bass, M.B., Ch.B., University of California, San Francisco; AGA/Hoffmann-LaRoche Research Scholar: Eugene B Chang, M.D., University of Chicago; AGA/Glaxo Research Scholar: Kiertisin Dharmsathaphorn, M.D., University of California, San Diego; AGA/Upjohn Research Scholar: Laurence J. Miller, M.D., Mayo Clinic; AGA/Marion Research Scholar: Joseph H. Sellin, M.D., University of Texas, Houston; AGA/Pharmacia Research Scholar: M. Michael Wolfe, M.D., University of Florida.

[NOTE.—An AGA/Smith Kline & French Research Scholar will be selected in the next cycle.]

All too infrequently do we see privately funded programs developed so rapidly and with such imagination, and I believe we all should commend these organizations, and their leaders, for this unique effort.●

JOINT INTELLIGENCE COMMITTEE: AN IDEA WHOSE TIME HAS COME

HON. LARRY WINN, JR.

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1984

● Mr. WINN. Mr. Speaker, several months ago, I called Members' attention to an article by our colleague, HENRY HYDE, that called for the creation of a Joint Committee on Intelligence (see CONGRESSIONAL RECORD, June 6, 1984, 15207. Since then, the idea has gained the bipartisan support of such respected voices in Congress as Senate Majority Leader HOWARD BAKER, and Senator SAM NUNN, who currently sits on the Senate's Select Committee on Intelligence. Moreover, Senator QUAYLE, in his capacity as chairman of a select committee studying the Senate's present committee system, has indicated that he will offer the joint committee concept as a recommendation that should be featured in his panel's final report to the Senate in mid-December of this year.

Mr. Speaker, Mr. HYDE's proposal, which was introduced on August 1 as House Joint Resolution 633, is an idea whose time has come. I, therefore, urge my colleagues at the outset of the next Congress to put it at the top of their legislative priority pole. In the interim, recommended background reading is a recent article by syndicated columnist, Cord Meyer, that succinctly makes the case for the Hyde initiative.

[From the Chicago Sun-Times, Aug. 11, 1984]

SECURITY A NATIONAL IMPERATIVE

(By Cord Meyer)

Rising above partisanship in this election year, Howard H. Baker Jr., the retiring Senate majority leader, dared last week to tell his surprised colleagues that the emperor wears no clothes. For the first time, a responsible leader of the Congress has publicly admitted that the elaborate machinery designed to ensure congressional oversight of American intelligence operations is not working.

Established in the wake of Watergate as watchdogs of the public interest, the separate Senate and House Intelligence Committees were supposed to prevent any abuse of secret power by the CIA or other intelligence agencies. Initially, both committees acted in a bipartisan way to fulfill their essential oversight functions.

But testifying before a committee on Senate reorganization, Baker has now said out loud what many think. Warning that "We have a real problem on our hands with the intelligence committees." The Senate leader charged the two committees "have become so overstaffed and so insecure that they ought to be abolished and replaced by a single joint committee modeled on the old Joint Committee on Atomic Energy."

DAMAGE IS GREAT

The damage done to U.S. interests and allies by these revelations is hard to measure, but it is very substantial. The Pakistan government, for example, has been subjected to harsh pressure from the Soviets as the result of a congressional leak regarding increased American aid to the Afghan guerrillas. Then there is the hidden damage that accumulates from the hardening resolve of friends and allies not to give the U.S. access to secrets they hope to protect.

Baker only politely hinted at the extent of the problem when he referred in his testimony to "leaks and press accounts of matters that are sensitive enough to warrant greater discretion." A White House official put it more directly when he described the briefing of the committees on sensitive matters as "a theater of the absurd." A top intelligence officer bitterly remarked, "Every time we go up to the Hill there are leaks. We are running a government of anarchy."

There is no single sovereign cure for this compromise of intelligence secrets in the corridors of the Capitol, but Baker's proposed solution comes as close as possible to reconciling the need for congressional oversight with the necessity for better security. Former intelligence chiefs Richard Helms, James Schlesinger and Bobby Inman all agree that a stripped-down joint committee with a much-reduced staff provides the only practical way of rebuilding disciplined, bipartisan oversight.

IMPROVED CONTROL

The first obvious advantage of a single joint committee is that it improves security by cutting drastically the combined membership of senators and representatives and the total number of staffers. In fact, Baker calls for only eight members at most, but insists they be chosen from the ablest people in both parties and be required to give overriding priority to their work on the committee.

Intelligence professionals are pleased with the prospect of being able to deal with a single disciplined committee instead of having to give repetitive testimony to two groups and they look forward to having a single responsible focal point to deal with in times of crisis. Moreover, once assured of the security of the new arrangements, the intelligence chiefs will be able to be more forthcoming in their briefings, rather than being inhibited as they are now by constant fear of leaks.

TOUGH FIGHT AHEAD

However desirable and necessary this reform in the structure of congressional oversight may be, it is not going to be easy to accomplish. The existing organization has a bureaucratic momentum of its own, and staffers will not welcome a merger that will cost many of them their jobs.

But Rep. Henry J. Hyde (R-Ill.), who serves on the House Foreign Affairs Committee, has taken the lead in drafting detailed legislation to follow up on Baker's proposal, in the hope of building enough support to ensure favorable action when the new Congress convenes next January. Already two Democrats on the Senate Intelligence Committee, Joseph Biden (Del.) and Sam Nunn (Ga.) have indicated a favorable interest, and a reluctant House Democratic leadership may be willing to go along after the election.

The time has come for a single joint committee on intelligence because there seems to be no better way of reconciling security with accountability in a dangerous world.●

AMENDMENT FOR A BALANCED BUDGET

HON. BOB McEWEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1984

● Mr. McEWEN. Mr. Speaker, I rise in strong support of the effort to bring to the floor of the House (H.J. Res. 243), a bill to provide for an amendment to the Constitution requiring a balanced budget.

This is not a vote on passage of the balanced budget amendment. It is a vote merely to consider this issue of paramount importance to the American people. Well over 80 percent of the public favor the amendment. The legislatures of 32 States have petitioned Congress for a Constitutional Convention to consider the amendment. With such widespread public support, can anyone seriously maintain that the House of Representatives has no obligation to at least debate this measure? The refusal of the leadership to permit even discussion of this bill frustrates the will of the people and runs afoul of the great democratic tradition of this House.

There has been much talk about the need to bring down interest rates. The prime rate, while far below the 21-percent pace of 1980, hovers around 13 percent. This rate exacts a heavy economic price from farmers, small businessmen, and workers all across this country. There is general agreement that the reason interest rates have not slid further despite spectacular success in controlling inflation, is that the Congress cannot bring spending in line with revenues.

What would passage of this balanced budget amendment do to interest rates? Preliminary results of a survey for the National Tax Limitation Committee gauged the effect of passage of the balanced budget amendment on interest rates. Leading institutional investors were polled on this question. These individuals, with a combined portfolio of over $250 billion, make decisions on a daily basis which directly impact upon interest rates. Of these investors 92 percent said that this amendment would have the effect of reducing long-term interest rates. Of this number, 53 percent said rates would be reduced significantly. Furthermore, 88 percent of the respondents said that short-term interest would also plunge with passage of this amendment.

Congress will not, by itself, balance the budget. The sad history of previous attempts to balance the budget demonstrates that Congress does not have the institutional guts to get the job done. As their answers to this survey indicate, the financial leaders of our country know this. The American people also know this. That is why they have consistently and overwhelmingly favored a balanced budget amendment. They recognize that the only way Congress can ever be expected to balance the budget is if it is mandated by the constitution.

I urge that this body vote to consider the balanced budget amendment by defeating the previous question.●

TRIBUTE TO KIM DAE JUNG, EXILED KOREAN OPPOSITION LEADER

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1984

● Mr. FRANK. Mr. Speaker, on September 12, Kim Dae Jung, the exiled Korean opposition leader, announced his intention to return to South Korea. Mr. Kim, who has lived in the United States for the past 2½ years, is one of the most prominent and popular advocates of a return to democracy in Korea. The authorities in Korea immediately responded with a warning that Mr. Kim might be imprisoned upon his return.

The State Department's response I can only characterize as disappointing. The official statement said that "this is a matter for the Korean Government to handle." According to a report in the Christian Science Monitor, the State Department policy is to remain absolutely neutral in the Kim case, while making clear it was following the situation with profound concern.

This is not an appropriate response, Mr. Speaker: The United States should make clear that we cannot accept the imprisonment of Mr. Kim on trumped-up charges. We should make it clear that the United States, like Mr. Kim himself, would like to see a peaceful transition to civilian democracy in Korea. Mr. Kim is returning to Korea in large part because he is worried by radicalism and disaffection among the young. The Chun regime would be wise to view his return as an opportunity to open up the system to peaceful opposition. Any attempt to squelch Mr. Kim by repressive means will be counterproductive and certainly inimical to American interests.

Mr. Kim issued a statement on his plan to return which I would like to have reprinted in the RECORD here. Let me offer my tremendous admiration for his commitment and for his courage.

The statement follows:

Yesterday, I sent a registered letter to the South Korean President, Mr. Chun Doo Hwan, and had my staff hand deliver another letter to the American Secretary of State, Mr. George Shultz.

In these two letters, I informed the governments of the Republic of Korea and the United States that I have decided to return to Korea by the end of this year.

I have made this decision for the following reasons:

First, I came to the United States in order to seek medical treatment for my hip injury, which resulted from a 1971 assassination attempt by the Korean Central Intelligence Agency. I also decided to accept a long-standing invitation, first issued in 1972, to study at Harvard University.

I completed my fellowship tenure on 30 June of this year, and have also received sufficient medical attention.

Second, I have done my best to support the movement for human rights and democracy in South Korea from a distance for 2 years. Now, I think it is time for me to go back to participate directly in this movement, and to share the suffering of the Korean people. Indeed, I feel a moral obligation to take this step.

Third, I am deeply worried about the trends toward desperation and radicalization on the part of some of the Korean people. These trends have resulted from deep anger and long suffering from dictatorship, corruption, and social injustice. Therefore, many Koreans no longer believe peaceful change is possible.

I believe my presence in Korea is urgently needed to convince our people that they still can hope for peaceful democratization, and to work to make that hope a reality.

Fourth, I want to return to help our people achieve their national aspiration for the peaceful reunification of South and North Korea. We have seen no progress toward this goal so far.

Fifth, I want to undertake a dialog with the Chun regime to find a solution to the crisis presently facing the Republic of Korea. Even though this regime totally lacks political legitimacy, I am willing to engage in such a dialog if the government will respect the will of the people and guar-

antee such fundamental rights of the people as freedom of speech and fair elections.

When I return to my native land, my wife will accompany me.

Now, I wish to express my deep gratitude to the government of the United States of America for securing my freedom and safety in this country. Also, I would like to thank sincerely all my friends in the United States and other countries, and Korean people all over the world who have continuously supported me.

I ask for your concern and cooperation, so that I can return to Korea safely and without any complications.

Thank you very much.●

BUDGET NEGOTIATIONS

HON. RICHARD J. DURBIN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1984

● Mr. DURBIN. Mr. Speaker, We have heard a great deal of criticism during the past week about the Democrats' refusal to bring up the balanced budget amendment.

I agree with my colleagues on the other side of the aisle that there is a pressing need to address the problem of unbalanced budgets and ever-escalating deficits. At first glance, it could appear that the President is correct in claiming that deficits are not a major concern. In the first 3 years of this administration, we have seen that part of the deficit due to the excess of spending over revenues peak sharply in 1982 and then begin to decline. In fact, the CBO estimates that the size of this portion of the deficit will flatten out at about $46 billion for the rest of the decade.

This is not the most alarming portion of the deficit, however. Since President Reagan took office, that portion of the deficit due to interest owed on outstanding debt accumulated in the first 3 years of this administration has risen astronomically. In 1980 interest payments were $52 billion. In 1984 they are $111 billion and are expected to grow to $214 billion by 1989. The simple fact is that we are borrowing money just to pay interest on the national debt.

Responsibility for these unbalanced budgets cannot be laid solely at the door of either the Congress or the President. In defense of budgets passed by this House, I would point out that the conference report on the budget resolution—the product of intense negotiations between the administration, Senate and House—was $34 billion higher than the budget resolution passed by the House.

I share the view of those who say that the deficit problem requires action, not just rhetoric. I am thus pleased that earlier this week the House passed H.R. 6300, the Balanced Budget Act. This bill, which requires both the President and the House and Senate Budget Committees to develop explicit plans to balance the budget, will move us toward our goal of a balanced budget and the elimination of deficits. This will clearly be an arduous process requiring difficult choices by both the President and the Congress. Unlike other approaches, however, H.R. 6300 will establish a framework for attaining a balanced budget next year—rather than in some undetermined future year. As we enter what will in all likelihood be the final days of the 98th Congress, I hope our colleagues in the Senate will also pass H.R. 6300 and start us on the way toward formulating the balanced budget the American people want and deserve.●

THE FAIRNESS ISSUE

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1984

● Mr. BEREUTER. Mr. Speaker, much has been made of the so-called fairness issue in recent months—too much. To blame the administration for every fluctuation in every statistic is inaccurate and unfair. Government is not and should not be in charge of everything.

A recent editorial in the Omaha-Herald provides food for thought.

[From the Omaha World-Herald, Sept. 22, 1984]

THE "FAIRNESS ISSUE" AGAIN: GLOSSING OVER SOME FACTS

There they do again. For the umpteenth time, critics of the Reagan administration are trotting out what some Democrats call the fairness issue: the charge that Reagan administration policies have enriched the wealthy and further impoverished the poor.

This time, it's a joint study by two subcommittees of the House of Representatives. The two Democrats who are chairmen of the subcommittees said the study indicates that disposable income has declined for poor families in the past four years because of the Reagan administration's tax and budget policies.

A news service story on the study said the Democrats' report was the latest in a series of skirmishes in a battle over why the poverty rate increased from 15 percent in 1982 to 15.2 percent in 1983.

The increase in the poverty rate that is so often cited by administration critics was determined by the Census Bureau through sampling techniques. An increase of two-tenths of 1 percentage point was described by the Census Bureau as not being statistically significant.

No one's taxes were raised by the 1981 tax cut approved by Reagan and Congress, economists Martin and Kathleen Feldstein noted in an article recently. Martin Feldstein is the former chairman of the President's Council of Economic Advisers.

"To assess the impact of the Reagan tax act, the effect of the changes in the tax law must be separated from the effects of rising incomes, and that's just what Reagan's critics have failed to do," the Feldsteins wrote.

In addition, the critics can't escape the fact that no tax or budget policy adopted during the Reagan term could have become law without the approval of the Democratically-controlled House.

Decisions by the independent Federal Reserve Board also influence the economy and, in turn, the financial condition of individuals. So do market forces that can't—and shouldn't—be controlled by government.

To gloss over such considerations in accusing the administration of catering to the wealthy at the expense of the poor is simplistic and unfair.●

THE AFDC QUALITY CONTROL PROGRAM

HON. HAROLD E. FORD

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1984

● Mr. FORD of Tennessee. Mr. Speaker, yesterday, the Subcommittee on Public Assistance and Unemployment Compensation held a hearing on the AFDC quality control program and fiscal sanctions. The last thorough examination of the quality control system by the subcommittee occurred at hearings held in June 1978. Since that time, there have been various attempts to penalize States for excessive error rates. Under the so-called Michel amendment, States were required to reach a 4-percent error rate by fiscal year 1983. The Tax Equity and Fiscal Responsibility Act lowers this standard to 3 percent beginning in fiscal year 1984.

Both of these policies assume States will pay fiscal penalties for high-error rates. But neither of them took the necessary step of first assuring that errors are measured correctly and quickly. At our hearing we began to collect the information we need to be certain that the system is fair and equitable.

State agencies manage the AFDC program in partnership with the Federal Government. States also share in the costs of this program—both for benefits and administration—a fact which creates every incentive for good management. We expect our AFDC administrators to make AFDC payments only to families who are eligible for AFDC and to do so on time, in the correct amount, and with the privacy of these families protected. We further require that State and local agencies operating the AFDC Program make diligent efforts to identify and eliminate fraud, waste, and abuse in our Nation's welfare programs. Significant Federal and State resources are devoted to this effort. I mention these expectations to underscore that sound management is a high priority in the AFDC program.

A quick look at the error-rate numbers would perplex even the most knowledgeable statistician. Although

the national error rate has declined steadily from a high of 16.5 percent in 1973 to 7.7 percent in fiscal year 1981, State error rates vary considerably. There are many plausible explanations for these variations and I understand that HHS has studied the subject in some detail. Unfortunately, the results have not been shared with the Congress. In fact, in reading the record of our 1978 hearing, I learned that HHS had just begun an 18-month study of the AFDC error rate 6 years ago.

The study was designed to shed some light on the degree to which factors beyond a State's control—such as program complexity, urbanization and a large number of working AFDC recipients—naturally contributed to a higher error rate. It is now October 1984 and the 18-month study remains unpublished by the Department. Yesterday, the administration told us that it will be several more months before this study is available and offered no suggestions for improving the quality control system.

One explanation for continuing high-error rates is that AFDC is a complicated program, ever changing and full of options. In the past 3 years, comprehensive reforms have been made in AFDC. Unemployment and the recession have resulted in increased caseloads, particularly in States that aid two-parent families. Federal and State dollars, especially for administration, have declined. Common sense tells me that these factors will increase a State's error rate. We certainly expect solid administration from our State and local welfare officials but we must also recognize that in the constantly changing environment of the AFDC program some errors will occur and we cannot afford the huge financial investment that would be needed to eliminate them all.

The quality control issue has been with us for some time but it is no longer a technical issue of little consequence. Over the next 5 years, any fiscal sanctions collected from the States may have a devastating effect on AFDC recipients. The administration projects that $1.3 billion will be collected from States for error rate sanctions. If States are unable to offset this loss of Federal funds, significant reductions in already inadequate AFDC benefits could occur. Yesterday, we begin an examination of the quality control system and the changes needed—before sanctions are taken—to improve its accuracy, efficiency, and fairness.

We heard from Michigan's Governor, and our former colleague, James Blanchard, who told us that the fiscal penalties are unfair and, if collected by the Federal Government, will hamstring his efforts to energize the Michigan economy and create jobs. Congressman CHARLES RANGEL reminded us that if reduction of fraud, waste, and abuse is our objective we ought to look elsewhere in the Federal budget—to the Defense Department, the Internal Revenue Service or the medicare program—because that is where far more substantial abuse is occurring. He also alerted us to the milions of dollars that New York State invests in AFDC error reduction and the damage that error-rate penalties will do to human service programs there. His concern was echoed by two welfare officials who appeared before the subcommittee—Patricia Schramm of Delaware and Joseph Goldberg of New Mexico—who pointed out that when the sanctions are collected, they will not be taken from the State's highway or revenue departments. The recipients of human service programs will pay these sanctions through cuts in service programs and further erosion of the purchasing power of AFDC benefits.

Congressman BOB MATSUI, a member of the subcommittee, has offered us one solution to the problems with the quality control system. H.R. 6295 is a quality control reform bill which addresses so many of the issues we wrestled with during this year's Deficit Reduction Act and our proposed moratorium on penalty collections. I urge my colleagues to carefully review this legislation and welcome any suggested improvements to it.●

SUPPORT GROWS FOR JCS REORGANIZATION

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1984

● Mr. SKELTON. Mr. Speaker, a number of us in the House have given much thought, time, and effort to improving the operations of the Joint Chiefs of Staff. It is always encouraging to find out that others, especially those who understand the issue well, support us in this matter. One such group, the Veterans of Foreign Wars, have recently adopted a resolution which leaves no doubt where they stand on this issue. The following is a copy of that resolution:

RESOLUTION No. 424

REORGANIZE THE JOINT CHIEFS OF STAFF

Whereas the Veterans of Foreign Wars has long mandated that "military advice reflect only the undiluted professional judgment of the uniformed military and does not conform to transitory domestic political preference"; and

Whereas the current organization of the Joint Chiefs of Staff is that of a committee which assures that the advice this committee offers to the Secretary of Defense, the National Security Council, and the President will not be sharp, timely and helpful, but rather a bland, lowest-common-denominator product to avoid public airing very real interservice rivalries and differences; and

Whereas every living Secretary of Defense, and most former members of the Joint Chiefs of Staff, agree that change is necessary to strengthen both the office of the Chairman and the independence and competence of the Joint Staff; and

Whereas both the most recent former JCS Chairman, General David C. Jones, USAF and former Army Chief of Staff, General Edward C. Meyer, have argued persuasively for important change in the Joint Chiefs of Staff; and

Whereas since 1947 we have lurched from crisis to crisis with the structure of the Joint Chiefs of Staff (not the consistently high caliber of Joint Chiefs of Staff members past and present) acting as an obstacle to sharp, timely military advice to duly constituted political leadership; now, therefore

Be It Resolved, by the 85th National Convention of the Veterans of Foreign Wars of the United States, that the VFW supports a substantial reorganization of the Joint Chiefs of Staff which will assure that the new organization that emerges be structured to undertake primary national responsibility for advising upon:

1. the organization, equipment, operational practices and tactics of the land, sea and air forces of our enemies, our allies and ourselves; and

2. how to estimate force requirements—land, sea and air, drawn from the separate Services, and forged into a coherent fighting team; calculate airlift and sealift capabilities; estimate road and rail capacities; judge the effectiveness of weapon systems; eliminate costs; plan, program, and budget military systems; interpret intelligence data; plan military operations; revise contingency plans quickly in the heat of a crisis; and execute joint operations.●

REPUBLIC OF CHINA MARKS 73D ANNIVERSARY

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1984

● Mr. GEKAS. Mr. Speaker, this October 10 marks the 73d anniversary of the establishment of the Republic of China, more commonly referred to in the United States as Taiwan. I am certain that every Member in the House of Representatives is keenly aware of the valuable friendship we have enjoyed with the Taiwanese over the years, and is indeed very thankful for our strong ally in the western Pacific. For that reason, I have circulated among my colleagues in the House a letter for signature to the President of Taiwan, Chiang Ching-kuo, commending his citizens for their 73 years of development as a Republic, and reaffirming our country's solid bond with the Taiwanese people.

At this time, Mr. Speaker, I would like to include the text of the letter to President Chiang Ching-kuo in the CONGRESSIONAL RECORD for the review of my colleagues.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, October 5, 1984.

President CHIANG CHING-KUO,
Taipei, Republic of China.

DEAR MR. PRESIDENT: For many years the United States has enjoyed a successful relationship with your nation, both culturally and economically. In addition, we have shared many foreign policy and national security views which have strengthened the ties between our two countries. For these reasons, the 1979 Taiwan Relations Act authorized "the continuation of commercial, cultural and other relations between the people of the United States and the people of Taiwan."

With that in mind, we wish to congratulate the Republic of China on the 73rd anniversary of its founding. Over the years, the economy of your nation has flourished as it has increased its emphasis on industrialized goods. Foreign trade has been a major reason for the improvement of Taiwan's economy, and the United States is proud to be your nation's largest trading partner. We wish you continued success in the remarkable economic performance exhibited over the past 25 years. As our commercial ties have indeed expanded in the last few years, we cherish our role in that continued economic development.

In addition, we commend the efforts of your country to increase its military self-reliance by promoting domestic military production. The capability of Taiwan to adequately defend itself is an important concern of the United States, and it affects the security of the Western Pacific region. The further development of your agricultural sector has proven valuable to the economic well-being of Taiwan, thus improving the strong foundation on which your country's future growth is based.

Again, we congratulate your nation for the many cultural, economic, agricultural and defensive developments it has experienced over the past 73 years, and wish you continued good futune in the years ahead.

Very truly yours,

GEORGE W. GEKAS,
Member of Congress. ●

H.R. 4103

HON. TOMOTHY E. WIRTH

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Monday, October 1, 1984

● Mr. WIRTH. Mr. Speaker, H.R. 4103, the Cable Franchise Policy and Communications Act of 1984, which passed the House October 1, includes a section to amend section 605 of the Communications Act of 1934. Briefly, the section establishes civil and criminal liability for the unauthorized reception or interception of satellite cable programming, while addressing the valid concerns of individuals that own backyard satellite dishes.

I would like to take this opportunity to acknowledge and commend my colleague from California, Representative HENRY WAXMAN, for his ongoing efforts to work toward a fair resolution of this difficult issue. Representative WAXMAN was among the first to initiate the debate on this issue in the House with the introduction of his legislation, H.R. 4727, in 1981. Representative WAXMAN's legislation proposed to establish civil and criminal penalties for the unauthorized interception of satellite signals, and played an important role in advancing the debate.

Representative WAXMAN's continued interest and attention to this matter over the last 3 years were instrumental at arriving at the balanced resolution incorporated in H.R. 4103. I appreciate Representative WAXMAN's efforts and thank him for his support for this provision. ●

RONALD REAGAN'S BUDGETS: THE TRUTH, THE WHOLE TRUTH, AND NOTHING BUT THE TRUTH

HON. BOB TRAXLER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1984

● Mr. TRAXLER. Mr. Speaker, an editorial in today's Washington Post provides us with the truth about who is the big spender: Ronald Reagan.

It is remarkable that a man who promised to balance the Federal Budget by fiscal 1983 as candidate Ronald Reagan did in 1980 has spent a larger percentage of our gross national product in each of his budgets than did his predecessor, doubling our national debt during Ronald Reagan's term of office.

And while Ronald Reagan complains that we haven't gone along with his budget cuts, the Post correctly points out that more often than not, we have cut where he suggested. If we take a moment to look at spending on social programs, anyone can see that we are spending less of our GNP today on social programs than we did in 1980, while defense spending as a percentage of GNP has grown 20 percent during the same time. There can be no question about the priority of this administration. Ronald Reagan's budget tells all.

The editorial follows:

THE SPENDING CHAMPIONSHIP

President Reagan has been needling the Democrats and particularly Walter Mondale with the suggestion that they are the all-time gold medal champion big spenders. But he's a bit out of date. The Democrats are no longer the champions. The gold medal is currently held by Mr. Reagan himself.

He has spent more than the Carter administration and more than any other administration back to World War II. He has spent more if you count defense in, and he has spent more if you take defense out. It's instructive to put the campaign speeches aside for a moment and look at the figures.

Federal spending as a percent of GNP:	
1976	22.7
1977	22.0
1978	21.9
1979	21.4
1980	22.9
1981	23.5
1982	24.4
1983	25.0
1984	23.8
Defense:	
1976	5.5
1977	5.2
1978	5.0
1979	5.0
1980	5.3
1981	5.5
1982	6.1
1983	6.5
1984	6.4
Federal spending minus defense:	
1976	17.2
1977	16.8
1978	16.9
1979	16.4
1980	17.6
1981	18.0
1982	18.3
1983	18.5
1984	17.4

The accompanying table provides spending totals by fiscal year, as percentage of the Gross National Product. That's the best and fairest way to measure public spending. It takes inflation into account. It also takes into account the growth of the economy, as population and wealth rise. The figures here include off-budget spending, which was higher in the Carter administration than it is currently. Since Republicans sometimes argue that it's their emphasis on defense that's driving the totals up, we offer the totals both including and excluding defense. The figures through 1983 come from the president's budget last February. The figures for fiscal 1984, which ended last Sunday, come from the update published by the Congressional Budget Office in August. Spending as a proportion of GNP is currently falling because, in the present phase of the business cycle, the economy is expanding faster than the spending programs.

Mr. Reagan has sometimes suggested that spending is high because Congress keeps disobediently voting for popular social benefits. In fact, more often than not Congress has cut where Mr. Reagan indicated. Where the final spending totals for the year have been substantially larger than the original Reagan budget figures, it has usually been in areas where the administration at least shares the blame. In both 1982 and 1983, the administration's grossly mismanaged farm programs overshot their budgets spectacularly. In 1982, it turned out that the president's budget had greatly underestimated the cost of interest on the federal debt. Similarly in 1983 it underestimated the unemployment rate and consequently the cost of unemployment compensation. As for 1984, it looks as though the actual spending total will be very close to the one that Mr. Reagan originally proposed in his budget. ●

MASSIVE STRUCTURAL DEFICITS

HON. MICHAEL A. ANDREWS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1984

● Mr. ANDREWS of Texas. Mr. Speaker, with our economy in recovery, one would expect to see a significant shrinkage in the Federal deficit,

and a substantive reduction in interest rates. However, neither one of these has occurred. While the Congressional Budget Office has reduced slightly its projection of the size of the deficit, interest rates have gone up, not down. The main topic of discussion in economic circles is not how to preserve the growing prosperity, but rather how much of a tax increase is needed and what additional spending cuts will have to be made to prevent a major economic disaster. The reason for concern—the existence of a new and problematic element in our fiscal affairs, massive structural deficits.

A structural deficit differs from previous types of deficits we have experienced in that it cannot be eliminated by economic improvement. Generally, as the economy heats up, the tax revenues will rise, closing the gap between revenues and expenditures and thereby eliminating or sharply reducing the deficit. But a structural deficit is one which would not disappear even if the economy had full employment, and were operating at maximum productivity. This structural deficit represents a permanent gap between the amount of revenue taken in and the level of expenditures going out.

The problem of the large structural deficit began in 1981. The current administration, upon taking office, proposed radical changes in the spending priorities and fiscal management of the Federal Government. Their philosophy was to cut taxes on individuals and businesses significantly, and to reduce discretionary domestic spending. At the same time, the administration embarked on a program to strengthen our defense, a goal with which most Americans heartily agreed, myself included. But how the President chose to do this is another story. He began a costly arms buildup that has no parallel in peacetime. The buildup has been so rapid that it has become excessively costly, and growing every year. The administration claimed that large increases in defense spending would be covered by revenues even though they had significantly reduced potential revenues through tax cuts. They argued that the reduction in Government social spending, in addition to the tax cuts, would promote major growth in the economy, thus bringing in greater revenues even though at the lower tax rates.

The promised increases in revenues at the lower tax rates never occurred. Instead of greater prosperity, 1981 saw the beginning of the worst recession this country has endured since the Great Depression. Personal incomes and corporate profits dropped sharply. Millions were thrown out of work. Bankruptcies went up, and the amount of tax revenues taken in by the Federal Government dropped sharply, while defense spending continued to rise. The result was that by the end of fiscal year 1982, the deficit had risen from $59 billion during the last year of President Carter's administration to $110 billion under President Reagan, and grew the next year, 1983, to a staggering $195 billion. This year, even though the economy is much improved, it is expected that the deficit will reach $175 billion. This in spite of the fact that over the past 2 years, the Congress has enacted significant new spending cuts, and raised almost $100 billion in new taxes. In fact, in 1982, President Reagan endorsed and signed into law the largest tax increase in American history.

Even though the recovery has brought in enough new revenue to reduce the deficit by $20 billion this year, half the deficit in 1984 will be structural, and thus will not shrink as a result of an improved economy. In 1981, this structural part of the deficit was only $15 billion, roughly 25 percent. Last year the structural portion of the deficit had grown to $85 billion representing almost 50 percent of the budget deficit. If it is allowed to grow unchecked, by the end of this decade in 1989, the structural deficit will be $281 billion, representing 91 percent of that year's deficit. This would mean that even at full employment and productivity, only 8 percent of that years deficit could be eliminated. At the present rate by 1989, the structural deficit will have grown to a size that will be almost 19 times the size it was when this administration assumed office.

Mr. Speaker, the impact of these structural deficits on the economy is staggering. First, there is a clash developing as both the Federal Government and private industry compete for a limited supply of private savings that are available for capital investment. This in turn keeps interest rates very high. Traditionally, the Federal Government has used 25 percent or less of the available credit in this country to finance the annual deficit. Since 1981, however, that figure has been rising sharply, and today, the Federal Government is taking 57 percent of net private savings. At the bottom of the recession in 1982-83, this was not a serious problem, and indeed probably stimulated some growth, but as the economy picks up, and industry begins to invest more in modernization and expansion, the Government needs to get out of the credit market and make room for private industry. When Government fails to do so, it forces the interest rates up significantly, businesses compete for the remaining small pool of credit. The high interest rates in turn can force an end to the growing recovery. Another serious short-term risk is that the deficits will reignite inflation, consumption will be fueled faster than the rate of production, the rate of growth in industrial capacity and the labor force. Finally, the high-interest rates and deficits will cause the dollar to become overvalued, diminishing the competitiveness of American exports, and increasing trade deficits.

As each year passes the deficits that we run become part of the national debt. By the end of this term, the current administration will have doubled the size of this debt, adding more in 4 years than all other Presidents from George Washington to Jimmy Carter combined. The staggering increase in the permanent debt and the rapid growth combine to create some frightening long-term economic problems.

First, as mentioned before, these debts, deficits, and high-interest rates devour private savings. In the 1970's the net national savings as percent of GNP, after deducting for the deficit, amounted to 5.8 percent. If the current trend holds, it will wither to 2.4 percent by the late 1980's. Without sufficient savings for investment available here at home, the Government and private industry will be forced to look abroad for sufficient levels of capital for investment. Our country has usually been a net investor in the world. In the Post-World War II era this has always been the case, but the fiscal crisis that we now have is fast pushing us into the role of a debtor nation.

In 1982, U.S. investments abroad exceeded foreign investments in the United States by $169 billion. However, as the deficit and high-interest rates have produced both the need and incentive for major increases in foreign investments in this country, that situation is changing. By 1985, foreign investments in the United States could be $82 billion greater than our investments abroad, a shift of $250 billion in just 3 years. As Paul Volcker stated before the House Banking Committee earlier this year: "The richest economy in the world is on the verge of becoming a net debtor."

Future generations of Americans will find themselves financially obligated to foreign creditors. To pay for this we would be forced to cut our standard of living so that we must pay back these loans and the interest they will incur. Such a situation will weaken our Nation, creating the opportunity for foreign interference in our fiscal policy decisions and budgetary priorities.

Finally, these excessive structural deficits have doubled the size of our national debt. When you run up the charges on a credit card the minimum payment increases, as well as your overall debt to the company. Similarly, the interest payment and general obligation on the national debt increases with larger deficits. By the end of this decade, the service on the national debt, our annual interest pay-

ment, will reach $150 billion. It will require 50 percent of all the revenue brought in by the personal income tax just to cover this one payment. The annual interest payment will be as large as the amount spent on the defense of our country just 3 short years ago. Today, our national debt stands at $1.3 trillion or roughly $6,600 per taxpayer. It will grow to a level of $10,000 per taxpayer in 5 years. The annual interest payment alone in 1989 will cost the American taxpayer $1,100 per person.

There are those who say that this problem can be solved simply through further cuts in domestic discretionary spending. That is not the case. If you eliminate all nonentitlement domestic spending, all the Government agencies, all the spending programs, the Congress, the executive branch, the judicial system, if the appropriations for all the civilian government were eliminated, it would total $161 billion, and we would still have a deficit of $14 billion. Others have suggested that this problem can be solved through additional taxes. While it has become more and more evident that new taxes will be necessary to bring revenues up to a sufficient level, to raise taxes without further cuts in spending would do little to deal with the problems of the structural deficit which must be the focus of our fiscal policy. What will be needed is a careful look at each component of the Federal pie, the elimination of excessive spending whenever it is possible, and the preservation of essential programs, keeping all that is needed but not more than is needed.

As part of this effort we will have to take a careful look at defense spending. We will have to at least slow down the rate of growth in the Defense Department, probably eliminate some of the more costly and inefficient weapons systems such as the B-1B, and cut down hard on waste in the Pentagon. It is simply unacceptable that the Navy would spend $400 on a $7 hammer. It is intolerable that each year the Department of Defense sells up to $700 million in spare parts at cut rate prices that might still be needed to repair current equipment only to turn around in some cases and buy the equipment back from the same junk dealers at market prices. This sort of waste is inexcusable and must be stopped.

Mr. Speaker, if we are to prevent a worsening of this already gloomy scenario, then we must act now in a responsible, effective, bipartisan effort to solve this problem. The deficit crisis is not a Democratic or Republican crisis that can be blamed entirely on one party and ignored by the other. It is an American crisis which will require our combined efforts to resolve. Together we will have to be willing to make some hard choices and act with great fiscal restraint and responsibility to turn this crisis around.●

NEEDED COMPARISONS IN CENTRAL AMERICA

HON. RICHARD OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1984

● Mr. OTTINGER. Mr. Speaker, we have hailed the election of José Napoleon Duarte in El Salvador as a leap forward toward peace and democracy in that troubled country, and now we find ourselves on the eve of a Presidential election in Nicaragua that is decried as repressive of opposing views and undemocratic in its very makeup. These views are indicative of the administration's continuing battle to uphold the Government of El Salvador regardless of its human rights record and to eliminate the Government of Nicaragua, despite the advances to which they legitimately lay claim.

Raymond Bonner discusses the comparative successes and failures of these two countries in a compelling Op-Ed from the New York Times. As our involvement with our southern neighbors continue, I would urge my colleagues to devote some time to considering the points Mr. Bonner makes.

The article follows:

SANDINISTAS AREN'T THE WORST

(By Raymond Bonner)

WASHINGTON.—The Reagan Administration has spent more than $1 billion to prop up the Salvadoran Government and $150 million to overthrow the Sandinistas in Nicaragua. A comparison of the human rights records of both countries raises serious questions about this choice of friends and enemies.

One does not have to—indeed, one should not—defend the anti-democratic practices of the Sandinistas to recognize that there has been more freedom and less brutality in revolutionary Nicaragua than under any recent United States-backed government in El Salvador.

"I don't understand how they call that Government Communist, and say that this Government is Christian and democratic," a senior Salvadoran bishop once said, comparing Nicaragua with El Salvador. In Nicaragua, he noted, "They don't shoot priests and workers, do they?" A Roman Catholic leader in the United States, the Rev. R. J. Henle, former president of Georgetown University, has also suggested comparing the human rights records of El Salvador, Guatemala, Honduras and Nicaragua. Do so, he said, and "the record of Nicaragua would stand out as a remarkably clean record."

The Sandinistas have indeed censored the opposition newspaper, La Prensa—censorship that cannot be justified solely on the basis of the country's being under attack. But in El Salvador, there is no opposition press to censor. Opposition journalists have been murdered, their newspaper facilities bombed into silence. The editor in chief and a photographer for La Cronica were seized midday in a downtown coffee shop. Their bodies, hacked by machetes, were found a few days later. El Independiente closed after repeated bombings of its offices and assassination attempts on the publisher.

In Nicaragua, the Government has harassed some church leaders, including Archbishop Miguel Obando y Bravo, and the Sandinistas recently expelled 10 foreign priests on charges of antigovernment activity. Such interference with the church is pernicious and probably self-defeating. Nevertheless, the fate of clergy who have challenged the Sandinistas has been far better than that of their brethren in EL Salvador, where soldiers and death squads have murdered at least 16 priests and nuns, including Archbishop Oscar Arnulfo Romero.

In Nicaragua, there are no death squads. Mutilated, decapitated bodies do not show up on dusty roads and garbage dumps, as they have in El Salvador. A State Department human rights report has charged the Sandinistas with the deaths of 12 people in 1983. There were also 31 disappearances that year, according to Nicaragua's independent human rights commission. By contrast in El Salvador, each month during 1983 an average of 140 people were killed by military or paramilitary units and 39 people disappered, according to the State Department's figures, which are lower than those of many human rights groups.

In Nicaragua, the activities of political leaders have been restricted. In El Salvador, opposition politicians have been tortured and murdered. A prominent leader of the Nicaraguan opposition, Arturo Cruz, former Ambassador to Washington, has returned to Nicaragua and held mass campaign rallies—something that his counterpart in El Salvador, Guillermo Ungo, could never hope to do. United States diplomats in El Salvador knew it wouldn't be safe for Mr. Ungo or any other opposition politician to return for the elections: the embassy suggested they campaign from abroad using videotapes.

Probably the most deplorable aspect of the Sandinistas human rights performance has been the treatment of the Miskito Indians, (That treatment has not, however, been nearly as horrendous as the Reagan Administration claims, and according to the human rights group Americas Watch, there has been "important improvement" in the Sandinistas' relations with the Miskitos.) The Sandinistas have relocated Miskitos from areas where counterrevolutionary fighters are operating. But in El Salvador, according to Americas Watch, thousands of civilans have been killed "indiscriminate" bombings, artillery shellings and ground sweps as part of a "deliberate policy" to force civilians to leave areas of guerrilla activity.

In Nicaragua, human rights abuses by soldiers have been punished. As the result of one investigation, and the appointment of a special prosecutor, for example, 13 individuals, including the commander of a security force unit, were sentenced for up to 17 years for murder, torture, rape and robbery. That doesn't happen in El Salvador. Some 40,000 civilians have been killed there in the past four years. Women have been raped. Villages have been plundered. Yet not one death squad member, not one officer who has carried out the massacres of peasants, not one soldier—with the exception of the national guardsmen who killed four American churchwomen and a civil defense guard—has been convicted and sentenced for a human rights crime.

President Reagan has excoriated Nicaragua as a "totalitarian dungeon." What does that make El Salvador?●

TRIBUTE TO LEON SHULL

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1984

● Mr. EDWARDS of California. Since 1947, Americans for Democratic Action has been the pre-eminent liberal organization in this Nation. It has been the leader in putting forth ideas which at the time seemed to be radical but have since become the norm. ADA was among the first to call for recognition of mainland China and was the first to call for an end to the war in Vietnam. The original draft for the Humphrey-Hawkins Full Employment Act was hammered out at an ADA convention.

ADA had served as both a haven and a training ground for some of the great thinkers and political leaders of our time—Eleanor Roosevelt, Reinhold Niebuhr, Gunnar and Alva Myrdal, Hubert Humphrey and Walter Mondale, to name but a few. Because of its steadfast call for justice and humanity at home and abroad, it has, over the years, maintained a reputation for honesty and integrity with friend and foe alike.

In no small measure, ADA and indeed all of us who have for the past 38 years turned to ADA for guidance and inspiration, owe a great debt of thanks to one individual—Leon Shull. For 34 years Leon Shull had dedicated his life to Americans for Democratic Action and, through it, to the Nation. Who knew when he first took a temporary position as executive director of the Philadelphia ADA branch what a treasure was about to enter the American political scene?

Leon Shull became national director of Americans for Democratic Action in January of 1964, and, in that capacity, has played a leading role in the major progressive gains of the past two decades. Under his direction ADA helped create and support the civil rights and anti-Vietnam war movement. He has been one of the most prominent spokespersons in Washington, DC for the "War on Poverty" and a leading advocate of progressive tax reform.

Through his work on these and other issues, Leon has become one of the most respected and influential lobbyists for liberal causes both on Capitol Hill and in the Nation. His work was influential in the congresssional passage of the important Humphrey-Hawkins Full Employment and Balanced Growth Act. He played a leading role in the fight for SALT II and continues to work for the essential goal of arms control in the world.

Because of his candor and integrity, Leon Shull is widely regarded as the most reliable source for the opinion of liberals on issues of national importance. His leadership of ADA has enhanced that organization's role as the lobbyist and political action mechanism of liberals around the Nation.

The growing cooperation and coordination of liberals and labor unionists in their campaigns for common goals is largely the result of groundwork laid by Leon Shull over many years. He has reached out and brought union members and union leaders into ADA as members and as officers.

His greatest legacy, however, must be to those who will follow in his footsteps. Countless young people got their first political training under his tutelage and have moved on to become legislative assistants, campaign workers, political activists, and elected officials at every level and in every State in the Union. As their mentor, Leon Shull has provided us with a great wealth which will endure for decades to come.

Now, after 34 years of service to ADA, Leon is relinquishing his post as national director of Americans for Democratic Action. He will be sorely missed. We all owe him a great debt.●

CHILD MOLESTER REGISTRATION ACT OF 1984

HON. JAMES F. McNULTY, JR.

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1984

● Mr. McNULTY. Mr. Speaker, the problem of child molestation is regrettably a rising threat to the welfare of our Nation's children and to our Nation's families. No city and no region is free from the scourge of this form of violence. It is time that the Federal Government meet its responsibility to perform its role in support of efforts by State and local criminal justice officials who are on the firing line in our efforts to deter and suppress this form of harm to our children.

Mr. Speaker, I have introduced legislation, H.R. 6346, the Child Molester Registration Act of 1984, which is a carefully drawn statute which would enable the Federal Government to do its part in a constitutional and effective manner. It would require child molesters who have been duly sentenced and who later travel across interstate boundaries to register in a State where State law requires it. It is my aim to provide clear statutory authority to enable Federal, State, and local officials to further their efforts to reduce sexually motivated violent crimes.

Mr. Speaker, I welcome the useful contribution made by some 80 medical and legal experts in town who shared their expertise on how to prevent abuse of children and what role Federal officials can play in this effort. We in Congress must assist society in carrying out its responsibility to protect our future, to protect our children. A New York Times report of the conference will help to clarify some of the issues involved in this critical problem. I ask that it be inserted into the RECORD at this point.

The report follows:

SYMPOSIUM STUDIES CHILD MOLESTATION

WASHINGTON, Oct. 3.—The United States Justice Department today called child molestation one of the country's most frequent, least understood crimes, and said that it might be affecting as many as one out of four children.

About 80 medical, mental-health, legal and social-service experts attended a two-day national symposium that ended this afternoon at the department. They shared professional opinions about the treatment of molesters, education to prevent sexual abuse of children and legislation to deal with the problem. The Federal Bureau of Investigation cited a study recently that said child molestation in this country could affect as many as 25 percent of the country's female children before they reach the age of 13. It also said that perhaps only 1 to 10 percent of the incidents of child molestation are reported.

Assistant Attorney General Lois Haight Herrington said that child molestation was "perhaps the least understood and most poorly handled crime by our communities and our mental-health and criminal-justice systems."

She added that statistics on child molestation reflect "only the tip of the iceberg" and that the crime "is often not reported or discovered, let alone adequately investigated, prosecuted, and sentenced."

Patti Linebaugh, the founder and executive director of Society's League Against Molestation, an organization, known as SLAM, that has branches in 43 states, called for an increase in Federal and state legislation and funds.

In her address at the symposium she said: "We must convince every state in the union to enact laws for mandatory, determinate prison sentences for first-time molesters." Mrs. Linebaugh told the group that her 2-year-old granddaughter was raped and strangled by a man who admitted to having committed at least 150 other acts of child molestation before he was put in prison.

"If the chain remains unbroken, by the turn of the century, just 15 years from now the majority of our children will become victims of a molester," she said.

Last Friday, Congress authorized an increase that more than doubles the amount allocated for child-protection programs. Awaiting President Reagan's signature, the legislation authorizes about $158 million to be used in the next three years for the prevention and treatment of child abuse. The legislation also authorizes a three-year, $63 million program of matching grants to states for programs serving victims of family violence.

Society has a responsibility "to promise the abused child that the administrative and judicial system will protect him with justice," Senator Paula Hawkins, Republican, of Florida, told the group. "I am not sure that I can guarantee that today." Senator Hawkins, who earlier this year revealed

she had been sexually molested by a neighbor as a child, said that too many sexually abused children were dealt with by a judicial system that humiliates and frightens them.

The symposium participants frequently referred to the final report, issued last month, of the Attorney General's Task Force on Family Violence. Among other recommendations was a suggestion that all Federal regulations require criminal-history backgrounds on all volunteers or employees working for agencies receiving Federal funding and providing care, training, supervision or otherwise dealing with children.

The task force also recommended that the Federal Government provide financial incentives to encourage states to train criminal-justice personnel. It suggested that states enact laws to extend the statute of limitations in criminal cases of child sexual abuse.

The Department of Health and Human Services is working with the National Association of Retail Druggists to seek funding for national distribution in pharmacies of a brochure for parents about the detection and treatment of child abuse occurring outside the home.

The brochure, "Child Sexual-Abuse Prevention: Tips to Parents," points to the most common behavior patterns in children who are being or have been molested, some of which include loss of appetite; recurrent nightmares or disturbed sleep patterns; bedwetting and thumb-sucking; aggressive or delinquent behavior, and fear of a person or an intense dislike for being left alone with someone. For the free brochure, write to the National Center on Child Abuse and Neglect, P.O. Box 1182, Washington, D.C. 20013.●

FEIGHAN COMMENDS STAN PACE OF TRW, INC.

HON. EDWARD F. FEIGHAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1984

● Mr. FEIGHAN. Mr. Speaker, I want to congratulate one of Greater Cleveland's most prominent business and community leaders, Mr. Stanley C. Pace, president and chief operating officer of TRW, Inc., by making special note of two events in Mr. Pace's remarkable career.

Two events mark the involvement, the commitment and the vision of Stan Pace. On September 17, 1984, the National Council of Christians and Jews awarded the National Human Relations Award to Mr. Pace. On October 5, 1984, he will be elected chairman of the board of the National Association of Manufacturers [NAM]. There is no one more deserving of the award nor more qualified for the new position.

I am especially pleased that Mr. Pace will be elected to the NAM position because TRW—one of America's great corporations—is in my district. In May of 1985, the company will open its new corporate headquarters in Lyndhurst, OH. It was Stan Pace who decided to keep TRW in Cleveland. His decision to do so is one of the reasons why Mr. Pace is respected as a business and community leader—and one who is committed to a philosophy of corporate social responsibility.

Mr. Pace is one of the most active businessmen in Cleveland civic activities. He is vice chairman of the Greater Cleveland Roundtable, an organization that serves as a forum for the business community to address the problems of housing, jobs, race relations, and education. Last year, Mr. Pace was chairman of the Roundtable. In 1983, he was vice chairman of the United Way general campaign in Cleveland. As chairman of this year's campaign, he is charged with the responsibility of raising $45 million—one of the highest per capita amounts of any United Way in the Nation. He is also a member of the board of directors of National City Bank, Republic Steel Corp., and Consolidated Natural Gas Co.

Mr. Speaker, let me add to this outstanding record, by recognizing Mr. Pace's role as chairman of the Cleveland Foundation's Distribution Committee. Under his leadership, this foundation gave $17 million in 1983 to Cleveland civic cultural, social service, and economic development organizations. In addition, his years of association with the Boy Scouts of America has made him the leading fundraiser for the organization. And, as if that isn't enough, he has served as president of Greater Cleveland Council and Area 4, which includes 13 Boy Scout Councils in northern Ohio.

There is even a greater reason to commend this citizen patriot. In World War II, he flew 30 combat missions as a B-24 pilot. In 1944, he was shot down and spent 9 months in German hospitals and prison camps.

Since Stan Pace became TRW president in 1977, the company's sales have increased by nearly 70 percent. A leading business journal—Forbes magazine—recently called TRW "one of the United States best managed and most successful companies. * * * Despite its size and its great success, TRW also ranks among the most imaginative and innovative major companies in America, still willing to take risks, even big risks, in a fashion big companies are supposed to be chary of." This is called leadership.

Mr. Speaker, I could continue with the litany of contributions Stan Pace has made to his community and his country. But his record of achievement speaks for itself. The people of Greater Cleveland are proud that he lives and works in their community. On behalf of all of the residents in the 19th Congressional District, I commend Stan Pace for the challenges he has met, and his willingness to accept new challenges. All of our lives are enriched by the dedication and commitment of Stan Pace.●

TRIBUTE TO THE LATE BLANCHE ARMWOOD

HON. MICHAEL BILIRAKIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1984

● Mr. BILIRAKIS. Mr. Speaker, I rise today out of great respect to pay tribute to a great American from my Ninth Congressional District in Florida, the late Blanche Armwood.

Blanche Armwood, a native of Florida, was born January 23, 1890, in Tampa. Blanche, the youngest of five children, was raised in a family dedicated to public service. Her grandfather, Adam Holloman, was appointed to be County Commissioner of Hillsborough County on September 11, 1875, by Gov. Marcellus Stearns of Florida. Her father, Levin Armwood, Jr., was a uniformed policeman for the city of Tampa and was later appointed deputy sheriff of Hillsborough County, FL in 1895.

Blanche continued in the tradition of her family when she passed the Florida State teacher's examination in 1902 at the age of 12 years, after graduating with the highest honors as a member of the first graduating class of St. Peter Claver Catholic School of Tampa. Blanche entered the high school English-Latin department of Spelman Seminary where she graduated "magna cum laude" at 16 years. After her graduation, Blanche began teaching in the public schools of Tampa where she taught with distinction for 7 years.

In January 1914, she entered a new field as demonstrator and domestic science expert for the Tampa Gas Co. Under the direction of the Tampa Gas Co. and with the cooperation of the school board of Hillsborough County, Blanche established an outstanding school of household arts where more than a thousand housewives and cooks took her course designed to teach them food values, the balanced diet, the correct planning and serving of meals, and general efficiency in homemaking. Schoolgirls took her 3-year course in cooking and sewing.

In 1915 and 1916, several Southern gas corporations followed the example set at Tampa and established similar institutions. These companies sought the services and expertise of Blanche to do the organizing and adopted her course of study. Because of Blanche Armwood, schools of domestic science were established in Athens, GA; Rock Hill, SC; Roanoke, VA; and in New Orleans, LA.

Blanche established and operated the New Orleans School of Domestic Science in 1917. In New Orleans, the public schools had made no provisions for home economics training for black students. Blanche obtained funds for

this purpose from the New Orleans Railway & Light Co. With these funds, she equipped two beautiful laboratory kitchens in which more than 750 women and 500 schoolgirls received instructions.

In 1918, Blanche was employed by the U.S. Department of Agriculture as Supervisor of Home Economics for the State of Louisiana with offices on the campus of Southern University. Here she compiled and published a cookbook of wartime recipes. Her cook book, "Food Conservation in the Home," was approved by the Food Administration and was used by housewives throughout the country.

Blanche was appointed National Campaign Speaker for the Republican Party in 1902 by President Harding and President Coolidge. In 1922, she was appointed executive secretary of the Tampa Urban League and supervisor of Negro public schools in Tampa and Hillsborough County. An active clubworker and organizer since early youth, Blanche occupied many positions of honor and trust. She organized the Southeastern Federation of Women's Clubs, the Republican Clubs in the State of Michigan, and served as State organizer of the NAACP for the State of Louisiana.

In 1921, the Levin Armwood School of Seffner, FL, was opened. The school was named in honor of Blanche's father, who had donated two acres of land for the school and had collected a sum of money to help finance the cost of building the school. At the opening of the school, Blanche was the guest speaker.

In the 1930's, Blanche entered the Howard University School of Law as a special student and earned her LL.B. Degree in 1938. Blanche Armwood passed from this life at the young age of 49 years.

Officials of the school board of Hillsborough County recently announced that the Blanche Armwood Comprehensive High School, located in Seffner, FL, will be completed within the next few months. The name "Blanche Armwood" was placed in nomination by Hillsborough County school board member, Rev. Dr. E. Leon Lowry, and was supported unanimously by the other members of the school board.

In addition, a scholarship fund has been established at the Blanche Armwood High School.

On behalf of myself, and the fine people of the Ninth Congressional District, I respectfully request that my colleagues in this Congress of these United States join with us in recognizing these moving and fitting tributes to the memory of a great woman.

In closing, I would like to take this time to pay honor to those special people and organizations who have labored to make the Blanche Armwood Comprehensive High School and The Blanche Armwood Scholarship Fund a reality. It is my distinct pleasure to be among them.

Members of the School Board of Hillsborough County: Mr. Joe Newsome, Chairman, Dr. Roland Lewis, Vice-Chairman, Rev. Dr. E. Leon Lowry, Mr. "Sonny" Palmino, Mr. Sam Rampello, Mrs. Marion S. Rodgers, and Mrs. Cecil Essrig.

Contributors to the Armwood High School Scholarship Fund: Irma E. Allen, Henry P. Armwood, III, Valretha Williams, Mr. Elwyn C. Lucas, Mrs. Marion S. Rogers, Shawn C. Armwood, Mrs. Drucilla Lucas, Mrs. Edith D. Craig, Grace A. Melton, Levy M. and Readdie Armwood, and Rhonie and Anna Scott.

Guarantors: Mr. and Mrs. G.V. Stewart, The Rebecca Armwood Family (Hallie, Elsie, Hazel, Frances and Rose), Elsie Armwood McLaurin, Hazel Armwood Orsley, Burnie H. Orsley, Mr. and Mrs. Laurier Roderick, Clarence J. and Maleo Moody, Peoples Gas System, Inc, The Benevolent Elegant Eagle Society, Rev. Frank Brown, President Mt. Sinai A.M.E. Church, Rev. Dr. Mozelle G. Mitchell, Pastor.

Sponsors: Mr. and Mrs. Anthony Pizzo, Mr. and Mrs. Thomas Dunn, Hon. Commissioner Jan Platt, Mr. and Mrs. L.T. Langford, Mrs. Lavaida B. Penn, Attorney J. Rex Farrior, Mr. Mark Z. Brandon, Jr., Mr. Leland M. Hanes, Jr., Mr. Joseph R. Edelin, Mr. Lyle P. Flagg, Henry P. Armwood, Jr., Catherine Browne Briggs and Arlinger D. Briggs, Church of the Nativity, Very Reverend James C. Lara, V.E., Mr. William Stanley Floyd, Mrs. Christine Varnes Miller, Mr. and Mrs. DeLeon Ware, Sr., Mr. William E. Penn, Dr. Esther Morrison, Earl and Dorothy Jones, Hon. Sam Gibbons, M.C., Allen L. and Lottie M. Pruitt, Mrs. Gladys R. Armwood, and Mr. Henry P. Armwood.

Promoters: Mrs. Mary Keller Armwood.

Boosters: Mrs. Veatrice V. Thomas, Henry P. Armwood, Terri Friedman, Naomi P. Johnson, and Yama Denise Gooding.

Special donation: Bethune-Cookman College, Dr. Oswald P. Bronson, Jr., president.●

TRIBUTE TO TOM CORCORAN

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Monday, October 1, 1984

● Mr. MAZZOLI. Mr. Speaker, my colleague and fellow alumnus for Notre Dame, TOM CORCORAN, and I have been close friends even though we have to take positions on opposite sides of the political aisle.

I don't know whether there is a hidden message in all this but it seems most of the Notre Dame grads in the House are on the opposite side of the aisle from me.

In any event, TOM has represented his district in Illinois with distinction and accomplishment and effectiveness.

TOM is particularly knowledgeable in the telecommunications and energy fields, and he has fought many hard and successful battles with and against the giants in these fields. I expect that TOM's talents insure that the years ahead will be filled with challenge as well as prosperity for him.

I am really sorry to see TOM leave this body. He will be missed. My best wishes and fond regards go with him.●

THE SOVIET UNION AND AMERICAN GRAIN

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1984

● Mr. BEREUTER. Mr. Speaker, the Soviet Union has had a series of bad harvests and faces yet another grain shortage. It is increasingly clear that they will have to buy a lot of grain, and, clearly, it is to our advantage to sell it to them. As Soviet citizens become accustomed to a diet that must be purchased from the United States, their Government must become increasingly aware that they need us more than we need them.

The following Omaha World-Herald editorial is provocative:

[From the Omaha World-Herald, Oct. 4, 1984]

SALE OF GRAIN TO SOVIETS A BRIGHT SPOT IN RELATIONS

Recent history justifies caution toward the idea that trading with the Soviet Union will lead to better relations between the superpowers. After all, the booming American grain sales to the Soviets during the 1970s coincided with an aggressive Russian foreign policy and a buildup of Soviet military power.

The Soviets continued their aggression in Afghanistan in 1980 despite the U.S. grain embargo, indicating that the Soviets put their goals in Afghanistan above the grain trade with the United States.

Still, the Soviet Union's re-entry into the American grain market is a good thing. Roger W. Wallace, director of market research for Omaha's Scoular Grain Co., said American farmers have overcome the embargo to re-establish themselves as a primary supplier to the Russians.

"We're going to have as high a proportion of Russia's imports as ever," Wallace said.

Poor weather and Soviet inefficiency are among the reasons the Russians want American grain. It's estimated that the current Soviet harvest will fall 25 percent below the target, leading to predictions that the Russians will buy more than 850 million bushels of American corn and wheat, compared with about 400 million bushels last year.

Bad news from the Ukraine is, of course, good news for the American heartland. The Soviet exports won't solve the financial and

production problems of American agriculture, but the fact that this country is rehabilitating itself as a good-faith seller to the Soviet Union helps Midland farmers.

In some ways, the superpowers are dependent on each other. The grain sales are a case in which the dependency is positive. At a time of continuing disagreement and tension on such issues as arms control, the grain sales show that the two countries have some common interests.

Grain sales by themselves won't ease the tensions significantly. They won't change the fundamental nature of the disagreement between the United States and the Soviet Union. Nevertheless, the sales are welcome. It's better to base mutual dependency on food than on fear.●

PRISON EMPLOYMENT SECURITY ACT OF 1984

HON. SAM B. HALL, JR.

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1984

● Mr. SAM B. HALL, JR. Mr. Speaker, I am introducing today a bill to require a General Accounting Office [GAO] study on the prevailing rate positions within the Bureau of Prisons and to place a temporary moratorium on the downgrading of these positions within the Bureau pending the findings of the GAO audit. This would not limit the Bureau's authority to reassign or discipline personnel to adequately meet personnel requirements within the Federal Prison System.

Recently, the House of Representatives amended the fiscal year 1985 continuing resolution to include crime control language which, among other things, strengthened the sentencing for certain classes of criminals. Too often we forget that these actions have ramifications not only for the criminals and the society we seek to protect, but also for the correctional system.

Earlier this year in hearings before the Appropriations and Judiciary Committees, serious problems within the Federal Prison System were brought to the attention of the House. One particular problem highlighted in the hearings was the downgrading of 74 percent of the wage board—blue collar—supervisory positions in the Bureau of Prisons. This affects over 1,100 Federal workers who directs inmates in prison industries and maintenance services.

The problem first appeared in 1982, when the Bureau of Prisons downgraded the WS standard of these Federal positions by tying that standard directly to the job skill rating of the inmate population—that is, supervisory positions were reduced in grade if and when the job skill level of the inmate populations, resulting from the influx of unskilled inmates, was reduced. Although the Office of Personnel Management [OPM] originally opposed this action it is now allowing the Bureau to assign simulated levels below journeyman when inmates are relatively new.

This downgrading action has been disastrous for Bureau of Prisons employees in these supervisory positions. Too, lowered morale of employees, increased turnover of positions, and recruitment problems have adversely affected security in the prisons.

Although there is very little time remaining in this session, I will reintroduce this bill in the 99th Congress as a matter of personal priority. This measure will send a clear message to the Office of Personnel Management and the Department of Justice that Congress is concerned about the treatment of corrections personnel and the safe and efficient functioning of Federal Prisons and Federal Prison industries.●

DR. JAMES C. GIUFFRÉ

HON. BOB EDGAR

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1984

● Mr. EDGAR. Mr. Speaker, on October 27 the Italian-Americans of Delaware County, PA, will honor Dr. James C. Giuffré, M.D., as their Person of the Year. I rise to bring my colleagues' attention to this event because Dr. Giuffré and the institution that has been named for him, the James C. Giuffré Medical Center, exemplify the best in humanitarianism. Formerly the St. Luke's & Children's Hospital, the James C. Giuffré Medical Center was renamed in 1979 to honor the commitment Dr. Giuffré has made to the hospital—and to the people it serves.

Under Dr. Giuffré who is the executive and medical director, the center has developed many innovative programs, some of which deserves particular attention. At a time when alcoholism was not even discussed, under Dr. Giuffré's leadership the hospital began a comprehensive program to cure alcohol addiction. The hospital's concern for addicted patients expanded in 1968 to include services for drug abusers. Again, the hospital was in the forefront in recognizing a need for this service and moving to tackle another difficult problem.

More recently, the James C. Giuffré Medical Center opened its doors to the homeless street people of Philadelphia, at a time when most other public and private agencies had scarcely begun to recognize the urgency of the situation. This is another example of Dr. Giuffré's willingness to tackle the hardest problem if there is a human being in need.

The Philadelphia police know that they can bring medical emergency cases from all over the city to Giuffré's emergency room at any hour and will never be turned away. An inscription by the entrance to the emergency room, in Dr. Giuffré's own handwriting, and bearing his signature reads: "* *. * and these doors will always be open to those seeking medical care."

Mr. Speaker, this is an era when most health professionals have cost considerations uppermost in mind. Indeed, the cost of health care and a continuing debate on how to pay for it have occupied much time in this very Chamber. It is a gift to all of us to have an example such as Dr. Giuffré, whose first and overriding commitment is to serving people. His commitment is embodied in the policy and practice of the Giuffré Medical Center, where everyone is treated regardless of income, regardless of the seriousness of the health problem.

I would like to take this opportunity to extend my own salute and best wishes to Dr. Giuffré, and to the Italian-Americans of Delaware County who will honor him at their annual banquet on October 27, 1984.●

CHILD SAFETY SEATS IN RENTED CARS

HON. SAM GEJDENSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1984

● Mr. GEJDENSON. Mr. Speaker, over the years significant steps have been taken to expand the use of a product that has been proven to save children's lives, child restraints in motor vehicles; 49 States and the District of Columbia have enacted some type of law requiring children to be placed in a safety seat while in a car. Congress has passed laws to provide monetary incentives for States in this regard and to establish a "National Child Passenger Safety Awareness Day" to increase public awareness regarding the lifesaving value of child restraints. These positive actions have been successful in expanding the use of safety seats and promoting the widely accepted and statistically proven fact that safety restraint devices reduce child fatalities and crippling injuries from motor vehicle accidents.

There is, however, an important area that has not yet been addressed. State laws do not require car rental companies to provide their customers with safety seats and in some States temporary vehicles are exempt from child restraint laws. While some of the larger agencies do furnish a limited number of seats at certain locations, not all companies do, and a driver is not always guaranteed this service. I feel that if virtually every State in the

country has recognized the value of establishing child restraint laws, it seems both logical and consistent that these devices should be used in rented cars and thus, readily available from rental agencies.

Mr. Speaker, in an effort to close the gap in present law I am today introducing a bill to require motor vehicle rental companies to provide child restraint systems in rented motor vehicles to all travelers who need this service. This measure is important if we are to provide across-the-board protection for our young people while traveling in automobiles.

As the parent of two small children, I have become increasingly sensitive to the statistics that demonstrate the need to protect my youngsters by using safety seats whenever they travel with me and feel that a rented car should be no exception. The statistics are staggering and point out that automobile accidents are the No. 1 cause of child mortality. For instance, more children under the age of 5 are killed or crippled in automobile accidents than by the seven common childhood diseases; automobile accidents are the major cause of epilepsy; and between the years 1978-82 3,400 children were killed and 250,000 were injured in automobile accidents. The truly tragic fact is that studies show that 90 percent of these injuries and deaths are preventable by the simple and correct use of child safety seats.

The bill I am introducing today is consistent with laws already in place that are intended to achieve universal usage of child safety seats in order to protect children—our most precious resource—from unnecessary harm. I urge my colleagues to join with me to in this truly worthwhile and lifesaving effort to further advance the use of child safety seats.●

IN HOMAGE TO SAMUEL A. PEPPER

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1984

● Mr. MATSUI. Mr. Speaker, I rise before this distinguished body to pay homage to Samuel A. Pepper, a former high school principal and dear friend of mine who recently passed away. The community of Sacramento and in particular, former and current students of McClatchy High School have lost an excellent educator, a civic-minded citizen, and most importantly a true friend who was always there to help in an hour of need.

Mr. Speaker, Samuel Pepper was something of a renaissance man. He was the consummate organizer who came to Sacramento with an impressive educational background in Oregon and New Mexico, and embarked on a dream of establishing one of the top ranking academic high schools in the State of California. He mobilized public support and played a prominent role in the planning and construction of McClatchy High School in the mid-1930's. As the doors of his high school opened in 1937, Samuel forged ahead with dedication, devotion, and sincerity of purpose in educating the youth in his community. He was an educator who played a variety of roles—principal, coach, counselor, companion—and performed them all well. He carried with him, what one colleague called, a contagious feeling of dedication.

I was one of those students, Mr. Speaker, who caught his thirst for knowledge. His vibrant, outgoing personality inspired me to search out my own answers to questions that intrigued me. Thousands of students stand forever grateful for the kind, humanistic contributions made by this man.

In memorial to this fine man, the 1962 graduating class of C.K. McClatchy Senior High School dedicated their high school yearbook to "their beloved Mr. Pepper." It is a fitting honor. I join them in their salute.●

SALUTE TO SAN DIEGO MASTER SHIP REPAIR FIRMS

HON. DUNCAN HUNTER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1984

● Mr. HUNTER. Mr. Speaker, I want to call attention to the San Diego master ship repair contractors and salute them for an admirable record of efficient, on-schedule and competent work. The President's drive to revitalize our Navy calls for both new ships and modernizing existing vessels. San Diego's MSR's are doing their part to help rebuild America's fleet.

Today, 10 companies hold master ship repair contracts in the San Diego area. They are: A&E Industries, Inc., Arcwel Corp., Bay City Marine, Campbell Industries, Kettenburg Marine, National Steel & Shipbuilding Co., RMI, Inc., Continental Maritime—formerly San Diego Iron and Steel—Southwest Marine, Inc., and Triple A South.

These 10 companies employ some 7,000 San Diegans and have been a vital, growing part of the regional economy in recent years. I am confident that the quality-control evidenced in their work will enable these firms to continue to grow and develop in times ahead.

"Quality" is perhaps an overused word, but I believe that San Diego's MSR's exemplify what quality means. Their work in recent years has net or surpassed Navy expectations and the record continues to improve. I have met with the firms and their employees on numerous occasions. I am impressed by their pride and commitment to deliver a good product on time and on budget. For those who say that American industry cannot compete, I invite them to visit the shipyards of San Diego harbor.

Mr. Speaker, I know my colleagues join me in saluting San Diego's master ship repair contractors for a job well done. They share the American people's commitment to rebuilding our defenses and they're doing it with pride. I would hope that American industry elsewhere would be able to learn from San Diego's MSR's and realize that quality, teamwork, spirit, and industry are American concepts and not something to be learned from abroad.●

TRIBUTE TO ERNEST KELLER, SR.

HON. ROY DYSON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1984

● Mr. DYSON. Mr. Speaker, I would like to take this opportunity to pay tribute to one of the outstanding citizens of Maryland's First Congressional District, the late Mr. Ernest Keller, Sr. who passed away this past summer. Arriving in the United States from Switzerland, without even the ability to speak English, in 1923, Mr. Keller carved out a piece of the American dream of himself and his family as a member of the Gallant Green, MD, community.

Born in 1902 in Altendorf, Switzerland, Mr. Keller came to the United States to find the economic opportunity lacking in his native land. Starting with one schoolbus he bought accidentally in 1927, Ernest contracted with the Charles County school system to bring generations of county children to school. The Keller bus fleet now contains not only schoolbuses, but charter coaches as well.

Ernest was also a pioneer in bringing electricity to southern Maryland. Going door-to-door throughout the county, Mr. Keller convinced residents to form the Southern Maryland Electric Co-op and served on its board of directors from 1941 until 1975. He was also known for many years as the "King of Tobacco" in southern Maryland for the prize-winning plants he grew.

Mr. Keller married Rosina Hartman in 1927. During the next 57 years, they raised two sons, Ernest, Jr. and Edwin, and one daughter, Ellen. Both sons are involved in the family business and Ellen lives nearby. Ernest became a U.S. citizen and voted in his first election in 1928. He used his first school-

bus to transport people to the polls that year and proudly claimed never to have missed another chance to vote. Mr. Keller typifies the kind of people anyone is proud to represent in Congress—coming to America with nothing but a dream and building a life for himself and his family, making Maryland a better place to live.●

IN SUPPORT OF LEGISLATION EXTENDING RENEWABLE ENERGY TAX CREDITS

HON. DON FUQUA

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1984

● Mr. FUQUA. Mr. Speaker, today my colleagues SAM GIBBONS, JAKE PICKLE, WYCHE FOWLER, and several other members of the Committee on Ways and Means have introduced legislation to extend the renewable energy business and residential tax credits to the year 1990. I wish to congratulate my colleagues for taking this important step, and to express my strong support for their initiative. I believe it will send a welcome message to the renewable energy industry that the Congress has not forgotten them, and that their need for continued assistance in this area will receive our active attention next year. I intend to work closely with my colleagues on the Ways and Means Committee to achieve a fair and judicious extension of the renewable energy tax credits in the 99th Congress.●

DR. PIERRE ST. AMAND, SCIENTIST

HON. WILLIAM M. THOMAS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1984

● Mr. THOMAS of California. Mr. Speaker, I would like my colleagues to know that a distinguished constituent of mine, Dr. Pierre St. Amand, will be retiring soon, and his considerable accomplishments during an outstanding scientific career are worth noting.

Dr. St. Amand has served his country for 37 years, 4 of them in the U.S. Army during World War II and the rest as a civilian scientist and executive at the U.S. Naval Weapons Center in China Lake, CA. Prior to this service, Dr. St. Amand spent his youth in Alaska as a prospector, newspaper reporter, radio operator, flight mechanic, bush pilot, surveyor, and geophysical researcher. His scientific achievements were to be similarly varied, for Dr. St. Amand has made significant contributions in the fields of atmospheric physics, seismology, geology, geophysics, oceanography, and meteorology. He has authored or coauthored more than 100 publications and holds 12 technical patents as well.

Dr. St. Amand's laboratory has virtually been the entire world. While a graduate student at Cal Tech, he worked part time at the Pasadena annex of what is now the Naval Weapons Center. His work in photometrics there resulted in a device which became the standard for the Geophysical Year, and his later work in photometrics led to his participation in designing the first Navy satellite, Notsnik.

Dr. St. Amand is also well known in scientific circles for locating several major faults in Alaska and Chile, for his work in several United States cities and Latin American countries on earthquake and disaster preparedness, disaster investigations, hydrology, engineering, and mining geology. He has been engaged by Governors, the State Department, the Organization of American States, and the United Nations to contribute his expertise in these fields.

In oceanography, Dr. St. Amand directed some of the first attempts to communicate with and train porpoises in cooperation with behavioral scientists, and he also designed and produced a set of small submarines for oceanographic exploration.

Another of Dr. St. Amand's pursuits was weather modification. He directed the largest single weather modification effort in the Department of Defense during the sixties and seventies, and his techniques for rainfall augmentation, fog dispersal, and formation and hail suppression have since been adopted by weather modifiers throughout the world. Dr. St. Amand applied this technology in drought relief operations in India, the Philippines, Okinawa, and the Azores.

Dr. St. Amand's bush pilot experience served him well when he organized and directed a daring plan to thwart enemy troop and supply movements in Vietnam through use of rainmaking. He logged more than 300 hours in combat conditions over North and South Vietnam at the controls of a Hercules C-130 during this effort.

Dr. St. Amand's scientific curiosity has led him to the corners of the globe, but he has always been actively involved in the civic and cultural life of his community of Ridgecrest. He has served on the boards of the local hospital which he helped to found, the counseling center, historical museum, Civil Air Patrol, and Sister Cities Association. He has volunteered his time and considerable knowledge on geological tours and community lectures, and he and his wife, Marie, plan to retire in Ridgecrest.

Mr. Speaker, Dr. St. Amand has had a long, varied, and distinguished career. I know that the Navy will miss this man's rare talents and experience, but his contributions will remain. I extend my best wishes to Dr. St. Amand and his family.●

BILL PIRONE IS ST. GERARD'S MAN OF THE YEAR

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1984

● Mr. FLORIO. Mr. Speaker, this Saturday I will have the honor of attending a very special event at St. Gerard's Church in Paterson, NJ. The many freinds and relatives of Bill Pirone and his wife Clara, will be honoring one of Passaic County's native sons as St. Gerard's Man of the Year. I can think of no more deserving man for this acclaim than Bill Pirone and I know that the parishoners and clergy of St. Gerard's Church will join with us all in extending our congratulations to Bill and Clara on this special occasion.

Father Mark Giordano of St. Gerard's and my friend Bill Pascrell have worked long and hard to make this memorable night come true and I feel privileged to join in honoring such a man as Bill Pirone. His tireless efforts on behalf of St. Gerard's parish and for the New Jersey State Disabled American Veterans Association, of which he is the adjutant, have been an inspiration to many throughout the years. Even with all of this activity he has been able to help even more people by his work as director of the Passaic County Board of Freeholders. For one man to have been able to accomplish so much is a true measure of his dedication to his fellow parishoners, comrades, and citizens.

I join with all my colleagues in wishing both Bill and Clara Pirone continued success and best of luck on this special night for all New Jerseyans.●

WORLD FOOD DAY, 1984

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1984

● Mr. HOYER. Mr. Speaker, October 16 marks "World Food Day 1984". I would like to draw the attention of my colleagues to information I received from the World Hunger Information Center which states that 24 people die from hunger throughout the world every minute. Of those 24 people, 18 are children.

This administration, however, has been traveling at snail's pace in attempting to alleviate the hunger situation throughout the world. For example, a bill was before the Congress which would provide emergency food aid to the continent of Africa. That bill—with 24 people dying every

minute—took 6 months to pass, delaying life sustaining aid for the people of Africa. And why was it delayed? Because members of the administration were intent upon talking about whether we were going to give military aid to the people of Central America, instead of addressing the pressing needs of the hungry.

Mr. Speaker, while we in the Congress and the administration argue about priorities, it is vital to the starving people of the world that we all focus on the issue of hunger. America is the most bountiful Nation on this Earth and its citizens have a responsibility to begin to obliterate the blight of hunger and malnutrition in our country and throughout the world forever.

Here in our Nation's Capital there exists an organization dedicated to the cause of alleviating hunger. The Capital Area Community Food Bank, founded just over 4 years ago, supports the efforts of 270 church pantries, soup kitchens, and local food distribution services as they attempt to help our Nation's hungry. Each month, Mr. Speaker, nearly 100,000 people are fed with the help of the food bank.

This year, the Capital Area Community Food Bank will mark World Food Day with a series of events and region-wide involvement unlike any they have attempted before. With the generous help from the supermarket chains, Giant and Safeway, Local 400 of the United Food & Commercial Workers, the D.C. National Guard, and Gray and Co., the food bank will be spearheading the effort to encourage supermarket shoppers to help feed the less fortunate.

Mr. Speaker, I commend these humanitarian efforts of the Capital Area Community Food Bank. Through their work perhaps we can turn the corner on hunger in this Nation and provide proper nourishment to our disadvantaged citizens.

I urge my colleagues and my constituents to join the Capital Area Community Food Banks efforts and not forget our obligation to our fellow Americans.●

DEFENSE DEPARTMENT CEASES MEDICAL TESTING ON DOGS AND CATS

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1984

● Mr. LANTOS. Mr. Speaker, today the Washington Post reported that the Secretaries of the Army and the Air Force have decided to ban the use of dogs and cats in biomedical and clinical research under their control.

The wheels of Government do turn slowly, but this appears to be an occasion when they have turned at least a little. Well over a year ago, I learned of the existence of the Department of Defense's wound laboratory at which animals were shot with high velocity bullets for research and training on wound treatment. Further inquiries convinced me that this shooting of animals was not necessary for defense purposes, and it was a shocking misuse of taxpayers money. Furthermore, the project was deliberately funded in such a way as to avoid congressional scrutiny.

After I and a number of my colleagues wrote to the Secretary of Defense about the wound laboratory, Secretary Weinberger ordered a moratorium on the opening of the laboratory facilities and ordered a departmental review of the use of animals. The decisions that have become public this week are apparently the first results of that review.

Mr. Speaker, those of us concerned with animal welfare welcome this step, but the fight is not yet over. The Surgeon General of the Air Force apparently plans to appeal the decision of the Secretary and others in the medical research community have indicated opposition to this latest move. We must continue to scrutinize the actions of the Department of Defense in this regard.

I applaud this latest action of the Secretaries of the Army and Air Force in not using dogs and cats for medical research. It falls short of solving the real problem, however. It ignores the use and potential abuse of a wider range of animals. Furthermore, it does not get to the root of the problem, which is the need for the Defense Department to adopt a responsible and comprehensive policy on the humane treatment of animals. Until such a policy is developed and promulgated, the Congress must maintain its role in identifying and objecting to the use of animals in experimentation and training.●

TRIBUTE TO MARK M. MILLIS

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1984

● Mr. LAGOMARSINO. Mr. Speaker, I rise today to bring to the attention of my colleagues the announced retirement in early December from the city council of Arroyo Grande, CA, of my friend and an outstanding public servant, Mark M. Millis.

Since 1972, Mark Millis has tirelessly and with personal dedication served the people of his community as a member of the city council, as mayor pro tem and as mayor. His leadership has benefited the people of the South County during a period of great change. While the area has grown substantially during these past 12 years, such growth has not resulted in a deterioration of the quality of life for the people of Arroyo Grande. The policies of growth management and agricultural preservation espoused by Mark Millis significantly contributed to these improvements. His efforts on behalf of improved housing for senior citizens, better park and recreational services, and improved public safety and sanitation services are all worth noting.

But I believe Mark's most important contribution of all is his personal effort to encourage greater citizen participation in city government. As a professional educator and civics teacher at Arroyo Grande High School, Mark knows the importance of living up to the principles upon which our democratic and representative goverment is based. His demonstrated openness and responsiveness to his constituents has built confidence and a vital sense of participation by the electorate in their local government. This is the foundation of our community and it is, I believe, the hallmark of Mark Millis' public service.

From 1974 to 1982, it was my honor and privilege to serve as Representative in Congress for the people of southern San Luis Obispo County. During that time, I enjoyed working directly with Mark on behalf of matters of mutual concern for the people of his community. His enthusiasm and his energy in meeting those needs and addressing those concerns was always commendable. I can readily understand why the votes consistently returned Mark to office with strong expressions of support. While I am sure his presence on the city council will be missed, I am equally confident his sense of community interest and civic responsibility will assure his continued efforts to make Arroyo Grande the best place to live and work.●

TRIBUTE TO TIMOTHY WILLIAMS

HON. E. CLAY SHAW, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1984

● Mr. SHAW. Mr. Speaker, it seems that in today's society, we are constantly hearing about the problems with the youth of our country: lack of leadership and motivation, or worse, crime and drugs. I am proud to say that in my district is an outstanding young man who proves that young people can be an inspiration.

His name is Tim Williams, a high school student from Fort Lauderdale, who recently participated in the Boys State Program in Tallahassee. Tim is the youngest of six children, and

through his own initiative and determination he became the most honored of all students attending the Boys State Program: he became their governor.

The objective of Boys State—an American Legion-sponsored program for high school students—is to educate young people about government and politics. Not only was Tim an extremely active participant but proved to be a superior politician himself!

It is certainly gratifying and inspiring to see in Tim an example of the best in our Nation's youth.●

SALUTE TO DR. PHIL TRINH

HON. JERRY M. PATTERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1984

● Mr. PATTERSON. Mr. Speaker, today I would like to join my colleagues in the House of Representatives in saluting Dr. Phil Trinh, an outstanding and well-known leader in Orange County recently certified and sworn in as the official acting secretary of the State of California.

An established dentist in Orange County since 1974, Dr. Trinh has been a very active and involved leader in the Vietnamese community in Orange County. He is the founder and former president of the Vietnamese Chamber of Commerce as well as the founder and former president of the United American Bank. A greatly respected and admired individual, Dr. Trinh has contributed a great deal of his time and financial resources in support of the Vietnamese community as well as other philanthropic and charitable organizations in Orange County.

On September 6, 1984, at the Marriott Hotel in Anaheim, CA, a dinner was held to honor and officially install Dr. Trinh. The organizing committee for the dinner included the Honorable Tom Bradley, Mayor of Los Angeles, the Honorable Johnathan Cannon, Mayor of Garden Grove, the Honorable Lily Chen, Mayor of Monterey Park, the Honorable Elden Gillespie, former Mayor of Westminster, the Honorable Melvin Jay, member of the Westminster City Council, and the Honorable Mel Red Recana.

Among the 160 attendees at the dinner were many prominent Orange County leaders and citizens. Presentations were given by the Hon. March Fong Eu, secretary of state of California, Lily Chen, mayor of Monterey Park, Kathy Buchoz, mayor of Westminster, and a representative for Harriet Weider, the Chairman of the Orange County Board of Supervisors. James Kanno, former mayor of Fountain Valley, Dr. Julian J. Lee, Human Relations Commissioner, Dr. Wong, Chairman of Grand National Bank, Mr. Michael Mitoma, Chairman of Pacific Business Bank, and Dorothy A. Brylski, former director of the U.S. Catholic Conference were also present to honor Dr. Trinh.

Mr. Speaker, Orange County is fortunate to have Dr. Phil Trinh as a member and involved leader in its community. He has done tremendous work in behalf of the Vietnamese community and we are privileged to have his serving as our acting secretary of state of California. I ask that you and my colleagues join me in paying tribute to this devoted public servant.●

TRIBUTE TO THE FIFTIETH ANNIVERSARY OF SMITH STEEL WORKERS UNION

HON. GERALD KLECZKA

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1984

● Mr. KLECZKA. Mr. Speaker, on September 1, 1984, the Smith Steel Workers Directly Affiliated Local Union 19806 held its 50th year anniversary celebration. I would like to pay tribute to the union's 50 years of service to its membership.

The Smith Steel Workers Union was organized by the AFL federated trade council as a directly affiliated local union [DALU] and chartered on August 30, 1934. As a DALU, Smith Steel Workers has access to AFL-CIO resources, but handles its own negotiations with management. Smith Steel Workers signed its first contract on December 24, 1934, and the union has pursued a successful negotiation strategy ever since.

By the end of its first year, the union had 2,900 members, and Smith Steel Workers enjoyed a peak membership of more than 11,000 in 1945. With 4,000 members today, Smith Steel Workers is the largest directly affiliated local union in the United States.

The successful relationship between Smith Steel Workers and A.O. Smith Corp. is one from which many other companies and unions could learn much. The union and the company have cooperated so that both benefit. Our Nation's labor unions and industries should follow their example of concern and negotiation.

I congratulate Benedict Mrugala, president of Smith Steel Workers; Dominic SanFelipo, vice president; Dennis L. Roux, grievance committee chairman; Clara L. Streicher, secretary-treasurer; and Richard Zautcke, vice secretary-treasurer for the union's 50th anniversary and their years of service to the union. I salute the Smith Steel Workers' past triumphs and wish the union and its membership many years of success in the future.●

MAIN STREET PRIDE

HON. JOHN J. DUNCAN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1984

● Mr. DUNCAN. Mr. Speaker, the National Historic Trust for Historic Preservation held a videoteleconference recently in cooperation with the Department of Agriculture, and the National Endowment for the Arts. The conference highlighted the success of the National Trust's "Main Street" program for over 15,000 individuals in 2,000 towns across the country.

President Reagan, in his remarks to the videoconference, expresed his support for the cooperative spirit, and hometown boosterism that have made the Main Street Program a success. He also pointed out the value of the tax credits for the renovation of older buildings. The tax credit has proven to be an innovative economic tool which combines community pride and historic preservation to reawaken an appreciation of the virtues of our small towns.

The National Trust's Main Street Center has helped citizens to restore economic vitality to many older central business districts. It has focused on the historic assets and "people resources" which are the foundation of traditional values that make the Main Street program special.

In Tennessee the Main Street Program got underway in 1983. It has been responible for renovations in Columbia, Greeneville, Gallatin, Pulaski, and Brownsville; averaging $160,000 each in new private investment. Five more towns will be added in December.

Since its inception the program has generated $1.25 million in private business investment statewide, and $500,000 in pulic investment. Next year, projected estimates exceed $10 million of private funds. The result is jobs, a tax base for State and local governments, and more.

It is the intangible benefits which seem to count the most, and the biggest of these is a renewed sense of pride. Pride in cooperation, and community. Through this program our towns are learning the meaning of Main Street again.●

TRIBUTE TO MINORITY ENTERPRISE DEVELOPMENT WEEK

HON. BARBARA MIKULSKI

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1984

● Ms. MIKULSKI. Mr. Speaker, I would like to note that this coming week, October 7 through October 13,

1984, has been designated as "Minority Enterprise Development Week".

The growth of our Nation has been based on the premise that all people can share in the economic process. That premise has been realized in the participation of minority businesses within that process. The 600,000 minority-owned businesses are a part of a dynamic international marketplace, in which they compete. These businesses bring innovative products and services to the marketplace, while also creating jobs and training, thus aiding in America's growth.

This week and next week will be devoted to the efforts of the Small Business Administration and minority organizations throughout the national organizing meetings and seminars to aquaint individuals and organizations to the products and services of minority enterprises.

I urge all Americans and my colleagues here in the House of Representatives to join together with the minority business enterprises of our Nation in observation of "Minority Enterprise Development Week".●

A TRIBUTE TO NICK PERRINO, SMALL BUSINESSMAN EXTRAORDINARE

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1984

● Mr. LIPINSKI. Mr. Speaker, it is with great pride that I call attention to a respected and successful citizen from Illinois' Fifth Congressional District, which I am privileged to represent, and he is Nicola (Nick) Perrino.

Nick is a classic American success story who epitomizes what's right with America. Coming to the United States from Italy, Nick quickly made himself a part of America and proudly served in the Army during World War II, from 1941 to 1946. Nick was initially assigned to the food service section as a cook. During his military stint, Nick quickly rose from the rank of private to messhall sergeant, which gave him leadership of an Army messhall. While in charge of the Army messhall, Nick stood five general inspections of the facilities—including inspections by Gen. George Patton and Gen. "Vinegar" Joe Stilwell—and passed them all-with flying colors. In 1943, he was prompted to master sergeant and placed in charge of all messhalls on his post.

While in this position, Nick received the ultimate compliment for his leadership in the messhalls, from none other than General Patton. During an inspection, Patton congratulated Nick for his showing great initiative for switching from hot cocoa to ice cocoa due to the Florida heat. The general was impressed that Nick could alter a directive from the Pentagon to better serve his fellow soldiers. General Patton claimed this type of initiation is what gave U.S. troops a solid edge over our adversaries.

With the knowledge gained from his service experience, Nick founded his own business in 1947. This business, which has become a Chicago landmark, has continually expanded through the years. However, the Home Run Inn Pizza Restaurant is still located on the same site as it was in 1947. The original bar can be found there and while it was once located across from a ballpark, a solid connection by the batter would cause the front tavern window to shatter. Hence, the name, Home Run Inn was originated.

In addition to the restaurant trade, Nick has established numerous frozen pizza accounts. These accounts have experienced equally phenomenal growth over the years. Nick takes just as much pride and care with his frozen food accounts as he does with the restaurant customers. It has been said that there are three reasons for the success of his business: consistency, quality, and excellent service.

Nick has a cadre of loyal employees, many of whom have 18 years with the business, and several have 30 years service. This continuity is said to reflect in the courteous and efficient service provided to his customers.

Nick has recently turned 73 and, with his son, Joe, supervises all aspects of the business. As with all successful people, a supportive spouse can usually be found. In Nick's case, there is his lovely wife "Loretta" or as she is known to Nick, friends and customers—Laura.

Over the years, Nick Perrino has not forgotten his past and has been an active participant in numeous charitable activities. He was honored by the Chicago Boys Clubs of America for his work on behalf of the youth of Chicago.

I join with the residents of the Fifth Congressional District in paying tribute to Nick Perrino, truly a small businessman extraordinare.●

TRIBUTE TO QUEEN DIANA AND THE TYLER ROSE FESTIVAL

HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1984

● Mr. RALPH M. HALL. Mr. Speaker, in these troubled times when much of the world is tormented by violence, it is refreshing to know that beauty still abounds in our great country.

This beauty is no more evident than in Tyler, TX, the "Rose Capital of the World," where the beauty of the roses is annually celebrated.

For many years Tyler has been known for its production of field-grown rose bushes. It continues to be the Nation's largest rose bush growing area, producing some 20 million bushes annually, more than 50 percent of the national supply.

Tyler will again host the Texas Rose Festival October 18-21 with 4 days of pageantry. Diana Patricia Taylor will reign as the 1984 queen of the festival. Diana is the daughter of Mr. and Mrs. L. Glenn Taylor of Tyler and is a sophomore liberal arts major at Hollins College in Roanoke, VA.

Queen Diana, accompanied, by Robert Y. Brown, Jr., president of the Texas Rose Festival, brought a sample of this Tyler beauty with them to the Nation's Capital earlier this year and presented Tyler rose bushes to President Ronald Reagan for the Rose Garden at the White House.

The purpose of this speech is to congratulate the city of Tyler, the county of Smith, and all of east Texas—for reflecting and sharing God's gift of beauty that abounds there—and especially for sharing the loveliness the grace, and the elegance of our beautiful Queen Diana Patricia Taylor—during this festival occasion.

Mr. Speaker, I ask, that as we adjourn Congress this 4th day of October, that we do so in honor of Queen Diana—and the Tyler Rose Festival.●

LEGISLATION TO BAN ANTIBIOTICS IN LIVESTOCK FEED

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1984

● Mr. LEVINE of California. Mr. Speaker, I rise in strong support of H.R. 6370, legislation to ban the addition of antibiotics to livestock feed. As a cosponsor of this legislation, I want to commend my colleague from Oregon [Mr. WEAVER], for taking the lead on this important health issue. Recent scientific evidence confirms that indiscriminate use of antibiotics in livestock feed poses a very real threat to the health and well-being of millions of men, women, and children in this country.

Antimicrobial drugs, particularly antibiotics, have been used in livestock production for many years. Levels of these drugs lower than the ordinary therapeutic doses used to treat human diseases are administered to cattle, poultry, and swine in their feed.

Approximately half of the total amount of antibiotics produced in this country end up in animal feed. Penicillin and tetracycline are the most prominent of the drugs employed as feed additives to promote animal growth. Additionally, both antibiotics have been successfully used for a

number of years to treat a variety of human illnesses.

The effectiveness of these drugs is now threatened. Bacteria that are resistant to antibotics will thrive in animals that are constantly fed antibiotic drugs. Subsequently, these resistant bacteria can then be transferred from animals to human beings, thus, seriously jeopardizing the effectiveness of antibiotics in humans.

The safety of the subtherapeutic uses of penicillin and tetracycline has not been demonstrated. In fact, in 1977, the FDA actually proposed to withdraw approval of all subtherapeutic and therapeutic uses of penicillin along with most subtherapeutic uses of tetracycline in animal feeds. Additionally, in 1978, the FDA proposed requiring a veterinarian's order for the distribution of penicillin- and tetracycline-containing feeds until the total ban became effective. Unfortunately, these proposals were never implemented.

Mr. Speaker, in the past, Congress has delayed action on this issue because of their desire for more scientific studies. To date, all studies support the FDA's proposed action. Further delay is unwarranted, particularly in light of the recent study by the Centers for Disease Control. For the first time, this new study has conclusively demonstrated that feeding antibiotics to livestock breeds an unusual type of microbe that can later infect human beings.

We cannot continue allowing this health risk to ensue nor can we jeopardize the effectiveness of antibiotics for humans by continuing to allow their use in livestock feed. I urge my colleagues to join me in supporting this legislation. Thank you.●

NATIONAL NEIGHBORHOOD HOUSING SERVICE WEEK

HON. JOSEPH P. ADDABBO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1984

● Mr. ADDABBO. Mr. Speaker, a joint resolution signed into law recently proclaims the week of October 7, 1984, as "National Neighborhood Housing Services Week," and I would like to bring the attention of my colleagues to the vital and effective programs which the NHS sponsors.

Neighborhood Housing Services is a national organization which brings new life to deteriorating neighborhoods, and has brought new hope to the more than 2 million people living and working in these revitalized communities. Through the efforts of NHS, more than 140 cities across the country are witnessing a rebirth of their low-income areas. In my own district, two NHS programs are in operation, and both have made great strides in upgrading the Queens communities of Laurelton and Jamaica.

Mr. Speaker, one of the most significant and heartwarming aspects of the NHS program is that almost all of the funds used for revitalization efforts comes from the communities themselves—from concerned citizens, from small businesses, and from local government. This extraordinary level of cooperation has created a feeling of unity and civic pride in areas where the order of the day was despair and apathy. NHS believes that the best way to turn around a declining neighborhood is to convince those groups that have stake in its future to contribute to the community.

During National NHS Week, the organization will sponsor special celebrations in NHS communities across the Nation. I urge my colleagues to participate in the recognition of this organization. The NHS is living proof that slums are not a fact of life, and that this national epidemic can be cured.●

PROPOSITION 38

HON. NORMAN D. SHUMWAY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1984

● Mr. SHUMWAY. Mr. Speaker, on November 6 the people of California will have the opportunity to voice their opinion on the issue of multilingual ballots when they vote on proposition 38. This proposition, which calls upon the Governor to write to the President and Congress to urge that Federal law be changed to require that ballots and voting materials be printed in English only, qualified for the ballot after 626,000 signatures were filed with the California secretary of state.

Mr. Speaker, there has been growing concern in recent years with the proliferation of Government-sanctioned programs, such as multilingual ballots, which mandate the use of languages other than English in the official business of the United States. This concern was clearly seen in San Francisco last fall when the voters of that city and county overwhelmingly passed an initiative which rejects the use of multilingual ballots. In addition, a recent Field Institute poll found that of the 5 percent of California's voters which say they have heard of proposition 38's provisions, 40 percent are in favor, with 13 percent opposed and 47 percent undecided.

I have been contacted, Mr. Speaker, by people throughout the country to express their concern with Federal laws which require that people of limited English proficiency who vote, and thus who exercise the highest privilege of U.S. citizenship, be provided with ballots in their native language. These people are concerned not only with the financial cost of printing and distributing ballots in languages other than English, but with the social cost of multilingual policies which impede the learning of English and enhance dissimilarities between immigrants and the mainstream of American life.

I share the strong concern of these people and have introduced a constitutional amendment (H.J. Res. 169) which, among other things, would reverse the provisions of the Voting Rights Act which mandate the use of multilingual ballots. In my view, multilingual ballots and voting materials represent one of the many Government-sponsored programs which have served to discourage proficiency in English and to impede the full integration of immigrants into America's English-speaking society.

Mr. Speaker, I applaud the outcome of the San Francisco initiative and am convinced that on November 6 the voters of the entire State of California will pass proposition 38 and send a message which we, as Members of Congress, should all heed—that the time has come to reverse the trend toward Government-sponsored bilingualism in America and the implications of such policies. The time is now to reaffirm that proficiency in English is essential to full participation in American society; proposition 38 is an important first step.●

TRIBUTE TO ROBERT MALVICA

HON. DUNCAN HUNTER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1984

● Mr. HUNTER. Mr. Speaker, I would like to take this opportunity to share with my colleagues a story of courage—the story of a young man who loved his country deeply and who died while serving it. It is the story of Robert Malvica.

Robert Malvica enlisted in the Navy in 1977 at the age of 17. Robert attended several naval training schools and successfully completed instruction courses in H-46 enlisted familiarization; survival, evasion, resistance, and escape training; CH-46 flight control rigging system; and search and rescue swimming school.

His first assignment was to Helicopter Combat Support Squadron 11 at North Island in San Diego, CA. During this time he advanced from VETREP aircrewman to crewchief airman. Robert's superiors recognzied his hard work and talents and recommended that the Navy send him to college. Robert wanted to become a pilot.

Before Robert could embark on fulfilling this dream, however, the commanding officer told him he "needed

him" for one more deployment—without hesitation Robert boarded the U.S.S. *Wichita* and headed to the Indian Ocean.

On the night of July 16, 1980, Robert was assigned as crewchief on a single ship VERTRAP mission. Shortly after takeoff the CH-46 hit the water and crashed into the Indian Ocean.

Tragically, Robert died in the accident. The pilot of the helicopter was the sole survivor. After the accident many members from Robert's squadron visited Robert's parents and told them that their son had been responsible for the pilot's miraculous survival. They told the Malvica's that their son had given his life as a hero.

Mr. Speaker, I know that my colleagues join me in expressing our pride in Robert's service to his country—our pride in his courage and his sacrifice. It is men like Robert Malvica that make our country so great.●

A TRIBUTE TO ROBERT WILLIAMS, UPON HIS RETIREMENT

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1984

● Mr. TORRES. Mr. Speaker, I rise today to pay tribute to a dear friend of mine, Robert Williams, on the occasion of his retirement from public service. With 32 years experience as a city manager, Bob Williams is retiring from his most recent post, that of city manager of Pico Rivera. He leaves a distinguished career as a public servant.

Before beginning his many years in city management, Bob Williams proudly served his country in the Navy and attended Lafayette College in Easton, PA. After serving in the Pacific Theater from 1941 to 1945, he obtained his B.A. from Lafayette in 1949. He then went on to become a Fels Fellow at the Wharton School of the University of Pennsylvania, in Philadelphia.

After serving as administrative assistant to the city manager of the city of Montebello in 1950, Bob Williams launched his city managerial career by literally helping new cities get started. His first three jobs as city manager were in cities that had just been incorporated and thus Bob Williams served as the first city manager of those cities. In 1952 he became the city manager of Needles, CA. In 1954 he moved to northern California to serve as city manager of the city of Tracy. Moving farther north, Bob Williams became Eureka's first city manager in 1959.

From 1962 until 1980, Bob Williams was city manager of the city of Santa Fe Springs. There, as in Eureka, he was involved in the financing, design and construction of the city hall. He was also instrumental in organizing the municipal water system that resulted in a high water rating for Santa Fe Springs, and brought an adequate water supply for industries.

Bob Williams now leaves his post as city manager of Pico Rivera, but his contributions to the growth of this fine city is clearly evident. During his tenure at the managerial post, Bob Williams was pivotal in bringing new business into the city, most notably in getting Northrop Corp. into Pico Rivera's redevelopment area. There is no doubt that Bob Williams faithfully served the residents of Pico Rivera.

In his years of service as city manager, Bob Williams thoroughly fulfilled his duties, and did not think twice about doing everything possible for his fellow citizens. He was actively involved in the construction of many civic buildings, including libraries, recreation facilities, police and fire stations. In addition to his official responsibilities, he initiated regular trips to cultural events for young people and senior citizens.

Bob Williams has been rightfully recognized for his many achievements in public service. He is a life member of the International City Management Association, from which he received the Innovation Award in 1974, one of six in the Nation. In 1968 the Los Angeles Metropolitan Chapter of the American Society of Public Administration awarded him for outstanding administrative performance.

Mr. Speaker, Bob Williams has a record of service to the public that we all need to recognize and emulate. Knowing him as a warm and very friendly individual, it does not surprise me that upon retiring from the city manager's post in Santa Fe Springs, the city council proclaimed "Bob Williams Week." The service to the communities he worked is immeasurable and for that, Bob Williams deserves every tribute. It is comforting to see public service, and now he will have more time to enjoy his hobbies, but he will continue to serve as a model citizen.●

IN MEMORIAM: JAMES BRIAN SAYRE

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1984

● Mr. LANTOS. Mr. Speaker, it is with deep personal sorrow that I rise to pay tribute to a young man who worked for me and who recently met a tragic death. He was killed by a drunken driver as he rode his bicycle early one morning.

James Brian Sayre was one of those rare individuals with a deep reverence for living things. He was a gentle, yet intensely committed, young man whose brief life was a powerful testimony to the ideas he cherished.

Brian's convictions about how to preserve and improve life on this precious "spaceship Earth" led him to active involvement in a number of important movements at his alma mater Stanford University. He was a prominent activist in both the environmental and nuclear freeze movements on campus. Most notably, he was a founding member of Peace Education, a group dedicated to establishing a permanent peace studies program at Stanford. He was an idealist in the truest and best sense of the word, but one whose values were always rooted in the very real soil of positive social action.

Brian was also a gifted and accomplished computer expert, indeed we called him our resident computer genius. People often commented on how unusual it was to find such sensitivity and caring for people in an individual whose mind had such a strong, scientific learning, but that was Brian—a rare and special combination of talents, ideals, and social conscience.

Words cannot describe our sorrow at losing such a remarkable person. Brian was only 24 years old when he was killed. While in many ways, he was just beginning to embark on the adventure of life, in another profound sense he had already set a lifelong pattern of decency and goodness that will forever be his legacy.

We will miss Brian terribly. It is difficult to understand his cruel, untimely death. Yet from it we will try to find the energy to recommit ourselves individually and redouble our efforts collectively to bring about the better world of which he so fervently dreamed.●

ON BEHALF OF FLORIDA'S SILVER-HAIRED LEGISLATURE

HON. DAN MICA

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1984

● Mr. MICA. Mr. Speaker, I recently had the opportunity to meet with members of Florida's Silver-Haired Legislature, a special legislative body in which older Floridian citizens are elected by their peers to meet at the State Capital to debate and review the problems that affect them.

I want to take a moment to share the legislative proposals that emerged from the lastest meeting of this dynamic group. More than just representing the views of Florida's older population, I believe that these proposals represent the concerns of seniors throughout the country and de-

serve consideration by Members of Congress.

One of the greatest concerns of the older population is obtaining adequate health care at a reasonable price. Although Congress has addressed this problem, more needs to be done to ensure that seniors receive the quality health care that they deserve.

Included among the health care proposals of the Silver-Haired Legislature were bills that called for further research on the important subjects of the high cost of health care, Alzheimer's disease, and nursing home chains. Support for the strict supervision and screening of individuals who donate blood was also expressed.

Although this legislature supports new approaches like health maintenance organizations [HMO's] that can reduce health care costs, HMO's should maintain high-quality care for their enrollees. In addition, Federal retirees should have the opportunity to join HMO's and the health care needs of HMO enrollees who are away from home should be examined.

Beyond the critical issues of health care, the Silver-Haired Legislature reviewed many other subjects of importance to seniors. Among the other concerns that were raised were adequate housing for the elderly, improved safety on the roads, reduction in the cost of utilities and elimination of disparities in Social Security benefits due to the "notch effect."

In conclusion, I would like to commend the Silver-Haired Legislature for their work and dedication toward solving the problems that affect older citizens. This legislature promotes an understanding of the legislative process, serves as a forum to discuss aging policy issues, and helps share their special perspective on the needs of older Americans.●

BERKELEY FREE SPEECH MOVEMENT

HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1984

● Mr. DELLUMS. Mr. Speaker, throughout the week, interested citizens and the students and faculty of the University of California will be commemorating the 20th anniversary of the Berkeley Free Speech Movement. I offer the following thoughts on this anniversary in the hope that my colleagues will join me in reflecting on the fundamental value of our cherished rights of free speech and association.

At the time, many condemend the University of California students as agitators and disruptors of academe. But these students were actively engaged in the process of analyzing the reality of life in America. Their commitment to the civil rights movement bespoke an even deeper commitment to the principles of our Nation, as enshrined in the Constitution, its Bill of Rights, and its amendments. They were committed to the principles of equality among citizens and of a free discourse on political issues. These students worked to bring to fruition the promise on the Constitution by organizing themselves and their fellow students. They recognized the fundamental violations of their constitutional rights, and insisted on leafletting and talking publicly in Sproul Plaza. The resulting education of the public around both the civil rights movement and what was to become the Free Speech Movement unalterably changed our society for the better.

The students in the Free Speech Movement struggled with the most critical issues of that year, thereby furthering their own intellectual development. They began a discussion with the university that continues to this day regarding the fundamental assumptions of the process and the content of education. The FSM provided the context in which students took responsibility not only for their own education but for the pressing social problems of their time.

I am very proud to represent the congressional district that spawned this noteworthy movement and am pleased to recognize today the major contributions of the students of the Free Speech Movement.●

THE PHILADELPHIA PROTESTANT HOME 94—YEARS OF SERVICE

HON. ROBERT A. BORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1984

● Mr. BORSKI. Mr. Speaker, it pleases me to join with the friends of the Philadelphia Protestant Home in recognizing its 94 years of service to the elderly and the community. Located in the Lawndale section of Philadelphia since 1890, the home exemplifies the best principles of a life care community.

On Saturday, October 13, 1984, the Protestant Home will embark on another chapter in its distinguished history of care and service. In order to expand its commitment to quality care for the elderly, a cornerstone will be laid for a multimillion-dollar expansion project on its 11-acre estate.

While the Philadelphia Protestant Home is already a thriving life care community for its over 400 residents, this project will permit it to offer comfort and security to substantially more people.

The Protestant Home is supported by 34 churches. Its services include both residential care and independent living arrangements, as well as a fully staffed medical clinic. The residential care program offers a worry-free life by providing residents with a spacious private room, three daily meals, housekeeping and maintenance services. Independent living arrangements, on the other hand, rely on greater self-sufficiency, although health care and other services are still available from the home.

Its Medicare-certified skilled care facility maintains the highest quality standards in caring for and attending to each of its residents. Not once in the Protestant Home's history has a resident been asked to leave due to a lack of funds. In fact, this year alone, almost $400,000 in free care was provided to residents unable to pay for services not reimbursable through either private insurance or Government programs.

Mr. Speaker, I want to commend the Philadelphia Protestant Home for its 94 years of quality life care. I am proud to be a part of the dedication ceremonies which signal that its commitment is strong and still growing. Let this occasion serve to remind us all to predicate ourselves to the service of older Americans.●

TRIBUTE TO LEMUEL T. WARD

HON. ROY DYSON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1984

● Mr. DYSON. Mr. Speaker, I would like to take this opportunity to pay tribute to an outstanding Maryland citizen, Mr. Lemuel T. Ward of Crisfield, MD, who passed away recently at the age of 87. He is remembered as the force who moved the hobby of carving waterfowl decoys from a craft to an art form.

Lemuel entered this field by repairing decoys with his brother, Steve, in their spare time while operating a barber shop. Soon they were carving decoys for their own use. Their work soon caught the eyes of some of the hunters in local hunt clubs, who began requesting decoys of their own. Word of mouth spread their reputation and Ward decoys are now world renowed for their beauty and accuracy. Decoys which once sold for $18 per dozen now bring as much as $2,500 a piece. Mr. Ward remained skeptical of the artistry of his work, calling the decoys merely counterfeits of the beauty of nature.

In honor of the Ward brothers, several Salisbury, MD, businessmen established the Ward Foundation. This organization, which now has a national membership, sponsors exhibitions and contests for waterfowl carvings. The foundation has since opened the

North American Waterfowl Museum on the campus of Salisbury State College in 1977. Many of the Wards' carvings are on display there.

Mr. Ward was described as a humble man who "loved the world around him and tried to copy some of the beauty in his work." His wife, Thelma, died in 1976, and he is survived by his daughter Ida W. Linton of Crisfield, two grandsons, and three great-grandchildren. I am proud to have represented this man who unassumedly put his mark on the history of American art.●

A CONGRESSIONAL SALUTE TO CONNIE CRAWFORD, ON HER RETIREMENT FROM TRW

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 4, 1984

● Mr. ANDERSON. Mr. Speaker, I would like to take this opportunity to commend Connie Crawford on her forthcoming retirement from TRW Electronics & Defense in Redondo Beach, CA.

A California native and graduate of the University of Southern California, Connie joined TRW in 1973. Not only did she help establish the company's State government relations program, she also served as its director for 4 years. In 1980, she became director of External Affairs for Systems and Energy. When that organization and TRW Electronics merged in 1981, she assumed the responsibilities of directing civic and community activities of TRW Electronics & Defense. This sector includes the defense, space, energy, and electronics groups.

In addition to being a member of Women in Communications, a national public affairs and media organization, Connie has served on the State governmental affairs council and the Committee on State Taxation. She also serves on the Los Angeles Music Center's Government Relations Committee and the Los Angeles Chamber of Commerce's Federal Affairs Committee. It should also be noted that Connie has also somehow found time to serve on the Fourth Estate, the President's Circle of USC, and the Advisory Board of the Coro Foundation's Hispanic Leadership Program.

Mr. Speaker, Connie has performed an outstanding job at TRW and I will certainly miss her advice and guidance. And, you can be sure that she will be missed by her colleagues on the job.

My wife, Lee, joins me, in congratulating Connie on a job well done and we wish her and her husband, Arthur Mesch, all the best in the years ahead.●